UNITED STATES OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE *102d* CONGRESS
SECOND SESSION

VOLUME 138—PART 5

MARCH 18, 1992 TO MARCH 26, 1992
(PAGES 5893 TO 7354)

GENERAL SERVICES ADMINISTRATION
11/20/97
LAW
LIBRARY
CENTRAL OFFICE

UNITED STATES GOVERNMENT PRINTING OFFICE, WASHINGTON, 1992

AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

For sale by the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, DC 20402–9328

Congressional Record

United States
of America

PROCEEDINGS AND DEBATES OF THE 102d CONGRESS, SECOND SESSION

SENATE—*Wednesday, March 18, 1992*

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer.

Let us pray:

Behold, how good and how pleasant it is for brethren to dwell together in unity.—Psalm 133:1.

Eternal God, perfect in truth, justice, and love, we are grateful for the diversity which is the essence of our people. But we are equally thankful for the unity which prevents diversity from becoming divisive, fragmenting our society, generating anarchy. We recognize that diversity is the nature of democracy, but we also realize that national elections tend to become divisive. Help the Senate, immersed as it is in a milieu of crises, to recall the incredible dedication of our Founding Fathers as they struggled to bring 13 independent Colonies into a united nation.

Save us, mighty God, from diversity that begets anarchy and unity that begets uniformity. Save us from cynicism and anger that makes enemies of those we oppose. Save us from national disintegration which destroys the legacy left us by those whose magnificent dream became an unprecedented reality—America.

In the name of Jesus, Prince of peace. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 18, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

SCHEDULE

Mr. MITCHELL. Mr. President, and Members of the Senate, this morning there will be a period for morning business which will extend until 10:30 a.m., during which time Senators will be permitted to speak for up to 5 minutes each. Senators HATFIELD, JEFFORDS, and LEVIN will be recognized for a period of time exceeding 5 minutes.

Once the morning business period closes at 10:30 this morning, the Senate will proceed to the consideration of the veto message on H.R. 2212, the legislation involving most-favored-nation trading status for China

Under a previous unanimous-consent agreement, the details of which are printed at page 2 of the Senate Legislative Calendar today, that message will be considered under a 4-hour time limitation, with a vote to occur at about 4:30 this afternoon or when all time has been used or yielded back.

The Senate will stand in recess today from 12:30 p.m. until 2:30 p.m. for the respective parties conferences.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve all of the remainder of my leader time and all of the leader time of the distinguished Republican leader.

I yield the floor.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 10 a.m. with Senators permitted speak therein for not to exceed 5 minutes each.

Mr. HATFIELD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Oregon.

THE ECONOMY

Mr. HATFIELD. Mr. President, last week during consideration of the tax bill, I expressed my hope that Members of this body would cast aside their partisan roles in order to pass growth legislation that would have a beneficial affect on our economy. Much to the detriment of our Nation, the charade went on as scheduled, and the Senate passed a bill that this country does not want and the President will not sign: A bill that contains $57 billion in tax increases.

At the same time, enthusiasm for a large middle-income tax cut as a economic solution has waned with the American people. Clearly, enthusiasm for a tax increase never existed. Despite the majority in this body, the Democrats could muster only 50 votes for their bill. Earlier, the House bill passed by a weak 221 to 210 vote. Now, with only 2 days left until the March 20 deadline, it's unlikely any bill will be passed. I believe we are wasting very valuable time with these measures when we should be passing a targeted growth and investment package such as that outlined in President Bush's seven-point plan.

Mr. President, in a well-known quotation, statesman, and philosopher Edmund Burke said:

> Your representative owes you, not his industry only, but his judgment; and he betrays instead of serves you if he sacrifices it to your opinion.

But, in this same speech in 1774, he also said that the wishes of a Representative's constituents "ought to have great weight with him; their opinion high respect; their business unremitted attention."

In my State of Oregon, the opinions of my constituents happen to coincide with the best judgment on this issue:

they do not like to pay high taxes. They see bills without benefits. They know about the services the Government provides, but they do not welcome the escalating costs of these services. During my 8 years as Governor of Oregon, there were no income tax rate increases. We held the line on taxes while per capita income climbed more than 26 percent, the number of domestic corporations doing business in the State increased 48 percent, and 180,000 new jobs were created.

Today, the picture is painted a little differently in Oregon. While the State as a whole has not been hit as hard as some other regions of the country, many areas of the State are showing high unemployment. This is especially true in the lumber and wood products industries, which have been suffering not only from the housing slump, but also from reduced supplies of Federal timber.

The President's seven-point plan contains many of the tools needed to address these problems. Withdrawals from IRA's for first home purchases, a $5,000 credit for the purchase of a first home, and the easing of real estate passive loss rules would create much needed stabilization in the housing sector. In addition, a significant cut in capital gains taxation is a necessary element to any economic growth plan. Despite the disingenuous demagoging on this issue, the truth may finally emerge this year. As most other industrialized nations have discovered, lower long-term capital gains taxes promote competitive industries—industries that could be paying the wages of the working women and men in this country. The thousands of Oregonians who have written to me about taxes understand in this concept better than many of my colleagues right here in this Senate Chamber.

I grow weary of hearing the Democrats talk about capital gains as a rich man's benefit. Let us look at the record, as listed here in a report by the Treasury. About half of all Americans report capital gains during their lifetime, and about 60 percent of all people who report capital gains earn less than $50,000 per year. More than a quarter earn less than $20,000 per year. That is hardly the domain of only the rich people.

Mr. President, recent reports signaled some optimism in our business sector in the wake of statistics showing growth in retail sales and drops in inventories last month. However, these same reports showed consumer confidence lagging behind other indicators. Consumers see signs of recovery, but are skeptical. Can you blame them? They look for leadership in Congress and see little action. They look for meaningful answers, and receive little direction.

Fortunately, the majority party does not have the votes to pass a tax rate increase this year over a Presidential veto. They know this. And they also know that there is wide support for most of the President's plan. So let us move forward now to the reasoned compromise that awaits us. The bill passed last week has been exposed for what it is. Their charade has run too long already. It is time now for serious compromise on this important issue.

Mr. JEFFORDS addressed the Chair.

The ACTING PRESIDENT pro tempore. Under the previous order, Senator JEFFORDS is recognized to speak for up to 20 minutes.

JACK RUSS

Mr. JEFFORDS. Mr. President, I am here this morning to try to help resolve what I consider a really serious problem with respect to news media coverage, and all, dealing with the event of last week. I am taking this time because I am deeply concerned about the past week with respect to the so-called banking scandal. In particular, I am concerned about the media coverage, especially with respect to the Sergeant at Arms, Jack Russ.

I do not intend to defend the actions of House Members, nor do I intend to defend the Sergeant at Arms with respect to involvement with the so-called banking scandal. But I do intend to attempt to set the record straight and say for the record I am deeply incensed by the insinuations of the press with respect to the shooting that occurred on the evening of March 1 wherein Jack Russ was nearly killed.

I am particularly concerned about speculation by the press that Jack was not the victim of a robbery/murder attempt. Since what I intend to discuss involves a criminal investigation I would just like to give a brief glimpse of my own experience with regard to such things.

I served 4 years as attorney general for the State of Vermont. During the course of that time I worked with criminal investigations, including homicides. I also investigated problems within law enforcement agencies. Thus, I became outraged when I listened to the reporting in the days that followed the shooting of Jack Russ.

Before I go into the details of this matter though, I would like to let you know of my relationship with the Sergeant at Arms so that you can take this into consideration when you examine my comments.

Jack Russ is married to my administrative assistant, Susan Boardman Russ, who has been one of my most capable and trusted staffers for over 20 years. She is very much in love with Jack. While in the House I came to know Jack Russ as others did, as our extremely capable Sergeant at Arms. He took over the office at a time when it was essential that we improve the security of the House. Through his efforts the professionalism and effectiveness of the security personnel were significantly improved. I know of no one who would fault him on his commitment and success in carrying out his primary duty of providing security not only to the Members and their staffs, but to the public and visiting dignitaries as well.

Although my purpose is not to talk about the bank scandal, I do believe that the way the press has handled this issue in many instances was intended to sensationalize. I understand this. I also do not disagree that Jack Russ has to take some of the responsibility for some of the problems that occurred in the bank.

And, before I go on, I might as well confess, before the press has to run to find out: I was on the list, yes. I wrote a bad check. I wrote it to myself, the sum of $69 to close out my account when I left the House.

I am embarrassed to a certain extent to realize for 14 years I was in the House and never had an idea that there was such a thing as a check-floating so-called perk that we had.

With that out of the way, let me go on and get back to the reason I am here. I am appalled at the way the press has irresponsibly handled the story of Jack's mugging and shooting.

I am hopeful that by reviewing some of the more incredible stories and errors in the press accounts, perhaps I can encourage the press to take another look at what it writes or broadcasts, especially if it is just regurgitating material printed or broadcast by others who have not checked the facts.

I am here today to help put in perspective the events that occurred the night Jack was viciously attacked. I am hopeful that my own experiences as attorney general and criminal investigator will give credibility to my interpretations which make press assertions seem incredible if not ridiculous.

Jack and Susan arrived home from a weekend trip on Sunday evening about 9:30 p.m. Their puppy, and I emphasize puppy, an Australian shepherd named Aussie, had been in the car for 4 hours and Susan suggested to Jack that he should take Aussie for a walk in the park. After getting their bags upstairs and watching part of a movie, Jack went to walk the dog. It was now about 9:50 p.m. He had been gone longer than Susan expected when she looked at her watch about 10:15.

Some minutes later Susan received a call from the Capitol Police that she should come to the House child care center less than a block away. She asked if Jack was there and was told yes. When she asked to talk to him, the police officer said she could not but she ought to get there right away. When Susan arrived, there were many police around Jack and the dog was running in circles in the entrance way. Susan saw Jack briefly and was told by the police to take the dog home and return. Susan still did not know that Jack had been shot.

When she returned after securing the dog in her home, the police told her that Jack had been shot and that the ambulance had arrived to take him to the hospital. In the 25 minutes between Jack's leaving his home to walk the dog and Susan receiving a call, a lot had happened. The press has implied, if not directly suggested, that Jack Russ may have shot himself in order to gain sympathy as the House Ethics Committee was scheduled to come to the House floor that next week.

Although there is no evidence to support these insinuations that have been made, there are many people who, because the news media have suggested it, believe he may have done this. This suspicious suggestion has played in many areas of the country, including both Susan's and Jack's hometowns and have cast a cloud over them.

Jack has been grossly victimized, first by his assailants the night of the shooting and then again by the irresponsible reporting by the press. To me it defies logic that anyone could seriously believe that a man would have time, never mind the courage, to walk to the park, put a gun in his mouth and shoot and then dispose of the gun where moments later scores of police would be scouring in an effort to find evidence about the shooting, dispose of his watch and his wallet and physically get himself to the child care center.

Included in this timeframe was his encounter with a witness who acknowledges seeing him after the shooting when he asked her to get help. We shall discuss the trail of blood further which totally refutes any possible suggestion that Jack could somehow have done this himself.

I do not consider myself a media basher. I think I have a pretty fair record on issues involving freedom of the press to dig and dig hard, but the spectacle to which we have been treated in ostensibly serious news outlets is unsettling, indeed.

We have all been treated to a lesson in how the news is made these days, and I use that term advisedly. Over a week ago, as everyone knows, Jack Russ was shot while walking his dog in a small park next to the Southeast Expressway. That is a good story, of course, as the violence of D.C. that is chewing up the blacks of this town at the rate of more than one a day had finally caught a white, affluent and very visible victim. But apparently that was not compelling enough. Soon stories appeared like mushrooms on manure piles from seemingly nowhere.

The feeding frenzy began on Thursday, March 5 when the Washington Post ran two stories side by side with Jack's picture in the center. The story on the left suggested that Jack was under tremendous pressure regarding the bank scandal. This was noted under his picture which appeared on that page. The story on the right reported that veteran police officers reported that they thought the details regarding Jack's shooting were unusual. From that morning on, friends, colleagues, and neighbors were called by the members of the press and asked all sorts of questions regarding Jack's state of mind, about his marriage and so on.

The unusual circumstances suggested in the Post were these: Usually a victim would be shot more than once; a mugger-shooter does not usually get that close to the victim. The paper also stated no gun or bullet had been recovered yet and police are still searching for Russ' wallet and Rolex watch. Oh, how suspicious. The way this was written and the juxtaposition with the story about the stress he was under encouraged people to think the information was suspicious.

Another story suggests it is suspicious no bullet casing was found. Gun, watch and wallet—usually left in a robbery-murder scene? It is believed that Jack was shot with a .22. A standard revolver would not eject a casing. The bullet went through the flesh of Jack's cheek. It could be on the Southeast Expressway or lodged in a tree. The odds of finding it are extremely remote.

Incidentally, there is discussion about Jack usually carries a gun. He does not. His gun is a 9mm, much larger than a .22 and could not conceivably have been used in this shooting.

Why was Jack only shot once? Who knows and thank God. It seems reasonable that the shooter felt the job was done since the gun went off in the victim's mouth and he fell to the ground.

The report also quotes "sources" as saying there is not much crime in that area. A cursory review of the crimes in that area proves this to be erroneous. I live in that area. Let me tell you, around my house alone there has been a murder across the street, a rape across the street, three muggings and a shootout on the corner, the southeast corner of 7th Street and G Street.

The Post story also said it is unclear what happened to Russ' dog. It was not unclear to the many police who were at the scene. His dog was with him until Susan arrived and was instructed to take the dog to their home before the ambulance arrived. The discussion about the dog continues in another press account of a woman leaving the park indicating she had not seen the dog.

I am a dog lover and I am sorry about the fact that Aussie, the dog, did not jump like King in Sergeant Preston's mounted police and attack and save Jack. Aussie is a puppy, 8 months old, brought to the park to run free after 4 hours in the car. Aussie showed up after Jack was shot. Aussie followed Jack back to the child care center where she stayed with Jack and went on back when Susan took her to the house.

So I want to defend Aussie's honor. Aussie did what a puppy would do. I have a 9-month-old puppy. Some day that dog is going to be big. She is 65 pounds now. If you came into my house with a gun, the dog would jump on you and lick your face. They do not learn how to be a protective dog by 8 or 9 months. That is something they have to learn. I want to protect Aussie's honor along with Jack's.

Over the past few weeks, rumors have been fed with questioning minds wanting to know why the Russes could not produce a dog. I have explained that. The dog was there.

It has also been widely reported that Jack carries a gun and it was unusual he did not have the gun on him that night. The fact is it would have been very unusual if Jack did carry the gun that night. Although he is licensed to carry a gun, he rarely does so except on official business. Yet, NBC Nightly News ran a story on March 12. The reporter was sitting in the park and said that Jack had given the police two stories about where he had been shot. One version, they said, was that he was shot near the bench, and another version was it was 40 feet away.

Jack had explained after being shot he was disoriented and started to walk toward Virginia Avenue. Realizing he could not get help that way, he started to head home. The blood trail ends where Jack walked after being shot, not at the place where he was shot.

Let us go back to the scenario they are trying to get us to believe: Somehow Jack shot himself and then raced out and disposed of the gun. The trail of blood totally refutes that. He never left the scene of where he was shot but tried to grope his way back to help.

In the same story, a person who lives in a house bordering the park said he did not hear a shot. This was presented as further proof that Jack's story was suspicious. There was a shot. No one refutes that. So why was that even brought to mind? There has been no question about the fact that Jack was shot in the park. The fact that this guy did not hear the gun raises more questions about why he was included in the story than about the shooting.

A broadcast report originating in D.C. which played in many areas of the country reported about Jack's account of the shooting and said he had been despondent over the bank scandal and that his wife had left him. This played in Jack's hometown and in Susan's hometown. His 84-year-old mother was devastated by this ridiculous report.

Where did that come from? His house was under total surveillance. There had been a planned family reunion, on the weekend after, of Susan and her family to be with their mother who had been sick for years. She kept her commitment to her family, went, and returned early, but she was seen leaving the house with her suitcase. Did anybody check why she left the house? No.

Channel 9 news, here in the District of Columbia, a CBS affiliate, reported that Jack was under stress because of the bank scandal as well as the recent scandal involving the House Post Office that it reported he managed. Any reporter or news organization that has worked on Capitol Hill for a month would know that the post office is run by the Postmaster, not the Sergeant at Arms. However, this misinformation was used to further back up the uncorroborated story that Jack was despondent.

The facts could have been secured by a simple phone call to verify this report.

The same station also ran a story that two of Jack's top aides, Bob Fitzpatrick, a police officer and Tom Keating, identified as Tim, were at the scene and talked to Jack before the police had the opportunity to do so. This is pure fabrication.

This, too, could have been checked out. It was not. The fact is, Jack's aide, Tom Keating, responded to a call from the Capitol Police watch commander telling him that Jack had been shot. Mr. Keating was told the details and to go to the hospital. Because of Mr. Keating's position in the Sergeant at Arms office, he is always called by the watch commander when an incident occurs involving a Member of Congress or in the Capitol Police jurisdiction.

A story of crime on Capitol Hill appeared in People magazine showing the random, violent, and bizarre kinds of attacks that have occurred here. What happened to Jack Russ was only the most recent of a series of horrific incidents.

Mr. President, I have taken the Senate's time today because I have become increasingly concerned over the use of anonymous sources by the media, particularly on Capitol Hill. I am hopeful that the press will make an effort to examine more closely the validity of the sources and the reasonableness of their accusations before putting such information in the public domain, where, once there, it is impossible to retract the impressions made throughout this country on two national news broadcasts.

I notice that many of the accounts relied on police sources. In most instances, it was not indicated whether these were Capitol Police or Metropolitan Police sources. Regardless, I would think that one would have to take into consideration the fact that Jack Russ has been in charge of the Capitol Police Force for nearly 10 years. It would not be unreasonable to think that perhaps over that period of time, he would have ruffled some feathers within the force and perhaps even with the District of Columbia Police.

I do hope that by placing this on the record at least those who are interested will be able to examine the facts and to draw their own conclusions. I am confident they will share mine.

I believe that the reckless use of so called credible sources stating so-called suspicious circumstances is inconsistent with any commonsense appraisal of what occurred that night. Those of us who know Jack and Susan know they were inappropriately and unfairly abused by the reporting of events, that by any reasonable standard was a vicious, unwarranted, but too common incident of brutality on the streets of Washington, DC.

I hope and I pray that those who have been the unnamed sources will have the courage to come forward and say, "I gave that information, and I have reviewed it, and I agree that what occurred after that is totally inappropriate." I hope the press that talked with those unnamed sources will urge them to do so. Jack has suffered, certainly, and maybe appropriately so, from the events that occurred in the House, but he has suffered so inappropriately from the events and the reporting of that savage incident in the park on that Sunday evening, March 1.

Mr. President, I thank the body for the time and I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

INVESTING IN RUSSIAN DEMOCRACY

Mr. LEVIN. Mr. President, we have a lot of deadlock in this Chamber. We live with division and political paralysis on all too many occasions. But on perhaps the most pressing security issue of the day, we have a strong bipartisan consensus. We have the tools at our disposal, the energy and willingness in the Senate to take the action necessary, but we still do not have Presidential leadership.

I am speaking of the urgent need to invest in the survival of democracy in Russia and the other republics of the former Soviet Union. It is demonstrably in our security interests to make a relatively small investment in democracy today to prevent the reemergence of a military threat to the United States tomorrow. It is clearly in our economic interest to invest in these Republics today where Germany and Japan are already exploring joint ventures and new markets. And it is surely in our political security interest to assure the survival of freedom and independence where it has only just begun to grow after a century of dormancy.

We have a rare situation now in the Senate. Leaders of both parties, key Democrats and Republicans on the Armed Services Committee, the Foreign Relations Committee, and the Appropriations Committee, have publicly invited President Bush to ask explicitly for the support that Russia needs to survive and remain stable. The majority leader has explicitly invited the President to work with him and the Republican leader to craft a bipartisan package of investments in Russian democracy.

Just last week, Senator MITCHELL, speaking in Los Angeles at the Los Angeles World Affairs Council, specifically invited the President as follows:

> I invite President Bush to sit down with the bipartisan leadership of Congress to discuss our common goal. I believe that together we can adopt an effective nonpartisan policy to help the commonwealth.

Senator NUNN has also pointed out the bipartisan possibilities in this body in terms of support for democracy in Russia. On the NBC "Today Show," on March 12, he said:

> This is a unique crossroads in history. If we do not treat it as such, we will not be forgiven by future generations of Americans. Thirty to fifty years from now, the American people will say, "Where were our leaders when we really had an opportunity to help democracy succeed in a country that will help determine the kind of world we live in for the next 20 to 30 years?"

The President's Ambassador to Russia, Robert Strauss, has made the rounds on the Hill, tirelessly explaining to Congress and the Press the situation on the ground in the former Soviet Union and the urgency of making this investment. In the New York Times, of March 15, Bob Strauss is quoted as saying:

> This ain't bean bag we are playing. These are big time issues. This is life or death. This is the future of nations.

That is our American Ambassador to Russia.

Former President Richard Nixon has laid out the stakes in stark terms. And this is what President Nixon said in the now famous memorandum which was circulated to the foreign policy community: "The hot button issue in the 1950's was: Who lost China?"

President Nixon should know. He pressed that button.

He went on to say: "If Yeltsin goes down, the question, Who lost Russia will be an infinitely more devastating issue in the 1990's."

Despite all of this consensus, when we need the President's leadership that most, we are not getting it. We need boldness and a clear, loud statement of principle. Instead, we are getting caution and whispering from the White House. We in this body have been presiding for months the need to support democracy in the former Soviet Republics and for a focused effort to reduce the threat that chaos there would impose to us. I hoped slowly the administration was starting to catch on, starting to take some of the actions necessary, starting to shake off the cold war mindset that still guides too many of our policies. But I am deeply troubled by the lack of urgency and leadership the President has shown on this issue. The further we have moved into this election year the less leadership our President is showing on this issue.

I do not know whether it is an election year case of nerves. But the President does not need to be nervous.

The leading Democratic candidate, the likely Democratic candidate for President, Bill Clinton, in a Georgetown University speech said the following about this issue: He said:

> A small amount spent stabilizing the emerging democracies in the former Soviet empire today will reduce by much more the money we have to commit to our defense in the future.

Governor Clinton went on to say:

> And it will lead to the creation of lucrative markets which means new American jobs.

So Governor Clinton is on record, former Senator Paul Tsongas is on record, as supporting the kind of IMF contributions which are awaiting approval by the President and by this Congress.

Mr. President, if we do not take action now, we are going to regret it later. We all feel that in this body on a bipartisan basis. There have been some Presidential spokesmen who have spoken out on the issue of focused direct support for Russia and the other Republics, not just by us but by other countries to the industrial world.

Secretary Baker has spoken on this subject in his Princeton speech. And Mr. Armitage, who is on the ground supervising distribution of food in Russia, has talked about it. But the frustration here and in Russia is great because a focused effort is lacking. The President himself is not leading on this subject which is so critical to future American security.

A frustrated American lawyer who is volunteering as a relief worker in St. Petersburg expressed his anger this way about American efforts, and why they have not been even greater. He said that "for want of a couple of million dollars, we'll be arguing next year about who is responsible for ruining democracy in Russia."

Mr. President, destabilization is a sanitary term. There is a lot of talk about the possibility of destabilization in Russia. But what that means is chaos, military coups, new dictators, totalitarian regimes, more suffering for the people who have just won freedom, and potential military threats to the United States and to other nations. Russia is facing structural problems. The economic problems that they face and have to contend with, they will have to solve mainly on their own—95 percent of the solution must be a Russian solution. It is only the 5 percent that I am talking about here that has to come from the United States and other nations.

But these structural problems require some focused outside support, they require a comprehensive plan on the part of the administration, a plan for the West to help prevent chaos and to assure democracy's long-term survival in the Republics. Despite pleas from many of us in the Congress, we do not have that plan.

The Senate asked for a plan last November, approving my resolution by an 87-to-7 margin. Members from both sides of the aisle joined in calling for an international investment in democracy in the Republics, which is an investment first and foremost in our own security.

This is starting to sound like a broken record, but we are still waiting for the President to call the right tune. He is dragging his feet in asking Congress to vote for the pledged funding for the international monetary fund. Other countries have made pledges with the expectation that the United States would make good on our pledge. The funding is critical if the International Monetary Fund is going to be able to set up a carefully conditioned currency stabilization fund for the ruble.

Let me quote from Senator LUGAR, what he has said about the importance of this stabilization fund for the ruble. He said:

> They are at a point in history where either the stabilization occurs or you are really going to go into a deep pit in which there appears to be no bottom whatsoever.

We saw where that pit bottomed out in Nazi Germany; how Adolf Hitler, using the wild inflation, the hyperinflation that existed in Germany, came to office. That is the type of deep pit which Russia now faces and which Senator LUGAR is making reference to.

The President is said to be officially supportive of the IMF funding, but he says it with a whisper. He has not come before the American people to explain the urgency and the security implications for us, and he has not personally even told the Congress that he supports it. His Secretary of the Treasury says the administration supports it, but the President has not put himself on the line in support of carrying out our pledge to the International Monetary Fund.

Congress cannot carry the water alone. Bipartisan support is waiting here. I wish we had bipartisan support for more programs more often. But here we have a situation where we do have it. Yet, the Presidential leadership is lacking.

As long as the value of the ruble remains unstable, the chance of successful economic reforms shrink in Russia and the other Republics, and the likelihood of collapse then increases.

Let us not forget why democracy's survival in those Republics is so important and urgent, why IMF funding and other assistance is not a handout, but a security investment for the United States. There are still 30,000 nuclear weapons in those Republics. I am afraid some people believe that because President Bush and President Yeltsin have swapped arms reduction offers, those weapons are no longer a threat.

The threat of an intentional attack from Soviet nuclear weapons is vastly reduced. But few, if any, Soviet warheads have been dismantled, despite congressional authorization of funds last year to assist with that task. Republics can still play politics with nuclear weapons—Ukraine recently suspended the return of tactical nuclear weapons from its territory to Russia for central storage and dismantlement.

The threat of loose, uncontrolled nuclear weapons being stolen or sold, the threat of weapons components or fissile material proliferating to the Third World, the threat of weapons scientists being tempted to work for terrorist regimes—these threats are all to real. A few nuclear weapons in the hands of a Qadhafi are more dangerous to us than 30,000 nuclear weapons were in the hands of the Soviet Union.

And let us not forget what desperate people and desperate countries will do for cash. Earlier this month, the Washington Post headline read: "Russian Boosts Weapons Sales to Aid Economy." Instead of converting weapons factories to civilian purposes, there is "growing sentiment in favor of unabashed pursuit of profit through weapons sales." Yeltsin says "trading in arms is a necessity for us. * * * Soviet weapons are highly popular in the world and easily find buyers." The government is looking for cash, and a way to keep people employed. And while Yeltsin claims they will respect international conventions and not sell weapons to countries engaged in conflicts, the upshot is potential proliferation of weapons including weapons of mass destruction and the underlying technologies being sold at cut-rate prices to fuel militarism around the globe. That proliferation represents the greatest new direct threat to United States security from the breakup of the Soviet Union.

And there are indirect threats, too, if democracy fails and Russia and other Republics rearm. Our own economic security is gravely threatened by recession, a huge budget deficit, and myopic trade policies. We need to get our economic house in order if we are going to remain strong, build a healthy and educated society for our children and compete in world markets. We won't be able to do that if we're forced to begin another arms buildup to counter new military threats. Former President Nixon said last week that "tinkering with the Tax Code or launching new domestic initiatives will have little economic significance if a new hostile despotism in Russia forces the West to rearm."

These are sobering pictures, and I doubt that any administration official or Member of Congress would conclude that inaction by the United States is an acceptable response.

I traveled to Russia, Kazakhstan, and Ukraine in January with other Senators. Everywhere we went, we were amazed at how the cold war tension and competition has almost disappeared, replaced by openness and cooperation, but also with desperation and hopelessness and a dire need for assistance. The people of Russia and the other Republics are looking to the West to assist them through very difficult times. But this isn't about charity—it is also in our clear self-interest to make targeted investments now. Let me repeat again what is needed:

We need to pay our share of IMF replenishment that we've already pledged. The U.S. delay in approving $12 billion is holding up an overall $60 billion funding increase for IMF from its member nations. Russia and several other Republics are due to join the IMF at its spring meeting in April and plans are on track for IMF approval of Russia's economic reform program that is a prerequisite for the IMF implementing a carefully conditioned currency stabilization. We have asked the Russians to swallow bitter medicine, to suffer through a winter with most prices uncontrolled, with intermittent food and energy supplies, and rampant inflation. They are doing it. Will we now help provide the needed outside help in return?

We need Mr. Bush out front, working directly with Members of the House and Senate from both sides of the aisle to speed IMF support for a currency stabilization fund.

Next, we must move more quickly to prevent the dispersal of former Soviet weapons scientists, weapons technology, and the weapons of mass destruction themselves to other nations. There have been encouraging developments, especially to keep key scientists employed at almost insignificant cost to us. But we still need a clear plan for assisting in the dismantlement of Soviet nuclear warheads and the safe, secure storage or destruction of weapons components.

The administration announced this month that Under Secretary of State Bartholomew, who has been in charge of developing U.S. policy on these issues, will leave to become Ambassador to NATO. Where does that leave the important work of preventing weapons proliferation from the former Soviet Union?

We also need to offer financial incentives and practical help to Soviet defense enterprises and United States companies to promote joint ventures. These can serve a dual purpose of building nonmilitary economies in the Republics and promoting new markets for the United States. Other countries are aggressively pursuing such strategies with their own companies, and Canada has just become the first Western nation to provide a line of credit to Ukraine for Canadian capital goods. We need to remove the Stevenson-Byrd restrictions that still limit the involvement of the Export-Import Bank to Russia and other Republics of the former Soviet Union. The restrictions are limiting energy development projects and other investments.

In the area of economic development, several Members of Congress have suggested a range of expanded loan and grant programs, and a management corps of experienced business people to train Soviets with no knowledge of competition or free markets. But here again, despite our encouragement, the administration has offered no comprehensive plan.

We need to promote exchanges of United States and Soviet military officials to increase the confidence and transparency of activities in the Republics, and to take advantage of the new openness we are experiencing. The chairman of the House and Senate Armed Services Committees and others drafted some modest proposals in this area last November, but the White House did nothing to advance them, and they were never approved.

We need to provide technical assistance in so many areas, to help the people of these new Republics create societies that are healthy, stable, productive, and self-sufficient. Secretary Baker has presented a request for over $600 million in technical assistance funds from Congress. But in the current political environment, the President must push actively for this package, articulating precisely what the assistance is for, telling Americans why it is needed and why this is in our own security interest.

It is a big agenda, but it need not have a big price tag. The people of the Republics need to do 95 percent of the work to secure democracy and avoid chaos, but we can help lead the international effort to provide the remaining critical 5 percent to help stave off disintegration and prevent new threats from developing. Because if Yeltsin is overthrown, the replacement will not be a reformer. Waiting in the wings are reactionary forces, people who are not interested in fostering democratic institutions at home, working with the United States to reduce the nuclear threat, or promoting peace in the Middle East. Maybe it will be Vice President Alexander Rutskoi, who preaches extreme Russian nationalism, rigid state economic controls, territorial claims against Ukraine and preserving the military industrial complex. Rutskoi calls Yeltsin's reforms "economic genocide." If someone like Rutkosi takes over, he might muster significant military capability and reverse the gains Russia has made—reimposing an authoritarian state that threatens our security.

But a relatively small investment now, our part of the critical 5 percent they need, could yield more security than trillions to fight a new cold war. These steps are in our national security—our military security, our economic security, the security of our moral leadership, and of the freedoms we cherish. As security investments, some portion of them can legitimately be paid for from defense funds.

But as important as money is creativity, international cooperation, the courage to invest in democracy, and leadership from the President. And most of all, we action a plan to prevent the risks we can prevent, a road map to a more secure future. There's an old saying: "If you don't know where you're going, you'll probably end up somewhere else."

Abraham Lincoln told us 130 years ago that "the dogmas of the past are inadequate. * * * As our case is new we must think anew and act anew." Those words are just as clear and appropriate today.

Thinking anew and acting anew means enhancing our security by preventing new threats from emerging in what was the Soviet Union—preventing chaos and preventing proliferation through farsighted policies of engagement, not waiting for those threats to develop and responding with use of military force. President Bush must overcome his caution on this issue and accept the bipartisan invitation to lead.

We have the opportunity and the standing to build multilateral peacekeeping and antiproliferation structures on the principle of prevention, to reduce the risk of conflict, increase global security, and save resources in the long run. Investing in the survival of free republics in the former Soviet Union is the greatest immediate test we face of whether we can seize that opportunity to prevent the proliferation of weapons of mass destruction before they become real risks.

I urge President Bush to lead on this issue. He will hopefully promptly and clearly back up his Treasury Secretary on IMF funding. I am confident he will fund bipartisan support awaiting here.

I yield the floor.

Mr. BENTSEN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Texas.

Mr. BENTSEN. I congratulate the distinguished Senator from Michigan for a very thoughtful and insightful statement. I hope the Members who did not have the opportunity to listen to it on their consoles in their offices will take the time to read it.

Mr. LEVIN. I thank my friend.

TAX NEUTRAL

Mr. BENTSEN. Mr. President, today we are going to start on the conference with the House on the tax bill that we passed through this body.

It has been interesting to me to see the President's comments regarding the tax bill we are working to pass. He keeps talking about it being a tax increase. He is only telling half a story.

On the other side it is a tax decrease. For every tax increase, there is an equivalent tax cut in this piece of legislation. We are not only keeping it revenue neutral, but seeing that it stays within the budget limitations. We are determined to comply with the discipline of the budget agreement of 1990 that the President now says he wants to turn his back on.

That discipline is all we have left to ensure that the administration and this Congress start turning this deficit around.

This piece of legislation that we passed through this body calls for a deficit decrease in the overall 6 years allocated.

We are talking about meeting in conference to give a tax cut to middle-income taxpayers. Of course there are differences between the two bills and the two bodies. We almost always have that. But we are united in our commitment to put some fairness back into our Nation's Tax Code. That is one of the motivating reasons of this piece of legislation.

Some have said, well, the economy may be recovering. I have been listening to that for 18 months from economists. Ultimately they are going to be right. I sure hope they are finally right this time.

Is there a great economic stimulus in this legislation? Not as much as I would like, but there are things that improve the Tax Code. We have included items to encourage growth in our country, increase productivity, provide additional jobs, and help middle-income people who have taken the biggest hit over the last decade.

An awful lot of thought and preparation went into this legislation. We called hearings in the Finance Committee last November and December, and again when the President submitted his budget proposal to the Congress. We gave it due consideration. We heard from representatives from the administration, from economists, from the private sector, and from middle-income taxpayers themselves.

It was not an easy bill to put together. It would have been far easier to follow the administration's approach and go for some creative accounting.

CBO says the administration's bill loses $27 billion. When we are talking about losing that, we mean busting the budget. We are talking about adding to the deficit and breaking the budget agreement wide open. Once again, we insisted that every item in our bill be paid for, and it is.

We moved this legislation quickly. We really had some hurdles to cross. The last major revenue bill that was considered in the U.S. Senate took 5 weeks. This one took 3 days. The President of the United States took 9 months to decide what he thought should be in the tax bill and asked us to do it in 5. And we are going to come awful close to accomplishing it, I think.

Passing a tax bill in this body—a major tax bill—in 3 days has to be some kind of a record—staff working through weekends, calling off recess periods.

Now, as we convene this conference committee, we are committed to fast and prompt action on the legislation. Throughout this process, our goal has been to provide fair treatment for working families, and that the tax load and its responsibility would be equitably shared.

Did we call for a tax increase on some of the higher income taxpayers. Yes. On the top seven-tenths of 1 percent, or families making over $175,000 a year. Actually, only families with incomes substantially above $175,000 would see an increase, as the $175,000 is income remaining after all tax deductions. So you are talking about income over $200,000 a year. But you have to pay for those things that we put in for long-term growth, things that will increase productivity in the country and help make us internationally competitive. They have to be paid for, and that is what we have tried to do.

As to progressive tax systems, do you know what the difference is between the tax rate that applies to somebody making $35,000 a year in this country and the one that applies to someone making $1 million? Three percentage points, three. Frankly, I think that the fortunate few can pay a little more in the way of taxes. So we are talking about raising their rates 5 percentage points—from 31 to 36 percent.

It is a responsible piece of legislation. I believe it is a good bill, a fair bill, and that its enactment will help millions of middle-income Americans. Some people inside the beltway say, "Well, $300 per child, or for a family of four with two children, $600, we really think of that as peanuts."

I do not believe that. This is a significant tax cut. For a family making $35,000 a year—and that is the median income in this country—that is a 25-percent tax cut. For a family that sits down and looks at the supermarket ads to see what the prices are and where the coupons are that they can take in to have credits, and for a family with a sick child, running a fever, that must take that child to a doctor or to a hospital, but must make a financial decision along with a medical decision, this amount of money could make a difference.

It is awfully expensive to send children to college these days. To the family that must sit down and look at what kind of financial aid they have for their children to go to college before they look at the credits and the courses at the college, the amount of money is important.

A recent study showed that families in this country, middle-income families, are now working 1 month more than they did just 15 years ago—an additional month of labor—to try to make ends meet. Both parents are going into the workplace, and there is 40 percent less time, discretionary time, time for parenting. We are seeing some of the results of that.

Talk about Americans working, yes, you bet they work. They are putting out just to try to hold it all together. More Americans are holding second jobs than ever before in the history of our country. Those with children are seeing the costs of rearing children, educating children, feeding children, housing children soar. They are working harder just to stay in place.

Our legislation will give them a hand by starting to put back some fairness into the tax system. The heart of it is a permanent tax cut for each child.

Let me give you an example of what it does. For a child born today, that is nearly $5,000 by the time that child reaches the age of 16. If you take that money and put it into an IRA account that earns 8 percent, you are going to have $15,000 by the time that child is ready to go to college. That is going to be a help. It is the kind of extra money that helps pay the orthodontist for braces, pay for better quality child care, pay the medical expenses not covered by a hospitalization policy. It is important. About 18 million Americans would benefit by that tax credit.

And when you look at another provision in the bill—we restore full deductibility to IRA's—you are talking about millions of people being affected by this legislation. It restores full deductibility for IRA's for all American workers. It also enables them to make early withdrawals to buy a first house, which is getting rougher to do for young couples or to pay for fighting the cost of illness. That part of the legislation, the Bentsen-Roth IRA bill, has strong bipartisan support—78 Senators, Democrats and Republicans, are sponsoring that legislation. It would establish a fair and progressive capital gains tax cut giving 65 percent of the benefits to those taxpayers earning less than $65,000 a year. The administration's tax proposal on capital gains would give 65 percent of the benefits to those earning over $200,000 a year.

The legislation would simplify and expand the earned income tax credit to help families with working parents in low-paying jobs. It also would take a good first step toward addressing some of the more egregious problems in health care in this country today, focusing on small business owners and the millions of Americans who work for their small businesses.

EXTENSION OF MORNING BUSINESS

Mr. BENTSEN. Mr. President, I ask unanimous consent that we continue for another 10 minutes in morning business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BENTSEN. It incorporates the Better Access to Affordable Health Care Act, a bipartisan measure that takes some important steps to help more than 34 million Americans who are without health insurance in this country today. Most of them have jobs, or they live in families where someone in the family does have a job but lacks that health insurance.

I have walked into small businesses and visited with the employees and their owners. Owners will say, "Last year my premium went up 24 percent on health insurance and the year before last, 24 percent. That is almost a 50-percent increase. I cannot help it. The first thing I did was increase the deductible. Then I increased the coinsurance, and I dropped the dependents. Finally, I had to drop the policy altogether, because I just could not afford it and stay in business."

Take an employee that has a child with leukemia, or a wife or husband with a back problem. Upon a change of jobs, they then have what is called a preexisting condition, meaning they will not have the health insurance in the next job. That employee has to turn down the better job.

Let us say you are the head of a small business and they come in and they say, "Well, you have 23 employees but we can only accept 22." Because of a heart problem that one employee will be carved out. Yet she is the one that needs health insurance the most. The bill addresses those kinds of problems.

Then there is the problem you have if you are small businessman in a high-risk business. They redline you totally and say that you cannot have insurance for any employees.

Or what do you do if you are trying to compete against big business which gets a better rate? What this legislation does is use the Florida example to try to help States bring small businesses together. This will allow them to compete as a group, and permit insurance companies to better apply the law of averages over this larger group. Small businesses that collectively work with other small businesses in these joint efforts will have more leverage to get a more competitive rate on health insurance. The bill takes care of this problem on the plus side.

Mr. President, when the President says this bill involves a tax increase, it does not. It is no more a tax increase than President Reagan's tax reform legislation in 1986. It, like the bill that the Finance Committee reported to the Senate, raised some taxes in order to lower others. It is revenue neutral. Our bill calls for higher taxes on approximately 800,000 people at the top of the income scale in order to cut taxes for 31 million American families who would benefit from the child tax credit, EITC, and a progressive capital gains provision.

But the President dismisses our tax cut as insignificant, contending that a 25-percent tax cut for a family making $35,000 a year has little meaning. Yet, at the same time, he stakes his Presidency on opposition to a 5-percentage point tax increase for those earning more than a couple hundred thousand dollars a year.

This is a tax fairness bill. It is fair, putting some fairness back in the tax system, and it is fiscally responsible. The plan would increase the marginal rate from 31 percent to 36 percent as to families with gross income of over $200,000 or net income over $175,000.

Back in 1985, President Reagan recommended that a 35-percent tax rate apply to anyone making over $70,000 a year. That is what he proposed. We are talking about—36 percent tax rate—one percentage point higher—on families making not $70,000 but over $175,000 a year. This bill keeps the rate at 28 percent for the vast majority of those people. We are also asking for a 10-percent surcharge on those fortunate enough to make over $1 million a year.

Despite these changes, the wealthiest Americans are going to come off very well, far ahead of where they were in the 1960's when the top bracket was 91 percent, or in the 1970's when it was 72 percent. The top bracket would be half of the 1970's rates. And when we talk about international competition, and where the rates are for Japan, Germany, or the United Kingdom, in every one of those instances the top rate is at least 50 percent; 50 percent or more.

Consider the health provisions. The President has endorsed these health provisions. They were in a bipartisan bill I introduced with Senator DURENBERGER. The President took those provisions and put them in his proposals. We have taken them back and put them in what we hoped to be a bipartisan bill.

As to capital gains, I noticed the President's proposal in his State of the Union Address was so far off the mark that it had to be amended before going into the budget. But still it gives over two-thirds of the benefit to those people making over $200,000 a year.

The President says this is veto bait. I do not think the American people see it that way. The American people want results, not bickering, and they are sure feeling the effects of our troubled economy.

This bill lays the foundation for real jobs and prosperity in the future. It stimulates savings and investment, makes it easier to save for college, easier to pay back a college loan, and addresses some of the serious health problems facing working Americans.

In a word, this legislation is fairness, fairness for families with children, who saw their taxes go up while their incomes went down over the last decade.

The Senate has moved quickly on this bill and so has the House. It will be a tough conference, for there are substantial differences to be resolved. However, those differences are minor when we remember we share the overriding goal of helping Americans better cope with the financial pressures of our time.

Mr. President, I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. BENTSEN. Mr. President, I ask unanimous consent that we extend morning business to 11 a.m. in order that the Senator from Ohio, Senator GLENN, be recognized for 10 minutes, and the Senator from Michigan [Mr. LEVIN] for up to 5 minutes, and that any time already utilized beyond 10:30 a.m. not be charged against the time allotted against the consideration of the veto message on H.R. 2212, MFN status for China.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Ohio is recognized.

REGULATORY REVIEW PROCESS

Mr. GLENN. Mr. President, for the past year the Committee on Governmental Affairs has been trying to lift the veil of secrecy that covers the regulatory review process operated by OMB and the Council on Competitiveness under the leadership of the Vice President.

Our goal has been to ensure that the Federal regulatory process is open and fair and accountable to the American public. Regulatory review should help agencies make better decisions, but not in secret so that nobody knows what is going on.

Unfortunately, the administration wants to keep everything behind closed doors. The Council will not tell us what they are doing; they will not tell us who they are talking to outside of Government or what regulations they have even reviewed.

The Council is also stopping agencies from talking to us. We have been refused documents from EPA, Labor, Interior, HHS and other agencies. After several unsuccessful attempts to get answers, we may have to resort to subpoenas as the only way to; although we have not decided for sure.

We need the documents to tell us the whole story how the agencies deal with the Council. I am not talking about privileged documents here. These are documents that agency officials tell us they would gladly give us, except for the objections of the Council.

It is because of this secrecy that I introduced S. 1942, the Regulatory Review Sunshine Act, to open up the regulatory review process.

Again, while I always maintained that regulatory review can and should help agencies make better regulatory decisions, the process cannot be hidden from the public, the courts, or Congress. If the administration's regulatory review decisions cannot withstand the light of day, then they cannot be allowed to stand. If, on the other hand, regulatory review makes better decisions, we will all be better for knowing how and why.

Now, for an example at hand that was in the papers yesterday, I think we have a pretty good idea why the administration wants to hide some of its regulatory review activities. Last week, OMB Administrator Jim MacRae wrote a letter to the Occupational Safety and Health Administration in the Department of Labor and told them to stop promulgation of a rule to control air contaminants in the construction, maritime, and agricultural industries. This rule is an extension of a 3-year-old rule already covering general industries and covering some 1,000 toxics across the board. Let me read from yesterday's Washington Post a brief description of what is covered here, and I start off with the title of the article that says "OMB's Logic: Less Protection Saves Lifes. Letter Blocking Health Standards for 6 Million Workers Shocks Officials at Labor Department." I will read the first couple paragraphs.

> The Office of Management and Budget has blocked new health standards for more than 6 million workers in the construction, maritime and agricultural industries on the theory that less protection may save more lives than adding regulatory costs to employers.
>
> The novel theory, outlined in a letter from OMB to the Labor Department last week, argues that added regulatory costs could force an employer to either lower wages or cut employment. If this happens, OMB asserts, it could have a negative impact on workers' health because, it says, higher-paid workers tend to take better care of themselves and if they can no longer afford to do so, more may be killed than saved.
>
> At issue are standards proposed by the Labor Department's Occupational Safety and Health Administration to set permissible exposure limits (PELs) for more than 1,000 substances used in the three industries.

On down in the article, it says:

> OMB officials said yesterday the letter represents OMB policy and would apply to all Federal regulatory agencies.

Later on in the article:

> In an interview yesterday, MacRae said "the letter stands by itself" and represents OMB policy. "I'm not on my own. I do what I'm told to do," MacRae said. He said the analysis requested in his letter to the Labor Department was "certainly something that's worthy of all [regulatory] agencies to take note of."

I do not think we need to get hit on the head by a 2-by-4 to know what is going on here. This rule does matter. It is meant to protect 6 million Americans from dangerous chemicals in the workplace. It seems it has been decided that health and safety regulations somehow harm public health and safety, which stands logic on its head. Compliance costs, in other words, of health and safety regulations, will be passed on to consumers or through reduced pay for the workers, and those increased prices and lowered wages will end up killing more people than would be helped by the regulation. The logic of that just seems a little bit crazy, as was indicated by some of the people quoted yesterday in the papers.

Mr. President, I guess we should not really be surprised, considering President Bush's recent 90-day moratorium on regulations. The President imposed a 3-month freeze on all new regulations. But, according to their own calculations, stopping new OSHA regulations alone would cost as many as 288 lives. This, too, is another example of an administration out of touch with the country and its people's needs.

So, Mr. President, I already quoted from the article here. I ask unanimous consent that the article out of the Washington Post be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, Mar. 17, 1992]

OMB's Logic: Less Protection Saves Lives

(By Frank Swoboda)

The Office of Management and Budget has blocked new health standards for more than 6 million workers in the construction, maritime and agricultural industries on the theory that less protection may save more lives than adding regulatory costs to employers.

The novel theory, outlined in a letter from OMB to the Labor Department last week, argues that added regulatory costs could force an employer to either lower wages or cut employment. If this happens, OMB asserts, it could have a negative impact on workers' health because, it says, higher-paid workers tend to take better care of themselves and if they can no longer afford to do so, more may be killed than saved.

At issue are standards proposed by the Labor Department's Occupational Safety and Health Administration to set permissible exposure limits (PELs) for more than 1,000 substances used in the three industries. The standards, which were approved nearly four years ago for all other industries, are designed to protect workers from excessive exposure to hazardous substances in the workplace.

OMB said it would not consider the proposed regulations until the department completes an analysis showing whether the new rules would have an adverse effect on wages and employment levels in the affected industries. Departmental sources predict such a study could take several years and still would be inconclusive.

The letter has caused an uproar in the Labor Department, where officials warn it could have an impact on all federal regulatory agencies. "If this is the new approach OMB is going to take, it's not going to just affect OSHA," a Labor Department source said.

OMB officials said yesterday the letter represents OMB policy and would apply to all federal regulatory agencies.

Peg Seminario, director of health and safety for the AFL-CIO, called the OMB position "really looney." She said the "analysis they're asking for sort of comes out of thin air and is not required by law. This goes well beyond anything required and it would be impossible to do.

The OMB directive comes as the White House has declared a 90-day moratorium on new federal regulations. It also coincides with an announcement by President Bush during a campaign trip to Detroit last week that the auto industry would not have to build cars that would keep gasoline fumes from escaping during refueling.

A senior department official said OMB has put Labor Secretary Lynn Martin in an "incredibly awkward position." Any showdown with OMB is apt to be a major, public test of how much clout Martin has with Bush. Martin, a 10-year veteran of Congress, often has traded on her close ties to the president in dealing with department issues. "This is going to be hot," a department source said.

OMB last Friday refused a formal department request to withdraw the letter. Yesterday, under Martin's direction, the department was drafting a reply to OMB. It questions OMB's legal authority to force OSHA to weigh safety benefits against economic risks for federal health standards. The Supreme Court ruled in 1981 in a case involving cotton dust standards that cost-benefit analysis was illegal in determining health standards.

The draft, being circulated in the department, also suggests that if OMB wants to create a new policy such as the one outlined in the OSHA letter, it should publish a proposal in the Federal Register and let all the regulatory agencies comment on it.

James B. MacRae Jr., acting administrator of OMB's Office of Information and Regulatory Affairs, wrote: "The positive effect of wealth on health has been established both theoretically and empirically. Richer workers on average buy more leisure time, more nutritious food, more preventive health care and smoke and drink less than poorer workers.

"Government regulations often have significant impact on the income and wealth of workers. To the extent that firms cannot pass on regulatory compliance cost increases to consumers, firms will absorb these costs by cutting wages and by reducing employment."

Therefore, MacRae wrote, "OSHA should estimate whether the possible effect of compliance costs on workers' health will outweigh the health improvements that may result from decreased exposure to the regulated substances." He said he was sending the proposed draft regulations back to the Labor Department for further analysis "to compare the health effects of these income changes to the health benefits that OSHA attributes to reduced exposure."

In requesting the analysis, MacRae cited a recent federal appeals court case involving OSHA and the United Auto Workers union. He cited research asserting that every $7.5 million in additional regulatory expenditures may result in an additional death from lowered worker income. Because the proposed OSHA regulations would add an estimated $163 million in annual employer costs, MacRae argued in his letter, the new rules could result in an additional 22 deaths. Because OSHA estimates the new regulations would save 8 to 13 lives a year. MacRae reasoned, there would be a net increase of 8 to 14 deaths a year.

MacRae's letter came as a complete surprise to top managers at the Labor Department. "It came totally out of the blue," a senior official said.

Other department sources used words such as "bizarre" and "ridiculous" to describe the MacRae letter. "I've never seen anything like it from OMB," said a source. "The majority of the people who looked at it in the department were absolutely shocked."

What worries policymakers at the Labor Department is the fact that MacRae, a career civil servant who has been acting head of his division for nearly four years, has the last say on most federal regulations. "He is essentially the final word," said a department source. Department officials said that under normal circumstances, negotiations between OSHA and OMB are conducted at a lower staff level, with MacRae hearing any appeals when there is disagreement. This time, a department source said, "there were no phone calls from the OMB staff and suddenly there's a letter. There's no indication why anything like this happened."

In an interview yesterday, MacRae said "the letter stands by itself" and represents OMB policy. "I'm not on my own. I do what I'm told to do," MacRae said. He said the analysis requested in his letter to the Labor Department was "certainly something that's worthy of all [regulatory] agencies to take note of."

MacRae said that if OSHA was so concerned about further delay, it would have completed standards for the three industries years ago, shortly after the general industry standards became final. "As far as I'm concerned, it is a valid consideration and we're awaiting a reply from the Department of Labor," MacRae said.

(Mr. AKAKA assumed the chair.)

Mr. GLENN. Mr. President, I further ask unanimous consent that a similar article out of the New York Times of the day before yesterday be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 16, 1992]

CITING COST, BUDGET OFFICE BLOCKS WORKPLACE HEALTH PROPOSAL

(By Robert D. Hershey, Jr.)

WASHINGTON, March 15.—In its latest attack on Federal environmental regulations, the White House budget office has blocked a major health proposal for workers, saying that carrying it out could be so expensive it could force companies to cut wages and jobs, thereby making workers health worse.

"The positive effect of wealth on health has been established both theoretically and empirically," the budget office said in a letter last week to the Labor Department announcing its decision.

The proposed regulation attacked by the Office of Management and Budget is a major environmental initiative by the Occupational Safety and Health Administration, a unit of the Labor Department, involving standards for air contaminants in agriculture and industry, including construction and maritime work. It establishes lower permissible exposure limits for 375 substances used in the construction and maritime industries and would for the first time set limits for 635 substances used in agriculture.

The budget office's decision to suspend consideration of the proposal blocks its adoption because a 1981 President order required regulations to be approved by the office before going into effect. In its letter, the budget office called for more analysis of the proposal, which could be lead to its resubmission and reconsideration.

REGULATIONS UNDER FIRE

The budget office's action came at almost the same time as the Administration said automobile manufacturers would not be required to install pollution-control devices on new cars to capture gasoline fumes released into the atmosphere by fueling. Instead, the Government will require gasoline stations to control fumes through special pumps and hoses. The budget office's action also seemed to be part of a coordinated attack by the Administration on what it considers to be overly restrictive environmental regulations.

The action also comes during a 90-day moratorium on new regulations, which was part of President Bush's State of the Union Message in late January. But proposals related to health and safety are generally exempted.

Representatives of organized labor immediately contested the budget office's argument, saying the Bush Administration was going "to any lengths to stop safety and health standards."

At the Labor Department, which oversees the safety administration, the Assistant Secretary for Public Affairs, Steven Hofman, said when he was asked for comment that the budget office's response "raises a lot of significant issues" and that these were being studied. He said he could not immediately say what the agency's next step would be.

FOCUS ON HEALTH QUESTIONS

The letter to the Labor Department, written by James B. MacRae Jr., acting administrator of the Office of Information and Regulatory Affairs, a little-noticed but extremely powerful office inside the budget office, said the analysis conducted by the safety administration neglected an "important question" on the permissible exposure limits. The question, Mr. MacRae said, was, "How will compliance with the proposed P.E.L. rule affect workers' employment, wages and therefore, health?

Mr. MacRae declined through an aide to discuss the decision to suspend review of the O.S.H.A. proposal, a move communicated to the Labor Department in a three-page letter addressed to Nancy Risque-Rohrbach, Assistant Secretary for policy. A copy of the letter which was said to have quickly found its way to departmental bulletin boards, was given to The New York Times by a Labor Department official who objected to it.

But in the letter, Mr. MacRae, who has been acting in the post since late 1989 as Administration efforts to install a permanent appointee foundered, said that better-off workers tended to use their higher wages for more leisure, more nutritious food and more preventive health care, as well as extending their longevity by smoking and drinking less than poorer workers.

He then pointed to a recent opinion of the Federal Appeals Court for the District of Columbia Circuit that cited research showing that each $7.5 million of additional regulatory expense may result in one additional death from reduced incomes. This, Mr. MacRae said, could be a result of companies' being unable to pass on compliance costs by raising prices and having to respond by cutting wages and jobs. If, on the other hand, costs were passed on, the income of consumers was cut, leading to similar effects on their health.

FORESEEING MORE DEATHS

"In addition, as regulation increases job safety, there will be a decline in risk premiums paid to workers as compensation for bearing health and safety risks," the letter said.

Applying the theory to the proposal at hand, Mr. MacRae noted that safety and health administration figured that the updated standards would save eight to 13 lives a year. But the cost of the updating would be $163 million a year he added, resulting in 22 additional deaths from reduced worker prosperity.

To make sure regulations are not counterproductive, he added, "O.S.H.A. should estimate whether the possible effect of compliance costs on workers' health will outweigh the health improvements that may result from decreased exposure to the regulated substances. In addition, the effect of higher compliance costs (and therefore lower incomes) on other members of society also should be taken into account."

The budget office's action is required by a February 1981 executive order by President Ronald Reagan that calls for rules proposed by departments and agencies to be reviewed to make sure, among other things, that the potential benefits of regulations "outweigh the potential costs to society."

Representatives of organized labor responded indignantly to Mr. MacRae's contention. "Calling it a novel is kind; it's absolutely loony," said Peg Seminario, director for safety and health for the A.F.L.-C.I.O.

Senator Edward M. Kennedy, the Massachusetts Democrat who is chairman of the Labor and Human Resources Committee, called the Administration position "deregulation ideology run amok." He said the budget office "is saying that healthy working conditions are bad for workers' health," adding, "O.M.B. should stop kowtowing to business, and the Labor Department should get on with its statutory responsibility of issuing these important health standards."

James C. Miller 3d, who at different times during the Reagan Administration headed budget office and the Office of Information and Regulatory Affairs, acknowledged that Mr. MacRae's position "is beyond what would normally be reviewed in a cost-benefit analysis" but nevertheless offered a defense.

"The essence" of such examination he said, "is to trace things through." If the financial well-being of workers is really diminished, Mr. Miller added, "this ought to be considered."

Mr. GLENN. Mr. President, I ask unanimous consent that a copy of the letter itself that Mr. MacRae sent to the Department of Labor also be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF INFORMATION
AND REGULATORY AFFAIRS,
Washington, DC, March 10, 1992.

Hon. NANCY RISQUE-ROHRBACH,
Assistant Secretary for Policy, Department of Labor, Washington, DC.

DEAR MS. RISQUE-ROHRBACH: On February 18, 1992, we received a proposed Occupational Safety and Health Administration (OSHA) rule entitled "Air Contaminants Standard in the Construction, Maritime, Agriculture, and General Industries" for review under Executive Order No. 12291. The rule would establish or lower Permissible Exposure Limits (PELs) for 375 substances for the construction and maritime industries, and would for the first time establish 635 PELs for the agricultural sector. In addition, the rule would set PELs for asphalt, fumes, fibrous glass, and mineral wool for all industrial sectors, including general industry.

OSHA's regulatory impact analysis omits consideration of the effect of the rule's compliance costs on workers. The analysis is limited to a description of the effects of compliance on firms' sales and profits. OSHA's analysis, however, fails to answer an important question: "How will compliance with the proposed PEL rule affect workers' employment, wages, and therefore, health?"

The positive effect of wealth on health has been established both theoretically and empirically.[1] Richer workers on average buy more leisure time, more nutritious food, more preventive health care, and smoke and drink less than poorer workers. In combination, these factors significantly extend longevity. In fact, a recent opinion by the United States Court of Appeals for the District of Columbia cited research showing that each $7.5 million in additional regulatory expenditures may result in one additional death from lowered incomes.[2]

Government regulations often have significant impact on the income and wealth of workers. To the extent that firms cannot pass on regulatory compliance cost increases to consumers, firms will absorb these costs by cutting wages, and by reducing employment. If firms do pass on compliance costs to consumers, consumers' real incomes will decline with similar effects on their health. In addition, as regulation increases job safety, there will be a decline in risk premiums paid to workers as compensation for bearing health and safety risks. One researcher estimates that for each unit decline in annual injury-related lost workdays per 100 workers wages fall by 1.5 percent to 3.6 percent.[3]

To illustrate the importance of this effect, we offer the following example. OSHA estimates that the proposed PEL regulation would prevent eight to thirteen deaths annually. However, if we use the finding cited in *UAW v. OSHA* that each increase of $7.5 million in regulatory expenditures results in one additional statistical death, the $163 million annual cost of the PEL update rule would result in approximately 22 additional deaths per year. If OSHA's analysis accounted for the rule's negative effect on income, and therefore health, a net increase of about eight to fourteen fatalities per year, could be expected to result from this rule.

OSHA previously has noted the nexus between income and health in its discussions of the healthy worker effect's impact on the conclusions of epidemiologic studies, but neglected that phenomenon on the cost side.[4] If government regulations force firms out of business or into overseas production, employment of American workers will be reduced, making workers less healthy by reducing their incomes. OSHA should estimate whether the possible effect of compliance costs on workers' health will outweigh the health improvements that may result from decreased exposure to the regulated substances. In addition, the effect of higher compliance costs (and therefore lower incomes) on other members of society also should be taken into account.

Responsible policymaking suggests that OSHA analyze *all* the costs and benefits associated with this rule, and in particular whether this rule will adversely affect wages and employment levels in the affected industries. OSHA should attempt to quantify whether this rule will adversely affect wages and employment levels in the affected industries. Having conducted such an analysis, OSHA should compare the health effects of these income changes to the health benefits that OSHA attributes to reduced exposure. This analysis is required to ensure that this proposed rule complies with sections 2(a) and 2(e) of Executive Order No. 12291. Moreover, the U.S. Court of Appeals' reasoning in *UAW v. OSHA* made it clear that this type of analysis should be part of OSHA's rulemaking record.

Accordingly, for the reasons set forth above, I am suspending review of the draft proposed rule pending OSHA's completion of this essential analysis. As always, I and my staff are available should you have any questions.

Sincerely,

JAMES B. MACRAE, Jr.,
Acting Administrator and
Deputy Administrator.

Mr. GLENN. Mr. President, how much time do I have remaining on my 10 minutes?

The PRESIDING OFFICER. There are 3 minutes, 40 seconds remaining to the Senator from Ohio.

Mr. GLENN. Mr. President, I know that my distinguished colleague from Michigan, Senator LEVIN, wished to speak on this particular subject, also; so I will reserve the remainder of my time until he has spoken.

The PRESIDING OFFICER. The Senator from Ohio reserves the remainder of his time.

The Senator from Michigan is recognized for up to 5 minutes.

Mr. LEVIN. I thank the Chair.

Let me also congratulate the Senator from Ohio for his leadership in trying to bring some sunshine to this regulatory process. This most recent action on the part of the White House and OMB is another act to keep the regulatory process in the dark. And because of the Senator from Ohio and a few others who are determined that we are going to bring sunshine to this process, they are not going to succeed.

I know that the Senator from Ohio is going to be announcing some important actions on the part of the committee which he chairs and on which I serve, and I think he will find great support on the committee and he will find bipartisan support for the kind of effort that he is continuing to make in this area.

Senator GLENN made reference to some newspaper articles and a letter from the White House to the Department of Labor. The letter is dated March 10. The letter is now in the RECORD, and I just want to read one small part of it.

> To the extent that firms cannot pass on regulatory compliance cost increases to consumers, firms will absorb these costs by cutting wages, and by reducing employment. It firms do pass on compliance costs to consumers, consumers' real incomes will decline with similar effects on their health. In addition, as regulation increases job safety, there will be a decline in risk premiums paid to workers as compensation for bearing health and safety risks.

Putting that into simple English, what the White House is telling the Department of Labor is that a healthier workplace is a sicker workplace. A safer workplace is a more dangerous workplace. Up is down; yes is no. It is doubletalk; it is Washington doubletalk in this letter.

What they are telling people who work in coal mines is the more coal dust you inhale, the healthier you are going to be. Breathe in asbestos; you are better off. Why? Because you are going to get paid more for breathing in asbestos and coal dust. That is that risk premium paid to workers, which is referred to in a line in this letter.

Sicker is healthier. It is worth breathing in coal dust, folks. Did you not known that? Have you not heard from Washington yet that you are better off with coal dust coming into your lungs? Why? Because you will get paid more, and we all know that the richer you are, the healthier you are. Rich people are healthy.

Now, this is a novel, new addition to the regulatory process. We have always weighed costs and benefits. And this is a legitimate requirement in the regulatory process. But this is a new one; this is a new one. This is telling workers: You are going to actually be healthier if you take the sickness risk, because you are going to get paid more.

I used to work in a factory where they used to hang car doors. They used to take these big sledge hammers and bang on these doors in the so-called white body department before the car was painted, and the noise was excruciating.

But we used to get paid a nickel an hour more for working inside of those cars while the doors were being hung because of the high noise level. So even though some of us, over time, would lose our hearing from the noise, mind you, that would be a lot better for us because we got paid a nickel an hour more, and then we had more money to go on a vacation. And we would have less stress because our income would be a little bit higher. So what if we lost our hearing, or lost our lungs.

Mr. President, this new, novel approach to cost-benefit analysis requires the light of day, fast and hard, and I am glad that the Senator from Ohio is taking the lead on doing just that.

I yield the floor.

Mr. GLENN addressed the Chair.

---

[1] For an exposition on this subject, see Wildavsky, A. "Searching for Safety." New Brunswick: Transaction Books, 1988.

[2] See *International Union, United Automobile, Aerospace, and Agricultural Implement Workers, UAW, et, al. OSHA*, United States Court of Appeals for the D.C. Circuit, 89-1559; which cites Keeney, R. "Mortality Risks Induced by Economic Expenditures." Risk Analysis. 10:1, pp. 147-160. Also, see Anderson, K. and Burkhauser, R. "The Retirement-Health Nexus: A New Measure on an Old Puzzle." The Journal of Human Resources. 20:3, pp. 315-330. Provides an estimate (although smaller) of the effect of wages on mortality.

[3] Viscusi, K. and Moore, M. "*Compensation Mechanisms for Job Risk: Wages, Workers' Compensations, and Product Liability.*" Princeton: Princeton University Press, 1990. p. 60.

[4] OSHA routinely considers the "healthy worker effect" when evaluating possible workplace hazards. See, e.g., 55 FR 4087 (February 6, 1990).

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. GLENN. I thank the Chair.

Mr. President, I will repeat only just a little bit of what Senator LEVIN has already so eloquently stated. This stands all ideas of health and safety on their collective heads; the idea that somehow health and safety in the workplace, and the regulation of toxic substances should be thought of just as increased costs that are passed back to the workers who, in turn, because of their lowered wages, will then fit into the category of people who have greater health risks because they are lower income.

So then the OMB is saying, through Mr. MacRae, we will hold up all these rules and regulations. There will not be any new regulations on this subject. And not only that, but as OMB officials said yesterday, the letter represents OMB policy and would apply to all Federal regulatory agencies.

If this is to be the new policy of nonregulation, of nonsafety and health, it stands logic on its head.

Then, as I said a while ago, Mr. MacRae said, "I am not on my own; I do what I am told to do."

That is very interesting in light of our problems with the Council on Competitiveness. This obviously puts the Department of Labor in a very, very difficult position. I understand there is a letter being prepared that will go over to OMB, asking for some relief on this because this just cuts out all safety and health regulatory activity, if these reports are correct. And the letter states exactly what is in the newspaper article here that Senator LEVIN addressed just a moment ago.

Mr. President, I just want to announce we are having a hearing on this tomorrow morning. Mr. MacRae will be there. We are having a hearing at 9:30 tomorrow morning in which we hope to get to the bottom of this, because this really stands regulatory matters on their heads, opposite the direction we all thought we were going in trying to get better health and safety in the workplace.

Mr. President, I yield the remainder of my time.

PRESIDENT VACLAV HAVEL ON "THE END OF THE MODERN ERA"

Mr. KENNEDY. Mr. President, I want to take this opportunity to bring to the attention of my colleagues a thoughtful and perceptive address By Vaclav Havel, President of the Czech and Slovak Republic, at the World Economic Forum in Davos, Switzerland, last month.

Since the collapse of communism, many leaders in many different lands have been endeavoring to define the outlines of the post-cold war era and to develop worthwhile directions and goals for international relations. In his address, President Havel draws some important lessons from the collapse of communism that all of us should heed.

In these difficult times at home and abroad, all of us can benefit from President Havel's advice and avoid the temptation, which he warns against, of seeking simplistic solutions based on the old order. We recall his eloquent address to the joint meeting of Congress in February 1990, and I commend his recent address. I believe that all of us will be interested in his eloquent insights and his call for bolder thinking in meeting the serious challenges facing the United States and all nations.

I ask unanimous consent that excerpts of President Havel's address in Davos, as recently reprinted in the New York Times, may be printed in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 1, 1992]

THE END OF THE MODERN ERA

(By Vaclav Havel)

The end of Communism is, first and foremost, a message to the human race. It is a message we have not yet fully deciphered and comprehended. In its deepest sense, the end of Communism has brought a major era in human history to an end. It has brought an end not just to the 19th and 20th centuries, but to the modern age as a whole.

The modern era has been dominated by the culminating belief, expressed in different forms, that the world—and Being as such—is a wholly knowable system governed by a finite number of universal laws that man can grasp and rationally direct for his own benefit. This era, beginning in the Renaissance and developing from the Enlightenment to socialism, from positivism to scientism, from the Industrial Revolution to the information revolution, was characterized by rapid advances in rational, cognitive thinking.

This, in turn, gave rise to the proud belief that man, as the pinnacle of everything that exists, was capable of objectively describing, explaining and controlling everything that exists, and of possessing the one and only truth about the world. It was an era in which there was a cult of depersonalized objectivity, an era in which objective knowledge was amassed and technologically exploited, an era of belief in automatic progress brokered by the scientific method. It was an era of systems, institutions, mechanisms and statistical averages. It was an era of ideologies, doctrines, interpretations of reality, an era in which the goal was to find a universal theory of the world, and thus a universal key to unlock its prosperity.

Communism was the perverse extreme of this trend. It was an attempt, on the basis of a few propositions masquerading as the only scientific truth, to organize all of life according to a single model, and to subject it to central planning and control regardless of whether or not that was what life wanted.

The fall of Communism can be regarded as a sign that modern thought—based on the premise that the world is objectively knowable, and that the knowledge so obtained can be absolutely generalized—has come to a final crisis. This era has created the first global, or planetary, technical civilization, but it has reached the limit of its potential, the point beyond which the abyss begins. The end of Communism is a serious warning to all mankind. It is a signal that the ear of arrogant, absolutist reason is drawing to a close and that it is high time to draw conclusions from that fact.

Communism was not defeated by military force, but by life, by the human spirit, by conscience, by the resistance of Being and man to manipulation. It was defeated by a revolt of color, authenticity, history in all its variety and human individuality against imprisonment within a uniform ideology.

This powerful signal is coming at the 11th hour. We all know civilization is in danger. The population explosion and the greenhouse effect, holes in the ozone and AIDS, the threat of nuclear terrorism and the dramatically widening gap between the rich north and the poor south, the danger of famine, the depletion of the biosphere and the mineral resources of the planet, the expansion of commercial television culture and the growing threat of regional wars—all these, combined with thousands of other factors, represent a general threat to mankind.

The large paradox at the moment is that man—a great collector of information—is well aware of all this, yet is absolutely incapable of dealing with the danger. Traditional science, with its usual coolness, can describe the different ways we might destroy ourselves, but it cannot offer us truly effective and practicable instructions on how to avert them. There is too much to know; the information is muddled or poorly organized; these processes can no longer be fully grasped and understood, let alone contained or halted.

We are looking for new scientific recipes, new ideologies, new control systems, new institutions, new instruments to eliminate the dreadful consequences for our previous recipes, ideologies, control systems, institutions and instruments. We treat the fatal consequences of technology as though they were a technical defect that could be remedied by technology alone. We are looking for an objective way out of the crisis of objectivism.

Everything would seem to suggest that this is not the way to go. We cannot devise, within the traditional modern attitude to reality, a system that will eliminate all the disastrous consequences of previous systems. We cannot discover a law or theory whose technical application will eliminate all the disastrous consequences of the technical application of earlier laws and technologies.

What is needed is something different, something larger. Man's attitude to the world must be radically changed. We have to abandon the arrogant belief that the world is merely a puzzle to be solved, a machine with instructions for use waiting to be discovered, a body of information to be fed into a computer in the hope that, sooner or later, it will spit out a universal solution.

It is my profound conviction that we have to release from the sphere of private whim such forces as a natural, unique and unrepeatable experience of the world, an elementary sense of justice, the ability to see things as others do, a sense of transcendental responsibility, archetypal wisdom, good taste, courage, compassion and faith in the importance of particular measures that do not aspire to be a universal key to salvation. Such forces must be rehabilitated.

Things must once more be given a chance to present themselves as they are, to be perceived in their individuality. We must see the pluralism of the world, and not bind it by seeking common denominators or reducing everything to a single common equation.

We must try harder to understand than to explain. The way forward is not in the mere construction of universal systemic solutions, to be applied to reality from the outside; it is also in seeking to get to the heart of reality through personal experience. Such an approach promotes an atmosphere of tolerant solidarity and unity in diversity based on mutual respect, genuine pluralism and parallelism. In a word, human uniqueness, human action and the human spirit must be rehabilitated.

The world today is a world in which generality, objectivity and universality are in crisis. This world presents a great challenge to the practice of politics, which, it seems to me, still has a technocratic utilitarian approach to Being, and therefore to political power as well. Many of the traditional mechanisms of democracy created and developed and conserved in the modern era are so linked to the cult of objectivity and statistical average that they can annul human individuality. We can see this in political language, where cliché often squeezes out a personal tone. And when a personal tone does crop up, it is usually calculated, not an outburst of personal authenticity.

Sooner or later politics will be faced with the task of finding a new, postmodern face. A politician must become a person again, someone who trusts not only a scientific representation and analysis of the world, but also the world itself. He must believe not only in sociological statistics, but also in real people. He must trust not only an objective interpretation of reality, but also his own soul; not only an adopted ideology, but also his own thoughts; not only the summary reports he receives each morning, but also his own feeling.

Soul, individual spirituality, firsthand personal insight into things; the courage to be himself and go the way his conscience points, humility in the face of the mysterious order of Being, confidence in its natural direction and, above all, trust in his own subjectivity as his principal link with the subjectivity of the world—these are the qualities that politicians of the future should cultivate.

Looking at politics "from the inside," as it were, has if anything confirmed my belief that the world of today—with the dramatic changes it is going through and in its determination not to destroy itself—presents a great challenge to politicians.

It is not that we should simply seek new and better ways of managing society, the economy and the world. The point is that we should fundamentally change how we behave. And who but politicians should lead the way? Their changed attitude toward the world, themselves and their responsibility can give rise to truly effective systemic and institutional changes.

(Vaclav Havel, the President of Czechoslovakia, spoke at the World Economic Forum in Davos, Switzerland, on Feb. 4. His address is excerpted here.)

DEATH OF SENATOR RIEGLE'S FATHER

Mr. SIMPSON. Mr. President, I wish to express my sympathy to our fine colleague from Michigan, Senator DON RIEGLE, a friend of all of us, at the death of his father, if I may do that.

My father is still living and I know what a hollowness it would be in my life in the event of his passing. So to my friend—and I do mean that—from Michigan, we do not vote together a great deal of the time, but I can tell you, I have high regard for him and enjoy him thoroughly and I express my deepest sympathy to him.

Mr. RIEGLE. I thank the Senator for his gracious comments. Anyone who has gone through the loss of a parent understands it in a way that you cannot any other way. It is a great loss. But I am touched by the sentiment of my colleague and many others who have spoken to me. I thank the Senator, and my dad as well would be most appreciative.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by Congress stood at $3,856,093,332,821.78, as of the close of business on Monday, March 16, 1992.

As anybody familiar with the U.S. Constitution knows, no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or about $785 million every day of the year.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

NATIONAL AGRICULTURE WEEK: FARM CHANGE CONTINUES

Mr. PRESSLER. Mr. President, at this time, many American farmers and ranchers are beginning their efforts for 1992. This is also a time of great change and exciting new developments in agriculture. New efforts in soil and water conservation, animal and plant research, biotechnology, alternative and new uses for agricultural crops and agricultural credit are under way.

The farmer of tomorrow will be even more efficient than today's farmer, harnessing the wonders of science and advanced technology to produce more with fewer hours of labor. Farms and ranches will be transformed by advanced mechanization, telecommunications, energy conservation and plant and animal genetic research.

Some of the changes predicted for agriculture are almost upon us; others are years away. While the daily life of the farmer will still center on the fundamental activities of planting, ranching, harvesting and marketing, the farmer and rancher of tomorrow will need to master many skills in addition to basic agricultural training.

Those in agriculture will spend less time in the fields or pastures and more time in the office. To make cost-effective decisions, the farmer will need to better understand domestic market forces, world markets and how these factors change with the national and world economy. A basic knowledge of electronics and computers will permit the farmer to adapt to changes in telecommunications and data processing. By keeping up with advances in technology and science, the farmer of tomorrow will be able to produce more crops, in wider variety, with fewer hours of labor.

Future developments will produce farm equipment similar to aircraft with automatic pilots. Minicomputers will allow the farmer to punch in the day's activities and let machines do most of the work. Farmers can look ahead to the day when work on the farm or ranch might be conducted by automatic machinery, controlled by computer programs and supervised by television scanners atop monitor towers. Procedures already are in place for livestock auctions to take place via video-cam transmissions. Cattle buyers can hook into their computers and TV's and purchase cattle right from their office.

Another form of technology already available is the use of an in-home computer to program operational needs and costs. Financial data stored in the computer can be retrieved easily for review and update. The farm computer brings market prices, minute by minute, directly to the farmer, permitting the most cost-efficient purchases of seed, fertilizer, parts and other supplies.

The computer also permits the farmer to monitor that traditionally unknown factor—nature. Satellite dishes on the farm will be able to receive signals from orbiting satellites that transmit weather conditions, allowing the farmer to calculate weather risks. Other space technology will permit better measurement of land use, assessments of crop conditions, prediction of yields, detection of plant disease and insect infestation, and determination of the suitability of soil for particular crops.

Vast changes in farm machinery are just around the corner. The short-term goals are to enhance energy efficiency and safety. Larger yet lighter equipment with more horsepower will reduce fuel consumption. Alternative fuel sources reduce energy costs, reduce this country's dependence on foreign oil imports, and help this country meet Federal energy and Clean Air Act standards.

Mr. President, this is demonstrated in South Dakota, which leads the Nation in ethanol use. Within a year, it is quite possible that South Dakota will become the first State in the Nation in which half the gasoline consumed is an ethanol blend. I ask unanimous consent that a recent press release on this subject be printed in the Record at the conclusion of my remarks.

Agricultural research will lead to ever more practical ways for the farmer of tomorrow to trap and store energy from natural resources right on the farm. Some farmers already are using farm byproducts to produce fuel. In the future, many will rely on energy generated from solar and wind collection to reduce the use of fossil fuels.

The farmer of tomorrow will be more concerned than ever with conservation tillage and other advances that allow more efficient use of less-than-prime land. The dwindling supply of water will require improvement in distribution systems, irrigation scheduling and the recycling of waste water.

There are also new crops on the horizon for the American farmer. Major work in the next decade will concentrate on gene splicing and plant and animal genetic research. More hybrids will come first, but farmers also will see the introduction of entirely new crops and possibly disease-resistant animals.

Mr. President, I am proud to say that such a scientific breakthrough was announced last week by South Dakota State University. Veterinarians at SDSU discovered a genetic source of disease susceptibility that soon will give swine breeders a chance to produce disease-resistant pigs. Research such as this can save producers millions of dollars every year. Dr. David Francis, a veterinary science microbiologist at SDSU is responsible for this research feat, along with SDSU postdoctoral fellow Dr. Alan Erickson. Others working on the research are SDSU scientists JoAnn Willgohs, Sandy McFarland, Dr. Jane Hennings and Dr. David Benfield.

I commend this fine work at South Dakota State University and ask unanimous that an article on this subject be printed in the Record at the conclusion of my remarks.

Mr. President, in 1987, a new and mysterious swine disease struck the United States which cost producers $250 to $500 in lost pigs per sow. Just last year, SDSU scientist Dr. David Benfield and research associates Dr. Jane Hennings and Eric Nelson led a three-State effort that made history by uncovering the cause of mystery swine disease. While many scientists across the country looked for the causes of this disease, it was the SDSU led team that identified the virus and is now working on a vaccine. Mr. President, I ask unanimous consent that an article on this work by SDSU scientists be printed in the Record at the conclusion of my remarks.

The future here is limitless. To meet the growing demand for food, crops will be developed that are more nutritious than today's. Researchers are now working on retrieving food protein from tobacco before the leaves are processed, with no ill effect on tobacco quality. Even the orchards of the future will be different as dwarf orchards are developed to enhance efficient harvesting. Self-fertilizing plants are being developed to reduce the need to add chemicals to the soil. In the future, many plants will be naturally immune to pests and diseases that today must be controlled with chemicals.

Mr. President, I am also very proud that in little over 1 year's time, the Northern Plains Biostress Laboratory will open on the campus of South Dakota University. Biostress—drought, floods, blizzards, insects, soil erosion—is the biggest impediment to world food production. These factors ultimately show up in grocery bills and affect how well we eat. The Northern Plains Biostress Laboratory offers an opportunity for this nation's scientists and agricultural producers to join together in assuring an economical supply of food and fiber for the United States and the world. It will be a highly focused, cooperative research offensive against the environmental and biological stresses that plants, animals, and humans endure. I was pleased to play a role in efforts to create this facility and look forward to its opening next year. Farmers, ranchers, consumers, and the environment will benefit from this needed research.

As today's young people enter agriculture as a career, they can look forward to more productive farming and new and exciting developments. The farmer of tomorrow will face repeated adaptations to change and a lifelong effort to keep informed. The challenges ahead are great, but American farmers and ranchers stand poised to successfully face those challenges.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Brookings Daily Register, Mar. 10, 1992]

SDSU Hits Pig Disease Breakthrough

(By Molly Miron)

Brookings.—A scientific break-through announced today by the South Dakota State University veterinarians will soon give swine breeders a chance to sell disease resistant pigs.

For years, horticulturists have bred blight and rust resistance into everything from tomato plants and wheat to lilacs and asters. Research recently completed by Dr. David Francis, a veterinary science microbiologist at SDSU, will make it possible for swine breeders to develop a similar resistance to disease in pigs.

Francis, along with Dr. Alan Erickson, SDSU postdoctoral fellow, have isolated the protein that gives certain pigs susceptibility to the disease. Others working on the research are JoAnn Willgohs, Sandy McFarland, Dr. Jane Hennings and Dr. David Benfield, all scientists in the SDSU veterinary science department.

As a result of the discovery, Francis said, breeders within a few years will be able to advertise their herds as genetically resistant to colibacillosis bacteria, a pathogen which causes a commonly fatal infection in young pigs.

The loss of animals from the disease costs producers millions of dollars every year and the disease is considered the biggest threat to pigs under 30 days old.

A receptor on the cells lining the intestines of susceptible pigs allows the bacteria access to the cells and throws off the natural secretion system, causing an infection similar to the human cholera disease. Colibacillosis causes scours, dehydration and death in the susceptible animals. Pigs that do not inherit the gene for the protein are resistant to the disease, so selective breeding of those animals will result in offspring resistant to any of the bacterial strain that cause colibacillosis.

"We've identified the receptor," Francis said.

Unlike horticulturists who make plant crosses from wild species to find resistant phenotypes, Francis said swine specialists have known for years that the pig population across all breeds is split into the resistant and susceptible lines. The problem has been to identify which animals carry the defective gene.

Now that they have identified the receptor from the intestinal cells, the research team expects to develop within three to five years, a gene probe which will allow them to find susceptible pigs by a simple blood test. "With a gene probe, it doesn't matter which cell you use," Francis explained.

He said anecdotal evidence of genetically resistant animals has existed for many years. For example, more than 100 years ago, an epidemic of foot-and-mouth disease wiped out most of the cattle in France, but one cow on one farm survived. Many years later when another outbreak of the fatal disease swept the country, the progeny of that cow were the ones who stayed healthy while their herd mates succumbed to the disease.

Francis said the discovery is a break through because it can open the door for research on genetic resistance to other animal diseases. Someday, animals will be bred to resist many other damaging diseases.

"They've been doing it for years with plants, but animal breeders have resisted it, possibly because they have vaccines and antibiotics, but those are the fire engine approach," Francis said.

The research cost about $250,000 over three years, Francis said, but the cost will be returned in lower swine production costs. Funding has come from the U.S. Department of Agriculture and the South Dakota EPS Cor Program.

Three-State Research Effort Solves Mystery Swine Disease

Brookings, S.D.—The "mystery" is gone from Mystery Swine Disease (MSD), as a result of a three-state research project in which South Dakota State University scientists and graduates played major roles.

Through a team effort involving a private laboratory and two universities, scientists found the cause of the mystery disease, isolated a virus, reproduced the disease symptoms from the virus, and then recovered the same virus from the diseased animals.

This virus is now being characterized and classified at SDSU, where a diagnostic test is now in use on some South Dakota herds.

Development of a vaccine by the cooperating Missouri firm is under way, and scientists will soon know through serological tests just how prevalent the disease is among herds in South Dakota and probably other farm states.

Cooperating in this team research enterprise are Boehringer Ingelheim Animal Health, Inc. (BIAHI) of St. Joseph, Mo., now working on a vaccine, the University of Minnesota, and SDSU.

An SDSU staff member and a "key player" in the unfolding developments, is Dr. David Benfield, professor of veterinary science and a researcher in the university's Animal and Disease Research and Diagnostic Laboratory (ADRDL).

What Dr. Benfield has done is taken a field sample provided by the University of Minnesota from a pig infected with MSD and used the material to produce respiratory symptoms in germ-free pigs in a bubble environment at SDSU. He also amplified the material for use by other researchers.

This material from the infected pigs was then supplied to BIAHI whose scientist Lou Harris isolated the virus. The cell-line grown virus was sent back to SDSU where Benfield again reproduced the respiratory part of the disease in germ-free pigs. The same material went to the University of Minnesota where scientists reproduced the reproductive symptoms in pregnant sows. The same virus was then recovered from the germ-free pigs and from piglets of infected sows. This process satisfied Koch's postulate for proof of having found the disease-causing organism.

The University of Minnesota's major player in this research is Prof. James Collins, who, incidently, was a graduate student of Benfield's while he was on the staff at SDSU's diagnostic lab some years ago.

Benfield and his team at SDSU are in the process of characterizing and classifying the virus involved and also are beginning to assess the prevalence of the disease in South Dakota and determine whether general herd vaccination will be warranted in this state. SDSU's team is also improving the diagnostic test procedure.

In the private sector, the next step will be production of a vaccine. At BIAHI, vaccine development is under way, but no timetable has been set for completion, licensing or use in public, said Dan Chladek, director of biological research and development. Chladek, a native of Lesterville, S.D., is another graduate of South Dakota State University.

Mystery swine disease, new to the United States in 1987, can be economically devastating when it strikes a herd, typically costing a producer $250 to $500 per sow in lost pigs.

The disease causes reproductive disorders in sows (stillborn and weak live born pigs and mummified fetuses) and respiratory disorders in neonatal, weaned and feeder pigs.

While known to producers in this country as mystery swine disease, the set of symptoms is known to the veterinary medical profession as SIRS, for Swine Infertility and Respiratory Syndrome. A very similar disease known as PRRS, for Porcine Reproductive and Respiratory Syndrome, is present in Europe.

Dr. John Thomson, head of SDSU's ADRDL, said mystery swine disease or SIRS, until the discoveries by Benfield and the rest of the team, was the most investigated and unidentified pathogen facing the swine industry.

Benfield and associates in Missouri and Minnesota "have been able to do what no other researchers in the United States have been able to do, and that is come up with the causative agent," Thomson said.

Several herds in South Dakota are believed to have the disease. The extent of the disease across the state is not yet known, but a serum bank already collected by SDSU's diagnostic laboratory from a cross-section of South Dakota swine herds will be used by Benfield to determine the prevalence of the disease in this state.

The SDSU team working on SIRS since 1990 has been Benfield as project leader and Eric Nelson and Dr. Jane Hennings, research associates.

SDSU has contributed expertise in gnotobiology, virology, and diagnostic techniques. The use of gnotobiotic pigs, that is pigs born and kept in a germ-free environment, enabled these investigators to reproduce a disease without confusion from secondary infections or pathogens, Thomson explained.

Benfield, while characterizing and attempting to classify the virus, has discovered this much. The agent is a virus. It is between 50 and 100 nanometers in size. It can be inactivated by some chemical agents. The virus is relatively stable by temperature and survives freezing, although it can be inactivated by heat. Method of transmission is probably by aerosol and nose-to-nose contact.

Benfield said, "Taking the 'mystery' out of MSD (or SIRS) would not be this far along if it had not been for the interaction between the three collaborators."

Thomson pointed out that the project in South Dakota has enjoyed grass-roots support, including contributions from the S.D. Pork Producers Council, the National Pork Producers Council, the S.D. Veterinary Medical Association, and BIAHI.

Many researchers across the country have been looking for the cause of SIRS and thought they had found it, but were mistakenly identifying the disease organism for secondary infections, Thomson said.

"We may find other pathogens involved with SIRS, but SDSU's findings are definitely a major piece of the puzzle," he added.

SDSU's gnotobiotic facilities enabled accurate identification of the virus, which Benfield reported at the Minnesota Swine Conference for Veterinarians in September in Minneapolis. Collins also spoke at that conference which set off a flurry of articles in the farm press.

"Since the disease is transmitted from the sow to the fetuses, scientists may be able to vaccinate the dam and get protection for the fetus," Benfield suggested.

Benfield's optimism for a successful vaccine from BIAHI is supported by the fact that infection in a herd seems to impart immunity to the survivors.

PRESSLER PRAISES SOUTH DAKOTA ETHANOL INDUSTRY

WASHINGTON, DC.—"Ethanol blended gasoline has achieved a 42 percent market share in South Dakota. This figure is up from 34 percent in 1991 and just 13 percent in 1990. These numbers clearly indicate a promising future for ethanol, which burns cleaner than gasoline," Senator Larry Pressler said today.

"If the present trend continues, South Dakota soon will become the first state in the nation to achieve a 50 percent market share for ethanol blended fuel," Pressler said.

Pressler praised the South Dakota Corn Growers Association and the South Dakota Corn Utilization Council for their work in promoting the use of ethanol. "Increasing ethanol use provides additional markets for South Dakota corngrowers, benefits the state's agricultural economy and decreases the United States' dependency on foreign oil," said Pressler.

"If other states follow South Dakota's lead, economic benefits from ethanol production and consumption will benefit many South Dakota communities," Pressler concluded. "The ethanol utilization figures are good news for South Dakota corngrowers, the ethanol plan at Scotland and other sites currently in the planning stage."

GRASSROOTS GOVERNMENT IN SRI LANKA

Mr. PRESSLER. Mr. President, I recently returned from a trip to Sri Lanka. As the first Senator to visit this small island country in a decade, I would like to highlight briefly one of the interesting governmental features of Sri Lanka—the President Mobile Secretariat.

President Premadasa of Sri Lanka initiated this innovative and truly ambitious outreach program in his country. Historically, if a citizen of Sri Lanka needed to transact business with the Government, that individual was forced to travel to the capital city of Colombo. This was true not only for addressing problems citizens had with their government, but even to secure such basic documents as a birth certificate.

In an effort to make the Government more responsive to its citizens, the Premadasa government literally has taken to the road. Approximately four times per year, the entire Government—all 28 ministries—packs up and relocates to a city in an outlying district for several days. I was lucky enough to be in the country during one such period.

Mr. President, it is difficult to understand what I am describing without actually seeing the program in action. This is no token gesture. The ministers and secretaries themselves, including the President and Prime Minister, travel with the secretariat. They set up tables and meet directly on a one-to-one basis with any citizen who wishes to come. It is truly extraordinary.

The day I visited was the third and last day of the government's relocation to the state of Kalutara. I was told that in the first 2 days, 25,000 citizens of Sri Lanka had met with their leaders. This is easy to believe based on the throngs of people I witnessed patiently waiting in lines to talk with officials of their government. I also learned the process begins will before the 3 days the Government relocates. Prior to the event, each secretary visits the area to establish a secretariat and do preliminary work. By the time all the ministers arrive, the Government's service to its people is well under way.

When possible, problems are handled on the spot. Complex issues which require additional consideration are initiated with a promise of followup. I am told, both by officials and random members of the crowd of citizens with whom I spoke, that this followup does occur. Nobody is turned away without an answer.

I witnessed the Prime Minister, the Minister of Public Administration and Home Affairs, the Foreign Minister, the Minister of Housing and Construction, and others meeting with individual after individual as they presented their grievances and problems. It was a scene like nothing I have ever witnessed. It was grassroots government at its finest. In a word, Mr. President, it was inspiring.

In my meeting with President Premadasa in his office later that afternoon, he explained that this outreach is only the beginning. The plan, when fully implemented, will replace the mobile secretariat with permanent branch offices of the various ministries in each district. The goal is to create a system under which people can obtain everything from birth certificates to death certificates close to home.

Mr. President, President Premadasa faces many challenges. Ethnic tensions persist among the Buddhist majority Singhalese, the Hindu Tamils, and the Muslims. These tensions are centuries old and will not be resolved quickly. They are embodied today most graphically in the continued fighting between the Government and the Liberation Tigers of Tamil Edelam. These historic ethnic tensions have given rise to concerns over Sri Lanka's human rights conditions. I am pleased to report that progress is being made in this area. President Premadasa outlined his efforts with regard to human rights and I encouraged him to continue making advancements. I believe he will.

The economic situation in Sri Lanka presents additional challenges for President Premadasa and the people of that country. The Government is continuing efforts to replace a socialistic legacy with a free market economy. The country enjoys high social indicators: an amazing 90 percent literacy rate, a 70-year life expectancy and adequate food.

Yet, President Premadasa indicated that joblessness remains a major problem. Educated but inexperienced youth grow increasingly restless when they are unable to find work. The Government has responded by creating a program that provides support to families for a period of 2 years while they get on their feet. In addition, incentives are being devised to improve investment in new and existing ventures, with an eye toward job creation. These represent just some of the initiatives President Premadasa has taken in his effort to continue his country's evolution from socialism to a free market economy.

Mr. President, I applaud the efforts of President Premadasa of Sri Lanka. Ultimately, the success of any government turns on its responsiveness to the needs of its citizens. Through his Presidential Mobile Secretariat and programs to address ethnic conflict, human rights, and the economic well being of his constituents, President Premadasa is attempting to do just that. I wish him great success.

REFERENDUM RESULTS ENCOURAGE SUCCESSFUL NEGOTIATIONS IN SOUTH AFRICA

Mr. PRESSLER. Mr. President, I commend the people of South Africa on the results of the referendum among white voters held yesterday. Yesterday's vote means the movement toward ending apartheid is now irreversible.

That a large white majority voted in favor of continuing negotiations toward a new constitution is most encouraging. The South African Government and its major opponents, Inkatha and the African National Congress [ANC], are sitting around the negotiating table. The next session of constitutional talks—known as the Conference on a Democratic South Africa [CODESA]—is scheduled for later this month. It is my hope that this vote will help to ensure these efforts succeed.

The future of South Africa still hangs in the balance. Now that white voters have spoken, I believe it can be argued fairly that the ANC and its allies—the so-called Patriotic Front—have the responsibility to help all South Africans feel more comfortable about a transition to representative government. It is time for the ANC to distance itself from the militant South African Communist Party and to move toward recommending a free market economy rather than socialism and nationalization.

Mr. President, I especially commend President F.W. de Klerk and the South African Government for their courage in calling yesterday's referendum. I am pleased to join the Senator from Wyoming, Mr. WALLOP, and other Senators in supporting a resolution to express the sense of the Senate in favor of peaceful negotiations for a new South African constitution.

SOUTH AFRICA REFERENDUM

Mrs. KASSEBAUM. Mr. President, President de Klerk, of South Africa, has just said today—which is, as a matter of fact, his birthday—that South Africa has closed the book on apartheid. This is, indeed, a turning point in the history of South Africa.

I would also add that I believe, in many ways, it to be a turning point in history for all sub-Saharan Africa.

I think the election yesterday, the referendum, was a dramatic event, and, clearly, white South Africans voted overwhelmingly to support the peaceful negotiation process in that country.

I salute President de Klerk, and congratulate him on receiving a clear mandate for white South Africans to continue the efforts to abolish apartheid and establish a nonracial democracy.

I join with the international community in commending yesterday's vote for a future of hope and peace, a vote which I am sure, to many, was not an easy vote, but it was one in which they were voting for the future of their country. Thousands of people lined up to vote. It was indeed a dramatic moment, and it is now clear that the day will come soon when South Africa will become a full member of the international community.

Now is the time for all South Africans, whether black, white, Indian, or colored, to join together in the ongoing effort to forge a new nation. All violence and oppression, we hope, will be completely ended. Peaceful negotiations offer the only path to a new and democratic South Africa.

We, in the United States, must also continue to encourage the peaceful process in South Africa.

While most Federal trade and investment sanctions have already been lifted, over 145 State and local governments continue to impose sanctions against South Africa.

Following yesterday's vote, I call on these local and State governments to carefully evaluate these remaining trade investment restrictions. It seems to me, Mr. President, it is a great opportunity to express our support for the courageous and important referendum that was cast yesterday in South Africa.

Clearly, the road ahead will not be easy. The brutal legacy of apartheid will haunt South Africa for decades. An entire generation of young South Africans have lost their opportunity for an education. Unemployment is high. Violence continues in the townships. Right wing reactionaries threaten to disrupt the process.

Despite these difficulties, South Africans can now see the light at the end of the tunnel. Yesterday's vote demonstrates that not only the majority of nonwhite South Africans but also white South Africans have chosen the peaceful path to a new nonracial and democratic South Africa.

Mr. President, today is a hopeful day. Led by two extraordinary and courageous leaders—Mr. Nelson Mandela and President F.W. de Klerk—South Africa is moving toward a new and promising future.

I yield the floor, Mr. President.

Mr. CHAFEE. Mr. President, I just say to the distinguished Senator from Kansas that I think no one in this Chamber has followed the situation in South Africa more than she has. So, I and, I suspect, many, many others in this Chamber rely upon her appraisal of what is taking place.

So, for the words of commendation that the Senator has given to Mr. Mandela and Mr. de Klerk and what they have accomplished, I particularly think we ought to tip our hat to a considerable degree, not making comparisons, to what Mr. de Klerk did which was really extraordinary. I noticed he did not get any help at all from his predecessor, Mr. Botha, which made us all a little bit nervous for a while because Mr. Botha spoke out strongly among that group that would be voting.

But it was good news, and having the Senator from Kansas make it good news makes me feel even better.

Mrs. KASSEBAUM. I certainly thank the Senator for his comments.

It was really a thrill. I add the voters of South Africa to that list because I am sure it was a vote that they stood up and counted with great pride, but also with some trepidation, I am sure. But I think it is, as President de Klerk said today, a turning point, and it was a real thrill for those of us who have watched the struggle there.

Mr. CHAFEE. One of the proposals that the Senator from Kansas made was that these restrictions, or sanctions, I guess is the proper word, that have been applied by various communities and States on holding, for instance, securities of those companies that do business in South Africa, the suggestion of the Senator from Kansas was that it is time to lift those sanctions. I would be interested in what the Senator's response would be to challenge that—and I am not adopting this argument, but I am curious, and it is certainly one that could be brought up, and that is lot—those sanctions got us all of this. Now is the time to keep them on, so that we can make sure that this thing stays on track, and as in the expression, keep their feet to the fire. What is the Senator's answer to that point?

Mrs. KASSEBAUM. I think it will be raised, Mr. President. My answer to that is what is very important now to South Africa is the climate of investment and vitality for business, so that there can be jobs. There is a very high unemployment rate.

What is needed is the energies of those who will assist with education, particularly for black South Africans that have been neglected for years. What is needed is training skills in the business community, and the business community willing to go back in and help with that education and training. That is why it seems to me it serves a very useful purpose at this juncture to be able to encourage the business community around the world to go in and work for the positive efforts here, as the Constitution moves forward, and it essentially guarantees the adoption of a very positive Constitution.

There are those who will worry that it might become less than it could be. I share the view with those who feel indeed that this is a strong mandate for President de Klerk, a recognition that indeed he can move forward with great support, and it must happen. It simply must happen. I think the key to that is the ability to go back in from the business community and help to find jobs and training.

Mr. CHAFEE. I was wondering whether the Senator would think, if the sanctions were lifted—the sanctions were twofold, I guess. One is that for bad State pension funds, it would prevent them from holding securities in companies that were doing business in South Africa. The other was State sanctions against—or local community sanctions against purchasing any goods from companies that were doing business in South Africa. If that were lifted, many of them, I wonder if many American companies would go back in, or whether in this present economic climate, with companies not having much money to expand, it would make that much difference.

Mrs. KASSEBAUM. Mr. President, clearly, I think that Senator CHAFEE makes a good point. I am not sure it would make that much difference, but I do not think there should be that impediment either, because clearly there are opportunities here. I do not think there would be a dramatic rush back, but it would be something that I think would show positive support for what is clearly, I believe, a very positive action on the part of white South Africa.

Mr. CHAFEE. I thank the Senator.

Mrs. KASSEBAUM. I yield the floor.

CARDINAL LAW'S ST. PATRICK'S DAY ADDRESS ON NORTHERN IRELAND

Mr. KENNEDY. Mr. President, on St. Patrick's Day in Boston yesterday, Bernard Cardinal Law, Archbishop of Boston, delivered an eloquent address on the tragic conflict in Northern Ireland. Cardinal Law had just returned from a visit to Ireland, and his address is fresh with important insights into the causes of the conflict and the possibilities for a peaceful resolution. Many of us in Congress are concerned about this issue and hopeful that a productive way forward can be found. Clearly, the United States has a role to play in ending support for violence and encouraging the parties to achieve a peaceful settlement that respects the rights of both the Catholic and Protestant communities in Northern Ireland. Cardinal Law has offered a perceptive and persuasive commentary on these complex issues. I believe it will be of great interest to all of us in Congress, and I ask unanimous consent that it may be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

ST. PATRICK'S DAY STATEMENT OF BERNARD CARDINAL LAW, ARCHBISHOP OF BOSTON, MARCH 17, 1992

Last Sunday throughout Ireland there came forth from the heart of that people a prayerful plea for peace. Let the world note what occurred: Catholics and Protestants raised their hearts in unison of petition to God for the end of violence and the establishment of that atmosphere of peace which is essential for political dialogue.

A hope borne of faith makes this prayer possible. Nonetheless, the fulfillment of that hope faces many obstacles. The enemies of peace are many. One of the most persistent enemies of peace is that pessimism which is convinced that old enmities can never be put to rest. What fires this kind of pessimism is a long memory coupled with an unforgiving spirit. That is an unbeatable combination for dashing the hope for peace. This kind of pessimism is found among Catholics and Protestants and has its devotees on all sides of the political issue. It finds its home in the North and South, in Irish hearts as well as British. If one's starting point is this pessimism, then all is lost. If, on the other hand, one firmly asserts that peace is possible, then there is hope.

Another enemy of peace is violence. There is no political solution to be won by violence. Violence simply begets violence—it becomes an end in itself, spawning subcultures of violence on both sides of the political divide. It is essential that the veneer of sentimentality and nostalgia be stripped away from the violence of paramilitary groups of whatever kind, and that they be exposed in public view as enemies of the common good of all Irish people.

Outlawed violence is not the only enemy of peace, however. So, too, is any form of military and police presence which seems to treat an entire population as suspect. However justified some measures may appear to the British government, it must be understood that the constant harassment of young people and the massive shows of armed force at funerals are a constant affront to countless Irish.

Another enemy of peace is resistance to dialogue. All parties with a legitimate stake in the future of the North of Ireland must be welcome participants to that dialogue. This includes the British government and the Irish government, and all political factions of the North. A condition to that participation on the part of all who genuinely wish for dialogue must be the unequivocal rejection of violence as an acceptable means to a political solution for the North of Ireland. It may be that preliminary soundings to test the genuineness of Sinn Fein's desire to disassociate itself completely from violence might pave the way for the eventual inclusion of Sinn Fein in multilateral discussions.

Discrimination against the Catholic minority in the North is an enemy to peace. The British government has made efforts to address this in the private economic sector, in patterns of government hiring, and in housing; more needs to be done. Education remains an area in which the British government appears to have difficulty in recognizing the legitimate concerns of the Irish Catholic minority. An early and positive response to these concerns would be an earnest indication of the British government's commitment to impartial and equal treatment of both traditions and to their stated policy of allocating resources to areas of special need.

Not only is the historic discrimination suffered by the Catholic minority in the North of Ireland an enemy of peace. So, too, is the feared discrimination by the Protestant majority as it contemplates some possible political scenarios. It is essential that all plans for the future of the North of Ireland include clear and unambiguous provisions to ensure policies which are non-discriminatory to Protestants and Catholics alike.

Enemies to peace closer to home are the well-intentioned but badly informed gestures and rhetoric which would support the paramilitary forces of violence in Ireland. We need among ourselves, private citizens and public officials, a well-honed discipline which avoids even the appearance of support for the purveyors of violence. Any support of these criminal groups should be recognized as itself a criminal act, and it should be dealt with accordingly.

Another enemy to peace is the apathy or indifference of our nation to the centuries old tragedy that is the North of Ireland. Except for predictable bursts of activity around the 17th of March, there is apparently no determined effort either in the Congress or at the level of the Administration to advance this issue in our dealings with the British and Irish governments. Nor is there any effort to involve international bodies such as the European Community, the Conference on Security and Cooperation in Europe, or the United Nations. Much is said about efforts to elaborate a new world order. Yet the North of Ireland has not found an appropriate place in any of these plans. The political will of Irish-Americans in particular should demand an end to this not so benign neglect.

Another enemy to peace is a press and electronic media so driven by advocacy of socially revolutionary theories that they resort to caricature of the Catholic Church in Ireland, thus sowing disdain, distrust and division. Nowhere was this more evident than in the handling of the recent tragic case of the young pregnant girl who was a victim of rape. However some might disagree with Catholic teaching and practice, its approach to such a compelling human drama is compassionately holistic, a quality sadly missing in the media's hysteric hype.

An isolationist approach to the problems of the North of Ireland is an implacable enemy of peace. Both the British and Irish governments as well as the various political factions within the North of Ireland have an essential role to play in the development of a viable solution. It is encouraging to note that both governments have become more effectively engaged in the political dialogue. Of particular note is the fact of the All Party Talks which took place on March 9, and the forming of The Business Committee to plan the conduct of future meetings. This bodes well for the future.

The Catholic Church throughout Ireland, and Irish Protestant brothers and sisters as well as others of good will, are one in the hope borne of faith that peace is possible. We need to cast out the enemies of peace together. We need to work for a just, political solution.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

UNITED STATES-CHINA ACT—VETO

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to consideration of the President's veto message on H.R. 2212.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

The House of Representatives having proceeded to reconsider the bill (H.R. 2212) entitled "An Act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was resolved, that the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

The Senate proceeded to reconsider the bill (H.R. 2212), the act regarding most-favored-nation treatment to the products of the People's Republic of China returned to the House by the President on March 2, 1992, without his approval, and passed by the House of Representatives, on reconsideration, on March 11, 1992.

The PRESIDING OFFICER. Under the previous order, there shall be 4 hours of debate.

The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, I yield myself such time as I may require.

Mr. President, 2 weeks ago President Bush vetoed the legislation we are considering today. Today we are deciding whether that veto should be sustained or whether the view of a clear majority of the Senate should prevail.

In his veto message, the heart of the President's argument is that this bill is unnecessary because his China policy is working. Mr. President, anyone familiar with China's trade policy today with China's arms sales policies and with its human rights practices cannot believe that that is the case. The China policy is not working.

Let us look at the record. Our trade deficit with China has increased from $3.5 billion in 1988 just before President Bush took office to $12.7 billion in 1991. That's a 360-percent increase. That deficit costs us over 250,000 American jobs in this country—jobs that many American families sorely need.

I have spoken before about some of these barriers to trade that have been put up by China, some of the problems our exporters face in trying to break into China's market.

Let me give an example. If you want to export autos to China, you have to provide two free cars for testing. Then you have to pay $40,000 for their testing of our cars. Then you have to foot the bill for these Chinese inspectors to come to this country to inspect the factory. None of that is required of Chinese-made cars.

Now the President calls his policy a success because he has reached one agreement with China on protecting intellectual property rights. But that agreement does not affect the auto barriers I just mentioned or the barriers on thousands of other products.

A second agreement to open China's markets more generally to American exports eludes us. The Chinese are stalling on that agreement and, in the meanwhile our trade deficit with China has become our second largest and is the fastest growing. It reached $13 billion last year. By any standard, our trade policy toward China has not been a success.

The President responds by proudly pointing to China's decision to sign the Nuclear Nonproliferation Treaty and to abide by the Missile Control Technology Regime guidelines. What are the results? What are the realities? What are the facts? At the very same time as China has made these promises, we have reports of China's sales of weapons and nuclear technology into the Middle East. That suggests their promises are not being met in reality, indeed. Again, you cannot call that a success.

Finally for the political prisoners still held by the Beijing Government the President's policy toward human rights in China must be considered a failure. China's treatment of its own people is callous and repressive. It offends the most deeply held democratic convictions of the American people.

The President cites as an achievement of his policy the fact that China is now willing to discuss our human rights concerns after years of stonewalling. Mr. President, the administration may believe that more talk is a victory. I for one take little comfort in that, especially when China's dictators continue to crush those who challenge them.

Just the day before the Senate's last vote on this bill seven more pro-democracy activists were sentenced to prison. And for what crimes? They were convicted for counterrevolutionary propaganda, meaning they had the courage to criticize their leaders. In some cases all they did was to publish reports of the criticism of others. For that they now find themselves in prison. For actions which here in this country, we take so much for granted. Listen to the debates on TV between and amongst our Presidential candidates.

Mr. President, that is the record of this administration's policy toward China. In his veto message the President states that his China policy "invites China's leadership to act responsibly without leaving any doubts about the consequences of Chinese misdeeds." To the contrary the President has made it crystal clear from the outset that he is four-square behind the continuation of MFN for China—and the Chinese leadership knows it. It is no wonder they show little concern for the consequences of their actions. They know the President is there to protect them.

The President calls his China policy one of comprehensive engagement. In my view it has been one of appeasement. We have given that policy nearly 3 years to produce results and it has failed.

The bill we are considering today charts a new approach. It asks only three things from China in return for continuing its most-favored-nation treatment. It asks for China to treat its own people with the dignity they deserve. It asks for China to cease making the world a more dangerous place through its weapons sales. And it asks China to give American exporters and producers a fair shake in the world marketplace. Let us have the kind of entry into their markets we give them into ours.

Opponents have described this bill as though it is an extreme measure that would end most-favored-nation treatment for China. It does not. It leaves that decision to them. This bill just makes clear to China what this administration has not—that there is a price to pay for continuing the current leadership's policies of repression, protectionism, and indiscriminate arms sales.

Mr. President, before we cast our vote today, I think we need to consider the image of modern China that is emerging today. I remember the quote from Napoleon when he said of China: "Let that giant sleep." But China is not sleeping. It is an awakening giant. It is going to have an enormous impact on the world. It is critical what kinds of policies it brings to its own people and the question of its responsibility in opening up markets and development of a free market system.

They have a powerful export machine pressing its exports on the world and protected by iron trade barriers at home. Our deficit with China is second only to Japan. In fact, China threatens to become a second generation Japan in the kind of trade practices it uses to protect its market.

We can tell China it ought to reverse its approach or we can allow it to become comfortable in its protectionist practices. If we follow the second course, I promise you, Mr. President, we will regret it for generations to come.

The same is true in arms proliferation. China can either remain the rogue elephant of global arms sales or it can be asked to adopt safer, more responsible policies. The present methods are just not working. More of the same will simply continue the dangerous trend.

With regard to human rights, the Chinese Government today, and for the foreseeable future, will rule the most populous nation on the face of this Earth, and we just cannot turn a blind eye to over a billion people in China if we are seriously concerned about human rights.

On this floor, the President has been criticized frequently for caring too much for foreign policy and not enough for problems at home, and I agree with that. But, in addition, there is one area where he has also failed in foreign policy, and that failure is particularly damaging because it has a direct and a devastating impact on American workers. China's protectonist import barriers, its aggressive unfair export drive costs us American jobs as surely as this President's neglect of the American economy.

Mr. President, this administration just has a blind spot in its foreign policy when it comes to China. It is a blind spot that hurts American workers threatened by unfair trade, destabilizes the entire world and permits the suffering of Chinese citizens to continue.

I think the Senate really has an opportunity to redefine America's policy toward China in the 1990's and the next century, and I certainly urge my colleagues to join me in voting to enact this legislation.

Mr. President, I retain the remainder of my time.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I yield myself such time as I may consume.

Mr. President, I urge the Senate to sustain the President's veto of this legislation. If the Congress were to legislate a discriminatory trade status for China, we would hurt the United States economy and our future prospects for economic growth very badly at a time when we are making progress, moving to the right track for growth and more jobs.

I hope the Senate will consider carefully the facts surrounding this issue. The facts clearly show that trade with China benefits the United States. Twenty-one percent of the world's population lives in China. It is potentially the largest merchandise market for U.S.-manufactured goods and services in the world.

Trade between China and the United States has increased 1,000 percent in the past 12 years, from $2.3 billion in 1979 to $23.1 billion in 1991. Over 1,000 United States firms have invested more than $4 billion in China, and another $5 billion has been invested in Hong Kong.

Our exports to China in 1991 increased 30 percent over 1990, making China the fastest growing Asian market for United States exports. While China is still a relatively small market for United States goods, it is a significant market for some United States commodities, especially aircraft, fertilizers, textile fibers, cereals, and specialized machinery.

If this veto is not sustained, Mr. President, United States exporters would lose Chinese markets. China would stop purchasing billions of dollars worth of our wheat, aircraft, cotton yarn and fabric, fertilizer, wood and wood pulp, electric machinery and chemicals.

Since no other country anywhere in the world is likely to change their trade policies with China, whether we pass this bill, enact this law or not, foreign competitors will inevitably be quick to exploit the situation for their own benefit. United States businesses would sacrifice, give away their share of the China market, losing up to $6 billion in exports and over 110,000 jobs.

Perhaps most important for the long run, a major blow would be inflicted on those in China who have resisted the pressures from the central Government, who have developed market-oriented practices, private venture activities so that we are now seeing this increase in trade become possible.

Seventy-five percent of China's trade activities are now located in the south of China. That region is opening up to the outside world as never before, and it is helping to transform economic practices and is loosening the central Government's grip over the entire economic system. This is change that is occurring right before our very eyes, Mr. President. It is obvious for everybody to see, and I hope our eyes will not be clouded by the arguments that are being made today to ignore those factors.

Only about half of China's industrial output today is being produced by the so-called Government sector, the state-run enterprises. This gives you an idea of the change that has occurred in the last several years in the economy inside China, spurred mainly by the opportunities that trade with the rest of the world brought about.

Thirty-thousand foreign-invested ventures worth $40 billion have expanded the market-oriented sector in China. Now we are being asked to undermine that progress. We are being asked to slam the door on that trend. Because the United States is China's second largest trading partner, it would have an enormous impact within China if the President's veto is overridden by the Senate and this legislation is enacted.

The forces within China who would suffer the most are not the central Government operatives, but those who have been resisting their influence and pushing for change against those who are running the central Government. So let us look at that as a very important factor in this debate.

If this bill becomes law, I predict we would surely undercut, over the objection of our President, the investments of many Americans in China. Much effort, much energy has been devoted to developing market access and opportunities for United States trade with China.

Since the House has already voted on this issue, it is up to the Senate today to keep all of that from going down the drain. All would be for naught if the Senate votes to override the veto of the President.

Do not force our U.S. industries, our American workers to sacrifice all that they have done now, the risks they have taken, the imagination they have brought to bear on this new challenge, the agriculture sector that is now depending on large sales of wheat and other commodities into the new market. All of those initiatives that brought us to the point where we are today in the opening of this huge market will be actually destroyed, undermined, undercut by a vote to override the President's veto.

China is beginning a slow, but sure, economic and social transformation, and it may be on the verge of significant political change as well. Trade with United States business and industry and with our agriculture exporters has been an important force in this change in China that is taking place. At a time when we are wondering whether the countries of Eastern Europe and the former Soviet Union can build free market economies—and some are calling for massive aid to help them do so—it would be ironic, indeed, if the Congress of the United States ended our role in pushing and promoting reform in China, ended the effort we are making to promote democratic and market-oriented reforms in China so it, too, can be a part of the world community in this new era of opportunity and broken-down barriers, so that we have a better opportunity for trade of United States-produced commodities, United States-produced agriculture commodities and services.

The United States is the strongest economic force in the world today. If we deny the opportunity for our private economic forces to be brought to bear on this situation, as this legislation would surely do, then we are basically turning away from an opportunity that is uniquely one the United States has in this situation.

Mr. President, with those facts as the background of the surrounding relevant issues in this debate, I hope the Senate will carefully consider this situation and let us vote to sustain the veto of the President.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BENTSEN. Mr. President, I yield such time as the majority leader requests.

Mr. MITCHELL. Mr. President, first I begin by thanking my colleague from Montana who permitted me to go now with my remarks.

The Senate today has the opportunity to establish a policy toward China that serves our national interest and is consistent with our national values.

It is the function of foreign policy to advance the national interests of the United States, not to vindicate the hopes or wishes of a political leader or to serve the purposes of domestic politics. When a policy advances the national interest, it enjoys broad national support. When a policy does not advance the national interest, it should have no support. That is the case with the President's China policy. In the face of widespread public support for the democracy movement in China, the President supports those who crushed democracy.

In the face of widespread public support for international arms controls, the President supports a regime that is exporting advanced missile technology to some of the most volatile regions in the world. In the face of public demand that trade be fair as well as free, the President supports a government that blocks American access to its market and uses slave labor to produce for exports.

It is no wonder the President's China policy has little support nationally or in the Congress. Last month substantial majorities in both Houses of the Congress again acted to establish a China policy that serves the national interest. The bill would condition the grant of most-favored-nation status to the People's Republic of China on demonstrable Chinese acts to fulfill Chinese promises with respect to fair trade and weapons proliferation. It would require clear evidence of Chinese respect for the international principles of human rights.

The President once again has refused to accept the will of a majority of the Congress. He has vetoed this bill. In the House of Representatives, his veto was overridden by a vote of 357 to 61.

Even the ranking Republican member of the House Foreign Affairs Committee joined in the override vote. Congressman BROOMFIELD said, "We must place realistic conditions on the continuation of normal economic relations. * * * [W]e cannot go on doing business as usual with this outlaw regime." I agree.

Congressman BROOMFIELD is right. So were the other 356 House Members who put the national interest first.

Congressman BROOMFIELD recognized that. He said that despite the President's efforts "to engage the Chinese Government on these issues, the results have been meager at best."

Indeed, the results have been less than meager. They have been counterproductive. With every failure to pursue our policy goals seriously, the Chinese Government has learned that United States concerns need not be respected. With every mild, belated protest, the Chinese Government has shown the world that the United States can be ignored. With every veto, the Chinese Government is reassured that it has a friend in the White House who will not react, no matter what the Chinese Government does.

The failures of the President's China policy are clear and conclusive. Instead of building a new world order, based on the future of a billion Chinese people, the President continues a failed policy based on past global realities.

When there was a strong and potentially aggressive Soviet Union, the special relationship with China had to be balanced against that reality. At that time, balancing the relationship served the national interest of the United States. But today there is no Soviet threat against which our relationship with China must be balanced. Today, we have the ability—and the obligation—to examine our relations with China in the light of the threats that face the world now. Instead, President Bush stubbornly pursues a policy based on threats that faced the world in the last decade.

The threats that face the world today do not emanate from a strong Soviet Union. Instead they can be traced in part to the actions of regimes like China. Regimes which have to trample their own citizens to survive are inherently unstable. They rest on terror and fear, not on the consent of the governed. Regimes which export the technology and weapons of mass destruction raise the stakes that every regional conflict may spread. Regimes which give lip service to international agreements and betray them in practice undermine the very foundations of a world order based on respect for international law.

Those are all actions the Chinese Government has taken. It is evident that the mild, pro forma protests of the Bush administration have no effect on the Chinese Government. It is clear that the only steps the Chinese Government will respect are actions, not empty words and diplomatic signals.

Look at the record. Almost 3 years of attempted engagement and catering to the Chinese Government have produced virtually no change. The President keeps saying his policy will work, but it keeps on not working, and all the evidence points in exactly the other direction.

The Chinese Government continues to violate the human rights of its people. It continues to restrict American access to its market. It continues to sell the technology of mass destruction and nuclear weaponry, despite verbal and written agreements not to do so.

Last June, just 9 months ago, the secret Chinese sale of missile launchers to Pakistan led to a United States export ban on high-speed computers and satellite parts against China. Within 5 months, President Bush dispatched the Secretary of State to China to argue for nonproliferation of missile technology. He received a verbal assurance—like so many others—that China would abide by the 1987 Missile Technology Control Regime.

But it was not until the Chinese wanted a public meeting with President Bush that a written agreement was provided. Even that was publicly characterized by a U.S. Government official as not being as explicit as we would have liked. And the well-founded concerns about long-term Chinese contracts to sell missile technology and chemicals have not been put to rest. The Bush administration says one of its priorities is to prevent the spread of nuclear, chemical, biological, and missile technology. But weakly ignoring Chinese intransigence and unfilled promises only serves to promote the spread of these technologies.

When a policy does not produce results, the answer is not to continue it. The answer is to change the policy. That is what the President ought to do. But he will not. So we should.

The Chinese record on trade remains abysmal. Despite free access to American markets for Chinese products, American producers do not enjoy equal free access to Chinese markets. Our trade deficit with China is second only to our deficit with Japan. The President regularly denounces the deficit with Japan. He has had nothing whatever to say about the deficit with China. Yet in 1991, in the middle of a recession, our trade deficit with China rose to $12.7 billion, from $3.5 billion just 3 years before. Most of those imports are of labor-intensive products, products Americans could make. Each billion dollars of deficit may cost as many as 20,000 American jobs. It is possible that as many as a quarter million American jobs are being sacrificed to pursue the President's hopes in China.

That does not serve American workers. In their name, billions of American dollars are being used to export American jobs to China and help perpetuate one of the most repressive Communist regimes in the world.

We need only look to his own State Department's Human Rights Report for 1991, issued the same day as President Bush met with Premier Li Peng of China.

President Bush's own State Department report reaffirms the brutal facts, and directly contradicts the President's policy. The Communist leaders of China hold their power through a vast security apparatus which uses torture, arrest, detention, and brutality to enforce its will. Chinese people face arbitrary, governmental violence without recourse. Torture in jails is routine. Dissenters are silenced. Religion is tolerated only where it is governmentally controlled. Solitary confinement, mass labor camps, and all the other horrors of a Communist state are in full force.

China's imperial rule of Tibet remains in place. The Chinese occupation has caused an estimated 1 million Tibetan deaths. Tibetan Buddhism has been repressed. Six thousand monasteries have been destroyed as centers of their faith. Religious ceremonies must be approved by the Chinese Government. Religious education is restricted. What the Chinese are doing to Tibet is cultural genocide.

I repeat, an estimated 1 million Tibetan deaths. That is the figure used by the Tibetans. To my knowledge it has never been disputed by the President or any of his supporters in the Senate. Where is the concern for the Tibetan people? Where is the outrage over their deaths? Does not a Tibetan life count in the Senate as much as another life elsewhere? The President's silence on the Chinese genocide in Tibet is deafening. The Senate's joining with the President in that silence is demeaning.

All this remains the case, 2½ years after vain claims by President Bush that only by not isolating China could we influence China. Well, we have not influenced China. Instead, we have given our moral support and helped to legitimize one of the most repressive regimes in the world.

If the new world order does not include the right of nations to ostracize brutal dictatorships and to condemn an imperialism that butchers its subjects, it is no improvement over the old world order. In the old order, at least, Americans knew their Nation stood for human rights in the world. We knew we stood against the imposition of foreign rule on a subject people. We knew we stood against genocide of peoples and the obliteration of cultures.

If the new world order President Bush promises does not even incorporate those basic American principles, that new world order will not stand. In recent weeks, some past and present American leaders have suggested that it is a failing in the American people that they are not interested in, or even hostile to foreign policy issues, but that is putting the cart before the horse.

Americans are not hostile to policies that clearly serve important national goals. They are hostile to policies that fly in the face of common sense. They are hostile to the use of foreign policy to advance a domestic political agenda rather than to advance national interests. That is exactly the case with China policy today. It has become a test of the President's own beliefs and hopes. It has become a test of his ability to uphold a veto. That is not a national policy. That is a personal policy.

The President must realize he cannot gloss over the immense gulf between his words and his deeds on China.

Americans expect their leaders and their Government to do as they say, to practice what they preach. We cannot preach human rights to other nations and give a wink and a nod to Chinese behavior. We cannot urge nonproliferation on others and allow China to continue it unabated. We cannot lecture Japan on its trade policies and allow China to pursue even worse policies unchallenged.

Americans will support a foreign policy that deserves their support. So will the majority in the Congress. Both have proven that by their actions.

It is time for the President to stop inviting the Chinese leaders to modify their behavior. That invitation has been rejected. It is time to give the Chinese a real incentive to modify their behavior. It is time, instead, to change our policy. We can assure that change today by standing firm for American principles and American national interests, and voting to override this mistaken veto.

Mr. BENTSEN. Mr. President, I congratulate the majority leader on a very profound and thoughtful statement, which I think correctly assesses the situation we are facing and the enormity of our decision today.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER (Mr. WOFFORD). The Senator from Montana.

Mr. BENTSEN. If the Senator will yield, how much time is left?

The PRESIDING OFFICER. The Senator from Texas has 90 minutes.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I ask unanimous consent that I be given as much time as I consume, with the time taken off of the side in opposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I rise to urge my colleagues to sustain the President's veto of H.R. 2212—the China MFN conditions bill.

I want to make one point absolutely clear: this is a debate over means, not over ends.

China has abused the human rights of its citizens, erected unfair trade barriers, and sold dangerous weapons technologies.

I suspect that not a single Senator will take the floor to defend China's actions.

I am certain that every Senator—in fact, every American—condemns those actions.

But the legislation we have before us today will not right those wrongs. In fact, it is almost certain to set back United States efforts to spur reform in China.

Most-favored-nation trading status [MFN] is simply the wrong tool to use to win reform in China.

MFN IS NOT A SPECIAL PRIVILEGE

First of all, it is important to remember that the term "most-favored-nation" status is a misnomer. The term implies that it is a special status that we extend only to our closest trading partners. But nothing could be further from the truth.

MFN is actually only minimum trade status—the trade equivalent of diplomatic recognition. The United States extends MFN status to all but a rapidly dwindling handful of nations. MFN status is currently extended to Iran, Iraq, South Africa, and Libya, hardly our closest allies.

In fact, because of the Generalized System of Preferences, the Caribbean Basin Initiative, free trade agreements, and other special tariff arrangement, most of our trading partners—about 100 nations—enjoy better than MFN status.

Imports from nations that do not receive MFN treatment face the old Smoot-Hawley tariff schedule. If MFN were withdrawn for China, it would mean an astronomical increase in United States tariffs on Chinese goods. Tariffs on Chinese products would shoot up from around 4 percent to as high as 110 percent. Tariffs on sweaters from China would rise from 6 to 60 percent. Tariffs on toys would rise from 7 to 70 percent.

As one would expect given these tariffs, before MFN status was extended to China, United States-China trade was only about 10 percent of current levels. If the Smoot-Hawley tariffs were reimposed it would likely fall back to about the same level. We would see a repeat of the Smoot-Hawley experience—albeit on a smaller scale.

CONDITIONS EQUAL REVOCATION

Advocates of the legislation we are considering are quick to point out that the legislation does not revoke MFN—it merely puts conditions on future extensions of MFN.

Unfortunately, the conditions will not be met and, therefore, are tantamount to revocation.

This legislation imposes some 15 conditions on future extensions of MFN to China.

Do not get me wrong, I support the goal behind every condition.

But the unfortunate fact is that China is ruled by a totalitarian regime. It is a regime that is unlikely to take actions simply because the United States demands they do so in return for MFN status.

This regime sees measures such as freeing political prisoners as endangering their hold on power. Given the choice between remaining in power and retaining MFN, they are almost certain to choose remaining in power.

CONDITIONS AS A PRETEXT

We must also keep in mind that reliable press reports indicate that China's hardline marxists view the growing economic ties between China's southern provinces and the West with great concern. These leaders are concerned that the ties with the west will bring dangerous ideas, like democracy, to south China.

United States efforts to condition MFN are continually railed against in the state-controlled press as an attempt to interfere in China's domestic affairs. As we learned at Tiananmen Square, Chinese leaders are willing to use a pretext to crackdown and cut ties with the West.

It is entirely possible that the mere passage of legislation that conditions MFN could be used by China's hardline leaders as an excuse to break commercial ties with the United States.

DANGEROUS PRECEDENTS

And there is another risk. Once we start down this road, could Congress resist further mixing trade and foreign policy?

If we impose conditions on MFN for China because of its missile sales, why not on Germany, France, or even Israel for their objectionable weapons sales?

Why not impose still more conditions on MFN for China next year and still more after that?

One way or another, once we go down the road of putting conditions on MFN, it is almost certain that MFN will eventually be withdrawn from China.

IMPACT OF TERMINATING MFN

Cutting off MFN for China would cost thousands of Americans their jobs and set back our efforts to win reform in China.

AMERICAN JOBS ARE ON THE LINE

Although we have a considerable trade deficit with China, China is a major market for many American products. For example, in 1991, China imported $363 million in United States wheat, $1.2 billion in United States aircraft and aircraft parts, and $982 million in United States fertilizer. China is also a major market for American computers, cotton, timber, and paper.

Most of these products are easily available from other sources. The Australians and the Canadians would be more than happy to replace United States wheat sales. The EC would be only too pleased to fill Boeing's aircraft contracts with China. None of these nations—in fact, no other nation in the world—is even contemplating withdrawing or conditioning MFN to China.

And if the United States hits Chinese exports to the United States with Smoot-Hawley tariffs, China is certain to counter retaliate. United States export markets in China now and in the future would be lost.

Keep in mind, that could endanger the jobs of more than 100,000 Americans. Farmers in North Dakota and Montana could go bankrupt as wheat prices plummet. Machinists in Washington State could lose their jobs as the EC's Airbus wins contracts from Boeing. Fertilizer plants in Louisiana could close when Chinese sales are lost.

MFN IS THE LINK TO THE REFORM MOVEMENT

If it would advance the cause of freedom in China perhaps some of us would be willing to risk 100,000 American jobs. However, withdrawing MFN would actually set back the cause of reform in China.

As has been the case throughout history, ideas are traded along with goods. As apparel, wheat, and aircraft are traded between the United States and China, so are ideas like freedom, human rights, and democracy.

It is no surprise that the current hotbed of reform in China is southern China—the very area that is responsible for most trade with the United States.

As the New York Times recently reported, the relative wealth and the freedom of labor movement created by the economic boom in south China is allowing the reform movement to recover from the Tiananmen crackdown. I ask unanimous consent that this article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times]

DESPITE RIGHTS ISSUE, CHINESE HOPE UNITED STATES TRADE STATUS STAYS

(By Nicholas D. Kristof)

BEIJING.—As a battle looms in Washington over whether to end normal trade relations with China, many Chinese are finding themselves reluctantly siding with their hard-line rulers in hoping that the status is maintained.

While they appreciate the concern for human rights in their country and hope that the debate will force the Government to become less repressive, some worry that a cutoff of so-called most-favored-nation status would hurt their standard of living, harm the most reformist segments of the economy and prompt the hard-liners to restrict contacts with the United States.

It is impossible to be sure of public opinion in so vast and tightly controlled a country as China. But in informal conversations with dozens of Chinese in several parts of the country over recent months, most of those who were aware of the issue did not favor American economic sanctions and hoped that most-favored-nations benefits would be extended.

President Bush's annual recommendation on whether to renew the preferential trade status for China is required by June 3. He is expected to favor renewal, and opponents in Congress are expected to introduce legislation to overturn the decision.

In their first breath, urban Chinese intellectuals typically tell their trusted American friends how much they detest their leadership. In their second breath, they express affection for the United States and inquire about getting visas. And in their third breath, they worry that harsh American sanctions would hurt the Chinese people rather than their leaders.

"If I were President Bush, I would extend most-favored-nation status to China," said Zhang Weiguo, a Shanghai dissident who was unusual only in that he was willing to have his name published. "The U.S. should support China's economic development and social exchanges."

Mr. Zhang's anti-Government credentials are not in doubt. He was arrested after the 1989 Tiananmen crackdown and spent 20 months in prison before being released earlier this year, still unrepentant and fuming at the Government.

Mr. Zhang said the best result would be for a tough battle over Chinese trade in Washington, ending in an extension for another year. Such a close call would encourage China to make concessions on human rights and would leave the issue open for another fight next year, he said.

"Every year it's discussed, and that's very good," Mr. Zhang said. "It puts new pressure on China each year."

A downgrading of American trade links with China would mean a large rise in the tariffs imposed on Chinese goods shipped to the United States, and would hurt its thriving export sector. The south of China, which has the most developed private economy in the country, would be particularly affected, as would Hong Kong, through which Chinese goods usually pass for packaging or transshipment.

Many dissidents say they would like the United States and other countries to be even more outspoken in supporting Chinese human rights. Above all, they would like Prime Minister Li Peng and other hard-liners to lose "face." But they worry that economic sanctions are the wrong method.

"People are very torn inside," said a university student in Beijing. "They want pressure on the Government to change its policies, and they want the leadership to eat bitterness. But on the other hand, they're afraid that if sanctions are imposed, it's the ordinary people who would suffer. So we want America to threaten sanctions to pressure China, but we don't want sanctions themselves."

PEASANTS SEEM LESS AWARE

Among Chinese peasants and workers, especially outside the capital there seems to be much less awareness of the issue of sanctions, as well as less anger at the Government. Consequently, many people do not have clearly formed ideas on the subject, but frequently seem vaguely opposed to any sanctions that might compound the economic difficulties of the last couple of years. And some wealthier people fear that sanctions would make it more difficult to buy foreign products.

"The fear is that if M.F.N. were cut off, the price of a pack of Marlboros would go up," said an entrepreneur.

Mr. BAUCUS. Mr. President, if the United States breaks the economic ties, the flow of western ideas will be shut off and the reform movement will be dealt a critical blow. Indeed, reliable news reports indicate that leaders of the reform movement in China see MFN as a cornerstone of reform efforts.

ANOTHER APPROACH

If we were faced with the choice of conditioning MFN to China or doing nothing to express our frustrations with Chinese policies, I too would be tempted to vote for conditions.

But that is not our choice.

Just last summer at the request of myself and a number of other Senators, the President outlined a new policy toward China.

That new policy had two elements:

First, continue unrestricted MFN to China to build economic ties and encourage reform.

Second, press China to reform with a variety of carefully tailored policy tools.

For example, to respond to China's unfair trade practices, the administration agreed to employ United States trade laws. To respond to reports of Chinese missile sales, the administration agreed to initiate negotiations backed up with a threat of targeted trade sanctions.

And contrary to the claims of supporters of H.R. 2212, this new policy has already yielded results. There are four particular victories that I want to mention.

THE UNITED STATES-CHINA INTELLECTUAL PROPERTY AGREEMENT

First, in January, China agreed to pass and implement tough new laws to end piracy of United States intellectual property.

Chinese piracy of United States intellectual property—films, books, recordings, pharmaceuticals, and computer software—had been rampant. According to some estimates, this piracy was costing the United States as much as a billion dollars per year in lost exports.

But after months of negotiations backed with the threat of retaliation under United States trade law, China agreed to end piracy of United States intellectual property.

This new agreement will end piracy in China. The agreement with China is in many ways superior to the agreement we negotiated with our other trading partners under the General Agreement on Tariffs and Trade. It has been endorsed by all major U.S. intellectual property producers.

Mr. President, I ask unanimous consent that press releases of support from these intellectual property trade associations appear in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

IIPA APPLAUDS SETTLEMENT OF INTELLECTUAL PROPERTY DISPUTE WITH THE PEOPLE'S REPUBLIC OF CHINA

WASHINGTON.—The International Intellectual Property Alliance (IIPA) today applauded the U.S. Trade Representative Carla Hills' announcement that the United States has entered into an agreement with the People's Republic of China (PRC) which will extend full copyright protection to U.S. and other foreign copyrights at internationally acceptable levels. U.S. Ambassador Hills had previously announced that trade sanctions would be imposed if the PRC were unwilling to provide full protection for U.S. intellectual property.

Under the memorandum of Understanding (MOU) signed between the U.S. and the PRC, the Chinese government has committed to raise further the level of protection afforded under its current copyright law (adopted in 1990) and extend the protection of that law to foreign works. Until this agreement, the PRC protected only works of Chinese nationals or works first published in the PRC, and had refused to provide, for example, copyright protection to U.S. computer software as a literary work as required by the Berne Convention.

In the MOU, the PRC agrees to extend protection to all foreign works by joining the Berne Convention effective October 15, 1992 (which will protect U.S. books, movies, music and software), the Geneva Phonograms Convention, effective June 1, 1993 (which will protect U.S. sound recordings), and to protect all these U.S. copyrighted works even before adhering to these Conventions effective 60 days after the signing of this agreement. Another critical feature of this agreement is that it will extend protection to all U.S. copyrighted works created prior to the date the bilateral is signed so long as those works remain protected in the U.S.

The agreement also commits the Chinese government to provide effective enforcement to reduce and eventually eliminate the severe losses now suffered by U.S. industry through piracy in the PRC.

Commenting on this historic agreement, Eric Smith, General Counsel of the IIPA, said "We commend Ambassador Hills and the Administration for insisting that the PRC bring its copyright protection up to an acceptable level. The copyright industries have suffered severe and growing losses due to piracy over the years while we patiently awaited China's decision to protect our intellectual property. We hope we will begin to see these losses diminish.

"This Agreement has been long awaited," he added, "and demonstrates that the Chinese government is now committed to implement internationally-accepted high standards of copyright protection. The IIPA applauds China for showing real statesmanship in agreeing to adopt Berne Convention levels of protection and to enforce the new regulations which will be adopted implementing this agreement. In recognition of this statesmanship and the PRC's commitment to protect U.S. copyrights, IIPA is prepared to speak favorably before the U.S. Congress on the issue of according MFN status to the PRC."

On implementation, Smith commented, "Any benefits we see, of course, will depend on China's good faith implementation of the agreement and on enforcement. We fully expect scrupulous and vigorous compliance with the commitments made in this MOU."

The IIPA, formed in 1984, is composed of eight trade associations, each of which, in turn, represents a significant segment of the copyright industry in the United States. Those associations are:

American Film Marketing Association (AFMA);

Association of American Publishers (AAP);

Business Software Alliance (BSA);

Computer and Business Equipment Manufacturers Association (CBEMA);

Information Technology Association of America (ITAA);

Motion Picture Association of America (MPAA);

National Music Publishers' Association (NMPA); and

Recording Industry Association of America (RIAA).

The IIPA represents more than 1,500 companies which produce and distribute computers and computer software; motion pictures, television programs and home videocassettes; music, records, compact discs, and audiocassettes; textbooks, tradebooks, reference and professional publications and journals. These core copyright industries accounted in 1989 for over $173 billion in revenues from their copyright-related activities, or 3.3% of the U.S. GNP. According to a report prepared for the IIPA by Economists, Inc. entitled "The Copyright Industries in the U.S. Economy," these industries grew at more than twice the rate of the economy as whole between 1977 and 1989 (6.9% vs. 2.9%), and employed new workers at a greater rate—5% between 1977–1989—than any other comparable sized sector of the U.S. economy. These industries delivered over $22 billion in export earnings to this country in 1989.

CHINA AND U.S. CONCLUDE NEGOTIATIONS LEADING TO NEW CHINESE PRODUCT PATENT PROTECTION

WASHINGTON, DC.—The following statement was released by Pharmaceutical Manufacturers Association President Gerald J. Mossinghoff in response to the new Chinese product patent protection agreement reached in final negotiations between U.S. and Chinese officials:

America's research-based pharmaceutical companies are pleased that Chinese and U.S.

government negotiators have struck an important agreement that will lead to early pharmaceutical product patent protection in the People's Republic of China. This breakthrough opens the door to increased U.S. pharmaceutical sales to a very important market.

The intense intellectual property protection negotiations between Chinese government officials and officials from the office of U.S. Trade Representative Carla Hills have concluded successfully. Both sides are to be praised for their diplomacy and sense of responsibility.

The People's Republic of China has agreed to:

Provide 20-year product patent protection.

Provide pipeline protection for pharmaceutical products invented as early as 1984 and provide a substantial period of market exclusivity for such products.

Pass and implement product patent protection by January 1, 1993.

The steps outlined in the agreement are a major contribution to intellectual property rights protection in the world's largest country. The agreement marks a major step forward to a position of leadership for China in intellectual property rights protection in the developing world.

This agreement will mean a greatly enhanced trade relationship in the pharmaceutical sector between our two countries and improved health prospects for the Chinese people.

The agreement between U.S. and Chinese negotiators demonstrates that important developing countries—such as China—are fully capable of enacting patent protection for pharmaceutical and chemical products immediately. Indeed, the Chinese government has demonstrated a willingness to correct the inequities in its intellectual property relationships with the United States.

The promise of this agreement can only be realized by faithful implementation, as well as by the continuation of a growing commercial relationship between the United States and China. The PMA, because of this breakthrough, supports further development of the U.S. relationship with China, including support for Most Favored Nation (MFN) status for China.

We can only offer our appreciation and thanks to Ambassador Hills and her colleagues. Once again, they have demonstrated their ability to respond decisively and successfully in the continuing fight against international patent piracy. This fight is one for U.S. exports and U.S. jobs in the high technology American research-based pharmaceutical industry.

BSA APPLAUDS U.S. AGREEMENT WITH PEOPLE'S REPUBLIC OF CHINA TO PROTECT INTELLECTUAL PROPERTY

WASHINGTON, D.C., January 16, 1992.—The Business Software Alliance today applauded the U.S. Trade Representative Carla Hills' announcement that the United States has entered into an agreement with the People's Republic of China (PRC) which will extend full copyright protection to U.S. and other foreign copyrights at internationally accepted levels. U.S Ambassador Hills had previously announced that trade sanctions would be imposed if the PRC were unwilling to provide full protection for U.S. intellectual property.

The Memorandum of Understanding (MOU) signed between the U.S. and the PRC would commit the Chinese government to raise further the level of protection afforded under its current copyright law (adopted in 1990) and extend the protection of that law to foreign works. Until this agreement, the PRC had refused to provide, for example, copyright protection to U.S. computer software as a literary work as required by the Berne Convention for the Protection of Literary and Artistic Works.

"We are encouraged by the announcement made today by the U.S Trade Representative that the People's Republic of China has agreed to take concrete steps to protect computer software by law and to reduce the rampant piracy which cost the software industry approximately $300 million in the P.R.C. during 1990 alone," said BSA Managing Director Robert Holleyman. "We are delighted that trade sanctions were avoided by the PRC's commitment to adopt and abide by the legal rules that have increasingly become international standards for the legal protection of software. The path is now cleared for the development of the software industry in the PRC. The technology and intellectual property industries of both our nations have much to gain by this historic accord."

In the MOU, the PRC agrees to extend copyright protection to all foreign works by joining the Berne Convention effective October 15, 1992 (which will protect books, movies, music, and software), the Geneva Phonograms Convention effective June 1, 1993 (which will protect sound recordings), and to protect all these U.S. copyrighted works even before adhering to these conventions effective 60 days after the signing of this agreement. After adhering to the Berne and Geneva Conventions, U.S. copyrighted works will be given the same level of protection afforded by all other convention members, including, as noted, full protection for U.S. computer software, movies, music, records, and books. Another critical feature of the MOU is that it will extend protection to all U.S. copyrighted works created prior to the date the bilateral agreement is signed as long as those works remain protected in the U.S. The agreement also commits the Chinese government to provide effective enforcement to reduce and eventually eliminate the severe losses now suffered by U.S. industry due to piracy in the PRC.

"We commend Ambassador Hills and her staff for their efforts in executing the Special 301 process of the U.S. trade law in order to help forge this agreement," said Holleyman.

The Business Software Alliance is an organization devoted to fighting software theft in overseas markets. Its members are: Aldus, Apple Computer, Autodesk, Borland International, Lotus Development, Microsoft, Novell, and WordPerfect.

VALENTI PRAISES USTR FOR U.S. INTELLECTUAL PROPERTY AGREEMENT WITH PRC

WASHINGTON, DC, Friday, January 17, 1992.—Jack Valenti, Chairman and CEO of the Motion Picture Export Association of America, had high praise today for the U.S. Trade Representative Carla Hills, citing her work in achieving an intellectual property agreement with the People's Republic of China. Under this agreement, the People's Republic will, for the first time, extend full copyright protection to U.S. intellectual property and has agreed to join the Berne Copyright Convention.

Said Valenti: "This is an excellent first step in the protection of intellectual property rights for American film, television and home video in this difficult market. The USTR action serves as a signal to the rest of the world. I want to personally salute Ambassador Hills and her associates for an outstanding achievement."

Under the PRC agreement, intellectual property will be protected in most of the Far East region. According to Valenti: "Much of the credit for this accomplishment goes to the Office of the U.S. Trade Representative which has worked tirelessly over the past several years to secure intellectual property protection in this area of the world. However, the task is not complete. Attention must now focus on effective enforcement of those laws."

While Valenti was pleased with the progress being made with the PRC, he noted the MPEAA's continuing concern with the lack of copyright enforcement in Thailand. "We are looking to the U.S. Trade Representative to vigorously pursue the unfair trade complaint we have filed against Thailand."

The Motion Picture Export Association of America filed comments with the USTR on November 14, 1991 detailing the market access problems facing the entertainment industry in its dealings with the PRC. Member companies of the MPEAA include: Buena Vista International, Inc. (a division of The Walt Disney Company); Columbia Pictures Industries, Inc.; Carolco Service Inc.; MGM/Pathe Communications Co.; Orion Pictures International, division of Orion Pictures Corporation; Paramount Pictures Corporation; Twentieth Century Fox International Corp.; Universal International Films, Inc.; and Warner Bros. International, a division of Warner Bros. Inc.

THE NUCLEAR NONPROLIFERATION TREATY

Mr. BAUCUS. Second, just last week, under pressure from the United States, China has finally acceded to the Nuclear Non-Proliferation Treaty—the NPT.

China has long been a critical holdout to the NPT. Its refusal to abide by the treaty raised the specter of uncontrolled nuclear proliferation.

But again after diplomatic pressure from the United States backed up by the threat of sanctions, China is now a signatory to the treaty that the civilized world relies upon to hold nuclear proliferation.

The cause of nuclear nonproliferation has been advanced considerably.

THE MISSILE TECHNOLOGY CONTROL REGIME

Third, China has recently agreed to abide by the provisions of the Missile Technology Control Regime, the MTCR.

China for years has sold dangerous missile technology indiscriminately and has refused to recognize the internationally agreed limits on such sales set forth in the MTCR.

But just last month, China exchanged letters with the United States indicating that it would fully observe the MTCR.

Because of this step, the United States removed sanctions it had previously imposed on China for missile sales. But the administration has committed to carefully monitor Chinese compliance with the MTCR. If China reneges on its commitment, the sanctions will be reimposed.

PRISON LABOR

Finally, the Bush administration has cracked down on imports of products made by prison labor in China.

The Chinese prison system has long provided a pool of forced manufacturing labor. But U.S. law strictly prohibits importation of goods made by prison labor.

Since the Chinese Government holds many political prisoners, the United States must enforce the ban on prison labor goods particularly vigorously with regard to China. We cannot allow the United States consumers to become unwitting accomplices to the Chinese system of political oppression.

After many years of inattention, the administration has blocked imports of a number of products suspected of having been made with Chinese prison labor, including hand tools, pipe, apparel, and planers. The United States is also negotiating an agreement with China to permanently end such exports.

CONCLUSION

Of course, these four measures are not enough. Much more progress remains to be made.

In particular, the United States must continue to put pressure on China to release political prisoners.

The United States must also conclude the unfair trade action directed at other Chinese trade barriers within the next few months.

I will continue to press the Bush administration until all of the commitments made in their letter to me and other Senators are fulfilled.

But we are undeniably making progress. In the last 8 months, we have made more progress with China than we have in the previous decade. The policy is working.

China remains a bad actor. And until China respects the human rights of its citizens, eliminates all unfair trade barriers, and stops sales of dangerous weapons technology, the United States must keep up pressure for reform.

Supporters of H.R. 2212—particularly Senator MITCHELL—have done us all a service by drawing our attention to the very real concerns we have with China.

But H.R. 2212 is not the right approach. MFN is the wrong tool to win reform in China.

We can address our concerns with China with carefully targeted measures instead of endangering the entire trading relationship by withdrawing MFN.

I urge my colleagues to vote against this legislation.

I ask unanimous consent that an exchange of letters between myself and the administration, an update from the administration on recent progress with China, and a recent article from the Brookings Review be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, June 19, 1991.

DEAR MR. PRESIDENT: Congress will decide in the next few weeks whether to accept your recommendation and extend most favored nation trade status to China. We are writing to share our concerns.

In the debate over the appropriate U.S. policy towards China, one thing is clear: China's behavior must change. The United States has serious human rights and foreign policy concerns with China. Every American remembers the vivid images of the Tiananmen massacre. In the two years since Tiananmen Square, evidence of democratic reform has been scant at best. We also have learned of Chinese sales of advance missiles to Syria and Pakistan, and of nuclear technology sales to Algeria. There are credible reports that China has forced political prisoners to produce goods for export to the U.S.

The United States also has serious economic concerns with China. The U.S. Trade Representative's annual report on foreign trade barriers lists ten pages of Chinese barriers. China maintains restrictions including a preclusive licensing system, discriminatory testing and certification standards, and outright import bans. China also fails to protect U.S. intellectual property, resulting in enormous losses to U.S. producers of films, books, chemicals and pharmaceuticals. Moreover, the Administration has allowed China to dictate U.S. policy towards Taiwan, declining to support Taiwan's GATT application despite clear economic benefits to the U.S.

The United States cannot continue to tolerate Chinese intransigence. We must tailor active responses to our wide ranging concerns. But MFN is the wrong tool for the job. Revoking MFN would not promote human rights in China. Instead, it would punish China's most progressive regions and Hong Kong.

Revoking MFN also would hurt Americans. China is an important market for U.S. goods ranging from wheat to airplanes. If MFN were revoked, China almost certainly would retaliate against U.S. exports. The Australians, Canadians, Europeans and Japanese are ready to fill the void. No other country is contemplating cutting off China's MFN status.

We believe the Administration must be more active in addressing American concerns with China. You have taken meaningful steps in some areas. You have moved to protect U.S. intellectual property under provisions of the 1988 Trade Act. You also have taken steps to restrict certain technology transfers to China in response to its missile and nuclear sales. These steps are examples of the types of actions the U.S. should take.

We urge you to take appropriate actions in other areas. Human rights is a foremost concern. Revoking MFN would be counterproductive. But other steps can be taken. For example, the U.S. could reinvigorate its opposition to multilateral loans for China. The U.S. also could take strong action under U.S. law to address China's unfair trade barriers and imports produced by prison labor. In the area of nuclear and missile proliferation, the U.S. could immediately negotiate for strict, multilateral technology restrictions conditioned upon Chinese adherence to accepted international standards. As for Taiwan, the U.S. could immediately give strong support to Taiwan's GATT application.

These measures do not represent an exhaustive list. But it is essential that the Administration take concrete steps. If Congress is to extend China's MFN, we must see tangible evidence that the Administration is taking action. We look forward to hearing your response to our concerns.

Sincerely,

Max Baucus, J. Bennett Johnston, Quentin Burdick, Richard Shelby, Bob Dole, Nancy Landon Kassebaum, Jeff Bingaman, John McCain, Bill Roth, Dick Lugar, * * *, Kent Conrad, Alan Simpson, Frank H. Murkowski, Orrin Hatch.

THE WHITE HOUSE,
Washington, July 19, 1991.

Hon. MAX S. BAUCUS,
U.S. Senate, Washington, DC.

DEAR SENATOR BAUCUS: I appreciated receiving your views on the importance of renewing China's most-favored-nation (MFN) trade status while also seeking to achieve progress with the Chinese on issues of vital concern to the American people. We clearly share the same goals. We want to see China return to the path of reform, show greater respect for human rights, adhere to international norms on weapons sales, and practice fair trade. China should contribute to international stability and not detract from it.

You rightly note that withdrawing MFN would hurt not only Americans but also the people of Hong Kong and the millions in China who are working for progressive change. Continuing MFN is essential to protect American consumers and exporters, and to support the economic forces that have been driving reform in China for more than a decade. It is no accident that the process of reform accelerated with the increase in foreign businesses operating in that nation. Those who would end political and economic reform in China have the most to gain if MFN were withdrawn. It is the economic forces pressing for the loosening of state control and increased personal freedom that would suffer the most. Other losers would be the thousands of American workers and farmers who together produced in 1990 almost $5 billion in exports to China.

Since we started the process of normalizing contacts with China in the 1970s, there has been strong bipartisan support for the U.S.-China relationship. Building on the three U.S.-China communiques, U.S. interaction with the government and people of China has produced demonstrable progress. That interaction must continue despite the recent severe setbacks. Nevertheless, I support the view that strong measures are needed to address our concerns in China and have not hesitated to use them in a targeted fashion. to underscore our deep dismay about human rights violations, I have kept in place a number of sanctions since the Tiananmen Square crackdown which have affected arms sales, high-level contacts, U.S. economic programs and U.S. support for multilateral development bank lending to China.

The U.S. is currently the only nation maintaining its Tiananmen sanctions and refusing to normalize relations until China makes substantial progress on human rights. For example, while all our allies and other World Bank members have supported virtually all of the last sixteen World Bank loans to China, we have declined to support seven because the loans would not serve basic human needs.

At the London Summit, we raised China's human rights practices with our G–7 allies and encouraged them to continue to stress to China's leaders, as we have repeatedly, the importance that democratic governments attach to human rights. We made clear that the U.S. will continue its policy of supporting only those multilateral development loans for China that serve basic human needs (BHN), and our view that any non-BHN lending to China help to promote market-oriented economic reform.

To advance our nonproliferation objectives, I recently authorized a number of steps aimed at engaging the Chinese on their weapons transfer policies and making clear our dissatisfaction with transfers that contribute to regional instability. The Under Secretary of State for International Security Affairs recently traveled to Beijing for a detailed discussion of nonproliferation issues, including our specific concerns about Chinese exports. He pressed for China's adherence to the Nuclear Nonproliferation Treaty and the Missile Technology Control Regime, actions I called for in my commencement speech at Yale University on May 27. We are pleased with the constructive role China played in the July 8–9 Middle East arms control talks in Paris. The Chinese endorsed all the key objectives of my Middle East arms control initiative (such as efforts to freeze and ultimately eliminate surface-to-surface missiles and block the production and acquisition of nuclear usable material). The Chinese also agreed to work rapidly in follow-on meetings to flesh out the broad agreements reached in Paris.

At the same time, I have also taken measures to emphasize to China that the U.S. is concerned abut reports of destabilizing missile-related transfers. In April, I rejected requests for licenses to export satellite components for a Chinese communications project because of the involvement of Chinese companies in unacceptable missile equipment transfers. Just recently, I approved trade sanctions against two Chinese companies for that same reason. In addition, I directed that no further licenses of high-speed computers and no further exports of satellites to China be authorized until our concerns that China adhere to accepted international nonproliferation standards are satisfactorily addressed. The U.S. will be coordinating with other countries in order that these measures not be undercut. Our experience has demonstrated that such consultations will lead to effective, multilateral technology transfer restrictions.

I have also instructed U.S. agencies to press vigorously our concerns about Chinese unfair grading practices. In April, I directed the U.S. Trade Representative to identify China as a priority foreign country under the Special 301 provisions of the Trade Act for failing to protect U.S. intellectual property rights. If China does not make real progress during the 301 investigation, trade action will follow. Beyond intellectual property protection, my Administration has invited senior Chinese trade officials to Washington in August for continuation of consultations begun in June regarding access for U.S. products to the Chinese market. If these talks fail to produce Chinese commitments to take substantial measures to improve market access, the Administration will self-initiate further action under Section 301 of our trade laws.

We are strictly enforcing the terms of our textile agreement with China and have already made charges against China's quota because of illegal textile shipments through third countries totalling approximately $85 million so far. Following consultations in July, we expect to make additional charges. If China does not exert effective control over these illegal shipments, we are prepared to take additional action against China.

Charges that China exports goods produced with prison labor are a matter of serious concern. The Customs Service is investigating these charges. In addition, we have obtained a firm high-level commitment to prevent the sale of prison labor products to the United States. We will continue to monitor China's behavior in this area closely and will strictly enforce relevant legislation concerning prison labor exports. In particular, I am ordering the following additional measures: The Department of State will seek to negotiate a memorandum of understanding with China on procedures for the prompt investigation of allegations that specific imports from China were produced by prison labor. Pending negotiation of this agreement, the U.S. Customs Service will deny entry to products imported from China when there is reasonable indication that the products were made by prison labor. The denial will continue until the Chinese Government or the Chinese exporter provides credible evidence that the products were not produced by prison labor.

I am also instructing the U.S. Customs Service to identify an office to receive information on prison labor exports and establish procedures for the prompt investigation of reports of prison labor exports from interested parties. Additional customs officials will be directed to identify prison labor exports and aid in uncovering illegal textile transhipments.

Although it is not directly related to China's MFN status, I share your interest in Taiwan's accession to the GATT. As a major trading economy, Taiwan can make an important contribution to the global trade system through responsible GATT participation. The U.S. has a firm position of supporting the accession of Taiwan on terms acceptable to GATT contracting parties. The United States will begin to work actively with other contracting parties to resolve in a favorable manner the issues relating to Taiwan's GATT accession. Because China, our tenth largest trading partner, could also make an important contribution to the global trading system, I will seek to have the Chinese Government take steps on trade reform so that China's GATT application can advance and its trade practices can be brought under GATT disciplines through the Working Party formed for China in 1987. U.S. support for Taiwan's accession to GATT as a customs territory should in no way be interpreted as a departure from the long-standing policy of five administrations which acknowledges the Chinese position that there is only one China, and that Taiwan is part of China.

In sum, therefore, I am prepared to address the concerns you and your colleagues have identified, and I am doing so. But discontinuing MFN, or attaching conditions to its renewal, would cause serious harm to American interests and would render futile pursuit of the initiatives I have outlined, which are discussed in greater detail in the attachments. Working together, I believe we will best protect America's interests by remaining engaged with China and the Chinese people.

Sincerely,

GEORGE BUSH.

P.S.—At the recently concluded G–7 Summit in London, the leaders of these Western Democracies all urged renewal of MFN.

Attachments.

PART I: HUMAN RIGHTS

Human rights concerns have been at the heart of our relationship with the PRC since the tragic events of June 1989. Every high-level meeting since that time has at least touched on human rights issues, and several—such as the December 1990 visit to China by Assistant Secretary Schifter—have been devoted exclusively to them. We have consistently stressed to the Chinese leadership that there can be no return to the kind of relationship we enjoyed before 1989 without substantial improvements in China's human rights practices.

Our overall approach on human rights issues has consisted of:

Public expression of concern

President Bush condemned the brutal suppression of demonstrations in Tiananmen Square in June 1989, the first world leader to do so. He declared May 13, 1990 a National Day in support of Freedom and Human Rights in commemoration of the 1989 demonstrations, and issued another statement to mark the anniversary of the crackdown in 1991.

In our human rights reports for 1989 and 1990, we were fair but hard-hitting, and as accurate as available information would allow. These reports have drawn high praise from human rights groups, and harsh condemnations from the Chinese government.

The State Department issued a statement on January 9, 1991 condemning the trials of nonviolent dissidents.

In April 1991 the President met the Dalai Lama at the White House to demonstrate our respect for His Holiness' nonviolent approach to conflict resolution and our concern for human rights problems in Tibet.

Suspension of bilateral programs

On June 6 and June 20, 1989, the President announced the suspension of a number of bilateral programs and changes in U.S. approach to multilateral issues until the human rights climate in China improved. Those suspensions generally remain in effect.

A multitude of high-level exchange visits that would normally have taken place since 1989 have been canceled. Only a very limited number of visits at and above Assistant Secretary level have been approved on a case-by-case basis, and only when they addressed issues of key concern to the United States, e.g., like human rights, nonproliferation, unfair trade practices, and narcotics.

Military exchange visits have been suspended completely.

Work on several existing military equipment and technology projects has been suspended indefinitely.

We have stopped the transfer of military or dual-use equipment or technology to Chinese military and security services.

The U.S. sought to postpone all multilateral development bank loans to China from June 1989 to January 1990. Since then, we have supported only those loans that serve the basic human needs of the Chinese people.

We have suspended grants, loans and insurance guarantees to China under the Trade and Development Program and OPIC.

We have worked through COCOM to suspend planned liberalization of export controls to China.

Engagement in dialogue

Through the few high-level visits that have been authorized, and through regular diplomatic channels, we have engaged the Chinese government in an unprecedented continuing dialogue on a wide range of human rights issues.

The Scowcroft-Eagleburger missions of July and December 1989 were devoted primarily to laying out our human rights concerns and suggesting steps the Chinese could take to address them.

During Chinese Foreign Minister Oian's visit to Washington in November 1990, President Bush and Secretary Baker reiterated the need for progress on human rights, and stressed that human rights is a cornerstone of American foreign policy.

Assistant Secretary Schifter visited China in December 1990, the first time our top human rights official has done so. In sixteen hours of intense discussions with senior Chinese officials, he spelled out in detail our human rights concerns in a wide range of areas including accounting of detainees, release of political prisoners, denial of due process and fair and open trials, treatment of prisoners, divergence of Chinese law from international standards, respect for freedom of religion, abusive implementation of family planning regulations, and human rights problems in Tibet. He delivered a list of 151 representative cases of reported political incarceration, and asked Chinese authorities to clarify the status of the cases and release those whose imprisonment violated international norms. He suggested changes in Chinese laws and judicial processes that would bring them into conformity with international standards.

Under Secretary Kimmitt in May 1991 reiterated many of the points made by Assistant Secretary Schifter, and called on the Chinese government to declare an amnesty for all those imprisoned for nonviolent political activities. He also urged the Chinese to implement effectively their claimed prohibition on export of prison labor products.

Results of actions

Most importantly, the Chinese government has acknowledged the legitimacy of human rights as a subject of bilateral discussion, both with us and with other concerned governments. They received a Congressional delegation devoted exclusively to human rights concerns in March 1991, and agreed to receive another later this year. They also agreed to receive human rights delegations to be sent by the governments of France and Australia. In addition, they have taken a number of modest but positive steps to improve the human rights situation in China.

Martial law was lifted in Beijing in January 1990 and in Lhasa four months later. No part of China is currently subject to martial law.

Most of those detained after the Tiananmen tragedy were released by the end of 1989. Chinese authorities announced the release of nearly 1000 more detainees in 1990, and about 70 have been released so far in 1991. Officials claim that only 21 still await trial detention in Beijing, and at least one of these—labor leader Han Dongfang—has been released for medical treatment.

While at least 30 persons have been convicted on political charges since the beginning of the year, the sentences meted out to them were generally less severe than those imposed on similar charges in previous years. Those released without further punishment included prominent dissidents such as essayist Liu Xiaobo, journalist Zhang Weiguo, playwright Wang Peigong, and legal scholar Chen Ziaoping.

Leading dissident Fang Lizhi and his wife, who had obtained refuge in the U.S. Embassy in Beijing for over a year, were allowed to leave China in June 1990, and are now at Princeton.

Most investigations of those involved in the 1989 protests have ended, and most of our Chinese contacts report that the oppressive atmosphere of 1989 has lifted significantly.

The Chinese have ceased the most odious forms of harassment a serious problem in 1989 and early 1990.

Relatives of many, though not all, overseas dissidents have been allowed to leave China and join them aboard. In some of the remaining cases that we have raised with Chinese officials, passports have subsequently been issued.

Several released dissidents, including Tiananmen hunger striker Gao Xin and former Arizona State student Yang Wei, have been allowed to leave the country.

Chinese authorities have undertaken to stop the export to the U.S. of products made in Chinese prisons. We will continue to monitor this situation closely, but it appears that the Chinese government is taking increasingly specific steps to enforce their prohibition on export of these products.

In response to concerns expressed by Administration officials and Members of Congress, the Chinese have provided useful new information on the status of persons reported detained for religious activities.

Economic reforms have resumed, in some cases matching or exceeding levels reached before 1989. Some limited political reforms, in important but relatively noncontroversial area such as the personnel system, have continued. An Administrative Procedure Law that became effective in October 1990 for the first time enables Chinese citizens to sue abusive officials.

There are indications that further progress may be in the offing. We are continuing to press the Chinese government to release all remaining detainees, to commute the sentences of those nonviolent dissidents already convicted, and to allow the departure of the remaining relatives of overseas dissidents who wish to leave. We are hopefully that a combination of dialogue and specifically targeted pressure will lead to further movement on these and other remaining issues of concern. And in the longer term, we are confident that the momentum toward greater freedom and democratization in China, built up during the decade of reforms and dramatically reflected in the 1989 demonstrations, will prove irreversible.

PART II: ADMINISTRATION'S ACTIONS WITH RESPECT TO PROLIFERATION CONCERNS

The United States is engaged in a high-level dialogue with the Chinese that began early in our relationship. Looking at the broad trends in China's nonproliferation policy since normalization in 1979, it is clear that our dialogue has paid off in important areas, demonstrated by China's evolution toward international consensus on nonproliferation in areas of great importance to us. For example, China, which once held an antagonistic view of multilateral controls on nuclear exports, joined the IAEA in 1984 and sent observers to the Nuclear Nonproliferation Treaty Review Conference in 1990.

Middle East/South Asia

China's support for the Middle East arms control initiative is another case in point. China's participation in the initiative is a positive step that will strengthen international nonproliferation efforts and indicates China's resolve to contribute to efforts to attain stability in the Middle East. In addition, China's willingness to participate in multilateral efforts to reduce tension in South Asia will be crucial to establishing stability in that volatile region.

Moreover, we have seen Chinese arms sales restraint in some ares where we have vital interests. For example, to the best of our knowledge, apart from the 1987/88 sale of missiles to Saudi Arabia, China has not delivered medium-range missiles to the Middle East. It is clear that in other specific cases China has taken international concerns into account and declined proposed missile exports to prospective buyers.

Underscoring Our Concerns

It is because serious concerns remain that we want to maintain a constructive nonproliferation dialogue with Beijing. We do not intend to ignore current problems, but isolating China by dismantling the framework for our relations is not the way to advance our nonproliferation objectives.

We have the means available to underscore our concerns where there are differences in our approaches to nonproliferation and we have used these legislative and executive branch tools. For example, we have imposed trade sanctions mandated by the National Defense Authorization Act on Chinese entities involved in missile-related activities. We have also announced the Administration's decision that, pending progress toward our nonproliferation objectives, we will not license high speed computers and will not issue further waivers of legislative restrictions on satellite exports. These new sanctions have been imposed in addition to the existing sanctions announced immediately following the June 1989 assault on Tiananmen and amplified by Congress in the Department of State Authorization Act for FY 1990–1991. Moreover, we have not certified China under the bilateral agreement for nuclear cooperation that took effect in 1985.

Our policy mix of sanctions and cooperation at any given time is necessarily dependent on Chinese behavior. We are encouraged by China's indication in June that it is reviewing its policies with respect to Missile Technology Control Regime (MTCR) and the NPT. We seek China's adherence to the NPT and the MTCR guidelines and will encourage the Chinese to take concrete steps toward adherence to the key multilateral standards for international behavior established by these institutions. The Administration will continue to use the legislative authority that already exists and will take resolute action if the Chinese do not address favorably our nonproliferation concerns.

PART III: TRADE AND ECONOMIC ISSUES

The Administration is committed to achieving with China the same goals that have guided our trade policy with all other countries. We seek open markets and the opportunity for U.S. firms and their products to compete on fair and equal terms. To achieve these goals, and realize the principles of equality, mutual benefit and nondiscrimination set forth in the U.S.-China Bilateral Trade Agreement, this Administration has pursued a policy of negotiation and engagement on trade issues with China. In particular, the Administration has sought to improve U.S. access to China's marketplace; to bolster Chinese protection of intellectual property; to end fraudulent practices by Chinese textile exporters using false country of origin declarations; and, to induce Beijing to undertake the economic and trade reforms required for membership in the GATT.

Reciprocal MFN tariff treatment underpins our ability to work constructively with the PRC. China's desire to retain access to the U.S. market has enabled us to engage Chinese leaders even during periods of tension. We believe that discontinuing MFN, or attaching conditions to its renewal, would cause serious harm to our trade interests and erode our ability to influence China's behavior on key trade issues.

The past decade of bilateral trade relations

After decades of adhering to an import-substitution strategy that focused on minimizing China's reliance on outside sources of machinery and equipment, China began in the 1980's to seek outside sources of these goods. It also has increasingly drawn on foreign technology, expertise, and funds by actively encouraging joint ventures.

China's opening to the outside world has helped transform its economy, bolstering reform-oriented sectors that are not directly controlled by the central government. For example, the state sector now produces just over half of China's industrial output; in 1978, its share was 78 percent. China's dynamic rural industries, which are privately and collectively owned, have burgeoned. There are 30,000 foreign-invested ventures now in China, with a total contracted value of $40 billion. The impact of China's open door has been particularly pronounced in the southern and coastal provinces, where 90 percent of the foreign investment and more than three-fourths of China's trade activities are located. This region, in turn, has become the primary engine of economic reform in China largely as a result of the introduction of market concepts to Chinese employees of joint ventures and to citizens engaging in commercial exchanges with the West. The economic autonomy fostered by this interaction contributes to increased political and even individual self-determination.

The United States has been a vital partner in this transformation. Following Congressional approval of the bilateral trade agreement, the United States and China established formal trade relations and reciprocally granted most-favored-nation (MFN) status in 1980. Growth in our commercial ties has helped to change China and to bring it into the global trading system. Since the resumption of normal trade relations, U.S.-China two-way trade has increased almost 770 percent, from $2.3 billion in 1979 to over $20 billion last year.

We are now China's second-largest trading partner and its largest export market.

China is our tenth-largest trade partner, up from fifteenth in 1981.

Over 1,000 U.S. firms have invested more than $4 billion in China and another $5 billion in Hong Kong related primarily to trade with the PRC.

In 1990, the United States exported $4.8 billion worth of goods to China, including:

$749 million worth of aircraft.

$544 million worth of fertilizer.

$512 million worth of grain.

$281 million worth of cotton yard and fabric.

$273 million worth of chemicals.

$264 million worth of electric machinery.

$238 million worth of wood and wood pulp.

$227 million worth of scientific instruments.

Commercial relations with the United States have exerted positive influences on China's business and economic practices since 1980. China has shifted away from total reliance on a strongly centralized economy, shown greater tolerance for experimentation with market mechanisms to regulate its domestic economy, and decentralized and liberalized its foreign trade practices.

Regression in China's trade policies

China's opening to the outside world has not been smooth. Over the past decade, attempts to accelerate the implementation of market-oriented reforms have been followed by Beijing's recentralization of control, as concern about the country's ballooning trade deficit led Beijing to step in to regain some of the trade authority it had relinquished.

Moreover, throughout the period since the normalization of trade relations and the granting of reciprocal most-favored-nation trading status in 1980, China's web of barriers to imports has made it difficult for many U.S. exporters to gain access to the Chinese market. U.S. firms have also had difficulty securing protection for their intellectual property.

U.S. trade negotiators have long been engaged with the Chinese Government, both the bilateral negotiations and in multilateral consultations at the GATT held to review China's application for membership. We have sought to ensure that bilateral commercial relations develop in accord with the principles that underlie our bilateral trade agreement: equality; mutual benefit; and nondiscrimination. From 1979 through 1987, Chinese authorities made some progress in reducing nontariff barriers to imports, in improving transparency, and in protecting the intellectual property of foreigners.

This trend has been reversed over the last three years.

Since 1988, Chinese trade policies and practices have become more protectionist, nontariff barriers to import have proliferated, and the trade system has become less transparent. These policies undoubtedly contributed to a 17 percent decline in U.S. sales to China in 1990. China was the only major foreign market for U.S. goods and services in which our exports declined in 1990.

Despite intensive bilateral negotiations with Chinese authorities since the USTR in 1989 placed China on the "priority watch list" of countries providing inadequate intellectual property protection—including three rounds of meetings over the past five months—China has failed to live up to the commitments contained in the bilateral Memorandum of Understanding (MOU) signed in May 1989.

At the same time, other problems have developed in our bilateral trade relationship. For example, to bypass U.S. textile and apparel quotas, Chinese exporters have increasingly resorted to shipping these products to the United States via third countries using false invoices and counterfeit visas. Also of concern to us has been the apparent lapse in China's commitment to economic and trade reforms that would bring the country in line with the GATT's free-trade principles. China's reassertion of central control over the past few years has called into question its willingness and ability to undertake the obligations that would be required of China as a contracting party to the GATT.

Steps the U.S. Government has taken and will take to address bilateral trade problems

In six key areas of our bilateral trade and economic relations, the Administration has taken steps to resolve trade problems. We are prepared to do more.

On Market Access

Beginning in the fall of 1990, the Administration resumed sub-cabinet level meetings with the Chinese, that had been suspended since June 1989, to secure Chinese actions to reverse the growing list of new protectionist measures.

In April 1991, the Administration formally set in motion a market access initiative that continued with the visit to Beijing, in mid-June, of an interagency delegation to discuss market access issues. In meetings with senior Chinese officials, U.S. Government officials raised nine types of market access barriers, including: the lack of transparency in rules and regulations; the expansion of import licensing requirements; the use of import substitution policies; the proliferation of import bans and quotas; the growth of standards, testing, and certification requirements, including discriminatory "quality standards" procedures for imports; the high level of many import tariffs; the unnecessary use of certain phytosanitary regulations; the uncertainties regarding government procurement and tendering regulations; and the lack of information regarding China's major development projects.

The Administration has proposed holding another round of market access consultations in August 1991. If that round of negotiations fails to yield substantial commitments from the Chinese authorities to dismantle market access barriers, the Administration will self-initiate Section 301 action to address those barriers the removal of which offers the most potential for achieving U.S. trade policy objectives and increasing U.S. exports.

On Intellectual Property Protection

On April 26, 1991, USTR identified the PRC as a priority foreign country that denies adequate and effective protection of intellectual property rights. Accordingly, on May 26, 1991 USTR initiated a Special Section 301 investigation on the basis of four problem areas: (1) inadequate copyright protection, (2) inadequate patent protection, (3) inadequate trade secret protection and (4) ineffective enforcement of trademarks. Consultations with the Chinese are ongoing. The first round of consultations under the Section 301 investigation occurred in mid-June and a second has been proposed for August.

The deadline for making a determination under Section 301 is November 26, 1991. This may be extended for three months if China is making substantial progress in drafting or implementing measures that will provide adequate and effective protection of U.S. intellectual property rights. At that time, the USTR must determine whether the acts, policies and practices of the PRC are actionable under Section 301 and what retaliatory action, if any, is appropriate.

If the consultations fail to produce adequate and effective protection of intellectual property rights, the Administration will take retaliatory action.

On Textile Transhipments

The U.S. Customs Service has been vigilant in documenting cases of Chinese textile transhipments over the past year.

In August 1990, USTR held consultations with Chinese authorities on the transhipment issue. Additional consultations took place in November 1990, March 1991, and May 1991.

The U.S. Government "charged" China's quotas for goods that were sent to the United States under false country of origin declarations valued at over $85 million.

China has begun to take actions to curtail textile fraud since the December charges were made. For example, it issued regulations prohibiting reexports through a third country to countries that have signed textile agreements with China. Further, the Chinese Government has issued provisions for the punishment of those who violate the regulations.

The Administration has prepared more charges valued at about $14 million that we anticipate will be levied after consultations with China next month.

The Administration will increase the number of U.S. Customs officials dedicated to investigating circumvention.

If transhipment persists, we will be prepared to take additional action against China.

On Forced Labor

The importation of goods produced with forced, convict or indentured labor is prohibited by 19 USC Section 1307, which also directs the Secretary of the Treasury to prescribe regulations for enforcement of the provision. The Secretary of the Treasury, under 19 CFR Section 12.42, has delegated to the Commissioner of Customs, authority to determine that a class of goods is the product of forced labor and exclude those goods.

Customs has been investigating imports alleged to be the product of forced labor in China. Customs has interviewed emigres about forced labor practices in China. Customs is also analyzing import samples to determine if they match the descriptions provided by the emigres and others. Additional special agents have been detailed to Hong Kong to assist in the investigation.

Although the letter from Senator Baucus and fourteen co-signers did not specifically address the issue of prison labor imports, appropriate action is called for to fulfill the intent of existing law. The Administration therefore proposes to negotiate a memorandum of understanding with China on procedures for the prompt investigation of allegations that specific products exports to the U.S. are being produced by prison labor.

Pending negotiation of the MOU, Customs will temporarily embargo specific products from China when there is reasonable indication that they are made by prison labor. Embargoes will be lifted only after the Chinese Government or the Chinese exporter provides credible evidence that the products are not produced by prison labor.

Multilateral Lending to China

The G-7 consensus, led by the United States, was successful in prohibiting all MDB lending to China from June 1989 to February 1990 in response to the international outcry against the crackdown by the Chinese authorities at Tiananmen Square.

From February 1990 to July 1990, the G-7 consensus supported a gradual resumption of World Bank lending to China for projects that clearly met basic human needs (BHN). The consensus held firm and actively prohibited other loans from Board consideration. Only five loans (totalling $590 million) were approved in WBFY 1990. This is substantially less than pre-Tiananmen Square levels of World Bank commitments to China, which were $1.4 billion in WBFY 1988 and $1.3 billion in WBFY 1989.

At the Houston Summit in July 1990, several G-7 countries decided that China's long-term development needs argued for lending outside the BHN limits favored by the United States. Accordingly, the G-7 Houston Summit Declaration of July 1990 on MDB lending to China expanded the boundaries of permitted MDB lending to China to include loans which were environmentally beneficial or which supported market-oriented economic reform. Only BHN loans were considered by the World Bank Board until December 4, 1990 when the market oriented economic reform loan for Rural Industrial Technology was approved by the Board. On November 29, 1990, the ADB approved its first loan to China since Tiananmen Square, Agricultural Bank Project, which the U.S. did not support. Despite the approval of infrastructure project loans by the World Bank and the Asian Development Bank, the U.S. has and will continue to withhold support on all loans that do not meet BHN criteria.

On GATT Accession

Since China applied for GATT membership in July 1986, the United States has been a leading participant in the collective efforts of major GATT Contracting Parties to develop terms for China's GATT participation that will support the objectives of the GATT and will influence Chinese Government policies to become, over time, more compatible with the GATT framework for world trade.

U.S. and other major GATT contracting parties' concerns about China's ability and willingness to live up to GATT obligations, particularly since June 1989, have stalled progress in the Working Party established to consider China's application for membership in the GATT.

The Administration intends to continue to press Beijing to undertake trade and economic reforms so that its GATT application can advance and its trade practices be brought under GATT disciplines.

AT the same time, the Administration will begin to work actively with other GATT members to resolve in a favorable manner the issues relating to Taiwan's GATT accession. U.S. support for Taiwan's accession as a customs territory would be consistent both with GATT legal criteria and the "one-China" policy which acknowledges the Chinese position and has been adhered to by successive U.S. administrations.

Taiwan's GATT accession would yield substantial trade and commercial benefits to the United States and to the international trading system.

Taiwan has indicated that it is prepared to accede to the GATT as a developed economy, to bind virtually all its tariffs, and to join the major non-tariff measure GATT codes.

The importance of MFN

As highlighted above, the Administration is aggressively seeking to resolve outstanding bilateral trade issues with the PRC. MFN underpins our ability to work constructively with the PRC. We believe that discontinuing MFN, or attaching conditions to its renewal, would cause serious harm to our trade interests, and would render futile pursuit of the initiatives outlined above.

It would reduce our leverage in market-access, intellectual property rights protection, and other trade-related negotiations. China's desire to retain access to the U.S. market has enabled us to engage Chinese leaders in consultations on bilateral and multilateral issues even during periods of tension. Because China is not a GATT member and not bound by GATT trade disciplines, it is especially important to have many levers that enable us to engage the Chinese on trade issues.

It would hurt U.S. exporters. If the United States rescinds China's MFN trading status, China will not only discontinue MFN tariff treatment for the United States, but would likely cease purchasing billions of dollars of U.S. wheat, aircraft, fertilizer, cotton yarn and fabric, wood and wood pulp, electric machinery, scientific equipment, and chemicals. Foreign competitors, whose goods would be subject to lower tariffs, would be quick to exploit our departure. Lost shares of China's market would not easily be regained even if MFN were restored at some future date.

It would hurt U.S. consumers. Tariffs on the 25 most important U.S. imports from China would rise from the present average tariff rate of 8.8 percent to an average rate of 50.5 percent. These increases would mean sharply higher prices for lower-end Chinese goods. The costs to U.S. consumers would be largely borne by poorer Americans, who are primary consumers of low-cost Chinese products.

It would damage America's reputation as a reliable trade partner. Our trade competitors will not join us in denying MFN status to China. Other Chinese trade partners, especially in Asia, urge that China's MFN status be retained.

It would hurt investors, businesses, and workers in Hong Kong. Loss of MFN would impede China's integration into the regional economy, a development crucial to regional stability particularly as we near the 1997 deadline for Hong Kong's reversion to Chinese sovereignty. It could cost over 43,000 jobs in Hong Kong and result in direct revenue losses of approximately $1.2 billion dollars. Hong Kong's GDP growth could be curtailed by as much as two percent.

It would set back efforts to bring about meaningful economic reform in China. A disproportionate burden of the MFN denial would fall on the primary engine of economic reform in China—the economies of the southern and coastal provinces. In Guangdong province, for example, 40 percent of industrial output is produced for export, half of which goes to the United States. Sectors that fall outside of the direct control of the central government have been especially important to China's development as an exporter; one-third of China's exports currently come from rural (individual and collectively owned) industries and from foreign-invested ventures. The foreign ties these provinces and non-state-owned factories developed with the outside world prior to Beijing's reassertion of central control in mid-1989 enabled these provinces to weather the austerity program; without these foreign markets, Beijing's grip would have been all the tighter. As Beijing's influence over the regions and sectors most closely integrated into the global economy has diminished, these regions and sectors have become increasingly sensitive to global economic conditions. Revocation of China's MFN trading status would cause unemployment to rise and factory losses to mount in export-producing regions.

Conclusion

Those who engineered the violence in China in June 1989 are unlikely to bear the economic costs associated with the denial of MFN. Instead, those who suffer would be American businesses and their employees, American consumers, and the people of Hong Kong and the progressive areas of China.

China's opening to the outside world over the past decade has accelerated growth in the non-state sectors of the economy; resulted in strong links between China's coastal regions and the global economy that have enabled this reformist region to weather Beijing's periodic efforts to reimpose central government control over economic activity; and introduced market concepts to a generation of Chinese managers involved in joint ventures, trade negotiations, and training in the West. For this process to continue, China's most-favored-nation treatment in the United States is essential.

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC, September 24, 1991.

Hon. GEORGE BUSH,
President of the United States, The White House, Washington, DC.

DEAR MR. PRESIDENT: I am writing to urge the Administration to follow through vigorously on its commitments to take strong action with regard to the People's Republic of China.

During the recent Congressional debate on extension of MFN to China, the Administration articulated a policy of using "smart instruments" to address our concerns with China. The policy involved using carefully tailored policy tools to address bilateral problems while continuing to engage China with MFN. Certainly, no policy can be expected to immediately solve all of our many problems with China. It will take continued high level pressure on many fronts to improve China's respect for human rights. And negotiations on arms sales must take place quietly behind the scenes.

However, in a letter to me dated July 19, 1991, you outlined a range of policy steps the Administration planned to take with regard to China. In my opinion, the Administration has been slow to implement a number of the steps outlined in the letter. In particular, I am disappointed that the Administration has not yet initiated a Section 301 investigation to address Chinese trade barriers or implemented the new policies directed at blocking imports of goods made with prison labor.

In your letter, you wrote that:

"* * * my Administration has invited senior Chinese trade officials to Washington in August for a continuation of consultations begun in June regarding access for U.S. products to the Chinese market. If these talks fail to produce Chinese commitments to take substantial measures to improve market access, the Administration will self-initiate further action under Section 301 of our trade laws."

According to published press reports, the August session with the Chinese failed to yield meaningful results. Yet, instead of initiating a Section 301 case, the Administration allowed the Chinese until September 30th to respond to U.S. proposals before taking action under Section 301. I understand the rationale for giving China until September 30th to respond to U.S. proposals. But I believe it is essential to the credibility of the Administration's China policy that the Administration initiate a Section 301 investigation against Chinese trade barriers shortly after September 30th unless China makes very substantial progress toward opening its market.

With regard to goods with prison labor, you wrote the following:

"In particular, I am ordering the following additional measures: The Department of State will seek to negotiate a memorandum of understanding with China on procedures for the prompt investigation of allegations that specific imports from China were produced by prison labor. Pending the negotiation of this agreement, the U.S. Customs Service will deny entry to products imported from China when there is reasonable indication that the products were made by prison labor. The denial will continue until the Chinese Government or the Chinese exporter provides credible evidence that the products were not produced by prison labor."

Since the letter was written, an investigation described in recent stories on "60 Minutes" and in "Newsweek" has provided strong evidence of significant Chinese prison labor exports. Yet, I am unaware of any Customs Service efforts to stop imports of goods made with Chinese prison labor. I congratulate the Customs Service on its recent raids that seized an unprecedented amount of illegally imported Chinese apparel into the U.S. But action must also be taken to address imports of goods made by prison labor.

Finally, I am concerned that your commitment to "work actively" in support of Taiwan's effort to join the GATT has not yet been fulfilled. I understand that the Administration has been working behind the scenes to set the stage for future efforts. But I hope that the U.S. begins public efforts to assist Taiwan's entry into the GATT in the very near future.

I support the so-called "smart instruments" policy for China. But for such a policy to succeed, the "smart instruments" must be used. If the Administration fails to act, the Congress will have no alternative but to use the leverage provided by MFN to press for progress in China.

The Administration and the Congress worked cooperatively to forge a China policy during the Congressional debate on MFN extension. But it is now time to implement that policy.

I look forward to your reply and to working with you on this issue in the future.

With best personal regards, I am

Sincerely,

MAX BAUCUS.

THE WHITE HOUSE,
Washington, November 5, 1991.

Hon. MAX S. BAUCUS,
U.S. Senate, Washington, DC.

DEAR MAX: I appreciated receiving your views on the importance of following through on the issues we addressed in our last exchange of letters regarding the People's Republic of China. It is clear that we continue to agree that the best way to make progress is for the Administration and Congress to continue to work together.

We need to be firm with the Chinese about our expectations, and, at the same time, encourage them to take positive steps. There has been some positive movement since my last letter to you, but we all should recognize that forward movement very likely will be incremental and could well be complicated by setbacks along the way. Nonetheless, I am determined that U.S. policy encourage China to move in a positive direction.

We are taking strong, yet measured, action against the Chinese, including in the areas you mentioned—market access, apparel imports, and prison labor. We are also working actively with GATT contracting parties to resolve issues of Taiwan's GATT accession. The details of these actions are attached.

There is no question that MFN is the wrong tool to bring about change in China. I think we both are in complete agreement on that. I think we also agree that a strong China policy that vigorously addresses our concerns while continuing to engage China gives us the best hope for encouraging reforms while protecting our own national interests.

I welcome your support and look forward to continuing to work together to bring about positive change in China.

Sincerely,

GEORGE BUSH.

Enclosure.

MARKET ACCESS

U.S. trade agencies were instructed last July to press vigorously our concerns about unfair Chinese trade practices with the Chinese government. In talks with PRC Vice Minister Tong Zhiguang August 20–23, the U.S. outlined for the Chinese a series of tangible steps that would begin the process of dismantling trade barriers. Because the Chinese were unable to respond definitively to these proposals before the end of our August discussions, a September 30 deadline was set for an official response. Every consideration was given to the Chinese response received September 30, but after U.S. trade agencies determined that it did not meet the requirement that China make commitments to take substantial measures to improve market access, the U.S. Trade Representative self-initiated a Section 301 investigation.

Four principal market barriers will be investigated, including selected sector-specific and product-specific import prohibitions, import licensing requirements, and technical barriers to trade as well as failure to publish laws and regulations pertaining to restrictions on imports. Under the 1974 Trade Act, as amended, the investigation of Chinese practices normally must be concluded within twelve months. If it is determined at the end of that investigation that the barriers under review burden or restrict U.S. commerce in an unreasonable or discrimination fashion, the U.S. has the right to impose retaliatory trade action against China.

APPAREL IMPORTS AND PRISON LABOR

The Customs Service's unprecedented action associated with apparel imports demonstrates the Administration's determination to enforce federal laws applicable to the import of Chinese goods. Moreover, this action is testament to the Administration's resolve to implement the commitments in the President's July 19 letter to Senator Baucus to use the instruments available to enforce the law and to pursue U.S. policy objectives with the Chinese. Vigorous action to protect American interests and uphold the law in these cases will continue to be taken.

The U.S. has serious concerns about the export of Chinese goods produced with prison labor. The Department of State and the U.S. Customs Service have been actively pursuing steps to prevent importation of Chinese prison labor products. On September 23 a Chinese commitment was received to negotiate an understanding on procedures for the prompt investigation of allegations that specific imports from China were produced by prison labor. The U.S. will press for a rapid conclusion to those negotiations. The Chinese issued an official statement October 10 reiterating the national prohibition on export of prison made products.

If Chinese prison labor products have entered the U.S., it has been through a network of middlemen, including trading companies in China and abroad, that makes it difficult to trace such shipments. Cooperation of authorities in the PRC and with U.S. business people is needed to eliminate any such exports at their source. In an effort to reach out to new sources of assistance and information in achieving this objective, the Commissioner of the Customs Service held a public hearing on November 1, 1991 in Washington in order to expand awareness of the problem in the trade community and among the public.

At the same time, the U.S. will continue to do its utmost to prevent the entry of any prison labor product from China. The U.S. Customs Service has undertaken a range of short- and medium-term measures to block the entry into the U.S. of Chinese prison labor products. In this July 19 letter to Senator Baucus, the President noted the U.S. would prevent entry of products from China when there is a reasonable indication that such products were produced by prison labor. The Customs Service issued orders on October 4 to detain any shipments of certain Chinese merchandise (wrenches and steel pipe) that are believed to be produced by prison labor in China. We take our obligations in this matter seriously.

TAIWAN'S GATT APPLICATION

The Administration is working actively with other GATT contracting parties to resolve the issues relating to Taiwan's GATT accession. It has been made clear in discussions with other governments that the United States supports Taiwan's accession to

GATT as a customs territory and that we want GATT contracting parties to resolve this matter favorably. This position in no way implies a change it the long-standing U.S. policy that acknowledges the Chinese position that there is only one China and that Taiwan is a part of China.

China: The Administration's Engagement Policy Is Working

U.S. interaction with the government and people of China has produced demonstrable progress. That interaction must continue despite setbacks we have encountered so that we can continue to advance our trade, nonproliferation, and human rights objectives. We advocate a strategy of targeted actions that gets results and does not put at risk MFN, the engine of economic growth and dynamic social change in China, especially in the South. Moreover, China's loss of MFN—conditional legislation is withdrawn by another name—would hurt U.S. businesses and consumers as well as Hong Kong, which has invested more than $6 billion in the PRC. Our targeted approach has achieved results:

Trade—American business benefits from our efforts:

We obtained China's agreement in January to improve significantly protection of U.S. patents, copyrights, and computer software—commitments which were universally applauded by U.S. industry.

Our pressure resulted in U.S. shipping companies' ability to establish branch offices in China and to engage in normal business activities there.

The Administration's efforts to reduce our bilateral trade deficit have borne fruit. U.S. exports to China increased by about 30% in 1991. China was the fastest growing Asian market for U.S. exports last year.

A third round of negotiations, under our Section 301 investigation of Chinese market barriers is scheduled for April. The Administration is committed to resolving our concerns about PRC trade barriers by October 1992, the deadline for the investigation.

U.S. Customs has vigorously pursued textile transshipment cases and is stopping the import of prison labor-manufactured products.

Non-Proliferation—Administration's targeted approach has improved Chinese behavior:

As a direct result of the Administration's use of targeted sanctions, the PRC agreed in writing to observe Missile Technology Control Regime (MTCR) guidelines and parameters. We will monitor Chinese behavior; if they do not fully implement these commitments, the Administration will not hesitate to impose new sanctions.

We have elicited a change in China's longstanding opposition to the Nuclear Nonproliferation Treaty; China acceded to the NPT on March 9.

We have drawn China into the President's Middle East Arms Control talks; China supports the prospective South Asian nonproliferation regime; and is participating in Middle East peace talks.

Our intervention resulted in China's endorsement of placement of IAEA safeguards on the nuclear reactor that it is building in Algeria.

Human Rights—The Administration will not relent:

China's human rights record remains insufficient, but we are pressing hard for improvement.

The Chinese have given us a name-by-name response to our prisoners list; we are seeking more information.

We have urged China to release Tiananmen detainees. Some prisoners have been released, though many remain.

Some dissident relatives and dissidents have received exit permits. We insist that the Chinese live up to their assurance to Secretary Baker that all those not charged as criminals could leave.

After intensive discussions with us, China has published regulations banning the export of products of prison labor. We are negotiating an MOU, including a provision for investigations in China.

We co-sponsored with the EC a resolution at the UN Human Rights Commission highlighting the need for improvement in China's human rights situation, including Tibet; Tibet has seen a gradual lessening of tensions.

We have established a human rights dialogue and regular consultations with the Chinese. We are using this dialogue to seek positive change in the lives of Chinese citizens.

Global/regional issues—Our engagement is moderating Chinese behavior:

We elicited Chinese support for a comprehensive political solution in Cambodia; separate UN seats for South and North Korea and opposition to North Korea's effort to develop nuclear weapons; and China contributed to favorable resolution of the Gulf War, including sanctions enforcement.

[From the Brookings Review, Spring 1992]

China Policy

(By Harry Harding)

At the end of February China and the United States passed a major milestone; the 20th anniversary of Richard Nixon's visit to China and the signing of the Shanghai Communique in 1972. Neither country, however, is in the mood to celebrate.

Americans spent most of the 1970s and 1980s feeling buoyantly optimistic about relations with China. For the first 10 years after the Nixon visit, they viewed Peking as a virtual ally in containing Soviet expansionism. After the establishment of diplomatic relations between the two countries in 1979, they saw boundless opportunities for trade and investment with China. In the mid-1980s, many Americans concluded that China had renounced Marxism, embraced capitalism, and launched the most successful program of economic and political reform in the communist world. By early 1989, opinion polls showed that nearly three-quarters of the American public had a favorable impression of China, up from a mere 23 percent at the time of the Shanghai Communique.

Since the crisis in Tiananmen Square in June 1989, however, Americans have perceived China in much darker terms: repressive at home, irresponsible abroad, and engaging in unfair commercial policies toward the United States. Only one in three Americans regard China favorably. Both houses of Congress have passed, by large majorities, legislation that could cost China its most-favored-nation trade status. Even the Bush administration, having spent enormous amounts of its dwindling political capital to preserve a relationship that so many Americans now question, seems disenchanted with Peking.

The conceptual frameworks that guided the United States' China policy in the years since Nixon first journeyed to Peking are clearly inadequate today. China can no longer be seen as an ally against an expansionist Soviet Union, or as a pioneer in political and economic liberalization. Given China's burgeoning trade surplus with the United States, it is even difficult to portray China as a lucrative trading and investment partner.

But in redesigning our China policy, it would be foolish to substitute one set of caricatures for another. If China is no longer an ally of the United States, neither has it become an American adversary. Although China has retreated from the forefront of reform, it has not returned to Maoism either politically or economically. To be effective, American China policy must reflect the complexity of China's own domestic and foreign affairs.

THE RETREAT FROM POLITICAL REFORM

The massive demonstrations in Peking in April and May of 1989 were warmly welcomed in the United States as a sign that young urban Chinese were demanding democracy as well as prosperity. The inability of the Chinese Communist party to suppress the demonstrations by condemning them in the press, by declaring martial law, or even by massive displays of military power made it appear that the pressures for political change had become irresistible.

From this perspective, the Chinese army's brutal and indiscriminate use of deadly force before dawn on June 4th was a grievous disappointment. Peking's subsequent refusal to apologize for the loss of innocent life, its insistence that the demonstrations constituted a "counter-revolutionary rebellion," and its arrest and, in some cases, execution of some of those involved in the demonstrations only heightened the American sense of outrage and dismay.

Since then, Americans have viewed China as a country in full retreat from reform. With reformers like Zhao Ziyang purged from the leadership, and with hard-liners like Li Peng in command, China seems to be the victim of political repression and economic recentralization. The collapse of communism elsewhere, first in Eastern Europe and then in the Soviet Union itself, has made developments in China appear even more retrogressive. From the vanguard of reform, China has seemingly moved to the rear, along with other unrepentant nations like Cuba and North Korea.

This familiar portrait is, however, an exaggeration of a much more complicated reality. True, a wave of repression swept urban China after the Tiananmen crisis. Between 4,500 and 10,000 protesters were arrested, and at least 12 and perhaps as many as 100 executed. Since then, the repression has continued, targeting independent labor organizations, the so-called "house churches," and dissident movements in national minority areas. The party has again resorted to purges, censorship, and propaganda to ensure its control over the universities, the news media, the government bureaucracy, and the army.

Some of the more promising, if rudimentary, political reforms of the 1980s have also been rolled back. Meetings of national representative bodies, including both the party Central Committee and the National People's Congress, are less lively than in the past. Experiments with contested elections have been largely suspended. Newspapers and magazines no longer publish frank debates on matters of national policy. Above all, genuine political pluralism—defined as the creation of a multiparty political system and the tolerance of independent interest groups—is officially condemned as "bourgeois liberalization."

And yet, despite their best efforts, Chinese leaders have been unable to fully reactivate the mechanisms of political control that were dismantled, or else allowed to decay, during the post-Mao reforms. Attempts to revive interest in Marxist-Leninist ideology, or in the revolutionary heroes of the Maoist era, have been greeted with popular derision. Political study groups for government officials and military training for some college freshmen are having little effect on popular attitudes. Censorship of the Chinese news media is not preventing new information and ideas from flowing into the country through foreign visitors, international radio broadcasts, and foreign periodicals.

Moreover, much of the society is now falling outside Peking's control. The party is simply unable to place members in all the small private and collective businesses that are springing up across the country. As a result, a civil society, largely independent of both the party and the state, is growing rapidly, especially outside the capital. Nor has the central government been able to halt the dispersion of financial authority, and thus political power, from Peking to the provinces.

In short, although China represents a "harder" form of authoritarianism than it did a few years ago, the Communist party has not been able to recreate the sort of totalitarian political system that still exists in North Korea and Cuba. The state may still be able to suppress dissident political behavior, but it can no longer prevent unorthodox political thoughts. The political liberalization of the 1980s has been stalled, but it has not been fundamentally reversed.

THE REVIVAL OF ECONOMIC REFORM

In the months immediately after the Tiananmen crisis the future of the economic system was a matter of intense debate in China. Long-silent conservatives were emboldened to advocate restoring central planning, restricting private economic activity, and even recollectivizing agriculture. To stem the inflationary pressures that had caused such popular discontent in 1988–89 and to cope with the economic sanctions imposed by the West after June 4th, the government reimposed controls over prices, domestic investment, and foreign trade. One consequence was the rapid growth of China's trade surplus with the United States, as Peking slashed imports while continuing to promote exports.

Within a few months, however, the proposals for reversing reform were decisively rejected, if only because the government no longer has the technical means or the political clout to reimpose central planning and state ownership. In fact, reform is moving forward in several important areas, including ownership, prices, trade, and finance. The private, collective, and foreign sectors of the economy, all of which tend to be responsive to market forces, continue to grow much more rapidly than the state industrial sector. More and more prices are being readjusted or decontrolled, including those of such sensitive commodities as grain and transportation. Subsidies for export industries are being phased out, and the remainder is being steadily depreciated to approach its true market value. Experiments with securities markets, foreign exchange markets, and other financial reforms continue.

The revival of economic reform reflects a fundamental conclusion reached by Chinese leaders since 1989. To ensure political stability, they believe, it is necessary to manage the economy well. And to ensure economic growth, their reasoning continues, it is necessary to promote economic reform. Over the longer run, of course, economic reform will create the new classes of entrepreneurs, managers, and professionals who will eventually demand political change. In the short run, however, the Chinese leadership assumes that economic reform can obviate the need for political liberalization.

Still, despite undeniable progress in many areas, economic reform remains largely stalemated in three critical respects. The central government has not yet been able to create a coherent national tax system, to impose rationality on the banking system, or to subject unprofitable state enterprises to stringent budgetary constraints. These three problems present Chinese leaders with an acute dilemma. To deal with them vigorously could produce turmoil in the cities, where large numbers of workers in insolvent state factories would be thrown out of work by meaningful financial and enterprise reforms. But failure to address these three issues effectively will produce chronic budget deficits, lose credit, and inflationary pressures. Either way, tougher economic times, and the political unrest that accompanies them, may well lie ahead.

Moreover, the foreign trade reforms adopted since 1989 have removed few of the structural obstacles to American trade and investment in China. Many commodities are still subject to import controls, and some are banned altogether. Many of the regulations governing foreign trade and investment are kept secret from the American business community. American patents and copyrights have received scant protection from the Chinese government. In short, the renewal of economic reform has done little to resolve the most sensitive issues now plaguing the commerical relationship between China and the United States.

OBJECTIONABLE CONDUCT ABROAD

Many Americans also regard post-Tiananmen China as a rogue regime abroad, exporting weapons of mass destruction to unstable regions, supporting repressive governments, and engaging in unfair trade. China's harsh criticism of U.S. foreign policy, especially the Bush administration's call for a "new world order," has persuaded many Americans that China has again adopted a hostile posture toward the United States. Although an oversimplification, this portrait, too, is based on some troubling realities.

China's sale of arms abroad, especially the transfer of ballistic missiles to the Middle East, threatens to disrupt the delicate balance of power in sensitive regions. Reports of Chinese assistance to the nuclear programs of various countries, particularly Algeria and Pakistan, remain of great concern to the United States. Peking's diplomatic support and military assistance to Burma (now named Myanmar by its present leaders) help prop up one of the most repressive regimes in Asia. China's past backing of the genocidal Khmer Rouge in Cambodia is equally odious.

China's policies toward Hong Kong and Taiwan are also cause for worry. Although Peking acknowledges its interest in preserving the stability and prosperity of Hong Kong after 1997, when the territory returns to Chinese sovereignty, it clearly objects to the development of pluralistic democratic institutions in Hong Kong and is determined to vet all major decisions made there from now on. And although China has been willing to expand economic and cultural ties across the Taiwan Strait, Peking regularly threatens to use force to deter any movement toward Taiwanese independence, and deploys its diplomatic resources to resist Taipei's attempts to gain a more active and dignified role in the international community.

Chinese leaders and analysts have also taken a much harsher tone in their discussions of the United States. They warn against U.S. attempts to create a unipolar "new world order" dominated by Washington. They refuse to endorse the American use of force to reverse Iraq's invasion of Kuwait. They criticize U.S. human rights policy as an attempt to undermine remaining communist governments. For the first time in years, the Chinese press now refers to American "hegemonism," and even occasionally "imperialism."

Some conservative Chinese leaders have gone so far as to call for a reorientation of China's foreign relations, proposing anti-American alignments with the third world, with the remaining communist states, with Japan, and (until it disintegrated) with the Soviet Union. Others have demanded a cutback in cultural and commercial exchanges with the United States to restrict the channels by which "bourgeois liberalization" can corrupt Chinese society. If adopted, such proposals would set Sino-American relations back more than two decades.

RESPONSIBLE FOREIGN BEHAVIOR

But these worrisome developments have been only one facet of Chinese foreign policy in the post-Tiananmen era. On a more positive note, Peking has helped promote stability on the Korean peninsula by expanding its own political and economic relations with South Korea, by encouraging Pyongyang to enter the United Nations and resume its dialogue with Seoul, and by working quietly but effectively to persuade North Korea to accept international inspections of its nuclear program. Its past connections with the Khmer Rouge notwithstanding, China has helped broker a comprehensive political settlement in Cambodia and seems willing to accept a decidedly subordinate role for the Khmer Rouge as long as the new Cambodian government remains independent of Vietnam. Peking is also showing interest in the new agenda of international issues, including protecting the environment, combating drug trafficking, and preventing the spread of communicable disease, even though, like other developing countries, it insists that the costs of addressing the problems should be borne primarily by wealthier nations.

Moreover, despite all the internal debate, the general orientation of Chinese foreign policy has remained steady over the past three years. Peking still wants a peaceful and stable international environment, especially in Asia, so that it can continue to allocate the bulk of its national resources to economic modernization. Since 1989, China has established diplomatic relations with Indonesia, Singapore, and Brunei. It has eased strained relations with Mongolia, Vietnam, and India. It continues to build economic and cultural exchanges with Japan, South Korea, and the other members of ASEAN. And, despite its longstanding links with the Palestine Liberation Organization, Peking finally established diplomatic relations with Israel earlier this year, suggesting that China will now be willing to play a more impartial role in discussions of peace in the Middle East.

Similarly, its overheated rhetoric notwithstanding, China has done remarkably little to change its relations with the United States since the Tiananmen crisis. Peking (and, even more, the provincial governments) still actively court American trade and investment. Most academic and cultural exchange programs remain in operation, and more Chinese students and scholars are studying in the United States than ever.

China's policy is not to return to confrontation with the United States, as it did in the 1950s and early 1960s, but rather to persuade Washington to lift its sanctions, restore official contacts, and return to the pre-1989 relationship.

DEFINING THE AMERICAN RESPONSE

What kind of China policy is best suited to these complex circumstances? A return to the euphoria of the 1970s and 1980s is unlikely to be appropriate, even in the era following the death of Deng Xiaoping. Despite widespread hopes for change, China may not see sustained progress toward political liberalization after the octogenarians have left the scene. Instead, it is quite possible that the present combination of economic reform and political authoritarianism will continue for some years to come. Alternatively, the problems that have troubled many other large developing countries—corruption, inequality, demands for provincial autonomy, and pressures from national minorities for self-determination—could provoke social unrest or political repression in China as well. And even if political and economic reforms assuage American concerns with human rights, China and the United States are likely to have different perspectives on a wide range of other bilateral, regional, and global issues. Thus Americans should not base their China policy on the optimistic assumption that the renewal of radical reform, and therefore the congruence of Chinese and American interests, is only a matter of time.

But viewing China with hostility would also be unwise. A diplomatic standoff with China would complicate America's ability to manage the strategic, economic, and environmental issues in which China necessarily plays an important role. A hostile stance toward China would also throw broader U.S. Asia policy into disarray, for America's friends and allies in the region would be highly reluctant to join in an antagonistic posture toward Peking. Preparing for a military confrontation with China would overstretch American resources at a time of rapid retrenchment in our defense budget. As long as China refrains from hostility toward the United States, there is no reason for the United States to take an adversarial posture toward China.

Redesigning American policy toward China also requires an accurate assessment of China's role in the world. In the past, Americans have tended to exaggerate China's significance, regarding it variously as the center of a dangerous worldwide revolutionary movement, as a limitless market for American exports, or the trump card to play in our global competition with the Soviet Union. Now, the tendency may be to denigrate China, overlooking the importance of its huge population, its strategic location, its rapidly growing economy, its massive ecological problems, its sizable military, its nuclear weapons, and its permanent seat on the United Nations Security Council. On almost all pressing international issues, China has the ability to make matters marginally better or considerably worse. Such a country cannot be treated with benign neglect.

A more realistic approach toward China would begin with an appreciation of the full range of American interests at stake. The United States cannot focus exclusively on any single objective, whether regional stability, human rights, commercial advantage, environmental protection, or a peaceful and prosperous future for Hong Kong and Taiwan. Rather, it must pursue all these interests simultaneously. As a corollary, China policy must not be monopolized by any single interest group—not labor unions trying to protect American jobs, American corporations seeking better access to the Chinese market, or even overseas Chinese student organizations promoting human rights back home.

On virtually all these issues, China's interests will partly converge with, and partly diverge from, those of the United States. Both nations want stability in Asia, but they view important regional issues differently, and China has territorial disputes with many countries friendly to the United States. China and the United States have complementary economies, but the specific terms of trade and investment are irritants to both. China seems willing to participate in the international regimes that govern world economic, environmental, and security issues, but as a large developing country its perspectives on many questions differ from those of the United States. The different ideologies, historical backgrounds, and cultural traditions of the two countries will continuously cause friction, especially over human rights. Seeing China either as a "friend" or a "foe" of the United States in these circumstances would be equally unrealistic.

The most appropriate U.S. strategy in such circumstances is to collaborate with Peking whenever possible, on those issues where U.S. and Chinese interests coincide. Preventing nuclear proliferation on the Korean peninsula, reducing tensions between Pyongyang and Seoul, ensuring the implementation of the Cambodian peace accords, and developing regional economic institutions that include both China and the United States are all issues that invite cooperation.

Conversely, when U.S. and Chinese interests diverge, as they do on bilateral commercial relations, human rights, and China's transfer of military technology abroad, it will be necessary to do some hard bargaining, offering Peking both incentives and disincentives to redefine its policies in keeping with American interests. Those incentives and disincentives, in turn, should usually be the same as those that the United States applies to other countries in comparable circumstances. And the disincentives need to be carefully designed to ensure that they do not inadvertently harm one set of U.S. interests while promoting another.

Advancing American interests through hard bargaining requires constant engagement of U.S. and Chinese officials, at both the leadership and working levels. Ceremonial summit meetings may not be appropriate until China further improves its record on human rights and proliferation. But frequent dialogue just below the summit is necessary on the full range of issues confronting the two countries. In particular, it is time for the United States to resume contact with the Chinese defense establishment to ensure China's compliance with the emerging international norms against the proliferation of weapons of mass destruction.

Finally, in discussing such issues as human rights, trade, and weapons transfers, the United States should make clear that it is seeking Peking's compliance with established international norms and standards, rather than forcing it to accept unilateral American preferences. When sanctions are necessary, they will be more effective if they are imposed and implemented in a multilateral fashion, so that they reflect the common judgment of the international community rather than the opinion of the United States alone.

THE EVOLUTION OF POLICY AFTER TIANANMEN

For the first 18 months after the tragic incident in Tiananmen Square, the United States undertook policies quite different from those just outlined. After imposing a series of diplomatic, economic, and military sanctions against China in June 1989, the White House tried to resolve the crisis in Sino-American relations swapping concessions with Peking, hoping that a more accommodative American posture would evoke comparable Chinese gestures in return. Unfortunately, Chinese leaders may well have interpreted the administration's conciliatory policy as a sign of weakness. Their rapid response, particularly on human rights issues, soon created the impression in the United States that the White House was "kowtowing" to a brutal leadership in Peking.

Congress has attempted to mandate a tougher line, through the threat to deny China's most-favored-nation status unless Peking accepts a long list of American demands on issues ranging from human rights to trade policy. But linking every issue to a single sanction—the denial of most-favored-nation status—deprives the United States of the flexibility it needs to deal with a complex China. Moreover, actually withdrawing China's most-favored-nation treatment would threaten several important U.S. interests, including economic liberalization in China, prosperity for Hong Kong and Taiwan, and Chinese cooperation on global and regional issues. It would also provide an ideal pretext for Chinese leaders to restrict the academic and exchange programs through which new ideas and values enter the country, and to crack down on intellectuals with links to the United States.

Since last spring, the Bush administration has quietly changed course and adopted a new China policy in keeping with the strategy recommended above. It has enforced laws against false labeling of Chinese textiles and against the import of convict labor products. It has threatened the sanctions authorized by section 301 of the 1988 Trade Act to seek better protection for intellectual property and better access to the Chinese market. It has tightened restrictions on technology transfer to China, as a way of persuading Peking to honor international norms restricting the export of nuclear materials, ballistic missiles, and other weapons of mass destruction. It has promoted human rights in China by steady diplomatic pressure and by sustaining most sanctions put in place in June 1989.

THE CHINA POLICY NO ONE KNOWS

This strategy has begun to achieve results. China has agreed to ratify the nuclear nonproliferation treaty, to abide by emerging international rules governing the export of ballistic missiles, and to participate in negotiations limiting arms sales to the Middle East. It has promised to ban the export of commodities manufactured by prison labor, to halt the false labeling of textiles, and to better protect American intellectual property. In the area of human rights, less progress has been achieved. But even here China has released some political prisoners, accounted for others, and allowed relatives of dissidents in exile to join their families abroad.

None of these initiatives has completely solved the issues dividing the two countries. Peking's willingness to comply with its promises, particularly in the area of arms sales abroad, must be carefully monitored and verified. Washington will have to move skillfully, relaxing sanctions when there is real progress, keeping the pressure on when there is not, and even retaliating when there is backsliding or deceit on the part of Peking. But the overall pattern suggests that a policy of graduated pressure can achieve results and that China is willing to make concessions to preserve its relationship with the United States.

Unfortunately, the Bush administration's new strategy toward China has not been adequately publicized. The only systematic explanation is contained in a letter from the president to Senator Max Baucus (D.-Mont.), written at the height of congressional debate over China's most-favored-nation status last July, that has not been widely circulated. The White House may have expended so much capital on its earlier, less successful policy that it feels it has little left to invest in its newer, more appropriate strategy, particularly in an election year. Or it may be reluctant to admit that the earlier policy of swapping concessions failed and that it has been forced to take a tougher approach.

Whatever the explanation, the administration's failure to articulate its new China policy clearly and persuasively is a continuing handicap. For one thing, it makes it difficult for the White House to relax economic sanctions or restore high-level contacts with China, both crucial elements in the array of incentives and disincentives needed to deal with Peking. Many in Congress and the media associate such steps with the disastrous visit by National Security Adviser Brent Scowcroft six months after the Tiananmen crisis, when photographs of Scowcroft raising a champagne glass to toast his Chinese hosts earned Bush the fury of the U.S. press and public. The administration has not yet made the obvious but crucial case that positive gestures can be part of a tough-minded policy, not just an accommodative one.

Equally important, in the absence of a domestic consensus over its China policy, the White House faces a draining annual debate over the future of China's most-favored-nation status. Thus far, the administration has been able to secure enough votes in the Senate to prevent the outright withdrawal of Peking's most-favored-nation status, or the attachment of conditions to its renewal. But the failure to resolve this issue makes Sino-American ties much more fragile than they should be, and constantly threatens to drive the relationship into confrontation.

The time has come to break the deadlock on U.S. China policy. The Bush administration has finally begun to formulate a tough-minded strategy that fits the complex realities of China. But having a good policy in a vest pocket is not enough. The administration must show its cards and work with responsible members of Congress to rebuild the domestic consensus that was shattered by the crisis in Tiananmen Square.

A key element in forging that new consensus will be to conclude the debate over China's most-favored-nation status. The administration should accept broadly worded legislation that requires an annual assessment of China's domestic developments and international behavior before Peking's most-favored-nation status can be renewed. The congressional leadership should acknowledge that the revocation of normal trade treatment for China would be counterproductive under present circumstances, and that Peking's most-favored-nation status should therefore be maintained unless there is a drastic deterioration in the situation in China. Then, both the executive and legislative branches should work together to develop the more focused policy instruments that offer the best chance of resolving the difficult issues at stake in Sino-American relations.

Mr. BENTSEN. Does the Senator from Delaware desire time?

Mr. BIDEN. I ask the Senator if he would be willing to yield me 10 minutes.

Mr. BENTSEN. I am delighted to yield 10 minutes to the distinguished Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I listened with great interest, as I always do, to the Senator from Montana, a man with whom I have very few differences. But this happens to be one of those differences.

Mr. President, the House of Representatives has acted with remarkable bipartisan resolve to override the President's veto. And the question now is whether the Senate will summon similar strength and bipartisanship.

Will we use the American leverage that we have at this moment to insist on realistic improvements in Chinese behavior? Or will we instead allow the President to persist in a policy of appeasement that makes a mockery of American values and fails abjectly to defend American interests?

The reason for the President's failure of leadership is unclear; the failure itself, though, is plain to see. And now it seems to me, Mr. President, only Congress can cure the China syndrome that President Bush as inflicted upon American foreign policy.

I remind my colleagues that this legislation was designed not to terminate China's MFN status—notwithstanding what my good friend from Montana suggested it will have the effect of doing—but it was designed to use the powerful leverage of trade benefits to elicit a reasonable standard of Chinese behavior in a carefully calibrated way.

On human rights and trade behavior, the legislation requires no more than progress. We do not dictate that China become a democracy, as much as we would like it. All we do is require that there be progress.

On arms proliferation, the legislation requires no more than Chinese adherence to promises already solemnly given to the Bush administration. That is all we ask, "just keep your promise, China."

Three weeks ago, the Senate convened in secret session to focus on the ominous dimensions of past Chinese proliferation policies and Beijing's demonstrated propensity to circumvent pledges that have been solemnly made, a record that we are all aware of.

Clearly, several votes were swayed that day, Mr. President. And I believe that Senators in substantial numbers came away convinced that they could not, in good conscience, oppose this bill's proliferation provisions. Rather, opposition focused almost exclusively on other provisions.

I wish to make it clear, Mr. President, that, if the President's veto is sustained today, I do not intend to let the proliferation matter drop. Indeed, I intend to propose these same proliferation provisions as an amendment to any appropriate legislative vehicle that will come before the Senate.

The provisions that I want to see codified in law do no more than lock in pledges that Beijing has now formally made to the United States—pledges on the basis of which the administration acted a month ago to lift sanctions aganst certain Chinese companies.

My friend from Montana pointed out the great progress that has been made as a consequence of the Bush policy. I would remind him and everyone who will listen that the very reason they acted the way they did—that is to talk about compliance with the MTCR and other regimes—is because the Congress insisted two summers ago to impose sanctions against Chinese companies who were involved in proliferation.

Isn't it fascinating? We are giving the President great credit for eliciting some response from our Chinese friends on proliferation, when the President vetoed a bill that the Congress passed saying, "Mr. President, unless you sanction Chinese companies, the following will happen." And guess what happened? There were sanctions imposed. And then what did the Chinese do? The Chinese came along and said, "Well, all right; we will enter into negotiations on MTCR" and made other pledges, the very pledges I just want them to have to keep. "We will do it if you lift the sanctions." And now we are being told sanctions will not work.

The only reason they got to where they are today is because the President was forced by the Congress to impose sanctions.

Mr. President, I find that fascinating circular reasoning.

The provisions I want to see codified into law do no more than lock in the pledges that Beijing has formally made now in return for us lifting sanctions against companies in China—pledges on the basis of which the administration acted a month ago to lift the sanctions the President did not want to impose against Chinese companies.

In effect, a critically important Sino-American contract has been sealed, and these provisions in this bill simply establish—and announce for Beijing to hear—the strong and sure response that would result from a gross Chinese violation of a contract they have now entered into.

That is all it does. No new conditions. Just do what you promised to do that you only would promise to do after we lifted sanctions the President did not want; just do what you promised to do. And if you do not, then we are going to reimpose sanctions of a slightly different nature.

Mr. President, these provisions are far from abstract. They concern the transfer of modern ballistic missiles and nuclear technology to Syria and Iran, two of the most dangerous countries in the Middle East, led by leaders in both those countries on whom I hope we would not make the same mistake that this administration made with the leaders of Iraq.

These missiles, the so-called M series, are far more capable in range and in accuracy than the Scud missiles launched in the gulf war by Saddam Hussein, and about which we continue to have a running debate in the United Nations and a continued threat to use force to eliminate. These missiles, the M series that the Chinese have now promised not to transfer, make the Scud missile look obsolete.

So let us understand what is at stake here. There was a promise made by China: We will not sell this M series, trade this M series, send this M-series technology to Iran, God bless them, and to Syria, God bless them.

China says: We promise we will not do that. The chairman has a piece of legislation at the desk that says: OK, you made a promise. Now, if you break that promise, this will be the consequence, at least one of them. We are going to see to it that most-favored-nation status no longer pertains to you, China.

That technology we are talking about transferring is a big deal. This M series of missiles is highly accurate. They are highly accurate and have ranges that are classified, that exceed the Scud's, which we continue to argue about in the United Nations and continue to use the threat of war, again, to eliminate.

I find this absolutely fascinating. We will not vote in this body to make the Chinese keep a promise they made to transfer missiles that are infinitely more dangerous than the very ones the President is validly threatening to go back to war over.

Is that not absolutely incredible? We will consider sending Americans back into the gulf to get rid of missiles that are to this missile what a 1957 Ford is to a 1992 Corvette in terms of its performance capability. We will not dare threaten to cut off MFN. We will threaten to send American boys to eliminate the old Ford, but we will not threaten lifting MFN status for the new Corvette that they might send.

Mr. President, it is abundantly clear that the Chinese leaders and the arms merchants in China are oblivious to such considerations. They see the missiles and nuclear technology business solely as a source of hard currency. Because they are acting on economic motives, we must understand once and for all the only way to respond is economic pressure, countervailing economic pressure. And it will work.

These provisions will force the Chinese leaders to choose between an international arms market measured in hundreds of millions of dollars and an American consumer market where China enjoys in the area of $13 billion annual surplus.

By forcing Chinese leaders to make this choice, we can stop the arms sales that can imperil not only American allies, but eventually American troops in the field.

In recent years, Mr. President, the international community has worked with increasing intensity to stem the proliferation of weapons of mass destruction. We have seen progress in the Nuclear Non-Proliferation Treaty; in the nuclear suppliers group; in the Missile Technology Control Regime; and in the Australia group that has acted to limit the spread of technology for chemical and biological weapons.

In this context, Mr. President, we can find some encouragement that, after years of resistance China has finally agreed to sign the Non-Proliferation Treaty and pledged to abide by the Missile Technology Control Regime. But make no mistake: These recent commitments from Beijing are tactical concessions that almost certainly resulted from pressure created by the very legislation before us today, and similar legislation the President resisted in the past.

Are these pledges enough? The realistic answer is that we have good reason for skepticism. On the basis of past behavior—in other words, the evidence of experience—China will take every opportunity to circumvent arms control regimes. Our protection consists of making sure that Beijing knows that this time its violations would entail serious and sure consequences.

As to our assessment of Beijing's plans and propensities, I am compelled to say that I have serious concerns about public testimony given by the Director of Central Intelligence 3 weeks ago. On the same day that we in the Senate were convened in closed session to discuss the disturbing implications of intelligence reports about Chinese arms sales, Director Gates was over in the House giving China a clean bill of health.

His testimony that day raises questions of both propriety and accuracy—questions I have posed directly in writing to Director Gates and also shared with members of the Intelligence Committee.

For now, let it suffice to say that the Senate cannot afford to accept blithe reassurances from any quarter. Our goal must be to express a clearcut policy—plain for Beijing to hear and understand—that the United States intends to hold Chinese leaders to the letter and spirit of their word.

If we do, I believe the likely consequence is that China will comply with international standards—precisely because we have made it unmistakable that the alternative will be severe: China will pay an onerous and well-warranted price.

In conclusion, in recent months we have heard much about the new world order. We have now an unusual opportunity to give meaning to that phrase by putting teeth into a new strategy of containment that prevents the rampant proliferation of weapons of mass destruction.

By doing so, the Senate can take a constructive step to ensure that we do not let another genie out of the bottle that could help destroy the new world order before we have even begun to explore its full possibilities.

I urge that Senators overcome their automatic loyalty to the President in favor of an automatic penalty against Beijing if China acts in blatant violation of its pledges to the United States.

Mr. BENTSEN. Mr. President, I thank the Senator from Delaware, who has made himself quite a student of this issue. If there was anyone who was the author of this specific part of the legislation, the Senator from Delaware is that author. I think he has made a very persuasive statement here and has been most helpful in the debate.

Mr. BIDEN. Mr. President, will the Senator yield for 30 seconds for a correction?

Mr. President, when I made reference to the administration's opposition of sanctions, the sanctions bill we passed, I indicated we overrode the President's veto. We overrode his objection.

I am so focused on veto here, I misspoke. We overrode his objections to the sanctions provisions. that is what we did. We did not override it; we just outvoted him. It was part of a larger bill. It became the law, and he acted. It passed here, and he acted.

I apologize. I said veto. I did not mean to say that.

Mr. BENTSEN. Well, it was a good thought, Senator.

The Senator from Maryland was seeking recognition. I yield 5 minutes to the distinguished Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I thank the distinguished chairman of the committee for yielding me time.

I want to join with my colleagues in expressing strong support for the effort now before us on the floor of the Senate to override the veto of H.R. 2212. This legislation actually provides for the continuation of MFN status under certain conditions.

What we are confronted with here is three grounds, any one of which alone, in my judgment, would be a sufficient basis to deny or to condition MFN status, most-favored-nation status. You have a human rights grounds; you have an arms proliferation grounds; and you have the very basic economic grounds, to which MFN is ordinarily tied and ordinarily analyzed.

I want to touch on the first two just briefly. They both have been addressed by colleagues of mine. Senator BIDEN, the able Senator from Delaware, just discussed the missile issue in great detail. And both the chairman and the majority leader earlier addressed the human rights issue.

But it is important to appreciate there are three major aspects of American policy that are being flouted by the PRC, by the People's Republic of China—not one; not two; but three major aspects of American policy that are being flouted.

And the administration, to the credit of the people who write these reports, condemns the Chinese behavior in its own words. The administration's own human rights report issued not even 2 months ago, January 31, 1992, criticized China for repressive practices that fall far short of internationally accepted norms. That is not my language; that is the language of the administration's human rights report.

The report pointed out that China was "a one-party state adhering to Marxist-Leninist principles in which the Chinese Communist Party, backed by the military and security forces, monopolizes decisionmaking authority."

Continuing with the report language:

> The party maintains control through its widespread apparatus and traditional societal pressure, as well as through a nationwide security network which includes the People's Liberation Army, the Ministry of State Security, the Ministry of Public Security, the People's Armed Police and State Judicial Procuratorial and Penal System. The security forces have been responsible for human rights abuses, including torture and arbitrary arrests and detention.

They then talk about the crackdown which has taken place in China in 1991, after some, a little bit of loosening, hasty verdicts, inadequate access to legal counsel, and the Government's refusal to allow independent observers to attend the trials. Many were sentenced to lengthy terms merely for expressing views critical of the ruling regime. The Chinese Government continues to detain hundreds of Tiananmen Square demonstrators without charges or trial, has executed at least 50 of these demonstrators, and sentenced several thousands to labor camps.

The United Nations has compiled testimony from 12 private human rights groups, including Amnesty International, documenting Chinese human rights abuses in Tibet. That report is being discussed this very week in Geneva before the U.N. Human Rights Commission. That actually represents the first time that the U.N. Human Rights Commission has addressed the issue of human rights abuses in Tibet. It details a variety of abuses, systematic torture and ill-treatment. We have had, in effect, a cultural genocide taking place in Tibet over the years.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. SARBANES. Does the Senator have another 5 minutes to yield?

EXTENSION OF TIME FOR COMMENCING RECESS

Mr. BETNSEN. Mr. President, I yield an additional 5 minutes and ask unanimous consent that we be allowed to continue until 12:37 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Mr. President, on the 31st of January, President Bush met with Chinese Premier Li Peng at the United Nations. They delayed releasing the human rights report in order for the President to hold this meeting. Then he was told at the meeting by Li Peng that human rights was an internal Chinese affair, not subject to foreign interference. It is a disastrous human rights record, and on that basis alone, MFN status ought not to be accorded.

Second, because of the limitation of time, I am not going to go into detail with respect to the Chinese arms proliferation issue that was just addressed very ably, at some length by my colleague from Delaware, Senator BIDEN, but let me simply observe that the Chinese are transporting important weaponry, including very important missile technology to the very countries in the Middle East that we are concerned about posing a threat to peace and security in the area.

In the few minutes I have left, Mr. President, I want to turn to the trade issue itself very directly because we get these assertions on the floor, well, it is an important trading partner; then we are told about who is exporting commodities from the United States to China. We are not told about the Chinese imports into the United States and this enormous trade deficit.

In 1988, China had a $3.5 billion trade surplus with the United States. In 1989, $6.2 billion; 1990, $10.4 billion; 1991, $12.7 billion trade surplus for China. That is the second largest negative trade balance we run with any country in the world, exceeded only by our trade imbalance with Japan.

Some may say they are effective and competitive trading partners; that is what is happening; we believe in an open trading environment. Do not believe it for a minute. The Treasury was required by the Omnibus Trade and Competitiveness Act, which was managed so well by the very distinguished chairman of the committee, the Senator from Texas, to submit a report each year on international economic policy and exchange rate policy and to look at what countries were doing.

Let me just read their finding. This is from the Bush administration, just like the human rights report detailing the gross abuses of human rights was in the report of the Bush administration. This is from their Treasury Department. Listen to this. I am now quoting:

> The Treasury Department is seriously concerned about the size of China's trade and current accounts surpluses. These surpluses stem primarily from the network of pervasive administrative controls maintained by the Chinese authorities over all aspects of external economic activity. The authorities combine a highly regulated system of foreign exchange allocation with strict import licensing and an array of other controls to tightly manage China's trade flow. The result is large and growing external surpluses.

You bet it is. Their trade balance with the United States is greater than their trade balance with the entire world. In other words, we more than provide them with an overall favorable trade balance.

The Treasury went on in its assessment to say the following:

> It is our assessment that a principal cause of these large external surpluses is the network of pervasive administrative controls over external trade, including the foreign exchange allocation system which restrict imports and prevent market forces from freely determining the exchange rate. The Chinese Government clearly manages its balance of payments in such a way as to generate a target level of foreign exchange reserves.
>
> The authorities use a variety of direct and indirect instruments to reach these broader objectives.

They are manipulating the trade arrangement. We have people come to the floor and say, well, now we do not want you to consider human rights in a trade relationship. I do not agree with that. I think it is a legitimate and important part of our policy to do so. Then they say we do not want you to consider missile proliferation when you are talking about a trade relationship. I do not agree with that.

I think both are reasonable concerns, but let us take the trade relationship on its own terms. Take the trade relationship itself on its own terms and open your eyes to what the PRC is doing on the trade relationship. They are not playing by the rules. They are manipulating this trade relationship. They have driven their trade surplus up from $3.5 billion in 1988 to $12.7 billion in 1991. That is a favorable trade balance for China.

The $12.7 billion is the amount by which Chinese exports to the United States exceed our exports to China. Our exports to China are running about $4 to $5 billion a year and their exports to the United States are running at about $17 billion a year. That is the imbalance. And they are manipulating the trade relationship in order to do it.

Then we come along and say, well, we are going to have most-favored-nation status for a country that is manipulating this trade relationship. What kind of fools are we to allow this process to happen? And at the same time they are exhibiting gross abuse of human rights, a record that is absolutely despicable. And they are creating this missile proliferation concern.

On any one of the three grounds, they ought not to have most-favored-nation status, and here we are now trying to pass a piece of legislation conditioning that most-favored-nation status to changes in these essential areas of policy.

Mr. President, we need to override this veto.

I thank the chairman for yielding my time.

Mr. BENTSEN. Mr. President, I ask unanimous consent that we be allowed to extend the debate for an additional 10 minutes, with that time being charged to the manager of the legislation, and that those persons being recognized for that purpose would be the distinguished Senator from Massachusetts [Mr. KENNEDY] for 5 minutes, and the distinguished Senator from California [Mr. CRANSTON] for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. I yield 5 minutes to the distinguished Senator from California.

Mr. CRANSTON. I thank the distinguished chairman very much.

Mr. President, I rise today to voice my unwaivering support for H.R. 2212, the United States-China Act of 1991. The Congress must override President Bush's veto. Our colleagues in the House of Representatives had no difficulty in standing up to the President's veto. Now we must do our part.

It has been left to Congress to correct a wayward foreign policy toward the renegade Chinese leadership. Changes in policy toward South Africa, El Salvador, and Cambodia have all come from Congress. The progress and reform occurring in those countries today is due to successful Senate-House initiatives.

The United States-China Act of 1991 is a similar initiative. It does not intend to isolate China. It simply sends the message that Chinese indifference to genuine United States concerns about weapons proliferation, human rights, and trade will not be tolerated. The administration has failed to deliver this important message.

This legislation was designed to induce China to stick by its many promises to abide by the missile technology control regime and the Nuclear Nonproliferation Treaty. China's track record on breaking nonproliferation pledges necessitates these conditions. In the last decade we have heard these meaningless promises:

China's Premier pledged at the White House in 1984 not to "help other countries to develop nuclear weapons."

In July 1985, the Reagan administration told Congress that "China has now declared its opposition to proliferation and taken concrete steps toward global nonproliferation norms and practices."

In October 1985, China's Vice-Premier said China "does not practice nuclear proliferation."

In September 1988, China's Foreign Minister said, "It is totally unnecessary to worry about China's exports of military products."

In April 1991, a Department of State spokesman said, "The Chinese have stated that they will act prudently and responsibly with respect to missile exports worldwide."

Yet, Mr. President, the record shows that during the 1980's, China secretly provided weapons to South Asia, South Africa, South America, and the Middle East, including the transfer of nuclear and chemical technologies. Just in the last year, the Chinese have sold ballistic missile launchers to Pakistan and have secured contracts to sell nuclear-related material to others.

Enacting this legislation would raise the stakes for China in its dangerous game. Should China be so unwise as to break yet another commitment to control weapons sales, it will lose.

This legislation, Mr. President, also places reasonable conditions on human rights reforms that are intended to lead to improvements in the treatment of prisoners as well as the release of other prisoners.

Last June, I asked witnesses before the Foreign Relations Committee about the effectiveness of such conditions. One expert replied that she thought conditions on MFN renewal would not isolate China simply because China's leaders do not want their country to be isolated.

There is no doubt that China's human rights relations continue to deteriorate. According to Asia Watch, the Chinese Government secretly began a new series of political trials about 4 months ago. By the beginning of March, at least 20 democracy movement activists had been tried and sentenced for peaceful advocacy of democracy.

China also continues its repugnant practice of exporting goods produced with slave labor. At hearings I chaired last fall, a United States Customs Service official testified that goods suspected of being made by forced labor in China were reaching the United States Customs testified that it was working with State to reach an understanding with the Chinese on procedures for investigating these allegations. To date, the Chinese have not agreed to international inspection of suspected prison slave labor sites. China does not want us to learn how and where they exploit their labor to undercut American workers.

This legislation would put an end to what has been called "China's dirty little trade secret." It requires China to cease the exportation of goods produced wholly or in part by convict labor. It also establishes civil penalties for those violating the U.S. ban on the importation of goods made by convict or forced labor.

China's record on trade is truly dismal. The Chinese leadership has promised to stop violating our intellectual property rights, but they have yet to provide a timetable for enforcing it.

Serious barriers continue to block United States access to China's enormous markets. To date, China is running a $15 billion trade surplus with the United States. It has created the gap by stealing our technology, by refusing to buy our products, and by selling us the goods made with slave labor.

Mr. President, I urge my colleagues to vote to override. It is time to send a clear message that China's record on weapons proliferation, human rights, and trade, to quote the President's words on other matters, cannot stand. We must send a message that the Chinese will understand. They will understand this message if and when we override the veto.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Massachusetts is recognized for 5 minutes.

Mr. KENNEDY. I thank the Chair.

Mr. President, the stunning success of yesterday's referendum in South Africa on reforms to end apartheid demonstrates once again the effectiveness of international sanctions. The threat of reimposition of sanctions, had the referendum failed, contributed substantially to its success.

There is no doubt that the dream of freedom and democracy is closer today for all South Africans because of United States sanctions against that repressive regime.

The people of China deserve our support no less than the people of South Africa. There is no reason why sanctions or the threat of sanctions would not be as effective against the Beijing government as they have been against the South African regime.

Mr. President, the final vote on the South African referendum was 68.7 percent in favor of continuing reforms aimed at dismantling the apartheid system. President de Klerk got 68.7 percent, and those of us in this institution know what an overwhelming endorsement this response is. All of the analyses that were given by commentators this morning pointed out that the most powerful factor influencing that outcome was concern among the business community in South Africa regarding the reimposition of sanctions—a powerful, powerful international weapon.

For those of us who were part of the development of that legislation in the Senate, and who know the positive effect it has had in advancing democracy in South Africa, it is clear that we should override the President's veto and place reasonable conditions on China's MFW status.

Mr. President, I hope our membership will override this veto.

The measure before us imposes sensible conditions on renewal of most-favored-nation trade status for the People's Republic of China. These conditions are designed to encourage improvements in China on human rights, the treatment of workers, and arms control. President Bush's veto flies in the face of fundamental American values of freedom, democracy, and respect for human rights.

America should reward political reform and encourage democracy in China, not kowtow to the policies of a despotic regime intent only on preserving its own interests.

Yet, since the bloody Tiananmen Square massacre in June 1989, the Bush administration has time and again urged Congress to overlook China's brutal human rights abuses, blatant unfair trade practices, and indiscriminate sales of weapons of mass destruction throughout the world.

The President weakened U.S. sanctions imposed following the Tiananmen Square massacre even as the Beijing regime escalated its cruel and repressive policies. At the time, the White House pledged that it would impose sanctions against the Beijing regime more carefully tailored to punish those within China who were guilty of wrongdoing.

For 3 years, the White House has failed to impose such sanctions and has subverted every attempt by Congress to act against what the State Department itself calls a repressive and authoritarian one-party state.

Today, the regime in China shows no more respect for the rights of the Chinese and Tibetan people than it did in 1989.

The ineffectiveness of our China policy was demonstrated by Chinese Premier Lee Pung last year on the second anniversary of the Tiananmen Square massacre. Rather than expressing concern over the loss of life following that tragic bloodbath, he emphasized that the violent military crackdown was an appropriate response to the peaceful student protest and that the Government would be justified in responding in a similar way to such demonstrations in the future.

During his meeting with President Bush at the United Nations in January, Lee Pung indicated that China's policies would not be affected by foreign pressure, exactly the same argument that we heard from former Prime Minister Botha in South Africa. When the President raised the issue of human rights, Lee Pung rebuffed him, calling such issues an internal affair and not open to discussion.

Within China and Tibet, the Beijing regime continues to brutalize all forms of opposition. During the first 2 weeks of March, additional prodemocracy advocates were sentenced to long jail terms. Artists were arrested for filming a prodemocracy video containing pictures of tanks. Democracy advocates in labor camps were forced into incommunicado detention. A new crackdown was initiated against religious leaders. And the Beijing government refused to honor its promise to permit certain prominent dissidents to leave the country.

Chinese troops continue to occupy Tibet illegally and commit physical and cultural genocide against the Tibetan people. In addition, the Chinese regime continues to imprison and torture thousands of Chinese and Tibetan prodemocracy advocates. Many of these courageous patriots are forced to work as slave laborers to make products for export to the United States.

Yet President Bush opposes conditioning China's trade status on the improved treatment of these citizens. In the past few weeks, President Bush even refused to permit the United States to join other Western democracies in supporting a resolution in the U.N. Human Rights Commission addressing China's repression in Tibet.

President Bush just does not get it on China. His policy is a failure and it is time for a change.

Human rights is not the only area in which the Chinese regime has failed to bring its policies into line with basic internationally recognized standards of behavior. No significant progress has been made in the area of trade. The United States Trade Representative reports that China continues to engage in numerous unfair trading practices with the United States. As a result of these unfair practices, our trade deficit with China is second only to its trade deficit with Japan.

The President's unwillingness to sanction Beijing for its unfair trading practices undermines the efforts of United States businesses seeking to export their products to China.

Moreover, despite repeated assurances from Beijing to the contrary, China continues to use prisoners as slave labor to lower the price of exports. Official documents obtained last year by the human rights organization Asia Watch call for intensified prison labor production, targeted especially at the United States and other Western markets.

I ask unanimous consent to be allowed to insert in the RECORD an editorial by Orville Schell which appeared today in the Washington Post and which details slave labor abuses by the Chinese government.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 18, 1992]

UNDERWRITING COMMUNISM IN CHINA

(By Orville Schell and Todd Lappin)

It's almost spring again, and for the third time since Beijing's hard-line leaders ordered People's Liberation Army tanks to "recapture" Tiananmen Square from democracy activists in June 1989, the Bush administration and Congress are again at loggerheads over the best way to promote democratic change and human rights in China.

On Feb. 25, the Senate passed, 59 to 39, a bill to impose conditions on the renewal of China's most-favored-nation preferential tariff status. The House had already passed the bill by a vote of 409 to 21. The measure would require the president to certify that Beijing has released political prisoners from China's notorious "gulag" and has made substantial progress toward protecting the human rights of its citizens.

Although passage of the bill sent a signal to Beijing, the final tally was eight votes short of the two-thirds majority needed to overcome a promised presidential veto. Indeed, on March 2, President Bush returned the bill to Congress without his signature, arguing that "conditional MFN would severely damage the Western-oriented, modernizing elements in China, weaken Hong Kong and strengthen opposition to democracy and economic reform."

The logic of the president's argument in favor of "constructive engagement" and against imposing sanctions on China is based upon two questionable assumptions regarding the way in which exposure to the West through trade leads to political liberalization.

First, the president seems to fear that resolute action by the United States will have the unwelcome effect of causing China's hard-line leaders to reflexively turn inward, thus returning the Middle Kingdom to a state of Maoist isolation and stifling further liberal change.

Second, Bush seems to take it for granted that foreign trade, economic growth and openness to the West will ineluctably lead to greater democratization and political reform in China. After more than 10 years of Deng Xiaoping's economic reforms, however, there is compelling evidence suggesting that such assumptions are not necessarily axiomatic.

Few would challenge the notion that China's economic reforms will improve the standard of living for China's citizens. But is there any guarantee that greater material prosperity will automatically improve the Beijing government's respect for human rights or political pluralism? Not necessarily.

Certain kinds of economic progress may adversely affect political liberalization by pumping new life into an ideologically bankrupt regime that might otherwise have collapsed under its own dead weight. The recent demise of the Soviet Union shows us how much totalitarian regimes depend upon economic growth to perpetutate themselves. Mikhail Gorbachev's initial willingness to experiment with perestroika stemmed not so much from an innate love of democracy as from his recognition that without reform, his country and the Communist Party would slide toward economic ruin.

China's leaders have recognized this fact since the late 1970s, and they have had this lesson graphically reaffirmed by witnessing the collapse of so many other fraternal Communist regimes. Deng's famous dictum that "it doesn't matter if the cat is black or white as long as it catches the mouse" perfectly embodies Beijing's expedient willingness to harness capitalist market mechanisms in order to perpetuate Communist Party rule.

Although Marxist hard-liners have dominated Chinese politics for more than two years since the 1989 crackdown, Deng's faction of economic reformers seems to have once again seized control. Last week China's Politburo declared that "to judge whether a move is 'socialist' or 'capitalist' will depend mainly on whether it will benefit the development of the productive forces under socialism, the comprehensive national strength of our socialist country and the living standard of the people." Stripped of its feline imagery, Deng's original formula for preserving the political viability of the Chinese Communist Party is now more plain than ever.

In fact, after more than 10 years of capitalist reform, China today is the world's most successful laboratory for free-market totalitarianism. In a macabre way, its political system has demonstrated an astonishing talent for grafting laissez-faire branches onto an old and despotic Leninist trunk.

China's prison system, in which thousands of political prisoners still languish, has actually flourished under China's crypto-capitalist "responsibility system" and provides an interesting example of how economic reforms can be used to perpetuate rather than end political repression. Thrown back on their own resources, China's prison managers have learned to exploit market mechanisms and their most abundant resource—forced labor—to manufacture a variety of products for sale to foreign buyers who pay in hard currency. The profits derived from this practice are paradoxically being used to relieve the state of the need to subsidize its much-feared penal system. The net effect of China's liberal economic system has been to shore up one of those very Leninist institutions that the Bush administration imagines its policy of unconditional free trade will end up "reforming."

If there is an encouraging lesson to be learned from China's burgeoning free-market miracle, it is that the People's Republic has become inextricably involved with and dependent upon the outside world for investment capital, sophisticated technology and foreign markets. In 1991 China enjoyed a $12.69 billion trade surplus with the United States, a surplus figure surpassed only by Japan. America is now China's largest foreign market for its export goods. To imagine that Beijing's octogenarian leaders can now force Chinese society back into isolation by breaking off this foreign trade is naive in the extreme. In this day and age, they simply cannot afford the economic and political costs that such a reversal would entail. It is this dependency that now gives the United States such an unprecedented amount of diplomatic leverage when dealing with Beijing.

President Bush is correct when he advocates a policy that encourages continued American engagement in order to advance the process of democratization in China. He is also correct in identifying China's economic reforms as a vehicle through which democratic change can sometimes take hold. But he is, unfortunately, mistaken in presuming that a deterministic relationship exists between economic growth and political liberalization.

Senators should not blithely assume that conducting business as usual is the most effective remedy for mitigating the excesses of China's one-party authoritarianism. It would be both sad and ironic if America's failure to tie its foreign policy to human rights considerations ultimately abetted the creation of the most prosperous Marxist-Leninist dictatorship the world has ever known.

Mr. KENNEDY. The United States should not grant MFN status to a trading partner which refuses to buy U.S. goods and which exports products made by slave labor.

China also continues to undermine international peace by transferring advanced weapons and nuclear technology to countries which the White House itself has labeled as terrorist regimes.

The likelihood of terrorist states acquiring nuclear capability is a chilling prospect. But President Bush opposes sanctioning China for transferring nuclear technology to Iran. He opposes sanctioning China for constructing a nuclear reactor in Algeria large enough to make plutonium for nuclear weapons. He opposes sanctioning China for providing Saddam Hussein with chemicals for the production of nerve gas and nuclear weapons.

It is time for Congress to reject this failed policy and make clear to the Chinese regime that the United States will not conduct business as usual with an outlaw regime that murders its own citizens. This is not a partisan issue. As Jeanne Kirkpatrick recently observed in challenging the President's China policy, the cold war is over and the United States now "has a major stake in encouraging civilized standards of respect for human rights."

America must not abandon the prodemocracy movement and its brave leaders in China and Tibet. We must not reward slave labor with trade favors. We must reject the promiscuous sale of nuclear technology weapons to Third World tyrants.

By vetoing this measure, which imposes realistic and reasonable conditions on the Chinese Government, President Bush is ignoring his responsibility to protect the interests of the American people in supporting human rights and democracy. It is now up to the Congress to assume this task. So long as the dictators in China continue to pursue their repressive and irresponsible policies, China should be a least favored nation, not most favored nation.

I urge the Senate to override the President's veto, and to enact this timely and important measure.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I ask unanimous consent, notwithstanding the order previously entered, that I be allowed to continue, not to extend beyond the hour of 1 o'clock, as though in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEAHY-KASTEN COMPROMISE PROPOSAL ON LOAN GUARANTEES FOR ISRAEL

Mr. LEAHY. Mr. President, I want to let Senators know where we stand on the foreign aid appropriations bill.

Mr. President, Senator KASTEN, who is the distinguished ranking member on the Foreign Operations Subcommittee, and I met yesterday with President Bush to try to reach agreement on a loan guarantee program to help Israel absorb immigrants from the former Soviet Union and Ethiopia. I regret very much to have to tell the Senate that that meeting was unsuccessful.

I immediately informed the distinguished majority leader, Senator MITCHELL, last night of the outcome of the White House meeting.

I am going to be having further discussions with Senator MITCHELL, and with numerous other Senators from both parties today about what our next steps might be.

Despite herculean efforts to mediate a solution, I have not been able to bridge the enormous gap between the administration's desire for a totally free hand and those in the Senate who want minimal or no conditions on this aid to Israel.

There are very powerful parties engaged here with extremely different views on what should be done. The effort I have made over the past several months, aided by others, including the distinguished ranking member, has been to try to bring these opposing camps together on a proposal that could work.

I have worked very closely with the ranking member, and I want to thank him for his friendship, his strength, and his cooperation in a thankless and evidently unsuccessful effort.

Barring some last-minute development, and I cannot foresee what that might be, it appears that there cannot be a foreign aid appropriation for fiscal year 1992. It would be impossible to pass that bill on the Senate floor without an acceptable Israeli loan guarantee provision on it. The President has categorically informed me that he would veto the Leahy-Kasten proposal we offered to him.

I believe it would be wrong to subject the Senate to the certainty of a veto on the foreign aid bill, and I do not believe we should risk the shattering blow to United States-Israeli relations that a veto over the loan guarantee would cause.

The Leahy-Kasten compromise proposal is the only package I thought would come close to what the administration might be willing to sign and still have a chance of getting through the Senate. It was the proposal I felt could bring these two polarized groups together.

Senator KASTEN and I consulted many Senators in both parties about our proposal. We made a number of important changes reflecting their views. Key Senators assured me that if the administration would agree to the Leahy-Kasten proposal, they would vote for it. They would vote for it notwithstanding their own strong preference for legislation with terms, frankly, more favorable to Israel than in ours. The desire among Senators for a compromise was palpable.

After rejecting the Leahy-Kasten proposal last Friday evening, the White House offered us a counterproposal on Saturday. Discussions continued all day Saturday. On Sunday I spoke at length with the President by telephone. I think all parties were trying to work their way through this. We agreed to meet at the White House on Tuesday—President Bush, myself, Senator KASTEN, and Secretary Baker.

I wanted this meeting to explain the Leahy-Kasten compromise proposal personally to the President. I felt our proposal was so patently fair and reasonable that it was difficult for me to understand why the President would not accept it. But the President made very clear to us that he would veto the Leahy-Kasten compromise, and that the White House counterproposal of last Saturday for all intents and purposes is a take-it-or-leave-it proposition. We all understand there may be a few things here and there that could be changed, but for the basic proposal, that is it.

In fact, on the basis of that meeting, I can only conclude the administration is not willing to accept the material changes that would give us a chance of getting a proposal through the Senate.

Any compromise, any negotiation by its very nature, requires parties on both sides to give. The position of the administration in my estimation does not recognize that need to give. They are not asking for a compromise. They are asking for a capitulation.

This is not an issue that can get through the Senate with capitulation. It is an issue that with a great deal of discomfort could get through the Senate with some realistic compromise.

I am proud of the compromise proposal Senator KASTEN and I put forward. While assuring a small but urgently needed portion of the guarantees immediately, it goes far in meeting the fundamental position of the administration as explained by Secretary Baker in many meetings over the past weeks. My own determination to support United States policy regarding the Israeli settlements is well known. What I offered is consistent with that policy.

I said this to the President and the Secretary yesterday. I said if any one told us last fall that we could get a bipartisan group of Senators together on a proposal which would allow the President of the United States to cut off loan guarantees if there are further settlements, that would include the Leahy formula dollar-for-dollar reduction for settlements presently under construction, and would make it very clear of our commitment to the U.S. policy regarding settlements, the policy that has been adhered to by Presidents since 1967, if any one said last fall we could put all that together in a package and pass it in the Senate, all of us would have assumed they were wrong. I said to the President, here we have that package. Yet, the answer was it is not acceptable.

It makes me wonder if the White House ever intended to agree to the compromise with loan guarantees at all.

Let me go over what is involved here, Mr. President. When I began developing this idea, I said my proposal would be tough but it would be fair. It reconciles two fundamental goals which have motivated me throughout this incredible difficult issue:

First, it makes available urgently needed humanitarian assistance to Israel in its historic mission of providing a haven for Jews fleeing the former Soviet Union, something everyone of us has endorsed.

Second, it ensures that this assistance is consistent with American policy, that began with President Lyndon Johnson and has been followed by every President, Republican and Democrat since, that opposes further Israeli settlements prior to a negotiated resolution of the status of the territories.

As far as I am aware, the White House has not released the text of its counterproposal of last Saturday. It is not for me to make that text public. However, I am certainly willing to have all Senators and the American people see what Senator KASTEN and I were prepared to try to move through the Senate.

So, Mr. President, I ask unanimous consent that a draft of the Leahy-Kasten proposal be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. Mr. President, let me now just point out the highlights of that proposal.

It would establish a 5 year special loan guarantee program of "not to exceed" $2 billion a year. I mention that because that is contrary to what some of the press accounts have been, not to exceed $2 billion a year, and except for an initial amount in the first year, as explained below, the President would have the authority to decide how much is to be available to Israel each year based on Israel's financial need in absorbing the immigrants. It could be anything between zero and $2 billion. The President would control over 90 percent of the entire loan guarantee program. I do not know when any chairman of a committee with foreign affair jurisdiction has proposed that kind of discretion on the part of the President.

Since this is a humanitarian program, to absorb the immigrants who have come into Israel, our proposal stipulates that the determination of the amount of guarantees is to be based on need, not on foreign policy considerations. Mr. President, that is consistent with other U.S. humanitarian aid programs.

Then, because of the demonstrated need arising from the nearly 400,000 immigrants already in Israel, it would mandate a fixed amount of guarantees within 30 days of enactment. That amount was, incidentally, never finally established. There is not any question in my mind we could have reached agreement easily on that figure.

That amount could be determined only after the Leahy dollar-for-dollar reduction for the cost of housing under construction. It would be half of whatever was left after that deduction.

That deduction, the Leahy dollar for dollar deduction, applies to housing under construction. The administration has stated that it will not object to completion of housing under construction as of January 1.

Then the amount of loan guarantees to be given would be half of whatever was left after Leahy dollar-for-dollar deduction. I think the deduction would have been somewhere between $350 and $400 million. That would have made the first tranche of guarantees about $800 million to $850 million. As I said, that figure was open to discussion.

All the rest of the 5-year guarantee program would be at the discretion of the President, including the balance for the first year after that initial tranche.

The President would be empowered to suspend any further guarantees if at any time he decided Israel was initiating new construction in the occupied territories he deemed inappropriate. He was to be the sole judge of what was inappropriate. We would have permitted construction of hospitals and schools if they were for both the Arab and Jewish populations, as well as security-related infrastructure. Secretary Baker assured us repeatedly throughout these talks he never intended to include security-related infrastructure in the definition of impermissible construction.

The Congress would have the right to vote a resolution disapproving that suspension if it disagreed, but the President could veto the resolution. This would require a two-thirds vote of both houses to override the President's veto.

No matter how one feels about the issue of loan guarantees to Israel, I think any fair-minded person would agree this compromise proposal represents an extraordinary grant of authority to a President on a matter where an overwhelming majority in the Senate fundamentally disagrees with President Bush.

As I said earlier, in light of the White House's determination to veto any loan guarantee proposal the Senate would be willing to pass, I do not see how it would be possible to proceed with my subcommittee markup of the fiscal 1992 foreign aid appropriation bill.

I have discussed the situation with, Congressman DAVE OBEY, chairman of the House Foreign Operations subcommittee. If we are unable to move forward here, I would expect him to begin moving a continuing resolution soon to fund the foreign aid program for the rest of the year at last year's levels. Once that continuing resolution reaches the Senate floor, anything is possible, including a reappearance of the Israeli loan guarantee issue.

I would hope that Senators will think very long and very carefully before offering a loan guarantee proposal on the continuing resolution. Anything short of the White House counterproposal is sure to be vetoed. That would be a calamity for United States-Israeli relations, already rocked hard enough.

Mr. President, let me conclude by again saying how much I regret this outcome. It is unnecessary. It is unfair to the rest of the foreign aid program. It is deeply disillusioning to me personally, and will certainly affect my attitude in dealing with the administration on future foreign aid matters.

EXHIBIT 1

LEAHY-KASTEN DRAFT LEGISLATION

LOAN GUARANTEE PROGRAM FOR ABSORPTION OF IMMIGRANTS IN ISRAEL

SEC. . (a) AUTHORITY TO ISSUE GUARANTEES.—

(1) IN GENERAL.—Subject to the terms and conditions of this section, during the period beginning April 1, 1992 and ending September 30, 1996, the President shall issue guarantees against losses incurred in connection with loans to Israel for the purpose of providing economic assistance to Israel in connection with Israel's extraordinary humanitarian effort to resettle and absorb Jewish immigrants from the republics of the former Soviet Union and Ethiopia.

(2) FISCAL YEAR LEVELS.—Subject to subsection (c)(2), and in addition to any other authority to issue guarantees for such purposes, the President shall issue guarantees in furtherance of the purposes of this section. The total principal amount of guarantees which may be issued under this section during any fiscal year shall be as follows:

(A) FISCAL YEAR 1992.—Subject to paragraph (3), the principal amount of such guarantees made available in fiscal year 1992 shall be $2,000,000,000.

(B) FISCAL YEARS 1993–1996.—The principal amount of such guarantees made available in each of fiscal years 1993 through 1996 shall not exceed $2,000,000,000.

(3) GUARANTEES IN FISCAL YEAR 1992.—

(A) INITIAL GUARANTEES.—Notwithstanding any other provision of this section except subsection (e), guarantees shall be made available in fiscal year 1992 for Israel initially as follows:

(i) The principal amount of guarantees designated in paragraph (2)(A) shall be reduced by $xxx,000,000, the estimated expenditures by the Government of Israel, directly or indirectly, to complete the construction of housing units and related infrastructure in the administered territories where such construction was begun prior to [insert date certain].

(ii) Of the principal amount of guarantees remaining after reducing the principal amount in accordance with clause (i), one-half shall be made available, without any conditions contained herein, or otherwise, for Israel within 30 days of enactment of this Act. The guarantee for this amount shall be obligated and committed by such date, and shall be issued within 60 days of such date, unless a later date is selected by the Government of Israel.

(B) REMAINDER OF FISCAL YEAR 1992 GUARANTEES.—

(i) The President shall make available the remaining guarantees for Israel in fiscal year 1992 within 90 days of the date of enactment of this Act, unless the President determines, in accordance with clause (ii), and so reports to Congress, that a lesser amount is appropriate.

(ii) The determination of the President under clause (i) shall—

(I) specify the remaining amount of guarantees to be made available for Israel in fiscal year 1992;

(II) be based only on the level of immigration to Israel and Israel's financial needs in absorbing the immigrants. Such determination is to be based on an assessment of need and shall not be based on foreign policy considerations; and

(III) be effective to reduce the amount of guarantees made available in fiscal year 1992 unless, within 60 days from the submission of such determination, the Congress enacted a joint resolution disagreeing with that determination and providing for a different amount. Any such joint resolution shall be considered in accordance with the expedited procedures referenced in subsection (d)(2)(C) and (D) of this section.

(iii) Subsection (d) and, except where inconsistent with the provisions of this subparagraph, the provisions of this section, shall be applicable to guarantees made available for Israel under this subparagraph.

(b) ANNUAL CONSULTATIONS.—

(1) ANNUAL CONSULTATIONS.—The Government of Israel and the United States Government shall engage in annual consultations concerning economic and financial measures, including structural and other reforms, that Israel intends to undertake during the pendency of this guarantee program to enable its economy to absorb and resettle immigrants from the former Soviet Union and Ethiopia and to accommodate the increased debt burden that will result from loans guaranteed pursuant to this section. Such consultations shall be completed—

(A) for fiscal year 1992, within 30 days of the date of enactment of this Act; and

(B) for each of fiscal years 1993 through 1996, by October 31 of each such fiscal year.

(2) REPORT.—Not later than 15 days after the completion of the consultations referred to in paragraph (1) of this subsection, the President shall submit a report on such consultations to Congress which shall include—

(A) the specific economic and financial measures that Israel intends to undertake to enable its economy to absorb and resettle immigrants from the former Soviet Union and Ethiopia and to accommodate the increased debt burden that will result from loans guaranteed pursuant to this section; and

(B) the timetable Israel intends to follow in implementing these measures.

(c) DETERMINATION OF ANNUAL GUARANTEE LEVELS.—

(1) ANNUAL DETERMINATION.—Except as provided in subsection (a)(3) (i) or (ii), the President shall determine the actual amount of guarantees to be issued in each fiscal year of this program, with the amount of guarantees to be made available based on the level of immigration to Israel and Israel's financial needs in absorbing the immigrants. Such determination is to be based on an assessment of need, and not on foreign policy considerations. The President shall submit such determination to the Congress by November 1 of each fiscal year during the pendency of this program.

(2) CARRYOVER OF AUTHORITY.—If less than the full amount of guarantees authorized to be made available in a fiscal year is issued to Israel during that fiscal year, the authority to issue the balance of such guarantees shall extend to any subsequent fiscal year ending on or before September 30, 1996.

(d) SUSPENSION.—

(1) AUTHORITY TO SUSPEND.—If, at any time, the President determines that the Government of Israel, directly or indirectly, on or after the date of enactment of this Act, has engaged in new construction activity in the administered territories that the President determines is inappropriate, the President may, subject to the conditions set forth in this subsection, suspend the issuance of all or part of the additional loan guarantees not yet issued under this section in the fiscal year in which this determination is made. New construction shall not be interpreted to include necessary infrastructure needed for the general use of the Arab and Jewish population, nor to needed medical and educational facilities open to the Arab and Jewish populations, nor to security-related infrastructure, nor to scattered dwellings built to accommodate expanded families of those persons living in the territories. This provision shall not be applicable to land and property owned by Jews in such territories prior to May 14, 1948.

(2) PROCEDURES FOR SUSPENSION.—Any such suspension shall be in accordance with the following procedures:

(A) The President shall not suspend the issuance of additional loan guarantees under this subsection until submitting to the Speaker of the House of Representatives and the President Pro Tempore of the Senate his determination to do so, including the basis for such proposed suspension.

(B) Such proposed suspension shall not become effective until 60 calendar days after the date of submission of such determination, and shall become effective then only if the Congress does not enact, within such 60-day period, a joint resolution prohibiting such suspension.

(C) Any such joint resolution shall be considered in the Senate in accordance with the provisions of section 601(b) of the International Security Assistance and Arms Export Control Act of 1976.

(D) For the purpose of expediting the consideration and enactment of joint resolutions under this subsection, a motion to proceed to the consideration of any such joint resolution after it has been reported by the appropriate committee shall be treated as highly privileged in the House of Representatives.

(3) RESUMPTION OF THE PROGRAM.—In the event that the President suspends the issuance of additional loan guarantees under this subsection, and Congress does not disapprove such suspension by joint resolution, the issuance of additional loan guarantees in the pertinent fiscal year under the program established by this section may be resumed only if the President determined and so reports to Congress, that the reasons for the suspension have been resolved.

(e) USE OF GUARANTEES.—No part of any loan for which guarantees are issued under this section may be used for projects or activities in geographic areas which were not subject to the administration of the Government of Israel before June 5, 1967.

(f) GOODS AND SERVICES.—Congress expects that, within the twelve months following each issuance of the guarantees authorized hereunder, the amount of U.S. goods and services purchased for use in or with respect to the country of Israel will be increased over such amounts purchased within the prior 12 months in an amount at least substantially equal to fifty percent of the principal amount of loans actually made and guaranteed during such fiscal year.

(g) REPORTING REQUIREMENT.—Not later than October 1, 1992, and semiannually thereafter, the Secretary of State shall submit a report to Congress concerning—

(1) the manner in which the loans made pursuant to this section are being used;

(2) the degree of compliance by the Government of Israel with the terms and conditions set forth in this section;

(3) the progress Israel is making with the economic and financial reforms referred to in subsection (b);

(4) the extent of Israel's creditworthiness and ability to repay the loans made under this section; and

(5) the extent to which United States companies are participating in the guarantee program in accordance with subsection (f).

(h) TIMING OF GUARANTEES.—Each loan guarantee issued under this section shall guarantee 100 percent of the principal and interest payable on such loans. Subject to the conditions set forth in this section—

(1) loan guarantees shall be made in such increments as the Government of Israel may request;

(2) the guarantee for each such increment shall be obligated and committed within 30 days of the request therefor; and

(3) the issuance of the guarantee for each such increment shall occur within 60 days of such request, unless a later date is selected by the Government of Israel.

(i) TERMS AND CONDITIONS.—

(1) Each loan guarantee issued under this section shall guarantee 100 percent of the principal and interest payable on such loans.

(2) The standard terms of any loan or increment guaranteed under this section shall be 30 years with semiannual payments of interest only over the first 10 years, and with semiannual payment of principal and interest on a level payment basis over the last 20 years thereof, except that the guaranteed loan or any increments issued in a single transaction may include obligations having different maturities, interest rates, and payment terms if the aggregate scheduled debt service for all obligations issued in a single transaction equals the debt service for a single loan or increment of like amount having the standard terms described in this sentence. The guarantor shall not have the right to accelerate any guaranteed loan or increment or to pay any amounts in respect of the guarantees issued other than in accordance with the original payment terms of the loan. For purposes of determining the maximum principal amount of any loan or increment to be guaranteed under this section, the principal amount of each such loan or increment shall be—

(A) in the case of any loan issued on a discount basis, the original issue price (excluding any transaction costs) thereof; or

(B) in the case of any loan issued on an interest-bearing basis, the stated principal amount thereof.

(j) APPLICABILITY OF FOREIGN ASSISTANCE ACT AUTHORITIES.—Section 223 of the Foreign Assistance Act of 1961 shall apply to guarantees issued under subsection (a) in the same manner as such section applies to guarantees issued under section 222 except that subsections (a), (e)(1), (g) and (j) of section 223 shall not apply to such guarantees and except that, to the extent section 223 is inconsistent with the Federal Credit Reform Act of 1990, that Act shall apply. Loans shall be guaranteed under this section without regard to sections 221, 222, and 238(c). Notwithstanding section 223(f), the interest rate for loans guaranteed under this section may include a reasonable fee to cover the costs and fees incurred by the borrower in connection with financing under this section in the event the borrower elects not to finance such costs or fees out of loan principal. Guarantees once issued hereunder, shall be unconditional and fully and freely transferable.

(k) FEES.—Notwithstanding any other provisions of law, fees charged for the loan guarantee program under this section—

(1) shall be an aggregate origination fee equal to the estimated subsidy cost of the guarantees issued under this section, calculated under the Federal Credit Reform Act of 1990;

(2) may be adjusted so that the amount due annually reflects any reestimate of the subsidy cost of the guarantees issued under this section, except that any such reestimate must be approved in advance in an appropriations Act;

(3) shall include an amount for the administrative expenses of the Agency for International Development in administering the program under this section, which amount shall be paid to such agency and merged and consolidated with funds appropriated for "Operating Expenses of the Agency for International Development"; and

(4) the origination fee shall be payable to the United States Government on a pro rata basis as each guarantee for each loan or increment is issued, and the administrative fee charged shall be at the actual estimated cost for each fiscal year, payable to the United States Government by the Government of Israel within 30 days of issuance of the guarantees in such fiscal year.

Mr. LEAHY. Mr. President, I now ask unanimous consent that a section-by-section analysis of the Leahy-Kasten proposal be included in the RECORD. This should help Senators better understand the purposes and intent of the Leahy-Kasten proposal.

There being no objection, the section-by-section analysis was ordered to be printed in the RECORD, as follows:

SECTIONAL ANALYSIS

Subsection (a) establishes a 5-year program to provide United States Government guarantees of loans entered into by Israel for the purpose of providing Israel with economic assistance in connection with the extraordinary humanitarian efforts that Israel is making to resettle Jewish immigrants from the former Soviet Union and Ethiopia.

Subsection (a)(2) establishes an annual guarantee level of not to exceed $2,000,000,000 that is to be made available in each of fiscal years 1993 through 1996. The actual amount of guarantees provided is made subject to an annual Presidential determination described in subsection (c). Subsection (a)(2) also prescribes a $2,000,000,000 guarantee level for fiscal year 1992, the availability of which is described in subsection (a)(3).

Subsection (a)(3) describes the conditions under which guarantees will be made available in FY 1992. The $2,000,000,000 to be made available in FY 1992 is to be reduced by $, which represents the estimated amount of expenditures by the Government of Israel, directly or indirectly, to complete the construction of housing units and related infrastructure in the administered territories where such construction was begun prior to After making this reduction, one-half of the balance is required to be obligated and committed for Israel within 30 days of the date of enactment of this section. Except for the condition contained in subsection (e) (prohibiting use of loans being guaranteed for activities in geographic areas not subject to Government of Israel administration prior to June 5, 1967), no other conditions are to operate to limit the availability of these guarantees. Unless otherwise determined by the Government of Israel, this initial portion of FY 1992 guarantees is to be issued within 60 days from the date on which guarantees are obligated and committed.

The balance of the FY 1992 guarantees are to be made available for Israel within 90 days of enactment of this section. These guarantees are also subject to the provisions of subsection (e). Similarly, subsection (d) (allowing the President to suspend the issuance of guarantees in the event he finds that the Government of Israel has, after enactment of this section, engaged in new construction activity in the administered territories) applies as well to this portion of the FY 1992 guarantees. In addition, the President may determine to provide less than the amount that would otherwise be provided for Israel. In order to do so, the President must make a determination, and report this determination to Congress, (1) that specifies the amount to be made available for Israel, and (2) is based solely on the level of immigration to Israel and Israel's financial needs in absorbing the immigrants, and is not to be based on foreign policy considerations. The President's determination would be effective to reduce the level of guarantees unless the Congress enacted a joint resolution disapproving such determination within 60 days of its submission.

Subsection (b) establishes a system of joint consultations between the Governments of the United States and Israel concerning economic and financial measures that Israel intends to undertake during the life of this guarantee program to enable its economy to absorb the influx of immigrants and to accommodate the increased debt burden that will result from the guarantees issued under the program. For FY 1992, the consultations are to be completed within 30 days from date of enactment of this section. For fiscal years 1993 through 1996, by October 31 of each fiscal year. Fifteen days after completion of consultations, the President is to submit a report to the Congress which describes the specific measures Israel intends to take and the timetable for doing so.

Subsection (c) describes the system for determining annual guarantee levels for fiscal years 1993 through 1996. Subsection (c) provides the President with the authority to determine the actual level of guarantees to be made available for Israel for each fiscal year, thus allowing guarantees to be provided at the $2,000,000,000 level or in such lesser amount as the President determines. The President is to base his determination solely on the level of immigration to Israel and Israel's financial needs in absorbing the immigrants, and it is not to be based on foreign policy considerations. The determination is to be submitted to Congress by November 1 of each year. Authority not determined for use in a fiscal year is to be carried over into the next.

Subsection (d) provides the President with the authority to suspend the issuance of additional loan guarantees for a fiscal year if, at any time, he determines that the Government of Israel, directly or indirectly, has engaged (after the date of enactment of this section) in new construction activity in the administered territories that he determines is inappropriate. New construction does not include necessary infrastructure for the general use of the Arab and Jewish population, nor does it include (1) medical and educational facilities open to the Arab and Jewish populations, (2) security-related infrastructure, (3) scattered dwellings built to accommodate expanded families of those persons living in the territories. The provision is not applicable to land and property owned by Jews in such territories prior to May 14, 1948. For the suspension to be effective—

(1) the President must first submit the determination, and the basis therefore, to the Speaker of the House and the President Pro Tempore of the Senate; and

(2) a joint resolution prohibiting such suspension is not enacted within 60 calendar days after it the determination has been submitted. The subsection prescribes expedited procedures for the consideration of such joint resolution.

Loan guarantees may be resumed in the pertinent fiscal year only if the President determines and reports to the Congress that the reasons for the suspension have been resolved.

Subsection (e) requires that no part of any loan for which guarantees are issued under this section may be used for activities in geographic areas that were not subject to the administration of the Government of Israel before June 5, 1967.

Subsection (f) states the expectation of Congress that goods and services procured from the United States by Israel during the 12-month period after issuance of guarantees will increase by at least 50 percent of the principal amount of the loans made and guaranteed during the previous year.

Subsection (g) requires the Secretary of State to report semiannually to the Congress on the status of the guaranteed loan program, the degree of compliance by the Government of Israel with the terms and conditions of this section, the Government's progress in making financial and economic reforms, the extent of Israel's ability to repay the loans guaranteed, and the extent to which U.S. companies are participating in the program.

Subsection (h) requires that, subject to the conditions contained elsewhere in this section, loan guarantees are to be issued in such increments as the Government of Israel requests, the guarantee for each loan is to be obligated and committed within 30 days of the request, and the guarantee issued 60 days thereafter unless a later date is selected by the Government of Israel.

Subsection (i) requires that each guarantee is to guarantee 100 of the interest and principal and interest payable on subject loans. The subsection describes in further detail the terms and conditions for loans guaranteed.

Subsection (j) makes applicable certain provisions of the Foreign Assistance Act of 1961 to the guarantees issued under this section.

Subsection (k) contains requirements regarding the amount of fees charged under the guarantees program in this section. In general, such fees are to be equal to the estimated subsidy cost of the guarantees issued under the section (as determined under the Federal Credit Reform Act of 1990) and the administrative expenses of the Agency for International Development in administering the program under this section.

THE FLOOD IN MONTPELIER, VT

Mr. LEAHY. Mr. President, last week my hometown of Montpelier, VT, where I was born and raised, was hit by the worst flood in my life; in fact, it was the single greatest catastrophe in Montpelier since the flood of 1927.

On Friday I walked through the ruined business section of my capital where a lifetime of hard work and memories were washed away in an instant. An ice jam along the Winooski River caused the water to leap the river bank and flow through the city at depths of up to 7 feet.

The day I was there I missed four or five votes here. That is about the same number I missed, I think, in the last 5 years. That was really secondary, because I wanted to be home, be with my friends and family.

The home I was raised in was damaged severely by the flood waters. The printing shop my father and mother had in the downtown area for so many years of my life was in that area. All of the stores along downtown where I had walked and gone and delivered newspapers were badly damaged.

I have seen so many people I have known all my life who were trying to clean out, start anew, even though they know they are going to be working probably for the next couple of years to pay for the damage caused by the rise of the river.

One business that was flooded is the Capital Market. It opened in 1927—the year of Montpelier's last great flood. Narcisco and Josie Alvarez, 96 and 89 years old, respectively, have worked in that store every day since. Their son, Ray, the present owner, announced this week—after surveying the damage—that the closing would be permanent. They cannot go on.

It really tugs at me. This is a store where you go in and ask for a cut of meat and they will know from experience just how it should be cut. They have people that always shopped there and now have gotten older with them. They deliver their groceries, for no extra charge.

I think there is an adding machine at the Capital Market, but I have never seen anybody use it. They take a paper bag, before they put anything in it, write the bill down on the side of the bag and add it faster than an adding machine could. You take the paper bag home with your groceries and your receipt is written out in pencil on the side of it. It is a wonderful store. There are so many others like that in Montpelier. I think it is the passing of an era.

I commend those who are trying to continue on. In probability a city of less than 8,500 people, in the grand scheme of the country, it may not seem like much, but Montpelier is a symbol of all that is right about Vermont.

But Mr. President, let me say that our spirits are down at the moment—because a landmark of our childhood is leaving State Street. I cannot believe that Marcelle, my mother or I will not be stopping at the Capital Market when I am up in Vermont next week. Like other Montpelier natives—I cannot believe it will not still be there, with Ray and Josie and Narcisco ready to talk about all the news in Montpelier. Today, they are the news—and today—the news is all bad.

Mr. President, I ask that an article written by Maura Griffin of the Associated Press, printed in the Barre-Montpelier Times Argus edition of March 17, 1992, be printed in the RECORD. Thank you.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Barre-Montpelier (VT) Times Argus, Mar. 17, 1992]

"END OF AN ERA": OWNER OF CAPITAL MARKET READY TO CALL IT QUITS

(By Maura Griffin)

At Capital Market, bills have always been added up in pencil, groceries delivered free of charge and customers called by name. But on Monday the store's owner, his eyes filling with tears, said he would not reopen after the recent flood.

"We came in with the flood of '27 and we're going out with the flood of '92," Ray Alvarez said in a shaky voice. "It's a big decision to close. This has been my life, and my parents' life."

Alvarez' parents, Narcisco and Josie, started the store in 1927 with $400. They took over a dressmaker's shop that had gone out of business after the Winooski River had sent up to 7 feet of water through downtown.

For all of Ray Alvarez' life, the grocery has offered produce, meat, fish, bread and other necessities to Montpelier's residents. In the small store with only two aisles, cereal boxes are stacked to the ceiling and the meat is kept in old-fashioned coolers built into the wall.

Regular customers have monthly accounts, and items are tallied up by hand on scrap paper. To shop at Capital Market is to step back in time.

"Three months from now, whatever decision I made—to open or close—I would think that I made the wrong one," Ray Alvarez said, looking around at the store. "But I can't do it anymore. I'm 65 years old. I've already had one heart attack."

A delivery man carried worn wooden boxes to nearby residents who did not want to come to town to shop. Delivery has always been free, and although other parts of the business had to subsidize it, Alvarez said he never wanted to stop the service.

"Many of these people traded with us their whole lives, we couldn't stop when they weren't able to come into the store," he said. "My mother built up relationships with the old gals. She even knew when they start to go and make mistakes on their orders. She'd help them out."

The store was also known for its meats, with a meat cutter always on duty. One cutter worked for 30 years, another for 11 years. "We always kept our help. They came and they stayed," Alvarez said.

As with many family-owned businesses, the owners of Capital Market have saved some money, in part because the owners never had any time outside the store to spend it, Alvarez said.

After he deals with the aftermath of the flood and his bills, Alvarez said he will spend the next few months relaxing, unwinding from the 12-hour days in the store where he has spent most of his life.

"Come on, let's button this place up," he said on Monday, closing the blinds and shutting off the lights.

RECESS UNTIL 2:30 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:30.

Thereupon, at 1:04 p.m., the Senate recessed until 2:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. SANFORD]

UNITED STATES-CHINA ACT—VETO

The Senate continued with the reconsideration of the bill.

The PRESIDING OFFICER. Who yields time?

The Senator from Oregon is recognized.

Mr. PACKWOOD. May I inquire what the arrangement for time is?

The PRESIDING OFFICER. The Senator from Oregon has 92 minutes, the Senator from Michigan has 45 minutes.

Mr. PACKWOOD. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I might announce, I have conferred with Senator RIEGLE who is managing the bill for the majority party. Neither he nor I think there are going to be enough speakers to carry this to 4 o'clock, which is the time set for vote. So I think we suggest to all speakers on all sides who want to speak on this to come over now. There is a possibility we might conclude earlier.

Mr. President, this is the third time in the last 7 months that the Senate has fully debated the China most-favored-nation conditional bill. I think all Members have heard the full range of arguments on both sides of this issue and I think we all know how this vote is going to turn out.

Over the last year, this debate has focused almost exclusively on China's human rights, weapons proliferation, and trade policies. I emphasize the three again: Human rights, weapons proliferation, and trade. While the debate has been good, it unfortunately has totally neglected to focus on how these new conditions will impact on the Jackson-Vanik amendment.

Before we close the chapter on this round of debate on China and most-favored-nation, it is useful to go back and retrace the history of the Jackson-Vanik amendment, for that is the legal structure we are working under.

The status of the law at the moment is this: Almost all Nations are entitled to most-favored-nation status. I want to emphasize, almost all nations in the world get it.

If we were to not extend it to China, it would not be denying them some special treatment. We would, in essence, be saying what we do for all the rest of the world with one or two exceptions, we are not going to do to you.

So, let us not put this in the light something uniquely granted to China. Most-favored-nation status means they get trade treatment no less favorable than any other nation. Let me give an example. We allow cars to come into this country on a 2.5-percent tariff. If for some reason we were to negotiate with Germany that cars could come in for a 1-percent tariff, we would have to grant that to all other nations that have most-favored-nation status and let their cars come in at 1 percent. That is all it means, that they get the same treatment anybody else gets.

So all nations get it: Libya gets it, Syria gets it, Iran gets it, Iraq gets it—although we have trade embargoes against some of these countries. These are hardly bastions of democracy and civil liberty protection, but they get it.

Then in 1951 we passed a law that said while all nations get it, Communist nations or nations that were under the control of Communists do not, such as Eastern Europe. So they were denied, from 1951 on, the most-favored-nation status and were required to pay much higher duties than were the bulk of the rest of the world.

But then in 1974 we passed the Jackson-Vanik amendment, and this amendment allows the President to waive the ban on most-favored-nation status for Communist countries if he finds: First, free emigration is allowed; or second, if it would promote freedom of emigration. We passed that.

Now here is the situation you have as of 1974. All nations of the world, for all practical purposes, get most-favored-nation status, but the Communist countries do not. Then we said if the Communist countries will allow free emigration of their peoples, then they get it. And, prior to the granting of this most-favored-nation status for a Communist country, the United States had to negotiate and approve a trade agreement with the country. Once they have negotiated the trade agreement and once most-favored-nation status is provided for the first time, then the President can extend the waiver on an annual basis, year-by-year, so long as the emigration requirements are met.

After the President makes his annual determination as to whether to waive the ban on most favored nation for a Communist country, the extension is automatic unless Congress disapproves the President's decision. We have to do that by a joint resolution of the House and the Senate, but then the President can veto our disapproval.

Now let us go back as to how the process works. All nations get most-favored-nation status except Communist countries. Then we said but with the Jackson-Vanik amendment, even the Communist countries can get it if they will allow their people to leave the country freely. But then we said, even though the President grants that status to a Communist country, if Congress does not like it we can disapprove of it by a joint resolution. But, then, if he does not like our disapproval he can veto the joint resolution. Then, if we do not like his veto we can try to override it.

The President has waived the ban and granted, last summer, most-favored-nation status to China. Instead of disapproving the President's waiver, Congress has passed a conditional bill. The President has vetoed the conditional bill and the House has overridden his veto. We are now debating the issue as to whether or not we should override the President's veto. I do not think we should.

On May 29, 1991, the President announced that he intended to continue this extension of MFN status for another year—and we have done it every year since 1980. And until 1990, we never had much of a debate about this issue. It never came up for a vote in Congress. The President granted the waiver and we never even debated the issue in Congress.

So you say to yourself, what has changed? Has China suddenly become a pariah in trade policies, or human liberties policies, or emigration? No. Not any different than they were. They have always allowed reasonable emigration.

The problem of any Chinese wanting to get into the United States is not that China will not let them out. We will not let any more in. Every year China grants more visas for Chinese to leave for the United States than we allow in, so we cannot use the argument they will not let their people out. They are letting them out.

Has China's trade policy changed dramatically in the last several years? No, not really. It is, as are many Asian countries, reasonably protectionist, but that does not distinguish it from Japan. It certainly does not distinguish it from India which is probably the most protectionist country in the world. They get MFN status.

Has China's human rights policy changed? No, not really. But one thing did change: We saw Tiananmen Square on television, and it is almost as if we have reached an era where, unless it appears on television, it did not happen. We have known from the time the Communists took over the mainland in the late 1940's that the Communist government in China abused human liberties. In the early days they marched people to the wall and executed them. They put people in prison and kept them there for years with no trial, on suspicion. And they did this during the 1950's, during the 1960's, during the 1970's, during the 1980's without question. And we knew it. If you read the Amnesty International report during the year, you knew they were doing it.

So Tiananmen Square was no change of Chinese policies involving human liberties. It is just that we saw it on television for the first time. And that has been the principal focus of the debate as why, now, most-favored-nation status should not be allowed for China.

But now I want to consider whether or not we want to adopt that standard: The standard being they must have a human rights policy sort of like ours. Not exactly. But they perhaps should have some freedom of speech, freedom of the press, perhaps trial by jury, perhaps some prohibition against self-incrimination—sort of our Bill of Rights. And if they do not have it, then they cannot have most-favored-nation status.

Mr. President, that is a fair debate. But if we are going to debate that issue, then why limit it to China? If we want to change and say while the original purpose of the Jackson-Vanik amendment was to encourage Communist countries to let people out—and Lord knows it has worked—we were aiming it principally at Russia and we were aiming it principally at Jewish emigration out of Russia, and it has worked. The Russians are now letting great numbers of Jewish citizens emigrate out of Russia.

But if we want to condition it on further factors, be that trade, or be that weapons proliferation, or be that human rights, that is a fair debate. But if we are going to say unless a country sort of has our Constitution, our Bill of Rights, they are going to be denied this most-favored-nation status, then let us look at the consequences.

First, I think there is not a nation in Africa that would qualify. None. There are none in the Middle East except for Israel and perhaps Turkey now. There would be some in Asia that would qualify, some not, but it might depend on the phase of the governmental moon they were in. They might be flirting with democracy for a while and have a panoply of human rights and then a military coup takes over and human rights are gone. So it would change from year to year depending on what kind of government the country had. You would have none in Africa; none in the Middle East except Israel, probably Turkey; some in Asia, some not; most now in Latin America, although 10 or 15 years ago you would have had no more than 1 or 2 in Latin America that would have qualified under that standard.

As I say, that is a fair debate, but I think it is unfair to single out China and say for you and you only, we are going to have a special standard and pretend that no one else in the world violates that standard.

We have heard time and again that trade is good for the United States and that, indeed, when we trade with nations and get to know them, and we have our commercial officers there, and they have theirs in this country and business men and women get to know each other, buy and sell goods that this will do more to foster good will, cooperation and peace. I think that is right. Trade indeed is a tool that can be well used in that direction. We do not have a great deal of success with countries when we just isolate them and say we will have nothing to do with you.

So I think it would be a mistake to say to China and China only, because you have bad human rights, you don't get most-favored-nation status. I want to emphasize again, Mr. President, I think that is a fair debate to have involving all countries, and it would be a worthwhile debate to see if we want to expand the limitations on the granting of most favored nation.

We want to think also about what it will do to the consumers in this country. If for every country that does not have our Constitution or Bill of Rights or something like it, to say we are going to dramatically raise the tariffs on the products you send to this country, we know who in the last analysis takes a beating, and that is the consumer. It is usually a middle-income or lower-income consumer because very frankly in most cases, not all, in most cases the products we are importing from Africa or Asian nations are lower-value products, apparel, textiles. Not high-quality textiles from Italy or high-quality apparel from France, but usually the kind of things you would buy at a discount store: Sneakers for $5 or a T-shirt for $4. They are normally in that category, and those are the articles upon which the prices would be raised. Those are the articles that low-income and middle-income Americans buy.

So I hope that we will sustain the President's veto and will continue the most-favored-nation status for China. I can certainly say from the standpoint of my State of Oregon, we have an immense trade relationship with all of Asia and with the People's Republic of China. And in Oregon, this issue means jobs. If the most-favored-nation status is denied, Oregon loses jobs at a time when Oregon and some of its industries, and especially its wood products industry, is in a desperate situation.

So I encourage the Senate today to sustain the President's veto. This issue will come up every year. We do not need to worry about it going away. The President will again this coming summer—if he wants to continue the status for China—have to waive the ban on most-favored-nation status, and we can have this debate all over again.

At that stage, I will be perfectly willing to enter into a debate on the subject of should we expand the reasons we do not grant most-favored-nation status and should we grant it to people who do have or do not have human rights policies or we will not grant it to nations who sell weapons overseas. But as far as weapons are concerned, we better be prepared then not to extend it to Germany and France because they sell weapons overseas.

As far as trade policies are concerned, we better be prepared not to extend it to India and Brazil because they have absolutely abominable trade policies. As far as human rights are concerned, we better be prepared to not extend it to probably half the nations in the world because they have abominable human rights policies.

At a proper time and place, Mr. President, we should debate that. This is not the time, and we should sustain the President's veto. I thank the Chair.

Mr. RIEGLE. Mr. President, I yield 5 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. WOFFORD. Mr. President, the list of reasons against a renewal of most-favored nation trade status for China is so long and compelling that it is hard to believe the President has once again chosen to overrule them.

Nuclear and conventional arms proliferation; unfair trade practices; flooding American markets with goods made by prisoners, including political prisoners; relentless oppression and human rights abuses; occupation, religious persecution and cultural genocide in Tibet—the list goes on.

Instead of demonstrating its disapproval of China's activities, this administration has vetoed the conditions set by Congress, and in the same sad line of action or misaction, it has recently taken two other steps backward.

First, it lifted three remaining trade sanctions against China. Second, at the U.N. Commission on Human Rights in Geneva last month, the American delegation actively worked to dilute a resolution condemning China's human rights abuses in Tibet and lobbied successfully against its final passage. I know the administration disagrees with the Senate over the status of Tibet as an independent country, but there should not be disagreement over the existence of severe human rights abuses in Tibet. Indeed, they are well documented in the State Department's own country reports on human rights practices.

In its repression of Tibet, China deserves no shielding of the signal that we are sending to Beijing by what we did in Geneva last month.

Mr. President, this administration's policy of engagement is a failure.

China continues to evade textile quotas with devastating effect on America's textile workers. It floods our markets with goods from prison while refusing to allow American companies access to their markets. China's trade surplus with the United States rose $2.7 billion between 1990 and 1991, and now is second only to our trade surplus with Japan.

The policy of engagement is also undermining efforts to stem nuclear and other weapons proliferation. During a press conference yesterday afternoon, Secretary Cheney responded to a question on the North Korean ship that had been tracked through the Persian Gulf by saying this administration remains extremely concerned about the proliferation of weapons in the Middle East.

Concerned, maybe. Willing to take action to curb proliferation, apparently not. The administration does not dispute that China sells missiles and missile technology to Syria, Iran, Pakistan, and other volatile countries, but the administration does not do anything, anything effective, about it.

Finally, the President's posture toward the Government of China harms the people of China and the people of Tibet.

Recent reports by the International League for Human Rights, which I had the privilege of serving as President, and by Amnesty International and Asia Watch document with heartbreaking clarity the terrible human rights abuses perpetrated by the Chinese Government. On the very day that this body voted in favor of H.R. 2212, the Chinese Government sentenced another seven participants in the Tiananmen Square prodemocracy demonstrations to lengthy prison terms.

By his insistence on coddling China, the President puts American jobs and American principles of freedom, democracy and human rights at risk.

For all these reasons, Mr. President, I will vote to override the President's veto. China is no people's republic and should not receive our blessing until it moves closer to becoming one.

I yield any remaining time back to the Senator from Michigan.

Mr. PACKWOOD. Mr. President, I yield 7 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. I thank the Chair.

Mr. President, I want to express my support for the President's veto of this conference report on H.R. 2212, the China most-favored-nation conditions bill. I know there has been a lot of good-faith effort in this. I know that in the House Congresswoman NANCY PELOSI has been absolutely extraordinary in her work and her effort. I commend her.

I can understand what has been done with regard to the conditions that have been placed here, but unfortunately those conditions can never be met, and I think that is because of the manner in which they were crafted. I appreciate the good-faith views of those who hold strong by that. I do believe that each of us obviously is deeply concerned about the known human rights violations that exist in the People's Republic of China.

Let us just call that a given and get away from that. We are talking about trade here. We are not talking about other things.

I understand the concerns about their proliferation of missiles and nuclear weapons technology, and all of us express reservations about that. Those concerns are very real, and I would be very disturbed if the administration were not taking some very serious steps to deal with them in a most aggressive manner. But I agree with the administration on one key point: That our responsibilities are best met when our Nation can help direct the course of change by maintaining a dialog and keeping the lines of communication open as we attempt to positively influence the People's Republic of China.

My decision to sustain the veto comes down to one very simple concern: How would we maintain or increase our influence with China, a country representing one-fifth of the world's population, once we have withdrawn a trade status which we give to 162 other nations on the face of the Earth? What do we gain from cutting off communication?

Someone said in our caucus—and we have as interesting a discussion on this as they do on the other side of the aisle—shut them down completely. What is served? They will proceed to go ahead and peddle stuff all over the world and nobody will be watching. Then they can put people in chains and nobody will be able to see.

What in the world is this? Absolutely Alice in Wonderland. Isolate them where they liked to be for centuries and think that they are going to improve without the world looking in on them? Bizarre. Absolutely bizarre. How do you deal with the global issues of the day? How do you deal with ozone depletion, issues of global warming, issues of population control—which I deeply believe in? How can we do that when we leave out one-fifth of the world's population? Absolutely absurd.

How do you address these issues when the People's Republic of China is not anywhere near the table? Without including the most populous nation on Earth, many of those critical international problems simply will not be effectively dealt with. It is as simple as that.

We first granted this status to this republic in 1979. It is not some all-encompassing thing or some benefit only involved on the chosen ones of our allies. It only provides reduced tariffs. This is all it does. This is all this hideous thing does. It only provides reduced tariffs and other trade privileges that we give to any other trading partner.

It does not signal approval or disapproval of that country's government. If it did, we would not have this same process with Syria, Iran, and Libya, and we have most-favored-nation status with Iran and Syria and Libya. We extend MFN to all but a handful of nations. It is nondiscriminatory rather than favorable treatment. That is what it is. It is not favorable. It is just nondiscriminatory. It is economic policy and not foreign policy. It is not a gift.

Our economy and our commerce benefit greatly by our granting this status. Obviously, Mr. President, our Nation has not had a great deal of success in the past with unilateral actions against other nations. The grain embargo, for one. We just end up shooting ourselves and American exporters and consumers in the foot and in the pocketbook. The greatest injury has always been to our national competitiveness. That is what we always have found, always will. It is the same every time. We must learn from that.

On the issue of human rights, why not listen to the Chinese students? That would be a good thing to do. Because many of them are telling us not to do this. "We learned about your country because of the minimum openness and now do not give them a chance to close up again."

I want to share with you a most fascinating newspaper column, and I ask unanimous consent it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

POLITBURO MEETING VOWS TO ACCELERATE OPENING, REFORMS

China Politburo stressed reform and open policies at the plenary session of the Political Bureau of the Central Committees of the Communist Party of China (CPC), held in Beijing on March 9 and 10.

Presided over by Jilung Zemin, the meeting stressed that it is imperative to firmly carry out the Party's basic line of making economic construction the central task and adhering to the four cardinal principles and the policies of reform and opening to the outside world.

Yesterday all major newspapers in the capital and throughout the country carried the news story on their front pages.

The politburo said China should seize the current opportunity to accelerate the pace of reforms and opening to the outside world, pushing forward the economic construction and continuing to march forward along the road of socialism with Chinese characteristics.

The meeting said that to liberate and develop the productive forces is the basic task of the Chinese Communist Party as it leads the Chinese people in building socialism. Therefore, it is imperative to unswervingly adhere to taking the economic construction as the central task, holding fast to the four cardinal principles, reforms and opening to the outside.

This is the most valuable experience the Party has gained in leading the Chinese people in practice since the Third Plenary Session of the 11th Central Committee of the Chinese Communist Party under the guidance of the ideas of Deng Xiaoping of building socialism with Chinese characteristics, the meeting said.

And it is also the main cause for the great changes that have taken place in socialist China in the past dozen years.

So long as the Party firmly groups the basic line of "One central task and two main points" (economic construction, four cardinal principles, and open and reform policies) and will not waver in it even for one hundred years, the country will be able to maintain long-term stability and be hopeful.

The meeting emphasized that reform and opening to the outside world should be carried out in a bolder way and one should dare to make innovations and experimentations. It is necessary to further emancipate the mind and adhere to the principle of seeking truth from facts. We should not only develop the productive forces under the condition of socialism, but also liberate the productive forces through reform.

To judge whether a move is "socialist" or "capitalist" will depend mainly on whether it will benefit the development of the productive forces under socialism, the enhancement of the comprehensive national strength of our socialist country and the promotion of the living standard of the people, the meeting said.

The pace of reform and opening to the outside world should be accelerated.

"For what we regard as correct, just try it and go ahead daringly," the meeting said.

Planning and market are both economic means. It is necessary to be good at applying these means to accelerate the development of the socialist commodity economy, the meeting said.

Those attending the meeting agreed that it is also imperative to be bold in absorbing and learning from all the achievements of civilization, and in absorbing and learning from the advanced management methods of other countries in the contemporary world, including the developed countries in the West.

The 1990s is a crucial period, the meeting said. So people should have a clear view of the situation and take the opportunity to do a solid job, strive for efficiency and accelerate the ratio of economic growth, in order to reach a new stage of economic development.

Science and technology are the first productive force, the meeting stressed. In speeding up the rate of the economic growth, it is necessary to rely on science, technology and education.

This meeting pointed out that China should pay particular attention to thoroughly investigating and studying the vital problems that affect the reform and construction so as to form strategies and policies for the future and conscientiously organize their implementation.

The meeting discussed this and made necessary arrangements. Leaders at all levels should guard against formalism and bureaucracy and devote more of their energy in doing down-to-earth work, it said.

The meeting called on all the Party members, especially leader at various levels, to conscientiously study the series of expositions of Deng Xiaoping on building socialism with Chinese characteristics and further enhance their consciousness of generally carrying out the Party's basic line.

While keeping vigilance against "Right" deviation, main attention should be paid to guarding against "Left," deviation, the meeting said. It is necessary to strengthen the construction of advanced culture and ideology and the construction of democracy and legal system so as to consolidate and promote the political stability and unity.

Mr. SIMPSON. It discloses the meaning of the politburo of the People's Republic of China, March 10 and 11 where they are talking about capitalism, they are talking about the need for openness, and they are coming, they are coming our way.

On the issue of human rights, I believe that only with the renewal of MFN to China can we best serve the cause of freedom and human rights. MFN is not the stick to be used on China to manifest our disagreement over that nation's human rights policies, which are appalling to all of us. Retaliation by the PRC would be a certainty. And all that would accomplish would be the removal of whatever influence we currently have over there.

No other country is planning, I assure you, to deny China MFN status. Not a single country on Earth is going to join us in this remarkable effort. Other countries will only move in—indeed, are moving in—to fill any gap that we open. Imposing conditions contained in this bill would inflict serious injury on our friends in Hong Kong. Ask the people of Hong Kong what they think of this proposal. They are stunned and appalled, and they ought to be, because in 1997 that is judgment day for them.

This would inflict a very serious injury on our friends in Hong Kong and on Guangzhou Province, once known in the West as Canton, where many of the democratic reformers in China work and live and trade and spread their message of capitalism.

We cannot undermine the stability of this area by pulling the economic rug from under Hong Kong and southern China. More importantly, we cannot fail to appreciate the way capitalist and democratic values of Hong Kong are penetrating the area's consciousness.

There is an old adage, "There are few easy successes, even for those who do everything right." Hong Kong and Guangzhou Province are well on the road to democracy. Revoking or seriously conditioning MFN would injure these forces for reform by threatening their stability and prosperity in the few years prior to 1997, when Beijing will assume full control of Hong Kong.

Then let us look at the positive steps that have been taken in the United States-People's Republic of China relationship. We have maintained a continuing dialog on human rights. High-level visits have been authorized so United States officials can personally—face-to-face—outline the threat human rights abuses pose to our bilateral relationship, and to the People's Republic of China's relationship with the rest of the world. A great many detainees of the Tiananmen tragedy have been released, and missing political activists and their families' whereabouts have now been accounted for.

Do not miss the real achievement of recent days, the confirmation by Chinese officials to finally adhere to the Missile Technology Control Regime guidelines and parameters. That confirmation came in exchange for the lifting of sanctions on two Chinese companies. The sanctions were in place to encourage the Chinese to engage in nonproliferation discussions. They prohibited United States importation of missile technology transfer systems, and United States export licensing of satellites and high-speed computers. The President's sanctions worked.

There is a debate as to whether or not the recent transfers of components by China to Syria, Iran, and Pakistan have violated those parameters. The transfers to date have not been determined by the administration or anyone else to be in violation of MTCR limits. The transferred items were deemed at best to be dual use, the end uses of the sold products not yet ascertained.

Chinese acceptance of nonproliferation principles will not be accomplished in isolation. The administration is keeping a close eye on the situation, ready to impose sanctions if true missile sales do take place, because again, constructive nonproliferation negotiations can only occur if we maintain dialog.

I am also very aware of the trade deficit that exists with China—we are continually told about that—$2 billion in 1987, increasing to an estimated level of $17.4 billion in 1991. It is serious. The trade deficit must be dealt with immediately. I do not argue with that one whit.

Yet, tying the trade imbalance to the renewal of MFN is not the answer. Are we saying that we do not have other bad trading partners? I can think of one which has a $50 billion imbalance with us. I do not think of them as being bad in any way. We deal honesty with other countries where we have trade deficits in an effort to try to reduce those figures, and that is what I think we must do here.

We should not consider this question solely on the basis of parochial economic gain. Instead, we should consider: How do we effect meaningful change in the P.R.C.? I believe that anything constructive can only occur through dialog, communications, or talking. Or put another way, effective change will never occur without dialog, whether you are talking with nations or human beings, talking in marriage, or whatever it is.

Denying a 1-year extension of MFN would only undercut our long-term objectives. It would only serve to repress the Chinese people further and reverse the modernizing trends that are still nourishing the prodemocracy forces.

And let us not forget that American involvement in China, and the awareness of the Chinese people of American ideals of economic and political freedom, helped to spur China's major social and economic changes in recent years.

We must accept the fact that we cannot solve the world's problems by simply using ostracism, isolation, and intransigence. That is not our exclusive right or our role. I believe that if we take that approach without also taking the concrete positive steps—sitting down at the table with the Chinese—we will fail in our efforts to advance American ideals. We will fail in our efforts to address serious global concerns on the environment, and we will fail in our efforts to bring China ever more fully into the world economy, which in the final analysis will benefit our own domestic economy.

I thank the Senator from Oregon. I commend him greatly on his courage and the essence of debate, presenting clear facts in the midst of a debate which has become highly emotional with relation to the People's Republic of China and human rights. And if we can, we must somehow separate that from what we are doing here.

Thank you very much.

Mr. GORTON. Mr. President, will the distinguished Senator from Michigan yield 10 minutes to me on this side of the proposal?

Mr. RIEGLE. Yes.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Washington.

Mr. GORTON. Mr. President, by its own terms, this debate is over the international trade policy of the United States, over whether and under what conditions most-favored-nation treatment shall be extended to the People's Republic of China.

I find it a paradox that this Nation and this administration, so fierce to call the People's Republic of China on its widespread violations of human rights and of the rules of free trade, is afraid to risk—putting at risk a trade deficit of $12 billion a year.

For some reason or another, we seem so protective of that huge trade deficit that we must accede to whatever policies the People's Republic of China may wish to impose on us and others with respect to trade policy, weapons, and human rights.

Mr. President, it is not the United States which should fear this confrontation; it is the People's Republic of China. The People's Republic of China depends far more on markets in the United States than does the United States on markets within the People's Republic of China.

The assumption which permeates all of the arguments in favor of upholding this veto is that the passage of this bill over the President's veto will instantly result in the People's Republic of China cutting off all the trade and other relationships with the United States.

While other countries may certainly seek the markets which an end to most-favored-nation status would create, there are no substitute markets for the People's Republic of China's goods which it is now selling in the United States.

The assumption that the People's Republic of China will go it alone, Mr. President, is in my view false.

This bill differs from the bill which originally passed the Senate of the United States, which included conditions which this Senator felt were impossible for the P.R.C. to meet. And, therefore, the bill was ineffective in meeting its own stated goals. Those goals have been modified considerably. They have been eased greatly. In fact, there is only one mandatory condition in this bill, and that is an accounting for the prisoners taken as a result of the massacre at Tiananmen Square. In every other area, the President need only certify that there has been progress toward meeting goals outlined in the bill and to which the administration itself agrees.

We have followed the policy demanded by those opposing this bill now for almost 3 years. The net result has been the tiniest possible improvement in human rights, modest improvement in weapons proliferation, and worsening problems with respect to our trade deficit, a trade deficit which is double today what it was 3 short years ago.

This Senator is convinced that the People's Republic of China will show more respect and will move more rapidly in the face of a firm, consistent attitude on the part of the United States than it will by our constantly turning the other cheek and accepting promises made with fingers crossed, almost immediately thereafter to be broken.

Mr. President, the proper course of action for the United States as the leader of the free world is not to forget the massacre at Tiananmen Square, and not to forget the desire for democracy among the People's Republic of China. The proper and moral course of action is not to grant implicit approval to the repressive activities of the Government of that nation by simply continuing to say that it will be business as usual.

But even going beyond what is right and moral, is it even the pragmatic course of action to bet on the past rather than the future, Mr. President?

The governing group in the People's Republic of China are all in their eighties. Their fate is almost certain to be identical to the fate of those who oppressed Eastern Europe and the former Soviet Union. They represent the past. They represent a failed idea.

Strivings for democracy in younger generations represent the future in China, and it is on that future that we should be betting, not only from the point of view of being on the right side of history and democracy, but simply of being the right side of trade policies and close relationships with what, in the future, will be a free China. We should bet on the right. We should bet on the future.

We should have confidence in our ability to succeed in our goals. We should not act in quaking fear that somehow or another we will damage a trade relationship with a country which is not open to our goods and which has now created a $12 billion per year trade deficit with this country. With regrets but with firmness, Mr. President, I suggest that the veto of the President should be overridden.

The PRESIDING OFFICER (Mr. LIEBERMAN). Who yields time?

The Senator from Michigan.

Mr. RIEGLE. Mr. President, I yield myself such time as I may consume, and then I am going to yield time to the Senator from Arizona [Mr. DECONCINI].

I stand with Chairman BENTSEN and Majority Leader MITCHELL, both leaders on the China MFN issue. I do so to emphasize the need for conditional MFN status for China. I think it is disappointing we have to send President Bush yet another message that this is the proper United States policy for China at this time.

The relationship between the United States and China is important to the American people and American industry, which continue to hear about and be damaged by unfair trading practices by China. Congress and the American people are gravely concerned about the lack of responsible behavior that China has shown in human rights, nuclear proliferation, trade liberalization, and intellectual property rights protection.

The Finance Committee has looked closely at these issues, and particularly the trade and intellectual property right policies of the Chinese Government. We have found that China continues to maintain tariff and nontariff barriers that unfairly restrict United States access to this important market. These practices cost the United States $10.4 billion in scarce capital in 1990 and, in turn, the loss of hundreds of thousands of U.S. jobs. The Bush administration has failed to use the trade tools that we do have in law, like section 301 and super 301 to pry open this market for free and fair competition to competitive products, particulary those from our country.

Two weeks ago, the Senate Finance Committee Subcommittee on Trade held a hearing on the protection of U.S. intellectual property and the Special 301 provision of the Omnibus Trade and Competitiveness Act of 1988. The hearing focused on the recently announced intellectual property rights protection agreement with China.

However, based on that analysis and other analyses, I am concerned about the commitment of the Chinese Government to fully implement the agreement. I also remain skeptical of the ability of the Bush administration to insist that China reduce the number and occurrence of violations of the intellectual property rights of United States interests.

Clearly, the relationship between our two countries is at a very critical point. We must not continue our status quo policy of rewarding our trading partner for maintaining closed markets and unfair trading practice. Instead, we must use the tools that we have—namely, conditional MFN status, section 301, super 301 and special 301—to promote property recognition of the intellectual property rights and improve access to the Chinese markets of goods made here in the United States. Congress did its part in providing these trade remedy tools that are now in law. Now, it is responsibility of the United States Trade Representative and the President to use these tools to properly defend the commercial rights of the United States economy, our workers, and companies in America so that they are able to engage in fair and open trade with China. We must work aggressively to correct the trade inequities that continue to plague the United States-China relationship.

I urge my colleagues to send a clear message to President Bush that granting most-favored-nation trade status to China must be conditioned on reasonable standards in the important areas of human rights, nuclear proliferation, fair and proper trade liberalization practices, and intellectual property rights protections. For these reasons, we should override the veto.

Let me now yield to my colleague from Arizona, who wishes how much time?

Mr. DECONCINI. I will not be more than 10 minutes.

Mr. RIEGLE. I yield 10 minutes to the Senator from Arizona.

The PRESIDING OFFICER. The Senator from Arizona [Mr. DECONCINI].

Mr. DECONCINI. Mr. President, I thank the Senator from Michigan and agree with what he just said. I think this is an area we really ought not to be debating. The issue is clear cut.

Mr. President, I was shocked and saddened to learn that President Bush has, once again, turned his back on the issue of human rights. By vetoing H.R. 2212, the President, who indeed was a hero of the gulf coalition and deserved to be, has demonstrated here a callous disregard for the blood that was spilled in Tiananmen Square in the name of liberty and freedom.

Where do we draw the line and how do we draw that line?

The centerpiece of U.S. foreign policy has historically been the pursuit of democracy and the protection of human rights around the globe. We demonstrated that dealing with the former Soviet Union and Eastern Europe for years and years. We had a truly bipartisan policy of human rights. No most-favored-nation status with the exception of Bulgaria, on occasion, and Romania once. We stood against totalitarianism and violation of the principle of human rights, and I think it worked.

Yet President Bush has ignored the very underpinnings of our foreign policy. President Bush is hell-bent on unconditionally extending most-favored-nation status to China.

The People's Republic of China is responsible for nuclear weapons proliferation, slave labor, unfair trade practices and a deplorable human rights record that would make Saddam Hussein look good.

During the cold war, Congress and the President spoke with one voice and loudly condemned the Soviet Union for repression such as the Chinese Government is doing now to its people. We are told that, hey, things are getting better; they are modernizing and the reason they are is because we have been holding out a carrot instead of a stick. They have most-favored-nation status; we have to move slowly.

When people are being repressed and deprived of their right to exercise their conscience, their right to travel, their right to get a visa, their right to express political opinions, there is no justification for continuing blindly ahead. And that is what we have here.

So many of our colleagues have stood so strong for so long on human rights as they relate to the former Soviet Union, that I do not know how they can rationalize that this is any different.

Now the President wants this Nation to send a message to China that such practices are OK. They were not OK for the former Soviet Union, but they are now. In view of the past and current Chinese actions, this Senator finds the unconditional granting of most-favored-nation status to the People's Republic of China to be unacceptable and literally obscene.

In August last year at Yale University, President Bush said, "MFN is a means to bring the influence of the outside world to bear on China."

But while the President defends the aging Chinese leadership, that same leadership ruthlessly undermines those very freedoms which the American people have held so dear. The President has professed that he holds these dear when he recognized the violation of those rights in the Middle East. But what about China? The Chinese appear to respect only strength. President Bush, through his veto of this compromise legislation, and it is a compromise—it is not nearly as strong as I think it should be, but I supported it regardless—protects his friends in Beijing and demonstrates a weakness and certainly not a strength.

While the world looks to the United States for leadership, and commitment to human rights, President Bush lamely ducks this responsibility. And I do not know why. Maybe because it is the political season and he cannot afford to offend somebody here. That I do not understand. I have noticed one thing about human rights policy in the United States—in our foreign policy. I have witnessed not just the 15 years that I have been here—but prior to that, if you stand on the principle of human rights for the right reason you finally succeed. Even if you do not succeed, you do not have to explain why you have stood for the human rights of people in other countries. The moral principle is self-evident.

The State Department has acknowledged that civil and human rights violations "remained repressive, falling far short of internationally accepted norms." Former detainees have reported that the Government subjected them to cattle prods, electrodes, prolonged periods of solitary confinement, and beatings, in order to obtain confessions for crimes they did not commit.

Talk about human rights violations.

The People's Republic of China still illegally occupies the country of Tibet. China has reportedly executed 1 million Tibetans in its continued policy of genocide. When the recipient of the Nobel Peace Prize, the Dali Lama, addressed Congress last year, he confirmed these atrocities against a peaceful, independent people. These people are being denied the most basic of human rights—freedom of the press, freedom of speech and, most importantly, freedom of religion—while Chinese troops occupy their country. How can any country employing such practices be considered a most favored nation? They cannot be under any circumstances. We went to war 1 year ago to repel another aggressor nation from occupying a peaceful neighbor. What about the occupation of Tibet?

I would like to hear the answer to that by those who want to see most-favored-nation status granted to China. When are they going to get out of Tibet?

Where is the consistency? Where is the humanity? Where is the justice? Will we allow this aggression to stand? How can we stand here and defend most-favored-nation status to the People's Republic of China? I do not see how anybody can.

This is also a jobs issue. As has been pointed out, in times of economic hardship, how can the United States afford to extend most-favorable-trade status to a nation with inequitable trade practices such as China? Our trade deficit with China has risen steadily since the Tiananmen Square massacre. Our trade deficit is only exceeded by our deficit with Japan. In 1989, the trade deficit sat at $6.3 billion. In 1990, it grew 67 percent to $10.5 billion. The estimated 1991 deficit with China is approximately $15 billion. And while our trade deficit with China grew, our exports to that extensive market shrank 17 percent between 1989 to 1990. Mr. President, I ask my colleagues, Is this a level playing field?

Nor has China been an equal partner of the United States in building a more stable, peaceful, post-cold-war era. China, while not vetoing any of the U.N. Security Council's resolutions, did nothing to contribute to helping the Persian Gulf allies put down Saddam Hussein's aggression in the gulf. By sitting mute and exercising the veto, are we supposed to now reward this country with most-favored-nation status? China has instead been busy making the world a more violent and less stable place.

China has reportedly provided Pakistan—a country with which United States ended foreign and economic assistance because of its nuclear weapons program—with a complete design of a tested nuclear weapon, and with enough enriched uranium to build two atomic bombs.

And I am sorry that had to happen. Pakistan is a friend of the United States, but we cannot be inconsistent on nuclear nonproliferation, just like we cannot afford to be inconsistent on respect for human rights.

Apparently, China has also sold Pakistan the M-11 missile, which is capable of delivering a nuclear weapon approximately 185 miles.

China also helped Pakistan develop its first nuclear-capable missile.

Prior to the Persian Gulf war, China sold Iraq 30 Silkworm antiship missiles, and helped boost Iraq's nuclear weapons program by assisting the Iraqis to produce nuclear fuel. In fairness to the President, however, the Chinese have not played favorites.

China has also assisted both of Iraq and Pakistan's historic rivals—India and Iran.

Both nations have received substantial assistance from China in their efforts to develop both nuclear and conventional weapon systems. India has been sold over 130 tons of heavy water, which can be used to produce plutonium for nuclear weapons. China has trained Iranian nuclear technicians, and helped them develop short range missiles. In addition, China has reportedly sold Iran 30 Silkworm antiship missiles.

To this Senator, it appears that the stronger George Bush pushes for MFN status for the PRC, the more convinced the aging leadership in Beijing becomes that they will no have to change their current repressive and destabilizing behavior toward their own people. Indeed, the only time China makes any positive changes is when pressure from the United States and other nations forces it to.

Faced with the prospects of stiff sanctions during Congress' MFN debate in 1990, the PRC released 200 prisoners incarcerated for nonviolent demonstrations.

Similarly, last year, as this debate approached, two peace leaders were also released from Chinese detention. These actions are not coincidental. Indeed, they clearly demonstrate to this Senator that China is vulnerable to sanctions and will only be convinced of the need to cease its current tyranny through appropriate, measured actions taken on the part of the United States. President Bush may feel that he is playing the China card and continuing in the footsteps of former President Nixon. If that is the case, then he is sadly mistaken. We once may have wanted to play China off of the Soviet Union in order to protect our security interests. But there is a new world order. The Soviet Union no longer exists. Indeed, we and the Russians are partners in this new order. China, however, refuses to join in this partnership. It is my belief that China will never join this new order as long as its protector if the White House refuses to make China face up to its responsibilities in the new world.

I urge my colleagues to override this cynical veto and work for a China that can join the family of civilized nations. Urge this action not just to protect jobs for Americans, not just to lower our trade deficit, and not just to help the people in the third world who have only known war and personal loss. I also urge this action for the people of China who have earned the right to live in dignity and freedom. This may be a economic battle, but it is also a moral one.

I urge my colleagues to vote in favor of the override.

Mr. President, I hope my colleagues on the other side of this issue will look at it purely from what is right, not what is political. The President is not going to be hurt if his veto is overridden. Instead, there is going to be a great benefit gained for the people of China who have been so terribly repressed by this present Government.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Oregon.

Mr. PACKWOOD. Mr. President, in 30 seconds I am going to yield to the Senator from Kansas.

But just to highlight the interesting differentiation, my good friend from Arizona talked about China selling all these weapons to different countries. He did not note that it was France that was building the nuclear reactor for Iraq, in Iraq, that was going to make atomic bombs. Israel took it out a decade ago, thank God, for the rest of the world's security and safety.

We knew France was building it. I never heard anybody say we should deny most-favored-nation status to France because they were building an atomic bomb plant for Iraq. We are holding China to a dual and different and singular standard.

Mr. DECONCINI. Will the Senator yield for a question?

Mr. PACKWOOD. Yes.

Mr. DECONCINI. Does the Senator propose that argument, which I do not dispute, is then a justification to not take some kind of action towards the People's Republic of China? Is that the argument?

Mr. PACKWOOD. My argument is this: Up until this time the sole basis under Jackson-Vanik for denying most favored nation was the issue of emigration and did they allow their people to freely leave. China does.

If we want to go to an argument about human rights policy for weapons systems or trade policy, I think that is a fair debate. But Brazil and India have a worse trade policy than China. Germany and France have been major weapons suppliers to countries around the world. And most of the world, most of it, has human rights policies as bad as China and we never debate those countries.

Mr. DECONCINI. Will the Senator yield for another question?

Mr. PACKWOOD. Yes.

Mr. DECONCINI. The Senator says—I forget the exact word—the previous human rights discussion of Jackson-Vanik and other laws has been focused on the ability to leave the country. Would the Senator dispute that the human rights issue has also been a religious one, that of freedom of conscience?

Mr. PACKWOOD. Has been what?

Mr. DECONCINI. Freedom of conscience in the Soviet Union and other countries, not merely the right to leave the country but also the right to practice their religion? Is it not true, Senator, that it is more than just the right to leave the country that is the fundamental policy of the United States?

Mr. PACKWOOD. Yes, but on the condition of the most-favored-nation status under Jackson-Vanik, the only criteria we have used in the past is: Do you allow the right of emigration? We have conditioned a variety of things on human rights and a lot of other trade conditions but not MFN status.

I yield such time as the minority leader wants.

The PRESIDING OFFICER. The Republican leader has the floor.

Mr. DOLE. Mr. President, the NCAA basketball tournament—which sports fans call the "March madness"—begins tomorrow night. If things go as they should, we will be crowning the University of Kansas as national champion in a few weeks.

But even K.U. and its outstanding coach, Roy Williams, can not match the perfect 24 and 0 record George Bush has amassed—not on the basketball court, but here in the Congress, the court of last resort when it comes to Presidential vetoes.

In just a few minutes, we are going to up that record to 25 and 0.

Whenever we have one of these two veto votes, we also hear about stories attributing votes, one way or the other, to horse-trading and arm-twisting. But the simple fact is that George Bush has won every one of these showdowns because the bills he has vetoed have been bad bills.

And this is a bad bill, too. The President was right to veto it. And we are going to do the right thing in sustaining his veto.

It is a bad bill because it will not work. It will not do what the proponents of the bill say they want to achieve.

It will not lead to the release of a single political prisoner. It will not open up China's markets. It will not stop arms sale.

There is not the slightest bit of evidence, or logic, or history that suggests enactment of this bill will accomplish any of the goals laid out by the proponents.

But what is even worse than that. Overriding the President's veto—putting this bill in law—will not only do no good; it will do a great deal of harm.

It will harm China's young, entrepreneurial class—the country's strongest advocates of reform—far more than it will harm the old men in Beijing.

It will be a devastating blow to the economy of Hong Kong, dramatically reducing the chances it can survive as an enclave of freedom and free markets after 1997.

It will hit home in every wallet and pocketbook in this country. The fact is, we import billions of dollars of low-cost, good quality products from China which we simply cannot get anywhere else at anywhere near those prices.

Let me give you just one example. Ending MFN for China will raise the price of a pair of inexpensive shoes—the kind that typically sell for $10-$25—$1 to $2. If you are in a low-paying job or have a fixed income, or are living on unemployment compensation, and you have three or four kids who need shoes—that hurts.

Most damaging of all, enacting this legislation will wipe out many, many American jobs. One reputable economic research organization has put the toll at 300,000 jobs.

There has been a lot of genuine anguish—and some crocodile tears—over the plight of our Nation's unemployed. There have been a lot of partisan potshots at George Bush, saying he does not care about the unemployed.

Well, he does care. And he does not want to put tens and tens of thousands of Americans on the unemployment roles so a few politicians can feel good about taking a high moral stance on China.

And let me urge the American voters, the next time one of their Senators starts making a heart-wringing speech about his or her concern for the unemployed, ask that Senator how he or she voted on this issue, to put 300,000 Americans out of work.

Because this is not just a China bill; a foreign policy bill.

In a very concrete way, this is a jobs bill, too. And we are kidding ourselves, and kidding our constituents, if we do not face up to that.

And let me list one last way enacting this bill will do real damage.

Just before we voted on the conference report in late February, we had a closed session of the Senate, to debate reports of Chinese sales of advanced weapons and technology to other countries. The distinguished Senator from Delaware [Mr. BIDEN] proposed that session. I commend him for making that suggestion, because I believe we benefited from our discussion of this critical issue. We were able to separate some facts from speculation, and put some other facts in the proper context.

No doubt about it, we all deplore some things the Chinese have done in this area. And we are unanimous in demanding that China cease and desist in some of its irresponsible arms sales policies.

But let us analyze this. Why do the Chinese do these deals? We heard it in the closed session, and in private briefings. But it is not a classified matter. It is just common sense. They sell arms for the same reason we sell wheat, and airplanes, and computers, and, yes, arms. They sell arms to make money—desperately needed hard currency.

But here is the logic of the supporters of this legislation. We want China to stop selling arms, so—to pressure them to do that—we close down one of the most lucrative markets they have for earning hard currency from nonmilitary exports, the United States market.

We just shut down the United States market to the Chinese.

What do you think the Chinese will do? They still need the hard currency. They are suddenly getting a lot less of it, at least in the short run, from selling nonmilitary goods to the United States. The only other thing they have to sell, that anyone wants to buy, is military equipment and technology.

In those circumstances, are they likely to sell more arms, or fewer arms? It does not take a genius or a rocket scientist to figure that one out.

Mr. President, if we are going to use MFN to bludgeon the Chinese on matters like arms proliferation, we are creating an interesting linkage—in fact it was just referred to by the Senator from Oregon—and setting an interesting precedent. MFN is based on emigration policies. It has never been linked to anything else.

Maybe one of these days we will have a proposal on the floor to provide some friendly country with some loan guarantees, for example. Maybe one of us will think back to the good initiative of the Senator from Delaware, and call for a closed session to talk about that country's arms exports. Maybe we will start conditioning loan guarantees, or direct aid, or any other aid to any other country, or continued implementation of a free trade agreement, or even MFN on that country, maintaining a simon-pure policy on arms sales.

If we are going to start down the road on arms sales and start reviewing every country that is involved in arms sales and say you ought to loose your MFN, that is a debate we ought to have. That is a debate we ought to have. If we want to change the law we ought to have that debate, but that should not be the debate here.

Mr. President, President Bush has a strategy for advancing America's interests in every one of these areas we have discussed. We are making progress, substantial in some areas like trade and arms proliferation; less substantial, but still significant, in human rights.

We are going to keep the heat on China. We are going to stay engaged. We are not going to turn our backs to 1 billion 100 million people.

It seems to me if we want to have an impact on 1.1 billion people and the leaders of the People's Republic of China we ought to be seated at the table, not outside. Not locked out because we have taken some action, or the Senate has taken some action. It seems to me we are in a better position, if we have a difference of opinion, if we want to influence their policy, to be inside the tent and not outside the tent.

So, in my view that is the way to get the job done. Not by mounting some high moral perch and firing our moral Scuds.

Mr. President, I urge every Senator to vote to sustain President Bush's veto on this bad legislation.

This is an important vote. It is an important vote to agriculture; it is an important vote to consumers in America; it is an important vote to a lot of other people who do business in the People's Republic of China and create American jobs. Make no mistake about it. If President Bush finds the Chinese are engaged in some unlawful conduct with reference to arms sales or everything else, he can stop it in a minute. He can stop it in a minute. And he will do that in a minute.

But I am prepared, if anybody has any doubts, to give the President the benefit of the doubt in this very important issue. I hope the President's vote would be sustained.

The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE. Mr. President, I yield such time as he may consume to the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia [Mr. FOWLER] has the floor.

PRIVILEGE OF THE FLOOR—H.R. 2212

Mr. FOWLER. Mr. President, before I begin I ask unanimous consent that Mr. Joel Wusthoff, a staff intern for Senator MITCHELL on the Democratic Policy Committee be accorded the privilege of the floor during the consideration of, and votes on, H.R. 2212, this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FOWLER. Mr. President, the issue of granting MFN status to China is one that troubles me greatly on many levels. With its vast resources, China is on the verge of becoming an economic colossus of the 21st century. Surely as the minority leader just stated, our two nations must try to find a way to forge closer ties.

At the same time, though, we cannot ignore that in other ways the Chinese Government also represents a brutal system, intolerant of any dissent; it violates the fundamental values of democracy and freedom upon which our international relationships must be based.

In considering the MFN status for China I personally cannot forget the meetings I had in Georgia with groups of Chinese students following the massacre in Tiananmen Square. Row after row of young Chinese men and women were trying to maintain their composure as they related in graphic detail the experiences of their friends and families, stories that we may have forgotten, but they have not forgotten. Stories of families and friends being crushed by tanks, mounds of bodies burning and many other horrors.

Mr. President, this administration and this Congress knows full well that all efforts to gloss over these events, ones that may seem distant to us today but whose pain has not abated for those students in Georgia and their loved ones in China, this cannot alter the fact that nothing has really changed in Beijing.

At a time when other former autocracies are struggling to reform themselves into democracies all over the world, one of the last bastions of autocratic rule is being treated or would be treated by us to special status. Certainly, we should do no favors for a regime which treats its own people without mercy.

It is not enough for this administration that gross human rights abuses are ignored. I would like to take just a moment on trade policy.

Right now, Chinese exports to the United States are growing twice as fast as our exports to them. We should use that economic leverage at the very least to try to correct that imbalance.

According to the President's economic plan, we must ship more of our jobs and our capital to China. Right now, I can tell you again from evidence in my own State, China is cheating on its textile quotas and hurting jobs, industrial jobs all over Georgia and throughout the southern textile producing States. We have lost thousands of jobs because the Chinese, and others, erect high barriers to keep out our goods and promote their own industry, one that we know all too well is based on low, low wages and sorry conditions.

And yet the administration is asking us once again to accept politics as usual. No, we should not go begging in Japan. No, we ought not to be caving in to the Chinese. It seems to me if we are going to do $100 or $150 billion in trade with China, they ought to do $150 billion in trade with us. If we are going to have a bilateral treaty with the Chinese, the Taiwanese or anybody else, if we are going to sell $150 billion in goods and services to them, they ought to be buying $150 billion in goods and services from us.

Mr. CHAFEE. Can I ask a question on that issue on my time?

Mr. FOWLER. I will be delighted.

Mr. CHAFEE. Mr. President, I am having a little trouble following the Senator. If we buy $150 billion, any amount, from a country, the return commensurate requirement is that they buy the same amount from us; is that what the Senator is suggesting?

Mr. FOWLER. I am suggesting to the Senator from Rhode Island that those countries whose economies are fully capable to sustaining an equal trade relationship with the United States of America, countries whose economies are strong, countries who have signed or would like to engage in bilateral trade negotiations and be a principal trading partner with the United States of America, yes, we should use our leverage as the largest consuming country in the world to require that at end of the year, to the greatest possible extent, our trading balances should balance.

Certainly, we can do that with the Japanese. Certainly, we can do that with the Taiwanese. Certainly, we can do that with the Chinese. The only thing, in my opinion, that is keeping that from happening is the timidity of our country in not insisting that what should be an equal trading relationship is, in fact, at the end of the year and on the bottom line an equal trading relationship. We buy $150 billion from them; they buy $150 billion from us.

Mr. CHAFEE. That is a very interesting approach.

Mr. FOWLER. I am glad the Senator likes it.

Mr. CHAFEE. I may not understand it. It seems to me what the Senator is saying is that we are a big, powerful country and we can bully these countries into buying from us exactly what we are buying from them. It reaches an interesting conclusion. For example, we have a trade surplus with Australia. We have a trade surplus with the Economic Community of Europe. Is that evil? And should we in a throes of guilt decide that we should not be selling more to Australia than we buy; there is something morally wrong with this, following the lines which the Senator has diagramed, and the same with the European Community? In other words, every nation with which we have a trading surplus, somehow we should reverse that and get it down to equal; is that what the Senator is saying?

Mr. FOWLER. I will be very pleased to debate trade policy and discuss this. As the Senator knows, that is not what I just said. But allow me to finish my statement on China.

Mr. CHAFEE. If he can clarify that point——

Mr. FOWLER. I will be very pleased to discuss this both on the floor and off. I am simply saying that where we have competitors who are capable; not telling them what to buy. I am trying to think of a surplus in the Senator's own State, but I cannot do it. I assume what brought the Senator to his feet was my discussion of what I said about the President's trip to Japan.

They do not want to buy our cars. They do not have to buy our cars. I agree with the Senator. We cannot make the Japanese buy our cars. We can try, but I do not think we can make them do it. I would like to. I would like to save Detroit, but I can say to them that we have huge surpluses of wheat for an island nation which they need which they can certainly buy to make our balance with them less imbalanced.

In Georgia, we have millions of tons of chickens that they need. We will sell them chickens. We will sell them cotton. We will sell them soybeans, but it takes a little steel in the spine of this administration if we are going to use the economic leverage that we have where we do have these imbalances with nations whose economic status of living and whose economies are perfectly able to be equal if we would use a little of our power to do it.

I thank the Senator and will be glad to work with him at a future time on a better trade policy.

Mr. President, in conclusion, we should pursue reciprocal agreements in trade relations, including MFN, that would only speed the process of reform in China. But we should do it from a position of strength. We should not be afraid to insist on the terms laid down by the Senate, measurable progress on free trade, human rights and proliferation of weapons of mass destruction.

When it gets down to it, we have no choice but to engage China in every effort to change its reactionary policies and hold it to responsible standards of international behavior. We have the means to do that, I submit, because the people are willing, despite the fact that the rulers in Beijing are not.

For us, the opening of China does represent a great opportunity. To China, exchanges with the free world represents a desperate need. We should proceed there with the confidence that if any semblance of the present Government hopes to survive, it must, it must, it must undertake the reforms that we espouse.

As for me personally, I am not going to break from the commitment I made to those Chinese students, anguished students who looked to our Government for leadership in those difficult days following the barbarity in Tiananmen Square.

I pledged then, as I do today, that we will demand real change of the rulers in Beijing before granting them any of the favors that they seek.

I thank the distinguished chairman of the committee. I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Rhode Island.

Mr. CHAFEE. I yield myself such time as I might consume off the time on our side.

Mr. President, I think we really ought to make clear what we are talking about. If there is ever a term that was inappropriate for the situation, it is most-favored-nation. Most-favored-nation does not mean a nation is favored in any way. It means that if you do not get that status, you are put in a very small group of pariahs in the world.

The United States, for example, grants most-favored-nation to—listen to this selection: Syria and Libya. We give most-favored-nation to Iraq. We give most-favored-nation to Iran. We give most-favored-nation to Cambodia. There is only a handful of nations that we do not give most-favored-nation treatment to: Cuba, Vietnam, Albania, North Korea.

So when we say we should give most-favored-nation to China, it is not giving them some specially selected treatment that is a favored type; it is giving them something we give every other nation in the world except the four or five nations I have previously mentioned.

What are we dealing with here? What those on the other side who seek to override the President's veto are saying is that unless China conforms to these certain criteria that the President will have to certify, then we do not grant them this most-favored-nation treatment.

Some of those we clearly know that the Chinese are not going to subscribe to under pressure from the United States. Indeed, I think we have to realize this is the way they view the situation, to China, a great and proud nation, bigger than this Nation in population, longer in history by far than we, with a history of isolationism, a history of turning its back to the rest of the world. We are saying, for example, if you do not release all the prisoners as a result of the Tiananmen Square massacre, and the President so certifies, which he cannot, they do not get the treatment we accord every other nation and, indeed, that every other nation accords to China. Is this not peculiar?

Here we go seeking markets, saying we want to improve trade, and yet we are saying to China with one-fifth of the world's population, we are not going to deal with you—unless you kowtow to us and do exactly what we want, we are not going to trade with you.

Now, Mr. President, I have listened to this debate, and I noticed an awful lot of it was about trade and the imbalance of trade. The objections are not necessarily on the human rights side. The objections are that China has a trade surplus with us, and so we ought to cut them off. Of course, that is what passage of this legislation would result in.

We do not like the trade situation in China. If they are violating it in some respect, intellectual property or prison labor, all things that are alleged, then we have ways to respond.

As the Presiding Officer well knows, we can use the Super 301 action, which is provided for in our trade laws. What we seek, Mr. President, is access, and the way to get access is not to proceed as we are doing here, to deny MFN, which cuts off all relations. It does not just cut off trade relations. It really sours all relations with China.

Mr. President, this is very unfortunate legislation. I believe that we have a way of dealing with it; if we do not like the trade process, the trading method in which China indulges, and they are contrary to accepted procedures, we have ways to proceed, as I mentioned before. But let us not put China off in some little box and try and erect a wall around them, erect a wall around how many people they have, 1.2 billion people, and say we are not going to deal with you. The Japanese, the Brits, the Dutch, the Germans, and everybody else can deal with you but not us, because we do not like a series of things you are doing.

If we really are interested in dealing with these matters, human rights progress, preventing exports made by prisoners, terminating religious persecution, allowing freedom of the press, stop jamming Voice of America, stop intimidation of Chinese in America, allow access by international human rights groups—on it goes—if we really believe in all those things, Mr. President, then we must open our ways and methods of dealing with the Chinese. Just as we have had success in the intellectual property field, we have reached an agreement which seems rather satisfactory. We have to see how it works out in practice, but there is no question but what it represents a significant breakthrough in our relationship with China.

We never would have achieved that, Mr. President, if this legislation had gone through and the President had not vetoed it. Like it or not, and those on the other side will describe it in various complicated ways, the facts are that if this legislation should pass denying MFN to China except with certain certifications by the President and the Untied States, China would cut off its relationships with us.

So, Mr. President, this is a significant vote. It is a significant vote not necessarily for trade reasons, although it is for that, but it is much more significant as to whether we truly will bring China into the family of nations. China, as everybody knows who has studied 8th grade history, has had a long history of isolationism, which they have enjoyed, and it was not unique. It just did not go back to when they started the Great Wall of China in the year 403 B.C. Think of it, from 1946 until President Nixon went to China in the 1970's, China was separated from the rest of the world. It was a breakthrough for President Nixon and Secretary Kissinger to go there. Gradually, we have opened up these relationships and improvements have been made.

Mr. President, I greatly hope the vote to sustain the President's veto will pass, and not just pass by a couple of votes. I hope it will pass overwhelmingly. I might say this is very important, as I said previously, to our relationships with China as a massive part of the world, which we cannot dismiss, but also on the trade side likewise.

I come from a State that has the world's largest toy company in it. That toy company does business in China to a very substantial degree. They have a factory set up. They purchase likewise from other factories in the southern part of China not far from Canton. Now, they can see in that part of China growing up a spirit of individual enterprise, a spirit of free enterprise, which we all applaud. And we believe there is a connection between that and the eventual arrival of the democratic principles, and indeed there is in that section of China.

If the President's veto should not be sustained, the ability to import from those factories would clearly end, and thus several thousand jobs would be lost in my State. We have a million people in our State—very small. What I am reporting here would be duplicated in other States as well, and I suspect in the State of the Presiding Officer, although I am not familiar enough with his situation in Connecticut. So we are cutting off our nose to spite our face if this veto should not be sustained.

For those reasons, Mr. President, I hope very much we can get on with this vote and that the votes in favor of the President's position will be overwhelming.

Mr. President, I see no one else prepared to speak at this time. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the role.

The assistant legislative clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BRYAN). Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I yield the Senator from New Mexico such time as he requires.

The PRESIDING OFFICER. The Senator from New Mexico [Mr. DOMENICI] is recognized.

Mr. DOMENICI. Mr. President, as I understand it, we have some time remaining, and I ask unanimous consent that I be able to speak on a subject that is not the pending matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE TAX INCREASE

Mr. DOMENICI. Mr. President, I have a bill that is being walked down here that Senator BOND wants to join me on, and I will try to introduce it as part of this discussion. I will ask for some time on that.

I rise today to give the Senate part two of my analysis of the tax increase that passed the Senate a few days ago, increasing marginal rates in the tax structure of the United States.

I choose to call my series—this is part two—"The Economic Growth Means More Jobs, Not More Taxes." That is the theme. I want to talk about a married couple, who are small business people providing new jobs in my State.

I consider them to be important contributors to the economy of my home city, Albuquerque. But some who voted for the tax bill apparently do not think they contribute new jobs, but rather that they ought to pay more taxes. The company's name is Wood Workers Supply. John Wirth and his wife, Billy Jean, in 1973 started the business with 5 employees. In 1976, they put together their first mail-order catalog. Today they provide and pay checks for 165 families in Albuquerque in three or four different places. Eighty-five of those are in Albuquerque; 35 in Casper, WY; 45 in Graham, NC.

The jobs at Wood Workers Supply are good jobs, on average about 20 to 25 percent more than the average paying jobs in the city of Albuquerque. Wood Workers Supply sells machinery, power tools, woodworking supplies, and John and Billie Jean pride themselves in featuring American-made products in their stores.

That way, they support other American industries and workers. And 50 percent of the sales are made to cabinet makers, furniture makers craftsmen, and homebuilders, who want to be more productive and competitive. New equipment helps them achieve that goal.

After almost 20 years of working 70 hours a week, he and his wife have built a nice business. They are proud of the contribution to the economies of the cities I just described, but they are rudely surprised to learn that they were part of the wealthy class who were not paying their fair share of taxes, at least according to some, at least according to the bill that passed the Senate, the Finance Committee bill. John tells me, frankly, that he and his wife plow almost all of their profits back into the business. Yet, if the finance bill becomes law, they would have to pay substantially more in taxes over the next year.

John and Billie Jean had a different plan for that money. They were going to create about 100 new jobs. They are expanding, and in October 1991, they opened a new facility in North Carolina. They planned to open a new one in New Hampshire later this year that would have employed about 30 people. If all goes according to plan, they would even open one in the State of Kentucky with another 30 jobs.

John is negotiating with a mail-order firm that he wants to move to his home city of Albuquerque. It is a small operation, but it would mean an additional eight jobs within the next 1½ to 2 years. He is negotiating to buy a small manufacturing plant that would move to Casper, WY.

His business plan would be in trouble if the bill that we voted in a few days ago—the tax bill, the so-called economic growth and jobs bill and tax fairness bill—according to John, if the new rates go into effect, the additional tax will slow down, rather than permit him to expand.

So his ability to expand without borrowing money, without looking to the Government for anything, will be impeded not helped by the jobs bill which will not create jobs, but will collect more taxes, including more from this couple and their business.

The President asked the Congress to enact an economic growth package. Those who support the bill that passed here claim that it is an economic growth bill, but I believe it is no economic growth bill. Growth means jobs. The real world impact of this bill is to delay the creation of jobs by business men and women like John and Billie Jean, and thousands of other small business people who leave much of their profits in their business to grow, to add jobs, yet report the income since they are partnerships or subchapter S corporations, report it as income and under the bill will pay taxes on all of it at about 16 percent higher than they are paying today, a rather substantial increase in what they will pay out of the money that they would have used to grow and add jobs.

Recently our largest newspaper in Albuquerque, the Albuquerque Journal, ran a political cartoon that I think captures the folly of the bill that is now in conference. The cartoon showed the Congress raising taxes so it could spend more taxpayer money on Government programs, and in their cartoon, Benefits for the Unemployed, the Finance Committee bill spends the money on special interest provisions and in new entitlements.

Mr. President, as we all know, I think that the entrepreneurs that I have described here have a better idea. They want to create jobs with this money. They make a very efficient and responsible use of the capital and the human resources that are a part of their business.

It is misguided policy to raise taxes on some job-creating entrepreneurs and business people who are depending on it to provide long-term economic growth. John, who I have been speaking of, is a bit of a philosopher. He notes that the Founding Fathers never contemplated a country where 60 percent of the Federal tax burden would be shouldered by 10 percent of the taxpayers.

Let me run through those numbers on Federal income tax burdens because there is a lot of misinformation floating around. In 1977 the top 10 percent paid 50.5 percent of the individual taxes. In 1980, their burden dipped slightly, 49.1, but it has increased since then. By 1992 it increased to 60.2 percent. This means that the other 90 percent are paying 39.8 percent of the total tax burden.

Frankly, Mr. President, I think I am beginning to understand why the lowering of the marginal tax rates during the last half of the decade of the eighties caused so many small businesses to grow and add so many millions of new jobs. I think it is precisely because they left their money in their businesses, that is the small business people, and those who were corporate chartered but under tax laws were partnerships they left their money in their businesses and that added innumerable thousands of jobs.

Some might say that is not the way they want the tax laws to work. Frankly, I believe the proof is in the pudding. If you want jobs, you do it that way. You leave business people, men and women, small businesses, you leave them to the job of job creation, and you do not maximize the taxes you take from them because to do that leaves an economy such as ours less apt to grow, prosper, and do what many of us want, provide opportunities for people.

I thank Senator CHAFEE for yielding, and I yield the floor.

Mr. BENTSEN. Mr. President, I yield such time as I may need, and I must respond to my friend from New Mexico concerning his comments about the tax bill.

Let me make a point. The President has stated that he was sorry he ever got into the 1990 budget agreement. But that agreement is the only discipline we have on the administration and this Congress to try to see if someday we can get this budget deficit down. But the President has demonstrated how he has turned his back on that budget agreement by presenting legislation to us that the CBO, Congressional Budget Office, says would cost this country $24 billion.

I hear my friend from New Mexico talking about this tax increase, tax increase, tax increase. What is not said by this administration is there is an equivalent tax cut in that bill.

When President Reagan talked about cutting taxes and raising the capital gains tax, he called it reform. This bill can justifiably be called reform also, because what we are trying to do is bring some fairness back into the tax system.

President Reagan proposed a 35-percent tax rate on anyone making over $70,000 a year. That was his proposal. This bill affects families that make over $175,000 a year, and that is after their deductions. That actually means they will certainly have a gross income of something over $200,000 a year. The bill raises their tax rate by 5 percent, from 31 to 36 percent on families making over $175,000 a year, or individuals making over $150,000 a year. The vast majority of those people making over $70,000 a year, that President Reagan would have had pay a 35-percent tax, under this proposal, will be left paying 28 percent a year.

Then let us look at what the bill means in the way of progressive taxation. In this country, if you make $35,000 a year or if you make $1 million a year, the difference in your tax rate is only 3 percent. The ability to pay, fairness in the tax system, I think those are major considerations that we have to address.

Another proposal that was not mentioned is what the bill does for the self-employed or for the small employer who today can only get a tax credit for 25 percent of his health insurance premium. We are talking about moving it up to 100 percent. We are working to make that permanent.

Then in the ill-fated attempt to make this bill bipartisan, we reached out to take the seven incentives that the President put in his program and put them in ours, some with minor modifications and others word-for-word. I am talking about things to encourage income growth like accelerated depreciation. We put in a credit for a first-time home purchase. We added a much better IRA, one that would say to all Americans when they sit down to write their check to the IRS, they will have the option of writing it to their IRA and taking a $2,000 deduction. And we would allow the utilization of that to help people buy their first home, help them take care of the college education of their children, or take care of a major medical illness. Those are positive things that have been put in the piece of legislation that we will be going to conference on today at 5 o'clock.

So, these are major things to bring fairness to the tax system. We do not bust the budget but live within the budget agreement. For top income people, the top seven-tenths of 1 percent, we still would have a top rate substantially below that of our principal economic competitors, like Japan, Germany, and the United Kingdom.

Mr. President, it is not easy to put together one of these tax packages. There is not everything in it that I would have liked or that others would. But overall, it is a substantial improvement on present law.

We say to those people, middle-income folks that took the biggest hit in the last decade, who saw their taxes go up as their incomes went down, that we are going to give you a $300 credit for each child you have. The cost of rearing children today has continued to escalate, whether you are talking about housing, medicine, or food. And for those typical families of four with 2 children, we have a $600 tax credit; that is a 25-percent tax cut for a family making $35,000 a year, the median income.

So it is a step in the right direction. Does it solve all our problems? Of course, it does not. Does it immediately turn this economy around? Of course, it does not. We did not get in this shape overnight. This is a situation that came upon us gradually over a period of years.

And this bill is a step in the right direction in trying to help the economy with, long-term growth and restoring some fairness to the system.

Mr. President, I retain the remainder of my time.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes and 15 seconds.

The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would point out that when the taxes are increased from 31 percent to 36 percent, it is, of course, not a 5-percent increase, it is a 16-percent increase.

I also would point out that this benefit for these children goes only to those children who are age 15 and younger; in other words, under the age of 16. And the total benefit is 83 cents a day per child. So I do not think any of us suggesting that is going to stimulate the economy.

And the other point I would like to make, it is not just solely inside the Beltway talk to say that 83 cents a day is not very much. In my State, which certainly is not a wealthy State—and we are going through all kinds of problems currently—I present this situation to our people and say, if you are going to add $32 billion of tax revenue to the Nation—and that is what this costs over 5 years, $32 billion—is it best to have it go to a very limited class?

It does not go to everybody, it does not go to the very poor, and it certainly does not go to the rich. It goes to those with incomes roughly from $20,000 to $50,000 and then phases out. It only goes to those who have children 15 or under, and it is for this limited amount.

So I propose that to the folks at home. Is this the way you would like $32 billion additional revenue to go in our country? And the answer unanimously is, "No. Let us put it to reduce the deficit of this country." And that is where we ought to go.

I am not opposed to new taxes. I have voted for new taxes around here plenty of times. But if we are going to go into a big new tax program such as this, then let us use it to look after these children, not their parents with 83 cents a day, but help relieve this terrible burden we are placing on these children to the tune of $300 billion a year of additional debt that someday they are going to have to pay and their children and their families.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Rhode Island has 13 minutes and 33 seconds.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNITED STATES-CHINA ACT—VETO

The Senate continued with the reconsideration of the bill.

Mr. D'AMATO. Mr. President, I rise today to oppose the effort to continue most-favored-nation trading status with China. Yesterday's newspapers contain information that suggests China is providing Iran with some of the technology necessary to construct nuclear weapons. If anyone in this Chamber can think of anything more horrifying than that, they have a more vivid imagination that I do.

It was with great foreboding that I supported the administration's position in support of most-favored-nation trading status for China. I had hoped that after the collapse of communism in the Soviet Union, the Chinese Government would begin to significantly change their behavior. Obviously, that has not occurred. Until the Chinese Government learns how to act as a responsible member of the world community, they should not enjoy an advantageous trade relationship with the United States.

Mr. President, I ask unanimous consent that the attached articles be printed in the RECORD in their entirety.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times, Mar. 17, 1992]

CHINA HELPING IRAN BUILD NUCLEAR ARMS, U.S. SAYS

WASHINGTON.—Although a recent inspection found no evidence of nuclear weapons research, U.S. officials believe that Iran is engaged in a determined, long-term effort to develop nuclear weapons with the help of technology from China.

Over the past few years, China has provided Iran with a mini-reactor and with technology similar to that used by Iraqi President Saddam Hussein in attempting to develop nuclear weapons.

"I don't think the Iranians are going about it in such a brutish fashion as Saddam Hussein," one State Department official said. "Their program is much more subtle and long-term."

In 1990, Iran and China signed a 10-year agreement for scientific cooperation and the transfer of military technology.

U.S. officials said that the items publicly acknowledged to have been transferred between the two countries—such as an electromagnetic separator for producing isotopes—are "very small-scale stuff" and, by themselves, could not be used to make nuclear weapons. But they said the Chinese exports would be invaluable for an Iranian nuclear weapons program, because they would help Iran acquire the know-how to later build nuclear weapons.

Iran now ranks, along with North Korea and the Commonwealth of Independent States, among the top concerns of U.S. officials worried about the spread of nuclear weapons.

CIA Director Robert Gates testified in Congress last month that Iran "is building up its special weapons capability as part of a massive . . . effort to develop its military and defense capability." Iran is looking to China to supply missiles and nuclear technology, he said.

China contends that all of its nuclear help to Iran has been above-board and that the facilities it is helping Iran develop comply with the legal safeguards of the International Atomic Energy Agency. A Chinese Foreign Ministry spokeswoman said last November that while China has supplied Iran with nuclear technology, it is "only for peaceful purposes."

WEST WORRIES CHINA WILL SELL MISSILES

(By Paul Lewis and David Silverberg)

HONG KONG.—China intends to proceed with missile sales contracted before it agreed to abide by the Missile Technology Control Regime (MTCR) last November according to experts here and in Washington.

"There are two reasons why China is not likely to conform to the wording and spirit of the MTCR." Chong-Pin Lin, associate director of Chinese studies at the Washington-based American Enterprise Institute, told Defense News last Thursday.

"One is financial," said Lin, who noted that missile sales bring China desperately needed foreign currency.

"The second is the nature of the control structure," Lin added. "It is very difficult for the highest levels of government to control the corporations."

Experts here add a third reason for the Chinese reluctance to abide by the MTCR: a fear of losing prestige and influence in the Third World.

In addition to the well-publicized M11 missile deal between Pakistan and China, the China Precision Machinery Import-Export Corp. (CPMIEC) in 1988 entered into an agreement with Syria to develop the intermediate range M9 missile.

The CPMIEC, a company established by the Chinese Ministry of Aerospace Industry and under the direction of the State Council, was until recently, along with China Great Wall Industry Corp., on a U.S. sanctions list as a result of sales of such missiles.

The M9 missile has been developed with Syrian funds and has recently undergone tests at a government-owned range in Gansu province. The M9 is a solid-fuel mobile missile with a range of up to 600 kilometers (372 miles).

The M9 is a more modern missile than the M11 developed for Pakistan and is better suited for delivering a crude nuclear warhead. The M9 also can be armed with a chemical or biological warhead.

The missile does not possess pinpoint accuracy, but it is more precise than the Iraqi Scud B or its al-Husayn derivative used in the Persian Gulf war. Fitted with a fuel-air munition, the M9 could be used as a tactical weapon.

Delivery of M9 missiles to Syria is aid to be imminent and sources say that up to 24 missile transporter-launchers already are in place in the country.

However, in testimony before the U.S. Senate's Joint Economic technology and security subcommittee last Friday, Richard Clarke, U.S. assistant secretary of state for politico-military affairs, said the world's chief missile proliferator at the moment is North Korea rather than China.

Clarke said North Korea is marketing three missiles: the original Scud, an extended-range Scud-C, and a new missile called the No-Dong I. The missile is still in development, said Clarke, but it is expected to have a range of over 1,000 kilometers (620 miles), covering all of South Korea and Japan.

"If, as we suspect, they will also try to sell this new missile in the Middle East, it will also pose a threat to stability there," said Clarke.

Chinese officials are also reported to be less cooperative than previously in helping draft new restraints on conventional arms sales to the Middle East, according to administration sources.

The United States, Britain, France and Russia have largely agreed that they will notify one another before major defense sales in the Middle East. They have also largely agreed on the types of equipment that will require notification. However, the Chinese position is becoming less cooperative, the sources report.

Mr. DODD. Mr. President, once again, I rise for the purpose of calling attention to the repressive policies and programs of the Chinese leadership.

Mr. President, last July, 55 Members of this body agreed to send a clear signal to the sheltered old men of Beijing. We agreed that we would no longer look the other way as China violated fair trade practices, flaunted internationally recognized standards of human rights, and armed the Third World with nuclear weapons technology.

Three weeks ago, when the conference report first made its way to the floor, 59 Members of this body lent it their support. A majority of the Senate, like the majority in the House of Representatives—and backed by a clear majority of Americans—agreed that the time had come to reverse United States policy in China.

Today, thanks to the efforts of the majority leader, this issue is before us once again. We may pick up a few more votes today. We may come closer to our goal. But in the end, we all know the likely outcome.

Barring an unforeseen circumstance, Mr. President, this override vote will fail. Business with China will continue as usual. And the leaders of Beijing will have pulled the wool over our eyes once again.

We all know what brings us to this confrontation today. For the 26th time since taking office, the President has rejected the clear majority of Congress and told the American people that he knows best. In the process, the President has taken the hopes and aspirations of the Chinese people and blotted them out with his veto pen.

I know the President has had a long history of dealing with the Chinese. I know he considers himself an expert on the Chinese people, their culture, and their ways. And I know that his record, in Congress, at the United Nations. and within the intelligence community, has given him lengthy experience in Chinese relations.

But sometimes I think that you can get so close to a subject that you lose all objectivity, Mr. President. And that is what I suspect has happened here.

The President sees a China that is struggling within itself, one faction pushing for reform and another resisting change. The President sees a China that knows it must join the international community, and is only delaying the inevitable.

The President sees a China that is making economic reform, a China that needs positive reinforcement to nurture it along. The President sees a China that will eventually come to embrace democracy and full economic freedom, if only we will give it the chance.

Let me tell you about the China I see, Mr. President.

I see a China that continues to detain hundreds of Tiananmen Square demonstrators, without regard to due process or recognized standards of judicial review.

I see a China that has tortured hundreds of its own citizens during detention and interrogation, despite the persistent condemnation of the international community.

I see a China that has mocked the rules of world trade, and now holds a

$13 billion trade surplus with he United States as a result.

I see a China that has sold missile launchers to Pakistan, nuclear technologies to Algeria, and missile technology to Syria, adding to an arms race that threatens us all.

I see a China that makes concessions on the eve of United States congressional debates, but then closes its ears to its own people.

I see a China that is so insulated from reality that its Premier, Li Peng, calls the issue of human rights an infringement on his nation's sovereignty.

Finally, Mr. President, I see a China that has been allowed to act with impunity for so long, it has forgotten what it means to be a responsible member of the world community.

Mr. President, we are not asking much with this legislation. This legislation would not sever our relationship with China. It would not put an immediate end to MFN treatment. But it would put an end to the legacy of complicity and tolerance that has marked our relationship with China. Such action is long overdue.

I hope the Senate will have the courage to override this Presidential veto.

Mr. DURENBERGER. Mr. President, I rise to oppose today's effort to override the President's veto of H.R. 2212, the conference report conditioning most-favored-nation [MFN] trade status for China.

Several times in recent months, the Senate has debated and voted on this issue. This has been an important debate that has helped illuminate the many interrelated issues on the MFN matter.

Mr. President, on several occasions in recent months, I have spoken in this chamber against measures to restrict MFN for China. I will not waste the Senate's time by restating those positions in full.

I would, however, just summarize my perspective very briefly. First, I remain convinced that it is in our Nation's best economic and geopolitical interests to maintain normal trading relations with China. Several times, I have urged my colleagues to consider not only the likelihood that conditioning MFN would fail to achieve the desired objectives in China, but that it would profoundly damage United States economic and political interests.

Second, it is difficult for this Senator to envision what benefits our country derives from returning to a policy in which we actively seek to isolate China.

Third, I remain persuaded that unilaterally using trade as a foreign policy weapon only hurts the American exporter and consumer. Other countries will always step in to fill the void left by our unilateral withdrawal from a market. This is precisely what happened with the failed United States embargo against the Soviet Union in 1979.

More recent experience has also taught us that the corollary to this reality is also true. That is, that economic and trade policy can be a meaningful foreign policy tool only when applied multilaterally, in concert with the world's other trading partners. United Nations economic and trade sanctions against Iraq have had meaning only because the world acted in unison.

I ask my colleagues again, will Japan follow our lead in restricting trade with China? Will France or Germany? Will Australia or Brazil? No, Mr. President, of course not. Their farmers and businesses will simply step in and take the business that we unilaterally sacrifice.

Fourth, it remains my view that it is fundamentally inappropriate for the United States, acting alone, to start and stop trade with other countries because of disputes over human rights matters. If we applied these same standards to any number of our other trading partners, we would be unilaterally restricting trade all over the Third World.

Last summer, I quoted at length from the publications of respected international human rights organizations regarding the records of various trading partners. No one is calling for revoking normal trade relations with Indonesia or Kenya, Mexico or Brazil, Turkey, South Korea, or India. Acting alone, the United States cannot, regrettably, change the behavior of the rest of the world. The forum for addressing these issues is not through trade, but through vigorous diplomatic efforts.

Mr. President, I wish to emphasize that neither President Bush nor this Senator believes that extending unconditioned MFN can be interpreted as condoning China's human rights practices, its irresponsible weapons proliferations policies, or its various troublesome trade practices. But strictly conditioning and ultimately revoking MFN on a unilateral basis simply will not have the desired impact in China.

Mr. President, I renew my call to President Bush and Secretary Baker to keep the pressure on China to improve their various policies and practices that we and other responsible members of the international community rightly find so objectionable. Clearly, more needs to be done to persuade China to respect internationally accepted norms of behavior in areas such as human rights and weapons proliferation.

But MFN is the wrong tool for the job. It is a blunt instrument that holds little promise for achieving otherwise laudable objectives. Effectively revoking MFN will only kick the legs out from under the negotiating table at which we address our very real and serious problems with China. That might give some of us a degree of short-term satisfaction, but precious little long-term gain.

Mr. President, I urge my colleagues to take the long-term view and sustain President Bush's veto. Thank you, I yield the floor.

Mr. SANFORD. Mr. President, I rise today to urge my colleagues to override the President's veto of a vital piece of legislation, H.R. 2212, a bill that would limit most-favored-nation status for China. It is not complicated. We simply insist on a decent level of human rights, we insist that China quit cheating on weapons proliferation, and we insist that China get honest in their trade practices. When the President vetoed this bill on March 2, he said that his policy of offering MFN status unconditionally "invites China's leadership to act responsibly." Well, Mr. President, I want to send an invitation they can't refuse. The President's policy of currying favor with the Chinese Government has produced no change in China's abominable human rights record, no change in China's continuing disrespect for attempts to halt the proliferation of weapons to unstable Middle East countries, and absolutely no change in China's pattern of chronic unfair and illegal trade practices. The clear message is that the Chinese Government doesn't need to close up in order to get what it wants from the President of the United States.

Chinese violations of human rights are well documented. Religious persecution, imprisonment without trial, torture, and execution are frighteningly commonplace. The violence in Tiananmen Square and the ensuing treatment of students and other citizens are prime examples of what still goes on in China. And yet the Chinese feel that these activities are internal Chinese affairs. Sure they are. So is it our internal business as to who trades here. The point is that the promotion of human rights is a special concern, a special obligation. The United States of America is the great shining torch to which the oppressed people of the world look for hope and freedom.

China not only threatens her own citizens, but by blatantly engaging in nuclear proliferation, China is threatening all citizens of the world. China has sold lythium hydride to Iraq that could have been used against our troops in the gulf in the form of missile fuel or even nerve gas. And they continue to sell deadly M-9 and M-11 missiles to Syria and Pakistan. China is still refusing to act as a responsible member of the world community, yet President Bush chooses to reward them with most-favored-nation status.

To make all this more pointed, our Nation is experiencing economic chaos fueled by mounting trade deficits and increased competition from the subsidized markets of the east. China is the second largest deficit trading partner of the United States, behind only Japan. The American people are buying more Chinese goods and selling fewer United States goods to China than ever before. Who can blame American men and women for feeling that the President has let them down? The Chinese continue to send textiles and apparel to the United States under fraudulent visas to be sold at cut rate prices in crass violation of trade agreements. When North Carolina textile mills shut down because Chinese goods, much of it made by prison labor, are dumped on the United States market, the President says it is fair trade. Well it is foul trade and a foul deal when our citizens are put out of work by a Chinese labor force that makes, on average, .37 cents per hour. And this foul deal will clearly be the work of the President and the minority party in the U.S. Congress should this veto be allowed to stand.

Mr. President, we must stop the unfair trade practices. We have the opportunity here to call China to task. To demand that they practice fair trade, or lose favored trade status. Is it too much to demand that they not cheat? That they respect basic international trade law? The President says yes, and would have us close our eyes to these violations. But why should they reap the benefits of most-favored-nation trading status with the United States?

I fully support the conditions to most-favored-nation status for China as set forth in H.R. 2212. Is is a reasonable proposition that we have offered to China.

It is too bad that the President has decided to cast his vote for allowing the dangerous world political situation to be aggravated by the uninhibited sale of weapons of war, and against North Carolina and American working people.

Mr. HARKIN. Mr. President, I rise in support of H.R. 2212, to extend most-favored-nation [MFN] status to the People's Republic of China with certain conditions. I encourage my colleagues to join me in voting to override the President's veto and reject his failed China policy.

Mr. President, we should be clear about what this bill does and does not do. The bill does not impose an embargo against China and does not end economic relations with that country. It does not seek to disengage the United States from China but rather change the terms of our engagement. H.R. 2212 extends MFN status for China on the condition that China adheres to its prior commitments on weapons proliferation, ends its discriminatory trade practices, and has made progress in human rights. President Bush has had nearly 3 years since the June 1989 massacre of Tiananmen Square to positively influence Chinese policies by constructive engagement. The President's policy of forgive and forget has clearly failed. It is time to pursue a policy consistent with our values and our interests: respect for human rights, nonproliferation, free and fair trade.

For the past 2 years President Bush has argued that extending MFN would give Chinese leaders the incentive to improve their human rights practices. Yet, today according to the State Department's 1991 human rights report "China's human rights practices remained repressive, falling far short of internationally accepted norms." the reputable human rights organization Asia Watch reports:

> If anything, the Chinese authorities showed themselves even less willing in 1991 than in 1990 to ease up on the relentless repression they have pursued since the military crackdown in Beijing and other cities on June 4, 1989.

It is estimated that thousands of prodemocracy activists remain in jail; religious persecution, as well as arbitrary arrests, unfair trials and torture persist. Moreover, the Government of China continues to violate the fundamental rights of the Tibetan people and repress citizens who advocate nonviolent democratic reforms.

China's human rights abuses are not limited to areas of political and civil rights. China also violates human rights through its use of prison-labor for commercial gain. I should point out that the International Labor Organization Convention 105 prohibits the use of forced or compulsory labor "as a means of political coercion or education or as punishment for holding or expressing political views ideologically opposed to the established political, social or economic system." Further, section 307 of the Smoot-Hawley Tariff Act of 1930 has prohibited the importation of prison-made goods into the United States for over 60 years. Yet, in a direct violation of international labor treaties and United States law, the Chinese Government continues its practice of using forced labor in producing cheap products that are later exported. Last November, when Secretary Baker visited Beijing, products made by prison labor in the Shandong Province were on display at a trade fair in San Francisco. Evidence indicates that prison labor is involved in the export of sugar, T-shirts, underwear, wine, tea, leather, shoes fertilizers, electric fans, handtools, diesel engines, and other products. Last July, during a debate on extending MFN status to China, I pointed out that the April 1991 Business Week, cited State Department documents showing official Chinese statements that China exports $100 million each year in goods produced by forced labor. Mr. President, China's use of prison labor to export cheap goods is not only illegal and morally repugnant but also devastating to American workers forced to compete against China's prison-exports.

Other trade practices by China are also harmful to the United States. These practices include restriction of foreign firms' access to China's domestic markets, lack of adequate protection for patents, copyrights, and trademarks, as well as severe restrictions on foreign investment in China. As a result of China's discriminatory trade practices our bilateral trade deficit with China is now second only to Japan. In 1991 our trade deficit with China increased by $2 billion to $11.7 billion. That trade deficit means the loss of over 250,000 United States jobs.

The bill before us, H.R. 2212, seeks to redress our trade relations with China. It encourages China to end its discriminatory trade practices by protecting intellectual property rights and providing American exporters with fair access to Chinese markets including removing nontariff barriers. Mr. President, it is true that China is potentially a large market for the United States. But if strong action isn't taken to end China's discriminatory trade practices and open up China's markets, our exports will continue to suffer. We simply can no longer afford to be on the losing end of our trade relations or fail to take action when unfair trade practices hurt American workers.

Aside from our concerns about human rights and China's unfair trade practices, H.R. 2212 addresses one of the most serious threats to our national security—the proliferation of chemical, biological and nuclear weapons. A New York Times article of February 22, questions whether China will halt its sale of long-range ballistic missiles and nuclear-related technologies to Pakistan, Iran, Libya, Iraq, and Syria. Such sales would be destabilizing to volatile regions and counter to vital U.S. interests. I am aware that China has signed the Nuclear Non-Proliferation Treaty and accepted the terms of the Missile Technology Control Regime. And, if China intends to adhere to those agreements, neither China nor the administration should object to the provisions in the bill relating to nonproliferation. However, if China violates those agreements and the verbal assurances it has given to the United States, China should pay a heavy price. China would automatically lose its MFN status and possibly billions of dollars in trade with the United States. The nonproliferation provisions in H.R. 2212, therefore are not punitive but provide the proper incentives for China to adhere to its prior commitments.

Mr. President, as I have stated before, I support the normalization of political and economic relations with China. The choice, however, is China's. To receive most-favored-nation status China must choose between maintaining policies which are clearly unacceptable or pursue policies which afford its citizens their basic human rights, adhere to its prior commitments on nonproliferation, and end its discriminatory trade practices. Again, I support MFN for China, but not at the expense of sacrificing our concerns for human rights, interest in fair trading practices and the protection of our national security. Most-favored-nation status is not a right. And, it is both reasonable and fair for the United States to extend MFN status while safeguarding our principles, economic security and our national interests by encouraging serious political and economic reform in China.

Mr. ADAMS. Mr. President, today, I will once again support the attachment of conditions to the renewal of most-favored-nation status for China. A majority of the Members in both the House and the Senate have voted repeatedly to use our trading privileges to further the broader aims of U.S. foreign policy and to promote the national interest.

Curbing weapons proliferation is in the U.S. national interest. China continues to be a major supplier of missiles and missile technology to the Middle East and to South Asia—two of the most unstable regions of the world. Its promises to the Bush administration have to date proven empty.

Promoting human rights is in the U.S. national interest. The protection of individual rights is not only central to the values that our country holds dear, it is one of the strongest elements of our foreign policy. Moreover, countries that protect the rights of their own citizens are better international citizens as well. And that is in everyone's best interest.

Last, eliminating unfair trade practices is in the U.S. national interest. Improving Chinese protection of intellectual property and increasing market access are vital for United States businesses trying to get a foothold in China.

Mr. President, I believe that MFN is the one policy tool that the Chinese truly understand. The conditions we would attach are attainable, and both China and the United States would benefit from a bilateral relationship based on the principles espoused in the United States-China Act. MFN status is a privilege and both the United States and China should treat it as such. We simply cannot maintain the status quo—regardless of Chinese behavior—on the grounds that this constructive engagement may pay off in the future. I urge my colleagues to override the President's veto and to support the conditions before us.

Mr. BRADLEY. Mr. President, today I rise to vote to override the President's veto of H.R. 2212, the conference report on the United States-China Act of 1991.

President Bush's veto is yet another example of his seriously flawed China policy. The President has told us to wait, that continued trade with China as a most favored nation would have a positive impact, that our relations would lead to freer markets and greater liberty. This we heard even in the wake of China's brutal crackdown on students in 1989.

Well, Mr. President, we have waited long enough. And as we have waited, the Chinese Government has solidified its totalitarian control over the people. Instead of seeing reforms, as the President predicted, we have seen a return to repression as usual. The President's own State Department has listed an array of human rights violations committed by this regime. In Tibet, we've seen a continuation of persistent and widespread rights abuses, from torture in penal institutions to obstructing religious worship.

The Chinese Government has also demonstrated a flagrant disregard to our nonproliferation goals. Its construction of a nuclear reactor in Algeria, and its arms contract with Syria are but two examples of a long-established practice of selling arms indiscriminantly, regardless of the dangerous escalation of violence.

And let us not forget their own trade policy. I do not believe we should be offering the continued status of most favored nation to a country which the U.S. Trade Representative has confirmed has engaged in unfair trade practices. China's continued imposition of tariff and nontariff barriers has not gone unnoticed.

Mr. President, this veto must not stand; the United States can no longer remain silent while China represses its citizens, practices unfair trade practices, and heightens the risk of violence through its arms sales. the United States has the ability to send a message to the Chinese Government. A message that the Chinese people are unable to send for themselves. Let us send it for them.

Mr. MURKOWSKI. Mr. President, yet again we as legislators are debating whether to deal with China through contact or isolation. This is not a debate on whether China has a bad record on human rights, trade barriers, or proliferation questions. They do. No one in this body argues that point. What we need to decide is how best to force changes in China.

Mr. President, isolation will not change the policies of China. The only way to force reform in Beijing is to keep up the pressure through tough negotiations, increasing trade ties and targeted sanctions. We must vote today to continue these pressures and sustain the President's veto. Conditional MFN would be nothing more than isolation of China.

WEAPONS PROLIFERATION

I am as concerned as the rest of the country over China's human rights record and their unfair trade practices. But for me, the most important aspect of our vote today has to do with proliferation of weapons of mass destruction. There is no excusing China's record—shows Chinese sales of missiles, chemical weapons, and nuclear technology to some of the worst regimes in the world.

I am convinced that this is the single most important issue in the United States-China relationship. As bad as China's record is on human rights and trade weapons proliferation has a direct impact on the national security interests of the United States. This is not just China's business, this is our business.

Therefore, we must focus our pressure and sanctions on the issue of proliferation directly, which is exactly what the Bush administration has done. Through continued pressure and tough talks, this administration has succeeded in making a significant breakthrough. China has publicly made two pathbreaking commitments: First, to sign the Nuclear Nonproliferation Treaty by next month; and second, to adhere to the terms of the Missile Technology Control Regime.

Mr. President, these achievements are not simple political rhetoric. The administration has achieved results and now the Senate should act to put those results in concrete by sustaining this veto. If the Senate fails to do so, China will have no reason to restrain its proliferation behavior.

I know that many in this Chamber will be suspicious of Chinese promises to abide by its commitments. I too have a healthy amount of skepticism—but we cannot test China's intentions by rejecting MFN. As vice chairman of the Intelligence Committee, I pledge to monitor China's behavior on these issues. If I learn of violations, I will be the first to come to the floor to demand a reconsideration of our policy.

TRADE AND HUMAN RIGHTS

Mr. President, there is a host of other good reasons to remain engaged with China. I have gone over these points time and time again, as have many of my colleagues. I will not go into detail at this time.

But we must keep in mind what removal of MFN—an undeniable result of this bill—will do to our other interests. It will hurt American business interests. It will remove our ability to negotiate on trade problems on copyrights, intellectual property rights, and unfair market practices. Loss of this power will mean we cannot protect ourselves, nor will we be able to change China's practices.

The loss of MFN will hurt the reformers in China, the very people we want to encourage. There are strong indications coming from Beijing that the policy of reform is making a strong comeback. What a loss it would be if we pushed this reform back a step.

Mr. President, we will also do untold damage to our friends in Hong Kong, and in Taiwan as well. There are no places more directly affected by China's hardline leaders than Hong Kong, Taiwan, and even South Korea. But these nations are not isolating China, they are getting more involved every day. They know the true value of the power of the marketplace to bring about democratic reform. We must learn from their examples.

CONCLUSION

Mr. President, the removal of MFN status for China most importantly reduces our ability to influence change in China. This would be a tragic mistake on our part. We must stick with our convictions that we can influence change in repressive nations, as we have done so successfully around the world in the last few years. We must reject this policy of isolation and sustain the President's veto.

Mr. CHAFEE. Mr. President, I know of no further speakers on our side who wish to speak on this veto situation. And, thus, I am prepared to yield back all the time on this side if the distinguished chairman of the committee would like to do so.

Mr. BENTSEN. Mr. President, I know of no further speakers on this side. I am prepared to yield back the remainder of our time, and I do so. I understand that the rollcall is automatic.

The PRESIDING OFFICER. The Senator is correct.

The Chair understands that both floor managers have yielded back all time reserved on the veto override.

The question is, Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding? The yeas and nays are required. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Illinois [Mr. DIXON] is necessarily absent.

I also announce that the Senator from North Dakota [Mr. CONRAD] is absent because of a death in the family.

I further announce that, if present and voting, the Senator from Illinois [Mr. DIXON] would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—60 yeas, 38 nays, as follows:

[Rollcall Vote No. 52 Leg.]

YEAS—60

Adams
Akaka
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Byrd
Cranston
D'Amato
Daschle
DeConcini
Dodd
Exon
Ford
Fowler
Glenn
Gore
Gorton
Graham
Harkin
Heflin
Helms
Hollings
Inouye
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Mack
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pressler
Pryor
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Smith
Specter
Wallop
Wellstone
Wirth
Wofford

NAYS—38

Baucus
Bond
Brown
Burdick
Burns
Chafee
Coats
Cochran
Cohen
Craig
Danforth
Dole
Domenici
Durenberger
Garn
Gramm
Grassley
Hatch
Hatfield
Jeffords
Johnston
Kassebaum
Kasten
Lugar
McCain
McConnell
Murkowski
Nickles
Packwood
Roth
Rudman
Seymour
Shelby
Simpson
Stevens
Symms
Thurmond
Warner

NOT VOTING—2

Conrad
Dixon

The PRESIDING OFFICER. On this vote, the yeas are 60, the nays are 38. Two-thirds of the Senators voting, a quorum being present, not having voted in the affirmative, the bill on reconsideration fails to pass over the President's veto.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, there will be no further rollcall votes today.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there be a period for morning business, with Senators be permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORE addressed the Chair.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Tennessee is recognized.

FOURTH ANNIVERSARY OF THE GASSING OF THE KURDS

Mr. GORE. Mr. President, Monday, March 16, was the fourth anniversary of the gassing of the Kurdish city of Halabja, at the order of Saddam Hussein. More than 5,000 men, women, and children died in that attack. Today, Saddam Hussein—having survived even his military defeat at our hands—remains in power. He continues a genocidal war against any group that would stand against him: against the Shiites holding out desperately in the southern marshes of Iraq, and especially, against the entire population of the Kurdish region in the north.

There are no words to adequately or fully explain the nightmare of Saddam Hussein's continuing reign of terror, the suffering of innocent men, women, and children who have been methodically tortured—literally and figuratively—by a government that has them frightened, paralyzed, and smothered by despair.

For a description of these events, I especially commend to you and to all Members of this body, a staff report issued in November 1991, to the Senate Committee on Foreign Relations, entitled "Kurdistan in the Time of Saddam Hussein." When this report was issued, 600,000 Kurds had fled to the Turkish border with Iraq and were facing mass death from exposure, epidemic disease, and hunger. After a belated start, but to its credit, the Bush administration ultimately acted. Operation Provide Comfort prevented a major calamity from becoming a catastrophe.

Thanks to that effort, the Kurdish people escaped the worst, but they continue to face a deadly threat.

For months, Saddam Hussein has imposed a land blockade on the Kurdish regions, literally starving to submission or death his own people—simply because he is afraid that if their voices are not silenced, they will overpower his. Food, fuel, and medicine are in critically short supply. The United Nations, which has taken over responsibility for humanitarian relief, is not—according to my information—responding at a level commensurate to the need.

Meanwhile, Iraqi military forces are reportedly beginning to press in upon the Kurdish regions. It is clear that Saddam Hussein is going to use every means at his disposal to destroy the Kurds. The question is: Can he get away with it?

Our country cannot turn its back on this cruel, inhuman, unthinkable repression. We alone can make a difference to millions of human beings—to men, women, and children, to parents and grandparents and the new generations they are struggling to protect and nurture.

We could bring food, fuel, and medicine to the Kurdish people—even as we and others must now undertake to help Turkey deal with the effects of the recent earthquake. We have the ability to make Saddam Hussein pay for any military infraction of the cease-fire. And, in my opinion, we have the ability ultimately to dispose of him and his entire wretched system of government.

But President Bush has created an obstacle to action by creating an obstacle in our thinking; namely, the sense that Saddam Hussein is somehow essential to the stability of his region and that we must take care to deal with him only within carefully weighted limits. We must get over it and beyond it. Saddam Hussein and those who serve him are war criminals. The people in the region will not begin to know safety until Saddam and his cohorts have met the fate of all tyrants, as one day they assuredly will.

Long ago, we should have started to prepare for that day of reckoning. Instead, based on the misguided notion that we needed Saddam Hussein's regime, the administration literally gave him the means to save himself, and to beat down those who rose up against him. It took a long time—too long—for the administration to accept that this man is a permanent menace, and to begin to cast about for ways to bring him down.

Better late than never, maybe, but more than the administration's timing is off—the policy is still lagging and haphazard. Once the administration finally came to appreciate the need to depose Saddam Hussein, you would think that it would grasp any and all tools for that purpose. One of those tools, it seems to me, is to convene a formal war crimes tribunal to document crimes against humanity, committed by Saddam Hussein and his associates. But no tribunal was convened. Why?

This should have been done immediately after the liberation of Kuwait. That it was not done is extremely curious. But perhaps more curious still is the administration's slowness to act on another major opportunity to document without question the criminal nature of the Baathist regime. The possibility exists to remove from the Kurdish region all the necessary and terrifying documentation to keep a tribunal fully occupied investigating and prosecuting crimes against the Kurds alone.

These are the records kept by the Iraqi police themselves, of torture and death visited upon thousands of men, women, and even little children. In some cases there are video-tapes of these atrocities—videotapes too brutal even for American television. Recently, there has been some press and television coverage of these matters, but it is only the tip of the iceberg.

Starting in late November, I have appealed privately on more than one occasion for the administration to act to secure these documents and tapes. I have even provided the administration with the promised support of one of our greatest universities to help speedily organize and release this information. But the administration delays, and with each day, the risk increases that some portion of this information will be lost.

I understand that there are impediments of one sort or another. But even making allowances for that—generous allowance—it baffles me and disappoints me deeply that so much time has been lost, and still the administration plods along on a spiral bureaucratic track. Where is the passion for justice that one should find here?

Does our Government find it acceptable that this record should be lost, and that these voices of the dead be silenced forever? We have it without our capacity to document these atrocities and to make this information available. Does this administration really endorse a policy of inaction that threatens to erase a brutal record that must be remembered and prosecuted rather than being whispered away and forgotten? Does it wish to risk becoming Saddam Hussein's accomplice by helping him escape exposure and condemnation? Surely, not. That cannot be the explanation, and it is not. Surely, the administration will act eventually to make sure that the one imperishable memory of Saddam Hussein will be the precisely documented and cataloged record of his crimes against humanity.

Tomorrow, Mr. President, the Senate Foreign Relations Committee will be holding a hearing on the subject of mass murder in Iraq. In doing this, they perform a sacred duty to the dead whose blood, as the Bible says, cries out from the earth on which it was spilled. But there are the living to remember as well as the dead. Hopefully, during this week of remembrance, our Government will reaffirm its support for the living: by stating bluntly that we will not stand idle while the Kurds perish by degrees, as Saddam Hussein tightens the noose. Instead, let us provision the Kurds, let us warn Saddam Hussein against violating their sanctuary, and let us take every necessary step to expose to world opinion what has been done to them by the powers that be in Iraq.

In the aftermath of the gulf war, President Bush decided not to react in the face of the uprising he had encouraged and, as a result, thousands of lives were unnecessarily lost. A brilliant war strategy was dimmed by the disarray of lackluster post-war confusion. We have an urgent opportunity before us. We cannot allow mistakes of policy or a loss of courage. We cannot ignore the voice of conscience for the sake of expediency.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

OMB INTERFERENCE IN OSHA'S EFFORTS TO PROTECT WORKER HEALTH AND SAFETY

Mr. KENNEDY. Mr. President, for too long, American workers have been exposed to an unacceptable range of dangerous conditions in the workplace. When Congress passed the Occupational Safety and Health Act of 1970, our goal was to end these intolerable conditions and guarantee every worker the basic right to safe and healthy conditions on the job.

The Nation made remarkable bipartisan progress toward this goal in the 1970's. But not in the 1980's. For the past 12 years, the Reagan and Bush administrations have systematically undermined the intent of the statute, obstructed its goals, and interfered with the ability of the Occupational Safety and Health Administration to fulfill its responsibility.

But the obstructionist tactics of the administration have sunk to new depths this year. In January, as part of his so-called regulatory moratorium, President Bush asked OSHA to conduct a top-to-bottom review of every health and safety regulation issued in the past 20 years. Too many workers remain at risk and too many workplace hazards still exist for OSHA to divert its scarce resources to this kind of blanket review of the few regulations it has managed to issue.

Most of us also find it very curious that the Bush administration is suddenly committing resources to reviewing itself—because most of the regulations to be reviewed were issued under the Reagan and Bush administrations. They have already undergone earlier exhaustive reviews by the Office of Management and Budget.

Now, the absurdity of even that review has been outdone. Last week, the Office of Management and Budget blocked OSHA from going forward with a pending new standard to limit the threat of toxic chemicals to workers in the construction, maritime, and agriculture industries. The regulations would protect 6 million workers in those industries from exposure to dangerous chemicals that cause cancer and other serious diseases.

OMB makes the preposterous claim that these health regulations will actually jeopardize workers' health. The agency is relying on a far-out, off-the-wall, right-wing theory of cost-benefit analysis—a theory that if employers spend less money on health and safety, they will pay higher wages to employees or charge lower prices for their goods. As a result, OMB claims, workers will be able to eat more nutritious food, spend more quality time on leisure activities, purchase fancier health club memberships, and afford higher quality health care.

This is what OMB is saying to workers in agriculture and in the construction and maritime industries—keep on breathing those toxic paint and fertilizer fumes. Do not get up tight about the sandblasting. Do not give a second thought to the toxic chemicals you are handling. Do not worry about the lung cancer, the silicosis, the kidney damage, the anemia, the high blood pressure, the neurological disease you may be getting on the job. Do not worry if you wake up coughing in the night and short of breath. You will have higher wages to help you pay your medical bill. Consumers will be paying lower prices for commercial products—so at least those consumers will be able to afford healthier lives.

This is deregulation ideology run amok. It is Alice in Wonderland economics. OMB is saying that healthy working conditions are bad for workers' health.

OMB should stop kowtowing to business, and OSHA and the Labor Department should get on with their statutory responsibility of protecting workers' health. It is inexcusable that these toxic chemical regulations are being delayed even 1 minute, let alone several years, because of irrational arguments like this.

For too long, the Bush administration has refused to address America's worsening health crisis. Now they are compounding the neglect by attempting to take the problems of most Americans in obtaining decent health care, and turn those problems upside down to justify further neglect of workers' health and obtain higher profits for business.

As I understand it, even the Labor Department is gagging over this flagrant intervention by OMB. Perhaps President Bush does not really know what OMB is doing in his name. This President, any President, should reject such an absurd and illogical application of cost-benefit analysis, and put a stop to this shameful and transparent attempt to protect business profits at the expense of workers' health.

One phone call would do it, Mr. President. What we need is a moratorium on OMB, not a moratorium on needed health and safety standards in the workplace.

Congress never intended any such result in the OSHA statute. In fact, in interpreting that law, the Supreme Court has flatly ruled that OSHA cannot rely on cost-benefit analysis at all in setting health standards for the workplace—let alone take such analysis to this extreme. OMB is out of its depth and out of its jurisdiction. If the White House wants a practical demonstration of effective cost-benefit analysis, the President should take OMB to the woodshed and strike a blow for worker health and safety.

Even on its own terms, OMB's cost-benefit analysis is ridiculous. They completely ignore the real costs of failing to protect the health of workers. They ignore the significant costs that occupational illness imposes on the health care system, the Social Security and disability system, and the worker's compensation system. They ignore the costs of lost productivity. They ignore the enormous human costs of worker deaths and illnesses.

In sum, OMB says that healthier workplaces undermine workers' health. That position is irrational and unacceptable, and President Bush should reject it forthwith.

Mr. President, I yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 2370 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE INTREPID WARRIORS

Mr. SIMPSON. Mr. President, I would like to take just a few moments to commend our returning colleagues, the intrepid warriors, Senators BOB KERREY and TOM HARKIN, for their personal courage in taking on with enthusiasm and conviction one of the most awesome enterprises ever created by the mind of man. I say "mind of man" because if it was created by a Higher Power, I am certain it would have been a more rational activity. I am, of course, speaking about the campaign for the Presidency of the United States.

All of us here who have sought political office, whether in Congress or in State legislatures or city councils, or at any level—county commissioner, whatever—have the greatest variety of differences in character and philosophy as any set of human beings could possibly have.

However, most of my adult life, I have spent legislating. I do believe there is one common personality factor in legislators. We may serve poorly; we may serve well. We may be political success stories or abject failures. We may be the winners of elections or the losers.

But it has been my personal experience that the vast majority of people that truly strive, and then make the choice to run, the very intimate choice—you are putting your name on the ballot and people are there to accept or reject you by your name; are truly sincere in their common desire to be of some service to their fellow man.

The public criticism which those of us in political office receive is in large part due to the performance gap between our own human frailties and this still noble calling of public service.

Since we all have that basic desire to serve, it is then quite logical that folks who are either blessed or afflicted—however you might want to look at it—with that particular character trait might seek the opportunity to do the highest and best good for the greatest amount of people. And the office of the President of the United States is about the best you can do on that score.

Getting there, however, often involves the highest level of personal sacrifice that is imaginable by any of us. As Senators, we think we are under the constant light of scrutiny. It is nothing in comparison to what Senator HARKIN and Senator KERREY have recently endured. It is much more than living in a fish bowl—in the present tense. Every bit of your past is dredged right up there with you, too.

And one must never forget: You also need to express in the gravest and greatest detail exactly what you will do in the future—1 year, 10 years, 5 years, 4—"Who will serve in your administration? What is your specific plan for this special interest or that; and boy, there are plenty of them. What will be the tag on your philosophy and you slogan?" And much crazier questions than that.

So I admire both of our fine colleagues for their striving and vigor. Senator KERREY and Senator HARKIN had their message to deliver. They ran their campaigns and contributed greatly to the electoral process, just as have other colleagues on this floor, such as Senators DOLE, BENSTEN, THURMOND, BIDEN, CRANSTON, GLENN, GORE, HOLLINGS, KENNEDY, SIMON and PRESSLER, have done in the past.

And, I would hunch, I probably left some out. So now we welcome them back to the bosom of the Senate. As I have often said, done properly and well, legislating is still one of the driest forms of human endeavor. We welcome them back to that type of routine.

It is going to be a very partisan year. In fact, it already assuredly is. We see that each and every day. The bills we have just been discussing are no exception. The folks on our side of the aisle are going to continually step up on this floor to defend the President and advocate his proposals vigorously. The folks across the aisle are vigorously going to criticize the President, and whenever they nominate their person, they will be coming to the floor to glorify their nominee's proposals. All of this activity is "the mother's milk of politics," as my old friend Jesse Unruh of California, used to say, but it serves to complicate the nature of our work. There is even greater potential for complication and gridlock when colleagues of either party add the ingredient of their own campaigns for reelection to this strange recipe which we serve up daily on this floor.

However, all that is now behind our two friends, and we welcome them back to the relatively reduced wattage of the lights in this venerable Chamber. I have had, and will continue to have, political disagreements with both Senator HARKIN and Senator KERRY; and boy, have we had some. But let me say they both served with vigor and energy, and they are effective legislators and have demonstrated that very singular characteristic of a sincere and honest desire to serve their fellow citizens. I welcome them back.

Mr. President, I yield the floor.

APPOINTMENT BY THE PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The Chair, on behalf of the President pro tempore, pursuant to Public Law 93-29, as amended by Public Law 98-459, appoints Ms. Cornelia Hadley, of Kansas, to the Federal Council on the Aging, for a term effective February 26, 1992.

Mr. SIMPSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TECHNICAL CORRECTIONS TO RULE XXV OF THE STANDING RULES OF THE SENATE

Mr. PRYOR. Mr. President, on behalf of Senator MITCHELL and Senator DOLE, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 272, a resolution to make technical changes to rule XXV; that the resolution be agreed to; and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 272) was considered and agreed to as follows:

S. RES. 272

Resolved, That paragraph 4(h) of rule XXV is amended to read as follows:

"(h)(1) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Environment and Public Works and the Committee on Finance may, during the One Hundred Second Congress, also serve as a member of the Committee on Agriculture, Nutrition, and Forestry so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(2) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Armed Services and the Committee on Energy and Natural Resources may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(3) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(4) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations may, during the One Hundred Second Congress, also serve as a member of the Committee on Energy and Natural Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(5) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(6)(A) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Armed Services and the Committee on the Judiciary may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(B) A Senator who during the One Hundred Second Congress serves on the Committee on Armed Services, the Committee on the Judiciary, and the Committee on Labor and Human Resources, who serves as chairman of a committee listed in paragraph 2, may, serve as chairman of two subcommittees of all committees listed in paragraph 2 of which he is a member.

"(7) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations may, during the One Hundred Second Congress, also serve as a member of the Committee on Banking, Housing, and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(8)(A) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations may, during the One Hundred Second Congress, also serve as a member of the Committee on the Judiciary so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(B) A Senator who during the One Hundred Second Congress serves on the Committee on Agriculture, Nutrition, and Forestry, the Committee on Appropriations and the Committee on the Judiciary, and who serves as chairman of a committee listed in paragraph 2, may, serve as chairman of two subcommittees of all committees listed in paragraph 2 of which he is a member.

"(9) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Environment and Public Works and the Committee on the Judiciary may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(10) A Senator who on the last day of the One Hundred First Congress was serving on the Committee on Environment and Public Works and the Committee on the Finance may, during the One Hundred Second Congress, also serve as a member of the Committee on Foreign Relations so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(11) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance may, during the One Hundred Second Congress, also serves as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(12) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Appropriations and the Committee on Banking, Housing, and Urban Affairs may, during the One Hundred Second Congress, also serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(13) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Armed Services and the Committee on Banking, Housing, and Urban Affairs may, during the One Hundred Second Congress, also serve as a member of the Committee on Energy and Natural Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(14) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Judiciary and the Committee on Labor and Human Resources may, during the One Hundred Second Congress, also serve as a member of the Committee on Foreign Relations so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(15) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Armed Services and the Committee on Energy and Natural Resources may, during the One Hundred Second Congress, also serve as a member of the Committee on Banking, Housing, and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(16) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Special Committee on Aging, may, during the One Hundred Second Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(17) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Veterans' Affairs, may, during the One Hundred Second Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraph 3 (a) and (b).

"(18) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Rules and Administration, may, during the One Hundred Second Congress, also serve as a member of the Committee on Veterans Affairs and the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than three committees listed in paragraphs 3 (a) and (b).

"(19) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Rules and Administration, may, during the One Hundred Second Congress, also serve as a member of the Joint Economic Committee so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(20) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Veterans Affairs, may, during the One Hundred Second Congress, also serve as a member of the Special Committee on Aging so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(21) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget, may, during the One Hundred Second Congress, also serve as a member of the Special Committee on Aging so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(22) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Small Business, may, during the One Hundred Second Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(23) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Special Committee on Aging, may, during the One Hundred Second Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(24) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget, may, during the One Hundred Second Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(25) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Rules and Administration, may, during the One Hundred Second Congress, also serve as a member of the Committee on the Budget so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(26) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Rules and Administration, may, during the One Hundred Second Congress, also serve as a member of the Joint Committee on Taxation so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraph 3.

"(27) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget, may, during the One Hundred Second Congress, also serve as a member of the Special Committee on Aging so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(28) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Judiciary, and the Committee on Armed Services, may, during the One Hundred Second Congress, serve as a member of the Committee on Labor and Human Resources, so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(29) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Finance and the Committee on the Governmental Affairs may, during the One Hundred Second Congress, also serve as a member of the Committee on Banking, Housing, and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(30) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Appropriations, and the Committee on Energy and Natural Resources, may, during the One Hundred Second Congress, also serve as a member of the Committee on Banking, Housing, and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(31) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Appropriations, and the Committee on Banking, Housing, and Urban Affairs may, during the One Hundred Second Congress, serve as a member of the Committee on Energy and Natural Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(32) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Labor and Human Resources and the Committee on the Judiciary may, during the One Hundred Second Congress, also serve as a member of the Committee on Finance so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(33) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Judiciary and the Committee on Labor and Human Resources may, during the One Hundred Second Congress, serve as a member of the Committee on Foreign Relations so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(34) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Environment and Public Works and the Committee on Finance may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(35) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Foreign Relations and the Committee on Labor and Human Resources may, during the One Hundred Second Congress, serve as a member of the Committee on Banking, Housing, and Urban Affairs so long as her service as a member of each such committee is continuous, but in no event may she serve, by reason of this subdivision, as a member of more than three communities listed in paragraph 2.

"(36) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Appropriations may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(37) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Finance and the Committee on the Judiciary may, during the One Hundred Second Congress, also serve as a member of the Committee on Agriculture, nutrition, and Forestry so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(38) A Senator who was sworn in on January 10, 1991, may serve as a member of the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry, may, during the One Hundred Second Congress, serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(39) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Appropriations and the Committee on the Judiciary may, during the One Hundred Second Congress, also serve as a member of the Committee on Banking, Housing, and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(40) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget and the Committee on Small Business may, during the One Hundred Second Congress, continue his service on these two committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(41) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget and the Special Committee on Aging may, during the One Hundred Second Congress, continue his service on these two committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3(a) and (b).

"(42) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget and the Committee on Small Business may, during the One Hundred Second Congress, continue his service on these two committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(43) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Select Committee on Intelligence and the Committee on Veterans' Affairs may, during the One Hundred Second Congress, continue his service on these two committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3(a) and (b).

"(44) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Veterans' Affairs and the Special Committee on Aging may, during the One Hundred Second Congress, continue his service on these two committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(45) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Rules and Administration and the Committee on Small Business may, during the One Hundred Second Congress, continue his service on these two committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(46) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Special Committee on Aging and the Committee on Small Business may, during the One Hundred Second Congress, continue his service on these two committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(47) A Senator may serve as a member of the Special Committee on Aging and the Committee on Small Business during the One Hundred Second Congress so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(48) A Senator may serve as a member of the Special Committee on Aging and the Committee on Veterans' Affairs during the One Hundred Second Congress so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(49) A Senator may serve as a member of the Committee on Rules and Administration and the Select Committee on Intelligence during the One Hundred Second Congress so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b)."

RETAIL COMPETITION

Mr. PRYOR. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 429.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House insist upon its amendments to the bill (S. 429) entitled "An Act to amend the Sherman Act regarding retail competition," and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ordered, That Mr. Brooks, Mr. Edwards of California, Mr. Synar, Mr. Fish, and Mr. Campbell of California be the managers of the conference on the part of the House.

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senate disagree to the amendments of the House; agree to the conference requested by the House on the disagreeing votes of the two Houses; and that the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair appoints Mr. BIDEN, Mr. KENNEDY, Mr. METZENBAUM, Mr. THURMOND, and Mr. HATCH conferees on the part of the Senate.

DEMOCRATIC CHANGES IN ZAIRE

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 417, Senate Concurrent Resolution 80, a concurrent resolution concerning democratic changes in Zaire; that the committee amendments where appropriate be agreed to; that the concurrent resolution be agreed to; that the motion to reconsider the adoption of these items be laid upon the table; that the preamble and the amendments to the preamble be agreed to en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to.

The concurrent resolution (S. Con. Res. 80) as amended, was agreed to.

The preamble was agreed to.

The concurrent resolution, as amended, and the preamble, are as follows:

S. CON. RES. 80

Whereas the people of the United States support the development of democratic institutions in Zaire that reflect the will of the people of Zaire and are concerned about ongoing human rights abuses in Zaire as confirmed by the Lawyers Committee for Human Rights;

Whereas Zairean security forces have repressed peaceful mass demonstrations protesting the government's economic policies and urging the implementation of democratic reforms;

Whereas recent press reports and other reliable sources indicate that these incidents caused the death of several people as well as the arrest of numerous people opposed to the regime;

Whereas these tragic events occurred following a period of continuous procrastination in convening a sovereign national conference composed of political, civic, religious, and other organizations;

Whereas President Mobutu has indicated, clearly, a lack of commitment to a transitional government to return the country to democracy by dismissing the new Prime Minister Tshisekedi Wa Mulumba;

Whereas the leaders of government in Zaire, beginning with President Mobutu, have systematically obstructed each attempt to facilitate this conference which could bring about a peaceful transition toward democracy; and

Whereas the catastrophic economic and social situation and the rampant corruption of authority, against which the population of Zaire is revolting, are being aggravated by the political uncertainty deliberately prolonged by President Mobutu: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) calls on President Mobutu to step down and permit the transitional government to return the country to democratic rule;

(2) firmly condemns all violations of human rights in Zaire;

(3) fully supports the aspirations of the Zairean people for democratic change, in particular the convocation of a sovereign national conference that would be fully representative of all the opposition forces, that would be conducted in a democratic manner, and that would have the full right to make its own decisions;

(4) supports the sovereign national conference to form the transitional government as soon as possible to organize free and democratic elections;

(5) invites the international community of nations to express their concern with respect to the repression and corruption of the regime and to provide support to the Zairean democratic forces desire for peaceful change;

(6) calls upon the President of the United States to urge the introduction of appropriate international observers to monitor the National Conference; and

(7) calls upon the President of the United States to express his willingness to offer appropriate assistance to help implement the political transition process.

MEASURE INDEFINITELY POSTPONED—SENATE CONCURRENT RESOLUTION 70

Mr. PRYOR. Mr. President, I ask unanimous consent that calendar No. 416, Senate Concurrent Resolution 70, a concurrent resolution to express the sense of Congress with respect to the support of the United States for the protection of the African elephant, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

RAIL SAFETY IMPROVEMENT INITIATIVES ACT

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar No. 326, S. 1571, the Rail Safety Improvement Initiatives Act of 1992.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1571) to amend the Federal Railroad Safety Act of 1970 to improve railroad safety, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with amendments.

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italics.)

S. 1571

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Rail Safety Improvement Initiatives Act of 1991".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 2. Section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444) is amended to read as follows:

"SEC. 214. AUTHORIZATION FOR APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out this Act not to exceed $41,024,000 for general safety operations, plus $10,748,000 for railroad research and development (except magnetic levitation and other high-speed rail research and development), for the fiscal year ending September 30, 1992; not to exceed $53,116,000 for general safety operations, plus $15,167,000 for railroad research and development (except magnetic levitation and other high-speed rail research and development), for the fiscal year ending September 30, 1993; and not to exceed $55,931,000 for general safety operations, plus $15,759,000 for railroad research and development (except magnetic levitation and other high-speed rail research and development), for the fiscal year ending September 30, 1994. The Secretary is authorized to request, receive, and use payments from non-Federal sources for expenses incurred in training safety employees of private industry, State and local authorities, or other public authorities, other than State rail safety inspectors participating in training pursuant to section 206 of this title.

"(b) Sums appropriated under this section for railroad research and development and automated track inspection are authorized to remain available until expended.".

PENALTY PROVISIONS

SEC. 3. (a) CLARIFICATION OF APPLICABILITY.—Section 209(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(a)) is amended by striking the parenthetical clause and inserting in lieu thereof the following: "(including but not limited to a railroad; any manager, supervisor, or other employee or agent of a railroad; any owner, manufacturer, lessor, or lessee of railroad equipment, track, or facilities; or any independent contractor providing goods or services to a railroad)".

(b) SANCTIONS AGAINST INDIVIDUALS.—(1) Within three months after the date of enactment of this Act, the Secretary of Transportation shall establish operational procedures to ensure the effective use of the authority under section 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438) to assess civil penalties and issue prohibitory orders against individuals for violations of any rule, regulation, standard, or order prescribed by the Secretary of Transportation under that Act.

(2) Not later than January 1, 1994, the Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the extent to which the Secretary has used the authority to assess civil penalties and issue prohibitory orders as described in paragraph (1).

REGIONAL ENFORCEMENT PILOT PROJECT

SEC. 4. (a) ESTABLISHMENT.—The Secretary of Transportation shall establish a pilot project in at least one region of the Federal Railroad Administration to demonstrate the benefits that may accrue to the Federal railroad safety program from having legal counsel available in regional offices of the Federal Railroad Administration.

(b) PROGRAM DESIGN.—The pilot program shall be designed to test whether having a regional attorney who is a Federal employee within the Department of Transportation perform initial case review, assess penalties, settle cases, and provide legal advice to Federal Railroad Administration regional personnel on enforcement and other issues is preferable to having all such actions performed at the headquarters level.

(c) COMPLETION.—The pilot program shall be completed within eighteen months after the date of enactment of this Act.

(d) REPORT.—Within two years after the date of enactment of this Act, the Secretary of Transportation shall submit a report to the Congress describing the results of the pilot program. Factors to be considered in the report shall include, but are not limited to, the speed, volume, and effectiveness of civil penalty actions; the efficiency of the delivery of legal advice on safety issues; the financial and other costs of retaining regional attorneys in each region; and the effects on uniformity of enforcement resulting from performing in the regions of the Federal Railroad Administration the actions described in subsection (b).

PROTECTION OF RAILROAD SAFETY ENFORCEMENT PERSONNEL

SEC. 5. Section 1114 of title 18, United States Code, is amended by inserting "any officer or employee of the Federal Railroad Administration assigned to perform investigative, inspection, or law enforcement functions," immediately after "any employee of the Coast Guard assigned to perform investigative, inspection or law enforcement functions,".

LOCOMOTIVE CRASHWORTHINESS AND WORKING CONDITIONS

SEC. 6. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end the following new subsection:

"(r)(1) The Secretary shall, within 24 months after the date of enactment of this subsection, submit to Congress a report on the status of efforts to improve the safety of locomotive cabs. Such report shall assess—

"(A) the adequacy of Locomotive Crashworthiness Requirements Standard S-580, adopted by the Association of American Railroads in 1989, in improving the safety of locomotive cabs; and

"(B) the extent to which environmental and other working conditions in locomotive cabs affect productivity and the safe operation of locomotives.

"(2) In carrying out the assessment required under paragraph (1)(A), the Secretary shall conduct research and analysis, including computer modeling and full-scale crash testing, as appropriate, to consider the costs and safety benefits associated with equipping locomotives with—

"(A) braced collision posts;

"(B) rollover protection devices;

"(C) deflection plates;

"(D) shatterproof windows;

"(E) readily accessible crash refuges;

"(F) uniform sill heights;

"(G) anti-climbers, or other equipment designed to prevent overrides resulting from head-on locomotive collisions;

"(H) equipment to deter post-collision entry of flammable liquids into locomotive cabs; or

"(I) any other devices intended to provide crash protection for occupants of locomotive cabs.

"(3) The report required under paragraph (1) shall include a statement of the Secretary's plans for related regulatory action or, if no regulatory action is planned, an explanation of why the Secretary considers such action unnecessary.".

RAILROAD OCCUPATIONAL SAFETY AND HEALTH

SEC. 7. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by this Act, is further amended by adding at the end the following new subsection:

"(s)(1) The Secretary shall consult with the Secretary of Labor to ensure that the Secretary of Labor is currently apprised of the extent to which the Secretary has exercised jurisdiction to prescribe or enforce rules, regulations, standards, or orders affecting occupational safety or health under this title or any other Federal railroad safety law.

"(2) The Secretary shall promptly refer to the Secretary of Labor any information or credible allegation concerning safety or health hazards affecting railroad employees involving working conditions as to which the Secretary has not exercised the jurisdiction described in paragraph (1).

"(3) Upon enactment of this subsection, the Secretary shall publish in the Federal Register a request for comments from railroad labor, railroad management, and other interested persons regarding the matters described in paragraph (4) (A), (B), and (C). Such comments shall be submitted to the Secretary within 6 months after the date of enactment of this subsection.

"(4) Not later than 18 months after the date of enactment of this subsection, the Secretary shall submit to the Congress a report concerning coordination of Federal activities with respect to the safety and health of railroad employees under this title, the other Federal railroad safety laws, and the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.). The Secretary shall include in the report—

"(A) a description of any material hazards, or alleged material hazards, not currently addressed by a specific rule, regulation, order or standard, pertaining to working conditions with respect to which the Secretary has exercised the jurisdiction described in paragraph (1);

"(B) a description of any standards issued by the Secretary of Labor under the Occupational Safety and Health Act of 1970 for general industry, or for construction, that would apply to such working conditions, absent the Secretary's exercise of jurisdiction; and

"(C) a discussion of the extent to which application of standards issued under the Occupational Safety and Health Act of 1970 to such working conditions would—

"(i) enhance safety;

"(ii) conflict with rules, regulations, orders or standards issued by the Secretary;

"(iii) result in any operational or other hazard due to the nature of the railroad work environment; and

"(iv) impose excessive or unnecessary costs on the railroads and the public.".

EVENT RECORDERS

SEC. 8. Section 202(m) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(m)) is amended to read as follows:

"(m) Following a railroad accident reportable to the National Transportation Safety Board, the Board shall have immediate access to event recorders, recording media of such recorders, and all train components related to event recorders, and shall have the first opportunity to read event recorder data and related materials. The railroad shall take all steps necessary to preserve such recorders and related equipment in accordance with rules established by the Board. In no case shall any person other than personnel of the Board attempt to operate such event recorder, or attempt to read or extract event recorder data, unless and until the Board has released the railroad from its obligations under this **[**paragraph.**]** *subsection*. If, within 4 hours after receiving notification by the National Response Center, the Board does not notify a railroad that the Board's employees are en route to the accident scene and that the Board intends to exercise its right to immediate access to the railroad's event recorder, recording media, and related equipment, the railroad shall be released from its obligations under this **[**paragraph.**]** *subsection*. Upon such release, the railroad and other agencies investigating the accident may operate the event recorder and read or extract event recorder data. If the Board exercises its right to immediate access to the railroad's event recorder, recording media, and related equipment, the Board shall provide access to these items to the railroad and other investigative agencies within a reasonable period of time. Any railroad or other person who violates this **[**paragraph**]** *subsection* shall be liable for a civil penalty under section 209.".

VOICE COMMUNICATIONS AND ADVANCED TRAIN CONTROL SYSTEMS

SEC. 9. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by this Act, is further amended by adding at the end the following new subsection:

"(t)(1) Within 12 months after the date of enactment of this subsection, the Secretary, after consultation with the National Railroad Passenger Corporation, freight carriers, and rail equipment manufacturers, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on voice communications and advanced train control systems.

"(2) With respect to voice communications, such report shall—

"(A) summarize the present technology in use and available for ensuring operationally effective voice communications between trains and between trains and train dispatchers located at railroad stations; and

"(B) evaluate the advantages and disadvantages of requiring that every locomotive (and every caboose, where applicable) be equipped with a railroad voice communications system capable of permitting a person in the locomotive (or caboose) to engage in clear two-way communications with persons on following and leading trains and with train dispatchers located at railroad stations.

"(3) With respect to advanced train control systems, the report shall—

"(A) describe the status of advanced train control systems that are being developed, and assess the implications of such systems for effective railroad communications; and

"(B) **[**makes**]** *make* recommendations with regard to the need for minimum Federal standards to ensure that such systems provide for positive train separation and are compatible nationwide.".

NORTHEAST CORRIDOR SAFETY COMMITTEE

SEC. 10. (a) MEETINGS.—Section 11(c) of the Rail Safety Improvement Act of 1988 (45 U.S.C. 431 note) is amended to read as follows:

"(c) The Northeast Corridor Safety Committee shall meet at least once every two years to consider matters involving safety on the main line of the Northeast Corridor.".

(b) REPORT.—Section 11(d) of the Rail Safety Improvement Act of 1988 (45 U.S.C. 431 note) is amended—

(1) by striking "Within one year after the date of enactment of this Act" and inserting in lieu thereof "At the beginning of the first session of the 103d Congress, and biennially thereafter,"; and

(2) by adding at the end the following new sentence: "The report shall contain the safety recommendations of the Northeast Corridor Safety Committee and the comments of the Secretary on those recommendations.".

(c) TERMINATION DATE.—Section 11 of the Rail Safety Improvement Act of 1988 (45 U.S.C. 431 note) is amended by adding at the end the following new subsection:

"(e) The Northeast Corridor Safety Committee shall cease to exist on January 1, 1999, or on such date as the Secretary determines to be appropriate. The Secretary shall notify the Congress in writing of any such determination.".

JUDICIAL REVIEW

SEC. 11. (a) IN GENERAL.—Section 202(f) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(f)) is amended to read as follows:

"(f) Any final agency action taken under this title or under any of the other Federal railroad safety laws, as defined in section 212(e) of this title, is subject to judicial review as provided in chapter 7 of title 5, United States Code. Except as provided in section 203(e) of this title, any proceeding to review such final agency action shall be brought by filing a petition in the appropriate court of appeals. Such petitions shall be handled in the manner prescribed in chapter 158 of title 28, United States Code. Nothing in this section precludes the Secretary, through the Attorney General, from bringing an action in a district court when such action is permitted under this title.".

(b) TECHNICAL AMENDMENTS.—(1) Section 2341(3)(B) of title 28, United States Code, is amended by inserting "or the Secretary of Transportation" immediately after "Secretary of Agriculture".

(2) Section 2342 of title 28, United States Code, is amended—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(C) by adding at the end the following new paragraph:

"(7) all final agency actions described in section 202(f) of the Federal Railroad Safety Act of 1970.".

POWER BRAKE SAFETY

SEC. 12. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by this Act, is further amended by adding at the end the following new subsection:

"(u)(1) The Secretary shall conduct a review of the Department of Transportation's rules with respect to railroad power brakes, and within 18 months after the date of enactment of this subsection, shall revise such rules based on such safety data as may be presented during that review.

"(2) In carrying out paragraph (1), the Secretary shall, at a minimum, consider—

"(A) whether to require two-way end of train devices (or devices able to perform the same functions) to enable a train crew to initiate braking from the rear of a train; and

"(B) whether to issue requirements or standards regarding dynamic braking equipment.

"(3) The Secretary shall, within 2 years after the date of enactment of this subsection, report to the Congress on the results of the review conducted under paragraph (1) and any revisions of rules or other actions taken in connection therewith.".

LOCAL RAIL FREIGHT ASSISTANCE PROGRAM

SEC. 13. Section 5(q) of the Department of Transportation Act (49 App. U.S.C. 1654(q)) is amended—

(1) in the first sentence, by inserting ", $16,000,000 for fiscal year 1992, $20,000,000 for fiscal year 1993, and $25,000,000 for fiscal year 1994" immediately before the period at the end; and

(2) in the third sentence, by striking "any period after September 30, 1991" and inserting in lieu thereof "any period after September 30, 1994".

The PRESIDING OFFICER. Without objection, the reported committee amendments are agreed to.

Mr. EXON. Mr. President, I rise in support of S. 1571, the Rail Safety Improvement Initiatives Act of 1992. As chairman of the Surface Transportation Subcommittee of the Committee on Commerce, Science, and Transportation, I am pleased to have my colleagues, Senators HOLLINGS, KASTEN, BURNS, ROCKEFELLER, HARKIN, and SIMON, with me as cosponsors on this bill.

The railroad industry is fundamental to our Nation's transportation system. Our economy relies on railroad shipment and freight delivery, and intercity travelers in many portions of the country count on Amtrak for their transportation needs. We depend on the railroads to be reliable, but most importantly, they must be safe.

Recent accidents in the industry, with significant loss of life and harm to the environment, underscore this paramount concern for safety. Safety enforcement of the railroad industry is a Federal responsibility, assumed by the Federal Railroad Administration [FRA] within the Department of Transportation [DOT].

The legislation we are considering today, the Rail Safety Improvement Initiates Act of 1992, initiatives a new, 3-year authorization for FRA safety programs and sharpens the agency's existing safety responsibilities. The proposed 3-year funding cycle will broaden FRA's current safety programs, support additional initiatives, and provide for needed research and development efforts.

Amounts authorized to be appropriated under the bill for the general safety programs of FRA include $41.024 million in fiscal year 1992; $53.116 million in fiscal year 1993; and $55.931 million for fiscal year 1994. The bill also authorizes appropriations for the railroad research and development programs of FRA—exclusive of research and development for magnetic levitation and other high-speed rail systems—the sums of $10.748 million for fiscal year 1992; $15.167 million for fiscal year 1993; and $15.759 million for fiscal year 1994. These funding levels will permit FRA to accelerate action on its current safety regulatory agenda, move forward on the new administrative initiatives mandated by this legislation, and support critical research and development efforts vital to continued safety improvements in the railroad industry.

Among revisions to existing railroad safety laws contained in S. 1571, the Secretary of Transportation would be required to establish and complete within 18 months a pilot project to demonstrate the benefits of having available in FRA regional offices resident legal counsel empowered to streamline the enforcement review process. In order to clarify and extend the Secretary's enforcement authority, the legislation would broaden the statutory definition of "person" subject to such authority, require the Secretary to establish procedures to ensure the effective use of authorized sanctions, and provide for additional protection under Federal criminal law for Federal enforcement personnel. S. 1571 also prescribes technical amendments which would require that appeals of any final agency action taken under Federal railroad safety laws must be brought in the appropriate court of appeals.

Of note, S. 1571 will help clarify the applicability both of the railroad safety laws and the Occupational Safety and Health Act of 1970 to the working conditions of railroad employees. Under the bill, the Secretary would be required to work with the Secretary of Labor, to solicit public comments, and to report to Congress on efforts to facilitate interagency coordination and enforcement on issues related to the health and safety of railroad employees.

S. 1571 would also require the Secretary to review and revise DOT's rules on railroad power brakes, and to investigate the adequacy of railroad locomotive cab safety and working conditions. Other requirements in the legislation include a report by the Secretary to Congress on the current effectiveness of voice communications systems, and on the prospects for implementation of new advanced train control technologies. The bill also designates that the Northeast Corridor Safety Committee must meet every 2 years to consider matters concerning safety on the main line of the Northeast corridor. In addition, S. 1571 includes authorizations for the Local Rail Freight Assistance Program, in the amounts of $16 million for fiscal year 1992, $20 million for fiscal year 1993, and $25 million for fiscal year 1994.

I am pleased to accept and incorporate a number of amendments to S. 1571 as reported. The amendment by Senator HOLLINGS, chairman of the Committee on Commerce, Science, and Transportation, and cosponsor of this legislation, would require the General Accounting Office [GAO] to conduct an in-depth study of the Secretary's rules and regulations pertaining to track safety, to be followed by a rulemaking conducted by the Secretary to revise the Secretary's track safety regulations in accordance with GAO's recommendations.

Another amendment, by Senator SIMON, would require the Secretary within 1 year of enactment of the bill to conduct a study of the working conditions of railroad dispatchers. This study would examine the findings of a report, the "National Train Dispatcher Safety Assessment 1987–1988," released by FRA in 1990, in order to determine the scope of any further legislative or regulatory action which may be warranted.

A third amendment, by Senator SEYMOUR, would require the Secretary within 9 months after enactment of the bill to report to Congress on the routing of railroad hazardous materials shipments within the State of California. Through this report the Secretary would assess the relative safety of particular rail routes within California and recommend what actions can be taken, without unreasonably burdening commerce to improve inherently unsafe routes or reduce hazardous materials traffic along those routes.

In addition, I am pleased to offer three amendments to S. 1571 as reported. The first amendment is a technical to redate the short title of the bill to 1992 and strike one provision which is no longer needed. The second amendment I am introducing today would revise the section on locomotive cab crashworthiness and working conditions included in the bill as reported to require that the Secretary institute a rulemaking on this subject instead of a study. The amendment lists specific criteria to be considered in the scope of this rulemaking, and requires, if ultimately no regulations are prescribed in this important safety area, that the Secretary shall report to Congress on the reasons for that determination.

A third amendment I am offering today would revise the legislation as reported by requiring the Secretary to conduct a rulemaking addressing standards governing railroad power brakes and dynamic braking equipment. In carrying out this rulemaking the Secretary will require in specified circumstances two-way end of train devices capable of initiating braking from the rear of a train, with full implementation of this requirement to be completed within 48 months after issuance of performance standards for such end-of-train devices. I am pleased to incorporate into the bill this amendment which I believe will add significantly to the safety of our railroad industry.

In conclusion, Mr. President, the Rail Safety Improvement Initiatives Act of 1992 as amended charts a positive course for our Nation's railroad safety programs, revitalizing existing efforts and implementing a number of needed new initiatives. I am dedicated to working with my distinguished colleagues to pass this important piece of legislation.

Mr. HOLLINGS. Mr. President, as chairman of the Committee on Commerce, Science, and Transportation, I rise in support of S. 1571, the Rail Safety Improvement Initiatives Act of 1992. This legislation, which I have cosponsored, will reauthorize the rail safety enforcement programs of the Federal Railroad Administration [FRA] within the Department of Transportation [DOT] for a 3-year period, through fiscal year 1994.

I commend my colleagues Senator EXON, chairman of the Surface Transportation Subcommittee, and others for forging a bipartisan consensus on the scope and direction of the Federal rail safety oversight and enforcement programs. The new initiatives in this bill, including an expansion of the safety enforcement authority of the Secretary of Transportation, a clarification of the applicability both of the railroad safety laws and the Occupational Safety and Health Act of 1970 to the working conditions of railroad employees, and investigations into requirements for railroad power brakes and locomotive cab crashworthiness, all signal a congressional commitment to ensure the safe operation of our Nation's railroad industry.

One area of the Secretary's regulations which has not received recent attention is railroad track safety. These regulations have not been amended since the early 1980s, and thus may not take into account technological and operational innovations since that period. The National Transportation Safety Board continues to investigate a number of recent railroad accidents, including the July 31, 1991, Amtrak accident in Lugoff, SC, which claimed seven lives. While the causes remain unclear, railroad track and roadbed conditions may have been a contributing factor in at least one of these accidents.

I therefore am introducing an amendment to the Rail Safety Initiatives Act of 1992, which would require the General Accounting Office [GAO] to conduct a study of the adequacy of the Secretary's rules, regulations, orders, and standards that are related to track safety and the effectiveness of the Secretary's enforcement program. The GAO is to complete this study within 18 months after the date of enactment of this legislation, and at that time will submit a report to Congress including its recommendations for appropriate administrative action.

Within 12 months of the submission of GAO's report, the Secretary shall complete a rulemaking proceeding on track safety, taking into account the recommendations made by the GAO. At the completion of the proceeding, the Secretary also shall submit to Congress a statement explaining the actions the Secretary has taken to implement the recommendations received from the GAO.

This amendment is important to advance the safe operation of our Nation's system of railroad transportation. I urge my colleagues to support this amendment, and the Rail Safety Initiatives Act of 1992, as amended.

Mr. SIMON. Mr. President, I am proud to be a cosponsor of the Rail Safety Improvement Initiatives Act of 1991 which not only addresses a number of outstanding rail safety problems, but reauthorizes the Local Rail Service Assistance Program as well. Thanks to the outstanding work of my friends and colleagues, Senator HOLLINGS and EXON, this is a bill that has bipartisan support and has evolved after consultation with all of the groups working on rail safety.

I am also grateful that my colleagues have accepted an amendment to address my concern for the workplace environment of train dispatchers. The Federal Railroad Administration's report, "National Train Dispatcher Safety Assessment 1987–1988," issued in February 1990, was undertaken because the FRA was concerned about the occupational stress of train dispatchers and the impact of such stress on safety.

Railroad train dispatchers have grave safety responsibilities. The potential for a serious mistake arises anytime the dispatchers are distracted from their primary duty, the safe and timely movement of rail freight traffic.

FRA identified a number of problems which could lead to serious dispatching errors. Some of these are: noise and confusion in and about the workplace, multiple dispatchers within a single room, and unauthorized persons in the office of a dispatcher. At times the noise levels are so high that verbal communications must be repeated.

My amendment will set a date by which the Secretary of Transportation shall report to Congress on any steps being taken by the Department of Transportation and the railroad industry to rectify these problems and recommend any actions necessary to correct those problems which affect railroad safety.

I am also proud to be cosponsoring the Local Rail Service Program. I wish we could authorize more because this program is a fine example of how much benefit communities can receive with careful investment of a small amount of Federal dollars in vital transportation service.

Not only does LRSA help the small branch rail lines that feed our major rail systems, but it is a strong contributor to local economies. If a farmer can load his commodities on rail instead of oversized trucks too heavy and too large for local roads and bridges, he not only receives good service but local governments save many road repair dollars as well.

By combining LRSA funds with local and private sector contributions to fund the local rail projects, Illinois has leveraged these to the maximum covering more projects in more communities. Many more communities need this assistance.

Mr. SEYMOUR. Mr. President, I am extremely pleased the Senate is taking action today to reauthorize important rail safety programs.

There have been several sad reminders over the past year demonstrating how vulnerable we are to rail accidents. In California, in particular, back-to-back rail accidents during the month of July, both of which involved the release of hazardous materials into the environment, have renewed the cry for greater oversight and enforcement in the area of the transportation of hazardous materials by rail.

The first spill occurred on July 14, 1991, when a Southern Pacific train derailed near Dunsmuir, dumping 19,000 gallons of metam sodium, a powerful pesticide, into the upper Sacramento River. And 1 week later, on Highway 101 near Seacliff, a train derailment spilled a powerful corrosive, hydrazine, onto one of the busiest highways in California, causing the evacuation of 300 residents and trapping commuters in their cars for hours.

In terms of the Dunsmuir spill, I am sure many of my colleagues saw pictures and media reports which said that, for all practical purposes, the river would be dead. This toxic chemical wiped out hundreds of thousands of fish, killed virtually all plant life in a 45-mile stretch of the river, and threatened drinking water for millions of Californians. Some have referred to the Dunsmuir accident as an unprecedented environmental disaster.

Perhaps the most shocking news to come out of this train wreck was the fact that neither the Department of Transportation nor the Environmental Protection Agency list or regulate metam sodium as a hazardous substance in rail transportation. Ironically enough, the Coast Guard does list this substance as hazardous when shipped in bulk form and therefore polices its transport by ship.

Fortunately, neither of these spills resulted in serious human injury or death. However, we have not been so fortunate in the past. The Dunsmuir spill clearly demonstrated how vulnerable our environment is to the release of dangerous chemicals.

Clearly, we must seek ways to identify and correct inherent safety flaws that may exist in our rail transportation network. And perhaps more important, we must move forward at a much quicker pace to identify chemical substances such as those involved in the Dunsmuir and Seacliff spills that could threaten the environment should they be released.

It is for these very reasons that I am offering this amendment to the rail safety bill. My amendment requires the Secretary of Transportation to report back to Congress on those rail routes in California that are inherently less safe than others for the rail transportation of hazardous materials.

At this time, in the event of an accident, investigators to evaluate such factors as driver conduct and mechanical failure. My amendment would expand the scope of such reviews to include the investigation of any potentially dangerous conditions inherent to a rail route. These include such factors as climate and the topography of the region. In its study, DOT will also look at factors such as railroad track and equipment maintenance, operating practices, and train handling procedures. Finally, Federal departments and agencies responsible for protecting California's public lands and environment will be consulted, and the public will be given an opportunity to comment.

Mr. President, we need to understand fully the causes of the Dunsmuir accident, all rail accidents—if the rail line itself, the grade, the turn or other factors contributed to the wreck. If such factors are major causes of the derailment, then no matter how carefully the driver handles the train, or how well-maintained the engine or the track, there could exist, literally, a built-in danger to the route. This is unacceptable, particularly if hazardous materials are being transported.

Once such routes are identified, the Secretary would offer recommendations for action to reduce or eliminate the transfer of hazardous materials over inherently unsafe routes. Clearly, stepping beyond the condition of individual trains and examining the rail routes themselves, would move the industry in the direction of greater safety. I do want to point out that I had hoped to expand the scope of this study to include the entire nation, but in the interest of time, limited FRA resources and to speed investigators to California, I reluctantly agreed to limit the study to California. Nonetheless, I am sure the results of this study will have applications nationwide, and will add to the efforts the Commerce Committee has been making for years to provide for the safe transportation of hazardous materials.

Mr. President, if we learned anything from the Dunsmuir spill, it was that there is insufficient coordination among the Department of Transportation and the Environmental Protection Agency in the listing of hazardous materials. I had prepared a second amendment, which I planned to offer when this bill was scheduled for floor debate last November. That amendment was designed to protect the environment from the unsafe rail transportation of dangerous chemicals by ensuring better communication among Federal agencies.

Under that amendment, the DOT and EPA would work together to amend the Secretary's current hazardous materials transportation regulations to include a definition of "chemical substances" that may pose a significant risk to the environment. Once defined, the Secretary would then take action to provide for the safe transportation of these substances if they are not already regulated as hazardous materials under the Hazardous Materials Transportation Act. I am pleased to say this amendment is no longer necessary as DOT published a rule in late January to accomplish this goal.

Mr. President, I commend Chairman HOLLINGS, Senator DANFORTH, the ranking member, and the subcommittee chairman, Senator EXON, for their leadership in this area. My hope in offering this amendment, using the Department of Transportation's guidance, is to allow the Congress to revisit this and other issues so that we can further expand on the rail safety provisions contained within this important bill.

Mr. President, I urge the adoption of my amendment.

Mr. BURNS. Mr. President, I want to be on record as this legislation passes as a supporter and cosponsor of Senator EXON'S amendment to require two-way end-of-train devices. The original bill includes a provision which I supported to require the Federal Railroad Administration [FRA] to review DOT's rules on power brakes taking into consideration the need to require two-way end-of-train telemetry devices on cabooseless trains. This amendment goes further, and I want to commend Senator EXON and his staff for working out this compromise between the various parties.

This amendment tells the Secretary not only to conduct a review, but to actually revise the rules to require two-way end-of-train devices or devices able to perform the same function. It gives the railroads enough time to phasein the required devices to ensure that we are not causing economic hardship for them. It also allows certain exclusions for the same purpose.

Overall, however, it meets the requirements of the railroad engineers who are interested in making sure the trains they operate run in the safest manner possible. These two-way-end-of-train devices make it possible for the engineer of a cabooseless train to apply emergency braking action at the end of a train. My interest in this issue stems from a February 1989 rail accident near Helena that may have been prevented had one of these devices been present. As a result of that accident, Montana became the first State to enact a law requiring the use of two-way-end-of-train devices whenever a train operates without a caboose in mountain-grade territory.

This is an important safety issue, Mr. President, and I am glad to see the Senate addressing it at this time. The working men and women of the railroad industry will know that we are on their side. And people in places like Helena, MT, can be assured that Congress is acting to prevent another runaway train accident from causing them to be evacuated from their home during the subzero Montana winter.

Thank you, Mr. President, I yield the floor.

Mr. KASTEN. Mr. President, in 1988, the most far-reaching railroad safety legislation since the creation of the Federal Railroad Administration [FRA] was implemented. Under the leadership of FRA Administrator Gil Carmichael, the FRA has worked diligently to implement the provisions of the 1988 act, and voluntarily has initiated other important improvements.

S. 1571, the Rail Safety Improvement Initiatives Act of 1992, would reauthorize FRA's programs. It also addresses several concerns that have emerged since 1988. Specifically, S. 1571 provides for the following:

First, clarification of the applicability of penalties for safety violations, and establishment of procedures to ensure that penalties are effective.

Second, a regional enforcement pilot project to consider whether legal counsel in FRA regional offices would expedite enforcement.

Third, increased Federal law protection for railroad police.

Fourth, assessment of current locomotive cab safety and environmental standards. Senator EXON will offer an amendment to make this part of a 24-month rulemaking procedure.

Fifth, a report by the Secretary of Transportation, in consultation with the Secretary of Labor, on coordination of Federal activities affecting the safety and health of railroad employees.

Sixth, a report on the status of advance-train-control systems and the need for Federal standards to ensure that they provide for positive train separation and are compatible nationwide; and assessment of current voice communication technologies and their use.

Seventh, continuation of the Northeast Corridor Safety Committee created by the 1988 act.

Eighth, a review of current railroad power brake rules. Senator EXON will offer an amendment to mandate two-way end-of-train braking devices on certain trains no later than December 1997.

Ninth, reauthorization of the Local Rail Freight Assistance Program.

The provisions of S. 1571, and the amendments to be offered during Senate consideration, have been written with the cooperation of rail labor, the railroads, and the FRA. I urge my colleagues to support this legislation.

AMENDMENT NO. 1736

(Purpose: To amend section 6)

AMENDMENT NO. 1737

(Purpose: To amend section 12)

AMENDMENT NO. 1738

(Purpose: To correct the short title and to strike section 8)

AMENDMENT NO. 1739

(Purpose: To provide for certain actions with respect to track safety standards and the enforcement of those standards)

AMENDMENT NO. 1740

(Purpose: To require the Secretary of Transportation to report to the Congress on unsatisfactory workplace environments)

AMENDMENT NO. 1741

(Purpose: To require a report on the routing of hazardous materials shipments)

Mr. PRYOR. Mr. President, I ask unanimous consent that it be in order to send to the desk en bloc six amendments. I ask for their immediate consideration en bloc. I ask that the amendments be agreed to and the motion to reconsider laid upon the table en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I ask unanimous consent that the record reflect that these amendments are in behalf of Senator EXON, three amendments, Senator HOLLINGS, Senator SIMON and Senator SEYMOUR.

The PRESIDING OFFICER. Without objection, it is so ordered.

So, the amendments (No. 1736, No. 1737, No. 1738, No. 1739, No. 1740, and No. 1741) were agreed to en bloc as follows:

AMENDMENT NO. 1736

Strike all on page 5, line 17, through page 7, line 7, and insert in lieu thereof the following:

LOCOMOTIVE CRASHWORTHINESS AND WORKING CONDITIONS

SEC. 6. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end the following new subsection:

"(r)(1) The Secretary shall, within 24 months after the date of enactment of this subsection, complete a rulemaking proceeding to consider prescribing regulations to improve the safety of locomotive cabs. Such proceeding shall assess—

"(A) the adequacy of Locomotive Crashworthiness Requirements Standard S-580, adopted by the Association of American Railroads in 1989, in improving the safety of locomotive cabs; and

"(B) the extent to which environmental and other working conditions in locomotive cabs affect productivity and the safe operation of locomotives.

"(2) In support of the proceeding required under paragraph (1)(A), the Secretary shall conduct research and analysis, including computer modeling and full-scale crash testing, as appropriate, to consider the costs and safety benefits associated with equipping locomotives with—

"(A) braced collision posts;

"(B) rollover protection devices;

"(C) deflection plates;

"(D) shatterproof windows;

"(E) readily accessible crash refuges;

"(F) uniform sill heights;

"(G) anti-climbers, or other equipment designed to prevent overrides resulting from head-on locomotive collisions;

"(H) equipment to deter post-collision entry of flammable liquids into locomotive cabs; or

"(I) any other devices intended to provide crash protection for occupants of locomotive cabs.

"(3) If on the basis of the proceeding required by paragraph (1) the Secretary determines not to prescribe regulations, the Secretary shall report to Congress on the reasons for that determination.".

AMENDMENT NO. 1737

Strike all on page 14, line 20, through page 15, line 17, and insert in lieu thereof the following:

POWER BRAKE SAFETY

SEC. 12. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by this Act, is further amended by adding at the end the following new subsection:

"(u)(1) The Secretary shall conduct a review of the Department of Transportation's rules with respect to railroad power brakes, and within 18 months after the date of enactment of this subsection, shall revise such rules based on such safety data as may be presented during that review.

"(2) In carrying out paragraph (1), the Secretary shall, where applicable, prescribe standards regarding dynamic braking equipment.

"(3)(A) In carrying out paragraph (1), based on the data presented, the Secretary shall require two-way end of train devices (or devices able to perform the same function) on road trains other than locals, road switchers, or work trains to enable the initiation of emergency braking from the rear of the train. The Secretary shall promulgate rules as soon as possible, but not later than December 31, 1993, requiring such two-way end of train devices. Such rules shall, at a minimum—

"(i) set standards for such devices based on performance;

"(ii) prohibit any railroad, on or after 12 months after promulgation of such rules, from purchasing or leasing any end of train device for use on trains which is not a two-way device meeting the standards described in clause (i);

"(iii) require that such trains be equipped with a two-way end of train device meeting such standards not later than 48 months after promulgation of such rules; and

"(iv) provide that any two-way end of train device purchased before such promulgation shall be deemed to meet such standards.

"(B) The Secretary may consider petitions to amend the rules promulgated under paragraph (3)(A) to allow the use of alternative technologies which meet the same basic performance requirements established by such rules.

"(4) The Secretary may exclude from rules promulgated under paragraphs (1), (2), and (3) any category of trains or railroad operations if the Secretary determines that such an exclusion is in the public interest and is consistent with railroad safety. The Secretary shall make public the reason for granting any such exclusion. The Secretary shall at a minimum exclude from the requirements of paragraph (3)—

"(A) trains that have manned cabooses;

"(B) passenger trains with emergency brakes;

"(C) trains that operate exclusively on track that is not part of the general railroad system;

"(D) trains that do not exceed 30 miles per hour and do not operate over heavy grades, unless specifically designated by the Secretary; and

"(E) trains that operate in a push mode."

AMENDMENT NO. 1738

On page 1, line 5, strike "1991" and insert in lieu thereof "1992".

Strike all on page 9, line 15, through page 10, line 22.

AMENDMENT NO. 1739

At the end of the bill, add the following new section:

TRACK SAFETY

SEC. 14. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by this Act, is further amended by adding at the end the following new subsection:

"(v)(1) The General Accounting Office shall conduct a study of—

"(A) the adequacy of the Secretary's rules, regulations, orders, and standards that are related to track safety; and

"(B) the effectiveness of the Secretary's enforcement of such rules, regulations, orders, and standards, with particular attention to recent relevant railroad accident experience and data.

"(2) The General Accounting Office shall, within 18 months after the date of enactment of this subsection, submit to the Secretary and Congress a report on the results of such study, together with recommendations for improving such rules, regulations, orders, and standards, and such enforcement.

"(3) Upon receipt of such report, the Secretary shall initiate a rulemaking proceeding to revise such rules, regulations, orders, and standards, taking into account the report and the recommendations by the General Accounting Office submitted along with the report. Not later than 12 months after the date of submission of the report, the Secretary shall complete such proceeding and submit to Congress a statement explaining the actions the Secretary has taken to implement such recommendations."

AMENDMENT NO. 1740

On page 9, line 14, strike the quotation marks and the period at the end.

On page 9, between lines 14 and 15, insert the following:

"(5) Not later than 1 year after the date of enactment of this subsection, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report concerning any action that has been taken by the Secretary and the railroad industry to rectify the problems associated with unsatisfactory workplace environments in certain train dispatching offices identified in the National Train Dispatcher Safety Assessment for 1987–1988, published by the Federal Railroad Administration in July 1990. The report shall include recommendations for legislative or regulatory action to ameliorate any such problems that affect safety in train operations.".

AMENDMENT NO. 1741

At the end, add the following new section:

REPORT ON ROUTING OF HAZARDOUS MATERIALS SHIPMENTS

SEC. 15. (a) REQUIREMENT FOR REPORT.—Within 18 months after the date of enactment of this Act, the Secretary of Transportation shall report to the appropriate committees of Congress on whether, based on relevant data concerning train accidents within the State of California there are particular factors that make certain routes in that State inherently less safe than others for the rail transportation of hazardous materials and, if so, what actions can be taken, without unreasonably burdening commerce, to ameliorate those factors or reduce hazardous materials traffic over any inherently unsafe routes. The report shall address—

(1) whether the accident data on train accidents resulting in hazardous materials releases in recent years reveal that any inherent, permanent conditions such as topography or climate have played a causal role in or increased the likelihood of such accidents;

(2) whether the data referred to in paragraph (1) suggest that factors such as railroad track and equipment maintenance practices, railroad operating practices, and train handling procedures have played a causal role in or increased the likelihood of train accidents resulting in the release of hazardous materials; and

(3) what actions Federal agencies may take, are taking, or have taken to address whatever factors are determined to be playing a causal role in, or increasing the likelihood of, train accidents resulting in the release of hazardous materials.

(b) CONSULTATION; PUBLIC COMMENT.—In preparing the report required by subsection (a), the Secretary shall consult with Federal departments and agencies responsible for protecting the environment and public lands in California, and provide an opportunity for written comment by the public on the issues to be addressed in the report.

The PRESIDING OFFICER. If there are no further amendments the clerk will read the bill for the third time.

The bill was ordered to be engrossed for a third reading.

The bill was engrossed for a third reading and was read the third time.

Mr. PRYOR. Mr. President, I ask unanimous consent that the Commerce Committee be discharged from further consideration of H.R. 2607, the House companion measure; that the Senate then proceed to its immediate consideration; that all after the enacting clause be stricken and the text of S. 1571, as amended be inserted in lieu thereof; that the bill be deemed read for a third time, passed, the motion to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (H.R. 2607), as amended, was passed.

Mr. PRYOR. Mr. President, I ask further unanimous consent that S. 1571 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

RELATIVE TO HUMAN RIGHTS IN TIBET

Mr. PRYOR. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of Senate Resolution 271 regarding human rights in Tibet; that the Senate then proceed to its immediate consideration; that the resolution and the preamble be agreed to; and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

So the resolution (S. Res. 271) was agreed to.

The preamble was agreed to.

The resolution with its preamble, reads as follows:

S. RES. 271

Whereas, in the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993, signed into law by President Bush on October 28, 1991, Congress declared Tibet to be an occupied country whose true representatives are the Dalai Lama and the Tibetan Government in exile;

Whereas, in this same Act, Congress declared that "it is the policy of the United States to oppose aggression and other illegal uses of force by one country against the sovereignty of another as a manner of acquiring territory, and to condemn violations of international law, including the illegal occupation of one country by another";

Whereas the Department of State, in its February 1992 "Country Reports on Human Rights Practices in 1991" annual report, cited "persistent abuses in Tibet", "frequent credible reports from Tibetan refugees of torture and mistreatment in penal institutions in Tibet", "harsh sentences for political activities", and religious and cultural persecution of six million Tibetans;

Whereas the people of Tibet have long been denied their right to self-determination;

Whereas human rights abuses have been routine and harsh in occupied Tibet since the People's Republic of China invaded Tibet in 1949–1950;

Whereas the United Nations General Assembly passed resolutions condemning China's human rights abuses in Tibet in 1959, 1961, and 1965;

Whereas a Subcommission of Independent Experts of the United Nations Commission on Human Rights passed Resolution 1991/10 ("Situation in Tibet", August 23, 1991), condemning recent Chinese human rights abuses in Tibet, including executions, torture and denial of national religious and cultural identity;

Whereas twenty-two countries, led by the European Community as the main sponsor, formally submitted a resolution ("Situation in Tibet", February 27, 1992) to the full United Nations Commission on Human Rights annual meeting in Geneva in February–March 1992;

Whereas this resolution ("Situation in Tibet", February 27, 1992) declared its concern "at continuing reports of violations of human rights and fundamental freedoms in Tibet which threaten the distinct cultural, religious and ethnic identity of the Tibetans;" acknowledged United Nations reports on torture, summary or arbitrary executions, religious intolerance and enforced or involuntary disappearances; called "on the Government of the People's Republic of China to take measures to ensure the full observance of human rights and fundamental freedoms of the Tibetans"; and invited "the Government of the People's Republic of China to continue to respond to requests by special rapporteurs for information" and requested "the Secretary-General to submit a report to the Commission on Human Rights at its forty-ninth session on the situation in Tibet";

Whereas an altered text was offered implying China's sovereignty over Tibet;

Whereas, due to a procedural motion, this altered resolution was not acted on in the United Nations Commission on Human Rights; and

Whereas the United States should take a firm stand against human rights abuses wherever they occur, and should also speak out against the illegal occupation of Tibet: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the United States Government should support resolutions like the European Community-led resolution on the "Situation in Tibet" submitted to the United Nations Commission on Human Rights;

(2) the United States Government should vigorously condemn Beijing's human rights abuses in occupied Tibet in all appropriate international forums; and

(3) the United States Government should raise human rights abuses in Tibet with senior officials of the People's Republic of China.

Mr. PRYOR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VISIT TO THE SENATE BY PRIME MINISTER BEGUM KHALEDA ZIA OF THE PEOPLE'S REPUBLIC OF BANGLADESH

Mr. PELL. Mr. President, we have the great honor to have visiting with us Prime Minister Zia of Bangladesh, the first woman Prime Minister of her country and a good politician in her own right, five times a member of Parliament.

We are glad to have you visit us today. If my colleagues were here they would all join me in applauding. [Applause.]

We wish her well.

I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

JOSEPH BUTTINGER: REFUGEE LEADER, VIETNAM SCHOLAR AND FIGHTER FOR HUMAN FREEDOM

Mr. PELL. Mr. President, I want to take a moment to remember Joseph Buttinger, a long-time worker and leader on behalf of refugees the world over, and a founding member and active director of programs for the International Rescue Committee.

Mr. Buttinger's life touched some of the greatest issues of our times. He was born in Austria in 1906 of working-class parents and left school at age 13 to help support his family. He became a leader of youth movements in Austria and later of the Social Democratic Party. He was active in the anti-Nazi underground during the 1930's in Austria and France, until he had to flee to the United States in 1939 with his American wife, Muriel Gardiner, a prominent figure in the history of psychoanalysis.

During and after World War II, Joseph Buttinger helped establish many of the refugee programs for which the International Rescue Committee has been widely recognized and honored. His personal actions helped smuggle thousands of anti-Fascist refugees out of Europe. For over 40 years he served as director of the IRC's Paris office and European division, and as an IRC board member and vice president.

During the 1950's, he aided refugees in Vietnam and took an abiding interest in the history and culture of that country. He formed the American Friends of Vietnam, and became a prominent scholar of that country's culture and politics. His two-volume work "Vietnam: A Dragon Embattled" was described in a review in the New York Times as "a monumental work" that is "a strategic breakthrough in the serious study of Vietnamese politics in America."

Joseph Buttinger pursued his scholarly career with some half dozen other books on Vietnam and on the history of socialism. In 1972 the Austrian Government awarded him its Golden Order of Merit. According to the New York Times, the then-Chancellor of Austria, Bruno Kreisky, observed that "Mr. Buttinger was such a hero that if he had returned he would have become Chancellor."

As a fellow worker and board member of the IRC, I take special pride in having been associated in my own small ways with the heroic accomplishments of Joseph Buttinger. His life is a reminder of how much can be achieved by one person dedicated to the service of others and the cause of human freedom. We mourn his passing on March 4, 1992.

Mr. President, I ask unanimous consent an obituary from the New York Times be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 8, 1992]

JOSEPH A. BUTTINGER, NAZI FIGHTER AND VIETNAM SCHOLAR, DIES AT 85

(By Bruce Lambert)

Joseph A. Buttinger, a Nazi fighter who became an advocate for refugees of persecution and a renowned authority on Vietnam and the American war there, died on Wednesday at the Margaret Pietz Center for Nursing in Queens. He was 85 years old.

He died of natural causes after suffering from Alzheimer's disease, friends said.

Mr. Buttinger was born on an impoverished Bavarian farm and left home at 15 to work in an Austrian glass factory. He soon became the leader of Austria's Socialist youth movement and by 24 was secretary of the Social Democratic party and an ally of labor unions. After being imprisoned for several months in 1934, he became chairman of the Socialist underground and a top leader of the anti-Nazi movement.

FLED TO PARIS IN 1938

In the resistance, he met a courier and eventually married her. She was Muriel Gardiner, a wealthy American medical student who later became a noted psychoanalyst and wrote a political memoir titled "Code Name Mary." Many experts said she was the model for Lillian Hellman's book "Julia." Ms. Hellman denied it but declined to identify the woman she had portrayed.

When Germany occupied Austria in 1933, the Buttingers fled to Paris, where he was chairman of the exiled Socialists. In 1939, several months before the fall of France, the couple moved to the United States.

In 1940, Mr. Buttinger helped found what became the International Rescue Committee, a nonprofit organization aiding refugees of political, religious and racial persecution. Its initial work was with refugees from the Nazis, and later refugees of many Communist countries and other dictatorships. For 42 years, he served variously as director of the organization's Paris office and European division, board member and vice president.

Working with refugees in Vietnam in the 1950's, he became immersed in the history, culture and politics of that nation. He formed an organization, American Friends of Vietnam, and became a friend and supporter of the ruler, Ngo Dinh Diem. Later, disillusioned with Diem's dictatorial ways, Mr. Buttinger renounced him.

Despite having no formal education beyond the sixth grade, he became a respected historian and analyst of current events in Vietnam. As the United States went to war with Vietnam, his scholarship was in demand. His evolving view was that American policy was historically and morally misguided and doomed to fail.

His two-volume work, "Vietnam: A Dragon Embattled" (Praeger, 1967) was heralded in a review in The New York Times as "a monumental work" that "marks a strategic breakthrough in the serious study of Vietnamese politics in America" and as "the most thorough, informative and, over all, the most impressive book on Vietnam yet published in America."

OTHER TITLES

His other books included: "In the Twilight of Socialism" (Praeger 1952), "The Smaller Dragon—A Political History of Vietnam" (Praeger, 1958), "A Dragon Defiant: A Short History of Vietnam" (Praeger, 1972) and "Vietnam: The Unforgettable Tragedy" (Horizon, 1977).

Thirty-three years after he fled Austria, the Government awarded him its Golden Order of Merit. Chancellor Bruno Kreisky once mused that Mr. Buttinger was such a hero that if he had returned, he would have become chancellor.

His wife died several years ago. He is survived by his daughter, Constance Harvey of Aspen, Col.; a sister, Marie Fuchs, who lives in Austria; a brother, Louis, who now lives in the United States, and six grandchildren.

Mr. PELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. Without objection, the order for the quorum call is rescinded.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE ACTION AGENCY—MESSAGE FROM THE PRESIDENT—PM 119

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

In accordance with section 407 of the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 5047), I transmit herewith the Annual Report of the ACTION Agency for Fiscal Year 1991.

GEORGE BUSH.

THE WHITE HOUSE, *March 18, 1992.*

MESSAGES FROM THE HOUSE

At 12:28 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the House:

H.R. 4449. An act to authorize jurisdictions receiving funds for fiscal year 1992 under the HOME Investment Partnership Acts that are allocated for new construction to use the funds, at the discretion of the jurisdiction, for other eligible activities under such Act and to amend the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 to authorize local governments that have financed housing projects that have been provided a section 8 financial adjustment factor to use recaptured amounts available from refinancing of the projects for housing activities.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 292. A concurrent resolution expressing the sense of the Congress with respect to United States participation in the United Nations Conference on Environment and Development (UNCED).

At 6 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3508) to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DINGELL, Mr. WAXMAN, Mr. RICHARDSON, Mr. LENT, Mr. BLILEY as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 3635) to amend the Public Health Service Act to revise and extend the program of block grants for preventive health and health services, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DINGELL, Mr. WAXMAN, Mr. ROWLAND, Mr. LENT, and Mr. BLILEY as managers of the conference on the part of the House.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide for increased economic growth and to provide tax relief for families; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. ROSTENKOWSKI, Mr. GIBBONS, Mr. PICKLE, Mr. RANGEL, Mr. STARK, Mr. ARCHER, Mr. VANDER JAGT, and Mr. CRANE as managers of the conference on the part of the House.

The message also announced that the Speaker makes the following corrections in the appointment of conferees in the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 347) entitled "An act to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes":

From the Committee on Banking, Finance and Urban Affairs, Mr. SCHUMER is appointed in lieu of Mr. VENTO for consideration of title IV of the Senate bill.

The panel from the Committee on the Judiciary is also appointed for consideration of section 135 of the Senate bill. Additionally, Mr. FRANK of Massachusetts is appointed in lieu of Mr. CONYERS.

MEASURES PLACED ON THE CALENDAR

The following concurrent resolution was read, and ordered placed on the calendar:

H. Con. Res. 292. A concurrent resolution expressing the sense of the Congress with respect to United States participation in the United Nations Conference on Environment and Development (UNCED).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2812. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on rescissions and deferrals dated March 10, 1992; pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986; referred jointly to the Committee on Appropriations, the Committee on the Budget, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Banking, Housing, and Urban Affairs, the Committee on Environment and Public Works, the Committee on Finance, and the Committee on Foreign Relations.

EC-2813. A communication from the Administrator of the Farmers Home Administration, Department of Agriculture, transmitting, pursuant to law, the annual report on the use of private attorneys contracted to perform certain legal actions taken in connection with housing programs administered by the Farmers Home Administration; to the Committee on Agriculture, Nutrition, and Forestry.

EC-2814. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to amend chapter 138 of title 10, United States Code, to provide deployed United States Armed Forces the authority to acquire logistics support, supplies, and service without geographic restriction, to remove the limitations on the amounts that may be obligated or accrued during a period of active hostilities involving United States Armed Forces, and for other purposes; to the Committee on Armed Services.

EC-2815. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to authorize certain construction at military installations for fiscal year 1993, and for other purposes; to the Committee on Armed Services.

EC-2816. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to amend Chapter 47, title 10 (the Uniform Code of Military Justice), to improve the quality and efficiency of the military justice system; to the Committee on Armed Services.

EC-2817. A communication from the Director of Administration and Management, Office of the Secretary of Defense, transmitting, pursuant to law, a report on the consolidation of the Military Departments' FY 1991 unit exchange of training and related support between the United States and Foreign Countries; to the Committee on Armed Services.

EC-2818. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the annual report on United States Costs in the Persian Gulf Conflict and Foreign Contributions to Offset Such Costs; to the Committee on Armed Services.

EC-2819. A communication from the Director of the Defense Mapping Agency, transmitting, pursuant to law, a report on the Agency's plans to study the potential conversion from partial in-house performance to full commercial contract of custodial services functions; to the Committee on Armed Services.

EC-2820. A communication from the Assistant Secretary of State (Conservation and Renewable Energy), transmitting, pursuant to law, notice in relative to the submission of the annual report on Electric and Hybrid Vehicles Program; to the Committee on Commerce, Science, and Transportation.

EC-2821. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the Secretary's actions with respect to Ezeiza International Airport, Buenos Aires, Argentina; to the Committee on Commerce, Science, and Transportation.

EC-2822. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2823. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2824. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2825. A communication from the Deputy Associate Director for Collection and Disbursement, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report on the refund of certain offshore lease revenues; to the Committee on Energy and Natural Resources.

EC-2826. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report entitled "Fifteenth Report to Congress: Comprehensive Program and Plan for Federal Energy Education, Extension, and Information Activities: Annual Revisions"; to the Committee on Energy and Natural Resources.

EC-2827. A communication from the Secretary of Energy, transmitting, pursuant to law, the annual report on the clean coal technology demonstration program for calendar year 1991; to the Committee on Energy and Natural Resources.

EC-2828. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a report of building project survey for Orlando, Florida; to the Committee on Environment and Public Works.

EC-2829. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, a draft of proposed legislation to authorize the imposition of certain recreation user fees at water resources development areas administered by the Department of the Army; to the Committee on Environment and Public Works.

EC-2830. A communication from the Secretary of Labor, transmitting, a draft of proposed legislation to amend the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and title 11, United States Code; to improve pension plan funding; to limit growth in insurance exposure; to protect the single-employer plan termination insurance program by clarifying the status of claims of the Pension Benefit Guaranty Corporation and the treatment of pension plans in bankruptcy proceedings; and for other purposes; to the Committee on Finance.

EC-2831. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements other than treaties entered into by the United States in the sixty day period prior to March 12, 1992; to the Committee on Foreign Relations.

EC-2832. A communication from the Assistant Secretary of State (Indian Affairs), transmitting, pursuant to law, a report on certain unclaimed funds designated for per capita payments; to the Select Committee on Indian Affairs.

EC-2833. A communication from the Secretary of Veterans Affairs, transmitting, a draft of proposed legislation to amend title 38, United States Code, to make permanent the authority to collect reimbursement from health insurers and others for non-service-connected care provided to service-connected veterans; to the Committee on Veterans' Affairs.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Janelle Block, of Wisconsin, to be a member of the National Advisory Council on Educational Research and Improvement for a term expiring September 30, 1994.

George C. White, of Connecticut, to be member of the National Council on the Arts for a term expiring September 3, 1996.

Ian M. Ross, of New Jersey, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 1998.

(The above nominations were reported with the recommendation that the nomination be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MOYNIHAN:

S. 2364. A bill to amend title XI of the Social Security Act to increase the penalties for unauthorized disclosure of private social security information, and for other purposes; to the Committee on Finance.

By Mr. NICKLES:

S. 2365. A bill to amend title XVIII of the Social Security Act to repeal the reduced medicare payment provision for new physicians; to the Committee on Finance.

By Mr. COATS (for himself and Mr. SEYMOUR):

S. 2366. A bill to provide for coverage of Congress under Federal civil rights and employment laws, and for other purposes; to the Committee on Governmental Affairs.

By Mr. RIEGLE (for himself, Mr. DASCHLE, Mr. KERREY, Mr. HARKIN, Mr. CONRAD, Mr. WELLSTONE, Mr. LEVIN, and Mr. HEFLIN):

S. 2367. A bill to amend the Agricultural Act of 1949 to remove the requirement that the Secretary of Agriculture charge a loan origination for a crop of oilseeds, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HELMS:

S. 2368. A bill to increase the criminal penalties and add civil penalties applicable for transporting or importing goods made by convicts or prisoners, and for failure to mark packages made by convicts or prisoners, and for other purposes; to the Committee on Finance.

By Mr. AKAKA:

S. 2369. A bill to amend section 7101 of title 38, United States Code, to provide for the reclassification of members of the Board of Veterans' Appeals and to ensure pay equity between those members and administrative law judges; to the Committee on Veterans Affairs.

By Mr. DOMENICI (for himself, Mr. BOND, and Mr. MOYNIHAN):

S. 2370. A bill to restore obligation authority authorized in the Intermodal Surface Transportation Efficiency Act of 1991; to the Committee on Labor and Human Resources.

By Mr. COATS:

S. 2371. A bill to establish a computer education program for certain students; to the Committee on Labor and Human Resources.

By Mr. LEAHY (for himself, Mr. LUGAR, Mr. PRYOR, Mr. DOLE, Mr. BOREN, Mr. HELMS, Mr. HEFLIN, Mr. CONRAD, Mr. COCHRAN, Mr. MCCONNELL, Mr. FOWLER, Mr. CRAIG, Mr. DASCHLE, Mr. SEYMOUR, Mr. BAUCUS, Mr. GRASSLEY, Mr. ADAMS, Mr. AKAKA, Mr. BENTSEN, Mr. BOND, Mr. BREAUX, Mr. BURDICK, Mr. BURNS, Mr. CRANSTON, Mr. COATS, Mr. D'AMATO, Mr. DIXON, Mr. DOMENICI, Mr. DURENBERGER, Mr. EXON, Mr. FORD, Mr. GORTON, Mr. HATCH, Mr. HOLLINGS, Mr. JEFFORDS, Mr. JOHNSTON, Mrs. KASSEBAUM, Mr. KASTEN, Mr. KOHL, Mr. LEVIN, Mr. MACK, Mr. MURKOWSKI, Mr. NUNN, Mr. PRESSLER, Mr. REID, Mr. SANFORD, Mr. SHELBY, Mr. SPECTER, Mr. WALLOP, Mr. WARNER, Mr. WOFFORD, Mr. KENNEDY, Mr. THURMOND, Mr. LAUTENBERG, Mr. INOUYE, and Mr. MITCHELL):

S.J. Res. 272. A joint resolution to proclaim March 20, 1992, as "National Agriculture Day"; to the Committee on the Judiciary.

By Mr. SEYMOUR (for himself, Mr. STEVENS, Mr. SHELBY, Mr. ADAMS, Mr. LAUTENBERG, Mr. COATS, Mr. COCHRAN, Mr. HEFLIN, Mr. DOLE, Mr. D'AMATO, Mr. JOHNSTON, Mr. KASTEN, Mr. CRAIG, Mr. BURNS, Mr. DASCHLE, Mr. MACK, Mr. DECONCINI, Mr. DODD, Mr. MURKOWSKI, Mr. DURENBERGER, Mr. RIEGLE, and Mr. SYMMS):

S.J. Res. 273. A joint resolution to designate the week commencing June 21, 1992, as "National Sheriffs' Week"; to the Committee on the Judiciary.

By Mr. DODD (for himself, Mr. KENNEDY, Mr. ADAMS, Mr. CRANSTON, and Mr. DECONCINI):

S.J. Res. 274. A joint resolution to designate April 9, 1992, as "Child Care Worthy Wage Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 272. A resolution to make technical corrections to Rule XXV of the Standing Rules of the Senate; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MOYNIHAN:

S. 2364. A bill to amend title XI of the Social Security Act to increase the penalties for unauthorized disclosure of private social security information, and for other purposes; to the Committee on Finance.

SOCIAL SECURITY PRIVACY PROTECTION ACT

• Mr. MOYNIHAN. Mr. President, I rise today to introduce legislation to strengthen criminal penalties in the Social Security Act against the unauthorized disclosure of private Social Security data.

On February 28, 1992, we convened hearings before the Finance Subcommittee on Social Security and Family Policy to hear testimony on an investigation into the alleged widespread theft and sale of personal and private records maintained by the Social Security Administration.

Mr. President, this is a very disturbing matter. Private firms, so-called information brokers, have allegedly bribed Social Security Administration employees to steal personal records of individuals from the Agency's computers for the purpose of selling the information to interested buyers. Such buyers apparently include private investigators, prospective employers, lawyers, insurance companies, and others interested in obtaining, for whatever purpose, someone else's Social Security number and employment and earnings history.

The results of the investigation to date are all the more disturbing because the scam does not appear to be an isolated case, or limited to a particular part of the country. The FBI has arrested at least 18 people in 10 States in connection with the investigation, and Social Security Administration employees in four States have recently been indicted.

One company in Tampa, FL, was so bold as to send out promotional brochures that boasted instant access to confidential computer data on virtually anyone in the country. One such brochure came into the hands of investigators in the Atlanta regional office of the inspector general of the Department of Health and Human Services. These investigators, together with the FBI, commenced one of the Government's most concerted efforts to date to crack down on the newly emerging information broker industry. The investigation appears to involve the largest case ever of theft from Government computer files, and may well involve the most serious threat to individual privacy in modern times.

Mr. President, throughout the history of the Social Security program we have sought to ensure the absolute privacy and confidentiality of the personal information maintained by the Social Security Administration. This agency maintains records on 200 million Americans. This information includes a person's Social Security number, full name, place of birth, date of birth, names of both parents, names of current and past employers, and a complete earnings history. It is of the utmost importance that we keep the promise made over a half century ago to keep this personal information private to the maximum extent possible.

One of the issues addressed by witnesses at our hearing was the question of statutory penalties for the unauthorized disclosure of this private data. Provisions of title 18 of the United States Code make it a felony to bribe public officials or reveal confidential tax data. Offenders may be punished by up to 5 years imprisonment. These are the laws the U.S. attorneys in this case are using to prosecute the accused.

The Social Security Act also includes provisions against the unauthorized disclosure of private data maintained by the Social Security Administration, but these provisions make the offense a misdemeanor punishable by up to one year imprisonment, or a fine not exceeding $1,000, or both.

Mr. President, I consider it appropriate that the Social Security Act include penalties specific to the unauthorized disclosure of the private information maintained by the Social Security Administration on 200 million Americans. But I think these penalties must be strengthened. We must make it very clear that such disclosure is considered a very serious infraction, and must provide penalties severe enough to serve as a serious deterrent. Accordingly, this bill would amend the Social Security Act to make the improper disclosure of Social Security data a felony punishable by imprisonment of up to 5 years, or a fine of up to $10,000 for each occurrence of a violation—that is, for each individual Social Security disclosure—or both.

I wish to commend the diligent efforts of those employees of the Social Security Administration and the Office of the Inspector General at the Department of Health and Human Services who uncovered and investigated this scandal. I know the Commissioner of Social Security finds this matter as disturbing as we all do and will take steps to ensure that Social Security employees are aware of the consequences of such infractions. We can help in this task by providing for stiffer penalties and stronger deterrents in the Social Security Act against the unauthorized disclosure of private Social Security information.

Mr. President, I ask unanimous consent that there be printed in the RECORD at the conclusion of these remarks the text of the bill and an editorial on this issue from the Buffalo News of March 5, 1992.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2365

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Social Security Privacy Protection Act of 1992".

SEC. 2. INCREASED PENALTIES FOR UNAUTHORIZED DISCLOSURE OF SOCIAL SECURITY INFORMATION.

(a) IN GENERAL.—

(1) UNAUTHORIZED DISCLOSURE.—Section 1106(a) of the Social Security Act (42 U.S.C. 1306(a)) is amended—

(A) by striking "misdemeanor" and inserting "felony";

(B) by striking "$1,000" and inserting "$10,000 for each occurrence of a violation"; and

(C) by striking "one year" and inserting "5 years".

(2) UNAUTHORIZED DISCLOSURE BY FRAUD.—Section 1107(b) of such Act (42 U.S.C. 1307(b)) is amended—

(A) by inserting "social security account number," after "information as to the";

(B) by striking "misdemeanor" and inserting "felony";

(C) by striking "$1,000" and inserting "$10,000 for each occurrence of a violation"; and

(D) by striking "one year" and inserting "5 years".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of enactment of this act.

[From the Buffalo News, Mar. 5, 1992]

KEEP SOCIAL SECURITY PRIVATE—STIFFEN PENALTIES FOR REVEALING PEOPLE'S RECORDS

Computerization brings problems along with efficiency and one area that needs careful protection is privacy. It's alarming to hear that Social Security records are not as confidential as everyone thought they were.

Testimony at a recent congressional hearing showed a fairly widespread pattern of unauthorized, illegal disclosure of Social Security records by federal employees. Fastbuck artists broker the information—a person's earnings history, say, or the names and addresses of present and past employers, even some bank account numbers—by obtaining the data from the government workers with access to it and then selling it to private clients for a hefty profit.

Sometimes these insidious brokers get the information by tricking Social Security employees. Sometimes they bribe them.

It is clear that the testimony, in a session conducted by Sen. Daniel Patrick Moynihan, D-N.Y., chairman of a key subcommittee on Social Security, isn't based on some Orwellian fantasy. A federal investigation by the FBI and others has so far resulted in indictments, both of federal employees and outsiders, in 10 states.

Since 1983, 70 Social Security employees have been convicted, according to the testimony, of illegally disclosing such data. Two months ago in Tampa, Fla., two executives of a private information firm pleaded guilty to participating in a conspiracy to sell Social Security records.

"Here we have a large-scale invasion of the Social Security system's confidentiality," Moynihan said. "It's not a one-time event. We have a new situation here."

New—and dangerous. These sleazy brokers invade and violate individual privacy. Their racket compromises the government's integrity. Their success taints a tacit contract between American workers and their national government.

One policy issue here is whether existing law is strong enough to combat and deter these abuses. It may be possible to convict those who abuse the system of bribery, a felony under Title 18 of the U.S. Code. The FBI and other investigators and prosecutors are pursuing this course.

However, the federal privacy act that governs the unauthorized disclosure of confidential information makes that breach only a misdemeanor, not a felony.

The law governing illegal disclosures of Social Security facts and figures should be strengthened. Unauthorized disclosure should become a felony. Otherwise, cases of such disclosure where bribery cannot be proved elude the stiffer felony punishments.

Peddling private records for profit is too basic an injury to personal privacy. It is too central to the relationship of individuals and their government. And as our society becomes more computerized, that threat is likely to grow, not diminish.●

By Mr. RIEGLE (for himself, Mr. DASCHLE, Mr. KERREY, Mr. HARKIN, Mr. CONRAD, Mr. WELLSTONE, Mr. LEVIN, and Mr. HEFLIN):

S. 2367. A bill to amend the Agricultural Act of 1949 to remove the requirement that the Secretary of Agriculture charge a loan origination for a crop of oilseeds, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

REMOVAL OF LOAN ORIGINATION FEE FOR OILSEEDS

● Mr. RIEGLE. Mr. President, I rise today along with seven of my colleagues to introduce legislation to remove the mandatory 2-percent soybean and oilseeds loan origination fee included in the Omnibus Reconciliation Act [OBRA] of 1990. The origination fee was included in the 1990 Reconciliation Act to reduce Government expenditures without destroying the benefits of the soybean marketing loan program. However, it is clear this approach has failed because fewer producers have participated and less revenues have been gathered by the Federal Government.

Originally, the 1990 farm bill in conjunction with the OBRA of 1990 established a minimum $5.02 loan rate per bushel and loan deficiency payments for 1991 to 1995. Under the OBRA of 1990, soybean and oilseed farmers who borrow from the USDA under the loan program are required to pay a 2-percent loan origination fee. This effectively resulted in a 10-cent cut in the loan rate, making the actual rate at $4.92 per bushel.

Since the passage of OBRA of 1990, the 2-percent origination fee has significantly discouraged farmers from participating in the loan program. Participation in the program has dropped more than 30 points over the previous 5-year period and revenues have been generated at a far slower pace than anticipated. The unintended result will be to eventually lower prices and reduce income protection during low-price periods.

The legislation I am introducing today contains an offset, which until now has been the main reason Congress has not removed this origination fee. The legislation my colleagues and I are introducing requires farmers to repay the loan during the same fiscal year in which the oilseeds are placed under loan. Currently, the loan program permits oilseeds producers to repay a loan at anytime within 9 months of placing the commodity under loan, which may result in carrying over the loans into the next fiscal year, resulting in additional cost in the year the loan is made. Requiring payment in the same year the loan is made eliminates the cost.

Mr. President, soybean producers in Michigan need the relief from the origination fees provided under this legislation. I urge my colleagues to join us in supporting this legislation and working for its passage. I ask for unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2367

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVAL OF LOAN ORIGINATION FEE FOR OILSEEDS.

(a) IN GENERAL.—Section 205 of the Agricultural Act of 1949 (7 U.S.C. 1446f) is amended—

(1) by striking subsection (m); and

(2) by redesignating subsection (n) as subsection (m).

(b) LOAN MATURITY.—Section 205(h) of such Act is amended by striking "on the last day of the 9th month following the month the application for" and inserting "September 30 following the date".

(c) CROPS.—The amendments made by this section shall be effective only for the 1992 through 1995 crops of oilseeds.•

• Mr. DASCHLE. Mr. President, today I join with several of my colleagues to introduce legislation that repeals the organization fee levied against producers of oilseeds who participate in the Federal Commodity Loan Program. The Omnibus Budget Reconciliation Act of 1990 instituted a number of fees and assessments on agricultural producers in an effort to reduce Government expenditures. The origination fee for oilseed marketing loans is one such fee that was imposed, but has burdened producers and undermined the loan program itself. We urge support for the elimination of the origination fee so that the loan program can be a more effective income management tool for oilseed producers.

Since the oilseed origination fee was imposed, participation in the loan program for soybeans has dropped 31 percent below the average for the preceding 5 year period. This drop is attributable to the 10-cents-per-bushel origination fee, which can push the effective interest rate on a commodity loan up as high as 30 percent, depending on how long the oilseed is kept under loan. Consequently, the fee is raising substantially less revenue than anticipated, while at the same time it is discouraging oilseed producers from using the best tool they have to assist them with the orderly marketing of their products.

Previous efforts to do away with the origination fee have been unsuccessful because they have failed to provide a budget offset. Our bill would offset the projected cost of eliminating the origination fee by requiring producers to repay the loan during the same fiscal year in which the oilseeds are placed under loan. Currently, the loan program allows producers to repay the loan at any time within 9 months of placing the commodity under loan. The resulting carryover of outstanding loans from one fiscal year to another accounts for the costs that have been attributed to the loan program. Furthermore, requiring repayment of the loans within the same fiscal year they are taken out would not be a significant burden on producers because they would still have up to a full year to take advantage of the loan.

Commodity loan programs are designed to give cash-strapped producers time to market their crops so that they can sell them at a time of year when prices are high, rather than at harvest time when prices are typically at the lowest level of the year. The additional costs imposed by the origination fee are discouraging thousands of producers from participating in the loan program. The origination fee must be repealed if the loan program is to function as intended.•

• Mr. CONRAD. Mr. President, today I am very pleased to join my colleagues in introducing legislation that not only eliminates the loan origination fee required on all oilseed loans taken out by producers, but does so without negatively impacting the budget.

The oilseeds loan origination fee was implemented as part of the Omnibus Budget Reconciliation Act of 1990. Billed as a budget deficit reduction tool, the 2 percent fee is deducted from a farmer's loan deficiency payment. Soybean producers as well as those of the six minor oilseed crops—sunflowers, flax, canola, rapeseed, safflower, and mustard—are assessed.

Mr. President, keep in mind that the marketing loan program was authorized for oilseed producers effective crop year 1991, in part, to help fight extraordinarily high subsidies in the European Community and to reestablish the United States as the premier oilseed producing Nation. Prior to 1991, minor oilseed crops had no type of loan program while soybean producers had a general loan program. The bottom line is that farmers haven't even had a chance to try out the new marketing loan program, to benefit from the program, and they have already been discouraged from participating by the fee.

I believe the origination fee has discouraged oilseed producers from utilizing the marketing loan program and discouraged oilseed production in the U.S. Here's a brandnew program, with no proven record. Farmers may elect to participate, a tough decision in any case, but the added consideration of a users' fee may be enough to weigh against a farmer's decision to sign up.

A case in point is soybean production. In 1991, we witnessed participation in the loan program drop well below the previous 5 year average. While the loan program was designed to provide farmers with more marketing flexibility, it can only serve as an effective marketing tool if producers are using it. It is clear more soybean growers are choosing not to use it. And I am concerned that producers of other oilseed crops may follow suit.

In crop year 1990, North Dakota led the Nation in the production of sunflower and flaxseed, accounting for 68 percent and 92 percent of the Nation's production respectively. That year, in my State alone, we harvested 15 million hundredweight of sunflowers and 3 million bushels of flax. Soybean production totaled 12.8 million bushels.

To continue producing oil crops at competitive levels and at a profit, oilseed producers in my State and others need access to a marketing loan program that provides the flexibility necessary to market wisely. We have the program. It was implemented by the 1990 farm bill. The key is access. Eliminating the loan fee would eliminate much of the ambivalence toward the program. The program could then work as it was intended—as an affordable marketing tool for oilseed producers. At the same time, our bill provides accountability in requiring an offset. The legislation requires that oilseed loans be repaid before the end of the fiscal year in which they are secured. The net effect is zero budget impact. Mr. President, I enthusiastically join my colleagues in sponsoring this legislation.•

• Mr. HARKIN. Mr. President, I am pleased to cosponsor this legislation to eliminate the 2-percent loan origination fee on Commodity Credit Corporation marketing loans on oilseeds. One of the most important reasons for my vote against the 1990 Omnibus Budget Reconciliation Act was the large cut in commodity programs that it required. Perhaps the most irksome and perplexing aspect of that measure for farmers is the oilseed loan origination fee.

The greatest impact of the origination fee has been on soybean producers. The loan rate for soybeans is $5.02 a bushel, and that is what farmers could reasonably think they would receive for pledging soybeans as collateral for the CCC marketing loan. After deducting the 2-percent loan origination fee, however, the loan proceeds to the farmer amount to only $4.92 a bushel. That is bad enough, but the real kicker is that the farmer must repay the loan at the full $5.02 rate plus interest.

The oilseed marketing loan is meant to provide short-term credit and allow farmers to delay marketing in order to take advantage of higher prices that may occur later in the marketing year. The origination fee negates much of the benefit of the oilseed loan program by increasing the costs of taking out loans. Most farmers repay the loans before the end of the 9-month loan term, and with the added cost of the origination fee, the earlier the repayment, the higher the effective interest rate—as high as a 30-percent effective annual interest rate on a loan outstanding for 1 month.

It is thus little wonder that use of the soybean marketing loan for the 1991 crop has fallen off 31 percent from the average for the preceding 5-year period. As a consequence, the revenue raised by the origination fee has also fallen far below expectations, thus greatly impairing its effectiveness in reducing program outlays.

Moreover, the burden of the loan origination fee, as is so often the case with such contrivances, falls most heavily on those who can least afford to bear it. Simple economics would dictate using commercial credit—especially for short-term financing—rather than suffer the high costs of using the CCC marketing loan. But farmers who are just starting out, or who have had a bad year, have a harder time obtaining credit and may well be forced either to sell at low harvest-time prices or bear the high costs of the loan origination fee.

This bill is designed to offset the projected cost of eliminating the oilseed loan origination fee by requiring repayment of the loans in the same fiscal year that the loan is taken out.

The oilseed loan origination fee was a bad idea from the beginning, and I urge my colleagues to join now in supporting this legislation to eliminate it.●

By Mr. AKAKA:

S. 2369. A bill to amend section 7101 of title 38, United States Code, to provide for the reclassification of members of the Board of Veterans' Appeals and to ensure pay equity between those members and administrative law judges; to the Committee on Veterans' Affairs.

RECLASSIFICATION AND PAY OF MEMBERS OF THE BOARD OF VETERANS' APPEALS

● Mr. AKAKA. Mr. President, I am today introducing legislation that would ensure that members of the Board of Veterans' Appeals [BVA] are compensated at the same rate as administrative law judges [ALJs], their functional peers in other Federal agencies. A similar bill has been introduced in the House by Representative MIKE BILIRAKIS of Florida.

THE BOARD OF VETERANS' APPEALS

Mr. President, the BVA is the highest adjudicatory body within the Department of Veterans Affairs. Each year, on average, the Board renders decisions on 40,000-plus appeals for benefits claims. These cases span the range of veterans' benefits, including claims for entitlement to service connection, increased disability ratings, total disability ratings, pensions, insurance benefits, educational benefits, home loan guarantees, vocation rehabilitation, and dependency and indemnity compensation.

The Board is comprised of 67 members who sit on 21 three-member sections, which hold hearings in every VA jurisdiction across the Nation. Board members must be able to handle all types of appeals regardless of their complexity. For example, they must possess a capacity for analysis and articulation and the ability to balance important and conflicting considerations. They must have command of judicial practice and the ability to assure a fair hearing. They must have both in-depth understanding of VA procedure and of the impact of ordering examinations or hospitalizations. He or she must be at ease in guiding research and citation of medical texts or in preparing a controversial or complex medical question for review by an expert from within or without the Department.

Because of varied and specialized requirements associated with the job, BVA members are necessarily selected through a highly exacting, competitive process. Reflecting the overriding need for individuals trained in BVA procedures and familiar with VA statutes, regulations, and practice, Members are usually chosen from the ranks of experienced staff counsels to the Board sections.

VETERANS' JUDICIAL REVIEW ACT OF 1988

The work of the BVA, while always difficult, has grown in complexity and volume over the years. From 1984 to 1991, with one exception, the BVA averaged more than 40,000 cases decided annually. However, during this same period, processing time jumped from 132 days in 1984, 186 in 1990, and 160 in 1991. This year, judging from the first quarter statistics, the number of BVA decisions will drop drastically, to as little as 25,000. This would be a significant reduction in itself, but is doubly so when one considers the fact that the BVA is now operating with a full complement of members for the first time in years. This decline in caseload and promptness can only be attributed to passage of the Veterans' Judicial Review Act [VJRA] of 1988, Public Law 100–687, which created a new Federal court of jurisdiction, the U.S. Court of Veterans Appeals, exclusively to review final decisions of the BVA.

Richard B. Frank, president of the Board of Veterans' Appeals Professional Association, cogently summarizes the adverse affect of judicial review on the Board's work in a recent letter to me:

> By far the most significant event in the Board's history since its creation in 1933 was the Veteran's Judicial Review Act of 1988. Although the act is popularly thought of as only granting veterans "a day in court" at the United States Court of Veterans Appeals after the VA adjudication process is complete, in fact, the VJRA also permitted the Court to mandate radical changes in the adjudication process.
>
> Prior to the VJRA, the Board issued written decisions designed to be accessible to a veteran without legal, or indeed, college education. These decisions reflected accurately a process that was informal, nonadversarial and result oriented. The Court has grasped the language incorporated in the VJRA that the Board provide "reasons and bases" for its decisions to dictate fundamental alterations in the formality, length and complexity of our decisional documents. While we acknowledge that the current decisions are more expansive and intellectually rigorous, these advantages have been gained at a price.
>
> The Board now effectively writes decisions for the court rather than the appellant since any decision may be subject to appeal. To satisfy the Court that our decision contains adequate "reasons and bases" the Board made a fundamental shift in its decision writing effective November, 1991. The new format demands a decision of substantially greater length that interleaves the evidence and the law and regulations. Citations to Court decisions are mandatory; citations to advanced medical texts or treatises are commonplace. Many cases entail a discussion of a very sophisticated procedural analysis involving claims reopened after prior adjudications tailored to a framework derived the Court from language in the VJRA. We are confident that the resulting document is equal to or surpasses the decisional documents of any other administrative adjudicated body in the subject matter and legal complexity. Less happily, we are also confident that many decisions, if not most, are now inaccessible to the average appellant.
>
> Not surprisingly, the changes dedicated by the Court and the VJRA have very materially slowed the productivity of the Board. In Fiscal Year 1991, the Board issued about 43,000 decisions. For the first quarter of Fiscal Year 1992, the Board produced over 8,000 decisions. On an annual basis, that would generate about 33,000 decisions for the year. During that quarter, however, the new format was in effect for only two months. The figures for January 1992 continue to chart a decline in productivity. At this time, the estimates of the Board Members for our ultimate production for Fiscal Year 1992 range from approximately 25,000 to 32,000.
>
> This sharp decrease in overall productivity has been coupled with a sharp decline in the number of decisions that reach the merits. The Court has crafted an extraordinarily broad and still expanding "duty to assist" the claimant in developing his claim upon the Department from language in the VJRA. This "duty" is by far the major driving force that has propelled the Board from a remand rate that historically was always less than twenty percent to a rate that has crossed fifty percent and is still climbing.
>
> The marked decline in productivity and the sharp increase in remands will inflict serious damage on the processing time for all appeals. In round numbers, during Fiscal Year 1991, the Board reached the merits of the issues on appeal in about 34,000 of 43,000 cases. At that time the Board's processing time, which recently had ranged as high as about 180 days, hovered around 150 days. Based upon current trends for Fiscal Year 1992, even if the Board issues 33,000 decisions, only half will reach the merits of the issues on appeal. This means the number of decisions reaching the merits will be only half of what it was the year before, from its already high levels. Board Members are keenly aware of what this means to appellants, but we have no recourse under judicial review.

Mr. President, Mr. Frank does not mention one other result of judicial review that has bearing on my legislation: the limitation of the terms of BVA Members to 9 years. Congress included this term limitation provision in the VJRA order to make BVA members more accountable for their actions. This is a reflection of the degree of importance Congress attached to these positions, for, to my knowledge, no other GS-15 level employee in Government is similarly restricted to a statutory term limit. This flip side of this is that, in conferring this honor on BVA members and ALJ's are treated: while ALJ's enjoy elevated pay and status, without limitation on their terms of office, BVA members suffer from vastly increased responsibilities while subject to the fear that they may not be reappointed after 9 years of dedicated service.

FEDERAL PAY ACT OF 1990

Mr. President, as the foregoing suggests, the natural evolution of BVA responsibilities, combined with the impact of judicial review, has rendered the work of the Board vastly more difficult and onerous. In these circumstances, VA faces great challenges in recruiting and retaining qualified Board Members.

Unfortunately, another development external to the Department has compounded this problem and created a very real possibility that BVA ranks could be eviscerated. I am referring, of course, to the passage of the Federal Pay Act of 1990, which, by making all administrative law judges in Federal service of equal grade, as part of the Senior Executive Service [SES], created for the first time a disparity in compensation between ALJ's and BVA members.

By elevating ALJ's to SES status, the Pay Act set them far apart from BVA members, who continue to be paid at the GS-15 level. At current rates, an ALJ can make as much as $17,000 more than their BVA colleagues. Board members have had to stand idly by while their nominal peers in other agencies are paid higher salaries and admitted to the Federal Government's elite executive ranks.

Yet, it is clear that the duties and responsibilities of ALJ's and Board members are virtually identical in every important respect; indeed, some would even argue that the work of BVA members is even more difficult and complex than that of many if not all ALJ's.

Mr. President, I have in my hand letters from three distinguished administrative law judges who support my contention that the work of ALJ's and Board members is nearly indistinguishable and therefore merits equal pay. What makes their comments noteworthy is that all three judges are also former members of the Board of Veterans' Appeals and thus in a position to comment intelligently on this matter. I ask that their letters be printed in the record following my remarks.

TALENT FLIGHT

What is the upshot of judicial review and the Federal Pay Act? In a word: inequity. BVA members are doing more work today than in the pre-judicial review era, for the same pay and for less job security. But, Mr. President, a far more important issue than simple fairness to our 67 BVA members is at stake: unless this situation is corrected, the BVA—and by extension, the Nation's 27 million veterans—stands in imminent danger of losing some if not all of its most qualified Members. Once again, I quote Richard Frank of the BVA Professional Association:

> Within the last dozen years, no fewer than eight Board Members and six senior counsels have left the Board to become ALJs. This would seem modest, if it were not for the fact that four of these occurred within the past two years and four more current Board Members and four senior counsels are now on the list to become Social Security ALJs. It must be emphasized that this total represents all of the Board Members, except one, who ever applied that that all of these individuals made this choice prior to the passage of the Pay Act. The one exception arose from the fact that the Board Members so restricted her choices geographically that she never received an offer.
>
> Some uncertainty now surrounds exactly when the list to become Social Security ALJs will reopen. Our current information is that the list will be reopened sometime in the first half of next year. At that time, at least 38 of the current 44 attorney Board Members will be applying to get on the list to become Social Security ALJs. (The only reason all 44 will not apply is because it is currently understood that all ALJ positions will be outside the Washington Metropolitan area. Should ALJ positions within the metropolitan area become available, the number of Board Members applying will increase). If they enjoy the success their predecessors have, there will be a massive loss of experienced Board members and no reason to believe that their replacements will not soon follow them to become ALJs.

CONCLUSION

Mr. President, if we continue to insist on maintaining an artificial pay distinction between ALJ's and Board members, we stand to do a vast disservice not only to current and future BVA members, but also to the thousands of veterans who appeal their claims to BVA each year. These men and women, who put their lives on the line for our country, at the very least deserve to have their cases heard by the most qualified personnel in the most expeditious fashion. If morale among BVA members becomes as low as we predict, and leads to a continuing exodus of our best and brightest, the BVA will become an attorney's dumping ground, a second-rate body that will produce second rate decisions, increase the number of cases remanded by the Court of Veterans Appeals, and inflate the time it takes for a veteran to have his or her claim decided. In short, as is always the case when we try to cut corners, veterans and their families will be the ones to suffer most. All of us in this chamber have had to intervene at one time or another on behalf of dozens, hundreds, perhaps thousands of veterans who have asked for assistance in resolving a claims problem with VA. I promise my colleagues that these requests will rise dramatically in the coming months and years if the BVA is allowed to become a backwater for Federal careerists.

Mr. President, the bill I am introducing today would help ensure that veterans claims are adjudicated by the most knowledgeable individuals. As such, it would help prevent a further deterioration in the quality of BVA decisions and the speed with which veterans' claims are adjudicated. Moreover, my bill is hardly a budget breaker—far from it. According to the latest Congressional Budget Office estimate for the House companion bill introduced by Congressman BILIRAKIS, this initiative would cost VA only $5 million over 5 years—a pittance when one considers that VA services and benefits total more than $30 billion annually.

Thank you, Mr. President. I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that several letters relative to this legislation be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SOCIAL SECURITY ADMINISTRATION,
OFFICE OF HEARINGS AND APPEALS,
June 10, 1991.

CHARLES L. CRAGIN,
Chairman, Board of Veterans' Appeals, Washington, DC.

DEAR MR. CHAIRMAN: I have information which may be helpful to you. I was employed by the Board as a staff attorney and senior attorney from June 1970 until November 1977, at which time I was appointed by Administrator Cleland and approved by President Carter as an associate member. In April 1980 I resigned to accept an appointment as an Administrative Law Judge with the Department of Health, Education & Welfare, now Health and Human Services. Since June 1980 I have been Hearing Office Chief ALJ in Shreveport, LA. This gives me a good perspective for comparison of the positions of Board Member and ALJ.

Succinctly stated, the differences are hardly worth mentioning. The incumbent must be able to analyze and summarize in a decisional format the facts and governing legal criteria in a clear and concise fashion. The decisional formats are quite similar. There must be an evaluation of the credibility of witnesses and probative value of documentary and other evidence, in addition to an adequate understanding of all legal, medical and other technical factors which bear on the assurance of a fair hearing.

The decisions must take into account federal, state and occasionally foreign statutes and regulations, as well as court decisions. There is virtually no substantive review or supervision beyond the traditional review on appeal under the substantial evidence criteria. The decisions are completely independent and final, and are issued to the parties in the name of the member or ALJ. The issues may be quite simple or enormously complex. The authority to make and publish decisions derives from direct delegation by the Secretary of the Department, and independence is absolute.

Previously developed evidence and the validity of previous adjudicative processes by the agency must be reviewed. Conflicts in the record must be resolved. Credibility of both lay and expert witnesses must be appraised and oral argument and briefs considered. The examinations must be controlled. Findings of fact and conclusion of law are made. Attorney fee arrangements must be approved by appropriate order. A comparison of the position descriptions will highlight the parallels. I really can't think of a substantive difference. I became an ALJ based almost exclusively on qualifying experience with the Board, and was eligible at both the GS 15 and 16 level.

Should the need arise I would enjoy discussing this matter with you in person. Contacts with old friends at the Board indicate that the operation continues to prosper under your leadership.

Sincerely,

W. THOMAS BUNDY,
U.S. Administrative Law Judge.

SOCIAL SECURITY ADMINISTRATION,
OFFICE OF HEARINGS AND APPEALS,
Raleigh, NC, July 23, 1991.

CHARLES L. CRAGIN,
Chairman, Board of Veterans Appeals, Washington, DC.

DEAR MR. CRAGIN: There has recently come to my attention a proposal to reclassify the position of Associate Member of the Board of Veterans Appeals (BVA) to conform to the classification now applicable to Administrative Law Judges.

I was a member of the Board from 1977 to 1980 and have been an Administrative Law Judge (ALJ) since that time. The two positions are so closely comparable that I was surprised that the recent action to remove ALJs from the general pay schedule and into a new and separate pay schedule did not include members of the Board. I write now to support the new and higher classification for Board members.

The breadth of knowledge and experience and the temperament required are virtually identical and the duties are very similar. Of great importance is the need to retain high quality professionals in order to give to the Veterans population a high quality adjudicative system.

In summary, I believe that pay parity for Board members is important to veterans and their interest in maintaining a fair and effective appeals process.

Sincerely,

H. CLAYTON ADAMS,
Administrative Law Judge.

P.S. Just recently, members of the Appeals Council of the Social Security Administration's Office of Hearings and Appeals have been redesignated "Administration's Appeals Judges" and given the advantages of the new pay structure for ALJs. Their responsibilities are even more similar to those of the BVA than to those of ALJs.

FALLS CHURCH, VA,
April 26, 1991.

Mr. CHARLES L. CRAGIN,
Chairman, Board of Veterans Appeals, Washington, DC.

DEAR CHAIRMAN CRAGIN: I have recently become aware of the interest of the Board and its Members in the possibility of reclassifying the Associate Member position from the General Schedule of Civil Service positions to that of Administrative Judges, in conformity with the general trend prevalent in the federal government today.

In order to give you some knowledge of my background so that you are in a position to evaluate my comments I offer you the following birds-eye view of my federal service. I served in the federal civil service for 42 years, starting in the Treasury Department. I began as an Assistant Messenger after High School, went to night school, served in the Army for 4 years during WW II, returned to the VA as an Adjudicator and quickly switched to the Board of Veterans Appeals in mid-1946, where I remained until 1972. At that time I was a Chief Associate Member. I left to become an Administrative Law Judge with the Occupational Safety & Health Review Commission, where I was appointed the Commission's first Chief ALJ. I retired from federal service in 1980.

I always felt that the work of the Associate Members was not fully appreciated outside the Board and this thought was reinforced when I become more fully aware of the scope of the work of ALJs.

Some of the comparisons that come quickly to mind are:

Both ALJs and Associate Members make and issue decisions for their Departments, Boards, Commissions, etc., but with one marked difference. The ALJs decisions are subject to review (revision, reversal or confirmation), whereas the BVA decisions issue without review as the final decision of the VA.

Among all federal agencies utilizing ALJs, their decisions are all appealable to United States District Courts with the exception of one agency, the OSHRC, whose decisions are appealable directly to the United States Courts of Appeals. This is true also of your decisions, although, in my day there was no appeal at all.

As ALJs are expected to handle all matters that come before them, both simple and complex, as defined by their agency specialty, so too the Associate Members handle those simple pension issues constituting the bulk of trials before Social Security ALJs as well as the more complex medical, insurance, line-of-duty, education and domestic relations questions.

Whereas the ALJ decision is subject to at least one level of review within the agency, the decisions by the Board are not subject to any result-oriented review, that is no review changes the decision by the Associate Members.

A well-reasoned decision by the Board, as well as by an ALJ, will define the problem; describe the evidence; the process by which the appeal came before the Board; state the applicable law; resolve conflicting testimony through Findings of Fact and Discussion, including evaluating the credibility of testimony, both lay and expert.

Neither the ALJ nor the Associate Member's decisional process is subject to higher authority review or what in the military is termed command influence, although the ALJ may be reversed by his agency.

I am sure that a personnel specialist would be able to more clearly define the similarities of these two positions as well as the few areas where dissimilarities exist. For instance I believe the biggest hurdle is the fact that ALJs act as solo trier of the facts and decision maker, while your Associate Members act as a member of a panel and cannot alone control the results. I have always believed that I would have been a more effective Associate Member if I had functioned alone, even though I always felt fortunate to work with good panels. Thus I would recommend you explore a wholesale revision of the Board's make-up to establish one person decisions. I believe this would result in increased productivity as well as improved quality, since no individual's decisions would be shielded from a court's penetrating review.

I would be happy to visit with you and discuss this matter in greater detail if you should so desire.

Sincerely,

CHARLES K. CHAPLIN.●

By Mr. DOMENICI (for himself, Mr. BOND, and Mr. MOYNIHAN):

S. 2370. A bill to restore obligation authority authorized in the Intermodal Surface Transportation Efficiency Act of 1991; to the Committee on Labor and Human Resources.

RESTORATION OF HIGHWAY OBLIGATION

Mr. DOMENICI. Mr. President, I believe that the debate about the infamous Brooklyn courthouse has gone on long enough. There seems to be uniform consensus that we need to restore this $1 billion which was taken from 1992 highway obligations in order to accommodate the mandatory nature of this courthouse project.

At a time some are advocating supplemental appropriations to increase infrastructure spending, I strongly believe that we must first correct this problem by restoring the full obligation limit provided by the Congress. I am pleased to join my colleagues, Senator BOND, and Senator MOYNIHAN in sponsoring legislation which would subject the courthouse project to the normal appropriations process and restore approximately $1 billion to highway programs in this fiscal year.

I urge my colleagues to accept this bill so that we might restore the money to highways. Adoption of the bill will result in each State receiving an immediate increase of nearly 6 percent in their 1992 apportionments. We have been consistently urged by State officials, as well as the National Governors' Association, to restore this $1 billion, and I am hopeful that we might do that today.

Mr. BOND. Mr. President, I rise in support of the measure that my good friend, the Senator from New Mexico, has just introduced. This measure is extremely important for highways, transportation, and infrastructure throughout this country. It restores the full $1 billion that had been set aside by OMB action as a result to the courthouse included in the highway bill.

Senator MOYNIHAN has graciously agreed to it, and has supported the legislation to make this courthouse subject to appropriations, meaning it is back in line and not in the highway bill.

In addition, the measure offered by Senator DOMENICI provides offsets by removing the statute of limitations for the collection of student loans, and this will allow approximately the full amount of money to be spent on highways as initially proposed.

I express my thanks also to Senator DOMENICI, as well as Senator MOYNIHAN. Restoring this $1 billion will put 50,000 people to work building highways across this Nation. Without this legislation, which I hope this body can consider and pass very quickly, we would see losses in every State in the Nation; $18 million, at least, and three major projects in my State would have to be put on hold.

I believe that this is an appropriate solution to the mixup which occurred in the highway bill. I am pleased that we have been able to come to agreement on how to deal with it.

I hope the body can act expeditiously. Missouri badly needs the $18 million. The rest of the country, I know, needs the highway money. I urge my colleagues to give this measure their full support.

I thank the Chair. I yield the floor.

By Mr. COATS:

S. 2371. A bill to establish a computer education program for certain students; to the Committee on Labor and Human Resources.

BUDDY SYSTEM COMPUTER EDUCATION ACT

• Mr. COATS. Mr. President, Deanna Overton, a former student at Fuqua Elementary School in Terre Haute, IN, says that Buddy turned her life around. Buddy isn't one of her classmates, Buddy is a Macintosh Computer that she keeps at home. Deanna received her computer as a part of a school project called the Buddy System.

Deanna failed fourth-grade a few years ago. She attributes these low marks to her boredom in class. "I hated school. I couldn't stand it," she said, Deanna claims that she hated school so much that she used to put a thermometer on a light bulb to convince her parents she was too sick to go to school. But that was before Buddy.

Today, instead of D's and F's, Deanna receives A's and B's. Rather than avoiding school, Deanna enjoys school work. Her teachers consider her a leader. Deanna's mother, Debbie Sparks, says, "she [Deanna] has grown up in so many ways. She breathes that thing and she's so grown up."

Students and parents aren't the only ones boasting about the Buddy system project, "I would not have believed this was possible for fourth-, fifth-, and sixth-grade pupils to possess the skills that these kids posses," stated Rose Ann Santilli, a sixth-grade teacher at Fuqua Elementary.

These are just a few illustrations of the Buddy system project successes. The Buddy system, the largest project of its kind in the world, originated in Indiana in 1987.

Buddy was conceived by a small private sector group, working with the Indiana Corporation for Science and Technology and the State superintendent of public instruction, H. Dean Evans, as a positive response to issues such as education in the information age, changing, work force skills, and Indiana's challenge to compete in the world economy.

Early funding for Buddy came through grants and in-kind contributions from Lilly Endowment, Indiana Bell, GTE, IBM, Apple, Indiana Corporation for Science and Technology, and the Indiana Department of Education, with additional funding from the Indiana State Legislature.

Just how does the Buddy system work? Teachers assign nightly electronic homework. They communicate with parents by listing homework assignments on the bulletin board by sending individual electronic messages privately to parents. Students eagerly work on assignments, often creatively going beyond the specified requirements. Each Buddy computer is networked to online information sources to provide access to encyclopedia services, news, weather, sports, and educational games. A project file server offers electronic mail, bulletin boards, and chat services to all users.

One of the most important aspects of Buddy has been parental involvement. Buddy students teach their parents and siblings how to use the computer. Parents are then able to communicate with the classroom teacher via bulletin boards and chat systems. Parents are also encouraged to join parent user groups to extend parent training and trade inexpensive shareware with each other.

Buddy's track record is extremely impressive. The project has grown to serve more than 2,000 Hoosier families at 20 sites throughout Indiana. An evaluation, conducted by Dr. William Quinn of Quality Performance Associates, issued phenomenal results. I ask unanimous consent that a list of the Buddy system evaluation findings be included in the RECORD at this point in my statement.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

THE BUDDY SYSTEM EVALUATION FINDINGS

Students spend an average of 66 minutes a day at home on the computer—and an additional 2¾ hours on the weekend.

About 50% of parents have increased involvement in their child's homework.

Mothers (74%), fathers (49% and other siblings (68%) also use the Buddy computer on a regular basis.

81% of educators agree that students are writing more than they would without computers. In a random survey, Buddy 5th grade student work was over twice as long as comparison students' and scored higher on quality measurements.

98% of students are comfortable working with computers. Some even surpass their teachers in understanding how to use various computer applications—a major educational outcome for the Project.

88% of educators agree students are more willing to do homework if done on the computer.

76% of teachers report that Buddy has resulted in better communication between teachers and parents, often through electronic mail.

Parents praise how Buddy increases their children's interest in learning and indicate that their children's self-confidence is higher as a result of Buddy.

Almost 90% of educators agree that student work on the computer is more creative and of higher quality. 93% see Buddy students doing school work that is more complex and at higher levels than they would do otherwise.

100% of educators say that students demonstrate greater pride in their work, and 93% see greater self-esteem in Buddy students.

Student-developed applications software, simulation database and telecommunications activities all are improving critical thinking skills.

Buddy students substantially outperformed students in traditional computer lab settings on 9 of 10 computer tasks. On a technology skills test, 84% of Buddy students scored higher than the average score achieved by comparison students.

100% of educators indicate that Buddy helped them to grow professionally, with 88% reporting new excitement for teaching.

Mr. COATS. Mr. President, for these reasons, I rise today to introduce a bill which would provide other students with the opportunity to have a Buddy. This bill would authorize a demonstration grant program to promote public-private partnerships which enable 6th- 7th- and 8th-grade students to utilize personal computers at home, as well as in the classroom. The Secretary of Education would award grants to implement demonstration programs in three States. Each State receiving a grant would provide a continuous 3-year computer-based education project to two consecutive groups of 6th-, 7th-, and 8th-grade students, beginning with each group's entry into the 6th grade and ending the summer following each group's completion of the 8th grade.

The purposes for this extension of computer access beyond the classroom environment is threefold. First, it would enhance learning by providing students with the technological tools and guidance necessary to develop skills critical to educational growth and success in the workplace. Second, it would encourage parental involvement in education and total family use and understanding of computers and telecommunications through at-home applications. Finally, it would establish foundations for life-long learning through improvement in education skills and student motivation and attitudes.

Congresswoman JILL LONG, of Indiana, has introduced a companion bill in the House. I would like to commend her for her efforts to ensure that the rest our Nation be provided with the opportunity to ensure that the rest of our Nation be provided with the opportunity to experience the benefits of the Buddy System.

I urge my colleagues to join me in supporting the Buddy Program and I ask unanimous consent that this article from the Tribune-Star be inserted in the RECORD in its entirety.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Tribune-Star, May 6, 1991]

BUDDY PROGRAM BRINGS CHANGE—COMPUTER HELPS PUPIL TURN SCHOOL LIFE AROUND

(By Sue Loughlin)

Deanna Overton's Buddy helped turn her life around.

But her Buddy would never know it. Overton's Buddy is a MacIntosh computer that she keeps at her home through a Fuqua Elementary school project called the Buddy System.

Pupils in fourth- fifth- and sixth-grades have take-home computers. Fuqua was one of five pilot sites statewide in 1988 when the program first began.

Overton is a sixth-grader at Fuqua, a pretty girl with dark hair and eyes. She is articulate and confident, and enthusiastically demonstrates her computer skills and projects.

That's why it's almost impossible to believe that Overton failed fourth-grade a few years ago. She was getting Ds and Fs in school, and she was very bored with classes and very unhappy.

"I hated school. I couldn't stand it," she said. She confessed she used to take a thermometer and put it on a light bulb to feign sickness.

And then came Buddy.

In some ways, her failing may also have been her saving grace. Had she not failed, she never would have been part of the Buddy program, which started three years ago with fourth-graders at the school.

Overton said in the summer of 1988, she learned that later in the year she'd get to take a computer home—and that was something to look forward to. In the 1988-89 school year, she raised her grades to average. The original Buddy pupils were allowed to keep the computers in fifth- and sixth-grades, although the computers had to be returned during the summer.

Now, Overton gets As and Bs and she talks about how much she loves school work, especially if her Buddy is involved. Teachers describe her as a leader, and not just in use of computers.

She talks knowledgeably about Buddy Net, MicroSoft works and HyperCard stacks, and eagerly demonstrates projects she's put together on weather or fractions, complete with visual effects and audio. "I love doing visual effects," she said. She races through her descriptions of what she's doing leaving the computer illiterate mindboggled.

Overton recently spoke to the Vigo County School Board about her experiences with the Buddy Program and in February she talked to an Area Principals Conference at Turkey Run State Park.

"Computers are the world of tomorrow," Overton says. "The project has given me a head start with my future."

Those who don't soon learn about computers "will be lost."

She's already set her sights on college and wants a career in computers. "The computer has helped me so much," she said from the Fuqua library recently.

Although she'll be going to Sarah Scott next year, she won't be losing the computer. She has two younger brothers who will be participating in the program. By the time her brothers are out of school, she said, she plans to buy one of her own.

Overton's mother, Debbie Sparks, says "she has grown so many ways. She breathes that thing and she's so grown up." She said her daughter has become much more mature.

Overton is a teacher to her brothers and sisters at home, who are also using it.

Sparks is proud of her daughter and she thinks the Buddy program "is wonderful."

Her mother said the program gives all kids, wealthy and low income, the same chance to succeed.

Judy Summers, the Buddy site coordinator at Fuqua, said, "Kids are proud of their work, and they are more motivated to do their work." They do much more creative writing because it is easier to edit. "The longhand method is discouraging to creativity for many of our kids" when they must constantly rewrite.

Teachers in the program include Linda Smith and Duane Miller, fourth grade; Roxanne Bertsch and Harry Brady, fifth grade; and Rose Ann Santilli and Len Mullins, sixth grade.

Santilli, a first-year teacher who began teaching the sixth grade with very little computer experience, inherited a group of pupils who had been totally immersed in computers for two years.

"It was a little intimidating at the beginning," Santilli said. "The kids were so far advanced."

She said the pupils were "wonderful" and helped her learn how the program works. She'll take HyperCard training this summer, and one of the pupils has volunteered to "tutor" her before she begins.

"I would not have believed this was possible for fourth-, fifth- and sixth-grade pupils to possess the skills that these kids possess," Santilli said. "They have no problem with data bases or spreadsheets."

Summers said there is cooperative learning between teacher and pupils, as well as between pupils. Santilli was the facilitator in providing classroom knowledge, and pupils were facilitators in showing how to apply the knowledge to the computer.

About 90 percent of pupils choose to do homework by computer, and many do extra assignments on their own.

Many of Santilli's sixth-graders are concerned about next year, however, when they will no longer have a computer at home unless younger siblings are part of the program.

Summers says that pupils have made about 20 to 25 presentations, and all have taken part in demonstrations. State legislators, the state superintendent for public instruction, the governor and the vice president of education for Apple Computer have all visited Fuqua to see the Buddy Program in action.

The pupils aren't the least bit intimidated, and present their projects with much finesse.

"These kids have a self-confidence with adults I have never seen," Summers said.

Unlike adults, the youths are not afraid to explore new technology; they are willing to make mistakes to learn and go one step further. "I think you could put them on any computer and they will figure it out," Summers said.

The Buddy System has helped pupils improve many skills, including critical thinking, problem solving and cooperative learning. It has also cut down on TV time.

Teacher Linda Smith has witnessed many positive results from Buddy, and says it has dramatically changed the lives of some pupils.

The computer has become an equalizer for some, such as those with a learning disability who cannot write legibly by longhand. "When they produce work, it looks like everyone else's now."

She's seen a change in study habits and learning patterns. She's seen children master new technology. "I've seen many of them become creative thinkers and problem solvers" who are determined to find an answer to a problem. They won't easily give up."

Parents are interested and involved, and more are helping children with homework. "Parents are beginning to use the computer themselves," and some have even discovered talents they didn't know they had.

Parents are drawing house plans and doing spread sheets for monthly budgets by computer.

Smith said she's also seen more teamwork and small group participation among pupils.

"You teach them the basics and they're off and running. That's it. they're gone," she said. The first year of the project, "the kids were teaching us, they were so quick to pick up on it."

When the program began, she said she was the least computer literate of the teachers involved. "They put that Mac down in front of me and I literally lost it . . . I was so terrified." She said it took her three weeks and "10 million calls" until it finally began to click.

She recalls the day the first group of fourth-graders saw their computers for the first time and turned them on. "It was like an entire whole new universe opened up to them."

Just a day later, the first pupil yelled, "Come here, Mrs. Smith! Look what we found." they were not afraid to explore.

"It's made a difference in my life, too." Smith said. If anyone would have told her three years ago that she would successfully apply for a Lilly Endowment grant, she'd have told them they were crazy. She recently was awarded a $4,500 Teacher Creativity Fellowship to study petroglyphs (Indian rockwriting) in the Southwest. She'll incorporate what she uses into her teaching and the Buddy program.

"It's been a great three years," she said.•

By Mr. SEYMOUR (for himself, Mr. STEVENS, Mr. SHELBY, Mr. ADAMS, Mr. LAUTENBERG, Mr. COATS, Mr. COCHRAN, Mr. HEFLIN, Mr. DOLE, Mr. D'AMATO, Mr. JOHNSTON, Mr. KASTEN, Mr. CRAIG, Mr. BURNS, Mr. DASCHLE, Mr. MACK, Mr. DECONCINI, Mr. DODD, Mr. MURKOWSKI, Mr. DURENBERGER, Mr. RIEGLE, and Mr. SYMMS):

S.J. Res. 273. Joint resolution to designate the week commencing June 21, 1992, as "National Sheriffs' Week"; to the Committee on the Judiciary.

NATIONAL SHERIFFS' WEEK

• Mr. SEYMOUR. Mr. President, I rise today to introduce legislation to designate the week of June 21, 1992 as "National Sheriffs' Week." This legislation, which already has the support of 21 of my distinguished colleagues, will bring much deserved recognition to the thousands of dedicated men and women who serve our communities as county law enforcement leaders.

From the early days of the Old West, when local sheriffs and their trusted deputies defended small western towns from unruly gunslingers, to contemporary America, where today's officers confront an unprecedented, sophisticated crime wave driven by the lucrative drug trade, our Nation's sheriffs have played a significant role in the criminal justice history of our great Nation.

The role of local sheriffs has been greatly enhanced over the years. Clearly, local law enforcement is an essential pillar in our anti-drug and anticrime efforts. And while our county officers face increasingly dangerous odds protecting our streets from violent crime, drug trafficking, and illegal gang activity, these heroes continue to perform their duty each day with pride, courage and dedication unmatched by those in any profession.

At a time when our communities are being ripped apart by the forces of crime and drugs, it is essential for citizens, community leaders, and law enforcement to establish harmonious, working relationships to fight head on the criminal elements that have brought death and destruction to America's streets. This legislation will encourage such relationships by bringing to the forefront of public attention the duties, responsibilities, and activities associated with county law enforcement.

Americans are all too familiar with the overall objective of local law enforcement to track down and rub out the criminal elements of our society. But many citizens are unenlightened about the full range of community outreach activities engaged in by county law enforcement. Our Nation's sheriffs' departments sponsor such proactive, preventative programs as defense training for women and drug education programs in our schools. In addition, officers work closely with communities to establish neighborhood watch and drug free zone programs to help citizens take back their streets.

Indeed, the primary duty of our local police officers is to boldly execute the hand of justice in many innovative ways. And our county sheriffs continue to lead the charge in developing community-based programs to combat a scourge that has so severely ravaged our Nation.

Mr. President, I want to encourage my colleagues to join me in supporting this important legislation. By doing so, we can show our unyielding support for those heroes who proudly wear the tin star.•

By Mr. DODD (for himself, Mr. KENNEDY, Mr. ADAMS, Mr. CRANSTON, and Mr. DECONCINI):

S.J. Res 274. A joint resolution to designate April 9, 1992, as "Child Care Worthy Wage Day"; to the Committee on the Judiciary.

CHILD CARE WORTHY WAGE DAY

• Mr. DODD. Mr. President, I rise today to introduce along with Senator KENNEDY, Senator ADAMS, Senator CRANSTON, and Senator DECONCINI, a joint resolution which designates April 9, 1992, as "Child Care Worthy Wage Day."

We all know that good child care is necessary to a child's healthy development and that the care and nurturing a child receives in the earliest years is an important determinant of future health and success. In recent years the need for quality, affordable child care has increased dramatically. Today, approximately 10 million children are in child care for at least part of the day and that number is expected to increase in subsequent years.

Those who are entrusted with the care of our children are responsible for preparing the future leaders, workers, and parents of America. Child care providers, whether they are child care center staff, neighborhood family day care providers, or relatives, know how much goes into the simple word "care." Care encompasses the safety, health, development, and education of children.

Many parents today must sacrifice financially to pay for quality child care. Too often, those who work in the child care profession must also make a financial sacrifice. They provide an invaluable service for which they are paid at near poverty levels, often with few—if any—health benefits.

Mr. President, passage of this resolution will bring well-deserved professional recognition to child care providers and help to improve the quality of child care providers and help to improve the quality of child care throughout the Nation. I urge my colleagues to join me in cosponsoring this joint resolution to designate April 9, 1992, as Child Care Worthy Wage Day. I ask unanimous consent that the text of this resolution be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S.J. RES. 274

Whereas approximately 10,000,000 children in the United States are in partial or full-day child care and the number is expected to increase in subsequent years;

Whereas children are one of the most important resources of the United States;

Whereas the safety, health, and education of children should be a national priority;

Whereas good child care services ensure that children are safe, well-nourished, and given developmentally appropriate education;

Whereas the first national education goal states that by the year 2000 every child in America will go to school ready to learn, and insofar as quality, affordable child care is one of the determinants of school readiness;

Whereas individuals who work in the field of child care and early childhood development settings often have specialized and formal training and education in early childhood health, development, education and care;

Whereas continuity of quality staff and low staff turnover rates are significant components of quality child care;

Whereas the turnover rate among child care teaching staff and family day care providers has tripled to over 40 percent annually since the mid 1970s;

Whereas even those child care workers who fulfill State or federally mandated education and training requirements earn between one-third and one-half of what comparably educated workers earn in other fields;

Whereas real wages for child care teachers and providers, when adjusted for inflation, have decreased over 25 percent in the last 15 years;

Whereas the average child care worker is paid $11,000, which is near the poverty level, and often does not receive health or retirement benefits; and

Whereas it is important to recognize the significant contribution of the child care work force to the future academic achievement of children in the United States, the future productivity of the Nation, and the well-being of its children and families: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 9, 1992, is designated as "Child Care Worthy Wage Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies and activities.•

ADDITIONAL COSPONSORS

S. 177

At the request of Mr. INOUYE, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 177, a bill to amend section 1086 of title 10, United States Code, to provide for payment under the CHAMPUS Program of certain health care expenses incurred by certain members and former members of the uniformed services and their dependents to the extent that such expenses are not payable under Medicare, and for other purposes.

S. 240

At the request of Mrs. KASSEBAUM, the name of the Senator from Colorado [Mr. WIRTH] was added as a cosponsor of S. 240, a bill to amend the Federal Aviation Act of 1958 relating to bankruptcy transportation plans.

S. 391

At the request of Mr. REID, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 391, a bill to amend the Toxic Substances Control Act to reduce the levels of lead in the environment, and for other purposes.

S. 810

At the request of Mr. HARKIN, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 810, a bill to improve counseling services for elementary school children.

S. 914

At the request of Mr. GLENN, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 914, a bill to amend title 5, United States Code, to restore to Federal civilian employees their right to participate voluntarily, as private citizens, in the political processes of the Nation, to protect such employees from improper political solicitations, and for other purposes.

S. 1361

At the request of Ms. MIKULSKI, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of

S. 1361, a bill to remedy the serious injury to the United States shipbuilding and repair industry caused by subsidized foreign ships.

S. 1574

At the request of Mr. RIEGLE, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1574, a bill to ensure proper and full implementation by the Department of Health and Human Services of medicaid coverage for certain low-income medicare beneficiaries.

S. 1736

At the request of Mr. SASSER, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1736, a bill to amend title XVIII of the Social Security Act to provide for improved quality and cost control mechanisms to ensure the proper and prudent purchasing of durable medical equipment and supplies for which payment is made under the medicare program, and for other purposes.

S. 1866

At the request of Mr. KENNEDY, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 1866, a bill to promote community based economic development and to provide assistance for community development corporations, and for other purposes.

S. 1966

At the request of Mr. BIDEN, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1966, a bill to establish a national background check procedure to ensure that persons working as child care providers do not have a criminal history of child abuse, to initiate the reporting of all State and Federal child abuse crimes, to establish minimum guidelines for States to follow in conducting background checks and provide protection from inaccurate information for persons subjected to background checks, and for other purposes.

S. 2000

At the request of Mr. PRYOR, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2000, a bill to provide for the containment of prescription drug prices by reducing certain nonresearch related tax credits to pharmaceutical manufacturers, by establishing the Prescription Drug Policy Review Commission, by requiring a study of the feasibility of establishing a pharmaceutical products price review board, and by requiring a study of the value of Federal subsidies and tax credits given to pharmaceutical manufacturers, and for other purposes.

S. 2085

At the request of Mr. PRYOR, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Virginia [Mr. WARNER] were added as cosponsors of S. 2085, a bill entitled the Federal-State Pesticide Regulation Partnership.

S. 2106

At the request of Mr. CRANSTON, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 2106, a bill to grant a Federal charter to the Fleet Reserve Association.

S. 2113

At the request of Mr. DOLE, his name was added as a cosponsor of S. 2113, a bill to restore the Second Amendment rights of all Americans.

S. 2232

At the request of Ms. MIKULSKI, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of S. 2232, a bill to make available to consumers certain information regarding automobiles.

S. 2262

At the request of Mr. LEAHY, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 2262, a bill to make emergency supplemental appropriations to provide a short-term stimulus to promote job creation in rural areas of the United States, and for other purposes.

S. 2288

At the request of Mr. BROWN, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2288, a bill to amend part F of title IV of the Social Security Act to allow States to assign participants in work supplementation programs to existing unfilled jobs, and to amend such part and the Food Stamp Act of 1977 to allow States to use the sums that would otherwise be expended on food stamp benefits to subsidize jobs for participants in work supplementation programs, and to provide financial incentives for States and localities to use such programs.

S. 2336

At the request of Mr. ROCKEFELLER, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2336, a bill to establish a loan program at the Department of Commerce to promote the development and commercialization of advanced technologies and products.

S. 2351

At the request of Mr. ADAMS, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2351, a bill to provide for research to test the efficacy and cost-effectiveness of nutrition screening and intervention activities in populations of older individuals and to determine the extent of malnutrition in such populations.

S. 2357

At the request of Mr. D'AMATO, his name was added as a cosponsor of S. 2357, a bill to reduce and control the Federal deficit.

SENATE JOINT RESOLUTION 231

At the request of Mr. THURMOND, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of Senate Joint Resolution 231, a joint resolution to designate the month of May 1992, as "National Foster Care Month."

SENATE JOINT RESOLUTION 236

At the request of Mr. D'AMATO, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 236, a joint resolution designating the third week in September 1992 as "National Fragrance Week."

SENATE JOINT RESOLUTION 238

At the request of Mr. RIEGLE, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 238, a joint resolution designating the week beginning September 21, 1992, as "National Senior Softball Week."

SENATE JOINT RESOLUTION 246

At the request of Mr. LIEBERMAN, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of Senate Joint Resolution 246, a joint resolution to designate April 15, 1992, as "National Recycling Day."

SENATE JOINT RESOLUTION 255

At the request of Mr. D'AMATO, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of Senate Joint Resolution 255, a joint resolution to designate September 13, 1992 as "Commodore Barry Day."

SENATE JOINT RESOLUTION 261

At the request of Mr. CRANSTON, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of Senate Joint Resolution 261, a joint resolution to designate April 9, 1992, as a "Day of Filipino World War II Veterans."

SENATE JOINT RESOLUTION 266

At the request of Mr. THURMOND, the names of the Senator from Arizona [Mr. DECONCINI] and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate Joint Resolution 266, a joint resolution designating the week of April 26–May 2, 1992, as "National Crime Victims' Rights Week."

SENATE JOINT RESOLUTION 270

At the request of Mr. THURMOND, the names of the Senator from North Carolina [Mr. SANFORD] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of Senate Joint Resolution 270, a joint resolution to designate August 15, 1992, as "82d Airborne Division 50th Anniversary Recognition Day."

SENATE CONCURRENT RESOLUTION 80

At the request of Mr. SIMON, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from Oklahoma [Mr. BOREN], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Concurrent Resolution 80, a concurrent resolution concerning democratic changes in Zaire.

SENATE CONCURRENT RESOLUTION 89

At the request of Mr. KERRY, the names of the Senator from Vermont

[Mr. JEFFORDS] and the Senator from South Carolina [Mr. HOLLINGS] were added as cosponsors of Senate Concurrent Resolution 89, a concurrent resolution to express the sense of the Congress concerning the United Nations Conference on Environment and Development.

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of Senate Concurrent Resolution 89, supra.

SENATE RESOLUTION 246

At the request of Mr. DOLE, the names of the Senator from Montana [Mr. BURNS] and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate Resolution 246, a resolution on the recognition of Croatia and Slovenia.

SENATE RESOLUTION 249

At the request of Mr. D'AMATO, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of Senate Resolution 249, a resolution expressing the sense of the Senate that the United States should seek a final and conclusive account of the whereabouts and definitive fate of Raoul Wallenberg.

SENATE RESOLUTION 258

At the request of Mr. SIMON, the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from Washington [Mr. GORTON] were added as cosponsors of Senate Resolution 258, a resolution expressing the sense of the Senate regarding needed action to address the continuing state of war and chaos and the emergency humanitarian situation in Somalia.

SENATE RESOLUTION 270

At the request of Mr. DECONCINI, the names of the Senator from Tennessee [Mr. GORE] and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Resolution 270, a resolution concerning the conflict of Nagorno-Karabakh in the territory of Azerbaijan.

SENATE RESOLUTION 271

At the request of Mr. SIMON, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of Senate Resolution 271, a resolution relative to human rights in Tibet.

SENATE RESOLUTION 272—RELATIVE TO SERVICE ON SENATE COMMITTEES

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 272

Resolved, That paragraph 4(h) of rule XXV is amended to read as follows:

"(h)(1) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Environment and Public Works and the Committee on Finance may, during the One Hundred Second Congress, also serve as a member of the Committee on Agriculture, Nutrition, and Forestry so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(2) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Armed Services and the Committee on Energy and Natural Resources may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(3) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(4) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations may, during the One Hundred Second Congress, also serve as a member of the Committee on Energy and Natural Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(5) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(6)(A) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Armed Services and the Committee on the Judiciary may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(B) A Senator who during the One Hundred Second Congress serves on the Committee on Armed Services, the Committee on the Judiciary, and the Committee on Labor and Human Resources, who serves as chairman of a committee listed in paragraph 2, may, serve as chairman of two subcommittees of all committees listed in paragraph 2 of which he is a member.

"(7) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations may, during the One Hundred Second Congress, also serve as a member of the Committee on Banking, Housing, and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(8)(A) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Agriculture, Nutrition, and Forestry and the Committee on Appropriations may, during the One Hundred Second Congress, also serve as a member of the Committee on the Judiciary so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(B) A Senator who during the One Hundred Second Congress serves on the Committee on Agriculture, Nutrition, and Forestry, the Committee on Appropriations and the Committee on the Judiciary, and who serves as chairman of a committee listed in paragraph 2, may, serve as chairman of two subcommittees of all committees listed in paragraph 2 of which he is a member.

"(9) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Environment and Public Works and the Committee on the Judiciary may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(10) A Senator who on the last day of the One Hundred First Congress was serving on the Committee on Environment and Public Works and the Committee on the Finance may, during the One Hundred Second Congress, also serve as a member of the Committee on Foreign Relations so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(11) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance may, during the One Hundred Second Congress, also serves as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(12) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Appropriations and the Committee on Banking, Housing, and Urban Affairs may, during the One Hundred Second Congress, also serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(13) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Armed Services and the Committee on Banking, Housing, and Urban Affairs may, during the One Hundred Second Congress, also serve as a member of the Committee on Energy and Natural Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(14) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Judiciary and the Committee on Labor and Human Resources may, during the One Hundred Second Congress, also serve as a member of the Committee on Foreign Relations so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(15) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Armed Services and the Committee on Energy and Natural Resources may, during the One Hundred Second Congress, also serve as a member of the Committee on Banking, Housing, and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(16) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Special Committee on Aging, may, during the One Hundred Second Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(17) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Veterans' Affairs, may, during the One Hundred Second Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraph 3 (a) and (b).

"(18) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Rules and Administration, may, during the One Hundred Second Congress, also serve as a member of the Committee on Veterans Affairs and the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than three committees listed in paragraphs 3 (a) and (b).

"(19) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Rules and Administration, may, during the One Hundred Second Congress, also serve as a member of the Joint Economic Committee so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(20) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Veterans Affairs, may, during the One Hundred Second Congress, also serve as a member of the Special Committee on Aging so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(21) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget, may, during the One Hundred Second Congress, also serve as a member of the Special Committee on Aging so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(22) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Small Business, may, during the One Hundred Second Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(23) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Special Committee on Aging, may, during the One Hundred Second Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(24) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget, may, during the One Hundred Second Congress, also serve as a member of the Committee on Intelligence so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(25) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Rules and Administration, may, during the One Hundred Second Congress, also serve as a member of the Committee on the Budget so long as his service as a member of each such committee is continuous, but in no event may he serve by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(26) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Rules and Administration, may, during the One Hundred Second Congress, also serve as a member of the Joint Committee on Taxation so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraph 3.

"(27) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget, may, during the One Hundred Second Congress, also serve as a member of the Special Committee on Aging so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(28) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Judiciary, and the Committee on Armed Services, may, during the One Hundred Second Congress, serve as a member of the Committee on Labor and Human Resources, so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(29) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Finance and the Committee on the Governmental Affairs may, during the One Hundred Second Congress, also serve as a member of the Committee on Banking, Housing, and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(30) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Appropriations, and the Committee on Energy and Natural Resources, may, during the One Hundred Second Congress, also serve as a member of the Committee on Banking, Housing, and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(31) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Appropriations, and the Committee on Banking, Housing, and Urban Affairs may, during the One Hundred Second Congress, serve as a member of the Committee on Energy and Natural Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(32) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Labor and Human Resources and the Committee on the Judiciary may, during the One Hundred Second Congress, also serve as a member of the Committee on Finance so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(33) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Judiciary and the Committee on Labor and Human Resources may, during the One Hundred Second Congress, serve as a member of the Committee on Foreign Relations so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(34) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Environment and Public Works and the Committee on Finance may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(35) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Foreign Relations and the Committee on Labor and Human Resources may, during the One Hundred Second Congress, serve as a member of the Committee on Banking, Housing, and Urban Affairs so long as her service as a member of each such committee is continuous, but in no event may she serve, by reason of this subdivision, as a member of more than three communities listed in paragraph 2.

"(36) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Agriculture, Nutrition, and Forestry, and the Committee on Appropriations may, during the One Hundred Second Congress, also serve as a member of the Committee on Labor and Human Resources so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(37) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Finance and the Committee on the Judiciary may, during the One Hundred Second Congress, also serve as a member of the Committee on Agriculture, Nutrition, and Forestry so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(38) A Senator who was sworn in on January 10, 1991, may serve as a member of the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry, may, during the One Hundred Second Congress, serve as a member of the Committee on Governmental Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(39) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Appropriations and the Committee on the Judiciary may, during the One Hundred Second Congress, also serve as a member of the Committee on Banking, Housing, and Urban Affairs so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than three committees listed in paragraph 2.

"(40) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget and the Committee on Small Business may, during the One Hundred Second Congress, continue his service on these two committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(41) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget and the Special Committee on Aging may, during the One Hundred Second Congress, continue his service on these two committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(42) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on the Budget and the Committee on Small Business may, during the One Hundred Second Congress, continue his service on these two committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(43) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Select Committee on Intelligence and the Committee on Veterans' Affairs may, during the One Hundred Second Congress, continue his service on these two committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(44) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Veterans' Affairs and the Special Committee on Aging may, during the One Hundred Second Congress, continue his service on these two committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(45) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Committee on Rules and Administration and the Committee on Small Business may, during the One Hundred Second Congress, continue his service on these two committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(46) A Senator who on the last day of the One Hundred First Congress was serving as a member of the Special Committee on Aging and the Committee on Small Business may, during the One Hundred Second Congress, continue his service on these two committees so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(47) A Senator may serve as a member of the Special Committee on Aging and the Committee on Small Business during the One Hundred Second Congress so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(48) A Senator may serve as a member of the Special Committee on Aging and the Committee on Veterans' Affairs during the One Hundred Second Congress so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b).

"(49) A Senator may serve as a member of the Committee on Rules and Administration and the Select Committee on Intelligence during the One Hundred Second Congress so long as his service as a member of each such committee is continuous, but in no event may he serve, by reason of this subdivision, as a member of more than two committees listed in paragraphs 3 (a) and (b)."

AMENDMENTS SUBMITTED

RAIL SAFETY IMPROVEMENT INITIATIVES ACT

EXON AMENDMENT NO. 1736

Mr. PRYOR (for Mr. EXON) proposed an amendment to the bill (S. 1571) to amend the Federal Railroad Safety Act of 1970 to improve railroad safety, and for other purposes, as follows:

Strike all on page 5, line 17, through page 7, line 7, and insert in lieu thereof the following:

LOCOMOTIVE CRASHWORTHINESS AND WORKING CONDITIONS

SEC. 6. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end the following new subsection:

"(r)(1) The Secretary shall, within 24 months after the date of enactment of this subsection, complete a rulemaking proceeding to consider prescribing regulations to improve the safety of locomotive cabs. Such proceeding shall assess—

"(A) the adequacy of Locomotive Crashworthiness Requirements Standard S-580, adopted by the Association of American Railroads in 1989, in improving the safety of locomotive cabs; and

"(B) the extent to which environmental and other working conditions in locomotive cabs affect productivity and the safe operation of locomotives.

"(2) In support of the proceeding required under paragraph (1)(A), the Secretary shall conduct research and analysis, including computer modeling and full-scale crash testing, as appropriate, to consider the costs and safety benefits associated with equipping locomotives with—

"(A) braced collision posts;

"(B) rollover protection devices;

"(C) deflection plates;

"(D) shatterproof windows;

"(E) readily accessible crash refuges;

"(F) uniform sill heights;

"(G) anti-climbers, or other equipment designed to prevent overrides resulting from head-on locomotive collisions;

"(H) equipment to deter post-collision entry of flammable liquids into locomotive cabs; or

"(I) any other devices intended to provide crash protection for occupants of locomotive cabs.

"(3) If on the basis of the proceeding required by paragraph (1) the Secretary determines not to prescribe regulations, the Secretary shall report to Congress on the reasons for that determination.".

EXON (AND OTHERS) AMENDMENT NO. 1737

Mr. PRYOR (for Mr. EXON, for himself, Mr. BURNS, and Mr. SPECTER) proposed an amendment to the bill S. 1571, supra, as follows:

Strike all on page 14, line 20, through page 15, line 17, and insert in lieu thereof the following:

POWER BRAKE SAFETY

SEC. 12. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by this Act, is further amended by adding at the end the following new subsection:

"(u)(1) The Secretary shall conduct a review of the Department of Transportation's rules with respect to railroad power brakes, and within 18 months after the date of enactment of this subsection, shall revise such rules based on such safety data as may be presented during that review.

"(2) In carrying out paragraph (1), the Secretary shall, where applicable, prescribe standards regarding dynamic braking equipment.

"(3)(A) In carrying out paragraph (1), based on the data presented, the Secretary shall require two-way end of train devices (or devices able to perform the same function) on road trains other than locals, road switchers, or work trains to enable the initiation of emergency braking from the rear of the train. The Secretary shall promulgate rules as soon as possible, but not later than December 31, 1993, requiring such two-way end of train devices. Such rules shall, at a minimum—

"(i) set standards for such devices based on performance;

"(ii) prohibit any railroad, on or after 12 months after promulgation of such rules, from purchasing or leasing any end of train device for use on trains which is not a two-way device meeting the standards described in clause (i);

"(iii) require that such trains be equipped with a two-way end of train device meeting such standards not later than 48 months after promulgation of such rules; and

"(iv) provide that any two-way end of train device purchased before such promulgation shall be deemed to meet such standards.

"(B) The Secretary may consider petitions to amend the rules promulgated under paragraph (3)(A) to allow the use of alternative technologies which meet the same basic performance requirements established by such rules.

"(4) The Secretary may exclude from rules promulgated under paragraphs (1), (2), and (3) any category of trains or railroad operations if the Secretary determines that such an exclusion is in the public interest and is consistent with railroad safety. The Secretary shall make public the reason for granting any such exclusion. The Secretary shall at a minimum exclude from the requirements of paragraph (3)—

"(A) trains that have manned cabooses;

"(B) passenger trains with emergency brakes;

"(C) trains that operate exclusively on track that is not part of the general railroad system;

"(D) trains that do not exceed 30 miles per hour and do not operate over heavy grades, unless specifically designated by the Secretary; and

"(E) trains that operate in a push mode."

EXON AMENDMENT NO. 1738

Mr. PRYOR (for Mr. EXON) proposed an amendment to the bill S. 1571, supra, as follows:

On page 1, line 5, strike "1991" and insert in lieu thereof "1992".

Strike all on page 9, line 15, through page 10, line 22.

HOLLINGS AMENDMENT NO. 1739

Mr. PRYOR (for Mr. HOLLINGS) proposed an amendment to the bill S. 1571, supra, as follows:

At the end of the bill, add the following new section:

TRACK SAFETY

SEC. 14. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by this Act, is further amended by adding at the end the following new subsection:

"(v)(1) The General Accounting Office shall conduct a study of—

"(A) the adequacy of the Secretary's rules, regulations, orders, and standards that are related to track safety; and

"(B) the effectiveness of the Secretary's enforcement of such rules, regulations, orders, and standards, with particular attention to recent relevant railroad accident experience and data.

"(2) The General Accounting Office shall, within 18 months after the date of enactment of this subsection, submit to the Secretary and Congress a report on the results of such study, together with recommendations for improving such rules, regulations, orders, and standards, and such enforcement.

"(3) Upon receipt of such report, the Secretary shall initiate a rulemaking proceeding to revise such rules, regulations, orders, and standards, taking into account the report and the recommendations by the General Accounting Office submitted along with the report. Not later than 12 months after the date of submission of the report, the Secretary shall complete such proceeding and submit to Congress a statement explaining the actions the Secretary has taken to implement such recommendations.".

SIMON AMENDMENT NO. 1740

Mr. PRYOR (for Mr. SIMON) proposed an amendment to the bill S. 1571, supra, as follows:

On page 9, line 14, strike the quotation marks and the period at the end.

On page 9, between lines 14 and 15, insert the following:

"(5) Not later than 1 year after the date of enactment of this subsection, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report concerning any action that has been taken by the Secretary and the railroad industry to rectify the problems associated with unsatisfactory workplace environments in certain train dispatching offices identified in the National Train Dispatcher Safety Assessment for 1987–1988, published by the Federal Railroad Administration in July 1990. The report shall include recommendations for legislative or regulatory action to ameliorate any such problems that affect safety in train operations.".

SEYMOUR AMENDMENT NO. 1741

Mr. PRYOR (for Mr. SEYMOUR) proposed an amendment to the bill S. 1571, supra, as follows:

At the end, add the following new section:

REPORT ON ROUTING OF HAZARDOUS MATERIALS SHIPMENTS

SEC. 15. (a) REQUIREMENT FOR REPORT.—Within 18 months after the date of enactment of this Act, the Secretary of Transportation shall report to the appropriate committees of Congress on whether, based on relevant data concerning train accidents within the state of California, there are particular factors that make certain routes in that state inherently less safe than others for the rail transportation of hazardous materials and, if so, what actions can be taken, without unreasonably burdening commerce, to ameliorate those factors or reduce hazardous materials traffic over any inherently unsafe routes. The report shall address—

(1) whether the accident data on train accidents resulting in hazardous materials releases in recent years reveal that any inherent, permanent conditions such as topography or climate have played a causal role in or increased the likelihood of such accidents;

(2) whether the data referred to in paragraph (1) suggest that factors such as railroad track and equipment maintenance practices, railroad operating practices, and train handling procedures have played a causal role in or increased the likelihood of train accidents resulting in the release of hazardous materials; and

(3) what actions Federal agencies may take, are taking, or have taken to address whatever factors are determined to be playing a causal role in, or increasing the likelihood of, train accidents resulting in the release of hazardous materials.

(b) CONSULTATION; PUBLIC COMMENT.—In preparing the report required by subsection (a), the Secretary shall consult with Federal departments and agencies responsible for protecting the environment and public lands in California, and provide an opportunity for written comment by the public on the issues to be addressed in the report.

NOTICE OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry, will hold an oversight hearing on the operation of the market promotion program, Wednesday, March 25, 1992, at 9:30 a.m., in SR–332.

For further information please contact Lynnett Wagner of the committee staff at 224–2035.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON TERRORISM, NARCOTICS AND INTERNATIONAL OPERATIONS

Mr. PRYOR. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics, and International Operations of the Foreign Relations Committee be authorized to meet during the session of the Senate on Wednesday, March 18, at 9:30 a.m. and to continue at 2 p.m. with a hearing on the international criminal activity of BCCI.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER RESOURCES, TRANSPORTATION, AND INFRASTRUCTURE

Mr. PRYOR. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources, Transportation, and Infrastructure, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, March 18, beginning at 10 a.m., to conduct a hearing on the Water Resources Development Act of 1992 and related issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY AND SPACE

Mr. PRYOR. Mr. President, I ask unanimous consent that the Science, Technology and Space Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on March 18, 1992, at 9:30 a.m. on the space station and launch issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY

Mr. PRYOR. Mr. President, I ask unanimous consent that the Subcommittee on Defense Industry and Technology of the Committee on Armed Services be authorized to meet on Wednesday, March 18, 1992, at 9:30 a.m., in open session, to receive testimony on dual-use critical technology programs being undertaken by the Department of Defense and the Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. PRYOR. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet on Wednesday, March 18, 1992, at 9 a.m., in closed session, to receive testimony on command, control, communications and intelligence matters in review of the amended Defense authorization request for fiscal year 1993 and the future year defense plan.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. PRYOR. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on March 18, 1992, beginning at 9:30 a.m., in 216 Hart Senate Office Building, to consider for report to the Senate S. 1602, the Fort Peck Indian Tribes Montana Compact Act of 1991; confirmation on the reappointment of Carl J. Kunasek to be Commissioner on the Navajo-Hopi Relocation, and for other purposes; and to meet on the implementation of the Indian Gaming Regulatory Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PIEMONT INTERFILM, INC., RECIPIENT OF AWARD

• Mr. HOLLINGS. Mr. President, I rise today to honor the hard-working men and women of Piedmont Interfilm, Inc., which recently was awarded the "Vendor of the Year Award" from Alcatel, an international telecommunications company based in France.

Interfilm, which also sells internationally, employs 35 people in its Piedmont plant and is now doubling the size of its plant to 63,000 square feet.

Those who doubt the ability and the work ethic of Americans should spend some time with the hard-working people at Piedmont Interfilm. Their receipt of the "Vendor of the Year Award" is still another example of the reason why the American worker is consistently rated the most productive in the world.•

THE DULUTH DOMESTIC ABUSE INTERVENTION PROGRAM

• Mr. DURENBERGER. Mr. President, I often find myself rising on this floor to praise my home State of Minnesota for its creativity and courage in facing up to some of the more vexing social ills facing our country. Today is no exception. Recently, the New York Times Magazine published an article entitled." When Men Hit Women." The article documented a ground-breaking program in Duluth, MN, which treats both women who are abused by men, and the men who abuse them.

Domestic violence is one of the most terrible problems facing our country today. Many towns, cities, and States, either because of ignorance or shame have in the past closed their eyes to this largely hidden blight. Duluth, however, has chosen to confront it straight on.

A Duluth citizen named Ellen Pence has a brave and clear vision about what needs to be done to combat domestic violence. Central to that vision is the idea that a community as a whole must decide simply this: They will not tolerate domestic violence—period. Duluth became the first local jurisdiction in America to adopt a mandatory arrest policy for misdemeanor assaults.

But the people of Duluth recognize that arresting a father, a boyfriend, a husband, or a mother, is not enough. Treatment is a key part to confronting this problem and that is where the city's Domestic Abuse Intervention Program [DAIP's] comes in. The DAIP's is a comprehensive intervention program which treats both the victim and the perpetrator.

Where the norm in the past for most of the country has been for local authorities to ignore reports of domestic violence unless they are witnessed, the program in Minnesota goes the distance.

It is with great pride that I commend the New York Times Magazine article, the program which prompted the story, and the progressive State where the program resides. Mr. President, I ask that the article be placed in the Record.

The article follows:

WHEN MEN HIT WOMEN

(By Jan Hoffman)

This Saturday night shift has been excruciatingly dull for the police in Duluth, Minn., a brawny working-class city of 90,000 on the shoreline of Lake Superior. The complaints trickle into the precinct, the callers almost embarrassed; black bear up a tree; kids throwing stuffed animals into traffic. But it's 1 A.M. now, and the bars are closing. People are heading home.

1:02 A.M.: Couple arguing loudly. Probably just "verbal assault," the dispatcher tells the car patrols.

1:06 A.M.: Two squad cars pull up to the address. A tall blond man opens the door as a naked woman hurriedly slips on a raincoat. The man looks calm. The woman looks anything but.

"We were just having a squabble," he begins.

"He was kicking the [expletive] out of me," she yells.

"Let's go in separate rooms and talk," says one of the officers, following the Duluth Police Department procedure for domestic disputes.

In the living room, George G. tells his side of the story. "We've been trying to work on things. And so we were talking. And wrestling."

How does he explain the blood oozing from the inside of her mouth? "She drinks, you know. She probably cut herself." From inside the bedroom, Jenny M., whose face is puffing up, screams: "Just get him out of here! And then you guys leave, too!"

The police officers probe for details, telling her that something must be done now, or there will probably be a next time, and it will hurt much worse. Jenny M. glares, fearful but furious. "He slapped me and kicked my butt. He picked me up by the hair and threw me against the wall."

"She lies, you know," George G. confides to an officer, who remains stone-faced. Jenny M. starts crying again. "I don't want him hurt. This is my fault. I'm the drinker. He's not a bad guy."

Following protocol, the officers determine that the couple live together. And that she is afraid of him. Next, they snap Polaroids of her bruised face, and of his swollen, cut knuckles. Then the police head toward George G. with handcuffs. He looks at her beseechingly. "Jenny, do you want me to go?"

An officer cuts him short. "George, it's not her choice."

George G. thrusts his chin out and his fists deep into the couch. "But this is just a domestic fight!"

One cop replies: We don't have a choice, either. We have to arrest you." They take him away, handcuffed, leaving Jenny M. with leaflets about the city's Domestic Abuse Intervention Project (D.A.I.P.).

By 1:34 A.M. George G. has been booked at the St. Louis County jail, where he will sit out the weekend until arraignment on Monday morning. Within an hour, a volunteer from the city's shelter will try to contact Jenny M., and in the morning, a man from D.A.I.P. will visit George and explain the consequences in Duluth for getting into "a domestic fight."

It was 10 years ago this summer that Duluth became the first local jurisdiction in America to adopt a mandatory arrest policy for misdemeanor assaults—the criminal charge filed in most domestic violence cases. But the arrest policy alone is not what makes Duluth's perhaps the most imitated intervention program in the country. Its purpose is to make every agent of the justice system—police, prosecutors, probation officers, judges—deliver the same message: domestic violence is a crime that a community will not tolerate. The program's centerpiece is D.A.I.P., which acts as a constant, heckling monitor of all the organizations. The project, which also runs barterers' groups and supervises custody visits between batterers and their children, chugs along on $162,000 a year. Financing comes from the state's Department of Corrections, foundation grants and fees for D.A.I.P.'s manuals and training seminars.

The Duluth model—pieces of which have been replicated in communities throughout Minnesota, in cities like Los Angeles, Baltimore, San Francisco, Nashville and Seattle, and in countries like Canada, Scotland, New Zealand and Australia—has been admiringly described by Mary Haviland, a New York City domestic abuse expert, as "an organizing miracle."

Typically, a first-time offender is incarcerated overnight. If he pleads guilty, he'll be sentenced to 30 days in jail and put on probation, pending completion of a 26-week batterer's program. If he misses three successive classes, he is often sent to jail. Men who are served with civil orders of protection are routinely sent into the same treatment program. Staff members and volunteers from the shelter maintain contact with victims throughout the process.

Many experts regard Duluth as embodying the best of what the almost 20-year-old battered-women's movement has sought to achieve. The movement, inspired by the grass-roots feminist campaign that opened rape-crisis centers in the late 60's, sprang up in the mid-70's as a loose coalition of emergency shelters. Duluth's own shelter, the Women's Coalition, was founded in 1978. Reflecting the national movement's multiple approaches a few years later, Duluth activists then prodded local law-enforcement agencies to take the issue seriously and eventually urged that batterers be offered treatment as well as punishment.

Nowadays in Duluth, women who seek help from the legal system do receive some protection, and their batterers are usually held accountable. After a decade of many trials and many errors, Ellen Pence, one of the project's founders and its national proselytizer, estimates that 1 out of every 19 men in Duluth has been through the program. During that same period, not one Duluth woman died from a domestic homicide. Given the rate of Duluth's domestic homicides in the 70's, says Pence, "there are at least five women alive today that would have otherwise been killed."

The results from Duluth are not, however, wholly triumphant. One study shows that five years after going through the Duluth program and judicial system, fully 40 percent of the treated men end up reoffending (or becoming suspects in assaults), either with the same woman or new partners. Pence thinks the real number may be closer to 60 percent. And the number of new cases each year that come before either criminal or family court judges has remained constant—about 450 a year.

"The changes in the country have been enormous," says Elizabeth M. Schneider, a Brooklyn Law School professor and expert on battered women. "But we seriously underestimated how wedded our culture is to domestic violence." Upward of four million American women are beaten annually by current and former male partners, and between 2,000 to 4,000 women are murdered, according to the National Woman Abuse Prevention Center. C. Everett Koop, the former Surgeon General, has identified domestic violence as the No. 1 health problem for American women, causing more injuries than automobile accidents, muggings and rapes combined. The connection with child abuse in a family has been well documented: between 50 and 70 percent of the men who physically harm their partners also hit their children.

At this point, while intervention may be possible, prevention seems all but unimaginable. Despite the community's exceptional efforts, as Pence flatly admits: "We have no evidence to show that it has had any general deterrent effect. The individual guy you catch may do it less. But in Duluth, men don't say, 'Gee, I shouldn't beat her up because I'll get arrested.' After 10 years, we've had a lot of young men in our program whose dads were in it.

"I have no idea where the next step will come from," she adds. "We're too exhausted just trying to stay on top of things as they are."

Ellen Pence's commitment to ending family violence is hard-earned. An aunt was shot to death by her husband, a sister is a former battered wife and, one night about 20 years ago, a neighbor fleeing an abusive partner left her young boy with Pence, who subsequently helped raise him. In 1981, D.A.I.P. received a $50,000 state grant for a simple but powerful reason: the city's judges and police chief were the only ones in Minnesota willing to take her proposal seriously. A Minnesota native, Pence, now 43, is an exasperating, indefatigable earthshaker, who, by dint of her salty wit and impassioned outbursts, simply will not be denied.

Duluth, she concedes, is not exactly the mayhem capital of the Midwest. In 1990, homicides hit a record high of three. The local scourge is predominantly alcoholism, not drug addiction. The people are mostly Scandinavian and Eastern European, with a modest minority of Ojibwa Indians, blacks and Southeast Asians. With fir-dotted hills that swoop sharply down to the largest freshwater lake in the world, Duluth appears to be a pretty decent place to live—particularly for those with a fondness for ice fishing and months of subfreezing weather. Its incidence of domestic violence is probably no worse than anywhere else in the country, and, a decade ago, was treated just as casually. In 1980, there were just 22 arrests for domestic assault, and only four convictions.

First, Ellen Pence took on the cops.

Traditional practice: If an officer doesn't witness a misdemeanor assault, the officer won't arrest.

New practice: If an officer has probable cause, including a victim's visible injury, to believe a misdemeanor domestic assault occurred within four hours of the arrival of the police, the officer must arrest. In 1990, the Duluth police arrested 176 men and 23 women for misdemeanor domestic assaults—of whom almost all were convicted. (Experts agree that violence by women against men is usually in self-defense or retaliation, and is often less severe.)

Over the years, mandatory arrest has become increasingly popular, having been adopted, though inconsistently enforced, in dozens of municipalities and 15 states—although recent studies have called into question whether police arrests are the best way to protect domestic-abuse victims.

Still, mandatory arrest earns favorable reviews from police and prosecutors, and a D.A.I.P. survey found that 71 percent of the victims approved of the Duluth police's handling of their situations. But some battered-women's advocates remain skeptical, particularly because the policy can be disproportionately tough on poor minority families. Most experts point out that while battering occurs across all races and classes, poor people are more likely to be reported to authorities and punished than men from middle-class households. "For people who are more disadvantaged economically, like Native Americans, blacks and Hispanics, there are higher levels of all kinds of victimization, including family violence," says Angela Browne, the author of "When Battered Women Kill."

Another significant problem with mandatory arrest is that it can backfire: on occasion, when faced with two bloodied people accusing each other of attacking first, police have arrested the woman as well as the man. When this happens, children may be sent into foster care. In Connecticut, which has one of the country's toughest domestic-violence policies, the dual-arrest rate is 14 percent.

Many police are still reluctant to arrest because prosecutors tend to put the cases on the back burner. Prosecutors, in turn, blame their lack of action on the victims, who, they say, often refuse to press charges, fearing a batterer's revenge or believing his promise of reformation. Duluth, however, has what officials call a "flexible no-drop" policy: regardless of the victim's wishes, the prosecutor will almost always pursue the case.

"I assume that victims won't cooperate," says Mary E. Asmus, the chief prosecutor of Duluth's city attorney's office. Asmus has a working procedure for obtaining evidence independent of the victim's cooperation. At trial, she'll offer police photographs, tapes of calls to 911 and medical records. She also subpoenas all victims. If the victim recants on the stand, Asmus, making unusual use of a state rule of evidence, will offer the woman's original statement to police—not to impeach her witness, but to assert the facts of the incident. In her nine years as a Duluth prosecutor, Asmus has lost only three domestic-violence cases in court.

Nationwide, some of the most aggressive domestic-violence prosecutors are in Philadelphia, San Francisco and San Diego, which files at least 200 new cases each month. To pressure women to testify, some prosecutors have gone so far as charging them with filing false police reports and perjury, issuing contempt-of-court citations, and, in rare instances, even jailing them. The no-drop policy has ignited fiery debate. One prosecutor argued in a recent National District Attorneys Association Bulletin that it "smacks of the worst kind of paternalism." In Westchester County, N.Y., Judge Jeanine Ferris Pirro retorts, "Some jurisdictions allow a victim to drop charges, and that's sending a subtle message that they don't take the crime seriously."

Not surprisingly, a no-drop policy often puts prosecutors at odds with the same activists who are demanding that the justice system go after batterers. Susan Schechter, author of "Women and Male Violence," contends that such a policy can erode a battered woman's sense of self-esteem and control, "particularly when she has a good sense of her own danger and what's best for her and the kids." Pence says that in Duluth, D.A.I.P. has managed to cut the dual-arrest rate way down. "We trust our system," she says, "so we're willing to force a woman into it." But Pence doesn't condone mandatory arrest or no-drop prosecutions unilaterally.

While tougher policies have diverted more cases into criminal court, women who just want their abusers out of the house but not sent to jail seek relief through a different route: the civil order of protection, which limits the batterer's contact with the woman and her children. Applying for such an order can be a labyrinthine undertaking—even on a good day. Every jurisdiction has its own criteria for who qualifies, as well as for the duration of the protection order. Women with mixed feelings about getting the order in the first place can quickly become frustrated.

And judges become frustrated with them. Gender bias studies of various state court systems have sharply criticized judges for penalizing battered women. In Duluth, the D.A.I.P. targeted the judiciary. "We explained why they were seeing what they were seeing," Pence recalls. "They were interpreting a woman's fear as ambivalence and masochism. We showed them what happened in cases when they just gave a guy a lecture or a fine." Now she occasionally trots out one or two Duluth judges on her judicial-training sessions around the country. One grumbles fondly that "Ellen Pence is turning us into feminist tools."

Judge Robert V. Campbell of Duluth's District Court presides over most of its order-of-protection hearings. If a woman fails to appear in court because her abuser may be present, "I'll continue the order for a month or so, on the theory that she's being intimidated," Campbell says. A Duluth woman named Brenda Erickson, whose request for an order against her husband alleged that he'd raped her, had her first brush with the justice system before Judge Campbell. Her husband's attorney argued that his client could not have raped her. "Your honor," Erickson remembers the lawyer protesting, "she's his wife!"

The judge, she says, all but leaped down from the bench, sputtering, "If she'd been raped by a stranger, would you expect her to live with him, too?" "And I thought, Oh God, he understands how I feel," Erickson says.

Six glum faces, 12 crossed arms—nobody thinks they did anything wrong, so why do they have to be here? Ty Schroyer, a D.A.I.P. group leader, assumes an expression of determined cheeriness as he greets this weeks recruits, all ordered by the court to the batterer's program. Some ground rules:

"We don't call women 'the old lady,' 'the wife,' 'that slut,' 'that whore,' 'the bitch,' 'that fat, ugly bitch.' * * *" The list quickly becomes unprintable.

"So what should we call her—'it'?" says a man who calls himself Dave, as the others snicker.

"How about her name?" snaps Schroyer, who himself was arrested nearly a decade ago for pounding his wife's head against a sidewalk.

Trying to change a batterer's behavior toward women makes pushing boulders uphill look easy. Nonetheless, at least 250 different programs around the country, filled with volunteer and court-referred clients, are having a go at it. Among them, no consensus has emerged about philosophy or length of treatment: Phoenix courts send their batterers to 12 weeks or more of counseling sessions; San Diego batterers must attend for a year.

Edward W. Gondolf, a Pittsburg sociologist who has evaluated and developed batterers' programs for 12 years, says, "We're making a dent with garden-variety batterers"—first-time or sporadic offenders—"but there's another cadre, the most lethal, who are still out of our reach." Batterers who go through the legal system should be more carefully screened, he says, and some confined. Men whom he would categorize as antisocial or even sociopathic batterers—about 30 percent—not only resist intervention, but may be further antagonized by it.

He cautions women not to be taken in when their partners enter counseling. "Counseling is the American way to heal a problem," he says. "She'll think, 'If he's trying, I should support him,' while he's thinking, 'I'll go to the program until I get what I want—my wife back.' But his being in counseling may increase the danger for her because she has got her guard down."

In Duluth, when a batterer enters D.A.I.P., officials at the Women's Coalition shelter will stay in close touch with the victim; a women who is reluctant to report another beating to police can confide in a shelter counselor, who will tell a group leader, who may confront the man in the following week's session.

Nearly half of all batterers have problems with substance abuse, especially alcohol, and D.A.I.P. group leaders often have difficulty persuading men not to blame their violence on their addictions. John J., 35, a Duluth man who once beat a marine senseless with a lug wrench, raped the women he dated and kicked the first of four wives when she was pregnant, thought he'd become violence-free after going through the D.A.I.P. batterers' program and Alcoholics Anonymous. One night several years later, though sober, he shoved his third fiancee so hard that she went flying over a coffee table. "Men have more courage when we're drunk," he says, teary-eyed with shame, during an interview. "But the bottle didn't put the violence there in the first place."

Why do men hit women? "Men batter because it works," says Richard J. Gelles, director of the Family Violence Research Program at the University of Rhode Island. "They can not only hurt a women but break down her sense of self-worth and belief that she can do anything about it."

Some programs use a therapeutic approach, exploring family history. Others employ a model inspired by the psychologist Lenore Walker's "cycle of violence" theory of battering: the man goes through a slow buildup of tension, explodes at his partner and begs her forgiveness during a honeymoon period.

But Pence criticizes both approaches for failing to confront a batterer's hatred of women, as well as his desire to dominate them. Duluth's 26-week program is divided in two sections. The first, usually run by a mental-health center, emphasizes more traditional counseling that tries to teach men to walk away from their anger. The second, run by D.A.I.P., provokes men to face up to their abuse and to identify the social and cultural forces underlying it. (In 1990, Duluth sent 350 men through its program. By comparison, Victim Services in New York City sent 300.)

Bill, 30, admits that he once believed "you were allowed to hit a woman if you were married—the license was for possession." A sense of entitlement pervades the men's groups: When Schroyer asked one man why he cut telephone cords in his house, the man shouted, "Why should she talk on something I paid for?"

Duluth batterers don't necessarily have to slap, punch, choke, kick with steel-toed boots or crush empty beer cans against a cheekbone to keep their partners terrified. During arguments, abusers will floor the gas pedal, clean hunting rifles or sharpen knives at the kitchen table, smash dishes and television sets, call her office every two minutes and hang up. One man smeared a peanut butter and jelly sandwich in his wife's hair. One woman's ex-husband wrote her phone number in the men's rooms of Duluth's seediest bars, with an invitation to call for a good time.

Then there are the outright threats. If she leaves him, he'll tell child-welfare services that she's a neglectful mother. Or he'll kill her. Or himself.

Schroyer and the other group leaders stress that when the violence does erupt, contrary to a batterer's favorite excuse, he has not lost control. "You chose the time, the place, the reason, how much force you'd use," Schroyer tells them. "She didn't."

But convincing men that they are better off without that control is perhaps the most challenging impediment to treatment. One night a batterer huffily asked. "Why should men want to change when we got it all already?"

Brenda Erickson, one of the Duluth women who appeared before Judge Campbell, had been thinking about leaving her husband, Mike, for a long time, Mike had always told her that she was fat, ugly and stupid, and besides, no man would want a woman with three children, so she'd better stay with him. Brenda never thought she was a battered woman, because Mike had never punched her.

The social psychologist Julie Blackman points out that a byproduct of the attention given to the Lisa Steinberg tragedy several years ago is that the public now mistakenly associated battered women with the smashed, deformed face of Hedda Nussbaum. Susan Schechter finds that many abused women who are not as bloodied as the character portrayed by Farrah Fawcett in "The Burning Bed" do not believe they deserve aid. "Many battered women see themselves as strong, as keeping together a family, in spite of what's going on," Schechter says.

Mike often assured Brenda that if he went to jail, it wouldn't be for wife-beating—it would be for her murder. When he was angry, he would shatter knickknacks or punch a hole in the wall right next to her head. Brenda is 5 foot 1 and Mike is 6 foot 3. "Imagine an 18-wheeler colliding with a Volkswagen," she says. "So I learned how to say 'yes' to him, to defuse situations."

Over the eight years of their marriage, the family subsisted on welfare and Mike's occasional earnings as a freelance mechanic. In the final years, Brenda cooked in a restaurant, worked as an aide for Head Start and cared for their three sons. According to Brenda, Mike chose not to seek a full-time job in order to keep an eye on her. She couldn't even go to the grocery store alone.

Frequently, he raped her. "He'd rent pornographic films and force me to imitate them." Brenda says. The sex was often rough and humiliating. "He thought that if we had sex a lot I wouldn't leave him." Mike acknowledges that there was "mental abuse" in their marriage, but not what he'd call rape. "I'm oversexed, but there's nothing wrong with that."

A friend at work, sensing Brenda's distress gave her the number of the Women's Coalition shelter. Brenda would call anonymously, trying to figure out if she could possibly escape. Finally, she just picked a date: Feb. 9, 1988.

That morning, she told Mike she was taking the kids to school. Once there, a shelter official picked them up. When Brenda walked into the handsome Victorian house filled with women and children, she felt an overwhelming sense of relief.

Women stay in abusive relationships too long for many reasons. Susan Schechter says it can take years before physical abuse starts, even longer for a woman to learn "not to blame herself or his lousy childhood for his violence." Brenda refused for years to believe her marriage wasn't working. Another Duluth woman, who endured a decade of stitches and plaster casts, sobbed, "We did have some wonderful times, and he was my entire world."

Some women stay because they may have reasonable expectations that they will die leaving. As many as three-quarters of the domestic assaults reported to authorities take place after the woman has left.

Some women stay because they can't afford to leave—or because, long since alienated from friends and family, they have no place to go. There are about 1,200 shelters scattered across the country, many reporting that they must turn away three out of every four women who ask for help. Duluth's shelter can house up to 30 women and children; the shelter of Las Vegas, Nev. (population: 850,000), has only 27 beds.

But when Brenda finally made the decision to leave, she had more options than most battered women in the country—the full resources of the shelter and D.A.I.P. were available to her. Shelter staff members screened her phone calls, and Pence spoke with Mike on Brenda's behalf; she joined a women's support group, and a counselor led her through the first of what would be many appearances before Judge Campbell in family court. But things did not go smoothly.

Mike did manage to complete the batterers' group program and made several passes through substance-abuse treatment. Yet, even though Brenda had filed for three separate orders of protection, the net effect was negligible: she claims to have suffered harassing phone calls, slashed tires and broken car windows. D.A.I.P. officials pressed police to investigate, but because the officers never caught Mike on the premises, he was never arrested.

After the divorce was granted, they continued to battle over visiting the children. Brenda had ultimately left Mike because of her children—the eldest, then in kindergarten, was already angry and traumatized. Research indicates that children exposed to family violence are 10 times as likely to be abused or abusive in adult relationships.

Two years ago, D.A.I.P. opened a visitation center at the Y.W.C.A. for noncustodial parents whom the court has granted supervised time with their children. The entrances and exits are such that neither parent has to see the other, and, under the watchful gaze of a D.A.I.P. staff member, parent and children have the run of two large living rooms, a small kitchen and a roomful of toys. This is where Brenda's boys have been seeing their father and his new wife.

Brenda Erickson is now an honor student at the University of Minnesota in Duluth, majoring in family life education. "Mike has some good qualities," she allows, "but this sure as hell beats walking around on eggshells. The boys and I are so much more relaxed and able to love each other. And I found a strength I never knew I had."

On a Friday night last fall, Mike Erickson was finally arrested for domestic assault and violently resisting arrest. The victim was not Brenda, however, but his new wife, Deborah, and her teen-age son. In the ensuing brawl, it took four officers and a can of Mace to get him into the squad car, as he howled: "I wasn't domesticating with her. I was drinking!" He pled guilty to all charges and served 36 days on a work farm. Mike is now enrolled in the D.A.I.P. program. "That night I pushed my stepson and backhanded my wife because she pulled the phone out and I got irritated," he says. "It's hard for me to shut up when I get going."

But Deborah Erickson refused to file charges against Mike or even to speak to a volunteer from the Women's Coalition. She has been in abusive relationships before, but she's certain this marriage is different. "I told the cops, 'Hey, it happened, but it's not happening again.'"

Those who are in a position to help battered women tend to deny the gravity of the problem. "Doctors still believe the falling-down-stairs stories, and clergy still tell women to pray and go to a marriage counselor," says Anne Menard of the Connecticut Coalition Against Domestic Violence.

But Congress has begun to act. In 1990, it passed a resolution, adopted by 30 states, urging that domestic violence by a parent be a presumption against child custody. The most dramatic policy reform, however, may be Senator Joseph R. Biden Jr.'s pending Violence Against Women Act, which proposes, among other things, to stiffen penalties for domestic abusers.

But while the use of the criminal-justice system to quash domestic violence has gained currency around the country, Ellen Pence's advice to women in battering relationships is simply this: leave. Leave because even the best of programs, even Duluth's, cannot insure that a violent man will change his ways.•

A HOME RUN FOR LOUISVILLE'S SLUGGERS

• **Mr. FORD.** Mr. President, while we seem to be continuously barraged with stories on the hardships and difficult economic problems faced by our Nation's cities, it is refreshing to hear that there is a road map to success as shown by the exciting growth of Kentucky's largest city, Louisville.

The hard economic times faced by our country have presented all of America's cities with serious and demanding challenges. Louisville and the surrounding area have met these challenges head on by combining resources and working as a team. Through innovation, accountability, cooperation and just plain hard work, Louisville has become a shining example for the country of how working together as a community can resuscitate our Nation's cities.

There is no doubt that Louisville's movers and shakers have been rewarded for all their efforts and are to be commended. I believe that countless other communities can learn from their example. I hope you all take time to read the well deserved National Journal article, which I would like to be printed in the RECORD in full.

The article follows:

A HOME RUN FOR LOUISVILLE'S SLUGGERS

(By Neal R. Peirce)

LOUISVILLE.—In the midst of a biting national recession, here's one community that's been fixing some of its bad old habits and finding new ways to keep its head above water. And while many of the nation's major urban areas have been stagnating or even shrinking, here's one that's actually been growing.

Reversing a dramatic loss in manufacturing jobs in the early 1980s, the Louisville market area in the past five years has been gaining an average of 10,000 jobs a year. And its residents' real earnings have grown 9 per cent in the past three years.

In the mid-1970s, there was a public uproar over school busing, and in the early 1980s, Louisville was dubbed "Strike City" for its contentious labor relations. But now, the city's schools are being hailed as some of the best in America, and the relations between management and workers are mill-pond quiet.

What happened? How did Louisville turn the tide? Are the city's movers and shakers smart, or just plain lucky?

As it turns out, there was no panacea, no single solution to the problems that ailed this city. Many efforts came together to build a more cohesive and cooperative community—a community, in fact, that's emerged as a thought-provoking model for cities and regions whose leaders feel as if they've slipped their moorings and lost control in this recession.

Leaders here say that they've achieved a kind of restructuring, or *perestroika*, of the area's economy. As Paul Coomes of the University of Louisville put it, "The city is now known more for artificial-heart surgery than for smokestacks, more as a world air hub for United Parcel Service than for barge and rail traffic."

Politics was part of the transformation. In a community that had gone through two rather bitter city-county merger fights, Jerry Abramson, the mayor, and Harvey Sloane, then-Jefferson County judge (the county's top executive post), cut a deal to share their wage taxes under a negotiated formula. The result: Fewer fights over which government would outbid the other for new and relocating companies.

On the industrial front, a broad coalition decided that radical action was necessary to save the area's Ford Motor Co. plant from extinction. A worker retraining program was put together with state and local government aid. And then the governor, mayor, Jefferson County judge, senior managers of the Ford plant and local United Auto Workers leaders all went to Ford's headquarters in Detroit to argue that the Louisville plant (which, ironically, once produced the ill-fated Edsel) could become the Ford system's most competitive facility.

Ford decided to keep its Louisville plant, invested $260 million in it and trained almost the entire work force in sophisticated new manufacturing techniques. Now, a program of continuous retraining—including everything from a plain-vanilla general education degree to the basics of a master's degree—are available at the plant. Workers participate heavily.

The Ford plant manufactures the husky new four-wheel-drive Explorer, the Ranger pickup truck and—amazingly—a vehicle that Japan's Mazda Motor Corp. buys and calls the Navajo.

Sitting at a table next to the assembly line and listening to Ford, union and local government representatives boast about the plant's training and productivity, one gets the feeling of watching the new approach that Americans will need to do business in the future. Here's a glimpse of a cooperative spirit, based on a mutual desire to avoid an industrial rout, that's replaced the old adversary ways.

Not wanting to leave anything to chance, the area also has a major economic promotion campaign that embraces not just Louisville and its Kentucky neighbors but counties across the Ohio River in Indiana.

On education, there's been an almost total flip-flop from the bitterness and mediocrity that plagued the schools after the court-ordered 1974 merger of the overwhelmingly black schools here and the mostly white schools in Jefferson County.

Much of the credit apparently goes to Don Ingwerson, a soft-spoken, understated school superintendent. He set up model training procedures for teachers, pared the central bureaucracy and middle management and gave individual schools wide latitude to set up "magnet" programs and shape their own curricula.

When the state government enacted the nation's most sweeping education reform law in 1990, it looked to Jefferson County for advice.

Louisville's business community has been solidly behind the school reforms, with 700 school-business partnerships and $40 million in aid since 1980. Corporations in the area helped to buy enough computers so that the school system will graduate, in 1994, the first class trained on computers from kindergarten through high school. The next project is to buy laptop computers for the kids to work on at home.

By adopting a form of the so-called Boston Compact, Louisville sought to cut the dropout rate in return for promises of training and jobs after graduation. The "compact" failed in Boston when the schools failed to improve student performance. But in Louisville, Malcolm Chancey, the president of the Chamber of Commerce, boasts that "the school system upheld its end of the bargain."

No one should believe that Louisville is, as urban America goes, a nirvana. Last year, it had more than 11,000 homeless men, women and children. One in four children in Jefferson County lives below the poverty line.

But mostly, the community seems to be a target—and cares about a shared future. In a firm but polite way, government, industry, unions and the schools all seem to be holding one another mutually accountable. There seems to be an exciting effort here to redefine, and relaunch, the tattered American social contract.

If it can be done in a city and region with a history as adverse as Louisville's, it ought to be possible anywhere.●

AN INSIGHT INTO THE SITUATION IN ISRAEL

● Mr. REID. Mr. President, I ask that five articles by former Governor of Nevada, Mike O'Callaghan, be entered into the RECORD in full. Governor O'Callaghan has traveled to Israel a number of times, and his insight on the situation there is very sharp. I think we can all learn something from his observations.

The material follows:

[From the Las Vegas Sun, Mar. 7, 1992]

ISRAEL A YEAR AFTER IRAQ'S SCUD ATTACKS

(By Mike O'Callaghan)

RAMAT-GAN, ISRAEL.—What a difference a year can make. It was but a year ago that I left Israel, a day after the last Scud from Iraq fell on this country. Upon my return to Las Vegas last year, several of my pictures of the damage done to the cities of Tel Aviv and Ramat-Gan were published in the Sun.

During the period of these attacks, like most writers covering the situation, I was impressed with the calm approach to the entire matter by Ramat-Gan Mayor Zvi Bar. He was a voice of reason and his response to the needs of his citizens was quick and thorough.

His neighbor, Tel Aviv Mayor Shiomo Lahat, also was quick to respond but, in the process, angered many of his own citizens. Lahat called Tel Aviv residents leaving the city during the attacks "deserters." A remark that will certainly haunt him if he again seeks public office in that city.

Just prior to the end of the Gulf War, Lahat remarked that the residents who stayed behind were "beginning to treat missiles the way old soldiers treat bullets." He was proud of their response to the incoming missiles.

Both Ramat-Gan and Tel Aviv impressed me with the continuation of municipal services despite the problems caused by incoming missiles. Until the final Scud arrived, the people and their elected officials anticipated that the next missile would be carrying a chemical warhead. A poison gas-loaded missile never arrived.

Although the international press reports would have you believe that Tel Aviv was the recipient of most Scud damage, it was neighboring Ramat-Gan that was hit with the most impact. Four areas of that city were hit, one by a falling U.S. Patriot anti-missile missile.

Ramat-Gan suffered one death and 128 wounded. The city also had to evacuate 780 residents from destroyed homes to nearby hotels in and around Tel Aviv. The attacks on this city made it necessary to raze and rebuild 26 buildings and 102 apartments. Because of extensive damage from the Scuds, it was also necessary to renovate 2,600 apartments in 270 buildings. Most of the renovation has been completed, but new replacement buildings, one year later, are still under construction.

Much unseen Scud damage to buildings has become evident during recent weeks as rains pour down on Israel after six years of drought. Again, as in the past, Ramat-Gan's Zvi Bar is responding to the needs of his residents as the river rises and the city builds dirt banks to hold it within its normal flow channel. As they were when the Scuds arrived in 1991, he and his city are prepared before the flood waters arrive.

The replacement apartments being constructed in this city are being built bigger than those destroyed. Bar asks, "Why should people be crowded back into apartments that were too small for them before the Gulf War?" He doesn't expect an answer nor does he apologize for putting his evacuees in five-star hotels instead of tents last year.

The popular mayor makes special arrangements for the elderly. He arranged for volunteers to aid them last year and now has taken official steps to keep them from paying higher property taxes because their new apartments are bigger than the ones they lost last year. Bar says, "Most of our elderly have suffered enough in the countries they left" before coming to Israel. He was especially concerned about those who had escaped Nazi gas chambers and then had to face Scud attacks wearing gas masks.

Visiting with Mayor Zvi Bar and the people of this city gives me the feeling that Saddam Hussein not only failed to hurt them, he actually made them stronger. The large Iraqi population of Ramat-Gan and their Kurdish mayor only wish that Desert Storm had finished the job before withdrawing from the land they once called home.

[FROM THE LAS VEGAS SUN, MAR. 6, 1992]

THE LOAN GUARANTEE STICK(BY MIKE O

(By Mike O'Callaghan)

The loan guarantee stick that President Bush and Secretary of State James Baker are holding over Israel is slowly but surely withering in their hands. More and more Israelis have reached the point where they would rather not have the loan guarantee than submit to further international political and diplomatic embarrassment.

For several years, the United States and other Western powers have been pressuring the Soviet Union to release the Jews held within its borders. Since the release of these people began a couple of years ago, Israel has been providing them homes.

For this reason, that little country has asked the United States to sign a $10 billion loan guarantee. This would require our country to set aside $300 million in case of an Israeli default. That country has never defaulted and the set-aside dollars are safe. It wouldn't cost us a cent.

Last year, Bush and Baker determined they would block any loan guarantee unless Israel stops building villages in Judea and Samaria. They made it clear they wanted the Jews to stop building to enhance the peace talks with Palestinians in this area of contention.

Not one mention was made about Muslims or Christians being allowed to continue building. The Arabs have been building and continue to build in this area as more than 150,000, including 50,000 from Kuwait, have moved into the area in recent years. The Arab population of Jerusalem has increased at twice the rate of the Jewish population.

Arab settlements in the West Bank area have been built six times more rapidly than the Jewish building programs. In addition to this, although it isn't mentioned in polite company, when Palestinian spokesperson Hanan Ashrawl demands a Palestinian nation, she means the Jews now living there will be shipped out. This is exactly what has happened to more than a million Jews who settled in Israel after being run out of Arab countries.

Almost 800,000 Arabs now live within the pre-1967 borders of a democratic Israel. There is not the same distaste for pluralism in Israel as there is in most Arab nations. The Palestinians expelled last year from Kuwait can attest to this statement.

More and more Israelis, still willing to take military and humanitarian risks for their friends in the United States, are questioning the wisdom of even having asked for the guarantee. This is especially true because Baker has made remarks that place him in the middle of the upcoming election in Israel. His remarks aren't appreciated by any Israeli and might eventually get the Likud Party and hard-liner Prime Minister Yitzhak Shamir re-elected. If left alone, there is a better-than-even chance the Israelis may replace Shamir with a more liberal Yitzhak Rabin and the Labor Party.

A recent article in the Jerusalem Post newspaper titled "Sorry we troubled you, Mr. Bush" hits at the heart of the requested loan guarantee. Shmuel Katz writes, "What is new is the brutal tone of the pressure on Israel, which has increased in decibels since the Gulf war. It is apparent that at that time, in addition to a $7 billion gift to Egypt and a maneuver adding power to Syria in an almost dechristianized Lebanon, promises were made to these allies relating to Israel.

"They were given to understand that Washington would ensure the withdrawal of Israel back to the 'Green Line' of 1949—that is, the first of the Arab dream of dismantling Israel. * * *"

In another article, writer Yohanan Ramati asks "Can the U.S. guarantee anything?"

Going even further is Professor Hertman Branover when writing, "We were naive to turn to President George Bush for favors, considering his present domestic founderings. Facing a feverish election, an ailing economy and an illusory completion of the Gulf War, he will dictate conditions to us in the hope of regaining popularity at home. Our request for American loan guarantees invited U.S. interference, and Bush will gladly use the opportunity we have given him to force us into compromising positions."

Branover completed his article, titled "America can keep its loan guarantees," by concluding, "Israel has the potential to heal itself from within. It shouldn't let itself be pacified with superficial cures at unreasonable prices. Encouraging the health of the economy through private investment and commercial growth will prove that not getting the loan guarantees is the best remedy of all."

During the past several days in Israel, not one person asked me about the requested loan guarantee. They are concerned that they haven't seen the UNLV Rebels on television, and they go to work every day to make a better place for their children to live and to provide them shelters from the terrorists bombs and rockets.

Yes, and the Israelis will still be our friends in the Middle East and do our dirty work when our own leaders would rather not discuss the hanging and brutal slaying of American hostages or the untimely death of 241 Marines on a peacekeeping mission. The Israelis I know just don't want to be used as diplomatic and political punching bags by Bush and Baker.

[From the Las Vegas Sun, Mar. 4, 1992]

(By Mike O'Callaghan)

NORTHERN ISRAEL.—Secretary of State James Baker may have the job of foreign relations assigned to him, but I've come to believe that in the Middle East, the true friends of the United States have more respect for Secretary of Defense Dick Cheney.

Long before Baker made his first visit to Israel, exactly one year ago, he had already made up his mind about how he could and would handle the Israelis. Baker and his State Department minions had been approving sales of dangerous war-making materials for Iraq's Saddam Hussein right up until a few weeks before his army crushed tiny Kuwait.

Despite warnings from Israel, the only true democracy in the Middle East, Saddam Hussein had friends in the Bush administration, including the boss living in the White House, and Baker, the president's fellow Texan.

Following the Gulf War, the people of Israel, having held their fire at our request, believed there was hope we had learned our lesson about Middle East politics. Certainly, Saddam Hussein had taught us that he, like all dictators who held power with acts of brutality, couldn't be trusted.

However, even during the Gulf War, when Syria gave us lukewarm military support, we set the stage for even more disappointment as we turned our backs and allowed that country to complete its slaughter of Lebanese Christians. We followed the distasteful theory that it's less dangerous to kick a friend than an enemy.

We drove the Iraqi army from Kuwait. This resulted in that newly liberated country driving a least 100,000 Palestinians out of Kuwait and into nearby countries, where they weren't received with open arms. Also, the people of Kuwait held their own bloodbath to even the score with the people they believe had helped the enemy. They knew that many of the Palestinians had cooperated with the invading Iraqis.

Even during the Iraqi Scud attacks the Israelis knew that their most dangerous enemy was on their northern borders. The Syrian and Israeli border of 48 miles was being expanded to include the border of Lebanon. Also, continuing Arab terrorist attacks from within and without set the tone for more Israeli concern.

When the Scud attacks ended, it was Secretary Cheney who recognized the military problems facing Israel. Although Cheney hasn't served in the military, he's a quick study. As one prominent Israeli combat general told me, "He has the ability to understand military threats and can evaluate dangerous political and military situations." What he was telling me was that Dick Cheney is a bright man with a wealth of common sense, probably developed in the open spaces of Wyoming.

The Israelis believe the only reason that Syria hasn't attacked their country in recent years is because of their past invasion failures. Also, they no longer have big brother in Moscow backing them up as they have for the past decades.

But has Syria's hate and hope for the destruction of Israel mellowed? Hardly; in fact, that country has gone on a military spending spree with money given them by the oil states. A spending spree unmatched by any other country in that area of the world.

"Missiles launched from central Syria can now be delivered accurately on 98 percent of our population," an Israeli military officer told me. Then he pulled a map from a roller on the wall that showed Syria and the location of that country's weapons and its regular army and air force units.

Here are the notes I took during the briefing on Syria:

Seven tank divisions;

Three mechanized divisions;

One commando division;

Eight independent commando regiments, made up of 95 percent regular military, as compared to Israel's forces of only 10 percent regulars.

Also listed are 59 Syrian surface-to-surface missile launchers, with 600 missiles, of which 100 have chemical warheads; 302 combat helicopters; 698 combat aircraft, including the latest Soviet MiG 29s; 4,508 tanks, including 1,150 Soviet T-72s; 4,158 armored personnel carriers; 201 self-propelled long-range artillery pieces; plus 1,774 towed guns and 3,750 anti-aircraft guns.

Time and time again, Israel has raised the red flag as Syria's Hafez Assad continues to shop for more offensive weapons. Right now, many of the better military minds in this country believe the only people listening to them are U.S. military people and Secretary Dick Cheney.

"I have only one assignment and that is to defend Israel. We sit here and watch them build up their army," a general told me. Then he added, "Syria is also using Lebanon as an area to harbor terrorists to strike into Israel. That's why it's necessary for us to maintain a security zone of 1½ to six miles."

When landing in Tel Aviv 11 days ago, my civilian airliner had to circle over the area Secretary James Baker wants Israel to abandon to the Palestinians. The same Palestinians who only last year stood on their rooftops and cheered as Iraqi Scuds flew overhead on the way to heavily populated Israeli cities. As we dropped down to land during a thunderstorm, I was happy that these same people weren't beneath me with a small antiaircraft missile.

Some GOP leaders believe that James Baker is needed to aid President Bush in his re-election campaign. Baker is a proven successful political operator who also enjoys traveling in the world of high diplomacy. If he is brought back into the 1992 campaign, it could be a blessing in disguise for both George Bush's political future and our success in foreign affairs in the Middle East.

Right now, Baker is steering us down a highway leading to severe future problems. It's time for someone like Dick Cheney to get us back on the road of common sense, guided without ideas conceived from ignorance.

[From the Las Vegas Sun, Feb. 29, 1992]

FOUND: ISRAEL'S MOST VALUABLE RESOURCE

(By Mike O'Callaghan)

METULLA, ISRAEL.—A year ago this week, following the delivery of Saddam Hussein's 80th and final Scud, I left Tel Aviv for Las Vegas. That ended my ninth trip into this country and, although I had come close, my search for the true spirit of this little nation hadn't been successful.

The quality of a people rises to the top during times of economic pressure and/or physical danger. The response of Israelis during the Scud assaults on Tel Aviv and Ramat Gan last year was superb. Watching them bring their babies and pets into the sealed rooms in the middle of the night was a heartwarming experience. There was even time for a joke or two before the all-clear siren would tell us the Scud had fallen where it would do us no harm.

Last week, this northern section of Israel was rocked by 150 Katyusha rockets fired across the border from Lebanon. The border towns of Kiryat Shmona and Metulla bore the brunt of these attacks.

Heavy snows have covered some of the damage done by 122mm and 240mm Soviet-designed rockets. However, the water from melting snow pours through the hole a rocket made in the Kiryat Shmona bus depot. It hit the concrete roof at high noon as people lined up for their tickets and rides. The explosion wounded 15 people with flying concrete and debris. Despite the interruption, the efficient Israeli bus system was soon back on schedule.

The rocket attacks usually came at night. "They came three times a night with five to nine rockets in a salvo," the city clerk told me. The people of Kiryat Shmona, a city of 20,000 people including 3,000 refugees from Russia and Ethiopia, didn't leave town.

A city security man believes the recent heavy snows have been a greater hindrance than the rocket attacks when considering the city's vital services. The markets remained open and so did the movie theater.

The local schools also remained open. When the one salvo came in at the noon hour, the youngsters went to the shelters. They left for home at the regular dismissal time and were back in school the next day. Many of the youngsters who have been raised in this area have been under fire in past years.

As we drove up the road from Kiryat Shmona to Metulla, the snow became deeper and more trees with branches broken by the wet snow lined the road.

Today, Metulla, buried in three feet of snow, looks like a mountain village about to host the Winter Olympics. Surprising as it may seem, some Russian refugees have built an indoor ice rink here and are teaching Israeli children how to skate and play hockey.

While France was hosting the Winter Olympics, this tiny town was receiving rocket fire from an unseen enemy across the barbed wire fence in Lebanon.

Nearby, a little girl, running out to greet her father, was killed by an exploding rocket.

Her death is on the minds of all the local people. In fact, the death of this child is on the mind of every Israeli. Life is most precious to those who live next door to death.

Up the Lebanon road from Metulla, only one lane was cleared of snow, and the snow banks along the road are three and four feet high.

Ahron Davidi, my friend, was telling me that even Israeli vacationers refuse to leave Metulla when the rockets came in last week. Just then, we came around a corner in the road and that's when I saw the true spirit of Israel.

From a large bus, two dozen children were tumbling and running up a nearby hill. Some of the smaller youngsters had to struggle to move through the drifted snow. Everybody was laughing while throwing snowballs and making snowmen.

Davidi immediately identified them as children from a kibbutz in the valley where it was raining and well below the snow line. It was their time to play in the snow, and none of them even noticed or cared that the tangled barbed wire on the other side of the road was all that separated them from the very serious world of war and terrorism.

Last week, those same children had gone to the "safe" room in their homes at night and had probably heard exploding Katyushas. No doubt they knew that one child their age had died from the wounds caused by a rocket. They had heard about past attacks and even wars from their parents and older brothers and sisters.

Like the rest of their friends and family, they know that this is serious business and, unlike small children who only know war from television and movies, they know that exploding rockets and shells can mean pain and even death. It can mean the loss of a family member or a playmate. The pain doesn't go away when the movie theater lights go on or the television set is turned off.

What's next in life for them? They aren't planning to run away or hide. This is but a small part of their very full lives. It's a good life, and they love every minute of it.

Right now, it's time to play in the snow and see just how far a snowball can be thrown. Maybe one can be thrown all the way over to where the teacher is standing.

Yes, I found the spirit of Israel on a hillside near the Lebanon perimeter fence. It's no wonder the people of Israel are so proud of their greatest strength and resource—their children.

[From the Las Vegas Sun, Feb. 22, 1992]

ISRAEL WON'T FORGET TERRORISTS' ACTIONS

(By Mike O'Callaghan)

Pardon me if I'm not upset over the killing of the pro-Iranian Hezbollah (Party of God) leader, Sheik Abbas Mussawl, in South Lebannon. I am sad that his wife and child were with him.

Hezbollah and other Arab terrorist groups have made a practice of being surrounded by women, children and other non-combatants. During the street fighting in Beirut, army and terrorist units would put a hospital on the top floor of a building and their arms and communications systems in the basement.

The same practice was common during the Gulf War in Iraq. That's exactly how insiders tell me the civilians died in a designated military bunker hit by allied bombs. After it was bombed, pictures were developed for propaganda purposes.

Time and again, Israel raiders have gone long distances to take out terrorist leaders and have left other family members alive. This can't be done when the target is in a vehicle convoy which can only be hit from the air.

Mussawl has bragged several times about his men who were martyred when driving high explosives into the U.S. Marine barracks more than eight years ago. The resulting explosion killed 241 peacekeeping Americans. Other Hezbollah drivers pulled the same stunt at a nearby French peacekeeping base, killing 50 paratroopers.

The Hezbollah also have earned credit for the torture and eventual strangling of Marine Lt. Col. William R. Higgins. That took place more than three years ago, but his body was dumped beside a dusty Beirut highway only a few short months ago.

After Higgins was taken hostage, the Israel Defense Forces went into Lebanon and captured the Hezbollah cleric and commander in that area, Sheik Abdul Karim Obeld, who remains in their hands.

The Hezbollah hold Israeli airman Ron Arad captive and have refused to follow through with his release despite the Israeli release of numerous Arab soldiers and terrorists. Also, two wounded Israeli soldiers have died in the hands of Hezbollah members.

The Israelis live in a tough neighborhood where force is the only thing that gets the attention of extremists pledged to drive the Jews into the sea. It's evident that they live and survive by following the advice of Higgins' widow, Marine Major Robbin Higgins, who, following the return of his body, said, "If we forgive, if we forget, if we thank these savages, then we are merely inviting them, at a time and place they will select, to kill again."●

OPENING OF A SUBWAY STORE IN JAPAN

● Mr. LIEBERMAN. Mr. President, I am very pleased to draw my colleagues' attention to an important new partnership between Subway Sandwiches and Salads, a Connecticut-based United States company, and Suntory Ltd., a Japanese company.

Very shortly, Subway will be opening its first store in Japan. Four more are set to open within the next 6 months. Subway is the world's fastest growing franchise, with more than 6,300 stores operating in 10 different nations.

Subway's Japanese business partner, Suntory, has been very successful in introducing Japanese consumers to a number of well-known American products such as Haagen Dazs Ice Cream, Campbell's V-8 Vegetable Juice, and MacGregor golf equipment.

My service on the Small Business Committee's Subcommittees on Competitiveness and Economic Opportunity and Export Expansion, has made me well aware of the severe toll this recession has taken on American companies, large and small. I am convinced that the long-term stability and vitality of our economy rests squarely on the ability of our producers to develop firm footholds in the foreign marketplace. In this regard, I was particularly pleased to learn of Suntory's plans to import a broad array of U.S. goods—from ovens, cooking utensils and cups and counters, to the baking dough and actual food ingredients—from the United States.

I wish both companies the best in their new undertaking.●

FIRST IN SAFETY WINNERS

● Mr. HOLLINGS. Mr. President, I rise today to extend my congratulations to the 12 companies that were named the winners of the American Textile Manufacturers Institute's national "First in Safety" contest.

Mr. President, the American textile industry is the most competitive, and the most productive, in the world. Billions of dollars in new investment has been poured into research and development, and plant, and equipment. This new investment pays an added dividend, in that it creates a safer workplace for the hard-working men and women who warn a decent wage in my State's textile industry.

I congratulate Alice Manufacturing Co. Inc., in Easley, SC; Arkwright Mills in Spartanburg, SC; Springs Industries in Fort Mill and Tietex Corp. of Spartanburg, recipients of first place awards for outstanding performance in employee safety and health.

I also congratulate Clinton Mills, of Clinton, SC, who received an award for the most improved performance in employee safety and health.

In addition, I congratulate Arkwright Mills and Tietex, for their receipt of awards for zero lost time from accidents and illness.

Mr. President, I only wish that our competitors abroad made the same commitment to worker health and safety. This is a distinguished record and we are very proud of these South Carolina companies and their employees.●

RECYCLED PAPER

● Mr. FORD. Mr. President, 3 years ago when I was chairman of the Joint Committee on Printing we rewrote the specifications of the Government uses to buy printing and writing papers. The conversion of the Federal Government to recycled paper began.

We eliminated the impediments the old specifications created for the purchase of recycled papers.

We adopted and then expanded on the Environmental Protection Agency's requirements for the purchase of recycled paper.

And I am pleased to tell you we have made some measurable progress. Today 95 percent of the printing and writing paper the Government Printing Office buys is recycled.

The recycled paper we are buying today is significantly less expensive than the virgin fiber paper we were buying before this program went into effect.

In the last few weeks the Government Printing Office has taken its first delivery of recycled newsprint for the CONGRESSIONAL RECORD and Federal Register. I am told this is GPO's biggest single paper buy and this newsprint is 100 percent post consumer waste, this is exclusively out of the waste stream.

It is my judgment that Congress and to a lesser extent the executive branch is making a serious effort to use writing and publishing products that get the job done and at the same time do less to harm our environment while costing the taxpayer less.

But more can be done in Government and should be. For that reason I have asked that the Government's use of recycled paper and its cost be made public on a quarterly basis. Those of you who are concerned can see where progress is and is not being made. And we all have some sort of bench mark so we can move this program through its final phase and maximize the benefits.

I am attaching the first quarterly report on recycled paper prepared by the Public Printer of the United States.

The report follows:

Federal use of recycled paper

Total amount paper and envelopes used by the Federal Government in this quarter (October, November and December 1991):	
Paper (pounds)[1,2,3]	21,740,279
Envelopes (each)[1]	26,163,650
Cartons (each)[1]	367,477
Cost	$9,471,880
Amout of recycled paper and envelopes used by the Federal Government in this quarter (October, November, December 1991):	
Paper (pounds)[1,3]	13,587,549
Envelopes (each)[1]	25,378,741
Cartons (each)[1]	367,477
Cost	$6,560,021

Federal use of recycled paper 1 year ago

Total amount of paper and envelopes used by the Federal Government in this quarter (October, November, December 1990):	
Paper (pounds)[1,2,3]	22,630,444
Envelopes (each)[1]	27,880,435
Cartons (each)[1]	349,981
Cost	$11,299,963
Amount of recycled paper and envelopes used by the Federal Government in this quarter (October, November, December 1990):	
Paper (pounds)[1,3]	14,442,644
Envelopes (each)[1]	27,044,022
Cartons (each)[1]	349,981
Cost	$7,911,898

Quarterly paper inventory (October, November, December 1991)

Amount of paper GPO currently has on hand:	
Paper (pounds)	23,468,357
Envelopes (each)	22,717,013
Cartons (each)	336,441
Cost	$10,874,928
Amount of recycled paper on hand:	
Paper (pounds)[3]	18,074,089
Envelopes (each)	22,035,503
Cartons (each)	336,441
Cost	$8,861,729

[1] Includes direct shipments.

[2] Includes xerographic paper.

[3] Includes recycled xerographic.

NOTE.—The above data does not include figures for printing procurement. The amount of recycled usage does not include virgin xerographic paper or virgin newsprint.●

ST. PATRICK'S DAY

● Mr. SIMON. Mr. President, yesterday, March 17, 1992, we honored St. Patrick, the patron saint of Ireland. St. Patrick was responsible for bringing Christianity to the Emerald Isle. We celebrate St. Patrick's Day to honor the Irish, and to pay tribute to their outstanding contributions to America.

The success of Irish-Americans is deeply embedded in the history of our country. Nine men with Irish blood signed the Declaration of Independence and thousands of Irish-Americans have given their lives for the preservation of our country, dating back to the Revolutionary War. Irish-Americans contributed to the expansion of the United States in the 1800's by extending the railroads westward and giving cities like Chicago, New York, Boston, St. Louis, Savannah, and many other rich ethnic communities. Finally, the long tradition of Irish-American dedication to public service in local, State, and Federal government has gotten many young people over the years involved in our political process.

Late last year, I was pleased to introduce a resolution making March 1992, Irish-American Heritage Month. We are now celebrating with month-long events. But this month, and St. Patrick's Day in particular, should not only be a time to reflect on past accomplishments. We should also look to the future and resolve to fix certain problems that loom on the horizon. Needless violence pervades Northern Ireland and continues to keep a people unnaturally divided. I hope all parties involved can search for a peaceful solution to their differences. And we ought to be involved and play a constructive role for peace.

Mr. President, I wish the people of Ireland and all Irish-Americans well on their special day of March 17.●

WING AND LILLY FONG DEDICATION

● Mr. REID. Mr. President, recently the first elementary school in Nevada to be named for Chinese-Americans was dedicated to Wing and Lilly Fong. These two outstanding citizens have contributed greatly to education in Nevada, and it is fitting that a school be named for them.

Mr. President, I ask that a page from the dedication ceremony program and a newspaper article about the dedication be entered into the RECORD in full.

The material follows:

WING AND LILLY FONG ELEMENTARY SCHOOL DEDICATION

As an immigrant from Canton, China, Wing Gay Fong came to the United States at the age of 13. He attended the third grade in Las Vegas at the Fifth Street Elementary School where he worked to catch up. He skipped several grades in order to graduate with his classmates from Las Vegas High School in 1946. Wing attended Woodbury College in California, where he earned a Business Administration degree in three years, and met his future wife, Lilly Ong Hing. Wing and Lilly married in 1950 and have two children, Kenneth and Susan, who are both UNLV graduates.

Returning to Las Vegas Mr. Fong joined the firm of Pioneering Distributing and later the Las Vegas Bottling Company until he opened his own grocery store on South First and Gass Streets. In 1955, he opened the town's first specialty restaurant and shopping center on East Charleston Boulevard. He is currently president of Wing Fong's Enterprises—finance, investment and real estate development. He is a director of Nevada State Bank.

Wing Fong consistently engaged in civic and philanthropic activities, donating time as well as money. One entire day's proceeds from his business was donated to the Optimist Club for youth work and another day's receipts went to Nevada Southern University (now UNLV) library for needed books and reference materials. In 1968, he was chairman of the Grand Founders Fund Drive for the NSU Center of the Performing Arts; he has served as a director of the Greater Las Vegas Chamber of Commerce; Chairman of the National Conference of Christians and Jews; Director of the Las Vegas Rotary International Club; member of the Civilian Military Council; Trustee of the Las Vegas Presbyterian Church; and Chairman of St. Jude's Children's Home in Boulder City.

Hard work and dedication have marked Lilly Fong's involvement in a community service with UNLV for the past 30 years. She served as regent for the University of Nevada system from 1974–1985. She has also served as past state president, American Association of University Women; past vice-chairman, Governor's Commission on the Status of Women; member of U.S. Small Business Advisory Council; member of Opportunity Village Advisory Board; and member of the Los Vegas Symphony Board of Directors.

The Fong's long-standing support of excellence in higher education is marked by philanthropy and leadership. Lilly Fong's fund raising efforts for Judy Bayley Theater, Artemus Ham Concert Hall, and Alta Ham Hall, resulted in fine arts centers which have enriched the cultural lives of many Nevadans. To further the appreciation of Chinese art, Lilly & Wing commissioned the Chinese classical artist, Hau Pei-Jen, for six historical and legendary landscapes in the Ham Hall lobby. In 1985, Mr. and Mrs. Fong donated $250,000 to UNLV and Community College. In that same year, Lilly Fong was honored as a Partner for Progress by the Nevada Society of Professional Engineers.

Is it any wonder we are honoring this couple tonight. Their dedication and support for the City of Las Vegas and their involvement in the education of our children has made them two of the most respected and accomplished community leaders in Southern Nevada.

[From the Las Vegas Sun, Feb. 19, 1992]

400 Attend Fong Elementary School Dedication

(By Elizabeth Fott)

Fighting storms and construction chaos, more than 400 friends streamed in out of the night to participate in Wing and Lilly Fong Elementary's dedication ceremonies.

Clark County School Board President Dr. Lois Tarkanian gave formal welcome to guests and fellow speakers, including Nevada's Secretary of State Cheryl Lau, Superintendent Dr. Brian Cram, Congressman Jim Bilbray and the Fong children, Susan and Kenneth, who each gave personal insights into this remarkable couple.

Wing Fong, a longtime resident involved in banking and real estate development, is well matched by his wife Lilly, a university regent (1974–85), current advisor to UNLV's Institute of Real Estate Studies and past president of church and social organizations.

Phil and Patsy Riner, Mildred Gomes, Tony and Rosalee Wirtz and Dr. Anthony Saville were joined by Judge Don Mosley, Marcia and Tola Chin and Dr. Jim and Pilar Lum in extending best wishes.

Wing's former classmates, Al and Helen Storey and Toni and Bill Lawry, enjoyed cake, punch and fond remembrances with Lilly's sister Minnie Fong and cousins Doris Lee, Fred Ong, Teresa Moy, Helen and David Brom and Albert and Linda Lam. Greeting friends nearby were son-in-law Richard Brattain with Oran and Bonnie Gragson, Dr. John and Harriet Batdorf, Ken and Betty Miller and Pat Cardinalli with Susie Sweeney. Slipping in during the reception to join wife Bonnie for personal words of congratulation was Sen. Richard Bryan.•

FIRST RECIPIENTS OF EFF PIONEER AWARDS

• Mr. D'AMATO. Mr. President, I rise today to honor five outstanding individuals who will receive the first annual EFF Pioneer Awards for substantial contributions to the field of computer-based communications.

Douglas Engelbart is one of the original moving forces in the personal computer revolution who is responsible for many ubiquitous features of today's computers such as the mouse, the technique of windowing, display editing, and many other inventions and innovations. He is highly recognized in his field as one of our era's true visionaries.

Robert Kahn was an early advocate and prime mover in the creation of ARPANET which was the precursor of today's Internet. Since the late sixties and early seventies Mr. Kahn has constantly promoted and tirelessly pursued innovation and heightened connectivity in the world's computer networks.

Tom Jennings started the Fidonet international network. Today it is a linked network of amateur electronic bulletin board systems with more than 10,000 nodes worldwide and it is still growing. He is currently editor of FidoNews, the network's electronic newsletter.

Jim Warren has been active in electronic networking for many years. Most recently he has organized the First Computers, Freedom and Privacy Conference, set up the first online public dialog link with the California Legislature, and has been instrumental in assuring that rights common to older mediums and technologies are extended to computer networking.

Andrzej Smereczynski is the administrator of the PLEARN node of the Internet and responsible for the extension of the Internet into Poland and other East European countries. A network guru, Mr. Smereczynski has worked selflessly and tirelessly to extend the technology of networking as well as its implicit freedoms to Poland and neighboring countries.

These gentlemen will be receiving their awards at a ceremony to be held tomorrow at the L'Enfant Plaza Hotel. Mr. President, I ask you to join with me in congratulating these individuals on their outstanding contributions and in wishing them much success in the future.•

RELIGIOUS VALUES AND PUBLIC POLICY

• Mr. HATCH. Mr. President, in one of the most important talks given in Washington during this past year, Elder Dallin H. Oaks of the Quorum of the Twelve Apostles of the Church of the Latter-day Saints, on February 29, 1992, spoke about the interesting roles of the church vis-a-vis the State.

His discussion concerning church participation in public debate on political issues is particularly sensitive and compelling. I believe that many will be very interested in these remarks.

Elder Oaks was a justice of the Utah Supreme Court before his calling as one of the Twelve Apostles of the Church of Jesus Christ of Latter-day Saints. These remarks, which will follow my statement, are a melding of his legal and religious background into some excellent answers for the benefit of our society:

Religious Values and Public Policy

(By Elder Dallin H. Oaks)

Last April my Church duties took me to Albania. Elder Hans B. Ringger and I were some of the first Western visitors to that newly opened country. We conferred with government officials about the reception our Church's missionaries would receive in Albania, which had banned all churches in 1967. They told us the government regretted its actions against religion, and that it now welcomed back churches to Albania. One explained, "We need the help of churches to rebuild the moral base of our country, which was destroyed by communism." During the past 12 months I have heard this same reaction during discussions with government and other leaders in Bulgaria, Romania, Russia, and Ukraine.

In contrast, consider what we hear about religion from some prominent persons in the United States. Some question the legitimacy of religious-based values in public policy debates. Some question the appropriateness of churches or religious leaders taking any public position on political issues.

Provoked by that contrast, I will use this occasion to speak about the role of religious-based values and religious leaders in public policy debates. As you are aware, I have some experience in law, public life, and church leadership. What I say is my personal opinion, and is not a statement in behalf of The Church of Jesus Christ of Latter-day Saints.

I. QUESTIONS OF RIGHT AND WRONG

Fundamental to the role of religion in public policy is this most important question: Are there moral absolutes? Speaking to our BYU students last month, President Rex E. Lee said:

"I cannot think of anything more important than for each of you to build a firm, personal testimony that there are in this life some absolutes, things that never change, regardless of time, place, or circumstances. They are eternal truths, eternal principles and, as Paul tells us, they are and will be the same yesterday, today and forever."

Unfortunately, other educators deny the existence of God or deem God irrelevant to the human condition. Persons who accept this view deny the existence of moral absolutes. They maintain that right and wrong are relative concepts, and morality is merely a matter of personal choice or expediency. For example, a university professor reported that her students lacked what she called "moral common sense." She said they believed that "there was no such thing as right or wrong, just good or bad arguments. In that view, even the most fundamental moral questions have at least two sides, and every assertion of right or wrong is open to debate.

I believe that these contrasting approaches underlie the whole discussion of religious values in public policy. Many differences of opinion over the role of religion in public life simply mirror a difference of opinion over whether there are moral absolutes. But this underlying difference is rarely made explicit. It is as if those who assume that all values are relative have established their assumption by law or tradition and have rendered illegitimate the fundamental belief of those who hold that some values are absolute.

One of the consequences of shifting from moral absolutes to moral relativism in public policy is that this produces a corresponding shift of emphasis from responsibilities to rights. Responsibilities originate in moral absolutes. In contrast, rights find their origin in legal principles, which are easily manipulated by moral relativism. Sooner or later the substance of rights must depend on either the voluntary fulfillment of responsibilities or the legal enforcement of duties. When our laws or our public leaders question the existence of absolute moral values they undercut the basis for the voluntary fulfillment of responsibilities, which is economical, and compel our society to rely more and more on the legal enforcement of rights, which is expensive.

Some moral absolutes or convictions must be at the foundation of any system of law. This does not mean that all laws are so based. Many laws and administrative actions are simply a matter of wisdom or expediency. I suppose the important decisions of the Federal Reserve Bank's Open Market Committee are largely of this character. Many other examples could be cited. If most of us believe that it is wrong to kill or steal or lie, our laws will include punishment of those acts. If most of us believe that it is right to care for the poor and needy, our laws will accomplish or facilitate those activities. Society continually legislates morality. The only question is whose morality and what legislation.

In the United States, the moral absolutes are the ones derived from what we refer to as the Judeo-Christian tradition, as set forth in the Bible—Old Testament and New Testament. For example, under that tradition adultery is wrong. The continuing force of that moral absolute was affirmed in a recent poll conducted by the National Opinion Research Center. They found that 75% of Americans believe that adultery is always morally wrong. There may be—and are—differences of opinion over the wisdom of using the criminal law or the divorce law to enforce that moral absolute, but there can be no question about what a large majority of our citizens believe on that subject.

Despite ample evidence of majority adherence to moral absolutes, some still question the legitimacy of a moral foundation for our laws and public policy. To avoid any suggestion of adopting or contradicting any particular religious absolute, some secularists argue that our laws must be entirely neutral, with no discernable relation to any particular religious tradition. Such proposed neutrality is unrealistic, unless we are willing to cut away the entire idea that there are moral absolutes.

Of course, not all moral absolutes are based on traditional religion. A substantial segment of society has subscribed to the environmental movement, which Robert Nisbet, a distinguished American sociologist, has characterized as a "national religion," with a "universalized social, economic, and political agenda. So far as I am aware, there has been no responsible public challenge to the legitimacy of laws based on the environmentalists' set of values. I don't think there should be. My point is that religious values are just as legitimate as those based on any other comprehensive set of beliefs.

II. RELIGION AND THE PUBLIC SECTOR

Let us apply these thoughts to the role of religions, churches, and church leaders in the public sector.

Some reject the infusion of religious-based values in public policy by urging that much of the violence and social divisiveness of the modern world is attributable to religious controversies. Our world is not without such examples, as we are reminded by Iran and Ireland. But all should remember that the most horrible moral atrocities of the twentieth century in terms of death and human misery have been committed by regimes that are unambiguously secular, not religious. I challenge anyone to think of any modern religious regime whose moral excesses can compare with Nazi Germany, Stalinist Russia, or Khmer Rouge Cambodia.

Even though we cannot reject religious values in law-making on the basis of their bad record by comparison with other values, there are ample examples of hostility to religious values in the public sector. For example, less than a decade ago, the United States Department of Justice challenged a federal judge's right to sit on a case involving the Equal Rights Amendment on the ground that his religious views would prejudice him. The judge was Marion Callister. The religious views were L.D.S. In that same decade, the American Civil Liberties Union took the position that any pro-life abortion law was illegitimate because it must necessarily be founded on religious belief.

A few years ago some Protestant and Jewish clergymen challenged a federally financed program to promote abstinence from sexual activity among teenage youngsters. The grant recipients included B.Y.U. and some Catholic charities in Virginia and Michigan. The A.C.L.U. attorney who filed this challenge declared that "the 'chastity law' is unconstitutional because it violates the requirement for separation of church and state" because taxpayer dollars "are going to religious institutions, which use the funds to teach religious doctrines opposing teenage sex and abortion." In the meantime, the "value" judgments that permit public schools to distribute birth control devices to teenagers supposedly violate no constitutional prohibition because the doctrine that opposes chastity is secular.

During this same period, Professor Henry Steele Commager criticized the Moral Majority and the Roman Catholic Church for "inject[ing] religion into politics more wantonly than at any time since the Know-Nothing crusade of the 1850's." Writing in a New York Times column, this distinguished scholar asserted that "what the Framers [of our Constitution] had in mind was more than separating church and state: it was separating religion from politics." While conceding that no one could question the right to preach "morality and religion," Commager argued that churchmen of all denominations crossed an impermissible line "when they connect morality with a particular brand of religious faith and this, in turn, with political policies."

Apparently churchmen can preach morality and religion as long as they do not suggest that their particular brand of religion has any connection with morality or that the resulting morality has any connection with political policies. Stated otherwise, religious preaching is okay as long as it has no practical impact on the listeners' day-to-day behavior, especially any behavior that has anything to do with political activity or public policy.

That is such a curious position for a man as respected as Professor Commager, I wonder if I have misunderstood him. Perhaps his point is a deeper one. As we know, the idea that there is an absolute right and wrong comes from religion and the absolute values that have influenced law and public policy are most commonly rooted in religion. In contrast, the values that generally prevail in today's academic community are relative values. Perhaps Commager is not denying the legitimacy of churchmen preaching on political questions as much as he is simply challenging the appropriateness of bringing to public policy debates the kind of absolute values many of them preach.

It is significant that not all challenges to religious values in public policy come from the academic community or from the political left. A few years ago Senator Barry Goldwater rejected what he described as an attempt by "religious factions" to "control" his vote on particular issues. In doing so he declared that these "decent people" should "recognize that religion has no place in public policy." Similarly, the promoters of a nationwide poll a few years ago asserted that 53 percent of Americans feel that "religious leaders should stay out of politics entirely even if they feel strongly about certain political issues."

I have read serious academic arguments to the effect that religious people can participate in public debate only if they conceal the religious origin of their values by translating them into secular dialect. In a nation committed to pluralism, this kind of hostility to religion should be legally illegitimate and morally unacceptable. It is also irrational and unworkable, for reasons explained by BYU law professor Frederick Mark Gedicks:

"[S]ecularism has not solved the problem posed by religion in public life so much as it has buried it. By placing religion on the far side of the boundary marking the limit of the real world, secularism prevents public life from taking religion seriously. Secularism does not reach us to live with those who are religious; rather, it demands that we ignore them and their views. Such a 'solution' can remain stable only so long as those who are ignored acquiesce in their social situation. The last two decades suggest that [religious] acquiescence in a secularized public life . . . is vanishing, if it has not already disappeared."

Fortunately, the Supreme Court has never held that citizens could not join together to translate their moral beliefs into laws or public policies even when those beliefs are derived from religious doctrine. Indeed, there are many sophisticated and articulate spokesmen for the proposition that the separation of church and state never intended to exclude religiously grounded values form the public square. For example, I offer the words of Richard John Neuhaus:

"In a democracy that is free and robust, an opinion is no more disqualified for being 'religious' than for being atheistic, or psychoanalytic, or Marxist, or just plain dumb. There is no legal or constitutional question about the admission of religion to the public square; there is only a question about the free and equal participation of citizens in our public business. Religion is not a reified 'thing' that threatens to intrude upon our common life. Religion in public is but the pubic opinion of those citizens who are religious.

"As with individual citizens, so also with the associations that citizens form to advance their opinions. Religious institutions may understand themselves to be brought into being by God, but for the purposes of this democratic polity they are free associations of citizens. As such, they are guaranteed the same access to the public square as are the citizens who comprise them.

No person with values based on religious beliefs should apologize for taking those values into the public square. Religious persons need to be skillful in how they do so, but they need not yield to an adversary's assumption that the whole effort is illegitimate. We should remind others of the important instances in which the efforts of churches and clergy in the political arena have influenced American public policies in great historical controversies whose outcome in virtually unquestioned today. The slavery controversy was seen as a great moral issue and became the major political issue of the nineteenth century because of the preaching of clergy and the political action of churches. A century later, churches played an indispensable role in the Civil Rights movement, and, a decade later, clergymen and churches of various denominations were an influential part of the anti-war movement that contributed to the end of the war in Vietnam.

Many sincere religious people believe there should be no limitations on religious arguments on political issues so long as the speaker genuinely believes those issues can be resolved as a matter of right or wrong. That is the position Abraham Lincoln applied in his debates with Senator Stephen A.

Douglas. While Douglas claimed that he regarded slavery as wrong, he said the national government should allow a majority of territorial voters to decide whether slavery would be allowed in a particular territory. Lincoln rejected that argument because slavery was a matter of right or wrong. He declared:

"When Judge Douglas says that whoever, or whatever community, wants slaves, they have a right to have them, he is perfectly logical if there is nothing wrong in the institution; but if you admit that it is wrong, he cannot logically say that anybody has a right to do a wrong."

Like Lincoln, I believe that questions of right and wrong, whether based on religious principles or any other source of values, are legitimate in any debate over laws or public policy. Is there anything more important to debate than what is right or wrong? And those arguments should be open across the entire political spectrum. There is no logical way to contend that religious arguments or lobbying are legitimate on the question of abstinence from nuclear war by nations but not on the question of abstinence from sexual relations by teenagers.

III. CHURCH PARTICIPATION IN POLITICAL DEBATE

What limitations should church and their leaders observe when they choose to participate in public debate on political issues?

This subject was widely discussed about 8 years ago because of the convergence of several extraordinary events. A committee of the National Conference of Catholic Bishops released its pastoral letter, "Catholic Social Teaching and the U.S. Economy." New York Governor Mario Cuomo, moved by the issue of abortion, made a celebrated statement about the significance of Catholic teaching for a public official who is a Roman Catholic. And Senator Edward M. Kennedy made his celebrated address to the students of Liberty Baptist College. The pot boiled vigorously then, but the heat was not translated into much light, at least not the kind that illuminates a consensus. I propose to revisit this subject with a few comments of my own.

I emphasize at the outset that I am discussing limits to guide all churches across a broad spectrum of circumstances. I am not seeking to define or defend a Mormon position. As a matter of prudence, our Church has confined its own political participation within a far smaller range than is required by the law or the constitution. Other churches have chosen to assert the full latitude of their constitutional privileges and, in the opinion of some, have even exceeded them.

Where should we draw the line between what is and is not permissible for church and church-leader participation in public policy making?

At one extreme, we hear shrill complaints about political participation by any persons whose political views are attributable to religious beliefs or the teachings of their church. The words "blind obedience" are usually included in such complaints. Complaints there are, but I am not aware of any serious and rational position that would ban religious believers from participation in the political process. The serious challenges concern the participation of churches and church leaders.

Perhaps the root fear of those who object to official church participation in political debates is power: They fear that believers will choose to follow the directions or counsel of their religious leaders. Those who have this fear should remember the celebrated maxim of Jefferson "error of opinion may be tolerated where reason is left free to combat it." Some may believe that reason is not free when religious leaders have spoken, but I doubt that any religious leader in twentieth century America has such a grip on followers that they cannot make a reasoned choice in the privacy of the voting booth. In fact, I have a hard time believing that the teachings of religions or churches deprive their adherents of any more autonomy in exerting the rights of citizenship than the teachings and practices of labor unions, civil rights groups, environmental organizations, political parties, or any other membership group in our society.

In his celebrated address to the students of Liberty Baptist College, Edward Kennedy maintained that churches have a right to speak out on "questions that are inherently public in nature," like the issue of nuclear war and racial segregation. However, he argued, churches should not try to persuade government to "tell citizens how to live uniquely personal parts of their lives." "In such cases—cases like prohibition and abortion—" the Senator declared, "the proper role of religion is to appeal to the conscience of the individual not the coercive power of the state." This proposed distinction between issues that are "inherently public" and those that are "uniquely personal" is very convenient, especially for one side of the political spectrum. As Senator Kennedy explained it, his distinction apparently justifies churches in making their influence felt on nuclear freeze and the Vietnam War, but it excludes them from the debate on abortion or decriminalization of drug laws.

In my view, the Senator's distinction is unsound and unworkable. At root, every action is "uniquely personal," and in its manifestation every act is at least potentially "public." For example, I suppose that Southern slave owners believed that their ownership of slaves was uniquely personal, and some eighteen-year-olds probably believed the same thing about their decisions not to register for the draft during the Vietnam War. Yet, it is clear that each of these so-called uniquely personal decisions had an inherently public effect.

If a distinction between personal issues and public issues is not a sensible guide to when a church or its leaders can participate in public debate, what is? Surely it is not religious (or moral) issues versus political issues, since those labels describe a conclusion rather than assisting us to reach it.

I submit that religious leaders should have at least as many privileges as any other leaders, and that churches should stand on at least as strong a footing as any other corporation when they enter the public square to participate in public policy debates. The precious constitutional right of petition does not exclude any individual or any group. The same is true of freedom of speech and the press. When religion has a special constitutional right to its free exercise, religious leaders and churches should have more freedom than other persons and organizations, not less.

If churches and church leaders should have full rights to participate in public policy debates, should there be any limits on such participation?

Of course there are limits that apply specially to churches and church officials, as manifest in the United States Constitution's prohibition against Congress making any law respecting an establishment of religion. Some linkages between churches and governments are obviously illegitimate. It would clearly violate this prohibition if a church or church official were to exercise government power or dictate government policies or direct the action of government officials independent of legal procedures or political processes.

Upon this same basis—the principle of anti-establishment—I believe it would be inappropriate for a church to discipline one of its members who holds public office for declining to follow church direction or failing to adhere to a church position on a decision made in the exercise of public responsibilities. This fairly obvious point had to be established by the Catholic church in order for John F. Kennedy to be elected President of the United States.

We have applied that limit in our Church. In a celebrated talk given in 1989, Governor Calvin L. Rampton of Utah said:

"I am not aware of any time that the Church has taken any official sanction against a Mormon holding public office for things done in such officer's official capacity. This is true even though the Church may have taken a position on the issue on the moral issue theory. For example, when part way through my tenure of office I vetoed a Sunday closing bill which had been favored by the Church, while my judgement was roundly criticized by the editorial writers of the Deseret News, no question was raised that by such act I had impaired my Church membership nor did it impair my cordial relationship with Church leaders on other subjects."

Governor Cuomo voiced that principle in his celebrated talk at Notre Dame University. "Roman Catholics in public office are bound by the church's moral dogma," he declared, "but are free to decide the applicability of these teachings to civil law." He elaborated in these words:

"While we always owe our bishops' words respectful attention and careful consideration, the question whether to engage the political system in a struggle to have it adopt certain articles of our belief as part of public morality, is not a matter of doctrine: it is a matter of prudential political judgment."

I would say it this way. If churches or church officials believe that one of their members has violated church doctrine or policy by acts committed in his or her public office, the remedy should be at the next election, not in a church court. Unfortunately, churches are barred from this election remedy. Under federal law they lose their tax exemption if they "participate in or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office." In contrast to lobbying for particular legislation, which is permissible so long as it is not a "substantial part" of the activities of the church, any political activity involving a candidate can invoke the dreaded loss of tax exemption.

I have grave doubts about the constitutionality or wisdom of this law, which effectively denies to churches a privilege that is available to other organizations that participate in public policy debates. If a labor union or an environmental organization can urge its members to vote against a candidate who has violated the principles of the organization, I submit that a church should be able to do the same, if it chooses to do so. A church should not apply church discipline for political behavior, but it should be free to participate in the imposition of political discipline.

In his Notre Dame Talk Governor Cuomo suggested another limitation on churches' participation in the public sector, which is tied to a supposed distinction between religious doctrine and political implementation. I quote:

"The parallel I want to draw here is not between or among what we Catholics believe to be moral wrongs. It is in the Catholic response to those wrongs. Church teaching on slavery and abortion is clear. But in the application of those teachings—the exact way we translate them into action, the specific laws we propose, the exact legal sanctions we seek—there was and is no one, clear, absolute route that the church says, as a matter of doctrine, we must follow."

In other words, Governor Cuomo contends that when churches and church leaders enter the public arena, they should concentrate on moral principles and stay away from legislative implementation.

If Governor Cuomo was advocating what is *prudent* for churches as a general rule, I agree with his statement, which describes the general practice of our Church. We teach general principles that should motivate government action, but we rarely take a position on a specific legislative proposal.

If Governor Cuomo's statement was intended to describe the limits of what is legitimate for church participation in public policy debates, I disagree. As a technical matter, the distinction between a moral "principle" and its legislative "implementation" is often impossible to apply. For example, if a church is against gambling as a moral evil—as our Church is—that church cannot avoid being against a bill that would legalize a particular form of gambling. In that instance, moral principle and legislative implementation are indistinguishable.

More fundamentally, I submit that there is no persuasive objection in law or principle to a church or a church leader taking a position on any legislative matter, if it or he or she chooses to do so.

And now, my final suggestion on church participation in public debate. When churches or church leaders choose to enter the public sector to engage in debate on a matter of public policy they should be admitted to the debate and they should expect to participate in it on the same basis as all other participants. In other words, if churches or church leaders choose to oppose or favor a particular piece of legislation, their opinions should be received on the same basis as the opinions offered by other knowledgeable organizations or persons, and they should be considered on their merits.

By the same token, churches and church leaders should expect the same broad latitude of discussion of their views that conveniently applies to everyone else's participation in public policy debates. A church can claim access to higher authority on moral questions, but its opinions on the application of those moral questions to specific legislation will inevitably be challenged by and measured against secular-based legislative or political judgments. As James E. Wood observed, "While denunciations of injustice, racism, sexism, and nationalism may be clearly rooted in one's religious faith, their political applications to legislative remedy and public policy are by no means always clear."

Finally, if church leaders were also to exhibit openness and tolerance of opposing views, they would help to overcome the suspicion and resentment sometimes directed toward church or church-leader participation in public debate.

In summary, I have pointed out that many laws are based on the absolute moral values most Americans affirm, and I have suggested that it cannot be otherwise. I have contended that religious-based values are just as legitimate a basis for political action as any other values. And I have argued that churches and church leaders should be able to participate in public policy debates on the same basis as other persons and organizations, favoring or opposing specific legislative proposals or candidates if they choose to do so. I have suggested that it would be inappropriate for churches to impose church discipline on their members for failing to follow church doctrine or direction in the exercise of their public responsibilities.

I will conclude this discussion of Church participation in the political process by stressing the obvious. Politics and religion have different goals and different methods. Each can be corrupted by too much association with the other.

Governments or their leaders can be corrupted by surrendering to a church, and churches or their leaders can be corrupted by excessive involvement with politics or the state. Some lesser manifestations of such corruption are sometimes seen in our day.

Politicians sometimes seek to use religion for political purposes, and they sometimes even seek to manipulate churches or church leaders. Ultimately this is always self-defeating. Whenever a church or a church leader becomes a pawn or servant of government or a political leader, it loses its status and the credibility it needs to perform its religious mission.

Churches or their leaders can also be the aggressors in the pursuit of intimacy with government. The probable results of this excess has been ably described as "the seduction of the churches to political arrogance and political innocence or even the politicizing of moral absolutes".

The relationship between church and state and between church leaders and politicians should be respectful and distant, as befits two parties who need one another but share the realization that a relationship too close can deprive a pluralistic government of its legitimacy and a divine Church of its spiritual mission.

Despite that desirable distance, government need not be hostile to religion or pretend to ignore God. In contrast to the vocal minority who demand that governments ignore the God most of their citizens worship, I long for a return to the dignified religiosity embodied in this proclamation by a President of the United States:

"We have forgotten God. We have forgotten the gracious hand that preserved us in peace, and multiplied and enriched and strengthened us. And we have vainly imagined in the deceitfulness of our hearts that all these blessings were produced by some superior wisdom and virtue of our own. Intoxicated with unbroken success, we have become too self-sufficient to feel the necessity of redeeming and preserving grace, too proud to pray to the God that made us."

That was Abraham Lincoln, 1863. His words remain appropriate for our day. I pray that we and our fellow citizens will take them to heart.

ADULT LITERACY IN THE STATE OF NEW YORK

• Mr. SIMON. Mr. President, I would like to make my colleagues aware of the marvelous work of my longtime friend, Dr. Richard C. Wade, who teaches at the graduate school and University Center at the City University of New York.

Dr. Wade has been a practicing scholar for over 40 years, and has served as chairman of the New York Governor's Commission on Libraries for the past 2 years. He has actively sought better ways to reduce adult illiteracy and has good ideas, particularly in terms of helping prisoners learn to read and write.

Recently I received a copy of his testimony on adult illiteracy in the State of New York. His insightful comments and innovative ideas merit the attention of my colleagues in the Senate.

I ask to insert his comments in the RECORD at this point.

The comments follow:

HEARING ON ADULT LITERACY IN NEW YORK STATE

(Testimony presented by Richard C. Wade, Chairman, Governor's Commission on Libraries)

THE CASE FOR "LATE START"

Thank you, Mr. Chairman, for this opportunity to testify before this committee on the growing and dangerous problem of adult illiteracy. The testimony I give today I could not have provided two years ago when the Governor named me chairman of the Governor's Commission on Libraries. At the time I though I knew a great deal about libraries. I had been, after all, a practicing scholar for forty years. My specialty, urban history, had led me to research in every kind of library—university, public, archival, and specialized. For decades I had fought university administrations for more funding; I had supported my own public libraries; I had helped cities set up their archives, and I was a guardian of the papers of important public figures. In short, I thought I understood libraries and their problems as well as almost anyone else.

I could not have been more mistaken. What I discovered was a library enterprise that is not only in deep trouble but suffering such neglect that only an aroused public and its elected officials can preserve it. That sentence is not meant merely to catch your attention. It is a conclusion that comes from almost two years of work by the Governor's Commission, which included six public hearings around the state, countless meetings, research by expert staff, and the proceedings from two conferences: The Governor's and the White House Conference on Library and Information Services.

The broad results of that work and that experience are summarized in the published report to the Governor which has been sent to members of this committee. The report has the unanimous endorsement of the distinguished Commission comprised of elected officials, librarians, and the general public.

The report is comprehensive and covers the crucial questions of the creeping catastrophe that is slowly engulfing our entire library enterprise. Today, however, I want to talk of only one, adult illiteracy, which if not vigorously addressed right now, will make many of the other problems seem somewhat academic. The central fact ought to be, in Thomas Jefferson's phrase "a fire bell in the night" for all of us. One in every five American adults is functionally illiterate. By that I do not mean that he or she does not read very much or has trouble with difficult material, I mean people who cannot read a want ad, cannot fill out a job application, cannot do elementary banking, cannot even read their children's report cards. And the figure is conservative. Many experts place it much higher: one congressional committee, your analogue, estimates the number at thirty million. And the number is growing every week. Two years ago the president announced a goal of eliminating adult illiteracy by the year 2000. Yet there are more illiterates today than when he pronounced the goal. Incidentally, the figure of adult illiteracy in 1900 was one in twelve. In short, if nothing is done, we will end this century farther behind in the search for a literate society than when we began it.

The consequences of this failure explain much of what comprises our national malaise. I will not deal here with the individual loss that accompanies illiteracy: the knowledge that one will never be a full member of society; will never enjoy even a modest measure of the pleasures embodied in reading; will never be able to be a wholly helpful parent; will never have fulfilled ones real potential for a full and fruitful life. The understanding of that quiet catastrophe is beyond those who never experienced it. But the consequences of adult illiteracy to American society are not difficult to calculate.

The most obvious is economic. The most conservative estimates are that the nation's bill is over $200 billion a year in unemployment, underemployment, health, welfare and incarceration costs. New York's part of this annual waste is $20 billion. Worse still, this large pool of functionally illiterate adults means that this country enters the stiff world of economic competition with a labor pool of only eighty percent, while Germany and Japan can count on a work force of ninety five percent or more literate employees ready to contribute to a modern economy. It is simply unrealistic for our nation's leaders to keep promising to "compete" when we enter the ring with one arm tied behind our back. For years, governments on every level have created job training programs to prepare displaced workers for new employment and prepare youngsters for the world of modern work. Yet these programs, no matter how diligently pursued, disappointed their beneficiaries who can neither read or write and who ultimately drift away to the unemployment and welfare lists.

The consequences are in our schools as well. While there is general discontent with our educational system, little consideration is given to one of the root causes of their failure. Illiterate parents produce illiterate children on a greatly disproportionate scale. The relationship is obvious, and it is also ominous. The largest group of adult illiterates is between 20 and 39 years old, indicating that the next decade will see an acceleration of the educational crisis and the familiar lament about inadequate parenting.

The consequences are in the streets as well. Over seventy percent of the nation's prison population are illiterate. Worse still, they come out illiterate and most cases return to prison again. The recidivism rate in the American system is over sixty percent. In Japan, where a convict cannot be released until he can read and write, the rate is five percent. We, of course, cannot use compulsion, but unless we break the cycle of illiteracy, the criminal justice system will remain a revolving door that pushes in and out people who cannot read their own indictments.

A further consequence of the rising level of adult illiteracy is its impact on our political institutions. The founding fathers rightfully argued that a democratic society rested on a literate and informed populace. Indeed, it is this faith in the intelligence and good will of ordinary people that made the United States a pioneer in electoral democracy. The last three decades, however, have seen a precipitous drop in voting participation. Only half the eligible voters turn out for a presidential election; fewer still in state and local elections. The whole electoral process presumes a literate public, from filing the application to knowing the location of the polling place, and from reading the ballot to understanding the issues and candidates. In short, the ability to read and write is crucial to a free society. Yet adult illiteracy reduces the voter pool by nearly twenty percent. And there is no reason to expect next year will not be worse.

A final consequence of adult illiteracy is to render meaningless most reforms directed to remedy our nagging and persistent social problems. HUD Secretary, Jack Kemp, wants to give vouchers to the poor so they can find housing in the private market; former Governor Jerry Brown wants vouchers for the poor to receive a negative income tax; various educators have long advocated vouchers to pay for private schooling. Has no one asked how someone who cannot read or write is going to read a housing advertisement much less a lease, or file a tax form, or find out which school is best for her children? The "voucher revolution" will surely founder on the rocks of illiteracy.

These consequences are not, however, without remedy. There is no necessary and inevitable portion of our population that is permanently illiterate; with a real public commitment we can approach, if not reach, the president's goal of full illiteracy by the year 2000. An essential beginning has at least three steps.

1. The creation of a permanent Governor's Commission on Libraries. This commission would have the responsibility, among other things, of coordinating and directing an all-out attack on adult illiteracy. There are presently many groups, public and private, who are all heroically laboring in the vineyard. Literacy Volunteers of America, our libraries, and some trade unions have programs; others are just beginning. A permanent Commission could encourage and support these efforts and organize broad public awareness of the problem and provide assistance in developing programs.

Libraries are obviously the focal point for the attack on illiteracy. Libraries alone have the space, the materials, and the professional staff. They are neighborhood oriented and provide a convenient home for those anxious to learn to read and write. To do the job, we should be expanding the days and hours libraries are open, not contracting them or sometimes closing them altogether.

2. Our prisons now contain a basically illiterate population. They are released no more able to function peaceably in society than when they went in. The criminal justice system could offer a simple incentive. A judge, after being informed through test results that a non-violent convict was functionally illiterate, could adjust the sentence. If, for example, the sentence was five years, the judge could indicate that if the prisoner completed a literacy program successfully, the sentence would be reduced. He could also induce very literate inmates to teach reading and writing also with the possibility of a reduced sentence. A simple calculation I hope will suffice. It costs at least $40,000 a year to house an inmate in New York. If just one prisoner was released literate on a reduced sentence of just one year, it would save $40,000; if a non-violent teaching inmate's sentence was also reduced, it would save another $40,000. The public is twice served. And the chances of either returning to prison is drastically lowered.

3. The funding of a general attack on adult illiteracy would surely be the most cost-effective program ever presented to the American people. It is gender-free, race free and family centered. Any program that takes an adult from illiteracy to functional reading and writing would receive $2,000—one thousand from the state and one thousand from the federal government. Like Head Start, this Late Start program would be financed by matching funds. But payment should be tied to results, not to attendance or promises. Late Start deals with adults; its funding can be controlled by easily certified success.

Mr. Chairman, in my judgment the reduction of adult illiteracy in this country is the most fundamental question facing the American public today. Moreover, unlike so many other issues, it can be remedied without new equipment or great expenditures of funds. What is required is a commitment by the American public and its elected officials to erase this silent scandal and return this country to its rightful place as the most literate of nations. And it is proper that New York State take the lead, for, after all, it pioneered in library innovations and is still the flagship of the nation's library systems. Indeed, this country invented the notion of universal literacy. In these years when we celebrate the anniversary of the Bill of Rights, is it too much to ask that by the end of this decade, every American can read and rejoice in it? The nation that enthusiastically embraced Head Start should surely welcome the beginning of Late Start.•

RADIO READING SERVICE

• Mr. D'AMATO. Mr. President, most of us take for granted our ability to read a book, newspaper, or magazine without any effort. There are persons among us—blind people, senior citizens, and other visually impaired individuals—who need someone else to read for them. For many visually impaired persons in western New York, the Niagara Frontier Radio Reading Service provides that someone to do the reading.

The Niagara Frontier Radio Reading Service is a special radio station for those unable to read printed matter. More than 300 volunteers broadcast daily readings of newspapers, magazines, books, and important community information to area print-handicapped persons who are given a specially tuned radio reading receiver. More than 1,000 reading radios have been distributed in 4 years of serving western New York. Many libraries, hospitals, and nursing homes offer reading radio services to their clientele.

The Niagara Frontier Radio Reading Service is a private, not-for-profit agency that relies upon the financial support of individuals, groups, corporations, foundations, and governments. To this end, Buffalo channel 29 will be holding a live telethon for the Niagara Frontier Radio Reading Service, Inc., on Sunday, March 22, 1992.

The reading service has received the highest honor a State not-for-profit agency can receive, the Governor's Eleanor Roosevelt Outstanding Community Service Award.

This fine organization provides an invaluable service to print-handicapped persons in western New York. I salute them for their many achievements to date, and wish them many more years of continued success.•

OPPORTUNITIES FOR THE PEACE CORPS

• Mr. CRANSTON. Mr. President, the administration last year requested an appropriation of $200 million for the Peace Corps for the current fiscal year. However, because of unresolved differences on matters unrelated to the Peace Corps, Congress has been unable to enact the fiscal year 1992 Foreign Operations appropriations bill and the Peace Corps is currently operating under a continuing resolution at the fiscal year 1991 funding level of $186 million. Although these financial constraints impose difficulties on all programs funded under the Foreign Operations bill, I believe that the Peace Corps' situation warrants particular attention.

Mr. President, at a time of tremendous international tension and suspicion, the founders of the Peace Corps, among whom my long-time close friend Senator WOFFORD, was a leader, had a wonderful vision of promoting the causes of international peace and understanding on a person-to-person basis. That vision was both bold and simple. They saw a world made more peaceful and the peoples of the world less divided through the efforts of individual Americans, working side-by-side with other peoples around the world, assisting in the development efforts of their countries, mutually sharing the realities of American life and life in other countries, and coming back to share with other Americans the lessons learned. To the great credit of the founders and the 130,000 Peace Corps volunteers who have served over the past 31 years, the promise of that vision has been realized and continues to be fulfilled.

Over the past 3 years, the international community has witnessed the birth of infant democracies in Latin America, Eastern Europe, and, perhaps most dramatically, the states of the former Soviet Union. Among the first requests to the United States to come from the governments of these countries have been those for Peace Corps volunteers. The Peace Corps has thus been requested to enter a record number of 34 new countries during this period and has initiated programs in 24 of those countries. The leaders of the agency have followed the longstanding policy of the Peace Corps to try to respond to all appropriate requests for assistance. Individual Americans, too, have responded to these events with a heightened interest in Peace Corps service, and the Peace Corps reports an enormous increase in the numbers of inquiries and the numbers of applications. Peace Corps staff receive an average of over 1,000 telephone inquiries each day, up from an average of approximately 200 in previous years. Last year nearly 14,000 Americans, more than at any time since the 1960's, applied to serve as volunteers. These are truly historic times, and they have presented many new opportunities for the Peace Corps to serve in countries that had not previously requested volunteers.

Mr. President, at the same time, countries with longstanding Peace Corps programs continue to request additional volunteers, and the commitment of both the Peace Corps leadership and Congress to these traditional programs remains very strong. Moreover, during the past year, the Peace Corps has undertaken several initiatives to improve the quality of health care provided to volunteers overseas, establish monitoring systems to assure quality health-care services, and assist volunteers who become disabled during service in gaining benefits available through the Department of Labor. These important measures are needed to address shortcomings identified by the General Accounting Office, which has been working for 2 years on volunteer health issues at the request of Senator INOUYE, whom I have joined in an effort to improve Peace Corps' health-care services.

The confluence of these events has resulted in tremendous pressures being placed upon Peace Corps' resources, to which both Congress and the administration have been largely responsive. The administration's budget requests of $200 million for fiscal year 1992 and $218 million for fiscal year 1993 reflect a recognition of the new country requests and the internal improvements needed to ensure the well-being of volunteers and the agency's continued success. For fiscal year 1991, the final Peace Corps appropriation of $186 million was $5 million over the administration's budget request for that year, reflecting the strong congressional support for the agency which has been consistent over the past three decades. The urgent need at this point is for congressional action approving the $200 million funding level for fiscal year 1991. If this appropriation is not provided, the Peace Corps will fail to respond to many excellent opportunities for volunteer service that it ought to fulfill.

Mr. President, in light of the many outstanding requests for volunteers and the commitments that the Peace Corps has made to both longstanding programs and to the countries which have requested volunteers for the first time as well as the health of its volunteers, I wish to remind my colleagues of our great tradition of providing the Peace Corps with adequate resources to do its important work. I sincerely hope that the appropriations measure that we will soon consider will provide the Peace Corps with at least the administration-requested level of $200 million for the current fiscal year. The Peace Corps has been working for peace for the past 31 years, and I believe it would be most unfortunate if, at this time when the demand for its work is so great and the support for its efforts greatly invigorated, its efforts were to be stalled and reduced by a deadlock over unrelated, though extremely important, U.S. foreign policy matters.•

IN HONOR OF GENE AND LOUISE SMALLIDGE

• Mr. DURENBERGER. Mr. President, I rise today to honor Gene and Louise Smallidge, two very special Minnesotans, who are reaching across continents to make a difference and touch people's lives.

There are 800 people on a 10,000-acre farm near Saratov, Russia, who think that Gene and Louise Smallidge of rural Hastings, MN, are perhaps the best friends they have in the world.

It was over a year ago that the Minnesota farm couple visited Saratov at the invitation of Valentin Pavlukov, general manager for the Ministry of Aviation.

Mr. Pavlukov asked the Smallidges what technical advice they could offer to help Russian farmers improve agricultural productivity in that region.

Gene and Louise wrote a report outlining their ideas. And when they returned to Minnesota, they began to raise money for a corn planter and a cultivator that they believed would be the best help of all. Through speaking fees about their experience in Russia, and with the help of implement dealers in Cottage Grove, Gene and Louise purchased the corn planter and cultivator along with spare parts enough for 5 years, and shipped it to Saratov.

The Smallidges then traveled to Saratov last fall to help the Russian farmers learn how to operate the equipment for the planting season this spring. Since corn production will double this spring, Gene and Louise now are raising money for a dryer. They have done this work by simply speaking and showing the slides of their experience to any group that will hear them.

While Gene and Louise have put forth the greatest effort in this farmer-helping-farmer effort, they simply say that these implements are gifts from America's Heartland.

And the hearts of the Smallidges, Minnesota farmers, are gifts to all Americans.•

TRIBUTE TO MARLENE ALONGI AND LOUIS R. SALAMONE

• Mr. D'AMATO. Mr. President, the success of any program is dependent upon those who are responsible for carrying them out. It is the great fortune of the people of Yonkers to have Marlene Alongi and Louis R. Salamone caring for the children of their community.

Marlene Alongi provides a very visible service in her volunteer work in the Exceptional Child PTA and various other organizations. She has not only worked with the Cub Scouts and Girl Scouts in Yonkers, but has also worked with the homeless and less fortunate. Besides raising a family, Marlene Alongi has been a tutor and a fundraiser for those in need of her services. With so many unfortunate individuals in our Nation, the need for people like Marlene Alongi becomes even greater.

Schoolteachers, too, are one of the most viable human resources in a community. They teach our children and therefore decide the future of our great Nation. It takes an exceptional individual to really care for his or her students; we have such an individual in Louis R. Salamone. Louis R. Salamone is exceptionally unique because of his devotion to the learning disabled children of his community. Teaching in itself is a monumental job, but Louis Salamone has gone beyond that. He has contributed his services in physical education at the high school level and has taught English to adults. He has been a program innovator in the special education arena in his community. He is an outstanding role model for others in his profession.

Both Marlene Alongi and Louis R. Salamone do more than they realize for their respective communities. They not only tremendously assist those that they touch, but also serve as role models for those following in their footsteps. They both deserve to be commended for their vigilance and availability. It is their dedication and determination that make our world a better place to live. I wish to thank Marlene Alongi and Louis R. Salamone for their resoundingly successful efforts in their communities.•

IOWA GIRLS BASKETBALL CHAMPIONS

• Mr. HARKIN. Mr. President, I rise today to offer my heartfelt congratulations to two Iowa high schools, Osage and West Des Moines Dowling, for their victories over the past weekend in the girls State basketball tournament. Osage captured the State six-player title and my alma mater, Dowling, earned the State five-player crown. For both teams it was their first appearance in the State tournament. Congratulations to the players, coaches, students, parents, and fans.

The Iowa girls State basketball tournament has a long and proud tradition. For 6 days in March, the talk around the State turns from the price of hogs, weather, and politics to girls basketball. The tournament is a celebration and provides high-profile recognition for female athletes. I am proud to represent a State with a long history of interscholastic athletic competition for girls and recognition of their accomplishments.

I would also like to congratulate the members of the all-tournament teams. The members of the six-player team are: April Hintz and Teri Fleming of Osage; Ivy Mennen, Stacey Janssen, and Katherine Hadley of Hampton-Durant; Cathy McDaniel and Missy Miller of Colo-NESCO; and Angie Runchey of Atlantic. The members of the five-player team are: Sarah Pearson and Nikole Hennigan of Dowling; Julie Overton of Indianola; Jayme Olson of Bettendorf; and Karen Schulte and Kate Galligan of Cedar Rapids Jefferson.

The fine Iowa tradition in women's athletics continues at the university level. Good luck to C. Vivian Stringer and the University of Iowa women's basketball team as they compete in the NCAA tournament for the 7th year in a row.•

COMMENDING GILBERT BLUM

• Mr. D'AMATO. Mr. President, I rise today to congratulate Mr. Gilbert Blum who is retiring from the Great Neck School District after 23 years as principal of Great Neck South and 42 years in public education.

Mr. Blum guided Great Neck South through the turbulent years of the early 1970's through his genuine understanding of the concerns of students, parents and faculty while maintaining high academic standards. While taking pride in the large number of students who receive high academic honors, Mr. Blum has always managed to inspire those students who may be less directed in their studies. As a result of his active leadership Great Neck South High School continues to be recognized as one of the outstanding public secondary schools in America.

In addition to his accomplishments within Great Neck, Mr. Blum has also played a leading role in education outside Great Neck by serving as president of the North Shore Principals' Group and president of Section Eight of the Nassau County Athletic Association. He also serves as a member of the advisory committee of the Center for Secondary School Administrators and Supervisors at Hofstra University, and as a member of the board of trustees of the Middle States Association of Colleges and Secondary Schools.

Mr. Blum is a highly skilled and well respected educator, I congratulate him on his 42 years in public education. Mr. Blum, thank you for your dedication. I wish you every success in your retirement.•

BUDGET SCOREKEEPING REPORT

• Mr. SASSER. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending exceeds the budget resolution by $6.3 billion in budget authority and by $5.8 billion in outlays. Current level is $2.8 billion above the revenue target in 1992 and $0.9 billion above the revenue target over the 5 years, 1992–96. The changes in budget authority, outlays and revenues reflect the revised allocations submitted on March 10, 1992. These revisions are attributable to S. 2325, a bill that was reported March 3, 1992, by the Finance Committee.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $354.1 billion, $2.9 billion above the maximum deficit amount for 1992 of $351.2 billion.

The report follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, DC, March 17, 1992.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1992 and is current through March 13, 1992. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 121). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated March 10, 1992, the Congress has cleared for the President's signature S. 2324, Technical Corrections to the Food Stamp Act. This report also includes revised budget resolution aggregates for budget authority, outlays and revenues submitted March 10, 1992 by the Senate Budget Committee under Section 9 of the Concurrent Resolution on the Budget. These revisions are attributable to S. 2325, a bill that was reported March 3, 1992 by the Finance Committee and that includes a provision to increase the earned income tax credit for low-income families with children.

Sincerely,
JAMES T. BLUM
(For Robert D. Reischauer).

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE 102D CONGRESS, 2D SESSION AS OF MARCH 13, 1992

[In billions of dollars]

	Budget resolution (H. Con. Res. 121)	Current level[1]	Current level +/− resolution
On-budget			
Budget authority	1,270.7	1,277.0	+6.3
Outlays	1,201.7	1,207.5	+5.8
Revenues:			
1992	850.5	853.4	+2.8

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE 102D CONGRESS, 2D SESSION AS OF MARCH 13, 1992—Continued

[In billions of dollars]

	Budget resolution (H. Con. Res. 121)	Current level[1]	Current level +/− resolution
1992–96	4,834.6	4,835.5	+0.9
Maximum deficit amount	351.2	354.1	+2.9
Debt subject to limit	3,982.2	3,756.2	−226.0
Off-budget			
Social Security outlays:			
1992	246.8	246.8	
1992–96	1,331.5	1,331.5	
Social Security revenues:			
1992	318.8	318.8	
1992–96	1,830.3	1,830.3	

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

Note.—Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONGRESS, 2D SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS MAR. 13, 1992

[In millions of dollars]

	Budget authority	Outlays	Revenues
Enacted in previous sessions			
Revenues			853,364
Permanents and other spending legislation	807,567	727,184	
Appropriation legislation	686,331	703,643	
Continuing resolution authority	13,992	5,454	
Mandatory adjustments[1]	(1,041)	1,105	
Offsetting receipts	(232,542)	(232,542)	
Total previously enacted	1,274,306	1,204,844	853,364
Enacted this session			
Emergency Unemployment Compensation Extension (Public Law 102–244)	2,706	2,706	
American Technology Preeminence Act (Public Law 102–245)			[3]
Pending signature			
Technical Correction to the Food Stamp Act (S. 2324)	[3]	[3]	
Total current level	1,277,012	1,207,550	853,364
Total budget resolution[2]	1,270,740	1,201,728	850,528
Amount remaining:			
Over budget resolution	6,272	5,822	2,836
Under budget resolution			

[1] Adjustments required to conform with current law estimates for entitlements and other mandatory programs in the Concurrent Resolution on the Budget (H. Con. Res. 121).

[2] Includes revision under Section 9 of the Concurrent Resolution on the Budget (see p. S2921 of "Congressional Record" dated March 10, 1992).

[3] Less than $500 thousand.

Note.—Detail may not add due to rounding.•

TRIBUTE TO REV. JOHN E. DRAGELIN

• Mr. D'AMATO. Mr. President, I rise today to pay tribute to Rev. John E. Dragelin who is retiring after 33 years of service at Ascension Lutheran Church in Deer Park, NY.

Reverend Dragelin has been a community leader for more than 30 years. He has been active in the local school district and been chaplin at Good Samaritan Hospital, Southside Hospital, Pilgrim Psychiatric Center, U.S. Marine Corps, World War II, as well as at various nursing homes.

In addition to his work as the pastor of Ascension Lutheran Church, Reverend Dragelin also operated a food pantry for many years, worked with senior citizens and youth groups, and hosted AA, ALanon, and literacy volunteer groups.

Reverend Dragelin has ministered to three generations of men, women, and children. Mr. President, it is with great pride that I congratulate Reverend Dragelin for his accomplishments and wish him every success in his retirement.•

SOUTH AFRICA MOVES FORWARD

• Mr. DECONCINI. Mr. President, the white minority of South Africa has spoken. President F.W. de Klerk's high stakes gamble has paid off. Yesterday, the voters went to the polls throughout South Africa and overwhelmingly rejected a return to racism and apartheid. They turned their backs on hate and allowed a new day to dawn for a better, free, and nonracial South Africa.

In a crucial referendum, more than 85 percent of the white electorate turned out at the polls to vote their conscience. On the question, "Do you support continuation of the reform process which the state president began on February 2, 1990, and which is aimed at a new constitution through negotiations?" 68.7 percent of the voters marked "yes" for a future of hope for their children and their country.

The road ahead will not be smooth. Difficult and detailed negotiations remain for the Government, the African National Congress, the Inkatha Freedom party, and other parties to the negotiations. It is never easy for a sitting government to negotiate itself out of power, but it is in the best interests of all South Africans.

I applaud the voters who participated thoughtfully in this most serious issue facing their country. I congratulate President de Klerk for boldly leading his country into this new day. I also urge him to approach the many problems facing his country with a renewed vigor, resolve, and hope. I would include among these many problems the potentially explosive issue of black-on-black violence.

Finally, I commend the black majority in South Africa for their great patience in allowing the referendum to occur without incident. Their new day is long overdue. I encourage them also to approach the negotiations with a renewed sense of seriousness while providing all South Africans with a clearer vision of where they, together with the white minority, will lead this new South Africa.•

BOYS' TOWNS OF ITALY MAN OF THE YEAR

• Mr. D'AMATO. Mr. President, I rise today to commend one of my constituents, Phil Catanese, who has been recognized many times for his outstanding leadership and is once again being recognized; this time by Boys' Towns of Italy as their Man of the Year, 1992. During his 20-year tenure in the food industry, Mr. Catanese has achieved the highest level of respect from his peers.

Phil Catanese is currently the vice president and general manager of Bells Retail Stores for Peter J. Schmitt Co., Inc. He serves on the board of directors of the New York State Food Merchants' Association. His professional energies are paralleled only by his tremendous dedication to the local community. In addition to his association with Boys' Towns of Italy, Mr. Catanese has quite an impressive and lengthy list of charity involvements including: The United Way, March of Dimes, Kelly for Kids, Children's Hospital, Leukemia Society of Western New York, past president, and Catholic Charities.

The many contributions that Mr. Catanese has made to western New York are nothing short of inspiring. Despite the many demands of his professional and community-involved life, Phil holds traditional family values dear and proves to be a devoted dad to Lisa and Phil.

Phil Catanese, I congratulate you for this great honor and wish to thank you for your many contributions to the great State of New York. I wish you many more successes in all of your future endeavors.•

REMAINING JEWS IN SYRIA

• Mr. LIEBERMAN. Mr. President, I rise today for the purpose of bringing the Senate's attention to the painful and unjust plight of the remaining Jews in Syria. Many members of the Syrian Jewish community, which only numbers about 4,000, would like to emigrate to join families abroad. Yet Syrian authorities only permit small numbers to leave periodically; bribes are often needed to achieve even these small successes.

Moreover, Syrian Jews are often imprisoned for unjust reasons. Two Jewish brothers, Eli and Selim Swed, for example, were recently tried in camera and sentenced to 6½ years imprisonment after having been held since November 1987. They were charged with espionage, when their only crime was visiting relatives in Israel on one of the rare occasions that Syrian Jews were allowed to travel. After their sentencing, the two brothers conducted a hunger strike in prison, an unprecedented act in that country. They have ceased their hunger strike, but remain in prison.

Syrian Jews can even face the threat of death. In March 1974, four young Jewish women were brutally murdered, while trying to escape from Syria.

Their mutilated bodies were dumped in sacks in front of their homes in Damascus as a warning to the rest of the community. This heinous crime has gone unpunished to this day.

Fortunately, there are many Americans who have not forgotten the Jews of Syria. The National Task Force of Syrian Jews, the National Jewish Community Relations Advisory Council, and the Council of the Rescue of Syrian Jews have performed an excellent job in keeping this on the American agenda. In my own State of Connecticut, the Yale Friends of Israel, led by Benjamin Gordon and Daniel Magder, have raised this issue in the Yale University community. Over 1,000 Yale students have signed a petition that I recently forwarded to President Bush and Secretary Baker protesting the plight of Syrian Jews.

This is also a special time of year for members of the Jewish community who are determined to free Syrian Jewry. The sabbath before the Jewish holiday of Purim is traditionally marked as Shabbat Zachor, Sabbath of Remembrance. And in recent years, this Sabbath has been dedicated to the memory of those four young women who were murdered.

Mr. President, at this historic time, when the United States has entered into a dialog with President Assad of Syria about peace in the Middle East, I urge President Bush and Secretary of State Baker to undertake a vigorous American effort on behalf of Syrian Jews. I also urge every Member of Congress to communicate his or her deep concern to President Assad and to the Syrian Ambassador in Washington about these injustices. True reconciliation will not come to the Middle East as long as Syrian Jews do not have the right to join their relatives reach for their dreams in the country of their choice.•

COMMENDING CWO HOLLOWITH BLUE

• Mr. D'AMATO. Mr. President, I rise today to pay tribute to CWO Hollowith Blue who has been awarded the Legion of Merit for his service as the unit personnel technician, Headquarters and Headquarters Company, 4th Brigade [BT], 98th Division, Training.

Chief Warrant Officer Blue has excelled at guiding the 4th Brigade [BT] through many new and innovative personnel programs. One important program that he was responsible for was the additional duty of equal opportunity officer. In this unique position, Chief Warrant Officer Blue conducted highly successful classes to ensure supervisors and subordinates are aware of the sensitive nature of working alongside people of different nationalities, religious beliefs, race, and gender.

The personnel management arena is where Chief Warrant Officer Blue has imparted a long, lasting mark. He played a major role in the development of the 4th Brigade [BT] Enlisted Personnel Management Program which has not only survived but continues to grow.

Chief Warrant Officer Blue's untiring dedication to duty was best displayed when he accepted the challenge of conversion of the Enlisted MOS's of the 4th Brigade after it's reorganization. Previously, the Brigade consisted of three battalions whose mission were to instruct. Following the reorganization, the 4th Brigade was made up of four battalions whose missions were to conduct basic training. Chief Warrant Officer Blue's wealth of experience in personnel management helped guide the battalions through the difficult transition from instructors to Drill Sergeants with a different MOS structure.

Chief Warrant Officer Blue's efforts have been invaluable in the process of identifying officer candidates, qualifying them, administering the Officer Selection Battery Test, preparing them for their officer candidate school through the New York Army National Guard Empire State Military Academy and then helping them to prepare to resume their Reserve career as reserve officers.

Chief Warrant Officer Blue's extraordinary devotion to duty and significant contributions over a 41-year career are truly exceptional. Mr. President, it is with great pride that I ask you to join me in congratulating him or earning the honor and distinction of the Legion of Merit.•

UNITED STATES TRAINING OFFICERS FROM RUSSIAN FEDERATION

• Mr. DECONCINI. Mr. President, I was shocked the other day to read that the administration is reportedly offering to provide training to officers from the Russian Federation under the International Military Education and Training [IMET] Program. Such an act would be an outrage, given the fact that an estimated 130,000 military personnel, including 40,000 officers, under Russian control, remain in Latvia, Lithuania, and Estonia. The continued presence of former Soviet troops on Baltic soil is an affront to the sovereignty of these countries.

The Governments of Latvia, Lithuania, and Estonia have repeatedly expressed their interest in negotiations which would lead to the complete withdrawal of these troops. Under pressure from the military, the Russian leadership has dragged its feet on the withdrawal issue. In late January, Vladimir Lopatin, Deputy Chairman of the Russian State Committee for Defense Issues, said that the troop withdrawal could not proceed until the housing issue is resolved. He went on to indicate that withdrawal from the Baltics could not start before the departure of former Soviet forces from Germany and Poland, which is expected to take years to complete. One of the commanders of the Russian forces in the Baltics has claimed that troops will remain there through the end of the decade.

On-again, off-again negotiations with Moscow have failed to produce an agreed timetable or procedures for the pullout. Only token withdrawals have taken place to date. Meanwhile, troops continue to conduct military maneuvers outside of their bases and new recruits continue to be assigned to military basis in the Baltics. Ironically, it appears that some troops may have been merely shifted from one Baltic country to another. At the same time, Russia has failed to repatriate all Baltic citizens drafted into the Soviet Army as called for in an agreement it signed with the Baltic countries last October.

Mr. President, I understand the difficulty that Russia faces in housing returning troops, but this is no excuse for dragging out negotiations or reassigning forces into the Baltic States. The continued presence of former Soviet military personnel on Baltic soil poses a threat to stability in the region and undermines the hard-won independence of Latvia, Lithuania, and Estonia. It is time for all former Soviet forces to be withdrawn from the Baltics.•

INVENTING ENEMIES: THE PENTAGON SEEKS TO "DRUM UP BUSINESS" IN AFRICA

• Mr. CRANSTON. Mr. President, last week I rose to express my outrage about a secret Pentagon document that would pretend for the United States the role of "hegemon"-or world policeman.

The Pentagon planning paper, for use in future decisions on budgets and strategy, made reference to sub-Saharan Africa as one of the regions "critical to the security of the United States and its allies," an area where "the United States will be concerned with preventing the domination of key regions by a hostile power."

In this Sunday's Baltimore Sun, there was an excellent article, which I will ask to be printed in the RECORD, about Pentagon plans to increase special forces activity in Africa.

Although the editors chose another headline, a close reading of the text suggests a better one might have been: "Inventing Enemies."

Mr. President, the problems facing Africa today are not ones that cannot be resolved, nor should we try, by a friendly hand from the people at DOD.

As the Sun article makes clear, the United States has few real interests in sub-Saharan Africa, and none of them are threatened by the few regimes that are still AWOL from the global march to democracy.

The U.S. officials quoted in the article are correct in saying more attention ought to be paid to issues of long-term stability in the region—a bleak panorama of hunger, disease, debt, and civil conflict.

The United States can and should play a role there, through humanitarian assistance, through helping free market reforms and democratization and institution-building programs.

Yet in a continent in which more than half the 40 black African nations are governed, again according to the Sun, by their armies, the proposed use of the Pentagon as the preferred agent of change in our relations in Africa makes little sense.

The Pentagon document talks about its concern that the region fall prey to "a hostile power." What "hostile power"? The regional hegemon in Africa, Mr. President, is our long-time ally, France.

Should we beef up military assistance to an already overmilitarized continent so we might best one of our friends, France—a democracy and long-time ally—in a possible conflict that exists only in the fevered imagination of someone in the Pentagon?

To increase U.S. Special Forces activities in the area, the Army Special Operations Command has reactivated the 3d Special Forces Group—a Vietnam-era Green Beret unit.

The officer in charge is Col. Peter Stankovich, a veteran of the infamous "Phoenix program" in Vietnam that led to the murders of thousands of Vietcong suspects.

Among Stankovich's other assignments was a stint as an adviser to the Salvadoran Joint Task Force, which, according to an Army biography, implemented El Salvador's first "counterinsurgency national campaign plan."

During the 1980's the so-called Salvadoran Army was up to its neck in death squad activities.

The cold war may have died, but the thinking of cold warriors apparently still dominates U.S. military assistance programs in Africa. The Sun quoted Colonel Stankovich as emphasizing the nation-building role of his troops.

"Our focus is foreign internal defense—the kind of thing that strengthens a country so it can withstand the pressures from within as well as without," Stankovich was quoted as saying. The phrase "foreign internal defense" sounds like the same old counterinsurgency claptrap. In the United States, the military is barred from police functions or so-called "internal defense."

Reinforcing the military's role in internal security in Africa, as we did in Latin America throughout the 1960's and early 1970's, will not help save democracy there. On the contrary, it is more likely to promote military coups.

In nations rife with ethnic conflict, what possible interest could the United States have in helping any one faction in its ageless quest for domination?

In a continent of inherently unstable borders, often drawn only for the convenience of former colonialists, what objective does the United States seek to pursue?

Nation-building seems innocuous and unobjectionable on its face, but the effect inevitably has been to promote the military at civilian expense, and to compete unfairly with free enterprise.

The United States promoted nation building in Panama. What we got was Noreiga and a military involved in every facet of public life.

Mr. President, the administration persists in offering military solutions to what are essentially political and free-market problems.

They will, in the end, create situations that are worse than those that already exist.

Carol Lancaster, an African specialist at Georgetown University, could not be more on the mark when she commented that, "It sounds like the Pentagon does not know what to do with its money."

The Pentagon should not be allowed to drum up business around the globe in fights that are not ours, in regions crying out for U.S. help—but not of a military nature.

Inventing enemies is a dangerous business—for us, and for the people we truly seek to help.

I ask that the article to which I referred be printed in the RECORD.

The article follows:

[From the Baltimore Sun, Mar. 15, 1992]

U.S. INCREASING ITS SPECIAL FORCES ACTIVITY IN AFRICA—MILITARY PRESENCE FELT IN REGION RIFE WITH INSTABILITY

(By Richard H.P. Sia)

WASHINGTON—The Bush administration has dispatched elite Army training teams to Africa in recent months in an effort to establish a low-cost U.S. military presence in a region rife with political and economic instability, terrorism and guerrilla warfare.

The increase in U.S. military activities has occurred over the past 20 months, ever since the Army Special Operations Command officially reactivated the 3rd Special Forces Group—a Vietnam War-era Green Beret unit—for extensive security assignments in Africa and, to a lesser extent, in the Caribbean.

The 3rd Group is commanded by Col. Peter Stankovich, a highly decorated officer with considerable counterinsurgency experience in Vietnam and Latin America.

The expansion of U.S. military activities clearly coincides with the Pentagon's increasing focus on potential conflict in the Third World, especially with the demise of the Soviet Union. It is also the latest sign of the unprecedented peacetime buildup of special operations forces, which began in 1981 and has received exceptionally strong congressional backing.

Most recently, small special forces detachments have flown to Zimbabwe, Namibia, Niger and the Ivory Coast to train local armies or help improve local health-care and economic conditions, said Gen. Carl W. Stiner, commander-in-chief of the U.S. Special Operations Command.

About 50 Green Berets have been conducting counterinsurgency and weapons training in Senegal since November while assisting Senegalese troops in their withdrawal from strife-torn Liberia, other military officials said.

For two weeks in January, about 200 U.S. airborne troops from Vicenza, Italy, staged "Operation Silver Eagle" in Botswana, one of the largest U.S. exercises ever in sub-Saharan Africa, according to U.S. and foreign officials. The combined forces staged mock battles, parachute drops and maneuvers to defend strategic areas near the capital of Gaborone.

General Stiner disclosed a few of the African missions at a little-noticed session of the Senate Armed Services Committee earlier this month. He described them as "relatively low-visibility, non-intrusive assets—thus they are often more acceptable to host nations than conventional forces."

The "units project a positive impression of U.S. forces as a whole and may provide the basis for expanded military contacts in the future," the four-star general said. For now, these units offer "an effective means of providing a low-cost forward presence," he said.

Several U.S. officials said the missions are part of an overall strategy to promote "stability" in the region by strengthening the "internal defenses" of some of the least-developed countries of the world. At the same time, U.S. forces have been getting needed exposure to local terrain, culture and language, they said.

Outside analysts have raised the possibility that the United States might get caught in regional violence that flares as democratic reforms clash with authoritarian regimes in Africa, where radical changes have been under way in the past several years. There also have been suggestions that the Bush administration might be seeking to prevent the emergence of a regional power that could threaten stability on the continent.

CHANGING STRATEGY

In Africa, U.S. strategy used to be based mainly on the recognition of a power rivalry with the Soviet Union and a desire to check its expansionism while promoting American good will. Because the United States has had less dependence on African mineral and oil resources, and less trade with Africa than European countries, there has been little reason to design a military policy to safeguard economic interests there.

But now, many parts of sub-Saharan Africa have been turning to democracy, and one-party governments—some of them repressive and often corrupt—are finding themselves under increasing pressure to change. Adding to possible instability are "awesome challenges from decades of misrule, economic disorder and the mounting demographic crisis of AIDS," CIA Director Robert M. Gates said last week.

Although the Green Beret missions have been undertaken at the request of African governments, they generally are being initiated by an "awareness campaign" that the United States has been conducting through diplomatic channels for more than a year to drum up business, a knowledgeable military official said. Asked about future missions, this official replied. "We're looking for opportunities."

This past week, Gen. Colin L. Powell, chairman of the Joint Chiefs of Staff, made a rare visit to Senegal, Sierra Leone and Nigeria, mainly as a goodwill gesture but also for informal talks on regional issues and U.S. security assistance, officials said.

The capacity for security assistance will be enhanced in October, when the 3rd Special Forces Group is expected to more than triple its original size. It will grow to an authorized strength of 1,370 troops from an initial battalion of 386 seasoned troops. The unit's current authorized strength is 990.

But many defense analysts assert that the United States has few tangible interests at stake in sub-Saharan Africa, none of which is seriously threatened by the military dictatorships there. They also warn that more deployments, even for benign purposes like providing health care, could provoke attacks on U.S. forces.

With the demise of the Soviet Union, "the Pentagon is carving out new roles and seizing upon everything it can to justify its existence," said David Isenberg of the Center for Defense information, a research group critical of current military priorities. "God knows what they'll accomplish in Africa."

A draft Pentagon planning document that will be used to guide decisions on future military budgets and strategy makes explicit reference to sub-Saharan Africa as one of many regions "critical to the security of the U.S. and its allies." The document, whose contents were disclosed by the New York Times last week, said that in this and other regions of the world, "the U.S. will be concerned with preventing the domination of key regions by a hostile power."

FRANCE'S PRESENCE

One administration official, who insisted on anonymity, said the U.S. presence will remain overshadowed by France, a former colonial power with more than a dozen defense treaties in the region and troops stationed in Senegal, Djibouti, Chad, Gabon, the Ivory Coast and the Central African Republic.

"France is really the biggest outside presence," the official said. "They're clearly the big player: it's usually ours [military aid and troops] supplementing theirs."

Asked if U.S. officials viewed France as a rival power in Africa, he said: "Before the disappearance of the Eastern bloc, our policies and theirs were 90 percent compatible. Anyone opposed to the Soviets [in Africa] was OK with us. Now that the Cold War is over, we have to ask is that still true? Or was it ever true?

"I'd have to say that's still valid, unless France shows us otherwise."

But French officials say they have cooperated closely with the United States and see the U.S. military role as minor, vastly outweighed by French prepositioned and contingency forces and its command and control support in its former African colonies. With no markets in contention and no military threat to the West in much of the region, "from a political point of view there is room for everyone," a French official said.

Some U.S. analysts suggested that the higher military profile might be linked to broader U.S. policy goals that are still evolving, such as containing islamic fundamentalism or Libyan influence in north Africa, or seeking a new regional balance of power.

Or, as Carol Lancaster, an Africa specialist at Georgetown University's School of Foreign Service, put it: "It sounds like the Pentagon doesn't know what to do with its money."

FOREIGN INTERNAL DEFENSE

Colonel Stankovich, commander of the 3rd Group, emphasized the "nation-building" role of his troops in an interview when he took charge of the unit. "We have a combat role, to be sure, but the focus really isn't there for a combat role," he said.

"Our focus is foreign internal defense—the kind of thing that strengthens a country so it can withstand the pressures from within as well as without," he said.

The colonel added: "We won the Cold War, so we've got to go out and promote democracy."

Colonel Stankovich is a veteran of some of the most controversial U.S. special forces operations in the past 25 years. In Vietnam, he was a district adviser and intelligence officer for the Phoenix program, which was designed by the CIA to "neutralize"—by capturing or killing—more than 48,000 members of the Viet Cong in South Vietnam.

A former battalion commander of 7th Special Forces Group, which operates in Latin America, Colonel Stankovich led 10 missions to train foreign soldiers in the region, including one as an adviser to the Salvadoran Joint Task Force, which implemented El Salvador's first "counterinsurgency national campaign plan," an Army biography states.

Members of the 3rd Group completed a mission to Sierra Leone two months ago and are now in Niger and Senegal, said Maj. Craig D. Barta, a unit spokesman. With some exceptions, no more than a dozen soldiers are dispatched on each mission, he said.

Within six months, the unit is expected to join an Air Force special forces squadron for a joint training exercise in Botswana, another military official said.

"We have slews of things going on in Botswana, Sierra Leone. Senegal," this official said about future deployments.

General Stiner said the African missions generally are focusing on teaching "counterpoaching skills, basic soldier training and small unit tactics," communications, medical skills and food- and water-distribution methods.

Although the military does not have separate cost estimates for operations in sub-Saharan Africa, much of the training activity is underwritten by the International Military Education and Training Program, a key element of U.S. security assistance. Although very little is spent annually in this region—President Bush has asked for $8.98 million for 1993, for example—specific funding levels for some countries, such as Senegal and Botswana, are increasing.

Now is the time, U.S. officials reasoned, to pay more attention to the long-term stability in underdeveloped regions of sub-Saharan Africa, which has been stalked by worsening hunger, disease, debt and civil strife. In this vast territory, almost half of the more 40 black African nations are governed, in one form or another, by their armies.

"Tribal wars and instability do not bode well for us," said a State Department official with expertise in military affairs, who asked to remain anonymous. "They are destabilizing and with a large human population, that creates vast problems with refugees and starvation.

"You want to have a standing military unit that can respond to a variety of crises, from earthquakes to combat to protecting U.S. citizens. They can field training teams when necessary, but their mission is to deal with contingencies and act unilaterally in our own behalf.

"Africa's a huge piece of land that we, as a world power, must fly around, sail around, traverse. It's not as strategically important as Japan, NATO, Europe—but it's there."●

RECESS SUBJECT TO THE CALL OF THE CHAIR

The PRESIDING OFFICER. Without objection, the Senate will stand in recess subject to the call of the Chair.

Thereupon, at 6:03 p.m., the Senate recessed, subject to the call of the Chair.

The Senate reassembled at 6:49 p.m., when called to order by the Presiding Officer [Mr. DASCHLE].

The PRESIDING OFFICER. The majority leader is recognized.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 11 a.m. on Thursday, March 19; that following the prayer the Journal of the proceedings be deemed approved to date; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business not to extend beyond 12:30 p.m., with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, under a previous unanimous-consent agreement published on page 2 of the Senate Calendar of Business today I have the authority, after consultation with the Republican leader, to schedule a cloture vote on the conference report on H.R. 3371, the omnibus crime control bill. That authority covers the period between Tuesday, March 17, and the close of business on Thursday, March 19.

It is my intention following consultation with the Republican leader to exercise that authority tomorrow so that the Senate will be discussing the conference report on the omnibus crime control bill and I hope voting on it sometime during the day tomorrow. In addition, I have had discussions with the distinguished Republican leader and the chairman of the Judiciary Committee about the possibility of working out an agreement under which there would be other crime matters discussed and voted on. That effort has not yet reached a conclusion and, therefore, I am not able to state with certainty what will occur tomorrow other than the cloture vote to which I have previously referred and which is printed in the calendar.

In view of the hour, it is not possible to do so this evening, but I do expect to meet with the distinguished Republican leader early in the morning to discuss that and hope to have an announcement by the time morning business is completed tomorrow at 12:30 p.m.

RECESS UNTIL TOMORROW AT 11 A.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess, as previously ordered.

There being no objection, the Senate, at 6:52 p.m., recessed until Thursday, March 19, 1992, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate March 18, 1992:

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF CAREER MINISTER:

GEORGE MU, OF CALIFORNIA

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

KENNETH P. MOOREFIELD, OF THE DISTRICT OF COLUMBIA
THEODORE A. ROSEN, OF CONNECTICUT

THE FOLLOWING-NAMED CAREER MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENT OF COMMERCE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE AS INDICATED:

CAREER MEMBERS OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELORS:

ROBERT S. CONNAN, OF PENNSYLVANIA
CHARLES A. FORD, OF VIRGINIA
JERRY K. MITCHELL, OF MARYLAND
PAUL T. WALTERS, OF VIRGINIA

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW AND REGULATIONS:

1. FOR APPOINTMENT:

To be assistant surgeon

NOEL G. DELMUNDO
GINA Y. JORDAN
SARAH R. LINDE
STEVE J. TIERNEY
JASON J. WOO

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL ON THE RETIRED LIST UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. CHARLES MCCAUSLAND, [redacted] U.S. AIR FORCE.

IN THE ARMY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. WILLIAM S. FLYNN [redacted] U.S. ARMY.

IN THE NAVY

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) IN THE LINE OF THE U.S. NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICER

To be rear admiral

REAR ADM. (1H) BRENT MARTIN BENNITT, [redacted] U.S. NAVY.
REAR ADM. (1H) PHILIP JAMES COADY, JR. [redacted], U.S. NAVY.
REAR ADM. (1H) JON SUBER COLEMAN, [redacted] U.S. NAVY.
REAR ADM. (1H) WALTER JACKSON DAVIS, JR. [redacted], U.S. NAVY.
REAR ADM. (1H) PHILIP ALPHONSE DUR [redacted] U.S. NAVY.
REAR ADM. (1H) WILLIAM ANTHONY EARNER, JR., [redacted] U.S. NAVY.
REAR ADM. (1H) GEORGE WILLIAMS EMERY [redacted], U.S. NAVY.
REAR ADM. (1H) DAVID MAXWELL GOEBEL [redacted], U.S. NAVY.
REAR ADM. (1H) DOUGLAS JEFFREY KATZ [redacted] U.S. NAVY.
REAR ADM. (1H) JAMES ANTHONY LAIR, [redacted] U.S. NAVY.
REAR ADM. (1H) THOMAS JOSEPH LOPEZ, [redacted] U.S. NAVY.
REAR ADM. (1H) LARRY ROY MARSH, [redacted] U.S. NAVY.
REAR ADM. (1H) WILLIAM EDWARD NEWMAN [redacted], U.S. NAVY.
REAR ADM. (1H) JOHN DAVIS PEARSON, [redacted] U.S. NAVY.
REAR ADM. (1H) JOSEPH WILSON PRUEHER [redacted], U.S. NAVY.
REAR ADM. (1H) MERRILL WYTHE RUCK, [redacted] U.S. NAVY.
REAR ADM. (1H) ROBERT JOHNSON SPANE, [redacted] U.S. NAVY.
REAR ADM. (1H) GEORGE RUDOLPH STERNER [redacted], U.S. NAVY.
REAR ADM. (1H) PAUL EDWARD TOBIN, JR. [redacted] U.S. NAVY.
REAR ADM. (1H) RICHARD ALEXANDER WILSON, [redacted] U.S. NAVY.

AEROSPACE ENGINEERING DUTY OFFICER

To be rear admiral

REAR ADM. (1H) ROBERT GLEN HARRISON, [redacted] U.S. NAVY.

IN THE AIR FORCE

THE FOLLOWING STUDENTS OF THE UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES CLASS OF 1992, FOR APPOINTMENT IN THE REGULAR AIR FORCE IN THE GRADE OF CAPTAIN, EFFECTIVE UPON THEIR GRADUATION UNDER THE PROVISIONS OF SECTION 2114, TITLE 10, UNITED STATES CODE, IF OTHERWISE FOUND QUALIFIED, WITH DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

TIMOTHY D BALLARD, [redacted]
BRYNNE M BERGSAGEL, [redacted]
DAN W BODILY, [redacted]
CARK L BUISING [redacted]
MARK P BURTON, [redacted]
LEANDRO T CARBANILLA, [redacted]
THOMAS F CLARKE [redacted]
DAVID D COPP [redacted]
DANIEL J COVERDELL [redacted]
KENNETH E CRAMER [redacted]
JOSEPH L CVANCARA [redacted]
BRIAN B DURSTELER [redacted]
MARK A ERICKSON, [redacted]
DAVID E FARNIE [redacted]
DANIEL J FEENEY [redacted]
THEODORE J FOONDOS [redacted]
JOHN V GANDY, [redacted]
PATRICIA L GANNON [redacted]
GEORGE B GRIFFIN [redacted]
PETER H GRUBB [redacted]
ERIC H HANSON, [redacted]
CLAUDE A HAWKINS, [redacted]
JOHN L HAWS [redacted]
MARC A HESTER [redacted]
ERIC G HOOVER, [redacted]
PAUL C JOHNSON, [redacted]
MARK A KOENIGER, [redacted]
GIAEVITA LANZANO, [redacted]
DANIEL S MARTINEAU, [redacted]
KENNETH P MCWHA, [redacted]
MARCUS E MURPHY [redacted]
ERIK J NELSON [redacted]
KATERINA M NEUHAUSER, [redacted]
THOMAS S NEUHAUSER, [redacted]
DOLLY F NORRIS [redacted]
MICHAEL G OLDROYD, [redacted]
GREGORY C PARK [redacted]
WILBUR D PERALTA [redacted]
DAMIAN M RESPOLI [redacted]
ERIC R RITCHIE [redacted]
CHRISTOPHER J RYAN [redacted]
LEE G SALTZGABER [redacted]
CHRISTOPHER G SCHARENBROCK, [redacted]
JANET C SHAW, [redacted]
JACK B SHELTON [redacted]
RICHARD E STANDAERT, JR, [redacted]
TIMOTHY R TUEL [redacted]
DALE A VOLQUARTSEN, [redacted]
NATHAN C WARD, [redacted]

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER OF THE MARINE CORPS FOR PERMANENT APPOINTMENT TO THE GRADE OF MAJOR UNDER TITLE 10, UNITED STATED CODE, SECTIONS 624 AND 628:

BRUCE K. BANCROFT, [redacted]

IN THE ARMY

THE FOLLOWING NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE UNITED STATES ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

ARMY

To be major

FRANK J. ABBOTT [redacted]
PAUL F. ABEL [redacted]
HENRY ABERCROMBIE, [redacted]
LAWREN ABERCROMBIE, [redacted]
JAMES C. *. ABNEY, [redacted]
DAVID ABRAHAMSON, [redacted]
DAVID J. ABRAMOWITZ, [redacted]
ROBERT B. ABRAMS, [redacted]
STEPHEN *. ABSALONSON, [redacted]
EDWIN ACEVEDO, [redacted]
JACK H. ACHS, [redacted]
HECTOR J. ACOSTA [redacted]
WILLIAM F. ADAMS, [redacted]
CHRISTOPHE *. ADDISON [redacted]
CHARLES W. ADKINS [redacted]
GARY A. AGRON, [redacted]
EILEEN M. AHEARN [redacted]
BRUCE A. AHLBRAND, [redacted]
ORLYN B. *. AKERS, [redacted]
DAVID M. ALEGRE, [redacted]
LINDA C. ALEXANDER, [redacted]
MICHAEL ALEXANDER, [redacted]
MICHAEL F. *. ALEXITCH [redacted]
CHARLES ALLEN, III [redacted]
CHRISTOPHER ALLEN [redacted]
JAMES W. *. ALLISON [redacted]
RODNEY K. ALSTON, [redacted]
JAMES E. ALTY [redacted]
GEORGE A. *. AMONETTE, [redacted]
DANIEL W. *. ANDERSON, [redacted]
JEFFERY L. *. ANDERSON [redacted]
PATRICIA *. ANDERSON [redacted]
SCOTT D. *. ANDERSON, [redacted]
THOMAS D. ANDERSON, [redacted]
WILLIAM F. ANDERSON [redacted]
GEORGE W. *. ANTON, [redacted]
KEITH P. ANTONIA [redacted]
THOMAS D. *. ANTWINE, [redacted]
RICHARD J. *. ANZELONE, [redacted]
EDWARD J. APGAR, [redacted]
ROBERT W. *. APPIAH [redacted]
MELISSA *. APPLEGATE [redacted]
EDWARD R. ARMSTRONG, [redacted]
HENRY B. *. ARMSTRONG, [redacted]
JOHN R. ARMSTRONG, [redacted]
MARK H. ARMSTRONG, [redacted]
MICHAEL ARMSTRONG, [redacted]
JOHN S. ARNOLD, [redacted]
RICHARD E. ARNOLD, [redacted]
ANDREW J. ARRINGTON, [redacted]
DONALD A. *. ARSENAULT, [redacted]
ISMAEL *. ARVIZU, JR [redacted]
FRANCISCO ASCORBE, [redacted]
JOHN M. ATKINS, [redacted]
WILLIAM T. ATKINSON [redacted]
JOSEPH *. AUSTIN, JR [redacted]
MARIAN L. *. AUSTIN, [redacted]
STANLEY F. AUSTIN [redacted]
ROBERT J. AVALLE [redacted]
MARK F. AVERILL [redacted]
VICTOR B. AYERS, [redacted]
CINDY L. *. BABCOCK, [redacted]
PAUL J. *. BACAK [redacted]
MARK K. BACHMAN, [redacted]
JOHN E. *. BACHMANN, [redacted]
MARTIN P. *. BAGLEY, [redacted]
ALVIN L. BAILEY [redacted]
JERRY R. *. BAILEY [redacted]
JOHN W. BAILEY, [redacted]
KEITH T. *. BAILEY [redacted]
WILLIAM E. *. BAILEY, [redacted]
RONALD L. *. BAIN, [redacted]
GEORGE H. BAKER, [redacted]
WAYNE L. *. BAKER, [redacted]
JOHN S. *. BALDINI [redacted]
JAMES B. BALOCKI [redacted]
WILLIAM BALOGH, [redacted]
RICHARD S. *. BARBERA [redacted]
MARK W. BAREFIELD [redacted]
BRIAN D. *. BARHAM, [redacted]
CHARLES T. *. BARHAM, [redacted]
PATRICK B. BARNETTE [redacted]
GORDON L. BARNHILL, [redacted]
CHRISTO BARNTHOUSE, [redacted]
PAUL P. BARRY [redacted]
ROGER D. BARTLETT [redacted]
BRADY P. *. BARTON, [redacted]
THERESA L. BARTON, [redacted]
MICHAEL T. BASS [redacted]
ROBERT B. *. BASS [redacted]
RICHARD C. BASSETT, [redacted]
GARY M. *. BATEMAN, [redacted]
KATHRYN L. BATT [redacted]
DIANNE *. BATTLE, [redacted]
EDGAR *. BATTLE, JR [redacted]
KATHLEEN M. BATTON, [redacted]
FRANKLIN R. BAUM, [redacted]
BARRY E. BAZEMORE, [redacted]
GREGORY A. BEACHAM, [redacted]
WILLIAM K. *. BEAMER, [redacted]
GARY *. BEASLEY [redacted]
THOMAS D. *. BEATO, [redacted]
ADELE M. BECK, [redacted]
LAWRENCE E. *. BECK, [redacted]
ALVIN J. BEDGOOD, [redacted]
RICHARD L. *. BEDWELL, [redacted]
LARRY N. BEERY [redacted]
MICHAEL D. BEERY, [redacted]
PAUL J. BEGEMAN [redacted]

LESLIE H. BELKNAP [redacted]
MARGARET H. BELKNAP [redacted]
WILLIAM J. BELKNAP [redacted]
GERALD L. *. BELL [redacted]
HENRY L. BELL, [redacted]
KENNETH T. BELL [redacted]
MICHAEL E. *. BELZA, [redacted]
JOHN W. BENSON, [redacted]
CRAIG A. BERGQUIST, [redacted]
LARRY J. BERKENHOFF [redacted]
RUSS H. BERKOFF [redacted]
PAUL W. BERNDT, [redacted]
RAYMOND BERNHAGEN, [redacted]
JOANNE E. *. BERNSTEIN [redacted]
JAMES K. BERRY [redacted]
ALENA M. *. BETCHLEY [redacted]
PAUL R. BETHEA [redacted]
ANDREW P. *. BETZ [redacted]
MICHAEL D. BIANCHI, [redacted]
GEORGE M. BILAFER, [redacted]
TIMOTHY BILDERBACK, [redacted]
ARTHUR E. *. BILODEAU [redacted]
JAMES A. *. BILOTTO [redacted]
ELISABETH J. *. BILYEU [redacted]
MARK C. BINGAMAN, [redacted]
GWENDOLYN BINGHAM, [redacted]
RICHARD M. BINGMAN, [redacted]
JOHN T. BINKLEY [redacted]
STEPHEN P. *. BIRDSALL [redacted]
BRAD J. *. BISHOP [redacted]
CARL A. BISHOP, [redacted]
KENNETH W. BISHOP, [redacted]
THOMAS R. *. BLACK, [redacted]
MYRON V. BLACKBURN, [redacted]
WILLIAM BLACKLEDGE, [redacted]
BILLY M. *. BLACKWELL [redacted]
GLORIA D. *. BLAKE, [redacted]
DEBORAH *. BLANCHARD, [redacted]
BOBBY *. BLANKENSHIP, [redacted]
TAB A. *. BLAZEK [redacted]
JOHN G. BLITCH, [redacted]
CHARLES P. *. BLOSER [redacted]
JAMES R. *. BLUE [redacted]
JOHN W. BLUM, [redacted]
JEFFREY B. BLYTH [redacted]
CHARLES A. BOAZ, [redacted]
RANDAL BOCKENSTEDT [redacted]
JEROME L. BOERSTE [redacted]
BRIAN L. BOETTNER, [redacted]
DAISIE D. BOETTNER [redacted]
KEVIN M. BOLAN, [redacted]
JOHN S. BOLER, [redacted]
DONNA L. BOLTZ, [redacted]
TIMOTHY D. *. BOND, [redacted]
DAVID J. BONGI, [redacted]
MICHAEL E. BONHEIM, [redacted]
PAUL A. BONNEWITZ, [redacted]
WILLIAM L. *. BOOKS, [redacted]
ANN L. BOOTH, [redacted]
GREGORY J. BORDEN, [redacted]
MICHAEL J. BORDEN, [redacted]
KENNETH P. BORETTI [redacted]
KEVIN M. *. BORN [redacted]
TRACY L. *. BORUM [redacted]
ALAN G. BOURQUE, [redacted]
STEVEN M. BOW, [redacted]
ROY G. BOWEN, I [redacted]
HAROLD C. *. BOWLIN [redacted]
WILLIAM R. *. BOWLIN [redacted]
BRUCE A. BOWMAN, [redacted]
JAMES T. *. BOWYER [redacted]
CLARK T. BOYD, [redacted]
JOSEPH T. *. BOYD [redacted]
WALTER W. BOYETT, [redacted]
MICHAEL S. BOYLE, [redacted]
MICHAEL A. BRADLEY, [redacted]
WAYNE M. *. BRAINERD [redacted]
CHARLES T. BRANDON, [redacted]
LLEWELLYN BRANDON, [redacted]
CLIFFORD R. *. BRANDT [redacted]
JAMES R. BRANNON, [redacted]
DENNIS W. *. BRAY [redacted]
ROBERT A. *. BRENNAN, [redacted]
NANCY *. BREWINGTON, [redacted]
MARGARET BRIDGEMAN, [redacted]
CLAY F. *. BRIDGES [redacted]
PETER C. BRIGHAM, [redacted]
JASEY B. BRILEY [redacted]
MICHAEL W. BRISKE, [redacted]
JOHN M. BRITTEN [redacted]
MICHAEL BROADBENT, [redacted]
FRANCIS A. *. BROCHU, [redacted]
TERRY L. *. BROCK, [redacted]
JAMES T. BROCKWAY, [redacted]
MICHAEL P. *. BROGAN, [redacted]
NEIL W. *. BROGREN [redacted]
ROBERT W. BROOKS, [redacted]
TIMOTHY BROTHERTON, [redacted]
STEVEN M. *. BROUSE, [redacted]
CRAIG A. BROWN, [redacted]
DAVID R. *. BROWN, [redacted]
EDWARD *. BROWN, JR [redacted]
JAMES B. BROWN [redacted]
KATHLEEN R. *. BROWN [redacted]
KEVIN W. BROWN, [redacted]
ROBERT M. *. BROWN, [redacted]
STEVEN J. *. BROWN [redacted]
STEVEN L. *. BROWN [redacted]
TIMOTHY *. BROWN, [redacted]
WILLIAM H. BROWN, [redacted]
KATHLEEN BROWNING, [redacted]
MAITLAND BROWNING, [redacted]
DWIGHT M. *. BRUCE, [redacted]
ROBERT H. BRUCE, [redacted]
RICHARD BRUDZYNSKI, [redacted]
HAROLD M. *. BRUMMETT, [redacted]
DANIEL V. BRUNO, [redacted]
VICTORIA M. BRUZESE, [redacted]
IRBY W. BRYAN, JR, [redacted]
WILLIAM D. BRYAN, [redacted]
ENNIT L. BRYANT, [redacted]
JOHN A. BUCCIARELLI, [redacted]
CARLTON A. BUCHANAN, [redacted]
JEFFREY S. BUCHANAN [redacted]
NATHAN A. BUCHHEIT, [redacted]
BELINDA L. BUCKMAN, [redacted]
BRUCE A. *. BUCKMAN [redacted]
EUGENE R. BUCKNER, [redacted]
PAUL E. BUECHNER, [redacted]
WILLIAM F. BUECHTER, [redacted]
STEPHEN G. BULLOCK, [redacted]
RONALD BUMGARDNER, [redacted]
RONALD L. BUMGARNER, [redacted]
THOMAS W. BUNING, [redacted]
JON D. *. BUNN [redacted]
THOMAS BUONFORTE, [redacted]
OLGER D. *. BURCH, [redacted]
HERBERT L. *. BURGESS [redacted]
JAMES D. *. BURKE [redacted]
LARRY C. BURNETT, [redacted]
MICHAEL J. BURNS [redacted]
DOUGLAS A. BURRER, [redacted]
WELDON K. BURTON, [redacted]
VERA R. *. BUSTRUM, [redacted]
GLENN *. BUTLER, [redacted]
RALPH A. BUTLER, [redacted]
NANCY L. *. BYRD, [redacted]
REYNALDO CABANAS, [redacted]
HEATHER J. CABIGON, [redacted]
TYMOTHY W. CADDELL, [redacted]
ROBERT B. *. CADIGAN, [redacted]
JAN E. CAFFEY [redacted]
WAYNE C. *. CAIN, [redacted]
LUIS M. *. CALATAYUD, [redacted]
KEVIN M. CALE, [redacted]
WALDO P. *. CALL, [redacted]
STEVEN V. CALLAN, [redacted]
GLENN M. CALLIHAN, [redacted]
JOSEPH M. *. CALLOWAY, [redacted]
SUSAN *. CAMARENA [redacted]
JAMES B. *. CAMP [redacted]
FREDERICK CAMPBELL, [redacted]
PAUL J. *. CANCELLIERE [redacted]
CHARLES D. CANEDY, [redacted]
EUGENE J. *. CANTRELL, [redacted]
JOHN M. CAPE [redacted]
CARLOS G. CAPLLONCH, [redacted]
GAIL H. CAPP [redacted]
MICHAEL R. CARAM, [redacted]
EDWARD C. CARDON, [redacted]
PHILIP J. *. CAREY [redacted]
KATHRYN H. CARLSON, [redacted]
SUSAN P. CARLSON, [redacted]
MICHAEL A. *. CARNAHAN, [redacted]
MATTHEW T. CARR, [redacted]
PEGGY R. *. CARSON, [redacted]
THEODORE *. CARTER, [redacted]
VERONICA A. CARTER, [redacted]
WILLIAM C. CARTER, [redacted]
MARIA D. CARTY, [redacted]
MICHAEL D. *. CASE [redacted]
BARBARA *. CASSIDY [redacted]
CARLOS *. CASTRO, [redacted]
RICHARD CATIGNANI, [redacted]
ROBERT G. CAUDLE, [redacted]
DAVID W. CAVITT, [redacted]
RICHARD G. CERCONE, [redacted]
KARAN L. *. CERUTTI [redacted]
DAVID L. CHADBOURNE, [redacted]
MARK B. *. CHAKWIN, [redacted]
CYNTHIA A. *. CHAMBERS, [redacted]
JAY W. *. CHAMBERS, [redacted]
MICHAEL R. CHAMBERS, [redacted]
STEPHEN CHAN, [redacted]
CHARLES H. CHARLTON, [redacted]
RANDOLPH J. *. CHAVIS, [redacted]
CURTIS P. CHEESEMAN, [redacted]
DAVID A. CHESTNUT, [redacted]
ELAINE K. *. CHIN, [redacted]
CLARENCE K. CHINN, [redacted]
MARK E. *. CHIPMAN, [redacted]
ROBERT A. CHIPP [redacted]
NOLAN *. CHRISTENSEN [redacted]
RICHARD CLAIRMONT, [redacted]
DONALD I. CLARKE, [redacted]
ROBERT G. CLARKE, [redacted]
ERNEST G. *. CLAYTON [redacted]
HECTOR O. *. CLEMENTE [redacted]
MICHAEL J. CLIDAS, [redacted]
TRACI A. CLIDAS, [redacted]
FREDERICK W. *. CLINE [redacted]
JAMES M. CLINE, [redacted]
WILLIE J. *. CLINE [redacted]
CHARLES F. COAN, [redacted]
LAURA J. COAXUM, [redacted]
RONALD W. *. COAXUM, [redacted]
GAY L. COCHRAN, [redacted]
LEWIS C. COCHRAN, [redacted]
WILLIAM F. *. CODY, [redacted]
GEORGE G. COFFELT [redacted]
TIMOTHY R. COFFIN, [redacted]
STEPHEN A. COFFING [redacted]
EVELYN L. *. COGGINS, [redacted]
ANDREW H. *. COHEN, [redacted]
GARRY M. *. COLBERT, [redacted]
MICHAEL T. COLBURN, [redacted]
LESTER R. COLEMAN, [redacted]
JACKIE L. *. COLLINS [redacted]
JAMES G. COLLINS, [redacted]
JOHN E. *. COLLINS [redacted]
ANGEL L. COLON, [redacted]
HECTOR L. COLON, [redacted]
CARL J. COLWELL, [redacted]
ROBERT E. *. COMER [redacted]
THOMAS J. COMODECA, [redacted]
VALERIE B. *. CONERWAY [redacted]
KEVIN P. *. CONGO, [redacted]
JOHN P. CONKLIN, [redacted]
JAMES T. *. CONLEY [redacted]
JAMES J. *. CONLON, [redacted]
KEVIN G. CONLON, [redacted]
SUE E. *. CONLON, [redacted]
JOHN P. CONNELL, [redacted]
PAUL F. CONNOLLY, [redacted]
JEFFERY S. COOK [redacted]
RANDY J. COOK, [redacted]
ROBERT T. *. COOK [redacted]
JOHN W. *. COOKE, [redacted]
ARTHUR B. COOPER, [redacted]
JOSEPH L. *. COOPER [redacted]
RICHARD C. COPLEN, [redacted]
THOMAS W. CORDINGLY, [redacted]
ANDREW J. CORDOVA, [redacted]
JAMES R. *. CORMIER, [redacted]
CHARLES *. CORNELISON [redacted]
STEPHEN E. COTTLE [redacted]
CHRISTIE *. COUGHLIN, [redacted]
PETER N. COURTOIS, [redacted]
MICHAEL P. COURTS, [redacted]
CHARLES G. COUTTEAU, [redacted]
HATTIE P. *. COX, [redacted]
RICKEY E. *. COX, [redacted]
RODNEY J. COX, [redacted]
CHARLES W. COXWELL, [redacted]
RICHARD L. COXWELL, [redacted]
MARTIN J. COYNE, [redacted]
DAVID L. CRAWFORD, [redacted]
JENNIFER CRAWFORD [redacted]
PATRICK R. *. CRAYS, [redacted]
JAMES L. CREIGHTON, [redacted]
DAVID W. *. CRISP, [redacted]
KENT R. *. CRISP [redacted]
JAMES B. CROCKETT [redacted]
WILLIAM M. CROCOLL, [redacted]
ROY C. CROSBY, [redacted]
FREDERICK A. CROSS, [redacted]
WENDELL R. CROUCHER, [redacted]
JOSEPH P. CROWLEY [redacted]
ANTHON CRUTCHFIELD, [redacted]
LUIS A. *. CRUZ, [redacted]
JOHN S. *. CULLISON [redacted]
JACQUELINE E. CUMBO, [redacted]
STEVEN M. CUMMINGS, [redacted]
KENDAL CUNNINGHAM, [redacted]
CRAIG J. CURREY, [redacted]
DUNCAN C. *. CURRIER, [redacted]
CHRISTOPHER CURRY, [redacted]
HENRY A. *. CURRY [redacted]
ARNE *. CURTIS, [redacted]
ALONZO C. *. CUTLER [redacted]
KENNETH R. DAHL, [redacted]
THOMAS P. *. DALIO, [redacted]
EDWARD B. DALY, [redacted]
MATTHEW J. *. DALY [redacted]
PATRICK J. DALY [redacted]
CHARMAINE K. *. DAMON, [redacted]
GARY N. *. DANIEL, [redacted]
RONALD *. DANIELS, [redacted]
MITCHELL P. *. DANNER [redacted]
GARY J. *. DARBY, [redacted]
WILLIAM E. *. DASCH, [redacted]
MARK G. *. DAVENPORT, [redacted]
PETER A. DAVIDSON, [redacted]
WALTER J. *. DAVIES, [redacted]
MICHAEL F. DAVINO, [redacted]
DELBERT A. DAVIS, [redacted]
EDMUND M. *. DAVIS, [redacted]
FRANK *. DAVIS, JR [redacted]
GLEN L. DAVIS, [redacted]
GORDON B. DAVIS, [redacted]
MICHAEL J. *. DAVIS, [redacted]
PEARL R. DAVIS, [redacted]
PETER E. *. DAVIS, [redacted]
STUART D. DAVIS, [redacted]
VERNON T. DAVIS, [redacted]
DUANE K. DAVISTON, [redacted]
REGINALD B. DAY, [redacted]
STUART E. *. DEAKIN [redacted]
DARRYL C. DEAN, [redacted]
WILLIAM S. DECAMP, [redacted]
PETER DEFLURI, III [redacted]
DENNIS R. *. DEINES [redacted]
PERRY DELAHOUSSAYE, [redacted]
MICHAEL J. *. DELANEY [redacted]
WILLIAM F. DELANEY, [redacted]
ROBERTO L. DELGADO, [redacted]
ROBERT DELISLE, JR [redacted]
MICHAEL J. *. DELONEY, [redacted]
ROBERT F. DEMANGE, [redacted]
GEORGE G. DEMARSE, [redacted]
MARK P. DEMIKE, [redacted]
SCOTT F. DENT, [redacted]
DAVID A. DEPASTINA, [redacted]
RICHARD G. *. DEPPE, [redacted]
PHILIP J. DERMER [redacted]
RAYMOND R. DEROSA, [redacted]

DAVID P. DESANTIS [redacted]
JEAN M. DETTLING [redacted]
THOMAS J. DEVINE, [redacted]
JOANNE R. *. DEWBERRY, [redacted]
HAROLD M. *. DICK, [redacted]
SCOTT A. *. DICK, [redacted]
CURTIS A. DIGGS, [redacted]
RICHARD DIGIOVANNI, [redacted]
NORVEL L. DILLARD, [redacted]
DANA R. *. DILLON [redacted]
DANIEL P. DILLON, [redacted]
MICHAEL S. DILLON, [redacted]
LOUIS A. DIMARCO, [redacted]
PETER D. *. DIMICHELE [redacted]
PAUL B. DINARDO, [redacted]
JOSEPH P. DISALVO [redacted]
PAUL R. *. DISNEY, [redacted]
JOHN M. DISTER [redacted]
WALTER L. *. DIVELEY, [redacted]
RICHARD J. DIXON, [redacted]
ROGER S. DIXON, [redacted]
TIMOTHY D. DIXON, [redacted]
DOUGLAS C. DOAN, [redacted]
THOMAS G. DODD, [redacted]
DAVID M. DODGE, [redacted]
KEVIN R. DODGE, [redacted]
BRYAN L. DOHRN, [redacted]
JOYCE R. DOLINISH, [redacted]
YVONNE DOLL, [redacted]
JANICE L. DOMBI, [redacted]
JOSEPH W. DOMBI, [redacted]
ROBERT DOMITROVICH, [redacted]
BRIAN J. DONAHUE, [redacted]
THOMAS W. *. DONNELLY, [redacted]
KEVIN S. DONOHUE, [redacted]
DENISE M. DONOVAN, [redacted]
MICHAEL E. DONOVAN, [redacted]
WILLIAM J. DOONER, [redacted]
GARRIE P. DORNAN, [redacted]
MICHAEL *. DOROHOVICH, [redacted]
JOSEPH P. DOTY [redacted]
JACK T. *. DOUGLAS, [redacted]
MARK F. *. DOUGLASS, [redacted]
JON N. DOWLING, [redacted]
ROBERT C. DOWLING, [redacted]
DENNIS J. *. DOWNEY, [redacted]
BOBBY L. DRIESNER, [redacted]
CHARLES DRIESSNACK, [redacted]
PATRICK J. DUBOIS, [redacted]
STEPHEN DUCKWORTH, [redacted]
JOHN F. DUFFY [redacted]
DENNIS J. DUGAN, [redacted]
RICHARD E. DUMAIS, [redacted]
JEFFREY P. DUNAJ [redacted]
JAMES A. *. DUNCAN, [redacted]
STEPHEN C. DUNCAN, [redacted]
CHARLES DUNN, III, [redacted]
DANA M. DUNN, [redacted]
BRIAN D. DURANT, [redacted]
THOMAS J. DURRETT [redacted]
JOHN D. DUTCHYSHYN, [redacted]
JAMES F. *. DUTTWEILER [redacted]
THOMAS J. DVORAK, [redacted]
ROBERT M. DYESS, [redacted]
KENN DZIERZANOWSKI, [redacted]
SCOTT A. EAGEN, [redacted]
RICKY J. *. EARLEYWINE [redacted]
TERRY L. EARNEST [redacted]
ALLEN C. EAST [redacted]
CLAY *. EASTERLING, [redacted]
TODD J. EBEL, [redacted]
RALPH I. EBENER [redacted]
NATHAN R. EBERLE, [redacted]
ANTULIO ECHEVARRIA, [redacted]
ANAS T. ECONOMY, [redacted]
DAVID W. *. EDDY, [redacted]
TIMOTHY J. EDENS, [redacted]
DALLAS M. *. EDWARDS, [redacted]
ERIC L. *. EDWARDS, [redacted]
JANE H. *. EDWARDS [redacted]
IRENE R. *. EGGINK, [redacted]
ROBERT S. ELIAS [redacted]
STANLEY EMELANDER, [redacted]
FRANK A. EMERY, [redacted]
JEFFERY *. ENGBRECHT [redacted]
JAHN R. ENGER [redacted]
RUSSELL W. ENGLISH [redacted]
MARK P. ERIKSON, [redacted]
RICHARD J. EVERSON [redacted]
ROBERT E. EVERSON, [redacted]
MARK V. *. EVETTS, [redacted]
EDWARD L. FABIAN, [redacted]
MATTHEW B. FAGAN, [redacted]
SAMUEL E. FAIRES [redacted]
MICHAEL J. FALLON [redacted]
DAVID J. FARACE [redacted]
WAYNE C. FARQUHAR, [redacted]
WILLIAM C. FARRELL [redacted]
MICHAEL FENN, [redacted]
JANICE W. FERGUSON [redacted]
QUILL R. FERGUSON, [redacted]
MARVIN G. *. FERREIRA [redacted]
MARK A. FICHTEN, [redacted]
JEFFREY D. FIELD [redacted]
CARL S. FILIP [redacted]
KEVIN J. FINNEGAN [redacted]
SEAN M. FINNEGAN, [redacted]
WILMA O. *. FIORAVANTI [redacted]
ANDREW R. *. FISCHER, [redacted]
CARL E. FISCHER [redacted]
KENNETH F. FISHER [redacted]
KELLY F. FISK [redacted]
ROBERT E. *. FITE [redacted]
JORDAN FITZPATRICK [redacted]
DEBRA L. FIX [redacted]
CHRISTINA *. FLANAGAN, [redacted]
HARRY D. FLANAGAN, [redacted]
MICHAEL B. *. FLEMING, [redacted]
ROBERT C. FLEMING, [redacted]
CHARLES V. FLETCHER [redacted]
MARY P. FLETCHER, [redacted]
MICHAEL A. FLORIO, [redacted]
JAMES H. *. FLYNN [redacted]
PAUL J. FLYNN [redacted]
WILLIAM C. FLYNT, [redacted]
LARRY J. FOHL [redacted]
CARLOS I. *. FONT, [redacted]
WILLIAM G. *. FORD, [redacted]
PETER W. FOREMAN, [redacted]
TODD H. FOREMAN, [redacted]
JERRY M. FORMAN, [redacted]
MICHAEL D. FORMICA, [redacted]
JOHN B. *. FORSYTH, [redacted]
MICHAEL FORTANBARY, [redacted]
KIRK L. *. FOSTER [redacted]
HARRISON FOUNTAIN, [redacted]
CHRISTOPHER FOWLER, [redacted]
LAWRENCE C. *. FOWLER, [redacted]
BRYAN C. FOY, [redacted]
SYLVIA T. FRANCIS [redacted]
TIMOTHY H. FRANK, [redacted]
HARRY M. *. FRANKLIN, [redacted]
MARK R. *. FRANKLIN, [redacted]
MARY L. *. FRANKLIN, [redacted]
JOHNNIE R. FREEMAN [redacted]
MICHAEL W. *. FREEMAN, [redacted]
THOMAS FREEMAN, JR [redacted]
DANIEL P. *. FRENCH, [redacted]
ROBERT B. FRENCH [redacted]
LARRY M. FREYBERGER [redacted]
KENT E. FRIEDERICH [redacted]
KEITH J. FRUGE [redacted]
CHRISTOPHER C. FRY [redacted]
JOSEPH L. FULBRIGHT [redacted]
PATRICK E. *. FULLER [redacted]
WILLIAM K. FULLER, [redacted]
WILLIAM FULLERTON [redacted]
CHRISTOPHER FULTON, [redacted]
RICKY J. *. FURBY [redacted]
GEORGE H. *. FURGURSON, [redacted]
GARY G. *. FURNEAUX, [redacted]
DALE A. FYE [redacted]
EUGENE W. *. GAIK, [redacted]
GERALDINE G. GAINEY [redacted]
TIMOTHY GALLAGHER, [redacted]
JOHN J. GALLAND, [redacted]
RICHARD D. *. GALLEGOS, [redacted]
ALFRED W. GAMMONS, [redacted]
DUANE P. GAPINSKI, [redacted]
HERIBERTO GARCIA, [redacted]
JAIME F. *. GARCIA, [redacted]
MARTIN J. *. GARCIA, [redacted]
MALCOLM W. GARLAND, [redacted]
JOHN W. GARMANY, [redacted]
JAMES E. *. GARNER, [redacted]
JOHN L. GARRISON, [redacted]
MARGUERIT *. GARRISON, [redacted]
DENNIS T. *. GARRITSON, [redacted]
GUY A. GASSER, [redacted]
THAD A. *. GASSMAN, [redacted]
JERALD J. *. GATLIN [redacted]
RICHARD G. *. GAY, [redacted]
MICHAEL J. *. GAZZERRO, [redacted]
NICHOLAS GEORGEFF [redacted]
JOSEPH T. *. GERARD [redacted]
KATHLEEN A. GERENDA, [redacted]
ANTHONY L. GERMAN, [redacted]
GREGORY M. GEROVAC, [redacted]
PAUL C. GERTON, [redacted]
BYRON J. GIBSON, [redacted]
CHARLES O. GIBSON [redacted]
MARY P. GIBSON, [redacted]
DAVID L. GILBERT, [redacted]
THOMAS A. GILLEN, [redacted]
PAUL D. GILLEY, JR [redacted]
WALTER L. *. GILLIAM, [redacted]
JEROME P. *. GILMAN [redacted]
LOUIS H. GINN, [redacted]
GREGORY E. GINTER, [redacted]
RANDAL L. GITSCHLAG, [redacted]
EDDIE E. *. GIVENS, [redacted]
HERMAN L. GLADNEY, [redacted]
ANTHONY GLENN, [redacted]
ANN *. GODOY, [redacted]
JAMES D. *. GOGGIN, [redacted]
JESSIE J. *. GOGGINS [redacted]
KARL I. GOHLKE, [redacted]
PAUL K. *. GONZALES, [redacted]
JAIME *. GONZALEZ, [redacted]
JULIUS B. *. GOODMAN, [redacted]
RICHARD E. GORDON, [redacted]
CHARLES W. *. GORE, [redacted]
MICHAEL G. GOULD, [redacted]
LORA W. *. GOZA, [redacted]
WILLIAM A. *. GRAB, [redacted]
NORMAN M. GRADY, [redacted]
DAVID G. GRAHAM, [redacted]
ANTHONY T. GRANT, [redacted]
RICHARD E. GRAVES, [redacted]
JAMES A. *. GRAY, [redacted]
JOSEPH G. GREEN [redacted]
MATTHEW J. GREEN, [redacted]
STEVEN L. GREEN [redacted]
RICHARD L. GREENE, [redacted]
WARREN O. *. GREENE, [redacted]
GERRY I. *. GREENWELL, [redacted]
MICHAEL D. *. GREGORY, [redacted]
MARK T. GRESZLER, [redacted]
ROBERT E. *. GRIFFITHS [redacted]
GARY R. *. GRIMES, [redacted]
JAMES M. *. GRIMM, [redacted]
JOSEPH D. GRINER, [redacted]
CANDACE M. *. GRISWOLD, [redacted]
WILLIAM J. *. GRISWOLD, [redacted]
BRIAN L. GROFT, [redacted]
DAVID C. GROHOSKI, [redacted]
JANET E. *. GROSS, [redacted]
FRANK T. GROVE, [redacted]
MICHAEL J. GROVE, [redacted]
LAWRENCE D. *. GRUBB, [redacted]
SUSAN K. *. GRUBB, [redacted]
WILLIAM R. *. GRUBBS, [redacted]
HEIDI M. GRUNER, [redacted]
ROBERT D. GRYMES, [redacted]
RUSSELL A. *. GUILLORY, [redacted]
DANIEL J. GUILMETTE [redacted]
MARK E. GULLEY, [redacted]
JAMES B. *. GUTHRIE [redacted]
SAMUEL A. GUTHRIE, [redacted]
JAMES E. *. GUYLL, [redacted]
BRUCE L. GWILLIAM, [redacted]
BILLY J. HADFIELD [redacted]
DAVID L. HAGG, [redacted]
JEFFREY S. HAHN [redacted]
LESLIE V. HAHN, [redacted]
CATHERINE M. HAIGHT, [redacted]
WILLIAM H. HAIGHT, [redacted]
DAVID B. HAIN, [redacted]
JOHN L. *. HAITHCOCK, [redacted]
JAY H. *. HALE, [redacted]
HEYWARD HALL, JR, [redacted]
MICHAEL A. HALLISEY, [redacted]
SUSAN D. HALTER, [redacted]
NEIL J. HAMILL, [redacted]
MARY J. HAMILTON, [redacted]
ROBERT W. HAMILTON, [redacted]
KEVIN J. HAMMOND, [redacted]
SCOTT E. HAMPTON, [redacted]
JAMES R. *. HANN, [redacted]
MARIAN R. *. HANSEN, [redacted]
ROBERT P. HANSEN, [redacted]
PAUL J. HANUSA, [redacted]
VINCE *. HARACKIEWICZ, [redacted]
DAVID A. *. HARBISON, [redacted]
MICHAEL W. HARBOR, [redacted]
MAX E. *. HARDEN, [redacted]
BARRY B. *. HARDY, [redacted]
GARY J. *. HARLESS [redacted]
WILLIAM E. HARMON, [redacted]
RICHARD L. *. HARMS, [redacted]
RONALD H. HARPER, [redacted]
DAVID A. *. HARRELL, [redacted]
THOMAS P. *. HARRELL, [redacted]
PATRICK *. HARRINGTON, [redacted]
DARYL E. HARRIS, [redacted]
EARNEST D. HARRIS [redacted]
JAMES T. HARRIS [redacted]
THOMAS G. HARRIS, [redacted]
DONALD M. *. HARRISON, [redacted]
GORDON M. *. HARRISON, [redacted]
SUSAN D. *. HARRISON, [redacted]
THEODORE HARRISON, [redacted]
WILLIAM T. HARRISON, [redacted]
CONSTANCE HARTMAN, [redacted]
PHILIP HARTSFIELD [redacted]
CARROL I. *. HARVEY, [redacted]
MICHAEL D. *. HARVEY, [redacted]
JAMES T. *. HARVILL [redacted]
DAVID D. HAUGHT, [redacted]
STEVEN P. HAUSTEIN [redacted]
SAMUELL R. HAWES, [redacted]
WARD H. *. HAWLEY, [redacted]
JOHN E. *. HAXTON, [redacted]
ROBERT F. HAYES, [redacted]
WILLIAM D. *. HAYES, [redacted]
ROBERT W. *. HAYNIE, [redacted]
RUDOLPH C. HAYNIE, [redacted]
EDWARD W. HAZEL, [redacted]
EDWARD A. HEALY, [redacted]
FALKNER HEARD, III [redacted]
MICHAEL G. HEGARTY, [redacted]
CHARLES G. HEIDEN, [redacted]
EDWIN S. HEINRICH, [redacted]
MARK S. HELD, [redacted]
FREDERICK HELLWIG, [redacted]
JAMES E. HEMBREY [redacted]
DARRALL HENDERSON, [redacted]
ROBERT S. HENDERSON, [redacted]
MARK M. HENNES, [redacted]
KERMIT P. HENNINGER, [redacted]
ROBERT J. HENRY, [redacted]
SCOTT A. HENRY, [redacted]
RILEY L. HENSLY, [redacted]
MATTHEW J. HERHOLTZ, [redacted]
ROY A. HERMAN, [redacted]
JUAN J. HERNANDEZ, [redacted]
ERNEST J. HEROLD [redacted]
CURTIS L. HERRBOLDT, [redacted]
GREGORY K. HERRING, [redacted]
RICHARD T. *. HERZOG, [redacted]
DEAN W. HESS, [redacted]
BRIAN J. *. HEWITT [redacted]
JAMES B. HICKEY, [redacted]
JOHN C. *. HIERS, [redacted]
BENITA K. HILL, [redacted]
HERBERT D. *. HILL [redacted]

JAMES B. HILL, [redacted]
JEFFERY A. *. HILL [redacted]
RICKY E. *. HILL, [redacted]
SCOTT A. HILL, [redacted]
STEPHEN L. HILL [redacted]
TERRY L. *. HILL [redacted]
RAYMOND S. HILLIARD, [redacted]
PAUL S. HILTON [redacted]
ERNEST M. *. HINES [redacted]
JAMES E. *. HINNANT [redacted]
MARK W. HINTON, [redacted]
WILLIAM C. HIX [redacted]
SHARON D. *. HOBBS, [redacted]
GEORGIA B. HODGES, [redacted]
JANETT L. *. HODNETT [redacted]
ROBERT F. *. HOEHL [redacted]
DAVID C. HOFFMAN, [redacted]
DAVID F. HOFFMAN, [redacted]
PETER F. HOFFMAN [redacted]
KURT G. HOFFMANN, [redacted]
STEVEN P. *. HOFFPAUER [redacted]
MICHAEL E. HOGAN, [redacted]
LEON W. HOJNICKI [redacted]
JAMES R. *. HOLBERT [redacted]
ALEXIS D. *. HOLCOMB, [redacted]
LORAINE C. *. HOLDEN, [redacted]
GEORGE H. HOLMES, [redacted]
ROBERT M. HOLMES, [redacted]
JEFFREY P. HOLT [redacted]
KENNEDY E. *. HOLT, [redacted]
JAMES A. HOLTZCLAW, [redacted]
JEFFREY HOLZHAUSEN [redacted]
MICHAEL *. HONEYCUTT, [redacted]
RICHARD D. HOOKER, [redacted]
OLIVETTE M. *. HOOKS, [redacted]
EARL E. HOOPER, [redacted]
EUGENE J. *. HOOVER [redacted]
CYNTHIA O. HOPE [redacted]
REINHOLD J. HORN, [redacted]
RICHARD M. HORNACK, [redacted]
GREGORY C. HOSCHEIT, [redacted]
NANCY L. *. HOWARD, [redacted]
PAMELA O. HOWARD, [redacted]
STEPHEN F. *. HOWARD, [redacted]
STEVEN R. HOWELL, [redacted]
JAMES R. HOY, [redacted]
TERRY L. *. HOYT [redacted]
LAWRENCE P. HU [redacted]
KEITH D. HUBBERT [redacted]
DANNY T. HUBER, [redacted]
JOSEPH D. HUBER [redacted]
KARL A. *. HUBER, [redacted]
RICHARD A. HUGGLER [redacted]
STEPHEN E. HUGHES [redacted]
JEFFREY W. HUMPHREY [redacted]
JOHN A. HUMPHRIES [redacted]
ELRIN L. HUNDLEY [redacted]
STEPHEN P. *. HUNEKE [redacted]
OREN L. HUNSAKER, [redacted]
CARL W. *. HUNT, [redacted]
DAVID P. HUNTER [redacted]
JONATHAN B. HUNTER [redacted]
DAVI HUNTERCHESTER [redacted]
BRUCE H. HUPE, [redacted]
WAYNE R. *. HUSEMANN, [redacted]
FORDHAM A. HUTTON, [redacted]
STEPHEN N. *. HYLAND, [redacted]
ANTHONY R. IERARDI, [redacted]
TED G. IHRKE [redacted]
ANTHONY INCORVATI, [redacted]
JOEL W. INGOLD, [redacted]
JON F. IRELAN [redacted]
FERDINAND IRIZARRY, [redacted]
JEFFERY L. *. IRVINE [redacted]
DONALD E. *. JACKSON, [redacted]
ERNEST F. JACKSON [redacted]
GARY D. *. JACKSON, [redacted]
WILLIAM D. *. JACKSON, [redacted]
WILLIS F. JACKSON [redacted]
RH *. JAKUBIK–WORKMAN, [redacted]
SANDRA K. *. JAMES, [redacted]
WILLIE A. JAMES [redacted]
ROBERT E. JANIFER [redacted]
JEFFREY JARKOWSKY [redacted]
AARON O. JARVIS, [redacted]
MICHAEL J. JAYE [redacted]
CINDY R. JEBB [redacted]
ROY K. JEFFERY [redacted]
MARGARET W. *. JEFFREY [redacted]
HAROLD R. *. JELLISON [redacted]
RAY B. JENKINS [redacted]
SHERRY A. *. JENKINS [redacted]
BRIAN D. *. JENNE [redacted]
NOEMI D. *. JENNINGS, [redacted]
GREGORY L. JOHANSEN [redacted]
ROBERT A. JOHN [redacted]
HIRAM N. JOHNSON, [redacted]
HORACE JOHNSON, JR [redacted]
MARK E. *. JOHNSON, [redacted]
MARK T. *. JOHNSON, [redacted]
ROBERT L. *. JOHNSON [redacted]
SAMUEL H. JOHNSON [redacted]
SHAWN P. JOHNSON, [redacted]
TERRY W. JOHNSON [redacted]
WILLIE M. *. JOHNSON [redacted]
STEVEN L. JOHNSTON [redacted]
CYNTHIA L. JONES [redacted]
DAVID J. *. JONES [redacted]
DONALD M. JONES [redacted]
FRANKLIN K. JONES [redacted]
KATHY J. JONES [redacted]
KERMIT C. JONES [redacted]

MARK W. JONES, [redacted]
MARSHALL J. JONES [redacted]
OLLIE L. *. JONES [redacted]
ROBERT T. *. JONES, [redacted]
THOMAS D. JONES, [redacted]
WILLIAM R. JONES [redacted]
WINSTON M. *. JONES, [redacted]
BILLY J. JORDAN, [redacted]
JOHN D. JORDAN, [redacted]
FRANK A. JORDANO [redacted]
MICHAEL JORGENSON, [redacted]
GUY A. JOSEPH, [redacted]
RAY A. *. JOSEY, [redacted]
BRIAN R. JOYCE, [redacted]
OBDULIO *. JUARBE, [redacted]
WILLIAM J. JUMP [redacted]
ANTHONY J. *. JUSTI [redacted]
SCOTT M. *. KAJIWARA, [redacted]
WILLIAM R. *. KARAKTIN, [redacted]
JAMES M. KARDITZAS [redacted]
ROBERT W. KARPIAK, [redacted]
LESLIE B. *. KAYE [redacted]
KEVIN R. *. KEEHAN, [redacted]
BRIAN KEETH, [redacted]
DONALD C. KEFFER, [redacted]
ROBIN D. KEHLER, [redacted]
BRYAN D. KEIFER, [redacted]
BRIAN T. KELLEY, [redacted]
TERRY J. *. KELLEY [redacted]
THOMAS M. *. KELLEY, [redacted]
MICHAEL V. KELLY, [redacted]
PAUL W. KELLY, [redacted]
DOUGLAS B. KELSEY, [redacted]
CARLA D. KENDRICK, [redacted]
ROBERT KENDRICK, II [redacted]
ALEXANDER KENDRIS [redacted]
RICHARD J. KENNEDY, [redacted]
PAUL R. *. KENUL, [redacted]
JAMES S. KESTNER [redacted]
DAVID J. KEY, [redacted]
DEA A. KIEFER, [redacted]
RONALD W. *. KILLEBREW, [redacted]
HOWARD J. KILLIAN, [redacted]
RICHARD J. *. KILROY, [redacted]
JAMES D. KIM [redacted]
JERRY H. KIM [redacted]
JIYUL KIM, [redacted]
ROBERT A. KIMBROUGH, [redacted]
DAVID C. KIMMEL, [redacted]
GERALD A. KINCAID, [redacted]
DAVID M. KING, [redacted]
MARYSE J. *. KING, [redacted]
DIANA J. KIRBY, [redacted]
JAMES D. *. KIRBY [redacted]
JOHN W. KIRKBRIDE, [redacted]
JOHN R. KIRKLAND, [redacted]
BRUCE W. *. KIZER, [redacted]
JOHN A. KIZLER, [redacted]
DALE E. KLEIN, [redacted]
BRIAN L. *. KLIMA, [redacted]
ROBERT W. KLINE, [redacted]
STEPHEN D. KLOTZ [redacted]
DAN KNAPPENBERGER, [redacted]
DAVID B. KNEAFSEY, [redacted]
EARL E. KNIGHT, [redacted]
FORREST KNIGHT, JR [redacted]
THOMAS G. KNIGHT, [redacted]
VERNON *. KNIGHT, [redacted]
KIRK B. KNIPP, [redacted]
MICHAEL J. KNIPPEL [redacted]
JAMES A. KNOWLES, [redacted]
JAMES A. KNOWLTON, [redacted]
ALAN J. KNOX, [redacted]
TIMOTHY A. KOKINDA, [redacted]
WILLIAM J. KOLB, [redacted]
*. KORONOWSKIALLWINE, [redacted]
THEODORE W. *. KOUFAS, [redacted]
EDWARD KOZACK, [redacted]
BRIAN L. *. KOZIOL, [redacted]
SCOTT A. KRAAK, [redacted]
DAVID A. KRAMER, [redacted]
MICHAEL A. KRIZ, [redacted]
MARK H. *. KRUEGER, [redacted]
ROBERT KRUGER, JR [redacted]
MARK A. *. KUEGLE, [redacted]
THOMAS W. KULA, [redacted]
MARGAR KULUNGOWSKI, [redacted]
ROBERT M. KURTZ [redacted]
LAWRENCE R. *. KUTT, [redacted]
HON C. KWAN, JR, [redacted]
DWAYNE A. LACEWELL, [redacted]
CATHERINE H. LACINA, [redacted]
KATHLEEN C. LADIG, [redacted]
JONATHAN E. *. LAKE, [redacted]
RAYMOND L. *. LAMB, [redacted]
ARTHUR L. *. LAMBERT, [redacted]
KURT G. LAMBERT, [redacted]
GLEN D. LAMBKIN, [redacted]
MICHAEL LAMBRIGHT, [redacted]
LYNDA R. *. LAMITIE, [redacted]
TOMMY L. *. LANCASTER, [redacted]
CHARLES E. LANE [redacted]
SCOTT A. LANG, [redacted]
KELLY M. LANGDORF [redacted]
JON A. LAPOINTE [redacted]
GERALD P. *. LAPP [redacted]
DOUGLAS LARM, [redacted]
ERIC F. LASHER, [redacted]
ATHEIL C. *. LASHLEY [redacted]
LANCELOT C. *. LASHLEY, [redacted]
KENT M. *. LASNESKE, [redacted]
DAVID D. LAVENDER, [redacted]

ROBERT K. LAWRENCE, [redacted]
STEVE E. LAWRENCE, [redacted]
GERALD S. *. LAWSON, [redacted]
KENNETH R. *. LAWYER, [redacted]
JAMES A. *. LAY, I [redacted]
BRIAN R. LAYER, [redacted]
RICHARD B. LEAP, [redacted]
VERONIQUE LEBLANC, [redacted]
DAVID M. LEE, [redacted]
GERALD M. *. LEE, [redacted]
ROBERT W. LEE, [redacted]
TIMOTHY J. *. LEE [redacted]
RONALD D. *. LEET, [redacted]
GLEN L. *. LEFITI [redacted]
ALBERT F. *. LEFTWICH [redacted]
MARY A. LEGERE, [redacted]
JAMES J. *. LEGRONE [redacted]
ARTHUR P. *. LEIBLE [redacted]
THEODORE G. LEMCKE, [redacted]
LISA A. *. LEMZA, [redacted]
KENNETH B. LEPORI, [redacted]
LARRY L. *. LETNER, [redacted]
BRUNO C. *. LEUYER, [redacted]
TIMOTHY L. LIBBY, [redacted]
NICHOLA LIBERATORE, [redacted]
BRADLEY J. LIBERG [redacted]
RONALD N. LIGHT, [redacted]
DOMINIC J. *. LILAK, [redacted]
VICKI L. LIMBAUGH, [redacted]
WILLIAM *. LIN, [redacted]
KEVIN S. LINDSAY, [redacted]
MARK M. LINENBROKER, [redacted]
RAFAEL E. *. LINERO [redacted]
DAVID H. LING, [redacted]
MICHA LINGENFELTER, [redacted]
DEBRA R. *. LITTLE [redacted]
MICHAE LITWINOWICZ, [redacted]
MARION A. LIVENGOOD, [redacted]
ARMANDO *. LLAMAS, [redacted]
JAIME F. *. LLINET [redacted]
LEOPOLD M. *. LLONCH, [redacted]
JOHN T. LLOYD, [redacted]
XAVIER P. LOBETO [redacted]
JEFFREY A. LOCHOW [redacted]
BOBBY LOCKLEAR, [redacted]
GUY A. LOFARO, [redacted]
KEVIN P. LOGAN, [redacted]
JEAN M. *. LOISEAU [redacted]
EDWIN R. *. LONGANACRE, [redacted]
GARY W. *. LONGANECKER, [redacted]
PETER J. LOOKER [redacted]
PAUL M. *. LOOMIS, [redacted]
CHARLENE M. *. LOPER, [redacted]
DARRELL A. LORENZEN [redacted]
MARK A. *. LORING, [redacted]
DANIEL T. LOSCUDO, [redacted]
ROBERT G. *. LOUIS, [redacted]
KEITH R. *. LOVEJOY, [redacted]
GAIL A. LOVERING, [redacted]
BARRETT F. LOWE, [redacted]
KENNETH A. *. LUCAS, [redacted]
ROCHELLE E. *. LUCKETT [redacted]
PETER I. *. LUDLOW, [redacted]
JAMES P. LUDOWESE [redacted]
MIKIO E. LUDWIG [redacted]
BRIAN T. *. LUEDTKE, [redacted]
CHARLES C. LUKER, [redacted]
MARK W. LUNA, [redacted]
ALFRED E. LUNT [redacted]
THOMAS C. LUTHER, [redacted]
THOMAS B. *. LYLES, [redacted]
CHARLES P. *. LYNCH, [redacted]
JOHN D. *. LYNCH, [redacted]
THOMAS F. LYNCH, [redacted]
CHERYL P. *. LYNUM, [redacted]
ALAN T. *. MABRY, [redacted]
JOHN D. MACDONALD, [redacted]
DAVID K. *. MACEWEN, [redacted]
SEAN B. MACFARLAND, [redacted]
JAMES R. MACHIN, [redacted]
FRANCIS A. MACHINA, [redacted]
MICHAEL G. MACIVOR, [redacted]
PARIS M. MACK, [redacted]
SHARON M. *. MACK, [redacted]
ROBERT W. MACKAY, [redacted]
THOMAS F. *. MACKAY, [redacted]
WILLIAM A. MACKEN, [redacted]
RANDALL L. MACKEY, [redacted]
JAMES G. MACNEIL, [redacted]
PATRICK M. *. MADDEN, [redacted]
BETH A. MADDOX, [redacted]
JONATHAN A. MADDUX [redacted]
CARMEN J. *. MADERO, [redacted]
PAUL V. *. MAGGITTI, [redacted]
DANIEL P. *. MAHONEY, [redacted]
WILLIAM L. *. MAHONEY, [redacted]
MICHAEL A. *. MAINELLO, [redacted]
SCOTT D. *. MAIR, [redacted]
ALAN W. *. MAITLAND, [redacted]
RICHARD K. MAJOR, [redacted]
STEVEN L. MAKARSKY, [redacted]
MICHAEL J. *. MAKLARY, [redacted]
CHERYL L. *. MAKLE, [redacted]
JOHN V. MALLAMACI, [redacted]
ROBERT J. MALLEY [redacted]
GERALD J. MANLEY [redacted]
DAVID L. MANN, [redacted]
DAVID Q. MANSON, [redacted]
PETER R. MANSOOR, [redacted]
PATRICE W. MANUEL, [redacted]
BARRY K. MARKS, [redacted]
PHILIP D. MAROTTO [redacted]

GEORGE P. MARQUARDT [redacted]
PATRICK M. MARR, [redacted]
LLOYD W. *. MARSHALL, [redacted]
PRESCOTT MARSHALL, [redacted]
MARK D. *. MARTIN, [redacted]
ADRIAN I. MARTINEZ, [redacted]
DAVID C. MARTINO, [redacted]
GERALD B. MARTINO, [redacted]
ROBERT F. *. MARTINSEN [redacted]
DORIOT A. MASCARICH, [redacted]
RICHARD J. *. MASON [redacted]
ANTON E. MASSINON, [redacted]
DEAN A. MASSMAN, [redacted]
DAVID S. *. MAXWELL, [redacted]
WILLIAM C. MAYVILLE, [redacted]
MARK N. MAZARELLA, [redacted]
ALPHONSO F. MAZYCK, [redacted]
MARK A. MCALISTER, [redacted]
MARK L. MCALISTER, [redacted]
DOUGLAS MCALLASTER, [redacted]
LAWRENCE MCANNENY, [redacted]
JOHN A. MCARTHUR, [redacted]
CURTIS L. *. MCCABE, [redacted]
KATHY L. MCCAIN, [redacted]
DOUGLAS E. MCCALLUM, [redacted]
BURTON E. MCCARLEY, [redacted]
KEVIN J. MCCLUNG [redacted]
WILLIAM MCCONNELL, [redacted]
NELSON MCCOUCH, III, [redacted]
BILLY C. MCCOY, [redacted]
CARY S. MCCOY, [redacted]
JAMES R. MCCREIGHT [redacted]
EVERETT K. MCDANIEL [redacted]
DAVID R. MCDONALD, [redacted]
MARK J. *. MCDONNELL, [redacted]
JAMES D. *. MCDONOUGH [redacted]
STEPHEN J. MCDOWELL [redacted]
ALISANDE C. MCELROY, [redacted]
KEVIN T. MCENERY [redacted]
RALPH M. *. MCGEE, [redacted]
WILLIAM R. MCGHEE, [redacted]
THOMAS J. MCGRATH, [redacted]
THOMAS MCGUINNESS, [redacted]
PAUL A. MCGUIRE, [redacted]
STEPHEN E. MCGUIRE [redacted]
LOUIS B. *. MCINNIS, [redacted]
WILLIAM R. MCINNIS, [redacted]
GERALD B. *. MCINTYRE, [redacted]
PAUL G. MCKEAN, [redacted]
MARK J. MCKEARN, [redacted]
JAMES H. *. MCKENZIE [redacted]
ELVIS W. *. MCKINNEY [redacted]
TIMOTHY J. *. MCLAIN, [redacted]
LESTER T. MCMANNES [redacted]
MICHAEL N. MCMANUS [redacted]
JAMES D. MCMULLIN [redacted]
DANIEL J. *. MCROBERTS [redacted]
GREGORY *. MCROBERTS [redacted]
DAVID J. *. MEDARIS, [redacted]
LAWRENCE P. *. MEDLER [redacted]
MAUREEN M. MEEKS [redacted]
JOHN J. *. MEGNIA [redacted]
CHARLES R. *. MEHLE [redacted]
DAVID M. MEINHOLD, [redacted]
ROBERT A. MELANSON, [redacted]
KAREN L. *. MELLOTT, [redacted]
ROBERT MENDOZA, [redacted]
SERGIO *. MERCADO, JR. [redacted]
FREDERIC *. MERCHANT [redacted]
DAVID L. MERRIFIELD [redacted]
KEVIN G. MERRIGAN, [redacted]
FRANCIS R. *. MERRITT, [redacted]
GROVER W. MERRITT [redacted]
MICHAEL A. MERTZ, [redacted]
DOUGLAS D. MESSER, [redacted]
TIMOTHY J. METIVIER [redacted]
CHRISTOPHER MEYER [redacted]
NORMAN C. *. MICHAELS, [redacted]
ROBERT D. *. MICHAUD, [redacted]
DANNY L. *. MICHIE, [redacted]
LUVERN *. MIDDLETON, [redacted]
ROBERT L. MILBURN, [redacted]
MARION L. MILES, [redacted]
BRICK T. MILLER, [redacted]
DEREK A. MILLER [redacted]
GARRETT R. MILLER [redacted]
JOHN H. MILLER [redacted]
LINDA J. *. MILLER [redacted]
PAUL E. MILLER [redacted]
ROSE M. MILLER [redacted]
SHERMAN MILLER [redacted]
SHERYL R. *. MILLER [redacted]
ZECHARA J. MILLER [redacted]
EDWARD T. *. MILLIGAN, [redacted]
EDWARD J. MILLS [redacted]
ALEX *. MILOSAVLJEVIC, [redacted]
MORRIS D. MINCHEW, [redacted]
MICHAEL D. MINER, [redacted]
STEFAN M. MINNE [redacted]
PHILLIP *. MINOR [redacted]
CHARLES M. MINYARD, [redacted]
JEFFERY L. *. MISER [redacted]
ZACHERY S. MITCHAM, [redacted]
DELL M. MITCHELL [redacted]
MARTIN T. *. MITCHELL, [redacted]
RALPH L. MITCHELL [redacted]
RAYFORD B. *. MITCHELL [redacted]
RONALD F. MITCHELL, [redacted]
JOEL MITTELSTAEDT [redacted]
MICHAEL K. *. MIXEN, [redacted]
MARK J. MOELLER [redacted]
JONATHAN J. *. MOENCH [redacted]
HOWARD L. MOHN, [redacted]
LEONARD R. *. MONTFORD, [redacted]
JOSHUA *. MONTGOMERY, [redacted]
FRANKIE D. *. MOORE, [redacted]
JOHN M. MOORE, [redacted]
STEVEN R. MOORE, [redacted]
STEVEN W. *. MOORE, [redacted]
JOE L. *. MORALEZ, [redacted]
FRANK N. MORIN, [redacted]
HAROLD R. *. MOROZ, [redacted]
DOUGLAS J. MORRISON, [redacted]
MARK W. *. MOSELEY, [redacted]
ALAN M. MOSHER, [redacted]
TIMOTHY F. MOSHIER, [redacted]
GREGORY W. MOTSKO, [redacted]
CHRISTOPHER *. MOYLAN, [redacted]
SEAN J. *. MOYNIHAN, [redacted]
JOHN J. MROSZCZAK, [redacted]
JOSEPH P. MUDD [redacted]
CHRISTOPHE *. MUELLER, [redacted]
EDWARD A. MUELLER, [redacted]
PATRICK J. MUELLER [redacted]
GREGORY MUILENBURG, [redacted]
THOMAS M. MUIR, [redacted]
PAUL J. MULLIN [redacted]
CHARLES E. MULLIS, [redacted]
PATRICK MULVIHILL [redacted]
JOHN B. MUMMERT, [redacted]
ROBERT L. *. MUNARI, [redacted]
PETER A. *. MUNSELL, [redacted]
LYNNE T. *. MURPHY, [redacted]
MICHAEL J. MURPHY, [redacted]
JOHN M. MURRAY [redacted]
TYRONE C. *. MUSSIO, [redacted]
BARRY W. MUTH, [redacted]
DONALD L. *. MYERS, [redacted]
JOSEPH C. MYERS [redacted]
SOLOMON MYHAND, JR, [redacted]
BARTHOLEMEW NADEAU, [redacted]
JENNIFER L. *. NAPPER [redacted]
NICHOLAS E. NEAD, [redacted]
BARRY W. NEAL, [redacted]
CLAUDETTE R. *. NEAL [redacted]
JAMES E. NEAL [redacted]
JAMES R. NEAL [redacted]
MARK D. NEEDHAM [redacted]
CARL C. NEELY, [redacted]
MICHAEL S. *. NELSON [redacted]
PAUL M. NELSON, [redacted]
SUSAN B. NEUMANN, [redacted]
MICHAEL A. NEWCOMB [redacted]
TERRY L. *. NEWELL, [redacted]
TIMOTHY L. NEWKIRK [redacted]
ROBERT B. NEWMAN, [redacted]
ROBERT A. NEWTON, [redacted]
JAMES M. NICHOL, [redacted]
CAMILLE M. NICHOLS, [redacted]
DAVID C. NICHOLS, [redacted]
JAMES T. NICHOLS, [redacted]
JOHN W. NICHOLSON, [redacted]
PATRICE A. *. NICKOLS, [redacted]
DOUGLAS E. NIELSEN, [redacted]
KAREN L. *. NIGARA, [redacted]
PAUL F. *. NIGARA, [redacted]
MARK A. NIPPER, [redacted]
JAMES C. NIXON, [redacted]
DAVID B. NOCK, [redacted]
DEAN S. NOGLE, [redacted]
STEVEN R. *. NOLL, [redacted]
JERE P. *. NORMAN, [redacted]
GLENWOOD *. NORRIS, JR, [redacted]
JAY B. *. NORRIS, [redacted]
JIMMIE D. *. NORRIS, [redacted]
DAVID R. NORTON, [redacted]
WILLIAM R. *. NORTON, [redacted]
KIRK D. NOTSCH, [redacted]
JOHN D. NOWELL, [redacted]
MICHAEL F. *. NUGENT, [redacted]
JOSE D. *. NUNEZ [redacted]
WILLIAM R. OAKS, [redacted]
ROGER R. *. OBEN, [redacted]
ROBERT A. OBRIEN, [redacted]
ROBERT T. OBRIEN, [redacted]
EDWIN S. OCONNOR, [redacted]
MICHAEL J. *. ODONNELL, [redacted]
THOMAS E. ODONOVAN, [redacted]
TIMOTHY M. OHARA, [redacted]
LEWIS L. OHERN, [redacted]
STANFORD *. OLIVER, [redacted]
JOHN A. *. OLSHEFSKI [redacted]
MARZETTIS A. *. ONEAL [redacted]
MARK P. *. ONEILL, [redacted]
DANIEL R. *. ONKST, [redacted]
WILLIAM M. ORIET, [redacted]
MORTON ORLOV, II, [redacted]
TERRY J. *. OROURKE [redacted]
WILLIAM D. OSBORNE, [redacted]
RUSSELL M. OSBURN, [redacted]
PATRICIA B. *. OVERTON, [redacted]
DENNIS R. OWEN, [redacted]
EDWARD H. OWEN, [redacted]
DONALD K. OWENS, [redacted]
ALVA L. PACE, [redacted]
MICHAEL M. PACHECO, [redacted]
ANGEL L. PAGAN, [redacted]
JOHN J. *. PAGE [redacted]
WILLIAM J. *. PALFEY [redacted]
KEVIN J. *. PALGUTT [redacted]
RALPH M. PALMIERO, [redacted]
GEORGE H. PAPPAS [redacted]
THOMAS M. *. PAPPAS [redacted]
CHARLES A. *. PARKER, [redacted]
ROBERT A. *. PARKER, [redacted]
CAROL J. PARKS, [redacted]
ROGER L. *. PASCHALL, [redacted]
DEWEY F. *. PATRICK, [redacted]
MARK S. PATTERSON, [redacted]
EUGENE P. PAULO, [redacted]
JOHN C. PAULSON, [redacted]
JAMES M. PAWLAK, [redacted]
EUGENE A. PAWLIK, [redacted]
MICHAEL C. *. PAYNE, [redacted]
ROBERT A. PAYNE, [redacted]
MARK J. PEARSALL, [redacted]
MARK K. PEARSON, [redacted]
STEVEN M. PEASLEE [redacted]
BRUCE A. *. PEEBLES, [redacted]
GREGORY F. *. PEKAR, [redacted]
KEITH *. PEKKALA, [redacted]
ROMEY P. PELLETIER [redacted]
STEVEN R. *. PELLEY [redacted]
JOHN R. PELOQUIN, [redacted]
DAMON C. *. PENN, [redacted]
DEBRA J. PEREZ [redacted]
MOISES O. PEREZ [redacted]
RALPH PEREZ, [redacted]
CHRISTOPHE *. PERKINS, [redacted]
FRANK W. *. PERKINS, [redacted]
KENNETH J. *. PERRY [redacted]
PAUL A. PERRY, [redacted]
KAREN M. *. PETERLIN, [redacted]
GWENDOLYN *. PETERSON, [redacted]
STEVEN W. PETERSON, [redacted]
WILLIAM J. PETREE [redacted]
MICHAEL C. *. PHEANIS [redacted]
JAMES A. PHELPS [redacted]
CHARLES E. PHILLIPS [redacted]
FRANK J. *. PHILLIPS [redacted]
ILEAN *. PHILLIPS [redacted]
WARREN E. PHIPPS [redacted]
RACHEL A. PIEHLER, [redacted]
ROBERT *. PIERCE, JR [redacted]
MICHAEL T. *. PIERSON, [redacted]
AUNDRE F. PIGGEE, [redacted]
ROBERT F. *. PIKE [redacted]
CHRIS A. PILECKI, [redacted]
LESTER W. *. PINKNEY, [redacted]
STEVEN S. PINTER, [redacted]
ROBERT G. PIPER [redacted]
MARK R. PIRES, [redacted]
DANA J. PITTARD [redacted]
MARTIN B. PITTS [redacted]
BRIAN D. PLAISTED [redacted]
ERIC T. PLATZNER, [redacted]
MARTI POFFENBERGER, [redacted]
KEVIN P. POLCZYNSKI, [redacted]
RUSSELL L. POLING [redacted]
MICHAEL R. POLLACK, [redacted]
WALTER H. POLLARD, [redacted]
WILLIAM B. POMEROY, [redacted]
RANDOLPH W. PONDER, [redacted]
EDWARD PONIATOWSKI, [redacted]
THOMAS G. POPE, [redacted]
JAMES A. *. PORTER [redacted]
JAMES T. POTE [redacted]
JOSEPH N. POULIOT [redacted]
FORREST P. POULSON [redacted]
JOEL A. POWELL, [redacted]
JOHN D. POWELL, [redacted]
MARVIN L. POWELL, [redacted]
STEVEN L. POWELL, [redacted]
WILLIAM J. PRANTL [redacted]
GERALD E. *. PRATER, [redacted]
DAVID A. *. PRATT [redacted]
ROBERT K. *. PRATT, [redacted]
KENNET *. PRENDERGAST [redacted]
DEBRA L. PRESSLEY [redacted]
BECK Y. *. PRETTYMAN, [redacted]
MICHAEL I. PREVOU, [redacted]
ALLEN D. *. PREWITT [redacted]
RODNEY K. PRICE, [redacted]
ROBERT P. *. PRICONE, [redacted]
DAVID W. PRIDE, [redacted]
TIMOTHY T. *. PRILL [redacted]
DAVID B. *. PRISER [redacted]
WEBSTER W. *. PROCTER, [redacted]
ESMERALDA *. PROCTOR, [redacted]
JOHN C. PROSCH, [redacted]
JOHN J. PRUSIECKI, [redacted]
JONATHAN P. *. PUGH [redacted]
WILLIAM T. *. PUGH, [redacted]
DAVID P. PURSELL, [redacted]
PAUL A. PUSECKER, [redacted]
MARTIN J. *. QUEENAN [redacted]
MANUEL M. QUEZADA, [redacted]
DANIEL J. RAGSDALE [redacted]
JAMES R. RALPH [redacted]
ENRIQUE *. RAMOS, [redacted]
VICTOR T. *. RAMOS, [redacted]
LARRY L. *. RANDAL, [redacted]
ROGER J. *. RANEY, [redacted]
GREGORY S. RASSATT, [redacted]
BERNABE *. RATIO, [redacted]
ROY T. RAY, [redacted]
PATRICK *. RAYERMANN, [redacted]
DOUGLAS E. RAYMOND, [redacted]
WALTER R. RAYMOND, [redacted]
WILLIAM C. RAYNES, [redacted]
CLEON W. *. RAYNOR, [redacted]
RICKY J. *. REA, [redacted]
RONALD D. REAGAN, [redacted]
WILLIAM G. *. REAGLE, [redacted]
MYLES REARDON, JR [redacted]
KEITH F. RECK, [redacted]

CHRISTOPHE REDDISH [redacted]
BRUCE D. REDLINE [redacted]
DANIEL K. *. REED [redacted]
DOUGLASS B. REED [redacted]
JAMES S. *. REED [redacted]
GRADY G. REESE, JR [redacted]
WILLIAM D. *. REESE [redacted]
JARROLD M. *. REEVES [redacted]
CARLTON B. REID [redacted]
BRUCE J. REIDER [redacted]
JAMES R. REINHARDT [redacted]
MARK A. REISWEBER [redacted]
STEWARD E. REMALY [redacted]
DAVID A. *. RENAUD [redacted]
PERRY A. *. RENIKER [redacted]
FELIX E. *. RENTERIA [redacted]
ROBERT M. RESPASS [redacted]
ISRAEL REYES [redacted]
KATHY K. REYNOLDS [redacted]
PATRICK M. REYNOLDS [redacted]
THOMAS J. *. REZESKI [redacted]
THOMAS RHEINLANDER [redacted]
FRANK D. RHINESMITH [redacted]
JAMES R. RICE [redacted]
MAUREEN A. RICHARDS [redacted]
PHYLISS A. RICHARDS, [redacted]
BRYAN D. RICHARDSON [redacted]
MARK D. RIDER [redacted]
DEBRA A. *. RIEFFLIN [redacted]
RICARDO R. RIERA, [redacted]
STEPHEN R. RIESE [redacted]
THERESA M. *. RIESS [redacted]
JOHN K. RIETH [redacted]
DENNIS M. RINGLIEB [redacted]
WILLIAM J. RISSE [redacted]
LINDA G. *. RITCHIE [redacted]
GARY T. *. RITTER [redacted]
MARK L. RITTER [redacted]
RUBEN O. *. RIVAS [redacted]
ENRIQUE RIVERA [redacted]
BARRY F. ROACH, [redacted]
MICHAEL F. *. ROACHE, [redacted]
MICHAEL L. ROANE [redacted]
JAMES I. *. ROBBINS [redacted]
CAIN E. *. ROBERTS [redacted]
JEFFREY S. *. ROBERTS [redacted]
JIN K. *. ROBERTSON [redacted]
ANTHONY J. *. ROBINSON [redacted]
CHARLES W. ROBINSON, [redacted]
MARK A. *. ROBINSON, [redacted]
ROBERT S. *. ROBINSON [redacted]
RODERICK *. ROBINSON [redacted]
SELMON R. ROBINSON, [redacted]
WILLIAM T. *. ROBSON, [redacted]
JOHN M. ROCHE, [redacted]
ROBERT K. ROCKWOOD, [redacted]
DAVID W. RODGERS, [redacted]
FERNANDO *. RODRIGUEZ [redacted]
HUMBERTO RODRIGUEZ, [redacted]
SHARON E. *. ROGERS, [redacted]
ANTHONY J. ROJEK [redacted]
ROBERT A. *. ROMICH [redacted]
CLETUS I. *. ROMNEY [redacted]
LARRY A. *. ROOD [redacted]
GREGORY K. *. ROOKS, [redacted]
TERRY J. *. ROPES, [redacted]
JESSE J. ROSE [redacted]
VALERIE L. ROSE [redacted]
DIRK C. ROSENDAHL, [redacted]
GREGORY *. ROSENTHAL [redacted]
DAVID H. ROSS [redacted]
HARRY V. *. ROSSANDER [redacted]
RONALD L. *. ROSSER [redacted]
MICHAEL A. ROSSI, [redacted]
DINO D. ROTH, [redacted]
MATT *. ROTHLISBERGER [redacted]
GABRIEL *. RUBALCAVA, [redacted]
RICHARD J. RUNDE, [redacted]
CARL *. RUNYON [redacted]
GLENN D. *. RUSSELL, [redacted]
WILLIAM E. *. RYALS [redacted]
DOUGLAS E. RYAN [redacted]
KEITH E. RYAN, [redacted]
PATRICK E. *. RYAN [redacted]
TERRENCE P. RYAN [redacted]
THOMAS E. *. RYAN, [redacted]
BENNET S. *. SACOLICK [redacted]
ALLEN D. SAKCRISKA [redacted]
STEVEN L. SALAZAR [redacted]
LUIS A. SALCEDO [redacted]
RONALD F. SALYER [redacted]
DAVID W. SAMEC, [redacted]
MARK H. SAMISCH [redacted]
JAMES S. *. SANDERS [redacted]
DONALD M. SANDO, [redacted]
DONNA J. *. SANGIORGIO [redacted]
JOAN P. *. SANGL [redacted]
GREGORY J. *. SANSONE [redacted]
LAWRENCE SANSONE, [redacted]
TIMOTHY SASSENRATH [redacted]
LAURIE F. SATTLER [redacted]
WAYNE A. SAUER, [redacted]
ROBERT S. *. SAUNDERS [redacted]
DAVID M. SAVAGE, [redacted]
WALTER J. SAWYER, [redacted]
TIMOTHY C. SAYERS, [redacted]
JESS A. SCARBROUGH [redacted]
DAVID J. SCARCHILLI [redacted]
GARY A. SCHEID, [redacted]
DENNIS SCHEUERMANN [redacted]
PAUL A. SCHIELE [redacted]
MICHAEL J. SCHILLER [redacted]
PHILIP J. SCHLATTER [redacted]
JOSEPH E. *. SCHMALTZ [redacted]
DAVID A. SCHNEIDER, [redacted]
SHIRLEY SCHNEIDER, [redacted]
DANIEL J. *. SCHOCH, [redacted]
RAY A. SCHULTZ, [redacted]
THEODORE S. *. SCHULZE, [redacted]
THOMAS J. SCHWARTZ, [redacted]
ANDREW SCHWEIKERT, [redacted]
MICHAEL W. SCHWIND, [redacted]
BRADDOCK B. SCOTT, [redacted]
WHITNEY C. SCULLY, [redacted]
ROBERT E. SCURLOCK, [redacted]
THOMAS C. SEAMANDS, [redacted]
SHIRLEY A. SEARS [redacted]
ALFRED R. SEBILE [redacted]
GARY W. *. SEEBODE, [redacted]
MICHAEL K. *. SEIDL [redacted]
GARY M. SERVOLD, [redacted]
JOSEPH D. *. SETTE [redacted]
JILL M. SEVERE [redacted]
STEPHEN E. SEWELL [redacted]
TITUS L. *. SEWELL [redacted]
DANIEL J. SHANAHAN, [redacted]
STEPHEN T. SHARKEY [redacted]
JOHN R. SHARP [redacted]
KENNETH J. *. SHAW [redacted]
JOHN M. SHAY, [redacted]
KAREN E. SHEA, [redacted]
MARK J. SHEEHAN, [redacted]
CLIFFORD B. SHEKTER [redacted]
PATSY L. *. SHELL, [redacted]
ROBIN P. *. SHEPARD, [redacted]
RICHARD W. SHEPPARD, [redacted]
NANCY J. *. SHERLOCK, [redacted]
PETER K. SHERRILL [redacted]
TIMOTHY M. SHERWOOD, [redacted]
ROBERT L. SHIELDS [redacted]
RICHARD *. SHIPKOWSKI, [redacted]
JOHN S. SHULTIS [redacted]
JAMES D. SHUMWAY, [redacted]
THOMAS E. *. SIDWELL [redacted]
JOHN M. SIGLER, [redacted]
DENNIS E. *. SIGMAN [redacted]
JONATHAN E. SILTALA [redacted]
JORGE L. SILVEIRA [redacted]
JACK D. *. SILVERS, [redacted]
CARL T. SIMCHICK, [redacted]
STEPHEN J. SIMMERER [redacted]
JAMES M. SIMMONS, [redacted]
VIRGINIA *. SIMONSON [redacted]
DAN R. *. SIMPSON [redacted]
JOHN B. SIMPSON, [redacted]
ROBERT W. *. SIMPSON [redacted]
JOHN M. *. SISK [redacted]
GEORGE P. SLAGLE [redacted]
WILBUR P. *. SLAUSON, [redacted]
ALLAN A. *. SMALL, [redacted]
THOMAS F. SMALL, [redacted]
RICHARD S. *. SMARR [redacted]
CLARK L. SMITH, [redacted]
DAVID A. *. SMITH, [redacted]
DOUGLAS E. SMITH, [redacted]
EUGENE B. SMITH, [redacted]
GARY L. SMITH, [redacted]
JACK F. SMITH [redacted]
JAMES E. SMITH [redacted]
JAY Q. *. SMITH [redacted]
JAY W. SMITH, [redacted]
KENNETH D. SMITH, [redacted]
KEVIN B. SMITH, [redacted]
KEVIN W. SMITH, [redacted]
MARK E. *. SMITH, [redacted]
MARY A. *. SMITH, [redacted]
MICHAEL A. *. SMITH [redacted]
PHILIP J. SMITH [redacted]
ROBERT L. *. SMITH [redacted]
STEPHEN T. SMITH [redacted]
STEWART A. *. SMITH [redacted]
THOMAS M. SMITH, [redacted]
TIMOTHY C. SMITH, [redacted]
WILLIAM E. SMITH, [redacted]
LAWRENCE R. SNEAD, [redacted]
JAMES T. *. SNYDER, [redacted]
ROBERT D. SNYDER, [redacted]
LOWELL E. SOLIEN, [redacted]
DAVID J. *. SOLOMON, [redacted]
KEITH D. SOLVESON, [redacted]
DAVID L. SONNIER, [redacted]
MATTHEW L. SORENSON, [redacted]
DEREK A. SORIANO, [redacted]
GREGORY N. *. SOTER, [redacted]
JUAN B. SOTO, [redacted]
ROBERT V. SOUTHERN, [redacted]
STEVEN M. SPANGLER, [redacted]
GERALD D. *. SPARKS [redacted]
LARRY *. SPARKS [redacted]
MATTHEW SPAULDING, [redacted]
DON P. SPENCER, [redacted]
RENEE I. *. SPENCER [redacted]
MARK A. *. SPIEGEL, [redacted]
MERRILL F. SPROUL, [redacted]
THOMAS SROKA, [redacted]
JAMES P. STACK [redacted]
PATRICK STACKPOLE, [redacted]
CHARLES A. STAFFORD, [redacted]
DENNIS C. STALKER, [redacted]
STEPHEN G. *. STALVEY [redacted]
ALLAN T. STANDRE, [redacted]
JOSEPH E. STANFIELD [redacted]
RONALD A. STANFIELD, [redacted]
GARY R. STANLEY [redacted]
GERALD D. STANSELL, [redacted]
ANDREW M. STASS, [redacted]
JOHN H. STAUFFER, [redacted]
TEDDY D. *. STEELMAN [redacted]
YVONNE L. *. STEEN [redacted]
GRANT D. STEFFAN, [redacted]
KURT J. STEIN [redacted]
JAMES E. *. STEINKE [redacted]
JAY C. STEINKE [redacted]
THOMAS R. *. STENNETT, [redacted]
BILL D. STEPHENS [redacted]
PAUL D. STEPHENS [redacted]
STEVEN T. *. STEVENS [redacted]
WILLIAM STEVENSON, [redacted]
DEBORAH M. *. STEWART, [redacted]
JEFFREY D. *. STEWART [redacted]
JIMMY C. *. STEWART, [redacted]
KEVIN S. STEWART, [redacted]
TIMOTHY M. *. STEWART, [redacted]
JOHN A. STINE, [redacted]
GREGORY E. *. STINNER [redacted]
CINDY K. *. STOCKER, [redacted]
MITCHELL A. STOKAN, [redacted]
MICHELLE STOLESON, [redacted]
KENNETH STOLWORTHY, [redacted]
ROBERT D. STOVALL, [redacted]
TIMOTHY R. STOY, [redacted]
STEVEN M. STRAIT, [redacted]
MARTIN L. *. STRATMOEN, [redacted]
KEVIN A. STREETS [redacted]
JEFFREY STRICKLAND [redacted]
KENNETH *. STRICKLAND, [redacted]
G. STRICKLANDCOOPER, [redacted]
CHARLES F. STROUP, [redacted]
JAMES M. STUTEVILLE [redacted]
DAVID J. STYLES [redacted]
BARRY C. *. SUGGS, [redacted]
JEFFREY C. SUGRUE [redacted]
CHRISTOPH SULLIVAN, [redacted]
DAVID W. *. SULLIVAN, [redacted]
RICKI L. SULLIVAN [redacted]
WILLIAM W. *. SULLIVAN, [redacted]
JOHN A. SUPRIN [redacted]
ERIC C. SURLES [redacted]
EUGENE S. *. SURMACZ, [redacted]
BRIAN SUTTON, [redacted]
ED M. *. SUTTON, [redacted]
KNUT N. *. SVENDSEN, [redacted]
THOMAS SVISCO, [redacted]
ANTHONY *. SWAIN, [redacted]
JOE E. SWANSON, [redacted]
ROBERT P. SWANSON, [redacted]
JOHNNIE E. SWEATTE, [redacted]
MARK A. SWEENEY, [redacted]
LORETTA K. *. SWEET, [redacted]
RICHARD W. SWENGROS, [redacted]
MICHAEL T. SWENSON, [redacted]
WALTER L. SWINDELL, [redacted]
ROBERT M. SYBERT, [redacted]
PETER J. TABACCHI, [redacted]
ERNEST A. TAFOYA, [redacted]
STEVEN TALKINGTON, [redacted]
WILLIAM TARANTINO, [redacted]
JOHN A. TARTALA, [redacted]
THOMAS L. TATE, [redacted]
ANTOINE D. TAYLOR, [redacted]
CHARLES TAYLOR, [redacted]
EDWARD B. *. TAYLOR, [redacted]
JOHN J. TAYLOR, [redacted]
LINDA M. *. TAYLOR, [redacted]
PETER F. TAYLOR, [redacted]
THOMAS D. TAYLOR, [redacted]
THONDA O. TAYLOR, [redacted]
PATRICK J. TEIFER [redacted]
PHILLIP M. TEMPLE [redacted]
STEPHEN V. TENNANT [redacted]
LOUISE V. TERRELL, [redacted]
VERNON P. *. TERRELL, [redacted]
DEBRA A. *. THEDFORD, [redacted]
GARY E. THIE [redacted]
JOHN S. THIEL, [redacted]
CHARLIE THOMAS, JR. [redacted]
DAVID L. *. THOMAS, [redacted]
MICHAEL C. THOMAS, [redacted]
PETER A. THOMAS, [redacted]
RICHARD B. THOMAS, [redacted]
RICHARD G. THOMAS, [redacted]
SCOTT A. *. THOMAS, [redacted]
KEVIN L. THOMPKINS, [redacted]
BILLY L. THOMPSON, [redacted]
DAVID S. *. THOMPSON, [redacted]
GARY J. *. THOMPSON, [redacted]
GEORGE D. *. THOMPSON, [redacted]
JEFFREY G. THOMPSON, [redacted]
MITCHELL THOMPSON, [redacted]
LANCE B. *. THOMSON, [redacted]
GARY M. THORNE, [redacted]
DENNIS A. THORNTON, [redacted]
PAUL D. THORNTON, [redacted]
ROSA M. *. THORPE, [redacted]
RICHARD P. *. TIBBETTS [redacted]
JOHN P. TIDD, [redacted]
CHRISTINE *. TILLMAN [redacted]
MARK E. TILLMAN, [redacted]
MARTIN R. *. TILLMAN [redacted]
PHILIP R. TILLY [redacted]
MICHAEL G. *. TITONE, [redacted]
GREGORY W. *. TITUS [redacted]
ROLANDO I. *. TODAS, [redacted]
DAVID A. TODD, [redacted]
BRUCE A. *. TOLSTON, [redacted]
RAYMOND L. *. TOMS [redacted]

KENNETH L. TOPPING, [redacted]
KIMETHA G. TOPPING, [redacted]
STEPHEN J. TORELLI, [redacted]
GERALD TORRENCE, [redacted]
RICHARD A. TOTLEBEN, [redacted]
BRADFORD C. TOUSLEY, [redacted]
DONALD W. TOWERS, [redacted]
RICHARD S. *. TRACEY, [redacted]
TODD J. TRAVAS, [redacted]
DOUGLAS D. *. TRENDA [redacted]
RAYMOND A. TREVINO, [redacted]
STEVEN F. TRIPLETT [redacted]
THOMAS G. *. TROBRIDGE, [redacted]
DAVID B. TROILLET, [redacted]
LYN O. TRONTI, [redacted]
GUY K. TROY, JR, [redacted]
HERBERT E. TRUE, [redacted]
MICHAEL V. *. TRUETT, [redacted]
CLARKE D. TURNER, [redacted]
DONNIE C. *. TURNER, [redacted]
JULIAN P. *. TURNER, [redacted]
ROBERT J. TWIGG, [redacted]
BARRY N. TYREE, [redacted]
GREGORY J. ULSH, [redacted]
MARK W. UNGER, [redacted]
JEFFREY A. *. UPCHURCH, [redacted]
PHILIPPE UPPERMAN, [redacted]
DIANE R. *. URSCH, [redacted]
PETER D. UTLEY, [redacted]
DAVID W. VADEN, [redacted]
THOMAS D. VAIL, [redacted]
DEBRA A. *. VALENTINE, [redacted]
ARCE R. VALLE, [redacted]
RICHARD *. VANALLMAN, [redacted]
THOMAS S. VANDAL, [redacted]
PAUL M. VANDERBURGH, [redacted]
CHRISTOP VANSLAGER, [redacted]
FRANK *. VARNADO, [redacted]
ROBERT J. VASTA [redacted]
JAMES M. VAUGHN, [redacted]
ALVIN E. VAVRA, [redacted]
JESUS E. VAZQUEZ, [redacted]
ARNOLD K. *. VEAZIE, [redacted]
DAVID S. VEECH, [redacted]
MICHAEL *. VELASQUEZ, [redacted]
REY A. VELEZ, [redacted]
GARRY D. *. VENNING, [redacted]
PAMELA R. *. VENNING, [redacted]
DAVID W. VERGOLLO, [redacted]
ANTHONY C. VESAY, [redacted]
JOHN M. *. VESSER, [redacted]
RUTH M. VIALPANDO, [redacted]
ALFRED VIANA, [redacted]
WALTER R. VILLAN, [redacted]
LANCE A. VOGT, [redacted]
CHRISTOPHER T. VOLK, [redacted]
RICHARD F. *. VONDORN, [redacted]
BRYAN S. *. VULCAN, [redacted]
MICHAEL WACLAWSKI, [redacted]
RICKY L. WADDELL, [redacted]
RODERICK K. WADE, [redacted]
WILLIAM O. *. WADE, [redacted]
RICHARD P. *. WAGENAAR, [redacted]
THOMAS D. WAHLERT, [redacted]
ERIC G. *. WAHLGREN, [redacted]
HOWARD A. WAITE, [redacted]
APRIL L. WALCZAK, [redacted]
JAMES J. WALDECK, [redacted]
WILLIAM A. WALK, [redacted]
DAVID S. *. WALKER, [redacted]
JAMES M. WALKER, JR, [redacted]
SHIRLEY J. *. WALKER, [redacted]
WALTER M. *. WALKER, [redacted]
ROBERT S. WALL, [redacted]
CARL D. *. WALLACE, [redacted]
DOROTHEA *. WALLACE, I, [redacted]
JOSEPH K. *. WALLACE, [redacted]
EDWIN B. WALSH, [redacted]
ROBERT S. *. WALSH, [redacted]
LOLA A. *. WALTER, [redacted]
ROBERT C. WALTER, [redacted]
GARY L. *. WALTERS, [redacted]
STEPHEN WALTERS, [redacted]
TIMOTHY L. *. WALTERS, [redacted]
MELVIN D. *. WALTON, [redacted]
DENNIS L. *. WARD, [redacted]
NANCY J. WARD, [redacted]
JAMES M. WARING, [redacted]
HARLAND C. *. WARNER, [redacted]
HARVEY S. WARSHAW, [redacted]
MICHAEL L. WARSOCKI, [redacted]
JAMES N. WASSON, [redacted]
ROGER WATERS, [redacted]
JAMES L. WATSON, [redacted]
KEVIN L. WATSON, [redacted]
THOMAS L. *. WATSON, [redacted]
KAREN A. *. WATTS, [redacted]
ROBERT B. WATTS, [redacted]
RONALD A. WATTS, [redacted]
ANDREW F. *. WEAVER, [redacted]
ELLEN M. *. WEBER, [redacted]
JAMES R. WEBER, [redacted]
KEVIN A. WEDMARK, [redacted]
BRANDA M. WEIDNER, [redacted]
MARK R. WEITEKAMP, [redacted]
RONALD W. WELCH, [redacted]
CLARENCE L. WELLS, [redacted]
GERALD L. WELLS, [redacted]
STEPHEN M. WELLS, [redacted]
JOHN A. WENZEL, [redacted]
LYNN F. WESTBERG, [redacted]
JOHN W. *. WESTERN [redacted]
KENNETH R. WESTLUND, [redacted]
TIMOTHY L. *. WHALEN, [redacted]
WILLIAM M. WHEATLEY, [redacted]
WILLIAM WHEELEHAN, [redacted]
CHARLES WHITE, [redacted]
DAVID F. WHITE, [redacted]
DONALD E. *. WHITE, [redacted]
MICHAEL L. WHITE, [redacted]
MICHAEL S. WHITE, [redacted]
RANDALL T. *. WHITE, [redacted]
RONALD E. *. WHITE, [redacted]
TIMOTHY L. WHITE, [redacted]
JIMMY L. *. WHITEHEAD, [redacted]
RANDY R. *. WIERS, [redacted]
MICHAEL H. *. WILBUR, [redacted]
MARGARET S. WILBURN, [redacted]
BRENT A. WILDASIN, [redacted]
JOHN A. WILHELM, [redacted]
JOHN C. *. WILHELM, [redacted]
WILLIAM G. WILHELM, [redacted]
JUDITH L. WILLARD, [redacted]
ANTHONY L. *. WILLIAMS, [redacted]
BENJAMIN *. WILLIAMS, [redacted]
BENJAMIN WILLIAMS, [redacted]
CHESTER J. *. WILLIAMS, [redacted]
CURTIS T. *. WILLIAMS, [redacted]
DAVID C. WILLIAMS, [redacted]
DEBORAH L. *. WILLIAMS, [redacted]
DONNA L. WILLIAMS [redacted]
DUANE *. WILLIAMS, [redacted]
GERALD WILLIAMS, [redacted]
HERMAN WILLIAMS, II, [redacted]
JEAN C. WILLIAMS, [redacted]
JONATHAN WILLIAMS, [redacted]
PERRY W. WILLIAMS, [redacted]
RANDY L. WILLIAMS, [redacted]
RICKEY K. WILLIAMS, [redacted]
ROBERT A. *. WILLIAMS, [redacted]
RUSSELL H. WILLIAMS, [redacted]
STEVEN R. WILLIAMS, [redacted]
VIRGIL S. *. WILLIAMS, [redacted]
ALBERT S. WILLNER, [redacted]
BRENDAN L. WILSON, [redacted]
CHARLES L. *. WILSON, [redacted]
GEORGETTE P. WILSON, [redacted]
JOHN P. WILSON, [redacted]
LANCE L. WILSON, [redacted]
MERLE Y. *. WILSON, [redacted]
SCOTT A. *. WILSON, [redacted]
STANLEY W. WILSON, [redacted]
THOMAS K. WILSON, [redacted]
STEPHEN E. WINKLER, [redacted]
PARK S. WINTER, [redacted]
WAYNE M. *. WINTERLING, [redacted]
MICHAEL B. WINZELER, [redacted]
WALTER M. WIRTH, [redacted]
DANIEL V. WISE, [redacted]
JEFFREY R. WITSKEN, [redacted]
WALTER S. *. WOJTAS, [redacted]
DANIEL G. WOLFE, [redacted]
MARK A. WOLFE, [redacted]
THOMAS F. *. WOLOSZYN, [redacted]
RENEE S. WOLVEN, [redacted]
ALTON W. *. WOMACK, [redacted]
DEAN M. WOMACK, [redacted]
JOHNNY G. *. WOMACK, [redacted]
EMMETT L. WOOD, [redacted]
GARY WOOD, [redacted]
JOE A. WOOD, [redacted]
JOHN K. WOOD, [redacted]
KENT T. WOODS, [redacted]
ROBERTA A. *. WOODS, [redacted]
HAROLD V. *. WOODY, [redacted]
EDMUND W. WOOLFOLK, [redacted]
HAROLD H. WORRELL, [redacted]
DAVID V. *. WREFORD, [redacted]
ALEXANDRO M. WRIGHT, [redacted]
JERRY V. WRIGHT, [redacted]
JOAN G. *. WRIGHT, [redacted]
JOHN T. *. WRIGHT, [redacted]
PHILLIP D. WRIGHT, [redacted]
THOMAS L. *. WRIGHT, [redacted]
WILLIAM W. WRIGHT, [redacted]
VICTOR P. WU, [redacted]
KASANDRA Y. *. WYCHE, [redacted]
RUDELL M. WYNDER, [redacted]
WAYNE T. YAMATO, [redacted]
ALBERT T. *. YANGER, [redacted]
EDGAR J. YANGER, [redacted]
MICHELL YARBOROUGH, [redacted]
MICHAEL S. YARMIE, [redacted]
MARK W. YENTER, [redacted]
ROGER D. YONTS, [redacted]
FREDERICK X. *. YOUNG, [redacted]
RONALD YOUNG, [redacted]
THOMAS S. YOUNG, [redacted]
MARK A. ZAMBERLAN, [redacted]
DANIEL H. ZANKL, [redacted]
RICHARD W. *. ZAVICAR, [redacted]
JESS V. ZICCARELLO, [redacted]
DIXIE L. *. ZIEGLER, [redacted]
JEROME *. ZIGLIER, [redacted]
PAUL J. ZIMMER, [redacted]
STEPHEN *. ZIMMERMAN, [redacted]
PETER B. *. ZWACK [redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]
[redacted]

IN THE ARMY

THE FOLLOWING NAMED RESERVE OFFICERS' TRAINING CORPS CADETS FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN THE GRADE OF SECOND LIEUTENANT, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 531, 532, 533, AND 2106:

BRIAN W. ADAMS, [redacted]
LEONARD L. ADAMS, JR, [redacted]
MERRILL W. ADAMS, [redacted]
SARAH I. ADAMS, [redacted]
KIMBERLA L. AGRELLAS, [redacted]
JEFFREY D. ALBERS [redacted]
CHRISTOPHER E. ALBUS, [redacted]
KENNETH G. ALEXANDER, [redacted]
JOHN R. ALLEN, [redacted]
THOMAS P. AMIDON, [redacted]
DANE S. ANDERSON, [redacted]
HENRY L. ANDERSON, [redacted]
STEPHANIE R. ANDERSON, [redacted]
WILLIAM J. ANDERSON, [redacted]
WILLIAM B. ANDREWS, JR, [redacted]
MELISSA D. ANTES, [redacted]
WILLIAM P. ARGO, [redacted]
KENDRA L. ARMSTRONG, [redacted]
SUSAN W. ARMSTRONG, [redacted]
SUSAN D. ARNETT, [redacted]
TERESA A. ARNOLD, [redacted]
WESLEY D. ARNOLDSON, [redacted]
SPENCER O. ASHFORD, [redacted]
JEFFREY S. AUSTIN [redacted]
MARC R. AUSTIN, [redacted]
RICHARD K. BACON, [redacted]
ERIC E. BAILEY, [redacted]
ERICA K. BAILEY, [redacted]
ROBERT P. BAILEY, [redacted]
JOSEPH A. BAIRD, [redacted]
HOUSTON E. BAKER, [redacted]
MELISSA A. BAKER, [redacted]
ANDREW M. BALANDA, [redacted]
DAVID J. BALLENGER, [redacted]
THOMAS J. BANBURY, [redacted]
ROBERT D. BANKS, [redacted]
MARK E. BARIL, [redacted]
WAYNE E. BARKER, [redacted]
ERIC E. BARRAS, [redacted]
JOHN L. BARRETT, JR, [redacted]
JOSEPH J. BARTENSLAGHER, [redacted]
DONALD M. BARTLETT, [redacted]
MARCUS E. BARWICK, [redacted]
THOMAS C. BASSETT, [redacted]
WILLIAM B. BATES, [redacted]
MATTHEW M. BATTISTON, [redacted]
HILDE L. BEEBE, [redacted]
ROY L. BEHNE, [redacted]
DEL L. BEILSTEIN, [redacted]
PHILIP J. BELDEN, [redacted]
CLEMENTE J. BELTRAN, [redacted]
GERALD P. BENARD, [redacted]
MATTHEW W. BENNER, [redacted]
MICHAEL J. BENNETT, [redacted]
CRAIG R. BENSON, [redacted]
WESLEY J. BENYARD, [redacted]
DAVID W. BERNARD, [redacted]
THOMAS S. BERRY, [redacted]
CARL L. BEST, [redacted]
MICHAEL S. BEWLEY, [redacted]
DERELL M. BIBBS, [redacted]
LAURA M. BIERLE, [redacted]
WOLFGANG T. BIGGERSTAFF, [redacted]
CHARLES E. BIRDSONG, [redacted]
LORREL A. BIRNSCHEIN, [redacted]
ANN M. BISCH, [redacted]
KIM T. BIVIN, [redacted]
JOHN C. BIVONA, JR, [redacted]
MICHELLE A. BLAKENEY, [redacted]
CHARLES E. BLEDSOE, [redacted]
ELIZABETH E. BLEDSOE, [redacted]
NATHAN B. BLOOD, [redacted]
JAMES W. BLOUNT, [redacted]
SHAIN BOBBITT, [redacted]
MARLO A. BODELSON, [redacted]
BRIDGET BOETIG, [redacted]
MARC H. BOIES, [redacted]
RICHARD F. BOLTON, [redacted]
JOHN M. BONE, [redacted]
MARK J. BONICA, [redacted]
CHAD M. BOONE, [redacted]
REX A. BOONE, [redacted]
GREGORY A. BORCHERDING, [redacted]
BARRY A. BOSEMAN, [redacted]
BYRON C. BOSSHARDT, [redacted]
CHARLES R. BOWERY, JR, [redacted]
MARK R. BRADY, [redacted]
TERRENCE L. BRALEY, [redacted]
HELEN V. BRAMHAM, [redacted]
NICOLE J. BRENNAN, [redacted]
MICHAEL F. BRESLIN, [redacted]
STEVEN D. BRETON, [redacted]
AUBREY R. BRICKEY, [redacted]

CHRISTOPHER M. BRIDGES [redacted]
GLEN E. BRIZENDINE [redacted]
JOHN C. BROOKIE, [redacted]
SCOTT D. BROOKS, [redacted]
KEVIN D. BROOM, [redacted]
ALVIN H. BROWN, [redacted]
DANIEL G. BROWN, JR. [redacted]
KEVIN H. BROWN, [redacted]
MICHAEL L. BROWN, [redacted]
YOLANDA F. BRUMFIELD, [redacted]
DOUGLAS B. BRYAN, [redacted]
KEVYN M. BRYANT, [redacted]
NICHOLAS M. BRYLA, [redacted]
BRUCE M. BUCKLAND, [redacted]
MARK S. BUFFALOE, [redacted]
KEITH C. BUNN, [redacted]
MATTHEW J. BURINSKAS, [redacted]
LAURA L. BURKS, [redacted]
DANIEL W. BURNETT, [redacted]
THOMAS M. BUSTER, [redacted]
ANTHONY M. BUTLER, [redacted]
DAVID B. BYERS, [redacted]
WILLIAM J. CACIOPPO, [redacted]
MICHAEL S. CAHILL, [redacted]
SCOTT M. CAINE, [redacted]
JOHN R. CALL, [redacted]
PATRICK A. CALLAHAN, [redacted]
JACKIE CALLOWAY, [redacted]
SHANA E. CAMERON, [redacted]
JIMMIE D. CANNON, [redacted]
GREGORY L. CANTY, [redacted]
SAMALOT J. CARDONA, [redacted]
DAVID J. CARPENTER, [redacted]
LEO V. CARR, [redacted]
MARCUS L. CARRUTHERS, [redacted]
JOHN K. CARTER, [redacted]
WILLIAM D. CARUSO, [redacted]
JAMES R. CARYL, [redacted]
GREGORY P. CAVALERI, [redacted]
KELLY CHANCEY, [redacted]
MICHAEL J. CHASE, [redacted]
KRISTINE L. CHELLSTORP [redacted]
THOMAS W. CHEW, [redacted]
GORDON S. CHURCH, [redacted]
CHRISTOPHER J. CILLIE [redacted]
MARK A. CLANCY, [redacted]
JAMES L. CLARK, [redacted]
STEVEN B. CLARK, [redacted]
DOUGLAS M. COATES, [redacted]
WILLIAM A. COBB, [redacted]
TIMOTHY L. COCHRAN, [redacted]
PATRICK S. COFFMAN, [redacted]
PHIL D. COLLIER, [redacted]
CHARLES O. COLLINS [redacted]
LAWRENCE E. COLLINS, JR. [redacted]
ROBERT M. COLLINS, [redacted]
KIMBERLY M. COLLOTON, [redacted]
RODRIGUEZ J. COLON, [redacted]
ANGEL L. COMASDIAZ, [redacted]
COLLEEN I. COMBS, [redacted]
WILLIAM D. CONNER, [redacted]
ROBERT J. CONNOR, JR. [redacted]
EDDIE W. COOK, [redacted]
FRANK J. COOK, [redacted]
KENNETH J. COON, [redacted]
AARON M. COOPER, [redacted]
KEVIN E. COOPER, [redacted]
PAUL COPPOLA, [redacted]
DEREK W. CORNELIUS, [redacted]
JAMES C. CORNELIUS, [redacted]
PAUL A. CORONADO, [redacted]
MARTINEZ J. CORTES [redacted]
MICHAEL A. CORTEZ, [redacted]
LISA L. COTE, [redacted]
ROBERT L. COX, JR. [redacted]
JENNIFER A. COYNE [redacted]
PAUL A. CRAVEY, [redacted]
BRIAN S. CREW, [redacted]
BRADY A. CROSIER, [redacted]
ELOY E. CUEVAS, [redacted]
LANCE G. CURTIS [redacted]
MATTHEW L. DABBS, [redacted]
HERALD B. DACASIN, [redacted]
JIMMY DALCOURT [redacted]
ANTHONY W. DALE, [redacted]
JULIA A. DALLMAN [redacted]
CHARLES P. DALY [redacted]
ELLEN S. DALY, [redacted]
BRIAN G. DAMRON, [redacted]
DENNIS C. DANIELS, [redacted]
TIMOTHY J. DARGIE [redacted]
MICHAEL D. DAVIS, [redacted]
QUICEY L. DAVIS, [redacted]
STEPHEN R. DAVIS [redacted]
ALLAN E. DEAN, [redacted]
DAVID T. DEAN, [redacted]
CHARMAINE R. DECKER, [redacted]
CHRISTOPHER J. DELAFOREST, [redacted]
STEPHEN J. DELCASTILLO [redacted]
LOURDES M. DELGADO, [redacted]
DANIEL H. DENT [redacted]
KENNETH D. DEMARCO, [redacted]
JOELLE J. DERBONNE [redacted]
RICHARD J. DERIENZO, [redacted]
BRYCE D. DEVINE, [redacted]
MICHAEL J. DEVINE [redacted]
ALVIN DEVORE, [redacted]
VICTOR A. DEVVALLE, [redacted]
CHRISTOPHER A. DEWITT [redacted]
BRADLEY C. DICKERSON, [redacted]
JOHN P. DIEDRICH [redacted]
WILLIAM J. DIEHL [redacted]
PETER M. DIETSCH [redacted]
GREGORY R. DILL [redacted]
WALTER M. DIXON, [redacted]
DANIEL F. DOMINGUEZ, [redacted]
FRED M. DORSEY, JR. [redacted]
ROBERT C. DOTSON, [redacted]
STEVEN DOVALE [redacted]
MICHAEL C. DOYLE, [redacted]
CHRISTOPHER M. DRAKE [redacted]
WILLIAM T. DRAPER, JR. [redacted]
JOHN M. DRESKA, [redacted]
KENNETH E. DRUMMOND, [redacted]
MARY E. DUARTE, [redacted]
DANIEL J. DUDEK, [redacted]
JOHN E. DUFFY, [redacted]
LOWELL W. DUNN, [redacted]
PAUL R. DWIGANS, [redacted]
LORI K. EATON, [redacted]
JOHN H. EBBIGHAUSEN, [redacted]
PETER N. EBERHARDT [redacted]
BRIAN R. EBERT, [redacted]
CLAYTON W. EDENS, [redacted]
MARC A. EDQUID, [redacted]
ERIC S. EDWARDS, [redacted]
MICHAEL E. EDWARDS, [redacted]
TROY D. EGGUM, [redacted]
BENJAMIN S. EISER [redacted]
DUSTIN K. ELDER, [redacted]
MARK L. ELDER, [redacted]
PATRICK C. ERICKSON, [redacted]
ARDRELLE L. EVANS [redacted]
IVAN D. EVANS, [redacted]
MARK A. EVANS, [redacted]
PATRICIA E. FAASS [redacted]
HOUSAM S. FALTAS, [redacted]
DANIEL J. FARRAH [redacted]
ANDREW P. FELLINGER [redacted]
RICHARD FERRARA [redacted]
EMMA C. FERRER, [redacted]
DARRAN L. FERRINGTON [redacted]
JORGE L. FIGUEROA [redacted]
WILLIAM C. FINCHER, [redacted]
ENRICCO C. FINLEY [redacted]
JASON R. FISCHAL [redacted]
TODD J. FISH [redacted]
ROBERT R. FLANAGAN [redacted]
KELLY E. FLANNIGAN [redacted]
THOMAS P. FLECK, [redacted]
MARK T. FLEEK [redacted]
CAROL D. FLICKINGER, [redacted]
MAURICE H. FLOYD, [redacted]
JOHN C. FORD, [redacted]
MICHAEL E. FOSTER [redacted]
JONATHAN L. FOWLER, [redacted]
MEREDITH K. FOX, [redacted]
MICHAEL E. FRANCO [redacted]
CHARLES D. FREEMAN, [redacted]
PATRICK L. FREEMAN, JR. [redacted]
CYNTHIA L. FRENNA, [redacted]
ERIC W. FRENSLEY [redacted]
GREGORY S. FREYERMUTH [redacted]
ANTHONY L. FRUITS [redacted]
RONALD P. FUNDARK, [redacted]
KATHRYN R. FUNK, [redacted]
MICHELLE A. FUSCO [redacted]
EVAN B. GABRIEL, [redacted]
JOSEPH R. GABRIEL [redacted]
ANNE L. GAGE, [redacted]
ANDREW C. GAINEY, [redacted]
JAMES J. GALLIVAN [redacted]
MARULYNN M. GANACIAS, [redacted]
GAVIN J. GARDNER [redacted]
JEAN P. GARDNER [redacted]
CRAIG R. GARDUNIA, [redacted]
WILLIAM A. GARONE, [redacted]
KEITH G. GAWRYS, [redacted]
LAURA R. GELDHOF [redacted]
JOEL W. GENTRY, [redacted]
JOHN J. GEROSA [redacted]
BRIAN W. GIBSON, [redacted]
DAVID R. GIBSON, [redacted]
AMERICUS M. GILL, [redacted]
RITA L. GILMAN, [redacted]
KEVIN D. GILSON, [redacted]
KEMBERLY GIVENS, [redacted]
MATTHEW A. GODFREY, [redacted]
FRANCIS J. GOLDEN [redacted]
JUAN J. GONZALEZ [redacted]
JAMES A. GORDON, [redacted]
JAMES A. GOTTSCHLING [redacted]
GAYLE L. GRAHAM, [redacted]
LYNMARIE L. GRAHAM, [redacted]
SHEILA M. GRANGER [redacted]
ROBERT A. GRAVES [redacted]
JOSEPH F. GRAZIANO [redacted]
DUANE K. GREEN, [redacted]
TIMOTHY R. GREEN [redacted]
ROBERT F. GRIEGO, [redacted]
COREY A. GRIFFITHS [redacted]
BRANDON L. GRUBBS, [redacted]
ROSARIO D. GUADALUPE, [redacted]
CARYN L. GUILDER [redacted]
JUDITH L. HAACK [redacted]
BRIAN R. HACHEZ [redacted]
TROY D. HACKING, [redacted]
BETH A. HAESECKE [redacted]
VICTOR S. HAMILTON, [redacted]
TIMOTHY E. HAMM, [redacted]
MATHEW J. HANNAH, [redacted]
LISA K. HANNO, [redacted]
JENS A. HANSEN, [redacted]
JENS J. HANSEN [redacted]
TERRECE B. HARRIS [redacted]
AMY E. HART, [redacted]
JAMES E. HARVEY, [redacted]
THOMAS M. HAWES, [redacted]
SHAWN Y. HAYES, [redacted]
JVON HEARN, [redacted]
BRYAN K. HEARTSFIELD [redacted]
LAURA J. HEATH, [redacted]
JOSEPH E. HEFFERNAN [redacted]
KATHERINE J. HEGGESTAD [redacted]
DANIEL J. HEIN, [redacted]
TROY K. HEINEMAN, [redacted]
TODD W. HEINZ, [redacted]
KRISTEN K. HENDRICKSON, [redacted]
GREGORY J. HENDRY, [redacted]
MARK E. HENRIE, [redacted]
ANGELA K. HERMAN, [redacted]
MICHELLE K. HERMAN, [redacted]
DENNY HEWITT, [redacted]
TREVOR P. HILDEBRAND, [redacted]
TIMOTHY C. HILGNER, [redacted]
JOHNATHAN A. HILTON, [redacted]
ELMERS HIMES, [redacted]
JOHN C. HINKEL, JR. [redacted]
THOMAS J. HIPSKIND, [redacted]
BRIAN K. HIRSCHEY, [redacted]
SCOT R. HODGDON, [redacted]
GERALD D. HODGE, JR. [redacted]
MARK R. HODGKINS, [redacted]
DINA M. HOEGEN, [redacted]
JAMES E. HOGE, JR. [redacted]
FREDRICK C. HOLLIS, [redacted]
ERIC A. HOLLISTER, [redacted]
JOHN E. HOLLOWELL, JR. [redacted]
MIJIKO A. HOLM, [redacted]
JAMES P. HOOPER [redacted]
ALAYNE P. HOOVER, [redacted]
NANCY E. HORETH, [redacted]
SHELDON D. HORSFALL, [redacted]
RENEA L. HOSKIN, [redacted]
JANE M. HOSTETLER [redacted]
VALIS K. HOUSTON, [redacted]
LAWRENCE HOWARD, JR. [redacted]
SUSAN L. HOWARD, [redacted]
HEATHER M. HOYT, [redacted]
JONATHAN B. HOYT, [redacted]
JAMES E. HUBER, [redacted]
CHRISTOPHER S. HUDSON, [redacted]
PETER D. HUDSPETH [redacted]
TIMOTHY D. HUENING, [redacted]
ROBERT A. HUGGETT, [redacted]
BRENDAN N. HUGHES, [redacted]
FREDERICK J. HUGHES [redacted]
HILARY HUGHES, [redacted]
NATHAN B. HUNSINGER, JR. [redacted]
HOWARD T. HUNT, [redacted]
KERRIE L. HUNTER, [redacted]
LENNIS HUNTER, JR. [redacted]
MICHAEL S. HUNTER, [redacted]
DONALD W. HURST, [redacted]
DANIEL O. HUTCHINSON, [redacted]
QUENTIN S. HYDE, [redacted]
MATTHEW J. INGRAM, [redacted]
AARON B. IVERSON, [redacted]
PRISCILLA J. JACKERT [redacted]
COLIN F. JACKSON, [redacted]
JOHNNY M. JACKSON, [redacted]
MARVIN R. JACKSON, [redacted]
PETER D. JACKSON, [redacted]
STEVEN M. JACOB, [redacted]
JENNIFER T. JACOBSEN [redacted]
MELANIE D. JAIMERSON, [redacted]
VERNON E. JAKOBY, [redacted]
JAMES M. JANUARY, JR. [redacted]
ANTONIA D. JOHNSON, [redacted]
BRADLEY K. JOHNSON, [redacted]
CURTIS A. JOHNSON, [redacted]
DARYL W. JOHNSON, [redacted]
DAVID A. JOHNSON, JR. [redacted]
ELLIE O. JOHNSON [redacted]
ELLSWORTH K. JOHNSON, [redacted]
TERRY D. JOHNSON, [redacted]
JULIA E. JOHNSON, [redacted]
MARK E. JOHNSON, [redacted]
MAURA A. JOHNSON, [redacted]
PAUL D. JOHNSON, [redacted]
STEVEN W. JOHNSON, [redacted]
THOMAS E. JOHNSON, [redacted]
DAVID M. JONES, [redacted]
KENNETH R. JONES, [redacted]
RANDY A. JONES, [redacted]
RENATA V. JONES, [redacted]
KIRK F. JORDAN [redacted]
MARIA D. JUAREZ, [redacted]
JAMIE JUHL [redacted]
STEPHANIE A. JUNG [redacted]
ROBERT A. KAATZ, [redacted]
DOUGLAS M. KADETZ, [redacted]
KARL D. KENKEL, [redacted]
CLIFFORD M. KARPPE [redacted]
PATRICK N. KAUNE, [redacted]
JOHN D. KAYLOR, JR. [redacted]
NICOLE M. KEENAN, [redacted]
KURT M. KEHOE, [redacted]
JAMES T. KEIPER, JR. [redacted]
DENNIS L. KELLEN [redacted]
DANIEL F. KELLEY [redacted]
VESTON M. KELLY, JR. [redacted]
MICHELLE R. KEMPFERJONES [redacted]
WILLIAM A. KENDRICK, [redacted]
AMY E. KEOUGH, [redacted]
LAURA L. KERR, [redacted]

ROBERT F. KIERMAYR, [redacted]
KEVIN P. KILBURN, [redacted]
MICHAEL F. KIMBLE, [redacted]
WILLIAM J. KINSEY [redacted]
HERMAN F. KIRSCH, [redacted]
SEAN G. KIRSCHNER, [redacted]
SCOTT D. KLAWON, [redacted]
MORGAN M. KLEVE, [redacted]
PAULA M. KNAPP [redacted]
DAVID L. KNIGHT [redacted]
VICTOR H. KOCH, JR, [redacted]
CHARLES H. KOEHLER, [redacted]
PATRICK M. KOERTJE [redacted]
KENNETH M. KOOP, [redacted]
TIMOTHY A. KOPKO, [redacted]
ROBERT J. KORESKI, [redacted]
ANGELA M. KORLATH, [redacted]
JAMES J. KOSTECKI [redacted]
ROBIN M. KOTYS, [redacted]
KEVIN J. KRACKENBERGER [redacted]
LAWRENCE J. KRAMER, [redacted]
STEPHEN G. KREIS [redacted]
THOMAS J. KRETZ [redacted]
RICHARD K. KREWSON, [redacted]
DOUGLAS A. KRIESEL, [redacted]
ROBERT KULAGOWSKI, [redacted]
DANIEL F. KUNTZ, [redacted]
CHARLES L. KURZ, [redacted]
JAMES B. KYLE [redacted]
JEFFREY M. LACAZE [redacted]
THOMAS M. LAFLEUR, [redacted]
MARC A. LAGO, [redacted]
JENNIFER L. LAIRD [redacted]
KELLEY L. LAMBERTON [redacted]
RICHARD S. LAMPE, [redacted]
SCOTT R. LAMPRIDES [redacted]
BRENDA A. LANAUX, [redacted]
ADAM W. LANGE, [redacted]
GREGG J. LANGEVIN, [redacted]
RONALD R. LARA, [redacted]
JONATHAN C. LARSEN, [redacted]
TIMOTHY R. LAWRENCE, [redacted]
JOSEPH H. LAWSON, [redacted]
THEODORE M. LEBLOW, [redacted]
CRYSTAL LEE, [redacted]
JUNG K. LEE, [redacted]
PATRICK T. LEE [redacted]
WON S. LEE, [redacted]
KENNETH M. LEEDS, JR [redacted]
MICHELE P. LEEPER [redacted]
CECIL W. LEGGETT [redacted]
MICHELLE C. LEIBY, [redacted]
JOSHUA M. LENZINI, [redacted]
HERBERT E. LEPLATT [redacted]
CYNTHIA A. LERCH, [redacted]
TIMOTHY P. LEROUX, [redacted]
ERIC T. LESLIE [redacted]
JOSEPH M. LESTORTI [redacted]
MARK J. LESZCZAK, [redacted]
BRAD A. LETNER, [redacted]
DAVID R. LEWIS, [redacted]
RONALD D. LEWIS, [redacted]
SAMUEL J. LEX, [redacted]
PETER F. LICATA, [redacted]
KURT C. LICHTENWALD, [redacted]
LEONARD S. LIEDEL, [redacted]
JIN H. LIM, [redacted]
ROBERT B. LINDQUIST, JR [redacted]
DAVID R. LINDSEY, JR [redacted]
DAVID A. LITTLE [redacted]
ROBERT I. LITTMAN [redacted]
DAVID H. LOCH, [redacted]
DONALD E. LOCKWOOD, [redacted]
GRACIELA LOERA, [redacted]
MARVIN G. LOERA, [redacted]
PATRICK A. LOFY, [redacted]
CHRISTINE V. LOMANTO, [redacted]
JOHN E. LOMER, [redacted]
DARON L. LONG, [redacted]
GUZMAN C. LOPEZ, [redacted]
JUDE J. LOVELL [redacted]
JEFFREY T. LUDERS [redacted]
ERIC W. LUDWIG, [redacted]
ERIC J. LUNDQUIST, JR [redacted]
STEPHEN C. MA [redacted]
ERIC N. MAENDER, [redacted]
DEVON P. MAHONEY, [redacted]
RACHELLE Y. MAIER, [redacted]
THAMAR A. MAIN, [redacted]
PHILIP F. MALLORY, [redacted]
ROBERT W. MANDELL, [redacted]
MARGARET A. MANESS, [redacted]
DAVID J. MANGES, [redacted]
PAUL B. MANN, [redacted]
SHAWNETTA MANUEL, [redacted]
MAURICE E. MARCHBANKS, [redacted]
JAMES B. MARSH [redacted]
JEFFREY W. MARTIN [redacted]
GRACE L. MARTINDELL [redacted]
MICHAEL R. MARTUCCI, [redacted]
DOUGLAS W. MAVES, [redacted]
JOHN P. MAYER, [redacted]
JOHN W. MAYER, [redacted]
MARK T. MCANDREW, [redacted]
KYLE L. MCCANN, [redacted]
ANDRE B. MCCASKILL, [redacted]
ROBERT A. MCCASLIN, [redacted]
KAREN L. MCCLINTOCK, [redacted]
MAUREEN E. MCCORD, [redacted]
ROGER A. MCDONALD, [redacted]
JAMES E. MCDONOUGH, [redacted]
DAVINA N. MCDOWNEY, [redacted]

THOMAS N. MCFADYEN, [redacted]
MATTHEW W. MCFARLANE, [redacted]
DANIEL P. MCFEELY, [redacted]
DANIEL R. MCGARTHY, [redacted]
RANDY E. MCGEE, [redacted]
DANIEL P. MCGRATH, [redacted]
MOLLY M. MCHENNEY, [redacted]
CHARLES MCKEITHEN, [redacted]
CRAIG A. MCLAUGHLIN, [redacted]
ALLEN J. MCMAHON, [redacted]
JOHN M. MCNEALY, [redacted]
TIMOTHY R. MCRAE, [redacted]
KEITH MCVEIGH, [redacted]
CLINTON S. MCWHORTER, [redacted]
DEBORAH D. MCWHORTER, [redacted]
STEPHEN G. MEANS, [redacted]
BEVERLY J. MEETZE [redacted]
CHRISTIAN J. MEKO, [redacted]
KERMITT C. MELVIN, [redacted]
SERAFIN C. MENO, JR [redacted]
THOMAS MERGOLA, [redacted]
SHARON E. MERRELL, [redacted]
WILLIAM W. MERRITT, [redacted]
PAUL A. MERWIN, [redacted]
MARIA K. METCALF, [redacted]
ROSS H. MEYER, [redacted]
ROBERT J. MICELI [redacted]
DURRELL L. MIDDLETON, [redacted]
JOSEPH P. MILCOFF [redacted]
BRENT W. MILLER, [redacted]
DUANE R. MILLER, [redacted]
ERIC A. MILLER, [redacted]
GEORGE W. MILLER, [redacted]
SCOTT R. MILLER, [redacted]
SHANNON T. MILLER, [redacted]
JAMES T. MILLS, [redacted]
TRICIA L. MILLS, [redacted]
ANDREW L. MILTNER, [redacted]
CHRISTINE MIMS, [redacted]
MICHAEL C. MINCEMOYER, [redacted]
JAMES M. MISHINA, [redacted]
DERRICK L. MITCHELL, [redacted]
STEPHANIE D. MITCHELL [redacted]
JACK F. MONEYHAM, [redacted]
CHARLES C. MONTFORD, [redacted]
THOMAS W. MOODY, [redacted]
DOUGLAS T. MOORE, [redacted]
HORST G. MOORE, [redacted]
MATTHEW P. MOORE, [redacted]
CHRISTOPHER S. MORETTI [redacted]
ANDREW J. MORGAN, [redacted]
ERNEST P. MORGAN, JR [redacted]
JOHN M. MORGAN, [redacted]
TODD T. MORGAN, [redacted]
ROBERT F. MORTLOCK, [redacted]
ROBERT S. MOTT [redacted]
ANTHONY J. MUILENBURG, [redacted]
JASON A. MULCAHY, [redacted]
BRUCE A. MUMFORD, [redacted]
ERIC R. MUNGER, [redacted]
TIMOTHY R. MURDOCK, [redacted]
JEFFREY S. MURRAY [redacted]
EDWIN G. NALL, [redacted]
PAUL J. NAROWSKI, [redacted]
AHMED E. NAWAB, [redacted]
THOMAS G. NEALE, [redacted]
THOMAS G. NEEMEYER, [redacted]
DAVID NELSON, [redacted]
JUDSON P. NELSON, JR [redacted]
STEVEN P. NELSON, [redacted]
ROBERT A. NEWTON, [redacted]
BOBBY S. NICHOLSON, [redacted]
ANITRA L. NOLTE, [redacted]
ZACHARY K. NORTHUP, [redacted]
SHELA S. NORWOOD, [redacted]
JOSE I. NUNEZ, [redacted]
STEPHEN L. OATES [redacted]
LUCKY D. OCONNOR, [redacted]
JOHN D. OGBURN, [redacted]
ROGER L. OLSON, [redacted]
JOSEPH T. ONEIL [redacted]
EDWARD ORTIZ, [redacted]
ENRIQUE ORTIZ, JR, [redacted]
TODD A. OSBORN, [redacted]
HECTOR E. OSEGUERA, [redacted]
STEVEN E. OSTERHOLZER [redacted]
DOUGLAS G. OVERDEER, [redacted]
STEVEN R. OVERTURF [redacted]
JAMES C. OWEN, [redacted]
BARBI L. OWENS, [redacted]
RANDALL G. OWENS, [redacted]
KI Y. PAK, [redacted]
YEONG J. PAK, [redacted]
AMY E. PARIS, [redacted]
TIMOTHY J. PARKER, [redacted]
WILLIAM G. PARSONS, [redacted]
GABRIELLA M. PASEK [redacted]
JAMES I. PATRICK, JR [redacted]
BRETT J. PATRON [redacted]
DALE A. PATTERSON, [redacted]
THOMAS J. PATTI [redacted]
JOEL S. PAWLOSKI [redacted]
WILLIAM F. PEARMAN, [redacted]
RICHARD T. PEEBLES, JR [redacted]
MARK R. PEEVY, [redacted]
JOHN A. PELLERITI [redacted]
CHARLES L. PENCE, [redacted]
MARIO L. PEREZ, [redacted]
RICHARD A. PEREZ, [redacted]
GERALD J. PERKINS [redacted]
JAMES G. PERKINS [redacted]
PAUL A. PETRAS [redacted]

FADI J. PETRO [redacted]
CHARLES E. PETTIGREW, [redacted]
DEBORAH J. PEYTON, [redacted]
DANIEL T. PIERCY, [redacted]
JEANMARC PIERRE [redacted]
LISA C. PIKALEK, [redacted]
GEOFFREY D. PINKSY, [redacted]
ROBERT S. PIOTTI, [redacted]
KIMBERLEE A. PIRES, [redacted]
RACHANEE PISKAI, [redacted]
CURTIS R. POLLOCK, [redacted]
AMANDA K. POOLE, [redacted]
EDWARD J. PORTER, [redacted]
JOHN B. POTESTIO, [redacted]
TROY M. POTKOVIC, [redacted]
STEPHEN M. POTTER, [redacted]
RICHARD J. PRIOR, [redacted]
DAVID B. PUCKETT, [redacted]
LAUREL A. QUAILE, [redacted]
MARRERO I. QUINONES, [redacted]
JOSEPH P. RAATZ [redacted]
ALAN L. RAMOS, [redacted]
LEOPOLDO E. RAMOS, JR, [redacted]
JAMES H. RAMSEY, [redacted]
LISA A. RAY, [redacted]
REBECCA S. RAY, [redacted]
DAVID M. REARDON, JR, [redacted]
PAUL M. RECROSIO, [redacted]
SYLVEN B. REED, [redacted]
RICHARD P. REESE, [redacted]
PETER A. REGULSKI, [redacted]
JESUS C. REYES, JR [redacted]
SPENCER J. REYNOLDS, JR [redacted]
MICHAEL C. RICE, [redacted]
BRENT L. RICHARDS, [redacted]
JOHN A. RICHARDS, [redacted]
SHAWN W. RICKETT, [redacted]
ROBERT N. RIDDLE, [redacted]
KEITH A. RIGDON, [redacted]
ROYAL S. RIPLEY, [redacted]
EUGENE H. ROBERTSON, [redacted]
FELESIA D. ROBERTSON, [redacted]
CHARLES D. ROBINETT, [redacted]
GREGORY A. ROBINETTE, [redacted]
DAVID D. ROBINSON, [redacted]
BRYAN S. ROBISON, [redacted]
MICHAEL E. ROERK, [redacted]
MUNIZ E. ROLDAN, [redacted]
CATHERINE L. ROLLING, [redacted]
KEVIN P. ROMANO, [redacted]
CARL D. ROPER, [redacted]
DAVID E. ROSENDAHL, [redacted]
GENEROSO C. RULLO, [redacted]
WILLIAM J. RUMMEL, [redacted]
HEATHER A. RYAN, [redacted]
ROBERT W. RYAN, [redacted]
RACHEL L. SALAS, [redacted]
DANNY B. SALTER, [redacted]
MARION A. SALTERS, [redacted]
KASEY B. SALWAY, [redacted]
GERALD K. SAMPSON, [redacted]
DAVID L. SANDERS, [redacted]
GREGORY E. SANDERS, [redacted]
GONZALEZ H. SANTIAGO, [redacted]
JOSE A. SANTIAGO, [redacted]
RODRIGUEZ G. SANTIAGO, [redacted]
SEAN S. SAPONE, [redacted]
SYLVIA S. SAPORTA, [redacted]
RONALD D. SARGENT, JR, [redacted]
REX E. SAUKKONEN, [redacted]
WILLIAM C. SAUNDERS, [redacted]
PETER J. SCAMMELL [redacted]
ROSS T. SCHEINBAUM, [redacted]
TROY D. SCHILLINH, [redacted]
RANDY D. SCHLIEP, [redacted]
KARL K. SCHNEIDER, [redacted]
SCOTT R. SCHONER, [redacted]
PETER J. SCHRANTZ [redacted]
PATRICK J. SCHULER, [redacted]
DAVID J. SCHWARZ, [redacted]
ERNEST L. SCRIBNER, [redacted]
SHERWIN L. SEABROOK, [redacted]
LEE A. SEALE, [redacted]
ROBERT E. SEAVER, [redacted]
JON A. SECREST, [redacted]
CHARLES E. SEGARS, [redacted]
DONNA L. SELDON, [redacted]
BRIAN R. SELMESKI, [redacted]
BRADLEY L. SELTZER, [redacted]
GRADY A. SESSOMS, JR, [redacted]
LEONARD E. SETZLER, [redacted]
MAZARIO M. SEVILLA, [redacted]
MARY L. SEXTON, [redacted]
ELLEN M. SHANNON, [redacted]
WILLIAM R. SHARP, JR [redacted]
ANTONIA A. SHAW, [redacted]
JAMES R. SHEEHY, [redacted]
KENNETH W. SHEIL, JR, [redacted]
THOMAS R. SHENK, [redacted]
JOHN H. SHEPHERD, [redacted]
KENNETH J. SHEPPARD [redacted]
PHILIP E. SHERIDAN, [redacted]
MICHAEL S. SHERMAN, [redacted]
TOMMIE L. SHERRILL, [redacted]
DAVID S. SHORT, [redacted]
PAUL D. SHULER, [redacted]
VINCENT M. SIGNORELLO, [redacted]
JEREMY L. SIMMONS, [redacted]
THOMAS C. SIMMONS, [redacted]
THOMAS N. SIMONS, [redacted]
JOHN A. SINCLAIR, [redacted]
HARVINDER SINGH, [redacted]

GREGORY SINGLETON, [redacted]
TODD J. SKARR, [redacted]
HAROLD A. SKINNER, [redacted]
STANLEY J. SLIWINSKI, JR [redacted]
ERIC J. SLOUGHFY, [redacted]
ANDREW SMALLS, [redacted]
NOEL C. SMART, [redacted]
RICHARD B. SMESTAD, [redacted]
APPRENTICE SMITH, [redacted]
BRUCE L. SMITH, [redacted]
DAVID G. SMITH, [redacted]
EDLYN E. SMITH, [redacted]
ERIC B. SMITH, [redacted]
SUZETTE M. SNIDER, [redacted]
FREDERICK C. SNOWDEN, [redacted]
TERRELL A. SOLOMON, [redacted]
MICHAEL S. SOMSAN, [redacted]
THERESA R. SPAIN [redacted]
STEVEN J. SPARLING [redacted]
WILLIAM E. SPARROW, [redacted]
MICHAEL A. SPENCER, [redacted]
BERNHARD SPOERRI, [redacted]
WAYNE L. STAFFORD, [redacted]
GERALD J. STALDER [redacted]
MICHAEL L. STANDISH, [redacted]
ELIZABETH A. STANLEY [redacted]
JEFFREY W. STANSFIELD [redacted]
JEFFREY A. STARKE [redacted]
BRIAN L. STEED, [redacted]
RALPH L. STEEN [redacted]
JEFFREY D. STEFFEN [redacted]
JOSHUA G. STEIN, [redacted]
ROBIN D. STEPHENS [redacted]
STEWART L. STEPHENSON, JR [redacted]
IAN K. STEWART, [redacted]
NORMAN P. STEWART, [redacted]
WILLIAM L. STEWART, JR [redacted]
LAWRENCE R. STILLER [redacted]
NATHANIEL STINSON, [redacted]
JASON C. STOLLINGS, [redacted]
DANIEL L. STONE, [redacted]
JOHN G. STONE, [redacted]
DONALD J. STONGE, JR [redacted]
CARY L. STRATTON, [redacted]
LANCE D. STRATTON, [redacted]
DARYL L. STRONG, [redacted]
SHAWN A. STROUD, [redacted]
CHRISTIAN A. SULIT [redacted]
ADAM E. SULLINGER, [redacted]
DARYL H. SULLIVAN, [redacted]
KEVIN P. SULLIVAN [redacted]
GARY H. SWALVE, [redacted]
SCOTT A. SWEEDLER, [redacted]
BRIAN P. SWEENEY, [redacted]
MARK D. SWOFFORD, [redacted]
JEFFREY C. TART [redacted]
RICHARD J. TATE [redacted]
CHRISTOPHER J. TATKA, [redacted]
BRTIAN K. TAYLOR, [redacted]
CURTIS H. TAYLOR, [redacted]
SUZANNE M. TAYLOR, [redacted]
ERIC J. TEEGERSTROM [redacted]
MARY A. TERRA, [redacted]
WALLACE P. THACKER, JR [redacted]
RUDY F. THEBAUD, [redacted]
CLEOPHUS THOMAS, JR [redacted]
WILLIAM D. THOMPSON, [redacted]
JAMES M. THORNE, [redacted]
LILRITA C. THORPE [redacted]
CANDICE M. TILLMAN, [redacted]
THOMAS C. TIMMES, [redacted]
GREGORY C. TINE, [redacted]
KEVIN S. TITUS [redacted]
JAMES R. TOLSTON [redacted]
JOSEPH J. TOOLE [redacted]
TOM T. TOPINKA, [redacted]
ALVARADO J. TORRES [redacted]
MILES E. TOWNSEND, [redacted]
MICHAEL S. TRACY, [redacted]
BART R. TRAGEMANN, [redacted]
MICHAEL E. TRAXLER, [redacted]
PAMELA J. TREON [redacted]
ANTHONY C. TRIFILETTI [redacted]
WILLIAM L. TROXEL, [redacted]
JOSEPH A. TUDELA [redacted]
MARK N. TUGGLE, [redacted]
MARK G. TULLY, [redacted]
GREGORY E. TURNER, [redacted]
JEFFREY S. TURNER [redacted]
PATRICK T. TVRDIK [redacted]
ROBERT E. UNDERWOOD, [redacted]
MARK D. VANHOUT, [redacted]
CHARLES D. VARGAS, [redacted]
JOHN H. VANKAN, [redacted]
CHARLES M. VELESARIS [redacted]
CORALES E. VELEZ [redacted]
MARK R. VENO, [redacted]
WILLIAM T. VIAR, [redacted]
SHELDON L. VICKERS, [redacted]
TODD M. VINCENT, [redacted]
JOHN L. VINING, [redacted]
DAVID R. VOELKER, [redacted]
DALE L. VOLKMAN, [redacted]
MENDEL D. WADDELL, [redacted]
CHARLENE P. WAGNER, [redacted]
CHARLES W. WAITE, [redacted]
LARRY J. WALLER [redacted]
PATRICK WALLS, [redacted]
PETER Y. WANG, [redacted]
JAMES R. WARD, [redacted]
PHILLIP H. WARNEMUENDE, [redacted]
TIMOTHY A. WARNER, [redacted]
FLETCHER V. WASHINGTON, [redacted]
FREDDY H. WATSON, [redacted]
JOHN W. WATTERS, [redacted]
KENT L. WEBBER, [redacted]
KENNETH M. WEILAND, [redacted]
DAVID M. WEINBERG, [redacted]
JEFFREY J. WEIR [redacted]
NICOLE R. WHARTON, [redacted]
JAMES C. WHITE, [redacted]
JEFFREY W. WHITE [redacted]
KEVIN S. WHITE, [redacted]
SHAUGHN H. WHITE, [redacted]
TIMOTHY D. WHITE, [redacted]
MATTHEW R. WHITEHEAD, [redacted]
SCOTT WHITMAN, [redacted]
ROBERT K. WHITTON, [redacted]
MATTHEW W. WICKHAM, [redacted]
RONALD E. WIER, [redacted]
WALTER J. WIGGINS, [redacted]
DAVID R. WILDER, [redacted]
ALFRED G. WILLIAMS, [redacted]
CHRISTOPHER K. WILLIAMS, [redacted]
EVAD D. WILLIAMS, [redacted]
JEFFREY L. WILLIAMS [redacted]
JIMMIE L. WILLIAMS, JR [redacted]
JOSHUA B. WILLIAMS, [redacted]
TENNIE L. WILLIAMS, [redacted]
JOHN K. WILLIAMSON, [redacted]
BOB E. WILLIS, JR [redacted]
WALTER J. WILLIS, JR [redacted]
ALEX M. WILSON, [redacted]
PATRICK M. WISNER, [redacted]
DEVID B. WOMACK, [redacted]
GLENN W. WOOLGAR, [redacted]
CHRISTOPHER M. WOOTEN, [redacted]
DONALD R. WORDEN, [redacted]
ROBERT M. WORRALL, [redacted]
CHARLES WORSHIM, [redacted]
JEFFREY T. WYATT [redacted]
ROBERT J. YENCHA, [redacted]
JUN D. YI, [redacted]
JIMMY H. YOAKUM, JR, [redacted]
JON W. YOUNG, [redacted]
CHRISTOPHER J. YUSKAITIS [redacted]
DAVID S. ZARAS, [redacted]
SHANNON M. ZEIGLER, [redacted]
WILLIAM H. ZEMP, [redacted]
MICHAEL B. ZIEMIAN, [redacted]
DAVID R. ZOTTER, [redacted]

ARMY NURSE CORPS

SHANNON F. ALLEN, [redacted]
TERI M. ANDERSON, [redacted]
TONEY L. BANKS, [redacted]
STEPHANIE M. BATTIER, [redacted]
CHRISTOPHER D. BAYSA, [redacted]
RICHARD A. BEHR, [redacted]
STANLEY BORDEN, [redacted]
CARLTON G. BROWN, [redacted]
RONALD G. BULLEN, [redacted]
CHRISTINE A. BUNDT, [redacted]
BARRY L. CANNON, [redacted]
TARA A. CHASE, [redacted]
BRIAN T. CIELUCH, [redacted]
STEPHANIE A. CLARK, [redacted]
GREGORY E. COWLING, [redacted]
SPENCER D. DICKENS, JR [redacted]
JENNIFER L. DOROBEK, [redacted]
TRACI M. EWERT, [redacted]
SHERRI F. FRANKLIN [redacted]
TRACI A. GEPHART, [redacted]
RENEE R. GIESE [redacted]
MICHAEL W. GREENLY, [redacted]
BRENT T. HALL, [redacted]
MICHAEL B. HOERR, [redacted]
MICHELLE R. HOPPER, [redacted]
MELONIE G. INGRAM, [redacted]
REBECCA K. JENNINGS, [redacted]
CHRISTINE A. KAHLE, [redacted]
JASON M. KING, [redacted]
WILLIAM L. KUHNS, [redacted]
ANNE K. LUCAS, [redacted]
LIZA A. LUDOVICO, [redacted]
THERESA A. MCBRIDE, [redacted]
JENIFER A. MENO [redacted]
MICHELLE L. MERRILL [redacted]
JOELLEN E. MILLER [redacted]
PETER J. MOTT [redacted]
DEIDRE G. MOTTWALKER, [redacted]
LINDA J. MOUNT, [redacted]
SHERRI L. MOURIS, [redacted]
BYRON L. MYERS, [redacted]
KAREN M. NAVRATIL, [redacted]
ROBIN R. NEUMEIER, [redacted]
RANIE H. OSMUND, [redacted]
CHRISTINE A. PEDERSON, [redacted]
NICOLE L. PETERSON, [redacted]
KEVIN M. POLHILL, [redacted]
DIANA J. SAMPLE, [redacted]
JEAN M. SIMONIS, [redacted]
ROBERT K. SISCO, [redacted]
DUANE A. SMITH, [redacted]
NICHOLE C. TWARTONAS, [redacted]
LISA M. UNDERWOOD, [redacted]
CAROL E. WESTON, [redacted]
LESLIE P. WULFEKUHLE, [redacted]
JUDITH V. ZOLADZ, [redacted]

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES, IN HIS ACTIVE DUTY GRADE, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1211:

To be lieutenant colonel

DONALD E. WIRTH, [redacted]

IN THE NAVY

THE FOLLOWING-NAMED COMMANDERS IN THE LINE OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF CAPTAIN, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFOR AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICERS

To be captain

ANDREW J. ALLEN
GEORGE BOARDMAN ALLISON
JACQUELINE OMEARA ALLISON
DAVID ARCHITZEL
WILLIAM GLENN ARNOLD
DANIEL LOUIS BAAS
CLAUDIA LYNN BAILEY
THOMAS ALLAN BAKER
JERRY WAYNE BEAN
CHARLES MICHAEL BENN
ROBERT WESLEY BENNETT, JR
ROBERT EUGENE BESAL
JOSE LUIS BETANCOURT, JR
HAROLD RALPH BISHOP
BLAKE VICTOR BLAKEY, JR
ROBERT KEVIN BLANCHARD
DANIEL DAVID BOGDEWIC
RONALD COOMBS BOGLE
WILLIAM SCOTT BONIFACE
MARION SANFORD BOOSE, JR
JAMES ELLIOTT BOOTH
JEFFREY LEE BOROFF
FRANK TEOBALDO BOSSIO
JAMES ALLEN BOWLIN
JOHN EDWARD BOYINGTON, JR
JEROME PILLOW BOYLE
JAMES MICHAEL BRICK
MICHAEL JOSEPH BRINKAC
DANIEL EARL BROWN
DAVID KEARNEY BROWN
TIMOTHY ROBERT BRYAN
BRUCE LYNN BULLOUGH
ROGER LOUIS BUSCHMANN
JAMES PAUL BUTLER
WARREN LEE CALDWELL, JR
BRIAN MURRAY CALHOUN
JAMES ANTHONY CAMPBELL
SCOTT THOMAS CANTFIL
LEONARD WILLIAM CAPELLO
LARRY JAMES CARTER
LESLIE ROY CARTER
WILLIAM CHARLES CASTAN, JR
EVAN MARTIN CHANIK, JR
LEROY WINDSOR CHAPPLE
CONSTANCE EMILY CIVIELLO
SUSANLEE PORTER CLEMENTS
ROBERT W. CONDON
JOSEPH BERNARD CONNELLY
ROBERT BARTLETT COOK, JR
WILLIAM ECKFORD COOK, JR
WILBUR ORLEAN COOKE, JR
RALPH HERBERT COON, JR
ROBERT PAUL COONAN
MICHAEL ROBERT COOPER
GEORGE BARKLEY COVINGTON
LEWIS WOMACK CRENSHAW, JR
JEFFREY WILEY CREWS
MARK ADREN CRIM
DAVID MARK CROCKER
JAMES KILPATRICK CROSS
ORREN RAYBURN CROUCH
PAUL WILLIAM DAHLQUIST
THOMAS FRANCIS DARCY
SHERRILL THOMPSON DARLING
GEORGE ROBERT DARWIN
MICHAEL ARTHUR DAVIDSON
JEFFREY JOHN DAVIDSSON
RICHARD EARLE DAVIS, JR
ROBERT EUGENE DAVIS
JAMES COPELAND DAY
ROCKLUN ALLEN DEAL
DENNIS ROSS DEAN
RONALD DEAN DEERING
FRANCIS DOMINICK DEMASI
STANLEY ALVIN DENHAM
JOHN CHARLES DEVLIN
LAWRENCE LEE DICK
JOHN FREDERICK DOHSE
STEPHEN EDWARD DONLON
STEPHEN LEE DRAKE
MICHAEL EDWARD DUFFY
BRUCE E. DUNSCOMBE
MARK JACKSON EDWARDS
KENNETH LEE EICHELBERGER
BARRY DAVID EINSIDLER
JIMMY LEE ELLIS
BRUCE BIDWELL ENGELHARDT
ALAN YANCY ETTER
RICHARD MARCUS EUBANKS
GARY GLEN EVANS
JAMES MARVIN EVANS
WILLIAM BARTON EVERS
MARK STEVEN FALKEY
DONALD BRIAN FENNESSEY
KEVIN JAMES FERGUSON
MARNEE LEE FINCH
JEFFREY ALLEN FISCHBECK
MARK PAUL FITZGERALD
MICHAEL JOSEPH FITZSIMMONS
JOHN JOSEPH FLANAGAN, III
RICHARD PETER FLEMING, JR
MICHAEL ELMO FLENNIKEN
JEFFREY LEE FLOOD
JOHN FIELDING FORD
DEAN NORMAN FOURNIER
DONALD CLYDE FOX
DONALD ANDREW FRAHLER
DANIEL JOE FRANKEN
FRANK MICHAEL GALLIC
PATRICK MARTIN GARRETT
WALLACE LEONARD GAVETT, JR
MICHAEL WARREN GEARHART
DONALD GENE GEIGER
EDWARD CHARLES GEIGER
GREGORY LAWRENCE GERARD
WILLIAM JOHN GERKEN
LAWRENCE DANIEL GETZFRED
DENNIS MICHAEL GILLESPIE
RONALD BURTON GLOVER
JAMES R. GOESSLING
BRENT BAKER GOODING
FREDERICK DAVID GORRIS
THOMAS HENRY GORSKI
PAUL MICHAEL GRIFFIN
MARK PATTERSON GRISSOM
JOSEPH JEFFERY GROSEL
JAMES C. GROVER
GARY MICHAEL HALL
TIMOTHY JAMES HALLIHAN
CAROL ANN HARRINGTON
JAMES DANIEL HARRIS
THOMAS FREDERICK HARTRICK
ALLISON CURTIS HAYES
THOMAS MATHER HAYES
DAVID WARREN HEARDING
CHARLES JAMES HEATLEY, III
EDWARD RICHARD HEBERT
PAUL BARRETT HENNESSY
CHRISTOPHER RYAN HENRY
JOSEPH FERDINAND HERGER
PAUL MICHAEL HIGGINS
CLARENCE EBBERT HILL
STEVEN ROY HINSON
PHILIP GARY HOBBS
TIMOTHY ALOYSIUS HOLDEN
HUBERT DENNING HOPKINS, JR
WILLIAM FRANK HOPPER
ROBERT HENRY HOWE
JOHN HRENKO, JR
GARY MICHAEL JACK

DAVID LEON JACKSON
JIMMIE RAY JACKSON
DAVID EARL JARVIS
THOMAS MICHAEL JASKUNAS
TERRY LYNN JOBE
CHARLES SCOTT JOHNSON
GARLAND RUSSELL JOHNSON, JR
THEODORE LAWRENCE KAYE
DOUGLAS WAYNE KEITH
THOMAS MORKEN KEITHLY
JOHN MICHAEL KELLY
JESSE JOHNSTON KELSO
GENE ROGER KENDALL
KRISTOPHER MORRIS KENNEDY
DENNIS JAMES KERN
LAWRENCE VERNE KESTER
ROBERT LEE KIMMEL
GEORGE FINLEY KINDEL
KENDALL JAMES KING
DAVID RYAN KOHLER
ANTHONY JOSEPH KOPACZ
EDWARD JOSEPH KUJAT
ROBERT BRADLEY LAMBERT
COLEMAN ARTHUR LANDERS
THOMAS CONLEY LANG
CHRISTOPHER STEPHEN LARSEN
SELWYN SHUFORD LAUGHTER
LINDA MARY LENTZ
RAYMOND EARLE LEONARD, III
LAWRENCE ANTHON LEWANDOWSKI
ROBERT DAVID LIGGETT
WILLIAM ASHBY LILLARD, III
JOSEPH SHARP LITTLETON, III
JAMES JOSEPH LOBUE
STEPHEN JOHN LOGUE
MICHAEL ANTHONY LUTKENHOUSE
VINCENT JOSEPH LYNCH
STANLEY JOHN MACK
GLENN ALLAN MAIN
KENNETH THOMAS MARION
WILLIAM JAMES MARSHALL
WILLIAM JORDAN MARSHALL, III
KEITH WALLACE MARTELLO
COLIN LESLIE MARTIN
PERRY JAMES MARTINI, JR
CHARLES MANNING MASON, JR
LEE CHARLES MASON, II
MONTY GUWAIN MATHEWS
JAMES DRAKE MCARTHUR, JR
DANIEL RALPH MCCORT
RONALD DEAN MCELRAFT
DANIEL WALLACE MCELROY
GENE RICHARD MCGALLIARD
LEO FRANCIS MCGINN, JR
THOMAS ROSS MCGRATH
ROBERT LEWIS MCLANE
HUGH NEWTON MCWILLIAMS
WILLIAM ANTHONY MEELEY, JR
DANIEL HARRY MEYER
JOHN GREGORY MEYER
JOHN EARL MEYERS
DAVID ROSS MILLER
MARK REED MILLIKEN
PHILLIP HORNE MILLS
JOHN GABE MORGAN, JR
JAMES BRENDON MORIN, JR
DENNIS GILBERT MORRAL
WILLIAM DENTON MORRIS
KEITH PAUL MULDER
JOHN WALTER MULLARKY
CHARLES LYNDSEY MUNNS
GEORGE JOSEPH MURPHY, III
ROBERT THOMAS MURPHY
DAVID EDWARD MYERS
CHARLES WILLIAM NEIHART, JR
LARRY WAYNE NELMS
DAVID JAMES NELSON
JEFFREY ROBERT NELSON
JOHNNIE FRANK NEMEC
DON ALAN NESTOR
DON RUSSELL NEWMAN
ALAN MCLEOD NIBBS, JR
DAVID CHARLES NICHOLS, JR
BRUCE ALDEN NOTTKE
PAUL EDWARD OBRIEN, JR
LARRY ANTHONY PACENTRILLI
LARRY REGAN PAPINEAU
LUTRELLE FLEMING PARKER, JR
ROBIN M. PARKER
ROBERT DALE PARLET
GREGORY ROSS PEAIRS
LARRY ELLIS PENIX
ROBERT PAUL PERRY
DONALD EUGENE PETERS
JON CHRISTOPHER PETERS
KENNETH MIZELL PETERS
KENNETH WARREN PETERS
RICHARD MERLE PETERSEN
JAMES WILLIAM PHILLIPS
RUSSELL AMES PICKETT
ROGER ALLAN PIERCE
RAY C. PILCHER, JR
JOHN STEVEN PINE
JAMES EDGAR PLEDGER
KENNETH ALAN POORMAN
TIMOTHY EDWIN PRENDERGAST
RANDALL DILLS PRESTON
CAROLYN VIRGINIA PREVATTE
MICHAEL LEON PRICE
THOMAS KING QUIGLEY
THOMAS FRANCIS RADICH
ROBERT HOWELL RANKIN
RONALD EVERETT RATCLIFF
JERRY DAVID REEVES
WAYNE RONALD REEVES
CHRISTOPHER JON REMSHAK
STEPHEN F. RESSER
JAMES DANA RICHARDSON
JOHN DAVID FREDERIC ROBERTS
PAUL EDWARD ROBERTS
JAMES ERNEST ROGERS
WILLIAM ARMSTARD ROGERS, JR
DAVID CAMPBELL ROLLINS
CHRISTIAN ROBER RONDESTVEDT
NICKLOUS JAMES ROSS
GARY ROUGHEAD
DOUGLAS ROBERT ROULSTONE
LINDELL GENE RUTHERFORD
PAUL JOHN RYAN
CRAIG PINARD SACKETT
DONALD JACK SANTAPAOLA
MICHAEL SARRAINO
CHARLES RICHARD SCHMIDT
JONATHAN BLAKE SCHMIDT
WESLEY HENRY SCHMIDT, JR
DAVID ALAN SCHNEEGAS
JOHN FORREST SCHORK
DOROTHY ELLEN SCHOTT
JERRY LEE SCHUBERT
RICHARD EDWARD SCHUKNECHT
PAUL STEWART SCHULTZ
DAVID ALAN SCHWIERING
BRUCE BOB SCOTT
ROBERT JOHN SCOTT
ROBERT PETER SCOTT
STACY E. SEBASTIAN
DEAN GORDON SEDIVY
SIEGFRIED LEE SHALLES
ERIC BRUCE SHAVER
JOHN DAMON SHAW
JON VINCENT SHAY
MURAT SHEKEM
PAUL SHEMELLA
PAUL GARFIELD SHERLAND
MARTIN VICTOR SHERRARD
ROGER RAYMOND SHERWOOD
ROBERT BISHOP SHIELDS
MARY CATHERINE SHIPMAN
WILLIAM HALL SHURTLEFF, IV
GLENNON LAMBERT SIEVE
RICHARD ALLAN SILVERS
CHARLES REGIS SIPE, JR
GEORGE LOUIS SKIRM, III
MARY GRACE HEAGNEY SMART
GENE ARNOLD SMITH
ROBERT EDWARD SMITH
WAYNE EDWARD SMITH
DALE OGLESBY SNODGRASS
WILLIAM LESTER SNYDER
BRUCE ERIC SONN
STEVEN JAY SONNTAG
MONTE ARTHUR SQUIRES
ELMER LAWRENCE J. STANDRIDGE
JAMES RANDALL STAPLEFORD
RICHARD ROBERT STARK
TERRY MICHAEL STARK
SCOTT LESLIE STEELE
ROBERT CARROLL STEPHENS
WALTER WADE STEPHENSON
GENE ALLEN STEVENS
CHARLES ALBERT STEVENSON
DANIEL NICHOLAS STEWARD
LLOYD THOMAS STITES, JR
DALE ERWIN STOEHR
JAMES BENJAMIN STONE, JR
DONALD WINSTON STONER
PETER BENHAM STRICKLAND
RICHARD WAYNE STRICKLER
RICHARD HOWARD STRINGER
BRUCE TAYLOR STUCKERT
WILLIAM DANIEL SULLIVAN
LLOYD FRANCIS KNAPP SWIFT
MICHAEL ALLEN SZOKA
GERALD LLOYD TALBOT, JR
RUSSELL ERIC TATE
PAUL EDWIN TAYLOR
JOHN WILLIAM TENNANT
ALAN DOUGLAS THOMSON
TIMOTHY THOMSON
JOHN ALVYN TILLEY, JR
PATRICK JAMES TILLEY
PETER EWALD TOENNIES
STEVEN JOHN TOMASZESKI
GARY PAUL TORNATORE
JOHN WILLIE TOWNES, III
ROBERT JOSEPH TRABONA
TIMOTHY JOSEPH TRAVERSO
MICHAEL WADE TREEMAN
EDWARD DEWAYNE ULRICH
HENRY GEORGE ULRICH, III
EUGENE FRANCIS URICOLI
DANIEL ROY VELDSTRA
TED JEFFREY VENABLE
CHARLES SCOTT VOGAN, JR
MICHAEL CARL VOGT
JOSEPH MICHAEL VOLPE, JR
JAMES CONANT VOTER
ALLAN DAVID WALL
JOHN JOSEPH WARD, JR
ALEXANDER YOUNG WATT, JR
DAVID WARD WEDDEL
GREGORY LOUIS WEDDING
STEVEN BRUCE WESTOVER
DENNIS RALPH WHEELER
WILLIAM GARY WHEELER
RONALD ALLEN WILEY
DALLAS GEORGE WILFONG, III
JOSEPH BROOKS WILKINSON, JR
ALAN BRUCE WILLBURN
MARCUS SAMUEL WILLIAMS
ROBERT EDWARD WILLIAMS, JR
THOMAS RICHARD WILLIAMS, JR
WILLIAM ROBERT WILLIAMS
THOMAS JOSEPH WILSON, III
JUSTIN WILLIAM WINNEY, JR
DENNIS LEE WORLEY
JOHN REID WORTHINGTON
RICHARD LEE WRIGHT
KENNETH RONALD ZIMMERMAN

ENGINEERING DUTY OFFICERS

To be captain

DALE ERIC BAUGH
GERALD BERTRAM BLANTON
ALAN JEFFREY BROWN
JOHN LEO CUZZOCREA
MICHAEL JOHN DALEY
JAMES PATRICK DUNN, JR
DENNIS MICHAEL DWYER
FREDERICK ROBERT HABERLANDT
JERRY MCKINLEY JENKINS
ROBERT EMMETT LUBY, JR
GARY GEORGE MAHLE
JOHN TALBOT MANVEL, JR
LARRY LEROY MAYES
MARK SHERIDAN MORANVILLE
WILLIAM DONALD NEEDHAM
PAUL JEROME VIC OLECHNOVICH
DERRY THOMAS PENCE
JOHN HENRY PREISEL, JR
WARREN LEIGH ROBERTS
WILLIAM RICHARD RUBEL
GREGORY BENSON SANFORD
RALPH EUGENE STAPLES, JR

AEROSPACE ENGINEERING DUTY OFFICERS (ENGINEERING)

To be captain

EUGENE BAL, III
WILLIAM LOUIS DUBOIS
ROLAND MICHAEL FRANKLIN
DOUGLAS FRANCIS HARGRAVE, JR
ALFRED GORDON HUTCHINS, JR
MICHAEL JOSEPH LULU
JAMES KEVIN MCDERMOTT
THEODORE RAYMOND MORANDI
KENNETH STANLEY J. REIGHTLER
ROBERT WAYNE RUSSELL
RICHARD GENE ZAJICEK

AEROSPACE ENGINEERING DUTY OFFICERS (MAINTENANCE)

To be captain

FREDERICK ALLEN BRAMAN
BERT UWE COFFMAN
THOMAS CONROY, JR
DAVID MICHAEL CUTTER
BRUCE LEON HAWK
RICHARD THOMAS MACON
RICHARD DOUGLAS TIPPS
THOMAS HOP YEE

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

To be captain

GREGORY RICHARD BLACKBURN
WILLIAM RUSSELL BRINKMANN
MICHAEL GORDON KETRON
KENNETH WESLEY KUEHNE
KAREN ANN LAINO
ALEXANDER AYWARD MILLER
RICHARD PATRICK ONEILL

SPECIAL DUTY OFFICERS (INTELLIGENCE)

To be captain

RICHARD COLIN BARKELL
MARTIN EDWIN COLLINS
WILLIAM CLARENCE HIRST, JR
FRANK BOULWARE KELLY
ALLAN WESLEY LEGROW
JEFFREY EVANS LEWIS
CHARLES THOMAS MAURO
TERRY LYNN MEEK
PHIL LAWRENCE MIDLAND
RICHARD BRUCE PORTERFIELD
STEVEN ANDREW SISA
RICHARD THOMAS SMITH
ROBERT WOODBRIDGE USTICK, II
ROBERT ALAN UTTERBACK

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

To be captain

CONNIE L. HANEY
WILLIAM ROBERT HARLOW, JR
CHARLES DEREK SMITH
TIMOTHY BARLOW TAYLOR

SPECIAL DUTY OFFICERS (OCEANOGRAPHY)

To be captain

KENNETH EICHER BARBOR
JOHN GEORGE HUGHES
FRED CORWIN KLEIN
RICHARD DUANE LEROY
JAMES ROBERT MASON

LIMITED DUTY OFFICERS (LINE)

To be captain

JOHN MICHAEL CRANMER
RONALD KENNETH CURRY
FORTUNATO PICHARDO
EDWARD ERNEST RUNDBERG
CHESTER BURTON SMITH

HOUSE OF REPRESENTATIVES—*Wednesday, March 18, 1992*

The House met at 2 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We celebrate and rejoice, gracious God, that some of the weapons of war have been silenced and some of the walls of alienation have come down. Yet, O God, we also hear of violence and bombings and threats that deny people their rights to security and peace. We remember those who have suffered pain or brutality and pray that they will sense our support and finally experience the gift of harmony and reconciliation. May we, O loving God, understand our responsibility to be peacemakers of good will and understanding so that every person can know the security of living in harmony and unity, one with another. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. DONNELLY. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. DONNELLY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 289, nays 106, not voting 39, as follows:

[Roll No. 48]

YEAS—289

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
Bacchus
Barnard
Bateman
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carr
Chapman
Clement
Clinger
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Dreier
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hubbard
Huckaby
Hughes
Hutto
Hyde
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Livingston
Lloyd
Long
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Meyers
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Morrison
Mrazek
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Reed
Richardson
Rinaldo
Ritter
Roe
Roemer
Rose
Rostenkowski
Rowland
Roybal
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Schiff
Schulze
Schumer
Serrano
Sharp
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tanner
Tauzin
Taylor (MS)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Waters
Waxman
Weber
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yatron

NAYS—106

Allard
Armey
Baker
Ballenger
Barrett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Callahan
Camp
Campbell (CA)
Chandler
Clay
Coble
Coleman (MO)
Coughlin
Cox (CA)
Cunningham
DeLay
Dickinson
Doolittle
Dorgan (ND)
Dornan (CA)
Duncan
Emerson
Fawell
Fields
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gingrich
Goodling
Goss
Grandy
Hancock
Hastert
Hefley
Henry
Herger
Hobson
Hopkins
Inhofe
Jacobs
James
Kolbe
Kyl
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Marlenee
Martin
McCandless
McCrery
McEwen
McGrath
McMillan (NC)
Michel
Miller (OH)
Molinari
Moorhead
Morella
Murphy
Nussle
Paxon
Ramstad
Regula
Rhodes
Ridge
Roberts
Rogers
Ros-Lehtinen
Roth
Roukema
Saxton
Schaefer
Schroeder
Sensenbrenner
Shays
Sikorski
Smith (OR)
Solomon
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—39

Allen
AuCoin
Barton
Bruce
Carper
Coleman (TX)
Collins (IL)
Crane
Dannemeyer
Davis
Dellums
Dymally
Edwards (OK)
Ewing
Ford (TN)
Hertel
Holloway
Hoyer
Hunter
Ireland
Lipinski
Lowery (CA)
Machtley
Mfume
Miller (CA)
Miller (WA)
Owens (NY)
Porter
Riggs
Rohrabacher
Russo
Savage
Scheuer
Smith (NJ)
Smith (TX)
Tallon
Washington
Whitten
Yates

☐ 1429

Mr. BEREUTER changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. McNULTY). Will the gentleman from New Jersey [Mr. TORRICELLI] kindly come to the well of the House and lead the House in the Pledge of Allegiance to the flag.

Mr. TORRICELLI led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 284. Joint resolution to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week".

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4210. An act to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4210) "An act to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families", requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BENTSEN, Mr. MOYNIHAN, Mr. MITCHELL, Mr. PACKWOOD, and Mr. DOLE, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed joint resolutions and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S.J. Res. 222. Joint resolution to designate 1992 as the "Year of Reconciliation Between American Indians and non-Indians";

S.J. Res. 271. Joint resolution expressing the sense of the Congress regarding the peace process in Liberia and authorizing limited assistance to support this process; and

S. Con. Res. 101. Concurrent resolution authorizing the use of the rotunda of the Capitol by the American Ex-Prisoners of War for a ceremony in recognition of National Former Prisoner of War Recognition Day.

□ 1430

CONGRESS THEN AND CONGRESS NOW

(Mr. TORRICELLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TORRICELLI. Mr. Speaker, when it was created 200 years ago, it was a revolution in the human experience: the Congress of the United States. It became a model for the democratic experience everywhere. Now, not simply its reputation, but its ability to govern, is in question. It is questioned because it requires the confidence of the people to govern effectively.

Is it imperiled because of the misjudgments of some Members? Of course. Obviously. But there is more. It is also imperiled because of the ambition of some for personal power which is so great that they would destroy the institution, indeed Members of their own party, in fact their own friends, in order to re-create the institution in their own image, with power in their own hands.

My colleagues, we can remove Members. The public may defeat some. But the institution must endure because the Congress must govern, because the Congress of the United States is the embodiment of freedom itself in this country.

REQUEST FOR REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3732, BUDGET PROCESS REFORM ACT OF 1992

Mr. VALENTINE. Mr. Speaker, I ask unanimous consent that I be removed as a cosponsor of H.R. 3732, the Budget Process Reform Act of 1992.

The SPEAKER pro tempore (Mr. MCNULTY). Without objection, the gentleman's statement will appear in the RECORD.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 406 AND HOUSE JOINT RESOLUTION 407

Mrs. MEYERS of Kansas. Mr. Speaker, I ask unanimous consent that the name of the gentleman from North Carolina [Mr. MCMILLAN] be removed as a cosponsor of House Joint Resolution 406 and House Joint Resolution 407.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Kansas?

There was no objection.

SOUTH AFRICA YIELDS YESTERDAY'S MOST IMPORTANT VOTE

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute.)

Mr. BROOMFIELD. Mr. Speaker, the most important voting results from yesterday are not from the primaries in Illinois or my home State of Michigan—although yesterday did guarantee President Bush's renomination.

The most important vote yesterday was halfway around the world in the Republic of South Africa. Official returns show that President de Klerk won a stunning victory in South Africa's referendum on the reform process with more than 68 percent of the vote.

In what will likely be the last all-white vote, South Africans resoundingly supported President de Klerk's vision of a nonracial democratic future. And the real winners are all the peoples of South Africa.

While some of the United States criticized the call for a referendum, there is now a decisive mandate to continue reform in South Africa. Unlike other reformers, President de Klerk has shown he is in touch with his constituency and is willing to take risks.

Where a Gorbachev went too slow on reform and lost his popular support, President de Klerk showed his ability to lead South Africa all the way to full democracy.

Now is the time for the Bush administration to respond favorably upon South African access to international lending institutions despite the so-called Gramm amendment. We need to send a strong signal to the South African Government that the time of all sections is over and now is the time to work together on rebuilding their economy. A public statement endorsing a South Africa application to the IMF should they need such access would send such a signal.

I congratulate President de Klerk for his bold leadership and his electoral victory.

ECONOMIC RECOVERY NOW

(Ms. DELAURO asked and was given permission to address the House for 1 minute.)

Ms. DELAURO. Mr. Speaker, this morning I listened to a gentleman from Connecticut, Mr. Don Sanders, and a group of other men from across the country who came to Washington to do their part to put people back to work. to get this economy going.

These men—all unemployed because of this recession—told stories which were heart wrenching. They talked about the devastation caused by unemployment and an economy which is in recession. They spoke of friends driven to alcoholism and suicide, of broken families, and fading dreams.

As I listened to them, I grew angry that our Government hasn't been able to provide an economic growth package that will pull us out of this recession. There is no excuse for us to wait any longer. Why don't we help middle-income Americans break out from underneath the unfair tax burden they've borne for so many years.

Congress should act now to pass legislation which will bring real relief to those who need it and deserve it.

The President has said he'll veto our economic recovery package. If he vetoes our bill, he vetoes it over the voices of Mr. Sanders and others who came here to ask our help.

So I'm asking the President to stop playing politics and to start doing his part, to give middle-class Americans the fair treatment they deserve.

We must pass the Anti-Recession Jobs Act, middle-income tax relief, and tax incentives for businesses which create jobs.

NAFTA: LET'S NOT RACE: LET'S GET IT RIGHT

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, tough and complex negotiations are underway with Mexico and Canada to create a North American free trade agreement. We still have a long way to go on core areas such as agriculture, autos, textiles and energy. I am concerned about reports that the negotiators may see themselves in a race—to complete the agreement before election year politics take over. Frankly, I fear that environmental, labor and sanitary concerns—important to Floridians—might become casualties of a headlong rush. I am encouraged by the U.S. Trade Representative's ongoing dialog with Congress, and by her willingness to take input from agriculture and industry in my State—but I have yet to see concrete results incorporating that input. That has me alarmed. I supported fast track negotiating authority because a fair agreement offers tremendous jobs-creation potential for our Nation, and could add $10 billion annually to our trade balance. I want to be open-minded; but a hasty, ill-considered agreement is worse than no agreement at all. I agree with the Mexican Ambassador who said, "Substance should supersede a timetable." I say, "Let's not race; let's get it right."

THE CHECK-BOUNCING MATTER

(Mr. KENNEDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY. Mr. Speaker, if there is a silver lining to recent stories about the House bank, it is that this body, and this Government, now have a chance to get back to basics.

The American people want Washington to meet their pressing needs—for jobs, for health care, and for housing. Instead, what they're getting are stories that make public servants look like private profiteers. Stories about Government-paid ski and golf junkets by Cabinet officials, and about rubber checks from Republican and Democratic Members of Congress. Neither party has a monopoly on virtue. The bottom line is that we haven't delivered on many needs. And so, against an official record of inaction, official excesses stand large as a powerful, if distorted, symbol that we just do not care about the concerns of ordinary citizens.

Today, those citizens are telling us—with their voices and with their ballots—that business-as-usual must end. They want institutional reforms, yes: an end to wasteful perks, a new look at the seniority system, and an efficient system to move legislation smoothly. But that is not enough. They also want us to get down to tackling the very real social and economic problems that they face each and every day: how to pay for their kids' education and medical bills, how to make their neighborhoods safe, and how to keep this country great into the next century.

We have closed the bank. Now let us clean house—not just this House, but the White House, too—and get on with the business of the Nation. That is what the American people demand, and that is what they deserve.

REPEAL STEVENSON-BYRD

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, the United States cannot afford to lose trade and business opportunities created by the collapse of the Soviet Union. Newly independent republics with free market economies provide tremendous opportunities for U.S. manufacturers and exporters. Yet, these same U.S. manufacturers and exporters will lose the race against their European competitors if we do not act quickly.

Mr. Speaker, this Member is extremely concerned that U.S. manufacturers and exporters lack the necessary financing to compete against their European competitors for world markets. Unfortunately, the Export-Import Bank is prohibited from providing this necessary financing in one area of the world because of a relic of the cold war. The Stevenson-Byrd amendment imposes a limit on the bank's financing commitments to the former, non-Baltic Republics of the Soviet Union. It ought to be repealed.

Under Stevenson-Byrd restrictions, the Export-Import Bank is limited to only $300 million in financing commitments for these former republics. This is a very small share of the $11 billion total authorized in loans, guarantees, and insurance that the Bank financed last year.

Mr. Speaker, this Member urges a quick repeal of the Stevenson-Byrd limitation on the Export-Import Bank. As cochairs of the export task force, this Member—along with the distinguished gentleman from California [Mr. LEVINE]—last week sent a letter to Chairwoman OAKAR, the distinguished gentlewoman from Ohio, of the Banking Trade Subcommittee, asking for a repeal of this outdated restriction. We appreciate her interest. This Member urges his colleagues to join in this effort to quickly repeal the outdated Stevenson-Byrd amendment. Let us free American business and exporters from this relic of the cold war and press forward to expand exports and forge new economic ties with our former adversaries.

□ 1240

FREE-TRADE AGREEMENTS, MFN BLAMED FOR LOSS OF JOBS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, last week in just 3 days over 10,000 unemployed workers took advantage of free want ads from the Boston Globe. There were 10,000 people in that area alone looking for work.

While everybody around here is talking about the bank, I would like to talk about jobs. Congress and the White House are sending our jobs overseas with free-trade agreements to Mexico and most-favored-nation status to China. I think it is time that Congress realizes that we are responsible for a country that has no jobs and no prospects for any jobs in the future.

It is not just now that we are worrying about jobs out there; the fact is that the American people are worried about survival, and we had better start dealing with it. When that free-trade pact comes to Mexico, I agree with Jerry Brown, that any Member who votes for that free-trade agreement with Mexico and continuing to send jobs overseas should be replaced in the Congress. I agree with Jerry Brown on that.

PARENTAL CHOICE IN EDUCATION

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, what happened to America 2000? The President's education proposal contained bold initiatives for education reform. Many of my colleagues, however, don't want to admit that the public schools are failing our children, and want to continue to fund them with more Federal dollars. My colleagues and I will not have a chance to vote on America 2000 because it was superseded by the Democratic bill, H.R. 3320. Now, I understand that bill was scrapped for one which does not include any hint of parental choice. Some of my friends on the majority side are so opposed to choice that they will not allow this entire body to vote on amendments, such as parental choice.

Parental choice will ensure competition among our Nation's schools. Parents will naturally choose the better schools so the others will have to compete to keep students. Students deserve the best education, regardless of their family's income. Right now, only families with the money can send their children to a private school. The lower-income children are left in the failing public school system. Shouldn't our Government help those children by giving them equal access to education, in the form of an education voucher for instance? I think so. I hope my colleagues think so when we vote on a bill.

COMMEMORATING 18TH ANNIVERSARY OF MURDERS OF JEWISH WOMEN IN SYRIA

(Mr. SWETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWETT. Mr. Speaker, I am honored to join my colleagues of the congressional caucus on Syrian Jewry and Jews throughout the world who this week are commemorating the 18th anniversary of the brutal murder of four Syrian Jewish women as they sought to escape to freedom. We are remembering Eva Saad and the three Zeibak sisters—Laura, Mazal, and Farah, who were tragically murdered, and whose mutilated bodies then were dumped at their home in Damascus.

The murderers of these innocent women have not been punished for their crime. Furthermore, Syrian Jews continue to this day to be the victims of flagrant human rights abuses perpetrated by the Syrian Government. Their synagogues have been burned, torture and random acts of violence are common, arbitrary detention and incarceration are routine, and executions are all too common. For example, two brothers, Eli and Selim Swed, were tortured and thrown in prison where they have been held incommunicado for 2 years in a dank underground cell. What was their crime? Visiting Israel.

Mr. Speaker, the Syrian Government must put an end to these gross human rights violations against its Jewish population, and they must do it now.

PARENTAL CHOICE IN EDUCATION SUFFERS SETBACK DESPITE PUBLIC SUPPORT

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, it is amazing to me that the majority has killed their education bill because the education bureaucrats could not handle the modest parental choice provision. Did they read the recent Gallup polls that showed 71 percent of all Americans are for parental choice in education? Support among minority parents and religious families is even higher. Parental choice works for the same reason markets work. Improvement comes because it has to—competition demands it. Schools of choice increase parents options and lure back dropouts and students at risk.

It seems that it is more important to destroy Republican initiatives than it is to give the American parents what they want.

This new bill, H.R. 4323, has completely wiped out any hope for parental choice. Instead, it reinforces the status quo by throwing more money into a failing public system. In bowing to special interest groups, Members of this body have sold out the American people.

ADMINISTRATION ABANDONS SOVIET JEWISH REFUGEES, CHANNELS TECHNOLOGY TO SYRIA AND IRAN

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. LEVINE of California. Mr. Speaker, President Bush and Secretary Baker have turned their backs on humanitarian aid to Soviet Jewish refugees. In doing so, they have undermined a generation of American policy.

This is but one manifestation of a dramatic change in U.S. administration policy in the Middle East. We learned recently that President Bush played a major role in financing Saddam Hussein, and today this administration wants to send dual-use technology to Syria and Iran. Has the gulf war not taught them anything?

Mr. Speaker, President Bush and Secretary Baker appear to be determined to destroy the special relationship that exists between the United States and Israel. That is bad not only for Israel but it is very bad for America as well. We must fight the administration on this misguided policy.

OSHA REGULATION ON CADMIUM LEVELS THREATENS JOBS

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, as you know, burdensome Government regulation is not just an annoyance—it can mean the elimination of jobs and livelihoods for Americans.

It has been my experience that the Washington bureaucracy has lost touch with the people. One of the reasons I decided to run for Congress was to bring the needs of the people to the Government and make Government listen and respond.

Workers in my district are preparing to lose their jobs because OSHA is preparing to hand down a new standard on cadmium levels in the workplace—a standard which far exceeds that of our foreign competitors and one which we do not even have the technology to comply with.

This regulation violates the basic tenet that government should be for the people.

However, I do want to thank Congressman DELAY for putting together a task force that will focus on some of these ridiculous regulations. I hope we can, through this effort, bring back some common sense to this bureaucracy and remind them that the people are watching.

BILL TO SHIFT FUNDS FOR DOMESTIC NEEDS FROM MILITARY BUDGET LACKS SUFFICIENT SUPPORT FOR PASSAGE

(Mr. SANDERS asked and was given permission to address the House for 1 minute.)

Mr. SANDERS. Mr. Speaker, I want to express great disappointment that H.R. 3732, the bill which would break down the walls established by the 1990 budget agreement, and allow us to shift money from the military budget to domestic needs, is not going to be voted upon today as had been originally scheduled. I want to congratulate Chairman CONYERS for his strong leadership in this area, and congratulate the many other Members who have signed on to this bill. But it is incomprehensible to me that we have virtually no Republican support, and that despite the fact that the Democrats have a 100-vote plurality in this body, we do not today have a majority of Members who are prepared to pass this bill.

Mr. Speaker, the cold war is over, thank God, and the Soviet Union and the Warsaw Pact, our powerful enemies for 45 years, no longer exist. They no longer exist. But what does continue to exist are 9 million workers who are unemployed, 5 million children who go hungry, 2 million people who sleep out on the streets, 85 million Americans who lack full health insurance coverage, and veterans and senior citizens who are suffering from unfair cutbacks in Federal programs.

Mr. Speaker, now is the time to make significant cuts in military spending and shift, over the next 5 years, hundreds of billions of dollars into solving the domestic crises that we face and, in the process, create millions of decent paying jobs as we rebuild America.

Mr. Speaker, the people of this country are entitled to a peace dividend. Let us give it to them.

□ 1450

BOYS TOWN 75TH ANNIVERSARY

(Mr. BARRETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT. Mr. Speaker, December 12, 1917, was a good day for America's children. It was the day when Father Edward Flanagan started what is known as Boys Town. This year marks the 75th anniversary of this haven for boys and girls, who've found a home in a little village near Omaha, NE, and who can now find shelter in cities all across this Nation, including the Mid-Plains Shelter in Grand Island, NE.

What began in a humble building with just 6 boys on that cold December day, today is an organization located on 1,300 acres of rambling farm land, serving 15,000 boys and girls annually. Its annual budget of $90 million is largely comprised of private giving, which has enabled Boys Town to reach out to youth in cities across the country.

But much more important than the numbers is the love, patience, care, and understanding that Boys Town gives troubled youth. As Father Flanagan said: "There are no bad boys. There is only bad environment, bad training, bad examples, bad thinking."

Congratulations Boys Town, for 75 wonderful years of service to our Nation's youth.

OPEN SEASON ON ISRAEL IN WASHINGTON MUST END

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, in the last few days, we have seen an unprecedented assault on the United States-Israeli relationship conducted by the Bush administration from the top down. The President has rejected a loan-guarantee compromise fashioned in the Senate. The Secretary of State, seemingly more concerned with electoral politics than developing a visionary foreign policy, has sought to put foreign aid to Israel on the table. And now come intelligence leaks from within the bureaucracy accusing Israel of selling technology to China.

Indeed, it is open season on Israel in Washington. And with sickening irony, it occurs as Israel's enemies renew their open season of terrorism, this time in Buenos Aires, in Ankara, and in Jaffa. When will the Bush administration realize that its flirtations with Syria, with Iran, and with those who harbor terrorists in the Middle East are seen in the Arab world as giving a wink to the terrorists themselves? When will we return to embrace Israel, the only democracy in the Middle East, historically, the only friend there we can count on. I ask my colleagues on both sides of the aisle to think long and hard about the steps the administration is taking, and whether the American people can stomach them.

There was a time when American supporters of Israel felt that Israel could afford to take risks in the peace process because her support from America was unwavering. There are few who advance that view today here or in Israel. Peace in the Middle East will be the victim of President Bush's open season. Politics has indeed made strange bedfellows in the Middle East—Mr. Speaker, this body must heed the alarm clock.

CALL FOR A BIPARTISAN SEARCH COMMITTEE FOR SELECTION OF NEXT SERGEANT AT ARMS

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, I call on Speaker TOM FOLEY this week to appoint a bipartisan search committee to find an experienced law enforcement professional to be selected the next Sergeant at Arms.

In addition to the ethical problems investigated by the House Ethics Committee, this House has a law enforcement problem.

We have had reports of cocaine dealing, embezzlement at the post office, and misuse of the funds at the House bank. And who knows what else?

Mr. Speaker, the voters of any city or county that experienced this wave of corruption would demand an outsider be brought in to clean house. The Members of this House should demand the same.

Partisan selection of a political insider is exactly wrong. Reversing that decision is essential to restoring the reputation of the House.

AMERICAN JOBS MUST BE PROTECTED

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. APPLEGATE. Mr. Speaker, today in the Committee on Public Works and Transportation we heard the jobs bill. We had four unemployed workers through different parts of the country, part of the 9 million people that are not working today. These are not kids. These are adults who have lost their jobs, good workers, suffering the indignation of losing their ability to be able to take care of their families. These are skilled workers watching their companies and their jobs being moved out of the United States because of bad trade policy. Tax policies are making the CEO's rich, and the workers poor.

Mr. Speaker, these people want to know what President Bush and the administration are going to do, if they are going to do anything. They want jobs. They want their jobs protected, or whatever you want to call it. We can use the "P" word in protectionism. If another country uses protectionism in their country, we in this country say it is smart policy. But if we use is, it is just plain protectionism.

Mr. Speaker, I think the Congress and the Bush administration had better wake up soon. This is an election year, folks, and the people are getting a little sick of the incumbents.

TAXPAYERS' BILL OF RIGHTS

(Mr. ALLEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALLEN. Mr. Speaker, the Democratic leadership wants to tear down the so-called firewalls contained in the Budget Enforcement Act of 1990. In 1990, permanent tax increases were justified by Democrats with a promise of deficit reduction over 5 years. Well, Mr. Speaker, the permanent tax increases caused the economy to languish, and the deficit is estimated to be nearly $400 billion next year. Each day, Congress will spend over $1 billion more than the U.S. Treasury receives in revenue. I figure that roughly $1 billion of the debt added by next year's deficit will be left for the Virginians of the Seventh Congressional District to pay.

That means my constituents, the residents of the Seventh Congressional District of Virginia, will acquire nearly $1 billion of debt, through no fault of their own. That $1 billion is their share of the debt for only 1 year. I do not think Visa or Mastercard will allow my constituents to charge this one.

The media focus these days has been on scandals such as Congressmen writing bad checks and House post office employees who sell cocaine. These are scandals which have tarnished the reputation of Congress, but an even worse scandal is the free spending, deficit-ridden habit of Congress which is putting our children and grandchildren deeper into perpetual debt. It is estimated that the national debt will top $4 trillion by the end of this year. Just the interest payments on the debt alone total much more than the entire Federal budget in the early 1960's.

Tomorrow, I will introduce an amendment to the Constitution providing for a taxpayers' bill of rights, which will require a balanced Federal budget within 5 years of ratification. The amendment will provide for the following:

Balanced budget: The deficit will be reduced by 20 percent during each of the 5 fiscal years following ratification of the amendment. Thereafter, revenues could not exceed expenditures without a law adopted by three-fifths of both the House and Senate and signed by the President, or during a time of war.

Tax limitation: The amendment includes a tax limitation clause holding total revenues to 20 percent of gross national product for the preceding fiscal year, unless authorized by a law adopted by three-fifths of both the House and Senate and signed by the President.

Debt reduction: Once the budget has been balanced—5 years after ratification—the amendment will require annual debt reduction payments equal to at least 4 percent of the total receipts to the Treasury.

Line-item veto: The amendment gives the President line-item veto authority to veto specific pork barrel items in the appropriation bills.

Mr. Speaker, amending the Constitution is a very serious step which should never be taken lightly. However, it is my belief that Congress' lack of discipline and constant failure to balance the budget and reduce our staggering national debt warrants such a serious measure to protect the future of Virginians and all Americans.

ELECTION FINANCE REFORM NEEDED NOW

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, having spent last weekend at home, I experienced firsthand the frustration, the anger, and the sense of betrayal that the people have with regard to the House bank debacle. There is much the House has to do to regain, in part at least, the faith, the trust, and the sense of aspirations of the people. We must reform very dramatically the way the House does its business.

Mr. Speaker, in that connection we must reform dramatically the election finance laws. Of that, it seems to me premier would be the reform of the way political action committees operate.

Mr. Speaker, we all know full well the statistics: 608 political action committees in 1974, 4,000 political action committees today; $20 million contributed by PAC's in 1976, $150 million contributed in 1990. Incidentally, PAC's really further tilt the field in favor of incumbents. Only 6 percent of PAC money goes to challengers; the rest to incumbents.

Mr. Speaker, we are thankful to you for having promoted and pushed consistently since last summer campaign election reform. I commend you to that task, and particularly ask you to devote your efforts to the political action committee question. Too much big money is in politics. We have to end that.

PARENTS BEST ABLE TO MAKE CHOICES FOR NATION'S YOUNG PEOPLE

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, such is the raw abuse of exercise of power of the Democratic committee chairmen in this body that last month the chairman of the Committee on Education and Labor unilaterally scrapped H.R. 3320, the elementary and secondary school reform bill. This bill was scrapped for one reason and one reason alone, it would have allowed school choice to the parents of this country.

H.R. 3320 contained a modest provision which would have allowed parental school choice. The bill did not mandate school choice. In fact, school choice was only 1 of among 13 options for school reform. However, even 1 of 13 was too much for the establishment.

□ 1500

Despite the fact that poll after poll demonstrates the American people support school choice, education unions have become increasingly strident in their opposition.

Sadly, the Democrats have bowed to the pressure of the National Education Association, the biggest, most powerful, most ruthless, most indifferent to the rights of the parents of this country, union in America.

THE IMPORTANT BUSINESS OF CONGRESS

(Mr. KOPETSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOPETSKI. Mr. Speaker, most of us last fall voted to close the House bank. It is closed.

Wisely, we voted this last week to make public the bank's list of those who had bounced checks. I did not bounce any checks, but I want to tell my colleagues, I made that long, very long, lonely walk to the House Ethics Office to make certain of this fact.

About the same time I was taking that walk, the distinguished Secretary of Defense was admitting on national television that he unknowingly bounced some checks. I believe the Secretary of Defense. The shipshod operation of the bank surely allowed some Members to abuse it, but it also drug into its net some, as the Secretary of Defense, who unknowingly did bounce some checks.

Well, all that should be done is being done and can be done. Members can show their constituents whether their bad checks were mistakes on their part or errors by the bank and its staff. Constituents will decide if individuals abused the office. So let us end the partisanship surrounding the placing of blame and get on with the important business of Congress: the economy, jobs, reshaping our Nation's defense forces, educating our youth, and reforming our health care system.

H.R. 78, THE LINE ITEM VETO ACT

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, at the start of this Congress last year, I introduced H.R. 78, the Line Item Veto Act. My bill now has 122 cosponsors from both parties in all sections of the country.

The line item veto power is one that the Governors of 43 States have, and the President should have it, too.

Many States are required by their constitutions to balance their budget, and most do, although it is difficult. One main tool in getting State budgets in balance is the line item veto.

Our Nation today is approximately $4 trillion in debt. We are losing $1 billion a day every day, including Saturdays and Sundays and holidays, on top of that already horrendous debt. If we do not get our Government under control from a fiscal standpoint very soon, it is obvious that we will have very severe economic problems in this Nation.

If we do not want to see our people standing in line 8 or 9 hours for a pound of sausage or see our people starving in the streets, as in other countries, we have to get out Federal spending under control.

Alan Greenspan and many other leading economists tell us that our national debt and these $400 billion yearly deficits are the main cause of our economic problems, the main drag on our economy.

We need to stop some of these ridiculous appropriations. We need to pass the Line Item Veto Act.

GET RID OF PERKS FOR CONGRESS

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, there are rules in the House and regulations, and sometimes those are not properly drawn. Some of them are quite ancient.

We have just been through an experience on the bank matter, but there are other things which Members should be criticized for in Congress for not repealing.

I introduced H.R. 3555, a bill which eliminates all privileges of Members of Congress over the general population and provides for no perks. In other words, it ends all the benefits that we are supposed to be able to get and which we know nothing about in fact.

As in illustration, I get tired of reading in the paper about these wonderful perks, of going on a train between the Rayburn Building and the Capitol. That is certainly not a perk for Congress, but it was listed as one the other day in the paper. A lot of these things are half truths, and we ought to abolish all these perks.

We have an adequate income. We should just go ahead and pay for the haircuts and things like that on the basis of whatever it is that other people pay. My colleagues please join me, Members of Congress. H.R. 3555 was introduced in October of last year.

It is there, available for Members' help. I would appreciate to very much if my colleagues would help me by cosponsoring this legislation.

HAMILTON-GRADISON RESOLUTION, A FIRST STEP TOWARD CONGRESSIONAL REFORM

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Mr. Speaker, the Chinese word for crisis has two characters. One signifies danger, and the other opportunity.

Many people see the House banking scandal as a danger to this institution, a danger to Congress.

I see the House banking scandal as an unprecedented opportunity. An opportunity to overthrow 38 years of one-party stagnation. And mismanagement, an opportunity for genuine congressional reform.

We need reform of the House rules, so that full and open debate from all points of view, replaces the partisan closed debate rules.

We need the ability to offer floor amendments to improve legislation, a practice that is routine in most parliamentary bodies.

We need reform of the duplicative, turf-oriented committee structure. We need full disclosure of the various leadership-controlled slush funds, so that the Members and the public are fully aware of where their tax dollars are being spent.

Let us take this recent public interest in Congress, as an opportunity to implement badly needed congressional reform.

We could start by bringing to the floor, the Hamilton-Gradison Concurrent Resolution 192, that I am proud to cosponsor, to take a fresh, hard look at the organization and procedures of Congress. We must reform Congress now.

SCHOOL CHOICE

(Mr. JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of Texas. Mr. Speaker, parents are fed up with the quality of their children's education.

It's time for a change.

Congress must opt for school choice as a bold and fundamental reform to our failing public education system.

Allowing competition between America's schools, just as in business, will create better quality and a less expensive system.

And, who will benefit? America's children.

American families know what is best for their children. We must put the power of school choice into our families hands. Let's give them the opportunity to control their children's education. That's what a free America is all about.

Congress must understand that schools and teachers are in the business of educating our children—not politicians.

Let us put education first and give school choice a chance.

CONGRATULATIONS TO SOUTH AFRICAN PEOPLE

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, I take the well to associate myself with the remarks of the gentleman from Michigan [Mr. BROOMFIELD], who delivered the first 1 minute here. We have been, over the last few days, focusing on elections. All of us in this House will face election this year. The campaigns which took place yesterday, the elections in Michigan and Illinois, and not a lot of attention has focused on the very important election which took place in South Africa.

I would like to extend congratulations to President F.W. de Klerk for overwhelming landslide victory that the people of South Africa supported to bring about some kind of balance and coalition government.

We are seeing an end to apartheid, thanks to the encouragement from this administration and the support of President de Klerk. I would like to extend a hearty congratulations to the people of South Africa, who are rapidly moving toward total self-determination.

THE INSTITUTION OF CONGRESS

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, over the last several months many Democrats have come to the floor telling us we ought to emulate the Japanese and some of what they do in their economic practices and other things such as protectionism.

In Japan, when an institution falls into disrepute, the people who are the leaders of that organization resign.

This institution, the House of Representatives, is in massive disrepute. The honorable thing to do Japanese style would be for those who are responsible for that to resign under the circumstances.

Perhaps the honorable thing to do American style is for those who are responsible for the problems of the House to resign their leadership posts.

The House bank problem has been a sad and difficult affair for individual Members of Congress, but it has been an absolute disaster for the institution of Congress. Those who condone the practices that led to the level of disrepute that we now see across the country for the Congress should properly step aside.

FURTHER THOUGHTS ON THE HOUSE BANK SCANDAL

(Mr. WISE asked and was given permission to address for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, the previous speaker has just talked about the practices in Japan. I might also add that an even more ancient practice was to commit hari-kari. I do not think anyone would suggest that we be doing that.

If we are going to talk about problems, I was interested in listening to the Secretary of Defense yesterday as he talked about how he did not want to blame the staff, the Sergeant at Arms had already been, had already resigned. And therefore, he blames the leadership.

Of course, it was the leadership, I assume, that forced him to open his checkbook up and to write those checks. It was the leadership that said, ignore the balances in the checkbook, just go ahead and write those checks. And so if we are talking about resignation, then I would assume the gentleman would want to talk about the Secretary of Defense.

I would assume the gentleman would want to talk about the Secretary of Labor. I would assume the gentleman would want to talk about the Secretary of Agriculture that is involved.

Indeed, what is going on here is a bipartisan effort to try and address this thing. Nobody is happy with it. The point is that the bank has been closed. There was a vote to require disclosure, and there was a vote to begin the Committee on Standards of Official Conduct investigation, and there will be full disclosure. Then let each of the constituents in our districts decide who it is that should resign and, indeed, they will take that upon themselves anyhow.

□ 1510

SLOPPY BANK MANAGEMENT RESTS ON SHOULDERS OF DEMOCRATS

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. COBLE. I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

We just had an interesting discourse from the gentleman from West Virginia [Mr. WISE], who pointed to the Secretary of Defense. He went public and showed every one of the statements he received from the House bank and showed his accounts in positive balance. That means that bank was run sloppily. It means that bank was issuing statements that told Members something that was not really true about their accounts. It means that that bank was run in a fashion that is absolutely disreputable.

That is what I am talking about. I will tell the Members not one of us on this side of the aisle ever voted for anyone who ended up running that bank or condoned those practices. That has all been done by the Democrats.

I know they find it difficult to accept the fact that the way they have run this house for 40 years is now being called into question, but it should be called into question. The Secretary of Defense was a victim. Some of the people here may have been abused, but there were a lot of people who were victimized by the fact that the Democrats proved that they cannot keep the national bank balance straight and they cannot keep the House bank balance straight.

HOUSE MEMBERS HAVE PERSONAL RESPONSIBILITY IN CHECK WRITING

(Mr. ABERCROMBIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, will the gentleman yield?

Mr. ABERCROMBIE. I yield to the gentleman from West Virginia.

Mr. WISE. Mr. Speaker, I thank the gentleman for yielding.

I would like to add that it is true that the Secretary of Defense had a great presentation, complete with copies of his statement. The Secretary of Defense had a great presentation complete with blown-up charts as carried in by an Assistant Secretary of Defense. I might add, he never, though, put forward his own ledgers. I assume, like all Americans who have to keep a checkbook and a balance, we have our own ledgers.

The gentleman from Pennsylvania can blame the Sergeant at Arms if he wants to, but we also have to deal with our own personal responsibility and what kind of balance were we running in that book, and did we know or did we not know? That is the important issue here.

While we are talking about who it is that is responsible, I notice that among the Members of the Republican leadership we have 960 checks so far bounced, and counting. That number is rising, rising quickly.

So I would say to the gentleman from Pennsylvania [Mr. WALKER], my Republican colleague over here, there is a problem in the House. There is an attempt to address it. There is going to be full disclosure. The citizens of this country are the ones that are best able to judge. That is what full disclosure is all about.

BELATED VOTES FOR FULL DISCLOSURE

(Mr. HOPKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. HOPKINS. I am delighted to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding. I am amazed to hear the gentleman from West Virginia [Mr. WISE] talking about full disclosure. His party fought full disclosure right down to the afternoon before we had the vote here on the floor. His leadership did everything they can to limit the damage to only 23 or 24 Members of Congress. Now they come to the floor and suggest there was some of great bipartisanship about full disclosure.

Yes, there were a lot of people who voted for full disclosure, only after—only after there had been the instance where they understood that they could not have anything else.

I would say to the gentleman from West Virginia that his idea of full disclosure simply does not wash when we understand what really took place in this House.

Second, I think I heard the Secretary of Defense say yesterday that he had examined his own personal ledgers and he found that in every instance that he did find a positive balance in his account. So he was somewhat shocked when his personal ledgers and the House ledgers matched, except that he also bounced checks.

That is mismanagement. This bank was mismanaged. This House is mismanaged. It is time for people to begin resigning who are a part of that.

APPOINTMENT OF CONFEREES ON H.R. 4210, TAX FAIRNESS AND ECONOMIC GROWTH ACCELERATION ACT OF 1992

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from Illinois?

There was no objection.

MOTION OFFERED BY MR. ARCHER

Mr. ARCHER. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. ARCHER moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendments to the bill H.R. 4210 be instructed not to agree to either those provisions in section 3001 of the Senate amendments which would impose a new tax rate of 36 percent on individuals, or those provisions in sections 3001 and 3002 of the House bill which would impose a new tax rate of 35 percent on individuals and increase the alternative minimum tax rate for individuals, as those provisions are committed to conference.

The SPEAKER. The gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes, and the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the motion I have offered is a simple one and needs little explanation.

It provides for a straight up or down vote on tax rate increases. The House bill would establish a fourth stated tax rate of 35 percent. The Senate amendment would establish a fourth rate of 36 percent.

This motion simply instructs House conferees to reject both provisions.

If you want to increase tax rates, you will vote "no" on the motion to instruct. If you are opposed to rate increases, you will vote "yes." It is that simple—that clear.

I hope this motion will pass—because if it does it could form the starting point for a compromise bill the President can sign into law. If it fails, we are headed for a certain veto—because the President can't sign a bill containing rate increases like those in either the House or Senate versions.

The Democrat leadership in the both the House and Senate know that. They also recall how difficult it was to twist enough arms to win bare majorities for the tax bills which will go to conference today.

It may be even more difficult to accomplish that feat again on a purely partisan conference report. You may need Republican help this time.

Given the problems already plaguing incumbents this year, do Members really want to vote for another tax increase on any American families?

Our colleagues on the other side of the aisle should think twice before they walk the plank again for their leadership by voting for a tax increase that's not going to become law anyway.

There is still time to change the package. There is tremendous latitude within the conference to fashion a bipartisan compromise that Republicans can support.

It's entirely possible for us to agree on a bill that can in fact become law.

This motion to instruct conferees is the first step. It would remove the most glaring impediment to enactment of a jobs bill which will speed up our economic recovery and put Americans back to work more quickly.

Voters in a number of States have made it clear that they are fed up with this place and the way we do business. Intentionally sending the President a bill he has to veto will simply underscore the perceived inability of Congress to govern responsibly.

Vote for the motion to instruct. Get the conference off to a positive start. Let us send the President a real jobs bill—one that we can be proud of and he can sign into law.

Mr. Speaker, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong opposition to the motion to instruct conferees. As all the Members are aware, the Congress has been forced to expedite its consideration of H.R. 4210 because of the President's deadline of March 20 for completion of action on the measure.

Mr. Speaker, the Ways and Means Committee began hearings on the revenue proposals contained in the President's budget on the very day of the State of the Union Address in which the President set forth his 52-day challenge. And we've been working hard ever since to produce legislation.

Although we were forced to expedite our consideration, the House has crafted a good and fair legislative package. How, with the upcoming conference with the Senate, we are in the final stages of crafting a tax bill that will be good for the American middle class, good for the American economy, and fair for all American taxpayers.

And hopefully we can complete all this work within the 52-day period mandated by the President. That means, Mr. Speaker, that the final legislation must be sent to the President on Friday.

I would like to meet the President's challenge. I believe we have a strong foundation for agreement with the Senate, and I hope that fair compromises can be agreed to quickly. But the House conferees will not be able to expeditiously agree to a final package if our hands are tied by instructions, especially any instructions that restrict our ability to agree to fair and appropriate rates.

Further, this legislation must be fully paid for, and the House conferees should not be restricted from considering fair and appropriate rate increases on the very wealthiest taxpayers to finance the package.

The conferees must have the flexibility to compromise, and do so quickly. The instructions contained in this motion would almost certainly result in missing the President's deadline.

We can craft fair legislation and good legislation, and we can do so quickly.

Mr. Speaker, the motion to instruct would severely hamper our ability to get the job done.

I urge defeat of the previous question on the motion to instruct. If the previous question is defeated, I intend to offer an alternative motion instructing conferees to provide middle class tax relief.

☐ 1520

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume simply to state that adoption of this motion to instruct should not delay the conference report. It should be a very simple matter to strike both the 35-percent rate increase in the House bill and the 36-percent rate increase in the Senate bill from both bills and send back a conference report expeditiously.

Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee [Mr. SUNDQUIST].

Mr. SUNDQUIST. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the motion to instruct conferees. Democrats have admitted that the tax increases they have put in H.R. 4210 will prevent the bill from becoming law. So what is the point? What will Democrats prove by sending to the President, with a bare minimum of support, a bill he must veto?

If all the Democrats want to do is make a political point to influence the outcome of the November Presidential election, let us just concede that point now—Democrats are in favor of tax increases and the President is opposed to them.

The tax increases in the bill, obtained by the Democrat leadership through the twisting of many arms, will provide absolutely no economic growth.

In fact, those tax increases will probably stop the economic recovery dead in its tracks. Is that what the Democrats mean when the speak of fairness?

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I thank the gentleman for yielding me this time.

The gentleman from Texas [Mr. ARCHER] has done the Members of this body an enormous service by offering this motion to instruct. This is your chance to get right with the Lord, Mr. Speaker.

If you were so badly informed about the consequences of the bill on which you voted earlier to raise taxes on the working men and women of this country, if you were so callous about the politics of it that you were willing at that time to risk your reelection to stave off the recovery that could come from a good growth package signed quickly by the President that you voted for that package, this is your opportunity to get it right. You can get it right today by voting "yes" for the motion to instruct offered by the gentleman from Texas [Mr. ARCHER] by saying "yes" to the House Members in the conference, that you would have them disagree to tax increases that will force the President to veto the deal, put the negotiations back in the hopper, make the American people sit and wait even longer for the opportunity to see their Congress act responsibly to get job legislation in place so their chances for going back to work, their chances for their youngsters who graduate this spring to get a job can be enhanced.

You have the opportunity to vote "yes" with the American people or to vote "no" with the Democrat leadership.

Do you want to cast a political vote to try to embarrass the President in disregard of the best interests of the working men and women in your district? Vote with the pressures being applied today by the Democrat leadership. If you want to make that vote and risk your reelection, I say go ahead, vote "no." Make my day.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the distinguished minority leader of the House, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I rise to support the motion to instruct conferees offered by the gentleman from Texas [Mr. ARCHER] not to agree to certain provisions in both the House and Senate tax bills.

These provisions are, first, raising individual tax rates in the Senate bill to 36 percent and the House bill 35 percent. We might as well take this occasion to say that as a matter of public policy, as much as we may or may not have been condemned during the course of the Reagan years or the Bush years, we fought too hard over this period of time to lower marginal tax rates from 70 to 50 to 33, 31, and 28 to now be turning around in the other direction.

We happen to think that what we subscribed to in the past is still good public policy. Instead of going through some high-sounding economic mumbo-jumbo, let me tell you in plain English why we oppose the provisions.

They simply raise taxes, and we are against raising taxes in principle, and are specifically against raising taxes in hard economic times.

Some of our Democratic friends call these tax increases on the wealthy. They call it fairness. We call it baloney.

Incidentally, today the top 1 percent of the taxpaying public is paying 25 percent of our total Federal tax bill. In 1981, in the Reagan years, I think that top 1 percent were paying only 18 percent.

All this business of about how much less they are paying is just exactly the reverse. We have people in those high, top brackets today paying more to fund activities of Government.

The siren call of raising somebody else's taxes is always attractive. But once the Democratic majority gets a taste of tax raise, is there anything at all in their history to suggest that they will stop there? Soon, hard-working Americans will be saying, "When the Democrats raised taxes on what they called the rich, I did not care much, because I was not rich. When the Democrats raised taxes on those who had too much, that is, according to the Democrats, I did not complain, because I did not have enough. But when the Democrats raised taxes again, and again, and again, on everybody in a feeding frenzy of tax dollars, there was no one left to argue my case." The appetite for tax dollars is insatiable.

Tax raisers always have a way of describing their gouging so that it appears to hit only one group. But once the frenzy starts, no one is safe. Let us stop the tax attack right now. That is why I am supporting the motion of the gentleman from Texas, and I urge our colleagues to do likewise.

□ 1530

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. SCHULZE], a member of the committee.

Mr. SCHULZE. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, only 5 years ago this body passed the Tax Reform Act of 1986. That legislation was publicly praised by Democrats and Republicans alike for boldly lowering marginal tax rates from 50 to 28 percent. Many of my colleagues on the other side of the aisle who praised the low rates in the 1986 act and their positive incentives for work unfortunately supported the tax hike to 31 percent in 1990.

Those same colleagues now urge us to support and additional tax hike to 35 or 36 percent. When will this madness end? When we have returned to the confiscatory tax rates of 70 percent in existence a mere decade ago?

About two-thirds of the taxpayers who would be subject to the higher rates urged upon us in H.R. 4210 are owners of small businesses.

If we permit the Democrats to increase taxes, they will be striking a death blow to the heart of many small farms and business owners who desperately need to reinvest their profit in their businesses and cannot afford increased taxes. I urge my colleagues to support the motion to instruct conferees before us.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

As I understand the gentleman's motion, the gentleman has made it very House conference not go for tax rate increases.

I think it should be clear to the Members that if you vote on anything procedural or if you vote against the motion of the gentleman from Texas, what you are doing is going on record for tax increases. You are going on record that at this moment as the economy is beginning perhaps to inch out of recession, what you want to do is raise taxes and throw it back into a recessionary situation. That is what happens when you raise taxes. Anytime you get tax increases, tax rate increases or tax increases of any kind, you have economic deterioration. You slow down the economy.

So the proposal that the Democrats passed in the House, the proposal that the Democrats passed in the Senate, are both proposals that will ultimately lead to economic slowdown, more recession and lack of jobs.

It was last year when the Democrats told us when they came to the floor with the great budget deal that these tax increases would be a plus for the economy, not a minus. What we have found out since is that those tax increases were devastating to the economy. They forced us into a recession and hundreds of thousands of people are now on the unemployment lines as a result of tax increases.

The Democrats are prepared to raise taxes again. The only way to stop them from raising taxes and going back to Government spending and more taxes is to support the motion of the gentleman from Texas.

The gentleman from Texas gives us an opportunity to tell the conference committee, no new taxes. We want the tax increases stopped. We want this idea that you can somehow tax America into prosperity ended.

The American people have now had it with Washington constantly picking their pockets. This is one more example where Congress is determined to pick the pockets of the American people.

Oh, I know they call it taxes on the rich. The American people are smarter than that now. They know that every time Congress talks about taxing the rich, it is their pockets that get picked.

The only way to stop that pocket-picking from taking place is to support the gentleman from Texas and stop the tax rate increase.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. Mr. Speaker, I thank the committee chairman for yielding me this time.

Mr. Speaker, I would just like to clarify one thing. If one votes for the Archer motion to instruct conferees, what is essentially going to be voted is to kill the middle-class tax cut that is ate bill. This tax increase we are talking about is a 4-percent tax rate increase on those with adjusted gross incomes of $185,000 or more a year. This is not a confiscatory tax cut, as one gentleman said. This is not a tax cut that is unfair.

At the same time, if we do not have this, we will not be able to have any kind of middle-class tax relief.

So if a Member votes in favor of this motion to instruct, they are essentially telling the middle class that they are not concerned about their interests or their welfare.

Mr. Speaker, I urge a no vote on this particular motion to instruct.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume to respond to the gentleman from California by simply saying that no economist who came before our committee said that the proposal for so-called middle-income tax relief that is in the Democrat package, financed by increased tax rates, would be helpful to the economy.

The chairman himself when asked about it when he first unveiled it said, "I know this won't create any new jobs."

We should be about creating new jobs and growth and economic activity to put Americans back to work, particularly early on.

So this is just a restatement of the debate that occurred earlier on the tax bill when it came before the House.

Mr. WALKER. Mr. Speaker, will the gentleman yield to me?

Mr. ARCHER. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I want to congratulate the gentleman for making this point, and also say that when the gentleman from California speaks, he speaks the same siren song that we heard with regard to the luxury tax, that somehow we were only going to tax those rich people and that the rich people will be the only ones hit, and therefore it is fair.

The bottom line was that tens of thousands of Americans lost their jobs because of that kind of siren song.

Mr. Speaker, we ought not to let it happen again.

Mr. ARCHER. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia [Mr. GINGRICH], the distinguished majority whip.

Mr. GINGRICH. Mr. Speaker, I thank my friend, the gentleman from Texas, for yielding me this time.

Let me say, first of all, that I suspect that if we were really candid about it, the No. 1 problem in America is to create jobs, to have incentives for work, to have incentives for savings, to have incentives for the kind of investments that create jobs.

When I go around the country, I do not hear people rushing out saying, "Give me a temporary break for a dollar a week or for 25 cents a day."

I hear people saying "Make sure I

People understand that if they do not have a job, they do not have any kind of tax break, because they are not earning any income.

I will guess that if the former Senator from Massachusetts, Mr. Tsongas, were on the floor, he would vote for the proposal of the gentleman from Texas [Mr. ARCHER], because he would understand that the idea of raising taxes in order to have a temporary break is in fact in the long run economically destructive.

But let me carry it a step further. In the other body, they proposed raising the top rate to 41 percent. If you actually look at the top rate, by the time they are done with various surcharges, they get to a 41 percent top rate. This begins to move us right back into the very kind of socialist redistributionist tax policies which crippled this country in the first place.

I find it ironic that we are being told by Richard Nixon and others that we have to worry about helping Russia. We have to worry about helping the Ukraine. We have to worry about helping Latvia and Lithuania and Estonia.

What are we helping them from? We are helping them from a high tax rate redistributionist economy that failed, a big government that took control of everything and failed at everything, and we are trying to help them get—to what? We are trying to help them get to private property, to creating businesses, to creating jobs, to having incentives for work.

I think this vote by itself, not a killer vote, you cannot argue that this particular decision will destroy American industry—but what will it do? It will at the margins, first of all, once again say to people who work hard and are successful, "We are going to punish you the higher up the ladder you get."

Second, it will say to people, young couples who want to get ahead in life, "We want to raise the tax on the American dream. We want to hit you, in fact if you are out there trying to get a better future, if you are trying to create jobs."

It will say to small business, "If you work hard and add a few extra jobs, we are going to raise your taxes."

In effect, as Paul Tsongas warned us, it says to the goose, "Don't lay too many golden eggs, because they are simply going to start taxing the food you eat. We are going to hurt the goose."

And then, of course, our good friends on the Democratic side are going to say with great shock, "Oh, gee, why do we have all this unemployment?"

Well, we have this unemployment in part because you have taxed the very people who create jobs.

But let me carry it a step further. I find it fascinating that over the last few weeks with all the talks we have had about Congress and whether or not it is held in popular respect, the Democratic leadership made a pledge that they would hold the line on spending in return for the President getting his way on taxes.

Now what do we have happening? We have one bill being moved down the road that would start to take defense cuts and spend them. We have another bill being moved down the road that would start to raise taxes.

Let me just suggest to my friends across the way that I believe if you want to have a tax cut, you ought to pay for it with a spending cut, or you ought to have a tax cut which creates jobs and pays for itself.

The President offered a tax cut which would create half a million jobs, a tax cut that would encourage new factories, new machinery, new investment.

You are proposing a tax cut that costs money, and every economist agrees with that, and you are proposing a tax bill that would kill an estimated 100,000 jobs the very first year.

So here we have the grand irony. The President asks for a job-creating tax cut. You pass a jobs-killing tax increase.

I think what the gentleman from Texas [Mr. ARCHER] is trying to accomplish today is to send a signal, to give Members a chance to vote.

☐ 1540

It says we want to shrink the deficit, we want to create jobs, we want to encourage savings and investment in work, we want to keep our word to the American people.

I would just say to my friends on the left, if you are deeply committed to cutting taxes, all you have to do is come to the floor and help us cut spending. If you want to have a smaller Government we can have lower taxes. But what you cannot get away with is having bigger spending, a bigger bureaucracy, a bigger welfare state and then say let us give you a little tax cut for a few years in return for a permanent tax increase.

That is the final grand sort of game being played here. It is the old bait-and-switch. We will give 2 years—when you see this on television, it is illegal—we will give you 2 years of a little bitty tax cut in return for an infinity of a permanent tax increase.

So, I would just urge everyone to vote with Mr. ARCHER, vote against tax increases, vote against killing jobs, vote to create jobs, and vote to cut taxes, vote "yes."

Mr. ARCHER. Mr. Speaker, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 5 minutes to the gentleman from Missouri [Mr. GEPHARDT], the majority leader.

Mr. GEPHARDT. Mr. Speaker, Members of the House, this is an opportunity to vote "no" on this instruction so that we can retain in this legislation middle-income tax relief. If this instruction passes, it will be impossible, under our budget arrangement, to have middle-income tax relief.

Mr. Speaker, I would like to remind Members that, according to a study released by the Citizens for Tax Justice, working Americans are paying more in taxes, receiving fewer Government benefits and experiencing stagnant or dropping incomes. At the same time, the wealthy are getting wealthier and contributing fewer resources to the contribution to Government.

Nothing could be more unfair, nor more detrimental to the status of America as a productive and prosperous society that promises opportunity for all.

Mr. Speaker, the data show us that all but the very wealthiest and the very poorest American families now pay a higher share of their incomes in overall Federal taxes than they did prior to the so-called supply-side tax cuts enacted in 1978 and 1981.

Between 1977 and 1992, the richest 1 percent of Americans, those making an average of $670,000 per year saw their after-tax income jump by 136 percent. At the same time, compared to what they would have paid under the 1977 tax rates, they saw their taxes drop an average of $83,000 for a 30-percent reduction.

The middle class was left holding the bag.

Since 1977, 60 percent of Americans, low- and middle-income taxpayers, saw their after-tax income decline. Those making an average of about $32,000 lost almost 10 percent in after-tax income and the taxes of this class of taxpayers are $5.8 billion higher now than they were in 1977.

So, what this motion really says is, "Let's one more time protect the wealthiest Americans, let's make it impossible to give middle-income families who work hard every day, who are taxed more now than they used to be, whose incomes have gone down, let's make sure they don't get the tax break that the Democratic bill that passed offers them."

Now, we heard about the budget. Yes, we made a decision in 1990 that some supported and some did not support in this House, on both sides of the aisle, that we were going to pay for what we did. This bill does that.

It says, "Yes, we need middle-income tax relief. It is high time for it," and, "Yes, who should pay for it are the people that have not been bearing their fair share of the burden over these last 12 years," and that is the wealthiest people in the country.

Mr. Speaker, it is time for fairness, it is time for simple equity, it is time for people to bear their fair share of the burden. And to those who say that this money will not help anyone, I think they have stopped listening to the people they represent. The people that I talk to feel that these dollars would help them pay their bills, go out and buy something, get out of this recession, move this country in a positive direction.

Mr. Speaker, I urge Members to vote against this Republican instruction and to vote for the instruction that the chairman of the committee will soon give, if given that opportunity, so that we can once again affirm that we are for middle-income tax relief.

PREFERENTIAL MOTION OFFERED BY MR. WALKER

Mr. WALKER. Mr. Speaker, I offer privileged motion.

The Clerk read as follows:

Mr. WALKER moves to lay on the table the motion offered by the gentleman from Texas [Mr. ARCHER].

The SPEAKER pro tempore. That is a preferential motion, but it is not in order until debate has been concluded.

Who yields time?

Mr. ARCHER. Mr. Speaker, at this time I have no further requests for time, and I move the previous question.

Mr. WALKER. Mr. Speaker, I renew my privileged motion.

Mr. ROSTENKOWSKI. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from Texas [Mr. ARCHER] yields back the balance of his time.

Mr. ROSTENKOWSKI. Mr. Speaker, how much time does this gentleman from Illinois have?

The SPEAKER pro tempore. The gentleman from Illinois [Mr. ROSTENKOWSKI] has 21 minutes remaining.

Mr. ARCHER. Mr. Speaker, I did not yield back the balance of my time. I said I have no further requests for time and I move the previous question.

The SPEAKER pro tempore. The gentleman cannot move the previous question while the gentleman from Illinois still has time.

Mr. ARCHER. In that event, then, Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from Texas [Mr. ARCHER] reserves the balance of his time, which happens to be 10 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the debate narrowly comes down to whether or not we are going to recognize the motion for what it is. What the gentleman from Texas is trying to do is to suggest that we not pay for the growth package that is incorporated in the Democratic proposal.

I think that the logical way to proceed this afternoon is for the gentleman from Texas to offer his motion, for this gentleman from Illinois to move down the previous question and, when the previous question is voted down, to allow this gentleman from Illinois to offer a motion to grant middle-income taxpayers tax relief.

That is exactly what this debate is all about. Republicans want to frame this debate as being one that raises taxes. What we on this side of the aisle are concerned with is whether or not fairness is going to exist in the code. And what we try to do in our legislation is see to it that those people in the middle-income groups are recognized for having lost, really, in the last several years their fair share of the tax operation.

So, Mr. Speaker, I, upon the conclusion of the debate with Mr. ARCHER, will suggest that the previous question be voted down so that I can make in order my motion, which will include instructions to guarantee that middle-income Americans get tax relief.

The SPEAKER pro tempore. Are there further requests for time?

Mr. WALKER. Is the gentleman's time still running?

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. MATSUI].

Mr. MATSUI. I thank the chairman for yielding to me.

Mr. Speaker, I would just like to put this debate in perspective, if I may.

Mr. Speaker, one of the gentlemen on the other side of the aisle talked about the value of this middle-class tax cut and he said it was 25 cents a day or about $1 a week. I would say to the gentleman that in our bill, the bill coming out of the Committee on Ways and Means and passed the House of Representatives, over a 2-year period a family could get up to $1,000 of tax relief and, of course, that would be eliminated if in fact the motion of the gentleman to instruct should pass, because we pay for this middle-class tax cut through the process of raising taxes on millionaires.

We have a 10-percent surtax on people who make $1 million or above. We also have a 4-percent rate increase for those joint filers who make $185,000 gross income and above.

So, essentially, a vote for this motion to instruct would kill a tax reduction for those people who are in the middle-income group, which could be up to $1,000 per family.

Mr. ARCHER. Mr. Speaker, would the gentleman yield to me?

Mr. MATSUI. I yield to the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Speaker, I thank the gentleman for yielding, and I would ask the gentleman to explain where he comes up with a figure of $1,000.

Mr. MATSUI. Over a 2-year period it could be up to $1,000.

□ 1550

Mr. ARCHER. Mr. Speaker, as I read the legislation that passed the House, it was $400 maximum per joint return, which over 2 years is $800. Am I correct?

Mr. MATSUI. It is correct here, but there are other provisions in the tax bill that are also paid for, this increase of rate.

For example, the $55 billion will be raised for this rate increase and also the 10-percent surtax on millionaires, and it costs $45 billion over a 2-year period for the $800 for a family, and then there are other provisions, if the gentleman understands. The gentleman is familiar with the bill that would give the middle class about a thousand dollars worth of tax relief. For example, we have provisions in there for the transit pass that would hold nontaxability up to $60 for somebody who uses the bus that is paid for by the employer.

So, Mr. Speaker, there are a lot of provisions in there that this provision that the gentleman wants to eliminate that would pay for, that would give these middle-class people up to a thousand dollars over the 2-year period.

Mr. ARCHER. Mr. Speaker, I thank the gentleman from California [Mr. MATSUI] for yielding.

Mr. ROSTENKOWSKI. Mr. Speaker, will the gentleman yield?

Mr. MATSUI. I yield to the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, I would like to inquire of the ranking member of the Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER], as to what is the position of the leadership with respect to the motion offered by the gentleman from Pennsylvania [Mr. WALKER]. Is it the Republican leadership's position to table the gentleman's motion from Texas?

Mr. ARCHER. Mr. Speaker, if the gentleman from California [Mr. MATSUI] would continue to yield, I would say to the gentleman from Illinois [Mr. ROSTENKOWSKI] that I have no idea what the leadership's position is. This is a motion obviously offered by an individual Member.

Mr. ROSTENKOWSKI. What would be the position of the minority member of the Committee on Ways and Means?

Mr. ARCHER. Well, this is highly unusual, Mr. Speaker. But I am pleased to engage in this colloquy, and I would simply say, "What is the position of the chairman of the committee?"

Mr. ROSTENKOWSKI. Mr. Speaker, as chairman of the Committee on Ways and Means, the Chair very much dislikes being handcuffed when going to conference. I like the latitude of no instruction. However, if it is the intention of the minority to vote for the motion to table, a motion that has been offered by the minority, I am inclined to vote to table because I think that they would expect us to go to conference without any commitments.

Mr. ARCHER. Mr. Speaker, I would suggest to the gentleman from Illinois [Mr. ROSTENKOWSKI] that, as always, he will vote whatever his convictions are, and I will vote mine, too. But I think this colloquy serves no purpose, as far as the motion to instruct and the substance of that motion.

Mr. ROSTENKOWSKI. Mr. Speaker, if the gentleman from California [Mr. MATSUI] will yield further, I would just like to know what the leadership's position is with respect to the gentleman from Pennsylvania [Mr. WALKER] who is offering the motion to table, and I would very well recommend on my side that, based on going to conference, to my leadership, what I would recommend is necessary. As far as I am concerned, if the motion of the gentleman from Pennsylvania [Mr. WALKER] is agreed to by the minority, I will support that.

Mr. MATSUI. Mr. Speaker, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time, but, if the gentleman from Pennsylvania [Mr. WALKER] is serious about his motion, I am inclined to go into conference with a free hand to vote for the gentleman's motion from Texas.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from Illinois [Mr. ROSTENKOWSKI] reserves the balance of his time.

The Chair recognizes the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Speaker, I thank the gentleman from Texas [Mr. ARCHER] for yielding this time to me.

Mr. Speaker, earlier the distinguished majority leader, the gentleman from Missouri [Mr. GEPHARDT], was on the floor, and he inferred the standard party line of the Democrat Party, that somehow or another in the 1980's that the American tax system became more favorable to the rich and less favorable to the lower income brackets.

In fact this is patently inaccurate, incorrect and based only on touted-up numbers by the hired hands of the Democrat Party. The fact is in 1981 the top 1 percent of American taxpayers paid 17.6 percent of the total tax receipts from income tax. In 1988, that same top 1 percent of the taxpayers paid 27½ percent of the total, an increase of 10 percent. The top 5 percent of the taxpayers paid 35 percent of the total in 1981 and they paid 45 percent in 1988. On the other end of the income spectrum, the bottom 50 percent of American taxpayers paid 7½ percent of the total income tax paid in 1981 and paid only 5.7 percent of that total in 1988.

Mr. Speaker, the fact is the income tax burden shifted from the lower to the higher income brackets throughout all the 1980's. By the Democrats' own demagogic standards it became more fair rather than less fair, thanks to the far-sighted, creative job-creating programs of the Reagan administration and despite the short-sighted, self-serving, parochial, resistance to those same growth policies of the 1980's by the Democrat majority.

Mr. ARCHER. Mr. Speaker, may I ask if the gentleman from Illinois [Mr. ROSTENKOWSKI] has further requests for time?

Mr. ROSTENKOWSKI. Mr. Speaker, I have no further requests for time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do think in fairness I should respond to the gentleman from Illinois [Mr. ROSTENKOWSKI] on his question. I have made a legitimate motion to instruct, I believe in it, and I will support that motion, and I will vote against the motion to table, and I am pleased to say that. I think the motion that I have made gives us an opportunity to move this country forward, to do it in a bipartisan way, to give the President a bill that he can sign to create more jobs and facilitate the security of existing jobs which will get this economy moving.

It serves no purpose, Mr. Speaker, to get on a train that is engineered to go to nowhere, where these rate increases in both the Democrats' House bill and the Democrats' Senate bill, which by the way passed by only three votes in the Senate, will take us. It is a train that is going to oblivion and to a veto, and it should not pull out of the station. If it does pull out, it should pull out with this motion to instruct so that it can be engineered in such a way that the President can sign the bill to help Americans.

Mr. Speaker, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I, too, yield back the balance of my time.

Mr. WALKER. Mr. Speaker, I renew my preferential motion.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. WALKER moves to lay on the table the motion to instruct offered by the gentleman from Texas [Mr. ARCHER].

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania [Mr. WALKER] to lay on the table the motion to instruct offered by the gentleman from Texas [Mr. ARCHER].

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 0, nays 409, not voting 25, as follows:

[Roll No. 49]

NAYS—409

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
Bacchus
Baker
Ballenger
Barnard
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield
Browder
Brown
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Darden
de la Garza
DeFazio
DeLauro
DeLay
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Fields
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Gradison
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (OH)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Pursell
Quillen

Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stearns
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—25

AuCoin
Barton
Bruce
Collins (IL)
Dannemeyer
Davis
Dellums
Edwards (OK)
Ewing
Feighan
Ford (TN)
Hammerschmidt
Hunter
Ireland
Levine (CA)
Lipinski
Lowery (CA)
Miller (CA)
Miller (WA)
Porter
Rohrabacher
Russo
Savage
Whitten
Yates

□ 1622

Messrs. SCHAEFER, BOUCHER, OWENS of New York, PETERSON of Minnesota, ABERCROMBIE, and BERMAN changed their vote from "yea" to "nay."

So the motion to table the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMENDMENT OFFERED BY MR. ROSTENKOWSKI TO THE MOTION TO INSTRUCT OFFERED BY MR. ARCHER

Mr. ROSTENKOWSKI. Mr. Speaker, I offer an amendment to the motion to instruct.

Ther Clerk read as follows:

Amendment by Mr. ROSTENKOWSKI to the motion to instruct offered by Mr. ARCHER: In the motion offered by the gentleman from Texas strike all after "be instructed" and insert in lieu thereof "to include in the conference report, within the scope of conference, provisions to provide significant middle-class tax relief."

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 1 hour.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

The amendment that is presently at the desk would provide instructing the conferees to provide significant middle tax relief within the scope of the conference.

I think, Mr. Speaker, this issue has been debated at length and in the interest of convening the conference as soon as we can this afternoon, I am prepared to move the previous question on the motion, and I urge an aye vote on the previous question.

Mr. Speaker, I yield 10 minutes to the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Speaker, the body should be aware that this amendment in the nature of a substitute to my motion to instruct eliminates the opportunity for the Members of the House to vote on whether they want tax increases or not. That is very clear.

A vote for the amendment in the nature of a substitute offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] is a vote for tax rate increases. I will be constrained to vote "no."

This is merely a reinstatement of the debate that we had earlier in the House when the tax legislation first came before us.

It is, however, interesting to me, as I read the substitute of the gentleman from Illinois, that he says that significant middle income tax relief should be accomplished by the conference committee.

I think most of us would question whether either bill has significant middle-income tax relief.

□ 1630

Mr. Speaker, I was tempted to make a point of order against the motion of the gentleman from Illinois [Mr. ROSTENKOWSKI], because it clearly is not specific, it is general in content, it cannot be enforced, and we can never determine whether it has been brought about or not because of its generalities.

I did not do so because I think the House is entitled to have a vote on it. But it does seem clear to me that when relief is not given to any worker who is not covered under FICA, many State and local employees, is not given to senior citizens who are living off of so called nonearned income, investment income, savings income, yet no relief, even though they are middle-income class, and even though a number of other areas do not get relief, that it contains the wording "significant relief" for middle-income Americans. It does give relief to very low-income Americans who would not be categorized as middle income, but leaves out many middle-income Americans.

I would say to my colleagues, make no mistake about it, a vote for this substitute is a vote for tax rate increases, which will not help the economy but rather it will actually hurt the economy. I urge a vote against the motion of the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, much has been said about the legislative procedure. What in fact this amendment does is directs our membership to recognize that middle-income Americans have been denied their fair share. This is an equity vote. If the Members are going to vote for my motion, they are voting to help middle-income Americans.

Mr. ARCHER. Mr. Speaker, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the amendment to the motion.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the amendment offered by the gentleman from Illinois [Mr. ROSTENKOWSKI] to the motion to instruct offered by the gentleman from Texas [Mr. ARCHER].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ARCHER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 206, nays 200, not voting 28, as follows:

[Roll No. 50]

YEAS—206

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Bryant
Bustamante
Campbell (CO)
Cardin
Chapman
Clay
Clement
Coleman (TX)
Collins (MI)
Conyers
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Derrick
Dicks
Dingell
Dixon
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Flake
Foglietta
Ford (MI)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Huckaby
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Lehman (FL)
Levin (MI)
Lewis (GA)
Lowey (NY)
Luken
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McNulty
Mfume
Mineta
Mink
Moakley
Mollohan
Moody
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Owens (NY)
Panetta
Pastor
Payne (NJ)
Pelosi
Perkins
Peterson (FL)
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Roe

Rose
Rostenkowski
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sawyer
Scheuer
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skaggs
Slaughter
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stark
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Thornton
Torres
Torricelli
Towns
Traxler
Unsoeld
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yatron

NAYS—200

Allard
Allen
Andrews (NJ)
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Carper
Carr
Chandler
Clinger
Coble
Coleman (MO)
Combest
Condit
Cooper
Coughlin
Cox (CA)
Crane
Cunningham
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hubbard
Hughes
Hutto
Hyde
Inhofe
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Long
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Molinari
Montgomery
Moorhead
Moran
Morella
Morrison
Mrazek
Myers
Nichols
Nussle
Olin
Orton
Owens (UT)
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Payne (VA)
Penny
Peterson (MN)
Petri
Pickett
Pursell
Quillen
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roemer
Rogers
Ros-Lehtinen
Roth
Roukema
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schroeder
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Skelton
Slattery
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stallings
Stearns
Stump
Sundquist
Swett
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Traficant
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—28

AuCoin
Barton
Berman
Brown
Bruce
Collins (IL)
Dannemeyer
Davis
Dellums
Donnelly
Edwards (OK)
Feighan
Ford (TN)
Hunter
Ireland
Levine (CA)
Lipinski
Lowery (CA)
Miller (CA)
Miller (WA)
Pease
Porter
Roberts
Rohrabacher
Russo
Savage
Whitten
Yates

□ 1648

The Clerk announced the following pair:

On this vote:

Mr. Dellums for, with Mr. Edwards of Oklahoma against.

Mr. LENT and Mr. BEILENSON changed their vote from "yea" to "nay."

So the amendment to the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

□ 1650

The SPEAKER pro tempore (Mr. MCNULTY). The question is on the motion to instruct, as amended, offered by the gentleman from Texas [Mr. ARCHER].

The motion to instruct, as amended, was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints the following conferees, and, without objection, reserves the authority to make additional appointments of conferees and to specify particular portions of the House bill and Senate amendment as the subject of various appointments:

Suggested conferees on H.R. 4210—Tax Fairness and Economic Growth Act: Messrs. ROSTENKOWSKI, GIBBONS, PICKLE, RANGEL, STARK, ARCHER, VANDER JAGT, and CRANE.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 3635, PREVENTIVE HEALTH AMENDMENTS OF 1991

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3635) to amend the Public Health Service Act to revise and extend the program of block grants for preventive health and health services, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. Without objection, the Chair appoints the following conferees and reserves the right to appoint additional conferees: Messrs. DINGELL, WAXMAN, ROWLAND, LENT, and BLILEY.

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 3508, HEALTH PROFESSIONS EDUCATION AMENDMENTS OF 1991

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3508) to amend the Public Health Service Act to revise and extend certain programs relating to the education of individuals as health professionals, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. Without objection, the Chair appoints the following conferees and reserves the right to appoint additional conferees: Messrs. DINGELL, WAXMAN, RICHARDSON, LENT, and BLILEY.

There was no objection.

MODIFICATION OF APPOINTMENT OF CONFEREES ON S. 347, DEFENSE PRODUCTION ACT AMENDMENTS OF 1991

The SPEAKER. Pursuant to the authority granted on October 10, 1991, the Chair announces the following modifications in the appointment of conferees on the Senate bill (S. 347) to amend the Defense Production Act of 1950 to revitalize the defense industrial base of the United States, and for other purposes:

From the Committee on Banking, Finance and Urban Affairs, Mr. SCHUMER is appointed in lieu of Mr. VENTO for consideration of title IV of the Senate bill.

The panel from the Committee on the Judiciary is also appointed for consideration of section 135 of the Senate bill. Additionally, Mr. FRANK is appointed in lieu of Mr. CONYERS.

FEDERAL EMPLOYEE RESERVIST BENEFIT EXTENSION ACT OF 1992

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill, H.R. 3209, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from New York [Mr. ACKERMAN] that the House suspend the rules and pass the bill, H.R. 3209, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 354, nays 57, not voting 23, as follows:

[Roll No. 51]

YEAS—354

Abercrombie
Ackerman
Alexander
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Barnard
Bateman
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Broomfield

Browder
Brown
Bryant
Bunning
Burton
Bustamante
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Coleman (MO)
Coleman (TX)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Coughlin
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Darden
de la Garza
DeFazio
DeLauro
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (MI)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Hyde
Inhofe
Jacobs
James
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Miller (OH)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Morrison
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Oxley
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Richardson
Ridge
Rinaldo
Ritter
Roe
Roemer
Ros-Lehtinen
Rose
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schumer
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Upton
Vander Jagt
Vento
Volkmer
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yatron
Young (AK)
Young (FL)
Zimmer

NAYS—57

Allard
Archer
Armey
Baker
Ballenger
Barrett
Beilenson
Boehner
Byron
Callahan
Clinger
Coble
Crane
DeLay
Dickinson
Doolittle
Duncan
Ewing
Fields
Gallegly
Goss
Grandy
Green
Hancock
Hobson
Hopkins
Johnson (TX)
Kolbe
Kyl
Lagomarsino
Lewis (FL)
Lightfoot
Livingston
Marlenee
McMillan (NC)
Michel
Nichols
Nussle
Packard
Penny
Petri
Rhodes
Riggs
Roberts
Rogers
Roth
Schulze
Sensenbrenner
Smith (OR)
Smith (TX)
Stearns
Stump
Valentine
Visclosky
Vucanovich
Walker
Zeliff

NOT VOTING—23

AuCoin
Barton
Bruce
Collins (IL)
Dannemeyer
Davis
Dellums
Edwards (OK)
Ford (TN)
Hunter
Ireland
Levine (CA)
Lipinski
Lowery (CA)
Miller (CA)
Miller (WA)
Owens (UT)
Porter
Rohrabacher
Russo
Savage
Whitten
Yates

☐ 1713

Mr. SHAYS and Mr. SLATTERY changed their vote from "nay" to "yea."

So (two thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BRUCE. Mr. Speaker, I was absent from the House of Representatives due to an illness in my family and missed rollcall votes No. 48, Approving the Journal; Nos. 49 and 50, motions to instruct conferees regarding middle income tax relief; and No. 51, final passage of H.R. 3209, the Federal Employee Reservist Benefit Extension Act of 1992. I would like the record to show that had I been present, I would have voted "yea" on rollcall votes 48, 50, 51 and "nay" on rollcall vote 49.

PERSONAL EXPLANATION

Mr. PORTER. Mr. Speaker, I was unavoidably detained during my return from Illinois and missed rollcall votes: No. 48, approving the Journal; No. 49 and No. 50, motions to instruct conferees regarding temporary middle-class tax relief; and No. 51, final passage of H.R. 3209. I would like the RECORD to show that, had I been present, I would have voted "yea" on rollcall No. 48, "nay" on No. 49, "nay" on No. 50, and "nay" on No. 51.

PERSONAL EXPLANATION

Mr. DANNEMEYER. Mr. Speaker, I was unavoidably absent fo rollcall votes 48 through 51. Had I been present during these votes, I would have voted "nay" on rollcalls 48 through 50 and "yea" on rollcall 51.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE RESOLUTION 194

Mr. BUSTAMANTE. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of House Resolution 194.

The SPEAKER pro tempore (Mr. McNULTY). Is there objection to the request of the gentleman from Texas?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1300

Mr. CLEMENT. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 1300. It was inadvertently placed as a cosponsor, which was not correct.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1300

Mr. TRAXLER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1300.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

HEALTH CARE SYSTEM IN DIRE NEED OF MAJOR OVERHAUL

(Mr. TRAXLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAXLER. Mr. Speaker, our Nation's health care system is in dire need of a major overhaul. That is why I have been listed as a cosponsor of H.R. 1300, a bill I believed could serve as a basis for needed reform.

It has recently been brought to my attention, and I must agree, that section 4(e) of that bill raises many questions and concerns about the status of the VA hospital system and VA health care benefits under the universal health care system envisioned under H.R. 1300.

Mr. Speaker, I am proud to be the chairman of the VA–HUD and Independent Agencies Appropriations Subcommittee. As chairman of that subcommittee I must annually wrestle with the great need to provide funding for the VA hospital system. I believe the Congress has performed valiantly to bring the funding of the VA up to a decent level.

I am pleased that the joint VA-Health and Human Services rural health care initiative was canceled recently by the administration. For that reason, too, Mr. Speaker, I ask unani-

mous consent that my name be removed as a cosponsor of H.R. 1300.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
March 17, 1992.

Hon. THOMAS S. FOLEY,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit two sealed envelopes received from the White House at 2:42 p.m. on Tuesday, March 17, 1992 and said to contain the following:

(1) A message from the President whereby he transmits the Science and Technology Report and Outlook, 1989–1990; and

(2) A message from the President whereby he transmits the text of a proposed Agreement for Cooperation between the United States of America and the Republic of Poland Concerning Peaceful Uses of Nuclear Energy and related documents.

With great respect, I am

Sincerely yours,
DONALD K. ANDERSON,
Clerk, House of Representatives.

SCIENCE AND TECHNOLOGY REPORT AND OUTLOOK: 1989–90—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science, Space, and Technology:

To the Congress of the United States:

I am very pleased to submit the *Science and Technology Report and Outlook: 1989–1990* as required by the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6615).

The report reinforces and highlights that strong and vigorous support for our Nation's science and technology has been one of the central policies of this Administration. In addition to providing a general record of accomplishments, the report also suggests a number of possibilities in the form of an outlook for the future in key areas of science and technology.

The Federal Government's science- and technology-related activities support our Nation's quest to ensure a high quality of life for current citizens and future generations by meeting national needs, investing for the future, exploring intellectual, social, and physical frontiers, building on the fundamentally international character of science and technology, and strengthening math and science education.

The various chapters illuminate selected areas essential for meeting national needs. There is a focus on international competitive advantage, national security, global environmental needs, foreign policy, biotechnology, and information technology. Each chapter describes the area's key features, its policy relevance, and major components for which detailed strategies, policies, programs, and budgets have been or are being designed and implemented.

Science, as Vannevar Bush pointed out nearly half a century ago, is an endless frontier. Exploiting the opportunities of that frontier has helped to strengthen this Nation and the entire world in the past and can continue to in the future. This Administration believes that seizing these opportunities in science and technology and securing their benefits to the United States require policies that are forward-looking and reflect a rapidly evolving world. This Administration also believes that these objectives require vigorous initiatives in the private sector, continued excellence in academic research, and sustained progress in education.

In many ways, investment in science and technology reflects a deep-seated American belief in the possibility of a better future. With concerted action, that future—that endless frontier—lies within our reach.

GEORGE BUSH.

THE WHITE HOUSE, *March 17, 1992.*

AGREEMENT FOR COOPERATION BETWEEN THE UNITED STATES AND POLAND CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–205)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Foreign Affairs and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123 b. and 123 d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b), (d)), the text of a proposed Agreement for Cooperation Between the United States of America and the Republic of Poland Concerning Peaceful Uses of Nuclear Energy with accompanying annex and agreed minute. I am also pleased to transmit my written approval, authorization, and determination concerning the agreement, and the memorandum of the Director of the United States Arms Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views, is also enclosed.

The proposed agreement with the Republic of Poland has been negotiated in accordance with the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 and as otherwise amended. In my judgment, the proposed agreement meets all statutory requirements and will advance the non-proliferation and other foreign policy interests of the United States. It provides a comprehensive framework for peaceful nuclear cooperation between the United States and Poland under appropriate conditions and controls reflecting our strong common commitment to nuclear non-proliferation goals.

Poland has consistently supported international efforts to prevent the spread of nuclear weapons. It was an original signatory of the Non-Proliferation Treaty (NPT) and has strongly supported the Treaty. It is committed to implementing a responsible nuclear export policy, and declared in January 1978 that it intended to apply a full-scope safeguards nuclear export requirement. Poland supports the work of the NPT Exporters ("Zangger") Committee and adheres to the Nuclear Supplier Guidelines. It is a member of the International Atomic Energy Agency (IAEA) and has played a positive role in the Agency's safeguards and technical cooperation activities. It has also cooperated with the United States and other like-minded members in working to prevent the politicization of the Agency. Poland is a party to the Convention on the Physical Protection of Nuclear Material.

I believe that peaceful nuclear cooperation with Poland under the proposed agreement will be fully consistent with, and supportive of, our policy of responding positively and constructively to the process of democratization and economic reform in Eastern Europe. Cooperation under the agreement will also provide opportunities for U.S. business on terms that fully protect vital U.S. national security interests.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution and urge that the Congress give it favorable consideration.

Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123 a.

of that Act. This transmission shall constitute a submittal for purposes of both sections 123 b. and 123 d. of the Atomic Energy Act. The Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House Foreign Affairs Committees as provided in section 123 b. Upon completion of the 30-day continuous session period provided for in section 123 b., the 60-day continuous session period provided for in section 123 d. shall commence.

GEORGE BUSH.

THE WHITE HOUSE, *March 17, 1992*.

ANNUAL REPORT OF ACTION AGENCY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The Speaker pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Education and Labor:

To the Congress of the United States:

In accordance with section 407 of the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 5047), I transmit herewith the Annual Report of the ACTION Agency for Fiscal Year 1991.

GEORGE BUSH.

THE WHITE HOUSE, *March 18, 1992*.

□ 1720

POOR TASTE

The SPEAKER pro tempore. (Mr. ANDREWS of Maine). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, Congressman ROBERT K., one discrepancy check and arguing about it, and one only, DORNAN. We have to give a report on where we stand: holding firm at one, and I do not acknowledge it should even be in there. Refused to honor a stopped check.

Mr. Speaker, I have said on this floor for the past 15 years that I would always rise to the defense of my Jewish brothers and sisters, and any other religious minority, or even a large group, like my fellow Roman Catholics, when their church was attacked.

We have a Pulitzer Prize-winning political cartoonist in our country who comes from Australia. I do not even know if he is a citizen yet. Mr. Pat Oliphant, pretty wicked with a pen, pretty wicked with the word, but he went over the line, and I wanted to call it to his attention, and, if he has got Irish blood, because half of Australia are Irish political prisoners from the 18th and 19th centuries, if he is lucky enough to have Irish blood, a belated St. Patrick's Day, and I want to remind him that, if he is a lapsed Catholic, so what. He still cannot attack the church, and here is how he did it:

I am going to change names and words, and tell me if this is not blatantly intolerant and bigoted toward African-Americans and Jewish-Americans. Suppose Oliphant said in an interview, "I hope Congressman X, who is Jewish, gets elected because he has a ghetto Jewish face and he looks like a Jewish thug," or suppose he said, "I hope Congresslady Y gets elected because she has a jungle African-American face, she looks like a black thug." Why, this country would be up in arms. The Pulitzer Prize committee would be asking for his prize back.

Here is what Mr. Oliphant did in fact say. "I hope Patrick Buchanan wins the Presidency because I'll have a field day with him. You know, he's got a bog Irish face. He has the face of an Irish thug." Do my colleagues see what happens by replacing the word "Irish" with "Jewish" or "African-American"? Well, it is bigoted.

Then he comes out with a cartoon. I was not going to do this in the well of the House to the whole Nation on C-SPAN, to a million audience, Mr. Speaker, I was going to let him get away with it until I saw this cartoon last week which has Patrick Buchanan as a Catholic priest in a confessional, and he has got a big club, and, yes, I guess he would call this a bog Irish face. We read-headed Irishmen are the result of Viking raids. We call lovingly this Gaelic or black Irish. Part of the Gaels in Ireland. He has got Buchanan with a big club in the confessional in a Roman collar, and George Bush is going to confession to him, and he says, "I made a mistake, Father, on the tax increase in October 1990," and the idea is that this Catholic priest, Buchanan's face, is going to beat the living heaven out of President George Bush.

Now, if that person in the confessional were observably an Hispanic-American, say wearing a sombrero, or he was a Jewish rabbi, or just counselling with a big club, that he is going to beat the heck out of the President of the United States; say it was Senator—well, I will not even mention names, or if it was an African-American, priest, rabbi, minister sitting in there with a big club; say it is the late Rev. Martin Luther King, and he is going to beat the hell out of the President of the United States, everybody would have said, "What poor taste."

So, I close, Mr. Speaker, with these words:

> Roman Catholicism may be the biggest denomination in the country. So what. You don't walk on the face of my church without being called to task. Pat Oliphant, I wonder if that's for Patrick, a belated St. Patrick's Day. Apologize, you dumb Mick, for ripping up your church. You're not going to get away with it, and, if you're on the outside, where do you get the chutzpah, the gall, the arrogance to attack my church, or my tribe, with words like "bog Irish face" or "the face of an Irish thug," and I got a Navy jet ace, our only ace from Vietnam with the nice Irish name CUNNINGHAM who, although he is a Protestant, his wife happens to be a Holy Roman, a Catholic, and CUNNINGHAM told me I can invoke his name. He's going to send a Sparrow or Sidewinder right up where the sun don't shine, Mr. Oliphant, if you, please, don't apologize for attacking the Irish and the Catholics.

Mr. Speaker, that was all I had on my mind, and the swallows will be back in Capistrano tomorrow. My daughter lives close to the mission, and the scouts have already arrived, and we will have a happy St. Joseph's Day tomorrow. Here we are caught between two of the greatest holidays in our Nation, St. Patrick's Day, and St. Joseph's Day.

THE BUDDY SYSTEM PILOT SITES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Indiana [Ms. LONG] is recognized for 5 minutes.

Ms. LONG. Mr. Speaker, today a number of other Members and I are introducing legislation to provide grants allowing middle school students access to computers in their homes to enhance classroom learning. Companion legislation is being introduced in the other body by the distinguished junior Senator from Indiana, Senator COATS.

This legislation was inspired by the tremendous success of pilot buddy system sites at the fourth through sixth grade levels in 20 Indiana communities. In those schools, many located in disadvantaged areas, students are gaining new enthusiasm for learning. The eagerness of one student is explained when he says:

> I like to do homework a lot more with my computer than by pencil and paper. It's more fun.

Another student remarked:

> I have a Nintendo system at home, and I like the computer better. It's just basically more fun than Nintendo.

A third student commented:

> It keeps me from just being a couch potato and watching cartoons all the time. It makes me just perky.

Clearly the computers increase the students' motivation to study. Parents are increasing their participation in their children's education, and teachers report renewed inspiration for teaching.

An independent evaluation of the buddy system pilot sites, which have grown from just five when the program was launched in 1988-89, documents the positive effects of integrating the home environment into the educational setting via technology. The success of this program is evidenced by the amount of time students spend outside of the classroom working on their home computers. Buddy students spend an average of 66 minutes per night and another

2¾ hours on the weekend using the buddy computer. Having the computer available for home use has clearly expanded the portion of the day spent in active learning.

The time spent working on the home computer has had positive results. An independent evaluation of the project has shown that the students acquire superior computer skills, produce written work of higher quality and greater length with fewer grammatical errors, complete more homework, and develop pride in their work and greater self-esteem.

The involvement of parents has been increased by the buddy program. Buddy has resulted in better communications between teachers and parents, often through electronic mail.

The educational benefits of such a program are evident. Moreover, we as a nation stand to gain as we prepare a better educated and more technologically literate work force to compete in the global marketplace. In addition, an immediate effect of buddy is that more than half of buddy parents use their computers on a regular basis, gaining valuable job-related skills.

For this reason, we are introducing legislation today to implement buddy on a larger scale. The Buddy System Education Act would provide for buddy to be piloted at the sixth through eighth grade levels at 21 sites in 3 States. Site selection would be based upon a competitive grant application process. The results of this demonstration project would be closely monitored by independent evaluators and by the Secretary of Education to determine its potential for our Nation. Further, an evaluation report would be submitted to Congress regarding the overall cost effectiveness of the program.

The cost for this pilot would be $25 million over a period of 4 years. This is truly a small price to pay for the wealth of information we would gain from the project, whose aim is to enhance the quality of education of our youth.

In the interest of developing a high quality educational system through innovative programming, I urge my colleagues to support this legislation.

BIELARUSIAN INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, March 25 marks the 74th anniversary of Bielarusian Independence Day. This year's commemoration calls for special recognition because the freedom-loving people of Bielarus regained control of their destiny in 1991 following the failed Soviet coup.

The collapse of the Soviet Union last August allowed millions of people to escape from tyranny, while restoring independence to more than a dozen former Soviet Republics in Europe and Asia. Today, we must focus on rebuilding those countries and nurturing democracy throughout the former Soviet Union. However, it is appropriate to reflect on the sacrifices that made these developments possible.

Mr. Speaker, as freedom-loving Americans, we should honor the Bielarusians for sacrificing so much during their long struggle for independence. I take great satisfaction from the fact that this dream has become a reality. Bielarus is free. And like a phoenix rising from the ashes, the people of Bielarus now have a tremendous opportunity to rebuild their economy in a way that will benefit the United States of America and the entire world.

Mr. Speaker, at this time I would like to place in the RECORD the full committee statement of the Bielarusian Coordinating Committee of Chicago on the subjects of Bielarusian Independence Day and the restoration of independence by the Bielarusian Parliament on August 25 in the capital city of Miensk:

BIELARUSIAN COORDINATING
COMMITTEE OF CHICAGO, IL,
Chicago IL, February 27, 1992.

The Bielarusian Coordinating Committee of Chicago, Illinois is an organization which unites Americans with roots in Bielarus (also spelled as Belarus). The Committee is the spokesman for the Bielarusian Americans in Chicago and for the Bielarusians in Bielarus.

THE COMMITTEE STATEMENT

Whereas, this year marks the 74th Anniversary of the Declaration of Independence of Bielarus and it will also be observed as the beginning of the rebirth of the Bielarusian nation, AND

Whereas, the Bielarusian Coordinating Committee of Chicago, Illinois is sponsoring two exhibits on the occasion of the rebirth of the Bielarusian nation—one in the Richard J. Daley Center from March 23 through April 3 and another at the Illinois State Center in Chicago from March 23 through 27—to honor the free spirit of the Bielarusian people in their homeland and pay tribute to our American dignitaries who supported freedom and independence for Bielarus, AND

Whereas, the Bielarusian Coordinating Committee of Chicago, Illinois is sponsoring a banquet and program at 12:00 noon at the Regency Inn Banquet Halls, 5319 West Diversy Avenue in Chicago, on March 29, 1992 on the occasion of the 74th Anniversary of the Declaration of Independence of Bielarus and to celebrate the rebirth of the Bielarusian nation, AND

Whereas, the Bielarusian-American Community in Chicago is proud of their Bielarusian heritage and tries to acquaint other ethnic communities with the Bielarusian cultural heritage through various exhibits and its participation in the "Christmas Around the World" Festival at the Museum of Science and Industry in Chicago, AND

Whereas, the Bielarusian-American Community in Chicago prefers to be known under the traditional and historic spelling of the name of our country of ancestry as Bielarus instead of Belarus (Luxembourg has two spellings also): Now, therefore, be it

Resolved, That our requests, wishes and objectives be respected, given proper attention and recognition, and fully realized by those to whom we address ourselves.

Respectfully submitted,

MRS. VERA ROMUK,
Secretary.

Mr. Speaker, literally thousands of people helped to bring about the restoration of Bielarusian independence. During the crucial months leading up to the Soviet coup, thousands of Bielarusians risked their lives by demonstrating, joining strikes and engaging in other forms of peaceful protest against the Soviet Government. Now the proud citizens of Bielarus are engaged in a campaign to revive their national culture and language. For nearly seven decades, the Soviets tried to "russify" Bielarus in a strategy designed to perpetuate their totalitarian control. I would like to urge all Americans to show their support for Bielarusian independence by using the traditional spelling of Bielarus whenever they refer to that country in writing.

As part of this year's American celebration of Bielarusian Independence Day, it gives me great pleasure to announce that the Bielarusian Coordinating Committee of Chicago has planned several events in honor of this occasion. These activities include a Bielarusian Independence Day luncheon on March 29 at the Regency Inn, 5319 Diversey Avenue, Chicago. The committee also is sponsoring two exhibits that will focus on the rebirth of Bielarus. The first exhibit will be staged from March 23 to April 3 at the Richard J. Daley Center in Chicago. The second will be staged from March 23 to March 27 at the Illinois State Center in Chicago. These exhibits will include a survey of prominent Americans who have worked in solidarity with the Bielarusian independence movement. I am deeply honored that the organizers have chosen to include me among those receiving such recognition.

Mr. Speaker, in closing, I would like to say that during my 27 years in Congress, I have always viewed the Bielarusian independence movement as an eminently just cause. The courageous people of Bielarus waged this struggle in a quest for freedom and self-determination. Now that the Bielarusians have regained their independence, I hope they will pursue democratic self-government with the same vigor and determination that brought them victory at the end of the cold war.

□ 1730

THE ANTI-RECESSION INFRASTRUCTURE JOBS ACT OF 1992

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

TAXES

Mrs. BENTLEY. Mr. Speaker, before I get into my long dissertation, I have a short one that I would have given as a 1-minute today had I been over here. It concerns taxes.

Mr. Speaker, a recent University of California at Los Angeles study of Japanese transplant factory effects on the economy came to the conclusion that "instead of rescuing the U.S. economy, Japanese investments may be contributing to its decline." This UCLA study was done on factories employing 100 or less people outside of the auto industry.

One way this erosion occurs is by using Japanese parts with the parent company setting the transfer price of the part from Japan so profits are cut in the United States.

This and other fancy tax arrangements with the parent company in Japan has robbed the United States Government and the American taxpayer of $30 billion in unpaid taxes. This tax enables the Japanese companies to redirect the moneys normally used for taxes into being competitive with American firms, or makes it possible to buy more United States assets. It is time for the IRS to treat foreign tax cheats like U.S. tax cheats. If Japan wants to be a world leader then let Japanese companies pay their full share of taxes in the United States.

Mr. Speaker, I have taken to the floor on countless occasions since I was elected to the Congress in 1985 and during many of my speeches I have attacked American trade policies and warned of their negative impact on our economy.

Compounding our trade policies, environmental laws and regulations, higher corporate taxes, and many other legislative initiatives—regulations—have added greatly to the cost of doing business in the United States, often causing many industries and businesses to close down because they cannot effectively compete against foreign importers who are not burdened with the same federally mandated responsibilities and their associated costs.

Currently, there are more than 2,100 United States businesses operating just south of the Mexican border. They moved there to escape the higher costs of U.S. operations and when they moved there, they abandoned U.S. workers. If those companies and jobs remained in the United States, the effect of the recession would be less.

The recession that has gripped our economy for the past 19 months is a clear sign that the United States no longer has the industrial base with which we can pull ourselves out of this economic stagnation and decay.

Given that fact, it is my belief, Mr. Speaker, that the Congress and the Federal Government must provide the stimulus to create jobs.

The House Public Works and Transportation Committee, chaired by our esteemed colleague from New Jersey, ROBERT ROE, has taken a leadership role in the Congress in developing legislation to help put Americans back to work.

Last year, we passed the surface transportation reauthorization bill, which will rebuild our highway and transit systems and in doing so will provide work for 4 million Americans.

This year Chairman ROE has introduced H.R. 4175, the Anti-Recession Infrastructure Act. The chairman's bill is a 2-year $10 billion authorization to make available grants to States and local governments for the construction, renovation, repair, or other improvements of local public works projects.

H.R. 4175 will create jobs immediately in the areas of the Nation in most need based on unemployment rates—not through pork barrel projects as I am sure some will claim—but through infrastructure projects that State and local governments so desperately need to implement but haven't been able to do so because of serious budget deficits exasperated by the recession.

Governments at all levels have neglected investment in core infrastructure. The time has come to reverse that trend. Now is the time to help the economy. And, now is the time to help the American people.

Mr. Speaker, the Public Works and Transportation Committee, on which I proudly sit as the ranking minority member on the Economic Development Subcommittee, today held the second day of hearings on H.R. 4175, and I must admit it was the most compelling hearing I have ever entered.

Like many of my Republican colleagues in the Congress, I have withheld my support for H.R. 4175, but no longer. Today, I broke ranks with my party and became a cosponsor of H.R. 4175.

I have taken this action, because I firmly believe it was the reasonable thing for me to do. I always supported the merits of this bill, but I withheld my support because as a member of the Budget Committee, I believed that maintaining the firewalls of the budget agreement was of paramount importance. I still believe that but somehow we have to find the niche for the American worker—employed and unemployed—and the American family.

Mr. Speaker, I changed my position after hearing the testimony of four Americans. They were not four of our colleagues supporting the bill, nor were they three-piece suit lobbyists sophisticated in the ways of Capitol Hill, or four Governors or mayors, who need Federal dollars to initiate public works projects.

The witnesses who were invited to come to Washington to testify before the committee were four American workers—three of whom are unemployed and the fourth is facing unemployment when his plant closes later this year.

Their testimony came from the heart. It was based on the frustration they and millions of other unemployed Americans and their families have experienced by their inability to find—not comparable, meaningful jobs—but any job whatsoever.

Mr. Speaker, it is regrettable that C-SPAN was not on hand to telecast today's Public Works and Transportation Committee hearing, not so the public could hear these unemployed Americans—the public is all too familiar with the day-to-day struggle to survive, but so that the entire Congress, and especially the administration, could have heard, first hand, the heart-wrenching testimony of Mr. Anthony S. Gambino, a sheetmetal worker from Florissant, MO; Mr. Larry C. Horstman, Sr., a machinist from Bolivar, OH; Mr. William A. Condron, a quality control technician from New Castle, PA: and Mr. Don Sanders, a heavy equipment operator from North Branford, CT.

Mr. Speaker, since our colleagues and the administration were unable to hear the testimony of these four Americans, I want to read them now so that they will know what both unemployed workers and even employed workers uncertain about their future truly believe and think.

TESTIMONY OF MR. LARRY C. HORSTMAN, SR., MACHINIST OF BOLIVAR, OH

Good morning Mr. Chairman and members of the committee. I want to thank you for inviting me here today, things have been getting tougher and tougher lately, and I am happy to see that someone is trying to do something about it.

For all of my life I have held good jobs, doing work that I was proud of. I was either a machinist, where I manufactured component parts for machines that built this country, or a teacher in the Buckeye Joint Vocational School, where I taught the young people to run the machines that could manufacture the parts for the equipment to build this country.

Lately, although I want to work, I can't because there isn't any work for me to do. I was laid off on February 20th, from a job as a precision Inside Diameter Grinder and parts inspector with the Timken Company in New Philadelphia, Ohio. We are one of only two plants of Timken where we do precision grinding and machining work. The component parts we make are bearings mostly for use in automotives, tractors, trucks, trains and aircraft. It's precise, close-tolerance work, where one millionth of an inch can be critical.

The work I do, or did, can be seen everywhere. If you took a train to get here today, the train's axles may have been riding on one of my bearings, and for anyone that's going to be taking a trip in an airplane, its engine turbines, or some of the cockpit instrument gages, may be spinning on some of my bearings. Busses, farm tractors like John Deere, National Screw Machines, we support them all.

Before I went to Timken I worked at Gradall Company, where we make heavy earthmoving and material handling equipment. Anytime you drive past a highway construction project you may see some of our equipment digging a trench or leveling a shoulder. Go to the airport where cargo planes are loaded and you may see a material handler being used to board that cargo onto the aircraft.

In short I guess what I am trying to say is that what I make matters, and I get to see what I make, and how people use it to get from here to there, or to make other things.

Of course I guess the reason we're all here is that things aren't going so well. Actually, they're pretty bad. When I worked at Gradall I worked full-time, which provided a good salary, health insurance for myself and my wife, and a nice living.

In September 1990 the recession took hold of us, and 110 people were laid-off. Then in December about 30 more, including me, got lay-off notices for Christmas. So a year-and-a-half ago 140 people were laid-off, and since then 8 of those were called back, only to replace those who had retired. And later on, those 8 were re-laid-off, and there aren't any plans for the rest of us.

Four months later I got a job at Timken, in April 1991. The work and pay were good, but the recession was still hanging over us. When I started I was working full five-day weeks, got health insurance for my wife and I, a retirement plan and vacation package. Then in September last year we had cutbacks, and I was put on a four-day week. My pay fell by one-third, but I kept the benefits. Work still fell off, and 27% of the workforce got laid-off, and I went out on February 20th.

In both of these cases my employers would bring me back and I would go right back to work if they had any work for me to do. I am staying in touch with Timken and Gradall, but right now they don't see an upturn coming. I don't know what the economists or people on TV are seeing, but in eastern Ohio there is no end in sight.

So now I'm just in a struggle to make ends meet. I've just started to collect unemployment, which isn't half of what I made before the recession, and it doesn't include any health insurance. I'm waiting to hear from Timken just how much it will cost me to continue my health coverage. I've got a house still with a mortage, but at least my two kids are grown and out on their own now. My daughter, who's 28, is a married nurse working full-time, her husband works too, and my wife Sandy is the one who takes care of our first little grandchild Nicholas, who's 19 months old, when they're out at work.

Our son, Larry, Jr., serves proudly in the U.S. Navy as a sonar technician on board a nuclear fast attack submarine. He's been in for two years, and has another four to go on his enlistment. He's still single, so at least there's no problem with room and board for a family to take care of while he's at sea. He only has to worry about what he's going to do when he gets out.

TESTIMONY OF ANTHONY S. GAMBINO, MARCH 18, 1992

Mr. Chairman, my name is Anthony Gambino. I am married, my wife's name is Carole and she teaches fifth grade in elementary education in St. Louis County. Carole and I have three grown children: a daughter who teaches elementary school in St. Charles, Missouri, and two sons who both work in the construction industry. One is a sheet metal worker, the other an electrical worker.

I have been employed for 36 years as a sheet metal worker in the construction industry. From 1983 until September of '91, I worked for Lyon Sheet Metal Works. Lyon's is a large sheet metal fabricating company. At its peak it employed 150 people. Now it's down to about one-half. Lyon's produces industrial sheet metal fabrications such as blow-piping and industrial duct work. As I said, I was a sheet metal worker there for eight years. I enjoyed the work, the pay was excellent, and the benefits were substantial.

Before that, I was with Western Sheet Metal for six years. In the past, there have been slack times and periodic unemployment in the construction field that affected me and my family. These periods lasted four to six weeks normally. This year, I have been laid off for over six months with no immediate sign of returning to work.

At the present time many of us find that the conditions in the present economy have been devastating for workers who have had their jobs sent abroad and to Mexico. As a matter of restoring pride to the work force of this country, the bill you are considering would put the people back to work and take them off of the unemployment lines, while giving us the opportunity to regain our self esteem and be able to hold our heads high and to know our families and homes will be secure.

Mr. Chairman, I'm a hard working and responsible man. I come from a proud tradition. The son of an immigrant, I have always prided myself on working hard toward achieving the American dream. I want to work. Just like you, I in my own way want to continue to make a contribution to society.

We hear talk about a tax bill. For middle income Americans that may be a consideration. But we need help now and that means jobs.

Thank you.

WILLIAM A. CONDRON, QUALITY CONTROL TECHNICIAN, NEW CASTLE, PA

My name is William A. Condron, I am 46 years old, I have been married for over 25 years. I am blessed to have a lovely wife and two fine young sons. I am a Vietnam veteran, having served from June 16, 1964 until July 9, 1967. My duty from December 15, 1965 until July 7, 1967 was in Qui Nhon, South Vietnam.

My story is different from the preceding two panelists, because I am employed by Rockwell International. I have been an employee at the New Castle, Pennsylvania, division since November 22, 1971 (over 20 years) as a certified quality technician. In fact I have never been out of work since 1967 when I was discharged from the Army. I have always been able to find jobs to upgrade my family's standard of living. However, I am facing a plant shutdown on September 1, 1992. I know there are no jobs out there that would allow me to maintain my present standard of living for myself and my family.

If the company offered me training to upgrade my skills, I would do it, but I still don't know where I would get a job. I have had that kind of training in the past to upgrade my skills, but there are no jobs out there no matter how skilled I am. The reason I know this, is because two of my friends who have the very same training and skills have been unemployed since October 19, 1991, and neither of them can find a job anywhere.

At least when I graduated from high school in May of 1964, I knew that I was going into the service in June. At that time, I felt I had a future. It was just understood that serving in the armed forces was the beginning of job security for a lifetime. Today, I do not know what the future holds for me. The frustration and the uncertainty of not knowing what to expect for the future at age 46 is very frightening to me.

It's a situation some of my friends have not even been able to deal with. One of my coworkers has committed suicide because he could not face this uncertainty. I had the very difficult task of delivering a Bible to the family of this coworker on behalf of our union. I can tell you what a horrible effect this has had on his wife and daughter. Many, many others are being treated for emotional disorders directly caused by the stress of job losses at Rockwell and all across the nation.

I think the closing of our New Castle plant is unique, but it is a microscopic realization that fellow workers across the USA are facing in the future.

The workers at Rockwell have accepted recommendations and challenges. Since 1982 we have accepted concessions, changed work rules, changed personal work philosophies, and upgraded quality in our plant. No matter how much we have done, the bottom line is—we are losing our jobs.

Management is sending our jobs to Mexico, Canada, Hungary, India, and Brazil just to mention a few places. The trade agreements are being negotiated right now that will make this even more inviting to our employer while we sit here frustrated, angry, betrayed, unemployed and wondering if our government cares about its workers.

Mr. Chairman, as I mentioned in the beginning, I am an honest, hardworking and responsible individual. I'm a good family man and served my country well. What's happening to me and others is not right—not in America.

Thank you.

STATEMENT OF DON SANDERS, MARCH 18, 1992

Good Morning. My name is Don Sanders and I'm from North Branford, Connecticut. I came here this morning because I hope what I have to say will do some good. Maybe if people understand what is happening to workers like me this unemployment problem will start to get solved.

I maintain heavy equipment for a living. I am a member of the Union of Operating Engineers and I worked full time until last August. After that, I worked on and off from August to January. Since January there has been almost no work for me or members of my local. There are about 3,000 members in my local, number 478. Because of the recession and unemployment, 709 have lost all their health benefits and 1,331 of us are unemployed. That makes the unemployment rate about 42.5 percent.

When you have that many people, hardworking people, without jobs and for long periods of time, it make me wonder if anybody is paying attention. Do the people here in Washington understand what is going on? Is the President listening to us? Let me make it very plain. We are used to working. No one I know wants to be on unemployment. We want jobs, but we don't see anyone helping to make this happen. How is the economy going to get rolling again if we let it come to a standstill?

When I get together with my friends these days the topic of conversation isn't a ball game, or fishing, or taking your kids to little league. It's "what am I going to put on the table?" and "how can I pay for my mortgage?"

"It's bad here,"—that is all you hear from people. You don't ask about their family or the weather, you ask them if they're working today. The topic of conversation is survival.

It is tough to be out of work, and it takes over your whole life. When people are out of work for a long time it turns out to be a mental strain on them, on their families and on their relationships. It can force people into depression and alcoholism. It can cause families to break up. The pressures are tremendous.

You start to wonder how you're going to make it, where your next dollar is coming from. Yeah, you've got unemployment, but how long will it last and how far will it take you.

You get defensive, irritable and angry. A man's pride is connected to his job. When you can't provide for your family it just turns everything upside down. You can feel the impact on your wife and kids, the strain on family life.

As far as I can tell this all started about two years ago. Since then, we've gotten by through draining our savings and hoping and praying that work starts. My wife works part-time for MADD, but that doesn't pay the bills. I get unemployment, but how much longer will that last and what happens when it runs out.

I have two children, and one of them is in college. I've paid his tuition, but the college also requires him to have health insurance. My insurance covers him for now, but I only have that through COBRA benefits, and that costs $270 a month. But if you're unemployed and have that $270 to pay, that's a lot of money. I'm just about not able to make it.

If I can't pay for those benefits, where do I go from there? How do I tell my son, who is working hard in college so that he can get a good job, that I can't afford health insurance to keep him in school. People always talk about stretching the dollar, but how do you stretch this?

Most of us are just average people that have homes and families. We're not living extravagantly. When your job gets kicked out from under you what do you have left? Where is your pride?

Connecticut has quite a bit of federal money coming to it from the highway bill you passed. But how long can people wait? We need the jobs now. Waiting another couple of months just means waiting for the ax to fall. If unemployment runs out in the meantime, where do we go? How do we pay our mortgage? How do we put food on the table?

In all my 25 years in Connecticut, I've never seen it like this. They've extended the hours of the unemployment office so now its open early in the mornings and on Saturday. That alone should tell you something.

I'll tell you, if I got a job tomorrow the biggest thing it would bring would be a feeling of tremendous relief and the ability to take a little pride in what I'm doing. And I'd do the things I want to do—maybe go fishing again or go to a ball game. Sometimes now you go to get this all off your mind, but it doesn't work, it's just like a rock around your neck.

Mr. Chairman, I'm not a politician, and I'm not used to asking people for anything. So far my family and I have been able to get by. But if I were to deliver a message from my family, and my fellow workers, it would be this: President Bush and Congress need to pay some attention to middle America. We need help and we need it now. Don't promise to give us these jobs tomorrow, because tomorrow is never there. Today was tomorrow. We need these jobs now.

□ 1800

Mr. Speaker, that concludes the testimony of four Americans who have felt the impact of this recession, and have felt the impact of trade policies.

Before these four persons spoke, Mr. Speaker, the mayor from Baltimore, Mayor Kurt Schmoke, also testified and pointed out in his statement that at recent gatherings of citizens of Baltimore when he asked them, at a get together on crime, when he asked them what was the answer to resolving the serious problems of crime in the city, he said everyone answered, "Jobs, jobs, jobs."

Mr. Speaker, we have to do something, we really do.

I hope that after hearing the testimony of these four articulate Americans that all of our colleagues, especially my Republican colleagues, and the administration, will search within their own hearts and support H.R. 4175 and move for its immediate enactment.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

(Mrs. COLLINS of Illinois (at the request of Mr. GEPHARDT) for today and the balance of the week on account of personal leave.)

Mr. BRUCE (at the request of Mr. GEPHARDT) for today and the balance of the week on account of illness in the family.

Mr. ROHRABACHER (at the request of Mr. MICHEL) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DORNAN of California) to revise and extend their remarks and include extraneous material:)

Mr. MCEWEN, for 60 minutes, today.

Mr. DELAY, for 60 minutes each day, on March 19, 20, 24, 25, 26, and 31, and on April 1, 2, 7, 8, 9, 21, 22, 23, 28, 29, and 30.

Mr. DORNAN of California, for 5 minutes today, and for 60 minutes each day, on March 19, 20, 24, 25, 26, and 31, and on April 1, 2, 7, 8, 9, 21, 22, 23, 28, 29, and 30.

The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:

Ms. LONG, for 5 minutes, today.

Mr. TAYLOR of Mississippi, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, on March 19.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. VOLKMER, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,357.

(The following Members (at the request of Mr. DORNAN of California) and to include extraneous material:)

Mr. BROOMFIELD.

Mr. GOODLING.

Mrs. MORELLA.

Mr. PORTER.

Mr. STEARNS in three instances.

Mr. BATEMAN.

Ms. ROS-LEHTINEN in two instances.

Mr. ROGERS.

Mr. SMITH of New Jersey.

Mr. NUSSLE.

Mr. MICHEL.

Mr. LAGOMARSINO.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. ANNUNZIO.

Mr. FOGLIETTA.

Mr. TRAXLER.

Mr. NEAL of Massachusetts.

Mr. LAFALCE.

Mr. HAMILTON.

Mr. FAZIO in two instances.

Mr. LANTOS in two instances.

Mr. KILDEE in two instances.

Mr. STOKES.

Mr. TRAFICANT.

Mr. VISCLOSKY.

Mr. STARK.

Mr. SCHUMER.

Mr. WHEAT.

Mr. MONTGOMERY.

Mr. OWENS of Utah.

Mr. FASCELL in two instances.

Mr. STALLINGS.

Mr. DORGAN of North Dakota.

Mr. FALEOMAVAEGA.

Mr. AUCOIN.

Mr. DE LUGO.

Mr. TAUZIN.

Mr. MORAN.

Mr. MCNULTY.

Mr. CARR.

Mr. LAROCCO.

SENATE JOINT RESOLUTIONS AND CONCURRENT RESOLUTION

Joint resolutions and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S.J. Res. 222. Joint resolution to designate 1992 as the "Year of Reconciliation Between American Indians and non-Indians"; to the Committee on Post Office and Civil Service.

S.J. Res. 271. Joint resolution expressing the sense of the Congress regarding the peace process in Liberia and authorizing limited assistance to support this process; to the Committee on Foreign Affairs.

S. Con. Res. 101. Concurrent resolution authorizing the use of the rotunda of the Capitol by the American Ex-Prisoners of War for a ceremony in recognition of National Former Prisoner of War Recognition Day; to the Committee on House Administration.

ADJOURNMENT

Mr. TAYLOR of Mississippi. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 6 minutes p.m.) the House adjourned until tomorrow, Thursday, March 19, 1992, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3115. A letter from the Secretary of the Navy, transmitting notification that a major defense acquisition program has breached the unit cost by more than 15 percent, pursuant to 10 U.S.C. 2433; to the Committee on Armed Services.

3116. A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation to revise the stockpile requirement and authorize the disposal of cobalt from the National Defense Stockpile; to the Committee on Armed Services.

3117. A letter from the Acting General Counsel, Department of Defense, transmitting a draft of proposed legislation to amend section 3401(e) of title 39, United States Code; to the Committee on Post Office and Civil Service.

3118. A letter from the Administrator, Environmental Protection Agency, transmitting the 1990 National Water Quality Inventory Report, pursuant to 33 U.S.C. 1315; to the Committee on Public Works and Transportation.

3119. A letter from the Director, Office of Personnel Management, transmitting a draft of proposed legislation entitled "Veterans Readjustment Appointment Amendments of 1992"; to the Committee on Veterans' Affairs.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. JONES of North Carolina (for himself, Mr. Fascell, Mr. de Lugo, Mr. Panetta, Mr. Faleomavaega, and Mr. Abercrombie):

H.R. 4483. A bill to protect and promote stewardship of coral reef ecosystems; jointly, to the Committees on Merchant Marine and Fisheries and Foreign Affairs.

By Mr. JONES of North Carolina (for himself, Mr. Lent, Mr. Studds, Mr. Davis, Mr. Hubbard, and Mr. Tauzin):

H.R. 4484. A bill to authorize appropriations for fiscal year 1993 for the Maritime Administration; to the Committee on Merchant Marine and Fisheries.

By Mr. JONES of North Carolina (by request) (for himself, Mr. Tauzin, Mr. Fields, and Mr. Davis):

H.R. 4485. A bill to authorize reimbursement of expenses for overseas inspections and examination of foreign vessels; to the Committee on Merchant Marine and Fisheries.

By Mrs. BOXER:

H.R. 4486. A bill to amend the Federal Water Pollution Control Act to require the Secretary of the Army and the Administrator of the Environmental Protection Agency to issue rules establishing a program ensuring that there is no net loss in the total number of acres of wetlands that were in the United States on June 8, 1989; to the Committee on Public Works and Transportation.

By Mr. CAMP:

H.R. 4487. A bill to provide that a certain project on the Pine River in Michigan, is not subject to part 1 of the Federal Power Act; to the Committee on Energy and Commerce.

By Mr. CLEMENT (for himself and Mr. Barton of Texas):

H.R. 4488. A bill to provide for a combined construction permit and operating license for nuclear reactors, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. DICKS:

H.R. 4489. A bill to provide for a land exchange with the city of Tacoma, WA; to the Committee on Interior and Insular Affairs.

By Mr. DORGAN of North Dakota (for himself, Mr. Aspin, Mr. AuCoin, Mr. Bilbray, Mr. Durbin, Mr. Frost, Mr. Johnson of South Dakota, Mr. Johnston of Florida, Mr. Kolter, and Ms. Pelosi):

H.R. 4490. A bill to provide for the containment of prescription drug prices by reducing certain nonresearch related tax credits to pharmaceutical manufacturers, by establishing the Prescription Drug Policy Review Commission, by requiring a study of the feasibility of establishing a pharmaceutical products price review board, and by requiring a study of the value of Federal subsidies and tax credits given to pharmaceutical manufacturers, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. EMERSON:

H.R. 4491. A bill to amend the Internal Revenue Code of 1986 to extend the tax-exempt status of Christa McAuliffe Fellowships; to the Committee on Ways and Means.

By Mr. FIELDS:

H.R. 4492. A bill to amend title 46, United States Code, to prohibit the establishment and collection of any fee or charge for the inspection of sailing school vessels; to the Committee on Merchant Marine and Fisheries.

By Mr. GOODLING (for himself and Mr. Martinez):

H.R. 4493. A bill to amend the Rehabilitation Act of 1973 to authorize grants for the provision of certain transportation services to individuals with disabilities who hold or are seeking jobs in typical work environments, or who are receiving vocational rehabilitation services; to the Committee on Education and Labor.

By Mr. JOHNSON of Texas (for himself and Mr. Hammerschmidt):

H.R. 4494. A bill to authorize the National Society, Children of the American Revolution to establish a memorial to the American Revolution on Federal land in the District of Columbia or its environs; to the Committee on House Administration.

By Mr. JONES of Georgia:

H.R. 4495. A bill to suspend until January 1, 1995, the duty on 1,8 Dichloroanthraquinone and 1,8 Diaminonapthalene; to the Committee on Ways and Means.

By Mr. LAGOMARSINO:

H.R. 4496. A bill to acquire additional land for Channel Islands National Park, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LaROCCO:

H.R. 4497. A bill to amend the Consumer Credit Protection Act to improve disclosures made by lessors to consumers in connection with lease-purchase agreements, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Ms. LONG (for herself, Mr. Jacobs, Mr. McCloskey, Mr. Sharp, Mr. Hamilton, Mr. Myers of Indiana, Mr. Jontz, Mr. Visclosky, Mr. AuCoin, Mr. Jefferson, Mr. Frost, Mr. Towns, Mr. de Lugo, Mr. Pastor, Mr. Valentine, Mr. Blackwell, and Mrs. Unsoeld):

H.R. 4498. A bill to establish a computer education program for certain students; to the Committee on Education and Labor.

By Mr. ORTIZ (for himself, Mr. McGrath, Mr. Manton, Mr. Hochbrueckner, Mr. Berman, Mr. Green of New York, Mr. Hyde, Mr. Towns, Mr. Mrazek, Mr. Smith of Florida, Mr. Geren of Texas, Mr. Sarpalius, Ms. Norton, Mr. Lagomarsino, Mr. McCollum, Mr. Horton, Ms. Kaptur, Mr. de la Garza, Mr. Frost, Mr. Weiss, Mr. Schumer, Mr. Bustamante, and Mr. Rangel):

H.R. 4499. A bill to amend the Immigration and Nationality Act to designate special inquiry officers as immigration judges and to provide for compensation of such judges; to the Committee on the Judiciary.

By Mr. OWENS of Utah (for himself and Mr. Kostmayer):

H.R. 4500. A bill to authorize the Secretary of the Interior to establish an enhanced oil recovery demonstration program; to the Committee on Interior and Insular Affairs.

By Mr. PALLONE:

H.R. 4501. A bill to improve the ability of the U.S. Government to collect debts owed to it, and for other purposes; jointly, to the Committees on Ways and Means and the Judiciary.

By Mr. PETERSON of Florida:

H.R. 4502. A bill to amend title 10, United States Code, to provide for the award of the Purple Heart to persons wounded in action by friendly fire; to the Committee on Armed Services.

By Mr. PRICE (for himself, Mr. Lancaster, and Mr. Valentine):

H.R. 4503. A bill to suspend until January 1, 1995, the duty of Sumatriptan Succinate (bulk and dosage forms); to the Committee on Ways and Means.

By Mr. SAXTON:

H.R. 4504. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to make restoration of naturally occurring sand dunes eligible for assistance; to the Committee on Public Works and Transportation.

By Mr. SMITH of New Jersey:

H.R. 4505. A bill to designate the facility of the U.S. Postal Service located at 20 South Montgomery Street in Trenton, NJ, as the "Arthur J. Hollard United States Post Office Building"; to the Committee on Post Office and Civil Service.

By Ms. SNOWE:

H.R. 4506. A bill to extend eligibility for the homeowners assistance program established under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 to employees of certain local educational agencies operating schools that suffer enrollment reductions as a result of the closure of a nearby military installation; jointly, to the Committees on Armed Services and Banking, Finance and Urban Affairs.

By Mr. TOWNS (for himself, Mr. Coleman of Texas, Mr. Dymally, Mr. Frost, Mr. Mrazek, Mr. Parker, Mr. Rahall, Mr. Young of Alaska, Ms. Pelosi, Mr. Jacobs, Mrs. Unsoeld, Mr. Lightfoot, Mr. Dellums, Mr. Lewis of Florida, Mr. Horton, Mr. Jefferson, Ms. Kaptur, Mr. Bereuter, Mr. Rangel, Ms. Norton, Mr. Zeliff, Mrs. Boxer, Mr. Dreier of California, Mr. Gillmor, Mr. Herger, Mr. Machtley, Mr. Pickett, Mr. Rowland, Mr. Smith of Oregon, Mr. Stearns, Mr. Emerson, Mr. Kopetski, Mr. Lagomarsino, Mr. Nussle, Mr. Cramer, Mr. McCloskey, Mr. Frank of Massachusetts, Mr. Hamilton, Mr. Chapman, Mr. Valentine, Mr. Brown, Mr. Durbin, Mr. Solarz, Mr. Riggs, Mr. Dooley, Mr. BREWSTER, Mr. LOWERY of California, and Mr. SYNAR):

H.R. 4507. A bill to amend title XVIII of the Social Security Act to repeal the reduced Medicare payment provision for new physicians; jointly, to the Committees on Energy and Commerce and Way and Means.

By Mr. TRAFICANT:

H.R. 4508. A bill to amend the Excellence in Mathematics, Science and Engineering Education Act of 1990 to provide for an exam to determine recipients of scholarships to the National Academy of Science, Space, and Technology, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. ZIMMER:

H.R. 4509. A bill to extend until January 1, 1995, the existing suspension of duty on graphite; to the Committee on Ways and Means.

By Mr. AuCOIN:

H.J. Res. 443. Joint resolution expressing the sense of the Congress that Federal funding for education should be increased to $100 billion by 1998 in the interests of ensuring an educated and productive work force; to the Committee on Education and Labor.

By Mr. DOWNEY:

H.J. Res. 444. Joint resolution designating the week beginning May 17, 1992, as "National Senior Nutrition Week"; to the Committee on Post Office and Civil Service.

By Mr. DWYER of New Jersey:

H.J. Res. 445. Joint resolution designating June 1992 as "National Scleroderma Awareness Month"; to the Committee on Post Office and Civil Service.

By Mr. KENNEDY:

H. Con. Res. 295. Concurrent resolution concerning the appointment of a special envoy to Northern Ireland; to the Committee on Foreign Affairs.

By Mr. DE LUGO (for himself, Mr. MILLER of California, Mr. LAGOMARSINO, Mr. YOUNG of Alaska, Mr. BONIOR, Mr. VENTO, Mr. SHARP, Mr. MURPHY, Mr. LEHMAN of California, Mr. RICHARDSON, Mr. OWENS of Utah, Mr. LEWIS of Georgia, Mr. DEFAZIO, Mr. FALEOMAVAEGA, Mr. SCHUMER, Mr. BLAZ, Mr. EARLY, Mr. RANGEL, Mr. MATSUI, Mrs. COLLINS of Illinois, Mr. JONES of Georgia, Mr. HAYES of Illinois, Mr. CLAY, Mr. CHAPMAN, Mr. BREWSTER, Mr. PAYNE of New Jersey, Mr. SAVAGE, Mr. DELLUMS, Mr. MFUME, Mr. GUARINI, Mr. NEAL of Massachusetts, Mr. HUGHES, Mr. TORRES, Mr. KILDEE, Mr. STOKES, Mr. WASHINGTON, Mr. DIXON, Mr. TRAXLER, Mr. JENKINS, Mr. LEHMAN of Florida, Mr. DARDEN, Mr. KOSTMAYER, Mr. ABERCROMBIE, Mr. MARKEY, Mr. DOOLEY, Mr. CAMPBELL of Colorado, Mr. WILLIAMS, and Mr. JOHNSTON of Florida):

H. Res. 401. Resolution recognizing the development of the relationship of the Virgin Islands with the United States; to the Committee on Interior and Insular Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

346. By the SPEAKER: Memorial of the House of Representatives of the State of Texas, relative to the assassination of President John F. Kennedy; jointly, to the Committees on Government Operations and House Administration.

347. Also, memorial of the Senate of Commonwealth of Massachusetts, relative to the payment of both disability compensation and military retirement pay to certain war veterans; jointly, to the Committees on Veterans' Affairs and Armed Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. DANNEMEYER introduced a bill (H.R. 4510) for the relief of Wayne J. Phillips; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 66: Mr. WELDON, Mr. HOBSON, Mr. WYLIE, Mr. DELLUMS, Mr. DOWNEY, Mr. SAWYER, Mr. ROYBAL, Mrs. SCHROEDER, Mr. MCDERMOTT, Mr. PETERSON of Minnesota, Mr. JOHNSON of South Dakota, Mr. ANDREWS of Maine, Mr. ANDREWS of New Jersey, Mr. LAFALCE, and Mr. VENTO.

H.R. 263: Mr. JOHNSON of South Dakota.

H.R. 430: Mr. DELAY.

H.R. 643: Mr. ROTH.

H.R. 809: Mr. CARPER.

H.R. 840: Mrs. LOWEY of New York.

H.R. 916: Mrs. BYRON and Mr. BROWN.

H.R. 1003: Mr. TRAFICANT.

H.R. 1106: Mr. PACKARD.

H.R. 1110: Mr. MORAN and Mr. HORTON.

H.R. 1188: Mr. HAMMERSCHMIDT, Mr. QUILLEN, Mr. MOLLOHAN, Mr. HOCHBRUECKNER, and Mr. KOPETSKI.

H.R. 1241: Mr. NEAL of North Carolina, Mr. NEAL of Massachusetts, Mr. JOHNSON of South Dakota, Mr. GEREN of Texas, and Mrs. PATTERSON.

H.R. 1334: Mr. NEAL of North Carolina.

H.R. 1385: Mr. TOWNS and Mr. GUARINI.

H.R. 1414: Mr. SKELTON.

H.R. 1483: Mr. RIDGE.

H.R. 1573: Ms. HORN, Mr. MOLLOHAN, Mr. JONTZ, and Mr. COLEMAN of Texas.

H.R. 1611: Mr. SANTORUM.

H.R. 1637: Mr. ABERCROMBIE.

H.R. 1753: Mr. GIBBONS.

H.R. 1771: Mr. EDWARDS of Texas, Ms. HORN, Mr. JOHNSON of Texas, Mr. ROWLAND, and Mr. SAXTON.

H.R. 1820: Mr. FALEOMAVAEGA, Ms. HORN, and Mr. DOOLEY.

H.R. 1960: Mr. ENGEL and Mr. LUKEN.

H.R. 1987: Mr. RANGEL, Mr. DWYER of New Jersey, Mr. JEFFERSON, Mr. NOWAK, Mr. COX of Illinois, Mr. ENGEL, Mrs. COLLINS of Michigan, Mr. TRAFICANT, Mr. WISE, and Mr. MCDERMOTT.

H.R. 2070: Mr. MAVROULES, Mr. LEACH, Mr. BURTON of Indiana, Ms. SLAUGHTER, Mr. MACHTLEY, Mr. NEAL of Massachusetts, Mr. STUDDS, Mr. GILCHREST, Mr. DEFAZIO, and Mr. WISE.

H.R. 2248: Mr. HYDE.

H.R. 2336: Mr. BACCHUS.

H.R. 2363: Mr. TORRICELLI, Mr. MCCOLLUM, and Mr. FOGLIETTA.

H.R. 2385: Mr. SERRANO.

H.R. 2401: Mr. EVANS.

H.R. 2598: Mr. SMITH of Florida.

H.R. 2782: Mr. JEFFERSON, Mr. REED, Mr. ENGEL, Mr. JONTZ, Mr. TRAFICANT, Mr. FAZIO, Mr. DELLUMS, Mr. PEASE, Mr. RANGEL, Mr. WYDEN, Mr. MURPHY, Mr. OWENS of New York, Mr. MURTHA, and Mr. SMITH of Iowa.

H.R. 2861: Mr. GALLO.

H.R. 2867: Mr. HOAGLAND and Mr. INHOFE.

H.R. 2872: Mrs. MINK and Mr. SENSENBRENNER.

H.R. 2906: Mr. KOPETSKI and Mr. JONTZ.

H.R. 3006: Mr. RANGEL.

H.R. 3071: Mr. BREWSTER.

H.R. 3142: Mr. SYNAR.

H.R. 3146: Mr. LOWERY of California.

H.R. 3160: Mr. ACKERMAN, Mr. BONIOR, Mr. BORSKI, Mr. BRUCE, Mr. BRYANT, Mrs. COLLINS of Illinois, Mr. COYNE, Mr. ENGEL, Mr. ESPY, Mr. KENNEDY, Mrs. KENNELLY, Mr. LEHMAN of Florida, Mr. MOAKLEY, Mr. PEASE, Mr. SAVAGE, Mr. STAGGERS, Mr. STOKES, Mr. TORRICELLI, Mr. WEISS, and Mr. YATES.

H.R. 3206: Mr. KOPETSKI.

H.R. 3211: Mr. JONTZ, Mr. BACCHUS, and Mr. WHEAT.

H.R. 3423: Mr. SANDERS.

H.R. 3424: Mr. SANDERS.

H.R. 3425: Mr. HAYES of Illinois, Mr. OBERSTAR, Mr. IRELAND, AND MR. FRANK of Massachusetts.

H.R. 3471: Mr. BAKER, Mr. KLUG, Mr. SOLOMON, and Mr. WALSH.

H.R. 3570: Mr. GEPHARDT.

H.R. 3625: Ms. PELOSI and Ms. HORN.

H.R. 3748: Mr. SOLARZ, Mr. ANDREWS of Maine, and Mr. WILLIAMS.

H.R. 3758: Mr. SANDERS.

H.R. 3785: Mr. ZIMMER and Mr. CAMPBELL of Colorado.

H.R. 3801: Mr. MCCRERY.

H.R. 3849: Mr. BRUCE and Mr. LANCASTER.

H.R. 3971: Mr. BATEMAN, Mr. TAYLOR of Mississippi, Mr. VALENTINE, Mr. DOOLEY, Mr. HARRIS, Mr. GUARINI, Mr. NEAL of North Carolina, and Mr. JEFFERSON.

H.R. 3986: Mr. ATKINS.

H.R. 4019: Mrs. MEYERS of Kansas.

H.R. 4028: Mr. QUILLEN and Mr. INHOFE.

H.R. 4050: Mr. OWENS of Utah.

H.R. 4097: Mr. MANTON.

H.R. 4104: Ms. DELAURO and Mr. INHOFE.

H.R. 4130: Mr. PETRI, Mr. MACHTLEY, Mr. CUNNINGHAM, and Mr. HASTERT.

H.R. 4159: Mr. MARTINEZ, Mr. JONES of North Carolina, Mr. PERKINS, Mr. WEISS, Mr. JONTZ, and Mr. VENTO.

H.R. 4161: Mrs. ROUKEMA, Mr. TORRES, Mr. GUARINI, Mr. LEVIN of Michigan, Mr. ROE, Mr. TORRICELLI, Mr. CLAY, Mr. LAGOMARSINO, Mr. ASPIN, and Mrs. JOHNSON of Connecticut.

H.R. 4168: Mr. SHAYS.

H.R. 4178: Mr. JACOBS, Mr. DOWNEY, Mr. LEHMAN of Florida, Mr. WYDEN, and Mr. DEFAZIO.

H.R. 4207: Mr. HYDE, Mr. ROEMER, Mr. ZELIFF, and Mr. DORGAN of North Dakota.

H.R. 4218: Mr. HAYES of Illinois, Ms. PELOSI, and Mr. ABERCROMBIE.

H.R. 4227: Mr. HOCHBRUECKNER, Mr. EDWARDS of California, Mr. BERMAN, Mr. BLACKWELL, Mrs. BOXER, and Mr. DOOLEY.

H.R. 4228: Mr. FOGLIETTA, Ms. HORN, and Mr. JOHNSON of South Dakota.

H.R. 4239: Mr. APPLEGATE, Mr. WALSH, and Mr. ROE.

H.R. 4268: Mr. ARMEY, Mr. SOLOMON, Mr. HERGER, Mr. SMITH of Texas, and Mr. DORNAN of California.

H.R. 4274: Mr. BAKER.

H.R. 4275: Mr. BONIOR, Mr. LAGOMARSINO, Mr. STUDDS, Mr. MORRISON, Mr. MINETA, Mr. SOLARZ, and Mr. DELLUMS.

H.R. 4278: Mr. SPENCE.

H.R. 4280: Mr. GALLEGLY.

H.R. 4288: Mr. HYDE and Mr. HERGER.

H.R. 4310: Mr. HUGHES, Mr. DAVIS, Mr. FASCELL, Mr. PANETTA, and Mr. SCHEUER.

H.R. 4365: Mr. ALLEN, Mr. MARTINEZ, and Mr. FORD of Michigan.

H.R. 4378: Mr. BEILENSON, Mr. COYNE, Mr. MRAZEK, Mr. BLACKWELL, Mr. LENT, Mr. ORTON, Mr. KENNEDY, Mr. FEIGHAN, Ms.

SLAUGHTER, Mr. SCHEUER, Mr. KLUG, Mr. ACKERMAN, Mr. MOODY, Mr. SENSENBRENNER, Mr. LEHMAN of Florida, and Mr. SMITH of Florida.

H.R. 4386: Mr. YATRON, Mr. BROWN, Mr. WALSH, Mr. DORNAN of California, Mr. TOWNS, Mr. KOSTMAYER, Mr. HORTON, Mrs. UNSOELD, and Mr. PETRI.

H.R. 4416: Mr. HAYES of Illinois and Mr. BRYANT.

H.R. 4430: Mr. BOEHNER and Mr. RIGGS.

H.R. 4440: Mr. MARTINEZ, Mr. MANTON, Mr. LEHMAN of Florida, and Mr. GREEN of New York.

H.J. Res. 192: Mr. EMERSON, Mr. SOLOMON, Mr. HYDE, Mr. IRELAND, and Mr. PACKARD.

H.J. Res. 238: Mr. GALLO, Mr. COX of California, Mr. TRAFICANT, Mr. DUNCAN, and Mr. SPENCE.

H.J. 283: Mr. WEISS, Mr. HOBSON, and Ms. SNOWE.

H.J. Res. 351: Mr. VENTO.

H.J. Res. 371: Mr. ANNUNZIO, Mr. ENGEL, Mr. FAWELL, Mr. HARRIS, Mr. HEFLEY, Mr. HERTEL, Mr. HOCHBRUECKNER, Mr. HUBBARD, Mr. HUNTER, Mr. HYDE, Mr. GALLO, and Mr. WAXMAN.

H.J. Res. 396: Mr. ATKINS, Mr. BALLENGER, Mr. BENNETT, Mr. BERMAN, Mr. BILIRAKIS, Mr. BLACKWELL, Mr. BONIOR, Mrs. BOXER, Mr. CARDIN, Mr. CLEMENT, Mr. COLEMAN of Texas, Mr. COOPER, Mr. DE LA GARZA, Mr. DE LUGO, Mr. DEFAZIO, Mr. FEIGHAN, Mr. DELLUMS, Mr. DIXON, Mr. DWYER of New Jersey, Mr. ERDREICH, Mr. ESPY, Mr. FALEOMAVAEGA, Mr. FAZIO, Mr. FORD of Michigan, Mr. FROST, Mr. GEJDENSON, Mr. GONZALEZ, Mr. GORDON, Mr. GUARINI, Mr. HEFNER, Mr. HERTEL, Mr. HOBSON, Mr. HOCHBRUECKNER, Ms. HORN, Mr. HORTON, Mr. HUCKABY, Mr. JEFFERSON, Mr. JOHNSTON of Florida, Mr. JONES of North Carolina, Mr. JONES of Georgia, Ms. KAPTUR, Mr. KENNEDY, Mr. KOLTER, Mr. KOSTMAYER, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. LANCASTER, Mr. LANTOS, Mr. LEACH, Mr. LEHMAN of California, Mr. LEHMAN of Florida, Mr. LEVIN of Michigan, Mr. LEVINE of California, Ms. LONG, Mr. LOWERY of California, Mr. MARKEY, Mr. MARTINEZ, Mr. MATSUI, Mr. MCCLOSKEY, Mr. MCDERMOTT, Mr. MCMILLEN of Maryland, Mr. MILLER of California, Mrs. MINK, Mr. MORAN, Mr. MRAZEK, Mr. MURPHY, Mr. NAGLE, Mr. NATCHER, Mr. NEAL of Massachusetts, Mr. NEAL of North Carolina, Ms. NORTON, Mr. PALLONE, Mrs. PATTERSON, Mr. PAYNE of New Jersey, Ms. PELOSI, Mr. PERKINS, Mr. POSHARD, Mr. PRICE, Mr. QUILLEN, Mr. ROE, Mr. ROYBAL, Mr. SABO, Mr. SANGMEISTER, Mr. SAVAGE, Mr. SCHEUER, Mr. SIKORSKI, Mr. SKEEN, Mr. SLATTERY, Mr. SMITH of New Jersey, Ms. SNOWE, Mr. STAGGERS, Mr. STUDDS, Mr. SWIFT, Mr. TALLON, Mr. TAYLOR of Mississippi, Mr. TOWNS, Mr. TRAFICANT, Mr. TRAXLER, Mr. VALENTINE, Mr. VENTO, Mr. WALSH, Mr. WEISS, Mr. WISE, Mr. WOLPE, Mr. WYDEN, Mr. YATRON, and Mr. BROWN.

H.J. Res. 397: Mr. MORAN.

H.J. Res. 402: Mr. ZELIFF and Mr. HATCHER.

H.J. Res. 403: Mr. LEWIS of Florida, Mr. BEILENSON, Mr. VENTO, Mr. ANDREWS of New Jersey, Mr. QUILLEN, Mr. GUARINI, Mr. DEFAZIO, Mr. HOCHBRUECKNER, Mr. JONES of North Carolina, Mr. RINALDO, Mr. MCNULTY, Mr. SMITH of New Jersey, Mr. FAZIO, Mr. JONTZ, Mr. WYDEN, Mr. GALLO, Mr. FALEOMAVAEGA, Mr. ZIMMER, Mr. PALLONE, Mr. TORRICELLI, and Mr. ORTIZ.

H.J. Res. 411: Ms. PELOSI.

H.J. Res. 418: Mr. TAYLOR of North Carolina.

H.J. Res. 430: Mr. ENGEL, Mr. FASCELL, Mr. NEAL of Massachusetts, Mr. KOPETSKI, Mr. DE LUGO, Mr. YATRON, Mr. TRAFICANT, Mr. TAYLOR of Mississippi, Mr. WAXMAN, Ms. LONG, Mr. LIVINGSTON, and Mr. JEFFERSON.

H.J. Res. 439: Mr. ROTH, Mr. ALLEN, Mr. WEBER, Mr. MCMILLEN of Maryland, Mr. HUBBARD, and Mr. TOWNS.

H. Con. Res. 156: Mr. JONTZ.

H. Res. 321: Ms. SLAUGHTER, Mr. LAFALCE, Mr. TORRES, and Mr. BILBRAY.

H. Res. 368: Mr. BOEHNER and Mr. LENT.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1300: Mr. CLEMENT and Mr. TRAXLER.

H.J. Res. 406: Mr. MCMILLAN of North Carolina.

H.J. Res. 407: Mr. MCMILLAN of North Carolina.

H. Res. 194: Mr. BUSTAMANTE.

EXTENSIONS OF REMARKS

CADMIUM REGULATION

HON. CLIFF STEARNS

OF FLORIDA
IN THE HOUSE OF REPRESENTATIVES
Wednesday, March 18, 1992

Mr. STEARNS. Mr. Speaker, today I rise as a part of a relay team whose goal it is to highlight some of the more egregious aspects of the Federal bureaucracy and its rulemaking authority.

We can all agree that maintaining American economic competitiveness depends on the innovativeness and initiative of the private sector—the small business—the entrepreneur. The Federal Government can foster competitiveness by encouraging a vigorous and competitive market worldwide, but particularly at home. However, what government encourages with its right hand is often taken away by its left.

The problem is that those who do much of the taking away are not elected. There are thousands of government bureaucrats that produce, implement, and promulgate untold amounts of regulation and rules. Some of these regulations are useful, guided by reasoned planning and careful analysis. Unfortunately, however, many are written in a cavalier fashion, paying attention to some ill-conceived and outdated political correctness doctrine that attacks American manufacturing jobs without due regard that they can suffocate, paralyze, or even ruin the initiatives and endeavors of thousands of people. You will never meet these government bureaucrats, you will never know their names, never have an opportunity to argue or compromise with them; and yet they can, with only a few brushes of the pen, close down your business, force you to move your home, or compel you to use up precious working hours compiling useless data.

In my district there is an example of what disasters can happen when those who have no accountability meddle and dictate.

The Occupational Safety and Health Administration [OSHA] has proposed regulations on cadmium exposure standards that would cost 3,000 jobs in an area already suffering from unemployment levels above the national average. Were this a problem of clearly inadequate protection of workers, no one would object. However, that is not the case.

Let me explain.

Cadmium is an inevitable by-product of zinc production. It is used in nickel-cadmium batteries, such as a pigment or as a heat and weathering stabilizer in engineering plastics. It is used as a corrosion-resistant coating in aerospace, electronic, and industrial applications. In addition, cadmium compounds play important roles in advanced detector systems, imaging sensors, and photovoltaic energy devices—all crucial technologies widely used in the Desert Storm operation.

In a recent Federal Register notice, OSHA proposed cadmium exposure standards of 1 or 5 micrograms of cadmium per cubic meter of air, well below the level of 50 micrograms per cubic meter currently considered feasible in the industry.

In its deliberations, OSHA disregarded the fact that most other industrialized nations have cadmium health standards in the range of 20 to 50 micrograms per cubic meter. No health problems have been observed with those standards in place. The agency also ignored the fact that the proposed standards are both technically and economically impossible to meet and, therefore, a benefit only to the market they would create for foreign producers.

These regulations come when it is not established that a causal relation between cadmium and health problems even exists. In fact, studies relied upon by OSHA show that in some instances, it appears that cadmium exposure actually lowers the incidence of cancer.

What is particularly startling with this particular Federal intrusion is the fact that OSHA is disregarding the concerns of other Federal agencies. Apparently once word got out on just what OSHA was up to, other Federal agencies took the affirmative action to object to OSHA's proposal and describe the damage its ill conceived regulations would have.

No less then six agencies tried to talk sense into OSHA. The Department of Commerce, the Department of Energy, the Department of Interior, the Bureau of Mines, the Office of Management and Budget, and the Small Business Administration sent public comments to OSHA highlighting the severe consequences that may be perpetrated on thousands of domestic jobs if OSHA's proposed exposure levels are promulgated, instead of using a more reasonable two-tier level approach.

These levels that would require a 20-micrograms per cubic meter for most forms of cadmium, 50 micrograms per cubic meter for cadmium sulfide, and a provision that industry will not be required to install engineering controls or work practices to achieve concentrations below a rolling 40-hour geometric mean of 30 micrograms per cubic meter.

No less a disinterested body than the Office of the President's Science Advisors also joined in, citing cadmium eight times in its recent report which identifies emerging technologies and materials which are crucial to their development in this country.

On December 17, 1991, NASA felt compelled to enter the debate, filing a comment letter signed by its associate administrator. The space agency said OSHA's proposal "has the potential to adversely affect NASA's aircraft, spacecraft designs, and components because the proposed levels would severely curtail the availability of space-qualified batteries vital to the Nation's space program." It also says the loss of cadmium-based battery sources "would be detrimental to future NASA programs."

Think about it; despite all these concerns, OSHA does not plan to substantially change its original proposal. The comments of its sister agencies do not matter and our national security is not even relevant.

It is rare to have this many disinterested and objective governmental agencies saying officially that OSHA has incorrectly considered the health, economic, and technological aspects of its proposal.

It would be one thing if this company in my district was being unreasonable. The compromise is there, but what is lacking is some willingness on OSHA's part to be fair. One can easily understand the anxiety of the people who work for Gates Energy.

Again, Mr. Speaker, working out a compromise is always difficult. Gates Energy, the company in my district, which may shut down because of this regulation is willing to meet OSHA halfway. But OSHA refuses to listen. In fact, it was suggested by one Government official that even if the regulation was finally instituted and the industry did leave America—now listen carefully to this—this is a Deputy Assistant Secretary of Defense speaking—it really didn't matter because the Government would buy what it needed from Japan. It really does not matter to whom? To them or to the people back home who will find themselves in an unemployment line?

So the scenario seems to be to destroy an American industry and then go buy what you need from the very people who already own 16 percent of American businesses. It seems that the buy American rallying cry is not being heard at OSHA.

It was once said that the road to hell is paved with good intentions. This time it's paved heading overseas, taking American jobs along with it—and all of this takes place in one of the worst economic climates experienced by this country in over 50 years.

I sometimes wonder if perhaps we should send some of these bureaucrats overseas—they'd be a more deadly weapon than the Stealth bomber.

Meanwhile, Mr. Speaker, there are families back home that wait for someone to make a decision on whether they will have a paycheck.

It is no wonder the American people lose a little more respect and confidence in our Government when regulations such as these are churned out. It is my hope that the President's 90-day moratorium will shed some common sense into this Federal rulemaking process and not leave American jobs at the mercy of bureaucrats entombed in their own surreal world. Bureaucrats who would rather destroy an emerging high-technology industry than pay attention to the real facts.

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

BUSH'S FOREIGN POLICY

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. FRANK of Massachusetts. Mr. Speaker, one frequently repeated analysis in Washington today is that President Bush knows what he wants to do in foreign policy but is floundering in domestic policy. That may once have been true, Mr. Speaker, but it seems to me that it no longer is—there is very little sign that the President has a clear-headed foreign policy at present. During the period of the decline of the Soviet Union, President Bush appeared to be following a coherent policy, although it was one with which many of us disagreed, leaning too heavily as it did on Mikhail Gorbachev, and ignoring the claims of such nations as the Baltic States. Since the complete breakup of the Soviet Union—obviously much earlier than the President had anticipated—the Bush administration's foreign policy does not appear to have any greater degree of coherence than does their domestic policy. There are a few areas where the President pushes ahead, such as to bestow more economic benefits on the People's Republic of China, where it is hard to understand why. There are other areas where we cannot understand what it is that the President is seeking to do.

On Monday, one of the highest ranking foreign policy officials of the Reagan administration, Jean Kirkpatrick, expressed the frustration many people feel at trying to make sense out of the Bush foreign policy. I think it is useful for that critique to be published here.

[From the Washington Post, Mar. 16, 1992]

WHAT ARE THE PRESIDENT'S FOREIGN POLICY GOALS?

(By Jeane Kirkpatrick)

Almost everyone understands that George Bush has broad experience, knowledge and interest in foreign affairs. Moreover, in the gulf war he showed himself capable of decisive, effective leadership. Nevertheless, the president has a major foreign policy problem. It is the same problem that affects other aspects of his administration—that of failing to articulate goals.

Only rarely does George Bush tell us what public purposes are being served by the foreign policies he adopts in our name. He does not explain, for example, what interests he intends to serve by protecting China's most-favored-nation status and trade privileges regardless of that country's human rights abuses. Neither does he explain what overriding principle or interest causes him to veto the bill that would link trade and human rights, nor why he refuses to join other Western democracies in sponsoring a resolution in the United Nations Human Rights Commission that would address China's repression of Tibet.

There may be compelling reasons. The late Sen. Henry "Scoop" Jackson (D-Wash.) and former President Richard Nixon, both foreign policy heavyweights, believed there were overriding strategic interests in maintaining a "cooperative" relationship with the Chinese government. But that was at a time when Cold War tensions made the "China card" necessary to a winning hand. Such strategic imperative died with the Cold War.

Today, we don't want China to sell high-tech weapons to the Third World, further escalating human and environmental costs of war. We don't want to reward slave labor with our trade policies. We would like to reward political reform and encourage democracy in this huge country—because it would greatly improve personal security and freedom for the Chinese and would contribute to peace and stability on China's borders. Democracies do not fight aggressive wars or sponsor such guerrilla groups as the Khmer Rouge.

U.S. policy toward China should obviously serve these public interests unless there is some less apparent but more important purpose. In that case, the president should explain to the rest of us whatever it is that is so important and how his policy serves the common good.

A parallel issue is raised by administration policy regarding Yugoslavia. With the Cold War over, there is no Soviet threat to the independent of Yugoslavia, and no reasonable chance that the Yugoslav spark could ignite a divided Europe.

Why then was America's national interest served by the administration's long refusal to recognize Croatia and Slovenia, a refusal that lasted for months after most of Europe had already done so?

Americans have no stake in the preservation of a Communist China or of Serbian hegemony in what was Yugoslavia. But we do have a major stake in encouraging civilized standards of respect for human rights and peaceful settlements of the issues of ethnic separatism and nationalism. We have a major stake in democratic outcomes.

Are these merely problems in communication—as the president is said to believe—or are the problems the goals themselves?

I believe the major foreign policy problems grow from the lack of a center of gravity, an ordering principle or goal that the administration is seeking to achieve. More specifically, they grow from the administration's failure to give adequate priority to the U.S. national interest in preserving democratic governments and extending democracy.

As with China and Yugoslavia, these problems can also be observed in the administration's inadequate support for democracy in Russia. Richard Nixon wrote recently that the preservation of democracy in Russia should be the centerpiece of American foreign policy.

"If freedom fails in Russia, we will see the tide of freedom that has been sweeping over the world begin to ebb, and dictatorship rather than democracy will be the wave of the future," he said.

Nixon believes this is a "watershed moment in history," Yet he thinks the West, including the United States, has thus far failed to give the necessary priority to preservation of Boris Yeltsin's democratic experiment. He does not doubt that a democratic Russia serves the public interest of America and says it is urgent to "seize the moment."

Russia, China and Yugoslavia are not the only arenas where American foreign policy suffers from a certain lack of articulated goals. The same questions can be raised about the Bush policy in the Middle East, where heavy pressure is brought against the only democracy in the area, the only absolutely reliable American ally.

In the Middle East, Bush and Secretary of State James Baker embrace the kind of linkage between assistance and foreign policy that they oppose for China. The decision to link loan guarantees for housing Soviet emigres to freezing settlements has already brought down one Israeli government

Meanwhile, the administration associates itself with Arab demands on Israel and remains silent about the non-democratic, non-pluralist character of Israel's negotiating "partners"—Syria, Lebanon and the Palestine Liberation Organization.

Bush and Baker appear to attach little or no importance to the political character of regimes with which we deal. This makes our political goals seem unrelated to deeply held political values and America's public purposes.

Foreign policy is an activity that can only be legitimately undertaken in the public good and never for private purposes. Americans will support a foreign policy when they understand it is a means to shared ends. They will not support policy they do not so understand.

If the Bush administration desires support for its policies (which it needs badly in this election year), the president should speak to us more often and more fully—not about his private preferences but about the public purposes he hopes to serve by policies he adopts in our name.

SYRIAN JEWRY

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. JACOBS. Mr. Speaker, the following is a statement by the Jewish Community Relations Council of Indianapolis. I think the assertions make common sense:

SYRIAN JEWRY

It is disturbing that Syria is gaining increasing respectability in the world at large, while the government continues to deny basic human rights to its Jewish population. Despite Syrian promises to liberalize emigration policies, particularly for divided families and single Jewish women, no such steps have been taken.

Mr. Assad continues to find excuses to avoid meeting the fundamental human right of allowing Syrian Jews to leave the country. Last spring he linked freedom for Syrian Jews with the future of the Golan Heights. Such an effort to politicize an issue of basic human rights runs counter to every international norm. Freedom for Syrian Jews is a moral, humanitarian issue on its own terms and cannot be used as a bargaining chip in Mr. Assad's negotiating plan.

We believe it is important that the U.S. make clear to Syria that protection of fundamental human rights is vital to its relationship with the U.S. If Mr. Assad is truly interested in enhancing his image abroad, then a good first step would be to implement his government's earlier commitments to Syrian Jews.

A TRIBUTE TO HENRY "BUD" BOSTWICK, JR., ON THE OCCASION OF HIS RETIREMENT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. LANTOS. Mr. Speaker, after 38 years of dedicated and honorable service, Henry "Bud" Bostwick, Jr., has decided to retire as president of the San Mateo County, CA, Economic Development Association. On this occasion, I would like to take the opportunity to express my deep appreciation to him for his tireless commitment to the people of San Mateo County.

Bud's life is a tale of civic commitment. His sense of duty, dedication and responsibility to his community has served San Mateo County very, very well. Indeed, Bud stands as an example for all of us to emulate. He makes a most convincing case supporting the adage that there is no substitute for hard work. Throw in qualities of intelligence, sound judgment, good sense and conviction, and you have the reasons why Bud has made the mark he has.

Born in Oakland, Bud worked in the banking and shipping business before establishing the Bostwick-Healy Co., a San Francisco based public relations firm, in 1949. An otherwise intelligent and sensible young man, Bud's only mistake was his decision to enter politics in 1952! He cut his political teeth as a campaign director and administrative assistant for Congressman J. Arthur Younger.

Because of his Government experience, Bud was tapped by local businessmen in 1955 to help establish the San Mateo County Economic Development Association. It was to be a 90-day job, a temporary position to get the organization off the ground. But things don't always work out as planned. The 90-day hitch turned into a 38-year career, and San Mateo County has greatly benefited from that happy twist of fate.

Bud has always been an innovator. His unparalleled contribution to the field of business development in San Mateo has literally changed the face of our community. That change has always been for the better. As the driving force behind the County Economic Development Association, he has long provided vital assistance to both established companies in San Mateo and companies interested in locating in the county.

Bud was responsible for the organization and implementation of the first county-wide business climate survey to be conducted in the United States. During his tenure, over 9000 new plants and companies were established in San Mateo County, representing a capital investment of approximately $20 billion. Impressive numbers indeed.

In addition to his work as president of the San Mateo County Economic Development Association, Bud is a very active civic volunteer. He is an honorary life member of the American Economic Development Council; a member of the San Francisco Bay Conservation Study Commission; a Community Advisory Board member of the Seton Medical Center; he serves on the advisory committee of the Boy Scouts of America; he is on the board of trustees of the Peninsula Memorial Blood Bank; he serves as a member of the Rotary Club of San Mateo; he is the former chairman of the Development Committee Board for Mercy High School; and he serves as a member of the advisory council of the Peninsula Conflict Resolution Center.

Mr. Speaker, Bud Bostwick is an exemplary citizen. He is truly one of the pillars on which our community rests. Throughout his life, he has always demonstrated the courage to care for his neighbors and for his community, and for that we are all grateful. On the occasion of his retirement, I invite my colleagues to join me in paying tribute to Bud today. I would also like to wish him the very best in all of his future endeavors, because if I know Bud, I know that his days of commitment and dedication are far from over.

BIG MONEY THANKS TO MILITARY CONVENTIONS AND BILL BUNKER

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. MICHEL. Mr. Speaker, I would like to bring to the attention of our colleagues of my constituents, Bill Bunker, from Peoria, IL.

Bill has started a business dealing with military conventions. Working a part-time, 3-day week, Bill recruits military reunion conventions to the Peoria area, enabling the city to benefit financially.

Bill has been called a one-man convention bureau, and I believe his story is as inspirational as it is successful.

At this point I wish to insert in the RECORD an article by John O'Connell from the Peoria Journal Star, Retiree Taps Military Reunion Market.

RETIREE TAPS MILITARY REUNION MARKET

(By John O'Connell)

Bill Bunker is like a one-man convention bureau. A former naval officer and retired Caterpillar employee is now in the business of drawing military conventions and reunions to the Continental Regency Hotel and other area hotels.

The tall, friendly 69-year-old man works three days a week in his office in the Continental Regency, which serves as headquarters for Bunker's military reunions. In two years of working part-time, he has attracted five military conventions and reunions to Peoria and has commitments from eight others.

And that means big eight money to Peoria.

BIG BUCKS

According to Gary Jenkins, executive director of the Peoria Area Convention and Visitors Bureau, the average visitor spends $143 a day. About $85,000 is spent during a typical three-day, 400-person convention. But it doesn't end there.

"What happens when new dollars come into the community, is that it turns over three or four times," Jenkins says. "With the money that conventions bring in, hotel and restaurant employees turn around and buy gas and groceries. And it goes on like that. So that $85,000 may mean indirectly about $340,000 to a community.

"I'm delighted with what Bill is doing. I just wish there were 30 or 40 people like him."

Bunker's first reunion was the USS Iowa which drew about 700 people during a three-day convention in 1989. He also attracted conventions from the 3062 QM Bakery Company, Company 165 Infantry, the 17th Airborne Division and the 813th Aviation Engineers.

Bunker's largest convention is the Destroyer Escort Sailors Association, which is scheduled for September of 1994. It will be one of the largest conventions Peoria has ever hosted.

He worked jointly with the Peoria Convention and Visitors Bureau for this event that is expected to draw about 3,000 people. This convention will fill five local hotels and may mean $2 million for the area.

"Bill went to Florida with Leslie Streader of the Convention Bureau in January to try and attract that convention here," Jenkins says. "They did a great selling job. We beat out Providence, R.I. and Norfolk, Va., two very strong Navy towns, for the convention."

EX-SAILOR

A former Navy officer himself, Bunker served in the merchant marines aboard an ammunition ship during World War II.

"We were bombed and strafed a number of times," Bunker recalls.' "You don't know what fear is until you've been on an ammunition ship while it is being bombed. Our ship did get credit with downing two Japanese bombers in New Guinea."

He also was an officer aboard the USS Iowa during the Korean war. Bunker spent 20 years at sea, 10 as a Navy officer and 10 as a merchant marine deck officer.

During peace time, he was an officer on the SS President Cleveland, which was the Love Boat of its day. It featured two large swimming pools and a nightclub. The cruise liner sailed from San Francisco to Honolulu, Japan, China and the Philippines.

"I did that for 49 trips," Bunker says.

CAME TO PEORIA

In 1970, Bunker came to Peoria to work for Caterpillar as an application analysis in data processing, retiring in 1985. But retirement wasn't for Bunker.

He found himself recruiting some 400 volunteers to help with Steamboat Days activities and later running the visitors information station for Peoria Convention and Visitors Bureau.

"I organized the visitors station, which was downtown," Bunker says. "I got 40 volunteers to man the station. We passed out information on the city and told visitors about things to do and places to go. While working at that station I heard so many nice things said about Peoria.

"The tourists would tell me they liked our downtown and that our prices are so reasonable here."

It was while working at the visitors station that Bunker learned about a reunion the battleship Iowa was planning in Boston in 1988. On his own, Bunker went to Boston and talked his former shipmates into bringing their large reunion to Peoria the following year.

Bunker enjoyed the experience so much that he decided to start his own part-time business as a military convention coordinator. He would read the Journal Star for notices on military reunions and then write the organizers about possibly coming to Peoria. He now subscribes to numerous military magazines to get leads on military reunions.

HAVING FUN

"I have fun doing this," he says. "I can establish a good rapport with military men. I'm in their peer group.

"I relate with them. I basically do what I want to do. The Continental Regency has given me a lot of support. And for conventions that expand beyond the Regency I work with the Peoria Convention and Visitors Bureau."

With each convention or reunion, Bunker finds an area person to act as host.

Bunker has the help of his wife, Barbara, who enters data into his computers.

And from time to time, Bunker calls upon his son, Carl, for assistance. Carl, a former employee with the convention bureau, is a partner in R and B Productions, a management service team that does the administrative work for such events as the Brown Bag It Series, the Peoria Metro New Car Dealers show on April 3-5 and for the hospitality industry's food show on April 6.

"This isn't work for my dad," Carl says. "Meeting people and making presentations is fun for him. And it's neat to see him so happy."

And dad agrees.

"If they called it work, I would quit," Bunker joked.

IN HONOR OF IRAIDA "MAMA" IGNATIEFF

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. FAZIO. Mr. Speaker, I rise today to honor my constituent Iraida Ignatieff, one of west Sacramento's oldest citizens, on the occasion of her 100th birthday.

Mrs. Ignatieff was born March 11, 1892, in St. Petersburg, Russia, and came to the United States in 1965. She moved to west Sacramento in 1973. She is a pillar and matriarch of the west Sacramento Russian community, and is affectionately called "Mama" by her family and many friends. Mama is a mother to one daughter, grandmother to five grandchildren, great grandmother to eight great grandchildren, and great great grandmother to two.

Recognized for her talent and excellence as an artistic performer, Mama sang and danced for white Russian troops during the Russian Revolution. Today she continues to sing, dance, play harmonica, and recite poetry.

Mama has a long history of community involvement which has ranged from saving the lives of anti-Communists by hiding them in her basement during the Russian Revolution to helping Russian immigrants settle in west Sacramento.

Mama is a strong, supportive, and religious woman who believes deeply in helping people in need. She is a staunch anti-Communist who predicted throughout all her years that she would one day see a free Russia. She has now lived to see her dream become a reality.

I know my colleagues join me today in honoring Mama.

TRIBUTE TO P. HELEN G. TARTARO

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mrs. MORELLA. Mr. Speaker, I rise today to honor a dedicated civil servant, Mrs. P. Helen G. Tartaro, on her retirement. On April 3, Mrs. Tartaro will leave Federal service for the second time.

She left the first time in 1954 to raise her family and to serve her church and community. She returned to Government service with the Agency for International Development 20 years later, after her children had grown. She started the second leg of her 26-year career as a secretary, moved up to administration operations assistant, then to program operations assistant, and on to administration operations manager.

Early on, Mrs. Tartaro was fascinated by and became proficient in computers, as well as their role in administering foreign aid funds for AID. Recognition of this proficiency resulted in certificates of outstanding performance and other awards. Mrs. Tartaro plans to assist her daughter in caring for her twins, which are expected in April/May.

Mr. Speaker, I am sure Mrs. Tartaro's coworkers and many friends join me in wishing her a happy, fulfilling, and long retirement.

A TRIBUTE TO SISTER BUSINESS TEAM DONNA MITCHELL AND DIANA SABACINSKI

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, it is my wish to honor sisters Donna Mitchell and Diana Sabacinski for their success as owners of their own business. In 1989 both young women decided to invest in the ExecuTrain franchise, and consequently have enjoyed success as budding entrepreneurs.

I am pleased to have the opportunity to acknowledge the work of these young women. Through their hard work and dedication, they have emerged successful and even grown in size despite a recession, which has threatened many new businesses.

In an article titled "Sisters team up, build computer training firm," Miami Herald staff writer, Charles B. Robin reports:

> Donna Mitchell and Diana Sabacinski enjoy each other's company.
>
> The two grew up together as sisters, went their separate ways after college, and eventually decided a family-run business was their calling.
>
> "We share the same value system," Sabacinski says. "I like a family-run business. I don't particularly like working for someone else."
>
> In 1989, the two invested $30,000 in franchising fees and $150,000 in start-up costs and, together with seven partners, purchased the Florida rights for ExecuTrain, a computer training firm. There are now three franchises in the state: Miami, Tampa and Orlando.
>
> Mitchell and Sabacinski run the Miami office and are planning to open an office in Fort Lauderdale in April.
>
> When they formed the company in 1989, there were three employees. Today, the office employs 17. Eight are full-time trainers; the rest are salespeople or office staff. The company has three classrooms in Miami and plans to open two more in Fort Lauderdale.
>
> Mitchell says the company sends trainers to clients' sites, based on their needs. Clients include IBM, Ryder System, Baptist Hospital and Baxter Diagnostics. Though Mitchell and Sabacinski don't do any of the teaching, they are both computer literate.
>
> ExecuTrain has 60 locations in 25 states. With headquarters in Atlanta, the company has offices in London and Mexico City and was recently ranked the 126th fastest-growing business in the country on Inc. magazine's annual list.
>
> Mitchell, who has a marketing degree from Fort Lauderdale College, is the saleswoman. She seeks out people who need training. Sabacinski is the financial mind. A graduate of Quinnipiac College in Connecticut, where she studied accounting, she maintains the company's books.
>
> Sabacinski says the company was profitable in its first two years, and the sisters had covered their investment by the beginning of the second year.
>
> "I'm very pleased," she said. "I was in public accounting for a long time, and most businesses don't break even for a number of years."
>
> The Miami office has been in the top 10 in sales and profits each year since it opened, Mitchell said. She declined to give specific figures but said the office had a pretax profit of 13 percent last year.
>
> Mitchell and Sabacinski say there's room for growth in the industry well into the '90s.
>
> Says Mitchell, "This recession hasn't hurt us. People have been cutting back, but all that does is mean the person who is left must have better training."

Mr. Speaker, I am pleased to have the opportunity to acknowledge the work of these two young women. Their testimony is proof that success is a possibility afforded to all those who are willing and have made the decision to work hard and realize their dreams.

RETIREMENT OF COMMISSIONER MILDRED L. WATSON

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. WHEAT. Mr. Speaker, I rise today to pay special tribute to the many years of valued service Commissioner Mildred L. Watson has devoted to the children and families of Jackson County, MO.

On March 27, 1992, friends and colleagues will gather to commend Ms. Watson for her dedicated work and to wish her well as she retires after 8 years of service at the juvenile division of the Sixteenth Judicial Circuit Court of Missouri.

Commissioner Watson's long and distinguished career of public service began almost a half century ago as a civilian mathmatician for the U.S. Navy during World War II. After serving her country, she went on to earn a master's degree in social work and ultimately taught that field as an associate professor at the University of Kansas. Following her work as a university professor, Ms. Watson decided to pursue a new challenge—a career as an attorney.

Building on her educational background and wealth of experience, Ms. Watson practiced law for 11 years before beginning her service as commissioner of the court in 1984.

Recognized by all of those who know her as a friendly, hardworking, and compassionate individual, Commissioner Watson will be sorely missed by her colleagues. Her dedication and selfless work for the community has had a profound and positive impact on the lives of countless children and families in Jackson County. Her commitment to improving the welfare of some of the most vulnerable individuals in our society will be long remembered and greatly appreciated.

But even though Commissioner Watson is retiring from her current position, she will remain an asset to the community and doubtlessly continue to serve in many ways.

Mr. Speaker, it is a pleasure to join Commissioner Watson's friends and associates as we thank her for her fine work and wish her happiness and success in the years ahead.

A TRIBUTE TO JOY SIMONSON

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. LANTOS. Mr. Speaker, I rise to extend congratulations to Ms. Joy Simonson who next week will be inducted into the District of Columbia Women's Hall of Fame. Ms. Simonson is a member of the professional staff of the Government Operations Subcommittee on Employment and Housing, which I chair.

This well-deserved honor recognizes Ms. Simonson's pioneering efforts to achieve equality for women and her many years of dedicated community service and public service in both the District of Columbia and Federal governments.

A graduate of Bryn Mawr College, Ms. Simonson has served as chairman of the D.C. Alcoholic Beverage Control Board from 1964 to 1972, the first woman to hold that position; chief hearing examiner for the D.C. Rent Commission; Assistant Director of the Federal Women's Program of the U.S. Civil Service Commission; president of the D.C. League of Women Voters; vice president of Executive Women in Government; and was the founder of the D.C. Commission for Women.

From 1975 to 1982, Ms. Simonson was the Executive Director of the National Advisory Council on Women's Educational Programs, a Presidentially appointed body which advises Congress and Federal officials on educational equity for women and girls. In 1982, the newly appointed members of the Council removed Ms. Simonson from her position as Executive Director because of her support for the equal rights amendment. Her firing became a cause celebre and a rallying cry for the women's movement.

In April 1984, almost 8 years ago, my colleague and friend BARNEY FRANK, who was then the subcommittee chairman, coaxed Ms. Simonson out of retirement to join the professional staff of the Employment and Housing Subcommittee. Mr. FRANK's astute personnel initiative was my gain when I became subcommittee chairman in 1987.

Energetic, hard-working, dedicated, a consummate professional in every way, Ms. Simonson has done an outstanding job on the subcommittee staff. She has worked on issues such as child labor, the adequacy of OSHA protections for meatpacking workers, chemical plant explosions, the health and safety of firefighters, repetitive motion injuries in the workplace, the rising use of contingent workers, misclassifying employees as independent contractors, and delays by EEOC in processing age discrimination cases. Last year, Ms. Simonson was responsible for preparing nine subcommittee hearings.

As a 73-year young, wife, mother, grandmother, tennis player, inhouse poet, resident grammarian, dedicated and outstanding subcommittee staff member, Ms. Simonson is a joy to work with. Mr. Speaker, I congratulate Joy Simonson on her election to the District of Columbia Women's Hall of Fame.

PRESCRIPTION DRUGS COST CONTAINMENT ACT OF 1992

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. DORGAN of North Dakota. Mr. Speaker, the cost of prescription drugs in this country has gotten absolutely out of control. Over the last decade, prescription drug prices increased more than 152 percent, three times the rate of inflation.

In 1990, Americans spent $67 billion on prescription drugs, 10 percent of the total of our skyrocketing health care costs. As we discuss comprehensive health care reform in this country, we must address this prescription drug cost crisis.

This is not, of course, new concern for us or for American health care consumers. Again and again, we've tried to warn the pharmaceutical industry that we can no longer stand for unjustified price increases. The drug companies, however, have not responded with restraint in their pricing policies To the contrary, while national inflation was 3.1 percent in 1991, drug inflation was 9.4 percent.

Our colleague in the Senate, Senator PRYOR, introduced a bill last November that would apply a carrot-and-stick tax approach to convince drug companies to hold the line on prices. It's a fair and sensible approach to a serious problem, and myself and nine House colleagues are today joining Senator PRYOR in this effort.

This bill would not touch tax credits or other funds targeted for prescription drug research and development. I recognize the valuable contribution that American pharmaceutical companies have made in the development and distribution of lifesaving prescription drugs in this country and throughout the world, and I am not suggesting that we obstruct these worthy endeavors.

But the costs of research and development simply do not justify the dramatic price increases that have put this health necessity out of reach for many Americans and have contributed to the health care crisis that we now face in this country. The people that we represent are looking to Congress to take some action—not just talk—to ensure their access to vital prescription drugs.

This bill would not set prices for prescription drugs. It would only use existing tax credits to encourage large pharmaceutical companies to increase prices responsibly, and to do their part to control spiralling health costs. I urge you to join me in taking this important and necessary first step toward our goal of making health care affordable for all Americans.

U.N. PEACEKEEPING: A WISE INVESTMENT

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mrs. MORELLA. Mr. Speaker, as chair of the Arms Control and Foreign Policy Caucus, I would like to share with my colleagues two insightful articles on the United Nations peacekeeping operations in Cambodia and Western Sahara. Congress will soon consider additional peacekeeping funds requested by the administration to help support these two United Nations operations as well as those in Yugoslavia, El Salvador, and other trouble spots.

As we move further away from the cold war, the role of U.N. peacekeeping and peacemaking is becoming all the more vital. The following articles show the peril these peacekeeping operations face without strong financial and diplomatic support from the United States. The top American official in the United Nations Western Sahara operation states that inadequate United States support may jeopardize the United Nations agreement that would end 17 years of conflict in that region. In Cambodia—a country that arguably has endured more suffering than any other over the last two decades—the U.N. force is beginning to deploy, uncertain whether its mission will be able to succeed, in large part due to congressional reluctance to foot the United States share of the bill.

On March 26, the head of U.N. peacekeeping operations, Marrack Goulding, will meet with the Arms Control and Foreign Policy Caucus. I encourage any Member who has questions or concerns about the United Nations peacekeeping role and its cost to the United States to join us.

I urge my colleagues to read these articles from the Washington Post for an informative look into the United Nations—and our—challenges in these troubled regions.

UNITED NATIONS PEACE EFFORT IS SEEN AT RISK IN WESTERN SAHARA

(By Tami Hultman)

EL AYOUN, WESTERN SAHARA.—For 17 years, a bitter war over a piece of rocky desert along Africa's north Atlantic coast has been waged largely in obscurity. Now this dusty former outpost of the Spanish empire has become one of the new testing grounds for the role of the United Nations as world peace keeper.

Members of the 25-nation U.N. peace-keeping force who are posted here say the Western Saharan operation is in danger of failing completely and that it has raised questions about the will of the U.S. government to fully support peace initiatives that may threaten friendly governments.

King Hassan II of Morocco, considered a moderate in the Arab world, has staked the prestige of his throne on keeping Western Sahara under Moroccan rule. According to U.N. sources, the United States has shown little inclination to persuade the king to observe a 1990 peace accord between Morocco and Saharans seeking independence, even when the lives of American citizens have been at risk.

Last month the State Department barred Col. Albert Zapanta, then the top U.S. official with the initial U.N. peace-keeping team, from testifying about the Saharan operation before a House Foreign Affairs subcommittee. In a telephone interview from Washington, Zapanta, who has finished his tour in the region, said he would have told the committee that the United States needs to put its weight behind the peace effort. "Unless we're allowed to carry out our mission," he said, "this whole thing will be just a waste of taxpayers' money.

On Sept. 5, the United Nations began deploying what is now a 375-person contingent to observe a cease-fire between the Saharan independence movement called the Polisario Front and the Moroccan military, which invaded the territory when Spain withdrew in 1975.

The U.N. Mission for the Referendum in Western Sahara, known by its Spanish initials MINURSO, was charged with supervising a referendum in which the Saharans would choose between independence and union with Morocco. But the peace plan is off track. The vote, first scheduled for Jan. 6, has not been held, and none of the preconditions for the balloting has been met. The U.N. force remains far short of its intended 2,800-person strength.

Officials with the observer force have complained repeatedly to U.N. headquarters that a lack of cooperation from Morocco is jeopardizing the mission. They say the Moroccan government has moved in tens of thousands of Moroccans to pack the voter rolls, has blocked supplies destined for U.N. forces in the field, has refused to provide information on the number of its troops and their locations and has interfered with U.N. patrols. On at least one occasion, Moroccan soldiers reportedly threatened to fire on a patrol that included Americans.

A report released by the Senate Foreign Relations Committee last month cited "Morocco's obstructionist posture toward MINURSO" and warned that the 30 Americans serving in Western Sahara are being endangered because of Morocco's stance. The report also criticized the U.N. hierarchy for failing to provide political and logistical support to help solve the problems. It urged the U.S. government to exert its substantial influence to secure Morocco's compliance with the terms of the accord.

Responding to the continuing stalemate, U.N. Secretary General Boutros Boutros-Ghali asked the Security Council to approve a three-month timetable for resolution of the issues that block the peace plan's implementation. In a nine-page report to the council, Boutros-Ghali acknowledged the legitimacy of the complaints against Morocco, which he said has been responsible for 75 of 77 cease-fire violations.

Boutros-Ghali said that unless there is agreement on implementing the plan by the end of May, "it will be necessary to consider alternative courses of action and possibly adopt a new approach to the whole problem." The Security Council is expected to discuss the issue sometime next week.

The muted U.N. reaction to Moroccan intransigence has contributed to frustration and cynicism among the MINURSO field observers—an attitude apparently shared by Johannes Manz, a Swiss diplomat who resigned in January as special U.N. representative for Western Sahara. In a confidential memo to the secretary general just prior to his resignation, Manz expressed "great sadness" at the lack of a forceful response to Morocco's breaches of the peace accord. He urged that the United Nations "firmly retake the initiative in this complex process."

The peace plan accepted by Morocco and Polisario in 1990 calls for the United Nations to oversee the establishment of conditions for a free and fair referendum, including registration of voters and creation of a climate of confidence and stability.

Although the question of voter eligibility has dominated public discussion, it is the ability to foster a sense of security among Saharans that may prove most elusive, officials say. "This is the worst police state I have ever seen," said one member of the observer force who also has served in Latin America and Asia.

Fifteen years ago, El Ayoun was a picturesque village, dominated by the whitewashed domes of traditional Saharan architecture. Today, the capital is a city of square concrete structures sporting the ocher and sienna tones favored by Moroccan builders. Moroccan settlers, drawn by the lucrative tax and financial incentives offered by the government, have fueled a building boom and now account for about half the 100,000 population.

Morocco strictly enforces a ban on contact between U.N. personnel and local residents. Saharans say that anyone who tries to approach U.N. facilities in El Ayoun is turned away or arrested by Moroccan authorities. Only in the outlying desert sites where international teams monitor the cease-fire is there a semblance of free exchange between U.N. observers and the Saharan people.

But problems have persisted there too. U.N. forces have reported being denied access to places within their patrol areas by Moroccan soldiers. In once incident, a Moroccan jeep reportedly side-swiped a U.N. vehicle to prevent its progress into an area the Moroccans had declared off limits.

On a hill perched above U.N. headquarters, hundred of tents, decorated with symbols of the Moroccan royal family, have been pitched to house thousands of people. The Moroccan government says the inhabitants are Saharan nomads, gathered to exercise their right to vote. The area remains off limits to the peace keepers by order of the Moroccan government.

When asked about the purpose of the tents, a guard outside the encampment responded, "They are for the people who have come to vote that the Sahara is Moroccan." He warned that approaching the tents or photographing them is forbidden.

The tent city has become the most visible symbol of the disputes that plague the peace process. The task of defining who is Saharan in a vast desert where nomads roam across national borders falls on a special U.N. identification commission. During the peace negotiations, Polisario and Morocco agreed that a 1974 Spanish census counting 74,000 Saharan would serve as the basis for the referendum. Since that time, however, King Hassan has demanded the addition of 120,000 people he says have Saharan ancestry.

As one of his last acts as U.N. secretary general, Javier Perez de Cuellar proposed expanding eligibility criteria, including proof of intermittent residency in the territory for 12 years prior to the 1974 census.

That attempt to accommodate the king's position, combined with the continuing heavy hand that Morocco is exercising in the territory, appears to have eroded Saharan faith in the U.N. effort. "We are exactly like Kuwait, invaded by our neighbor," said one Saharan. "When the U.N. came, we were happy. But now we are afraid."

There is a growing conviction among the U.N. observers that Morocco has no intention of leaving Western Sahara, whatever the outcome of a referendum. In his private memo to the secretary general, former special representative Manz said a negotiated agreement "with neither a clear winner nor a clear loser" may offer the only prospect for a solution.

Zapanta agreed that Morocco's attitude remains a problem. But he said that the uniformed men and women in Western Sahara are capable of doing the job assigned to them if they get the backing they need from U.N. headquarters. Zapanta said he intends to accept an invitation to testify before the Senate Foreign Relations Committee later this month.

Other U.N. officials said that more than the success or failure of one mission is at stake. Only if the world body proves tough enough to implement its own accords, they said, can it credibly claim the mantle of peace keeper.

U.N. PEACEKEEPING FORCES

United Nations peacekeeping forces	Annual cost (millions)	Date deployed	Current strength
U.N. Truce Supervision Organization (UNTSO): Set up to monitor Arab-Israeli armistice agreement	$31	1948	300
U.N. military observer group in India and Pakistan (UNMOGIP)	5	1949	40
U.N. peacekeeping force in Cyprus (UNFICYP) [1]	[2] 31	1964	2,100
U.N. disengagement observer force (UNDOF): Between Israel and Syrian armies in the Golan Heights	42	1974	1,300
U.N. Interim force in Lebanon (UNIFIL)	157	1978	5,800
U.N. Iraq-Kuwait observation mission (UNIKOM)	65	1991	540
U.N. Angola verification mission (UNAVEM II)	72	1991	440
U.N. observer mission in El Salvador (ONUSAL)	52	1991	1,000
U.N. Mission for the referendum in Western Sahara (MINURSO): Scheduled. Operation has run into political problems	200	1991	2,700
U.N. transitional authority in Cambodia (UNTAC). Still at proposal stage. Due to replace temporary force by end of July	NA	1992	22,000
U.N. protection force (UNPROFOR): Due to be set up shortly and to be deployed in Serb-inhabited regions of Croatia	400	1992	14,000

[1] Only U.N. operation paid for by voluntary contributions instead of through assessments against all U.N. members.

[2] Troop-contributing countries absorb an additional $60 million.

Source: Reuter.

CAMBODIA FORCE DEPLOYS, BUT WHO WILL PAY BILLS? U.N. MEMBERS RESISTING PEACE-KEEPING FEES

(By Valerie Strauss)

The First members of the largest peacekeeping force in U.N. history are arriving in Cambodia amid concern by some U.N. officials that funding for the operation from key countries, including the United States, is not certain.

Wrangling between Capitol Hill and the Bush administration over how to fund the U.S. assessment has cast in doubt when or even if Washington will pay its share of the enterprise, U.N. officials, legislators and Cambodia analysts said.

Japanese diplomat Yasushi Akashi, head of the Cambodian peace-keeping operation, said recently in an interview that any significant delay in funding from major donors could affect the process designed to bring a lasting peace to Cambodia after 13 years of civil war and to lead to free elections in 1993.

Although past peace-keeping forces have operated without full payment, some U.N. officials said the tasks assigned to the peace keepers in Cambodia could be slowed later this year or in 1993, and that even the timing of elections could be affected if the bulk of the money is not collected in a timely fashion.

Meanwhile in Cambodia, the deployment of forces, expected to total 15,900 troops, 3,600 civilian police and about 2,400 civilians, is going forward even as a number of essential elements of the operation are still being debated.

Members of the main peace-keeping force several hundred men from battalions from Indonesia and Malaysia—began arriving in Cambodia this week, joining a small advance force deployed in November. Akashi, who is to arrive in Phnom Penh on Sunday to formally start the U.N. operation, said a total of 12 battalions are expected to be deployed by the end of May. By then the rainy season will have begun, making movement in parts of the countryside difficult.

Complicating matters further is continued fighting in the Cambodian countryside despite a cease-fire agreed to last October by the country's four main factions as part of U.N. peace accords. U.N. military officers and diplomats in Phnom Penh said yesterday that Khmer Rouge guerrillas have launched fierce attacks in more than a dozen areas in the north in an attempt to capture as much territory as possible before the deployment of the peace keepers, the Associated Press reported. At least 10 soldiers of the Phnom Penh government of Prime Minister Hun Sen have been killed and 40 wounded, the sources said.

The Khmer Rouge, which ruled Cambodia for 3½ years during the late 1970s under a reign of terror that left more than 1 million people dead, has displayed belligerent behavior toward the U.N. troops already in Cambodia, refusing to allow U.N. forces into areas they control for mine-clearing and apparently shooting down a U.N. helicopter.

Akashi said that "if they are still recalcitrant" after the peace-keepers are deployed, "then that will be the time for decisive action." He did not say what kind of action could be taken, and concern remains about how the peace keepers would confront the Khmer Rouge guerrillas if they try to block or slow the peace process.

In fact, in a recent letter to President Bush, some key U.S. legislators made clear their skepticism that the U.N. plan, which includes the Khmer Rouge in the peace process, will result in free elections and prevent the group from again emerging as a dominant force in Cambodia.

The peace accord, drafted by the five permanent members of the U.N. Security Council, calls for an 18-month deployment culminating in the elections, and Akashi said he is determined to maintain that schedule. Some analysts, however, said that may not be feasible because there is too much to do in such a short time. "There is a growing concern that that is a practical impossibility," said Bill Herod, program director for the Washington-based Indochina Project.

Under the peace accord, the U.N. troops are to monitor the cease-fire, repatriate between 350,000 and 400,000 refugees, demobilize 70 percent of the factions' fighters and help clear millions of mines. They are also charged with monitoring the Hu Sen government's administration of defense and four other key areas, and with overseeing elections expected to be held in spring 1993.

One of the debates over the plan is its cost, currently estimated at $1.9 billion—which does not include an estimated $900,000 for repatriation of refugees and development assistance. Secretary General Boutros Boutros-Ghali has urged that it be cut before the final budget is submitted to the General Assembly for approval in April. Under a $1.9 billion budget, the U.S. assessment would be $660 million, as Washington is required under U.N. rules to pay 30 percent of all peacekeeping operations.

Some U.N. officials said the $1.9 billion figure is likely to be reduced because many member nations are mired in domestic problems. One official said that Russia, for example, which is required to pay 15 percent of peace-keeping operations, has balked. Another U.N. official said, however, that the final budget could be higher because of the costs of operating inside war-town Cambodia and because of the massiveness of the operation.

Most of the assessments to U.N. member nations for early peace-keeping activities in Cambodia have gone unpaid so far; only $9.5 million has been paid of a $34 million bill to maintain a small U.N. force in the country from November to April, and only $8.1 million has been paid of a $200 million start-up fund ordered by Boutros-Ghali for the main peace-keeping deployment, according to U.N. figures.

None of the five permanent Security Council members—the United States, Russia, France, Britain and China—has paid its assessments for the latter fund. Britain and France each gave about $1 million for the first assessment, which was sent to U.N. members late last year, but that was short of their required contributions.

Japan has paid its bill for the initial assessment and is planning to pay next month for the second. Under U.N. rules, Japan's share of the entire mission would be 12.5 percent, second only to 30 percent for the United States. But Akashi urged his country this week to pay one-third of the total cost, and Japanese Foreign Minister Michio Watanabe hinted on Thursday that Japan was ready to contribute more than its share.

U.N. officials said members of the administration told them in meetings this month that they could not guarantee U.S. funding for the project would be forthcoming this year, a time when the nation is focused on domestic issues and Bush has been attacked by opponents for his attention to foreign affairs.

And some legislators and congressional aides conceded that the funding was not certain, in part because battles are being waged within Congress and between Capitol Hill and the White House over whether the money should come from the Pentagon budget or somewhere else.

The administration has requested from Congress $460 million for peace keeping in 1993, up from $107 million in 1992, the bulk of this to finance efforts in Cambodia, Yugoslavia and El Salvador. The administration also has a supplemental request for an additional $350 million for 1992 still being considered by Congress.

The United States is currently paying off a multimillion-dollar debt for other U.N. peace-keeping operations; it still owes more than $220 million.

Secretary of State James A. Baker III, appearing recently before Congress, urged legislators to approve money for peace keepers around the world and defended the size of the Cambodian operation before some skeptical legislators, saying, "You ought not to go in there with an insufficient or inadequate force of peace keepers."

Another State Department official said the administration firmly supports the Cambodian operation and "the ball is now in Congress's court."

But Senate Foreign Relations Committee Chairman Claiborne Pell (D-R.I.) chided both the administration and congressional leaders in a Senate speech delivered Thursday. "I am dismayed at the apparent unwillingness of many in Congress to pay the relatively modest sums required for the peace-keeping forces. . . .

"However costly U.N. peace keeping is, it is far less costly to the United States than the price we paid for our earlier involvements in these regional conflicts. . . . Both the Bush administration and the Congress have been counting the pennies while missing the prize," Pell said.

CONGRESSMAN KILDEE SALUTES VFW STATE COMMANDER JACK POTES

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. KILDEE. Mr. Speaker, I rise before you today to recognize the achievements of an outstanding American—the Veterans of Foreign Wars [VFW] Michigan State Commander, Mr. Jack Potes. On April 4, 1992, Commander Potes will be honored at VFW Post 1452 in his hometown of Clio for his outstanding professional and civic contributions that have spanned nearly 40 years.

Born in the town of Kalkaska on June 20, 1937, Jack Potes has been a lifelong resident of Michigan. He enlisted in the United States Army in August 1954, during the final stages of the Korean War Jack Potes served 3 years in the Army and received an honorable discharge in 1957, at the conclusion of a tour in Germany. After his term with the Army, Jack was hired by General Motors and worked in the truck and bus division. Jack Potes continued to work for General Motors for the next 30 years until his retirement in 1988.

In 1958, Jack Potes married Emogene Russell. The Potes live in Clio, MI and have two children, Jack, Jr. and Ronda, and three grandchildren, Ryan, Zachary, and Erica. A devoted husband and father, Jack's family will always be his first love. As a citizen and patriot, Jack's other love will always be the American veterans' community.

Commander Potes is a member of Clio VFW Post 1452, the 10th District Veterans of Foreign Wars, and the Genesee County Council. He is a life member of the VFW National Home, which cares for VFW and auxiliary members' children who have lost their parents. Jack is also a member of Camp Trotter, a summer camp for the children of VFW members.

During his tenure with the VFW, Commander Potes has held nearly every leadership position in this outstanding organization. He has chaired numerous committees ranging from the building and grounds committee to the voice of America committee. Jack Potes has served as the post commander of Clio Post 1452, the 10th district commander, the adjutant of the State Pool League Committee, a member of the All-State Commanders and served on the national security and foreign affairs Committee.

Despite this wealth of commitment to the VFW, Jack Potes still finds the time to be involved in community activities outside of the VFW. He is a member of the Mott Community College Veterans Affairs Committee and serves as the veterans representative for United Auto Workers Local 598. In addition, Commander Potes serves on the Genesee County Veterans Affairs Committee and the Genesee County Veterans parade Committee. He also works with the U.S. Marine Corps Reserve in its Toys for Tots Program.

Mr. Speaker, it is with great pride that I ask you and my colleagues in the U.S. House of Representatives to join me in paying tribute to VFW State Commander Jack Potes. Commander Potes exemplifies the concept of the citizen-soldier that is instilled in all members of the American military. The United States of America owes Jack Potes and the millions of veterans he represents a debt it can never fully repay.

WOMEN'S HISTORY MONTH

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. FAZIO. Mr. Speaker, I rise today to recognize a very special celebration taking place during March of this year in Yolo County, CA. In that county, which I am proud and privileged to represent, a variety of people and organizations have come together to honor women, as part of National Women's History Month, "Patchwork of Many Lives." Throughout the month the people of the county will be listening to lectures, joining in group discussions, watching presentations and sharing other experiences to recognize women and the important role they have played in the history of our Nation and Yolo County.

We must recognize that women from every walk of life helped found this great Nation in countless recorded and unrecorded ways. Women have and continue to play critical economic, cultural, and social roles in every sphere of this Nation's life. In Yolo County alone, there are thousands of women who are leaders in business, education, medicine, government, and many other fields. Women are heading groups such as the Chamber of Commerce and the farm bureau, among many others. Women are also leading groups and committees which are tackling numerous social issues and community problems. In Yolo County and across the Nation, women are making history. Yet, despite these contributions, the role of American women in history is often overlooked and undervalued.

Let us hope that the month of March becomes a time to recapture some of that history, but we must not stop there. Let this March be the beginning of a new era in which women are recognized for the history they have made, for the strides they are accomplishing and for the dreams they seek to achieve. And let us congratulate the people of Yolo County for recognizing the importance of such a beginning and for organizing an outstanding array of activities to celebrate this very special time, Women's History Month.

A TRIBUTE TO SGT. RAMON EDUARDO VICIOSO VILA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am proud to acknowledge the homecoming of Sgt. Ramon Eduardo Vicioso Vila. Sergeant Vicioso Vila has served in the U.S. Army since 1984 when he was stationed in Germany. It was in Germany where Sergeant Vicioso Vila met and married his wife, Simone.

During the Persian Gulf war when Saddam Hussein threatened the sovereignty of Kuwait, Sergeant Vicioso Vila was sent to serve in Operation Desert Storm. He, along with thousands of other brave soldiers, defended the freedom of Kuwait under the sweltering heat of the desert sun. The war is now over, the United States and its allies prevailed in Operation Desert Storm, but we will not forget the courageous men and women who fought for freedom and those who ultimately gave their lives.

After the war, Sergeant Vicioso Vila was sent back to Germany where he currently serves and lives with his wife, Simone, and daughter, Pia Isabel.

Sergeant Vicioso Vila, or "Eddie" as his friends and parents call him, is one of the many soldiers who has come home to a hero's welcome. Eddie's parents, Carmelo and Ducle Zamora, will celebrate their son's homecoming on March 21, 1992. It seems fitting, that this day has been chosen. For 28 years ago to this date, his family welcomed Eddie home for the first time. It was his birthday.

Eddie will be stationed in Colorado soon. His visit with his family in Miami will be somewhat short. However, I wish to congratulate Eddie and his family for having faith in the American dream and for their dedication and commitment to each other. You see, Eddie and his parents adopted the American dream when they moved to the United States from the Dominican Republic. As they started their lives over again in a new country, his parents raised their family to believe in the American system, where the opportunity for success is clear. Mr. Speaker, I wish to congratulate Sergeant Vicioso Vila for his terrific success.

SIX ESTEEMED MEN AND WOMEN

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. STEARNS. Mr. Speaker, on Saturday, March 21, St. Andrew's Episcopal Church in Spring Hill, FL, will be honoring six esteemed men and women for a combined 102 years of dedicated service to their church and community.

I rise today in honor and recognition of these six men and women who have provided so much faith and love to their community.

The Reverend Jay P. Coulton served as a priest of the church for 40 years; the Reverend Robin G. Murray has served as a priest of the church for 23 years; the Reverend Edward D. Grimes has served as priest of the church for 19 years; and the Reverend J. James Gerhart has served as priest of the church for 13 years.

For the last 6 years, the Reverend Mary G. Willow has served as a deacon and the Revered Margaret E. Green has served as a deacon for 1 year.

These men and women have committed their lives to helping others and spreading the word of God without seeking any reward besides a healthy sense of satisfaction and an infusion of faith.

The Bible says "Man looketh on the outward appearance, but the Lord looketh on the heart."

I salute each one of these men and women for the faith and commitment they hold within their hearts and the warmth and tenderness their touch has had on their church and community.

THE SPACE PROGRAM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, March 18, 1992, into the CONGRESSIONAL RECORD:

THE SPACE PROGRAM

The U.S. space program is at a crossroads. The National Aeronautics and Space Administration (NASA) in recent years has had basically two blueprints for the future—one emphasizing faster and less complex human exploration of space and the other emphasizing a generally traditional NASA approach that balances science with an evolutionary approach to human exploration of the solar system.

The National Space Council has urged NASA to focus its resources on human exploration of the Moon and Mars. The Space Council has pushed for innovative, low cost, and faster missions, and would like to see nearly all NASA projects geared toward the ultimate goal of human exploration of Mars. It believes in placing great emphasis on projects like the Apollo Moon missions of twenty years ago.

The traditional NASA approach has been more cautious in the area of human exploration. NASA has tried to emphasize a balanced agenda that not only includes projects that are needed for human exploration, but also programs in aeronautic and space technology, space science, and environmental study of the Earth. This traditional approach has led to costly overruns, and many experts feel that it has stymied innovative ideas at the space agency.

Recently President Bush announced the nomination of aerospace industry executive Daniel Goldin as Administrator of NASA. He will replace Admiral Richard Truly, who advocated the traditional NASA agenda and was reportedly pressured to retire by the Space Council. Goldin is expected to advocate faster, smaller, less complex, and cheaper missions and to be a strong advocate of sending astronauts to Mars—the basic policy objectives of the Space Council.

Major NASA Programs: The current NASA budget, $14.3 billion, represents less than one percent of total federal spending. NASA's proposals for the next few years developed under past administrators and reflect the agency's traditional, balanced approach. There are four main components:

Space Station: The Space Station is to be a configuration of laboratories placed in orbit by the Space Shuttle that will allow astronauts to live and work in space for months at a time. Originally planned to be operational by 1994, the Space Station has undergone a number of redesigns. In 1990 Congress ordered NASA to redesign it to reduce costs. The new NASA plan would reduce program costs through 1999 from $38 billion to $30 billion, but the Space Station would not be fully operational until 1999.

Many scientists have criticized the redesign because they feel that the amount of science that could be conducted on the Space Station is not worth the investment. The Space Station would serve only as a life science and material science laboratory, and no longer house telescopes or act as an operations base for servicing and assembling spacecraft. Funding for the Space Station was approved last year after much debate, and will likely be controversial again this year.

Earth Observation: Another major NASA program involves a series of satellites to be launched over the next several years to collect environmental data. Called the Earth Observing System, the program will improve our knowledge of such global problems as ozone depletion and global warming.

One question about this program is its growing cost, estimated to be $20–30 billion over twenty years. Another question revolves around NASA's decision to use large, complex satellites to house most of the instruments. Originally, the program was to consist of four large satellites with 10 to 15 scientific instruments on each. Responding to concerns that one system failure could cripple several instruments, NASA is expected to divide the instruments among several smaller spacecraft.

Advanced Booster Rockets: NASA has proposed developing a new booster rocket system, called the National Launch System (NLS). NASA has not developed a new booster rocket system in over twenty years, and lacks a rocket that can lift extremely heavy satellites or spacecraft. Development of the NLS is controversial because the system currently envisioned is estimated to cost $10–12 billion over the next ten years.

Moon/Mars Missions: President Bush in 1989 introduced the idea of a Moon base and landing a human on Mars within thirty years. Called the Space Exploration Initiative (SEI), this program has yet to garner any real support in Congress.

NASA and the Bush Administration have tried to reinvigorate the program by announcing their intention to have two or three small, low-cost robotic lunar (Moon) missions. These missions would conduct science and chemical analysis of the lunar surface. However, in light of past lunar missions, there is some question whether we really need three additional robotic missions. Moreover, NASA has yet to fully respond to concerns over projections that the total cost of SEI over the next thirty years is between $150–400 billion. This estimate makes SEI unaffordable at the present time.

Outlook: While none of these four programs will likely be eliminated by the new shift in NASA leadership, adjustments can be expected. In particular, there will likely be greater emphasis on the Moon/Mars program and less attention to the Earth Observing System and to the development of a new line of rocket boosters. The Administration is expected to continue its support for the Space Station.

Pressures to keep down overall spending on space will no doubt continue in the years ahead, in the face of so many unmet social needs in our country. Federal spending on space helps maintain America's technological competitiveness, but these dollars must be used wisely in technology areas that provide a high degree of economic return on the investment.

I support efforts to clarify the goals of the space program. It makes sense to emphasize smaller, more affordable, less complex approaches for space exploration. While placing a human on Mars may be a desirable long-term goal, we must ensure that in our quest to achieve our long-range goal we do not lose our short-term goals. NASA needs to continue its strong support of space science, aeronautic and space technology research, and environmental study, all of which can enhance our lives here on Earth. The entire space program must produce goals that are achievable in these austere times.

THE RECOGNITION OF CROATIA AND SLOVENIA IS LONG OVERDUE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. LANTOS. Mr. Speaker, at long last the administration has decided to reverse its wrong-headed policy of refusing to recognize the newly independent states of Croatia and Slovenia. In a statement issued on March 11 in Brussels, Secretary of State James Baker said the United States will give "rapid and positive" consideration to the requests of these besieged states for recognition.

While one might shrug and say better late than never, the administration's policy toward the democratization of the former Yugoslav republics has been shocking. Its policy calls to mind Martin Luther King's well intentioned but timid moderate who is " * * * more devoted to order than to justice; who preferred a negative peace, which is the absence of tension, to a positive peace, which is the presence of justice." Unfortunately, the administration's policy led to neither an absence of tension nor the presence of justice.

On the eve of the tragic and deadly hostilities that devastated the former Yugoslav republics for three quarters of a year, the Secretary of State unequivocally and uncritically declared that the United States supported the territorial integrity and artificial unity of Yugoslavia. That inappropriate endorsement of the status quo emboldened the Communist government of Serbia. Sheer brutality and unmitigated destruction followed.

Month after month of civil strife resulted in the death of thousands. Innocent civilians were terrorized and killed by indiscriminate attacks.

There has been a great deal of criticism directed toward the administration for its handling of the crisis in Yugoslavia. Opposition to the President's policy has been widespread on Capitol Hill.

On October 8, my colleagues Messrs. BROOMFIELD and BONIOR of Michigan, Mr. SWETT of New Hampshire and Mr. SMITH of New Jersey joined me in introducing H.R. 3518, legislation that calls for the United States to restrict assistance for Serbia or any part of Yugoslavia controlled by Serbia until the Communist leadership meets certain specific conditions, including the cessation of hostilities by Serbia, the holding of free and fair multiparty elections, and halting the pattern of systematic violations of human rights within the border of the former Yugoslavia.

The intention behind my legislation, and other worthy legislative efforts introduced by my colleagues, was to send a message to the expansionist Communist leadership of Serbia that we in the United States Congress would neither condone nor tolerate the military action they took against the democratically elected Government of Croatia.

In light of the various congressional initiatives, the late decision by the administration to recognize the Republics of Croatia and Slovenia has been greeted with mixed emotions. While it is gratifying that Croatia and Slovenia will receive the recognition they deserve, there is a strong feeling that much of the crisis could have been averted if the administration would have taken a more responsible stand on the eve of hostilities.

Moreover, while announcing its recognition of Croatia and Slovenia, Mr. Baker said that the administration will delay any such recognition of Bosnia-Hercegovina and Macedonia. This continued foot dragging is serious cause for concern.

Mr. Speaker, the pleas of Bosnia-Hercegovina and Macedonia for recognition are no less legitimate than that of Croatia and Solvenia. Time is of the essence. In keeping with our democratic traditions, the United States must assist these republics as they strive to instill the democratic values which we cherish as their own. The choice is simple. Do we continue to legitimize the Serbian Communist government through our inaction, or do we extend the hand of diplomatic recognition to republics that seek democracy?

It is important to emphasize, Mr. Speaker, that any enduring resolution to the Yugoslav crisis must be based on firm obligations by all republics involved to guarantee and foster the full range of human rights and fundamental freedoms for their constituent peoples and ethnic minorities including political, social, and religious autonomy.

The European Community-sponsored peace conference on Yugoslavia envisages that areas in which persons belonging to a particular national or ethnic group form a majority, in particular Kosovo, must enjoy a special status of autonomy, including all appropriate legislative, administrative, and judicial institutions as well as full educational, cultural, and religious freedom. Special consideration must be given to the sizable Albanian ethnic population of the Republic of Macedonia and the sizable Hungarian ethnic population of the Vojvodina.

It is clear that the current Serbian leadership is unwilling to abide by these principles. It is therefore imperative that the administration comprehend the need to work with and support those parties who desire to bring about peace and stability in the region.

Mr. Speaker, the civil war in the former Yugoslavia plainly demonstrates that nothing good can come from an administration policy that deemphasizes democratic principles in pursuit of realpolitik. While we can take some heart in the administration's decision to recognize Croatia and Slovenia, the crisis in the Balkans has not passed. In the interest of peace and stability in that troubled region, the United States Government must recognize the remaining former Yugoslavian republics and takes action to help them as they move toward democratic governments and market economies.

UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. FASCELL. Mr. Speaker, I would like to commend to our colleagues an article regarding the upcoming United Nations Conference on Environment and Development [UNCED], which appeared in the Miami Herald on March 4, 1992. It as written by Jay D. Hair, president and CEO of the National Wildlife Federation, and is entitled "US Seems Bent On Taking Low Road To The Earth Summit." His cogent remarks underscore the imperative for U.S. leadership and action.

Only 3 short months remain before the largest international conference ever. UNCED is heightening international awareness to these issues, and the linkages among them. The United States should be at the helm forging an international partnership to address the broad spectrum of environmental and developmental issues on the UNCED agenda.

We must recognize that if we expect other nations to act, and to make commitments, we too must be prepared to shoulder our share of the burden. Our share means financial commitments as well as policy changes at home. Although we are in an era of tightened budgets, we must recognize that we will need to provide resources, if not now, then later when our economic situation has improved. In the meantime, we must show leadership and make policy changes which demonstrate our commitment to meet our global responsibilities. Empty rhetoric, from developing or industrialized nations, will not resolve the problems which confront us. We must try to bridge the gaps and forge a partnership between the developing and industrialized nations.

It is ironic that the United States shrinks from a leadership role at the same time our own Department of Defense is calling for other nations to cede to the United States an unchallenged position as the world's only superpower. How can we expect to remain a superpower if we are retrenching on our global responsibilities? If we expect to be viewed as a leader we must act like a leader.

Hair's article is incisive and makes a number of pertinent points. His concluding sentence points the way for a post cold war vision and a redefinition of global security which recognizes human interactions with our environment.

[From the Miami Herald, Mar. 4, 1992]

U.S. SEEMS BENT ON TAKING LOW ROAD TO THE EARTH SUMMIT

(By Jay D. Hair)

The boldest international environmental initiative of this decade is on the brink of failure because of the timidity of U.S. leadership. The United Nations Conference on Environment and Development, or Earth Summit, is to convene June 2 in Rio de Janeiro. And delegates from nearly 120 nations are meeting in New York this week in the last of four conferences to negotiate the summit's broad agenda.

Prospects are growing that the summit will reach one of two conclusions: either the collapse of any consensus to strike meaningful international agreements, or agreements so watered down that they will serve only the interests of politicians who will wave them like victory flags, obscuring an unabated deterioration of the Earth's environmental integrity.

More than any other nation, the United States bears responsibility for the outcome. Its wealth and strength make the effectiveness of any broad international agreement pivot upon its participation. In the summit discussions to date, however, the U.S. leadership has been replaced by defensiveness.

Nowhere is this attitude clearer than in the faltering negotiations over three of the summit's chief goals. The process envisions having ready for signature for the heads of state who will convene in Rio an international convention on climate change, a statement of principle to govern a future convention on forests, and a framework convention on biodiversity.

Global warming is the phenomenon of adding gases to the atmosphere principally carbon dioxide, that trap the sun's heat like a blanket and slowly increase the Earth's surface temperature. the main source of carbon dioxide is the burning of fossil fuel for energy in the industrialized world. From such facts flows the need for a climate change convention.

The second-largest source of greenhouse gases is the release of carbon dioxide in the burning of the world's forests for logging and to open up farm land—chiefly in developing nations. Thus the need for an international agreement to stop massive deforestation.

Finally, the tropical forests of the developing world are also the planet's most abundant hot-houses of biological diversity, sustaining an uncounted array of plant and animal life. An agreement to forestall further wide-scale species extinction is linked to the protection of forests and thus to climate change.

Virtually alone among the developed nations, the United States is unwilling to make any specific commitments to reduce its share of carbon dioxide emissions to deal with climate change, but favors commitments by developing nations to protect forests and conserve species. Seen from the developing world, this is an invitation to bear an inordinate burden for the sake of the global environment while granting affluent nations further license to pollute.

As if to compound these problems, the United States has so far refused even to discuss new arrangements on interest payments, debt relief and financing by which the developing world might be able to meet the obligations that it is being asked to assume.

Time remains for the United States to offer initiatives to bridge these gaps. To do so will require abandoning the paralyzing fear that confronting climate change will actually entail embracing efficient technologies and alternative fuels. It will mean overcoming the dread of taking practical steps to address the developing world's financial crisis. It will require above all that the United States rightly be seen as having a confident vision of the future instead of being inexorably dragged, heels to the ground, into the 21st Century.

The negotiators, including those from the United States, have made great progress on scores of substantive points. These potential gains are at risk, however, unless the deadlock between rich and poor nations is broken.

There is an unresolved irony to the Earth Summit. Leaders whose careers were devoted to the defining struggle between communism and democracy are now groping to articulate the principles of a new world order. What they seek is before them if they will but recognize it. The Earth Summit is the first page on which may be written a definition of global security based on humanity's interdependence with the environment.

A SPECIAL SALUTE TO MS. HENRIETTA DIXON

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. STOKES. Mr. Speaker, I rise today to pay tribute to an outstanding individual who is very special to our community, Ms. Henrietta Dixon. On Saturday, March 7, 1992, friends, family, and students will gather in Cleveland Heights, OH, to salute Ms. Dixon for her contributions to our community over the years. I especially was pleased to participate in this tribute to someone who is very special and has been a positive role model in my life.

Henrietta Dixon came to Cleveland with her father at an early age. Her father, W.C. Dixon, was a well-known music instructor in Cleveland. Ms. Dixon followed in her father's musical footsteps when she organized a group of young men from the Cleveland community to play rhythm instruments. The group became known as the Mozart Band. The band was comprised of neighborhood children who played a variety of musical instruments such as the spoons, washboards, and tambourines. The Mozart Band was quite popular, appearing in concert at various churches and community events, even traveling outside of the Cleveland area to perform. The Mozart Band also enjoyed an exciting radio career during its existence.

I am proud to report that during our youth, both my brother, Judge Carl B. Stokes, and I were members of the Mozart Band. When we were young men growing up in Cleveland, Ms. Dixon was our music teacher. She taught the two of us to master the piano. I recall Ms. Dixon as a music teacher who had high expectations for her students. She was a disciplinarian who demanded excellence, but she gave freely of her time, energy, and talent to help us reach our goals.

Mr. Speaker, Ms. Dixon taught her students to appreciate all forms of musical expression. More importantly, she encouraged us to set our sights high and overcome obstacles. Because of her efforts, she can boast among her students many who have gone on to achieve as teachers, doctors, lawyers, judges, and in various other professions over the years.

Henrietta Dixon has always been willing to share her talents with the community, while asking little in return. Not only did she teach music free of charge, but she taught black history at various schools in the Cleveland area. She has a special gift for using music to reach out to our youth.

Mr. Speaker, I am proud to salute Henrietta Dixon. She is a shape note historian, practitioner, and teacher. She is also an outstanding individual and remarkable woman whom I will always admire and respect. I ask my colleagues to join me in a very special salute to my greatest teacher, Ms. Henrietta Dixon.

SYRIA IS HOLDING ITS JEWISH POPULATION AS HOSTAGES

HON. FRANK McCLOSKEY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. McCLOSKEY. Mr. Speaker, the Government of Syria is holding its Jewish population as hostages and prisoners. The United States must make it clear to Syria that its human rights policies are fundamentally tied to any improvement in Syria's relationship with the United States.

Although Syria is a closed and repressive society for all its citizens, Syria's 4,000 Jews are singled out for unique persecution. Jews are concentrated in ghettoes where they are monitored 24 hours a day by the Syrian secret police and are the only minority whose identity cards denote their religion. Jews cannot vote and are barred from most government jobs, many important professions and educational opportunities. In addition, almost all contact between Syrian Jews and foreigners is strictly forbidden.

Jews are also denied the internationally recognized right to freedom of emigration and movement despite promises made by Syria to both the Carter and Bush administrations to ease these restrictions. According to Amnesty International, those Jews caught trying to escape are imprisoned and often tortured.

Last spring, Syrian President Hafez Assad linked the freedom of Syrian Jews to the future of the Golan Heights. This politicization of a human rights issue runs counter to every international norm. Freedom for Syrian Jewry is a moral issue that should not be used as a bargaining chip in negotiations.

Mr. Speaker, the United States must make it clear to Syria that if they want to improve their relations with the Western World, they must begin to show respect for basic human rights. By living up to their earlier promises and granting freedom to its Jewish population, Syria can show that they really are ready to be a respected member of the world.

DADE COUNTY HONORS TESSI GARCIA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, it is an honor to acknowledge Ms. Tessi Garcia for her success as president of Tessi Garcia and Associates. Ms. Garcia was honored at a luncheon sponsored by the National Association of Women Business Owners at the Miami Airport Hilton. The luncheon, which was part of a Women's History Month celebration titled Recognition '92, honored five of Dade's top women business owners. The women were honored for having excelled in their businesses as well as for their community involvement. Susana Barciela of the Miami Herald reports:

> Tessi Garcia went into business for herself at the ripe age of 19, armed with a two-year interior design degree from Miami-Dade Community College. That was in 1970.
>
> "I got my first client and haven't stopped since," Garcia said. "I never worked for anybody. I never wanted to.
>
> "Life is full of risks. In order to achieve, you have to take them."
>
> Today, Garcia's interior design firm serves international clients and has collected numerous awards. Her projects range from a casino in Aruba to the Freedom Tower and South Pointe Towers locally.
>
> "She's what every young woman would want to be," awards judge JoAnn Bass said. "She's talented and loves what she does. She lives, breathes and needs it."
>
> It didn't occur to Garcia to work in anything but interior design. Now, with nine employees, she says her firm is at the ideal size.
>
> "We're large enough to handle a project of any size, but not large enough to lose the interaction with the client," she said. Before finishing a job, Garcia insists that "everything is perfect, down to the toothbrush in the bathroom."
>
> Garcia makes time for what she calls her "civic responsibilities." She was re-elected to her second term as chairwoman of the city of Miami's Latin Quarter Review Board for 1992, and chairs the Greater Miami Chamber of Commerce's proposed Burle Marx/Biscayne Boulevard beautification project.
>
> "You can't take from the city if you don't give back," Garcia said.
>
> She said being recognized is all the more important to her because she's Cuban-born and a single parent. Though she now lives with her 14-year-old son on Key Biscayne, she grew up in Miami Beach after her parents arrived from Havana in 1961.
>
> "I have a great set of parents. They believed in me," she said. "They came to this country at my age now and had to start again. And they never complained."

I wish to congratulate Ms. Garcia for her outstanding leadership in our community, as well as her dedication and perseverance to succeed in her business. Ms. Garcia is a model and a source of inspiration for all the young people in our community. We are all very proud of her work.

INTRODUCTION OF LEGISLATION TO PROVIDE ADDITIONAL LAND ACQUISITION AUTHORITY FOR CHANNEL ISLANDS NATIONAL PARK

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. LAGOMARSINO. Mr. Speaker, I am pleased to introduce today a simple amendment to the Channel Islands National Park authorizing legislation which provides for the completion of private property acquisition. This NPS area, wholly within my district, was expanded into a national park by legislation I introduced almost 12 years ago.

Since that time, I have been attempting to secure necessary funds to purchase all private lands within the park. To date, we have completed most of the private land acquisition, including all of Santa Rosa Island. The only outstanding private lands within the park are located on the east end of Santa Cruz Island.

The 6,200-acre tract of land on eastern Santa Cruz Island is known as the Gherini Ranch. Currently, the Federal Government owns a one-quarter undivided interest in this land which was purchased nearly 2 years ago. The other three undivided one-quarter interests are each owned separately. Two of these owners have already signed letters of intent to sell their interests to the National Park Service at the appraised value.

The acquisition of the Gherini Ranch has been one of the top NPS acquisition priorities for the last several years. The primary reason for the high priority of this acquisitions is the ongoing resource destruction which is a result of overgrazing by feral sheep and pigs. Virtually the entire 6,200-acre ranch has been denuded and severe erosion of topsoil is occurring throughout the tract. It is imperative that Congress act now to acquire these lands in order to halt this resource destruction.

The bill I am introducing today has broad support from environmental groups, other Members of the California delegation, and even the landowners who simply want the opportunity to sell their land to the Government and reinvest their money.

Therefore, I hope all Members will join with me in supporting this important legislation so that we can complete our 40th national park.

THE IMPORTANCE OF COMPETITION IN THE INFORMATION SERVICES DEBATE

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. STEARNS. Mr. Speaker, late last year, several magazines published articles regarding the court of appeals decision allowing the Bell regional holding companies to enter the information services business, and the efforts to restrict this type of competition.

During the past few weeks, I have received information from both sides in this debate. As part of my effort to be fair to all concerned, I am inserting two articles today, one written by Bob Stoffels, editor of Telephone Engineer & Management magazine, and one by Karen Woodward, managing editor of Telephony magazine.

IN MY OPINION

(By Karen Woodward)

I hate to be manipulated. Advertising that preys on people's fears or tries to instill guilt makes me see red. Advertisers who have to stoop so low to sell their products are selling products that I have no interest in buying—ever.

Remember the Michelin tire ads that pictured a darling newborn and seemed to subtly imply that any parent who would let their precious bundle ride in a car not equipped with Michelin tires was grossly negligent?

Or how about the current "My daddy loves me so much" Volvo ads? To me, this ad intimates that fathers who have the audacity to drive any other car must not really love their kids.

Even closer to home in the telecommunications industry are the cellular phone ads that play on women's fears and imply that a woman alone is somehow a lot safer with a cellular phone in the car.

Gimme a break.

And now we have the ads from the American Newspaper Publishers Association. The ANPA is justifiably worried that the Bell regional holding companies will actually be allowed to compete in the information service arena. The RHCs did, after all, score a major victory in the courts this summer when U.S. District Judge Harold Greene—against his will—lifted the information services ban on the RHCs.

The series of full-page ads sponsored by ANPA in leading national newspapers such as the Chicago Tribune and the Washington Post is a cheap shot. The ads warn that there will be no rampant abuses of personal privacy if the RHCs join the information services party.

A recent ad showed a file drawer with folders marked "personal" and "religious beliefs" and "political affiliations." The implication seems to be that the friend we used to fondly call Ma Bell has miraculously turned into a demon Big Brother. Could that former ally that used to tout its universal services commitment actually have become a seven-headed foe ready to steal our privacy as we naively take the bait and subscribe to the new, exciting services they are offering?

Gimme another break.

The ANPA has good reasons for trying to protect its turf and is justifiably shaking in its boots. The prospect of competing with the RHCs would overwhelm almost anyone with the exception maybe of MCIs Bill McGowan.

The Bell companies have deep pockets to fund their foray into information services. And given the opportunity to develop trigger services such as electronic Yellow Pages they may even be able to find success where previous efforts, by both newspapers and telcos have failed. But it is no sure thing.

Both the Bells and the newspaper industry have a long way to go to prove their ability to be true information age companies. What they share is common motivation: Both the Bell companies and the newspapers realize their traditional markets are not growth vehicles for the future. This realization has hit home now for the newspapers. It looms in the near future for any local exchange carrier that doesn't look beyond local phone service for revenues.

Rather than waste its allegedly limited resources in an endless political battle that benefits no one, the ANPA should be helping its members find ways to capitalize on the information services revolution RHC participation could stimulate.

I hope consumers can see through the ANPA's pathetic tactics. As a consumer, I want the RHCs in the information services game as soon as possible—enough that I'll even take my chances on the loss of privacy.

IT'S ABOUT TIME

(By Bob Stoffels)

I come from a family of lawyers, so I really shouldn't be intimidated by all the legal mumbo-jumbo that eminates from our courts—but I am.

I know it's all necessary and that the outpouring of words tries to take into account every conceivable possibility. But it would be nice to find a legal decision I could understand. There are always so many double negatives and decisions that overturn the appeal that appealed the decision. What I need is an Executive Summary.

We recently received a decision from the U.S. Court of Appeals (that's the court which decides if Judge Greene did it right); it was less than half a page in length. Eighty-seven words, to be exact, more than one-fourth of which simply provided reference information. So short that we really don't need an Executive Summary. But if we had one, it would say: "When Judge Greene dawdled in letting the BOCs get into the information processing business, he was wrong. They can get started any time they want."

The decision said it more professionally. Following are the operative words, verbatim:

"Upon consideration of the motions to vacate stay, the responses thereto, and the replies, it is

"Ordered that the motion to vacate stay be granted. The stay was an abuse of discretion. The record does not contain sufficient evidence of probability that the order will be reversed, that denial of a stay will cause irreparable injury, or that the public interest will be served by the stay * * *"

Notice the words "abuse of discretion." To me, an admitted legal non-professional, that sounds like a slap on the fingers. I doubt whether this will have much effect on Judge Greene because, as FCC Chairman Al Sikes told me, "He's a tough old bird."

And this doesn't decide the case: the American Newspaper Publishers Association and others have already filed an appeal with the Supreme Court. And it's usually not a good idea to argue with someone who buys his ink by the barrel. But at least it's a step in the right direction.

Now I don't buy the argument advanced by the BOCs that a single roadblock such as the prohibition of information processing is going to alter the course of human events. That alone is not going to keep us from entering the "information age." Knock off all that political handwringing. Reasonable people (including a few legislators) should be able to reason. But honestly, we need all the help we can get, and freeing up the BOCs to enter new businesses might be such a help. I don't know what businesses they'll enter at this moment they likely don't, either. But it's an option that no longer need be rejected out of hand.

Judge Greene was wrong in trying to extend the prohibition. I'm glad his decision was overturned. It's about time.

INTRODUCTION OF THE FAIR FUNDING FOR EDUCATION RESOLUTION

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. AuCOIN. Mr. Speaker, it's time Congress joins in the Nation's efforts to reform and improve public education. Today, I'm proud to introduce the fair funding for education resolution, which calls on Congress to increase its share of public education funding to one-third of the total cost. It sets a goal of a $100 billion authorization for education by 1998.

For the last 10 years we've chosen to invest in designer military systems instead of investing in our future workforce. As a result, localities and States have been forced to pay more than their fair share for education. The Federal Government now contributes about 5.6 percent of the total cost of education. States and localities contribute over 85 percent. Today, the Federal Government provides only $13.9 billion to support elementary and secondary education. That's outrageous. We're spending nearly $250 billion on education is this country, and Federal Government is not even an equal partner!

If our schoolchildren are ever going to get the skills necessary to compete in the global marketplace, then we've got to provide them with a state-of-the-art education. Education is the engine that will drive our economic recovery. A real investment in our children will pay big dividends in the 21st century. Only then will we have an educated and productive work force, second to none in the world.

The costs of our neglect are great. About 20 percent of our students have some learning disability or behavioral problem. Many schools just don't have the resources to help them. Nearly a half a million students drop out of school every year. Without additional education, they face a future of work in low-wage, low-skill jobs. More than 20 percent of our children grow up in poverty. More and more, schools are being asked to provide social services and support to these children that go beyond traditional learning needs.

Increased Federal aid won't mean more of the same and it won't mean giving up local control. In my home State of Oregon, where educators, parents, and policymakers are leading the Nation in school reform efforts, more Federal funding will help Oregon implement needed changes in education. It will mean reduced class size. It will help our schools make sure that all economically disadvantaged students and students with disabilities reach their fullest potential. It will help provide up-to-date equipment to help students connect learning to real-life workplace demands.

More education funding is only the beginning. Clearly, real education reform will require creative and innovative approaches to teaching our children. I am confident that if we provide our communities, our schools, our teachers, and our parents with the resources, they'll deliver a world-class education.

A real commitment to education will help restore America's economic strength and improve the educational performance of all of our students.

I urge my colleagues to join me in cosponsoring this resolution. Let's pledge our support for this country's future.

H.J. RES. 443

Whereas, the Nation's governors adopted and the President of the United States endorsed six ambitious National Education Goals that call for full school readiness, outstanding high school graduation rates, competency in challenging subject matter, world-class achievement in mathematics and science, full adult literacy, and safe, violence-free and drug-free schools; and

Whereas, Public education is essential to important national priorities, including economic development, converting the economy from a defense-oriented to a consumer-oriented manufacturing and service economy, expanding economic opportunities, and assuring the health and well-being of the nation's citizen; and

Whereas, America's public schools face serious economic and social obstacles to achieving these goals, including significant populations of economically disadvantaged students, students with learning or physical disabilities, and students with limited proficiency in English; and

Whereas, America's public school facilities have at least $84 billion in unmet capital needs, including insufficient space to house all students, school facilities that are unsafe because of structural deficiencies or environmental hazards, and schools that do not have computers, lab equipment, or other learning technology that students need to be prepared for the workplace of the future; and

Whereas, American public schools that have the most severe conditions, scarcity of qualified teachers, lack of support services to assist the education mission of the schools, and inadequate libraries, textbooks, and other materials necessary to learning, also have the fewest resources to bring about significant program improvement; and

Whereas, The quality of public education in the United States is truly a national concern, being essential to our Nation's economic strength and ability to thrive in a challenging global economy: Now, therefore, be it *Resolved*,

SECTION 1. SHORT TITLE

This resolution may be cited as the "Fair Funding for Education Resolution."

SEC. 2. SENSE OF CONGRESS

It is the sense of the Senate and the House of Representatives of the United States of America in Congress assembled that the federal share of education funding should be increased to one-third of the Nation's total cost, with the balance to be provided by state and local governments. Furthermore, the Nation's efforts to improve educational performance of students should be supported by authorizing $100 billion by the year 1998 for general financial aid to public elementary and secondary schools to be sued for operating expenses and/or capital improvements necessary to achieve the National Education Goals and to improve the economic vitality, national security, and quality of life for all Americans.

THE NATIONAL ENDOWMENT FOR THE ARTS IN IDAHO

HON. LARRY LaROCCO

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. LAROCCO. Mr. Speaker, as we are so well aware, the National Endowment for the Arts has been the focus of heated criticism recently.

A recent article in the Wall Street Journal entitled "In Idaho, the NEA is as Radical as Apple Pie," points out that the funds are administered by members of the Idaho Arts Commission and are awarded to such groups as the University of Idaho's Lionel Hampton festival.

I agree with Ms. Fanselow that:

Those who would abolish the NEA need only look to places like Idaho to learn that most of the time the endowment does its job quietly and well, bringing arts to every American.

I ask that this timely article be reprinted in the RECORD.

[From the Wall Street Journal, Mar. 11, 1992]

IN IDAHO, THE NEA IS AS RADICAL AS APPLE PIE

(By Julie Fanselow)

John Frohnmayer resigned as head of the National Endowment for the Arts on Feb. 21, one day after Republican presidential candidate Pat Buchanan slammed the Bush administration for subsidizing "filthy and blasphemous art."

The endowment has faced unceasing fire from critics. During an extraordinary exchange on "This Week With David Brinkley" two days after Mr. Frohnmayer's resignation, the three journalists on Mr. Brinkley's panel—George Will, Sam Donaldson and Cokie Roberts—all said that they thought that arts groups should stand on their own without federal funding.

But critics and pundits who question the NEA's existence are ignoring the endowment's role in supporting the Arts in small-town and rural America. In spring 1990, the Idaho Commission on the Arts distributed grants totaling $447,219. Of that amount, 38%—nearly $170,000—came directly from the National Endowment.

That $170,000 represented more than five times as much as the endowment gave the University of Pennsylvania's Institute of Contemporary Art to help fund the infamous exhibit by photographer Robert Mapplethorpe. That show, which included seven or eight homoerotic images (out of 120 photos), touched off the arts funding flap.

Where did the money go in Idaho? Well, $4,250 went to the Idaho Dance Arts Alliance, which used its funds to run workshops for children. Lincoln Elementary School in Twin Falls received $1,300 for an artists-in-residence program that in the past six years has brought a mime, a dancer, a storyteller, a painter and a puppeteer to its classrooms. Principal Ted Popplewell says the visitors help children realize it is possible to make a living in the arts, and teachers have also seen improvement in students' social skills and self-esteem following the artists' residences.

The College of Southern Idaho used its $3,900 grant to fund its annual Arts on Tour series, which regularly features such bastions of performing arts morality as Brigham Young University's International Dancers and a holiday run of "The Nutcracker." The Idaho School for the Deaf and the Blind received $825, which paid for an on-campus performance and workshop by a professional ballet troupe. Arts programs "give the students another type of language," says School Superintendent Jim Rainier. "It expands their horizons."

The NEA gives direct grants to arts organizations, too, and the University of Idaho's Lionel Hampton/Chevron Jazz Festival is one such recipient. Lynn Skinner, festival director, said the $15,000 received from the NEA in 1991 helped bring big-name jazz stars, including Al Jarreau and Herbie Mann, to campus, where they performed and offered dozens of workshops.

Since the Mapplethorpe incident, the NEA has been painted in broad brushstrokes as a shameless peddler of pornography. The Rev. Donald Wildmon's American Family Association, through intensive direct mail campaigns and full-page advertisements, has called for the agency's abolition. Mr. Wildmon says artists have no more right to be federally funded than do truck drivers or carpenters.

NEA critics ignore the good the arts endowment has done. In 1965, when the endowment began, there were 60 local arts councils in the U.S.; today, there are more than 3,000. In 1965, there were 110 professional orchestras in the U.S.; today, there are at least 220. "American Playhouse" and "Live From Lincoln Center" are other endowment-supported projects that reach every American with access to public television.

It would be simplistic to tie the nation's flowering of cultural activity solely to the NEA. But those grants have made a difference, not just to the Eastern art elite and not just to starving artists. In its 27 years, the NEA has given more than 90,000 grants. Fewer than 25 have generated controversy.

Those who would abolish the NEA need only look to places like Idaho to learn that most of the time the endowment does its job quietly and well, bringing arts to every American. It should be allowed to continue to do so.

TRIBUTE TO THE SEABEES

HON. RICHARD H. STALLINGS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. STALLINGS. Mr. Speaker, I would like to call the attention of the House today to the U.S. Navy Construction Battalions, commonly referred to as the Seabees. The Seabees, who were first established in January 1942, have proven to be a vital segment of our Nation's defense.

Since World War II, the Seabees have provided essential construction and maintenance services. Their role has ranged from building much-needed bases, roads, and airstrips, to the construction of dams, bridges, housing, and schools. Throughout the world the Seabees have developed a lasting reputation for their remarkable ability and ingenuity regardless of circumstances or climate. The Seabees are also skilled fighters trained to protect themselves during operations. At times they have been among the first American troops into hostile territory, exercising their superior construction skills and military prowess.

Mr. Speaker, in my home State of Idaho, our Governor, Cecil D. Andrus, has issued a proclamation to salute all the Seabees of yesterday and today. In Idaho, we are recognizing the Seabees and their proud spirit, by declaring 1992 "The Year of the Seabees." Additionally, March 5, 1992, was proclaimed to be the "Seabees 50th Anniversary Day."

The proclamation by Governor Andrus, in its entirety, reads as follows:

PROCLAMATION

Whereas, on certain occasions, a day is set aside whereby citizens of Idaho and throughout this great nation pay homage to our Armed Forces at which time through celebration and prayer, the dedicated men and women who have served and are serving our country in its quest for freedom for all nations are given due recognition and appreciation; and

Whereas, the Navy's internationally famous Construction Battalions, commonly known as the Seabees, is one segment of our Armed Forces whose "Can Do" slogan exemplifies the true spirit of its members whether it be in the height of battle or in the repair and construction of existing or new facilities; and

Whereas, the Seabees first served fifty years ago in the jungles of the South Pacific; and

Whereas, in view of the glorious history of this great organization, it is fitting that a day should be set aside wherein the members of the Seabees can join together in a reunion for the purpose of rekindling old and establishing new friendships, learning new construction techniques, and honoring the memory of their departed comrades; and

Whereas, it is appropriate that the citizens of Idaho pay tribute, not only to the glorious tradition of veteran Seabees, but also to today's Seabees—both active and reserve—who are carrying forward this great tradition in far off places from Kuwait to the Philippines to Antarctica;

Now, therefore, I, Cecil D. Andrus, Governor of the State of Idaho, do hereby proclaim 1992 to be the "Year of the Seabees" and Thursday, March 5, 1992, to be "Seabee 50th Anniversary Day" in Idaho, and I urge all citizens of this great state to salute the Seabees for their great contribution to protecting the precious freedoms we enjoy in this great land.

Mr. Speaker, I join in congratulating the Seabees for their outstanding record of service to our Nation.

THE 30TH ANNIVERSARY OF THE UNIVERSITY OF THE VIRGIN ISLANDS

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. DE LUGO. Mr. Speaker, perhaps no other institution in the territory is as important to the present and future of the Virgin Islands as the University of the Virgin Islands. Its founder and benefactor, Gov. Ralph M. Paiewonsky, who passed away late last year, knew well that higher education would be essential if the Virgin Islands and its people were to develop their own leaders capable of crafting their own destiny.

This year, the university is 30 years old. Three decades is not long when measured in the lives of institutions, but in that short time the university's growth has been nothing short of miraculous. UVI has provided educational opportunities to hundreds of graduates who otherwise might never have been able to pursue a higher education. The university has taught many of today's leaders in government and industry, not only in the Virgin Islands but throughout the Caribbean and the United States.

Today, University of the Virgin Islands President Dr. Orville Kean has begun ambitious programs to take the university into the 21st century.

Mr. Speaker, I wish to read into the RECORD an editorial that appeared in the Daily News of the Virgin Islands on Friday, March 13 that summarizes well what a milestone the 30th anniversary really is.

[From the Daily News of the Virgin Islands, March 13, 1992]

UVI AT 30

The University of the Virgin Islands marks its 30th anniversary Monday.

That is cause for celebration not only in the Virgin Islands but throughout the Eastern Caribbean.

UVI has come a long way in 30 years. From a small two-year college on one St. Thomas campus to full-fledged university with undergraduate and graduate programs on St. Thomas and St. Croix, UVI has changed the Virgin Islands and the English-speaking Caribbean—much for the better.

By offering a quality education in a convenient location at an affordable price, UVI has made it possible for thousands of our people and our neighbors to obtain college degrees.

Without UVI, many of these students might not have furthered their educations.

Some couldn't afford to go off-island. Others—and they number in the thousands—have jobs and families but take college courses in their not-so-copious free time. Ultimately many earn their degrees, even though it may take two and three times as long as a normal four-year program.

For both groups—the mostly younger full-time students and the generally older part-timers—UVI has offered upward mobility. This is a plus for them and for our community, giving our work force a well-educated, solidly middle-class base.

Many people are responsible for UVI's growth and success.

Some have received their laurels along the way—former Gov. Ralph M. Paiewonsky, whose vision made it possible; former UVI presidents Dr. Lawrence Wanlass and Dr. Arthur A. Richards, and the current president, Dr. Orville Kean, come to mind immediately.

But others have been unsung heroes—the teachers, and students, and administrators who have given so much of themselves to upgrade the academic standards at UVI and to make the university a vital part of the community.

Both areas, of course, still need attention. UVI is not yet all it could or should be academically, though those who dismiss it as second-rate are ill-informed and need to take another look.

Nor is UVI yet playing the role it could or should as the think-tank for the community, the intellectual guide on issues of concerns.

But that will come. UVI seems to be in good hands that should guide it firmly and capably into the next 30 years.

THE 150TH ANNIVERSARY OF SOUTH CONGREGATIONAL CHURCH

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. NEAL of Massachusetts. Mr. Speaker, I wish to share the news of South Congregational Church of Springfield, MA, 150th anniversary. The history of South Church is one of great service and dedication to the community. On January, 29 1842, South Church incorporated as "Seventh Congregational Society of Springfield" formed by former members of First Church. Later that year the inaugural service following Ecclesiastical Council at First Church Parish House was held. Dedication of the church building on Bliss Street took place in 1843.

During South Church's infancy it was lead by Rev. Noah Porter. The first of South Church's seven senior ministers, Reverend Porter was the son of a congregational minister and a native of Farmington, CT. Reverend Porter served South Church until 1874. He then took a position at Yale University, where he would eventually become president.

The new minister would leave his mark not only on South Church but the entire city of Springfield, MA. Samuel Giles Buckingham would serve his beloved church for 47 years. During his tenure, mission Sunday schools were established, two of which went on to become Faith Congregational Church and Hope Congregational Church. As the congregation grew, the Bliss Street church was becoming too small. In 1873 the dedication of the present church on the corner of High and Maple Streets took place. It is the opinion of many, one of the most beautiful churches in all of New England. Reverend Buckingham's service to the community was recognized when a junior high school building in Winchester Square was named in his honor.

As the country was looking to the 20th century, South Church moved into the new century under the guidance of Rev. Philip Moxom. He, too, was the son of a minister, but first set out on a law career. He was originally ordained as a Baptist minister who became known as a worldwide traveler, writer, and guest preacher.

After Dr. Moxom resigned, Dr. James Gordon Gilkey was installed as the fourth senior minister. Gilkey arrived at a time when the city of Springfield was experiencing a population growth. He was able to make his congregation grow also. Traditionally, church revenues had been raised by renting pews. He abolished that practice and instituted the Every Member Canvass to raise sufficient moneys to meet annual budgets. During his tenure, Olivet Community House was established, Sunday services were broadcast on WBZ radio, and a monthly newsletter began publication. In 1955 Reverend Gilkey retired to Rhode Island.

That same year, the Reverend Dr. Frederick F. Driftmier left Rhode Island to come to Springfield and take the mantle of fifth senior minister of South Church. He arrived in downtown Springfield at a time when urban dwellers were flocking to the suburbs. His first challenge, and a formidable one at that, was to maintain the church's membership. His successful efforts included the expansion of clubs, boards, and committees, the addition of greeters at each service, and the expansion of parking areas. The tradition of community involvement continued under his leadership. Church facilities were open to use programs for seniors, preschool children, Scouts, and title I activities.

Dr. Driftmier retired in 1979, and in June 1980, the Reverend John W. Ames was named sixth senior minister. Much of his ministry was focused on the needs of families. He was to become a role model to the youth of the church. He retired to Florida in 1987.

Today, South Church is cared for by Rev. Peter F. Heinrichs. The seventh senior minister is a graduate of Harvard and the Union Theological Seminary. He and his wife Beatrice are parents of two young daughters.

Mr. Speaker, South Church has always served its members and the community in the truest sense of Christian ideals. There are many thousands of people whose lives are better because of South Church and its leaders. May South Church continue its mission of making this world a better place to live in.

NATIONAL SENIOR NUTRITION WEEK

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. DOWNEY. Mr. Speaker, today I am introducing a resolution which pays tribute to thousands of individuals who provide nutritious and often life-sustaining meals to our Nation's older Americans.

As the chairman of the House Select Committee on Aging's Subcommittee on Human Services, I think it is important that we set aside a week to recognize the importance of congregate and home-delivered meals programs in promoting the well being of our senior citizens. Studies reveal shocking rates of malnutrition among our Nation's elderly population. Between 25 and 50 percent of older patients who are admitted to an acute care facility or nursing home are malnourished. Poor nutritional health leads to more serious medical problems ranging from prolonged hospital stays and increased incidence of complications to higher mortality rates. At a Subcommittee on Human Services' hearing held on February 25 on exercise, health and aging, the value of good nutritional habits in preventing hospitalization, premature institutionalization and in promoting good health was also addressed at some length.

These are only some of the many reasons which illustrate why meal services for seniors are especially critical. In 1991, an estimated 260 million meals were served through title III-C of the Older Americans Act.

Of these, approximately 145 million were delivered in congregate settings, and 115 million were home delivered. In addition to the Older Americans Act, many communities provide additional support for nutritional services for their older residents. I am proud that I share a close working relationship with two major senior meals provider organizations—the National Association of Nutrition and Aging Services Providers and the National Association of Meals Programs. The membership of both of these organizations deserve our congratulations for the many hours and countless sacrifices they make on behalf of others.

This resolution commemorates the importance of the meal services provided by these organizations, and by all the dedicated individuals and volunteers around the country who help to ensure that many older individuals receive adequate nutrition. Also, the services provided allow many opportunities for social interaction, which contributes to good health and longevity by preventing depression and isolation.

I invite all my colleagues to join with me in cosponsoring this resolution designating the week of May 17, 1992 as "National Senior Nutrition Week."

COMMEMORATING THE 50TH ANNIVERSARY OF THE SHULLSBURG HIGH SCHOOL GYM

HON. SCOTT L. KLUG

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. KLUG. Mr. Speaker, I would like to include in today's RECORD an article from the February 16, 1992, Milwaukee Journal commemorating the 50th anniversary of the Shullsburg High School gym in my home district of Wisconsin.

Built before the end of the Second World War, the historic Shullsburg High School gym has a special place in the hearts of many of my constituents. It has been the site for local basketball games since 1942. As the Milwaukee Journal describes: "It's one of the few facilities left in Wisconsin where you can still absorb all the romance of small town high school basketball."

Over the years, Shullsburg residents have grown up to watch their children and grandchildren play in the same gym they used. One of my constituents, Larry Cherrey, who graduated from Shullsburg High School in 1943 and went on to coach the school's basketball team, is still a fixture at today's games. Memories like Larry's help to explain why the gym is so unique.

I would like to thank Christine Russell, a former Shullsburg resident, for sharing this special tribute to Shullsburg's High School gym.

[From the Milwaukee Journal, Feb. 16, 1992]

OLD GYMS BECOME COURTS OF APPEAL

(By Cliff Christl)

SHULLSBURG, WIS.—It is more than just a gym now. It's a shrine.

It's one of the few facilities left in Wisconsin where you can still absorb all the romance of small town, high school basketball.

You absorb it when you walk up the sidewalk to the gym door and study the adjoining school that was built out of native limestone in 1900.

You absorb it when you get inside and look around at the steel beams; the worn, wooden floor; the stage on one side of the cramped court and the six rows of elevated, wooden bleachers that sit on solid concrete on the other side; and the old, steam radiators standing beneath the windows at the top of the balcony.

And you absorb it when you stop to think about memories that gyms like this held when basketball was identified more with the small towns of America's heartland than the playgrounds of America's cities.

They could have filmed "Hoosiers" here at the Shullsburg High gym. The place has that much charm and character.

Even some opposing coaches who abhor playing here because of the small floor and dingy atmosphere are moved by what the place represents in terms of tradition.

"You hate to see these old gyms go, as hard as they are to play in and win in," said Dennis Uppena, the coach at Cassville, one of Shullsburg's rivals in the Blackhawk Conference."This place is kind of special and I know the people here feel that way, too."

The first game ever played here took place on Jan. 27, 1942. Shullsburg played South Wayne and lost, 32–19. And the player who scored the first basket of the game still lives in this small, old mining town in the southwestern corner of the state.

He is Larry Cherrey and he knows all about the history of this place. He graduated from here in 1943, coached basketball here in the 1950s, served as principal here after that and served as superintendent after that.

Now 66 and a member of the school board. Cherrey can be found at the door of the gym taking tickets whenever there is a game here. A warm, friendly man, he also is more than willing to reminisce about what it was like playing here when the doors first opened.

THE GAME HAS CHANGED

"One of the things that has changed is that the ball wasn't taken out-of-bounds after a basket." Cherrey said. "It was taken back to the center line for a jump ball."

"Most of the shots were two-hand push shots or layups. We had knee pads, a lot of them were the old, black ones with the buckle behind the knee. And there were no low-cut tennis shoes whatsoever. We did have a warm-up jacket. I remember that."

Back then this place also was a palace compared to most of the other gyms in the area. Those were the days when varsity teams still played in the old crackerboxes built before the mid-1920s.

Some of those gyms were no more than about 60 feet long. Some of them had ceilings that were no more than 15 feet high and baskets that were maybe 9½ feet high. Some had balconies above the baskets and others just a single row of seats around the floor. And some had obstacles like posts and even potbellied stoves at the edges of the court.

Those gyms have all been demolished or put to other use. At least, none of them are being used by any of the varsity basketball teams at the 400 some public high schools in the state. And so there are fewer than a handful of small schools in Wisconsin still playing in gyms built before the end of World War II.

The Shullsburg gym was built as a Works Progress Administration project and what gives this relic so much of its character is that it once was a state-of-the-art facility.

Everbody calls it "The Pit" now, but it depends on where they are from, whether they do so affectionately or derisively.

Mike Alexander, the late coach at nearby Benton High School, gave it that name before he died of cancer two years ago.

"A real nice guy, a dear friend of mine and we miss him a lot," said Bob Boettcher, now in his 20th year as the varsity coach at Shullsburg. "But he hated the place."

He hated it. Others love it.

"It gives us a home-court advantage," said Aaron Wiegel, a junior on the team this year. "It's intimidating for other teams to come here. We play tough in 'The Pit.'"

The floor is 8 feet shorter and 4 feet narrower than a regulation size court. It also is an original and has endured more than its share of wear.

Back 10, 15 years ago somebody forgot to turn off the valve one night on one of those old ceramic water fountains and the next day one whole corner of the court was under water.

The people here were able to salvage the floor, but there is a large dead spot where the accident occurred.

"I'm waiting for the day when somebody comes down here," said Boettcher, feigning a dribble in that area of the court, "and the ball doesn't come back up."

Not only is the court undersized and warped, it also has less than 4 feet to spare between the cement walls and the end lines. It's even more crowded along the sidelines where the coaches and players sit with their feet dangling onto the playing area.

Last year, Shullsburg, with 92 students, won the conference title and the Division 4 state championship. And when this place was full for key conference games against Cassville and Highland, it was no place for anyone with claustrophobia or an intolerance for noise.

"The place was so loud, it was just phenomenal," Boettcher said. "There was so much emotion and intensity, and when it gets that noisy, the fans are right there."

The school board has looked into expanding the gym. It also has discussed replacing it.

And some day Shullsburg, like most of the other small schools in the state, might build a new homogenized gym.

But there will be those who will fight to make sure "The Pit" isn't torn down.

"I don't think the people in Shullsburg will let them do that," Cherry said, "We have a very strong historical society."

RECOGNITION OF THE PLIGHT OF SYRIA'S JEWISH COMMUNITY

HON. HERBERT H. BATEMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. BATEMAN. Mr. Speaker, I rise today in recognition of the plight of Syria's Jewish community. Saturday, March 14, was designated as the sabbath of remembrance in honor of Syria's Jews, who remain trapped in a nightmare of religious persecution.

In a country known for the brutal nature of its government and for the repression of all of its citizens, Syria's community of 4,000 Jews is relentlessly singled out for even greater levels of persecution. Jews in Syria are forbidden to hold government positions or to vote in any elections; they are identified as Jews in their internal passports—the only religious group in Syrian society so treated—and they are denied educational and occupational opportunities open to others. Additionally, no other group in Syrian society endures the level of secret police surveillance accorded its tiny Jewish community.

Mr. Speaker, the United States and its allies fought a major war in the Persian Gulf region last year in an effort to drive from Kuwait the Iraqi forces of Saddam Hussein. Saddam was justly vilified for his internal and external policies and the American public applauded his military defeat at the hands of the multinational coalition.

Saddam's chemical weapons attack on the Kurdish population of his own country is well known. How many, though, remember the Assad regime's actions in 1982 to put down an uprising of the Moslem brotherhood in the Syrian town of Hama by literally bombing the town back to the stone age with the loss of 20,000 innocent lives.

Assad's treatment of his country's Jews is especially reprehensible for the lack of any conceivable threat to his regime posed by a community that has never asked for anything more than simply to live in peace and practice its religion as it sees fit. That they are the target of such vicious persecution solely on the basis of their religious beliefs is testament to the loathsome nature of the Syrian regime. For this reason, I ask my colleagues in the House of Representatives to join me in remembering the plight of Syria's Jews and in condemning the brutality inflicted upon them by the Assad regime.

THE BOMBING OF THE ISRAELI EMBASSY IN ARGENTINA

HON. WAYNE OWENS

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. OWENS of Utah. Mr. Speaker, the scenes of the destruction and carnage at the Israeli Embassy in Buenos Aires are hauntingly all too familiar. At least 6 people died, over 100 were wounded, and the 3-story Embassy building was nearly totally demolished. I know I speak for the U.S. Congress in sending deepest sympathies to the families and best wishes for a speedy recovery to the injured.

Yesterday's car bombing follows the sword attack by a Palestinian terrorist in Tel Aviv that left 2 dead and 20 wounded, and comes on the heels of last week's car bomb killing of an Israeli diplomat in Turkey.

It is a sad fact that terrorism is alive, well, and killing. And while I hope that these terrorist attacks do not torpedo the already tenuous peace process, who could blame the Israeli people for being angry, afraid, and suspicious?

The United States has an important role to play in easing Israeli concerns about security. But recent State Department leaks undermine the close and mutually beneficial strategic partnership between the United States and Israel. In addition, the President's mishandling of the loan guarantee issue cuts to the heart of Israel's existence as a homeland for all Jews, and erodes Israel's already ebbing confidence in its closest ally.

Clearly and quite justifiably, there is a difference of opinion on the settlements question. The Jewish community is split on the Likud settlement policy. But there is unanimity that linkage between loan guarantees and settlements is unwise and ill advised.

By insisting on a settlement freeze as a condition of the loan guarantees, the United States is effectively extracting an Israeli concession outside the historic direct negotiations between Israel and the Arabs. Like the Israeli settlements policy or not—and I do not—I am firmly and unalterably opposed to this linkage.

Mr. Speaker, the President has frequently referred to the longstanding United States policy against Israel's settlement activity. Well, there is another U.S. policy even more longstanding and even more fundamental to American interests in the Middle East and our collective sense of morality and history.

America's commitment to Israel's security and well-being is at the core of our Middle Eastern objectives. However, it appears that the administration is motivated more by quelling a political constituency and pouncing on the economic difficulties facing our own country than by remembering our loyal friend Israel, still the only democracy in a volatile region.

One year ago, we were saluting Israel's perseverance and self-restraint in the face of dozens of Iraqi Scud attacks. One year ago we were thanking our lucky stars that a decade earlier the Israeli Air Force destroyed the Iraqi Osiraq nuclear facility, removing a threat that would have seriously impeded—if not altogether rendered impossible—efforts to dislodge Saddam Hussein.

It is a grave error to disregard our friends and allies who helped us win the cold war. Compared to our NATO and Asian obligations, Israel was the most cost effective stumbling block to Soviet designs in the Middle East and Eastern Mediterranean. Israel should share in the spoils of this huge victory, not be cast aside like yesterday's news. With the Soviet threat eliminated, the United States-Israel relationship should now have the opportunity to flourish as never before.

Instead of a purely military focus, the United States and Israel can help each other economically. Joint projects in agriculture, research and development in the high-technology field, environmental preservation, and trade are but a few of the common areas that have enormous potential. All it takes is a willing leader in the White House.

Of course, Israel's security situation continues to be precarious. The proliferation of missiles and chemical and nuclear munitions slowly and steadily erodes Israel's qualitative edge. The end of the United States-Soviet rivalry has not translated into peace on Earth.

Israel's enemies are very real. Israel needs our help. America's job, its moral imperative, is to preserve the historically close relationship with Israel. I hope the President is listening and will reverse course before further damage is inflicted.

CONGRESSMAN KILDEE SALUTES UAW SENIOR VICE PRESIDENT ODESSA KOMER

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the House of Representatives to join me in saluting Mrs. Odessa Komer, a woman who has dedicated a lifetime of loyalty and commitment to promoting the welfare of the American worker and the strength of the Nation's labor organization.

Mrs. Komer began her distinguished career on June 6, 1953 as an assembler at the Ford Sterling Plant. She soon became a tireless advocate for workers. Her many accomplishments as a labor organizer and later as a national leader helped to break down barriers for women in the manufacturing industry and the labor movement. In recognition of her remarkable lifetime achievements, Odessa will be presented the Eleanor Roosevelt Award on March 14, 1992, at the 6th annual Jefferson-Jackson Luncheon sponsored by the Michigan Democratic Women's Caucus.

As a member of UAW Local 228, Mrs. Komer became the first woman to serve in several leadership positions including, executive board member, district committeewoman, National Ford Council delegate, Sub-council 5 delegate and full-time recording secretary. As a member of the local bargaining committee, she helped to obtain, from the Ford Sterling Plant, a commitment to consider seniority when making job assignments. This provision was later incorporated into the national Ford agreement.

In 1967, Mrs. Komer was appointed to the international union staff as region 1 education director. She organized and conducted education programs for the 100,000 member region which extends from the east side of metropolitan Detroit to the Thumb area of Michigan. The professionalism and skill she displayed while in this position gained her the respect of the UAW's international membership. Accordingly, on June 5, 1974, she was elected to the post of international vice president at the union's 24th constitutional convention. Since 1974, she has been re-elected to 5 consecutive 3-year terms.

As an international vice president, Mrs. Komer's responsibilities have included directing departments responsible for monitoring and managing the UAW's relationship with several corporations including, the Budd department, the Allied (Bendix) department, the Doehler-Jarvis/Farley department and the Rockwell automotive department. She directs the independents, parts and suppliers department, the women's department, the family department, the consumer affairs department and the conservation and recreation departments. Mrs. Komer also heads several intracorporation and national wage and hour councils. As the head of these councils, she is responsible for handling negotiations and addressing grievances with the involved corporations.

On January 14, 1988, UAW President Owen Bieber appointed Mrs. Komer director of the union's aerospace department. This department is responsible for negotiations with several aerospace industry giants including McDonnell Douglas and Martin Marietta. She was also appointed to direct the Dana and Champion departments.

A community activist and education advocate, Mrs. Komer has also served on the board of trustees of Macomb County Community College. She is a national officer of the Coalition of Labor Union Women and cochairs the National Coalition for the Reproductive Rights of Workers. She is a life member of the National Association for the Advancement of Colored People, a member of the National Organization for Women and served on President Jimmy Carter's Advisory Committee for Women.

Mrs. Komer resides in Sterling Heights, MI, with her husband, Leo. They have two children, Roger and Janet and five grandchildren.

Mr. Speaker, it is an honor for me to rise today on behalf of this remarkable woman. The contributions that Mrs. Komer has made in the effort to increase the standard of living for all Americans is incalculable. I ask you and my fellow Members of Congress to join me in paying tribute to UAW senior vice president Odessa Komer.

TRIBUTE TO THE OFFICER OF THE YEAR

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. TRAFICANT. Mr. Speaker, today I rise to pay tribute to Sgt. Ronald Fenton, recognized by Ashtabula's Crime Clinic as officer of the year. Also receiving merit were Detective Jeffrey Bradley, Ashtabula City Police Department; Sgt. Dan Dudik, Geneva Police Department; Trooper Ray Hess, Ohio State Highway Patrol; Patrolman Mike Offensend, North Kingsville Police; Patrolman Bryan Rose, Andover Police Department; Patrolman Thomas Gragg, Geneva on the Lake Police; Sgt. Robert Zimmerman, Conneat Police Department; and Patrolman John Arcaro of the Conneat Police Department.

Mr. Speaker, I want to commend these officers who have distinguished themselves in the line of duty. As a former sheriff, I know exactly what these men face daily in the field. These are proud and brave men who serve their communities and country well. They are our foot soldiers in the war against crime and drugs.

Mr. Speaker, it is with great pleasure that I rise to pay tribute to former colleagues in uniform. I wish them and their families the best in the future and may God bless them.

SABBATH OF REMEMBRANCE

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. TRAXLER. Mr. Speaker, I rise today for the purposes of alerting my colleagues to a truly painful situation for the remaining Jews in Syria. As many of my colleagues are aware, emigration from Syria is extremely restrictive and Jews cannot leave without posting large monetary deposits and leaving behind close relatives as assurance of their return.

Mr. Speaker, the time has come for men and women of good conscience to place the issues of Syrian Jews much higher on the American human rights agenda. For my colleagues information, I would like to point out that March 14th marked the "Sabbath of Remembrance" to remember Syrian Jews. This sabbath before the Jewish holiday of Purim is traditionally marked as "Shabbat Zachor". During this time the Jewish people are enjoined to remember the genocidal threat to the Jewish people.

In recent years, Shabbat Zachor has been dedicated to the Memory of four young Jewish women from Damascus who were brutally murdered in March of 1974 while trying to escape from Syria. The mutilated bodies of Laura Sebbagh, Mazel Sebbagh, Farah Sebbagh and Eva Saad were dumped in sacks outside of their families homes in Damascus. This heinous crime has gone unpunished to this day. How is it possible that in a civilized age, reunification with a loved one can be judged a criminal act? Have we not learned our lessons from persecution of the last 50 years? If anything is absolutely clear from that tragic holocaust period, it is that men and women of good conscience must not be silent. Americans must speak out to arouse the world's conscience; we must call for an end to the daily surveillance of every Jewish home is Syria and for a cessation of their hostage-like situation.

At this historic time when the United States has entered into a dialog with President Assad of Syria about peace in the middle East, I urge the Congress to ask President Bush and Secretary Baker to undertake vigorous American interventions on behalf of Syrian Jews. The first step towards peace by Syria should be its observance of basic human rights. As some of my colleagues are aware, there remain specific cases of Syrian Jews not being afforded due process under Syrian Laws. I would like to take this opportunity to illustrate just one example of the miscarriages of justice that Syrian Jews can still face.

Two Jewish brothers, Eli and Selim Swed, have been held since November of 1987. They were recently tried in camera and sentenced to six and-a-half years of imprisonment. Few other details on the trial proceedings or verdicts are known, other than earlier reports that the two were charged with espionage and then accused of visiting relatives abroad, whom they have not see for nearly 30 years. After their sentencing, in an act of desperation, the two brothers conducted a hunger strike in prison, an unprecedented act in that country. They ceased their hunger strike, but remain imprisoned and last month their sentences were confirmed.

I believe that the plight of Syrian Jew should be higher on the American human rights agenda. We must call upon Syrian President Hafez El-Assad to free the Swed brothers or publicly prove their guilt on the charges of espionage. Moreover, every Member of this Congress should communicate their deep concern to

President Assad and to the Syrian Ambassador in Washington. In this effort, we join with thousand of our constituents. Together, with Jewish and non-Jewish communities across the U.S., we can help to bring these injustices to an end. Along with the National Task Force of Syrian Jews, the National Jewish Community Relations Advisory Council, the Council of the Rescue of Syrian Jews, and the Congressional Caucus on Syrian Jewry, we can make a difference.

At this time of special challenge and opportunity in the Middle East, when men of good will continue to talk of peace, I urge my colleagues to call on President Assad to show Syria's good faith in the family of peaceful nations by full observance of human rights for Syrian Jews.

TRIBUTE TO MR. CHARLES E. "SKIP" BIRD

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. VISCLOSKY. Mr. Speaker, I rise today to honor an extraordinary man, Mr. Charles E. "Skip" Bird.

Skip Bird has dedicated over 30 years to coaching swimming in Porter County, IN. He began coaching in 1960 at the Porter County YMCA, where he nurtured several State champions and one national YMCA champion. In 1967, he began coaching at Valparaiso High School, where he remains to this day.

During his 25 years of service with Valparaiso High School, his achievements have been remarkable. He has led the swim team to 16 conference championships, 12 sectional championships, and high placement in several State competitions. In addition, three of his swimmers have received All American Awards, and several of his swimmers have earned State championships. These victories have resulted in his outstanding dual meet record of 280 wins, 115 losses, and 2 ties.

Skip Bird has been recognized and honored by his colleagues for his coaching ability. In 1980, he was named State Coach of the Year from the Indiana High School Swimming Coaches Association. He was lauded with the same honor for coaching boys swimming from the Indiana School Coaches Association.

Skip Bird has earned several national awards which include being selected as Regional Coach of the Year from the National High School Athletic Coaches Association. This award qualified him as one of eight nominees for the National Coach of the Year Award.

In addition to coaching, Skip Bird is actively involved in the community. He received the Outstanding Citizen of the Year Award from the Valparaiso Jaycees organization. He is an avid supporter for the Valparaiso Special Olympics and for many years was a merit badge counselor for the Boy Scouts. In addition, Skip has had the opportunity to coach and lead a group of United States swimmers to France for 1 month of competition with French teams under the auspices of Sports for Understanding.

Skip Bird has used his knowledge and experience to write numerous articles and books on the subject of swimming. He has published three books; two of his books on coaching which have sold out several times throughout the world, and one on inspirational slogans and sayings. Since 1980, he has been publication editor for the National Interscholastic Swim Coaches Association, and he also writes a column which appears in Swimming World and Swimmers Magazine.

Skip Bird's lifetime dedication to coaching swimming has earned him, and Valparaiso High School, local, State, and national recognition. He is truly an outstanding citizen who has, and will, continue to promote dedication and excellence.

TRIBUTE TO DR. MARVIN CAMRAS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. PORTER. Mr. Speaker, I rise today to recognize and bring to the House's attention the achievement of a distinguished constituent from Glenco, IL, Dr. Marvin Camras.

Today, Dr. Camras is being presented the Coors American Ingenuity Award, and is being inducted into the American Ingenuity Hall of Fame. He is being honored for his inventions in magnetic recording technology which have spawned a multibillion dollar video recording and computer data storage industry. Dr. Camras has earned more than 500 patents for the inventions and refinement in the field.

The Coors Award and American Ingenuity Hall of Fame were created to honor individuals like Dr. Camras who have forever changed the face of business. The goal is to search out and honor America's Edisons and Bells of today and make them the national heroes they deserve to be.

Dr. Camras joins a distinguished group of previous award winners and hall of fame members. They are: John V. Atanasoff, the inventor of the first electronic digital computer; Jack St. Clair Kilby, coinventor of the silicon chip; Stanford R. Ovshinsky, solar energy pioneer; George B. Dantzig, developer of linear programming; Lee Gaumer, father of space rocket fuel, and Douglas Engelbart, a pioneer in the use of the personal computer.

The American Ingenuity Award, Mr. Speaker, is the top business award in the country given to an individual. With the National Association of Manufacturers as the platform, the presentation ceremonies have been on a program which included the President of the United States, the Honorable George Bush, two of the last 3 years.

Mr. Speaker, Dr. Camras has been associated with the Illinois Institute of Technology for over 50 years as a student, an employee of the school's research institute, where he made his innovations, and more recently as a teacher. He delights his students who love having a legend as a teacher.

It is an honor, Mr. Speaker, to recognize Dr. Camras for winning the 1992 Coors American Ingenuity Award and being inducted into the American Ingenuity Hall of Fame. This prestigious award focuses on one of the essential components to restoring American competitiveness in the world economy. Through emphasis on rediscovering American ingenuity, it is awakening American business to the importance of fostering the individual's creativity.

Mr. Speaker, I am pleased to acknowledge Dr. Camras for his truly great accomplishments and I want to recognize the Illinois Institute of Technology for producing a great innovator, Dr. Camras. Also, I would like to thank the Coors American Ingenuity Award and Hall of Fame Committee for their efforts in identifying and honoring great Americans like Dr. Camras who have contributed to the vitality of American business through their ingenuity and creativity.

CHIEN'S VIEWS SHOULD BE HEARD

HON. HAROLD L. VOLKMER

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. VOLKMER. Mr. Speaker, a number of excellent articles have been written on the relationship between the United States and the Pacific rim nations and how this relationship will evolve in the post-cold-war world. One such article, "A View From Taipei," written by Frederick Chien of the Republic of China should become mandatory reading on the subject.

Dr. Chien says "As the world celebrates the end of the cold war, the people of the Republic of China are looking forward to making greater contributions to a new world order." He indicates his country "welcomes the arrival of the global tides of democratization, development, international integration and detente in East Asia."

Dr. Chien has addressed this theme to audiences all over the world. He is no stranger to the American scene. A graduate of Yale and former representative of the Coordination Council for North American Affairs in the United States, Dr. Chien is recognized as his country's chief spokesman and he has done an excellent job. For example, he delivered a major speech last November entitled "Economic Growth, Political Reform and the Republic of China's Evolving Global Role," to a spirited audience of over 200 at Harvard University.

Plus, Dr. Chien outlined his country's warm relations with Central American countries during a presentation last December when he led a Republic of China delegation to the 11th summit meetings of Central American leaders.

Mr. Speaker, the world can no longer ignore the importance of the Pacific rim countries. It is inevitable that the world welcomes the countries into the family of nations. I urge all of my colleagues to learn more about Dr. Chien's crusade and read his "A View From Taipei."

A VIEW FROM TAIPEI

(By Fredrick F. Chien)

Developments in East Asia may appear sluggish compared to the momentous changes in Europe and the Soviet Union. The Cold War lines that divide both China and Korea remain firmly in place, although rendered more permeable by flexible policies. East Asia's three communist countries—mainland China, North Korea and Vietnam—are still ruled by first-generation revolutionary leaders. In stark contrast to the peaceful unification of Germany, Vietnam was unified by a vast communist army. And mainland China (the People's Republic of China) is soon to extend its domination to Hong Kong—the citadel of capitalism in the East. Moreover the string of arms control measures achieved in the West has not found a counterpart in East Asia. Soviet President Mikhail Gorbachev's policy of accommodation, sweeping as it is, has only begun to thaw the chilly relations between the Soviet Union and Japan. For different reasons the major powers in this area appear unwilling or unable to change the current situation.

Yet beneath the surface important currents of change are discernible. First, East Asia ranks as the fastest growing area of the world in terms of economic output. Japan's gross national product, 50 years after Pearl Harbor, is double that of Germany. Japan is now the world's largest creditor, while its victorious World War II adversary, the United States, has slipped into being the world's largest debtor. Other East Asian economies are also doing well, with average growth rates that far outstrip those of the European Community.

Second, the process of democratization is moving apace in the Republic of China (R.O.C.) on Taiwan, the Republic of Korea and the Philippines. The light of democracy that flickered to life in 1989 on the Chinese mainland has only been dimmed, not extinguished. In fact the collapse of communism in the Soviet Union and eastern Europe may portend similar developments in mainland China after the passing of its first-generation leaders.

Finally, a spirit of reconciliation seems to be prevailing in East Asia as well. The normalization of relations between mainland China and the Soviet Union and also Vietnam, as well as the establishment of diplomatic ties between Moscow and Seoul and expanding people-to-people interchanges between the two sides of the Taiwan Straits are but a few examples. In short, while the Cold War structure remains largely intact in East Asia, global trends toward democratization, development and détente have deeply penetrated the area, and there are grounds for optimism about the future.

Since its withdrawal from the United Nations in 1971, the R.O.C. has aimed to maintain and expand its substantive relations with other countries. It has also sought to upgrade its economic structure and make itself more democratic. Today it is the fifteenth largest trading nation in the world, with a GNP more than one-third that of mainland China. The R.O.C. is widely recognized as having emerged from an era of isolation and irrelevance to become a potentially valuable contributor to the emerging new world order. By furthering trends toward democratization, development, international integration and détente, Taiwan may play an important role in promoting stability and prosperity in East Asia. In fact Taiwan's experience may someday be especially relevant to the future of a unified and democratic China.

II

The 1911 revolution led by Dr. Sun Yat-sen brought the Ching dynasty to an end, but failed to create a suitable environment for economic and political development. The following four decades were marked by fierce fighting among rival warlords, a communist insurgency and a Japanese invasion that eventually helped lead to the communist conquest of the mainland.

Since 1949 Taiwan has made slow progress toward democratization, the timing and direction of which was narrowly controlled by the government, taking into account the threat from mainland China and Taiwan's own socioeconomic development. By the mid-1980s Taiwan and Singapore had become the only non-oil exporting countries in the world with per capita incomes of at least $5,000 a year that did not have fully competitive democratic systems. But today Taiwan has finally developed the proper economic and social base for successful democracy.

An important step toward Taiwan's political reform came in 1986, when opposition forces formed the Democratic Progressive Party (DPP), defying a government ban on new political parties. The ruling Kuomintang (KMT, or Nationalist Party) not only refrained from taking action against the opposition but made a series of moves in the following years that decidedly liberalized and democratized the nature of Taiwan's political system. The liberalization measures adopted by the KMT included replacing martial law with a new national security law, lifting press restrictions, revamping the judiciary and promulgating laws on assembly, demonstration and civil organization. The democratization measures legalized opposition parties, redefined the rules for political participation—such as the electoral law—and include the ongoing reform of the legislature (the Legislative Yuan), the electoral college (the National Assembly) and the R.O.C. constitution.

This process of democratization, begun by President Chiang Ching-kuo before his death in January 1988, was given further impetus by his successor, Dr. Lee Teng-hui. At his inauguration in May 1990, President Lee set a two-year timetable to complete the country's democratic transformation, including major structural and procedural reforms. A National Affairs Conference was convened in June 1990 with delegates drawn from all major political and social forces. After much public debate the NAC decided to end Taiwan's "mobilization period," begun in 1949, which had allowed the government extraordinary national security powers.

A declaration to this effect, made by President Lee in May 1991, also included recognition that a "political entity" in Peking controls the mainland area. On the recommendation of the NAC the "temporary provisions" appended in May 1949 to the 1947 constitution, giving the government sweeping powers to deal with external and internal threats, were abrogated in early 1991. By the end of the year all the senior members of the Legislative Yuan and National Assembly elected on the mainland prior to 1949, and who have never been subject to reelection, will have retired. A new National Assembly composed exclusively of representatives elected in Taiwan will then undertake the final phase of democratic reform: revision of the R.O.C. constitution. Upon its completion in mid-1992, and after Legislative Yuan elections scheduled for the end of that same year, the R.O.C. will have become by any standard a full-fledged democracy.

The R.O.C.'s democratization process is unique. It has not been initiated or monitored by external forces, as it was in Japan and West Germany. Nor was it undertaken after political or social upheavals, as in Greece or Argentina and lately in the Soviet Union. Rather it has evolved peacefully within the country and is mainly the result of prosperity. Tensions and divergent views exit, to be sure. For example, although both sides of the Taiwan Straits maintain that Taiwan has been, legally and historically, an integral part of China, the Democratic Progressive Party insists that Taiwan is a sovereign, independent entity. The DPP's position is contrary to the R.O.C. government's claim to represent all of China. Furthermore the DPP's foreign-policy platform holds that Taiwan should develop its own international relations, including membership in the United Nations and all other international organizations, on the basis of independent sovereignty and under the name "Taiwan," as a geographical area, is merely an island province of the R.O.C.

These kinds of differences are inevitable in an open society. But the point is that the government of the R.O.C. itself has largely set the timing for its own democratization; the clock cannot and will not be turned back. It is worth noting that the R.O.C. is the first Chinese-dominated society to practice pluralistic party politics. In that sense what we have been witnessing is truly revolutionary. It realizes the dreams of many of our founding fathers—a dream for which many have sacrificed their lives. And yet R.O.C. prosperity and democratization have been achieved without bloodshed and without overturning the existing socioeconomic order.

These changes, however, do not come without a price. They have unleashed social forces that present new challenges to the government, which still needs to coordinate reforms in other areas, such as economic policy, mainland policy and foreign affairs. As various societal interest groups stake their claims on public policymaking, the quality of government will increasingly have to rise to meet the needs of its various constituents.

III

Despite Taiwan's economic miracle, rapid social change and political liberalization, the R.O.C. has an artificially low international status and remains an outsider to the emerging international order. Between the urgent necessity for greater integration into the international community and an underlying desire not to forsake the future reunification of China, the R.O.C. has adopted a flexible approach to foreign relations, commonly called "pragmatic diplomacy."

Pragmatic diplomacy did not emerge overnight. The R.O.C.'s diplomatic fortunes suffered their first major setback in 1971, when its seat in the U.N. General Assembly and Security Council were taken by mainland China. Its diplomacy reached its lowest point in 1979, when the United States switched diplomatic recognition to Peking. At that time the R.O.C. maintained formal diplomatic relations with only 21 countries and had only 60 offices abroad, and it feared that other nations would follow Washington's lead. Taiwan suffered yet another blow in 1982 with the "August 17 Communiqué," signed by Washington and Peking, which committed the United States to reducing the quantity and quality of arms sold to Taiwan.

But Taipei learned much from these reversals. A spirit of pragmatism emerged among its foreign-policy makers as well as the nation's public. Amid increasingly strident popular calls for change, the government chose on several occasions to adopt a more flexible approach. For instance, the R.O.C. agreed to participate in the 1984 Los Angeles Olympics under the title "Chinese Taipei," not "Republic of China," as in previous games. It protested Peking's entry in 1986 into the Asian Development Bank (ADB), but refrained from withdrawing itself.

Under President Lee the R.O.C.'s search for international visibility and participation became more vigorous. In April 1988 an official delegation was sent to Manila to attend the annual ADB meeting under the name "Taipei, China." This was the first time that the R.O.C. and mainland China had both attended a meeting of an international governmental organization. In his opening address to the KMT's Thirteenth Party Congress in July 1988, President Lee urged the party to "strive with greater determination, pragmatism, flexibility and vision in order to develop a foreign policy based primarily on substantive relations," a passage incorporated into the party's new platform.

In March 1989 President Lee led an official delegation on a highly successful visit to Singapore, where he was referred to in the local press as "the President from Taiwan." That May the R.O.C. made an even more dramatic decision to dispatch its finance minister, Dr. Shirley Kuo, to the annual ADB meeting, this time in Peking. President Lee explained the decision in a June 3, 1989, speech to the Second Plenum of the KMT's Thirteenth Central Committee: "The ultimate goal of the foreign policy of the R.O.C. is to safeguard the integrity of the nation's sovereignty. We should have the courage to face the reality that we are unable for the time being to exercise effective jurisdiction on the mainland. Only in that way will we not inflate ourselves and entrap ourselves, and be able to come up with pragmatic plans appropriate to the changing times and environment."

In 1988 Taipei established an International Economic Cooperation and Development Fund and appropriated $1.2 billion for economic aid to Third World countries. This new foreign aid program, plus the 43 teams of technical experts already working in 31 countries, places the R.O.C. firmly in the ranks of significant aid-providing nations. Moreover 1989 saw the establishment of the Chiang Ching-kuo Foundation for International Scholarly Exchange with an endowment of over $100 million. A fund for International Disaster Relief also provided tens of millions of dollars to the Philippines, the Kurdish refugees and others who suffered during the Gulf War.

These and other efforts resulted in a sharp increase in the R.O.C.'s international ties. As of 1991 the R.O.C. has formal diplomatic relations with 29 countries and maintains 79 representative offices in 51 countries with which it has no diplomatic relations. These offices, some of which bear the Republic of China's official name, facilitate bilateral cooperation in areas such as trade, culture, technology and environmental protection. The R.O.C. is also a formal participant in the newly formed ministerial-level organization, the Asian Pacific Economic Cooperation, and has been active in regional groupings such as the Pacific Basin Economic Cooperation and the Pacific Economic Cooperation Council. It also stands ready to join the General Agreement on Tariffs and Trade as the representative government of the "customs territory of Taiwan, Penghu, Kinmen and Matsu," not the whole of China.

While pragmatic diplomacy enjoys wide support at home—so much so that the country's foreign relations were not an issue during the hotly contested 1989 election campaign—it has invited relentless criticism from mainland China. Characterizing it as a plot to create "one China, one Taiwan," or "two Chinas," Peking has taken a number of steps to forestall the R.O.C.'s international integration. Those countries that have shown interest in establishing air links with Taipei, receiving or sending official delegations, setting up offices in Taiwan or simply striking major business deals are warned of "deleterious consequences." In 1991 alone twenty countries, including Poland, Hungary, the Philippines, Malaysia and the Soviet Union, have been forced to reaffirm that "the P.R.C. is the sole legitimate government of China, and Taiwan is part of China."

This has not deterred the R.O.C. from its charted course. Pragmatic diplomacy is part and parcel of the R.O.C.'s democratic transformation, reflecting the nation's collective yearning for change. Just as the domestic political process is being democratized and its economy opened to the world, so its foreign relations must become more flexible as well.

IV

Taiwan is directly susceptible to winds of change from the Chinese mainland. In recent years the relationship between the two sides of the Taiwan Straits has undergone a sea-change. From 1949 to 1979 Taiwan was constantly threatened by direct military invasion. The shelling of Kinmen and Matsu in 1958, which almost brought the two superpowers into confrontation, was a dangerous example.

But beginning in 1979, when Deng Xiaoping led the Peking leadership to embark on its "four modernizations" program, mainland China's need to maintain a peaceful image eased its hard-line policy. The new goal was not to coerce but to cajole Taipei back into the fold with a variety of devices, such as the "one country, two systems" formula advanced by Deng in 1984. According to this formula, Taiwan would be downgraded to a "highly autonomous region," thus conceding the right to conduct its own foreign relations and national defense. The R.O.C. resisted by adopting its "three nos" stance toward mainland China: no contact, no compromise, no negotiations.

This deadlock was broken in November 1987 when President Chiang Ching-kuo decided to allow people on Taiwan to visit family members on the mainland. Subsequently, longstanding bans on indirect trade and investment, academic, sports and cultural exchanges, tourist visits and direct mail and telephone links were lifted in rapid succession. This opened the floodgates to people-to-people exchanges between the two sides of the straits, unprecedented at any period of Chinese history. In the early part of this year alone, an estimated two million people from Taiwan visited the mainland, more than 28 million letters were sent in both directions—an average of 40,000 per day—and telephone, fax and telex exchanges numbered five million. Moreover, by conservative estimates, indirect trade reached $4.04 billion in 1990 and investment topped $2 billion.

In November 1990 a cabinet-level Mainland Affairs Commission was established. At the same time the R.O.C. created the Straits Exchange Foundation, an organization funded primarily by private money. The SEF serves as an intermediary between the peoples of Taiwan and the mainland on an entire range of functional issues. If necessary the SEF may engage mainland representatives in non-political negotiations. Thus far SEF personnel have visited the mainland on three occasions and received one Red Cross delegation from mainland China—events all highly publicized by the R.O.C. press. The two sides have agreed on procedures for the repatriation of criminals and have indicated an interest in the joint prevention of crimes committed on the high seas. It is hoped, at least by the R.O.C., that through these exchanges "peace by pieces" may be achieved.

A National Unification Council was set up in October 1990 with President Lee as its chairman. To further clarify the R.O.C.'s stance on mainland-Taiwan relations, new Guidelines for National Reunification were proposed by this council and accepted by the Executive Yuan (Cabinet) in March 1991. The guidelines state: "After an appropriate period of forthright exchange, cooperation and consultation conducted under the principles of reason, peace, equity and reciprocity, the two sides of the Taiwan Straits should foster a consensus on democracy, freedom and equal prosperity, and together build anew a single unified China."

The guidelines envision unification after three consecutive phases. For the immediate future is a phase of exchanges and reciprocity, during which the two sides are to carry out political and economic reforms at home and "set up an order for exchanges across the straits . . . [to] solve all disputes through peaceful means and furthermore respect, not reject, the other in the international community," and "not deny the other's existence as a political entity."

In the medium term a phase of mutual trust and cooperation is envisioned, in which "official communications channels should be established on an equal footing," direct trade and other links should be allowed, and "both sides should jointly develop the southeast coastal areas of the mainland." Both sides should also "assist each other in taking part in international organizations and activities" and promote an exchange of visits by high-ranking officials to create favorable conditions for consultation.

In the final phase both sides may jointly discuss the grand task of unification and map out a constitutional system built on the principles of democracy, economic freedom, social justice and nationalization of the armed forces. In today's Taiwan context "nationalization" means enhancement of the non-partisanship of the armed forces.

Public opinion polls show a hard core of "unification" supporters in Taiwan, amounting to about 10 percent of the population. There is also a group of "independence" advocates whose strength ranges between 5 and 12 percent of the population. In between is a silent majority whose views tend toward the R.O.C. government's long-standing position of "one China, but not now" and its emphasis on phased advances toward the goal of unification. However, as in other democracies, the minority may be vocal and aggressive, and their voices are often amplified through the democratic process, thus complicating the formulation of mainland policy. While the push and pull involved in formulating the R.O.C.'s mainland policy may seem natural to those familiar with Taiwan's increasingly democratic political system, it at times appears inscrutable to the aged leaders in Peking.

Given the widening gap—politically, socially and psychologically—between the two sides of the straits, the danger for the R.O.C. appears to stem not so much from Peking's capricious and expansionist tendencies as from its unwillingness or inability to comprehend the changes in the R.O.C. The mainland's aged leaders seem all too ready to take extreme positions by drawing parallels between the R.O.C.'s democratization and what is derisively called "Taiwanization," and between "pragmatic diplomacy" and "two Chinas." At the heart of these misperceptions is Peking's stereotype of Taiwan as a small island province located on the

Chinese periphery and ruled by mainland China's defeated civil war enemies. From this vantage point there is no way Peking can treat Taipei as an equal. The same attitude seems to have led the Peking leadership to deny, or at least suppress, the fact that the R.O.C. has come far in the last four decades in overcoming age-old feudalism, poverty and the last vestiges of imperialism. One hopes that in time the Peking leadership will realize that the R.O.C., as a dynamic polity and vibrant economy with ideals, hopes and fears of its own, likewise cannot agree to hold political negotiations with Peking from an unequal position and while mainland China continues to rattle its saber.

V

For too long too many foreign observers have cast the R.O.C. in a unidimensional mold. For those who hailed the R.O.C. as a bulwark of anticommunism, it was to be supported at any price. For those who favored better relations with mainland China, Taiwan was viewed as a "problem" or an "obstacle" to China's unification. When many in the United States were obsessed with the deteriorating bilateral trade situation, Taiwan even became a "threat" to be curbed by protectionist legislation.

Yet the Republic of China is rapidly coming of age. It is evolving into something that fits none of the old stereotypes. Along with the old stereotypes, we must throw out the old prism through which events on the island were once perceived. No analysis of issues relating to China is complete if it fails to take into account the views, ideals, aspirations and fears of the people of Taiwan.

Just as Taiwan is a part of China, so is the mainland. Neither should seek to lord it over the other or to claim superiority by dint of size, population or past performance. Both should instead recognize the fact that two different systems exist in these separate parts of China. While unification is the ultimate goal of Chinese on both sides of the Taiwan Straits, it should not be pursued simply for its own sake. As the breakup of the Soviet Union has shown, a forced union will ultimately end in divorce. The primary task for both governments in the next few years is therefore not to accelerate artificially the wheels of history, but to carry out reforms at home in order to narrow the political and economic gaps between the two sides. Most important, the unification process should be peaceful and voluntary, so that it will neither constitute an imposition by one side on the other nor cause undue concern among China's neighbors.

As the world celebrates the end of the Cold War, the people of the Republic of China are looking forward to making greater contributions to a new world order. Taiwan's experience shows that the Chinese people, like any other people, are fully capable of practicing democracy, promoting rapid economic growth with equitable income distribution and living peacefully with their neighbors. For this the R.O.C. welcomes the arrival of the global tides of democratization, development, international integration and détente in East Asia.

TRIBUTE TO ST. SAVIOR HIGH SCHOOL ON ITS 75TH ANNIVERSARY

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. SCHUMER. Mr. Speaker, this year, St. Savior High School in Park Slope, Brooklyn, celebrates its 75th anniversary. I am proud to pay tribute to St. Savior in honor of the solid college preparatory education it has consistently offered young women of Brooklyn.

In particular, I would like to recognize the remarkable contribution of Sister Mary Monica O'Conner, S.S.N.D., who has served the school as a French teacher and now as principal. Her capabilities as both teacher and administrator are largely responsible for the school's years of success.

St. Savior prepares its graduates to be leaders of the future by offering a strong curriculum as well as an array of extracurricular activities which instill a sense of community and leadership in the young women who attend the school. Boasting a 98-percent college acceptance rate and a high percentage of scholarship recipients, St. Savior guides young women to further education and accomplishments.

Sister Monica and the rest of the faculty at St. Savior's will celebrate this anniversary with a mass of thanksgiving on April 25, 1992. It is with great pride and respect that I take this opportunity to congratulate them on their contributions to girls' education, and to wish them many more years of success.

THE RETIREMENT OF BETTY RUTH LYNT

HON. JAMES P. MORAN, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. MORAN. Mr. Speaker, Mrs. Lynt, a resident of Alexandria, is retiring on April 3, 1992, after 45 years and 6 months of Federal employment, all with the U.S. Department of Labor in Washington, DC, where she has been the agency's expert in areas of staffing, recruitment, and performance appraisal/recognition programs.

Mrs. Lynt, born in Colorado and a graduate of Duke University, began her Federal career as an assistant statistical clerk, June 8, 1942. In August 1943, she was promoted to a position as junior personnel assistant, CAF–5, and thus began a series of promotions that saw her progress from the equivalent of GS–7 to GS–14 over a period of 30 years.

Her career has been marked by a high degree of dedication and efficiency. She was the frequent recipient of excellent ratings, and her contributions to the Department's personnel program has been recognized through various awards, including the Department's Distinguished Career Service Award in March 1976.

Mrs. Lynt's intelligence, dedication, and loyalty to the merit system are characteristics she has exhibited throughout her entire Federal career. As such, these characteristics reflect favorably on her, the Department, and the Federal Civil Service System.

WHAT GOOD ARE PRESCRIPTION MEDICATIONS IF YOU CAN'T AFFORD THEM?

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. STARK. Mr. Speaker, the following letter details the critical problem of rising costs of prescription medications. For 3 out of 4 senior citizens in America, prescription drugs are the highest cost for health care. I hope my colleagues read the letter:

I have had an ongoing problem with a prescription medication that I have been using for the past 10 years. The medication is called "Corgard," a Beta Blocker for heart problems. It recently took a jump in price from $70.95 for 100 pills to $82.85, an $11.90 increase in less than six months.

Although this product has been around for years and was originally marketed by Squibb Pharmaceuticals, it is now marketed by a company called Princeton Pharmaceutical Products, and I am still unable to obtain this medication as a generic!

* * * * *

Yes, the cost of this prescription is partially paid for by my supplemental insurance (after I meet the deductible requirements). But the added cost for higher medical prices is eventually passed on to my insurance provider who will eventually have to increase the supplemental packages with even larger deductibles, higher co-payment and higher premiums.

Your interest in this matter of drug pricing is greatly appreciated, as there seems to be no end to this dilemma.

Mr. and Mrs. W.F.,
Alameda, CA.

MEMBERS OF CONGRESS SHOULD READ "JAPAN'S NEW COLONY—AMERICA"

HON. MICHAEL R. McNULTY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. MCNULTY. Mr. Speaker, recently I received a letter from a constituent, Mr. John Mather, requesting I share with my colleagues his concern for United States-Japan trade relations. Mr. Mather writes:

Members of Congress should read "Japan's New Colony—America," by Mr. Bernard E. Conor, Member of the Governor's World Trade Council, New York, appointed by Governor Cuomo, and Member of the Executive Committee of the New York District Export Council, appointed by the U.S. Secretary of Commerce.

Mr. Conor, member of the West Point class of 1946, is especially well qualified to address the Japan Inc. issue as a former U.S. corporate executive who has done business with the Japanese for over 40 years. In fact, he was the one who created the highly successful joint venture of fifteen years for AMF

Inc. with C. ITOH which is the second largest conglomerate in Japan today. His knowledge of the policies, practices and exclusionary methodologies is extensive.

Why tell now? He wants to wake up America to the strategies Japan Inc. has employed and is employing. His view is that our plight, our peril, has reached a critical point. Act now or experience a dramatic loss of our manufacturing capabilities reducing U.S. to a total service economy populated with low paying jobs. Result: erosion of the tax base and a decreased capability to pay for welfare.

Mr. Conor's book is dedicated to "the Poor, Unemployed, Minorities, and other Former Workers from our Closed Manufacturing Plants and to the Future Graduates of our High Schools and Colleges that they may find a Good job in a Revived American Manufacturing Industry as we throw off the yoke of Japanese Colonialism".

Some may try to label Mr. Conor as a "Japan basher". He just tells it like it is.

His bottom line message to the Japan Inc. corporate state is: "We are going to follow your excellent example, do what you have been doing". That's fair. What's "fair" frightens them.

Mr. Conor's book can not be dismissed as being "destructive". It is constructive in terms of recommendations about what to do and instructive to those who do business in Japan.

THE INTRODUCTION OF A RESOLUTION RECOGNIZING THE DEVELOPMENT OF THE RELATIONSHIP OF THE VIRGIN ISLANDS WITH THE UNITED STATES

HON. RON de LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. DE LUGO. Mr. Speaker, I and 47 Members, are introducing a resolution today that would recognize the development of the relationship between the United States and the territory that I am privileged to represent, the Virgin Islands.

This recognition is particularly appropriate this year, which marks the 75th anniversary of the transfer of the Virgin Islands from Denmark to the United States.

Contact between America and the Virgin Islands—then, the Danish West Indies—dates back to the Revolutionary War when St. Croix served as a supply depot for privateers roaming the Caribbean, and the New England colonies bought Virgin Islands sugar and rum.

It is said that Virgin Islands rum helped Gen. George Washington keep his troops warm during their harsh winter at Valley Forge.

General Washington's aide-de-camp, Alexander Hamilton, the great American statesman and Secretary of the Treasury, lived and worked in St. Croix as a youth for 7 years before moving to America in 1772.

Informal contact between America and the Danish West Indies continued on and off until January 1865 when Secretary of State William Seward proposed the purchase of the Danish West Indian islands of St. Thomas and St. John.

Denmark has been associated with the Virgin Islands since 1666 when it first colonized St. Thomas, then St. John, and in 1733 acquired St. Croix. All of the islands were used for cultivation of sugarcane and cotton, but St. Thomas, because of its natural, protective harbor, also became an important regional shipping center.

Seward hoped to establish a coaling station in the Caribbean at Charlotte Amalie harbor, a move that would also block Germany from acquiring possession of the islands.

A treaty was signed in October 1867 ceding the islands to the United States for $7.5 million. But a growing mood of isolationism, a Congress reluctant to approve another "Seward's folly," and a destructive hurricane and earthquake that raked St. Thomas and St. Croix in 1867 combined to thwart the effort.

Over the next 50 years, U.S. interest in the islands waxed and waned. But following the outbreak of World War I, it was renewed because of United States concern that German occupation of Denmark could lead to German control of the Virgin Islands.

In 1916, the United States and Denmark entered into a convention to transfer the islands for $25 million. It provided for cession to occur on January 17, 1917 and the islands to be formally transferred when payment was made. On March 31, 1917, the flag of Denmark was lowered for the last time over the Danish West Indies and the flag of the United States was raised for the first time over what are now the United States Virgin Islands.

Under the United States, the Virgin Islands became an unincorporated territory. The U.S. Navy was given responsibility for administration of the islands, and it did what it could to improve health care, education, including teacher training, public works, and sanitation. It provided a safe water supply, assisted in training doctors and nurses, and organized police and fire protection.

In 1927 the United States conferred United States citizenship on all former residents of the Danish West Indies who resided in the Virgin Islands on the date of cession.

In 1931 responsibility was transferred to the Department of the Interior. Shortly afterward, the Virgin Islands benefited from a number of New Deal Programs such as the Civilian Conservation Corps, the Civil Works Administration and the Public Works Authority.

In 1936 under the Organic Act, the Congress gave the people of the Virgin Islands authority to elect representatives to municipal councils on St. Croix, St. Thomas, and St. John. In the Revised Organic Act of 1954, the Congress provided increased autonomy as well as authority to keep taxes on locally produced products to fund capital improvements.

A 1968 law authorized the people of the Virgin Islands to elect their governor in 1970. Another law authorized the people of the Virgin Islands to elect a delegate to this House. I was privileged to be elected the first delegate in 1972 and to continue to hold this position.

A law that I sponsored in 1976 authorized the people of the territory to organize their government under a constitution of their own choosing subject to congressional review as has traditionally been required. Another law I cosponsored in 1984 enabled the territory to develop a judicial system with a court of last resort.

Mr. Speaker, the resolution would recognize these developments. As well, it would salute the close ties the people of the Virgin Islands have had with the people of Denmark, ties which remain strong today. And, it would salute the impressive social, economic, and political development of the people of these islands since becoming associated with the United States.

In the last 75 years as part of the American political family, the people of the Virgin Islands have continued to develop a rich and vibrant culture. The Virgin Islands has prospered as a cosmopolitan center of tourism, manufacturing, and regional trade, and is widely recognized as the United States' gateway to the eastern Caribbean.

Mr. Speaker, the resolution would recognize the historic significance of the Virgin Islands transfer from Denmark to the United States on the 75th anniversary, which will be marked on March 31, 1992 with appropriate ceremonies and celebrations. It would recognize the Virgin Islands' development during its association with the United States. It would acknowledge the contributions the people of the Virgin Islands have made to the United States. And it would recognize the friendship between the people of the territory and Denmark, and the role the Virgin Islands plays as a link to the eastern Caribbean region.

I ask my colleagues to join me in supporting this resolution.

HUMAN RIGHTS VIOLATIONS AGAINST SYRIAN JEWS

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. TAUZIN. Mr. Speaker, Saturday, March 14 marked the anniversary of the tragic deaths of four young Syrian Jewish women in 1974. The four women were trying to flee the shocking human rights conditions for Jews in Syria. The escaping women were caught, raped and murdered, and their bodies were deposited on their parents' doorsteps.

The 4,000 Jews in Syria live in fear for their lives and safety. They are constantly monitored by the Syrian secret police, who keep files on all Syrian Jews. Syrian Jews are not allowed to emigrate and are only allowed to travel abroad after lengthy interviews with the secret police. When they travel outside Syria, Syrian Jews must give substantial sums of money to the secret police, and they have to leave relatives behind to guarantee their return.

Syrian women are prohibited to marry. There are no high schools for Jewish Syrian children, and Syrian Jews are not allowed to work for their government.

Syrian Jews are frequently arrested without charge and held for undetermined periods of time. For example, two Syrian Jewish men, one the father of seven children, were held in dark underground cells between 1987 and 1990. After the men were incarcerated for 3 years, they were charged with the crime of having visited Israel.

Mr. Speaker, it is unconscionable that we fail to raise these issues with Syria during Middle East peace negotiations. Syria is a signatory of the International Covenant on Civic and Political Rights, an agreement made under the Universal Declaration of Human Rights. Secretary of State Baker must protest these conditions—it is time for Syria to join the community of nations who respect human rights for all their citizens.

TRIBUTE TO ST. PAUL'S EPISCOPAL CHURCH ON ITS 150TH ANNIVERSARY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. GILLMOR. Mr. Speaker, it gives me great pleasure to take this opportunity to pay tribute to St. Paul's Episcopal Church in Fremont, OH, on the occasion of its 150th anniversary.

On January 15, 1842, a group of citizens came together with the determination to make a spiritual idea a reality. They planted the seeds that would blossom into St. Paul's, a place of worship that today is as beautiful and majestic as it is rich in history.

As St. Paul's marks its 150th year of existence, its parishioners cannot only commemorate the past, but celebrate the future. The embodiment of that promising future is the dedication of a new stained glass window and reredos in honor of the sesquicentennial anniversary.

As worshipers watch the colors of the window come to life from the light of the sun, or admire the beauty of the dark oak of the reredos, they can thank Dan and Marian Stokes for providing these lovely and generous gifts to the church.

Dan and Marian Stokes represent the spirit of St. Paul's. They, and other parishioners in this historic church, are willing to give of themselves for the benefit of something larger than themselves. The people of St. Paul's do this regularly because they know that their place of worship is more than just a building. It is an institution where families have been helped in times of disaster, where the disabled and troubled have been offered a friendly hand. The church is an invaluable part of the community, a wellspring of good values, and a source of deserved pride for those who congregate within its walls.

I have often spoken to my colleagues here in the House about the strength of character that can be found in the cities and towns of northwest Ohio. It is for this reason that I take this time to salute St. Paul's Episcopal Church on its 150th anniversary.

SHABBAT ZACHOR, WEEK OF MARCH 14

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. CARR. Mr. Speaker, this week marks the beginning of Shabbat Zachor, the Sabbath of remembrance for the Syrian Jewish community. Around the world, people are gathering to remember the plight of the 4,000 Jews still living in Syria, unable to leave.

Syria would like to improve its relations with the United States, and secure a better position in the global community. The Persian Gulf war showed the Middle East the importance of an alliance with the United States. Although Syria is a key player in the Middle East, ties to the United States would strengthen its position. Before we, as a Nation, take steps toward a closer relationship with Syria, there are many things we need to keep in mind.

Syria participated in four of the five major Arab-Israeli wars, and considers Israel one of its principal adversaries. While Syria has begun peace talks with Israel, we must remember its anti-Israel policy which makes travel to Israel illegal for all Syrian citizens.

Although Syria seeks a better relationship with the United States, its government still openly discriminates against its Jewish community, which endures constant surveillance. The Syrian secret police monitor contact between Jews and foreign visitors, and must be notified of property transactions when Jews are involved. Leaders of the Jewish community must also report regularly to the secret police.

Although Syria signed the United National's Universal Declaration of Human Rights, which states that "everyone has the right to leave any country, including his own * * *," emigration is largely forbidden. Syria enforces a policy of not issuing exit visas to all members of a family at the same time, presuming that people will return to Syria to ensure the safety of their children or parents rather than seek asylum in a country that values human rights.

It is not enough to only remember the ordeals of the small community of Syrian Jews. It is important for Syrians to learn that the way they treat their Jewish community, however small, is not insignificant. It is one of the factors the United States will take into account in determining policy towards Syria.

Pressure from the United States does not always have the desired impact on another country's domestic policy. However, it is plausible that in an effort to court the United States, Syria may be more responsive to pressure to improve the treatment of its Jewish community. There are signs that the timing is right. Before we in the United States establish a more substantial relationship with Syria, we must require that Syria revolutionize its emmigration policy for Jews and allow them to leave if they choose to do so.

Until then, we will not forget them.

COMMENDING ADS ON RESPONSIBLE DRINKING

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. GEPHARDT. Mr. Speaker, today I am pleased to share with my colleagues good news in our fight against alcohol abuse and an example of one company's efforts in that battle.

Most of the Nation, and certainly a better part of those living in our Nation's Capital, spent Super Bowl Sunday glued to the television, watching the Washington Redskins become the 1992 football champions of the world.

In between a lot of exciting football action there were, as always, many glitzy, high-priced Super Bowl ads—from spots encouraging us to buy cola, to others trying to sell us different brands of tennis shoes or hamburgers. But none of them carried a more important message than the one against alcohol abuse and underage drinking sponsored by our Nation's largest brewer, Anheuser-Busch.

The January 27 edition of USA Today ran a news story which I would like to bring to my colleagues' attention. The article charted, by quarter, the national ads aired during the Super Bowl. In the fourth quarter, out of 10 national commercials, 3 of them were sponsored by Anheuser-Busch. These three ads encouraged responsible attitudes and behavior regarding alcohol. One addressed the problem of drinking and driving. One promoted the use of designated drivers. One encouraged parents to talk to their children to prevent them from drinking underage. I believe it's important that we all work together—here in the Congress, in our communities, and in our homes—to meet these very important challenges head-on.

Mr. Speaker, I commend Anheuser-Busch in its efforts to be a responsible participant in the fight against alcohol abuse and am proud to represent the thousands of working men and women in my district employed by Anheuser-Busch.

SIXTH ANNUAL CAROUSEL AWARDS

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. PALLONE. Mr. Speaker, on Saturday, March 21, the Greater Asbury Park, NJ, Chamber of Commerce will present its sixth annual Carousel Awards at a dinner-dance to be held at the Berkeley-Carteret Hotel, a beautiful and historic oceanfront landmark.

This night is set aside each year by the chamber of commerce as a celebration of commitment by outstanding individuals and businesses who, through their unique and varied contributions, have made a positive difference in the betterment of the communities in the Greater Asbury Park area.

The city of Asbury Park and its surrounding municipalities represent a diverse and thriving area, offering a strong sense of community for those who make their homes there and many interesting attractions for visitors from outside the region. For many generations now, Asbury Park has been a magnet for those looking to spend a pleasant day trip or extended vacation on the Jersey shore. Yet these communities also have some significant problems and challenges to be addressed, and the effort to see the Greater Asbury Park area attain its true potential is an ongoing one. This year's recipients of the Carousel Awards have all, through their varied endeavors, played an important role in preserving their communities traditions while creating a better future.

The winner of this year's Spirit of Asbury Park Award is Robert Carroll, the publisher of The Coaster, a community newspaper serving central-coastal Monmouth County.

The Community Service Award for this year belongs to John Piancone, the owner of J. Piancone and Sons, Bradley Beach, an Italian specialty food shop whose concern and actions for the needy are renown throughout the community.

This year's Business Achievement Award goes to Leon Avakian, the founder of Leon S. Avakian, Inc., of Neptune, a consulting municipal engineering company that has served 18 separate municipalities in Monmouth County.

Mr. Speaker, I have had the honor and pleasure of knowing and working with these three gentlemen for many years now. The job of an elected official is certainly enhanced by having such fine community leaders to turn to for input, advice, and ideas. The motto of the Greater Asbury Park Chamber of Commerce is "Yesterday's Memories, Today's Energies, Tomorrow's Dreams." The three recipients of this year's Carousel Awards have embodied this motto, to the great benefit of their entire community.

SALUTE TO STATE REPRESENTATIVE NICHOLAS J. MAIALE UPON HIS RETIREMENT FROM THE PENNSYLVANIA HOUSE OF REPRESENTATIVES

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. FOGLIETTA. Mr. Speaker, I rise today to salute my friend Nicholas J. Maiale as he prepares to retire from his service to the people of Philadelphia and Pennsylvania.

Nick has represented South Philadelphia in the Pennsylvania House of Representatives since 1980. Though the 1980's have been tough times for Philadelphia, Nick has used his seat on the appropriations committee to protect the interests of all Philadelphians.

Nick was a graduate of Philadelphia's Central High School in 1969. After receiving an undergraduate degree from Penn State University, Nick returned to Philadelphia to earn a law degree from Temple University, my alma mater. He served as assistant city solicitor and as assistant counsel, Pennsylvania House of Representatives.

Nick decided to enter the Pennsylvania House of Representatives in 1980. His friends, constituents, and supporters in South Philadelphia have supported him ever since.

Nick is a member of the State Employees Retirement Board, the Knights of Columbus, and an adviser to the board of directors of Citizens Acting Together Can Help [CATCH], which fights for the rights of people with mental disorders.

Nick, the people of Philadelphia join me in wishing you the best in all your future pursuits. You have served your people well. Your leadership and guidance will be sorely missed.

DEMOCRATS STRANGELY SILENT ON GOOD ECONOMIC NEWS

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. BROOMFIELD. Mr. Speaker, the Nation's newest leading economic indicator registered zero yesterday.

The newest indicator is the number of Democrats in Congress times the number of economic gloom-and-doom statements their offices fax to the press.

According to the New York Times, leading congressional Democrats offered no comment yesterday to the news that housing starts and industrial production are way up.

The long recession is over, but the New York Times was unable to find a single Democrat to comment on the news.

When the confidence of the American people is up, the hopes of the Democratic Party are down. That's one economic relationship you can count on.

INTRODUCTION OF LEGISLATION REGARDING DUTY SUSPENSION

HON. BEN JONES

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. JONES of Georgia. Mr. Speaker, today I am introducing a duty suspension bill for two chemicals, 1,8 dichloroanthraquinone and 1,8 diaminonapthalene.

These chemicals are used by a company in my district, Color-Chem, to make dyes which are used to color engineering plastics. The final use of the colored engineering plastic may be automotive, appliance, medical, business equipment, aerospace, or food packaging products. Neither of these raw materials is manufactured by an American company, nor are there any substitute products manufactured by an American company. The reality of the situation is that Color-Chem faces tough competition from Japanese and Swiss companies which are able to purchase raw materials for these dyes at much lower prices, and therefore, market a lower cost product. It seems to me that because there are no domestic manufacturers of the chemicals and there exists an extremely competitive domestic consumer of chemicals, the duty is counterproductive to American business' ability to compete in the national and international marketplace. For that reason, I am hopeful that my bill will be included in the omnibus miscellaneous tariff bill this year and will be made law.

INTRODUCTION OF LEGISLATION TO DESIGNATE A FACILITY THE ARTHUR J. HOLLAND U.S. POST OFFICE BUILDING

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. SMITH of New Jersey. Mr. Speaker, today, I am introducing legislation that would designate the facility of the U.S. Postal Service located at 20 South Montgomery Street in Trenton, NJ as the "Arthur J. Holland U.S. Post Office Building."

Art Holland served as Trenton's mayor from 1962 to 1966, and again from 1970 until his death in 1989. He served the city well during his two tenures as Trenton's chief executive, and his passing was mourned by those of us who knew him well and witnessed his limitless devotion to the people of Trenton.

On several occasions, Art Holland and I worked very closely together on health care, housing, and crime prevention projects, as well as other matters important to the people of Trenton and its surrounding communities. Art Holland was an honest, compassionate man who knew how to look beyond partisan politics and work for the benefit of the people for whom he served.

Because of his many accomplishments, he was named president of the U.S. Conference of Mayors, and served from June 1988 until June 1989. At the time of his death, he was serving on the Conference's Executive Committee.

Mayor Holland was on a number of occasions presented with awards in appreciation of work he did on behalf of a certain organization. In 1989, he received the Garden State Public Service Award. He was presented the Distinguished Public Service Award by the U.S. Conference of Mayors. He was honored by groups such as the Knights of Columbus and the American Cancer Society. Clearly, he drew praise from a wide array of groups appreciative of the work he did.

I believe that the designation of this building as the "Arthur J. Holland U.S. Post Office Building" would be a fitting tribute to a man who devoted his life to helping the city of Trenton, and I urge quick committee approval on this matter.

IN HONOR OF BARBARA HAWTHORNE

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. NEAL of Massachusetts. Mr. Speaker, it is a pleasure for me to honor Mrs. Barbara Hawthorne on the day that marks 50 years of her service to the Fitchburg Registry of Deeds. Very few people can boast that they have been employed at the same job for 50 years and enjoyed almost every day of it. Mrs. Hawthorne's services deserve to be recognized because this type of dedication is very hard to find today.

Mrs. Hawthorne was born Barbara Charbonneau on December 25, 1923 in Fitchburg, MA. She has continued to live there all of her life. In 1941, she graduated from Fitchburg High School. She then married her high school sweetheart Donald Hawthorne. On March 23, 1942, she was hired by then-Registrar Bernard Moynihan to a full-time clerk position. Since then, unless it was absolutely necessary, she hardly missed work. Even while raising her two children, Donna and Peter, she was still able to continue to work at the Registry.

Over the years, Mrs. Hawthorne has gained invaluable knowledge about all of the areas of the Registry. She now works at the main desk at the Registry and is able to answer a variety of questions from townspeople because of her acquired knowledge and awareness. Not only is she helpful to the townspeople but to her coworkers also. She has learned enough about recording and real estate during her time at the Registry that even today, coworkers feel most comfortable asking her difficult questions about their jobs because of the respect they have developed for her.

Today, after 50 years of dedication, Mrs. Hawthorne still makes her home in Fitchburg and continues to work 40 hours a week at the Registry. Her hard work and dedication should be admired by everyone. I hope that Mrs. Hawthorne can continue to work as long as she wishes. And I hope that the workers at the Fitchburg Registry of Deeds know how lucky they are to be associated with her and have her as their mentor.

MR. MORRIS TRIESTMAN RETIRES

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. MONTGOMERY. Mr. Speaker, on Friday, April 3, 1992, Mr. Morris Triestman, a counseling psychologist in the Department of Veterans Affairs, will retire after 27 years of dedicated and exceptionally productive service.

Mr. Triestman has served in the Vocational Rehabilitation Service, where he has made significant contributions to improving VA service to the Nation's disabled veterans. He has been active in research and development projects to assist disabled veterans. He has worked with the Civil Service Commission in the development of alternative procedures for hiring seriously disabled persons. To coordinate service delivery from multiple sources to disabled veterans, he developed the case management system. Further, he has assisted service organizations to improve their ability to help veterans. For these and other related endeavors, Mr. Triestman has received numerous commendations and awards throughout his career.

His contributions were essential to the drafting of the legislative proposal which led to Public Law 96–466, the Veterans Rehabilitation and Education Amendments Act of 1980. This law established innovative ways for the VA to provide rehabilitation services. Since 1980, he has drafted virtually all VA Vocational Rehabilitation Program legislative proposals and regulations.

Mr. Triestman's retirement will leave a void in VA's vocational rehabilitation activities which will be hard to fill. Over the years, countless disabled veterans have benefited from his wise counsel and diligent, hard work. His contributions in serving the Nation's veterans, particularly those who are disabled, are legion.

Mr. Speaker, the VA is losing a fine, dedicated employee and an outstanding American. I know my colleagues join me in wishing him the very best in his retirement.

IN HONOR OF MAJ. GEN. FRANCIS J. KELLY OF DUBUQUE, IA

HON. JIM NUSSLE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. NUSSLE. Mr. Speaker, I would like to take this opportunity to offer my great sorrow at the passing of a dear friend and a dedicated leader in the U.S. Army and the Iowa National Guard.

Maj. Gen. Francis J. Kelly of Dubuque, IA entered military service in November 1942, and served in the Second World War with the 94th Infantry Divisions in the European theater of operations. It was during this service that Fran earned the Combat Infantry Badge, the Good Conduct Medal, the E.T.O. Medal with four campaign stars, the Bronze Star, the Purple Heart and Cluster, the Victory Medal, and the Occupation Medal.

During his 36 years of military service—in which he served in every enlisted rank of the U.S. Army—Fran Kelly earned an honorary membership in the Enlisted Man's Club and became fondly known as the enlisted Man's General.

It was with tremendous pride that I called Fran Kelly a friend. He will be remembered with great respect and admiration.

Mr. Speaker, I ask that Members of this House join me in this tribute to Maj. Gen. Francis J. Kelly for his service to this country, and his commitment to freedom and democracy.

ENSURING SAFETY OF FOREIGN VESSELS ENTERING THE UNITED STATES

HON. WALTER B. JONES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. JONES of North Carolina. Mr. Speaker, today, I am introducing H.R. 4484, a bill that would enhance the Coast Guard's oversight over foreign vessels and thus enhance the safety of U.S. waters.

The bill would allow the Coast Guard to inspect and examine a foreign vessel overseas when requested to do so by the vessel owner or operator, provided the Coast Guard is reimbursed for travel and subsistence costs. This authority currently exists for U.S.-flag vessels.

Currently, the Coast Guard examines foreign vessels for compliance with the International Convention for the Safety of Life at Sea, other international conventions, and applicable U.S. laws when they arrive in the United States. Foreign tank vessels carrying hazardous liquids or liquefied gases, other tank vessels, and passenger vessels arriving here for the first time are given an initial examination. Subsequent to a rehabilitation, rebuilding, or significant modification, the vessel is again inspected.

The provisions of this bill offer advantages to all concerned. An overseas drydock inspection would allow the Coast Guard the opportunity to conduct a more thorough and effective inspection than one conducted after the vessel has arrived in the United States. The vessel owner would benefit because problems could be identified and corrected in the shipyard. This would avoid unnecessary delays once the vessel is sailing, thereby saving vessel owners time and money.

The bill is supported by the Coast Guard and vessel owners, and particularly important in these difficult times, it would pay for itself.

APL'S 50TH ANNIVERSARY

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mrs. BYRON. Mr. Speaker, I rise today to congratulate The Johns Hopkins University Applied Physics Laboratory on its 50th anniversary. APL was established in the early days of World War II to develop a radio-proximity, variable-time fuze to bolster our Navy's antiaircraft defenses. At that time it was taking our ships an average of 2,500 rounds to bring down a single enemy aircraft. Working around the clock in complete secrecy, the 300 men and women of APL overcame obstacle after scientific obstacle and on January 4, 1943, less than a year after the laboratory was established, the cruiser U.S.S. *Helena* became the first ship to fire a proximity fuze in combat. The first few salvos brought down two Japanese Aichi 99 dive bombers.

Rushed to war fronts, the VT fuze helped defend our fleet against air attack in the Pacific, the British to stave off buzz bomb attacks, and the army to turn the tide at the Battle of the Bulge. Gen. George S. Patton said, "It will revolutionize warfare. I'm glad you all thought of it first." By the end of the war, more than 22 million fuzes had been produced, consuming the efforts of one-third of the Nation's electronics industry. All of this work was overseen by APL. Military historians rank the VT fuze along with radar and the atomic bomb as the most significant technological developments of the war.

APL's mission was essentially completed, but the laboratory was asked to continue operations in order to develop a family of shipboard guided missiles to defend Navy ships from high-speed air attacks. The laboratory designed, built, tested, and put into the fleet the Terrier, Talos, and Tartar missiles. These were the forerunners of the standard series of missiles that arm our powerful Aegis-class ships today.

Mr. Speaker, as sponsor of the commissioning of the Aegis cruiser U.S.S. *Antietam,* I am aware of and continue to be impressed by the firepower and technological sophistication of the Aegis system developed by the Applied Physics Laboratory. The system is aboard 19 cruisers and, with the commissioning of the U.S.S. *Arleigh Burke* on Independence Day last year, our first Aegis-class destroyer entered the fleet. These systems, together with other APL innovations including automatic identification techniques and updates to Tomahawk's guidance systems, played key roles in allied successes in the Persian Gulf.

Throghout Operation Desert Storm, U.S. Navy ships were guided by the APL-developed Navy Navigation Satellite System. Laboratory scientists conceived of the system, originally called Transit, after analyzing Doppler signals from the Soviet-launched Sputnik satellite and discovering that such satellites could be used for precise, all-weather, global navigation. Orbiting transit satellites have been guiding our fleet and the world's commercial shipping for nearly 30 years.

APL is a major space activity, having built and launched more than 50 satellites for scientific investigation of our Earth, other planets of the solar system, and the universe beyond. In addition, the laboratory has been a major participant in the delta series of experiments for the space defense initiative, a role recognized by a Presidential commendation.

From its very beginning, the underwater leg of our Nation's strategic triad of deterrent force—the fleet ballistic missile system—has been the subject of APL attention and responsibility. Laboratory engineers continuously evaluate and report the readiness of FBM weapon systems, while other APL researchers seek ways to keep our submarine safe from enemy attack.

The technical know-how of the laboratory is often applied to civilian needs. For more than half of its 50 years, APL has been improving the daily life of Americans through its collaborative biomedical program. Working with physicians from Johns Hopkins Medical Institutions, Laboratory scientists and engineers have produced more than 100 specialized medical devices ranging from implantable heart pacers and insulin-diffusing pumps, to an ingestible pill that transmits a firefighter's core body temperature to a receiver some distance away. Most recently, the laboratory invented a nonreusable syringe that's being mass-produced to help prevent the spread of blood-borne diseases in developing countries throughout the world.

In two national competitions, one in 1981 and the second just completed in February, APL and The Johns Hopkins University challenged professionals and amateurs across the country to invent new computing applications to assist the more than 43 million Americans who have disabilities. In both competitions, the response was overwhelming and many entries have turned into commercially successful products.

To aid those with learning disabilities, APL has developed authoring software so that teachers can easily prepare lessons containing text and graphics, as well and voice and music cues. The laboratory has a leadership role in Maryland's MESA Program—a math, engineering, and science achievement program that encourages minority and female secondary school students to pursue college degrees in the areas of science and technology. In 1976 APL originated the GEM Program that today accounts for 10 percent of the master's degrees awarded annually to minority engineering students throughout the Nation. Last year the laboratory was awarded one of the Department of Labor's distinguished EVE awards, for exemplary voluntary efforts in promoting job opportunities for minorities.

APL is the major center of the Johns Hopkins G.W.C. Whiting School of Engineering continuing professional programs leading to the master's degree. It is the largest part-time graduate engineering program in the country. APL's Education Center has awarded more than 4,000 master's degrees since 1964.

In my State of Maryland, the laboratory is studying the ecology and dynamics of the Chesapeake Bay to determine what is happening to the food chain and the organisms that depend on it. Hopefully, this work will lead to programs to reverse harmful trends and preserve the bay for future generations.

The Applied Physics Laboratory is one of the largest single employers in my district and, indeed, in the State. Last year APL brought $400 million of new income into Maryland and generated an additional $300 million in spin-off income from this revenue.

Mr. Speaker, in these times of budget cuts and military downsizing it is comforting to have a resource such as APL to help assure that our Armed Forces maintain their technological superiority. I am proud to salute the men and women of The Johns Hopkins University Applied Physics Laboratory and I extend to them a well done and congratulations on their 50th anniversary.

EXAMPLES OF EXCELLENCE IN ACADEMICS

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. ROGERS. Mr. Speaker, throughout history, our great philosophers and statesmen have been united in their recognition that education and useful knowledge make us whole and free.

Indeed, inscribed along a corridor of this very building are the words of Thomas Jefferson: "Enlighten the people generally, and tyranny and oppressions of body and mind will vanish like evil spirits at the dawn of day."

In my home State of Kentucky, we have adopted statewide education reforms intended to improve the quality of education and, as a result, the quality of life for our people.

We understand that our dreams for a better tomorrow depend upon those who excel today. It is altogether fitting and proper, then, that we recognize those who have become examples of excellence in academics.

Realizing the importance of such recognition, I therefore urge my colleagues to join me in congratulating members of Alpha Nu Zeta chapter of Phi Theta Kappa at Prestonsburg Community College in eastern Kentucky.

At a recent regional conference of Phi Theta Kappa, which my colleagues surely know is the 2-year college version of the academic fraternity Phi Beta Kappa, members of the Prestonsburg Community College chapter claimed every major award.

Alpha Nu Zeta chapter won both the Chapter Service Award and the Distinguished Service Award; chapter President Linda Smith won the Outstanding Officer Award; sponsor Hassan Saffari won the Horizon Award; and the chapter became the first in the region to be given the Five Star Chapter Award.

The young people who have been selected for membership in Phi Theta Kappa are truly among the best of our brightest, Mr. Speaker, and their continued pursuit of academic excellence must be both encouraged and rewarded.

We can anticipate that these young people will make great contributions to our communities in the years to come. But we not only hope for great things; we expect them.

HONORING THE CO-OP CITY NUTRITION PROGRAM

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. ENGEL. Mr. Speaker, today I wish to acknowledge the 15th anniversary of the Co-op City Nutrition Program, which provides hundreds of residents in my district with meals on a daily basis.

In 1977, a small group of dedicated elderly community activists came together to form the Senior Citizens Coordinating Council of Riverbay Community, a grass-roots effort to develop much needed services for their neighbors. With the support of the New York City Department for the Aging, they founded the Co-op City Nutrition Program, which over a decade-and-a-half has served more than 1.3 million meals to local residents. Its meals-on-wheels program is literally a lifeline for thousands of older adults, and the entire program is an example of the committed community spirit found in Co-op City.

On behalf of my constituents, I extend congratulations and sincere thanks to the staff and volunteers who have dedicated their time and energy to make the nutrition program a success.

THE PLIGHT OF SYRIAN JEWS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. LAFALCE. Mr. Speaker, March 14, 1992, is Shabbat Zakhor, the Sabbath of Remembrance. On that date, Jews throughout the world observe the 18th anniversary of the brutal rape and murder of four young Jewish women attempting to escape form Syria. The remains of sisters Lulu, Mazal, and Farah Sebbigh and their cousin, Eva Saad, were stuffed into trash bags and dropped on the doorsteps of their Damascus homes as a warning to Syrian Jews to not make such attempts.

The Jewish Sabbath of Remembrance calls attention to human rights abuses and in particular the plight of Syrian Jews. Some 4,000 Syrian Jews are subjected to extremely restrictive emigration policies. Two Jewish brother, Eli and Selim Swed, arrested and accused in 1987 for having traveled to Israel, have been sentenced to 6½ years in prison for illegally traveling to enemy-occupied territory.

The President, the Congress, and the United Nations must continue to press Syrian President Hafez al-Assad to grant Syrian Jews the right to travel freely and to release all Jewish prisoners who were charged or suspected of trying to flee the county. Shabbat Zakhor calls upon all of us to remember our commitment to human rights throughout the world.

HELPING SYRIAN JEWS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. HAMILTON. Mr. Speaker, I want to recognize this week an important humanitarian issue involving the fate of the members of the Jewish community in Syria and the continuing problems encountered by them.

There are many critical Middle East foreign policy issues confronting the United States. But few issues have persisted for so many years with so little progress as efforts to help Syrian Jews and to enable them to leave Syria if they so choose. Subcommittees of the Committee on Foreign Affairs on which I have served have examined the needs and problems of this community and the denial of its human rights in hearings in the 1970's and 1980's, and we are now continuing to pursue this matter.

Some 4,000 Jews remain in Syria, a small fraction of the thriving community that existed before 1948. Most of the community is in Damascus, but there are smaller groups in Aleppo, and in Qamishli, a small town close to where Syria, Iraq, and Turkey join.

This community cannot be forgotten. It should be a high priority in our relations with Syria to improve conditions for this community, to removing discrimination against it, and to obtain for Syrian Jewish families the right to travel freely or to emigrate. We should continue to press for freedom of travel for all Syrian Jews, while pressing hard for the immediate unification of divided families and for prompt permission for single women who wish to emigrate.

This community should not remain hostage to the larger peace process. Our goal should be to persuade the Syrian Government that it should, on political and humanitarian grounds, improve conditions for this community, release Syrian Jews from prison who are held for political reasons, and permit community members free travel and free emigration. No useful purpose is served by continuing restrictions on this community. Syria should recognize that few steps would do more to create a positive climate in relations than actions to help this community. Without moves on this issue and other issues, including Syria's role in drug trafficking, international terrorism, and denial of human rights. United States-Syrian relations will remain plagued by tensions for many years to come.

INTRODUCTION OF THE INDIVIDUALS WITH DISABILITIES TRANSPORTATION ASSISTANCE ACT

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. GOODLING. Mr. Speaker, today I am introducing legislation, the Individuals with Disabilities Transportation Assistance Act, which would amend the Rehabilitation Act Amendments of 1973 to provide critically needed work-related transportation services to individuals with disabilities. My legislation would also provide individuals with disabilities receiving vocational rehabilitation services and students with disabilities who have or are seeking jobs with transportation services.

Workers who are disabled and choose to compete in the marketplace are often at a disadvantage when it comes to locating affordable transportation to their jobs. For these individuals, the cost of transportation consumes a large portion of their paycheck and creates a disincentive for them to seek employment. A recent rate increase for shared-ride van service in Pennsylvania's 19th Congressional District is a good example of the problem individuals with disabilities face.

My legislation would provide grants to States, public organizations, nonprofit, private organizations, and Indian tribes to provide transportation services for people with disabilities. The transportation services would be to and from work on a regular and continuing basis. Services would be provided to individuals with disabilities who live in areas where there is no fixed route public transportation. In addition, those covered would include individuals with disabilities holding or seeking jobs in typical work environments whose mental or physical disabilities prevent them from using available transportation.

In 1990, we enacted landmark legislation, the Americans with Disabilities Act [ADA], providing for fair and equal treatment for Americans with disabilities. But, if these citizens are unable to get to work, it makes little difference whether or not jobs are available. While the ADA requires that public transportation be accessible on fixed routes and comparable paratransit, it does not require transportation for individuals with disabilities who live in areas where such transportation is unavailable. These grants would fill that gap.

Mr. Speaker, these citizens want to work. They want to consider themselves in the mainstream of society, working and paying taxes and supporting themselves to the largest degree possible. It is in their interest—and ours—to help them find affordable transportation. I urge my colleagues to support this important legislation.

BIOGRAPHY OF CHIEF JOSEPH—NEZ PERCE

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 18, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 271, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my ongoing series this year, I am providing for the consideration of my colleagues a short biography of Chief Joseph, a Christian convert and the lifelong friend of white missionaries, settlers, and explorers. This biography was taken from a U.S. Department of the Interior publication entitled "Famous Indians, A Collection of Short Biographies."

JOSEPH (NEZ PERCE)

For centuries, the Nez Perce ("Pierced Nose," a name given these Indians by French trappers because some tribal members once wore shell ornaments in their noses), ranged the grassy hills and plateaus where present boundaries of Washington, Idaho, and Oregon meet. They were a strong, intelligent, and populous people whose traditional friendship to whites was established as early as 1805 with the coming of Lewis and Clark.

The tribe gave up most of its gathering territory to the United States under an 1855 treaty, and settled on designated lands in Oregon and Idaho. Its most powerful band, occupying ancestral lands in Oregon's fertile Wallowa Valley, was led by Chief Joseph, a Christian convert and the lifelong friend of white missionaries, settlers, and explorers.

The old chief's eldest son, born around 1840 as Hinmaton-yalatkit (referring to "thunder coming up over the land from the water"), has become famous as Chief Joseph. He was made the band's leader while still a young man, not through prowess as a warrior or hunter, but because of his superior intelligence and remarkable strength of character.

When gold was discovered on Nez Perce Oregon lands in 1863, and prospectors swarmed into tribal territory, the Indians demanded that their rights under the 1855 treaty be enforced. In response, Nez Perce bands were called together by Indian commissioners in an attempt to persuade the tribe to "adjust" reservation boundaries to an area of less than one-fourth the original.

Failing to reach unanimous agreement, the tribe split into factions and disbanded. Joseph, and several other Nez Perce chiefs, would have no part of the treaty, but one leader, Lawyer, tempted by its promises of cash and other benefits, accepted and signed the treaty. The Nez Perce chief had no intention of betraying the rest of the tribe, believing that bands which had not signed would not be bound by his signature. White authorities, however, held that Lawyer's action committed all Nez Perce bands.

Joseph and his followers continued to occupy the Wallowa Valley, and for a time they were left in relative peace. But old Joseph, nearing death, looked into the future and warned his son.

"When I am gone," he counseled the young chief, "think of your country. You are the chief of these people. They look to you to guide them. A few more years and the whites will be all around you. They have their eyes on this land. My son, never forget my dying words: never sell the bones of your father and mother."

No sooner had old Joseph died then the Wallowa was opened to homesteaders, and pressure to remove the Nez Perce began. With dignity and courtesy, but with inflexible determination unchanged by orders or threats, Joseph refused to be moved. "I believed the (1863) treaty has never been correctly reported," he said. "If we ever owned the land we own it still, for we never sold it."

The Wallowa became the subject of a series of conflicting and confusing decrees. In an Executive Order of 1873, the northern part of their own land was returned to the Nez Perce, but 2 years later the order was rescinded and the valley again declared open to homesteading. Joseph counseled his people to be patient, moved their camps from settlers' vicinities, and again appealed to Federal authorities. In 1877 he was given an ultimatum: all Nez Perce must leave within 30 days or be forcibly removed by the Army.

Forced to abandon his father's counsel, and opposing members of the band who advocated war rather than removal, Joseph undertook the sad task of persuading his people to leave the Wallowa. As the allotted time drew to an end, a group of angry Nez Perce killed several whites. Troops sent to the area were all but annihilated by Joseph's warriors in the Battle of White Bird Canyon. In 18 subsequent battles, the Indians continued to outmaneuver white soldiers.

As Nez Perce leader and chief spokesman in opposing the treaty, Joseph was assumed, by whites, to be the band's military genius as well. Although he sat in councils and guided his people's decisions, Joseph was not a war chief; the band's battle victories had been under such chiefs as Five Wounds, Toohoolhoolzote, Looking Glass, and others. But the Army was unaware of this, and Joseph's fame grew to legendary proportions.

In 1877, Gen. O. O. Howard and 600 men, sent to capture Joseph, fought a 2-day battle with Nez Perce warriors near Kamiah, Idaho. Rather than surrender, Joseph chose a retreat that ranks among the most masterly in U.S. military history.

Heading for the Canadian border, he led some 750 followers across four States, twice across the Rockies, through what is now Yellowstone Park, and across the Missouri River, a journey of more than 1,500 miles. Joseph himself took charge of the band's women, children, aged, and ill, while his brother Ollokot and other war chiefs twice fought and defeated white solders along the way.

On October 5, 1877, within about 30 miles of the Canadian border, the band was cut off by fresh troops, and Joseph was forced to admit defeat.

His surrender speech, recorded by General Howard's adjutant, has gone down in history as the symbol of Nez Perce dignity and courage:

"Tell General Howard I know his heart. What he told me before I have in my heart. I am tired of fighting. Our chiefs are killed. Looking Glass is dead. Toohoolhoolzote is dead. The old men are all dead. It is the young men who say yes and no. He who led the young men is dead. It is cold and we have no blankets. The little children are freezing to death. My people, some of them, have run away to the hills, and have no blankets; no food; no one knows where they are, perhaps freezing to death. I want to have time to look for my children and see how many I can find. Maybe I shall find them among the dead.

"Hear me, my chiefs. I am tired. My heart is sick and sad. From where the sun now stands, I will fight no more forever."

In 1885, after several years in Indian Territory (Oklahoma), Joseph and most of his followers were sent to Colville Reservation in Washington, where he died in 1904, still an exile from his beloved valley.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 19, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 20

9:30 a.m.

Armed Services

To hold hearings on military strategy, net assessment, and defense planning and budget issues.

SD–192

Governmental Affairs

To hold hearings on the nomination of Alan Robert Swendiman, of Maryland, to be General Counsel of the Federal Labor Relations Authority.

SD–342

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Farmers Home Administration, the Federal Crop Insurance Corporation, the Rural Electrification Administration, and the Rural Development Administration.

SD–138

Veterans' Affairs

To hold hearings on S. 2322, to increase the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and S. 2323, to revise title 38, U.S. Code, to revise the rates of dependency and indemnity compensation payable to surviving spouses of certain service-disabled veterans, and to provide supplemental service disabled veterans' insurance for totally disabled veterans.

SR–418

MARCH 24

9:30 a.m.

Armed Services

To hold hearings on the nomination of Vice Adm. William O. Studeman, USN, to be Deputy Director of Central Intelligence, and to have the rank of Admiral while so serving.

SR–222

Labor and Human Resources

Aging Subcommittee

To hold joint hearings with the House Select Committee on Aging's Subcommittee on Health and Long-Term Care to examine long-term care and other issues related to persons with alzheimer's disease.

345 Cannon Building

10:00 a.m.

Agriculture, Nutrition, and Forestry

Domestic and Foreign Marketing and Product Promotion Subcommittee

To hold hearings on S. 1993, to improve the monitoring of the domestic uses made of certain foreign grain after importation.

SR–332

Appropriations

Defense Subcommittee

To hold closed hearings on proposed budget estimates for fiscal year 1993 for the Department of Defense, focusing on classified programs.

S–407, Capitol

Environment and Public Works

To hold hearings on the President's proposed budget request for fiscal year 1993 for the Environmental Protection Agency.

SD–406

2:00 p.m.

Armed Services

Strategic Forces and Nuclear Deterrence Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1993 for the Department of Defense, focusing on the Department of Energy's Environmental Restoration and Waste Management Program.

SR–222

MARCH 25

9:00 a.m.

Armed Services

Manpower and Personnel Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1993 for the Department of Defense, focusing on personnel programs of the military services.

SD–G50

9:30 a.m.

Agriculture, Nutrition, and Forestry

To hold oversight hearings on the Food, Agriculture, Conservation, and Trade Act of 1990 (P.L. 101–624), focusing on provisions relating to promotion and export assistance to U.S. agricultural commodities.

SR–332

Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Neighborhood Reinvestment Corporation, and the National Credit Union Administration.
SD-116

Select on Indian Affairs
Business meeting, to mark up S. 1607, to provide for the resettlement of the water rights claims of the Northern Cheyenne Tribe, Montana.
SR-485

10:00 a.m.
Appropriations
Energy and Water Development Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for energy and water development programs.
SD-192

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Communications Commission, and the Securities and Exchange Commission.
S-146, Capitol

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Internal Revenue Service, Department of the Treasury, and the U.S. Postal Service.
SD-116

Armed Services
Projection Forces and Regional Defense Subcommittee
To hold oversight hearings on issues relating to the Toxic Substances Control Act.
SD-406

Environment and Public Works
Toxic Substances, Environmental Oversight, Research and Development Subcommittee
To hold hearings on issues relating to the Toxic Substances Control Act.
SD-406

11:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1992 for the National Highway Traffic Safety Administration, and the Research and Special Programs Administration, both of the Department of Transportation.
SD-138

MARCH 26

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Environmental Protection Agency, and the Council on Environmental Quality.
SD-G50

Governmental Affairs
Oversight of Government Management Subcommittee
To hold hearings on S. 2279, to provide for the disclosure of lobbying activities to influence the Federal Government.
SD-342

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings to examine issues relating to voluntary military service, women in the military, and family life.
SD-192

Commerce, Science, and Transportation
To hold oversight hearings on national technology policy.
SR-253

2:00 p.m.
Armed Services
To hold hearings on the Department of Defense's operational support for counter-drug activities.
SR-253

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee
To hold hearings on S. 1439, to authorize and direct the Secretary of the Interior to convey certain lands in Livingston Parish, Louisiana, S. 1663, to authorize increased funding for the East Saint Louis portion of the Jefferson National Expansion Memorial, S. 1664, to establish the Keweenaw National Historical Park, S. 2079, to establish the Marsh-Billings National Historical Park in the State of Vermont, and H.R. 2790, to withdraw certain lands located in the Coronado National Forest from the mining and mineral leasing laws of the U.S.
SD-366

MARCH 27

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Animal and Plant Inspection Service, the Food Safety and Inspection Service, and the Agricultural Marketing Service.
SD-138

10:15 a.m.
Governmental Affairs
To hold hearings to examine health risks associated with lead in china tableware.
SD-342

MARCH 31

9:30 a.m.
Energy and Natural Resources
To hold oversight hearings on the implementation of the Department of Energy's civilian nuclear waste program mandated by the Nuclear Waste Policy Act.
SD-366

APRIL 1

9:30 a.m.
Select on Indian Affairs
To hold hearings on proposed legislation to authorize funds for programs of the Indian Health Care Improvement Act.
SR-485

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Commerce.
S-146, Capitol

Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Office of National Drug Control Policy, and the U.S. Secret Service, Department of the Treasury.
SD-116

APRIL 2

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Deposit Insurance Corporation, and the Resolution Trust Corporation.
SD-116

Commerce, Science, and Transportation
Consumer Subcommittee
To hold hearings on S. 664, to require that health warnings be included in alcoholic beverage advertisements.
SR-253

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Defense, focusing on manpower, personnel, and health programs.
SD-192

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the National Transportation Safety Board.
SD-138

APRIL 3

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Agricultural Stabilization and Conservation Service, the Foreign Agricultural Service, the General Sales Manager, and the Soil Conservation Service.
SD-138

APRIL 7

10:00 a.m.
Appropriations
Agriculture and Related Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Commodity Futures Trading Commission, the Food and Drug Administration, the Farm Credit Administration, and the Farm Credit System Assistance Board.
SD-138

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Bureau of Investigation, and the Drug Enforcement Administration, Department of Justice.
S-146, Capitol

2:30 p.m.
Select on Indian Affairs
To hold hearings on S. 1752, to provide for the development, enhancement, and recognition of Indian tribal courts.
SR-485

APRIL 8

9:30 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the AMVETs, American Ex-POWs, Jewish War Veterans, Non Commissioned Officers Association, National Association for Uniformed Services, and Society of Military Widows.
SD-106

10:00 a.m.
Appropriations
Treasury, Postal Service, General Government Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Office of Management and Budget, the Office of Personnel Management, and the Executive Residence.
SD-116

APRIL 9

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the National Aeronautics and Space Administration.
SD-G50

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Defense, focusing on strategic programs.
SD-192

Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the National Oceanic and Atmospheric Administration, and the Small Business Administration.
S-146, Capitol

Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for Amtrak, and the Federal Railroad Administration, Department of Transportation.
SD-138

Veterans' Affairs
To hold oversight hearings on proposed legislation on homeless veterans.
SR-418

APRIL 19

10:00 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Defense.
SD-192

APRIL 28

10:00 a.m.
Veterans' Affairs
To hold hearings on proposed legislation relating to the education and employment of veterans.
SR-418

APRIL 29

10:00 a.m.
Appropriations
Commerce, Justice, State, and Judiciary Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the U.S. Information Agency, and the Board for International Broadcasting.
S-146, Capitol

APRIL 30

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Housing and Urban Development.
SD-G50

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Transit Agency, and the Washington Metropolitan Area Transit Authority.
SD-138

MAY 6

9:30 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on S. 2297, to enable the United States to maintain its leadership in land remote sensing by providing data continuity for the Landsat program, by establishing a new national land remote sensing policy.
SR-253

Rules and Administration
To hold hearings on S.J. Res. 221, providing for the appointment of Hanna Holborn Gray, of Illinois, as a citizen regent of the Smithsonian Institution, and on other regent appointments.
SR-301

Select on Indian Affairs
To resume oversight hearings on the implementation of the Indian Gaming Regulatory Act (IGRA).
SR-485

10:00 a.m.
Rules and Administration
To hold oversight hearings on the Smithsonian Institution.
SR-301

MAY 7

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Veterans Affairs, and the Court of Veterans Affairs.
SD-124

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the U.S. Coast Guard, Department of Transportation.
SD-138

MAY 13

9:30 a.m.
Rules and Administration
Business meeting, to consider pending calendar and administrative business.
SR-301

MAY 14

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Emergency Management Agency.
SD-124

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Aviation Administration, Department of Transportation.
SD-138

MAY 21

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the National Community Service, and the Points of Light Foundation.
SD-116

10:00 a.m.
Appropriations
Transportation Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the General Accounting Office.
SD-138

MAY 22

9:30 a.m.
Appropriations
VA, HUD, and Independent Agencies Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Housing and Urban Development and certain related agencies.
SD-138

HOUSE OF REPRESENTATIVES—*Thursday, March 19, 1992*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We are grateful, O God, when people not only hear the words of reconciliation and the goals of understanding, but commit themselves to actions that are symbols of solidarity and respect between peoples. We are thankful, loving God, that people can grow in sensitivity and tolerance toward each other and support each other in mutual concern. Renew our dedication, O God, to the values of understanding and respect this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Chair will ask the gentlewoman from Florida [Ms. ROS-LEHTINEN] if she would kindly come forward and lead the membership in the Pledge of Allegiance.

Ms. ROS-LEHTINEN led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate having proceeded to reconsider the bill (H.R. 2212) "An act regarding the extension of most-favored-nation treatment to the products of the People's Republic of China, and for other purposes," returned by the President of the United States with his objections, to the House, in which it originated, and passed by the House on reconsideration of the same, it was resolved, that the said bill do not pass, two-thirds of the Senators present not having voted in the affirmative.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2607. An act to authorize activities under the Federal Railroad Safety Act of 1970 for fiscal years 1992 and 1993, and for other purposes.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 429) "An act to amend the Sherman Act regarding retail competition," agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BIDEN, Mr. KENNEDY, Mr. METZENBAUM, Mr. THURMOND, and Mr. HATCH, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 80. Concurrent resolution concerning democratic changes in Zaire.

The message also announced that, pursuant to Public Law 93-29, as amended by Public Law 98-459, the Chair, on behalf of the President pro tempore, appoints Ms. Cornelia Hadley of Kansas to the Federal Council on Aging, for a term effective February 26, 1992.

PERMISSION FOR COMMITTEE ON HOUSE ADMINISTRATION TO HAVE UNTIL MIDNIGHT, MARCH 20, 1992, TO SUBMIT A PRIVILEGED REPORT ON HOUSE RESOLUTION 379

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that the Committee on House Administration have until midnight on Friday, March 20, 1992, to submit a privileged report on House Resolution 379 which provides amounts from the contingent fund of the House for expenses of investigations and studies by standing and select committees of the House in the second session of the 102d Congress.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

THE NEED TO RESOLVE INTERNAL PROBLEMS AND GET ON WITH NATIONAL ISSUES

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, the time has come to step back a minute and reflect on what is really happening in this House and in the country.

Some Members on the other side of the aisle have taken a cynical approach to the House bank issue and to the problems facing this country.

They would rather spend every hour of every day attempting to turn the check bouncing issue to their partisan advantage and at the same time ignore the pressing problems facing our country.

Let us deal with the internal issue first. The House bank is not a Democratic or a Republican problem. Anyone who suggests otherwise is engaging in outright hypocrisy. All you have to do is read the latest papers to know that Members of both parties were involved.

Three Cabinet members have acknowledged bouncing checks and the President is reviewing his own records. An article in today's Wall Street Journal states that five Members of the House Republican leadership had a total of 960 overdrafts.

Next, let us deal with the country. We will have a chance in the next day or two to pass a conference report granting middle-class tax relief. The country wants action to spur the economy. We will have the opportunity to legislate solutions to the peoples' problems. Let us resolve our internal problems and let us get on with the issues facing the Nation.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1790

Mr. WALSH. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 1790, the Design Innovation and Technology Act of 1991.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

WAS THE POSTAL SERVICE HELD UP IN BROAD DAYLIGHT?

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, I have got some incredible economic news to report. The price of commercial real estate is skyrocketing.

The news comes from St. Louis via the Associated Press. On December 16, a real estate developer bought a commercial building in downtown St. Louis. The price was $4.1 million.

That same day the developer sold the building to the U.S. Postal Service. The price was $12.5 million.

The building appreciated 300 percent in a single day. Talk about consumer confidence.

What is Congress to make of these figures? Let me suggest one interpretation: The Postal Service is spinning out of control. It is time to find out what has gone wrong.

Last July, I introduced a resolution to create a bipartisan commission to investigate the U.S. Postal Service.

I urge those of my fellow Members who are not already cosponsors to sign onto the resolution today.

MIDDLE-INCOME PEOPLE NEED TAX RELIEF

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, sometime in the next 2 days the House is likely to be voting on a conference report to the tax bill.

Some have said that giving middle-income tax relief, middle-income tax fairness is wrong. The President said he would veto such a bill.

Well, let us talk about it. Some say that it would mean a tax increase. It might. It might mean it for the top 1 or 2 percent of this country who have done very, very well over the last 10 years, but it would also mean lower taxes, $200 for a single filer, up to $400 for joint filers, lower taxes for 70 percent of America's taxpayers, 90 million people in the House bill, a large number in the Senate bill. It would mean for many of the average taxpayers in West Virginia an 8- to 10-percent tax cut. That is what I call tax fairness.

It means that the upper income would be able to have a chance to pay their fair share, and I might add this bill does not, the House bill particularly, does not add to the deficit, not like the President's did.

Incidentally, the President promised a middle-income tax cut, then took it off the table.

So I would urge Members when this bill is voted on in the next couple of days to remember: Middle-income people need tax relief. They need tax fairness. They need it now.

DEMISE OF CASTRO AND HIS DICTATORSHIP ARE AT HAND

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, my native homeland, Cuba, still suffers under the rule of a demon who will not willingly give up his throne.

There are those who mistakenly believe that this ruthless dictator can listen to reason, and so they wish to discuss, to negotiate. Such attempts are self-defeating, for Castro listens to no one, negotiates with no one, and reason is a word that is not in his dictionary.

The avenue which is available to us is to continue to further isolate Castro politically and economically, to tighten the screws on Castro so that democracy will soon return to Cuba, so that human rights will again be respected, so that basic liberties will once again flourish.

The demise of Castro and his dictatorship are at hand. Country after country in previously Communist hands are now enjoying democracy. Why not in Cuba, and why not now?

SUPPORT URGED FOR CONFERENCE REPORT ON 1992 WHITE HOUSE COMMEMORATIVE COIN ACT

(Mr. BARNARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARNARD. Mr. Speaker, today we will consider the conference report on H.R. 3337, that provides for the minting of coins that will commemorate and provide funds for many vital projects. The Christopher Columbus coin, the Desert Storm medal, the World Cup coin, the White House coin and the James Madison coin commemorating the Bill of Rights are all worthwhile causes that have passed the House floor without controversy, and I urge my colleagues not to allow any further delay.

The conference report also provides for the redesign of the reverse side of the quarter and the half dollar. The conference report expressly requires that the words "In God We Trust" remain on the coin. Some of you may have been told that the redesign provisions of the conference report require that the eagle be taken off of the coin. The conference report does not require that the eagle be removed.

In the past, I have opposed coin redesign, but I feel that the Senate has compromised and has met the legitimate concerns of the House in providing for a very limited, phased in redesign of just two coins. I urge support for the conference report today.

□ 1110

ECONOMIC GROWTH

(Mr. JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of Texas. Mr. Speaker, tomorrow is the President's deadline for Congress to pass an economic growth bill and the Democrats have responded.

Will the Democrats' tax plan provide stimulus? You bet. It will stimulate spending, and I guarantee you it will stimulate recession.

As Americans struggle day to day just to make ends meet, the House Democrats want to raise taxes to the tune of $93.5 billion.

These Democrats are simply out of touch with the American public.

Mr. Speaker, let us give the American people what they want. Let us give them tax fairness without tax increases. Let us make America free from obsessive Government now.

TIME TO DE "PERK"OLATE WASHINGTON

(Mr. SWETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWETT. Mr. Speaker, the American people are angry and frustrated at what they see as a self-indulgent, elitist Congress that is out of touch with life on Main Street, USA. The recent House bank scandal only confirmed what many already believed.

Despite the fact that most of us come to Washington with high ideals and good intentions, it is my belief that the privileged lifestyle, and "perks"—in time, separate us from the everyday life and needs of the people we represent.

It's time Mr. Speaker to de "perk"olate Washington—from the White House to Capitol Hill. The first "perks" to be eliminated should be those that are paid for or subsidized with tax dollars.

Mr. Speaker, we are not any more special than those we serve. The high and mighty lifestyle of Government officials contributes to corruption in our system. For this reason, I chose to donate the pay raise and COLA increases to those in need in my State and requested last fall that Members pay the full price for all services. It is my hope, that by maintaining a lifestyle fitting for a public servant, we can restore respect for Government once again.

CLARIFYING IRC SECTION 4181

(Mr. BARRETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT. Mr. Speaker, I believed President Bush when he said that we must clear away the obstacles to economic growth, like over regulation and Federal redtape. That is why I am introducing legislation that restrains the regulatory madness that is overwhelming a business in my district.

Regulations now require a small business, which remanufactures ammunition, to separate shells a customer sends in to be reloaded from other customers' shells; and then after processing these shells, to return the identical shells to the customer, who then pays an excise tax on the shells.

It is ridiculous. This causes a business which is accustomed to processing thousands of shells to stop operations, readjust their machines, and complete mountains of paper work.

The bill I am introducing simply says that it is OK for manufacturers to re-load, en masse, various customer shells, as long as the customers get back the same type and quantity he or she sent into the manufacturer.

It is a rather straightforward bill, but one that will strike at the heart of what our small businesses are crying out for, regulatory relief. I urge my colleagues to join me in eliminating this example of regulatory overkill.

JAILS ARE FOR THE VIOLENT

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, for tax evasion, Leona Helmsley was sentenced to 4 years in jail. Now, that does not seem like a long time, but I agree with attorney Dershowitz that for a 72-year-old woman, it is probably a life sentence, and I say that is crazy. The taxpayers are going to have to pay for her food, clothing, housing, and protection, and she is not violent. Let me say this: I think jails should be for violent people and she should get a wrist band. She should pay a huge fine and she should be made to perform community service.

Now, what I would recommend is give Leona Helmsley a broom and a pooper-scooper and let her go out on the streets of New York and help clean up some of those dog droppings. It will do two things: No. 1, it will be a real embarrassing fine and a message for those rich people, and No. 2, the taxpayers in New York will have a rosier, more fragrant future.

HOUSE BANK SCANDAL IS NOT A BIPARTISAN ISSUE

(Mr. COBLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COBLE. Mr. Speaker, I rarely come to the well. I rarely am confrontational, but I am intrigued by the all-out effort on the part of some to make the House bank scandal a bipartisan issue. The House bank scandal is not bipartisan at all. The House bank scandal is fiercely partisan.

Set aside, for the moment, Members who bounced checks and Members who allegedly bounced checks, and examine the system that permitted, even encouraged it.

Who controls the system? The Democrats have controlled this House longer than Castro has controlled Cuba.

This House appears out of control. This ship is headed for the rocks and shoals, and collision, Mr. Speaker, can only be avoided by bringing the ship about. This ship will not come about, however, given the present crew in the wheelhouse.

The time has come, Mr. Speaker, to change the guard. The time has come, Mr. Speaker, to give Republicans a chance to run the House of Representatives.

ONLY COMPLETE REFORM OF HOUSE WILL REGAIN PEOPLE'S CONFIDENCE

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, having spent this past weekend at home, I witnessed firsthand the anger, frustration and sense of betrayal of the people regarding the House bank debacle.

The House must reform the way it does business in order to regain the confidence and trust of the people.

First in the sense of reform is reforming the campaign finance laws, and, in that setting, particularly to eliminate or severely reduce the presence of political action committee funds in congressional campaigns.

I think it is worth noting, Mr. Speaker, that correctly or not, political action funds are the symbol of what is worst about the political election system.

It is also worth noting that a colleague of ours early this week won a tough battle for renomination against a very quality opponent, having renounced political action funds and having been outspent something like 7 to 1.

Mr. Speaker, we must quickly end the unedifying, the unseemly and the almost unendurable quest for money which drives the political process. Only then will we regain the confidence of the people.

COMMENDING PRESIDENT BUSH ON CONTINUED MORATORIUM AGAINST NEW REGULATIONS

(Mr. COMBEST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COMBEST. Mr. Speaker, I rise today to commend President Bush on the 52d day of his moratorium for issuing new regulations.

As part of my fight against intrusive regulations and the Republican regulatory relay, I would like to share another example of a burdensome regulation. The hazard communication standard was issued by OSHA in 1983, it requires employers to identify workplace chemical hazards and communicate this information to employees. They have not even published the final rules. Yet this regulation accounts for 60 percent of all OSHA violations. Seventy percent of these violations qualify for harsh penalties of at least $900 per violation.

A recent GAO study concluded that one-third of small companies had no awareness of the standard and those who did, could not comply because of the complexity of the regulation.

Mr. Speaker, when the Government referees hide the regulatory rule book and force all the business players to the sidelines, its time for a time out.

QUICK ACTION NEEDED ON MONEY LAUNDERING BILL

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, I rise today to express my concern that H.R. 26, money laundering legislation I introduced last year and which was passed by this House 406 to 0 last July, has stalled in the other body of this Congress.

The need for this legislation has again been emphasized by advertisements by the State Bank of Pakistan in yesterday's Wall Street Journal and Washington Post blatantly offering an exchange of Pakistani Government bonds for any amount of cash, with "no questions asked about source of funds." When asked about this ad, an official of the bank was even more direct—"[t]his is a way to launder the black money," he stated.

This episode shows that we must get tougher with money launderers now. We cannot have foreign governments encouraging money laundering in our country.

H.R. 26 is legislation that will toughen laws against money laundering, and reduce the billions of dollars laundered each year. H.R. 26 will strengthen existing law by plugging loopholes in current law and ensuring that those financial entities and persons assisting money launderers are punished.

H.R. 26 establishes a death penalty for financial institutions who launder money. Bank regulators could revoke the charter of a money laundering bank, or appoint a conservator to clean up the institution. Without a friendly place to launder cash, drug dealers and other criminals will be left with a vast pile of worthless paper—and no profit from their dirty business.

I hope the Senate will move quickly so that we may send this legislation to the President for his signature as soon as possible.

□ 1120

SEVEN LESSONS FOR JOB GROWTH IN AMERICA

(Mr. DOOLITTLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLITTLE. Mr. Speaker, tomorrow is the deadline by which Congress must act to create jobs in America. Ironically, congressional action so far will cost jobs rather than create new ones.

Mr. Speaker, a recent Heritage Foundation report listed seven fundamental lessons for economic growth: First, economic growth is the best weapon against poverty; second, economic growth is stimulated by low taxes; third, the poor get richer when the rich get richer; fourth, if we want to make the rich pay more taxes, we should cut their tax rates, thus fostering new investment and providing additional income which thereby generates more tax revenues; fifth, raising taxes on the rich does not help the poor, as the luxury tax clearly demonstrates; sixth, increased taxes wiped out the benefits of tax cuts for many Americans; seventh, increasing taxes does not lower the deficit; it raises the deficit, depressing economic activity, throwing people out of work and thereby lowering tax receipts.

Mr. Speaker, Congress must pay heed to these seven lessons as we craft a job growth proposal.

THE SEARCH FOR LEADERSHIP

(Mr. DOOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLEY. Mr. Speaker, the poll results that really matter to many Americans—the unemployment figures—are just in, and the news is not good.

Last week, the residents of the four counties in my district in central California learned that their unemployment rate had gone from bad to worse. It now ranges from 14½ to almost 17 percent—way above the national average.

I would love to be able to tell my out-of-work constituents that our President has a sure-fire plan for economic recovery and is working with Congress to help them.

Instead, all they are getting from the White House is a lot of campaign talk about jobs and not much action to back it up.

Americans struggling in this recession deserve a better effort from their President. And they deserve more cooperation with Congress.

In short, they are searching for leadership. So far, that search continues.

DEMOCRATS WANT TO PLAY GAMES

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, today is the last day before the March 20 deadline for the liberals in Congress to get a real economic growth bill on the President's desk. If history is any indicator of what is yet to come, the picture does not look good for the American people, who can no longer wait on the sidelines while the Democrats are busy playing politics. The people of this country want representation not taxation that does nothing but further cripple the economy.

The Democrats need to wake up and realize that in November, the American people will hold accountable those politicians who stood in the way of economic recovery and growth. There will have to be a lot of explaining by those Democrats who failed to pass the President's growth package, and who instead voted to permanently increase taxes and spend more than we have saved as a result of the so-called peace dividend.

The American people can see that the only plan the Democrats have is one to make the President look bad. The trouble with such an ill-conceived plan is that it is backfiring in the faces of the Democratic leadership. The flaws in this plan can be shown by the fact that a large number of sensible Democrats recently voted against the Democratic tax bill knowing that a vote in favor of it would lead to their political demise.

Mr. Speaker, the Democrats have only 1 day left to quit playing games with the lives and futures of the American people.

A RAY OF HOPE IN SOUTH AFRICA

(Mr. BLACKWELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLACKWELL. Mr. Speaker, two days ago, millions of white South Africans went to the polls to decide the fate of the looming, hateful beast of apartheid which lingered over the country like a deadly smog. Today, the verdict is in, and the door has been cracked open for the nation's black majority. A people who have been oppressed, and denied for far too long.

This vote truly represents a major turning point in the course of world history. A point, Mr. Speaker, that a few short years ago seemed entirely unreachable. As the white reactionaries have been thoroughly discredited, we must recognize the tremendous achievements of certain individuals, who dared to speak out against institutionalized racism and hatred. Certainly Nelson Mandela, the man whose indomitable spirit an entire planet rallied around, deserves our greatest thanks and praise. And Mr. de Klerk, who put his political career and perhaps his life on the line to bring the referendum to the voters, will be remembered for his monumental accomplishments as well.

I must remind my colleagues however, that despite the positive result of this referendum, South Africa still has a long road to travel before true equality becomes a reality. The black majority may not yet vote, and institutionalized segregation is so deeply embedded in this country, Mr. Speaker, that it may take many years before the promise of equality is realized by all of South Africa's citizens, regardless of skin tone.

I firmly believe, Mr. Speaker, that the United States is in a most unique position to encourage the smooth transition and integration of power in South Africa. No one can deny the fact that South Africa has many obstacles to overcome to achieve a peaceful, integrated government. The country's 875,000 whites who voted to keep apartheid alive and well, will not give up without a brutal fight. In addition, we have all witnessed with a sense of dismay, the violent exchanges between the numerous black factionalist groups. As the world watches, however, reform in South Africa will hopefully blossom into equality for all. I certainly hope that the administration will do everything in their power to help insure a peaceful, yet balanced transition of power in a country which has clearly suffered enough.

NATIONAL WOMEN IN AGRICULTURE DAY

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, those of us who have been involved in American agriculture over the years will readily understand the significance and importance of March 19, 1992 being recognized as National Women in Agriculture Day.

The position of preeminence U.S. agriculture has in the world economy simply could not have been attained without the enormous contributions of this Nation's women. From the first settlers who broke sod and planted crops many years ago to today's technologically advanced farms, whether in the field or in the office, women have always contributed to the success of American agriculture as equal partners.

I would like to especially point out the impact one woman has had on Illinois agriculture. Becky Doyle, as Illinois director of agriculture, has provided important leadership during a period of significant change in this industry. She is one of only a handful of women who have served as State directors of agriculture, and she represents many women in Illinois who have played a crucial role in the success of agriculture in our State.

Mr. Speaker, this Thursday, the 19th of March, is an important day for American women and American agriculture. Please join me in celebrating National Women in Agriculture Day.

STICK TO THE SPENDING CAPS IN THE BUDGET AGREEMENT

(Mr. LUKEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUKEN. Mr. Speaker, I see from my whip notice that the on again, off again firewalls bill is on again for next week. Proponents of the bill are still looking for some configuration that will give them a majority. But the issue is still the same and the issue will be the same next week. It is, quite simply: Do we want to increase the national debt by spending additional money on domestic programs?

The proponents of the bill argue, Mr. Speaker, we have significant domestic needs. And clearly we do. But if we think that we are helping our children by adding to the national debt, we are sadly mistaken.

Mr. Speaker, our kids' economic future is drowning on our debt. Let us finally show we have a little discipline around here when it comes to the national debt and stick to the spending caps in the budget agreement.

IN MEMORY OF FOUR YOUNG SYRIAN-JEWISH WOMEN

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, this past Saturday marked the 18th anniversary of the Sabbath of Remembrance for four young Syrian-Jewish women who were brutally raped and murdered during their escape attempt from Syria. The mutilated bodies of sisters Mazal, Laura, and Farah Sebbagh, and their cousin Eva Sa'ad, were abominably dumped in sacks at their parents' doors.

Nearly two decades later, freedom has not yet come for this tiny Syrian-Jewish community. The congressional caucus for Syrian Jewry, on which I serve as cochairman, continues to urge its members to advocate for freedom on behalf of this oppressed Syrian population. That today is Purim only heightens the urgency of Syrian Jewry's much needed redemption.

Mr. Speaker, the Purim festival recalls how the Jews of the Persian Empire were saved from annihilation decreed by the Persian king at the behest of his evil vizier, Haman. There is no Jewish community in the world today more deprived of basic human rights than the Jews of Syria. Accordingly, I invite my colleagues to join in praying for their freedom and redemption just as those in the Persian Empire were redeemed so many centuries ago, and at the same time let us recall the tragic loss of the four young women whose lives were snuffed out by Hafiz al-Assad's cruel regime.

□ 1130

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McNULTY). The Chair announces that he will interrupt the 1-minute speeches momentarily for a matter of business, and we will return to the 1-minutes immediately thereafter.

WAIVING CERTAIN ENROLLMENT REQUIREMENTS FOR H.R. 4210

Mr. GEPHARDT. Mr. Speaker, I send to the desk a joint resolution (H.J. Res. 446), waiving certain enrollment requirements with respect to H.R. 4210 of the 102d Congress, and ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore. The Clerk will report the House joint resolution.

The Clerk read the House joint resolution, as follows:

H.J. Res. 446

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. WAIVER OF REQUIREMENT FOR PARCHMENT PRINTING.

The provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of H.R. 4210 of the 102d Congress.

SEC. 2. CERTIFICATION BY COMMITTEE ON HOUSE ADMINISTRATION.

The enrollment of H.R. 4210 of the 102d Congress shall be in such form as the Committee on House Administration of the House of Representatives certifies to be a true enrollment.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The SPEAKER pro tempore. The gentleman from Missouri [Mr. GEPHARDT] is recognized for 1 hour.

Mr. GEPHARDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will just explain to Members that this is a resolution to allow the engrossment and printing of the tax bill after the conference in a more orderly and speedy manner so we can try to get the bill to the President as soon as possible.

Mr. Speaker, I move the previous question on the joint resolution.

The previous question was ordered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON RULES TO FILE A PRIVILEGED REPORT ON H.R. 4210, TAX FAIRNESS AND ECONOMIC GROWTH ACT OF 1992

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file a privileged report with respect to a conference report to accompany the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families. It is my understanding this has been cleared by both sides.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

Mr. WALKER. Reserving the right to object, Mr. Speaker, I ask the gentleman from Massachusetts, "4210 being the tax bill?"

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, the gentleman from Pennsylvania [Mr. WALKER] is correct.

Mr. WALKER. Is the request to file by midnight tonight?

Mr. MOAKLEY. That is right.

Mr. WALKER. That does not involve waiving points of order?

Mr. MOAKLEY. The rule may waive points of order, but this is just until midnight to file. Otherwise, as the gentleman from Pennsylvania [Mr. WALKER] knows, we would need a 3-day layover. We would not be able to take this up tomorrow morning.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, the gentleman does understand that, and I am sorry we have come to the juncture that we were not able to get the work done in time, that we do that, but I am not seeking to get in the way of that. I am somewhat concerned, however, that this is a fairly controversial matter. We have known in the past that, when tax bills are done in conference committee, that often a whole bunch of special interest provisions get stuck in that the membership then claims later on they know nothing about, and particularly individual companies are taken care of, or individuals are taken care of, and I want to have some assurance that, when a tax bill is reported to the floor, that we will not be surprised later on to find that there were numerous provisions within it that no one knew were there.

Mr. Speaker, can we get some assurance that we are going to have a reasonably clean bill if what we are doing is waiving our ability to have any discussion about that bill or any chance to look at the bill prior to the discussion?

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I would say to the gentleman from Pennsylvania [Mr. WALKER] that I share his view that this bill be as clean as it possibly can be. I would say to the gentleman that the House position in my view is much more uncluttered, if that is the word we can use, than the other body's version, and our conferees will obviously endeavor to get our version through the conference.

We also, however, as the gentleman from Pennsylvania [Mr. WALKER] knows, are operating under a request by the President to get the bill on his desk by tomorrow night, and we very much want to comply with that request. It is impossible for me to give the gentleman a guarantee now that there will be nothing in the bill that does not require a waiver of a point of order.

For instance, as the gentleman from Pennsylvania [Mr. WALKER] well knows, in a conference the conferees might decide to go outside the scope of the conference in one particular respect or another. I know nothing right now about plans to do that. I have no reason to believe there are plans to do that, and we will do everything in our power to see that this bill is as simple and straightforward as it possibly can be.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Missouri [Mr. GEPHARDT] for that, but he has described one of my real concerns in all of this.

Mr. Speaker, the committee and conference committee have, from time to time, gone well beyond the scope of the conference and included items that were in neither the House or the Senate bills when we have been dealing with tax issues, and some of us, in all honesty, have a very grave concern about that kind of shenanigan taking place when we are pressed against deadlines and when bills are flowing through here, and, in all honesty, if we approve this procedure, what we are saying is that we, as a House, will not be taking a very good look at this. I agree with the gentleman from Missouri [Mr. GEPHARDT] that our bill is much cleaner than what came out of the Senate, but the fact is that there is some garbage there that we better get rid of or it makes for some pretty bad legislating, particularly when it is done on a spur of the moment.

Let me also ask, Mr. Speaker, will the minority be given an opportunity to recommit this bill to conference if we find things in there which are possible problems.

Mr. MOAKLEY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Speaker, the Committee on Rules has no reason to deny the gentleman's motion to recommit on the conference report.

Mr. WALKER. So, in other words, if we agree to this particular procedure, we have some assurance that we will be given a chance to recommit this to conference if, in fact, problems are found in the bill.

Mr. MOAKLEY. Mr. Speaker, I give the gentleman from Pennsylvania [Mr. WALKER] that assurance.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MOAKLEY] for that.

Does the minority whip wish for me to yield?

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Georgia.

Mr. GINGRICH. Mr. Speaker, I apologize for looking a little confused, but I am. Maybe the majority leader, the gentleman from Missouri [Mr. GEPHARDT], or somebody could explain to us what we are doing here.

As I understand it, we just pulled the only legislation that was on this calendar for today. I understand the tax conference has not yet reported.

Is that correct?

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, the gentleman from Georgia [Mr. GINGRICH] is correct.

If I can make a statement to the gentleman, where we are is that the conference has begun, and the work is going on, and there is a hope on our side, and I am sure on the other side, that we can finish this bill this afternoon. We are simply trying to get the correct procedure here for the filing of the rule this afternoon so that we can take up the bill on tomorrow.

We obviously hope for a speedy conclusion to the conference, and we hope that everyone, minority, majority, and all the Members, will have adequate time to look at all the provisions in the bill, and again the gentleman from Pennsylvania [Mr. WALKER] has an assurance that we will allow a motion to recommit back to the conference if any Member finds things in the bill that they think are inappropriate.

Mr. WALKER. Mr. Speaker, further reserving the right to object, there is one other question I have, and then I will come back to the minority whip.

We have every reason to believe that there may be a bill that would be vetoed by the President. Can we receive some assurance that that veto message will then be voted on and not simply referred to committee?

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, there has been no decision made on what would happen in the case there is a veto. We obviously hope there would not be a veto. But if that were to happen, we would obviously consult with the minority before any decision is made on what to do.

Mr. WALKER. Mr. Speaker, I would say to the gentleman from Missouri [Mr. GEPHARDT] that it seems to me that the minority is in the position of kind of rolling over backward here to accommodate a schedule which they want to meet because the President has asked them to meet the schedule. They have not met the deadline up until now, and we are being asked to procedurally allow them to move forward without giving us much chance to study. I am seeking some assurances that the process will also work in a way that we think it should work as we roll forward and that the motion to recommit is a good assurance. On the other hand, I think that we also want the President's position to be able to be sustained on the House floor should that eventuality present itself.

□ 1140

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, I have no problem with the idea that we would have a vote on a veto override in a timely manner.

Mr. WALKER. Fine. So we do have some assurance, then, that if the President vetoes this bill and it comes back, the House will vote on that matter?

Mr. GEPHARDT. Yes, the gentleman is correct.

Mr. GINGRICH. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the minority whip.

Mr. GINGRICH. Mr. Speaker, let me say, first of all, having checked with Mr. MICHEL's staff, that I certainly will not object to the gentleman's being allowed to file late and bring the bill to the floor tomorrow.

I would like to note for the record that we thought until a few minutes ago we were going to have legislative business today, and we are now asking Members to come in tomorrow, to stay over in order to vote on a bill which every Member knows will be vetoed if it passes the House, and given the narrow margin of the last two votes on this issue, it may or may not pass the House.

I would also note for the record that we would hope a timely manner is more like a week than three months in terms of bringing up the veto override and getting that out of the way and then going back to the question of writing a tax bill that would create jobs, a bill that could be signed by the President.

Lastly, we certainly do not want to stop the majority from bringing their vetoable bill to the floor this week if that is what they want to do, but we do want the country to understand that the conference has not finished meeting. It is now 11:40, the House will go out of session, we have no legislative business today, and the conference will end late today and they will bring a major tax bill with a $90-billion tax increase to the floor tomorrow with virtually no Member having read it. So as long as the majority is willing to tell its side that they should vote yes on a bill that none of them will have read—because I do not think they will get very many votes on our side—we are quite willing to give the majority permission to file late today.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the majority leader.

Mr. GEPHARDT. Mr. Speaker, let me say to my friend, the gentleman from Georgia, that we do want Members to read the bill. I intend to read the bill, and I know that all Members would like to read the bill and know what is in it.

We do hope that the President will sign the bill. I do not think we can conclude beyond any doubt that the bill that is produced out of this conference will not be signed by the President. I also want to assure my friends on the other side that if there is a veto, there will be a veto override attempt, and if that fails, we intend to go back to work as soon as humanly possible to produce a bill to put on the President's desk that can be signed to move this economy and this country in a proper direction.

Mr. GINGRICH. Mr. Speaker, if the gentleman will yield one more time, I want to say to my good friend, the gentleman from Missouri, that I can assure him personally so he will not be in any suspense that the bill will be vetoed, and I want him to feel comfortable the rest of the day knowing that this is a useful exercise. I am certain that for his party it has certain advantages. We think obviously that we have advantages over here. It is sad for the American people to watch us go through this dance, but I do not want the gentleman to be in any suspense or waste too much psychic energy worrying about the fate of the bill.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, he need not worry. But let me say to my friend that it is very important that the Congress put legislation through the Congress, and the majority of the Members of Congress want to do that. The President's role is then to decide whether or not he wants to agree with that. He has every right in the world to veto it, and if he does, we have the responsibility to offer another piece of legislation that will solve the problem, and we intend to do that.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Missouri.

Further reserving the right to object, Mr. Speaker, I simply say to the gentleman that I appreciate his hope is that all Members can read the bill. I suspect, however, that the first time most Members will see the bill is when the boxes are brought to the floor tomorrow when we consider it and it comes over in typewritten sheets, and that most Members are not going to have a chance to get ahold of a copy of this conference report and have a chance to read it.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, we will do everything in our power to get the paper here and to give Members time to be able to read the bill.

Mr. WALKER. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. McNULTY). Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PARENTAL CHOICE IN EDUCATION OFFERS REFORM FOR NATION'S SCHOOLS

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, the education system in this country is failing to carry out its No. 1 function—and that is to educate our children. Not surprisingly, the Democrats in this Congress are trying their hardest to blame our education ills on the President. But the fact is that my colleagues on the other side of the aisle are stonewalling any efforts to really reform our schools by refusing to bring to this floor any new initiatives which include vouchers for school choice. They obviously do not care that an astounding 71 percent of American people support the idea of parental choice.

By enacting school choice legislation we would effectively force schools to improve their performance as a result of stiffer competition; increase parental involvement in the educational process; help to encourage racial diversity within our Nation's schools; provide poor families with choices only the rich have been lucky enough to afford; and ultimately improve the academic achievement of all students. Furthermore, school choice would enable low-income families to escape schools which are riddled with drug pushers, violence, and a bureaucracy which forces schools to resist change, and thereby pressure these institutions to either clean up their act or shut down.

The fact is we need change, and school choice is a sensible alternative to the strategy embraced by Washington liberals who think that by pouring more money into our education system we can somehow miraculously produce smarter children. The Federal Government is not the answer to the education problems of this country. Indeed, the Federal Government has done nothing but hurt this system in the first place. It is about time we take the power to educate our children out of the hands of the bureaucracy and put that power into the hands of the American people. Only then will we be able to reinvigorate our schools and involve parents more substantially in their children's education. I beg my colleagues to give school choice a try. And maybe, just maybe, we can revolutionize our schools in time to save an entire generation of our children.

INTRODUCTION OF LAW ENFORCEMENT RESPONSIBILITIES ACT OF 1992

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Mr. Speaker, last summer, I introduced legislation designed to improve police departments across the country by encouraging community oriented policing. This bill encouraged the accreditation of police departments, established a national citizen grievance procedure, and protected the rights of police officers being disciplined.

Since introducing this legislation, I have met with police officers and police chiefs to discuss this issue and listen to their concerns. Out of these meetings came a more comprehensive and more effective bill that achieves its goals of promoting community policing standards and protecting the rights of individual police officers without infringing on the supervisory duties of police chiefs. Unlike similar legislation which only protects the rights of police officers, the comprehensive bill I am introducing today has the support of both working police officers and local police chiefs in my district.

As we continue to debate crime and crime prevention, we must remember to focus our attention not only on the enemies of society, but also on the needs of our soldiers on the front lines. We cannot continue to fight this war against crime with outdated approaches.

The Law Enforcement Responsibilities Act I am introducing today gives our police officers the tools they need to win the war. I urge my colleagues to join me as cosponsors of this legislation.

CONGRESSIONAL CAUCUS RAISES CONCERNS OF HUMAN RIGHTS VIOLATIONS AGAINST SYRIAN JEWS

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, I rise today to urge this body to consider the plight of 4,000 Syrian Jews who are being held in that country against their will. All they ask is for the internationally recognized right to emigrate. However, instead of being allowed to leave Syria, Syrian President Assad has ordered his secret police to keep 24-hour surveillance of the Syrian Jews. In many cases, he has allowed these Jews to be jailed without trial and tortured without recourse simply because of their religious belief. Ironically, to pacify international concern, Assad has signed the Universal Declaration of Human Rights which guarantees the right of emigration.

But we should not be fooled; President Assad and his thugs cannot have it both ways. The international community, including this body, are the only hope for Syrian Jews. I hope my colleagues will take steps to elevate this issue so that the basic human right to emigrate will be extended to the 4,000 Jews currently being held against their will by one of the most repressive regimes in the world.

I am a member of the congressional caucus on Syrian Jewry, which is dedicated to shedding light on the oppression faced by Jews living under the regime of President Assad. I commend my colleagues, Mr. SOLARZ, Mr. GILMAN, and Mr. SCHUMER, for their efforts to form this caucus, and I would encourage my colleagues, who have not done so already, to join as well.

ADMINISTRATION'S AGENDA FOR ECONOMIC GROWTH AND TAX FAIRNESS FOUND WANTING

(Ms. PELOSI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. PELOSI. Mr. Speaker, since reconvening in January, we have seen President bush deliver a preemptive veto of his own budget plans and his own State of the Union promise for a middle-income tax break.

Last week the President said he would like a retroactive veto of his own year-old tax increase, and now we operate under the threat of yet another Presidential veto as we work in Congress to change the budget rules, invest in economic recovery, and deliver tax fairness to the American people.

President Bush's veto has become a symbol of a powerful obstacle in the White House to progress for America.

The President is unwilling to work for his own game plan, and is opposed to the economic growth ideas proposed by Congress:

Foreign policies tied to our economic and democratic needs, in trade, in environmental protections, in scientific and technological development, and in the growth of self-government and peace; and, the domestic policies for economic growth and tax fairness proposed by congressional Democrats.

This President offers only an agenda of confusion and contradiction.

If President Bush will not lead in the face of the overwhelming economic and social challenges to this country, then we must in Congress move ahead and do the job. We must override President Bush's vetoes and we must provide the leadership that the country demands and deserves.

□ 1150

SELF-DETERMINATION AND FREEDOM ON THE MOVE THROUGHOUT THE WORLD

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, along with the positive economic news which we have been receiving over the past few days as far as exports and reduction in the numbers of people who have been filing for unemployment compensation, indications that the economy is clearly improving, we have gotten some very positive news from the other side of the world.

Mr. Speaker, for 13 years the people of Afghanistan have suffered from a tragic war. The puppet of the former Soviet Union, Dr. Najibullah, announced last night he was going to resign and in fact not be a part of a coalition government that has assembled.

We are still facing some very serious internecine struggles in Afghanistan. But the American people and the free world for 13 years watched the Soviet military with over 115,000 troops impose their tyranny on the people of Afghanistan, and their puppet dictator, Dr. Najibullah, has announced he is leaving, a further indication that we are seeing self-determination and freedom on the move throughout the world.

RESIGNATION AS POSTMASTER OF U.S. HOUSE OF REPRESENTATIVES

The SPEAKER laid before the House the following communication from the Postmaster:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE POSTMASTER,
Washington, DC, March 19, 1992.

Hon. THOMAS S. FOLEY,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: I respectfully submit to you my resignation as Postmaster of the U.S. House of Representatives effective March 19, 1992.

It has been an honor and a pleasure to serve the Members of Congress and this institution for these many years.

Thank you.

Sincerely,

ROBERT V. ROTA,
Postmaster.

The SPEAKER. Without objection, the resignation is accepted.

There was no objection.

WHAT DOES IT COST? AND WHO PAYS?

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, a few weeks ago, I stood here and promised that, prior to extending my support to any legislation, I would first have to know two things: How much it costs, and who pays? I said if the answers did not make sense, the measure would not get my support.

Case in point is the Democrat leadership tax plan that raises the top tax rate to 35 percent. How much will it cost? They say $43 billion. Who will pay? They say the rich because that is fair and they can afford it.

Upon closer inspection, the claims do not add up. Sure, the cost will run into the billions of dollars, but who will really pay? About two-thirds of these so-called rich taxpayers will be small business owners who operate through proprietorships and partnerships, providing the most effective job creating enterprise in the United States. So who will really pay for the Democrats' most recent shot at the rich? Hundreds of thousands of small business employees will pay with their jobs.

TIME FOR HOUSE TO BEGIN WORK ON SUBSTANTIVE MATTERS

(Mr. KOPETSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOPETSKI. Mr. Speaker, I heard a comment earlier on the floor that was disappointing in the sense that the comment tried to draw some relationship between the fact that the Democrats have controlled the House longer than Castro and his repressive regime had ruled Cuba.

Mr. Speaker, I do not think this does anything to bring the House together in these difficult times. The fact is the leadership, both Democrats and Republicans, have helped me as a new Member adjust to the House. Members, both Republican and Democrat, on the substantive committees on which I serve, have been very helpful in helping me in this new role.

Mr. Speaker, the fact is that the leadership of both parties are working together in addressing and coming up with ideas for reform of the House as an institution. So I think it is important that we as House Members do join together and work together in addressing these reform issues.

Mr. Speaker, there is blame for everyone involved in the House bank issue. But the fact is the House bank is closed. Those who have bounced checks are having to go home to their districts and face the folks back home. Well they should.

Now it is time to address the institution in terms of reform, but also to address the substantive work that needs to be done in this House, such as a tax growth package.

CROCODILE TEARS FLOWING FROM MINORITY SIDE OF AISLE

(Mr. NAGLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NAGLE. Mr. Speaker, I do not want to let the day pass without noting that I think my feet got wet in here today from the crocodile tears that were flowing from the minority side of the aisle bemoaning the fact we have not acted on the President's growth package, and overlooking the historical fact, which was not noted by the members of the press gallery, that should have been, that not one Republican Member of that side of the aisle would introduce the President's growth package.

Mr. Speaker, not only would they not introduce it, when we gave the courtesy to them of introducing it for them and brought it to a vote on the floor of the House of Representatives, the Republicans' growth package, the President's growth package, it received one vote in the entire House of Representatives, and that from a Democrat.

Now, the Democrats are working hard to bring real relief. Not relief to people who live in tall towers and watch people work on the street below while they shuffle papers back and forth, but real tax relief for real people. We are responding expeditiously.

But I think it is somewhat hypocritical to denounce Democrats for working on a package to meet a self-imposed deadline put on us by the President, and at the same time they will not even back their own President's package because of the lack of merit and substance of the President's proposal, which we all recognize.

A POINT OF PERSONAL PRIVILEGE—NEWSPAPER ACCOUNTS RELATING TO REPRESENTATIVE LIGHTFOOT

Mr. LIGHTFOOT. Mr. Speaker, I rise to make a point of personal privilege.

The SPEAKER pro tempore (Mr. McNULTY). The Chair is aware of the news accounts on which the gentleman from Iowa [Mr. LIGHTFOOT] wants to comment.

The gentleman is recognized for 1 hour.

Mr. LIGHTFOOT. Mr. Speaker, I will warn my colleagues I am not going to take the full hour. I also apologize for the gravelly voice this morning, as I have been fighting somewhat of a cold lately.

If I appear to be a bit distracted at this hour, my father-in-law is undergoing open heart surgery at Baylor Hospital in Texas. He is a pretty special person in my life, so excuse me if I bumble a word or two here today. If anyone is so disposed to say a prayer in his behalf, it would certainly be appreciated.

Mr. Speaker. I rise today because I, like a number of my colleagues, feel that my reputation as a Member of Congress has been damaged by the actions of the House bank and the office of the Sergeant at Arms.

This weekend, after going through and reviewing my canceled checks from the House bank, I discovered at least 60 that had been held by the bank without their ever notifying me.

The key word is "held." They were not bounced. My monthly statements have been juggled by the House bank, so I never knew the actions they had taken.

For whatever reason, as most of you know, we are paid by the Sergeant at Arms. Our checks are issued on the 30th of the month. they are to be deposited to our account the following day, which is the 1st of the next month. But for whatever reason, many times those paychecks were not credited to my account for 4 or 5 or 6 days after the 1st of the month. I assumed that my paycheck was where it was supposed to be, in my account, under my name.

Specifically, the House bank frequently held checks for 4 to 6 days. In one instance the House bank held my tax refund check. Now, this is a check from the U.S. Treasury, which we assume is good. They held it for 5 days, or 6 days, actually, before they credited it to my account.

Assuming that my refund was in my bank account, I continued to write checks against the account. As those came in the House bank held them. They did not bounce them, they held them.

As an old ex-police officer, a few flags started to fly as things started to unfold. First of all, as more and more Members are talking about their personal experiences, we find that there is a common theme that has developed through much of what is being said.

□ 1200

That is, that deposits, for whatever reason, were not credited at the time they were put in the House bank.

I have had colleagues tell me of 15 days since the time they went down and made the deposit to the time it was credited to their account, 15 days expired. Had this been a real bank, I am sure that the Federal examiners would have closed it down. But the big question, I guess, that comes to my mind, and the one that I think has to be answered, what or who was doing what with our money when it was not credited to our accounts?

Where did my paycheck go on the first of July, when I did not get credit for it until the fifth? Was it credited to somebody else's account? Was it used to cover the deficits of those known abusers that we have here which have been uncovered through the Committee on Standards of Official Conduct, where we reconstructed some 66 accounts and found abusers, that there is proof that they did in fact abuse the bank and deliberately wrote overdrafts month after month after month? Were they using my money to cover those overdrafts and then holding my check until enough of them came in the bank that decided, well, we better pay up on this guy? So they paid my checks and then reached over to this gentleman's or this gentleman's account and took some more money out? What were they doing with that money?

To me that is the key question that needs to be answered at this point in time. I tried to explain this to the media back home. I have a tape recording of the news conference that we held, and I certainly did not say what the headline says.

It says, "I Bounced 60, But It Wasn't My Fault."

I never said that, but that is what the news media chose to write. Also in the roughly 7 years that we have been in this House, we have, I think, done a few decent things for our State. We saved a major highway that was going into another State. We have got a lot of improvements going on roads and airports and waterways and sewer systems and rural water districts and so on. Never made the front page of this newspaper. But with this little cartoon, wherever it went, we finally got on the front page for something that we did not do.

The irony of it is that there is a feeding fest going on because for some reason the whole judicial system has been turned around, as it pertains to Members of Congress. We are all guilty until we prove ourselves innocent, and then every time we try to explain it, we are just trying to cover up and blame it on somebody else. I think there is a way that we can get to this central question and we can do it very quickly.

Today I am going to send a letter around to the entire House membership. In that letter I am going to ask them to join me in requesting the U.S. Attorney's Office to undertake a criminal investigation of the House bank. Yes, I said criminal investigation of the House bank. Because for one, I want to know where were my deposits when they were not in my account. What was that money used for?

It is my understanding that there is something in the neighborhood of a $2 million a day float. Where did the interest off of that money go? These are the questions that the folks in the Press Gallery should be asking, rather than trying to skewer Members of Congress simply because we chose to get in this job and someone mishandled our personal finances for us.

I am certain there are Members who did write overdrafts, and I would be hard-pressed, I think, to find anybody that could say 100 percent that they had not because we all do make mistakes. But when an institution of the House takes individual Members and juggles their financial accounts around, for whatever the reason might be, it just plain laziness and sloppiness or be it for criminal reasons, that is wrong. Particularly when it smears the reputations and the names or Republicans and Democrats alike, who had no evil in their heart, no intent to do anything wrong, and did nothing wrong other than they got elected to Congress and chose to use the facilities that were provided for us here.

The only thing we get out of this world with is our name and our reputation, and there is a lot of good men and women of both political stripes who are being smeared because a few, in my opinion, evil, mean-spirited, corrupt, arrogant people decided they were going to run some kind of a scam with our money and they would never get caught.

Unfortunately, the trap has fallen on the wrong folks. I ask Members from the Democratic side of the aisle as well to join us or join me, rather, in signing this letter. I have a great deal of respect for my Democratic colleagues. Many of them are good friends. Even when we disagree over political issues, that is what this whole game is all about. We still have respect for each other as decent men and women and citizens of this country, and I think we all have the good interests of this country at heart.

One of the proudest days of my life was back in January 1985, when I stood somewhere about right in here. At that time my son, who is now 14, stood beside me and he held his hand up when I held up mine, and we took the oath of office.

Never did I ever imagine in my wildest dreams that trying to do something to help other people would end up in this kind of a situation.

I am still proud to be a Member of this House, even though we may have low esteem in all the polls that are taken. As the history of this body shows, the House of Representatives can and does do great things for the American people when we work together in the fashion that we are supposed to.

The fact of the matter is, today many Members of Congress are being questioned by the actions of the people who ran the House bank, the Sergeant at Arms. This body cannot begin to win back the respect of the American people until we clean up that mess and clean it up thoroughly.

I realize the cause of every overdraft was not rotten bank procedures. People make mistakes, but some Members of this House knowingly wrote bad checks. I think they have been identified. There must be a differentiation made between the abusers and those who were caught in this particular mess. Their constituents will make their own decisions.

The problem is, their constituents are not being told the truth. But there are a great many of us on both sides of the aisle who have been caught in the middle, and I would appeal to my colleagues today to join me in trying to get to the bottom of this mess, be they Republican or Democrat, because I think if we want to extend it one step further, not only are individuals being smeared but in my opinion the name of this great country is being smeared. There is a tarnish on the eagle because of the actions of a few. And until we get to the bottom of it, it is not going to change.

This House is not going to change it. It has to be some outside independent, objective set of eyes that takes a look at the whole situation. Now we have the post office scandal. Some other questions, I guess, that come to mind, as an old ex-policeman, how much of the post office scandal is tied into the House bank? Where did they launder the cocaine money?

There is a lot of good, strong legal questions. And if I were a reporter today, I think I would be out trying to win a Pulitzer Prize getting to the bottom of it.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I want to clarify a couple of the statements that the gentleman made because I think they are important as we proceed to try to get to the bottom of this matter.

Did I understand the gentleman to say that he finds in his records that there were times when his paycheck was not credited to his account until 5 or 6 days into the month?

Mr. LIGHTFOOT. Mr. Speaker, that is correct.

Mr. WALKER. Mr. Speaker, if the gentleman will continue to yield, the principal job of the House bank was as a disbursing office. As I understand historically, the check-writing ability on an account came about as a result of Members being in town and needing to be able to draw on the funds that were able to be disbursed to them through the House Sergeant at Arms. So therefore, the bank came about from that standpoint.

As has been mentioned many times in this process, it was not a bank in the classic sense. So the fundamental job of the House Sergeant at Arms was, indeed, to disburse checks to the membership; namely, their paychecks, money already earned in the previous month.

If I understand the gentleman correctly, that function, which was to be done on the first of the month, in his particular case was not done until the fifth or the sixth of the month; is that correct?

Mr. LIGHTFOOT. Mr. Speaker, that is correct.

Mr. WALKER. Furthermore, does the gentleman believe that there are other Members of Congress who were also in a similar position where there paychecks were not credited to their account until several days into the month?

□ 1210

Mr. LIGHTFOOT. That is my understanding from listening to other Members talk about their particular situation. This appears to me to be a pattern that is starting to emerge.

In my own case, small deposits were credited in a timely fashion. I found several that were made on one day and credited the following day, and that very easily could have been due to going down late in the afternoon after the business day, so it went on the following day. That is totally understandable.

But the deposits that I found on my particular account that have been held through 3, 4, 5 days all were big deposits, in the thousands of dollars, like my paycheck. As I mentioned in my remarks, my refund from Uncle Sam on income tax was held 6 days.

I realize in a real bank many times that when they do not know who the person is that is on the check that we are depositing, they will hold it until that check clears. That is normal bank procedures. But in both of the cases that I am outlining here, and I can show the Members some of those, too, but in both of the cases I am outlining here my paycheck, which was issued by the Sergeant at Arms, which is merely a transaction across a room no bigger than for me to the gentleman, it was not even across town, it took 5 days for it to move across the room.

Now, somebody was doing something with that money in that period of time. That is what I think we have to find out and get to the bottom of.

Mr. RHODES. Mr. Speaker, will the gentleman yield for one moment?

Mr. LIGHTFOOT. Yes; I yield to the gentleman from Arizona.

Mr. RHODES. Mr. Speaker, I just want to clarify one point. Each of the gentlemen has mentioned that his understanding was that he was being paid on the first of the month. The fact of the matter is that by law, title III, United States Code, and I believe it is section 34 dealing with congressional pay, says that a Member of Congress will be paid at the end of the month. So we were entitled to have our paychecks deposited to that account by the last day of the month, not the first of the following month.

In my particular case, I have gone through all of those credits. I was never credited with my paycheck on the last day of the month. The earliest I was ever credited was the first of the month. But the law says that we are to be paid on the last day of the month.

Mr. LIGHTFOOT. So the gentleman is saying that the law was broken in terms of how we were paid?

Mr. RHODES. If the gentleman will continue to yield, I would certainly judge, at least for the month of the investigation I looked in, I was never paid at the last day of the month.

Mr. WALKER. Mr. Speaker, if the gentleman will continue to yield, I just want to follow up on the discussion the gentleman from Iowa [Mr. LIGHTFOOT] and I were having, if I could, to make certain we clarify the point here.

So in the gentleman's case, and he feels as though this has also affected the Members of Congress, we have a situation where the House bank for some reason was holding a very large deposit of his, namely, his paycheck, for 3, 4, 5, sometimes 6 days without ever doing the function of putting that check in his account so that it could be used for checks that he was writing.

Now, I think the gentleman mentioned that as an ex-police officer, if something like that were taking place in the context of what we now know that would raise some questions in his mind?

Mr. LIGHTFOOT. Yes, many.

Mr. WALKER. For example, I think I understood the gentleman to say that the first question he would raise is what happened to the money; where did the money go if it did not go to his account, is that correct?

Mr. LIGHTFOOT. That is correct. The thing that I think, under normal bookkeeping procedures, and I would yield to anyone who has more information on this, but as the gentleman from Arizona [Mr. RHODES] pointed out, and I was not aware of this, the law says we were to be paid the last day of the month. I assume, then, that is where our paychecks or our stubs, and I should make that plain, we do not get paychecks here. All we do is get an amount deposited to an account. That stub was also dated the last day of the month under the automatic payroll deposit plan, as with people on Social Security checks and all the virtually millions of deposits that the Federal Government makes every day.

It appears that only the Sergeant at Arms, for some unknown reason, delayed those deposits 2, 3, 4, 5, 6, or in one case one Member told me as high as 16 days they had a deposit that was not credited to their account.

So the question becomes that money was in the hands of the Sergeant at Arms, and what did they do with it? I did not get credit for it. Possibly the gentleman did not get credit for it. Who got the credit? Was it somebody who had written a mammoth overdraft?

It is my understanding that the master account, which was kept at Riggs National Bank, was always in balance. How is that done without funds?

Mr. WALKER. If the gentleman will continue to yield, that raises the interesting point. We have been assured throughout this matter the account was always in balance. Yet it appears as though there were people who were not only thousands of dollars behind, but may have been tens of thousands of dollars behind, if I read the accounts that I have seen correctly.

If I understand what the gentleman is telling us, it is his belief that what could have been done here is that because it was a cooperative, that some Members' accounts could have been held in order to cover very large problems with other Members of Congress. Is that what the gentleman is saying might have happened?

Mr. LIGHTFOOT. I think what we have to do when we look at something to investigate it, we have to look at what evidence we have available and go somewhat by gut instinct, what we feel. I believe that in this particular instance it is important that we have to play out all the scenarios as to what could have happened.

One of the could-be's, it could have been sloppy bookkeeping. One of the could-be's is that they did credit the money to somebody else's account in order to keep the master account balanced. Another could-be is that the money was being used by somebody for something else. Maybe they were, you know, whatever, doing something on the side. It is hard to tell. There are a lot of could-be's in this thing.

Mr. WALKER. For example, if somebody had very large gambling debts that were coming due at the end of the month and the bank was somehow covering those, they would need some leeway in order to have that happen. As I understand it, what the gentleman is saying is that some of these very large deposits might have been used to cover a situation like that. Is that one of the possibilities that exists?

Mr. LIGHTFOOT. If we classify it as a possibility, yes. There are thousands of possibilities.

Mr. WALKER. Certainly.

Mr. LIGHTFOOT. What all those possibilities are I certainly do not know, either. The facts that we do have are that a number of Members on both sides of the aisle had deposits that they made and then they were delayed for an inordinate amount of time. That in itself in my opinion is enough for a criminal investigation, because it could be the misappropriation of moneys, it could be fraud, it could be blackmail. There are a whole lot of things we could come up with in this.

Mr. WALKER. Mr. Speaker, I think the gentleman raises a good point. I would point out one other thing to him, and then the gentleman from California [Mr. DOOLITTLE] has been waiting patiently for this Member from Pennsylvania.

I have written a letter to the Speaker today suggesting to the Speaker that we need to have a full GAO report on what took place in the House bank. Up until now, what we know from the GAO report is that they identified certain Members of Congress as having overdrafted their account. But I understand that the GAO looked in some depth at the House bank operation, to the point of being able to make recommendations about major changes in the banking practices because they found it so full of faults.

If in fact we had a GAO investigation taking place of a Federal agency of this type, committee chairmen in this body would immediately make certain there was a full public disclosure of what the GAO found in those kinds of circumstances.

It is clear to me that the GAO has information in their files and has a thoroughly good comprehension of what took place there, and that the public and the membership at this point deserves to know what all of that information is.

We ought not just have a situation where we have defined who the Members are. It seems to me we ought to have a GAO report that tells us what else they found in the House bank. So I have asked the Speaker to go to the GAO and provide us with all the information that the GAO developed. The GAO obviously has the capacity to be able to do that. It seems to me the membership at this point deserves this. It may answer some other questions the gentleman has. It may answer some of the questions I have.

I am very disturbed when I see a report in this morning's newspapers indicating there may be a tie-in between what was happening in the House post office and what was happening in the House bank. Maybe the GAO dealt with some of those issues, but I think it is high time we put it all out on the table and we deal with this matter the way any other GAO report would be dealt with, and that is in a way that assures full public disclosure of all the information.

I think the gentleman's personal circumstance makes me even more convinced that that is something that needs to be done. I thank the gentleman for yielding.

Mr. DOOLITTLE. Mr. Speaker, would the gentleman yield?

Mr. LIGHTFOOT. Yes, I yield to the gentleman from California, who has been here waiting quite awhile.

Mr. DOOLITTLE. Mr. Speaker, I thank the gentleman for yielding.

What the gentleman from Iowa told us was that his paychecks, which he never really physically saw, which went supposedly automatically into the so-called House bank, that the posting of those into his account was delayed by several days, is that what I heard?

Mr. LIGHTFOOT. That is correct. Right.

Mr. DOOLITTLE. If the gentleman would continue to yield, it is interesting, in light of all that has happened, there have been several anomalies that I have noticed, and I just thought they were the peculiarities of an institution that is this old and operates in sort of a cumbersome fashion.

□ 1220

But if I recall correctly, our employees are paid on the last day of the month, and it is a little confusing for the Members, because we actually get that pay stub on the last day of the month. It is dated that way, and yet I was given to understand somehow we were not paid until the first day of the month. I guess Members' salaries come out of a different account than the employees' salaries.

Now we are beginning to find out that there may be some real significance to this peculiarity in treating the Members and when they are paid a little differently than everybody else, and hearing the gentleman tell us now that, indeed, his account was not credited for 6 or 7 or more days, I think, gives a tremendous credence to the suggestion by the gentleman from Pennsylvania that, indeed, we have the full GAO audit.

I have signed the gentleman's letter. I indicated that I would sign a letter last week to my district asking for the U.S. attorney to initiate a criminal investigation here, and I think the facts fully warrant it. I am pleased that the gentleman has sent such a letter, and I have joined him in that request.

I hope that they will look deeply into this matter, considering the potential scope of the violations that may have occurred.

Also, I am troubled by something right now. We are focused on the conduct of individual Members, and that certainly deserves a great deal of focus and attention, people who willfully abuse the privileges of this institution, and specifically the House bank, but you cannot look at this for long without recognizing that just as culpable as the individuals, and really more so, were the authorities in charge of the House bank. What in the world was going on?

Most of us were not in on the action, so to speak, did not know we had informal overdraft protection.

I know that when I was a brand-new Member and had my account, I was told, first of all, I had to have an account there, because I preferred to send my money back to my local bank, and, in fact, I asked to do that and was informed, "Well, we do not have electronic deposit. We will be happy to mail it and, you know, in 8 days, why you can plan on it arriving there." It turned out that I was misinformed. In fact, technically you did not have to have an account at the House bank.

I have since wondered, and I might just raise this, I have since wondered if perhaps the pressure was put on new Members particularly to give them the impression that they had to have an account at the House bank, because maybe they needed the float for the abusers in order to keep the whole system going, and I think that is something that needs to be thoroughly explored, because a lot of the people who are going to show up with insufficient funds are people who on their own books were in balance and, indeed, only now have learned about the incredible practices of this bank which delayed for 6, 7, 8, 9, 10 days, 15 days, I think I heard the gentleman say in one case, the crediting of deposits to an account, thus causing them to be in the overdraft situation and counting them, in the environment in which we operate today, I think, causing tremendous problems for individuals who really through no fault of their own were upright and law-abiding and ethical. So not only do we have the problem of unethical individuals, we have the problem of an unethical operation.

I think we really need to investigate who knew what in terms of what was going on with that bank. I can hardly believe that this was just a secret kept amongst the officials of the bank themselves, and I think we all realize in this institution that there were others who were in on what was going on, certainly the intentional abusers.

I never knew there was an informal practice of overdraft. I tried to get a Visa card when I was told I had to have an account at the bank. Why not? I figured if I am going to have one, let me get the Visa card to get an overdraft, and then I learned, Oh, we do not issue Visa cards. Well, I thought, OK, I will be very careful. I will not use this account much. I will keep my other bank account and mainly rely upon that. I did not realize, however, we had an informal overdraft system that appears to have been seriously abused.

So I thank the gentleman for the opportunity to raise those points.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. LIGHTFOOT. I am happy to yield to the gentleman from California.

Mr. DORNAN of California. Mr. Speaker, I think the gentleman's remarks this afternoon have been very valuable and I thank the gentleman from Iowa [Mr. LIGHTFOOT] for bringing out some of the clear facts. As the gentleman said, was a feeding frenzy going on, and my own case is a perfect example.

I have been over my records ad nauseam with everything but a gigantic Sherlock Holmes magnifying glass and between my own review and a letter from the Sergeant at Arms, I am confident that I had one—and only one—overdraft.

Let me tell you what one buys you: ridicule on Johnny Carson. Last night, the king of late night took a shot at me, and then said another Member spent money to bury Bambi's mother. I was in the Wall Street Journal yesterday, because my one overdraft occurred in the course of having a grotto built in my backyard. I warned a senior editor named Barnie up in New York that if the Journal ridiculed or distorted this incident that I would consider it anti-Christian. He said, "Oh, we wouldn't do that." And then in the story the Wall Street Journal said about me, "Some blame it on religion." A cheap shot.

Newsweek this week had the same cheap-shot reference. I have been on CNN several times. They even demanded to come out to my home with cameras and film the grotto. I told them "Over my shotgun." Then I find that on Rush Limbaugh, who I sit in for, some guy called in calling me B-52 Bob, wrong name, Mr. Dallas, and said that one is as bad as 996. No, I think that something crazy is going on here. And I may be accused of being too defensive, but when I hear stuff like that I think I have a right to be. Moreover, I am more than a little miffed that the press has ignored the fact that, unlike the vast majority of members, I fully disclosed 5 months ago and urged my colleagues to do likewise. I didn't wait until there has the threat of a House resolution. I didn't need a resolution to tell me to do what was right. And yet I find myself the subject of news stories.

For the record, the gentleman was in the room when we had a private Republican caucus of about 165 members, and I said, to relieve the electric tension in that room, that my one overdraft had occurred in the course of building a grotto, and I looked heavenward and said, "Why, God?" It elicited a nice laugh. The gentleman was there, was he not?

Two of my colleagues went right out and told the L.A. Times that I spent $10,000 for a statue of the blessed mother, so we are now trying to attack one another with lies and distortions. Maybe they were not listening. I'm talking about fellow Republicans.

Listen to what the New York Times said today. It says,

> Not all bouncers are bad. The scandal at the House bank is generating a storm of criticism out of proportion to the sins committed.

I will not be telling in confession about my one check, Jim, I assure you. I confessed it 5 months ago.

> Whatever sloppiness occurred and whatever shady acts may have been performed by a few, the scandal has threatened to tar unjustly the reputation of scores if not hundreds of Representatives whose offenses appear minor.

That's fine as far as it goes, but the New York Times goes further, and quotes a Member as saying that even one of the worst offenders did nothing more than treat his account as if it were and American Express card.

I am afraid the New York Times is behind the L.A. Times. The L.A. Times points out that this worst offender literally did have 64 checks bounced, not held or kited or floated, but bounced. And I want to say something about the people in the bank. Whatever went on down there, and I have said this on the House floor, I have never met nicer people in my life than the people who worked in the bank here. I am going to name them by first names. I do not want to give their last names without their permission, but Charlie, and Vernon, and Carolyn, all the team down there, they were delightful people, as courteous as any I have ever had dealings with in my life.

In my case, I was disappointed that I was never notified. Had I been informed, I would have said, "Don't cash one of those two checks, send it to me." But by honoring it, I lost that money for about a year and a half, though I eventually got my money back. The point is if one check can cause all of the excoriation, and as the gentleman pointed out, the damage of my reputation, then something is out of whack, especially when I have CNN, the Wall Street Journal, and even Michael Kinsley skewering me because of the grotto, as if being serious about your religion makes you a little weird.

□ 1230

The truth is I never hid behind religion. Mr. Speaker, I have been for full disclosure since day one, because I believed the American people could be trusted with this information. They can tell those who abused the system from those who didn't. However, the news media is apparently a different story, and they need to be less judgmental because a lot of good people are going to get hurt by this broadbrush reporting that can't distinguish between those who had one overdraft and those who had hundreds.

I have my remarks to Mr. FOLEY on this floor September 25.

I said:

> Mr. Speaker, I am going to go to our Sergeant at Arms and ask for a letter saying that in 15 years I have never bounced one, not one, because this is a privilege and not a bank, as you say, and it is a different system.

OK, I set myself up by saying none, and then I got one, just as I mentioned. And I immediately disclosed it.

I am saying to the press in the interest of what they claim is their guiding lodestar, fairness, to knock off this garbage of ripping up people who have obviously made honest mistakes, to analyze what you have said, to look at people in the bottom third here and see if they do not owe some people some apology.

As far as Johnny Carson, Michael Kinsley, CNN, and Newsweek go, I can take the heat. And besides, as far as I am concerned, one overdraft is nothing to be ashamed of. Neither is a grotto. If Dana Carvey starts doing BOB DORNAN impersonations maybe I'll start worrying.

So let us have some sense in trying to separate the good from the abusers, and the Times may have a standard that is based on favoritism for liberal Democrats, but at least the New York Times headline is correct that not all bouncers are bad. The Times should say that not all bouncers bounced, and not all people who had kited or held checks should have been ignored by the bank but should have been notified by the bank.

As our great Secretary of Defense said the other day, one phone call and he could have corrected it in 5 minutes. That failure to notify caused a domino effect that led to 25 overdrafts.

But I do not fault these good people at the bank for not calling us, because obviously they could not call me when they had hundreds of other overdrafts that day.

One further thing about the time exposure. Mr. Cheney was exposed for about 9 months out of 39, so I am glad that he was not here to have his reputation hurt any more.

Tony Coelho, the former whip who left this town in disgrace and was bragging on Nightline the other night that because of his heavy remuneration on Wall Street, he would not want to be back here.

Mr. HOYER still comes on this floor and talks about Coelho as though he is a paragon of virtue. He had 316 overdrafts from July 1, 1988, to when he resigned in disgrace in June. My counting says that is 11 months out of 39. If old Tony boy had been around here, he would have broken all the records. He would have surpassed everyone and bounced about 1,500 checks. So who is he to sit on Nightline and judge the rest of us? Let us have the news media do their job here.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman will suspend. The gentleman will refrain from referring to other Members of the House.

Mr. DORNAN of California. Well, Mr. Speaker, Mr. Coelho is not a Member of the House.

The SPEAKER pro tempore. The Chair believes another person the gentleman mentioned is a Member of the House, and the gentleman will refrain from any such reference.

Mr. DORNAN of California. I am sorry, Mr. Speaker. I apologize to the gentleman from New York.

Mr. KANJORSKI. Mr. Speaker, will the gentleman yield?

Mr. LIGHTFOOT. I yield to my friend, the gentleman from Pennsylvania.

Mr. KANJORSKI. Mr. Speaker, the gentleman from Iowa and I came to the Congress together. I appreciate his reaction to this whole thing.

I would just like to caution the gentleman from California [Mr. DORNAN], a friend of mine, and perhaps his whole problem is there is too much innuendo and inference without facts.

I think we have a tendency to identify Members without knowing all the facts about what happened.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. LIGHTFOOT. I yield to the gentleman from California.

Mr. DORNAN of California. Was the gentleman from Pennsylvania referring to Mr. Coelho?

Mr. KANJORSKI. I just said that recently, I do not think it is going to solve anything to find someone who may have committed greater violations than someone else.

I think the important thing that the American people want now are to know the accurate and correct facts. They are not really interested in personalities, numbers, sizes, and that is what is being fed on by the press, and I agree with the gentleman.

But that is not the essence of what is attacking the credibility and the integrity of this institution.

Mr. Speaker, if the gentleman will continue to yield, I say to my friend, the gentleman from Iowa, that I have listened here for several days. I have listened to newscasts. I have listened to programs, and it astounds me, it absolutely astounds me that this is a body that creates law.

It seems to me, I would like to make an inquiry of the gentleman, does the gentleman know the law in regard to the salaries of Members?

Mr. LIGHTFOOT. No.

Mr. KANJORSKI. Could the gentleman yield so that I may ask a question of the other Members on the floor.

If I could direct a question to the gentleman from California [Mr. DORNAN], does the gentleman know the law on Members' salaries?

Mr. DORNAN of California. On what?

Mr. KANJORSKI. On Members' salaries.

Mr. DORNAN of California. This check should be deposited the last day.

Mr. KANJORSKI. The law of the United States in volume 2, section 35 of the United States Code says that each Member and Delegate after he has taken and subscribed to the required oath is entitled to receive his salary at the end of each month. In order to accomplish that, the payment would have to be made the last business day of each month.

Now, I call that to the gentleman's attention. I wish we had had more support for the motion of the gentleman from California [Mr. EDWARDS] the other day, those of us who supported him, in asking for accuracy, because I have discovered that up until yesterday the Ethics Committee itself was not aware of the law. So as a result, I would assume that the General Accounting Office was not aware of the law, so that as they went through the study of the bank records, they would have been applying the procedure and custom of the bank, but not the law.

The law is that Members of Congress were entitled to have their salaries by the end of the month, and those salaries since they were designated either to a bank or the House bank, as it is now, had to be made prior to the end of the month.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. LIGHTFOOT. I will yield to the gentleman from California just for 1 minute, because we need to get on with other matters.

Mr. DORNAN of California. I just want to tell the gentleman, Mr. Speaker, that it was made clear to me 10, 12, 15 years ago, that there might be a delay between the day we were paid and the first day the money was available in the bank, and I took that into consideration.

But let me tell the gentleman again, speaking of the poor people who worked in the bank. Obviously, they were given an administrative nightmare by the abusers, so that they were unable to make even one call to me in 15 years or take care of his problem or not to have paychecks reported in a timely manner.

The problem here is that we need the GAO report in full out on this House floor so the American people can separate those people who abused the system from those who made honest mistakes.

Mr. KANJORSKI. And what I would suggest is something more than the GAO report is that we have to have a thorough analysis of what happened and why it happened. That is what the American people require.

The General Accounting report if it relies on misimpressions of procedures of the bank is not going to be examining into it as to why we were not paid in accordance with the law.

Mr. WALKER. Mr. Speaker, will the gentleman yield to me?

Mr. LIGHTFOOT. I yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding to me.

I would hope that my colleague, the gentleman from Pennsylvania, would join us in the effort to get the GAO report. The fact is the GAO has looked extensively at all those matters, has a complete set of files on what happened in the House bank and what the administrative problems were there, has looked extensively enough to be able to make recommendations for cleaning up the House bank, and none of that material has yet been made public.

□ 1240

The only facet of the GAO report that has been made public is the compendium of Members' names who overdrafted at the bank.

Mr. LIGHTFOOT. If I may interrupt the gentleman, the compendium referred to is not of people who have overdrafted; it is of anybody who ever got a red mark put on a check that was held at the bank, which was not necessarily an overdraft.

Mr. WALKER. That is right. So the GAO is, in that sense, relying upon the procedures of the bank, whatever they may have been. It sounds as though the bank was horribly mismanaged. The point being here what we also ought to understand is what the extent of that mismanagement was and we also ought to know who was condoning that mismanagement.

We ought to also understand who was acknowledging the fact that there was mismanagement and yet allowing it to go on.

The GAO has developed all of that. I say to my colleague from Pennsylvania, if in fact we had information in a GAO study of an executive agency that every committee chairman on this Hill that had such material would see to it that a report was done and it was released. It seems to me that when Congress is involved, we have the same kind of obligation to make certain that that GAO report is released and we ought to understand in detail what was happening in the House bank and then we can proceed forward from that point.

Mr. KANJORSKI. If the gentleman would yield one more time, I would only respond, I do not think the gentleman is necessarily following some of the precedents of other Members of this House who have thought that this was of some great political advantage to one party or another. I for one happen to think it is not.

What I am interested in is not only having the GAO report put out but I want to know whether the GAO report is correct and accurate. Everything I have seen in this matter so far over the last 7 months that I am aware of, there has been little attention to accuracy, correctness, and truth in the law and more to innuendo, inference, and judgment before the facts are known. I do not think this Congress, the individuals in it, or the American people are well served if we continue down this road of inaccuracy.

So, what I would suggest is that the gentleman from Pennsylvania [Mr. WALKER] join all of us and put together a thorough process, going all the way back to finding out why the Treasury of the United States did not comply with the law and pay the Members of Congress in accordance with the law. It does not stop at the House bank, it goes downtown to the executive.

Every Member of this House, every month that he served here, has not been paid properly under the law. That is important because, as I have discussed with Members on the Republican side and my side, probably 100 or 150 Members that will be listed on that list as having overdrafts are totally on the basis that their checks were deposited at the last working day of the month and not honored until the first working day of the month, in contradiction of the law.

Mr. LIGHTFOOT. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding because I realize that the gentleman wants to try to switch some of the responsibility downtown. But the fact is that, as I understand it, the way the situation was handled was that the Treasury held all of the money for a year in the Treasury account. It was up to the House Sergeant at Arms to draw from that account. So, therefore, if there is a problem in terms of the issuance of checks, once again it does come back to the Sergeant at Arms Office and the mismanagement there, and those who permitted that mismanagement to go forward. So, while the checks are obviously drawn on the Treasury, it is in fact not a problem that the money was not allocated by the Treasury; the money was there, it was up to the Sergeant at Arms to decide when we were going to be paid.

One other factor, the gentleman indicated that what we should have done was followed the resolution that he voted for the other night that our colleague, the gentleman from Oklahoma [Mr. EDWARDS] offered. A number of us do not have any hesitancy to having that kind of information developed.

The problem with the Edwards resolution was that it was optional as to whether or not the information as to who bounced checks would be released.

So, if the gentleman is suggesting that that was an appropriate way to proceed, I do not think it was. I think that having voted that we were going to go forward at least with this information, it was necessary to proceed on and not retreat from that position by having an optional position on the release of the full disclosure.

Mr. KANJORSKI. If the gentleman would yield further, just 1 second, the gentleman from Oklahoma [Mr. EDWARDS] was on the floor the other night, on Thursday, and he clearly indicated it was not his intention to in any way not have full and accurate disclosure.

Mr. WALKER. That was the language in his resolution.

Mr. KANJORSKI. And he agreed to accept an amendment from the floor to correct that error.

Mr. WALKER. No, it was not amended, it was—the one that was voted on, was an optional disclosure resolution.

Mr. LIGHTFOOT. I yield to the gentleman from Illinois.

Mr. HASTERT. I thank the gentleman for yielding.

I want to inquire of the gentleman from Pennsylvania [Mr. WALKER] this question: Did the gentleman say that the U.S. Treasury held the appropriations for the U.S. Congress for 1 whole year and the Sergeant at Arms then drew against that?

Mr. WALKER. If the gentleman will yield, that is my understanding of the situation.

Mr. HASTERT. Is the gentleman saying that the U.S. Treasury used the float of our appropriated funds for a whole year, diminishing down to the last month?

Mr. WALKER. It could be.

Mr. HASTERT. Do we know where the interest went?

Mr. WALKER. The question is whether or not there may have been a float used by the Sergeant at Arms. I mean that is, I think, one of the questions that was raised earlier.

Mr. HASTERT. I just think that the gentleman brings up a very interesting question because if the U.S. Treasury was appropriated our funds for 1 year and held on to the funds that belonged to the House of Representatives and used that money against the deficit or used the money and accumulated the funds on it or interest, that would be a very interesting thing to find out.

Mr. WALKER. But my understanding is that they had the appropriated accounts and that that was drawn down. That is my understanding.

Mr. HASTERT. I thank the gentleman for yielding.

Mr. LIGHTFOOT. I thank everyone for their participation from both sides of the aisle.

Mr. Speaker, I think it is obvious from the discussion that it is kind of like walking through a pasture and kicking over cow pies; every time you do, there is a whole other bunch of flies coming out from underneath it and the problem with it is that the flies are sticking to a lot of people that they do not deserve to be stuck to.

Again, back to my original point, there is one basic question that the House I think has to have answered, and that is: Where or what was done with our deposits between the time that we made them and the time that they were credited to our accounts?

For that reason alone, I would urge my colleagues to join me in signing a letter to the Attorney General for a criminal investigation of the House bank, and if it ties in with the post office we will put that in it as well.

It is one of those things that you cannot fight people that buy ink by the barrel and paper by the roll, they are going to write what they want to write.

But in my own heart I know what I did and did not do. Quite frankly, the only thing that matters to me is those four words that are up behind the Speaker, which say "In God We Trust."

I know where I am, that is where my strength comes from. If the Register does not like it, or anybody else, no big deal, because the only poll that really counts is that one that they take when you get down to the end of the road.

Mr. Speaker, I am going to try to live so that I can be on the right side when that comes.

I think that is the message that we have to teach our children, to set examples for them, that honesty and integrity is the only way that you can survive. And, yes, people are human; they do make mistakes, they do make errors. But there is a difference between a simple mistake, a simple miscalculation, a simple error, and someone who deliberately goes about abusing whatever it might be.

Mr. Speaker, I thank you for your indulgence.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2824

Mr. SCHIFF. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 2824.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from New Mexico?

There was no objection.

ORDER OF BUSINESS

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent the special order by Mr. DORNAN for 60 minutes today be vacated and that he be permitted to address the House for 5 minutes instead.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentleman from California?

There was no objection.

□ 1250

THE NEW CAREERS IN EDUCATION ACT

The SPEAKER pro tempore (Mr. MCNULTY). Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, today I, along with IKE SKELTON and 12 other original cosponsors, will introduce legislation designed to assist our brave and talented servicemen and women with their transition to civilian life, as well as improve our educational system.

Mr. Speaker, if I had to title my introductory remarks to this legislation, I would say: Using heroes as role models and superb teachers in our educational system.

Mr. Speaker, the New Careers in Education Act, which is what we 13 original sponsors will call this, would help qualified military personnel, who are being discharged from the armed services due to force reductions, begin new careers as classroom teachers.

The military is a particularly fruitful source of instructors. Former servicemen and women would bring tremendous strengths and assets to the classroom including maturity, discipline, and the ability to motivate our Nation's youth, much in the same way they motivated our soldiers to swift victory in Grenada, Panama, and Operation Desert Storm just 1 year ago.

Specifically, this legislation authorizes the Department of Defense to establish a program which would provide financial assistance to qualified servicemen and women who pursue teaching certification and agree to teach for a minimum of 2 years. All members of the armed services who served on active duty for a minimum of 180 days are eligible to apply for the program.

As elected officials we are charged with the responsibility of overseeing our Nation's military draw-down, and we certainly have an obligation, we in this distinguished deliberative body and the Senate on the north end of the building, we have an obligation to the men and women who have made countless sacrifices on behalf of our Nation, not only in the aforementioned conflicts, but in Vietnam, and in Korea, and throughout all of the cold war, which was very hot and very bloody, and I am one of those who loves and knows history, and it includes our stalemate operation in Korea, and then our winning and then politically losing operation in Vietnam, as part of that cold war struggle. We did not win every battle. We only lost those because of people in this Chamber, and the other and the media taking sides in that conflict in Vietnam, but we certainly won the overall objective of collapsing communism within inside of 74 years from its evil birth, a system that killed more people than even Adolf Hitler killed in his blatantly evil regime of 12 years of the so-called Third Reich, and I have a good source for that: Mr. Mikhail Sergeyevich Gorbachev himself saying that Stalin killed more people than Hitler. So, these people throughout all of the cold war and those of recent times who had planned on making the military service as a career, these men and women, some of them young, some of them not so young, they have an awful lot still to give to our country. The New Careers in Education Act is one way we can demonstrate to them our commitment to supporting their transition back into civilian life they loved and have served so well.

I urge the rest of my colleagues, Mr. Speaker, to join us in cosponsoring this important and desperately needed piece of legislation. Our brave service men and women, as well as our Nation's youth, will certainly benefit from our assistance in this transition.

I would like to put in the RECORD, Mr. Speaker, my dear-colleague to all of our Members signed by the gentleman from Missouri [Mr. SKELTON] and myself, and I would like to put in the RECORD my press release which synthesizes this down to an even shorter presentation than I made here, and I would like to point out that I hope we can get a crime bill out in the remaining months before this fiscal year comes to an end with its $400 billion deficit, and in that crime bill I hope what passed the Senate and the House will stay. My legislation, it has been called the police corps bill modeled after the Reserve Officers Training Program, the ROTC, around our country. If we would approach these education problems by taking young people, helping men and women to go through college giving them the assistance that we gave for ROTC, and then giving them the choice to join the police department of their choice to end this plague of crime in our country, at least put more men and women on the streets as our line of defense against violence and, thereby, at least try to roll it back some as we try to figure out what to do about the drug plague in the modern world that now creeps in and destroys nations in the Third World, and then this, as sort of a bookend or counterpiece to my police corps legislation, is to take these tremendous instructors out of the military and move them into our school systems.

People say we have a glut of teachers. Yes, teachers that want to teach maybe some of the important, but simpler, subjects. In math, science and technology there is a shortage of teachers, and that is what a lot of these excellent people have been doing in the military, teaching the young people coming into the military behind them.

So, I hope we will get this through as legislation this year.

The letter and the press release referred to are as follows:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 18, 1992.

HELP DISPLACED U.S. SERVICEMEN FIND NEW CAREERS IN EDUCATION

DEAR COLLEAGUE: We are writing to ask your support of legislation that would help qualified U.S. servicemen and women, who are being discharged from the armed services due to scheduled force reductions, begin new careers as elementary and secondary school teachers.

The military is a particularly fruitful source of future teachers. By 1995, the armed services will reduce the number of active duty personnel by 521,000. Many of these former servicemen and women would bring tremendous strengths and assets to the classroom, including maturity, discipline, and the ability to work with and motivate our nation's youth.

In June 1991, the U.S. Army, under the guidance of Assistant Secretary for Manpower Kim Wincup, instituted an innovate new program called "New Careers in Education." The Army program encourages soldiers to take advantage of educational programs which provide college graduates with the certification necessary to teach in elementary and secondary schools. Twenty-nine states currently have alternative certification programs which are designed to expand the pool of qualified teacher candidates.

Depending on the state's needs and requirements, alternative certification programs may take several months of participation (or even several years if pursued on a part-time basis). All programs require prior completion of an undergraduate degree, usually with a minimum grade-point average.

Working with the U.S. Department of Education, the Army has provided 11,000 soldiers with the information necessary to seek a state teaching certification.

Due to the tremendous interest in the Army's program, we have drafted legislation, "The New Careers in Education Act," which would authorize financial assistance to qualified servicemen had women who pursue certification and agree to teach for a minimum of two years.

Specifically, the legislation authorizes the Department of Defense to: establish the criteria for the program; define what a "reasonable" stipend would be; and report back to Congress within 180 days. All members of the Armed Services who served on active duty for a minimum of 180 days are eligible to apply for the program. Eligible members have up to one year from the time of enactment or from their discharge to apply for the program.

For those military members who want to teach, "New Careers in Education" is a program that offers great promise. But the real winners will be America's youth who will benefit as the pool of well-qualified teacher-candidates is enlarged.

Indeed, according to many studies, a lack of classroom discipline is the most serious problem in many of our nation's schools. Who is better qualified to instill discipline than our former members of our military? Additionally, a recent international comparison of schoolchildren revealed that American students perform below average in science and math, partly because of a critical shortage of qualified teachers. It has been estimated that one-third of the officers leaving the Army alone are qualified to teach high school math, while between 10 and 20 percent have backgrounds that would enable them to teach high school science.

As elected federal officials charged with the responsibility of overseeing our nation's post-Cold War military draw-down, we have an obligation to the men and women of our armed services who have made many sacrifices on behalf of our nation. "New Careers in Education" is one way we can demonstrate to them our commitment to supporting their transition back into civilian life.

If you have any questions or would like to cosponsor the "New Careers in Education Act," which will be introduced on Thursday, February 27, please contact Bill Fallon at x5-2965.

Sincerely,

ROBERT K. DORNAN,
IKE SKELTON,
U.S. Congressmen.

[Press release of Mar. 19, 1992]

DORNAN BILL TO HELP EX-MILITARY BECOME TEACHERS—PROGRAM WOULD PROVIDE EDUCATIONAL STIPENDS TO FORMER COLD WARRIORS

WASHINGTON, DC.—Legislation introduced today in the U.S. House of Representatives would channel discharged military personnel into teaching careers, according to the bill's sponsor, U.S. Rep. Robert K. Dornan (R–CA).

"This is a program which can work to accomplish two very important goals," said Dornan.

"It would help integrate former members of the military into the civilian economy while at the same time raising the quality of American education by tapping into the vast resources and expertise of U.S. armed forces personnel."

The New Careers in Education Act would provide stipends out of existing funds for those educational expenses associated with teacher certification programs. Qualified U.S. servicemen and women who are discharged from the military due to scheduled force reductions would be eligible should they agree to teach for at least two years on the elementary or secondary school level.

In the next three years, over half a million people will be discharged from the military as the Department of Defense trims its ranks after the break-up of the Soviet Union.

"I believe we have an obligation to our Cold War warriors," Dornan said. "This legislation will help them make the transition from service in the military to meaningful careers serving the educational needs of America."

A survey by the National Executive Service Corporation revealed that 79 percent of responding military members were interested in teaching as a new career. Current estimates also reveal that approximately one-third of the officers leaving the Army alone are qualified to teach high school math, and 10 to 20 percent are qualified to teach science.

Dornan believes former soldiers, sailors and airmen provide "an abundant supply of talent as potential teachers of our nation's youth."

"The New Careers in Education Act offers a tremendous opportunity to the military members who want to teach," the congressman said. "However, the real winners would be our nation's young people who stand to gain not only positive role models but also exceptionally-qualified teachers to help guide them to become the leaders of tomorrow."

The legislation has 13 original sponsors. They are U.S. Reps. Ike Skelton (D–MO), Don Young (R–AK), William Lipinski (D–IL), Ron Packard (R–CA), Robert Lagomarsino (R–CA), Floyd Spence (R–SC), Marcy Kaptur (D–OH), Martin Lancaster (D–NC), Robert Roe (D–NJ), Ben Blaz (R–GU), Jerry Huckaby (D–LA), Peter Kostmayer (D–PA), and Martin Frost (D–TX).

THE GAO REPORT ON THE HOUSE BANK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, earlier today in another discussion on the floor I noted that I have written to the Speaker of the House, the gentleman from Washington [Mr. FOLEY], asking him to make available to the House membership the full report of the General Accounting Office on the House bank. It is apparent that the General Accounting Office has developed files and information on the House bank that go well beyond any of the public disclosure that has taken place up until now. It is clear from information that has appeared publicly that the GAO recommended fairly important reforms in the House bank which were never implemented, and it also cleared that the GAO may have some linkages to other kinds of problems within the House which should be detailed for membership in my opinion.

Mr. Speaker, I am specifically referring to an article that appeared in the Washington Times this morning indicating that the checking scandal in the House bank may be directly related to the cocaine scandal in the House post office, and let me quote, if I can, from the paper this morning to tell my colleagues why I believe this is something which needs to be thoroughly investigated and thoroughly understood. I quote from the Paul Rodriguez story of this morning.

Mr. Speaker, I ask unanimous consent that I be permitted to read from papers.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Speaker, I quote from the Washington Times:

> An illegal check-cashing operation at the House post office has now been linked to the House's bad-check scandal. Congressional and law enforcement officials have found the House Members reportedly cashed personal checks and thousands of dollars in campaign checks at the postal facility, an independent contractor to the U.S. Postal Service.

A little further down in the article the Washington Times says that a Federal grand jury is also looking at a scheme at the House post office involving the use of congressional or campaign checks to buy stamps that would later be turned back in for cash. The article goes on to say:

> Some House Members who were no longer allowed to cash checks at the now closed bank would circumvent the restrictions by writing checks at the post office. The checks would be made out to either cash or the postmaster.

Now that is a series of very detailed and disturbing charges that would involve a direct tie between what was going on in the bank and then what ended up going on in the post office.

Here is a quote from one of the officials that was evidently close to this problem. I quote again from the Washington Times, but this is quoting one of the officials who spoke to the Washington Times about this matter:

> In some cases there have been reports where Members actually would have cash envelopes delivered to their offices by postal workers who would return with a check that post office officials would hold sometimes for a few days before depositing it.

That is an absolutely unbelievable circumstance, if we had people working for the post office, running around the Hill with cash in envelopes that would be covered later by a check that was probably not a good check because it was being held for a period of time.

□ 1300

The article goes on to say:

> Unlike the bank, where the money used was essentially Members' pooled salaries, funds used to cover personal and campaign checks at the Post Office involved U.S. Postal Service money. Postal Service regulations prohibit the use of its funds for anything other than official business, which includes the buying of stamps, envelopes, money orders, and special delivery services.

Now, the Times is laying out that we are now talking about money which goes well beyond what we were told was not public money in the House bank. We are now beginning to talk about public money, taxpayers' money, which is involved in this enmeshed scandal.

The article goes on to say, and I quote further:

> One of the sources familiar with the deliberations of the House Ethics Committee said that the General Accounting Office uncovered some evidence to link Members' checks with such activities, but the panel members were already so overloaded with information that they just couldn't get into that kind of an inquiry.

That tells me two things: First of all, the GAO did a far more comprehensive investigation than the House Ethics Committee has dealt with in the report that came to us on the check kiting scandal.

Second, it tells me that there is a need for the membership to have a very clear understanding of what all the GAO does know, because if in fact public money was being used out of the House bank for Members' personal checking accounts or for Members' personal use, then we have illegality that has taken place because that was not money that was appropriately used in that way. That is the reason why a full GAO report is deserved at this point.

We need to know these things: Did the GAO find these kinds of linkages between the post office and the bank? Did the GAO feel that there were illegalities involved? Did the GAO make recommendations for ending that kind of relationship? Did the GAO feel that there were instances where Members, having lost their privileges at the bank because of kiting checks, were now getting checks cashed at the post office?

Those are questions which the membership needs to have answered before this breaks into another scandal of unimaginable proportions. As I understand it, the U.S. attorney may already be looking into some of these charges.

There is a paragraph later on in this same article that indicates as a part of a joint criminal probe by the U.S. Attorney's Office and the Postal Inspection Service that:

> Federal law enforcement officials have heard allegations of check kiting and loan service operations at the Post Office using postal funds, allegations implicating not only employees and staff but also House Members.

Now, in a paragraph on down in the article, it is said, and I quote:

> It is too early to tell whether there is sufficient evidence to link the two,

Meaning the House bank and post office improprieties—

> said one of the officials who spoke with the Times, "but there certainly seem to be some connections that could involve some serious crimes."

Well, if the GAO has knowledge of criminal activity, if that is in possession of the House, then that is a report that the membership deserves to have and that the public deserves to have, and I think that the earlier we release this, the more we will go down the route of full disclosure that we have promised to the American people with regard to this matter.

It is clear that the matter goes well beyond simply who had what overdraft. The matter goes to a cancer that has affected the operations of the House of Representatives, and the only way that we are going to be able to rid this House of that cancer is to deal with it openly and to deal with it thoroughly, and we have to start from the basis of a GAO report if in fact that kind of information exists.

It disturbs me to recognize that there may be an attempt to try to put the whole issue behind us rather than deal with it in that kind of detail. There is an article this morning in the New York Times indicating that the House Democratic leadership is feeling battered by this scandal and wants to kind of move beyond it.

And how are they going to do this? Let me quote one of the members of their whip organization, who says that "there will be a concerted leadership effort to accelerate the legislative calendar, especially the wedge issues."

Well, what are wedge issues? Wedge issues are political issues. Wedge issues are the attempts to drive a political wedge between Republicans and Democrats and to say, "In other words, what we are going to do to try to put the scandal behind us is politicize the House of Representatives and try to move the legislative process out of the realm where anybody can raise questions about the House banking scandal."

I think that would be tragic, particularly if we are in possession of information that might ultimately tell the American people what was going wrong within this institution and give us some ability to correct the problems.

Mr. DOOLITTLE. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from California.

Mr. DOOLITTLE. Mr. Speaker, I appreciate the gentleman's yielding.

Mr. Speaker, may I add that not only would that be tragic but it would be totally ineffective for their purposes, because with reference to the House Bank scandal, I think the American people are aware of what is involved here. This has come to symbolize really the arrogance of Congress and its unwillingness to deal with problems that are confronting the American people, and if the Democratic leadership thinks that somehow they are going to sweep this under the carpet and get on to their other issues, Mr. Speaker, let me say that this is the issue. This is the issue, the accountability of Congress.

The reason people are so upset today is because of the tremendous differential between what our charge is and what our performance is. I mean we are hiking taxes on people who can ill afford to pay what they are paying now, and we are consequently throwing people out of work.

We are about ready to pass what is in my judgment a phony economic growth package put forward by the majority party which, estimates say, is going to cost us 100,000 jobs. That is some economic growth.

Conditions in this country continue to decline. Look at what is happening to the average American family. Look at what is happening to the condition of our cities. These policies put in place by the majority party, which has controlled this institution for 38 years without interruption, have bred a nationwide malaise, despite the expenditure of hundreds of billions of dollars of taxpayer funds ostensibly to relieve this problem.

Then we come to the House Bank, and in the midst of all these conditions we discover that Members of the House of Representatives appear to have and in fact in many cases do have interest-free loans on their checking accounts. Where else in the United States, indeed in the world, is it possible to overdraft your account and have it taken care of? When we have examples of individuals doing this, not a few times, not dozens of times, but hundreds of times, with the face value of the checks being written in the thousands and thousands of dollars, it is a bit of an affront. It is a great affront.

□ 1310

Mr. Speaker, let us be straight with the American people, when they contrast what appears to be a decadent, out of touch, arrogant body that is supposed to be the people's body, the people's servant, that basically appears to be not concerned in the slightest about the problems facing this country, but indeed more concerned with their own internal bickering.

So if the majority now is to try to get beyond this by talking about the wedge issues, well, that is just like pouring gasoline on the fire.

Mr. WALKER. Mr. Speaker, reclaiming my time, let me say to the gentleman that the individual whom I quoted did go on to say that he thought they were going to have some problems with selling that, because, and I quote him again, he talks about this issue, meaning the House bank issue:

> This issue has hit home like a thunder shock, forcing Members to spend time going through their bank records, offering their explanations to the news media, and consulting with accountants and lawyers. There would be pressure on the Speaker to shorten the legislative calendar so Members will have more time to campaign in their districts.

He is not overwhelmingly confident the American people are going to buy into the strategy, but that seems to be the strategy they are going to implement.

Mr. Speaker, I agree with the gentleman from California [Mr. DOOLITTLE]. We ought to deal with the important issues before the country. We ought not be totally distracted by the bank scandal.

On the other hand, it is clear to me in talking to my constituents back home that the American people do want a full accounting for what went wrong in the House bank. I think as they learn more about the House post office scandal, they are going to want a full accounting for what went wrong in the House post office.

I think when you get the two of those together, people are going to begin asking the question what has gone wrong in the House of Representatives.

Most people regard this as the greatest parliamentary body in the world. This is the place that the peoples of the world, including the peoples of America, believe where the greatest debate takes place about the world's future. They are disturbed by the fact that it has been corrupted. But they have come to the conclusion, based upon this scandal, and I am afraid based upon things that are yet to be revealed, that it has been corrupted.

Now the question is how do you clean that up? There are some who would say well, we will run out a series of resolutions putting new bureaucrats in place, and somehow that will clean up the scandal.

I do not think so. I do not think the American people will be satisfied that the scandal is cleaned up until they know what went wrong in the first place, until they know that we have in fact done the kind of surgery that will eliminate the cancer, and not simply try to in some way cover over the fact that there is an institutional corruption within the body.

Mr. DOOLITTLE. Mr. Speaker, if the gentleman will yield further, I agree completely with the gentleman from Pennsylvania [Mr. WALKER]. There is an institutional corruption, and it is far reaching.

What I think is now becoming apparent, at least it is being strongly hinted at by some of the revelations coming forth, indeed it is not just perhaps violations of appropriate ethical standards, which alone would be serious, but there may well be criminal violations. Indeed, the U.S. attorney apparently is looking into that for the post office. I have joined in the letter urging him to do so. I think we have got to get to the bottom of this. We have got to air it out so we can rebuild this institution and make it serve the people.

I, as one individual here representing a northeastern California district, am frustrated by the tremendous amounts of tax money that we have pouring into the Federal Treasury and by our seeming inability to do anything about the major problems of the day.

People are beginning to wonder why they are paying these outrageously high tax bills, what they are getting in return for their money. They are getting to expect less in the future, that the problems are going to be worse, and we will have less to work with.

Well, I would submit we have to change that whole attitude. We have the making to solve the problems of the people of this great country. What we ought to be doing is advancing those solutions, not just engaging in bickering between the parties, for which there is an underlying legitimate difference of opinion, but we ought to come together in this country, Republicans and Democrats, liberals and conservatives, and agree that the criminal situation in our major cities in unacceptable. We ought to advance proposals that will address that problem.

Prisons are one way to address the problems. We have built a lot of prisons, and the crime continues to outstrip our capability in that area. Maybe we need to return to the family.

What are we doing to the American family that transmits values from parents to children, that gives people an appreciation for the sanctity of human life, the respect that is to be accorded, the necessity to obey the laws?

Instead we have taken away opportunity from people in the inner cities. We have encouraged the creation of an underclass.

Even in our city of Sacramento, which is not a great metropolitan area on a national scale, we now have drive-by shootings and we have gangs. You can see this cancer spreading into our smaller communities.

What are we doing about it? We should be addressing the problem. I fundamentally believe that in order to address the problem we have to have a quiet revolution in this country. It has to begin in the House of Representatives.

In order for that to occur, we are going to have to have a thorough airing of this bank scandal, the post office scandal, the restaurant issue.

Let us get this out on the table. Let us punish the wrongdoers. It is my hope that the people will carefully examine the conduct of their Representatives in November and will send us a group of men and women who will agree to fulfill their responsibilities in terms of sustaining the Constitution and fulfilling the charge the American people have given to us.

That is why this House bank issue I think is so important. We must get to the bottom of it, rather than just trying to sweep it under the carpet or limit disclosure, which quite clearly has been the trend since this first surfaced, to have as little disclosure as possible, to limit it to the 24.

We have had to fight tooth and nail to get an opening of this whole issue. We had to fight to get any investigation whatsoever. It was simply going to be addressed briefly in a speech by the Speaker on the House floor last fall. That was to have been the end of it.

We pressed, some of us, and finally joined in by a majority of the House, to get an Ethics Committee investigation. When the Ethics Committee came back and said, "Oh, well, we will identify the 24 worst abusers, and that is it," then we had to press again to get the full disclosure.

We got ostensibly full disclosure, but I do not think it is full enough. I am happy to read in the paper that I guess now we are going to the balance of the 66 reconstructed accounts revealed now by the Ethics Committee. That will be a positive step. Then we are going to reveal the whole list of individuals who had overdrafts and the number of checks, and I think I read the amount of the checks.

I think it would be interesting if we could develop as we will a reconstruction on those accounts. I think that is the essence of what I understood the gentleman from Pennsylvania [Mr. WALKER] to be advocating when he talked about getting the full GAO report.

I have a question in my own mind as I read the Ethics Committee resolution. The committee examined a 39-month period.

I read in the paper today that Boyden Gray, the White House counsel, has requested of our Ethics Committee to check out George Bush's checks when he was here as a Member of the House of Representatives, which I think ended in the middle 1960's.

The article in today's Post makes reference that they are going to have the Ethics Committee go back and check Representative George Bush's checks on the House bank. That means they are going to be going back some 25 years.

If they are capable of going back 25 years on that one, maybe we had better just take a look at the whole thing. Why limit it to 39 months? I think maybe that is going to need to be expanded.

☐ 1320

Mr. WALKER. The gentleman makes a couple of good points about how this influences national policy, because I find my constituents are very concerned about the kind of Government spending that has led us into the deficit problems that we now face as a Nation.

Intuitively people understand that when we are racking up major deficits that is causing tremendous national debt, that that is something which is having an adverse impact on the future, that the people of this country are today putting off to future generations an obligation that will be very difficult for them to assume and that somehow that we are having a very negative impact on the future. So that Government spending problem is one that cut very deep out there. And as I understand it was one of the things that President Bush said in the course of his State of the Union that had the biggest reaction across the country when he said, we have got to cut out wasteful Federal spending.

People say, how does this take place? How do we get these massive spending bills that have all of this garbage in them without there being some kind of response of the Congress?

The answer to that is much as the answer in the House bank scandal. That is, the way that they are passing these bills today is by putting items in it for the individual Members of Congress. The pork barreling in the Congress has become the way of passing bills. There have been a number of articles recently in newspapers where Members have admitted that the only way they passed bills was by putting these special projects down in the bills for the Members.

In other words, Members have begun to ask on all of the spending programs that come before the House, what is in it for me? What do I get? What enhances my political career at home? What can I take back home to people and sell it as something that I did?

Forget the fact that I voted for a bill that cost hundreds of billions of dollars. We got our few million. So therefore, that is good enough with me.

We are passing bills overwhelmingly based upon that kind of system. It is not unlike the House bank because what happened there was that there are abuses in the House bank that stem from Members who said, what is in it for me? How can I manipulate the system in a way that I benefit from it?

It is that problem that is in the House of Representatives, has developed here, that I think is most disturbing. I think it is one of the reasons why the American people have reacted so negatively to what they have learned about the House bank.

Many of our colleagues who have not been home recently may not realize the depth that this issue is felt by the American people. Some of them have even indicated in floor speeches here that they really do not see why the public is so disturbed. After all, there was no public money involved.

What the public is disturbed about is it shows an attitude. It shows an attitude with regard to personal accounts. It shows an attitude with regard to the idea of spending, and people are concerned that that attitude is in fact what has gotten us into trouble in the national budget as well.

If Members cannot manage their own personal budget, do they really have any real feel for money which is not theirs in the first place? And they understand that something has gone drastically wrong.

I will tell my colleagues, the attitude does pervade because there are Members who literally are casting votes on the House floor based on what is in it for them rather than what is in it for the country as a whole. So I think the gentleman makes a very good point. His constituents are obviously saying many of the same things my constituents are saying, and they are disturbed about the direction that this Nation is taking when Members have gone beyond what is in the national interest and decided that their personal interests or their political interests are more important.

Mr. DOOLITTLE. If the gentleman will continue to yield, what the gentleman has talked about, where individual Members put on their parochial blinders and grab as much as they can for their little pet projects, that is an illustration of the ethical corruption of the House of Representatives. That is not what our charge is.

Our charge is to act in the best interests of the American people, and that is what we have lost.

Where else in the world can one bounce checks and have the overdraft covered, interest free, penalty free?

The gentleman mentioned the budget. Where else do we have year after year a budget deficit and not have to balance our budget? Only in the United States of America. Families cannot do it. Businesses cannot do it. State governments, local governments cannot do it. But the U.S. Government can do it.

Mr. WALKER. And it has developed an attitude in the country that there is an unlimited tap of money here so that State governments and the Federal Government, knowing that they have to live within the constraints, are constantly coming to Washington and saying, "You fund this." And we say to them, what about the priorities that we should set, including reducing the deficit? "Don't worry about that."

I mean there is an attitude there that somehow Washington should go ahead and do this and that then feeds back into the House of Representatives where Members do develop the attitude that these issues of deficit spending are not really very important as long as the individual Member is getting some political benefit out of it.

I think that that is a problem that the American people are going to have to correct at some point. They are going to have to hold the membership of Congress accountable not only for their own personal accounts in the House bank but also for their accounting when it comes to the spending that goes on in the Nation. That is a very bad situation, as we look out into the future.

Mr. DOOLITTLE. Well, and then the future is the key word here. Because that is what is slowly and gradually being taken away. We do not really realize it. Tomorrow seems about as good as today. But the reality is by the unethical practices that are going on here, which we have talked about, this pork barreling, this parochial focus instead of focusing on what is good for the American people, we are slowly but surely shutting down the future of our people.

What are the effects of this? Obviously, we have been without a balanced Federal budget since 1969, and it has been technically possible to even do that, but what are the effects of that? The effects are an economy that is now growing at a much slower rate and has been doing so for a couple of decades than it grew in the previous era. And what does that mean?

Well, Fortune magazine, last summer, had an article on that that indicated that what it means is that when today's working generation, the so-called baby boomers, retire, they are going to have half the real wealth their parents had.

Mr. WALKER. Let us look at it from the standpoint of figures. Right now every child in this country has been presented with a $30,000 to $40,000 debt by the actions of Congress and by the actions of the Federal Government on spending. Every child in the country, they have not yet had a chance to contribute to the national welfare or even to their own personal welfare, and yet they are burdened with between $30,000 and $40,000 of individual debt based upon the national debt that we have accumulated.

If we even figure that at a 5-percent interest rate, let us say it is $40,000 and it is close to that figure, at a 5-percent interest rate, that is $2,000 a year that that child has to pay right now just to manage their part of the national debt.

Now, that is an unacceptable burden on them. That is the beginning of a year in college for them in the future. That is money that they could be using to invest in a business at some point in the future. It is getting worse.

By the time they become adults, we may have that figure up to 50,000 or 60,000 dollars, which means that their bill each year, even if we keep interest rates at 5 percent, may be in the range of $3,000.

We cannot afford to go on in that way as a nation because we are providing expenses to them that they simply are not going to be able to bear as they reach adulthood.

Mr. DOOLITTLE. Mr. Speaker, not only are they saddled with that debt, but what has been the almost universal response of government to the debt? Has it been to cut back on its spending increases? Yes, we have been increasing spending year in and year out, through the recession, every year we increase it. Has it been to cut back on that? No. It has been to hike the taxes.

Now, we get two things going on here. We get some concerned rhetoric from politicians about cutting back on the spending with a promise that that will occur in the future, and then we get some immediate tax hikes which occur today, and invariably, and I mean we can go back, go clear back to the beginning of the 1980's, and we can see this pattern repeated several times where we got the certainty of the tax hikes with the promise of the spending reductions.

The tax hikes came. The economy tapered off. The spending reductions never came.

□ 1330

We continue to hear the response even as new Members. I was elected in November 1990 and we had an orientation at Williamsburg and prior to that at Harvard. We were told by the so-called experts that this budget thing of 1990 was good as far as it went, but we all realize we will have to come back and fix the rest of the problem by doing some more revenues.

So we are going to take the already overburdened American family, which is taxed at a higher rate today than ever before, and add some more burden to that which they are already carrying, and we will get some more of the malaise that we have already got, more crime, more poverty, slower economic growth, less opportunity.

That is the harvest of the seed that had been sown for the past 30 years, and that is why we have to revolutionize this system, beginning in the House of Representatives, by shining light on the unethical conduct that has occurred in the House bank with a view towards totally reforming, and I do not mean just tinkering with rules and regulations, I mean a thorough reform where Members are living up to their constitutional oaths, legislating for the best interests of the American people.

Mr. WALKER. I thank the gentleman for bringing us back to where we started. On that we will end, because where we started was suggesting that the very least that we need out of this matter of scandal is a GAO report telling us where we went wrong in the House bank, telling us whether there were linkages with a cocaine scandal in the House post office, and letting both the membership of this House and the public evaluate that.

I would hope that we would get a response from the Democratic leadership on this proposal, that they will insist on the GAO report, and that that GAO report will be made available to all of us in the very near future.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 446. Joint resolution waiving certain enrollment requirements with respect to H.R. 4310 of the 102d Congress.

AMERICA'S RECOGNITION OF CROATIA AND SLOVENIA

The SPEAKER pro tempore (Mr. MCNULTY). Under a previous order of the House, the gentlewoman from New York [Ms. MOLINARI] is recognized for 60 minutes.

Ms. MOLINARI. Mr. Speaker, today my colleagues and I rise to discuss the ongoing crisis in Croatia and the less than tepid response of the United States to this very troubling subject.

Many of us here today bring forth our experiences of both our Croatian-American constituents and from our personal trips, witnessing firsthand the struggles and sufferings of these innocent people.

Some of my colleagues who join me here today have different questions and comments when discussing the perplexing United States policy toward the Yugoslavia crisis, because we are all interested in what we believe is the best answer to the situation: full diplomatic recognition by the United States of this new Democratic republic.

I yield to the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Speaker, I thank the gentlelady for yielding to me on this important matter. Mr. Speaker, it is tragic that the United States, the leader of the democratic nations, has delayed so long in recognizing the independence of the new Balkan democracies, Slovenia and Croatia. The people of these countries have voted for freedom and democracy in honest elections. The new governments have proven they will be responsible members of the international community by agreeing to the standards on democracy and human rights that the President and Secretary Baker put forward as criteria for recognition. The United States should now welcome them to the community of free nations.

The administration has given three different reasons why it will not recognize Croatia, and all have been bypassed by the events. The first was that the European Community wanted the United States to stand back as the Europeans handled the problem. As the months passed and cease-fire after cease-fire was broken, I wrote the President and asked him to get personally involved in finding a solution to the tragedy. The second reason then raised was that recognition would mean a bloodier war. But it was only after the European Community announced its intention to recognize Croatia and Slovenia that a cease-fire actually held for more than a couple of days. Now the reason given is American recognition would interfere with the deployment of the U.N. peacekeepers. Already, as the peacekeepers are arriving, almost 50 countries have recognized Croatia. Japan became the 49th to do so, just this week. The Assistant Secretary of State for European and Canadian Affairs has admitted that the administration realizes that the chances of the old Yugoslavia returning are zero. Secretary Baker has announced that America will eventually recognize Croatia. Why then is the President waiting?

This policy of nonrecognition is not only wrong, it hurts our international competitiveness. The European Community has lifted its trade sanctions on the two countries. Their investors now have the opportunity to enter these new markets, benefiting both the investors and the country. The United States is missing a golden opportunity for new markets and opportunities. The Slovenian-American and Croatian-American communities would give America a solid advantage in competing with the Europeans and Japanese for this market as the new nations establish capitalist economies. The Serbian-American community could help free Serbia from its Communist shackles once peace comes to the region. We cannot afford to throw away this opportunity.

In 1776, a brandnew democracy appealed to the world for recognition. The first to answer that appeal was the Republic of Ragusa, the Croatian city-state of Dubrovnik. If we are to be the friend of freedom and democracy, the United States must repay that act of support. We should have been the first to recognize Croatia; I urge President Bush, let us be no later than the 50th.

Ms. MOLINARI. Mr. Speaker, I thank the gentlewoman from Kansas for her comments. I think her analysis is precisely why so many of us here in the United States Government and certainly throughout the world, including our friends in Croatia and the rest of Europe, are so confused over this administration, an administration that has been a leader in restoring democracy to so many areas throughout the world, yet has been reticent in recognizing a country that wants only what we have been able to enjoy.

Mr. BROOMFIELD. Mr. Speaker, will the gentlewoman yield?

Ms. MOLINARI. For further comment, I am honored in gratefully yielding such time as he may consume to the gentleman from Michigan [Mr. BROOMFIELD], the ranking minority member of the Committee on Foreign Affairs, and a leader in human rights here in the U.S. Congress.

Mr. BROOMFIELD. Mr. Speaker, I would like to commend Congresswoman MOLINARI for her leadership in bringing this timely initiative urging recognition by the United States of the Republic of Croatia.

America has always been the locomotive that pushed democracy around the world. Fueled by our own success, we have actively promoted self-determination. But I regret to say that this great Nation has run out of steam on the Croatian issue. We have become the caboose, not the driving force, when it comes to supporting democracy in the former Yugoslav Republics. Over 49 nations have beaten us out of the station by already granting recognition.

Despite our promises, we did not take charge of building the new world order in Yugoslavia, where vital issues were at stake. We are talking about Communist Serbian control of people who had voted for self-determination. We are talking abut a people's right to live in an independent country of their own. We are talking about settling a dispute though negotiations instead of the barrel of a gun.

We stood back while a Serbian strongman unleashed a large army on Croatian police and civilians in a failed effort to keep that federation together by brute force. We forgot that recognition of independence creates a powerful deterrent to further aggression.

The Croatians paid a high price for our desire to see Yugoslavia stay together. Over 10,000 people died, and 700,000 were displaced. Croatia lost one-third of its territory and sustained massive destruction to this infrastructure and economy. But Serbian leader Milosevic lost, too. Serbia is politically isolated and economically crippled, and thousands of Serbs are calling for the resignation of that rabid nationalist.

Croatia's long, dark night might have been avoided if we had stood up for the values that guide our great Nation—freedom, democracy, respect for human rights, the peaceful resolution of disputes, and an end to communism. We could have avoided this nightmare if we had looked Mr. Milosevic in the eye and said, "No, you will not use force to turn the rising tide of democracy in Yugoslavia. Your aggression will not stand. We will mobilize the world against you." Instead we were timid, and we failed.

I am pleased that the guns have fallen silent in Croatia and that U.N. forces are now being deployed. I welcome the administration's plan to recognize the independence of both Croatia and Slovenia in the next few weeks, and I am confident that they will become free and prosperous democratic nations that will respect the human rights of all their people. Those of us in this body who encouraged their quest for self-determination will someday be proud of having shared their dream.

Again I want to thank Congresswoman MOLINARI for this special order.

□ 1340

Ms. MOLINARI. Mr. Speaker, I thank the gentleman for his reminiscence of this tragedy. Were it only the case that the United States had reacted in a timely manner, perhaps we would be together celebrating so many surviving as opposed to mourning their untimely death in Croatia, and I thank the gentleman for bringing us this statement and calling that to mind.

Mr. Speaker, I yield to my colleague, the gentleman from Ohio [Mr. FEIGHAN] and thank him very much for his enthusiasm and commitment to this cause of furthering democracy overseas.

Mr. FEIGHAN. Mr. Speaker, I appreciate the gentlewoman yielding, and particularly want to commend her for bringing to the attention of this Congress and to the entire Nation a very important matter, a matter of extreme human rights concern, and a matter of very considerable global concern.

Mr. Speaker, since World War II, the United States has dedicated all its energies to the fight for freedom and self-determination in the world. For decades, the State of Yugoslavia stifled and suppressed the national identities of the many ethnic groups living there.

Last summer, Yugoslavia stood at the brink. Most of its neighbors in Eastern Europe had peacefully replaced totalitarianism with democracy and self-determination. Like the rest, Belgrade faced a choice. It could give democratic reform a peaceful welcome. Or it could oppose the inevitable—but only by resorting to violence.

As we are so sadly aware, Belgrade chose the latter.

Since that fateful June day when federal army troops took the offensive in Slovenia, it has been obvious that United States foreign policy to Yugoslavia has failed. The free world waited for the United States to take a strong stand for peaceful change. But our President did not.

Mr. Speaker, America remains the leader of the free world. We have vast global influence. Oppressed peoples still look to us for hope. The Croats, the Slovenes, the Serbs, and all peoples of that region are no different in that respect.

Today, we stand at another crossroads. As the cease-fire continues to hold, and as the U.N. peace plan takes effect, the United States can use its power to ensure that the peace sticks.

It can do this by recognizing the inevitable. By recognizing that Yugoslavia is no more. We must recognize as independent states the Republics of Croatia, Slovenia, and all Republics that seek recognition. But we must also work hard to ensure the political, cultural, and educational rights of all ethnic minorities in those Republics, wherever they may live.

This is the cause to which we must now dedicate ourselves. Today I call on the President and Secretary of State to side decisively on the side of freedom and self-determination for all the peoples of all Republics of what was once Yugoslavia.

Mr. Speaker, again I thank the gentlewoman from New York for offering me the opportunity to speak on this topic, and particularly for her leadership in this Congress for the past several months and focusing her attention and focusing national attention on the critical fight for freedom and independence in these Republics.

Ms. MOLINARI. Mr. Speaker, I thank the gentleman very much for his input and for bringing us back to this point in history as to why we are standing by idly watching as massacres continue.

Mr. Speaker, I became involved in this in a very personal way in January of this year when I was afforded an opportunity to travel with a delegation to visit the shattered Republic of war-torn Croatia and witnessed the situation firsthand. What I saw there is why I am here today and why I have asked my colleagues to come together in this effort, and why I am so committed to this important cause.

What I saw in those few days was chilling and frightening. The reality of this war reached my heart when I arrived in Croatia and met the refugees. They are frightened and confused. Few could speak without tears that did not stop. They are mostly women and children because their men, their husbands, their fathers, their brothers, had left their jobs as teachers, doctors, and lawyers to take up arms against the Serbian aggressors.

The real tragedy of this war, indeed, and the biggest despair for the Croats is not the battle itself. The Croatians know better than we that freedom is not free and liberty has its price. Innocent lives have been lost, as has the history of cities hundreds of years old. There is a reluctant acceptance that some measure of loss is unavoidable, the consequences of a struggle from communism to democracy.

What the Croatian people though cannot understand is the hideous attitude that the rest of the world assumed in the face of documented massacres. Gratefully, some 49 nations, including the European Community and the Vatican have acknowledged Croatian and Slovenian independence.

Mr. Speaker, it is time for America to weigh in on this issue. We must join Germany and the other 49 countries who understand that the recognition of these Republics may yet prevent the reversal of peaceful democratic change through military force and facilitate a settlement based on the ideas of democratic self-determination. As former President Richard Nixon stated recently in the Wall Street Journal, "Diplomatic recognition would create a powerful deterrent to further aggression and a legal foundation for later actions." Our hesitancy condemns the Croatian people to death on a daily basis.

Mr. Speaker, I learned a lifetime of lessons during my brief visit to Croatia. I learned that the human spirit, no matter how damaged, cannot be killed. I learned that America must be willing to reexamine her incomprehensible decisions thus far on this issue, and that we must be prepared to reverse our stand when such a cause as this is just and right. And perhaps more importantly, Mr. Speaker, I learned to truly appreciate the blessings given to those of us who live in freedom and democracy, and the true definition of individual liberty.

Let us hope that the people of Croatia will also some day, through our efforts, and eventually recognition by this Government of a people who want only what we unfortunately take for granted every day, the right to enjoy their ideas, as different as they may be, pursue their causes as honestly and as openly as we do, and to someday stand in the well of a great democracy themselves in Europe.

Let us hope that the people of Croatia will be able to appreciate the lessons that we enjoy every day throughout our Nation.

Mr. LANTOS. Mr. Speaker, at long last the administration has decided to reverse its wrong-headed policy of refusing to recognize the newly independent States of Croatia and Slovenia. In a statement issued on March 11, in Brussels, Secretary of State James Baker said the United States will give rapid and positive consideration to the requests of these besieged states for recognition.

While one might shrug and say better late than never, the administration's policy toward the democratization of the former Yugloslav Republics has been shocking. Its policy calls to mind Martin Luther King's well-intentioned but timid moderate who is "* * * more devoted to order than to justice; who preferred a negative peace, which is the absence of tension, to a positive peace, which is the presence of justice." Unfortunately, the administration's policy led to neither an absence of tension nor the presence of justice.

On the eve of the tragic and deadly hostilities that devastated the former Yugoslav Republics for three-quarters of a year, the Secretary of State unequivocally and uncritically declared that the United States supported the territorial integrity and artificial unity of Yugoslavia. That inappropriate endorsement of the status quo emboldened the Communist Government of Serbia. Sheer brutality and unmitigated destruction followed.

Month after month of civil strife resulted in the death of thousands. Innocent civilians were terrorized and killed by indiscriminate attacks. Beautiful and historic cities, like Vukovar and Dubrovnik, were the sites of utter devastation.

There has been a great deal of criticism directed toward the administration for its handling of the crisis in Yugoslavia. Opposition to the President's policy has been widespread on Capitol Hill.

On October 8, my colleagues Messrs. BROOMFIELD and BONIOR of Michigan, Mr. SWETT of New Hampshire, and Mr. SMITH of New Jersey joined me in introducing H.R. 3518, legislation that calls for the United States to restrict assistance for Serbia or any part of Yugoslavia controlled by Serbia until the Communist leadership meets certain specific conditions, including the cessation of hostilities by Serbia, the holding of free and fair multiparty elections, and halting the pattern of systematic violations of human rights within the borders of the former Yugoslavia.

The intention behind my legislation, and other worthy legislative efforts introduced by my colleagues, was to send a message to the expansionist Communist leadership of Serbia that we in the United States Congress would neither condone nor tolerate the military action they took against the democratically elected Government of Croatia.

In light of the various congressional initiatives, the late decision by the administration to recognize the Republics of Croatia and Slovenia has been greeted with mixed emotions. While it is gratifying that Croatia and Slovenia will receive the recognition they deserve, there is a strong feeling that much of the crisis could have been averted if the administration would have taken a more responsible stand on the eve of hostilities.

Moreover, while announcing its recognition of Croatia and Slovenia, Mr. Baker said that the administration will delay any such recognition of Bosnia-Hercegovina and Macedonia. This continued foot-dragging is serious cause for concern.

Mr. Speaker, the pleas of Bosnia-Hercegovina and Macedonia for recognition are no less legitimize than that of Croatia and Slovenia. Time is of the essence. In keeping with our democratic traditions, the United States must assist these Republics as they strive to instill the democratic values which we cherish as their own. The choice is simple. Do we continue to legitimize the Serbian-Communist government through our inaction, or do we extend the hand of diplomatic recognition to Republics that seek democracy?

It is important to emphasize, Mr. Speaker, that any enduring resolution to the Yugoslav crisis must be based on firm obligations by all Republics involved to guarantee and foster the full range of human rights and fundamental freedoms for their constituent peoples and ethnic minorities including political, social, and religious autonomy.

The European Community-sponsored peace conference on Yugoslavia envisages that areas in which persons belonging to a particular national or ethnic group from a majority, in particular Kosovo, must enjoy a special status of autonomy, including all appropriate legislative, administrative, and judicial institutions as well as full educational, cultural, and religious freedom. Special consideration must be given to the sizable Albanian ethnic population of the Republic of Macedonia and the sizable Hungarian ethnic population of the Vojvodina.

It is clear that the current Serbian leadership is unwilling to abide by these principles. It is therefore imperative that the administration comprehend the need to work with and support those parties who desire to bring about peace and stability in the region.

Mr. Speaker, the civil war in the former Yugoslavia plainly demonstrates that nothing good can come from an administration policy that deemphasizes democratic principles in pursuit of realpolitik. While we can take some heart in the administration's decision to recognize Croatia and Slovenia, the crisis in the Balkans has not passed. In the interest of peace and stability in that troubled region, the United States Government must recognize the remaining former Yugoslavian Republics and take action to help them as they move toward democratic governments and market economies.

Mr. GALLEGLY. Mr. Speaker, last October, I introduced legislation to put Congress on record as supporting United States recognition of the independence of the new Republics of Croatia and Slovenia. Six of my colleagues joined me as original cosponsors of House Concurrent Resolution 224, and I am pleased that as of today, 116 Members—61 Democrats and 55 Republicans—are on record, supporting my bill. I would like to thank each one of them for their support, and I know the courageous people of Croatia and Slovenia also thank them.

We all know the bloody history that compelled me to introduce this bill. The citizens of Slovenia and Croatia, in consecutive referenda, voted overwhelmingly for freedom and independence. On June 25, 1991, the Governments of the Republics of Croatia and Slovenia declared their independence from Yugoslavia. The Yugoslav Army, following orders from the Communist dictatorship of Serbia, brutually attacked Slovenia, causing thousands of casualties before an agreement on the army's withdrawal was reached on July 10, 1991.

The Serbian-led Yugoslav military also began waging war against the Republic of Croatia, resulting in the deaths of over 10,000 people, most of them innocent civilians, along with widespread destruction of homes, churches, hospitals, schools, and industry.

Since September 7, 1991, the Governments of Croatia and Slovenia have been negotiating in good faith at a peace conference sponsored by the European Community. Both Republics have met the EC's criteria regarding a commitment to democracy and the rule of law and the safeguard of human rights and equal treatment of minorities. Again and again the cease-fires negotiated under EC auspices have been broken by attacking Serbian-led guerrilla forces bent on forcing the freedom-loving peoples of Croatia and Slovenia back into Yugoslavia at gunpoint.

On January 15, 1992, the 12 nations of the European Community extended full diplomatic recognition to Croatia and Slovenia. As of today, 50 countries around the globe have extended recognition. Only the United States stands alone among the leading nations of the world, still resisting recognition of these two Republics.

When I introduced this bill last October, I had hoped that the United States might lead the way in supporting our cherished principles of freedom, democracy, and self-determination. Now, we find ourselves trailing nations large and small in Europe, North and South America, and Asia. In light of our efforts to achieve a peaceful and stable new world order, our failure to act is a travesty.

My bill is simple. It calls on the President to recognize the independence of Croatia and Slovenia and to seek a peaceful resolution of the crisis. I am pleased that this resolution has strong bipartisan support, and am pleased that a bill introduced on January 24, by Senator BOB DOLE in the other body, also enjoys strong bipartisan support. I hope that this growing congressional support finally causes the State Department to do the right thing.

Time is running out for Croatia and Slovenia. Although a cease-fire is technically in place, the bloodshed and strife continue, and these two badly outmanned, outgunned Republics continue to turn to America for support. Mr. Speaker, let us in this House take the lead. Let's pass House Concurrent Resolution 224.

GENERAL LEAVE

Ms. MOLINARI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. MCNULTY). Is there objection to the request of the gentlewoman from New York?

There was no objection.

□ 1350

A DRASTIC CHANGE OF UNITED STATES POLICY TOWARD ISRAEL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 30 minutes.

Mr. FRANK of Massachusetts. Mr. Speaker, I have been distressed lately by a pattern of actions by the Bush administration which, it seems to me, are likely to undermine the chance for a true negotiated peace in the Middle East.

We have had a series of events in which the Bush administration has taken a position harshly critical of the Government of Israel. Obviously, it is the prerogative of any government in the world to be critical of any other government.

There are aspects of the Israeli Government's current policy which many in America disagree with. Israel being a democracy, there are aspects of the Israeli Government's policy which many in Israel disagree with. Some of those policies will, in fact, be thoroughly debated and thus affected by the June elections in that democratic State.

But what disturbs me is a pattern of activity on the part of the Bush administration, President Bush, Secretary Baker, and others working with them that goes beyond articulating a specific disagreement on a specific policy to what appears to me to be a drastic change in American policy.

The United States has throughout Israel's existence been a supporter of Israel's right to exist. Israel peculiarly in this world lives in a sea of hostility. From the day the State was proclaimed in conformance with the United Nations mandate, Israel has faced the violent armed hostility of most of its neighbors to its very existence.

Only 15 years ago was Israel able to make peace with President Sadat of Egypt. On the rest of Israel's borders, there continue to be countries that to this day vow hostility to its existence.

Israel occupies a corner of the world in which today we are told that one of the moderates is President Assad of Syria, one of the great butchers of our time. Throughout this period while the Israelis have understandably relied primarily on themselves for their own defense and done it very well, they have taken some comfort from an alliance with the United States. They have taken comfort from the fact that even in times when much of the world was being unfairly critical of them, when much of the world was criticizing in Israel practices which regularly went on in other countries, when, in fact, far worse practices went on in those countries which were critical, the Israelis had some sense that their relationship with the United States, while it might give rise to a specific disagreement here or there, would be a firm, friendly alliance.

That is essential for several reasons. First of all, given the hostility Israel faces, given the unfairness with which it has been judged by so much of the world, it has been important for Israel to know that within the United States there existed a willingness to befriend Israel when the question of Israel's basic right to exist within secure and defensible borders came up.

That is not only important in and of itself as a moral charge for this country, it is important because the desire many of us have, nowhere more than in Israel itself, to negotiate a peace in the Middle East will not come to fruition until the majority of the people of Israel feel secure in their relationship with the United States.

Israel is a democracy. It remains the only genuine democracy in that part of the world. It has continued to be democratic in the face of threats to its existence. It belies the notion that democracy and strength are somehow incompatible. It refutes the argument that when you are threatened from the outside the way to respond is to repress your own people, because Israel has combined a very vigorous democracy with an ability to protect itself from multiple threats outside.

Therefore, the kind of mutual concession and compromise and flexibility over side issues that will have to accompany a peace treaty between Israel and its Arab neighbors will only come if Israeli voters feel secure. That cannot happen if Israel cannot rely on the United States as a supporter of its basic interests, not as a supporter of every specific Israeli Government policy, but a supporter of Israel's basic rights, a recognition that Israel has been, by and large, the victim of the hostility of others and has, in fact, been on the whole responding to that, not always wisely, not always correctly, but it has been responding to that.

We have recently seen the United States take positions which I believe are in danger of undermining that sense of confidence within the Israeli Government and Israeli population that is necessary if the Israelis are expected to sign a peace treaty. It goes back to the gulf war when Israel deviated from one of the most fundamental policies of that beleaguered State which is, "If we are attacked, we will defend ourselves."

Israel was attacked without any provocation in a murderous way by Saddam Hussein of Iraq, and at the request of the United States Government did not defend itself, the first time in its history that it did not. The United States said, "We will do that. Please, you will offend the Arabs." Think of that, Mr. Speaker, a nation being told it would offend our allies, Saudi Arabia and Syria, if it simply defended itself against a murderous attack. As unreasonable as that request was, it seems to me, the Israelis complied with it, only months later to have President Bush use that against them. President Bush last September said, "After all, we went to the defense of Israel when it was attacked by Scuds," conveniently forgetting the Israelis wanted to defend themselves, were capable of defending themselves, and deferred defending themselves only at the request of the United States.

When the United States asked Israel for this enormous favor and then acts as if the Israelis have been the beneficiaries of some great boon, when they do us the favor, that is the sign of a problem.

We recently had a spate of stories greatly exaggerated and distorted accusing Israel of violations of arms agreements with the United States. These accusations appear clearly to be motivated by a desire on the part of the administration to undermine Israel's position with the American public.

We have the problem of the loan guarantees in which people have exaggerated the extent to which American dollars would be put at risk, since we are talking about guarantees which I believe will never be called on, because of the Israeli Government record in repayment, because the Israeli Government asked for these guarantees to resettle people who will so contribute to the Israeli economy that it will be better able, in fact, in the future to pay these back.

There is a dispute involving settlements. The U.S. Government obviously is within its rights to be critical of the settlements. There are aspects of the settlement policy that are highly controversial within Israel and among Israel's closest supporters in the United States. But what this administration has done, it appears to me, is to use that dispute not as a way of advancing its policy with regard to settlements but as a stick with which to beat the Israelis in general.

The administration, if you look at the whole pattern, has taken a posture in the settlement issue of not trying to reach an agreement, not trying to compromise, not recognizing that it is dealing with another democratically elected government that has its own electorate to deal with. That is part of a pattern in which the administration exacerbates relationships with Israel, exaggerates differences, unfairly caricatures the Israeli position, in general, leading, I think, to a mistaken result.

The administration may think that this will cause in Israel greater flexibility. The administration may think that this will lead the Israeli Government to be more forthcoming in adopting the positions the administration wants to adopt in the peace conference.

Among the problems with that argument, some of which are moral, in my judgment, there is one very central one. It will not work.

The more the administration criticizes the Israelis in an unreasonable fashion, the more there is a distortion of the position, the more it undermines the confidence of the people of Israel that they have a friend in the United States which is ultimately sympathetic even when it might be specifically critical, the less likely we are to see the kind of peace negotiations that will succeed.

I remember becoming worried a couple of years ago—1990 about this time—when I heard the President say at a press conference that we had to stop Israel from engaging in settlements in the Gaza Strip and East Jerusalem. An administration which equates Jerusalem and the Gaza Strip betrays a misunderstanding of the fundamental history and politics and geography and the reality of the Middle East today. This administration, I believe, is making a grave error. It is embarked on a course which it may think is going to produce greater Israeli agreement with its positions, but, in fact, will not, given the nature of the democratic society in Israel. Remember, it is easier to deal with dictators. You can bargain with dictatorial authorities. They do not have to worry about back home.

□ 1400

When you are dealing with a democratic government, it is a much more difficult situation.

This administration's approach to the Government of Israel is gravely flawed. It appears to many, including many who do not agree with some of the specific Israeli Government policies in the settlements or elsewhere, to betray a fundamental lack of sympathy with Israel's essential needs and its essential security problem. It is, therefore, less likely to bring about peace.

The administration is making a very grave error. I urge the President and Secretary Baker to reverse this, and instead of looking for ways in which they can exacerbate differences, in which they can broaden the gap, which is clearly what they seem to be doing in the hope that this will somehow frighten and isolate Israel into a more flexible position, they should recognize that what they are doing will have the exact opposite effect. They are undermining the sense of confidence and the sense of security in the United States-Israeli relationship, which is a precondition for a successful peace negotiation. I hope the administration will reconsider.

IN SUPPORT OF INDEPENDENCE FOR CROATIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. ROHRABACHER] is recognized for 5 minutes.

Mr. ROHRABACHER. Mr. Speaker, I rise to associate myself with the remarks of Congresswoman MOLINARI and her speeches and statements concerning Croatia.

United States policy toward Croatia and toward freedom in the Soviet Union has in reality been an embarrassment in these last 2 and 3 years. This country has been behind the freedom curve when it comes to Lithuania, the Ukraine, and especially Croatia.

We can remember the position of the United States was to go slow in Lithuania. President Bush himself was convinced to give a speech in the Ukraine only weeks before those people dramatically and overwhelmingly voted for their own independence after our President suggested that they not vote for their independence.

It has been a time when America has been wondering and the world has been wondering exactly what priority do we place on human freedom and democracy when it comes to the new world order, and that is what we are talking about is the new world order; but let us remember, Mr. Speaker, and our constituents know this, every American knows this, that order without freedom is tyranny.

I believe that this administration and the United States should be standing for and should be the champion, not of a new world order, but instead of a new world freedom. Order will flow from a free society and from democracy.

In the case of Croatia, the people there have been asking for nothing more than the right to control their own destiny, to have democratic government, to worship God as they see fit.

I visited Croatia last summer. I remember visiting a small town called Sunja, and this is a rocket fragment, a fin from a Soviet rocket that was being shot into this small city to terrorize the population of that city, the Croatia population.

Thirteen brave young men were there as my bodyguards, part of the Croatian militia, and I might add that three of them were actually of Serbian extraction.

The United States has been behind the freedom curve when it comes to Croatia. I has not been one of our sterling moments. We should have at the very least, when the Croatian people rose and asked for their own democracy and to have control of their own destiny, we should have at the very least put the full moral weight of the United States Government behind them and been the first government to recognize their independence. Instead, Japan, Russia, Germany, and many others have recognized Croatia and our Government, sadly, has not.

I call on our administration to recognize Croatia immediately and to begin taking those moral stands for freedom that are consistent with the American way of life and the values of our people.

Mr. Speaker, I yield the balance of my time to my colleague, the gentleman from New Hampshire [Mr. SWETT].

The SPEAKER pro tempore. The gentleman from New Hampshire is recognized for the balance of the 5 minutes.

Mr. SWETT. Mr. Speaker, I want to commend my colleague from New York, Congresswoman SUSAN MOLINARI, for her special order earlier today. The topic is an extremely important one. At long last, the White House and our State Department are moving toward granting full diplomatic recognition of Croatia. This is a decision that I have advocated for many months. This is a decision that many of my colleagues have supported from some time now. This is a decision that the European Community already has taken. And it is a decision that many other countries around the world already have taken.

There is no question that Croatia meets all of the criteria for diplomatic recognition, and this incorrect, unfortunate, and inappropriate delay finally is about to give way to the right policy.

I welcome the arrival of the U.S. Peacekeeping Forces in Croatia and other areas in what used to be Yugoslavia. The Communist-dominated Yugoslavian Army and Serbian National Forces have bitterly opposed Croatia's struggle for freedom and democracy. The people of Croatia have paid a heavy price for their freedom and the right to establish a democratic government. I am pleased that at long last international troops will be there in an effort to prevent the continuation of that tragedy which has caused the loss of hundreds of lives and massive destruction of property.

The United States has always supported the right of peoples to determine their own fate. Unfortunately, in the case of Croatia, the White House and the State Department allowed their commitment to an outdated policy of dealing with Soviet communism to distort our traditional support for democracy and the right of people to choose their own fate and make their own decisions.

As our former Ambassador to the United Nations, Dr. Jeane Kirkpatrick, said in a recent article in the Washington Post:

> With the cold war over, there is no Soviet threat to the independence of Yugoslavia, and no reasonable chance that the Yugsolav spark could ignite a divided Europe. Why then was America's national interest served by the administration's long refusal to recognize Croatia and Slovenia, a refusal that lasted for months after most of Europe had already done so?

She goes on to suggest the answer that:

> Americans have no stake in the preservation * * * of Serbian hegemony in what was Yugoslavia. But we do have a major stake in encouraging civilized standards of respect for human rights and peaceful settlements of the issues of ethnic separation and nationalism. We have a major stake in democratic outcomes.

Mr. Speaker, a new era is dawning between the United States and the peoples of Croatia. Our recognition of Croatia will once again confirm our support for the right of people to make their own decisions and will confirm our decision to support democracy. I urge the administration to move quickly to extend diplomatic recognition to Croatia. Further delay serves no purpose. The time to recognize Croatia is now.

THE INTEGRITY OF THE MARKET FOR GOVERNMENT SECURITIES

The SPEAKER pro tempore. (Mrs. KENNELLY). Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Madam Speaker, I continue our reporting accountability as chairman of the Committee on Banking, Finance and Urban Affairs, as I indicated in the earlier special orders this week and previously.

Today I want to discuss a matter also of utmost importance, in fact of critical importance to the financial stability of our country. I am speaking about the integrity of the market for Government securities and specifically the process by which the Federal Government issues and sells its debt.

We have got to understand that we have as an overarching backdrop this huge immense pileup of debt on the governmental level, the private level, you and I, average citizens, and the corporate level, which almost equals the governmental. If you are just talking about the upfront so-called debt and do not consider the so-called contingency, that is the word they use in Great Britain, in our country we say off-budget debt. The fact remains that the handling and management of this debt has continued to erode to the point of mismanagement.

□ 1410

So we have each year now, and this year, facing just an interest payment to service the debt, the equal amount that we have been appropriating and setting aside for our national defense—that is, $300 billion plus—can continue.

There comes a day when you have a reckoning, but in the meanwhile let us talk about the processes themselves which give rise to immediate alarm and attention that should be forthcoming.

If a government such as ours cannot sell its Treasury bills, so-called—that is, borrow money—its notes, its bonds, then it would be unable to function. This is why the Salomon Brothers scandal and the other Wall Street scandals must receive immediate attention, and the illegal conduct firmly dealt with.

Now, before I became chairman, I spoke out on this, but, of course, as in the case of my speaking out over the course of the many years that I have been a Member, there was no attention.

It was no surprise when, all of a sudden, it seemed to be the surprise of everybody, including our supposedly watchdog press and the financial experts and economists that we had this Salomon Brothers scandal. But we knew that there had been great speculation, not just in the frenzied and corrupted Wall Street stock market procedures. As a matter of fact, just the year that I later became chairman, unofficially in December of 1988 and officially on January 3, 1989, I spoke out. And I pointed to the fact that 10-year Treasury bonds were being held for less than 30 days, and I said a continuation of this frenzy and obvious speculation on this type of note or bond means that sooner or later we will be junkifying Government bonds, Treasury bonds.

I therefore introduced a bill at the time that would have taxed at 100 percent any of the profits made on the short-term turnovers on anything less than a year. Well, of course, tax bills have to go to the Committee on Ways and Means, of which I am not a member, and that is where it disappeared to. I never had any hearings on the matter. I knew that the chances of a committee, first, and the Congress passing that kind of bill were not big chances, but I thought that at least the danger should have been debated.

The fact that, given the backdrop of Wall Street since the seventies when, for the first time—and I brought that out on special orders that I sustained here in the hours after the regular order of business, going back as far as the late sixties and early seventies, middle seventies and especially the late seventies—and I brought out the fact that for the first time since 1932–33, when the Great Depression brought the reform of the securities market known as Wall Street and the stock markets, by doing what? Essentially providing, for the first time, margins that should have been there and for the first time I said that equation that was constructed as a result of that Depression and dismal experience in 1932–33 and the setting up of the SEC, the Securities and Exchange Commission, which incidentally was set up after great hearings by a lawyer and counsel for the Congress, Ferdinand Pecora, and the first SEC director appointed by President Roosevelt was the elder, the senior Joseph Kennedy, father of the President-to-be years later; but for the first time, when we got into this series of money manias which again I reported in at least half a dozen special orders that I had at the time and they are in the RECORD and that is how I speak now, for the record, and it is not what I am saying from retrospect. Hindsight is always 20–20 vision, but that is not what I am doing. I am saying here is what I said and I said it years ago.

I wish I had been wrong, but I spoke out because I added the figures and they added to that conclusion. And it was obvious that sooner or later that house of cards would collapse.

For the first time, through the use of bank credit, as I said time and time again to my colleagues, at the bottom of everything is financing, money, banking. And in the seventies, in the late seventies, and then with great vengeance and thanks to the Tax Code of 1981, the famous Reagan tax bill, for the first time and through the use directly or indirectly of bank credit, you had an escape from those rigid marginal requirements that the law plainly stipulated should be in place since 1932 and 1933 but particularly 1933.

So, what do we have now? Well, what I have said is you have no crude reflection of the activities and manufacturing and production in the business of our country reflected in stock brokerage activities because it is a market that is now as manipulable and controllable by a few as it was before 1933.

What does that mean? It means that you might as well go to Las Vegas and go to those casinos as well as this order. But when you introduce that principle of casino gambling into the type of financing that is involved in the sale of Treasury bonds and notes and bills, you know we are in trouble.

Mr. Speaker, I introduce that bill on taxing because I knew that at the bottom of that is taxes, and the Milkens and the Boskins and all of that den of thievery up there in Wall Street were made possible only because of the tax laws. They did not make their profits on actual business transactions of a bona fide, whether they were leveraged buyouts or what have you; they were based on the great windfalls they got on tax benefits. That is all Milken had to depend on.

Have those laws been repealed? No, they have not. And that is why I introduced that meager little bill I did 3 or 4 years ago.

Anyway, now in view of what is happening and what has been revealed to us and from the standpoint of the jurisdiction that the Committee on Banking, Finance and Urban Affairs has, and mindful of our limitations of jurisdiction and with no thought ever in mind of making incursions into any other committee's jurisdiction, I have introduced H.R. 4450. At the end of this presentation, I will have a copy of H.R. 4450 plus a section-by-section analysis for the record to be printed in the RECORD at the end of my presentation.

Mr. Speaker, I call this the Government Securities Auction Reform Act.

The gentleman from North Carolina [Mr. NEAL], distinguished chairman of the Subcommittee on Domestic Monetary Policy of the Committee on Banking, Finance and Urban Affairs, has joined me in introducing this legislation. I wish to commend the gentleman for his very capable chairmanship of that subcommittee.

Mr. Speaker, H.R. 4450 will establish an efficient and automated and fully competitive process for the sale of U.S. Government securities. The bill also will reduce the potential for violations of Treasury auction rules and properly punish those who break the rules.

□ 1420

The Federal Government finances its deficit through the issuance of various bills, notes, bonds which may vary in length of maturity from 13 weeks to 30 years. These debt instruments are sold by the Treasury at regularly scheduled auctions conducted by the Federal Reserve Board, over which we do have jurisdiction in the Committee on Banking, Finance and Urban Affairs. The Federal Reserve conducts the actions in its capacity as a fiscal agent of the Treasury, of the Department of the Treasury, which is something that is a startling revelation apparently through the years I have been confronting the various chairmen that have come over during the time I have been on this committee, for 30 years. There has been about six, seven, maybe eight, different chairmen of the Federal Reserve who seem to be startled when I say the Federal Reserve Board Act of 1913 states categorically in its very beginning that the Federal Reserve Board, which is not a Government agency, it is a creature of the private commercial banking industry, and obedient to it, shall act as the fiscal agent of the U.S. Treasury.

Well, lo and behold, through all kind of whatever you want to call it, it is the other way around now. One would think that the Treasury is more or less the agent of the Federal Reserve Board. Certainly the Treasury is not printing its notes. It is the Reserve Board.

If my colleagues will dip in their pocket, as I have said repeatedly, and get a dollar bill note, or a 5, or a 10, or a 50 they will see Federal Reserve Board note. Now mind you, for each one of those bills you pay interest for the printing of those bills because that is what the Federal Reserve uses to buy Treasury. In other words, it is a complete turnaround from the intended purpose of the Federal Reserve Board Act of 1913, but so it be, that is where it is, and we have the Federal Reserve Board acting as the auctioneer in the sale of treasuries.

Now the Federal Reserve Board is the Board for the 12 Federal Reserve Board districts, all of them comprised by the national banks, the private banks, the commercial banks. It is not a Federal agency. That is why we have tried; at least I have introduced bills for 26 years, to have an audit responsive to the Congress of the Federal Reserve Board, and it is fought bitterly and, to this day, successfully.

Now the Federal Reserve Board conducts the auctions using a sealed-bid, multiple-price auction system. Now that is a lot of words, but that is exactly the words that describe the process. It begins with an announcement by the Treasury Department of the maturity and the amount of the security that will be auctioned. A bidder is then required to submit a bid to the Federal Reserve indicating how much of the offering it will buy and at what price. When the deadline for submitting bids has passed, all bids are tabulated, and the securities are sold to the highest bidder in descending order until all are sold.

Anyone observing the process first hand would agree that it is a throwback to the horse and buggy days. The bids are submitted in writing using a form supplied by the Fed. Most firms have a person stationed at the Fed waiting by a phone to receive the order and place it in a drop box just before the deadline. The bids are then hand collated by amounts of offer and tabulated. Collated is a fancy word for saying, "then arranged by amounts of offer and tabulated by adding machine to determine who the winners are." The Federal Reserve has obviously managed to remain immune from the age of the computer.

The Treasury Department has issued various debts over time governing the auction process to which all participants are expected to adhere under those debts to certain rules. However, the only enforcement of these rules by the Federal Reserve and the Treasury Department has been something akin to a gentleman's honor. Now is there honor among thieves?

The Treasury and the Fed have negligently substituted blind trust for prudent regulation. Is not prudence the hallmark of financing? And banking? Of course it is. Well, they have substituted prudence with blind trust, trusting that element in our society that forever and a day is going to be insatiable, demanding and, if offered the chance, predatory.

After all the Wall Street scandals of the 1980's, we would have hoped that the regulators would have learned better than to let the fox guard the hen house. Of course that is an expression that means more to me. I am old enough to remember hen houses and what foxes look like. I do not know if half of my colleagues here who are half my age have had that great experience.

The problems of the Government securities market are due largely to its domination by a Government-created oligopoly. The oligopoly I am speaking of is the exclusive group known as the primary dealers.

Now this is ironic since historically the Federal Government has fought against the establishment of monopolies and trusts. We used to. It is not the case any longer. Mergers, monopolies, trade restraints, and other business practices which lessen competition, fix prices, eliminate alternatives available to the consumers have been the subject of Federal antitrust legislation since the turn of the century. These laws include the Sherman antitrust law of 1890, the Clayton, the Celler Antimerger Act of 1914, the Robinson-Patman Antidiscrimination Act of 1937. It is obvious all of those laws have been vitiated, not by direct cancellation by the Congress, but by indirection, by nonenforcement by the administrations that philosophically and ideologically have never been for antimerger, antitrust legislation.

The Board of Governors of the Federal Reserve System and the Federal Reserve Bank of New York have violated this longstanding Government policy with the creation of the primary dealers. The primary dealers are both foreign and domestic securities brokers.

Now up until a year before last the Japanese, for instance, had over 33 percent ownership of our treasuries. Now that means they were funding our debt. What about the other countries, from Germany to other foreign countries? They had a substantial amount. If they withdrew as they have been, what happens? Apparently they never thought about that during the glorious 1980's.

□ 1430

Now, these are hand picked by the Federal Reserve to maintain a business relationship with the Fed. The number of primary dealers group are necessarily going to be the largest players in the Government securities market by virtue of the criteria established by the Federal Reserve.

The number of primary dealers is currently 38, but they will vary as members join or drop out. Their members include Merrill Lynch, J.P. Morgan, Fuji Securities, and, of course, Salomon Bros.

This was an interesting question that I raised as a freshman member of the Committee on Banking, Finance and Urban Affairs in 1962. That was the first session. I was actually elected in 1961. That was where the Secretary of Treasury came from. That stable known as Wall Street, stock, bond, and other markets, as most of our Secretaries, even to the one present in power, has come from that same stable.

At that time when that first Secretary came before us and said, "Well, you know, we think we have got to repeal the silver transactions tax," oh, nobody knew, but I did. I asked the question and the answer was palmed off. I was a freshman, and at that time freshmen were supposed to be seen and not heard.

But it goes back to that point of time, where the source of our secretary-ships have been the Wall Street bond houses and bond and stock peddlers. So there should be no surprise that there is a camaraderie and kind of a brotherhood.

As I say, the membership of this select 38 consists of Merrill Lynch, J.P. Morgan, Fuji Securities of Japan, and, of course, Salomon Bros., as well as Drexel Burnham. You remember Milken, and others? They were also a primary dealer, until it was brought down by the scandal.

The conferring of primary dealer status on a firm by the Federal Reserve brings with it many special benefits and an unsurmountable competitive advantage over other firms. A primary dealer can submit bids on behalf of customers for their accounts, while nonprimary dealers cannot. This gives a primary dealer an inside track on commission income and extremely valuable information on market volume and price demand.

Moreover, since the Federal Reserve conducts its open market operations, so-called open market, which is a contradiction in terms. Their open market meets in secret. It will not report any of its decisions until months after they have taken them.

Those decisions can make or break any administration. That is the way they used to do it in England, with the Exchequer, the Chancellor, until they finally cut it out. It turned out they soon discovered that with that same power inherent in the Chancellor of the Exchequer, that that man could cause the rise or fall of administrations. So they reformed that years ago. We are still working on that same basis, through the so-called closed door open market.

They know ahead of the rest of the market what economic policies the Federal Reserve is pursuing. In addition, the primary dealer is exempt from having to submit a deposit along with its bids. This means that primary dealers are able to operate with less liquidity than their competitors. But that is what they have been doing in the stock market. Where are the margins? They found ways to evade that. We have been in trouble ever since.

Another advantage conferred upon primary dealers is their special access to high level Treasury and Federal Reserve officials. This is accomplished through their membership on the exclusive Treasury Borrowing Advisory Committee. The committee was established by the Treasury Department and symbolizes that very cozy relationship between the Federal Reserve and good old Wall Street.

Maybe they ought to call it like they do in Las Vegas, the Strip, instead of Wall Street.

This committee meets regularly in posh private settings with the top Treasury and Fed officials responsible for running the auctions. They discuss the Government's funding needs, and the committee's members leave the meetings with valuable market insight which is not available to the rest of the market.

Also since the Federal Reserve conducts informal examinations of the primary dealers, the market considers them as having the Federal Government certificate of good health, one that is not necessarily warranted.

With all of these competitive advantages, it is not surprising that some pension funds require that their fund managers do business only with a primary dealer. But what is the status of the investment of all these trillion dollars or so of pension funds? That will be a matter for another discussion later on.

A customer would almost be foolish not to do business with a business partner of the Federal Reserve. The Treasury Department and the Federal Reserve have only now begun to eliminate some of the anticompetitive advantages they have bestowed upon the primary dealers.

It is disappointing that it took a scandal like the one involving Salomon Bros. to spur this action. But it is just inadequate.

Since the Treasury Department under successive administrations, and, let me say, if anybody wants to accuse me of being partisan, so be it, but that is what the facts show. The Treasury Department under successive Republican administrations has become staffed at the highest level by Wall Street executives on leave from their firms.

It is unlikely that full reform will be achieved by administrative action alone given this condition. Always having one eye on their next job has encouraged Treasury officials to treat their firms with regulatory kid gloves. Exemplifying the close ties between the primary dealers and Treasury, the Secretary of the Treasury and his Assistant Secretary for Domestic Finance, who is responsible for the Treasury auctions, were both employed by a primary dealer before working for the Treasury Department. That is where they will go back.

This is why Congress must act to ensure that the integrity of the U.S. Government securities market is preserved. Scandals like Salomon Bros. only discourage participation in the option process and the financing of the Federal debt, since no one wants to play in a game that is rigged, obviously.

The crime committed by Salomon Bros. was another story out of the 1980's, where Wall Street greed bred contempt for the law. Salomon Bros. violated various auction rules with the intention of illegally cornering the market for a specific Treasury security.

A participant in a government securities auction is prohibited from purchasing for its own account more than 35 percent of the offering at any one auction. Thirty-five percent of billions is quite a chunk of money.

This serves two public policy goals. First, it prevents a firm from artificially inflating the market price of an issue in the secondary market to brokers and dealers who must cover their short positions.

Short here means their undesirable positions. What do I mean by short? Short on what? Short on margin, that which should be required.

When that happens it is said that the market has been squeezed, in Wall Street parlance.

Second, it encourages broad participation in the auctions and keeps the Treasury from becoming dependent on just a few firms financing the deficit.

Salomon Bros. violated the 35-percent rule by purchasing Government securities for its own account in the name of its customers. This allowed it to illegally squeeze the market in at least two instances.

□ 1440

The first was the 2-year note auction of April 24, 1991, and the second was the 2-year note auction of May 22, 1991. In the May auction, Salomon used false bids to purchase an astounding 94 percent of the issue for its own account, 94 percent.

Firms trying to cover their short positions in 2-year notes soon found that they had to pay a premium for the notes.

While Salomon reaped enormous profits, many firms were hurt financially. Of course, that is why we heard the hollering. A few were even forced out of business by the Salomon squeeze. The chief executive officer of Salomon resigned in disgrace when he admitted having knowledge of the illegal activities but failed to inform the Treasury Department or the Fed. What was new? This was what obviously he felt had been going on for sometime, when he failed to inform the Treasury or the Fed. Well, after all, they are his buddies. They meet in these cozy rooms. They have these plush places where they can have their nice social functions and get to know each other on a first-name basis. Why should he have expected a discovery? I mean after all, it may not have dawned on him that this was anything but the normal process.

The lack of confidence such an affair breeds in the Government securities market will only increase over the long term the cost to the taxpayers of financing the Federal debt.

And through our system, the taxpayer in financing the debt is already paying compound interest to boot.

To address this situation, I have been joined by Congressman STEVE NEAL in introducing H.R. 4450, the Government Securities Auction Reform Act.

H.R. 4450 will open up the auction process to greater participation, make the process much more competitive, and deter and strongly punish any firm that violates the rules of the auction.

The bill requires that the auction process become automated by the end of 1992. This is a deadline with which the Treasury Department and the Federal Reserve have already said they can comply.

It is not impossible. They find it quite feasible to do so.

Automation will facilitate participation by more firms and reduce customers' dependency on the primary dealers.

In order to encourage the development of a system of selling Government securities which is less susceptible to manipulation, the bill requires the Federal Reserve to experiment over a 2-year period, with a single price auction for notes and bonds, and a continuous market for Treasury bills.

Also, the bill prohibits the Fed from conferring any advantage, special treatment or other benefit on any auction participant which would give the participant a competitive advantage. This will put all firms on an equal footing and hopefully encourage the Fed to reconsider the need for its primary dealer arrangement.

The Federal Reserve would be required to strengthen its auction supervision and surveillance procedures to detect fraudulent or collusive behavior. Each auction participant would be required to maintain internal controls against possible fraud or other illegal conduct.

Firms which violate the auction rules will be dealt with firmly and swiftly. If the Federal Reserve finds that a firm has violated an auction rule, the firm will be barred from participating in future auctions for up to 5 years. In addition, if the Fed has strong reason to believe that a firm has committed a material violation of the auction rules, the firm will be suspended from future participation pending an investigation.

Finally, the problem of the Treasury Borrowing Advisory Committee is addressed. Since it might not be advisable to outright prohibit the Treasury and the Fed from getting advice or comments from the industry, the problem is best dealt with by shedding some light on the process.

That is, bringing in the sunlight. Meetings of the committee must be open to the public and membership must be as free and open and diverse as possible, subject only to logistical constraints.

The Banking Committee, and as its chairman I announce, plans to work in cooperation with the Committee on Ways and Means because the Committee on Ways and Means has jurisdiction on bebt and in order, even though we are addressing only the Federal Reserve Board, ultimately the Federal Reserve Board has to work with the Treasury under that section of the law that comes within the jurisdiction of the Committee on Ways and Means. And we intend to work in full and equal status with that distinguished committee.

The integrity of the Government security market merits no less. I urge my colleagues to support H.R. 4450, and as I said earlier, I now will have the bill and the section-by-section analysis for presentation and publication in the RECORD so every one of my colleagues who is interested in this matter will have it before him, as if he were a member of the committee.

H.R. 4450

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Government Securities Auction Reform Act".

(b) PURPOSES.—It is the purpose of this Act to promote an efficient, automated, and fully competitive process for the sale of United States Government securities in a manner which—

(1) strengthens the national credit by obtaining the least-cost financing of the Federal deficit; and

(2) protects the national credit by minimizing the potential for illegal manipulation of

the market for United States Government securities.

SEC. 2. FEDERAL RESERVE BOARD REQUIRED TO DEVELOP AUTOMATED SYSTEM FOR MARKETING UNITED STATES GOVERNMENT SECURITIES.

(a) In General.—Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended—

(1) by striking "Sec. 11. The Board of Governors of the Federal Reserve System" and inserting the following:

"SEC. 11. POWERS AND DUTIES OF THE BOARD OF GOVERNORS.

"(a) In General.—The Board of Governors of the Federal Reserve System"; and

(2) by adding at the end the following new subsection:

"(b) Automated Treasury Securities Marketing System.—

"(1) In general.—The Board shall establish and oversee, in conjunction with the Federal Reserve banks and subject to the direction of the Secretary of the Treasury in accordance with the 6th paragraph of section 10, a secure automated access system for the sale upon issuance of any security issued by the Secretary under chapter 31 of title 31, United States Code, which will facilitate remote participation in all auctions of such securities through electronic or other means.

"(2) Availability.—Any government security broker or government security dealer which meets all applicable capital requirements established by the primary Federal regulator of such broker or dealer shall be given access to the automated system established pursuant to this subsection.

"(3) Operating criteria for automated access system.—The automated access system developed by the Board pursuant to paragraph (1) shall meet the following criteria:

"(A) The system shall be designed so as to maximize the access of qualified purchasers of securities to the system.

"(B) The requirements for access to and participation in the automated access system shall be uniform for all participants.

"(4) Information required to be readily available.—The Board shall prepare, and make readily available to all participants and any prospective participant in the automated system established under this subsection, a detailed description of—

"(A) the operation of the system; and

"(B) the administrative procedures for gaining access to the system.

"(5) Implementation in 1992.—The automated system required to be established under paragraph (1) shall be developed and implemented before January 1, 1993.".

(b) Clarification of Authority of Federal Reserve Banks to Act as Fiscal Agent of the Treasury.—Section 3302 of title 31, United States Code is amended by adding at the end the following new subsection:

"(g) In addition to any authority contained in any other provision of law, the Secretary of the Treasury may designate any Federal Reserve bank as the agent of the Secretary for purposes of selling any security issued under chapter 31 of this title.".

(c) Technical and Conforming Amendments.—Subsection (a) of section 11 of the Federal Reserve Act (12 U.S.C. 248) (as so designated by subsection (a) of this section) is amended—

(1) by redesignating clauses (i) through (iv) of the paragraph designated as (a)(2)(B) as subclauses (I) through (IV), respectively;

(2) by redesignating subparagraphs (A) and (B) of the paragraph designated as (a)(2) as clauses (i) and (ii), respectively;

(3) by redesignating paragraphs (1) and (2) of the paragraph designated as (a) as subparagraphs (A) and (B), respectively; and

(4) by redesignating the paragraphs designated as (a) through (p) as paragraphs (1) through (15), respectively.

SEC. 3. AUCTION PROCESS REFORMS.

(a) In General.—Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by inserting after subsection (b) (as added by section 2 of this Act) the following new subsections:

"(c) Auction Process Reforms.—

"(1) Experiments with single price auctions of treasury bonds, notes, and bills.—During the 2-year period beginning on the date the automated access system established pursuant to subsection (b) becomes operational and except as provided in paragraph (2), the Board shall establish and maintain procedures (subject to the direction of the Secretary in accordance with the 6th paragraph of section 10) under which the Federal Reserve banks—

"(A) shall experiment with selling bonds and notes described in sections 3102 and 3103 of title 31, United States Code; and

"(B) may experiment with selling Treasury bills and certificates of indebtedness described in section 3104 of such title,

through the automated access system developed pursuant to paragraph (1) at a single price auction at which all winning bids are awarded securities at the same price.

"(2) Experiments with continuous market for treasury bills and certificates of indebtedness.—during the 2-year period described in paragraph (1), the Board shall establish and maintain procedures (subject to the direction of the Secretary in accordance with the 6th paragraph of section 10) under which the Federal Reserve banks shall experiment with a continuous market for the sale upon issuance of Treasury bills and certificates of indebtedness described in section 3104 of title 31, United States Code, by offering to sell such bills or certificates through the automated access system developed pursuant to paragraph (1) during normal business hours of any day other than any Saturday, Sunday, or legal holiday.

"(d) Prohibition on Favored Players.—No participant in the automated access system maintained under subsection (b) or the auction or continuous market maintained pursuant to subsection (c) may receive any advantage, special treatment, or other benefit which is not generally available to participants in such system, auction, or market from the Secretary, the Board, or any Federal Reserve bank by virtue of such 'participant's business or other relationship with the Secretary, Board, or Federal Reserve bank.

"(e) Supervisory Responsibilities.—

"(1) In general.—The Board shall strengthen procedures for monitoring the automated access system maintained under subsection (b) and the auction and any continuous market maintained pursuant to subsection (c) for fraudulent activities with respect to any such market or system and collusive behavior unlawfully affecting the market price of any such security.

"(2) Internal controls for auction and other market participants.—The Board shall prescribe regulations requiring any participant in the automated access system maintained under subsection (b) or the auction or any continuous market maintained pursuant to subsection (c) (hereafter in this section referred to as 'participant') to maintain internal controls against violations of law, regulations, and procedures applicable to the conduct of such participant, or any officer or employee of the participant, in connection with such system, auction, or market or the purchase by such participant, officer, or employee of government securities.

"(3) Bank regulations.—The Federal Reserve banks shall be subject to such regulations and procedures as the Board may prescribe or issue to carry out the purposes of this section.".

(b) Report to Congress.—After the end of the 2-year period beginning on the date the automated access system established pursuant to section 11(b) becomes operational, the Board of Governors of the Federal Reserve System shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Finance, and Urban Affairs of the Senate containing—

(1) a detailed description of—

(A) the experiments for selling bonds and notes at a single price auction under section 11(c)(1) of the Federal Reserve Act and any Treasury bills or certificates of indebtedness which may be sold at any such auction pursuant to subparagraph (B) of such section;

(B) the experiments with a continuous market for Treasury bills and certificates of indebtedness under section 11(c)(2) of the Federal Reserve Act; and

(C) the results obtained under such system and experiment;

(2) the recommendations of such Board on the most appropriate method (using criteria which the Board shall establish for such purpose) for marketing bonds, notes, Treasury bills and certificates of indebtedness described in section 3102, 3103, or 3104 of title 31, United States Code, and a description of such method; and

(3) such other recommendations for legislative action as the Board determines to be appropriate.

SEC. 4. ENFORCEMENT.

Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by inserting after subsection (e) (as added by section 3 of this Act) the following new subsection:

"(f) Additional Enforcement Provision.—

"(1) In general.—The Board shall revoke, or require any Federal Reserve bank to revoke, the status of any participant as a participant if the Board finds that such participant, or any officer or employee of the participant, has committed a material violation of any auction rule or other procedure applicable with respect to the automated access system maintained pursuant to subsection (b) or any auction market conducted or maintained pursuant to subsection (c).

"(2) Period of revocation.—The revocation under paragraph (1) of the status of any participant as a participant shall be effective for not more than 5 years.

"(3) Suspension during investigations.—The Board shall suspend, or require any Federal Reserve bank to suspend, the status of any participant as a participant pending the completion of any investigation of such participant if the Board has reason to believe that the participant, or any officer or employee of the participant, has committed a material violation of any auction rule or other procedure applicable with respect to the automated access system maintained pursuant to subsection (b) or any auction market conducted or maintained pursuant to subsection (c) of any law or regulation, the Board may revoke the status of such person as a participant.".

SEC. 5. DEFINITIONS.

Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by inserting after subsection (f) (as added by section 4 of this Act) the following new subsection:

"(g) DEFINITIONS.—For purposes of this section:

"(1) PARTICIPANT.—The term 'participant' means any person who participates or is authorized to participate in the automated access system maintained under subsection (b) or the auction or any continuous market maintained pursuant to subsection (c).

"(2) SECRETARY.—The term 'Secretary' means the Secretary of the Treasury.".

SEC. 6. REQUIREMENTS RELATING TO TREASURY BORROWING ADVISORY COMMITTEE.

(a) IN GENERAL.—The requirements of this section shall apply to any advisory committee established to advise the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, or any Federal Reserve bank on any aspect of the marketing and sale of securities under chapter 31 of title 31, United States Code, including any group of representatives of participants (as defined in section 11(g)(1) of the Federal Reserve Act) or any association representing participants, which may meet formally or informally with the Secretary, the Board, any such bank, or any designated representative of the Secretary, the Board, or the bank, on a regular or intermittent basis.

(b) MEETINGS.—

(1) IN GENERAL.—Section 10 of the Federal Advisory Committee Act (relating to open meetings, notice to and comments from the public, and minutes) shall apply to each meeting held by any advisory committee referred to in subsection (a) without regard to subsection (a)(2) or subsection (d) of that section.

(2) MINUTES OF EACH MEETING.—The detailed minutes required to be maintained under section 10(c) of the Federal Advisory Committee Act by any advisory committee referred to in subsection (a) shall be made available to the public promptly.

(c) REPRESENTATION ON COMMITTEE.—Any advisory committee referred to in subsection (a) shall consist of as large a number of members as is feasible, taking into consideration the number of individuals who wish to be members.

(d) PROHIBITION ON RECEIPT OF GRATUITIES OR EXPENSES BY ANY OFFICER OR EMPLOYEE OF THE BOARD OR SECRETARY.—No officer or employee of the Secretary of the Treasury, the Board of Governors of the Federal Reserve System, or any Federal Reserve bank may accept any gratuity, consideration, expense of any sort, or any other thing of value from any advisory committee described in subsection (a), any member of such committee, or any other person in connection with any meeting of the committee.

THE GOVERNMENT SECURITIES AUCTION REFORM ACT, SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE; PURPOSES

The short title of the bill is the "Government Securities Auction Reform Act." The purpose of the legislation is to promote an efficient, automated and fully competitive process for the sale of United States Government Securities ("government securities").

SECTION 2. FEDERAL RESERVE BOARD REQUIRED TO DEVELOP AUTOMATED SYSTEM FOR MARKETING UNITED STATES GOVERNMENT SECURITIES

The Board of Governors of the Federal Reserve System (the "Board") is required to establish and oversee, in conjunction with the Federal Reserve banks, an automated access system for the sale upon issuance of government securities. The system must facilitate remote participation in all auctions of government securities and maximize access of qualified purchasers and sellers of government securities. Any government securities broker or dealer which meets all applicable capital requirements established by its primary Federal regulator shall be eligible to participate in the automated auction. Requirements for access and participation must be uniform for all participants. The automated system must be implemented by January 1, 1993.

The Board must make readily available a detailed description of the automated system and the administrative procedures for gaining access to the system. Title 31 is amended to clarify that the Secretary of the Treasury may designate any Federal Reserve bank as fiscal agent for the purpose of conducting the Treasury auctions.

SECTION 3. AUCTION PROCESS REFORMS

During the two year period beginning on the date the automated access system becomes operational, the Board is required to establish and maintain procedures under which the Federal Reserve banks are required to experiment with the use of a single price auction for the sale of bonds and notes, and may also experiment with the use of a single price auction for the sale of bills and certificates of indebtedness. Under a single price auction, all winning bidders are awarded securities at the same price.

During this same two year period, the Board is required to establish and maintain procedures under which the Federal Reserve banks shall experiment with a continuous market for bills and certificates of indebtedness. Under a continuous market, a participant would be able to buy such short-term securities from the Treasury Department through the Federal Reserve banks during normal business hours of any day other than weekends and legal holidays.

No participant may receive any advantage, special treatment, or other benefit from the Treasury or Federal Reserve Board or banks which would create for that participant a competitive advantage in the market.

The Board is required to strengthen its auction supervision and surveillance procedures in order to detect and deter fraudulent or collusive behavior. Also, each participant in the automated access system will be required to maintain internal controls against possible fraud or other illegal conduct in connection with the auction of government securities.

After the end of the two year period of experimentation with a single price auction and a continuous market, the Board shall submit a report to the House and Senate Banking Committees on the results of such experiments, with any recommendations on the preferable system and additional legislation.

SECTION 4. ENFORCEMENT

The Board is required to revoke the status of any participant as a participant in the auction process if the Board finds that the participant, or any officer or employee of such participant, has committed a material violation of any auction rule. The revocation shall be effective for not more than 5 years.

The Board is required to suspend the status of a participant as a participant pending the competition of an investigation if the Board has reason to believe that the participant, or any officer or employee of such participant, has committed a material violation of any auction rule.

SECTION 5. DEFINITIONS

The term "participant" means any person who participates or is authorized to participate in the automated access system. The term "Secretary" means the Secretary of the Treasury.

SECTION 6. REQUIREMENTS RELATING TO TREASURY BORROWING ADVISORY COMMITTEE

Any committee which advises the Treasury, the Board, or any Federal Reserve bank shall hold public meetings, be prohibited from going into executive session, keep and make available to the public detailed minutes, and be as open for membership as possible. No officer or employee of the Treasury, the Board, or any Federal Reserve bank may accept any gratuity of any sort from any member of such committee.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DOOLITTLE) to revise and extend their remarks and include extraneous material:)

Mr. WALKER, for 60 minutes, today.

Mr. DREIER of California, for 60 minutes, today and on March 20.

Ms. ROS-LEHTINEN, for 60 minutes, on March 25.

Mr. BURTON of Indiana, for 60 minutes, on April 20, 21, 22, 23, 24, 27, 28, 29, and 30.

(The following Members (at the request of Mr. CONDIT) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, on March 20.

Mr. LEHMAN of California, for 60 minutes on April 9 and 28.

(The following Member (at her own request) to revise and extend her remarks and include extraneous material:)

Ms. MOLINARI, for 60 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. FRANK of Massachusetts, for 30 minutes, today.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. ROHRABACHER, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. DOOLITTLE) and to include extraneous matter:)

Mr. DICKINSON.

Mr. KOLBE.

Mr. LAGOMARSINO in two instances.

Mr. YOUNG of Alaska.

(The following Members (at the request of Mr. CONDIT) and to include extraneous matter:)

Mr. BERMAN.
Mr. YATES.
Mr. ATKINS.
Mr. REED.
Mr. SMITH of Iowa.

SENATE BILLS REFERRED

Concurrent resolution of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. Con. Res. 80. Concurrent resolution concerning democratic changes in Zaire; to the Committee on Foreign Affairs.

ADJOURNMENT

Mr. GONZALEZ. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 45 minutes p.m.) the House adjourned until Friday, March 20, 1992, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3120. A letter from the Department of Defense, transmitting fiscal year 1991 unit exchange of training and related support between the U.S. and foreign countries, pursuant to 22 U.S.C. 2770a; to the Committee on Foreign Affairs.

3121. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting letters from Mexican Fisheries Minister Guillermo Jimenez Morales and Venezuelan Agriculture Minister Jonathan Coles-Ward which make clear the commitment by those two countries to enhance efforts to protect dolphins; jointly, to the Committees on Merchant Marine and Fisheries and Foreign Affairs.

3122. A letter from the Secretary of Transportation, transmitting a letter informing the Congress of the actions which the Secretary has taken with regard to Ezeiza International Airport, Buenos Aires, Argentina, a report fully discussing these actions and events which led up to them will be submitted to Congress shortly; jointly, to the Committees on Public Works and Transportation and Foreign Affairs.

3123. A letter from the Railroad Retirement Board, transmitting the annual report on the ability of the Railroad Retirement Account to pay benefits in each of the next succeeding 5 years, pursuant to 45 U.S.C. 231u(a)(1); jointly, to the Committees on Ways and Means and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GONZALEZ. Committee on Banking, Finance and Urban Affairs. H.R. 4241. A bill to provide funding for the Resolution Trust Corporation, and for other purposes; with an amendment (Rept. 102-457). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY. Committee on Veterans' Affairs. H.R. 4184. A bill to designate the Department of Veterans Affairs Medical Center located in Northampton, MA, as the "Edward P. Boland Department of Veterans Affairs Medical Center" (Rept. 102-458). Referred to the House Calendar.

Mr. GAYDOS. Committee on House Administration. House Resolution 379. Resolution providing amounts from the contingent fund of the House for the expenses of investigations and studies by standing and select committees of the House in the 2d session of the 102d Congress; with an amendment (Rept. 102-459). Referred to the House Calendar.

Mr. DERRICK. Committee on Rules. House Resolution 402. Resolution waiving all points of order against the conference report on H.R. 4210. A bill to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families, and against consideration of such conference report (Rept. 102-460). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. HUGHES (for himself, Mr. BROOKS, and Mr. MOORHEAD):

H.R. 4511. A bill to amend title 17, United States Code, to revise the compulsory licensing system that applies to cable systems; to the Committee on the Judiciary.

By Mr. BARRETT (for himself and Mr. THOMAS of CALFIORNIA):

H.R. 4512. A bill to amend the Internal Revenue Code of 1986 to clarify the exemption from the firearms tax for shells and cartridges supplied by a customer for reloading; to the Committee on Ways and Means.

By Mr. DORNAN of California (for himself, Mr. SKELTON, Mr. YOUNG of Alaska, Mr. LIPINSKI, Mr. PACKARD, Mr. LAGOMARSINO, Mr. SPENCE, Ms. KAPTUR, Mr. LANCASTER, Mr. ROE, Mr. BLAZ, Mr. HUCKABY, Mr. KOSTMAYER, and Mr. FROST):

H.R. 4513. A bill to establish a program to assist members of the Armed Forces who are discharged or released from active duty to obtain State certification as elementary or secondary school teachers; to the Committee on Armed Services.

By Mr. KOLBE:

H.R. 4514. A bill to permit certain lands transferred to the city of Tucson, AZ, to be used for park or recreation purposes; to the Committee on Armed Services.

By Mr. MARTINEZ:

H.R. 4515. A bill to amend title II of the Juvenile Justice and Delinquency and Prevention Act of 1974 to require the Administrator of the Office of Juvenile Justice and Delinquency Prevention to conduct a study of violence committed by or against juveniles in urban areas; to the Committee on Education and Labor.

By Mr. MARTINEZ (for himself, Mr. WHEAT, and Mr. MOAKLEY):

H.R. 4516. A bill to amend title VI of the Omnibus Budget Reconciliation Act of 1981 to establish a community services empowerment program; to the Committee on Education and Labor.

By Mr. MARTINEZ:

H.R. 4517. A bill to assist Native Americans in assuring the survival and continuing vitality of their languages; to the Committee on Interior and Insular Affairs.

By Mr. RANGEL (for himself, Mr. ORTIZ, Mr. MARTINEZ, Ms. ROS-LEHTINEN, Mr. ROYBAL, Mr. DE LA GARZA, Mr. DE LUGO, Mr. RICHARDSON, Mr. TORRES, Mr. BUSTAMANTE, Mr. SERRANO, Mr. PASTOR, and Mr. COLORADO):

H.R. 4518. A bill to amend the Department of Education Organization Act to create the position of Assistant Secretary of Education for Bilingual Education and Minority Languages Affairs and for other purposes; to the Committee on Education and Labor.

H.R. 4519. A bill to amend the Internal Revenue Code of 1986 to allow a credit to employers for the cost of providing English language training to their employees; to the Committee on Ways and Means.

By Mr. SOLOMON:

H.R. 4520. A bill to amend title 38, United States Code, to change the date for the beginning of the Vietnam era for the purpose of veterans' benefits from August 5, 1964, to December 22, 1961; to the Committee on Veterans' Affairs.

By Mr. STARK:

H.R. 4521. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on an employer's cost of providing medical benefits to his employees and to amend the Social Security Act to create a new program to update and maintain the infrastructure requirements of our Nation's essential urban and rural safety net hospitals; to the Committee on Ways and Means.

By Mr. GEPHARDT:

H.J. Res. 446. Joint resolution waiving certain enrollment requirements with respect to H.R. 4210 of the 102d Congress; considered and agreed to.

By Mr. ALLEN (for himself, Mr. ROTH, Mr. DELAY, Mr. BLILEY, Mr. ARMEY, Mr. FRANKS of Connecticut, Mr. DORNAN of California, Mr. FAWELL, Mr. COBLE, Mr. DOOLITTLE, Mr. CUNNINGHAM, Mr. HEFLEY, Mr. STUMP, Mr. RAVENEL, Mr. MOORHEAD, Mr. SPENCE, Mr. CAMP, Mr. TAYLOR of North Carolina, Mr. SANTORUM, Mr. EWING, Mr. ZELIFF, Mr. BOEHNER, Mr. SENSENBRENNER, Mr. DUNCAN, Mr. COX of California, Mr. HANCOCK, and Mr. LEWIS of California):

H.J. Res. 447. Joint resolution proposing an amendment to the Constitution of the United States to serve as a "Taxpayer's Bill of Rights" by requiring a reduction in the deficit, a balancing of the budget, and a limitation on revenues, and for other purposes; to the Committee on the Judiciary.

By Mr. KOPETSKI (for himself, Mr. ANDREWS of New Jersey, Mr. ANDREWS of Maine, Mr. BACCHUS, Mr. BERMAN, Mr. BOUCHER, Mr. BREWSTER, Mr. CARR, Mr. CLEMENT, Mr. CRAMER, Mr. DEFAZIO, Ms. DELAURO, Mr. ENGEL, Mr. FASCELL, Mr. FEIGHAN, Mr. FRANK of Massachusetts, Mr. FROST, Mr. COX of Illinois, Mr. GEJDENSON, Mr. HOAGLAND, Mr. HOBSON, Mr. HOCHBRUECKNER, Ms. HORN, Mr. HUGHES, Mr. JACOBS, Mr. JOHNSTON of Florida, Mr. JONES of North Carolina, Mr. JONTZ, Ms. KAPTUR, Mr. LAGOMARSINO, Mr. LEVIN of Michigan, Mr. LEVINE of California, Ms. LONG, Mrs. LOWEY of New York, Mr. MCDERMOTT, Mr. MACHTLEY, Mr. MARKEY, Mrs. MORELLA, Ms. NORTON, Mr. OWENS of Utah, Mr. PALLONE, Mr. PANETTA, Ms. PELOSI, Mr. PETERSON of Minnesota, Mr. PETERSON of Florida, Mr. SANGMEISTER, Mr. SIKORSKI, Ms. SLAUGHTER, Mr. SMITH of Florida, Mr. STUDDS, Mrs. UNSOELD, Mr. WALSH, Mr. WISE, Mr. WOLPE, and Mr. WAXMAN):

H. Con. Res. 296. Concurrent resolution expressing the sense of the Congress that equitable mental health care benefits must be included in any health care reform legislation passed by the Congress; jointly, to the Committees on Energy and Commerce and Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 110: Mr. FRANK of Massachusetts.

H.R. 303: Mr. MCGRATH.

H.R. 747: Mr. WEBER and Mr. MARLENEE.

H.R. 1049: Mr. FRANKS of Connecticut and Mr. MORRISON.

H.R. 1156: Mr. FRANKS of Connecticut.

H.R. 1335: Mr. RAVENEL.

H.R. 1774: Mr. WISE.

H.R. 2149: Mr. GILCHREST, Mr. HATCHER, and Mr. ATKINS.

H.R. 2561: Mr. ALEXANDER.

H.R. 3164: Mr. OWENS of New York, Mr. MRAZEK, and Mr. JONTZ.

H.R. 3281: Mr. DELLUMS.

H.R. 3639: Mr. BERMAN.

H.R. 3712: Mr. COBLE and Mr. BOUCHER.

H.R. 3725: Mr. MCCURDY.

H.R. 3780: Mr. KLUG, Mr. FRANK of Massachusetts, and Mr. ZELIFF.

H.R. 3803: Mr. JONTZ.

H.R. 3806: Mr. DARDEN, Mr. GORDON, Mr. NAGLE, Mr. JEFFERSON, and Mr. RICHARDSON.

H.R. 4055: Mr. CARPER, Mr. KOLBE, Mr. HUGHES, Mr. SOLARZ, and Mr. JEFFERSON.

H.R. 4086: Ms. NORTON.

H.R. 4094: Mr. LAGOMARSINO.

H.R. 4127: Mr. ZELIFF and Mr. HORTON.

H.R. 4184: Mr. MONTGOMERY, Mr. STUMP, Mr. EDWARDS of California, Mr. HAMMERSCHMIDT, Mr. APPLEGATE, Mr. BILIRAKIS, Mr. PENNY, Mr. STAGGERS, Mr. HARRIS, Mrs. PATTERSON, Mr. SANGMEISTER, Mr. JONES of Georgia, Ms. LONG, Mr. BREWSTER, Mr. PICKETT, Mr. GEREN of Texas, Mr. CLEMENT, Mr. RIDGE, and Mr. ROWLAND.

H.R. 4220: Ms. HORN.

H.R. 4271: Mr. MARTIN, Mr. KOPETSKI, Mr. ENGEL, Mr. RAHALL, Mr. TRAFICANT, Mr. GREEN of New York, Mr. TORRES, Mr. FOGLIETTA, Mr. ANDREWS of Maine, Mr. MARTINEZ, and Mr. DELLUMS.

H.R. 4280: Mr. LAGOMARSINO.

H.R. 4293: Mr. EVANS, Mr. ZELIFF, Mr. WILSON, Mr. FRANKS of Connecticut, Mr. SPENCE, Mr. KLUG, Ms. SLAUGHTER, and Mr. SKEEN.

H.R. 4338: Ms. DELAURO, Mr. ANDREWS of Texas, Mr. DYMALLY, Mr. GLICKMAN, Mr. PACKARD, Mr. SABO, Mr. BONIOR, Mr. DICKS, Mr. CONDIT, Mr. ANTHONY, Mr. RIGGS, Mr. BARNARD, Mr. PETERSON of Minnesota, Ms. SLAUGHTER, Mr. JACOBS, Mr. FOGLIETTA, Mr. THOMAS of California, Mr. HUNTER, and Mr. NUSSLE.

H.R. 4340: Mr. FRANK of Massachusetts, Mr. PERKINS, Mrs. UNSOELD, Mr. BEILENSON, Mrs. MINK, Mr. MARTINEZ, and Mr. BERMAN.

H.R. 4366: Mr. CLAY, Mr. EVANS, Mr. VENTO, Mr. BONIOR, Mr. ROE, Mr. MARTINEZ, and Mr. MFUME.

H.R. 4414: Mr. ECKART and Mr. FRANK of Massachusetts.

H.R. 4427: Mr. MCCLOSKEY, Mr. LEWIS of Florida, Mr. STOKES, Mr. BENNETT, and Mr. OBERSTAR.

H.R. 4430: Mr. WALSH and Mr. GALLEGLY.

H.J. Res. 425: Ms. NORTON, Mr. MONTGOMERY, Mr. PICKETT, Mr. GONZALEZ, Mr. DICKINSON, Mr. SHAW, Mr. FASCELL, Mr. CRAMER, Mr. TALLON, Mr. PASTOR, Mr. HALL of Texas, Mr. SPENCE, Mr. COLEMAN of Texas, Mr. BEVILL, Mr. BAKER, Mr. GINGRICH, Mr. QUILLEN, Mr. HATCHER, Mr. VALENTINE, Mr. HUTTO, Mr. JEFFERSON, Mr. HAMMERSCHMIDT, Mr. TAYLOR of Mississippi, Mrs. KENNELLY, and Mr. PANETTA.

H.J. Res. 427: Mr. CLINGER, Mr. STEARNS, Ms. NORTON, Mr. ANNUNZIO, Mr. AUCOIN, Mr. ABERCROMBIE, Mr. BROWDER, Mr. BUSTAMANTE, Mr. GALLO, Mr. TOWNS, Mr. HYDE, Mr. FALEOMAVAEGA, Mr. HARRIS, Mr. MCDERMOTT, Mr. LAGOMARSINO, Mr. MAVROULES, Mr. LANTOS, Mr. LEVIN of Michigan, Mr. DEFAZIO, Mr. MORAN, Ms. HORN, Mr. SAWYER, Mr. TALLON, Mr. JEFFERSON, Mr. OWENS of Utah, Mr. ROE, and Mr. MARTINEZ.

H.J. Res. 433: Mr. CHANDLER, Mr. COLEMAN of Texas, Mr. EWING, Mr. JEFFERSON, Mr. JOHNSTON of Florida, Mr. LAFALCE, Mr. MCNULTY, Mr. MATSUI, Mr. MFUME, Ms. MOLINARI, Mr. MOODY, Ms. NORTON, Mr. VALENTINE, Mr. WALSH, and Mr. WILSON.

H. Con. Res. 224: Mr. KOLTER.

H. Res. 130: Mr. DELLUMS, Mr. FROST, Mr. OWENS of Utah, Mr. ANDREWS of Maine, Mr. ATKINS, and Mr. HUGHES.

H. Res. 233: Mr. Ballenger.

H. Res. 302: Mr. ECHERT. Mr. BALLENGER.

H. Res. 321: Mr. TOWNS and Mr. WAXMAN.

H. Res. 376: Mr. POSHARD and Mr. BALLENGER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1790: Mr. WALSH.

H.R. 2824: Mr. SCHIFF.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3553

By Mr. ROHRABACHER:

—Page 700, strike lines 21 and 22 and insert the following:

(a) FINDINGS.—The Congress finds that—

(1) racial discrimination is indefensible, improper, and immoral;

(2) it has been reported that many institutions of higher education have instituted admissions quotas designed to limit the admission of Asian-Americans;

(3) these restrictive quotas are similar to those instituted in the 1920's to limit the admission of Jewish students;

(4) statistics show that Asian-American students face greater obstacles in their attempts to attend institutions of higher education than students of other races;

(5) the Office of Civil Rights of the Department of Education is conducting compliance reviews at Harvard University and the University of California at Los Angeles to determine whether the schools in violation of title VI (relating to nondiscrimination in federally assisted programs) of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–6); and

(6) the Chancellor of the University of California at Berkeley apologized to Asian-Americans for an admission process of the school which had a negative impact on the admission of Asian-Americans.

—Page 701, line 4, insert before the semicolon the following: "because of their race in violation of Regents of the University of California v. Bakke, 438 U.S. 265 (1978)".

SENATE—*Thursday, March 19, 1992*

(Legislative day of Thursday, January 30, 1992)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the Honorable CHARLES S. ROBB, a Senator from the State of Virginia.

The PRESIDING OFFICER. Today's prayer will be offered by a guest chaplain, the Reverend Paul E. Lavin, pastor of St. Joseph's on Capitol Hill.

PRAYER

The Reverend Paul E. Lavin, pastor, St. Joseph's on Capitol Hill, offered the following prayer:

Let us take a moment to put ourselves in the presence of God.

Lord, God of Peace, we bless You and we thank You. You are the source of all peace and the bond of true brotherhood.

We thank You for the desire, the efforts, the realizations which Your Spirit of Peace has roused in our day to replace hatred with care and insecurity with understanding.

Open our hearts yet more to the needs of all people, so that we may be better able to build a true peace.

Remember, Lord, all who are in pain who suffer and who die in the cause of a more just and decent world.

For people of every race, of every language, and every way of life, may we take part in building a world of justice, of peace, and of true concern; and may the world be filled with Your glory. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 19, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHARLES S. ROBB, a Senator from the State of Virginia, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ROBB thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the majority leader, Senator MITCHELL.

THANKING THE GUEST CHAPLAIN, REV. PAUL E. LAVIN

Mr. MITCHELL. Mr. President, I want to join all Senators in welcoming Father Lavin this morning. I have a special interest in his words because I attend St. Joseph's on Capitol Hill on weekends when I am in Washington and it is always a pleasure to see and hear from Father Lavin. In behalf of all Members of the Senate, I thank him for his opening prayer.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve all of the leader time for myself and for the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Leader time is reserved.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I understand there will now be a period for morning business.

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 12:30 p.m. with Senators permitted to speak therein.

The majority leader is recognized.

Mr. MITCHELL. I thank the Chair.

(The remarks of Mr. MITCHELL pertaining to the submission of Senate Resolution 273 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BREAUX. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Louisiana [Mr. BREAUX] is recognized.

RICE AND TRADE WITH JAPAN

Mr. BREAUX. Mr. President, for those who may be watching through the medium of television, I rise today to address an international trade problem that is facing the United States which I think has clearly gotten out of hand and to offer at the same time a potential cure for that problem.

One of the problems with the country of Japan, one of our largest trading partners in many areas, is that in some very distinct areas, the country of Japan is not playing by a fair set of rules and regulations.

The other day the Senate Finance Committee had a hearing, and the hearing was on the question of structural impediments to trade. It is a pretty fancy sounding title for a hearing, but the focus of the hearing was to look at various countries around the world that had structural impediments placed in their laws and their rules or procedures that inhibited or made it more difficult for the United States to trade with those particular countries.

Mr. President, I represent the State of Louisiana and one of the cities, in fact my hometown, is a relatively small city of Crowley, LA, which prides itself on being noted as the rice capital of America because of the large number of rice farmers who work and earn their living in that area.

When it comes to the question of rice and trade with Japan, Japan does not have structural impediments. No, Japan rather has a steel fence topped by barbed wire that has been constructed around their country's borders, because when it comes to the United States offering the product rice to Japan for sale, there is absolutely a total prohibition against any sales of rice products in that country.

Mr. President, that is despite the fact that the United States can sell the product at five or more times less expensive, delivered in that country, than they can produce in their own country.

In fact, it is very clear that they subsidize their rice farmers to the tune of 8 to 10 times the current world price of that product. The reason the Japanese say to Americans and to any other country they will not allow any rice sales in their country, is because it is their tradition to grow rice in Japan for the needs of their people.

Mr. President, it used to be America's tradition to build our own automobiles. It used to be our tradition to build our own televisions and electronics, but we have opened our markets in the sense of free trade and have allowed other countries, particularly the country of Japan, to come into our market and offer their products. If they offer it at a better price and better quality, Americans then purchase those products and that is called free and fair trade.

When it comes to Japan, the steel fence they have built around their country with regard to this particular

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

product is unacceptable. It is unfair. Unfortunately, this administration is not doing anything sufficient to correct the problem. The rice industry, I think it is important to note, tried to follow the procedures of 1986 when it filed a so-called section 301 petition against the country of Japan, which had to be filed with our United States Trade Representative.

The Trade Representative was charged with looking to see whether there were any impediments or any unreasonable restrictions on our ability to sell our products in the country of Japan. The Trade Representative rejected the industry's petition with the statement that basically "we need to study this problem."

The industry came back in 1988, after 2 years of the administration studying the problem, and filed another section 301 petition, alleging unfair trade practices. The administration, once again, received the petition and rejected it with the statement, "We are going to study it."

Just a few weeks ago, the U.S. Trade Representative, Carla Hills, our Ambassador of trade, who works very diligently at the job, was before the Senate Finance Committee. I outlined these concerns to her at that time. I said, "Madam Ambassador, if the industry came back again in 1992 and filed the same petition, what would be the result?" And she replied, "we will study it."

Mr. President, we have studied this problem to the point of exhaustion. We need action. We need some indication from the administration that they recognize this is a serious problem and are willing to take action.

They said, well, we need to study it more because maybe the Japanese Government will make some changes. Mr. President, the latest news articles referring to this situation say, "Japan will stick to its ban on rice imports, spurning a request by the chairman of the General Agreement on Tariffs and Trade." They point out in this article that officials at the Prime Minister's office, the highest office in the country of Japan, said the decision to stick by their ban on rice imports was made at a meeting chaired by Prime Minister Miyazawa and attended by Foreign Minister Watanabe and by the Agriculture, Forestry, and Fisheries Minister Tanabu, and also by the Chief Cabinet Secretary, Secretary Kato.

Later that day, the Prime Minister told Japanese reporters that the decision represents "a policy of the Japanese Government."

Mr. President, that policy has gotten so bad that not only are American rice farmers not allowed to sell their products, at any price in the country of Japan, last year, when American industry tried to display the product, rice, at a trade food show, the industry was threatened with arrest by the Japanese Government. Not only could they not offer the product for sale, they threatened our people with arrest if they even showed their product at a food show.

Mr. President, this is unacceptable conduct. That is not, as we say in Washington, a structural impediment. It, indeed, is an absolute prohibition, an absolute ban. It represents a steel fence with barbed wire encircling their country.

That is why, Mr. President, I have decided to join with Senator BAUCUS in supporting legislation which will, in fact, establish a so-called Super 301 Program. The Super 301 legislation, which is reflected in the bill S. 1850, would create additional pressure upon our President to pursue unfair trade practices that are committed against the United States interests and will also provide the President's Trade Representative with what I think is useful leverage and authority with which to be able to assist this Government and our people with moving the trade talks that are currently stalled and getting nowhere.

It is time to insist that the administration, when they see a problem, take action. And by action I mean more than just an agreement to study the problem. We have studied it and studied it, with no steps in solving it. That conduct is unacceptable, and the Super 301 legislation, which I join in supporting today, is an effort to get results and not just talk.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who seeks recognition?

Mr. BREAUX. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WIRTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WIRTH. I thank the Chair.

TAX FAIRNESS AND ECONOMIC GROWTH ACT OF 1992

Mr. WIRTH. Mr. President, last week the Senate went through a tortuous consideration of our version of H.R. 4210, the Tax Fairness and Economic Growth Act of 1992. We heard much about what this bill would do or not do for the struggling economy, a lengthy debate, while the bill was before the Senate for more than a week.

In some ways that argument is reminiscent of calculating how many angels can dance on the head of a pin. We all know if you ask enough economists enough questions often enough, you will get the answer you want.

Mr. President, today what I wish to focus on is what we know this bill will really do. The President will soon see it on his desk, and I suspect he will veto it. That is what our friends on the other side of the aisle are saying. But I certainly hope he will not, because there is so much in this bill, Mr. President, that is good for the people of this country, good for the businesses in this Nation, and good for the middle class of the United States.

Many of the bill's provisions can stand on their own as sound public policy. The bill will provide a $300 tax credit for children under the age of 16. For the average family that will mean an extra $5,000 per child by the time that child could receive a driver's license. Many families would not call that insignificant.

There has been a lot of debate over the so-called middle-class tax cut, but I think those who believe we ought to be concentrating on our children and that this is, and should be, the decade of our children would suggest this is, if we are going to have a middle-class tax cut, the fair, efficient, and most effective way to do it.

The legislation will simplify and expand the earned income tax credit, directly benefiting the working poor families of our Nation. That legislation was passed some time ago and has become so complicated that it is useless to those it was intended to benefit, and now we are simplifying that so that the working poor of the country can take advantage of that very significant element in the tax bill.

Third, it would give Americans access to savings in their Individual Retirement Accounts for education, home purchases, and serious medical expenses without penalty. This provision was requested by the President and was broadly received by both sides of the aisle.

This bill would also create a new loan program so students can borrow money to cover the rapidly escalating costs of higher education, and then make repayments back to the Government with a simple payroll deduction—a very streamlined approach to a student loan program; and very important, Mr. President, if we are going to be serious again about this decade of the nineties as a decade for educating our young people; and, if we are going to be serious about retooling our economy and becoming more competitive for the 21st century.

The legislation would prohibit group health insurance plans from denying coverage based on preexisting conditions, allowing people to change jobs without fear of losing their health insurance due to no fault of their own.

What this bill does as well is increase the deductions for the self-employed from 25 to 100 percent for their health insurance, giving farmers and small business people and self-employed individuals the same deduction benefit that is already available to corporations.

Everybody in this body has heard from their constituents about the desperate plight that so many feel concerning their health care area—first, those who have some preexisting condition who cannot change jobs and are unable to move efficiently within our economy, and second, the fact our Tax Code discriminates very dramatically against our small business and against self-employed individuals. That program is addressed very carefully and effectively in Senator BENTSEN's good bill;

The bill will provide a new taxpayers bill of rights which would give new protections to citizens unjustly hounded by the Internal Revenue Service, a provision that Senator PRYOR and others have been working on for years, and finally we provide an advocate and a Bill of Rights to individuals who feel wronged by the IRS. That should be public law.

The legislation reduces the tax rate for gains made from investments in venture capital companies, giving a boost to the entrepreneurs working on the cutting edge of our economy—reasonable compromise among the varying capital gains proposals which had been made such an issue by President Bush and the administration.

If the President signs this bill, we will extend solar and geothermal business tax credits for solar and geothermal property. This is part of good overall energy policy. We are about to pass a major piece of energy legislation, perhaps the most significant legislation passed in this Congress and being worked on in the House now. The Senate passed its bill. We will be in conference, and will produce a very important energy bill that will start this country off on a new course for energy policy. These solar and geothermal tax credits are a part of that policy.

The bill will expand the exclusion of transit passes to $60, as called for by the President. The President himself admitted that we have these perverse incentives built into the Tax Code, where we reward people for driving to work and parking in a garage but we do not reward people for taking mass transit. We have it backward. This legislation begins to turn that around.

The legislation as well extends the research and experimentation tax credit for a year-and-a-half. It gives businesses a 10-percent investment tax allowance to buy needed equipment and to build and renovate plants, increasing their long-term efficiency.

These are initiatives that are all good policy. Every one of these is by itself good policy. Together there is a synergism of all of this that makes it a tax bill that ought to be passed and the President should sign.

Each one of these provisions addresses a need in our economy and in our society, and provides very real benefits to the fabric of this economy. In fact, many are included in the President's own budget and supported by most of our Republican colleagues.

Now most importantly the tax bill of Senator BENTSEN, the tax bill passed out of the U.S. Senate last week, is paid for. It is paid for. Unlike what we heard from the administration this tax bill is paid for.

The American people are sick and tired of congressional and administration duplicity on the Federal budget. They are tired of us promising to provide manna from Heaven and then finding we are paying for it by billing their children and grandchildren.

People in this country are increasingly wary, have misgivings about their future, as they should, because the debt has climbed again, and again, and again since 1980, and the President's tax proposal is another example of that trend.

A couple of years ago President Bush's own Director of his Office of Management and Budget, Richard Darman, gave a speech and called this approach "now-nowism." Darman was right then, and he is right now. The way the administration proposes to pay for its tax bill is a prime example of Dick Darman's "now-nowism"—the same way it has paid for everything else since 1981, borrow the money. The administration would increase the Federal deficit by $44 billion in the plan proposed in its fiscal year 1993 budget. The President's 7-point priority list would increase the deficit by $27 billion.

The President comes before the American public, tells us all how enormously important this tax bill is, but does not say a word about how it is going to get paid for. The fact of the matter it gets paid for by more debt. You do not want that. I do not want that. The American public does not want that.

The greatest contrast between the tax bill offered and passed here in the last week compared to what is being offered by the administration is the fact that we pay for it, and they do not. We pay for it. The administration further runs up the deficit.

Since my arrival in the Senate and during my tenure in the House, I have been a member of the Budget Committee. During that time we have seen, as I have pointed out over and over again, the attempts made to add more and more debt with this careful sort of glib analysis given on the other side: "It is going to be good for the country to add to the debt." Come on. It is not good for the country to add to the debt. They add to the debt; we pay for it, and our children pay for it.

And how do we pay for it? Let us take a look at that. Let me use this chart right here, if I might do that. Let me point out what has happened to the tax structure in the United States.

Middle-class taxes have gone up, while taxes on the wealthiest 1 percent in the country have gone down. That is exactly what this shows. We have managed over the last 15 years to have taxes on the poorest individuals in our society go down as they should. Taxes on every other income group in this society has gone up except the top 1 percent. That is the red bar. The taxes on the top 1 percent of individuals in the United States have gone down by 18 percent.

Mr. BREAUX. Mr. President, if the Senator will yield, I would make a very valuable point about what this tax bill does. I have heard some of our colleagues on the other side however make the point that the taxes that are paid by the wealthiest people in the country have dramatically increased, not decreased.

I guess the point the Senator is making is they may be paying more in dollars than they were before because their incomes have increased so dramatically. But the percentage of taxes that they have paid, as the chart points out dramatically, shows they are paying a lot less of their income percentagewise than they did before. They may be paying more in dollars but are making a lot more in dollars.

Mr. WIRTH. The Senator is right. The Senator will recall when he was a freshman in high school or college he took a course in statistics. In that course there was a day or two on how to lie with statistics. That is exactly what we have seen in the arguments made on the other side.

The Senator is precisely right in saying this group, the top 1 percent in our society, is making more money, but as the Senator points out, they are paying more taxes. Their incomes have gone up so dramatically the only way you can make a fair comparison is on percentages. Their income tax as a percentage of taxable income has gone down by 18 percent.

What the Democrats are proposing in our tax bill, we are going to pay for, unlike what the administration is doing. They just add it on the debt. We are saying we are going to pay for it, and we will pay for this by increasing taxes on the top seven-tenths of 1 percent, those making more than $200,000 a year.

These are the same people, as pointed out in that reasoned colloquy and by this chart, who have seen their taxes going down—go down by 18 percent since 1977. And during that same period of time taxes on all the other taxpayers in the country have gone up, but not this group. We are saying there is a fairness issue in this as well. This is a major issue of fairness.

The difference between the bill offered by the administration and the bill we are offering is, on the one hand, the difference between debt and fairness. They are saying debt, we are saying fairness. We believe fairness is still an enormously important element of the United States of America. The people who pay for this plan are the same people whose incomes have increased by 136 percent from 1977 to 1992, while 60 percent of the people watched their incomes decrease by an average of 10 percent. That is the point made by the distinguished Senator from Louisiana in his earlier comment.

Look what happened to the income of the top 1 percent. That bar is an indication of this extraordinary shift of income in the United States from average individuals—the extraordinary shift of income—to people at the top end of the income scale.

What we are saying is let us pay for this, and be fair. Fairness remains an enormously important issue for most Americans; maybe not the privileged few, but most Americans still believe, Mr. President, that we should dedicate ourselves to a tax policy that reflects everybody paying their fair share.

Finally, Mr. President, let me point out again that the Senate Democratic tax plan will raise taxes on only the wealthiest seven-tenths of 1 percent. That is those individuals out there who are making $200,000 or more. The wealthiest have received the largest national income increase. As national income grew from 1977 to 1992, 75 percent of that increase went to the wealthiest 1 percent of the taxpayers. Let me point this out again, Mr. President. As national income grew from 1977 to 1992, 75 percent of that increase went to the wealthiest 1 percent.

We have seen a skewing of income during the so-called Reagan revolution. It was a revolution all right, Mr. President, in which everybody else paid, while a very small slice of our society reaped enormous benefits. Everybody would like to be affluent, and everybody would like to be in this 1 percent. But in the process, it is only fair that they pay their fair share. That is fundamental to the Democratic tax bill. First, we pay for it; they do not. Second, we maintain our party's and, I believe, our country's commitment to fairness. Those people who pay for this tax plan are the people who played during the 1980's

Mr. President, I wanted to take a few minutes to point out the significant differences between the financing mechanism and the fairness issues in the Democratic tax plan versus that advocated by the administration. This is a tax plan that is good public policy in all of the ways that I outlined, and more. On top of that is this very, very important issue of fairness. The Democrats are pressing fairness. The Republicans are echoing the same old song: Debt, debt, debt. We have seen the national debt go up by more than four times since the so-called Reagan revolution started in 1981. Our national debt was less than $1 trillion for the first 200 years of our Nation's history. We fought the Civil War, World War I, World War II, the Korean war, the Vietnam war, and ran up a national debt of $1 trillion. Since 1981, in the so-called Reagan revolution, that national debt has gone from $1 trillion to nearly $4 trillion, and they are up to their same old tricks, suggesting that we add yet another $45 or $50 billion to pay for the administration's tax plan. That kind of debt policy is wrong. Any kind of a tax bill ought to pay for itself. We do that and we also do that with a major commitment to fairness to the American people.

Mr. President, I yield the floor.

Mr. DASCHLE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota [Mr. DASCHLE].

EXTENSION OF MORNING BUSINESS

Mr. DASCHLE. Mr. President, I ask unanimous consent that the time for morning business be extended until 1:30 p.m. today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

THE DEMOCRATIC TAX PLAN

Mr. DASCHLE. Let me commend the distinguished Senator from Colorado for an excellent statement. He has, in a very short period of time, succinctly laid out what I consider to be the real strengths of the Democratic plan, and the differences that exist between our plan and that proposed by the administration.

The charts—his information provided to us this morning—clearly demonstrate why those of us on this side of the aisle have become increasingly enthusiastic and hopeful that the American people will understand what it is we are attempting to do and understand the consequences if we fail to do it at the very earliest possible day. So let me commend him for an excellent statement this morning and for his participation in our discussions as we close out the first stage of this debate.

I am hopeful, as I am sure most of us here in the Chamber are, that sometime tomorrow we will have the opportunity to vote on a conference report that will, at long last, close the debate on this issue and send this product of many month of work on to the President.

There are three signatures required, as the President and everyone in the Chamber knows, for a bill to become a law—the signature of an official of the House of Representatives, most oftentimes the Speaker; the signature of the President pro tempore, or his designee, here in the Senate; and the signature of the President of the United States. All these signatures are required for any bill to become law.

It is safe to say that this bill already is guaranteed to have two of the three signatures—probably by this time tomorrow. The House of Representatives will designate someone to sign that bill tomorrow. Chances are that the Senate will designate someone tomorrow to sign the bill here in this Chamber. The question is: Will we have the third, crucial signature on what I consider to be one of the most comprehensive efforts at addressing both fairness and growth that this Senate has undertaken in a long period of time?

I was very pleased with the comments made by the distinguished Senator from Colorado on another matter, and that was his reference to this legislation as the Democratic package—not the Senate package—because I really believe this legislation reflects the shared goals of the House and the Senate. The fact is that the House and Senate bills both embody three basic objectives, regardless of the form their respective provisions took.

The Senator from Colorado addressed them very well. The first was a downpayment on fairness. He showed charts that very graphically depicted the lack of fairness in current tax law and the impact that lack of fairness has had over the last 10 years. I found the report described on the front page of the March 5 New York Times extraordinarily revealing. I ask unanimous consent that the article be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 5, 1992]

EVEN AMONG THE WELL-OFF, THE RICHEST GET RICHER

(By Sylvia Nasar)

Populist politicians, economists and ordinary citizens have long suspected that the rich have been getting richer. What is making people sit up now is recent evidence that the richest 1 percent of American families appears to have reaped most of the gains from the prosperity of the last decade and a half.

An outsized 60 percent of the growth in after-tax income of all American families between 1977 and 1989—and an even heftier three-fourths of the gain in pretax income—went to the wealthiest 660,000 families, each of which had an annual income of at least $310,000 a year, for a household of four.

While total income for all 66 million American families expanded by about $740 billion in inflation-adjusted dollars during the Carter-Reagan years, the slice belonging to the top 1 percent grew to 13 percent of all family income, up from 9 percent.

BIG JUMP IN INCOME

The average pretax income of families in the top percent swelled to $560,000 from $315,000, for a 77 percent gain in a dozen years, again in constant dollars. At the same time, the typical American family—smack in the middle, or at the median, of the income distribution—saw its income edge up only 4 percent, to $36,000. And the bottom 40 percent of families had actual declines in income.

"We know that productivity has increased since 1977 and that more people are working," said Paul Krugman, an economist at the Massachusetts Institute of Technology and the author of "The Age of Diminished Expectations," a book that is critical of Reaganomics. "Where did all that extra income go? The answer is that it all went to the very top."

FINE-SIFTING THE DATA

The data were compiled by the Congressional Budget Office, the research arm of Congress, which uses the estimates to project tax revenues; the figures were released in final form in December. The census data that most economists use track incomes by broad categories, like the top 20 percent, called the top quintile. The C.B.O. data, by building on figures from tax returns, let analysts focus on narrow income striations with microscopic precision.

"If changes are going on at the top, you don't pick it up in the census data," said Robert Reischauer, director of the Congressional Budget Office.

The broad pattern disclosed by the latest data is not in dispute, but the reasons for the shift are. Potential explanations range from the trend toward lower taxes on the wealthy to an explosion of executive pay to higher returns on capital.

It was not until economists started to analyze the figures that it became clear what a large share of the income gains in recent years was accounted for by the very rich. "The number that no one had seen was how much of the growth went to a few people," said Mr. Krugman, who focused on the numbers in testimony before Congress several weeks ago.

That finding is already supplying fresh ammunition for those eager to reverse the upward tilt in income distribution or searching for new ways to raise Government revenue.

The tax bills wending their way through Congress include an increase in the top tax rate and a surtax on millionaires. And the Democratic Party is honing "fairness" as an issue it can run with.

As it happens, the trend seems to have begun 30 years ago and parallels shifts in other rich countries, including Germany and Britain.

"It's been going on since the 1960's," said Robert Avery, an economist at Cornell University who conducted two Federal Reserve surveys of the wealthy in the 1980's. "It shows up in many different sets of data. And it's consistent with different explanations, healthy and unhealthy."

In fact, a growing tilt toward the top has characterized other periods in American history. Economic historians say that industrial America through the 1800's and early 1900's experienced a growing concentration of riches at the top. But that was partly reversed by the Depression and World War II.

"We have a couple of periods when we've seen especially rapid changes," said Claudia Goldin, an economic historian at Harvard University.

The latest data on income distribution do not provide any easy explanation of the trend. One explanation given by some tax experts is that the rich are simply reporting more of their income and taking advantage of fewer loopholes, now that tax rates have been trimmed substantially. The top tax rate on personal income was cut to 31 percent during the Reagan tenure from more than 90 percent during the Kennedy years.

"The reason is that suddenly you can keep most of the money you report," said Lawrence Lindsay, a Federal Reserve governor who has written a book, "The Growth Experiment," that defended the supply-side tax cuts of the Reagan era.

THE ADVANTAGES OF TIMING

Most economists find the explanation plausible. Unlike steelworkers or secretaries, business owners and executives often have a lot of discretion over the timing and form of their income. They can decide when, say, to sell a business or whether to take their compensation in a paycheck or a bunch of stock options.

"Inequality has increased back to where it was before the New Deal," Mr. Krugman said. "But maybe the New Deal only drove the rich underground."

Still, few economists are convinced that the reporting factors are the only explanation.

For one thing, wage and salary income for the top 1 percent of families exploded between 1977 and 1989. At least two studies have shown that the rich—wealthy wives, in particular—actually worked more after taxes were cut. More important, the pay of chief executives rocketed during the 1980's. By the end of the decade; according to Graef Crystal, a compensation consultant, the bosses were making 120 times as much as the average worker, compared with about 36 times as much as in the mid-1970's.

Before these new data showed how much of the gains really went to the very top, economists knew of the growing inequality and explained some of it by pointing to the rise in two-earner couples and the faster wage growth of highly educated workers, especially ones with computer skills. But the surge in pay at the top is just too large to be explained solely by working wives and M.B.A. degrees.

Another theory is that inhibitions against pay inequality crumbled during the Reagan 80's, a period in which unions were put down and getting rich through enterprise was seen as heroic.

The families at the top of the top quintile include lawyers married to other lawyers and a sprinkling of rock and baseball stars. But the majority probably own closely held businesses or manage Fortune 500 companies. Another thing that makes these families different from the merely well heeled, said Joel Slemrod, a tax economist at the University of Michigan, is that they get about half their income from their wealth—capital gains, dividends and interest. And income from assets owned by the wealthy, like real estate, stocks and bonds, also surged in the 1980's.

For most of the 1980's at least, interest rates were high, the stock market appreciated some 16 percent a year and the price of real estate on the East and West Coasts soared. The value of small-business assets also grew, Mr. Avery said. "The argument that the rise in top incomes was partly driven by entrepreneurial income is fairly persuasive," he said.

In fact, there is new evidence that net worth—assets minus debt—at the very top also grew disproportionately. The Federal Reserve has yet to release data with breakdowns, but a recent Fed study suggests that that was the case.

While some view the greater concentration of income at the top as a problem, many economists do not agree. "The probability that you're looking at the same people at the start or end of a decade is very small," Mr. Lindsay said. "If the top 1 percent is getting richer, it means that there was a lot of upward mobility in America during this period."

Mr. Lindsay cites tax data that show that of the families in the top 1 percent at the beginning of a decade, fewer than half are in the top 1 percent 10 years later. From year to year, he said, between a quarter and a third of families move from one broad income group, like the top 20 percent, to another.

Keep in mind, moreover, that 1989, the last year for which Congressional Budget Office numbers are available, represented the peak of the 1980's financial boom. The early 1990's have already clipped the wings of a lot of high-fliers as corporations have shed executives, law firms have downsized, businesses have failed and real estate values have collapsed.

But it is easy to exaggerate fluidity at the very top, some economists say. For one thing, the rich may get knocked off their perches from time to time, but the fall for most is not usually all that far. Then too, an income drop is as likely as not to reflect a decision to take a one-time loss than it is a permanent change in the ability to generate income.

Besides, said Frank Sammartino, an economist at the C.B.O.: "People complain that the income distribution is just a snapshot of one year. But after all, taxes get paid on one year's income."

THE TAX FACTOR

Although families in the top 1 percent paid slightly less than 27 percent of their income in taxes in 1989, compared with more than 35 percent in 1977, their payments amounted to a somewhat bigger share of the total Federal tax bill than in 1977. The reason, of course, is because their incomes grew so much.

With incomes that total near half a trillion dollars—about the same amount, coincidentally, as total Federal tax revenues—the top 1 percent of American families have a lot of financial heft.

"If you're talking about the income tax bubble or capital gains, it's not the top 5 percent of the top 10 percent, but the top 1 percent," Mr. Avery said. "If they're taxed at 100 percent, everybody else can be taxed at zero," he added jokingly.

The data are going to keep economists busy for years and should pay fat dividends for Americans' understanding of how the freewheeling United States economy really works. But, for the present, the numbers are bound to provide yet another battleground for politicians arguing over which tax policy will produce the best combination of growth and "fairness."

Mr. DASCHLE. Mr. President, the report, prepared by the Congressional Budget Office, demonstrated again in very graphic terms what it is we are referring to when we talk about fairness. From 1977 to 1989, according to this report, pretax income of the rich grew very sharply. The top 1 percent saw an increase of 77 percent and experienced an average income of $559,000 in 1989. The top fifth or 20 percent, saw an increase during that period of 29 percent and had an average income of $109,000. The second fifth saw an increase of 9 percent, and had an average income of $47,900. The third fifth experienced an increase of only 4 percent, and had an average income of $32,700.

Here is the breaking line, because of the bottom two-fifths, the fourth fifth saw an actual reduction of 1 percent, having an average income of $20,000. That is, the vast majority of working class people in this country actually saw a decline in their purchasing power in that period from 1977 to 1989. And the bottom fifth took the worst hit of all: A 9-percent reduction in their purchasing power, with an $8,400 average income for that period of time. The richest 1 percent of families received 60 percent of the after-tax income gain, according to this report. That portion received by families with incomes in the top 2 percent through 5 percent of the population saw 14 percent of the after-tax income. So the top 3 percent saw an increase of 74 percent of the overall after-tax income gains in that period from 1977 to 1989.

So, Mr. President, it is very clear, I do not know how anyone can argue with those figures or about the fundamental difference between the President's approach and our approach. It is time to address this critical issue of tax fairness, not in some haphazard way, but in a straight forward way, by putting the responsibility of paying for this economic growth package on those who have the ability to pay. It is time to bring at least some measure of fairness to the Tax Code by asking those at the very top of the income scale to contribute their fair share.

So this is a fundamental down payment on fairness that we feel is very important.

The second objective in both the House and the Senate is to provide tools for investment and savings, not only through traditional investment incentives, but also through investment in our people, investment in education, and investment in health. The small market reform package that Senator BENTSEN originally sponsored and was supported and endorsed by so many of our colleagues on both sides of the aisle is part of this package, as the Senator from Colorado indicated.

The educational package within this overall proposal gives us many opportunities to address the needs of higher education, particularly for those middle-class families who are having so much trouble covering their basic expenses and having enough left over to finance their children's education.

So making an investment in our people is just as fundamental to long-term economic growth as using traditional economic incentives for investment.

In the opinion of those in Government as well as economists of all philosophical persuasions, the economic growth potential of this package is difficult to dispute—with respect to capital gains, the passive loss rules, repeal of the luxury tax, and extension of expiring tax provisions. This package represents the broadest consensus of recommendations made to us by economists and those in Government alike. Incidentally, it also represents virtually 95 percent of what the President told us he felt would do us the most good in bringing about economic recovery and long-term economic growth.

But we add one more thing to that, besides investing in our people, besides providing traditional tax incentives for investment. We also provide incentives to save. We lamented for years about the extraordinarily low savings rate we have in this country. What better opportunity could we have than the one we have right now to include in our overall strategy an opportunity to address the critical need to save. We do that in this bill, and, again, there is a dramatic difference between what we suggest and what the President has proposed.

Then, finally, the third objective is perhaps the most responsible overall thing we are talking about. While it is never easy to bite the bullet, and never easy to come up with ways to pay for tax incentives for growth and savings, we do find a responsible, and without a doubt effective, way to pay for all the things for which we are calling. That is another fundamental difference between our approach and the President's.

The President has used once again a gimmick by which to pay for these proposals that even many of his colleagues here in the Senate are unwilling to accept—switching to the accrual method of accounting for Government insurance funds. This gimmick is extremely shortsighted. The savings allegedly generated by this proposal this year are going to be needed in 5 or 6 years.

By not having those savings when we are going to need them, by accelerating the opportunity to utilize funds that are already committed, we are not only being dishonest with the American people, we are borrowing from funds we will need in the outyears.

So, Mr. President, the way I see it, we agree with the President on two things, and we disagree on two others. We agree that tax tools are necessary—that there are things that can be done through the Tax Code that ought to enhance our economy. And we agree that there ought to be investments in our people through small market reform and increased access to education.

But we disagree and this disagreement is fundamental, when it comes to establishing more fairness in our Tax Code and the way to pay for the things that we advocate through this comprehensive approach to economic reform. Perhaps the biggest disagreement of all is over what approach we feel we must take to achieve long-term economic growth. Our belief is that the tax provisions we are proposing are only a down payment on a long-term investment strategy. The second part of this plan has to be the appropriations process. We must also use the peace dividend and savings in other areas of the budget to achieve the long-term economic growth and stability that is so desperately needed.

Mr. President, Allan Meltzer on Tuesday, March 17, addressed this need as cogently as I have seen anyone address it in recent months in an article in the Wall Street Journal. Mr. Meltzer is professor of economics at the Carnegie-Mellon University in Pittsburgh. His proposal would address the need for long-term investment in a way that I believe virtually everyone here can support.

Mr. Meltzer asks three questions we all ought to ask ourselves as we look at long-term investment incentives:

(1) Does the program benefit the present at the expense of the future?

(2) Does it further the practice of encouraging consumption at the expense of saving and investment?

(3) Does it encourage growth or redistribution?

He provides answers to those three questions. He assesses the advisability of the various approaches we might take to long-term investment, after contributing his view of the deficit and the need for long-term investment, very effectively.

I ask unanimous consent that the article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Mar. 17, 1992]

WORRY ABOUT UNDER-INVESTMENT, NOT DEFICITS

(By Allan H. Meltzer)

"CBO projects that the deficit will exceed $350 billion in 1992, setting a new record for the second year in a row. . . . [T]he 1992 deficit will amount to 6.0% of GDP, just shy of the postwar high reached in 1983."

This is the way the Congressional Budget Office began its January discussion of the budget outlook, but its handwringing is unwarranted. Because CBO's budget numbers include too much and too little, they misrepresent the country's fiscal position and direct attention away from real economic issues—such as how resources are used or how tax laws favor consumption over investment. After a decade of self-flagellation about the deficit and forecasts of disasters that did not occur, it is useful to pause long enough to ask what the published numbers mean.

Economists do not agree whether or how budget deficits affect the economy. They do agree, however, that if deficits matter, the two deficit measures that matter most are (1) the primary budget deficit and (2) the ratio of publicly held debt to some broad measure of spending such as GDP or GNP.

PRIMARY BUDGET DEFICIT

The primary budget deficit excludes interest payments and the massive outlays for the thrift bailout, two expenditures that have no impact on economic activity, aggregate spending or prices. Interest payments are a pure transfer. The government collects revenue from some people that it then pays as interest to others. This may have modest distributive consequences, but it does not affect the workings of the economy.

The huge expenditures on the thrift bailout pay for losses incurred in the past, when resources were wasted in unproductive projects or in some cases were stolen. Had the government kept its accounts more accurately, the losses would have been recorded when the net worth of many S&Ls became negative. Instead, they are recorded now as part of the deficit. That makes both the reported current deficit larger and reported earlier deficits smaller. When the assets of the failed S&Ls are sold, future deficits will be reduced. Again, all this bookkeeping has no economic significance.

The ratio of public debt to GDP signals that the national debt may be rising faster than the economy's capacity to pay. From the repeated experience of countries in Latin America and elsewhere, we know that an ever-increasing ratio of debt to GDP may be followed by inflation or even hyperinflation. This may be a problem for Russia or Brazil, but hyperinflation is a remote danger for the U.S., where inflation has fallen during the years of handwringing about the deficit.

In fact, neither the primary deficit nor the debt ratio suggests that the U.S. budget deficit should be high on the list of current concerns. The primary budget was in surplus from 1988 to 1990. Last year the government reported a cyclical primary deficit of about $50 billion resulting from the recession. Before the president's tax and spending initiatives the CBO projected relatively small primary deficits for 1992 and 1993, reflecting its forecasts of sluggish growth in output, employment and tax revenues, with continued growth in non-defense spending. The CBO estimated that if the economy were at full employment, the primary budget would show a surplus of 0.5% to 1% of GDP for the fiscal years 1993 to 1997.

During the 1980s the ratio of federal debt to GDP jumped from the mid-20% range to the low-40% range. Financing the S&L bailout and rising government spending (including interest payments) will move the debt ratio to about 55% of GDP in the 1990s. Thereafter the debt ratio should remain stable, according to government and responsible private projections. If the projections are correct, the debt ratio will be returning to its mid-1950s level, before the inflation of the 1970s reduced the real value of the debt. At 55% the U.S. debt to GDP ratio is not much larger than the ratios in Germany and France.

If the primary deficit and the debt ratio were all that mattered, we could be confident that the budget posed no long-term threat to economic stability. Unfortunately, the government accounts are not as inclusive as they could be. Government liabilities for civilian and military employee pensions are as much in obligation as a formal bond contract.

These claims are not included as part of the government's debt, but they should be. Estimates by Henning Bohn of the Wharton School show that pension obligations for government employees increased the federal government's liabilities at the end of 1989 by $1.2 trillion—and government pensions are only one of many liabilities excluded from the debt-to-GDP ratio. Among some of the notable others: federal deposit insurance, guarantees of private pensions and of shareholders' brokerage accounts. The thrift crisis is an example of a contingent liability that came due.

Accounting for the federal government's hidden liabilities is not a mere matter of detail. While official documents show that the federal government added $1 trillion to its net debt between 1982 and 1990, Mr. Bohn estimates that a more accurate measure of the increase in net government liabilities for these years is $1.5 trillion—and even that is without including future obligations for Social Security and Medicare.

The government reported total net financial liabilities of $1.6 trillion at the end of 1989. But Prof. Bohn estimates that the government's total negative net worth is in fact twice that amount, again excluding Medicare and Social Security liabilities. If Mr. Bohn is correct, the federal government's indebtedness is equal to about 27% of Americans' total private wealth.

Mistaken assumptions about deficits and the public debt matter because they lead presidential and congressional candidates, journalists and citizens to draw incorrect conclusions and become concerned about the wrong set of issues.

The major question is not the deficit itself, but how the federal budget affects the way Americans use resources. Looking at the deficit alone makes it seem that federal investment in infrastructure has the same effect as hiring more regulators. The effects on the economy of these two ways of spending money are, however, quite different. If the government's investment is effective, private sector productivity is enhanced. Consequently, the government adds assets that offset its liability for debt. The private sector too may add additional assets, so wealth increases.

On the other side, regulators often reduce private sector productivity by diverting resources to unproductive tasks. And here there is no asset to offset the liability. Computation of government net worth shows that the government has accumulated debt without generating assets to pay for it, either directly or by increasing productivity in the private sector.

Of course governments everywhere are concerned with issues other than productivity, such as the protection of persons and property, protection of the environment and redistribution of incomes and wealth. These concerns are not advanced by fevered worry about an imprecise and mismeasured number.

None of this should suggest that budget deficits are irrelevant. But when many express concern about what this generation will leave to its progeny, we need to be clear about what government has done and can do and what we as a nation want it to do. Instead of concentrating on the deficit, we should ask three questions about administration and congressional spending and tax proposals:

1) Does the program benefit the present at the expense of the future?

2) Does it further the practice of encouraging consumption at the expense of saving and investment?

3) Does it encourage growth or redistribution?

PRESENT AND FUTURE

With a few exceptions, most of what has been proposed this year by the president or Congress favors the present over the future, consumption over saving and redistribution over growth. These choices do not address public concern about slow growth of income and productivity. They add to future liabilities without providing government assets or encouraging acquisition of private wealth to pay for debts when they fall due.

It is a mistake to allow concerns about the budget position to prevent actions that raise standards of living and add as much or more to assets than to debt. Budget decisions that encourage investment, raise productivity and reverse the bias toward current consumption should be welcome, even if the people with green eyeshades turn blue.

Mr. DASCHLE. Mr. Meltzer concludes by saying this:

It is a mistake to allow concerns about the budget position to prevent actions that raise standards of living and add as much or more to assets than to debt. Budget decisions that encourage investment, raise productivity and reverse the bias toward current consumption should be welcome, even if the people with green eyeshades turn blue.

I believe that is the essence of what we are attempting to do here. We are attempting to recognize that, while we can come up with all kinds of ways to obfuscate the real issue here, the real issue is that we come up with a plan, through the Tax Code and a long-term investment strategy, and using the appropriations process, that will bring about economic reform, that will bring about the kind of long-term investment that this country so desperately needs.

This represents the best chance, the best effort, the most effective consensus that we can arrive at, given the very difficult circumstances that we have been dealt. As I said at the beginning, I believe that by this time tomorrow or sometime shortly thereafter, two of the three signatures required to pass this bill into law will be there. The question is will we have the third?

Mr. President, I appreciate the time.

I thank the President and yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from Oklahoma [Mr. BOREN].

Mr. BOREN. Mr. President, I thank the Chair and compliment my colleagues on the remarks that he just made which are certainly filled with wisdom. I hope our colleagues will study them and reflect upon them. I am also proud to have him join me in an effort I am prepared to announce on the Senate floor.

Mr. BOREN. I thank the Chair.

(The remarks of Mr. BOREN, Mr. SIMON, Mr. DASCHLE, and Mr. WOFFORD pertaining to the introduction of S. 2373 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. SIMON. Mr. President, I see the Republican leader here, so I will not suggest the absence of a quorum. I will listen to words of wisdom from the senior Senator from Kansas.

The PRESIDING OFFICER (Mr. WOFFORD). The Senator from Kansas.

Mr. DOLE. Mr. President, has leader time been reserved?

The PRESIDING OFFICER. It has.

Mr. DOLE. I thank the Chair.

RECOGNITION OF THE TRINKLE FAMILY

Mr. DOLE. Mr. President, I rise today in recognition of a Kansas family that epitomizes the American tradition of duty and service. From 1940 to 1958, the Trinkle family of LaCygne, KS, stood up when America called. As our Nation celebrates the 50th anniversary of World War II and our victory in the cold war, it is fitting that we remember the many unsung heroes—those that fought the battles and made the sacrifices that won the victories. In my view, one would have to look long and hard to find a family that has given more to our Nation than the Trinkle family.

Fifty years ago, America was in a very different situation than we find ourselves today. By early 1942, the war that had already ignited the world had reached an unprepared and untested America.

The United States was in the fight, and the call went out for fighting men. In LaCygne, KS, the Trinkle brothers answered the call. In June 1942 Arthur Trinkle graduated from high school and volunteered for service, joining his older brothers Henry and Vilas, who had already left for the Army. Although the policy at that time was to allow deferments for families with members already in the War, the three Trinkles were soon joined by their younger brother Joseph. By 1943, the Trinkle home in LaCygne had four victory stars in their windows.

On June 6, 1944, the Allies landed at Normandy and three of the Trinkles where there. Joseph landed at Utah Beach, and both Henry and Vilas fought their way ashore at bloody Omaha Beach. On August 15, 1944, Arthur landed with the Allies at Marseilles. From the beachheads of France, to the Battle of the Bulge, the crossing of the Rhine, and the march to the Elbe River, Arthur, Vilas, Henry, and Joseph were in the front lines of every major battle in the French and German campaigns. Between them, the Trinkle family earned 17 Battle Stars from 1944 to 1945.

But the Trinkle family's service did not end with World War II. America needed soldiers to stand against Communist aggression and again the Trinkle family was there. Billy Trinkle served with the occupation forces in Japan, and Francis Trinkle served in Korea, where he spent 9 months in a hospital from injuries, one of the many unsung casualties of the cold war. The last Trinkle to serve his country was the youngest, Berle, who was in Germany until 1958.

Mr. President, you will not find the Trinkles in the history books. You will not find monuments to these seven men or those like their two sisters Romona and Marion who kept the Nation running and the home fires burning while their brothers where gone. The Trinkle family never asked for favors, they went out and did their duty. In my view, the Trinkle family are all heroes. It is families like the Trinkles that makes our Nation great. When I hear the masters of criticism cry that we as a nation can't hack it, I know better. As long as our Nation has Americans like the Trinkles, I am confident that our Nation will always have a future.

ONE DAY AND COUNTING

Mr. DOLE. Mr. President, we are getting down to D-day when it comes to economic growth packages, and I know my Democratic colleagues are working in a conference on the House-passed tax bill and the Senate-passed tax bill. It may be they can finish today, and we will have a vote on it tomorrow. But I wanted to indicate that despite all the happy talk we have heard about the majority's bill, it only garnered 50 votes in the Senate. The vote was 50 to 47.

I think there are a lot of people, those who voted for it, wondering whether they may have cast the right vote, because it is a tax increase bill. It is a big tax increase bill, about, I think, a $67 billion tax increase in the Senate bill and about a $70 billion tax increase in the House bill.

There was an alternative to this bill. It seemed to me that in the final analysis we could have ignored a lot of the partisan frenzy. I find in the exit polls in the State of Illinois, and I find in the exit polls in the State of Michigan, two very important industrial States in America, by over a 2-to-1 margin the voters who went to the polls Tuesday were saying I would rather have a stimulus to the economy than I would a tax cut.

People want jobs. There are not any jobs in the bill we passed. People want jobs, not tax increases or, in some cases a 2-to-1 margin in those two key States, not tax cuts.

So the good news is that there is an alternative and we could pass it today. We are not going to pass it today, but it is the President's commonsense package of seven incentives that do not bust the budget and do not raise taxes.

So there is 1 day left before the President's deadline, and I am certain that the majority leader and the Speaker of the House will meet the deadline. It is an artificial deadline. The trouble is the deadline is going to come and there is going to be a package, but the President is going to veto it and the veto is going to be sustained and the American people will receive nothing.

So I do question, though, seriously—and I am fairly good at counting votes—how many votes there will be for that package when it comes back to the Senate and there are provisions that are changed. Some people may have voted for the Senate package and the conference report may change some of those things. Are there 50 votes or 51 votes to pass the package in the Senate?

It is going to be very close. There will be a vote on the conference report, and many who voted to raise taxes will then have a chance to get off that perch and vote against the bill and vote against increasing taxes, because I have a feeling that some of the results we saw in Michigan and Illinois may have been based on tax increases and what the American people thought about tax increases.

I met with President Bush yesterday. There is no doubt about it; he is going to sustain the veto. He does not do it lightly. It is very serious. He knows that raising taxes is not the answer. And I would hope that when that veto is sustained, and it comes back to the Senate, or when the veto is sustained in the Senate and/or the House—probably the House will sustain it first—we will get back to work and see if there is something we can do on a nonpartisan basis.

There are all kinds of reasons; people say there is an anti-incumbent feeling, and there probably is, probably has been around for several months; there is check-bouncing scandal where a lot of innocent people are going to get dragged in with a few others who probably deserve what they receive; and some saying maybe the Clarence Thomas vote may have had an impact in one of the Senate races in Illinois. I am not certain. But there is a lot of frustration in America.

I do believe that the American people, whether they live in my State of Kansas or the State of Illinois or the State of Pennsylvania or anywhere else, are frustrated. And when people are frustrated, it is a danger signal for elected officials. I do not care what party or what office, it is a warning signal that we ought to heed.

But I would say again according to exit polls, by overwhelming margins, Democratic voters in Michigan and Illinois Tuesday said providing incentives for economic growth, not a middle-class tax cut, should be a higher priority, and that is just among Democrats. Sixty-two percent of all voting Democrats in Michigan and 60 percent of all voting Democrats in Illinois said economic growth incentives are more important to them than the so-called middle-class tax cut. It does not amount to much in any event.

So if you are not convinced, look at the headline today above the new Washington Post survey which says "Poll Shows Americans Ambivalent About Tax Cut. Support Declines When Possibility of an Increase in Budget Deficit is Mentioned."

And when it comes to the Democrats' tax hike, even the distinguished chairman of the House Ways and Means Committee concedes their bill will not become law, saying "We might not do anything, and in my opinion that is not all bad." That is from Chairman ROSTENKOWSKI, a good friend of mine, and I am pleased he won his election on Tuesday.

So as we listen for messages from the voters, let us not tune these messages out. Additionally, we should not ignore all the encouraging signs from many sectors of our economy. It appears there is a recovery getting under way.

Slowly, yes, too slowly for many, and still a long way to go. But there are solid indications now of a pickup in real estate, construction, factory output, the lowest trade deficit in nearly a decade, and an inflation rate that remains under control.

That is why President Bush was right to stay away from tax increases and to stay on the commonsense path of growth incentives. He has made a very reasonable request of Congress when he asked us to act on his 7 economic growth initiatives by March 20.

So far Congress has flunked the test. Instead of getting timely action, all the American people have gotten is a healthy dose of rhetoric and cynical class warfare, and that phony argument that we are protecting the rich and the other side is protecting everybody else, nobody really cares, I do not think is going to wash because people know that in the Democratic tax bill 89 percent of the tax increases are paid by business men and business women, sole proprietors, partners or subchapter S corporations. These are businesses—businesses where they might go out and hire people and put people to work. Now they are going to have to take that money and pay more taxes. That is not saving the middle class.

The good news is the Americans are not going to buy that bogus argument. I know a lot of my colleagues on the other side do not like it either. It only passed by 11 votes in the House, only by 3 votes in the Senate. I would hope we could kill the conference report when it comes back; save lot of time, save it going to the White House, save the veto, save the vote on the veto.

Mr. President, it seems to me if we are going to act, we are going to have to act very quickly. I challenge my colleagues on both sides of the aisle, Republicans and Democrats, to look at the polls—I am talking about the real polls, the polls in Michigan and Illinois—listen to the people and learn from this week's votes.

The American people are tired of politics-as-usual on Capitol Hill. After all, the American people are paying us to create jobs—not excuses, and not new taxes.

So, there is one day left—one day left to do something that will really make a difference, one day left to tell the American people help is on the way, not just more taxes, and not just more of the same old stuff from the status quote bunch on Capitol Hill.

Let us face it. When the clock strikes midnight, zero is that the Congress will have shown for its efforts. And zero is what the American people have every right to call a Congress that has put politics first and America last.

The bottom line is for the no-show performance on economic growth, the President—and the American people—have no one to blame but the zero Congress.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

WAIVING CERTAIN ENROLLMENT REQUIREMENTS WITH RESPECT TO H.R. 4210 OF THE 102D CONGRESS

Mr. WOFFORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 446, a joint resolution, just received from the House, permitting the hand enrollment of H.R. 4210, the tax bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 446) waiving certain enrollment requirements with respect to H.R. 4210 of the 102d Congress.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. Is there debate?

If there is no objection, the joint resolution is read a third time and passed.

Mr. WOFFORD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER (Mr. SIMON). The Senator from Washington is recognized.

AN ALTERNATIVE TO THE SPOTTED OWL RECOVERY PLAN

Mr. GORTON. Mr. President, for 3 years the debate over the northern spotted owl has raged in the Pacific Northwest. Hundreds, if not thousands, of jobs have already been lost to burdensome spotted owl restrictions. Thousands of more jobs are at risk. These are not jobs lost to economic trends, to a recession, but to deliberate policy decisions made or ignored by the Congress. For 3 years Congress has failed to produce any long-term answer or relief.

For 3 years the spotted owl crisis has been portrayed as a Northwest problem. This Senator however has worked to see that jobs and lives in the Pacific Northwest are not arbitrarily destroyed.

Today the spotted owl is a national issue. The President has proposed a $5,000 housing tax credit, but that tax credit will be entirely consumed by increased lumber prices which are a result of a timber supply drastically depleted by spotted owl restrictions in the Pacific Northwest.

I am sorry to report that the President's proposal to build this country out of the recession will fail because of the domestic wood supply for building has plummeted and the cost of housing has skyrocketed.

Throughout the past 3 years, many in Congress have complained that the administration has done nothing to find a resolution to this issue. The same critics actually charge that the administration has caused the problem.

Now, at last, an honest effort is being made to bring a balance between those excessive and costly restrictions and the status quo ante. That relief comes not from a Member of Congress, not from an environmental leader, and not from a timber industry leader. That relief is proposed by the Secretary of the Interior.

A few weeks ago, Secretary Lujan announced that a recovery plan for spotted owls is ready but could not be released because of the President's 90-day regulatory moratorium. That recovery plan, required by the Endangered Species Act, is almost a replica of the Thomas report of 2 years ago and will cost at least 31,000 jobs. The Secretary announced that, in the meantime, he was creating a working group to develop an alternative to the ESA recovery plan that concerns itself with the fate and interests of people, jobs, families, and communities in the Pacific Northwest. That plan he will present to Congress.

Within hours of the announcement, the Secretary was criticized by many members of Congress, including the majority leader of this body, for unreasonable delay, for politicizing the process, and even for breaking the law.

Mr. President, Secretary Lujan is not breaking the law. It is not against the law to craft an alternative that will lessen the devastating impact of the Endangered Species Act on people and their communities and present it to Congress for its consideration. The Secretary realizes fully that he cannot adopt such an alternative unless Congress gives him the authority. The Secretary has sworn to uphold the law and has told me personally that he will do so.

The Secretary has no choice but to follow the Endangered Species Act, but Congress can choose. Congress will have the choice either to do nothing and thus adopt the recovery plan, thereby destroying the jobs and the lives of 31,000 people and their families or to adopt a plan that provides a reasonable balance. If Congress declines to accept the Secretary's alternative, the Secretary will have no choice but to adopt a recovery plan consistent with the Endangered Species Act and will do so.

Secretary Lujan is expected to testify next week before several House subcommittees. The purpose of the hearing is to prevent Secretary Lujan from proposing an alternative that would save jobs. Every initiative taken by Secretary Lujan to date has had the objective of helping people and saving jobs, while still preserving the spotted owl. This is the kind of balance we need to solve the spotted owl crisis, but Congress will not accept it. I am sure that the Secretary's questioners next week will do what they have done for 3 years; criticize. They will criticize the Secretary's efforts to save jobs, save owls and bring balance to this chaotic situation.

Considering both the inability of Congress to solve this problem and the fact that the only other option available to the Secretary is a costly recovery plan, the Secretary's alternative seems to be the only plan with any hope of balancing the interests of people in the Pacific Northwest and spotted owls. We must at least give the Secretary the opportunity to develop an alternative. Let us wait to see what it looks like before we condemn it. If it both preserves existing owls and provides economic stability, then Congress should give the Secretary the necessary authority. If not, let the Secretary adopt the recovery plan. I do not want to look back with the regret, however, that we failed to explore every option. The people of the Pacific Northwest—their livelihoods, their families and their sense of hope—are depending on our willingness to explore all options.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that I be able to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR HARKIN'S WITHDRAWAL SPEECH

Mr. WELLSTONE. Mr. President, first of all, I ask unanimous consent that the remarks of Senator TOM HARKIN from Iowa, when he withdrew from the Presidential race given at Gallaudet University, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR TOM HARKIN,
GALLAUDET UNIVERSITY, MARCH 9, 1992

For all who are called to public service, there are people and places that serve as a source of special inspiration to them in their work.

My special source of inspiration is my older brother Frank, who is deaf. Frank graduated from the Iowa School for the Deaf. And when he graduated, his horizons were limited. But today, the only limit deaf children graduating from here or there have is their ability to dream.

To invest our national treasure in the skills and talents of the young; to use government to empower and to lift up; to give hope to all of us, so that we can demand the best from each of us—this is what a visionary government can do.

These are the values that brought me into public service.

For the last six months I have had the opportunity to do something very special. It has been the privilege of a lifetime. That this son of a coal miner and an immigrant mother, could climb the ladder of opportunity and run for the presidency of the United States of America.

This school is a very real symbol of what my campaign has been about. This school teaches hope, and opportunity, and ever wider horizons for those who cannot hear. You learn to hear with your eyes; to speak with your hands; and, more important, to realize your potential and your value.

This school and this campaign—and the wider campaign that continues during and after the presidential race—is about a society that is open and welcoming to all of its citizens. It's about inclusion, not exclusion. It's about using government as a means to provide a ladder, and ramp, of opportunity for our citizens. To open doors so that each American can contribute to his or her maximum potential.

That's the belief that has guided my public life, and this is the reason I have run for President.

From our first day, this campaign has been about the ideals and values that built America.

It's been about human dignity and justice, and about electing a President who cares, not just for the few of us but for all of us, and for our dreams and the hopes of our children. Our campaign was based on the belief that America is not some at the expense of many, but many to the advantage of all.

This is still our cause. Nothing that has happened in this campaign has or could ever change that.

But in politics one's destiny is in the hands of the voters, as it should be. And while thousands have rallied to our side, other candidates have done better.

My advisers told me not to peak to soon. I guess I took their advice too seriously.

With sincerity, I congratulate my fellow candidates for a job well done. After today, as a result of their success, I will no longer be a candidate for the Presidency of the United States.

But far more important than what I am not is what I remain—a person who has stood solid for 18 years to build an America that's as good in practice as in promise, and that's what I remain, no matter what, tomorrow, and the next day, and for as long as I live.

Somebody asked me if this race has changed me much. And I said, no, I'm still the same gentle, low-key, soft-spoken guy I've always been.

So to my fellow Democrats, I say to whomever our nominee is, that I will be there: that I will pay any price, bear any burden, learn to speak Greek, develop a southern accent, or learn to wear a turtleneck to ensure that a Democrat is elected president in 1992.

As for me, circumstances may change, but the work of care and compassion still continues. The poor may be out of political fashion, but they are not without human needs. The middle class may be angry, but they have not lost the dream that all Americans can advance together.

I believe deeply in the Democratic Party because it has been the party that most consistently has spoken out and acted on behalf of the people and the public interest and looked to the future.

We are the party of hope and opportunity for all those who seek access to a better future, a better job, education, and health care. Who want to fulfill their God-given potential, who just want to be part of the American Dream.

Hubert Humphrey once said that the unfinished business of America is the business of Democrats. And it is to that unfinished business that we Democrats remain committed today.

We are committed to an America where every young child who wants a college education can get one.

We are committed to an America where the state of a person's health will not be determined by the amount of a person's wealth.

We are committed to an America where people have well-paying, secure jobs and a work force that is the smartest, healthiest, most productive in the world.

We are committed to an America that says no to racism, no to sexism, no to anti-semitism, no to homophobia, and builds bridges to unite us instead of walls to divide us.

We are committed to an America where our water and air are clean, our cities and farms are thriving, and our imagination and ingenuity can lead the world again.

Above all, we are committed to an America where people who work hard, and play by the rules, and pay their taxes, and raise their families, can be sure that they will pass on to their children a better life and a better world than what they knew.

That is what we remain committed to. And for each of these commitments, we have only just begun to fight.

Let me just say a few words to all I have met and everybody who has supported me, here and across the country.

The last several months have been some of the most joyous and uplifting of my life, and it couldn't have happened without you. You welcomed Ruth and me into your homes, your churches, your union halls, and your campuses, and shared with us your hopes and your dreams. I'll never forget the comraderie, the fellowship, the long hours that people have given of themselves. We have forged bonds that will never be broken.

Above all, I will never forget the friendship shown me by the people who know me best: my fellow Iowans. People like Fran and Nellie from Indianola, 79 and 66 years old, who rode a bus from Iowa to New Hampshire and took their winter vacations on my behalf. Iowa has given me so many opportunities and I will proudly continue to be its voice and its vote in Washington, D.C.

I have met so many people and learned so much these past months.

I have met Bob and Marie Millikian, who through no fault of their own lost their jobs and face foreclosure on their home, but who want to work and believe they will.

I have met Tom Trantham, who has been farming all his life, and is facing tough times, but says all he needs is a little better prices for his milk and cows, and he'll bounce back.

I have met Marian Kestler, who has a degree in education and uses a wheelchair, but will not let her disability keep her from finding a job teaching the children she loves.

I have met a 53-year-old man standing in an unemployment line who said he just wants to be retrained, so he can find a job and take care of his family.

I have met people in cities and towns all over this country who have been left out the past twelve years, but they have not given up. They have been pushed down, but they haven't been beaten and they haven't given up hope.

That's the American spirit. And that's what my campaign has been all about—providing the opportunity to unleash that spirit and make their dreams a reality.

My campaign has been about keeping the progressive agenda alive in our party.

We always knew this would not be easy. That the forces of reaction are dug in deeply. That is why our candidacy has not been timid.

And as always happens when you stay committed to your ideals, we have in this primary helped shape the vision of our party, and of the others in this campaign.

Let's take some pride. Together, we have done that. You have done that.

The next eight months pits the Democratic Party with its message of equity and opportunity against George Bush and his message of politics as usual.

At stake will be America's commitment to decent jobs and housing and health care and to education and a clean environment, to civil rights and civil liberties, and the preservation of a woman's right to choose.

At stake will be our children's future, our leadership in the world community, and the good will in which we hold each other, regardless of race or color or creed.

In this, the pursuit of a more fair and just and wise America, we will persevere.

The best chapters in America's history are yet to be written. With our values and with our principles as Democrats, and the grand and glorious history of our party behind us, and a vision for an America growing together and working together with hope and confidence and unity, we can defeat George Bush, win the presidency, and Build A New America.

Thank you and may God Bless You.

Mr. WELLSTONE. Mr. President, TOM gave a really eloquent and powerful speech—although I do not really like the word "speech" because sometimes speech means just words—where he talked about what brought him to public service, what the Presidential race was all about. He started off saying "For all of us who are called to public service, there are people and places that serve as a source of special inspiration to them in their work. My special source of inspiration is my older brother, Frank, who is deaf."

He spoke at Gallaudet because he felt that this institution, Mr. President, was a real symbol for the very best in our country. He talked about education, and he talked about his commitment to people, and he talked about his commitment to his own State of Iowa which gave him, the son of a coal miner, the honor of serving in the U.S. Senate. And he talked about all that he hopes for the United States of America.

Mr. President, what I want to say today is that I was very proud to support Senator HARKIN, very proud that he was able to win the caucuses in my State of Minnesota. And the reason is that when I came here to the Senate, I met many fine people—both the occupant of the chair and I are fairly new to the Senate—many fine Senators.

But what attracted me to TOM HARKIN was that very early on, I saw him out here on the floor fighting for what he believed in. Senator TOM HARKIN introduced a transfer amendment very early on which said we should bring down the wall on the budget agreement, and we should devote some money from the military budget, still keeping a strong defense. I think he talked about research in Alzheimer's disease, early breast cancer detection, and a commitment to Head Start.

Mr. President, I suggest today, to use the old Yiddish proverb, that we are going to continue "to try and dance at two weddings at the same time," and we are going to try and talk about education, children, health care, and cleaning up the environment, and investing in our infrastructure, and private sector investment, and investment that will create jobs that people can count on, but not talk about where the resources are going to come from unless we begin to redefine national security.

I think historians are going to write back and say about Senator HARKIN from Iowa: Though he did not win the nomination and he withdrew from the race, he was prophetic, he was a strong voice. He was a visionary in what he had to say, which is, our country has to begin to invest in itself; our country has to begin to invest in its own people; our country needs to redefine national security and we have to do much better.

We have to do much better economically, and we have to do much better as a people. We cannot go forward divided by race and gender. We cannot go forward with the high levels of unemployment that I heard the Senator from Pennsylvania, the Senator from Iowa, and the Senator from Oklahoma speaking about. We cannot go forward when so many of our children and their mothers are now among the ranks of poor people.

Our country is a great country. I can say that as a first-generation American. And our country can be all that she can be. But we have so much work before us to do here in the Senate and the House, and I think TOM HARKIN made an enormous contribution to the United States of America during his campaign and I think he will make enormous contributions as a great Senator from the State of Iowa.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. KOHL). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRRESPONSIBLE CONGRESS? HERE'S TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by Congress stood at $3,858,355,060,644.17 as of the close of business on Tuesday, March 17.

As anybody familiar with the U.S. Constitution knows, no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States. So, when it comes to that dead cat of this enormous Federal deficit, it does not belong to the White House—whether it was Jimmy Carter, or Ronald Reagan, or Lyndon Johnson, or George Bush. The fault lies right here and in the House of Representatives where so many people never saw a bloated appropriations bill they did not love.

During the past fiscal year it cost the American taxpayers $286,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day of every week of the year.

So the question presents itself again, and I shall continue to present it: What would America be like today if there had been a Congress that had had the courage and the integrity to operate on a balanced budget?

At this political season where all sorts of outrageous comments are made and the liberal press delivers them en bloc to the American people, I think it is particularly interesting and particularly important that the American people know who the culprit is in this Federal debt. I repeat for the purpose of emphasis, no President of any party can spend a dime that has not been appropriated and authorized by the Congress of the United States.

I had a group of young people in my office just a few minutes ago. Among the comments, I asked if they would care to estimate the size of the national debt. One child was right on target, comparatively. She said, "My daddy told me it was over $3 trillion." I said, "He is close." Another child said, "I did not think it was over $200 billion."

But the word needs to go out to the American people that the folly continues until this very day in the U.S. Senate and in the Congress of the United States and the House of Representatives.

I have been reading into the RECORD for some time now on a daily basis the size of the Federal debt down to the penny. I must say to C-SPAN, I am impressed by the number of viewers C-SPAN has. I am not surprised because C-SPAN does not doctor anything. C-SPAN lets both sides have their say. It is not filtered through the liberal screen of the major commercial television networks. The people who watch C-SPAN see it happening; they hear it happening. And there are a lot of people out across America land who have called or written and said: You cannot be serious. We do not owe that much, do we? And my answer to them, Mr. President, is, "Yes, we do. And I apologize for those who are responsible."

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BURNS. Might I inquire of the Chair the orders we are operating under?

The PRESIDING OFFICER. We are in morning business until the hour of 1:30.

POWER BRAKES FOR TRAINS

Mr. BURNS. Mr. President, I want to go on record about the legislation passed last night as a supporter and cosponsor of Senator EXON's legislation requiring two-way end-of-train devices. The original bill includes a provision, which I supported, to require the Federal Railroad Administration [FRA] to revise the Department of Transportation's rules on power brakes, taking into consideration the need to require two-way end-of-train telemetry devices on cabooseless trains.

This amendment goes further, however. I want to commend Senator EXON and his staff for working out the compromise between the two various parties.

Mr. President, the amendment tells the Secretary not only to conduct a review, but to actually revise the rules to require two-way end-of-train devices or devices to perform the same function. It gives railroads enough time to phase in those devices to ensure we are not causing an economic hardship on our railroads, to keep the cost of transportation down a little bit. It also allows certain exclusions for the same purpose.

Overall, however, it meets the requirements of railroad engineers who are interested in making sure that the trains operate and run in the safest manner possible.

These two-way end-of-train devices make it possible for the engineer of a cabooseless train to apply emergency braking action at the end of the train. My interest in this issue stems from an incident that happened in February 1989, an accident near Helena. That accident might have been prevented had these devices been on the trains at that time.

As a result of that accident, Montana became the first State to enact a law requiring use of two-way end-of-train devices whenever a train operates without a caboose in mountain-grade territory.

This is an important safety issue and I am glad to see the Senate addressing it at this time. I am concerned and will continue to be concerned about the men and women of the railroad industry and let them know we are on their side, especially in issues of safety.

Places like Helena, MT, can be assured that Congress is acting in such a way to prevent another runaway train accident causing them to evacuate their homes during subzero weather in the State of Montana.

So I am very happy this was accepted by the Senate last night, and I applaud the Senate for doing so.

Mr. President, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LIEBERMAN). Without objection, it is so ordered.

VIOLENT CRIME CONTROL AND LAW ENFORCEMENT ACT OF 1991—CONFERENCE REPORT

The Senate resumed consideration of the conference report.

The PRESIDING OFFICER. The Chair states that the pending question is the conference on H.R. 3371.

Mr. BIDEN. Mr. President, we are now back on the so-called crime bill. We have been trying now since October to get a vote on the omnibus crime bill, which is at the desk. Put in normal, everyday language, the U.S. Senate voted last year for a very tough, expansive, and broad anticrime piece of legislation.

It is a very, very extensive piece of legislation. It is the strongest crime bill ever to come to this point in the legislative process. And now, Mr. President, we are just one step short of this massive crime bill being placed on the desk of the President of the United States.

Mr. President, I think everyone would admit in this Chamber that there are a majority of U.S. Senators who are for the crime bill that we are being prevented by our Republican colleagues from having a chance to vote on. Over 50 Members of the U.S. Senate want the crime bill conference report, which I will refer to from this point on as "the crime bill," for purposes of clarity. There are a majority of U.S. Senators, along with a majority of the Members of the House of Representatives down the hall—the House Members having already voted for the crime bill at the desk—who want the crime bill to become law, who want the President to sign the crime bill, who want the President to get a chance to either sign or veto the crime bill. But for months now, months and months, our Republican colleagues, who are fully within their rights under the Senate rules, have been filibustering. They have said that the Senate should not be allowed to work its will and Senators should not be able to pass by a mere majority—by which we pass everything else out of here—a crime bill. They have said—which is their right under the rules—and they have said it in the past—let us see, November, December, January, February, 4½ months, they have said, "No. In order to be able to even vote on the crime bill, you must first produce, Biden, 60 votes—not 50, but 60."

Again, I do not question their motivation, nor do I in any way suggest that they are not fully within their rights under the rules and precedents of the U.S. Senate. But we should call it for what it is. This is a filibuster. This is an attempt, under the rules, to keep the majority will from prevailing here in the U.S. Senate.

Last week, I explained that a vote to allow us to proceed to vote—again, I want to make sure everyone understands this. The vote we are going to take in the next couple of hours is merely a vote to determine whether or not we get a right to vote. And they are saying to us, "In order to be able to get a right to vote on whether you like this crime bill, you have to produce 60 Senators. You have to get 60 votes, Biden, before we are going to give you the right to decide whether you get to vote on whether you like the crime bill," which is one step, roughly 5 votes away from becoming law. If they let us vote on it right now, it is only one step away from becoming law: the President of the United States. Because we have more than 50 Senators who say they like what the House voted on, what we worked on for a year to get. Something I might add, that my Republican friends, again within their rights, delayed and delayed and delayed last year.

It is amazing how much easier it is in the legislative body to prevent something from happening than to allow something to happen. How much easier it is to prevent the majority will from prevailing than it is for the majority will be prevail, unless there is a supermajority. And everything else we vote on in this place, if we decide whether or not we want to provide for aid to the Soviet Union, provide for aid to education, provide for doing away with certain rules and regulations, whatever it is, we come in here and say we need 51 votes and we vote. But, as we all know, again, to make the record clear, the rules of the U.S. Senate say that if a minority of Members of the Senate want to prevent us from being able to vote on something, they can do so, and they can do so by saying, "Hey, we are going to filibuster."

We have an option, those of us who are in the majority on an issue, and we can say, "All right, we are going to stop you from filibustering to allow us to vote. Let us stop talking and vote." But what we have to do, in this case what I had to do is file a cloture petition. What that means is that I have to file a piece of paper with a certain number of signatures at the desk saying that we are going to stop the talking and start the voting, except for one little thing; I do not need 51 votes for that. I need 60 votes for that. You do not have to be a mathematician to figure out that it is a lot harder in a legislative body with two parties to get 60 votes than it is to get 50 votes.

So, for the past months, my friends on the Republican side, because they do not have a majority of the House or the Senate who agree with their position, and because they disagree with the majority position, have been, and I say this with admiration, extremely effective in preventing us from being able to vote on a crime bill. I hear my friends on both sides of the aisle talk about crime.

And I hear the President on occasion, although not much these days, but I hear the President on occasion talk about the streets being unsafe. We were in an executive committee meeting this morning, which is a fancy way of saying we were voting this morning in the Judiciary Committee, Mr. President, and one of my colleagues whom I was sitting next to said, "You see that young person leaning against the marble pillar in the caucus room?" That is where we had our conference.

I said, "Yes." That young person is an intern in my office who came to Washington full of zest and a feeling of excitement, like these young pages here, and others who come to work in this great building; and came from a Midwestern State in a relatively large town from a Midwestern State; arrived here; and 1 month after arriving here, was beaten, mugged and beaten and robbed, right up here on this venerable Capitol Hill.

Tourists are here. I suspect they were told before they came, "Be careful where you walk at night here in your Nation's Capitol." I expect back in their home States, they hope that their mother does not go shopping at the local Acme or Super Fresh—or whatever grocery store is in the neighborhood—after she comes home from work, after dark, because they are afraid she will not make it from the grocery store to the trunk of her car to put the groceries in.

I imagine there are people here witnessing this discussion in the Nation's Capitol who know someone who has been brutalized; been victimized. And I hear constantly about the desire to do something about it.

I met with the police yesterday, and I have been meeting with them for some time now. The vast majority of the police organizations in America say we badly need that crime bill; we badly need it.

The District Attorneys Association says they do not like the crime bill because they do not like one feature in it out of 484 pages' worth. They do not think the restriction on habeas corpus goes far enough, which is their prerogative. I respect that. A lot of people agree with them and a lot disagree.

But they say kill the whole bill. Let it all go down because we did not get exactly what we wanted on habeas corpus. I wonder how many well-informed citizens listening to this discussion, and I mean that sincerely; well-informed, know about habeas corpus. Most lawyers could not tell you the intricacies of the debate that takes place on the changes in habeas corpus; the differences between what that bill at our desk holds in it and what my Republican friends and the DA's, some of them, say they want.

But that is the bone of contention. So the only law-enforcement-related people that I am aware of that do not support the bill as is are some of the DA's in the DA's Association.

Now, again, I respect their point of view. But it seems to me that it is the police who are the people out in the street; the police who are getting killed; the police who are responding to incidents where people are killed. I might point out this past year, under this administration, over 24,000 Americans have been murdered. If I am not mistaken, I think the number of felonies reported last year were roughly 5.2 million.

And we have a bill that if they just let us vote on, we could pass today and the President could sign today, that does some of the following:

It provides for—authorizes, when they use the fancy term; we promise to come up with the money—$3 billion for law enforcement. It provides the Brady bill, not a very radical piece of legislation unless you listen to the NRA. It simply says we do not want convicted felons to be able to walk into gun stores and buy guns. It does not call for registration of firearms; it does not take anybody's shotgun away; it does not stop hunting; it does not even keep you from buying a street sweeper to go out and shoot deer in the woods. It does not do any of those things, including those that are reasonable.

All it says is when you come to buy a handgun, the dealer has to say to you: Look, we have a system in our State, like Delaware; we have an automatic check. Let me take your name and your identification and run it through this little computer and find out whether you are a convicted felon. If you are a convicted felon, I cannot sell you a gun. And if we do not have a computer system in our State, which most do not, because criminal records are inadequately kept, give us 5 days to check you out with the local police. That is all we are asking.

Unless you have a real urgency for that gun, I do not know how many people have that urgency; I mean it sincerely. You may be off to a shooting competition and you have lost your handgun. It could create a hardship for you, possibly. Maybe you are in a position where you have some legal requirement. Maybe you feel threatened; you very legitimately feel threatened.

That does not work. The only people it seems to me you are going to inconvenience is the man or woman who comes in and says: I want to buy this handgun because I want to knock off that drug store. They may need the gun right away. Or: By the way, I am having a fight with my husband or wife, and I want to go home and shoot my spouse. We could inconvenience them, that is true, by saying you have to wait 5 days if we do not have a computer set up to find out if you are a felon.

Oh, it is true, we could inconvenience, up to that point, law-abiding citizens who do not have a criminal record if your State does not have fully computerized criminal records, for up to 5 days. But think of the kind of inconvenience we are going to cause. The kind of inconvenience we would cause may be the kind we want to cause. That is, the guy walks in and is on drugs and decides he wants to hold up the local grocery store, but needs a handgun.

I might also add, by the way, that 82 percent—notwithstanding what the NRA says—according to the polling data, 82 percent of the law-abiding gunowners in America, people who presently own guns, 82 percent of them say this is a good idea. It is not my number; I did not make that up. That is the national polling data: 82 percent of the gun owners say, "I do not mind having to wait to buy a handgun if my State does not have a computerized system."

I might add, by the way, we put a system like this in Delaware, a mandatory check, and guess what? The first couple of months that we did that, there were 1,086 people who came in to buy a handgun and the gun dealer, doing the lawful thing, said, "We have to check you out." And guess what?

One in ten of the people who came in to buy a handgun was a convicted felon or not allowed to purchase a handgun for some other reason. They checked it out. And lo and behold, it was illegal for 1 out of 10 of the people who tried to buy a handgun in the State of Delaware to buy that gun.

Now, no one ever said any of these convicted felons were going to win the

Nobel Prize for science. They became convicted felons in no small part because they are pretty stupid. So this notion that this will not stop felons from getting guns, my own State experience belies that. These folks actually walk in, give an identification, and say, "I want to buy a gun." The only thing they do not say is, "By the way, I am a convicted felon."

So, what does this bill have in it? Something the police agencies—and I have never heard anybody really talk about the police being wimps, whacko's, do-gooders. These are not phrases you often associate with the police. These are hard, tough guys. These are tough guys and tough women who put their lives on the line.

And guess what they want more than anything else that we could give them for their own safety's sake. They say they want the Brady bill. That is what they say, that they want the Brady bill. It is in that legislation sitting at the desk, one small vote away from being sent to the President of the United States if we were allowed to vote, if 51 Senators could work their will.

That bill at the desk also has, to the chagrin of some—when I wrote the original bill I was roundly criticized for including it, but I happen to support it. It has the death penalty in it. It provides for the possibility of death for 53 criminal offenses. There are 53 crimes that, if you commit under that bill and a jury finds you guilty, you can be put to death.

It also has in that bill a vote for the Police Corps. We need more and increasingly educated and sophisticated police agencies in America. So, after debate in the Senate, debate in the House, in compromising between the House and the Senate, we came up with the provision in that bill that says the following: If a person graduating from college will commit to give time working for a police agency after graduating, they can get help paying for their education. And, further, if you are already a police officer right now, you can get help, financial aid, to go on to college while you are a police officer.

We need continued, increasing sophistication, which has been what has happened with the police steadily over the past 20 years. I think police really get a bum rap. You turn on the television, and what you mostly see are the abuses, and abuses do occur. They occur in every single profession. You need only look at the recent abuses on Capitol Hill that are being screamed across every headline in America—with good reason.

And there are abuses within the police agencies. But these are women and men who, in fact, dedicate their lives, not unlike ministers and priests and rabbis dedicate their lives. They dedicate their lives not for the salary they make, because, Lord knows, the salary can barely take care of a family. They dedicate their lives because they truly have a commitment to their fellow man, and they have gotten better and better and better and better against tougher and tougher and tougher and tougher odds every single year. And we have to continue to equip them not only with physical equipment, but with the increased educational background and capacity that comes from being better educated for our own safety's sake.

That is in this bill.

In this bill is a new rural initiative to help fight crime. By that I mean most people, and some of the people here today visiting from other parts of the country, will tell you that drug abuse and crime in their rural communities is increasing. As a matter of fact, statistically it is increasing at a faster rate than it is in center cities in great metropolitan areas, but there is a big distinction. In rural America, because of the small budgets of the small towns, you have incredibly small police forces, police forces of one sometimes, moving against very sophisticated operations.

Methamphetamines, ice, all these drugs that are the new wave of drugs that are polluting our children, polluting this country, where are these organized gangs going to produce them, to make them? They are going to rural Montana, Idaho, southern Delaware, rural Georgia. They are going with sophisticated operations into communities that have one police officer not trained—nor should he or she be expected to be—in the intricacies of drug trafficking, for example.

We provide in that bill for rural task forces, Federal, State, and local task forces, and that is a fancy way of saying what we provide for, Mr. President, is help for the one-, two-, three-, five-, seven-person police departments in these areas. And what we do is we set up task forces with Federal agents, a drug enforcement agent, an FBI agent, a State police person, and a local person from the town—task forces. We provide for that in this bill that is one step away from becoming law if we would just be allowed to vote on it by our Republican friends who talk so tough on crime but are blocking the crime bill.

That rural initiative provides $50 million in aid to State and local law enforcement directly in rural areas. It provides special training for rural law enforcement officers. That is, we take these rural law enforcement officers and give them access to training in places like Glynco, GA, where we train the best people we have, the FBI people, the DEA people.

It seems to me the Federal Government has some responsibility when much of the crime being visited upon the communities of the people in this Chamber and the people in this Nation is not local in nature. The drug problem is not a Delaware problem, an Idaho problem, a South Carolina problem, a New York problem; it is a national and an international problem. And its functions are fungible. It crosses State borders in ways you would never think about. No single rural or metropolitan police agency can stop it. The Federal Government should be involved in helping those communities, not taking over local law enforcement, but in aiding them, particularly in rural areas, which are the forgotten parts of this country.

It is in that bill. It also has a plan to fight gang violence. There is a 10-year increase in the penalty for gang-related crime; $100 million for youth programs to prevent gang violence in the first place. Boys and girls clubs.

The one thing we know is that the Boys and Girls Clubs of America, where they have them there is less crime and drug abuse. We know that. That is not me guessing at it, they are the facts.

There are certain things we know that work. We can argue about why they work, but we know they work. And we provide that kind of help in that bill. We provide 10 boot camps. We call for using abandoned military facilities so we do not have to build more new prisons and bricks and mortar, and we say take 10 of them, space for 6,000 young offenders, and send them to boot camp. It is low cost; high yield. Teach them not only how to sleep behind bars, teach them some self-respect and discipline; self-respect that comes from discipline. It is in that bill sitting no more than 25 feet from where I stand.

I read with great interest in the Illinois primaries that took place last Tuesday, there was one fellow who won in a challenge against the incumbent Democrat, a challenging Democratic candidate. In his victory speech he had a big patch above his eye. I remember remarking to my wife, I said, I wonder what happened?

She said, oh, did you not read about it, that is the candidate that got shot in a drive-by shooting; not a political shooting by a Republican or Democrat, a drive-by shooting. The guy is out campaigning, somebody drives by in an automobile, fires a shot, and grazes his head.

What do we do about gangs? This administration has cut funding dealing with gang violence in America, the spawning ground for the Al Capones of the 1990's.

There is so much more in this bill which I will not take the Senate's time to go into. I also explained last week, and I reiterate it, every major law enforcement organization in this country that I am aware of, representing one-half million or more police officers, supports it. That is not counting the attorneys general. I do not call them police officers although, God bless them all—and I know the President was a former attorney general, I have great respect for them—they have a significant responsibility in the criminal justice system. But they do not get called to walk into the three-story walkup at 2 in the morning to settle a disturbance. There are not many of them who are shot, nor should they be.

So, I respect their view that we should wait for the perfect bill. But they are not the half-million police officers out in the street who say—perfect? There is an old expression attributed by Voltaire to a wise Italian. I think it goes something like: "Better is the enemy of good."

The point being, if you wait for the perfect vehicle, a lot of good things will not be done.

Assume the attorneys general are correct. The police officer is saying: I need help. On habeas corpus, I agree with you, but it does not help me that much. I need help now. Everybody filing a habeas corpus petition is already behind bars, Senator BIDEN. They are not likely to shoot me on the street. But the person who is, is the kid I cannot reach because we are not doing anything about gang violence in America; it is the person I cannot reach because I do not have help in training my local law enforcement officers to deal with drug cartels in the region, Senator. The local bus stop is a jungle, where the woman who works until 8 at night in the office has to stand—I cannot help her, Senator, because I do not have money for lighting, patrol cars. The police officer is saying the danger is from the handgun that the 20-year-old, or 30-year-old person who walks in and purchases without a background check.

Do you not think that it is kind of ridiculous that in America we have metal detectors in high schools? I am, unfortunately, old enough to remember how revolutionary I thought it was when they put the first metal detector in an airport. My daughter is going to grow up—she is in fifth grade—thinking it is normal, if we keep going the way we are, to have to walk through a metal detector to go into math class; to have to walk through a metal detector to read Shelley or Byron; to have to go through a metal detector to go the girls' basketball game.

What has become of us? But my friend said there is no need to do anything about handguns in America, not even if it means telling felons that they cannot buy them.

Let me be more precise. They say tell felons they cannot buy them. But do not do anything to try to figure out whether or not the person buying the gun is a felon—second amendment.

I have been doing this a long time—not nearly as long as my distinguished colleague from South Carolina—not nearly as long as my distinguished colleague from South Carolina—but I cannot remember when I have been as depressed about the unwillingness of the President and a majority of his party to allow us to vote on a bill just because in the whole array of people, a total of roughly 47 attorneys general, a third of them Democrats and two-thirds Republicans, and the NRA, say they do not like it. God bless America.

When you stack the will of 47 attorneys general versus a half a million police officers—I have great respect for attorneys general, but—wow. When you stack the will of a half million police officers, 82 percent of the gun owners of America against the NRA, and the NRA wins and the attorneys general win, a whole bill goes down because, I guess, they get paper cuts from answering the habeas corpus petitions. Something is wrong. Something is wrong.

I also explained last week that the Fraternal Order of Police is calling this the toughest crime bill to emerge from Congress in recent memory. The police organizations have said bluntly, a vote against this conference report, a vote against cloture is a vote against police. What I want to emphasize today is that a vote for cloture is a vote for taking desperately needed action; for doing something rather than continuing to talk and talk about it.

I never presume to speak for the American public. A lot of people stand up on the floor—and they know more than I do—and they say the American public wants this and the American public wants that. I cannot say what they want for certain. But I know what I want as a member of the American public.

I am fed up with inaction. I think the American people are fed up with inaction. I think they are tired of hearing us throw around slogans about who is soft on crime and who is procriminal. You will hear my very distinguished friend from South Carolina call this conference report a procriminal bill, if he chooses to say what he said in the past. That comes as a great shock and revelation to a half million police officers who kind of thought they were anticriminal. A funny notion, they thought they were against the criminals and they are for this bill.

Since the filibuster began on this bill, Mr. President, I can report to the Senate that an additional 7,200 Americans have been murdered; since this filibuster started, since the Republicans decided not to let us have a crime bill in spite of the fact the House passed it and we have a majority of votes to pass it here, 7,200 Americans have been murdered.

Since my Republican friends started their filibuster, 31,400 women have been raped in America. Mr. President, since the filibuster has started, 558,500 Americans have been victimized by violent crime on the streets, in their offices, or in their homes; 558,500, over one-half million people since the filibuster has started.

Unlike some who may discuss this issue, I am not suggesting that had this bill passed, there would have been no additional murders; had this bill passed, there would be no additional rapes; had this bill passed already, there would be no additional violent crimes. That is not true. But, Mr. President, while the Republicans have refused to let us vote, evidence of the gravity of the situation is mounting to the tune of 7,200 murders, 31,400 women raped and 558,500 violent crimes. If that is not a call to arms instead of a call to talk, if that is not a call to action instead of a call to delay, if that is not a call to respond instead of a call to retreat, if that is not a call and a plea for help rather than a plea for politics as usual, I do not know what is.

And now what are we going to do if we do not have 60 votes, a supermajority, to allow us to vote? Theoretically, we can move on to another bill. And I can tell the Senate I will introduce another bill. I will introduce another crime bill. I will, once again, and he has always operated in good faith, sit down with my friend from South Carolina and agree to compromise in good faith on another bill. I will, once again, contact the President and the Attorney General and say, "OK, do you want to compromise on a bill?"

But, Mr. President, again, I have been here a long time, notwithstanding the good faith, and I mean this from the bottom of my heart—I do not doubt it for a second—notwithstanding the good faith and the willingness to compromise on the part of my good friend from South Carolina, the best we can hope for is months before we can pass through this body, pass by the gun lobby again. Keep in mind, Mr. President, how long it took just to get a bill out of this Chamber, sent to the House, voted on by the House and into conference to settle the differences. It took a year, Mr. President. The Senator from South Carolina and I worked on it, notwithstanding the view the people may have of Senators and Congresspersons, we worked on it hours and hours, and days and months. And now we are expected to believe that this bill before us, if we are not allowed to vote on it, that somehow in an election year—in an election year—with a President who appears to be scared to death of the right in his party, and Democratic candidates who have yet to talk very much about this issue at all—to be bipartisan in my criticism—that we are going to have another bill in a matter of weeks or months?

If it takes us just as long as it took us to deal with the filibuster that has been underway, there will be another 7,200 Americans murdered; 31,400 women raped; and 558,500 Americans brutalized by violent crime; if—if—we can move a crime bill faster than we ever have; if, in this election year, we can get by the NRA; if 48 attorneys general demanding purity will get precisely what they want; if—if—there is any willingness in this town in an election year to deal squarely and in a bipartisan manner.

There was a movie, "Network," some years ago. There is a scene in the movie where there is this guy on television who was frustrated. He was going nuts, actually, and he said, At a certain time, 7 o'clock on Tuesday, I want everyone in America to raise their windows and say "I've had enough; I can't take anymore."

While we squabble over precisely the right amount of curtailment of habeas corpus petitions, while we squabble over whether or not we are offending the NRA by saying you have to wait 7 days—even when we give $100 million to the States to upgrade their computer systems so people will not have to wait 5 days so they can walk in and say, "I want to buy that gun," zip, punch in the computer, "No, you are not a felon; it is your gun."

I would not be surprised, Mr. President, if the American people, coupled with everything else that they are undergoing, figuratively speaking, on election day raise their windows and say, "I've had enough. I'm not going to take it anymore. All of you who are there should depart. Goodbye." I would not blame them.

Mr. President, people should not have to wait for a Republican filibuster conspired by the gun lobby and egged on by election year politics to get a crime bill. The public knows that some opponents of this bill really want no bill at all, and that if we try to start over again at this stage from any new proposal, whether it be a Republican proposal or a Democratic proposal, the odds are that there will be no bill.

Mr. President, that is a crying shame. And everybody in this body knows the truth of that statement, everybody in this Senate knows the truth of that statement.

Mr. President, just to show you how slowly things move along here, a couple years ago I came to this body, this Senate, and I said I have an idea on a crime bill. I said we really should help local police more. We really should help rural law enforcement more. We should really do much more. And the President said, "Well, if you do that, I'm going to veto the bill. If you include money for gangs in it, I'm going to veto the bill. If you include money in it"—go down the list.

I sat with my Republican colleagues, and I said "Are you sure we can't work something out?" And some of it we worked out.

They said, for example, if we increase the authorization level for State and local law enforcement to $1 billion, the Justice Department opposes these provisions. Not my words, Justice Department. That is what they said.

They also said title IX, what I am talking about, contains several authorizations for law enforcement agencies. "We oppose these provisions because they are not consistent with the budgetary request of the President." The Police Corps, they said "We do not believe that the Police Corps proposal can be justified." Local law enforcement scholarships, they said, "We recommend against enactment of the new scholarship program for in-service officers."

Bootcamps for State prisoners. "There is no justification for singling out this particular approach, much less requiring the Federal Government to establish and run directly bootcamp facilities for State prisoners."

Authorizing $600 million to construct 10 regional prisons and $100 million to operate such prisons for a year, "the Department of Justice opposes this proposal."

On youth violence and antigang proposals, "This provision would establish a new juvenile justice antigang grant program. 'We,' meaning the President, 'oppose this provision.'"

The list goes on—14 of these major things. I said, "Well, why can we not do these things?" I asked the Republicans to go along with these. Some they did, some they did not. I won on most of them, 12 of the 14 of them, in this body. We won. We passed that bill over there.

The President said he still did not like these provisions. He was against them. And then the filibuster starts on the bill, the filibuster.

Well, guess what, Mr. President? Last week, 10 days ago, 2 weeks ago, I walked on the floor of the Senate to find out, to my surprise, the Republicans "with the support of the President" want to introduce a new crime bill. And guess what? It has the 12 proposals.

The 12 proposals, they are now for them. They are now in the Republican crime bill.

Now, granted, I believe everyone is entitled to be redeemed. And when people end up agreeing with me, I guess I should not complain. I guess I should just welcome it and be happy.

But let us look at the pace of things, Mr. President. It took 2 years on some of these very specific items, it took about a year for other items, for us to get this far where they agree. What is it going to be the next time around?

Well, Mr. President, the public knows, I think, that what has happened here. It is a desire not to have any bill at all.

Let us just think in terms of common sense for a minute, just common sense. I wonder how many Americans would say, assuming they agreed with 99 percent of what is in this bill but disagreed with the provision on habeas corpus—now, again, habeas corpus is that provision in the law which says that someone who is already in jail, behind bars, locked up, unable to affect the public, can write out a petition, slip it through the bars, hand it to somebody to send to a court, and that petition says, "Hey, judge, I shouldn't be here for the following reasons," or "I need a new trial for the following reasons." That is what a habeas corpus petition is.

Now, the argument here is over how many times and under what circumstance a prisoner can slide a piece of paper through the bars.

Let us assume that the average American agreed with the position of the Senator from South Carolina, which basically says you cannot slip a paper through the bar at all. And I say you can only slip a paper through the bar once. Let us assume that was the basis of this argument, and that they agreed with my friend from South Carolina and not me.

Do you think the average American would say, "Well, you know what? On the basis of that one thing, I am going to do away with the other 400 pages of that bill. I am going to do away with the money for youth gangs; I am going to do away with the money for police officers; I am going to do away with the help for the waiting period for handguns; I am going to do away," on and on and on. Do you think that is what they would say? Or do you think they—and no wonder they wonder about us up here—might exercise common sense, a little bit of ingenuity and say, "You know what? We will take the bill up there that I agree with almost all of and then when that is finished I will introduce a new bill saying you cannot even slide the paper through the bars once, and we will fight that out."

Which do you think they would do? I have a feeling, even if they agreed with the mistaken position of my friend who believed that the habeas corpus provision in this bill is not the right one, I would think they would say, "All right, we are not going to wait for another 7,300 murders to get it perfect. We are not going to wait for another 31,400 rapes to start the process. We are not going to wait for another 558,500 violent crimes. We will go ahead and give the police all that ammunition that they need, and then we will come back and argue over the paper. Then we will argue whether or not a habeas petition could be filed once, or not at all, can be filed on a claim of innocence, evidence of innocence, or not at all, and so on." I kind of think that is what they would think.

Yet, we are supposed to believe that there is nothing political about this opposition. We are supposed to believe that the situation is such that these folks believe that the habeas corpus differences that we have are so profound that we should have no bill at all. Because there is not anyone in this Chamber, I believe, who could in good faith tell you, look you in the eye, and say, if this conference report does not get a chance to be voted on that there is any chance for a crime bill to pass here in the next couple months. And if they are really honest with you they will look you in the eye and tell you the chance of it passing at all this year is nonexistent.

But let us give them the benefit of the doubt to think that we could pass, after it took us over a year to get to this point, a bill that was comprehensive, that we could pass one in the next couple months, or you might hear, "Well, you know what we could do; we could pass this Republican bill and come back and fight on gun control." You will hear that somewhere along the line, I suspect.

I kind of find that funny—do not you?—that the proposal I suspect will be made by someone, before this is over, to not let anybody get a chance a vote on this conference report; then let us bring up a Republican alternative that does not have the Brady bill in it. Then someone will stand up and say it should have the Brady bill in, and some who support the Republican bill will say, "Oh, oh, do not worry about that. Let us vote this out, and we can come back and fight the Brady bill later"—with the NRA opposed to the Brady bill.

Yet, when I say, and they acknowledge, that everything that bill has in it, the only genuine opposition to it comes on the debate—the esoteric debate—of the distinctions between the limitation placed on habeas corpus by the conference report and the limitation that they want placed on habeas corpus. They say "No, no, no; we cannot have any crime bill now until we get that just perfect. We cannot take that out of the mix and fight over that later." But we can take the Brady bill out and fight over that.

No one ever said consistency was the hallmark of this place or any legislative body or any debate. But it is interesting to note.

It seems to me, Mr. President, the public deserves more than a battle of slogans. There are things that are in this bill that we will vote on that I simply do not like, that were not in the original Biden bill, that I did not want. There are things in this bill, if they ever allowed us to vote on it, that I think should not be in the bill, that are different than the Biden bill, which is the vehicle from which we started off working.

But I am not standing here telling you I will not take it because it is not precisely what I want. The police women and men in this Nation are crying out for help, and they have said so. They have said a vote against this conference report is a vote against police agencies. And the attorneys general with whom I have spoken have said this is a good bill, but for habeas corpus.

It is a shame. This is a very tough crime bill and we are not being allowed to vote on it. We should act today, Mr. President. We should send the crime conference report to the President today, and by voting for cloture and stopping this Republican filibuster we can do just that. If we do not act, if we do not break this filibuster, we stand to lose a great deal, Mr. President.

First, we lose an important opportunity to pass the Brady bill. Second, Mr. President, the President has vowed to veto the Brady bill if it stands alone.

So it is a hollow gesture to suggest that we pass some other bill without the Brady bill, and then come back to the Brady bill and get it passed unless I misunderstand the President. And I would be delighted if it were to turn out that I am wrong on that point. The only crime package that the conference bill opponents will not filibuster is a package that does not include the Brady bill.

Second, if we fail to invoke cloture, we lose the chance for immediately implementing the number of important measures the Senate has consistently supported over a number of years. We lose our proposal for regional prisons and boot camps to house 10,000 prisoners, 3 times passed by the U.S. Senate. We lose the opportunity to create an effective new rural crime and drug program, a proposal passed twice by the U.S. Senate. We lose an opportunity to institute as soon as possible a whole host of new programs to stem the tide of youth violence, enhance community policing, implement drug testing, and punish drive-by shootings. We lose all that, Mr. President. If we do not invoke cloture, we lose an important opportunity to move forward with a tough bill, not backwards with a new, weaker, and in some respects dangerous bill.

The Republican alternative that is going to be proposed if this fails allows the administration to take money from hard-pressed States and local law enforcement to pay bills for Federal agencies. The Republican crime package we will hear about, although it has taken much of what is in the Democratic proposal, eliminates long-needed proposals for regional drug treatment.

The Republican crime package refuses to require drug testing for all Federal courts, authorizing testing on a much more limited basis, to spare judges the effort. The Republican crime package significantly impairs our proposal for rural crime by making one of its most important provisions, rural drug task forces, optional rather than mandatory, leaving the administration, which opposes the provision, free to ignore it.

The Republican crime package increases the amount of money for the bureaucrats who run the victims fund and, as a result, reduces the funds available for the victims themselves.

And, at the same time as the Republican crime package omits some important conference provisions, it includes proposals that the Senate voted down as excessive just months ago; proposals like the one that would have permitted police officers to get warrants only when they believe in good faith they need one; or to put it another way, to be able to violate your fourth amendment rights without a warrant and say, "By the way, I did it in good faith, so therefore it is OK." We debated and rejected that idea last year in a bipartisan vote, 54 to 43. But it has resurfaced once again.

Do not let the rhetoric fool you, Mr. President. The conference bill is much better by a long, long shot. That is why the police groups support the conference bill. As for those who keep offering their slogans about a procriminal bill, I think Dewey Stokes, president of the Fraternal Order of Police, put it best when he said last week:

> To say what some have done to the conference report is either a step backward or soft on criminals is prima facie ridiculous to anyone who actually bothers to read the legislation.

Let us vote for cloture, Mr. President, on this conference report. That is what the public needs and what the police want. We are all but a few votes away from doing something of significance, rather than just talking about what we want to do in the future.

We can act now, we can allow the Senate to vote, and we can find out whether there are over 50 Senators in this body who like that conference report, which is the last step on the way to the President's desk; or we can let a minority in this Chamber prevent us from voting, and we can start the process all over again.

So much of my public life—19 years in the Senate—has been committed to making the criminal justice system work better and helping the police more. So as discouraged as I will be if we fail, I will start again, Mr. President. I will start again, and I will sit with my Republican friends to see if they really want a bill; and even if they want a bill, I will try to see if the President wants a bill, which I find no evidence of today. If they do, I will do everything in my power to assist in getting a crime bill.

No one should kid themselves, Mr. President; the police are right: A vote against this conference report—and voting to not allow us to vote is the same thing—a vote against cloture is a vote against the police of this Nation, and a vote for delaying action on attempting to stem the 24,000 murders and tens of thousands of rapes and hundreds of thousands of violent crimes that occur in this country.

I thank my colleagues, and I yield the floor.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, the partisan conference reports to H.R. 3371, the crime bill, is not going to pass the Senate. Virtually every Member of the Senate knows this. Supporters of this measure are criticizing those of us who opposed this bill for not permitting it to pass. Yet, if this bill were truly a tough crime bill, it would pass by an overwhelming majority—the Senate would not be divided along party lines.

I have heard much partisan rhetoric accusing Republicans of playing political games with the crime bill. This is not the case. I have listened, repeatedly, to Members on the other side of the aisle accuse Republicans of playing politics. All the while, Republicans have simply discussed the substantive differences between our bills. Our arguments for opposing the conference report cannot be refuted on substance, so we are accused of playing politics. I might note that I have not questioned whether the majority is playing politics and may be trying to embarrass President Bush.

Our Nation's crime problem is far too serious a problem for the Senate to turn the crime bill into a political issue. We want a bill, not an issue. The American people do not care who is to blame for producing this weak conference report, they just want a tough bill. Opposition to this weak bill, which expands the rights of criminals—I repeat, expands the rights of criminals—must continue if Congress is to ever pass a true crime bill that President Bush can sign into law.

Supporters of this conference report argue that since this report has been supported by law enforcement, it cannot be a bad bill. What they fail to mention is that law enforcement groups also support the provisions contained in the tough crime bill I introduced on March 3 with 29 cosponsors. Law enforcement groups support both bills. Additionally, prosecutors, victims, State attorneys general all oppose their bill. They support the bill that I have introduced. How do the supporters of the conference report respond to the genuine concerns of prosecutors? Some have chosen to question the role, dedication and commitment of prosecutors and attorneys general. Statements like, "The only risk district attorneys take each day is the danger of a paper cut" belittle and demean the prosecutors. They are hard-working public servants who have dedicated their lives to putting criminals behind bars.

Mr. President, law enforcement officers are in dire need of assistance and their interests are critical. Our Nation's policemen and women are truly dedicated professionals who do a great job with, all too often, inadequate resources. Nevertheless, law enforcement officers do not comprise the entire criminal justice system. Victims' advocates, judges, and other court officials, prosecutors, prison officials and many others play key roles in our effort to fight crime. Our Nation's prosecutors and attorneys general are the people who bear the responsibility of convicting the violent criminals so that they can be put in prison and kept there. They are the one's who will have to surmount the tremendous and unproductive legal burden placed on them if this conference report becomes law. Prosecutors and attorneys general are the ones who strive, year after year, to see to it that legally imposed death sentences are carried out. Their opposition to this bill is ardent and their concerns must not be dismissed out of hand.

I might say that the responsibility of the policemen is to catch the criminals but it is the responsibility of the prosecutors to convict them and the prosecutors say this is not the bill to convict them.

Mr. President, many of the supporters of this conference report have stated that we oppose this report because it contains the Senate-passed Brady language. Yet, a fact that seems to have been missed by my colleagues is that, while I am the Senator leading this opposition, I am also one of the Senators who voted in favor of the Senate passed Brady provision. The notion that I would oppose a bill simply because it contains this provision is wrong. In fact, the Senate passed its crime bill, which included the Brady provision, by an overwhelming vote of 71 to 26. The truth is, this conference report is not going to pass because it is a fraud. This conference report is a sham. Long after all of the additional money authorized by this bill runs out—if it is ever appropriated, which is unlikely—the procriminal provisions contained in this bill will still be on the books. As a result, more criminals will walk free, more violent offenders will have their convictions set aside on mere technicalities, and more victims will be outraged.

In closing, the Senate must not permit this bill to pass. Any proposal to permit a partisan vote on this measure should be rejected because it would prove to be a bad deal for victims, law enforcement, and the other good people of America. If this bill were to pass, the safest people in America would not be our Nation's honest citizens or law enforcement officials. The safest people would be those living on death row.

The advocates of this liberal bill argue that they are supporting a tough crime bill. They claim to be spending more money on law enforcement. Yet, the tough crime bill, S. 2305 has equal funding for law enforcement and it contains true, tough reform proposals. It is time for Congress to stop playing politics with the crime bill. While some of our colleagues continue to push for passage of the weak conference report, criminals are being set free on technicalities, murder victims' families continue to suffer, and the American people wait for a true anticrime bill.

I urge my colleagues to vote against cloture on the conference report.

Mr. President, the Attorney General of the United States has made a statement on this bill. What does he say? I have his statement here, signed by William P. Barr, the Attorney General. I will not read it all, just the last paragraph. In sum, he says:

> The conferees have let down law enforcement, let down victims, and let down those in Congress who voted for tough anticrime measures.

Who is it that made that statement? The Attorney General of the United States. And then he says: "If this bill comes to the President's desk I will urge him to veto it."

And, Mr. President, I have a letter signed by President Bush here. What does he say about it? Surely, we can trust the President of the United States, elected by all the people. He has been in favor of a tougher crime bill for several years. Here is what he says: "If this bill"—speaking about this conference report—"is presented to me, I will veto it and insist the Congress pass a crime bill that will strengthen"—I repeat, strengthen—"our criminal justice system." That is what he wrote.

Mr. President, I have a statement here by the 31 State attorneys general of our Nation, and, Mr. President, since the Presiding Officer is from North Carolina, the letter includes the attorney general of North Carolina: "As the chief legal law enforcement officers of our States, we are writing"—and, by the way, this is not partisan. Of the 31 attorneys general, 15 are Democrats, 16 are Republicans, practically equally divided.

> As the chief legal law enforcement officers of our States, we are writing to express our alarm at the habeas corpus provisions contained in H.R. 3371 as it was passed by the U.S. House of Representatives and urge you to veto any legislation containing those provisions.

This is a letter they wrote to the President of the United States.

> We need legislation that will support law enforcement, promote finality of judgment, and ensure fairness to crime victims and their survivors. In spite of that need, a bare majority of the House of Representatives has passed habeas corpus provisions that will have the opposite effect. Those provisions are so inimical to law enforcement, are so unfair, and would have such a devastating effect on the interested victims and survivors of violent crimes that we urge you to veto any so-called anticrime bill containing any of the principal provisions relating to habeas corpus that are now found in H.R. 3371.

I repeat, this is a letter written by these attorneys general of the States of our Nation. They are not connected with the Federal Government. They are attorneys general of the States, and this letter was written to the President.

They go on to state—I will not read it all; it would take too long. I will skip over and read one last paragraph here.

> Nothing in here is favorable to any interest other than convicts' interests. Any bill containing the provisions discussed above cannot be described accurately as an anticrime bill, but would instead be a procriminal bill, and particularly a convicted murderer bill.

That is what the attorneys general of the States say. It says this is not an anticrime bill; it is a procriminal bill. Why would the attorneys general of the States say that if they did not believe it? They are the chief law enforcement officers in the States.

"We do wholeheartedly support the habeas corpus provision contained in title X," and so forth. "Those provisions, unlike the ones contained in H.R. 3171, would promote finality, fairness, and prompt resolution of litigation."

Mr. President, attorneys generals—I say, it is signed by 31 attorneys general, and here is where they are from. If any Senator wants to see the list, it is available: Attorney general of California, attorney general of Mississippi, attorney general of Nebraska, attorney general of Kansas, attorney general of Montana, attorney general of Pennsylvania, attorney general of Arizona, attorney general of Alaska, attorney general of Guam, attorney general of Wyoming, attorney general of Indiana, attorney general of Virginia, attorney general of New Jersey, attorney general of New Hampshire, attorney general of Oregon, attorney general of Colorado, attorney general of Nevada, attorney general of Alabama, attorney general of Washington State, attorney general of South Dakota, attorney general of Vermont, attorney general of Georgia, attorney general of Idaho, attorney general of Connecticut, attorney general-elect of Louisiana, attorney general of West Virginia, attorney general of North Carolina, attorney general of Maryland, attorney general of South Carolina, attorney general of Delaware, and attorney general of Texas. Furthermore, the National Association of Attorneys General overwhelmingly passed a resolution opposing any bill containing this provision.

Mr. President, how can anyone say that these attorneys general do not know what they are talking about? They are responsible for law enforcement in their States and they are concerned about this crime bill, which they say is a procriminal bill and not an anticrime bill.

Now, we have another group. The National District Attorneys Association. They represent the prosecutors of this Nation. What do they say? Let me read you this short letter, one page.

> The American people have been mugged again, this time by the leadership of the United States Congress. The Nation's prosecutors strongly oppose the so-called crime control bill approved in Sunday's conference—

And that is the bill we are talking about—

> and urge both House and Senate to reject it. This bill does far more to advance the interest of convicted criminals than it does to protect victims and law-abiding citizens.

Who is saying that? The district attorneys who prosecute crimes. What do they say? They say it does far more to advance the interest of convicted criminals than it does to promote victims and law-abiding citizens, to protect victims. Their letter goes on to say, "In fact, passage of this bill is tantamount to handing the jailhouse keys to thousands of convicted State and Federal prisoners." That is what they say.

> The bill advances the rights of convicted criminals by providing golden opportunities for them to use new case law to overturn old convictions. This is accomplished through the repeal of several Supreme Court precedents and the habeas corpus provision approved by the conference. It also provides unworkable counsel standards in death penalty cases that violate the most basic tenets of federalism. The conference committee, in nearly every instance, chose the weakest provisions with respect to law enforcement. It rejected the House limitations on application of exclusionary rule. It overturns the Supreme Court decision in Arizona versus Fluminante through a provision that may have far-reaching effects and which was not even the subject of hearings. Finally, the conference chose the weaker provisions on death penalty offenses and procedure.

And they wind up with this statement:

> It is a sad day when the will of American people to enact tougher criminal laws is so completely thwarted. We urge you to reject this poor excuse for a crime control bill.

Who is this letter from? The National District Attorneys Association. Who is it directed to? Hon. GEORGE MITCHELL, the majority leader of the Senate and Hon. THOMAS FOLEY, the Speaker of the House of Representatives.

Mr. President, after all the terrible crimes are committed, I think sometimes we forget about the victims. Oh, there is a hue and cry when a man has been convicted of a crime; it is too bad, just so sad he has been convicted. What but the victims?

Let me just read you a letter I have here to the Honorable JOSEPH BIDEN, chairman of the Judiciary Committee in the Senate. This letter was written by Steven Baker. He says:

> As a father of a murdered son, I am highly insulted and totally disagree with your allegations that habeas corpus reform is not important because it does not affect street crime. Have you totally forgotten about the victim's family who agonize on a daily basis with frustration and uncertainty? Have you also forgotten that the taxpayers are sick and tired of footing the bill for ludicrous delays for convicted killers? Robert Alton Harris murdered my son, Michael Baker, in July 1978. The trial was completed within 1 year. During the last 13 years—

Thirteen years after the defendant was convicted—

> after Harris' conviction, our tax dollars have paid for the case to be before the U.S. Supreme Court four times and the 9th District Circuit an additional four times.

Here is a man who was convicted, and he took it to the Supreme Court of the United States four times. If we pass my bill, we will put an end to this. Here it has gone on for 13 years:

> These ridiculous delays have caused great distress for our family. It is like an open wound that cannot heal. It seems impossible to me that you are unable to relate to the additional pain that the constant court battles cause innocent family members. On behalf of crime victims across the Nation, I ask you to pass and implement immediate habeas corpus reform.

That is from the father of a son that was killed.

I have plenty of letters from the families of murder victims. I am not going to read all of them. I have a whole bunch of them. I am just going to read an excerpt from two more.

Here is a letter addressed to Senator BIDEN, the distinguished chairman of our committee. This is signed by Coleen Cambell, and Gary Campbell, the mother and father of a murdered son. A copy of the letter was sent to me:

> Those of us who have been victimized by crime were really distressed to hear your comments on the Senate floor concerning habeas corpus reform. Your allegation that this issue is not important because it does not affect street crime is a slap in the face to crime victims across the United States. The simple fact is that you in the Congress are the only ones who can do anything about the endless appeals filed by those who have been convicted of the most heinous criminal acts. This game of legal manipulation makes a tragedy a seemingly endless process that prolongs our agony indefinitely. The language in the conference report of H.R. 3371 would only make matters worse.

And that is this bill that the distinguished chairman of the committee now in trying to get the Senate to approve, this very bill:

> Habeas corpus reform is the premier victims' issue. Your failure to acknowledge this and your support for legislation which would be a step backwards for victims is a grave disappointment to all of us.

Mr. President, I will just read one paragraph from another letter here. Citizens for Law and Order, addressed to the distinguished chairman of the Judiciary Committee. This is signed by James A. Collins, eastern regional director of this organization. Mr. Collins' daughter was brutally murdered several years ago. Her killer was sentenced to death and still sits on Tennessee's death row.

> I wish to register my strong personal support and the support of the organization I represent, Citizens for Law and Order, for the administration's crime bill—

The administration's crime bill is the one I advocate—

> which you are currently debating on the Senate floor. I and my organization oppose just as strongly the conference report crime bill.

That is the one the distinguished chairman of the committee is advocating, the conference report, which was passed by the House last November.

Mr. President, I am not going to take more time. I just want to say this: Do you want a strong crime bill or not? Do you want to pass a bill to deceive the American people? Do you want to pass a weak bill on the pretense you will pass a sufficient crime bill? If you do, pass this conference report.

If you want a true crime bill that will put these criminals behind bars and stop these long appeals, vote against cloture.

I had a similar case of undue delay in my State. A friend of mine was killed, John Turner. He worked for the Air Force in Charleston. He was a coin collector. A man from another State heard he was a coin collector and he went down there to rob him. In robbing him, he not only killed him, but three other people were killed and a woman was disfigured for life. He raped her before shooting her in the face with a shotgun. That man was tried and convicted in South Carolina and sentenced to the electric chair. But it was over 10 years, 10 long years, before he finally went to the chair because of the current law on habeas corpus.

And this bill, this conference report, does not remedy the problem. In fact, it makes it worse. If you want the law remedied, pass the crime bill that President Bush wants, pass the crime bill the Attorney General wants, pass the crime bill that the attorneys general of the States want, pass the crime bill that these prosecutors want who have to handle these cases, pass the crime bill that I have introduced. That is the crime bill. S. 2305 is a tough crime bill.

I say to the American people, this conference report will not do those things. There is no use, whether you are a Democrat or Republican, there is no use to pass a conference report that means nothing, that is a sham, that is a fraud on the American people.

Mr. President, I hope the Senate will think long and hard before they vote here. We cannot invoke cloture here so you will pass this conference report which expands the rights of criminals. We have to wait and pass the right crime bill or pass no crime bill at all, because this bill does worse than current law. It goes back to and reviews the sentence of people on death row now. There are thousands on death row now and this conference report will allow Federal courts to go back in and review those sentences and start a lot of them all over.

Mr. President, when we have a vote here, I hope the Members of this body will think about this matter. There is nothing more important in America today than passing a tough crime bill. The administration wants that done. I want it done. But the bill represented by that conference report does not do it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GORTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GORTON. Mr. President, we are evidently drawing close to the end of debate on this conference report. We will soon vote on a cloture motion which effectively would send to the President the bill which will be vetoed along—I reflect—with everything else which has been debated in the Senate during the course of this week.

I stand here asking the Senate not to invoke cloture, not to go through the fruitless and irresponsible action of sending this bill to the President's desk for that veto. And I do so only partly, most significantly, for substantive reasons relating to the content of this bill.

I do so equally importantly because of the distortion of the procedures of the Senate and, for that matter, of the other body, in connection with the way in which this bill arrived here for this debate, together with much, though not all, of the contents of the proposal.

This body seriously debated issues relating to crime and punishment during the course of last summer. I no longer remember precisely the length of time during which that debate took place, but I believe it was for more than 2 weeks. There were many votes. There were serious and important debates on many individual aspects of the bill and its relationship to the Constitution of the United States. I was certainly not on the prevailing side of every one of those votes by any stretch of the imagination. Nonetheless, I did support the ultimate product of this Senate.

While the debate on the floor of the House was not as extended, while there were not as many votes on individual elements of the bill, nevertheless, the treatment in the House of Representatives was similar. The two competing proposals then went to a conference committee for resolution of those differences. And, Mr. President, it is the resolution of such differences which is the function of a conference committee between the Senate and the House.

That conference committee never met to discuss the many differences between the two bills. A relatively small handful of Members of the majority party in both Houses met on a few occasions and wrote a bill which differs radically in many respects from what was debated in either the House or the Senate, provisions to which the House and Senate had agreed are absent from this bill. Subject matter is covered which was debated in either House, and where there were provisions in both versions on particular subjects, entirely new versions have been substituted for them.

Members of the minority party in both Houses did not see the result of this effort until 30 minutes to 1 hour before they were required to vote on it and send it to both Houses for action last fall and at the present time.

Mr. President, that is not an appropriate way of negotiating or arriving at a bill on any subject. It is particularly inappropriate when the subject is so important, as is crime and punishment and the Constitution of the United States. This bill has not been appropriately studied. This bill has not been properly debated.

I have the greatest respect for the distinguished chairman of the Judiciary Committee of the Senate who is defending this bill. He is eloquent. He was eloquent during the debate last year. Nevertheless, he has presented us with a bill that is the result of a flawed process and should not pass, should not be sent to the President of the United States even if it were a good bill.

Fortunately, Mr. President, it is the view of this Senator that the bill substantively is not worthy of being sent to the President either. That is not to say that it does not have many good and thoughtful and useful features. Those features, however, are outweighed by other features which make the bill little short of a fraud.

We have told the American people that the Federal Criminal Code will now include capital punishment for a fairly broad range of crimes. They are quite specific and, generally speaking, capital in nature. But what this bill gives with one hand, it takes away with the other. It is, for all practical purposes, impossible ever to reach a verdict under which capital punishment will be imposed by reason of the complications of the bill on that subject and the almost unlimited right toward endless appeals.

Second, while the Supreme Court of the United States has finally begun to move toward some finality with respect to criminal judgments, limiting in some modest respects the endless set of appeals through the use of the writ of habeas corpus, this proposal reverses or overturns a significant number of those Supreme Court decisions. It starts almost all capital punishment decisions—either in the Federal system or State system—on a new round of appeals and, again, attempts to repeal by implication what it dares not repeal expressly: The right of each State to decide certain crimes should be treated as capital crimes, the sentence for which should be capital punishment.

The proponents of the bill know perfectly well that neither the people of the United States nor a majority of the Members of this body would accept an outright repeal of the right of capital punishment in this country, and so they do it in this bill by indirection.

In summary, Mr. President, because this proposal was arrived at in a faulty fashion, because it does not truly reflect the views of a majority of the Members of this Senate as they debated this issue last year, because it is misleading to the American people in stating that it desires to reach certain goals while making those goals impossible to reach, because it would complicate the criminal justice process, because it is primarily in the interest of criminal defendants and their lawyers, for all of these reasons this bill should be rejected, and the appropriate way in which to reject it is to refuse to invoke cloture on this conference report, to let it wait until such time as we can create a new conference, a new debate which will deal with these issues in an objective and constructive fashion.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. REID). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAMM. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business is the conference report on H.R. 3371, the omnibus crime control bill.

Mr. GRAMM. Mr. President, I hope we can vote soon on cloture on this bill. I will vote not to invoke cloture. I would like to, before we cast that vote, remind my colleagues how we got here and what the issue is.

I think the choice is very clear. I think every Member of the Senate already knows how he or she is going to vote. But I would like to remind my colleagues that 1,001 days ago, the President asked Congress to adopt a comprehensive antidrug/anticrime bill; 1,001 days later, we have yet to act.

Three weeks ago, Senator THURMOND, Senator DOLE, I, and others, put together a new comprehensive crime bill that was made up of the strongest antidrug/anticrime provisions that had been adopted last year either by the Senate or by the House. And we were prepared at that point to offer that bill as an amendment to any bill that came before the Senate.

We agreed, because the President had set a time deadline for the adoption of the tax bill, not to bring this provision up last week. But we are prepared today, and will be in the future to offer this proposal.

The logic behind it is this: We want to adopt a bill. We want a tough antidrug/anticrime bill, and rather than going back to ground zero 1,001 days after the debate started, with the President sending a bill to the Congress, our proposal is to take the strongest provisions of the two bills, to offer that package as an amendment, and to begin debate with that bill.

Mr. President, what happened when we announced that we were going to do that is that the conference report on a crime bill that has already been rejected by the Attorney General, a bill that has already been rejected by the President, a bill that has been rejected by a bipartisan group of State attorneys general, has now been brought up, and we have before us a cloture vote which will occur hopefully today, maybe within minutes.

I would like to remind my colleagues of a few simple facts. First of all, last year in the Senate, we adopted a fairly strong crime bill. The House adopted a fairly strong crime bill. But what happened in the waning hours of the last session is that the strong provisions adopted in the Senate were dropped; the strong provisions adopted in the House were dropped.

And what we have before us, masquerading as a crime bill, is a hollow shell that overrides at least 20 Supreme Court decisions that have strengthened law enforcement, and that has dropped virtually every tough provision adopted by the House and Senate.

Let me just cite several of those provisions. In the Senate, we adopted a provision mandating 10 years in prison without parole or early release for selling drugs to a child. So no matter who a criminal's daddy is or how society has done him wrong, if he sells drugs to a child and he is prosecuted and convicted in the Federal system, under the provision adopted in the Senate, that criminal will go to prison for 10 years without parole on the first offense, and life imprisonment without parole on the second offense. Mr. President, that provision was adopted in the Senate. But, yet when senior members of the committee got together and wrote the bill, that provision was dropped.

We had a provision adopted in the Senate that said, if you are convicted three times for a violent crime or for a drug felony, you get mandatory life imprisonment without parole. That provision was adopted in the Senate. A similar provision was adopted in the House, and, yet, when this final bill was written, it was dropped.

The Senate adopted an amendment that provided 10 years in prison without parole for possessing a firearm during the commission of a violent crime or a drug felony, 20 years for discharging that firearm with the intent to do bodily harm, and the death penalty in aggravated cases for killing somebody with a firearm, and in other cases no less than mandatory life imprisonment without release for killing somebody with a firearm. That provision was adopted here in the Senate. That provision is not in this final bill.

Mr. President, I could go on and on about tough provisions that were adopted in one form or another in one or both Houses of Congress but that did not find their way into this conference report.

The Attorney General and the President, I believe, are correct when they say that this is not a true anticrime bill. This is a bill that will overturn 20 Supreme Court decisions that have strengthened law enforcement, and this is a bill that will weaken law enforcement at the very time that our bleeding Nation is demanding that we take action. I believe it is absolutely imperative that we vote down this phony crime bill, and that we give the Senate an opportunity to pass a tough, anticrime bill.

Mr. President, I want to make one thing very clear. If we reject cloture on this bill so that this bill will fail—that is, the conference report before us; the sham crime bill, I will call it—if we reject cloture and this bill falls, the next bill that comes up, other than the tax bill on which we are on a deadline, you will have an amendment offered by the Senator from South Carolina, or by the Republican leader, or by me that will consist of the strongest anticrime provisions of both the House and the Senate crime bills that were adopted last year. We should do it once a week, until either the President signs a bill or until this Congress ends.

Second, if we invoke cloture on this bill, and if then the Senate adopts this conference report and sends it to the President, the President will veto this bill. We will then do exactly the same thing on the next bill that comes up for a vote. That is, we will offer a composite bill that takes the strongest provisions of the House crime bill, the strongest provisions of the Senate crime bill, offer them as a package and do that once a week, until we ultimately deal with what is without a doubt one of our Nation's most pressing problems.

So, basically, what we are doing here is we are wasting our time. We are wasting our time on a bill that is not a crime bill, a bill that is a phony sham bill that the President, the U.S. Attorney General, and a bipartisan group of 41 State attorneys general have said should be vetoed and should not be adopted, because it weakens law enforcement at the very time that we need law enforcement strengthened.

This conference report was brought up to try to prevent us from offering a real crime bill. And my message is very simple: We are not going to be denied on this issue. If we get cloture on the phony crime bill, we are going to offer the real anticrime bill. If we do not get cloture on the phony crime bill, we are going to offer the real anticrime bill.

So one way or another, we are going to address this issue, not once, but every week until, finally, a bill is adopted that the President can sign. I think the sooner we do it, the better off we will all be. We should get on with the task of adopting a real crime bill that is worthy of the name, that addresses the Nation's concerns about crime in the streets where people are being killed and injured and where we in Congress appear, 1,001 days after the President asked us to act, not to care. People all over the country are asking: Why does Congress not respond to the cry of the people? 1,001 days later, we have not responded. I think the time has come to act, and we are going to respond, no matter how long it takes, no matter how many efforts we have to prevent us.

I yield the floor.

The PRESIDING OFFICER. The Chair, acting in his capacity as a Senator from Connecticut, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, what is the parliamentary status at the moment?

The PRESIDING OFFICER. At present we are dealing with the conference report to H.R. 3371, the omnibus crime control bill.

Mr. SIMPSON. Mr. President, there is no time set then as yet for a vote on that measure?

The PRESIDING OFFICER. The Senator is correct.

Mr. SIMPSON. I would hope that we might proceed with the vote on the motion to invoke cloture as soon as possible. I know that the majority leader very much wanted to proceed with that early in the day, and I assure you those on our side of the aisle are ready to proceed with that. The moment that activity would take place, I would certainly defer to it, and we could get on with that vote. I think it is very important and that, of course, is why we are in this debate. I do urge the leaders on both sides to move forward, and I certainly can say that, from our side of the aisle, we are ready to proceed to that vote.

You have heard much about this bill, obviously. I served on the conference committee. It was an extraordinary event.

I have been on a lot of conference committees in my time in the U.S. Senate. This conference committee was called during halftime of the Redskin-Dallas Cowboy football game on Sunday, which is a dazzling time to hold a conference committee. We met, and it was all in good humor, because you could hear the engine of the steamroller on the outside of the building, and they just cranked it up and rolled it right over the top of the minority party in both Houses of Congress.

They majority picked the very worst of both bills, which is the most curious conference committee. I have never seen a conference committee take the worst of the House bill and the worst of the Senate bill and put it into a conference committee report. Some of us did not even sign it.

As I say, it was done in good humor, it was almost funny, and we all knew they were going to do it. The purpose of doing it that way was to keep the President of the United States from beating his brains out during the recess period, accusing them of doing nothing on a crime bill. It was terribly inappropriate.

I would say that our good chairman, Senator JOE BIDEN, was not, I think, thrilled by that process. But I can tell you the House majority party was quite thrilled by the process—they had the horses. They had the proxies and they used them with surgical precision.

Our leader at least visited with us. Senator THURMOND, our ranking member, and Chairman BIDEN worked very closely together. I think that that is proven in the legislation that comes from the Senate.

It was a good crime bill that left the Senate. It dealt honestly with habeas corpus. We dealt with the racial death penalty aspects. We did these things rationally. We came up with a portion that I did not particularly like, but the Senate gun bill provision is much better than anything else that was offered on that subject. That was the bill we sent out of here.

It was very unfortunate that it was simply torn to bits in 3 hours on a Sunday afternoon just because it was vital that we not leave a tool in the hands of the President of the United States that he could use to flail the Democrats on being soft on crime. Now we are told that the Republicans, these dastardly souls, are for crime in the streets, and that is what we are up to.

If we can clean up our act, we can get a crime bill. We could do that by not allowing cloture to take place on this bill, and then letting Chairman BIDEN and ranking member THURMOND get together and do a crime bill that can go into the pot, or we can sit here and go through this ping-pong game for many weeks to come to see who is soft on crime—who is a "mush head" on crime—and who loves crime.

I really do not think the American people are swallowing any kind of thing like: "The Democrats love crime", or that "the Republicans love crime." We saw a little of what happens in America in the last few days when incumbents just give the same old pitch—which is to go home and tell them that you "did in" the Democrats or that you went home and "did in" the Republicans. Meanwhile, we do not do much. We are going to have a lot of that rhetoric this year.

No one really believes the hysterical drivel that has been going on about the Republicans—moving about in their turgid, boneheaded manner, trying to dash the hopes of every citizen who wants to do anything about crime. Well, that is just—we have a name for that in my part of the country. So what we are trying to do is get a sensible bill with sensible habeas corpus reform.

Let me tell you what happened in the conference committee. A little bit of this will be somewhat technical, but at least the staff of the House knew what they were doing. They were very clever, very adroit, and somewhat arrogant as they pressed their cause through their Members. You should go talk to the Republicans on the minority there, HENRY HYDE and others, who were present. They can describe the absolute frivolousness of the majority attempts to make this committee report look like it is a bipartisan bill.

Let us take the one issue of habeas corpus. Only the Senate bill—and this was the work of Senator BIDEN and Senator THURMOND—only the Senate-passed bill, or the present Thurmond bill, contained measures which reduce unnecessary delay and repetitious litigation. The conference report weakens current law. That is a disservice to victims and to the public.

They went into court cases. This is how the House did their work on this. They said they were in favor of this, but they were surgical in reducing the impact of those same court cases.

The conference report overturned a case called Teague versus Lane. That is the pivotal decision regarding "new rules." That decision stated that a capital defendant, a convicted murderer, can only use a new rule of law as a basis for additional appeals if the new rule is handed down while he is in the State court appeals process, or if the new rule is of major precedential impact and would make some part of the defendant's conduct for which he was convicted no longer illegal.

In other words, we have the Teague case which says that a new rule can only be used if that rule would have a meaningful effect on the jury's determination of guilt and that it can only be used as a basis for appeal while in the State courts, unless the new rule would operate to—in a sense—legalize the defendant's conduct.

I will tell you what the conference committee report did to that little baby. Very subtly and very deftly, they eradicated the Teague rule.

First, the definition of "new rule" is changed to permit a wider range of cases upon which to base additional appeals.

Second, any new rule announced could be applied retroactively at any point in the endless appeals in the Federal system, well after all the State courts have ruled.

Third, the only way a new rule would not be applied would be if a trial court or a State judge was able to read into the future somehow, predict what issues and rulings might come along, and then address those points in the court's ruling. That is like requiring the Congress to predict what will be the national spending priority in the year 2020—we already know that it will be magnificent—then requiring us to act on that prediction to ensure that the priority is met. So unless the lower court can predict all future rulings during the life of the coming appeal, the defendant could continually raise new rules in appeals under the provisions of the conference report. The conference report imposes a requirement on State judges that they be able to read the future.

Many of my colleagues in these last days have gone into great detail explaining how habeas corpus provisions in the conference report encouraged successive petitions. Senator HATCH and Senator SEYMOUR also explained how the so-called statute of limitations in the conference report actually increases the time allowed to file habeas corpus petitions.

I hope some will recall that over a year ago a special commission, chaired by former U.S. Supreme Court Justice Lewis Powell, reported their recommendations. Lewis Powell in my mind is one of the most extraordinary jurists we have ever had on the Supreme Court.

Justice Powell has an extraordinary mind, an enormous ability to communicate through the written word, and a superb sense of humor. He is a very vital citizen of this country, and very respected.

Many of the recommendations of his group found their way into the Senate crime bill under the auspices of Senator BIDEN and Senator THURMOND.

I also remind my colleagues that Justice Powell testified about the report in the 101st Congress before the Judiciary Committee. Justice Powell said sincerely that he opposed the death penalty in principle, but if such a law is on the books, it ought to be fairly and predictably enforced.

We did that in the Senate. We enacted a habeas corpus provision which reflected the recommendations of the able Justice Powell and the Powell Commission. And then, rather than engage in any honest or authentic debate on that provision, the committee report simply cast it aside in favor of the provision in this proposal—a provision that can only expand the opportunity for additional appeals and one that makes State court adjudication nothing more than another procedural hurdle to overcome before getting into the infinite loop of Federal appeals.

Like most of my colleagues, Mr. President—I do intend to conclude in a few moments—I have always paid rather close attention to my mail. I get a bale of it, 300 to 400 letters a day, from a small State like Wyoming. I can only imagine what those of you in the large urban States get. I know you read every word of it.

So, I would inform my colleagues that I, too, received a letter from the California State attorney general. I agree with the Senator from Utah who said 2 weeks ago on the floor, that it is a very good letter. I believe the occupant of the chair served with the present California State attorney general, Daniel Lungren. He said in closing—I think this is very important. He is a Republican. He said:

> The conference report may appear to streamline and reform the habeas corpus process. The measure is biased in favor of the convicted prisoner and contrary to the interests of victims and law enforcement.

And he went on to say—and this is very important and I hope we do not miss this—he went on to say that he is—

> also aware that Democratic prosecutors from around the country have previously written expressing their opposition to the conference report provisions. Party affiliations should have nothing to do with this debate.

I have recently received a copy sent by 15 Democrat State prosecutors, which Mr. Lungren refers to.

He was a marvelous member of the Judiciary Committee. It was because of his work in the middle of the night when they kept trashing us and trashing us and trashing us, that we got a bill, once, on crime.

This is what is said in the letter from these Democrats:

> It outlined the prosecutors' objections to the conference report. And these Democrats say it is hard to explain to our constituencies why our Democratic leaders in the Congress continually hamstring our efforts to combat crime.

That letter is signed by prosecutors from the States of California—from the cities of San Francisco and San Diego—Oklahoma, Tennessee, Massachusetts—from Boston and Brockton—Pennsylvania, Indiana, New York, Iowa, Texas—from Amarillo and Belton—and from Montana and Arizona. It is a letter from Democrat prosecutors saying: "What are they doing with the conference report?"

So I tell my colleagues what I think they already know: The conference report is not a crime bill. It is simply a money bill, and that is why we are all supposed to fall over on our head and pitch forward in legions to support it. It is also a criminal rights bill. It turns habeas corpus on its head and makes it ever more possible to continue this archaic, inappropriate, delaying process that comes from habeas corpus abuse. That is the real crime here.

I urge my colleagues to defeat this motion to invoke cloture and to insist that any criminal reform legislation that emerges from the Congress really does get tough on criminals.

There is a way to do that. Put the conference committee bill to bed, let it expire of its own corporeal weight and vacuity, and then we will sit down with the leaders of both parties, Senator BIDEN and Senator THURMOND, and we will present a bill to you that will be realistic. We will have a vote on habeas corpus. We will have a vote on the gun issue. The other things are pretty well in accord, just as they were before when we came out of here with a good Senate bill.

So I hope in the midst of all this, we will remember that this vote is key, it is the key vote to get us back to negotiation within the Senate. We do not need to go back to committee. We can do our work without that.

I think when we get a Senate bill that there will be a very different receptive body over here in the House now about crime bills. Those who participated last year in the exercise, I think, have a renewed vigor of attention as to what it is we should be doing with the crime bill.

Here we are in this District of Columbia. We have become simply jaded and almost unresponsive and insensitive to three, four, five murders a day. On a weekend you pick up the paper and there have been five more. Finally, people are saying to judges, "Do not let this fellow out on bail. He has terrorized the whole neighborhood." And then the courts let them out to continue their conduct.

I think there is going to have to be a whole new weighing of it in the District of Columbia. I hope they do not degenerate this debate just to gun control. They have the toughest, nastiest, meanest gun control laws in the United States in the District of Columbia and the crooks still haul hardware around here like you would not believe.

Let us get realistic. Let us do a crime bill. There are plenty of Republicans and Democrats ready to do a good crime bill, talk about things the public talks about. That is salting these people away, getting them out of society. Forget the issues of racism; forget the issues of rich versus poor.

I noticed that in the last few executions—one in Wyoming—the convicts were white. But charges of racism are the kind of thing that just boils up around here and prevents us from doing honest legislating. You use emotion, fear, guilt, or racism to mess it all up.

I did not hear anything said about the last string of five or six white people who were committed to death and were executed. No one is involved in discriminatory sentencing that in a conscious way. These charges did not get anywhere in the Senate when that measure came here before us last time, and it should not now.

The issue is if juries are made up of blacks and whites and reds and yellows and they decide. That is the way it should be. The death penalty I think is very critically important. If it were invoked in this jurisdiction, I think we would see some remarkable progress toward the elimination, or at least the reduction, of hideous capital offenses where people just do it and know that not much is going to happen to them because the system is all ground up in habeas corpus; ground up in an unlimited amount of appeals; ground up in a judiciary that is overwhelmed.

There is money in there and that is great. And the Senate bill deserves your attention. The only way to get to it is to junk this conference report and move on. Let the leaders here in the Senate produce a bill that you will all be proud to support.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I rise today to talk about the crime bill from a different angle than I have heard many speak about it. I would like to share a bit of realism so that there will be no misunderstanding out there among the American people, and in particular among the law enforcement people at the local level, who have been led to believe that if we pass this crime bill, and I am going to only address this issue, local law enforcement.

I see my friend arrived on the floor, Senator BIDEN, who has been speaking about this issue. I want to join in saying we should spend more for local law enforcement as part of the war on crime. But I also would like those who think we are going to spend more on local law enforcement if we adopt this bill to listen to the facts.

Mr. President, I am sure that the police chiefs across America, the sergeants who are running a part of a police department in Albuquerque, NM, or in Delaware, if they have been listening to the debate thus far, are saying if you only pass this bill, we are going to get more money for local law enforcement.

Well, listen carefully, all of those who think this bill is going to help. We do not need this bill for more money to go into local law enforcement. Would you believe that right now, without this bill, there is authorized, just as this bill would authorize, $900 million a year for local law enforcement, $900 million.

Guess how much we appropriated this year? The very same people who are saying we are going to give you more have appropriated $500 million.

Now, if we really want to spend more for local law enforcement, we do not need this bill. We can try to get another $400 to $200 million, whatever it is, which is already authorized, but we do not have enough money to pay for it.

The truth is, if you add up everything you call law enforcement, the war on crime, including the $500 million that goes into local law enforcement grants—and incidentally, that is what the President asked for; that is what the Congress gave—if the Congress wanted to put in more, as it is assumed they will if we pass this new bill, they had that privilege this year. They will have that privilege next year, even if this bill never passes, because we still have $400 million, if authorization is the issue. That is a statute that says the Senate can spend up to this amount. That is what authorizing means. And then along comes an appropriations bill, and it says we hereby spend an amount.

So I submit for those who are out there in the streets who need our help as law enforcement people, they do not need this bill. They need to send a message up here to those who control Congress that we ought to put more money into local law enforcement, because we already have the authority to do it. Why would we, all of a sudden, be born again next year and put more in local law enforcement because another bill passed saying you can put more in if you like, when we have not put it in in the past?

It is interesting, very interesting. On local law enforcement, the President asked for $½ billion, and Congress gave him $½ billion. Overall, for anyone who would care to see how dedicated Congress is to law enforcement, you might be interested in knowing that we, the Congress of the United States, cut the President's budget request for law enforcement by $472 million, a 64-percent cut in the increases sought by the President. One would never have gathered that in the discussions of the last few days.

What I am talking about is FBI, drug enforcement agency, immigration services, prisons, U.S. marshals, organized crime, drug enforcement, and another long litany of so-called war on drugs and war on crime already in place to be funded, not funded as high as the President requested, as I have just indicated.

So there may be a lot of other reasons for being for the bill or against the bill. We surely ought to tell the law enforcement people that there is a growing consensus that we ought to put more into local law enforcement, but, frankly, whether we want it or whether the Democrats say we have to have more, we do not need this bill that is on the floor to do more. We just have to take money away from some other programs.

We have about 2,500 in the Federal inventory of domestic programs. We just have to take some money away from some of them and put it in law enforcement, and surely we can put more in local law enforcement without the bill before us ever becoming law.

Mr. President I yield the floor.

I suggest the absence after quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, I do not want to take a lot of the Senate's time. I am about to proceed to vote on this motion to invoke cloture. But I would like to, briefly, set a few things straight, if I may.

First of all, my friend from New Mexico, who speaks at length and with expertise about the budget process, is right generally, but wrong specifically. Let me be more precise. For the administration's request for State and local law enforcement, to which my friend from New Mexico spoke—I refer to the President's own budget document for State and local law enforcement—the Congress appropriated roughly $80 million more for State and local law enforcement in the fiscal year 1991 than the administration asked for. To be precise, they asked for about $610 million. The Congress appropriated $692,194,000 in State and local funds.

In the year 1992, the Congress appropriated $704,467,000. The administration requested roughly $610 million; roughly $100 million more than the administration requested.

The money that is referred to by my friend from New Mexico, the $472 million in cuts to the President's budget, were not for State and local law enforcement. There were cuts in the request made by the President and shifts of what should be cut, but it related to the FBI and to other Federal programs—not State and local law enforcement—which I, quite frankly, happen to support. The President was correct, in my view, and our friends in the House did not see it the same way on that score.

The second point I make—to get to the end quickly—if this is such a sham, as it is being referred to, this conference report that we are about to vote on, we are not going to get to vote on. Let me be more precise. We are about to be told that we cannot vote on it because we are trying to invoke cloture and need to get 60 votes. If it is such a sham in terms of money, why does the Republican bill put the same amount in their bill. I am sure they are not disingenuous at all. They are serious. Why would they introduce a Republican bill as an alternative to this that calls for the expenditure of over $3 billion, the authorization of over $3 billion, if this is such a sham?

I find that somewhat cynical, if that is what they are really doing. They either mean it, that they intend, as we do, to fight for that appropriation, or they are being cynical. But they cannot have it both ways. They cannot come before us and say that this conference report at desk which authorizes $3 billion in law enforcement efforts is a sham; and then, before the words are out of their mouths, introduce a bill that calls for the expenditure of $3 billion, essentially the same $3 billion, for the same programs, and say that it is not a sham.

There used to be a musical group when I was a kid called "Sam the Sham and the Pharaohs," I think it was. I do not know who is the Pharaoh, and who is the sham, and who is Sam here, but I will tell you, you cannot have it both ways. If you are suggesting that we are being disingenuous in calling for the authorizing of $3 billion for local law enforcement, then I understand that. Then do not walk up right after that with a companion bill and say, by the way, we want to spend $3 billion for local law enforcement.

Let me understand one thing with regard to drugs and crime. Every time we have come to this floor—and we, the Congress, have agreed, and up until this year, the Senator from South Carolina and the Senator from Delaware have introduced bipartisan bills; they have been Thurmond-Biden bills or Biden-Thurmond bills—and the money we have called for, we fought for, and we have been told every single time by our colleagues that we could not get the money, that the appropriations committees would never come up with the money. We are always told: We cannot do it.

There is an interesting thing that happens in this country. When the Republicans and Democrats agree, when the Congress votes and the President says it is a good idea, we find the money. I do not hear anybody arguing here on the floor of the U.S. Senate on either side that the State and local law enforcement agencies do not need this help. They used to say that in November. But somehow, the scrooge in them was purged at Christmas time, and now they all agree that we need the money.

So I am saying: Authorize it. And then we will fight like we always do on every authorization. But let the record show, on money for drug treatment and money for fighting the drug scourge, and money for law enforcement, we have carried our end—we, the Congress—and we have ultimately appropriated.

I might note, in closing, on that point, again, we appropriated for local law enforcement about $80 million more than they wanted in 1991, and about $100 million more than they asked for in 1992.

Let us look at what the administration is requesting in 1993. They are requesting $116 million less than we appropriated in 1992. In the President's budget—a page out of the book, not mine, the President of the United States of America—$116 million less in the year 1993 is being asked for by the President than we actually appropriated in the year 1992.

Talk about sham. But at least they are honest about it. At least they put it in their document, "they," meaning the administration. So I recommend my Republican friends read the Presidential budget.

Let me respond quickly to three of the most prominent, but the least merited, criticisms of the conference bill.

First, critics claim that the conference bill puts together the weakest provision from the Senate bill with the weakest provision from the House bill.

I ask my colleagues once again: if the conference bill is so weak, why has every police organization in America endorsed the conference bill, calling it one of the toughest crime bills to come out of the Congress in recent memory?

If it is so weak, why does the conference bill include every death penalty offense passed by both House and Senate?

If it is so weak, why does the conference bill include more new offenses and criminal penalties than were in either House or Senate bill individually?

If it is so weak, why does it include one of the toughest gun control measures, the Brady bill, passed by both Houses of Congress?

If we are talking about weak—why not ask the Republicans why their new crime bill includes the weakest of all gun provisions in any of the bills—leaving out the President's gun clip ban, leaving out the Senate's assault weapon ban, and leaving out both Houses Brady bill?

Second, critics are claiming that the conference bill's death penalty provision will be ineffective.

That simply is not correct.

This bill adds 53 death penalty offenses—the single largest expansion of the Federal death penalty in the history of the Congress.

We thought that law was tough enough when we passed it in the Senate last year—Senator THURMOND and I drafted the death penalty procedures together last year. They passed here last year. We said it was tough last year and now we are being told it is weak this year.

How can last year's tough death penalty law now become this year's ineffective death penalty law?

Critics say that we have changed the procedures in conference.

But that is wrong. There was a single substantive change between the Senate-passed death penalty procedures and the conference bill—at the request of House Members, the minimum age for the death penalty was changed from 17 years old, which the Senator from South Carolina and I compromised on. I believe he had originally 16. I wanted 18. We compromised on 17. The House of Representatives said, no, we will not go to 17; we are not going to put 17-year-olds to death. They have to be 18 years old to be put to death. That is the change.

It is ridiculous to assert that sparing 17-year-olds from the Federal death penalty makes the bill ineffective.

Indeed, the charge becomes absurd once one considers the fact that the very same age limit, 18, is set in the Republican's own bill that they put forward as I understand it. And I stand to be corrected if I am wrong because I am not as thoroughly familiar with the Republican bill as I am the conference report. I am sure I will get to be.

How can the Senate-passed death penalty procedures that were tough last year become totally ineffective this year by adopting the same age limit as the Republicans offer in their own bill? I find that absolutely fascinating.

The critics respond by trying to switch the subject to habeas corpus—they say that the death penalty will be ineffective not because of the procedures that are contained in this bill, in the conference report, or in their bill, but because of habeas corpus.

My colleagues are confusing apples with oranges once again.

Procedures affecting State death row inmates have nothing to do with the Federal death penalty.

Whether or not Charles Manson or William Andrews or any other State death row inmate has another chance at an appeal has nothing to do with the question of whether we should give Federal prosecutors the authority to seek the Federal death penalty for 53 Federal crimes in Federal court.

Third, and finally, critics of the conference bill have claimed that the bill's habeas corpus provisions will open the jailhouse doors to inmates on death row.

Here they are hopelessly confused and purposely confusing.

My bill limits prisoners to a single petition within a single year. The conference report limits petitioners and prisoners to a single petition within a single year.

How can a bill limits prisoners to a single petition for the first time in our Nation's history expand the prisoners' rights as is claimed by my Republican colleagues? We have never done that before—limited it to one single petition in 1 year.

It turns out that the only way you get to this conclusion is through a total misunderstanding of a 5-line definition of the so-called new rule in the conference bill.

When pressed about their claim that habeas provisions will let people out of jail, the critics explain that what they really mean is not that prisoners will go free, but that prisoners will be able to file habeas petitions based on new constitutional rules adopted by the Supreme Court sometime in the future.

This is an old argument based on an old Biden bill. We surrendered that position, although I think we should not have. We surrendered that position. The compromise bill does not change the law on this score. it says "no new rules shall apply." Now they keep arguing about a bill that is not before us.

So, after this is pointed out, the critics explain that what they really mean is that the definition of a new rule is too broad in the conference bill.

A dispute about the definition of a new rule is a far cry from setting Charles Manson free.

I am happy to discuss the merits of our definition of a new rule with the Senate, but the political rhetoric has to stop at some point.

To conclude: The conference bill lets us put habeas in perspective. In 1990, Federal district courts granted 9, n-i-n-e, not 900, not 900,000, not 90, not 19, 9, n-i-n-e, the Federal district courts granted 9 habeas petitions from death row prisoners. There were 2,400 people on death row at the time—2,400 people on death row in 1990 and 9, 9 habeas corpus petitions were granted.

The conference bill does not create an ineffective death penalty. It includes the largest increase in the Federal death penalty ever passed by both Houses of the Congress; and the conference bill does not let death row inmates have "one more bite at the apple." they have one petition in 1 year, no excuses and no loopholes. no one on death row today goes free.

There is much more to talk about. But I have a feeling that no minds are going to be changed or swayed at this moment, so I would say to my friends and the minority and majority leaders when it is appropriate I am prepared to move, assuming my friend from South Carolina is, to a vote on attempting to invoke cloture so we can get a chance to vote on a crime bill.

Mr. THURMOND. The distinguished Republican leader wants about 1 minute. He just stepped into the cloakroom.

Mr. BIDEN. Sure.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I now announce that following discussions with the distinguished Republican leader, I am scheduling the vote on the motion to invoke cloture on the conference report to accompany H.R. 3371, the omnibus crime control bill, to occur at 6 p.m. today.

The PRESIDING OFFICER. I remind the Senate that the majority leader has that authority.

Mr. MITCHELL. That is right.

Mr. President, for information of Members of the Senate, pursuant to a prior agreement, printed on page 2 of today's calendar, this authority was vested in me, and I have discussed the matter with the distinguished Republican leader who is present on the floor. The time was agreeable to him, as it was to the chairman and ranking member of the committee who now had the opportunity to fully debate the subject and therefore Senators should now be immediately alerted that a vote will begin at 6 p.m. this evening on the motion to invoke cloture on the conference report.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURENBERGER. Mr. President, I rise today to briefly explain why I intend to vote against cloture on the crime bill conference report.

This conference report contains a new Federal death penalty for 53 crimes. That makes this legislation completely unacceptable to me.

The public supports the death penalty to prevent dangerous individuals from reentering society. This can also be accomplished by life imprisonment without the possibility of parole. Ironically, the average trial and one appeal to a State court in a capital case costs about twice as much as incarcerating an individual for life. Putting criminals on death row drains the limited resources of our criminal justice system.

There is no statistical evidence that the death penalty is a deterrent to violent crime. In fact, murder rates have risen the most over the past 10 years in States with the death penalty. My home State of Minnesota and other States without the death penalty have comparatively low murder rates. The death penalty is not about deterrence—it is about vengeance.

Recently, the parents of Carin Streufert, a University of Minnesota student who was brutally murdered, spoke before the Minnesota Legislature against a bill that would impose the death penalty in our State. Don and Mary Streufert testified that the death penalty could never erase the pain and grief of victims' families. Don told the committee, "We see no sweetness in revenge, only bitterness and alienation." Following the Streuferts' testimony, the Minnesota Senate Judiciary Committee defeated the death penalty bill by a vote of 15–2.

Imposing a Federal death penalty for 53 offenses would not deter violent crime. The death penalty is not a cost-effective alternative to incarcerating criminals. And it cannot erase the pain and grief of victims' families. The only thing that can be said for the death penalty is that it perpetuates a cycle of violence.

Make no mistake, the death penalty is not a solution to violent crime. The crime bill conference report treats it like one, and does a great disservice to the American people. For this reason, I encourage my colleagues to join me in voting against cloture on this conference report.

Ms. MIKULSKI. Mr. President, I rise today in support of the crime conference report.

Mr. President, I enjoy very much hearing directly what people in Maryland are concerned about. They give me their ideas, opinions, and criticisms. And they give me my inspiration to serve them in the best way I know how.

But in the past few months, I have heard bone chilling stories from constituents of mine that were absolutely terrifying and heart breaking. Let me take 1 minute to talk about them.

Let me start with Vladas Pilius. Mr. Pilius left Lithuania as a refugee of World War II and came to this country for a new beginning.

He worked in a textile factory on the east coast and then moved to Baltimore. He met his wife and raised his family in Baltimore.

His story might be very similar to any other immigrant to this country. Except, something happened to the freedom Mr. Pilius was looking for in America. His freedom was snatched away from him last month when a group of thugs kidnaped his oldest son Vito, and brutally beat him to death.

And the only motive was robbery so these murderers could go on a spending spree with Mr. Pilius' credit card.

There is also the conversation I had with Ira Shavel. Ira's wife Shahin Hashtroudi was a psychology professor at George Washington University and she worked at the National Institutes of Health in Bethesda, MD. His wife was well known in her field of memory research.

She was on her way home from work one night when she was robbed and shot to death in a parking lot near NIH.

And finally, there is the story of 6-year-old Tiffany Smith. She was visiting a friend last July, and the two were playing in the neighborhood. Tiffany was killed when she stepped in the middle of a gunfight between two drug dealers. The young innocence of this victim makes no sense.

I have heard from their families, they cry out for something to be done—now.

Sometimes, Mr. President, I feel in Congress when all is said and done, more is said than done. We have been talking for a long time about the need for a crime bill. These people I have talked to are real. Their stories are enough to make anyone think twice.

We have a good crime bill here. One that is tough and one that will help our men and women in blue. This bill expands the death penalty to include 53 new offenses, provides needed crime fighting assistance for policemen and prosecutors, and cracks down on drug and violent crime offenders.

Mr. President, this bill also includes a waiting period and background check for the purchase of a handgun. Lethal weapons continue to fall into the wrong hands and are too often found in kids' lockers in our schools. Mr. President, sawed-off shotguns found in lockers in a school in Maryland? We have a crisis here.

We can continue to play politics and continue to keep talking. Or we could get something done to take fear out of people's everyday routine.

Mr. President, today our spirit of community has been replaced with a fear of violence. The people and the cops want us to stop talking and do something. We have to make our neighborhoods neighborhoods again. Where kids can play in the street and residents can sit on their porch at night.

Mr. President, I support the conference report. I support getting on with it, and when all is said and done—getting something done.

Mr. DODD. Mr. President, I rise today in support of the conference report on the crime bill.

I deeply regret that this anticrime package is being held hostage to partisan politics. Crime is a serious and tragic issue that affects millions of Americans. It should not be reduced to fodder for Beltway demagogues.

In Connecticut, Mr. President, crime is no laughing matter. Every day I talk with people who are afraid to walk outside their homes in broad daylight. I talk with parents who worry every morning they send their kids to school, because they know some of their children's classmates are packing guns. And every day we in Connecticut wake up to yet another story of friends and neighbors becoming crime victims just because they were in the wrong place at the wrong time.

This is not rhetoric, either. This is reality.

On Valentine's Day, 5-year-old Jasmine Booze and her grandmother were driving down a street in New Haven, CT in the middle of the afternoon. Unbeknownst to them, that street had become a dividing line between rival gangs.

The Jungle Boys and the Island Brothers stared each other down across an intersection, until shots rang out. One of the bullets shattered the car window and hit Jasmine in the cheek. It is only by the grace of God that she wasn't killed.

Or consider these headlines from the Connecticut papers over the past 2 weeks:

Edward Moore, an 18-year-old, was shot by three masked gunmen as he lay face down in the street.

David Hawkins, 23, was murdered as he got out of his car.

Kenneth Hazard, a 25-year-old, was killed as he stepped out of a nightclub.

Nineteen year old Melvin McCoy was shot dead in his car by a 15-year-old in a dispute over a woman.

These tragedies ought to remind us what today's debate is all about. It is not about posturing to win the White House. It is about helping to make the world a safer place for Jasmine and her grandmother and every other American. It is about halting the cycle of violence that destroys young people in the prime of their lives.

Mr. President, today's conference report is not a panacea for the crime problem in New Haven or anywhere else in the country. It does not strengthen the Federal commitment to education or job training or housing—and more than anything it is economic deprivation and limited opportunities within the system that push so many toward lives of crime.

But the conference report is not a criminal-coddling bill either. It is plenty tough on crime. And instead of droning on and on with debate, we ought to enact this bill into law to move forward in the battle against the crime.

For starters, the conference report would expand by 53 the number of Federal crimes punishable by the death penalty.

I know this upsets my colleagues who oppose capital punishment. Let me say at the outset that I have great respect for opponents of the death penalty. They are motivated by deeply felt moral principles, and their sense of conviction brings great credit to the debate.

But in my heart, I cannot agree with their position. In my heart, I believe there are some murders so heinous and so threatening to the fabric of society that the death penalty is the only fitting punishment. That is why I support capital punishment in certain circumstances.

The conference report's death penalty provisions would not require imposition of the death penalty in each case of murder in connection with kidnapping or hijacking or hostage-taking, or in any of the other instances covered by the bill. Mitigating and aggravating circumstances would be weighed each time. But the conference report makes capital punishment an option in certain circumstances, as it should be.

Mr. President, perhaps the most important anticrime measure in this bill is its gun control component. Unfortunately, many of my colleagues who claim to be tough on crime oppose the conference report because of provisions that seek to prevent criminals from owning guns.

Like my father before me, I believe in gun control. My father was a special agent for the FBI in the 1930's. He spent his wedding night staking out one of John Dillinger's suspected hideouts. Between 1938 and 1945, my father served as an assistant to five successive Attorneys General of the United States.

In these capacities, he saw first hand the threat posed to law-abiding citizens by addicts, criminals, and crackpots with access to firearms. And that is why in 1963, as chairman of the Senate Subcommittee on Juvenile Delinquency, he introduced legislation to stop mail-order sales of handguns.

Mr. President, when I hear the rhetoric of the gun lobby about current gun control efforts, I get a sense of deja vu. Opponents of my father's gun control measure fought it for 5 long years. They argued that it was unconstitutional. They asserted it would not keep guns out of the hands of criminals and others unfit to have them. They claimed it amounted to nothing other than a burden on law-abiding citizens.

While they made their arguments, President Kennedy was shot by an assassin armed with a fraudulently obtained mail-order rifle. It was only in 1968, after the tragic murders of Martin Luther King Jr. and Senator Robert Kennedy that gun control supporters were able to end mail-order sales of firearms.

Mr. President, how many more tragedies are we going to tolerate before we curb the sale of guns to criminals? In Connecticut, guns are the cause of death in over 60 percent of all homicides. In 1990, they were the weapon of choice in 104 of 168 murders.

The modified Brady bill included in the conference report would plug one of the major cracks in the dam. At present, if a criminal signs a form at a gun store stating that he is neither a criminal or a crackpot, he can buy a handgun, no questions asked. The Brady bill simply requires the storeowner to send the form to the police, and give police 5 days to do a background check. If the storeowner hears nothing by the end of that time, the purchaser can come back and pick up the gun.

In my State of Connecticut, we already require a 14-day waiting period for firearm purchases, and it works. Last year there were 167 purchases stopped because the buyer had a criminal record.

Mr. President, for my father, gun control was not a liberal issue. It was not a conservative issue. It was a law and order issue. And so it should be today. The Brady bill is backed by all of the major law enforcement groups in the country, and will be a good first step in addressing the rising tide of gun violence.

Another essential component of this bill is the aid it provides to State and local law enforcement agencies. In all the heated debate about crime, we sometimes lose sight of the fact that State and local government bear the lion's share of the burden in the battle against crime. Laws against violent crime are State laws, and are enforced at the State and local level.

The Federal Government's job is to be a generous and committed partner. The conference report strengthens that role by authorizing $1 billion in additional Federal grants for crime prevention programs, including community-based drug abuse prevention programs, and neighborhood policing efforts.

Finally, the crime bill before us recognizes that the Federal Government can and must help States address their prison overcrowding problems.

In Connecticut, the number of inmates in the State prison system more than doubled during the 1980's—from 4,870 in 1982, to 10,814 in 1991. At the same time, the number of people under Department of Corrections community supervision programs nearly tripled—from 5,987 in 1982, to 17,401 in 1991.

Connecticut's plight is not unique, either. Nationwide between 1980 and 1988, the total number of convicts in Federal, State, and local prisons increased by 84 percent. It has since climbed past the 900,000 mark.

The prison population explosion has forced Connecticut and other States, already under considerable fiscal strain, to spend hundreds of millions constructing new prisons. But we have discovered it is impossible to build our way out. During the 1980's, Connecticut spend $800 million to build 6,000 more prison beds—but even that Herculean effort leaves us short by thousands of beds.

So at present, in my State, 7 of 21 prisons are under Federal court order to reduce overcrowding. As a result, many criminals are being released before they have served out their terms. Offenders are getting out before they have paid their full debt to society.

The conference report authorizes $600 million for construction of 10 regional prisons to house State and Federal convicts with drug abuse problems. This will by no means solve the prison overcrowding crisis by itself, but it is an important step in the right direction.

Mr. President, as I noted at the outset of my remarks, the crime bill conference report is but one element of broader Federal effort we must make if we are really serious about crime. We need to rebuild our educational system. We need to bolster job training programs. We need to address the critical shortage of low-income housing in this country. We must rebuild our crumbling cities.

I will continue to work for legislation in each of those areas. But we also need this bill before us today because it is a tough anticrime bill. The death penalty provisions, the gun control language, the aid to State and local law enforcement, and the construction of new regional prisons stiffen our resolve to win the war on crime.

It is reprehensible that this bill has become a political football. Each day we postpone action, another innocent American like Jasmine Booze falls victim to violent crime. Every day, more young men like Edward Moore, and David Hawkins, and Kenneth Hazard die in the streets.

Mr. President, we don't need more talk. We need action. We need to enact this bill into law. I intend to vote for cloture on this anticrime package, and I urge my colleagues to join me in this effort to help make our Nation a safer place.

Mr. COATS. Mr. President, today I rise in opposition to the motion to table debate and invoke cloture on the conference report on crime. The conference report before us is not the answer.

Title II of this conference report systematically overturns the Supreme Court's habeas corpus decisions which enhance law enforcement in my State of Indiana. The conference report before us continually expands opportunities for convicted criminals to file continual appeals, tying up our courts and impeding justice.

The repetitive review and endless litigation that would result from this legislation would restrict law enforcement officers, allow criminals to escape justice on legal technicalities, and inflict serious injustices on the families of murder victims and the law-abiding public.

The conference report sets no time limit on habeas corpus filing by prisoners in noncapital cases, and allows prisoners under sentence of death to delay a full year before applying for Federal habeas corpus. It is my understanding that this new time limit would double the 180-day limit endorsed by the Senate and U.S. House of Representatives in 1990.

This conference report explicitly allows convicted murderers whose guilt is not in doubt to raise new claims of alleged technical defects in their sentences in a second, third, fourth, or even later Federal habeas corpus petition.

Mr. President, many of my colleagues who want quick passage of this conference report deny the package would impair limits on Federal appeals. The attorneys general of over 30 States reject this claim. Let me add that this list includes 15 Democratic State attorneys. Other organizations opposing this bill's attempt to weaken habeas corpus reforms include: the National District Attorneys Association, the Conference of Chief Justices, U.S. Attorney General William Barr, and numerous victims organizations.

Mr. President, let me make my message clear. The U.S. Congress should pass a tough crime bill and the President should sign it into law. This is not a time for indecision, inaction, or political paralysis. All Members have to do is look right down our streets—in the real world—and they will see that we must affirm in no uncertain terms that we value human life. The U.S. Congress needs to demonstrate its commitment to protect law-abiding citizens and tough penalties for murderers and drug dealers who are found guilty.

Ultimately, I am convinced, the war on crime will not be either won or lost in legal changes or Government programs alone. Crime is the mirror image of a community's moral state. Criminal acts are not primarily failures of society or failures of deterrence—they are failures of character. Ronald Reagan made the point well.

> Controlling crime is ultimately a moral dilemma—one that calls for moral, or if you will, a spiritual solution. * * * The war on crime will be won only when our attitude of mind and a change or heart takes place in America, when certain truths take hold again and plant their roots deep in our national consciousness, truths like: Right and wrong matters; individuals are responsible for their actions; retribution should be swift and sure for those who prey on the innocent.

This moral dilemma is addressed—if it is addressed—first in families that transmit values, and churches that raise a moral standard.

Real reform will start within families, where children and family receive the love and care they deserve. It starts with values and a sanctity for life. It also starts with laws that are fair to both law enforcement officer and the accused.

Mr. President, the conference report does not meet this important third prong. As a result, I encourage my colleagues to vote down the motion to invoke cloture and pass a crime bill.

Mr. LEVIN. Mr. President, there was much good and much bad in the crime bill the Senate passed last July. As I said at the time, I voted for it because I believed it would be improved in conference. That prediction was right.

While still containing provisions I oppose, the conference report before us represents an improvement over the Senate-passed bill. For instance, the Senate-passed bill's habeas corpus provisions constituted more of an attack on the Bill of Rights than crime. The Senate bill would have effectively eliminated Federal court review of State criminal trials to ensure that they conform to the Bill of Rights.

The conference report adopts more moderate reforms, setting deadlines for filing habeas petitions, limiting successive habeas claims, and calling on States to provide competent defense counsel in the first place. It carefully balances fairness and finality, rather than exalting finality over fairness.

It only takes a listing of a few of the provisions in it to demonstrate that this bill is a tough anticrime bill which will help law enforcement officers and citizens take back their neighborhoods from criminals now threatening them.

The conference report contains many important provisions including:

The Brady bill, which establishes a national 5-day waiting period for the purchase of handguns, until a national instant check system is developed.

New minimum penalties for offenses committed with guns, for gun possession by felons, and for the theft of guns.

Authorization for $1 billion in new aid for local police departments and prosecutors for antidrug law enforcement efforts.

Antigang violence initiatives, including expanded juvenile courts and prevention programs.

New rural anticrime programs for training and assisting rural police departments and additional Federal drug agents in rural areas.

And, a provision to establish a new S&L prosecution task force to help halt whitecollar crime.

I am pleased that the conferees also included two provisions of particular interest to me. The conference report contains an amendment of mine to strengthen the provision in the bill which establishes 10 boot camp prisons using closed military bases. My amendment would permit Federal prisoners with longer sentences—up to 2 years—to be considered for this type of incarceration and would give the States additional latitude in deciding whether to send nondrug offenders, as well as drug offenders, to this type of program.

In addition, my amendment adds provisions for followthrough after release to ensure that the lessons of boot camp stick. One thing we learned from the oversight hearings on boot camps in the subcommittee I chair was that the lessons inmates learn in boot camp need to be reinforced on the outside—after they leave the disciplined environment—if they are going to take hold.

The second provision addresses the devastating toll that the national drug epidemic has taken on many of our Nation's hospitals. The conferees included a modified version of my bill on uncompensated trauma care. The conferees provide financial assistance to hospitals that are in jeopardy because of increased emergency room visits resulting from drug-related abuse and violence. I am pleased that the conferees included $50 million in emergency grants to hospital trauma centers for uncompensated drug-related care.

Mr. President, I oppose the conference report's death penalty provisions for reasons set forth on many occasions. But I believe the legislation will on balance assist the war on crime and help make our neighborhoods safer.

Mr. SANFORD. Mr. President, the measure before the Senate deserves our strongest support. The time has clearly come to vote for cloture on the crime bill and to pass the conference report on H.R. 3371, the Violent Crime Control and Law Enforcement Act of 1991.

I spoke on the floor of this Chamber just 2 weeks ago about this measure. This conference report is responsible and enjoys the support of every major law enforcement organization in the Nation. I would just remind my colleagues that on March 10, law enforcement officers from across the country held a joint press conference to announce their support for this bill.

This support from the men and women who are on the front lines of our fight against crime is why I rise again today to urge my colleagues to support this bill. The local law enforcement community must be aided in their response to violent crime. They are increasingly understaffed, ill-equipped, and outgunned. This bill authorizes $3 billion for local and State law enforcement agencies. This is a serious commitment, and an important and necessary facet of our continuing effort to address the crime epidemic in this country. Because of this enthusiastic and unwavering support, I feel compelled to support this conference report. The Fraternal Order of Police called this bill "the toughest anticrime legislation to emerge from Congress in recent memory."

Now, Mr. President, some prosecuting attorneys have complained about the habeas corpus provisions in this conference report, and it is clearly one of the most contentious aspects of the measure before us. It is not the precise approach I would have taken, had I drafted my own version of comprehensive crime legislation. It is not, however, something that ought to bring down the whole package. If we do not invoke cloture because of this habeas provision, will people feel safer in their community? If we do not invoke cloture because of this habeas provision, will our local law enforcement officers be provided additional resources?

The Senate should show some flexibility. The public has made clear its support for this crime bill. Let us pass this bill and strengthen the ability of the police to do their job of law enforcement on the street. Let us pass this bill and make our communities safer. As it is now, we will not invoke cloture based on a provision that affects only criminals who are already behind bars, and makes it now more likely that they will be granted new trials. Why must we tie the hands of our local police by failing to pass this important legislation?

Hopefully, as we vote on this important cloture petition, a spirit of compromise will come over us and we will pass this tough and responsible crime bill.

A vote for cloture is a vote for the men and women protecting our communities. When it comes to making this choice, I come down on the side of our local law enforcement officers who face the criminals. That is when we need to be tough.

Thank you, and I yield the floor.

Mr. PELL. Mr. President, in regard to the conference report on the crime bill, currently waiting at the desk for consideration by the full Senate, I will not only support the effort to allow the Senate to consider the conference report and bring the matter to a vote, but I will also vote to adopt the conference report's passage when that vote occurs.

There are particular provisions contained within this omnibus package which I oppose. Chief among these is the drastic, and what I would characterize as reckless, expansion of the death penalty. In Rhode Island, the last time an individual was put to death for a crime, it was later proved that he was innocent. While I believe that heinous crimes should be punished harshly, for example by a life sentence without the possibility of parole, I do not support the death penalty. I regret that this crime bill contains the expansion of the death penalty that it does.

Nevertheless, despite this strong objection there are many other provisions contained in the bill which argue for the need for this legislation to become law. This is a comprehensive package of compromises reached after long, contentious debate between both parties and by bodies of Congress. This bill provides new means to address the rampant crime that is plaguing our streets and neighborhoods. It provides meaningful assistance for law enforcement to get crime under control; it strengthens our ability to get and keep criminals off the streets; and it gives victims a measure of the compensation they deserve.

One of the more important pieces of this package is the inclusion of the Brady bill—a thoughtful and meaningful first step at gun control. The time for effective gun control in this country is long overdue. Until we get some sort of control over the spiraling ascent of violent crimes in this country, and that means control over the means of committing these acts of violence, we will never seriously address the anarchy which is taking over our city streets. The 5-day waiting period for the purchase of guns contained within this bill and the steps taken toward instantaneous background checks for would-be gun purchasers make simple common sense and I am glad to see that the Congress is finally moving in this direction. I have no illusion that these provisions will be some sort of magic solution which will end all violent crime in our society. Rather, I applaud the resolve of Congress to finally include gun control as a working, viable feature in our crime control efforts.

There are other features of this conference report which deserve mention. The bill provides additional resources to State and local law enforcement agencies so that they can target crime at the local level. There are also provisions which address the special crime problems which face specific groups in society such as the elderly and women. The bill also provides for stiffer penalties and additional moneys for prisons. These, along with other provisions, make this the toughest anticrime legislation to come before the Congress in recent memory. Given the level of crime currently plaguing this country, this legislation provides some of the tools we need to fight back.

I wish to commend Chairman BIDEN for his steadfast and excellent work on this legislation. It has been a long, tough process and the result is a solid package of anticrime initiatives which should be passed.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 6 o'clock having arrived, the time for debate under the unanimous-consent agreement has expired. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the conference report accompanying H.R. 3371, the Omnibus Crime Control Act:

George Mitchell, Terry Sanford, J.R. Biden, Daniel P. Moynihan, Joe Lieberman, John F. Kerry, Harris Wofford, David Pryor, Jim Sasser, Edward Kennedy, Albert Gore, Charles S. Robb, Bill Bradley, Frank R. Lautenberg, Paul Sarbanes, Jay Rockefeller.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the conference report accompanying H.R. 3371, the Omnibus Crime Control Act, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Illinois [Mr. DIXON] and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

I further announce that, if present and voting, the Senator from Illinois [Mr. DIXON] would vote "aye."

Mr. SIMPSON. I announce that the Senator from Virginia [Mr. WARNER] is necessarily absent.

The PRESIDING OFFICER (Mr. WELLSTONE). Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 54, nays 43, as follows:

[Rollcall Vote No. 53 Leg.]

YEAS—54

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Bryan
Bumpers
Burdick
Byrd
Chafee
Conrad
Cranston
Daschle
DeConcini
Dodd
Durenberger
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Hollings
Inouye
Jeffords
Kassebaum
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Wellstone
Wirth
Wofford

NAYS—43

Bond
Breaux
Brown
Burns
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dole
Domenici
Garn
Gorton
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Johnston
Kasten
Lott
Lugar
Mack
McCain
McConnell
Moynihan
Murkowski
Nickles
Packwood
Pressler
Roth
Rudman
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop

NOT VOTING—3

Dixon
Kerrey
Warner

The PRESIDING OFFICER. On this vote, there are 54 yeas, 43 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. THURMOND. I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I want to thank my colleagues, those who voted to invoke cloture.

Mr. President, there are two of our colleagues necessarily absent today, who, had they been here and voting, would have voted for cloture. There was one of our colleagues who changed his vote today, and it related to another matter.

The point I am trying to make is simple, Mr. President. I think there is a growing concern about this issue, and I think there is a growing realization that the conference report we have still not been able to get a vote on is a solid piece of legislation.

But let me just say this, and I will yield the floor.

Mr. President, I want a crime bill. My colleague from South Carolina wants a crime bill. Speaking for myself, notwithstanding the fact the conference report is able to be called up again for cloture vote in the future if need be or if it seems appropriate, I am prepared to enter into negotiations with anyone who wishes to move in good faith to try to come up with a crime bill. I think we owe it to the American people.

I am truly sorry we did not invoke cloture today, but I understand the realities of this body, and I just hope, as time moves on, there is a greater realization on the part of my colleagues that there is a need for us to vote on a crime bill. But I thank my colleagues, particularly all of my colleagues on both sides of the aisle who have been taking my phone call for the past week, listening to my pleas as to why I think this is the most appropriate way for us to proceed. I thank them for their support.

MORNING BUSINESS

Mr. BIDEN. Mr. President, I ask unanimous consent that there now be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection it is so ordered.

MORE JOBS, NOT MORE TAXES—PART III

Mr. DOMENICI. Mr. President, I want to take a couple of minutes because I want to make my third installment of my statements that center around the concept of more jobs and not more taxes. So I call this one today "More Jobs, Not More Taxes, Part III."

Each day since we came back into session after the passage of the Democratically sponsored tax increase bill, I have shared with the Senate a factual story from New Mexico about a New Mexico business and how it would be adversely impacted by that bill.

So I want to talk today about a small business family who recently won a very high business award in my State. The award is called the Maxie Anderson Business Award. Some will remember Maxie Anderson as a famous balloonist, but before that he was a very famous entrepreneur, one of the leading mine operators in America.

This award, which the chamber of commerce gives to innovative growth companies, was given to a man named Tony Fernandez and his wife Linda who own a printing company in Albuquerque. It is called the Albuquerque Printing Co.

Tony thinks he is a very lucky man because his son is employed in the family business after graduating from the Rochester Institute of Technology. Too many young people leave New Mexico and their families because there are not enough jobs. In this case, young Fernandez graduated from Rochester Institute of Technology and now works with his father and mother at the Albuquerque Printing Co.

As you might suspect, Tony is an immigrant to this country. He came from Cuba because he wanted an opportunity to be free and, if he could, to go in business. He came here because he had a dream of seeing how the free market system worked. He moved from elsewhere to New Mexico 17 years ago and he loves it.

The Albuquerque Printing Co. is a very sophisticated commercial printing business. It produces beautiful art posters, museum catalogs, brochures, books, and magazines. Thirty-five families rely on this small business for their paychecks, and Tony recently said, these families depend on us, and it is a big responsibility.

Tony and his wife are real entrepreneurs. Two years ago, they really took a risk. They bought a five-color press. Mr. President, that was an expensive piece of equipment. They went out on a limb for $14,000-a-month payments to get this new machine. When he purchased the press, the banker said he should not, the accountant urged him not to, but he believed in this system and he did it.

Even though this business has grown significantly, Tony said, "those $14,000-a-month payments are very scary; I really took a risk. Sleepless nights are part of making this business grow."

He can do things in this commercial printing shop that no one else in the city can do. His business has doubled in size in the last 3 years. It is up another 15 percent this year.

He has expansion plans. He wants to move to a bigger building and buy a seven-color press. He wants to hire another six or seven employees by the end of the year, and he says he would need three highly skilled pressmen, $40,000-a-year jobs. Not a bad salary where we come from.

The obstacle is cash. He said property taxes have recently increased and put a dent in his budget. If he has to pay more for U.S. Federal Government income taxes, his expansion dream will be in trouble; it will absolutely be delayed.

And pay more Federal income taxes he will. If the Finance Committee retroactive tax increase is enacted, Tony figures that he and his wife will be right on the borderline for the tax increase.

Instead of raising taxes, we talked to entrepreneur Tony, and he urged Congress to enact a 15-percent tax allowance for investments in business. An investment tax allowance would make it easier for him to purchase that new color press. That new press is the key to diversifying, attracting printing jobs from out of State. He sees a lot of trucks bringing goods into his State. Too many of them go back empty. He wants to fill them up with printing jobs from out-of-State customers.

Congress should help Tony, Linda, and their well-educated son create more jobs. We should enact the 15-percent investment tax allowance and the passive loss provisions to strengthen the real estate market. This will improve the balance sheets of our financial institutions and make more credit available for small businesses like Albuquerque Printing.

We should enact the $5,000 first-time home buyer credit. This provision would allow many more people to purchase houses. We should enact the provisions to allow pensions to invest in real estate and provisions to allow penalty-free withdrawals from IRA's for certain purchases between now and the end of the year.

It seems to this Senator that the path is charted for us. If we want small business of the type I have been discussing each day on the floor, the businesses that reinvest their profits in their business but file all those profits as personal income, either because they are, indeed, sole proprietorships, partnerships, or subchapter S corporations which file as individuals—and I am beginning to believe that there are huge numbers of these valuable hardworking taxpayers. I am beginning to believe that most of those rich people that are alluded to here on the floor of the Senate that we want to tax more, I am beginning to believe that they are businesses that leave their profits in the business and pay taxes as individuals. These are people just like Tony Fernandez.

You see what we are going to do. We are going to increase their taxes 16 percent. That is, they will pay 16 percent more, and we will deprive their business the cash it needs to grow. Guess what they would have done with the money instead? Just what we have been discussing in three cases each day. It would produce jobs for Americans. The supporters of the Finance Committee bill are suggesting that we ought to take more from these entrepreneurs, bring it to the Treasury, and spend it. It would be far better to let the entrepreneurs invest it.

I submit it is true that the taxes on private business people in America, increasing that base by 16 percent, is going to reduce the number of jobs created in this economy during the next few months and into the next few years.

So I think if one wants to search around for evidence, as I have, we are going to find in the marketplace day-by-day evidence that if you want to stymie job growth, levy a 16-percent additional tax. I am speaking now of the quantity. When you raise it from 31 to 36 percent you are adding 16 percent to the burden. If they were paying $100, they will be paying $116. All of that would come out of cash that would stay in a business to produce jobs or purchase equipment.

TRIBUTE TO FRED BRAMLAGE

Mr. DOLE. Mr. President, Kansas sustained a terrible loss this week with the passing of Fred Bramlage, one of most unselfish and dedicated persons I have ever known.

Although he was a success in business, Fred spent most of his time thinking about other people, trying to figure out new ways to help them; that was Fred.

If there was someone who needed help, he was there; if some town needed his help, he was there; and if someone was down in their luck, he was always there with a helping hand.

Anyone who ever had the honor and good fortune of knowing him would tell you in a minute that Fred had a heart of gold.

For most of his 81 years, Fred Bramlage was a driving force behind economic development throughout our State, whether it was Junction City, or Kansas City, or Manhattan, where he gave so much of his time and energy to Kansas State University. The fact that K-State's new sports arena bears his name is a testimony to the kind of affection and respect Fred earned with his lifelong dedication to making Kansas a better place for all.

As a veteran of World War II, Fred also spent his life remembering the sacrifice and devotion of our veterans. He was a strong supporter of Fort Riley, and because of his care and concerns, Fort Riley expanded into one of the premier bases in America. In fact, the outstanding role of the Big Red One First Division in Operation Desert Storm owes much to the vision of Fred Bramlage who knew that there was no substitute for the finest military training America could afford.

I am proud to tell my Senate colleagues that Fred Bramlage was my friend, a good friend who was always there when I needed advice, or counsel. I will never forget his warmth, his honesty, and his compassion.

Let me tell you, Fred Bramlage made a difference.

So I extend my condolences to his wife Dorothy, members of his family, and his legion of friends throughout

Kansas and throughout America.

HURDLES FACING SMALL BUSINESS

Mr. BUMPERS. Mr. President, occasionally I receive a letter from a constituent which is so eloquent and compelling that it deserves the attention of my colleagues and the public. I say on occasion not because the majority of Arkansans are not articulate, but because it costs money to print material in the CONGRESSIONAL RECORD, and I believe in using that privilege sparingly.

Last week I received such a letter from Lawrence Elliott, a small business owner in East Camden, AR. As chairman of the Senate Small Business Committee, I am especially sympathetic to the hurdles facing business owners, and I tend to view much of Congress' work from their perspective. Unhappily, much of what they and I see is not good.

Congress often reminds me of a fellow who was pastor of our little Methodist church in Charleston, AR, a few years ago. In those days, I was a small business owner myself, as well as a country lawyer. Our minister seemed to have a boundless supply of noble projects and causes which needed my support. One day I said to him, "Reverend, your ability to think up good and worthy causes which need my support seems limitless, but my ability to finance them is not."

Likewise, Members of Congress have a boundless imagination for new policies and practices which would make our world a better place to live—cleaner air and water, fairness and opportunity for the disabled, health benefits for everyone—the list goes on and on.

I honestly do not think there is a Member of Congress who wishes ill toward the business community. But, unhappily, business owners must live with the effects not the intent. The American people understand this situation. You cannot be in favor of jobs and hate employers at the same time.

Mr. President, I ask unanimous consent that a letter from Mr. Lawrence Elliott of East Camden, AR, be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ELLIOTT'S ROOFING &
SHEET METAL, INC.,
East Camden, AR, February 21, 1992.

Hon. DALE BUMPERS,
U.S. Senate, Washington, DC.

DEAR SENATOR BUMPERS: Hopefully this letter will give you a little insight into what is happening in the construction and fabrication industry.

I started work in 1957 in the sheet metal and built up roof business. In 1976 I bought out my employer. My wife and I mortgaged everything we owned to get into business. This business requires a lot of hard work and long hours. There are no guarantees the low bidder gets the work.

There are thousands of people like myself willing to take a chance and lay everything on the line in order to own their own business. We work from 10 to 15 people at all times and have never had a serious accident or catastrophe of any kind in the thirty five years I have worked for my ex-employer or myself.

What I am coming to is this. In the last 5 years Congress has had a steady stream of anti-business legislation going through the House and Senate. Every kind of law to make the employer spend more money or do more paper work has risen out of everything you people have passed. OSHA and the EPA both have free hand to walk into anyones' business and fine them out of business or severely handicap their operation. Ninety percent of the people hired by OSHA have never been in business. How can they possibly understand what it takes to run a business.

Most businessmen are not rich. Most of us are struggling very hard to rise above the rising cost of workers' comp, liability insurance, hospitalization insurance, state taxes, federal taxes, and a steady stream of new laws that are coming out of Congress every year to further handicap our operation.

Ninety-five percent of all businessmen try their best to take care of their people. We do not want them sick, hurt, or unhappy. You people are punishing ninety-five percent to get at five percent.

Three fifths of all people in the United States are employed by small business. What I am trying to get across is that every small businessman that I talk to is struggling, trying to stay in business. It makes you wonder when the government of our greatest competitor, the Japanese, does everything they can to help their business community while our government is doing everything they can to hurt ours.

I am 54 years old and there is more resentment towards Congress at this time than I have ever seen. My wife and I have been supporters of yours' for many years. I feel we must take a good look at how we vote in the future. We need your support as does all small business.

In closing, I had a meeting with my employees this morning and informed them that if we did not see any changes in the congressional attitude towards small business and get some help instead of interference, we will close our business and sell all of our equipment.

Sincerely,

LAWRENCE ELLIOTT.

SEABEES 50TH ANNIVERSARY

Mr. HEFLIN. Mr. President, this year marks the 50th anniversary of the creation of the Naval Construction Battalions, popularly known as the Seabees. This military unit accomplished legendary feats of construction during World War II, aiding the allied effort in numerous and immeasurable ways. Founded by Adm. Ben Moreell, the Seabees' contributions and service will be celebrated at a series of events throughout 1992, including open houses, reunions, banquets, and parades.

In 1942, Moreell recruited experienced construction workers for the first battalion to be formed. The units were authorized to be called Seabees, an altered acronym for construction battalions, later adopting the Fighting Bee insignia. Seabee units participated in every major invasion in both the Atlantic and Pacific theaters of operation. They were so effective that they became a permanent part of the Navy, continuing to serve with distinction in Korea, Vietnam, and the Persian Gulf.

It is with great pride and pleasure that I commend the Seabees on their outstanding record of service to our country and congratulate them on the occasion of their 50th anniversary. In so doing, I ask unanimous consent that a proclamation issued by the Governor of the State of Alabama designating March 1992 "Seabees Month" be printed in the RECORD.

There being no objection, the proclamation was ordered to be printed in the RECORD, as follows:

STATE OF ALABAMA—PROCLAMATION

Whereas, 50 years ago, when the security of our nation was threatened by the Axis powers, the United States Navy organized its Construction Battalions, known then and today as the Seabees; and

Whereas, throughout their history, the Seabees, sometimes referred to as sea-going engineers, have worked tirelessly to build the air strips, roadways and other installations vital to maintain the free world; and

Whereas, often operating under enemy fire, with limited facilities and equipment, the Seabees earned fame for their ability to get their assignment accomplished, carrying the motto "Can Do;" and

Whereas, since their inception, the Seabees have served whenever and wherever there was a need for their skills and determination; and

Whereas, their reputation for ingenuity and dedication, began in World War II and has continued through actions in Korea, Vietnam, Lebanon, and the Persian Gulf; and

Whereas, during March 1992, the Seabees will observe the 50th Anniversary of their founding, along with the Navy Civil Engineer Corps, the branch of the Naval Service affiliated with the Seabees, who will celebrate their 125th Anniversary:

Now, therefore, I, Guy Hunt, Governor of the State of Alabama, do hereby proclaim March 1992 as Seabees Month in Alabama, and urge all citizens to make this an occasion for deserved tribute to the active and reserve forces of the Seabees and the Navy Engineer Corps for the great contributions they have made to our nation's defense effort.

RECYCLING IN RURAL AMERICA

Mr. BURDICK. Mr. President, my father served in the U.S. House of Representatives for 20 years. He often made the observation that legislative bodies seldom lead. They generally follow. They follow the leadership of their constituents. A case in point recently came across my desk in the form of a letter from a Baptist minister in Lisbon, ND, concerning solid waste disposal and recycling. Rev. Stephen Wisthoff shared with me the problems that put one rural recycling operation out of business and offered several ideas to encourage development of markets for recyclable materials.

For several months now, the Committee on Environment and Public Works has grappled with the issue of recycling in conjunction with the reauthorization of the Resource Conservation and Recovery Act. Nearly everyone agrees that recycling of waste paper, plastics, metals, and glass is a laudable social activity. There is little consensus, however, as to how we as a society go about the task of recycling a greater percentage of our solid waste. My colleagues on the Committee on Environment and Public Works looked at a number of recycling proposals over the course of several years. It is one thing to collect old newspapers, used cans and bottles. It is quite another to find profitable markets, particularly in rural areas, for these materials. Reverend Wisthoff's letter succinctly summarizes our policy dilemma and suggests a solution whose time has come.

Mr. President, I request unanimous consent that a copy of Rev. Stephen Wisthoff's letter be inserted in its entirety in the RECORD.

Reverend Wisthoff's letter again demonstrates that the American public is ahead of the Congress in identifying solutions. In the coming weeks the Committee on Environment and Public Works will report legislation reauthorizing the Resource Conservation and Recovery Act. The committee has considered various proposals concerning recycling, including provisions mandating minimum recyclable content. The minimum content concept met with strident opposition from the private sector and the committee has refined its recycling proposal to reflect a responsible company concept. Under our proposal, a company would be responsible for recycling a percentage of the materials it introduces into commerce. Market forces would develop demand for recycled bottles, cans, and plastics.

I urge my colleagues to review the recycling provisions which will be presented by the committee in coming weeks. I feel the proposal has a good deal of merit and is one which should be supported by the Senate. This proposal is too late to help South East North Dakota Recycling and Salvage, but hopefully new markets for recyclables will be developed all across the Nation as a result of the committee's RCRA amendments.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

FIRST BAPTIST CHURCH,
Lisbon, ND, March 3, 1992.

Senator QUINTIN BURDICK,
Hart Senate Office Building, Washington, DC.

DEAR MR. BURDICK: Thank you for the good job you are doing representing the people of North Dakota.

Two weeks ago, I watched a member of my congregation become unemployed which is certainly no unusual tale in this period of our economy. The sad part of this story is that Steven Bettenhausen was the only rural recycler in eastern North Dakota. Two weeks ago, SEND (South East North Dakota) Recycling and Salvage went through foreclosure and Steve, just this past week, went to work at a local grocery story stocking shelves.

Steve was a pioneer in the field of rural recycling. Other communities have looked to Steve for expert advice on how to open similar operations. Over the past few years, we have been hearing about the need for preserving our resources and reusing through recycling. The cry has been that landfills are closing and resources are diminishing. So Steve had a dream. He borrowed money by putting everything he owned up for security, sold some shares to people in the community, and began researching the market. The market was not good in the fall of 1989 when he began his research but things looked promising because the government was telling us that recycling was a thing of the future. Steve did fairly well for about a year but then the bottom fell out of the market. We are told that it is cheaper for companies to buy new paper, plastic, or tin than it is to buy recycled products. At this time, there is little or no market for product waste.

Mr. Burdick, why is it that Campbells Soup can make a can and send it out of their factory filled with a product, and take no responsibility for where that can will go when it is empty? How is it that Pepsi or Anhuaser Bush can produce a container and send it away from their brewery without giving a second thought to where that can will end up?

Is there no responsibility in the marketing and production of a product? How can our government SAY that they are concerned about the environment but then have this laissez-faire attitude toward industry. Does Kimberly-Clark care where disposable diapers go? Do they pay for the support of opening new landfills?

I believe that government must make these corporations accountable for every container or product that leaves the production line.

In the meantime, people in Lisbon are no longer setting their bottles, cans and newspapers out to the curb to be picked up by Steve and his workers. Steve's recycling yard is vacant except a remaining pile of plastic bottles that have no immediate destination.

I am asking you to address this problem of corporate responsibility in the process of recycling. This is the only way that we can hang on to the precious resources that this earth offers it's occupants.

Respectfully,

REV. STEPHEN WISTHOFF.

NATIONAL AGRICULTURE WEEK: WOMEN IN AGRICULTURE

Mr. PRESSLER. Mr. President, today is National Women in Agriculture Day. This day has been set aside to pay tribute to the numerous contributions women have made to the successful American agricultural story. The role played by women in agriculture is constantly changing. However, one thing has not changed: women are equal partners in farming and ranching operations. They are vital to the success of farm families.

Women's roles in agriculture range from running sole proprietorships to marketing, animal care, managing hired help, planning budgets, and estate planning. Women also tackle problems such as farm safety, stress management, and the Government programs available to farm and ranch operations.

Mr. President, much of the success of American agriculture can be attributed to the active role women play in daily farm and ranch operations.

The March 1992 edition of South Dakota High Liner magazine has an article entitled "Women in Agriculture." The article explains that, "Farming is not a go-it-alone operation. The wife is usually a full partner in planning and work." The author of the article is Mary Brashier of the Agricultural Communications Department at South Dakota State University in Brookings, SD. The article says,

> [Women] are full and equal partners in the farm or ranch operation. * * * In my opinion, that goes a long way toward explaining the strength of agriculture in South Dakota.

I ask unanimous consent that the text of the article appear in the RECORD at the conclusion of my remarks.

Mr. President, a 1990 survey in South Dakota showed that 69 percent of farm and ranch women were joint operators. The survey also showed that half of South Dakota farm and ranch women currently hold off-farm jobs.

As many as 72 percent of farm and ranch women in my State have held jobs off the farm at some time. The survey revealed that when women began working off the farm, they not only retained their role in long-range decisionmaking but actually worked harder and longer at farm labor. Mr. President, this is a remarkable feat.

The increasing role of women in farming and ranching operations has led South Dakota's Cooperative Extension Service to organize conferences to assist women in meeting the challenges of agriculture, enhance their farm management skills, and learn better ways to balance family life. Dakota was one of the first States in the Nation to establish such forums.

Mr. President, South Dakota's first Women In Agriculture [WIA] Program was held in 1990. It is now an annual event. These conferences address issues such as farm ownership and management, understanding ASCS programs, family budgeting, farm safety, marketing, managing hired help, estate planning, stress management, and numerous other issues our farm women face daily. The WIA program has been a successful educational tool for rural women. The WIA Program deserves greater recognition for its contributions to women who are involved in agricultural production and management.

Increasingly, women are being elected and assuming the role of national farm and ranch leaders. They have shown a high degree of professionalism in these leadership positions.

Unfortunately, I do not have the time to mention all of the South Dakota women who occupy important State and national leadership positions, but the following list is representative of the significant role South Dakota women play in agriculture:

Joyce Jobgen of Scenic has served as national treasurer for American Agriculture Movement for the past 4 years. She is also a valuable member of my own Agricultural Advisory Committee.

Carol McKenna of Zeona serves as Farmers Union representative to the Agricultural Women's Leadership Network, a consortium of organizations whose members represent 1 million women in agriculture across the United States.

Marie Fisher of Winner is actively involved in Women Involved in Farm Economics [WIFE], in which she serves as the representative for sheep and wool producers. Mrs. Fisher is also a valuable member of my Agricultural Advisory Committee.

Janet Hurlbert of Clark was honored as the 1991 South Dakota Farm Bureau Woman of Honor.

Women in agriculture benefit their families, communities, State and Nation. They deserve more recognition, not only on this day which has been set aside in their honor, but throughout the year.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WOMEN IN AGRICULTURE

(By Mary Brashier)

"The man is the 'primary operator' of the farm or ranch. But what about the woman?" asks Rebecca Lafferty, formerly of the South Dakota State University Economics Department in Brookings and now a farm manager in her own right.

"Every time she characterizes herself as 'just a farm wife,' society's been willing to believe her," she said.

Lafferty believes South Dakota farm and ranch women are making far more significant contributions to the state's agriculture than previously reported. She bases her view on the results of a survey of South Dakota women in agriculture, conducted in late 1990, and on personal interviews with farm and ranch women across the state. (Quotes below not attributed to Lafferty are from the survey and interviews.)

Lafferty found a sense of pride and of personal worth among most women in her survey, if often not so clearly stated.

Sixty-nine percent of the women surveyed reported they were joint operators, sharing both day-to-day and long-range decisions with their husbands.

Nineteen percent said they had no input into decisions outside the house. Others were either sole operators or chose not to answer the question.

"Rural women of the 1990s are heavily involved in long-range management. This is most noticeable in whether to buy or sell land; 84 percent of those decisions were reported to be made jointly by husband and wife. Buying farm equipment, starting a new enterprise, making retirement plans, and deciding to borrow money ranked right up there," Lafferty said.

The specific duties varied, but the number of statements such as this surprised even Lafferty. Similar surveys from other states had prepared her to expect that the women would perform mostly support roles—bringing lunch and running errands, for example.

A pattern in the survey responses emerged. Depending slightly on location in the state, ranch and farm women did jobs calling for a high degree of physical labor. They walked beans and performed other field work that did not require mechanical labor. Mostly, they fed cattle, nursed sick animals, checked fences. If caring for livestock meant supervising the other members of the family or the hired help, they gave the necessary orders.

"Working with animals is where women shine. They have the patience to take extra time, to check the calving stalls every two hours during the night. They know what's at stake," Lafferty said.

Nearly half, 49.5 percent, of the women in the survey had current off-farm jobs. Lafferty found that 72 percent had held paying jobs off the farm sometime in their lives.

"This is creating a strain," Lafferty said. "Although many of the women felt their off-farm jobs provided personal rewards as well as an income, the survey results made it clear that their duties on the farm did not decrease when they took on a job in town. The women still expected—or were expected—to work on the farm, keep the house and garden, do book work, run errands, and—if they were a young couple—care for the children."

The survey revealed that when women began working off the farm, they not only retained their role in long-range decision making but actually worked harder and longer at farm labor.

"The main reason women gave for working off the farm was that the family needed the extra income.

"They did not complain about their lot. They're still part of the team. They're tired, but happy," Lafferty said.

In various forms, Lafferty heard this often from the women in the survey.

"In 1979, an extensive survey was commissioned by the USDA to see if its programs met the needs of women. They didn't then, and there still are barriers that keep women from participating more fully in agriculture," she said.

There are friendly government offices, she added. "Some of the women said they walk in with computer printouts from their operations and get great cooperation."

Two other barriers to greater participation in the ag operation surfaced frequently in the survey. One was the family's perception of the women as housekeeper, cook, and child care provider. Another was the lack of opportunity to update skills and take advantage of modern farming technology.

"Agencies and institutions have missed the boat," Lafferty said. "They've tailored their educational programs to the primary operator and overlooked the other half of the farm team.

"Yet this survey shows that most husbands and wives are well aware that agricultural production and management have become too complex and too difficult for one individual to mentally and physically handle," Lafferty said.

"They are full and equal partners in the farm or ranch operation, and they know it, and they want it that way. In my opinion, that goes a long way toward explaining the strength of agriculture in South Dakota."

KEVIN SCHIEFFER: U.S. ATTORNEY FOR SOUTH DAKOTA

Mr. PRESSLER. Mr. President, I rise today to speak of an example of service to America. Kevin Victor Schieffer is South Dakota's new U.S. attorney. A more dedicated and talented public servant would be hard to find.

I admit to some bias, as Kevin served the people of South Dakota and me well for 10 years as a member of my staff prior to being appointed by President Bush to this most important position. However, I rise today not only out of a sense of pride over what my friend has achieved, but because I want each of my colleagues to understand better what it means to be the attorney representing the United States in a State like South Dakota.

The role of U.S. attorney in a rural State like mine may not be as glamorous or as high profile as that in our more populous States. However, it is every bit as important and has its own unique challenges. I know Kevin will meet every challenge well. For instance, South Dakota is faced with a drug problem quite different—but every bit as real—as that in Washington, DC, or New York City.

An even more unique charge of South Dakota's U.S. attorney involves situations connected with Indian country. This involves law enforcement responsibilities, of course, but, in a very real sense, it also has much to do with the improvement of relations between Indians and non-Indians.

U.S. Attorney Kevin Schieffer recently explored these and other issues in a radio interview broadcast in South Dakota. He eloquently outlined his role better than I ever could. For this reason, I ask unanimous consent that a transcript of that interview be inserted in the RECORD following these remarks. I commend the dialog to anyone seeking a better understanding of the challenges of Federal law enforcement in America's heartland.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

WSN RADIO INTERVIEW WITH KEVIN V. SCHIEFFER, U.S. ATTORNEY, AIRED JANUARY 19, 1992

I'm Jim Davis and this is another addition of Spectrum on this Sunday, the 19th day of January, hope you're having a good weekend. We're talking with Kevin Schieffer, the current and new U.S. Attorney for the State of South Dakota, the judicial district that I guess would include the State of South Dakota. Kevin is the former Chief of Staff of Senator Larry Pressler in Washington and if I'm not mistaken a Yankton native. Welcome to the program sir.

KEVIN: Well, thank you very much Jim. Glad to be here.

JIM: Good to have you with us. The U.S. Attorney I guess is someone that most people don't think of, don't run into, don't have anything to do with. Most people couldn't tell you your name or your predecessor's name or you know anywhere down the line, at least in South Dakota. You get into the bigger cities where that it's a more to more high profile position, you know from the City of New York or Chicago or Brooklyn or Bronx or those attorneys, U.S. attorneys tend to get more publicity I suppose because of mob crimes for lack of a better term.

KEVIN: Sure.

JIM: What does the U.S. Attorney for the District of South Dakota do?

KEVIN: Well the U.S. Attorney actually wears several hats. First of all, the kinds of litigation we're involved in is both civil and criminal so you do a lot of work representing the United States Government. In civil actions where somebody is suing the United States Government, you're defending. Where the United States will take affirmative action, whether it's in a civil rights case or bankruptcies or foreclosures, what have you, you're again representing the United States Government as an advocate for the government. That is on the civil side of the scale.

On the criminal side of the scale we enforce the laws passed by Congress in South Dakota. That consists primarily of quite a few drug cases; do a lot of work in that area. But also South Dakota is somewhat unique in that we have a great deal of cases coming from Indian country. Indian country is a term of art in the legal world. In South Dakota we have quite a few cases coming from there and the United States Attorney prosecutes those because of jurisdictional concerns you've heard so much about in the news recently. There is no state jurisdiction there so the local state's attorney, for example, cannot prosecute many of those cases. We do have a tribal court system and they prosecute certain cases but they're primarily misdemeanor kinds of cases; and so the only thing left, if you will, the prosecuting authority in Indian country for major crimes is the United States Attorney. So, we're involved in a lot of those cases.

JIM: The term Indian country that you used, surprised some people I think when you used it because you used it before.

KEVIN: Yes.

JIM: Is that a judicial term that * * *

KEVIN: Yes, it's a judicial and statutory term. There is a definition for Indian country.

JIM: Now would that just include reservations or would that be other areas.

KEVIN: That's an excellent question, Jim. It doesn't include just reservations. You would have, for example, there are actually three categories, if you're going to define it very broadly. One is within the exterior boundaries of a reservation. A second is what is called a dependent unit, which I could explain a little bit. For example in Winner, South Dakota, which is not within the exterior boundaries of any reservation, there is an Indian housing district, if you will * * *

JIM: Right.

KEVIN: * * * a dependent Indian unit that is defined as Indian country. And the third area would be trust lands not within the boundaries of—the exterior boundaries of a reservation. So those are the three categories of Indian country—trust lands that have not been yielded back through the various allotment acts over the years, and that gets into a much more detailed discussion. We could spend the entire time talking about jurisdictional issues and they are extraordinarily important and we will be spending a lot of time on them in my tenure in this office.

JIM: Your predecessor was Phil Hogen.

KEVIN: Uh huh.

JIM: Your appointment by Senator Pressler was a bit controversial. You've not had a lot of courtroom legal experience. I suppose quickly defend yourself in the appointment—not that you have to but you have a chance to if you care to.

KEVIN: All right. Well, sure, and I made that very clear coming into the position. You're right. I don't have a lot of courtroom experience. I've gotten a fair amount of it in the last month by the way, but don't have a lot of courtroom experience. The position of United States Attorney today is much more as a policy maker, as an administrator. I plan to spend a fair amount of time in the courtroom because yes, you are a litigator, as well. But you wear a lot of hats and nobody is going to come into that job steeped in every one of them. When I was going through the interview process it was the first question I raised and as it was explained to me some of our best U.S. Attorneys are lousy litigators and some of our best litigators are lousy United States Attorneys. So that's not the only criteria. It's an important one, but it's one of many. So I don't discount it but the fact is, it is not the role of the United States Attorney to be in the courtroom eight hours a day or 15, whatever, however long of a day you work. I might say I have been extraordinarily impressed with the staff of attorneys and support staff in the office and there are some of the state's best litigators in that office and the last thing they need is another litigator. What we are emphasizing are policy issues, administration issues, and so forth. So to those who have expressed the concern—and as you mentioned there haven't been that many—I really don't think that was the issue. It was more an issue of politics. It's a political appointment and sure the side that lost—the side that lost, lost. And that's the way it goes.

JIM: Should it be a political appointment?

KEVIN: Oh, that's another good question. There is an on-going question about that. Obviously I have a * * *

JIM: Vested interest * * *

KEVIN: * * * vested interest in that so take all of this with a grain of salt. But yes, I think it should be. It is a policy position first and foremost and in a policy position I think people should be held accountable. And in this case, technically, the President of the United States is held accountable for the people that he appoints and those who recommend them. And if I fall down on my face that reflects poorly on the President and on Senator Pressler and those who supported me and I'm going to work very hard to make sure that doesn't happen. But it is an issue of political accountability. That's why we have elections in this country and that's what democracies are about. If you go in the other direction and just put in professional professionals, if you will, in those positions you lose a great deal of accountability and something. That's one side of the coin. Of course there's another and it's something that has been discussed over the years. But we've been doing it this way for 203 years now and it seems to work reasonably well to date.

JIM: Your predecessor Phil Hogen was a member of an Indian tribe and was a Indian, or still is. I mean I didn't mean to make it sound like he's not around, but, and that was a comment made I think by some people that why, why are you replacing somebody with a white in an area, where, I don't know what percentage your work is dealt with Indian situations. You made trips out to the different reservations to meet the tribal leaders. What kind of response did you get?

KEVIN: I got a very warm response. I was very impressed with those I met in Indian country as well as elsewhere. You know, that trip was a little over 2000 miles and about half of it was in Indian country. About half of it was meeting with state's attorneys, county sheriffs, police chiefs and so forth. So it was a mix. But I have received a very warm reception. You know, Phil, yes was a tribal member, as was his predecessor. So I am very sensitive to that. So I'm the first non-Indian United States Attorney in South Dakota in quite a few years. That's not something I have any control over though. So other than to be sensitive to it and to work as fairly and honestly as I know how, there's not a lot more I can say on that subject.

JIM: Did tribal leadership say anything to you about it?

KEVIN: No.

JIM: You've got a couple tribal chairmen that thought, you know, having you in was a good idea. If I remember right, I don't remember names.

KEVIN: Well that's right. It's just like anything else in life. I don't think the tribal chairman nor do I consider myself narrow enough to be preoccupied by something like that. You take the job for what it is and you call the shots as you see them and you go from there.

JIM: How many offices for the U.S. Attorney in South Dakota and how many people on staff.

KEVIN: We have three offices. They are in Sioux Falls, Pierre and Rapid City. We have approximately 35 people on staff and I will be hiring or working on 4 or 5 more in the not too distant future.

JIM: And your budget comes from the Justice Department?

KEVIN: That's right. We're administered under the Justice Department under the authority of the Attorney General and that's who I report to.

JIM: One of the things that is started up in the state and is in, or at least on and around Indian country as the term is used, Indian run casinos, gambling casinos. Has this made your job or the position more difficult; has this added any workload to what you have to do?

KEVIN: It has not significantly to date. But I expect that will be coming in the not too distant future and gaming is one of those issues that's out there on the horizon as a real potential for a flash point in the future, and something we're watching very closely. It's under the rubric of jurisdictional issues—or land mines almost—as I call them. We have the gaming or gambling issue. There's also in the hunting and fishing area some real concern down the road on that. There has been some very significant fundamental changes that may be coming about because of federal litigation in that area. Also on the taxation issue, that's a constantly evolving area of the law and that's gonna be another flash point.

JIM: Even this week.

KEVIN: That's exactly right.

JIM: With the Supreme Court ruling on the Yakima Tribe in Washington having to pay taxes, tribal members, county taxes.

KEVIN: That's exactly right * * *

JIM: Apparently not a major problem or factor here in the state?

KEVIN: As these things develop * * * I hesitate a little bit because I don't want to start anything here. I wouldn't put it in the category of a major problem right now. It's certainly one of those that could develop into that issue. And the other area and something I've spent a great deal of time on already and plan to spend, I have on all of these areas, but in the jurisdiction issue, the fourth category after gambling, hunting and fishing, and taxation is law enforcement problems. You know we have situations, I mentioned a community like Winner or McLaughlin, all around the state where we have what could be—we have tribal law enforcement and we have county law enforcement and local law enforcement and it presents a real problem to those on the front line when, you know, it makes a difference if the victim is a tribal member or not a tribal member. It makes a difference if the perpetrator is a tribal member or not a tribal member. It makes a difference on who's land it is. And the poor guys on the front line don't know: "well should we send this person there or that person there, let's take out the plot and look at what land it is and who did it." It's just a really confusing situation and we need a lot more coordination and support for the guys on the front line there. And that's an area that we'll be spending some time working on, as well. They do a superb job with the jurisdictional nightmare in which South Dakota Law Enforcement finds itself right now but they need some better support and clear guidelines on how to approach those kinds of cases. And we're going to see that even more particularly in the gaming area when that is up and running full speed. And we're going to have a lot of problems there. We have a local fight that breaks out in the local casino and depending on how the casino is defined, who throws the first punch and who gets hit, three or four different police departments could be called and one might be able to serve it and the other one might not be and it's a very confusing situation.

JIM: One of the other high profile areas you're involved in you talked about earlier is the drug situation. DEA, of the releases that you issued from your office since you have been there, most of them have been drug related. How big a problem? Is it getting worse, getting better and can it be solved?

KEVIN: It is a big problem. I hesitate only because I come here after spending ten years in Washington, DC. As you mentioned at the beginning of the program, I'm from Yankton or the Yankton area. I was born just south of Yankton, right between Crofton, Nebraska * * *

JIM: On * * *

KEVIN: * * * almost on the river, on the Nebraska side of the river. So I'm from that area. I go from there. The last ten years I have lived in Washington, D.C. And now I'm coming back to Sioux Falls. So I've kind of gone from small town to big city back to big town, I guess if I were to define it. Compared to Washington, D.C., if you asked me do we have a drug problem, I would say yes but not bad. But if you're living in Sioux Falls, South Dakota, you bet, we have a drug problem and it's an area where we're going to crack down. Part of my effort in this area is to make sure that those coming in from outside of the state know that the penalties and the attention and the resources dedicated to it are going to be much more severe in South Dakota than they might find in Miami or Washington, D.C., or a New York City. That is, we prosecute what they would consider small fry cases out there. And we do so vigorously and given the strong federal penalties that are available we can do a good job of that. And the attorneys on staff handling that area do a spectacular job. We have two attorneys that are—do full time drug cases. And somebody comes in—particularly we have cases where people are coming in from out of state, whether it's Florida or what not, the suppliers, the folks that we're after in a case that they wouldn't even be prosecuted for in Miami, Florida. They're going to jail for 20 years in South Dakota and that sends a pretty clear message. Let's stay the hell out of South Dakota because it doesn't pay and that's the message we're trying to get out.

JIM: An acquaintance of mine in law enforcement, we were discussing a week or so ago, the drug problem. He said Interstate 29 from Sioux City up to Winnipeg is for all practical purposes a drug sewer and it's surprising the number of vehicles that could be stopped and what they could be arrested for. What's the biggest drug of choice, for lack of a better term, problem, more coke?

KEVIN: Cocaine.

JIM: OK.

KEVIN: Cocaine, cocaine, cocaine, yes. There are others coming on, but yes, that's the drug of choice.

JIM: What, you have two lawyers on staff working and those two are here in Sioux Falls.

KEVIN: One's in Sioux Falls and one is in Rapid City, and other lawyers are involved in drug cases. Matter of fact, as scary as it might sound, they are even trusting me with a drug case. So we have other lawyers that are involved in drug cases but two that do it full time and nothing but.

JIM: Rapidly, we got a minute and a half or two minutes * * *

KEVIN: OK.

JIM: Let's talk a little bit about your ex-boss, Senator Larry Pressler. What's the one thing, I mean we could probably tell war stories here, but that's probably not nice, but what's the biggest misconception that South Dakotans might have about Senator Larry Pressler.

KEVIN: South Dakotans might have about Larry Pressler?

JIM: Uh huh.

KEVIN: Oh, I think South Dakotans have him figured out pretty well. He's been there for a long time and I hope will be there for a longer time. He is a great Senator and does a superb job. He works very hard. He's done an awful lot for me over the years. When I started working for Larry Pressler I was living in my car. So he gave me my first real break in the professional world and I started out in his mail room and he's trusted me over the years and given me increased authority and I hope I've lived up to that. But I think South Dakotans have him figured out pretty well because they keep sending him back. I think there are a few self-anointed politicals around the state who haven't been able to get elected who have a problem. But I think that's more the same kind of political jealousies that you see everywhere.

One of my frustrations almost with Larry Pressler, but one of the things I admire greatly about him, is that he doesn't seem to get down to that level. Somebody in the political realm will go after him, and he knows how to stand his ground and get done what he needs to get done—and he has proved that many times, but he does not hold grudges and he just puts that stuff aside and goes forward and does what he thinks is best for South Dakota. He's a very independent kind of guy. I think that that bothers some people. But if there's one thing Larry Pressler has taught me over the years, it's the importance of maintaining your independence in public service. Don't ever become anyone's crony or anyone's lapdog. You have to maintain your independence and he has done that and I'm very proud of him for it.

JIM: Quickly, we have about 20 seconds. You have been involved in politics for the last 10 years in D.C., with Senator Pressler and to some extent, this job that you have now is political and that's how you got it. What's the political future of Kevin Schieffer, are you gonna run for public office down the road? You've got about 15 seconds now. I'm not going to give you a lot of time on this one.

KEVIN: Well, if I have 15 seconds, I'll try to stonewall you for 15 seconds. (Laughter) No, I truly—and everybody asks that question—I don't have plans beyond doing this job the best I can and we'll see how that goes.

JIM: Thank you very much. That's all the time we have for today.

KEVIN: Thank you, Jim.

INTERPRETING THE PRESSLER AMENDMENT

Mr. PRESSLER. Mr. President, the world today is poised, perhaps as close as it has ever been, to achieving the dream of world peace. No longer is our planet engaged in a bipolar contest, a world living under the threat of global nuclear war.

Yet the Government of Pakistan continues to proceed along the path of nuclear club membership. I have worked against the proliferation of nuclear arms for years in the Senate, and it is frustrating to see that our own State Department seems not to share the concern of Congress with Pakistan's Nuclear Program.

Last month, when Secretary of State James Baker appeared before the Foreign Relations Committee, I inquired about the administration's policy on the Pressler amendment. Agreed to as part of the 1986 Foreign Assistance Act, the amendment was designed to force Pakistan to curtail its growing nuclear capability. Since 1990, the President has been unable to certify that Pakistan does not possess a nuclear explosive device. Consequently, as provided in the amendment, all foreign assistance to that country has been terminated. However, the State Department continues to allow the licensing of commercial military parts and technology sales to Pakistan.

Mr. President, I am an attorney, but I do not believe it takes one to understand the Pressler amendment. To quote from the amendment, "no assistance shall be furnished to Pakistan and no military equipment or technology shall be sold or transferred to Pakistan. * * *" The language seems quite clear. By licensing the export of arms and military technology to the Government of Pakistan, it seems to me the State Department is in violation of both the letter and the spirit of the Pressler amendment.

The Department of State has furnished me with an unsigned memorandum outlining its rationale for its interpretation of the amendment. As I told the Washington Post, it reads like a paper for political science 101. The paper did not fully address the questions I raised with Secretary Baker during the Foreign Relations hearing.

During my tenure as a lawyer at the Department of State, departmental interpretations of legislation were based on memorandums of law in a specific format and signed by an attorney. It was my understanding that Secretary Baker was referring to just such a document when he said "as a legal matter it is the view of our lawyers that the [Pressler amendment] does not apply to commercial arms sales or exports."

The paper simply does not answer how the State Department, as a matter of law, can permit private sales in the light of what appears to be a straightforward statutory ban on the sale or transfer of any military equipment or technology to Pakistan. Mr. President, the memorandum I received from the State Department is not a memorandum of law, but I ask unanimous consent that it be inserted in the RECORD at the conclusion of my remarks so it may be evaluated by our colleagues.

Mr. President, I would also like to share with my colleagues a legal analysis of the administration's position paper, prepared by the American Law Division of the Congressional Research Service [CRS] at my request. I commend Raymond Celada, senior specialist in American public law at CRS, for his excellent work on this memorandum. The legal analysis presented in the CRS memorandum is exactly the kind of information we need to resolve this matter. It will be highly useful in the continuing debate. The CRS memorandum concludes that while the State Department's position is plausible, the Department's reasons for "nonapplication [of the Pressler amendment] seem open to serious question." I ask unanimous consent that this legal memorandum also appear in the RECORD following my remarks.

In letters to the chairman and ranking member of the Senate Foreign Relations Committee last week, I requested that hearings be scheduled to examine the administration's interpretation and application of the Pressler amendment. I would also like to explore the level of congressional consultation engaged in by the State Department in developing its interpretation. Finally, I hope to examine the implications of a policy that allows weapons to be sold but forbids humanitarian assistance, all in the name of arresting Pakistan's ability to build a nuclear weapon. These are matters of such grave importance that I believe the issue must be spread upon the record.

Mr. President, I ask unanimous consent that several articles on this controversy, as well as the State Department's paper and the Congressional Research Service legal memorandum be inserted in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Memo Received From State Department]

PRESSLER AMENDMENT: LICENSING OF ARMS EXPORTS PURSUANT TO PRIVATE SALES

On February 5, 1991, during hearings on another subject before the Senate Foreign Relations Committee, Secretary Baker was asked by Senator PRESSLER whether the "Pressler Amendment" concerning assistance and military sales to Pakistan applied to the licensing of arms exports pursuant to private sales. The Secretary responded that the Administration had concluded that it did not apply, but had adopted a restrictive policy on such licenses designed to preclude the acquisition of new military capabilities by Pakistan. This paper is a recapitulation of the reasons why a suspension of such licensing was not legally required by the Pressler Amendment.

The Pressler Amendment was adopted in 1985 as a new section 620E(e) in the Foreign Assistance Act (FAA). The Presidential certifications called for by this Amendment were made in the five years immediately following its adoption. However, the President was unable to make that certification for FY 1991, with the result that the prohibitions of the Pressler Amendment first took effect in October 1990 (the beginning of FY 1991).

Because the President was able to make the required Pressler Amendment certifications for FY 1986 through FY 1990, the Executive branch did not need during that period to resolve all the potential issues relating to the scope of its prohibitions. It is noteworthy, however, that during the first weeks of each fiscal year prior to the President's certification, the question did arise as to how the Amendment's prohibitions should be applied pending the President's decision. While it was decided that funds should not be obligated nor FMS sales made during such a period, there was never any serious suggestion that the licensing of arms exports pursuant to private sales had to be suspended or modified. This reflected the Administration's confident belief that the Amendment had no application to these private transactions.

The issue of whether the Amendment applied to licensing of such private exports was among those addressed within the Administration when it became clear that a certification might not be made for FY 1991, and again it was concluded that the Amendment did not apply, but that a restrictive policy should be adopted with respect to the licensing of private exports to preclude the acquisition of new military capabilities by Pakistan. This policy was restated in the January 1991 issue of the Defense Trade News (a bulletin provided to the defense trade community by the Department's Politico-Military Bureau), where it was reiterated that assistance and Government sales had been suspended because of the legal requirement of the Pressler Amendment, and that (though not required by the law) the Department would "consider only those license applications for defense articles and services that are necessary to maintain and operate defense systems already in the Pakistani inventory." As indicated in the following, the Department informed Congress of this position in a series of periodic reports called for under the Arms Export Control Act (AECA).

1. *It is not reasonable to interpret the language of the Pressler Amendment as prohibiting Executive branch licensing of arms exports pursuant to private sales.*

The Pressler Amendment provides:

"No assistance shall be furnished to Pakistan and no military equipment or technology shall be sold or transferred to Pakistan, pursuant to the authorities contained in this Act or any other Act, unless the President shall have certified in writing to the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate, during the fiscal year in which assistance is to be furnished or military equipment or technology is to be sold or transferred, that Pakistan does not possess a nuclear explosive device and that the proposed United States assistance program will reduce significantly the risk that Pakistan will possess a nuclear explosive device."

Like the rest of the Foreign Assistance Act (FAA), the Pressler Amendment is directed to the U.S. Government rather than to private parties. But in a private arms export transaction (assuming the Government does not provide financing for the sale), the Government neither "furnishes assistance" to the recipient country, nor does it "sell" or "transfer" the items in question—which are the only actions prohibited by the Amendment. By its plain language, the Amendment thus does not apply to Government licensing of such arms exports, and indeed has no apparent applicability to such private arms transactions at all. If the purpose of the provision were in fact to direct the Executive branch to cease granting export licenses in such cases, Congress would have enacted a direct prohibition on the granting of such license, as it has consistently done in other cases.

Furthermore, the Pressler Amendment does not prohibit sales or transfers generally, but only sales or transfers "pursuant to the authorities contained in" the AECA or any other act. This is not relevant to private arms transactions. Neither the AECA nor any other act *authorizes* private arms sales and transfers, which do not require statutory authorization. Rather, section 38 of the AECA provides for the imposition by the President of licensing controls on the export and import of such items. Section 38(a)(3) specifically distinguishes this licensing process from "sales under the Act"—language which the Act clearly uses to refer only to U.S. Government sales.

In addition, the rest of the Pressler Amendment (as well as the statutory section of which it is a part) confirms that it applies to U.S. Government assistance programs and not to private arms transactions. Under the Amendment, the President must certify not only that Pakistan does not possess a nuclear explosive device, but also that "the proposed United States assistance program" will reduce significantly the risk that Pakistan will possess a nuclear explosive device. Likewise, the Pressler Amendment is an amendment to section 620E of the FAA, which is entitled "Assistance to Pakistan", and the remainder of the section describes the purposes Congress hoped to achieve through U.S. "assistance" to Pakistan.

These references to U.S. "assistance" cannot reasonably be read to apply to the licensing of arms exports pursuant to private sales that are contracted, priced and financed through private arrangements, and which are not generally regarded as "assistance" to a foreign country. (This is in contrast to FMS sales by the U.S. Government, which do provide foreign purchasers the important benefits of U.S. Government contract, pricing and program arrangements—as well, in many instances, of financing for the sales.)

2. *Licensing of arms exports pursuant to private sales have consistently been treated as not covered by statutory language comparable to that used in the Pressler Amendment.*

Statutory provisions in foreign assistance legislation referring to sales or transfers under the authority of the AECA or other acts, and not referring specifically to the licensing of private transactions, have consistently been interpreted as not applying to private arms exports. Some notable examples are (emphasis added):

Drug producing countries. The prohibition in section 681 of the FAA on assistance to major illicit drug producing countries includes "*sales . . . under the Arms Export Control Act*" and does not specifically mention private transactions licensed under that Act. This prohibition has accordingly not been applied to such private transactions.

Countries violating the terms of U.S. military sales. The requirements of section 3(c) of the AECA with respect to countries that may have violated the terms of previous sales apply to "*defense articles or defense services furnished under this Act, or any predecessor Act*"; private transactions licensed under these acts are not specifically mentioned. These requirements accordingly have not been applied to private transactions involving defense articles or services.

Notifications to Congress. The requirements of section 36(b) of the AECA with respect to notification of proposed sales to Congress apply to certain categories of offers "to *sell any defense articles or services under this Act*" and private transactions licensed under the Act are not specifically mentioned. These requirements accordingly have not been applied to such private transactions.

Prohibitions on specific countries. Section 728 of the International Security and Development Cooperation Act of 1981 prohibited various transactions with respect to *El Salvador* until certain certifications were made. Subsection 728(c) required the suspension of "*all deliveries of defense articles, defense services,* and design and construction services to El Salvador which were *sold under the Arms Export Control Act*" after the date of enactment of the section, but no specific reference was made to private transactions. Likewise, section 566 of the 1989 Foreign Operations Appropriations Act prohibited the issuance of "*letters of offer and acceptance*" to *Qatar* but made no specific reference to the licensing of private exports. These sections have not been applied to such private transactions.

The same is true with respect to the prohibitions on transactions with *Panama* contained in section 561 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990. That section covered "*sales . . . under the Arms Export Control Act*" as well as transfers of defense articles by other agencies, such as the CIA, but did not mention private transactions. The section was accordingly not applied to such private transactions (although as a matter of policy, the Department did not issue licenses for private arms exports to Panama during the period of its applicability).

Congress is and has been well aware of the manner in which the Executive branch has consistently interpreted such statutory language. Each year, pursuant to a statutory requirement, the Executive branch submits periodic reports clearly identifying the countries which are expected to receive (among other things) FMS sales or private export licenses. In particular, Congress has been well informed of the precise manner in which these prohibitions have been applied in cases such as El Salvador, and has changed the scope of the prohibitions by further statutory enactment when it believed such changes were called for.

Since the prohibition in the Pressler Amendment took effect in October 1990, the Administration has clearly informed Congress of intent not to discontinue granting export licenses for private arms sales to Pakistan (while at the same time maintaining a restrictive policy on issuing such licenses to prevent the acquisition by Pakistan of new military capabilities). For example, in each of the unclassified quarterly reports to Congress required under section 36(a) of the AECA since October 1990, the Administration included the amounts of arms exports to Pakistan pursuant to private sales. The same is true with respect to the Congressional Presentation Documents for FY 1992 and 1993 that were provided to Congress pursuant to section 25 of the AECA, which listed the total anticipated value of such exports.

3. *When Congress intends that provisions in foreign assistance legislation apply to private arms transactions, it consistently uses language making clear that intention.*

The great majority of the provisions of U.S. legislation on foreign assistance and arms transactions apply only to Government sales, the use of U.S. funds for the financing of private arms sales, or other forms of U.S. assistance. On occasion Congress has also provided for the application of such provisions to private transactions not financed by the Government. Recognizing that this is an unusual step, however, Congress has consistently used clear and specific statutory language to do so. Some notable examples are (emphasis added):

Human rights violations. The provisions of section 502B of the FAA concerning governments which commit human rights violations are, under subsection (d)(2)(B), applicable to "*sales of defense articles or services* * * * *under the Arms Export Control Act*" and are, under subsection (d)(2)(C), applicable to "*any license in effect with respect to the export of defense articles or defense services*" of certain types "under section 38 of the Arms Export Control Act." Subsection (d)(2)(C) would have been superfluous if Congress thought "sales under the AECA" included the licensing of private exports under the same act.

Notifications to Congress. The provisions of section 3(d)(3) of the AECA concerning notification to Congress of consent to retransfers apply to certain defense articles or defense services, "*the export of which has been licensed or approved under section 38 of this Act* * * *" Similarly, the provisions of section 36(c) concerning notification of transactions apply to any "application by a person other than with regard to a sale under section 21 or section 22 of this Act) for a *license for the export* of * * *" certain other categories of defense articles or services. These provisions are in clear and deliberate contrast to other notification provisions of the AECA, which refer to sales under the Act but not to private exports licensed under the Act.

Harassment of persons in the U.S. Section 6 of the AECA, concerning countries engaged in harassment of persons in the US, states that "*no letters of offer may be issued*" to such countries, and then separately states that "*no export licenses may be issued under this Act*" with respect to such countries.

Countries supporting international terrorism. Section 40 of the AECA, which applies various sanctions to countries supporting international terrorism, also treats private transactions separately from sales under the AECA or other acts. Subsection (a)(1) prohibits "*exporting or otherwise providing (by sale, lease or loan, grant, or other means), directly or indirectly, any munitions item* * * * *under the authority of this Act, the Foreign Assistance Act of 1961, or any other law* * * *." Subsection (a)(4) separately prohibits "*providing any license or other approval under section 38 of this Act for any export or other transfer* * * * of any munitions item * * *." Clearly Congress treated its prohibition in subsection (a)(1) on sales under the authority of the AECA or any other law as not applying to the licensing of private exports, which had to be separately covered in subsection (a)(4).

Prohibitions on specific countries. Sections 725 and 726 of the International Security and Development Cooperation Act of 1981 imposed prohibitions on various transactions with *Argentina* and *Chile* until certain certifications were made. Each of these sections contains a prohibition on sales of defense articles and services under the Act, and a separate prohibition on the issuance of export licenses for private transactions. This is in conspicuous contrast to Section 728 of the same act (noted above), which contains only a prohibition on deliveries of defense articles and services, and therefore has not been applied to private transactions.

Likewise, section 586G of the Foreign Operations, Export Financing and Related Programs Appropriations Act, 1991 contains in subsection (a)(1) a prohibition on "*any sale with Iraq under the Arms Export Control Act*" and, in subsection (a)(2), a separate prohibition on the issuance of licenses for the export to *Iraq* of any Munitions List items. Similarly, section 620(x) of the FAA, which imposed restrictions on transactions with respect to *Turkey* until certain certifications relating to Cyprus were made, applied by its terms to "*all sales of defense articles and services (whether for cash or by credit, guaranty, or any other means)*" and separately to "*all licenses with respect to the transportation of arms, ammunitions, and implements of war* * * *."

4. *The legislative history of the Pressler Amendment confirms that it was meant to apply to U.S. Government sales and assistance, but not to licensing of arms exports pursuant to private sales.*

Although the Pressler Amendment was enacted in 1985, it originated in the previous year. The Senate Foreign Relations Committee (SFRC) reported out the Pressler language in April 1984. The SFRC Report (S. Rep. No. 98-400) referred repeatedly to the prospective termination of the U.S. assistance program for Pakistan (e.g., p. 19, 59), but did not refer to private arms sales to Pakistan. It expressed a specific preference for the Pressler language requiring the additional certification that the U.S. assistance program for the fiscal year in question would reduce significantly the risk that Pakistan would possess a nuclear explosive device, stressing the importance of the U.S. assistance program as an incentive for Pakistani restraint.

Further, the 1984 SFRC Report states (at p. 19) that "This amendment extends the current standards for terminating assistance from detonation to possession of a nuclear device." This was a reference to section 670 of the FAA, which applies by its terms to U.S. assistance, including credits and guarantees for FMS sales, but clearly does not apply to the licensing of arms exports pursuant to private sales. Thus the Committee's statement shows its intent to apply the sanctions of other nonproliferation sections to Pakistan if it possessed a nuclear explosive device, but not to expand the scope of the prohibition to encompass private sales. During floor debates on this question, the proponents of action against Pakistan stressed the importance of suspending U.S. assistance and of the pending FMS sale of F-

16s by the Government if the terms of the amendment were not met, but the licensing of private arms exports was not addressed.

No foreign assistance legislation was adopted in 1984, but in 1985 the Pressler Amendment was adopted as part of the 1985 foreign assistance legislation. The 1985 committee reports for both the Senate (S. Rep. No. 99-34) and the House (H. Rep. No. 99-39) were consistent with the description of the Amendment in the SFRC's 1984 report. The importance of the U.S. assistance program and FMS sales was stressed; but no mention was made of licensing of private sales.

The Senate report stated (at p. 14) the the Amendment "is directed to Pakistan because that country is the only aid recipient with a statutory exemption from the existing nuclear non-proliferation requirements contained in Section 669 of the Foreign Assistance Act." (President Reagan had previously waived section 669—which deals with unsafeguarded transfers of enrichment equipment and technology, and section 670—which deals with unsafeguarded transfers of reprocessing equipment and technology, with respect to Pakistan. These sections apply by their terms to U.S. assistance, including credits and guarantees for FMS sales, but clearly do not apply to the licensing of arms exports pursuant to private sales.) Similarly, the House report stated (at p. 99) that "Pakistan is the only country for which waivers of sections 669 and 670 of the Foreign Assistance Act are currently in force; hence its particular attention to Pakistan." Once again, this confirms that the intent was to apply to Pakistan other statutory prohibitions concerning nonproliferation if it possessed a nuclear explosive device, but not to extend the scope of those prohibitions to private transactions.

We are aware of nothing else in the brief legislative history of the Pressler Amendment that is inconsistent with these conclusions. In particular, we are aware of nothing that would indicate that Congress thought it was taking the unusual step of suspending private arms transactions, which it has elsewhere done only with specific language and a clear indication of Congressional intent.[1]

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, March 10, 1992.
To: Hon. Larry Pressler. Attention: Tom Hohenthaner.
From: American Law Division.
Subject: The Pressler Amendment and Private Arms Sales to Pakistan.

This memorandum is in response to your inquiry of February 26, 1992 requesting our comments regarding the position recently taken by the Department of State that the licensing of arms exports to Pakistan pursuant to private sale is not subject to the restrictions contained in the Pressler Amendment because the latter does not apply in these circumstances.

The Pressler Amendment or the provision of the International Security and Development Cooperation Act of 1985 offered by Senators Mathias, Pressler, and Boschwitz, Senate Report No. 99-34 (1985), page 14, is section 620E(e) of the Foreign Assistance Act (FAA), codified at 22 U.S.C.A. §2375(e). It provides:

"No assistance shall be furnished to Pakistan and no military equipment or technology shall be sold or transferred to Pakistan, *pursuant to the authorities contained in this chapter [Chapter 32—Foreign Assistance or any other Act*, unless the President shall have certified in writing to the Speaker of the House of Representatives and the chairman of the Committee on Foreign Relations of the Senate, during the fiscal year in which assistance is to be furnished or military equipment or technology is to be sold or transferred, that Pakistan does not possess a nuclear explosive device and that the proposed United States assistance program will reduce significantly the risk that Pakistan will possess a nuclear explosive device." (Emphasis supplied.)

In summary, the Pressler Amendment requires the President, as a condition for further assistance and sales or transfers of military equipment or technology, to certify that Pakistan does not possess a nuclear explosive device and that the proposed United States assistance will significantly reduce the risk of Pakistan possessing such a device. In reporting the amendment to the Senate, the Foreign Relations Committee seemed faced with a pair of unenviable choices, namely shutting down assistance and military sales to Pakistan in circumstances fraught with adverse consequences to the national security interests of both countries and continuing such assistance and sales and, in the view of some persons, impliedly rewarding Pakistan for its anti non-proliferation activities. The Committee report thus states:

". . . that continued U.S. assistance to the people of Pakistan is in the national security interests of both countries. The Committee is deeply concerned by the continued development of military capabilities in Pakistan's unsafeguarded nuclear program which jeopardizes future U.S. economic and military assistance.

"The amendment is directed to Pakistan because that country is the only aid recipient with a statutory exemption from the existing nuclear non-proliferation requirement contained in section 669 of the Foreign Assistance Act. The Committee is also deeply concerned about nuclear proliferation risks worldwide. Senate Report No. 99-34 at 14."

During a February 5, 1992 appearance before the Senate Foreign Relations Committee on another matter, Secretary of State James A. Baker III was essentially asked by Senator Larry Pressler to reconcile the requirements of the amendment bearing his name and allegations of "continuing . . . private commercial sales of certain military items to Pakistan. . . ." Secretary Baker answered that because of some initial uncertainty regarding the reach of the Pressler Amendment the Department gave it a broad interpretation, that is, interpreted it as "cut[ting] off all foreign assistance" to Pakistan. (In light of the State Department's subsequent position regarding the implications for the licensing of arms exports pursuant to private sales of the word "assistance", initial application of the Pressler Amendment in the across-the-broad manner indicated by the Secretary seems both interesting and revealing.)

Secretary Baker went on to say that the initial interpretation of the Pressler Amendment was revised following a "careful review" which concluded that one, it does not apply "to commercial sales or exports controlled by the Department of Commerce" and, two, "that as a legal matter it's the view of our lawyers that it does not apply to commercial arms sales or exports. And so we look at *munitions and spare parts* that are necessary to maintain the Pakistani military at current levels on a case-by-case basis." (Emphasis supplied)

Although the distinction between export sales controlled by the Department of State and those controlled by the Department of Commerce is a plausible one, the export of defense articles and defense services which are contained on the United States Munitions List and which to all appearances includes anything and everything in the way of munitions and spare parts worth having, "is regulated exclusively by the Department of State." 22 CFR §120.4. The vesting of exclusive jurisdiction over arms exports in the Department of State is mirrored in the Department of Commerce export administration regulations which list among "Exports which are not controlled by the Bureau of Export Administration", "[r]egulations administered by the Office of Munitions Control, U.S. Department of State. . . ." 15 CFR §770.10. Although it is true that the export of items not listed on the Munitions List "are generally under the regulatory jurisdiction of the Department of Commerce pursuant to the Export Administration Act . . . and the implementing Export Administration Regulations . . .", 22 CFR §120.4, the virtually all inclusive, if not exhaustive, nature of the items on the Munitions List, makes it difficult to appreciate what meaningful "munitions and spare parts" are regulated by the Commerce Department that justify the non-applicability of the Pressler Amendment suggested by Secretary Baker during his February 5, 1992 testimony.

Since that time, State Department lawyers have prepared a briefing paper which sets forth several *other* reasons for the conclusion that the Pressler Amendment does not bar the licensing of arms exports pursuant to private sales. These reasons include (1) that the language of the Pressler Amendment, conspicuously the terms "assistance" and "military equipment or technology . . . sold or transferred", confine its reach to the United States Government as distinguished from private parties where the former neither furnishes assistance nor sells or transfers military equipment or technology; (2) that the licensing of private sales has not been covered by laws that contain language along the lines of the Pressler Amendment; (3) that statutes applicable to private arms transactions have consistently done so in clear and unmistakable language; and (4) that the legislative history of the Pressler Amendment confirms that its reach only extends to United States Government sales and assistance, not to the licensing of arms exports pursuant to private sales.

Notwithstanding that neither the Pressler Amendment on its face nor circumstances surrounding its passage into law disposes definitively of the issue under discussion, the State Department's reasons for its non-application seems open to serious question. In line with Senator Pressler's February 5, 1992 remarks, we have heretofore assumed that the words "assistance" and "sales and transfers", but most especially "transfers" which is the generic almost universally used to mean arms transactions in the lump, covered the range of activity culminating in the export of arms from the United States, however financed and by whomsoever conducted.

The Pressler Amendment by definition involves arms transfers pursuant to the FAA and of necessity involves those pursuant to the Arms Export Control Act (AECA), 22 U.S.C.A. §2751 *et seq.* It is literally a part of the former, to wit: "[n]o assistance shall be furnished pursuant to the authorities contained in this chapter [Chapter 32-Foreign Assistance] . . . ." The AECA, the basic authority regulating virtually all other transfers of conventional arms, is implicated for that reason and the language "[n]o assistance shall be furnished . . . and no military equipment or technology shall be sold or transferred . . . pursuant to the authorities contained in . . . any other Act."

---

[1] In fact, the Amendment technically does not even establish a comprehensive ban on FMS sales of "defense articles and services", which is the usual language adopted in such cases. The language of the Amendment covers only the more narrow class of "military equipment or technology", which would technically not cover non-military items sold under the FMS program for military use, or training in military techniques not involving the transfer of technical data.

As indicated by the briefing paper, the words "assistance" and sale in the context of these two Acts mean arms transfers wholly or partly at United States expense or with United States financing and sold by or through the United States Government, respectively. However when it comes to the phrase in the Pressler Amendment relating to the transfer of military equipment or technology pursuant to the authorities contained in the FAA and in any other laws, express and implied, the briefing paper excludes arms exports pursuant to private sale on the narrow ground that these exports are not authorized by any law. The latter seems to be a crabbed view of word authorities as it relates to the AECA since its language and implementing regulations (the International Traffic in Arms Regulations or ITAR) apply to *all* arms transfers. Stated differently, all arms exports have to be conducted in accord with the rules laid out in the AECA and ITAR. The latter, for example, states that [s]ection 38 of the AECA "authorizes the President to control the export . . . of defense articles and services." 22 CFR §129.10. "Export" for this purpose means, among other things, "(a) *Sending or taking* defense articles out of the United States in any manner; (b) *Transferring* registration or control to a foreign person of any aircraft, vessel, or satellite on the United States Munitions List, whether in the United States or abroad; or (c) *Sending or taking* technical data outside of the United States in any manner except by mere travel outside of the United States by a person whose personal knowledge includes technical data; . . . ." (Emphasis supplied).

It seems clear that jurisdictional linchpin for application of AECA is the export of defense articles and defense services without qualification, not simply the export of defense articles and defense services furnished or sold or transferred by the United States Government. There is no apparent warrant in the AECA or ITAR for limiting the word "transfers" to exclude arms exports pursuant to private sales and the assertion seems to be at adds with the ITAR provision defining the word "export" which elsewhere states rather clearly that sales are but one of various forms of transfers. "Most of the requirements of this subchapter relate only to exports, as defined above. However, for certain limited purposes, the controls of this subchapter apply to *sales and other transfers of defense articles and defense services . . . .*" *Ibid.* (Emphasis supplied). Accordingly, the implicit distinction undertaken by the briefing paper between authorized and regulated by the AECA, for purposes of circumscribing the reach of arms transfers pursuant to the AECA, seems somewhat strained. This and other comments regarding alleged language shortcomings of the Pressler Amendment seem to disregard one of the cardinal rules of statutory construction which is to carry out the intent of Congress. In this connection, Justice Frankfurter observed: "If Congress chooses by appropriate means for expressing its purposes to use language with an unlikely and even odd meaning, it is not for this Court to frustrate its purpose. The Court's task is to construe not English but congressional English. Our problem is not what do ordinary English words mean, but what did Congress mean them to mean." Dissenting, *Commissioner v. Acker*, 361 U.S. 87, 94 (1959). Would it have suited the Congressional purpose in indicating to Pakistan that there is a price to be paid for going its own nuclear way and then leave the arms export gap asserted by the briefing paper's authors? The Pressler Amendment's use of the word "transfer" in the context of arms exports seems neither "unlikely" nor "odd" but in keeping with the general practice that gives it the meaning equivalent to transaction.

The briefing paper's second reason for concluding that arms exports pursuant to private sales are not covered by the Pressler Amendment is that its language is "comparable" to that in other laws which it is asserted do not apply to private arms exports. We note in passing that none of the cited laws contain language very similar, much less identical, to the Pressler Amendment's language; comparable seems a bit too elastic and elusive when precision and probative value are the qualities being sought. See and compare "[n]o assistance shall be furnished to . . . and no military equipment or technology shall be sold or transferred . . . pursuant to the authorities contained in this Act or any other Act . . . ." in the Pressler Amendment *with* the definition of "United States assistance" as "(B) sales, credits, and guaranties under the Arms Export Control Act . . ." in section 481 of the FAA, 22 U.S.C.A. §2291(i)(4)(B), *with* using "defense articles and defense services furnished under this chapter [Chapter 39-Arms Export Control], or any predecessor Act . . ." in section 3(c) of the AECA, 22 U.S.C.A. §2753(c)(1)(a), *with* "any letter of offer to sell any defense articles or services under this chapter [Chapter 39-Arms Export Control]" in section 36(b) of the AECA, 22 U.S.C.A. §2776(b), *with* "suspend all deliveries of defense articles, defense services, and design and construction services to El Salvador which were sold under the Arms Export Control Act after the date of enactment of this Act" in section 728(c) of the International Security and Development Cooperation Act of 1981, 22 U.S.C.A. §2370 note, *with* "before issuing any letter of offer to sell any defense article or defense service to Qatar . . ." in section 566(d), Foreign Operations Appropriations Act, 1989, Public law 100-461, 102 Stat. 2268, 2268-43 (1988), *and with* the definition of "United States assistance" as "(2) sales, credits, and guarantees under the Arms Export Control Act . . ." in section 561, Foreign Operations Appropriations Act, 1990, Public Law 101-167, 103 Stat. 1195, 1240 (1989).

The briefing paper implies but does not show that the implied exclusion of private transactions claimed for these provisions conforms to the congressional intent or that their administration by the Department of State to exclude private transactions came to the actual as distinguished from constructive attention of Congress. Indeed, in the last mentioned example relating to arms exports to Panama, the briefing paper acknowledges that the Department did not issue licenses for private exports to Panama although by its own account the Department was at liberty to do so.

In this latter connection, the briefing paper implies but never expressly invokes the canon of statutory construction that congressional inaction may be construed as approving administrative interpretation even if unaccompanied by positive act such as reenactment of the law. The most important factor in the application of the canon seems to be congressional awareness of the interpretation when it revisits the same or related provisions. See, e.g., *Zuber v. Allen*, 396 U.S. 168 (1969), *Bob Jones University v. United States*, 461 U.S. 574 (1983). In the second of these cases the Court in finding acquiescence by Congress in administrative interpretation noted Congress' "prolonged and acute awareness of . . . [the controversial] issue." 461 U.S. at 601. The reactions of Senator Pressler and other members to Secretary Baker's February 5, 1992 testimony regarding the reach of the Pressler Amendment seems to fall somewhat short of the described elements.

The briefing paper's third reason for concluding that arms exports pursuant to private sales are not covered by the Pressler Amendment is that when Congress desires to reach them it consistently uses language making clear that intention. The dozen or more statutory examples cited in support of the claim show little consistency, much less uniformity, in language used to achieve the described result. See and compare the language of the Pressler Amendment *with* "sales of defense articles or services, extensions of credits (including participations in credits), and guaranties of loans under the Arms Export Control Act . . ." in section 502B(d)(2a)(B) of the FAA, 22 U.S.C.A. §2304, *with* "any license in effect with respect to the export of defense articles or defense services to or for the armed forces, police, intelligence, or other internal security forces of a foreign country under section 38 of the Arms Export Control Act . . ." in section 502B(d)(2)(C) of the FAA, 22 U.S.C.A. §2304, *with* "the export of which has been licensed or approved under section 38 of this Act . . ." in section 3(d)(3) of the AECA, 22 U.S.C.A. §2753(d)(3), *with* "[i]n the case of an application by a person (other than with regard to a sale under section 21 and 22 of this Act) for a license for the export of any major defense equipment sold under a contract . . ." in section 36(c)(1) of the AECA, 22 U.S.C.A. §2776(c)(1), *with* "[n]o letters of offer may be issued, no credits or guarantees may be extended, and no export licenses may be issued under this Act . . ." in section 6 of the AECA, 22 U.S.C.A. §2756, *with* "[e]xporting or otherwise providing (by sale, lease or loan, or other means), directly or indirectly, an munitions item . . ." in section 40(a)(1) of the AECA, 22 U.S.C.A. §2780(a)(1), *with* "[p]roviding any license or other approval under section 38 of this Act *for any export or other transfer (including by means of a technical assistance agreement, manufacturing licensing agreement, or coproduction agreement)* of any munitions item . . ." in section 40(a)(4) of the AECA, 22 U.S.C.A. §2780(a)(4), *with* "credits . . . and loans . . . guaranteed with respect to Argentina under the Arms Export Control Act, . . . and export licenses may be issued to or for the Government of Argentina under section 38 of the Arms Export Control Act . . ." in section 725 of the International Security and Development Cooperation Act of 1981, Public Law 97-113, 95 Stat. 1519 (1981), *with* "no sale of defense articles or services may be made under the Arms Export Control Act to Chile . . . no export licenses may be issued under section 38 of the Arms Export Control Act to or for the Government of Chile . . ." in section 726 of the International Security and Development Cooperation Act of 1981, *ibid.*, *with* "[t]he United States Government shall not enter into any sale with Iraq under the Arms Export Control Act . . . [l]icenses shall not be issued for the export to Iraq of any time on the United States Munitions List" in section 586G, Iraq Sanctions Act of 1990, Public Law 101-513, 104 Stat. 1979 (1990), *and with* "[a]ll military assistance, all sales of defense articles and services (whether for cash or by credit, guaranty, or any other means), and all licenses with respect to the transportation of arms, ammunitions, and implements of war (including technical data relating thereto) to the Government of Turkey . . ." in section 620(x) of the FAA, 22 U.S.C.A. § 2370(x). (Emphasis supplied.)

Whether the foregoing statutory sources support the briefing paper's contention that Congress has been consistent in reaching all arms exports, including private transactions, when that is the congressional goal, is a matter of conjecture. To get beyond conjecture and prove or disprove the claimed congressional consistency calls for an analysis of all relevant (not simply the listed) laws and their legislative histories, an enormous undertaking which ultimately might prove inconclusive insofar as a definitive resolution of the issue being considered is concerned. Assuming for the sake of argument the basic thrust of the briefing paper's conclusion in regard to its third point, one thing appears to be beyond controversy: Congress has not been consistent, much less uniform, in the manner or language it has used to accomplish unabridged coverage. Not only has Congress used different language in alleged pursuit of that goal, in the instance italicized in the immediately foregoing recital of laws, Congress has indicated that it understands the word "transfer" to cover the universe of arms exports, including licensed exports. As noted in connection with section 40(a)(4) of the AECA, 22 U.S.C.A. § 2780(a)(4), the law states, in pertinent part "*[p]roviding any license* or other approval under section 38 of this Act for any export *or other transfer* . . . of any munitions item to a country . . . ." In brief, just as there are many roads leading to Rome, there appear to be many ways of covering the arms export waterfront including, among others, the Pressler Amendment's use of the words "assistance", "sales", and "transfers."

The briefing paper's final comments regarding the supportive quality of the Pressler Amendment's legislative history do not require extended comment; in the main these consist of several general statements at best directed at the act of furnishing assistance to Pakistan, and generalized conclusions inferred from silence on the subjects of licenses, sales, and transfers. As indicated at the outset, the record surrounding the adoption of the Pressler Amendment seems inconclusive insofar as the issue under discussion is concerned. More persuasive, or so it would appear, are the noted instances of statutory and regulatory language that are in accord with the apparent common, every day practice of using the term "arms transfers" to describe all arms exports. Furthermore, the view of the Pressler Amendment espoused by the briefing paper does not advance the congressional non-proliferation purpose for the amendment but creates a glaring opening by which that purpose may be frustrated.

RAYMOND J. CELADA,
Senior Specialist in
American Public Law.

[From the Los Angeles Times, Mar. 6, 1992]

DESPITE BAN, UNITED STATES ARMS ARE SOLD TO PAKISTAN

(By Murray Waas and Douglas Frantz)

Despite a ban on military sales to Pakistan by the U.S. government, the Bush Administration has quietly permitted the Pakistani armed forces to buy American-made arms from commercial firms for the last year and a half, according to classified documents and Administration officials.

Among the military items licensed for sale to Pakistan are spare parts for American-made F-16 fighter planes, which form the nucleus of Islamabad's air force, Administration officials confirmed. The volume of sales could not be determined. But officials said the equipment is intended to help Pakistan maintain its current arsenal.

The Administration permitted the sales despite a 1985 federal law, which says that "no military equipment or technology shall be sold or transferred to Pakistan" unless the President certifies to Congress that "Pakistan does not possess a nuclear explosive device."

The ban is part of an effort by Congress to curb the spread of nuclear weapons and to punish nations that actively support such development programs. Pakistan, which has admitted possessing the capability to build a nuclear bomb, is one of a handful of countries that has refused to sign the international Nuclear Non-Proliferation Treaty.

In Senate testimony in January, CIA Director Robert M. Gates described Pakistan's nuclear weapons program and its arms race with India as serious threats to peace and security in the region. Gates acknowledged that intelligence reports have indicated Pakistan is trying to equip its American-supplied F-16 fighters to deliver nuclear weapons.

In October, 1990, the Administration was unable to certify Pakistan's compliance with the law, and the arms ban passed by Congress took effect, freezing $570 million in U.S. military aid. Although the Administration cut off direct country-to-country arms sales at the time, it decided to allow continued private, commercial arms sales to Pakistan, according to documents and interviews.

The sales illustrate how the Administration has used private-sector transactions, looser regulations governing "dual-use" equipment and other methods to get sensitive technology to nations supposedly on embargo lists. Before the Persian Gulf War fractured U.S.-Iraqi relations, Iraq obtained an assortment of valuable U.S. defense equipment through private transactions and export loopholes.

Key members of Congress said they did not learn of the commercial sales to Pakistan until last month. Some said that they believe the sales violate the law.

The first public acknowledgment of the policy came Feb. 5 when Secretary of State James A. Baker III described it to the Foreign Relations Committee in response to a question from Sen. Larry Pressler (R-S.D.). Pressler sponsored the restrictive amendment in 1985 and said that he had heard rumors of commercial arms sales to Pakistan.

"We have carefully reviewed the amendment, we've reviewed the legislative history and as a legal matter, we do not believe it applies to commercial sales or exports controlled by the Department of Commerce," Baker testified. "And so we look at munitions and spare parts that are necessary to maintain the Pakistani military at current levels on a case-by-case basis. Commercial sales are limited, and in our view none are being approved that would contravene either the letter or spirit of the law."

Taking issue with Baker, Pressler said: "Now the amendment . . . did include the language 'no military equipment or technology shall be sold or transferred to Pakistan.' . . . That's fairly hard to argue with."

Baker responded that State Department lawyers concluded that the law does not restrict commercial arms sales to Pakistan.

Several members of Congress who were involved in the fight for passage of the Pressler amendment in August, 1985, as well as others who sit on committees that oversee U.S. foreign policy in South Asia, said they believe that the Administration policy may violate the law. They also said that the sales were kept secret from them until recently.

Sen. John Glenn (D-Ohio), chairman of the Senate Government Affairs Committee, said in an interview that he considers the Administration's actions to be potential violations. He also said he was unaware that the sales had been allowed since October, 1990, until told of them by a reporter.

"Their efforts to bypass and thwart the law of the land are now very clear," said Glenn. "They knew what the intent of the law was. The legislative history is very clear. And it should be their intent or purpose to abide by what we all knew was the intent of the law. It (the 1985 amendment) was signed by the President into law. And then his Administration took steps to not comply with it."

Peter Galbraith, a senior staff member of the Senate Foreign Relations Committee, said the Administration's policy "is a direct violation of both the spirit and letter of the law. . . . The law is very clear. It prohibits all arms transactions of any type to Pakistan unless the President certifies Pakistan does not possess a nuclear weapon."

An Administration official said the decision to allow commercial military sales to Pakistan was first made Oct. 1, 1990, when the President refused to certify that Pakistan was not trying to develop an atomic weapon. Several members of Congress said that, when Baker revealed the policy last month, they thought it had been implemented only recently and did not suspect that the commercial sales had been permitted for nearly 18 months.

An Administration official said Pakistan is allowed to buy spare parts and other items on a munitions list to maintain its military. A classified document describing the policy sets out similar guidelines. The official, who asked that his name be withheld, said that a ban on all sales would have severely damaged U.S.-Pakistani relations.

Leonard Spector, senior associate of the Carnegie Endowment for International Peace, said that an outright ban would have put severe pressure on the Pakistanis, posing the prospect of their "losing their ability to fly their F-16s from want of spare parts. Clearly the Bush Administration did not see the need to continue that type of pressure."

According to the Administration official, selected members of congressional staffs were told about the private sales on an informal basis, if they inquired. The official declined to name the staffers who were told of the policy, saying he wanted to protect their privacy.

On Feb. 7, two days after Baker's Senate testimony, Pakistani Foreign Secretary Shahryar Khan acknowledged publicly for the first time that his country had the capacity to build an atomic bomb. Khan told a gathering at the United Nations: "There was a capability in 1989 when the present government came to power and that means we could have moved forward in an unwise position. But we didn't. Instead we froze the program."

Despite its ability to do so, Khan asserted that Pakistan would not take the final steps to build or deploy nuclear weapons. He said that the freeze is part of an effort to obtain new American aid and also to lead Congress to do away with the Pressler amendment restrictions.

During the same trip, Khan also stressed that his government would not "reverse" its nuclear capability unless the United States obtains commitments from India to do the same. The two nations have fought three wars since they gained independence in 1947 and occasionally exchange artillery fire.

Although it was widely known for years that Pakistan was engaging in a massive, covert effort to build atomic weapons, the Reagan and Bush administrations were reluctant to take strict measures against Pakistan because of its assistance to U.S. efforts to arm the Afghan rebels, who were fighting Soviet troops in Afghanistan.

Justification for the leniency began to dissolve after Soviet troops withdrew from Afghanistan in 1989.

[From the Washington Post, Mar. 7, 1992]

SHIPMENTS TO PAKISTAN QUESTIONED; COMMERCIAL SALES OF WAR MATERIEL MAY BREAK U.S. LAW

(By Steve Coll and David Hoffman)

A senior Bush administration official said today that the United States issued licenses for more than $100 million in commercial sales of military equipment to Pakistan in 1990 and 1991, actions that some in Congress charge may violate a law blocking aid to Pakistan as long as that country continues its nuclear weapons program.

Congressional officials said they learned of the sales this year when the State Department's own inspector general's office inquired about them as part of an investigation into whether the sales were illegal.

"Many in the State Department are aware that commercial sales to Pakistan do violate the law," said Sen. Claiborne Pell (D-R.I.), chairman of the Senate Foreign Relations Committee. "The State Department's own investigators believed that commercial sales violate the plain meaning" of the law.

The Bush administration stopped most military and economic aid to Pakistan in October 1990 under the provisions of the Pressler Amendment, which states that "no assistance shall be furnished to Pakistan and no military equipment or technology shall be sold or transferred to Pakistan" as long as it possesses a nuclear bomb or a bomb's essential components.

The aid cutoff has crimped Pakistan's influential military, depriving it among other things of dozens of F-16 fighter jets on order, and has sent Pakistani generals scrambling to locate spare parts for their jets, helicopters, tanks and other U.S.-supplied equipment.

But administration officials said that after announcing the aid cutoff, the State Department assisted the Pakistani military by continuing to grant licenses for commercial sales of military equipment, such as spare parts, because the department's lawyers interpret the Pressler ban as applying only to government-financed aid.

A senior administration official said that in fiscal 1991, which began on Oct. 1, 1990, the department authorized "not much over" $100 million in such commercial sales, an amount somewhat below their authorizations in previous years when the aid ban did not apply.

State Department officials defended their decision to authorize the commercial military sales, saying that such transactions had been permitted in similar circumstances in the past, they they were necessary to maintain stable relations with a longtime U.S. ally that has a large Muslim population, and that they had not significantly enhanced Pakistani military capabilities.

"The department has issued licenses for commercial military exports based on a case-by-case review and only for items to support equipment already in the Pakistani inventory," said State Department spokesman Margaret Tutwiler. "The department has not licensed the export of the new military equipment, new technology or upgrades to equipment in the Pakistani inventory."

Some congressional officials involved in drafting and monitoring the Pressler Amendment expressed anger over the administration's actions and said they intended to hold hearings to determine whether the administration acted legally.

Last week, following inquiries about the issue from Congress, the State Department sent an unsigned memorandum defending its position to Senator Larry Pressler (R-S.D.), the author of the Pressler Amendment. The memo cited legal cases supporting the department's interpretation of the amendment and said the administration had complied with all of the requirements of U.S. law while authorizing the commercial sales.

Pressler today described the State Department memo as a "political science paper" that was "unacceptable to me." He said he believes the law he sponsored "bans the sale of private arms. On the face of it the language is clear."

The administration has so far declined to disclose exactly what items it authorized for sale to Pakistan. Some congressional officials said that if the administration approved large-scale shipments of spare parts for top-of-the-line Pakistani aircraft such as the F-16 and the Cobra attack helicopter, then it clearly violated the spirit of the Pressler Amendment. The law, they said, was intended to ensure that the United States would not support Pakistan's military and economy as long as the country pursued a nuclear weapons capability.

Not all of the items licensed for sale by the State Department in fiscal 1991 have been shipped to Pakistan because licenses granted by the department are valid for up to three years, officials said. In its annual budget request for military aid to foreign countries, the department told Congress earlier this year that $22.7 million in commercial military exports had been delivered to Pakistan in fiscal 1991.

In that same request, the department estimated that as much as $1.2 billion in commercial military exports might be delivered to Pakistan in fiscal 1992 and 1993. But some congressional officials said they believed that the figure was highly inflated because of a law that requires the department to estimate each year how much military equipment a given country might need in the most extreme circumstances. In the past, these congressional sources said, actual exports have been 20 percent or less of the estimates.

[From the Los Angeles Times, Mar. 7, 1992]

UNITED STATES KNEW ARMS SALES BROKE LAW, PELL CHARGES

(By Murray Waas and Douglas Frantz)

In unusually strong language, the chairman of the Senate Foreign Relations Committee charged Friday that the State Department has knowingly violated federal law by permitting commercial sales of arms to Pakistan.

"Many in the State Department are aware that commercial sales to Pakistan do violate the law," said Sen. Claiborne Pell (D-R.I.), a co-sponsor of the 1985 law that bars sales of military equipment to Pakistan while that nation is developing nuclear weapons.

Pell was responding to a story in the Times on Friday. The report disclosed that the Bush Administration had permitted Pakistan to buy spare parts for American-supplied F-16 fighter planes and other arms from U.S. firms vital to keeping its military operating.

Sources said the United States had issued munitions licenses for about $100 million in military equipment to Pakistan in 1990 and 1991.

According to Pell, the Foreign Relations Committee learned only recently of the commercial sales policy. The disclosure came after a department employee alerted the State Department inspector general's office and the office opened an investigation, Pell said.

So far, Pell and other angry lawmakers have not indicated what they plan to do in response to disclosure of the sales. On Thursday, another powerful committee chairman, Sen. John Glenn (D-Ohio), said he, too, believes that the sales violate the law. A Foreign Relations Committee staff member said the panel will demand strict enforcement of the law.

Margaret Tutwiler, chief spokeswoman for Secretary of State James A. Baker III, told reporters Friday that the arms sales to Pakistan do not break the law because they are conducted by commercial firms. She repeated Baker's contention that the law covers only direct sales by the U.S. government.

But Pell and other lawmakers challenged that interpretation of the law, called the Pressler amendment for its chief sponsor, Sen. Larry Pressler (R-S.D.). "To permit Pakistan to purchase spare parts for its existing American-supplied arsenal and to make commercial purchases in the U.S. defeats totally the non-proliferation goals of the Pressler amendment and would appear to be a blatant violation of the law," Pell said.

In testimony before Pell's committee last month, Baker acknowledged that commercial arms sales are being allowed. He asserted, however, that State Department lawyers had determined that they do not violate the amendment.

But Pell said other State Department officials believe the sales are illegal. "The committee, which was never informed of the commercial sales, learned of them from the State Department's own inspector general's office * * *," he said. "The State Department's own investigators believed that commercial sales violate the plain meaning of the Pressler amendment."

The law, passed in 1985, says that "no military equipment or technology shall be sold or transferred to Pakistan" unless the President certifies to Congress that "Pakistan does not possess a nuclear explosive device." It was intended to slow nuclear proliferation.

In October, 1990, President Bush told Congress he was unable to certify that Pakistan was not developing a nuclear weapon and the arms ban went into effect. But the State Department continued to permit U.S. firms to sell arms and technology to Pakistan so it could maintain its existing arsenal.

Pell, who sponsored a predecessor to the Pressler amendment, said: "The broad language of both amendments was specifically designed to cover commercial sales. The policy reason for the Pressler amendment was to make Pakistan choose between a sophisticated conventional military capability and a nuclear capability."

[From the New York Times, Mar. 8, 1992]

SENATORS SEEK FULL CUTOFF OF ARMS TO PAKISTAN

(By Steven Greenhouse)

WASHINGTON, March 7.—Senators of both parties said today that they were pressing the Bush Administration to stop all private arms sales to the Pakistani Government, arguing that the practice violates a law barring American military aid there because of Pakistan's nuclear weapons program.

Administration officials assert that the cutoff applies only to government-sponsored arms sales and not so-called commercial sales by companies that are licensed by the State Department.

But Senator Larry Pressler, Republican of South Dakota, who sponsored the arms cutoff, said today that the legislation "was intended to turn off private arms sales to Pakistan as well."

Senator John Glenn, Democrat of Ohio and chairman of the Government Affairs Committee, said: "I think it flies in the face of everything we try to do with regard to Pakistan. They know the intent of that law just as well as anybody else."

Aid has been suspended since the autumn of 1990 under the arms cutoff law, which says that if the Administration cannot certify to Congress that Pakistan's nuclear program is for peaceful uses, all military assistance must be halted and no new economic help sent beyond what is on the way.

The arms sales were publicized in Senate hearings early last month. Soon after, in a gesture to Washington, a ranking Pakistani foreign affairs official, Shahrya M. Khan acknowledged that his country had the ability to make nuclear weapons. This confirmed what American intelligence had already indicated.

INSISTS ON LEGAL OPINION

Mr. Pressler said the State Department had not complied with his request for a memorandum explaining why the commercial arms sales are legal under the cutoff legislation, which is known as the Pressler Amendment.

"If they can't produce a legal opinion signed by their legal adviser, then they can't do it and they shouldn't be doing it," he said in a telephone interview.

The State Department spokeswoman, Margaret D. Tutwiler, said at a briefing Friday that what she called commercial exports of spare parts and maintenance items were continuing.

The Washington Post said in an article today that an Administration official acknowledged that the United States had issued licenses for more than $100 million in military-equipment sales to Pakistan in 1990 and 1991. The article followed a report on the sales Friday in The Los Angeles Times. The arms sales reportedly include spare parts for Pakistan's F–16 fighters and other American-made arms.

The Pressler Amendment, adopted in 1985, says that as long as the Islamabad Government has a nuclear bomb or a bomb's main components, "no assistance shall be furnished to Pakistan and no military equipment or technology shall be sold or transferred to Pakistan."

* * * At that time, the United States was willing to take a tougher stance toward Pakistan because Soviet troops had left Afghanistan and Pakistan's aid to the rebels fighting the Soviet-backed Afghan Government had become less important.

RIVALS AT INGRATIATION

The Pressler Amendment leaves Islamabad in a difficult situation because of military tension with India and because the two old adversaries are vying to be friends of Washington.

Senator Claiborne Pell, Democrat of Rhode Island and chairman of the Foreign Relations Committee, said in an interview today that permitting the sale "certainly goes against the spirit of the Pressler Amendment." He added that "if the majority of the Congress is as concerned as I am, some strong actions might be taken."

Senator Pressler said he had asked Secretary Baker in the hearings last month to provide him with the legal basis for the commercial sales. He said that the State Department gave him a document on Friday that he considered inadequate. "It just makes some arguments," he said. "No one signed it. What we're looking for is something signed by a legal adviser, stating the legal authority for what they're doing."

Miss Tutwiler said the department believed that commercial sales were not covered by the amendment.

Senator Glenn said the State Department's position provided scant incentive for developing nations to abide by the Nuclear Nonproliferation Treaty, which Pakistan has refused to sign.

"They play little word games, but while they're doing that, this nuclear proliferation goes on with no penalty," Mr. Glenn said today. "Nations will ask why should they stay aboard with the nonproliferation treaty when nations that are transgressors in building nuclear weapons get favored treatment."

[From the Chicago Sun-Times, Mar. 8, 1992]

SALES TO PAKISTAN SEEN SKIRTING LAW

(By Steve Coll and David Hoffman)

WASHINGTON.—A senior Bush administration official said Friday the United States issued licenses for more than $100 million in commercial sales of military equipment to Pakistan in 1990 and 1991, actions that some in Congress charge may violate a law blocking aid to Pakistan, a country that maintains a nuclear weapons program.

Congressional officials said they learned of the sales this year when the State Department's own inspector general's office inquired about them as part of an investigation into whether the sales were illegal.

"Many in the State Department are aware that commercial sales to Pakistan do violate the law," said Sen. Claiborne Pell (D–R.I.), chairman of the Senate Foreign Relations Committee.

The Bush administration stopped most military and economic aid to Pakistan in October, 1990, under the provisions of the Pressler Amendment, which bans assistance of the transfer of equipment and technology to Pakistan as long as it possesses a nuclear bomb or a bomb's essential components.

The aid cutoff has crimped Pakistan's military, depriving it among other things of dozens of F–16 fighter jets on order, and has sent Pakistani generals scrambling to locate spare parts for U.S.-supplied equipment.

But administration officials said, after announcing the aid cutoff, the State Department assisted the Pakistani military by continuing to grant licenses for commercial sales of military equipment, such as spare parts, because the department's lawyers interpret the Pressler ban as applying to government-financed aid.

A senior administration official said that, in fiscal 1991, which began Oct. 1, 1990, the department authorized "not much over" $100 million in commercial sales, an amount somewhat below their authorizations in previous years when the aid ban did not apply.

State Department officials defended their decision to authorize the commercial military sales, saying that such transactions had been permitted in similar circumstances in the past, that they were necessary to maintain stable relations with a longtime U.S. ally that has a large Muslim population, and that they had not significantly enhanced Pakistani military capabilities.

Some congressional officials involved in drafting and monitoring the Pressler Amendment expressed anger over the administration's actions and said they intended to hold hearings to determine whether the administration acted legally.

Last week, following inquiries about the issue from Congress, the State Department sent an unsigned memorandum defending its position to Sen. Larry Pressler (R–S.D.), the author of the Pressler Amendment. The memo cited legal cases supporting that interpretation of the amendment and said the administration had complied with U.S. law.

Pressler described the memo as a "political science paper" that was "unacceptable to me." He said he believes the law he sponsored "bans the sale of private arms."

The administration has so far declined to disclose exactly what items it authorized for sale to Pakistan. Some congressional officials said that if the administration approved large-scale shipments of spare parts for top-line Pakistani aircraft such as the F–16 and the Cobra attack helicopter, it clearly violated the spirit of the Pressler Amendment.

Not all of the items licensed for sale in fiscal 1991 have been shipped to Pakistan, officials said. The department told Congress earlier this year that $22.7 million in commercial military exports had been delivered to Pakistan.

[From the Orange County Register, Mar. 8, 1992]

TOTAL ARMS CUTOFF TO PAKISTAN SOUGHT

Senators of both parties said Saturday that they were pressing the Bush administration to stop all private arms sales to the Pakistani government, arguing that the practice violates a law barring U.S. military aid there because of Pakistan's nuclear weapons program.

Administration officials assert that the cutoff applies only to government-sponsored arms sales and not so-called commercial sales by companies that are licensed by the State Department.

But Senator Larry Pressler, R-SD, who sponsored the arms cutoff, said Saturday that the legislation "was intended to turn off private arms sales to Pakistan as well."

Senator John Glenn, D-Ohio, chairman of the Government Affairs Committee, said: "I think it flies in the face of everything we try to do with regard to Pakistan." They know the intent of that law just as well as anybody else."

Aid has been suspended since fall 1990 under the arms cutoff law, which says that if the administration cannot certify to Congress that Pakistan's nuclear program is for peaceful uses, all military assistance must be halted and no new economic help sent beyond what is on the way.

The arms sales were publicized in Senate hearings early last month. Soon after, in a gesture to Washington, a ranking Pakistani foreign affairs official, Shahrya M. Khan acknowledged that his country had the ability to make nuclear weapons. This confirmed what US intelligence had already indicated.

Pressler said the State Department had not complied with his request for a memorandum explaining why the commercial arms sales are legal under the cutoff legislation, which is known as the Pressler amendment.

"If they can't produce a legal opinion signed by their legal adviser, then they can't do it and they shouldn't be doing it," he said.

State Department spokesman Margaret D. Tutwiler said at a briefing Friday that what she called commercial exports of spare parts and maintenance items were continuing.

The Washington Post said in an article Saturday that an administration official acknowledged that the United States had issued licenses for more than $100 million in military-equipment sales to Pakistan in 1990 and 1991. The article came after a report on the sales on Friday in the Los Angeles Times. The arms sales reportedly include spare parts for Pakistan's F-16 fighters and other US-made arms.

The Pressler amendment, adopted in 1985, says that as long as the Islamabad government has a nuclear bomb or a bomb's main components, "No assistance shall be furnished to Pakistan and no military equipment or technology shall be sold or transferred to Pakistan."

In October 1990, the Bush administration for the first time refused to certify that Pakistan did not have a nuclear bomb. At that time, the United States was willing to take a tougher stance toward Pakistan because Soviet troops had left Afghanistan and Pakistan's aid to the rebels fighting the Soviet-backed Afghan government had become less important.

[From the Austin American-Statesman, Mar. 8, 1992]

SENATORS PUSH WHITE HOUSE TO HALT PRIVATE WEAPONS SALES TO PAKISTAN

WASHINGTON.—Senators of both major parties said on Saturday that they were pressing the Bush administration to stop all private arms sales to the Pakistani government, arguing that the practice violates a law barring American military aid there because of Pakistan's nuclear weapons program.

Administration officials assert that the cutoff applies only to government-sponsored arms sales, not so-called commercial sales. Such arms sales were publicized in Senate hearings early last month.

But Senator Larry Pressler, R-S.D., who sponsored the arms cutoff legislation, said Saturday that the law "was intended to turn off private arms sales to Pakistan as well."

Senator John Glenn, D-Ohio, chairman of the Government Affairs Committee, said: "I think it flies in the face of everything we try to do with regard to Pakistan. They know the intent of that law just as well as anybody else."

[From the Houston Chronicle, Mar. 8, 1992]

MILITARY SHIPMENTS TO PAKISTAN RAISING QUESTIONS IN CONGRESS

(By Steve Coll and David Hoffman)

WASHINGTON.—A senior Bush administration official has confirmed that the United States issued licenses for more than $100 million in commercial sales of military equipment to Pakistan in 1990 and 1991, actions that some in Congress charge may violate a law blocking aid to Pakistan as long as that country continues its nuclear weapons program.

Congressional officials said they learned of the sales this year when the State Department's own inspector general's office inquired about them as part of an investigation into whether the sales were illegal.

"Many in the State Department are aware that commercial sales to Pakistan do violate the law," said Senator Claiborne Pell, D-R.I., chairman of the Senate Foreign Relations Committee. "The State Department's own investigators believed that commercial sales violate the plain meaning" of the law.

The Bush administration stopped most military and economic aid to Pakistan in October 1990 under the provisions of the Pressler Amendment, which states that "no assistance shall be furnished to Pakistan and no military equipment or technology shall be sold or transferred to Pakistan" as long as it possesses a nuclear bomb or a bomb's essential components.

The aid cutoff has crimped Pakistan's influential military, depriving it among other things of dozens of F-16 fighter jets on order, and has set Pakistani generals scrambling to locate spare parts for their jets, helicopters, tanks and other U.S.-supplied equipment.

But administration officials said that after announcing the aid cutoff, the State Department assisted the Pakistani military by continuing to grant licenses for commercial sales of military equipment, such as spare parts, because the department's lawyers interpret the Pressler ban as applying only to government-financed aid.

A senior administration official said that in fiscal 1991, which began on Oct. 1, 1990, the department authorized "not much over" $100 million in such commercial sales, an amount somewhat below their authorizations in previous years when the aid ban did not apply.

State Department officials defended their decision to authorize the commercial military sales, saying that such transactions had been permitted in similar circumstances in the past, that they were necessary to maintain stable relations with a longtime U.S. ally that has a large Muslim population, and that they had not significantly enhanced Pakistani military capabilities.

"The department has issued licenses for commercial military exports based on a case-by-case review and only for items to support equipment already in the Pakistani inventory," said department spokeswoman Margaret Tutwiler. "The department has not licensed the export of new military equipment, new technology or upgrades to equipment in the Pakistani inventory."

Some congressional officials involved in drafting and monitoring the Pressler Amendment expressed anger over the administration's actions and said they intended to hold hearings to determine whether the administration acted legally.

Last week, following inquiries about the issue from Congress, the State Department sent an unsigned memorandum defending its position to Sen. Larry Pressler, R-S.D., author of the Pressler Amendment. The memo cited legal cases supporting State's interpretation of the amendment and said the administration had complied with all of the requirements of U.S. law while authorizing the commercial sales.

Pressler described the State memo as a "political science paper" that was "unacceptable to me." He said he believes the law he sponsored "bans the sale of private arms. On the face of it the language is clear."

The administration has so far declined to disclose exactly what items it authorized for sale to Pakistan. Some congressional officials said that if the authorization approved large-scale shipments of spare parts for topline Pakistani aircraft like the F-16 and the Cobra attack helicopter, then it clearly violated the spirit of the Pressler Amendment, which they said was intended to ensure that the United States would not support Pakistan's military and economy as long as the country pursued a nuclear weapons capability.

Not all of the items licensed for sale by the State Department in fiscal 1991 have been shipped to Pakistan because licenses granted by State are valid for up to three years, officials said. In its annual budget request for military aid to foreign countries, the department told Congress earlier this year that $22.7 million in commercial military exports had been delivered to Pakistan in fiscal 1991.

In that same request, the department estimated that as much as $1.2 billion in commercial military exports might be delivered to Pakistan in fiscal 1992 and 1993. But some congressional officials said they believed that the figure was highly inflated because of a law that requires State to estimate each year how much military equipment a given country might need in the most extreme circumstances. In the past, these congressional sources said, actual exports have been 20 percent or less of State's estimates.

THE PLIGHT OF SYRIAN JEWS CONTINUES

Mr. PELL. Mr. President, last Saturday, March 14, was Shabbat Zachor, a day of remembrance for Syrian Jewry. In synagogues throughout the country, including my home State of Rhode Island, this day was designated to underscore the plight of the Jewish community in Syria.

As most of us know, life in Syria is exceedingly difficult for most ordinary citizens. Under the heavy hand of President Hafez al-Assad, Syria has been subjected to one of the most undemocratic and authoritarian regimes of our time. Assad's vast, intrusive state security network has left little room for Syria's people to express their views, practice their religion, or even associate amongst themselves freely.

Mr. President, Syria's treatment of its Jewish citizens is one of the most troubling examples of Syrian Government oppression. Despite years of international protest, and despite official Syrian pledges to address the problem, the nearly 4,000 Jews living in Syria continue to face limitations and restrictions on their basic human right to religious freedom.

One of the most onerous aspects of Syria's treatment of its Jewish community is the denial to travel and emigrate freely. The current State Department "Country Reports on Human Rights Practices" notes that:

> The Government continues, as a general policy, not to issue passports and exit visas to all members of a Jewish family at the same time. In theory, any Syrian may be required to post a bond of between $300 and $1,000, which would be forfeited in the event of nonreturn. In practice, only [certain Syrians] and Jews are required to post such bonds. The Syrian Government closely restricts Jewish emigration. * * *

The U.S. Congress has gone on record to protest the treatment of Jews in Syria. Last session, both the House and Senate passed a resolution condemning

Syria's continuing denial of Syrian Jews' internationally recognized rights to freedom of emigration and movement. I was pleased to be a cosponsor of the Senate version of the resolution.

Mr. President, the Congress passed this resolution in conjunction with the beginning of the opening round of the Middle East peace talks. It was our hope that this might be one of the issues that would be discussed—and perhaps even resolved—in the talks, but, as the State Department reports, scant progress has been achieved.

There are, of course, many difficult issues and differences of opinion between the United States and Syria, including Syria's support for terrorism, its refusal to recognize Israel, its involvement in Lebanon, and its involvement in drug trafficking and arms proliferation. Each of these matters are of vital importance in the quest for peace and stability in the Middle East. In addressing these issues, however, the United States must not allow the plight of Syrian Jewry to be diminished or forgotten, and that is the true meaning of Shabbat Zachor.

SOUTH AFRICA

Mr. WALLOP. Mr. President, Senator DOLE, at an appropriate time, in behalf of myself and other Members, including Mr. SIMON, Mr. ROBB, Mr. DOLE, Mr. PRESSLER, will send a resolution to the desk concerning South Africa.

I rise today to commend the extraordinary political courage of South African President F.W. de Klerk, and to congratulate the Government of South Africa, under his leadership, on the outcome of the referendum.

This is an absolutely dramatic turning point in the history of South Africa, one that, as President de Klerk said, "has closed the book on apartheid." Through his vision and tenacity, Mr. de Klerk has put South Africa on an irreversible path toward representative government. This means participation by all of South Africa's citizens in the new South Africa, a South Africa which can again join the international community of nations with pride and with dignity.

In his speech opening the South Africa Parliament on February 1, President de Klerk outlined his goals clearly. And I quote again. They were to "enter the new century as one of the most successful and dynamic nations of the world." He acknowledged, too, that giving constitutional content to the values of a new South Africa would require long and difficult negotiations.

That is why the outcome of this referendum is so exciting, because, Mr. President, the white voters in South Africa have voted overwhelmingly in their numbers to continue the negotiations on a new constitution. Mr. de Klerk can proceed now with the credibility and assurance that his mandate is virtually absolute; his people support him.

In continuing multiparty negotiations, Mr. de Klerk well understands what is at stake and has taken great pains to proceed in a careful and fair manner. He realized that the idea of the present legally constituted Government relinquishing its powers and simply handing over its responsibilities to some other temporary regime is not appropriate in a sovereign, independent country.

It is for this reason that he sought to structure the negotiations in a manner such that minority views could have adequate representation. Should anyone question this approach, he or she would do well to reflect on our own Constitutional Convention negotiations which, Mr. President, took great pains to protect the rights of the minorities from the tyranny of the majority.

Afrikaners have been in South Africa for 340 years. Many people on both sides of this debate forget this fact. No one can question that these white South Africans, both English—and Afrikanns-speaking, have a claim to the land—nor can they question their identity as true Africans. Both black and white South Africans have valid claims to land and freedom in South Africa. I make this point, Mr. President, to emphasize that this cannot simply be a question of "nationalization" or of handing over all authority to the majority in South Africa. Such a course would unfairly exclude those who have a rightful and relative say in the future political system of South Africa.

I make this point, Mr. President, to emphasize that this cannot simply be a question of nationalization or of handing over all authority to the majority in South Africa. Such a course would unfairly exclude those who have a rightful and relative say in the future political system of that country.

Finally, Mr. President, I salute the courageous Mr. de Klerk for his commitment to put his country, South Africa, back on the road to prosperity. The economy is of great significance to all South Africans, who have watched unemployment escalate since the imposition of economic sanctions on their country. Lost jobs, and a lost generation of youth who chose armed struggle over a high school education, have devastated prospects for economic recovery.

It is for this reason that normalization of economic relations between South Africa and the rest of the world—and a commitment to negotiations on a new Constitution—is so important.

It is for this reason, as well, Mr. President, that a new and democratic and robust and vigorous South Africa will become the dominant economic figure providing wealth, providing future opportunity, and providing stability for the entire African continent.

So, at the appropriate time, Senator DOLE will offer this resolution on my behalf and those of others.

I trust and believe that the Senate would agree that the momentous events of South Africa are ones to which all parties to the previous debates could positively subscribe. They were extraordinary. It took amazing courage to put this on the line. Lord only knows what would have happened to that poor country had the referendum failed. But it not only succeeded, but it succeeded with an enormous endorsement of the majority of the white South Africans, who have been the object of this debate. It is clear that they have chosen a multiracial country, a pluralistic country for their future, and all the world should celebrate that fact.

I hope the Senate does that as well this evening.

BERNARD J. LASKER

Mr. WALLOP. Mr. President, it is with considerable sadness that I note the passing today of a long-time friend of mine, a great philanthropist, extraordinary businessman, and a dear friend, Mr. Bernard J. Lasker, "Bunny," as he was known to us and most of his friends, was an extraordinary story of America.

I suspect the distinguished occupant of the chair knows that story probably even better than does the Senator from Wyoming, but I was struck by the fact that here was a man who had no high school diploma; who started on Wall Street as a runner, and became chairman of the New York Stock Exchange; who had a childhood ambition to attend West Point and was unable to but became a member of the board of trustees, I think it is called, the advisory board at West Point, a position which gave him great pride and satisfaction.

His philanthropic generosity is well known to New Yorkers, and to people who were anywhere near him.

And, as is often the case with people who are near and dear to you, it is difficult to note their passing, but I feel that it is important.

MESSAGES FROM THE HOUSE

At 12:25 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2850. An act to make technical and conforming changes in title 5, United States Code, and the Federal Employees Pay Comparibility Act of 1990, and for other purposes; and

H.J. Res. 446. Joint resolution waiving certain enrollment requirements with respect to H.R. 4210 of the 102d Congress.

ENROLLED JOINT RESOLUTIONS SIGNED

At 4:29 p.m., a message from the House of Representatives, delivered by Mr. Dendy, one of its clerks, announced that the Speaker has signed the following enrolled joint resolutions:

H.J. Res. 284. Joint resolution to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week"; and

H.J. Res. 446. Joint resolution waiving certain enrollment requirements with respect to H.R. 4210 of the 102d Congress.

The enrolled joint resolutions were subsequently signed by the President pro tempore [Mr. BYRD].

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 2850. An act to make technical and conforming changes in title 5, United States Code, and the Federal Employees Pay Comparability Act of 1990, and for other purposes; to the Committee on Governmental Affairs.

MEASURES HELD AT THE DESK

The following bill was ordered held at the desk by unanimous consent:

H.R. 4449. An act to authorize jurisdictions receiving funds for fiscal year 1992 under the HOME Investment Partnerships Act that are allocated for new construction to use the funds, at the discretion of the jurisdiction, for other eligible activities under such Act and to amend the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 to authorize local governments that have financed housing projects that have been provided a section 8 financial adjustment factor to use recaptured amounts available from refinancing of the projects for housing activities.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CRANSTON (for himself, Mr. SPECTER, Mr. GRAHAM, and Mr. DASCHLE):

S. 2372. A bill to amend section 1718 of title 38, United States Code, to provide that the compensation of veterans under certain rehabilitative services programs in State homes not be considered to be compensation for the purposes of calculating the pensions of such veterans; to the Committee on Veterans Affairs.

By Mr. BOREN (for himself, Mr. SIMON, Mr. REID, Mr. DASCHLE, Mr. LEVIN, Mr. BENTSEN, Mr. WOFFORD, Mr. PRYOR, and Mr. ROBB):

S. 2373. A bill to amend the Job Training Partnership Act to establish a community works progress program, and a national youth community corps program, and for other programs; to the Committee on Labor and Human Resources.

By Mr. SEYMOUR (for himself, Mr. DOLE, and Mr. LUGAR):

S. 2374. A bill to amend the Child Nutrition Act of 1966 to establish a breastfeeding promotion program; to the Committee on Agriculture, Nutrition, and Forestry.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 273. A resolution to amend the Standing Rules of the Senate to provide guidance to Members of the Senate, and their employees, in discharging the representative function of Members with respect to communications from petitioners; to the Committee on Rules and Administration.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRANSTON (for himself, Mr. SPECTER, Mr. GRAHAM, and Mr. DASCHLE):

S. 2372. A bill to amend section 1718 of title 38, United States Code, to provide that the compensation of veterans under certain rehabilitative services programs in State homes not be considered to be compensation for the purposes of calculating the pensions of such veterans; to the Committee on Veterans Affairs.

CERTAIN REHABILITATIVE COMPENSATION FOR VETERANS

Mr. CRANSTON. Mr. President, as chairman of the Committee on Veterans' Affairs, I have today introduced S. 2372, legislation to correct a situation under current law with respect to recipients of Department of Veterans Affairs needs-based pension who participate in therapeutic work programs at State veterans homes. Joining me in introducing the bill is the committee's ranking Republican member, ARLEN SPECTER, as well as committee members BOB GRAHAM and THOMAS A. DASCHLE.

This measure would ensure that the pension eligibility of veterans participating in rehabilitative programs of incentive therapy [IT] or compensated work therapy [CWT] operated by State veterans homes is treated in the same manner as the eligibility of veterans participating in such programs in VA facilities. A most important aspect of these programs is the payment of a wage or other compensation to the participants.

Mr. President, current law, section 1718 of title 38, United States Code, allows veterans in receipt of pension to participate in VA IT or CWT programs without any effect on the amount of their VA pensions. However, the income received by veterans participating in State home IT or CWT programs is counted as income for VA pension purposes and thus reduces, on a dollar-for-dollar basis, the amount of pension those veterans receive. This bill would simply extend to veterans who earn wages through VA-approved IT and CWT programs in State homes the same exemption from countable income that is granted to veterans participating in similar VA programs.

BACKGROUND

Mr. President, section 1718 of title 38 authorizes VA to operate therapeutic and rehabilitation programs under which VA patients—either inpatients, residents in domiciliary facilities, or outpatients—perform services for which they receive a small payment. These rehabilitation therapy programs, known commonly as IT and CWT programs, offer numerous therapeutic benefits to veterans. Many State veterans homes run substantially similar IT and CWT programs.

Participants in IT programs at VA hospitals or domiciliaries work in such jobs such as patient messenger, grounds worker, or building-management assistant and are paid, out of appropriated funds, hourly wages ranging from a nominal amount to just below minimum wage. CWT programs traditionally have involved the use of work that private businesses or other entities contract out to the programs. Wages under CWT programs are generally paid on a piece-work basis and are provided and generated through the work contracts. The jobs vary greatly, from simple packaging to fabrications and assembly operation using complex machinery.

Mr. President, both IT and CWT programs encourage the development of good work habits by emphasizing attendance, reliability, punctuality, productivity, craftsmanship, and personal responsibility. In essence, individuals working in these programs gain a sense of being productive while developing important work skills. This, in turn, reduces dependence on long-term hospitalization and other support from Federal, State, and local government sources.

Mr. President, in 1983, in response to a VA Inspector General Audit, VA instituted a program of income verification pursuant to which VA medical facilities began to inform appropriate VA regional offices of the amounts that veteran participants in the IT and CWT programs were receiving. For the participants who were receiving VA pension, this change resulted in reductions in their pension benefits. An August 27, 1985, report of the Comptroller General—which I requested and which is entitled "Impact of Offsetting Earnings from VA's Work Therapy Programs from Veterans' Pensions"—found that the pension offset had detrimental effects on veterans participating in the programs and on the work therapy programs themselves. Additional information provided to the Committee had also shown that counting the renumeration as income for pension purposes was acting as a significant disincentive to veterans' participation in these two programs and thus was adversely affecting their rehabilitation.

Mr. President, to remedy the situation, I authored legislation that the Senate passed on October 21, 1984, as part of H.R. 5688, but which was not included in the compromise legislation that was enacted that year. In 1985, I reintroduced the provision and the Senate passed it as part of S. 1887 in December 1985. In October 1986, Congress finally enacted, in section 205 of Public Law 99-576, a provision, derived from my legislation, that amended section 618—now 1718—of title 38 to provide expressly that remuneration received by veterans under these programs would be considered as donations from public and private relief organizations, which, under section 1503(a)(1) of title 38, are not considered as income for purposes of VA pension programs.

However, as I have noted, veterans in State home programs still have their pensions reduced by one dollar for every dollar earned in IT and CWT programs.

Mr. President, this disparate treatment of veteran pensioners participating in IT and CWT programs in VA facilities and State homes was recently brought to my attention by Adm. Benjamin T. Hacker, director of the California State Department of Veterans Affairs. In a February 21, 1992, letter, Admiral Hacker indicated that, since 1986, VA officials in San Francisco had interpreted the 1986 amendment to include State home IT and CWT participant's income as exempt for purposes of calculating VA pension. However, in July 1991, IT and CWT participants in the California State Veterans Home at Yountville began receiving notifications from VA informing them that overpayments were owed to VA based on the exclusion of the veterans in State veterans homes from the exemption of earnings under section 1718(f). An advisory opinion regarding the interpretation of section 1718(f) was subsequently requested by the San Francisco VA regional office from the Compensation and Pension Service in VA central office. That opinion, dated October 24, 1991, concluded unequivocally that veterans in State homes are not covered by the exemption in section 1718(f) of title 38.

Admiral Hacker has indicated that the reduction in pension for veterans participating in the California State home IT and CWT programs is adversely affecting the intent of the therapeutic programs by making veterans pay for participating in rehabilitative, therapeutic work activities. This is exactly the type of problem that Congress intended to eradicate in VA programs through the 1986 legislation.

According to a January 6, 1992, survey by the National Association of State Veterans Homes, 23 State homes operate therapeutic work programs and are thus in a similar situation to that of the Yountville State home.

SUMMARY OF PROVISIONS

Mr. President, the bill I am introducing would amend section 1718 of title 38 to add a new subsection (g) that would: First, clarify that neither a veteran's participation in a State home IT or CWT program that the Secretary approves as conforming to VA standards nor a veteran's receipt of payment for participating in such a program may be used as a basis for denying or discontinuing a rating of total disability on the basis of unemployability, and second, provide that a payment to a veteran participating in an approved State home IT or CWT program be considered to be a donation from a public or private relief organization. These amendments parallel as closely as possible the current-law provisions that protect VA programs. I emphasize that, in order to ensure that the covered State veterans home IT and CWT programs are consistent with the VA program model set forth in section 1718, the bill would provide for the Secretary of Veterans Affairs to grant approval of a State home's program of rehabilitative services pursuant to the standards set forth under section 1718 as a prerequisite to exemptions from countable income.

CONCLUSION

Mr. President, I have a longstanding, very strong personal interest in the IT and CWT programs. One of the model programs is at the Menlo Park Division of the Palo Alto VA Medical Center. This legislation is necessary to ensure that valuable rehabilitative efforts are not impeded and that veterans in State homes are treated in the same manner as veterans in VA medical facilities. The State veterans homes are a critical component in our Nation's efforts to care for sick and disabled veterans. I know of no reason why veterans participating in State programs approved by the Secretary should be treated differently than those in similar VA programs. I urge my colleagues to join me in support of this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2372

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF COMPENSATION OF VETERANS UNDER CERTAIN REHABILITATIVE SERVICES PROGRAMS.

Section 1718 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(g)(1) Neither a veteran's participation in a program of rehabilitative services that is provided as part of the veteran's care furnished by a State home and is approved by the Secretary as conforming appropriately to standards for activities carried out under this section nor a veteran's receipt of payment as a result of such participation may be considered as a basis for the denial or discontinuance of a rating of total disability for purposes of compensation or pension based on the veteran's inability to secure or follow a substantially gainful occupation as a result of disability.

"(2) A payment made to a veteran under a program of rehabilitative services described in paragraph (1) shall be considered for the purposes of chapter 15 of this title to be a donation from a public or private relief or welfare organization.".

By Mr. BOREN (for himself, Mr. SIMON, Mr. REID, Mr. DASCHLE, Mr. LEVIN, Mr. BENTSEN, Mr. WOFFORD, and Mr. PRYOR):

S. 2373. A bill to amend the Job Training Partnership Act to establish a community works progress program, a youth community corps program, and a national youth community corps program, and for other purposes; to the Committee on Labor and Human Resources.

COMMUNITY WORKS PROGRESS ACT OF 1992

Mr. BOREN. Mr. President, I rise today to inform my colleagues that I am joining with Senators PAUL SIMON, HARRY REID, TOM DASCHLE, CARL LEVIN, LLOYD BENTSEN, HARRIS WOFFORD, and DAVID PRYOR, today to introduce a bill to substitute work for welfare which would bring back an updated version of the old Works Progress Administration, the WPA, and create a new national youth corps in order to provide jobs for people who are on welfare or unemployed.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2373

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Community Works Progress Act of 1992".

SEC. 2. COMMUNITY WORKS PROGRESS AND YOUTH COMMUNITY CORPS PROGRAMS.

The Job Training Partnership Act (29 U.S.C. 1501 et seq.) is amended by adding at the end the following new title:

"TITLE VI—COMMUNITY WORKS PROGRESS AND YOUTH COMMUNITY CORPS PROGRAMS

"Subtitle A—General Provisions

"SEC. 601. DEFINITIONS.

"For the purposes of this title:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Office.

"(2) COMMUNITY SERVICE FIELD.—The term 'community service field' means an activity described in section 124(a) of the National and Community Service Act of 1990 (42 U.S.C. 12544(a)).

"(3) OFFICE.—The term 'Office' means the Community Works Progress Office.

"SEC. 602. ESTABLISHMENT OF COMMUNITY WORKS PROGRESS OFFICE.

"There is established in the Employment and Training Administration of the Department of Labor a Community Works Progress Office. The Office shall be headed by an Administrator, who shall carry out the functions prescribed in this subtitle.

"SEC. 603. COMMUNITY WORKS PROGRESS PLAN.

"(a) IN GENERAL.—Not later than 3 months after the date of the enactment of this title, the Administrator shall prepare a plan for the implementation of the programs of the Office established under this title.

"(b) REPORT TO THE CONGRESS.—Upon completion of the plan described in subsection (a), the Administrator shall prepare and submit to the Secretary a written report that summarizes the plan. Upon receipt of the written report, the Secretary shall submit a copy of the report to the appropriate committees of the Congress.

"(c) REGULATIONS.—Not later than 120 days after the date of the enactment of this title, on the basis of the report described in subsection (b), the Secretary shall promulgate such regulations as are necessary to carry out the purposes of the plan prepared under subsection (a).

"SEC. 604. CONTRACTS.

"(a) IN GENERAL.—An administrative entity carrying out a project under this title may carry out the duties of the administrative entity directly or by entering into a contract with another entity to carry out the duties.

"(b) ARCHITECTURE.—The administrative entity may contract with a private contractor who is not a participant for any architectural design, construction, engineering plan, alteration, or repair that is a necessary component of the project if—

"(1) the administrative entity notifies the Governor before entering into the contract;

"(2) the Governor approves the contract; and

"(3) the individuals who carry out the services described in the contract receive wages comparable to the prevailing wages in the geographic area for similar activities.

"SEC. 605. GENERAL PROJECT REQUIREMENTS.

"Each administrative entity carrying out a project under this title shall ensure that the project complies with the nonduplication and nondisplacement requirements set forth in subsections (a) and (b) of section 177 of the National and Community Service Act of 1990 (42 U.S.C. 12637).

"SEC. 606. TREATMENT OF COMPENSATION OR BENEFITS UNDER OTHER PROGRAMS.

"(a) HIGHER EDUCATION ACT OF 1965.—In determining any grant, loan, or other form of assistance for an individual under any program under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), the Secretary of Education shall not take into consideration the compensation and benefits received by a participant for participation in a project under this title.

"(b) RELATIONSHIP TO OTHER FEDERAL BENEFITS.—Notwithstanding any other provision of law, any compensation or benefits received by a participant for participation in a project under this title shall be excluded from any determination of income or resources for the purposes of determining eligibility for other Federal benefits, including benefits under sections 402, 1612, and 1613 of the Social Security Act (42 U.S.C. 602, 1382a, and 1382b, respectively) and title XIX of such Act (42 U.S.C. 1396 et seq.).

"(c) DEFINITION.—As used in this section, the term 'compensation and benefits' includes—

"(1) compensation and supportive services received under section 616;

"(2) payments received under section 626; and

"(3) payments and living allowances received under section 636.

"SEC. 607. PROGRESS REPORTS.

"Each administrative entity carrying out a project under this title shall submit a quarterly progress report to the Governor, in such form and containing such information as the Secretary shall prescribe by regulation.

"SEC. 608. GENERAL ACCOUNTING OFFICE REPORT.

"Not later than 1 year after the first date on which the Secretary has made all allotments required by subtitles B, C, and D for a fiscal year, the Comptroller General shall conduct an evaluation of the programs established under this title and shall submit a report containing the evaluation to the Secretary and the appropriate committees of Congress.

"Subtitle B—Community Works Progress

"SEC. 611. DEFINITIONS.

"As used in this subtitle:

"(1) ALLOTMENT.—The term 'allotment' means, with respect to a State for a given fiscal year, the sum of the amounts and bonus amounts to the State, and any amount made available to the State through reallotment, under section 613 for the year.

"(2) COMMUNITY WORKS PROGRESS PROGRAM.—The term 'community works progress program' means the program established under this subtitle.

"(3) PARTICIPANT.—The term 'participant' means an individual who meets the requirements of section 615(b), and the applicable requirements of section 615(c), and is selected to participate in a community works progress project.

"(4) COMMUNITY WORKS PROGRESS PROJECT.—The term 'community works progress project' means a project described in section 614(a).

"SEC. 612. COMMUNITY WORKS PROGRESS PROGRAM.

"The Secretary, acting through the Administrator, shall establish in the Office a Community Works Progress program.

"SEC. 613. ALLOTMENTS.

"(a) RESERVATION.—For each fiscal year the Secretary, acting through the Administrator, may reserve not more than 5 percent of the sums appropriated to carry out this subtitle to award bonus amounts in accordance with subsection (c).

"(b) IN GENERAL.—For each fiscal year, from the remainder of the sums appropriated to carry out this subtitle, the Secretary, acting through the Administrator, shall award to each State an amount determined in accordance with the following:

"(1) EQUAL BASIS.—An amount equal to 10 percent of such remainder shall be distributed in equal amounts among the States.

"(2) POPULATION BASIS.—An amount equal to 10 percent of such remainder shall be distributed in amounts proportionate to the population of each State.

"(3) UNEMPLOYMENT BASIS.—An amount equal to 40 percent of such remainder shall be distributed among the States on the basis of a percentage determined by dividing—

"(A) the number of individuals who received unemployment compensation under State or Federal law during the preceding fiscal year in the State; by

"(B) the number of individuals who received such unemployment compensation during such period in all States.

"(4) AFDC BASIS.—An amount equal to 40 percent of such remainder shall be distributed among the States on the basis of a percentage determined by dividing—

"(A) the number of individuals who received aid under part A of title IV of the Social Security Act in the State; by

"(B) the number of individuals who received such aid during such period in all States.

"(c) BONUSES.—From any amount reserved under subsection (a), the Secretary may award a bonus amount, of not more than 5 percent of the amount distributed to a State pursuant to subsection (b), to any State that has demonstrated progress in the preceding fiscal year in providing assistance in securing employment for individuals who—

"(1) were receiving aid under part A of title IV of the Social Security Act; and

"(2) as a result of such employment, no longer require such aid.

"(d) REALLOTMENT.—

"(1) IN GENERAL.—A State shall inform the Secretary if the State has not obligated an amount in excess of 20 percent of an allotment for a fiscal year. For each such State, the Secretary shall make the portion of the amount that exceeds the 20 percent available to other States for carrying out this subtitle, to the extent the Secretary determines that the other States will be able to use the portion for carrying out this subtitle.

"(2) AVAILABILITY.—Any amount made available to a State from an appropriation for a fiscal year in accordance with paragraph (1) shall be regarded as part of the allotment of the State for such year, and shall remain available until the end of the succeeding fiscal year.

"(e) USE OF ALLOTMENT.—A State may use an allotment to—

"(1) award grants under section 614; and

"(2) pay for the administrative costs of carrying out this subtitle.

"SEC. 614. COMMUNITY WORKS PROGRESS PROJECTS.

"(a) IN GENERAL.—From the allotment of a State, the Governor shall award grants to carry out, in accordance with the requirements of this subtitle, community works progress projects that the Governor determines will serve a significant public purpose in a community service field. The Governor shall award the grants to entities described in subsection (d) and identified as grant recipients in job training plans—

"(1) developed in accordance with section 103 and the requirements of this section; and

"(2) approved under section 105.

"(b) AWARD OF GRANTS.—The Governor shall award grants under subsection (a)—

"(1) in such a manner as to provide assistance—

"(A) to rural and urban areas; and

"(B) for a broad range of community works progress projects; and

"(2) in accordance with such criteria as the Secretary shall establish by regulation, including criteria for job training, job search requirements, and volunteer services.

"(c) JOB TRAINING PLAN.—The job training plan described in subsection (a) shall include such information as the Secretary may require, including at a minimum—

"(1) identification of the entity or entities that will administer the program and be the grant recipient of funds from the State;

"(2) assurances that the proposed project will meet the requirements specified in subsection (e);

"(3) assurances that a sufficient number of individuals would meet the requirements of section 615(b) in the service delivery area in which the community works progress project would be carried out;

"(4) a comprehensive description of the objectives and performance goals for the community works progress project to be conducted, a plan for managing and funding the project, and a description of the type of project to be carried out, including a description of the types and duration of training and work experience to be provided by such project;

"(5) an estimate of the number of participants and crew leaders necessary for the proposed community works progress project, the length of time that the services of such participants and crew leaders will be required, and the support services that will be required for such participants and crew leaders;

"(6) a description of the manner of appointment and training of sufficient supervisory staff (including participants who have displayed exceptional leadership qualities), who shall provide for other central elements of a community works progress project;

"(7) a description of the basic standards of work requirements, health, nutrition, sanitation, and safety, and the manner in which such standards shall be enforced;

"(8) a description of the plan to assign participants to facilities as near to the homes of such participants as is reasonable and practicable;

"(9) an assurance that, prior to the placement of a participant under this subtitle, the administrative entity will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such community works progress project;

"(10) a description of formal job training or job search arrangements to be made available to the participants, in cooperation with State agencies;

"(11) an assurance that the community works progress project will be coordinated with other community works progress projects and with other Federally assisted education programs, training programs, social service programs, and other appropriate programs;

"(12) an assurance that the community works progress project will participate in cooperative efforts among local educational agencies, local government agencies and community-based agencies (as defined in paragraphs (12) and (3), respectively, of section 101 of the National and Community Service of 1990 (42 U.S.C. 12511 (12) and (3)), businesses, and State agencies, to develop and provide supportive services;

"(13) if there is more than one service delivery area in a single labor market area, provisions for coordinating particular aspects of individual service delivery area programs, including—

"(A) assessments of needs and problems in the labor market that form the basis for program planning;

"(B) provisions for ensuring access by program participants in each service delivery area to skills training and employment opportunities throughout the entire labor market; and

"(C) coordinated or joint implementation of job development, placement, and other employer outreach activities;

"(14) fiscal control, accounting, audit and debt collection procedures to assure the proper disbursal of, and accounting for, funds received under this subtitle; and

"(15) procedures for the preparation and submission of an annual report to the Governor that shall include—

"(A) a description of activities conducted during the program year;

"(B) characteristics of participants; and

"(C) the extent to which the activities exceeded or failed to meet relevant performance standards.

"(d) ELIGIBLE ENTITIES.—Entities eligible to receive a grant under subsection (a) shall include public agencies, private contractors, and private nonprofit organizations.

"(e) REQUIREMENTS.—In awarding a grant under this section, the Governor shall enter into a written grant agreement with the administrative entity that shall include the following requirements:

"(1) USE OF GRANT.—

"(A) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the amount of each grant may be used for administrative expenses.

"(B) COMPENSATION AND BENEFITS.—Not less than 70 percent of the amount of each grant may be used to provide compensation and supportive services to each participant as described in section 616.

"(C) CONSTRUCTION CONTRACTS.—An administrative entity may expend, for costs associated with a contract described in section 604(b)—

"(i) not more than 10 percent of the amount of the grant; or

"(ii) such greater percentage as the Secretary may specify in a waiver granted to the entity.

"(2) COMPLETION DATE.—The administrative entity shall complete the community works progress project within a 3-year period immediately following the date of the decision to approve a grant for the project under this subtitle.

"(3) JOBS OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM REQUIREMENTS.—If the community works progress project employs any participant who is a participant in the job opportunities and basic skills training program under part F of title IV of the Social Security Act (42 U.S.C. 681 et seq.), the project shall meet any applicable requirements of such part F, and each such participant shall meet any applicable requirements of such part F.

"(4) OTHER CONDITIONS.—The administrative entity shall comply with such other conditions as the Secretary determines to be appropriate.

"(f) MODIFICATIONS.—If changes in labor market conditions, funding, or other factors require substantial deviation from an approved job training plan, the private industry council and the appropriate chief elected official or officials (as described in section 103(c)) shall submit a modification of such plan, which shall be subject to review in accordance with section 105.

"SEC. 615. SELECTION AND ELIGIBILITY OF PARTICIPANTS.

"(a) CONSIDERATIONS.—In selecting participants, the administrative entities shall, to the maximum extent possible, take into account the prior training, experience, and skills of the participants. Eligibility for participation in the community works progress project shall be determined on a nonpartisan basis.

"(b) REQUIREMENTS FOR PARTICIPANTS.—

"(1) IN GENERAL.—To be eligible to participate in a community works progress project, an individual shall be—

"(A) an unemployed individual who elects to participate and who—

"(i) is receiving unemployment compensation under an unemployment compensation law of a State or of the United States;

"(ii) is not a participant in the job opportunities and basic skills training program under part F of title IV of the Social Security Act; and

"(iii)(I) if such individual has not attained the age of 20 years, is a graduate of a high school or has the equivalent of a high school education;

"(II) has resided in the State for a period of at least 60 consecutive days prior to the commencement of the community works progress project;

"(III) has been unemployed for a period of at least 35 consecutive workdays prior to the commencement of the project;

"(IV) does not reside in the same dwelling place with more than 1 individual who is a participant under a project that is the subject of a grant award under this section; and

"(V) is a citizen of the United States;

"(B) an individual who is a participant in the job opportunities and basic skills training program under part F of title IV of the Social Security Act if—

"(i) such participation does not conflict with the requirements of such part F; and

"(ii) such individual is referred to participate in the community works progress project in accordance with the procedures established under such part F; or

"(C) an individual who—

"(i) is not receiving unemployment compensation under an unemployment compensation law of a State or of the United States; and

"(ii) is a discouraged worker; and

"(iii) meets the criteria set forth in subclauses (I) through (V) of subparagraph (A)(iii).

"(2) SELECTION OF PARTICIPANTS.—In selecting individuals to be participants in a community works progress project, the administrative entity shall ensure that—

"(A) not less than 25 percent of the participants shall be individuals described in subparagraph (A) or (C) of paragraph (1), if a sufficient number of such individuals applies to make achievement of such percentage possible; and

"(B) as large a percentage of the participants as is reasonably achievable shall be such individuals if a sufficient number does not apply.

"(3) RETIREMENT BENEFITS.—An individual shall not be eligible to participate in a community works progress project if the individual is eligible for retirement benefits under—

"(A) the Social Security Act (42 U.S.C. 301 et seq.);

"(B) any retirement system for Federal Government employees, including—

"(i) the government retirement benefits programs under the Civil Service Retirement System set forth in chapter 83 of title 5, United States Code; and

"(ii) the Federal Employees Retirement System set forth in chapter 84 of title 5, United States Code;

"(C) the railroad retirement program under the Railroad Retirement Act of 1974 (45 U.S.C. 231 et seq.);

"(D) the military retirement system; or

"(E) a private pension program.

"(c) RESTRICTIONS ON PARTICIPATION.—To remain eligible to participate in a community works progress project, a participant shall comply with the following requirements:

"(1) IN GENERAL.—Except as otherwise provided under part F of title IV of the Social Security Act, a participant may not work more than 32 hours a week for the project. Such limitation shall not include any hours spent by the participant in training or other educational activities that the administrative entity may make available in addition to the work experience.

"(2) PART-TIME WORK.—A participant may accept employment on a part-time basis in addition to participating in the project if the number of hours per week of the part-time employment does not exceed 20 hours per week.

"(3) EMPLOYMENT SEARCH.—With respect to any participant described in subsection (b)(1)(A), compensation shall not be denied or reduced for any week in which such participant is participating in a project (or as a result of the application to any week in such project of State law provisions relating to availability for work, and refusal to accept work) and such participants shall be required to participate in job search activities within the meaning of section 482(g) of the Social Security Act (42 U.S.C. 682(g)).

"(4) TESTING AND EDUCATION REQUIREMENTS.—

"(A) TESTING.—Each participant shall be tested for basic reading and writing competence by the administrative entity prior to employment under the community works progress project.

"(B) EDUCATION REQUIREMENT.—

"(i) FAILURE TO SATISFACTORILY COMPLETE TEST.—Each participant who fails to complete satisfactorily the basic competency test required in subparagraph (A) shall be furnished counseling and instruction.

"(ii) PROGRESS TOWARD DIPLOMA.—Each participant who has not received a high school diploma or its equivalent shall, in order to continue the employment, maintain satisfactory progress towards receiving a high school diploma or its equivalent.

"(iii) LIMITED-ENGLISH.—Each participant with limited-English speaking ability may be furnished such instruction as the administrative entity considers to be appropriate.

"SEC. 616. COMPENSATION AND SUPPORTIVE SERVICES FOR PARTICIPANTS.

"(a) COMPENSATION.—

"(1) INDIVIDUALS RECEIVING UNEMPLOYMENT COMPENSATION.—Except as provided in paragraph (4), each participant described in section 615(b)(1)(A), shall, notwithstanding any other provision of law, be compensated on a weekly basis in an amount equal to 10 percent of the amount equal to the weekly benefit of unemployment compensation that the participant receives. Such amount shall be paid from funds from the grant award to the participant by the administrative entity and shall be in addition to the amount of aid received by the participant pursuant to the applicable unemployment compensation law of a State or of the United States.

"(2) INDIVIDUALS RECEIVING AFDC.—Except as provided in paragraph (4), each participant described in section 615(b)(1)(B) shall, notwithstanding any other provision of law, be compensated for participation in the community works progress project on a monthly basis, in an amount equal to 10 percent of the amount of benefits that the family of the individual is eligible to receive under the program of aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 681 et seq.). Such amount shall be paid from funds from the grant award to the participant by the administrative entity, and shall be in addition to the amount of aid received by the participant pursuant to part A of title IV of the Social Security Act.

"(3) INDIVIDUALS NOT RECEIVING UNEMPLOYMENT COMPENSATION.—Each participant described in section 615(1)(C) shall, notwithstanding any other provision of law, be compensated for participation in the community works progress project on a monthly basis, in an amount equal to the product of the number of hours worked in a month as a participant and the applicable minimum wage. Such amount shall be paid from funds from the grant award to the participant by the administrative entity, and shall be in addition to the amount of aid received by the participant pursuant to part A of title IV of the Social Security Act.

"(4) SPECIAL COMPENSATION FORMULA.—If the amount equal to—

"(A) the product of the number of hours worked in a month as a participant and the applicable minimum wage; less

"(B) the amount of unemployment compensation or aid to families with dependent children under part A of title IV of the Social Security Act, received by a participant for such month,

is greater than the applicable amount under paragraph (1) or (2), the administrative entity shall pay the participant the amount determined under the formula described in this subparagraph in lieu of the amount determined under paragraph (1) or (2).

"(b) SUPPORTIVE SERVICES.—Each participant shall be eligible to receive supportive services.

"SEC. 617. DUTIES OF THE STATE UNITS.

"The head of each State unit shall, with respect to a Community Works Progress program conducted in the State—

"(1) administer the Community Works Progress program pursuant to this subtitle;

"(2) provide technical assistance to the private industry councils and the grant recipients described in section 614;

"(3) consult with the head of the State agency responsible for the administration of the programs under title IV of the Social Security Act, and the head of the State agency responsible for the administration of employment services—

"(A) to facilitate coordination of the activities of the State unit and such agencies; and

"(B) to make available to participants information of such State agencies concerning services for unemployed individuals;

"(4) consult with the head of the State agency responsible for the administration of employment services to ensure that the agency will refer eligible individuals who elect to participate to the community works progress program;

"(5) submit to the Administrator, by not later than the end of each fiscal year, an annual report that describes the activities of the State unit during the fiscal year; and

"(6) hire such personnel as are necessary to ensure that such duties are carried out.

"Subtitle C—Youth Community Corps Program

"SEC. 621. DEFINITIONS.

"As used in this subtitle:

"(1) ALLOTMENT.—The term 'allotment' means, with respect to a State for a given fiscal year, the sum of the amounts allotted to the State, or made available to the State through reallotment, under section 623 for the year.

"(2) ELEMENTARY SCHOOL.—The term 'elementary school' has the meaning given the term in section 1471(8) of the Elementary and Secondary Act of 1965 (20 U.S.C. 2891(8)).

"(3) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' has the meaning given the term in section 1471(12) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2891(12)).

"(4) PARTICIPANT.—The term 'participant' means a student who meets the requirements of subsections (a), (c), and (d) of section 625 and is selected to participate in a youth community corps project.

"(5) SECONDARY SCHOOL.—The term 'secondary school' has the meaning given the term in section 1471(21) of the Elementary and Secondary Act of 1965 (20 U.S.C. 2891(21)).

"(6) STUDENT.—The term 'student' means an individual who—

"(A) is enrolled in elementary or secondary school; and

"(B) is age 14 through 21.

"(7) YOUTH COMMUNITY CORPS PROGRAM.—The term 'youth community corps program' means the program established under this subtitle.

"(8) YOUTH COMMUNITY CORPS PROJECT.—The term 'youth community corps project' means a project described in section 624(a).

"SEC. 622. YOUTH COMMUNITY CORPS PROGRAM.

"The Secretary, acting through the Administrator, shall establish in the Office a youth community corps program.

"SEC. 623. ALLOTMENTS.

"(a) IN GENERAL.—For each fiscal year, the Secretary shall make available an allotment to each State under subsection (b) to—

"(1) award grants under section 624; and

"(2) pay for the administrative costs of carrying out this subtitle.

"(b) ALLOTMENT.—

"(1) RESERVATIONS.—Of the amounts appropriated to carry out this subtitle for any fiscal year, the Commission shall reserve not more than 1 percent for payments to Indian tribes, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands and Palau, until such time as the Compact of Free Association is ratified, to be allotted in accordance with their respective needs.

"(2) ALLOTMENT.—

"(A) IN GENERAL.—The remainder of the sums appropriated to carry out this subtitle shall be allotted among the States as follows:

"(i) STUDENT POPULATION.—From 50 percent of such remainder the Secretary shall allot to each State an amount that bears the same ratio to 50 percent of such remainder as the student population of the State bears to the student population of all States.

"(ii) ELEMENTARY AND SECONDARY SCHOOL ALLOCATIONS.—From 50 percent of such remainder the Secretary shall allot to each State an amount that bears the same ratio to 50 percent of such remainder as allocations to the State for the previous fiscal year under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) bears to such allocations to all States.

"(B) DEFINITION.—As used in this paragraph, the term 'State' includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(c) REALLOTMENT.—The reallotment requirements described in section 613(d) shall apply with respect to the allotments.

"SEC. 624. YOUTH COMMUNITY CORP PROJECTS.

"(a) GRANTS.—From the allotment of a State, the Governor shall award grants to carry out youth community corps projects to employ participants in projects in community service fields, in accordance with the requirements of this subtitle. The Governor shall award the grants to entities described in subsection (d) that are identified as grant recipients in job training plans—

"(1) developed in accordance with section 103 and the requirements of this section; and

"(2) approved under section 105.

"(b) JOB TRAINING PLAN.—The job training plan described in subsection (a) shall contain such information as the Secretary may require, including, at a minimum—

"(1) if there is more than one service delivery area in a single labor market area, provisions for coordinating particular aspects of individual service delivery area programs, including—

"(A) assessments of needs and problems in the labor market that form the basis for program planning;

"(B) provisions for ensuring access by program participants in each service delivery area to skills training and employment opportunities throughout the entire labor market; and

"(C) coordinated or joint implementation of job development, placement, and other employer outreach activities;

"(2) fiscal control, accounting, audit and debt collection procedures to assure the proper disbursal of, and accounting for, funds received under this subtitle; and

"(3) procedures for the preparation and submission of an annual report to the Governor that shall include—

"(A) a description of activities conducted during the program year;

"(B) characteristics of participants; and

"(C) the extent to which the activities exceeded or failed to meet relevant performance standards.

"(c) REQUIREMENTS.—In awarding a grant under this section, the Governor shall enter into a written grant agreement with the administrative entity that shall include the following requirements:

"(1) USE OF GRANT.—

"(A) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the amount of each grant may be used for administrative expenses.

"(B) COMPENSATION AND BENEFITS.—Not less than 70 percent of the amount of each grant may be used to provide payments to each participant as described in section 626.

"(C) CONSTRUCTION CONTRACTS.—An administrative entity may expend, for costs associated with a contract described in section 604(b)—

"(i) not more than 10 percent of the amount of the grant; or

"(ii) such greater percentage as the Secretary may specify in a waiver granted to the entity.

"(2) LENGTH OF EMPLOYMENT.—The administrative entity shall employ a participant in a youth community corps project for not more than 250 hours per year.

"(3) OTHER CONDITIONS.—The administrative entity shall comply with such other conditions as the Secretary determines to be appropriate.

"(d) ELIGIBLE ENTITIES.—An entity eligible to receive a grant under this subtitle shall be—

"(1) a community-based organization;

"(2) a local educational agency; or

"(3) a partnership of a local educational agency with an organization that—

"(A) is a public agency serving a unit of general local government within the district served by the local educational agency; and

"(B) provides services related to a community service field.

"(e) MODIFICATIONS.—If changes in labor market conditions, funding, or other factors require substantial deviation from an approved job training plan, the private industry council and the appropriate chief elected official or officials (as described in section 103(c)) shall submit a modification of such plan, which shall be subject to review in accordance with section 105.

"SEC. 625. SELECTION AND ELIGIBILITY OF PARTICIPANTS.

"(a) APPLICATION.—To be eligible to participate in a youth community corps project, a student residing in a service delivery area shall submit an application to the administrative entity at such time, in such manner, and containing such information as the Secretary shall by regulation require. At a minimum, the application shall contain information about the work experience of the student, and sufficient information to enable the administrative entity to make the determinations required in subsection (b).

"(b) DETERMINATION.—An administrative entity shall determine, with respect to each applicant, whether the applicant is—

"(1) a child of an individual who is described in section 615(b)(1)(A);

"(2) a member of a family that receives benefits under the program of aid to families with dependent children under part A of title IV of the Social Security Act (42 U.S.C. 681 et seq.);

"(3) a member of an eligible household, as described in section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014), receiving an allotment under the food stamp program established under section 4 of such Act (7 U.S.C. 2013); or

"(4) a member of a family with an income at or below the official poverty line (as defined by the Office of Management and Budget, and revised in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2))) applicable to a family of the size involved.

"(c) SELECTION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), in selecting students to participate in a youth community corps project, an administrative entity shall select eligible students with the qualifications described in paragraph (1), (2), (3), or (4) of subsection (b).

"(2) SERVICE OPPORTUNITIES.—In the case of a project that requires a greater number of participants than the number of students described in paragraph (1), the administrative entity—

"(A) may employ eligible students without the qualifications described in paragraph (1), if the entity applies for and receives a waiver from the Governor; and

"(B) in selecting such students, shall give preference to students with work experience related to the project.

"(d) ACADEMIC CONSIDERATIONS.—The administrative entity shall not employ a participant in a youth community corps project unless the administrative entity determines that the participant is making satisfactory progress toward attainment of a high school diploma or the equivalent.

"SEC. 626. PAYMENT OF PARTICIPANTS.

"(a) PAYMENT.—The administrative entity shall make payments to participants in the youth community corps program for—

"(1) the educational credit described in subsection (c); or

"(2) the cash benefit described in subsection (d).

"(b) ELECTION.—On completion of service with a youth community corps project, a participant shall elect to receive the educational credit or cash benefit.

"(c) EDUCATIONAL CREDIT.—

"(1) AMOUNT.—Each participant electing to receive the educational credit shall receive as payment under the program an educational credit equal to the sum of—

"(A) $5 per hour for the first 250 hours of service in the program;

"(B) $6 per hour for the next 250 hours of service in the program;

"(C) $7 per hour for each subsequent hour of service in the program; and

"(D) in the case of a participant who can demonstrate attainment of a high school diploma, and has more than 500 hours of service in the program, $250.

"(2) RECEIPT.—In order to receive an educational credit earned under this section a participant shall submit to the administrative entity such information and documentation as the Secretary may require, including information indicating the academic program and institution of higher education at which the credit will be used.

"(3) ACCEPTANCE.—The Secretary of Education, in consultation with the Secretary of Labor, shall promulgate regulations establishing a program and procedures under which the credits shall be accepted at institutions of higher education.

"(d) CASH BENEFITS.—Each participant electing to receive the cash benefit shall receive as payment under the program an amount equal to one-half of the sum described in subsection (c).

"SEC. 627. DUTIES OF THE STATE UNITS.

"The head of each State unit shall, with respect to a Youth Community Corps program conducted in the State—

"(1) administer the Youth Community Corps program pursuant to subtitle C;

"(2) provide technical assistance to the private industry councils and the grant recipients described in section 624(a);

"(3) for the State in which the State unit is located, consult with the grant recipients to facilitate coordination among the grant recipients;

"(4) submit to the Administrator, by not later than the end of each fiscal year, an annual report that describes the activities of the State unit during the fiscal year;

"(5) consult with the head of the State agency responsible for the administration of employment services to ensure that the agency will refer eligible who elect to participate students to the youth community corps program;

"(6) in carrying out the subtitle, consult with the Administrator and the chairperson of the Commission on National and Community Service to coordinate the program established under the subtitle with programs under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.); and

"(7) hire such personnel as are necessary to ensure that such duties are carried out.

"Subtitle D—National Youth Community Corps Program

"SEC. 631. DEFINITIONS.

"As used in this subtitle:

"(1) ALLOTMENT.—The term 'allotment' means, with respect to a State for a given fiscal year, the sum of the amounts allotted to the State, or made available to the State through reallotment, under section 633 for the year.

"(2) NATIONAL YOUTH COMMUNITY CORPS PROGRAM.—The term 'national youth community corps program' means the program established under this subtitle.

"(3) NATIONAL YOUTH COMMUNITY CORPS PROJECT.—The term 'national youth community corps project' means a project described in section 634(a).

"(4) PARTICIPANT.—The term 'participant' means an individual who meets the requirements of subsections (a) and (b) of section 635 and who receives and accepts an offer under section 635(c).

"(5) REGIONAL OFFICE.—The term 'regional office' means a regional office of the Employment and Training Administration.

"SEC. 632. NATIONAL YOUTH COMMUNITY CORPS PROGRAM.

"The Secretary, acting through the Administrator, shall establish in the Office a national youth community corps program.

"SEC. 633. ALLOTMENTS.

"(a) IN GENERAL.—From the sums appropriated to carry out this subtitle, the Secretary shall allot equal amounts to the regional offices to—

"(1) award grants under section 634; and

"(2) award grants to the States in which national youth community corps projects are carried out, to pay for the administrative costs of carrying out this subtitle.

"(b) REALLOTMENT.—The reallotment requirements described in section 613(d) shall apply with respect to the allotments.

"SEC. 634. NATIONAL YOUTH COMMUNITY CORPS PROJECTS.

"(a) GRANTS.—A regional office may make one grant for each fiscal year to establish and carry out, in accordance with the requirements of this subtitle, a national youth community corps project to employ participants in a project related to community service fields within the region served by the office. The regional office shall award the grant to an organization described in subsection (d) and identified as a grant recipient in a job training plan—

"(1) developed in accordance with section 103 and the requirements of this section;

"(2) approved under section 105; and

"(3) referred to the regional office by the Governor approving the plan.

"(b) JOB TRAINING PLAN.—The job training plan described in subsection (a) shall include such information as the Secretary may require, including at a minimum—

"(1) a plan for the national youth community corps project to be established by the organization;

"(2) information indicating any cost associated with arrangements made by the organization to provide residential facilities for the project, if applicable;

"(3) information regarding any national youth community corps program proposed to be conducted directly by such applicant with assistance provided under this subtitle;

"(4) a comprehensive description of the objectives and performance goals for the program to be conducted, a plan for managing and funding the program, and a description of the types of projects to be carried out, including a description of the types and duration of training, work experience, and community service to be provided by such program;

"(5) a plan for the certification of the training skills acquired by participants and the awarding of academic credit to participants for competencies developed through training programs or work experience obtained under this subtitle;

"(6) an age-appropriate learning component for participants that includes procedures that permit participants to reflect on service experiences;

"(7) an estimate of the number of participants and crew leaders necessary for the proposed program, the length of time that the services of such participants and crew leaders will be required, the support services that will be required for such participants and crew leaders, and a plan for recruiting such participants;

"(8) a description of the manner of appointment and training of sufficient supervisory staff (including participants who have displayed exceptional leadership qualities), who shall provide for other central elements of a youth corps, such as crew structure and a youth development component;

"(9) a description of a plan to ensure the on-site presence of knowledgeable and competent supervisory personnel at program facilities;

"(10) a description of the facilities, quarters and board (in the case of residential facilities), limited and emergency medical care, transportation from administrative facilities to work sites, accommodations for individuals with disabilities, and other appropriate services, supplies, and equipment that will be provided by such applicant;

"(11) a description of the basic standards of work requirements, health, nutrition, sanitation, and safety, and the manner in which such standards shall be enforced;

"(12) a description of the plan to assign participants to facilities as near to the homes of such participants as is reasonable and practicable;

"(13) an assurance that, prior to the placement of a participant under this subtitle, the program agency will consult with any local labor organization representing employees in the area who are engaged in the same or similar work as that proposed to be carried out by such program;

"(14) a plan for ensuring that individuals do not drop out of school for the purpose of participating in a youth corps program;

"(15) a description of the manner in which an ethnically and economically diverse group of participants, including economically and educationally disadvantaged individuals, shall be recruited and selected for participation in a program receiving assistance under this subtitle;

"(16) if there is more than one service delivery area in a single labor market area, provisions for coordinating particular aspects of individual service delivery area programs, including—

"(A) assessments of needs and problems in the labor market that form the basis for program planning;

"(B) provisions for ensuring access by program participants in each service delivery area to skills training and employment opportunities throughout the entire labor market; and

"(C) coordinated or joint implementation of job development, placement, and other employer outreach activities;

"(17) fiscal control, accounting, audit and debt collection procedures to assure the proper disbursal of, and accounting for, funds received under this subtitle; and

"(18) procedures for the preparation and submission of an annual report to the Governor that shall include—

"(A) a description of activities conducted during the program year;

"(B) characteristics of participants; and

"(C) the extent to which the activities exceeded or failed to meet relevant performance standards.

"(c) REQUIREMENTS.—In awarding a grant under this section, the Governor shall enter into a written grant agreement with the administrative entity that shall include the following requirements:

"(1) USE OF GRANT.—

"(A) ADMINISTRATIVE EXPENSES.—Not more than 10 percent of the amount of each grant may be used for administrative expenses.

"(B) COMPENSATION AND BENEFITS.—Not less than 70 percent of the amount of each grant may be used to provide payments and benefits to each participant as described in section 636.

"(C) CONSTRUCTION CONTRACTS.—An administrative entity may expend, for costs associated with a contract described in section 604(b)—

"(i) not more than 10 percent of the amount of the grant; or

"(ii) such greater percentage as the Secretary may specify in a waiver granted to the entity.

"(2) LENGTH OF EMPLOYMENT.—An administrative entity shall employ a participant in such a project for a period of not more than 2 years.

"(3) TRAINING.—An administrative entity shall provide training to participants in accordance with section 148 of the National and Community Service Act of 1990 (42 U.S.C. 12578).

"(4) EVALUATIONS.—

"(A) IN GENERAL.—An administrative entity shall conduct periodic evaluations of each participant in such a project, and shall make such evaluations available to the participant not less often than monthly.

"(B) CONFIDENTIALITY.—

"(i) IN GENERAL.—Except as provided in clause (ii), in carrying out the duties of the entity under this subtitle, an administrative entity shall maintain the confidentiality of the evaluations described in subparagraph (A).

"(ii) DISCLOSURE.—The content of any information contained in an evaluation may be disclosed with the prior written consent of the participant with respect to whom the evaluation is maintained.

"(5) OTHER CONDITIONS.—The administrative entity shall comply with such other conditions as the Secretary determines to be appropriate.

"(d) ELIGIBLE ORGANIZATIONS.—An organization eligible to receive a grant under this subtitle shall be an organization that—

"(1)(A) is a State or local agency; or

"(B) is a private nonprofit organization; and

"(2) provides services related to a community service field within the region served by the regional office.

"(e) MODIFICATIONS.—If changes in labor market conditions, funding, or other factors require substantial deviation from an approved job training plan, the private industry council and the appropriate chief elected official or officials (as described in section 103(c)) shall submit a modification of such plan, which shall be subject to review in accordance with section 105.

"SEC. 635. SELECTION AND ELIGIBILITY OF PARTICIPANTS.

"(a) APPLICATION.—

"(1) SUBMISSION.—To be eligible to participate in a national youth community corps project, an individual shall submit an application to the Governor at such time, in such manner, and containing such information as the Secretary shall by regulation require.

"(2) CONTENTS.—At a minimum, the application shall contain information indicating the national youth community corps projects in which the individual seeks to participate.

"(3) REFERRAL.—The Governor shall refer the application to each administrative entity administering a national youth community corps project in which the individual seeks to participate.

"(b) ELIGIBILITY.—To be eligible to participate in a national youth community corps project, an individual shall be age 17 to 22.

"(c) SELECTION.—The administrative entity shall make offers to eligible individuals to become participants in the national youth community corps project.

"SEC. 636. PAYMENTS AND LIVING ALLOWANCES OF PARTICIPANTS.

"(a) PAYMENT.—The administrative entity shall make payments to participants for—

"(1) the educational credit described in subsection (c); or

"(2) the cash benefit described in subsection (e).

"(b) ELECTION.—On completion of service in a national youth community corps project, a participant shall elect to receive the educational credit or cash benefit.

"(c) EDUCATIONAL CREDIT.—

"(1) AMOUNT.—Each participant electing to receive the educational credit shall receive as payment under the program a credit equal to the sum of $10,000 per year.

"(2) RECEIPT.—In order to receive an educational credit earned under this section, a participant shall submit to the administrative entity such information and documentation as the Secretary may require, including information indicating the academic program and institution of higher education at which the credit will be used.

"(3) ACCEPTANCE.—The Secretary of Education, in consultation with the Secretary of Labor, shall promulgate regulations establishing a program and procedures under which the credits shall be accepted at institutions of higher education.

"(d) CASH BENEFIT.—Each participant electing to receive the cash benefit shall receive as payment under the program a sum of $5,000 per year.

"(e) LIVING ALLOWANCES.—An administrative entity shall provide living allowances to participants in a residential national youth community corps project for the period of employment, in accordance with subsections (a) through (c) of section 147 of the National and Community Service Act of 1990 (42 U.S.C. 12577).

"SEC. 637. DUTIES OF STATE UNITS.

"Each State unit shall, with respect to a National Youth Community Corps program conducted in the State—

"(1) administer the National Youth Community Corps program pursuant to this subtitle D;

"(2) provide technical assistance to the applicants and the grant recipients described in section 634(a);

"(3) consult with the organizations described in section 634(d), to facilitate coordination among the organizations;

"(4) submit to the Administrator, by not later than the end of each fiscal year, an annual report that describes the activities of the State unit during the fiscal year;

"(5) consult with the head of the State agency responsible for the administration of employment services to ensure that the agency will refer eligible students who elect to participate to the national youth community corps program;

"(6) in carrying out this subtitle, consult with the Administrator and the chairperson of the Commission on National and Community Service to coordinate the program established under the subtitle with programs under the National and Community Service Act of 1990; and

"(7) hire such personnel as are necessary to ensure that such duties are carried out, including such personnel as are necessary to provide appropriate training to participants in the program.".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 3 of the Job Training Partnership Act (29 U.S.C. 1502) is amended by adding at the end the following new subsection:

"(g) There are authorized to be appropriated to carry out subtitles A, B, C, and D of title VI such sums as may be necessary for fiscal year 1993 and each of the subsequent fiscal years.".

SEC. 4. AMENDMENTS TO THE SOCIAL SECURITY ACT.

(a) DISREGARD OF INCOME.—Section 402(a)(8)(A) of the Social Security Act (42 U.S.C. 602(a)(8)(A)) is amended—

(1) by striking "and" at the end of clause (vii); and

(2) by adding at the end of the subparagraph the following new clause:

"(ix) shall disregard compensation earned as a program participant under subtitle B, C, or D of title VI of the Job Training Partnership Act; and".

(b) EMPLOYABILITY PLAN.—Section 482(b)(1) of the Social Security Act (42 U.S.C. 682(b)(1)) is amended by inserting after subparagraph (B) the following new subparagraph:

"(C) If the State agency determines that the individual is eligible to participate in an accessible grant project under subtitle B, C, or D of title VI of the Job Training Partnership Act, the plan must provide for referral to the State director (for referral to such grant project). The preceding sentence shall not apply if participation in an educational program or a job skills training program would interfere with participation in such grant project, and the employability plan provides for participation in such program, unless the individual does not maintain satisfactory progress towards attaining a degree under the educational program or has not found employment within 9 months of entering the job skills training program.".

(c) SERVICES AND ACTIVITIES.—Section 482(d)(1)(A)(i) of the Social Security Act (42 U.S.C. 682(d)(1)(A)(i) is amended—

(1) by striking "and" at the end of subclause (III); and

(2) by adding at the end of the clause the following new subclause:

"(V) referral to projects under the community works progress program, the youth community corps program, and the national youth community corps program; and".

(d) WORK SUPPLEMENTATION PROGRAM.—Section 482(e) of the Social Security Act (42 U.S.C. 682(e)) is amended by adding at the end of the subsection the following new paragraph:

"(8) Nothing in this subsection shall be construed so as to modify the requirement under subsection (b)(1)(C) relating to the referral of an eligible individual to an administrative entity under subtitle B, C, or D of title VI of the Job Training Partnership Act.".

(e) COMMUNITY WORK EXPERIENCE PROGRAM.—Section 482(f) of the Social Security Act (42 U.S.C. 682(f)) is amended by adding at the end of the subsection the following new paragraph:

"(5) Nothing in this subsection shall be construed so as to modify the requirement under subsection (b)(1)(C) relating to the referral of an eligible individual to an administrative entity under subtitle B, C, or D of title VI of the Job Training Partnership Act.".

SEC. 5. COMPENSATION EXCLUDED AS WAGES FOR UNEMPLOYMENT COMPENSATION.

Subsection (c) of section 3306 of the Internal Revenue Code of 1986 is amended—

(1) by striking "or" at the end of paragraph (19);

(2) by striking the period at the end of paragraph (20) and inserting "; or"; and

(3) by adding at the end of the subsection the following new paragraph:

"(21) service performed as a participant under subtitle B, C, or D of title VI of the Job Training Partnership Act.".

SEC. 6. EXCLUSION OF COMPENSATION AND BENEFITS FROM GROSS INCOME.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 136 as section 137 and inserting after section 135 the following new section:

"SEC. 136. CERTAIN JOB TRAINING COMPENSATION.

"In the case of an individual, gross income does not include any compensation and benefits as defined in section 606(c) of the Job Training Partnership Act.".

(b) CLERICAL AMENDMENT.—The table of sections for such part III is amended by striking the item relating to section 136 and inserting the following new items:

"Sec. 136. Certain job training compensation.

"Sec. 137. Cross references to other Acts.".

SEC. 7. TECHNICAL AND CONFORMING AMENDMENTS.

(a) APPROVAL.—Section 103(d) of the Job Training Partnership Act (21 U.S.C. 1513(d)) may be amended by inserting "or title VI" after "section 104".

(b) TABLE OF CONTENTS.—The table of contents relating to the Job Training Partnership Act is amended by adding at the end the following:

"TITLE VI—COMMUNITY WORKS PROGRESS AND YOUTH COMMUNITY CORPS PROGRAMS

"Subtitle A—General Provisions

"Sec. 601. Definitions.
"Sec. 602. Establishment of Community Works Progress Office.
"Sec. 603. Community works progress plan.
"Sec. 604. Contracts.
"Sec. 605. General project requirements.
"Sec. 606. Treatment of compensation or benefits under other programs.
"Sec. 607. Progress reports.
"Sec. 608. General accounting office report.

"Subtitle B—Community Works Progress

"Sec. 611. Definitions.
"Sec. 612. Community works progress program.
"Sec. 613. Allotments.
"Sec. 614. Community works progress projects.
"Sec. 615. Selection and eligibility of participants.
"Sec. 616. Compensation and supportive services for participants.
"Sec. 617. Duties of the State units.

"Subtitle C—Youth Community Corps Program

"Sec. 621. Definitions.
"Sec. 622. Youth community corps program.
"Sec. 623. Allotments.
"Sec. 624. Youth community corp projects.
"Sec. 625. Selection and eligibility of participants.
"Sec. 626. Payment of participants.
"Sec. 627. Duties of the State units.

"Subtitle D—National Youth Community Corps Program

"Sec. 631. Definitions.
"Sec. 632. National youth community corps program.
"Sec. 633. Allotments.
"Sec. 634. National youth community corps projects.
"Sec. 635. Selection and eligibility of participants.
"Sec. 636. Payments and living allowances of participants.
"Sec. 637. Duties of State units.".

Mr. BOREN. Mr. President, the current welfare system needs a complete overhaul. No one doubts it. It is serving neither the taxpayers nor the welfare recipients. There are too many people in this country drawing a check for doing nothing, who feel alienated and hopeless. It is high time for us to return these people to the productive part of our country and bring them back to the fold of the community. If we can help restore people's integrity then that is worth far more than anything a welfare check can buy.

The taxpayers currently get very little for what they are spending. Those on welfare are deprived of a sense of personal worth which comes from the satisfaction of performing useful work. In addition, the unhealthy idleness promoted by the current welfare system also contributes to increased crime rates, drug abuse, family disintegration, higher school dropout rates, and many other serious social problems.

There is nothing worse for an individual than to have no reason for getting out of bed in the morning, to have no sense that they are doing anything of value or contributing anything back to the community.

In spite of billions spent on welfare programs, America's urban underclass is growing at an unprecedented rate. In the last 2 years, the number of people receiving AFDC benefits has gone up 24 percent and total spending has increased 17 percent.

As the New York Times put it on March 1:

> Faced with welfare rolls that now reach records every month, the country seems stuck. It cannot increase payments without making welfare more attractive. It cannot cut them without risking further harm to the 13 million people on welfare, 9 million of whom are children. Either direction promises more misery.

While marginal progress has been made in the last few years through job search programs, only 7 percent of the welfare population has actually switched from welfare to work under these plans.

America cannot continue to support a welfare system that spends, but does not invest; one that takes, but does not given back. We have to reawaken the spirit of community in this country and help to make America great again. We have to invest more of our resources in our people. It is time we changed our welfare system to give people a chance to work instead of simply giving them handouts. Let us bring back a modern version of the WPA and restore people's pride in their work. Let us help those who are stuck in the unrelenting cycle of welfare, poverty, and unemployment regain their self-respect and make a real contribution to their communities.

During the 7 years the WPA was in existence, 1935 to the end of 1941, WPA workers built more than 650,000 miles of highways, roads, and sidewalks, 124,000 bridges, 125,000 public buildings, and 39,000 schools. They served more than 1 billion lunches to people who were hungry. They were able to sew together 350 million garments to provide clothing for those that were cold in the winter time. Books were written; murals were painted. The total 7-year cost of the WPA for all of its benefits to the country, in 1991 dollars, was $90 billion.

For 90 billion current dollars, in 7 years, we received those 650,000 miles of roads and those 39,000 school buildings and those billion meals served, as well as numerous other contributions.

In contrast, the last 8 years of our current welfare system have not cost the taxpayers $90 billion; they have cost the taxpayers $932.5 billion, 10 times the cost of the WPA and the CCC, with tangible benefits to show for it.

These people will never have the satisfaction, like those who worked on the WPA or the CCC, of pointing to some valuable community project and saying, "I helped build that park. I helped build that school. I have the satisfaction of contributing something to my community. I helped serve meals to the homeless."

I will never forget talking to an elderly gentleman one day after a speech in a football stadium in a small town in Oklahoma. He came up to me and said, "Senator, do you see that stadium wall over there?" I said, "Yes, sir." He said, "I built that stone wall myself. It was part of the WPA." He said, "You see there is not a crack in it. It is not an inch out of line today. It has not settled. It was built right."

As I listened, I thought to myself, that man feels like a part of the community. He feels pride because of what he gave back. In a way, that football stadium belongs to him. I bet he has never even dropped a candy wrapper in that football stadium, and he certainly would not stand by and see it vandalized.

The community WPA—The modern version that we are creating in this bill—is designed to create jobs for welfare recipients and the unemployed to help make them feel part of the community. Our plan would put them back to work as productive members of society and would make workfare job search requirements a reality. All able-bodied welfare recipients, with the exception of women with small children and those who are enrolled in education and job training programs—which, of course, we want to encourage—could be required to take an available job with the new Community Works Project Administration [CWPA], if they are unable to find a job elsewhere. At least 25 percent of these jobs would be reserved on a voluntary basis for those who have been unemployed for 5 weeks or more.

The program would be administered by the Department of Labor's Employment and Training Administration through the State agency which administers the Job Training and Partnership Program. We would not be creating any new bureaucracy with additional costs. Local and State agencies, as well as private nonprofit organizations, could apply for grants from the Community WPA. The projects could include areas such as infrastructure construction and maintenance, the creation or maintenance of parks, community work such as law enforcement assistance, assistance to police, delivering meals to the elderly and shut-ins, or any other proposed projects which serve a useful public purpose.

The U.S. Conference of Mayors has published two volumes containing over 7,200 proposals for job projects which are ready to go. All they need are labor power and adequate funding. The CWPA will help our Nation restore its crumbling infrastructure, and in return, provide all participants with a compensation at least 10 percent higher than their current welfare or unemployment benefits. Because we want to encourage people to go to work and be productive and not to penalize them, as we often do under the current welfare system, by depriving them of some of their current benefits, or perhaps day care for their children or other benefits that are necessary for them to work.

Our plan would also create two youth divisions within the Community WPA to provide substantial education benefits to students and young adults in exchange for work on community projects.

The first division, the Youth Community Corps [YCC] would allow secondary school students to earn college scholarship funds by working on approved community projects after school or on weekends. Beginning in the 7th grade, students could work up to 250 hours per year on these projects until they reach 12th grade. Students participating for 6 years could earn up to $10,000 in educational benefits or elect to receive $5,000 cash upon graduation as an alternative.

If they earn these education benefits, it would not be counted against any resource that they might otherwise qualify for under Federal scholarship or loan programs, Pell grants, or otherwise.

The second division, the National Youth Community Corps [NYCC], would create camps, or dormitory units in urban areas, for young people age 17 to 22 to work on projects ranging from reforestation to auxiliary police work to town beautification. With the continued down sizing of the Military Establishment in the country, old military bases and former military personnel could be put to good purpose and used to help house, supervise, and train young adults. A volunteer national youth corps would help get young people off the street while providing them with a real education opportunity, because they also would be able to earn $10,000 in educational benefits for each year of service to be used for college, vocational school, or other kinds of additional training that they need. Those not wishing to continue their education after high school would also have the option of receiving $5,000 a year in cash, although they would have the choice of receiving, as I say, twice that value in educational benefits.

Non-high-school graduates would be required to complete high school GED diploma work on the programs to be eligible for any of these bonuses. So we encourage education. We require that high school be completed in order to qualify for these benefits.

Preference to those signing up for the youth programs would be given to dependents of families who are on welfare, out of work, or below the poverty level. But the corps would not be limited to these groups. Other young people hoping to have a work experience would have the opportunity if the funds were available.

Let us give young Americans who are disadvantage and disillusioned an incentive to become a productive part of society. Let us instill in them at an early age the ethic of hard work, reward them for providing service to their country, and give them a sense of accomplishment—accomplishments on which they can look back in later years with pride.

It is time to recycle an approach that worked well in the past and modify it to current conditions. Instead of the growing division in our country between taxpayers and welfare recipients who are taking tax benefits—a widening gulf, increasing resentment, and increasing sense of division in our country—it is time to make all Americans part of the same team.

And maybe someday, welfare recipients, unemployed people, and young adults will be able to point to some major community facility, environmental project, or restoration project and like that man who stood in the football stadium who had worked on the WPA, pointing to that stone wall—can say with pride, "I helped to build it."

That is what we need in this country. We cannot afford to waste the talents of 10 percent of our people. Almost 1 in 10 receive some check in the mail, again, but are not giving back to the community or producing anything in return. We need to give them the opportunity to contribute to their neighborhood, to give back something to the community.

I have received letter after letter after letter, from people who are now receiving public assistance saying, "I want a chance to work."

I received a letter from one of my constituents a couple of months ago which says:

> I congratulate and applaud you on the changes you are making in the welfare system.
>
> I am a long-time recipient, and not proud to admit it. If given the opportunity, I would definitely like to earn my living the right way.

He goes on:

> You are totally right. Being on the system much longer than I should have, idleness did set in and deprive me of many opportunities.

The system causes the following:

> Taking handouts, you become insecure.

This is a person now receiving assistance:

> You lose confidence; you lose interest; you become withdrawn; you become depressed; denial sets in.
>
> I look forward to working again.

That is the last sentence in this letter.

We have to give people that chance. We have to give them a chance, like another person who wrote to me from Watts, OK, when he first heard about this project. He worked on the WPA instead of drawing a check and avoided having the disillusionment and depression described by this recipient, who just wants the opportunity to go back to work. He said:

> I applaud your efforts * * * the thirties concept—of the WPA is right on track. Becoming a taxpayer is much preferred to becoming a tax recipient.
>
> I spent a couple of years in the CCC's during the thirties and learned a good trade along with doing some meaningful work.
>
> I was a heavy equipment operator and we were engaged in Soil Conservation Service work.
>
> I made a career out of heavy construction and made a good living also.
>
> Keep promoting the 1930–1940 concept of work for pay. There is much work to be done throughout the U.S.A. Let's just do it.

Mr. President, I certainly could not put it any better than those two constituents, one who had the experience of working under WPA and the CCC, and one who hopes to have that opportunity in the future. It is time to bring us together as one people again. It is time to use the talents of all of our people. It is time to have a program that allows every American a sense of dignity, a sense of contribution, a sense of being a part of the community.

We cannot lead the world if we waste the talent of a tenth of our people. We cannot lead the world until we become united as one people, not with divisions between those who feel they are on the receiving end and those who resent being on the paying end.

Let us have a program that works. Let us put something back in place that worked in the thirties and forties. Let us stop spending $910 billion on a subsistence program, when by contrast we could have a program that works and that allows people not just to subsist, but allows them to have a meaningful life and to take part in making this country great again.

So, Mr. President, I hope others of our colleagues will join eight of us who are introducing this bill today, including the distinguished Presiding Officer.

I ask unanimous consent to have printed, in addition to the letters I have just read portions of into the RECORD and a statement from the Oklahoma Municipal League, which is an expression of some 400 mayors and community leaders in my State, endorsing this proposal; and also an article from the New York Times which reports on the proposal which we are making.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> JANUARY 8, 1992.
>
> DEAR SENATOR BOREN: I congratulate and applause you on the changes you are making in the welfare system.
>
> I am a long time recipient and not proud to admit, if given the opportunity I would definitely like to earn my living the right way.
>
> I became a dependent recipient, after a fatality in my immediate family, and could not cope mentally and socially for some time.
>
> I was terminated from my employment, and grasped on the welfare system.
>
> Senator, I really needed counseling, was not given such option.
>
> You are totally right being on the system much longer than I should have, idleness, did set in, and deprive me of many opportunities.
>
> The system downfalls are many as follows.
>
> 1. Taking handouts you become insecure.
> 2. You lose confidence.
> 3. You lose interest.
> 4. You become withdrawn.
> 5. You become depressed.
> 6. Denial sets in.
>
> As a recipient for many years off and on I can speak for many.
>
> Rehabilitation for a week could give confidence and effort for needing employment.
>
> I have the capability of holding employment, having been denied so much I lost confidence in my abilities to strive for security.
>
> I thank you for reading my letter and I feel hope for 1992.
>
> The right to work changed in the early eighties needs looking into as well.
>
> I look forward to working again.
>
> Sincerely,
>
> ______.

> JANUARY 24, 1992.
>
> Senator DAVID L. BOREN,
> *U.S. Senate, Russell Senate Office Building, Washington, DC.*
>
> DEAR SENATOR BOREN: I commend you on your proposal to introduce legislature to revive programs such as WPA and CCC for getting people off government welfare.
>
> In the early 1930's, during the Great Depression, I got to work on a WPA project driving a dump truck. At the time, there were no jobs; and, I was most thankful for this chance to earn money so I could (1) eat, and (2) so I could save to go to college.
>
> During World War II, I was an American Red Cross Field Director serving at military bases. After the war, I was recruited by the State of California to be a Boy's Group Supervisor in the newly formed California Youth Authority.
>
> The purposes of the California Youth Authority was to take wards of the court between the ages of 18 to 25, and place them in special Forestry Camps. In addition to fighting forest fires, these young men built roads and telephone lines for the Forestry Department; planted tree seedlings in forestry nurseries, and performed other worthwhile jobs.

In 1949, California decided to revive a CCC-type program. Here I refer you to the enclosed pages 1 through 5 for details which appeared in California newspapers. The project was located in a remote area in Desolation Valley approximately seven miles above Lake Tahoe, and could be reached only by a foot path.

Pages 6 through 22 is my report on the very first tour of duty on the project. I was the first supervisor selected for the job. The report, incidentally, was read on the floor of the Legislature at Sacramento.

Pages 25 through 34 is an article which appeared in full color that was published in the April 1983 issue of the Smithsonian, regarding California's CCC some 24 years later.

Again, Senator Boren, I want you to know I strongly support you on these types of programs. I do so because, from personal experience, they do work.

Yours truly,

ADAIR COUNTY,
Watts, OK, January 9, 1992.

Senator DAVID BOREN.

SIR: I applaud your efforts to get our people back to work and the '30's concept is right on target. Becoming a taxpayer is much preferred to becoming a taxrecipient.

I spent a couple of years in the C.C.C.s during the '30's and learned a good trade along with doing some meaningful work.

I was a heavy equipment operator and we were engaged in Soil Conservation Service work.

I made a career out of Heavy Construction and made a good living also.

Keep promoting the 1930–1940 concept of work for pay. There is much work to be done throughout the U.S.A. Let's just get at it!

Sincerely,

OKLAHOMA MUNICIPAL LEAGUE, INC.,
Oklahoma City, OK, January 17, 1992.

Hon. DAVID L. BOREN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR BOREN: The Oklahoma Municipal League Board of Directors went on record supporting your "Community Works Progress Administration" proposal during their Board meeting earlier this month. I believe the support of the OML can be beneficial for the proposal, as our association represents almost 400 cities and towns in Oklahoma, and we are affiliated with the National League of Cities with whom we could solicit further support.

There is no doubt that municipalities, nationwide, could benefit from your proposed program!

I'm sure you're aware that the vast majority of local governments, including those in Oklahoma, are experiencing deteriorating infrastructure. Your proposal appears to attack that problem head-on.

Those same governments are also experiencing shrinking revenues with which to adequately maintain, let alone build, that infrastructure. Your proposal appears to offer a solution for that problem.

Please keep me posted as to the progress of your proposal. I would particularly welcome your suggestions as to how our Association can assist in this endeavor.

Our Board, and staff, stands ready to assist any way we can.

Very truly yours,

WILLIAM A. MOYER,
Executive Director.

RESOLUTION 1992-6

Whereas, over $210 billion was spent last year on welfare programs—almost 4% of our total GNP; and

Whereas, taxpayers get very little for what is being spent, those on welfare are deprived of a sense of personal worth which comes from the satisfaction of performing useful work, and unhealthy idleness contributes to the problems of crime, drug abuse and many other social problems; and

Whereas, U.S. Senator David Boren is proposing the creation of the "Community Works Progress Administration" which would provide jobs to welfare recipients and the unemployed; and

Whereas, the jobs created would be to assist local governments, among others, with such projects infrastructure construction and maintenance, the creation or maintenance of parks, or any other proposed projects deemed worthy; and

Whereas, local governments are experiencing deteriorating infrastructure and lack of funds to adequately cope; and

Whereas, the proposed Community WPA program could conceivably fulfill those needs. Now, therefore be it

Resolved That, the City of Weatherford, Oklahoma, by action of its governing board, applaud Senator David Boren's effort of introducing legislation in the U.S. Congress to create the "Community Works Progress Administration", and thereby support passage of the legislation by the Congress and signing into law by the President of the United States; and

Further, That a copy of this resolution be forwarded to Senator Boren with our sincere gratitude.

RESOLUTION 92-3-2

Whereas, over $210 billion was spent last year on welfare programs—almost 4 percent of our total GNP; and

Whereas, taxpayers get very little for what is being spent, those on welfare are deprived of a sense of personal worth which comes from the satisfaction of performing useful work, and unhealthy idleness contributes to the problems of crime, drug abuse and many other social problems; and

Whereas, U.S. Senator David Boren is proposing the creation of the "Community Works Progress Administration" which would provide jobs to welfare recipients and the unemployed; and

Whereas, the jobs created would be to assist local governments, among others, with such projects as infrastructure construction and maintenance, the creation or maintenance of parks, or any other proposed projects deemed worthy; and

Whereas, local governments are experiencing deteriorating infrastructure and lack sufficient funds to adequately cope; and

Whereas, the proposed Community WPA Program could conceivably fulfill those needs: Now, therefore, be it

Resolved by the Mayor and City Council of the City of Eufaula, That we applaud Senator David Boren's effort of introducing legislation in the U.S. Congress to create the "Community Works Progress Administration", and thereby support passage of the legislation by the Congress and signing into law by the President of the United States; and

Further, That a copy of this resolution be forwarded to Senator Boren with our sincere gratitude.

RESOLUTION 92-3

Whereas, over $210 billion was spent last year on welfare programs—almost 4 percent of our total GNP; and

Whereas, taxpayers get very little for what is being spent, those on welfare are deprived of a sense of personal worth which comes from the satisfaction of performing useful work, and unhealthy idleness contributes to the problems of crime, drug abuse and many other social problems; and

Whereas, U.S. Senator David Boren is proposing the creation of the "Community Works Progress Administration" which would provide jobs to welfare recipients and the unemployed; and

Whereas, the jobs created would be to assist local governments, among others, with such projects as infrastructure construction and maintenance, the creation or maintenance of parks, or any other proposed projects deemed worthy; and

Whereas, local governments are experiencing deteriorating infrastructure and lack sufficient funds to adequately cope; and

Whereas, the proposed Community WPA Program could conceivably fulfill those needs: Now, therefore, be it

Resolved, That the town of Wanette, by action of it's governing board, applaud Senator David Boren's effort of introducing legislation in the U.S. Congress to create the "Community Works Progress Administration", and thereby support passage of the legislation by the Congress and signing into law by the President of the United States; and

Further, That a copy of this resolution be forwarded to Senator Boren with our sincere gratitude.

ALTA & BOUNDARY,
Oologah, OK, March 3, 1992.

Hon. DAVID L. BOREN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR BOREN: I enjoyed your visit to Oologah, and hope that Seminole let you keep your souvenirs!

Enclosed is our Resolution 92-2, reflecting our support for your WPA proposal.

I am especially proud of this since I wrote to you several weeks ago also in support of this program.

Of course it is so logical, so cost effective, so American, that the Congress will probably fight you tooth and nail. I can only hope that your clear head and seniority will prevail.

Please impress on the opposition that we need to give a little dignity to our people instead of a monthly dole.

You have our personal best wishes for a successful term this year, and in the future.

Sincerely,

JANET MILLER,
Town Clerk.

RESOLUTION 92-2

Whereas, over $210 billion was spent last year on welfare programs—almost 4 percent of our total GNP; and

Whereas, taxpayers get very little for what is being spent, those on welfare are deprived of a sense of personal worth which comes from the satisfaction of performing useful work, and unhealthy idleness contributes to the problems of crime, drug abuse and many other social problems; and

Whereas, U.S. Senator David Boren is proposing the creation of the "Community Works Progress Administration" which would provide jobs to welfare recipients and the unemployed; and

Whereas, the jobs created would be to assist local governments, among others, with such projects as infrastructure construction and maintenance, the creation or maintenance of parks, or any other proposed projects deemed worthy; and

Whereas, local governments are experiencing deteriorating infrastructure and lack sufficient funds to adequately cope; and

Whereas, the proposed Community WPA program could conceivably fulfill those needs: Now therefore be it

Resolved, That the Trustees of the Town of Oologah, by action of it's governing board, applaud Senator David Boren's effort of introducing legislation in the U.S. Congress to create the "Community Works Progress Administration", and thereby support passage of the legislation by the Congress and signing into law by the President of the United States; and

Further, That a copy of this resolution be forwarded to Senator Boren with our sincere gratitude.

LATEST PLAN TO CURE WELFARE TROUBLES BORROWS W.P.A. BLUEPRINTS OF 1930'S

(By Jason DeParle)

WASHINGTON, March 12.—In this season of welfare discontent, one of the oldest ideas in social policy is getting talked up as the newest solution: the Works Progress Administration, Franklin D. Roosevelt's sweeping public jobs program.

The creation of a new W.P.A. has long been a favorite idea of few policy hounds and unsuccessful candidates. But today it reached a kind of political maturation when a group of Congressional Democrats announced a legislative plan to make it a reality.

Roosevelt used the program as an alternative to the dole in combating unemployment, putting an army of jobless people to work building roads, bridges, schools, stadiums, culverts, courthouses, and other structures, many of which endure.

Senators David L. Boren of Oklahoma, Paul Simon of Illinois and several others see an updated purpose: giving welfare recipients the dignity of serious work, while offering taxpayers the benefits of tangible returns.

"The taxpayers get very little for what they are spending," said Mr. Boren, who is calling his program the Community Works Progress Administration. "Those on welfare are deprived of a sense of personal worth which comes from the satisfaction of performing useful work."

W.P.A.-style proposals are a variation on "workfare," but much more ambitious than the kind of programs that have recently been tried, which involve limited hours, modest work projects and are all limited to welfare recipients.

A quarter of the slots in Mr. Boren's program, for instance, would be open to people who are not on welfare. And he is putting an emphasis on building and repairing things, while many recent workfare jobs have involved less visible tasks, like filing.

Mr. Boren was quick to acknowledge that in today's cash-tight Congress, a modest pilot program might be all he could realistically expect. And he can expect to encounter many pockets of opposition after formally introducing the bill in the next few weeks. In the past, many liberals have dismissed such proposals as punitive "slavefare," while conservatives have conjured public works images of six people leaning on shovels while one digs a hole. In addition, public employee unions have resisted the proposals, which would provide rival sources of public labor.

But the plan is significant because it puts forth a welfare proposal far more radical than most now being discussed.

"For all the rhetoric about welfare, the nation has not been committed to coming up with the bottom line—an actual job," said Sheldon Danziger, a professor of social work and public policy at the University of Michigan. "By now we've learned that if we really want to tackle the welfare problem, the Government has to act as an employer of last resort."

The talk of a new W.P.A. comes as welfare rolls reach record levels each month, many states are cutting benefits and a number of conservative politicians are trying to gain political advantage from denouncing the system.

In recent weeks, President Bush has added his voice to the chorus of critics, with campaign commercials that promise to "change welfare and make the able-bodied work."

Beneath the suddenly roiling surface of politics, the country has been stressing two different approaches to welfare revision in recent years.

One school, led by Senator Daniel Patrick Moynihan of New York and Representative Thomas J. Downey of Long Island, both Democrats, stresses the education and training of families on welfare. The two sponsored the 1988 Family Support Act, which now provides up to $1 billion a year in Federal matching funds for states to train recipients.

But only about 60 percent of that money is now being spent, since states have had difficulty coming up with their part of the matching funds. And in an economy where many people with more education and longer work histories are also unemployed, welfare recipients continue to face strong disadvantages.

The second approach, often called "the new paternalism," seeks to alter the behavior of the poor through financial rewards: those who stay in school get small bonuses in their welfare checks, for instance, while those who are frequently absent suffer financial penalties.

While these programs have a popular appeal, reinforcing middle-class values held by many voters, the amounts of money involved are usually modest, generally about $50 a month. And numerous studies have suggested that such rewards have had little effect on major decisions like whether to work or marry.

The W.P.A.-type proposals are much bolder since they offer not just an incentive to get a job, but the real thing: the job itself.

"It represents a logical and radical approach that few politicians have been willing to support up to this point," said Mickey Kaus, who wrote an influential 1986 article in The New Republic calling for the replacement of welfare with a system of guaranteed Government jobs.

"Liberals have been unwilling to be tough enough, and conservatives have been unwilling to spend the money," he said.

Martin Anderson, a senior fellow at the Hoover Institution who served as President Reagan's domestic policy adviser, took a harsher view, citing the potential for big boondoggles.

"Jobs in the public sector are grossly inefficient," he said. "Its a bad idea, whose time has passed."

Senator Boren's plan would retain the current welfare system for women with young children and those enrolled in a education or training program. But most others would have to take public works jobs for up to 32 hours a week. The jobs would pay either the minimum wage, or 10 percent more than a welfare grant, whichever is higher.

The program would be run by the Labor Department. Local community groups, called private industry councils, would receive a set amount of money and design the kinds of public works projects they wanted to conduct.

Co-sponsors of the measure include Senators Harry Reid of Nevada, Carl Levin of Michigan and Thomas Daschle of South Dakota, all Democrats. In the House, Representative Glenn English, an Oklahoma Democrat, pledged to introduce similar legislation.

A MORE EXPENSIVE APPROACH

At a new conference today, they acknowledged that the plan would be more expensive than simply mailing welfare checks. Supervisors must be hired, and building supplies procured.

But standing before the grainy, black-and-white photographs of Depression-era projects, the Democrats ticked off a list of W.P.A. accomplishments in the agency's six-year span, which ended in 1941: 650,000 miles of roads, 18,000 playgrounds, 125,000 buildings.

"We face a basic choice," said Senator Simon. "Do we pay people for being productive or nonproductive?"

Mr. BOREN. Mr. President, I thank my colleagues for joining with me. I point out to my colleagues in the Senate this is quite a cross-section of Members of the Senate, across all portions of our party, all perspectives, all geographical areas of this country, that are joining together to make this proposal.

My distinguished colleague from Illinois, Senator SIMON, is on the floor. As I mentioned a moment ago, he is a principal sponsor of this proposal. For many years, he has made similar proposals in this body. He has been one of those who has helped to keep this idea alive for a long time, and he deserves great credit for it.

It is a real privilege for me to have the opportunity to join with him, to benefit from his experience, the research he has done over several years on these kinds of concepts; and to join with him and others who are introducing this bill as original sponsors and trying to work up an innovative program to solve one of the most basic and fundamental problems in our society today, to help rebuild our economic strength and our social strength in this country by finding a way to make all of our citizens productive again.

I appreciate his efforts and his help, and those of our other colleagues who have joined in this effort today. I hope before we are through, as we have 8 sponsors today, that we will have 92 other sponsors join us. This is the kind of proposal that deserves a unanimous vote of the Senate of the United States, to start to turn our country around in the right direction, make us one people again, and put people back to work.

Mr. SIMON. Mr. President, first I want to commend our colleague from Oklahoma, Senator BOREN, for his leadership on this matter. This is a concept that is long overdue.

Let me just say to my colleague from Oklahoma, Senator ROBB came over to me while the Senator was speaking, and he wants to be added as a cosponsor. So we now have nine cosponsors instead of eight. We are moving in the right direction.

We have to do something, Mr. President, to make this country more productive. In February 1991, we had 8,131,000 people who were listed as unemployed. In February 1992, 9,244,000 Americans were unemployed—an increase of 1,113,000 who are listed as unemployed. I will get back to why I mentioned listed.

In my State of Illinois, in February 1991, 362,000 people were listed as unemployed. In February 1992, 1 year later, 521,000 Illinoisans were unemployed—an increase of 159,000 in one State.

I say listed as unemployed because this does not count the discouraged worker, the person who is just giving up, who no longer is signing up at the employment office—who has just really given up on our society. These figures do not count the person who works part-time. If you work 1 hour a week, you are not counted as unemployed.

The great division in our society is not between black and white; not between Hispanic and Anglo; not even between rich and poor. It is between those who have hope and those who have given up. We have too many people in our society who have given up.

We need to give them that sense of hope; and two things, and two things only, really give people a sense of hope. One is to have a job and feel like you are offering something, contributing something in a productive way to our society. The second is to see that your children are moving ahead educationally.

We have to give people one of those two indications of hope, and we can really given them both. We have all kinds of things that need to be done in our country. And we have all kinds of people who are unemployed. Why do we not have the good sense to mesh the two? We ought to be doing that.

For some time, I have been working on this concept and I am very pleased to have Senator BOREN join in this effort.

I wrote a book a few years back, called "Let's Put America Back to Work," suggesting that we really can learn from that WPA concept. We have, for example, among the unemployed, a great many people who really know how to read and write. In fact, while I was on a radio call-in show someone called in and said, "Believe it or not, I have a doctorate, and I am temporarily out of work. I am sure it is temporary."

But if I could be teaching someone how to read and write or doing something like that, I would be happy to do it.

There is no reason we cannot be doing that.

We have all kinds of people who do not know how to read and write. We have people who know how and who are unemployed. Why do we not put the two together?

Why do we not do things that are needed and that everyone acknowledges are needed? For example, why not plant some trees in this country? Not too long ago in southern Illinois, not far from my home, I went past a field where I saw they were clearing the trees so a farmer could plant corn or soybeans or whatever he or she wanted to plant. And I understand that. But when you cut down those trees, when you put in new shopping centers and parking lots and housing developments, down the river somewhere you are going to have floods and you are going to have a demand from somebody, "Let us get the Corps of Engineers in here to have a flood control project."

What if we took the people who are out of work today and planted 1 million trees each year, or 10 million trees each year? We would be a better country all the way around.

Mr. President, because I know of your interest in the literary field, I think you will recognize this particular example. When I was about 12 years old, I read Richard Wright's book, "Black Boy." It is not as famous as his book "Native Son," but it was a moving, gripping experience for me to read what it meant for someone to grow up as an African-American in this country.

It was not until many years later that I learned that Richard Wright learned to write under a WPA project. Instead of just having him be nonproductive, we had him writing and he enriched the Nation and he enriched me in this process.

This bill will head to the Labor and Human Resources Committee, I assume, and to the Subcommittee on Employment that I chair. I think we are going to have to modify it some. I think initially we are probably going to have a few demonstration projects. Let us see what we can do to let people be productive and earn a little more money in the process.

The average family on welfare in the State of Illinois collects $367 a month. Under this proposal you would work 4 days a week at the minimum wage on projects that are picked by local committees. That is not a lot of money, but it would amount to $535 a month. For someone making $367, that is a significant improvement. But it also gives people a chance to be productive. We are going to pay people for being productive or nonproductive, and I think we ought to be paying people for being productive.

Part of what I hope will be part of this is that we will have a screening process, and if people are out of work—and incidentally, part of this bill provides that 25 percent of the jobs are reserved not for those on welfare but for people who are out of work 5 weeks or more. One of the mistakes we make in our society today is that we force people to become paupers before we help them. We can do better than that, Mr. President. I think it follows logically on the proposals that have been made and the leadership that has been provided by Senator MOYNIHAN, our colleague from New York, who has been stressing training and other things as part of what we ought to be providing in the welfare field.

I mentioned that people will work 4 days a week. That was the way it was in the old WPA for the very important reason that on the fifth day you can be out trying to find a job in the private sector. What we want to do is to give people an opportunity to work but we also want to encourage them to be out looking for work in the private sector.

Mr. President, the need is simply overwhelming. We have been too indifferent to the desperate in our society. We must give them a chance to be productive, a chance to have pride—that is what everyone wants. Furthermore, these opportunities coincide with our needs as a nation.

The New York Times 2 weeks ago had figures, and I remember them going back over a 12-year period, for the productivity growth of the United States and some other countries. Productivity growth in the United States for that 12-year period, was 12 percent—1 percent a year. The productivity growth for Great Britain was 33 percent. For France, 38 percent; for what was then West Germany, 39 percent; for Japan, 58 percent.

We have to become more productive as a people, and we are going to be competing with the rest of the world in one of two ways. Economists do not agree on very much, as you know, Mr. President, but they do agree on this: We compete with the rest of the world either with low wages or high skills. I want us to be productive. I want us to compete with high skills. I want to give the people we are ignoring in our society a chance. I think the bill that has been introduced by Senator BOREN does exactly that. I am pleased to be a cosponsor. I hope this bill will move us in the right direction.

Mr. DASCHLE. Mr. President, the American welfare system is a failure for too many people. It fails both the taxpayers and welfare recipients. And, most importantly, it fails the children who are born into the cycle of poverty.

Earlier this morning the distinguished Senator from Oklahoma introduced legislation to reform that system and put both our tax dollars and the unemployed to work. I applaud him for spearheading this timely measure to revamp a welfare system that too often does more to perpetuate reliance on public assistance than to provide the necessary means and incentives for moving those in need of assistance back into the national work force.

Our country is faced with a variety of serious economic problems, problems that have festered too long without appropriate attention. Considerable attention has been focused recently on the economic burden facing the middle class. That burden is real. But often ignored in this debate are those who fall below the poverty line and are struggling daily to make ends meet and rejoin the economic mainstream. This timely legislation borrows from a successful concept from our past and molds it to effectively address a number of today's social challenges.

We have been hearing calls for welfare reform for a long time. Debate on this issue is often controversial. My motive for pushing for reform is not to deny benefits to those within our society who truly need our help. We have a responsibility to help. But we should help in a way that breaks the cycle of poverty and welfare dependence, and trains people for meaningful work opportunities. We must help those who need public assistance to make ends meet today, and develop their skills so they may secure productive jobs tomorrow. This bill, through the establishment of the Community Works Progress Administration [CWPA], is a major step in that direction.

We spend billions of dollars on public assistance. These payments certainly have helped to provide food, clothing, and shelter for millions of welfare recipients, and that is a worthy goal. But shouldn't we expect these dollars to work harder for both the recipients and the taxpayer? Through the CWPA, we will direct those funds toward local community projects that build both the individual welfare recipient's confidence in himself or herself, through gainful employment, and the institutions that support our communities.

In the 8 years that the original WPA was in existence, 8 million jobs were created and thousands of public works projects were completed by people who otherwise would have been on public assistance. The WPA of 50 years ago produced bridges, highways, schools, parks, and hospitals that are still in use today. It also offered participants the opportunity to learn and to master a marketable trade that they were able to use to secure jobs in the private sector.

The testimonials of citizens who worked on WPA projects in the 1930's tell the story. The sense of pride and accomplishment expressed 50 years later by those given the chance to engage in productive work rather than simply collect a public assistance check is a rare achievement. They have often cited the WPA experience as being instrumental to their learning of a skill that ultimately provided the means to secure the post-WPA jobs they maintained until their retirement. They ask, almost universally, why we in Congress have not resurrected the WPA. With this legislation, we hope to do just that.

I am very attracted to the two-prong approach this bill takes. It does not stop with those currently receiving public assistance. It proposes two additional programs under the Youth Conservation Corps, programs targeted at creating jobs for high school youths and high school graduates from families receiving public assistance. A key part of these programs are the work credits that can be earned toward college scholarships, used as down payments on first home purchases or taken in cash.

These programs are not just about temporary jobs, they are about making a concrete, long-term investment in our youth, many of whom feel alienated in their own country. Children who are growing up in neighborhoods with high unemployment and high drop-out rates. This bill is about offering these children a viable alternative to drugs, crime, or a life on welfare.

This bill will help address the needs of our communities by providing a source of talent, skill, and labor to work on meaningful community projects or programs, and it will give people an opportunity to work themselves out of situations that have caused them to depend on public assistance. It is a good investment in our communities, our infrastructure, and our people. I hope our colleagues will give this bill their full attention so that we may embark down that road.

Mr. LEVIN. Mr. President, I am pleased to be an original cosponsor of the Community Works Progress Act. As Senator Boren explained, this bill represents a three-pronged approach to providing jobs both for able-bodied welfare recipients and work experience for unemployed young people. Specifically, this plan would bring back an updated and streamlined form of the WPA—the Works Progress Administration. It would permit local, State, and Federal agencies, along with not-for-profit organizations, to apply for WPA grants to pay for such projects as road and other infrastructure construction, law enforcement assistance, Meals-on-Wheels, or similar community-based work. All able-bodied welfare recipients eligible under the Family Support Act would then be required to take an available WPA job. For their work, WPA participants would be paid at salaries which are at least 10 percent higher than their welfare or unemployment benefits. Women with small children or recipients enrolled in education or job training programs would be exempt from participation in the WPA Program.

As this bill would begin to match able-bodied workers to sorely needed community work projects, it would also create work projects for youth and young adults by combining real-life work experience with an education component. To achieve this, this bill would establish a Youth Community Corps [YCC] which would allow students in grades 7–12 to earn funding for college tuition by working on approved community projects. If a student worked on community projects for the maximum allowable hours, he or she could be eligible for up to $10,000 in tuition benefits or $5,000 in cash.

The third program contained in this bill, the National Youth Community Corps [NYCC], would administer grants to public agencies, private nonprofit organizations, or private contractors for projects employing young adults between the ages of 17 and 22. Grant recipients would create camps in rural areas, or dormitories in urban areas for participants to stay while they work on community projects. Like the YCC Program, participants would be eligible for money for college tuition or cash income.

It is important to note that this legislation includes provisions to prevent and prohibit the displacement of currently employed workers by participants in the WPA plan. This is a crucial safeguard to ensuring that the WPA Program creates new jobs and does not threaten the security of employed workers.

Public assistance programs are meant as a social safety net for those who have fallen on hard times and are unable to secure for themselves such fundamental needs as food, heat for their homes, and health care. But the social safety net has its own snares. In many instances, the net catches people it is trying to help in an unceasing cycle of welfare, poverty, and despair.

Most families who find themselves on public assistance want what every family wants. They want a chance to work, to keep a home, educate their children, and improve their standard of living. This legislation would make available new jobs and allow those who are unemployed or on public assistance to obtain job skills and work experience.

The bill represents a multitude of opportunities. It offers the opportunity for a job for welfare beneficiaries. It offers to pave the way for a young person's college education in return for community work. It offers to pump more dollars into our economy, and to satisfy some of the need for public work projects and repairs to our infrastructure. It offers to continue the efforts that have been made to reform the welfare system in this country.

For these reasons and others, I support this bill and congratulate Senator Boren on his vision and his leadership.

Mr. WOFFORD. Mr. President, I rise to salute the Senator from Oklahoma [Mr. Boren] and the Presiding Officer, the Senator from Illinois, Senator Simon, for taking the initiative and presenting the Community Work Progress Act of 1992, and the Youth Community Corps Programs.

In the days to come, I am going to be proud to be one of those first nine Senators to have signed on to this bill, and to have worked with Senator BOREN and Senator SIMON in shaping it, and I will be proud to work together with my colleagues in enlisting the majority of this body, including I hope the minority leader, who spoke to us just now about the urgency of putting jobs first, and who gave us the example of the Trinkler family, an example of active community service.

This bill combines the spirit of service with a structure for work that will make a reality for an idea whose time has come, the idea that there should be work, not welfare and, unemployment, and that every American has a right to a job, this is a right that we need to make a reality at a time when the needs are so great as they are today.

It is a cliche to say an idea's time has come, and I do not say it very often. Historically, the idea that women should have the right to vote took a long time to become a reality. Then finally, the sense that a woman's right to vote was self-evident and that was a scandal for women, who are half the people in this country, not to have the right to vote. And the time came when the idea of a woman's right to vote came to pass.

Similarly, with the right of black Americans to vote, and of all Americans to be free of the discrimination and the segregation laws. There were decades when the Senator from Illinois and others of us in this body were in the civil rights marches and in efforts to bring down the walls of racial segregation. We wondered how long it would be before those walls would fall. And the time finally came for that idea. And I believe that we are at that point with this idea today.

One hundred years ago Pope Leo XIII wrote an encyclical called Revum Novarum in which he spoke of the scandal of the working classes who had no workers compensation, no unemployment compensation, who had no worker protection, no labor standards. When you read that encyclical, you realize how the scandal of the conditions facing working people finally moved us, step by step, to take action to remedy every one of the points put forth by Pope Leo 100 years ago.

There is another scandal today for which we could use a new encyclical, and to overcome what we need this body to take action. That is the scandal of the conditions facing the nonworking classes, the people who are born into, or programmed into, a life of dependency, the people who find themselves drawn into it or thrown into unemployment and welfare by an economy that is on dead center.

This bill responds to those facts and moves America forward with the kind of social invention that we saw in the Great Depression with the WPA and the Civilian Conservation Corps. This bill takes that best tradition of those years of crisis which we forgot during the great war, World War II in which we were engaged and no one was unemployed. In the post-war years, we lost the spirit of the Civilian Conservation Corps—the spirit that says that when Society is in need of public service work there must be jobs available for people who are ready to work. This bill reclaims that tradition of work not welfare, and a society in which no one is without work.

If there is anything the Senate of the United States could do in the months to come that would be more important than this, I do not know it. I know another issue that is just as important. It is also a scandal that we are the only developed country, except if you count South Africa, that has no universal health care system. It is self-evident that people should have a right to a doctor if they are sick.

But it is just as self-evident a truth that work is the essence of human dignity. We must make that truth come to life in America. This bill points the way.

That is why in addition to saluting the Senator from Illinois and the Senator from Oklahoma I want to join forces in an effort to bring this idea to pass before it is too late for the working people and the young people who are waiting for work, and waiting for the chance to serve.

I close with one other note that responds to what the Senator from Oklahoma put so clearly about the pride and the sense of citizenship that you learn by having a chance to engage in public service work in the kind of youth corps that this bill will promote.

In Pennsylvania, we probably have more youth corps today, full-time, part-time, summer corps, year-round corps than any other of the States. Governor Casey has taken the lead in trying to make a reality of the proposition that service should be the common expectation of all young people, and that all should be asked and enabled to give a substantial period of service to their community. We have moved that forward in Pennsylvania.

Pennsylvania has also been a pioneer in showing how to promote worthwhile public service jobs for those who are unemployed. The Allegheny County Jobs for Economic Growth initiative of Commissioner Tom Foerster has proven that the approach contained in this bill works—it works to provide well-planned public service jobs to Pennsylvania's citizens who want to work.

And the National Service and Community Service Act of 1990 initiated by this body, is helping us move forward with this idea throughout Pennsylvania.

One young man in a youth corps put it all in words for me that I pass on to this body. I asked him why he was rising to the occasion of being an active-duty citizen when he had just a little while before been a high school dropout in a street gang that was heading into drugs and crime and maybe death. He said, "Because nobody had ever asked me before to do something to make a difference." He said, "All my life people had been coming to do good for me. Growing up in a public housing authority one group after another came to help me. For the first time this youth corps came along and said: 'There is work to be done. We need you. We can do it.' "

And as I listened to him, I remembered those first volunteers leaving for Africa from the White House lawn in 1961. I remembered a newspaper reporter asking a young man: Why are you going? Why did you of the me-first, silent generation, suddenly respond in this way by the hundreds of thousands to the call of the Peace Corps?

He said, "No one had ever asked me to do anything patriotic, unselfish, and for the common good before Kennedy asked."

We need to find the ways and means to ask again. And this bill begins to do that.

Mr. REID. Mr. President, Senator BOREN introduced the Community Works Progress Act of 1992, of which I am a cosponsor.

The jobless rate in this country shows no sign of improvement. The latest figures from the Bureau of Labor Statistics show almost 10 million workers are without jobs. That is 315,000 higher than in January. This brings the unemployment rate up from 7.1 percent to 7.3 percent.

In Nevada alone, over 9,100 men and women are receiving what we call extended benefits in addition to those receiving their regular unemployment benefits. The number of those receiving extended benefits, Mr. President, is continuing to climb at a rate of almost 2,400 a month in the State of Nevada alone. These extended benefits amount, in the State of Nevada, to almost $10 million.

What are we getting for that money? The answer, Mr. President, is nothing. Are the unemployed being retrained? No. Are we using their talents in productive ways? No, we are not.

The current welfare system in America is in many instances a demeaning system. We make people take handouts. No one wants a handout. People want to live productive lives.

Mr. President, in an 8-year period, from 1983 to 1990, the Federal Government handed out almost $1 trillion in cash to welfare recipients. To be exact, $932.5 billion. That is almost $1 trillion, as I indicated. What do we have to show for it? Nothing.

In another 8-year period, from 1935 to 1943, a different kind of welfare program, the Works Progress Administration. spent—in present day dollars, about $90 billion—$11 billion. And what did we get for that? What did we get for this welfare program? We got the following: 651,000 miles of highways and roads, 124,000 bridges, 39,000 schools, a number of other improved schools, 8,000 parks, 18,000 playgrounds, 1,000 libraries, and almost 600 airports, to name just a few. Anyplace in the United States today you can find facilities that were built then. The first road built in the Lee Canyon area, which is now a ski resort area outside Las Vegas, is still there. It was the first road built though this area. A school called the Fifth Street Grammar School, built in 1932 in Las Vegas, an architectural beauty, is still being used. It is now owned by Clark County and is used for other purposes.

All over the United States these programs of the Welfare Progress Administration are still being used. These are the things we received in return for a welfare program. The participants also constructed power lines in rural areas, planted millions and millions of trees, exterminated rats in slum areas. In Nevada, one of the big programs was exterminating grasshoppers during a plague of grasshoppers. They organized nursery schools.

This program gave work to about 8.5 million Americans, some of them very famous Americans.

Woody Guthrie, Studs Terkel, Saul Bellow, a Nobel Prize winner in literature, Jackson Pollack, and many others were put to work under the WPA. Many talented writers contributed to the American Guide Series, which covered every State, and are still in use. They covered regions and cities.

Alfred Kazin said these writers "uncovered an America that nothing in the academic histories had ever prepared one for."

The State of Nevada benefited greatly from WPA. Over 2,000 miles of roads were built or improved; 154 bridges, even, in the State of Nevada; 60 schools—I talked about the grammar schools—were built or reconstructed, 39,000 feet of runway were built or improved, and many other projects were undertaken.

I am going to Reno, NV, this weekend, and from the airport I will drive over two bridges that have been in existence for almost 60 years, that were built by the WPA.

Out in the area where I was born, raised, and still have a home, Searchlight, NV, there are facilities that I can look back on—as a young boy—that were built by the WPA and the Civilian Conservation Corps. These were called Six-Mile, and Ten-Mile places where we as kids used to go and swim. They are still there.

Other works programs during the Great Depression completed Boulder Dam, built the Tennessee Valley Authority, and finished New York City's Triborough Bridge, that we still drive over when we catch a plane going to New York City.

Today, we still cross bridges these workers made, attend their schools, ride on their roads, and use the public buildings they built or decorated with murals. And the $250 million that WPA spent refurbishing Army and Navy facilities proved useful in the short term.

As important as anything the WPA built, this agency boosted the morale of Americans by giving them a chance to avoid the humiliation of being on relief, of being on the dole, of getting something for nothing. These men and women were on relief, were on welfare, but they did something in exchange for what the Government gave them. Samuel Cohn, who was a WPA economics statistician, said:

> People talk about leaf-raking and say it was not very economic. It served a purpose. It made people feel more useful at a time when that was important.

Woody Guthrie, as I mentioned, was one of those artists employed by the WPA. Guthrie wrote the following in one of his letters:

> I think real folk stuff scares most of the boys around Washington. A folk song is what's wrong and how to fix it, or it could be who's hungry and where their mouth is, or who's out of work and where the job is, or who's broke and where the money is, or who's carrying a gun and where the peace is. That's folk lore and folks made it up because they seen that the politicians couldn't find nothing to fix or nobody to feed or give a job of work. I can sing all day and all night, sixty days and sixty nights, but of course I aint got enough wind to be in office.

This is the same man that wrote American classics like "This Land is My Land, This Land is Your Land," "Roll on Columbia, Roll On," and hundreds and hundreds of other songs he wrote while he was on welfare. But he was being paid for being on welfare, for writing these American classics.

Mr. President, folks are crying out. We hear them; we need to hear them. We need to take action. We need to just stop blowing wind.

None of the projects funded under the bill that was introduced today by Senator BOREN and cosponsored by Senator SIMON, me, and I hope a lot of other Senators, need be make-work projects. It is a bill that will put people to work, and will again bring dignity to the welfare system.

I talked about how it used to be. It could still be that way. We need to have people feel like they are worth something; not having, as Woody Guthrie said, "a job of work."

I recently received two volumes entitled "Ready to Go, a Survey of U.S.A. Public Works Projects to Fight the Recession Now." This publication is put out by the U.S. Conference of Mayors. This publication contains responses from 506 cities, listing over 7,252 projects that are, right now as I speak, ready to go; people can start to work on them now. And they would create almost half a million jobs in 1992 alone.

The city of Henderson, NV, alone, a suburb of Las Vegas, has 19 projects ready to go, including the building of several parks, the extension of a highway, a flood control project, the building of a water treatment plant, and the rehabilitation of a youth center that was built when I was a young boy going to high school in the Henderson, NV, area.

These projects, in Henderson, NV, alone, would create 1,182 jobs in 1992 in Henderson. This one town could employ 13 percent of those currently receiving extended benefits in Nevada.

There is work to do. Mr. President, there are people to do it who want to do it. So let us get busy.

I ask all of my colleagues to support this most worthy legislation.

By Mr. SEYMOUR (for himself, Mr. DOLE, and Mr. LUGAR):

S. 2374. A bill to amend the Child Nutrition Act of 1966 to establish a breastfeeding promotion program; to the Committee on Agriculture, Nutrition and Forestry.

BREASTFEEDING PROMOTION ACT OF 1992

• Mr. SEYMOUR. Mr. President, on behalf of my distinguished colleagues, Senators DOLE and LUGAR, I rise today to introduce the Breastfeeding Promotion Act of 1992. This bill focuses on the future health of our children by promoting a healthy beginning for the thousands of infants born into the United States each year.

This legislation authorizes the use of both private and public funding by the Secretary of Agriculture to begin a national campaign and educational program to promote breastfeeding. Today, over 54 percent of the mothers in the United States are breastfeeding their newborns, with only 21 percent continuing to breastfeed their infants until the age of 6 months.

It has been said that the first few moments of our lives shapes the events in our days ahead. Within the first day of life, an infant needs nutritional support in order for growth and development. Breastmilk has been shown to be the most complete nutritional and digestible source of nutrition for infants. In addition, its immunologic properties protect the child from the onset of ear infections, diarrhea, and respiratory illnesses that often occur in the first months of life.

To increase the public awareness of the benefits of breastfeeding, UNICEF and the World Health Organization [WHO] announced their campaign beginning March 9 to promote breastfeeding while discouraging the distribution of low-cost infant formula. According to WHO's assistant director, Dr. Hu Ching-Li, "breastmilk contains growth factors critical to development of intelligence," as it contains nutrients not present in infant formula. On

March 4, 1992, the New York Times article focusing on the benefits of breastfeeding had some interesting conclusions. According to the Lancet Medical Journal of Britain, children who were born prematurely and breastfed scored higher on intelligence tests than those children who were born prematurely and given infant formula.

Presently, the Supplemental Food Assistance Program for Women, Infants and Children, [WIC] sponsored by the Department of Agriculture, distributes infant formula to the women currently receiving assistance. However, the Secretary of Agriculture is focusing on educating women involved in the WIC Program on the importance of breastfeeding their infants. While the WIC Program is reducing the distribution of infant formula, the supplemental food program for nursing mothers has been remodeled to focus on nutritional integrity. Fat, sugar, and salt content have been altered, as well as augmented quantities of juice, cheese, legumes, canned tuna and carrots to provide more nutritional breastmilk for infants.

Although increasing the service of the WIC Program seems to be an expensive venture, the focus on breastfeeding instead of the distribution of infant formula will not require an increase in Federal spending. As the number of women breastfeeding their infants increases, the number of women needing infant formula decreases, thus reducing the overall expenditures.

Breastfeeding is beneficial to both infants and mothers. It provides mothers with enhanced self-esteem, more rapid postpartum recovery, and the enhancement of the special bond between mothers and infants. At a time when there is a breakdown of the traditional American family unit, this early bonding would be significant progress toward strengthening parent-child relationships.

Mr. President, it is for all of these good reasons that the Surgeon General of the United States, Antonia Novello, has proclaimed increased breastfeeding practices as one of her goals to improve the health of America. This legislation will educate parents and increase public awareness of this nutritionally beneficial method of feeding infants. I ask my colleagues to join me in cosponsorship and the swift passage of this important legislation.●

ADDITIONAL COSPONSORS

S. 240

At the request of Mrs. KASSEBAUM, the name of the Senator from Minnesota [Mr. WELLSTONE] was added as a cosponsor of S. 240, a bill to amend the Federal Aviation Act of 1958 relating to bankruptcy transportation plans.

S. 448

At the request of Mr. SYMMS, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 448, a bill to amend the Internal Revenue Code of 1986 to allow tax-exempt organizations to establish cash and deferred pension arrangements for their employees.

S. 729

At the request of Mr. BURDICK, the name of the Senator from Nebraska [Mr. KERREY] was added as a cosponsor of S. 729, a bill to assist small communities in construction of facilities for the protection of the environment and human health.

S. 1423

At the request of Mr. DODD, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 1423, a bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

S. 1617

At the request of Mr. SYMMS, the name of the Senator from California [Mr. SEYMOUR] was added as a cosponsor of S. 1617, a bill to amend the Internal Revenue Code of 1986 to provide protection for taxpayers, and for other purposes.

S. 1677

At the request of Mr. DASCHLE, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1677, a bill to amend title XIX of the Social Security Act to provide for coverage of alcoholism and drug dependency residential treatment services for pregnant women and certain family members under the medicaid program, and for other purposes.

S. 1698

At the request of Mr. SARBANES, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1698, a bill to establish a National Fallen Firefighters Foundation.

S. 1850

At the request of Mr. BAUCUS, the names of the Senator from Washington [Mr. ADAMS], the Senator from Louisiana [Mr. BREAUX], the Senator from North Dakota [Mr. BURDICK], the Senator from North Dakota [Mr. CONRAD], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Iowa [Mr. GRASSLEY], the Senator from Iowa [Mr. HARKIN], the Senator from Wisconsin [Mr. KASTEN], and the Senator from Pennsylvania [Mr. WOFFORD] were added as cosponsors of S. 1850, a bill to extend the period during which the United States Trade Representative is required to identify trade liberalization priorities, and for other purposes.

S. 1947

At the request of Mr. GRAHAM, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 1947, a bill for the relief of Craig A. Klein.

S. 1970

At the request of Mr. DURENBERGER, the name of the Senator from Alaska [Mr. MURKOWSKI] was added as a cosponsor of S. 1970, a bill to expedite the naturalization of aliens who served with special guerilla units in Laos.

S. 2117

At the request of Mr. SASSER, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2117, a bill to ensure proper service to the public by the Social Security Administration by providing for proper budgetary treatment of Social Security administrative expenses.

S. 2133

At the request of Mr. DECONCINI, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 2133, a bill to provide for the economic conversion and diversification of industries in the defense base of the United States that are adversely affected by significant reductions in spending for national defense.

S. 2183

At the request of Mr. SHELBY, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2183, a bill to prohibit the Secretary of Veterans Affairs from carrying out the Rural Health Care Initiative.

S. 2266

At the request of Mr. DODD, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 2266, a bill to provide for recovery of costs of supervision and regulation of investment advisers and their activities, and for other purposes.

S. 2341

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 2341, a bill to provide for the assessment and reduction of lead-based paint hazards in housing

S. 2355

At the request of Mr. FORD, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 2355, a bill to permit adequately capitalized savings associations to branch interstate to the extent expressly authorized by State law, and for other purposes.

S. 2357

At the request of Mr. DOMENICI, the name of the Senator from Indiana [Mr. LUGAR] was added as a cosponsor of S. 2357, a bill to reduce and control the Federal deficit.

SENATE JOINT RESOLUTION 166

At the request of Mr. DOLE, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Joint Resolution 166, a joint resolution designating the week of October 6 through 12, 1991, as "National Customer Service Week."

SENATE JOINT RESOLUTION 248

At the request of Mr. CONRAD, the names of the Senator from Tennessee [Mr. GORE] and the Senator from New Jersey [Mr. LAUTENBERG] were added as cosponsors of Senate Joint Resolution 248, a joint resolution designating August 7, 1992, as "Battle of Guadalcanal Remembrance Day."

SENATE JOINT RESOLUTION 272

At the request of Mr. LEAHY, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of Senate Joint Resolution 272, a joint resolution to proclaim March 20, 1992, as "National Agriculture Day."

SENATE CONCURRENT RESOLUTION 57

At the request of Mr. BOREN, the names of the Senator from Arkansas [Mr. PRYOR], the Senator from Colorado [Mr. WIRTH], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of Senate Concurrent Resolution 57, a concurrent resolution to establish a Joint Committee on the Organization of Congress.

SENATE RESOLUTION 184

At the request of Mr. DIXON, the names of the Senator from Pennsylvania [Mr. SPECTER] and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate Resolution 184, a resolution to recommend that medical health insurance plans provide coverage for periodic mammography screening services.

SENATE RESOLUTION 215

At the request of Mr. COATS, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of Senate Resolution 215, a resolution to amend the Standing Rules of the Senate to require that any pay increase for Members be considered as freestanding legislation and held at the desk for at least 7 calendar days prior to consideration by the Senate.

SENATE RESOLUTION 260

At the request of Mr. KASTEN, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Mississippi [Mr. COCHRAN], the Senator from Hawaii [Mr. INOUYE], and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of Senate Resolution 260, a resolution opposing the taxation of cash buildup in life insurance annuities.

SENATE RESOLUTION 273—RELATIVE TO RESPONDING TO COMMUNICATIONS FROM PETITIONERS

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 273

Whereas, the First Amendment of the Constitution guarantees the "right of the people * * * to petition the Government for a redress of grievances," the Senate recognizes that responding to petitions for assistance is an appropriate exercise of the representative function of each Member;

Whereas, the Senate Code of Official Conduct should provide guidance for the performance of this constitutional function in a manner consistent with the public trust: Now therefore be it

Resolved, That the Standing Rules of the Senate are amended by adding at the end thereof the following new rule:

"RULE XLIII

"REPRESENTATION BY MEMBERS

"1. In responding to petitions for assistance, a Member of the Senate, acting directly or through employees, has the right to assist petitioners before executive and independent government officials and agencies.

"2. At the request of a petitioner, a Member of the Senate, or a Senate employee, may communicate with an executive or independent government official or agency on any matter to—

"(a) request information or a status report:

"(b) urge prompt consideration;

"(c) arrange for interviews or appointments:

"(d) express judgments;

"(e) call for reconsideration of an administrative response which the Member believes is not reasonably supported by statutes, regulations or considerations of equity or public policy; or

"(f) perform any other service of a similar nature consistent with the provisions of this rule.

"3. The decision to provide assistance to petitioners may not be made on the basis of contributions or services, or promises of contributions or services, to the Member's political campaigns or to other organizations in which the Member has a political, personal, or financial interest.

"4. A Member shall make a reasonable effort to assure that representations made in the Member's name by any Senate employee are accurate and conform to the Member's instructions and to this rule.

"5. Nothing in this rule shall be construed to limit the authority of Members, and Senate employees, to perform legislative, including committee, responsibilities."

SECTION 2: Senate Rule XLIII shall be deemed to be part of the Senate Code of Official Conduct for purposes of Senate Resolution 110, 95th Congress, and all other resolutions pertaining to the jurisdiction of the Select Committee on Ethics.

Mr. MITCHELL. Mr. President, today I am submitting, on behalf of myself and the distinguished Republican leader, a resolution to amend the Standing Rules of the Senate. The purpose of our proposed rule XLIII is to provide guidance to Members of the Senate, and their employees, in discharging the representative function of Members with respect to communications from petitioners.

On April 16, 1991, on the recommendation of the Select Committee on Ethics, the Republican leader and I announced the formation of a bipartisan task force on constituent services. We charged the task force with developing written standards for representation services that could be considered and adopted by the full Senate. The task force was cochaired by Senators FORD and STEVENS and included Senators BUMPERS, SASSER, KASSEBAUM, and SMITH. They worked throughout the last session and reported to us late in the year.

Following its receipt, the report was reviewed by the Office of Senate Legal Counsel, the staffs of the majority leader's office and the Republican leader's office, and members and staff of the Ethics Committee. There followed extensive discussions among all of them covering a period of nearly 3 months. The resolution that we submit today is the product of those discussions. It incorporates recommendations from the task force and draws from standards described by the Ethics Committee in its recent report to the Senate. I commend each of the Senators involved for their fine work.

This proposed new rule seeks to enable Members of the Senate to fulfill their responsibility under the first amendment of the Constitution to serve as a means, as set forth in the preamble and in the first section of the rule, through which citizens may petition the Government for a redress of their grievances. Responding to inquiries of petitioners and assisting them before executive or independent Government officials is appropriate and expected.

Section 2 of the proposed new rule, which lists various actions that a Member may properly take in assisting a petitioner in dealings with Government officials or agencies, is drawn in substantial part from Advisory Opinion No. 1 of the House Committee on Standards of Official Conduct.

Section 3 of the proposed rule builds upon, and is intended to be fully consistent with the standard of conduct described by the Ethics Committee. Intervention by Senators in the administrative process on behalf of petitioners should not be made on the basis of contributions. Section 4 would promote the implementation of this standard of conduct by describing the responsibility of Senators to assure that their Senate employees conform to this rule.

Finally, the resolution would provide that the new rule is part of the Senate Code of Official Conduct, which means that it would be subject to enforcement by the Ethics Committee.

The rule that we are submitting does not make reference to the term "constituent"; instead, the term "petitioner" is used. Those who worked on drafting this rule did not wish to prohibit a Senator from assisting a petitioner who does not reside in that Senator's State. Use of the term "constituent" might be misconstrued to require adherence to strict geographical boundaries in determining whom a Senator might properly assist.

This resolution will be referred to the Rules Committee for that committee's consideration and recommendations prior to action by the full Senate this session. So that the committee will be able to report to the Senate as early as possible, I have been asked by the chairman of the committee to request that all persons who have comments on the proposed rule, submit those comments in writing to the committee within the next 30 days.

The Rules Committee may wish to consider whether some procedure to report contacts between Members or Senate employees and executive or independent Government officials and agencies is advisable. The objective to be achieved may not be practical given the large number of ordinary communications between a Senator's office and agency officials and the constraints on resources that may reasonably be imposed by the Senate on a Senator and his office staff.

Alternatively, the committee might recommend that officials or agencies keep records of contacts by Members or Senate employees. It is my belief, however, that whatever is decided as appropriate for Members of the Senate on keeping records of communications with executive and independent officials or agencies should be applied equally to contacts with, and communications to those officials and agencies by other entities in the executive branch.

Again, I wish to thank Senators FORD, STEVENS, SANFORD, and RUDMAN, as well as the other members of the task force whom I previously mentioned, for their able and diligent assistance with this important issue.

NOTICES OF HEARINGS

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. LEVIN. Mr. President, I wish to announce that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, will hold a hearing on Thursday, March 26, 1992, at 9:30 a.m., in room 342 of the Dirksen Senate Office Building, on S. 2279, the Lobbying Disclosure Act of 1992.

SUBCOMMITTEE ON INNOVATION, TECHNOLOGY AND PRODUCTIVITY

Mr. BUMPERS. Mr. President, I would like to announce that the Small Business Subcommittee on Innovation, Technology and Productivity will hold a hearing on the reauthorization of the Small Business Innovation Development Act of 1982, the enabling legislation for the Small Business Innovation Research Program [SBIR]. The hearing will take place on Tuesday, March 31, 1992, at 9 a.m., in room 428A of the Russell Senate Office Building. For further information, please call Chris Miller of Senator LEVIN's staff at 224-6221.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 19, at 2 p.m. to hold a hearing on U.S. assistance to the new independent states: recommendations from U.S. nonprofit organizations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be authorized to meet on Thursday, March 19, at 9:30 a.m., for a hearing on the subject: Is OMB interfering with worker health and safety protection?

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 19, at 10 a.m. to hold a hearing entitled mass killings in Iraq.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AFRICAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on African Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, March 19, at 3:30 p.m. to hold a hearing on the Horn of Africa: changing realities and U.S. response.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, 2 p.m., March 19, 1992, to receive testimony on S. 684, a bill to amend the National Historic Preservation Act and the National Historic Preservation Act Amendments of 1980 to strengthen the preservation of our historic heritage and resources, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, March 19, 1992 at 2 p.m. to hold an open hearing on intelligence reorganization.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate, Thursday, March 19, 1992, at 10 a.m. to conduct a roundtable hearing on the Residential Lead-Based Paint Hazard Reduction Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

IN RECOGNITION OF JOHN C. COLLOPY

• Mr. SEYMOUR. Mr. President, I rise today in recognition of John C. Collopy, a long-time friend and colleague, upon his retirement from Founders Title Group.

John was born in Kansas City, MO, and has been going nonstop ever since. John served in the U.S. Army Air Corps in World War II until 1945 when he was honorably discharged. He then began his outstanding career in the title industry.

After 25 years of service with various Southern California companies, John started Founders Title Co. Under John's direction, Founders Title has developed a position of extraordinary leadership in the industry. Founders Title started with 5 employees and now has over 120 offices in 5 States across the Nation that employ over 2,000. Founders Title is now the largest underwritten title company in the country.

John currently serves as director of Old Republic International Corporation, an insurance conglomerate located in Chicago, IL. He also is director and chairman of the board for such companies as Founders Title Group, Founders Title Co., California Land Title Co. of Santa Clara County, San Diego Printers, and Lincoln Title Co., just to name a few. He is currently a member of the American Land Title Association, the Olympic Club, the Commonwealth Club in San Francisco, and the Los Angeles Athletic Club. In short, John Collopy has been an essential player in the title industry.

Mr. President, I would ask the Members of the Senate to join me and John's many colleagues who will be gathering to commemorate John's many contributions to the title industry and to bid him good wishes for abundant good health and happiness as he begins his much deserved retirement from Founders Title Group.•

TRIBUTE TO COMMISSIONER MILDRED L. WATSON, CIRCUIT COURT OF JACKSON COUNTY, MO

• Mr. BOND. Mr. President, 'I rise today to pay tribute to a remarkable lady from Missouri, Mildred L. Watson. Commissioner Watson will retire this week, after 8 years of service to the Juvenile Division of the 16th Judicial Circuit Court of Missouri.

The Honorable Mildred L. Watson came to 16th Judicial Court in 1984. She brought with her knowledge, wisdom, sincere concern, and a distinguished record of achievement.

Mildred Watson served her county from 1943 to 1946, as a civilian mathematician for the U.S. Navy. After earning her master's degree in social work she practiced her craft at the University of Kansas Medical Center. From there she advanced to the position of associate professor of social work at the University of Kansas. While there she served as both instructor and consultant until she decided to become an attorney.

In 1975, Commissioner Watson entered the practice of law until 1984. She brought her many talents together to give a special insight and compassion to the juvenile court.

Mr. President, Mildred Watson will be sincerely missed by her colleagues, as well as all of those who have benefited from her exacting judgment and her warm friendliness. I commend Mildred on all of her noteworthy accomplishments and I wish her continued success in her future.•

THE 80TH ANNIVERSARY OF HADASSAH WOMEN'S GROUP

• Mr. D'AMATO. Mr. President, I rise today to honor and congratulate Hadassah on the occasion of its 80th anniversary. For 80 years, Hadassah has run medical and nursing schools, hospitals and clinics worldwide. Hadassah's service to society has been enviable.

Begun in 1912, by 12 members of the Daughters of Zion Study Circle, the organization has grown to encompass 36 regional groups and 1,500 State groups. Through Jewish education, leadership development, career guidance, and Young Judaea clubs and camps, Hadassah has established itself at the forefront of Jewish organizations.

Hadassah is responsible for administering its world renowned hospitals such as Hadassah Medical School and Hospital on Mount Scopus in Jerusalem, Israel's first undergraduate medical school. The Hadassah Hebrew University Hospital at Ein Karem, is Israel's preeminent bone marrow and heart transplant center.

Israel has also participated in the reclamation of thousands upon thousands of acres of arable farmland in Israel through dam construction and the planting of millions of trees. Hadassah has truly made a desert bloom.

Over the span of 80 years Hadassah has worked for the betterment of mankind and achieved wonders in education, medicine and in the environment. I wish to take this opportunity to congratulate Hadassah on its 80th anniversary.•

PUBLIC SCHOOLS MONTH

• Mr. SEYMOUR. Mr. President, I rise today in recognition of the Masons of the State of California, as they designate April 1992 Public Schools Month.

The theme for this year is Public Education Today is America's Blue Print for Tomorrow. Mr. President, I believe this theme is both timely and appropriate as we as a Nation now face some of the toughest challenges in our history, and our public schools play a vital role in making sure that we as a Nation can meet these challenges.

Each year, the Masons of California dedicate 1 month in which they actively express their support for our public schools. California's Masons have faithfully observed this annual event since 1919. The Masonic family, with all of its appendant organizations, has a 73-year record of staunch support of one of our Nation's most important institutions, our public schools.

I commend the Masons of California, and I ask my colleagues to join me in extending the congratulations of the U.S. Senate for their dedication to our public schools.•

MASSACHUSETTS OLYMPIANS

• Mr. KERRY. Mr. President, all of us dream of that one moment when we can be the best we can be at what we love most. To arrive at that special moment one must devote years of determination, discipline, and dedication. In the 1992 Winter Games, 24 outstanding athletes from Massachusetts seized that moment and achieved greatness.

Today I want to acknowledge them and their achievements. First, I want to commend our Massachusetts medal winners: figure skaters Nancy Kerrigan of Stoneham and Paul Wylie of Somerville and exhibition skier Sharon Petzold of Andover. Each provided thrilling moments to viewers around the world, bringing medals home not only to America, but specifically to Massachusetts.

Olympic athletes have special merit, measured not only by their medals, but also by the tremendous spirit that drives them in the quest for excellence. It is for that spirit that I applaud our other Massachusetts Olympic competitors.

Ice hockey team members Ray LeBlanc of Fitchburg, Ted Donato of Dedham, Steven Heinze of North Andover, Weymouth's Tim Sweeney, Scott Gordon from Easton, Shawn McEachern of Waltham, Hingham's Marty McInnis, C.J. Young from Waban, Keith Tkachuk of Medford, Clinton's Scott Young and Joe Sacco of Medford surpassed even their own expectations.

Tim Wiley of Lexington conquered the luge run with spirit and determination.

Krista Schmidinger of Lee, and Heidi Volker of Pittsfield skied the glorious mountains of Albertville with amazing grace and vigor.

Figure skater Todd Eldredge of Chatham and ice dancers Rachel Mayer of Wellesley and Peter Breen of Brockton lit up the ice with their special charm. And the speedskating of Eric Flaim of Pembroke and Waltham's Chris Shelley was something to behold.

I salute all of our Massachusetts Olympic competitors who upheld the Bay State motto, "The spirit of Massachusetts is the spirit of America." These athletes let that spirit shine through when they performed in Albertville. Their achievements will lend the youth of Massachusetts and the Nation a renewed sense of pride and inspiration. Today, I am proud to honor them for their indomitable spirit and embodiment of excellence.•

KNIGHTS OF COLUMBUS STATE DEPUTY

• Mr. D'AMATO. Mr. President, the success of any great program or idea is dependent upon those who are responsible for carrying them out. Leadership and innovation are admirable qualities in any individual, but those who use their personal advantages to help others deserve to be specially commended. The New York State Council Knights of Columbus are extremely fortunate to have such an able-bodied leader in Raymond P. Pfeifer.

Being such a widespread organization, the Knights of Columbus' leaders have a tremendous duty to fulfill. In the State of New York that duty is even greater than one imagines with 475 councils in existence. Mr. Pfeifer has fulfilled his obligations in an outstanding manner. Helping the poor and underprivileged is perhaps the most important task in our society today, but considering the magnitude of the situation, performing this task adequately is almost impossible. Mr. Pfeifer, on the other hand, has assisted tremendously through his chairmanship of the charitable and benevolent program and the humane action program. Mr. Pfeifer and his fellow members serve as a voice for those who often have none.

The family is perhaps the core of our Nation. Therefore, it is of paramount importance that family and community ties are continually developed and made stronger. Mr. Pfeifer contributed his services in this arena also through his chairmanship of the family life program. This program teaches parents and their children the importance of family activities and togetherness.

In today's society, it is often hard to hold on to our moral values, let alone instill them in our children. Programs like the decent media program and the church activities program make this task a little easier. The decent media program promotes more suitable media that communicates sound moral ideals. In addition, the church activities program promotes stronger relationships between the church and the people of the community which joins them together and benefits them both.

Starting a new and better life can be extremely difficult. Through the criminal justice program, Mr. Pfeifer and his fellow Knights of Columbus members make the transition from prison to society a little easier. They provide job shops, counseling, and spiritual guidance for inmates who will soon be released and are ready for change.

It is my honor to commend Raymond P. Pfeifer. Through his continued success with the Knights of Columbus, Mr. Pfeifer makes the State of New York an even better place to live. I thank him for his efforts and hope to see even more of him in the future.•

ANTI-SEMITISM IN THE UKRAINE

• Mr. SIMON. Mr. President, over the course of the past few weeks, I have been commenting on the rising tide of anti-Semitism in the states of the former Soviet Union and Eastern Europe. Today, however, I would like to take the opportunity to call to your attention the tremendous strides taken by a former Soviet state toward combating the problems of anti-Jewish sentiment.

The Ukraine, which throughout its history has proven a fertile ground for anti-Semitism and the accompanying violence and terror, is now beginning the long, slow process of extracting the roots of ethnic hate and division. Efforts toward assuring the rights of minorities within its borders gives me reason to be cautiously optimistic about the hope for democracy and equality in this nation.

Let me begin though with a brief historical overview of the intensity of anti-Semitic feeling in Ukraine and the heinous actions that have been born from that animosity. Throughout their history in the area, Jews have been the target of scapegoating for economic, political and ethnic problems facing Ukrainians. In the mid-17th century, amidst rising tension and exploding anti-Semitism, more than 100,000 Jews were killed and their communities destroyed. The final quarter of the 19th century and the early years of the 20th century saw the emergence of pogroms throughout Ukraine in response to the Russian Government's declaration of a Jewish problem.

During World War I, when viewed as spies for the Germans, and through the civil war, when victimized by the emerging Socialist regime, nearly 100,000 Jews died in Ukraine. The final atrocity came on September 29–30, 1941, when some 33,000 Jews were machinegunned in a ravine on the outskirts of Kiev, at Babi Yar, by a special SS unit of the Nazi Army. Although the details are not entirely clear in this area, many have implicated Ukrainian involvement in the mass murder. And until recently, Soviet and Ukrainian officials would not comment upon or even acknowledge the massacre.

Recently though, the Ukrainian people have taken great steps toward a reconciliation with these past events and are beginning to make a concerted effort to ensure the rights of minority groups. This past October, both Ukrainian President Leonid Kravchuk and Soviet President Mikhail Gorbachev spoke at a gathering to commemorate the 50th anniversary of the Babi Yar massacre. In the words of President Kravchuk:

> I proclaim to the whole world that the ideological thought of the former regime in Ukraine is today unacceptable. It scorned human rights and the rights of nations * * * (Babi Yar) was genocide, and the blame for it lies not only on the fascists, but on those who did not stop the assassins in time. Part of the blame we take upon ourselves. Today's sad ceremony is at the same time a proper opportunity to ask the forgiveness of the Jewish people for the great number of injustices in our history.

More important than their words, however, was the message implicit in their recognition of the history of anti-Semitism in Ukraine and the necessity of dispelling that legacy of hatred. What happened at Babi Yar is just one example of this expanding consciousness of past and continuing anti-Semitism. President Kravchuk has also stated his support for calls to repeal the United Nations resolution denouncing Zionism. And, perhaps most importantly, in the December 1991 presidential elections, the former Communist leader turned democrat, Kravchuk, adopted most of the platform of the democratic movement, Rukh, including many key planks.

Rukh, also known as the Ukrainian Popular Movement, was officially formed in September 1989 and has served as a major force for democratization in the region. Rukh's platform, which closely resembles those of the Baltic States with regards to independence and human rights, is nevertheless ideally suited for Ukraine's multiethnic population: of the 52,000,000 people in Ukraine, approximately 75 percent are Ukrainian, 20 percent are Russian, 1–2 percent Jewish, and 1 percent Polish. According to the Rukh charter and program, one of the main goals of this democratic movement is to ensure the national-cultural autonomy of those and other ethnic minorities residing in the Ukrainian Republic.

One of the most telling signs in Ukraine's efforts to stamp out anti-Semitism is the lack of Pamyat-like organizations within its borders. Groups like Pamyat and the Union of Writers of the Russian Republic are particularly strong anti-Semitic forces in other states of the former Soviet Union but have been all but absent in Ukraine.

In addition, according to some observers, the nationalistic feelings that run strong in Ukraine are substantively different from the nationalism in other countries that threaten minority populations. In Ukraine, the idea of democratic nationalism, that is nationalism that promotes the inclusion of minorities rather than their exclusion, is what motivates the reform movement.

All of this, along with the continued push for democratization by Rukh, has helped to spur a Jewish revival in Ukraine. While many Jews are eager to take advantage of relaxed Ukrainian emigration laws, others are choosing to remain and breathe new life into Jewish communities across the nation. Recognizing that this is a golden opportunity, one which Jews throughout Eastern Europe and the former Soviet Union have been waiting decades for, outgrowths of Jewish culture are appearing across Ukraine. In Kiev alone, two Jewish newspapers, a Jewish library, a Jewish theater, a Jewish choir, an Israeli video library, and a Jewish elementary school have all developed over the course of the past 4 years. In addition, the restoration of synagogues, the development of Jewish and Hebrew cultural centers as well as the creation of other institutions to promote Jewish culture have become integral parts of the revival of Jewish communities in Ukraine.

Nevertheless, we must be cautious in our assessment of Ukrainian attitudes toward the Jewish minority. Questions have been raised about the sincerity of President Kravchuk's commitment to the democratic reforms he adopted so quickly after years of loyalty to communism. Many claim that his is a thinly veiled attempt to court economic and political support from Israel at a time of great struggles for Ukraine. Others view Kravchuk as a purely transitional figure attempting to bridge the gap between old Communist connections and new democratic ideas. Furthermore, the ever-present specter of Russian nationalism stands in the way of Rukh's vision of democratic nationalism and threatens to explode in Ukraine along ethnic divisions. There are still many outstanding cases of Jewish refuseniks, which even the newly organized democratic government is restricting from emigrating. And, as always, there is the problem of economic instability; as times grow more and more difficult, the possibility of scapegoating becomes much more serious.

As events of the past several weeks have illustrated, these newly independent nations are still in a state of flux. Changes and reforms can, in a matter of days, be reversed. It is a time where extreme care must be exercised. We must continue to encourage the reform movements in Ukraine that promote the rights of minorities and we must stand on guard against any such revisions. Still, I am guardedly optimistic about Ukraine's efforts to combat anti-Semitism. It is my sincere hope that President Kravchuk and the members of Rukh continue their defense of the rights of minorities and thus ensure that true democracy will prevail in Ukraine.

One final point I would like to make, which I feel is salient to my ongoing discussion of anti-Semitism. Even as we eye anti-Semitism abroad, we cannot ignore the problem at home. In an interview with the Rabbi of Kiev, Rabbi Bleich, Robert Cullen, a reporter for the New Yorker, learned of the relatively small number of anti-Semitic actions in Kiev and Ukraine. He wrote the following:

> When I pressed him [Rabbi Bleich], the rabbi said he had heard of instances of vandalism in Jewish graveyards. He also knew cases where Jewish children had been taunted in school. But he had heard of such things in the United States as well he noted.

Anti-Semitism is not just a problem for Russia or Ukraine or Eastern Europe for that matter; it is a problem for all of us. We must take the responsibility of combating it, whether it be abroad or at home, if we are to remain sincere in our convictions for freedom and justice.●

TRIBUTE TO KENTUCKY STATE SENATOR ART SCHMIDT

● Mr. McCONNELL. Mr. President, I rise today to recognize an outstanding Kentucky State legislator, and a distinguished member of the Republican Party. State senator Art Schmidt of Campbell County is one of Kentucky's longest tenured legislators. Mr. Schmidt recently announced that he is going to retire from State government rather than run for reelection this year. His presence in Kentucky politics will certainly be missed by both his colleagues and his constituents.

Mr. Schmidt began his political career when he was elected to the Cold Spring City Council in 1962. He went on to serve 18 years in the Kentucky House of Representatives, and in 1983 was elected to the Kentucky Senate. During his tenure as a State legislator, Art Schmidt served on numerous committees and played a vital role in shaping legislation of great importance to the Commonwealth.

Much of Art Schmidt's work in the State legislature reflected his commitment to the people he represented in northern Kentucky, as well as his dedication to the citizens of the Commonwealth. Mr. Schmidt was a major player in establishing northern Kentucky University. He established centralized voter registration and the State board of elections. Mr. Schmidt served on the Commerce, Energy and Tourism Committee and was instrumental in establishing the first multicounty Tourism and Convention Bureau. Mr. Schmidt also established a pilot program for elementary school guidance counselors throughout Kentucky.

In addition to pursuing issues and legislation he believed in, Art Schmidt never hesitated to question ideas which he doubted. As a minority member of the general assembly, he often took the dissenting opinion. He frequently chastised other members of the legislature for merely voting the party line without considering reasonable objections raised by their counterparts in the minority party.

Mr. Schmidt is also actively involved in his community, a role that will no doubt continue after he leaves his post as a State lawmaker. He currently serves on the boards of the Northern Kentucky Area Development District and the Provident Bank of Kentucky, and is a past president of the Kentucky Electoral College.

I congratulate Art Schmidt on his many years of service to Kentucky, and I wish he and his family much future success.

Mr. President, please insert my comments, as well as an article from the Kentucky Post into the RECORD.

The article follows:

[From the Kentucky Post, Mar. 3, 1992]

SENATOR SERVED WELL

Sen. Art Schmidt, one of Kentucky's longest-tenured legislators, has announced he is going to bring his smile and his wit home from the legislative wars and enjoy his family. He chose to withdraw from the 1992 election wars after he found himself sharing with another Republican senator a district that is dominated by voters who have not been his constituents.

His loss will be felt from the Cumberland Gap to the Suspension Bridge, from Black Mountain to Murphy's Pond.

To know Art Schmidt is to admire the fundamental strengths of our two-party system.

In his not-so-frivolous way, the distinguished senator from Campbell County pulls from his treasure chest of memories an old war story to ease the tension. When he rises from his chair in the chamber to castigate his Democratic brethren, his wit is as sharp as his smile is wide. His is the politics of ideas, not of rancor.

His is the voice that kept asking the probing questions that seem to have no answers.

All through the agony of restructuring the state's public school system, Sen. Schmidt kept asking if we don't have too many school systems.

He questioned the budget. He questioned the reform legislation. He railed about the unreasonableness of Kentucky's tax system. He was never afraid to call the governor to task on the General Assembly floor. He chastised the partisans who adopted legislation down the party line without considering the objections raised by reasonable members of the minority party.

To know Art Schmidt is to admire his piercing analysis.

He perfected the role of minority member of the General Assembly. He was thoughtfully prepared, always ready for debate, always at the scene of the action. He never gave up, found ways to accomplish many of his goals, was reasoned and reasonable.

With his smile and his wit, he allowed the majority no room to hide.

He wasn't an antagonist who sowed discord. He was a Republican who demanded his rightful say in the discussion of the issues. In the one-party monopoly Democrats have held over the Commonwealth for two decades, he stood tall and cast a long shadow.

The party of Lincoln is losing one of its sagest members; the people of the Commonwealth are losing one of their most skilled debaters.

It doesn't have to be that way. Kentucky—and especially Northern Kentucky—needs his questioning voice, his experience-worn reason, his ability to be partisan without being ugly. Northern Kentucky—and the Republican Party—stands taller with Art Schmidt in the state Senate.

While another race would certainly require work, he already enjoys the admiration of many of those voters.

For to know Art Schmidt is to admire him.

In the belief that the highest compliment that can be offered an elected official is the term "public servant," we recognize Sen. Schmidt as one who earns the honor day after day.●

SYRIAN JEWS

● Mr. GRAHAM. Mr. President, I rise today to call your attention to the continuing efforts on behalf of Syrian Jews. On March 14, 1992, Jewish communities throughout the United States observed a Sabbath of Remembrance for Syrian Jews, highlighting the memory of four young Syrian Jewish women who were murdered 17 years ago while trying to escape Syria. I urge my colleagues to join me in supporting this important event.

The Sabbath before the Jewish holiday Purim is traditionally marked as Shabbat Zachor, Sabbath of Remembrance, a time to join together to remember the genocidal threat to the Jewish people. In recent years, this Sabbath has been dedicated to the memory of four young Jewish women from Damascus who were brutally murdered in March 1974 while trying to escape from Syria. The mutilated bodies of Laura Sebbagh, Mazal Sebbagh, Farah Sebbagh, and Eva Saad were dumped in sacks outside their families' homes in Damascus.

This heinous crime has gone unpunished to this day. It is inconceivable that in a civilized age, reunification with loved ones can be judged a criminal act. We must not forget the lessons of persecution of the last 50 years. The tragic Holocaust period has taught us that men and women of good conscience cannot be silent.

During this period of March 14, we join on the Sabbath of Remembrance to remember the truly painful situation for remaining Jews in Syria. Syrian Jews today are still not permitted the basic freedoms of emigration and movement. Jews cannot leave without posting large, monetary deposits and leaving close relatives behind to assure their return.

In one case, two Jewish brothers, Eli and Selim Swed, have been held without charge since November 1987. They were recently tried on camera and sentenced to 6½ years imprisonment. Few other details on the trial proceedings or verdicts are know, other than earlier reports that the two were charged with espionage and then accused of visiting relatives abroad, whom they had not seen in 30 years. After their sentencing, in an act of desperation, the two brothers conducted a hunger strike in prison, but they remain imprisoned. Last month, their sentence was confirmed. We must forcefully call upon Syrian President Hafez el-Assad to free the Swed brothers.

It is time to place the issue of Syrian Jews much higher on the American human rights agenda. At this historic time, when the United States has entered into dialog with President Assad of Syria about peace in the Middle East, I urge President Bush and Secretary Baker to undertake vigorous American intervention on behalf of Syrian Jews. In this effort, we join thousands of our constituents together with Jewish and non-Jewish communities across the United States and in cooperation with the National Task Force of Syrian Jews, and National Jewish Community Relations Advisory Council, and the Council of the Rescue of Syrian Jews.

For many years, I have viewed with dismay Syria's refusal to grant Jews their freedom. Last year, the Senate passed my legislation condemning the Syrian Government for continuing to abuse the human rights of Syrian Jews. On March 10, 1992, I joined several of my colleagues in writing to President Assad to urge him to improve his government's policy toward Syrian Jewry.

Despite our efforts, the struggle is far from over. At this time of special challenge and opportunity in the Middle East, it is critical that we continue to work for those in desperate need of our attention and support. I appreciate this opportunity to let Syrian Jews know that they have not been forgotten.●

DESALINATION

● Mr. SIMON. Mr. President, for the past several weeks I have been making statements and entering articles into the RECORD focusing on the merits of desalination technology for our domestic needs. This week I wish to look abroad and see how wider application of this technology could ultimately save more dollars than those spent on R&D of this technology; I am referring to providing the tools to help prevent conflict in Middle East. The seeds of conflict are clearly being sown over control of diminishing water supplies.

An article appeared a few months ago in the Wall Street Journal entitled "Water Often Is a Divisive Issue in the Fractious Middle East" that outlined some of the current water problems facing the Middle East. Syria, for instance, is in the midst of experiencing a 5-year drought that has created a water crisis in Damascus. While authorities have reportedly cut the city's water consumption by 40 percent, shortages continue. Water either flowing into or available to that area has been limited for many reasons. Unless these water shortages are addressed, it is unclear what actions Syria will take to remedy the situation. As one Syrian water official is quoted in the article, "If it were left to the technical people * * * we could reach an agreement to guarantee everyone's needs in three months." Unfortunately, it is not the technical people making the decisions.

I firmly believe making affordable desalination technology available to water-hungry countries can play a key factor in reducing tensions in the Middle East. I urge my colleagues to support my bill, S. 481, the Water Research Act, when it comes to the floor so that we can take steps quickly to address this looming area of potential conflict.

The article follows:

[From the Wall Street Journal, Nov. 30, 1991]

WATER OFTEN IS A DIVISIVE ISSUE IN THE FRACTIOUS MIDDLE EAST

(By Peter Waldman)

DAMASCUS, SYRIA.—The Arab-Israeli conflict is a blood feud. It is also a feud over water.

In an arid region of rapid population growth, water is as hotly contested as oil. For now, Syria says it won't participate in multilateral talks with Israel on water and other regional issues until progress is made on a peace agreement. But eventually, water rights will have to be part of any settlement to the Mideast conflict.

Nowhere is this fact more clear than on the putrid banks of the Barada River in central Damascus. Here, garbage, mud and a trickle of water lie where a brisk stream once flowed from its source in the Anti-Lebanon 20 miles west. A five-year drought, and the explosion of the city's population to three million, have sucked the Barada nearly dry, creating a water crisis in the Syrian capital.

"This isn't a river now," says an official with the Syrian irrigation ministry. "It's a catastrophe."

To cope, authorities have cut the city's water consumption by 40%, spreading the pain by choking off supplies to various neighborhoods on a revolving basis. To relieve the capital's thirst, the only options are a lot more rain, a lot fewer people, or the return of the Golan Heights.

Just 30 miles southwest of Damascus, the Israeli-occupied Golan is the richest watershed in the area. Its high, steep slopes funnel underground springs into a roaring river that emerges from a rock wall at the Banyas, site of an ancient Greek temple. From there, the Dan River carries the water southward into the Jordan River, which flows into Israel's national irrigation system. In all, the Golan yields 25% of Israel's water supply.

In the mid-1960s, when Syria still held the Golan, it tried to build a canal to channel Banyas water back to Syria. The Israelis bombed the project, in a precursor to the 1967 war. More recently, Israeli pressure on the World Bank helped stop construction of a Syrian-Jordanian dam on the Yarmouk River, which also feeds into the Jordan.

"The cost of all their wars would have bought them more than enough desalinization equipment by now," gripes one Syrian official. "They're wealthier than we are. Instead of building tanks, they should use their international support to build desalinization plants."

The Golan is only part of Syria's water problem. The mighty Euphrates River cuts a wide swath through the eastern part of the country, providing about 60% of Syria's water supply. But in that river's huge al Furat Dam, built in the early 1960s by the Soviet Union, the hydroelectric turbines were installed so high on the structure that Syria has to maintain a large reservoir behind it to keep the blades turning.

The wide, shallow storage area evaporates at a high rate in the desert sun. But more troublesome, Turkey, up-river from Syria, has been building reservoirs of its own, cutting the Euphrates' flow into Syria by about 50% over the past five years. Now, on average, only three of al Furat's eight turbines spin. The result has been widespread brownouts in Syria, and painful limitations on other uses of the bountiful Euphrates above the al Furat Dam.

All of this is inextricably linked to politics, of course. Turkish President Turgut Ozal wanted to hold a Mideast water summit in November, but had to cancel it because Syria insisted Israel couldn't attend. Turks complain that Syria sponsors Kurdish terrorism inside Turkey to maintain leverage in water talks. Syrians say Turkey is using water as a weapon to expand its influence in the Mideast.

"If it were left to the technical people," says one Syrian water official, "we could reach an agreement to guarantee everyone's needs in three months."●

COLONEL GABRESKI AIRPORT

● Mr. D'AMATO. Mr. President, I rise today to honor the accomplishments of our Nation's top living air ace legend: Col. Francis S. Gabreski. The role that aviation plays in our history is perhaps not fully recognized and acknowledged. The Early Fliers Club of Long Island is doing a great amount to change these unfortunate circumstances. First and foremost is the renaming of the Suffolk County Airport.

It is the honor and duty of our Nation to honor and commend those individuals who have courageously served in our distinguished military. Colonel Gabreski is one such individual. His military record alone shows him to be a heroic, dedicated serviceman. Not only did he succeed in destroying 31 German aircraft in World War II, but also went on even further by destroying 6½ enemy aircraft in Korea. Our Nation was fortunate enough to have his services once again from 1964 to 1967 when he commanded the Air Force base we now name after him.

It is my hope that all those who served in World War II and in Korea will view the Col. Francis S. Gabreski Airport as not only an honor and a tribute to Colonel Gabreski, but a tribute to all of them. So many men and women served their country in these wars that it is hard to acknowledge each and every one of them. Instead, we do our best to commend those that made a particularly outstanding contribution, such as Colonel Gabreski. Perhaps with the completion of the museum for Aviation History in Suffolk County we, the people of New

York, can do better in honoring all those who bravely served.

Colonel Gabreski is a highly skilled and ready patriot; I congratulate him on his dedicated service and achievements. Colonel Gabreski, thank you for your service and devotion. I wish you even further success in the future.•

BOMBING OF ISRAELI EMBASSY IN BUENOS AIRES

• Mr. RIEGLE. Mr. President, I rise to condemn in the strongest possible terms the bombing of the Israeli Embassy in Buenos Aires, Argentina. This barbaric act of terrorism has thus far taken the lives of at least 11 Israelis and 10 Argentines, with more dead likely buried in the rubble. An additional 240 people were wounded in the attack.

Yesterday, Islamic Jihad, the radical, pro-Iranian terrorist organization took responsibility for the bombing. In its statement to the press, the group stated that it "will not finish until Israel is wiped out of existence." As we all too well remember, Islamic Jihad killed hundreds of Americans in attacks on the Marine barracks and American embassy in Beirut 9 years ago. Their apparent savagery against Israel only continues that pattern of terrorism. I only hope that the continued perpetration of violence by extremists does not sabotage the next round of Middle East peace negotiations.

I would also like to take this opportunity to express my heartfelt condolences to the families and friends of those who lost their lives in the attack. No people are more aware of the value of life than are the Jewish people, who have survived the most vicious of genocidal slaughters—the Holocaust. And, no nation understands more clearly the danger and savagery of terrorism than Israel, which has endured year after year of highjackings, suicide bombings, and, most recently, Scud missiles. I call upon the government of the world to locate and to bring to justice those who perpetrated the barbaric attack on the Israeli Embassy in Argentina and to work to end terrorism once and for all.•

CONGRATULATIONS TO THE BOLLINGER FOUNDATION

• Mr. SEYMOUR. Mr. President, I stand today in recognition of the Bollinger Foundation whose charitable work has made life a great deal less painful for families that have experienced tragedy in the loss of a parent survived by young children.

The Bollinger Foundation is a unique organization created to provide financial assistance to families who have suffered the loss of a parent of young children. First priority is reserved for those families in which either the mother or father worked in the field of housing, community, or economic development. This 501(c)(3) nonprofit foundation is named for Steve Bollinger who served as Assistant Secretary for Community Planning and Development at the U.S. Department of Housing and Urban Development from 1981 to 1984.

The foundation has helped many families in great need. One such example is a family in my State of California. In 1990, an outstanding and compassionate individual was killed by a drunk driver. This single mother of four was a tireless advocate for the homeless and very instrumental in giving hope to many who needed compassionate encouragement. Her commitment to the community was generous and sincere and her influence is still felt.

The city of Alameda wrote to the Bollinger Foundation to nominate her family to be one of the 1991 recipients of a grant that the foundation offers each year. The nomination was accepted and her children, now living with family members, were given the financial assistance they needed to help cope with the loss of their mother. I was very fortunate to accept the check on behalf of the city for presentation to the family. That was how I first became familiar with the Bollinger Foundation.

While I did not know Steve, I am told that he was truly a great civil servant and a fun-loving individual who made life a great deal more fun for those around him. Many of my colleagues in this body worked with Steve as he was the point person during the Reagan administration for the UDAG Program and for the new federalism initiative at HUD which gave the States the CDBG Program for small cities. His death in 1984 struck hard the community who worked around HUD programs. This same community rallied to assist his widow Lin Bollinger in the months and years after his untimely death. In fact, President Reagan met with Lin Bollinger and her children shortly after his death to express his deepest sympathy to the family.

The U.S. Department of Housing and Urban Development honored Steve by laying a plaque in the courtyard behind the HUD Building as well as naming an award after Steve honoring an outstanding career civil servant in the Office of Community Planning and Development. Projects in a number of cities are named or dedicated to Steve Bollinger including projects in Johnstown, PA; Milwaukee, WI; Bollinger Towers in Columbus, OH, which is a senior citizen housing project, and a Seminole Indian project in Florida. Also the Public Housing Authority Director's Association recognizes Steve by providing a college-bound public housing resident with a scholarship in Steve's name. He truly was a great civil servant.

One of the foundation's major fundraising events is an annual golf tournament. Steve Bollinger began the tournament in 1982, as a way for HUD staff, business associates, friends, and families to get together for a fun day of companionship and golf. In 1984, a month after the third annual golf outing, Steve unexpectedly died of a heart attack. After Steve's death his friends and associates continued the tournament, but now it had a very special goal: To raise money for the education of Steve's four children. In the first 4 years after his death the tournament raised over $15,000.

Fortunately, in 1989, Steve's family won a worker's compensation claim from the Labor Department, and Lin Bollinger, Steve's widow, was able to donate the money back to the foundation. This donation launched the Bollinger Foundation with a new purpose: That of aiding families who have suffered a loss similar to that of Steve's family. The foundation has assisted some very deserving families since its creation. Some examples of recipients include:

The surviving family of a working mother who was a secretary at the U.S. Department of Housing and Urban Development who died suddenly of a cerebral aneurysm leaving behind two children.

The surviving family of a city rehabilitation specialist in the Midwest who assisted homemakers with the technical aspects for city-assisted home rehabilitation projects. His stroke in 1987, and subsequent death in 1988, left a large burden on his surviving spouse in raising their five children.

The surviving family of a mother who served as an attorney in the Legal Division of HUD until her untimely death.

The surviving family of a woman who worked for the National Council for Urban Economic Development conducting research on the Community Reinvestment Act whose husband died in a car accident.

The surviving family of a good friend of Steve's, Luthur Roberts, who was the executive director of the National Community Development Association. Luthur also died at a tragically young age leaving behind two children.

The recipients have all responded to the generosity of the Bollinger Foundation with much gratitude. One recipient used the funds to provide counseling for their children to help with the change and readjustment of the loss of their father. She wrote, "The overall quality of our lives has been greatly enhanced, thanks to your generous support. The ramifications of these benefits will be felt for years to come." Another recipient whose husband died in a car accident wrote, "I hope you know how grateful I am for your support. Your contribution is a Godsend and I hope someday to be able to return the blessing to someone else."

People from all over the country support the Bollinger Foundation golf tournament. These supporters include mortgage bankers, developers, HUD officials, housing trade representatives, appraisers, and many other friends. I am happy to say that many of my fellow colleagues have served as honorary cochairs at the golf tournament.

For instance, Congressman MIKE OXLEY from Ohio knew and worked with Steve Bollinger during Steve's tenure as Assistant Secretary at HUD. Congressman TOM RIDGE of Pennsylvania twice has also participated in the tournament. And the late Congressman Stuart McKinney, who we all respected, was a cochair of the tournament and fundraising efforts in 1987, but died just before the tournament. Other Members that have been involved have included Congressman CRAIG WASHINGTON, Congressman JOHN MURTHA, and Congressman CRAIG SMITH. I am now glad to add my name to my distinguished colleagues who have supported this very important charity.

Other dignitaries who have served as cochairs of the Bollinger tournament have included: Don Hovde, past president of the National Association of Realtors, former Under Secretary at HUD and former member of the Federal Home Loan Bank Board; John Knapp, former general counsel and acting Under Secretary at HUD; Larry Simons, former FHA Commissioner and Assistant Secretary for Housing at HUD; Kevin Grevey, former National Basketball Association star who played with the Washington Bullets and Milwaukee Bucks; Tim Coyle, former Assistant Secretary for Legislation and Congressional Affairs at HUD and currently director of housing and community development in the State of California; and Glenn Kummer, past president of the Manufactured Housing Institute.

The foundation's board includes representatives from many of Washington's leading organizations involved in the field of housing, community, or economic development. Among these organizations are: the International Downtown Association, the Manufactured Housing Institute, the National Council for Urban Economic Development, the Appraisal Institute, the National Association of Realtors, and the Mortgage Bankers Association.

I am also pleased to say that many other organizations taking leadership in the issues of our economic wellbeing in this country are involved in the support of the Bollinger Foundation such as: The Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Mortgage Insurance Companies of America. They would not be entirely successful without the support of such caring organizations such as: Rahn Management, Barrett & Schuler, Andrews & Bartlett, Coldwell Banker Real Estate Group, Powell Goldstein Frazer & Murphy, and the Wyndham Hotels.

I ask the Senate to join me in extending our appreciation to the Bollinger Foundation for their charitable work and our best wishes for their success in the future.●

JAPAN'S ANNOUNCEMENT ON REDUCED AUTO EXPORTS TO THE UNITED STATES

● Mr. RIEGLE. Mr. President, today's papers report that Japan intends to reduce the number of vehicles exported to the United States under its self-imposed voluntary export restraint [VER] from 2.3 to 1.6 million. This is a hollow gesture from Japan. They must fully open the Japanese market to United States products and end their below-cost dumping practices in America. Japan took $43 billion from the United States last year, much of it by trade cheating. My legislation, S. 2145, will put a stop to this.

This announcement is deceiving and, it is insulting to the American public—especially the 75,000 GM workers who have just learned that they will lose their jobs or are threatened with unemployment when more plant closings are announced.

This number is misleading because, while Japan pledged to export 2.3 million units under the current VER regime, it actually exported 1.7 million cars to the United States in 1991. The new figure is not much of a reduction from the number of cars Japanese manufacturers are currently bringing into our country.

Japan's bold announcement to tighten its export limits to the United States involves a reduction from 1.7 million to 1.65 million cars. This 50,000 unit reduction is equal to the number of cars that Japan sells in the United States in 5 days.

The VER limits do not cover vans and trucks, which were coming into the United States at excessive levels prior to the dumping case that was filed by the United States auto industry in May 1991. However, it is interesting to note that without a VER on vans, shipments of these vehicles to the United States in 1991 were down 72 percent from 1990 levels—a politically motivated rather than an economic decision. As we have witnessed in other United States sectors, like semiconductors, VCR's and televisions, dumping products in the United States market is a common technique that Japan uses to manipulate our markets and gain market share at the expense of our workers and sometimes entire United States industries.

The American public and our auto and auto parts workers deserve to know the whole truth about Japan's gesture in reducing the VER limit. Accordingly, they should be aware of the fact that what Japan appears to be sacrificing in terms of exports to the United States, it has already begun to make up in terms of expanded transplant production in the United States. This production more often than not involves more Japanese auto parts than American ones, and consequently less American jobs than might otherwise be the case.

The fact that Japanese auto exports to the United States will be reduced will not contribute to an overall reduction in the United States-Japan $43 billion trade deficit, of which two thirds or $28.2 billion is in autos and automotive parts. In addition, as has been announced by several Japanese car companies in the last week, they plan to increase their prices in the United States market. Last week, The Wall Street Journal reported that "Mazda set the base price of its new RX-7 sports car at $31,300, 11.2 percent higher than the final price of its predecessor."

Given that Japan is not being restrained in any manner from sales of cars in the United States market, the intention of Japanese manufacturers to raise prices will merely increase the profitability of these companies further—this time at the expense of the United States consumer. Why were they not selling their products at a fair market value, one that does not activate U.S. dumping law, to begin with?

The Japanese Government's timing of this announcement, one day after the Michigan Presidential primary is further evidence that this is not an economically motivated effort to deal with persistent trade cheating. If Japan were seriously concerned about the trade friction between our two countries, it would establish a VER without loopholes.

Mr. President, Japan's announcement about auto exports to the United States does not help our trading partner's credibility regarding serious trade negotiations. If the Japanese are not serious about the VER, they should get rid of it. American workers cannot rely on empty efforts that will not produce real improvements in trade between our two countries.●

SYRIAN JEWRY

● Mr. RIEGLE. Mr. President, I would like to take this opportunity to call attention to the plight of more than 4,000 Jews who remain trapped in Syria, deprived of internationally recognized human rights. The Syrian Government, under the dictatorship of Hafiz Assad, has enforced numerous harsh restrictions on its Jewish population, including especially severe limits on the freedom of movement. These violations of basic civil rights must not be allowed to continue.

Jews have been practicing their religion in the land now called Syria for more than 2,500 years. Since the destruction of the first Jewish temple in 586 B.C.E., Jewish life thrived in Syria in large part due to its close proximity to the two ancient focal points of Jewish culture and scholarship, Jerusalem and Babylonia. By the 19th century, Syrian Jews had acquired full rights and held respected government positions in the Ottoman controlled area. But, following World War I, with the deterioration in economic conditions in the region, anti-Semitic incidents became more common.

Today, the Jews of Syria remain the largest Jewish community that still faces severe limitations on its right to emigration. Jews in Syria wishing to travel domestically or abroad face a broad range of restrictions and obstacles. Those wishing to leave the country must post a large monetary deposit and leave behind family members as assurance of their return to Syria. Not only are Syrian Jews restricted in their ability to leave the country, but they are also subjected to severe regulation of their movement within Syria. Syrian Jews are in effect being held hostage by the Government in Damascus.

Syrian Jews who are caught attempting to flee the country or suspected of illegal travel are imprisoned without trial and often beaten, tortured, and held incommunicado. Despite the recent release of four Syrian Jews from prison, others, including the well-known Swed brothers, remain imprisoned merely for attempting to escape their depraved conditions. The two brothers, imprisoned since 1987, have been held incommunicado for 2½ years. Furthermore, they have suffered the brutal reality of Syrian torture. Although the Sweds have recently been permitted to communicate with their family, they were, nevertheless, sentenced to an additional 2½ years. Syria's continual imprisonment of these siblings is a clear violation of the principles embodied in the Universal Declaration of Human Rights, of which Syria is a signatory. I call upon Syrian President Hafiz Assad to immediately release these Jewish prisoners of conscience.

In addition, Syrian Jews who are forced to remain in the country live in ghetto-like areas and are subjected to constant surveillance by Syrian secret police, the Mukhabarat. This organization employs methods similar to those used by the KGB. Contact between Jews and foreigners is closely scrutinized through the reading of mail, wiretapping of phone conversations, and restrictions on communication with family members outside Syria.

March 14, 1992, is the day designated for world remembrance of and solidarity with Syrian Jewry. Syria's denial of internationally recognized human rights to its Jewish population must no longer be tolerated. Today, I signed a letter to President Hafiz Assad, along with several of my Senate colleagues, expressing concern over the number of "deprivations, hardships, and restrictions, faced by the Jewish community, and especially the denial of their right to emigrate." The letter also called for the immediate release of the Sweds and for the restoration of internationally recognized human rights to Jews in Syria. For the Syrian Jewish community, the restoration of these basic human rights is long overdue.●

EXECUTIVE CALENDAR

EXECUTIVE SESSION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations: Calendars No. 542, 543, and 544. I further ask unanimous consent that the Senate proceed to their immediate consideration, and that the nominees be confirmed en bloc; that any statements appear in the RECORD as if read; that the motions to reconsider be laid upon the table en bloc; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT

Janelle Block, of Wisconsin, to be a member of the National Advisory Council on Educational Research and Improvement for a term expiring September 30, 1994.

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

George C. White, of Connecticut, to be a member of the National Council on the Arts for a term expiring September 3, 1996.

NATIONAL SCIENCE FOUNDATION

Ian M. Ross, of New Jersey, to be a member of the National Science Board, National Science Foundation, for a term expiring May 10, 1998. (Reappointment.)

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will return to legislative session.

MEASURE HELD AT THE DESK—H.R. 4449

Mr. MITCHELL. Mr. President, I ask unanimous consent that H.R. 4449, a bill relating to the availability of new construction funds under the Home Investment Partnerships Act just received from the House, be held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE ELECTION ETHICS ACT

Mr. MITCHELL. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S.3.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 3) entitled "An Act to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits for Senate election campaigns, and for other purposes," do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "House of Representatives Campaign Spending Limit and Election Reform Act of 1991".

TITLE I—EXPENDITURE LIMITATIONS, CONTRIBUTION LIMITATIONS, MATCHING FUNDS, AND REDUCED THIRD-CLASS MAIL RATE FOR ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATES

SEC. 101. NEW TITLE OF THE FEDERAL ELECTION CAMPAIGN ACT OF 1971.

(a) In General.—The Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new title:

"TITLE V—EXPENDITURE LIMITATIONS, CONTRIBUTION LIMITATIONS, AND MATCHING FUNDS FOR ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATES

"SEC. 501. EXPENDITURE LIMITATIONS.

"(a) In General.—An eligible House of Representatives candidate may not, in an election cycle, make expenditures aggregating more than $600,000, of which not more than $500,000 may be expended in the general election period.

"(b) Runoff Election and Special Election Amounts.—

"(1) Runoff election amount.—In addition to the expenditures under subsection (a), an eligible House of Representatives candidate who is a candidate in a runoff election may make expenditures aggregating not more than $100,000 in the general election period.

"(2) Special election amount.—An eligible House of Representatives candidate who is a candidate in a special election may make expenditures aggregating not more than $500,000 with respect to the special election.

"(c) Closely Contested Primary.—If, as determined by the Commission, an eligible House of Representatives candidate in a contested primary election wins that primary election by a margin of 10 percent or less, subject to the general election period limitation in subsection (a), the candidate may make additional expenditures of not more than $150,000 in the general election period. The additional expenditures shall be from contributions described in section 503(h) and payments described in section 504(g).

"(d) Nonparticipating Opponent Provisions.—

"(1) Limitation exception.—The limitations imposed by subsections (a) and (b) do not apply in the case of an eligible House of Representatives candidate if any other candidate seeking nomination or election to that office—

"(A) is not an eligible House of Representatives candidate; and

"(B) receives contributions or makes expenditures in excess of 50 percent of the general election period limitation specified in subsection (a).

"(2) Continued eligibility and additional matching funds.—An eligible House of Representatives candidate referred to in paragraph (1)—

"(A) shall continue to be eligible for all benefits under this title; and

"(B) shall receive matching funds without regard to the ceiling under section 504(a).

"(3) REPORTING REQUIREMENT.—A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress who—

"(A) is not an eligible House of Representatives candidate; and

"(B) receives contributions or makes expenditures in excess of 50 percent of the general election period limitation specified in subsection (a)(1);

shall report that the threshold has been reached to the Commission not later than 48 hours after reaching the threshold. Not later than 48 hours after the Commission receives a report under this paragraph, the Commission shall transmit a copy of the report to each other candidate in the election.

"(e) INDEPENDENT EXPENDITURE PROVISION.—The limitation imposed by subsection (a) does not apply to an eligible House of Representatives candidate if independent expenditures totaling $60,000 are made in the same election in favor of another candidate or against the eligible House of Representatives candidate.

"(f) EXEMPTION FOR CERTAIN COSTS AND TAXES.—Payments for legal and accounting compliance costs and Federal and State taxes shall not be considered in the computation of amounts subject to limitation under this section.

"(g) EXEMPTION FOR FUNDRAISING COSTS.—

"(1) Any costs incurred by an eligible House of Representatives candidate or his or her authorized committee in connection with the solicitation of contributions on behalf of such candidate shall not be considered in the computation of amounts subject to limitation under this section to the extent that the aggregate of such costs does not exceed 5 percent of the limitation under subsection (a) or subsection (b).

"(2) An amount equal to 5 percent of salaries and overhead expenditures of an eligible House of Representatives candidate's campaign headquarters and offices shall not be considered in the computation of amounts subject to limitation under this section. Any amount excluded under this paragraph shall be applied against the fundraising expenditure exemption under paragraph (1) above.

"(h) CIVIL PENALTIES.—

"(1) LOW AMOUNT OF EXCESS EXPENDITURES.—Any eligible House of Representatives candidate who makes expenditures that exceed a limitation under subsection (a) or subsection (b) by 5 percent or less shall pay to the Commission, for deposit in the Make Democracy Work Fund, an amount equal to the amount of the excess expenditures.

"(2) MEDIUM AMOUNT OF EXCESS EXPENDITURES.—Any eligible House of Representatives candidate who makes expenditures that exceed a limitation under subsection (a) or subsection (b) by more than 5 percent and less than 10 percent shall pay to the Commission, for deposit in the Make Democracy Work Fund, an amount equal to three times the amount of the excess expenditures.

"(3) LARGE AMOUNT OF EXCESS EXPENDITURES.—Any eligible House of Representatives candidate who makes expenditures that exceed a limitation under subsection (a) or subsection (b) by 10 percent or more shall pay to the Commission, for deposit in the Make Democracy Work Fund, the amount of matching payments received under section 504 and an amount equal to three times the amount of the excess expenditures plus a civil penalty in an amount determined by the Commission.

"(i) INDEXING.—The dollar amounts specified in subsections (a), (b), (c), and (e) shall be adjusted in the manner provided in section 315(c), except that, for the purposes of such adjustment, the base period shall be calendar year 1992.".

"SEC. 502. STATEMENT OF PARTICIPATION; CONTINUING ELIGIBILITY.

"(a) IN GENERAL.—The Commission shall determine whether a candidate is in compliance with this title and, by reason of such compliance, is eligible to receive benefits under this title. Such determination shall—

"(1) in the case of an initial determination, be based on a statement of participation submitted by the candidate; and

"(2) in the case of a determination of continuing eligibility, be based on relevant additional information submitted in such form and manner as the Commission may require.

"(b) FILING.—The statement of participation referred to in subsection (a) shall be filed not later than January 31 of the election year or on the date on which the candidate files a statement of candidacy, whichever is later.

"SEC. 503. CONTRIBUTION LIMITATIONS.

"(a) ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATE LIMITATION.—An eligible House of Representatives candidate may not, with respect to an election cycle, accept contributions aggregating in excess of $600,000.

"(b) NONPARTICIPATING OPPONENT PROVISIONS.—The limitations imposed by subsection (a) do not apply in the case of an eligible House of Representatives candidate if any other candidate seeking nomination or election to that office—

"(1) is not an eligible House of Representatives candidate; and

"(2) receives contributions or makes expenditures in excess of 50 percent of the general election period limitation specified in section 501(a).

"(c) TRANSFER PROVISIONS.—

"(1) If an eligible House of Representatives candidate transfers any amount from an election cycle to a later election cycle, the limitation with respect to the candidate under subsection (a) for the later cycle shall be an amount equal to the difference between the amount specified in that subsection and the amount transferred.

"(2) If an eligible House of Representatives candidate transfers any amount from an election cycle to a later election cycle, each limitation with respect to the candidate under section 315(i) for the later cycle shall be one-third of the difference between the applicable amount specified in subsection (a) and the amount transferred.

"(d) RUNOFF AMOUNT.—In addition to the contributions under subsection (a), an eligible House of Representatives candidate who is a candidate in a runoff election may accept contributions aggregating not more than $100,000 in the general election period. Of such contributions, one-half may be from political committees and one-half may be from persons referred to in section 315(i)(2).

"(e) PERSONAL CONTRIBUTIONS.—

"(1) IN GENERAL.—An eligible House of Representatives candidate may not, with respect to an election cycle, make contributions to his or her own campaign totaling more than $60,000 from the personal funds of the candidate. The amount that the candidate may accept from persons referred to in section 315(i)(2) shall be reduced by the amount of contributions made under the preceding sentence. Contributions from the personal funds of a candidate may not be matched under section 504.

"(2) LIMITATION EXCEPTION.—The limitation imposed by paragraph (1) does not apply in the case of an eligible House of Representatives candidate if any other candidate—

"(A) is not an eligible House of Representatives candidate; and

"(B) receives contributions or makes expenditures in excess of 50 percent of the general election period limitation specified in section 501(a).

"(3) TRIPLE MATCH.—An eligible House of Representatives candidate, whose opponent makes contributions to his or her own campaign in excess of 50 percent of the general election period limitation specified in section 501(a), shall receive $3 in matching funds for each $1 certified by the Commission as matchable for the eligible candidate.

"(f) CIVIL PENALTIES.—

"(1) LOW AMOUNT OF EXCESS CONTRIBUTIONS.—Any eligible House of Representatives candidate who accepts contributions that exceed the limitation under subsection (a) by 5 percent or less shall refund the excess contributions to the persons who made the contributions.

"(2) MEDIUM AMOUNT OF EXCESS CONTRIBUTIONS.—Any eligible House of Representatives candidate who accepts contributions that exceed a limitation under subsection (a) by more than 5 percent and less than 10 percent shall pay to the Commission, for deposit in the Make Democracy Work Fund, an amount equal to three times the amount of the excess contributions.

"(3) LARGE AMOUNT OF EXCESS CONTRIBUTIONS.—Any eligible House of Representatives candidate who accepts contributions that exceed a limitation under subsection (a) by 10 percent or more shall pay to the Commission, for deposit in the Make Democracy Work Fund, the amount of matching payments received under section 504 and an amount equal to three times the amount of the excess contributions plus a civil penalty in an amount determined by the Commission.

"(g) EXEMPTION FOR CERTAIN COSTS AND TAXES.—Any amount—

"(1) accepted by a candidate for the office of Representative in, or Delegate or Resident Commissioner to the Congress; and

"(2) used for legal and accounting compliance costs and Federal and State taxes shall not be considered in the computation of amounts subject to limitation under subsection (a).

"(h) INDEPENDENT EXPENDITURE PROVISION.—The limitation imposed by subsection (a) does not apply to an eligible House of Representatives candidate if independent expenditures totaling $60,000 are made in the same election in favor of another candidate or against the eligible House of Representatives candidate.

"(i) CLOSELY CONTESTED PRIMARY.—If, as determined by the Commission, an eligible House of Representatives candidate in a contested primary election wins that primary election by a margin of 10 percent or less, notwithstanding the limitation in subsection (a), the candidate may, in the general election period, accept additional contributions of not more than $150,000, consisting of—

"(1) not more than $50,000 from political committees; and

"(2) not more than $50,000 from individuals referred to in section 315(i)(2).

"(j) INDEXING.—The dollar amounts specified in subsections (a), (d), (e), (h), and (i) shall be adjusted in the manner provided in section 315(c), except that, for the purposes of such adjustment, the base period shall be calendar year 1992.".

"SEC. 504. MATCHING FUNDS.

"(a) IN GENERAL.—An eligible House of Representatives candidate shall be entitled to receive, with respect to the general election, an amount equal to the amount of contributions from individuals received by the candidate, but not more than $200,000, and not to the extent that contributions from any individual during the election cycle exceed $200 in the aggregate.

"(b) INDEPENDENT EXPENDITURE PROVISION.—If, with respect to a general election involving an eligible House of Representatives candidate, independent expenditures totaling $10,000 are made against the eligible House of Representatives candidate or in favor of another candidate, the eligible House of Representatives candidate shall be entitled, in addition to any amount received under subsection (a), to a matching payment of $10,000 and additional matching payments equal to the amount of such independent expenditures above $10,000, and expenditures may be made from such payments without regard to the limitations in section 501.

"(c) SPECIFIC REQUIREMENTS.—A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may receive matching funds under subsection (a) only if the candidate—

"(1) in an election cycle, has received $60,000 in contributions from individuals, with not more than $200 to be taken into account per individual;

"(2) qualifies for the general election ballot;

"(3) has an opponent on the general election ballot; and

"(4) files a statement of participation in which the candidate agrees to—

"(A) comply with the limitations under sections 501 and 503;

"(B) cooperate in the case of any audit by the Commission by furnishing such campaign records and other information as the Commission may require; and

"(C) comply with any repayment requirement under section 505.

"(d) WRITTEN INSTRUMENT REQUIREMENT.—No contribution in any form other than a gift of money made by a written instrument that identifies the individual making the contribution may be used as a basis for any matching payment under this section.

"(e) MAKE DEMOCRACY WORK FUND.—There is established in the Treasury a fund, to be known as the 'Make Democracy Work Fund', consisting of such amounts as may be deposited under section 501, section 503, or provisions enacted pursuant to section 301 of the House of Representatives Campaign Spending Limit and Election Reform Act of 1991. Amounts in the fund shall be available without fiscal year limitation for payment of matching funds under subsection (f) and initial expenditures incurred by the Commission in the administration of section 304(e) or 311(a)(11) of this Act.

"(f) CERTIFICATION AND PAYMENT.—

"(1) CERTIFICATION.—Except as provided in paragraphs (2) and (3), not later than 5 days after receiving a request for payment, the Commission shall submit to the Secretary of the Treasury a certification for payment of the amount requested under subsection (a) or (b).

"(2) PAYMENTS.—The initial payment under subsection (a) to an eligible candidate shall be $60,000. All payments shall be—

"(A) made not later than 48 hours after certification under paragraph (1); and

"(B) subject to proportional reduction in the case of an insufficient balance in the Fund established by subsection (e).

"(3) INCORRECT REQUEST.—If the Commission determines that any portion of a request is incorrect, the Commission shall withhold the certification for that portion only and inform the candidate as to how the candidate may correct the request.

"(g) CLOSELY CONTESTED PRIMARY.—If, as determined by the Commission, an eligible House of Representatives candidate in a contested primary election wins that primary election by a margin of 10 percent or less, the candidate shall be entitled to matching funds totaling not more than $50,000, in addition to any other amount received under this section.

"(h) INDEXING.—The dollar amounts specified in subsections (a), (b), and (c) (other than the amount in subsection (c) to be taken into account per individual), and subsections (f) and (g) shall be adjusted in the manner provided in section 315(c), except that, for the purposes of such adjustment, the base period shall be calendar year 1992.

"SEC. 505. EXAMINATION AND AUDITS; REPAYMENTS.

"(a) GENERAL ELECTION.—After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 percent of the eligible House of Representatives candidates, as designated by the Commission through the use of an appropriate statistical method of random selection, to determine whether such candidates have complied with the conditions of eligibility and other requirements of this title. No other factors shall be considered in carrying out such an examination and audit. In selecting the accounts to be examined and audited, the Commission shall select all eligible candidates from a congressional district where any eligible candidate is selected for examination and audit.

"(b) SPECIAL ELECTION.—After each special election, the Commission shall conduct an examination and audit of the campaign accounts of all eligible candidates in the election to determine whether the candidates have complied with the conditions of eligibility and other requirements of this title.

"(c) AFFIRMATIVE VOTE.—The Commission may conduct an examination and audit of the campaign accounts of any eligible House of Representatives candidate in a general election if the Commission, by an affirmative vote of 4 members, determines that there exists reason to believe that such candidate has violated any provision of this title.

"(d) PAYMENTS.—If the Commission determines that any amount of a payment to a candidate under this title was in excess of the aggregate payments to which such candidate was entitled, the Commission shall so notify the candidate, and the candidate shall pay to the Secretary an amount equal to the excess.

"(e) DEPOSITS.—The Secretary shall deposit all payments received under this section in the Make Democracy Work Fund.

"SEC. 506. JUDICIAL REVIEW.

"(a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within 30 days after the agency action by the Commission for which review is sought.

"(b) APPLICATION OF TITLE 5.—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

"(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning given such term by section 551(13) of title 5, United States Code.

"SEC. 507. PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS.

"(a) APPEARANCES.—The Commission is authorized to appear in and defend against any action instituted under this section and under section 506 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) INSTITUTION OF ACTIONS.—The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to the Secretary.

"(c) APPEALS.—The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"SEC. 508. REPORTS TO CONGRESS; CERTIFICATIONS; REGULATIONS.

"(a) REPORTS.—The Commission shall, as soon as practicable after each election, submit a full report to the House of Representatives setting forth—

"(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible candidate and the authorized committees of such candidate;

"(2) the aggregate amount of matching fund payments certified by the Commission under section 504 for each eligible candidate;

"(3) the amount of repayments, if any, required under section 505, and the reasons for each repayment required; and

"(4) the balance in the Make Democracy Work Fund, and the balance in any account maintained in the Fund.

Each report submitted pursuant to this section shall be printed as a House document.

"(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under section 504) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 505 or judicial review under section 506.

"(c) RULES AND REGULATIONS.—The Commission is authorized to prescribe such rules and regulations, in accordance with the provisions of subsection (d), to conduct such audits, examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

"(d) REPORT OF PROPOSED REGULATIONS.—The Commission shall submit to the House of Representatives a report containing a detailed explanation and justification of each rule, regulation, and form of the Commission under this title. No such rule, regulation, or form may take effect until a period of 30 legislative days has elapsed after the report is received. As used in this subsection—

"(1) the term 'legislative day' means any calendar day on which the House of Representatives is in session; and

"(2) the terms 'rule' and 'regulation' mean a provision or series of interrelated provisions stating a single, separable rule of law.

"SEC. 509. CLOSED CAPTIONING REQUIREMENT FOR TELEVISION COMMERCIALS OF ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATES.

"No eligible House of Representatives candidate may receive amounts from the Make Democracy Work Fund unless such candidate has certified that any television commercial prepared or distributed by the candidate will be prepared in a manner that contains, is accompanied by, or otherwise readily permits closed captioning of the oral content of the commercial to be broadcast by way of line 21 of the vertical blanking interval, or by way of comparable successor technologies.".

(b) EFFECT OF INVALIDITY ON OTHER PROVISIONS OF ACT.—If title V of the Federal Election Campaign Act of 1971 (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by this section and by section 201 of this Act, shall be treated as invalid.

SEC. 102. DEFINITIONS.

Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking out paragraph (19) and inserting in lieu thereof the following new paragraphs:

"(19) The term 'eligible House of Representatives candidate' means a candidate for election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress, who, as determined by the Commission under section 502, is eligible to receive matching payments and other benefits under title V by reason of filing a statement of participation and complying with the continuing eligibility requirements under section 502.

"(20) The term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

"(A) the date of such general election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election; and

"(21) The term 'election cycle' means—

"(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the most recent general election for the specific office or seat which such candidate seeks and ending on the date of the next general election for such office or seat; or

"(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next general election.".

SEC. 103. EXTENSION OF REDUCED THIRD-CLASS MAILING RATES TO ELIGIBLE HOUSE OF REPRESENTATIVES CANDIDATES.

Section 3626(e) of title 39, United States Code, is amended—

(1) in paragraph (2)(A)—

(A) by striking out "and the National" and inserting in lieu thereof "the National"; and

(B) by striking out "Committee;" and inserting in lieu thereof "Committee, and, subject to paragraph (3), the principal campaign committee of an eligible House of Representatives candidate;";

(2) in paragraph (2)(B), by striking out "and" after the semicolon;

(3) in paragraph (2)(C), by striking out the period and inserting in lieu thereof "; and";

(4) by adding after paragraph (2)(C) the following new subparagraph:

"(D) the terms 'eligible House of Representatives candidate' and 'principal campaign committee' have the meanings given those terms in section 301 of the Federal Election Campaign Act of 1971."; and

(5) by adding after paragraph (2) the following new paragraph:

"(3) The rate made available under this subsection with respect to an eligible House of Representatives candidate shall apply only to—

"(A) the general election period (as defined in section 301 of the Federal Election Campaign Act of 1971); and

"(B) that number of pieces of mail equal to 3 times the number of individuals in the voting age population of the congressional district (as certified under section 315(e) of such Act).".

TITLE II—LIMITATIONS ON POLITICAL COMMITTEE AND LARGE DONOR CONTRIBUTIONS THAT MAY BE ACCEPTED BY HOUSE OF REPRESENTATIVES CANDIDATES; MISCELLANEOUS PROVISIONS RELATING TO CONTRIBUTIONS UNDER THE FEDERAL ELECTION CAMPAIGN ACT OF 1971

SEC. 201. LIMITATIONS ON POLITICAL COMMITTEE AND LARGE DONOR CONTRIBUTIONS THAT MAY BE ACCEPTED BY HOUSE OF REPRESENTATIVES CANDIDATES.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended by adding at the end the following new subsection:

"(i)(1) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not, with respect to an election cycle, accept contributions from political committees aggregating in excess of $200,000.

"(2) A candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress may not, with respect to an election cycle, accept contributions aggregating in excess of $200,000 from persons other than political committees whose contributions total more than $200.

"(3) In addition to the contributions under paragraphs (1) and (2), a House of Representatives candidate who is a candidate in a runoff election may accept contributions aggregating not more than $100,000 with respect to the runoff election. Of such contributions, one-half may be from political committees and one-half may be from persons referred to in paragraph (2).

"(4) Any amount—

"(A) accepted by a candidate for the office of Representative in, or Delegate or Resident Commissioner to the Congress; and

"(B) used for legal and accounting compliance costs, Federal and State taxes, or fundraising costs under section 501 shall not be considered in the computation of amounts subject to limitation under paragraphs (1), (2), and (3), but shall be subject to the other limitations of this Act.

"(5) In addition to any other contributions under this subsection, if, as determined by the Commission, an eligible House of Representatives candidate in a contested primary election wins that primary election by a margin of 10 percent or less, the candidate may, in the general election period, accept contributions of not more than $150,000, consisting of—

"(A) not more than $50,000 from political committees; and

"(B) not more than $50,000 from persons referred to in paragraph (2).

"(6) The dollar amounts specified in paragraphs (1), (2), (3), and (5) (other than the amounts in paragraphs (2) and (5) relating to contribution totals) shall be adjusted in the manner provided in section 315(c), except that, for the purposes of such adjustment, the base period shall be calendar year 1992.".

SEC. 202. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 201, is further amended by adding at the end the following new subsection:

"(j) For purposes of this section, any contribution by an individual who—

"(1) is a dependent of another individual; and

"(2) has not, as of the time of such contribution, attained the legal age for voting for elections to Federal office in the State in which such individual resides,

shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual's spouse, the contribution shall be allocated among such individuals in the manner determined by them.".

SEC. 203. CONTRIBUTIONS TO CANDIDATES FROM STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES TO BE AGGREGATED.

Section 315(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)) is amended by adding at the end the following new paragraph:

"(9) A candidate for Federal office may not accept, with respect to an election, any contribution from a State or local committee of a political party (including any subordinate committee of such committee), if such contribution, when added to the total of contributions previously accepted from all such committees of that political party, exceeds a limitation on contributions to a candidate under this section.".

SEC. 204. LIMITED EXCLUSION OF ADVANCES BY CAMPAIGN WORKERS FROM THE DEFINITION OF THE TERM "CONTRIBUTION".

Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(1) in clause (xiii), by striking out "and" after the semicolon at the end;

(2) in clause (xiv), by striking out the period at the end and inserting in lieu thereof the following: "; and"; and

(3) by adding at the end the following new clause:

"(xv) any advance voluntarily made on behalf of an authorized committee of a candidate by an individual in the normal course of such individual's responsibilities as a volunteer for, or employee of, the committee, if the advance is reimbursed by the committee within 60 days after the date on which the advance is made, and the value of advances on behalf of a committee does not exceed $1,000 with respect to an election.".

SEC. 205. INCREASE IN THE AMOUNT THAT MULTICANDIDATE POLITICAL COMMITTEES MAY CONTRIBUTE TO NATIONAL POLITICAL PARTY COMMITTEES.

Section 315(a)(2)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(2)(B)) is amended by striking out "$15,000" and inserting in lieu thereof "$20,000".

SEC. 206. AMENDMENT TO SECTION 316 OF THE FEDERAL ELECTION CAMPAIGN ACT OF 1971.

Section 316(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)) is amended—

(1) by inserting "(A)" at the beginning of paragraph (2) and redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively;

(2) at the beginning of the first sentence in subparagraph (A), by inserting the following: "Except as provided in subparagraph (B),"; and

(3) by adding at the end of paragraph (2) the following:

"(B) Expenditures by a corporation or labor organization for candidate appearances, candidate debates and voter guides directed to the general public shall be considered contributions unless—

"(i) in the case of a candidate appearance, the appearance takes place on corporate or labor organization premises or at a meeting or convention of the corporation or labor organization, and all candidates for election to that office are notified that they may make an appearance under the same or similar conditions;

"(ii) in the case of a candidate debate, the organization staging the debate is either an organization described in section 301 whose broadcasts or publications are supported by commercial advertising, subscriptions or sales to the public, including a noncommercial educational broadcaster, or a nonprofit organization exempt from Federal taxation under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986 that does not endorse, support, oppose candidates or political parties; and

"(iii) in the case of a voter guide, the guide is prepared and distributed by a corporation or labor organization and consists of questions posed to at least two candidates for election to that office,

provided that no communication made by a corporation or labor organization in connection with the candidate appearance, candidate debate or voter guide contains express advocacy, or that no candidate is favored through the structure or format of the candidate appearance, candidate debate or voter guide.".

TITLE III—REQUIREMENT OF BUDGET NEUTRALITY

SEC. 301. REQUIREMENT OF BUDGET NEUTRALITY.

(a) CONDITIONAL PAY-AS-YOU-GO ESTIMATE.—To achieve the purpose of subsection (b), an estimate shall be made of the net "pay-as-you-go" costs of this Act assuming its preceding sections become effective. That estimate shall be made under the procedures specified in section 252(d) of the Balanced Budget and Emergency Deficit Control Act of 1985 (hereinafter referred to as the Deficit Control Act) but shall not be considered to be an estimate required by that section. Until and unless this subsection is superseded by subsection (c), no net costs otherwise attributable to this Act shall be included in any documents required under the Deficit Control Act.

(b) ALL COSTS MUST BE FULLY OFFSET BY JANUARY 1, 1993.—The provisions of title VII, section 201 of title II, and sections 503 through 509 of title I shall not become effective unless, on January 1, 1993, it is determined that each of the following three conditions has been met—

(1) Provisions—

(A) creating incentives for individuals to make voluntary contributions to the candidate of their choice have been enacted; and

(B) for individuals or organizations to make voluntary contributions to the "Make Democracy Work Fund" have been enacted.

(2) The statute enacting any provision referred to in paragraph (1) states that the provision has been enacted for the purpose of effectuating this Act.

(3) The savings from provisions under paragraphs (1) and (2), estimated under the procedures specified in section 252(d) of the Deficit Control Act at the time of their enactment, are as great or greater in both fiscal years 1994 and 1995 than the net costs of this Act in each such year conditionally estimated under subsection (a).

(c) ADDITION OF ESTIMATED NET COSTS TO THE PAY-AS-YOU-GO SCORECARD.—If, on January 1, 1993, it is determined that the costs of this Act have been fully offset as specified in subsection (b), so that the preceding sections of this Act shall become effective, then the conditional estimate of the costs of this Act (made under subsection (a)) shall be included in the records maintained under section 252 of the Deficit Control Act.

(d) DEFINITION OF "COSTS" AND "SAVINGS".—For purposes of this section, the terms "costs" and "savings" mean outlay increases or decreases from direct spending provisions or revenue increases or decreases from revenue provisions of the type covered under section 252 of the Deficit Control Act.

TITLE IV—INDEPENDENT EXPENDITURES

SEC. 401. CLARIFICATION OF DEFINITIONS RELATING TO INDEPENDENT EXPENDITURES.

(a) INDEPENDENT EXPENDITURE DEFINITION AMENDMENT.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by striking out paragraphs (17) and (18) and inserting in lieu thereof the following:

"(17)(A) The term 'independent expenditure' means an expenditure for an advertisement or other communication that—

"(i) contains express advocacy; and

"(ii) is made without the participation or cooperation of a candidate or a candidate's representative.

"(B) Any expenditure made by the following shall not be considered an independent expenditure:

"(i) a political committee of a political party;

"(ii) a political committee established, maintained or controlled by a person or organization required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act (22 U.S.C. 611); or

"(iii) a person who, during the election cycle, has communicated with or received information from a candidate or a representative of that candidate regarding activities that have the purpose of influencing that candidate's election to Federal office, where the expenditure is in support of that candidate or in opposition to another candidate for that office.

"(18) The term 'express advocacy' means, when a communication is taken as a whole, an expression of support for or opposition to a specific candidate, to a specific group of candidates, or to candidates of a particular political party, or a suggestion to take action with respect to an election, such as to vote for or against, make contributions to or participate in campaign activity.".

(b) CONTRIBUTION DEFINITION AMENDMENT.—Section 301(8)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(A)) is amended—

(1) in clause (i), by striking out "or" after the semicolon at the end;

(2) in clause (ii), by striking out the period at the end and inserting "; or"; and

(3) by adding at the end the following new clause:

"(iii) any payment or other transaction referred to in paragraph (17)(A)(i) that does not qualify as an independent expenditure under paragraph (17)(A)(ii).".

SEC. 402. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

Section 304(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(c)) is amended—

(1) in paragraph (2), by striking out the undesignated matter after subparagraph (C);

(2) by redesignating paragraph (3) as paragraph (5); and

(3) by inserting after paragraph (2), as amended by paragraph (1), the following new paragraphs:

"(3)(A) Any independent expenditure (including those described in subsection (b)(6)(B)(iii) of this section) aggregating $1,000 or more made after the 20th day, but more than 24 hours, before any election shall be reported within 24 hours after such independent expenditure is made.

"(B) Any independent expenditure aggregating $5,000 or more made at any time up to and including the 20th day before any election shall be reported within 48 hours after such independent expenditure is made. An additional statement shall be filed each time independent expenditures aggregating $5,000 are made with respect to the same election as the initial statement filed under this section.

"(C) Such statement shall be filed with the Commission and the Secretary of State and shall contain the information required by subsection (b)(6)(B)(iii) of this section, including whether the independent expenditure is in support of, or in opposition to, the candidate involved. Not later than 48 hours after the Commission receives a report under paragraph (A) or (B), the Commission shall transmit a copy of the report to each candidate seeking nomination or election to that office.

"(D) For purposes of this section, the term 'made' includes any action taken to incur an obligation for payment.

"(4)(A) If any person intends to make independent expenditures totaling $5,000 during the 20 days before an election, such person shall file a statement no later than the 20th day before the election.

"(B) Such statement shall be filed with the Commission and shall identify each candidate whom the expenditure will support or oppose. Not later than 48 hours after the Commission receives a statement under this paragraph, the Commission shall transmit a copy of the statement to each candidate identified.".

TITLE V—BUNDLING AND SOFT MONEY

SEC. 501. RESTRICTIONS ON BUNDLING.

Section 315(a)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8)(A) No person, either directly or indirectly, may act as a conduit or intermediary for any contribution to a candidate.

"(B)(i) Nothing in this section shall prohibit—

"(I) joint fundraising conducted in accordance with rules prescribed by the Commission by 2 or more candidates; or

"(II) fundraising for the benefit of a candidate that is conducted by another candidate.

"(ii) No person prohibited from acting as a conduit or intermediary under subparagraph (A) may conduct or otherwise participate in joint fundraising activities with or on behalf of any candidate.

"(C) For purposes of this section, the term 'conduit or intermediary' means a person who transmits a contribution to a candidate or candidate's committee or representative from another person, except that—

"(i) a candidate or representative of a candidate is not a conduit or intermediary for the purpose of transmitting contributions to the candidate's principal campaign committee or authorized committee;

"(ii) a professional fundraiser is not a conduit or intermediary, if the fundraiser is compensated for fundraising services at the usual and customary rate;

"(iii) a volunteer hosting a fundraising event at the volunteer's home, in accordance with section 301(8)(b), is not a conduit or intermediary for the purposes of that event; and

"(iv) an individual is not a conduit or intermediary for the purpose of transmitting a contribution from the individual's spouse.

"(D) For purposes of this section, the term 'representative'—

"(i) shall mean a person who is expressly authorized by the candidate to engage in fundraising, and who, in the case of an individual, occupies a significant position within the candidate's campaign organization, provided that the individual is not acting as an officer, employee or agent of any other person;

"(ii) shall not include—

"(I) a political committee with a connected organization;

"(II) a political party;

"(III) a partnership or sole proprietorship; or

"(IV) an organization prohibited from making contributions under section 316.".

SEC. 502. LIMITATIONS ON COMBINED POLITICAL ACTIVITIES OF POLITICAL COMMITTEES OF POLITICAL PARTIES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"LIMITATIONS ON COMBINED POLITICAL ACTIVITIES OF POLITICAL COMMITTEES OF POLITICAL PARTIES

"SEC. 323. (a)(1) In each Federal election cycle with respect to each State, a political party the national committee of which received amounts under section 9008(b) of the Internal Revenue Code of 1986 with respect to the preceding presidential election may not make payments for combined political activities in a total amount which exceeds 50 cents multiplied by the voting age population of the State (as certified under section 315(e)) or $500,000, whichever is greater.

"(2) For purposes of the limitation of paragraph (1), aggregate payments by national party committees, State party committees, subordinate State party committees and any other local party committees of the same party in any State shall not exceed the limitation in paragraph (1). A State party committee shall administer compliance with the limitation in one of the following ways—

"(A) the State party committee shall be responsible for ensuring that payments by the entire party organization within that State comply with the limitation and shall file consolidated reports with the Commission showing all payments for combined political activity within the State; or

"(B) any other method, submitted in advance and approved by the Commission which permits control over payments and disclosure.

"(b)(1) Political party committees that make payments for combined political activity must allocate a portion of such payments to Federal accounts containing contributions subject to the limitations and prohibitions of this Act, as provided for in this section.

"(2) National party committees shall allocate as follows:

"(A) At least 65 percent of the costs of voter drives and administrative expenses shall be paid from a Federal account in presidential election years. At least 60 percent of the costs of voter drives and administrative expenses shall be paid from a Federal account in all other years.

"(B) The costs of fundraising activities which shall be paid from a Federal account shall equal the ratio of funds received into the Federal account to the total receipts from each fundraising program or event.

"(C) The costs of activities subject to limitation under section 315(d) which involve both Federal and non-Federal candidates, shall be paid from a Federal account according to the time or space devoted to Federal candidates.

"(3) State and local party committees shall allocate as follows:

"(A) At least 50 percent of the costs of voter drives and administrative expenses shall be paid from a Federal account in presidential election years. In all other years, the costs of voter drives and administrative expenses which shall be paid from a Federal account shall be determined by the ballot composition for the election cycle, but, in no event, shall the amount paid from the Federal account be less than 33 percent.

"(B) The costs of fundraising activities which shall be paid from a Federal account shall equal the ratio of funds received into the Federal account to the total receipts from each fundraising program or event.

"(C) The costs of activities exempt from the definition of 'contribution' or 'expenditure' under section 301, when conducted in conjunction with both Federal and non-Federal elections, shall be paid from a Federal account according to the time or space devoted to Federal candidates or elections.

"(D) The costs of activities subject to limitation under section 315(d) which involve both Federal and non-Federal candidates, shall be paid from a Federal account according to the time or space devoted to Federal candidates.

"(c) For purposes of this subsection—

"(1) the term 'combined political activity' means any activity that is both—

"(A) in connection with an election for Federal office; and

"(B) in connection with an election for any non-Federal office.

"(2) Any activity which is undertaken solely in connection with a Federal election is not combined political activity.

"(3) Except as provided in paragraph (4), combined political activity shall include—

"(A) State and local party activities exempt from the definitions of 'contribution' and 'expenditure' under section 301 and activities subject to limitation under section 315 which involve both Federal and non-Federal candidates, except that payments for activities subject to limitation under section 315 are not subject to the limitation of subsection (a)(1);

"(B) voter drives including voter registration, voter identification and get-out-the-vote drives or any other activities that urge the general public to register, vote for or support Federal or non-Federal candidates, candidates of a particular party, or candidates associated with a particular issue, without mentioning a specific candidate;

"(C) fundraising activities where both Federal and non-Federal funds are collected through such activities; and

"(D) administrative expenses not directly attributable to a clearly identified Federal or non-Federal candidate, except that payments for administrative expenses are not subject to the limitation of subsection (a)(1).

"(4) The following payments are exempt from the definition of combined political activity:

"(A) Any amount described in section 301(8)(B)(viii).

"(B) Any payments for legal or accounting services, if such services are for the purpose of ensuring compliance with this Act.

"(5) The term 'ballot composition' means the number of Federal offices on the ballot compared to the total number of offices on the ballot during the next election cycle for the State. In calculating the number of offices for purposes of this paragraph, the following offices shall be counted, if on the ballot during the next election cycle: President, United States Senator, United States Representative, Governor, State Senator, and State Representative. No more than three additional statewide partisan candidates shall be counted, if on the ballot during the next election cycle. No more than three additional local partisan candidates shall be counted, if such offices are on the ballot in the majority of the State's counties during the next election cycle.

"(6) The term 'time or space devoted to Federal candidates' means with respect to a particular communication, the portion of the communication devoted to Federal candidates compared to the entire communication, except that no less than one-third of any communication shall be considered devoted to a Federal candidate.".

SEC. 503. PROHIBITION OF SOLICITATION OF CONTRIBUTIONS FOR CERTAIN TAX-EXEMPT ORGANIZATIONS BY FEDERAL CANDIDATES AND OFFICE HOLDERS.

Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by sections 201 and 202, is further amended by adding at the end the following new subsection:

"(k) During any period an individual is a candidate for, or holds, Federal office, such individual may not during such period solicit contributions to, or on behalf of, any organization which is described in section 501(c) of the Internal Revenue Code of 1986 if a substantial part of the activities of such organization include voter registration or get-out-the-vote campaigns.".

SEC. 504. REPORTING REQUIREMENTS FOR CERTAIN RECEIPTS AND DISBURSEMENTS THAT ARE NOT IN CONNECTION WITH ELECTIONS FOR FEDERAL OFFICE OR ARE NOT CONTRIBUTIONS OR EXPENDITURES.

(a) REPORTING REQUIREMENTS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end thereof the following new subsection:

"(d)(1) Political committees established and maintained by a national political party shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) A political committee (not described in paragraph (1)) to which section 323 applies shall report all receipts and disbursements in connection with a Federal election or combined political activity (as determined under section 323).

"(3) Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements which are used in connection with a Federal election or combined political activity (as determined by the Commission).

"(4) If any receipt or disbursement to which this subsection applies exceeds $200, the political committee shall include identification of the person from whom, or to whom, such receipt or disbursement was received or made.

"(5) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a).".

(b) REPORT OF EXEMPT CONTRIBUTIONS.—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)) is amended by adding at the end the following:

"(C) The exclusions provided in subparagraphs (v) and (viii) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions aggregating in excess of $200 shall be reported.".

(c) REPORTING OF EXEMPT EXPENDITURES.—Section 301(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)) is amended by adding at the end the following:

"(C) The exclusions provided in subparagraph (iv) of subparagraph (B) shall not apply for purposes of any requirement to report expenditures under this Act, and all such expenditures aggregating in excess of $200 shall be reported.".

SEC. 505. CLARIFICATION OF EXCLUSION OF MAILING COSTS FROM PARTY-BUILDING PROVISIONS.

Section 301(8)(B)(x)(1), section 301(8)(B)(xi), section 301(8)(B)(xii)(1), section 301(9)(B)(viii)(1), and section 301(9)(B)(ix)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)(x)(1)), (2 U.S.C. (8)(B)(xi)), (2 U.S.C. 431(8)(B)(xii)(1)), (2 U.S.C. 431(9)(B)(viii)(1)), and (2 U.S.C. 431(9)(B)(ix)(1)) are each amended by striking out "direct mail" and inserting in lieu thereof "mail".

TITLE VI—PROHIBITIONS RELATING TO POLITICAL COMMITTEES AND FOREIGN NATIONALS

SEC. 601. PROHIBITION OF LEADERSHIP COMMITTEES.

Section 302(e) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)) is amended by inserting the following new paragraph:

"(6)(A) A candidate for Federal office may not establish, maintain, or control any political committee other than a principal campaign committee of the candidate, authorized committee, party committee, or other political committee designated in accordance with paragraph (3). A candidate for more than one Federal office may designate a separate principal campaign committee for each Federal office.

"(B) For one year after January 1, 1993, any such political committee may continue to make contributions. At the end of that period such political committee shall disburse all funds by one or more of the following means: making contributions to an entity qualified, under section 501(c)(3) of the Internal Revenue Code of 1986, or making a contribution to the treasury of the United States or the Make Democracy Work Fund; or, contributing to the national, State or local committees of a political party, or, making contributions not to exceed $1,000 to any candidate for elective office.".

SEC. 602. PROHIBITION OF CERTAIN USES OF THE NAME OF A CANDIDATE BY POLITICAL COMMITTEES OTHER THAN THE PRINCIPAL CAMPAIGN COMMITTEE OF THE CANDIDATE.

Section 302(e)(4) of the Federal Election Campaign Act of 1971 (2 U.S.C. 432(e)(4)) is amended to read as follows:

"(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) A political committee that is not an authorized committee shall not include the name of any candidate in its name or use the name of any candidate in any fundraising activity on behalf of such committee in such a context as to suggest that the committee is an authorized committee of the candidate.".

SEC. 603. PROHIBITION OF CERTAIN ELECTION-RELATED ACTIVITIES OF FOREIGN NATIONALS.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended by adding at the end the following new subsection:

"(c) A foreign national shall not directly or indirectly direct, control, influence or participate in any person's election-related activities, such as the making of contributions or expenditures in connection with elections for any local, State, or Federal office or the administration of a political committee.".

TITLE VII—CAMPAIGN SURPLUS

SEC. 701. EXCESS FUNDS OF INCUMBENTS WHO ARE CANDIDATES FOR THE HOUSE OF REPRESENTATIVES.

An individual who—

(1) is a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress in an election cycle to which title V of the Federal Election Campaign Act of 1971 (as enacted by section 101 of this Act) applies;

(2) is an incumbent of that office; and

(3) as of the date of the first statement of participation submitted by the individual under section 502 of the Federal Election Campaign Act of 1971, has campaign accounts containing in excess of $600,000;

shall deposit such excess in a separate account subject to the provision of section 304 of the Federal Election Campaign Act of 1971. The amount so deposited shall be available for any lawful purpose other than use, with respect to the individual, for an election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, unless section 501(d)(1) of the Federal Election Campaign Act of 1971 is applicable.

TITLE VIII—CAMPAIGN ADVERTISING

SEC. 801. CAMPAIGN ADVERTISING AMENDMENTS.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in the matter before paragraph (1) of subsection (a), by striking out "an expenditure" and inserting in lieu thereof "a disbursement";

(2) in the matter before paragraph (1) of subsection (a), by striking out "direct";

(3) in paragraph (3) of subsection (a), by inserting after "name" the following "and permanent street address"; and

(4) by adding at the end the following new subsections:

"(c) Any printed communication described in subsection (a) shall be—

"(1) of sufficient type size to be clearly readable by the recipient of the communication;

"(2) contained in a printed box set apart from the other contents of the communication; and

"(3) consist of a reasonable degree of color contrast between the background and the printed statement.

"(d) Any broadcast or cablecast communication described in subsection (a)(1) or subsection (a)(2) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement—

'   is responsible for the content of this advertisement.'

with the blank to be filled in with the name of the candidate, and, if broadcast or cablecast by means of television, shall also—

"(1) appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds; and

"(2) be accompanied by a clearly identifiable photographic or similar image of the candidate.

"(e) Any broadcast or cablecast communication described in subsection (a)(3) shall include, in addition to the requirements of those subsections, in a clearly spoken manner, the following statement—

'   is responsible for the content of this advertisement.'

with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor; and, if broadcast or cablecast by means of television, shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.".

SEC. 802. AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315), as amended by section 801, is further amended—

(1) in subsection (b)(1)—

(A) by striking out "forty-five" and inserting in lieu thereof "30";

(B) by striking out "sixty" and inserting in lieu thereof "45"; and

(C) by striking out "lowest unit charge of the station for the same class and amount of time for the same period" and insert "lowest charge of the station for the same amount of time for the same period on the same date";

(2) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(3) by inserting immediately after subsection (b) the following new subsection:

"(c)(1) Except as provided in paragraph (2), a licensee shall not preempt the use, during any period specified in subsection (b)(1), of a broadcasting station by a legally qualified candidate for public office who has purchased and paid for such use pursuant to the provisions of subsection (b)(1).

"(2) If a program to be broadcast by a broadcasting station is preempted because of circumstances beyond the control of the broadcasting station, any candidate advertising spot scheduled to be broadcast during that program may also be preempted.".

TITLE IX—CONTRIBUTION SOLICITATION

SEC. 901. PROHIBITION OF FALSE REPRESENTATION TO SOLICIT CONTRIBUTIONS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended—

(1) by inserting after "SEC. 322." the following: "(a)"; and

(2) by adding at the end the following:

"(b) No person shall solicit contributions by falsely representing himself as a candidate or as a representative of a candidate, a political committee, or a political party.".

TITLE X—REPORTING REQUIREMENTS

SEC. 1001. REDUCTION IN THRESHOLD FOR REPORTING OF CERTAIN INFORMATION BY PERSONS OTHER THAN POLITICAL COMMITTEES.

Section 304(b)(3)(A) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(3)(A)) is amended by striking out "$200" and inserting in lieu thereof "$50".

SEC. 1002. REPORTING OF OPERATING EXPENDITURES BY CATEGORY.

Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by section 504 of this Act, is further amended by adding at the end the following new subsection:

"(e) The Commission shall require, with respect to reports under this section, that operating expenditures be reported on an election cycle basis, by category, as specified by the Commission.".

SEC. 1003. CHANGE IN CERTAIN REPORTING FROM A CALENDAR YEAR BASIS TO AN ELECTION CYCLE BASIS.

Paragraphs (2) through (7) of subsection (b) of section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(b)(2)–(7)) are amended by inserting after "calendar year" each place it appears the following: "(election cycle, in the case of an authorized committee of a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress)".

SEC. 1004. COMPUTERIZED INDICES OF CONTRIBUTIONS.

Section 311(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(a)) is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(11) maintain computerized indices of contributions of $50 or more.".

TITLE XI—BALLOT INITIATIVE COMMITTEES

SEC. 1101. DEFINITIONS RELATING TO BALLOT INITIATIVES.

Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431), as amended by section 102, is further amended by adding at the end the following new paragraphs:

"(22) The term 'ballot initiative political committee' means any committee, club, association, or other group of persons which makes ballot initiative expenditures or receives ballot initiative contributions in excess of $1,000 during a calendar year.

"(23) The term 'ballot initiative contribution' means any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing the outcome of any referendum or other ballot initiative voted on at the State, commonwealth, territory, or District of Columbia level which involves (A) interstate commerce; (B) the election of candidates for Federal office and the permissible terms of those so elected; (C) Federal taxation of individuals, corporations, or other entities; or (D) the regulation of speech or press, or any other right guaranteed under the United States Constitution.

"(24) The term 'ballot initiative expenditure' means any purchase, payment, distribution, loan, advance, deposit or gift of money or anything of value made by any person for the purpose of influencing the outcome of any referendum or other ballot initiative voted on at the state, commonwealth, territory, or District of Columbia level which involves (A) interstate commerce; (B) the election of candidates for Federal office and the permissible terms of those so elected; (C) Federal taxation of individuals, corporations, or other entities; or (D) the regulation of speech or press, or any other right guaranteed under the United States Constitution.".

SEC. 1102. AMENDMENT TO DEFINITION OF CONTRIBUTION.

Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)), as amended by section 204, is further amended—

(1) in clause (xiv), by striking out "and" after the semicolon;

(2) in clause (xv), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new clause: "(xvi) a ballot initiative contribution.".

SEC. 1103. AMENDMENT TO DEFINITION OF EXPENDITURE.

Section 301(9)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)(B)) is amended—

(1) in clause (ix)(3), by striking out "and" after the semicolon;

(2) in clause (x), by striking out the period and inserting in lieu "; and"; and

(3) by adding at the end the following new clause:

"(xi) a ballot initiative expenditure.".

SEC. 1104. ORGANIZATION OF BALLOT INITIATIVE COMMITTEES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by inserting after section 302 (2 U.S.C. 432) the following new section:

"ORGANIZATION OF BALLOT INITIATIVE COMMITTEES

"SEC. 302A. (a) Every ballot initiative political committee shall have a treasurer. No ballot initiative contribution shall be accepted or ballot initiative expenditure shall be made by or on behalf of a ballot initiative political committee during any period in which the office of treasurer is vacant.

"(b)(1) Every person who receives a ballot initiative contribution for a ballot initiative political committee shall—

"(A) if the amount is $50 or less, forward to the treasurer such contribution no later than 30 days after receiving the contribution; and

"(B) if the amount of the ballot initiative contribution is in excess of $50, forward to the treasurer such contribution, the name, address, and occupation of the person making such contribution, and the date of receiving such contribution, no later than 10 days after receiving such contribution.

"(2) All funds of a ballot initiative political committee shall be segregated from, and may not be commingled with, the personal funds of any individual.

"(3) The treasurer of a ballot initiative political committee shall keep an account for—

"(1) all ballot initiative contributions received by or on behalf of such ballot initiative political committee;

"(2) the name and address of any person who makes a ballot initiative contribution in excess of $50, together with the date and amount of such ballot initiative contribution by any person;

"(3) the name, address, and employer (if an individual) of any person who makes a ballot initiative contribution or ballot initiative contributions aggregating more than $200 during a calendar year, together with the date and amount of any such contribution;

"(4) the identification of any political committee or ballot initiative political committee which makes a ballot initiative contribution, together with the date and amount of any such contribution; and

"(5) the name and address of every person to whom any ballot initiative expenditure is made, the date, amount and purpose of such ballot initiative expenditure, and the name of the ballot initiative(s) to which the ballot initiative expenditure pertained.

"(d) The treasurer shall preserve all records required to be kept by this subchapter for 3 years after the report is filed.".

SEC. 1105. BALLOT INITIATIVE COMMITTEE REPORTING REQUIREMENTS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by inserting after section 304 (2 U.S.C. 434) the following new section:

"BALLOT INITIATIVE COMMITTEE REPORTING REQUIREMENTS

"SEC. 304A. (a)(1) Each treasurer of a ballot initiative political committee shall file reports of certain receipts and disbursements in accordance with the provisions of this subsection. The treasurer shall sign each such report.

"(2) All ballot initiative political committees shall file either—

"(A)(i) quarterly reports in each calendar year when a ballot initiative is slated regarding which the ballot initiative committee plans to make or makes a ballot initiative expenditure or plans to receive or receives a ballot initiative contribution, which shall be filed no later than the 15th day after the last day of each calendar quarter: except that the report for the quarter ending on December 31 of such calendar year shall be filed no later than January 31 of the following calendar year; and

"(ii) preballot initiative reports, which shall be filed 5 days before the occurrence of each ballot initiative in which the ballot initiative committee plans to make or has made a ballot initiative expenditure or plans to receive or has received a ballot initiative contribution; or

"(B) monthly reports in all calendar years which shall be filed no later than the 20th day after the last day of the month and shall be complete as of the last day of the month.

"(3) If a designation, report, or statement filed pursuant to this subchapter (other than under paragraph (2)(A)(ii)) is sent by registered or certified mail, the United States postmark shall be considered the date of filing of the designation, report, or statement.

"(4) The reports required to be filed by this subsection shall be cumulative during the calendar year to which they relate, but where there has been no change in an item reported in a previous report during each year, only the amount need be carried forward.

"(b) Each report under this section shall disclose—

"(1) the amount of cash on hand at the beginning of the reporting period;

"(2) for the reporting period and the calendar year, the total amount of all receipts, and the total amount of all receipts in the following categories:

"(A) ballot initiative contributions from persons other than political committees;

"(B) ballot initiative contributions from political party committees;

"(C) ballot initiative contributions from other political committees and ballot initiative political committees;

"(D) transfers from affiliated political committees;

"(E) loans;

"(F) rebates, refunds, and other offsets to operating expenditures; and

"(G) dividends, interest, and other forms of receipts;

"(3) the identification of each—

"(A) person (other than a political committee or ballot initiative political committee) who makes a ballot initiative contribution to the reporting committee during the reporting period, whose ballot initiative contribution or ballot initiative contributions have an aggregate amount or value in excess of $50 within the calendar year, or in any lesser amount if the reporting committee should so elect, together with the date and amount of any such contribution and the address and occupation (if an individual) of the person;

"(B) political committee or ballot initiative political committee which makes a ballot initiative contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution;

"(C) affiliated political committee or affiliated ballot initiative political committee which makes a transfer to the reporting committee during the reporting period;

"(D) person who makes a loan to the reporting committee during the reporting period, together with the identification of any endorser or guarantor of such loan, and the date and amount or value of such loan and the address and occupation (if an individual) of the person;

"(E) person who provides a rebate, refund, or other offset to operating expenditures to the reporting committee in an aggregate amount or value in excess of $200 within the calendar year, together with the date and amount of such receipt and the address and occupation (if an individual) of the person; and

"(F) person who provides any dividend, interest, or other receipt to the reporting committee in an aggregate value or amount in excess of $200 within the calendar year, together with the date and amount of any such receipt and the address and occupation (if an individual) of the person;

"(4) for the reporting period and the calendar year, the total amount of disbursements, and all disbursements in the following categories:

"(A) ballot initiative expenditures;

"(B) transfers to affiliated political committees or ballot initiative political committees;

"(C) ballot initiative contribution refunds and other offsets to ballot initiative contributions;

"(D) loans made by the reporting committee and the name of the person receiving the loan together with the date of the loan and the address and occupation (if an individual) of the person; and

"(E) independent expenditures;

"(5) the total sum of all ballot initiative contributions to such ballot initiative political committee.".

SEC. 1106. ENFORCEMENT AMENDMENT.

Section 309 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g) is amended by adding at the end the following new subsection:

"(e) The civil penalties of this Act shall apply to the organization, recordkeeping, and reporting requirements of a ballot initiative political committee under section 302A or 304A, insofar as such committee conducts activities solely for the purpose of influencing a ballot initiative and not for the purpose of influencing any election for Federal office.".

SEC. 1107. CONFORMING AMENDMENT TO STATEMENT PROVISION.

Section 312(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 439(a)(1)) is amended to read as follows:

"SEC. 312. (a)(1) A copy of each report and statement required to be filed by any person under this Act (except a ballot initiative political committee) shall be filed by such person with the Secretary of State (or equivalent State officer) of the appropriate State, or, if different, the officer of such State who is charged by law with maintaining State election campaign reports. The chief executive officer of such State shall designate any such officer and notify the Commission of any such designation.".

SEC. 1108. STATEMENT AMENDMENT.

Section 312 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439) is amended by adding at the end the following new subsection:

"(c) A ballot initiative political committee may file each report and statement required to be filed under this Act in the State in which its treasurer resides and with the Commission, insofar as such committee conducts activities solely for the purpose of influencing a ballot initiative and not for the purpose of influencing any election for Federal office.".

SEC. 1109. PROHIBITION OF CONTRIBUTIONS IN THE NAME OF ANOTHER.

Section 320 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441f) is amended to read as follows:

"PROHIBITION OF CONTRIBUTIONS IN THE NAME OF ANOTHER

"SEC. 320. No person shall make a contribution or ballot initiative contribution in the name of another person or knowingly permit his name to be used to effect such a contribution or ballot initiative contribution, and no person shall knowingly accept a contribution or ballot initiative contribution made by one person in the name of another person.".

SEC. 1110. LIMITATION ON CONTRIBUTION OF CURRENCY.

Section 321 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441g) is amended to read as follows:

"LIMITATION ON CONTRIBUTION OF CURRENCY

"SEC. 321. No person shall make contributions or ballot initiative contributions of currency of the United States or currency of any foreign country which in the aggregate, exceed $100, to or for the benefit of: (1) any candidate for nomination for election, or for election, to Federal office; (2) any political committee (other than a ballot initiative political committee) for the purpose of influencing an election for Federal office; or (3) any ballot initiative political committee for the purpose of influencing a ballot initiative.".

TITLE XII—PROHIBITION OF USE OF GOVERNMENT AIRCRAFT IN CONNECTION WITH ELECTIONS FOR FEDERAL OFFICE.

SEC. 1201. PROHIBITION OF USE OF GOVERNMENT AIRCRAFT IN CONNECTION WITH ELECTIONS FOR FEDERAL OFFICE.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 502, is further amended by adding at the end the following new section:

"PROHIBITION OF USE OF GOVERNMENT AIRCRAFT IN CONNECTION WITH ELECTIONS FOR FEDERAL OFFICE

"SEC. 324. No aircraft that is owned or operated by the Government (including any aircraft that is owned or operated by the Department of Defense) may be used in connection with an election for Federal office.".

TITLE XIII—SENSE OF THE CONGRESS

SEC. 1301. SENSE OF THE CONGRESS.

The Congress should consider legislation which would provide for an amendment to the Constitution to set reasonable limits on campaign expenditures in Federal elections.

TITLE XIV—EFFECTIVE DATE

SEC. 1401. EFFECTIVE DATE.

Except as otherwise provided in this Act, the provisions of, and the amendments made by, this Act shall take effect on the date of the enactment of this Act but shall not apply with respect to any election occurring before January 1, 1993.

Amend the title so as to read: "An Act to amend the Federal Election Campaign Act of 1971 and related provisions of law to provide for a voluntary system of spending limits and benefits for House of Representatives election campaigns, and for other purposes.".

Mr. MITCHELL. Mr. President, I move the Senate disagree to the House amendments and request a conference with the House on the disagreeing votes of the two Houses and that the Chair be authorized to appoint conferees.

The motion was agreed to; and the Presiding Officer appointed Mr. FORD, Mr. BOREN, Mr. MITCHELL, Mr. MCCONNELL, and Mr. GRAMM, conferees on the part of the Senate.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the distinguished senior Senator from Rhode Island be recognized for such time as he may consume and that following that time the Senate stand in recess under the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island is recognized.

Mr. PELL. Thank you, Mr. President.

SOUTH AFRICAN REFERENDUM

Mr. PELL. Mr. President, the history of every nation is full of turning points, of critical times when decisions taken can make the difference between war and peace, poverty and wealth, harmony or chaos. For South Africa, the whites only referendum held earlier this week was one of those times, and white South Africans rose to the occasion.

Courageously and in unprecedented numbers, they voted on Tuesday to support continuation of the reform process begun by South Africa President F.W. de Klerk on February 2, 1990, with the unbanning of the African National Congress [ANC] and other antiapartheid organizations. Pollsters and pundits predicted that the vote would be close, that at best the Government would get no more than 60 percent. They were wrong. Eighty-five percent—one of the highest turnouts in the electoral history of white South Africa—came out to vote. Nearly 70 percent of them voted to support de Klerk's policy of negotiating an end to apartheid.

In the weeks leading up to the referendum, South African whites were told again and again by the opposition Conservative Party that their future, their wealth, and their identity, could only be protected in a separate, white South African state. Had a majority accepted this argument, South Africa no doubt would have disintegrated into civil war and apartheid would have been reborn. Fortunately, history has taken a different turn because a majority of whites had the courage to cross the Rubicon and to entrust their future to a new, nonracial South Africa.

The outcome of the referendum has given President de Klerk the mandate he needs to continue the process of negotiation with the ANC and other opposition groups. Inevitably, there will be fits and starts in the process, but the negotiations will proceed. A consensus has now emerged between South African whites and South African blacks. While they may disagree over details, they agree on the fundamental objective of creating a new South Africa in which blacks and whites share genuine power. This week's referendum set the stage for agreement. The outcome paves the way for peace.

ORDERS FOR TOMORROW

Mr. DASCHLE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 12 noon, Friday, March 20; that following the prayer, the Journal of the proceedings be approved to date; that, following the time for the two leaders, there be a period for morning business with Senators permitted to speak therein, with Senator SEYMOUR, Senator NICKLES, and Senator SIMPSON recognized for up to 5 minutes each, Senator PRESSLER for up to 10 minutes, and Senator COATS for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 12 noon tomorrow.

Thereupon, the Senate, at 6:51 p.m., recessed until Friday, March 20, 1992, at 12 noon.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 13, 1992:

NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH & IMPROVEMENT

JANELLE BLOCK, OF WISCONSIN, TO BE A MEMBER OF THE NATIONAL ADVISORY COUNCIL ON EDUCATIONAL RESEARCH AND IMPROVEMENT FOR A TERM EXPIRING SEPTEMBER 30, 1994.

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

GEORGE C. WHITE, OF CONNECTICUT, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 1996.

NATIONAL SCIENCE FOUNDATION

IAN M. ROSS, OF NEW JERSEY, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR A TERM EXPIRING MAY 10, 1998.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

NATIONAL HEALTH SAFETY NET INFRASTRUCTURE ACT OF 1992

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. STARK. Mr. Speaker, today I am introducing the National Health Safety Net Infrastructure Act of 1992. This bill will provide assistance to those urban and rural hospitals that serve as our Nation's health safety net. It represents an urgently needed investment in the capital infrastructure of the most important hospitals in the country.

The bill creates a health safety net infrastructure trust fund from which public and nonprofit safety net hospitals could receive loan guarantees, interest rate subsidies, and, in extraordinary circumstances, direct grants. The trust fund would be financed through a modest tax on health insurance premiums.

These safety net hospitals are often the only source of care for many citizens in their areas. They bear the burden of providing care to the Nation's 35 million uninsured. In fact, if these hospitals did not exist, the crisis in the Nation's health financing system would be far more serious.

These hospitals also provide extraordinarily high volumes of outpatient and primary care—serving as the family doctor as well as the emergency room for both insured and uninsured low-income patients.

These hospitals provide essential, specialized health services to all residents of their communities, including emergency and trauma care, burn centers, high-risk pregnancy services, and neonatal intensive care. These hospitals will continue to play an essential role in our Nation's health system for many years to come, even as we work to fill in the gaps through a national health financing reform plan.

Unfortunately these hospitals face a capital infrastructure crisis, and this crisis is getting worse with every passing month. The buildings and equipment on which these hospitals rely to provide high-quality medical care have been allowed to deteriorate seriously, putting in jeopardy the delivery of quality health services to major portions of our population.

We have paid much attention in recent months to crumbling bridges and deteriorating highways, both high priorities for increased governmental attention, but we have ignored the physical infrastructure of the Nation's health safety net. Just as we need to invest in assuring safe roads and bridges, we also need to invest resources in assuring that our health care safety net does not fall apart.

Many safety net hospitals have been the victims of chronic underinvestment. For example, the average age of the physical plant of urban, public hospitals is nearly 26 years, as compared to a national average of only 7 years for private hospitals.

The average capital expenditure for urban public hospitals is $12,600 per bed, as compared to a national average expenditure per bed of $23,500.

In New York City, public hospital capital spending per hospital bed is 59 percent of the industry average. In Louisiana, public hospital capital spending per bed is less than 15 percent of private hospital spending. In California, private hospitals spend five times as large a portion of their budgets on capital expenditures as do public hospitals. The examples of underfinanced public and nonprofit safety net hospitals go on and on.

It really doesn't matter which city or rural community you visit. It is easy to find hospitals struggling under the burden of providing too much charity care in facilities which is not up to modern standards. New York, Chicago, Los Angeles, New Orleans, or my own city of Oakland, all have public hospitals which desperately require capital investment if they are to continue acting as the provider of last resort in their communities.

The problem is that the health care system in these communities cannot exist without these facilities. The people they serve will not be served by other hospitals. For many of these hospitals, occupancy rates often exceed capacity, forcing some to add beds to holding areas and to hallways to accommodate the numbers of patients seeking care. You can imagine the experience of an ill patient whose bed ends up in the hall because there is no other space.

A recent national survey of these safety net hospitals indicated that lack of available hospital beds is resulting in emergency department overcrowding. In 1 month, 50 percent of the hospitals in the most severely affected areas, New York, Los Angeles, and Detroit, were forced to restrict emergency department access over 25 percent of the time.

The aging physical plants of public hospitals are not designed to meet the needs of today's patients. These facilities are frequently the only primary and preventive care providers in many communities. The existing hospital plants often reflect a historic emphasis on inpatient, acute care services. Lack of capital investment precludes the development of facilities that emphasize today's trend toward outpatient and ambulatory care. Construction of new community-based primary and preventive care clinics, ambulatory surgery centers, and other outpatient services, is essential to the future delivery of efficient and high-quality care in these hospitals.

The need for investment in our safety net hospitals is high. Rebuilding to the standard of excellence we all support will not be cheap.

Individual public hospital replacement and renovation projects often exceed $250 million. A few projects approach or exceed $1 billion. In fact, needed safety net hospital projects in Atlanta, Boston, Los Angeles, Chicago, New Orleans, and New York represent the single largest public works projects ever undertaken in those cities.

Although the return on investment will be high for the health care system, these projects will pay dividends far beyond health care. The effects on the local economy and employment will be magnified by large multiplier effects, initially within the local construction industry, as well as the hospital-related service economy of the community. The operating budgets of these revitalized institutions will have a continuing and long-term positive impact on the local economy.

It is not the responsibility of the Federal Government to undertake the needed infrastructure improvements alone, nor do we have the funds to do so. Nevertheless, the time has come to enter into a partnership with State and local governments, and with the safety net providers themselves, to invest in these critical facilities.

Safety net hospitals require such a partnership because they often face special barriers in obtaining and repaying needed capital financing. The high proportion of services provided to low-income patients often leads to operating margins too low to support debt service or to pay directly for needed capital projects.

Traditional methods of financing are no longer available to these hospitals. While many of these hospitals were originally built with grants or loans under the Hill-Burton program, these funds have not been available for many years. Because of recession, and the even greater weakness of many local economies, local governments are not able to fund new capital projects or issue general obligation bonds to finance the construction of new or renovated health care facilities.

Public and private hospitals can directly issue their own revenue bonds, but serious obstacles may preclude safety net hospitals from doing so. Even where revenue bonds are legally feasible, the bond rating may be too low—and the interest rate thus too high—because the bond market often views the local appropriations on which many public hospitals rely as too uncertain to be included in annual revenue calculations. For much the same reasons most of these hospitals have difficulty qualifying for bond insurance or mortgage insurance under the FHA Program.

The bill I am introducing today will establish an important new program to provide carefully targeted, highly leveraged resources to those safety net hospitals that are in the greatest need of assistance. The new health safety net infrastructure trust fund created by this bill will guarantee future access to everyone to the safety net facilities of the Nation's medically underserved urban and rural areas.

This bill meets the pay-go requirements of the Budget Enforcement Act. It is financed through a 1-percent premium tax on health insurance to create the revolving fund needed to provide loan guarantees, interest rate sub-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

sidies, direct matching loans, and direct grants to safety net hospitals. In my view we all enjoy benefits relating to the services provided by these hospitals, and thus the modest increase in health insurance premiums needed to finance this program is more than justified by the return.

It is important to point out what this bill will not do. For one thing, it is not simply the rebirth of the old Hill-Burton program, whose resources were made widely available to build hospitals all over the country. The loan guarantees and direct grants of this bill are targeted to those areas of the country where the need is greatest. This bill is also not intended to perpetuate the current structure of our health system, or to support hospitals that will not be needed in the future. Hospitals receiving assistance under this measure will be required to maintain an open door to all patients, and to provide high levels of service to their communities.

The bill I am introducing today is an important complement to the health care financing reforms on which I and others are working. This bill will assure that when health care financing reform is accomplished, every citizen will have access to the kind of inpatient and outpatient hospital facilities that all of the rest of us have come to expect. I urge my colleagues to join me in support of this bill.

A summary of the bill follows:

SUMMARY OF THE BILL

IN GENERAL

The bill establishes a Health Safety Net Infrastructure Trust Fund to provide loan guarantees, interest rate subsidies, direct loans, and direct grants to safety net hospitals.

ELIGIBILITY FOR ASSISTANCE

Ownership requirements

In order to qualify for assistance a hospital must be:

A public hospital owned or operated by a state or local government;

A quasi-public corporation; or,

Be a private, not-for-profit hospital which has contracted with a state or local government to provide care to medical indigents and where revenue under the contract exceeds ten percent of the hospital's operating revenue.

Eligibility requirements

The following types of hospitals would be eligible for assistance:

Hospitals receiving a "high" disproportionate share adjustment under Medicare (the disproportionate share percentage is greater than 20.2) or a "Pickle" disproportionate share hospital (revenues from State and local governments for indigent care exceed thirty percent of net revenue excluding Medicare and Medicaid revenue);

Essential Access Community Hospitals designated by the Secretary;

Federally qualified health centers;

Other hospitals which the Secretary determines to be appropriate recipients of assistance.

PRIORITY FOR SELECTION OF PROJECTS

In selecting projects for assistance, the Secretary would be required to give preference to: (a) projects that are necessary to bring existing facilities into compliance with accreditation standards or fire and life safety, seismic, or other related standards; or, (b) projects which improve the provision of essential services such as emergency, AIDs and infectious disease, perinatal, burn, and primary care services.

LOAN GUARANTEES

The program will provide a Federal guarantee of loan repayment to non-Federal lenders making loans to qualified hospitals for hospital replacement, modernization, and renovation projects. Hospitals will be charged a reasonable loan insurance premium.

Eligibility criteria

In order to receive a loan guarantee, a hospital must:

Demonstrate that the loan guarantee is essential to obtaining bond financing;

Demonstrate evidence of ability to meet debt service;

Demonstrate to the satisfaction of the Secretary that the assistance is necessary to restore or maintain the financial or physical soundness of the hospital;

Agree to maintain an open door policy and provide significant volumes of care to the medically indigent;

Demonstrate improvements in management and operations to reduce operating costs;

Provide a detailed maintenance schedule;

Provide a schedule for correcting past deficiencies in maintenance, repairs, and replacements;

Provide a plan to meet cost-effective energy standards;

Provide a plan to improve financial and management controls;

Provide a detailed annual operating budget.

Special rules

At least ten percent of the dollar value of loan guarantees must be allocated to rural hospitals.

Loan guarantees may also be provided for refinancing loans.

The rules under the programs for recovery of funds, procedures in the event of loan default, options for foreclosure, and related matters are similar to the rules used for these purposes under the existing FHA loan guarantee program.

Priority for guarantees would be given to projects in which state or local governments participate in the form of first guarantees of the bonds.

INTEREST RATE SUBSIDIES

The program will provide a partial subsidy of debt service payment where State and local governments demonstrate a significant commitment to financing hospital replacement, modernization, and renovation projects by undertaking the issuance of bonds.

In order to obtain an interest rate subsidy a hospital must receive assistance from non-Federal sources at least equal to the assistance received from the Federal program.

At least ten percent of the value of interest rate subsidies must go to rural hospitals. The aggregate value in a given state may not exceed 25 percent of the value of subsidies granted in a year.

DIRECT LOANS TO HOSPITALS

Direct matching loans will be available for projects designed to achieve compliance with accreditation standards, life safety code standards, and other certification standards, and projects related to the provision of new services.

No more than 75 percent of the cost of the project could come from Federal sources, except that this requirement could be waived in the case of financially distressed hospitals.

The interest rate will be a market rate related to the most recent revenue bond index published by the Bond Buyer. Loans may be used for refinancing.

DIRECT GRANTS

Direct grants would be available for the following types of projects:

Projects to correct emergency certification and licensure violations which threaten the closure or loss of accreditation or licensure of the hospital;

Projects to maintain essential services such as obstetrics or trauma care;

Limited planning grants to hospitals requiring pre-approval assistance in order to apply for assistance under the program.

FINANCING

The Health Safety Net Infrastructure Trust Fund is financed through a one percent tax on the amount paid by employers to provide health insurance. This tax would apply to coverage provided by health insurers, and coverage provided directly by employers under ERISA. All of the funds generated by this tax would be paid into the trust fund.

SUPPORT FOR FULL FUNDING FOR PUBLIC TELEVISION STATIONS ACROSS AMERICA

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. DOWNEY. Mr. Speaker, I rise today to call attention to the tremendous work public television stations have accomplished both on Long Island and throughout the country.

Realizing the great role noncommercial stations would have in promoting educational and public service television, in 1952 the Government reserved 242 channels around the country for the use of noncommercial educational TV. The next year, the first noncommercial TV station went on the air in Houston, TX. Since then, the number of noncommercial stations has increased tremendously to about 345 stations in 50 States, reaching 150 million viewers monthly—87 million viewers weekly.

As the number of public television stations has grown, so has the scope of their activity. Today public television is an essential educational resource, a valuable community partner, and a source of quality television programming. For example, one of the stations that broadcasts in the New York area, WNET, provides the opportunity for 350,000 individuals to learn how to read on a yearly basis, and they also have a General Equivalency Diploma Program [GED] in both English and Spanish which helps over 2,600 individuals become more employable in today's job market. Another station, WLIW which is located on Long Island, broadcasts 26 hours of instructional programs each week during the school year; 126 school districts on Long Island receive information and supplementary materials about these programs.

Since their beginning, public television stations have been of paramount importance within the community. As a public service these stations regularly sponsor town meetings and other local events. One station regularly hosts a series of debates in November aimed at increasing voter awareness and turnout. Another features a community calendar twice a day which gives details of local activities and cultural events. In addition, through outreach campaigns they have brought attention and heightened awareness to such pressing issues as drug abuse, literacy, AIDS, prejudice, the environment, and affirmative action. WNET sponsored an entire day of AIDS-related programming featuring an AIDS helpline. During the day helpline volunteers responded to over 1,000 calls. Events such as this have made public TV a cornerstone of local communities.

Public broadcasters consistently aim to bring the best and most innovative programs to people throughout the United States. Public TV programs remain some of the most watched on television, bringing quality drama, educational, and public affairs programs to all Americans regardless of their location or ability to pay. The "MacNeil-Lehrer News Hour", "Masterpiece Theatre", "The Civil War", "NOVA", and "Sesame Street" are but a few of the well known and well received programs that public television is responsible for. WLIW's program, Window on Washington, helps to keep Long Islanders informed about the current issues being considered by Congress.

I am proud and pleased with the quality programming and community service that public television stations have been able to bring the people of Long Island, and so are Long Islanders themselves. In 1990, 381,000 supporters of public television contributed $27.2 million in funds and over 25,000 dollars' worth of services to public television stations in the area. This is not enough however. It is imperative that public television stations across America receive the funding they need to continue their invaluable educational and community service work. I urge my colleagues in the House of Representatives to support full funding for public television stations across America.

NATIONAL LAW ENFORCEMENT OFFICERS MEMORIAL

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. CAMPBELL of California. Mr. Speaker, in October 1991, the National Law Enforcement Officers Memorial was dedicated to honor the fallen comrades of this distinguished group of individuals. Our Nation's police officers keep our homes and families safe in an increasingly violent world. These men and women place their lives at risk, exposing themselves to grave dangers on a daily basis. Year in and year out, these proud officers stand willing to sacrifice their lives in service of the public good. In the performance of a job which is neither routine nor easy, law enforcement officers display a professionalism and a sense of duty unequaled in society. Too often, we the people take for granted the importance of law and order and the men and women who provide it.

We ought to remember the personal sacrifices that each officer and each officer's family make during each day of service. In the performance of their duties, these crimefighters must face danger and the knowledge that they or their partner may possibly fall in the line of duty. This condition is endured by officers for the benefit of us all. I want every policeman and policewoman to know my personal gratitude for their dedication and service.

The memorial itself is a stirring sight. Inscribed along two low, gently curving blue-white marble walls are the names of officers slain in the line of duty. The wall is a chronicle of sacrifice from Revolutionary War times to the present day, and includes over 12,000 names. This memorial is not static in time—sadly, new names will be added as more officers fall. Behind each tragic name is a story of bravery and love of country. Located at the ends of each wall is a lion standing guard. I can think of no better metaphor for our law enforcement officers. I invite all Americans to come down to the memorial to pay your respects to these peacetime patriots—our nation's law enforcement officers.

THE HOPEFUL MESSAGE OF PURIM

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. RANGEL. Mr. Speaker, I rise to call the attention of my colleagues to the holiday of Purim, which commemorates the deliverance of the Jewish people from an evil plot that sought their destruction.

This is a very important holiday for me, Mr. Speaker, because it evokes strong feelings of persecution and discrimination and redemption, and because it reminds me of the common heritage that Blacks and Jews share.

Purim is the moving account of a courageous woman named Esther, utterly loyal to her people, who saves them from the genocidal machinations of a government official named Haman. Today, Purim is celebrated with feasting and rejoicing. Gifts are given to friends and to the needy.

I join this celebration today, sharing the Jewish hope and confidence that, working together, we will survive every future Haman who seeks our destruction.

We are all survivors—of slavery, discrimination, and genocide. And we can all be liberators—saving our brothers and sisters from the horrors of poverty, disease, and hate. This, for me, is the unique and important message of Purim.

Our communities are deeply connected, however strained they may seem at times.

Even before the civil rights struggles of the 1950's and 1960's, Jews and Blacks had participated in friendship and mutual support.

In the 19th century, many Jews, concerned with human rights abuses that reminded them of the European tyranny they had fled, promptly joined the Abolitionist movement upon their emigration to the United States. Among them was August Bondi, a Viennese scholar who quickly committed himself to fighting slavery, fought with John Brown in his famous raid on Harper's Ferry, and served with distinction in the Union Army.

Jewish defense of the rights of Black Americans did not stop with the Emancipation Proclamation. In the early 1900's, Jewish philanthropists like Julius Rosenwald, Herbert Lehman, and Samuel and Mary Fels played major roles in the founding and support of the National Association for the Advancement of Colored People, the Urban League, and other Black organizations.

Other Jews with access to government also assisted the Black community. When Howard University President Mordecai Johnson decided to establish a law school, he turned to Louis Brandeis, the first Jewish justice on the Supreme Court, for advice and support.

Blacks, too, supported Jewish efforts. In the 1830's, the great Black nationalist Wilmot Blyden, who worked for the return of Blacks to their homeland in Africa, also supported Jewish resettlement in Palestine. Blacks consistently opposed the anti-Semitism of the Ku Klux Klan and joined with Jews to confront fascism.

The heart-rending meeting of these two minorities in the ashes of the Holocaust was one of the most moving chapters in both our histories, but certainly not the first—nor the last.

Black volunteers spearheaded the American Armed Forces advance into Germany and were among the first troops to liberate concentration camps such as Buchenwald and Dachau.

According to Leon Bass, Sr., a liberator: "I came into that camp an angry Black soldier. Angry at my country and justifiably so. Angry because they were treating me as though I was not good enough. But something happened. I came to the realization that human suffering is not relegated to me and mine. I now know that human suffering could touch all. I knew that in my lifetime I had to fight that. If this could happen here, it could happen anywhere. It could happen to me. It could happen to Black folks in America."

As Ben Bender, one of the Jews rescued by Leon Bass and his fellow soldiers that day, says, "The recollections are still vivid—Black soldiers of the 3d Army, tall and strong, crying like babies, carrying the emaciated bodies of the liberated prisoners. I was 17 and my life was almost extinguished. For me it was an instant awakening of life after a long darkness."

We are all survivors and we can all be liberators. Let us celebrate the hopeful message of Purim and recommit ourselves to cooperating against division, struggling against despair, and loving against hate.

Today, on Purim, I wish to remind my colleagues of the words of John Jacob, President of the National Urban League: "the cement for our continuing alliance is the shared vision of an America based on equality in an open, pluralistic, integrated society.

"That vision still has compelling meaning—not only for Blacks and for Jews, but for other minorities in various stages of access to the mainstream, and for all Americans."

WELL DONE, JJ; THANK YOU

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. PAYNE. Mr. Speaker, I would like to bring to the attention of my colleagues an event that occurred in New Jersey this past weekend. That event was a surprise roast for John Johnson, affectionately called "JJ". We know that surprises are not unusual and roast are not uncommon. What made this event significant was the man that was being honored. Every now and then a person comes along who changes the course of the lives of the people with whom they come into contact. For most of his life, John "JJ" Johnson has been that kind of person.

John Johnson was born in Charleston, SC. During his high school years he was involved in student government. Upon his graduation from high school in 1955, he attended Morris College in Sumpter, SC. Later JJ relocated to Newark, NJ where he settled, met and married the late Julia Bullock, and raised a son, the Reverend Elder Vincent R. Johnson of Faith Temple Church in East Orange, NJ.

JJ's sense of fellowship and caring became his trademark while he was employed at the U.S. Postal Service in Newark and the Newark board of education, where he became one of the board's first school security guards, in 1969. His leadership abilities took him to service in the labor movement. He served the workers of the Newark Board of Education as a shop steward of local 286 of the Teamsters. In April 1975, he became one of the founders of local 617 of the Service Employees International Union. He is the only executive vice president that local 617 has ever had. Presently he is also serving the membership as business manager. Due to JJ's hard work, local 617 is the largest public employee local of Service Employee International Union in the State of New Jersey.

JJ has worked to organize many entities in our community. His affiliations are numerous. His dedication and commitment to the community is evidenced in his work as leader, advocate, fundraiser, contributor, coordinator, and friend. Mr. Speaker, the life and work of John "JJ" Johnson have been exemplary. The surprise roast for JJ was organized not for any particular milestone in his life or career. It was planned because JJ has given to many for so many years, without any formal or public show of appreciation and his friends, count me among them, thought it was time to say "Thank you, JJ." I am sure my colleagues send along their congratulations for a job well done and their encouragement and best wishes for a challenging and successful future.

BULGARIA'S SUCCESS SHOULD NOT BE KEPT SECRET

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. SPRATT. Mr. Speaker, several weeks ago, Deputy Secretary of State Lawrence Eagleburger was quoted in the Washington Post as saying that Bulgaria's extraordinary political progress is the best kept secret in Central and Eastern Europe. Secretary Eagleburger was referring to Bulgaria's success in transforming from an orthodox, Stalinist nation into a democratic country with a free press, competing political parties, freedom of religion, and private enterprise. Mr. Eagleburger labeled these developments as amazing changes and stated that Bulgaria's success will be a secret no more. I commend Secretary Eagleburger for his insightful comments and would like to insert in the RECORD of the Washington Post article.

'AMAZING CHANGES' IN EAST EUROPE'S 'BEST-KEPT SECRET': BULGARIA

(By Blaine Harden)

SOFIA, BULGARIA, March 5.—"America Backs Bulgaria," crowed the headline in today's Democratsia, the daily paper of the ruling political party.

The headline, over a report of a speech by deputy Secretary of State Lawrence S. Eagleburger in Washington Wednesday, reflected Bulgaria's march from Communist pariah to respected member of the international community.

Referring to a nation that is widely suspected of having plotted to murder Pope John Paul II, whose spies killed at least one disloyal citizen with a poison-tipped umbrella and whose leaders prided themselves on their close ties to hard-liners in Moscow, the number-two official at the U.S. State Department said that "the Bulgarian revolution has traveled the furthest distance" of any in eastern Europe.

Eagleburger told a conference of potential American investors in Washington on Wednesday that two years of "amazing changes" have allowed Bulgaria, despite a bleak history of misrule, to join Poland, Hungary and Czechoslovakia in the first rank of post-Communist democratic states committed to capitalist reform.

"It is no exaggeration to say that Bulgaria under democracy has not only overcome the legacy of communist, it is in the process of overcoming the legacy of history," Eagleburger said. "The best-kept secret in central and Eastern Europe will be a secret no more."

Here, where 8.5 million Bulgarians have been forced to wean themselves from nearly total dependence on what used to be the Soviet Union and where electricity cuts have kept them intermittently in the dark through two cold winters, the speech was greeted as an act of deliverance.

"We deserve such praise because we did a lot of courageous things," said Mariana Todorova, an economic adviser to Bulgarian President Zhelyu Zhelev.

Bulgaria has, indeed, stood Stalinist tradition on its head. But, Eagleburger's speech notwithstanding, the country has performed this act adagio—stock therapy in slow motion.

This country has been overlooked in Eastern Europe in large measure because only now is it getting around to reforms that were making headlines in Poland two years ago.

The current government of Prime Minister Philip Dimitrov, who this week is visiting the United States, has yet to pass into law many of the basic legislative building blocks of a post-Communist society, such as a law on privatization of state enterprises or a bankruptcy law.

Dimitrov's government says passage of these laws, drafts of which are before the Bulgarian legislature, is just a few weeks away. The prime minister told reporters in Washington today that conditions will soon be optimal for foreign investors.

"Money can be made in Bulgaria, a country with steady and stable democracy right at the place that connects Europe with Asia," the prime minister said.

In Poland, democratic change has moved at such a dizzying pace that the country is now on its third elected government and many Poles are peeved that Western investors are buying up the country on the cheap.

Bulgarians, who have had a wholly non-Communist leadership for less than six months, do not yet have a major deep-pockets foreign investor to welcome or to resent. This week, for the first time, neon signs were being erected in the capital's central business square to advertise Johnny Walker whiskey and Panasonic electronic goods.

It took cautious Bulgarian voters more than two years of thinking things over—as well as two nationwide free elections—before they could be persuaded that it was safe to vote Communists out of power. Bulgaria had been regarded as the 16th republic of the Soviet Union, a vassal state where KGB colonels sat in on councils of government.

Bulgaria's prime minister said today in Washington that the "most criminal element" of the Communist legacy in his country is "the effect it had upon the human soul. It started with vast intimidation, which was combined with leaving no room for hope."

The scars of communism, however, do not seem to affect the loan calculations of the World Bank and the International Monetary Fund, which are impatient with Bulgaria.

"The changes are not big and fast enough and have to continue" IMF delegation leader Anuf Singh told reporters here last week. A World Bank official said Bulgaria, unlike other Eastern European countries, agrees completely on all points of reform, but "the problem is it takes too long." The official, John Wilton, warned that Bulgaria will have to pick up the pace before the World Bank comes through with its second $100 million tranche of loan money.

Prime Minister Dimitrov will hold talks with World Bank and IMF officials in Washington next week. He met with President Bush on Tuesday.

As Eagleburger said in his Washington speech, this country has been unexpectedly blessed with leaders who seem immune to a regional epidemic of hatred.

Eagleburger compared war-ravaged Yugoslavia—which is "mired in the hatreds of the past and sliding further into the past"—to Bulgaria, which has cemented friendly ties to historic enemies such as Greece and Turkey. The Turkish minority in Bulgaria has won a powerful voice in parliament.

Bulgaria, "against all historical precedent * * * is transcending those hatreds and is thus poised to move forward into a totally different and far better kind of future," Eagleburger said. "It deserves the fullest support from the international financial institutions and integration into the Western family of nations."

I believe Bulgaria's achievements are especially notable because they took place in just 2 years and in a relatively peaceful manner. The Bulgarian people deserve enormous credit for their achievements. It should be noted that our own government has also played a small role in encouraging the democratic forces in Bulgaria. In particular, I am thinking about the democracy building work done by the National Democratic Institute which has sponsored a series of workshops and election missions in Bulgaria. In addition, credit should go to Martin Frost's task force which has worked with the Congressional Research Service to train and equip Bulgarian members of Parliament and their staff.

For too long, people in the United States have praised the achievements of Poland, Hungary, and Czechoslovakia while ignoring Bulgaria's accomplishments. I hope Secretary Eagleburger is correct when he says Bulgaria's success will be a secret no more.

BIOGRAPHY OF QUANAH PARKER (COMANCHE)

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Pubic Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my on-going series this year, I am providing for the consideration of my colleagues a short biography of Quanah Parker, the most esteemed Indian of his tribe who acted as the industrious and able leader of a confederation of Comanches, Apaches, and Kiowas. This biography was taken from a U.S. Department of the Interior publication entitled "Famous Indians, A Collection of Short Biographies."

QUANAH PARKER (COMANCHE)

For many years the word "Comanche" meant terror on the Texas frontier. In early 19th century, Comanche Indians had been generally friendly to Americans, but they became bitter enemies of the Texas settlers who took over their best buffalo hunting grounds.

Wildest and fiercest of Comanches was the Kwahadi band. In 1835, Kwahadis attacked a small settlement in east Texas and carried away several captives, among them a little girl, Cynthia Ann Parker, then about 10 years old. Cynthia grew up to marry Nokoni, a Comanche chief. Their oldest son, born about 1845, was Quanah Parker, who, in Comanche tradition, was given his mother's surname.

Quanah grew up with the savage Kwahadi Comanches, and when his father died, he became the tribe's new chief, a tribute to the young man's ability and intelligence, since chieftainships were not ordinarily inherited among the Comanches.

Fights with the Comanches were an almost everyday occurrence to settlers on the plains of west Texas, and Indian attacks on travelers were a constant danger. The 1867 Medicine Lodge Treaty had assigned Comanches, Kiowas, Kiowa-Apaches, Cheyennes, and Arapahoes to reservations. But Parker and his band, who had refused to sign, continued to hunt buffalo on the Plains and to plunder settlements along the Texas border.

In the early 1870's, when white hunters illegally invaded Indian country and slaughtered vast numbers of buffalos to collect hides, Parker's fury reached its peak. Having mustered about 700 warriors from among the Comanches, Cheyennes, and Kiowas, in June of 1987 he attacked the post at Adobe Walls, where some 30 buffalo hunters were quartered. But the fort's thick walls and superior ammunition were too much for the Indian braves, who were forced to withdraw with severe losses after 3 days of heavy fighting.

Most Comanche aggression came to an end when U.S. Army troops were sent into Indian country. Parker, however, continued to remain on the Staked Plains with his band until the summer of 1875, when he surrendered.

As other leaders before him, Parker had dreamed of an alliance—this time of Plains Indian tribes—which would be strong enough to resist the inroads of white settlement. Once having surrendered his dream, however, he changed his point of view completely, and resolved to adjust to the dominant civilization. "I can learn the white man's ways," he said, and he did.

Parker was still young, and his real career, which was to be long and distinguished, started at that point. He influenced even the wildest of the Comanche bands to come onto southwestern Oklahoma reservations, and peace at last came to the Texas plains.

For the next 30 years, Parker acted as the industrious and able leader of a confederation of Comanches, Apaches, and Kiowas. He was their most able and influential businessman, and their guide to white civilization. The once-savage warrior made education popular, encouraged home-building and agriculture, and initiated the leasing of surplus pasture lands for Indian income. Always, however, he held fast to traditionally important Indian beliefs and ceremonies. Quanah's involvement with the Peyote Cult (peyote is a small cactus whose "buttons," when chewed, produce visions), played an important part in his ability to influence his followers. Parker had five wives (polygamy was customary among the Comanches), and many children, all of whom were educated. He spoke both English and Spanish fluently, and traveled frequently to Washington.

Quanah Parker, the most esteemed Indian of his tribe, died in 1911, at about 76. In 1957, he was reburied in the post cemetery at Fort Sill, Okla., with military honors.

SALUTE TO WILLIAM FORDEN

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. LAGOMARSINO. Mr. Speaker, I rise to pay tribute to Bill Forden, who will retire on March 26, 1992 as the chief probation officer of Ventura County after an amazing 33 years of service for California correctional agencies.

Bill's lengthy and distinguished service includes an appointment to the Governor's Blue Ribbon Commission on Inmate Population Management and past chairmanship of the California Corrections Executive Council, of which he is still an active member.

Bill earned his position through many years of hard work, starting in 1957 as a probation trainee in Los Angeles County. One of Bill's great contributions during his 16 years as the chief probation officer and director for the County of Ventura Corrections Services Agency was setting up a mental health program at the Frank A. Colston Youth Center, the first in California. In addition, Bill administered the largest work furlough program in California and also helped establish a local juvenile restitution project.

Bill Forden's commitment to public protection through a lifetime of service is an inspiration to us all. Ventura County is truly a better place to live with great thanks to Bill. I ask my colleagues to join me in congratulating Bill upon completion of an outstanding career. I wish him and his wife, Toby, many happy years of retirement on the golf course in Palm Springs.

HAPPY 50TH BIRTHDAY, MIMI SILBERT; HAPPY 21ST BIRTHDAY, DELANCEY STREET FOUNDATION

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. LEVINE of California. Mr. Speaker, I rise today to send birthday greetings and best wishes to a good friend and strong leader, Mimi Silbert, and an extensive and innovative rehabilitation program, the Delancey Street Foundation.

Dr. Mimi Silbert serves as president, chairman of the board, and chief executive officer of the Delancey Street Foundation. The foundation, serving 800 residents in centers in New York, New Mexico, North Carolina, Los Angeles, and at the headquarters in San Francisco, has been called the "best and most successful rehabilitation program in the world." Thousands of men and women have graduated into society as taxpaying citizens leading successful lives.

The population at the centers ranges in age from 12 to 68, and the average resident has been a hard-core drug addict for 10 years and has been to prison four times. Many have been gang members, and most have been trapped in poverty for several generations. Although the average resident is functionally illiterate and unskilled when entering Delancey Street, all residents receive a high school equivalency and are trained in three different marketable skills before graduating.

The minimum stay at Delancey Street is 2 years, the average stay is 4 years. During that time, residents learn not only academic and vocational skills, but also the interpersonal and social survival skills, attitudes, values, sense of responsibility, and self-reliance necessary to live in the mainstream of society drug-free, successfully, and legitimately.

Delancey recently completed construction of an expanded and centralized home on the waterfront in San Francisco which was primarily built and supervised by Delancey residents with Mimi Silbert as developer. This was an unprecedented vocational training program providing 300 formerly unemployable drug addicts, homeless people, and ex-felons now in Delancey Street with every skill in the building trades, with full support of the unions. Residents were also trained in purchasing, contracting, computer, and accounting services.

Although Delancey Street is her primary life's work, Dr. Mimi Silbert is a recognized national expert in criminal justice. She has worked as a prison psychologist, a police trainer, and as a professor for both undergraduate and graduate students at the University of California at Berkeley, California State University at San Francisco, and the Wright Institute. She has received innumerable accolades from local, State, and Federal officials, has been appointed to several boards and commissions, and has been featured on many television shows including "20/20," "ABC World News Tonight" with Peter Jennings, and "Sunday Morning" with Charles Kuralt. That the Delancey Street foundation is run without cost to taxpayers and generates all of its funding internally is a tribute to Mimi's immense talent.

Therefore, I ask my colleagues in the House of Representatives to join me in sending birthday greetings to the Delancey Street Foundation and its leader, Mimi Silbert, who chose to cast her lot with society's losers to prove her belief that with hard work, courage, and discipline, they can be winners and transform impossible dreams into reality.

COMPETITION IN THE CREDIT CARD INDUSTRY IS ALIVE AND WELL

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. BARNARD. Mr. Speaker, I would like to bring to the attention of my colleagues the results of a recent study, "Consumers, Competition and Choice: The Impact of Price Controls on the Credit Card Industry." The study was conducted by Robert E. Litan, senior fellow in the economic studies program at the Brookings Institution. Many of my colleagues are familiar with Dr. Litan's expertise. He has testified many times before Congress on banking issues and has served as a consultant to the Financial Institutions Supervision, Regulation and Insurance Subcommittee of the House Banking Committee.

I personally wish to commend Dr. Litan on his latest work, the findings of which come as no surprise to this Member. Through his research, Dr. Litan concluded that the credit card industry is very competitive—the credit card market is unconcentrated and credit card marketing is not inhibited by geographic location. According to Dr. Litan, consumers have many options available in choosing credit cards, including variety of interest rates, fees, enhancement programs, and payment plans.

Dr. Litan also lays to rest the misconception that placing a cap on credit card interest rates would benefit consumers. He found that imposing such a cap would restrict credit availability and place millions of consumers at risk of losing their cards. In addition, remaining cardholders would be subject to higher fees and other disincentives if credit card interest rates were subject to a ceiling.

Mr. Speaker, I would like to share with you the executive summary and introduction from Dr. Litan's study.

CONSUMERS, COMPETITION AND CHOICE—THE IMPACT OF PRICE CONTROLS ON THE CREDIT CARD INDUSTRY

(By Robert E. Litan[1])

EXECUTIVE SUMMARY AND INTRODUCTION

Policy solutions are frequently advanced in Washington in search of problems. In some cases, the proposals may be relatively harmless, if unnecessary. In other cases, however, the proposed cures can be worse than the putative disease.

In November 1991, federal policymakers flirted with the enactment of a proposal of the latter type, one that at the time would have imposed a ceiling of 14 percent on credit card interest rates,[2] and if implemented today, could limit credit card rates to no more than 12 percent by the second quarter of 1992. Advocates aimed the cap proposal at a so-called "problem": that interest rates on credit card accounts appeared to remain constant while market interest rates, and therefore, the issuers' costs of funds, were declining. The implicit contention was that the credit card market was not competitive and that the imposition of an interest rate ceiling was the only way to make it so.

In fact, however, the premise for the cap proposal was and remains wrong. The market in credit card lending is highly competitive, as measured by the traditional indicia of competition. Over 5,000 institutions currently issue credit cards and the market is highly unconcentrated. Equally significant, there are very low barriers to entering the credit card issuing business, evidenced by the recent entry by AT&T and the U.S. automobile companies.

Nevertheless, advocates of credit card interest ceilings have pointed to two features of the market that they have argued are inconsistent with claims that the industry is competitive: the relative stability of credit card interest rates in the face of sharply declining market interest rates and the strong profitability of credit card lenders. But neither feature disproves the fact that the credit card issuing market is highly competitive and that interest rates reflect this fact.

Average credit card interest rates have remained relatively stable even as the cost of funds has dropped because other costs—especially chargeoffs—have risen sharply. As a result, credit card issuers have not profited from lower interest rates; to the contrary, the best evidence is that their profits have been gradually declining since the mid-1980's. In addition, the relatively flat trend in average credit card rates has not been unusual in recent years: rates on other types of consumer loans have displayed a similar pattern. Credit card interest rates nevertheless remain higher than those on other types of consumer credit because credit cards are more expensive to administer, providing both payments and credit services, and are unsecured.

More importantly, there is strong evidence that credit card issuers determine the interest rates they charge based not on the risks of their average borrowers, but on the risks of their marginal customers, or precisely what economic theory would predict. This report indicates that chargeoffs associated with marginal borrowers indeed have been running significantly higher than average chargeoffs, and therefore, that credit card operations at the margin are substantially less profitable than the aggregate data depict.

Until recently, most credit card issuers have not aggressively differentiated their interest charges between low and high risk borrowers, principally because credit card customers generally have been insensitive to the interest charges on their credit card balances. As a result, issuers have competed for business on other features of the credit card arrangement—on the size of annual fees, the length of "grace periods," and by offering other goods and services (such as "frequent flyer" points) in connection with their cards.

But what consumers helped create—namely a market where variations in interest rates do not appear to have influenced the use of credit card borrowing—they can also change. And change already has arrived. Prompted by the recession and by increased publicity regarding the availability of credit card accounts with lower interest rates, consumers are becoming more sensitive to interest charges on their accounts. In turn, issuers—both old and new—are responding to the heightened consumer awareness by offering lower rates in an effort to attract the most creditworthy consumers.

The future for the credit card business, therefore, is clear. Induced by consumers themselves, credit card issuers increasingly will compete on the basis of the interest rates they charge: borrowers that appear to present greater risks will be required to pay higher rates than those who appear less risky, while the least risky will continue to pay no interest at all by regularly paying their full balances each month during the "grace period." Significantly, however, in an unregulated market credit card loans will continue to be available to lesser credit-worthy customers, provided they compensate the lenders for assuming the risks.

Attempts to regulate this process by imposing ceilings on credit card interest rates are thus not only unnecessary but would be highly counterproductive. One certain result of any cap would be a restriction of credit made available through credit cards to higher-risk customers, or most likely those with low and moderate incomes. Under a 14 percent cap, at least 30 million cardholders could find their cards revoked or the fees associated with the cards would be raised to the point where perhaps an even greater number of cardholders would voluntarily cancel their credit card relationships. Under a 12 percent cap, a minimum of 70 million cardholders could be at risk.

Such substantial potential reductions in the availability of credit card finance could have seriously adverse macroeconomic effects. Indeed, policymakers today should not forget what happened the last time the U.S. government curtailed credit card lending in 1980: consumer purchasing plummeted sharply, helping to trigger what eventually became the deepest recession since the Great Depression.

Even customers whose credit would not be curtailed on account of an interest rate ceiling—and indeed even customers who do not currently use credit cards—could nevertheless find themselves worse off. The reason, of course, is that credit card issuers would attempt to cushion the impact of any government-imposed rate cap in other ways, such as by raising annual fees or reducing or eliminating grace periods.

---

[1] The author has prepared this study for MasterCard International Incorporated on behalf of its 16,500 member financial institutions in the United States. The views expressed here are his own and not those of the Brookings Institution, its trustees, officers or staff. The research assistance of Maya MacGuineas is gratefully acknowledged.

[2] The term "interest" is used narrowly here to refer only to the annualized percentage rate (APR) for borrowings on a credit card and not to any other charges that may be considered "interest" for legal purposes.

Finally, any cap—or, indeed, even the threat of one implicit in any Congressionally mandated study—could have a significant adverse effect on the newly emerging market in securities backed by credit card receivables. This market could suffer not only a damaging loss of liquidity, but the significant prospect that a rate cap would be imposed would chill investor interest in the securities and thus immediately raise the cost of funds of credit card issuers, and in turn, the cost of credit card debt to consumers who continue to borrow through their cards.

In short, any claimed benefits of an interest rate cap are likely to be a mirage. Meanwhile, the costs would be visited upon those in the economy least able to afford them. A clearer example of an ill-suited policy—in search of any solution—would be hard to find.

SUPPORT FOR THE FEDERAL EMPLOYEE RESERVIST BENEFIT EXTENSION ACT OF 1991

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. DOWNEY. Mr. Speaker, I would like to express my support for the Federal Employee Reservist Benefit Extension Act of 1991 which the House of Representatives overwhelmingly approved. Throughout Long Island and across the Nation, thousands of Federal and postal employees were called to active military duty during Operation Desert Shield and Desert Storm.

During the war, people across America showed their concern and support for our troops overseas. Now Congress must do the same. These men and women left their families, friends, homes, and jobs to fight for our country. Unfortunately, for these Federal reservists, this was often at great financial sacrifice. Many civil servants called up to active duty during the Persian Gulf war witnessed a significant loss of income as their military pay was less than their civilian pay. Some even lost homes and cars or went deeply into debt as a result of this loss in income.

To address this inequity, the Federal Employee Reservist Benefit Extension Act of 1991 provides a special pay differential for Federal employees who were called to active military service in the Persian Gulf war and whose military pay was lower than their normal civilian pay. In addition, this legislaion allows employees to retain employer-provided life insurance and health benefits for the duration of their callup, and allows for the repayment of contributions to savings plans which were missed because of military duty.

The brave men and women who fought in the Persian Gulf deserve our gratitude and appreciation. This legislation will ensure that those Federal employees who were called to active duty are not penalized financially for their great sacrifice.

INTRODUCTION OF LEGISLATION TO IMPROVE LANGUAGE EDUCATION IN AMERICA

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. RANGEL. Mr. Speaker, I rise to introduce to my colleagues two important pieces of legislation that aim to improve the state of language education in America.

As we all know, people have come to the shores of the United States from every continent, from every country on Earth. Many of my respected colleagues in the House of Representatives are, in fact, immigrants to this great land.

Immigrants to this country bring with them their desire to succeed, their love of freedom, and their own culture and language.

From the beginning, the United States has benefited and been enriched by these immigrants, as different as they look and sound.

The music of many languages flows through the cities and countryside of the United States. This is a rich heritage that should be nurtured, cherished, and promoted.

All people, regardless of their background, should be encouraged to preserve that proud birthright and be given the opportunity to continue to use and appreciate their own culture.

When someone comes to America, they do not leave their language, history, and culture at the door. And we should not insist that they do.

Yet those who come to the United States without proficiency in English should be provided the opportunity and support to learn English, since mastery of English is the key to so much here.

America's schools and corporations need to adapt to the broad variety of languages spoken in the United States and abroad. As a nation, we are not prepared to communicate effectively in the languages of our neighbors, our trading partners, our allies, or our adversaries.

Indeed, we often find it difficult to communicate with many different languages spoken here at home.

Fewer than 1 percent of our Nation's primary and secondary students participate in a foreign language program and fewer than 12 percent of our college students study any foreign language whatsoever.

And our workplaces are woefully unprepared to support the English language education of so many eager, ready, and bright workers.

Mr. Speaker, this is why I am introducing into the Congress two bills that will promote English and foreign language literacy among those who currently cannot read and write.

The first bill will elevate the Director of the Office of Bilingual Education and Minority Languages Affairs [OBEMLA] to Assistant Secretary of Education for Bilingual Education and Minority Languages Affairs.

OBEMLA is the only office with program responsibilities, the only office that actually administers Education Department programs, whose head is not an Assistant Secretary.

This legislation would not alter the focus or mission of the office—but it would introduce a much greater degree of accountability to the Congress. The Director is hired by the Secretary without any formal congressional participation; the Assistant Secretary would have to be confirmed by the Senate.

The second bill will create a tax credit to employers who provide literacy training to their American-resident employees. This bill would emphasize literacy training. As you know, millions of Americans are functionally illiterate—this includes native-born English speakers in addition to people who speak English as a second language. This legislation would encourage employees to help anyone who needs literacy assistance.

English-only laws are narrow-minded, inappropriate, and mean-spirited. Instead of constraining the wonderful variety of languages spoken in the United States, we should be promoting them all and using them to improve the English ability of nonnative speakers.

Both limited English proficient and children whose primary language is English can benefit from two-way bilingual language programs. Such programs help develop our national linguistic resources and promote our international competitiveness.

Workplace skills of adults with limited English proficiency can be successfully developed in the native language while English language skills are being developed, thus enhancing their contributions to the workforce and the economy.

All Americans, regardless of their national origin and regardless of their ability to speak English now, can benefit from this legislation.

KEEP THE DEPOSIT INSURANCE SYSTEM STRONG AND EFFECTIVE

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. CAMPBELL of California. Mr. Speaker, with the establishment of the deposit insurance system in the 1930's, the Federal Government formed a social contract with the American people, and established a central element of our financial system. Because they are guaranteed by the Government that their money is safe, consumers feel confident to put their savings in federally insured banks. This assurance brings a vital security to the financial system.

Benefiting from this security, banks should honor their obligation to the deposit insurance system. As Congress reforms the banking system, we should make sure that we do not revoke or undermine this contract, but instead strengthen it. The financial industry can play a key role in this process by contributing to the solvency and strength of the Federal deposit insurance system.

Various reforms to deposit insurance coverage have been put forth—lowering the deposit coverage, privatizing the insurance fund, insuring only a percentage of the deposit, limiting insurance coverage to one account per person—but at this time, such reforms are ill advised. They would send a shock wave through the system, adversely affecting the availability of credit throughout the economy.

Moreover, consumers just don't have accurate and meaningful information about the risks they may face depositing their money in one institution over another.

As the economy shows its first signs of strength after this long recession, Mr. Speaker, now would be the worst time to undermine Americans' confidence in the banking system. The focus of our efforts must be to keep the deposit insurance system strong and effective. The American people deserve no less.

INTRODUCTION OF HOUSE CONCURRENT RESOLUTION 296

HON. MIKE KOPETSKI

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. KOPETSKI. Mr. Speaker, all of us are familiar with the sorry state of our patchwork health care system. It leaves many Americans uncovered, and is coming apart at the seams under the pressure of high health care cost inflation. It's a safe bet that before this session is over, we'll be voting on a reform package in this Chamber. Given this fact, today I am introducing, along with 45 of my colleagues, House Concurrent Resolution 296 to focus attention on a segment of the health care field that is not getting the attention it deserves: mental health care.

Mr. Speaker, it is shameful that millions of Americans are not getting the mental health care they need when effective treatment is available to them. Approximately 19 percent of the adult U.S. population suffers from a diagnosable mental illness or substance abuse disorder within any 6-month period. Approximately 7.5 million children and adolescents suffer from some type of mental or emotional disorder. Researchers have made and continue to make great strides in understanding what causes mental illnesses and how to treat them, yet those afflicted with mental disorders aren't getting treated.

One factor contributing to the lack of treatment is the tremendous amount of stigma surrounding mental illnesses and mental health care still prevalent in our society. A study by the National Alliance for the Mentally Ill found that 71 percent of U.S. citizens thought mental illness was an emotional weakness, 65 percent felt it was due to bad parenting, 33 percent thought it was probably due to sinful behavior, and that only 10 percent felt it had a biological basis in brain dysfunction. Fighting this stigma is one of the highest priorities for the House Working Group on Mental Illness and Health Issues, and until it is reduced, millions of Americans will be dissuaded or diverted from getting the care they need.

An outgrowth of this stigma, and another big factor in preventing access to care, is the way mental health care is treated by insurance policies, including public health care programs. An excellent example of this inequitable treatment is the Medicare Program. For all physical illnesses, Medicare requires a 20-percent copayment. Somehow, though, mental illnesses are different, and aren't perceived as being as severe or legitimate. Medicare requires a 50-percent copayment requirement for mental health care services. I would ask my colleagues to talk to the family of someone who's suffering from schizophrenia, or a panic disorder, or a bipolar disorder, and try to tell them that their son's or daughter's or husband's or wife's illness isn't severe or legitimate.

We must bring our responses to mental illness up to date. My friend and colleague RON MACHTLEY recently introduced a bill, H.R. 4306, that takes a significant step toward correcting the Medicare copayment differential, and I urge my colleagues to cosponsor this legislation. However, as health care reform marches on, I believe it is also imperative that we bring along mental health care.

As I mentioned earlier, there are millions of Americans in need of mental health care services. This need is going unmet. Only 20 percent of those in need of mental health services actually get treatment.

The lack of treatment is placing great strain on our society. There are more Americans with serious mental illnesses in prisons and street shelters than in hospitals. One-third of people who are homeless have a mental illness, and 40 percent have a substance abuse disorder. Mental disorders are devastating to those who suffer from them. They can be as functionally disabling as a serious heart condition, and more disabling than other chronic physical illnesses such as lung problems, angina, hypertension, and diabetes. In addition to paying in pain and suffering and in damaged lives, we are paying in dollars.

American businesses lose over $100 billion per year through lost productivity of employees due to substance abuse and mental illness. While the annual direct costs of treatment for mental illness and addictive disorders are estimated at $68 billion, the indirect costs due to lost productivity, lost employment, vehicular accidents, criminal activity, and social welfare programs are estimated to be approximately $250 billion per year.

In addition to these costs, the lack of adequate mental health care is a significant factor contributing to the health care inflation problems of our country. Research on 20,000 enrollees at the Columbia medical plan in Maryland showed that untreated mentally ill persons increased their medical utilization by 61 percent during a 1 year period. In contrast, those who received psychological treatment increased their medical expenditures by only 11 percent during the same period. A mentally healthy comparison group averaged a 9-percent increase. This and other studies show that we can't afford to ignore mental health care.

In light of this, my resolution, House Concurrent Resolution 296, expresses the sense of Congress that any health care reform legislation passed must include equitable mental health care benefits. Health care reform proposals do not discriminate against patients with illnesses such as cancer, diabetes, or heart disease. They should not discriminate against the millions of Americans who have mental disorders.

Now that the political will and national focus on health care reform make real progress possible, we must not let the opportunity pass to bring mental health care coverage up to date. We must not let those with mental disorders fall by the wayside as we move forward with health care reform.

Following is the text of House Concurrent Resolution 296.

H. CON. RES. 296

Whereas mental illness and substance abuse disorders are prevalent throughout our society;

Whereas approximately 19 percent of the adult population in the United States suffers from a diagnosable mental illness or a substance abuse disorder within any 6-month period;

Whereas mental illness and substance abuse disorders can strike at any point during a person's lifetime;

Whereas 12 percent of Americans under the age of 18, or approximately 7,500,000 children and adolescents, suffer from some type of mental illness or emotional disorder;

Whereas ⅘ of children in need of mental health care do not receive services, resulting in significant costs to society as these children become adults;

Whereas approximately ⅓ of homeless people suffer from a mental illness and approximately 40 percent of homeless people suffer from a substance abuse disorder;

Whereas there are more Americans with a serious mental illness in prisons and street shelters than in hospitals;

Whereas the incidence of mental illness and mental health problems is very costly both to the individual with a mental disorder and to society as a whole;

Whereas mental illness and substance abuse disorders are devastating to the lives of those afflicted, as there exists a direct and close relationship between mental health and overall well-being;

Whereas American businesses lose over $100,000,000,000 per year due to lost productivity of employees because of substance abuse and mental illness;

Whereas annual direct costs of treatment for mental illness and substance abuse disorders are estimated at $68,000,000,000 and annual indirect costs due to lost productivity, lost employment, vehicular accidents, criminal activity, and social welfare programs are estimated to be approximately $250,000,000,000;

Whereas significant progress has been made within the last 10 years in research into the causes and treatments of mental illnesses, and many such illnesses are now treatable;

Whereas cognitive therapy or other types of psychotherapy produced a positive outcome in 77 percent to 98 percent of cases of depression;

Whereas pharmacologic intervention for schizophrenia and bipolar disorders can dramatically reduce the rehospitalization rate for those afflicted with these disorders, improving the ability of such individuals to live productively in the community;

Whereas the success rate for the treatment of panic disorders is between 70 percent and 90 percent;

Whereas significant numbers of persons with mental illness in the United States find it difficult, if not impossible, to secure needed health care;

Whereas only approximately 20 percent of those in need of mental health services actually receive them;

Whereas mental health care is treated differently from care for other health conditions in both public and private financing systems;

Whereas 99 percent of insured individuals and their families have private health coverage for some inpatient mental health treatment, but only 37 percent have coverage that is equivalent to their coverage for other illnesses;

Whereas many private insurance programs continue to discriminate against individuals who suffer from mental illness or substance abuse disorders;

Whereas public insurance programs continue to discriminate against individuals who suffer from mental illness or substance abuse disorders, as evidenced by the fact that the Medicare program has a 50 percent copayment requirement for mental health care services but only a 20 percent copayment requirement for all other services; and

Whereas businesses, consumers, and Federal and State governments are already paying for mental health care for the uninsured and underinsured in an inefficient and inequitable manner, resulting in much unnecessary pain and suffering for those afflicted with mental disorders as well for their families: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that any legislation passed by the Congress to address the ongoing and unmet health care needs of the American people must include benefits covering medically and psychologically necessary treatments for mental disorders which are equitable and comparable to benefits offered for any other illness.

CHIEF JUSTICE REHNQUIST DISCUSSES LONG-RANGE PLANNING FOR U.S. COURTS

HON. NEAL SMITH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. SMITH of Iowa. Mr. Speaker, as chairman of the Subcommittee on Appropriations which handles the annual funding for the U.S. courts, I have been concerned about the willingness of Congress to load additional duties and costs onto the courts while resisting the increased funding needed to pay for those services. With a cap on Federal spending, any new costs for the courts in excess of the increase in finding dollars must come from some other agency or program; and that is difficult, especially since competing needs for funding are often good and popular local programs.

It is important that Members of Congress become more aware and more concerned about the impact of legislation which either drains the resources of the courts or requires increased appropriations or numbers of personnel to adequately implement.

Recently Chief Justice Rehnquist made a speech which very eloquently discusses long-range planning for the courts. To make it available to more people who need to be aware of the various considerations involved, I am inserting in the CONGRESSIONAL RECORD that part of the speech discussing these matters. It is as follows:

REMARKS OF CHIEF JUSTICE REHNQUIST

Since I last spoke to you in 1989, the judiciary has decided that the issues generated by present and prospective future changes in our legal system were important enough to be given more focused attention. Toward that end, the Report of the Federal Courts Study Committee, issued in April of 1990, recommended that the judiciary engage in extensive long-range planning. That Report, citing what it termed, "the volatility of change throughout our society," recommended that the Federal courts should broaden their capacity to anticipate societal change and plan for the future. The Report also proposed the creation of an entity to oversee and coordinate this planning function. In response, the Executive Committee of the Judicial Conference of the United States created a Committee on Long-Range Planning, chaired by Judge Otto R. Skopil, Jr. of the Court of Appeals for the Ninth Circuit. Judge Skopil and his committee have begun to anticipate future demands on the federal courts and what must be done to meet them. In so doing, they will help provide us with a blueprint for the future.

The key question posed to the Long-Range Planning Committee deserves careful consideration by a much wider audience. What should be the future role of the federal courts? That is not an idle question, for the federal courts now stand at a crossroads. Many have spoken and written in recent years about the present impact of the case load crisis on the federal courts. That impact is serious now, but it threatens to become even more so.

The question transcends the personal concerns of sitting federal judges. It involves, instead, the kind of federal court system we will bequeath to our children and grandchildren. Unless actions are taken to reverse current trends, or slow them considerably, the federal courts of the future will be dramatically changed. Few will welcome those changes. Judges will have less time to spend on individual cases; bureaucratization and increased management strictures will leave judges less freedom to exercise personal judgment. These circumstances will lead judges to have less of a sense of personal responsibility and accountability for the work they produce. Unless checked, the result will be a degradation in the high quality of justice the Nation has long expected of the federal courts.

Some may say that we merely need to create more federal judgeships, which in turn would require more courthouses and supporting staff. Although providing additional judicial resources is necessary in the short run, the long-term implications of expanding the federal judiciary should give everyone pause. As one of my colleagues on the court of appeals has noted, a federal judiciary consisting of more than 1,000 members could be of lesser quality, and would require an attendant bureaucracy of ancillary personnel. It could also end up being divided into an almost unmanagable number of circuits or plagued by appellate courts of unmanageable size, with an increasingly incoherent body of federal law and a Supreme Court incapable of maintaining uniformity in federal law.

Because I believe such a federal court system would be unacceptable, my Annual Report on the Judiciary called for a reexamination of the role of the federal courts. I suggested that the reexamination should (1) recognize the benefits of renewed cooperation with state court systems; (2) consider curtailing some federal jurisdiction; and (3) avoid adding new federal causes of action unless critical to meeting important national interests which cannot otherwise be satisfied through non-judicial forums, alternative dispute resolution techniques, or the state courts.

I make this call for reexamination with full knowledge that the scope of federal jurisdiction has been an important political issue since the founding of the Nation. Article III sets few limits upon federal jurisdiction. Within its broad warrant it gives Congress the power to determine the scope of federal jurisdiction and decide when important national interests require the use of this resource. Two important historical limitations, however, circumscribe the scope of federal judicial power. Federal courts were always intended to complement state court systems, not supplant them. The Framers also intended that the federal courts be a distinctive judicial forum, performing the tasks that state court systems, because of political or structural reasons, could not perform. Throughout the two-hundred year history of the federal courts, they have maintained their special qualities, handling complex cases, protecting individual liberties, and adjudicating important national concerns. These are the jobs they do best—not those better suited to other forums.

These considerations highlight the desirability of going slow when it comes to adding new federal causes of action or new federal bases of jurisdiction to the existing structure of the federal courts.

In 1991, the Judicial Conference of the United States opposed portions of several legislative initiatives because they would unnecessarily expand the jurisdiction of the federal courts and intrude into areas of the law that have traditionally been reserved to state courts. S. 1241, the Violent Crime Control Act, included provisions that would have provided for federal prosecution of virtually any case in which a firearm was used to commit a murder or crime of violence. This federalization of most violent crimes would have been inconsistent with long-accepted concepts of federalism. It would have swamped federal prosecutors, thus interfering with other federal criminal prosecutions, and would have ensured that the already overburdened federal courts could not have provided a timely forum for civil cases. These provisions of S. 1241 were successfully eliminated from the Conference version of the 1991 Crime Bill, but could resurface if similar legislation is reconsidered in 1992. I have urged Congress to consider the serious implications to the federal courts if these provisions become law, and I urge the ABA to do the same.

Similar concerns exist with pending S. 15, the Violence Against Women Act. Although supporting the underlying objective of S. 15—to deter violence against women—the Judicial Conference opposes some portions of the bill. The judiciary is concerned that the bill's new private right of action is so sweeping that it could involve the federal courts in a whole host of domestic relations disputes. The Judicial Conference joined the Conference of Chief Justices in opposing Title III of S. 15, and I have urged Congress to consider carefully the wisdom of shifting these types of disputes to the federal courts. I urge your attention to this issue also.

We are not talking in either of these cases about what the substantive rule of law should be. Those who commit murder with firearms and those who perpetrate violence against women should be severely and properly punished—no one doubts that. But the question is whether the federal courts, with their limited resources, should be further burdened with the enforcement of these particular substantive rules.

Some years ago, Chief Justice Earl Warren said that "it is essential that we achieve a proper jurisdictional balance between the federal and state courts systems, assigning to each system those cases most appropriate in light of the basic principles of federalism." Before these two added tasks are imposed on the federal courts—indeed, before any other added tasks are imposed upon them—the question should be asked as to whether the state courts presently deal, and deal with reasonable effectiveness, with these same matters. If the answer is in the affirmative, it is probably better to follow the maxim "if it ain't broke, don't fix it." To shift large numbers of cases presently being decided in the state courts to the federal courts for reasons which are largely symbolic would be a disservice to the federal courts, and, more importantly, to the whole concept of federalism.

I would strongly suggest that right now is surely the least propitious time to saddle the federal courts with significant added responsibilities. Federal judges should not be immune from change, any more than are those who do different kinds of work in the public or the private sector. But the role of federal judges has been anything but static during the last decade of our history. Congress has, during this time, enacted major statutory changes in the criminal law in its effort to use every federal resource to bring drug offenders to book. Approximately every two years, Congress has augmented the number of federal drug crimes, increased the severity of drug-related sentences, and added a whole host of ancillary provisions requiring the attention of the federal judiciary. These new statutes have more than tripled the number of drug cases prosecuted in the federal courts, from 3732 cases in 1981 to 12,400 in 1991. In many jurisdictions, the increase in drug prosecutions has substantially changed the caseload mix before the federal courts, making it next to impossible for many judges to give timely and adequate attention to their civil docket.

Federal district judges have also, since 1987, been wrestling with the Sentencing Guidelines mandated by Congress in 1984. This enactment has represented a total turnaround from the previous method of sentencing criminal defendants in federal courts. Before, the setting of the sentence within authority limits was almost entirely in the hands of the trial judge, and it was virtually impossible to appeal against such a sentence. Now, elaborate guidelines are in place which detail exactly how the sentence in each case shall be computed. The guidelines' sentencing tables contain a "grid" with vertical "offense levels" and horizontal "criminal history categories". Once the judge uses the tables to determine an appropriate offense level and criminal history category, the two are cross-referenced on the "grid" to determine the sentence. The judge may only depart from the specified sentence if aggravating or mitigating circumstances are present. These new guidelines mean that a sentencing hearing before a district judge, which might have taken five or ten minutes a decade ago, could take an hour or more today. And the new statute grants both the government and the defendant the right to appeal from the sentence so fixed to the Court of Appeals—a right of which both are taking full advantage. Criminal appeals rose 33 percent in the first year of the Sentencing Guidelines. Overall, criminal appeals have more than doubled in the past ten years. In 1991, 21 percent of the almost 10,000 appeals were of sentence only, and another 44 percent were appeals of both sentence and conviction.

In addition to increased drug prosecutions and the Sentencing Guidelines, the district courts are required by the Civil Justice Reform Act of 1990 to develop civil justice delay and expense reduction plans. These efforts are well underway, and the early implementation district courts have submitted their plans. As an aside, let me say that critical to the completion of those plans has been the active participation of interested parties in the district advisory groups. For example, former ABA President Chesterfield Smith led the advisory group for the Southern District of Florida. The group included lawyers, academics, CEOs of banks, accounting firms, airlines and newspaper publishers, along with other civic leaders. This diverse group of talented individuals devoted thousands of hours to their task of assessing the court's docket, identifying the principal causes of cost and delay, and proposing remedial measures for adoption by the court. Several public hearings were held and, after nine months of work, a substantial plan was presented to the district court. It was unanimously adopted and sent to the Judicial Conference for approval. I understand that a similar process is being repeated in many districts.

These delay reduction plans will ultimately benefit the courts as well as the Bar and litigants, but they, too, take time from the district judge which he might previously have used for something else. They also add additional management constraints, lessening the traditional freedom of the district judge to manage his or her civil docket.

Whether or not a majority of federal judges would have welcomed these changes, they have had the changes thrust upon them and are dealing with them as best they can. The federal judiciary, far from being immune to or hesitant to change, has lived in a world of change for two centuries. Right not it is living through a whirlwind of very substantial changes which have occurred in only the last decade. Additional changes particularly increased in the number of different jobs which federal courts are required to do—should be initiated, if at all, in a responsible manner, with due regard to the work which federal courts are presently doing. These courts have always been regarded as courts of limited jurisdiction, very important to our country for performing the rather specialized tasks which Congress from time to time has given them. They cannot possibly become federal counterparts of courts of general jurisdiction, which are required to take virtually all kinds of cases, without seriously undermining their usefulness in performing their traditional role and jeopardizing those qualities which have made them special.

TRIBUTE TO LORA B. GRIFFIN TARVER ON HER 100TH BIRTHDAY

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. PAYNE of New Jersey. Mr. Speaker, I would like to bring to the attention of my colleagues the 100th birthday of one of my valuable constituents, Mrs. Lora B. Griffin Tarver. Mrs. Tarver was born on March 18, 1892, in Lato, AL. Her proud parents were the late George Griffin and Savilla Turpin Griffin.

As an adult, Mrs. Tarver met and married the late John Tarver. Six children were born to this union. Two of the children—Johnnie and Gillian—died during infancy, leaving one son and three daughters—Jeanette Tarver, William J. Tarver, Dorothy L. Tarver Rowlette, and Lillian Tarver Romero. Mrs. Tarver has five grandchildren, nine great grandchildren and one great great granddaughter.

Mr. and Mrs. John Tarver settled in Newark approximately 75 years ago. They lived on Sherman Avenue for about 45 years. Sometime after the death of her husband, Mrs. Tarver moved to her daughter's home where she presently resides.

Mrs. Tarver has dedicated her entire life to rearing her family. This labor of love was a 24-hour, 7-day-a-week commitment. The only time this schedule was not in effect was during the Depression when she took a job in a toy factory to help provide for her family. Mrs. Tarver has been a pal, a friend, a teacher, a confidante, and an advisor; not only to her immediate family but to other relatives and their many friends. Everyone refers to Mrs. Tarver as "Mama."

Mr. Speaker, Mrs. Tarver is loved by all and her home has always been a nucleus for her family and their many friends. You will notice that I called Mrs. Tarver one of my valuable constituents. During her life Mrs. Tarver has instilled many values in her children and their children. As a matter of fact, she has influenced five generations. Glenn Van Ekeren once again, "When you know what your values are, making decisions becomes easier." The Tarver family is an attestment to that quote. They are all good citizens and family members.

Mr. Speaker, I am sure my colleagues would want to join me as I say: "Happy birthday, Mrs. Lora B. Griffin Tarver."

LEGISLATION TO TIGHTEN REGULATION OF HAZARDOUS WASTE FACILITIES

HON. JOHN M. SPRATT, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. SPRATT. Mr. Speaker, 1 week ago today, I introduced two bills, H.R. 4465 and H.R. 4466, measures amending RCRA to tighten regulation of hazardous waste facilities. Both bills are designed to increase public safety, strengthen enforcement of RCRA, and improve public confidence in the operation of these facilities. I am reprinting in the RECORD a copy of testimony I submitted on March 16, 1992, to the House Energy and Commerce's Subcommittee on Transportation and Hazardous Materials. This testimony describes these two bills in greater detail. I urge my colleagues to support these two important measures.

STATEMENT BY CONGRESSMAN JOHN M. SPRATT

Mr. Chairman, members of the Subcommittee, I urge your support for H.R. 4465 and H.R. 4466, two bills I introduced last week to toughen federal laws regulating hazardous waste facilities. I am sorry that I am in my Congressional district today and therefore unable to deliver this testimony personally. Nonetheless, I appreciate your accepting my testimony for the record. These two bills are designed to increase public safety, strengthen enforcement of environmental laws and improve public confidence in the operation of these facilities. In drafting both bills, I have worked closely with the South Carolina Department of Health and Environmental Control which is supporting the measures. I have also worked closely with the Environmental Defense Fund (EDF) and other environmental groups which are backing them as well.

I have a particular interest in ensuring that hazardous waste facilities are safe because my Congressional district hosts both an incinerator in Rock Hill, South Carolina and a hazardous waste landfill in Sumter County, South Carolina—the second largest hazardous waste landfill in the southeast. Both have experienced problems and both would benefit by tougher federal laws regulating waste facilities.

H.R. 4466, the Hazardous Waste Facilities Public Accountability Act, attempts to resolve three gaps in existing federal law: facility owners are not required to show that they have the financial resources they might need in case an accident occurs; the federal government provides states with grossly inadequate funding to pay the cost of policing hazardous waste facilities and enforcing federal environmental laws; and, operators who are violating state or federal environmental laws are still eligible for and frequently receive permits for new or expanded facilities.

Let me describe each one of these problems in greater detail and then explain how H.R. 4466 would address them. First, current law imposes no requirement that operators show they have the money to pay corrective action costs before a leak occurs. They only have to show they have money to clean up a mess after the facility leaks. This puts the cart before the horse. By the time of the leak, it's too late. Two years ago, KPMG Peat Marwick performed a study which found that a significant leak at the Sumter facility could cost over $1 billion to clean up. Given the enormous costs of a waste cleanup, the government must require landfill owners to demonstrate they have the resources before, not after the accident happens. Otherwise, when a landfill leaks or an incinerator explodes, the operator can declare bankruptcy and the taxpayer is left holding the bag. The thousands of Superfund sites across the country are a clear example of what happens when the government does not impose financial responsibility standards on companies.

In some cases, corporations which own waste facilities cleverly shelter their corporate liability by creating layers of corporate shells to protect them from financial loss. I would like to introduce into the record a 1987 organizational chart of Laidlaw/GSX, the company which owns the landfill in Sumter County, South Carolina. This chart was prepared as part of a study done for the state by KPMG Peat Marwick in 1989. It shows five separate corporate layers between the company operating the landfill and the deep pocket parent. The study showed that the operating entity failed three out of the four financial tests applied, making it doubtful as to whether the subsidiary by itself could respond to a major catastrophe. As of August 1987, the GSX subsidiary was carrying $114 million in total liabilities, $96 million of which represented short-term debt callable at any time by its parent.

Related to this lack of financial responsibility, federal law imposes only the most limited standards for the "post-closure period" of a landfill, the time after a facility shuts down. Operators must demonstrate for only thirty years after the facility closes that they have the funds to pay for a leakage monitoring system. This requirement ends after 30 years even though the waste remains toxic for hundreds of years.

The first part of H.R. 4466 would require financial responsibility standards from the time a facility begins operation until the time its waste no longer is a threat to human health or the environment. With this provision, Congress would be telling waste operators, "If you want to run a facility, you have to show us you can pay for the consequences of an accident. If you can't meet that standard, you shouldn't be running a facility." The bill would also extend the 30-year monitor and maintenance period until the time the waste is no longer toxic.

A second problem with current law is that the federal government provides states with inadequate funds to enforce federal hazardous waste laws. We all know that most states are in difficult financial straits with large budget deficits and revenue shortfalls. Because of tight state budgets, few states now have the personnel, equipment or resources they need to fully and effectively enforce hazardous waste laws. This means that operators can get away with committing permit violations and public safety suffers.

Part two of my bill would require states to impose a fee on waste facilities. State environmental agencies would keep the proceeds to pay the cost of running the RCRA program. The fee would equal the cost states incur in developing, implementing and enforcing the permit program of RCRA. This provision is patterned after the fee provision in the new Clean Air Act which has already become law. This provision has two advantages. First and foremost, it would provide significant and consistent revenue to state environmental agencies so that they can better protect the public health and the environmental. Second, the bill brings some fairness to states where general tax revenues wholly or substantially subsidize the regulatory program. It is much fairer for the facilities treating the waste or the companies generating the waste to foot the bill.

A third problem is that owners of hazardous waste facilities who are currently violating state or federal environmental laws are still legally eligible to receive and do receive new operating permits. The third part of my bill, called a "good guy" provision, would prevent any company which is violating state or federal environmental laws from obtaining a permit for a hazardous waste facility. Before a company received a permit for a new or expanded facility and before an existing facility could renew its permit, it would have to show it is in compliance with federal and state environmental laws. This provision will provide a strong incentive for operators to obey laws designed to protect public safety and minimize environmental risks. This section is not designed to penalize owners guilty of only minor or technical errors such as bookkeeping mistakes. It *is* designed to send message to industry that you can't get away with violating important safety laws and yet still continue to open new facilities.

The second bill I have introduced, H.R. 4465, would require EPA to issue standards governing where hazardous waste facilities can be sited. These standards would prevent companies from locating waste facilities in sites where they pose a particular threat to the environment or to people. This legislation would require EPA to promulgate standards within 18 months after the enactment of the new RCRA bill. In the event that EPA fails to promulgate new regulations within the prescribed time, H.R. 4465 will prohibit the construction of a new facility: within one-half mile of a residence, school, hospital or church; over or in a complex hydrogeology; and over or in a recharge zone of an aquifer. In my district, the Sumter landfill is located over an aquifer and a few hundred feet from a lake while the Thermalkem incinerator in Rock Hill, South Carolina is near a residential neighborhood and a church. If these regulations had been in effect before these facilities opened, they would probably not have been sited in these risky locations.

I believe that these two bills represent modest, but important changes in law. Hazardous waste facilities will continue to pose a danger to our health and the environment. No law we pass can totally eliminate those risks. But I believe we have a responsibility to minimize those risks and provide the public with the best protection we can. These two bills are steps in that direction and I urge your support for them. I welcome the opportunity to sit down with each of you to discuss these bills in greater detail. Thank you for your consideration.

"EXXON VALDEZ" CLAIMS BOTTLENECK

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. YOUNG of Alaska. Mr. Speaker, next week marks the third anniversary of the grounding of the *Exxon Valdez* on Bligh Reef in Prince William Sound, AK, and the subsequent spill of some 11 million gallons of crude oil into Alaska's productive marine environment. Unfortunately, Alaskans that suffered serious harm are still encountering difficulties in getting their full claims before a jury so that justice can be done.

The *Exxon Valdez* spill was a tragedy for those of us who struggled back in the early 1970's to craft legislation which would both permit the expeditious development of our oil resources on Alaska's North Slope, while at the same time establishing what we at the time believed and hoped were stringent protections minimizing the possibility that an environmental disaster like the *Exxon Valdez* spill would happen. A cornerstone of Congress's effort was to enact tough liability provisions assuring that, if such a disaster were to occur, compensation for victims would be both sure and swift. That is, in sum, what Congress intended in 1973, when it enacted the Trans-Alaska Pipeline Authorization Act [TAPAA], 43 U.S.C. section 1601.

The liability provisions of the original TAPAA, 43 U.S.C. section 1653(c), established a three-part structure. First, the owner/operator of the vessel involved in a TAPS oil-spill was strictly liable for the first $14 million of damages. Second, the TAPS liability fund was strictly liable for damages above $14 million and up to the amount of $100 million. Third, TAPAA expressly authorized the States to establish rights and remedies beyond those imposed by TAPAA itself. 43 U.S.C. section 1653(c)(9).

The TAPS liability fund was created to provide a solvent and expeditious source of money for victims of a TAPS spill. It was never intended to be finally responsible for spill damages, or to relieve parties such as the owner/operator from any responsibility under State or other Federal law.

As good as Congress' intentions were in setting up the TAPS liability fund, through the years it has proved to create problems we had not foreseen. For example, the functioning of the fund was stymied after the 1987 *Glacier Bay* oilspill in Cook Inlet, AK, when the owner of the *Glacier Bay* went bankrupt and its insurer thereafter refused to pay damage claims for several years. Because the owner/operator's insurer had not paid the initial $14 million, the TAPS fund was prohibited by the existing regulations from making any payments itself. Congress closed that loophole in 1990 when, as part of the legislation included in the Oil Pollution Act of 1990 [OPA], we eliminated the $14 million threshold, or deductible, to be paid by the owner/operator before the fund's liability kicked in.

As Congress hoped and intended, the *Glacier Bay* amendment helped break a logjam in the litigation arising form that oil spill. Partial settlements were paid by the fund, and remaining claims against the owner/operator thereafter, proceeded promptly to a trial in the Federal court in Alaska.

Now, it has come to my attention that another problem relating to the fund has arisen. A question has been raised in the *Exxon Valdez* litigation whether TAPS fund claims determination would be the final word on the damages that *Exxon Valdez* victims suffered.

Mr. Speaker, to give fund determinations any kind of final or preclusive effect as to damages which may be awarded against parties other than the fund who may be responsible for damages caused by the *Exxon Valdez* oil spill, under any State or Federal law other than TAPAA, would be contrary to what Congress intended when enacting TAPAA or OPA. The fund was intended to have only a limited role—that is, to provide a quick and sure source of money for TAPS oilspill victims who voluntarily submitted claims. Congress intended for the fund to be an insurance fund not have the status of a Federal Government agency. It was also not intended to replace normal legal processes, including the right to a jury trial in State or Federal court, under applicable law other than TAPAA.

A CONGRESSIONAL SALUTE TO BRYAN "WHITEY" LITTLEFIELD

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to a man who defies description, Mr. Bryan "Whitey" Littlefield. On Tuesday, March 24, 1992 Whitey will be honored with the Jewish Institute for National Security Affairs [JINSA] Leadership Award. For the past 10 years, Mr. Littlefield has served as a vice president of JINSA, advancing their cause and leading its organization into national prominence and impact. I will be most anxious to hear how speakers and guests on that special occasion find new words to describe a man who already is one of the most honored men in the community. Whitey is a close family friend and I take great pride in the opportunity to place this enduring message in the CONGRESSIONAL RECORD.

Born in Salt Lake City, UT on Christmas Day in 1932, Whitey moved to California at the tender age of 5. He attended area schools and in 1954 took a job as a beer truck driver working with all of the major beer distributors in the Los Angeles area. His hard work and determination paid off as by 1961, Whitey was the owner of his own liquor store. Returning to the wholesale liquor business, Whitey became the general manager of Somerset Distributors in 1967.

Mr. Littlefield's drive and determination is not limited to his business ventures. The support and guidance he gives to numerous worthy causes has earned him the well respected reputation he so rightfully deserves. Whitey has always given freely of his time, talents, and energies to our community in organizations and activities too numerous to mention and his special touch will be felt throughout Long Beach for many years to come.

Mr. Speaker, I feel most fortunate to claim this man as my good friend. I treasure our friendship and hope that his efforts on behalf of Long Beach will be rewarded time and time again. My wife, Lee, joins me in extending our thanks to Mr. Bryan "Whitey" Littlefield. He is truly a remarkable man who has devoted his life to making this little part of the world a better place. We wish him, his wife, Meg, his son, Bryan, Jr., and his three daughters, Linda, Lorraine, and Shari all the best in the years to come.

SALUTE TO EDWARD J. VASQUEZ

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. LAGOMARSINO. Mr. Speaker, today I rise to pay tribute to a native of Ventura County who has spent a lifetime working for the safety and best interests of the people of my congressional district. Edward J. Vasquez will be retiring from his position of senior investigator with the Ventura County District Attorney's Office after more than 27 years with their Bureau of Investigation.

Ed has spent his entire life as a resident of Ventura County working to make it a better place to live. His career in law enforcement began during his time in the Air Force where he attained the rank of sergeant in the Military Police. Upon completion of his military career in 1958, he worked for the Ventura County Probation Department at Juvenile Hall, and from there moved on to be a deputy sheriff with the Ventura County Sheriff's Department.

Ed moved to the D.A's office in 1964, where he became known as one of the hardest working investigators in Woody Deem's office. His trial preparation assignments included cases ranging from fraud to homicide. In addition to his tremendous workload, Ed completed his bachelor's and master's degrees on the side, as well as the rigorous 3-month course at the FBI National Academy in Quantico, VA. The last 7 years of his career have been largely dedicated to his supervision of the Special Investigations and Intelligence Unit, and he is now regarded as an expert in the investigation of political corruption and conflict of interest cases. His professional demeanor and personal style have always been appreciated and will be missed by all.

I ask my colleagues to join me in saluting senior investigator Ed Vasquez on the completion of a tremendous 33-year career in public service as a criminologist and law enforcement officer. I wish him and his wife of 38 years, Lupe, a wonderful retirement and all the best.

KEEP SCHOOLS OPEN TO ALL

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. JACOBS. Mr. Speaker, the following article by Jerry Ellsworth appeared in the March 16, 1992, issue of Newsweek. How unreasonable of Mr. Ellsworth to mess up some people's dreamy thinking with some cleverly and subtly suggested facts.

KEEP SCHOOLS OPEN TO ALL

(By Jerry Ellsworth)

Picture this: an American public-school classroom in which the children are eager and ready to learn. The students are well disciplined, neat, clean and sitting in rows. Our day opens with prayer and the Pledge of Allegiance. Everyone has homework completed and there are no arguments about the assignments given. Parent helpers are present and ready to work with students. This scene can be the result of school choice.

Many Americans on the national, state and local levels are calling for parental choice or open enrollment as a way to improve the educational system. The argument is that when our schools are forced to compete for students, the quality of education will improve. Parents will be able to choose from among schools, both private and public, and funding will accompany the child through some sort of voucher system. The school that best sells its program will reap the profits of the highest enrollment. The parental-choice approach calls for applying American competitive business practices to our schools. In the business world the profitable businesses will succeed while those who cannot attract customers will go out of business or change.

Choice is a good idea, and just as doctors, lawyers and other professionals can choose their clients, so also I, as a public-school teacher, want some choice for my school. If parents can choose which school will educate their children with public funds, teachers should be able to choose which students will attend their schools.

I will choose the child whose parents are professionals. Children whose parents are unemployed or in service jobs might not be as eager to learn. Those parents might be shift workers, and that causes scheduling confusion for children.

I will choose the children who are well dressed. The kid whose clothes are dirty or whose clothes were purchased at yard sales or thrift shops won't fit in well here.

I will choose the healthy, well-nourished children for my school. Those marginal kids, such as the child with fetal alcohol syndrome or the child who was a crack baby, can't perform well and will bring down our test scores.

I will choose the child from the family in which only one parent has to work outside the home. I want that mom who is at home to be able to be a room mother, to be able to volunteer in class, to be able to accompany us on field trips, or to be able to come to PTA meetings.

I will choose the child who is white. Those black, brown, yellow and red kids are often underprivileged and can't learn as well. If we have them in our school, our test scores will go down, and we can't tolerate a decline in SAT scores.

I will choose the children without handicaps. Kids who have physical or mental disabilities need special schools or institutions. It's too expensive to educate them.

I will choose those children who come from homes with strict discipline. Those permissive parents can take their kids somewhere else. In our school we want to know that parents support our decisions.

I will choose children from families who will take a turn serving on our book-selection committee. We want control over what our children read. Those other schools can have those liberal kids with their wild ideas and their free-thinking parents. No New Age ideas will be allowed in our school. We will have prayer every day!

I will choose those children from families who limit TV watching. Kids whose entertainment and babysitter is a television have a severely limited attention span. Let other schools educate those TV kids.

I will choose those children who have not moved for at least two years. I don't want a high turnover rate of students. That's upsetting and it negatively affects our test scores. Children from unstable families won't be able to keep up with our curriculum.

I will choose those children who have a home computer. We can make such great progress in computer literacy when children can do computer homework. Those kids who are computer ignorant won't fit well into our progressive school or our progressive society.

I will choose to teach those children who show no sign of physical or sexual abuse. Those abused kids need help and counseling and they can get it somewhere else. Our school needs its money for the basics, and we can't spend our money on counselors. Those kids can't concentrate on their studies and, besides, they are often troublemakers. We don't want them here.

I will choose those children who go home to caring parents. Latchkey kids who go home to empty houses are an embarrassment. Another school can take them and provide after-school activities to keep them busy each day.

I will choose those children who live pretty close to school or whose parents can drive them. If we take many of those bussed students, our transportation budget will get too high, and we might not be able to afford our computer center.

I will choose those children who are very fluent in English. In our school we won't tolerate any of this bilingual nonsense. The American way is best, and that means English. Those other schools can teach those foreigners. We're going to keep our schools American.

I will choose those children who went to a good preschool. Those Head Start kids can be so difficult. They can go to the other schools. Besides, those kids will be happier with their own kind.

Yes, school choice will solve our problems. It will surely make schools accountable to the taxpayers. I'm certain our school will have those high test scores which measure success in the educational world.

Oh, incidentally, the name our school has chosen is Southwest Aryan School No. 1.

(Ellsworth, a public elementary teacher for 18 years and a freelance writer, lives in Prescott, Ariz.)

SUPPORT OF POLITICAL RIGHTS AROUND THE WORLD

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. DOWNEY. Mr. Speaker, I rise today in strong support of political rights around the world. America was founded on the principle of ensuring political freedom for all people, and it has been the goal of our foreign policy to help others around the world enjoy those same freedoms. I would like to submit into the RECORD a statement from the Committee to Free Kim Keun-Tae and All Political Prisoners, who are working to ensure that political freedom is guaranteed for the people of Korea.

FROM THE COMMITTEE TO FREE KIM KEUN-TAE AND ALL POLITICAL PRISONERS:

This year, the people of the Republic of Korea have the opportunity to shape their destiny. Through upcoming national elections they can send a clear message to their leaders about the type of society they wish to become—but only if these elections are truly free. The Committee to Free Kim Keun-Tae and All Political Prisoners hopes that the democratic process in Korea will be able to develop fully, ushering in a new era of respect for human rights and commitment to the rule of law.

Kim's work for higher wages and better working conditions, his leadership among young people in pursuit of a democratic future, and his unfailing commitment to justice have earned him the respect of those around the world who believe in human rights. During a quarter century of activity, Kim has been jailed nine times and has been severely tortured. Yet he perseveres for the sake of his country and his people. He is a patriot in the true sense of that word.

"Opposition to injustice," said Robert Kennedy, "will be denounced as radicalism or branded as subversion." That is exactly what has happened to Kim Keun-Tae. On May 14, 1990 he was once again arrested, and is now serving a two-year term for statements made about the South Korean government, Korean reunification, and Korean relations with other nations.

In order that the people of Korea may unite in building a future society which is free, democratic and founded upon respect for the rights of its citizens, The Committee to Free Kim Keun-Tae and All Political Prisoners hereby urges that the Roh Government release Kim Keun-Tae and all others who have been imprisoned for the nonviolent expression of their political beliefs.

(Organizational affiliations are given for identification only.)

Philip Alston, Centre for Advanced Legal Studies in International and Public Law, Australia.

David Atwood, International Fellowship of Reconciliation, The Netherlands.

Edward J. Baker, Harvard Yenching Institute.

Robert Bernstein, Human Rights Watch, United States.

Rep. John Conyers, Jr., United States Congress.

Kerry Kennedy Cuomo, Robert F. Kennedy Memorial Center for Human Rights, United States.

Drew Days, III, Yale University Law School.

Patt Derian, former U.S. Assistant Secretary of State for Human Rights, United States.

Rep. Thomas J. Downey, United States Congress.

Rep. Mervyn M. Dymally, United States Congress.

Rep. Edward F. Feighan, United States Congress

Rep. Thomas Foglietta, United States Congress.

James H. Forest, Peace Media Service, The Netherlands.

Rep. Barney Frank, United States Congress.

Zehava Gal'on, The Israeli Information Center for Human Rights in the Occupied Territories.

Rep. Bill Green, United States Congress.

Hurst Hannum, The Fletcher School of Law and Diplomacy.

Olga Havel, The Olga Havel Foundation, Czechoslovakia.

Helen Kekkonen, Peace Education Institute, Finland.

Senator Edward M. Kennedy, United States Congress.

Rep. Joseph P. Kennedy, II, United States Congress.

Mrs. Robert F. Kennedy, The Robert F. Kennedy Memorial, United States.

Jan Piotr Lasota, France.

Fang Lizhi, Committee to End the Chinese Gulag, United States.

Juan E. Mendez, Americas Watch, United States.

Hernam Montealegre Klenner, Attorney, Chile.

Peter Mroczyk, Radio Free Europe, Germany.

Kassie Neou, Cambodia Documentation Commission, United States.

Gregory Peck, Actor, United States.

Navanetham Pillay, Attorney, South Africa.

Edward W. Poitras, Southern Methodist University, United States.

Patrick Rice, Movimiento Ecumenico por los Derechos Humanos, Argentina.

Mona Rishmawi, Center for the Independence of Judges and Lawyers, Switzerland.

Jeffrey A. Sachs, President, EcoLink, United States.

Michael Scammell, Human Rights Advocate, United States.

Anton Shammas, Writer, United States.

Rep. Louise M. Slaughter, United States Congress.

Rose Styron, Poet, United States.

Rep. Edolphus Towns, United States Congress.

Archbishop Desmond Tutu, South Africa.

Theo C. van Boven, University of Aruba, Former Director, U.N. Division of Human Rights, The Netherlands.

Doan Van Toai, Institute for Democracy in Vietnam, United States.

Erich Weingartner, Human Rights Advocate, Canada.

Jose Zalaquett, Human Rights Advocate, Chile.

KILDEE HONORS HOME ECONOMISTS

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. KILDEE. Mr. Speaker, I rise today to urge my colleagues in the House of Representatives to join me in observing March 20 as World Home Economics Day. It is on this day that we have special opportunity to recognize the significant contributions home economists make in our work and family lives. The primary purpose of the profession of home economists is to promote an integrated approach to work and family issues that will prevent crisis and promote the well-being of the individual, family, and community.

World Home Economics Day was first established in 1980 by the International Federation of Home Economists [IFHE], a professional entity composed of member organizations from over 100 countries. Its goal is to bring together institutions and individuals who are working in home economics in different cultures to share research, ideas, and information and to engage in cooperative projects which will assist families.

At the international level, home economists are involved in helping families cope with the many changes that we have seen in the past year. Our world picture has changed radically and mapmakers are having difficulty keeping pace. In addition, our awareness of shared concerns about the environment, such as the ozone and oil spills, has made the world a little smaller. Home economists are helping families in both industrial and developing countries to deal with such issues as water quality, family planning, food supply, economics, recycling, and much more.

In the United States, home economists work in a wide range of professions. Examples of the kind of work in which home economists are involved include: nutritionists who are dedicated to make our foods more healthy and our food labels more readable; teachers who are helping our youth to avoid teenage pregnancy and learn skills basic to successful employment; cooperative extension agents working with rural families in economic and environmental crisis; and university professors who are involved in researching ways in which to address the needs of our aging population.

I am especially pleased to acknowledge the contributions Michigan home economists have made in enhancing the lives of those in need of resources. Michigan's Whirlpool Foundation has provided a national grant to the American Home Economics Association to address the needs of school-age childcare. Also, Michigan was one of the pilot sites for training home economists to become advocates for community programs to help parents and children with self-care skills. In addition, Project Taking Charge, a curriculum and training program for teachers of middle school students to encourage abstinence from sexual relations, was implemented in Michigan to enhance home economics programs.

The Michigan Home Economics Association has a continuing relationship with home economists from Poland. In 1988, several Polish home economists visited Michigan to learn about educational programs in communities, schools, and universities. During the summer of 1992, several Michigan home economists will visit Poland to study the social, cultural, economic, and political forces that have had an impact on Poland over the past decades and especially in the past year.

Mr. Speaker, it is indeed an honor and a pleasure to rise before the House of Representatives to pay tribute to home economists. I urge my colleagues to join me in commending these individuals on World Home Economics Day. Their selflessness and ingenuity have touched the lives of countless individuals and continue to serve as a beacon of bright hope for our entire community.

DR. VICTOR H. FRANKEL, ON THE LEADING EDGE OF ORTHOPAEDIC MEDICINE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. GILMAN. Mr. Speaker, I am pleased to rise today to bring to your attention the accomplishments of a remarkable man: Dr. Victor H. Frankel, Ph.D.

Dr. Frankel was recently honored by his colleagues at the Hospital for Joint Diseases [HJD] in New York City for a decade of outstanding achievement as chairman of orthopaedic surgery and over 30 years of leadership and excellence in American orthopaedic medicine.

Dr. Frankel graduated from Swarthmore College in 1946 and the University of Pennsylvania School of Medicine in 1951, and served his orthopaedic residency at the Hospital for Joint Diseases from 1955 to 1958. After completing his residency, he spent 2 years on a Frauenthal fellowship at the University of Uppsala in Sweden, studying biomechanics under the famous scientist and surgeon, Dr. Carl Hirsch. Biomechanics, the science which studies the mechanical properties of bone and connective tissue and the forces imposed on the musculoskeletal system, was then a little-known complement to orthopaedic surgery.

Dr. Frankel brought this knowledge back to the United States, establishing the first biomechanics laboratory in our Nation at the Hospital for Joint Diseases in 1960. Through his continued research, encouragement to colleagues, and tenacious application of this science to orthopaedic surgery, biomechanics was disseminated throughout American universities and hospitals and became an essential component of the permanent architecture of orthopaedic surgery as it is known today. Through Dr. Frankel's efforts, biomechanics in orthopaedic surgery also became a vital part of orthopaedic residency in the USA, and is now an integral segment of the national board accreditation examination for orthopaedic surgery residents.

As with all true innovators, Dr. Frankel's work began a chain reaction extending to a host of outstanding scientists in universities and in the medical device industry. New generations of artificial joint implants for the knee, hip, shoulder, and elbow were designed, leading to the high quality implants which are used today. These implants have given independence back to thousands of elderly Americans who have suffered fractured hips and to countless others, young and old alike, in need of arthritic joint replacements.

In 1986, Dr. Frankel led the way once again, traveling to pre-glasnost Siberia to observe firsthand a revolutionary orthopaedic medical technique, an innovative method of limb lengthening and reconstruction which enables orthopaedic surgeons to gradually lengthen by as much as 12 to 14 inches the arms and legs of patients with growth deficiencies. This method, known as the Ilizarov method of bone lengthening, is named for its originator, Dr. Gavril Ilizarov of Kurgan in Russia. Upon his return, Dr. Frankel became the first to perform this surgery in the United States, and is now a leader in this field. The North American Organization of Orthopaedic Surgeons practicing Ilizarov techniques [the A.S.A.M.I.] is now 220 members strong and growing, as Dr. Frankel's commitment to orthopaedic patient care is manifested in a renewed quality of life for hundreds of patients.

When Dr. Frankel assumed the chairmanship at the Hospital for Joint Diseases in 1981, he dedicated his energies to teaching, passing the mantel of his formidable knowledge and experience to younger surgeons. After 10 years of refining orthopaedic residency training at the Hospital for Joint Diseases, he has nobly attained his goal. HJD now has one of the pre-eminent programs in the world, receiving over 300 applications each year for just six available positions.

Dr. Frankel has brought orthopaedic medicine out of the laboratory and into industry, establishing injury prevention and treatment programs for Ford, Boeing, Volvo, IBM, TWA, AT&T and many other companies. He has lectured throughout the world, speaking in Shanghai, Tokyo, Sydney, Sao Paolo, Mexico, Siberia, and every major city in the U.S.A. He has served on the editorial boards of 13 national medical journals, and has been a distinguished member of the American Academy of Orthopaedic Surgeons since 1965. Dr. Frankel has been a special consultant to the National Institute of Health, to the Congressional Office of Technology Assessment, to the National Research Council, and has served on the Food and Drug Administration panel on orthopaedic devices.

To crown his medical career, Dr. Frankel was appointed chief executive officer of HJD in 1987, inheriting a hospital battered by the new DRG system and millions of dollars in debt. Along with Reuven Savitz, the man with whom he shares the office of HJD president, he returned the hospital to fiscal health in 3 years, an impressive feat in these times of severe financial stress.

On December 11, 1991, over 200 colleagues, friends, and family gathered at New York's St. Regis Hotel for a gala dinner to honor Victor H. Frankel's lifetime dedication to orthopaedic medicine and his 10-year chairmanship at the Hospital for Joint Diseases, which stands today as one of the Nation's premier specialty hospitals. At this event an endowed chair, the Victor H. Frankel Chair in orthopaedic research, was inaugurated to pay perpetual tribute to Dr. Frankel's commitment to excellence in research and patient care.

Dr. Victor H. Frankel is a man who has dedicated his life to healing people in need and teaching other physicians to do the same. Through his considerable skills and limitless dedication he has helped push the leading edge of American medicine to previously uncharted horizons. Dr. Victor Frankel is an admirable man and a credit to the American medical profession.

COMMEMORATING SHABBAT ZACHOR

HON. CHESTER G. ATKINS

OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 19, 1992

Mr. ATKINS. Mr. Speaker, I rise today in observance of Shabbat Zachor, the Sabbath of Remembrance. Shabbat Zachor coincides with the holiday of Purim, when Jews all over the world celebrate the bravery of Esther and her Uncle Mordecai. These two Jews lived in an assimilated Persia, and risked their lives to speak out against the injustices committed against their people. The spirit of Purim is no less relevant today, as injustices against Jews in Syria which demand our vocal opposition, continue.

This week also marks the 18th anniversary of the brutal rape and murder of four young Syrian Jews whose only crime was attempting to flee the repression of Syria. In March 1977, their remains were stuffed into trash bags and dropped on the doorsteps of their Damascus homes as a warning to Syrian Jews to never again attempt such an escape. Grievous human rights abuses continue against Syrian Jews today, and it is crucial during our rush to achieve President Bush's vision of a new world order that we continue to highlight such persecution in an effort to bring it to an end.

As Syria struggles to become accepted into the community of nations, and as images of President Hafez al-Assad's "good graces" flicker across our TV screens with the recent release of our hostages in Damascus, it is easy to forget about the plight of the Syrian Jews. But during these times of global change, we must continue to speak out against injustices like those imposed upon the approximately 4,000 Jews in Syria.

As a signatory to the Universal Declaration on Human Rights, Syria is obligated to allow its citizens to emigrate freely. Yet Jews in Syria are denied this right. Today, if a Syrian Jew wants to travel abroad, he must leave a deposit with the Syrian secret police, the Mukhabarat, to ensure his return. Such ransom usually amounts to $10,000.

Additionally, entire Jewish families are not permitted to leave the country at the same time. A father must leave his children; a young woman must leave her husband or parents. Syrian officials have defended this policy in the past by stating that the free emigration of Jews would provide "fodder for the Zionist military."

Human rights abuses against Jews in Syria do not end with restricted emigration. They are subject to constant surveillance by the Mukhabarat, most of which is aimed at ensuring that they do not flee. Jews must carry identification cards, which, unlike Christians or Muslims, denote their religion. They cannot vote, and, should they desire, they cannot belong to the ruling Ba'ath Party.

Mr. Speaker, these injustices against the struggling Syrian Jewish community must not be allowed to continue. Jews should not be held as human pawns, as hostages in the context of the broader Arab-Israeli conflict, with the hope that they will be released once Syria and Israel reach some sort of political agreement.

If Syria is to join the community of civilized nations, and if its President, Hafez al-Assad, believes he should be accorded the rights and respect of an enlightened world leader, the Syrian Jewish community must be granted their human rights and must be allowed to emigrate freely.

On this Shabbat Zachor, Mr. Speaker, let us remember the teachings of the Bible and the lesson of strength of words. We must speak out to save Syrian Jewry as did Esther and Mordecai to save Persian Jewry. We must put Syria and Mr. Assad on high alert: Your membership in the new world order is contingent upon your treatment of Jews in Syria, your own citizens. Unless Syria recognizes this minority's fundamental rights, fully accepts Jews into Syrian society, and grants them the right to emigrate, we should return Syria and President Assad to the status of pariah in the international community.

IN REMEMBRANCE OF SYRIAN JEWS

HON. RONALD K. MACHTLEY

OF RHODE ISLAND
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 19, 1992

Mr. MACHTLEY. Mr. Speaker, I rise today to recognize Saturday, March 14 as Shabbat Zachor, the Sabbath to remember the plight of Syrian Jews.

As a signatory to the Universal Declaration of Human Rights, Syria has committed itself to respect the right of all its citizens to emigrate freely. However, Syria has continually denied its Jewish population this fundamental right.

The 4,000-member Jewish community in Syria has been exposed to unnecessary discrimination by their own government due to their religion. Unlike any other minority, Syrian Jews must carry passports and identity cards which denote their religion. In an effort to prevent emigration, whole families are forbidden to travel together. Those who travel without permission, risk criminal charges. In fact, Syrian Jews are restricted from leaving Syria unless they pay a fee to the Mukhabarat, the secret police. Since 1949, Syria remains the only Arab nation which has denied Jewish citizens the right to leave.

In 1987, two brothers, Eli and Selim Swed, were arrested for traveling to Israel. For 2 years, they were held incommunicado and later denied family visas. Last year, the Syrian Government sentenced Eli and Swed to 6½ years in prison for illegally traveling to Israel. This gross violation of human rights, which is based solely on religious affiliation, should not be tolerated any longer.

On many occasions, I have called on the Syrian Government to allow free emigration of Syrian Jews and to release prisoners such as Eli and Selim who are victims of this vile discrimination. As a member of the Ad Hoc Coalition on Syrian Jewry, I implore Members of Congress to recognize the hardships Jews face in Syria. It is only fair that Syrian Jews are given the right to emigrate from Syria without restriction.

Shabbat Zachor serves as an excellent reminder to us all of the many obstacles faced by Syrian Jews. On this day, we must pause and pray for Syrian Jews, and others like Eli and Selim Swed, who have encountered discrimination and hardship in the nation of Syria. I commend the Syrian Jews for their courage and will remember them in my thoughts and prayers.

TRIBUTE TO CORP. LEWIS EUGENE DOUGLAS

HON. JOHN T. MYERS

OF INDIANA
IN THE HOUSE OF REPRESENTATIVES
Thursday, March 19, 1992

Mr. MYERS of Indiana. Mr. Speaker, as we commemorate the 50th anniversary of U.S. participation in World War II, we are reminded of the brave men and women who made great sacrifices in defense of liberty and justice during the conflict.

Many of these individuals were ordinary people who demonstrated extraordinary courage but because of the confusion and dislocation which occurs in battle, their acts of valor went unrecognized.

One of those persons is a constituent of mine, Corp. Lewis Eugene Douglas, USMC Reserve, a native of Crawfordsville, IN, who served in the Pacific during World War II. He earned two Purple Heart Medals for wounds received in action on Peleliu and later on Okinawa.

During the Battle of Okinawa, Corporal Douglas distinguished himself with conspicuous gallantry when he rescued three fellow marines who were pinned down by enemy machinegun fire. His courage, initiative, and indomitable fighting spirit merited the Silver Star Medal which he will finally receive this Saturday, March 21, at the American Legion Hall in Crawfordsville, IN.

The ceremony will feature a musical prelude by the 74th Army Band from Fort Benjamin Harrison, a proclamation by Crawfordsville mayor, Dr. Philip Michal, declaring "Gene Douglas Day" in Crawfordsville, and the Marine Corps Color Guard. Col. Alton C. Bennett, USMCR, Ret., Douglas' former company commander, will read the citation for conspicuous gallantry and intrepidity signed by the Secretary of the Navy for the President and 1st Lt. Thomas M. Matthews, USMCR, Ret., Douglas' former platoon leader, will pin the Silver Star Medal on Douglas. I am proud to be participating in the ceremony honoring Corporal Douglas and am planning to bring a congratulatory message from my colleague, Representative ANDY JACOBS, as well.

INTRODUCTION OF LEGISLATION TO TRANSFER LAND FOR USE AS A PUBLIC PARK

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. KOLBE. Mr. Speaker, today I have introduced legislation to transfer 11 acres of land to the city of Tucson for use as a public park. These lands were originally conveyed for public health purposes to be used for a refuse transfer station. The land in question was part of Davis-Monthan Air Force Base until its designation as excess land. A total of 64 acres was designated and acquired by the city. Fifty-three acres were conveyed to the city for park purposes, with the remaining 11 acres to be used as a refuse transfer station, including access property.

Recently, the mayor and city council of Tucson decided to abandon the plan to build a refuse transfer station on the property. The city would now like to use the property for park purposes and requested that a bill be introduced to accomplish this purpose.

The 11 acres would hookup the existing Freedom Park and the master-planned sports complex being developed on the adjacent 53 acres. This community sports center will offer Tucson residents the opportunity to participate in organized sporting activities, as well as other recreational opportunities. It is hoped that the park will become a focal point for city activities. This transfer would also enhance the visual quality of the area.

Recently, the property reverted back to the Federal Government and is undergoing real property disposal procedures through the General Services Administration. The city is seeking the property administratively through the General Services Administration concurrently with the introduction of this bill.

With the introduction of this bill, I am hopeful that Tucsonans will be transferred land that will allow them to enjoy greater recreational opportunities and improve the overall quality of life in southern Arizona.

IN RECOGNITION OF THE THIRD ANNIVERSARY OF IMAGEN LATINOAMERICANA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to have the opportunity to acknowledge and commemorate the third anniversary of Imagen Latinoamericana, a periodical which covers Hispanic and Latin-American issues. The paper will celebrate its third anniversary on Sunday, March 22, at the Garibaldis Restaurant in Miami.

Three years ago, a group of Hispanic journalists and enthusiasts started what is now called Imagen Latinoamericana. The purpose of this newspaper is to serve the Hispanic community in Miami by providing information on current events and issues of interest to the community.

Through its enthusiastic reporting and sharp writing skills, Imagen Latinoamericana has earned the respect and admiration of the Hispanic community in Miami as well as other cities in south Florida. In addition to the news it provides us, Imagen Latinoamericana has brought our community interesting views and opinions from its editors on important and serious issues concerning the homelands of many people who reside in south Florida.

Imagen Latinoamericana has expressed its commitment to serve its readership for the enhancement and the betterment of our community. They believe that by informing the community and by encouraging them to participate in our country's politics then each member of the community can truly become part of the diverse American culture.

Mr. Speaker, it is with much enthusiasm that I congratulate the members of Imagen Latinoamericana for their 3 years of continued dedication and commitment to the Hispanic community in south Florida: Mr. Fernando Cerratto, director-Editor; Mr. Ramiro Calvo, assist director; Ms. Inelda Cerratto, manager; Ms. Cristina Fandiño, editorial chief; Ms. Gladys Florez, art director.

A TRIBUTE TO JOY SIMONSON

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. FRANK of Massachusetts. Mr. Speaker, our colleague the gentleman from California [Mr. LANTOS] who so ably chairs the Subcommittee on Employment and Housing in the Committee of Government Operations used this forum to congratulate Joy Simonson on her induction into the Women's Hall of Fame of the District of Columbia. Characteristically, our colleague from California generously noted that I had first hired Ms. Simonson to work on that subcommittee. During the 4 years in which I chaired it, and since then under the chairmanship of the gentleman from California who has used that subcommittee in an extraordinarily creative fashion to press for the solution of some serious societal problems, Ms. Simonson has been an outstanding public servant. For those who view things superficially, no one could be more of a contrast to the stereotype of the tough government investigator. And in fact, for those who pay any attention at all to the record, no one does a better, more thorough, more responsible job of uncovering problems and helping to resolve them. Ms. Simonson came to Federal Government service under the Presidency of Gerald Ford. She served in a distinguished and nonpartisan way for 7 years, until she became one of many victims of right-wing pressure during the Reagan years, when she was removed as Executive Director of the National Advisory Council on Women's Educational Programs because she did not fit current extremist thinking. Since then, Ms. Simonson has been, as our colleague from California noted, a great asset to us in Congress and indeed to all those in the country who care about the quality of Government work. I am very pleased to be able to join my colleague from California and many others in celebrating the work of Joy Simonson.

TRIBUTE TO THE HOUSTON-HENRY COUNTY RSVP

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. DICKINSON. Mr. Speaker, today I would like to pay tribute to the members of the Retired Senior Volunteer Program of Houston-Henry Counties, AL, and their director, Brenda Rice. RSVP provides meaningful volunteer opportunities for people who are retired or semiretired. In turn, these volunteers happily donate their time and perform valuable services for the community.

The RSVP has been very active in Houston County for many years. In 1991, 512 Houston County volunteers gave over 124,000 hours of service at 81 sites, marking another year of successful service. Also in 1991, the senior volunteer program expanded to neighboring Henry County with funding support from a National Significance Grant. RSVP volunteers have established programs to help address two community problems in Henry County: teenage parents and respite care and transportation of frail elderly and handicapped. Only in full operation since August, these programs have already recruited 60 volunteers and generated 3,000 hours of volunteer service.

The Houston-Henry County communities are fortunate to have the services of so many dedicated senior volunteers. I ask Members of Congress to join me in recognizing the Houston-Henry County Retired Senior Volunteers director Brenda Rice, and her staff for their accomplishments in helping to make Houston and Henry Counties better places in which to live.

IN HONOR OF RALPH LIBERATO

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. HERTEL. Mr. Speaker, I treasure this opportunity to call attention to the many deeds and sacrifices made by a loyal and dedicated citizen of the city of Warren, MI, which falls within the boundaries of my congressional district.

Ralph Liberato, the son of Italian immigrants and one of nine children spent his entire life in the service of working men and women, members of his community, the Democratic Party where his efforts to promote good citizenship were constant. Ralph is fiercely proud of both his heritage and his country.

Ralph joined the Marine Corps at age 15, serving with the Marine Raiders in the South Pacific until 1946. In the early 1950's, he built a home in Warren with the help of his brothers. And with his lovely wife, Lynn, he raised four children. His education includes a bachelor's and master's degree in industrial relations from Wayne State University.

Ralph's interest in helping fellow workers is indicative of his service and dedication to his community. His labor life began immediately following his discharge from the service when he went to work at the Chevrolet engineering plant in Hamtramck and joined Local 235. Next, he was the founding president of UAW Local 160 at the GM Center in Warren, also serving on the civil service commission. In 1958, he was elected president of the Macomb County AFL–CIO, serving until 1961. He also served as secretary/treasurer of Metro-Detroit AFL–CIO from 1968 to 1988. Currently, he serves on the executive board and is vice-chair of the Metro Detroit AFL-CIO COPE—political action committee for Macomb County. In May 1990, he was appointed to the county commission and won a full term as county commissioner in the November 1990 election. He retired as governmental affairs director of AFSCME Council 25 in December 1991.

Through the years, Ralph has served as an ambitious leader in the Democratic Party in Michigan. He was elected as a delegate to the Michigan Constitutional Convention in 1961, and chairperson of the Macomb County Democratic Committee in 1964, where he served until December 1990.

Ralph may have retired from his position as governmental affairs director of the AFSCME Council, but you may be sure of his continuing activities in his community. I have been privileged to work with Ralph and have benefited from his dedication and friendship. I know I join with his many friends and colleagues in extending our best wishes for a long and rewarding future.

PLIGHT OF SYRIA'S 3,600 JEWS

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. REED. Mr. Speaker, today, I join other members of the Congressional Caucus on Syrian Jewry to remember the terrible tragedy which occurred 18 years ago.

Each year, in mid-March, we recognize the Shabbat Zachor—Sabbath of Remembrance—for the murder and torture of four young Jewish women in Syria, who attempted to leave Syria.

There are 3,600 hundred Jews living under President Hafiz al-Assad's oppressive regime. They are subjected to surveillance and harassment by the Mukhabarat, Syria's secret police. They are denied voting rights. They are unable to purchase or sell property without prior approval by the Government. Their passports are the only Syrian passports which specifically state a religious affiliation. And they are allowed to travel abroad only if they post a security deposit and leave members of their family in Syria.

These are obvious violations of human rights. However, there is an even more flagrant human rights abuse occurring in Syria—A nation which has signed the International Covenant on Civil and Political Rights—the denial of emigration rights for Syrian Jews. Torture and imprisonment are the most likely outcomes of any attempt to leave Syria. The Shabbat Zachor and the 1987 jailing of the Soued brothers for merely traveling to Israel are proof of this fact.

In 1989, President Assad made a commitment to give consideration to emigration requests that involved family reunification for single Jewish women unable to find a husband among Syria's Jewish population. Although there was some movement early on, today there is none. I urge President Assad to stop the torture, to stop the indiscriminate surveillance, and to permit the free emigration of Syria's Jews.

FREE THE JEWS WHO ARE TRAPPED IN SYRIA

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. YATES. Mr. Speaker, I know that all of us share a sense of gratitude and genuine relief that the U.S.S.R. and other repressive satellite governments of Eastern Europe have faded away with a minimum of violence and bloodshed, and we welcome the tremendous improvements in human rights that have taken place in that part of the world. Nothing is more representative of these changes than the lifting of harsh policies and immigration restrictions that have threatened the lives of Jewish citizens in those countries for so many years. As one who has worked for decades to protect and assist those Jews, I have a sense of very personal satisfaction about what has happened in Eastern Europe.

I wish I could tell the House that it is no longer necessary to be concerned about the safety of Jews, but this is not the case. Today in Syria a Jewish community of some 4,500 people is being increasingly threatened by one of the world's most despotic and cruel governments and it is important to emphasize our support for these people. It is a sad fact that Syria continues to deny its small Jewish minority the right to emigrate and the secret police subject them to close and persistent surveillance. This is a situation that has the potential to develop into another international hostage crisis and we must bring pressure on Syria to end these practices and meet basic international human rights standards. I urge the Bush administration to make this a priority human issue and I ask your help in working to free the Jews who are trapped in Syria.

TRIBUTE TO ESTELLA E. ROMERO

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. TORRES. Mr. Speaker, I rise today to ask the House of Representatives to recognize my much admired and accomplished friend, Estella E. Romero, president of Estella Romero Enterprises. On March 26, 1992, Estella will be honored by the Los Angeles Area Council Boy Scouts of America.

A native of El Passo, TX, Estella received a bachelor's degree in Bilingual Community Relations from the University of La Verne in La Verne, CA. Estella and her husband, Victor, have three daughters, Irma, Anna Maria and Christina.

Prior to establishing her firm, Estella served as vice-president of community relations and specialized in marketing for Crocker National Bank, now Wells Fargo Bank. While with Wells Fargo, Estella was on executive loan to the Latin Business Association [LBA] for 1 year and served as the organization's first executive director. LBA, comprised of Hispanic business owners, is the largest and one of the most influential organization of its kind in California.

Estella has dedicated much of her life to public service. She serves on numerous civic, community and professional boards of directors and committees, including the United Way, Latin Business Foundation, Los Angeles Business Council of the Archdiocese of Los Angeles and various Hispanic business and professional associations.

Estella has dedicated her efforts toward the betterment of Los Angeles by serving on the Los Angeles County Economic Development Committee and working with the Los Angeles County Planning Commission. At the County Planning Commission, she has helped develop projections and plans to ensure the economic growth and development of the area. Recently appointed by the State Bar of California, Estella serves on its Legal Services Trust Fund Commission. She has received numerous awards for outstanding community service, including the LBA's Woman of the Year Award. Twice, Estella has been included in Hispanic Business magazine's list of the 100 most influential Hispanics in the Nation. Few would argue that Estella's selfless commitment to public service is a valuable legacy and one which we should emulate.

Mr. Speaker, on March 26, 1992, the Los Angeles Area Council Boy Scouts of America, family, friends, and civic leaders will gather to honor Estella E. Romero for her dedication to the betterment of the Boy Scouts of America and the community of Los Angeles. I ask my colleagues to join me in saluting my dear friend and a true community asset, Estella E. Romero, for her outstanding record of public service to the people of Los Angeles, and to wish her well in her future endeavors.

TRIBUTE TO SGT. GARY MERRIFIELD

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. BERMAN. Mr. Speaker, it gives me great pride to rise to pay tribute to Sgt. Gary Merrifield, who is being honored for 25 years of service as an officer of the Los Angeles Police Department.

Gary has set an admirable example for those who are committed to making a difference in the lives of others. He has served the San Fernando Valley community with intelligence, skill, and dedication and is highly regarded by his peers as an involved, devoted, and effective police officer.

Gary graduated at the top of his class in the police academy and early in his career was recognized for his leadership and dedication to duty. Soon after his probation period, he was chosen to be a member of the division's special operations squad. He was selected as senior lead officer and later chosen as officer of the month.

His hard work for his community has led to special commendations from his superior officers for outstanding leadership and performance, recognition for participation in the juvenile justice connection project, and certificates of special recognition.

It is very important to Gary that the Los Angeles Police Department help the community it serves. When Gary joined the Football Police Division in 1982, under his direction, the first Christmas Basket Program for needy families in the area was established. One hundred and twenty baskets were given out. As a result of his concern for our community, 9 years later, Foothill's annual Christmas Basket Program now reaches 1,002 needy families. This is certainly one of Gary's most significant legacies.

Gary is also responsible for developing one of the most active Police Explorer Posts in the city. This post has consistently won the Edward M. Davis Award for leadership, community service, and most hours served.

Gary and his wife Carol are the proud parents of three children.

It is my honor to ask my colleagues to join me in saluting Sgt. Gary R. Merrifield, a man whose dedication and achievements are a credit to our community.

INSIGHTS OF SIXTH GRADERS

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. DURBIN. Mr. Speaker, I rise today to share with my colleagues the insights of several sixth grade students from Shelby County, IL.

In celebration of the Shelby County Soil and Water Conservation District's 50th anniversary, local students wrote essays on the importance of preserving our natural resources. As adults we can learn much by listening to our children, and these children eloquently urge us to protect our Nation's vital natural resources.

Michael Williams, from Mr. Baker's sixth grade class at Findlay Grade School wrote:

> Conservation means the protection and wise use of our natural resources. We can not control the supply of air we breathe or the sunshine that warms the earth. But we can influence the supplies of our other natural resources, soil and water.
>
> Conservation means guarding these resources so they may be used wisely by the greatest number of people. Our natural resources are not only limited but many of them can also be easily damaged or destroyed. Whenever possible we must replace the resources we use.

Perry Jordan, from Mrs. Gillett's class at Moweaqua School, wrote:

> Our water is polluted. Sixty two percent of pesticides are not tested for harmful effects to humans. These pesticides are washed, by rain, into our ground water which eventually is the water we use daily for drinking, cooking, and bathing. These and other things that we dump into our water is what pollutes this vital resource. To prevent further pollution we need restrictions on pesticides and chemicals being used, and more testing on pesticides. We also need to stop dumping garbage and throwing litter into our streams and rivers.

Benjamin Maurer, also of Mrs. Gillett's sixth grade class, wrote:

> Air is another resource that needs help. The average adult inhales 6,000 gallons of air daily. If in a city, he takes in ten billion foreign particles with it, which are linked to ailments such as colds, asthma, pneumonia, tuberculosis, emphysema, bronchitis, and lung cancer. Please, keep the air clean by enforcing laws that make factories clean up their polluted air before releasing it. Clean air devices should be put in all vehicles, too.

The preservation of our Nation's natural resources will be one of the most important legacies we leave for future generations. I thank these sixth grade students and the Shelby County Soil and Water Conservation District for their thoughtful comments on this important issue.

IT COULDN'T BE DONE

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 19, 1992

Mr. PAYNE of New Jersey. Mr. Speaker, as a child I learned the poem, "It Couldn't Be Done." I would like to enter one stanza into the RECORD, as a tribute to the spirit and conscientiousness of Mrs. Betty A. Williams who is retiring on Friday, March 20, 1992:

> Somebody said that it couldn't be done,
> But (s)he with a chuckle replied
> That maybe it couldn't, but (s)he would be one
> Who wouldn't say so "till (s)he tried."
> So (s)he buckled right in with the trace of a grin
> On (her) his face. If (s)he worried, (s)he hid it.
> (S)He started to sing as (s)he tackled the thing
> That couldn't be done, and (s)he did it.

Mrs. Williams has served the City of Newark for 31 years. She began her career on September 11, 1961 in the Newark Police Department where she worked diligently in various positions. In the late 1970's she became contract administrator for Newark's facility management operation contract. During her 8 years as contract administrator, she attended Rutgers University where she received a bachelor of science degree in business. She is presently working as acting director of the division of data processing.

Mrs. Williams is a staunch community activist. She is the president of the Upper Custer Avenue Block Association, secretary for the Newark South District Police Precinct Community Relations Council, and my county committee (district leader) partner. She is also active in her church.

Mr. Speaker, it is often said that if you want something done, give it to a busy person. Mrs. Betty A. Williams epitomizes that adage. She is active in her profession, her community, her church, and has a stable home and family life. I am sure my colleagues will join me as I extend best wishes for a happy and productive future and thank Mrs. Betty A. Williams for being an exemplary citizen.

SENATE—*Friday, March 20, 1992*

The Senate met at 12 noon, on the expiration of the recess, and was called to order by the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania.

PRAYER

The guest chaplain, the Reverend John E. Stait, of Navigator Ministry, 2843 Woodlawn Avenue, Falls Church, VA, offered the following prayer:

Let us pray:

Not that we are sufficient of ourselves to think any thing as of ourselves, but our sufficiency is of God, who also hath made us able ministers * * *.—II Corinthians 3:5, 6.

Lord God Almighty, sufficient Ruler of Heaven and Earth, we want to recognize today that we are not "sufficient of ourselves."

We are confronted with our own problems—problems with our families, problems with our communities, problems with our Nation, and problems with our world.

We confess that the solutions evade us when we try to change things from the outside with external laws and cleanup programs. Help us, as Scripture says, to first clean up the inside of the cup. Help us to take an inside look and remove the selfishness that keeps us from being vessels of honor and prepared for the Master's use.

In God we trust. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 20, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WOFFORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of the proceedings has been approved to date?

The ACTING PRESIDENT pro tempore. The Senator is correct.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I reserve all of my leader time, and I reserve all of the leader time of the distinguished Republican leader.

SCHEDULE

Mr. MITCHELL. Mr. President, it is my expectation and hope that the House will act promptly on the tax and economic growth legislation now before it in the form of a conference report. The conference concluded last evening and reached agreement in reconciling the different versions of the bill that had been enacted by the House and Senate, respectively.

I am unable to state at this time precisely when the House will complete action and, therefore, precisely when the matter will be before the Senate. I hope it will be soon, and I hope that we will be able to complete action in the Senate promptly today. The matter has been the subject of lengthy debate and discussion.

I wish to make clear that I have no intention of not permitting any Senator who wishes to do so speak on the subject. I think everyone ought to have the fullest opportunity to express his or her view. I would suggest to Senators who wish to do so that we will be in a period of morning business awaiting receipt of the legislation, and if any Senator wishes to address the matter, this would be an appropriate time to do so, so that we would then be able to act promptly when the measure comes before the Senate.

I will announce the more precise times as soon as I have additional information in that regard.

Mr. President, I thank my colleagues, and I yield the floor.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from South Dakota is recognized to speak for up to 10 minutes.

Mr. PRESSLER. I thank the Chair.

(The remarks of Mr. PRESSLER pertaining to the introduction of S. 2375 and S. 2376 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

NATIONAL AGRICULTURE DAY

Mr. PRESSLER. Mr. President, today the country pays tribute to American farmers and ranchers. Having grown up on a small family farm, it is with a sense of pride that I have joined in cosponsoring Senate Joint Resolution 272, proclaiming March 20, 1992, as "National Agriculture Day."

This week I have been paying tribute to those involved in American agriculture. The stories I have related to you each day this week are but a few of the thousands that should be told. America's preeminence in agriculture is unequaled in the world. In no American workplace is there found the kind of hard work, productivity, cooperation, neighborly concern, creative use of applied science, and independence than on our farms and ranches.

My State of South Dakota is truly representative of American agriculture. Agriculture is South Dakota's No. 1 industry, and it is the Nation's No. 1 industry. Recently, South Dakota State University [SDSU] issued a report on South Dakota agriculture. The study shows that agriculture in South Dakota contributes $13.2 billion to the State's economy. That amount is more than three times larger than any other single industry in the State. The SDSU study also explains that just a 1-percent increase in South Dakota's agricultural output would increase the State's industrial output by $141 million, create 1,230 jobs and increase wages by $19 million. Mr. President, I ask that a copy of the SDSU study be printed in the RECORD at the conclusion of my remarks.

Mr. President, South Dakota is among the leading agricultural States in the Nation. Consider the following national rankings:

No. 1 producer of oats.
No. 1 producer of rye.
No. 2 producer of flaxseed.
No. 2 producer of sunflower seed.
No. 5 producer of barley.
No. 8 producer of all wheat.
No. 8 producer of all hay.
No. 9 producer of soybeans for beans.

Nationally, South Dakota also ranks 8th in cash receipts from farm marketings of cattle and calves, wheat, and barley, 9th in hogs and soybeans; 10th in sorghum grain; and 13th in corn. South Dakota is ranked 20th in the Na-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

tion in cash receipts from total farm marketings, 14th in livestock marketings, and 28th in crops.

South Dakota exported over $750 million of agricultural products in 1990. Feed grains and products were the leading commodity, valued at $247 million, followed by wheat, $165 million, and soybeans, $134 million. South Dakota is the No. 1 State in ethanol use in the Nation.

Mr. President, South Dakota's Secretary of Agriculture recently wrote an editorial in honor of National Agriculture Week. I ask unanimous consent that Secretary Swisher's editorial be printed in the RECORD at the conclusion of my remarks.

Mr. President, agriculture is not only South Dakota's No. 1 industry. It is also the No. 1 industry in America. American agriculture, in turn, is No. 1 in the world among all nations' farm sectors. U.S. farmers grow about 50 percent of the world's soybeans, 40 percent of the world's corn, and 25 percent of the world's grain sorghum. American agricultural production totals $138 billion—$73.5 billion in crops and $64.3 billion in livestock.

The United States exports more than $39.7 billion worth of agricultural products—more than 12 percent of the world farm trade. Production from about 40 percent of U.S. cropland is exported. Mr. President, America's farmers and ranchers feed the world.

All of this means jobs. The U.S. food and fiber system provides jobs for over 20 million people, from farmers to processors to supermarket clerks.

Each U.S. farmer and rancher supplies enough food and fiber for more than 128 people—94 people in this country and 34 abroad. U.S. consumers spends over $500 billion each year on food.

Mr. President, U.S. farmers and ranchers are not only the most productive in the world, they are improving. Output per acre was 40 percent higher in 1987 than in 1967. An hour of farm labor produces nearly 8 times as much food and other crops in 1987 as it did in 1947.

Mr. President, that is quite impressive. The fine South Dakotans involved in agriculture can be justifiably proud of their contribution not only to South Dakota but to the Nation. The fine Americans producing our Nation's food and fiber can be justifiably proud as well. They have successfully met the challenges of recent years and are ready to confront the challenges that lie ahead. Their story is a remarkable one. It is one that is not told often enough, but it is one worth repeating over and over again.

Mr. President, I salute the fine Americans that contribute to making American agriculture the greatest story that can be told.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[West River Agricultural Research &
Extension Center, Rapid City, SD]

IMPACT OF SOUTH DAKOTA AGRICULTURE

(By Dr. Martin K. Beutler, extension
economist/researcher, ranch management)

ECONOMIC IMPACT OF SELECTED SOUTH DAKOTA INDUSTRIES

Agriculture's $13.2 billion contribution to Dakota's economy is more than three times larger than any other single industry. Livestock and crops provide a total economic impact of $8.7 and $4.5 billion, respectively. Other leading industries and their economic contributions in billions of dollars are service $3.7, government $3.4, finance $2.9, medical $2.6, recreation $2.2, and transportation $1.2.

SOUTH DAKOTA'S LIVESTOCK INDUSTRY

At $8.7 billion, the livestock industry accounts for 65 percent of the total agriculture industry. Beef production and processing is a $6 billion industry in South Dakota, while dairy contributes $1.4 billion and the swine industry adds $939 million annually.

SOUTH DAKOTA'S CROP INDUSTRY

Major commodity contributions to South Dakota's $4.5 billion crops industry, include: forages and corn at $1.2 billion each, wheat at $1 billion, and soybeans at $667 million.

ECONOMIC IMPACT OF SOUTH DAKOTA'S BEEF INDUSTRY

The beef industry is agriculture's largest industry. Beef production and processing account for 69 percent of livestock's contribution. This $6 billion represents $3 billion in direct economic activity, $2.3 billion in indirect effects, and $0.7 billion in induced effects. Cow/calf production and marketing contribute 40 percent of beef industry activity.

ECONOMIC IMPACT OF A 1-PERCENT INCREASE IN AGRICULTURE IN SOUTH DAKOTA

Agriculture is closely linked to other industries in South Dakota. Only 1 percent in additional direct output would add $141 million to the South Dakota economy. Wages would increase by $19 million and 1,230 jobs would be created. Business owners and stockholders would realize $26 million in additional income for capital improvements, dividends, etc. An additional $50 million of value added would be generated by firms turning raw products into finished goods.

ECONOMIC IMPACT OF A 1-PERCENT INCREASE IN AGRICULTURAL INDUSTRY OUTPUT ON WAGES PAID IN SOUTH DAKOTA

An increase in agricultural output would also result in increased wages to South Dakota's non-agricultural industries. A 1 percent increase in agricultural output would result in $1.5 million of increased wages in service industries, $2.3 million to health care workers, $756 thousand to recreational industry employees, and $1.8 million to employees of financial and insurance institutions, as well as generating a total of $3.9 million in wages to livestock and $2 million to crop production and processing workers.

ECONOMIC IMPACT OF A 1-PERCENT INCREASE IN AGRICULTURAL INDUSTRY OUTPUT ON EMPLOYMENT IN SOUTH DAKOTA

Increasing agricultural output results in new jobs. Of the 1,230 new full and part-time jobs created as a result of a one percent increase in direct agricultural production and processing, 436 jobs would be added in the livestock industry and 228 in the crops industry.

Non-agricultural employment would benefit from 566 new jobs, including 96 additional jobs in the service industry, 77 medically related jobs, and 67 new jobs in recreation.

ECONOMIC IMPACT OF A 1-PERCENT INCREASE IN BEEF INDUSTRY OUTPUT

Beef plays a major role in South Dakota's economy. Increasing beef industry output by 1 percent would result in $75 million in increased economic activity, including $10 million in additional wages, $21 million in added business income, $33 million in increased value added, and the creation of 668 new full and part-time jobs.

ECONOMIC IMPACT OF A 1-PERCENT INCREASE IN CROP INDUSTRY OUTPUT

Crop production and processing is a major player in South Dakota's economy. A 1-percent increase in crop industry output would result in 324 new full and part-time jobs with wages of $4.8 million dollars. $39 million in total economic activity would be created resulting in $10 million in added business income and $16 million in increased added value.

CONCLUSION

The impact of the $13.2 billion agriculture industry on South Dakota's economy is dramatic. Because of the interrelationships among the state's industries, changes in agriculture profoundly affect the economic vitality of nearly all non-agricultural industries in the state.

The importance and economic significance of supporting and promoting South Dakota's agricultural industry is dramatically illustrated by the fact that even a 1% increase in agricultural output would result in a $141 million increase in economic activity, $45 million in industries traditionally regarded as non-agricultural.

Production agriculture and the related processing industries clearly are the major source of economic viability in South Dakota. They provide the backbone for economic stability not only for those in the industry, but also for industries all across South Dakota.

U.S. AGRICULTURE: "SHARING OUR FINEST"

(By Jay Swisher, South Dakota Secretary of Agriculture)

"Sharing Our Finest." A very fitting theme for National Agriculture Week when you consider that the United States is the world's largest exporter of agricultural products.

Agricultural exports play an important role in our nation's economy. Every dollar of agricultural exports generates $1.59 for the United State's economy.

Money derived from agriculture in South Dakota rolls over from our investments into activities, such as financing, warehousing, production, transportation, and leisure, that equate to the economy of South Dakota.

Marketing and processing are such an essential part of our agricultural industry that the South Dakota Department of Agriculture has created an Agriculture Development Division.

Agriculture development is responsible for assisting the agricultural and food processing industry to expend their markets. This division will work closely with state commodity associations, as well as national marketing groups. The division will also work directly with processing companies in the marketing of their products.

It is interesting to note that even though the United States continues to bear a trade deficit, we annually export over $40 billion worth of farm products. These exports reduce our deficit in non-farm trade by 17 percent.

The countries which are the top markets for U.S. ag products are also the countries from which our nation imports most of its products: Japan, the European Community, Canada, Mexico and South Korea are the top five purchasing markets for our agricultural commodities.

Nowhere are the impacts of foreign market prices more evident than in the wheat markets. Approximately 65 percent of South Dakota wheat is exported. U.S. government credits to the Commonwealth of Independent States has brought the price of wheat from an August figure of $2.40 a bushel to a recent high of over $3.85 a bushel for our wheat farmers.

Approximately one billion dollars of U.S. beef is sold to Japan every year. This is a very important market to our South Dakota farmers and ranchers and one in which we are gaining ground. Greater demand in foreign markets has resulted in U.S. beef exports contributing $33.69, per head, to the value of fed cattle. With over 500,000 head of feeder cattle marketed in South Dakota, this reflects an additional $17 million income to feeders and producers in our state.

South Dakota hog feeders and producers also depend on export markets. Exports contribute $3.02 per head to hogs. The results are an additional $9 million for hog feeders and producers.

As we celebrate Ag Week we are pleased that the market for exportation of raw agricultural materials is on an upward swing, however, we should not be content with that fact. We now need to advance one more step and focus on marketing semi-processed and finished agricultural products.

Providing foreign markets with diversified products derived from agricultural commodities will enhance our own economy. Sales of this type of merchandise reverts most of its value right into our own back yard, thus creating additional wealth and jobs for South Dakotans.

YANKTON HIGH SCHOOL

Mr. PRESSLER. Mr. President, I rise today to offer my congratulations to Yankton High School. This outstanding South Dakota high school, one of many I might add, was recognized as South Dakota's winner in the list of the "Best of the States," in an article that appeared in the April 1992 issue of Redbook magazine.

We have heard much about the problems facing the education system in this country. In response, Redbook magazine has launched the America's Best Schools project. This project is designed to make public the reforms being initiated by schools across the country to improve the education of our children.

The 51—each State and the District of Columbia—high schools selected "Best of the States" by Redbook exhibit most of these eight qualities: First, involved parents; second, motivated students; third, a supportive learning environment; fourth, a challenging curriculum; fifth, a caring community; sixth, innovative teachers; seventh, visionary leaders; and eighth, student-teacher access.

The article states that Yankton High School "combines a record of academic excellence with an alternative learning center for individualized, self-paced instruction."

Mr. President, I am proud of all the high schools in my State, but today I commend Yankton High School for this outstanding recognition. I can attest to the excellence of Yankton High School as numerous graduates of that institution have served the people of South Dakota and me personally as members of my staff over the years.

In closing, Mr. President, I would just like to say to all the Yankton High School personnel, from the cooks and custodians to the superintendent and school board members—keep up the good work.

PROMOTING FREE ELECTIONS IN ALBANIA

Mr. PRESSLER. Mr. President, today I would like to discuss an important upcoming event in Albania. Albania was ruled by Enver Hoxha, the Stalin of that country, until 1985. His rule left Albania the most economically devastated country in Europe. His successor, President Alia, made a very modest step forward.

This weekend, the people of Albania will have a chance to reverse this horrible legacy. On March 22, the people of Albania will be able to go to the polls to vote in multiparty parliamentary elections. This marks only the second time such elections have ever been held in that country. The causes of representative government, freedom, and economic reform are at stake in this election.

The candidates for Parliament can be grouped roughly into two camps—the real democrats and those who support slow reform with a continuation of Communist principles. The latter method failed miserably when President Mikhail Gorbachev tried it in the Soviet Union and it would fail again in Albania. It would leave this poor, small country in worse shape economically than it is already.

The Democratic Party of Albania will field many candidates in the election. If the Democratic Party wins in Albania, Dr. Sali Berisha likely will be elected President. I am acquainted with Dr. Berisha from his visit to Washington, DC. He and those in his party believe that Albania should join the ways of Western Europe. His leadership would help lead Albania forward. Specifically, he would pursue policies that would attract Western help and investment.

I hope the democratic candidates in Albania will be able to overcome the obstacles they faced in the 1990 election; namely, the inability to access print and radio media, intimidation at the polls, and unfair electoral laws.

In addition to the elections in Albania, we should not neglect what is happened with the Albanians of Kosova. The Kosova Albanians live under a state of military siege imposed upon them by the Communists of Belgrade. Kosova's Prime Minister, Dr. Bujar Bukoshi, lives in exile. I met with him during his recent visit to Washington and was impressed by his commitment to freedom and self-determination for the Albanians in his homeland. I hope he will be able to return to a free Kosova unconstrained by the imperialistic Belgrade government. I hope that the United States will support the introduction of U.N. peacekeeping forces in Kosova and reverse its policy of preserving Yugoslavia—a virtually defunct state maintained by coercion, that no longer even provides the stability it once did in that part of the world. To that end, I recently introduced Senate Concurrent Resolution 96 which, among other things, affirms the independence and calls for United States' recognition of Kosova.

The United States is in the position to play a positive role in the Albanian elections this weekend and in the future. I am pleased the United States has sent humanitarian assistance to the people of Albania and is now in the process of instituting technical assistance programs. However, the people of Albania should know that our ability to give technical assistance to Albania depends to a large extent on what Albanian Government is in power. We cannot offer expertise on privatization and rejuvenation of agriculture if the government opposes taking these steps, or takes them only halfheartedly.

Mr. President, I would like to let the people of Albania know that the United States is their friend and would like to do what it can to help them return from the nightmare of Communist rule to the European Community of nations.

I ask unanimous consent that a transcript of a Voice of America interview for broadcast to Albania in the days before the election be included in the RECORD at this point.

There being no objection, the interview was ordered to be printed in the RECORD as follows:

INTERVIEW WITH ALBANIAN SERVICE OF VOA, MARCH 17, 1992

1. Albania is holding Parliamentary elections this Sunday. How do you view these elections?

I am pleased that the people of Albania will be able to go to the polls this weekend to vote in the second-ever multi-party parliamentary elections. I support those candidates who will promote free market and democratic reforms, not just a continuation of ruinous Communist policies.

I am acquainted with Dr. Sali Berisha of the Democratic Party. He and those in his party believe that Albania should join the ways of Western Europe. His leadership would help lead Albania forward. Specifically, he would pursue policies that would attract Western help and investment.

However, even though I am concerned today with the elections in Albania, I do not want to neglect Kosova. The Albanian people of Kosova live under a state of military siege by the Communists of Belgrade. Their Prime Minister, Dr. Bujar Bukoshi, lives in exile. I met with him during his visit to Washington and was impressed by his commitment to freedom and self-determination for the Albanians in his homeland.

2. How are the results of the elections likely to affect U.S. relations with Albania?

First, I am pleased that the United States has sent humanitarian assistance to the people of Albania and is now in the process of instituting technical assistance programs. However, I believe that our ability to give technical assistance depends to a large extent on the Albanian government in power. We cannot offer expertise on privatization and rejuvenation of agriculture, if the government opposes taking these steps, or takes them only half-heartedly.

I would like to let the people of Albania know that the United States is their friend and would like to do what it reasonably can do to help them return from the nightmare of Communist rule.

AVOIDING A UNITED NATIONS ENTITLEMENT

Mr. PRESSLER. Mr. President, on February 20, I welcomed Secretary General Boutros Ghali to his new position at the United Nations. I called for a general U.N. budget that reflects zero real growth—consistent with U.S. policy.

On February 20, I suggested the international organization determine "what the United Nations can and should realistically hope to accomplish within the constraints of cost-effective budgeting." I also stated that, "Secretary General Ghali should not be surprised if Congress asks more questions about the way the U.N. system spends its funds." Mr. President, I rise today to begin to ask those questions.

Serious doubts about U.N. assessments have surfaced. They must be addressed. It is time for Congress to consider whether U.N. assessments are to have the same budgetary result as domestic entitlement programs.

In recent hearings before House and Senate Appropriations Subcommittees, Secretary Baker and Assistant Secretary John Bolton have faced tough questions regarding the rapidly increasing costs to the American taxpayer of U.N. peacekeeping activities. The increases are caused by a proliferation of new efforts approved by the Security Council, of which the United States is one of the five permanent members.

The United Nations is proposing peacekeeping efforts in places as diverse as El Salvador, Yugoslavia, the Western Sahara, and Cambodia. It is reasonable for Congress to ask serious questions of American policymakers before agreeing to pay assessments not foreseen when Congress wrote the Foreign Relations Authorization Act (Public Law 102–138).

Mr. President, the United States currently is assessed 30.4 percent of all peacekeeping costs. However, under current practice Congress has no say in determining where peacekeeping forces should be sent or how much should be spent on such efforts. Congress is merely presented with the cost to which the administration has agreed and told it must authorize and appropriate that amount.

The U.N.'s scale of assessments is set by a U.N. committee on which the United States serves and is ratified by the General Assembly. As with other U.N. system assessments, the percentage is calculated on what the United Nations determines is a country's ability to pay. For the general budget, the United States is assessed 25 percent of total costs.

In the case of peacekeeping, the United States is assessed 30.4 percent because we are required to subsidize the assessments of less and least developed countries. The United Nations maintains that the United States and the other permanent five members of the Security Council, Great Britain, China, France, and Russia, gain more from the international stability promoted by peacekeeping activities than do other countries. In addition, since the Security Council approves peacekeeping efforts, the United States is assessed at a higher rate because the permanent five have greater influence over commitments to peacekeeping than over general budget decisions in the United Nations.

Mr. President, other members of the permanent five and countries with large economies are assessed substantially less than the United States, both for general budget and peacekeeping purposes. For example, while the United States is assessed almost one-third of the cost of peacekeeping, Russia is assessed at 13 percent, Japan at 11 percent, Germany at 9 percent, France at 7 percent, and the United Kingdom at nearly 6 percent. It appears the United Nations may be prepared to excuse Russia some assessments because of the fall of the Communist regime in the former Soviet Union. Without question, this will increase what United States taxpayers will be expected to pay.

With the welcome breakup of the Soviet Union, the United Nations may recalculate the scale of assessments in 1992. If so, the State Department and Permanent Representative-Designate Edward Perkins should be aware of congressional concern over the scale of assessments before placing a further burden on United States taxpayers.

Mr. President, I anticipated some of the questions raised in the recent appropriations subcommittee hearings. Some members of the subcommittees suggested that U.N. peacekeeping be funded by transfers from the Defense Department to the International Affairs budget account. I believe that solution is shortsighted and unwise. Defense Department expenditures exist to provide for the vital national security interests of the United States. Few Americans would accept proposals to divert funds authorized and appropriated for U.S. Armed Forces and defense programs to U.N. peacekeeping activities. Congress should not engage in that kind of shell game.

A second approach suggested in the appropriations hearings was to regionalize peacekeeping funding. Under this concept, Japan might pay most of the costs for peacekeeping in Cambodia while European countries would pay most for the Yugoslavia force. One idea was that the United States only consider paying for peacekeeping in our own backyard—for example in El Salvador—but not in other regions. This is perhaps understandable, but it alters the foundational principles of the United Nations—an organization created to function as a multilateral body.

Two other issues were discussed in 1991 when the Senate Foreign Relations Committee was writing the Foreign Relations authorization bill. In several instances, U.N. peacekeepers have been stationed for decades in order to keep warring factions apart. There is no sunset law for peacekeeping. Once peacekeepers are assigned, they could remain forever.

Concerned about the huge amount being authorized for repayment of U.N. assessments from the 1980's—so-called arrearage payments—several Senators also suggested that these funds be used to cover new peacekeeping costs.

Some or all of these proposals may have some merit, but none has been carefully considered by authorizing committees as part of the legislative drafting process. One good idea—proposed by the distinguished Senator from Colorado, HANK BROWN, has become law. It calls for the United Nations to ensure that in-kind contributions by the United States and other countries to U.N. peacekeeping activities be included at their full value when calculating each country's contributions to U.N. peacekeeping efforts.

Another interesting suggestion would increase the role of regional organizations in democracy building and peacekeeping activities. For instance, the Organization of American States, under Secretary General Baena Soares, has pioneered new approaches to democratic development. Its attempts to resolve Haiti's political situation are commendable.

Empowering regional international organizations may be one practical way to deal with concern about the mushrooming costs of peacekeeping and transitions to representative government. A strong NATO or EC role in Yugoslavia makes sense, as does leadership from the Association of South East Asian Nations [ASEAN] in Cambodia. The Organization of African Unity has already been involved in Liberia—why not in Western Sahara?

This might be a practical way for more countries to share the burden of democratic development and peacekeeping.

Such an approach can also help assure that countries in the same region of the world provide most of the guidance in regional decisionmaking. In the aftermath of the cold war, the world has evolved into a dual system in which there is one global superpower, the United States. At the same time, the world has become a multipolar system emphasizing the responsibility of influential and interested regional powers. In a new world cooperative system, it may not always make sense for the United Nations itself to assume global policing and democratic development roles. John Bolton's concept of a unitary United Nations was intended to prevent duplication within the U.N. system. However, it may be appropriate to extend that concept so that, to the maximum extent possible, the United Nations—with its high level of assessments—is not asked to do things that can and should be done regionally.

Mr. President, let me return to the subject of a proper congressional role in planning United Nations' costs. I propose, at least as an interim step, that Congress and the State Department's Bureau for International Organization Affairs—which is responsible for the United Nations—have close and continuing consultations on peacekeeping well in advance of any financial commitment. I would gladly participate in such an effort.

For example, the possible need for a U.N. peacekeeping presence in Cambodia was well known for many months. But I was astonished to learn that the United Nations has proposed a budget of more than $1.9 billion for this effort. I do not believe it is prudent to ask United States taxpayers to pay in excess of $582 million for the program envisioned in Cambodia. While it may make sense for the United Nations to have a role in the transition of that country, the proposed cost is simply too high.

An example more obscure to most Americans is U.N. peacekeeping and supervision of a referendum in Western Sahara. This former Spanish colony has been the scene of conflict between Morocco and the Polisario rebel movement for many years. It may make sense for the United Nations to have a presence there. However, no case has been made to the Foreign Relations Committee, prior to the required authorizations legislation, that a 30.4-percent U.S. contribution for the Western Saharan effort will protect our vital national security interests.

Mr. President, U.N. funding comes down to the classic struggle between the legislative and executive branches of Government. Negotiations under international treaty obligations must be left to the executive branch. What I am calling for—at a minimum—is a partnership between the authorizing and appropriating committees of Congress and the State Department's Bureau for International Organization Affairs, which is responsible for the U.N. budget.

The best way to assure a zero growth U.N. budget is for the State Department to have regular discussions with Congress on budget policy while the budget is being hammered out in the Fifth Committee. Usually this occurs late in each session of the U.N. General Assembly.

To guard against sticker shock in peacekeeping costs, authorizing and appropriations committees should have a predictable system of consultation and timely notice with appropriate officials of the Bureau of International Organization Affairs. Generally, there is adequate warning before conditions in a country reach a point requiring peacekeepers. Significant U.N. involvement in sorting out a political settlement, as in El Salvador, could have activated executive branch consultations with Congress on the appropriate level of U.N. involvement. Inevitably, this would lead to a discussion of the type and size of a commitment, as well as its potential costs.

Consultations and notice of the kind I propose also would provide a brake against U.N. overspending on peacekeeping operations. For example, the United Nations says it wants to spend more than $1.9 billion for peacekeeping in Cambodia. According to the present United Nations scale of assessments for peacekeeping, U.S. taxpayers would have to pay at least $582 million. Mr. President, that amount is unconscionable given our Nation's current economic distress.

My point is that peacekeeping needs do not sneak up on the State Department or the United Nations. There is ample time for the relevant bureau in the State Department to notify Congress once informal discussions of a peacekeeping effort begin within the United Nations. The resulting discussions and negotiations would encourage fiscal reasonableness and assure that Congress will support the assessment once it becomes official.

Since Congress is responsible for authorizing and appropriating funds for international organizations, it is only fair for Congress to insist on a consultative role in the process well before peacekeeping funding is agreed to by the executive branch.

Mr. President, Congress must work with the administration in planning and funding the International Affairs budget account. The United Nations must learn to live within its means—and Secretary General Ghali is making progress in that direction. The U.N. system also must learn to live within the means of its member states. Early and frequent discussions of peacekeeping priorities is the best way to avoid policy gridlock or international embarrassment.

The ACTING PRESIDENT pro tempore. The Senator from Ohio is recognized.

INTEGRITY ON THE COLLEGE CAMPUS

Mr. METZENBAUM. Mr. President, the Washington Post last week ran an article entitled "Single Company Deals Are No Way for Universities to Promote Research," written by Michael Schrage, a columnist with the Los Angeles Times. I ask unanimous consent that the article be printed in the RECORD following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. METZENBAUM. The article describes a deal which the University of California at Irvine entered into with Hitachi Chemical Co., a Japanese chemical company. The university has agreed to have Hitachi build a state-of-the-art research facility on university land. Hitachi will share the facility with the school's highly rated Biochemistry Department.

Purportedly, Hitachi is getting a free lease in exchange for building this facility, but it is clear that what they really get out of this deal is access to the creative thinking of the school's and the country's best young chemists.

What could be better for Hitachi than to be able to share a building with our best chemists? Not only does Hitachi get the benefit of the latest research and thinking, but they may even be able to steer research in directions which most benefit their own corporate plans. Hitachi will also get the jump on its competitors in thinking up market applications for new discoveries. I do not blame Hitachi. My concern has to do with the direction the school is being led.

Are these school officials so naive that they do not see what is going on here? For an institution supported by State, and probably Federal funds, to enter into such a deal is disturbing. Why should research done with taxpayers dollars benefit any private company, particularly a foreign company? Why should a major American university work out this on campus relationship with a foreign company in connection with the development of research so important to all of us?

Hundreds of millions of dollars in Government funding support our university research facilities annually. I am frank to say I do not have available to me at this point the specific number of those dollars that are available to this university. But the question really is should private businesses be able to buy on the cheap—for the price of a building—the benefits of that university research in this country? I think not. The benefits of our university research should not be given away to any private company and certainly not to our international competitors.

I hope that other schools presented with such deals will appreciate the value of their research facilities and not give away an important national resource. These deals are shortsighted and dangerous.

[From the Washington Post, Mar. 13, 1992]

SINGLE-COMPANY DEALS ARE NO WAY FOR UNIVERSITIES TO PROMOTE RESEARCH

(By Michael Schrage)

Pity America's universities. First they had to worry about being "politically correct." Now they have to worry about being "industrial correct."

Thanks to critical references in Michael Crichton's best-selling novel "Rising Sun" and a recent "news" segment on ABC's "20/20" program, the University of California at Irvine has come under scrutiny for cutting a special deal with Hitachi Chemical Co., one of Japan's most diversified chemical companies.

In exchange for a free lease on university land about 50 yards off campus, Hitachi agreed to build a state-of-the-art research facility that it would share with UC Irvine's excellent biochemistry department. So Hitachi has a lab where it can not only conduct its own proprietary research, but one where its researchers can also pop downstairs to chat with professors and post-docs about basic molecular biology questions. To be sure, rigorous conflict-of-interest agreements have been drawn, and Hitachi insists that its researchers are there to learn, not influence UC Irvine's research agenda.

But as biotechnology is one of the hottest research areas around, this is not a bad location for an ambitious chemicals company to be. Understandably, critics wonder why a Japanese company—rather than an American company—should be able to cohabit with a top-flight university research department. The answer is simple: UC Irvine needs the research facility and Hitachi was prepared to pay for it.

"To us, it was a land deal—we just needed space," says Paul S. Sypherd, UC Irvine's vice chancellor for research. "To them, it was a laboratory deal. We don't see this as a harmful case."

"Because it was Hitachi, because it was the first foreign company, because it was unusual, we bent over backward to make sure that all our rules and policies were scrupulously and meticulously observed," Chancellor Jack Peltason says. "We understood that this arrangement is a more difficult one to explain than if there were two separate buildings separated by three blocks. . . . We wanted to be able to pass the 'red face' test, and we think we do."

In essence, UC Irvine played real estate mogul and had Hitachi Chemical build it an expensive "research condo" with no strings attached. Pretty clever, huh?

Actually, no. While this deal isn't stupid, dumb or venal, it's certainly unwise. It creates the sort of unfortunate precedent that will end up haunting UC Irvine and, ultimately, the entire UC system.

The real concern shouldn't be that this particular company on campus is Japanese, although California taxpayers can rightly ask why their tax dollars are helping subsidize foreign research efforts. The issue is just what forms of industrial cohabitation should a state-funded university permit.

If you agree with the idea that universities should be a source of both technological innovation and economic competitiveness, what is the rationale for giving one private company precedence over another? If the answer is "money," you have a policy where the state is putting its taxpayer-funded research institutions up for the highest bidder. Then why not simply "privatize" the university?

Indeed, why should Hitachi Chemical and not Toray Industries Inc. or Du Pont Co. be sharing biochemistry labs? Why not have International Business Machines Corp. or Apple Computer Inc. adopt the most desirable parts of the computer science department? Perhaps Merck & Co. or Sandoz Ltd. might be willing to pay for joint hospital research facilities. Having top university brains right next door can be a wonderful competitive advantage.

"I think the idea of a physical co-location is a red herring," UC Irvine's Sypherd insists. "We're already co-located globally with all our electronic mail, faxes and international conferences."

But if physical co-location doesn't matter, why would Hitachi Chemical bother to cut the deal? If Hitachi finds that the shared facility boosts its research productivity, why shouldn't other companies seek similar accommodations? It's one thing for a campus to encourage private industry to participate in research, it's quite another to have facilities that blur the lines between public and proprietary.

Clearly, it is not "industrially correct" for a campus touting itself as an innovation generator to provide preferential access to a Japanese company over an American one. Perhaps UC Irvine and the University of California system might want to consider inaugurating an "affirmative action" plan that assures that American companies are well represented on campus. You can be sure that if they don't, the state of California will.

Just as today's state universities shouldn't discriminate against students on the basis of gender, ethnicity or ability to pay tuition, the enlightened research university that's promoting technology transfer should assure that minority- and female-owned businesses are adequately represented on campus and in the industrial parks. The university wellsprings of economic competitiveness shouldn't just be for the elites, but must be made accessible to all business strata, right?

The point here is that America's research universities in general—and the UC system in particular—have done a grossly inadequate job of articulating what roles they want to play in promoting economic development. Soliciting funds and playing Trammell Crow should be a byproduct of the university's mission, not its focus.

Similarly, state governments that happen to fund world-class research universities have to look beyond funding levels and intellectual property agreements and ask what kind of public/private deals make the most sense for their citizens.

The tough questions are beginning to be asked. It's not clear that the answers are the rights ones.

Mr. BURNS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BURNS. I thank the Chair.

(The remarks of Mr. BURNS pertaining to the introduction of S. 2377 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. COATS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Indiana is recognized.

Mr. COATS. I thank the Chair.

(The remarks of Mr. COATS, Mr. NICKLES, Mr. GRASSLEY, and Mr. BOREN pertaining to the introduction of S. 2384 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BOREN. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

INTEREST RATES

Mr. D'AMATO. Mr. President, today I have sent a letter to Secretary Brady. I ask unanimous consent that at the conclusion of my remarks a copy of that letter be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. D'AMATO. Mr. President in that letter, I basically outline an issue that I have recently called to the attention of the Secretary of the Treasury and the Chairman of the Federal Reserve. That issue involves the failure on both the part of the Secretary of the Treasury and the Chairman of the Federal Reserve to see to it that lower interest rates are passed on to the public in the form of available credit.

Unfortunately, this has not been the case. I have had numerous constituents write to me, speak to me, stop me, and say, what is the sense of lower interest rates if we cannot get a loan? Indeed, while the interest rates have come down to historically low proportions—and I think one has to go back some 18 years before one can find a lower discount rate—the fact is that this reduction in interest rates has not resulted in credit being made available to creditworthy people in the business community.

Indeed, commercial loans and lines of credit are being called in as we speak today. The Federal Reserve has embarked upon a program to lower the cost of money through its monetary policies. Savings have made the banks' balance sheets more profitable as a result of these reductions in interest rates. But how has this been passed on to the general public? Let me share with you some statistics, and I mentioned these in my letter to Secretary Brady as well.

On average in the last year, total assets of commercial banks have increased by 5 percent, that is a total of $182 billion in growth. During that period over the past year, banks have increased their holdings of government securities by more than 21 percent or $95 billion.

Banks have elected to increase their holdings of Government securities because today long-term bonds yield almost 8 percent and 5-year bills yield almost 7 percent.

That may sound rather esoteric and people may ask how that affects credit. It affects credit because if you are a banker and can get a 7 or 8 percent yield by buying Treasury securities and money costs 4 to 5 percent—that is a pretty handsome return. It costs me 4 percent to borrow, and I lend at 8 percent. Who do I end up lending to—the Federal Government.

Banks do not have to set aside any capital for investing in Treasury securities. So why would a banker want to lend to John Q. Public and get one-half percent or 1½ percent more in profit margin when there would be risk attached to it, not to mention Federal regulators breathing down his back and scrutinizing the loans.

Looking over the past year, it becomes obvious that Treasury's policy of issuing securities: 5-year, 10-year and 30-year has resulted in a dramatic increase in the cost of those securities to the Federal Government, and ultimately to the taxpayer who eventually has to pay the interest and that money back. More importantly, during a time when we are starved for credit, Treasury policy has actually reduced loans being made available to the public because investing in government securities has become more desirable than lending.

Not only has this policy failed to make more money available, but it has reduced credit significantly. Indeed, if one looks at the figures, banks have reduced commercial lending during the last year by $27.8 billion.

Mr. President, if this had been the first time that this Senator and others had called this to the attention of Secretary Brady, and Mr. Greenspan, who I voted against in the Banking Committee because I think his policies have directly contributed to the financial morass that we are in, then I might be accused of being premature.

However, I, and others, have raised this time and time again. I raised it as recently as this week with the Secretary at an Appropriations Postal Subcommittee hearing. One of my colleagues, Senator MACK, called for the resignation of Secretary Brady last month. I disagree with Senator MACK because he should have called for the resignation a year ago, not a month ago. I too should have joined asking for Secretary Brady's resignation a year ago. The Secretary of the Treasury is not in the real world. If he continues his present policy, he will continue to delay economic recovery. People are starved for credit; creditworthy businesses are being denied credit; and the Secretary of the Treasury is too busy to notice because he is preoccupied with fattening up the portfolios of the banks.

I understand we want to see to it that the banks do not crumble and collapse and become another financial industry calamity. We do not want taxpayers to bail out the banking industry. However, some of the reduction in the cost of money, if not a major part, should be passed on to the American public. What is the sense of reducing the interest rates to zero if credit is not available to creditworthy borrowers?

So if I sound like I am frustrated, it is because I am frustrated. I think my voice echoes what is being said by millions and millions of Americans. These people are hardworking people who have good solid businesses, and loans that are being called in. You cannot blame only the bankers; it is the regulators; it is the Secretary of the Treasury; and it is a blind, failed policy. The final result has many, many people.

If this continues, indeed, everyone will suffer the consequences when this economy fails to turn around, including the President of the United States. There is no reason for the Treasury to say we are going to continue to study, study, study. That is all I hear. I hear it from Chairman Greenspan and I hear it from Secretary Brady. I hear this from Secretary Brady even after he acknowledged to me just 2 days ago that these numbers and these facts I have been discussing are correct.

I think it is about time, unless the studying stops and decisive action is taken soon, that the Secretary of the Treasury resign. It is long overdue. Secretary Brady cannot allow this practice of bringing interest rates down while denying creditworthy people the credit they are entitled to. The disastrous results are evident by the failure to bring about a turnaround in the economy—a turnaround that many people had anticipated.

So, Mr. President, I have sent this letter to the Secretary of the Treasury, and I ask him to respond. I hope that the public gets a better response than we have heretofore. I certainly have, I think, withheld my criticisms for far too long.

We do ourselves, the administration, and the American people an injustice if we simply say: "Let us not rock the boat." Now it is time to rock the boat on behalf of the people of this country. Indeed, every day that this policy continues, that the balance sheets of the banks improve, yet the American people fail to get credit to which they are entitled virtually guarantees a day of delay in the improvement of the economy.

Mr. President, I hope that the people at Treasury get my message, because I am going to continue to come to the Senate floor every day that I see a lack of action, every day that I see the same continued failed, flawed policy, and I will call this to the attention of the American public over and over and over again.

That is one way that I can contribute to help move this economy forward and to get the Treasury and the Federal Reserve to bring about a policy that can lead to a speedy recovery of an otherwise terribly damaging recession that we are still mired in.

Mr. President, I yield the floor.

EXHIBIT 1

U.S. SENATE,
Washington, DC, March 20, 1992.

NICHOLAS F. BRADY,
Secretary of the Treasury, Department of the Treasury, Washington, DC.

DEAR SECRETARY BRADY: Although I understand that the regulators—Treasury, the Office of the Comptroller of the Currency, the Federal Reserve and the Office of Thrift Supervision—have been working on various regulations intended to ease the credit crunch, I am concerned that banks are still not making credit available to creditworthy borrowers.

As I discussed with you at a Banking Committee Hearing on February 26 and at an Appropriations Hearing on March 18, my concern stems from the fact that banks are loading up on Treasury bills, notes and bonds rather than making loans to creditworthy borrowers.

On average, in the last year, total assets of commercial banks increased by 5%—a total of $182 billion in growth. During this period, banks increased their holdings of government securities by a dramatic 21% or $95 billion and decreased their commercial lending by 4% or $27.8 billion.

It is apparent that, rather than engage in the business of making loans to creditworthy borrowers, banks have turned into government bond funds. I am concerned that the lack of available credit will slow down the recovery of our economy. Until credit becomes available to the American people, the recession will continue and the hoped for turn-around in the economy will not take place.

Treasury and the Federal Reserve have managed to substantially reduce the cost of money, yet have failed to encourage banks to lend it out. Lower interest rates have allowed banks to improve their balance sheets but banks are not passing the benefit of lower rates on to creditworthy borrowers in the form of credit.

I asked you at both of those hearings what the Treasury Department planned to do to correct this obvious imbalance between the banks' government securities portfolio and loan portfolio. So far, I have heard nothing more than an acknowledgment of the problem.

At your earliest convenience, I would like to hear what the Treasury Department has planned to deal with this problem of banks investing in government securities rather than making loans. Thank you.

Sincerely,

AFONSE M. D'AMATO,
U.S. Senator.

Mr. SIMON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

U.N. PEACEKEEPING

Mr. SIMON. Mr. President, the Senate is considering two requests from the administration for U.N. peacekeeping—$350 million additional for fiscal year 1992 and $438 million for fiscal year 1993. Some are saying we cannot afford these expenditures. I believe we cannot afford not to fund peacekeeping.

The events of the last 2 years have permanently changed the international scene. The United States may be the sole remaining superpower, but we cannot go it alone and we should not attempt to maintain global peace and security by ourselves. We do not have the means to do so, and the rest of the world will not accept us in such a role, whatever the misplaced aspirations of the Defense Department as reported recently in the New York Times and Washington Post. Global stability is increasingly dependent on the cooperative efforts of nation states—we have to recognize that—acting in concert under a U.N. regional collective security mandate. That is the direction that we are going to have to be going. The permanent members of the Security Council, for the first time in history, find themselves in agreement on deployment of peacekeeping missions to troubled and volatile areas around the world.

And let me add, Mr. President, this is a chance to shift the burden from the U.S. taxpayer to the rest of the world. The United States cannot be the world's policeman. And if we fail to fund the U.N. peacekeeping efforts, we are failing U.S. taxpayers and we are failing our children in generations to come.

The United States has a vested interest in seeing that U.N. peacekeeping missions succeed. Deployment of peacekeepers is the best way to prevent conflicts from spiralling out of control, conflicts that could threaten regional stability and could undermine U.S. political and economic interests in these areas. Failure to respond with U.N. peacekeeping forces could also result in a need for significant U.S. military action and other funding for efforts undertaken to help restore stability.

U.N. peacekeeping operations are not—and let me stress this—are not foreign aid, nor have they ever been foreign aid. I am not a critic of assisting other nations. As a matter of fact, we are doing much less of that in terms of our GNP than the Western European nations and Japan.

But this ought to come out of the defense function, not the foreign aid function. U.N. missions now often substitute for U.S. or allied operations to keep the peace and maintain stability in regions important to our interests. This funding is not altruistic. It is directly related to essential U.S. foreign policy goals.

We need to shed the image of the United Nation as a hostile organization opposed to U.S. interests. In the main, U.S. principles and policies have triumphed over the competition. The wave of democratization and the turn toward free markets that have characterized the history of the last 2 years vindicates longstanding U.S. positions at the United Nations.

And let me just add, Mr. President, the wave of moving toward democracy and recognizing human rights is everywhere. Look at Latin America. There is not a single dictatorship left in Latin America, believe it or not. It is hard to believe when not too many years ago, that was the common thing.

In Africa, there is still the image of Africa dominated by dictators. Well, there is Mobutu in Zaire; there are some dictators; but the wave of the future in Africa is democracy.

It is important that the American Government and public appreciate this development. Changes that have occurred since the collapse of communism in the former Soviet Union and Eastern Europe have offered significant opportunities for democracy and individual liberties but also presented new challenges to world peace.

A significant part of the State Department's request for peacekeeping funding will go for support of three new U.N. forces: Cambodia, Yugoslavia, and El Salvador.

It was not too long ago we were spending more in El Salvador on the military than we are now being asked to spend for the U.N. peacekeeping for the whole rest of the world. It just makes sense to assist.

The Cambodian people were first victimized by the Khmer Rouge Government, and then by a bitter civil war resulting from Vietnam's 1978 invasion and occupation. Following adoption of the peace accords in Paris in October last year, there is now a real opportunity to bring democracy and restore prosperity to this divided country. The administration's peacekeeping request for fiscal years 1992 and 1993 includes significant funding for the U.N. Transitional Authority in Cambodia [UNTAC].

Let me just add, Mr. President, we face responsibility. We, in response to what was happening in North Vietnam, moved in militarily into Cambodia. So we share a very real responsibility for the fate of that country.

I share a concern about any return to power by the genocidal Khmer Rouge, but it is clear to me that the U.N. Transitional Authority in Cambodia's implementation of the Paris accords offers the best way to control the threat still presented by the Khmer Rouge. It also offers the only hope for a comprehensive settlement acceptable to the Cambodian people and the international community. It is essential that we give full support to the Secretary General's special representative for Cambodia, Mr. Yasushi Akashi, and to the U.N.'s Transitional Authority in Cambodia.

The resurgence of long-simmering nationalist and ethnic animosities have caused great bloodshed and destruction in Yugoslavia, and have set nearby Armenia and Azerbaijan at war with one another over the enclave of Nagorno-Karabakh. U.N. Special Envoy Cyrus Vance recently began a factfinding tour in Armenia, perhaps presaging a role for U.N. peacekeeping there.

Let me add we ought to be very proud of Cy Vance and the contribution he has already made in Yugoslavia and now in Armenia and Azerbaijan. A number of other potential conflicts are brewing in the former Soviet Union and Eastern Europe.

The United Nations has just begun deployment of a peacekeeping force to Yugoslavia. Unable to save itself from the tragedy of a civil war in which thousands died and entire cities were destroyed, the Yugoslav republics turned for help to the international community. The European Community made a valiant effort to try to restore the peace, but was overcome by the strength of nationalist passions. The U.N. force in Yugoslavia offers the only prospect for ending the violence and allowing the Yugoslav republics to hammer out a political solution to their divisions.

Our interest in supporting the U.N. peacekeeping force is clear. Not only will this be good for Serbians, Croatians, Slovenians, and others in what is rapidly becoming the former Yugoslavia, but U.N. success there will help prevent the spillover of historical animosities throughout the Balkans and Eastern Europe.

After years of bitter civil war, we witnessed the signing of a peace treaty for El Salvador in January of this year. The U.N. Observer Mission in El Salvador will monitor compliance with this agreement and with the 1990 San Jose Agreement on Human Rights. Peace in El Salvador brings to an end the violence that has wracked Central America for well over a decade. We have an obvious stake in ensuring a return to stability in a region so close to the United States and in which we have historically played an important role.

These are the major new U.N. peacekeeping missions. The fiscal year 1993 request also includes money for repayment of our U.N. arrearages and funding for other existing U.N. peacekeeping missions. Such appropriations are important for the maintenance of U.N. forces who continue to ensure security at important flashpoints in the Middle East and elsewhere.

In the post-cold-war era, it is clear that we can make dramatic reductions in the defense budget while still preserving our security and ability to project power when necessary. Representative LES ASPIN's proposals offer a number of alternatives to the Bush administration's position, and they are worthy of consideration. I have called for reducing the defense budget by $150 billion over 5 years to secure funds for much needed domestic programs as well as reducing the deficit.

I was the first Senator to call on the President to consult on revising the Budget Enforcement Act to permit transfers between the three discretionary categories and introduced S. 644 to accomplish this. I support Senator JIM SASSER's later version of this idea, S. 2250, which will permit transfer of defense funds for domestic use.

I believe that in the new, changed circumstances we face today, peacekeeping costs should be considered as national defense expenditures for the reasons I have just outlined. Senator WARREN RUDMAN recently suggested to Secretary of State Jim Baker that the administration consider requesting the use of defense funds out of what we call function 050 on the Budget Committee instead of using the function 150 "Contributions to International Peacekeeping Activities"—the foreign aid function. I support that proposal and plan soon on introducing legislation to follow through on the suggestion that has been made by Senator RUDMAN.

U.N. peacekeeping benefits not only the United States, but every member country of the organization. The United Nation's Committee on Contributions will be meeting this summer to review the current assessment formula and report to the General Assembly this autumn and again in the fall of 1993. The scale of assessments will be set in 1994 for 1995–97. I urge the administration to ensure that any new formulation adopted in 1994 take fully into account the actual economic state of all member countries in that year.

I think the United States, frankly, can play a little less of a role in terms of the percentage that we contribute financially. But U.N. peacekeeping deserves the full support of all members of the United Nations, and none more so than the United States because we have been the great spender on the military side. As a great power concerned with the rapid political and military changes occurring around the world—and we are the only superpower left—U.N. peacekeeping offers an important and cost-effective way of restoring and maintaining peace and stability, and saving money for American taxpayers.

As my colleagues know, I do not always agree with the administration, but Secretary Baker's defense of peacekeeping funding strikes me as absolutely on the mark. The U.N. peacekeepers deserve our full support, and I hope my farsighted colleagues here will agree to provide the funds necessary to run these vital operations.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Wisconsin is recognized.

Mr. KOHL. Mr. President, I thank my colleague from New Hampshire for allowing me to speak. He was here before I was. I have been asked by Senator HELMS for a minute and a half. I yield to him a minute and a half to speak at this time.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by Congress stood at $3,859,479,522,708.68, as of the close of business on Wednesday, March 18, 1992.

As anybody familiar with the U.S. Constitution knows, no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day.

THE BRADY BILL

Mr. KOHL. Mr. President, I rise today for two purposes: First, to express my disappointment with the Senate's failure to invoke cloture on the strong anticrime package agreed to in conference; but second, I rise to suggest the time has come to remove the Brady bill from the larger measure, pass it separately, and send it to President Bush.

The conference committee report contains many excellent provisions. It would, for example, increase penalties for firearms use, provide needed funds to law enforcement agencies, and help States and local police do more to combat violent gangs. And the most recent Republican proposal also has merit. But the sad truth is that we are at an impasse: Democrats do not want to modify the habeas corpus provision in the conference report, and Republicans do not want to accept a crime bill with that same habeas corpus provision.

Yet, Mr. President, while we debate these matters here in Congress, firearms violence continues to rage in our cities and on our streets. Guns were used in nearly 13,000 murders in 1990—a 20-percent increase over 1986. Guns were used in more than 600,000 violent crimes last year. And no State is immune from this gun-related violence. Indeed, it may be more dangerous to live in a major American city than to serve our country in a foreign war. Fewer than 300 Americans died during the Persian Gulf conflict, but 489 people were murdered last year right here in Washington, DC.

Though there is no panacea for our crime problem, there is a crucial step we can take now to reduce some of the carnage. We can move—as separate legislation—the Brady bill provision which was agreed to in conference. The conference provision builds on the proposal originally introduced by Senator METZENBAUM. But it is essentially the same measure—with a few minor and technical amendments—that passed the Senate. In brief, it has three major components: A mandatory background check for all firearms purchases; a uniform 5-business-day waiting period for handgun purchases that would remain in effect for at least 2½ years; and $100 million for States to upgrade their computerized criminal history records.

Mr. President, I still hold out hope that in the next few months we can pass a broader anticrime package. And I have told Chairman BIDEN that I will work hard for such an agreement. But we should not sit still while criminals and drug traffickers continue to purchase many of their firearms over the counter. Instead, we should pass the Brady bill now. It has the support of more than 90 percent of the American people and it passed the Senate by an overwhelming 67-to-32 vote. And in the meantime we can continue to try to work out the remaining points of contention in the crime bill.

Mr. President, all anybody needs to do is open their newspaper and read about yesterday's shootings and they will recognize this simple truth: Never has the need for the Brady bill been so pressing and the consequences of its absence so terrible.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

PORK BARREL PROJECTS

Mr. SMITH. Mr. President, it is not very often in Washington that the taxpayers get very much good news, but the headline on the Washington Times this morning says, "Bush To Ax Democrats' Pork Barrel."

Of course, we all know there are a lot of pork barrel projects in some of the budget bills, spending bills we pass. It is not all Democratic pork. There is some Republican pork in there as well. The headline is partly accurate.

The story essentially details, Mr. President, that the President now plans to join the battle with Congress and propose to rescind spending for hundreds of congressional pork barrel projects. I want to take this opportunity to say to President Bush, "Welcome aboard." This is good news because last year, I introduced legislation in the Senate—the first of its kind; it has never been done before—and this identified more than 300 projects totaling more than $1 billion that were tucked in spending bills by Members of Congress. The ultimate in pork.

Frankly, it was a lonely battle out here. It was not easy. It was also a lonely battle in and around the cloakroom and the Halls of the Senate. People were not exactly clamoring aboard to say, "I will help you, Senator SMITH. We will give you a little help and try to take some of these projects out; they are wrong."

No, as a matter of fact, my legislation had three cosponsors, Mr. President. That is all I could generate. But the process, in addition to identifying these projects, also called for reform; that if we are going to have these kinds of projects, we ought to have hearings on them, they ought to be authorized, they ought to be competitively bid and we set up some major criteria for that. But, again, the Senate did not listen; the Congress did not listen.

I also, in an effort to get the President on board, wrote to the President urging him to challenge Congress on this pork barrel spending issue. He did not respond. I wish that he had responded earlier because it would have given us the opportunity to debate this thing early on in the process. But now that he has, I welcome the good news.

I also submitted, Mr. President, Senate Resolution 126 in May 1991, and that resolution urged the President to exercise a line-item veto. In other words, just call for the line-item veto, rescind the projects and let us see what happens. It is currently cosponsored by 17 Senators. I have supported the efforts of Senators COATS and MCCAIN in their strong leadership on a line-item veto for the President.

I have taken this floor on a number of occasions in the past several months to highlight some of these outrageous pork barrel projects that are used like glue to hold together these spending bills. The bill comes up, and it is very tempting to stick these projects in because it is a major budget bill and a major spending bill. Senators know that by including these projects, they are going to slip through because nobody wants to stop the whole train. So, therefore, a little extra baggage does not matter. That is the theory behind it.

Let me just highlight four of the types of things we are talking about, and I do not know that the President has specifically mentioned these four, but these are the types of projects that the President is talking about: $94,000 for apple quality research; $120,000 for animal waste disposal; $150,000 grant to a university to study the Hatfield-McCoy feud; and even more outrageous, almost a million dollars to purchase and refurbish in Ohio the house of the mother of former President William McKinley's wife.

I say to you, if you are a family out there and your major breadwinner is out of a job or you are a senior citizen who is trying to survive on the COLA that might be provided to you or a veteran who served his country looking for help that he is not receiving, how would you feel about the Congress of the United States spending that kind of money on those kinds of projects? It is outrageous, and the issue is one of fairness.

It is not fair, and many people come to the floor of this body and they say that they want to help the jobless and the poor and the homeless and the veterans and the seniors and then vote for that kind of stuff. It is outrageous. The American people are fed up with it. They are not going to tolerate it anymore, and I think that it is time that the Members of this body look to the next generation and the generation after that and the generation after that instead of the next election.

These projects, Mr. President, are looking at the next election because these projects in your State or in your district, if you are a Congressman, are going to help you get reelected, and that seems to be the name of the game around here: Get reelected and put that ahead of what is good for the country. It is wrong and outrageous.

When I wrote my notes for my remarks today, I put down that President Bush is not asking for a miracle when he asks for this rescission power. But I am going to retract that and say I think that he is. I believe it will be a miracle if, in fact, this Senate has the courage to pass that legislation, or to approve of those items that he rescinds. So I think he is asking for a miracle.

I hope that maybe a miracle will happen, that these projects will be eliminated and that the reelection insurance policies of so many in this body will be canceled because that is the issue, Mr. President.

So I am glad the President has taken the offensive. He has drawn the battle plans, and I am proud to be one soldier to help him carry out that plan.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

IN HONOR OF NATIONAL AGRICULTURE DAY

Mr. DURENBERGER. Mr. President, I rise today to pay tribute to the men and women who work every single day of the year to produce the food that this Nation and so many others consume. I want to pay special tribute to the 88,000 farmers of our State of Minnesota, most of them running family operations, on this National Agriculture Day.

Minnesota is a literal tapestry of rolling hill country, great stretches of prairie land, and rich valleys that provide a marvelous mix of soils for a variety of agricultural products—wheat, corn, soybeans, barley, sugarbeets, dairy, beef cattle, hogs, sheep, chickens, turkeys, sunflowers, hay, potatoes, flax, rye, red clover seed, timothy seed, mink, wild rice, dry beans, lamb, eggs, sweet corn, green peas, and honey.

I have stated on this floor before that if producing agricultural products were an Olympic sport and those who are first, second, and third in the country in a production group received medals, Minnesota farmers would be tied for first with the State of California. Although Minnesota is first in the production of sugarbeets, it is second in seven products—spring wheat, turkeys, sweet corn, green peas, total cheese, American cheese, and nonfat dry milk. And it is third in 10 products—soybeans, oats, flaxseed, rye, hogs produced and marketed, pigs, butter, mink, and honey. So in this Olympic contest, Minnesota would receive 18 medals. That compares with 11 for Iowa, 9 for Texas and Wisconsin, and 6 for North Dakota.

Mr. President, the hard work and effort of each Minnesota farmer provides enough food to feed 101 people—74 Americans and 27 people overseas. Every Minnesota farmer generates four off-farm private enterprise jobs in the State of Minnesota. Over $70,000 per year in cash receipts are generated from one Minnesota farm. And most of that is spent right in town to cover expenses.

The average Minnesota farmer is 48 years of age. His or her farm covers over 340 acres and is worth about $255,000. Equipment runs just over $55,000 in value. After paying production expenses, the average Minnesota farmer nets $28,000.

Minnesota farmers are leaders in their communities, their schools and churches as well as their industry. The heritage they continue of giving of themselves is the outstanding reason why Minnesotans are known for their commitment to public service.

On this special day for American agriculture, I would like to draw the attention of this body to the importance of farmers to our country. It has been in political vogue recently to bash farm programs and leave farmers at the mercy of Mother Nature and heavily subsidized foreign imports. I am opposed to such proposals and reject them as self-serving manipulations of facts.

I am a strong supporter of free and fair trade because under such a system American farmers will grow and prosper as they expand into consumer markets around the globe. However, until a fair free trade agreement is reached, it is irresponsible to unilaterally cut farm programs and force economic hardship in rural America.

American agriculture provides 21 million jobs, or one out of every six jobs in the country. Agriculture is the Nation's single largest industry. Farming alone employs 2.1 million people—as many as the combined work forces of the transportation, steel, and automobile industries.

Furthermore, agriculture accounts for 17 percent of America's gross national product. And, for every $1 billion in agriculture exports, 25,000 American jobs are created. I suggest that paints a very clear picture of the importance of agriculture to our Nation.

Since 1979, farm taxes have increased by 36 percent, tractor prices have increased by 70 percent, machinery costs have increased by 88 percent, and fuel and energy costs have increased by 39 percent. Farm commodity prices have not increased with these other expenses. In fact, dairy prices, for example, have recently been at the same level that they were in 1978.

Every Minnesota farmer and farm family, like all American farmers, are the backbone of this Nation. It is my hope that we will all continue to recognize the source of our cheap and plentiful food supply—and pay tribute to our farmers not just today but throughout the year, beginning with this, our National Agriculture Day.

TRIBUTE TO JUDGE EDWARD DEVITT

Mr. DURENBERGER. Mr. President, as far as I am concerned, when you look up the term judge in a legal dictionary, it should say: See the life of Edward J. Devitt of St. Paul. The person who epitomized for many what a judge can and should be, Judge Ed Devitt died on March 2 in St. Paul. I rise to mark his passing by lifting him up as a model not only for those who serve on the bench, but for all public people.

Edward Devitt was born in 1911 in the Dayton's Bluff neighborhood of St. Paul. He graduated from St. John's University in Collegeville, which is also where I received my undergraduate education. He studied law at the University of North Dakota law school and was elected a municipal judge before he had passed the bar exam. He served in the Navy during World War II.

My mother and father knew him well, but my mother recalls the time that his PT boat was blown away from underneath him just like President Kennedy's had been, and a visual defect which he had been suffering from was cured just like that, enabling him in 1946 to run for Congress and become St. Paul's Congressman, I think the only Republican Congressman they ever had in St. Paul, but he lasted only one term, having then been defeated for reelection by another St. John's graduate, Eugene McCarthy. After several years of practicing law in St. Paul, he was appointed a district judge in 1954, served on full time and senior status in that position on the Federal bench until just before his death.

His was as complete a career as a jurist could aspire to. He handled his cases over the decades of his service, some of which were very celebrated cases, with both skill and efficiency. He also published numerous articles and a standard text book, "Federal Jury Practice," which is used today throughout the Federal court system.

Mr. President, someone has said that great scholars are seldom great people and great people are seldom great scholars. I apply that truth to Edward Devitt because it was his humanity, his decency which were the foundation of his career. He was a great judge because of the goodness of the person under the robe.

He was a person of many admirable traits.

He was fun to be around. He loved ceremony and St. Patrick's Day in St. Paul was always his favorite day of the year. He loved health competition, especially on the golf course and especially when he won. He had such a wide circle of friends that he formed separate breakfast clubs, lunch clubs, and dinner clubs to maintain all those relationships. In his day he was a fine dancer, and according to his daughter his best step was the St. John's hop which he learned as an undergraduate.

Ed Devitt smiled a lot.

He was devoted to his family. When he traveled the country, he often would bring one of his small grandchildren with him. At the memorial services, his daughter, Terri Hoffman-Devitt said when they were young he was stern, but very fair, and when they were adults, he treated them like cherished friends.

Ed Devitt was a humble, caring, and amusing man. His goodness and wisdom have nourished countless other judges and practitioners of the law, and many regular people, too.

America is held together by people of vision and character who somehow get us to put our private interests aside and serve the public good. Edward Devitt was such a person, and the people of St. Paul, MN and all Americans owe him a debt of gratitude.

I suggest that a good way to repay that debt is for us to try to live by the principles he did. His whole life is a lesson that if we do, we will produce an abundance, not of fame or wealth, but of common good for those we serve.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PARTISAN POLITICAL DISCUSSIONS

Mr. EXON. Mr. President, this is March 20, and I am very fearful that we are about to see an outburst of partisan political discussions on the floor of the Senate as is going on right now on the House side. There is nothing wrong with strongly held feelings expressed in a firm but gentlemanly fashion with regard to the many issues that divide us and face us in the Congress of the United States. But I hope and suspect, because I have great respect for the common sense of the American people, that they will adequately prepare themselves without prescription medicine for the dose of political rhetoric that is about to hit us within and without this Chamber.

I suggest that the Congress itself, as clearly shown by the polls, is already in enough difficulty with the people of the United States of America that all the rhetoric in the world, unless it is on point and represents to some extent the opposing point of view, will do nothing but drive down the lack of respect and understanding that the people of the United States have in toto for the Congress of the United States, which is made up of not only Democrats but Republicans and a few independents.

I wanted to make reference to a statement I heard very recently on the floor by my distinguished friend and colleague, the senior Senator from North Carolina, wherein he attempted to blame the problem of the horrible annual budget and skyrocketing national debt on the Congress of the United States, with such statements as: Everyone knows that not a single penny can be spent until it is appropriated by the Congress.

I suggest that there should be an additional footnote to that; that is, that not a penny of any funds appropriated by the Congress of the United States can be expended unless the bill authorizing them is signed by the President of the United States.

To put it another way, Mr. President, all of us share in the disastrous situation that faces the United States of America with regard to fiscal responsibility. I take my share of the responsibility while pointing out that myself and others time and time again over the last 10 years have come to the floor and offered freeze amendments to stop the ever spiraling increase from going on. Although there have been many attempts that I have been a part of, that has been rejected by a substantial vote by the Congress of the United States.

So while we may feel, and we are, legitimately at a crossroads, when we start affixing blame, let us have everyone share this equal part of the blame for the situation that is facing us today fiscal-wise so that the people of the United States of America fully understand and appreciate it.

I would simply like to point out as an aside, but I think a very important aside, that for the last 10 years, 8 of those 10 years, the Congress of the United States as some people are trying to blame for this terrible deficit, as opposed to the Presidency or anyone else or combination of other sources—they are trying to say that it is the fault of the Congress of the United States.

Take a look at the last 10 years and see that in 8 of those 10 years the Congress of the United States, which is now trying to be labeled as the sole and only cause of this proposition, appropriated less money than the President of the United States sent over to this body in his budget proposal for all of those 10 years.

I remember very well, Mr. President, my 8 years having that pleasure to serve the people of my State as their Governor. Fundamentally, the proposition there is not significantly different than the proposition at the Federal level because we all know and recognize that, by and large, the constitutions—and the responsibility while there are some differences—of the States are based upon the federal system as laid down by the Founding Fathers.

When I was Governor of Nebraska, the chief executive officer, it was my responsibility to submit to the legislature of Nebraska each and every year a budget. By our constitution, it has to be in balance. After that, the legislature, separate and distinct legislative branch of government, would take whatever action they thought was appropriate to either increase or decrease the recommendations of the Governor. I vetoed more spending measures while I was Governor of Nebraska than any other Governor in the State's history. So I know something about that.

In the end, though, the balanced budget amendment that we have in our constitution prevailed. And I, as Governor, either had to sign or veto the spending bills that were sent back to me from the legislative branch. It is that way here at the Federal level. The President, the Chief Executive Officer, sends over a budget—and he has for the last 10 years.

Again, I emphasize that in 8 of those 10 years this legislative branch—that a lot of people including many of the people in this body are trying to blame on the legislative branch—spent less money than that recommended by the Chief Executive Officer, the President of the United States.

I simply make this point, Mr. President, to emphasize once again that there is plenty of blame to go around. I hope that as we approach those stormy debates that I suggest for a large part will be based upon looking to the immediate future, the upcoming primaries, and that all-important general election in November—to a large extent, it will be a measure of posturing. Sometimes posturing can be accepted but most of the time posturing can be dismissed as political propaganda that does little to enhance the overall well-being and state of the United States of America.

So I hope, Mr. President, when this barrage hits us, as it is about to as we stand here on March 20, that historical date that was set by the President of the United States in his State of the Union Address last January, that we do what we think is proper and best to answer the request of the President, that we act by the 20th of March on a tax and at least some degree of economic recovery program.

We obviously are not going to go along with, nor do I think we should, the recommendations made in this regard by the President of the United States. The people of America should understand that if the Congress had accepted the recommendations of the President of the United States that have been sent over to us formally and otherwise from the White House they would wake up to discover that the proposals offered by the President of the United States would increase—would increase, Mr. President—the budget deficit over and above the estimated $400 trillion that it will be by the end of this year and further extend and increase that for the next 5 years.

I made a firm commitment very early. I did not say "read my lips." I just say, as a former experienced Governor and as someone who has been here now for the 13th year serving on the Budget Committee, hear what I say—that I will not be supporting legislation that would further increase the annual budget deficit and, therefore, continue to swell the national debt; that I would simply point out in the last 10 or 11 years it has gone from just under $1 trillion to now $4 trillion in 10 years.

We have to bear some of that responsibility—all of us here, the 100 Members in the Senate, and the 435 Members of the House. But the leader in that instance, the President of the United States for the last 10 years, might have just a little bit of responsibility for that, if the people of the United States understand as understand I think they do; that no one can escape being declared innocent and should not have been charged.

Therefore, I conclude by saying, Mr. President, I hope that we can have some honest debate on the matters that divide us but being kept as far away as possible from strictly partisan political bantering that serves no useful good in these trying times when we are wrestling with lots of problems, including the fiscal mess that we in the Federal Government find ourselves in today.

I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate considers the conference report on H.R. 4210, the tax bill, it be considered under a time limitation of 40 minutes equally divided in the usual form and that, when all the time is used or yielded back, the Senate vote, without any intervening action or debate, on the conference report, provided that—of the time allotted to the Republican manager—5 minutes be under the control of Senator GRAMM, of Texas, and further provided that the time between now and the time when the Senate begins consideration of the conference report be equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, will the majority leader yield?

Mr. MITCHELL. I yield.

Mr. DOLE. I understand the conference report may be before the Senate about 3 p.m.; is that correct?

Mr. MITCHELL. Mr. President, it is my hope we will be able to get it before the Senate prior to then. That depends upon when House action occurs. It had been our hope that the House would be voting at a time early enough to permit us to begin consideration prior to 3 p.m.

Mr. DOLE. In any event, say it came before 2:45 p.m.; between now and 2:45 p.m., for anyone who wishes to speak, it would be a good opportunity for them, because a number of our colleagues on each side have pressing commitments later in the day, and that would permit some of them to make whatever arrangements they need to make.

So I urge my colleagues on this side—we would have at least 25 minutes, maybe, on this side between now and the time the conference report arrives for debate. So if anyone would like to discuss the conference report, this would be an excellent time to do that.

Mr. MITCHELL. And, Mr. President, I confirm and agree with what the distinguished Republican leader has just said. Let me just say that I am certain that we would be prepared, if necessary, to accommodate our Republican colleagues to provide even more time during this period if they had more speakers than they had time.

Mr. DOLE. I thank the majority leader.

Mr. MITCHELL. I thank my colleague.

Mr. President, accordingly, we will take up the matter as soon as it is received from the House. The time for that is as of yet not certain, and once we do take it up, it will be under a 40-

minute time limitation. And Senators who wish to address the subject are free to do so at this time and, indeed, are invited to do so. And I encourage all Senators who wish to address the subject to do so now.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GRAMM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBB). Without objection, it is so ordered.

THE TAX BILL

Mr. GRAMM. Mr. President, the House is now in the final moments of deliberation on a bill to raise taxes on the working men and women of America. I rise, knowing that our debate will begin here as soon as that bill comes over, to discuss the issue that will be before us at that time and to talk about basically what we are deciding here.

Mr. President, I would like to first make the point that the bill that has come out of conference is living proof that in America trying to buy votes by redistributing wealth will not work. We heard for 4 months our Democratic colleagues on the House side of this building say that they were going to raise taxes on rich people, give the money to the middle class, and in the process, buy enough votes to become the majority party and elect a Democrat President.

When they wrote their bill, they did deliver on part of the promise—they raised taxes on all millionaires that made $85,000 or more, hardly what my definition of a millionaire is, hardly the definition that most Americans have. But what they proposed in their original bill was to raise taxes on all Americans making $85,000 or more and then to use that money to give 83 cents a day to people who made less than $50,000 a year; but to give them that money only through the election, and once the election was over they would then take the money back.

The net result would be that taxes would be up by $94 billion, and that money would be available to spend on Government. The $50 billion the President proposed saving in defense would not be given back to middle-income taxpayers. The net result of the original House bill passed was that it would in essence fund $143 billion worth of new Government spending.

The point I would like to make about the original House proposal is that it was basically a phony conclusion to a debate centered on redistributing wealth. The basic argument in the House was that they were going to raise taxes and they were going to give the money to the middle class. But when they had to choose between the middle class and Government, they decided that rather than buying votes, they would just rent votes through the election and then take the tax cut back. The taxes, however would be permanently raised to fund more Government spending.

Within the next hour, we will vote on a conference report that proposes to raise marginal tax rates by 16 percent.

If you listen to the rhetoric of our Democratic colleagues, they say that the 16-percent increase in tax rates will be imposed on rich people. It will be imposed, they say, on the upper 1 percent of all income earners.

Well, we have discovered exactly who the upper 1 percent of all income earners are: small businesses and family farmers. Under the 1982 law that allows small business to be taxed as an individual under an S corporation, we now find that two-thirds of the people that are being taxed with this 16 percent increase in marginal rates are small businesses and family farms; that two-thirds of this tax increase will fall on small businesses and family farms, many of them that have chosen to be taxed as individuals as a result of the 1982 tax provision that allows small business to opt to be taxed as individuals. Because of the reduction in rates in 1986, literally hundreds of thousands of small businesses elected to file as individuals in order to minimize their tax burden, build up retained earnings, and expand their businesses and create jobs.

So the first point I would like to make is that two-thirds of all the tax burden that would be imposed by the bill will fall not on this proverbial rich person, but instead on small business and on family farms, many of which opt to be taxed as individuals.

Mr. President, raising the marginal tax rate for small businesses by 16 percent will destroy jobs in America. If this bill is adopted into law, we will see another 500,000 Americans lose their jobs over the next 5 years.

I do not believe that many of our colleagues who voted for this bill the first time around understood that two-thirds of the people who were being taxed were small businesses and family farms. I think they thought, in this proverbial language that has been rejected in Eastern Europe and the Soviet Union but has great currency here, that they were taxing the rich.

Mr. President, I believe that in this tax debate we have proven once and for all that redistributing wealth does not work in America.

Let me just give you the example. Under the bill that is before us, raising tax rates by 16 percent, putting a 10-percent surcharge on high income Americans, eliminating the ability to use itemized deductions, and phasing out personal exemptions—all those actions together that will raise the effective marginal tax rate on many small businesses and family farms by over 40 percent. This raises enough money to give every individual in a family of four 21 cents a day.

Now let me repeat that because I think it is very startling, and I hope it is a lesson that will be learned during this debate.

Raising marginal tax rates by 16 percent, putting a 10-percent surcharge on very high income individuals, eliminating the ability of high-income individuals to use itemized deductions, and eliminating their personal exemptions—actions that will send marginal tax rates above 40 percent for many Americans—will raise only enough money to give 21 cents a day to families of four.

Mr. President, one of the reasons this proposal has been laughed at all over the country is that it imposes a very heavy cost on small business, destroys hundreds of thousands of jobs, all in the name of redistributing wealth. And when all the wealth is redistributed, it ends up being 21 cents a day for every member of a family of four in America.

Mr. President, why is that so? Because this tax debate has proven once again that there are not enough rich people in America to make any difference in terms of tax policy.

With these massive increases in taxes on high-income Americans, all we have done is raise enough revenue to give to each person in a family of four, 21 cents a day. The truth is, if you are going to raise revenues in America you have to tax incomes where they exist and those incomes are primarily Americans making $60,000 to $115,000 a year.

So one reason why the politics of the class struggle and the pitting of the poor against the rich has never worked in America is that there are not enough rich people to make any difference. The real income and the real wealth in America is and has always been in the middle class.

Our colleagues have tried to take the President's economic growth proposal and to convert it into a political scheme to buy votes, and found that it basically does not work. Either you do not get enough money to buy anybody's vote, and 21 cents a day will not do the job, or you end up having to tax people making $50,000 to $60,000 a year. So you are taxing the very people that you are trying to buy votes from.

So when this debate is over, I hope my colleagues will conclude that the economics of the class struggle, the politics of class hatred, which died in Eastern Europe, in the Soviet Union, and is dying in Havana, Cuba, deserves to die once and for all, in this great deliberative body in the U.S. Congress and in the United States of America.

I believe the issue before us is basically an issue of jobs. By raising marginal tax rates and by imposing an increase in taxes that will fall two-thirds on small business and family farmers, this bill is fundamentally a job-destroying bill. It will put hundreds of thousands of Americans out of work. It richly deserves to be rejected, and I hope will be defeated in the U.S. Senate.

If we do not defeat it in the U.S. Senate I take great heart in the fact that the President will veto this bill and it will never become the law of the land.

President Bush sent us a simple proposal. It was a proposal that asked us to do seven simple things to promote economic growth and jump-start the economy.

Give first-time home buyers a $5,000 tax credit but this bill provides none.

Permit penalty-free IRA withdrawals for people who want to go out and buy or build a new home now.

Cut the capital gains tax rate in order to provide incentives for people to invest. I know some of our colleagues have jumped up and down and said cutting capital gains tax rates help rich people. Mr. President, all the rich people I know either have a good job or they do not want to work. Cutting the capital gains tax rate was aimed at trying to get people to put their money to work in America to create new jobs, new growth, new opportunity here for people who do want to work.

I think it is very revealing that when you look at the bill before us with its 10-percent surcharge, it raises the capital gains tax rate on perhaps 50 percent of all the capital gains earned in America. So, at a time when we should be cutting the capital gains tax rate to provide incentives for people to go to work, we have before us a scheme that raises marginal rates from 31 to 36 percent, and keeps the capital gains tax rate at 28 percent. But with a 10-percent surcharge add on, we in fact raise the effective capital gains tax rate on our highest-income citizens to 30.8 percent.

Mr. President, raising marginal tax rates by 16 percent and raising the tax on capital gains will do one thing. It will induce people to stop investing. It will put more people out of work. It will not create more jobs.

The President asked for an investment tax allowance to encourage people to invest now. The President asked us to allow pension funds to be used for real estate investments. The President asked for passive loss relief to allow people in the real estate industry that earn most of their income from real estate to offset losses against gains. Finally, the President asked for a simplification in the alternate minimum tax.

We have a clear choice here today. We are offered a bill today which will raise taxes on ordinary income and on capital gains; a bill that will raise the marginal tax rate from 31 percent to over 40 percent on many Americans; a bill that will put Americans out of work by the hundreds of thousands; and a bill that richly deserves to be defeated.

We have before us a political document that is based on class struggle and which tries to recreate here in America something that has been rejected in Eastern Europe, been rejected in the Soviet Union, is dying in Havana, Cuba, and which richly deserves to die in the United States of America. I hope we will deal it the death blow that it deserves in the Senate. If we do not, I rejoice in the fact that the President will kill it with a veto and we will sustain that veto.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, how much time is charged?

The PRESIDING OFFICER. Under the assumption that the communication from the House will take place at 3:15, the Senator would control 36 minutes and 53 seconds.

Mr. BENTSEN. Mr. President, it is interesting to hear this called a tax increase. What a gross misrepresentation that is. This is a balanced package. In our package, for every tax increase there is a tax cut. That is quite apart from the President's proposal that gives you at least a $24 billion increase in the deficit—an increase that busts the budget. I understand now what the President says when he says he made a mistake in the budget agreement of 1990. This proves he does not want to observe that budget limitation, to try to cut these deficits down.

Our bill, in comparison, over the 6-year span, reduces the deficit by $13.1 billion. Yes, there is a tax increase for some. There is a tax increase for less than 1 percent of the people. There is a tax cut for almost 90 million people: middle-income people; for people making $35,000 a year. And that is the median income in this country for families that have two children, an average family of four. There is a 25-percent cut in their income tax.

I have heard some trying to denigrate that cut. But it is meaningful for families that look at the supermarket ads, look for the coupons, trying to decide what day to go to buy and what store in which to buy their food. For them, that is a meaningful cut.

Consider families that have a sick child running a fever and are making the decision to go to a doctor or to a hospital, and finding that is not just a medical decision but that is a financial decision. For them, that is a meaningful cut.

Then there are the families that want to send their children to college, looking at the escalating costs, looking at the student aid programs before they look at the curriculum. For them, that is a meaningful cut.

The aim is to help median-income folks, middle-income folks that are having a tough time keeping things together. They are the ones that, in the last decade, have seen their taxes go up and their incomes go down.

That is particularly true of those with children. They are finding it more and more difficult. It costs more and more to rear those children. Often both parents have gone into the labor force to try to hold things together. They are the ones who have lost 40 percent in discretionary time over the last 15 years, and are having all the problems caused by that loss of time for parenting. That is who we intended to help with a tax cut.

We tried to make it a bipartisan package. We worked at it very hard. The President talked about seven initiatives he wanted for economic growth, to try to help move this country in the right direction. We put six of those incentives in this piece of legislation.

When you talk about accelerated depreciation, we included it. When you talk about IRA's, we put that in our package. In fact, we put in a more expansive IRA than the President is talking about. We provide a deduction up front, a $2,000 deduction. Those savings could eventually be utilized to buy a first home.

More and more young couples are having a tough time buying that first home. Here is a chance for that young couple, and their parents, to save for that home by saving through an IRA. When they sit down on April 15 and the question is whether they write a check to the IRS or to their IRA, there is going to be that incentive, that carrot there to encourage them to put their money into the IRA.

When we cut back on the IRA in 1986, we saw a 30-percent reduction in the savings rate when we saw the Canadians increase their allowance for IRA's, their savings rate doubled. Where their savings rate had been comparable to ours, theirs is now twice as much as ours and is staying at that level.

There are many beneficial things in this legislation to try to help turn this economy around, to create the capital that we need, to build more productive plants, to be more internationally competitive. At the same time the goal is to reduce our enormous deficit, to try to bring interest rates down so that the cost of servicing our debt will be lowered and the cost of housing will be reduced.

Those are the major pluses of our package. Parents looking at the cost of sending their kids to college could save in an IRA and withdraw the funds penalty-free in order to help send their children to college. The IRA we proposed also would allow people to cope with the problem of unexpected major medical illness by taking savings without a penalty to meet their emergency.

And then, of course, an IRA would allow working Americans to plan for retirement.

I listen to an amazing claim about our legislation. I have heard that it would raise taxes on about 80 percent of small businesses. Now, we are talking about a tax increase for families making $140,000, and that is after all tax deductions. The income of these families must be significantly above this, at least $150,000. Eighty percent of small businesses, those with a handful of employees, are sure not making anything like that in the way of a net income.

I wondered how they came up with this claim that tax increases would hit 80 percent of small business people. After a little checking around, I found out how they arrived at their numbers. I am told that what Treasury did in this regard was take 1985 figures showing the number of investors in a partnership, a limited partnership, or a subchapter S corporation. Recall, in 1985 we were at the peak of investments in tax shelters. Many of those investors in partnerships or subchapter S corporations were bankers, lawyers, doctors, dentists, and others, making a good income and looking for a tax shelter. Well, all of a sudden these became small business people. That is how they arrived at such an incredible number and the claim from left field that our legislation would affect 80 percent of the people.

That kind of math resembles what the Treasury did in proposing to count future anticipated pension savings way out to the year 2000 as $19 billion in savings to be used to spend today. It was the same kind of creative accounting that has come up with the baseless small business numbers.

I cannot help but think of how President Reagan raised the tax on capital gains from 20 to 28 percent, at the same time that he was proposing a tax of 35 percent on people earning more than $70,000. No one talked about class warfare as he did that. It was something he thought would balance out other necessary tax changes.

In this bill, we are not talking about 35 percent making over $70,000. We are talking about 36 percent, 1 percentage point more, but only on single individuals earning more than $115,000, and on couples earning more than $140,000. Yet this is said to be class warfare.

No, it is not class warfare. We are talking about a sharing of responsibility. What we have seen happen in this country, insofar as our tax rates have simply gone too far. It is hard to talk about a progressive tax rate system when you have a situation where someone making $1 million a year is taxed at a rate that is a mere 3 percentage points higher than that applied to someone making $35,000 a year, or substantially less than one-twentieth the income.

When we are talking about someone in this country paying income taxes of 36 percent of net income over $115,000 for a single individual or $140,000 for a family, we are talking about a rate substantially below that charged by some of our principal economic competitors around the world. This is fine even when the 10-percent surtax on those making over $1 million a year is taken into account. If you take a look at Japan, if you take a look at Germany, if you take a look at the United Kingdom, you are talking about a top tax rate far higher than what we are proposing today. We are talking about tax rates of 50 percent or more on income in those countries.

Now, Mr. President, I heard a comment about freeing up pension funds for investment in real estate. I first talked to the Secretary of the Treasury about this concept early last year. I am delighted that the President has put that provision in his proposals. We have it in our legislation to try to see that there is an additional market for real estate, to try to help the values of real estate in this country today that are in serious trouble.

Mr. President, this is a piece of legislation that will help restore fairness to the tax system. I look at the difference between the capital gains provisions proposed by the President and those proposed in this piece of legislation. The capital gains proposal of the President would give two-thirds of tax savings to people making over $200,000 a year. The capital gains provisions in this piece of legislation would give two-thirds of the savings to people making under $100,000 a year.

No, Mr. President, we are talking about sharing the responsibilities and the cost of Government. At the same time there is an attempt to recognize that group of people who have taken the biggest hit over the last decade and to try to assist them in making ends meet during this very tough period of time.

Mr. President, I reserve the remainder of my time. How much time do I have left, Mr. President?

The PRESIDING OFFICER. The Senator retains 25 minutes, 25 seconds. Who yields time?

Mr. PACKWOOD. Mr. President, as I understand it, we are working backward on time on the assumption the bill arrives here at 3:15.

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. I yield myself 7 minutes.

Mr. President, we have been up and down this hill several times now as to the merits and demerits of this bill, and when I say this bill, I mean the bill as it passed the Senate, as it passed the House or now the conference report before us because they are basically a Tweedledum-Tweedledee bill no matter which one it is we look at.

When we started down this road 2 months ago, when the President gave his State of the Union Message, the President proposed a modest push to the economy in seven relatively modest points that he suggested. Frankly, it was a very modest push at best. It was not the start that I hoped we would make toward turning this ship around away from consumption and toward savings. That will take tax changes infinitely greater than the President recommended and certainly greater than the House passed or the Senate passed or this bill before us.

Let us be very serious. We have a $6-trillion economy, or approaching it. This bill is not going to jump-start this economy between now and November. The economy seems at last to have turned around and if the last 2 months indicators are any good, it is rebounding of its own accord. The last thing we need to do is to give it more stimulus now. We should be shifting toward savings, and against the current trend toward consumption.

For the last 25 years, we have favored consumption and not savings, and now we are reaping the whirlwind that we caused with those tax laws. I am not here to criticize who was responsible for those tax laws. In some cases we had Republican Presidents; in some cases President Carter; in some cases the Democrats controlled both Houses of Congress; and in some cases Republicans controlled the Senate.

But during these 25 years, I think it would be fair to say that both parties have been guilty of easy living; both parties have been guilty of easy debt; both parties have been guilty of not encouraging sufficient savings and instead pushing toward spending, spending, spending.

I had hoped we could have a bipartisan turnaround in that direction now. It is clear that we cannot. This bill is a partisan bill. It is of the Democrats, by the Democrats, for the Democrats. Everyone knows the President will veto it, and that will be the end of this bill.

I would hope, Mr. President, that if we cannot get a better bill than this, we pass no tax bill this Congress and we wait until the Presidential elections and the congressional elections are over in November, and we start next year on changing the tax laws in such a way that we encourage savings and investment that produces good family wage jobs.

When we do that, I hope we do not promise the people we are going to turn the country around in that direction in 6 months, 1 year, or 2 years. If it took us a quarter of a century—a quarter of a century—to get into the jam we are in, we are not going to get out of it in 6 months or 1 year.

But I am willing to bet that the country would rally to the President or to the congressional leader who says it may take us 2, 4, 6 years to even start to turn this ship around. If we act soon, by the turn of the century we would have a country with a savings rate that has enough money inside its own borders to invest in the machines that produce family wage jobs and keep us competitive with the world.

One small thing that was in the Senate bill that would have encouraged a little bit of savings—because homes are the biggest single saving most Americans have—was a tax credit for newly built homes purchased by first-time home buyers. The House bill had nothing on this. The President, of course, had asked for a $5,000 credit for first-time home buyers who bought a new or existing home. About 80 percent of the people who buy homes for the first time do not buy a new home; they buy a used home. The Senate bill eliminated 80 percent of the benefit that would come from that savings by saying that the credit applied only to new homes purchased by first-time home buyers.

Now, I see the conference report has nothing, just like the House bill. But at least the Senate bill had something. The one little thing that would have indeed encouraged savings is gone.

As for the rest of the bill, the conference adopted the worst of both bills. The House bill middle-income credit was taken for the first 2 years and the Senate child credit was adopted for later years. The worst of both bills was adopted.

So, if this bill were to become law—fortunately it will not, because it will be vetoed—it would not stimulate the economy or increase savings. What we would get is a further incentive for spending, which is the last thing we need. It is the last thing we need when we are running $400 billion deficits now. And you hate to say $400 billion plus or minus $50 billion. But that is as close as we can come to our guess.

So, I am delighted to speak against this bill, vote against this bill, and support the President's veto when the time comes.

Mr. CHAFEE addressed the Chair.

Mr. GORTON addressed the Chair.

Mr. CHAFEE. Mr. President, I wonder if the——

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Is the Senator asking me a question?

Mr. CHAFEE. Yes.

Mr. PACKWOOD. Yes; I will yield for a question.

Mr. CHAFEE. Mr. President, I would like to ask the distinguished ranking member of the Finance Committee a question. Do I understand this measure that has been brought back to us has greater taxes than either of the measures that were passed in the House or the Senate?

In other words, as I understand it, in the Senate bill, it provided for $51 billion of tax rate increases. I think all have said beware, beware when they start down that slippery slope of raising taxes. And the Senate bill was only going to touch those—the Senator can correct me, but I believe it was at $150,000 of income for singles and $175,000 of income for families, and the total taxes raised was $51 billion.

Now, lo and behold, out of the conference, where both the House bill and the Senate bill started with $51 billion of tax rate increases, what do we have now? Surprise, surprise. It is not $51 billion. If I am correct, it is $60 billion. So just overnight, it goes up $9 billion in new taxes.

My question to my distinguished leader on the Finance Committee is: Does the conference report still start the tax at $175,000 per family, or per chance has it come down the way we all said it would?

Mr. PACKWOOD. Mr. President, my good friend from Rhode Island is correct in both respects. The new tax rate has come down to $140,000 for families and it raises a total of $60 billion instead of $51 billion.

I am reminiscent of President Reagan's statement about "there they go again." We are starting down this road. It is exactly what President Bush said President Reagan said. There are two ways to look, I guess, at the economy. One is to tax and spend, tax and spend, tax and spend. That is what this bill does. I hope the President is absolutely firm in his statement that we are not going to have any new taxes and this bill is going to be vetoed. My good friend from Rhode Island has it exactly right.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PACKWOOD. I yield myself 1 additional minute.

Mr. President, in conclusion, let me say this. We could not have come up with a worse bill if this had been designed by a committee of camels, because we are all familiar with the old joke about a camel is a horse created by a committee.

We need to put this bill aside and do one of two things. Either have no major tax bill this year, if what we are going to get is another bill like this. Or sit down, and negotiate a bipartisan bill that the President can sign. I have not talked to the President about it, but I will wager the President will say: If you are serious about a real bill that will encourage savings, investment capital formation, and job creation, count me in. We can negotiate with the White House. We can negotiate in quiet, and we will reach a bipartisan agreement.

I hope that will be our attitude when this bill is vetoed and the veto is sustained.

Mr. BUMPERS addressed the Chair.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. I yield 5 minutes to the distinguished Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for up to 5 minutes.

Mr. BUMPERS. Mr. President, I must say, sometimes when I hear these debates I cannot believe what I am hearing: class warfare; redistribution of wealth. The biggest redistribution of wealth in the history of this country occurred in 1981, the first year Ronald Reagan was President. And since that time, Mr. President, the total personal income increase in this country has been $870 billion, and 77 percent of that $870 billion went to the wealthiest 1 percent of the people of this Nation. Virtually everybody below that has seen a decrease in personal income.

The Senator from Rhode Island asked the Senator from Oregon the question: Does not this bill have 9 or 10 billion dollars more in taxes than it did when it left the Senate? The answer is "Yes." When it left the Senate, the $50-billion tax increase was all placed on the top three-fourths of 1 percent of the wealthiest people in America. And when it came back, it included the top 1 percent. That is where this tax comes from: The wealthiest 1 percent of the people in this Nation.

Look at the President's budget that he submitted and talked about during his State of the Union Address. There are taxes galore in it. My phone is ringing off the wall with the calls on the inside buildup of annuities tax. It just depends on who is getting taxed, I guess.

So here we have a bill that takes into consideration tax fairness. Mr. President, you believe in family values. Families in America are struggling to keep body and soul together. A couple hundred dollars may not be much to the President or even to me, but it may pay for one child's school lunch; it may pay tuition at a community college for a child. Family values. And we say let us have a little tax fairness and let us improve family values at the same time. We are giving the President six out of the seven things he has asked for to help the real estate people. I do not object to a single one of these things. I am for those proposals to help jump-start this economy and put people back to work. He says he is concerned about the deficit, but his proposal carries a $24-billion deficit increase. This bill carries less than $1 billion increase over the 5-year period. Who is concerned about the deficit around here?

We have a bill that helps the economy, helps families, and reintroduces just a small element of tax fairness. We say, Mr. President, do you not believe in family values? He says, "I would like to sign the bill, but Pat Buchanan will not let me because it is a tax increase on the American people." He never says that it is a tax increase on the wealthiest three-fourths of 1 percent of the American people. He just calls it a tax increase.

If I had my way, Mr. President, I would call on the leadership and the chairman and ranking member of the Finance Committee to come back next week with the very same bill and say, "OK, Mr. President, let's not do the middle-income tax cut."

I must confess I struggle with that idea because the deficit is the thing I am most obsessed with. If you do not want 90 million middle-income people to have a little tax cut, then let us pass the same bill and put it all toward the deficit. You know what he will say. "Pat Buchanan won't let me sign that one either."

So, Mr. President, I just call on the President. Politically, he is in big trouble. Politically, Congress is in big trouble. Nobody gains anything out of this. If the President would say to leaders of Congress, both Democrats and Republicans, "Come, let us reason together, we are in a heap of trouble," I promise you we could meet on some middle ground that would satisfy his concerns and our concerns and would, above all start getting the deficit down. He could do it. And the American people would applaud.

Mr. President, I do not know whether that is going to happen or not, but nobody has anything to lose by introducing a little sanity and a little reason to the problems of this country, which grow more acute by the day.

Mr. CHAFEE. Will the Senator yield for a question, Mr. President?

Mr. BUMPERS. I do not have any time.

Mr. CHAFEE. Mr. President, may I have 1 minute? I wonder if the Senator would—2 minutes.

The Senator asked for a little sanity in this measure. I would be curious whether he thinks this is sanity. He comes from a State where Wal-Mart, the great national chain, is based. The president of Wal-Mart has under him 380,000 employees. He is running an establishment that has 1,750 stores. He is running a business that last year had gross assets of $50 billion on which they made $1.5 billion. This measure says that 40 percent of the baseball players in the United States can be paid more than he can be paid, and have it deductible. Does that make any sense to the Senator?

Mr. BUMPERS. It does not. I do not like that provision in the bill, Mr. President.

Mr. CHAFEE. What are we doing around here?

Mr. BUMPERS. I am not going to vote against the bill on that provision.

Mr. CHAFEE. The Senator said "some sanity." That is a minor provision in the bill that is just so flawed. But I just wondered what could possess authors of a piece of legislation to come up with a feature that says 40 percent of the baseball players can be paid over $1 million that is deductible, but you cannot pay $1 million to the head of a tremendous establishment that is providing so much to the consumers of the United States.

Mr. BUMPERS. I agree. We ought not be tampering with that. The Senator and I both know that is a big problem. But, it is not going to become law in this bill or any other.

Mr. CHAFEE. I do not know. It is in the conference report before us.

Mr. BUMPERS. The conference report is about 1,500 pages long. That provision takes about two lines in it. If you want to pick out one thing you can object to, then there are plenty of things in it that I can object to. The capital gains provision in that bill is mine. They took out the best part of it.

The PRESIDING OFFICER. Who yields time?

The Senator from Washington [Mr. GORTON].

Mr. GORTON. I yield myself 7 minutes from our time.

The PRESIDING OFFICER. The Senator is recognized.

Mr. GORTON. Mr. President, my distinguished colleague from Oregon pointed out in his question to the Senator from Rhode Island a few moments ago that this bill increases taxes on those elements of our population who are subject to those increases by more than either the original House or Senate bill.

We have just had a debate on some of the ways in which those taxes are increased, and the distinguished Senator from Arkansas pointed out that this bill has now grown from some 1,400 pages in length, which it was when it was before us last week, to perhaps 1,500 pages in length. That simply illustrates the fact that this bill is a shift in taxation from one group to another, neither a reduction nor a great increase overall.

But, Mr. President, that 1,500 pages proves something else; that the penalties imposed on those on whom taxes are going to be increased are greater than the rewards for those on whom taxes will be decreased because so much of the difference will be spent on accountants and lawyers with that increasing complexity in the Tax Code.

When the President asked that we act by March 20, his goal was to create jobs, to provide incentives, to see to it that this Nation got out of its recession. That goal, except for lipservice, has now been abandoned. The goal here is class warfare and soaking the rich.

Nevertheless, as the junior Senator from Texas pointed out quite recently, 80 percent or more of these tax increases will come out of the pockets of the owners of small businesses, most of which are either individual proprietorships, partnerships, or S corporations.

I have taken the opportunity, Mr. President, in the course of the last 24 hours, to contact 8 such businesses in my own State employing a total of about 400 people to ask them, first, whether or nor they consider themselves to be the idle rich who ought to be taxed more; and second, what impact this bill would actually have on them. I would like to give you a few examples.

One of them is a beverage distributing company employing 52 people. This bill has already cost that employer several thousands of dollars in lost work and added accounting and legal fees to figure out what is in it and what it will do to him. The bottom line of the advice from his accountants and lawyers is that he will need to ask his present 52 employees to pay more of their benefits packages or to have less in the way of employee benefits. He will not replace the next employees who leave his employ, and probably will not hire another person he would like to hire. He expresses frustration that businesses like his were being treated by the Congress as cash cows which could take an unlimited amount of new burdens for the political purposes of this bill.

A second is a manufacturer of folding cartons, an employer of 33. He says that this bill will forestall any expansion decisions which he has, and will impact not only his employment level but his purchases of equipment. There will be no employee benefits this year if this bill passes.

A third, a wholesaler of heating and air-conditioning products, who employs 20 to 25 people—negative impact on his employees and their competition.

A fourth, a producer of wood products: Great restrictions on capital investment, probably an absence of expansion.

A fifth, an unincorporated business involved in long-term custodial care services for the elderly, a business on the edge of whether or not it is more profitable simply to go out of business, to take the capital of that business and invest it in banks at interest, thus unemploying 60 people.

This is what this bill will do in the real world. This is not a talk about the rich and those who consider themselves to be rich.

This is a tax aimed at the very people, the very small businesses we need to bring this country out of a recession. It will restrict their purchases of capital equipment. It will restrict their hiring decisions. Some it may actually persuade, as the last load on the camel's back, to go out to business entirely.

This bill is not so much about taxes, as it is about employment. The proposal which the President made to add to employment opportunities now, as it comes before us, ought to be reentitled "The Unemployment Act of 1992."

Fortunately, it will not be the Unemployment Act of 1992, but only the unemployment bill of 1992, because it will be successfully vetoed, as it ought to be.

The PRESIDING OFFICER. Who yields time?

Mr. BENTSEN. Mr. President, I yield 10 minutes to the Senator from Connecticut.

Mr. DODD. Mr. President, I rise today to voice my strong support for the proposals included in the conference report on the economic recovery package. Chairmen BENTSEN and ROSTENKOWSKI deserve much credit for the speed with which they have moved this initiative. They have worked so diligently and hard to meet the deadline set by the President in his State of the Union Address on January 28, when he called for action on a tax bill by March 20.

Today, we need to begin by lamenting the fact that despite all of the speeches that will be given, despite the photo opportunity that the President will have, which has already been scheduled when he will announce his veto of this measure, we will have little to show for our efforts.

Mr. President, at the beginning of this year, I was optimistic that we could work together—the Congress and the President, Democrats and Republicans—to enact a comprehensive economic recovery package. I regret that we have failed at this effort. The lines were drawn between the White House and the Congress, and what followed was division between Democrats and Republicans.

The American people deserve better than that.

I do not know about my colleagues, but when I go home to Connecticut, people do not care about who wins politically. They talk about who is hurt by the economy. They talk about jobs. They talk about the high cost of health care, education and housing. They most want to know if we understand their pain and suffering. And, they want to know whether we are doing our part to help the economy.

They are looking to Washington for leadership and answers, not politics. However, when we can't get a tax bill signed into law, we only have politics to offer.

Mr. President, when we fundamentally agree on most of the issues, as is the case, we should be able to work out our differences.

The measure before us satisfies two important objectives—objectives originally agreed on by the administration and the Congress—tax relief for middle-income families and tax incentives for economic growth, long-term investments and job creation. It also passes a critical test. It does not add to the deficit.

To stimulate economic growth, this measure includes initiatives that have long received strong bipartisan support. It includes the restoration of passive loss rules and full IRA deductibility; penalty-free withdrawals from IRA accounts for housing and education; a cut in the capital gains tax; a new investment tax credit; and an extension of the 12 tax provisions due to expire in June that include the R&D and the low-income housing tax credits.

Would I have written this bill differently? Of course. Would every single Member have done something different in this legislation? Absolutely. But on the fundamental principles of trying to increase job opportunities in this country and expand economic opportunity, this legislation responds at least to 90 percent of what the President has called for.

Mr. President, after months of work on this package, which reflects priorities of both the President and the Congress, the President has withdrawn his support. He withdrew his support before making any effort to join us at the table to work out a compromise. And, as you well know, only one obstacle stands in the way of this bill becoming law, the way we pay for it. We in Congress decided that this effort should not add to the deficit.

When the President realized he could not afford to give middle-income families a tax break without paying for it, he made a decision, to leave families behind.

After promising tax relief for families in his State of the Union Address, the President stripped the provision from the package he sent to the Congress. And he paid for the rest of his bill with budget gimmicks that would add over $27 billion to our deficit.

Many of us not only feel strongly that middle-income families deserve a meaningful tax break, we are equally concerned about the growth in our deficit. So, as you well know, we made the decision to shift some of the tax burden away from the middle class onto the wealthy.

It has been said here on numerous occasions this afternoon that this debate is about class warfare. I do not believe that to be the case at all. What we are merely doing is what we have done historically for 200 years in this country. We have asked those who are the most affluent in our society to pay a bit more in taxes to afford the very things the President has called upon us to do.

Which is the better choice? Do we ask those in the top 1 or 1½ percent of income earners in America to help support these ideas, or do we just write it off and hope that the next generation at some point in the future will pick up the cost of the $27 billion?

To avoid adding to the deficit, we pay for a tax break by adding a fourth tax bracket for the most affluent Americans, the group that has enjoyed the largest growth in income and the largest tax break over the last decade. The wealthiest 1 percent of Americans, with an average income of $549,000, watched their after tax income increase by 110 percent. Simultaneously, their total share in Federal taxes dropped by 15 percent over the same period.

Even with the small adjustment in the tax rate for these income earners, they still will enjoy after tax income growth well in excess of the average middle-income family.

It simply does not make sense that this provision will prevent this comprehensive economic recovery package from being signed into law.

Mr. President, I am not here today to add to the angry words being exchanged up and down Pennsylvania Avenue. It is obvious that has gotten us nowhere, but I must admit I am disappointed with this process.

The administration and Congress have not been able to rise above, they have not been able to put the concerns and needs of our country before election year politics.

And I believe Americans have every right to be angry. This process is not working. We are at a standoff, when our Nation most needs action.

Although I regret that the tax credit for first-time home buyers and the health provisions were eliminated, and I have some concerns about the executive compensation language, basically and fundamentally this legislation is a sound piece of work.

The photo opportunity that the President will engage in as he vetoes the legislation is of little or no interest to the American pubic. They are deeply distressed that the executive branch and legislative branch are incapable of sitting down to work out a bill that would make a difference for our economy.

What I object to is how our system of Government has been distorted by this process. The Congress was never intended to be a rubberstamp for the President's agenda. We are a deliberative body. It is our job to build consensus, to find compromise and to enact laws. However, we cannot do this effectively if our President prefers veto threats over negotiations.

Rather than join in our debate, the President accuses us of not acting on his proposals.

Mr. President, I cannot think of one major legislative effort—which is law today—that did not require members of the administration to engage in compromise and debate with this body. A few examples come to mind—the child care bill, the Minimum Wage Act, the budget agreement of 1990 and the Clean Air Act. The administration actively engaged in lengthy and contentious negotiations on all of these measures.

In their hearts, the Members of this body understand that this outcome has occurred because of partisan politics. Frankly, it is little wonder that the American public is fed up.

They will not be fooled by the photographs on the nightly news. Never once did the President suggest even sitting down and trying to work out this legislation with the Congress. This has been a setup from the very beginning. Although the Congress and the President may lose politically, the people who really lose are the unemployed, families and businesses and others who have begged us to do something to help the real estate industry and to provide tax breaks and incentives to encourage economic expansion and growth.

So, Mr. President, I deeply regret that we have come to this point. I think the American public is justified in its anger for the inability of the White House and the Congress to reach some agreement that would make a difference in terms of the basic, fundamental, most serious question: Jobs in this country and economic opportunity.

If the President is serious about economic recovery, he should not veto this measure. He should send his staff here today to sit down and work out our differences.

It is not too late.

However, if we do not hear from the President, we need to pass this conference report with enough votes to override a potential veto. I urge my colleagues to join me in pushing for real action on this measure. We owe it to the American people to get this bill signed into law.

Mr. SIMPSON. Mr. President, I rise in opposition to the conference report to House Resolution 4210, the Democratic tax bill.

Mr. President, last week's debate on this issue was in many ways instructive, and in some ways, encouraging. Many of us on this side of the aisle expressed our regret that the tax increases contained in the committee bill made this tax debate a fruitless exercise—nothing more than a prelude to a veto. My colleague from New Mexico, Senator DOMENICI, pointed out that these taxes on individuals would actually land another hit on American businesses that are trying to produce and to create jobs because an overwhelming percentage, 90 percent, we were told last week, of those businesses file their taxes as individuals.

I listened carefully to the debate last week and as the eternal optimist, I discerned some reasons for hope that we could pass productive, progrowth tax legislation this year. Many economists would have us simply do nothing. The economy is on its way back anyway, and empty gestures which simply keep the tax laws in flux should, we are told, be avoided.

In spite of those warnings, I have been of the belief that there is a substantial area of common bipartisan ground that ought to make it possible to do something good for the economy in tax legislation this year. I heard my friend Senator HOLLINGS come out here and speak about the subjects on which we agree, expanding IRA's, making the President's defense cuts, and others and he asked the Senate to use our points of agreement, not our points of contention, as a starting position.

My fine friend from Wisconsin, Senator BOB KASTEN, came down here with an amendment that would have effected exactly what most Americans have told us they want us to do. It would have frozen spending, given some of the savings back in tax relief, and applied the rest to the deficit. No tax increases—simple spending restraint. Part of it to benefit taxpayers now and part of it to benefit the future holders of our national debt burdens. That amendment failed on a point of order.

The distinguished chairman of the finance committee, the respected senior Senator from Texas [Mr. BENTSEN], described his bill as an attempt to find common ground. I take him at his word. Certainly, despite the certainty of a veto, it was in some ways such a bill. You could find pieces of the President's seven points in there. Alternative minimum tax relief. Passive loss reform. The tax credit for first-time home buyers. Smaller versions of the capital gains tax cut and the investment tax credit.

The committee bill did indeed reflect some common ground. Unfortunately it also contained more than enough points of contention—$57 billion in tax increases—to make it veto bait. What then can we say about this conference report? In every way it cuts back on those attempts to find common ground, and increases the amount of partisan confrontation.

Fifty-seven billion dollars in tax increases has been hiked up to $70 billion. The $31 billion in opinion poll-driven tax rebates has now been increased to $42.4 billion.

Clearly there were other conferees who were less interested than Senator BENTSEN in meeting the President halfway. It is almost as though someone got worried that something might happen that would cause the President to support the Senate language. That would not have happened, anyway. But in any case this conference report goes above and beyond the call of duty in its attempts to guarantee a veto.

The most curious element of this conference report before us is the disappearance of the $5,000-tax credit for first-time home buyers. By my thinking, that was a provision that many on either side of the aisle supported.

That provision cost $1.5 billion over 5 years in the committee bill. Less costly than the passive loss provisions, or the investment tax allowance, those provisions survived, but this less costly, progrowth, pro-home-ownership provision, a $5,000-tax credit for first-time home buyers, disappeared.

This has never been a controversial measure. We have argued down here about capital gains taxes, and the line-item veto, and the firewall—and we will continue to. But this tax credit is popular on both sides of the aisle.

I know our Finance Committee chairman supports that tax credit, and that he supports helping people attain home ownership. That can be said of the President, too—and of just about everyone here.

And yet we are about to vote on a conference report that omits that provision—yet contains controversial tax increases, controversial provisions related to health care for coal miners, and other pieces of veto bait.

This conference report represents a step backward in our attempts to find common ground. We know why that step backwards was taken—the closeness of the votes last week in either House proved the strength of the veto threat, and this conference report essentially gives up on trying to pass this tax legislation into law.

Thus I urge my colleagues to oppose this conference report and to speed our progress toward enacting tax legislation this year. I hope that we can get this process restarted soon. There are things that we can agree on: expanded IRA's, alternative minimum tax relief. The Finance Committee chairman has taken a strong leadership position on these and other issues.

The upcoming veto of this legislation will make clear the boundaries within which we are going to have to operate if we are going to get these measures passed into law. I trust that we will be back revisiting the issue soon, and I look forward to working with my colleagues on both sides of the aisle in that effort.

Mr. PELL. Mr. President, I support and will vote for the compromise economic growth tax bill presented to the Senate today. I regret very much that President Bush intends to veto this bill, and hope he will reconsider that decision.

After denying for 18 months that the national economic recession required any action, the President abruptly changed course in January and demanded that the Congress pass an economic growth tax bill within less than 2 months. Today, the Congress has met that challenge and has produced a tax bill that I believe will both encourage economic growth and will help our middle-income citizens.

The bill before the Senate does provide significant incentives for investment to produce jobs, including progressive capital gains tax reduction, and a temporary investment tax allowance.

In addition, the bill would move toward an equal fairer sharing of tax burdens, with a modest tax cut for middle-income families and an increase in taxes on the very wealthiest. Another important element of fairness in the bill is the provision permitting deduction of interest paid on student loans.

I am particularly glad that the bill would repeal the luxury excise tax on boats and jewelry, since that tax has contributed to economic disaster in Rhode Island's boat-building industry, and has in addition hurt our important jewelry manufacturing industry without imposing any real tax on those who ordinarily would purchase boats and jewelry.

This bill is not perfect. I would like to see a broader and more effective reduction in the tax on capital gains, for example, and I particularly regret that the bill does not include a tax credit for first-time home buyers, as proposed by the President and as included in the tax bill originally passed by the Senate.

It is nevertheless a good bill that includes much of what both the President and the Congress wish to accomplish. Accordingly, I hope the President will now meet the Congress halfway and sign this bill into law so the American people can have the benefit of greater economic growth and greater tax fairness without further delay.

Mr. BREAUX. Mr. President, the Senate version of the tax bill contained a provision designed to increase the investment in noncollege-bound youth. Only one-seventh of all education funds spent on posthigh school education and training is spent on noncollege-bound youth. This is the wrong policy. Many other developed countries, such as Germany, Sweden, and Japan place great emphasis on training noncollege-bound youth.

I believe it is time that the United States adopt the same attitude: All students are important to the success of this country whether they are college-bound or not. I also believe we need to put our money where our mouth is and increase investment in these students. The youth-step provision contained in the Senate bill meets these goals.

This provision, the youth skills training and education program [youth-step], is found in title II of H.R. 4210 as reported by the Finance committee and adopted by the Senate. This provision encourages businesses to do what they are not now doing—establish meaningful partnerships with schools to provide on-the-job-training of high school students for skills that require technical classroom instruction and supervised job training instruction.

My understanding is that this provision was not adopted by the conferees due primarily to the lack of time needed to resolve any differences and for jurisdictional concerns raised by House committees. Is that correct?

Mr. BENTSEN. The Senator from Louisiana is correct. As he knows, the Congress has been working to provide the President with an economic growth and tax fairness bill by March 20. With respect to the youth step provision, the conferees of the House Ways and Means Committee were concerned that other House committees had raised questions of jurisdiction, which could lead to delay of the conference. Therefore, with the March 20 deadline approaching, it was decided by the conferees not to adopt the provision at this time.

Mr. BREAUX. I thank the chairman and appreciate his support for this provision. Should there be another tax bill considered in the Senate this year, I hope there will be an opportunity to once again include this provision.

Mr. SANFORD. Mr. President, I come to the floor today to express my support for the Democrats' compromise tax bill.

I regret that President Bush has indicated his intent to veto legislation which he has not even adequately reviewed. The President continues to display a complete disregard for the very important legislative process of negotiation. The art of governing necessarily involves the art of compromise.

In his State of the Union Message, the President told us and the American people that he wanted a comprehensive tax package. He outlined it that night and delivered the details to Congress the next day. But when criticism of its various parts hit Capitol Hill within hours, he withdrew it and submitted a new proposal containing seven tax cuts and eliminated his own the fairness proposals to help the lower and middle classes.

Where the President really let the American people down, however, is in failing to provide a real way to pay for his tax cuts. Because our rules require that tax cuts be paid for either through tax increases elsewhere or spending reductions, we had to come up with something. So he changed some accounting rules and announced that he had paid for his tax bill.

The American people are smarter than that. They know that accounting gimmicks don't put cash in the bank. In fact, during the Senate Finance Committee's consideration of the tax bill, the President's own deputy admitted that the accounting changes would not produce any revenues to pay for his tax cuts. When asked where the actual money would come from, the President's deputy told the Finance Committee it would have to be borrowed. And when asked when the loans would be repaid he responded that they would never be repaid. Now, that is clever, but it is not honest. The truth is that the President's plan adds $27 billion to our deficit. It adds to the debt that our children and our grandchildren will be called upon to repay. While I support many of the provisions in the President's plan, I strenuously object to placing the burden of paying for those provisions on future generations. I bet if we passed his tax cuts, he would then blame Congress for increasing the deficit since he seems to want to blame Congress for all of his problems.

Frankly, I do not know if accounting gimmicks fit within a loophole in the budget law as a way to pay for tax cuts, but they certainly don't fit within the spirit of the law.

The Democrats took a more responsible approach. Certainly, this bill is not perfect, but it is the product of compromise. We figured out a way to give President Bush his tax cuts and how to pay for them. If President Bush wants to go to the American people and say that a tax increase on the wealthiest 1 percent of taxpayers, the same group which received two massive tax cuts during the 1980's and which will benefit most from his tax cuts included in this bill, is unfair and should be vetoed, that is his decision.

The Democratic compromise does a lot of other good things. It provides some middle class tax relief as well as incentives for companies to create jobs. It promotes long-term economic growth by improving educational opportunities, providing better access to affordable health care, and protecting the environment. It extends a number of successful tax credit programs for research and experimentation, targeted job creation, and development and mortgage bonds. It repeals the job-losing luxury tax. It provides some relief to the battered real estate industry. Most importantly, it is fair. Which is exactly what we should seek in tax laws. I only wish the President saw it that way, because that is the way the American people see it.

Mr. President, as I have said before, tax legislation alone does not constitute an economic recovery program. But it is a start. We should pass this bill and get on with our work on a comprehensive economic recovery program.

UBIT IMPACT ON OLYMPIC GAMES

Mr. NUNN. Mr. President, I would like to engage you in a short colloquy regarding the unrelated business income tax [UBIT] issue. I am particularly interested about the Federal income tax treatment of the royalty income derived by the United States Olympic Committee [USOC] and the Atlanta Committee for the Olympic Games, Inc. [ACOG], in connection with the Olympic games. Is it the Senator's understanding that royalty income received in the 1984 Los Angeles Olympic games was not taxed under the UBIT provisions?

Mr. BENTSEN. Yes, that is my understanding.

Mr. NUNN. I would expect that the royalty income derived from the licensing of Olympic trademarks, emblems, and designations in future Olympic games, such as the 1996 games, would also be exempt. Is that the Senator's expectation and that of the Finance Committee?

Mr. BENTSEN. Yes, it is my expectation that the royalty income derived from the licensing of Olympic trademarks, emblems, and designations is exempt from UBIT.

Mr. NUNN. Is it also the Senator's understanding that income from broadcasting, filming, and videotaping the Olympics will be exempt from UBIT because those activities are related to the exempt purposes of the USOC and the ACOG?

Mr. BENTSEN. Yes, it is my understanding that, under current law, broadcasting, filming, and videotaping the Olympics are related activities of the USOC and the ACOG, so that any income derived from those activities would be exempt from UBIT.

Mr. NUNN. I thank the chairman for engaging me in this colloquy.

Mr. HARKIN. Mr. President, I rise to express my support for the conference report on the tax bill. Mr. President, I do this reluctantly because contrary to its title, "Middle-Income Tax Relief and Economic Growth Incentives," this is not really a growth package. But it is a far better alternative to the tax bill proposed by President Bush.

The fact is the bill before us will only marginally at best help the economy. But it won't hurt it. The same cannot be said for the President's package, which is nothing more than a rehash of supply-side trickle-down economic policies.

The President's package offers another nightmare for Main Street. I said it before and I'll say it now, George Bush's economic recovery program can be summed up in three words: Cut capital gains. That's his answer to everything. Nine million unemployed? Cut capital gains. Depressed economy? Cut capital gains. Trade deficit? Cut capital gains. Got a toothache? Cut capital gains.

In the early eighties, there was a 30-percent savings on the profits from capital gains because of the exclusion. That tax benefit didn't stimulate growth. In fact, after capital gains were increased in 1986, investments in venture capital actually increased in the following year. Now Bush and the Republicans think that cutting capital gains is the solution to our economic problems. It is not. A cut like what the President is proposing will deepen our fiscal crisis, add to an already skyrocketing deficit, and increase the injustice in the Tax Code.

This is more of the same supply-side trickle-down economic policies that have made the United States the world's largest debtor nation. That's added $1 trillion to trade deficit, and more than tripled our national debt. With these policies, the rich have gotten richer, the poor poorer, while the middle class got left paying the bills both ways.

This conference report takes a step toward injecting fairness in our tax and economic policies, and making the wealthy start paying their fair share.

In the last 15 years, the top 1 percent of taxpayers saw their effective tax rate go down 18 percent, while 80 percent of the taxpayers—the vast majority of Americans—saw their taxes go up. Since 1980, the real after tax income of the top 1 percent of families rose by $243,000. The typical middle-income family income fell by $747 over the same period.

Mr. President, if this measure were signed into law, a typical American family would see a real reduction in their taxes. And a vast majority of the revenue raised by this bill—about 95 percent of it—comes from those with incomes over $150,000 a year.

There are many specific provisions with which I disagree, but overall it's a much better alternative than the President's proposal. For that reason, I will vote for it.

But, Mr. President, I want to conclude by saying if we're looking for a growth package, this measure isn't it. To look for an economic stimulus in a tax cut, let me quote from John Kenneth Galbraith: "This is foolish, even mildly insane."

The only way to put our economy on the path to long-term growth—not just a short-term recovery—is by increasing investments, not consumption. Our economy, after it's been bankrupted by 11 years of supply-side economics, needs radical change, not tinkering around the edges.

First, we need to totally discard supply-side economics.

Second, we need to change our spending priorities—stop spending $160 billion to defend Europe from a nonexistent Soviet Union, and bring that money home to rebuild our economy here.

Third, increase investments in our human resources—our children, our workers, and our families—and in our physical infrastructure, our roads, bridges, sewer systems, our decaying schools, and in new environmental, energy and transportation technologies.

We need to start investing in early intervention programs like WIC and Head Start to prepare our children for school, to improve our schools and expand our job training programs to make our workers more productive, and repair our roads and develop new energy systems to reduce business costs and make our industries more competitive.

The Germans and Japanese have been increasing their investment in domestic programs. And their productivity rates have risen as a result. It's time that we learn from them.

There are the issues on which we should focus. This is where the Senate needs to devote more of its attention and the Government must direct more of our Nation's resources.

Mr. KENNEDY. Mr. President, this legislation sends an important message to the American people. It tells them that Congress stands for tax fairness for the middle-class and working Americans, education and training for our work force, and responsible incentives for investment, job creation, and long-term growth.

Most importantly, the bill accomplishes these goals without adding a penny to the Federal deficit. It is paid for by a tax increase on the wealthiest 1 percent of American families, and a surtax on the income of millionaires. For that reason alone, the President threatens to veto the bill.

The battle lines are clearly drawn. On one side, Democrats in Congress provide tax relief for over 80 million middle-class and working taxpayers, incentives for new investment and research by businesses, and important assistance for education, job training, low-income housing, and a host of other vital goals.

On the other side stand President Bush and our Republican colleagues in Congress, defending to the death the right of the wealthiest Americans to avoid their fair share of taxes. This is the ultimate absurdity of trickle-down economics—that a President would veto this legislation, with all its important other provisions, to protect the wealthy few.

The President says that we should avoid class warfare. But this bill is not class warfare. It is the first step toward correcting all of the class warfare that the vast majority of Americans suffered in the 1980's. From 1977 to 1989, the top 1 percent of Americans received 77 percent of the income growth. Forty percent of American taxpayers actually lost income during those years. This legislation helps to redress that injustice. It is simple tax justice for all Americans.

We have met the President's deadline. We have produced a bill that is effective, carefully targeted to economic needs, and above all is fair.

But if and when the President does veto this bill, the American people should ask themselves who has their best interests at heart. Congress, with this bill that provides middle-class tax relief and economic growth incentives, paid for in a fair and rational way? Or the President, who is willing to nullify this entire measure in order to protect the upper 1 percent of taxpayers and millionaires from paying their fair share of taxes?

The choice is clear. The real vote to override the President's unfortunate veto will take place in November, and the American people will be the voters that reverse the administration's misguided and unfair economic policies.

Ms. MIKULSKI. Mr. President, I want to address a provision in the conference report that deals with protecting retired coal miners who are orphaned because their companies can no longer pay their health benefits. Under a provision similar to Senator ROCKEFELLER'S S. 1931, this conference report provides that many coal companies will pay into a fund to protect these orphaned miners.

I strongly believe that these retired miners need to be protected from losing their benefits. They worked for most of their lives in coal mines, and they have earned the right to have their health protected. We shouldn't let their benefits be cut off, and I commend Senator ROCKEFELLER for working so hard to protect them.

However, I also believe that working miners have to be protected also. Unfortunately, this compromise eases the burden of some companies, and puts an unfair burden on others. Under the current agreement, the Bituminous Coal Operators Association member companies have their costs of protecting miners' benefits eased, while other companies face steep new costs.

Maryland has no companies that signed the pact between the United Mine Workers and the BCOA to take care of retired coal miners. But, under this conference report, Maryland's mining companies would face much higher costs. These costs, possibly up to $1 an hour for every coal miner employed, would make it harder for them to compete, both internationally and with companies here in the United States.

I know that Senator ROCKEFELLER shares some of my concerns about the costs of this deal to nonsignatory companies. He has assured me that this compromise is not final and that it will be reworked in the future to help ease the costs on nonsignatory companies in Maryland and elsewhere.

I will support the conference report in part due to Senator ROCKEFELLER's assurance that, after President Bush's promised veto, he will work with me and other Senators to protect miners working for nonsignatory companies in Maryland and in other States. Again, I congratulate Senator ROCKEFELLER for his efforts to help these orphaned miners, and I look forward to working with him on improving his plan.

Mr. BUMPERS. Mr. President, I am sorry to see that the conference report has not solved a problem in the bill that went to conference.

The House bill did not include the investments of or the investments in Small Business Investment Corporations [SBIC's] and Minority Small Business Investment Corporations [MSBIC's] under the venture capital provision. In the venture capital bill that I introduced, S. 1932, these investments are covered. To ensure that they are covered S. 1932 contains an explicit provision to that effect, a provision that was deleted in the House bill. The Senate bill was similarly deficient. And the conference bill fails to include this crucial provision.

The investments in and the investments of both SBIC's and MSBIC's should be covered. These firms perform precisely the venture capital function that the venture capital provision is designed to promote.

SBIC's and MSBIC's take the same risk that venture capitalists take. They work with the management of struggling small firms that venture capitalists do.

There is no reason to exclude SBIC's and MSBIC's from this provision.

I can assure you that I will raise this issue with the tax committees during the coming months to ensure that SBIC's and MSBIC's are covered by the next tax bill.

CHILDREN'S PROVISION IN THE TAX PACKAGE

Mr. ROCKEFELLER. Mr. President, as Chairman of the National Commission on Children, I want to call attention to some of the fundamental principles established by the conference report on H.R. 4210.

This package has a compromise proposal for middle-income tax relief. For 1992 and 1993, it provides a 20-percent credit on FICA taxes up to $150 for individuals earning up to $50,000, and $300 for married couples earning up to $70,000. The credit would be refundable for workers with children.

Starting in 1994, the package would establish the Senate-sponsored provision of a $300 child tax credit for each child under the age of 16. Unfortunately, this tax credit was not made refundable.

The National Commission on Children boldly recommended a $1,000 refundable tax credit for children as the cornerstone for its comprehensive income security package for families.

Last month, I introduced the Family Income Security Act, legislation that truly reflects the comprehensive approach suggested in the unanimous report of the Children's Commission. In addition to a substantial refundable tax credit for children, my bill calls for general simplification and an increase in the earned income tax credit to provide support and encouragement for families struggling to raise children in low-wage jobs. It calls for an innovative child support insurance demonstration project that would dramatically strengthen the incentives for absent parents to pay the child support they owe, and in cases where an absent parent fails to provide support, a minimum Government benefit would be provided so that a single parent isn't forced to shoulder the burdens of two. The final component is a demonstration project to provide community employment opportunities to AFDC parents in order to promote the transition from welfare dependency to work.

The conference report also takes a step forward on the issue of simplification of the earned income tax credit, but it does so with a reduction in benefits of $84 million over 5 years. Simplification must be done, but we should increase benefits, not reduce them.

While the conference report does not fulfill the bold vision of the Children Commission's recommendations, it does establish, in limited form, support for a refundable tax credit for working families in the interim. This compromise recognizes the need for a permanent child tax credit to symbolize our support for children and families.

I am very disappointed that the child tax credit to be established in 1994 is not refundable. It should be. Parents struggling to raise children at low-wage jobs undoubtedly deserve support through a refundable child tax credit. Over 8 million families would be excluded or shortchanged by a nonrefundable credit and I don't believe that is fair or smart public policy.

If we want to encourage families to work and to strive, we must offer them support at all levels.

Still, I prefer to be optimistic. This conference report includes fundamental principles outlined in the National Commission on Children. It offers a starting point, and we must build upon these principles until we achieve our long-term goals of a refundable tax credit for children, and basic income security for our families.

The National Commission on Children was created by the distinguished chairman of the Senate Finance Committee, Senator LLOYD BENTSEN. In creating the commission and throughout his work on the Finance Committee, Senator BENTSEN has proven time and time again his deep concern and compassion for needs of children. His leadership over the years has been instrumental in securing real achievements for children.

Working together, we must continue to press for public policies and programs that will strengthen families and help children who represent our country's future.

Mr. D'AMATO. Mr. President, I rise today to oppose this tax bill because it certainly does not live up to tax fairness. You don't have to dig very deep to find more flaws than you can shake a stick at. This is not an economic growth bill or a tax fairness bill, it is simply a bad bill. It's heavy on tax and light on fairness. The conference report is even worse than the original Senate bill. It raises taxes by over $66 billion and increases spending by over $70 billion. This bill is a deficit enhancer and is not what the American people want, need or deserve.

Mr. President, at one time or another all of us have voiced concern about the state of our economy, how we need to provide low- and middle-income working Americans with the relief they deserve, and to get this country back on track by providing meaningful incentives that will truly stimulate our declining economy.

I fully support the good things in this bill, like IRA expansion, including penalty free withdrawals, repeal of the luxury tax, capital gains tax reductions, and other items that clearly benefit low- and middle-income Americans. However, the bad things in this bill, specifically increased taxes and spending, totally overshadow the good and will ultimately bring this bill down.

Dropped from the bill, but just as important, are my workfare and welfare-shopping provisions that passed on the Senate floor. My first provision would have required able-bodied adults, without children, who do not work, to participate in State workfare programs. By requiring workfare for these people the taxpayers get justice. The free ride of welfare should end.

My second provision would have saved taxpayers $30 million each year by prohibiting, for 1 year, welfare recipients from receiving higher benefits after moving to another State. Welfare shopping must end and workfare must begin. Americans are sick and tired of wasteful spending. Rest assured that I will continue to push these issues, and I will bring them up again.

Mr. President, I am especially surprised and shocked to learn that, in my opinion, one of the most proeconomic growth provisions previously in this package has been compromised and removed. I have been a strong advocate of the $5,000 first-time home buyer credit and its removal from the tax bill stands as a testimonial to why I contend that this bill is light on fairness. It is a known fact that this credit would have led to the creation of over 600,000 jobs and billions of dollars in increased revenues. Revenues that would have more than paid for this proeconomic growth provision, without raising additional taxes.

Mr. President, I could go on and on about the inequities of this bill, but I believe I have made my point. I challenge my colleagues to stop the rhetoric and partisan bickering and begin to work together to develop a tax package that the American people want, need and deserve.

TAX FAIRNESS AND ECONOMIC GROWTH ACT—CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 4210 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of today, March 20, 1992.)

Mr. MITCHELL. Mr. President, I yield 4 minutes to the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized for 4 minutes.

Mr. AKAKA. Mr. President, I rise in support of the conference report for H.R. 4210, the Family Fairness and Economic Growth Act of 1992. At the outset, I extend my heartfelt thanks and admiration to Senator BENTSEN, the chairman of our Finance Committee, for his Herculean effort and leadership in getting this tax fairness and economic growth legislation to the Senate. In under 2 months, the Senator from Texas has succeeded in achieving what has eluded the President for over 3 years. Namely, to advance a balanced, coherent, and equitable plan to stimulate the economy and provide relief to America's families.

This administration has paid scant attention to the urgent domestic needs brought about by the longest recession since the Depression of 1933. The litany of economic woes, negative economic indicators, and absence of consumer confidence have all been well-documented. Yet, President Bush and his advisers have spent the interval between the State of the Union and today planning "deadline day" politics, instead of addressing the problems confronting hardworking, yet, hardpressed working Americans.

Over the past decade, middle-income families have experienced higher Federal income taxes while their personal income declined. In contrast, the richest 1 percent have enjoyed a tax cut of nearly 20 percent, while their after-tax income nearly doubled.

Americans are fed up with tax policies that have allowed the richest 1 percent to enjoy 75 percent of our Nation's income growth. They are tired of reading about million dollar CEO bonuses when they are struggling to buy a home and send their children to college. America, we hear you. Once and for all, let us put an end to voodoo economics and bring back middle-class fairness. That is what this bill would do.

Mr. President, in the past decade, the productivity of American workers has steadily risen. Yet, the rewards resulting from this gain were not enjoyed by those who earned it. Instead, they enriched a very few wealthy individuals. Well, the decade-long party is long since over, the bill is overdue. We must wake up, face the truth and act to promote economic growth and opportunity for all Americans.

The tax cuts in this bill will provide genuine, substantive benefits for working Americans. This middle-class relief is paid for in a fair and fiscally responsible manner, and avoids using budget gimmicks or accounting tricks. The investment incentives contained in the bill spur new job creation, promote small business expansion, and stimulate economic growth. They are targeted to accelerate economic recovery and promote long-term growth and competitiveness.

The restoration of full eligibility for all Americans to take advantage of a deductible $2,000 individual retirement account [IRA] will help American families handle difficult financial decisions and plan for the domestic needs which not only impact their lives today, but have important ramifications for future generations.

As an advocate of expanding the affordable housing pool, I am pleased by the inclusion of a permanent extension of the low-income housing tax credit and one year extension of the mortgage revenue bonds program to promote the creation of more affordable housing. This is but one of a number of incentives and credits in the bill which will help families realize the dream of owning their own home.

Mr. President, the plight of middle-class families demands action to spur growth, create jobs, and restore fairness to our Tax Code. It is not enough to belatedly acknowledge that people are hurting across the country, and merely tell them how much we care. We must act, and act now, if we are to restore prosperity, security, and competitiveness to our economy for this and future generations of Americans.

Hard work and compromise have yielded a fair, reasonable economic recovery, growth, and tax fairness package. This bill sends a clear signal to the American people: We hear you. We hear your concerns about the security of your job and the well-being of your children. We hear you wondering about how you can pay your bills, meet your mortgage, and save enough to put your children through college. I know this bill does not solve all of our Nation's economic problems. But for the first time, in a long time, we have a tax bill that addresses the issues of fairness and growth in a progressive, positive way.

I will vote for the conference report, and I urge my colleagues to do the same.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. I yield 5 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 5 minutes.

Mr. DOMENICI. Mr. President, today has arrived. It is zero day and we have a zero jobs package, no first-time home buyer tax credit, not there; capital gains reduction, completely different than the President's; penalty-free IRA withdrawals different from the President; investment tax allowance—he had 15; they had 10; that makes it about a nullity. Unless it is 15 it is little good for hard-working capital that wants to be invested in growth.

It seems to me that a zero day arrived and we have a zero package. The American people should expect zero because that is what they are going to get.

Mr. President, I thought the time has really come when we were going to change policies in this country and do something to create jobs. Nothing has changed. The American people should know that.

Those who lead the Democratic Party in the Congress are so used to taxing and spending that even when they are asked to produce a jobs bill they tax and they spend. There are $78 billion of new taxes in this bill. I submit that no one who is looking at this from America's standpoint instead of from a political standpoint, no one looking at it from the standpoint of jobs for America instead of jobs for politicians, no one will say that what we have before us is a jobs package.

It taxes Americans $78 million worth. And you know who it taxes, Mr. President, and I say to fellow Senators, it taxes the very people in small businesses across this land, in fact about 85 to 90 percent of this tax will fall on small business Americans who are waiting around to invest their money in growth packages, in the production of jobs. They are waiting around for the 15 percent allowance for business investment so they can buy new equipment so their businesses can grow.

The Senator from New Mexico has cited cases of small business people who say instead of growing when this package is finished they will have to retrench. Instead of a growth package with more jobs moving ahead full speed, it will go backward. In fact, it will turn into low gear and slow gear.

There is no doubt that the hardest-working capital in America is not going to go to put people to work. The hardest-working capital that small business has is going to go to the coffers of the U.S. Treasury.

And since I started with a tax and spend notion, let me complete that. The taxes that are being imposed here are going to be spent. Senators can get up and say it is going to other Americans who might need it or deserve some kind of a tax break, but the truth of the matter is the deficit is not going to be reduced one penny by a $78 billion tax increase. And, Mr. President, there are very few who look at the United States of America and do not ask us when, when, oh, America will you reduce the deficit? Here we have a chance and instead of that, tax and spend.

It seems to me that the President is right in vetoing this bill as quickly as it arrives in the White House. He got nothing that he wanted. Senators from the other side can say 90 percent; 90 percent of what? Capital gains—when it left the Senate they said they gave the President capital gains. When they went out and looked at it, it was so complicated, I say to my friend from Mississippi, even then they change it out in conference but what they changed it to is still not the President's.

Capital gains is not going to work under the way they have done it. And the most popular provision around to build houses, the $5,000 exemption for first-time home buyers is not even in the bill. It was in here partially before and now it is out, all so that a rewrite of some Tax Code can take place in a year when we are looking for changes that will produce and create jobs for Americans.

You would think that at this stage to prove that they were serious about the bill they would take out some of the special interest provisions. They are all in there. We are taxing coal mines to pay for coal miners and coal miners that cannot get their pensions paid for and probably another 30 provisions like it.

I yield the floor.

The PRESIDING OFFICER (Mr. AKAKA). Who yields time?

Mr. GORTON. Mr. President, I yield 2 minutes to the Senator from California.

The PRESIDING OFFICER. Two minutes is yielded to the Senator from California.

The Senator from California is recognized.

Mr. SEYMOUR. Thank you very much, Mr. President, and my thanks to my colleague from Washington.

Mr. President, what we have before us is not a proposal that will create jobs. Let's call it what it is. It is a tax bill. In fact it is a tax shift and a tax shaft. The shift goes to those few narrow groups of taxpayers who would receive a candy bar a day. The shaft goes to those small business people, men and women, many of them young, struggling entrepreneurs who are going to see their small profits taxed even more. Instead of pouring their earnings back into the business to create new jobs, to expand their inventory and improve their business, they are going to pay more taxes.

Where are the jobs in this bill, Mr. President? This is supposed to be a jobs bill. In fact, the conferees pulled out the greatest job creating portion of the package, the $5,000 tax credit for first-time home buyers. When we debated the Senate Finance Committee bill last week, I argued that the home buyer tax credit in that bill was half the loaf because it limited the credit to new houses only where we should be applying the credit to cover all housing. When the bill went to conference, the Democrats eliminated the provision entirely. So much for the jobs program.

I was in business for 17 years. It did not take a Ph.D. in economics to understand that when housing construction goes down you are headed into a recession; when it picks up, you are going out of a recession.

Mr. President, the jobs are gone. What do we have left? We have a bill that panders to some very narrow segments of taxpayers and offers very little hope for jobs.

A $5,000 tax credit for first-time home buyers is aimed smackdab at a very large segment of our population—the middle class. It is a genuine program to help people achieve the American dream. According to the Census Bureau, the average household income for first-time home buyers is $34,842. That's not a lot of money for a family of any size. And what's the average purchase price of the homes they are buying? It is $68,000. This is not a program for the rich.

By triggering purchases of first-time home buyers, we can boost the move-up market, where the average household income is just over $42,000, and spur new construction. Let's be clear, Mr. President, by boosting the ability of first-time home buyers, we are jump-starting an entire industry. One that creates jobs, boosts economic activity along "main street USA," and helps promote the cherished American dream of home ownership.

We need to offer this credit, Mr. President, to all first-time home buyers to stimulate business throughout the economy. Each time a home changes hands, the dollars spent on the home purchase multiply throughout the economy and create jobs. To be more specific, Mr. President, every $1 spent on new housing in California generates $2.56 in economic activity. The same dollar in the resale market will generate $2.12.

So, in the first place, you have a dollar of new construction turning over in the economy and generating $2.56. If you spread the program to existing homes as well, you pick up another $2.12 in economic activity for every dollar spent. Moreover, every $1 million spent in the new home market creates 29.6 jobs, and the same dollar in the resale market will create an additional 22 jobs.

So it seems very clear to me that the Democratic proposal, by eliminating the potential benefits of the credit, really misses the mark.

I hope this is going to be swift and quick, with the President's veto, and I hope then that my colleagues on the opposite side of the aisle will sit down and talk about a bill for jobs.

I agree wholeheartedly with the Senator from Connecticut [Mr. DODD]. The people who are hurt most by this bill are the unemployed, those are the ones who are the real losers in this debate.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SEYMOUR. Thank you, Mr. President.

I yield my time.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. I yield 2 minutes to the Senator from Colorado.

The PRESIDING OFFICER. The Senator from Colorado is recognized for 2 minutes.

Mr. BROWN. Thank you, Mr. President.

Mr. President, I do not think this calls for a long talk but some distinct points. The longest period of growth in recent history for the United States has been the period in the eighties after we restored some incentives to the Tax Code for people to work.

What brought that longest recovery to an end? It is very clear. The huge tax increase passed by this Congress brought to an end one of the longest recoveries in American history.

That tax increase began to destroy the incentives that helped make this country prosper. During the period where we had more jobs than all of Europe and Japan combined, a tax increase passed by this Congress brought that recovery period to an end.

Now we have suffered through a recession brought on by this Congress and its foolish action in taxing the American people, and the answer that is brought to us is another tax increase.

Mr. President, make no mistake about it, this bill is a tax increase prescription for the American economy.

The so-called tax cuts in this bill are temporary, or at least many of them are, but the tax increases are permanent.

This bill is a major tax increase. Even though the net tax increase that show on the forecast is only small, in the long-term it is an enormous tax increase, because we have assigned a permanent status to huge tax increases that are here.

Mr. President, the choice is very simple. Is the answer to this Nation's economic problems further burdens on the American men and women or is it a revision of the code to provide incentives for America to become more productive?

I believe we ought to get on with the job of making America more productive and more creative and we ought to write off this effort to increase taxes to the trash heap that it deserves.

I believe the chairman of the Senate Finance Committee made a sincere effort to improve the tax bill that had come from the House. I look forward to a time when we will work together as parties to achieve a better conclusion.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. RIEGLE. Will the Senator from Texas yield me some time?

Mr. BENTSEN. I yield 2 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. I thank the Senator from Texas.

I think this is a very important measure that we have before us and I hope the Senate will pass it today.

One of the key features is that it provides middle-class tax relief, and the middle class of this country needs and deserves tax relief.

The reason the administration is against a middle-class tax cut is that most of the people in the administration have never been in the middle class. They do not understand it. They do not understand the problems facing people, most families with two people working, finding it very difficult to get ahead. The tax relief provided in here will help those families pay critical bills, whether it is tuition bills at college, whether it is to pay a house payment, a car payment, medical bills, what-have-you.

The high-income people of this country are asked to give back a little bit of the huge tax cuts they got in the 1980's. That is where all the tax cuts of the eighties went. They went right up to the very top of the income scale. And we are saying to that group: We think it is time for you to give a little bit of it back so that it can go to the middle class—who really got nothing during the 1980's and who deserve it—and, under the notion of fairness and the requirements of meeting the basic needs of families across the country, that the middle class get some help for a change. But, no, the people at the high-income levels—many in the administration—they want to keep all of those huge tax breaks that they got during the 1980's.

Well, that is not right. And we fix that in this legislation.

We also have in here incentives to create jobs. The President asked for seven different measures in that area. Six of those are in this legislation. And we restore a fully deductible IRA account, an individual retirement account, to create an incentive for people to save for their own retirement. That money goes into long-term savings available for investment and job creation here in America. This is a sound bill. This bill will create jobs in America and restore fairness to our Tax Code. It is time we enact it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BENTSEN. I yield 1 minute to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 minute.

Mr. MOYNIHAN. Mr. President, may I point out that this measure that we are about to vote on is the first response the Congress will have made to the outrageous misuse of the Social Security trust fund as general revenues—which has been going on for a decade now. Every American man or woman who works and pays Social Security, which is 130 million people, will receive a tax benefit under this measure.

Thank you, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. GORTON. I yield 3 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. During the floor debate concerning this bill, I expressed my frustration—and even my sorrow—that Congress was proving itself unwilling to do what really must be done to prepare America for a bright and prosperous future. I do not know how many times I expressed my belief that the American people are most concerned about jobs and economic growth—that these should have been our fundamental objectives—as we pushed for economic reform.

The issue that we should be about is simple. It is an issue of growth and jobs—growth and jobs and preparing America for a promising 21st century. The issue is not redistribution of wealth; it is about creating wealth—wealth and opportunity for working men and women; it is about helping families find security, and children a bright future.

Frankly, I am an optimist. I certainly don't like the tax increase in this bill. Because of that tax increase, I will not vote for it. History has proven that tax increases kill rather than build our economy. If there was a political agenda with the bill to foment class warfare in an election year, well I do not like that either. But frankly, there are some features that I do like—features that I believe are even promising as we now look for real reform.

Like a patient struggling for life, this package has some strong vital signs—the Bentsen-Roth IRA package for one, an Investment Tax Incentive for another, and the semblance of a capital gains proposal. And you will never, ever hear me complain about tax cuts. Unfortunately, however, the cancerous tax increase this bill contains makes it terminal. And just like cancer, the tax increase must be cut out. Look at what Congress' 1990 tax increase did to the economy. Then ask yourself if America can afford another.

Mr. President, perhaps of the three strong points in this bill, the one I believe we must move forward with to prepare America for a bright and prosperous future is the IRA proposal. How many times do we need to hear that of all the G-7 nations, America is ranking last in its rate of personal saving? How often do we have to hear that if we are to build a secure future for our childern, we must begin now by investing in research, development, education, machinery, and technology? How often do we have to hear that a secure American future depends on a secure and self-reliant American people?

How long do we have to hear these things before we finally act, before we vote the people a bill that the people want, a bill that will immediately begin to increase our Nation's rate of savings as well as our competitive ability?

We need the IRA. The majority of us are in agreement. It is good for America. It is right. The Bentsen-Roth IRA has overwhelming, bipartisan support in both Houses. Now let us pass it. And in the process, let us pass these other initiatives that both sides can agree on—these other initiatives that both sides believe are needed to build our economy. But, Mr. President, let us do it without a dangerous tax increase.

The question of how to pay for the three economic recovery items I have mentioned—the Bentsen-Roth IRA, an investment tax incentive, and a capital gains tax cut—is simple. It is one I believe the American people will wholeheartedly support: We do it by responsibly reducing the post-cold-war military and by bringing Government spending under control. These are two fundamental responsibilities we should be attending to in the first place.

Personally, I think it is embarrassing that in this time of tightening belts and real concern in our families, in our communities—I think during this time of restraint and even fear about the economic future it is embarrassing that the Federal Government is thriving, getting fatter and fatter, making a mockery out of its legitimate responsibilities.

Now, I know the cynical are going to say that this is a tall order—bringing Govenment under control and responsibily reducing the military without filtering the savings into other political pork barrel programs. I know it is a tall order to reorganize Government, make it more efficient, even competitive. I have been working on doing this for 18 years, sometimes with success and sometimes without. I will admit it; what I am talking about is a tall order. But filling it is what we are here to do.

In my opinion, this is what we should be about. And the moment is now to do it. We cannot build a bright future on economic failures of the past; we cannot tax America into prosperity and competitiveness. But we can pass legislation that encourages a thriving environment for growth, self-reliance, and opportunity. This is what I am going to be about. And I urge all of my colleagues to join me.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. GORTON. Mr. President, I yield 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mr. GRAMM. Mr. President, on January 1, 1982, the Reagan tax cuts went into effect. Under those tax cuts, 20 million Americans went to work in new, permanent, tax-paying jobs with a future. Sixteen million of those jobs were created by small businesses.

One of the things we did to allow small businesses to create jobs is that we started taxing small businesses as individuals. This provided them tax incentives, allowed them to build up retained earnings, allowed them to create jobs that America needed.

We have before us a bill that raises taxes by $75.8 billion and claims to be taxing rich people. And yet when you look at the impact of this tax increase, two-thirds of this tax increase falls on small business people and on farmers.

Mr. President, what we are doing is raising tax rates by 16 percent and imposing a direct tax on job creation. The net result of adopting this bill, if it became law, would be to put at least a half million Americans who are working today out of work.

Now, what is this all about? The President sent us seven simple tax proposals, all aimed at jump-starting the economy. And what has the Congress produced? The Congress has produced a scheme to try to redistribute wealth by raising tax rates by 16 percent, by imposing a 10-percent surcharge, by denying people the ability to use their personal exemptions and itemized deductions, the net result being that for some small businesses and for some farmers their marginal tax rate will rise from 31 percent to over 40 percent.

The net result will be the destruction of jobs. And what do our Democratic colleagues offer in return to the people who lose their jobs? They offer a tax cut for a family of four of 21 cents a day per person. Mr. President, that is a bad bargain.

What we are trying to do here is reverse 72 years of world history. For 72 years, the class struggle prevailed as the prominent political issue in Eastern Europe and the Soviet Union. It still dominates today in the debate in Havana, Cuba. What we are trying to do in this bill is kindle a class political warfare in America by raising marginal tax rates with the claim that we are helping the middle class. But what the middle class gets is a 21-cents-a-day tax cut.

Mr. President, I urge my colleagues to reject the politics of the class struggle. We need to be creating jobs, not redistributing wealth. We need to reject this bill.

The bad news is the Democrats control both Houses of Congress. They are trying to redistribute wealth rather than create jobs. The good news is the President has the power to veto their bill. And we have the votes to sustain that veto.

I urge my colleagues to vote against this bill.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I yield myself 3 minutes.

Mr. President, it is interesting the way they refer to the $78 billion tax increase and never comment on the fact that we have 78 billion dollars' worth of tax cuts in this legislation. And what we have done has no resemblance to class warfare. It is no more class warfare in this context than what happened in the 1986 bill when President Reagan aimed for a balanced package of tax changes. President Reagan raised not just $78 billion worth of taxes, but wholeheartedly endorsed $540 billion in tax increases. However, in fairness to him, on the other side of it he put $540 billion in tax cuts. This was not billed as class warfare by anyone, and there was no social revolution.

As to top tax rates, we saw a situation where President Reagan talked about a 35-percent tax rate on anyone making over $70,000. We are talking about a 36 percent tax rate on a family making over $140,000.

No, we are talking about a sharing of the responsibilities of government in times that are very difficult. We are talking about deciding on a reasonable way to proceed in the face of the evidence that those making the most income have seen their net after-tax incomes go up as others have lost ground.

Capital gains? Yes, there is a difference in the capital gains proposals. Under our bill, two-thirds of the tax savings go to people making under $100,000. Under the President's bill, two-thirds go to people making over $200,000. I would call that a difference.

They talk about 80 percent of the people hit are small business? Well, you should know how they got to those numbers. It is incredible. They took the 1985 tax returns. They identified the number of taxpayers with a loss from farming, a subchapter S corporation, or a limited partnership. Whether that person was a banker, a doctor, or a lawyer, or other high income individual, he or she became a small business owner.

That is not representative. That is really stretching the numbers, particularly considering the rampant tax shelters at that time. It is the same type of accounting that we saw when they were talking about trying to take savings from the Pension Benefit Guarantee Corporation that were happening in the year 2000, and bring them back to count as $19 billion savings that could be spent today. That kind of creative accounting just will not cut it, my friend.

In addition to that, the President's top priority package presented to us for action would increase the deficit by $24 billion. In contrast, our legislation would reduce that deficit by $13 billion over 6 years. We are talking about sound tax legislation.

I reserve the remainder of my time.

Mr. DOLE. How much time is remaining on this side?

The PRESIDING OFFICER. The Republican leader is recognized. He has 3 minutes remaining.

Mr. DOLE. Mr. President, we have been listening very carefully and reviewing what we can of the Democratic tax increase package. I just listened to my friend from Texas.

Today is D-day for Congress. Today, the American people will find out if Congress can meet a simple deadline. Today our calendar comes up zero. And from the looks of it, Congress is coming up with a big goose egg, too.

Fifty three days ago, President Bush issued a reasonable challenge to Congress: Pass an economic growth package that does not bust the budget and does not raise taxes. That challenge sounds easy enough, although judging by all the trouble some Members have been having balancing their checkbooks, maybe it was too much to ask after all.

The truth is, for the past 53 days, when Congress could have been working with the President to get the job done, Democrats were working against him every step of the way.

For the past 53 days, instead of Surprising the American people with responsible action, Democrats have demonstrated once again that their only answer to every economic challenge is a tax increase. Now they may call it fairness, or a middle-class tax cut, but when working and earning America sees the Democrats' tax bill they'll call it something else—a disaster.

$78 BILLION TAX HIKE

So it's time for some truth in advertising: Democrats can talk all they want about helping the middle class, but most Americans know better when they see a $78 billion tax hike coming their way.

Democrats can talk all they want about socking it to the rich, but most Americans won't be fooled when they find out the Democrats have now killed one of the best features of President Bush's 7-point package—the $5,000 tax credit for first-time home buyers. How is that fairness? Apparently, some Democrats believe that buying a new home should not be part of the American dream anymore, at least if you are in the middle class. Of course, the rich do not need incentives to buy a new house, but the middle class could sure use a $5,000-tax break. But no, if you are in the middle class, the Democrats want you to stay put—do not move out, or move up.

I think, I would just like to underscore, again, very briefly, that we are talking about business men and women. When they find out that 80 percent of the Democrat's tax hike is about to break their backs, that about 80 percent of the revenue comes right out of the pockets of small business men and women, they are not going to like this bill too well.

There are a lot of small business men and women in the United States of America, in every State. They are the people out there trying to create jobs; trying to get the economy to grow. Now we are asked to take tax money from them and give it to somebody else, instead of creating jobs and opportunities for the middle class and everybody else in America.

These people out in the real world creating jobs, keeping the doors open, and keeping people off the unemployment lines. The Democrats say they are going after Wall Street, but what they're really doing is helping close down Main Street.

This bill is not about the middle class; it is about the ruling class. This is about the Democrats, who control the Congress. As my colleague from Texas said earlier, we are going to have a very short tax cut, but it is going to be a permanent tax increase. The tax cut is going to expire shortly after the election, but the tax increase is going to go on forever. This is the second tax increase in the past 2 years. It seems to me the American people are not demanding tax increases.

So I would say, Mr. President, when this bill started in the House, they were going to help 90 million Americans. Now it is down to 78 million Americans. Somewhere, we lost 12 million. I guess that must have been the middle class that dropped out.

Every time we look at a different package, and a different way they changed it, we find out this is nothing but a tax increase bill. They raise $9 billion more in the conference than they had in the Senate bill. So I suggest it is class warfare. It is a big, big tax, self protection agenda. If I read the voters correctly in Illinois and Michigan—and watch the exit polls, where by a margin of more than 2 to 1—the voters in Michigan and Illinois said: "If it is a choice between a tax cut and stimulating the economy, we want to stimulate the economy." That was this week. That was Tuesday; 3 days ago.

So here we are, raising taxes—raising taxes. I think there are a lot of messages in those two States about incumbency. I did not get any great exit polls saying people like to have their taxes increased. Does anybody like to have their taxes increased?

ZERO

Now, the Democrats will tell you they have met the deadline. But the fact is, they never left the starting line. As the calendar hits zero, the American people know what Congress has really produced—zero. Zero growth, zero jobs, but lots of excuses, and even more taxes.

It is little wonder congressional approval ratings are hitting all time lows—at this rate, they'll be pretty close to zero, too. Let's face it, zero is what the American people will have every right to call a Congress that has put taxes first and America last.

This is a zero package that arrived on the last day; the zero day, the zero package arrived. It is going to be approved by a zero Congress, but not by many on this side.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Texas.

Mr. BENTSEN. I yield to the Senate majority leader.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, for 12 years, Republican administrations have pursued an economic policy based on the principle that the way to improve American society is to reduce the tax burden on the very wealthiest of Americans. In that manner, we and the American people were told the benefits to the very wealthiest will trickle down to the rest of Americans and everyone will benefit if we will only devote all of our effort, all of our energy to reducing the tax burden on the very wealthiest of Americans.

Mr. President, the American people now know they have been trickled on long enough. The American people have been trickled on for 12 years.

I find it interesting that our Republican colleagues are suddenly against tax cuts when they are for the middle class, ridiculing the amount of the tax cut. But when our colleagues proposed to cut taxes for the very wealthiest, that was good for the country. When we proposed to cut taxes for middle-income Americans, they say that is bad for the country.

When our Republican colleagues want to cut taxes for the very wealthy, they say that is not class warfare. When Democrats want to cut taxes for middle-income Americans, they say that is class warfare.

Mr. President, why is it class warfare to want to cut taxes for middle-class Americans but not class warfare to want to cut taxes for the very wealthiest of Americans? Despite all of the gimmickry, all of the torturing of statistics, the fact is that this bill increases tax rates for the very wealthiest 1 percent of Americans; the wealthiest 1 percent of Americans.

It is for that 1 percent of Americans, the very wealthiest, that our colleagues are devoting so much energy, so much effort. And what about the other 99 percent of Americans? We say let us cut taxes for middle-income Americans for once. Just once let us have a pause in the supply-side economics of benefiting the very wealthy and let us help middle-income Americans. Middle-income Americans have been socked too long and too hard.

They need tax relief. This will give it to them.

Finally, Mr. President, I note the comments saying this bill will create unemployment. The bill accepts almost all of what the President proposed in the way of growth incentives. It then cuts taxes of the middle class. Are we now being told that if you cut taxes on the middle class, that causes unemployment? That is a new entry in Republican economic theory. It was bad enough when the theory was that the only way to help America is to help the very wealthiest of Americans. Now we get the corollary of that. Not only must we only help the highest income Americans, now we are told it is bad if we help middle-income Americans.

Mr. President, they have it wrong on both counts. This bill is fair; it produces jobs and it does not increase the deficit. The President's plan, as proposed, would increase the Federal budget deficit by $24 billion.

Thirty minutes from now the President will engage in a campaign appearance to protest concern for the deficit. But we are told here we should accept the President's plan which, if adopted, would increase the deficit by $24 billion. That is the major difference in these plans.

Senator BENTSEN's plan will not increase the deficit; the President's plan will increase the deficit by $24 billion. Senator BENTSEN's plan cuts taxes to middle-class Americans; the President's plan does not. And Senator BENTSEN's plan pays for both by raising the top tax rate on the wealthiest 1 percent of Americans, the one group of Americans who least need the attention and devotion and effort that has been showered on them in this effort today by our colleagues.

I say let us not ignore the 99 percent for the benefit of the 1 percent. Let us pass this bill. It will create jobs. It will put fairness into the tax system, and it will not increase the deficit. That cannot be said about the alternative plan.

I urge my colleagues to vote yes.

Mr. President, I ask for the yeas and nays.

Mr. BROWN. Mr. President, I ask unanimous consent for 2 additional minutes to respond to the distinguished majority leader.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BENTSEN. Mr. President, how much time do we have left on both sides?

The PRESIDING OFFICER. The Senator from Texas has 4 minutes remaining. All time has expired on the other side.

Mr. BENTSEN. I have no objection to 1 minute. I am prepared to yield back the remainder of our time.

The PRESIDING OFFICER. The Senator is recognized for 1 minute.

Mr. BROWN. Mr. President, men and women of good spirit will disagree about issues, and we understand that. I rise to make a point, though, that I think is important.

The tax acts in 1981 and later on in the decade of the 1980's did not cut the amount of taxes the wealthy in this country paid; they increased them and they increased them dramatically. They increased not only the amount they paid, but they increased significantly the portion they paid.

Mr. President, as one in this Chamber who is not a millionaire, I must say I find the inaccuracies in describing those tax acts disturbing because they concern me with regard to the way our tax policy is meant. While Americans are not millionaires, we ought to have a country that is dedicated to letting Americans have a chance to do well.

That is what I think is wrong with this act, the attitude that there is something to be ashamed of if someone works hard and saves and prepares for their future. Americans ought to be focused on making that possible, not impossible.

The PRESIDING OFFICER. All time has expired.

Mr. BENTSEN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the conference report to H.R. 4210, the Economic Growth and Tax Relief Act. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. INOUYE (after having voted in the affirmative). On this vote I have a pair with the distinguished Senator from New Jersey [Mr. BRADLEY]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "aye." I withdraw my vote.

Mr. FORD. I announce that the Senator from New Jersey [Mr. BRADLEY], the Senator from Illinois [Mr. DIXON], and the Senator from Nebraska [Mr. KERREY] are necessarily absent.

On this vote, the Senator from Hawaii [Mr. INOUYE] is paired with the Senator from New Jersey [Mr. BRADLEY]. If present and voting, the Senator from New Jersey would vote "nay" and the Senator from Hawaii would vote "aye."

Mr. SIMPSON. I announce that the Senator from Utah [Mr. GARN] and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Utah [Mr. GARN] and the Senator from Wyoming [Mr. WALLOP] would each vote "nay."

The PRESIDING OFFICER. Are there any Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 44, as follows:

[Rollcall Vote No. 54 Leg.]

YEAS—50

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Breaux
Bryan
Bumpers
Burdick
Byrd
Conrad
Cranston
Daschle
DeConcini
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Harkin
Johnston
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Wellstone
Wirth
Wofford

NAYS—44

Bond
Brown
Burns
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Gorton
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Jeffords
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Roth
Rudman
Seymour
Shelby
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Warner

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Inouye, for

NOT VOTING—5

Bradley
Dixon
Garn
Kerrey
Wallop

So the conference report was agreed to.

Mr. BENTSEN. Mr. President, I moved to reconsider the vote by which the conference report was agreed to.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, there will be no further rollcall votes today. The Senate will not be in session on Monday. There will be no votes prior to 2:30 p.m. on Tuesday.

I have discussed with the distinguished Republican leader the schedule for next week. There are a number of measures which may be considered and which Senators should be prepared to consider should they arise. I will later today be identifying them, and placing a statement in the RECORD. I want to review the list again with the distinguished Republican leader before doing so.

So Senators will check the CONGRESSIONAL RECORD for today. There will be listed a nonexclusive number of measures which may be considered next week.

I repeat: No session on Monday; no votes prior to 2:30 p.m. on Tuesday; and we will be making a further announcement later this afternoon.

Mr. DOLE. Is it the intention of the leadership to have this bill delivered to the White House today?

Mr. MITCHELL. It is my hope that can be done.

Mr. DOLE. It is going to be hand enrolled, as I understand. So it should not take long.

Mr. MITCHELL. That is correct. I am not able to state to the Senator precisely how long it will take, but I hope that it will be soon.

Mr. DOLE. I know the President would like to veto it as quickly as possible.

[Disturbance in the Visitors' Galleries.]

The PRESIDING OFFICER (Mr. CONRAD). Order in the Chamber. Order in the galleries, or the galleries will be cleared.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I now ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

THE TAX BILL

Mr. DOMENICI. Mr. President, I rise to make a few additional remarks about the bill that the Senate just passed, which will be vetoed by the President shortly.

First, let me comment on a few of the differences in the bill that I think are pretty important.

First, this new 36-percent rate, you have to add some things to that to get the whole picture. While it has been touted as a new bracket at 36 percent, you have to add two other things: the PEZ and the PEP.

While this sounds like I am just making fun here, those are acronyms for certain aspects of the Tax Code. When you add those two, the rise in rates goes to 40.8 percent, almost 41, on the very entrepreneurs and business people that provide the jobs for the middle class that allegedly are getting a tax break which has been described to be about 21 cents a day, at least for the first couple of years.

So the truth of the matter is that the middle class suffers because the less money there is to invest, the fewer the jobs that will be created, the fewer raises, and the fewer success stories. The newer definition in this bill of the rich—and that has been changed also—will affect three times as many people today as last week.

So, in just a week, we have added three times as many Americans to a definition of "rich." Last week, the definition was people earning over $175,000. Today, the threshold has been lowered to joint returns earning $140,000 or more, and that means we have just effectively added three times as many Americans to the definition, to be taxed more because they are rich.

Under the old definition, 89 percent of the tax increase was going to be paid by people with small business income, and I thought maybe that would change with the changed definitions. But we understand the change is so nominal, it is probably 90. So we can say that one is probably about the same.

So, in the short term, it really does not do much up front for the middle class.

Let me give you another example. A working mother who is the head of a household starts to lose eligibility for the much touted middle-class tax credit, once her income reaches $35,000. That was not discussed much here either. So even that little tiny tax cut starts to phaseout at $35,000 under the bill that just passed today by a slim margin, but will not see the light of day because it will be vetoed.

So, in conclusion, obviously, if we wanted a jobs bill, we got a tax bill. If we wanted an economic stimulus package, we left the stimulus out and put on a tax.

For the past 3 days, I have given the Senate examples of New Mexico business people that have told us with specificity how this tax will cause them to produce less jobs, to grow less, to prosper less. I want to add one to it today. I will not give the Senate the entire factual pattern.

I have a different approach today, because some people have tried to call this tax bill an economic growth bill. After talking to a business couple in Albuquerque, I am led to conclude that the bill reminds me more of a game of musical chairs. For every winner, another player loses his seat. What our country really needs is more chairs.

Let me explain. There is a restaurant in Albuquerque that I am familiar with and which I go to sometime when I am there. It is owned by a minority woman, and it is a minority business. It first opened its doors in 1959. It serves exquisite hot green chile. The restaurant provides a livelihood not only for her, but her husband's income, her employees, and they have some other family members on that ledger, and they—the husband, wife—combine all of their income from the business.

This business and the New Mexicans that work there would be in a very bad way if this bill passed and became law.

Around 1983, the business expanded. Now a daughter runs a side business called a family tortilla factory. The 2 businesses hire 15 people. They file individual returns based on their family partnership. And so with this tax bill as our guide, these folks are rich. This fact, I might add, puzzles the owners very much. They leave much of their profits in this business. We tax their profits and, yet, we expect them to produce more jobs and help us sustain the economic recovery that is budding today in the United States.

It is obvious that I can go on and give you the background of this hardworking family. But suffice it to say, we missed one point in discussing small businesses, as we talked about the fact that if they made money, they filed as individuals for their income taxes, and they left much in their business to grow but got taxed on it.

We have one other thing. Many of these small business people, as in the case of this couple and their daughter, they do not work regular shifts to make this business go.

In fact, this family says it is not unordinary for them to work 70 hours a week. They own the business. They do not pay themselves overtime. But, you see, what they make for overtime is in that profit that is in the business that they leave there so they can buy a piece of equipment and hire someone or raise their pay. And we are going to say: Well, to help you with jobs, we are going to take 16 percent more taxes out of your business.

It seems to me that we do not quite understand when we do that the dynamics of growth and the dynamics of small business people who want to succeed, and truly will bring us not only out of this recession, but into a successful culmination of it in sustained growth. We do not have to thwart that by taking another swipe of a minimum of 16 percent additional taxes from them.

And if they are subject to the two other provisions that I described, the PEP and the PEZ part of our law, then they will be hit at almost 41 percent instead of 31, which changes it to around a 20-percent increase instead of 16.

ECONOMIC GROWTH MEANS MORE JOBS, NOT MORE TAXES PART IV

What the Finance Committee calls an economic growth bill reminds me more of a game of musical chairs, for every winner another player loses his seat.

What our country really needs, is more chairs. Let me explain.

There is a restaurant that I like to have lunch at when I am back in New Mexico. It is a woman owned, minority business that first opened its doors in 1959. This place has the hottest green chile in town.

The restaurant provides a livelihood not only for her, combined with her husband's income, but for her employees, as well. However this business and the New Mexicans that work there would be in a very bad way if the tax bill passed by the Congress were to become law.

Around 1983, the business expanded and now a daughter runs the family tortilla factory. Combined, the 2 businesses hire about 15 people. These two entities file on the same tax return, and with the tax bill as our guide, these folks are rich. This fact, I might add, the owner is puzzled to discover.

She says, "The people that would call us rich don't understand that my family is here working in the restaurant and factory seven days a week." Her expense logs attest to this fact, because to stay open on Sunday, their business has to pay an extra $100.

Running a restaurant and tortilla factory is a lot of tough work. I challenge any of my colleagues who support this tax bill to trade places with her for a day. I assure you this is not the file of leisure we envision the rich to enjoy.

Any retained earnings go right back into the business. This is their working capital. This is the capital that enabled her business to grow from just a restaurant to a restaurant and tortilla factory.

The business also owns three catering trucks and a station wagon. Although, I am told that lately people aren't ordering catering so much. Rather, noontime carryout orders are becoming popular.

You see her business is located in the heart of the Albuquerque metropolis and, she says, "at lunch the bankers and the business people like send an order over for 30 or 40 burritos."

Her expenses are largely government-related. The list seems endless, including: Federal, State, and local taxes; registration and house inspection fees; fees for mobile catering facilities; licensing fees; liability insurance for workmens' compensation; product liability insurance; insurance for catering at city events; and of course the extra $100 for being open on Sundays.

In the last several years, business has not been as good as it used to be. She had to let a couple of employees go at the restaurant recently, but then her daughter created a new job at the factory, so all and all employment is fairly stable.

New tax burdens would agitate this delicate balance quickly, though. What the tax bill would mean to her, is that every new dollar earned would only be worth 84 cents. This is a steep cut into an already cinched budget.

Over the last several years the sour economy has caused a dip in sales. It hurt the business. Fixed expenses were rising during a period of economic stagnation.

However, finding her business in the red for the first time, several years ago, the family pooled resources, and has kept the business growing. They anticipate a bright future; one that will enable the business to grow; one that will provide for the four children who may carry on the family trade.

This is the future that the tax bill threatens.

She is optimistic about the economy, though. Her start-of-year sales are higher than usual. So far this year; tortilla sales are up. She and her daughter are off to a really good start.

The restaurant and tortilla factory is a small operation. It is a typical America's small business that has steadily provided our Nation's growth, and jobs. The so-called soak-it-to-the-rich tax bill, though, is going to impair these businesses' ability to recover from the recession; much less enable them to employ new workers.

These businesses are run by middle-class Americans, they provide jobs to middle-class Americans, and these business people are telling us that the so-called economic growth bill is no economic growth bill.

We are hearing that the best medicine for healing the economy is to let the job creators do what they do best; let them accumulate capital; expand business; take risk; and reinvest in human resources.

This is the American job creating machine; a capitalistic machine that requires capital.

The Congress-passed tax bill will disable our economic system by syphoning away the working capital of American business.

To call this bill an economic growth bill is a misnomer. The increased taxes on the rich, and the millionaire surtax, used to pay for this bill are a misnomer.

This bill does not pay for itself by increasing taxes on the rich. This bill costs jobs; 90 percent of business tax income is filed on individual returns. These are the folks that will pay for the middle-class tax break.

The IRS says that 89 percent of the people that will pay for the tax increase are people that earn small business income.

These are the job creating individuals that will pay the Democrats' tax. And this tax liability will not come out of someone's deep pockets, as some would lead you to believe, it will come from reduced payrolls.

Mr. President, I want to talk about one other matter that I think will begin to be talked about as part of the deficit that we find ourself in. I am pleased that I find the occupant of the chair today, because I am sure that he is wondering today, as he looks back on his 5 years, about that deficit that keeps growing while we keep trying and we keep producing budget resolutions that say things are not going to grow very much, and then the budget deficit goes up and up.

There are a number of very individual nonrecurring events that have contributed to it. Let us set those aside quickly. A recession always does. And also the S&L debacle, the RTC and the bailout, and having to pay off all of those investors who had savings accounts up to $100,000 added a big chunk. That is kind of in and out over 3 or 4 years. So let us leave those two aside.

What is it that we must do if we are going to leave our children and our grandchildren anything at all in terms of expectation of success, opportunity to succeed, a good standard of living? In other words, what do we have to do to save our children? I will tell you what I think it is. We have to find a way to put a cap on the entitlement programs of the United States exclusive of Social Security, which has a payment program. And so long as we tax our people for it, we ought to leave it alone and let it run as it should.

The remainder of the entitlement programs of our country are headed by two medical delivery systems, Medicare and Medicaid, and a myriad of other programs that are entitlements, that in our budget are called mandatories, meaning year by year, you do not do anything about them because they spend automatically.

You know, Mr. President, the more I look at the makeup of our budget, I repeat once again that our people should really tell everyone running for office in the United States that they do not like an American budget where 66 percent of the annual expenditures spend with Congress having nothing whatsoever to say about them. We wake up. We call the Congress into session on the first day of a year. If we did nothing during the year, at the end of the year, those programs and that interest would spend out automatically, and it is now 66 percent of the budget.

In that 66 percent is Social Security, which we should exempt from the criticism here today, at least in my opinion. And obviously we have to pay interest. But, Mr. President, the remainder of the entitlement programs cannot continue to grow as they have. We cannot continue to come before the Senate and then go before the people of this country and say: Well, they are just automatically growing. We have to turn that around and say: Well, we are going to automatically make them stop growing. And we are going to do that in some way, by a cap, a formula of some type that is realistic, that says that is all this program will grow.

And those who have designed the programs in the past, in our committees and in our Congress, are going to have to be given a reasonable amount of time to fix the program so it hits the cap.

Now, Mr. President, it sounds simple. It is tough. Most success comes from simple approaches, but most simple approaches have some very difficult and onerous things that have to take place.

I believe today, if I understand correctly—and I have not seen it—that the President is going to announce a list of appropriated items that he believes should be rescinded, items that he does not think we need that are appropriated by the Congress. They are sometimes called pork. Sometimes many of us do not think they are, but the President might. He is going to say: Let us cancel a number of those.

He is entitled to do that. We ought to review the list, and it probably includes something from my State. We ought to look at it; maybe he is right. Maybe after the review, we will agree with him. But he is also going to say in his statement—and it is probably not going to catch the attention of very many—he is also going to say, if I understand correctly, that the real big budget buster is the failure to control entitlements. And he is going to ask and suggest that the entitlements be capped by some formula that is reasonable, that will stop the inordinant growth beyond that which we can pay.

Let me suggest for those who are listening, it is very, very simple. You can pay for those by imposing another tax on America, and I will next week tell the Senate how much we would have to tax Americans over the next decade to let those entitlements continue to grow and find some group of Americans that we make pay for them. Today, somebody thought we could pay for a tax break of maybe 20 or 30 cents a day for one group of Americans by taxing another group of Americans.

Mr. President, the entitlements are not being paid for by anyone except our children—except our children. Because the mortgage is getting bigger and bigger, and we are detracting and detracting from what they, our children and our grandchildren, have a right to expect from America: That they have a chance to succeed. And frankly, I believe they expect to have a slightly better life than we have had, materially speaking, on average. That is the way it has been for all of America's history. We are about to say that time has past, if it has not already.

We continue mortgaging this future by saying: Well, we just cannot find a way to get those entitlements under control. Medicaid—Medicaid only grew 30 percent at the Federal level last year. Not 3; 30. You cannot have a $70 or $80 billion program growing at 30 percent a year, and keep on doing that. It would soon use up every bit of income taxes we pay in. In fact, it would be an interesting calculation. Probably in 8 or 9 years, you would use the entire income tax for one program. It cannot be.

So one way to do it is to tax the people to pay for it. But if you tax the people as much as that equation demands, you will destroy growth. We were debating today's jobs machine in America. It essentially is small business. It is the machine. It is the one that creates the job.

You put the kind of tax on small business men and women that is required to pay for those entitlements that are growing at the astronomical rate, that we all know about, that we will describe in detail next week, and there would be no one interested in having a business. If you take 60 to 70 percent of their profits, they will quit. So I do not think that approach has any chance that we will pay for them with more taxes.

So it seems to me the other thing you would like to look at is, well, will America not grow every year and will we not get more taxes in every year because we grow? Well, let me say, Mr. President, we better hope we do and we better hope the revenue take goes up because we already planned for that. We better have that. But even with it, if it grows at a pretty sustained rate, we cannot pay for the entitlements. They will continue—that is, the entitlements as I have defined them here today as a package—they will still grow so fast that we cannot anticipate sufficient economic prosperity and growth and increased revenues to take care of them.

So, I submit, if getting this inordinate runaway deficit under control, if that is what we must do to save prosperity and opportunity and the standard of living for our children, then we do not have any alternative. We have to find a way to control the runaway cost of that big package of entitlements led by the inordinate growth of medicaid.

And is it not interesting that while that is occurring, we have entered into an election year debate on a health program for the country? In other words, we are saying we need more health coverage, we need to give more people more health coverage. Well, we surely better be figuring out a way to deliver the health care cheaper or, if we are going to add to it, I will give you my best estimate, we will add a net of about 15 percent to every program we have in health care, maybe 20. And the private sector will have to go up about that much or more for the new coverage. Where are we going to get that money? That is on top of what we are describing.

So I am not going to take the temptation and talk about how big the imposition of the cost of health care is on America and America's future and America's competitiveness. It is enormous. The cost of health care that is in every American product today, from cars to paper, is enormous compared to those that are competing with us in the world market. They have health care, and their workers have health care, and it goes into the car they produce and the paper they produce, but none have as much added health care as we do. We have to start that one somehow. But, surely, we have to find a way to say we can only spend that much.

So I chose today to say that while we will be talking about the rescission, that is, the President will be asking that we take a look at maybe 70 individual items, I think it is probably $1 billion, I say, Mr. President, that is the sum total that he is asking us to look at that he wants to cancel—and we should. And he is right in calling it to our attention. He is not right in each item, every item.

But the President is distinct from us. He looks at it differently than I look at my State and my projects. But that is about $1 billion. Maybe he will follow it with another $1 or $2 billion.

But, Mr. President the entitlement programs that we are talking about are about $450 billion. That is the issue. And if they are growing, all of them together, at more than two times inflation, we just will not be able to afford them if we expect to have anything left for our children of the Federal resources we collect to try to do things for the country that Government must do. There will probably be little, if any, of that.

So I chose this day to start this discussion. Hopefully, it will move on and be a fruitful debate in the weeks to come. I hope the budget process brings that debate up. Maybe it is not thought by some as being the proper subject for this year. The Senator from New Mexico thinks it is. And if we talk about budgets, we ought to start talking about the real part of budgets and not saying that the process does not permit us to control them. Let us change the process so we will control them.

I assume the leadership wants to keep the floor open. So with that, I yield the floor.

TRIBUTE TO THE LATE DR. CONNIE LEE OF ROCK HILL, SC

Mr. THURMOND. Mr. President, I rise today to pay tribute to an outstanding daughter of South Carolina, Dr. Connie Lee, who passed away last week. Dr. Lee was a woman of character, courage, and compassion and a great lady, and she will be deeply missed.

Connie Lee was a well-known educator in our State, having taught for a number of years at both York Technical College and Winthrop College in Rock Hill. She also served ably as an administrator at Winthrop. Her intelligence, warm personality and delightful sense of humor made her popular with students and faculty alike at both of these institutions.

Dr. Lee was also a recognized advocate for women in the military, serving with distinction on the U.S. Defense

Advisory Committee on Women in the Services. The same qualities which made her such a fine teacher made her an equally effective spokeswoman for our Nation's military women.

In addition, Dr. Lee was a successful businesswoman, and was very active in the community. She was a member of the Rock Hill Chamber of Commerce, the American Association of University Women, the South Carolina Technical Education Association, Phi Delta Kappa, and the Daughters of the American Revolution, among other organizations.

Connie Lee was a remarkable individual in many ways. She married at a very young age and had four children before completing her education and embarking on her teaching career. It could not have been easy going back to school as a mature student with a family, but she finished a history degree at the University of North Carolina at Charlotte and went on to earn a master's degree from Winthrop College and a doctorate from the University of South Carolina.

Mr. President, Connie Lee was a woman of great talent and energy, a loving mother, a loyal and devoted friend, and a committed citizen. Her death represents a great loss not only to her family and friends, but to our State. However, she will live on in the memories of all those she taught and helped along her way.

I would like to take this opportunity to extend my deepest condolences to Dr. Lee's daughter, Marion Wilson; her three sons, Rick Lee, Tom Lee, and David Lee; and the rest of her family.

I request unanimous consent that an article from the Rock Hill Herald be inserted in the RECORD following my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Rock Hill (SC) Herald, Mar. 14, 1992]

NOTED EDUCATOR CONNIE LEE DIES

(By Jennifer Becknell)

Connie Lee, known to York County students and colleagues as a caring educator and a prominent national advocate for women in the military, died Friday at her home in Rock Hill. She was 61.

Lee, who has been battling cancer, held a variety of positions at Winthrop College. She retired in December 1990 from her most recent job teaching history at York Technical College.

"I wrote her recently that the magic and charm of Connie Lee is obvious any time I talk to anyone who knew her. They light up. She was one of a kind," said Lt. Col. M.C. Pruitt, director of the U.S. Defense Advisory Committee on Women in the Services.

Lee served on the committee for four years, and chaired it for a year before leaving it in 1989. As chair, she was principal adviser to the defense secretary on issues affecting military women.

Lee, a Charlotte native, married at age 18 and had four children before beginning her career in education. She divorced after earning her bachelor's degree from the University of North Carolina at Charlotte.

She worked as a graduate assistant in education at Winthrop, where she earned a master's degree, and she earned a doctorate from the University of South Carolina.

At Withrop, she taught and held a range of administrative positions, from director of admissions to vice president for development, before she left for York Tech in 1982.

"She was one of the ablest administrators Winthrop ever had," said Mary T. Littlejohn, a former Winthrop vice president and a friend of Lee. "She was a great loss to the college."

Former Winthrop President Charles Davis said Lee "was well thought of by the faculty and administration, and she will be remembered for all the good she did at Winthrop."

Fred Heath, a Winthrop history professor, said Lee "told me after she went to York Tech that she was doing what she really wanted to do, and that was to teach.

She was recognized for both her teaching and her contributions to the military committee.

"You have to be especially noteworthy" for such an honor, said Pruitt, who said Lee was the most important mentor in her life. "There's no one I consider better to emulate than Connie Lee."

Lee was an advocate for the role of women in the military. She believed women should be allowed in combat if they are capable, but they are limited by a combat exclusion law.

She also was a member of the Daughters of the American Revolution, Colonial Dames, the American Association of University Women and Phi Beta Kappa. She served on the Commission of Women and the Rock Hill Zoning Board of Appeals.

Lee was diagnosed with lung cancer in December 1990, but was in remission last year after treatment. She was hospitalized in January at Duke University Medical Center for about a month.

She was paralyzed from the waist down by tumors, and was moved to the Charlotte Rehabilitation Center last month before returning home on Tuesday, said Fran Hamilton, who shared a home with Lee at 1537 Clarendon Place in Rock Hill.

Other survivors are a daughter, Marion Wilson of Rock Hill; three sons, Rick Lee, Tom Lee and David Lee, all of Rock Hill; a sister, Martha Lee of Wisconsin; and 11 grandchildren.

A memorial service will be held at 11 a.m. Monday at the Episcopal Church of Our Saviour with the Rev. Blaney Pridgen officiating. Burial will be in Forest Hills Cemetery.

The family will receive friends from 6 to 8 p.m. Sunday at Bass Funeral Home in Rock Hill, and other times at the home.

Memorials may be made to York Technical College in memory of Dr. Connie Lee, 452 S. Anderson Road, Rock Hill, S.C. 29730.

Last year, she was named as Technical Educator of the Year. She received York Tech's 1990 President's Award for outstanding teacher of the year, and was runner-up for Governor's award for Professor of the Year. Winthrop history professor Jason Silverman won the award.

In 1989, Lee was awarded the highly distinguished Medal for Outstanding Public Service from Defense Secretary Dick Cheney for her contributions.

COMMEMORATION OF NATIONAL AGRICULTURE DAY: NEW USES FOR AGRICULTURAL COMMODITIES

Mr. DASCHLE. Mr. President, Congress has made an annual practice of setting aside 1 day in early spring to recognize the achievements and contributions of our Nation's agricultural producers. This year, March 20 has been designated as National Agriculture Day.

Like any other commemorative date, National Agriculture Day passes largely unnoticed. The ease with which National Agriculture Day is overlooked is symptomatic of the diminishing recognition we give to agriculture in general in this country. The availability of an inexpensive, plentiful food supply is too often taken completely for granted. I must tell you, Mr. President, that the complacency on the part of the American public in regard to food production causes me a great deal of concern, because when we become complacent about a critical part of our economy, it becomes very easy to ignore problems that could easily sap its vitality.

Agricultural producers and the rural communities they support are facing a wide array of difficulties that are slowly robbing rural America of its youth and prosperity. Years of low commodity prices, tight credit, and unfair trading practices on the part of our competitors have made it nearly impossible for young people to get into the business of farming. We have now reached the point where over half of the farming assets in the country are owned by people who will retire in the next 10 years. The profitability of agriculture has slipped to levels that make it nearly impossible for young people to get into the business.

We must recognize the decay that is taking place in agriculture and take steps to halt it. There are a lot of things that Congress can do to help, but I believe that the most effective long-term policy we can follow is to promote the increased consumption of agricultural commodities. This can be done through aggressive overseas market development, expanded nutrition programs for the needy here at home, and finally, and potentially most important, promotion of the development of new nonfood uses for agricultural commodities.

It is on this topic, the development of new nonfood uses, that I would like to devote the balance of my remarks. Industrial uses of new and traditional crops have many potential benefits to rural communities and the country as a whole. New uses of agricultural crops will provide new economic opportunities through increased farm income, increased employment, and enhanced U.S. competitiveness in international markets. In addition, there is the promise of improvement in the U.S. balance of trade, and a reduction in farm program costs. New agriculturally based products such as biodegradable plastics made from starch, biodiesel fuels, and vegetable-based industrial oils can address environmental concerns and reduce the use of nonrenewable raw materials.

U.S. researchers and companies have been making great strides in developing new products; however, the benefits of new technologies are only realized when new products successfully move through the many stages of development from the laboratory to commercial availability. Historically, the weak link in the chain of technology policy in the United States has been the adoption of new technologies for commercial use. Part of the problem has been that the Federal Government has been unwilling to assist researchers and businesses at critical stages in the development of new products.

Numerous entrepreneurs around the country are on the verge of bringing new products into production. In a recent hearing I held before the Subcommittee on Agricultural Research witnesses testified about a wide variety of promising new products including biodiesel fuels, vegetable oil lubricants, natural fiber insulation, water soluble plastics and others. But while the witnesses were optimistic about the prospects for expanded use of agricultural products, they all agreed that without more active participation on the part of the government, many promising new products would never see the light of day.

USDA has helped commercialization efforts somewhat, but in the past its activities have lacked direction and foresight. Research priorities are so lopsided at USDA that at least ten times more money is being spent on research that encourages production than on consumption-oriented research. Secretary Madigan is making an effort to place more emphasis on the development of alternative products, but he is faced with the daunting task of moving a bureaucracy that is notoriously resistant to change.

The history of intransigence and resistance to change within USDA prompted Congress to establish the Alternative Agricultural Research and Commercialization Board, commonly known as AARC, in the 1990 farm bill. This Board, functioning in coordination with USDA, will have authority to identify promising new technologies and promote their development through loans and other assistance as part of the effort to move new products out of the research laboratory and into the marketplace. Without assistance from the AARC Board, many technologies that could be commercially successful will die a quiet and unproductive death.

Congress will consider funding proposals of $10 million for the AARC Board in the Agriculture appropriations bill as well as an additional $20 million in the Rural Jobs and Investment Act, which was introduced earlier this year by Senator LEAHY. I strongly urge the support of my colleagues for both of these funding proposals. While we are talking about spending a mere few million dollars on product development, our main competitor in agriculture, the European Community, is actually spending between $150 and $300 million annually on efforts to commercialize new industrial uses of agricultural commodities. If Congress fails to provide funding for AARC, competitors such as the European Community will establish themselves as the dominant force in this promising growth area. Neither American agriculture, nor the American economy, can afford to pass up yet another opportunity for industrial development.

In closing, Mr. President, I would like to remind my colleagues that the future of American agriculture cannot be taken for granted. We need to find solutions to the problems facing the industry if it is to maintain its vitality. One of the many ways we can do that is to promote increased consumption of surpluses by developing new uses for agricultural commodities. Congress simply must dedicate resources to these efforts if they are to succeed.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 2:57 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has agreed to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4210) to amend the Internal Revenue Code 1986 to provide incentives for increased economic growth and to provide tax relief for families.

The message also announced that House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 3209. An act to amend title 5, United States Code, to ensure that the level of compensation for a Federal employee ordered to military duty during the Persian Gulf conflict is not less than the level of civilian pay last received; to allow Federal employees to make up any Thrift Savings contributions forgone during military service; to preserve the recertification rights of senior executives ordered to military duty; and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 293. A concurrent resolution congratulating the government and people of Venezuela on their demonstrated commitment to a broad-based and enduring democracy, and commending the formation of a cabinet of national unity.

MEASURES REFERRED

The following bill was read the first and second time, and referred as indicated:

H.R. 3209. An act to amend title 5, United States Code, to ensure that the level of compensation for a Federal employee ordered to military duty during the Persian Gulf conflict is not less than the level of civilian pay last received; to allow Federal employees to make up any Thrift Savings contributions forgone during military service; to preserve the recertification rights of senior executives ordered to military duty; and for other purposes; to the Committee on Governmental Affairs.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 293. A concurrent resolution congratulating the government and people of Venezuela on their demonstrated commitment to a broad-based and enduring democracy, and commending the formation of a cabinet of national unity; to the Committee on Foreign Affairs.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–295. A resolution adopted by the House of Representatives of the Commonwealth of Pennsylvania; to the Committee on Appropriations.

"HOUSE RESOLUTION NO. 266

"Whereas, Congress has designated Steamtown USA in Scranton, Pennsylvania, as a National Historic Site; and

"Whereas, The Steamtown National Historic Site has been designated an official project of the National Park Service because it is the ideal location in which to depict the story of the role of railroading in the industrial development of this country; and

"Whereas, Designation of the Steamtown USA property as a National Historic Site and as an official project of the National Park Service has led to the development of a Lackawanna Valley Heritage Park Plan, supported by the resources of the Federal, State, county and local governments, with the Steamtown National Historical Site as the kingpin; and

"Whereas, Development of the Steamtown National Historic Site has encouraged the current development of the adjacent Lackawanna Avenue Mall project, the largest commercial development project in the history of Scranton and the current largest commercial development project in this Commonwealth; and

"Whereas, Development of the Steamtown National Historic Site has resulted in the continued economic and commercial development of the adjacent downtown section of the City of Scranton; and

"Whereas, The Steamtown National Historic Site, still under construction, attracted 100,000 visitors last season and is expected to attract between 300,000 and 400,000 tourists annually; it represents the cornerstone of a major vacation and tourist industry initiative launched by private business and the County of Lackawanna; and

"Whereas, The Steamtown National Historic Site is the keystone in the heritage park concept, standing alongside Scranton Iron Furnaces, the Museum of Anthracite Mining and the Pennsylvania Anthracite Heritage Museum; and

"Whereas, Seventy-five percent of the engineering work for the Steamtown National Historic Site has been performed, and 60% of the total project has been completed; therefore be it

"*Resolved*, That the House of Representatives of the Commonwealth of Pennsylvania memorialize Congress to fund development of the Steamtown National Historic Site Project of the National Park Service in the amount of the original allocation, $73 million, and to reject attempts to limit Federal participation in, and the scope of, the project; and be it further

"*Resolved*, That copies of this resolution be transmitted to the presiding officers of each house of Congress, to the Honorable Bruce F. Vento, chairman of the National Parks and Public Lands Subcommittee of the Interior and Insular Affairs Committee and to each member of Congress from Pennsylvania."

POM-296. A concurrent resolution adopted by the Legislature of the State of Florida, to the Committee on Armed Services:

"HOUSE MEMORIAL NO. 1819

"Whereas, men and women of the Armed Forces who have sacrificed for America should receive compensation for their injuries as well as retirement benefits for their total military service, and

"Whereas, many military retirees who have served 20 or more years on active duty and have incurred service-connected disabilities receive minimal or no retirement pay for such service, and

"Whereas, military retirees must forfeit an equal amount of their military retirement pay to offset their entitled disability compensation, and

"Whereas, Senator Bob Graham and Congressman Michael Bilirakis have consistently sponsored legislation to permit retired members of the Armed Forces with service-connected disabilities to receive full military retirement pay concurrently with disability compensation, and

"Whereas, Senate Resolution 1381 and House Resolution 3164 will correct this long overdue injustice of denying earned retirement benefits to military retirees disabled during their service, and

"Whereas, now more than ever, the nation must prove to these brave men and women that America will take care of its veterans in their time of need, Now, therefore,

"*Be It Resolved by the Legislature of the State of Florida:* That the 102nd Congress grant a hearing on Senate Resolution 1381 or House Resolution 3164 before the Armed Services Subcommittee on Manpower and Personnel, and that Subcommittee Chairman, Senator John Glenn, review the fiscal soundness of such proposal and identify a recurring revenue source.

"*Be it further resolved*, That copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress. Filed in Office of the Secretary of State February 17, 1992."

POM-297. A resolution adopted by the Catholic War Veterans favoring the continuation of a strong national defense; to the Committee on Armed Services.

POM-298. A resolution adopted by the General Assembly of the State of New Jersey; to the Committee on Banking, Housing and Urban Affairs.

"ASSEMBLY RESOLUTION NO. 189

"Whereas, Lead toxicity is the most common and preventable environmental disease in children in the United States; and

"Whereas, Scientists and physicians have long known that lead toxicity causes permanent neurological damage in children, and recent studies show that even low blood-lead levels during childhood, when no symptoms are exhibited, can cause permanent damage to the central nervous system, result in lowered intelligence test scores, learning disabilities, reduced speech and language processing skills, and can contribute to increased school absenteeism and drop-out rates; and

"Whereas, At least 65 percent of New Jersey's housing stock may contain lead-based paint, representing a potential public health hazard of alarming magnitude; and

"Whereas, Congress has mandated that the United States Department of Housing and Urban Development eliminate the hazards of lead-based paint in dwelling units in public housing facilities, indicating that lead toxicity among children has been, and continues to be, a serious public health problem; and

"Whereas, The removal of lead-based paint in a manner that does not create toxic fumes and dust residue, which would further endanger the health and safety of the residents of the contaminated dwelling, is difficult and expensive; and

"Whereas, It is imperative that lead-based paint abatement and removal programs for contaminated residences be one of the Department of Housing and Urban Development's highest priorities, that childhood exposure to lead in paint be reduced, that funds be devoted to those ends to finance abatement projects to the maximum extent possible, and that the abatement and removal of lead-based paint be required as a condition of eligibility for federally assisted rehabilitation programs: Now, therefore,

"*Be it resolved by the General Assembly of the State of New Jersey:*

"1. The President and the United States Congress are respectfully memorialized to enact legislation, and the Federal Department of Housing and Urban Development is respectfully memorialized to adopt regulations that would place the abatement of lead-based paint in housing as their highest priority, to reduce the hazard of lead toxicity by providing financial assistance to State and local governments for lead abatement projects, and to condition eligibility for federal financial assistance for housing construction and rehabilitation programs upon the agreement to abate lead-based paint.

"2. Duly authenticated copies of this resolution, signed by the Speaker and attested by the Clerk, shall be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the majority leader of the United States Senate, the minority leader of the United States Senate, the majority and minority leaders of the United States House of Representatives, every member of Congress elected from this State, the Secretary of the Department of Housing and Urban Development, the Commissioner of the New Jersey Department of Environmental Protection, the Commissioner of the New Jersey Department of Health, and the Commissioner of the New Jersey Department of Community Affairs."

POM-299. A resolution adopted by the House of Representatives of the State of Florida; to the Committee on Banking, Housing, and Urban Affairs.

"HOUSE MEMORIAL NO. 53

"Whereas, the National Housing Act was enacted to provide protection and guarantees to homeowners, and

"Whereas, Section 518(a) of the National Housing Act provides financial assistance to homeowners of federally insured properties that have structural defects, and

"Whereas, the homeowners in Seville Place in Dade County are the owners of homes in which the construction design does not meet the standards to withstand hurricane forces, and

"Whereas, the provisions of Section 518(a) do not apply to condominiums, and

"Whereas, Senate Bill 1878 will correct this omission and will enable condominium homeowners to receive the same insurance guarantees as single family homeowners of federally insured mortgages: Now, therefore,

"*Be It Resolved by the Legislature of the State of Florida:* That the Congress of the United States is requested to adopt Senate Bill 1878 or similar legislation to amend Section 518(a) of the National Housing Act to provide financial assistance to condominium owners of federally insured properties that have structural deficiencies.

"*Be it further resolved*, That copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress."

POM-300. A resolution adopted by the Catholic War Veterans favoring the enforcement of the Federal Communications Code prohibiting the profane use of God's name on television; to the Committee on Commerce, Science, and Transportation.

POM-301. A resolution adopted by the Twenty-first Guam Legislature; to the Committee on Energy and Natural Resources.

"RESOLUTION NO. 238

"*Be it resolved by the Legislature of the Territory of Guam:*

"Whereas, since May 13, 1991, Guam residents traveling to other parts of the United States are required to pay the two dollar pest control fee imposed by the U.S. Department of Agriculture ('USDA') on travelers from other countries, even though USDA postponed implementation of such fees on residents of other offshore territories, including Hawaii and Puerto Rico, the people of Guam, along with those from the Virgin Islands and American Samoa, alone being burdened with the fees, thereby subjecting certain offshore American citizens to such fees while exempting others, which is clearly discriminatory; and

"Whereas, recent Congressional measures in both Houses and in subsequent conference committee proceedings have failed to include adequate exemptions for Guam, Hawaii, American Samoa, Puerto Rico, and the Virgin Islands from these fees; now, therefore, be it

"*Resolved*, That the Twenty-First Guam Legislature does hereby on behalf of the people of Guam urge the United States Department of Agriculture invoke an immediate stay of the pest control fee from American citizens arriving from offshore United States soil, pending permanent exemption by the United States Congress, and does further petition the Congress of the United States to immediately enact a permanent fee exemption for travelers from Guam and other offshore American possessions; and be it further

"*Resolved*, That the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to Congressman Ben Blaz, to Clayton Yeutter, U.S. Secretary of Agriculture; to Tom Foley, Speaker of the House of Representatives; to Dan Quayle, Senate President; to George Bush, President of the United States; and to the Governor of Guam."

POM-302. A resolution adopted by the Senate of the State of Hawaii; to the Committee on Energy and Natural Resources:

"SENATE CONCURRENT RESOLUTION 24

"Whereas, upon the annexation of the Republic of Hawaii by the United States, the United States received approximately 1.8 million acres of government and crown land under the terms of the Joint Resolution of Annexation of 1898, with the condition that the revenues of such lands, subject to national needs, be used 'solely for the benefit of the inhabitants' of Hawaii; and

"Whereas, in 1921, the Congress of the United States enacted the Hawaiian Homes Commission Act which designated native Hawaiians as beneficiaries and which set aside approximately 203,000 acres of public lands to be awarded to native Hawaiians, that is, persons of at least 50% Hawaiian blood, through 99 year leases at a nominal fee; and

"Whereas, Congress enacted the Hawaiian Homes Commission Act to rehabilitate native Hawaiians by returning them to the land through leases for homesteads, ranches, and pastures because the social and economic conditions of the native Hawaiians were rapidly deteriorating after contact with western culture; and

"Whereas, the Hawaiian Homes Commission Act established a trust relationship between the United States and native Hawaiians whereby Congress set aside certain designated parcels of land for the use and benefit of the native Hawaiians; and

"Whereas, the United States became the trustee of these lands, with the Territory of Hawaii acting as agent for the trustee; and

"Whereas, the Hawaiian Homes Commission Act manifested an intention to construct a fiduciary relation between the federal government and the native Hawaiians which gave rise to equitable duties by the federal government to deal with the lands for the benefit of the native Hawaiians; and

"Whereas, the United States retained legal title to the Hawaiian homes lands from 1921 until 1959 when Hawaii became a state; and

"Whereas, although the Hawaiian Homes Commission Act was the responsibility of the federal government from 1921 to 1959, federal financial support for the program was non-existent; and

"Whereas, thousands of native Hawaiian beneficiaries of the Hawaiian Homes Commission Act were unable to obtain homesteads during the period from 1921 to 1959 due to the failure of the trustee to carry out the terms of the Act; and

"Whereas, the President of the United States appointed Hawaii's territorial governor from 1900 through 1959, with the advice and consent of the United States Senate; and

"Whereas, although the citizens of Hawaii, including native Hawaiians, did not elect their territorial governor, the territorial governor was the chairman of the Hawaiian Homes Commission from 1921 to 1935; and

"Whereas, although the United States transferred title to Hawaiian homes lands to the State of Hawaii in the Admission Act of 1959, under sections 4 and 5 of the Admission Act, the federal government continued its trustee responsibilities by retaining oversight responsibility for aspects of the administration of the Hawaiian Homes Commission Act, including the requirements of congressional concurrence for any state legislative amendments to the Hawaiian Homes Commission Act and the approval of the U.S. Secretary of Interior for any land exchanges involving Hawaiian homes lands; and

"Whereas, the federal government also retained the power to review and approve amendments to the provisions of the Hawaiian Homes Commission Act and the power to sue to enforce its terms, but has failed to do so; and

"Whereas, the United States continues to occupy for nominal rent of valuable homelands, including land that was illegally set aside; and

"Whereas, the United States Constitution permits Congress to exercise plenary power in enacting legislation to benefit aboriginal and indigenous people of America based upon the unique historical and legal status of native peoples within the United States; and

"Whereas, like American Indians, Alaskan natives, and Aleuts, Native Hawaiians (a) inhabited and once exercised absolute sovereignty over lands now within the United States; (b) never voted to or affirmatively approved annexation of Hawaii's former public, crown and government lands; and (c) enjoy a culture, language, and practices which exist only in Hawaii; and

"Whereas, Congress has long recognized Native Hawaiians as a distinct aboriginal group and has dealt with them in a manner similar to other native American groups; and

"Whereas, Congress has recognized its fiduciary responsibilities to Native Hawaiians in legislation requiring Native Hawaiians to be included in programs for Native Americans and in the funding of Native Hawaiian programs in employment training, educational improvement, health promotion, and library services; and

"Whereas, the betterment of the conditions of Native Hawaiians is a public purpose which the United States required of Hawaii in the 1959 Statehood Act which enjoys broad support as well as substantial legislative funding in the State of Hawaii; and

"Whereas, the State of Hawaii has undertaken to correct the problems that have occurred in the administration of the Hawaiian homes lands since statehood in 1959 and to better the conditions of Native Hawaiians through programs to preserve Hawaiian culture and to improve the health and education of all Hawaiians; now, therefore,

"*Be it resolved by the Senate of the Sixteenth Legislature of the State of Hawaii, Regular Session of 1992, the House of Representatives concurring*, That it urges the United States President and Congress of the United States to formally affirm, honor, and fulfill the federal trust obligations to the native Hawaiian people as provided under the Hawaiian Homes Commission Act; and

"*Be it further resolved*, that the Legislature declares its support and authorization of the State's vigorous pursuit of federal claims to restore and strengthen the Hawaiian homes lands trust; and

"*Be it further resolved*, that certified copies of this Concurrent Resolution be transmitted to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, the chair and members of the United States Senate Committee on Energy and Natural Resources, and the members of Hawaii's Congressional Delegation."

POM-303. A resolution adopted by the Pacific Basin Development Council favoring the limitation of the authority of the Inspector General of the U.S. Department of the Interior; to the Committee on Energy and Natural Resources.

POM-304. A resolution adopted by the Legislature of the Commonwealth of Puerto Rico; to the Committee on Energy and Natural Resources.

POM-305. A resolution adopted by the Catholic War Veterans favoring the continuation of the Congress' of the United States efforts, by legislation, to reduce vehicle and industrial emissions, to provide for the strict control of the disposition of nuclear, hazardous waste and toxic substances; to the Committee on Environment and Public Works.

POM-306. A resolution adopted by the Catholic War Veterans favoring legislation to fix the Social Security "Notch"; to the Committee on Finance.

POM-307. A concurrent resolution adopted by the Legislature of the State of Florida; to the Committee on Finance.

"HOUSE CONCURRENT RESOLUTION NO. 469

"Whereas, the economic uncertainty of the 1980's and early 1990's has resulted in a loss of American jobs, a strain on the American family and restructuring of many of America's industrial corporations, and

"Whereas, one of the leading factors in the creation of economic problems in the United States has been the encroachment of foreign goods and products into the American marketplace, coupled with trade barriers abroad which discourage American exports, and

"Whereas, at the present time foreign manufacturers have encroached upon American markets, producing a great percentage of our electronic equipment, including televisions, microwave ovens, telephone equipment and radios, a great percentage of shoes, bicycles, stuffed toys, and luggage, and a great number of automobiles, and

"Whereas, each manufactured product sold in the United States and produced abroad contributes both to our trade deficit and to the domestic loss of American jobs, and

"Whereas, the citizens of Florida and of the United States could have a positive effect upon this corrosive problem by refusing to purchase imported products, and

"Whereas, it is fitting and appropriate that the Legislature of the State of Florida support American manufacturers in their efforts to overcome foreign imported products and preserve American jobs, Now, therefore,

"*Be it resolved by the House of Representatives of the State of Florida, the Senate concurring:* That the Legislature of the State of Florida hereby declares the week of July 4th, 1992, as "Buy American Week" and urges all citizens of the State of Florida to participate by refraining from purchasing any imported goods during that week and instead urges them to purchase goods manufactured in the United States.

"*Be it further resolved*, That copies of this resolution be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress."

POM-308. A resolution adopted by the Committee on Health Care of the Legislature of the State of Nevada favoring the support of the "Medicaid Managed Care Improvement Act of 1991"; to the Committee on Finance.

POM-309. A resolution adopted by the House of Representatives of the State of Florida; to the Committee on Foreign Relations.

"HOUSE MEMORIAL NO. 49

"Whereas, the people of Haiti have long suffered under the arbitrary rule of dictatorship rather than the democratic rule of law, and

"Whereas, in 1986, Haitians from all sectors of society showed great courage in joining together to oust President-for-Life Jean Claude Duvalier, and

"Whereas, the people of Haiti have repeatedly manifested their aspirations for democracy and a constitutional government, and equitable economic development as outlined in their Constitution ratified on March 19, 1987, and

"Whereas, the 1987 presidential election was canceled due to widespread violence on the day of the election, and

"Whereas, the Haitian people participated in a second internationally supervised election on December 16, 1990, and elected President Jean-Bertrand Aristide by almost 70 percent of the vote in an election that was recognized by international observations as free, fair, and open, and

"Whereas, elements of the military on September 30, 1991, launched an armed attack against President Aristide and the people of Haiti, and

"Whereas, President Aristide was forced to leave Haiti and a military junta has seized power, and

"Whereas, since President Aristide's departure, a military forces loyal to the junta have reportedly engaged in the widespread murder of Haitian citizens, armed intimidation of the Haitian Legislature, and forced expulsion of an Organization of American States delegation sent to Haiti to help negotiate a peaceful solution to the conflict there, Now, therefore,

"*Be it resolved by the Legislature of the State of Florida:* That the Congress of the United States is urged to:

"(1) Strongly condemn the unconstitutional seizure of power by the military junta in Haiti, its abridgment of civil and political rights for Haitian citizens, and its blatant disregard for the Haitian Constitution and international law.

"(2) Support the Bush administration's refusal to recognize the coup led by mutinous soldiers, its suspension of economic assistance to Haiti until President Aristide's government has been restored, and its diplomatic efforts to restore the legitimately elected government of President Aristide.

"(3) Strongly support the organization of American State's efforts to negotiate an end to the military seizure of power and the murder and mayhem that has followed.

"(4) Urge the Attorney General to:

"(a) Suspend all deportation and exclusion proceedings for Haitians in the United States pending a resolution of the deep political and military crisis in Haiti, as called for by the Inter-American Commission on Human Rights; and

"(b) Designate Haiti under section 244A(b)(1) of the Immigration and Nationality Act relating to temporary protected status.

"(5) Urge the United States Coast Guard to begin a coordinated search and rescue at sea operation with respect to Haitians fleeing Haiti, stop the interdiction of Haitian boat people, bring Haitians rescued at sea to the United States for temporary safe haven, and save those Haitians who flee the violence, persecution, and anarchy of their homeland, as called for by the Inter-American Commission on Human Rights.

"(6) Take necessary action to assure that the United States government provide sufficient funds to the states to defray the costs of providing temporary haven in the United States to the Haitian refugees.

"*Be it further resolved*, That copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress."

POM-310. A resolution adopted by the Catholic War Veterans favoring the establishment of English as the Official Language of the United States; to the Committee on Governmental Affairs.

POM-311. A resolution adopted by the Catholic War Veterans favoring anti-blasphemy legislation; to the Committee on the Judiciary.

POM-312. A resolution adopted by the Catholic War Veterans favoring a permanent national day of remembrance, National Pearl Harbor Day; to the Committee on the Judiciary.

POM-313. A resolution adopted by the Catholic War Veterans favoring the abolishment of the National Endowment of the Arts; to the Committee on Labor and Human Resources.

POM-314. A resolution adopted by the House of Representatives of the Commonwealth of Pennsylvania; to the Committee on Labor and Human Resources.

"HOUSE RESOLUTION NO. 215

"Whereas The present health care system in the United States has major flaws, including unequal access to care and treatment, uncontrollable costs, underfunding of preventive care and unequal distribution of health care facilities and providers; and

"Whereas Long term care is a continuing, desperate need for hundreds of thousands of Pennsylvanians causing family bankruptcies and delays and denials of care for senior citizens; and

"Whereas The Medicaid program is growing at an insupportable rate for the Commonwealth's budget and is not keeping up with the needs of Pennsylvanians while the Medicare program continues to shift costs to our senior citizens and to other insured Pennsylvanians; and

"Whereas The cost of health insurance coverage is not affordable for many small businesses, their employees, self-employed persons and other individuals; and

"Whereas More than 40 million Americans, including more than 1 million Pennsylvanians, are currently without health insurance; and

"Whereas Children's health care is deteriorating resulting in an overall 30% of two-year-olds not having essential childhood vaccinations and infant mortality rates placing the United States 22nd in the world; and

"Whereas The continuing AIDS epidemic and the developing near epidemic of tuberculosis require a health system which promotes prevention and which offers prompt and comprehensive care to be effective and affordable; and

"Whereas The current patchwork of health car programs in the United States has resulted in a system which excludes millions of Americans and affords unequal treatment to those it accepts if they happen to be poor or underinsured; and

"Whereas The United States currently spends 12.2% of its Gross National Product for health care, a far greater proportion than any other industrialized country, and yet it lags behind many other countries in several important categories, such as infant mortality, life expectancy and the prevention of deaths from cancer and cardiovascular disease; and

"Whereas A healthy population is one of our Nation's most precious resources; and

"Whereas A single payer national health insurance system could streamline administrative procedures and substantially reduce the cost of providing health care; and

"Whereas The United States and South Africa are the only two industrialized countries in the world that do not provide a national health care program for their citizens; and

"Whereas, Unlike other western, industrialized nations, health care in the United States is currently a privilege that is linked to the ability to pay; and

"Whereas, Health care should be a right of all citizens and should not be denied to persons who are unable to pay for it or to obtain insurance; and

"Whereas, National health insurance must be instituted in such a manner as to ensure that all Americans have access to high quality, affordable health care: Therefore be it

"*Resolved*, By the House of Representatives of the Commonwealth of Pennsylvania, that a health care crisis exists and required national action. The Commonwealth will address these individual and collective crises as best it can but will also continue at every opportunity to work to convince elected Federal officials to solve this health care crisis by implementing a single payer national health care system with a defined role for the states; and be it further

"*Resolved*, That the Congress and the President of the United States are respectfully memoralized to expeditiously enact health care legislation which meets the following requirements:

"(1) Health care must be recognized as a fundamental right.

"(2) All Americans must be covered.

"(3) It must save money.

"(4) It must lead to lower costs for middle class families.

"(5) It must lead to low costs for businesses who already provide health insurance.

"(6) It must employ free market principles that improve the quality of care and limit costs.

"(7) It must control medical inflation.

"(8) It must meet the need for long-term care.

"(9) It must take cognizance of the value of children's preventive health services, including prenatal care, well-baby care and medically necessary immunizations.

"(10) It must address the issue of availability of low-cost comprehensive health insurance coverage for small employers and qualified individuals, families and groups.

"(11) It must use existing public resources.

"(12) It must not require any new taxes on working families.

"(13) It must spread the burdens of cost more fairly than the current system; and be it further

"*Resolved*, That copies of this resolution be transmitted to the President of the United States and to the presiding officers of each house of Congress and to each member of Congress from Pennsylvania."

POM-315. A resolution adopted by the Catholic War Veterans favoring the current U.S. policy of highest national priority to resolve the POW/MIA issue and reject irresponsible private efforts which jeopardize and interfere with the Government-to-Government process; to the Select Committee on POW/MIA Affairs.

POM-316. A resolution adopted by the Catholic War Veterans favoring H.R. 1147, a bill to direct the heads of agencies to disclose information concerning United States personnel classified as prisoners of war or missing in action after 1940, including from World War II, the Korean conflict and the Vietnam conflict; to the Select Committee on POW/MIA Affairs.

POM-317. A resolution adopted by Catholic War Veterans favoring equalization of recognition for all Desert Storm, Desert Shield and Vietnam Veterans; to the Committee on Veterans' Affairs.

POM-318. A resolution adopted by the Catholic War Veterans opposing Norman Lear's attack on the traditional family and Christian values; ordered to lie on the table.

POM-319. A resolution adopted by the Catholic War Veterans favoring the readmission of God in our citizenry and our state; ordered to lie on the table.

POM-320. A resolution adopted by the Catholic War Veterans relating to the Veterans' re-avowal of their loyalty and wholehearted support of the Pope's pronouncements as the Spiritual Leader of the Catholic Church; ordered to lie on the table.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee were submitted:

By Mr. INOUYE, from the Select Committee on Indian Affairs:

Carl J. Kunasek, of Arizona, to be Commissioner on Navajo and Hopi Relocation, Office of Navajo and Hopi Indian Relocation, for a term of two years.

(The above nomination was reported with the recommendation that it be confirmed subject to the nominee's commitment to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PRESSLER:

S. 2375. A bill to amend the Hazardous Liquid Pipeline Safety Act of 1979; to the Committee on Commerce, Science, and Transportation.

S. 2376. A bill to state the policy of the United States regarding United States relations with the governments of the former Federal People's Republic of Yugoslavia, and for other purposes; to the Committee on Foreign Relations.

By Mr. BURNS (for himself, Mr. FORD, Mr. LOTT, Mr. SIMON, and Mr. MCCAIN):

S. 2377. A bill to facilitate the development of an integrated, nationwide telecommunications system dedicated to instruction by guaranteeing the acquisition of a communications satellite system used solely for communications among State and local instructional institutions and agencies and instructional resource providers; to the Committee on Labor and Human Resources.

By Mr. CRANSTON (for himself and Mr. SPECTER):

S. 2378. A bill to amend title 38, United States Code, to extend certain authorities relating to the administration of veterans laws, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. CRANSTON (by request):

S. 2379. A bill to amend title 38, United States Code, to provide for cost-savings in the housing loan program for veterans, and for other purposes; to the Committee on Veterans' Affairs.

S. 2380. A bill to amend title 38, United States Code, to target entitlement for vocational rehabilitation benefits under chapter 31 to veterans with service-connected disabilities rated 30 percent or more; to adjust the basic military pay reduction for chapter 30 Montgomery GI Bill participants in proportion to the increased amount of assistance provided under such chapter, and for other purposes; to the Committee on Veterans' Affairs.

S. 2381. A bill to amend title 38, United States Code, to make permanent the authority to collect reimbursement from health insurers and others for non-service-connected care provided to service-connected veterans; to the Committee on Veterans' Affairs.

S. 2382. A bill to amend titles 26 and 38, United States Code, to make permanent certain income verification and pension provisions of the Omnibus Budget Reconciliation Act of 1990; to the Committee on Veterans' Affairs.

S. 2383. A bill to amend title 38, United States Code, to ratify the Department of Veterans Affairs' interpretation of the provisions of section 1151 of title 38, United States Code; to the Committee on Veterans' Affairs.

By Mr. COATS (for himself, Mr. BOREN, Mr. MCCONNELL, Mr. DOLE, Mr. NICKLES, Mr. GRASSLEY, Mr. FORD, Mr. LUGAR, Mrs. KASSEBAUM, Mr. LOTT, Mr. BURNS, Mr. SIMPSON, Mr. KASTEN, and Mr. BRYAN):

S. 2384. A bill to amend the Solid Waste Disposal Act to require the owner or operator of a solid waste disposal facility to obtain authorization from the affected local government before accepting waste generated outside of the State, and for other purposes; to the Committee on Environment and Public Works.

By Mr. RIEGLE:

S. 2385. A bill to amend the Immigration and Nationality Act to permit the admission to the United States of nonimmigrant students and visitors who are the spouses and children of United States permanent resident aliens, and for other purposes; to the Committee on the Judiciary.

By Mr. WARNER (for himself, Mr. SPECTER, and Mr. DURENBERGER):

S. 2386. A bill to amend the Solid Waste Disposal Act to require the owner or operator of a landfill, incinerator, or other solid waste disposal facility to obtain authorization from the affected local government before accepting waste generated outside the State; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for himself and Mr. DOLE):

S. Res. 274. A resolution to authorize representation of Member of the Senate in Little Walter Norton v. Miller, et al; considered and agreed to.

By Mr. SIMPSON (for Mr. WALLOP (for himself, Mr. DOLE, Mr. PRESSLER, Mr. SIMON, Mr. ROBB, Mr. LUGAR, Mrs. KASSEBAUM, Mr. SYMMS, Mr. BOREN, and Mr. PELL)):

S. Res. 275. A resolution commending President F. W. de Klerk, the South African Government, and the people of South Africa; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PRESSLER:

S. 2375. A bill to amend the Hazardous Liquid Pipeline Safety Act of 1979; to the Committee on Commerce, Science, and Transportation.

HAZARDOUS LIQUID PIPELINE SAFETY ACT AMENDMENTS

Mr. PRESSLER. Mr. President, I rise today to introduce legislation that is designed to help prevent further environmental disasters like the one that recently occurred in my home State of South Dakota. This legislation is a first step in addressing a serious environmental problem facing our country today.

On January 13, 1992, the Williams Pipeline Co. reported a fuel leak near Sioux Falls, SD, to the Office of Pipeline Safety at the Department of Transportation.

I was alarmed to learn of this leak, as many of my constituents were. Any leak is of concern, but this one was most disconcerting. First, the leak went undetected for nearly 6 months.

Second, it occurred only three-fourths of a mile from a major aquifer in eastern South Dakota which serves as the primary water supply for our State's largest population center. Third, the original estimated size of the leak was literally only bucketfuls. However, further examination resulted in estimates of some 400,000 gallons, making it the largest leak in the history of South Dakota. Revised estimates are now closer to 200,000 gallons. To date, over 113,000 gallons have been recovered. A leak of this magnitude certainly should have been detected earlier.

So, Mr. President, to paint the picture of what happened at that major pipeline leak, it was detected 6 months late; it was first reported as a very small leak; and then it was realized that it was huge, one of the largest leaks in a pipeline in our State's history and, fortunately, it did not go into the aquifer but it was about a half a mile or three-quarters of a mile away. The point I am making is that we had a major leak that almost went undetected until it was too late.

Mr. President, I feel very strongly that everything possible must be done to prevent such leaks from occurring in the future. They are too costly to the environment and to everyone involved. Therefore, I have over the past several weeks carefully studied what happened in this case. South Dakota and other States that have hazardous liquid pipelines ought to be concerned over the possibility of future leaks. However, the number of such leaks can be reduced, I believe, through a coordinated effort by Federal, State, and local government officials, and private industry leaders.

I serve on the Commerce Subcommittee on Surface Transportation. Last year, the Senate passed S. 1583, the Pipeline Safety Improvement Act of 1991, after subcommittee hearings were held. This legislation will help address the safety of pipelines in a number of important ways.

Now since this leak was reported, I have carefully revisited this issue. First, I was briefed in detail by Mr. George Tenley, Associate Administrator for Pipeline Safety, head of the Office of Pipeline Safety. I learned many specifics regarding safety and inspection procedures on the section of pipeline in question, as well as the pipeline inspection program in general.

The enormous task of inspecting 1.8 million miles of pipeline in this country under Federal inspection jurisdiction falls on only 24 Federal inspectors. So for our entire Nation with 1.8 million miles of pipeline, we have only 24 Federal inspectors.

Mr. Steve Cropper, president of Williams Pipelines, met with me to explain the industry side of this critical issue. I was pleased to learn several new technological advances were being applied to assist the industry in deterring future leaks. As I continued to study this matter, I worked closely with officials in my State that deal with pipeline safety, learning the problems they face.

Currently, hazardous gas and liquids are transported via pipeline throughout the United States. Of the approximately 1.8 million miles of pipeline, roughly 1.6 million miles are natural gas pipelines and 155,000 miles of pipeline transport hazardous liquids. The leak in South Dakota falls in the latter category.

Mr. President, 48 States have their own natural gas pipeline safety inspection programs. However, only 10 States have a similar program for the inspection of hazardous liquid pipelines. The Federal Government retains primary inspection responsibilities for pipelines in those States without their own programs, but the Federal office is understaffed. States need greater assistance from the Federal Government in implementing their own inspection program.

Therefore, I have introduced legislation to correct this problem. My legislation would do the following: First it adds 12 new Federal pipeline safety inspectors above the number authorized for fiscal year 1992, a 50-percent increase.

Second, these inspectors will focus specifically on inspections in States that do not have their own hazardous liquid pipeline safety programs in place.

Third, they will provide technical assistance and training to these States to help them develop their own pipeline safety programs. These personnel will focus primarily on public water supply protection and other environmental public health and safety aspects of pipeline regulations.

They will pay particular attention to pipelines constructed prior to 1971 which are more likely to develop problems. They will assist States in the review and management of pipeline safety grants. These provisions, together with others, offer a good first step in improving overall pipeine safety.

Mr. President, after much negotiation, I am pleased to report that my legislation has the support of the administration. South Dakota Department of Environment and Natural Resources Secretary Robert Roberts also fully supports this bill. These are important commitments for which I commend them.

The fact of the matter is that States are usually in a much better position to handle these inspections than is the Federal Government. They best understand the intricacies of their own State. In addition, the local citizens are in closer contact with State officials than regional Federal offices.

The bottom line, Mr. President, is that local, State, and Federal governments, as well as the pipeline industry, must cooperate in improving pipeline safety. By providing greater assistance to those States that need it most, my bill will provide a first step to improving overall pipeline safety.

So, Mr. President, to conclude, let me say I think that our entire Nation can look to the spill that occurred near Sioux Falls as an example of the dangers to which the public and the environment can be subjected if a pipeline leaks. We certainly need pipelines throughout our Nation to move energy, to move gas, to move natural gas. We certainly have a need to improve the technology of pipeline safety. But we also must have quick, prompt pipeline inspection and notification so that the problem can be corrected.

My bill would be a step forward. It would add 12 additional Federal pipeline inspectors. It would improve the cooperation between Federal, State, and local governments. I think we can learn form the near disaster that took place near Sioux Falls. I think we can improve pipeline safety throughout our Nation. It is a subject to which we need to pay attention because the movement of energy is so important to our citizens.

Mr. President, I send my bill to the desk and request that it be referred to the appropriate committee. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2375

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT.

The Hazardous Liquid Pipeline Safety Act of 1979 (49 App. U.S.C. 2001 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 220. FIELD PERSONNEL.

"(a) IN GENERAL.—To the extent and in such amounts as are provided in advance in appropriation Acts, the Secretary of Transportation, in fiscal year 1993, shall employ and maintain thereafter an additional 12 pipeline field personnel above the number of field personnel authorized for fiscal year 1992 for the Research and Special Programs Administration. These personnel will work primarily on public water supply protection and other environmental public health and safety aspects of pipeline regulations. The Secretary shall take such action as may be necessary to assure that the activities of such additional field personnel focus on—

"(1) inspecting intrastate hazardous liquid pipeline facilities in those States that do not have a hazardous liquid pipeline safety program that meets the requirements of subsection (a) or (b) of section 205 of this title;

"(2) assisting the States identified under paragraphs (1) and (3) in developing hazardous liquid pipeline safety programs that meet the requirements of subsection (a) or (b) of section 205 of this title;

"(3) inspecting interstate hazardous liquid pipeline facilities constructed prior to 1971; and

"(4) providing technical assistance and training to State pipeline inspectors and assisting in the review and management of pipeline safety grants.

"(b) ASSIGNMENT OF FIELD PERSONNEL.—The additional field personnel provided under subsection (a) shall be assigned by the Secretary to the Research and Special Programs Administration pipeline safety regional offices on the basis of the extent to which—

"(1) hazardous liquid pipelines constructed prior to 1971 exist in a region;

"(2) there are in a region States having intrastate hazardous liquid pipeline facilities that do not have a hazardous liquid pipeline safety program meeting the requirements of subsection (a) or (b) of section 205 of this title; and

"(3) there are other factors, including those based on public water supply protection and other environmental public health and safety concerns, which the Secretary deems relevant to improving the extent and quality of Federal and State hazardous liquid pipeline safety programs.

"(c) FUNDING.—The Secretary of Transportation may use such sums as may be necessary of funds appropriated pursuant to section 17(a) of the Natural Gas Pipeline Safety Act of 1968, as amended, and section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979, as amended, to carry out this section.".

By Mr. PRESSLER:

S. 2376. A bill to state the policy of the United States regarding United States relations with the governments of the former Federal People's Republic of Yugoslavia, and for other purposes; to the Committee on Foreign Relations.

FORMER YUGOSLAVIA ACT OF 1992

Mr. PRESSLER. Mr. President, today I introduce legislation designed to recognize the fact that Yugoslavia no longer exists, and seeks to adjust United States policy accordingly. Two years ago three nations that had been occupied by the Soviet Union began to pull away from its control. The tenacity of Lithuania, Estonia, and Latvia was rewarded by restored independence after 50 years. More important, the brave peoples of three nations shot a silver bullet into the heart of the Soviet Union. They survived while the Soviet Union died.

It has become commonplace in recent months to use the term "former Soviet Union." At long last, the world finally realizes the Soviet Union was an artificial country. There was no underlying nationalism to give it legitimacy. In 2 short years, new nations—former Soviet Republics—have declared independence and been recognized by the United States.

A precise parallel exists between events in the Soviet Union and what has been happening in Yugoslavia. Once again, an artificial country is proving that it cannot survive in an era of increasing demand for self-determination and democracy.

Mr. President, in early 1990, few people thought the Soviet Union would disintegrate rapidly. Even fewer welcomed that course of events. A number of America's leading foreign policymakers exerted every effort to preserve the Soviet Union.

They feared that a collection of relatively autonomous nations, some of which do not want to be part of a larger political union, would be a threat to international stability, security, and commercial ties. These experts invested heavily in Mikhail Gorbachev, as if he alone could make the Soviet Union viable.

As the Soviet Union disintegrated, two Yugoslav Republics decided to test the waters of independence—Croatia and Slovenia. Slovenia, which is closer to Western Europe than Belgrade, had little trouble peacefully transitioning out of Yugoslavia. But the Communist diehards who run the Belgrade regime launched a military campaign to prevent Croatia from breaking free of their grasp. While thousands of people were being killed and billions of dollars' worth of property destroyed, the United States virtually did nothing.

Belgrade's war of aggression has ended in the smoking ruins of Croatia. Only after the conquest was completed did the West begin to act. The United States limited its leadership to pushing for the creation of a U.N. peacekeeping force in territories conquered by Belgrade and areas claimed by the central regime which were fortunate enough to be spared the sword.

Now other Republics and autonomous regions of the former Yugoslavia area—or shortly may be—under the gun. The plight of the Albanian majority in Kosova, a region occupied by unwanted forces of the Belgrade regime, is well-known. In addition, press reports indicate that Belgrade may be attempting to undo by force a vote of the people of Bosnia-Herzegovina. Other areas and regions yearn for greater freedom, but are suppressed by force.

Mr. President, enlightened European nations have recognized Croatian and Slovenian independence. As with the Soviet Union, Europeans have recognized the changing nature of East European nationalism and accommodated to the new reality.

So long as the United States persists in the notion that Yugoslavia exists—and that it deserves to be preserved—our country will be blamed for the brazen, inhuman behavior of what remains of central Yugoslav authority in Belgrade.

As the ranking member of the Subcommittee on European Affairs of the Foreign Relations Committee, I have observed the dissolution of Yugoslavia and the behavior of United States policymakers regarding that process. Mr. President, the time has come for the United States to enter the real world and realize that Yugoslavia is no longer a country.

In recent years, I have been contacted more and more frequently by representatives of national groups within the former Yugoslavia. In general, they paint a picture in which Belgrade authorities—mostly Serbians—are the major force in perpetuating the fiction that Yugoslavia exists. The motive seems to be maintaining Serbian hegemony, which can survive only by force of arms.

The chairman of the Foreign Relations Committee, Senator CLAIBORNE PELL, deserves great credit for his study of the role of persecuted nationalities within the borders of the former Yugoslavia. Likewise, the committee's ranking member, Senator JESSE HELMS, has spoken eloquently about the need to apply the same standards to the former Yugoslavia as were applied to the former Soviet Union.

Mr. President, the time has come to take the next step. At a minimum, Congress must recognize that Yugoslavia has dissolved and, like Humpty Dumpty, cannot be put back together again. The Yugoslav army may try to enforce military control over greater Serbia, but defenders of individual liberty and self-determination should not tolerate it.

The legislation I introduce today seeks to adjust United States policy to real world realities and away from the post-World War I notion that a single state is the best guarantee against Balkan wars. However, this legislation is not intended to determine which competing nationality takes precedence within the borders of the former Yugoslavia.

For some ethnic communities, nothing but independence will be enough. For others, greater autonomy within a voluntary union may suffice. The solutions to these problems will be difficult, but they are not beyond the capacity of honest diplomacy and fair negotiation.

Mr. President, let me add that I do not think the deployment of U.N. forces is a permanent solution in the former Yugoslavia. It seems to me that the solution lies in radical reduction in the size and power of Belgrade's army. Conventional arms reduction is vital if lasting peace is to be achieved.

My legislation marks the beginning step toward recognition of the new realities in the former Yugoslavia. I urge the President and the State Department to work within the framework regarding the former Yugoslavia and its former Republics and autonomous regions.

Mr. President, I send this bill to the desk, request that it be referred to the appropriate committee, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2376

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Former Yugoslavia Act of 1992".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Constitution of the Federal People's Republic of Yugoslavia, adopted in 1946, was modeled on the 1936 Constitution of the Union of Soviet Socialist Republics.

(2) Of the Six republics (Macedonia, Slovenia, Croatia, Serbia, Montenegro, and Bosnia-Hercegovina) and two autonomous regions (Kosovo and Vojvodina) that formerly comprised the Federal People's Republic of Yugoslavia, several have voluntarily disassociated themselves to varying degrees from the political structure created by the Constitution of 1946.

(3) As a result of these actions by its constituent republics and provinces, the Federal People's Republic of Yugoslavia has ceased to exist.

SEC. 3. POLICY.

It is the sense of the Congress that the policy of the United States should be to conduct diplomatic and other relations directly with each of the nations, republics, and regions that formerly comprised the Federal People's Republic of Yugoslavia or directly with any voluntary association or associations of any such nations, republics, and regions rather than indirectly through the central government of the former federal state.

SEC. 4. REPORT.

(a) Reporting Requirement.—Not later than 90 days after the date of the enactment of this Act, the President shall submit to the Committee on Foreign Relations of the Senate and the Speaker of the House of Representatives a comprehensive report on United States policy toward the nations, republics, and autonomous regions that formerly comprised the Federal people's Republic of Yugoslavia.

(b) Content of Report.—The report shall include the following matters:

(1) The advisable levels and timing of United States diplomatic recognition and representation regarding each nation, republic, and autonomous region that formerly comprised the Federal People's Republic of Yugoslavia, including the specific criteria for determining to grant that recognition and the justification for any determination not to recognize a nation, republic, or autonomous region that has received the diplomatic recognition of any member nation of the North Atlantic Treaty Organization.

(2) The actions the United States will undertake bilaterally and in appropriate international bodies to prevent military and police forces anywhere within the territory of the former Federal People's Republic of Yugoslavia from attacking any such nation, republic, or autonomous region.

(3) The actions the United States will undertake bilaterally and in appropriate international bodies to prevent military and police forces of the former Federal People's Republic of Yugoslavia from being stationed in any such nation, republic, or autonomous region against the will of any freely elected, representative government of that nation, republic, or autonomous region.

(4) The actions the United States will undertake bilaterally and in appropriate international bodies to bring to justice government authorities who ordered members of military and police forces of the former Federal People's Republic of Yugoslavia or any such nation, republic, or autonomous region to attack any other such nation, republic, or autonomous region.

(5) The actions the United States will undertake bilaterally or in appropriate international bodies to reduce the influence and size of military forces that have attacked any such nation, republic, or autonomous region and to reduce the funding and supplying of such military forces by any source.

(6) The actions the United States will take through the United Nations and other appropriate international bodies to assure security and peace in the former Federal People's Republic of Yugoslavia.

(7) The extent to which the United States has ceased to provide assistance directly or indirectly to the government of any such nation, republic, or autonomous region that has attacked or occupied any other such nation, republic, or autonomous region.

(8) The levels and types of assistance that are being provided or are to be provided by the United States, directly or indirectly, to those nations, republics, and autonomous regions that have had free, fair, internationally supervised elections and that have committed themselves to principles of democracy and human rights.

(9) Any other matters relating to the policy referred to in subsection (a) that the President considers appropriate.

By Mr. BURNS (for himself, Mr. FORD, Mr. LOTT, Mr. SIMON, and Mr. MCCAIN):

S. 2377. A bill to facilitate the development of an integrated, nationwide telecommunications system dedicated to instruction by guaranteeing the acquisition of a communications satellite system used solely for communications among State and local instructional institutions and agencies and instructional resource providers; to the Committee on Labor and Human Resources.

INTEGRATED AND NATIONWIDE TELECOMMUNICATIONS

Mr. BURNS. Mr. President, America faces many problems and challenges in education. From Montana to Maine, from local school districts to large universities, educators are being asked to do more with less. There is overcrowding in urban areas, and a lack of access to educational opportunities in many rural areas. And everywhere we turn, budgets are being squeezed. We do not have to look far to see examples of the problems in education. In my home State, our university system faces funding decreases and tuition increases. The problems do not end with higher education either. Like many other States, the Montana Supreme Court has ruled that all public school students must be given equal educational opportunities. This is extremely difficult to accomplish in rural areas where a school may only have 20-25 students. And it is equally challenging for inner cities.

Every student deserves equal access to a quality education, but not every small rural school, or poor inner city school, can afford the resources and specialized instructors that are available in wealthier communities. Saco, MT, is a perfect example. The Saco High School has less than 40 students. They just cannot afford to hire a Spanish teacher to teach one class a day. This could unfairly limit students' educational opportunities. Unfortunately, this is not an isolated example. I could go on, giving you examples from every State in the Union. But there is no point in doing that when the real question is what are we going to do about it?

We are being challenged as a nation, and we must react—as a nation, with unity of purpose. We must marshall our resources and find ways to overcome the problems in education. Our children's future is at stake. We must act now to position America to move into the 21st century with a well-educated, competitive work force. There are many exciting proposals being forwarded and each of them has merit. Over this Nation's history, we have used good old American creativity to conquer many challenges and forge new horizons. Often times, technology plays a key role in making us world leaders. In the areas of space and defense, our technological know-how has made us second to none.

I believe we should act now to apply that same technological know-how to education. If we do, our success will be no less than it has been in space and defense. Whether it be through copper wire, satellites, or fiber optics, distance learning can provide access to the vast educational resources of our Nation, regardless of wealth or geographic location. Let us go back for a minute to Saco, MT. Educators in Saco have turned to telecommunications and distance learning to diversify and enrich their students' education. Students in Saco can take not only Spanish, but Russian, chemistry, and physics via satellite. The Mid-Rivers Telephone Co-Op in eastern Montana also has a project linking schools in Terry, Baker, Plevna, and Ekalaka, MT, with fiber-optics. The fiber link allows students in these communities to have a two-way audio and visual connection with their Spanish and German teachers over a hundred miles away. Unfortunately, barriers still exist which are holding back the full development of distance learning.

I have introduced a bill, S. 1200, which will facilitate the deployment of a broadband fiber-optic network that will be available to every educational institution, health care organization, business, and home in the United States by the year 2015. In order to do this, some regulatory barriers have to be removed, and S. 1200 removes those barriers. A national broadband fiber-optic network holds great promise for the field of education. With a fiber-optic network, any school in the country could have guest teachers from anywhere in the world via a two-way interactive audio and visual network. The possibilities of what a fiber optic network could offer our educational system are limited only by the mind.

But even with the passage of S. 1200, this network may not be a reality for quite some time, and we cannot wait to expand the opportunities available through distance learning. We must start right here, right now, by taking advantage of the satellite technology that exists today. That is why I am introducing today, along with Senators FORD, SIMON, LOTT, and MCCAIN, a bill which will help remove some of the barriers that are stunting the growth of distance learning. Our bill offers Federal loan guarantees to a non-Federal, nonprofit, public corporation which they can use to obtain financing for the purchase or lease of a dedicated education satellite system. A dedicated educational satellite will allow us to address two barriers faced by those involved in distance learning via satellite. First, it will insure instructional programmers that they will be able to obtain affordable satellite transmission time without risk of preemption by commercial users. Second, it will allow educators using the programming to have one dish focused on one satellite off which they can receive at least 24 channels of instructional programming—24 different programs—every hour of the school day.

There is no doubt in my mind that distance learning is a growth area and that there is a role for the Federal Government in facilitating that growth. The Office of Technology Assessment's 1989 report, "Linking for Learning: A New Course for Education," documents the recent growth of distance learning, calling the growth in the K-12 sector dramatic. OTA anticipates this growth to continue. The National Governors' Association in 1988 found that while fewer than 10 States were promoting distance learning in 1987; 1 year later two-thirds of the States reported involvement. The NGA passed a resolution in 1988, and revised it in 1991, expressing their support for a dedicated education and public purpose satellite-based telecommunications network. Following their 1989 education summit in Charlottesville, VA, where former Governor Wallace Wilkinson of Kentucky and other Governors raised with President Bush the proposal for this dedicated system, the EDSAT Institute was formed to analyze the proposal. In 1991, they issued a report entitled "Analysis of a Proposal for an Education Satellite," and they found, as did the OTA report, that individual States and consortiums of States are investing heavily in distance learning technologies and that the education sector is a significant market.

The legislation we are introducing today addresses the issue of an infrastructure for distance learning. The OTA report also addresses this issue and concludes that national leadership could focus, infrastructure, investments toward the future, ensuring that today's distance learning efforts carry our educational system into the 21st century. A commitment to a national telecommunications infrastructure for distance learning requires a change in the existing Federal role. That is what we are proposing today, and what I have proposed in S. 1200, a change in the Federal role and a change in the Federal telecommunications policy. Our approach is based on the precepts of Abraham Lincoln who said, and I paraphrase, that the legitimate role of the Government is to do for the people that which they cannot do for themselves. The application of this great precept to this initiative begs two questions. First, how do we know the people cannot provide for themselves an integrated, satellite-based telecommunications system? And once we determine that they can't, we must then ask what the Federal Government's role is in doing it for them?

The first question, why can't the education sector provide such a system themselves, is best answered by looking at the realities surrounding their use of satellite technology. While there is a significant market out there, it can best be described as disorganized and fragmented. For the most part, schools, school districts, State education agencies, colleges, and universities all operate independently. In recent years, as the OTA report documents, many States have undertaken efforts to plan and coordinate for distance learning. Many States have also formed distance learning consortiums. But until all the users are aggregated on a national level, they will not have enough market power to attract commercial interest for a telecommunications infrastructure to facilitate distance learning growth.

Aggregation is not the only hurdle that the education sector faces. They are also limited by short-term planning. As we all know, education budgets are formulated primarily at the State and local levels, and they are done on an annual or biannual basis. Since funding levels are uncertain from year to year, educators and administrators find it difficult to enter into long-term agreements. In the satellite market, these small, short-term users are considered occasional buyers. As occasional buyers, educational users must pay high commercial rates for service that is often undependable because they are subject to preemption. In today's satellite market, occasional buyers would not form a basis on which satellite vendors could offer dedicated service. A satellite vendor operates much like a shopping mall developer. Before they build and launch a satellite, they go out and procure contracts from users who can guarantee their use of a majority of the transponders for the life of the satellite, 10 to 12 years. In doing this, they often look for an anchor tenant, a large user like HBO for example, and then fill up the rest of their capacity with smaller users. Clearly, the education sector is not in a position to satisfy these commercial practices and acquire for themselves a satellite dedicated to educational use.

So, how can the Federal Government help the education sector build a telecommunications infrastructure? Or more specifically, how can the Federal Government help the education sector acquire a satellite dedicated to education? Well, we could just go out and appropriate the money to buy a satellite, but which I think would be very expensive and unnecessary. Instead we have the opportunity to enter into a public/private partnership which I think is the appropriate route to take. The legislation we are introducing says that the Federal Government's role is to take the risk from the private sector in order to encourage the development of a dedicated satellite system. A nonprofit, public corporation representing educational users of all levels will investigate all practical means to acquire the most cost-effective, high quality communications satellite system and report to the Secretary of Education their findings and recommendations. At that time, the Secretary will be authorized guarantee loans of up to $270 million of which not more than $20 million can be for the costs of operating and managing satellite services for up to 3 years.

The organization, the National Education Telecommunications Organization [NETO], was formed after the EDSAT Institute held seven regional meetings last summer. Through these meetings they recognized the need to aggregate the education market for distance learning and concluded that an education programming users organization was needed. NETO has a distinguished board of educators, public policy officials, State education agencies, and telecommunications experts who are committed to the goal of developing an integrated telecommunications system dedicated to education. The first step, that of acquiring a dedicated satellite, is what we are facilitating through Federal loan guarantees.

Some have asked why NETO is needed. They have suggested that the Public Broadcasting System [PBS] is already in place and could meet the infrastructure needs of the distance learning community. This is not an attempt to replace PBS; I am a supporter of their mission and have spoken on a number of occasions in support of their efforts to expand educational programming. What we must keep in mind, however, is that PBS and NETO have very different missions. PBS is in the business of broadcasting. PBS provides programming and has acquired satellite time in order to deliver its own programming. In contrast, NETO's focus is on the distribution of distance learning, much of it live and interactive. NETO itself will not generate programming. NETO's sole concern is the creation of an infrastructure which will distribute instructional programming created by others at an equitable price to all users.

Although NETO will aggregate the market so that it will be of sufficient size, the education sector still faces the problem of being a short-term user. Educators cannot enter into the 5- or 10-year commitments that satellite vendors look for in long-term users. This legislation solves that problem by offering Federal loan guarantees to NETO so that they can, in turn, offer the satellite vendors the long-term commitment they need. Our proposal basically guarantees the vendor an anchor tenant. Without that guarantee, it is likely that even an aggregated education market would be able to secure an long-term lease or purchase arrangement with a satellite vendor.

If this legislation passes, the Federal Government will be setting a national policy in support of a telecommunications infrastructure for distance learning. A policy that will cost the Government relatively little compared to the benefits our Nation will receive through improved education and educational access. The risk to the Federal Government is minimal. The only risk the Government is assuming is the risk that the distance learning market will dissipate. I think the findings of the National Governors' Association, the OTA, and the EDSAT Institute prove that highly unlikely. But I also believe that with distance learning, as with transportation and other infrastructure-dependent markets, once an infrastructure is in place the market will expand beyond our current expectations.

A dedicated satellite system will bring instructional programming which is now scattered across 12 to 15 satellites into one place in the sky. This colocation will allow educators to receive a variety of instructional programs without having to constantly reorient their satellite dish. By making the investment in a dedicated system on the front end, we are reducing distance learning costs for educators on the State and local levels. The programmers will benefit because they will be able to market their programming to a wider audience and will be guaranteed reliable satellite time at an affordable rate. A rate that will be equal no matter how much time they buy. Programmers include public schools, colleges, universities, State agencies, private sector corporations and consortiums, such as the Star Schools consortiums, and independents. The users will benefit because their investment in equipment to receive instructional programming may be reduced because of the technological advantages of focusing on one point in the sky. Users include primary and secondary students, college and university students, professionals interested in continuing education, community members, and government bodies. The benefits far outweigh the costs in my mind.

A dedicated educational satellite will allow our kids to benefit from equal access to quality education. This is really just a first step. Both NETO and I believe that a telecommunications infrastructure for use by the educational sector should not be technology specific. I plan to continue pushing for passage of S. 1200 to make a national broadband fiber-optic network a reality. NETO's vision is for an integrated, nationwide telecommunications system, a transparent highway that encompasses land and space, over which educational and instructional resources can be delivered. They envision bringing together the land-based systems that are already in place, not replacing them. This is an inclusive effort, not an exclusive one. I hope that my colleagues will join me in making this a reality.

Technology has transformed every sector of our lives. It can transform education as well. It will not replace teachers, it will empower them with better teaching tools. It will inspire our young people to actively engage in their education. It will expose them to the world around them and broaden their horizons. Our Nation's children deserve no less.

Mr. SIMON. Mr. President, satellite technology can expand educational opportunity for students in areas with teacher shortages in important subjects—such as foreign languages, math, and science. We should capitalize on technology's potential for supplementing curriculum, without allowing it to in any way replace students' one-on-one interaction with teachers.

I am pleased that Western Illinois University has been a leader in using satellite technology for teacher development programs and student instruction, particularly in rural and low-income areas. Clearly, it is in our best interest to expand this type of programming, so that schools across the country can provide their students with a similar opportunity.

I am pleased to join Senator BURNS in sponsoring this bill.

By Mr. CRANSTON (for himself and Mr. SPECTER):

S. 2378. A bill to amend title 38, United States Code, to extend certain authorities relating to the administration of veterans laws, and for other purposes; to the Committee on Veterans' Affairs.

ADMINISTRATION OF VETERANS LAWS

• Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I have today introduced S. 2378, legislation which would extend certain expired Department of Veterans Affairs authorities. I am joined in introducing this measure by the committee's ranking minority member, Senator SPECTER.

Mr. President, last fall, at the close of the first session of this Congress, the Senate was precluded from acting on H.R. 2280 as passed by the House on November 25, 1991, with amendments to an earlier version of that legislation that the Senate had passed on November 20. Among other things, that compromise included provisions which extended some then-expired or soon-to-be expiring VA authorities.

In an effort to obtain expeditious action extending these authorities, we have included in this legislation only extensions of various expired provisions. In the near future, I will seek Senate action on this measure and then will work with Chairman MONTGOMERY and other members of the House committee to secure its prompt enactment.

DESCRIPTION OF PROVISIONS

Mr. President, this measure would extend VA authorities in three areas—the authorities to maintain an office in the Philippines, to conduct certain vocational rehabilitation and training programs, and to establish research corporations—which I will describe in more detail in a moment, ratify any actions taken pursuant to these now-expired authorities between their expiration dates and the date of enactment of this legislation, and, finally, extend an expired requirement for VA to submit to the Congress a report on its use of certain health care authorities.

REGIONAL OFFICE IN THE PHILIPPINES

Mr. President, section 315(b) of title 38, United States Code, authorizes VA to maintain a regional office in the Republic of the Philippines. Pursuant to this authority, VA operates an office in Manila. This authority expired on September 30, 1991.

Section 1 of the bill would extend this authority until March 31, 1994, and would expressly ratify any actions taken by VA to maintain the regional office in Manila between October 1, 1991, and the date of the enactment of this legislation.

CERTAIN VOCATIONAL REHABILITATION AND TRAINING PROGRAMS

Mr. President, section 2 of the bill would extend certain temporary vocational rehabilitation and training programs and authorities which expired on January 31, 1992. These specific programs and authorities are as follows. First, section 1163 of title 38 provides for a temporary program of trial work periods and voluntary vocational rehabilitation evaluations for veterans receiving VA compensation at the total-disability rate based on a determination of individual employability. Second, section 1524 provides for programs of vocational training for certain non-service-disabled wartime veterans who are awarded VA needs-based disability pensions. Third, section 1525 provides for a program of time-limited protection of VA health care eligibility for a veteran whose entitlement to pension is terminated by reason of income from work or training. Each of these provisions would be extended until December 31, 1992, so as to enable the committee to receive and review VA evaluations on the effectiveness of each program or authority. Provisions in the bill would ratify any actions taken by VA under these authorities between their expiration and the date of enactment.

RESEARCH CORPORATIONS

Mr. President, subchapter IV of chapter 73 of title 38 authorizes VA to establish at its medical centers nonprofit corporations to provide a flexible funding mechanism for the conduct of medical research at VA medical centers. This subchapter also requires VA to dissolve any such corporation that fails to obtain, within 3 years after establishment, recognition from the Internal Revenue Service as a tax-exempt entity under section 501(c)(3) of the IRS code. Finally, this subchapter requires any research corporation to be established no later than September 30, 1991.

Section 3 of the bill would extend from 3 to 4 years the time period after establishment that a research corporation has to obtain IRS recognition as a tax-exempt entity and also extends VA's authority to establish research corporations until December 31, 1992.

ANNUAL REPORT ON FURNISHING HEALTH CARE

Section 19011(e)(1) of Public Law 99-272, as amended, required VA to submit to the House and Senate Veterans' Affairs Committees, not later than February 1, following the end of the fiscal year covered by the report, annual reports on the furnishing of hospital care in fiscal years 1986 through 1991. Section 4 of the bill would amend that requirement so as to extend the reporting requirement through fiscal year 1992.

CONCLUSION

Mr. President, as I mentioned at the outset, my intention is to seek Senate action on this measure in the near future and then to work with our colleagues on the House committee to ensure its prompt enactment.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2378

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY OF SECRETARY OF VETERANS AFFAIRS TO MAINTAIN THE REGIONAL OFFICE IN THE PHILIPPINES.

(a) EXTENSION.—Section 315(b) of title 38, United States Code, is amended by striking out "September 30, 1991" and inserting in lieu thereof "March 31, 1994".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as of September 30, 1991.

(c) RATIFICATION OF MAINTENANCE OF OFFICE DURING LAPSED PERIOD.—Any action of the Secretary of Veterans Affairs in maintaining a Department of Veterans Affairs Regional Office in the Republic of the Philippines under section 315(b) of title 38, United States Code, during the period beginning on October 1, 1991, and ending on the date of the enactment of this Act is hereby ratified with respect to that period.

SEC. 2. AUTHORITIES RELATING TO CERTAIN TEMPORARY PROGRAMS.

(a) PROGRAM FOR TRIAL WORK PERIODS AND VOCATIONAL REHABILITATION.—Section 1163(a)(2)(B) of title 38, United States Code, is amended by striking out "January 31, 1992" and inserting in lieu thereof "December 31, 1992".

(b) PROGRAM OF VOCATIONAL TRAINING FOR NEW PENSION RECIPIENTS.—Section 1524(a)(4) of such title is amended by striking out "January 31, 1992" and inserting in lieu thereof "December 31, 1992".

(c) PROTECTION OF HEALTH-CARE ELIGIBILITY.—Section 1525(b)(2) of such title is amended by striking out "January 31, 1992" and inserting in lieu thereof "December 31, 1992".

(d) EFFECTIVE DATE.—The amendments made by subsections (a) through (c) shall take effect as of January 31, 1992.

(e) RATIFICATION OF ACTIONS DURING LAPSED PERIOD.—The following actions of the Secretary of Veterans Affairs during the period beginning on February 1, 1992, and ending on the date of the enactment of this Act are hereby ratified with respect to that period:

(1) A failure to reduce the disability rating of a veteran who began to engage in a substantially gainful occupation during that period.

(2) The provision of a vocational training program (including related evaluations and other related services) to a veteran under section 1524 of title 38, United States Code, and the making of related determinations under that section.

(3) The provision of health care and services to a veteran pursuant to section 1525 of title 38, United States Code.

SEC. 3. AUTHORITIES RELATING TO RESEARCH CORPORATIONS.

(A) PERIOD FOR OBTAINING RECOGNITION AS TAX-EXEMPT ENTITY.—Section 7361(b) of title 38, United States Code, is amended by striking out "three-year period" and inserting in lieu thereof "four-year period".

(b) ESTABLISHMENT OF CORPORATION.—Section 7368 of such title is amended by striking out "September 30, 1991" and inserting in lieu thereof "December 31, 1992".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect as of October 1, 1991.

(d) RATIFICATION FOR LAPSED PERIOD.—The following actions of the Secretary of Veterans Affairs during the period beginning on October 1, 1991, and ending on the date of the enactment of this Act are hereby ratified:

(1) A failure to dissolve a nonprofit corporation established under section 7361(a) of title 38, United States Code, that, within the three-year period beginning on the date of the establishment of the corporation, was not recognized as an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

(2) The establishment of a nonprofit corporation for approved research under section 7361(a) of title 38, United States Code.

SEC. 4. REQUIREMENT OF ANNUAL REPORT ON FURNISHING HEALTH CARE.

Section 19011(e)(1) of the Veterans' Health-Care Amendments of 1986 (38 U.S.C. 1710 note) is amended by striking out "fiscal year 1991" and inserting in lieu thereof "fiscal year 1992".•

By Mr. CRANSTON (by request):

S. 2379. A bill to amend title 38, United States Code, to provide for cost savings in the housing loan program for veterans, and for other purposes; to the Committee on Veterans' Affairs.

S. 2380. A bill to amend title 38, United States Code, to target entitlement for vocational rehabilitation benefits under chapter 31 to veterans with service-connected disabilities rated 30 percent or more; to adjust the basic military pay reduction for chapter 30 Montgomery GI bill participants in proportion to the increased amount of assistance provided under such chapter, and for other purposes; to the Committee on Veterans' Affairs.

S. 2381. A bill to amend title 38, United States Code, to make permanent the authority to collect reimbursement from health insurers and others for nonservice-connected care provided to service-connected veterans; to the Committee on Veterans' Affairs.

S. 2382. A bill to amend titles 26 and 38, United States Code, to make permanent certain income verification and pension provisions of the Omnibus Budget Reconciliation Act of 1990; to the Committee on Veterans' Affairs.

COST-CUTTING PROPOSALS FOR VETERANS PROGRAMS

• Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I am today introducing, by request, four bills to reduce spending on Department of Veterans Affairs programs. The Secretary of Veterans Affairs transmitted these bills to the President of the Senate by letters dated February 25, 1992. The Director of the Office of Management and Budget originally submitted advanced copies of this legislation by Executive Communication 2559, on January 29, 1992.

My introduction of these measures is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD at this point, together with the February 25, 1992, transmittal letters and enclosed section-by-section analyses.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2379

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans' Home Loan Improvement Act of 1992".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

REVISION OF LOAN FEE

SEC. 2. (a) Section 3729(a)(2) is amended by—

(1) Striking out "Except as provided in paragraph (6) of this subsection, the" and inserting in lieu thereof, "The";

(2) In clause (A)—

(A) Inserting "(other than a case referred to in clause (E) of this paragraph)," immediately after "case"; and

(B) Striking out "title or for any purpose specified in section 3712 of this";

(3) In clause (B)—

(A) Inserting "(other than a case referred to in clause (E) of this paragraph)" immediately after "case"; and

(B) Striking out "and" at the end of such clause;

(4) In clause (C)—

(A) Inserting "(other than a case referred to in clause (E) of this paragraph)" immediately after "case"; and

(B) Striking out "amount." and inserting in lieu thereof "amount;"; and

(5) Inserting at the end thereof the following new clauses:

"(D) in the case (other than a case referred to in clause (E) of this paragraph) of a loan made for any purpose specified in section 3712 of this title, the amount of the fee shall be two percent of the total loan amount; and

"(E)(i) except as provided in subclause (ii) of this clause, in the case of a veteran who has previously obtained a loan guaranteed under this chapter, or made under section 3711 of this title, notwithstanding any other provision of this paragraph, and without respect to the purpose for which the loan is obtained or the amount of any downpayment made by the veteran, the amount of such fee shall be 2.5 percent of the total loan amount.

"(ii) This clause shall not apply to a person on active duty at the time the loan is closed, or to a loan obtained for the purpose specified in sections 3710(a)(8) or 3733(a) of this title.".

(b) Section 3729(a) is amended by striking out paragraph (6) in its entirety.

PROCEDURES ON DEFAULT

SEC. 3. Section 3732(c) is amended by:

(a) striking out in paragraph (1)(C)(ii) "resale," and inserting in lieu thereof "resale (including losses sustained on the resale of the property)," and

(b) striking out paragraph (11) in its entirety.

MANUFACTURED HOME LOAN DOWNPAYMENT

SEC. 4. Section 3712(c)(5) is amended by striking out "95" and inserting in lieu thereof "90".

DOWNPAYMENT FOR MULTIPLE USE

SEC. 5. Section 3710(b) is amended by—

(a) In clause (5) striking out "clause (7) or (8)" and inserting in lieu thereof "clause (7), (8) or (9)";

(b) In clause (8), striking out "title." and inserting in lieu thereof "title; and"; and

(c) Inserting at the end thereof the following new clause

"(9)(A) except as provided in subclause (B) of this clause, in the case of a veteran who has previously obtained a loan guaranteed under this chapter, or made under section 3711 of this title, notwithstanding any other provision of this subsection, and without respect to the purpose for which the loan is obtained, the amount of the loan to be guaranteed under this section or made under section 3711 of this title does not exceed 90 percent of the reasonable value of the dwelling or farm residence securing the loan as determined pursuant to section 3731 of this title;

"(B) this clause shall not apply to a person on active duty at the time the loan is closed, or to a loan obtained for the purpose specified in subsection (a)(8) of this section.".

EFFECTIVE DATES

SEC. 6. (a) The amendments made by sections 2, 4, and 5 of this Act shall apply to all loans closed on or after October 1, 1992.

(b) The amendments made by section 3 of this Act shall apply to all liquidation sales conducted on or after October 1, 1992.

SECTION-BY-SECTION ANALYSIS—DRAFT BILL, VETERANS' HOME LOAN IMPROVEMENT ACT OF 1992

Technical note: Unless otherwise clearly indicated, all references to sections, chapters, etc., in the bill and this analysis refer to provisions in title 38, United States Code.

SECTION 2—REVISION OF LOAN FEE

Subsection (a) would make two substantive amendments to section 3729(a)(2) which imposes fees on persons obtaining loans guaranteed, insured, or made by the Secretary of Veterans Affairs (VA).

The fee imposed on manufactured home loans would be increased from 1.0 percent to 2.0 percent of the loan amount.

This subsection would also require a fee of 2.5 percent from veterans who have previously obtained a VA guaranteed or direct housing loan. That fee would apply regardless of the purpose of the loan or the amount of the downpayment. This new fee on subsequent use of loan entitlement would not apply, however, to persons on active duty in the Armed Forces, to veterans refinancing existing VA loans with a new loan at a lower rate of interest, or to veterans obtaining vendee loans.

The exemption to the fee in current law for disabled veterans and certain surviving spouses would not be altered.

Subsection (b) makes a technical change by deleting the expired section 3279(a)(6).

SECTION 3—PROCEDURES ON DEFAULT

Subsection (a) would revise the definition of "net value" to require VA to take into account the losses sustained on the resale of properties in determining whether or not to acquire a foreclosed property.

Subsection (b) would make permanent the claim payment and property acquisition provisions (the so-called "no-bid" formula) contained in section 3732(c). The current sunset for these provisions is December 31, 1992.

SECTION 4—MANUFACTURED HOME LOAN DOWNPAYMENT

Would amend section 3712(c)(5) to increase the downpayment required on VA guaranteed manufactured home loans from 5 percent to 10 percent.

SECTION 5—DOWNPAYMENT FOR MULTIPLE USE

Subsections (a) and (b) would make perfecting changes.

Subsection (c) would amend section 3710(b) to require a 10 percent downpayment on VA guaranteed home loans from veterans who have previously obtained a VA guaranteed or direct housing loan. This requirement would apply regardless of the purpose of the loan. It would not apply, however, to persons on active duty in the Armed Forces, or to veterans refinancing existing VA loans with a new loan at a lower rate of interest.

SECTION 6—EFFECTIVE DATES

Subsection (a) would apply sections 2 (revision of loan fee), 4 (manufactured home loan downpayment), and 5 (downpayment for multiple use of loan entitlement), to all loans closed on or after October 1, 1992.

Subsection (b) would apply section 3 (procedures on default) to all liquidation sales held on or after October 1, 1992.

THE SECRETARY OF
VETERANS AFFAIRS,
Washington, February 25, 1992.

Hon. DAN QUAYLE,
President of the Senate, Washington, DC.

DEAR MR. PRESIDENT: Transmitted herewith is a draft bill "To amend title 38, United States Code, to provide for cost-savings in the housing loan program for veterans, and for other purposes." This is one of the Administration's legislative proposals to implement the President's program. Director Darman enclosed an advance copy of this bill in his letter to you of January 29. One change, eliminating the sunset of the VA no-bid formula, has been made from that version. I request that this measure be referred to the appropriate committee and promptly enacted.

This measure, entitled the "Veterans' Home Loan Improvement Act of 1992" would make amendments to the Department of Veterans Affairs (VA) housing loan guaranty program to reduce the risk and costs of this program, while continuing to provide eligibility for all veterans.

A detailed section by section analysis of the draft bill and an analysis of changes made in existing law by the draft bill are also enclosed.

The bill would require veterans who have previously obtained a VA guaranteed or direct home loan and, after October 1, 1992, wish to obtain another VA guaranteed loan to pay a fee of 2.5 percent of the loan amount and make a downpayment of at least 10 percent. The VA loan program was originally enacted as a readjustment benefit. We believe it is equitable to ask veterans who have previously benefited from the program to pay for the risks incurred by VA with their second or subsequent home loan. The downpayment is also a reasonable requirement, now that the veteran would have built up equity in his/her last home. These new requirements will not apply, however, to active duty service personnel, or to veterans obtaining interest rate reduction refinancing loans. The effect of this proposal on the deficit is:

FISCAL YEARS

[In millions of dollars]

	1992	1993	1994	1995	1992–1995
Outlays	0	−43.8	−38.1	−37	−118.9

These savings assume enactment of the .75 percent fee increase in appropriations language as proposed in the President's FY 1993 Budget.

The bill would also revise the no-bid formula to take into account VA's loss on the resale of the property, and make that formula permanent. The formula used under current law is flawed; it assumes VA will resell the property for its appraised value at foreclosure. In many cases, however, the actual sales price is significantly less than the appraised value. This proposal would correct the flaw, resulting in fewer property acquisitions. This correction would produce the following effect on the deficit:

FISCAL YEARS

[In millions of dollars]

	1992	1993	1994	1995	1992–1995
Outlays	0	−615.9	−85.3	−88.1	−789.3

Finally, the bill would increase the fee charged to veterans obtaining manufactured housing loans from 1 percent to 2 percent of the loan amount. It would also increase the downpayment required on such loans from 5 percent to 10 percent. This proposal would produce the following effect on the deficit:

FISCAL YEARS

[In millions of dollars]

	1992	1993	1994	1995	1992–1995
Outlays	0	−0.3	−0.3	−0.2	−0.8

The VA home loan program has been and continues to be of great importance to present and former members of the Nation's Armed Forces who seek to become homeowners. We are mindful that the cost to the taxpayers of operating the program and paying claims on loans resulting in foreclosure are significant. Since the loan guaranty program provides a unique benefit for a select group of beneficiaries, we believe the measures proposed are reasonable, and are necessary to preserve this important benefit.

The net effect of this draft bill on the deficit is:

FISCAL YEARS

[In millions of dollars]

	1992	1993	1994	1995	1992–1995
Outlays	0	−660	−123.7	−125.3	−909

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and, if it does, it must trigger a sequester if it is not fully offset. The "Veterans' Home Loan Improvement Act of 1992" would decrease direct spending. Considered alone, it meets the pay-as-you-go requirement of OBRA.

However, the President's FY 1993 Budget includes several proposals that are subject to the pay-as-you-go requirement. Although in total these proposals would reduce the deficit, some individual proposals increase the deficit. Therefore, this bill should be considered in conjunction with the other proposals in the FY 1993 Budget.

We are advised by the Office of Management and Budget that there is no objection to the submission of this draft bill to Congress, and that its enactment would be in accord with the program of the President.

Sincerely yours,

EDWARD J. DERWINSKI.

S. 2380

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFERENCES TO TITLE 38, UNITED STATES CODE.

Whenever in the Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. LIMITATION OF REHABILITATION PROGRAM ENTITLEMENT TO SERVICE-DISABLED VETERANS RATED AT 30 PERCENT OR MORE.

(a) IN GENERAL.—Section 3102(1) is amended by striking out "20 percent" each place it appears and inserting in lieu thereof "30 percent".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to veterans and other persons originally applying for Assistance under chapter 31 of title 38, United States Code, on or after October 1, 1992.

SEC. 3. INCREASE IN BASIC MILITARY PAY REDUCTION FOR CHAPTER 30 MONTGOMERY GI BILL PARTICIPANTS.

Chapter 30 of title 38, United States Code, is amended—

(1) in sections 3011(b) and 3012(c), by striking out "be reduced by $100" each place it appears and inserting in lieu thereof "(1) in the case of an individual who first entered on active duty before October 1, 1992, be reduced by $100, and (2) in the case of an individual who first entered on active duty on or after October 1, 1992, be reduced by $117,", respectively; and

(2) in section 3018A(b), by inserting before the period the following: "in the case of an individual whose involuntary separation is effective before October 1, 1992, and by $1400 in the case of an individual whose involuntary separation is effective on or after October 1, 1992".

SECTION-BY-SECTION ANALYSIS

SECTION 1—REFERENCES TO TITLE 38, UNITED STATES CODE

Section 1 provides that, unless otherwise specified, whenever in the proposal an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SECTION 2—LIMITATION OF REHABILITATION PROGRAM ENTITLEMENT TO SERVICE-DISABLED VETERANS RATED AT 30 PERCENT OR MORE

This section would amend chapter 31 of title 38, United States Code, to limit entitlement to a rehabilitation program under that chapter to veterans entitled to compensation (or who would be so entitled if not for receipt of military retired pay) under laws administered by VA for a service-connected disability rated at 30 percent or more.

This section would apply to veterans and other persons originally applying for assistance under chapter 31 of title 38, United States Code, on or after October 1, 1992.

SECTION 3—INCREASE IN BASIC MILITARY PAY REDUCTION FOR CHAPTER 30 MONTGOMERY GI BILL PARTICIPANTS

This section would amend sections 3011(b), and 3018(A)(b) of chapter 30 to increase the basic military pay reduction required for Montgomery GI Bill-Active Duty program participation to $117 per month for 12 months. The increase only would apply in the case of a participant who first enters active duty on or after October 1, 1992. Thus, the pay reduction would remain at $100 per month for those participants who first entered active duty before October 1, 1992. This amendment, thereby, would restore the 9:1 ratio of benefits to basic-pay-reduction by increasing the latter amount in proportion to the increase in chapter 30 educational assistance payments enacted by the Persian Gulf Conflict Supplemental Authorization and Personnel Benefits Act of 1991 (Public Law 102-25).

THE SECRETARY OF VETERANS AFFAIRS,
Washington, February 25, 1992.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To amend title 38, United States Code, to target entitlement for vocational rehabilitation benefits under chapter 31 to veterans with service-connected disabilities rated 30 percent or more; to adjust the basic military pay reduction for chapter 30 Montgomery GI Bill participants in proportion to the increased amount of assistance provided under such chapter; and for other purposes."

This is one of the Administration's legislative proposals to implement the President's program. Director Darman enclosed an advance copy of this bill in his letter to you of January 29, and no changes have been made from that version.

This measure would make an amendment to the vocational rehabilitation program administered by the Department of Veterans Affairs (VA) to better target resources on those persons most in need of the benefits the VA program was intended to provide.

Section 2 of the draft bill would amend chapter 31 to limit vocational rehabilitation program entitlement to disabled service-veterans rated 30 percent or more. Currently, a minimum 20 percent service-connected disability rating is required for entitlement.

Section 3 of the bill would amend chapter 30 to increase the service member's basic pay reduction required for chapter 30 Montgomery GI Bill participation in proportion to the benefit increases authorized by Public Law 102-25. This would maintain the original 9:1 government-to-participant match. Both provisions would be effective as of October 1, 1992.

The effect of this draft bill on the deficit is:

Fiscal years

[In millions of dollars]

Outlays:	
1992	....
1993	−43
1994	−49
1995	−59
1992-95	−151

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and, if it does, it must trigger a sequester if it is not fully offset. This draft bill would decrease direct spending. Considered alone, it meets the pay-as-you-go requirement of OBRA.

However, the President's FY 1993 Budget includes several proposals that are subject to the pay-as-go requirement. Although in total these proposals would reduce the deficit, some individual proposals increase the deficit. Therefore, this bill should be considered in conjunction with the other proposals in the FY 1993 Budget.

We are advised by the Office of Management and Budget that there is no objection to the submission of the draft bill to Congress, and its enactment would be in accord with the program of the President.

Sincerely yours,

EDWARD J. DERWINSKI.

S. 2381

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Medical Care Cost Recovery Amendment of 1992".

SEC. 2. Section 1729 of title 38, United States Code, is amended in subsection (a)(2)(E) by striking out "before October 1, 1993,".

SECTION-BY-SECTION ANALYSIS

Section 1 of the draft bill states the bill's title: "Medical Care Cost Recovery Amendment of 1992".

Section 2 would remove the sunset provision in the statute with respect to recoveries from health insurance of veterans with service-connected disabilities when they are treated for their nonservice-connected conditions. The sunset provision was included in the authority to pursue these recoveries as part of the Omnibus Budget Reconciliation Act of 1990.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, February 25, 1992.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To amend title 38, United States Code, to make permanent the authority to collect reimbursement from health insurers and others for non-service-connected care provided to service-connected veterans." This is one of the Administration's legislative proposals to implement the President's program. Director Darman enclosed an advance copy of this bill in his letter to you of January 29, and no changes have been made from that version.

This measure, entitled the "Medical Care Cost Recovery Amendment of 1992," would repeal the October 1, 1993, sunset provision in section 1729 of title 38, United States Code, which applies with respect to recoveries from health insurance of veterans with service-connected disabilities when they are treated for their nonservice-connected conditions. The sunset provision was included in the authority to pursue these recoveries as part of the Omnibus Budget Reconciliation Act of 1990.

The effect of this draft bill on the deficit is:

Fiscal years

[In millions of dollars]

Outlays:	
1992	....
1993	....
1994	−225
1995	−255
1992–95	−480

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it must trigger a sequester if it is not fully offset. The "Medical Care Cost Recovery Amendment of 1992" would decrease direct spending. Considered alone, it meets the pay-as-you-go requirement of OBRA.

However, the President's FY 1993 Budget includes several proposals that are subject to the pay-as-you-go requirement. Although in total these proposals would reduce the deficit, some individual proposals increase the deficit. Therefore, this bill should be considered in conjunction with the other proposals in the FY 1993 Budget.

We are advised by the Office of Management and Budget that there is no objection to the submission of the draft bill to Congress, and its enactment would be in accord with the program of the President.

Sincerely yours,

EDWARD J. DERWINSKI.

S. 2382

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Use of Internal Revenue Service and Social Security Administration Data for Income Verification.

(a) Section 6103(1)(7) of the Internal Revenue Code of 1986 is amended by striking out "Clause (viii) shall not apply after September 30, 1992." at the end thereof.

(b) Section 5317 of title 38, United States Code, is amended by striking out subsection (g).

Sec. 2. Reduction in Pension for Certain Veterans Receiving Medicaid-Covered Nursing Home Care.

Section 5503(f) of title 38, United States Code, is amended by striking out paragraph (6).

THE SECRETARY OF VETERANS AFFAIRS,
Washington, February 25, 1992.

Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: I am forwarding a draft bill "To amend titles 26 and 38, United States Code, to make permanent certain income-verification and pension provisions of the Omnibus Budget Reconciliation Act of 1990," and request that it be referred to the appropriate committee for prompt consideration and enactment.

This is one of the Administration's legislative proposals to implement the President's program. Director Darman enclosed an advance copy of this bill in his letter to you of January 29, and no substantive changes have been made from that version.

Several of the veterans-program provisions of the Omnibus 1990 budget act ("OBRA") were time limited by "sunset" clauses. Our proposal would make two of these provisions permanent in recognition of their continuing merit.

Section 8051 of OBRA authorized VA to obtain certain third-party and self-employment tax information from the Internal Revenue Service, Social Security Administration and Department of Treasury for use in verifying eligibility for VA need-based programs (pension, parents dependency and indemnity compensation, and certain health-care services). It also authorized VA to use wage and self-employment information from these sources for purposes of verifying eligibility for total-disability ratings for compensation purposes based upon individual unemployability. Use of this information has already enabled the Department to recognize substantial savings through identification of program abuses, and removal of the September 30, 1992 sunset clause would make permanent our access to these important verification data.

Section 2 of our bill would also make permanent provisions of 38 U.S.C. §5503(f), added by OBRA, which pay up to $90 monthly in VA pension to an eligible veteran, without dependents, while the veteran is covered by a Medicaid plan for services furnished him or her by a nursing facility (other than a State veterans' nursing home). The veterans themselves would retain all of the pension payments. This provision permits nursing home costs of needy, wartime veterans to be met by Medicaid while still allowing them reasonable amounts of pension with which to meet personal needs.

The effect of this draft bill on the deficit is:

FISCAL YEARS

[In millions of dollars]

	1992	1993	1994	1995	1992–95
Outlays:.					
Sec. 1	....	−13.9	−31	−49.9	−94.8
Sec. 2	....	−61.7	−63	−63.8	−188.5
Total	....	−75.6	−94	−113.7	−283.3

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it will trigger a sequester if it is not fully offset. This draft bill would decrease direct spending. Considered alone, it meets the pay-as-you-go-requirement of OBRA.

However, the President's FY 1993 Budget includes several proposals that are subject to the pay-as-you-go-requirement. Although in total these proposals would reduce the deficit, some individual proposals increase the deficit. Therefore, this bill should be considered in conjunction with the other proposals in the FY 1993 Budget.

We are advised by the Office of Management and Budget that there is no objection to the submission of the draft bill to Congress, and its enactment would be in accord with the program of the President.

Sincerely yours,

EDWARD J. DERWINSKI.●

By Mr. CRANSTON (by request):

S. 2383. A bill to amend title 38, United States Code, to ratify the Department of Veterans Affairs interpretation of the provisions of section 1151 of title 38, United States Code; to the Committee on Veterans' Affairs.

EXPANSION OF DEPARTMENT OF VETERANS AFFAIRS LIABILITY

● Mr. CRANSTON. Mr. President, as chairman of the Veterans' Affairs Committee, I am today introducing, by request, S. 2383, a bill to amend title 38, United States Code, to ratify the Department of Veterans Affairs interpretation of the provisions of section 1151 of title 38, United States Code. The Secretary of Veterans Affairs submitted this legislation by letter dated March 13, 1992, to the President of the Senate.

My introduction of this measure is in keeping with the policy which I have adopted of generally introducing—so that there will be specific bills to which my colleagues and others may direct their attention and comments—all Administration-proposed draft legislation referred to the Veterans' Affairs Committee. Thus, I reserve the right to support or oppose the provisions of, as well as any amendment to, this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD at this point, together with the March 13, 1992, transmittal letter.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2383

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 1151 of title 38, United States Code, is amended to read as follows:

"§1151. Benefits for persons disabled by treatment or vocational rehabilitation

"(a) Subject to subsection (b) of this section, where any veteran shall have suffered an injury, or an aggravation of an injury, as the result of hospitalization, medical or surgical treatment, or the pursuit of a course of vocational rehabilitation under chapter 31 of this title, awarded under any of the laws administered by the Department of Veterans Affairs, or as a result of having submitted to an examination under any such law, and not the result of such veteran's own willful misconduct, and such injury or aggravation results in additional disability to or the death of such veteran, disability or death compensation under this chapter and dependency and indemnity compensation under chapter 13 of this title shall be awarded in the same manner as if such disability, aggravation, or death were service-connected.

"(b) Benefits under subsection (a) are not payable for either the expected or reasonably foreseeable after results of approved medical or surgical care properly administered, in the absence of a showing that additional disability or death proximately resulted through carelessness, negligence, lack of proper skill, error in judgment, or similar instances of indicated fault on the part of the Department of Veterans Affairs. However, benefits under subsection (a) are payable in the event of the occurrence of an accident (an unexpected, not reasonably foreseeable event) causing additional disability or death proximately resulting from Department of Veterans Affairs hospitalization or medical or surgical care.

"(c)(1) A person who receives compensation pursuant to a settlement, compromise, or judgment under the Federal Tort Claims Act, 28 U.S.C. §1346(b) and 28 U.S.C. §§2670–2680 for personal injury or death shall not receive benefits under subsection (a) of this section until the amount of compensation distributed to the person equals the amount of benefits that would have been paid under this section.

"(2) Where a settlement, compromise, or judgment under the Federal Tort Claims Act is entered after benefits have been awarded under this section, the United States shall be entitled to a credit in the settlement, compromise, or judgment for amounts previously paid under this section.

"(3) Where a settlement, compromise, or judgment under the Federal Tort Claims Act is entered after benefits have been awarded under this section, further benefits shall be withheld after the beginning of the month following the month in which the settlement, compromise, or judgment is sent to the General Accounting Office for payment.

"(4) Where entitlement to benefits under subsection (a) of this section is established but benefits have not been paid prior to a settlement, compromise, or judgment under the Federal Tort Claims Act, then no retroactive award of benefits under subsection (a) shall be made except for the amount of the retroactive benefits payable which exceeds the amount to be distributed to the person under the settlement, compromise, or judgment. Benefits that would have been paid but for this subsection shall be applied to reduce the aggregate amount subject to withholding under subsection (c)(1).

"(5) For purposes of determining the amount of compensation distributed to a person in a settlement, compromise, or judgment, the Secretary shall include:

(A) In a lump-sum payment, the portion of the money distributed to the person as well as money constructively received by the person such as a proportionate share of attorney fees and costs.

(B) Where there are periodic payments, the cost of the portion of the settlement, compromise, or judgment that will be distributed to the person on a periodic basis as well as the lump-sum payments to that person and a pro rata share of the attorney fees.".

SEC. 2. The provisions of this Act shall apply to all pending and future claims, including both initial and reopened claims, for benefits under this section. The enactment of subsection 1151(c) of title 38, U.S. Code by this Act shall apply to pending and future administrative tort claims or pending or future litigation under the Federal Tort Claims Act.

THE SECRETARY OF VETERANS AFFAIRS,
Washington, DC, March 13, 1992.

The Hon. DAN QUAYLE,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: There is transmitted herewith a draft bill "To amend title 38, United States Code, to ratify the Department of Veterans Affairs' interpretation of the provisions of section 1151 of title 38, United States Code." We request that it be referred to the appropriate committee for prompt consideration and enactment.

Section 1151 of title 38 (formerly section 351) provides benefits to veterans who suffer additional disability or death from an injury or aggravation of injury resulting from examination, hospitalization, medical or surgical treatment, or the pursuit of a course of vocational rehabilitation provided pursuant to laws administered by the Department of Veterans Affairs (VA). These benefits are awarded as if the additional disability or death were service-connected.

Section 1151 was originally enacted in 1924, as part of the World War Veterans' Act, Pub. L. No. 68–242, 43 Stat. 607. In 1923, the Disabled American Veterans (DAV) proposed that individuals disabled during vocational rehabilitation training should receive benefits as if those injuries were service connected, since there was otherwise no mechanism for providing compensation for such disabilities.

VA (then the Veterans' Bureau) expanded the DAV proposal to include providing benefits for additional disability or death from injuries or aggravation of injuries received as a result of examination, hospitalization, or medical or surgical treatment provided by the VA. In proposing the benefits that were eventually codified at section 1151, General Frank Hines, Administrator of the Veterans' Bureau, explained, "[s]o also in cases of hospitalization * * * where without fault of the patient, as the result of accident or negligence of treatment or unskillfulness—things that must sometimes happen—the patient is further injured or disabled, there is at present no provision for compensating him. * * *." Letter to President Calvin Coolidge, December 19, 1923.

At the time section 1151 benefits were provided in 1924, no compensation or other legal recourse was available to veterans injured as the result of negligent care at a VA hospital. Section 1151 provided a mechanism for compensation for injury resulting from VA negligence which was otherwise unavailable. However, this lack of legal redress for such injuries in 1924 has now been addressed in other legislation. With passage of the Federal Tort Claims Act, 28 U.S.C. §§2671–2680, veterans have had, since 1946, a mechanism under which they may seek compensation for injury or disability sustained as the result of fault of VA.

Further, prior to 1924 when section 1151 benefits were initiated as part of the World War Veterans' Act, VA hospitals served only veterans with service-connected disabilities. If a veteran with a service-connected disability sustained an injury as the result of care at the VA hospital or during pursuit of vocational rehabilitation, the veteran was not entitled to monetary benefits or even care for that injury at VA expense. Section 1151 benefits remedied this problem by providing benefits as if such injuries were service-connected, thereby providing monetary benefits and allowing the veteran to continue to receive care. In addition, the World War Veterans' Act expanded medical care benefits for nonservice-connected conditions.

In providing benefits under section 1151, the VA historically has required a showing of fault, such as negligence, on the part of the VA in order for a claimant to be eligible. Based on a 1978 interpretation, benefits may also be granted upon a showing of "accident," which has most recently been defined as an occurrence which is not reasonably foreseeable. Under the VA interpretation and regulations implementing section 1151, benefits have not been made available for additional disability due to natural progression of disease or for contemplated or reasonably foreseeable risks or complications of medical care, if that medical care has been properly provided.

Enactment of legislation to ratify the current VA interpretation of 38 U.S.C. §1151 is necessary in light of a recent decision of the United States Court of Veterans Appeals (COVA) greatly expanding the availability of benefits under section 1151. In *Gardner v. Derwinski*, No. 90–120 (U.S. Ct. Vet. App. Nov. 25, 1991) the Court of Veterans Appeals rendered a decision apparently requiring VA to provide benefits to veterans who experience an increase in disability, or to their survivors in cases involving the veteran's death during hospitalization, regardless of the circumstances under which the disability or death arose. Under the recent COVA decision, VA may be required to compensate veterans for injuries resulting in disabilities or death which were the foreseeable course of the condition for which the veterans sought treatment and which occurred despite appropriate medical care properly provided within the standard of care. Mandating compensation for any disability or death from an injury occurring as a result of VA treatment, regardless of the nature or seriousness of the condition for which treatment is sought, and regardless of whether medical science offers the capability to prevent such injury, makes the VA an insurer of the results of care.

We are also very much concerned that the court's decision could have a detrimental effect on the willingness of VA health-care personnel to provide high-risk but potentially beneficial forms of therapy because any adverse patient outcomes would be subject to administrative scrutiny. This may be especially true in light of recent public criticisms of VA patient care. In addition to treatment of psychiatric patients (given the known frequency of adverse drug reactions to certain psychotropic medications), both oncology and neurosurgery could be profoundly affected, with results detrimental to VA's research and teaching programs.

For example, the recent COVA decision suggests that VA may be required to compensate for loss of a limb where a diabetic veteran has sought treatment for gangrene and surgery to remove the limb is competently performed in order to preserve the veteran's life. Requiring VA to compensate a veteran for a disability which results from necessary treatment to halt the natural progression of the condition for which treatment was sought, where that disability is the anticipated, even unavoidable result of properly provided medical treatment, with compensation being required even though the veteran has given an informed consent to the treatment, is, we believe, beyond the contemplation of Congress and absurd in light of modern concepts of liability for results of medical care.

We believe the increased availability of benefits under section 1151 as required by the 1991 COVA decision would be fiscally irresponsible as well as contrary to the intent of Congress when it first enacted this benefit in 1924. Our preliminary estimate is that such an expansion of benefits could, at the very least, result in additional section 1151 payments of $310 million in one year and $5 billion over five years. This estimate includes only the additional benefits and administrative costs associated with iatrogenic (inadvertently induced by a physician or treatment) injury cases. Iatrogenic injury cases are estimated, based on the findings of the Harvard Medical Practice Study, (v. 324 *New England J. Med.*, 2/7/91), to increase the current section 1151 caseload from 800 cases to 30,000 cases, nearly a forty-fold increase. This estimate does not include costs associated with "natural progression" of disease cases, nor does it include retroactive benefits. These additional costs are impossible to estimate at this time, but could increase costs exponentially.

In addition to codifying the current VA interpretation of section 1151, VA proposes to clarify certain provisions in the statute which govern the offset of benefits under section 1151 when the claimant also receives compensation under the Federal Tort Claims Act. Subsection (c) of the proposed legislation is intended generally to recodify the existing offset provision, with clarifications included in the proposed statutory language to avoid problems with interpreting the provision. In addition to clarifying certain questions regarding offset of the two benefits, proposed subsection (c) also provides certain technical changes to ensure the likelihood that benefits received under section 1151 offset benefits due under the Federal Tort Claims Act or to avoid application of other mechanisms which may currently result in a beneficiary receiving double payment.

Proposed 38 U.S.C. §1151(c)(1) specifies that a person who receives compensation under the Federal Tort Claims Act shall not receive benefits under section 1151 until the amount of the withheld VA benefits equals the amount of tort compensation distributed to that person. The intent of this subsection is to avoid double receipt of monies by a person on account of the same injury or death. Thus, a person's receipt of compensation pursuant to a Federal Tort claim will result in the offset of section 1151 benefits regardless of whether the person receives the compensation directly under the settlement, compromise, or judgment or indirectly pursuant to a distribution of the veteran's state.

Subsection (c)(2) explicitly states the existing rule that the Government is entitled to a credit for past benefits under section 1151 when damages are computed in a tort action. *See United States v. Kubrick*, 444 U.S. 111 n.5 (1979).

Subsection (c)(3) specifies that the withholding period for benefits shall begin the month following the month in which the settlement, compromise, or judgment is sent to the General Accounting Office (GAO) or other financial disbursement center for payment. The existing language states that no benefits shall be paid "for any month beginning after the date such judgment, settlement, or compromise . . . becomes final." Choosing the date that a settlement or judgment is sent to GAO for payment as the triggering date is much more finite and ascertainable. Under current language a settlement could be held to be "final" when signed by the claimants, when signed by appropriate VA or Department of Justice officials, when approved by the Department of Justice, when approved by a court, when sent to GAO, or when actually paid. In litigated cases that are settled, which represent approximately 25 percent of all tort claims handled by the VA, the General Counsel is virtually always apprised of the date that the settlement was transmitted to GAO. This is also known in all cases settled within the Department and, therefore, is the most appropriate choice.

Subsection (c)(4) specifies that where benefits under section 1151 are granted but have not been paid before a tort award, then no retroactive payment will be made except for the amount of a retroactive payment that exceeds the tort award. The existing language has permitted the interpretation that a large retroactive benefits award can be made even though all future benefits will be offset. For an example of existing practice, a tort claim and benefits claim could be filed the same day and each could take two years to resolve in the claimant's favor. The claimant would be advised that, because of the settlement of the tort claim, all future benefits under section 1151 would be withheld until the aggregated amount of the benefits equaled the amount of the tort settlement; however, a large check for two years of past benefits would still be issued at approximately the same time as the tort settlement. This does not accomplish the purposes of compensation under section 1151, and it defeats the purpose of the withholding provision. Where benefits have never been paid before the tort settlement and the claimant has not relied on them for daily expenses, it is more sensible to apply the retroactive benefits to the aggregate, subject to withholding.

Subsection (c)(5) sets forth the method for computing the amount of a tort award that is subject to offset. The intent of the subsection is to clarify that the fact that a person has received a tort award from the Government for injury or death is more important than the legal capacity in which he or she received it or the elements of damages represented thereby. When computing how much a person has received from a settlement, the proceeds distributed to him or her, whether as a beneficiary of a wrongful death award or as a distribute of damages recovered by the veteran's estate in a survival action, plus a pro rata share of attorney fees shall be included. Where the tort award is in the form of a structured settlement or judgment, a person's share will include any lump-sum distribution, the cost of the annuities that will result in periodic payments, and a pro rata share of attorney fees. This is illustrated by the following examples.

Example 1. A veteran sustains injuries during VA medical treatment and receives a tort settlement of $200,000 representing both economic loss and pain and suffering. An attorney fee of $40,000 is paid out of the settlement. The amount to be offset from the veteran's compensation is $200,000.

Example 2. A veteran sustains injuries during VA medical treatment and receives a structured settlement that will pay $1,000 per month for life, increasing at 3 percent annually, with lump-sum payments of $10,000 every 5 years, and a lump sum at the time of settlement of $50,000. Attorney fees of 20 percent of the cost are included in the settlement. The amount to be offset from the veteran's compensation is the $50,000 "up front," the cost of the annuity that provides for monthly and future lump-sum payments, and the attorney fees.

Example 3. A veteran sustains injuries during VA medical treatment and receives a structured settlement that will pay $100,000 to him "up front," $2,000 per month for life, increasing at 3 percent annually, a reversionary medical trust seeded with $100,000 and monthly payments of $2,000 increasing at 3 percent annually, and attorneys fees. The amount to be offset from the veteran's compensation is the $100,000 payment to him, the $100,000 payment to the medical trust, the cost of the annuity providing the monthly payments to him and to the medical trust, and the attorney fee.

Example 4. A veteran sustains injuries and dies as the result of VA medical treatment. The surviving spouse, as personal representative of the veteran's estate, receives a $100,000 settlement for the veteran's pain and suffering and wrongful death. From the settlement, the surviving spouse receives $40,000, two children each receive $20,000, and the attorney fee is $20,000. The amount received by the surviving spouse for VA purposes is $50,000, which includes one half of the attorney fee, since she received one half of the distributed funds.

Example 5. A veteran sustains injuries and dies as the result of VA medical treatment. The surviving spouse agrees to a structured settlement that will cost $500,000 and be distributed as follows: $100,000 for the attorney fee, $100,000 "up front" to the surviving spouse, $50,000 "up front" to the veteran's parents, a $1,000 monthly payment to the surviving spouse from an annuity costing $200,000 and a $500 monthly payment to the parents from an annuity costing $50,000. The amount received by the surviving spouse for VA purposes is $375,000—the $100,000 up-front cash, the $200,000 annuity, and 75 percent of the attorney fees.

This draft bill is subject to the pay-as-you-go provisions of the Omnibus Budget Reconciliation Act (OBRA) of 1990. OBRA 1990 requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it will trigger a sequester if not fully offset. This draft bill, which would reverse the court decision and ratify the Department's previous and longstanding interpretation of the provisions of section 1151 of title 38, United States Code, would not result in either pay-as-you-go costs or savings to the Government. However, if the bill is not enacted, the compensation program would incur significant additional costs (well over $5 billion over 5 years) beyond those projected in the President's FY 1993 Budget.

We have been advised by the Office of Management and Budget that there is no objection from the standpoint of the Administration's program to the submission of this legislative proposal to the Congress.

Sincerely yours,

EDWARD J. DERWINSKI.●

By Mr. COATS (for himself, Mr. BOREN, Mr. MCCONNELL, Mr. DOLE, Mr. NICKLES, Mr. GRASSLEY, Mr. FORD, Mr. LUGAR, Mrs. KASSEBAUM, Mr. LOTT, Mr. BURNS, Mr. SIMPSON, Mr. KASTEN, and Mr. BRYAN):

S. 2384. A bill to amend the Solid Waste Disposal Act to require the owner or operator of a solid waste disposal facility to obtain authorization from the affected local government before accepting waste generated outside of the State, and for other purposes; to the Committee on Environment and Public Works.

DISPOSAL OF MUNICIPAL SOLID WASTE

Mr. COATS. Mr. President, yesterday an article appeared in the Hammond Times newspaper which accurately reflects the attitude that some have toward our State. A New Jersey businessman, owner of an independent Indiana landfill receiving large amounts of long-haul trash from the East, suggested that Hoosiers should be pleased that other States want to use Indiana as a dump. In fact, he went as far to say, "With all the money the State is making in out-of-State trash, I would think they would have a sign out at the border saying, 'Welcome out-of-State waste'."

I want to inform that gentleman and anybody else who is shipping trash into Indiana that out-of-State trash is not making our State rich. It is making our landfill space scarce. It is causing great harm to our environment. And we have a State of frustrated individuals who are tired of being dumped on with trash from out of State.

I have recounted in the past on this floor tales of these out-of-State operators, with no ties or concerns for the communities that they target, who have turned a quick buck at the expense of our environment, at the expense of our State and our communities. Their credo seems to be, "Pollute for loot then scoot"—dump the trash and hightail it out of the State; make a quick buck at our expense.

Last year, the State of Indiana took in 528 pounds of imported trash for every man, woman, and child in my State. Put another way, if I were standing here holding a garbage bag full of out-of-State trash, every Indiana family of four last year received 400 bags worth of trash from other States.

Some say this is trivial. I think it is anything but trivial. It is, in fact, the solid undeniable evidence of a hidden avalanche of trash that pours into our State on a daily basis. In 1980, we had 150 landfills in Indiana. Today, 80 remain. Another 31 are scheduled to close in the next 5 years. At that point, 54 of Indiana's 92 counties will have no landfill capacity of their own.

The clock is ticking. We have less than 7 years' landfill capacity left. Yet no community in my State wants to build or expand an existing landfill or build a new one. They know that as soon as it is opened, it will be filled to capacity, not with waste from our own communities, which we are willing to take care of, but with waste rolling across Interstate 70 from other States—trucks lining up at our landfills daily to dump their cargo, or placed on trains, shipped to transfer points, and shipped into Indiana overnight.

This is not just a problem for the State of Indiana. It is a national problem. The heartland of our Nation is fast becoming a wasteland as landfills in Kentucky, Oklahoma, Ohio, Pennsylvania, and other States fill up with out-of-State trash.

My colleagues in the Western States have also taken special note of this crisis because, to put it plainly, they know they are next. And, in fact, some of them are already on the receiving end of long-hauled, out-of-State trash.

Shipping trash out of State is politically less painful for some States than siting new capacity and often is cheaper. And as a result, some States are attempting to deal with their waste problems by putting it on trucks and creating a waste problem in somebody else's back yard.

Today, Mr. President, I am introducing a proposal, the second such proposal that I have introduced, to deal with this problem. This proposal achieves the same goal as the first proposal, which not only was introduced in this body but which passed by a bipartisan, more than 2-to-1, majority nearly a year-and-a-half ago, by a vote of 68–31.

This is not a partisan issue. My amendment passed in this body to give the States the authority to say "no" to out-of-State trash. Unfortunately, we could not get the House of Representatives to concur in what the Senate has done, and my amendment was killed in a conference committee deal.

We are back now, having introduced that same piece of legislation several months ago, with another bipartisan effort to deal with this problem. The legislation that I am introducing today is cosponsored by Senator BOREN from Oklahoma, and he is joined by Senator MCCONNELL, Senator DOLE, Senator NICKLES, Senator GRASSLEY, Senator FORD, Senator LUGAR, Senator KASSEBAUM, Senator LOTT, Senator BURNS, Senator SIMPSON, Senator KASTEN, and Senator BRYAN. This is the beginning of what I anticipate to be a significant list of Senators that are saying: We are at risk also and our States need the right to say "no" to out-of-State trash.

The solution to this problem is not just dumping it in somebody else's back yard. This bill introduced today gives individual communities the right to say "no" to out-of-State trash. It provides a safety net for Governors to say the State can only absorb so much, so much capacity is left. It requires States, through planning, to take responsible steps to deal with their own waste.

We are not saying in Indiana and Oklahoma and other States around the Nation that we are unwilling to recognize the problem and unwilling to take steps to deal with the waste. We are willing to address our own problems. Our State has an ambitious plan for dealing with waste. We will take care of our own problem in an environmentally sensitive way. But we will never be able to accomplish our goals of being environmentally responsible in terms of dealing with our own waste if we are the recipient of other States' waste. It overwhelms our ability to do so.

So we are simply saying we need the right to say "no." When a community says we need to expand a landfill or build a new one to serve the needs of this community, we realize we are not building it for some State out east to dump their trash. It is for our own capacity.

Communities have gone through the agonizing and painful process of getting approval for expanding their own landfill, thinking that they are going to deal with their own problems in a responsible way. They are assured that this action will provide them landfill capacity for the next 30 to 40 years for generation of their own trash. Suddenly, 3 years later, they find that the landfill is virtually full, because it had become a dumping site for convoys of trash rolling across the heartland of America.

The bill is a consensus approach. It represents another effective, workable alternative which we ask the Senate Environment Committee to consider.

At this point, I want to give special thanks to Senator BAUCUS and Senator CHAFEE for their willingness to have the Senate Subcommittee on the Environment examine this legislation. They have worked with us in seeking a responsible solution. And we are working toward bringing that solution to fruition during this session of the Congress.

This approach is gaining momentum in the House as well, as various States find that it is, indeed, a problem in their States. Many Members of the House are joining in our efforts to come forward with a responsible measure to deal with this problem.

Both of these bills, as I said, are consistent, giving the right to say "no" back to the people most affected, the people in the States and the localities that are recipients of the trash; both solutions will clearly solve our problem. Whether we go with the first bill I introduced, or the second, it is clear that we need authority now to stop unwanted trash. A solution next year or in the following years will be akin to offering medical treatment at the funeral. Our landfills are filling up, the clock is ticking, and there simply is not time to wait several years to work this problem out.

Senator BAUCUS and I have agreed that we need to move on this, that we need to place this issue in the context of the Resource Conservation Recovery Act reauthorization that we will move by April 30 of this year, and that we are prepared to take whatever steps are necessary, if the Congress is not willing to move forward, to take the steps to protect our environment. We have tried the path of patience. We have waited our turn and bided our time. But the trucks continue to roll, and the rotting garbage mounts higher every day. So we look forward to a resolution of our environmental crisis.

Mr. President, this bill is an important step forward in dealing with a critical national problem that needs to be addressed now. So I thank my colleagues who have agreed to be original cosponsors.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2384

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INTERSTATE TRANSPORTATION AND DISPOSAL OF MUNICIPAL SOLID WASTE.

(a) IN GENERAL.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

"SEC. 4011. INTERSTATE TRANSPORTATION AND DISPOSAL OF MUNICIPAL SOLID WASTE.

"(a) PROHIBITION ON RECEIPT OF OUT-OF-STATE WASTE.—It shall be unlawful for the owner or operator of a landfill, incinerator, or other waste disposal facility in a State to receive for disposal or incineration any municipal solid waste generated outside of the State unless the owner or operator—

"(1) obtains authorization to receive such waste from the affected local government; or

"(2) during the period described in subsection (c)(3), meets all applicable conditions described in paragraph (1) or (2) of subsection (c).

"(b) AUTHORIZATION.—

"(1) NOTICE AND OPPORTUNITY FOR PUBLIC COMMENT.—Each affected local government shall provide notice and opportunity for public comment before making any determination concerning a request for authorization pursuant to subsection (a).

"(2) NOTIFICATION OF GOVERNOR.—As soon as is possible after the issuance of an authorization under subsection (a), the appropriate official of the affected local government shall notify the Governor of the State of the issuance. Such notice shall include information on the amount of municipal solid waste generated outside of the State that will be disposed of in the State under the authorization.

"(3) AUTHORITY OF THE GOVERNOR.—(A)(i) Not later than 30 days after receipt of the notification described in paragraph (2), the Governor may approve or disapprove the authorization issued by the affected local government if the Governor determines that, for any calendar year of the period of such authorization, such authorization will result in the disposal of municipal solid waste generated outside of the State in an amount that exceeds 30 percent of the total volume of municipal solid waste disposed of in the State during the preceding calendar year.

"(ii) If the Governor takes no action to approve or disapprove the authorization within the 30-day period described in clause (i), the authorization shall be deemed to be approved by the Governor.

"(4) ISSUANCE OF AUTHORIZATION.—(A) In issuing an authorization under subsection (a), an affected local government may—

"(i) impose limitations on the amount of municipal solid waste generated outside of the State (by volume or tonnage) that may be received for disposal by the landfill, incinerator, or other waste disposal facility; and

"(ii) authorize or impose fees on such municipal solid waste.

"(B) The fees or limitations authorized or imposed by an affected local government pursuant to subparagraph (A) may differ from the fees or limitations authorized or imposed by the affected local government on municipal solid waste generated within the State.

"(5) TERMINATION OF LOCAL AUTHORIZATION.—An authorization under subsection (a) shall terminate if any operating permit issued by the State to the owner or operator of a landfill, incinerator, or other waste disposal facility is revoked or suspended, or if an application to renew any such permit is denied.

"(c) CONDITIONS AND LIMITATIONS.—

"(1) LANDFILLS.—The prohibition under subsection (a)(1) shall not apply to an owner or operator of a landfill that—

"(A) notwithstanding the effective date of such regulations (or any provision of such regulations relating to applicability), on or after the date of the enactment of this section, meets any applicable requirement under the final rule relating to solid waste disposal facility criteria under part 258 of title 40, Code of Federal Regulations, published on October 9, 1991, at 56 Fed. Reg. 50978, and any corresponding similar regulation or ruling relating to—

"(i) design standards;

"(ii) leachate collection;

"(iii) groundwater monitoring; and

"(iv) financial assurance for closure and post-closure care and corrective action;

"(B) meets any applicable State law (including any State rule or regulation) relating to the items described in clauses (i) through (iv) of subparagraph (A);

"(C) during the month of February 1992, received for disposal municipal solid waste generated outside of the State in a manner consistent with the terms of a written contract; and

"(D) with respect to any calendar year during the period beginning on January 1, 1992, and ending on December 31, 1996, receives for disposal a total volume or tonnage of solid waste generated outside of the State in an amount that does not exceed the total amount of such volume or tonnage of such solid waste received by the landfill during calendar year 1991.

"(2) INCINERATORS AND OTHER WASTE DISPOSAL FACILITIES.—The prohibition under subsection (a)(1) shall apply to an owner or operator of an incinerator or other waste disposal facility (other than a landfill), unless—

"(A) the incinerator or other waste disposal facility meets applicable new source performance standards under section 129(a) of the Clean Air Act (42 U.S.C. 7502 note) and applicable monitoring requirements under section 129(c) of such Act (42 U.S.C. 7502 note), and otherwise meets applicable requirements of section 129 of such Act;

"(B) during the month of February 1992, the owner or operator received municipal solid waste at the incinerator or other waste disposal facility generated outside of the State in a manner consistent with the terms of a written contract; and

"(C) with respect to any calendar year during the period beginning on January 1, 1992, and ending on December 31, 1996, receives for disposal a total volume or tonnage of solid waste generated outside of the State in an amount that does not exceed the total amount of such volume or tonnage of such solid waste received by the incinerator or other waste disposal facility during calendar year 1991.

"(d) TREATMENT OF EXPANSIONS OF FACILITIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the expansion of a landfill, incinerator, or other waste disposal facility shall be considered, for the purposes of subsection (a), to be a separate facility that requires authorization in order to accept waste generated outside of the State.

"(2) EXCEPTION.—A landfill, incinerator, or other waste disposal facility with respect to which the owner or operator has obtained authorization (as described in subsection (a)) may be expanded for the purpose of receiving waste generated outside of the State without an additional authorization under subsection (a) only if—

"(A) at the time the owner or operator obtained authorization for the waste disposal facility, the owner or operator owned or possessed an option to purchase the land on which the expansion of the waste disposal facility is proposed to occur; and

"(B) the area of expansion of the waste disposal facility was indicated in documents filed with the affected local government before obtaining such authorization.

"(e) STATE MUNICIPAL SOLID WASTE MANAGEMENT PLAN.—

"(1) IN GENERAL.—On or after the date of the enactment of this section, the Governor of a State shall submit to the Administrator a State municipal solid waste management plan (hereafter in this subsection referred to as a 'plan'). Such plan shall cover a period of not less than 10 years, and shall be reviewed by the Governor not less than every 5 years after the initial period. Such plan shall include—

"(A) a prioritization by the State of municipal solid waste disposal options;

"(B) a solid waste inventory that includes—

"(i) an inventory of the generation within the State of any solid waste regulated under this subtitle;

"(ii) an analysis of the management of solid waste within the State;

"(iii) a projection with respect to the period of time covered by the plan of the rate of increase of the generation of solid waste within the State;

"(iv) the amount of solid waste generated in, exported from, and imported into the State at the time of the preparation of the plan, and a projection of the total amount of such waste that will be generated in, exported from, and imported into the State during the period of time covered by the plan;

"(v) specific goals for the reduction of municipal solid waste and for recycling such wastes;

"(vi) a description of any program of the State designed to reduce or recycle municipal solid waste, including a description of—

"(I) efforts by the State to develop a market for recyclable materials;

"(II) related State laws (and related laws of any political subdivision of the State) in effect at the time of the preparation of the plan; and

"(III) any problem that the State has encountered in reducing or recycling municipal solid waste, or that the State has identified as an obstacle to achieving the goals described in clause (v);

"(vii) a description of—

"(I) the actual capacity within the State (at the time of the preparation of the plan) for municipal solid waste disposal and treatment; and

"(II) the projected capacity (including efforts to site additional capacity) within the State for solid waste disposal and treatment during the period of time covered by the plan;

"(C) a description of the capability of the State, at the time of the preparation of the plan, to meet the requirements of this subtitle, including a description of any—

"(i) permit program under this subtitle administered by the State;

"(ii) enforcement activities carried out under this subtitle by the State;

"(iii) State laws (including rules and regulations) relating to clauses (i) and (ii);

"(iv) funds available to the State to carry out the activities described in clauses (i) and (ii); and

"(v) the number of employees of the State with duties relating to the activities described in clauses (i) through (iii);

"(D) a description of the degree of public participation in the development and implementation of the plan, including a description of any related public hearing; and

"(E) information that demonstrates (to the satisfaction of the Administrator) that the State has the necessary authority and administrative structure to implement any standards under this subtitle.

"(3) Review by the Administrator.—(A) Upon receipt of a plan submitted by a State pursuant to this subsection, the Administrator shall review the plan.

"(B) If the Administrator determines that the plan meets the requirements of paragraph (2), the Administrator shall approve the plan.

"(4) Approval.—The Administrator shall make a determination whether to approve or disapprove the plan by not later than 6 months after the date of submission of the plan. If the Administrator fails to approve or disapprove the plan by such date, the plan shall be deemed to be approved.

"(5) Notification.—Upon the approval or disapproval of a plan, the Administrator shall provide written notification to the State stating the action taken by the Administrator under paragraph (4). If the Administrator disapproves the plan, the Administrator shall include in the notification a statement of the reasons for the disapproval of the plan.

"(6) Revised plan.—A State that receives a notification of disapproval of a plan may submit a revised plan to the Administrator after receipt of the notification.

"(7) Review of revised plan.—(A) Notwithstanding any other provision of this subsection, the Administrator shall review any revised plan submitted by a State under this subsection, and approve or disapprove the revised plan by not later than 2 months after the date of the submission of the revised plan.

"(B) If the Administrator fails to approve or disapprove the revised plan during the period of time specified in subparagraph (A), the revised plan shall be deemed to be approved.

"(8) Notification to the State.—Notification to the State of the approval or disapproval of a revised plan shall be conducted in accordance with paragraph (5). A State that receives notification of disapproval of a revised plan may submit another revised plan in accordance with the procedure under this subsection.

"(f) Prohibition on Receipt of Waste From a State Without a Municipal Solid Waste Plan.—

"(1) In general.—Beginning on the date that is 36 months after the date of the enactment of this section, it shall be unlawful for the owner or operator of a landfill, incinerator, or other waste disposal facility to receive municipal solid waste generated in another State if the exporting State does not have in effect an approved State municipal solid waste management plan.

"(2) Activity not covered by the prohibition.—On or after the date that is 36 months after the date of the enactment of this section, the owner or operator of a landfill, incinerator, or other waste disposal facility located in a State that does not have in effect an approved State municipal solid waste management plan may receive for disposal municipal solid waste generated outside of the State if the exporting State has in effect a State municipal solid waste disposal plan.

"(g) Penalties.—

"(1) Civil penalties.—Any person who violates a provision of this section shall be subject to a civil penalty in an amount not to exceed $25,000 for each such violation. Such penalty shall be assessed in the same manner as provided for the assessment of a civil penalty under section 3008.

"(2) Criminal penalties.—Any person who knowingly violates a provision of this section shall be subject to a fine of not more than $50,000 for each day of violation, or imprisonment not to exceed 2 years.

"(h) Fees.—A State is authorized to impose a fee (in addition to any other fees charged by the owner or operator of a facility) for the disposal of solid waste generated outside of the State if—

"(1) the amount of such fee does not exceed $10 per ton of solid waste disposed; and

"(2) the State uses any amounts collected under this subsection to fund solid waste management activities conducted pursuant to this subtitle.

"(i) Definitions.—For the purposes of this section:

"(1) The term 'affected local government' means, with respect to a landfill, incinerator, or other waste disposal facility, the city, town, borough, county, parish, district, or other public body created by or pursuant to State law with primary jurisdiction over siting or planning, or with primary jurisdiction over other related regulatory activities in the geographic area where the landfill, incinerator, or other waste disposal facility is located or proposed to be located.

"(2) The term 'authorization' means a written decision by an affected local government to allow the owner or operator of a landfill, incinerator, or other waste disposal facility to receive for disposal waste generated outside of the State. Such term shall include any written, formal concurrence by any local government with primary jurisdiction in a geographic area within a 2-mile radius of the landfill, incinerator, or other waste disposal facility that is the subject of the authorization. Such term shall include any written, formal concurrence by multi-jurisdictional or regional entities that may be required under State law, or any related written agreement between local governments.

"(3) The term 'municipal solid waste' means refuse (and refuse-derived fuel) consisting of paper, wood, yard wastes, food wastes, plastics, leather, rubber, sludge, and other combustible and noncombustible materials such as metal, glass, and rock generated by the general public and from residential, commercial, institutional, and industrial sources. Such term does not include—

"(A) any waste identified or listed as hazardous waste by the Administrator pursuant to section 3001 of this Act;

"(B) any solid waste, hazardous waste, hazardous substance, including contaminated soil and debris, resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9604 or 9606) or a corrective action taken under this Act;

"(C) any hazardous chemical substance or mixture regulated under section 6(e) of the Toxic Substance Control Act (15 U.S.C. 2605(e));

"(D) any metal, pipe, glass, plastic, paper, textile, or other material that has been separated or otherwise diverted from solid waste, and that has been transported into such State for the purposes of recycling or reclamation;

"(E) any nonhazardous solid waste that is—

"(i) generated by an industry; and

"(ii) transported for the purpose of treatment, storage, or disposal to a facility that is owned or operated by the initial generator of the waste, or is located on property owned by such generator or a company with which such generator is affiliated;

"(F) any solid waste generated incident to the provision of service in interstate, intrastate, foreign, or overseas air transportation;

"(G) any industrial waste that is not identical to any municipal solid waste with respect to its chemical composition and chemical and physical characteristics;

"(H) any medical waste that is segregated from, or not mixed with municipal waste; and

"(I) any material or product returned from a dispenser or distributor to the manufacturer for credit, evaluation, and possible reuse.".

(b) Table of Contents Amendment.—The table of contents for subtitle D of such Act (contained in section 1001) is amended by adding at the end the following new item:

"Sec. 4011. Interstate transportation and disposal of municipal solid waste.".

Mr. McCONNELL. Mr. President, I just want to take a moment to express my support for the legislation introduced today by the Senator from Indiana. He has been tireless in his efforts to address the interstate waste issue, and has presented another creative alternative to empower States and local governments to regulate the flow of garbage into their communities.

This innovative approach, coupled with other legislation that the Senate passed last year, gives us two alternatives to deal with the interstate waste issue. Both approaches are workable, both have bipartisan support, and both give local communities control of waste.

Mr. President, I am willing to wait until April 30, for a solution to the interstate waste issue within the framework of the Resource Conservation and Recovery Act reauthorization. But should a solution within RCRA not be forthcoming, we must move forward, apart from it. With two workable solutions ready for action, there is no reason why Congress shouldn't or couldn't pass interstate waste legislation this year.

My State of Kentucky has done a great deal on the State and local level to plan for their future waste disposal needs in a prudent, environmentally responsible manner. Kentucky's comprehensive waste management plan has reduced what was once a tidal wave of out-of-State trash to no more than a trickle. But that's not the end of the story, Mr. President.

Federal legislation is needed so that laws in States like Kentucky cannot be struck down as violative of the Constitution's commerce clause. This can only be accomplished by Congress making it crystal clear that States and local communities have the authority to prohibit the dumping of out-of-State waste.

Federal legislation is the only way to ensure that State waste management plans limiting the influx of out-of-State garbage are on a constitutionally sound footing.

Mr. President, I look forward to crafting a solution to the interstate waste problem in cooperation with the Environment Committee within the Resource Conservation and Recovery Act. If that is not possible, I will work with the Senator from Indiana to bring this pressing issue directly to the Senate floor for a vote this year. The environmental destiny of Kentucky can no longer be held hostage to a looming mountain of out-of-State garbage.

Mr. GRASSLEY. Mr. President, I rise today to express my strong support for legislation to protect our environment from out-of-State garbage and waste. I am proud to be an original cosponsor of this bill to regulate interstate waste disposal.

This legislation would make it unlawful to receive out-of-State trash unless the affected local government authorizes its receipt. It would also allow local communities to negotiate for host fees to benefit their communities directly.

Mr. President, the United States produces approximately 180 million tons of solid waste every year. The generators of this garbage must be held accountable for the garbage. They have many options available to them. Recycling is a very positive proenvironment approach. Another is the use of landfills to accommodate this waste.

While the solid waste problem continues to increase, we are having more landfill closures without corresponding formation of new landfill sites. We are fast running out of room.

The Environmental Protection Agency estimates that 75 percent of the Nation's current landfills will be closed in the next 10 years. The problem is that in years past, landfills were created without much consideration for the environmental impact.

Because capacity is shrinking for landfill sites, States have been shipping their garbage into other States. In 1987, 10 million tons of garbage crossed State lines.

Mr. President, it escapes me how the opponents to the approach we are discussing today can claim that their position is the environmental position. How can it be good for the environment to allow localities and States to punt their responsibilities in handling their waste to other States?

With the closing of landfills across our Nation, this legislation is needed more than ever. In the future, States can not expect to be able to transport their waste half-way across the country to a landfill site in Iowa or Nebraska. These landfill sites will not be available to them. They are going to have to make accommodations to deal with their waste themselves. They are going to have to make these accommodations beginning now, not 10 years from now when the landfill sites will not be available to them.

This legislation will force responsibility. It will force the producers of waste in our Nation to be responsible for administering the proper disposal of that trash. Sending it from New York to Iowa is not dealing with it. It is avoidance of responsibility on the part of the waste producers.

This legislation will make it possible for communities across America to restrict the amount of out-of-State waste that comes into their towns. It will also force communities and States to deal with their own waste problems instead of pushing it off on others and transporting it across the country.

The environment is of great concern to many Americans. Iowans take a back seat to no one when it comes to concern about the environment. We are very closely tied to the soil and the environment of our State. We make a living through the proper management of this soil, this environment. We are greatly concerned that we do the right thing when it comes to the maintenance of the environment, and this extends to the way we handle the waste that we generate.

If Iowa can properly handle the maintenance of its waste, there is no reason why other States throughout the United States can not do the same.

If I ask the indulgence of my colleagues, I would like to take this opportunity to discuss this issue as it relates specifically to the State of Iowa.

First let me point to a few communities in Iowa and discuss how they handle their solid waste:

The city of Dubuque and Dubuque County operate their own landfill that has a capacity that should last another 20-plus years. They do not accept out-of-State trash and would like to continue this practice. Tom Byland, the solid waste management supervisor, states that this legislation "sounds good. We would be in favor of the legislation."

Burlington is part of a regional solid waste commission which maintains a landfill with adequate capacity and also has an aggressive recycling program. They too support this legislation.

Fort Madison and Keokuk in southeast Iowa are part of the Lee County Solid Waste Commission. There are also two counties in Illinois that are part of this cooperative effort. They have a regional solid waste plan. The legislation that we are discussing today works well with this cooperative agreement. If States are willing to enter an agreement in a collaborative manner, this legislation will not restrict that agreement.

The city of Sioux City has a similar bi-State agreement with Jackson, NE.

The city of Council Bluffs takes their solid waste to the Douglas County landfill in Nebraska, where they pay a fee. They are attempting to find an alternative in Iowa to handle their own garbage in their own area. Again, this is yet another example of a community in Iowa working effectively with an area in a border State to deal with their solid waste problem.

At the same time that Council Bluffs has dealt effectively with their own solid waste, they have been the unfortunate victims of garbage coming from the east coast. This trash has come into Council Bluffs on its way to Nebraska. While in Council Bluffs, the trash boxcars have oozed liquid. This liquid was analyzed by the city sanitarian and was found to contain dangerous quantities of unsafe materials generally found in solvents and paint thinners.

Mr. President, this legislation is needed, and will hopefully be acted upon immediately by this body and be made into law. Our children's future depends on our actions today. We must act immediately to effectively deal with the garbage our society creates. This legislation will move us closer to dealing with this problem.

Mr. President, I ask unanimous consent that an article from the Des Moines Register be printed in the RECORD at this point. This article effectively tells the story of the problems in Iowa of being the dumping ground for east coast trash.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EAST COAST TRASH RAISES STINK OVER LANDFILL ISSUE

(By Larry Fruhling)

COUNCIL BLUFFS, IA.—The rank-smelling boxcars, decorated with graffiti, roll in here regularly from an address on Varick Avenue in Brooklyn, N.Y.

The garbage in the cars is almost finished with its cross-country journey. The trash has come 1,400 miles to the railroad siding in Council Bluffs, but the trash still has 75 miles to go after it is put into trucks here. The final destination is the pungent hilltop of a growing landfill near David City in east-central Nebraska.

By fits and starts, large amounts of household garbage and other wastes from the East Coast have begun arriving in the Midwest for the first time, raising concerns about the prairie becoming the trash heap for the urban East.

A Bloomington, Ind. company, National Salvage and Service Corp., is running the garbage-shipping operation from the New York City area to Nebraska.

The company also wants to unload East Coast trash from boxcars at Sewal, a tiny southern Iowa community, and to truck this garbage to a landfill in northern Missouri.

National Salvage has told the Iowa Department of Natural Resources that the company's goal is to move 720 to 900 tons of East

Coast garbage a day to unloading points at Council Bluffs and Sewal for shipping by truck to the landfills in Nebraska and Missouri. At a maximum, the daily shipment would reach 1,100 tons—enough to fill 12 boxcars, the company says.

State officials in Iowa, Missouri and Nebraska say that they can regulate the way the garbage is unloaded and can enforce rules on the landfills where it is dumped, but they can't prevent the shipments because of federal guarantees of unfettered commerce between states.

Regulators are unhappy about that.

"We do not think that shipping waste over long distances is a farsighted solution," said Anita Randolph, a spokeswoman for the Missouri Department of Natural Resources. "It simply transfers the problem to another state."

OVERLOADED LANDFILLS

The shipments, Randolph said, are evidence that many states—including New York, New Jersey and, for that matter, Missouri—must do more recycling and take other steps to reduce the amount of trash going into overloaded landfills.

Although Iowa has only a bit part in National Salvage's plans, Peter Hamlin of the Iowa Department of Natural Resources said other companies are interested in Iowa as more than a place for unloading garbage from rail cars and putting it into trucks bound for Nebraska and Missouri.

Hamlin said the state gets about one inquiry a week from companies interested in dumping East Coast waste into Iowa landfills. "It's more that a little disconcerting to be thought of as a dumping ground for New Jersey and places like that," he said.

So far, companies interested in dumping in Iowa have been deterred because they would have to comply with the relatively stringent waste regulations the state has imposed on its own residents, Hamlin said.

Iowa and other Midwestern states have for years shipped trash across their borders to nearby landfills in neighboring states.

ECONOMIC SENSE

But because of escalating costs of dumping waste in New Jersey, New York and other highly urban areas, officials say, it has begun to make economic sense to ship refuse more than 1,000 miles to Midwestern landfills that take garbage for a fraction of East Coast prices.

Hamlin noted that political opposition to locating new landfills in densely populated Eastern cities is likely to be far stronger than might be encountered in rural areas.

Hamlin also said that hazardous wastes generated in Iowa, such as farm pesticide residues, some solvents and various chemicals, are exported to other states. "It's hard to claim we're being victimized when we're doing the same with hazardous wastes," he said.

Victoria Schopp, president of National Salvage, declined to discuss financial details of her company's shipments of garbage from Brooklyn to the Nebraska landfill. She said the company is "making a little if everything goes well."

HOUSEHOLD GARBAGE

According to National Salvage's applications to put permanent unloading facilities for rail cars at Council Bluffs and Sewal, the company's primary source of waste in Star Recycling Inc. of Brooklyn, a repository for household garbage and other refuse from a large part of the New York City area.

National says that before it receives the trash, workers at Star pick out newsprint, glass, wood, metals and other items that can be recycled, as well as paint and household chemicals that contain hazardous substances.

Schopp said some of the garbage being shipped from New York is just coming home to roost in the Midwest, which sells much of its grain, meat and manufacturing to the East Coast. "You're getting back some of this packaging," she said.

Schopp said her company and Iowa officials have gotten off to a rocky start. Initially, the state said no Iowa license was required for her company as long as the company only unloaded garbage from boxcars and put it on trucks, Schopp said.

Hamlin agreed that the state determined no license would be needed because no waste would "touch ground" in Iowa.

Last summer National Salvage began shipping boxcars of garbage from Brooklyn to a rail siding at Lineville, Ia., on the Missouri border. The trash was trucked from Lineville to a landfill east of Trenton, Mo.

SHORTCOMINGS

That operation was interrupted in September when the landfill was cited for shortcomings by Missouri officials, and it ended for good in mid-December.

Iowa officials, meanwhile, changed their minds and decided National Salvage did need a permit to transfer garbage from train cars to trucks. The change of heart occurred, Hamlin said, after an incident in October at Council Bluffs, to which National Salvage had begun shipping garbage destined for the landfill in Nebraska.

Donn Dierks, the Council Bluffs city sanitarian, said he was unaware of the shipments until Oct. 11, when he got a tip and went to a railroad siding where he found boxcars dripping a smelly liquid onto the ground.

"This stuff was dripping all over the place," Dierks said.

Dierks said the source was the garbage, which began decomposing and heating en route to the Midwest. Steam from the bales of trash condensed to liquid and ran from the cars, he said.

Dierks said he gathered a pint of liquid from one car and had it analyzed. He said the analysis turned up somewhat elevated levels of two petroleum-based products commonly used as solvents.

Hamlin said the material dripping from the cars could be considered hazardous. At that point, he said, the state decided a license would be needed for the Iowa operation.

Schopp, the president of National Salvage, said the dripping were not hazardous. "If it was hazardous they'd have shut me down," she said.

Schopp added that Iowa officials were coming under political pressure to keep the East Coast garbage out of the state and "were trying to find something to put National Salvage out of business."

* * * * *

While National Salvage's application to put up a permanent unloading station is pending, the state is permitting the company to continue operating in Council Bluffs with a temporary unloading facility.

The state is not allowing the company to start operations in Sewal, however, until the permit issue is settled. Schopp said she is considering taking the state to court in an attempt to start garbage shipments in Sewal.

The operation at Sewal would replace Lineville as National Salvage's boxcar unloading point for the truck shipments to the Missouri landfill.

Jerry Rockhold, manager of the Lineville fertilizer plant that shared its rail siding with National Salvage, said the main reason the arrangement ended in December was because the local company needed all of the available rail capacity for fertilizer cars.

SOME OPPOSITION

There was also some opposition in Lineville to the garbage unloading operation, Rockhold said. But the opponents quieted down, he said, when National Salvage gave the community about $1,500 for its fire department and ball team.

Schopp has bought three acres of land along a Soo Line railroad siding at the edge of Sewal, a town of about 50 people, and proposed to put a building along the tracks. Trash from boxcars would be unloaded into the building and then loaded onto trucks.

Some Sewal residents are unhappy about the possibility of bad smells and blowing debris and the traffic from trucks that would haul the refuse to Missouri.

Sue Ruble of Sewal said she thinks National Salvage picked the unincorporated town for a transfer station because it has few people and a municipal government to defend it.

Bob Gill, whose house is a few hundred yards north of the proposed transfer building, said he dreads summer and southerly winds that would carry any unpleasant odors from the garbage.

"By the time they get it here and unload it, its going to get ripe," Gill said.

Mr. NICKLES. Mr. President, I wish to congratulate Senator COATS from Indiana for his outstanding effort in trying to protect States from out-of-State disposal in their homes, and in their back yards, and in their States. He has been tireless in his effort. He has been courageous and successful on the floor of the Senate. I have been pleased to join with him in this effort. I compliment him on his legislative effort, on the success last year; and I compliment him on the bill he is introducing today, which I am pleased to cosponsor.

We have significant and serious problems with waste disposal, and particularly with interstate transfer of waste and that waste going into communities, which in many cases, those communities do not want, and in many cases, the States do not want.

I can relate from personal experience, having attended some meetings in Oklahoma, and having meetings where people have just been outraged over the fact that in Oklahoma, for example, there is a proposal to receive some New York sludge into our State, and they wish to vote on it. When we talk about having meetings and voting on it, people have expressed their outrage at these proposals.

The legislation which Senator COATS and myself and Senator BOREN and others are sponsoring today will go a long way toward restoring the individual community's ability to protect its own environment.

Mr. President, without this bill, Oklahoma could become the dumping ground for other State's trash. This bill provides the authority for local governments to decide for themselves whether out-of-State trash is acceptable in their communities.

Those who have to live with someone else's trash should be the ones to decide for themselves.

The Environmental Protection Agency estimates that Americans generate 180 million tons of trash a year which averages about 4 pounds per person daily. This amount could reach 216 million tons per year by the turn of the century at current rates of production.

Out-of-State waste has quickly become an issue which carries a great deal of emotion. In Oklahoma, we have been enticed by waste peddlers wanting to spread their product far and wide across our plains and pastures. You can guarantee a huge turnout at a community meeting by announcing a proposal to import New York sludge to spread across the countryside. Rarely have I witnessed the type of concern expressed by citizens when talk of imported waste is about to hit their town.

The issue of waste imports has taken center stage. Remember the 63-car train loaded with sewage sludge which crisscrossed the country looking for a home for its unwanted waste, only to find it was not welcomed and finally was forced to return to where it started. Then, for days, the Nation followed the saga of the wayward barge brimming with waste as it was refused entry as it roamed from port to port.

These two notable cases were attempts to locate an out-of-State landfill to dispose of their unwanted waste. About 80 percent of today's waste is disposed of in such landfills, but landfill space is decreasing rapidly. In 1960, approximately 30,000 landfills or open dumps existed in the United States. This number has declined from 20,000 in 1979 to fewer than 6,000 today. An October 1989 report by the Office of Technology Assessment estimates that 80 percent of existing landfills will close within 20 years. New regulations for landfills, promulgated by the Environmental Protection Agency in October 1991, are expected to further reduce the number of operating sites.

Because of this decline in disposal capacity, many areas in the northeast and west coast are experiencing a gap between the available disposal capacity and the amount of waste being generated. This gap is being filled by long-haul waste transport to disposal sites in the mid-section of the country. Today, along with Senator COATS and others, I am introducing a bill that will make it unlawful for the owner or operator of a solid waste disposal facility to receive out-of-State trash unless the affected local government authorizes receipt.

For the last several years I have been working with Senator COATS to pass legislation which would put a halt to unwanted out-of-State waste being dumped in Oklahoma. In 1990, I supported an amendment sponsored by Senator COATS which would have allowed States to immediately impose higher fees on solid waste originating out of State. While the amendment was approved by the Senate, it was later dropped in conference with the House.

The predecessor to today's bill, S. 153, was introduced last year and allows States to immediately impose higher fees on out-of-State waste. The bill also provides that States can gain further authority to ban or regulate garbage imports if it certifies that it has identified adequate capacity to dispose of its own solid waste for the next 5 years. Also under this earlier version, the State also would have to adopt a 20-year solid waste management plan.

The bill we are introducing today takes the issue of out-of-State waste to the people it effects the most—the local residents of the area where the landfill is located. If adopted, this bill will make it unlawful for a landfill to receive out-of-State trash without permission of the local governing authority. It allows local communities to negotiate for host fees to directly benefit their communities should they choose to allow out-of-State trash to be disposed of in their landfill.

In addition, the affected local government has to notify the Governor of their decision to receive out-of-State waste. Although the State does not play a role in the decision of each community, the Governor is authorized to disapprove of any authorization that will cause the total volume of out-of-State trash to exceed 30 percent of the total volume of trash disposed of in the State during the previous year.

There are some exceptions to the overall prohibition. Landfills that meet certain requirements are not subject to restriction. To qualify for the exemption, the landfill must be designed and operated in accordance with the recently promulgated Federal landfill regulations as well as comply with all State laws and regulations. Furthermore it must have received out-of-State garbage during the month of February 1992 pursuant to a written contractual arrangement. Landfills qualifying for this exception could not receive any more out-of-State trash than they received in 1991. This exception would be phased out as of 1997.

The bill would also provide for States to develop a 10-year municipal solid waste State management plan which would be reviewed by the Governor every 5 years. The Environmental Protection Agency would be given 6 months to approve or disapprove of the State plan. If there is no action during that time, the plan is deemed approved. States are also authorized to impose a flat fee on out-of-State trash of up to $10 per ton to be used to implement State solid waste management programs. In addition, 36 months after enactment of this bill, it will become unlawful for a facility to receive out-of-State waste if the exporting State does not have a State plan.

Without this bill, Oklahoma could become the dumping ground for other States' trash. This bill provides the authority for local governments to decide for themselves whether out-of-State trash is acceptable in their communities. Those who have to live with someone else's trash should be the ones to decide.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I join with my colleague in the remarks he has just made and commend him for them and also my colleague from Indiana, Senator COATS, who has been such a strong leader on this issue, along with the Senator from Kentucky, Senator MCCONNELL.

We do have a serious problem in this country. We have States that are exporting more and more of their trash and solid waste to other States instead of taking care of it themselves. The States of New York and New Jersey alone exported almost 8 million tons of waste last year to other States. It is simply not right for other States to be forced to accept it without having any say about the control of their own destiny from an environmental point of view.

The bill which is being introduced today and which I am proud to join my colleagues in cosponsoring is a bill that will return that control back to the local levels. As my colleague from Oklahoma just indicated, it will allow localities to decide whether to accept out-of-State trash into their own municipal facilities and landfills. It will allow States to impose variable fees on out-of-State trash brought into their localities and this will mean when localities decide on a voluntary basis they want to accept trash moving across State lines from other States, they will be able to expand their familiarities and deal with the problem through these additional funds that will be raised by fees which could then be applied to an environmentally sound procedure for taking care of the problem.

We have only an average in the State of Oklahoma about 5 years of landfill capacity left and most of our local, municipal country landfills, that is fairly enough to take care of the amount we are generating 5.5 million tons each year in our State. To burden us by having those come from out of State and force us involuntarily to accept waste and trash being generated by them is simply not a fair burden to impose on the people of Oklahoma at this time.

We are very concerned that our State and others similarly situated could become indeed a dumping ground for trash and waste from other parts of the country. This is certainly not fair from the point of view of our citizens, our environment. We are trustees for our national heritage. We should have some say in controlling that environment closest to home.

This bill will do exactly that. I think it is a very positive step toward giving incentives to States to begin to responsibly face up to their problems and providing revenues if States voluntarily decide to accept trash moving across State lines to take care of the problem in a more efficient way.

Mr. President, I commend my colleagues and commend especially the Senator from Indiana for taking the lead in pooling together this piece of legislation and giving others to join with him in this effort. It is a major step in the right direction. It should reassure those locations in a State like mine with some 15 different permit applications now pending in the State of Oklahoma alone to bring in out-of-State trash without the consent of local citizens. It should reassure those citizens that now they will have a say in deciding what kind of waste, what kind of trash outside the State they want to receive into their own communities.

It is fair that they should have the right to make that decision for themselves. I am proud to join with my colleagues in cosponsoring and supporting this bill. I hope it is a bill that will receive overwhelming support of the entire Senate.

By Mr. RIEGLE:

S. 2385. A bill to amend the Immigration and Nationality Act to permit the admission to the United States of nonimmigrant students and visitors who are the spouses and children of United States permanent resident aliens, and for other purposes; to the Committee on the Judiciary.

ADMISSION OF CERTAIN NONIMMIGRANT STUDENTS AND VISITORS

• Mr. RIEGLE. Mr. President, today I have introduced legislation which would permit spouses and children of permanent residents to receive visitors and student visas. This bill is designed to correct a serious inequity in immigration law which prevents these aliens from coming to the United States to see their immediate family members.

Currently, there is a 2- to 4-year backlog in the processing of permanent resident visa petitions for spouses and children of individuals who are now permanent residents. This has caused the long period of separation for many families.

The families are not only separated because of the delay in the application process. Because spouses and children have indicated a desire to immigrate to the United States through their permanent resident petitions, U.S. consulates abroad imply that they intend to move permanently to America and deny visitor and student visas to them. Therefore, the spouses and children of permanent residents cannot even visit their families. The bill I am introducing today would correct this serious inequity by eliminating the implication that a petition for permanent residence suggests that an alien intends to abandon his or her foreign residence.

Nevertheless, this legislation envisions the possibility that some may violate the terms of their visas by overstaying the period which the visa provides. It penalizes spouses or children of permanent residents who overstay their visas by allowing the Secretary of State to delay their permanent visa petitions for 1 year if visa durations are violated.

Once again, I urge my colleagues to cosponsor this legislation. By joining me in remedying this unfair situation, we can afford families separated by an unfortunate administrative delay caused by our Government the opportunity to see each other.•

By Mr. WARNER (for himself, Mr. SPECTER, and Mr. DURENBERGER):

S. 2386. A bill to amend the Solid Waste Disposal Act to require the owner or operator of a landfill, incinerator, or other solid waste disposal facility to obtain authorization from the affected local government before accepting waste generated outside the State; to the Committee on Environment and Public Works.

DISPOSAL OF MUNICIPAL SOLID WASTE

• Mr. WARNER. Mr. President, I rise today to introduce legislation concerning the interstate transportation of municipal solid wastes and to ensure that our local governments—those who bear the burden of hosting these facilities—have the authority to participate in the decisionmaking process to receive out-of-State wastes within their jurisdictions. I am pleased to have Senator SPECTER and Senator DURENBERGER join me in sponsoring this legislation.

Americans are generating increasing amounts of garbage each year and landfilling of wastes remains the prevalent disposal alternative. In 1988, we produced approximately 180 million tons of garbage—that's more than 490,000 tons per day—or 4 pounds per person per day.

Citizens are waging a tough, uphill battle to protect their neighborhoods from being used as dumping grounds for the more than 15 million tons of solid waste that crossed State lines in 1989 for disposal. In most cases, local communities did not willingly accept this waste and local governments had no authority in determining the disposal of this waste within their borders.

When this issue first came before the Senate in October 1990, I supported proposals which sought to provide States with the authority to impose differential tipping fees for out-of-State waste and also to ban the interstate shipments of municipal wastes.

Since that time, I have become convinced that Congress can provide meaningful relief to local governments, while recognizing legitimate contractual arrangements to dispose of out-of-State waste at facilities that meet the highest environmental standards.

Specifically, the legislation I offer today gives local governments, who have primary responsibility for land use, a voice in this issue by requiring that operators of landfills who wish to receive out-of-State wastes obtain authorization from the affected local government.

In recognition of existing contractual arrangements for disposal of out-of-State wastes, those facilities which meet environmentally sound standards for landfills would not be required to obtain local authorization. I believe this approach is essential in ensuring the protection of the local communities from substandard, poorly managed facilities that may be harming the environment.

Existing landfills that do not meet these standards will not be permitted to receive waste generated outside of the State.

The provisions that I have described provide immediate protection to the environment and to local governments from out-of-State wastes received by substandard facilities. In an effort to encourage States to more adequately accommodate wastes generated within their own borders, my proposal includes the requirement for States to develop management plans that must be approved by the Environmental Protection Agency. The approval of these plans is another condition for States to continue exporting wastes and for local governments to continue receiving out-of-State wastes.

Mr. President, I ask unanimous consent for the text of my legislation to be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2386

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INTERSTATE TRANSPORTATION AND DISPOSAL OF MUNICIPAL SOLID WASTE.

(a) IN GENERAL.—Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941 et seq.) is amended by adding at the end the following new section:

"SEC. 4011. INTERSTATE TRANSPORTATION AND DISPOSAL OF MUNICIPAL SOLID WASTE.

"(a) RESTRICTION ON RECEIPT OF OUT-OF-STATE WASTE.—

"(1) IN GENERAL.—Except as provided in subsections (b) and (e), the owner or operator of a landfill, incinerator, or other waste disposal facility in a State may not receive for disposal or incineration any municipal solid waste generated outside the State unless the owner or operator obtains authorization to receive such waste from the affected local government in accordance with the procedure under this subsection.

"(2) NOTIFICATION PROCEDURE.—Any such authorization shall be granted by formal action at a public meeting (following public notice and opportunity for comment) and shall be recorded in writing in the official record of the meeting. The local government shall notify the Governor of any authorization granted under this subsection.

"(3) LIMITATIONS.—In granting an authorization, the affected local government may impose limitations on the authorization relating to the amount of municipal solid waste generated outside the State that may be disposed of in the landfill, incinerator, or other waste disposal facility.

"(4) NUMBER OF AUTHORIZATIONS REQUIRED.—Subject to subsection (c), only 1 authorization per facility is required under this subsection.

"(5) RECYCLING EXCLUDED.—The authorization required under this subsection shall apply only to solid waste that is generated outside the State that is disposed of in the landfill, incinerator, or other waste disposal facility, and shall not apply to any solid waste generated outside the State that is received by the facility, but is to be recycled at a recycling facility.

"(b) LIMITATIONS AND CONDITIONS ON APPLICABILITY.—

"(1) LANDFILLS IN OPERATION.—(A) Subject to subparagraph (B), the prohibition under subsection (a) shall not apply to an owner or operator of a landfill that—

"(i) on and after January 1, 1993, and prior to the effective date of applicable regulations under the final rule relating to solid waste disposal facility criteria under parts 257 and 258 of title 40, Code of Federal Regulations, published on October 9, 1991, at 56 Fed. Reg. 50978—

"(aa) has a liner, a leachate collection system, and a groundwater monitoring system;

"(bb) provides financial assurance for closure and post-closure care; and

"(cc) provides for corrective action;

"(ii) on and after the effective date of the regulations referred to in clause (i), complies with the regulations;

"(iii) before January 1, 1993, either accepted municipal solid waste generated outside the State or obtained authorization to accept such waste from the affected local government pursuant to a written contract; and

"(iv) meets all applicable State laws (including regulations) relating to design standards, leachate collection, groundwater monitoring, and financial assurance for closure and post-closure care and corrective action.

"(B) The limitation on applicability contained in subparagraph (A) with respect to a landfill shall terminate if the owner or operator of the landfill fails to comply with the requirements of any applicable law described in subparagraph (A).

"(2) LANDFILLS UNDER CONSTRUCTION OR IN PLANNING PROCESS.—(A) Subject to subparagraph (B), the prohibition under subsection (a) shall not apply to a landfill that—

"(i) before January 1, 1993, has obtained all State and local permits necessary for the construction and operation of the landfill;

"(ii) before January 1, 1993, was the subject of authorization from the affected local government to accept municipal solid waste generated outside the State at such landfill;

"(iii) meets the criteria described in clause (i) of paragraph (1)(A) and is operated in accordance with such criteria; and

"(iv) meets all applicable State laws (including regulations) described in clause (iii) of paragraph (1)(A).

"(B) The limitation on applicability described in subparagraph (A) shall terminate if the landfill, before or after construction, fails to—

"(i) on and after January 1, 1993, and prior to the effective date of applicable regulations under the final rule relating to solid waste disposal facility criteria under parts 257 and 258 of title 40, Code of Federal Regulations, published on October 9, 1991, at 56 Fed. Reg. 50978—

"(aa) have a liner, a leachate collection system, and a groundwater monitoring system;

"(bb) provide financial assurance for closure and post-closure care; and

"(cc) provide for corrective action;

"(ii) on and after the effective date of the regulations referred to in clause (i), comply with the regulations; and

"(iii) meet all applicable State laws.

"(3) INCINERATORS AND OTHER FACILITIES.—The prohibition under subsection (a) does not apply to the following:

"(A) An owner or operator of an incinerator or other waste disposal facility (other than a landfill) that—

"(i) before January 1, 1993—

"(I) accepted municipal solid waste generated outside the State; or

"(II) obtained authorization to accept such waste from the affected local government; and

"(ii) meets applicable new source performance standards under subsection (a) of section 129 of the Clean Air Act (42 U.S.C. 7502 note) and applicable monitoring requirements under subsection (c) of such section, and meets any other applicable requirements of such section.

"(B) A person who plans to own or operate an incinerator or other waste disposal facility (other than a landfill) and who, before the date of the enactment of this section—

"(i) has obtained all State and local permits necessary for the construction and operation of the incinerator or other facility;

"(ii) has obtained authorization described in subsection (a) from the affected local government to accept municipal solid waste generated outside the State at such incinerator or other facility; and

"(iii) meets applicable new source performance standards under subsection (a) of section 129 of the Clean Air Act (42 U.S.C. 7502 note) and applicable monitoring requirements under subsection (c) of such section, and meets any other applicable requirements of such section.

"(c) TREATMENT OF EXPANSIONS OF FACILITIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the expansion of a landfill, incinerator, or other waste disposal facility shall be considered, for purposes of subsection (a), to be a separate facility requiring authorization in order to accept waste generated outside the State.

"(2) EXCEPTION.—A landfill, incinerator, or other waste disposal facility with respect to which the owner or operator has obtained authorization as described in subsection (a) or in paragraph (1), (2), or (3) of subsection (b) may be expanded for purposes of receiving waste generated outside the State without an additional authorization under subsection (a) only if—

"(A) the owner or operator demonstrates, to the satisfaction of the appropriate official of the State or affected local government, that the proposed expansion of the landfill, incinerator, or other waste disposal facility will not result in an increase in the volume or tonnage of solid waste to be received by the facility, calculated on the basis of a daily average (as compared to the daily average amount of such solid waste received at the time of such demonstration);

"(B) the area of expansion of the landfill, incinerator, or other waste disposal facility was indicated in documents filed with the affected local government before obtaining such authorization; or

"(C) one or more ancillary facilities to be used for the sole purpose of supporting the landfill are added.

"(d) RESTRICTION ON RECEIPT OF WASTE FROM STATES WITHOUT STATE PLANS.—Beginning on the date that is 42 months after the date of the enactment of this section, the owner or operator of a landfill, incinerator, or other waste disposal facility in a State may not accept municipal solid waste generated in another State if such other State does not have a State plan approved pursuant to section 4007.

"(e) RESTRICTION ON LOCAL GOVERNMENT CONTROL IN STATES WITHOUT STATE PLANS.—Beginning on the date that 42 months after the date of the enactment of this section, the owner or operator of a landfill, incinerator, or other waste disposal facility in a State may receive municipal solid waste generated outside the State without obtaining authorization under subsection (a) from the affected local government if the State in which the facility is located does not have a State plan approved pursuant to section 4007.

"(f) STATE RESERVATION OF CAPACITY.—

"(1) CAPACITY ASSURANCE.—(A) Subject to paragraph (2), and for a facility that meets the requirements of paragraphs (1) and (3)(A) of subsection (b) and that has not obtained an authorization pursuant to subsection (a), the Governor of a State may impose one of the limitations described in subparagraph (B) on the quantity of municipal solid waste generated outside the State and managed in the facility.

"(B) The limitations referred to in subparagraph (A) are the following:

"(i) Not more than 70 percent of the facility's annual capacity may be reserved for municipal solid waste generated within the State. This limitation shall be incorporated into the operating permits issued by the appropriate State agency.

"(ii) The volume of municipal solid waste generated outside the State and managed at the facility during a calendar year shall not exceed the volume of municipal solid waste generated outside the State and managed at the facility in the preceding calendar year.

"(2) CONDITIONS.—(A) The Governor of a State may impose the limitations described in paragraph (1) if—

"(i) all municipal solid waste landfills within the State meet or exceed the requirements of subsection (b)(1); and

"(ii) the limitations are applied on a uniform, facility-by-facility basis, or, for more than one facility in a State under common ownership, on an annual averaged basis.

"(B) Unless a State has obtained approval from the Environmental Protection Agency for its solid waste management plan, the authority granted the Governor of the State by paragraph (1) shall terminate 42 months after the date of enactment of this section.

"(g) PROHIBITIONS, ENFORCEMENT.—

"(1) PROHIBITIONS.—(A) It shall be unlawful for any individual to knowingly cause to be transported, or transport municipal solid waste through interstate commerce in a manner that does not meet the applicable requirements of this section (including any requirement for such transportation to be accomplished under the terms of a written contract).

"(B) It shall be unlawful for the owner or operator of a landfill, incinerator, or other waste disposal facility to knowingly accept municipal solid waste transported through interstate commerce in a manner that does not meet the requirements of this section.

"(2) Criminal penalties.—(A) Any person who violates a prohibition under paragraph (1) shall, upon conviction, be subject to a fine of not more than $50,000, or imprisonment for not more than 2 years, or both.

"(B) The Attorney General of the United States may commence a criminal action for any violation of a prohibition under paragraph (1) in the appropriate district court of the United States.

"(3) Civil actions and penalties.—(A) In any case where the Administrator determines that any person has violated or is in violation of any requirement of this section, the Administrator may issue an order assessing a civil penalty for any past or current violation, or may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief (including a temporary or permanent injunction).

"(B) Any penalty assessed in an order under subparagraph (A) shall not exceed $50,000 per day of violation.

"(h) Definitions.—For purposes of this section:

"(1) The term 'affected local government' means, with respect to a landfill, incinerator, or other waste disposal facility, the city, town, borough, county, parish, district, or other public body (created by, or pursuant to, State law) with primary jurisdiction over the use of the land on which the facility is located or proposed to be located.

"(2) The term 'authorization' means a written decision (issued after public notice and opportunity for public comment) by an affected local government to allow a landfill, incinerator, or other waste disposal facility to accept solid waste generated outside the State.".

(b) Table of Contents Amendment.—The table of contents for subtitle D of such Act (contained in section 1001) is amended by adding at the end the following new item:

"Sec. 4011. Interstate transportation and disposal of municipal solid waste.".

SEC. 2. REPORTING.

(a) In General.—(1) Not later than 270 days after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency (hereafter in this section referred to as the "Administrator") shall propose, and after notice and comment, establish by regulation, a program that shall require each person who transports, ships, or causes to be transported or shipped in interstate commerce, any solid waste in excess of 500 pounds per year to prepare and submit to the Administrator, on an annual basis, a registration statement.

(2) Registration statement.—The registration statement described in paragraph (1) shall include—

(A) the name and principal place of business of the person submitting the registration statement;

(B) the location of each activity associated with the handling of such solid waste; and

(C) a complete list of such solid waste transported or shipped in interstate commerce during the calendar year immediately preceding the date of such registration statement.

(b) Public Information.—In establishing the program described in subsection (a), the Administrator shall make available to the public the registration statements described in such subsection.

(c) Definitions.—As used in this section, the term—

(1) "solid waste" shall have the same meaning as given such term in section 1004(27) of the Solid Waste Disposal Act (42 U.S.C. 6902(27)), but shall not include—

(A) waste identified or listed as hazardous waste by the Administrator pursuant to section 3001 of the Resource Conservation and Recovery Act (42 U.S.C. 6921);

(B) contaminated media, including contaminated soil and debris resulting from a response action taken under section 104 or 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604 or 9607), or a corrective action taken under the Resource Conservation and Recovery Act (42 U.S.C. 1857 et seq.); and

(C) any hazardous chemical substance or mixture regulated under section 6(e) of the Toxic Substance Control Act (15 U.S.C. 2605(e));

(2) "interstate commerce" shall have the same meaning as given such term in section 10 of title 18, United States Code; and

(3) "person" shall include any individual, corporation, State, political subdivision of a State, or other legal or governmental entity.●

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. Cranston, the name of the Senator from Connecticut [Mr. Dodd] was added as a cosponsor of S. 21, a bill to provide for the protection of the public lands in the California desert.

S. 25

At the request of Mr. Cranston, the name of the Senator from Michigan [Mr. Riegle] was added as a cosponsor of S. 25, a bill to protect the reproductive rights of women, and for other purposes.

S. 781

At the request of Mr. Sarbanes, the name of the Senator from Pennsylvania [Mr. Wofford] was added as a cosponsor of S. 781, a bill to authorize the Indian American Forum for Political Education to establish a memorial to Mahatma Gandhi in the District of Columbia.

S. 1088

At the request of Mr. Kennedy, the name of the Senator from Hawaii [Mr. Inouye] was added as a cosponsor of S. 1088, a bill to amend the Public Health Service Act to establish a center for tobacco products, to inform the public concerning the hazards of tobacco use, to provide for disclosure of additives to such products, and to require that information be provided concerning such products to the public, and for other purposes.

S. 1100

At the request of Mr. Kerry, the name of the Senator from Indiana [Mr. Lugar] was added as a cosponsor of S. 1100, a bill to authorize the Secretary of Housing and Urban Development to provide grants to urban and rural communities for training economically disadvantaged youth in education and employment skills and to expand the supply of housing for homeless and economically disadvantaged individuals and families.

S. 1704

At the request of Mr. Wallop, the name of the Senator from California [Mr. Seymour] was added as a cosponsor of S. 1704, a bill to improve the administration and management of public lands, National Forests, units of the National Park System, and related areas by improving the availability of adequate, appropriate, affordable, and cost effective housing for employees needed to effectively manage the public lands.

S. 1731

At the request of Mr. McConnell, the names of the Senator from Utah [Mr. Garn] and the Senator from Iowa [Mr. Grassley] were added as cosponsors of S. 1731, a bill to establish the policy of the United States with respect to Hong Kong after July 1, 1997, and for other purposes.

At the request of Mr. Simon, his name was added as a cosponsor of S. 1731, supra.

S. 1883

At the request of Mr. Hollings, the names of the Senator from Alabama [Mr. Shelby] and the Senator from New York [Mr. D'Amato] were added as cosponsors of S. 1883, a bill to provide for a joint report by the Secretary of Health and Human Services and the Secretary of Agriculture to assist in decisions to reduce administrative duplication, promote coordination of eligibility services and remove eligibility barriers which restrict access of pregnant women, children, and families to benefits under the food stamp program and benefits under titles IV and XIX of the Social Security Act.

S. 2046

At the request of Mr. Lieberman, the name of the Senator from Minnesota [Mr. Wellstone] was added as a cosponsor of S. 2046, a bill to authorize humanitarian, technical, and enterprise fund assistance for the Baltic states and the Soviet republics, and for other purposes.

S. 2106

At the request of Mr. Chafee, his name was added as a cosponsor of S. 2106, a bill to grant a Federal charter to the Fleet Reserve Association.

At the request of Mr. Cranston, the name of the Senator from Nevada [Mr. Bryan] was added as a cosponsor of S. 2106, supra.

S. 2113

At the request of Mr. Smith, the name of the Senator from South Dakota [Mr. Pressler] was added as a cosponsor of S. 2113, a bill to restore the

Second Amendment rights of all Americans.

S. 2341

At the request of Mr. CRANSTON, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 2341, a bill to provide for the assessment and reduction of lead-based paint hazards in housing.

S. 2362

At the request of Mr. MCCAIN, the names of the Senator from Alaska [Mr. MURKOWSKI], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 2362, a bill to amend title XVIII of the Social Security Act to repeal the reduced medicare payment provision for new physicians.

S. 2369

At the request of Mr. AKAKA, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 2369, a bill to amend section 7101 of title 38, United States Code, to provide for the reclassification of members of the Board of Veterans' Appeals and to ensure pay equity between those members and administrative law judges.

SENATE JOINT RESOLUTION 261

At the request of Mr. CRANSTON, the names of the Senator from Utah [Mr. HATCH], the Senator from Delaware [Mr. ROTH], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 261, a joint resolution to designate April 9, 1992, as a "Day of Filipino World War II Veterans."

SENATE JOINT RESOLUTION 272

At the request of Mr. LEAHY, the names of the Senator from Tennessee [Mr. SASSER], and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of Senate Joint Resolution 272, a joint resolution to proclaim March 20, 1992, as "National Agriculture Day."

SENATE JOINT RESOLUTION 273

At the request of Mr. SEYMOUR, the names of the Senator from Michigan [Mr. LEVIN], the Senator from North Carolina [Mr. SANFORD], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Joint Resolution 273, a joint resolution to designate the week commencing June 21, 1992, as "National Sheriffs' Week."

SENATE CONCURRENT RESOLUTION 57

At the request of Mr. DOMENICI, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from Colorado [Mr. BROWN], and the Senator from Florida [Mr. MACK] were added as cosponsors of Senate Concurrent Resolution 57, a concurrent resolution to establish a Joint Committee on the Organization of Congress.

SENATE CONCURRENT RESOLUTION 62

At the request of Mr. CHAFEE, his name was added as a cosponsor of Senate Concurrent Resolution 62, a concurrent resolution expressing the sense of the Congress that the President should award the Presidential Medal of Freedom to Martha Raye.

SENATE RESOLUTION 259

At the request of Mr. MCCONNELL, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of Senate Resolution 259, a resolution promoting goodwill and cooperation between the Commonwealth of Independent States and the United States.

SENATE RESOLUTION 260

At the request of Mr. KASTEN, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of Senate Resolution 260, a resolution opposing the taxation of cash buildup in life insurance annuities.

SENATE RESOLUTION 270

At the request of Mr. DECONCINI, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of Senate Resolution 270, a resolution concerning the conflict of Nagorno-Karabakh in the territory of Azerbaijan.

SENATE RESOLUTION 274—AUTHORIZING REPRESENTATION BY THE SENATE LEGAL COUNSEL

Mr. MITCHELL (for himself and Mr. DOLE) submitted the following resolution; which was considered and agreed to:

S. RES. 274

Whereas, in the case of Little Walter Norton v. Miller, et al., Case No. 92V-063, pending in the Superior Court for Ware County, Georgia, the petitioner has caused to be issued a subpoena for the testimony of Senator Sam Nunn;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Sam Nunn in connection with the subpoena in Little Walter Norton v. Miller, et al.

SENATE RESOLUTION 275—COMMENDING PRESIDENT F.W. DE KLERK, THE SOUTH AFRICAN GOVERNMENT, AND THE SOUTH AFRICAN PEOPLE

Mr. SIMPSON (for Mr. WALLOP, for himself, Mr. DOLE, Mr. PRESSLER, Mr. SIMON, Mr. ROBB, Mr. LUGAR, Mrs. KASSEBAUM, Mr. SYMMS, Mr. BOREN, and Mr. PELL):

S. RES. 275

Whereas, President F.W. de Klerk has promoted historic and irreversible change by committing South Africa to representative government;

Whereas, the South African Government, under President de Klerk's courageous leadership, has abolished many of the legal tenets of the system of apartheid and continues negotiations with the "Convention for a Democratic South Africa (CODESA)" for a new constitution extending full political rights to all South Africans;

Whereas, President de Klerk and other South African leaders have begun the process toward the establishment of a democratic and nonracial South Africa through the CODESA;

Whereas, Mr. de Klerk and the South African Government called a referendum regarding negotiations on constitutional reform on March 17, 1992;

Whereas, white voters in South Africa have affirmed a strong mandate for President de Klerk and the South African Government to proceed with constitutional reform and a more representative political system by a large majority vote in favor of continuing negotiations: Therefore, be it

Resolved, That:

(1) the Senate commends President F.W. de Klerk for his courage in calling a referendum and congratulates him on the successful outcome;

(2) The Senate commends President de Klerk and the South African Government for their commitment to a fully representative and nonracial South Africa and expresses its support for future good faith efforts toward these ends;

(3) the Senate commends the people of South Africa for their efforts to create a new political system through peaceful constitutional transition.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry, will hold an oversight hearing on the operations of the field offices of the U.S. Department of Agriculture, Wednesday, April 8, 1992, at 10 a.m., in SR-332.

For further information please contact Kathleen Merrigan of the committee staff at 224-2035.

ADDITIONAL STATEMENTS

NATIONAL AGRICULTURE DAY

• Mr. LAUTENBERG. Mr. President, today marks the observance of National Agriculture Day, a day which has been set aside to honor the achievements of all the men and women involved in American agriculture. Passed by joint resolution of Congress, the observance of National Agriculture Day offers the Nation an opportunity to reflect upon the vital though often unnoticed role agriculture plays in all of our lives. I am proud to be an original cosponsor of this resolution.

As you may know from our license plates, New Jersey is the Garden State, but what you may not know from driving along the New Jersey Turnpike is that New Jersey is a major agricultural State. New Jersey holds the distinction of ranking second nationwide in the production of blueberries, third in cranberries, fourth in peaches and asparagus, and sixth in sweet corn. New Jersey's most valuable agriculture products come from its floriculture and nursery producers who consistently show rankings in the top 10 as well.

Overall, New Jersey agriculture is responsible for $250 million in farm products exports overseas each year. In addition, New Jersey farmers provide a wide variety of crops to both New Jerseyites and the consumers of surrounding States. New Jersey contains hundreds of thousands of acres of taxed open space, and can boast the oldest farm organization in the Nation, the New Jersey Agricultural Society founded in 1781.

At the time of the Civil War, most New Jerseyites like most Americans made their livelihood through some form of agriculture. Indeed, until the early part of the 20th century, America could be described as an agrarian nation. Today, few Americans can claim the distinction of being farmers. In fact, only 2 percent of the Nation's workforce is involved in the production of food. Though their numbers may be diminished, farmers and ranchers are no less important to this country than they were a century and a half ago.

The productivity of the American farmer is phenomenal in comparison to their relatively small numbers. One farmer can feed more than 100 Americans. It is truly staggering that the efforts of 2 percent of our citizens feeds the other 98 percent.

A recognition of agriculture, however, cannot be confined only to those who produce it. Following production, foodstuffs must be processed, shipped or exported, marketed, and sold. One out of every six Americans earn their living through this mammoth food system. By viewing the American agricultural system in this vein, agriculture becomes the Nation's largest industry, claiming 17 percent of our GNP.

The American agricultural industry can claim another distinction. Despite an economic downturn during the 1980's, agriculture, with the aid of New Jersey exports, remains competitive in world markets. The United States exports more agricultural products than any other nation, and agriculture is one of the American industries that continually boasts a positive trade balance.

National Agriculture Day honors the achievements of each of the important links in the American food chain. Agriculture remains our oldest viable industry, and is perhaps more important to our economy today than ever before. I offer my strong support for the efforts of both New Jersey's farmers and the Nation's farmers on this day set aside to honor them.●

EIGHTH GRADE YOUNG ESSAY CONTEST

● Mr. LUGAR. Mr. President, I rise today to congratulate a group of young Indiana students who have shown great educative achievement. I would like to introduce to my colleagues the winners of the seventh annual Eighth Grade Young Essay Contest which I sponsor in association with the Indiana Farm Bureau and Bank One of Indianapolis. These students have displayed strong writing abilities and have proven themselves to be outstanding young Hoosier scholars. I submit their names for the CONGRESSIONAL RECORD because they show the capabilities of today's students and are fine representatives of our Nation.

This year, Hoosier students wrote on the theme, "Getting to Know Your Hoosier Farmer." Students were encouraged to consider and creatively express what effect Indiana agriculture has on their daily lives. I would like to submit for the RECORD the winning essays of Jason Kiser of Cass County and Annisa Luking of Fayette County. As State winners of the Young Essay Contest, these two outstanding students are to be recognized today during a visit to our Nation's Capital.

The essay follows:

GETTING TO KNOW YOUR HOOSIER FARMER

(By Jason Kiser, Cass County)

Who is the man in the Pioneer Seed hat? He is a Hoosier Farmer; he is also a veterinarian, a market expert, an electrician, and an environmentalist. This Hoosier Farmer has many talents and represents many occupations combined into one.

He is a grain and hog farmer, to be more specific, with an average size farrow to finish confinement operation. He has been farming all of his life. He started farming on his own in 1960, 31 years ago. Since then he has learned a great deal, keeping up with the knowledge of new equipment and technology.

He must be a mechanic when a tractor or truck breaks down. He is also an electrician when an electric motor stalls at the grain dryer. He is a veterinarian when a pig is sick or when it's time to give iron shots. He must also play the market to sell his corn and bean crop. He is a scientist when choosing his hybrids for next year's crop or when applying pesticides and herbicides to fields.

How does he contribute to our nutritional well being? Just visit your local grocery store and look at the lean, healthy cuts of pork. He is always looking for better breeding stock and new feed technology to yield a better product.

The man in the Pioneer Seed hat is a very special Hoosier Farmer; he is my Dad. His willingness to work hard, his love for the land, and his delicious pork chops "hot-off-the-grill" have made an impression on me. I'm proud my dad is a Hoosier Farmer.

GETTING TO KNOW YOUR HOOSIER FARMER

(By Annisa Luking, Fayette County)

Farming is the most important occupation in the world. People cannot live without food. Almost all the food people eat comes from crops and livestock raised on farms. However, there is more to farming than corn, oats, cattle, and hogs. Some Hoosier farmers raise mint, popcorn, melons, sheep, and chickens. Some are full-time farmers while others have different jobs besides farming. Full-time farmers either own their own land or lease farmland. Part-time farmers usually rely on another job and farm for extra money or enjoyment.

I know a full-time farmer who is a dairy farmer. He milks sixty cows twice a day. He grows between 110–120 acres of corn, 125–130 acres of corn silage, and 45–50 acres of hay. All this is fed back to the cattle. Milk Marketing, Inc., of Cincinnati, Ohio, picks up the milk every two or three days, depending on milk production and space on the truck. Dairy farmers are paid by the pounds of milk they produce. The milk is tested on the farm for butter fat content and contamination. All this testing insures the quality and purity of the milk. The milk is hauled in a refrigerated stainless steel semi truck. M.M.I. is a buyer for different dairy companies. Their companies make cheese, yogurt, margarine, and other milk products.

The only source of income for this dairy farmer is the sold milk and baby bull calves. Dairy farming is a very demanding job. It is hard for this farmer to find time to take a vacation.

Farming is a very hard occupation. It requires a lot of physical and mental stress. Americans should appreciate the hard work of farmers. Dairy farmers are especially important in our lives because milk is so important in our lives!

1991–92 DISTRICT WINNERS

District 1—Laura Druley, Solomon Shih.
District 2—Michelle Kammerer, Matthew Stults.
District 3—Dana Frey, Jason Kiser.
District 4—Lindsay Hendricks, Ryan Hopper.
District 5—Anne Hardin, J. Christopher Phillips.
District 6—Marianne Johnson, Basil Eakin.
District 7—Anne Newton, Matt Bonness.
District 8—Annisa Luking, Bradley Miller.
District 9—Jane Dall, Jeremy Wagner.
District 10—Carmen Rohls, Eric Selle.

COUNTY WINNERS

Allen: Shane Stieglitz, Sharon Hall.
Bartholomew: Luke Jacobus, Emily Chui.
Boone: Jeff Johnson, Kelly Carter.
Carroll: Dana Frey.
Cass: Jason Kiser, Sara Kiesling.
Clay: Brad Long, Mandy Smith.
Crawford: Felicia Johnson.
Decatur: Clint Mattox, Kelly Stud.
Delaware: Jason Adams, Marianne Johnson.
Dubois: Sam Klawitter, Jane Dall.
Elkhart: Matt Stults, Jessica Stutsman.
Fayette: Brad Miller, Annisa Luking.
Fulton: John Gunter, Mandy Wentzel.
Grant: Joe Shelton, Shanna Futrell.
Hamilton: Ryan Smith, Jilian Roundtree.
Hancock: Jamie Lantz.
Harrison: Billy Fessel, Emily Jo Ferree.
Hendricks: Anne Hardin.
Henry: Basil Eakin, Mandy Matlock.
Jasper: Sam Streitmatter, Jennifer Pullins.
Jefferson: Eric Selle, Meredith Hoffman.

Kosciusko: Jeremy Babcock, Michelle Kammerer.
Lake: Solomon Shih, Lisa Kanouse.
Lawrence: Rita Dillman.
Marion: Matt Hess, Amber Browne.
Miami: Ryan Hopper, Lindsay Hendericks.
Morgan: J. Christopher Phillips.
Netwon: Daniel Ryan, Ola Oleksy.
Noble: Kristin Stangland.
Posey: Daniel Hart, Kimberely Morlock.
Parke: Blair Collings.
Porter: Patrick Clennon, Kari Rietveld.
Ripley: Carmen Rohls.
St. Joseph: Patrick Szuba, Laura Druley.
Shelby: Wendy Kay Brattain.
Steuben: Thane Knox, April Clark.
Sullivan: Rusty Nichols.
Switzerland: Max Blodgett, Alice Wood.
Vanderburgh: Andy Lampkins.
Vigo: Matt Bonness, Anne Newton.
Wabash: Brady McClure, Jodi Morningstar.
Washington: Jason Metz, Tami Stone.
Wells: Amanda Brjanski.•

A SPECIAL TRIBUTE TO RUSSELL BARRIOS FOR OUTSTANDING COMMUNITY SERVICE

• Mr. SEYMOUR. Mr. President, it is with great pleasure that I take this opportunity to commend Russell Barrios of Orange, CA, for his outstanding history of community service and his dedication to the students of the Orange Unified School District.

Over the years, Mr. Barrios has consistently displayed a sincere concern for the welfare of this Nation's children through his extensive involvement in community service organizations in Orange County, CA, and specifically in his home community, the city of Orange. His desire to assist his fellow citizens has led him to serve in a variety of capacities in many admirable organizations, from the Orange YWCA to the Orange County Arts Alliance. Yet his main focus has remained upon ensuring the welfare of our youth. His collection of distinguished awards from the California State Parent Teacher Association and the Association of California School Administrators are evidence of his exemplary service in his many leadership roles. These include his role on the board of trustees of the PTA, his position as PTA liaison to Orange Community Council PTA/PTSA from 1985–1991, and his several chairmanships, council memberships, and involvements in other PTA conventions and committees.

Mr. Barrios' dedication, diligence, and unwavering desire to help our children have secured him a spot in the appreciative hearts and minds of his colleagues and fellow citizens in California. His hard work has created positive change within his immediate community and far beyond, and his continued service will undoubtedly ensure the promotion of the admirable goals of the fine organizations with which he has associated himself. I am sure my Senate colleagues will join me in recognizing the outstanding accomplishments of my fellow Californian, Russell Barrios.•

TRIBUTE TO EDUCATION CHAMPION JODY HENDRY OF FORT MYERS

• Mr. GRAHAM. Mr. President, we live in an era of unprecedented change. As we approach the end of the 20th century, our world is vastly different from the world we were born into.

Yet, in the midst of rapid change, we accept a basic principle that has not changed and will not change: education and training are fundamental to a strong America.

Today, I am honored to offer a tribute to a champion for education, Jody Tharp Hendry of Fort Myers, FL. Jody Hendry personifies the pursuit of excellence at Edison Community College, which serves southwest Florida.

The college has thanked Jody Hendry for her countless contributions by naming a building on campus in her honor; an edifice that will stand as a monument to her dedication to education.

But an equally lasting monument to her is not made of bricks or stone: It is the doors she has opened for thousands of Edison Community College students. In the parlance of education world, she has "ensured access to higher education."

In straight-forward language—which Jody Hendry prefers—she helped people. She helped her community, her church, her American Legion Post, her public library, her Parent-Teacher Association, her hospital and the Edison Pageant of Light.

Above all, she helped a young community college become an institution of excellence.

In 1975, Jody Hendry took over the Edison Community College Endowment Corp. The account had a grand total of $34.25. Since then, the endowment has grown to $7.5 million. Each year, more than 700 students at Edison Community College get scholarship help via the endowment corporation. A report compiled by the Council for Aid to Education and the Council for Advancement and Support of Education listed the Edison Community College Endowment Corporation as the top public 2-year college foundation in the Nation in funds raised.

This phenomenon did not occur by waving a magic wand. Hard work produced a healthy endowment. In her trademark hats and red pickup truck, Jody Hendry traversed southwest Florida, from barns to boardrooms, to earn support for higher education.

Jody Hendry served on the college's board of trustees from 1974 to 1988, and led its endowment from 1975 to 1991. She no longer sits on the board, but this one-time teacher will never leave the campus.

She will be on campus every time a young person gets a chance to succeed, thanks to a scholarship. She will be on campus every time a student learns a job skill on high-technology equipment bought with private funds. She will be on campus whenever the majesty of the arts is seen by the human eye.

In many ways, education is a timeless, collective endeavor. But the essence of education—the foundation for learning—is one person who makes a difference. Jody Hendry is one person who made a difference for many.•

UNIONS AND AMERICAN ECONOMIC COMPETITIVENESS

• Mr. WIRTH. Mr. President, on February 9, the Washington Post published an article discussing "Unions and American economic competitiveness," a newly published collection of academic research. The book discusses the perception that unions have hampered American competitiveness. This view was common in the early 1980's when heavily unionized industries like steel and automobiles were suffering from foreign competition and many may still hold it today.

However, the book notes that the competitiveness of our newer high-tech nonunionized industries—such as computers and semi-conductors—has also declined in the 1980's. We face a very real competitive challenge, Mr. President, but I don't think we can or should make unions a scapegoat for the problem. Instead, we should work to meet the challenge and ensure that our workers—both union and nonunion—are able to develop the job skills and flexibility needed in a modern economy and continue to have access to well-paying jobs.

The book argues that unions can help our workers and businesses meet the competitiveness challenge. Unionized workers are a highly skilled and motivated part of our work force. In many respects, they are the kind of workers we need in order to increase productivity. Many businesses will benefit if they look upon organized labor as a partner in the fight to improve American competitiveness, not an obstacle.

I encourage Senators to read the Washington Post article that outlines the book's message and ask that it be printed in the RECORD at the conclusion of my remarks.

The article follows:

ATTACKING THE NOTION THAT UNIONS HURT U.S. COMPETITIVENESS

(By Frank Swoboda)

As labor unions in the United States continued to melt like an ice cube left at room temperature, it's getting harder and harder to blame them for the nation's competitive woes.

That's the conclusion of a contrarian new book by the Economic Policy Institute (EPI), "Unions and American Economic Competitiveness," a compendium of new research by academics in the labor and employment field.

Economists Lawrence Mishel and Paula B. Voos, writing in the introduction, note that in the early 1980s, unions were blamed in large part for the nation's growing trade deficit. Unions were targeted by their critics because they were heavily involved in industries such as steel and autos that were hardest hit by import competition.

At the time, the authors said, these heavily unionized industries, with their high wages, were the big losers in the new global competition, while largely nonunion, high-technology industries were flourishing. Therefore, unions were seen by many as an impediment to competitiveness.

"Looking back," Mishel and Voos write in their new book, "we can now see how misleading these stylized facts were. Rates of unionization fell throughout the decade, with no discernible spur to competitiveness. By the end of the 1980s our trade deficit was still substantial, but our trading position had deteriorated in unionized, mature industries and in high-tech nonunion sectors."

The book argues that the countries that represent the greatest competitive challenge to the United States "have equaled or surpassed the U.S. in the wages, benefits and public services provided to their workers—and in the degree of unionization of their work force."

As a consequence, the book says, these countries should be the model for U.S. business and government rather than the current competitiveness policy of "abandoning unions and imitating low-wage countries."

It is an argument that would be expected from the EPI, which is heavily financed by the nation's trade unions, a fact it does not try to avoid. But the economic arguments are persuasive and no more biased than often-cited studies from other Washington think tanks largely financed by business.

"If unionization were a necessary condition for our declining competitiveness, then nonunion industries should be unaffected," write Mishel and Voos. "The declining competitive position of nonunion, high-tech industries in the late 1980s makes it clear that there is no necessary connection. The sun has been setting on our so-called 'sunrise' industries."

Citing studies by the Congressional Office of Technology Assessment, the authors point to the computer and semiconductor industries as prime examples of the fall of the high-tech sector at the hands of the nation's foreign competitors. The authors note that from 1983 to 1989, the U.S. market share of the computer industry fell from 81 percent to 61 percent, and during that period Japan has simply taken over the semiconductor business.

"There are many other reasons to be skeptical of the claim unions are associated with our competitiveness problems," the authors wrote. Outlining a section of the book authored by Harvard economist Richard Freeman, the authors contend that unions do raise wages, and they tend to have added value for a company in the form of higher productivity.

Dale Delman, an economist at the University of Wisconsin in Milwaukee and a contributor to the EPI book, concludes from his studies that "the negative consequences [of unions] cited by most economists—higher prices and lower employment—are largely mitigated by higher productivity and lower profits," rather than higher prices, meaning union employers are passing all their cost increases to the consumer.

In another section of the book, Jeffrey Keefe, a Rutgers University assistant professor industrial relations, presents evidence to show that "nonunion firms are no more likely to modernize and adopt new technologies than union firms." In fact, he notes, "work rules are as evident in nonunion workplaces as in union ones." in the form of unilaterally imposed requirements on how jobs are performed. He cites this as one of the reasons nonunion firms have been experimenting in recent years with employee participation programs and other forms of labor-management cooperation that have been taking place in the unionized sector of industry.

The book cites preliminary findings that suggest workplace committees in nonunion companies may actually have negative productivity implications.

The EPI studies conclude "there is reason to believe that the union sector is beginning to outpace the nonunion sector with regard to experimentation with the type of serious workplace innovations that have a potentially large impact on productivity."

Although noting that nonunion companies in the United States were the ones that pioneered such innovations as quality circles and other worker participation programs, including many profit-sharing programs, the EPI studies contend that by the end of the 1980s "the large union employers either equalled or surpassed the large nonunion employers with regard to virtually all flexibility and productivity-enhancing workplace innovations, with the sole exception of profit-sharing."

Faced with the choice of trying to compete in mass production at progressively lower wages, the EPI authors conclude the United States should "try to enhance productivity through more investment in highly skilled and motivated labor, people who are willing to be utilized flexibly by their employers because they are economically secure and have an independent voice in their future."

Needless to say, the authors believe those employees are most apt to be union members.•

A TRIBUTE TO THE SALK INSTITUTE FOR 30 YEARS OF EXCELLENCE

• Mr. SEYMOUR. Mr. President, I am delighted to have this opportunity to commend the founding members and current staff of the Salk Institute of San Diego, CA, as they prepare to celebrate the momentous occasion of their 30th anniversary.

Thirty years ago, Dr. Jonas Salk, the founding director of the Salk Institute, chose San Diego, CA, as home for his new biomedical research center. Over the past three decades, Dr. Salk's project has blossomed into one of the world's largest institutions for basic biomedical research. The Salk Institute now ranks with such distinguished and world renowned laboratories as the Institut Pasteur, the Weizmann Institute, and the Rockefeller University. The institute operates on an annual budget of $37 million, consisting of grants from the National Institutes of Health, the National Science Foundation, and donations from the private sector.

Dr. Salk's original vision was unique, as he wanted to establish a facility where scientists could focus solely on their research, free of the teaching and treatment responsibilities associated with traditional university and hospital laboratories. Today, the institute employs 520 individuals, of which 220 are M.D.'s and Ph.D.'s, and 8 of whom are Nobel laureates. Many of those serving on the Salk staff also have professorships with the University of California, San Diego, and are involved in internationally recognized collaborative clinical programs.

The distinguished scientists of the Salk Institute have, indeed, made many landmark contributions to the field of biomedical research. Diligence, brilliant talent, and 30 years of unwavering devotion to improving the quality of human life have been key elements in defining the institute's tradition of excellence. The Salk Institute will undoubtedly continue in its admirable quest to fulfill the promise of a better life for the generations of tomorrow. I am confident my Senate colleagues will join me in recognizing the exemplary accomplishments and goals of the Salk Institute.•

TRIBUTE TO TIMER E. POWERS

• Mr. GRAHAM. Mr. President, this coming Friday, March 20, 1992, the friends of Timer E. Powers will be gathering at the Martin County Tax Payers Association in my State of Florida to honor him for being an outstanding Floridian and the quintessential public servant.

As a native son of Florida, he has dedicated his entire life to his family, his community, and to making our State a better place in which to live.

Timer's labor of love has been an inspiration to all of us. One of his crowning achievements was serving Martin County for 12 years on the board of county commissioners. With his conservative, fiscally responsible ideology, he served his constituents well.

To his credit, and to the benefit of future generations of Floridians, he helped negotiate the preservation of, and access to, Martin County's limited oceanfront property in the Save Our Beaches project. As a defender of our natural resources, he has had few equals.

He served with vigor and dedication for 4 years on the board of the South Florida Water Management District. As a strong environmentalist, he championed the restoration of the Kissimmee River, was instrumental in settling a controversial lawsuit over the State of Florida's environmentally sensitive Florida Everglades, saving the Loxahatchee River, Florida's only national wild and scenic river.

As a man of good nature and peaceful disposition, he successfully negotiated a historic water compact between the Seminole Indian Nation, the U.S. Government, the State of Florida, and the South Florida Water Management District, concluding a conflict that was over 150 years old.

Floridians are indeed fortunate to have in our midst a person as giving and as selfless as Timer. Timer E. Powers personifies the idea of volunteerism and unselfish dedication, a wonderful example of people helping for the good of all humanity.

There is no finer way to honor our fellow men than to bring to the attention of our Nation an individual whose efforts have made a positive impact upon others.

"We make a living by what we get—but we make a life by what we give"—by all accounts, Mr. Powers has made a great life, and I ask my colleagues to join me in saluting and honoring my good friend, Timer E. Powers on this very special day.•

SECTION 9 OF THE CONCURRENT RESOLUTION ON THE BUDGET

• Mr. SASSER. Mr. President, I hereby submit revised budget authority allocations to the Senate Committee on Finance and aggregates under section 9 of the concurrent resolution on the budget, House Concurrent Resolution 121.

Section 9(a) of the budget resolution states:

SEC. 9. DEFICIT-NEUTRAL RESERVE FUND FOR FAMILY AND ECONOMIC SECURITY INITIATIVES IN ACCORDANCE WITH PROVISIONS OF THE SUMMIT AGREEMENT.

(a) Initiatives To Improve the Health and Nutrition of Children and To Provide for Services To Protect Children and Strengthen Families.—

(1) In general.—Budget authority and outlays may be allocated to a committee or committees for legislation that increases funding to improve the health and nutrition of children and to provide for services to protect children and strengthen families within such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either contemporaneous or previously passed deficit reduction) in this resolution for fiscal year 1992, and will not increase the total deficit for the period of fiscal years 1992 through 1996.

(2) Revised allocations.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) and revised functional levels and aggregates to carry out this subsection. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(3) Reporting revised allocations.—The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) to carry out this subsection.

Subsection (c) of section 9 of the budget resolution provides:

(c) Continuing Improvements in Ongoing Health Care Programs and Phasing-In of Health Insurance Coverage for All Americans.—

(1) In general.—Budget authority and outlays may be allocated to a committee or committees for legislation that increases funding to make continuing improvements in ongoing health care programs or to begin phasing-in health insurance coverage for all Americans with such a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit (by virtue of either contemporaneous or previously passed deficit reduction) in this resolution for fiscal year 1992, and will not increase the total deficit for the period of fiscal years 1992 through 1996.

(2) Revised allocations.—Upon the reporting of legislation pursuant to paragraph (1), and again upon the submission of a conference report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) and revised functional levels and aggregates to carry out this subsection. Such revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(3) Reporting Revised Allocations.—The appropriate committee may report appropriately revised allocations pursuant to sections 302(b) and 602(b) to carry out this subsection.

On March 3, 1992, the Finance Committee reported S. 2325 and H.R. 4210. S. 2325 and H.R. 4210 as reported and modified qualified as legislation that would "increase funding to improve the health and nutrition of children"—in the words of section 9(a) of the budget resolution—and that would "increase funding to make continuing improvements in ongoing health care programs"—in the words of section 9(c) of the budget resolution—and also met the other requirement of section 9 of the budget resolution that—

> to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit . . . in this resolution for fiscal year 1992, and will not increase the total deficit for the period of fiscal years 1992 through 1996.

As S. 2325 complied with the conditions set forth in the budget resolution, under the authority of sections 9(a)(2) and 9(c)(2) of the budget resolution, on March 10, 1992, I filed with the Senate appropriately revised budget authority allocations under sections 302(a) and 602(a) and revised functional levels and aggregates to carry section 9 of the budget resolution. These revised allocations and aggregates appear at page 4746 of the Congressional Record of March 10, 1992.

The Senate passed and went to conference with the House of Representatives on H.R. 4210. Just this morning, the committee on conference on H.R. 4210 submitted a conference report on the legislation. As did S. 2325 and the version of H.R. 4210 reported and modified by the Finance Committee, the conference report on H.R. 4210 includes provisions that would "increase funding to improve the health and nutrition of children"—in the words of section 9(a) of the budget resolution—and that would "increase funding to make continuing improvements in ongoing health care programs"—in the words of section 9(c) of the budget resolution.

The conference report includes provisions that increase the earned income tax credit for low-income families with children and would provide a refundable tax credit for families with children. These provisions would "increase funding to improve the health and nutrition of children"—in the words of section 9(a) of the budget resolution—by targeting an increase in the refundable tax credit for families with children.

The conference report also includes provisions that would extend health care benefits provided for under the Consolidated Omnibus Budget Reconciliation Act of 1985 [COBRA]. The conference report also includes provisions that create two new entities—the Coal Industry Retiree Health Benefits Corporation and the 1991 Benefit Fund—to replace two coal industry health funds that are experiencing financial difficulties. These provisions will ensure that retired coal miners, their widows, and their dependents continue to receive the health benefits for which they contracted. In the words of section 9(c) of the budget resolutions, these two provisions "increase funding to make continuing improvements in ongoing health care programs."

The conference report on H.R. 4210 also meets the other requirement of section 9 of the budget resolution that—

> to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit . . . in this resolution for fiscal year 1992, and will not increase the total deficit for the period of fiscal years 1992 through 1996.

As the conference report on H.R. 4210 complies with the conditions set forth in the budget resolution, under the authority of sections 9(a)(2) and 9(c)(2) of the budget resolution, I hereby file with the Senate appropriately revised budget authority allocations under sections 302(a) and 602(a) and revised functional levels and aggregates to carry out this subsection.

The material follows:

REVISED BUDGET RESOLUTION AGGREGATES AND ALLOCATIONS

[In millions of dollars]

	1992	1992–96
Budget authority	1,270,713	—

REVISED BUDGET RESOLUTION AGGREGATES AND ALLOCATIONS—Continued

[In millions of dollars]

	1992	1992–96
Outlays	1,201,701	—
Revenues	850,501	4,836,179
Finance budget authority	491,344	2,833,568
Finance outlays	487,437	2,811,308

•

THE CRIME BILL

• Mr. D'AMATO. Mr. President, yesterday's cloture vote on the crime bill was a vote on one essential question: Are you for or against a real Federal death penalty for street level gun murders?

The crime bill said no to that meaningful death penalty, which I sponsored. In its place, the so-called crime bill offered a sham. It allows the death penalty for the murder of Federal egg inspectors but it eliminates the real death penalty that I sponsored. That is why I voted against the crime bill.

My amendment provided for a nationwide death penalty for the street level gun murders that are at the heart of our nation's crime problem. The crime bill opposes that death penalty.

My amendment, which the Senate adopted last year by vote of 65 to 33, would have brought the death penalty to New York and other States that do not have the death penalty today. The crime bill says no to that death penalty, so I say no to the crime bill.

The reason the crime bill conference does not contain a real death penalty is no secret. The superliberals in the crime bill conference took it out.

That is a disgrace. Uniform crime reports indicate that about 14,000 murders are committed annually involving firearms. Yet the crime bill conferees refused to put in the most meaningful weapon against these brutal homicides.

My amendment was not complicated or hard to understand. It simply said there could be a national death penalty if the criminal causes the death of a person "intentionally, knowingly, or through recklessness manifesting extreme indifference to human life, or *** through the intentional infliction of serious bodily injury."

Is not that exactly what the people want? Of course it is. Then how can we let the superliberals stifle the people's will?

Mr. President, in good conscience, I could not.

Under my amendment, Federal jurisdiction to seek the death penalty would exist if it was committed in the course of some other Federal crime, or if the firearm involved in the offense had moved at any time in interstate or foreign commerce. Since the firearms used to commit murder have usually been manufactured in a different State and transported over a State line, this would have the practical effect of extending Federal jurisdiction over most firearm murderers.

The crime bill conference has said no to this meaningful, tough anticrime and prodeath penalty amendment. I therefore say no to the crime bill conference. It is that simple.•

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

• Mr. SANFORD. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principle objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by the foreign government or organization.

The select committee received a request for a determination under rule 35 for Chuck Kleeschulte, a member of the staff of Senator MURKOWSKI, to participate in a program in Taipei, sponsored by the Chinese National Association of Industry and Commerce [CNAIC], from November 30 to December 6, 1992.

The committee has determined that participation by Mr. Kleeschulte in this program, at the expense of the CNAIC, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Senator MURKOWSKI and Mrs. Murkowski, to participate in a program in Taiwan and Japan, sponsored by the Chinese National Association of Industry and Commerce [CNAIC], the Brookings Institute, and the United States Government from November 29 to December 9, 1992.

The committee has determined that participation by Senator MURKOWSKI and Mrs. Murkowski in this program, at the expense of the CNAIC, the Brookings Institution, and the U.S. Government is in the interest of the Senate and the United States.•

ATLANTIC MUTUAL'S 150TH ANNIVERSARY

• Mr. D'AMATO. Mr. President, I would like to take this opportunity to extend my warmest greetings and congratulations to the employees of the Atlantic Mutual Insurance Co. on the occasion of their sesquicentennial. The Atlantic Mutual Insurance Co. was founded in New York City on April 11, 1842, by a group of New York shipowners and merchants. They joined together to insure their businesses against losses and thus launched one of New York's oldest companies.

Atlantic Mutual was founded on Wall Street and quickly became a leader in the marine insurance business, which was its sole line during the first 90 years of operation. In the early 1930's the company began to diversify into commercial, personal property, and casualty insurance protection for businesses, families, and individuals.

As a mutual company, Atlantic is owned entirely by its policyholders. They elect the board of trustees and have the opportunity to share in the profits. Today, the company has some 1,800 employees nationwide, and 21 offices throughout the United States serving independent insurance agents and brokers.

I would like to take this opportunity to congratulate and thank all of the many people who have contributed to the success of the Atlantic Mutual Cos. The continuing efforts and dedication of each person associated with Atlantic Mutual has made this very special celebration possible. This kind of commitment represents the best of New York and I commend these efforts.•

KALIHI-PALAMA HEALTH CLINIC: CREATIVE SOLUTIONS TO UNIQUE PROBLEMS IN EFFECTIVE HEALTH CARE DELIVERY

• Mr. AKAKA. Mr. President, everyone is well aware that we are in the midst of a national health care crisis, with contentious debates over a multitude of proposed remedies and the assurance that any adequate effort will involve billions of dollars.

At such moments, it is our unfortunate tendency to overlook the trees for the forest. There is one, in particular, whose branches give great comfort and whose sturdiness, in these unsteady times, restores our faith.

I would like to give special recognition to a courageous and innovative churchfront haven of care in Hawaii, the Kalihi-Palama Health Clinic—appropriately named, Hale Ho'ola Hou, the House of New Life.

Are they one of the myriad clinics throughout the United States that strive to reach and help the poor, the homeless and those with no health insurance?

Are they one of those shoestring operations that deserve—but do not often receive—our attention, praise, respect, and support for their humanity, skill and commitment?

Absolutely, and more.

Absolutely, because the dedication, professionalism and resourcefulness of those who empower the Kalihi-Palama Health Clinic personify the kind of must-do, can-do spirit that drives all of these unsung centers of compassion.

Yes, Kalihi-Palama reaches the poor. Over 75 percent of the patients served in 1990—exclusive of homeless patients—had annual family incomes below the Federal poverty level.

Yes, they reach the homeless, accounting for 32 percent of all 1990 patient visits.

And yes, they reach those with no health insurance: 56 percent of the 1990 patient load, not counting the homeless treated, an average of 66 percent the previous 4 years.

More, because the House of New Life exists to overcome an additional set of barriers that, I would surmise, relatively few facilities in other regions encounter.

First, 85 percent of the patients are Asian or Pacific Islanders.

Second, half of those served are first-generation immigrants or refugees. As one significant consequence, delayed immunizations account for 75 percent of all visits by immigrant children to pediatric medicine.

Third, as one would imagine, many of their clientele are unfamiliar with Western medical practices. In fact, very often, they are totally bewildered by them.

Fourth, a significant proportion of those who go to the clinic are also unable to speak English. Approximately 50 percent of the patient visits to adult medicine require a translator. In order to ensure proper care, the clinic maintains a multilingual, multicultural staff capable of communicating in nine Asian and Pacific languages and dialects, plus Spanish.

Combine all of these factors with the bottom-line statistic that Hale Ho'ola Hou handles 37,000 patient visits annually, and you will begin to understand why I have such a towering admiration for this amazing endeavor and the wonderful people who are at the soul of its success.

Seventeen years ago, the House of New Life opened its doors and its arms to the people of the Kalihi-Palama area, which contains the highest concentration of non-English speakers in the State of Hawaii. Today, even with a daily caseload that is 15 times what it was in 1974, 50 percent of those served by the clinic are still residents of the Kalihi-Palama community.

Founded by the Reverend Richard Wong and a group of concerned citizens, the Kalihi-Palama Health Clinic first offered a program of general medicine, provided by a cadre of volunteer physicians and nurses.

Today, they offer a half-dozen primary and preventive health care services, as well as perform vital educational and teaching functions. They provide: general medicine, family planning, optometric service, dental care, WIC nutrition, health education, homeless treatment—which includes primary services, mental health care, substance abuse counseling and social service referrals. It is also a clinical instruction site for the University of Hawaii School of Medicine.

All told, Executive Director Beth Giesting and the entire clinic family epitomize all that is best about people of true compassion who give every measure of time, talent, and self to making this a better world.

Even as Hawaii's progressive health care system nears 98 percent coverage, it must be understood that gap groups do, and will always, exist. Distinctive social and cultural circumstances will continue to be a part of the American spectrum. Though universal coverage may someday be available on a national scale, community health clinics such as Kalihi-Palama will remain essential, for they provide primary and preventive services to those who are the most difficult of all to reach—those who need only to walk in, to know they will never be turned away and to learn that there are indeed others who truly care.

That is the essence of the tribute I give today. Everyone who has ever been, and will ever be, touched by the hearts and hands of Hale Ho'ola Hou will be eternally enriched in both body and spirit.

Mr. President, I commend to the U.S. Senate the Kalihi-Palama Health Clinic, Hawaii's House of New Life—and Great Love.•

ARKANSAS TECH GOLDEN SUNS

• Mr. PRYOR. Mr. President, recently the Arkansas Tech Golden Suns women's basketball team won the NAIA championship. This outstanding team, coached by Joe Foley, did what no other NAIA basketball team in Arkansas has ever done before.

The second-seeded Golden Suns, making their first NAIA tournament appearance, defeated No. 4 Wayland Baptist 84–68. They finished the season with a school record 35–1 mark, including 28 straight wins. Sophomore guard, Dawn Grell, from Greenbrier, averaged 25 points for the tournament and was named most valuable player.

I want to congratulate Coach Foley and the fine women athletes of Arkansas Tech in Russellville, AR. Basketball fans all across our State salute them.•

TRIBUTE TO GEORGETOWN

•Mr. McCONNELL. Mr. President, I rise today to recognize the town of Georgetown, situated in north-central Kentucky.

Georgetown is located in the low-rolling fields of the Bluegrass in thoroughbred country. It offers the tranquil surrounding of farm living with the short commute to a large metropolitan city.

Toyota Motor Corp. selected Georgetown as the site for its first wholly owned auto manufacturing plant in the United States. Toyota has been pouring millions into capital expenditures and expects to complete another assembly plant in late 1994 which is expected to raise Toyota's total employment to more than 5,000 workers.

Georgetown College plays an integral role in the community. The college was chartered in January 1829 as the first Baptist college west of the Allegheny mountains. Georgetown College has established itself as an outstanding academic institution in the Commonwealth. William H. Crouch, Jr., Georgetown's new president, is expected to carry on the college's fine tradition.

Georgetown is a wonderful small town and should be heralded as one of America's finest towns. It is a true Hometown, USA.

Mr. President, I would like to have the following article from the Louisville Courier-Journal be inserted into the Congressional Record.

The article follows:

[From the Louisville Courier-Journal, Jan. 27, 1992]

Georgetown: Despite Impact of Toyota Boom, the Community Maintains Its Quality of Life

(By Richard Wilson)

Three years ago when Robert "Flash" Williams was transferred back to Central Kentucky, he and his wife, Carol, considered living in Jessamine, Woodford, Fayette or Scott counties.

Williams, an executive with GTE, said they found some pluses for the other counties but finally decided to return to Georgetown, in Scott County, where they lived for 16 years before their 1984 transfer to Myrtle Beach, S.C.

We knew Georgetown, knew how friendly the community was, and found a house the same size as one we were looking at in Lexington but had a larger lot and was a little over $100,000 less.

"All of those things drew us right back to where we came from," he said.

Since then, he said, there have been no regrets at resuming the family's outer-Blue Grass lifestyle that lets him commute the 11 miles to his Lexington office in about 20 minutes and keeps his wife in the town where she teaches in the local school system.

Georgetown's lifestyle also drew Milt and Janet Patton to the Scott County seat 20 years ago when they moved to Central Kentucky. "We took a look at Lexington. . .and then took a look at Georgetown, and clearly the sense of community in Georgetown for a place to raise our family was far superior in our opinion. And that turned out to be true," said Milt Patton, a professional planner and developer.

"Quality of life" and "sense of community" are often mentioned by Georgetown residents to explain why they live there. Pinning down what those two phrases mean, however, is more difficult. But explanations include the small, college-town atmosphere, clean tree-lined streets; Elkhorn Creek, which meanders around the city; good schools; one of the state's best parks programs; a growing economy; and effective local government.

These attributes notwithstanding, there is a combination of wariness and optimism toward the 201-year-old town's future. As most everyone knows, in late 1985 the Toyota Motor Corp. selected Georgetown as the site for its first wholly-owned auto manufacturing plant in the United States. Since then Toyota has poured $1.1 billion into its auto-assembly and power-train plants. And in 1990 the company announced an additional $800 million investment for another plant, which when completed in late 1994 is expected to raise Toyota's local employment to more than 5,000 workers.

Although Toyota has given Georgetown an economic shot in the arm, it didn't spark the economic boom many local officials expected—or the massive growth problem many residents feared. That's primarily because many of the new workers decided to commute, instead of moving to town after Toyota's first plant was completed 1988.

"I think we underestimated the tendency of these workers to commute," said Georgetown Mayor Tom Prather.

A lack of affordable housing also stymied residential growth, he added.

Only about 20 percent of the auto plant's 4,000 workers live in Scott County, said Toyota spokesman Jim Wiseman. But many officials say the city's slower-than-anticipated growth—from 10,972 to 11,414 residents between 1980 and 1990—was a blessing since it gave the area time to prepare for whatever changes Toyota will bring.

After nearly two years of meetings by a citizens' committee and planning officials, the city and county have developed a comprehensive plan to chart the area's future for at least the next five years. The 11-section plan covers growth and development, transportation, economic development, education and most other concerns of a modern city.

The growth hiatus, and the plan, have been an unexpected blessing. Local planner Beth Stewart, a transplanted Californian, puts it this way: "I guess what we found is that we're going to be able to maintain all the kind of rural, historical, small-town qualities that people really like about this place, but at the same time we're going to enjoy a lot of community services and community activities that typically are available in larger cities. In some ways, it's the best of both worlds."

While some skepticism still exists toward Toyota, Prather and several others recently said the auto giant has given Georgetown opportunities it would not have otherwise had. The manufacturer has contributed to numerous local causes, including the donation of 10 Camrys to local government, $1.2 million toward the purchase of a community center and creation of a child-care facility, and $100,000 for a new youth center. It is also donating more than $1 million annually to the local school system in lieu of property taxes, and its workers pay a city and county occupational tax of 1 percent.

"Toyota's been an excellent corporate citizen. They've constantly been asking 'What can we do to help you?' rather than being at the negotiating table saying 'We're not going to do this. What edge can we get because we're the biggest employer in Scott County?'" developer Taylor Cannon said.

Prather, who became Georgetown's first full-time mayor in 1986, also notes that Toyota-produced revenue is responsible for much of the city's general fund budget, which has shot up from $2.2 million in 1986 to this year's $6.7 million. The additional revenue, he adds, has allowed the city to increase its police force from 17 to 29 members and the fire department from three to 17 full-time members. The city's ambulance and emergency medical services have also been upgraded.

But the automaker's biggest impact is that it has cushioned the area's economy from the souring downturn faced by many other cities.

"Right now, our economy is good overall. Scott County would be in real bad shape if it were not for that big employer out there that's doing well," said lawyer Richard Rawdon Jr.

Marge Crisp, a local real-estate agent and developer, agrees. Crisp is one of several local developers who have begun building moderate-income homes expected to draw more Toyota workers to town.

"We have not noticed the recession here as much (as the rest of the country) . . . mainly because of Toyota, It's kept our economy strong," she said.

Noting a tumbling national homebuilding economy, Crisp says: "All of the builders here are extremely busy. They're about the happiest people you could see now."

One of the city's major problem, many residents say, is growing traffic congestion and a clogged Main Street, where convenient parking is often hard to find.

"With the amount of traffic we have, it makes it hard for many people to come downtown," said Prather.

But two improvements may help that situation. Plans for a new parking structure and expansion of a public parking lot are on the drawing board, and construction of the first leg of a new bypass—running from U.S. 25 south of the city to U.S. 460 on the east side of town, is under way, Prather said a second leg of the bypass—from U.S. 25 to U.S. 460 west of town, will be necessary for downtown traffic relief.

Most of the city's commercial development is moving toward the city's east edge, close to the sprawling Toyota plant. Several restaurants, a car dealership and a new outlet mall have sprung up, and construction on another shopping center near the intersection of the bypass and U.S. 460-East is expected to begin this spring. Several businessmen say that center will undoubtedly continue erosion of the historic downtown's retail base.

Some merchants who have remained downtown acknowledge they've had to diversify to succeed. "You've got to be not only a drugstore, but you've almost got to be a 10-cent store, too," says pharmacist Gary Perry, co-owner of Main Street's Scott County Drug Store, "We make keys, sell gourmet coffee and even ship packages. Ten years ago, we wouldn't have thought of doing things like that."

Several years ago he and a partner purchased the next-door location of a Georgetown landmark—Fava's Restaurant—to keep it from being converted into office space. The restaurant, a downtown fixture since the early 1900s, is "information central" for local gossip and news.

"It's the spot downtown if you want to find out anything," says Mark Farrow, a local lawyer and state legislator.

While Toyota has thrust Georgetown into the national spotlight in recent years, Georgetown College—another community fixture—also brought it attention last month when the school won the NAIA Division II football championship. For years the college has played an integral role in the community, and many leaders expect new President William H. Crouch Jr. to forge even closer ties. Local businesses put up $30,000 to land the national championship game between the college and Pacific Lutheran University.

As Georgetown looks toward its future, it has also remained mindful of its past as one of Kentucky's oldest cities. Earlier this month the city and county opened their first local historical museum. A museum is a fitting example now for a city both mindful of its past and confident of its future.

Patton, the planner and developer, summarizes the past and the future link by recalling a friend's comment about the town.

"He said 'Scott County and Georgetown face going from the 19th century to the 21st century in one bound,' and I believe it has. I really believe it's prepared for the 21st century."•

TRIBUTE TO BISHOP HOWARD THOMAS PRIMM

• Mr. WIRTH. Mr. President, I would like to use this occasion to recognize the achievements of a long-time resident of Colorado, who will be honored later this month for his outstanding contributions to his church, his community and to our Nation—Bishop Howard Thomas Primm of the African Methodist Episcopal Church.

Bishop Primm's record of spiritual service spans more than 70 years and covers nearly every corner of the Nation. He has served with distinction in 27 States and in Canada. His service to our country was first recognized by President Johnson for his disaster assistance work in West Africa. President Jimmy Carter also recognized Bishop Primm's work on the strategic arms limitation talks of 1978, and for his assistance in helping with the United States-Panama Neutrality Treaty. The Congressional Black Caucus has also honored Bishop Primm for his commitment to human rights and to peace.

Bishop Primm's work over the years has included establishing numerous churches, schools, clinics, and shelters. I suspect that if you listed every community he has touched in our country, you would have a document that would span the length of Colfax Avenue in Denver—which is the longest continuous street in America.

I am very honored to have a man like Bishop Primm as a constituent, and I want to take this opportunity to publicly recognize his many achievements and a career of religious and community leadership that are remarkable testaments to the power of faith.•

NATIONAL ENERGY POLICY

• Mr. PRYOR. Mr. President, I am pleased to speak today on the recently passed energy policy legislation. I congratulate the able majority leader as well as the managers of the bill who persevered to bring about a comprehensive energy plan.

I temper my praise for S. 2166, however, by saying that I would have liked to have seen some additional provisions included to assist the small independent oil producers who are quickly becoming an endangered species. These independent producers are only slightly helped by the bill, and those in the southern part of my State, the ones that are left anyway, are hanging on by their fingernails. I am encouraged by the fact that the current economic growth package bill offers some tax relief for independents, but that bill's uncertain future does not bode well for any ultimate relief.

Mr. President, I feel strongly about the need to put in place an energy policy and S. 2166, while not perfect, does establish a blueprint for addressing our future energy needs. It is a blueprint that is long overdue, but as the saying goes: better late than never.

Our country has rocked along the last decade enjoying cheap and abundant energy with little thought as to what our energy future might hold. Some have been very active in trying to sound the alarm, but up until now we have labored under the false assumption that our energy needs would always be met.

The need for a comprehensive energy policy is self-evident. For instance, our country would never attempt to fight a war without an overall strategy. With something as important to us as energy, which plays such a vital role in all our lives, we must have a game plan.

I believe the current state of our economy exemplifies what happens when there is no coherent, coordinated, prescient plan in place to guide us. Our economy has nose-dived largely because we have been lulled into believing that we can spend our way out of hard times, ignore our debt, and put off the hard decisions. Obviously the chickens have finally come home to roost and we are suffering the consequences of 12 years of "feel good, live for today" leadership as practiced by the last three administrations.

I realize the economic growth package passed last week by the Senate may not be enacted because of a probable Presidential veto, but I think it is a step in the right direction. We must put into place a sound plan for economic prosperity and not just leave it to chance. Mr. President, I apologize for my digression.

S. 2166 jerks us out of our energy complacency and puts us on track toward decreased dependence on foreign energy sources by setting standards, establishing goals, and assigning priorities—all things we have needed to do for a long time.

I have always believed a good, commonsense energy strategy would be to maximize both production and conservation with very strict adherence to environmental laws, as well as placing greater emphasis on the development of alternative and renewable fuels. S. 2166 generally follows this strategy although contentious provisions that would have allowed for greater production and conservation have been necessarily deleted.

There are other provisions that are controversial primarily because they deviate from the status quo. I believe that such deviation is warranted given the magnitude of what is being attempted. For example, exempting independent power producers from the Public Utility Holding Company Act could mean lower utility costs for consumers and industrial users. Streamlining natural gas licensing procedures may translate into greater use of this clean burning fuel. However, these and other policies contained in the bill are untested and should be monitored closely to assure they perform as intended. We all know what happened in 1984 when we deregulated the cable television industry and then had to come back a few weeks ago and re-regulate because of unintended and unforeseen abuses. I am optimistic about most of what is in the bill, but I also think we need to exercise vigilance.

I don't believe S. 2166 will be the answer to all our energy problems. It certainly will not make the United States energy self-sufficient, and it only slightly decreases our dependency on foreign energy sources. Its true benefit is that it is an acknowledgment of the reality that our country is the largest consuming nation on Earth and we must therefore make the appropriate plans for our future energy needs.•

COMMENDING SAVOIE LOTTINVILLE

• Mr. BOREN. Mr. President, it is my pleasure to come to the floor of the Senate today to congratulate a fellow Oklahoman, Savoie Lottinville, this year's recipient of the 17th Annual Curtis Benjamin Award for Creative Publishing. The award is presented to a member of the U.S. publishing industry whose creativity and innovation has made a lasting contribution to the industry.

Clearly Mr. Lottinville has displayed a vision and an extraordinary ability to detect the future of his industry. During his 29-year service as director of the University of Oklahoma Press, Mr. Lottinville created a university publishing house with a national reputation for excellence which made unprecedented contributions to native American studies and many other areas. It has been used as a model for other regional university presses.

Issuing its first publication in 1929, the Oklahoma University Press was only the 13th university press established in the United States and the 1st press in the Southwest. Today, one of the Nation's 20 largest and most prolific university publishers, the University of Oklahoma Press publishes about 80 publications a year including the prestigious "World Literature Today," a quarterly review of literary works from around the world. Each issue of "World Literature Today" reviews poetry, fictional work, plays, and screenplays from 50 different language groups—offering further evidence of the university's global reach.

Under his guidance, the University of Oklahoma Press produced three different literary series which have earned worldwide recognition: The American Exploration and Travel Series; the Western Frontier Library; and the Centers of Civilization Series. In addition, he expanded the Civilization of the American Indian series begun by his predecessor, Joseph Brandt.

Savoie Lottinville is not only an example of academic excellence in Oklahoma, he is also a product of that same excellence. He received his bachelor's degree from Oklahoma University, a master's degree from Oxford University which he attended as a Rhodes Scholar, and a doctorate in humanities from Coe College. His academic career included international studies in Bonn, Berlin, Munich, and Paris.

After his experiences abroad, Dr. Lottinville joined the University of Oklahoma Press as an assistant editor and business manager under its first director, Joseph Brandt. He succeeded Brandt in 1938, and for the next 29 years oversaw the press develop into what Time magazine called the "Nation's example of a successful regional publisher." After his retirement from the press in July 1967, he was named regents professor of history at the University of Oklahoma and spent the next 5 years teaching graduate students the techniques of historical composition.

I am proud that this Oklahoman has been honored by his peers and joins some of his most distinguished colleagues including Arthur Rosenthal, Stewart Brewster, Frederick Ruffner, and others.

Savoie Lottinville has touched the lives of countless Oklahomans. He has especially served as an inspiration for young Oklahomans and has personally committed a substantial portion of his personal means to endow prizes which recognize and encourage academic achievement.

I will always be grateful for my own personal friendship for Savoie Lottinville. He was a member of the selection committee which gave me an opportunity to study at Oxford as a Rhodes Scholar. Since that first meeting he has been a constant source of encouragement to me. I have never encountered a more broadly read or better educated man or woman in my lifetime than Savoie Lottinville. Perhaps even more important, I have never known a person with a more generous spirit or a deeper personal commitment to the highest possible ethical standards.

Once, when I was studying at Oxford, one of Britain's most distinguished scholars said to me, "Young man, I hope that you know that in your home State of Oklahoma, Dr. Savoie Lottinville has built one of the greatest university presses in the world." I remember the sense of pride I felt that day. And all Oklahomans continue to be proud to claim Savoie Lottinville as one of our own.•

TRIBUTE TO GEN. JAMES A. VAN FLEET

• Mr. GRAHAM. Mr. President, yesterday Gen. James A. Van Fleet, the senior living flag officer of all America's Armed Services, turned 100.

Living to be 100 is an incredible accomplishment. When you have lived the kind of life the general has, it is nothing short of miraculous. The general's neighbors in Polk City, FL, 1,500 strong, celebrated that miracle yesterday.

General Van Fleet's life is high lite film of the 20th century. He started out his career chasing Poncho Villa along the Mexican border in 1916 and ended up helping this country win two wars. In between, he even found time to coach the University of Florida football team in 1923.

The general began his remarkable career after graduating from the West Point military academy. Heading south on his first assignment, he joined "Black Jack" Pershing's campaign against Pancho Villa.

He went on to command an Army gun company in France during World War I and was wounded at the Battle of Sedan, France, 1 week before the armistice was signed.

During World War II's Normandy invasion, his forces spearheaded the Utah Beach landings. And he went on to lead his forces over the Rhine and into Germany in 1945.

The general went on to command the U.S. 8th Army and United Nations troops during the Korean war before retiring to Polk City in 1953.

The history of the Van Fleet family is in the best American tradition of patriotism and leadership. His grandfather fought in the Revolutionary War. Indeed, the general is reportedly the only living man who can say that. His father was a confidant of Abraham Lincoln.

The general is a shining example to all of us. May God bless him, and he should know that we all look forward to his next birthday.•

THE PLIGHT OF SYRIAN JEWS

• Mr. DODD. Mr. President, I rise today to address the human rights situation in Syria, and the plight of Jews in that State.

This week, Jews throughout the world mark the period of Shabbat Zachor, or the Sabbath of Remembrance. During this period, held before the Jewish holiday of Purim, the Jewish people are enjoined to remember the genocidal threat to the Jewish people that continues to exist today.

Indeed, Mr. President, while the fall of communism is to be rejoiced the world over, the fact is that hate knows no ideological or political boundaries. The rise of anti-Semitism has been reported in Eastern Germany, the former Soviet bloc countries—particularly Romania—and some of the former Soviet Republics.

But my remarks today are addressed toward Syria, where the murderous regime of Hafez al-Assad continues to terrorize and intimidate the Jewish population. Two Jewish brothers, Eli and Selim Swed, are two of the more recent and brutal examples. Since November 1987, these two brothers have been held without formal charges, apparently because they had attempted to visit relatives abroad, whom they had not seen in over 30 years. Despite a hunger strike, they have been sentenced to 6½ years of imprisonment.

And we will never forget the names of Laura Sebbagh, Mazal Sebbagh, Farah Sebbagh and Eva Saad. In March 1974, these four women were brutally murdered while trying to escape from Syria, their mutilated bodies dumped outside their families' homes. Such an act of brutality has, to this day, gone unpunished.

Mr. President, on behalf of all Syrian Jews, I call on President Hafez al-Assad to let the light of freedom and liberation shine on the people of his country. And I call on President Bush, who has worked so well with Syria in the pursuit of war with Iraq, to rededicate himself to the pursuit of peace and human rights within Syria.•

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations:

Calendar 539. Robert C. Frasure, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Estonia;

Calendar 540. Ints M. Silins, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Latvia; and

Calendar 541. Darryl Norman Johnson, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Lithuania.

I further ask unanimous consent that the Senate proceed to immediate consideration, and that the nominees be confirmed, en bloc, that any statements appear in the RECORD as if read, that the motions to reconsider be laid upon the table, en bloc, that the President be immediately notified of the Senate's action, and that the Senate return to legislative session.

The PRESIDING OFFICER (Mr. GORE). Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Robert C. Frasure, of West Virginia, a career member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Estonia.

Ints M. Silins, of Virginia, a career member of the Senior Foreign Service, class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Latvia.

Darryl Norman Johnson, of Washington, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Lithuania.

Mr. MOYNIHAN. Mr. President, I am delighted that the Senate has before it the nominations for Ambassadors to the three Baltic nations. It is a moment to cherish, to savor. During the long decades of totalitarian oppression and terror the brave peoples of these states held true to the belief in freedom and their own independent destiny. I salute the peoples of Latvia, Lithuania, and Estonia and their compatriots here in the United States who struggled so long for freedom.

I would also think that this is an appropriate moment for the Senate to pause and consider the extraordinary career of our distinguished colleague from Rhode Island, the chairman of the Committee on Foreign Relations, CLAIBORNE PELL. How fitting that this man whose career of service to the people of the United States has been so long and illustrious should have presided over the vote of the Committee on Foreign Relations which approved these nominees. My colleagues are no doubt aware that Chairman PELL was once himself a diplomat in the Baltics. He never wavered in his support for their freedom, and now he has presided over Senate consideration of these nominations to these states.

But there is even more of Chairman PELL's extraordinary career reflected in this moment. With the cold war at an end, the United Nations has begun to function as the drafters of the Charter intended. The Baltic nations have joined as members. It is a measure of his long service to this Nation that CLAIBORNE PELL was there, present at the creation of the United Nations at the San Francisco Conference. From the Baltics, to San Francisco, to the chambers of the Senate and the Committee on Foreign Relations, there are few if any who can claim to have served this Nation so well.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. MITCHELL. Mr. President, on behalf of myself and the distinguished Republican leader, Mr. DOLE, I send to the desk a resolution on representation by the Senate legal counsel and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 274) to authorize representation of a Member of the Senate in Little Walter Norton V. Miller, et al.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MITCHELL. Mr. President, the petitioner in a State habeas corpus proceeding in Georgia has subpoenaed numerous Federal, State, and county officials to testify at the habeas hearing, including Senator SAM NUNN. This resolution would authorize the Senate legal counsel to represent Senator NUNN in order to move to quash this subpoena. Senator NUNN has no information relevant to this matter.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 274) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 274

Whereas, in the case of Little Walter Norton v. Miller, et al., Case No. 92V-063, pending in the Superior Court for Ware County, Georgia, the petitioner has caused to be issued a subpoena for the testimony of Senator SAM NUNN;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent Members of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself from the service of the Senate without leave: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator SAM NUNN in connection with the subpoena in Little Walter Norton v. Miller, et al.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. SIMPSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL AGRICULTURE DAY

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of House Joint Resolution 272, a joint resolution designating March 20 as "National Agriculture Day"; that the Senate proceed to its immediate consideration; that the joint resolution be read three times, passed; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered. The joint resolution will be stated by title.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 272) to proclaim March 20, 1992, as "National Agriculture Day."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. LEAHY. Mr. President, I am a proud supporter of National Agriculture Day, and have great admiration for everyone that contributes to agriculture in the United States.

We were, at one time, an agrarian nation. Now, every year fewer and fewer farms exist across the country. We must not fall too far from our proud roots—we must not let this rural life vanish from the consciousness of our Nation.

Agriculture Day is important not only because it recognizes and honors all who are involved farming, ranching, and agricultural-related industries, but because it reminds the Nation of the great influence those farmers and ranchers have over the lives of their fellow Americans.

One American farmer or rancher today produces, in a year, enough food for 100 people. American farmers and those involved in farming and ranching feed not only the people of the United States, but many nations of the world.

If one were to measure the importance of different industries throughout the world, agriculture would certainly be among the ranking few, if not the single most important.

Agriculture is a yardstick by which we can measure the other institutions of American society. Agriculture is crucial to the way of life to which we have become accustomed. Our food supply is one of the most important underpinnings of our standard of living, and therefore is one of the most important parts of our life. It is for these reasons, and many more that I am proud to be a champion of National Agriculture Day.

The PRESIDING OFFICER. The question is on passage of the joint resolution.

The joint resolution (H.J. Res 272) was passed.

The preamble was agreed to.

MEASURE INDEFINITELY POSTPONED—SENATE JOINT RESOLUTION 272

Mr. MITCHELL. Mr. President, I now ask unanimous consent the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 272, and that it be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMENDING PRESIDENT F.W. DE KLERK AND THE SOUTH AFRICAN GOVERNMENT

Mr. SIMPSON. Mr. President, I send a resolution concerning the Government of South Africa to the desk on behalf of Mr. WALLOP, Mr. DOLE, Mr. PRESSLER, Mr. SIMON, Mr. ROBB, Mr. LUGAR, Mrs. KASSEBAUM, Mr. SYMMS, Mr. BOREN, and Mr. PELL and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 275) commending President F.W. de Klerk and the South African Government.

Mr. SIMPSON. It is a resolution concerning the sense of the Senate regarding South Africa.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. WALLOP. Mr. President, I rise today to commend the courage of South African President F.W. de Klerk and to congratulate the Government of South Africa under his leadership on the referendum's outcome. This is a dramatic turning point in the history of South Africa, one that, as President de Klerk said today, "Has closed the book on apartheid."

Through his vision and tenacity, Mr. de Klerk has put South Africa on an irreversible path toward representative government. This means participation by all of South Africa's citizens in the new South Africa, a South Africa which can again join the international community of nations with dignity.

In his speech opening the South Africa Parliament on February 1, President de Klerk outlined his goals clearly: "To enter the new century as one of the most successful and dynamic nations of the world." He acknowledged, too, that giving constitutional content to the values of a new South Africa would require long and thorough negotiation.

And that is why the outcome of this referendum is so exciting. Because the white voters in South Africa have voted overwhelmingly to continue negotiations on a new constitution, Mr. de Klerk can proceed with the credibility and assurance that his mandate is virtually absolute. His people support him.

In continuing multiparty negotiations, Mr. de Klerk well understands what is at stake and has taken great pains to proceed in a careful and fair manner. He realized that the idea of the present, legally constituted Government relinquishing its powers and simply handing over its responsibilities to some other temporary regime is not appropriate in a sovereign, independent country.

It is for this reason that he sought to structure the negotiations in a manner such that minority views could have adequate representation. Should anyone question this approach, he or she would do well to reflect on our own Constitutional Convention negotiations, which took great pains to protect the rights of the minority from the "tyranny of the majority."

Afrikaners have been in South Africa for 340 years. Many people on both sides of this debate forget that fact. No one can question that these white South Africans, both English- and Afrikaans-speaking, have a claim to the land, nor can they question their identity as true Africans. Both black and white South Africans have valid claims to land in South Africa. I make this point, Mr. President, to emphasize that this cannot simply be a question of nationalization or of handing over all authority to the majority in South Africa. Such a course would unfairly exclude those who have a rightful and relative say in the future political system of South Africa.

Finally, Mr. President, I salute the courageous Mr. de Klerk for his commitment to put South Africa back on the road to prosperity—the economy is of great significance to all South Africans, who have watched unemployment escalate since the imposition of economic sanctions on that country. Lost jobs and a lost generation of youth who chose armed struggle over a high school education devastated prospects for economic recovery. It is for this reason that normalization of economic relations between South Africa and the rest of the world, concomitant with negotiations on a new constitution, are so important.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 275) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 275

Whereas, President F.W. de Klerk has promoted historic and irreversible change by committing South Africa to representative government;

Whereas, the South African Government, under President de Klerk's courageous leadership, has abolished many of the legal tenets of the system of apartheid and continues negotiations with the "Convention for a Democratic South Africa (CODESA)" for a new constitution extending full political rights to all South Africans;

Whereas, President de Klerk and other South African leaders have begun the process toward the establishment of a democratic and nonracial South Africa through the CODESA;

Whereas, Mr. de Klerk and the South African Government called a referendum regarding negotiations on constitutional reform on March 17, 1992;

Whereas, white voters in South Africa have affirmed a strong mandate for President de Klerk and the South African Government to proceed with constitutional reform and a more representative political system by a large majority vote in favor of continuing negotiations: Therefore, be it

Resolved, That:

(1) the Senate commends President F.W. de Klerk for his courage in calling a referendum and congratulates him on the successful outcome;

(2) the Senate commends President de Klerk and the South African Government for their commitment to a fully representative and nonracial South Africa and expresses its support for future good faith efforts toward these ends;

(3) the Senate commends the people of South Africa for their efforts to create a new political system through peaceful constitutional transition.

Mr. SIMPSON. Mr. President, I move to reconsider the vote.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PROGRAM

Mr. MITCHELL. Mr. President, next week the Senate may consider some of the following legislation: The Montana wilderness bill, S. 1696; the Resolution Trust extension; a continuing resolution for foreign operations; legislation to revise the budget walls between defense and domestic discretionary spending; S. 652, relating to telephone privacy; and legislation to clarify the provisions related to the construction of additional court space in Brooklyn, NY.

I will discuss these and other matters with the distinguished Republican leader and will make an announcement on Tuesday, with respect to the schedule for that date and the remainder of the week.

ORDERS FOR TUESDAY, MARCH 24, 1992

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 2:30 p.m. on Tuesday, March 24; that following the prayer, the Journal of Proceedings be deemed approved to date; following the time reserved for the two leaders, there be a period for the transaction of morning business not to extend beyond 3 p.m. At that time, the Senate may proceed to any of the bills that I have just listed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TUESDAY, MARCH 24, 1992, AT 2:30 P.M.

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate and no other Senator is seeking recognition, I now ask unanimous consent that the Senate stand in recess until 2:30 p.m. on Tuesday, March 24.

There being no objection, the Senate, at 5:52 p.m., recessed until Tuesday, March 24, 1992, at 2:30 p.m.

NOMINATIONS

Executive nominations received by the Senate March 20, 1992:

THE JUDICIARY

MICHAEL BOUDIN, OF MASSACHUSETTS, TO BE U.S. CIRCUIT JUDGE FOR THE FIRST CIRCUIT VICE LEVIN H. CAMPBELL, RETIRED.

DENNIS G. JACOBS, OF NEW YORK, TO BE U.S. CIRCUIT JUDGE FOR THE SECOND CIRCUIT VICE WILFRED FEINBERG, RETIRED.

JUSTIN P. WILSON, OF TENNESSEE, TO BE U.S. CIRCUIT JUDGE FOR THE SIXTH CIRCUIT VICE ROBERT B. KRUPANSKY, RETIRED.

RICHARD H. KYLE, OF MINNESOTA, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF MINNESOTA VICE ROBERT G. RENNER, RETIRED.

C. LEROY HANSEN, OF NEW MEXICO, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF NEW MEXICO VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

JOHN G. HEYBURN II, OF KENTUCKY, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF KENTUCKY VICE THOMAS A. BALLANTINE, JR., DECEASED.

GORDON J. QUIST, OF MICHIGAN, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF MICHIGAN VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

PAUL L. SCHECHTMAN, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK VICE RICHARD OWEN, RETIRED.

PERCY ANDERSON, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA VICE ROBERT C. BONNER, RESIGNED.

LAWRENCE O. DAVIS, OF MISSOURI, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF MISSOURI VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

ANDREW S. HANSEN, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

JOE KENDALL, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF TEXAS, VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

RUSSELL T. LLOYD, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

LINDA H. MCLAUGHLIN OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

LEE H. ROSENTHAL, OF TEXAS, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF TEXAS VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

JOHN F. WALTER, OF CALIFORNIA, TO BE U.S. DISTRICT JUDGE FOR THE CENTRAL DISTRICT OF CALIFORNIA VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

DANIEL S. GOLDIN, OF CALIFORNIA, TO BE ADMINISTRATOR OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, VICE RICHARD HARRISON TRULY, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 20, 1992:

DEPARTMENT OF STATE

ROBERT C. FRASURE, OF WEST VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO ESTONIA.

INTS M. SILINS, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO LATVIA.

DARRYYL NORMAN JOHNSON, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO LITHUANIA.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

HOUSE OF REPRESENTATIVES—*Friday, March 20, 1992*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, gracious God, to use our words in ways that heal and do not hurt; remind us that our actions should bring us together and not divide or hinder; speak to us so our deeds honor all persons; lift us, O God, from any posture for personal advantage and instead focus our eyes and hearts and minds to a level where respect is our watchword and where service to others is our common and shared commitment. May Your Spirit be with us this day and every day. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WISE. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WISE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 263, nays 110, not voting 61, as follows:

[Roll No. 52]

YEAS—263

Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
Bacchus
Bateman
Beilenson
Bennett
Berman
Bevill
Bilbray
Bonior
Borski
Boucher
Brooks
Broomfield
Browder
Brown
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clement
Clinger
Coleman (TX)
Collins (MI)
Combest
Condit
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Darden
Davis
de la Garza
DeFazio
DeLauro
Derrick
Dicks
Dingell
Donnelly
Dooley
Dorgan (ND)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Ewing
Fascell
Fazio
Feighan
Fish
Flake
Foglietta
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Geren
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Gradison
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hayes (IL)
Hefner
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Hughes
Hutto
Jefferson
Jenkins
Johnson (CT)
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolter
Kopetski
Kostmayer
Lancaster
Lantos
LaRocco
Lehman (CA)
Lent
Levin (MI)
Lewis (GA)
Long
Lowey (NY)
Luken
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Mineta
Mink
Moakley
Montgomery
Moody
Moran
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Penny
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ravenel
Ray
Richardson
Rinaldo
Ritter
Roemer
Rose
Rostenkowski
Rowland
Sabo
Sangmeister
Sarpalius
Sawyer
Scheuer
Schiff
Schulze
Schumer
Serrano
Sharp
Shaw
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (WY)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—110

Allard
Allen
Armey
Ballenger
Barrett
Barton
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Bunning
Burton
Callahan
Camp
Clay
Coble
Coleman (MO)
Coughlin
Crane
Cunningham
DeLay
Doolittle
Emerson
Fawell
Fields
Franks (CT)
Gallegly
Gekas
Gilchrest
Gingrich
Goodling
Goss
Grandy
Hancock
Hastert
Hefley
Henry
Herger
Hobson
Hopkins
Inhofe
Ireland
Jacobs
James
Kolbe
Kyl
Lagomarsino
Leach
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Machtley
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Murphy
Nussle
Paxon
Porter
Quillen
Ramstad
Regula
Rhodes
Ridge
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Schaefer
Schroeder
Sensenbrenner
Shays
Shuster
Sikorski
Smith (OR)
Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—61

Abercrombie
AuCoin
Baker
Barnard
Blackwell
Boxer
Brewster
Bruce
Campbell (CA)
Chandler
Collins (IL)
Conyers
Dannemeyer
Dellums
Dickinson
Dixon
Dornan (CA)
Dymally
Edwards (OK)
Ford (MI)
Gallo
Gaydos
Hatcher
Hayes (LA)
Hertel
Holloway
Huckaby
Hunter
Hyde
LaFalce
Laughlin
Lehman (FL)
Levine (CA)
Lipinski
Livingston
Lowery (CA)
Manton
Marlenee
Miller (CA)
Mollohan
Morrison
Mrazek
Orton
Pelosi
Perkins
Pursell
Reed
Roe
Roybal
Russo
Sanders
Santorum
Savage
Saxton
Smith (TX)
Thomas (CA)
Thomas (GA)
Weber
Weiss
Whitten
Wylie

☐ 1129

Mr. EMERSON changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. McNULTY). Will the gentlewoman from Michigan [Mrs. COLLINS] please come forward and lead the House in the Pledge of Allegiance?

Mrs. COLLINS of Michigan led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate disagrees to the amendments of the House to the bill (S. 3) "An act to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits for Senate election campaigns, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. FORD, Mr. BOREN, Mr. MITCHELL, Mr. MCCONNELL, and Mr. GRAMM to be the conferees on the part of the Senate.

□ 1130

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MCNULTY). The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled joint resolutions on Thursday, March 19, 1992:

H.J. Res. 284. Joint resolution to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week"; and

H.J. Res. 446. Joint resolution waiving certain enrollment requirements with respect to H.R. 4210 of the 102d Congress.

CONFERENCE REPORT ON H.R. 4210, TAX FAIRNESS AND ECONOMIC GROWTH ACT OF 1992

Mr. ROSTENKOWSKI submitted the following conference report and statement on the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families:

CONFERENCE REPORT (H. REPT 102-461)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Tax Fairness and Economic Growth Act of 1992".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) SECTION 15 NOT TO APPLY.—No amendment made by this Act shall be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

(d) UNDERPAYMENT OF ESTIMATED TAX.—No addition to tax shall be made under section 6654 or 6655 of the Internal Revenue Code of 1986 for the 1st required installment for any taxable year beginning in 1992 with respect to any underpayment to the extent such underpayment was created or increased by any amendment made by this Act. Any reduction in an installment by reason of the preceding sentence shall be recaptured by increasing the amount of the 1st succeeding required installment by the amount of such reduction.

(e) TABLE OF CONTENTS.—

TITLE I—MIDDLE CLASS TAX RELIEF

Sec. 1001. Working family credit.
Sec. 1002. Simplification and expansion of earned income tax credit.
Sec. 1003. Credit for interest on education loans.
Sec. 1004. Income exclusion for education bonds expanded.
Sec. 1005. Modifications of one-time exclusion of gain from sale of principal residence.
Sec. 1006. Treatment of employer-provided transportation benefits.

TITLE II—PROMOTION OF LONG-TERM ECONOMIC GROWTH

Subtitle A—Increased Savings

PART I—RETIREMENT SAVINGS INCENTIVES

SUBPART A—RESTORATION OF IRA DEDUCTION

Sec. 2001. Restoration of IRA deduction.
Sec. 2002. Inflation adjustment for deductible amount.
Sec. 2003. Coordination of IRA deduction limit with elective deferral limit.

SUBPART B—NONDEDUCTIBLE TAX-FREE IRAS

Sec. 2011. Establishment of nondeductible tax-free individual retirement accounts.

PART II—PENALTY-FREE DISTRIBUTIONS

Sec. 2021. Penalty-free withdrawals for first home purchase, higher education expenses, medical expenses, and expenses of unemployed individuals.
Sec. 2022. Contributions must be held at least 5 years in certain cases.

Subtitle B—Capital Gain Provisions

PART I—PROGRESSIVE CAPITAL GAIN RATES

Sec. 2101. Progressive capital gain rates.
Sec. 2102. Increase in holding period required for long-term capital gain treatment.
Sec. 2103. Recapture under section 1250 of total amount of depreciation.

PART II—SMALL BUSINESS STOCK

Sec. 2111. 50-percent exclusion for gain from certain small business stock.

Subtitle C—Investment in Real Estate

PART I—MODIFICATION OF PASSIVE LOSS RULES

Sec. 2201. Modification of passive loss rules.

PART II—PROVISIONS RELATING TO REAL ESTATE INVESTMENTS BY PENSION FUNDS

Sec. 2211. Real estate property acquired by a qualified organization.
Sec. 2212. Special rules for investments in partnerships.
Sec. 2213. Title-holding companies permitted to receive small amounts of unrelated business taxable income.
Sec. 2214. Exclusion from unrelated business tax of gains from certain property.
Sec. 2215. Exclusion from unrelated business tax of certain fees and option premiums.
Sec. 2216. Treatment of pension fund investments in real estate investment trusts.

Subtitle D—Temporary Investment Incentives

Sec. 2301. Special depreciation allowance for certain equipment acquired in 1992.
Sec. 2302. Temporary increase in amount of expensing for small businesses.

Subtitle E—Extension of Certain Expiring Tax Provisions

Sec. 2401. Research credit.
Sec. 2402. Low-income housing credit.
Sec. 2403. Targeted jobs credit.
Sec. 2404. Qualified mortgage bonds.
Sec. 2405. Qualified small issue bonds.
Sec. 2406. Employer-provided educational assistance.
Sec. 2407. Excise tax on certain vaccines.
Sec. 2408. Employer-provided group legal services plans.
Sec. 2409. Extension of energy investment credit for solar and geothermal property.
Sec. 2410. Extension of tax credit for orphan drug clinical testing expenses.
Sec. 2411. Health insurance costs of self-employed individuals.
Sec. 2412. Certain transfers to railroad retirement account.
Sec. 2413. Disclosures of information for veterans benefits.

Subtitle F—Modifications to Minimum Tax

Sec. 2501. Temporary repeal of preference for charitable contributions of appreciated property.
Sec. 2502. Elimination of ACE depreciation adjustment.
Sec. 2503. Minimum tax treatment of certain energy preferences.

Subtitle G—Repeal of Certain Luxury Excise Taxes; Imposition of Tax on Diesel Fuel Used in Noncommercial Boats

Sec. 2601. Repeal of luxury excise taxes other than on passenger vehicles.
Sec. 2602. Tax on diesel fuel used in noncommercial boats.

Subtitle H—Urban Tax Enterprise Zones and Rural Development Investment Zones

Sec. 2701. Statement of purpose.

PART I—DESIGNATION AND TAX INCENTIVES

Sec. 2702. Designation and treatment of urban tax enterprise zones and rural development investment zones.
Sec. 2703. Technical and conforming amendments.
Sec. 2704. Effective date.

PART II—STUDIES

Sec. 2711. Studies of effectiveness of tax enterprise zone incentives.

TITLE III—REVENUE PROVISIONS

Subtitle A—Treatment of Wealthy Individuals

Sec. 3001. Increase in top marginal rate under section 1.
Sec. 3002. Surtax on individuals with incomes over $1,000,000.
Sec. 3003. 2-year extension of overall limitation on itemized deductions for high-income taxpayers.
Sec. 3004. Extension of phaseout of personal exemption of high-income taxpayers.
Sec. 3005. Disallowance of deduction for certain employee remuneration in excess of $1,000,000.
Sec. 3006. Elimination of deduction for club membership fees.

Subtitle B—Administrative Provisions

Sec. 3101. Individual estimated tax provisions.
Sec. 3102. Corporate estimated tax provisions.
Sec. 3103. Disallowance of interest on certain overpayments of tax.
Sec. 3104. Information reporting with respect to certain seller-provided financing.

Subtitle C—Other Revenue Provisions

Sec. 3201. Clarification of treatment of certain FSLIC financial assistance.
Sec. 3202. Increase in recovery period for real property.
Sec. 3203. Modifications to deduction for moving expenses.
Sec. 3204. Mark to market inventory method for securities dealers.

Sec. 3205. Increased base tax rate on ozone-depleting chemicals.

TITLE IV—SIMPLIFICATION PROVISIONS

Subtitle A—Provisions Relating to Individuals

Sec. 4101. Simplification of rules on rollover of gain on sale of principal residence.
Sec. 4102. De minimis exception to passive loss rules.
Sec. 4103. Payment of tax by credit card.
Sec. 4104. Modifications to election to include child's income on parent's return.
Sec. 4105. Simplified foreign tax credit limitation for individuals.
Sec. 4106. Treatment of personal transactions by individuals under foreign currency rules.
Sec. 4107. Exclusion of combat pay from withholding limited to amount excludable from gross income.
Sec. 4108. Expanded access to simplified income tax returns.
Sec. 4109. Treatment of certain reimbursed expenses of rural mail carriers.
Sec. 4110. Exemption from luxury excise tax for certain equipment installed on passenger vehicles for use by disabled individuals.

Subtitle B—Pension Simplification

PART I—SIMPLIFIED DISTRIBUTION RULES

Sec. 4201. Taxability of beneficiary of qualified plan.
Sec. 4202. Simplified method for taxing annuity distributions under certain employer plans.
Sec. 4203. Requirement that qualified plans include optional trustee-to-trustee transfers of eligible rollover distributions.
Sec. 4204. Required distributions.

PART II—INCREASED ACCESS TO PENSION PLANS

Sec. 4211. Modifications of simplified employee pensions.
Sec. 4212. Tax exempt organizations eligible under section 401(k).
Sec. 4213. Duties of sponsors of certain prototype plans.

PART III—NONDISCRIMINATION PROVISIONS

Sec. 4221. Definition of highly compensated employees.
Sec. 4222. Modification of additional participation requirements.
Sec. 4223. Nondiscrimination rules for qualified cash or deferred arrangements and matching contributions.

PART IV—MISCELLANEOUS SIMPLIFICATION

Sec. 4231. Treatment of leased employees.
Sec. 4232. Treatment of employer reversions required by contract to be paid to the United States.
Sec. 4233. Modifications of cost-of-living adjustments.
Sec. 4234. Plans covering self-employed individuals.
Sec. 4235. Alternative full-funding limitation.
Sec. 4236. Distributions under rural cooperative plans.
Sec. 4237. Treatment of governmental plans under section 415.
Sec. 4238. Use of excess assets of black lung benefit trusts for health care benefits.
Sec. 4239. Uniform penalty provisions to apply to certain pension reporting requirements.
Sec. 4240. Contributions on behalf of disabled employees.
Sec. 4241. Affiliated employers.
Sec. 4242. Uniform retirement age.
Sec. 4243. Special rules for plans covering pilots.
Sec. 4244. Treatment of deferred compensation plans of State and local governments and tax-exempt organizations.
Sec. 4245. Continuation health coverage for employees of failed financial institutions.
Sec. 4246. Date for adoption of plan amendments.

Subtitle C—Treatment of Large Partnerships

PART I—GENERAL PROVISIONS

Sec. 4301. Simplified flow-through for large partnerships.
Sec. 4302. Simplified audit procedures for large partnerships.
Sec. 4303. Due date for furnishing information to partners of large partnerships.
Sec. 4304. Returns may be required on magnetic media.
Sec. 4305. Effective date.

PART II—PROVISIONS RELATED TO TEFRA PARTNERSHIP PROCEEDINGS

Sec. 4311. Treatment of partnership items in deficiency proceedings.
Sec. 4312. Partnership return to be determinative of audit procedures to be followed.
Sec. 4313. Provisions relating to statute of limitations.
Sec. 4314. Expansion of small partnership exception.
Sec. 4315. Exclusion of partial settlements from 1 year limitation on assessment.
Sec. 4316. Extension of time for filing a request for administrative adjustment.
Sec. 4317. Availability of innocent spouse relief in context of partnership proceedings.
Sec. 4318. Determination of penalties at partnership level.
Sec. 4319. Provisions relating to court jurisdiction, etc.
Sec. 4320. Treatment of premature petitions filed by notice partners or 5-percent groups.
Sec. 4321. Bonds in case of appeals from TEFRA proceeding.
Sec. 4322. Suspension of interest where delay in computational adjustment resulting from TEFRA settlements.

Subtitle D—Foreign Provisions

PART I—SIMPLIFICATION OF TREATMENT OF PASSIVE FOREIGN CORPORATIONS

Sec. 4401. Repeal of foreign personal holding company rules and foreign investment company rules.
Sec. 4402. Replacement for passive foreign investment company rules.
Sec. 4403. Technical and conforming amendments.
Sec. 4404. Effective date.

PART II—TREATMENT OF CONTROLLED FOREIGN CORPORATIONS

Sec. 4411. Gain on certain stock sales by controlled foreign corporations treated as dividends.
Sec. 4412. Authority to prescribe simplified method for applying section 960(b)(2).
Sec. 4413. Miscellaneous modifications to subpart F.
Sec. 4414. Indirect foreign tax credit allowed for certain lower tier companies.

PART III—OTHER PROVISIONS

Sec. 4421. Exchange rate used in translating foreign taxes.
Sec. 4422. Election to use simplified section 904 limitation for alternative minimum tax.
Sec. 4423. Modification of section 1491.
Sec. 4424. Modification of section 367(b).

Subtitle E—Treatment of Intangibles

Sec. 4501. Amortization of goodwill and certain other intangibles.
Sec. 4502. Treatment of certain payments to retired or deceased partner.

Subtitle F—Other Income Tax Provisions

PART I—PROVISIONS RELATING TO SUBCHAPTER S CORPORATIONS

Sec. 4601. Determination of whether corporation has 1 class of stock.
Sec. 4602. Authority to validate certain invalid elections.
Sec. 4603. Treatment of distributions during loss years.
Sec. 4604. Other modifications.

PART II—ACCOUNTING PROVISIONS

Sec. 4611. Modifications to look-back method for long-term contracts.
Sec. 4612. Simplified method for capitalizing certain indirect costs.

PART III—PROVISIONS RELATING TO REGULATED INVESTMENT COMPANIES

Sec. 4621. Repeal of 30-percent gross income limitation.
Sec. 4622. Basis rules for shares in open-end regulated investment companies.
Sec. 4623. Nonrecognition treatment for certain transfers by common trust funds to regulated investment companies.

PART IV—TAX-EXEMPT BOND PROVISIONS

Sec. 4631. Repeal of $100,000 limitation on unspent proceeds under 1-year exception from rebate.
Sec. 4632. Exception from rebate for earnings on bona fide debt service fund under construction bond rules.
Sec. 4633. Automatic extension of initial temporary period for construction issues.
Sec. 4634. Aggregation of issues rules not to apply to tax or revenue anticipation bonds.
Sec. 4635. Expanded exception from rebate for issuers issuing $10,000,000 or less of bonds.
Sec. 4636. Repeal of debt service-based limitation on investment in certain nonpurpose investments.
Sec. 4637. Allocation of interest expense of financial institutions to tax-exempt interest.
Sec. 4638. Repeal of expired provisions.
Sec. 4639. Clarification of investment-type property.
Sec. 4640. Effective dates.

PART V—ELECTION OF ALTERNATIVE TAXABLE YEARS

Sec. 4641. Election of taxable year other than required taxable year.
Sec. 4642. Required payments for entities electing not to have required taxable year.
Sec. 4643. Limitation on certain amounts paid to employee-owners of personal service corporations.
Sec. 4644. Effective date.

PART VI—COOPERATIVES

Sec. 4651. Treatment of certain loan requirements.
Sec. 4652. Cooperative service organizations for certain foundations.
Sec. 4653. Treatment of certain amounts received by a cooperative telephone company.
Sec. 4654. Tax treatment of cooperative housing corporations.

PART VII—EMPLOYMENT

Sec. 4661. Credit for portion of employer social security taxes paid with respect to employee cash tips.

Sec. 4662. Clarification of employment tax status of certain fishermen.

PART VIII—OTHER PROVISIONS

Sec. 4671. Closing of partnership taxable year with respect to deceased partner.
Sec. 4672. Repeal of special treatment of ownership changes in determining adjusted current earnings.
Sec. 4673. Repeal of investment restrictions applicable to nuclear decommissioning funds.
Sec. 4674. Modification of credit for producing fuel from a nonconventional source.

Subtitle G—Estate And Gift Tax Provisions

Sec. 4701. Clarification of waiver of certain rights of recovery.
Sec. 4702. Adjustments for gifts within 3 years of decedent's death.
Sec. 4703. Clarification of qualified terminable interest rules.
Sec. 4704. Treatment of portions of property under marital deduction.
Sec. 4705. Transitional rule under section 2056A.
Sec. 4706. Opportunity to correct certain failures under section 2032A.

Subtitle H—Excise Tax Simplification

PART I—FUEL TAX PROVISIONS

Sec. 4801. Repeal of certain retail and use taxes.
Sec. 4802. Revision of fuel tax credit and refund procedures.
Sec. 4803. Authority to provide exceptions from information reporting with respect to diesel fuel and aviation fuel.
Sec. 4804. Technical and conforming amendments.
Sec. 4805. Effective date.

PART II—PROVISIONS RELATED TO DISTILLED SPIRITS, WINES, AND BEER

Sec. 4811. Credit or refund for imported bottled distilled spirits returned to distilled spirits plant.
Sec. 4812. Authority to cancel or credit export bonds without submission of records.
Sec. 4813. Repeal of required maintenance of records on premises of distilled spirits plant.
Sec. 4814. Fermented material from any brewery may be received at a distilled spirits plant.
Sec. 4815. Repeal of requirement for wholesale dealers in liquors to post sign.
Sec. 4816. Refund of tax to wine returned to bond not limited to unmerchantable wine.
Sec. 4817. Use of additional ameliorating material in certain wines.
Sec. 4818. Domestically-produced beer may be withdrawn free of tax for use of foreign embassies, legations, etc.
Sec. 4819. Beer may be withdrawn free of tax for destruction.
Sec. 4820. Authority to allow drawback on exported beer without submission of records.
Sec. 4821. Transfer to brewery of beer imported in bulk without payment of tax.

PART III—OTHER EXCISE TAX PROVISIONS

Sec. 4831. Authority to grant exemptions from registration requirements.
Sec. 4832. Repeal of expired provisions.

Subtitle I—Administrative Provisions

PART I—GENERAL PROVISIONS

Sec. 4901. Simplification of deposit requirements for social security, railroad retirement, and withheld income taxes.
Sec. 4902. Simplification of employment taxes on domestic services.
Sec. 4903. Certain notices disregarded under provision increasing interest rate on large corporate underpayments.
Sec. 4904. Use of reproductions of returns stored in digital image format.
Sec. 4905. Repeal of authority to disclose whether prospective juror has been audited.
Sec. 4906. Repeal of special audit provisions for subchapter's items.
Sec. 4907. Clarification of statute of limitations.

PART II—TAX COURT PROCEDURES

Sec. 4911. Overpayment determinations of Tax Court.
Sec. 4912. Awarding of administrative costs.
Sec. 4913. Redetermination of interest pursuant to motion.
Sec. 4914. Application of net worth requirement for awards of litigation costs.

PART III—AUTHORITY FOR CERTAIN COOPERATIVE AGREEMENTS

Sec. 4921. Cooperative agreements with State tax authorities.

TITLE V—TAXPAYER BILL OF RIGHTS

Sec. 5000. Short title.

Subtitle A—Taxpayer Advocate

Sec. 5001. Establishment of position of taxpayer advocate within Internal Revenue Service.
Sec. 5002. Expansion of authority to issue taxpayer assistance orders.

Subtitle B—Modifications to Installment Agreement Provisions

Sec. 5101. Notification of reasons for termination or denial of installment agreements.
Sec. 5102. Administrative review of denial of request for, or termination of, installment agreement.
Sec. 5103. Running of failure to pay penalty suspended during period installment agreement in effect.

Subtitle C—Interest

Sec. 5201. Expansion of authority to abate interest.
Sec. 5202. Extension of interest-free period for payment of tax after notice and demand.

Subtitle D—Joint Returns

Sec. 5301. Disclosure of collection activities.
Sec. 5302. Joint return may be made after separate returns without full payment of tax.

Subtitle E—Collection Activities

Sec. 5401. Modifications to lien and levy provisions.
Sec. 5402. Offers-in-compromise.
Sec. 5403. Notification of examination.
Sec. 5404. Increase in limit on recovery of civil damages for unauthorized collection actions.
Sec. 5405. Safeguards relating to designated summons.

Subtitle F—Information Returns

Sec. 5501. Phone number of person providing payee statements required to be shown on such statement.
Sec. 5502. Civil damages for fraudulent filing of information returns.
Sec. 5503. Requirement to verify accuracy of information returns.

Subtitle G—Modifications to Penalty for Failure to Collect and Pay Over Tax

Sec. 5601. Preliminary notice requirement.
Sec. 5602. No penalty if prompt notification of the Secretary.
Sec. 5603. Disclosure of certain information where more than 1 person subject to penalty.
Sec. 5604. Penalties under section 6672.

Subtitle H—Awarding of Costs and Certain Fees

Sec. 5701. Motion for disclosure of information.
Sec. 5702. Increased limit on attorney fees.
Sec. 5703. Failure to agree to extension not taken into account.
Sec. 5704. Internal Revenue Service employees personally liable in certain cases.
Sec. 5705. Effective date.

Subtitle I—Other Provisions

Sec. 5801. Required content of certain notices.
Sec. 5802. Treatment of substitute returns under section 6651.
Sec. 5803. Relief from retroactive application of Treasury Department regulations.
Sec. 5804. Required notice of certain payments.
Sec. 5805. Unauthorized enticement of information disclosure.

Subtitle J—Form Modifications; Studies

Sec. 5900. Definitions.

PART I—FORM MODIFICATIONS

Sec. 5901. Explanation of certain provisions.
Sec. 5902. Improved procedures for notifying Service of change of address or name.
Sec. 5903. Rights and responsibilities of divorced individuals.

PART II—STUDIES

Sec. 5911. Pilot program for appeal of enforcement actions.
Sec. 5912. Study on taxpayers with special needs.
Sec. 5913. Reports on taxpayer-rights education program.
Sec. 5914. Biennial reports on misconduct by Internal Revenue Service employees.
Sec. 5915. Study of notices of deficiency.
Sec. 5916. Notice and form accuracy study.
Sec. 5917. Internal Revenue Service employees' suggestions study.

TITLE VI—HEALTH CARE OF COAL MINERS

Sec. 6001. Short title.
Sec. 6002. Findings and declaration of policy.
Sec. 6003. Coal industry health benefits program.

TITLE I—MIDDLE CLASS TAX RELIEF

SEC. 1001. WORKING FAMILY CREDIT.

(a) GENERAL RULE.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits) is amended by inserting after section 22 the following new section:

"SEC. 23. FAMILY-RELATED CREDIT.

"(a) TEMPORARY CREDIT FOR PORTION OF SOCIAL SECURITY TAX.—

"(1) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 20 percent of the taxpayer's social security taxes for the taxable year.

"(2) LIMITATION.—The amount of the credit allowable under paragraph (1) to any taxpayer for any taxable year shall not exceed $150 ($300 in the case of a joint return).

"(3) CREDIT REFUNDABLE FOR TAXPAYERS WITH CHILDREN.—In the case of any individual who has a qualifying child (as defined in subsection (e)(2) without regard to subparagraph (B) thereof)—

"(A) the limitation of section 26 shall not apply to the credit allowable under paragraph (1), and

"(B) for purposes of this title, such credit shall be treated as a credit allowable under subpart C (relating to refundable credits).

"(4) YEARS TO WHICH SUBSECTION APPLIES.—This subsection shall only apply to taxable years beginning after December 31, 1991, and before January 1, 1994.

"(b) PERMANENT CREDIT FOR CHILDREN.—

"(1) IN GENERAL.—In the case of an eligible individual, there shall be allowed as a credit

against the tax imposed by this chapter for the taxable year an amount equal to $300 multiplied by the number of qualifying children of the taxpayer for the taxable year.

"(2) YEARS TO WHICH SUBSECTION APPLIES.—This subsection shall only apply to taxable years beginning after December 31, 1993.

"(c) PHASE-OUT OF CREDIT.—

"(1) IN GENERAL.—In the case of an eligible individual with an adjusted gross income in excess of $50,000 for any taxable year, the amount of the credit allowed under subsection (a) or (b) (whichever applies) shall be reduced (but not below zero) by the amount determined under paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount determined under this paragraph equals the amount which bears the same ratio to the credit (determined without regard to this subsection) as—

"(A) the excess of—

"(i) the taxpayer's adjusted gross income for such taxable year, over

"(ii) $50,000, bears to

"(B) $20,000.

Any amount determined under this subparagraph which is not a multiple of $10 shall be rounded to the next lowest $10.

"(2) ADJUSTED GROSS INCOME.—For purposes of paragraph (1), adjusted gross income of any taxpayer shall be increased by any amount excluded from gross income under section 135 or 911.

"(3) SPECIAL RULE FOR YEARS BEFORE 1994.—In the case of any taxable year to which subsection (a) applies, in applying this subsection to any return other than a joint return—

"(A) paragraphs (1) and (2)(A)(ii) shall be applied by substituting '$35,000' for '$50,000', and

"(B) paragraph (2)(B) shall be applied by substituting '$15,000' for '$20,000'.

"(d) SOCIAL SECURITY TAXES.—For purposes of this section—

"(1) IN GENERAL.—The term 'social security taxes' means, with respect to any taxpayer for any taxable year—

"(A) the amount of the taxes imposed by subsections (a) and (b) of section 3101 on amounts received by the taxpayer during the calendar year in which the taxable year begins,

"(B) the amount of the taxes imposed by section 3201(a) on amounts received by the taxpayer during the calendar year in which the taxable year begins,

"(C) 50 percent of the taxes imposed by subsections (a) and (b) of section 1401 on the self-employment income of the taxpayer for the taxable year, and

"(D) 50 percent of the taxes imposed by section 3211(a)(1) on amounts received by the taxpayer during the calendar year in which the taxable year begins.

"(2) TREATMENT OF CERTAIN GOVERNMENTAL PLANS.—The term 'social security taxes' includes any employee contribution under a plan established and maintained for its employees by any State or political subdivision thereof.

"(3) COORDINATION WITH SPECIAL REFUND OF SOCIAL SECURITY TAXES.—The term 'social security taxes' shall not include any taxes to the extent the taxpayer is entitled to a special refund of such taxes under section 6413(c).

"(4) SPECIAL RULE.—Any amounts paid pursuant to an agreement under section 3121(l) (relating to agreements entered into by American employers with respect to foreign affiliates) which are equivalent to the taxes referred to in paragraph (1)(A) shall be treated as taxes referred to in such paragraph.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' has the meaning given to such term by section 32(c)(1) (determined without regard to subparagraph (B)).

"(2) QUALIFYING CHILD.—The term 'qualifying child' has the meaning given to such term by section 32(c)(3), determined—

"(A) without regard to subparagraph (C)(ii) thereof, and

"(B) by substituting '16' for '19' in subparagraph (C)(iii) thereof.

"(3) CERTAIN OTHER RULES APPLY.—Subsections (d) and (e) of section 32 shall apply.

"(f) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1994, the dollar amount contained in subsection (b)(1) shall be increased by an amount equal to—

"(1) such dollar amount, multiplied by

"(2) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins by substituting 'calendar year 1993' for 'calendar year 1991' in subparagraph (B) thereof.

If any increase determined under the preceding sentence is not a multiple of $50, such increase shall be rounded to the next lowest multiple of $50."

(b) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting after the item relating to section 22 the following new item:

"Sec. 23. Family-related credit."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 1002. SIMPLIFICATION AND EXPANSION OF EARNED INCOME TAX CREDIT.

(a) EARNED INCOME TAX CREDIT INCREASED.—Subparagraph (C) of section 32(b)(1) (relating to basic earned income credit) is amended to read as follows:

"(C) PERCENTAGES.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), the percentages shall be determined as follows:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	23	16.43
2 or more qualifying children	26	18.56

"(ii) TRANSITION PERCENTAGES.—

"(I) For taxable years beginning in 1992, the percentages are:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	17.6	12.57
2 or more qualifying children	18.9	13.49

"(II) For taxable years beginning in 1993:

"In the case of an eligible individual with:	The credit percentage is:	The phaseout percentage is:
1 qualifying child	18.5	13.21
2 or more qualifying children	20.5	14.64."

(b) REPEAL OF INTERACTION WITH MEDICAL EXPENSE DEDUCTION.—Section 213 (relating to medical, dental, etc., expenses) is amended by striking subsection (f).

(c) REPEAL OF INTERACTION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED.—Paragraph (3) of section 162(l) is amended to read as follows:

"(3) COORDINATION WITH MEDICAL DEDUCTION.—Any amount paid by a taxpayer for insurance to which paragraph (1) applies shall not be taken into account in computing the amount allowable to the taxpayer as a deduction under section 213(a)."

(d) REPEAL OF SUPPLEMENTAL YOUNG CHILD CREDIT.—

(1) IN GENERAL.—Section 32(b)(1) (relating to supplemental young child credit) is amended by striking subparagraph (D).

(2) CONFORMING AMENDMENT.—Clause (i) of section 3507(C)(2)(B) (relating to advance amount tables) is amended by striking "(without regard to subparagraph (D) thereof)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 1003. CREDIT FOR INTEREST ON EDUCATION LOANS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to nonrefundable personal credits), as amended by section 1001, is amended by inserting after section 23 the following new section:

"SEC. 24. INTEREST ON EDUCATION LOANS.

"(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 25 percent of the interest paid by the taxpayer during the taxable year on any qualified education loan.

"(b) MAXIMUM CREDIT.—

"(1) IN GENERAL.—The credit allowed by subsection (a) for the taxable year shall not exceed $400 with respect to each individual whose qualified higher education expenses were financed by any qualified education loan to which such interest relates.

"(2) PHASEOUT OF BENEFIT.—

"(A) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds the applicable limit, the dollar limitation otherwise applicable under this subsection for the taxable year shall be reduced (but not below zero) by the amount which bears the same ratio to such limit as such excess bears to $25,000 ($12,500 in the case of a married individual filing a separate return).

"(B) APPLICABLE LIMIT.—For purposes of subparagraph (A), the applicable limit is—

"(i) $40,000, in the case of a return of an unmarried individual,

"(ii) $60,000, in the case of a joint return, and

"(iii) $30,000 in the case of a married individual filing a separate return.

"(3) CREDIT NOT TO EXCEED TAX ON EARNED INCOME FOR TAXPAYERS UNDER AGE 23.—If the taxpayer has not attained age 23 (or, in the case of a joint return, if neither the husband or wife have attained age 23) before the close of the calendar year ending with or within the taxable year, the credit allowed by subsection (a) for such taxable year shall not exceed the amount equal to the percentage of the taxpayer's regular tax liability for such taxable year which is the same as the percentage of the taxpayer's modified adjusted gross income for such taxable year which is attributable to earned income (as defined in section 911(d)(2)).

"(c) LIMITATION ON TAXPAYERS ELIGIBLE FOR CREDIT.—No credit shall be allowed by this section to an individual for the taxable year if a deduction under section 151 with respect to such individual is allowed to another taxpayer for the taxable year beginning in the calendar year in which such individual's taxable year begins.

"(d) LIMIT ON PERIOD CREDIT ALLOWED.—

"(1) TAXPAYER AND TAXPAYER'S SPOUSE.—Except as provided in paragraph (2), a credit shall be allowed under this section only with respect to interest paid on any qualified education loan which is allocable to the first 48 months during which interest accrued on such loan. For purposes of this paragraph, any loan and all refinancings of such loan shall be treated as 1 loan.

"(2) DEPENDENT.—If the qualified education loan was used to pay education expenses of an individual other than the taxpayer or the taxpayer's spouse, a credit shall be allowed under this section for any taxable year with respect to such loan only if—

"(A) a deduction under section 151 with respect to such individual is allowed to the taxpayer for such taxable year, and

"(B) such individual is at least a half-time student with respect to such taxable year.

"(e) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED EDUCATION LOAN.—The term 'qualified education loan' means any indebtedness incurred to pay qualified higher education expenses—

"(A) which are paid or incurred within a reasonable period of time before or after the indebtedness is incurred, and

"(B) which are attributable to education furnished during a period during which the recipient was at least a half-time student.

Such term includes indebtedness used to refinance indebtedness which qualifies as a qualified education loan. The term 'qualified education loan' shall not include any indebtedness owed to a person who is related (within the meaning of section 267(b) or 707(b)(1)) to the taxpayer.

"(2) QUALIFIED HIGHER EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means qualified tuition and related expenses of the taxpayer, his spouse, or a dependent for attendance at an eligible educational institution (as defined in section 135(c)(3)), reduced by the amount excluded from gross income under section 135 by reason of such expenses.

"(B) QUALIFIED TUITION AND RELATED EXPENSES.—The term 'qualified tuition and related expenses' has the meaning given such term by section 117(b), except that such term shall include any reasonable living expenses while away from home.

"(3) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' has the meaning given to such term by section 86(b)(2).

"(4) HALF-TIME STUDENT.—The term 'half-time student' means any individual who would be a student as defined in section 151(c)(4) if 'half-time' were substituted for 'full-time' each place it appears in such section.

"(5) DEPENDENT.—The term 'dependent' has the meaning given such term by section 152.

"(f) SPECIAL RULES.—

"(1) DENIAL OF DOUBLE BENEFIT.—No credit shall be allowed under this section for any amount for which a deduction is allowable under any other provision of this chapter.

"(2) MARITAL STATUS.—Marital status shall be determined in accordance with section 7703."

(b) CLERICAL AMENDMENT.—The table of sections for such subpart A is amended by inserting after the item relating to section 23 the following new item:

"Sec. 24. Interest on education loans."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to qualified education loans (as defined in section 24(e) of the Internal Revenue Code of 1986) the first payment on which is due in taxable years beginning after December 31, 1991.

SEC. 1004. INCOME EXCLUSION FOR EDUCATION BONDS EXPANDED.

(a) IDENTIFYING INFORMATION REQUIRED.—Section 135(b)(2) is amended to read as follows:

"(2) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO INDIVIDUAL FOR WHOM EXPENSES PAID.—No amount shall be allowed as an exclusion under subsection (a) unless the taxpayer includes the name, address, and taxpayer identification number of the person for whom qualified higher education expenses were paid on the return on which the exclusion is claimed."

(b) ELIMINATION OF AGE RESTRICTION.—Section 135(c)(1) (defining qualified United States savings bonds) is amended—

(1) by striking subparagraph (B),

(2) by inserting "and" at the end of subparagraph (A), and

(3) by redesignating subparagraph (C) as subparagraph (B).

(c) EXCLUSION EXPANDED TO ALL INDIVIDUALS.—Subparagraph (A) of section 135(c)(2) (defining qualified higher education expenses) is amended to read as follows:

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees required for enrollment or attendance of any individual at an eligible educational institution."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds redeemed after December 31, 1991.

SEC. 1005. MODIFICATIONS OF ONE-TIME EXCLUSION OF GAIN FROM SALE OF PRINCIPAL RESIDENCE.

(a) AGE LIMITATION NOT APPLICABLE TO DISABLED INDIVIDUALS.—

(1) IN GENERAL.—Paragraph (1) of section 121(a) (relating to one-time exclusion from sale of principal residence by an individual who has attained age 55) is amended to read as follows:

"(1)(A) the taxpayer has attained the age of 55 before the date of such sale or exchange, or (B) the taxpayer is permanently and totally disabled (as defined in section 22(e)(3)) as of such date, and".

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 121(d) is amended by striking "the age, holding, and use requirements" and inserting "the requirements".

(b) INDEXATION OF DOLLAR LIMIT.—Subsection (b) of section 121 (relating to limitations) is amended by adding at the end thereof the following new paragraph:

"(4) COST-OF-LIVING ADJUSTMENTS.—In the case of a sale or exchange in a calendar year beginning after 1991—

"(A) the $125,000 amount set forth in paragraph (1) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting 'calendar year 1990' for 'calendar year 1991' in subparagraph (B) thereof, and

"(B) the $62,500 amount set forth in paragraph (1) shall be increased by ½ of the increase determined under subparagraph (A).

If any increase determined under subparagraph (A) is not a multiple of $100, such increase shall be rounded to the nearest multiple of $100."

(c) TREATMENT OF FARMLAND SOLD WITH RESIDENCE.—Subsection (d) of section 121 is amended by adding at the end thereof the following new paragraph:

"(10) TREATMENT OF FARMLAND SOLD WITH RESIDENCE.—If—

"(A) a parcel of farmland on which is located a residence with respect to which the taxpayer meets the holding and use requirements of subsection (a) is sold with such residence,

"(B) the taxpayer meets the holding requirements of subsection (a) with respect to such farmland, and

"(C) the taxpayer meets requirements similar to the requirements of section 2032A(b)(1)(C) with respect to such farmland,

notwithstanding paragraph (5), the taxpayer shall be treated as meeting the use requirements of subsection (a) with respect to so much of such parcel as does not exceed 160 acres."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after December 31, 1991.

SEC. 1006. TREATMENT OF EMPLOYER-PROVIDED TRANSPORTATION BENEFITS.

(a) EXCLUSION.—Subsection (a) of section 132 (relating to exclusion of certain fringe benefits) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting ", or", and by adding at the end thereof the following new paragraph:

"(5) qualified transportation fringe."

(b) QUALIFIED TRANSPORTATION FRINGE.—Section 132 is amended by redesignating subsections (f), (g), (h), (i), (j), and (k) as subsections (g), (h), (i), (j), (k), and (l), respectively, and by inserting after subsection (e) the following new subsection:

"(f) QUALIFIED TRANSPORTATION FRINGE.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified transportation fringe' means any of the following provided by an employer to an employee:

"(A) Transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment.

"(B) Any transit pass.

"(C) Qualified parking.

"(2) LIMITATION ON EXCLUSION.—The amount of the fringe benefits which are provided by an employer to any employee and which may be excluded from gross income under subsection (a)(5) shall not exceed—

"(A) $60 per month in the case of the aggregate of the benefits described in subparagraphs (A) and (B) of paragraph (1), and

"(B) $160 per month in the case of qualified parking.

"(3) BENEFIT NOT IN LIEU OF COMPENSATION.—Subsection (a)(5) shall not apply to any qualified transportation fringe unless such benefit is provided in addition to (and not in lieu of) any compensation otherwise payable to the employee.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) TRANSIT PASS.—The term 'transit pass' means any pass, token, farecard, voucher, or similar item entitling a person to transportation (or transportation at a reduced price) if such transportation is—

"(i) on mass transit facilities (whether or not publicly owned), or

"(ii) provided by any person in the business of transporting persons for compensation or hire if such transportation is provided in a vehicle meeting the requirements of subparagraph (B)(i).

"(B) COMMUTER HIGHWAY VEHICLE.—The term 'commuter highway vehicle' means any highway vehicle—

"(i) the seating capacity of which is at least 6 adults (not including the driver), and

"(ii) at least 80 percent of the mileage use of which can reasonably be expected to be—

"(I) for purposes of transporting employees in connection with travel between their residences and their place of employment, and

"(II) on trips during which the number of employees transported for such purposes is at least ½ of the adult seating capacity of such vehicle (not including the driver).

"(C) QUALIFIED PARKING.—The term 'qualified parking' means parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by transportation described in subparagraph (A), in a commuter highway vehicle, or by carpool.

"(D) TRANSPORTATION PROVIDED BY EMPLOYER.—Transportation referred to in paragraph (1)(A) shall be considered to be provided by an employer if such transportation is furnished in a commuter highway vehicle operated by or for the employer.

"(E) EMPLOYEE.—For purposes of this subsection, the term 'employee' does not include an individual who is an employee within the meaning of section 401(c)(1).

"(5) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1992, the dollar amounts contained in paragraph (2)(A) and (B) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins.

If any increase determined under the preceding sentence is not a multiple of $1, such increase shall be rounded to the next lowest multiple of $1.

"(6) COORDINATION WITH OTHER PROVISIONS.—For purposes of this section, the terms 'working condition fringe' and 'de minimis fringe' shall not include any qualified transportation fringe (determined without regard to paragraph (2))."

(c) CONFORMING AMENDMENT.—Subsection (i) of section 132 (as redesignated by subsection (b)) is amended by striking paragraph (4) and redesignating the following paragraphs accordingly.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to benefits provided after December 31, 1991.

(2) PARKING LIMIT.—The limitation of subparagraph (B) of section 132(f)(2) of the Internal Revenue Code of 1986 (as amended by this section) shall only apply to benefits provided for months beginning after the date of the enactment of this Act.

TITLE II—PROMOTION OF LONG-TERM ECONOMIC GROWTH

Subtitle A—Increased Savings

PART I—RETIREMENT SAVINGS INCENTIVES

Subpart A—Restoration of IRA Deduction

SEC. 2001. RESTORATION OF IRA DEDUCTION.

(a) IN GENERAL.—Section 219 (relating to deduction for retirement savings) is amended by striking subsection (g) and by redesignating subsection (h) as subsection (g).

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (f) of section 219 is amended by striking paragraph (7).

(2) Paragraph (5) of section 408(d) is amended by striking the last sentence.

(3) Section 408(o) is amended by adding at the end thereof the following new paragraph:

"(5) TERMINATION.—This subsection shall not apply to any designated nondeductible contribution for any taxable year beginning after December 31, 1992."

(4) Subsection (b) of section 4973 is amended by striking the last sentence.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 2002. INFLATION ADJUSTMENT FOR DEDUCTIBLE AMOUNT.

(a) IN GENERAL.—Section 219, as amended by section 2001, is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

"(g) COST-OF-LIVING ADJUSTMENTS.—

"(1) IN GENERAL.—If the cost-of-living amount for any calendar year is equal to or greater than $500, then each applicable dollar amount (as previously adjusted under this subsection) for any taxable year beginning in any subsequent calendar year shall be increased by $500.

"(2) COST-OF-LIVING AMOUNT.—The cost-of-living amount for any calendar year is the excess (if any) of—

"(A) $2,000, increased by the cost-of-living adjustment for such calendar year, over

"(B) the applicable dollar amount in effect under subsection (b)(1)(A) for taxable years beginning in such calendar year.

"(3) COST-OF-LIVING ADJUSTMENT.—For purposes of this subsection—

"(A) IN GENERAL.—The cost-of-living adjustment for any calendar year is the percentage (if any) by which—

"(i) the CPI for such calendar year, exceeds

"(ii) the CPI for 1991.

"(B) CPI FOR ANY CALENDAR YEAR.—The CPI for any calendar year shall be determined in the same manner as under section 1(f)(4).

"(4) APPLICABLE DOLLAR AMOUNT.—For purposes of this subsection, the term 'applicable dollar amount' means the dollar amount in effect under any of the following provisions:

"(A) Subsection (b)(1)(A).

"(B) Subsection (c)(2)(A)(i).

"(C) The last sentence of subsection (c)(2)."

(b) CONFORMING AMENDMENTS.—

(1) Section 408(a)(1) is amended by striking "in excess of $2,000 on behalf of any individual" and inserting "on behalf of any individual in excess of the amount in effect for such taxable year under section 219(b)(1)(A)".

(2) Section 408(b)(2)(B) is amended by striking "$2,000" and inserting "the dollar amount in effect under section 219(b)(1)(A)".

(3) Section 408(j) is amended by striking "$2,000".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 2003. COORDINATION OF IRA DEDUCTION LIMIT WITH ELECTIVE DEFERRAL LIMIT.

(a) IN GENERAL.—Section 219(b) (relating to maximum amount of deduction) is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH ELECTIVE DEFERRAL LIMIT.—The amount determined under paragraph (1) or subsection (c)(2) with respect to any individual for any taxable year shall not exceed the excess (if any) of—

"(A) the maximum amount of elective deferrals of the individual which are excludable from gross income for the taxable year under section 402(g)(1), over

"(B) the amount so excluded."

(b) CONFORMING AMENDMENT.—Section 219(c) is amended by adding at the end thereof the following new paragraph:

"(3) CROSS REFERENCE.—

"For reduction in paragraph (2) amount, see subsection (b)(4)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

Subpart B—Nondeductible Tax-Free IRAs

SEC. 2011. ESTABLISHMENT OF NONDEDUCTIBLE TAX-FREE INDIVIDUAL RETIREMENT ACCOUNTS.

(a) IN GENERAL.—Subpart A of part I of subchapter D of chapter 1 (relating to pension, profit-sharing, stock bonus plans, etc.) is amended by inserting after section 408 the following new section:

"SEC. 408A. SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.

"(a) GENERAL RULE.—Except as provided in this section, a special individual retirement account shall be treated for purposes of this title in the same manner as an individual retirement plan.

"(b) SPECIAL INDIVIDUAL RETIREMENT ACCOUNT.—For purposes of this title, the term 'special individual retirement account' means an individual retirement plan which is designated at the time of establishment of the plan as a special individual retirement account.

"(c) TREATMENT OF CONTRIBUTIONS.—

"(1) NO DEDUCTION ALLOWED.—No deduction shall be allowed under section 219 for a contribution to a special individual retirement account.

"(2) CONTRIBUTION LIMIT.—The aggregate amount of contributions for any taxable year to all special individual retirement accounts maintained for the benefit of an individual shall not exceed the excess (if any) of—

"(A) the maximum amount allowable as a deduction under section 219 with respect to such individual for such taxable year, over

"(B) the amount so allowed.

"(3) SPECIAL RULES FOR QUALIFIED TRANSFERS.—

"(A) IN GENERAL.—No rollover contribution may be made to a special individual retirement account unless it is a qualified transfer.

"(B) LIMIT NOT TO APPLY.—The limitation under paragraph (2) shall not apply to a qualified transfer to a special individual retirement account.

"(d) TAX TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in this subsection, any amount paid or distributed out of a special individual retirement account shall not be included in the gross income of the distributee.

"(2) EXCEPTION FOR EARNINGS ON CONTRIBUTIONS HELD LESS THAN 5 YEARS.—

"(A) IN GENERAL.—Any amount distributed out of a special individual retirement account which consists of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution shall be included in the gross income of the distributee for the taxable year in which the distribution occurs.

"(B) ORDERING RULE.—

"(i) FIRST-IN, FIRST-OUT RULE.—Distributions from a special individual retirement account shall be treated as having been made—

"(I) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(II) then from other contributions (and earnings allocable thereto) in the order in which made.

"(ii) ALLOCATIONS BETWEEN CONTRIBUTIONS AND EARNINGS.—Any portion of a distribution allocated to a contribution (and earnings allocable thereto) shall be treated as allocated first to the earnings and then to the contribution.

"(iii) ALLOCATION OF EARNINGS.—Earnings shall be allocated to a contribution in such manner as the Secretary may by regulations prescribe.

"(iv) CONTRIBUTIONS IN SAME YEAR.—Under regulations, all contributions made during the same taxable year may be treated as 1 contribution for purposes of this subparagraph.

"(C) CROSS REFERENCE.—

"For additional tax for early withdrawal, see section 72(t).

"(3) QUALIFIED TRANSFER.—

"(A) IN GENERAL.—Paragraph (2) shall not apply to any distribution which is transferred in a qualified transfer to another special individual retirement account.

"(B) CONTRIBUTION PERIOD.—For purposes of paragraph (2), the special individual retirement account to which any contributions are transferred shall be treated as having held such contributions during any period such contributions were held (or are treated as held under this subparagraph) by the special individual retirement account from which transferred.

"(4) SPECIAL RULES RELATING TO CERTAIN TRANSFERS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, in the case of a qualified transfer to a special individual retirement account from an individual retirement plan which is not a special individual retirement account—

"(i) there shall be included in gross income any amount which, but for the qualified transfer, would be includible in gross income, but

"(ii) section 72(t) shall not apply to such amount.

"(B) TIME FOR INCLUSION.—In the case of any qualified transfer which occurs before January

1, 1994, any amount includible in gross income under subparagraph (A) with respect to such contribution shall be includible ratably over the 4-taxable year period beginning in the taxable year in which the amount was paid or distributed out of the individual retirement plan.

"(e) QUALIFIED TRANSFER.—For purposes of this section, the term 'qualified transfer' means a transfer to a special individual retirement account from another such account or from an individual retirement plan but only if such transfer meets the requirements of section 408(d)(3)."

(b) EARLY WITHDRAWAL PENALTY.—Section 72(t), as amended by section 2021, is amended by adding at the end thereof the following new paragraph:

"(7) RULES RELATING TO SPECIAL INDIVIDUAL RETIREMENT ACCOUNTS.—In the case of a special individual retirement account under section 408A—

"(A) this subsection shall only apply to distributions out of such account which consist of earnings allocable to contributions made to the account during the 5-year period ending on the day before such distribution, and

"(B) paragraph (2)(A)(i) shall not apply to any distribution described in subparagraph (A)."

(c) EXCESS CONTRIBUTIONS.—Section 4973(b) is amended by adding at the end thereof the following new sentence: "For purposes of paragraphs (1)(B) and (2)(C), the amount allowable as a deduction under section 219 shall be computed without regard to section 408A."

(d) CONFORMING AMENDMENT.—The table of sections for subpart A of part I of subchapter D of chapter 1 is amended by inserting after the item relating to section 408 the following new item:

"Sec. 408A. Special individual retirement accounts."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

(2) QUALIFIED TRANSFERS IN 1992.—The amendments made by this section shall apply to any qualified transfer during any taxable year beginning in 1992.

PART II—PENALTY-FREE DISTRIBUTIONS

SEC. 2021. PENALTY-FREE WITHDRAWALS FOR FIRST HOME PURCHASE, HIGHER EDUCATION EXPENSES, MEDICAL EXPENSES, AND EXPENSES OF UNEMPLOYED INDIVIDUALS.

(a) FIRST HOME PURCHASE.—

(1) IN GENERAL.—Paragraph (2) of section 72(t) (relating to exceptions to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding after subparagraph (C) the following new subparagraph:

"(D) DISTRIBUTION FROM INDIVIDUAL RETIREMENT PLAN FOR FIRST HOME PURCHASE.—A distribution to an individual from an individual retirement plan with respect to which the requirements of paragraph (6) are met."

(2) DEFINITIONS.—Subsection (t) of section 72 is amended by adding after paragraph (5) the following new paragraph:

"(6) REQUIREMENTS APPLICABLE TO FIRST HOME PURCHASE DISTRIBUTION.—For purposes of paragraph (2)(D)—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to a distribution if the distribution meets the requirements of clauses (i), (ii), and (iii).

"(i) DOLLAR LIMIT.—A distribution meets the requirements of this clause to the extent that the amount of the distribution does not exceed the excess (if any) of—

"(I) $10,000, over

"(II) the sum of the distributions to which paragraph (2)(D) previously applied with respect to the residence (whether or not such distributions were from the individual retirement plan of the owner).

"(ii) USE OF DISTRIBUTION.—A distribution meets the requirements of this clause if the distribution—

"(I) is made to or on behalf of a qualified first home purchaser, and

"(II) is applied within 60 days of the date of distribution to the purchase or construction of a principal residence of such purchaser.

"(iii) ELIGIBLE PLANS.—A distribution meets the requirements of this clause if the distribution is not made from an individual retirement plan—

"(I) which is an inherited individual retirement plan (within the meaning of section 408(d)(3)(C)(ii)), or

"(II) any part of the contributions to which were excludable from income under section 402(c), 403(a)(4), or 403(b)(8).

"(B) QUALIFIED FIRST HOME PURCHASER.—For purposes of this paragraph, the term 'qualified first home purchaser' means the individual who is the owner of the individual retirement plan, the spouse of such owner, or the child (as defined in section 151(c)(3)) or grandchild of such owner, but only if—

"(i) such individual (and, if married, such individual's spouse) had no present ownership interest in a residence at any time within the 36-month period ending on the date on which the distribution is applied pursuant to subparagraph (A)(ii), and

"(ii) subsection (h) or (k) of section 1034 did not suspend the running of any period of time specified in section 1034 with respect to such individual on the day before the date the distribution is applied pursuant to subparagraph (A)(ii).

"(C) SPECIAL RULE WHERE DELAY IN ACQUISITION.—If any distribution from an individual retirement plan fails to meet the requirements of subparagraph (A) solely by reason of a delay or cancellation of the purchase or construction of the residence, the amount of the distribution may be contributed to an individual retirement plan as provided in section 408(d)(3)(A)(i) (determined by substituting '120 days' for '60 days' in such section), except that—

"(i) section 408(d)(3)(B) shall not be applied to such contribution, and

"(ii) such amount shall not be taken into account—

"(I) in determining whether section 408(d)(3)(A)(i) applies to any other amount, or

"(II) for purposes of subclause (II) of subparagraph (A)(i).

"(D) PRINCIPAL RESIDENCE.—For purposes of this paragraph, the term 'principal residence' has the meaning given such term by section 1034.

"(E) OWNER.—For purposes of this paragraph, the term 'owner' means, with respect to any individual retirement plan, the individual with respect to whom such plan was established."

(b) EDUCATIONAL EXPENSES.—Paragraph (2) of section 72(t) is amended by adding after subparagraph (D) the following new subparagraph:

"(E) DISTRIBUTION FROM INDIVIDUAL RETIREMENT PLAN FOR HIGHER EDUCATION EXPENSES.—A distribution from an individual retirement plan (other than a plan referred to in subclause (I) or (II) of paragraph (6)(A)(iii)) to the owner of such plan if such distribution is used within 60 days of the date of the distribution to pay qualified tuition and related expenses (as defined in section 117(b)) of the owner, the owner's spouse, or the child (as defined in section 151(c)(3)) or grandchild of the owner, except that such expenses shall—

"(i) be reduced by any amount excluded from gross income under section 135 by reason of such expenses, and

"(ii) include any reasonable living expenses while away from home."

(c) MEDICAL EXPENSES.—

(1) IN GENERAL.—Subparagraph (A) of section 72(t)(3) is amended by striking ", (B),".

(2) CERTAIN LINEAL DESCENDANTS AND ANCESTORS TREATED AS DEPENDENTS.—Subparagraph (B) of section 72(t)(2) is amended by striking "medical care" and all that follows and inserting "medical care determined—

"(i) without regard to whether the employee itemizes deductions for such taxable year, and

"(ii) by treating such employee's dependents as including—

"(I) all children and grandchildren of the employee or such employee's spouse, and

"(II) all ancestors of the employee or such employee's spouse."

(3) CONFORMING AMENDMENT.—Subparagraph (B) of section 72(t)(2) is amended by striking "or (C)" and inserting ", (C), (D), or (E)".

(d) PENALTY-FREE DISTRIBUTIONS FOR CERTAIN UNEMPLOYED INDIVIDUALS.—Paragraph (2) of section 72(t) is amended by adding at the end thereof the following new subparagraph:

"(F) DISTRIBUTIONS TO UNEMPLOYED INDIVIDUALS.—A distribution from an individual retirement plan (other than a plan referred to in subclause (I) or (II) of paragraph (6)(A)(iii)) to an individual after separation from employment, if—

"(i) such individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of such separation, and

"(ii) such distributions are made during any taxable year during which such unemployment compensation is paid or the succeeding taxable year."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions on and after February 1, 1992.

SEC. 2022. CONTRIBUTIONS MUST BE HELD AT LEAST 5 YEARS IN CERTAIN CASES.

(a) IN GENERAL.—Section 72(t), as amended by section 2011(b), is amended by adding at the end thereof the following new paragraph:

"(8) CERTAIN CONTRIBUTIONS MUST BE HELD 5 YEARS.—

"(A) IN GENERAL.—Paragraph (2)(A)(i) shall not apply to any amount distributed out of an individual retirement plan (other than a special individual retirement account) which is allocable to contributions made to the plan during the 5-year period ending on the date of such distribution (and earnings on such contributions).

"(B) ORDERING RULE.—For purposes of this paragraph, distributions shall be treated as having been made—

"(i) first from the earliest contribution (and earnings allocable thereto) remaining in the account at the time of the distribution, and

"(ii) then from other contributions (and earnings allocable thereto) in the order in which made.

Earnings shall be allocated to contributions in such manner as the Secretary may prescribe.

"(C) SPECIAL ACCOUNTS.—For rules applicable to special individual retirement accounts under section 408A, see paragraph (7)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions (and earnings allocable thereto) which are made after December 31, 1992.

Subtitle B—Capital Gain Provisions

PART I—PROGRESSIVE CAPITAL GAIN RATES

SEC. 2101. PROGRESSIVE CAPITAL GAIN RATES.

(a) IN GENERAL.—Section 1(h) (relating to maximum capital gains rate) is amended to read as follows:

"(h) PROGRESSIVE CAPITAL GAINS RATE.—

"(1) IN GENERAL.—If a taxpayer has qualified capital gain for any taxable year, then the tax *imposed by this section shall be equal to the sum of—*

"(A) a tax computed at the rates and in the same manner as if this subsection had not been enacted on taxable income reduced by the amount of qualified capital gain, plus

"(B) the excess (if any) of—

"(i) a tax computed under the substitute table on taxable income, over

"(ii) a tax computed under the substitute table on taxable income reduced by the amount of qualified capital gain.

"(2) SUBSTITUTE TABLES.—

"(A) IN GENERAL.—In the case of any taxable year ending after January 31, 1992, the Secretary shall prescribe a substitute table for each of the tables under subsections (a), (b), (c), (d), and (e).

"(B) METHOD OF PRESCRIBING TABLES.—The tables under subparagraph (A) for any taxable year shall be the tables in effect without regard to this subsection, adjusted by—

"(i) substituting the capital gain rates for the rates of tax contained therein, and

"(ii) modifying the amounts setting forth the tax to the extent necessary to reflect the adjustments under clause (i).

"(C) CAPITAL GAIN RATES.—For purposes of subparagraph (B)(i), the capital gain rates shall be determined as follows:

"If the rate of tax is:	*The capital gain rate is:*
15 percent	*0 percent*
28 percent	*14 percent*
31 percent	*21 percent*
36 percent	*28 percent.*

"(3) QUALIFIED CAPITAL GAIN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified capital gain' means net capital gain determined without regard to any gain taken into account in computing the exclusion under section 1202 (relating to gain from sale of small business stock).

"(B) TRANSITION RULE.—In the case of any taxable year beginning before February 1, 1992, and ending on or after such date, qualified capital gain shall be equal to the lesser of—

"(i) net capital gain, or

"(ii) net capital gain determined by taking into account only gain or loss properly taken into account for the portion of the taxable year after January 31, 1992.

If the amount under clause (i) exceeds the amount under clause (ii) for such taxable year, the rate of tax under this section shall not exceed 28 percent with respect to such excess.

"(C) SPECIAL RULE FOR PASS-THRU ENTITIES.—

"(i) IN GENERAL.—In applying subparagraph (B) with respect to any pass-thru entity, the determination of when gain is properly taken into account shall be made at the entity level.

"(ii) PASS-THRU ENTITY DEFINED.—For purposes of clause (i), the term 'pass-thru entity' means—

"(I) a regulated investment company,

"(II) a real estate investment trust,

"(III) an S corporation,

"(IV) a partnership,

"(V) an estate or trust, and

"(VI) a common trust fund."

(b) TREATMENT OF COLLECTIBLES.—

(1) IN GENERAL.—Section 1222 is amended by inserting after paragraph (11) the following new paragraph:

"(12) SPECIAL RULE FOR COLLECTIBLES.—

"(A) IN GENERAL.—Any gain or loss from the sale or exchange of a collectible shall be treated as a short-term capital gain or loss (as the case may be), without regard to the period such asset was held. The preceding sentence shall apply only to the extent the gain or loss is taken into account in computing taxable income.

"(B) TREATMENT OF CERTAIN SALES OF INTEREST IN PARTNERSHIP, ETC.—For purposes of subparagraph (A), any gain from the sale or exchange of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles held by such entity shall be treated as gain from the sale or exchange of a collectible. Rules similar to the rules of section 751(f) shall apply for purposes of the preceding sentence.

"(C) COLLECTIBLE.—For purposes of this paragraph, the term 'collectible' means any capital asset which is a collectible (as defined in section 408(m) without regard to paragraph (3) thereof)."

(2) CHARITABLE DEDUCTION NOT AFFECTED.—

(A) Paragraph (1) of section 170(e) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)."

(B) Clause (iv) of section 170(b)(1)(C) is amended by inserting before the period at the end thereof the following: "and section 1222 shall be applied without regard to paragraph (12) thereof (relating to special rule for collectibles)".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years ending after January 31, 1992.

(2) COLLECTIBLES.—The amendments made by subsection (b) shall apply to dispositions after January 31, 1992.

SEC. 2102. INCREASE IN HOLDING PERIOD REQUIRED FOR LONG-TERM CAPITAL GAIN TREATMENT.

(a) IN GENERAL.—

(1) CAPITAL GAIN.—Paragraphs (1) and (3) of section 1222 (relating to other terms relating to capital gains and losses) are each amended by striking "1 year" and inserting "2 years".

(2) CAPITAL LOSSES.—Paragraphs (2) and (4) of section 1222 are each amended by striking "1 year" and inserting "2 years".

(b) CONFORMING AMENDMENTS.—The following provisions are each amended by striking "1 year" each place it appears and inserting "2 years":

(1) Section 166(d)(1)(B).

(2) Section 422(a)(1).

(3) Section 421(a)(1).

(4) Section 584(c).

(5) Subsections (a), (b), and (c) of section 631.

(6) Section 642(c)(3).

(7) Paragraphs (1) and (2) of section 702(a).

(8) Section 818(b)(1).

(9) Section 852(b)(3)(B).

(10) Section 856(c)(4)(A).

(11) Section 857(b)(3)(B).

(12) Paragraphs (11) and (12) of section 1223.

(13) Subsections (b), (d), and subparagraph (A) of subchapter (e)(4) of section 1233.

(14) Section 1234(b)(1).

(15) Section 1235(a).

(16) Subsections (b) and (g)(2)(C) of section 1248.

(c) TECHNICAL AMENDMENTS.—

(1) Section 7518(g)(3)(B) is amended by striking "6 months" and inserting "2 years".

(2) Section 1231 (b)(3)(B) is amended by striking "12 months" and inserting "24 months".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 2103. RECAPTURE UNDER SECTION 1250 OF TOTAL AMOUNT OF DEPRECIATION.

(a) GENERAL RULE.—Subsections (a) and (b) of section 1250 (relating to gain from disposition of certain depreciable realty) are amended to read as follows:

"(a) GENERAL RULE.—Except as otherwise provided in this section, if section 1250 property is disposed of, the lesser of—

"(1) the depreciation adjustments in respect of such property, or

"(2) the excess of—

"(A) the amount realized (or, in the case of a disposition other than sale, exchange, or involuntary conversion, the fair market value of such property), over

"(B) the adjusted basis of such property,

shall be treated as gain which is ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

"(b) DEPRECIATION ADJUSTMENTS.—For purposes of this section, the term 'depreciation adjustments' means, in respect of any property, all adjustments attributable to periods after December 31, 1963, reflected in the adjusted basis of such property on account of deductions (whether in respect of the same or other property) allowed or allowable to the taxpayer or to any other person for exhaustion, wear and tear, obsolescence, or amortization (other than amortization under section 168 (as in effect before its repeal by the Tax Reform Act of 1976), 169, 185 (as in effect before its repeal by the Tax Reform Act of 1986), 188 (as in effect before its repeal by the Revenue Reconciliation Act of 1990), 190, or 193). For purposes of the preceding sentence, if the taxpayer can establish by adequate records or other sufficient evidence that the amount allowed as a deduction for any period was less than the amount allowable, the amount taken into account for such period shall be the amount allowed."

(b) MAXIMUM RATE ON RECAPTURE AMOUNT.—Section 1 (relating to tax imposed) is amended by adding at the end the following new section:

"(i) MAXIMUM RATE OF TAX ON SECTION 1250 RECAPTURE AMOUNTS.—If a taxpayer has any amount treated as ordinary income under section 1250 for any taxable year, then the tax imposed by this section shall not exceed the sum of—

"(1) a tax computed at the rates and in the same manner as if this subsection had not been enacted on the greater of—

"(A) taxable income reduced by the amount treated as ordinary income under section 1250, or

"(B) the amount of taxable income taxed at a rate below 28 percent, plus

"(2) a tax of 28 percent of the amount of taxable income in excess of the amount determined under paragraph (1)."

(c) LIMITATION IN CASE OF INSTALLMENT SALES.—Subsection (i) of section 453 is amended—

(1) by striking "1250" the first place it appears and inserting "1250 (as in effect on December 31, 1991)", and

(2) by striking "1250" the second place it appears and inserting "1250 (as so in effect)".

(d) CONFORMING AMENDMENTS.—

(1) Subparagraph (E) of section 1250(d)(4) is amended—

(A) by striking "additional depreciation" and inserting "amount of the depreciation adjustments", and

(B) by striking "ADDITIONAL DEPRECIATION" in the subparagraph heading and inserting "DEPRECIATION ADJUSTMENTS".

(2) Subparagraph (B) of section 1250(d)(6) is amended to read as follows:

"(B) DEPRECIATION ADJUSTMENTS.—In respect of any property described in subparagraph (A), the amount of the depreciation adjustments attributable to periods before the distribution by the partnership shall be—

"(i) the amount of gain to which subsection (a) would have applied if such property had been sold by the partnership immediately before the distribution at its fair market value at such time, reduced by

"(ii) the amount of such gain to which section 751(b) applied."

(3) Subsection (d) of section 1250 is amended by striking paragraph (10).

(4) Section 1250 is amended by striking subsections (e) and (f) and by redesignating subsections (g) and (h) as subsections (e) and (f), respectively.

(5) Paragraph (4) of section 50(c) is amended to read as follows:

"(4) RECAPTURE OF REDUCTION.—For purposes of sections 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation."

(6) Clause (i) of section 267(e)(5)(D) is amended by striking "section 1250(a)(1)(B)" and inserting "section 1250(a)(1)(B) (as in effect on December 31, 1991)".

(7)(A) Subsection (a) of section 291 is amended by striking paragraph (1) and redesignating paragraphs (2), (3), (4), and (5) as paragraphs (1), (2), (3), and (4), respectively.

(B) Subsection (c) of section 291 is amended to read as follows:

"(c) SPECIAL RULE FOR POLLUTION CONTROL FACILITIES.—Section 168 shall apply with respect to that portion of the basis of any property not taken into account under section 169 by reason of subsection (a)(4)."

(C) Section 291 is amended by striking subsection (d) and redesignating subsection (e) as subsection (d).

(D) Paragraph (2) of section 291(d) (as redesignated by subparagraph (C)) is hereby repealed.

(E) Subparagraph (A) of section 265(b)(3) is amended by striking "291(e)(1)(B)" and inserting "291(d)(1)(B)".

(F) Subsection (c) of section 1277 is amended by striking "291(e)(1)(B)(ii)" and inserting "291(d)(1)(B)(ii)".

(8) Subsection (d) of section 1017 is amended to read as follows:

"(d) RECAPTURE OF DEDUCTIONS.—For purposes of sections 1245 and 1250—

"(1) any property the basis of which is reduced under this section and which is neither section 1245 property nor section 1250 property shall be treated as section 1245 property, and

"(2) any reduction under this section shall be treated as a deduction allowed for depreciation."

(9) Paragraph (5) of section 7701(e) is amended by striking "(relating to low-income housing)" and inserting "(as in effect on December 31, 1991)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to dispositions after January 31, 1992, in taxable years ending after such date.

PART II—SMALL BUSINESS STOCK

SEC. 2111. 50-PERCENT EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.

(a) GENERAL RULE.—Part I of subchapter P of chapter 1 (relating to capital gains and losses) is amended by adding at the end thereof the following new section:

"SEC. 1202. 50-PERCENT EXCLUSION FOR GAIN FROM CERTAIN SMALL BUSINESS STOCK.

"(a) GENERAL RULE.—Gross income shall not include 50 percent of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

"(b) QUALIFIED SMALL BUSINESS STOCK.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'qualified small business stock' means any stock in a corporation which is originally issued on or after February 1, 1992, if—

"(A) as of the date of issuance, such corporation is a qualified small business, and

"(B) except as provided in subsections (d) and (e), such stock is acquired by the taxpayer at its original issue (directly or through an underwriter)—

"(i) in exchange for money or other property (not including stock), or

"(ii) as compensation for services (other than services performed as an underwriter of such stock).

"(2) ACTIVE BUSINESS REQUIREMENT.—Stock in a corporation shall not be treated as qualified small business stock unless, during substantially all of the taxpayer's holding period for such stock, such corporation meets the active business requirements of subsection (d).

"(3) CERTAIN PURCHASES BY CORPORATION OF ITS OWN STOCK.—

"(A) IN GENERAL.—Stock issued by a corporation shall not be treated as qualified small business stock if such corporation has purchased or purchases any of its stock within the 2-year period beginning 1 year before the date of the issuance of such stock.

"(B) EXCEPTION WHERE BUSINESS PURPOSE.—Subparagraph (A) shall not apply where the issuing corporation establishes that there was a business purpose for the purchase of the stock and such purchase is not inconsistent with the purposes of this section.

"(C) MEMBERS OF AFFILIATED GROUP.—For purposes of this paragraph, the purchase by any corporation which is a member of the same affiliated group (within the meaning of section 1504) as the issuing corporation of any stock in any corporation which is a member of such group shall be treated as a purchase by the issuing corporation of its stock.

"(c) QUALIFIED SMALL BUSINESS.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified small business' means any domestic corporation if—

"(A) the aggregate capitalization of such corporation (or any predecessor thereof) at all times on or after February 1, 1992, and before the issuance did not exceed $100,000,000, and

"(B) the aggregate capitalization of such corporation immediately after the issuance (determined by taking into account amounts to be received in the issuance) does not exceed $100,000,000.

"(2) AGGREGATE CAPITALIZATION.—For purposes of paragraph (1), the term 'aggregate capitalization' means the excess of—

"(A) the amount of cash and the aggregate adjusted bases of other property held by the corporation, over

"(B) the aggregate amount of the short-term indebtedness of the corporation.

For purposes of the preceding sentence, the term 'short-term indebtedness' means any indebtedness which, when incurred, did not have a term in excess of 1 year.

"(3) LOOK-THRU IN CASE OF SUBSIDIARIES.—In determining whether a corporation meets the requirements of this subsection—

"(A) stock and debt of any subsidiary (as defined in subsection (d)(4)(C)) held by such corporation shall be disregarded, and

"(B) such corporation shall be treated as holding its ratable share of the assets of such subsidiary and as being liable for its ratable share of the indebtedness of such subsidiary.

"(d) ACTIVE BUSINESS REQUIREMENT.—For purposes of this section—

"(1) IN GENERAL.—For purposes of subsection (b)(2), the requirements of this subsection are met for any period if during such period—

"(A) the corporation is engaged in the active conduct of a trade or business,

"(B) substantially all of the assets of such corporation are used in the active conduct of a trade or business, and

"(C) such corporation is an eligible corporation.

"(2) SPECIAL RULE FOR CERTAIN ACTIVITIES.—For purposes of paragraph (1), if, in connection with any future trade or business, a corporation is engaged in—

"(A) start-up activities described in section 195(c)(1)(A),

"(B) activities resulting in the payment or incurring of expenditures which may be treated as research and experimental expenditures under section 174, or

"(C) activities with respect to in-house research expenses described in section 41(b)(4),

such corporation shall be treated with respect to such activities as engaged in (and assets used in such activities shall be treated as used in) the active conduct of a trade or business. Any determination under this paragraph shall be made without regard to whether a corporation has any gross income from such activities at the time of the determination.

"(3) ELIGIBLE CORPORATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'eligible corporation' means any domestic corporation; except that such term shall not include—

"(i) any corporation predominantly engaged in a disqualified business,

"(ii) any corporation the principal activity of which is the performance of personal services,

"(iii) a DISC,

"(iv) a corporation with respect to which an election under 936 is in effect,

"(v) any regulated investment company, real estate investment trust, or REMIC,

"(vi) any cooperative, and

"(vii) in the case of a corporate shareholder, any corporation which at any time was a subsidiary (as defined in paragraph (4)(C)) of such corporate shareholder.

"(B) DISQUALIFIED BUSINESS.—The term 'disqualified business' means—

"(i) any banking, insurance, financing, or similar business,

"(ii) any farming business (other than the business of raising or harvesting trees),

"(iii) any business involving the production or extraction of products of a character with respect to which a deduction is allowable under section 613 or 613A, and

"(iv) any business of operating a hotel, motel, or restaurant or similar business.

"(4) STOCK IN OTHER CORPORATIONS.—

"(A) LOOK-THRU IN CASE OF SUBSIDIARIES.—For purposes of this subsection, stock and debt in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and to conduct its ratable share of the subsidiary's activities.

"(B) PORTFOLIO STOCK OR SECURITIES.—A corporation shall be treated as failing to meet the requirements of paragraph (1) for any period during which more than 10 percent of the value of its assets (in excess of liabilities) consist of stock or securities in other corporations which are not subsidiaries of such corporation (other than assets described in paragraph (5)).

"(C) SUBSIDIARY.—For purposes of this paragraph, a corporation shall be considered a subsidiary if the parent owns more than 50 percent of the combined voting power of all classes of stock entitled to vote, or more than 50 percent in value of all outstanding stock, of such corporation.

"(5) WORKING CAPITAL.—For purposes of paragraph (1)(B), any assets which—

"(A) are held for investment, and

"(B) are to be used to finance future research and experimentation or working capital needs of the corporation,

shall be treated as used in the active conduct of a trade or business.

"(6) MAXIMUM REAL ESTATE HOLDINGS.—A corporation shall not be treated as meeting the requirements of paragraph (1) for any period during which more than 10 percent of the total value of its assets is real property which is not used in the active conduct of a trade or busi-

ness. For purposes of the preceding sentence, the ownership of, dealing in, or renting of real property shall not be treated as the active conduct of a trade or business.

"(7) COMPUTER SOFTWARE ROYALTIES.—For purposes of paragraph (1), rights to computer software which produces income described in section 543(d) shall be treated as an asset used in the active conduct of a trade or business.

"(e) STOCK ACQUIRED ON CONVERSION OF PREFERRED STOCK.—If any stock is acquired through the conversion of other stock which is qualified small business stock in the hands of the taxpayer—

"(1) the stock so acquired shall be treated as qualified small business stock in the hands of the taxpayer, and

"(2) the stock so acquired shall be treated as having been held during the period during which the converted stock was held.

"(f) TREATMENT OF PASS-THRU ENTITIES.—

"(1) IN GENERAL.—Any amount included in income by reason of holding an interest in a pass-thru entity shall be treated as gain described in subsection (a) if such amount meets the requirements of paragraph (2).

"(2) REQUIREMENTS.—An amount meets the requirements of this paragraph if—

"(A) such amount is attributable to gain on the sale or exchange by the pass-thru entity of stock which is qualified small business stock in the hands of such entity and which was held by such entity for more than 5 years, and

"(B) such amount is includible in the gross income of the taxpayer by reason of the holding of an interest in such entity which was held by the taxpayer on the date on which such pass-thru entity acquired such stock and at all times thereafter before the disposition of such stock by such pass-thru entity.

"(3) LIMITATION BASED ON INTEREST ORIGINALLY HELD BY TAXPAYER.—Paragraph (1) shall not apply to any amount to the extent such amount exceeds the amount to which paragraph (1) would have applied if such amount were determined by reference to the interest the taxpayer held in the pass-thru entity on the date the qualified small business stock was acquired.

"(4) PASS-THRU ENTITY.—For purposes of this subsection, the term 'pass-thru entity' means—

"(A) any partnership,

"(B) any S corporation,

"(C) any regulated investment company, and

"(D) any common trust fund.

"(g) CERTAIN TAX-FREE AND OTHER TRANSFERS.—For purposes of this section—

"(1) IN GENERAL.—In the case of a transfer of stock to which this subsection applies, the transferee shall be treated as—

"(A) having acquired such stock in the same manner as the transferor, and

"(B) having held such stock during any continuous period immediately preceding the transfer during which it was held (or treated as held under this subsection) by the transferor.

"(2) TRANSFERS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any transfer—

"(A) by gift,

"(B) at death,

"(C) from a partnership to a partner of stock with respect to which the requirements of subsection (f) are met at the time of the transfer (without regard to the 5-year holding requirement), or

"(D) to the extent that the basis of the property in the hands of the transferee is determined by reference to the basis of the property in the hands of the transferor by reason of section 334(b), but only if requirements similar to the requirements of subsection (f) are met with respect to the stock.

"(3) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of section 1244(d)(2) shall apply for purposes of this section.

"(4) INCORPORATIONS AND REORGANIZATIONS INVOLVING NONQUALIFIED STOCK.—

"(A) IN GENERAL.—In the case of a transaction described in section 351 or a reorganization described in section 368, if a qualified small business stock is transferred for other stock, such transfer shall be treated as a transfer to which this subsection applies solely with respect to the person receiving such other stock.

"(B) LIMITATION.—This section shall apply to the sale or exchange of stock treated as qualified small business stock by reason of subparagraph (A) only to the extent of the gain (if any) which would have been recognized at the time of the transfer described in subparagraph (A) if section 351 or 368 had not applied at such time.

"(C) SUCCESSIVE APPLICATION.—For purposes of this paragraph, stock treated as qualified small business stock under subparagraph (A) shall be so treated for subsequent transactions or reorganizations, except that the limitation of subparagraph (B) shall be applied as of the time of the first transfer to which subparagraph (A) applied.

"(D) CONTROL TEST.—Except in the case of a transaction described in section 368, this paragraph shall apply only if, immediately after the transaction, the corporation issuing the stock owns directly or indirectly stock representing control (within the meaning of section 368(c)) of the corporation whose stock was transferred.

"(h) BASIS RULES.—

"(1) STOCK EXCHANGED FOR PROPERTY.—For purposes of this section, in the case where the taxpayer transfers property (other than money or stock) to a corporation in exchange for stock in such corporation—

"(A) such stock shall be treated as having been acquired by the taxpayer on the date of such exchange, and

"(B) the basis of such stock in the hands of the taxpayer shall in no event be less than the fair market value of the property exchanged.

"(2) BASIS OF S CORPORATION STOCK.—For purposes of this section, the adjusted basis of stock in an S corporation shall in no event be less than its adjusted basis determined without regard to any adjustment to the basis of such stock under section 1367.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including regulations to prevent the avoidance of the purposes of this section through split-ups or otherwise."

(b) EXCLUSION TREATED AS PREFERENCE FOR MINIMUM TAX.—

(1) IN GENERAL.—Subsection (a) of section 57 (relating to items of tax preference) is amended by adding at the end thereof the following new paragraph:

"(8) EXCLUSION FOR GAINS ON SALE OF CERTAIN SMALL BUSINESS STOCK.—An amount equal to the amount excluded from gross income for the taxable year under section 1202."

(2) CONFORMING AMENDMENT.—Subclause (II) of section 53(d)(2)(B)(ii) is amended by striking "and (6)" and inserting "(6), and (8)".

(c) CONFORMING AMENDMENTS.—

(1)(A) Section 172(d)(2) (relating to modifications with respect to net operating loss deduction) is amended to read as follows:

"(2) CAPITAL GAINS AND LOSSES OF TAXPAYERS OTHER THAN CORPORATIONS.—In the case of a taxpayer other than a corporation—

"(A) the amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includable on account of gains from sales or exchanges of capital assets; and

"(B) the exclusion provided by section 1202 shall not be allowed."

(B) Subparagraph (B) of section 172(d)(4) is amended by inserting ", (2)(B)," after "paragraph (1)".

(2) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202. In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(3) Paragraph (3) of section 643(a) is amended by adding at the end thereof the following new sentence: "The exclusion under section 1202 shall not be taken into account."

(4) Paragraph (4) of section 691(c) is amended by striking "1201, and 1211" and inserting "1201, 1202, and 1211".

(5) The second sentence of paragraph (2) of section 871(a) is amended by inserting "such gains and losses shall be determined without regard to section 1202 and" after "except that".

(6) The table of sections for part I of subchapter P of chapter 1 is amended by adding after the item relating to section 1201 the following new item:

"Sec. 1202. 50-percent exclusion for gain from certain small business stock.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to stock issued on or after February 1, 1992.

Subtitle C—Investment in Real Estate

PART I—MODIFICATION OF PASSIVE LOSS RULES

SEC. 2201. MODIFICATION OF PASSIVE LOSS RULES.

(a) GENERAL RULE.—Section 469 (relating to passive activity losses and credits limited) is amended by redesignating subsections (l) and (m) as subsections (m) and (n), respectively, and by inserting after subsection (k) the following new subsection:

"(l) SPECIAL RULES FOR REAL ESTATE ACTIVITIES.—

"(1) CERTAIN ACTIVITIES TREATED AS NOT PASSIVE.—

"(A) IN GENERAL.—If the taxpayer meets the requirements of paragraph (2) for the taxable year, all—

"(i) activities consisting of the performance of qualified real estate services, and

"(ii) rental activities with respect to qualified real property,

shall be treated as a single activity which is not a passive activity.

"(B) EXCEPTION.—

"(i) IN GENERAL.—Paragraph (1) shall not apply with respect to any activity with respect to any real property originally placed in service after the date of the enactment of this subsection (whether or not by the taxpayer).

"(ii) SUBSTANTIAL RENOVATIONS.—For purposes of clause (i), any real property substantially renovated after the date of the enactment of this subsection shall be treated as originally placed in service after such date. For purposes of this clause, property shall be treated as substantially renovated if, during any 24-month period beginning after such date, additions to basis with respect to the property exceed an amount equal to the adjusted basis of the property at the beginning of the 24-month period.

"(C) LIMITATION ON INCOME WHICH RENTAL ACTIVITY LOSSES OR CREDITS MAY OFFSET.—The aggregate losses from all activities described in subparagraph (A)(ii) for which a deduction is allowed for any taxable year shall not exceed the sum of—

"(i) the aggregate income from such activities, plus

"(ii) the net income from passive activities to which this subsection does not apply, plus

"(iii) an amount equal to 80 percent of the lesser of—

"(I) the net income from activities described in subparagraph (A)(i), or

"(II) the taxable income of the taxpayer determined without regard to this subsection, without regard to any item of income, gain, loss, or deduction allocable to activities described in subparagraph (A)(ii), and without regard to any net income described in clause (ii).

Any passive activity credits from activities described in subparagraph (A)(ii) shall not be allowed to the extent such credits exceed the regular tax liability of the taxpayer allocable to the amounts described in clauses (i), (ii), and (iii).

"(D) TREATMENT OF SUSPENDED LOSSES AND CREDITS.—In the case of any unused deductions or credits from activities described in subparagraph (A)(ii)—

"(i) subsection (f) shall not apply, but

"(ii) such deductions or credits shall be treated as deductions or credits allocable to such activities for the succeeding taxable year.

"(2) REQUIREMENTS.—A taxpayer meets the requirements of this paragraph for any taxable year if the taxpayer materially participates during such taxable year in activities referred to in clauses (i) and (ii) of paragraph (1)(A) (as determined under subsection (h) by treating all of such activities as a single activity).

"(3) QUALIFIED REAL ESTATE SERVICES.—For purposes of this subsection, the term 'qualified real estate services' means services—

"(A) in the construction, substantial renovation, and management of real property, or

"(B) in the leasing and brokerage of real property, except that such services shall not be taken into account for any taxable year unless the taxpayer performs at least 500 hours of such services.

"(4) QUALIFIED REAL PROPERTY.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified real property' means any real property if during the taxable year the taxpayer actively participates in rental activities with respect to such property.

"(B) ACTIVE PARTICIPATION.—For purposes of subparagraph (A), active participation shall be determined under subsection (i)(6), except that subparagraph (A) thereof shall be applied by substituting 'a de minimis portion' for 'less than 10 percent (by value)'.

"(5) SPECIAL RULE.—For purposes of this subsection—

"(A) NON-OWNER EMPLOYEES.—Qualified real estate services described in paragraph (3)(A) shall not include any services performed by an individual as an employee unless the employee owns more than a de minimis interest in the employer.

"(B) CLOSELY HELD C CORPORATIONS.—This subsection shall not apply to any interests held by a closely held C corporation."

(b) CONFORMING AMENDMENT.—Clause (iv) of section 469(i)(3)(E) is amended by inserting "or any loss allowable by reason of subsection (l)" after "loss".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

PART II—PROVISIONS RELATING TO REAL ESTATE INVESTMENTS BY PENSION FUNDS

SEC. 2211. REAL ESTATE PROPERTY ACQUIRED BY A QUALIFIED ORGANIZATION.

(a) MODIFICATIONS OF EXCEPTIONS.—Paragraph (9) of section 514(c) (relating to real property acquired by a qualified organization) is amended by adding at the end thereof the following new subparagraphs:

"(G) SPECIAL RULES FOR PURPOSES OF THE EXCEPTIONS.—Except as otherwise provided by regulations—

"(i) SMALL LEASES DISREGARDED.—For purposes of clauses (iii) and (iv) of subparagraph (B), a lease to a person described in such clause (iii) or (iv) shall be disregarded if no more than 20 percent of the leasable floor space in a building is covered by the lease and if the lease is on commercially reasonable terms.

"(ii) COMMERCIALLY REASONABLE FINANCING.—Clause (v) of subparagraph (B) shall not apply if the financing is on commercially reasonable terms.

"(H) QUALIFYING SALES BY FINANCIAL INSTITUTIONS.—

"(i) IN GENERAL.—In the case of a qualifying sale by a financial institution, except as provided in regulations, clauses (i) and (ii) of subparagraph (B) shall not apply with respect to financing provided by such institution for such sale.

"(ii) QUALIFYING SALE.—For purposes of this clause, there is a qualifying sale by a financial institution where—

"(I) a qualified organization acquires property described in clause (iii) from a financial institution and the property is not a capital asset in the hands of the financial institution,

"(II) the stated principal amount of the financing provided by the financial institution does not exceed the amount of the outstanding indebtedness (including accrued but unpaid interest) of the financial institution with respect to the property described in clause (iii) immediately before the acquisition referred to in clause (iii) or (v), whichever is applicable, and

"(III) the value (determined as of the time of the sale) of the amount pursuant to the financing that is determined by reference to the revenue, income, or profits derived from the property does not exceed 30 percent of the value of the property (determined as of such time).

"(iii) PROPERTY TO WHICH SUBPARAGRAPH APPLIES.—Property is described in this clause if such property is foreclosure property, or is real property which—

"(I) was acquired by the qualified organization from a financial institution which is in conservatorship or receivership, or from the conservator or receiver of such an institution, and

"(II) was held by the financial institution at the time it entered into conservatorship or receivership.

"(iv) FINANCIAL INSTITUTION.—For purposes of this subparagraph, the term 'financial institution' means—

"(I) any financial institution described in section 581 or 591(a),

"(II) any other corporation which is a direct or indirect subsidiary of an institution referred to in subclause (I) but only if, by virtue of being affiliated with such institution, such other corporation is subject to supervision and examination by a Federal or State agency which regulates institutions referred to in subclause (I), and

"(III) any person acting as a conservator or receiver of an entity referred to in subclause (I) or (II).

"(v) FORECLOSURE PROPERTY.—For purposes of this subparagraph, the term 'foreclosure property' means any real property acquired by the financial institution as the result of having bid on such property at foreclosure, or by operation of an agreement or process of law, after there was a default (or a default was imminent) on indebtedness which such property secured."

(b) CONFORMING AMENDMENT.—Paragraph (9) of section 514(c) is amended—

(1) by adding the following new sentence at the end of subparagraph (A): "For purposes of this paragraph, an interest in a mortgage shall in no event be treated as real property.", and

(2) by striking the last sentence of subparagraph (B).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions on or after February 1, 1992.

SEC. 2212. SPECIAL RULES FOR INVESTMENTS IN PARTNERSHIPS.

(a) MODIFICATION TO ANTI-ABUSE RULES.—Paragraph (9) of section 514(c) (as amended by section 2211) is amended by adding at the end thereof the following new subparagraph:

"(J) PARTNERSHIPS NOT INVOLVING TAX AVOIDANCE.—

"(i) DE MINIMIS RULE FOR CERTAIN LARGE PARTNERSHIPS.—The provisions of subparagraph (B) shall not apply to an investment in a partnership having at least 250 partners if—

"(I) interests in such partnership were offered for sale in an offering registered with the Securities and Exchange Commission,

"(II) at least 50 percent of each class of interests in such partnership is owned by individuals who are not disqualified persons, and

"(III) the principal purpose of partnership allocations is not tax avoidance.

The Secretary may disregard inadvertent failures to meet the requirements of subclause (II).

"(ii) DISQUALIFIED PERSONS.—For purposes of this subparagraph, the term 'disqualified person' means any person described in clause (iii) or (iv) of subparagraph (B) and any person who is not a United States person."

(b) REPEAL OF SPECIAL TREATMENT OF PUBLICLY TRADED PARTNERSHIPS.—Subsection (c) of section 512 is amended—

(1) by striking paragraph (2),

(2) by redesignating paragraph (3) as paragraph (2), and

(3) by striking "paragraph (1) or (2)" in paragraph (2) (as so redesignated) and inserting "paragraph (1)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership interests acquired on or after February 1, 1992.

SEC. 2213. TITLE-HOLDING COMPANIES PERMITTED TO RECEIVE SMALL AMOUNTS OF UNRELATED BUSINESS TAXABLE INCOME.

(a) GENERAL RULE.—Paragraph (25) of section 501(c) is amended by adding at the end thereof the following new subparagraph:

"(G)(i) An organization shall not be treated as failing to be described in this paragraph merely by reason of the receipt of any income which is incidentally derived from the holding of real property.

"(ii) Clause (i) shall not apply if the amount of gross income described in such clause exceeds 10 percent of the organization's gross income for the taxable year unless the organization establishes to the satisfaction of the Secretary that the receipt of gross income described in clause (i) in excess of such limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such income."

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 501(c) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of subparagraph (G) of paragraph (25) shall apply for purposes of this paragraph."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 2214. EXCLUSION FROM UNRELATED BUSINESS TAX OF GAINS FROM CERTAIN PROPERTY.

(a) GENERAL RULE.—Subsection (b) of section 512 (relating to modifications) is amended by adding at the end thereof the following new paragraph:

"(16)(A) Notwithstanding paragraph (5)(B), there shall be excluded all gains or losses from the sale, exchange, or other disposition of any real property described in subparagraph (B) if—

"(i) such property was acquired by the organization from—

"(I) a financial institution described in section 581 or 591(a) which is in conservatorship or receivership, or

"(II) the conservator or receiver of such an institution,

"(ii) such property is designated by the organization within the 6-month period beginning on the date of its acquisition as property held for sale, except that not more than one-third (by value determined as of such date) of property acquired in a single transaction may be so designated,

"(iii) such sale, exchange, or disposition occurs before the later of—

"(I) the date which is 30 months after the date of the acquisition of such property, or

"(II) the date specified by the Secretary in order to assure an orderly disposition of property held by persons described in subparagraph (A), and

"(iv) while such property was held by the organization, such property was not substantially improved or renovated and there were no significant development activities with respect to such property.

"(B) Property is described in this subparagraph if it is real property which—

"(i) was held by the financial institution at the time it entered into conservatorship or receivership, or

"(ii) was foreclosure property (as defined in section 514(c)(9)(H)(v)) which secured indebtedness held by the financial institution at such time.

For purposes of this subparagraph, real property includes an interest in a mortgage."

(b) Effective Date.—The amendment made by subsection (a) shall apply to property acquired on or after February 1, 1992.

SEC. 2215. EXCLUSION FROM UNRELATED BUSINESS TAX OF CERTAIN FEES AND OPTION PREMIUMS.

(a) Loan Commitment Fees.—Paragraph (1) of section 512(b) (relating to modifications) is amended by inserting "amounts received or accrued as consideration for entering into agreements to make loans," before "and annuities".

(b) Option Premiums.—The second sentence of section 512(b)(5) is amended by inserting "or real property" before the period.

(c) Effective Date.—The amendments made by this section shall apply to amounts received on or after February 1, 1992.

SEC. 2216. TREATMENT OF PENSION FUND INVESTMENTS IN REAL ESTATE INVESTMENT TRUSTS.

(a) General Rule.—Subsection (h) of section 856 (relating to closely held determinations) is amended by adding at the end thereof the following new paragraph:

"(3) Treatment of trusts described in section 401(a).—

"(A) Look-thru treatment.—

"(i) In general.—Except as provided in clause (ii), in determining whether the stock ownership requirement of section 542(a)(2) is met for purposes of paragraph (1)(A), any stock held by a qualified trust shall be treated as held directly by its beneficiaries in proportion to their actuarial interests in such trust and shall not be treated as held by such trust.

"(ii) Certain related trusts not eligible.—Clause (i) shall not apply to any qualified trust if one or more disqualified persons (as defined in section 4975(e)(2), without regard to subparagraphs (B) and (I) thereof) with respect to such qualified trust hold in the aggregate 5 percent or more in value of the interests in the real estate investment trust and such real estate investment trust has accumulated earnings and profits attributable to any period for which it did not qualify as a real estate investment trust.

"(B) Coordination with personal holding company rules.—If any entity qualifies as a real estate investment trust for any taxable year by reason of subparagraph (A), such entity shall not be treated as a personal holding company for such taxable year for purposes of part II of subchapter G of this chapter.

"(C) Treatment for purposes of unrelated business tax.—If any qualified trust holds more than 10 percent (by value) of the interests in any pension-held REIT at any time during a taxable year, the trust shall be treated as having for such taxable year gross income from an unrelated trade or business in an amount which bears the same ratio to the aggregate dividends paid (or treated as paid) by the REIT to the trust for the taxable year of the REIT with or within which the taxable year of the trust ends (the 'REIT year') as—

"(i) the gross income of the REIT for the REIT year from unrelated trades or businesses (determined as if the REIT were a qualified trust), bears to

"(ii) the gross income of the REIT for the REIT year.

This subparagraph shall apply only if the ratio determined under the preceding sentence is at least 5 percent.

"(D) Pension-held REIT.—The purposes of subparagraph (C)—

"(i) In general.—A real estate investment trust is a pension-held REIT if such trust would not have qualified as a real estate investment trust but for the provisions of this paragraph and if such trust is predominantly held by qualified trusts.

"(ii) Predominantly held.—For purposes of clause (i), a real estate investment trust is predominantly held by qualified trusts if—

"(I) at least 1 qualified trust holds more than 25 percent (by value) of the interests in such real estate investment trust, or

"(II) 1 or more qualified trusts (each of whom own more than 10 percent by value of the interests in such real estate investment trust) hold in the aggregate more than 50 percent (by value) of the interests in such real estate investment trust.

"(E) Qualified trust.—For purposes of this paragraph, the term 'qualified trust' means any trust described in section 401(a) and exempt from tax under section 501(a)."

(b) Effective Date.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

Subtitle D—Temporary Investment Incentives

SEC. 2301. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992.

(a) In General.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

"(j) Special Allowance for Certain Equipment Acquired in 1992.—

"(1) Additional allowance.—In the case of any qualified equipment—

"(A) the depreciation deduction provided by section 167(a) for the taxable year in which such equipment is placed in service shall include an allowance equal to 10 percent of the adjusted basis of the qualified equipment, and

"(B) the adjusted basis of the qualified equipment shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

Of the aggregate deduction allowable under this paragraph 50 percent shall be allowed for the taxable year in which the property is placed in service and 50 percent shall be allowed for the succeeding taxable year. If the taxpayer disposes of qualified equipment in the taxable year in which placed in service, no deduction shall be allowed under this section for the succeeding taxable year and the adjusted basis of such equipment shall be increased by the amount disallowed.

"(2) Qualified equipment.—For purposes of this subsection—

"(A) In general.—The term 'qualified equipment' means property to which this section applies—

"(i) which is section 1245 property (within the meaning of section 1245(a)(3)),

"(ii) the original use of which commences with the taxpayer on or after February 1, 1992,

"(iii) which is—

"(I) acquired by the taxpayer on or after February 1, 1992, and before January 1, 1993, but only if no written binding contract for the acquisition was in effect before February 1, 1992, or

"(II) acquired by the taxpayer pursuant to a written binding contract which was entered into on or after February 1, 1992, and before January 1, 1993, and

"(iv) which is placed in service by the taxpayer before July 1, 1993.

"(B) Exceptions.—

"(i) Alternative depreciation property.—The term 'qualified equipment' shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

"(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

"(II) after application of section 280F(b) (relating to listed property with limited business use).

"(ii) Election out.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

"(iii) Repaired or reconstructed property.—Except as otherwise provided in regulations, the term 'qualified equipment' shall not include any repaired or reconstructed property.

"(C) Special rules relating to original use.—

"(i) Self-constructed property.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer's own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property on and after February 1, 1992, and before January 1, 1993.

"(ii) Sale-leasebacks.—For purposes of subparagraph (A)(ii), if property—

"(I) is originally placed in service on or after February 1, 1992, by a person, and

"(II) is sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

"(D) Coordination with section 280F.—For purposes of section 280F—

"(i) Automobiles.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified equipment, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i), and decrease each other limitation under subparagraphs (A) and (B) of section 280F(a)(1), to appropriately reflect the amount of the deduction allowable under paragraph (1).

"(ii) Listed property.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2)."

(b) Allowance Against Alternative Minimum Tax.—

(1) In general.—Section 56(a)(1)(A) (relating to depreciation adjustment for alternative minimum tax) is amended by adding at the end the following new clause:

"(iii) Additional allowance for equipment acquired in 1992.—The deduction under section 168(j) shall be allowed."

(2) CONFORMING AMENDMENT.—Clause (i) of section 56(a)(1)(A) is amended by inserting "or (iii)" after "(ii)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service on or after February 1, 1992, in taxable years ending on or after such date.

SEC. 2302. TEMPORARY INCREASE IN AMOUNT OF EXPENSING FOR SMALL BUSINESSES.

Subsection (b) of section 179 is amended by adding at the end thereof the following new paragraph:

"(5) TEMPORARY INCREASE IN LIMITATION.—In the case of any taxable year beginning in 1992 or 1993, paragraph (1) shall be applied by substituting '$20,000' for '$10,000'."

Subtitle E—Extension of Certain Expiring Tax Provisions

SEC. 2401. RESEARCH CREDIT.

(a) IN GENERAL.—Subsection (h) of section 41 (relating to credit for increasing research activities) is amended—

(1) by striking "June 30, 1992" and inserting "June 30, 1993", and

(2) by striking "July 1, 1992" and inserting "July 1, 1993".

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 28(b) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2402. LOW-INCOME HOUSING CREDIT.

(a) CREDIT MADE PERMANENT.—

(1) IN GENERAL.—Section 42 (relating to low-income housing credit) is amended by striking subsection (o).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to periods after June 30, 1992.

(b) MODIFICATIONS.—

(1) CARRYFORWARD RULES.—

(A) IN GENERAL.—Clause (ii) of section 42(h)(3)(D) (relating to unused housing credit carryovers allocated among certain States) is amended by striking "the excess" and all that follows and inserting "the excess (if any) of the unused State housing credit ceiling for the year preceding such year over the aggregate housing credit dollar amount allocated for such year."

(B) CONFORMING AMENDMENT.—The second sentence of section 42(h)(3)(C) (relating to State housing credit ceiling) is amended by striking "clauses (i) and (iii)" and inserting "clauses (i) through (iv)".

(2) 10-YEAR ANTI-CHURNING RULE WAIVER EXPANDED.—Clause (ii) of section 42(d)(6)(B) (defining federally assisted building) is amended by inserting ", 221(d)(4)," after "221(d)(3)".

(3) LIMITATION ON ELIGIBLE BASIS OF UNITS.—Paragraph (5) of section 42(d) (relating to special rules for determining eligible basis) is amended by adding at the end thereof the following new subparagraph:

"(D) MAXIMUM LIMIT PER UNIT.—

"(i) IN GENERAL.—Notwithstanding any other provision of this section, and before the application of subparagraph (C), the eligible basis of each unit of any building shall not exceed $124,875.

"(ii) INFLATION ADJUSTMENT.—For any calendar year beginning after 1992, the dollar amount referred to in clause (i) shall be increased by an amount equal to—

"(I) such dollar amount, multiplied by

"(II) the cost-of-living adjustment determined under section 1(f)(3), for such calendar year.

If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10 (or, if such dollar amount is a multiple of $5, such dollar amount shall be increased to the next higher multiple of $10)."

(4) UNITS WITH CERTAIN FULL-TIME STUDENTS NOT DISQUALIFIED.—Subparagraph (D) of section 42(i) (relating to definitions and special rules) is amended to read as follows:

"(D) CERTAIN STUDENTS NOT TO DISQUALIFY UNIT.—A unit shall not fail to be treated as a low-income unit merely because it is occupied—

"(i) by an individual who is—

"(I) a student and receiving assistance under title IV of the Social Security Act, or

"(II) enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar Federal, State, or local laws, or

"(ii) entirely by full-time students if such students are—

"(I) single parents and their children and such parents and children are not dependents (as defined in section 152) of another individual, or

"(II) married and file a joint return."

(5) TREASURY WAIVERS OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—Subsection (g) of section 42 (relating to qualified low-income housing projects) is amended by adding at the end thereof the following new paragraph:

"(8) WAIVER OF CERTAIN DE MINIMIS ERRORS AND RECERTIFICATIONS.—On application by the taxpayer, the Secretary may waive—

"(A) any recapture under subsection (j) in the case of any de minimis error in complying with paragraph (1), or

"(B) any annual recertification of tenant income for purposes of this subsection, if the entire building is occupied by low-income tenants."

(6) BASIS OF COMMUNITY SERVICE AREAS INCLUDED IN ADJUSTED BASIS.—Paragraph (4) of section 42(d) (relating to special rules relating to determination of adjusted basis) is amended—

(A) by striking "subparagraph (B)" in subparagraph (A) and inserting "subparagraphs (B) and (C)",

(B) by redesignating subparagraph (C) as subparagraph (D), and

(C) by inserting after subparagraph (B) the following new subparagraph:

"(C) BASIS OF PROPERTY IN COMMUNITY SERVICE AREAS INCLUDED.—The adjusted basis of any building located in a qualified census tract shall be determined by taking into account the adjusted basis of property (of a character subject to the allowance for depreciation) used in functionally related and subordinate community activity facilities if—

"(i) the size of the facilities is commensurate with tenant needs,

"(ii) the use of such facilities is predominantly by tenants and employees of the building owner, and

"(iii) not more than 20 percent of the building's eligible basis is attributable to the aggregate basis of such facilities."

(7) EFFECTIVE DATES.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by this subsection shall apply to—

(i) determinations under section 42 of the Internal Revenue Code of 1986 with respect to housing credit dollar amounts allocated from State housing credit ceilings after June 30, 1992, or

(ii) buildings placed in service after June 30, 1992, to the extent paragraph (1) of section 42(h) of such Code does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after such date.

(B) WAIVER AUTHORITY.—The amendments made by paragraphs (2) and (5) shall take effect on the date of the enactment of this Act.

(c) ELECTION TO DETERMINE RENT LIMITATION BASED ON NUMBER OF BEDROOMS.—In the case of a building to which the amendments made by section 7108(e)(1) of the Revenue Reconciliation Act of 1989 did not apply, the taxpayer may elect to have such amendments apply to such building but only with respect to tenants first occupying any unit in the building after the date of the election. Such an election may be made only during the 180 day period beginning on the date of the enactment of this Act, and, once made, shall be irrevocable.

SEC. 2403. TARGETED JOBS CREDIT.

(a) IN GENERAL.—Paragraph (4) of section 51(c) (relating to amount of targeted jobs credit) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after June 30, 1992.

SEC. 2404. QUALIFIED MORTGAGE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 143(a)(1) (defining qualified mortgage bond) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) MORTGAGE CREDIT CERTIFICATES.—Subsection (h) of section 25 is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(c) TREATMENT OF RESALE PRICE CONTROL AND SUBSIDY LIEN PROGRAMS.—Subsection (k) of section 143 is amended by adding at the end thereof the following new paragraph:

"(10) TREATMENT OF RESALE PRICE CONTROL AND SUBSIDY LIEN PROGRAMS.—

"(A) IN GENERAL.—In the case of a residence which is located in a high housing cost area (as defined in section 143(f)(5)), the interest of a governmental unit in such residence by reason of financing provided under any qualified program shall not be taken into account under this section (other than subsection (m)), and the acquisition cost of the residence which is taken into account under subsection (e) shall be such cost reduced by the amount of such financing.

"(B) QUALIFIED PROGRAM.—For purposes of subparagraph (A), the term 'qualified program' means any governmental program providing second mortgage loans—

"(i) which restricts the resale of the residence to a purchaser qualifying under this section and to a price determined by an index that reflects less than the full amount of any appreciation in the residence's value, or

"(ii) which provides for deferred or reduced interest payments on such financing and grants the governmental unit a share in the appreciation of the residence,

but only if such financing is not provided directly or indirectly through the use of any private activity bond."

(d) EFFECTIVE DATES.—

(1) BONDS.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

(2) CERTIFICATES.—The amendment made by subsection (b) shall apply to elections for periods after June 30, 1992.

(3) PROGRAMS.—The amendment made by subsection (c) shall apply to qualified mortgage bonds issued and mortgage credit certificates provided on or after the date of the enactment of this Act.

SEC. 2405. QUALIFIED SMALL ISSUE BONDS.

(a) IN GENERAL.—Subparagraph (B) of section 144(a)(12) (relating to termination dates) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after June 30, 1992.

SEC. 2406. EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) IN GENERAL.—Subsection (d) of section 127 (relating to educational assistance programs) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 103 of the Tax Extension Act of 1991 is amended by striking "1992" each place it appears and inserting "1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2407. EXCISE TAX ON CERTAIN VACCINES.

(a) TAX.—Paragraphs (2) and (3) of section 4131(c) (relating to tax on certain vaccines) are each amended by striking "1992" each place it appears and inserting "1994".

(b) TRUST FUND.—Paragraph (1) of section 9510(c) (relating to expenditures from Vaccine Injury Compensation Trust Fund) is amended by striking "1992" and inserting "1994".

(c) STUDY.—The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, shall conduct a study of—

(1) the estimated amount that will be paid from the Vaccine Injury Compensation Trust Fund with respect to vaccines administered after September 30, 1988, and before October 1, 1994,

(2) the rates of vaccine-related injury or death with respect to the various types of such vaccines,

(3) new vaccines and immunization practices being developed or used for which amounts may be paid from such Trust Fund,

(4) whether additional vaccines should be included in the vaccine injury compensation program, and

(5) the appropriate treatment of vaccines produced by State governmental entities.

The report of such study shall be submitted not later than January 1, 1994, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 2408. EMPLOYER-PROVIDED GROUP LEGAL SERVICES PLANS.

(a) IN GENERAL.—Subsection (e) of section 120 (relating to amounts received under qualified group legal services plans) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 104 of the Tax Extension Act of 1991 is amended by striking "1992" each place it appears and inserting "1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2409. EXTENSION OF ENERGY INVESTMENT CREDIT FOR SOLAR AND GEOTHERMAL PROPERTY.

(a) IN GENERAL.—Subparagraph (B) of section 48(a)(2) (relating to energy percentage) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after June 30, 1992.

SEC. 2410. EXTENSION OF TAX CREDIT FOR ORPHAN DRUG CLINICAL TESTING EXPENSES.

(a) IN GENERAL.—Subsection (e) of section 28 (relating to clinical testing expenses for certain drugs for rare diseases or conditions) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2411. HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) IN GENERAL.—Paragraph (6) of section 162(l) (relating to special rules for health insurance costs of self-employed individuals) is amended by striking "June 30, 1992" and inserting "June 30, 1993".

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 110 of the Tax Extension Act of 1991 is amended by striking "1992" each place it appears and inserting "1993".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after June 30, 1992.

SEC. 2412. CERTAIN TRANSFERS TO RAILROAD RETIREMENT ACCOUNT.

Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) revenue increase transferred to certain railroad accounts) is amended by striking "with respect to benefits received before October 1, 1992".

SEC. 2413. DISCLOSURES OF INFORMATION FOR VETERANS BENEFITS.

(a) IN GENERAL.—Section 6103(l)(7)(D) (relating to program to which rule applies) is amended by striking "September 30, 1992" in the last sentence and inserting "September 30, 1997".

(b) CONFORMING AMENDMENT.—Section 5317(g) of title 38, United States Code, is amended by striking "September 30, 1992" and inserting "September 30, 1997".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on September 30, 1992.

Subtitle F—Modifications to Minimum Tax

SEC. 2501. TEMPORARY REPEAL OF PREFERENCE FOR CHARITABLE CONTRIBUTIONS OF APPRECIATED PROPERTY.

(a) TEMPORARY REPEAL.—

(1) IN GENERAL.—Paragraph (6) of section 57(a) is amended by adding at the end thereof the following new subparagraph:

"(C) APPPLICATION OF PARAGRAPH.—This paragraph shall not apply to any contribution made after December 31, 1991, and before July 1, 1993."

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 57(a)(6) is amended by striking the last sentence.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years ending after December 31, 1991.

(b) ADVANCE DETERMINATION OF VALUE OF CHARITABLE GIFTS.—

(1) IN GENERAL.—The Secretary of the Treasury or his delegate shall develop a procedure under which taxpayers may elect to seek an agreement with the Secretary as to the value of tangible personal property prior to the donation of such property to a qualifying charitable organization if the time limits for the donation and other conditions contained in the agreement are satisfied.

(2) REPORT.—Not later than December 31, 1992, the Secretary of the Treasury shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the development of the procedure referred to in paragraph (1), including the setting of possible threshold amounts for claimed value (and the payment of fees) by a taxpayer in order to seek agreement under the procedure, possible limitations on applying the procedure only to items with significant artistic or cultural value, recommendations for legislative action needed to implement the proposed procedure, and a projected timetable for its implementation.

(c) STUDY OF CORPORATE SPONSORSHIP PAYMENTS.—

(1) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study of the tax treatment of corporate sponsorship payments received by tax-exempt organizations in connection with athletic and other events, including the ramifications of Announcement 92–15, 1992—5 I.R.B. 51.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the results of the study under paragraph (1).

SEC. 2502. ELIMINATION OF ACE DEPRECIATION ADJUSTMENT.

(a) IN GENERAL.—Clause (i) of section 56(g)(4)(A) (relating to depreciation adjustments for computing adjusted current earnings) is amended by adding at the end the following new sentence: "The preceding sentence shall not apply to property placed in service on or after February 1, 1992, and the depreciation deduction with respect to such property shall be determined under the rules of subsection (a)(1)(A)."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service on or after February 1, 1992, in taxable years ending after such date.

(2) COORDINATION WITH TRANSITIONAL RULES.—The amendments made by this section shall not apply to any property to which paragraph (1) of section 56(a) of the Internal Revenue Code of 1986 does not apply by reason of subparagraph (C)(i) of such paragraph (1).

SEC. 2503. MINIMUM TAX TREATMENT OF CERTAIN ENERGY PREFERENCES.

(a) MODIFICATION OF ADJUSTED CURRENT EARNINGS.—Clause (i) of section 56(g)(4)(D) is amended by striking "The" and inserting "In the case of an integrated oil company (as defined in section 291(b)(4)), the".

(b) MODIFICATIONS OF ENERGY PREFERENCE ADJUSTMENT.—

(1) IN GENERAL.—Subparagraph (A) of section 56(h)(3) is amended to read as follows:

"(A) 50 percent of the intangible drilling cost preference, plus".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 56(h) is amended by inserting "(as defined in section 291(b)(4))" after "company".

(B) Paragraph (4) of section 56(h) is amended to read as follows:

"(4) INTANGIBLE DRILLING COST PREFERENCE.—For purposes of this subsection, the term 'intangible drilling cost preference' means the amount by which alternative minimum taxable income would be reduced if it were computed without regard to section 57(a)(2)."

(C) Section 56(h) is amended by striking paragraph (6) and by redesignating paragraphs (7) and (8) as paragraphs (6) and (7).

(c) NET INCOME LIMITATION.—Subparagraph (A) of section 57(a)(2) is amended by adding at the end the following new sentence: "In the case of a taxpayer other than an integrated oil company (as defined in section 291(b)(4)), the preceding sentence shall be applied by substituting '70 percent' for '65 percent'".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

Subtitle G—Repeal of Certain Luxury Excise Taxes; Imposition of Tax on Diesel Fuel Used in Noncommercial Boats

SEC. 2601. REPEAL OF LUXURY EXCISE TAXES OTHER THAN ON PASSENGER VEHICLES.

(a) IN GENERAL.—Subchapter A of chapter 31 (relating to retail excise taxes) is amended to read as follows:

"Subchapter A—Luxury Passenger Automobiles

"Sec. 4001. Imposition of tax.

"Sec. 4002. 1st retail sale; uses, etc. treated as sales; determination of price.

"Sec. 4003. Special rules.

"SEC. 4001. IMPOSITION OF TAX.

"(a) IMPOSITION OF TAX.—There is hereby imposed on the 1st retail sale of any passenger vehicle a tax equal to 10 percent of the price for which so sold to the extent such price exceeds $30,000.

"(b) PASSENGER VEHICLE.—

"(1) IN GENERAL.—For purposes of this subchapter, the term 'passenger vehicle' means any 4-wheeled vehicle—

"(A) which is manufactured primarily for use on public streets, roads, and highways, and

"(B) which is rated at 6,000 pounds unloaded gross vehicle weight or less.

"(2) SPECIAL RULES.—

"(A) TRUCKS AND VANS.—In the case of a truck or van, paragraph (1)(B) shall be applied by substituting 'gross vehicle weight' for 'unloaded gross vehicle weight'.

"(B) LIMOUSINES.—In the case of a limousine, paragraph (1) shall be applied without regard to subparagraph (B) thereof.

"(c) EXCEPTIONS FOR TAXICABS, ETC.—The tax imposed by this section shall not apply to the sale of any passenger vehicle for use by the purchaser exclusively in the active conduct of a trade or business of transporting persons or property for compensation or hire.

"(d) EXEMPTION FOR LAW ENFORCEMENT USES, ETC.—No tax shall be imposed by this section on the sale of any passenger vehicle—

"(1) to the Federal Government, or a State or local government, for use exclusively in police, firefighting, search and rescue, or other law enforcement or public safety activities, or in public works activities, or

"(2) to any person for use exclusively in providing emergency medical services.

"(e) INFLATION ADJUSTMENT.—

"(1) IN GENERAL.—In the case of any calendar year after 1991, the $30,000 amount in subsection (a) and section 4003(a) shall be increased by an amount equal to—

"(A) $30,000, multiplied by

"(B) the cost-of-living adjustment under section 1(f)(3) for such calendar year, determined by substituting 'calendar year 1990' for 'calendar year 1991' in subparagraph (B) thereof.

"(2) ROUNDING.—If any amount as adjusted under paragraph (1) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100 (or, if such amount is a multiple of $50 and not of $100, such amount shall be rounded to the next highest multiple of $100).

"(f) TERMINATION.—The tax imposed by this section shall not apply to any sale or use after December 31, 1999.

"SEC. 4002. 1ST RETAIL SALE; USES, ETC. TREATED AS SALES; DETERMINATION OF PRICE.

"(a) 1ST RETAIL SALE.—For purposes of this subchapter, the term '1st retail sale' means the 1st sale, for a purpose other than resale, after manufacture, production, or importation.

"(b) USE TREATED AS SALE.—

"(1) IN GENERAL.—If any person uses a passenger vehicle (including any use after importation) before the 1st retail sale of such vehicle, then such person shall be liable for tax under this subchapter in the same manner as if such vehicle were sold at retail by him.

"(2) EXEMPTION FOR FURTHER MANUFACTURE.—Paragraph (1) shall not apply to use of a vehicle as material in the manufacture or production of, or as a component part of, another vehicle taxable under this subchapter to be manufactured or produced by him.

"(3) EXEMPTION FOR DEMONSTRATION USE.—Paragraph (1) shall not apply to any use of a passenger vehicle as a demonstrator for a potential customer while the potential customer is in the vehicle.

"(4) EXCEPTION FOR USE AFTER IMPORTATION OF CERTAIN VEHICLES.—Paragraph (1) shall not apply to the use of a vehicle after importation if the user or importer establishes to the satisfaction of the Secretary that the 1st use of the vehicle occurred before January 1, 1991, outside the United States.

"(5) COMPUTATION OF TAX.—In the case of any person made liable for tax by paragraph (1), the tax shall be computed on the price at which similar vehicles are sold at retail in the ordinary course of trade, as determined by the Secretary.

"(c) LEASES CONSIDERED AS SALES.—For purposes of this subchapter—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the lease of a vehicle (including any renewal or any extension of a lease or any subsequent lease of such vehicle) by any person shall be considered a sale of such vehicle at retail.

"(2) SPECIAL RULES FOR LONG-TERM LEASES.—

"(A) TAX NOT IMPOSED ON SALE FOR LEASING IN A QUALIFIED LEASE.—The sale of a passenger vehicle to a person engaged in a passenger vehicle leasing or rental trade or business for leasing by such person in a long-term lease shall not be treated as the 1st retail sale of such vehicle.

"(B) LONG-TERM LEASE.—For purposes of subparagraph (A), the term 'long-term lease' means any long-term lease (as defined in section 4052).

"(C) SPECIAL RULES.—In the case of a long-term lease of a vehicle which is treated as the 1st retail sale of such vehicle—

"(i) DETERMINATION OF PRICE.—The tax under this subchapter shall be computed on the lowest price for which the vehicle is sold by retailers in the ordinary course of trade.

"(ii) PAYMENT OF TAX.—Rules similar to the rules of section 4217(e)(2) shall apply.

"(iii) NO TAX WHERE EXEMPT USE BY LESSEE.—No tax shall be imposed on any lease payment under a long-term lease if the lessee's use of the vehicle under such lease is an exempt use (as defined in section 4003(b)) of such vehicle.

"(d) DETERMINATION OF PRICE.—

"(1) IN GENERAL.—In determining price for purposes of this subchapter—

"(A) there shall be included any charge incident to placing the article in condition ready for use,

"(B) there shall be excluded—

"(i) the amount of the tax imposed by this subchapter,

"(ii) if stated as a separate charge, the amount of any retail sales tax imposed by any State or political subdivision thereof or the District of Columbia, whether the liability for such tax is imposed on the vendor or vendee, and

"(iii) the value of any component of such article if—

"(I) such component is furnished by the 1st user of such article, and

"(II) such component has been used before such furnishing, and

"(C) the price shall be determined without regard to any trade-in.

"(2) OTHER RULES.—Rules similar to the rules of paragraphs (2) and (4) of section 4052(b) shall apply for purposes of this subchapter.

"SEC. 4003. SPECIAL RULES.

"(a) SEPARATE PURCHASE OF VEHICLE AND PARTS AND ACCESSORIES THEREFOR.—Under regulations prescribed by the Secretary—

"(1) IN GENERAL.—Except as provided in paragraph (2), if—

"(A) the owner, lessee, or operator of any passenger vehicle installs (or causes to be installed) any part or accessory on such vehicle, and

"(B) such installation is not later than the date 6 months after the date the vehicle was 1st placed in service,

then there is hereby imposed on such installation a tax equal to 10 percent of the price of such part or accessory and its installation.

"(2) LIMITATION.—The tax imposed by paragraph (1) on the installation of any part or accessory shall not exceed 10 percent of the excess (if any) of—

"(A) the sum of—

"(i) the price of such part or accessory and its installation,

"(ii) the aggregate price of the parts and accessories (and their installation) installed before such part or accessory, plus

"(iii) the price for which the passenger vehicle was sold, over

"(B) $30,000.

"(3) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) the part or accessory installed is a replacement part or accessory,

"(B) the part or accessory is installed to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or

"(C) the aggregate price of the parts and accessories (and their installation) described in paragraph (1) with respect to the vehicle does not exceed $200 (or such other amount or amounts as the Secretary may by regulation prescribe).

"(4) INSTALLERS SECONDARILY LIABLE FOR TAX.—The owners of the trade or business installing the parts or accessories shall be secondarily liable for the tax imposed by this subsection.

"(b) IMPOSITION OF TAX ON SALES, ETC., WITHIN 2 YEARS OF VEHICLES PURCHASED TAX-FREE.—

"(1) IN GENERAL.—If—

"(A) no tax was imposed under this subchapter on the 1st retail sale of any passenger vehicle by reason of its exempt use, and

"(B) within 2 years after the date of such 1st retail sale, such vehicle is resold by the purchaser or such purchaser makes a substantial nonexempt use of such vehicle,

then such sale or use of such vehicle by such purchaser shall be treated as the 1st retail sale of such vehicle for a price equal to its fair market value at the time of such sale or use.

"(2) EXEMPT USE.—For purposes of this subsection, the term 'exempt use' means any use of a vehicle if the 1st retail sale of such vehicle is not taxable under this subchapter by reason of such use.

"(c) PARTS AND ACCESSORIES SOLD WITH TAXABLE ARTICLE.—Parts and accessories sold on, in connection with, or with the sale of any passenger vehicle shall be treated as part of the vehicle.

"(d) PARTIAL PAYMENTS, ETC.—In the case of a contract, sale, or arrangement described in paragraph (2), (3), or (4) of section 4216(c), rules similar to the rules of section 4217(e)(2) shall apply for purposes of this subchapter."

(b) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 4221 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(5) Subsection (d) of section 4222 is amended by striking "4002(b), 4003(c), 4004(a)" and inserting "4001(d)".

(3) The table of subchapters for chapter 31 is amended by striking the item relating to subchapter A and inserting the following:

"Subchapter A. Luxury passenger vehicles."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1992.

SEC. 2602. TAX ON DIESEL FUEL USED IN NONCOMMERCIAL BOATS.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 4092(a) (defining diesel fuel) is amended by striking "or a diesel-powered train" and inserting ", a diesel-powered train, or a diesel-powered boat".

(2) Paragraph (1) of section 4041(a) is amended—

(A) by striking "diesel-powered highway vehicle" each place it appears and inserting "diesel-powered highway vehicle or diesel-powered boat", and

(B) by striking "such vehicle" and inserting "such vehicle or boat".

(3) Subparagraph (B) of section 4092(b)(1) is amended by striking "commercial and non-

commercial vessels'' each place it appears and inserting ''vessels for use in an off-highway business use (as defined in section 6421(e)(2)(B))''.

(b) EXEMPTION FOR USE IN FISHERIES OR COMMERCIAL NAVIGATION.—Subparagraph (B) of section 6421(e)(2) is amended to read as follows:

''(B) USES IN BOATS.—The term 'off-highway business use' does not include any use in a motorboat; except that such term shall include any use in—

''(i) a vessel employed in the fisheries or in the whaling business, and

''(ii) in the case of diesel fuel, a boat in the active conduct of—

''(I) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

''(II) any other trade or business unless the boat is used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement or recreation.''

(c) RETENTION OF TAXES IN GENERAL FUND.—

(1) TAXES IMPOSED AT HIGHWAY TRUST FUND FINANCING RATE.—Paragraph (4) of section 9503(b) (relating to transfers to Highway Trust Fund) is amended—

(A) by striking ''and'' at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting '', and'', and

(C) by adding at the end thereof the following new subparagraph:

''(C) there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered boat.''

(2) TAXES IMPOSED AT LEAKING UNDERGROUND STORAGE TANK TRUST FUND FINANCING RATE.—Subsection (b) of section 9508 (relating to transfers to Leaking Underground Storage Tank Trust Fund) is amended by adding at the end thereof the following new sentence: ''For purposes of this subsection, there shall not be taken into account the taxes imposed by sections 4041 and 4091 on diesel fuel sold for use or used as fuel in a diesel-powered boat.''

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1992.

Subtitle H—Urban Tax Enterprise Zones and Rural Development Investment Zones

SEC. 2701. STATEMENT OF PURPOSE.

It is the purpose of this subtitle to establish a demonstration program of providing incentives for the creation of tax enterprise zones in order—

(1) to revitalize economically and physically distressed areas, primarily by encouraging the formation of new businesses and the retention and expansion of existing businesses,

(2) to promote meaningful employment for tax enterprise zone residents, and

(3) to encourage individuals to reside in the tax enterprise zones in which they are employed.

PART I—DESIGNATION AND TAX INCENTIVES

SEC. 2702. DESIGNATION AND TREATMENT OF URBAN TAX ENTERPRISE ZONES AND RURAL DEVELOPMENT INVESTMENT ZONES.

(a) IN GENERAL.—Chapter 1 (relating to normal taxes and surtaxes) is amended by inserting after subchapter T the following new subchapter:

''Subchapter U—Designation and Treatment of Tax Enterprise Zones

''Part I. Designation of tax enterprise zones.

''Part II. Incentives for tax enterprise zones.

''PART I—DESIGNATION OF TAX ENTERPRISE ZONES

''Sec. 1391. Designation procedure.

''Sec. 1392. Eligibility and selection criteria.

''Sec. 1393. Definitions and special rules.

''SEC. 1391. DESIGNATION PROCEDURE.

''(a) IN GENERAL.—For purposes of this title, the term 'tax enterprise zone' means any area which is, under this part—

''(1) nominated by 1 or more local governments and the State in which it is located for designation as a tax enterprise zone, and

''(2) designated by—

''(A) the Secretary of Housing and Urban Development in the case of an urban tax enterprise zone, and

''(B) the Secretary of Agriculture, in consultation with the Secretary of Commerce, in the case of a rural development investment zone.

''(b) NUMBER OF DESIGNATIONS.—

''(1) AGGREGATE LIMIT.—The appropriate Secretaries may designate in the aggregate 35 nominated areas as tax enterprise zones under this section, subject to the availability of eligible nominated areas. Not more than 10 urban tax enterprise zones may be designated and not more than 25 rural development investment zones may be designated. At least 1 of the designated rural development investment zones shall be within an Indian reservation. Such designations may be made only during the calendar years 1993, 1994, and 1995.

''(2) ANNUAL LIMITS.—

''(A) URBAN TAX ENTERPRISE ZONES.—The number of urban tax enterprise zones designated under paragraph (1)—

''(i) in calendar year 1993 shall not exceed 5,

''(ii) in calendar year 1994 shall not exceed the sum of 3 plus the carryover amount for such year, and

''(iii) in calendar year 1995 shall not exceed the sum of 2 plus the carryover amount for such year.

''(B) RURAL DEVELOPMENT INVESTMENT ZONES.—The number of rural development investment zones designated under paragraph (1)—

''(i) in calendar year 1993 shall not exceed 12,

''(ii) in calendar year 1994 shall not exceed the sum of 7 plus the carryover amount for such year, and

''(iii) in calendar year 1995 shall not exceed the sum of 6 plus the carryover amount for such year.

''(C) CARRYOVER AMOUNT.—For purposes of subparagraphs (A) and (B), the carryover amount for any calendar year shall be equal to the amount by which—

''(i) the limitation under such subparagraph for the preceding calendar year, exceeds

''(ii) the number of designations made under paragraph (1) for the type of tax enterprise zone to which such subparagraph relates in such preceding calendar year.

''(3) ADVANCE DESIGNATIONS PERMITTED.—For purposes of this subchapter, a designation during any calendar year shall be treated as made on January 1 of the following calendar year if the appropriate Secretary, in making such designation, specifies that such designation is effective as of such January 1.

''(c) LIMITATIONS ON DESIGNATIONS.—The appropriate Secretary may not make any designation under subsection (a) unless—

''(1) the local governments and the State in which the nominated area is located have the authority—

''(A) to nominate the area for designation as a tax enterprise zone, and

''(B) to provide assurances satisfactory to the appropriate Secretary that the commitments under section 1392(c) will be fulfilled,

''(2) the local governments and the State in which the nominated area is located—

''(A) have designated a governmental official with responsibility for making allocations under section 1397A (relating to overall limitation on zone incentives), and

''(B) have established procedures to ensure that allocations under section 1397A are made in a manner designed primarily to increase economic activity in the tax enterprise zone over that which would otherwise have occurred,

''(3) a nomination of the area is submitted in a reasonable time before the calendar year for which designation as a tax enterprise zone is sought,

''(4) the appropriate Secretary determines that any information furnished is reasonably accurate, and

''(5) the State and local governments certify that no portion of the area nominated is already included in a tax enterprise zone or in an area otherwise nominated to be a tax enterprise zone.

''(d) PERIOD FOR WHICH DESIGNATION IS IN EFFECT.—

''(1) IN GENERAL.—Any designation of an area as a tax enterprise zone shall remain in effect during the period beginning on the date of the designation and ending on the earliest of—

''(A) December 31 of the 15th calendar year following the calendar year in which such date occurs,

''(B) the termination date designated by the State and local governments as provided for in their nomination, or

''(C) the date the appropriate Secretary revokes the designation under paragraph (2).

''(2) REVOCATION OF DESIGNATION.—

''(A) IN GENERAL.—The appropriate Secretary shall revoke the designation of an area as a tax enterprise zone if such Secretary determines that the local government or the State in which it is located—

''(i) has significantly modified the boundaries of the area, or

''(ii) is not complying substantially with the State and local commitments pursuant to section 1392(c).

''(B) APPLICABLE PROCEDURES.—A designation may be revoked by the appropriate Secretary under subparagraph (A) only after a hearing on the record involving officials of the State or local government involved.

''SEC. 1392. ELIGIBILITY AND SELECTION CRITERIA.

''(a) IN GENERAL.—The appropriate Secretary may make a designation of any nominated area under section 1391 only on the basis of the eligibility and selection criteria set forth in this section.

''(b) ELIGIBILITY CRITERIA.—

''(1) URBAN TAX ENTERPRISE ZONES.—A nominated area which is not a rural area shall be eligible for designation under section 1391 only if it meets the following criteria:

''(A) POPULATION.—The nominated area has a population (as determined by the most recent census data available) of not less than 4,000.

''(B) DISTRESS.—The nominated area is one of pervasive poverty, unemployment, and general distress.

''(C) SIZE.—The nominated area—

''(i) does not exceed 12 square miles,

''(ii) has a boundary which is continuous, or consists of not more than 3 noncontiguous parcels, and

''(iii) is located entirely within 1 State.

''(D) UNEMPLOYMENT RATE.—The unemployment rate (as determined by the appropriate available data) is not less than 1.5 times the national unemployment rate.

''(E) POVERTY RATE.—The poverty rate (as determined by the most recent census data available) for not less than 90 percent of the population census tracts (or where not tracted, the equivalent county divisions as defined by the Bureau of the Census for the purposes of defining poverty areas) within the nominated area is not less than 20 percent.

''(F) COURSE OF ACTION.—There has been adopted for the nominated area a course of ac-

tion which meets the requirements of subsection (c).

"(2) RURAL DEVELOPMENT INVESTMENT ZONES.—A nominated area which is a rural area shall be eligible for designation under section 1391 only if it meets the following criteria:

"(A) POPULATION.—The nominated area has a population (as determined by the most recent census data available) of not less than 1,000.

"(B) DISTRESS.—The nominated area is one of general distress.

"(C) SIZE.—The nominated area—

"(i) does not exceed 10,000 square miles,

"(ii) consists of areas within not more than 4 contiguous counties,

"(iii) has a boundary which is continuous, or consists of not more than 3 noncontiguous parcels, and

"(iv) except in the case of nominated areas located in 1 or more Indian reservations, is located entirely within 1 State.

"(D) ADDITIONAL CRITERIA.—Not less than 2 of the following criteria:

"(i) UNEMPLOYMENT RATE.—The criterion set forth in paragraph (1)(D).

"(ii) POVERTY RATE.—The criterion set forth in paragraph (1)(E).

"(iii) JOB LOSS.—The amount of wages attributable to employment in the area, and subject to tax under section 3301 during the preceding calendar year, is not more than 95 percent of such wages during the 5th preceding calendar year.

"(iv) OUT-MIGRATION.—The population of the area decreased (as determined by the most recent census data available) by 10 percent or more between 1980 and 1990.

"(E) COURSE OF ACTION.—There has been adopted for the nominated area a course of action which meets the requirements of subsection (c).

"(c) REQUIRED STATE AND LOCAL COURSE OF ACTION.—

"(1) IN GENERAL.—No nominated area may be designated as a tax enterprise zone unless the local government and the State in which it is located agree in writing that, during any period during which the area is a tax enterprise zone, the governments will follow a specified course of action designed to reduce the various burdens borne by employers or employees in the area.

"(2) COURSE OF ACTION.—The course of action under paragraph (1) may be implemented by both governments and private nongovernmental entities, may not be funded from proceeds of any Federal program, and may include—

"(A) a reduction of tax rates or fees applying within the tax enterprise zone,

"(B) an increase in the level, or efficiency of delivery, of local public services within the tax enterprise zone,

"(C) actions to reduce, remove, simplify, or streamline government paperwork requirements applicable within the tax enterprise zone,

"(D) the involvement in the program by public authorities or private entities, organizations, neighborhood associations, and community groups, particularly those within the nominated area, including a written commitment to provide jobs and job training for, and technical, financial, or other assistance to, employers, employees, and residents of the nominated area,

"(E) the giving of special preference to contractors owned and operated by members of any minority,

"(F) the gift (or sale at below fair market value) of surplus land in the tax enterprise zone to neighborhood organizations agreeing to operate a business on the land,

"(G) the establishment of a program under which employers within the tax enterprise zone may purchase health insurance for their employees on a pooled basis,

"(H) the establishment of a program to encourage local financial institutions to satisfy their obligations under the Community Reinvestment Act of 1977 (12 U.S.C. 2901 et seq.) by making loans to tax enterprise zone businesses, with emphasis on startup and other small-business concerns (as defined in section 3(a) of the Small Business Act (15 U.S.C. 632(a)),

"(I) the giving of special preference to qualified low-income housing projects located in tax enterprise zones, in the allocation of the State housing credit ceiling applicable under section 42, and

"(J) the giving of special preference to facilities located in tax enterprise zones, in the allocation of the State ceiling on private activity bonds applicable under section 146.

"(3) RECOGNITION OF PAST EFFORTS.—In evaluating courses of action agreed to by any State or local government, the appropriate Secretary shall take into account the past efforts of the State or local government in reducing the various burdens borne by employers and employees in the area involved.

"(4) PROHIBITION OF ASSISTANCE FOR BUSINESS RELOCATIONS.—

"(A) IN GENERAL.—The course of action implemented under paragraph (1) may not include any action to assist any establishment in relocating from 1 area to another area.

"(B) EXCEPTION.—The limitation established in subparagraph (A) shall not be construed to prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary if the appropriate Secretary—

"(i) finds that the establishment of the new branch, affiliate, or subsidiary will not result in an increase in unemployment in the area of original location or in any other area where the existing business entity conducts business operations, and

"(ii) has no reason to believe that the new branch, affiliate, or subsidiary is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where the existing business entity conducts business operations.

"(d) SELECTION CRITERIA.—From among the nominated areas eligible for designation under subsection (b) by the appropriate Secretary, such appropriate Secretary shall make designations of tax enterprise zones on the basis of the following factors (each of which is to be given equal weight):

"(1) STATE AND LOCAL CONTRIBUTIONS.—The strength and quality of the contributions which have been promised as part of the course of action relative to the fiscal ability of the nominating State and local governments.

"(2) IMPLEMENTATION OF COURSE OF ACTION.—The effectiveness and enforceability of the guarantees that the course of action will actually be carried out.

"(3) PRIVATE COMMITMENTS.—The level of commitments by private entities of additional resources and contributions to the economy of the nominated area, including the creation of new or expanded business activities.

"(4) AVERAGE RANKINGS.—The average ranking with respect to—

"(A) the criteria set forth in subparagraphs (D) and (E) of subsection (b)(1), in the case of an area which is not a rural area, or

"(B) the 2 criteria set forth in subsection (b)(2)(D) that give the area a higher average ranking, in the case of a rural area.

"(5) REVITALIZATION POTENTIAL.—The potential for the revitalization of the nominated area as a result of zone designation, taking into account particularly the number of jobs to be created and retained.

"SEC. 1393. DEFINITIONS AND SPECIAL RULES.

For purposes of this subchapter—

"(1) URBAN TAX ENTERPRISE ZONE.—The term 'urban tax enterprise zone' means a tax enterprise zone which meets the requirements of section 1392(b)(1).

"(2) RURAL DEVELOPMENT INVESTMENT ZONE.—The term 'rural development investment zone' means a tax enterprise zone which meets the requirements of section 1392(b)(2).

"(3) GOVERNMENTS.—If more than 1 local government seeks to nominate an area as a tax enterprise zone, any reference to, or requirement of, this subchapter shall apply to all such governments.

"(4) LOCAL GOVERNMENT.—The term 'local government' means—

"(A) any county, city, town, township, parish, village, or other general purpose political subdivision of a State, and

"(B) any combination of political subdivisions described in subparagraph (A) recognized by the appropriate Secretary.

"(5) NOMINATED AREA.—

"(A) IN GENERAL.—The term 'nominated area' means an area which is nominated by 1 or more local governments and the State in which it is located for designation as a tax enterprise zone under this subchapter.

"(B) INDIAN RESERVATIONS.—In the case of a nominated area on an Indian reservation, the reservation governing body (as determined by the Secretary of the Interior) shall be deemed to be both the State and local governments with respect to the area.

"(6) RURAL AREA.—The term 'rural area' means any area which is—

"(A) outside of a metropolitan statistical area (within the meaning of section 143(k)(2)(B)), or

"(B) determined by the Secretary of Agriculture, after consultation with the Secretary of Commerce, to be a rural area.

"(7) APPROPRIATE SECRETARY.—The term 'appropriate Secretary' means—

"(A) the Secretary of Housing and Urban Development in the case of urban tax enterprise zones, and

"(B) the Secretary of Agriculture in the case of rural development investment zones.

"(8) STATE-CHARTERED DEVELOPMENT CORPORATIONS.—An area shall be treated as nominated by a State and a local government if it is nominated by an economic development corporation chartered by the State.

"PART II—INCENTIVES FOR TAX ENTERPRISE ZONES

"SUBPART A. Enterprise zone employment credit.
"SUBPART B. Investment incentives.
"SUBPART C. General provisions.

"Subpart A—Enterprise Zone Employment Credit

"Sec. 1394. Enterprise zone employment credit.
"Sec. 1395. Other definitions and special rules.

"SEC. 1394. ENTERPRISE ZONE EMPLOYMENT CREDIT.

"(a) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—For purposes of section 38, the amount of the enterprise zone employment credit determined under this section with respect to any small employer for any taxable year is 7.5 percent of the qualified zone wages paid or incurred during such taxable year.

"(2) LIMITATION.—The amount of the enterprise zone employment credit of any small employer for any taxable year with respect to any tax enterprise zone shall not exceed the employment credit amount allocated to such employer for such taxable year under section 1397A with respect to such zone.

"(b) QUALIFIED ZONE WAGES.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified zone wages' means any wages paid or incurred by a small employer for services performed by an employee while such employee is a qualified zone employee.

"(2) COORDINATION WITH TARGETED JOBS CREDIT.—The term 'qualified wages' shall not include wages attributable to service rendered during the 1-year period beginning with the day the individual begins work for the employer if any portion of such wages are qualified wages (as defined in section 51(b)).

"(c) QUALIFIED ZONE EMPLOYEE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'qualified zone employee' means, with respect to any period, any employee of a small employer if—

"(A) substantially all of the services performed during such period by such employee for such employer are performed within a tax enterprise zone in a trade or business of the employer, and

"(B) the principal place of abode of such employee while performing such services is within such tax enterprise zone.

"(2) CREDIT ALLOWED ONLY FOR FIRST 5 YEARS.—An employee shall not be treated as a qualified zone employee for any period after the date 5 years after the day on which such employee first began work for the employer (whether or not in a tax enterprise zone).

"(3) INDIVIDUALS RECEIVING WAGES IN EXCESS OF $30,000 NOT ELIGIBLE.—An employee shall not be treated as a qualified zone employee for any taxable year of the employer if the total amount of the wages paid or incurred by such employer to such employee during such taxable year (whether or not for services in a tax enterprise zone) exceeds the amount determined at an annual rate of $30,000. The Secretary shall adjust the $30,000 amount contained in the preceding sentence for years beginning after 1992 at the same time and in the same manner as under section 415(d).

"(4) CERTAIN INDIVIDUALS NOT ELIGIBLE.—The term 'qualified zone employee' shall not include—

"(A) any individual described in subparagraph (A), (B), or (C) of section 51(i)(1), and

"(B) any 5-percent owner (as defined in section 416(i)(1)(B)).

"(d) SMALL EMPLOYER.—For purposes of this section, the term 'small employer' means, with respect to any taxable year, any employer if the average number of individuals employed full-time (within the meaning of the last sentence of section 44(b)) during such taxable year by such employer does not exceed 100.

"(e) EARLY TERMINATION OF EMPLOYMENT BY EMPLOYER.—

"(1) IN GENERAL.—If the employment of any employee is terminated by the taxpayer before the day 1 year after the day on which such employee began work for the employer—

"(A) no wages with respect to such employee shall be taken into account under subsection (a) for the taxable year in which such employment is terminated, and

"(B) the tax under this chapter for the taxable year in which such employment is terminated shall be increased by the aggregate credits (if any) allowed under section 38(a) for prior taxable years by reason of wages taken into account with respect to such employee.

"(2) CARRYBACKS AND CARRYOVERS ADJUSTED.—In the case of any termination of employment to which paragraph (1) applies, the carrybacks and carryovers under section 39 shall be properly adjusted.

"(3) SUBSECTION NOT TO APPLY IN CERTAIN CASES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to—

"(i) a termination of employment of an employee who voluntarily leaves the employment of the taxpayer,

"(ii) a termination of employment of an individual who before the close of the period referred to in paragraph (1) becomes disabled to perform the services of such employment unless such disability is removed before the close of such period and the taxpayer fails to offer reemployment to such individual, or

"(iii) a termination of employment of an individual if it is determined under the applicable State unemployment compensation law that the termination was due to the misconduct of such individual.

"(B) CHANGES IN FORM OF BUSINESS.—For purposes of paragraph (1), the employment relationship between the taxpayer and an employee shall not be treated as terminated—

"(i) by a transaction to which section 381(a) applies if the employee continues to be employed by the acquiring corporation, or

"(ii) by reason of a mere change in the form of conducting the trade or business of the taxpayer if the employee continues to be employed in such trade or business and the taxpayer retains a substantial interest in such trade or business.

"(4) SPECIAL RULE.—Any increase in tax under paragraph (1) shall not be treated as a tax imposed by this chapter for purposes of—

"(A) determining the amount of any credit allowable under this chapter, and

"(B) determining the amount of the tax imposed by section 55.

"SEC. 1395. OTHER DEFINITIONS AND SPECIAL RULES.

"(a) WAGES.—For purposes of this subpart, the term 'wages' has the same meaning as when used in section 51 except that paragraph (4) of section 51(c) shall not apply.

"(b) CONTROLLED GROUPS.—For purposes of this subpart—

"(1) all employers treated as a single employer under subsection (a) or (b) of section 52 shall be treated as a single employer for purposes of this subpart, and

"(2) the credit (if any) determined under section 1394 with respect to each such employer shall be its proportionate share of the wages giving rise to such credit.

"(c) CERTAIN OTHER RULES MADE APPLICABLE.—For purposes of this subpart, rules similar to the rules of section 51(k) and subsections (c), (d), and (e) of section 52 shall apply.

"Subpart B—Investment Incentives

"Sec. 1396. Enterprise zone stock.

"Sec. 1397. Additional first-year depreciation allowance.

"SEC. 1396. ENTERPRISE ZONE STOCK.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a deduction an amount equal to the aggregate amount paid in cash by the taxpayer during the taxable year for the purchase of enterprise zone stock.

"(b) LIMITATIONS.—

"(1) CEILING.—

"(A) IN GENERAL.—The maximum amount allowed as a deduction under subsection (a) to a taxpayer shall not exceed whichever of the following is the least for the taxable year:

"(i) $25,000.

"(ii) The enterprise zone stock amount allocated under section 1397A to the taxpayer for such taxable year.

"(iii) The excess of $250,000 over the amount allowed as a deduction under this section to the taxpayer for all prior taxable years.

"(B) EXCESS AMOUNTS.—If the amount otherwise deductible by any person under subsection (a) exceeds the limitation under subparagraph (A)—

"(i) the amount of such excess shall be treated as an amount paid to which subsection (a) applies during the next taxable year, and

"(ii) the deduction allowed for any taxable year shall be allocated among the enterprise zone stock purchased by such person in accordance with the purchase price per share.

"(2) AGGREGATION WITH FAMILY MEMBERS.—The taxpayer and members of the taxpayer's family (as defined in section 267(c)(4)) shall be treated as one person for purposes of clauses (i) and (iii) of paragraph (1)(A), and the limitations contained in such clauses shall be allocated among the taxpayer and such members in accordance with their respective purchases of enterprise zone stock.

"(c) DISPOSITIONS OF STOCK.—

"(1) GAIN TREATED AS ORDINARY INCOME.—Except as otherwise provided in regulations, if a taxpayer disposes of any enterprise zone stock with respect to which a deduction was allowed under subsection (a), the amount realized on such disposition—

"(A) shall be recognized notwithstanding any other provision of this subtitle, and

"(B) to the extent such amount does not exceed the amount allowed as a deduction under subsection (a) with respect to such stock, shall be treated as ordinary income.

"(2) INTEREST CHARGED IF DISPOSITION WITHIN 5 YEARS OF PURCHASE.—

"(A) IN GENERAL.—If a taxpayer disposes of any enterprise zone stock with respect to which a deduction was allowed under subsection (a) before the end of the 5-year period beginning on the date such stock was purchased by the taxpayer, the tax imposed by this chapter for the taxable year in which such disposition occurs shall be increased by the amount determined under subparagraph (B).

"(B) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the additional amount shall be equal to the amount of interest (determined at the rate applicable under section 6621(a)(2)) that would accrue—

"(i) during the period beginning on the date the stock was purchased by the taxpayer and ending on the date such stock was disposed of by the taxpayer,

"(ii) on an amount equal to the aggregate decrease in tax of the taxpayer resulting from the deduction allowed under this subsection (a) with respect to the stock so disposed of.

"(C) SPECIAL RULE.—Any increase in tax under subparagraph (A) shall not be treated as a tax imposed by this chapter for purposes of—

"(i) determining the amount of any credit allowable under this chapter, and

"(ii) determining the amount of the tax imposed by section 55.

"(3) EXCEPTION FOR TRANSFERS AT DEATH.—This subsection shall not apply to a transfer at death.

"(d) DISQUALIFICATION.—

"(1) ISSUER OR STOCK CEASES TO QUALIFY.—If, during the 10-year period beginning on the date enterprise zone stock was purchased by the taxpayer—

"(A) the issuer of such stock ceases to be a qualified issuer (determined without regard to subsection (f)(1)(C)), or

"(B) the proceeds from the issuance of such stock fail or otherwise cease to be invested by the issuer in qualified enterprise zone property, then, notwithstanding any provision of this subtitle other than paragraph (2), the taxpayer shall be treated for purposes of subsection (c) as disposing of such stock during the taxable year during which such cessation or failure occurs at its fair market value as of 1st day of such taxable year.

"(2) CESSATION OF ENTERPRISE ZONE STATUS NOT TO CAUSE RECAPTURE.—A corporation shall not fail to be treated as a qualified issuer for purposes of paragraph (1) solely by reason of the termination or revocation of a tax enterprise zone designation.

"(e) ENTERPRISE ZONE STOCK.—For purposes of this section,

"(1) IN GENERAL.—The term 'enterprise zone stock' means stock of a corporation if—

"(A) such stock was acquired on original issue from the corporation, and

"(B) such corporation was, at the time of issue, a qualified issuer.

"(2) PROCEEDS MUST BE INVESTED IN QUALIFIED ENTERPRISE ZONE PROPERTY.—Such term shall include such stock only to the extent that the amount of proceeds of such issuance are used by such issuer during the 12-month period beginning on the date of issuance to acquire qualified enterprise zone property.

"(3) $5,000,000 LIMIT.—Not more than $5,000,000 of stock of such corporation and all related persons may be enterprise zone stock.

"(f) QUALIFIED ISSUER.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified issuer' means any domestic C corporation if—

"(A) such corporation does not have more than one class of stock,

"(B) such corporation meets the enterprise zone business requirements of paragraph (2),

"(C) the sum of—

"(i) the money,

"(ii) the aggregate unadjusted bases of property owned by such corporation, and

"(iii) the value of property leased to the corporation (as determined under regulations prescribed by the Secretary),

does not exceed $5,000,000, and

"(D) more than 20 percent of the total voting power, and 20 percent of the total value, of the stock of such corporation is owned by individuals or estates or indirectly by individuals through partnerships or trusts.

"(2) ENTERPRISE ZONE BUSINESS REQUIREMENTS.—

"(A) IN GENERAL.—A corporation meets the enterprise zone business requirements of this paragraph for any taxable year if—

"(i) at least 80 percent of the total gross income of such corporation for the taxable year is derived from the active conduct of a trade or business within a tax enterprise zone,

"(ii) less than 10 percent of the average of the aggregate unadjusted bases of the property of the corporation during such taxable year is attributable to securities (as defined in section 165(g)(2)),

"(iii) substantially all of the use of the tangible property of the corporation (whether owned or leased) is within a tax enterprise zone,

"(iv) substantially all of the services performed for the corporation by the employees of such corporation are performed in a tax enterprise zone, and

"(v) no more than an insubstantial portion of the property of the corporation constitutes collectibles (as defined in section 408(m)(2)), unless such collectibles constitute property held primarily for sale to customers in the ordinary course of such trade or business.

"(B) SPECIAL RULES.—

"(i) RENTAL REAL PROPERTY.—For purposes of subparagraph (A), real property located within a tax enterprise zone and held for use by customers other than related persons shall be treated as the active conduct of a trade or business.

"(ii) EXCESSIVE PROPERTY OR SERVICES PROVIDED TO OR BY RELATED PERSONS.—A corporation shall cease to meet the requirements of this paragraph if—

"(I) more than 50 percent (by value) of the property or services acquired by the corporation during the taxable year are acquired from related persons which do not meet the requirements of this paragraph; or

"(II) more than 50 percent of the gross income of the corporation for the taxable year is attributable to property or services provided to related persons which do not meet the requirements of this paragraph.

"(iii) NEW CORPORATIONS.—In the case of a new corporation, clauses (i) and (ii) of subparagraph (A) shall not apply to the 1st taxable year of such corporation.

"(3) QUALIFIED ENTERPRISE ZONE PROPERTY.—The term 'qualified enterprise zone property' means property to which section 168 applies—

"(A) the original use of which commences with the qualified issuer, and

"(B) substantially all of the use of which is in a tax enterprise zone.

"(4) RELATED PERSON.—A person shall be treated as related to another person if—

"(A) the relationship of such persons is described in sections 267(b) or 707(b)(1), or

"(B) such persons are engaged in trades or businesses under common control (within the meaning of subsections (a) and (b) of section 52).

For purposes of subparagraph (A), in applying sections 267(b) or 707(b)(1), '33 percent' shall be substituted for '50 percent'.

"(g) BASIS ADJUSTMENT.—For purposes of this subtitle, the taxpayer's basis (without regard to this subsection) for the enterprise zone stock shall be reduced by the deduction allowed under subsection (a) with respect to such stock.

"SEC. 1397. ADDITIONAL FIRST-YEAR DEPRECIATION ALLOWANCE.

"(a) IN GENERAL.—In the case of any qualified zone property—

"(1) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 25 percent of the adjusted basis of such property, and

"(2) the adjusted basis of such property shall be reduced by the amount of such allowance before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

"(b) QUALIFIED ZONE PROPERTY.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified zone property' means any property to which section 168 applies—

"(A) which is section 1245 property (as defined in section 1245(a)(3)),

"(B) the original use of which commences with the taxpayer in a tax enterprise zone, and

"(C) substantially all of the use of which is in a tax enterprise zone and is in the active conduct of a trade or business by the taxpayer in such zone.

"(2) EXCEPTION FOR ALTERNATIVE DEPRECIATION PROPERTY.—The term 'qualified zone property' does not include any property to which the alternative depreciation system under section 168(g) applies, determined—

"(A) without regard to section 168(g)(7) (relating to election to use alternative depreciation system), and

"(B) after application of section 280F(b) (relating to listed property with limited business use).

"(c) LIMITATION.—The aggregate adjusted bases of property which may be taken into account under subsection (a) by any taxpayer for any taxable year with respect to any tax enterprise zone shall not exceed the additional first-year depreciation amount allocated to such taxpayer for such taxable year under section 1397A with respect to such zone.

"(d) SPECIAL RULES FOR SALE-LEASEBACKS.—For purposes of subsection (b)(1)(B), if property is sold and leased back by the taxpayer within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback.

"(e) COORDINATION WITH SECTION 280F.—

"(1) AUTOMOBILES.—In the case of a passenger automobile (within the meaning of section 280F(d)(5)) which is qualified zone property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i), and decrease each other limitation under subparagraphs (A) and (B) of section 280F(a)(1), to appropriately reflect the amount of the allowance under subsection (a).

"(2) LISTED PROPERTY.—The allowance under subsection (a) shall be taken into account in computing any recapture amount under section 280F(b)(2).

"(f) COORDINATION WITH SECTION 169(j).—In the case of property for which a deduction would (but for this subsection) be allowable under section 168(j) and this section, section 168(j) shall not apply and this section shall be applied by substituting '40 percent' for '25 percent' in subsection (a).

"Subpart C—General Provisions

"Sec. 1397A. Overall limitation on zone incentives.
"Sec. 1397B. Regulations.

"SEC. 1397A. OVERALL LIMITATION ON ZONE INCENTIVES.

"(a) GENERAL RULE.—The allocating official of each tax enterprise zone shall make allocations of—

"(1) employment credit amounts,

"(2) enterprise zone stock amounts, and

"(3) additional first-year depreciation amounts.

"(b) LIMITATION ON AGGREGATE AMOUNTS ALLOCATED.—

"(1) LIMITATION.—

"(A) IN GENERAL.—No amount may be allocated under subsection (a) by the allocating official of any tax enterprise zone if such allocation would result in the zone limit for the calendar year of the allocation (or any succeeding calendar year) being reduced below zero.

"(B) COORDINATION WITH INCREASE.—For purposes of applying subparagraph (A) to an allocation during any calendar year, it shall be assumed that no increase in the zone limit will be made under paragraph (2)(B) for any succeeding calendar year unless—

"(i) the allocating official provides assurances satisfactory to the Secretary that the zone will be entitled to such an increase for such succeeding calendar year, and

"(ii) the allocating official agrees to such recapture provisions as the Secretary may require in cases where the zone is not entitled to such increase.

"(2) ZONE LIMIT.—For purposes of this section—

"(A) BASIC AMOUNT.—Except as otherwise provided in this paragraph, the zone limit for any tax enterprise zone for any calendar year is—

"(i) $13,000,000 in the case of an urban tax enterprise zone, and

"(ii) $5,000,000 in the case of a rural development investment zone.

"(B) INCREASE IN LIMIT FOR CERTAIN STATE OR LOCAL EXPENDITURES.—

"(i) IN GENERAL.—The amount of the zone limit for any tax enterprise zone for any calendar year shall be increased by the lesser of—

"(I) 10 percent of the limit determined under subparagraph (A), or

"(II) the amount determined under clause (ii) with respect to such zone for such calendar year.

"(ii) AMOUNT OF INCREASE.—For purposes of clause (i), the amount determined under this clause with respect to any tax enterprise zone for any calendar year is the sum of—

"(I) the State and local business incentives with respect to such zone for the preceding calendar year, and

"(II) the qualified State and local governmental expenditures with respect to such zone for the preceding calendar year.

"(C) CARRYOVER OF UNUSED AMOUNTS.—

"(i) IN GENERAL.—Before the end of any calendar year, the allocating official of any tax enterprise zone may elect—

"(I) to reduce the zone limit applicable to such zone for such year, and

"(II) to increase the zone limit applicable to such zone for the succeeding calendar year by an amount equal to such reduction.

"(ii) LIMITATION.—The increase in a zone limit under clause (i)(II) for any calendar year shall not exceed 70 percent of the zone limit otherwise applicable to the tax enterprise zone for such year.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) STATE AND LOCAL BUSINESS INCENTIVES.—The State and local business incentives with respect to any tax enterprise zone for any calendar year is the sum of—

"(i) the aggregate of property tax or sales tax abatements provided during State or local fiscal years ending in such calendar year with respect to otherwise taxable property or sales in such tax enterprise zone,

"(ii) the aggregate grants made by any State or local government during such fiscal years to startup and other small business concerns in such tax enterprise zone, plus

"(iii) 5 percent of the total outstanding balance (as of the close of such fiscal years) of loans made by any State or local government to startup and other small business concerns in such tax enterprise zone.

No amount shall be taken into account under the preceding sentence if such amount consists of assistance which would be prohibited under section 1392(c)(4) (relating to prohibition of assistance for business relocations). No loan shall be taken into account under clause (iii) unless the State or local government bears the risk of any default with respect to such loan.

"(B) QUALIFIED STATE AND LOCAL GOVERNMENTAL EXPENDITURES.—

"(i) IN GENERAL.—The qualified State and local governmental expenditures with respect to any tax enterprise zone for any calendar year shall be the excess (if any) of—

"(I) the specified expenditures during State or local fiscal years ending in such calendar year with respect to such zone, over

"(II) the adjusted base period expenditures for such zone.

"(ii) SPECIFIED EXPENDITURES.—For purposes of this subparagraph, the term 'specified expenditures' means—

"(I) any expenditures by any State or local government for the acquisition, construction, repair, or maintenance of public improvements or facilities in the tax enterprise zone, plus

"(II) any expenditures by any State or local government for police or fire protection to the extent allocable to the tax enterprise zone.

"(iii) ADJUSTED BASE PERIOD EXPENDITURES.—For purposes of this subparagraph, the term 'adjusted base period expenditures' means, with respect to any calendar year—

"(I) the aggregate specified expenditures during State or local fiscal years ending in calendar year 1991 with respect to the tax enterprise zone, increased by

"(II) the cost-of-living adjustment for the calendar year for which the increase is being determined (as determined under section 1(f)(3) by substituting 'calendar year 1990' for 'calendar year 1991' in subparagraph (B) of such section).

"(iv) ADJUSTMENT FOR CERTAIN CAPITAL EXPENDITURES.—For purposes of clause (iii)(I), the appropriate Secretary may disregard any expenditures if such Secretary determines that such expenditures were unusual and not recurring and that inclusion of such expenditures would not be consistent with the purposes of this section.

"(C) DETERMINATIONS BY APPROPRIATE SECRETARY.—The amount of the State and local business incentives and qualified State or local governmental expenditures with respect to any tax enterprise zone for any calendar year shall be determined by the appropriate Secretary with respect to such zone and certified to the Secretary of the Treasury or his delegate.

"(D) SMALL BUSINESS CONCERN.—The term 'small business concern' has the meaning given such term by section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

"(c) ALLOCATION PREFERENCE FOR SMALL BUSINESS CONCERNS.—In making allocations under subsection (a), the allocating official of each tax enterprise zone shall give preference to small business concerns (as defined in subsection (b)(3)(D)).

"(d) OPERATING RULES.—For purposes of this section—

"(1) EMPLOYMENT CREDIT AMOUNT.—Any allocation of an employment credit amount—

"(A) shall specify the employer and taxable year to which such allocation applies, and

"(B) shall reduce the zone limit for the calendar year in which such taxable year begins by 67 cents for each dollar of the amount so allocated.

"(2) ENTERPRISE ZONE STOCK AMOUNT.—Any allocation of an enterprise zone stock amount—

"(A) shall specify the stock purchases to which the allocation relates, and

"(B) shall reduce the zone limit for the calendar year in which such taxable year begins by 35 cents for each dollar of the amount so allocated.

"(3) ADDITIONAL FIRST-YEAR DEPRECIATION AMOUNT.—Any allocation of an additional first-year depreciation amount—

"(A) shall specify the adjusted basis of the property to which such allocation applies, and

"(B) shall reduce the zone limit for the calendar year in which the property is placed in service by 1.5 cents for each dollar so allocated.

"(e) RETROACTIVE ALLOCATIONS NOT EFFECTIVE.—

"(1) IN GENERAL.—No retroactive allocation under subsection (a) shall be effective.

"(2) RETROACTIVE ALLOCATION.—For purposes of subsection (a), the term 'retroactive allocation' means any allocation of—

"(A) an employment credit amount after the beginning of the taxable year to which such allocation applies,

"(B) an enterprise zone stock amount after the stock involved is acquired, or

"(C) an additional first-year depreciation amount after the property involved is placed in service.

"(f) ALLOCATING OFFICIAL.—For purposes of this section, the term 'allocating official' means the official designated as provided in section 1391(c)(2) as the official responsible for making allocations under this section.

"SEC. 1397B. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including—

"(1) regulations limiting the benefit of this part in circumstances where such benefits, in combination with benefits provided under other Federal programs, would result in an activity being 100 percent or more subsidized by the Federal Government, and

"(2) regulations preventing avoidance of the provisions of this part."

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 1 is amended by inserting after the item relating to subchapter T the following new item:

"Subchapter U. Designation and treatment of
tax enterprise zones."

SEC. 2703. TECHNICAL AND CONFORMING AMENDMENTS.

(a) ALTERNATIVE MINIMUM TAX.—

(1) ENTERPRISE ZONE STOCK.—Subsection (b) of section 56 (relating to adjustments to the alternative minimum taxable income of individuals) is amended by adding at the end thereof the following new paragraph:

"(4) ENTERPRISE ZONE STOCK.—Section 1396 shall not apply."

(2) ADDITIONAL FIRST-YEAR DEPRECIATION.—Subparagraph (A) of section 56(a)(1) (relating to adjustments in computing alternative minimum taxable income), as amended by section 2002, is amended—

(A) in clause (i), by striking "or (iii)" and inserting ", (iii), or (iv)", and

(B) by adding at the end thereof the following new clause:

"(iv) ADDITIONAL FIRST-YEAR DEPRECIATION FOR QUALIFIED TAX ENTERPRISE ZONE PROPERTY.—The allowance provided by section 1397(a) for qualified zone property shall be allowed."

(b) ENTERPRISE ZONE EMPLOYMENT CREDIT PART OF GENERAL BUSINESS CREDIT.—Subsection (b) of section 38 (relating to current year business credit) is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end the following new paragraph:

"(8) in the case of a small employer (as defined in section 1394(d)), the enterprise zone employment credit determined under section 1394(a)."

(c) DENIAL OF DEDUCTION FOR PORTION OF WAGES EQUAL TO ENTERPRISE ZONE EMPLOYMENT CREDIT.—

(1) Subsection (a) of section 280C (relating to rule for targeted jobs credit) is amended—

(A) by striking "the amount of the credit determined for the taxable year under section 51(a)" and inserting "the sum of the credits determined for the taxable year under sections 51(a) and 1394(a)", and

(B) by striking "TARGETED JOBS CREDIT" in the subsection heading and inserting "EMPLOYMENT CREDITS".

(2) Subsection (c) of section 196 (relating to deduction for certain unused business credits) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end the following new paragraph:

"(6) the enterprise zone employment credit determined under section 1394(a)."

(d) OTHER AMENDMENTS.—

(1) Subsection (c) of section 381 (relating to carryovers in certain corporate acquisitions) is amended by adding at the end the following new paragraph:

"(26) ENTERPRISE ZONE PROVISIONS.—The acquiring corporation shall take into account (to the extent proper to carry out the purposes of this section and subchapter U, and under such regulations as may be prescribed by the Secretary) the items required to be taken into account for purposes of subchapter U in respect of the distributor or transferor corporation."

(2) Paragraph (1) of section 1371(d) (relating to coordination with investment credit recapture) is amended by inserting before the period at the end the following "and for purposes of sections 1394(e)(3)".

(3) Subsection (a) of section 1016 (relating to adjustments to basis) is amended by striking "and" at the end of paragraph (23); by striking the period at the end of paragraph (24) and inserting "; and"; and by adding at the end thereof the following new paragraph:

"(25) to the extent provided in section 1396(g), in the case of stock with respect to which a deduction was allowed under section 1396(a).".

SEC. 2704. EFFECTIVE DATE.

(a) GENERAL RULE.—The amendments made by this part shall take effect on the date of the enactment of this Act.

(b) REQUIREMENT FOR REGULATIONS.—Not later than the date 4 months after the date of

the enactment of this Act, the appropriate Secretaries shall issue regulations—

(1) establishing the procedures for nominating areas for designation as tax enterprise zones,

(2) establishing a method for comparing the factors listed in section 1392(d) of the Internal Revenue Code of 1986 (as added by this part), and

(3) establishing recordkeeping requirements necessary or appropriate to assist the studies required by part III.

PART II—STUDIES

SEC. 2711. STUDIES OF EFFECTIVENESS OF TAX ENTERPRISE ZONE INCENTIVES.

(a) IN GENERAL.—The Secretary of the Treasury and the Comptroller General shall each conduct studies of the effectiveness of the incentives provided by this subtitle in achieving the purposes of this subtitle in tax enterprise zones.

(b) REPORTS.—The Secretary of the Treasury and the Comptroller General shall each submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(1) not later than July 1, 1996, an interim report setting forth the findings as a result of such studies, and

(2) not later than July 1, 2001, a final report setting forth the findings as a result of such studies.

TITLE III—REVENUE PROVISIONS

Subtitle A—Treatment of Wealthy Individuals

SEC. 3001. INCREASE IN TOP MARGINAL RATE UNDER SECTION 1.

(a) GENERAL RULE.—Section 1 (relating to tax imposed) is amended by striking subsections (a) through (e) and inserting the following:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of—

"(1) every married individual (as defined in section 7703) who makes a single return jointly with his spouse under section 6013, and

"(2) every surviving spouse (as defined in section 2(a)),

a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $35,800	15% of taxable income.
Over $35,800 but not over $86,500.	$5,370, plus 28% of the excess over $35,800.
Over $86,500 but not over $140,000.	$19,566, plus 31% of the excess over $86,500.
Over $140,000	$36,151, plus 36% of the excess over $140,000.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every head of a household (as defined in section 2(b)) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $28,750	15% of taxable income.
Over $28,750 but not over $74,150.	$4,312.50, plus 28% of the excess over $28,750.
Over $74,150 but not over $127,500.	$17,024.50, plus 31% of the excess over $74,150.
Over $127,500	$33,563, plus 36% of the excess over $127,500.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 7703) a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $21,450	15% of taxable income.
Over $21,450 but not over $51,900.	$3,217.50, plus 28% of the excess over $21,450.
Over $51,900 but not over $115,000.	$11,743.50, plus 31% of the excess over $51,900.
Over $115,000	$31,304.50, plus 36% of the excess over $115,000.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 7703) who does not make a single return jointly with his spouse under section 6013, a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $17,900	15% of taxable income.
Over $17,900 but not over $43,250.	$2,685, plus 28% of the excess over $17,900.
Over $43,250 but not over $70,500.	$9,783, plus 31% of the excess over $43,250.
Over $70,500	$18,075.50, plus 36% of the excess over $87,500.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of—

"(1) every estate, and

"(2) every trust,

taxable under this subsection a tax determined in accordance with the following table:

"If taxable income is:	The tax is:
Not over $3,000	15% of taxable income.
Over $3,000	$450, plus 28% of the excess over $3,000.
Over $5,000 but not over $7,000.	$1,010, plus 31% of the excess over $5,000.
Over $7,000	$1,630, plus 36% of the excess over $7,000.

(b) CONFORMING AMENDMENTS.—

(1) Section 541 is amended by striking "28 percent" and inserting "36 percent".

(2)(A) Subsection (f) of section 1 is amended—

(i) by striking "1990" in paragraph (1) and inserting "1992", and

(ii) by striking "1989" in paragraph (3)(B) and inserting "1991".

(B) Subparagraph (B) of section 32(i)(1) is amended by striking "1989" and inserting "1991".

(C) Subparagraph (C) of section 41(e)(5) is amended by striking "1989" each place it appears and inserting "1991".

(D) Subparagraph (B) of section 63(c)(4) is amended by striking "1989" and inserting "1991".

(E) Subparagraph (B) of section 68(b)(2) is amended by striking "1989" and inserting "1991".

(F) Subparagraphs (A)(ii) and (B)(ii) of section 151(d)(4) are each amended by striking "1989" and inserting "1991".

(G) Clause (ii) of section 513(h)(2)(C) is amended by striking "1989" and inserting "1991".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3002. SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000.

(a) GENERAL RULE.—Subchapter A of chapter 1 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—SURTAX ON INDIVIDUALS WITH INCOMES OVER $1,000,000

"Sec. 59B. Surtax on section 1 tax.

"Sec. 59C. Surtax on minimum tax.

"Sec. 59D. Special rules.

"SEC. 59B. SURTAX ON SECTION 1 TAX.

"In the case of an individual who has taxable income for the taxable year in excess of $1,000,000, the amount of the tax imposed under section 1 for such taxable year shall be increased by 10 percent of the amount which bears the same ratio to the tax imposed under section 1 (determined without regard to this section) as—

"(1) the amount by which the taxable income of such individual for such taxable year exceeds $1,000,000, bears to

"(2) the total amount of such individual's taxable income for such taxable year.

"SEC. 59C. SURTAX ON MINIMUM TAX.

"In the case of an individual who has alternative minimum taxable income for the taxable year in excess of $1,000,000, the amount of the tentative minimum tax determined under section 55 for such taxable year shall be increased by 2.4 percent of the amount by which the alternative minimum taxable income of such taxpayer for the taxable year exceeds $1,000,000.

"SEC. 59D. SPECIAL RULES.

"(a) SURTAX TO APPLY TO ESTATES AND TRUSTS.—For purposes of this part, the term 'individual' includes any estate or trust taxable under section 1.

"(b) TREATMENT OF MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—In the case of a married individual (within the meaning of section 7703) filing a separate return for the taxable year, sections 59B and 59C shall be applied by substituting '$500,000' for '$1,000,000'.

"(c) COORDINATION WITH OTHER PROVISIONS.—The provisions of this part—

"(1) shall be applied after the application of section 1(h), but

"(2) before the application of any other provision of this title which refers to the amount of tax imposed by section 1 or 55, as the case may be."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 is amended by adding at the end the following new item:

"Part VIII. Surtax on individuals with incomes over $1,000,000."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 3003. 2-YEAR EXTENSION OF OVERALL LIMITATION ON ITEMIZED DEDUCTIONS FOR HIGH-INCOME TAXPAYERS.

Subsection (f) of section 68 (relating to overall limitation on itemized deductions) is amended by striking "1995" and inserting "1997".

SEC. 3004. EXTENSION OF PHASEOUT OF PERSONAL EXEMPTION OF HIGH-INCOME TAXPAYERS.

Section 151(d)(3) (relating to phaseout of personal exemption) is amended by striking subparagraph (E).

SEC. 3005. DISALLOWANCE OF DEDUCTION FOR CERTAIN EMPLOYEE REMUNERATION IN EXCESS OF $1,000,000.

(a) GENERAL RULE.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) CERTAIN EXCESSIVE EMPLOYEE REMUNERATION.—

"(1) IN GENERAL.—No deduction shall be allowed under this chapter for employee remuneration with respect to any covered employee to the extent that the amount of such remuneration for the taxable year with respect to such employee exceeds $1,000,000.

"(2) COVERED EMPLOYEE.—For purposes of this subsection—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'covered employee' means any employee of the taxpayer who is an officer of the taxpayer.

"(B) EXCEPTION FOR EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATIONS.—The term 'covered employee' shall not include any employee-owner (as defined in section 269A(b)) of a personal service corporation (as defined in section 269A(b)).

"(C) FORMER EMPLOYEES.—The term 'covered employee' includes any former employee who had been a covered employee at any time while performing services for the taxpayer.

"(3) EMPLOYEE REMUNERATION.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'employee remuneration' means, with respect to any covered employee for any taxable year, the aggregate amount allowable as a deduction under this chapter for such taxable year (determined without regard to this subsection) for remuneration for services performed by such employee (whether or not during the taxable year).

"(B) REMUNERATION.—For purposes of subparagraph (A), the term 'remuneration' includes any remuneration (including benefits) in any medium other than cash, but shall not include—

"(i) any payment referred to in so much of section 3121(a)(5) as precedes subparagraph (E) thereof,

"(ii) amounts referred to in section 3121(a)(19), and

"(iii) any benefit provided to or on behalf of an employee if at the time such benefit is provided it is reasonable to believe that the employee will be able to exclude such benefit from gross income under section 132.

"(4) TREATMENT OF CERTAIN EMPLOYERS.—

"(A) IN GENERAL.—All employers treated as a single employer under subsection (a) or (b) of section 52 or subsection (m) or (n) of section 414 shall be treated as a single employer for purposes of this subsection.

"(B) CLARIFICATION OF OFFICER DEFINITION.—Any officer of any of the employers treated as a single employer under subparagraph (A) shall be treated as an officer of such single employer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

SEC. 3006. ELIMINATION OF DEDUCTION FOR CLUB MEMBERSHIP FEES.

(a) IN GENERAL.—Section 162 (relating to trade or business expenses), as amended by sections 3005 and title IV, is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) CLUB MEMBERSHIP DUES.—No deduction shall be allowed under this chapter for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to dues paid after the date of the enactment of this Act.

Subtitle B—Administrative Provisions

SEC. 3101. INDIVIDUAL ESTIMATED TAX PROVISIONS.

(a) GENERAL RULE.—Paragraph (1) of section 6654(d) (relating to amount of required installment) is amended—

(1) by striking "100 percent" in subparagraph (B)(ii) and inserting "115 percent", and

(2) by striking subparagraphs (C), (D), (E), and (F).

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

(2) SPECIAL RULE FOR 1ST INSTALLMENT IN 1992.—The amendment made by subsection (a) shall not apply for purposes of determining the amount of the 1st required installment for any taxable year beginning in 1992. Any reduction in an installment by reason of the preceding sentence shall be recaptured by increasing the amount of the 1st succeeding required installment by the amount of such reduction.

SEC. 3102. CORPORATE ESTIMATED TAX PROVISIONS.

(a) GENERAL RULE.—Subsection (d) of section 6655 (relating to amount of required installments) is amended—

(1) by striking "90 percent" each place it appears in paragraph (1)(B)(i) and inserting "95 percent",

(2) by striking "90 PERCENT" in the heading of paragraph (2) and inserting "95 PERCENT", and

(3) by striking paragraph (3).

(b) CONFORMING AMENDMENTS.—

(1) Clause (ii) of section 6655(e)(2)(B) is amended by striking the table contained therein and inserting in lieu thereof:

"In the case of the following required installments:	**The applicable percentage is:**
1st	23.75
2nd	47.5
3rd	71.25
4th	95."

(2) Clause (i) of section 6655(e)(3)(A) is amended by striking "90 percent" and inserting "95 percent".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 3103. DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS OF TAX.

(a) GENERAL RULE.—Subsection (e) of section 6611 is amended to read as follows:

"(e) DISALLOWANCE OF INTEREST ON CERTAIN OVERPAYMENTS.—

"(1) REFUNDS WITHIN 45 DAYS AFTER RETURN IS FILED.—If any overpayment of tax imposed by this title is refunded within 45 days after the last day prescribed for filing the return of such tax (determined without regard to any extension of time for filing the return) or, in the case of a return filed after such last date, is refunded within 45 days after the date the return is filed, no interest shall be allowed under subsection (a) on such overpayment.

"(2) REFUNDS AFTER CLAIM FOR CREDIT OR REFUND.—If—

"(A) the taxpayer files a claim for a credit or refund for any overpayment of tax imposed by this title, and

"(B) such overpayment is refunded within 45 days after such claim is filed,

no interest shall be allowed on such overpayment from the date the claim is filed until the day the refund is made.

"(3) IRS INITIATED ADJUSTMENTS.—Notwithstanding any other provision, if an adjustment, initiated by or on behalf of the Secretary, results in a refund or credit of an overpayment, interest on such overpayment shall be computed by subtracting 45 days from the number of days interest would otherwise be allowed with respect to such overpayment."

(b) EFFECTIVE DATES.—

(1) Paragraph (1) of section 6611(e) of the Internal Revenue Code of 1986 (as amended by subsection (a)) shall apply in the case of returns the due date for which (determined without regard to extensions) is on or after July 1, 1992.

(2) Paragraph (2) of section 6611(e) of such Code (as so amended) shall apply in the case of claims for credit or refund of any overpayment filed on or after July 1, 1992 regardless of the taxable period to which such refund relates.

(3) Paragraph (3) of section 6611(e) of such Code (as so amended) shall apply in the case of any refund paid on or after July 1, 1992 regardless of the taxable period to which such refund relates.

SEC. 3104. INFORMATION REPORTING WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING.

(a) GENERAL RULE.—Section 6109 (relating to identifying numbers) is amended by adding at the end thereof the following new subsection:

"(f) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO CERTAIN SELLER-PROVIDED FINANCING.—

"(1) PAYOR.—If any taxpayer claims a deduction under section 163 for qualified residence interest on any seller-provided financing, such taxpayer shall include on the return claiming such deduction the name, address, and TIN of the person to whom such interest is paid or accrued.

"(2) RECIPIENT.—If any person receives or accrues interest referred to in paragraph (1), such person shall include on the return for the taxable year in which such interest is so received or accrued the name, address, and TIN of the person liable for such interest.

"(3) FURNISHING OF INFORMATION BETWEEN PAYOR AND RECIPIENT.—If any person is required to include the TIN of another person on a return under paragraph (1) or (2), such other person shall furnish his TIN to such person.

"(4) SELLER-PROVIDED FINANCING.—For purposes of this subsection, the term 'seller-provided financing' means any indebtedness incurred in acquiring any residence if the person to whom such indebtedness is owed is the person from whom such residence was acquired.".

(b) PENALTY.—Paragraph (3) of section 6724(d) (relating to specified information reporting requirement) is amended by striking "and" at the end of subparagraph (C), by striking the period at the end of subparagraph (D) and inserting ", and", and by adding at the end thereof the following new subparagraph:

"(E) any requirement under section 6109(f) that—

"(i) a person include on his return the name, address, and TIN of another person, or

"(ii) a person furnish his TIN to another person."

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1991.

Subtitle C—Other Revenue Provisions

SEC. 3201. CLARIFICATION OF TREATMENT OF CERTAIN FSLIC FINANCIAL ASSISTANCE.

(a) GENERAL RULE.—For purposes of chapter 1 of the Internal Revenue Code of 1986—

(1) any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of any asset shall be taken into account as compensation for such loss for purposes of section 165 of such Code, and

(2) any FSLIC assistance with respect to any debt shall be taken into account for purposes of section 166, 585, or 593 of such Code in determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts arising from the worthlessness or partial worthlessness of such debts.

(b) FSLIC ASSISTANCE.—For purposes of this section, the term "FSLIC assistance" means any assistance (or right to assistance) with respect to a domestic building and loan association (as defined in section 7701(a)(19) of such Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection—

(A) The provisions of this section shall apply to taxable years ending after March 4, 1991, but only with respect to FSLIC assistance not credited before March 4, 1991.

(B) If any FSLIC assistance not credited before March 4, 1991, is with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991, for purposes of determining the amount of any net operating loss carryover to a taxable year ending after on or after March 4, 1991, the provisions of this section shall apply to such assistance for purposes of determining the amount of the net operating loss for the taxable year in which such loss was sustained or debt written off. Except as provided in the preceding sentence, this section shall not apply to any FSLIC assistance with respect to a loss sustained or charge-off in a taxable year ending before March 4, 1991.

(2) EXCEPTIONS.—The provisions of this section shall not apply to any assistance to which the amendments made by section 1401(a)(3) of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 apply.

SEC. 3202. INCREASE IN RECOVERY PERIOD FOR REAL PROPERTY.

(a) GENERAL RULE.—Paragraph (1) of section 168(c) is amended by striking the items relating to residential rental property and nonresidential real property and inserting the following:

"Low income housing	27.5 years
Residential rental property other than low income housing	31 years
Nonresidential real property	40 years."

(b) CONFORMING AMENDMENT.—Paragraph (2) of section 168(e) is amended by adding at the end thereof the following new subparagraph:

"(C) LOW INCOME HOUSING.—The term 'low income housing' means any property with respect to which the credit under section 42 is allowable."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service by the taxpayer after February 12, 1992.

(2) EXCEPTION.—The amendments made by this section shall not apply to property placed in service by the taxpayer before January 1, 1995, if—

(A) the taxpayer or a qualified person entered into a binding written contract to purchase or construct such property before February 13, 1992, or

(B) the construction of such property was commenced by or for the taxpayer or a qualified person before February 13, 1992.

For purposes of this paragraph, the term "qualified person" means any person who transfers his rights in such a contract or such property to the taxpayer but only if the property is not placed in service by such person before such rights are transferred to the taxpayer.

SEC. 3203. MODIFICATIONS TO DEDUCTION FOR MOVING EXPENSES.

(a) INCREASE IN MILEAGE REQUIREMENTS.—Paragraph (1) of section 217(c) (relating to conditions for allowance of moving expense deduction) is amended by striking "35 miles" each place it appears and inserting "75 miles".

(b) SIMPLIFICATION OF DOLLAR LIMITATIONS.—

(1) IN GENERAL.—Paragraph (3) of section 217(b) is amended by striking subparagraphs (A) and (B) and inserting the following:

"(A) DOLLAR LIMIT.—The aggregate amount allowable as a deduction under subsection (a) in connection with a commencement of work which is attributable to expenses described in subparagraph (C), (D), or (E) of paragraph (1) shall not exceed $3,000.

"(B) HUSBAND AND WIFE.—If a husband and wife both commence work at a new principal place of work within the same general location, subparagraph (A) shall be applied as if there was only 1 commencement of work. In the case of a husband and wife filing separate returns, subparagraph (A) shall be applied by substituting '$1,500' for '$3,000'."

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 217(h) is amended—

(A) by striking "by substituting '$4,500' for '$1,000' and" in subparagraph (B), and

(B) by striking "by substituting "$2,250' for '$4,500', and" in subparagraph (C).

(c) REIMBURSED MOVING EXPENSES ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—

(1) IN GENERAL.—Subsection (a) of section 62 is amended by inserting after paragraph (13) the following new paragraph:

"(14) REIMBURSED MOVING EXPENSES.—The deduction allowed under section 217 for expenses in connection with any commencement of work by the taxpayer to the extent that the deduction so allowed for such expenses does not exceed the reimbursements (or other payments) included in gross income under section 82 with respect to expenses in connection with such commencement of work."

(2) UNREIMBURSED EXPENSES SUBJECT TO 2 PERCENT FLOOR.—Subsection (b) of section 67 is amended by striking paragraph (6) and redesignating the following paragraphs accordingly.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses paid or incurred after the date of the enactment of this Act.

SEC. 3204. MARK TO MARKET INVENTORY METHOD FOR SECURITIES DEALERS.

(a) GENERAL RULE.—Subpart D of part II of subchapter E of chapter 1 (relating to inventories) is amended by adding at the end thereof the following new section:

"SEC. 475. MARK TO MARKET ACCOUNTING METHOD FOR DEALERS IN SECURITIES.

"(a) GENERAL RULE.—Notwithstanding any other provision of this subpart, the following rules shall apply to securities held by a dealer in securities:

"(1) Any security which is inventory in the hands of the dealer shall be included in inventory at its fair market value.

"(2) In the case of any security which is not inventory in the hands of the dealer and which is held at the close of any taxable year—

"(A) the dealer shall recognize gain or loss as if such security were sold for its fair market value on the last business day of such taxable year, and

"(B) any gain or loss shall be taken into account for such taxable year.

Proper adjustment shall be made in the amount of any gain or loss subsequently realized for gain or loss taken into account under the preceding sentence. The Secretary may provide by regulations for the application of this paragraph at times other than the times provided in this paragraph.

"(b) EXCEPTIONS.—

"(1) IN GENERAL.—Subsection (a) shall not apply to—

"(A) any security held for investment,

"(B) any security described in subsection (c)(2)(C) which is originated or acquired by the taxpayer in the ordinary course of a trade or business of the taxpayer and which is not held for sale, and

"(C) any security which is a hedge with respect to—

"(i) a security to which subsection (a) does not apply, or

"(ii) a position, right to income, or a liability which is not a security in the hands of the taxpayer.

Subparagraph (C) shall not apply to any security held by a person in its capacity as a dealer in securities.

"(2) IDENTIFICATION REQUIRED.—Any security shall not be treated as described in subparagraph (A), (B), or (C) of paragraph (1), as the case may be, unless such security is clearly identified in the dealer's records as being described in such subparagraph before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) SECURITIES SUBSEQUENTLY NOT EXEMPT.—If a security ceases to be described in paragraph (1) at any time after it was identified as such under paragraph (2), subsection (a) shall apply to such security as of the time such cessation occurs.

"(4) SPECIAL RULE FOR PROPERTY HELD FOR INVESTMENT.—To the extent provided in regulations, subparagraph (A) of paragraph (1) shall not apply to any security described in subparagraph (D) or (E) of subsection (c)(2) which is held by a dealer in such securities.

"(c) DEFINITIONS.—For purposes of this section—

"(1) DEALER IN SECURITIES DEFINED.—The term 'dealer in securities' means a taxpayer who—

"(A) regularly purchases securities from or sells securities to customers in the ordinary course of a trade or business; or

"(B) regularly offers to enter into, assume, offset, assign or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

"(2) SECURITY DEFINED.—The term 'security' means any—

"(A) share of stock in a corporation;

"(B) partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust;

"(C) note, bond, debenture, or other evidence of indebtedness;

"(D) interest rate, currency, or equity notional principal contract;

"(E) evidence of an interest in, or a derivative financial instrument in, any security described in subparagraph (A), (B), (C), or (D), or any currency, including any option, forward contract, short position, and any similar financial instrument in such a security or currency (but not including any contract to which section 1256(a) applies); and

"(F) position which—

"(i) is not a security described in subparagraph (A), (B), (C), (D), or (E),

"(ii) is a hedge with respect to such a security, and

"(iii) is clearly identified in the dealer's records as being described in this subparagraph before the close of the day on which it was acquired or entered into (or such other time as the Secretary may by regulations prescribe).

"(3) HEDGE.—The term 'hedge' means any position which reduces the dealer's risk of interest rate or price changes or currency fluctuations.

"(d) SPECIAL RULES.—For purposes of this section—

"(1) CERTAIN RULES NOT TO APPLY.—The rules of sections 263(g) and 263A shall not apply to securities to which subsection (a) applies.

"(2) IMPROPER IDENTIFICATION.—If a taxpayer—

"(A) identifies any security under subsection (b)(2) as being described in subsection (b)(1) and such security is not so described, or

"(B) fails under subsection (c)(2)(F)(iii) to identify any position which is described in such subsection at the time such identification is required,

the provisions of subsection (a) shall apply to such security or position, except that any loss under this section prior to the disposition of the security or position shall be recognized only to the extent of gain previously recognized under this section (and not previously taken into account under this paragraph) with respect to such security or position.

"(3) ANTICIPATORY HEDGES.—Any security which is reasonably expected to become a hedge within 60 days after the acquisition of the security shall be treated as a hedge.

"(e) REGULATORY AUTHORITY.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including rules—

"(1) to prevent the use of year-end transfers, related parties, or other arrangements to avoid the provisions of this section, and

"(2) to provide for the application of this section to any security which is a hedge which cannot be identified with a specific security, position, right to income, or liability."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 988(d) is amended—

(A) by striking "section 1256" and inserting "section 475 or 1256", and

(B) by striking "1092 and 1256" and inserting "475, 1092, and 1256".

(2) The table of sections for subpart D of part II of subchapter E of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 475. Mark to market accounting method for dealers in securities."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to all taxable years ending on or after December 31, 1992.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by this section to change its method of accounting for any taxable year—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account ratably over the 10-taxable year period beginning with the first taxable year ending on or after December 31, 1992.

If the net amount determined under subparagraph (C) exceeds the net amount which would have been determined under subparagraph (C) if the taxpayer had been required by this section to change its method of accounting for its last taxable year beginning before March 20, 1992, subparagraph (C) shall be applied with respect to such excess by substituting "4-taxable year" for "10-taxable year".

SEC. 3205. INCREASED BASE TAX RATE ON OZONE-DEPLETING CHEMICALS.

(a) IN GENERAL.—Subparagraph (B) of section 4681(b)(1) (relating to amount of tax) is amended to read as follows:

"(B) BASE TAX AMOUNT.—The base tax amount for purposes of subparagraph (A) with respect to any sale or use during a calendar year before 1996 with respect to any ozone-depleting chemical is the amount determined under the following table for such calendar year:

Calendar year:	**Base Tax Amount:**
	Base Tax Amount:
1992	$1.85
1993	2.75
1994	3.65
1995	4.55."

(b) CONFORMING AMENDMENTS.—

(1) RATES RETAINED FOR CHEMICAL USED IN RIGID FOAM INSULATION.—The table in subparagraph (B) of section 4682(g)(2) (relating to chemicals used in rigid foam insulation) is amended—

(A) by striking "15" and inserting "13.5", and

(B) by striking "10" and inserting "9.6".

(2) FLOOR STOCK TAXES.—

(A) Subparagraph (C) of section 4682(h)(2) (relating to other tax-increase dates) is amended by striking "1993, and 1994" and inserting "1993, 1994, and 1995, and July 1, 1992".

(B) Paragraph (3) of section 4682(h) (relating to due date) is amended—

(i) by inserting "or July 1" after "January 1", and

(ii) by inserting "or December 31, respectively," after "June 30".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable chemicals sold or used on or after July 1, 1992.

TITLE IV—SIMPLIFICATION PROVISIONS

Subtitle A—Provisions Relating to Individuals

SEC. 4101. SIMPLIFICATION OF RULES ON ROLLOVER OF GAIN ON SALE OF PRINCIPAL RESIDENCE.

(a) RULES RELATING TO MULTIPLE SALES WITHIN ROLLOVER PERIOD.—

(1) Section 1034 (relating to rollover of gain on sale of principal residence) is amended by striking subsection (d).

(2) Paragraph (4) of section 1034(c) is amended to read as follows:

"(4) If the taxpayer, during the period described in subsection (a), purchases more than 1 residence which is used by him as his principal residence at some time within 2 years after the date of the sale of the old residence, only the first of such residences so used by him after the date of such sale shall constitute the new residence."

(3) Subsections (h)(1) and (k) of section 1034 are each amended by striking "(other than the 2 years referred to in subsection (c)(4))".

(b) TREATMENT IN CASE OF DIVORCES.—Subsection (c) of section 1034 is amended by adding at the end thereof the following new paragraph:

"(5) If—

"(A) a residence is sold by an individual pursuant to a divorce or marital separation, and

"(B) the taxpayer used such residence as his principal residence at any time during the 2-year period ending on the date of such sale,

for purposes of this section, such residence shall be treated as the taxpayer's principal residence at the time of such sale."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales of old residences (within the meaning of section 1034 of the Internal Revenue Code of 1986) after the date of the enactment of this Act.

SEC. 4102. DE MINIMIS EXCEPTION TO PASSIVE LOSS RULES.

(a) GENERAL RULE.—Section 469 (relating to passive activity losses and credits limited) is amended—

(1) by striking subsection (m),

(2) by redesignating subsection (l) as subsection (m), and

(3) by inserting after subsection (k) the following new subsection:

"(l) DE MINIMIS EXCEPTION.—

"(1) IN GENERAL.—In the case of a natural person, subsection (a) shall not apply to the passive activity loss for any taxable year if the amount of such loss does not exceed $200.

"(2) EXCEPTION FOR ITEMS ATTRIBUTABLE TO PUBLICLY TRADED PARTNERSHIPS.—This subsection shall not apply to items treated separately under subsection (k) (and such items shall not be taken into account in determining whether paragraph (1) applies to the taxpayer for the taxable year with respect to other items).

"(3) ESTATES ELIGIBLE.—For purposes of this subsection, an estate shall be treated as a natural person with respect to any taxable year ending less than 2 years after the death of the decedent.

"(4) MARRIED INDIVIDUALS FILING SEPARATELY.—

"(A) IN GENERAL.—This subsection shall not apply to a taxpayer who—

"(i) is a married individual filing a separate return for the taxable year, and

"(ii) does not live apart from his spouse at all times during such taxable year.

"(B) LIMITATION.—Paragraph (1) shall be applied by substituting '$100' for '$200' in the case of a married individual who files a separate return for the taxable year and to whom this subsection applies after the application of subparagraph (A)."

(b) CONFORMING AMENDMENTS.—

(1) Subsection (b) of section 58 is amended by inserting "and" at the end of paragraph (1), by striking paragraph (2), and by redesignating paragraph (3) as paragraph (2).

(2) Paragraph (4) of section 163(d) is amended by striking subparagraph (E).

(3) Subsection (d) of section 163 is amended by striking paragraph (6).

(4) Subsection (h) of section 163 is amended by striking paragraph (5).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4103. PAYMENT OF TAX BY CREDIT CARD.

(a) GENERAL RULE.—Section 6311 is amended to read as follows:

"SEC. 6311. PAYMENT BY CHECK, MONEY ORDER, OR OTHER MEANS.

"(a) AUTHORITY TO RECEIVE.—It shall be lawful for the Secretary to receive for internal revenue taxes (or in payment for internal revenue stamps) checks, money orders, or any other commercially acceptable means that the Secretary deems appropriate, including payment by use of credit cards, to the extent and under the conditions provided in regulations prescribed by the Secretary.

"(b) ULTIMATE LIABILITY.—If a check, money order, or other method of payment so received is not duly paid, the person by whom such check, or money order, or other method of payment has been tendered shall remain liable for the payment of the tax or for the stamps, and for all legal penalties and additions, to the same extent as if such check, money order, or other method of payment had not been tendered.

"(c) LIABILITY OF BANKS AND OTHERS.—If any certified, treasurer's, or cashier's check (or other guaranteed draft), or any money order, or any other means of payment that has been guaranteed by a financial institution (such as a guaranteed credit card transaction) so received is not duly paid, the United States shall, in addition to its right to exact payment from the party originally indebted therefor, have a lien for—

"(1) the amount of such check (or draft) upon all assets of the financial institution on which drawn,

"(2) the amount of such money order upon all the assets of the issuer thereof, or

"(3) the guaranteed amount of any other transaction upon all the assets of the institution making such guarantee,

and such amount shall be paid out of such assets in preference to any other claims whatsoever against such financial institution, issuer, or guaranteeing institution, except the necessary costs and expenses of administration and the reimbursement of the United States for the amount expended in the redemption of the circulating notes of such financial institution.

"(d) PAYMENT BY OTHER MEANS.—

"(1) AUTHORITY TO PRESCRIBE REGULATIONS.—The Secretary shall prescribe such regulations as the Secretary deems necessary to receive payment by commercially acceptable means, including regulations that—

"(A) specify which methods of payment by commercially acceptable means will be acceptable,

"(B) specify when payment by such means will be considered received,

"(C) identify types of nontax matters related to payment by such means that are to be resolved by persons ultimately liable for payment and financial intermediaries, without the involvement of the Secretary, and

"(D) ensure that tax matters will be resolved by the Secretary, without the involvement of financial intermediaries.

"(2) AUTHORITY TO ENTER INTO CONTRACTS.—Notwithstanding section 3718(f) of title 31, United States Code, the Secretary is authorized to enter into contracts to obtain services related to receiving payment by other means where cost beneficial to the government and is further authorized to pay any fees required by such contracts.

"(3) SPECIAL PROVISIONS FOR USE OF CREDIT CARDS.—If use of credit cards is accepted as a method of payment of taxes pursuant to subsection (a)—

"(A) except as provided by regulations, subject to the provisions of section 6402, any refund due a person who makes a payment by use of a credit card shall be made directly to such person, notwithstanding any other provision of law or any contract made pursuant to paragraph (2),

"(B) any credit card transaction shall not be considered a 'sales transaction' under the Federal Truth-in-Lending Act (15 U.S.C. 1601 et seq.),

"(C) all nontax matters as defined by regulations prescribed under paragraph (1)(C), including billing errors as defined in section 161(b) of such Act, shall be resolved by the person tendering the credit card and the credit card issuer, without the involvement of the Secretary, and

"(D) the provisions of sections 161(e) and 170 of such Act shall not apply."

(b) Clerical Amendment.—The table of sections for subchapter B of chapter 64 is amended by striking the item relating to section 6311 and inserting the following:

"Sec. 6311. Payment by check, money order, or other means."

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4104. MODIFICATIONS TO ELECTION TO INCLUDE CHILD'S INCOME ON PARENT'S RETURN.

(a) Eligibility for Election.—Clause (ii) of section 1(g)(7)(A) (relating to election to include certain unearned income of child on parent's return) is amended to read as follows:

"(i) such gross income is more than the amount described in paragraph (4)(A)(ii)(I) and less than 10 times the amount so described,".

(b) Computation of Tax.—Subparagraph (B) of section 1(g)(7) (relating to income included on parent's return) is amended—

(1) by striking "$1,000" in clause (i) and inserting "twice the amount described in paragraph (4)(A)(ii)(I)", and

(2) by amending subclause (II) of clause (ii) to read as follows:

"(II) for each such child, 15 percent of the lesser of the amount described in paragraph (4)(A)(ii)(I) or the excess of the gross income of such child over the amount so described, and".

(c) Minimum Tax.—Subparagraph (B) of section 59(j)(1) is amended by striking "$1,000" and inserting "twice the amount in effect for the taxable year under section 63(c)(5)(A)".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4105. SIMPLIFIED FOREIGN TAX CREDIT LIMITATION FOR INDIVIDUALS.

(a) General Rule.—Section 904 (relating to limitations on foreign tax credit) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) Simplified Limitation for Certain Individuals.—

"(1) In general.—In the case of an individual to whom this subsection applies for any taxable year, the limitation of subsection (a) shall be the lesser of—

"(A) 25 percent of such individual's gross income for the taxable year from sources without the United States, or

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year (determined without regard to subsection (c)).

No taxes paid or accrued by the individual during such taxable year may be deemed paid or accrued in any other taxable year under subsection (c).

"(2) Individuals to whom subsection applies.—This subsection shall apply to an individual for any taxable year if—

"(A) the entire amount of such individual's gross income for the taxable year from sources without the United States consists of qualified passive income,

"(B) the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year does not exceed $200, and

"(C) such individual elects to have this subsection apply for the taxable year.

"(3) Definitions.—For purposes of this subsection—

"(A) Qualified passive income.—The term 'qualified passive income' means any item of gross income if—

"(i) such item of income is passive income (as defined in subsection (d)(2)(A) without regard to clause (iii) thereof), and

"(ii) such item of income is shown on a payee statement furnished to the individual.

"(B) Creditable foreign taxes.—The term 'creditable foreign taxes' means any taxes for which a credit is allowable under section 901; except that such term shall not include any tax unless such tax is shown on a payee statement furnished to such individual.

"(C) Payee statement.—The term 'payee statement' has the meaning given to such term by section 6724(d)(2).

"(D) Estates and trusts not eligible.—This subsection shall not apply to any estate or trust."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1991.

SEC. 4106. TREATMENT OF PERSONAL TRANSACTIONS BY INDIVIDUALS UNDER FOREIGN CURRENCY RULES.

(a) General Rule.—Subsection (e) of section 988 (relating to application to individuals) is amended to read as follows:

"(e) Application to Individuals.—

"(1) In general.—The preceding provisions of this section shall not apply to any section 988 transaction entered into by an individual which is a personal transaction.

"(2) Exclusion for certain personal transactions.—If—

"(A) nonfunctional currency is disposed of by an individual in any transaction, and

"(B) such transaction is a personal transaction,

no gain shall be recognized for purposes of this subtitle by reason of changes in exchange rates after such currency was acquired by such individual and before such disposition. The preceding sentence shall not apply if the gain which would otherwise be recognized exceeds $200.

"(3) Personal transactions.—For purposes of this subsection, the term 'personal transaction' means any transaction entered into by an individual, except that such term shall not include any transaction to the extent that expenses properly allocable to such transaction meet the requirements of section 162 or 212 (other than that part of section 212 dealing with expenses incurred in connection with taxes)."

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4107. EXCLUSION OF COMBAT PAY FROM WITHHOLDING LIMITED TO AMOUNT EXCLUDABLE FROM GROSS INCOME.

(a) In General.—Paragraph (1) of section 3401(a) (defining wages) is amended by inserting before the semicolon the following: "to the extent remuneration for such service is excludable from gross income under such section".

(b) Effective Date.—The amendment made by subsection (a) shall apply to remuneration paid after December 31, 1992.

SEC. 4108. EXPANDED ACCESS TO SIMPLIFIED INCOME TAX RETURNS.

(a) General Rule.—The Secretary of the Treasury or his delegate shall take such actions as may be appropriate to expand access to simplified individual income tax returns and otherwise simplify the individual income tax returns.

(b) Report.—Not later than the date 1 year after the date of the enactment of this Act, the Secretary of the Treasury or his delegate shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, a report on his actions under subsection (a), together with such recommendations as he may deem advisable.

SEC. 4109. TREATMENT OF CERTAIN REIMBURSED EXPENSES OF RURAL MAIL CARRIERS.

(a) In General.—Section 162 (relating to trade or business expenses) is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) Treatment of Certain Reimbursed Expenses of Rural Mail Carriers.—

"(1) General rule.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route and who receives qualified reimbursements for the expenses incurred by such employee for the use of a vehicle in performing such services—

"(A) the amount allowable as a deduction under this chapter for the use of a vehicle in performing such services shall be equal to the amount of such qualified reimbursements; and

"(B) such qualified reimbursements shall be treated as paid under a reimbursement or other expense allowance arrangement for purposes of section 62(a)(2)(A) (and section 62(c) shall not apply to such qualified reimbursements).

"(2) Definition of qualified reimbursements.—For purposes of this subsection, the term 'qualified reimbursements' means the amounts paid by the United States Postal Service to employees as an equipment maintenance allowance under the 1991 collective bargaining agreement between the United States Postal Service and the National Rural Letter Carriers' Association. Amounts paid as an equipment maintenance allowance by such Postal Service under later collective bargaining agreements that supersede the 1991 agreement shall be considered qualified reimbursements if such amounts do not exceed the amounts that would have been paid under the 1991 agreement, adjusted for changes in the Consumer Price Index (as defined in section 1(f)(5)) since 1991."

(b) Technical Amendment.—Section 6008 of the Technical and Miscellaneous Revenue Act of 1988 is hereby repealed.

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4110. EXEMPTION FROM LUXURY EXCISE TAX FOR CERTAIN EQUIPMENT INSTALLED ON PASSENGER VEHICLES FOR USE BY DISABLED INDIVIDUALS.

(a) In General.—Paragraph (3) of section 4004(b) of the Internal Revenue Code of 1986 (relating to separate purchase of article and parts and accessories therefor) is amended—

(1) by striking "or" at the end of subparagraph (A),

(2) by redesignating subparagraph (B) as subparagraph (C), and

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) the part or accessory is installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, by compensating for the effect of such disability, or".

(b) Effective Date.—The amendments made by this section shall take effect as if included in the amendments made by section 11221(a) of the Omnibus Budget Reconciliation Act of 1990.

Subtitle B—Pension Simplification

PART I—SIMPLIFIED DISTRIBUTION RULES

SEC. 4201. TAXABILITY OF BENEFICIARY OF QUALIFIED PLAN.

(a) In General.—So much of section 402 (relating to taxability of beneficiary of employees' trust) as precedes subsection (g) thereof is amended to read as follows:

"SEC. 402. TAXABILITY OF BENEFICIARY OF EMPLOYEES' TRUST.

"(a) Taxability of Beneficiary of Exempt Trust.—Except as otherwise provided in this *section, any amount actually distributed to any distributee by any employees' trust described in section 401(a) which is exempt from tax under section 501(a) shall be taxable to the distributee, in the taxable year of the distributee in which distributed, under section 72 (relating to annuities).*

"(b) TAXABILITY OF BENEFICIARY OF NONEXEMPT TRUST.—

"(1) CONTRIBUTIONS.—Contributions to an employees' trust made by an employer during a taxable year of the employer which ends with or within a taxable year of the trust for which the trust is not exempt from tax under section 501(a) shall be included in the gross income of the employee in accordance with section 83 (relating to property transferred in connection with performance of services), except that the value of the employee's interest in the trust shall be substituted for the fair market value of the property for purposes of applying such section.

"(2) DISTRIBUTIONS.—The amount actually distributed or made available to any distributee by any trust described in paragraph (1) shall be taxable to the distributee, in the taxable year in which so distributed or made available, under section 72 (relating to annuities), except that distributions of income of such trust before the annuity starting date (as defined in section 72(c)(4)) shall be included in the gross income of the employee without regard to section 72(e)(5) (relating to amounts not received as annuities).

"(3) GRANTOR TRUSTS.—A beneficiary of any trust described in paragraph (1) shall not be considered the owner of any portion of such trust under subpart E of part I of subchapter J (relating to grantors and others treated as substantial owners).

"(4) FAILURE TO MEET REQUIREMENTS OF SECTION 410(b).—

"(A) HIGHLY COMPENSATED EMPLOYEES.—If 1 of the reasons a trust is not exempt from tax under section 501(a) is the failure of the plan of which it is a part to meet the requirements of section 401(a)(26) or 410(b), then a highly compensated employee shall, in lieu of the amount determined under this subsection, include in gross income for the taxable year with or within which the taxable year of the trust ends an amount equal to the vested accrued benefit of such employee (other than the employee's investment in the contract) as of the close of such taxable year of the trust.

"(B) FAILURE TO MEET COVERAGE TESTS.—If a trust is not exempt from tax under section 501(a) for any taxable year solely because such trust is part of a plan which fails to meet the requirements of section 401(a)(26) or 410(b), this subsection shall not apply by reason of such failure to any employee who was not a highly compensated employee during—

"(i) such taxable year, or

"(ii) any preceding period for which service was creditable to such employee under the plan.

"(C) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this paragraph, the term 'highly compensated employee' has the meaning given such term by section 414(q).

"(c) RULES APPLICABLE TO ROLLOVERS FROM EXEMPT TRUSTS.—

"(1) EXCLUSION FROM INCOME.—If—

"(A) any portion of the balance to the credit of an employee in a qualified trust is paid to the employee in an eligible rollover distribution,

"(B) the distributee transfers any portion of the property received in such distribution to an eligible retirement plan, and

"(C) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then such distribution (to the extent so transferred) shall not be includible in gross income for the taxable year in which paid.

"(2) MAXIMUM AMOUNT WHICH MAY BE ROLLED OVER.—In the case of any eligible rollover distribution, the maximum amount transferred to which paragraph (1) applies shall not exceed the portion of such distribution which is includible in gross income (determined without regard to paragraph (1)).

"(3) TRANSFER MUST BE MADE WITHIN 60 DAYS OF RECEIPT.—Paragraph (1) shall not apply to any transfer of a distribution made after the 60th day following the day on which the distributee received the property distributed.

"(4) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this subsection, the term 'eligible rollover distribution' means any distribution to an employee of all or any portion of the balance to the credit of the employee in a qualified trust; except that such term shall not include—

"(A) any distribution which is part of a series of substantially equal periodic payments (not less frequently than annually) made—

"(i) for the life (or life expectancy) of the employee or the joint lives (or joint life expectancies) of the employee and the employee's designated beneficiary, or

"(ii) for a specified period of 10 years or more, and

"(B) any distribution to the extent such distribution is required under section 401(a)(9).

"(5) TRANSFER TREATED AS ROLLOVER CONTRIBUTION UNDER SECTION 408.—For purposes of this title, a transfer resulting in any portion of a distribution being excluded from gross income under paragraph (1) to an eligible retirement plan described in clause (i) or (ii) of paragraph (8)(B) shall be treated as a rollover contribution described in section 408(d)(3).

"(6) SALES OF DISTRIBUTED PROPERTY.—For purposes of this subsection—

"(A) TRANSFER OF PROCEEDS FROM SALE OF DISTRIBUTED PROPERTY TREATED AS TRANSFER OF DISTRIBUTED PROPERTY.—The transfer of an amount equal to any portion of the proceeds from the sale of property received in the distribution shall be treated as the transfer of property received in the distribution.

"(B) PROCEEDS ATTRIBUTABLE TO INCREASE IN VALUE.—The excess of fair market value of property on sale over its fair market value on distribution shall be treated as property received in the distribution.

"(C) DESIGNATION WHERE AMOUNT OF DISTRIBUTION EXCEEDS ROLLOVER CONTRIBUTION.—In any case where part or all of the distribution consists of property other than money, the taxpayer may designate—

"(i) the portion of the money or other property which is to be treated as attributable to amounts not included in gross income, and

"(ii) the portion of the money or other property which is to be treated as included in the rollover contribution.

Any designation under this subparagraph for a taxable year shall be made not later than the time prescribed by law for filing the return for such taxable year (including extensions thereof). Any such designation, once made, shall be irrevocable.

"(D) TREATMENT WHERE NO DESIGNATION.—In any case where part or all of the distribution consists of property other than money and the taxpayer fails to make a designation under subparagraph (C) within the time provided therein, then—

"(i) the portion of the money or other property which is to be treated as attributable to amounts not included in gross income, and

"(ii) the portion of the money or other property which is to be treated as included in the rollover contribution,

shall be determined on a ratable basis.

"(E) NONRECOGNITION OF GAIN OR LOSS.—In the case of any sale described in subparagraph (A), to the extent that an amount equal to the proceeds is transferred pursuant to paragraph (1), neither gain nor loss on such sale shall be recognized.

"(7) SPECIAL RULE FOR FROZEN DEPOSITS.—

"(A) IN GENERAL.—The 60-day period described in paragraph (3) shall not—

"(i) include any period during which the amount transferred to the employee is a frozen deposit, or

"(ii) end earlier than 10 days after such amount ceases to be a frozen deposit.

"(B) FROZEN DEPOSITS.—For purposes of this subparagraph, the term 'frozen deposit' means any deposit which may not be withdrawn because of—

"(i) the bankruptcy or insolvency of any financial institution, or

"(ii) any requirement imposed by the State in which such institution is located by reason of the bankruptcy or insolvency (or threat thereof) of 1 or more financial institutions in such State.

A deposit shall not be treated as a frozen deposit unless on at least 1 day during the 60-day period described in paragraph (3) (without regard to this paragraph) such deposit is described in the preceding sentence.

"(8) DEFINITIONS.—For purposes of this subsection—

"(A) QUALIFIED TRUST.—The term 'qualified trust' means an employees' trust described in section 401(a) which is exempt from tax under section 501(a).

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' means—

"(i) an individual retirement account described in section 408(a),

"(ii) an individual retirement annuity described in section 408(b) (other than an endowment contract),

"(iii) a qualified trust, and

"(iv) an annuity plan described in section 403(a).

"(9) ROLLOVER WHERE SPOUSE RECEIVES DISTRIBUTION AFTER DEATH OF EMPLOYEE.—If any distribution attributable to an employee is paid to the spouse of the employee after the employee's death, the preceding provisions of this subsection shall apply to such distribution in the same manner as if the spouse were the employee; except that a trust or plan described in clause (iii) or (iv) of paragraph (8)(B) shall not be treated as an eligible retirement plan with respect to such distribution.

"(d) TAXABILITY OF BENEFICIARY OF CERTAIN FOREIGN SITUS TRUSTS.—For purposes of subsections (a), (b), and (c), a stock bonus, pension, or profit-sharing trust which would qualify for exemption from tax under section 501(a) except for the fact that it is a trust created or organized outside the United States shall be treated as if it were a trust exempt from tax under section 501(a).

"(e) OTHER RULES APPLICABLE TO EXEMPT TRUSTS.—

"(1) ALTERNATE PAYEES.—

"(A) ALTERNATE PAYEE TREATED AS DISTRIBUTEE.—For purposes of subsection (a) and section 72, an alternate payee who is the spouse or former spouse of the participant shall be treated as the distributee of any distribution or payment made to the alternate payee under a qualified domestic relations order (as defined in section 414(p)).

"(B) ROLLOVERS.—If any amount is paid or distributed to an alternate payee who is the spouse or former spouse of the participant by reason of any qualified domestic relations order (within the meaning of section 414(p)), subsection (c) shall apply to such distribution in the same manner as if such alternate payee were the employee.

"(2) DISTRIBUTIONS BY UNITED STATES TO NONRESIDENT ALIENS.—The amount includible under subsection (a) in the gross income of a nonresident alien with respect to a distribution made by the United States in respect of services performed by an employee of the United States

shall not exceed an amount which bears the same ratio to the amount includible in gross income without regard to this paragraph as—

"(A) the aggregate basic pay paid by the United States to such employee for such services, reduced by the amount of such basic pay which was not includible in gross income by reason of being from sources without the United States, bears to

"(B) the aggregate basic pay paid by the United States to such employee for such services.

In the case of distributions under the civil service retirement laws, the term 'basic pay' shall have the meaning provided in section 8331(3) of title 5, United States Code.

"(3) CASH OR DEFERRED ARRANGEMENTS.—For purposes of this title, contributions made by an employer on behalf of an employee to a trust which is a part of a qualified cash or deferred arrangement (as defined in section 401(k)(2)) shall not be treated as distributed or made available to the employee nor as contributions made to the trust by the employee merely because the arrangement includes provisions under which the employee has an election whether the contribution will be made to the trust or received by the employee in cash.

"(4) NET UNREALIZED APPRECIATION.—

"(A) AMOUNTS ATTRIBUTABLE TO EMPLOYEE CONTRIBUTIONS.—For purposes of subsection (a) and section 72, the amount actually distributed to any distributee from a trust described in subsection (a) shall not include any net unrealized appreciation in securities of the employer corporation attributable to amounts contributed by the employee (other than deductible employee contributions within the meaning of section 72(o)(5)). This subparagraph shall not apply to a partial distribution to which subsection (c) applies.

"(B) AMOUNTS ATTRIBUTABLE TO EMPLOYER CONTRIBUTIONS.—In the case of any lump sum distribution which includes securities of the employer corporation, subparagraph (A) shall apply to the net unrealized appreciation attributable to that part of the distribution which consists of securities of the employer corporation attributable to amounts other than the amounts contributed by the employee. In accordance with rules prescribed by the Secretary, a taxpayer may elect, on the return of tax on which a lump sum distribution is required to be included, not to have this subparagraph and subparagraph (A) apply to such distribution.

"(C) DETERMINATION OF AMOUNTS AND ADJUSTMENTS.—For purposes of subparagraphs (A) and (B), net unrealized appreciation and the resulting adjustments to basis shall be determined in accordance with regulations prescribed by the Secretary.

"(D) LUMP SUM DISTRIBUTION.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'lump sum distribution' means the distribution or payment within one taxable year of the recipient of the balance to the credit of an employee which becomes payable to the recipient—

"(I) on account of the employee's death,

"(II) after the employee attains age 59½,

"(III) on account of the employee's separation from service, or

"(IV) after the employee has become disabled (within the meaning of section 72(m)(7)),

from a trust which forms a part of a plan described in section 401(a) and which is exempt from tax under section 501 or from a plan described in section 403(a). Subclause (III) of this clause shall be applied only with respect to an individual who is an employee without regard to section 401(c)(1), and subclause (IV) shall be applied only with respect to an employee within the meaning of section 401(c)(1). For purposes of this clause, a distribution to two or more trusts shall be treated as a distribution to one recipient. For purposes of this paragraph, the balance to the credit of the employee does not include the accumulated deductible employee contributions under the plan (within the meaning of section 72(o)(5)).

"(ii) AGGREGATION OF CERTAIN TRUSTS AND PLANS.—For purposes of determining the balance to the credit of an employee under clause (i)—

"(I) all trusts which are part of a plan shall be treated as a single trust, all pension plans maintained by the employer shall be treated as a single plan, all profit-sharing plans maintained by the employer shall be treated as a single plan, and all stock bonus plans maintained by the employer shall be treated as a single plan, and

"(II) trusts which are not qualified trusts under section 401(a) and annuity contracts which do not satisfy the requirements of section 404(a)(2) shall not be taken into account.

"(iii) COMMUNITY PROPERTY LAWS.—The provisions of this paragraph shall be applied without regard to community property laws.

"(iv) AMOUNTS SUBJECT TO PENALTY.—This paragraph shall not apply to amounts described in subparagraph (A) of section 72(m)(5) to the extent that section 72(m)(5) applies to such amounts.

"(v) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this paragraph, the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p)).

"(vi) TRANSFERS TO COST-OF-LIVING ARRANGEMENT NOT TREATED AS DISTRIBUTION.—For purposes of this paragraph, the balance to the credit of an employee under a defined contribution plan shall not include any amount transferred from such defined contribution plan to a qualified cost-of-living arrangement (within the meaning of section 415(k)(2)) under a defined benefit plan.

"(vii) LUMP-SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump-sum distribution, then, for purposes of this paragraph, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump-sum distribution. For purposes of this clause, the balance to the credit of the alternate payee shall not include any amount payable to the employee.

"(E) DEFINITIONS.—For purposes of this paragraph—

"(i) SECURITIES.—The term 'securities' means only shares of stock and bonds or debentures issued by a corporation with interest coupons or in registered form.

"(ii) SECURITIES OF THE EMPLOYER.—The term 'securities of the employer corporation' includes securities of a parent or subsidiary corporation (as defined in subsections (e) and (f) of section 425) of the employer corporation.

"(f) WRITTEN EXPLANATION TO RECIPIENTS OF DISTRIBUTIONS ELIGIBLE FOR ROLLOVER TREATMENT.—

"(1) IN GENERAL.—The plan administrator of any plan shall, when making an eligible rollover distribution, provide a written explanation to the recipient of the provisions under which such distribution will not be subject to tax if transferred to an eligible retirement plan within 60 days after the date on which the recipient received the distribution.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) ELIGIBLE ROLLOVER DISTRIBUTION.—The term 'eligible rollover distribution' has the same meaning as when used in subsection (c) of this section or paragraph (4) of section 403(a).

"(B) ELIGIBLE RETIREMENT PLAN.—The term 'eligible retirement plan' has the meaning given such term by subsection (c)(8)(B)."

(b) REPEAL OF $5,000 EXCLUSION OF EMPLOYEES' DEATH BENEFITS.—Subsection (b) of section 101 is hereby repealed.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 55(c) is amended by striking "shall not include any tax imposed by section 402(e) and".

(2) Paragraph (8) of section 62(a) (relating to certain portion of lump-sum distributions from pension plans taxed under section 402(e)) is hereby repealed.

(3) Paragraph (4) of section 72(o) (relating to special rule for treatment of rollover amount) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(c)".

(4) Paragraph (2) of section 219(d) (relating to recontributed amount) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)".

(5) Paragraph (20) of section 401(a) is amended by striking "qualified total distribution described in section 402(a)(5)(E)(i)(I)" and inserting "distribution to a distributee on account of a termination of the plan of which the trust is a part, or in the case of a profit-sharing or stock bonus plan, a complete discontinuance of contributions under such plan".

(6) Section 401(a)(28)(B) (relating to coordination with distribution rules) is amended by striking clause (v).

(7) Subclause (IV) of section 401(k)(2)(B)(i) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(8) Subparagraph (B)(ii) of section 401(k)(10) (relating to distributions that must be lump-sum distributions) is amended to read as follows:

"(ii) LUMP SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump sum distribution' means any distribution of the balance to the credit of an employee immediately before the distribution."

(9) Section 402(g)(1) is amended by striking "subsections (a)(8)" and inserting "subsections (e)(3)".

(10) Section 402(i) is amended by striking ", except as otherwise provided in subparagraph (A) of subsection (e)(4)".

(11) Subsection (j) of section 402 is amended by striking "(a)(1) or (e)(4)(J)" and inserting "(e)(4)".

(12)(A) Clause (i) of section 403(a)(4)(A) is amended by inserting "in an eligible rollover distribution (within the meaning of section 402(c)(4))" before the comma at the end thereof.

(B) Subparagraph (B) of section 403(a)(4) is amended to read as follows:

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) through (7) of section 402(c) shall apply for purposes of subparagraph (A)."

(13)(A) Clause (i) of section 403(b)(8)(A) is amended by inserting "in an eligible rollover distribution (within the meaning of section 402(c)(4))" before the comma at the end thereof.

(B) Paragraph (8) of section 403(b) is amended by striking subparagraphs (B), (C), and (D) and inserting the following:

"(B) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) through (7) of section 402(c) shall apply for purposes of subparagraph (A)."

(14) Section 406(c) (relating to termination of status as deemed employee not to be treated as separation from service for purposes of limitation of tax) is hereby repealed.

(15) Section 407(c) (relating to termination of status as deemed employee not to be treated as

separation from service for purposes of limitation of tax) is hereby repealed.

(16) Paragraph (1) of section 408(a) is amended by striking "section 402(a)(5), 402(a)(7)" and inserting "section 402(c)".

(17) Clause (ii) of section 408(d)(3)(A) is amended to read as follows:

"(ii) no amount in the account and no part of the value of the annuity is attributable to any source other than a rollover contribution (as defined in section 402) from an employee's trust described in section 401(a) which is exempt from tax under section 501(a) or from an annuity plan described in section 403(a) (and any earnings on such contribution), and the entire amount received (including property and other money) is paid (for the benefit of such individual) into another such trust or annuity plan not later than the 60th day on which the individual receives the payment or the distribution; or".

(18) Subparagraph (B) of section 408(d)(3) (relating to limitations) is amended by striking the second sentence thereof.

(19) Subparagraph (F) of section 408(d)(3) (relating to frozen deposits) is amended by striking "section 402(a)(6)(H)" and inserting "section 402(c)(7)".

(20) Subclause (I) of section 414(n)(5)(C)(iii) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(21) Clause (i) of section 414(q)(7)(B) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(22) Paragraph (2) of section 414(s) (relating to employer may elect to treat certain deferrals as compensation) is amended by striking "402(a)(8)" and inserting "402(e)(3)".

(23) Subparagraph (A) of section 415(b)(2) (relating to annual benefit in general) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(24) Subparagraph (B) of section 415(b)(2) (relating to adjustment for certain other forms of benefit) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(25) Paragraph (2) of section 415(c) (relating to annual addition) is amended by striking "sections 402(a)(5)" and inserting "sections 402(c)".

(26) Subparagraph (B) of section 457(c)(2) is amended by striking "section 402(a)(8)" in clause (i) thereof and inserting "section 402(e)(3)".

(27) Section 691(c) (relating to coordination with section 402(e)) is amended by striking paragraph (5).

(28) Subparagraph (B) of section 871(a)(1) (relating to income other than capital gains) is amended by striking "402(a)(2), 403(a)(2), or".

(29) Paragraph (1) of section 871(b) (relating to imposition of tax) is amended by striking "section 1, 55, or 402(e)(1)" and inserting "section 1 or 55".

(30) Paragraph (1) of section 871(k) is amended by striking "section 402(a)(4)" and inserting "section 402(e)(2)".

(31) Subsection (b) of section 877 (relating to alternative tax) is amended by striking "section 1, 55, or 402(e)(1)" and inserting "section 1 or 55".

(32) Subsection (b) of section 1441 (relating to income items) is amended by striking "402(a)(2), 403(a)(2), or".

(33) Paragraph (5) of section 1441(c) (relating to special items) is amended by striking "402(a)(2), 403(a)(2), or".

(34) Subparagraph (A) of section 3121(v)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(35) Subparagraph (A) of section 3306(r)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(36) Subsection (a) of section 3405 is amended by striking "PENSIONS, ANNUITIES, ETC.—" from the heading thereof and inserting "PERIODIC PAYMENTS.—".

(37) Subsection (b) of section 3405 (relating to nonperiodic distribution) is amended—

(A) by striking "the amount determined under paragraph (2)" from paragraph (1) thereof and inserting "an amount equal to 10 percent of such distribution"; and

(B) by striking paragraph (2) (relating to amount of withholding) and redesignating paragraph (3) as paragraph (2).

(38) Paragraph (4) of section 3405(d) (relating to qualified total distributions) is hereby repealed.

(39) Paragraph (8) of section 3405(d) (relating to maximum amounts withheld) is amended to read as follows:

"(8) MAXIMUM AMOUNT WITHHELD.—The maximum amount to be withheld under this section on any designated distribution shall not exceed the sum of the amount of money and the fair market value of other property (other than securities of the employer corporation) received in the distribution. No amount shall be required to be withheld under this section in the case of any designated distribution which consists only of securities of the employer corporation and cash (not in excess of $200) in lieu of financial shares. For purposes of this paragraph, the term 'securities of the employer corporation' has the meaning given such term by section 402(e)(4)(E)."

(40) Subparagraph (A) of section 4973(b)(1) is amended by striking "sections 402(a)(5), 402(a)(7)" and inserting "sections 402(c)".

(41) Paragraph (4) of section 4980A(c) (relating to special rule where taxpayer elects income averaging) is amended to read as follows:

"(4) ONE-TIME ELECTION FOR CERTAIN DISTRIBUTIONS.—If the taxpayer elects the application of this paragraph for any calendar year, paragraph (1) shall be applied for such calendar year as if the limitation under paragraph (1) were equal to 5 times such limitation determined without regard to this paragraph. No election may be made under this paragraph by any taxpayer if this paragraph applied to the taxpayer for any preceding calendar year."

(42) Subparagraph (C) of section 7701(j)(1) is amended by striking "section 402(a)(8)" and inserting "section 402(e)(3)".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

(2) RETENTION OF CERTAIN TRANSITION RULES.—Notwithstanding any other provision of this section, the amendments made by this section shall not apply to distributions to employees described in section 1122 (h)(3) or (h)(5) of the Tax Reform Act of 1986.

SEC. 4202. SIMPLIFIED METHOD FOR TAXING ANNUITY DISTRIBUTIONS UNDER CERTAIN EMPLOYER PLANS.

(a) GENERAL RULE.—Subsection (d) of section 72 (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended to read as follows:

"(d) SPECIAL RULES FOR QUALIFIED EMPLOYER RETIREMENT PLANS.—

"(1) SIMPLIFIED METHOD OF TAXING ANNUITY PAYMENTS.—

"(A) IN GENERAL.—In the case of any amount received as an annuity under a qualified employer retirement plan—

"(i) subsection (b) shall not apply, and

"(ii) the investment in the contract shall be recovered as provided in this paragraph.

"(B) METHOD OF RECOVERING INVESTMENT IN CONTRACT.—

"(i) IN GENERAL.—Gross income shall not include so much of any monthly annuity payment under a qualified employer retirement plan as does not exceed the amount obtained by dividing—

"(I) the investment in the contract (as of the annuity starting date), by

"(II) the number of anticipated payments determined under the table contained in clause (iii) (or, in the case of a contract to which subsection (c)(3)(B) applies, the number of monthly annuity payments under such contract).

"(ii) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2) and (3) of subsection (b) shall apply for purposes of this paragraph.

"(iii) NUMBER OF ANTICIPATED PAYMENTS.—

"If the age of the primary annuitant on the annuity starting date is:	**The number of anticipated payments is:**
Not more than 55	*300*
More than 55 but not more than 60	*260*
More than 60 but not more than 65	*240*
More than 65 but not more than 70	*170*
More than 70	*120*

"(C) ADJUSTMENT FOR REFUND FEATURE NOT APPLICABLE.—For purposes of this paragraph, investment in the contract shall be determined under subsection (c)(1) without regard to subsection (c)(2).

"(D) SPECIAL RULE WHERE LUMP SUM PAID IN CONNECTION WITH COMMENCEMENT OF ANNUITY PAYMENTS.—If, in connection with the commencement of annuity payments under any qualified employer retirement plan, the taxpayer receives a lump sum payment—

"(i) such payment shall be taxable under subsection (e) as if received before the annuity starting date, and

"(ii) the investment in the contract for purposes of this paragraph shall be determined as if such payment had been so received.

"(E) EXCEPTION.—This paragraph shall not apply in any case where the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity.

"(F) ADJUSTMENT WHERE ANNUITY PAYMENTS NOT ON MONTHLY BASIS.—In any case where the annuity payments are not made on a monthly basis, appropriate adjustments in the application of this paragraph shall be made to take into account the period on the basis of which such payments are made.

"(G) QUALIFIED EMPLOYER RETIREMENT PLAN.—For purposes of this paragraph, the term 'qualified employer retirement plan' means any plan or contract described in paragraph (1), (2), or (3) of section 4974(c).

"(2) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply in cases where the annuity starting date is after December 31, 1992.

SEC. 4203. REQUIREMENT THAT QUALIFIED PLANS INCLUDE OPTIONAL TRUSTEE-TO-TRUSTEE TRANSFERS OF ELIGIBLE ROLLOVER DISTRIBUTIONS.

(a) GENERAL RULE.—Subsection (a) of section 401 (relating to requirements for qualification) is amended by inserting after paragraph (30) the following new paragraph:

"(31) OPTIONAL DIRECT TRANSFER OF ELIGIBLE ROLLOVER DISTRIBUTIONS.—

"(A) IN GENERAL.—A trust shall not constitute a qualified trust under this section unless the plan of which such trust is a part provides that if the distributee of any eligible rollover distribution—

"(i) elects to have such distribution paid directly to an eligible retirement plan, and

"(ii) specifies the eligible retirement plan to which such distribution is to be paid (in such form and at such time as the plan administrator may prescribe),

such distribution shall be made in the form of a direct trustee-to-trustee transfer to the eligible retirement plan so specified.

"(B) LIMITATION.—Subparagraph (A) shall apply only to the extent that the eligible rollover distribution would be includible in gross income if not transferred as provided in subparagraph (A) (determined without regard to sections 402(c) and 403(a)(4)).

"(C) ELIGIBLE ROLLOVER DISTRIBUTION.—For purposes of this paragraph, the term 'eligible rollover distribution' has the meaning given such term by section 402(f)(2)(A).

"(D) ELIGIBLE RETIREMENT PLAN.—For purposes of this paragraph, the term 'eligible retirement plan' has the meaning given such term by section 402(c)(8)(B), except that a qualified trust shall be considered an eligible retirement plan only if it is a defined contribution plan, the terms of which permit the acceptance of rollover distributions."

(b) EMPLOYEE'S ANNUITIES.—Paragraph (2) of section 404(a) (relating to employee's annuities) is amended by striking "and (27)" and inserting "(27), and (31)".

(c) EXCLUSION FROM INCOME.—

(1) QUALIFIED TRUSTS.—Subsection (e) of section 402 (relating to taxability of beneficiary of employees' trust), as amended by section 4201, is amended by adding at the end the following new paragraph:

"(4) DIRECT TRUSTEE-TO-TRUSTEE TRANSFERS.—Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of such transfer."

(2) EMPLOYEE ANNUITIES.—Subsection (a) of section 403 is amended by adding at the end the following new paragraph:

"(5) DIRECT TRUSTEE-TO-TRUSTEE TRANSFER.—Any amount transferred in a direct trustee-to-trustee transfer in accordance with section 401(a)(31) shall not be includible in gross income for the taxable year of such transfer."

(d) WRITTEN EXPLANATION.—Paragraph (1) of section 402(f) (as amended by section 4201) is amended to read as follows:

"(1) IN GENERAL.—The plan administrator of any plan shall, before making an eligible rollover distribution, provide a written explanation to the recipient of—

"(A) the optional direct transfer provisions provided pursuant to section 401(a)(31), and

"(B) the provisions under which such distribution will not be subject to tax if transferred to an eligible retirement plan within 60 days after the date on which the recipient received the distribution."

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in plan years beginning after December 31, 1993.

SEC. 4204. REQUIRED DISTRIBUTIONS.

(a) IN GENERAL.—Section 401(a)(9)(C) (defining required beginning date) is amended to read as follows:

"(C) REQUIRED BEGINNING DATE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'required beginning date' means April 1 of the calendar year following the later of—

"(I) the calendar year in which the employee attains age 70½,

"(II) the calendar year in which the employee retires.

"(ii) EXCEPTION.—Subclause (II) of clause (i) shall not apply—

"(I) except as provided in section 409(d), in the case of an employee who is a 5-percent owner (as defined in section 416) with respect to the plan year ending in the calendar year in which the employee attains age 70½, or

"(II) for purposes of section 408(a)(6) or (b)(3).

"(iii) ACTUARIAL ADJUSTMENT.—In the case of an employee to whom clause (i)(II) applies who retires in a calendar year after the calendar year in which the employee attains age 70½, the employee's accrued benefit shall be actuarially increased to take into account the period after age 70½ in which the employee was not receiving any benefits under the plan.

"(iv) EXCEPTION FOR GOVERNMENTAL AND CHURCH PLANS.—Clauses (ii) and (iii) shall not apply in the case of a governmental plan or church plan. For purposes of this clause, the term 'church plan' means a plan maintained by a church for church employees, and the term 'church' means any church (as defined in section 3121(w)(3)(A)) or qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1992.

PART II—INCREASED ACCESS TO PENSION PLANS

SEC. 4211. MODIFICATIONS OF SIMPLIFIED EMPLOYEE PENSIONS.

(a) INCREASE IN NUMBER OF ALLOWABLE PARTICIPANTS FOR SALARY REDUCTION ARRANGEMENTS.—Section 408(k)(6)(B) is amended by striking "25" each place it appears in the text and heading thereof and inserting "100".

(b) REPEAL OF PARTICIPATION REQUIREMENT.—

(1) IN GENERAL.—Section 408(k)(6)(A) is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Clause (ii) of section 408(k)(6)(C) is amended by striking "subparagraph (A)(iii)" and inserting "subparagraph (A)(ii)".

(B) Clause (ii) of section 408(k)(6)(F) is amended by striking "subparagraph (A)(iii)" and inserting "subparagraph (A)(ii)".

(c) ALTERNATIVE TEST.—Clause (ii) of section 408(k)(6)(A), as redesignated by subsection (b)(1), is amended by adding at the end thereof the following new flush sentence:

"The requirements of the preceding sentence are met if the employer makes contributions to the simplified employee pension meeting the requirements of sections 401(k)(11) (B) or (C), 401(k)(11)(D), and 401(m)(10)(B)."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4212. TAX EXEMPT ORGANIZATIONS ELIGIBLE UNDER SECTION 401(k).

(a) GENERAL RULE.—Subparagraph (B) of section 401(k)(4) is amended to read as follows:

"(B) STATE AND LOCAL GOVERNMENTS NOT ELIGIBLE.—A cash or deferred arrangement shall not be treated as a qualified cash or deferred arrangement if it is part of a plan maintained by a State or local government or political subdivision thereof, or any agency or instrumentality thereof. This subparagraph shall not apply to a rural cooperative plan."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning on or after December 31, 1992, but shall not apply to any cash or deferred arrangement to which clause (i) of section 1116(f)(2)(B) of the Tax Reform Act of 1986 applies.

SEC. 4213. DUTIES OF SPONSORS OF CERTAIN PROTOTYPE PLANS.

(a) IN GENERAL.—The Secretary of the Treasury may, as a condition of sponsorship, prescribe rules defining the duties and responsibilities of sponsors of master and prototype plans, regional prototype plans, and other Internal Revenue Service preapproved plans.

(b) DUTIES RELATING TO PLAN AMENDMENT, NOTIFICATION OF ADOPTERS, AND PLAN ADMINISTRATION.—The duties and responsibilities referred to in subsection (a) may include—

(1) the maintenance of lists of persons adopting the sponsor's plans, including the updating of such lists not less frequently than annually,

(2) the furnishing of notices at least annually to such persons and to the Secretary or his delegate, in such form and at such time as the Secretary shall prescribe,

(3) duties relating to administrative services to such persons in the operation of their plans, and

(4) other duties that the Secretary considers necessary to ensure that—

(A) the master and prototype, regional prototype, and other preapproved plans of adopting employers are timely amended to meet the requirements of the Internal Revenue Code of 1986 or of any rule or regulation of the Secretary, and

(B) adopting employers receive timely notification of amendments and other actions taken by sponsors with respect to their plans.

PART III—NONDISCRIMINATION PROVISIONS

SEC. 4221. DEFINITION OF HIGHLY COMPENSATED EMPLOYEES.

(a) IN GENERAL.—Paragraph (1) of section 414(q) (defining highly compensated employee) is amended to read as follows:

"(1) IN GENERAL.—The term 'highly compensated employee' means any employee who—

"(A) was a 5-percent owner at any time during the year or the preceding year, or

"(B) had compensation for the preceding year from the employer in excess of $50,000.

The Secretary shall adjust the $50,000 amount under subparagraph (B) at the same time and in the same manner as under section 415(d)."

(b) SPECIAL RULE WHERE NO EMPLOYEES TREATED AS HIGHLY COMPENSATED.—Paragraph (2) of section 414(q) is amended to read as follows:

"(2) SPECIAL RULE IF NO EMPLOYEE DESCRIBED IN PARAGRAPH (1).—If no employee is treated as a highly compensated employee under paragraph (1), the highest paid officer for the year shall be treated as a highly compensated employee."

(c) TREATMENT OF FAMILY MEMBERS.—Paragraph (6) of section 414(q) is hereby repealed.

(d) CONFORMING AMENDMENTS.—

(1) Paragraphs (4), (5), (8), and (12) of section 414(q) are hereby repealed.

(2)(A) Section 414(r) is amended by adding at the end thereof the following new paragraph:

"(9) EXCLUDED EMPLOYEES.—For purposes of this subsection, the following employees shall be excluded:

"(A) Employees who have not completed 6 months of service.

"(B) Employees who normally work less than 17½ hours per week.

"(C) Employees who normally work not more than 6 months during any year.

"(D) Employees who have not attained the age of 21.

"(E) Except to the extent provided in regulations, employees who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and the employer.

Except as provided by the Secretary, the employer may elect to apply subparagraph (A), (B), (C), or (D) by substituting a shorter period of service, smaller number of hours or months, or lower age for the period of service, number of hours or months, or age (as the case may be) specified in such subparagraph."

(B) Subparagraph (A) of section 414(r)(2) is amended by striking "subsection (q)(8)" and inserting "paragraph (9)".

(3) Paragraph (17) of section 401(a) is amended by striking the last sentence.

(4) Subsection (l) of section 404 is amended by striking the last sentence.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning

after December 31, 1992, except that an employer may elect not to have such amendments apply to years beginning in 1993.

SEC. 4222. MODIFICATION OF ADDITIONAL PARTICIPATION REQUIREMENTS.

(a) GENERAL RULE.—Section 401(a)(26)(A) (relating to additional participation requirements) is amended to read as follows:

"(A) IN GENERAL.—In the case of a trust which is a part of a defined benefit plan, such trust shall not constitute a qualified trust under this subsection unless on each day of the plan year such trust benefits at least the lesser of—

"(i) 50 employees of the employer, or

"(ii) the greater of—

"(I) 40 percent of all employees of the employer, or

"(II) 2 employees (or if there is only 1 employee, such employee)."

(b) SEPARATE LINE OF BUSINESS TEST.—Section 401(a)(26)(G) (relating to separate line of business) is amended by striking "paragraph (7)" and inserting "paragraph (2)(A) or (7)".

(c) EFFECTIVE DATES.—The amendment made by this section shall apply to years beginning after December 31, 1991.

SEC. 4223. NONDISCRIMINATION RULES FOR QUALIFIED CASH OR DEFERRED ARRANGEMENTS AND MATCHING CONTRIBUTIONS.

(a) ALTERNATIVE METHODS OF SATISFYING SECTION 401(k) NONDISCRIMINATION TESTS.—Section 401(k) (relating to cash or deferred arrangements) is amended by adding at the end thereof the following new paragraph:

"(11) ALTERNATIVE METHODS OF MEETING NONDISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement—

"(i) meets the contribution requirements of subparagraph (B) or (C), and

"(ii) meets the notice requirements of subparagraph (D).

"(B) MATCHING CONTRIBUTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount not less than—

"(I) 100 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 3 percent of the employee's compensation, and

"(II) 50 percent of the elective contributions of the employee to the extent that such elective contributions exceed 3 percent but do not exceed 5 percent of the employee's compensation.

"(ii) RATE FOR HIGHLY COMPENSATED EMPLOYEES.—The requirements of this subparagraph are not met if, under the arrangement, the matching contribution with respect to any elective contribution of a highly compensated employee at any level of compensation is greater than that with respect to an employee who is not a highly compensated employee.

"(iii) ALTERNATIVE PLAN DESIGNS.—If the matching contribution with respect to any elective contribution at any specific level of compensation is not equal to the percentage required under clause (i), an arrangement shall not be treated as failing to meet the requirements of clause (i) if—

"(I) the level of an employer's matching contribution does not increase as an employee's elective contributions increase, and

"(II) the aggregate amount of matching contributions with respect to elective contributions not in excess of such level of compensation is at least equal to the amount of matching contributions which would be made if matching contributions were made on the basis of the percentages described in clause (i).

"(C) NONELECTIVE CONTRIBUTIONS.—The requirements of this subparagraph are met if, under the arrangement, the employer is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation.

"(D) NOTICE REQUIREMENT.—An arrangement meets the requirements of this paragraph if, under the arrangement, each employee eligible to participate is, within a reasonable period before any year, given written notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to appraise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee eligible to participate.

"(E) OTHER REQUIREMENTS.—

"(i) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless the requirements of subparagraphs (B) and (C) of paragraph (2) are met with respect to employer contributions.

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS NOT TAKEN INTO ACCOUNT.—An arrangement shall not be treated as meeting the requirements of subparagraph (B) or (C) unless such requirements are met without regard to subsection (l), and, for purposes of subsection (l), employer contributions under subparagraph (B) or (C) shall not be taken into account.

"(F) OTHER PLANS.—An arrangement shall be treated as meeting the requirements under subparagraph (A)(i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement."

(b) ALTERNATIVE METHODS OF SATISFYING SECTION 401(m) NONDISCRIMINATION TESTS.—Section 401(m) (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (10) as paragraph (11) and by adding after paragraph (9) the following new paragraph:

"(10) ALTERNATIVE METHOD OF SATISFYING TESTS.—

"(A) IN GENERAL.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(i) meets the contribution requirements of subparagraph (B) or (C) of subsection (k)(11),

"(ii) meets the notice requirements of subsection (k)(11)(D), and

"(iii) meets the requirements of subparagraph (B).

"(B) LIMITATION ON MATCHING CONTRIBUTIONS.—The requirements of this subparagraph are met if—

"(i) matching contributions on behalf of any employee may not be made with respect to an employee's contributions or elective deferrals in excess of 6 percent of the employee's compensation,

"(ii) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase, and

"(iii) the matching contribution with respect to any highly compensated employee at a specific level of compensation is not greater than that with respect to an employee who is not a highly compensated employee."

(c) YEAR FOR COMPUTING NONHIGHLY COMPENSATED EMPLOYEE PERCENTAGE.—

(1) CASH OR DEFERRED ARRANGEMENTS.—Clause (ii) of section 401(k)(3)(A) is amended—

(A) by striking "such year" and inserting "the plan year", and

(B) by striking "for such plan year" and inserting "the preceding plan year".

(2) MATCHING AND EMPLOYEE CONTRIBUTIONS.—Section 401(m)(2)(A) is amended—

(A) by inserting "for such plan year" after "highly compensated employee", and

(B) by inserting "for the preceding plan year" after "eligible employees" each place it appears in clause (i) and clause (ii).

(d) SPECIAL RULE FOR DETERMINING AVERAGE DEFERRAL PERCENTAGE FOR FIRST PLAN YEAR, ETC.—

(1) Paragraph (3) of section 401(k) is amended by adding at the end thereof the following new subparagraph:

"(E) For purposes of this paragraph, in the case of the first plan year of any plan, the amount taken into account as the average deferral percentage of nonhighly compensated employees for the preceding plan year shall be—

"(i) 3 percent, or

"(ii) if the employer makes an election under this subclause, the average deferral percentage of nonhighly compensated employees determined for such first plan year."

(2) Paragraph (3) of section 401(m) is amended by adding at the end thereof the following: "Rules similar to the rules of subsection (k)(3)(E) shall apply for purposes of this subsection.".

(e) DISTRIBUTION OF EXCESS CONTRIBUTIONS.—

(1) Subparagraph (C) of section 401(k)(8) (relating to arrangement not disqualified if excess contributions distributed) is amended by striking "on the basis of the respective portions of the excess contributions attributable to each of such employees" and inserting "on the basis of the amount of contributions by, or on behalf of, each of such employees".

(2) Subparagraph (C) of section 401(m)(6) (relating to method of distributing excess aggregate contributions) is amended by striking "on the basis of the respective portions of such amounts attributable to each of such employees" and inserting "on the basis of the amount of contributions on behalf of, or by, each such employee".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 1992.

PART IV—MISCELLANEOUS SIMPLIFICATION

SEC. 4231. TREATMENT OF LEASED EMPLOYEES.

(a) GENERAL RULE.—Subparagraph (C) of section 414(n)(2) (defining leased employee) is amended to read as follows:

"(C) such services are performed under significant direction or control by the recipient."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 1992, but shall not apply to any relationship determined under an Internal Revenue Service ruling issued before the date of the enactment of this Act pursuant to section 414(n)(2)(C) of the Internal Revenue Code of 1986 (as in effect on the day before such date) not to involve a leased employee.

SEC. 4232. TREATMENT OF EMPLOYER REVERSIONS REQUIRED BY CONTRACT TO BE PAID TO THE UNITED STATES.

(a) IN GENERAL.—Subparagraph (B) of section 4980(c)(2) (defining employer reversion) is amended by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", or", and by adding at the end thereof the following new clause:

"(iii) any distribution to the employer to the extent that the distribution is paid within a reasonable period to the United States in satisfaction of a Federal claim for an equitable share of the plan's surplus assets, as determined pursuant to Federal contracting regulations."

(b) Effective Date.—The amendment made by subsection (a) shall apply to reversions on or after the date of the enactment of this Act.

SEC. 4233. MODIFICATIONS OF COST-OF-LIVING ADJUSTMENTS.

(a) In General.—Section 415(d) (relating to cost-of-living adjustments) is amended to read as follows:

"(d) Cost-Of-Living Adjustments.—

"(1) In general.—The Secretary shall adjust annually—

"(A) the $90,000 amount in subsection (b)(1)(A), and

"(B) in the case of a participant who separated from service, the amount taken into account under subsection (b)(1)(B),

for increases in the cost-of-living in accordance with regulations prescribed by the Secretary.

"(2) Method.—

"(A) In general.—The regulations prescribed under paragraph (1) shall provide for adjustment procedures which are similar to the procedures used to adjust benefit amounts under section 215(i)(2)(A) of the Social Security Act.

"(B) Periods for adjustment of dollar amount.—For purposes of paragraph (1)(A)—

"(i) In general.—The adjustment with respect to any calendar year shall be based on the increase in the applicable index as of the close of the calendar quarter ending September 30 of the preceding calendar year over such index as of the close of the base period.

"(ii) Base period.—For purposes of clause (i), the base period is the calendar quarter beginning October 1, 1986.

"(C) Base period for separations.—For purposes of paragraph (1)(B), the base period is the last calendar quarter of the calendar year preceding the calendar year in which the participant separated from service.

"(3) Rounding.—Any amount determined under paragraph (1) (or by reference to this subsection) shall be rounded to the nearest $1,000, except that the amounts under sections 402(g)(1) and 408(k)(2)(C) shall be rounded to the nearest $100."

(b) Effective Date.—The amendments made by this section apply to adjustments with respect to calendar years beginning after December 31, 1992.

SEC. 4234. PLANS COVERING SELF-EMPLOYED INDIVIDUALS.

(a) Aggregation Rules.—Section 401(d) (relating to additional requirements for qualification of trusts and plans benefiting owner-employees) is amended to read as follows:

"(d) Contribution Limit on Owner-Employees.—A trust forming part of a pension or profit-sharing plan which provides contributions or benefits for employees some or all of whom are owner-employees shall constitute a qualified trust under this section only if, in addition to meeting the requirements of subsection (a), the plan provides that contributions on behalf of any owner-employee may be made only with respect to the earned income of such owner-employee which is derived from the trade or business with respect to which such plan is established."

(b) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4235. ALTERNATIVE FULL-FUNDING LIMITATION.

(a) In General.—Subsection (c) of section 412 (relating to minimum funding standards) is amended by redesignating paragraphs (8) through (11) as paragraphs (9) through (12), respectively, and by adding after paragraph (7) the following new paragraph:

"(8) Alternative full-funding limitation.—

"(A) General rule.—An employer may elect the full-funding limitation under this paragraph with respect to any defined benefit plan of the employer in lieu of the full-funding limitation determined under paragraph (7) if the requirements of subparagraphs (C) and (D) are met.

"(B) Alternative full-funding limitation.—The full-funding limitation under this paragraph is the full-funding limitation determined under paragraph (7) without regard to subparagraph (A)(i)(I) thereof.

"(C) Requirements relating to plan eligibility.—

"(i) In general.—The requirements of this subparagraph are met with respect to a defined benefit plan if—

"(I) as of the 1st day of the election period, the average accrued liability of participants accruing benefits under the plan for the 5 immediately preceding plan years is at least 80 percent of the plan's total accrued liability,

"(II) the plan is not a top-heavy plan (as defined in section 416(g)) for the 1st plan year of the election period or either of the 2 preceding plan years, and

"(III) each defined benefit plan of the employer (and each defined benefit plan of each employer who is a member of any controlled group which includes such employer) meets the requirements of subclauses (I) and (II).

"(ii) Failure to continue to meet requirements.—

"(I) If any plan fails to meet the requirement of clause (i)(I) for any plan year during an election period, the benefits of the election under this paragraph shall be phased out under regulations prescribed by the Secretary.

"(II) If any plan fails to meet the requirement of clause (i)(II) for any plan year during an election period, such plan shall be treated as not meeting the requirements of clause (i) for the remainder of the election period.

If there is a failure described in subclause (I) or (II) with respect to any plan, such plan (and each plan described in clause (i)(III) with respect to such plan) shall be treated as not meeting the requirements of clause (i) for any of the 10 plan years beginning after the election period.

"(D) Requirements relating to election.—

"(i) In general.—The requirements of this subparagraph are met with respect to an election if—

"(I) Filing date.—Notice of such election is filed with the Secretary (in such form and manner and containing such information as the Secretary may provide) by January 1 of any calendar year, and is effective as of the 1st day of the election period beginning on or after January 1 of the following calendar.

"(II) Consistent election.—Such an election is made for all defined benefit plans maintained by the employer or by any member of a controlled group which includes the employer.

"(ii) Transition period.—In the case of any election period beginning on and after July 1, 1992, and before January 1, 1994, the requirements of clause (i) shall not apply and the requirements of this subparagraph are met with respect to such election period if—

"(I) Filing date.—Notice of election is filed with the Secretary by October 1, 1992.

"(II) Information.—The notice sets forth the name and tax identification number of the plan sponsor, the names and tax identification numbers of the plans to which the election applies, the limitation under paragraph (7) (determined with and without regard to this paragraph), and a signed certification by an officer of the employer stating that the requirements of this paragraph have been met.

"(iii) Revenue offset procedures.—The Secretary shall, by January 1, 1993, notify defined benefit plans that have not made an election under this paragraph for the transition period described in clause (ii) of the adjustment required by subparagraph (H). The revenue offset for the transition period shall apply to plan years beginning on or after July 1, 1992, and before January 1, 1994.

"(iv) Excess contributions made by non-electing plans.—To the extent a defined benefit plan sponsor makes a contribution to a defined benefit plan with respect to the transition period described in clause (ii) which exceeds the limitation of paragraph (7), as adjusted by the Secretary for the transition period, the sponsor shall offset the excess contribution against allowable contributions to the plan in subsequent quarters in the taxable year of the sponsor. If no subsequent contributions may be made for the taxable year, the trustee of the defined benefit plan shall return the excess contribution to the sponsor in that taxable year or the following taxable year. Notwithstanding any other provision of this title, no deduction shall be allowed for any contribution made in excess of the limitation of paragraph (7), as adjusted by the Secretary for the transition period, and no penalty shall apply with respect to contributions made in excess of such limitation to the extent such excess contributions are either used to offset subsequent contributions, or returned to the plan sponsor, as provided in this clause.

"(E) Term of election.—Any election made under this paragraph shall apply for the election period.

"(F) Other consequences of election.—

"(i) No funding waivers.—In the case of a plan with respect to which an election is made under this paragraph, no waiver may be granted under subsection (d) for any plan year beginning after the date the election was made and ending at the close of the election period with respect thereto.

"(ii) Failure to make successive elections.—If an election is made under this paragraph with respect to any plan and such an election does not apply for each successive plan year of such plan, such plan shall be treated as not meeting the requirements of subparagraph (C) for the period of 10 plan years beginning after the close of the last election period for such plan.

"(G) Definitions.—For purposes of this paragraph—

"(i) Election period.—The term 'election period' means the period of 5 consecutive plan years beginning with the 1st plan year for which the election is made.

"(ii) Controlled group.—The term 'controlled group' means all persons who are treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

"(H) Procedures if alternative funding limitation reduces net Federal revenues.—

"(i) In general.—At least once with respect to each fiscal year, the Secretary shall estimate whether the application of this paragraph will result in a net reduction in Federal revenues for such fiscal year.

"(ii) Adjustment of full-funding limitation if revenue shortfall.—If the Secretary estimates that the application of this paragraph will result in a more than insubstantial net reduction in Federal revenues for any fiscal year, the Secretary—

"(I) shall make the adjustment described in clause (iii), and

"(II) to the extent such adjustment is not sufficient to reduce such reduction to an insubstantial amount, shall make the adjustment described in clause (iv).

Such adjustments shall apply only to defined benefit plans with respect to which an election under this paragraph is not in effect.

"(iii) Reduction in limitation based on 150 percent of current liability.—The adjustment described in this clause is an adjustment which substitutes a percentage (not lower than

140 percent) for the percentage described in paragraph (7)(A)(i)(I) determined by reducing the percentage of current liability taken into account with respect to participants who are not accruing benefits under the plan.

"(iv) REDUCTION IN LIMITATION BASED ON ACCRUED LIABILITY.—The adjustment described in this clause is an adjustment which reduces the percentage of accrued liability taken into account under paragraph (7)(A)(i)(II). In no event may the amount of accrued liability taken into account under such paragraph after the adjustment be less than 140 percent of current liability."

(b) ALTERATION OF DISCRETIONARY REGULATORY AUTHORITY.—Subparagraph (D) of section 412(c)(7) is amended by striking "provide—" and all that follows through "(iii) for" and inserting "provide for".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4236. DISTRIBUTIONS UNDER RURAL COOPERATIVE PLANS.

(a) DISTRIBUTIONS AFTER CERTAIN AGE.—Section 401(k)(7) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—A rural cooperative plan which includes a qualified cash or deferred arrangement shall not be treated as violating the requirements of section 401(a) merely by reason of a distribution to a participant after attainment of age 59½."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 4237. TREATMENT OF GOVERNMENTAL PLANS UNDER SECTION 415.

(a) DEFINITION OF COMPENSATION.—Subsection (k) of section 415 (regarding limitations on benefits and contributions under qualified plans) is amended by adding immediately after paragraph (2) thereof the following new paragraph:

"(3) DEFINITION OF COMPENSATION FOR GOVERNMENTAL PLANS.—For purposes of this section, in the case of a governmental plan (as defined in section 414(d)), the term 'compensation' includes, in addition to the amounts described in subsection (c)(3)—

"(A) any elective deferral (as defined in section 402(g)(3)), and

"(B) any amount which is contributed by the employer at the election of the employee and which is not includible in the gross income of an employee under section 125 or 457."

(b) COMPENSATION LIMIT.—Subsection (b) of section 415 is amended by adding immediately after paragraph (10) the following new paragraph:

"(11) SPECIAL LIMITATION RULE FOR GOVERNMENTAL PLANS.—In the case of a governmental plan (as defined in section 414(d)), subparagraph (B) of paragraph (1) shall not apply."

(c) TREATMENT OF CERTAIN EXCESS BENEFIT PLANS.—

(1) IN GENERAL.—Section 415 is amended by adding at the end thereof the following new subsection:

"(m) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—

"(1) GOVERNMENTAL PLAN NOT AFFECTED.—In determining whether a governmental plan (as defined in section 414(d)) meets the requirements of this section, benefits provided under a qualified governmental excess benefit arrangement shall not be taken into account. Income accruing to a governmental plan (or to a trust that is maintained solely for the purpose of providing benefits under a qualified governmental excess benefit arrangement) in respect of a qualified governmental excess benefit arrangement shall constitute income derived from the exercise of an essential governmental function upon which such governmental plan (or trust) shall be exempt from tax under section 115.

"(2) TAXATION OF PARTICIPANT.—For purposes of this chapter—

"(A) the taxable year or years for which amounts in respect of a qualified governmental excess benefit arrangement are includible in gross income by a participant, and

"(B) the treatment of such amounts when so includible by the participant,

shall be determined as if such qualified governmental excess benefit arrangement were treated as a plan for the deferral of compensation which is maintained by a corporation not exempt from tax under this chapter and which does not meet the requirements for qualification under section 401.

"(3) QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENT.—For purposes of this subsection, the term 'qualified governmental excess benefit arrangement' means a portion of a governmental plan if—

"(A) such portion is maintained solely for the purpose of providing to participants in the plan that part of the participant's annual benefit otherwise payable under the terms of the plan that exceeds the limitations on benefits imposed by this section,

"(B) under such portion no election is provided at any time to the participant (directly or indirectly) to defer compensation, and

"(C) benefits described in subparagraph (A) are not paid from a trust forming a part of such governmental plan unless such trust is maintained solely for the purpose of providing such benefits."

(2) COORDINATION WITH SECTION 457.—Subsection (e) of section 457 is amended by adding at the end thereof the following new paragraph:

"(15) TREATMENT OF QUALIFIED GOVERNMENTAL EXCESS BENEFIT ARRANGEMENTS.—Subsections (b)(2) and (c)(1) shall not apply to any qualified governmental excess benefit arrangement (as defined in section 415(m)(3)), and benefits provided under such an arrangement shall not be taken into account in determining whether any other plan is an eligible deferred compensation plan."

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 457(f) is amended by striking the word "and" at the end of subparagraph (C), by striking the period after subparagraph (D) and inserting the words ", and", and by inserting immediately thereafter the following new subparagraph:

"(E) a qualified governmental excess benefit arrangement described in section 415(m)."

(d) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS.—Paragraph (2) of section 415(b) is amended by adding at the end thereof the following new subparagraph:

"(I) EXEMPTION FOR SURVIVOR AND DISABILITY BENEFITS PROVIDED UNDER GOVERNMENTAL PLANS.—Subparagraph (B) of paragraph (1), subparagraph (C) of this paragraph, and paragraph (5) shall not apply to—

"(i) income received from a governmental plan (as defined in section 414(d)) as a pension, annuity, or similar allowance as the result of the recipient becoming disabled by reason of personal injuries or sickness, or

"(ii) amounts received from a governmental plan by the beneficiaries, survivors, or the estate of an employee as the result of the death of the employee."

(e) REVOCATION OF GRANDFATHER ELECTION.—Subparagraph (C) of section 415(b)(10) is amended by adding at the end thereof the following new sentence: "An election made pursuant to the preceding sentence to have the provisions of this paragraph applied to the plan may be revoked not later than the last day of the 3rd plan year beginning after the date of enactment with respect to all plan years as to which such election has been applicable and all subsequent plan years; provided that any amount paid by the plan in a taxable year ending after revocation of such election in respect of benefits attributable to a taxable year during which such election was in effect shall be includible in income by the recipient in accordance with the rules of this chapter in the taxable year in which such amount is received (except that such amount shall be treated as received for purposes of the limitations imposed by this section in the earlier taxable year or years to which such amount is attributable)."

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsections (a), (b), (c), and (d) shall apply to taxable years beginning on or after the date of the enactment of this Act. The amendments made by subsection (e) shall apply with respect to election revocations adopted after the date of the enactment of this Act.

(2) TREATMENT FOR YEARS BEGINNING BEFORE DATE OF ENACTMENT.—In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), such plan shall be treated as satisfying the requirements of section 415 of such Code for all taxable years beginning before the date of the enactment of this Act.

SEC. 4238. USE OF EXCESS ASSETS OF BLACK LUNG BENEFIT TRUSTS FOR HEALTH CARE BENEFITS.

(a) GENERAL RULE.—Paragraph (21) of section 501(c) is amended to read as follows:

"(21)(A) A trust or trusts established in writing, created or organized in the United States, and contributed to by any person (except an insurance company) if—

"(i) the purpose of such trust or trusts is exclusively—

"(I) to satisfy, in whole or in part, the liability of such person for, or with respect to, claims for compensation for disability or death due to pneumoconiosis under Black Lung Acts,

"(II) to pay premiums for insurance exclusivel covering such liability,

"(III) to pay administrative and other incidental expenses of such trust in connection with the operation of the trust and the processing of claims against such person under Black Lung Acts, and

"(IV) to pay accident or health benefits for retired miners and their spouses and dependents (including administrative and other incidental expenses of such trust in connection therewith) or premiums for insurance exclusively covering such benefits, and

"(ii) no part of the assets of the trust may be used for, or diverted to, any purpose other than—

"(I) the purposes described in clause (i),

"(II) investment (but only to the extent that the trustee determines that a portion of the assets is not currently needed for the purposes described in clause (i)) in qualified investments, or

"(III) payment into the Black Lung Disability Trust Fund established under section 9501, or into the general fund of the United States Treasury (other than in satisfaction of any tax or other civil or criminal liability of the person who established or contributed to the trust).

"(B) No deduction shall be allowed under this chapter for any payment described in subparagraph (A)(i)(IV) from such trust.

"(C) Payments described in subparagraph (A)(i)(IV) may be made from such trust during a taxable year only to the extent that the aggregate amount of such payments during such taxable year does not exceed the lesser of—

"(i) the excess (if any) (as of the close of the preceding taxable year) of—

"(I) the fair market value of the assets of the trust, over

"(II) 110 percent of the present value of the liability described in subparagraph (A)(i)(I) of such person, or

"(ii) the excess (if any) of—

"(I) the sum of a similar excess determined as of the close of the last taxable year ending before the date of the enactment of this subparagraph plus earnings thereon as of the close of the taxable year preceding the taxable year involved, over

"(II) the aggregate payments described in subparagraph (A)(i)(IV) made from the trust during all taxable years beginning after the date of the enactment of this subparagraph.

The determinations under the preceding sentence shall be made by an independent actuary using actuarial methods and assumptions (not inconsistent with the regulations prescribed under section 192(c)(1)(A)) each of which is reasonable and which are reasonable in the aggregate.

"(D) For purposes of this paragraph—

"(i) The term 'Black Lung Acts' means part C of title IV of the Federal Mine Safety and Health Act of 1977, and any State law providing compensation for disability or death due to pneumoconiosis.

"(ii) The term 'qualified investments' means—

"(I) public debt securities of the United States,

"(II) obligations of a State or local government which are not in default as to principal or interest, and

"(III) time or demand deposits in a bank (as defined in section 581) or an insured credit union (within the meaning of section 101(6) of the Federal Credit Union Act, 12 U.S.C. 1752(6)) located in the United States.

"(iii) The term 'miner' has the same meaning as such term has when used in section 402(d) of the Black Lung Benefits Act (30 U.S.C. 902(d)).

"(iv) The term 'incidental expenses' includes legal, accounting, actuarial, and trustee expenses."

(b) Exception From Tax on Self-Dealing.—Section 4951(f) is amended by striking "clause (i) of section 501(c)(21)(A)" and inserting "subclause (I) or (IV) of section 501(c)(21)(A)(i)".

(c) Technical Amendment.—Paragraph (4) of section 192(c) is amended by striking "clause (ii) of section 501(c)(21)(B)" and inserting "subclause (II) of section 501(c)(21)(A)(ii)".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4239. UNIFORM PENALTY PROVISIONS TO APPLY TO CERTAIN PENSION REPORTING REQUIREMENTS.

(a) In General.—

(1) Paragraph (1) of section 6724(d) is amended by striking "and" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", and", and by inserting after subparagraph (B) the following new subparagraph:

"(C) any statement of the amount of payments to another person required to be made to the Secretary under—

"(i) section 408(i) (relating to reports with respect to individual retirement accounts or annuities), or

"(ii) section 6047(d) (relating to reports by employers, plan administrators, etc.)."

(2) Paragraph (2) of section 6724(d) is amended by striking "or" at the end of subparagraph (R), by striking the period at the end of subparagraph (S) and inserting a comma, and by inserting after subparagraph (S) the following new subparagraphs:

"(T) section 408(i) (relating to reports with respect to individual retirement plans) to any person other than the Secretary with respect to the amount of payments made to such person, or

"(U) section 6047(d) (relating to reports by plan administrators) to any person other than the Secretary with respect to the amount of payments made to such person."

(b) Modification of Reportable Designated Distributions.—

(1) Section 408.—Subsection (i) of section 408 (relating to individual retirement account reports) is amended by inserting "aggregating $10 or more in any calendar year" after "distributions".

(2) Section 6047.—Paragraph (1) of section 6047(d) (relating to reports by employers, plan administrators, etc.) is amended by adding at the end thereof the following new sentence: "No return or report may be required under the preceding sentence with respect to distributions to any person during any year unless such distributions aggregate $10 or more."

(c) Conforming Amendments.—

(1) Paragraph (1) of section 6047(f) is amended to read as follows:

"(1) For provisions relating to penalties for failures to file returns and reports required under this section, see sections 6652(e), 6721, and 6722."

(2) Subsection (e) of section 6652 is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to any return or statement which is an information return described in section 6724(d)(1)(C)(ii) or a payee statement described in section 6724(d)(2)(U)."

(3) Subsection (a) of section 6693 is amended by adding at the end thereof the following new sentence: "This subsection shall not apply to any report which is an information return described in section 6724(d)(1)(C)(i) or a payee statement described in section 6724(d)(2)(T)."

(d) Effective Date.—The amendments made by this section shall apply to returns, reports, and other statements the due date for which (determined without regard to extensions) is after December 31, 1992.

SEC. 4240. CONTRIBUTIONS ON BEHALF OF DISABLED EMPLOYEES.

(a) All Disabled Participants Receiving Contributions.—Section 415(c)(3)(C) is amended by adding at the end thereof the following: "If a defined contribution plan provides for the continuation of contributions on behalf of all participants described in clause (i) for a fixed or determinable period, this subparagraph shall be applied without regard to clauses (ii) and (iii)."

(b) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4241. AFFILIATED EMPLOYERS.

(a) In General.—For purposes of Treasury Regulations section 1.501(c)(9)–2(a)(1), employers shall be deemed to be affiliated if they satisfy the requirements of subsection (b).

(b) Affiliation.—The requirements of subsection (b) shall be satisfied with respect to employers if—

(1) the employers are in the same line of business,

(2) the employers act jointly to perform tasks that are integral to the activities of each of the employers,

(3) the employers act jointly to such an extent that the joint maintenance of a voluntary employees' beneficiary association is not a major part of the employers' joint activities, and

(4) a substantial number of the employers are exempt from tax under subtitle A of the Internal Revenue Code of 1986.

(c) Effective Date.—The amendments made by this section shall apply to years beginning before, on, or after the date of the enactment of this section.

SEC. 4242. UNIFORM RETIREMENT AGE.

(a) Discrimination Testing.—Paragraph (5) of section 401(a) (relating to special rules relating to nondiscrimination requirements) is amended by adding at the end thereof the following new subparagraph:

"(F) Social Security Retirement Age.—For purposes of testing for discrimination under paragraph (4)—

"(i) the social security retirement age (as defined in section 415(b)(8)) shall be treated as a uniform retirement age, and

"(ii) subsidized early retirement benefits and joint and survivor annuities shall not be treated as being unavailable to employees on the same terms merely because such benefits or annuities are based in whole or in part on an employee's social security retirement age (as so defined)."

(b) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 1992.

SEC. 4243. SPECIAL RULES FOR PLANS COVERING PILOTS.

(a) General Rule.—

(1) Subparagraph (B) of section 410(b)(3) is amended to read as follows:

"(B) in the case of a plan established or maintained by one or more employers to provide contributions or benefits for air pilots employed by one or more common carriers engaged in interstate or foreign commerce or air pilots employed by carriers transporting mail for or under contract with the United States Government, all employees who are not air pilots."

(2) Paragraph (3) of section 410(b) is amended by striking the last sentence and inserting the following new sentence: "Subparagraph (B) shall not apply in the case of a plan which provides contributions or benefits for employees who are not air pilots or for air pilots whose principal duties are not customarily performed aboard aircraft in flight."

(b) Effective Date.—The amendments made by subsection (a) shall apply to years beginning after December 31, 1992.

SEC. 4244. TREATMENT OF DEFERRED COMPENSATION PLANS OF STATE AND LOCAL GOVERNMENTS AND TAX-EXEMPT ORGANIZATIONS.

(a) Special Rules for Plan Distributions.—Paragraph (9) of section 457(e) (relating to other definitions and special rules) is amended to read as follows:

"(9) Benefits Not Treated as Made Available by Reason of Certain Elections, Etc.—

"(A) Total Amount Payable Is $3,500 or Less.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to receive such amount (or the plan may distribute such amount without the participant's consent) if—

"(i) such amount does not exceed $3,500, and

"(ii) such amount may be distributed only if—

"(I) no amount has been deferred under the plan with respect to such participant during the 2-year period ending on the date of the distribution, and

"(II) there has been no prior distribution under the plan to such participant to which this subparagraph applied.

A plan shall not be treated as failing to meet the distribution requirements of subsection (d) by reason of a distribution to which this subparagraph applies.

"(B) Election to Defer Commencement of Distributions.—The total amount payable to a participant under the plan shall not be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if—

"(i) such election is made after amounts may be available under the plan in accordance with subsection (d)(1)(A) and before commencement of such distributions, and

"(ii) the participant may make only 1 such election."

(b) Cost-of-Living Adjustment of Maximum Deferral Amount.—Subsection (e) of section 457 is amended by adding at the end thereof the following new paragraph:

"(14) Cost-of-Living Adjustment of Maximum Deferral Amount.—The Secretary shall

adjust the $7,500 amount specified in subsections (b)(2) and (c)(1) at the same time and in the same manner as under section 415(d) with respect to months after 1991."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4245. CONTINUATION HEALTH COVERAGE FOR EMPLOYEES OF FAILED FINANCIAL INSTITUTIONS.

(a) ENFORCEMENT OF CONTINUATION OF HEALTH PLAN REQUIREMENTS OF SUCCESSORS OF FAILED DEPOSITORY INSTITUTIONS.—Subsection (f) of section 4980B (relating to continuation of coverage requirements of group health plans) is amended by adding after paragraph (8) the following new paragraph:

"(9) SPECIAL RULES FOR SUCCESSORS OF FAILED DEPOSITORY INSTITUTIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any successor of a failed depository institution—

"(i) shall have the same obligation to provide a group health plan meeting the requirements of this subsection with respect to former employees of such institution in the same manner as the failed depository institution would have had but for its failure, and

"(ii) shall be treated as the employer of such former employees for purposes of this section.

"(B) TAX NOT TO APPLY IF FDIC OR RTC PROVIDE CONTINUATION COVERAGE.—Subparagraph (A) shall not apply if the Federal Deposit Insurance Corporation or the Resolution Trust Corporation are, outside of their respective capacities as successors of a failed depository institution, providing a group health plan meeting the requirements of this subsection to former employees of a failed depository institution.

"(C) SUCCESSOR.—For purposes of this paragraph, an entity is a successor of a failed depository institution during any period if—

"(i) such entity holds substantially all of the assets or liabilities of such institution, and

"(ii)(I) such entity is a bridge bank, or

"(II) such entity acquired such assets or liabilities from the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, or a bridge bank.

"(D) FAILED DEPOSITORY INSTITUTION.—For purposes of this section, the term 'failed depository institution' means any depository institution (as defined in section 3(c) of the Federal Deposit Insurance Act) for which a receiver or conservator has been appointed."

(b) TREATMENT OF DEPOSITORY INSTITUTION FAILURES AS QUALIFYING EVENTS FOR RETIREES OF SUCH INSTITUTIONS.—

(1) IN GENERAL.—Subparagraph (F) of section 4908B(f)(3) is amended—

(A) by striking "A proceeding" and inserting "(i) A proceeding",

(B) by striking the period at the end and inserting ", or", and

(C) by inserting after clause (i) the following new clause:

"(ii) the appointment of a receiver or conservator for a failed depository institution from whose employment the covered employee retired at any time."

(2) CONFORMING AMENDMENT.—Subclause (III) of section 4980B(f)(2)(B)(i) is amended—

(A) by inserting "OR FAILURES OF DEPOSITORY INSTITUTIONS" after "PROCEEDINGS" in the heading, and

(B) by inserting "and failures of depository institutions" after "proceedings".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in section 451 of the Federal Deposit Insurance Corporation Improvement Act of 1991 as of the date of the enactment of such Act.

SEC. 4246. DATE FOR ADOPTION OF PLAN AMENDMENTS.

If any amendment made by this subtitle requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 1994, if—

(1) during the period after such amendment takes effect and before such first plan year, the plan is operated in accordance with the requirements of such amendment, and

(2) such plan amendment applies retroactively to such period.

Subtitle C—Treatment of Large Partnerships

PART I—GENERAL PROVISIONS

SEC. 4301. SIMPLIFIED FLOW-THROUGH FOR LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Subchapter K (relating to partners and partnerships) is amended by adding at the end thereof the following new part:

"PART IV—SPECIAL RULES FOR LARGE PARTNERSHIPS

"Sec. 771. Application of subchapter to large partnerships.
"Sec. 772. Simplified flow-through.
"Sec. 773. Computations at partnership level.
"Sec. 774. Other modifications.
"Sec. 775. Large partnership defined.
"Sec. 776. Special rules for partnerships holding oil and gas properties.
"Sec. 777. Regulations.

"SEC. 771. APPLICATION OF SUBCHAPTER TO LARGE PARTNERSHIPS.

"The preceding provisions of this subchapter to the extent inconsistent with the provisions of this part shall not apply to a large partnership and its partners.

"SEC. 772. SIMPLIFIED FLOW-THROUGH.

"(a) GENERAL RULE.—In determining the income tax of a partner of a large partnership, such partner shall take into account separately such partner's distributive share of the partnership's—

"(1) taxable income or loss from passive loss limitation activities,

"(2) taxable income or loss from other activities,

"(3) net capital gain (or net capital loss)—

"(A) to the extent allocable to passive loss limitation activities, and

"(B) to the extent allocable to other activities,

"(4) tax-exempt interest,

"(5) applicable net AMT adjustment separately computed for—

"(A) passive loss limitation activities, and

"(B) other activities,

"(6) general credits,

"(7) low-income housing credit determined under section 42,

"(8) rehabilitation credit determined under section 47,

"(9) foreign income taxes, and

"(10) the credit allowable under section 29.

"(b) SEPARATE COMPUTATIONS.—In determining the amounts required under subsection (a) to be separately taken into account by any partner, this section and section 773 shall be applied separately with respect to such partner by taking into account such partner's distributive share of the items of income, gain, loss, deduction, or credit of the partnership.

"(c) TREATMENT AT PARTNER LEVEL.—

"(1) IN GENERAL.—Except as provided in this subsection, rules similar to the rules of section 702(b) shall apply to any partner's distributive share of the amounts referred to in subsection (a).

"(2) INCOME OR LOSS FROM PASSIVE LOSS LIMITATION ACTIVITIES.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(1) shall be treated as an item of income or loss (as the case may be) from the conduct of a trade or business which is a single passive activity (as defined in section 469). A similar rule shall apply to a partner's distributive share of amounts referred to in paragraphs (3)(A) and (5)(A) of subsection (a).

"(3) INCOME OR LOSS FROM OTHER ACTIVITIES.—

"(A) IN GENERAL.—For purposes of this chapter, any partner's distributive share of any income or loss described in subsection (a)(2) shall be treated as an item of income or expense (as the case may be) with respect to property held for investment.

"(B) DEDUCTIONS FOR LOSS NOT SUBJECT TO SECTION 67.—The deduction under section 212 for any loss described in subparagraph (A) shall not be treated as a miscellaneous itemized deduction for purposes of section 67.

"(4) TREATMENT OF NET CAPITAL GAIN OR LOSS.—For purposes of this chapter, any partner's distributive share of any gain or loss described in subsection (a)(3) shall be treated as a long-term capital gain or loss, as the case may be.

"(5) MINIMUM TAX TREATMENT.—In determining the alternative minimum taxable income of any partner, such partner's distributive share of any applicable net AMT adjustment shall be taken into account in lieu of making the separate adjustments provided in sections 56, 57, and 58 with respect to the items of the partnership. Except as provided in regulations, the applicable net AMT adjustment shall be treated, for purposes of section 53, as an adjustment or item of tax preference not specified in section 53(d)(1)(B)(ii).

"(6) GENERAL CREDITS.—A partner's distributive share of the amount referred to in paragraph (6) of subsection (a) shall be taken into account as a current year business credit.

"(d) OPERATING RULES.—For purposes of this section—

"(1) PASSIVE LOSS LIMITATION ACTIVITY.—The term 'passive loss limitation activity' means—

"(A) any activity which involves the conduct of a trade or business, and

"(B) any rental activity.

For purposes of the preceding sentence, the term 'trade or business' includes any activity treated as a trade or business under paragraph (5) or (6) of section 469(c).

"(2) TAX-EXEMPT INTEREST.—The term 'tax-exempt interest' means interest excludable from gross income under section 103.

"(3) APPLICABLE NET AMT ADJUSTMENT.—

"(A) IN GENERAL.—The applicable net AMT adjustment is—

"(i) with respect to taxpayers other than corporations, the net adjustment determined by using the adjustments applicable to individuals, and

"(ii) with respect to corporations, the net adjustment determined by using the adjustments applicable to corporations.

"(B) NET ADJUSTMENT.—The term 'net adjustment' means the net adjustment in the items attributable to passive loss activities or other activities (as the case may be) which would result if such items were determined with the adjustments of sections 56, 57, and 58.

"(4) TREATMENT OF CAPITAL GAINS AND LOSSES.—

"(A) EXCLUSION FOR CERTAIN PURPOSES.—In determining the amounts referred to in paragraphs (1) and (2) of subsection (a), any net capital gain or net capital loss (as the case may be) shall be excluded.

"(B) ALLOCATION RULES.—The net capital gain shall be treated—

"(i) as allocable to passive loss limitation activities to the extent the net capital gain does not exceed the net capital gain determined by only taking into account gains and losses from sales and exchanges of property used in connection with such activities, and

"(ii) as allocable to other activities to the extent such gain exceeds the amount allocated under clause (i).

A similar rule shall apply for purposes of allocating any net capital loss.

"(C) NET CAPITAL LOSS.—The term 'net capital loss' means the excess of the losses from sales or exchanges of capital assets over the gains from sales or exchange of capital assets.

"(5) GENERAL CREDITS.—The term 'general credits' means any credit other than the low-income housing credit, the rehabilitation credit, the foreign tax credit, and the credit allowable under section 29.

"(6) FOREIGN INCOME TAXES.—The term 'foreign income taxes' means taxes described in section 901 which are paid or accrued to foreign countries and to possessions of the United States.

"(e) SPECIAL RULE FOR UNRELATED BUSINESS TAX.—In the case of a partner which is an organization subject to tax under section 511, such partner's distributive share of any items shall be taken into account separately to the extent necessary to comply with the provisions of section 512(c)(1).

"(f) SPECIAL RULES FOR APPLYING PASSIVE LOSS LIMITATIONS.—If any person holds an interest in a large partnership other than as a limited partner—

"(1) paragraph (2) of subsection (c) shall not apply to such partner, and

"(2) such partner's distributive share of the partnership items allocable to passive loss limitation activities shall be taken into account separately to the extent necessary to comply with the provisions of section 469.

The preceding sentence shall not apply to any items allocable to an interest held as a limited partner.

"SEC. 773. COMPUTATIONS AT PARTNERSHIP LEVEL.

"(a) GENERAL RULE.—

"(1) TAXABLE INCOME.—The taxable income of a large partnership shall be computed in the same manner as in the case of an individual except that—

"(A) the items described in section 772(a) shall be separately stated, and

"(B) the modifications of subsection (b) shall apply.

"(2) ELECTIONS.—All elections affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be made by the partnership; except that the election under section 901 shall be made by each partner separately.

"(3) LIMITATIONS, ETC.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), all limitations and other provisions affecting the computation of the taxable income of a large partnership or the computation of any credit of a large partnership shall be applied at the partnership level (and not at the partner level).

"(B) CERTAIN LIMITATIONS APPLIED AT PARTNER LEVEL.—The following provisions shall be applied at the partner level (and not at the partnership level):

"(i) Section 68 (relating to overall limitation on itemized deductions).

"(ii) Sections 49 and 465 (relating to at risk limitations).

"(iii) Section 469 (relating to limitation on passive activity losses and credits).

"(iv) Any other provision specified in regulations.

"(4) COORDINATION WITH OTHER PROVISIONS.—Paragraphs (2) and (3) shall apply notwithstanding any other provision of this chapter other than this part.

"(b) MODIFICATIONS TO DETERMINATION OF TAXABLE INCOME.—In determining the taxable income of a large partnership—

"(1) CERTAIN DEDUCTIONS NOT ALLOWED.—The following deductions shall not be allowed:

"(A) The deduction for personal exemptions provided in section 151.

"(B) The net operating loss deduction provided in section 172.

"(C) The additional itemized deductions for individuals provided in part VII of subchapter B (other than section 212 thereof).

"(2) CHARITABLE DEDUCTIONS.—In determining the amount allowable under section 170, the limitation of section 170(b)(2) shall apply.

"(3) COORDINATION WITH SECTION 67.—In lieu of applying section 67, 70 percent of the amount of the miscellaneous itemized deductions shall be disallowed.

"(c) SPECIAL RULES FOR INCOME FROM DISCHARGE OF INDEBTEDNESS.—If a large partnership has income from the discharge of any indebtedness—

"(1) such income shall be excluded in determining the amounts referred to in section 772(a), and

"(2) in determining the income tax of any partner of such partnership—

"(A) such income shall be treated as an item required to be separately taken into account under section 772(a), and

"(B) the provisions of section 108 shall be applied without regard to this part.

"SEC. 774. OTHER MODIFICATIONS.

"(a) TREATMENT OF CERTAIN OPTIONAL ADJUSTMENTS, ETC.—In the case of a large partnership—

"(1) computations under section 773 shall be made without regard to any adjustment under section 743(b) or 108(b), but

"(2) a partner's distributive share of any amount referred to in section 772(a) shall be appropriately adjusted to take into account any adjustment under section 743(b) or 108(b) with respect to such partner.

"(b) DEFERRED SALE TREATMENT OF CONTRIBUTED PROPERTY.—

"(1) TREATMENT OF PARTNERSHIP.—In the case of any contribution of property to which this subsection applies—

"(A) the basis of such property to the partnership shall be its fair market value as of the time of such contribution, and

"(B) section 704(c) shall not apply to such property.

"(2) TREATMENT OF CONTRIBUTING PARTNER.—

"(A) IN GENERAL.—In the case of any partner who makes a contribution of property to which this subsection applies—

"(i) such partner shall recognize the precontribution gain or loss from such property as provided in this paragraph, and

"(ii) appropriate adjustments to the basis of such partner's interest in the partnership shall be made for the amounts recognized under this paragraph.

"(B) CHARACTER.—The character of any gain or loss recognized under this paragraph shall be determined by reference to the character which would have resulted if the property had been sold to the partnership at the time of the contributions; except that any gain or loss recognized under subparagraph (C)(i) shall be treated as ordinary income or loss, as the case may be.

"(C) TRANSACTIONS AT PARTNERSHIP LEVEL.—

"(i) DEPRECIATION, ETC.—If any partnership deduction for depreciation, depletion, or amortization is increased by reason of an increase in the basis of any property under paragraph (1), the contributing partner shall recognize so much of the precontribution gain with respect to such property as does not exceed the increase in such deduction. If there is a precontribution loss, a similar rule shall apply to any decrease in such a deduction.

"(ii) DISPOSITIONS.—

"(I) IN GENERAL.—Except as otherwise provided in this clause, any precontribution gain or loss with respect to any property (to the extent not previously taken into account under this paragraph) shall be recognized by the contributing partner if the partnership makes any disposition of the property.

"(II) DISTRIBUTIONS TO CONTRIBUTING PARTNER.—No gain or loss shall be recognized under subclause (I) by reason of any distribution of the contributed property to the contributing partner (and subparagraph (D)(ii) shall not apply to any such distribution). In any such case, no adjustment shall be made under section 734 on account of such distribution and the adjusted basis of such property in the hands of the contributing partner shall be its adjusted basis immediately before the contribution properly adjusted for gain or loss previously recognized under this paragraph.

"(iii) YEAR FOR WHICH AMOUNT TAKEN INTO ACCOUNT.—Any amount recognized under this subparagraph shall be taken into account for the partner's taxable year in which or with which ends the partnership taxable year of the deduction or disposition.

"(D) TRANSACTIONS AT PARTNER LEVEL.—

"(i) IN GENERAL.—If the contributing partner makes a disposition of any portion of his interest in the partnership, a corresponding portion of any precontribution gain or loss which was not previously taken into account under this paragraph shall be recognized for the partner's taxable year in which the disposition occurs. The preceding sentence shall not apply to a disposition at death.

"(ii) TREATMENT OF CERTAIN DISTRIBUTIONS.—If—

"(I) the amount of cash and the fair market value of property distributed to a partner, exceeds

"(II) the adjusted basis of such partner's interest in the partnership immediately before the distribution (determined without regard to any adjustment under subparagraph (A)(ii) resulting from such distribution),

the contributing partner shall recognize so much of any precontribution gain as does not exceed such excess.

"(iii) SPECIAL RULE.—Except as provided in clause (ii)(II), any basis adjustment under subparagraph (A)(ii) resulting from any gain or loss recognized under this subparagraph shall be treated as occurring immediately before the disposition or distribution involved.

"(E) SECTION 267 AND 707(b) PRINCIPLES TO APPLY.—No loss shall be recognized under subparagraph (C)(ii) or (D) by reason of any disposition (directly or indirectly) to a person related (within the meaning of section 267(b) or 707(b)(1)) to the contributing partner.

"(F) TREATMENT OF CERTAIN NONTAXABLE EXCHANGES.—

"(i) SECTION 1031 AND 1033 TRANSACTIONS.—If the disposition referred to in subclause (I) of subparagraph (C)(ii) is an exchange described in section 1031 or a compulsory or involuntary conversion within the meaning of section 1033—

"(I) the amount of gain or loss recognized by the contributing partner under such subclause (I) shall not exceed the gain or loss recognized by the partnership on the disposition, and

"(II) the replacement property shall be treated as the contributed property for purposes of this paragraph.

For purposes of the preceding sentence, the term 'replacement property' means the property the basis of which is determined under section 1031(d) or 1033(b), whichever is applicable.

"(ii) CONTRIBUTIONS TO CONTROLLED PARTNERSHIP.—If the disposition referred to in subclause (I) of subparagraph (C)(ii) is a contribution of the property to another partnership which is a controlled partnership—

"(I) the rules of subclause (I) of clause (i) shall apply, and

"(II) the partnership shall be treated as continuing to hold the contributed property so long as the other partnership continues to be a controlled partnership and continues to hold such property.

For purposes of the preceding sentence, the term 'controlled partnership' means any partnership in which the partnership making the disposition owns more than 50 percent of the capital interest or profits interest.

"(3) PRECONTRIBUTION GAIN OR LOSS.—For purposes of this subsection—

"(A) PRECONTRIBUTION GAIN.—The term 'precontribution gain' means the excess (if any) of—

"(i) the fair market value of the contributed property as of the time of the contribution, over

"(ii) the adjusted basis of such property immediately before such contribution.

"(B) PRECONTRIBUTION LOSS.—The term 'precontribution loss' means the excess (if any) of the amount referred to in clause (ii) of subparagraph (A) over the amount referred to in clause (i) of subparagraph (A).

"(4) CONTRIBUTIONS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to any contribution of property (other than cash) which is made by any partner to a partnership if—

"(A) as of the time of such contribution, such partnership is a large partnership, or

"(B) such contribution is to a partnership reasonably expected to become a large partnership.

This subsection shall not apply to any contribution made before the date of the enactment of this part.

"(c) CREDIT RECAPTURE DETERMINED AT PARTNERSHIP LEVEL.—

"(1) IN GENERAL.—In the case of a large partnership—

"(A) any credit recapture shall be taken into account by the partnership, and

"(B) the amount of such recapture shall be determined as if the credit with respect to which the recapture is made had been fully utilized to reduce tax.

"(2) METHOD OF TAKING RECAPTURE INTO ACCOUNT.—A large partnership shall take into account a credit recapture by reducing the amount of the appropriate current year credit to the extent thereof, and if such recapture exceeds the amount of such current year credit, the partnership shall be liable to pay such excess.

"(3) DISPOSITIONS NOT TO TRIGGER RECAPTURE.—No credit recapture shall be required by reason of any transfer of an interest in a large partnership.

"(4) CREDIT RECAPTURE.—For purposes of this subsection, the term 'credit recapture' means any increase in tax under section 42(j) or 50(a).

"(d) PARTNERSHIP NOT TERMINATED BY REASON OF CHANGE IN OWNERSHIP.—Subparagraph (B) of section 708(b)(1) shall not apply to a large partnership.

"(e) PARTNERSHIP ENTITLED TO CERTAIN CREDITS.—The following shall be allowed to a large partnership and shall not be taken into account by the partners of such partnership:

"(1) The credit provided by section 34.

"(2) Any credit or refund under section 852(b)(3)(D).

"(f) TREATMENT OF REMIC RESIDUALS.—For purposes of applying section 860E(e)(6) to any large partnership—

"(1) all interests in such partnership shall be treated as held by disqualified organizations,

"(2) in lieu of applying subparagraph (C) of section 860E(e)(6), the amount subject to tax under section 860E(e)(6) shall be excluded from the gross income of such partnership, and

"(3) subparagraph (D) of section 860E(e)(6) shall not apply.

"(g) SPECIAL RULES FOR APPLYING CERTAIN INSTALLMENT SALE RULES.—In the case of a large partnership—

"(1) the provisions of sections 453(l)(3) and 453A shall be applied at the partnership level, and

"(2) in determining the amount of interest payable under such sections, such partnership shall be treated as subject to tax under this chapter at the highest rate of tax in effect under section 1 or 11.

"SEC. 775. LARGE PARTNERSHIP.

"(a) GENERAL RULE.—For purposes of this part—

"(1) IN GENERAL.—Except as otherwise provided in this section or section 776, the term 'large partnership' means, with respect to any partnership taxable year, any partnership if the number of persons who were partners in such partnership in such taxable year or any preceding partnership taxable year beginning after December 31, 1992, equaled or exceeded 250. To the extent provided in regulations, a partnership shall cease to be treated as a large partnership for any partnership taxable year if in such taxable year fewer than 100 persons were partners in such partnership.

"(2) ELECTION FOR PARTNERSHIPS WITH AT LEAST 100 PARTNERS.—If a partnership makes an election under this paragraph, paragraph (1) shall be applied by substituting '100' for '250'. Such an election shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(b) SPECIAL RULES FOR CERTAIN SERVICE PARTNERSHIPS.—

"(1) CERTAIN PARTNERS NOT COUNTED.—For purposes of this section, the term 'partner' does not include any individual performing substantial services in connection with the activities of the partnership and holding an interest in such partnership, or an individual who formerly performed substantial services in connection with such activities and who held an interest in such partnership at the time the individual performed such services.

"(2) EXCLUSION.—For purposes of this part, the term 'large partnership' does not include any partnership if substantially all the partners of such partnership—

"(A) are individuals performing substantial services in connection with the activities of such partnership or are personal service corporations (as defined in section 269A(b)) the owner-employees (as defined in section 269A(b)) of which perform such substantial services,

"(B) are retired partners who had performed such substantial services, or

"(C) are spouses of partners who are performing (or had previously performed) such substantial services.

"(3) SPECIAL RULE FOR LOWER TIER PARTNERSHIPS.—For purposes of this subsection, the activities of a partnership shall include the activities of any other partnership in which the partnership owns directly an interest in the capital and profits of at least 80 percent.

"(c) EXCLUSION OF COMMODITY POOLS.—For purposes of this part, the term 'large partnership' does not include any partnership the principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures, or forwards with respect to such commodities.

"(d) SECRETARY MAY RELY ON TREATMENT ON RETURN.—If, on the partnership return of any partnership, such partnership is treated as a large partnership, such treatment shall be binding on such partnership and all partners of such partnership but not on the Secretary.

"SEC. 776. SPECIAL RULES FOR PARTNERSHIPS HOLDING OIL AND GAS PROPERTIES.

"(a) EXCEPTION FOR PARTNERSHIPS HOLDING SIGNIFICANT OIL AND GAS PROPERTIES.—

"(1) IN GENERAL.—For purposes of this part, the term 'large partnership' shall not include any partnership if the average percentage of assets (by value) held by such partnership during the taxable year which are oil or gas properties is at least 25 percent. For purposes of the preceding sentence, any interest held by a partnership in another partnership shall be disregarded, except that the partnership shall be treated as holding its proportionate share of the assets of such other partnership.

"(2) ELECTION TO WAIVE EXCEPTION.—Any partnership may elect to have paragraph (1) not apply. Such an election shall apply to the partnership taxable year for which made and all subsequent partnership taxable years unless revoked with the consent of the Secretary.

"(b) SPECIAL RULES WHERE PART APPLIES.—

"(1) COMPUTATION OF PERCENTAGE DEPLETION.—In the case of a large partnership, except as provided in paragraph (2)—

"(A) the allowance for depletion under section 611 with respect to any partnership oil or gas property shall be computed at the partnership level without regard to any provision of section 613A requiring such allowance to be computed separately by each partner,

"(B) such allowance shall be determined without regard to the provisions of section 613A(c) limiting the amount of production for which percentage depletion is allowable and without respect to paragraph (1) of section 613A(d), and

"(C) paragraph (3) of section 705(a) shall not apply.

"(2) TREATMENT OF CERTAIN PARTNERS.—

"(A) IN GENERAL.—In the case of a disqualified person, the treatment under this chapter of such person's distributive share of any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property shall be determined without regard to this part. Such person's distributive share of any such items shall be excluded for purposes of making determinations under sections 772 and 773.

"(B) DISQUALIFIED PERSON.—For purposes of subparagraph (A), the term 'disqualified person' means, with respect to any partnership taxable year—

"(i) any person referred to in paragraph (2) or (4) of section 613A(d) for such person's taxable year in which such partnership taxable year ends, and

"(ii) any other person if such person's average daily production of domestic crude oil and natural gas for such person's taxable year in which such partnership taxable year ends exceeds 500 barrels.

"(C) AVERAGE DAILY PRODUCTION.—For purposes of subparagraph (B), a person's average daily production of domestic crude oil and natural gas for any taxable year shall be computed as provided in section 613A(c)(2)—

"(i) by taking into account all production of domestic crude oil and natural gas (including such person's proportionate share of any production of a partnership),

"(ii) by treating 6,000 cubic feet of natural gas as a barrel of crude oil, and

"(iii) by treating as 1 person all persons treated as 1 taxpayer under section 613A(c)(8) or among whom allocations are required under such section.

"SEC. 777. REGULATIONS.

"The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this part."

(b) CLERICAL AMENDMENT.—The table of parts for subchapter K of chapter 1 is amended by adding at the end thereof the following new item:

"Part IV. Special rules for large partnerships."

SEC. 4302. SIMPLIFIED AUDIT PROCEDURES FOR LARGE PARTNERSHIPS.

(a) GENERAL RULE.—Chapter 63 is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER D—TREATMENT OF LARGE PARTNERSHIPS

"Part I. Treatment of partnership items and adjustments.

"Part II. Partnership level adjustments.

"Part III. Definitions and special rules.

"PART I—TREATMENT OF PARTNERSHIP ITEMS AND ADJUSTMENTS

"Sec. 6240. Application of subchapter.

"Sec. 6241. Partner's return must be consistent with partnership return.

"Sec. 6242. Procedures for taking partnership adjustments into account.

"SEC. 6240. APPLICATION OF SUBCHAPTER.

"(a) GENERAL RULE.—This subchapter shall only apply to large partnerships and partners in such partnerships.

"(b) COORDINATION WITH OTHER PARTNERSHIP AUDIT PROCEDURES.—

"(1) IN GENERAL.—Subchapter C of this chapter shall not apply to any large partnership other than in its capacity as a partner in another partnership which is not a large partnership.

"(2) TREATMENT WHERE PARTNER IN OTHER PARTNERSHIP.—If a large partnership is a partner in another partnership which is not a large partnership—

"(A) subchapter C of this chapter shall apply to items of such large partnership which are partnership items with respect to such other partnership, but

"(B) any adjustment under such subchapter C shall be taken into account in the manner provided by section 6242.

"SEC. 6241. PARTNER'S RETURN MUST BE CONSISTENT WITH PARTNERSHIP RETURN.

"(a) GENERAL RULE.—A partner of any large partnership shall, on the partner's return, treat each partnership item attributable to such partnership in a manner which is consistent with the treatment of such partnership item on the partnership return.

"(b) UNDERPAYMENT DUE TO INCONSISTENT TREATMENT ASSESSED AS MATH ERROR.—Any underpayment of tax by a partner by reason of failing to comply with the requirements of subsection (a) shall be assessed and collected in the same manner as if such underpayment were on account of a mathematical or clerical error appearing on the partner's return. Paragraph (2) of section 6213(b) shall not apply to any assessment of an underpayment referred to in the preceding sentence.

"(c) ADJUSTMENTS NOT TO AFFECT PRIOR YEAR OF PARTNERS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), subsections (a) and (b) shall apply without regard to any adjustment to the partnership item under part II.

"(2) CERTAIN CHANGES IN DISTRIBUTIVE SHARE TAKEN INTO ACCOUNT BY PARTNER.—

"(A) IN GENERAL.—To the extent that any adjustment under part II involves a change under section 704 in a partner's distributive share of the amount of any partnership item shown on the partnership return, such adjustment shall be taken into account in applying this title to such partner for the partner's taxable year for which such item was required to be taken into account.

"(B) COORDINATION WITH DEFICIENCY PROCEDURES.—

"(i) IN GENERAL.—Subchapter B shall not apply to the assessment or collection of any underpayment of tax attributable to an adjustment referred to in subparagraph (A).

"(ii) ADJUSTMENT NOT PRECLUDED.—Notwithstanding any other law or rule of law, nothing in subchapter B (or in any proceeding under subchapter B) shall preclude the assessment or collection of any underpayment of tax (or the allowance of any credit or refund of any overpayment of tax) attributable to an adjustment referred to in subparagraph (A) and such assessment or collection or allowance (or any notice thereof) shall not preclude any notice, proceeding, or determination under subchapter B.

"(C) PERIOD OF LIMITATIONS.—The period for—

"(i) assessing any underpayment of tax, or

"(ii) filing a claim for credit or refund of any overpayment of tax,

attributable to an adjustment referred to in subparagraph (A) shall not expire before the close of the period prescribed by section 6248 for making adjustments with respect to the partnership taxable year involved.

"(D) TIERED STRUCTURES.—If the partner referred to in subparagraph (A) is another partnership or an S corporation, the rules of this paragraph shall also apply to persons holding interests in such partnership or S corporation (as the case may be); except that, if such partner is a large partnership, the adjustment referred to in subparagraph (A) shall be taken into account in the manner provided by section 6242.

"(d) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in case of partner's disregard of requirements of this section, see part II of subchapter A of chapter 68.

"SEC. 6242. PROCEDURES FOR TAKING PARTNERSHIP ADJUSTMENTS INTO ACCOUNT.

"(a) ADJUSTMENTS FLOW THROUGH TO PARTNERS FOR YEAR IN WHICH ADJUSTMENT TAKES EFFECT.—

"(1) IN GENERAL.—If any partnership adjustment with respect to any partnership item takes effect (within the meaning of subsection (d)(2)) during any partnership taxable year and if an election under paragraph (2) does not apply to such adjustment, such adjustment shall be taken into account in determining the amount of such item for the partnership taxable year in which such adjustment takes effect. In applying this title to any person who is (directly or indirectly) a partner in such partnership during such partnership taxable year, such adjustment shall be treated as an item actually arising during such taxable year.

"(2) PARTNERSHIP LIABLE IN CERTAIN CASES.—If—

"(A) a partnership elects under this paragraph to not take an adjustment into account under paragraph (1),

"(B) a partnership does not make such an election but in filing its return for any partnership taxable year fails to take fully into account any partnership adjustment as required under paragraph (1), or

"(C) any partnership adjustment involves a reduction in a credit which exceeds the amount of such credit determined for the partnership taxable year in which the adjustment takes effect,

the partnership shall pay to the Secretary an amount determined by applying the rules of subsection (b)(4) to the adjustments not so taken into account and any excess referred to in subparagraph (C).

"(3) OFFSETTING ADJUSTMENTS TAKEN INTO ACCOUNT.—If a partnership adjustment requires another adjustment in a taxable year after the adjusted year and before the partnership taxable year in which such partnership adjustment takes effect, such other adjustment shall be taken into account under this subsection for the partnership taxable year in which such partnership adjustment takes effect.

"(4) COORDINATION WITH PART II.—Amounts taken into account under this subsection for any partnership taxable year shall continue to be treated as adjustments for the adjusted year for purposes of determining whether such amounts may be readjusted under part II.

"(b) PARTNERSHIP LIABLE FOR INTEREST AND PENALTIES.—

"(1) IN GENERAL.—If a partnership adjustment takes effect during any partnership taxable year and such adjustment results in an imputed underpayment for the adjusted year, the partnership—

"(A) shall pay to the Secretary interest computed under paragraph (2), and

"(B) shall be liable for any penalty, addition to tax, or additional amount as provided in paragraph (3).

"(2) DETERMINATION OF AMOUNT OF INTEREST.—The interest computed under this paragraph with respect to any partnership adjustment is the interest which would be determined under chapter 67—

"(A) on the imputed underpayment determined under paragraph (4) with respect to such adjustment, or

"(B) for the period beginning on the day after the return due date for the adjusted year and ending on the return due date for the partnership taxable year in which such adjustment takes effect (or, if earlier, in the case of any adjustment to which subsection (a)(2) applies, the date on which the payment under subsection (a)(2) is made).

Proper adjustments in the amount determined under the preceding sentence shall be made for adjustments required for partnership taxable years after the adjusted year and before the year in which the partnership adjustment takes effect by reason of such partnership adjustment.

"(3) PENALTIES.—A partnership shall be liable for any penalty, addition to tax, or additional amount for which it would have been liable if such partnership had been an individual subject to tax under chapter 1 for the adjusted year and the imputed underpayment determined under paragraph (4) were an actual underpayment (or understatement) for such year.

"(4) IMPUTED UNDERPAYMENT.—For purposes of this subsection, the imputed underpayment determined under this paragraph with respect to any partnership adjustment is the underpayment (if any) which would result—

"(A) by netting all adjustments to items of income, gain, loss, or deduction and—

"(i) if such netting results in a net increase in income, by treating such net increase as an underpayment equal to the amount of such net increase multiplied by the highest rate of tax in effect under section 1 or 11 for the adjusted year, or

"(ii) if such netting results in a net decrease in income, by treating such net decrease as an overpayment equal to such net decrease multiplied by such highest rate, and

"(B) by taking adjustments to credits into account as increases or decreases (whichever is appropriate) in the amount of tax.

For purposes of the preceding sentence, any net decrease in a loss shall be treated as an increase in income and a similar rule shall apply to a net increase in a loss.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) IN GENERAL.—Any payment required by subsection (a)(2) or (b)(1)(A)—

"(A) shall be assessed and collected in the same manner as if it were a tax imposed by subtitle C, and

"(B) shall be paid on or before the return due date for the partnership taxable year in which the partnership adjustment takes effect.

"(2) INTEREST.—For purposes of determining interest, any payment required by subsection (a)(2) or (b)(1)(A) shall be treated as an underpayment of tax.

"(3) PENALTIES.—

"(A) IN GENERAL.—In the case of any failure by any partnership to pay on the date prescribed therefor any amount required by sub-

section (a)(2) or (b)(1)(A), there is hereby imposed on such partnership a penalty of 10 percent of the underpayment. For purposes of the preceding sentence, the term 'underpayment' means the excess of any payment required under this section over the amount (if any) paid on or before the date prescribed therefor.

"(B) ACCURACY-RELATED AND FRAUD PENALTIES MADE APPLICABLE.—For purposes of part II of subchapter A of chapter 68, any payment required by subsection (a)(2) shall be treated as an underpayment of tax.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PARTNERSHIP ADJUSTMENT.—The term 'partnership adjustment' means any adjustment in the amount of any partnership item of a large partnership.

"(2) WHEN ADJUSTMENT TAKES EFFECT.—A partnership adjustment takes effect—

"(A) in the case of an adjustment pursuant to the decision of a court in a proceeding brought under part II, when such decision becomes final,

"(B) in the case of an adjustment pursuant to any administrative adjustment request under section 6251, when such adjustment is allowed by the Secretary, or

"(C) in any other case, when such adjustment is made.

"(3) ADJUSTED YEAR.—The term 'adjusted year' means the partnership taxable year to which the item being adjusted relates.

"(4) RETURN DUE DATE.—The term 'return due date' means, with respect to any taxable year, the date prescribed for filing the partnership return for such taxable year (determined without regard to extensions).

"(5) ADJUSTMENTS INVOLVING CHANGES IN CHARACTER.—Under regulations, appropriate adjustments in the application of this section shall be made for purposes of taking into account partnership adjustments which involve a change in the character of any item of income, gain, loss, or deduction.

"(e) PAYMENTS NONDEDUCTIBLE.—No deduction shall be allowed under subtitle A for any payment required to be made by a large partnership under this section.

"PART II—PARTNERSHIP LEVEL ADJUSTMENTS

"Subpart A. Adjustments by Secretary.

"Subpart B. Claims for adjustments by partnership.

"Subpart A—Adjustments by Secretary

"Sec. 6245. Secretarial authority.

"Sec. 6246. Restrictions on partnership adjustments.

"Sec. 6247. Judicial review of partnership adjustment.

"Sec. 6248. Period of limitations for making adjustments.

"SEC. 6245. SECRETARIAL AUTHORITY.

"(a) GENERAL RULE.—The Secretary is authorized and directed to make adjustments at the partnership level in any partnership item to the extent necessary to have such item be treated in the manner required.

"(b) NOTICE OF PARTNERSHIP ADJUSTMENT.—

"(1) IN GENERAL.—If the Secretary determines that a partnership adjustment is required, the Secretary is authorized to send notice of such adjustment to the partnership by certified mail or registered mail. Such notice shall be sufficient if mailed to the partnership at its last known address even if the partnership has terminated its existence.

"(2) FURTHER NOTICES RESTRICTED.—If the Secretary mails a notice of a partnership adjustment to any partnership for any partnership taxable year and the partnership files a petition under section 6247 with respect to such notice, in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact, the Secretary shall not mail another such notice to such partnership with respect to such taxable year.

"(3) AUTHORITY TO RESCIND NOTICE WITH PARTNERSHIP CONSENT.—The Secretary may, with the consent of the partnership, rescind any notice of a partnership adjustment mailed to such partnership. Any notice so rescinded shall not be treated as a notice of a partnership adjustment, for purposes of this section, section 6246, and section 6247, and the taxpayer shall have no right to bring a proceeding under section 6247 with respect to such notice. Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding.

"SEC. 6246. RESTRICTIONS ON PARTNERSHIP ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this chapter, no adjustment to any partnership item may be made (and no levy or proceeding in any court for the collection of any amount resulting from such adjustment may be made, begun or prosecuted) before—

"(1) the close of the 90th day after the day on which a notice of a partnership adjustment was mailed to the partnership, and

"(2) if a petition is filed under section 6247 with respect to such notice, the decision of the court has become final.

"(b) PREMATURE ACTION MAY BE ENJOINED.—Notwithstanding section 7421(a), any action which violates subsection (a) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action under this subsection unless a timely petition has been filed under section 6247 and then only in respect of the adjustments that are the subject of such petition.

"(c) EXCEPTIONS TO RESTRICTIONS ON ADJUSTMENTS.—

"(1) ADJUSTMENTS ARISING OUT OF MATH OR CLERICAL ERRORS.—

"(A) IN GENERAL.—If the partnership is notified that, on account of a mathematical or clerical error appearing on the partnership return, an adjustment to a partnership item is required, rules similar to the rules of paragraphs (1) and (2) of section 6213(b) shall apply to such adjustment.

"(B) SPECIAL RULE.—If a large partnership is a partner in another large partnership, any adjustment on account of such partnership's failure to comply with the requirements of section 6241(a) with respect to its interest in such other partnership shall be treated as an adjustment referred to in subparagraph (A), except that paragraph (2) of section 6213(b) shall not apply to such adjustment.

"(2) PARTNERSHIP MAY WAIVE RESTRICTIONS.—The partnership shall at any time (whether or not a notice of partnership adjustment has been issued) have the right, by a signed notice in writing filed with the Secretary, to waive the restrictions provided in subsection (a) on the making of any partnership adjustment.

"(d) LIMIT WHERE NO PROCEEDING BEGUN.—If no proceeding under section 6247 is begun with respect to any notice of a partnership adjustment during the 90-day period described in subsection (a), the amount for which the partnership is liable under section 6242 (and any increase in any partner's liability for tax under chapter 1 by reason of any adjustment under section 6242(a)) shall not exceed the amount determined in accordance with such notice.

"SEC. 6247. JUDICIAL REVIEW OF PARTNERSHIP ADJUSTMENT.

"(a) GENERAL RULE.—Within 90 days after the date on which a notice of a partnership adjustment is mailed to the partnership with respect to any partnership taxable year, the partnership may file a petition for a readjustment of the partnership items for such taxable year with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the partnership's principal place of business is located, or

"(3) the Claims Court.

"(b) JURISDICTIONAL REQUIREMENT FOR BRINGING ACTION IN DISTRICT COURT OR CLAIMS COURT.—

"(1) IN GENERAL.—A readjustment petition under this section may be filed in a district court of the United States or the Claims Court only if the partnership filing the petition deposits with the Secretary, on or before the date the petition is filed, the amount for which the partnership would be liable under section 6242(b) (as of the date of the filing of the petition) if the partnership items were adjusted as provided by the notice of partnership adjustment. The court may by order provide that the jurisdictional requirements of this paragraph are satisfied where there has been a good faith attempt to satisfy such requirement and any shortfall of the amount required to be deposited is timely corrected.

"(2) INTEREST PAYABLE.—Any amount deposited under paragraph (1), while deposited, shall not be treated as a payment of tax for purposes of this title (other than chapter 67).

"(c) SCOPE OF JUDICIAL REVIEW.—A court with which a petition is filed in accordance with this section shall have jurisdiction to determine all partnership items of the partnership for the partnership taxable year to which the notice of partnership adjustment relates and the proper allocation of such items among the partners (and the applicability of any penalty, addition to tax, or additional amount for which the partnership may be liable under section 6242(b)).

"(d) DETERMINATION OF COURT REVIEWABLE.—Any determination by a court under this section shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"(e) EFFECT OF DECISION DISMISSING ACTION.—If an action brought under this section is dismissed other than by reason of a rescission under section 6245(b)(3), the decision of the court dismissing the action shall be considered as its decision that the notice of partnership adjustment is correct, and an appropriate order shall be entered in the records of the court.

"SEC. 6248. PERIOD OF LIMITATIONS FOR MAKING ADJUSTMENTS.

"(a) GENERAL RULE.—Except as otherwise provided in this section, no adjustment under this subpart to any partnership item for any partnership taxable year may be made after the date which is 3 years after the later of—

"(1) the date on which the partnership return for such taxable year was filed, or

"(2) the last day for filing such return for such year (determined without regard to extensions).

"(b) EXTENSION BY AGREEMENT.—The period described in subsection (a) (including an extension period under this subsection) may be extended by an agreement entered into by the Secretary and the partnership before the expiration of such period.

"(c) SPECIAL RULE IN CASE OF FRAUD, ETC.—

"(1) FALSE RETURN.—In the case of a false or fraudulent partnership return with intent to evade tax, the adjustment may be made at any time.

"(2) SUBSTANTIAL OMISSION OF INCOME.—If any partnership omits from gross income an amount properly includible therein which is in

excess of 25 percent of the amount of gross income stated in its return, subsection (a) shall be applied by substituting '6 years' for '3 years'.

"(3) No Return.—In the case of a failure by a partnership to file a return for any taxable year, the adjustment may be made at any time.

"(4) Return Filed by Secretary.—For purposes of this section, a return executed by the Secretary under subsection (b) of section 6020 on behalf of the partnership shall not be treated as a return of the partnership.

"(d) Suspension When Secretary Mails Notice of Adjustment.—If notice of a partnership adjustment with respect to any taxable year is mailed to the partnership, the running of the period specified in subsection (a) (as modified by the other provisions of this section) shall be suspended—

"(1) for the period during which an action may be brought under section 6247 (and, if a petition is filed under section 6247 with respect to such notice, until the decision of the court becomes final), and

"(2) for 1 year thereafter.

"Subpart B—Claims for Adjustments by Partnership

"Sec. 6251. Administrative adjustment requests.

"Sec. 6252. Judicial review where administrative adjustment request is not allowed in full.

"SEC. 6251. ADMINISTRATIVE ADJUSTMENT REQUESTS.

"(a) General Rule.—A partnership may file a request for an administrative adjustment of partnership items for any partnership taxable year at any time which is—

"(1) within 3 years after the later of—

"(A) the date on which the partnership return for such year is filed, or

"(B) the last day for filing the partnership return for such year (determined without regard to extensions), and

"(2) before the mailing to the partnership of a notice of a partnership adjustment with respect to such taxable year.

"(b) Secretarial Action.—If a partnership files an administrative adjustment request under subsection (a), the Secretary may allow any part of the requested adjustments.

"(c) Special Rule in Case of Extension Under Section 6248.—If the period described in section 6248(a) is extended pursuant to an agreement under section 6248(b), the period prescribed by subsection (a)(1) shall not expire before the date 6 months after the expiration of the extension under section 6248(b).

"SEC. 6252. JUDICIAL REVIEW WHERE ADMINISTRATIVE ADJUSTMENT REQUEST IS NOT ALLOWED IN FULL.

"(a) In General.—If any part of an administrative adjustment request filed under section 6251 is not allowed by the Secretary, the partnership may file a petition for an adjustment with respect to the partnership items to which such part of the request relates with—

"(1) the Tax Court,

"(2) the district court of the United States for the district in which the principal place of business of the partnership is located, or

"(3) the Claims Court.

"(b) Period for Filing Petition.—A petition may be filed under subsection (a) with respect to partnership items for a partnership taxable year only—

"(1) after the expiration of 6 months from the date of filing of the request under section 6251, and

"(2) before the date which is 2 years after the date of such request.

The 2-year period set forth in paragraph (2) shall be extended for such period as may be agreed upon in writing by the partnership and the Secretary.

"(c) Coordination With Subpart A.—

"(1) Notice of Partnership Adjustment Before Filing of Petition.—No petition may be filed under this section after the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates.

"(2) Notice of Partnership Adjustment After Filing but Before Hearing of Petition.—If the Secretary mails to the partnership a notice of a partnership adjustment for the partnership taxable year to which the request under section 6251 relates after the filing of a petition under this subsection but before the hearing of such petition, such petition shall be treated as an action brought under section 6247 with respect to such notice, except that subsection (b) of section 6247 shall not apply.

"(3) Notice Must Be Before Expiration of Statute of Limitations.—A notice of a partnership adjustment for the partnership taxable year shall be taken into account under paragraphs (1) and (2) only if such notice is mailed before the expiration of the period prescribed by section 6248 for making adjustments to partnership items for such taxable year.

"(d) Scope of Judicial Review.—Except in the case described in paragraph (2) of subsection (c), a court with which a petition is filed in accordance with this section shall have jurisdiction to determine only those partnership items to which the part of the request under section 6251 not allowed by the Secretary relates and those items with respect to which the Secretary asserts adjustments as offsets to the adjustments requested by the partnership.

"(e) Determination of Court Reviewable.—Any determination by a court under this subsection shall have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Claims Court, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision.

"PART III—DEFINITIONS AND SPECIAL RULES.

"Sec. 6255. Definitions and special rules.

"SEC. 6255. DEFINITIONS AND SPECIAL RULES.

"(a) Definitions.—For purposes of this subchapter—

"(1) Large Partnership.—The term 'large partnership' has the meaning given to such term by section 775 without regard to section 776(a).

"(2) Partnership Item.—The term 'partnership item' has the meaning given to such term by section 6231(a)(3).

"(b) Partners Bound by Actions of Partnership, Etc.—

"(1) Designation of Partner.—Each large partnership shall designate (in the manner prescribed by the Secretary) a partner (or other person) who shall have the sole authority to act on behalf of such partnership under this subchapter. In any case in which such a designation is not in effect, the Secretary may select any partner as the partner with such authority.

"(2) Binding Effect.—A large partnership and all partners of such partnership shall be bound—

"(A) by actions taken under this subchapter by the partnership, and

"(B) by any decision in a proceeding brought under this subchapter.

"(c) Partnerships Having Principal Place of Business Outside the United States.—For purposes of sections 6247 and 6252, a principal place of business located outside the United States shall be treated as located in the District of Columbia.

"(d) Treatment Where Partnership Ceases to Exist.—If a partnership ceases to exist before a partnership adjustment under this subchapter takes effect, such adjustment shall be taken into account by the former partners of such partnership under regulations prescribed by the Secretary.

"(e) Date Decision Becomes Final.—For purposes of this subchapter, the principles of section 7481(a) shall be applied in determining the date on which a decision of a district court or the Claims Court becomes final.

"(f) Partnerships in Cases Under Title 11 of the United States Code.—The running of any period of limitations provided in this subchapter on making a partnership adjustment (or provided by section 6501 or 6502 on the assessment or collection of any amount required to be paid under section 6242) shall, in a case under title 11 of the United States Code, be suspended during the period during which the Secretary is prohibited by reason of such case from making the adjustment (or assessment or collection) and—

"(1) for adjustment or assessment, 60 days thereafter, and

"(2) for collection, 6 months thereafter.

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subchapter, including regulations—

"(1) to prevent abuse through manipulation of the provisions of this subchapter, and

"(2) providing that this subchapter shall not apply to any case described in section 6231(c)(1) (or the regulations prescribed thereunder) where the application of this subchapter to such a case would interfere with the effective and efficient enforcement of this title.

In any case to which this subchapter does not apply by reason of paragraph (2), rules similar to the rules of sections 6229(f) and 6255(f) shall apply."

(b) Clerical Amendment.—The table of subchapters for chapter 63 is amended by adding at the end thereof the following new item:

"Subchapter D. Treatment of large partnerships."

SEC. 4303. DUE DATE FOR FURNISHING INFORMATION TO PARTNERS OF LARGE PARTNERSHIPS.

(a) General Rule.—Subsection (b) of section 6031 (relating to copies to partners) is amended by adding at the end thereof the following new sentence: "In the case of a large partnership (as defined in sections 775 and 776(a)), such information shall be furnished on or before the first March 15 following the close of such taxable year."

(b) Treatment as Information Return.—Section 6724 is amended by adding at the end thereof the following new subsection:

"(e) Special Rule for Certain Partnership Returns.—If any partnership return under section 6031(a) is required under section 6011(e) to be filed on magnetic media or in other machine-readable form, for purposes of this part, each schedule required to be included with such return with respect to each partner shall be treated as a separate information return."

SEC. 4304. RETURNS MAY BE REQUIRED ON MAGNETIC MEDIA.

Paragraph (2) of section 6011(e) (relating to returns on magnetic media) is amended by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply in the case of the partnership return of a large partnership (as defined in sections 775 and 776(a)) or any other partnership with 250 or more partners."

SEC. 4305. EFFECTIVE DATE.

(a) General Rule.—Except as provided in subsection (b), the amendments made by this part shall apply to partnership taxable years ending on or after December 31, 1992.

(b) SPECIAL RULE FOR SECTION 4304.—In the case of a partnership which is not a large partnership (as defined in sections 775 and 776(a) of the Internal Revenue Code of 1986, as added by this part), the amendment made by section 4304 shall only apply to partnership taxable years ending on or after December 31, 1998.

PART II—PROVISIONS RELATED TO TEFRA PARTNERSHIP PROCEEDINGS

SEC. 4311. TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.

(a) IN GENERAL.—Subchapter C of chapter 63 is amended by adding at the end thereof the following new section:

"SEC. 6234. DECLARATORY JUDGMENT RELATING TO TREATMENT OF ITEMS OTHER THAN PARTNERSHIP ITEMS WITH RESPECT TO AN OVERSHELTERED RETURN.

"(a) GENERAL RULE.—If—

"(1) a taxpayer files an oversheltered return for a taxable year,

"(2) the Secretary makes a determination with respect to the treatment of items (other than partnership items) of such taxpayer for such taxable year, and

"(3) the adjustments resulting from such determination do not give rise to a deficiency (as defined in section 6211) but would give rise to a deficiency if there were no net loss from partnership items,

the Secretary is authorized to send a notice of adjustment reflecting such determination to the taxpayer by certified or registered mail.

"(b) OVERSHELTERED RETURN.—For purposes of this section, the term 'oversheltered return' means an income tax return which—

"(1) shows no taxable income for the taxable year, and

"(2) shows a net loss from partnership items.

"(c) JUDICIAL REVIEW IN THE TAX COURT.—Within 90 days, or 150 days if the notice is addressed to a person outside the United States, after the day on which the notice of adjustment authorized in subsection (a) is mailed to the taxpayer, the taxpayer may file a petition with the Tax Court for redetermination of the adjustments. Upon the filing of such a petition, the Tax Court shall have jurisdiction to make a declaration with respect to all items (other than partnership items and affected items which require partner level determinations as described in section 6230(a)(2)(A)(i)) for the taxable year to which the notice of adjustment relates, in accordance with the principles of section 6214(a). Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

"(d) FAILURE TO FILE PETITION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if the taxpayer does not file a petition with the Tax Court within the time prescribed in subsection (c), the determination of the Secretary set forth in the notice of adjustment that was mailed to the taxpayer shall be deemed to be correct.

"(2) EXCEPTION.—Paragraph (1) shall not apply after the date that the taxpayer—

"(A) files a petition with the Tax Court within the time prescribed in subsection (c) with respect to a subsequent notice of adjustment relating to the same taxable year, or

"(B) files a claim for refund of an overpayment of tax under section 6511 for the taxable year involved.

If a claim for refund is filed by the taxpayer, then solely for purposes of determining (for the taxable year involved) the amount of any computational adjustment in connection with a partnership proceeding under this subchapter (other than under this section) or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), the items that are the subject of the notice of adjustment shall be presumed to have been correctly reported on the taxpayer's return during the pendency of the refund claim (and, if within the time prescribed by section 6532 the taxpayer commences a civil action for refund under section 7422, until the decision in the refund action becomes final).

"(e) LIMITATIONS PERIOD.—

"(1) IN GENERAL.—Any notice to a taxpayer under subsection (a) shall be mailed before the expiration of the period prescribed by section 6501 (relating to the period of limitations on assessment).

"(2) SUSPENSION WHEN SECRETARY MAILS NOTICE OF ADJUSTMENT.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year, the period of limitations on the making of assessments shall be suspended for the period during which the Secretary is prohibited from making the assessment (and, in any event, if a proceeding in respect of the notice of adjustment is placed on the docket of the Tax Court, until the decision of the Tax Court becomes final), and for 60 days thereafter.

"(3) RESTRICTIONS ON ASSESSMENT.—Except as otherwise provided in section 6851, 6852, or 6861, no assessment of a deficiency with respect to any tax imposed by subtitle A attributable to any item (other than a partnership item or any item affected by a partnership item) shall be made—

"(A) until the expiration of the applicable 90-day or 150-day period set forth in subsection (c) for filing a petition with the Tax Court, or

"(B) if a petition has been filed with the Tax Court, until the decision of the Tax Court has become final.

"(f) FURTHER NOTICES OF ADJUSTMENT RESTRICTED.—If the Secretary mails a notice of adjustment to the taxpayer for a taxable year and the taxpayer files a petition with the Tax Court within the time prescribed in subsection (c), the Secretary may not mail another such notice to the taxpayer with respect to the same taxable year in the absence of a showing of fraud, malfeasance, or misrepresentation of a material fact.

"(g) COORDINATION WITH OTHER PROCEEDINGS UNDER THIS SUBCHAPTER.—

"(1) IN GENERAL.—The treatment of any item that has been determined pursuant to subsection (c) or (d) shall be taken into account in determining the amount of any computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), or the amount of any deficiency attributable to affected items in a proceeding under section 6230(a)(2), for the taxable year involved. Notwithstanding any other law or rule of law pertaining to the period of limitations on the making of assessments, for purposes of the preceding sentence, any adjustment made in accordance with this section shall be taken into account regardless of whether any assessment has been made with respect to such adjustment.

"(2) SPECIAL RULE IN CASE OF COMPUTATIONAL ADJUSTMENT.—In the case of a computational adjustment that is made in connection with a partnership proceeding under this subchapter (other than under this section), the provisions of paragraph (1) shall apply only if the computational adjustment is made within the period prescribed by section 6229 for assessing any tax under subtitle A which is attributable to any partnership item or affected item for the taxable year involved.

"(3) CONVERSION TO DEFICIENCY PROCEEDING.—If—

"(A) after the notice referred to in subsection (a) is mailed to a taxpayer for a taxable year but before the expiration of the period for filing a petition with the Tax Court under subsection (c) (or, if a petition is filed with the Tax Court, before the Tax Court makes a declaration for that taxable year), the treatment of any partnership item for the taxable year is finally determined, or any such item ceases to be a partnership item pursuant to section 6231(b), and

"(B) as a result of that final determination or cessation, a deficiency can be determined with respect to the items that are the subject of the notice of adjustment,

the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition filed in respect of the notice shall be treated as an action brought under section 6213.

"(4) FINALLY DETERMINED.—For purposes of this subsection, the treatment of partnership items shall be treated as finally determined if—

"(A) the Secretary enters into a settlement agreement (within the meaning of section 6224) with the taxpayer regarding such items,

"(B) a notice of final partnership administrative adjustment has been issued and—

"(i) no petition has been filed under section 6226 and the time for doing so has expired, or

"(ii) a petition has been filed under section 6226 and the decision of the court has become final, or

"(C) the period within which any tax attributable to such items may be assessed against the taxpayer has expired.

"(h) SPECIAL RULES IF SECRETARY INCORRECTLY DETERMINES APPLICABLE PROCEDURE.—

"(1) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF ADJUSTMENT.—If the Secretary erroneously determines that subchapter B does not apply to a taxable year of a taxpayer and consistent with that determination timely mails a notice of adjustment to the taxpayer pursuant to subsection (a) of this section, the notice of adjustment shall be treated as a notice of deficiency under section 6212 and any petition that is filed in respect of the notice shall be treated as an action brought under section 6213.

"(2) SPECIAL RULE IF SECRETARY ERRONEOUSLY MAILS NOTICE OF DEFICIENCY.—If the Secretary erroneously determines that subchapter B applies to a taxable year of a taxpayer and consistent with that determination timely mails a notice of deficiency to the taxpayer pursuant to section 6212, the notice of deficiency shall be treated as a notice of adjustment under subsection (a) and any petition that is filed in respect of the notice shall be treated as an action brought under subsection (c)."

(b) TREATMENT OF PARTNERSHIP ITEMS IN DEFICIENCY PROCEEDINGS.—Section 6211 (defining deficiency) is amended by adding at the end thereof the following new subsection:

"(c) COORDINATION WITH SUBCHAPTER C.—In determining the amount of any deficiency for purposes of this subchapter, adjustments to partnership items shall be made only as provided in subchapter C."

(c) CLERICAL AMENDMENT.—The table of sections for subchapter C of chapter 63 is amended by adding at the end thereof the following new item:

"Sec. 6234. Declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4312. PARTNERSHIP RETURN TO BE DETERMINATIVE OF AUDIT PROCEDURES TO BE FOLLOWED.

(a) IN GENERAL.—Section 6231 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(g) PARTNERSHIP RETURN TO BE DETERMINATIVE OF WHETHER SUBCHAPTER APPLIES.—

"(1) DETERMINATION THAT SUBCHAPTER APPLIES.—If, on the basis of a partnership return *for a taxable year, the Secretary reasonably determines that this subchapter applies to such partnership for such year but such determination is erroneous, then the provisions of this subchapter are hereby extended to such partnership (and its items) for such taxable year and to partners of such partnership.*

"(2) DETERMINATION THAT SUBCHAPTER DOES NOT APPLY.—If, on the basis of a partnership return for a taxable year, the Secretary reasonably determines that this subchapter does not apply to such partnership for such year but such determination is erroneous, then the provisions of this subchapter shall not apply to such partnership (and its items) for such taxable year or to partners of such partnership."

(b) Effective Date.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4313. PROVISIONS RELATING TO STATUTE OF LIMITATIONS.

(a) Suspension of Statute Where Untimely Petition Filed.—Paragraph (1) of section 6229(d) (relating to suspension where Secretary makes administrative adjustment) is amended by striking all that follows "section 6226" and inserting the following: "(and, if a petition is filed under section 6226 with respect to such administrative adjustment, until the decision of the court becomes final), and".

(b) Suspension of Statute During Bankruptcy Proceeding.—Section 6229 is amended by adding at the end thereof the following new subsection:

"(h) Suspension During Pendency of Bankruptcy Proceeding.—If a petition is filed naming a partner as a debtor in a bankruptcy proceeding under title 11 of the United States Code, the running of the period of limitations provided in this section with respect to such partner shall be suspended—

"(1) for the period during which the Secretary is prohibited by reason of such bankruptcy proceeding from making an assessment, and

"(2) for 60 days thereafter."

(c) Tax Matters Partner in Bankruptcy.—Section 6229(b) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) SPECIAL RULE WITH RESPECT TO DEBTORS IN TITLE 11 CASES.—Notwithstanding any other law or rule of law, if an agreement is entered into under paragraph (1)(B) and the agreement is signed by a person who would be the tax matters partner but for the fact that, at the time that the agreement is executed, the person is a debtor in a bankruptcy proceeding under title 11 of the United States Code, such agreement shall be binding on all partners in the partnership unless the Secretary has been notified of the bankruptcy proceeding in accordance with regulations prescribed by the Secretary."

(d) Effective Dates.—

(1) Subsections (a) and (b).—The amendments made by subsections (a) and (b) shall apply to partnership taxable years with respect to which the period under section 6229 of the Internal Revenue Code of 1986 for assessing tax has not expired on or before the date of the enactment of this Act.

(2) Subsection (c).—The amendment made by subsection (c) shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 4314. EXPANSION OF SMALL PARTNERSHIP EXCEPTION.

(a) In General.—Clause (i) of section 6231(a)(1)(B) (relating to exception for small partnerships) is amended to read as follows:

"(i) IN GENERAL.—The term 'partnership' shall not include any partnership having 10 or fewer partners each of whom is an individual (other than a nonresident alien), a C corporation, or an estate of a deceased partner. For purposes of the preceding sentence, a husband and wife (and their estates) shall be treated as 1 partner."

(b) Effective Date.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4315. EXCLUSION OF PARTIAL SETTLEMENTS FROM 1 YEAR LIMITATION ON ASSESSMENT.

(a) In General.—Subsection (f) of section 6229 (relating to items becoming nonpartnership items) is amended—

(1) by striking "(f) Items Becoming Nonpartnership Items.—If" and inserting the following:

"(f) Special Rules.—

"(1) ITEMS BECOMING NONPARTNERSHIP ITEMS.—If",

(2) by moving the text of such subsection 2 ems to the right, and

(3) by adding at the end thereof the following new paragraph:

"(2) SPECIAL RULE FOR PARTIAL SETTLEMENT AGREEMENTS.—If a partner enters into a settlement agreement with the Secretary with respect to the treatment of some of the partnership items in dispute for a partnership taxable year but other partnership items for such year remain in dispute, the period of limitations for assessing any tax attributable to the settled items shall be determined as if such agreement had not been entered into."

(b) Effective Date.—The amendment made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4316. EXTENSION OF TIME FOR FILING A REQUEST FOR ADMINISTRATIVE ADJUSTMENT.

(a) In General.—Section 6227 (relating to administrative adjustment requests) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting after subsection (a) the following new subsection:

"(b) Special Rule in Case of Extension of Period of Limitations Under Section 6229.—The period prescribed by subsection (a)(1) for filing of a request for an administrative adjustment shall be extended—

"(1) for the period within which an assessment may be made pursuant to an agreement (or any extension thereof) under section 6229(b), and

"(2) for 6 months thereafter."

(b) Effective Date.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4317. AVAILABILITY OF INNOCENT SPOUSE RELIEF IN CONTEXT OF PARTNERSHIP PROCEEDINGS.

(a) In General.—Subsection (a) of section 6230 is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE IN CASE OF ASSERTION BY PARTNER'S SPOUSE OF INNOCENT SPOUSE RELIEF.—

"(A) Notwithstanding section 6404(b), if the spouse of a partner asserts that section 6013(e) applies with respect to a liability that is attributable to any adjustment to a partnership item, then such spouse may file with the Secretary within 60 days after the notice and demand (or notice of computational adjustment) is mailed to the spouse a request for abatement of the assessment specified in such notice. Upon receipt of such request, the Secretary shall abate the assessment. Any reassessment of the tax with respect to which an abatement is made under this subparagraph shall be subject to the deficiency procedures prescribed by subchapter B. The period for making any such reassessment shall not expire before the expiration of 60 days after the date of such abatement.

"(B) If the spouse files a petition with the Tax Court pursuant to section 6213 with respect to the request for abatement described in subparagraph (A), the Tax Court shall only have jurisdiction pursuant to this section to determine whether the requirements of section 6013(e) have been satisfied. For purposes of such determination, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive.

"(C) Rules similar to the rules contained in subparagraphs (B) and (C) of paragraph (2) shall apply for purposes of this paragraph."

(b) Claims for Refund.—Subsection (c) of section 6230 is amended by adding at the end thereof the following new paragraph:

"(5) RULES FOR SEEKING INNOCENT SPOUSE RELIEF.—

"(A) IN GENERAL.—The spouse of a partner may file a claim for refund on the ground that the Secretary failed to relieve the spouse under section 6013(e) from a liability that is attributable to an adjustment to a partnership item.

"(B) TIME FOR FILING CLAIM.—Any claim under subparagraph (A) shall be filed within 6 months after the day on which the Secretary mails to the spouse the notice and demand (or notice of computational adjustment) referred to in subsection (a)(3)(A).

"(C) SUIT IF CLAIM NOT ALLOWED.—If the claim under subparagraph (B) is not allowed, the spouse may bring suit with respect to the claim within the period specified in paragraph (3).

"(D) PRIOR DETERMINATIONS ARE BINDING.—For purposes of any claim or suit under this paragraph, the treatment of partnership items under the settlement, the final partnership administrative adjustment, or the decision of the court (whichever is appropriate) that gave rise to the liability in question shall be conclusive."

(c) Technical Amendments.—

(1) Paragraph (1) of section 6230(a) is amended by striking "paragraph (2)" and inserting "paragraph (2) or (3)".

(2) Subsection (a) of section 6503 is amended by striking "section 6230(a)(2)(A)" and inserting "paragraph (2)(A) or (3) of section 6230(a)".

(d) Effective Date.—The amendments made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4318. DETERMINATION OF PENALTIES AT PARTNERSHIP LEVEL.

(a) In General.—Section 6221 (relating to tax treatment determined at partnership level) is amended by striking "item" and inserting "item (and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item)".

(b) Conforming Amendments.—

(1) Subsection (f) of section 6226 is amended—

(A) by striking "relates and" and inserting "relates,", and

(B) by inserting before the period ", and the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item".

(2) Clause (i) of section 6230(a)(2)(A) is amended to read as follows:

"(i) affected items which require partner level determinations (other than penalties, additions to tax, and additional amounts that relate to adjustments to partnership items), or".

(3)(A) Subparagraph (A) of section 6230(a)(3), as added by section 3317, is amended by inserting "(including any liability for any penalty, addition to tax, or additional amount relating to such adjustment)" after "partnership item".

(B) Subparagraph (B) of such section is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(C) Subparagraph (A) of section 6230(c)(5), as added by section 3317, is amended by inserting before the period "(including any liability for any penalties, additions to tax, or additional amounts relating to such adjustment)".

(D) Subparagraph (D) of section 6230(c)(5), as added by section 3317, is amended by inserting "(and the applicability of any penalties, additions to tax, or additional amounts)" after "partnership items".

(4) Paragraph (1) of section 6230(c) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by adding at the end thereof the following new subparagraph:

"(C) the Secretary erroneously imposed any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item."

(5) So much of subparagraph (A) of section 6230(c)(2) as precedes "shall be filed" is amended to read as follows:

"(A) UNDER PARAGRAPH (1) (A) OR (C).—Any claim under subparagraph (A) or (C) of paragraph (1)".

(6) Paragraph (4) of section 6230(c) is amended by adding at the end thereof the following: "In addition, the determination under the final partnership administrative adjustment or under the decision of the court (whichever is appropriate) concerning the applicability of any penalty, addition to tax, or additional amount which relates to an adjustment to a partnership item shall also be conclusive.

Notwithstanding the preceding sentence, the partner shall be allowed to assert any partner level defenses that may apply or to challenge the amount of the computational adjustment."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4319. PROVISIONS RELATING TO COURT JURISDICTION, ETC.

(a) TAX COURT JURISDICTION TO ENJOIN PREMATURE ASSESSMENTS OF DEFICIENCIES ATTRIBUTABLE TO PARTNERSHIP ITEMS.—Subsection (b) of section 6225 is amended by striking "the proper court." and inserting "the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a readjustment of the partnership items for the taxable year has been filed and then only in respect of the adjustments that are the subject of such petition."

(b) JURISDICTION TO CONSIDER STATUTE OF LIMITATIONS WITH RESPECT TO PARTNERS.—Paragraph (1) of section 6226(d) is amended by adding at the end thereof the following new sentence:

"Notwithstanding subparagraph (B), any person treated under subsection (c) as a party to an action shall be permitted to participate in such action (or file a readjustment petition under subsection (b) or paragraph (2) of this subsection) solely for the purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired with respect to such person, and the court having jurisdiction of such action shall have jurisdiction to consider such assertion."

(c) TAX COURT JURISDICTION TO DETERMINE OVERPAYMENTS ATTRIBUTABLE TO AFFECTED ITEMS.—

(1) Paragraph (6) of section 6230(d) is amended by striking "(or an affected item)".

(2) Paragraph (3) of section 6512(b) is amended by adding at the end thereof the following new sentence:

"In the case of a credit or refund relating to an affected item (within the meaning of section 6229), the preceding sentence shall be applied by substituting the periods under sections 6229 and 6230(d) for the periods under section 6511(b)(2), (c), and (d)."

(d) VENUE ON APPEAL.—

(1) Paragraph (1) of section 7482(b) is amended by striking "or" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", or", and by inserting after subparagraph (E) the following new subparagraph:

"(F) in the case of a petition under section 6234(c)—

"(i) the legal residence of the petitioner if the petitioner is not a corporation, and

"(ii) the place or office applicable under subparagraph (B) if the petitioner is a corporation."

(2) The last sentence of section 7482(b) is amended by striking "or 6228(a)" and inserting ", 6228(a), or 6234(c)".

(e) OTHER PROVISIONS.—

(1) Subsection (c) of section 7459 is amended by striking "or section 6228(a)" and inserting ", 6228(a), or 6234(c)".

(2) Subsection (o) of section 6501 is amended by adding at the end thereof the following new paragraph:

"(3) For declaratory judgment relating to treatment of items other than partnership items with respect to an oversheltered return, see section 6234."

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years ending after the date of the enactment of this Act.

SEC. 4320. TREATMENT OF PREMATURE PETITIONS FILED BY NOTICE PARTNERS OR 5-PERCENT GROUPS.

(a) IN GENERAL.—Subsection (b) of section 6226 (relating to judicial review of final partnership administrative adjustments) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) TREATMENT OF PREMATURE PETITIONS.—If—

"(A) a petition for a readjustment of partnership items for the taxable year involved is filed by a notice partner (or a 5-percent group) during the 90-day period described in subsection (a), and

"(B) no action is brought under paragraph (1) during the 60-day period described therein with respect to such taxable year which is not dismissed,

such petition shall be treated for purposes of paragraph (1) as filed on the last day of such 60-day period."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to petitions filed after the date of the enactment of this Act.

SEC. 4321. BONDS IN CASE OF APPEALS FROM TEFRA PROCEEDING.

(a) IN GENERAL.—Subsection (b) of section 7485 (relating to bonds to stay assessment of collection) is amended—

(1) by inserting "penalties," after "any interest,", and

(2) by striking "aggregate of such deficiencies" and inserting "aggregate liability of the parties to the action".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

SEC. 4322. SUSPENSION OF INTEREST WHERE DELAY IN COMPUTATIONAL ADJUSTMENT RESULTING FROM TEFRA SETTLEMENTS.

(a) IN GENERAL.—Subsection (c) of section 6601 (relating to interest on underpayment, nonpayment, or extension of time for payment, of tax) is amended by adding at the end thereof the following new sentence: "In the case of a settlement under section 6224(c) which results in the conversion of partnership items to nonpartnership items pursuant to section 6231(b)(1)(C), the preceding sentence shall apply to a computational adjustment resulting from such settlement in the same manner as if such adjustment were a deficiency and such settlement were a waiver referred to in the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to settlements entered into after the date of the enactment of this Act.

Subtitle D—Foreign Provisions

PART I—SIMPLIFICATION OF TREATMENT OF PASSIVE FOREIGN CORPORATIONS

SEC. 4401. REPEAL OF FOREIGN PERSONAL HOLDING COMPANY RULES AND FOREIGN INVESTMENT COMPANY RULES.

(a) GENERAL RULE.—The following provisions are hereby repealed:

(1) Part III of subchapter G of chapter 1 (relating to foreign personal holding companies).

(2) Section 1246 (relating to gain on foreign investment company stock).

(3) Section 1247 (relating to election by foreign investment companies to distribute income currently).

(b) EXEMPTION OF FOREIGN CORPORATIONS FROM ACCUMULATED EARNINGS TAX AND PERSONAL HOLDING COMPANY RULES.—

(1) ACCUMULATED EARNINGS TAX.—Subsection (b) of section 532 (relating to exceptions) is amended—

(A) by striking paragraph (2) and inserting the following:

"(2) a foreign corporation, or",

(B) by striking ", or" at the end of paragraph (3) and inserting a period, and

(C) by striking paragraph (4).

(2) PERSONAL HOLDING COMPANY RULES.—Subsection (c) of section 542 (relating to exceptions) is amended—

(A) by striking paragraph (5) and inserting the following:

"(5) a foreign corporation,",

(B) by striking paragraphs (7) and (10) and by redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively,

(C) by inserting "and" at the end of paragraph (7) (as so redesignated), and

(D) by striking "; and" at the end of paragraph (8) (as so redesignated) and inserting a period.

(c) TREATMENT OF CERTAIN SERVICE CONTRACTS UNDER SUBPART F.—

(1) Paragraph (1) of section 954(c) (defining foreign personal holding company income) is amended by adding at the end thereof the following new subparagraph:

"(F) PERSONAL SERVICE CONTRACTS.—

"(i) Amounts received under a contract under which the corporation is to furnish personal services, if some person other than the corporation has the right to designate (by name or by description) the individual who is to perform the services, or if the individual who is to perform the services is designated (by name or by description) in the contract.

"(ii) Amounts received from the sale or other disposition of such contract.

This subparagraph shall apply with respect to amounts received for services under a particular contract only if at some time during the taxable year 25 percent or more in value of the outstanding stock of the corporation is owned, directly or indirectly, by or for the individual who has performed, is to perform, or may be designated (by name or by description) as the one to perform, such services. For purposes of the preceding sentence, the attribution rules of section 544 shall apply, determined as if any reference to section 543(a)(7) were a reference to this subparagraph."

(2) Clause (iii) of section 904(d)(2)(A) is amended by striking "and" at the end of subclause (III), by striking the period at the end of subclause (IV) and inserting ", and", and by adding at the end thereof the following new subclause:

"(V) any income described in section 954(c)(1)(F) (relating to personal service contracts)."

SEC. 4402. REPLACEMENT FOR PASSIVE FOREIGN INVESTMENT COMPANY RULES.

(a) GENERAL RULE.—Part VI of subchapter P of chapter 1 (relating to treatment of certain passive foreign investment companies) is amended to read as follows:

"PART VI—TREATMENT OF PASSIVE FOREIGN CORPORATIONS

"Subpart A. Current taxation rules.

"Subpart B. Interest on holdings to which subpart A does not apply.

"Subpart C. General provisions.

"Subpart A—Current Taxation Rules

"Sec. 1291. Stock in certain passive foreign corporations marked to market.

"Sec. 1292. Inclusion of income of certain passive foreign corporations.

"SEC. 1291. STOCK IN CERTAIN PASSIVE FOREIGN CORPORATIONS MARKED TO MARKET.

"(a) GENERAL RULE.—In the case of marketable stock in a passive foreign corporation which is owned (or treated under subsection (g) as owned) by a United States person at the close of any taxable year of such person—

"(1) If the fair market value of such stock as of the close of such taxable year exceeds its adjusted basis, such United States person shall include in gross income for such taxable year an amount equal to the amount of such excess.

"(2) If the adjusted basis of such stock exceeds the fair market value of such stock as of the close of such taxable year, such United States person shall be allowed a deduction for such taxable year equal to the lesser of—

"(A) the amount of such excess, or

"(B) the unreversed inclusions with respect to such stock.

"(b) BASIS ADJUSTMENTS.—

"(1) IN GENERAL.—The adjusted basis of stock in a passive foreign corporation—

"(A) shall be increased by the amount included in the gross income of the United States person under subsection (a)(1) with respect to such stock, and

"(B) shall be decreased by the amount allowed as a deduction to the United States person under subsection (a)(2) with respect to such stock.

"(2) SPECIAL RULE FOR STOCK CONSTRUCTIVELY OWNED.—In the case of stock in a passive foreign corporation which the United States person is treated as owning under subsection (g)—

"(A) the adjustments under paragraph (1) shall apply to such stock in the hands of the person actually holding such stock but only for purposes of determining the subsequent treatment under this chapter of the United States person with respect to such stock, and

"(B) similar adjustments shall be made to the adjusted basis of the property by reason of which the United States person is treated as owning such stock.

"(c) CHARACTER AND SOURCE RULES.—

"(1) ORDINARY TREATMENT.—

"(A) GAIN.—Any amount included in gross income under subsection (a)(1), and any gain on the sale or other disposition of marketable stock in a passive foreign corporation, shall be treated as ordinary income.

"(B) LOSS.—Any—

"(i) amount allowed as a deduction under subsection (a)(2), and

"(ii) loss on the sale or other disposition of marketable stock in a passive foreign corporation to the extent that the amount of such loss does not exceed the unreversed inclusions with respect to such stock,

shall be treated as an ordinary loss. The amount so treated shall be treated as a deduction allowable in computing adjusted gross income.

"(2) SOURCE.—The source of any amount included in gross income under subsection (a)(1) (or allowed as a deduction under subsection (a)(2)) shall be determined in the same manner as if such amount were gain or loss (as the case may be) from the sale of stock in the passive foreign corporation.

"(d) UNREVERSED INCLUSIONS.—For purposes of this section, the term 'unreversed inclusions' means, with respect to any stock in a passive foreign corporation, the excess (if any) of—

"(1) the amount included in gross income of the taxpayer under subsection (a)(1) with respect to such stock for prior taxable years, over

"(2) the amount allowed as a deduction under subsection (a)(2) with respect to such stock for prior taxable years.

The amount referred to in paragraph (1) shall include any amount which would have been included in gross income under subsection (a)(1) with respect to such stock for any prior taxable year but for section 1293.

"(e) COORDINATION WITH SECTION 1292.—This section shall not apply with respect to any stock in a passive foreign corporation—

"(1) which is U.S. controlled,

"(2) which is a qualified electing fund with respect to the United States person for the taxable year, or

"(3) in which the United States person is a 25-percent shareholder.

"(f) TREATMENT OF CONTROLLED FOREIGN CORPORATIONS WHICH ARE SHAREHOLDERS IN PASSIVE FOREIGN CORPORATIONS.—In the case of a foreign corporation which is a controlled foreign corporation (or is treated as a controlled foreign corporation under section 1292) and which owns (or is treated under subsection (g) as owning) stock in a passive foreign corporation—

"(1) this section (other than subsection (c)(2) thereof) shall apply to such foreign corporation in the same manner as if such corporation were a United States person, and

"(2) for purposes of subpart F of part III of subchapter N—

"(A) any amount included in gross income under subsection (a)(1) shall be treated as foreign personal holding company income described in section 954(c)(1)(A), and

"(B) any amount allowed as a deduction under subsection (a)(2) shall be treated as a deduction allocable to foreign personal holding company income so described.

"(g) STOCK OWNED THROUGH CERTAIN FOREIGN ENTITIES.—Except as provided in regulations—

"(1) IN GENERAL.—For purposes of this section, stock owned, directly or indirectly, by or for a foreign partnership or foreign trust or foreign estate shall be considered as being owned proportionately by its partners or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(2) TREATMENT OF CERTAIN DISPOSITIONS.—In any case in which a United States person is treated as owning stock in a passive foreign corporation by reason of paragraph (1)—

"(A) any disposition by the United States person or by any other person which results in the United States person being treated as no longer owning such stock, and

"(B) any disposition by the person owning such stock,

shall be treated as a disposition by the United States person of the stock in the passive foreign corporation.

"(h) COORDINATION WITH SECTION 851(b).—For purposes of paragraphs (2) and (3) of section 851(b), any amount included in gross income under subsection (a) shall be treated as a dividend.

"(i) TRANSITION RULES.—

"(1) INDIVIDUALS BECOMING SUBJECT TO U.S. TAX.—If any individual becomes a United States person in a taxable year beginning after December 31, 1992, solely for purposes of this section, the adjusted basis (before adjustments under subsection (b)) of any marketable stock in a passive foreign corporation owned (or treated as owned under subsection (g)) by such individual on the first day of such taxable year shall be treated as being the greater of its fair market value on such first day or its adjusted basis on such first day.

"(2) MARKETABLE STOCK HELD BEFORE EFFECTIVE DATE.—

"(A) IN GENERAL.—If any marketable stock in a passive foreign corporation is owned (or treated under subsection (g) as owned) by a United States person on the first day of such person's first taxable year, beginning after December 31, 1992—

"(i) paragraph (2) of section 1294(a) shall apply to such stock as if it became marketable during such first taxable year; except that—

"(I) section 1293 shall not apply to the amount included in gross income under subsection (a) to the extent such amount is attributable to increases in fair market value during such first taxable year, and

"(II) the taxpayer's holding period shall be treated as having ended on the last day of the preceding taxable year for purposes of allocating amounts under section 1293(a)(1)(A), and

"(ii) such person may elect to extend the time for the payment of the applicable section 1293 deferred tax as provided in subparagraph (B).

"(B) ELECTION TO EXTEND TIME FOR PAYMENT.—

"(i) IN GENERAL.—At the election of the taxpayer, the time for the payment of the applicable section 1293 deferred tax shall be extended to the extent and subject to the limitations provided in this subparagraph.

"(ii) TERMINATION OF EXTENSION.—

"(I) DISTRIBUTIONS.—If any distribution is received with respect to any stock to which an extension under clause (i) relates and such distribution would be an excess distribution within the meaning of section 1293 if such section applied to such stock, then the extension under clause (i) for the appropriate portion (as determined under regulations) of the applicable section 1293 deferred tax shall expire on the last day prescribed by law (determined without regard to extensions) for filing the return of tax for the taxable year in which the distribution is received.

"(II) REVERSAL OF INCLUSION.—If an amount is allowable as a deduction under subsection (a)(2) with respect to any stock to which an extension under clause (i) relates and the amount so allowable is allocable to the amount which gave rise to the applicable section 1293 deferred tax, then the extension under clause (i) for the appropriate portion (as determined under regulations) of the applicable section 1293 deferred tax shall expire on the last day prescribed by law (determined without regard to extensions) for filing the return of the tax for the taxable year for which such deduction is allowed.

"(III) DISPOSITIONS, ETC.—If stock in a passive foreign corporation is disposed of during the taxable year, all extensions under clause (i) for payment of the applicable section 1293 deferred tax attributable to such stock which have not expired before the date of such disposition

shall expire on the last date prescribed by law (determined without regard to extensions) for filing the return of tax for the taxable year in which such disposition occurs. To the extent provided in regulations, the preceding sentence shall not apply in the case of a disposition in a transaction with respect to which gain or loss is not recognized (in whole or in part), and the person acquiring such stock in such transaction shall succeed to the treatment under this section of the person making such disposition.

"(iii) OTHER RULES.—

"(I) ELECTION.—The election under clause (i) shall be made not later than the time prescribed by law (including extensions) for filing the return of tax imposed by this chapter for the first taxable year referred to in subparagraph (A).

"(II) TREATMENT OF LOANS TO SHAREHOLDER.—For purposes of this subparagraph, any loan by a passive foreign corporation (directly or indirectly) to a shareholder of such corporation shall be treated as a distribution to such shareholder.

"(C) CROSS REFERENCE.—

"For provisions providing for interest for the period of the extension under this paragraph, see section 6601.

"(D) APPLICABLE SECTION 1293 DEFERRED TAX.—For purposes of this paragraph, the term 'applicable section 1293 deferred tax' means the deferred tax amount determined under section 1293 with respect to the amount which, but for section 1293, would have been included in gross income for the first taxable year referred to in subparagraph (A). Such term also includes the tax imposed by this chapter for such first taxable year to the extent attributable to the amounts allocated under section 1293(a)(1)(A) to a period described in section 1293(a)(1)(B)(ii).

"(3) SPECIAL RULES FOR REGULATED INVESTMENT COMPANIES.—

"(A) IN GENERAL.—If any marketable stock in a passive foreign corporation is owned (or treated under subsection (g) as owned) by a regulated investment company on the first day of such company's first taxable year beginning after December 31, 1992—

"(i) section 1293 shall not apply to such stock with respect to any distribution or disposition during, or amount included in gross income under this section for, such first taxable year, but

"(ii) such company's tax under this chapter for such first taxable year shall be increased by the aggregate amount of interest which would have been determined under section 1293(c)(3) if section 1293 were applied without regard to this subparagraph.

"(B) DISALLOWANCE OF DEDUCTION.—No deduction shall be allowed to any regulated investment company for the increase in tax under subparagraph (A)(ii).

"SEC. 1292. CURRENT INCLUSION OF INCOME OF CERTAIN PASSIVE FOREIGN CORPORATIONS.

"(a) PASSIVE FOREIGN CORPORATIONS WHICH ARE U.S. CONTROLLED.—

"(1) TREATMENT UNDER SUBPART F.—

"(A) IN GENERAL.—If a passive foreign corporation is United States controlled, then for purposes of subpart F of part III of subchapter N—

"(i) such corporation, if not otherwise a controlled foreign corporation, shall be treated as a controlled foreign corporation,

"(ii) the term 'United States shareholder' means, with respect to such corporation, any United States person who owns (within the meaning of section 958(a)) any stock in such corporation,

"(iii) the entire gross income of such corporation shall, after being reduced under the principles of paragraph (5) of section 954(b), be treated as foreign base company income, and

"(iv) sections 970 and 971 shall not apply.

Except as provided in regulations, the preceding sentence shall also apply for purposes of section 904(d).

"(B) SPECIAL RULES.—If any taxpayer is treated as being a United States shareholder in a controlled foreign corporation solely by reason of this section—

"(i) section 954(b)(4) (relating to exception for certain income subject to high foreign taxes) shall not apply for purposes of determining the amount included in the gross income of such taxpayer under section 951 by reason of being so treated with respect to such corporation, and

"(ii) the amount so included in the gross income of such taxpayer under section 951 with respect to such corporation shall be treated as long-term capital gain to the extent attributable to the net capital gain of such corporation.

"(2) U.S. CONTROLLED.—For purposes of this subpart, a passive foreign corporation is United States controlled if—

"(A) such corporation is a controlled foreign corporation determined without regard to this subsection, or

"(B) at any time during the taxable year more than 50 percent of—

"(i) the total combined voting power of all classes of stock of such corporation entitled to vote, or

"(ii) the total value of the stock of such corporation,

is owned directly or indirectly by 5 or fewer United States persons.

"(3) CONSTRUCTIVE OWNERSHIP RULES FOR PURPOSES OF PARAGRAPH (2)(B).—For purposes of paragraph (2)(B), the attribution rules provided in section 544 shall apply, determined as if any reference to a personal holding company were a reference to a corporation described in paragraph (2)(B) (and any reference to the stock ownership requirement provided in section 542(a)(2) were a reference to the requirement of paragraph (2)(B)); except that—

"(A) subsection (a)(4) of such section shall be applied by substituting 'Paragraphs (1), (2), and (3)' for 'Paragraphs (2) and (3)',

"(B) stock owned by a nonresident alien individual shall not be considered by reason of attribution through family membership as owned by a citizen or resident alien individual who is not the spouse of the nonresident alien individual and who does not otherwise own stock in the foreign corporation (determined after the application of such attribution rules other than attribution through family membership), and

"(C) stock of a corporation owned by any foreign person shall not be considered by reason of attribution through partners as owned by a citizen or resident of the United States who does not otherwise own stock in the foreign corporation (determined after the application of such attribution rules and subparagraph (A), other than attribution through partners).

"(b) TAXPAYERS ELECTING CURRENT INCLUSION AND 25-PERCENT SHAREHOLDERS.—

"(1) IN GENERAL.—If a passive foreign corporation which is not United States controlled is a qualified electing fund with respect to any taxpayer or the taxpayer is a 25-percent shareholder in such corporation, then for purposes of subpart F of part III of subchapter N—

"(A) such passive foreign corporation shall be treated as a controlled foreign corporation with respect to such taxpayer,

"(B) such taxpayer shall be treated as a United States shareholder in such corporation, and

"(C) the modifications of clauses (iii) and (iv) of subsection (a)(1)(A) and of subparagraph (B) of subsection (a)(1) shall apply in determining the amount included under such subpart F in the gross income of such taxpayer (and the character of the amount so included).

For purposes of section 904(d), any amount included in the gross income of the taxpayer under the preceding sentence shall be treated as a dividend from a foreign corporation which is not a controlled foreign corporation.

"(2) QUALIFIED ELECTING FUND.—For purposes of this subpart, the term 'qualified electing fund' means any passive foreign corporation if—

"(A) an election by the taxpayer under paragraph (3) applies to such corporation for the taxable year of the taxpayer, and

"(B) such corporation complies with such requirements as the Secretary may prescribe for purposes of carrying out the purposes of this subpart.

"(3) ELECTION.—

"(A) IN GENERAL.—A taxpayer may make an election under this paragraph with respect to any passive foreign corporation for any taxable year of the taxpayer. Such an election, once made with respect to any corporation, shall apply to all subsequent taxable years of the taxpayer with respect to such corporation unless revoked by the taxpayer with the consent of the Secretary.

"(B) WHEN MADE.—An election under this subsection may be made for any taxable year of the taxpayer at any time on or before the due date (determined with regard to extensions) for filing the return of the tax imposed by this chapter for such taxable year. To the extent provided in regulations, such an election may be made later than as required in the preceding sentence where the taxpayer fails to make a timely election because the taxpayer reasonably believes that the corporation was not a passive foreign corporation.

"(4) 25-PERCENT SHAREHOLDER.—For purposes of this subpart, the term '25-percent shareholder' means, with respect to any passive foreign corporation, any United States person who owns (within the meaning of section 958(a)), or is considered as owning by applying the rules of section 958(b), 25 percent or more (by vote or value) of the stock of such corporation.

"SUBPART B—INTEREST ON HOLDINGS TO WHICH SUBPART A DOES NOT APPLY

"Sec. 1293. Interest on tax deferral.

"Sec. 1294. Definitions and special rules.

"SEC. 1293. INTEREST ON TAX DEFERRAL.

"(a) TREATMENT OF DISTRIBUTIONS AND STOCK DISPOSITIONS.—

"(1) DISTRIBUTIONS.—If a United States person receives an excess distribution in respect of stock to which this section applies, then—

"(A) the amount of the excess distribution shall be allocated ratably to each day in the taxpayer's holding period for the stock,

"(B) with respect to such excess distribution, the taxpayer's gross income for the current year shall include (as ordinary income) only the amounts allocated under subparagraph (A) to—

"(i) the current year, or

"(ii) any period in the taxpayer's holding period before the first day of the first taxable year of the corporation which begins after December 31, 1986, and for which it was a passive foreign corporation, and

"(C) the tax imposed by this chapter for the current year shall be increased by the deferred tax amount (determined under subsection (c)).

"(2) DISPOSITIONS.—If the taxpayer disposes of stock to which this section applies, then the rules of paragraph (1) shall apply to any gain recognized on such disposition in the same manner as if such gain were an excess distribution.

"(3) DEFINITIONS.—For purposes of this subpart—

"(A) HOLDING PERIOD.—The taxpayer's holding period shall be determined under section 1223; except that—

"(i) for purposes of applying this section to an excess distribution, such holding period shall be treated as ending on the date of such distribution, and

''(ii) if section 1291 applied to such stock with respect to the taxpayer for any prior taxable year, such holding period shall be treated as beginning on the first day of the first taxable year beginning after the last taxable year for which section 1291 so applied.

''(B) CURRENT YEAR.—The term 'current year' means the taxable year in which the excess distribution or disposition occurs.

''(b) EXCESS DISTRIBUTION.—

''(1) IN GENERAL.—For purposes of this section, the term 'excess distribution' means any distribution in respect of stock received during any taxable year to the extent such distribution does not exceed its ratable portion of the total excess distribution (if any) for such taxable year.

''(2) TOTAL EXCESS DISTRIBUTION.—For purposes of this subsection—

''(A) IN GENERAL.—The term 'total excess distribution' means the excess (if any) of—

''(i) the amount of the distributions in respect of the stock received by the taxpayer during the taxable year, over

''(ii) 125 percent of the average amount received in respect of such stock by the taxpayer during the 3 preceding taxable years (or, if shorter, the portion of the taxpayer's holding period before the taxable year).

For purposes of clause (ii), any excess distribution received during such 3-year period shall be taken into account only to the extent it was included in gross income under subsection (a)(1)(B).

''(B) NO EXCESS FOR FIRST YEAR.—The total excess distributions with respect to any stock shall be zero for the taxable year in which the taxpayer's holding period in such stock begins.

''(3) ADJUSTMENTS.—Under regulations prescribed by the Secretary—

''(A) determinations under this subsection shall be made on a share-by-share basis, except that shares with the same holding period may be aggregated,

''(B) proper adjustments shall be made for stock splits and stock dividends,

''(C) if the taxpayer does not hold the stock during the entire taxable year, distributions received during such year shall be annualized,

''(D) if the taxpayer's holding period includes periods during which the stock was held by another person, distributions received by such other person shall be taken into account as if received by the taxpayer,

''(E) if the distributions are received in a foreign currency, determinations under this subsection shall be made in such currency and the amount of any excess distribution determined in such currency shall be translated into dollars,

''(F) proper adjustment shall be made for amounts not includible in gross income by reason of section 959(a) or for which a deduction is allowable under section 245(c), and

''(G) if a charitable deduction was allowable under section 642(c) to a trust for any distribution of its income, proper adjustments shall be made for the deduction so allowable to the extent allocable to distributions or gain in respect of stock in a passive foreign corporation.

For purposes of subparagraph (F), any amount not includible in gross income by reason of section 551(d) (as in effect on January 1, 1992) or 1293(c) (as so in effect) shall be treated as an amount not includible in gross income by reason of section 959(a).

''(c) DEFERRED TAX AMOUNT.—For purposes of this section—

''(1) IN GENERAL.—The term 'deferred tax amount' means, with respect to any distribution or disposition to which subsection (a) applies, an amount equal to the sum of—

''(A) the aggregate increases in taxes described in paragraph (2), plus

''(B) the aggregate amount of interest (determined in the manner provided under paragraph (3)) on such increases in tax.

Any increase in the tax imposed by this chapter for the current year under subsection (a) to the extent attributable to the amount referred to in subparagraph (B) shall be treated as interest paid under section 6601 on the due date for the current year.

''(2) AGGREGATE INCREASES IN TAXES.—For purposes of paragraph (1)(A), the aggregate increases in taxes shall be determined by multiplying each amount allocated under subsection (a)(1)(A) to any taxable year (other than the current year) by the highest rate of tax in effect for such taxable year under section 1 or 11, whichever applies.

''(3) COMPUTATION OF INTEREST.—

''(A) IN GENERAL.—The amount of interest referred to in paragraph (1)(B) on any increase determined under paragraph (2) for any taxable year shall be determined for the period—

''(i) beginning on the due date for such taxable year, and

''(ii) ending on the due date for the taxable year with or within which the distribution or disposition occurs,

by using the rates and method applicable under section 6621 for underpayments of tax for such period.

''(B) DUE DATE.—For purposes of this subsection, the term 'due date' means the date prescribed by law (determined without regard to extensions) for filing the return of the tax imposed by this chapter for the taxable year.

''(C) SPECIAL RULE.—For purposes of determining the amount of interest referred to in paragraph (1)(B), the amount of any increase in tax determined under paragraph (2) shall be determined without regard to any reduction under section 1294(d) for a tax described in paragraph (2)(A)(ii) thereof.

"SEC. 1294. DEFINITIONS AND SPECIAL RULES.

''(a) STOCK TO WHICH SECTION 1293 APPLIES.—

''(1) IN GENERAL.—Except as otherwise provided in this paragraph, section 1293 shall apply to any stock in a passive foreign corporation unless—

''(A) such stock is marketable stock as of the time of the distribution or disposition involved, or

''(B)(i) with respect to each of such corporation's taxable years which begin after December 31, 1992, and include any portion of the taxpayer's holding period in such stock—

''(I) such corporation was U.S. controlled (within the meaning of section 1292(a)(2)), or

''(II) such corporation was treated as a controlled foreign corporation under section 1292(b) with respect to the taxpayer, and

''(ii) with respect to each of such corporation's taxable years which begin after December 31, 1986, and before January 1, 1993, and include any portion of the taxpayer's holding period in such stock, such corporation was treated as a qualified electing fund under this part (as in effect on January 1, 1992) with respect to the taxpayer.

''(2) TREATMENT WHERE STOCK BECOMES MARKETABLE.—If any stock in a passive foreign corporation becomes marketable stock after the beginning of the taxpayer's holding period in such stock, section 1293 shall apply to—

''(A) any distributions with respect to, or disposition of, such stock in the taxable year of the taxpayer in which it becomes so marketable, and

''(B) any amount which, but for section 1293, would have been included in gross income under section 1291(a) with respect to such stock for such taxable year in the same manner as if such amount were gain on the disposition of such stock.

''(3) ELECTION TO RECOGNIZE GAIN WHERE COMPANY BECOMES SUBJECT TO CURRENT INCLUSIONS.—

''(A) IN GENERAL.—If—

''(i) a passive foreign corporation first meets the requirements of clause (i) of paragraph (1)(B) with respect to the taxpayer for a taxable year of such taxpayer which begins after December 31, 1992,

''(ii) the taxpayer holds stock in such company on the first day of such taxable year, and

''(iii) the taxpayer establishes to the satisfaction of the Secretary the fair market value of such stock on such first day,

the taxpayer may elect to recognize gain as if he sold such stock on such first day for such fair market value.

''(B) ADDITIONAL ELECTION FOR SHAREHOLDER OF CONTROLLED FOREIGN CORPORATIONS.—

''(i) IN GENERAL.—If—

''(I) a passive foreign corporation first meets the requirements of subclause (I) of paragraph (1)(B)(i) with respect to the taxpayer for a taxable year of such taxpayer which begins after December 31, 1992,

''(II) the taxpayer holds stock in such corporation on the first day of such taxable year, and

''(III) such corporation is a controlled foreign corporation without regard to this part,

the taxpayer may elect to be treated as receiving a dividend on such first day in an amount equal to the portion of the post-1986 earnings and profits of such corporation attributable (under regulations prescribed by the Secretary) to the stock in such corporation held by the taxpayer on such first day. The amount treated as a dividend under the preceding sentence shall be treated as an excess distribution and shall be allocated under section 1293(a)(1)(A) only two days during periods taken into account in determining the post-1986 earnings and profits so attributable.

''(ii) POST-1986 EARNINGS AND PROFITS.—For purposes of clause (i), the term 'post-1986 earnings and profits' means earnings and profits which were accumulated in taxable years of the corporation beginning after December 31, 1986, and during the period or periods the stock was held by the taxpayer while the corporation was a passive foreign corporation.

''(iii) COORDINATION WITH SECTION 959(e).—For purposes of section 959(e), any amount treated as a dividend under this subparagraph shall be treated as included in gross income under section 1248(a).

''(C) ADJUSTMENTS.—In the case of any stock to which subparagraph (A) or (B) applies—

''(i) the adjusted basis of such stock shall be increased by the gain recognized under subparagraph (A) or the amount treated as a dividend under subparagraph (B), as the case may be, and

''(ii) the taxpayer's holding period in such stock shall be treated as beginning on the first day referred to in such subparagraph.

''(b) RULES RELATING TO STOCK ACQUIRED FROM A DECEDENT.—

''(1) BASIS.—In the case of stock of a passive foreign corporation acquired by bequest, devise, or inheritance (or by the decedent's estate), notwithstanding section 1014, the basis of such stock in the hands of the person so acquiring it shall be the adjusted basis of such stock in the hands of the decedent immediately before his death (or, if lesser, the basis which would have been determined under section 1014 without regard to this paragraph).

''(2) DEDUCTION FOR ESTATE TAX.—If stock in a passive foreign corporation is acquired from a decedent, the taxpayer shall, under regulations prescribed by the Secretary, be allowed (for the taxable year of the sale or exchange) a deduction from gross income equal to that portion of the decedent's estate tax deemed paid which is attributable to the excess of (A) the value at which such stock was taken into account for purposes of determining the value of the decedent's gross estate, over (B) the basis determined under paragraph (1).

"(3) EXCEPTIONS.—This subsection shall not apply to any stock in a passive foreign corporation if—

"(A) section 1293 would not have applied to a disposition of such stock by the decedent immediately before his death, or

"(B) the decedent was a nonresident alien at all times during his holding period in such stock.

"(c) RECOGNITION OF GAIN.—Except as otherwise provided in regulations, in the case of any transfer of stock in a passive foreign company to which section 1293 applies, where (but for this subsection) there is not full recognition of gain, the excess (if any) of—

"(1) the fair market value of such stock, over

"(2) its adjusted basis,

shall be treated as gain from the sale or exchange of such stock and shall be recognized notwithstanding any provision of law. Proper adjustment shall be made to the basis of property for gain recognized under the preceding sentence.

"(d) COORDINATION WITH FOREIGN TAX CREDIT RULES.—

"(1) IN GENERAL.—If there are creditable foreign taxes with respect to any distribution in respect of stock in a passive foreign corporation—

"(A) the amount of such distribution shall be determined for purposes of section 1293 with regard to section 78,

"(B) the excess distribution taxes shall be allocated ratably to each day in the taxpayer's holding period for the stock, and

"(C) to the extent—

"(i) that such excess distribution taxes are allocated to a taxable year referred to in section 1293(a)(1)(B), such taxes shall be taken into account under section 901 for the current year, and

"(ii) that such excess distribution taxes are allocated to any other taxable year, such taxes shall reduce (subject to the principles of section 904 and not below zero) the increase in tax determined under section 1293(c)(2) for such taxable year by reason of such distribution (but such taxes shall not be taken into account under section 901).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means, with respect to any distribution—

"(i) any foreign taxes deemed paid under section 902 with respect to such distribution, and

"(ii) any withholding tax imposed with respect to such distribution,

but only if the taxpayer chooses the benefits of section 901 and such taxes are creditable under section 901 (determined without regard to paragraph (1)(C)(ii)).

"(B) EXCESS DISTRIBUTION TAXES.—The term 'excess distribution taxes' means, with respect to any distribution, the portion of the creditable foreign taxes with respect to such distribution which is attributable (on a pro rata basis) to the portion of such distribution which is an excess distribution.

"(C) SECTION 1248 GAIN.—The rules of this subsection also shall apply in the case of any gain which but for this section would be includible in gross income as a dividend under section 1248.

"(e) ATTRIBUTION OF OWNERSHIP.—For purposes of this subpart—

"(1) ATTRIBUTION TO UNITED STATES PERSONS.—This subsection—

"(A) shall apply to the extent that the effect is to treat stock of a passive foreign corporation as owned by a United States person, and

"(B) except as provided in paragraph (3) or in regulations, shall not apply to treat stock owned (or treated as owned under this subsection) by a United States person as owned by any other person.

"(2) CORPORATIONS.—

"(A) IN GENERAL.—If 50 percent or more in value of the stock of a corporation (other than an S corporation) is owned, directly or indirectly, by or for any person, such person shall be considered as owning the stock owned directly or indirectly by or for such corporation in that proportion which the value of the stock which such person so owns bears to the value of all stock in the corporation.

"(B) 50-PERCENT LIMITATION NOT TO APPLY IN CERTAIN CASES.—For purposes of determining whether a shareholder of a passive foreign corporation (or whether a United States shareholder of a controlled foreign corporation which is not a passive foreign corporation) is treated as owning stock owned directly or indirectly by or for such corporation, subparagraph (A) shall be applied without regard to the 50-percent limitation contained therein.

"(C) FAMILY AND PARTNER ATTRIBUTION FOR 50-PERCENT LIMITATION.—For purposes of determining whether the 50-percent limitation of subparagraph (A) is met, the constructive ownership rules of section 544(a)(2) shall apply in addition to the other rules of this subsection.

"(3) PARTNERSHIPS, ETC.—Except as provided in regulations, stock owned, directly or indirectly, by or for a partnership, S corporation, estate, or trust shall be considered as being owned proportionately by its partners, shareholders, or beneficiaries (as the case may be).

"(4) OPTIONS.—To the extent provided in regulations, if any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock.

"(5) SUCCESSIVE APPLICATION.—Stock considered to be owned by a person by reason of the application of paragraph (2), (3), or (4) shall, for purposes of applying such paragraphs, be considered as actually owned by such person.

"(f) OTHER SPECIAL RULES.—For purposes of this subpart—

"(1) TIME FOR DETERMINATION.—Stock held by a taxpayer shall be treated as stock in a passive foreign corporation if, at any time during the holding period of the taxpayer with respect to such stock, such corporation (or any predecessor) was a passive foreign corporation. The preceding sentence shall not apply if the taxpayer elects to recognize gain (as of the last day of the last taxable year for which the company was a passive foreign corporation) under rules similar to the rules of subsection (a)(3)(A).

"(2) APPLICATION OF SUBPART WHERE STOCK HELD BY OTHER ENTITY.—Under regulations—

"(A) IN GENERAL.—In any case in which a United States person is treated as owning stock in a passive foreign corporation by reason of subsection (e)—

"(i) any transaction which results in the United States person being treated as no longer owning such stock,

"(ii) any disposition of such stock by the person owning such stock, and

"(iii) any distribution of property in respect of such stock to the person holding such stock,

shall be treated as a disposition by, or distribution to, the United States person with respect to the stock in the passive foreign corporation.

"(B) AMOUNT TREATED IN SAME MANNER AS PREVIOUSLY TAXED INCOME.—Rules similar to the rules of section 959(b) shall apply to any amount described in subparagraph (A) in respect of stock which the taxpayer is treated as owning under subsection (e).

"(C) COORDINATION WITH SECTION 951.—If, but for this subparagraph, an amount would be taken into account under section 1293 by reason of subparagraph (A) and such amount would also be included in the gross income of the taxpayer under section 951, such amount shall only be taken into account under section 1293.

"(3) DISPOSITIONS.—Except as provided in regulations, if a taxpayer uses any stock in a passive foreign corporation as security for a loan, the taxpayer shall be treated as having disposed of such stock.

"SUBPART C—GENERAL PROVISIONS

"Sec. 1296. Passive foreign corporation.

"Sec. 1297. Special rules.

"SEC. 1296. PASSIVE FOREIGN CORPORATION.

"(a) IN GENERAL.—For purposes of this part, except as otherwise provided in this subpart, the term 'passive foreign corporation' means any foreign corporation if—

"(1) 60 percent or more of the gross income of such corporation for the taxable year is passive income,

"(2) the average percentage of assets (by value) held by such corporation during the taxable year which produce passive income or which are held for the production of passive income is at least 50 percent, or

"(3) such corporation is registered under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 to 80b-2), either as a management company or as a unit investment trust.

A foreign corporation may elect to have the determination under paragraph (2) based on the adjusted bases of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary.

"(b) PASSIVE INCOME.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the term 'passive income' means any income which is of a kind which would be foreign personal holding company income as defined in section 954(c) without regard to paragraph (3) thereof.

"(2) EXCEPTIONS.—Except as provided in regulations, the term 'passive income' does not include any income—

"(A) derived in the active conduct of a banking business by an institution licensed to do business as a bank in the United States (or, to the extent provided in regulations, by any other corporation),

"(B) derived in the active conduct of an insurance business by a corporation which is predominantly engaged in an insurance business and which would be subject to tax under subchapter L if it were a domestic corporation,

"(C) which is interest, a dividend, or a rent or royalty, which is received or accrued from a related person (within the meaning of section 954(d)(3)) to the extent such amount is properly allocable (under regulations prescribed by the Secretary) to income of such related person which is not passive income, or

"(D) any foreign trade income of a FSC.

For purposes of subparagraph (C), the term 'related person' has the meaning given such term by section 954(d)(3) determined by substituting 'foreign corporation' for 'controlled foreign corporation' each place it appears in section 954(d)(3).

"(3) TREATMENT OF INCOME FROM CERTAIN ASSETS.—To the extent that any asset is properly treated as not held for the production of passive income for purposes of subsection (a)(2), all income from such asset shall be treated as income which is not passive income.

"(c) LOOK-THROUGH IN CASE OF 25-PERCENT OWNED CORPORATION.—If a foreign corporation owns (directly or indirectly) at least 25 percent (by value) of the stock of another corporation, for purposes of determining whether such foreign corporation is a passive foreign corporation, such foreign corporation shall be treated as if it—

"(1) held its proportionate share of the assets of such other corporation, and

"(2) received directly its proportionate share of the income of such other corporation.

"SEC. 1297. SPECIAL RULES.

"(a) UNITED STATES PERSON.—For purposes of this part, the term 'United States person' has the meaning given to such term by section 7701(a)(30).

"(b) CONTROLLED FOREIGN CORPORATION.—For purposes of this part, the term 'controlled foreign corporation' has the meaning given such term by section 957(a).

"(c) MARKETABLE STOCK.—For purposes of this part—

"(1) IN GENERAL.—The term 'marketable stock' means—

"(A) any stock which is regularly traded on—

"(i) a national securities exchange which is registered with the Securities and Exchange Commission or the national market system established pursuant to section 11A of the Securities and Exchange Act of 1934, or

"(ii) any exchange or other market which the Secretary determines has rules adequate to carry out the purposes of this part, and

"(B) to the extent provided in regulations, stock in any foreign corporation which is comparable to a regulated investment company and which offers for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value.

"(2) SPECIAL RULE FOR REGULATED INVESTMENT COMPANIES.—In the case of any regulated investment company which is offering for sale or has outstanding any stock of which it is the issuer and which is redeemable at its net asset value, all stock in a passive foreign corporation which it owns (or is treated under section 1291(g) as owning) shall be treated as marketable stock for purposes of this part. Except as provided in regulations, a similar rule shall apply in the case of any other regulated investment company.

"(d) OTHER SPECIAL RULES.—For purposes of this part—

"(1) CERTAIN CORPORATIONS NOT TREATED AS PASSIVE.—A corporation shall not be treated as a passive foreign corporation for the 1st taxable year such corporation has gross income (hereinafter in this paragraph referred to as the 'start-up year') if—

"(A) no predecessor of such corporation was a passive foreign corporation,

"(B) it is established to the satisfaction of the Secretary that such corporation will not be a passive foreign corporation for either of the 1st 2 taxable years following the start-up year, and

"(C) such corporation is not a passive foreign corporation for either of the 1st 2 taxable years following the start-up year.

"(2) CERTAIN CORPORATIONS CHANGING BUSINESSES.—A corporation shall not be treated as a passive foreign corporation for any taxable year if—

"(A) neither such corporation (nor any predecessor) was a passive foreign corporation for any prior taxable year,

"(B) it is established to the satisfaction of the Secretary that—

"(i) substantially all of the passive income of the corporation for the taxable year is attributable to proceeds from the disposition of 1 or more active trades or businesses, and

"(ii) such corporation will not be a passive foreign corporation for either of the 1st 2 taxable years following the taxable year, and

"(C) such corporation is not a passive foreign corporation for either of such 2 taxable years.

For purposes of section 1296(c), any passive income referred to in subparagraph (B)(i) shall be treated as income which is not passive income and any assets which produce income so described shall be treated as assets producing income other than passive income.

"(3) TREATMENT OF CERTAIN FOREIGN CORPORATIONS OWNING STOCK IN 25-PERCENT OWNED DOMESTIC CORPORATION.—

"(A) IN GENERAL.—If a foreign corporation owns at least 25 percent (by value) of the stock of a domestic corporation, for purposes of determining whether such foreign corporation is a passive foreign corporation, any qualified stock held by such domestic corporation shall be treated as an asset which does not produce passive income (and is not held for the production of passive income) and any amount included in gross income with respect to such stock shall not be treated as passive income.

"(B) QUALIFIED STOCK.—For purposes of subparagraph (A), the term 'qualified stock' means any stock in a C corporation which is a domestic corporation and which is not a regulated investment company or real estate investment trust.

"(4) TREATMENT OF CORPORATION WHICH WAS A PFIC.—A corporation shall be treated as a passive foreign corporation for any taxable year beginning before January 1, 1993, if and only if such corporation was a passive foreign investment company under this part as in effect for such taxable year.

"(5) SEPARATE INTERESTS TREATED AS SEPARATE CORPORATIONS.—Under regulations prescribed by the Secretary, where necessary to carry out the purposes of this part, separate classes of stock (or other interests) in a corporation shall be treated as interests in separate corporations.

"(e) TREATMENT OF CERTAIN LEASED PROPERTY.—For purposes of section 1296(a)(2)—

"(1) IN GENERAL.—Any tangible personal property with respect to which the foreign corporation is the lessee under a lease with a term of at least 12 months shall be treated as an asset actually held by such corporation.

"(2) DETERMINATION OF VALUE.—

"(A) IN GENERAL.—The value of any asset to which paragraph (1) applies shall be the lesser of—

"(i) the fair market value of such property, or

"(ii) the unamortized portion (as determined under regulations prescribed by the Secretary) of the present value of the payments under the lease for the use of such property.

"(B) PRESENT VALUE.—For purposes of subparagraph (A), the present value of payments described in subparagraph (A)(ii) shall be determined in the manner provided in regulations prescribed by the Secretary—

"(i) as of the beginning of the lease term, and

"(ii) except as provided in such regulations, by using a discount rate equal to the applicable Federal rate determined under section 1274(d)—

"(I) by substituting the lease term for the term of the debt instrument, and

"(II) without regard to paragraph (2) or (3) thereof.

"(3) EXCEPTIONS.—This subsection shall not apply in any case where—

"(A) the lessor is a related person (as defined in the last sentence of section 1296(b)(2)) with respect to the foreign corporation, or

"(B) a principal purpose of leasing the property was to avoid the provisions of this part.

"(f) ELECTION BY CERTAIN PASSIVE FOREIGN CORPORATIONS TO BE TREATED AS A DOMESTIC CORPORATION.—

"(1) IN GENERAL.—For purposes of this title, if—

"(A) a passive foreign corporation would qualify as a regulated investment company under part I of subchapter M if such passive foreign corporation were a domestic corporation,

"(B) such passive foreign corporation meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this title on such passive foreign corporation are paid, and

"(C) such passive foreign corporation makes an election to have this paragraph apply and waives all benefits which are granted by the United States under any treaty and to which such corporation would otherwise be entitled by reason of being a resident of another country, such corporation shall be treated as a domestic corporation.

"(2) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of paragraphs (2), (3), (4)(A), and (5) of section 953(d) shall apply with respect to any corporation making an election under paragraph (1).

"(g) SPECIAL RULES FOR CERTAIN TAXPAYERS.—

"(1) TAX-EXEMPT ORGANIZATIONS.—In the case of any organization exempt from tax under section 501—

"(A) this part shall apply to any stock in a passive foreign corporation owned (or treated as owned under section 1294(e)) by such organization only to the extent that a dividend on such stock would be taken into account in determining the unrelated business taxable income of such organization, and

"(B) to the extent that this part applies to any such stock, this part shall be applied in the same manner as if such organization were not exempt from tax under section 501(a).

"(2) TREATMENT OF STOCK HELD BY POOLED INCOME FUND.—If stock in a passive foreign corporation is owned (or treated as owned under section 1294(e)) by a pooled income fund (as defined in section 642(c)(5)) and no portion of any gain from a disposition of such stock may be allocated to income under the terms of the governing instrument of such fund—

"(A) section 1293 shall not apply to any gain on a disposition of such stock by such fund if (without regard to section 1293) a deduction would be allowable with respect to such gain under section 642(c)(3),

"(B) subpart A shall not apply with respect to such stock, and

"(C) in determining whether section 1293 applies to any distribution in respect of such stock, such stock shall be treated as failing to qualify for the exceptions under section 1294(a)(1).

"(h) INFORMATION FROM SHAREHOLDERS.—Every United States person who owns stock in any passive foreign corporation shall furnish with respect to such corporation such information as the Secretary may prescribe.

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this part, including regulations—

"(1) providing that gross income shall be determined without regard to section 1293 for such purposes as may be specified in such regulations, and

"(2) to prevent avoidance of the provisions of this part through changes in citizenship or residence status."

(b) INSTALLMENT SALES TREATMENT NOT AVAILABLE.—Paragraph (2) of section 453(k) is amended by striking "or" at the end of subparagraph (A), by inserting "or" at the end of subparagraph (B), and by adding at the end thereof the following new subparagraph:

"(C) stock in a passive foreign corporation (as defined in section 1296) if section 1293 applies to such sale,".

(c) TREATMENT OF MARK-TO-MARKET GAIN UNDER SECTION 4982.—

(1) Subsection (e) of section 4982 is amended by adding at the end thereof the following new paragraph:

"(6) TREATMENT OF GAIN RECOGNIZED UNDER SECTION 1291.—For purposes of determining a regulated investment company's ordinary income—

"(A) notwithstanding paragraph (1)(C), section 1291 shall be applied as if such company's taxable year ended on October 31, and

"(B) any ordinary gain or loss from an actual disposition of stock in a passive foreign corpora-

tion during the portion of the calendar year after October 31 shall be taken into account in determining such company's ordinary income for the following calendar year.

In the case of a company making an election under paragraph (4), the preceding sentence shall be applied by substituting the last day of the company's taxable year for October 31.''

(2) Subsection (b) of section 852 is amended by adding at the end thereof the following new paragraph:

''(10) SPECIAL RULE FOR CERTAIN LOSSES ON STOCK IN PASSIVE FOREIGN CORPORATIONS.—To the extent provided in regulations, the taxable income of a regulated investment company (other than a company to which an election under section 4982(e)(4) applies) shall be computed without regard to any net reduction in the value of any stock of a passive foreign corporation to which section 1291 applies occurring after October 31 of the taxable year, and any such reduction shall be treated as occurring on the first day of the following taxable year.''

(3) Subsection (c) of section 852 is amended by inserting after ''October 31 of such year'' the following: '', without regard to any net reduction in the value of any stock of a passive foreign corporation to which section 1291 applies occurring after October 31 of such year,''.

(d) TREATMENT OF CERTAIN PREVIOUSLY TAXED AMOUNTS.—Subsection (e) of section 959 is amended—

(1) by adding at the end thereof the following new sentence: ''A similar rule shall apply in the case of amounts included in gross income under section 1293 (as in effect on January 1, 1992).'', and

(2) by striking ''AMOUNTS PREVIOUSLY TAXED UNDER SECTION 1248'' in the subsection heading and inserting ''CERTAIN PREVIOUSLY TAXED AMOUNTS''.

SEC. 4403. TECHNICAL AND CONFORMING AMENDMENTS.

(a) GENERAL RULE.—

(1) Paragraph (2) of section 171(c) is amended—

(A) by striking '', or by a foreign personal holding company, as defined in section 552'', and

(B) by striking '', or a foreign personal holding company''.

(2) Section 312 is amended by striking subsection (j).

(3) Subsection (m) of section 312 is amended by striking '', a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552)'' and inserting ''or a passive foreign corporation (as defined in section 1296)''.

(4) Subsection (e) of section 443 is amended by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

(5) Clause (ii) of section 465(c)(7)(B) is amended to read as follows:

''(ii) a passive foreign corporation with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met, or''.

(6) Subsection (b) of section 535 is amended by striking paragraph (9).

(7) Subsection (d) of section 535 is hereby repealed.

(8) Paragraph (1) of section 543(b) is amended by inserting ''and'' at the end of subparagraph (A), by striking '', and'' at the end of subparagraph (B) and inserting a period, and by striking subparagraph (C).

(9) Paragraph (1) of section 562(b) is amended by striking ''or a foreign personal holding company described in section 552''.

(10) Section 563 is amended—

(A) by striking subsection (c),

(B) by redesignating subsection (d) as subsection (c), and

(C) by striking ''subsection (a), (b), or (c)'' in subsection (c) (as so redesignated) and inserting ''subsection (a) or (b)''.

(11) Paragraph (2) of section 751(d) is amended by striking ''subsection (a) of section 1246 (relating to gain on foreign investment company stock)'' and inserting ''section 1291 (relating to stock in certain passive foreign corporations marked to market)''.

(12) Subsection (b) of section 851 is amended by striking the sentence following paragraph (4)(B) which contains a reference to section 1293(a).

(13) Clause (ii) of section 864(b)(2)(A) is amended by striking ''(other than'' and all that follows down through ''holding company)'' and inserting ''(other than a corporation which would be a personal holding company but for section 542(c)(5) and which is not United States controlled (as defined in section 1292(a)(2))''.

(14) Subsection (d) of section 904 is amended by striking paragraphs (2)(A)(ii), (2)(E)(iii), and (3)(I).

(15)(A) Subparagraph (A) of section 904(g)(1) is amended to read as follows:

''(A) Any amount included in gross income under section 951(a) (relating to amounts included in gross income of United States shareholders).''

(B) The paragraph heading of paragraph (2) of section 904(g) is amended by striking ''AND FOREIGN PERSONAL HOLDING OR PASSIVE FOREIGN INVESTMENT COMPANY''.

(16) Section 951 is amended by striking subsections (c), (d), and (f), and by redesignating subsection (e) as subsection (c).

(17) Paragraph (1) of section 986(c) is amended by striking ''or 1293(c)''.

(18) Paragraph (3) of section 989(b) is amended by striking '', 551(a), or 1293(a)''.

(19) Paragraph (5) of section 1014(b) is hereby repealed.

(20) Subsection (a) of section 1016 is amended by striking paragraph (13) and by redesignating the following paragraphs accordingly.

(21) Paragraph (3) of section 1212(a) is amended—

(A) by striking subparagraph (A),

(B) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively, and

(C) by amending subparagraph (D) to read as follows:

''(C) for which it is a passive foreign corporation.''

(22) Section 1223 is amended by striking paragraph (10) and by redesignating the following paragraphs accordingly.

(23) Subsection (d) of section 1248 is amended by striking paragraphs (5) and (7).

(24)(A) Subsection (a) of section 6035 is amended by striking ''foreign personal holding company (as defined in section 552)'' and inserting ''passive foreign corporation with respect to which the stock ownership requirements of section 1292(a)(2)(B) are met''.

(B) The section heading for section 6035 is amended by striking ''FOREIGN PERSONAL HOLDING COMPANIES'' and inserting ''CLOSELY HELD PASSIVE FOREIGN CORPORATIONS'',.

(C) The table of sections for subpart A of part III of subchapter A of chapter 61 is amended by striking ''foreign personal holding companies'' in the item relating to section 6035 and inserting 'closely-held passive foreign corporations''.

(25) Subparagraph (D) of section 6103(e)(1) is amended by striking clause (iv) and redesignating clauses (v) and (vi) as clauses (iv) and (v), respectively.

(26) Subparagraph (B) of section 6501(e)(1) is amended to read as follows:

''(B) CONSTRUCTIVE DIVIDENDS.—If the taxpayer omits from gross income an amount properly includible therein under section 951(a), the tax may be assessed, or a proceeding in court for the collection of such tax may be done without assessing, at any time within 6 years after the return was filed.''

(27) Section 4947 and section 4948(c)(4) are each amended by striking ''556(b)(2),'' each place it appears.

(b) CLERICAL AMENDMENTS.—

(1) The table of parts for subchapter G of chapter 1 is amended by striking the item relating to part III.

(2) The table of sections for part IV of subchapter P of chapter 1 is amended by striking the items relating to sections 1246 and 1247.

(3) The table of parts for subchapter P of chapter 1 is amended by striking the item relating to part VI and inserting the following:

''Part VI. Treatment of passive foreign corporations.''

SEC. 4404. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this part shall apply to—

(1) taxable years of United States persons beginning after December 31, 1992, and

(2) taxable years of foreign corporations ending with or within such taxable years of United States persons.

(b) DENIAL OF INSTALLMENT SALES TREATMENT.—The amendment made by section 3402(b) shall apply to dispositions after December 31, 1992.

(c) BASIS RULE.—The amendments made by this part shall not affect the determination of the basis of any stock acquired from a decedent in a taxable year beginning before January 1, 1993.

PART II—TREATMENT OF CONTROLLED FOREIGN CORPORATIONS

SEC. 4411. GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.

(a) GENERAL RULE.—Section 964 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

''(f) GAIN ON CERTAIN STOCK SALES BY CONTROLLED FOREIGN CORPORATIONS TREATED AS DIVIDENDS.—

''(1) IN GENERAL.—If a controlled foreign corporation sells or exchanges stock in any other foreign corporation, gain recognized on such sale or exchange shall be included in the gross income of such controlled foreign corporation as a dividend to the same extent that it would have been so included under section 1248(a) if such controlled foreign corporation were a United States person. For purposes of determining the amount which would have been so includible, the determination of whether such other foreign corporation was a controlled foreign corporation shall be made without regard to the preceding sentence.

''(2) SAME COUNTRY EXCEPTION NOT APPLICABLE.—Clause (i) of section 954(c)(3)(A) shall not apply to any amount treated as a dividend by reason of paragraph (1).

''(3) CLARIFICATION OF DEEMED SALES.—For purposes of this subsection, a controlled foreign corporation shall be treated as having sold or exchanged any stock if, under any provision of this subtitle, such controlled foreign corporation is treated as having gain from the sale or exchange of such stock.''.

(b) AMENDMENT OF SECTION 904(d).—Clause (i) of section 904(d)(2)(E) is amended by striking ''and except as provided in regulations, the taxpayer was a United States shareholder in such corporation''.

(c) EFFECTIVE DATES.—

(1) The amendment made by subsection (a) shall apply to gain recognized on transactions occurring after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall apply to distributions after the date of the enactment of this Act

SEC. 4412. AUTHORITY TO PRESCRIBE SIMPLIFIED METHOD FOR APPLYING SECTION 960(b)(2).

(a) GENERAL RULE.—Paragraph (2) of section 960(b) is amended by adding at the end thereof the following new sentence: "The Secretary may prescribe regulations requiring the use of simplified methods set forth in such regulations for determining the amount of the increase referred to in the preceding sentence."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 4413. MISCELLANEOUS MODIFICATIONS TO SUBPART F.

(a) SECTION 1248 GAIN TAKEN INTO ACCOUNT IN DETERMINING PRO RATA SHARE.—

(1) IN GENERAL.—Paragraph (2) of section 951(a) (defining pro rata share of subpart F income) is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (B), any gain included in the gross income of any person as a dividend under section 1248 shall be treated as a distribution received by such person with respect to the stock involved."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to dispositions after the date of the enactment of this Act.

(b) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—

(1) IN GENERAL.—Section 961 (relating to adjustments to basis of stock in controlled foreign corporations and of other property) is amended by adding at the end thereof the following new subsection:

"(c) BASIS ADJUSTMENTS IN STOCK HELD BY FOREIGN CORPORATION.—Under regulations prescribed by the Secretary, if a United States shareholder is treated under section 958(a)(2) as owning any stock in a controlled foreign corporation which is actually owned by another controlled foreign corporation, adjustments similar to the adjustments provided by subsections (a) and (b) shall be made to the basis of such stock in the hands of such other controlled foreign corporation, but only for the purposes of determining the amount included under section 951 in the gross income of such United States shareholder (or any other United States shareholder who acquires from any person any portion of the interest of such United States shareholder by reason of which such shareholder was treated as owning such stock, but only to the extent of such portion, and subject to such proof of identity of such interest as the Secretary may prescribe by regulations)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply for purposes of determining inclusions for taxable years of United States shareholders beginning after December 31, 1992.

(c) DETERMINATION OF PREVIOUSLY TAXED INCOME IN SECTION 304 DISTRIBUTIONS, ETC.—

(1) IN GENERAL.—Section 959 (relating to exclusion from gross income of previously taxed earnings and profits) is amended by adding at the end thereof the following new subsection:

"(f) ADJUSTMENTS FOR CERTAIN TRANSACTIONS.—If by reason of—

"(1) a transaction to which section 304 applies,

"(2) the structure of a United States shareholder's holdings in controlled foreign corporations, or

"(3) other circumstances,

there would be a multiple inclusion of any item in income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of this subpart, the Secretary may prescribe regulations providing such modifications in the application of this subpart as may be necessary to eliminate such multiple inclusion or provide such basis adjustment, as the case may be."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(d) CLARIFICATION OF TREATMENT OF BRANCH TAX EXEMPTIONS OR REDUCTIONS.—

(1) IN GENERAL.—Subsection (b) of section 952 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, any exemption (or reduction) with respect to the tax imposed by section 884 shall not be taken into account."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

SEC. 4414. INDIRECT FOREIGN TAX CREDIT ALLOWED FOR CERTAIN LOWER TIER COMPANIES.

(a) SECTION 902 CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 902 (relating to deemed taxes increased in case of certain 2nd and 3rd tier foreign corporations) is amended to read as follows:

"(b) DEEMED TAXES INCREASED IN CASE OF CERTAIN LOWER TIER CORPORATIONS.—

"(1) IN GENERAL.—If—

"(A) any foreign corporation is a member of a qualified group, and

"(B) such foreign corporation owns 10 percent or more of the voting stock of another member of such group from which it receives dividends in any taxable year,

such foreign corporation shall be deemed to have paid the same proportion of such other member's post-1986 foreign income taxes as would be determined under subsection (a) if such foreign corporation were a domestic corporation.

"(2) QUALIFIED GROUP.—For purposes of paragraph (1), the term 'qualified group' means—

"(A) the foreign corporation described in subsection (a), and

"(B) any other foreign corporation if—

"(i) the domestic corporation owns at least 5 percent of the voting stock of such other foreign corporation indirectly through a chain of foreign corporations connected through stock ownership of at least 10 percent of their voting stock,

"(ii) the foreign corporation described in subsection (a) is the first tier corporation in such chain, and

"(iii) such other corporation is not below the sixth tier in such chain,

The term 'qualified group' shall not include any foreign corporation below the third tier in the chain referred to in clause (i) unless such foreign corporation is a controlled foreign corporation (as defined in section 957) and the domestic corporation is a United States shareholder (as defined in section 951(b)) in such foreign corporation. Paragraph (1) shall apply to those taxes paid by a member of the qualified group below the third tier only with respect to periods during which it was a controlled foreign corporation."

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 902(c)(3) is amended by adding "or" at the end of clause (i) and by striking clauses (ii) and (iii) and inserting the following new clause:

"(ii) the requirements of subsection (b)(2) are met with respect to such foreign corporation."

(B) Subparagraph (B) of section 902(c)(4) is amended by striking "3rd foreign corporation" and inserting "sixth tier foreign corporation".

(C) The heading for paragraph (3) of section 902(c) is amended by striking "WHERE DOMESTIC CORPORATION ACQUIRES 10 PERCENT OF FOREIGN CORPORATION" and inserting "WHERE FOREIGN CORPORATION FIRST QUALIFIES".

(D) Paragraph (3) of section 902(c) is amended by striking "ownership" each place it appears.

(b) SECTION 960 CREDIT.—Paragraph (1) of section 960(a) (relating to special rules for foreign tax credits) is amended to read as follows:

"(1) DEEMED PAID CREDIT.—For purposes of subpart A of this part, if there is included under section 951(a) in the gross income of a domestic corporation any amount attributable to earnings and profits of a foreign corporation which is a member of a qualified group (as defined in section 902(b)) with respect to the domestic corporation, then, except to the extent provided in regulations, section 902 shall be applied as if the amount so included were a dividend paid by such foreign corporation (determined by applying section 902(c) in accordance with section 904(d)(3)(B))."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxes of foreign corporations for taxable years of such corporations beginning after the date of enactment of this Act.

(2) SPECIAL RULE.—In the case of any chain of foreign corporations described in clauses (i) and (ii) of section 902(b)(2)(B) of the Internal Revenue Code of 1986 (as amended by this section), no liquidation, reorganization, or similar transaction in a taxable year beginning after the date of the enactment of this Act shall have the effect of permitting taxes to be taken into account under section 902 of the Internal Revenue Code of 1986 which could not have been taken into account under such section but for such transaction.

PART III—OTHER PROVISIONS

SEC. 4421. EXCHANGE RATE USED IN TRANSLATING FOREIGN TAXES.

(a) ACCRUED TAXES TRANSLATED BY USING AVERAGE RATE FOR YEAR TO WHICH TAXES RELATE.—

(1) IN GENERAL.—Subsection (a) of section 986 (relating to translation of foreign taxes) is amended to read as follows:

"(a) FOREIGN INCOME TAXES.—

"(1) TRANSLATION OF ACCRUED TAXES.—

"(A) IN GENERAL.—For purposes of determining the amount of the foreign tax credit, in the case of a taxpayer who takes foreign income taxes into account when accrued, the amount of any foreign income taxes (and any adjustment thereto) shall be translated into dollars by using the average exchange rate for the taxable year to which such taxes relate.

"(B) EXCEPTION FOR TAXES NOT PAID WITHIN FOLLOWING 2 YEARS.—

"(i) Subparagraph (A) shall not apply to any foreign income taxes paid after the date 2 years after the close of the taxable year to which such taxes relate.

"(ii) Subparagraph (A) shall not apply to taxes paid before the beginning of the taxable year to which such taxes relate.

"(C) EXCEPTION FOR INFLATIONARY CURRENCIES.—To the extent provided in regulations, subparagraph (A) shall not apply to any foreign income taxes the liability for which is denominated in any currency determined to be an inflationary currency under such regulations.

"(D) CROSS REFERENCE.—

"For adjustments where tax is not paid within 2 years, see section 905(c).

"(2) TRANSLATION OF TAXES TO WHICH PARAGRAPH (1) DOES NOT APPLY.—For purposes of determining the amount of the foreign tax credit, in the case of any foreign income taxes to which subparagraph (A) of paragraph (1) does not apply—

"(A) such taxes shall be translated into dollars using the exchange rates as of the time such taxes were paid to the foreign country or possession of the United States, and

"(B) any adjustment to the amount of such taxes shall be translated into dollars using—

"(i) except as provided in clause (ii), the exchange rate as of the time when such adjustment is paid to the foreign country or possession, or

"(ii) in the case of any refund or credit of foreign income taxes, using the exchange rate as of the time of the original payment of such foreign income taxes.

"(3) FOREIGN INCOME TAXES.—For purposes of this subsection, the term 'foreign income taxes' means any income, war profits, or excess profits taxes paid or accrued to any foreign country or to any possession of the United States."

(2) ADJUSTMENT WHEN NOT PAID WITHIN 2 YEARS AFTER YEAR TO WHICH TAXES RELATE.—Subsection (c) of section 905 is amended to read as follows:

"(c) ADJUSTMENTS TO ACCRUED TAXES.—

"(1) IN GENERAL.—If—

"(A) accrued taxes when paid differ from the amounts claimed as credits by the taxpayer,

"(B) accrued taxes are not paid before the date 2 years after the close of the taxable year to which such taxes relate, or

"(C) any tax paid is refunded in whole or in part,

the taxpayer shall notify the Secretary, who shall redetermine the amount of the tax for the year or years affected.

"(2) SPECIAL RULE FOR TAXES NOT PAID WITHIN 2 YEARS.—In making the redetermination under paragraph (1), no credit shall be allowed for accrued taxes not paid before the date referred to in subparagraph (B) of paragraph (1). Any such taxes if subsequently paid shall be taken into account for the taxable year in which paid and no redetermination under this section shall be made on account of such payment.

"(3) ADJUSTMENTS.—The amount of tax due on any redetermination under paragraph (1) (if any) shall be paid by the taxpayer on notice and demand by the Secretary, and the amount of tax overpaid (if any) shall be credited or refunded to the taxpayer in accordance with subchapter B of chapter 66 (section 6511 et seq.).

"(4) BOND REQUIREMENTS.—In the case of any tax accrued but not paid, the Secretary, as a condition precedent to the allowance of the credit provided in this subpart, may require the taxpayer to give a bond, with sureties satisfactory to and approved by the Secretary, in such sum as the Secretary may require, conditioned on the payment by the taxpayer of any amount of tax found due on any such redetermination. Any such bond shall contain such further conditions as the Secretary may require.

"(5) OTHER SPECIAL RULES.—In any redetermination under paragraph (1) by the Secretary of the amount of tax due from the taxpayer for the year or years affected by a refund, the amount of the taxes refunded for which credit has been allowed under this section shall be reduced by the amount of any tax described in section 901 imposed by the foreign country or possession of the United States with respect to such refund; but no credit under this subpart, or deduction under section 164, shall be allowed for any taxable year with respect to any such tax imposed on the refund. No interest shall be assessed or collected on any amount of tax due on any redetermination by the Secretary, resulting from a refund to the taxpayer, for any period before the receipt of such refund, except to the extent interest was paid by the foreign country or possession of the United States on such refund for such period."

(b) AUTHORITY TO USE AVERAGE RATES.—

(1) IN GENERAL.—Subsection (a) of section 986 (relating to foreign taxes) is amended by adding at the end thereof the following new paragraph:

"(3) AUTHORITY TO PERMIT USE OF AVERAGE RATES.—To the extent prescribed in regulations, the average exchange rate for the period (specified in such regulations) during which the taxes or adjustment is paid may be used instead of the exchange rate as of the time of such payment."

(2) DETERMINATION OF AVERAGE RATES.—Subsection (c) of section 989 is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting ", and", and by adding at the end thereof the following new paragraph:

"(6) setting forth procedures for determining the average exchange rate for any period."

(3) CONFORMING AMENDMENTS.—Subsection (b) of section 989 is amended by striking "weighted" each place it appears.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxes paid or accrued in taxable years beginning after December 31, 1991.

SEC. 4422. ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION FOR ALTERNATIVE MINIMUM TAX.

(a) GENERAL RULE.—Subsection (a) of section 59 (relating to alternative minimum tax foreign tax credit) is amended by adding at the end thereof the following new paragraph:

"(3) ELECTION TO USE SIMPLIFIED SECTION 904 LIMITATION.—

"(A) IN GENERAL.—In determining the alternative minimum tax foreign tax credit for any taxable year to which an election under this paragraph applies—

"(i) subparagraph (B) of paragraph (1) shall not apply, and

"(ii) the limitation of section 904 shall be based on the proportion which—

"(I) the taxpayer's taxable income (as determined for purposes of the regular tax) from sources without the United States (but not in excess of the taxpayer's entire alternative minimum taxable income), bears to

"(II) the taxpayer's entire alternative minimum taxable income for the taxable year.

"(B) ELECTION.—

"(i) IN GENERAL.—An election under this paragraph may be made only for the taxpayer's first taxable year which begins after December 31, 1992, and for which the taxpayer claims an alternative minimum tax foreign tax credit.

"(ii) ELECTION REVOCABLE ONLY WITH CONSENT.—An election under this paragraph, once made, shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1992.

SEC. 4423. MODIFICATION OF SECTION 1491.

(a) GENERAL RULE.—So much of chapter 5 (relating to tax on transfers to avoid income tax) as precedes section 1492 is amended to read as follows:

"CHAPTER 5—TREATMENT OF TRANSFERS TO AVOID INCOME TAX

"Sec. 1491. Recognition of gain.

"Sec. 1492. Exceptions.

"SEC. 1491. RECOGNITION OF GAIN.

"In the case of any transfer of property by a United States person to a foreign corporation as paid-in surplus or as a contribution to capital, to a foreign estate or trust, or to a foreign partnership, for purposes of this subtitle, such transfer shall be treated as a sale or exchange for an amount equal to the fair market value of the property transferred, and the transferor shall recognize as gain the excess of—

"(1) the fair market value of the property so transferred, over

"(2) the adjusted basis (for purposes of determining gain) of such property in the hands of the transferor."

(b) CONFORMING AMENDMENTS.—

(1) Section 1057 is hereby repealed.

(2) Section 1492 is amended to read as follows:

"SEC. 1492. EXCEPTIONS.

"The provisions of section 1491 shall not apply—

"(1) If the transferee is an organization exempt from income tax under part I of subchapter F of chapter 1 (other than an organization described in section 401(a)),

"(2) To a transfer described in section 367, or

"(3) To any other transfer, to the extent provided in regulations in accordance with principles similar to the principles of section 367 or otherwise consistent with the purpose of section 1491."

(3) Section 1494 is hereby repealed.

(4) The table of sections for part IV of subchapter O of chapter 1 is amended by striking the item relating to section 1057.

(5) The table of chapters for subtitle A is amended by striking "Tax on" in the item relating to chapter 5 and inserting "Treatment of".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 4424. MODIFICATION OF SECTION 367(b).

(a) GENERAL RULE.—Paragraph (1) of section 367(b) is amended to read as follows:

"(1) IN GENERAL.—In the case of any transaction described in section 332, 351, 354, 355, 356, or 361 in which the status of a foreign corporation as a corporation is a general condition for nonrecognition by 1 or more of the parties to the transaction, income shall be required to be recognized to the extent provided in regulations prescribed by the Secretary which are necessary or appropriate to prevent the avoidance of Federal income taxes. This subsection shall not apply to a transaction in which the foreign corporation is not treated as a corporation under subsection (a)(1)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transfers after December 31, 1993.

Subtitle E—Treatment of Intangibles

SEC. 4501. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

(a) GENERAL RULE.—Part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 197. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES.

"(a) GENERAL RULE.—A taxpayer shall be entitled to an amortization deduction with respect to any amortizable section 197 intangible. The amount of such deduction shall be determined by amortizing the adjusted basis (for purposes of determining gain) of such intangible ratably over the 14-year period beginning with the month in which such intangible was acquired.

"(b) NO OTHER DEPRECIATION OR AMORTIZATION DEDUCTION ALLOWABLE.—Except as provided in subsection (a), no depreciation or amortization deduction shall be allowable with respect to any amortizable section 197 intangible.

"(c) AMORTIZABLE SECTION 197 INTANGIBLE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'amortizable section 197 intangible' means any section 197 intangible—

"(A) which is acquired by the taxpayer after the date of the enactment of this section, and

"(B) which is held in connection with the conduct of a trade or business or an activity described in section 212.

"(2) EXCLUSION OF SELF-CREATED INTANGIBLES, ETC.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible—

"(A) which is not described in subparagraph (D), (E), or (F) of subsection (d)(1), and

"(B) which is created by the taxpayer.

This paragraph shall not apply if the intangible is created in connection with a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

"(3) ANTI-CHURNING RULES.—

"For exclusion of intangibles acquired in certain transactions, see subsection (f)(9).

"(d) SECTION 197 INTANGIBLE.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this section, the term 'section 197 intangible' means—

"(A) goodwill,

"(B) going concern value,

"(C) any of the following intangible items:

"(i) workforce in place including its composition and terms and conditions (contractual or otherwise) of its employment,

"(ii) business books and records, operating systems, or any other information base (including lists or other information with respect to current or prospective customers),

"(iii) any patent, copyright, formula, process, design, pattern, knowhow, format, or other similar item,

"(iv) any customer-based intangible,

"(v) any supplier-based intangible, and

"(vi) any other similar item,

"(D) any license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof,

"(E) any covenant not to compete (or other arrangement (to the extent such arrangement has substantially the same effect as a covenant not to compete) entered into in connection with an acquisition (directly or indirectly) of an interest in a trade or business or substantial portion thereof, and

"(F) any franchise, trademark, or trade name.

"(2) CUSTOMER-BASED INTANGIBLE.—

"(A) IN GENERAL.—The term 'customer-based intangible' means—

"(i) composition of market,

"(ii) market share, and

"(iii) any other value resulting from future provision of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with customers.

"(B) SPECIAL RULE FOR FINANCIAL INSTITUTIONS.—In the case of a financial institution, the term 'customer-based intangible' includes deposit base and similar items.

"(3) SUPPLIER-BASED INTANGIBLE.—The term 'supplier-based intangible' means any value resulting from future acquisitions of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with suppliers of goods or services to be used or sold by the taxpayer.

"(e) EXCEPTIONS.—For purposes of this section, the term 'section 197 intangible' shall not include any of the following:

"(1) FINANCIAL INTERESTS.—Any interest—

"(A) in a corporation, partnership, trust, or estate, or

"(B) under an existing futures contract, foreign currency contract, national principal contract, interest rate swap, or other similar financial contract.

"(2) LAND.—Any interest in land.

"(3) COMPUTER SOFTWARE.—Any—

"(A) computer software which is readily available for purchase by the general public, is subject to a nonexclusive license, and has not been substantially modified, and

"(B) other computer software which is not acquired in a transaction (or series of related transactions) involving the acquisition of assets constituting a trade or business or substantial portion thereof.

For purposes of the preceding sentence, the term 'computer software' means any program designed to cause a computer to perform a desired function; except that such term shall not include any data base or similar item.

"(4) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY.—Any of the following not acquired in a transaction (or series of related transactions) referred to in paragraph (3)(B):

"(A) Any interest in a film, sound recording, video tape, book, or similar property.

"(B) Any right to receive tangible property or services under a contract or granted by a governmental unit or agency or instrumentality thereof.

"(C) Any interest in a patent or copyright.

"(5) INTERESTS UNDER LEASES AND DEBT INSTRUMENTS.—Any interest under—

"(A) an existing lease of tangible property, or

"(B) except as provided in subsection (d)(2)(B), any existing indebtedness.

"(6) TREATMENT OF SPORTS FRANCHISES.—A franchise to engage in professional football, basketball, baseball, or other professional sport, and any item acquired in connection with such a franchise.

"(f) SPECIAL RULES.—

"(1) TREATMENT OF CERTAIN DISPOSITIONS, ETC.—If there is a disposition of any amortizable section 197 intangible acquired in a transaction or series of related transactions (or any such intangible becomes worthless) and one or more other amortizable section 197 intangibles acquired in such transaction or series of related transactions are retained—

"(A) no loss shall be recognized by reason of such disposition (or such worthlessness), and

"(B) appropriate adjustments to the adjusted bases of such retained intangibles shall be made for any loss not recognized under subparagraph (A).

All persons treated as a single taxpayer under section 41(f) shall be so treated for purposes of the preceding sentence.

"(2) TREATMENT OF CERTAIN TRANSFERS.—

"(A) IN GENERAL.—In the case of any section 197 intangible transferred in a transaction described in subparagraph (B), the transferee shall be treated as the transferor for purposes of applying this section with respect to so much of the adjusted basis in the hands of the transferee as does not exceed the adjusted basis in the hands of the transferor.

"(B) TRANSACTIONS COVERED.—The transactions described in this subparagraph are—

"(i) any transaction described in section 332, 351, 361, 721, 731, 1031, or 1033, and

"(ii) any transaction between members of the same affiliated group during any taxable year for which a consolidated return is made by such group.

"(3) TREATMENT OF AMOUNTS PAID PURSUANT TO COVENANTS NOT TO COMPETE, ETC.—Any amount paid or incurred pursuant to a covenant or arrangement referred to in subsection (d)(1)(E) shall be treated as an amount chargeable to capital account.

"(4) TREATMENT OF FRANCHISES, ETC.—

"(A) FRANCHISE.—The term 'franchise' has the meaning given to such term by section 1253(b)(1).

"(B) TREATMENT OF RENEWALS.—Any renewal of a franchise, trademark, or trade name (or of a license, a permit, or other right referred to in subsection (d)(1)(D)) shall be treated as an acquisition. The preceding sentence shall only apply with respect to costs incurred in connection with such renewal.

"(C) CERTAIN AMOUNTS NOT TAKEN INTO ACCOUNT.—Any amount to which section 1253(d)(1) applies shall not be taken into account under this section.

"(5) TREATMENT OF CERTAIN REINSURANCE TRANSACTIONS.—In the case of any amortizable section 197 intangible resulting from an assumption reinsurance transaction, the amount taken into account as the adjusted basis of such intangible under this section shall be the excess of—

"(A) the amount paid or incurred by the acquirer under the assumption reinsurance transaction, over

"(B) the amount required to be capitalized under section 848 in connection with such transaction.

Subsection (b) shall not apply to any amount required to be capitalized under section 848.

"(6) TREATMENT OF CERTAIN SUBLEASES.—For purposes of this section, a sublease shall be treated in the same manner as a lease of the underlying property involved.

"(7) TREATMENT AS DEPRECIABLE.—For purposes of this chapter, any amortizable section 197 intangible shall be treated as property which is of a character subject to the allowance for depreciation provided in section 167.

"(8) TREATMENT OF CERTAIN INCREMENTS IN VALUE.—This section shall not apply to any increment in value if, without regard to this section, such increment is properly taken into account in determining the cost of property which is not a section 197 intangible.

"(9) ANTI-CHURNING RULES.—For purposes of this section—

"(A) IN GENERAL.—The term 'amortizable section 197 intangible' shall not include any section 197 intangible which is described in subparagraph (A) or (B) of subsection (d)(1) (or for which depreciation or amortization would not have been allowable but for this section) and which is acquired by the taxpayer after the date of the enactment of this section, if—

"(i) the intangible was held or used at any time on or after July 25, 1991, and on or before such date of enactment by the taxpayer or a related person,

"(ii) the intangible was acquired from a person who held such intangible at any time on or after July 25, 1991, and on or before such date of enactment, and, as part of the transaction, the user of such intangible does not change, or

"(iii) the taxpayer grants the right to use such intangible to a person (or a person related to such person) who held or used such intangible at any time on or after July 25, 1991, and on or before such date of enactment.

For purposes of this subparagraph, the determination of whether the user of property changes as part of a transaction shall be determined in accordance with regulations prescribed by the Secretary.

"(B) RELATED PERSON DEFINED.—For purposes of this paragraph—

"(i) RELATED PERSON.—A person (hereinafter in this paragraph referred to as the 'related person') is related to any person if—

"(I) the related person bears a relationship to such person specified in section 267(b) or section 707(b)(1), or

"(II) the related person and such person are engaged in trades or businesses under common control (within the meaning of subparagraphs (A) and (B) of section 41(f)(1)).

For purposes of subclause (I), in applying section 267(b) or 707(b)(1), '20 percent' shall be substituted for '50 percent'.

"(ii) TIME FOR MAKING DETERMINATION.—A person shall be treated as related to another person if such relationship exists immediately before or immediately after the acquisition of the intangible involved.

"(C) ACQUISITIONS BY REASON OF DEATH.—Subparagraph (A) shall not apply to the acquisition of any property by the taxpayer if the basis of the property in the hands of the taxpayer is determined under section 1014(a).

"(D) SPECIAL RULE FOR PARTNERSHIPS.—With respect to any increase in the basis of partnership property under section 732, 734, or 743, determinations under this paragraph shall be made at the partner level and each partner shall be treated as having owned and used such partner's proportionate share of the partnership assets.

"(E) ANTI-ABUSE RULES.—The term 'amortizable section 197 intangible' does not include any section 197 intangible acquired in a transaction, one of the principal purposes of which is to avoid the requirement of subsection (c)(1) that

the intangible be acquired after the date of the enactment of this section or to avoid the provisions of subparagraph (A).

"(g) REGULATIONS.—The Secretary shall prescribe such regulations as may be appropriate to carry out the purposes of this section, including such regulations as may be appropriate to prevent avoidance of the purposes of this section through related persons or otherwise."

(b) MODIFICATIONS TO DEPRECIATION RULES.—

(1) TREATMENT OF CERTAIN PROPERTY EXCLUDED FROM SECTION 197.—Section 167 (relating to depreciation deduction) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT OF CERTAIN PROPERTY EXCLUDED FROM SECTION 197.—

"(1) COMPUTER SOFTWARE.—

"(A) IN GENERAL.—If a depreciation deduction is allowable under subsection (a) with respect to any computer software, such deduction shall be computed by using the straight line method and a useful life of 36 months.

"(B) COMPUTER SOFTWARE.—For purposes of this section, the term 'computer software' has the meaning given to such term by the last sentence of section 197(e)(3); except that such term shall not include any such software which is an amortizable section 197 intangible.

"(2) CERTAIN INTERESTS OR RIGHTS ACQUIRED SEPARATELY.—If a depreciation deduction is allowable under subsection (a) with respect to any property described in subparagraph (B) or (C) of section 197(e)(4), such deduction shall be computed in accordance with regulations prescribed by the Secretary."

(2) ALLOCATION OF BASIS IN CASE OF LEASED PROPERTY.—Subsection (c) of section 167 is amended to read as follows:

"(c) BASIS FOR DEPRECIATION.—

"(1) IN GENERAL.—The basis on which exhaustion, wear and tear, and obsolescence are to be allowed in respect of any property shall be the adjusted basis provided in section 1011, for the purpose of determining the gain on the sale or other disposition of such property.

"(2) SPECIAL RULE FOR PROPERTY SUBJECT TO LEASE.—If any property is acquired subject to a lease—

"(A) no portion of the adjusted basis shall be allocated to the leasehold interest, and

"(B) the entire adjusted basis shall be taken into account in determining the depreciation deduction (if any) with respect to the property subject to the lease."

(c) AMENDMENTS TO SECTION 1253.—Subsection (d) of section 1253 is amended by striking paragraphs (2), (3), (4), and (5) and inserting the following:

"(2) OTHER PAYMENTS.—Any amount paid or incurred on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name to which paragraph (1) does not apply shall be treated as an amount chargeable to capital account.

"(3) RENEWALS, ETC.—For purposes of determining the term of a transfer agreement under this section, there shall be taken into account all renewal options (and any other period for which the parties reasonably expect the agreement to be renewed)."

(d) AMENDMENT TO SECTION 848.—Subsection (g) of section 848 is amended by striking "this section" and inserting "this section or section 197".

(e) AMENDMENTS TO SECTION 1060.—

(1) Paragraph (1) of section 1060(b) is amended by striking "goodwill or going concern value" and inserting "section 197 intangibles".

(2) Paragraph (1) of section 1060(d) is amended by striking "goodwill or going concern value (or similar items)" and inserting "section 197 intangibles".

(f) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (g) of section 167 (as redesignated by subsection (b)) is amended to read as follows:

"(g) CROSS REFERENCE.—

"(1) For additional rule applicable to depreciation of improvements in the case of mines, oil and gas wells, other natural deposits, and timber, see section 611.

"(2) For amortization of goodwill and certain other intangibles, see section 197."

(2) Subsection (f) of section 642 is amended by striking "section 169" and inserting "sections 169 and 197".

(3) Subsection (a) of section 1016 is amended by striking paragraph (19) and by redesignating the following paragraphs accordingly.

(4) Subparagraph (C) of section 1245(a)(2) is amended by striking "193, or 1253(d) (2) or (3)" and inserting "or 193".

(5) Paragraph (3) of section 1245(a) is amended by striking "section 185 or 1253(d) (2) or (3)".

(6) The table of sections for part VI of subchapter B of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 197. Amortization of goodwill and certain other intangibles."

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply with respect to property acquired after the date of the enactment of this Act.

(2) ELECTION TO HAVE AMENDMENTS APPLY TO PROPERTY ACQUIRED AFTER JULY 25, 1991.—

(A) IN GENERAL.—If an election under this paragraph applies to the taxpayer—

(i) the amendments made by this section shall apply to property acquired by the taxpayer after July 25, 1991,

(ii) subsection (c)(1)(A) of section 197 of the Internal Revenue Code of 1986 (as added by this section) (and so much of subsection (f)(9)(A) of such section 197 as precedes clause (i) thereof) shall be applied with respect to the taxpayer by treating July 25, 1991, as the date of the enactment of such section, and

(iii) in applying subsection (f)(9) of such section, with respect to any property acquired by the taxpayer on or before the date of the enactment of this Act, only holding or use on July 25, 1991, shall be taken into account.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe. Such an election by any taxpayer, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to the taxpayer making such election and any other taxpayer under common control with the taxpayer (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of such Code) at any time after November 22, 1991, and on or before the date on which such election is made.

(3) ELECTION TO HAVE AMENDMENTS APPLY TO PROPERTY ACQUIRED IN ALL OPEN YEARS.—

(A) IN GENERAL.—If an election under this paragraph applies to the taxpayer—

(i) the amendments made by this section shall apply to property acquired by the taxpayer after the date referred to in subparagraph (B),

(ii) subsection (c)(1)(A) of section 197 of the Internal Revenue Code of 1986 (as added by this section) shall be applied with respect to the taxpayer by treating the date referred to in subparagraph (B) as the date of the enactment of such section,

(iii) subsection (f)(9) of such section 197 shall not apply with respect to any property acquired by the taxpayer on or before July 25, 1991, and

(iv) in applying subsection (f)(9) of such section 197 with respect to property acquired by the taxpayer after July 25, 1991, and on or before the date of the enactment of this Act, the modifications to such subsection contained in clauses (ii) and (iii) of paragraph (2)(A) shall apply.

(B) DATE.—For purposes of subparagraph (A), the date referred to in this subparagraph is the first day of the first taxable year in a series of consecutive taxable years all of which are open years. For purposes of the preceding sentence, a taxable year is an open year if the period prescribed by section 6501 of the Internal Revenue Code of 1986 for the assessment of any tax for such taxable year had not expired before July 25, 1991 (determined without regard to subparagraph (C)(iii)).

(C) EFFECT OF ELECTION.—

(i) 17-YEAR AMORTIZATION PERIOD.—If an election under this paragraph applies to the taxpayer, section 197(a) of the Internal Revenue Code of 1986 shall be applied with respect to all property to which the amendments made by this section apply and which are acquired by the taxpayer on or before the date of the enactment of this Act by substituting "17-year period" for "14-year period".

(ii) NO INTEREST ALLOWED ON REFUNDS.—No interest shall be payable on any refund of tax resulting from the provisions of this paragraph.

(iii) EXTENSION OF STATUTE.—If the assessment of any deficiency of tax attributable to an election under this paragraph is barred on the date of the enactment of this Act or at any time within the 2-year period beginning on the date on which such election is made by any law or rule of law, such deficiency may, nevertheless, be assessed if such assessment is made within such 2-year period. If credit or refund of any tax attributable to an election under this paragraph is barred on the date of the enactment of this Act or at any time within the 2-year period beginning on the date on which such election is made by any law or rule of law, such credit or refund may, nevertheless, be allowed or made if claim therefore is made within such 2-year period.

(D) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe. Such an election by any taxpayer, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to the taxpayer making such election and any other taxpayer under common control with the taxpayer (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of such Code) at any time after November 22, 1991, and on or before the date on which such election is made.

(E) SPECIAL RULE FOR CERTAIN ACQUISITIONS IN CLOSED YEARS.—If—

(i) an election under this paragraph applies to the taxpayer,

(ii) there was an agreement between the taxpayer and the Internal Revenue Service with respect to the amortization of any intangibles which were acquired by the taxpayer before the date referred to in subparagraph (B), and

(iii) as of February 14, 1992, there was an active dispute between the taxpayer and the Internal Revenue Service by reason of the Internal Revenue Service taking a position inconsistent with such agreement,

the amortization of such intangibles in open years shall be made in accordance with the agreement referred to in clause (ii).

(4) ELECTIVE BINDING CONTRACT EXCEPTION.—

(A) IN GENERAL.—The amendments made by this section shall not apply to any acquisition of property by the taxpayer if—

(i) such acquisition is pursuant to a written binding contract in effect on February 14, 1992,

and at all times thereafter before such acquisition,

(ii) an election under paragraph (2) or (3) does not apply to the taxpayer, and

(iii) the taxpayer makes an election under this paragraph with respect to such contract.

(B) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe. Such an election, once made—

(i) may be revoked only with the consent of the Secretary, and

(ii) shall apply to all property acquired pursuant to the contract with respect to which such election was made.

SEC. 4502. TREATMENT OF CERTAIN PAYMENTS TO RETIRED OR DECEASED PARTNER.

(a) SECTION 736(b) NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 736 (relating to payments for interest in partnership) is amended by adding at the end thereof the following new paragraph:

"(3) LIMITATION ON APPLICATION OF PARAGRAPH (2).—Paragraph (2) shall apply only if—

"(A) capital is not a material income-producing factor for the partnership, and

"(B) the retiring or deceased partner was a general partner in the partnership."

(b) LIMITATION ON DEFINITION OF UNREALIZED RECEIVABLES.—

(1) IN GENERAL.—Subsection (c) of section 751 (defining unrealized receivables) is amended—

(A) by striking "sections 731, 736, and 741" each place they appear and inserting ", sections 731 and 741 (but not for purposes of section 736)", and

(B) by striking "section 731, 736, or 741" each place it appears and inserting "section 731 or 741".

(2) TECHNICAL AMENDMENTS.—

(A) Subsection (e) of section 751 is amended by striking "sections 731, 736, and 741" and inserting "sections 731 and 741".

(B) Section 736 is amended by striking subsection (c).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply in the case of partners retiring or dying after February 14, 1992.

(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any partner retiring after February 14, 1992, if a written contract to purchase such partner's interest in the partnership was binding on February 14, 1992, and at all times thereafter before such purchase.

Subtitle F—Other Income Tax Provisions

PART I—PROVISIONS RELATING TO SUBCHAPTER S CORPORATIONS

SEC. 4601. DETERMINATION OF WHETHER CORPORATION HAS 1 CLASS OF STOCK.

(a) GENERAL RULE.—Paragraph (4) of section 1361(c) is amended to read as follows:

"(4) DETERMINATION OF WHETHER CORPORATION HAS 1 CLASS OF STOCK.—For purposes of subsection (b)(1)(D), a corporation shall be treated as having 1 class of stock if all outstanding shares of stock of the corporation confer identical rights to distributions and liquidation proceeds. The preceding sentence shall apply whether or not there are differences in voting rights among such shares."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1982.

SEC. 4602. AUTHORITY TO VALIDATE CERTAIN INVALID ELECTIONS.

(a) GENERAL RULE.—Subsection (f) of section 1362 (relating to inadvertent terminations) is amended to read as follows:

"(f) INADVERTENT INVALID ELECTIONS OR TERMINATIONS.—If—

"(1) an election under subsection (a) by any corporation—

"(A) was not effective for the taxable year for which made (determined without regard to subsection (b)(2)) by reason of a failure to meet the requirements of section 1361(b) or to obtain shareholder consents, or

"(B) was terminated under paragraph (2) or (3) of subsection (d),

"(2) the Secretary determines that the circumstances resulting in such ineffectiveness or termination were inadvertent,

"(3) no later than a reasonable period of time after discovery of the circumstances resulting in such ineffectiveness or termination, steps were taken—

"(A) so that the corporation is a small business corporation, or

"(B) to acquire the required shareholder consents, and

"(4) the corporation, and each person who was a shareholder in the corporation at any time during the period specified pursuant to this subsection, agrees to make such adjustments (consistent with the treatment of the corporation as an S corporation) as may be required by the Secretary with respect to such period,

then, notwithstanding the circumstances resulting in such ineffectiveness or termination, such corporation shall be treated as an S corporation during the period specified by the Secretary."

(b) LATE ELECTIONS.—Subsection (b) of section 1362 is amended by adding at the end thereof the following new paragraph:

"(5) AUTHORITY TO TREAT LATE ELECTIONS AS TIMELY.—If—

"(A) an election under subsection (a) is made for any taxable year (determined without regard to paragraph (3)) after the date prescribed by this subsection for making such election for such taxable year, and

"(B) the Secretary determines that there was reasonable cause for the failure to timely make such election,

the Secretary may treat such election as timely made for such taxable year (and paragraph (3) shall not apply)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to elections for taxable years beginning after December 31, 1982.

SEC. 4603. TREATMENT OF DISTRIBUTIONS DURING LOSS YEARS.

(a) ADJUSTMENTS FOR DISTRIBUTIONS TAKEN INTO ACCOUNT BEFORE LOSSES.—

(1) Subparagraph (A) of section 1366(d)(1) is amended by striking "paragraph (1)" and inserting "paragraphs (1) and (2)(A)".

(2) Subsection (d) of section 1368 is amended by adding at the end thereof the following new sentence:

"In the case of any distribution made during any taxable year, the adjusted basis of the stock shall be determined with regard to the adjustments provided in paragraph (1) of section 1367(a) for the taxable year."

(b) ACCUMULATED ADJUSTMENTS ACCOUNT.—Paragraph (1) of section 1368(e) (relating to accumulated adjustments account) is amended by adding at the end thereof the following new subparagraph:

"(C) NET LOSS FOR YEAR DISREGARDED.—

"(i) IN GENERAL.—In applying this section to distributions made during any taxable year, the amount in the accumulated adjustments account as of the close of such taxable year shall be determined without regard to any net negative adjustment for such taxable year.

"(ii) NET NEGATIVE ADJUSTMENT.—For purposes of clause (i), the term 'net negative adjustment' means, with respect to any taxable year, the excess (if any) of—

"(I) the reductions in the account for the taxable year (other than for distributions), over

"(II) the increases in such account for such taxable year."

(c) CONFORMING AMENDMENTS.—Subparagraph (A) of section 1368(e)(1) is amended—

(1) by striking "as provided in subparagraph (B)" and inserting "as otherwise provided in this paragraph", and

(2) by striking "section 1367(b)(2)(A)" and inserting "section 1367(a)(2)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in taxable years beginning after December 31, 1991.

SEC. 4604. OTHER MODIFICATIONS.

(a) TREATMENT OF S CORPORATIONS UNDER SUBCHAPTER C.—Subsection (a) of section 1371 (relating to application of subchapter C rules) is amended to read as follows:

"(a) APPLICATION OF SUBCHAPTER C RULES.—Except as otherwise provided in this title, and except to the extent inconsistent with this subchapter, subchapter C shall apply to an S corporation and its shareholders."

(b) S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES.—

(1) IN GENERAL.—Paragraph (2) of section 1361(b) (defining ineligible corporation) is amended by striking subparagraph (A) and by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (c) of section 1361 is amended by striking paragraph (6).

(B) Subsection (b) of section 1504 (defining includible corporation) is amended by adding at the end thereof the following new paragraph:

"(8) An S corporation."

(c) ELIMINATION OF PRE-1983 EARNINGS AND PROFITS.—

(1) IN GENERAL.—If—

(A) a corporation was an electing small business corporation under subchapter S of chapter 1 of the Internal Revenue Code of 1986 for any taxable year beginning before January 1, 1983, and

(B) such corporation is an S corporation under subchapter S of chapter 1 of such Code for its first taxable year beginning after December 31, 1991,

the amount of such corporation's accumulated earnings and profits (as of the beginning of such first taxable year) shall be reduced by an amount equal to the portion (if any) of such accumulated earnings and profits which were accumulated in any taxable year beginning before January 1, 1983, for which such corporation was an electing small business corporation under such subchapter S.

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (3) of section 1362(d) is amended—

(i) by striking "subchapter C" in the paragraph heading and inserting "accumulated",

(ii) by striking "subchapter C" in subparagraph (A)(i)(I) and inserting "accumulated", and

(iii) by striking subparagraph (B) and redesignating the following subparagraphs accordingly.

(B)(i) Subsection (a) of section 1375 is amended by striking "subchapter C" in paragraph (1) and inserting "accumulated".

(ii) Paragraph (3) of section 1375(b) is amended to read as follows:

"(3) PASSIVE INVESTMENT INCOME, ETC.—The terms 'passive investment income' and 'gross receipts' have the same respective meanings as when used in paragraph (3) of section 1362(d)."

(iii) The section heading for section 1375 is amended by striking "**subchapter c**" and inserting "**accumulated**".

(iv) The table of sections for part III of subchapter S of chapter 1 is amended by striking "subchapter C" in the item relating to section 1375 and inserting "accumulated".

(C) Clause (i) of section 1042(c)(4)(A) is amended by striking "section 1362(d)(3)(D)" and inserting "section 1362(d)(3)(C)".

(d) ADJUSTMENTS TO BASIS OF INHERITED S STOCK TO REFLECT CERTAIN ITEMS OF INCOME.—Subsection (b) of section 1367 (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end thereof the following new paragraph:

"(4) ADJUSTMENTS IN CASE OF INHERITED STOCK.—

"(A) IN GENERAL.—If any person acquires stock in an S corporation by reason of the death of a decedent or by bequest, devise, or inheritance, section 691 shall be applied with respect to any item of income of the S corporation in the same manner as if the decedent had held directly his pro rata share of such item.

"(B) ADJUSTMENTS TO BASIS.—The basis determined under section 1014 of any stock in an S corporation shall be reduced by the portion of the value of the stock which is attributable to items constituting income in respect of the decedent."

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1991.

(2) SUBSECTION (d).—The amendment made by subsection (d) shall apply in the case of decedents dying after the date of the enactment of this Act.

PART II—ACCOUNTING PROVISIONS

SEC. 4611. MODIFICATIONS TO LOOK-BACK METHOD FOR LONG-TERM CONTRACTS.

(a) LOOK-BACK METHOD NOT TO APPLY IN CERTAIN CASES.—Subsection (b) of section 460 (relating to percentage of completion method) is amended by adding at the end thereof the following new paragraph:

"(6) ELECTION TO HAVE LOOK-BACK METHOD NOT APPLY IN DE MINIMIS CASES.—

"(A) AMOUNTS TAKEN INTO ACCOUNT AFTER COMPLETION OF CONTRACT.—Paragraph (1)(B) shall not apply with respect to any taxable year (beginning after the taxable year in which the contract is completed) if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of such taxable year, is within

"(ii) 10 percent of the cumulative look-back taxable income (or loss) under the contract as of the close of the most recent taxable year to which paragraph (1)(B) applied (or would have applied but for subparagraph (B)).

"(B) DE MINIMIS DISCREPANCIES.—Paragraph (1)(B) shall not apply in any case to which it would otherwise apply if—

"(i) the cumulative taxable income (or loss) under the contract as of the close of each prior contract year, is within

"(ii) 10 percent of the cumulative look-back income (or loss) under the contract as of the close of such prior contract year.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) CONTRACT YEAR.—The term 'contract year' means any taxable year for which income is taken into account under the contract.

"(ii) LOOK-BACK INCOME OR LOSS.—The look-back income (or loss) is the amount which would be the taxable income (or loss) under the contract if the allocation method set forth in paragraph (2)(A) were used in determining taxable income.

"(iii) DISCOUNTING NOT APPLICABLE.—The amounts taken into account after the completion of the contract shall be determined without regard to any discounting under the 2nd sentence of paragraph (2).

"(D) CONTRACTS TO WHICH PARAGRAPH APPLIES.—This paragraph shall only apply if the taxpayer makes an election under this subparagraph. Unless revoked with the consent of the Secretary, such an election shall apply to all long-term contracts completed during the taxable year for which such election is made or during any subsequent taxable year."

(b) MODIFICATION OF INTEREST RATE.—

(1) IN GENERAL.—Subparagraph (C) of section 460(b)(2) is amended by striking "the overpayment rate established by section 6621" and inserting "the adjusted overpayment rate (as defined in paragraph (7))".

(2) ADJUSTED OVERPAYMENT RATE.—Subsection (b) of section 460 is amended by adding at the end thereof the following new paragraph:

"(7) ADJUSTED OVERPAYMENT RATE.—

"(A) IN GENERAL.—The adjusted overpayment rate for any interest accrual period is the overpayment rate in effect under section 6621 for the calendar quarter in which such interest accrual period begins.

"(B) INTEREST ACCRUAL PERIOD.—For purposes of subparagraph (A), the term 'interest accrual period' means the period—

"(i) beginning on the day after the return due date for any taxable year of the taxpayer, and

"(ii) ending on the return due date for the following taxable year.

For purposes of the preceding sentence, the term 'return due date' means the date prescribed for filing the return of the tax imposed by this chapter (determined without regard to extensions)."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts completed in taxable years ending after the date of the enactment of this Act.

SEC. 4612. SIMPLIFIED METHOD FOR CAPITALIZING CERTAIN INDIRECT COSTS.

(a) GENERAL RULE.—Subsection (i) of section 263A (relating to regulations) is amended by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting ", and", and by adding at the end thereof the following:

"(3) regulations providing that allocations of costs of any administrative, service, or support function or department may be made on the basis of the base period percentage of the current costs of such function or department.

For purposes of paragraph (3), the term 'base period percentage' means, with respect to any function or department, the percentage of the costs of such function or department during a base period specified in regulations which were allocable to property to which this section applies."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

PART III—PROVISIONS RELATING TO REGULATED INVESTMENT COMPANIES

SEC. 4621. REPEAL OF 30-PERCENT GROSS INCOME LIMITATION.

(a) GENERAL RULE.—Subsection (b) of section 851 (relating to limitations) is amended by striking paragraph (3), by adding "and" at the end of paragraph (2), and by redesignating paragraph (4) as paragraph (3).

(b) TECHNICAL AMENDMENTS.—

(1) The material following paragraph (3) of section 851 (as redesignated by subsection (a)) is amended—

(A) by striking out "paragraphs (2) and (3)" and inserting "paragraph (2)", and

(B) by striking out the last sentence thereof.

(2) Subsection (c) of section 851 is amended by striking "subsection (b)(4)" each place it appears (including the heading) and inserting "subsection (b)(3)".

(3) Subsection (d) of section 851 is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".

(4) Paragraph (1) of section 851(e) is amended by striking "subsection (b)(4)" and inserting "subsection (b)(3)".

(5) Paragraph (4) of section 851(e) is amended by striking "subsections (b)(4)" and inserting "subsections (b)(3)".

(6) Section 851 is amended by striking subsection (g) and redesignating subsection (h) as subsection (g).

(7) Subsection (g) of section 851 (as redesignated by paragraph (6)) is amended by striking paragraph (3).

(8) Section 817(h)(2) is amended—

(A) by striking "851(b)(4)" in subparagraph (A) and inserting "851(b)(3)", and

(B) by striking "851(b)(4)(A)(i)" in subparagraph (B) and inserting "851(b)(3)(A)(i)".

(9) Section 1092(f)(2) is amended by striking "Except for purposes of section 851(b)(3), the" and inserting "The".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 4622. BASIS RULES FOR SHARES IN OPEN-END REGULATED INVESTMENT COMPANIES.

(a) ADDITIONAL REPORTING REQUIREMENT.—Section 6045 (relating to returns of brokers) is amended by adding at the end thereof the following new subsection:

"(f) ADDITIONAL INFORMATION REQUIRED WITH RESPECT TO OPEN-END REGULATED INVESTMENT COMPANIES.—

"(1) IN GENERAL.—If any person is required under subsection (a) to make a return regarding the gross proceeds from any disposition of stock in an open-end regulated investment company, such return shall include for each such disposition—

"(A) the basis of the stock disposed of (determined by reference to the average basis of all of the stock in the account from which the disposition was made immediately before the disposition), and

"(B) the portion of such gross proceeds attributable to stock held for more than 2 years and the portion not so attributable.

Determinations under subparagraph (B) shall be made on a first-in, first-out, basis and determinations of basis and holding period shall be made in such manner as the Secretary may prescribe.

"(2) OPEN-END REGULATED INVESTMENT COMPANY.—For purposes of this subsection, the term 'open-end regulated investment company' means any regulated investment company which is offering for sale or has outstanding any redeemable security (as defined in section 2(a)(32) of the Investment Company Act of 1940) of which it is the issuer.

"(3) INFORMATION TRANSFERS.—To the extent provided in regulations, there shall be such exchanges of information between brokers as such regulations may require for purposes of enabling brokers to meet the requirements of this subsection.

"(4) APPLICATION OF SUBSECTION.—This subsection shall not apply with respect to stock in any account—

"(A) which was established before January 1, 1994, or

"(B) which includes any stock not acquired by purchase."

(b) BASIS FOR INCOME TAX PURPOSES.—Section 1012 of such Code is amended—

(1) by striking "The basis" and inserting "(a) GENERAL RULE.—The basis", and

(2) by adding at the end thereof the following new subsection:

"(b) SPECIAL RULES FOR STOCK IN OPEN-END REGULATED INVESTMENT COMPANIES.—

"(1) IN GENERAL.—In the case of any disposition of stock from a covered account—

"(A) the basis of such stock shall be determined by reference to the average basis of all of

the stock in such account immediately before such disposition, and

"(B) the determination of which stock in such account is so disposed of shall be made on a first-in, first-out, basis.

"(2) Covered Account.—For purposes of this subsection—

"(A) In general.—The term 'covered account' means any account of stock in an open-end regulated investment company if section 6045(f) applies to such account.

"(B) Election out.—The term 'covered account' shall not include any account if, on the taxpayer's return for his first taxable year in which a disposition from such account occurs, the taxpayer elects to have this subsection not apply to such account."

(c) Technical Amendment.—Section 6724 of such Code is amended by adding at the end thereof the following new subsection:

"(e) Special Rule for Certain Reports With Respect to Stock in Open End Regulated Investment Companies.—For purposes of sections 6721(e)(2)(B) and 6722(c)(1)(B), the amount required to be reported under section 6045 shall be determined without regard to subsection (f) thereof."

(d) Effective Date.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to returns and statements required for calendar year 1994 and subsequent calendar years.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to dispositions on or after December 31, 1993.

SEC. 4623. NONRECOGNITION TREATMENT FOR CERTAIN TRANSFERS BY COMMON TRUST FUNDS TO REGULATED INVESTMENT COMPANIES.

(a) General Rule.—Section 584 (relating to common trust funds) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) Nonrecognition Treatment for Certain Transfers to Regulated Investment Companies.—

"(1) In general.—If—

"(A) a common trust fund transfers substantially all of its assets to a regulated investment company in exchange solely for stock in such company, and

"(B) such stock is distributed by such common trust fund to participants in such common trust fund in exchange for their interests in such common trust fund,

no gain or loss shall be recognized by such common trust fund by reason of such transfer or distribution, and no gain or loss shall be recognized by any participant in such common trust fund by reason of such exchange.

"(2) Basis rules.—

"(A) Regulated investment company.—The basis of any asset received by a regulated investment company in a transfer referred to in paragraph (1)(A) shall be the same as it would be in the hands of the common trust fund.

"(B) Participants.—The basis of any stock in a regulated investment company which is received in an exchange referred to in paragraph (1)(B) shall be the same as that of the property exchanged.

"(3) Common trust fund must meet diversification rules.—This subsection shall not apply to any common trust fund which would not meet the requirements of section 368(a)(2)(F)(ii) if it were a corporation."

(b) Effective Date.—The amendment made by subsection (a) shall apply to transfers after the date of the enactment of this Act.

PART IV—TAX-EXEMPT BOND PROVISIONS

SEC. 4631. REPEAL OF $100,000 LIMITATION ON UNSPENT PROCEEDS UNDER 1-YEAR EXCEPTION FROM REBATE.

Subclause (I) of section 148(f)(4)(B)(ii) (relating to additional period for certain bonds) is amended by striking "the lesser of 5 percent of the proceeds of the issue or $100,000" and inserting "5 percent of the proceeds of the issue".

SEC. 4632. EXCEPTION FROM REBATE FOR EARNINGS ON BONA FIDE DEBT SERVICE FUND UNDER CONSTRUCTION BOND RULES.

Subparagraph (C) of section 148(f)(4) is amended by adding at the end thereof the following new clause:

"(xvii) Treatment of bona fide debt service funds.—If the spending requirements of clause (ii) are met with respect to the available construction proceeds of a construction issue, then paragraph (2) shall not apply to earnings on a bona fide debt service fund for such issue."

SEC. 4633. AUTOMATIC EXTENSION OF INITIAL TEMPORARY PERIOD FOR CONSTRUCTION ISSUES.

Subsection (c) of section 148 (relating to temporary period exception) is amended by adding at the end thereof the following new paragraph:

"(3) Extension of initial temporary period for construction issues.—If—

"(A) at least 85 percent of the available construction proceeds (as defined in subsection (f)(4)(C)) of a construction issue (as defined in such subsection) are spent as of the close of the initial temporary period (determined without regard to this paragraph), and

"(B) the issuer reasonably expects (as of the close of such period) that the remaining available construction proceeds of such issue will be spent within 1 year after the close of such period,

then such initial temporary period shall be extended 1 year."

SEC. 4634. AGGREGATION OF ISSUES RULES NOT TO APPLY TO TAX OR REVENUE ANTICIPATION BONDS.

Section 150 (relating to definitions and special rules) is amended by adding at the end thereof the following new subsection:

"(f) Tax or Revenue Anticipation Bonds Treated As Separate Issues.—For purposes of this part, if—

"(1) all of the bonds which are part of an issue are qualified 501(c)(3) bonds or bonds which are not private activity bonds, and

"(2) any portion of such issue consists of tax or revenue anticipation bonds which are reasonably expected to meet the requirements of section 148(f)(4)(B)(iii),

then such portion shall, subject to appropriate allocations specified in regulations prescribed by the Secretary, be treated as a separate issue."

SEC. 4635. EXPANDED EXCEPTION FROM REBATE FOR ISSUERS ISSUING $10,000,000 OR LESS OF BONDS.

Subparagraph (D) of section 148(f) (relating to exception for governmental units issuing $5,000,000 or less of bonds) is amended by striking "$5,000,000" each place it appears (including the heading) and inserting "$10,000,000".

SEC. 4636. REPEAL OF DEBT SERVICE-BASED LIMITATION ON INVESTMENT IN CERTAIN NONPURPOSE INVESTMENTS.

Subsection (d) of section 148 (relating to special rules for reasonably required reserve or replacement fund) is amended by striking paragraph (3).

SEC. 4637. ALLOCATION OF INTEREST EXPENSE OF FINANCIAL INSTITUTIONS TO TAX-EXEMPT INTEREST.

Subparagraphs (C) and (D) of section 265(b)(3) (relating to exception for certain tax-exempt obligations) are each amended by striking "$10,000,000" each place it appears and inserting "$20,000,000".

SEC. 4638. REPEAL OF EXPIRED PROVISIONS.

(a) Paragraph (2) of section 148(c) is amended by striking subparagraph (B) and by redesignating subparagraphs (C), (D), and (E) as subparagraph (B), (C), and (D), respectively.

(b) Paragraph (4) of section 148(f) is amended by striking subparagraph (E).

SEC. 4639. CLARIFICATION OF INVESTMENT-TYPE PROPERTY.

Subparagraph (D) of section 148(b)(2) is amended to read as follows:

"(D) any investment-type property, or".

SEC. 4640. EFFECTIVE DATES.

(a) In General.—Except as otherwise provided in this section, the amendments made by this subtitle shall apply to bonds issued after the date of the enactment of this Act.

(b) Calendar Year Rules.—The amendments made by sections 4635 and 4637 shall apply to bonds issued in calendar years beginning after the date of the enactment of this Act.

(c) Investment-Type Property.—The amendment made by section 4640 shall take effect as if included in the amendments made by section 1301 of the Tax Reform Act of 1986.

PART V—ELECTION OF ALTERNATIVE TAXABLE YEARS

SEC. 4641. ELECTION OF TAXABLE YEAR OTHER THAN REQUIRED TAXABLE YEAR.

(a) Limitations on Taxable Years Which May Be Elected.—Subsection (b) of section 444 (relating to limitations on taxable years which may be elected) is amended to read as follows:

"(b) Taxable Year Must Be Same as Reporting Period.—If an entity has annual reports or statements—

"(1) which ascertain income, profit, or loss of the entity, and

"(2) which are—

"(A) provided to shareholders, partners, or other proprietors, or

"(B) used for credit purposes,

the entity may make an election under subsection (a) only if the taxable year elected covers the same period as such reports or statements."

(b) Period of Election.—Section 444(d)(2) (relating to period of election) is amended to read as follows:

"(2) Period of election.—

"(A) In general.—An election under subsection (a) shall remain in effect until the partnership, S corporation, or personal service corporation terminates the election and adopts the required taxable year.

"(B) Change not treated as termination.—For purposes of subparagraph (A), a change from a taxable year which is not a required taxable year to another such taxable year shall not be treated as a termination."

(c) Exception for Trusts.—Section 444(d)(3) (relating to tiered structures) is amended by adding at the end thereof the following new subparagraph:

"(C) Exception for certain structures that include trusts.—An entity shall not be considered to be part of a tiered structure to which subparagraph (A) applies solely because a trust owning an interest in such entity is a trust all of the beneficiaries of which use a calendar year for their taxable year."

(d) Regulations.—Subsection (g) of section 444 (relating to regulations) is amended to read as follows:

"(g) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations—

"(1) to prevent the avoidance of the provisions of this section through a change in entity or form of an entity,

"(2) to prevent the carryback to any preceding taxable year of a net operating loss (or similar

item) arising in any short taxable year created pursuant to an election or termination of an election under this section, and

"(3) to provide for the termination of an election under subsection (a) if an entity does not continue to meet the requirements of subsection (b)."

SEC. 4642. REQUIRED PAYMENTS FOR ENTITIES ELECTING NOT TO HAVE REQUIRED TAXABLE YEAR.

(a) ADDITIONAL REQUIRED PAYMENT.—

(1) IN GENERAL.—Section 7519(b) (defining required payment) is amended to read as follows:

"(b) REQUIRED PAYMENT.—For purposes of this section—

"(1) IN GENERAL.—The term 'required payment' means, with respect to any applicable election year of a partnership or S corporation, an amount equal to the excess (if any) of—

"(A) the adjusted highest section 1 rate, multiplied by the net base year income of the entity, over

"(B) the net required payment balance.

For purposes of paragraph (1)(A), the term 'adjusted highest section 1 rate' means the highest rate of tax in effect under section 1 as of the close of the first required taxable year ending within such year, plus 2 percentage points.

"(2) ADDITIONAL PAYMENT FOR NEW APPLICABLE ELECTION YEARS.—

"(A) IN GENERAL.—In the case of a new applicable election year, the required payment shall include, in addition to any amount determined under paragraph (1), the amount determined under subparagraph (C).

"(B) NEW APPLICABLE ELECTION YEAR.—For purposes of this section, the term 'new applicable election year' means any applicable election year—

"(i) with respect to which the preceding taxable year was not an applicable election year, or

"(ii) which covers a different period than the preceding taxable year by reason of a change described in section 444(d)(2)(B).

If any year described in the preceding sentence is a short taxable year which does not include the last day of the required taxable year, the new applicable election year shall be the taxable year following the short taxable year.

"(C) ADDITIONAL AMOUNT.—For purposes of subparagraph (A), the amount determined under this subparagraph shall be—

"(i) in the case of a year described in subparagraph (B)(i), 75 percent of the required payment for the year, and

"(ii) in the case of a year described in subparagraph (B)(ii), 75 percent of the excess (if any) of—

"(I) the required payment for the year, over

"(II) the required payment for the year which would have been computed if the change described in subparagraph (B)(ii) had not occurred.

"(D) REQUIRED PAYMENT.—For purposes of this paragraph, the term 'required payment' means the payment required by this section (determined without regard to this paragraph)."

(2) DUE DATE.—Paragraph (2) of section 7519(f) (defining due date) is amended to read as follows:

"(2) DUE DATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the amount of any required payment for any applicable election year shall be paid on or before May 15 of the calendar year following the calendar year in which the applicable election year begins.

"(B) SPECIAL RULE WHERE NEW APPLICABLE ELECTION YEAR ADOPTED.—In the case of a new applicable election year, the portion of any required payment determined under subsection (b)(2) shall be paid on or before September 15 of the calendar year in which the applicable election year begins."

(3) PENALTIES.—

(A) IN GENERAL.—Section 7519(f)(4) (relating to penalties) is amended by adding at the end thereof the following new subparagraph:

"(D) FAILURE TO PAY ADDITIONAL AMOUNT.—In the case of any failure by any entity to pay on the date prescribed therefore the portion of any required payment described in subsection (b)(2) for any applicable election year—

"(i) subparagraph (A) shall not apply, but

"(ii) the entity shall, for purposes of this title, be treated as having terminated the election under section 444 for such year and changed to the required taxable year."

(B) CONFORMING AMENDMENT.—Section 7519(f)(4)(A) is amended by striking "In" and inserting "Except as provided in subparagraph (D), in".

(4) REFUNDS.—Section 7519(c)(2)(A) (relating to refund of payments) is amended to read as follows:

"(A) an election under section 444 is not in effect for any year but was in effect for the preceding year, or".

(5) CONFORMING AMENDMENTS.—

(A) Paragraph (1) of section 7519(c) is amended—

(i) by striking "subsection (b)(2)" and inserting "subsection (b)(1)(B)", and

(ii) by striking "subsection (b)(1)" and inserting "subsection (b)(1)(A)".

(B) Subsection (d) of section 7519 is amended by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(b) OTHER DEFINITIONS AND SPECIAL RULES.—

(1) REFUND.—Paragraph (3) of section 7519(c) (relating to date on which refund payable) is amended in the matter preceding subparagraph (A) by striking "on the later of" and inserting "by the later of".

(2) DEFERRAL RATIO.—The last sentence of paragraph (1) of section 7519(d) is amended to read as follows: "Except as provided in regulations, the term 'deferral ratio' means the ratio which the number of months in the deferral period of the applicable election year bears to the number of months in the applicable election year."

(3) NET INCOME.—Paragraph (2) of section 7519(d) is amended by adding at the end the following new subparagraph:

"(D) EXCESS APPLICABLE PAYMENTS FOR BASE YEAR.—In the case of any new applicable election year, the net income for the base year shall be increased by the excess (if any) of—

"(i) the applicable payments taken into account in determining net income for the base year, over

"(ii) 120 percent of the average amount of applicable payments made during the first 3 taxable years preceding the base year."

(4) DEFERRAL PERIOD.—Paragraph (1) of section 7519(e) (defining deferral period) is amended to read as follows:

"(1) DEFERRAL PERIOD.—Except as provided in regulations, the term 'deferral period' means, with respect to any taxable year of the entity, the months between—

"(A) the beginning of such year, and

"(B) the close of the first required taxable year (as defined in section 444(e)) ending within such year."

(5) BASE YEAR.—

(A) IN GENERAL.—Paragraph (2)(A) of section 7519(e) (defining base year) is amended to read as follows:

"(A) BASE YEAR.—The term 'base year' means, with respect to any applicable election year, the first taxable year of 12 months (or 52–53 weeks) of the partnership or S corporation preceding such applicable election year."

(B) CONFORMING AMENDMENT.—Paragraph (2) of subsection (g) of section 7519 is amended to read as follows:

"(2) there is no base year described in subsection (e)(2)(A) or no preceding taxable year described in section 280H(c)(1)(A)(i)."

(c) INTEREST.—Section 7519(f)(3) (relating to interest) is amended to read as follows:

"(3) INTEREST.—For purposes of determining interest, any payment required by this section shall be treated as a tax, except that interest shall be allowed with respect to any refund of a payment under this section only for the period from the latest date specified in subsection (c)(3) for such refund to the actual date of payment of such refund."

SEC. 4643. LIMITATION ON CERTAIN AMOUNTS PAID TO EMPLOYEE-OWNERS OF PERSONAL SERVICE CORPORATIONS.

(a) CARRYOVER OF NONDEDUCTIBLE AMOUNTS.—Subsection (b) of section 280H (relating to carryover of nondeductible amounts) is amended to read as follows:

"(b) CARRYOVER OF NONDEDUCTIBLE AMOUNTS.—Any amount not allowed as a deduction for a taxable year pursuant to subsection (a) shall be allowed as a deduction in the succeeding taxable year."

(b) MINIMUM DISTRIBUTION REQUIREMENT.—Paragraph (1) of section 280H(c) is amended to read as follows:

"(1) IN GENERAL.—A personal service corporation meets the minimum distribution requirements of this subsection if the applicable amounts paid during the deferral period of the taxable year equal or exceed the lesser of—

"(A) 110 percent of the product of—

"(i) the applicable amounts paid during the first preceding taxable year of 12 months (or 52–53 weeks), divided by 12, and

"(ii) the number of months in the deferral period of the taxable year, or

"(B) 110 percent of the amount equal to the applicable percentage of the adjusted taxable income for the deferral period of the taxable year."

(c) DISALLOWANCE OF NOL CARRYBACKS.—Subsection (e) of section 280H (relating to disallowance of net operating loss carrybacks) is amended by striking "to (or from)" and inserting "from".

(d) CONFORMING AMENDMENT.—Subparagraph (A) of section 280H(f)(3) (relating to deferral period) is amended by striking "section 444(b)(4)" and inserting "section 7519(e)(1)".

SEC. 4644. EFFECTIVE DATE.

The amendments made by this part shall apply to taxable years beginning after December 31, 1991.

PART VI—COOPERATIVES

SEC. 4651. TREATMENT OF CERTAIN LOAN REQUIREMENTS.

(a) IN GENERAL.—Subparagraph (C) of section 501(c)(12) is amended by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", or", and by adding at the end the following new clause:

"(i) from the prepayment of any loan under section 2387 of the Food, Agriculture, Conservation, and Trade Act of 1990 (as in effect on January 1, 1992)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

SEC. 4652. COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.), is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) COOPERATIVE SERVICE ORGANIZATIONS FOR CERTAIN FOUNDATIONS.—

"(1) IN GENERAL.—For purposes of this title, if an organization—

"(A) is organized and operated solely for purposes referred to in subsection (f)(1), "(B) is comprised solely of members which are exempt from taxation under subsection (a) and are—

"(i) private foundations, or

"(ii) community foundations as to which section 170(b)(1)(A)(vi) applies,

"(C) has at least 20 members,

"(D) does not at any time after the second taxable year beginning after the date of its organization, or, if later, the date of the enactment of this subsection, have a member which holds more than 10 percent (by value) of the interests in the organization,

"(E) is not controlled by any one member and does not have a member which controls another member of the organization, and

"(F) permits members of the organization to require the dismissal of any of the organization's investment advisors, following reasonable notice, upon a vote of the memburs holding a majority of interest in the account managed by such advisor,

then such organization shall be treated as an organization organized and operated exclusively for charitable purposes.

"(2) TREATMENT OF INCOME OF MEMBERS.—If any member of an organization described in paragraph (1) is a private foundation (other than an exempt operating foundation, as defined in section 4940(d)), such private foundation's allocable share of the capital gain net income and gross investment income of the organization for any taxable year of the organization shall be treated, for purposes of section 4940, as capital gain net income and gross investment income of such private foundation (whether or not distributed to such foundation) for the taxable year of such private foundation with or within which the taxable year of the organization described in paragraph (1) ends.

"(3) APPLICABLE EXCISE TAXES.—Subchapter A of chapter 42 (other than sections 4940 and 4942) shall apply to any organization described in paragraph (1)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

SEC. 4653. TREATMENT OF CERTAIN AMOUNTS RECEIVED BY A COOPERATIVE TELEPHONE COMPANY.

(a) NONMEMBER INCOME.—

(1) IN GENERAL.—Paragraph (12) of section 501(c) (relating to list of exempt organizations) is amended by adding at the end thereof the following new subparagraph:

"(E) In the case of a mutual or cooperative telephone company (hereafter in this subparagraph referred to as the 'cooperative'), 50 percent of the income received or accrued directly or indirectly from a nonmember telephone company for the performance of communication services by the cooperative shall be treated for purposes of subparagraph (A) as collected from members of the cooperative for the sole purpose of meeting the losses and expenses of the cooperative."

(2) CERTAIN BILLING AND COLLECTION SERVICE FEES NOT TAKEN INTO ACCOUNT.—Subparagraph (B) of section 501(c)(12) is amended by striking "or" at the end of clause (iii), by striking the period at the end of clause (iv) and inserting ", or", and by adding at the end thereof the following new clause:

"(v) from billing and collection services performed for a nonmember telephone company.".

(3) CONFORMING AMENDMENT.—Clause (i) of section 501(c)(12)(B) is amended by inserting before the comma ", other than income described in subparagraph (E)".

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning before, on, or after the date of the enactment of this Act.

(5) NO INFERENCE AS TO UNRELATED BUSINESS INCOME TREATMENT OF BILLING AND COLLECTION SERVICE FEES.—Nothing in the amendments made by this subsection shall be construed to indicate the proper treatment of billing and collection service fees under part III of subchapter F of chapter 1 of the Internal Revenue Code of 1986 (relating to taxation of business income of certain exempt organizations).

(b) TREATMENT OF CERTAIN INVESTMENT INCOME OF MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—

(1) IN GENERAL.—Paragraph (12) of section 501(c) (relating to list of exempt organizations) is amended by adding at the end thereof the following new subparagraph:

"(F) In the case of a mutual or cooperative telephone company, subparagraph (A) shall be applied without taking into account reserve income (as defined in section 512(d)(2)) if such income, when added to other income not collected from members for the sole purpose of meeting losses and expenses, does not exceed 35 percent of the company's total income."

(2) PORTION OF INVESTMENT INCOME SUBJECT TO UNRELATED BUSINESS INCOME TAX.—Section 512 is amended by adding at the end thereof the following new subsection:

"(d) INVESTMENT INCOME OF CERTAIN MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—

"(1) IN GENERAL.—In determining the unrelated business taxable income of a mutual or cooperative telephone company described in section 501(c)(12)—

"(A) there shall be included, as an item of gross income derived from an unrelated trade or business, reserve income to the extent such reserve income, when added to other income not collected from members for the sole purpose of meeting losses and expenses, exceeds 15 percent of the company's total income, and

"(B) there shall be allowed all deductions directly connected with the portion of the reserve income which is so included.

"(2) RESERVE INCOME.—For purposes of paragraph (1), the term 'reserve income' means income—

"(A) which would (but for this subsection) be excluded under subsection (b), and

"(B) which is derived from assets set aside for the repair or replacement of telephone system facilities of such company."

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4654. TAX TREATMENT OF COOPERATIVE HOUSING CORPORATIONS.

(a) SECTION 277 NOT TO APPLY TO COOPERATIVE HOUSING CORPORATIONS.—Section 277(b) (relating to exceptions) is amended by striking "or" at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting a comma and "or", and by adding at the end thereof the following new paragraph:

"(5) which for the taxable year is a cooperative housing corporation described in section 216(b)(1)."

(b) APPLICATION OF RULES RELATING TO TAX TREATMENT OF COOPERATIVES.—

(1) PATRONAGE EARNINGS MAY BE OFFSET ONLY BY PATRONAGE LOSSES.—Section 1388(a) is amended by adding at the end the following new sentence: "In no event shall any patronage losses of a cooperative housing corporation described in section 216(b)(1) be used to offset earnings which are not patronage earnings."

(2) PATRONAGE EARNINGS AND LOSSES OF COOPERATIVE HOUSING CORPORATIONS.—Section 1388 is amended by adding at the end the following new subsection:

"(k) PATRONAGE EARNINGS OR LOSSES DEFINED.—For purposes of this section—

"(1) IN GENERAL.—The terms 'patronage earnings' and 'patronage losses' mean earnings and losses, respectively, which are derived from business done with or for patrons of the organization.

"(2) SPECIAL RULES FOR COOPERATIVE HOUSING CORPORATION.—In the case of a cooperative housing corporation, the following earnings shall be treated as patronage earnings:

"(A) Interest on reasonable reserves established in connection with the corporation, including reserves required by a governmental agency or lender.

"(B) Income from laundry and parking facilities located on property owned or leased by the cooperative to the extent attributable to use of the facilities by tenant-stockholders and their guests.

"(C) In the case of a limited equity cooperative housing corporation, rental income from other than tenant-stockholders to the extent attributable to any project operated by the corporation.

"(3) DEFINITIONS.—For purposes of paragraph (2)—

"(A) COOPERATIVE HOUSING CORPORATION.—The term 'cooperative housing corporation' has the meaning given such term by section 216(b)(1).

"(B) LIMITED EQUITY COOPERATIVE HOUSING CORPORATION.—The term 'limited equity cooperative housing corporation' means a cooperative housing corporation with respect to which the requirements of clause (i) of section 143(k)(9)(D) are met at all times during the taxable year.

"(C) TENANT-STOCKHOLDER.—The term 'tenant-stockholder' has the meaning given such term by section 216(b)(2)."

(3) CONFORMING AMENDMENT.—Section 1388(j) is amended by striking paragraph (4).

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) NO INFERENCE.—Nothing in the provisions of this section shall be construed as a change in the treatment of income derived by any cooperative housing corporation, or any corporation operating on a cooperative basis under section 1381 of the Internal Revenue Code of 1986, and the treatment of such income for any year to which the amendments made by this section does not apply shall be made as if this section had not been enacted.

PART VII—EMPLOYMENT

SEC. 4661. CREDIT FOR PORTION OF EMPLOYER SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

(a) IN GENERAL.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end the following new section:

"SEC. 45. CREDIT FOR PORTION OF EMPLOYER SOCIAL SECURITY TAXES PAID WITH RESPECT TO EMPLOYEE CASH TIPS.

"(a) GENERAL RULE.—For purposes of section 38, the employer social security credit determined under this section for the taxable year is an amount equal to the excess employer social security tax paid or incurred by the taxpayer during the taxable year.

"(b) EXCESS EMPLOYER SOCIAL SECURITY TAX.—For purposes of this section, the term 'excess employer social security tax' means any tax paid by an employer under section 3111 with respect to tips received by an employee during any month, to the extent such tips—

"(1) are deemed to have been paid by the employer to the employee pursuant to section 3121(q), and

"(2) exceed the amount by which the wages (excluding tips) paid by the employer to the employee during such month are less than the total amount which would be payable (with respect to such employment) at the minimum wage rate ap-

plicable to such individual under section 6(a)(1) of the Fair Labor Standards Act of 1938 (determined without regard to section 3(m) of such Act).

"(c) DENIAL OF DOUBLE BENEFIT.—No deduction shall be allowed under this chapter for any amount taken into account in determining the credit under this section."

(b) CREDIT TO BE PART OF GENERAL BUSINESS CREDIT.—

(1) IN GENERAL.—Subsection (b) of section 38 of such Code (relating to current year business credit) is amended by striking "plus" at the end of paragraph (6), by striking the period at the end of paragraph (7) and inserting ", plus", and by adding at the end the following new paragraph:

"(8) the employer social security credit determined under section 45(a)."

(2) LIMITATION ON CARRYBACKS.—Subsection (d) of section 39 of such Code (relating to transitional rules) is amended—

(A) by redesignating the paragraph added by section 11511(b)(2) of the Revenue Reconciliation Act of 1990 as paragraph (1),

(B) by redesignating the paragraph added by section 11611(b)(2) of such Act as paragraph (2), and

(C) by adding at the end the following new paragraph:

"(3) NO CARRYBACK OF SECTION 45 CREDIT BEFORE ENACTMENT.—No portion of the unused business credit for any taxable year which is attributable to the employer social security credit determined under section 45 may be carried back to a taxable year ending before the date of the enactment of section 45."

(c) CLERICAL AMENDMENT.—The table of sections for subpart D of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 45. Employer social security credit."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to tips received (and wages paid) after the date of the enactment of this Act.

SEC. 4662. CLARIFICATION OF EMPLOYMENT TAX STATUS OF CERTAIN FISHERMEN.

(a) AMENDMENTS OF INTERNAL REVENUE CODE OF 1986.—

(1) DETERMINATION OF SIZE OF CREW.—Subsection (b) of section 3121 (defining employment) is amended by adding at the end thereof the following new sentence:

"For purposes of paragraph (20), the operating crew of a boat shall be treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of fewer than 10 individuals."

(2) CERTAIN CASH REMUNERATION PERMITTED.—Subparagraph (A) of section 3121(b)(20) is amended to read as follows:

"(A) such individual does not receive any cash remuneration other than as provided in subparagraph (B) and other than cash remuneration—

"(i) which does not exceed $100 per trip;

"(ii) which is contingent on a minimum catch; and

"(iii) which is paid solely for additional duties (such as mate, engineer, or cook) for which additional cash remuneration is traditional in the industry,".

(b) AMENDMENT OF SOCIAL SECURITY ACT.—

(1) DETERMINATION OF SIZE OF CREW.—Subsection (a) of section 210 of the Social Security Act is amended by adding at the end thereof the following new sentence:

"For purposes of paragraph (20), the operating crew of a boat shall be treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of fewer than 10 individuals."

(2) CERTAIN CASH REMUNERATION PERMITTED.—Subparagraph (A) of section 210(a)(20) of such Act is amended to read as follows:

"(A) such individual does not receive any additional compensation other than as provided in subparagraph (B) and other than cash remuneration—

"(i) which does not exceed $100 per trip;

"(ii) which is contingent on a minimum catch; and

"(iii) which is paid solely for additional duties (such as mate, engineer, or cook) for which additional cash remuneration is traditional in the industry,".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to remuneration paid after December 31, 1992.

(2) SPECIAL RULE.—The amendments made by this section shall also apply to remuneration paid after December 31, 1984, and before January 1, 1993, unless the payor treated such remuneration (when paid) as being subject to tax under chapter 21 of the Internal Revenue Code of 1986.

PART VIII—OTHER PROVISIONS

SEC. 4671. CLOSING OF PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER.

(a) GENERAL RULE.—Subparagraph (A) of section 706(c)(2) (relating to disposition of entire interest) is amended to read as follows:

"(A) DISPOSITION OF ENTIRE INTEREST.—The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates (whether by reason of death, liquidation, or otherwise)."

(b) CLERICAL AMENDMENT.—The paragraph heading for paragraph (2) of section 706(c) is amended to read as follows:

"(2) TREATMENT OF DISPOSITIONS.—".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to partnership taxable years beginning after December 31, 1991.

SEC. 4672. REPEAL OF SPECIAL TREATMENT OF OWNERSHIP CHANGES IN DETERMINING ADJUSTED CURRENT EARNINGS.

(a) GENERAL RULE.—Paragraph (4) of section 56(g) (relating to adjustments) is amended by striking subparagraph (G) and by redesignating the following subparagraph as paragraph (G).

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to ownership changes after December 31, 1991.

SEC. 4673. REPEAL OF INVESTMENT RESTRICTIONS APPLICABLE TO NUCLEAR DECOMMISSIONING FUNDS.

(a) IN GENERAL.—Subparagraph (C) of section 468A(e)(4) (relating to special rules for nuclear decommissioning funds) is amended by striking "described in section 501(c)(21)(B)(ii)".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1991.

SEC. 4674. MODIFICATION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

(a) IN GENERAL.—Subparagraph (A) of section 29(c)(2) (relating to gas from geopressured brine, etc.) is amended by adding at the end the following new sentence: "If the Federal Energy Regulatory Commission ceases to make the determinations described in the preceding sentence, the Secretary shall make such determinations in accordance with section 503 of such Act."

(b) CONFORMING AMENDMENT.—Section 29(c)(2)(A) is amended by inserting "(as in effect before its repeal by the Natural Gas Wellhead Decontrol Act of 1989)" after "Natural Gas Policy Act of 1978".

Subtitle G—Estate And Gift Tax Provisions

SEC. 4701. CLARIFICATION OF WAIVER OF CERTAIN RIGHTS OF RECOVERY.

(a) AMENDMENT TO SECTION 2207A.—Paragraph (2) of section 2207A(a) (relating to right of recovery in the case of certain marital deduction property) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property."

(b) AMENDMENT TO SECTION 2207B.—Paragraph (2) of section 2207B(a) (relating to right of recovery where decedent retained interest) is amended to read as follows:

"(2) DECEDENT MAY OTHERWISE DIRECT.—Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the estates of decedents dying after the date of the enactment of this Act.

SEC. 4702. ADJUSTMENTS FOR GIFTS WITHIN 3 YEARS OF DECEDENT'S DEATH.

(a) GENERAL RULE.—Section 2035 is amended to read as follows:

"SEC. 2035. ADJUSTMENTS FOR CERTAIN GIFTS MADE WITHIN 3 YEARS OF DECEDENT'S DEATH.

"(a) INCLUSION OF CERTAIN PROPERTY IN GROSS ESTATE.—If—

"(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and

"(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 2036, 2037, 2038, or 2042 if such transferred interest or relinquished power had been retained by the decedent on the date of his death,

the value of the gross estate shall include the value of any property (or interest therein) which would have been so included.

"(b) INCLUSION OF GIFT TAX ON GIFTS MADE DURING 3 YEARS BEFORE DECEDENT'S DEATH.—The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of the decedent's death.

"(c) OTHER RULES RELATING TO TRANSFERS WITHIN 3 YEARS OF DEATH.—

"(1) IN GENERAL.—For purposes of—

"(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

"(B) section 2032A (relating to special valuation of certain farms, etc., real property), and

"(C) subchapter C of chapter 64 (relating to lien for taxes),

the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

"(2) COORDINATION WITH SECTION 6166.—An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of paragraph (1).

"(3) SMALL TRANSFERS.—Paragraph (1) shall not apply to any transfer (other than a transfer

with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6019(a)(2)) to file any gift tax return for such year with respect to transfers to such donee.

"(d) EXCEPTION.—Subsection (a) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth.

"(e) TREATMENT OF CERTAIN REVOCABLE TRUSTS.—For purposes of this section and section 2038, any transfer from any portion of a trust with respect to which the decedent was the grantor during any period when the decedent held the power to revest in the decedent title to such portion shall be treated as a transfer made directly by the decedent."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter A of chapter 11 is amended by striking "gifts" in the item relating to section 2035 and inserting "certain gifts".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 4703. CLARIFICATION OF QUALIFIED TERMINABLE INTEREST RULES.

(a) GENERAL RULE.—

(1) ESTATE TAX.—Subparagraph (B) of section 2056(b)(7) (defining qualified terminable interest property) is amended by adding at the end thereof the following new clause:

"(v)(i) TREATMENT OF CERTAIN INCOME DISTRIBUTIONS.—An income interest shall not fail to qualify as a qualified income interest for life solely because income for the period after the last distribution date and on or before the date of the surviving spouse's death is not required to be distributed to the surviving spouse or to the estate of the surviving spouse."

(2) GIFT TAX.—Paragraph (3) of section 2523(f) is amended by striking "and (iv)" and inserting ", (iv), and (vi)".

(b) CLARIFICATION OF SUBSEQUENT INCLUSIONS.—Section 2044 is amended by adding at the end thereof the following new subsection:

"(d) CLARIFICATION OF INCLUSION OF CERTAIN INCOME.—The amount included in the gross estate under subsection (a) shall include the amount of any income from the property to which this section applies for the period after the last distribution date and on or before the date of the decedent's death if such income is not otherwise included in the decedent's gross estate."

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to the estates of decedents dying, and gifts made, after the date of the enactment of this Act.

(2) APPLICATION OF SECTION 2044 TO TRANSFERS BEFORE DATE OF ENACTMENT.—In the case of the estate of any decedent dying after the date of the enactment of this Act, if there was a transfer of property on or before such date—

(A) such property shall not be included in the gross estate of the decedent under section 2044 of the Internal Revenue Code of 1986 if no prior marital deduction was allowed with respect to such a transfer of such property to the decedent, but

(B) such property shall be so included if such a deduction was allowed.

SEC. 4704. TREATMENT OF PORTIONS OF PROPERTY UNDER MARITAL DEDUCTION.

(a) ESTATE TAX.—Subsection (b) of section 2056 (relating to limitation in case of life estate or other terminable interest) is amended by adding at the end thereof the following new paragraph:

"(10) SPECIFIC PORTION.—For purposes of paragraphs (5), (6), and (7)(B)(iv), the term 'specific portion' only includes a portion determined on a fractional or percentage basis."

(b) GIFT TAX.—

(1) Subsection (e) of section 2523 is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, the term 'specific portion' only includes a portion determined on a fractional or percentage basis."

(2) Paragraph (3) of section 2523(f) is amended by inserting before the period at the end thereof the following: "and the rules of section 2056(b)(10) shall apply".

(c) EFFECTIVE DATES.—

(1) SUBSECTION (a).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

(B) EXCEPTION.—The amendment made by subsection (a) shall not apply to any interest in property which passes (or has passed) to the surviving spouse of the decedent pursuant to a will (or revocable trust) in existence on the date of the enactment of this Act if—

(i) the decedent dies on or before the date 3 years after such date of enactment, or

(ii) the decedent was, on such date of enactment, under a mental disability to change the disposition of his property and did not regain his competence to dispose of such property before the date of his death.

The preceding sentence shall not apply if such will (or revocable trust) is amended at any time after such date of enactment in any respect which will increase the amount of the interest which so passes or alters the terms of the transfer by which the interest so passes.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to gifts made after the date of the enactment of this Act.

SEC. 4705. TRANSITIONAL RULE UNDER SECTION 2056A.

(a) GENERAL RULE.—In the case of any trust created under an instrument executed before the date of the enactment of the Revenue Reconciliation Act of 1990, such trust shall be treated as meeting the requirements of paragraph (1) of section 2056A(a) of the Internal Revenue Code of 1986 if the trust instrument requires that all trustees of the trust be individual citizens of the United States or domestic corporations.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall take effect as if included in the provisions of section 11702(g) of the Revenue Reconciliation Act of 1990.

SEC. 4706. OPPORTUNITY TO CORRECT CERTAIN FAILURES UNDER SECTION 2032A.

(a) GENERAL RULE.—Paragraph (3) of section 2032A(d) (relating to modification of election and agreement to be permitted) is amended to read as follows:

"(3) MODIFICATION OF ELECTION AND AGREEMENT TO BE PERMITTED.—The Secretary shall prescribe procedures which provide that in any case in which the executor makes an election under paragraph (1) (and submits the agreement referred to in paragraph (2)) within the time prescribed therefor, but—

"(A) the notice of election, as filed, does not contain all required information, or

"(B) signatures of 1 or more persons required to enter into the agreement described in paragraph (2) are not included on the agreement as filed, or the agreement does not contain all required information,

the executor will have a reasonable period of time (not exceeding 90 days) after notification of such failures to provide such information or signatures."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to the estates of decedents dying after the date of the enactment of this Act.

Subtitle H—Excise Tax Simplification

PART I—FUEL TAX PROVISIONS

SEC. 4801. REPEAL OF CERTAIN RETAIL AND USE TAXES.

(a) IN GENERAL.—Section 4041 is amended to read as follows:

"SEC. 4041. SPECIAL MOTOR FUELS AND NONCOMMERCIAL AVIATION GASOLINE.

"(a) SPECIAL MOTOR FUELS.—

"(1) IN GENERAL.—There is hereby imposed a tax on benzol, benzene, naphtha, liquefied petroleum gas, casing head and natural gasoline, or any other liquid—

"(A) sold by any person to an owner, lessee, or other operator of a motor vehicle or a motorboat for use as a fuel in such motor vehicle or motorboat, or

"(B) used by any person as a fuel in a motor vehicle or motorboat unless there was a taxable sale of such liquid under subparagraph (A).

"(2) RATE OF TAX.—The rate of the tax imposed by this subsection shall be the aggregate rate of tax in effect under section 4081 at the time of such sale or use.

"(3) CERTAIN FUELS EXEMPT FROM TAX.—The tax imposed by this subsection shall not apply to gasoline (as defined in section 4082), diesel fuel (as defined in section 4092), kerosene, gas oil, or fuel oil.

"(4) REDUCED RATES OF TAX ON CERTAIN FUELS.—

"(A) QUALIFIED METHANOL AND ETHANOL FUEL.—

"(i) IN GENERAL.—In the case of any qualified methanol or ethanol fuel—

"(I) the Highway Trust Fund financing rate applicable under paragraph (2) shall be 5.4 cents per gallon less than the otherwise applicable rate (6 cents per gallon less in the case of a mixture none of the alcohol in which consists of ethanol), and

"(II) the Leaking Underground Storage Tank Trust Fund financing rate applicable under paragraph (2) shall be 0.05 cent per gallon.

"(ii) QUALIFIED METHANOL OR ETHANOL FUEL.—The term 'qualified methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from a substance other than petroleum or natural gas.

"(iii) TERMINATION.—Clause (i) shall not apply to any sale or use after September 30, 2000.

"(B) NATURAL GAS-DERIVED METHANOL OR ETHANOL FUEL.—

"(i) IN GENERAL.—In the case of natural gas-derived methanol or ethanol fuel—

"(I) the Highway Trust Fund financing rate applicable under paragraph (2) shall be 5.75 cents per gallon, and

"(II) the deficit reduction rate applicable under paragraph (2) shall be 1.25 cents per gallon.

"(ii) NATURAL GAS-DERIVED METHANOL OR ETHANOL FUEL.—The term 'natural-gas derived methanol or ethanol fuel' means any liquid at least 85 percent of which consists of methanol, ethanol, or other alcohol produced from natural gas.

"(C) OTHER FUELS CONTAINING ALCOHOL.—

"(i) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)), the Highway Trust Fund financing rate applicable under paragraph (2) shall be the comparable rate under section 4081.

"(ii) LATER SEPARATION.—If any person separates the liquid fuel from a mixture of the liquid fuel and alcohol to which clause (i) applies, such separation shall be treated as a sale of the liquid fuel. Any tax imposed on such sale shall be reduced by the amount (if any) of the tax imposed on the sale of such mixture.

"(iii) TERMINATION.—Clause (i) shall not apply to any sale or use after September 30, 2000.

"(D) LIQUEFIED PETROLEUM GAS.—The rate of tax applicable under paragraph (2) to liquefied petroleum gas shall be determined without regard to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081.

"(5) EXEMPTION FOR OFF-HIGHWAY BUSINESS USE.—No tax shall be imposed by paragraph (1) on liquids sold for use or used in an off-highway business use (within the meaning of section 6420(f)).

"(b) NONCOMMERCIAL AVIATION GASOLINE.—

"(1) IN GENERAL.—There is hereby imposed a tax on gasoline—

"(A) sold by any person to an owner, lessee, or other operator of an aircraft for use as a fuel in such aircraft in noncommercial aviation, or

"(B) used by any person as a fuel in an aircraft in noncommercial aviation unless there was a taxable sale of such gasoline under subparagraph (A).

The tax imposed by this paragraph shall be in addition to any tax imposed by section 4081.

"(2) RATE OF TAX.—The rate of the tax imposed by paragraph (1) on any gasoline is the excess of 15 cents a gallon over the sum of the Highway Trust Fund financing rate plus the deficit reduction rate at which tax was imposed on such gasoline under section 4081.

"(3) NONCOMMERCIAL AVIATION.—For purposes of this subsection, the term 'noncommercial aviation' means any use of an aircraft other than use in a business of transporting persons or property for compensation or hire by air. Such term includes any use of an aircraft, in a business described in the preceding sentence, which is properly allocable to any transportation exempt from the taxes imposed by sections 4261 and 4271 by reason of section 4281 or 4282.

"(4) EXEMPTION FOR FUELS CONTAINING ALCOHOL.—No tax shall be imposed by this subsection on any liquid at least 10 percent of which consists of alcohol (as defined in section 4081(c)(3)).

"(5) EXEMPTION FOR CERTAIN HELICOPTER USES.—No tax shall be imposed by this subsection on gasoline sold for use or used in a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met.

"(6) REGISTRATION.—Except as provided in regulations prescribed by the Secretary, if any gasoline is sold by any person for use as a fuel in an aircraft, it shall be presumed for purposes of this subsection that a tax imposed by this subsection applies to the sale of such gasoline unless the purchaser is registered in such manner (and furnished such information in respect of the use of the gasoline) as the Secretary shall by regulations provide.

"(7) GASOLINE.—For purposes of this subsection, the term 'gasoline' has the meaning given such term by section 4082.

"(8) TERMINATION.—Paragraph (1) shall not apply to any sale or use after December 31, 1995.

"(c) EXEMPTION FOR FARM USE.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used on a farm for farming purposes (determined in accordance with paragraphs (1), (2), and (3) of section 6420(e)).

"(2) TERMINATION.—Except with respect to so much of the tax imposed by subsection (a) as is determined by reference to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, paragraph (1) shall not apply after September 30, 1999.

"(d) EXEMPTIONS FOR STATE AND LOCAL GOVERNMENTS, SCHOOLS, EXPORTATION, AND SUPPLIES FOR VESSELS AND AIRCRAFT.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use, or used, in an exempt use described in paragraph (4), (5), (6), or (7) of section 6420(b).

"(2) TERMINATION.—Except with respect to so much of the tax imposed by subsection (a) as is determined by reference to the Leaking Underground Storage Tank Trust Fund financing rate under section 4081, after September 30, 1999, paragraph (1) shall not apply to exempt uses described in paragraph (4) and (5) of section 6420(b).

"(e) EXEMPTION FOR USE BY CERTAIN AIRCRAFT MUSEUMS.—Under regulations prescribed by the Secretary, no tax shall be imposed under this section on any liquid sold for use or used in an exempt use described in section 6420(b)(11)."

(b) CERTAIN ADDITIONAL PURCHASERS OF FUEL TREATED AS PRODUCERS.—

(1) IN GENERAL.—Subparagraph (C) of section 4092(b)(1) is amended to read as follows:

"(C) REDUCED-TAX PURCHASERS TREATED AS PRODUCERS.—Any person to whom any fuel is sold in a sale on which the amount of tax otherwise required to be paid under section 4091 is reduced under section 4093 shall be treated as the producer of such fuel. The amount of tax imposed by section 4091 on any sale of such fuel by such person shall be reduced by the amount of tax imposed under section 4091 (and not credited or refunded) on any prior sale of such fuel."

(2) CONFORMING AMENDMENT.—Subsection (b) of section 4093 is amended by inserting "(as defined in section 4092(b) without regard to paragraph (1)(C) thereof)" after "producer".

SEC. 4802. REVISION OF FUEL TAX CREDIT AND REFUND PROCEDURES.

(a) REFUNDS TO CERTAIN SELLERS OF DIESEL FUEL AND AVIATION FUEL.—

(1) IN GENERAL.—Paragraph (2) of section 6416(b) is amended by striking "4091 or 4121" and inserting "4121 or 4091; except that this paragraph shall apply to a person selling diesel fuel or aviation fuel for a use described in the first sentence if such person meets such requirements as the Secretary may by regulations prescribe".

(2) LIMITATIONS ON AMOUNT OF TAX ONLY HIGHWAY TRUST FUND FINANCING RATE TO BE REFUNDABLE.—Paragraph (2) of section 6416(b) is amended by adding at the end thereof the following new sentence: "This paragraph shall not apply to the taxes imposed by sections 4081 and 4091 with respect to any use to the same extent that section 6420(a) does not apply to such use by reason of paragraph (1) or (2) of section 6420(c)."

(b) CONSOLIDATION OF REFUND PROVISIONS; REPEAL OF CONSENT REQUIREMENT FOR REFUND OF FUEL TAXES TO CROPDUSTERS, ETC.—Section 6420 (relating to gasoline used on farms) is amended to read as follows:

"SEC. 6420. CERTAIN TAXES ON FUELS USED FOR EXEMPT PURPOSES.

"(a) IN GENERAL.—Except as otherwise provided in this section, if any fuel on which tax was imposed under section 4041, 4081, or 4091 is used in an exempt use, the Secretary shall pay (without interest) to the ultimate purchaser of such fuel the amount equal to the aggregate tax imposed on such fuel under such sections.

"(b) EXEMPT USES.—For purposes of this section, the term 'exempt use' means—

"(1) in the case of diesel fuel, use other than as a fuel in a diesel-powered highway vehicle or a diesel-powered boat,

"(2) in the case of aviation fuel, use other than as a fuel in an aircraft,

"(3) in the case of gasoline or aviation fuel, use in an aircraft other than in noncommercial aviation (as defined in section 4041(b)),

"(4) use by any State, any political subdivision of a State, or the District of Columbia,

"(5) use by a nonprofit educational organization (as defined in section 4221(d)(5)),

"(6) export,

"(7) use as supplies for vessels or aircraft (within the meaning of section 4221(d)(3)),

"(8) use on a farm for farming purposes (within the meaning of subsection (e)),

"(9) use in an off-highway business use (within the meaning of subsection (f)),

"(10) use in qualified bus transportation (within the meaning of subsection (g)),

"(11) use by an aircraft museum (within the meaning of subsection (h)),

"(12) use in a nonpurpose use (within the meaning of subsection (i)),

"(13) use in a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met, and

"(14) use in producing a mixture of a fuel if at least 10 percent of such mixture consists of alcohol (as defined in section 4081(c)(3)) and if such mixture is sold or used in the trade or business of the person producing such mixture.

Paragraph (14) shall not apply with respect to any mixture sold or used after September 30, 2000.

"(c) LIMITATIONS ON AMOUNT OF PAYMENT.—

"(1) NO REFUND OF LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES IN CERTAIN CASES.—Subsection (a) shall not apply to so much of the taxes imposed by sections 4081 and 4091 as are attributable to a Leaking Underground Storage Tank Trust Fund financing rate in the case of—

"(A) fuel used in a train, and

"(B) fuel used in any aircraft (except as supplies for vessels or aircraft within the meaning of section 4221(d)(3)).

"(2) NO REFUND OF DEFICIT REDUCTION TAX ON DIESEL FUEL USED IN TRAINS.—Subsection (a) shall not apply to so much of the tax imposed by section 4091 as is attributable to a deficit reduction rate in the case of diesel fuel used in a diesel-powered train.

"(3) NO REFUND OF PORTION OF TAX ON DIESEL FUEL USED IN CERTAIN BUSES.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the rate of tax taken into account under subsection (a) with respect to diesel fuel used in qualified bus transportation (within the meaning of subsection (g)(1)) shall be 3.1 cents per gallon less than the aggregate rate of tax imposed on such fuel by section 4091.

"(B) EXCEPTION FOR SCHOOL BUS TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in an automobile bus while engaged in transportation described in subsection (g)(1)(B).

"(C) EXCEPTION FOR CERTAIN INTRACITY TRANSPORTATION.—Subparagraph (A) shall not apply to fuel used in any automobile bus while engaged in furnishing (for compensation) intracity passenger land transportation—

"(i) which is available to the general public, and

"(ii) which is scheduled and along regular routes,

but only if such bus is a qualified local bus.

"(D) QUALIFIED LOCAL BUS.—For purposes of this paragraph, the term 'qualified local bus' means any local bus—

"(i) which has a seating capacity of at least 20 adults (not including the driver), and

"(ii) which is under contract with (or is receiving more than a nominal subsidy from) any State or local government (as defined in section 4221(d)) to furnish such transportation.

"(4) ALCOHOL FUELS.—

"(A) IN GENERAL.—In the case of a fuel used as described in subsection (b)(14) and on which tax was imposed at regular tax rate, the rate of tax taken into account under subsection (a) with respect to the fuel so used shall equal the excess of the regular tax rate over the incentive tax rate.

"(B) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (d) thereof.

"(C) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(i) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof,

"(ii) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof, and

"(iii) in the case of aviation fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (d)(1)(B) thereof.

"(5) GASOHOL USED IN NONCOMMERCIAL AVIATION.—If—

"(A) tax is imposed by section 4081 at the rate determined under subsection (c) thereof on gasohol (as defined in such subsection), and

"(B) such gasohol is used as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(b)),

the payment under subsection (a) shall be equal to 1.4 cents (2 cents in the case of gasohol none of the alcohol in which consists of ethanol) per gallon of gasohol so used.

"(d) TIME FOR FILING CLAIMS; PERIOD COVERED.—

"(1) GENERAL RULE.—Except as provided in paragraphs (2) and (3), not more than one claim may be filed under this section by any person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during his taxable year; and no claim shall be allowed under this paragraph with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during any taxable year unless filed by the purchaser not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this subsection, a person's taxable year shall be his taxable year for purposes of subtitle A.

"(2) EXCEPTIONS.—

"(A) IN GENERAL.—If as of the close of any quarter of a person's taxable year, $750 or more is payable under this section to such person with respect to fuel used (or a qualified diesel powered highway vehicle purchased) during such quarter or any prior quarter of such taxable year (and for which no other claim has been filed), a claim may be filed under this section with respect to fuel so used (or qualified diesel powered highway vehicles so purchased).

"(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed during the first quarter following the last quarter included in the claim.

"(3) SPECIAL RULE FOR GASOHOL CREDIT.—

"(A) IN GENERAL.—A claim may be filed for gasoline used to produce gasohol (as defined in section 4081(c)(1)) for any period—

"(i) for which $200 or more is payable by reason of subsection (b)(14), and

"(ii) which is not less than 1 week.

"(B) PAYMENT OF CLAIM.—Notwithstanding subsection (a), if the Secretary has not paid a claim filed pursuant to subparagraph (A) within 20 days of the date of the filing of such claim, the claim shall be paid with interest from such date determined by using the overpayment rate and method under section 6621.

"(e) USE ON A FARM FOR FARMING.—For purposes of subsection (b)(8)—

"(1) IN GENERAL.—Fuel shall be treated as used on a farm for farming purposes only if used—

"(A) in carrying on a trade or business,

"(B) on a farm situated in the United States, and

"(C) for farming purposes.

"(2) FARM.—The term 'farm' includes stock, dairy, poultry, fruit, fur-bearing animal, and truck farms, plantations, ranches, nurseries, ranges, greenhouses or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

"(3) FARMING PURPOSES.—Fuel shall be treated as used for farming purposes only if used—

"(A) by the owner, tenant, or operator of a farm, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife, on a farm of which he is the owner, tenant, or operator;

"(B) by the owner, tenant, or operator of a farm, in handling, drying, packing, grading, or storing any agricultural or horticultural commodity in its unmanufactured state; but only if such owner, tenant, or operator produced more than one-half of the commodity which he so treated during the period with respect to which claim is filed;

"(C) by the owner, tenant, or operator of a farm, in connection with—

"(i) the planting, cultivating, caring for, or cutting of trees, or

"(ii) the preparation (other than milling) of trees for market, incidental to farming operations; or

"(D) by the owner, tenant, or operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment.

"(4) CERTAIN FARMING USE OTHER THAN BY OWNER, ETC.—In applying paragraph (3)(A) to a use on a farm for any purpose described in paragraph (3)(A) by any person other than the owner, tenant, or operator of such farm—

"(A) the owner, tenant, or operator of such farm shall be treated as the user and ultimate purchaser of the fuel, except that

"(B) if the person so using the fuel is an aerial or other applicator of fertilizers or other substances and is the ultimate purchaser of the fuel, then subparagraph (A) of this paragraph shall not apply and the aerial or other applicator shall be treated as having used such fuel on a farm for farming purposes.

"(f) OFF-HIGHWAY BUSINESS USE.—For purposes of subsection (b)(9)—

"(1) IN GENERAL.—The term 'off-highway business use' means any use by a person in a trade or business of such person or in an activity of such person described in section 212 (relating to production of income) otherwise than as a fuel in a highway vehicle—

"(A) which (at the time of such use) is registered, or is required to be registered, for highway use under the laws of any State or foreign country, or

"(B) which, in the case of a highway vehicle owned by the United States, is used on the highway.

"(2) USES IN MOTORBOATS.—The term 'off-highway business use' does not include any use in a motorboat; except that such term shall include any use in—

"(A) a vessel employed in the fisheries or in the whaling business, and

"(B) in the case of diesel fuel, a boat in the active conduct of—

"(i) a trade or business of commercial fishing or transporting persons or property for compensation or hire, or

"(ii) any other trade or business unless the boat is used predominantly in any activity which is of a type generally considered to constitute entertainment, amusement or recreation.

"(g) QUALIFIED BUS TRANSPORTATION.—For purposes of subsection (b)(10)—

"(1) IN GENERAL.—Fuel is used in qualified bus transportation if it is used in an automobile bus while engaged in—

"(A) furnishing (for compensation) passenger land transportation available to the general public, or

"(B) the transportation of students and employees of schools (as defined in the last sentence of section 4221(d)(7)(C)).

"(2) LIMITATION IN THE CASE OF NONSCHEDULED INTERCITY OR LOCAL BUSES.—Paragraph (1)(A) shall not apply in respect of fuel used in any automobile bus while engaged in furnishing transportation which is not along regular routes unless the seating capacity of such bus is at least 20 adults (not including the driver).

"(h) USE BY AN AIRCRAFT MUSEUM.—For purposes of subsection (b)(11)—

"(1) IN GENERAL.—Fuel is used by an aircraft museum if it is used in an aircraft or vehicle owned by such museum and used exclusively for purposes set forth in paragraph (2)(C).

"(2) AIRCRAFT MUSEUM.—For purposes of this subsection, the term 'aircraft museum' means an organization—

"(A) described in section 501(c)(3) which is exempt from income tax under section 501(a),

"(B) operated as a museum under charter by a State or the District of Columbia, and

"(C) operated exclusively for the procurement, care, and exhibition of aircraft of the type used for combat or transport in World War II.

"(i) USE IN A NONPURPOSE USE.—For purposes of subsection (b)(12), fuel is used in a nonpurpose use if—

"(1) tax was imposed by section 4041 on the sale thereof and the purchaser—

"(A) uses such fuel other than for the use for which it is sold, or

"(B) resells such fuel, or

"(2) tax was imposed by section 4081 on any gasoline blend stock or product commonly used as an additive in gasoline and the purchaser establishes that the ultimate use of such blend stock or product is not to produce gasoline.

"(j) ADVANCE REPAYMENT OF INCREASED DIESEL FUEL TAX TO ORIGINAL PURCHASERS OF DIESEL-POWERED AUTOMOBILES AND LIGHT TRUCKS.—

"(1) IN GENERAL.—Except as provided in subsection (d), the Secretary shall pay (without interest) to the original purchaser of any qualified diesel-powered highway vehicle an amount equal to the diesel fuel differential amount.

"(2) QUALIFIED DIESEL-POWERED HIGHWAY VEHICLE.—For purposes of this subsection, the term 'qualified diesel-powered highway vehicle' means any diesel-powered highway vehicle which—

"(A) has at least 4 wheels,

"(B) has a gross vehicle weight rating of 10,000 pounds or less, and

"(C) is registered for highway use in the United States under the laws of any State.

"(3) DIESEL FUEL DIFFERENTIAL AMOUNT.—For purposes of this subsection, the term 'diesel fuel differential amount' means—

"(A) except as provided in subparagraph (B), $102, or

"(B) in the case of a truck or van, $198.

"(4) ORIGINAL PURCHASER.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'original purchaser' means the first person to purchase the qualified diesel-powered vehicle for use other than resale.

"(B) EXCEPTION FOR CERTAIN PERSONS NOT SUBJECT TO FUELS TAX.—The term 'original pur-

chaser' shall not include any State or local government (as defined in section 4221(d)(4)) or any nonprofit educational organization (as defined in section 4221(d)(5)).

"(C) TREATMENT OF DEMONSTRATION USE BY DEALER.—For purposes of subparagraph (A), use as a demonstrator by a dealer shall not be taken into account.

"(5) VEHICLES TO WHICH SUBSECTION APPLIES.—This subsection shall only apply to qualified diesel-powered highway vehicles originally purchased after January 1, 1985, and before January 1, 1995.

"(6) BASIS REDUCTION.—For the purposes of subtitle A, the basis of any qualified diesel-powered highway vehicle shall be reduced by the amount payable under this subsection with respect to such vehicle.

"(k) INCOME TAX CREDIT IN LIEU OF PAYMENT; OTHER SPECIAL RULES.—

"(1) INCOME TAX CREDIT IN LIEU OF PAYMENT.—

"(A) PERSONS NOT SUBJECT TO INCOME TAX.—Payment shall be made under this section only to—

"(i) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

"(ii) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a payment of a claim filed under paragraph (2) or (3) of subsection (d).

"(C) ALLOWANCE OF CREDIT AGAINST INCOME TAX.—

"For allowances of credit against the income tax imposed by subtitle A for fuel used by the purchaser in an exempt use, see section 34.

"(2) APPLICABLE LAWS.—

"(A) IN GENERAL.—All provisions of law, including penalties, applicable in respect of the tax with respect to which a payment is claimed under this section shall, insofar as applicable and not inconsistent with this section, apply in respect of such payment to the same extent as if such payment constituted a refund of overpayments of such tax.

"(B) EXAMINATION OF BOOKS AND WITNESSES.—For the purpose of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602(a) (relating to examination of books and witnesses) as if the claimant were the person liable for tax.

"(3) COORDINATION WITH SECTION 6416, ETC.—No amount shall be payable under this section to any person with respect to any fuel if the Secretary determines that the amount of tax for which such payment is sought was not included in the price paid by such person for such fuel. The amount which would (but for this sentence) be payable under this section with respect to any fuel shall be reduced by any other amount which the Secretary determines is payable under this section, or is refundable under any other provision of this title, to any person with respect to such fuel.

"(4) REGULATIONS.—The Secretary may by regulations prescribe the conditions, not inconsistent with the provisions of this section, under which payments may be made under this section.

"(l) FUELS—For purposes of this section, the terms 'gasoline', 'diesel fuel', and 'aviation fuel' have the respective meanings given such terms by sections 4082 and 4092.

"(m) TERMINATION.—Except as otherwise provided in this section, this section shall not apply to any liquid purchased after September 30, 1999. The preceding sentence shall not apply to taxes attributable to any Leaking Underground Storage Tank Trust Fund financing rate."

SEC. 4803. AUTHORITY TO PROVIDE EXCEPTIONS FROM INFORMATION REPORTING WITH RESPECT TO DIESEL FUEL AND AVIATION FUEL.

(a) RETURNS BY PRODUCERS AND IMPORTERS.—Subparagraph (A) of section 4093(c)(4) (relating to returns by producers and importers) is amended by striking "Each producer" and inserting "Except as provided by the Secretary by regulations, each producer".

(b) RETURNS BY PURCHASERS.—Subparagraph (C) of section 4093(c)(4) (relating to returns by purchasers) is amended by striking "Each person" and inserting "Except as provided by the Secretary by regulations, each person".

SEC. 4804. TECHNICAL AND CONFORMING AMENDMENTS.

(1) Sections 6421 and 6427 are hereby repealed.

(2) Section 34 is amended to read as follows:

"SEC. 34. EXCISE TAXES ON FUEL USED FOR EXEMPT PURPOSES.

"There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to the excess of—

"(1) the aggregate amount payable to the taxpayer under section 6420 (determined without regard to section 6420(k)(1)) with respect to—

"(A) exempt uses (as defined in section 6420(b)) during such taxable year, and

"(B) qualified diesel-powered highway vehicles purchased during such taxable year, over

"(2) the portion of such amount for which a claim payable under section 6420(d) is timely filed."

(3) Subsection (c) of section 40 is amended by striking "subsection (b)(2), (k), or (m)" and inserting "subsection (a)(4) or (b)(4)"

(4) Paragraph (2) of section 451(e) is amended by striking "section 6420(c)(3)" and inserting "section 6420(e)(3)".

(5) Clause (i) of section 1274(c)(3)(A) is amended by striking "section 6420(c)(2)" and inserting "section 6420(e)(2)".

(6) Sections 874(a) and 1366(f)(1) are each amended by striking "gasoline and special" and inserting "taxable".

(7) Paragraph (2) of section 882(c) is amended by striking "gasoline" and inserting "taxable fuels".

(8) Subsection (b) of section 4042 is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(9) Subsection (b) of section 4082 is amended by striking "special fuels referred to in section 4041" and inserting "special motor fuels referred to in section 4041(a)".

(10) Section 4083 is amended to read as follows:

"SEC. 4083. CROSS REFERENCE.

"For provision allowing a credit or refund for gasoline used for exempt purposes, see section 6420."

(11) Subsections (c)(2) and (d)(2) of section 4091 are each amended by striking "section 6427(f)(1)" and inserting "section 6420(b)(14)".

(12) Paragraph (1) of section 4093(c) is amended by striking "by the purchaser" and all that follows and inserting "by the purchaser in an exempt use (as defined in section 6420(b) other than paragraph (14) thereof)."

(13) Subparagraph (C) of section 4093(c)(2) is amended by striking "section 6427(b)(2)(A)" and inserting "section 6420(c)(3)(A)".

(14) Clause (i) of section 4093(c)(4)(C) is amended to read as follows:

"(i) whether such use was an exempt use (as defined in section 6420(b)) and the amount of fuel so used,".

(15) Section 4093 is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) USE BY PRODUCER OR IMPORTER.—If any producer or importer uses any taxable fuel, then such producer or importer shall be liable for tax under section 4091 in the same manner as if such fuel were sold by him for such use."

(16) Subsection (f) of section 4093, as redesignated by paragraph (15), is amended to read as follows:

"(e) CROSS REFERENCE.—

"For provision allowing a credit or refund for fuel used for exempt purposes, see section 6420."

(17) Section 6206 is amended to read as follows:

"SEC. 6206. SPECIAL RULES APPLICABLE TO EXCESSIVE FUEL TAX REFUND CLAIMS.

"Any portion of a payment made under section 6420 which constitutes an excessive amount (as defined in section 6675(b)), and any civil penalty provided by section 6675, may be assessed and collected as if—

"(1) it were a tax imposed by the section to which the claim relates, and

"(2) the person making the claim were liable for such tax.

The period for assessing any such portion, and for assessing any such penalty, shall be 3 years from the last day prescribed for filing the claim under section 6420."

(18) Subparagraph (A) of section 6416(a)(2) is amended by striking "(relating to tax on special fuels)" and inserting "(relating to special motor fuels and noncommercial aviation gasoline)".

(19) Paragraph (2) of section 6416(b) is amended—

(A) in the matter preceding subparagraph (A) by striking "subsection (a) or (d) of section 4041" and inserting "section 4041(a)", and

(B) in subparagraph (F) by striking "special fuels referred to in section 4041" and inserting "special motor fuels referred to in section 4041(a)".

(20) Paragraph (9) of section 6504 is amended to read as follows:

"(9) Assessments to recover excessive amounts paid under section 6420 (relating to certain taxes on fuels used for exempt purposes) and assessments of civil penalties under section 6675 for excessive claims under section 6420, see section 6206."

(21) Subsection (h) of section 6511 is amended by striking paragraphs (5) and (6), by redesignating paragraph (7) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

"(5) For limitations in the case of payments under section 6420 (relating to certain taxes on fuels used for exempt purposes), see section 6420(d)."

(22) Subsection (c) of section 6612 is amended by striking "6420 (relating to payments in the case of gasoline used on the farm for farming purposes) and 6421 (relating to payments in the case of gasoline used for certain nonhighway purposes or by local transit systems)" and inserting "and 6420 (relating to certain taxes on fuels used for exempt purposes)".

(23) Subsection (a) of section 6675 is amended by striking "section 6420 (relating to gasoline used on farms), 6421 (relating to gasoline used for certain nonhighway purposes or by local transit systems), or 6427 (relating to fuels not used for taxable purposes)" and inserting "section 6420 (relating to certain taxes on fuels used for exempt purposes)".

(24) Paragraph (1) of section 6675(b) is amended by striking ", 6421, or 6427, as the case may be,".

(25) Section 7210 is amended by striking "sections 6420(e)(2), 6421(g)(2), 6427(j)(2)" and inserting "sections 6420(k)(3)(B)".

(26) Section 7603, subsections (b) and (c)(2) of section 7604, section 7605, and 7610(c) are each

amended by striking "section 6420(e)(2), 6421(g)(2), 6427(j)(2)," each place it appears and inserting "section 6420(k)(2)(B)".

(27) Sections 7605 and 7609(c)(1) are each amended by striking "section 6420(e)(2), 6421(g)(2), or 6427(j)(2)" and inserting "section 6420(k)(2)(B)".

(28) Paragraph (1) of section 9502(b) is amended by striking "subsections (c) and (e) of section 4041 (taxes on aviation fuel)" and inserting "section 4041(b) (relating to taxes on noncommercial aviation gasoline)".

(29) Paragraph (2) of section 9502(d) is amended by striking "fuel used in aircraft" and all that follows and inserting "fuel used in aircraft, under section 6420 (relating to certain taxes on fuels used for exempt purposes)."

(30) Paragraph (1) of section 9502(e) is amended by striking "4041(c)(1) and".

(31) Subparagraph (A) of section 9503(b)(1) is amended to read as follows:

"(A) section 4041 (relating to special motor fuels and noncommercial aviation gasoline),".

(32) Paragraph (4) of section 9503(b) is amended to read as follows:

"(4) CERTAIN ADDITIONAL TAXES NOT TRANSFERRED TO HIGHWAY TRUST FUND.—For purposes of paragraphs (1) and (2), the taxes imposed by sections 4041, 4081, and 4091 shall be taken into account only to the extent attributable to the Highway Trust Fund financing rates under such sections."

(33)(A) Clause (i) of section 9503(c)(2)(A) is amended to read as follows:

"(i) the amounts paid before July 1, 1996, under section 6420 (relating to certain taxes on fuels used for exempt purposes) on the basis of claims filed for periods ending before October 1, 1995, and".

(B) For purposes of section 9503(c)(2)(A)(i) of the Internal Revenue Code of 1986, the reference to section 6420 shall be treated as including a reference to sections 6420, 6421, and 6427 of such Code as in effect before the enactment of this Act.

(34) Clause (ii) of section 9503(c)(2)(A) is amended by striking "gasoline, special fuels, and lubricating oil" each place it appears and inserting "taxable fuels".

(35) Subparagraph (D) of section 9503(c)(4) is amended by striking "section 4041(a)(2)" and inserting "section 4041(a)".

(36) Subparagraph (A) of section 9503(e)(5) is amended by striking "section 6427(g)" and inserting "section 6420(j)".

(37) Paragraph (1) of section 9508(b) is amended to read as follows:

"(1) taxes received in the Treasury under section 4041 (relating to special motor fuels and noncommercial aviation gasoline) to the extent attributable to the Leaking Underground Storage Tank Trust Fund financing rates applicable under such section,".

(38) Subparagraph (A) of section 9508(c)(2) is amended by striking "equivalent to—" and all that follows and inserting the following: "equivalent to—

"(i) amounts paid under section 6420 (relating to certain taxes on fuels used for exempt purposes), and

"(ii) credits allowed under section 34,

with respect to so much of the taxes imposed by sections 4041, 4081, and 4091 as are attributable to the Leaking Underground Storage Tank Trust Fund financing rates applicable under such sections."

(39) The table of sections for subpart C of part IV of subchapter A of chapter 1 is amended by striking the item relating to section 34 and inserting the following:

"Sec. 34. Excise taxes on fuels used for exempt purposes."

(40) The table of sections for subchapter B of chapter 31 is amended by striking the item relating to section 4041 and inserting the following:

"Sec. 4041. Special motor fuels and noncommercial aviation gasoline."

(41) The table of sections for subpart A of part III of subchapter A of chapter 32 is amended by striking the item relating to section 4083 and inserting the following:

"Sec. 4083. Cross reference."

(42) The table of sections for subchapter B of chapter 65 is amended by striking the items relating to sections 6421 and 6427 and by striking the item relating to section 6420 and inserting the following new item:

"Sec. 6420. Certain taxes on fuels used for exempt purposes."

(43) The table of sections for subchapter A of chapter 63 is amended by striking the item relating to section 6206 and inserting the following new item:

"Sec. 6206. Special rules applicable to excessive fuel tax refund claims."

SEC. 4805. EFFECTIVE DATE.

The amendments made by this part shall take effect on January 1, 1993.

PART II—PROVISIONS RELATED TO DISTILLED SPIRITS, WINES, AND BEER

SEC. 4811. CREDIT OR REFUND FOR IMPORTED BOTTLED DISTILLED SPIRITS RETURNED TO DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (1) of section 5008(c) (relating to distilled spirits returned to bonded premises) is amended by striking "withdrawn from bonded premises on payment or determination of tax" and inserting "on which tax has been determined or paid".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4812. AUTHORITY TO CANCEL OR CREDIT EXPORT BONDS WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—Subsection (c) of section 5175 (relating to export bonds) is amended by striking "on the submission of" and all that follows and inserting "if there is such proof of exportation as the Secretary may by regulations require."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4813. REPEAL OF REQUIRED MAINTENANCE OF RECORDS ON PREMISES OF DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Subsection (c) of section 5207 (relating to records and reports) is amended by striking "shall be kept on the premises where the operations covered by the record are carried on and".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4814. FERMENTED MATERIAL FROM ANY BREWERY MAY BE RECEIVED AT A DISTILLED SPIRITS PLANT.

(a) IN GENERAL.—Paragraph (2) of section 5222(b) (relating to production, receipt, removal, and use of distilling materials) is amended to read as follows:

"(2) beer conveyed without payment of tax from brewery premises, beer which has been lawfully removed from brewery premises upon determination of tax, or".

(b) CLARIFICATION OF AUTHORITY TO PERMIT REMOVAL OF BEER WITHOUT PAYMENT OF TAX FOR USE AS DISTILLING MATERIAL.—Section 5053 (relating to exemptions) is amended by redesignating subsection (f) as subsection (i) and by inserting after subsection (e) the following new subsection:

"(f) REMOVAL FOR USE AS DISTILLING MATERIAL.—Subject to such regulations as the Secretary may prescribe, beer may be removed from a brewery without payment of tax to any distilled spirits plant for use as distilling material."

(c) CLARIFICATION OF REFUND AND CREDIT OF TAX.—Section 5056 (relating to refund and credit of tax, or relief from liability) is amended—

(1) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) BEER RECEIVED AT A DISTILLED SPIRITS PLANT.—Any tax paid by any brewer on beer produced in the United States may be refunded or credited to the brewer, without interest, or if the tax has not been paid, the brewer may be relieved of liability therefor, under regulations as the Secretary may prescribe, if such beer is received on the bonded premises of a distilled spirits plant pursuant to the provisions of section 5222(b)(2), for use in the production of distilled spirits.", and

(2) by striking "or rendering unmerchantable" in subsection (d) (as so redesignated) and inserting "rendering unmerchantable, or receipt on the bonded premises of a distilled spirits plant".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4815. REPEAL OF REQUIREMENT FOR WHOLESALE DEALERS IN LIQUORS TO POST SIGN.

(a) IN GENERAL.—Section 5115 (relating to sign required on premises) is hereby repealed.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (a) section 5681 is amended by striking ", and every wholesale dealer in liquors," and by striking "section 5115(a) or".

(2) Subsection (c) of section 5681 is amended—

(A) by striking "or wholesale liquor establishment, on which no sign required by section 5115(a) or" and inserting "on which no sign required by", and

(B) by striking "or wholesale liquor establishment, or who" and inserting "or who".

(3) The table of sections for subpart D of part II of subchapter A of chapter 51 is amended by striking the item relating to section 5115.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4816. REFUND OF TAX TO WINE RETURNED TO BOND NOT LIMITED TO UNMERCHANTABLE WINE.

(a) IN GENERAL.—Subsection (a) of section 5044 (relating to refund of tax on unmerchantable wine) is amended by striking "as unmerchantable".

(b) CONFORMING AMENDMENTS.—

(1) Section 5361 is amended by striking "unmerchantable".

(2) The section heading for section 5044 is amended by striking "UNMERCHANTABLE".

(3) The item relating to section 5044 in the table of sections for subpart C of part I of subchapter A of chapter 51 is amended by striking "unmerchantable".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4817. USE OF ADDITIONAL AMELIORATING MATERIAL IN CERTAIN WINES.

(a) IN GENERAL.—Subparagraph (D) of section 5384(b)(2) (relating to ameliorated fruit and berry wines) is amended by striking "loganberries, currants, or gooseberries," and inserting "any fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry)".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4818. DOMESTICALLY-PRODUCED BEER MAY BE WITHDRAWN FREE OF TAX FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.

(a) IN GENERAL.—Section 5053 (relating to exemptions) is amended by inserting after subsection (f) the following new subsection:

"(g) REMOVALS FOR USE OF FOREIGN EMBASSIES, LEGATIONS, ETC.—

"(1) IN GENERAL.—Subject to such regulations as the Secretary may prescribe—

"(A) beer may be withdrawn from the brewery without payment of tax for transfer to any customs bonded warehouse for entry pending withdrawal therefrom as provided in subparagraph (B), and

"(B) beer entered into any customs bonded warehouse under subparagraph (A) may be withdrawn for consumption in the United States by, and for the official and family use of, such foreign governments, organizations, and individuals as are entitled to withdraw imported beer from such warehouses free of tax.

Beer transferred to any customs bonded warehouse under subparagraph (A) shall be entered, stored, and accounted for in such warehouse under such regulations and bonds as the Secretary may prescribe, and may be withdrawn therefrom by such governments, organizations, and individuals free of tax under the same conditions and procedures as imported beer.

"(2) OTHER RULES TO APPLY.—Rules similar to the rules of paragraphs (2) and (3) of section 5362(e) of such section shall apply for purposes of this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4819. BEER MAY BE WITHDRAWN FREE OF TAX FOR DESTRUCTION.

(a) IN GENERAL.—Section 5053 is amended by inserting after subsection (g) the following new subsection:

"(h) REMOVALS FOR DESTRUCTION.—Subject to such regulations as the Secretary may prescribe, beer may be removed from the brewery without payment of tax for destruction."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4820. AUTHORITY TO ALLOW DRAWBACK ON EXPORTED BEER WITHOUT SUBMISSION OF RECORDS.

(a) IN GENERAL.—The first sentence of section 5055 (relating to drawback of tax on beer) is amended by striking "found to have been paid" and all that follows and inserting "paid on such beer if there is such proof of exportation as the Secretary may by regulations require."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the 180th day after the date of the enactment of this Act.

SEC. 4821. TRANSFER TO BREWERY OF BEER IMPORTED IN BULK WITHOUT PAYMENT OF TAX.

(a) IN GENERAL.—Part II of subchapter G of chapter 51 is amended by adding at the end thereof the following new section:

"SEC. 5418. BEER IMPORTED IN BULK.

"Beer imported or brought into the United States in bulk containers may, under such regulations as the Secretary may prescribe, be withdrawn from customs custody and transferred in such bulk containers to the premises of a brewery without payment of the internal revenue tax imposed on such beer. The proprietor of a brewery to which such beer is transferred shall become liable for the tax on the beer withdrawn from customs custody under this section upon release of the beer from customs custody, and the importer, or the person bringing such beer into the United States, shall thereupon be relieved of the liability for such tax."

(b) CLERICAL AMENDMENT.—The table of sections for such part II is amended by adding at the end thereof the following new item:

"Sec. 5418. Beer imported in bulk."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 180th day after the date of the enactment of this Act.

PART III—OTHER EXCISE TAX PROVISIONS

SEC. 4831. AUTHORITY TO GRANT EXEMPTIONS FROM REGISTRATION REQUIREMENTS.

(a) IN GENERAL.—The first sentence of section 4222 (relating to registration) is amended to read as follows: "Except as provided in subsection (b), section 4221 shall not apply with respect to the sale of any article by or to any person who is required by the Secretary to be registered under this section and who is not so registered."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales after the 180th day after the date of the enactment of this Act.

SEC. 4832. REPEAL OF EXPIRED PROVISIONS.

(a) PIGGY-BACK TRAILERS.—Section 4051 is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

(b) DEEP SEABED MINING.—

(1) Subchapter F of chapter 36 (relating to tax on removal of hard mineral resources from deep seabed) is hereby repealed.

(2) The table of subchapters for chapter 36 is amended by striking the item relating to subchapter F.

Subtitle I—Administrative Provisions

PART I—GENERAL PROVISIONS

SEC. 4901. SIMPLIFICATION OF DEPOSIT REQUIREMENTS FOR SOCIAL SECURITY, RAILROAD RETIREMENT, AND WITHHELD INCOME TAXES.

(a) IN GENERAL.—Subsection (g) of section 6302 (relating to deposits of social security taxes and withheld income taxes) is amended to read as follows:

"(g) DEPOSITS OF SOCIAL SECURITY, RAILROAD RETIREMENT, AND WITHHELD INCOME TAXES.—

"(1) GENERAL RULE.—Except as otherwise provided in this subsection—

"(A) employment taxes attributable to payments on Wednesday, Thursday, or Friday of any week shall be deposited on or before the following Tuesday, and

"(B) employment taxes attributable to payments on Saturday, Sunday, Monday, or Tuesday of any week shall be deposited on or before the following Friday.

"(2) SMALL DEPOSITORS.—

"(A) IN GENERAL.—If any person is a small depositor for any calendar quarter, such person shall make deposits of employment taxes attributable to payments during any month in such quarter on or before the 15th day of the following month.

"(B) SMALL DEPOSITOR.—For purposes of this subsection, a person is a small depositor for any calendar quarter if, for each calendar quarter in the base period, the amount of employment taxes attributable to payments made by such person during such calendar quarter was $12,000 or less. For purposes of the preceding sentence, the base period for any calendar quarter is the 4 calendar quarters ending with the second preceding calendar quarter.

"(C) CESSATION AS SMALL DEPOSITOR.—A person shall cease to be treated as a small depositor for a calendar quarter after any day on which such person is required to make a deposit under paragraph (3).

"(3) LARGE DEPOSITORS.—Notwithstanding paragraphs (1) and (2), if, on any day, any person has $100,000 or more of employment taxes for deposit, such taxes shall be deposited on or before the next day.

"(4) SAFE HARBOR.—

"(A) IN GENERAL.—A person shall be treated as depositing the required amount of employment taxes in any deposit if the shortfall does not exceed the greater of—

"(i) $100, or

"(ii) 2 percent of the amount of employment taxes required to be deposited in such deposit (determined without regard to this paragraph). Such shortfall shall be deposited as required by the Secretary by regulations.

"(B) SHORTFALL.—For purposes of this paragraph, the term 'shortfall' means, with respect to any deposit, the excess of the amount of employment taxes required to be deposited in such deposit (determined without regard to this paragraph) over the amount (if any) thereof deposited on or before the last date prescribed therefor.

"(5) DEPOSIT REQUIRED ONLY ON BANKING DAYS.—If taxes are required to be deposited under this subsection on any day which is not a banking day, such taxes shall be treated as timely deposited if deposited on the first banking day thereafter.

"(6) EMPLOYMENT TAXES.—For purposes of this subsection, the term 'employment taxes' means the taxes imposed by chapters 21, 22, and 24.

"(7) SUBSECTION TO APPLY ONLY TO REQUIRED DEPOSITS.—This subsection shall not apply to employment taxes which are not required to be deposited under the regulations prescribed by the Secretary under this section.

"(8) REGULATIONS.—The Secretary may prescribe regulations—

"(A) specifying employment tax deposit requirements for persons who fail to comply with the requirements of this subsection,

"(B) specifying circumstances under which a person shall be treated as a small depositor for purposes of this subsection notwithstanding that such person is not described in paragraph (2)(B),

"(C) specifying modifications to the provisions of this subsection for end-of-quarter periods, and

"(D) establishing deposit requirements for taxes imposed by section 3406 which apply in lieu of the requirements of this subsection."

(b) CONFORMING AMENDMENT.—Section 226 of the Railroad Retirement Solvency Act of 1983 is hereby repealed.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts attributable to payments made after December 31, 1992.

SEC. 4902. SIMPLIFICATION OF EMPLOYMENT TAXES ON DOMESTIC SERVICES.

(a) THRESHOLD REQUIREMENT FOR SOCIAL SECURITY TAXES.—

(1) Subparagraph (B) of section 3121(a)(7) (defining wages) is amended to read as follows:

"(B) cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than $300. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in subsection (g)(5);"

(2) Subparagraph (B) of section 209(a)(6) of the Social Security Act is amended to read as follows:

"(B) Cash remuneration paid by an employer in any calendar year to an employee for domestic service in a private home of the employer, if the cash remuneration paid in such year by the employer to the employee for such service is less than $300. As used in this subparagraph, the term 'domestic service in a private home of the employer' does not include service described in section 210(f)(5)."

(3) The second sentence of section 3102(a) is amended—

(A) by striking "calendar quarter" each place it appears and inserting "calendar year", and

(B) by striking "$50" and inserting "$300".

(b) COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT WITH COLLECTION OF INCOME TAXES.—

(1) IN GENERAL.—Chapter 25 (relating to general provisions relating to employment taxes) is

amended by adding at the end thereof the following new section:

"SEC. 3510. COORDINATION OF COLLECTION OF DOMESTIC SERVICE EMPLOYMENT TAXES WITH COLLECTION OF INCOME TAXES.

"(a) GENERAL RULE.—Except as otherwise provided in this section—

"(1) returns with respect to domestic service employment taxes shall be made on a calendar year basis,

"(2) any such return for any calendar year shall be filed on or before the due date (including extensions) of the income tax return for the employer's taxable year which begins in such calendar year, and

"(3) no requirement to make deposits (or to pay installments under section 6157) shall apply with respect to such taxes.

"(b) DOMESTIC SERVICE EMPLOYMENT TAXES SUBJECT TO ESTIMATED TAX PROVISIONS.—

"(1) IN GENERAL.—Solely for purposes of section 6654, domestic service employment taxes imposed with respect to any calendar year shall be treated as a tax imposed by chapter 2 for the taxable year of the employer which begins in such calendar year.

"(2) ANNUALIZATION.—Under regulations prescribed by the Secretary, appropriate adjustments shall be made in the application of section 6654(d)(2) in respect of the amount treated as tax under paragraph (1).

"(3) TRANSITIONAL RULE.—For purposes of applying section 6654 to a taxable year beginning in 1993, the amount referred to in clause (ii) of section 6654(d)(1)(B) shall be increased by 90 percent of the amount treated as tax under paragraph (1) for such taxable year.

"(c) DOMESTIC SERVICE EMPLOYMENT TAXES.—For purposes of this section, the term 'domestic service employment taxes' means—

"(1) any taxes imposed by chapter 21 or 23 on remuneration paid for domestic service in a private home of the employer, and

"(2) any amount withheld from such remuneration pursuant to an agreement under section 3402(p).

For purposes of this subsection, the term 'domestic service in a private home of the employer' does not include service described in section 3121(g)(5).

"(d) EXCEPTION WHERE EMPLOYER LIABLE FOR OTHER EMPLOYMENT TAXES.—To the extent provided in regulations prescribed by the Secretary, this section shall not apply to any employer for any calendar year if such employer is liable for any tax under this subtitle with respect to remuneration for services other than domestic service in a private home of the employer.

"(e) AUTHORITY TO ENTER INTO AGREEMENTS TO COLLECT STATE UNEMPLOYMENT TAXES.—

"(1) IN GENERAL.—The Secretary is hereby authorized to enter into an agreement with any State to collect, as the agent of such State, such State's unemployment taxes imposed on remuneration paid for domestic service in a private home of the employer. Any taxes to be collected by the Secretary pursuant to such an agreement shall be treated as domestic service employment taxes for purposes of this section.

"(2) TRANSFERS TO STATE ACCOUNT.—Any amount collected under an agreement referred to in paragraph (1) shall be transferred by the Secretary to the account of the State in the Unemployment Trust Fund.

"(3) SUBTITLE F MADE APPLICABLE.—For purposes of subtitle F, any amount required to be collected under an agreement under paragraph (1) shall be treated as a tax imposed by chapter 23.

"(4) STATE.—For purposes of this subsection, the term 'State' has the meaning given such term by section 3306(j)(1)."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 25 is amended by adding at the end thereof the following:

"Sec. 3510. Coordination of collection of domestic service employment taxes with collection of income taxes."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to remuneration paid in calendar years after 1992.

SEC. 4903. CERTAIN NOTICES DISREGARDED UNDER PROVISION INCREASING INTEREST RATE ON LARGE CORPORATE UNDERPAYMENTS.

(a) GENERAL RULE.—Subparagraph (B) of section 6621(c)(2) (defining applicable date) is amended by adding at the end thereof the following new clause:

"(iii) EXCEPTION FOR LETTERS OR NOTICES INVOLVING SMALL AMOUNTS.—For purposes of this paragraph, any letter or notice shall be disregarded if the amount of the deficiency or proposed deficiency (or the assessment or proposed assessment) set forth in such letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply for purposes of determining interest for periods after December 31, 1990.

SEC. 4904. USE OF REPRODUCTIONS OF RETURNS STORED IN DIGITAL IMAGE FORMAT.

(a) IN GENERAL.—Paragraph (2) of section 6103(p) (relating to procedure and recordkeeping) is amended by adding at the end thereof the following new subparagraph:

"(D) REPRODUCTION FROM DIGITAL IMAGES.—For purposes of this paragraph, the term 'reproduction' includes a reproduction from digital images."

(b) STUDY.—The Comptroller General of the United States shall conduct a study of available digital image technology for the purpose of determining the extent to which reproductions of documents stored using that technology accurately reflect the data on the original document and the appropriate period for retaining the original document. Not later than 1 year after the date of the enactment of this Act, a report on the results of such study shall be submitted to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 4905. REPEAL OF AUTHORITY TO DISCLOSE WHETHER PROSPECTIVE JUROR HAS BEEN AUDITED.

(a) IN GENERAL.—Subsection (h) of section 6103 (relating to disclosure to certain Federal officers and employees for purposes of tax administration, etc.) is amended by striking paragraph (5) and by redesignating paragraph (6) as paragraph (5).

(b) CONFORMING AMENDMENT.—Paragraph (4) of section 6103(p) is amended by striking "(h)(6)" each place it appears and inserting "(h)(5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to judicial proceedings pending on, or commenced after, the date of the enactment of this Act.

SEC. 4906. REPEAL OF SPECIAL AUDIT PROVISIONS FOR SUBCHAPTER S ITEMS.

(a) GENERAL RULE.—Subchapter D of chapter 63 (relating to tax treatment of subchapter S items) is hereby repealed.

(b) CONSISTENT TREATMENT REQUIRED.—Section 6037 (relating to return of S corporation) is amended by adding at the end thereof the following new subsection:

"(c) SHAREHOLDER'S RETURN MUST BE CONSISTENT WITH CORPORATE RETURN OR SECRETARY NOTIFIED OF INCONSISTENCY.—

"(1) IN GENERAL.—A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

"(2) NOTIFICATION OF INCONSISTENT TREATMENT.—

"(A) IN GENERAL.—In the case of any subchapter S item, if—

"(i)(I) the corporation has filed a return but the shareholder's treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

"(II) the corporation has not filed a return, and

"(ii) the shareholder files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

"(B) SHAREHOLDER RECEIVING INCORRECT INFORMATION.—A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—

"(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder's return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

"(ii) elects to have this paragraph apply with respect to that item.

"(3) EFFECT OF FAILURE TO NOTIFY.—In any case—

"(A) described in subparagraph (A)(i)(I) of paragraph (2), and

"(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

"(4) SUBCHAPTER S ITEM.—For purposes of this subsection, the term 'subchapter S item' means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

"(5) ADDITION TO TAX FOR FAILURE TO COMPLY WITH SECTION.—

"For addition to tax in the case of a shareholder's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68."

(c) CONFORMING AMENDMENTS.—

(1) Section 1366 is amended by striking subsection (g).

(2) Subsection (b) of section 6233 is amended to read as follows:

"(b) SIMILAR RULES IN CERTAIN CASES.—If a partnership return is filed for any taxable year but it is determined that there is no entity for such taxable year, to the extent provided in regulations, rules similar to the rules of subsection (a) shall apply."

(3) The table of subchapters for chapter 63 is amended by striking the item relating to subchapter D.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 4907. CLARIFICATION OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Subsection (a) of section 6501 (relating to limitations on assessment and collection) is amended by adding at the end thereof the following new sentence: "For purposes of this chapter, the term 'return' means the return required to be filed by the taxpayer (and does not include a return of any person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years be-

ginning after the date of the enactment of this Act.

PART II—TAX COURT PROCEDURES

SEC. 4911. OVERPAYMENT DETERMINATIONS OF TAX COURT.

(a) APPEAL OF ORDER.—Paragraph (2) of section 6512(b) (relating to jurisdiction to enforce) is amended by adding at the end the following new sentence: "An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—Subsection (b) of section 6512 (relating to overpayment determined by Tax Court) is amended by adding at the end the following new paragraph:

"(4) DENIAL OF JURISDICTION REGARDING CERTAIN CREDITS AND REDUCTIONS.—The Tax Court shall have no jurisdiction under this subsection to restrain or review any credit or reduction made by the Secretary under section 6402."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 4912. AWARDING OF ADMINISTRATIVE COSTS.

(a) RIGHT TO APPEAL TAX COURT DECISION.—Subsection (f) of section 7430 (relating to right of appeal) is amended by adding at the end the following new paragraph:

"(3) APPEAL OF TAX COURT DECISION.—An order of the Tax Court disposing of a petition under paragraph (2) shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) PERIOD FOR APPLYING TO IRS FOR COSTS.—Subsection (b) of section 7430 (relating to limitations) is amended by adding at the end the following new paragraph:

"(5) PERIOD FOR APPLYING TO IRS FOR ADMINISTRATIVE COSTS.—An award may be made under subsection (a) for reasonable administrative costs only if the prevailing party files an application for such costs before the 91st day after the date on which the party was determined to be the prevailing party under subsection (c)(4)(B)."

(c) PERIOD FOR PETITIONING OF TAX COURT FOR REVIEW OF DENIAL OF COSTS.—Paragraph (2) of section 7430(f) (relating to right of appeal) is amended—

(1) by striking "appeal to" and inserting "the filing of a petition for review with", and

(2) by adding at the end the following new sentence: "If the Secretary sends by certified or registered mail a notice of such decision to the petitioner, no proceeding in the Tax Court may be initiated under this paragraph unless such petition is filed before the 91st day after the date of such mailing."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to civil actions or proceedings commenced after the date of the enactment of this Act.

SEC. 4913. REDETERMINATION OF INTEREST PURSUANT TO MOTION.

(a) IN GENERAL.—Paragraph (3) of section 7481(c) (relating to jurisdiction over interest determinations) is amended by striking "petition" and inserting "motion".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act.

SEC. 4914. APPLICATION OF NET WORTH REQUIREMENT FOR AWARDS OF LITIGATION COSTS.

(a) IN GENERAL.—Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULES FOR APPLYING NET WORTH REQUIREMENT.—In applying the requirements of section 2412(d)(2)(B) of title 28, United States Code, for purposes of subparagraph (A)(iii) of this paragraph—

"(i) the net worth limitation in clause (i) of such section shall apply to—

"(I) an estate but shall be determined as of the date of the decedent's death, and

"(II) a trust but shall be determined as of the last day of the taxable year involved in the proceeding, and

"(ii) individuals filing a joint return shall be treated as 1 individual for purposes of clause (i) of such section, except in the case of a spouse relieved of liability under section 6013(e)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to proceedings commenced after the date of the enactment of this Act.

PART III—AUTHORITY FOR CERTAIN COOPERATIVE AGREEMENTS

SEC. 4921. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

(a) GENERAL RULE.—Chapter 77 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7524. COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES.

"(a) AUTHORIZATION OF AGREEMENTS.—The Secretary is hereby authorized to enter into cooperative agreements with State tax authorities for purposes of enhancing joint tax administration. Such agreements may provide for—

"(1) joint filing of Federal and State income tax returns,

"(2) single processing of such returns,

"(3) joint collection of taxes (other than Federal income taxes), and

"(4) such other provisions as may enhance joint tax administration.

"(b) SERVICES ON REIMBURSABLE BASIS.—Any agreement under subsection (a) may require reimbursement for services provided by either party to the agreement.

"(c) AVAILABILITY OF FUNDS.—Any funds appropriated for purposes of the administration of this title shall be available for purposes of carrying out the Secretary's responsibility under an agreement entered into under subsection (a). Any reimbursement received pursuant to such an agreement shall be credited to the amount so appropriated.

"(d) STATE TAX AUTHORITY.—For purposes of this section, the term 'State tax authority' means agency, body, or commission referred to in section 6103(d)(1)."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 is amended by adding at the end thereof the following new item:

"Sec. 7524. Cooperative agreements with State tax authorities."

TITLE V—TAXPAYER BILL OF RIGHTS 2

SEC. 5000. SHORT TITLE.

This title may be cited as the "Taxpayer Bill of Rights 2".

Subtitle A—Taxpayer Advocate

SEC. 5001. ESTABLISHMENT OF POSITION OF TAXPAYER ADVOCATE WITHIN INTERNAL REVENUE SERVICE.

(a) GENERAL RULE.—Section 7802 (relating to Commissioner of Internal Revenue; Assistant Commissioner (Employee Plans and Exempt Organizations)) is amended by adding at the end thereof the following new subsection:

"(d) OFFICE OF TAXPAYER ADVOCATE.—

"(1) IN GENERAL.—There is established in the Internal Revenue Service an office to be known as the 'Office of the Taxpayer Advocate'. Such office, including all problem resolution officers, shall be under the supervision and direction of an official to be known as the 'Taxpayer Advocate' who shall be appointed by the President by and with the advice and consent of the Senate, and who shall report directly to the Commissioner of Internal Revenue. The Taxpayer Advocate shall be entitled to compensation at the same rate as the Chief Counsel for the Internal Revenue Service.

"(2) FUNCTIONS OF OFFICE.—

"(A) IN GENERAL.—It shall be the function of the Office of Taxpayer Advocate to—

"(i) assist taxpayers in resolving problems with the Internal Revenue Service,

"(ii) identify areas in which taxpayers have problems in dealings with the Internal Revenue Service,

"(iii) to the extent possible, propose changes in the administrative practices of the Internal Revenue Service to mitigate problems identified under clause (ii), and

"(iv) identify potential legislative changes which may be appropriate to mitigate such problems.

"(B) ANNUAL REPORTS.—

"(i) OBJECTIVES.—Not later than October 31 of each calendar year after 1991, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the objectives of the Taxpayer Advocate for the following calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information.

"(ii) ACTIVITIES.—Not later than December 31 of each calendar year after 1991, the Taxpayer Advocate shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the activities of the Taxpayer Advocate during the fiscal year ending during such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and shall—

"(I) identify the initiatives the Taxpayer Advocate has taken on improving taxpayer services and Internal Revenue Service responsiveness,

"(II) contain recommendations received from individuals with the authority to issue taxpayer assistance orders under section 7811,

"(III) contain a summary of at least 20 of the most serious problems encountered by taxpayers, including a description of the nature of such problems,

"(IV) contain an inventory of the items described in subclauses (I), (II), and (III) for which action has been taken and the result of such action,

"(V) contain an inventory of the items described in subclauses (I), (II), and (III) for which action remains to be completed and the period during which each item has remained on such inventory,

"(VI) contain an inventory of the items described in subclauses (II) and (III) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and identify any Internal Revenue Service official who is responsible for such inaction,

"(VII) identify any Taxpayer Assistance Order which was not honored by the Internal Revenue Service in a timely manner, as specified under section 7811(b),

"(VIII) contain recommendations for such administrative and legislative action as may be appropriate to resolve problems encountered by taxpayers, and

"(IX) include such other information as the Taxpayer Advocate may deem advisable.

"(3) RESPONSIBILITIES OF COMMISSIONER OF INTERNAL REVENUE SERVICE.—The Commissioner of Internal Revenue shall establish procedures requiring a formal response to all recommendations submitted to the Commissioner by the Taxpayer Advocate."

(b) CONFORMING AMENDMENTS.—

(1) Section 7811 (relating to taxpayer assistance orders) is amended—

(A) by striking "the Office of Ombudsman" in subsection (a) and inserting "the Office of the Taxpayer Advocate", and

(B) by striking "Ombudsman" each place it appears (including in the headings of subsections (e) and (f)) and inserting "Taxpayer Advocate".

(2) The heading for section 7802 is amended to read as follows:

"SEC. 7802. COMMISSIONER OF INTERNAL REVENUE; ASSISTANT COMMISSIONERS; TAXPAYER ADVOCATE."

(3) The table of sections for subchapter A of chapter 80 of subtitle F is amended by striking the item relating to section 7802 and inserting the following new item:

"Sec. 7802. Commissioner of Internal Revenue; Assistant Commissioners; Taxpayer Advocate."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5002. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS.

(a) TERMS OF ORDERS.—Subsection (b) of section 7811 (relating to terms of taxpayer assistance orders) is amended—

(1) by inserting "within a specified time period" after "the Secretary", and

(2) by striking "cease any action" and inserting "cease any action, take any action".

(b) LIMITATION ON AUTHORITY TO MODIFY OR RESCIND.—Section 7811(c) (relating to authority to modify or rescind) is amended to read as follows:

"(c) AUTHORITY TO MODIFY OR RESCIND.—Any Taxpayer Assistance Order issued by the Taxpayer Advocate under this section may be modified or rescinded only by the Taxpayer Advocate, the Commissioner, or any superior of either."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

Subtitle B—Modifications to Installment Agreement Provisions

SEC. 5101. NOTIFICATION OF REASONS FOR TERMINATION OR DENIAL OF INSTALLMENT AGREEMENTS.

(a) TERMINATIONS.—Subsection (b) of section 6159 (relating to extent to which agreements remain in effect) is amended by adding at the end thereof the following new paragraph:

"(5) NOTICE REQUIREMENTS.—The Secretary may not take any action under paragraph (2), (3), or (4) unless—

"(A) a notice of such action is provided to the taxpayer not later than the day 30 days before the date of such action, and

"(B) such notice includes an explanation why the Secretary intends to take such action.

The preceding sentence shall not apply in any case in which the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy."

(b) DENIALS.—Section 6159 (relating to agreements for payment of tax liability in installments) is amended by adding at the end thereof the following new subsection:

"(c) NOTICE REQUIREMENTS FOR DENIALS.—The Secretary may not deny any request for an installment agreement under this section unless—

"(1) a notice of the proposed denial is provided to the taxpayer not later than the day 30 days before the date of such denial, and

"(2) such notice includes an explanation why the Secretary intends to deny such request.

The preceding sentence shall not apply in any case in which the Secretary believes that collection of any tax to which a request for an agreement under this section relates is in jeopardy."

(c) CONFORMING AMENDMENT.—Paragraph (3) of section 6159(b) is amended to read as follows:

"(3) SUBSEQUENT CHANGE IN FINANCIAL CONDITIONS.—If the Secretary makes a determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date 6 months after the date of the enactment of this Act.

SEC. 5102. ADMINISTRATIVE REVIEW OF DENIAL OF REQUEST FOR, OR TERMINATION OF, INSTALLMENT AGREEMENT.

(a) GENERAL RULE.—Section 6159 (relating to agreements for payment of tax liability in installments), as amended by section 5101, is amended by adding at the end thereof the following new subsection:

"(d) ADMINISTRATIVE REVIEW.—The Secretary shall establish procedures for an independent administrative review of denials of requests for, or terminations of, installment agreements under this section."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5103. RUNNING OF FAILURE TO PAY PENALTY SUSPENDED DURING PERIOD INSTALLMENT AGREEMENT IN EFFECT.

(a) GENERAL RULE.—Section 6651 (relating to penalty for failure to file tax return or to pay tax) is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF INSTALLMENT AGREEMENTS UNDER SECTION 6159.—If an agreement is entered into under section 6159 for the payment of any tax in installments, the period during which such agreement is in effect shall be disregarded in determining the amount of any addition under paragraph (2) or (3) of subsection (a) with respect to such tax."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to installment agreements entered into after the date of the enactment of this Act.

Subtitle C—Interest

SEC. 5201. EXPANSION OF AUTHORITY TO ABATE INTEREST.

(a) GENERAL RULE.—Paragraph (1) of section 6404(e) (relating to abatement of interest in certain cases) is amended by striking "ministerial act" each place it appears and inserting "ministerial or managerial act".

(b) CLERICAL AMENDMENT.—The subsection heading for subsection (e) of section 6404 is amended by striking "Assessments" and inserting "Abatement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act.

SEC. 5202. EXTENSION OF INTEREST-FREE PERIOD FOR PAYMENT OF TAX AFTER NOTICE AND DEMAND.

(a) GENERAL RULE.—Paragraph (3) of section 6601(e) (relating to payments made within 10 days after notice and demand) is amended to read as follows:

"(3) PAYMENTS MADE WITHIN SPECIFIED PERIOD AFTER NOTICE AND DEMAND.—If notice and demand is made for payment of any amount and if such amount is paid within 21 days (10 days if the amount for which such notice and demand is made equals or exceeds $100,000) after the date of such notice and demand, interest under this section on the amount so paid shall not be imposed for the period after the date of such notice and demand."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any notice and demand given after the date 6 months after the date of the enactment of this Act.

Subtitle D—Joint Returns

SEC. 5301. DISCLOSURE OF COLLECTION ACTIVITIES.

(a) GENERAL RULE.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest) is amended by adding at the end thereof the following new paragraph:

"(8) DISCLOSURE OF COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURN.—If any deficiency of tax with respect to a joint return is assessed and the individuals filing such return are no longer married or no longer reside in the same household, upon request in writing of either of such individuals, the Secretary may disclose in writing to the individual making the request whether the Secretary has attempted to collect such deficiency from such other individual, the general nature of such collection activities, and the amount collected."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5302. JOINT RETURN MAY BE MADE AFTER SEPARATE RETURNS WITHOUT FULL PAYMENT OF TAX.

(a) GENERAL RULE.—Paragraph (2) of section 6013(b) (relating to limitations on filing of joint return after filing separate returns) is amended by striking subparagraph (A) and redesignating the following subparagraphs accordingly.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

Subtitle E—Collection Activities

SEC. 5401. MODIFICATIONS TO LIEN AND LEVY PROVISIONS.

(a) WITHDRAWAL OF CERTAIN NOTICES.—Section 6323 (relating to validity and priority against certain persons) is amended by adding at the end thereof the following new subsection:

"(j) WITHDRAWAL OF NOTICE IN CERTAIN CIRCUMSTANCES.—

"(1) IN GENERAL.—The Secretary may withdraw a notice of a lien filed under this section and this chapter shall be applied as if the withdrawn notice had not been filed, if the Secretary determines that—

"(A) the filing of such notice was premature or otherwise not in accordance with administrative procedures of the Secretary,

"(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the lien was imposed by means of installment payments, unless such agreement provides otherwise,

"(C) the withdrawal of such notice will facilitate the collection of the tax liability, or

"(D) with the consent of the taxpayer or the Taxpayer Advocate, the withdrawal of such notice would be in the best interests of the taxpayer and the United States.

Any such withdrawal shall be made by filing notice thereof at the same office as the withdrawn notice.

"(2) NOTICE TO CREDIT AGENCIES, ETC.—Upon written request by the taxpayer with respect to whom a notice of a lien was withdrawn under paragraph (1), the Secretary shall promptly make reasonable efforts to notify credit reporting agencies, and financial institutions specified in such request, of the withdrawal of such notice. Any such request shall be in such form as the Secretary may prescribe."

(b) RETURN OF LEVIED PROPERTY IN CERTAIN CASES.—Section 6343 (relating to authority to release levy and return property) is amended by adding at the end thereof the following new subsection:

"(d) RETURN OF PROPERTY IN CERTAIN CASES.—If—

"(1) any property has been levied upon, and

"(2) the Secretary determines that—

"(A) the levy on such property was premature or otherwise not in accordance with administrative procedures of the Secretary,

"(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the levy was imposed by means of installment payments, unless such agreement provides otherwise,

"(C) the return of such property will facilitate the collection of the tax liability, or

"(D) with the consent of the taxpayer or the Taxpayer Advocate, the return of such property would be in the best interests of the taxpayer and the United States,

the provisions of subsection (b) shall apply in the same manner as if such property had been wrongly levied upon, except that no interest shall be allowed under subsection (c)."

(c) Modifications in Certain Levy Exemption Amounts.—

(1) Fuel, etc.—Paragraph (2) of section 6334(a) (relating to fuel, provisions, furniture, and personal effects exempt from levy) is amended—

(A) by striking "If the taxpayer is the head of a family, so" and inserting "So", and

(B) by striking "$1,650 ($1,500 in the case of levies issued during 1989)" and inserting "$1,700".

(2) Books, etc.—Paragraph (3) of section 6334(a) (relating to books and tools of a trade, business, or profession exempt from levy) is amended by striking "$1,100 ($1,050 in the case of levies issued during 1989)" and inserting "$1,200".

(3) Indexed for inflation.—Section 6334 (relating to property exempt from levy) is amended by adding at the end thereof the following new subsection:

"(f) Inflation Adjustments.—

"(1) In general.—In the case of any calendar year beginning after 1993, each dollar amount referred to in paragraphs (2) and (3) of subsection (a) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year, by substituting 'calendar year 1992' for 'calendar year 1991' in subparagraph (B) thereof.

"(2) Rounding.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10 (or, if such dollar amount is a multiple of $5, such dollar amount shall be increased to the next higher multiple of $10)."

(d) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Exempt amounts.—The amendments made by subsection (c) shall take effect with respect to levies issued after December 31, 1992.

SEC. 5402. OFFERS-IN-COMPROMISE.

(a) General Rule.—Subsection (a) of section 7122 (relating to compromises) is amended by adding at the end thereof the following new sentence: "The Secretary may make such a compromise in any case where the Secretary determines that such compromise would be in the best interests of the United States.".

(b) Review Requirements.—Subsection (b) of section 7122 (relating to records) is amended by striking "$500." and inserting "$50,000. However, such compromise shall be subject to continuing quality review by the Secretary.".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5403. NOTIFICATION OF EXAMINATION.

(a) In General.—Section 7605 (relating to restrictions on examination of taxpayer) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) Notification Requirement.—No examination described in subsection (a) shall be made unless the Secretary notifies the taxpayer in writing by mail to an address determined under section 6212(b) that the taxpayer is under examination and provides the taxpayer with an explanation of the process as described in section 7521(b)(1). The preceding sentence shall not apply in the case of any examination if the Secretary determines that—

"(1) such examination is in connection with a criminal investigation or is with respect to a tax the collection of which is in jeopardy, or

"(2) the application of the preceding sentence would be inconsistent with national security needs or would interfere with the effective conduct of a confidential law enforcement or foreign counterintelligence activity."

(b) Conforming Amendment.—Paragraph (1) of section 7521(b) (relating to safeguards) is amended by striking "or at".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 5404. INCREASE IN LIMIT ON RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS.

(a) General Rule.—Subsection (b) of section 7433 (relating to damages) is amended by striking "$100,000" and inserting "$1,000,000".

(b) Effective Date.—The amendment made by subsection (a) shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act.

SEC. 5405. SAFEGUARDS RELATING TO DESIGNATED SUMMONS.

(a) Standard of Review.—Subparagraph (A) of section 6503(k)(2) (defining designated summons) is amended by redesignating clauses (i) and (ii) as clauses (ii) and (iii), respectively, and by inserting before clause (ii) (as so redesignated) the following new clause:

"(i) the issuance of such summons is preceded by a review of such issuance by the regional counsel of the Office of Chief Counsel for the region in which the examination of the corporation is being conducted,".

(b) Notice Requirements for Issuance.—Section 6503(k) is amended by adding at the end thereof the following new paragraph:

"(4) Notice requirements.—With respect to any summons referred to in paragraph (1)(A) issued to any person other than the corporation, the Secretary shall promptly notify the corporation, in writing, that such summons has been issued with respect to such corporation's return of tax."

(c) Effective Date.—The amendments made by this section shall apply to summons issued after the date of the enactment of this Act.

Subtitle F—Information Returns

SEC. 5501. PHONE NUMBER OF PERSON PROVIDING PAYEE STATEMENTS REQUIRED TO BE SHOWN ON SUCH STATEMENT.

(a) General Rule.—The following provisions are each amended by striking "name and address" and inserting "name, address, and phone number of the information contact":

(1) Section 6041(d)(1).
(2) Section 6041A(e)(1).
(3) Section 6042(c)(1).
(4) Section 6044(e)(1).
(5) Section 6045(b)(1).
(6) Section 6049(c)(1)(A).
(7) Section 6050B(b)(1).
(8) Section 6050H(d)(1).
(9) Section 6050I(e)(1).
(10) Section 6050J(e).
(11) Section 6050K(b)(1).
(12) Section 6050N(b)(1).

(b) Effective Date.—The amendments made by subsection (a) shall apply to statements required to be furnished after December 31, 1992 (determined without regard to any extension).

SEC. 5502. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

(a) General Rule.—Subchapter B of chapter 76 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7434 as section 7435 and by inserting after section 7433 the following new section:

"SEC. 7434. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS.

"(a) In General.—If any person willfully files a false or fraudulent information return with respect to payments purported to be made to any other person, such other person may bring a civil action for damages against the person so filing such return.

"(b) Damages.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the greater of $5,000 or the sum of—

"(1) any actual damages sustained by the plaintiff as a proximate result of the filing of the false or fraudulent information return (including any costs attributable to resolving deficiencies asserted as a result of such filing), and

"(2) the costs of the action.

"(c) Period for Bringing Action.—Notwithstanding any other provision of law, an action to enforce the liability created under this section may be brought without regard to the amount in controversy and may be brought only within 6 years after the filing of the false or fraudulent information return.

"(d) Information Return.—For purposes of this section, the term 'information return' means any statement described in section 6724(d)(1)(A)."

(b) Clerical Amendment.—The table of sections for subchapter B of chapter 76 is amended by striking the item relating to section 7434 and inserting the following:

"Sec. 7434. Civil damages for fraudulent filing of information returns.

"Sec. 7435. Cross references."

(c) Effective Date.—The amendments made by this section shall apply to false or fraudulent information returns filed after the date of the enactment of this Act.

SEC. 5503. REQUIREMENT TO VERIFY ACCURACY OF INFORMATION RETURNS.

(a) General Rule.—Section 6201 (relating to assessment authority) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Required Reasonable Verification of Information Returns.—In any court proceeding, if a taxpayer asserts a reasonable dispute with respect to any item of income reported on an information return filed with the Secretary under chapter 61 by a third party and the taxpayer has fully cooperated with the Secretary, the Secretary, in presenting evidence of the deficiency based on such information return, shall present reasonable evidence of such deficiency in addition to such information return."

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

Subtitle G—Modifications to Penalty for Failure To Collect and Pay Over Tax

SEC. 5601. PRELIMINARY NOTICE REQUIREMENT.

(a) In General.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following new subsection:

"(b) Preliminary Notice Requirement.—

"(1) In general.—No penalty shall be imposed under subsection (a) unless the Secretary

notifies the taxpayer in writing by mail to an address as determined under section 6212(b) that the taxpayer shall be subject to an assessment of such penalty.

"(2) TIMING OF NOTICE.—The mailing of the notice described in paragraph (1) shall precede any notice and demand of any penalty under subsection (a) by at least 60 days.

"(3) STATUTE OF LIMITATIONS.—If a notice described in paragraph (1) with respect to any penalty is mailed before the expiration of the period provided by section 6501 for the assessment of such penalty (determined without regard to this paragraph), the period provided by such section for the assessment of such penalty shall not expire before the date 60 days after the date on which such notice was mailed.

"(4) EXCEPTION FOR JEOPARDY.—This subsection shall not apply if the Secretary finds that the collection of the penalty is in jeopardy."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of failures after the date of the enactment of this Act.

SEC. 5602. NO PENALTY IF PROMPT NOTIFICATION OF THE SECRETARY.

(a) IN GENERAL.—Section 6672 (relating to failure to collect and pay over tax, or attempt to evade or defeat tax) is amended by adding at the end thereof the following new subsection:

"(d) PENALTY NOT APPLICABLE WHERE PROMPT NOTIFICATION OF FAILURE.—

"(1) IN GENERAL.—A person shall not be liable for any penalty under subsection (a) by reason of any failure referred to in subsection (a) if—

"(A) such person is not a significant owner, or highly compensated employee, of the trade or business with respect to which such failure occurred,

"(B) such person notifies the Secretary (in such manner as he may prescribe) that such failure has occurred within 10 days after the date of such failure, and

"(C) such notification was before any notice by the Secretary to any person with respect to such failure.

"(2) DEFINITIONS.—For purposes of paragraph (1)—

"(A) SIGNIFICANT OWNER.—The term 'significant owner' means—

"(i) any person holding an interest as a proprietor in a trade or business carried on as a proprietorship, and

"(ii) in the case of a trade or business conducted by a corporation or partnership, any person who is a 5-percent owner (as defined in section 416(i)(1)) in such corporation or partnership, as the case may be.

"(B) HIGHLY COMPENSATED EMPLOYEE.—The term 'highly compensated employee' means any employee who receives compensation from the employer at an annual rate in excess of $75,000."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of failures after the date of the enactment of this Act.

SEC. 5603. DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY.

(a) IN GENERAL.—Subsection (e) of section 6103 (relating to disclosure to persons having material interest), as amended by section 5301, is amended by adding at the end thereof the following new paragraph:

"(9) DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY UNDER SECTION 6672.—If the Secretary determines that a person is liable for a penalty under section 6672(a) with respect to any failure, upon request in writing of such person, the Secretary shall disclose in writing to such person—

"(A) the name of any other person whom the Secretary has determined to be liable for such penalty with respect to such failure, and

"(B) whether the Secretary has attempted to collect such penalty from such other person, the general nature of such collection activities, and the amount collected."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 5604. PENALTIES UNDER SECTION 6672.

(a) PUBLIC INFORMATION REQUIREMENTS.—The Secretary of the Treasury or the Secretary's delegate (hereafter in this section referred to as the "Secretary") shall take such actions as may be appropriate to ensure that employees are aware of their responsibilities under the Federal tax depository system, the circumstances under which employees may be liable for the penalty imposed by section 6672 of the Internal Revenue Code of 1986, and the responsibility to promptly report to the Internal Revenue Service any failure referred to in subsection (a) of such section 6672. Such actions shall include—

(1) printing of a warning on deposit coupon booklets and the appropriate tax returns that certain employees may be liable for the penalty imposed by such section 6672, and

(2) the development of a special information packet.

(b) BOARD MEMBERS OF TAX-EXEMPT ORGANIZATIONS.—

(1) VOLUNTARY BOARD MEMBERS.—The penalty under section 6672 of the Internal Revenue Code of 1986 shall not be imposed on unpaid, volunteer members of any board of trustees or directors of an organization referred to in section 501 of such Code to the extent such members are solely serving in an honorary capacity and do not participate in the day-to-day or financial operations of the organization.

(2) DEVELOPMENT OF EXPLANATORY MATERIALS.—The Secretary shall develop materials explaining the circumstances under which board members of tax-exempt organizations (including voluntary and honorary members) may be subject to penalty under section 6672 of such Code. Such materials shall be made available to tax-exempt organizations.

(3) IRS INSTRUCTIONS.—The Secretary shall clarify the instructions to Internal Revenue Service employees on the application of the penalty under section 6672 of such Code with regard to voluntary members of boards of trustees or directors of tax-exempt organizations.

(c) PROMPT NOTIFICATION.—To the maximum extent practicable, the Secretary shall notify all persons who have failed to make timely and complete deposit of any taxes of such failure within 30 days after the date on which the Secretary is first aware of such failure.

Subtitle H—Awarding of Costs and Certain Fees

SEC. 5701. MOTION FOR DISCLOSURE OF INFORMATION.

Paragraph (4) of section 7430(c) (defining prevailing party) is amended by adding at the end thereof the following new subparagraph:

"(C) MOTION FOR DISCLOSURE OF INFORMATION.—Once a taxpayer substantially prevails as described in subparagraph (A)(ii), the taxpayer may file a motion for an order requiring the disclosure (within a specified period) of all information and copies of relevant records in the possession of the Internal Revenue Service with respect to such taxpayer's case and the substantial justification for the position taken by the Internal Revenue Service."

SEC. 5702. INCREASED LIMIT ON ATTORNEY FEES.

Paragraph (1) of section 7430(c) (defining reasonable litigation costs) is amended—

(1) by striking "$75" in clause (iii) of subparagraph (B) and inserting "$110",

(2) by striking "an increase in the cost of living or" in clause (iii) of subparagraph (B), and

(3) by adding after clause (iii) the following:

"In the case of any calendar year beginning after 1992, the dollar amount referred to in clause (iii) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for such calendar year. If any dollar amount after being increased under the preceding sentence is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10 (or, if such dollar amount is a multiple of $5, such dollar amount shall be increased to the next higher multiple of $10)."

SEC. 5703. FAILURE TO AGREE TO EXTENSION NOT TAKEN INTO ACCOUNT.

Paragraph (1) of section 7430(b) (relating to requirement that administrative remedies be exhausted) is amended by adding at the end thereof the following new sentence: "Any failure to agree to an extension of the time for the assessment of any tax shall not be taken into account for purposes of determining whether the prevailing party meets the requirements of the preceding sentence."

SEC. 5704. INTERNAL REVENUE SERVICE EMPLOYEES PERSONALLY LIABLE IN CERTAIN CASES.

Section 7430 is amended by adding at the end thereof the following new subsection:

"(g) PERSONAL LIABILITY OF INTERNAL REVENUE SERVICE EMPLOYEES IN CERTAIN CASES.—In any proceeding in which the prevailing party is awarded a judgment for reasonable litigation costs under this section, the court may assess a portion of such costs against any Internal Revenue Service employee (and such employee shall not be reimbursed by the United States for the costs so assessed) if the court determines that such proceeding resulted from any arbitrary, capricious, or malicious act of such employee."

SEC. 5705. EFFECTIVE DATE.

The amendments made by this subtitle shall apply in the case of proceedings commenced after the date of the enactment of this Act.

Subtitle I—Other Provisions

SEC. 5801. REQUIRED CONTENT OF CERTAIN NOTICES.

(a) GENERAL RULE.—Subsection (a) of section 7522 (relating to content of tax due, deficiency, and other notices) is amended by striking "shall describe the basis for, and identify" and inserting "shall set forth the adjustments which are the basis for, and shall identify".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to notices sent after the date 6 months after the date of the enactment of this Act.

SEC. 5802. TREATMENT OF SUBSTITUTE RETURNS UNDER SECTION 6651.

(a) GENERAL RULE.—Section 6651 (relating to failure to file tax return or to pay tax) is amended by adding at the end thereof the following new subsection:

"(h) TREATMENT OF RETURNS PREPARED BY SECRETARY UNDER SECTION 6020(b).—In the case of any return made by the Secretary under section 6020(b)—

"(1) such return shall be disregarded for purposes of determining the amount of the addition under paragraph (1) of subsection (a), but

"(2) such return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition under paragraphs (2) and (3) of subsection (a)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply in the case of any return the due date for which (determined without regard to extensions) is after the date of the enactment of this Act.

SEC. 5803. RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS.

(a) IN GENERAL.—Subsection (b) of section 7805 (relating to rules and regulations) is amended to read as follows:

"(b) RETROACTIVITY OF REGULATIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any temporary or proposed regulation issued by the Secretary shall apply prospectively from the date of publication of such regulation in the Federal Register.

"(2) PREVENTION OF ABUSE.—The Secretary may provide that any temporary or proposed regulation may apply retroactively to prevent abuse of the statute to which the regulation relates.

"(3) CORRECTION OF PROCEDURAL DEFECTS.—The Secretary may provide that any temporary or proposed regulation may apply retroactively to correct a procedural defect in the issuance of any prior regulation.

"(4) CONGRESSIONAL AUTHORIZATION.—The prospective only treatment of paragraph (1) may be superseded by a legislative grant from Congress authorizing the Secretary to prescribe the effective date with respect to a statutory provision.

"(5) ELECTION TO APPLY RETROACTIVELY.—The Secretary may provide for any taxpayer to elect to apply any temporary or proposed regulation retroactively from the date of publication of such regulation in the Federal Register.

"(6) APPLICATION TO FINAL REGULATIONS.—The Secretary may provide that any final regulation relating to any temporary or proposed regulation take effect from the date of publication of such temporary or proposed regulation in the Federal Register."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendment made by this section shall apply with respect to—

(A) any temporary or proposed regulation published on or after February 20, 1992, and

(B) any temporary or proposed regulation published before February 20, 1992, and published as a final regulation after such date.

(2) REGULATIONS RELATING TO EXCHANGE RATES.—The amendment made by this section shall not apply to any regulation issued pursuant to paragraph (1)(C) or (3) of section 986(a), as added by section 4421.

SEC. 5804. REQUIRED NOTICE OF CERTAIN PAYMENTS.

If any payment is received by the Secretary of the Treasury or the Secretary's delegate (hereafter in the section referred to as the "Secretary") from any taxpayer and the Secretary cannot associate such payment with any outstanding tax liability of such taxpayer, the Secretary shall make reasonable efforts to notify the taxpayer of such inability within 60 days after the receipt of such payment.

SEC. 5805. UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

(a) IN GENERAL.—Part I of chapter 75 of subtitle F (relating to crimes, other offenses, and forfeitures) is amended by adding at the end thereof the following section:

"SEC. 7217. UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE.

"Any officer or employee of the United States who willfully defers or offers to defer, or forgives or offers to forgive, the determination or collection of any tax due from an attorney, certified public accountant, or enrolled agent representing a taxpayer, in exchange for information concerning such taxpayer, shall be guilty of a felony, and upon conviction thereof, shall be fined not more than $5,000, or imprisoned not more than 5 years, or both, together with the costs of the prosecution."

(b) CLERICAL AMENDMENT.—The table of sections for part I of chapter 75 of subtitle F is amended by adding at the end thereof the following new item:

"Sec. 7217. Unauthorized enticement of information disclosure."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to actions after the date of the enactment of this Act.

Subtitle J—Form Modifications; Studies

SEC. 5900. DEFINITIONS.

For purposes of this subtitle:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Treasury or his delegate.

(2) 1986 CODE.—The term "1986 Code" means the Internal Revenue Code of 1986.

(3) TAX-WRITING COMMITTEES.—The term "tax-writing Committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

PART I—FORM MODIFICATIONS

SEC. 5901. EXPLANATION OF CERTAIN PROVISIONS.

(a) GENERAL RULE.—The Secretary shall take such actions as may be appropriate to ensure that taxpayers are aware of the provisions of the 1986 Code permitting payment of tax in installments, extensions of time for payment of tax, and compromises of tax liability. Such actions shall include revising the instructions for filing income tax returns so that such instructions include an explanation of—

(1) the procedures for requesting the benefits of such provisions, and

(2) the terms and conditions under which the benefits of such provisions are available.

(b) COLLECTION NOTICES.—In any notice of an underpayment of tax or proposed underpayment of tax sent by the Secretary to any taxpayer, the Secretary shall include a notification of the availability of the provisions of sections 6159, 6161, and 7122 of the 1986 Code.

SEC. 5902. IMPROVED PROCEDURES FOR NOTIFYING SERVICE OF CHANGE OF ADDRESS OR NAME.

The Secretary shall provide improved procedures for taxpayers to notify the Secretary of changes in names and addresses. Not later than December 31, 1992, the Secretary shall institute procedures for timely updating all Internal Revenue Service records with change-of-address information provided to the Secretary by taxpayers.

SEC. 5903. RIGHTS AND RESPONSIBILITIES OF DIVORCED INDIVIDUALS.

The Secretary shall include in the Internal Revenue Service publication entitled "Your Rights As A Taxpayer" a section on the rights and responsibilities of divorced individuals.

PART II—STUDIES

SEC. 5911. PILOT PROGRAM FOR APPEAL OF ENFORCEMENT ACTIONS.

(a) GENERAL RULE.—The Secretary shall establish a 1-year pilot program for appeals of enforcement actions (including lien, levy, and seizure actions) to the Appeals Division of the Internal Revenue Service—

(1) where the deficiency was assessed without actual knowledge of the taxpayer,

(2) where the deficiency was assessed without an opportunity for administrative appeal, and

(3) in other appropriate circumstances.

(b) REPORT.—Not later than December 31, 1992, the Secretary shall submit to the tax-writing Committees a report on the pilot program established under subsection (a), together with such recommendations as he may deem advisable.

SEC. 5912. STUDY ON TAXPAYERS WITH SPECIAL NEEDS.

(a) GENERAL RULE.—The Secretary shall conduct a study on ways to assist the elderly, physically impaired, foreign-language speaking, and other taxpayers with special needs to comply with the internal revenue laws.

(b) REPORT.—Not later than December 31, 1992, the Secretary shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

SEC. 5913. REPORTS ON TAXPAYER-RIGHTS EDUCATION PROGRAM.

Not later than August 1, 1992, the Secretary shall submit a report to the tax-writing Committees on the scope and content of the Internal Revenue Service's taxpayer-rights education program for its officers and employees. Not later than December 31, 1992, the Secretary shall submit a report to the tax-writing Committees on the effectiveness of the program referred to in the preceding sentence.

SEC. 5914. BIENNIAL REPORTS ON MISCONDUCT BY INTERNAL REVENUE SERVICE EMPLOYEES.

During December of 1992 and during December of each second calendar year thereafter, the Secretary shall report to the tax-writing Committees on all cases involving complaints about misconduct of Internal Revenue Service employees and the disposition of such complaints.

SEC. 5915. STUDY OF NOTICES OF DEFICIENCY.

(a) GENERAL RULE.—The Comptroller General shall conduct a study on—

(1) the effectiveness of current Internal Revenue Service efforts to notify taxpayers with regard to tax deficiencies under section 6212 of the 1986 Code,

(2) the number of registered or certified letters and other notices returned to the Internal Revenue Service as undeliverable,

(3) any follow-up action taken by the Internal Revenue Service to locate taxpayers who did not receive actual notice,

(4) the effect that failures to receive notice of such deficiencies have on taxpayers, and

(5) recommendations to improve Internal Revenue Service notification of taxpayers.

(b) REPORT.—Not later than December 31, 1992, the Comptroller General shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

SEC. 5916. NOTICE AND FORM ACCURACY STUDY.

(a) GENERAL RULE.—The Comptroller General shall conduct annual studies of the accuracy of 25 of the most commonly used Internal Revenue Service forms, notices, and publications. In conducting any such study, the Comptroller General shall examine the suitability and usefulness of Internal Revenue Service telephone numbers on Internal Revenue Service notices and shall solicit and consider the comments of organizations representing taxpayers, employers, and tax professionals.

(b) REPORTS.—The Comptroller General shall submit to the tax-writing Committees a report on each study conducted under subsection (a), together with such recommendations as he may deem advisable. The first such report shall be submitted not later than December 31, 1992.

SEC. 5917. INTERNAL REVENUE SERVICE EMPLOYEES' SUGGESTIONS STUDY.

(a) GENERAL RULE.—The Comptroller General shall conduct a study of the Internal Revenue Service employee-suggestion programs. Such study shall include a review of the suggestions which were accepted and rewarded by the Internal Revenue Service, an analysis as to how many of the suggestions were implemented, and an analysis of why other suggestions were not implemented.

(b) REPORT.—Not later than December 31, 1992, the Comptroller General shall submit to the tax-writing Committees a report on the study conducted under subsection (a), together with such recommendations as he may deem advisable.

TITLE VI—HEALTH CARE OF COAL MINERS

SEC. 6001. SHORT TITLE.

This title may be cited as the "Coal Industry Retiree Health Benefit Act of 1992".

SEC. 6002. FINDINGS AND DECLARATION OF POLICY.

(a) FINDINGS.—The Congress finds that—

(1) coal provides a significant portion of the energy used in the United States;

(2) the production, transportation and use of coal affects interstate and foreign commerce and the national public interest;

(3) a significant portion of the national work force has been employed in the production of coal for interstate and foreign commerce and in the national interest;

(4) the Government of the United States has regulated the coal industry, employment in the industry, and the provision of retirement benefits within the industry;

(5) the continued well-being and security of employees, retirees and their dependents within the coal industry are directly affected by the provision of health benefits to retirees and their dependents;

(6) for many decades, the provision of adequate health care for retirees has been an essential element in maintaining a stable and strong coal industry as an important component in a strong United States economy;

(7) an important element in the privately maintained benefit plans now experiencing financial difficulty has been the provision of health benefits for retirees of companies no longer in business; and

(8) withdrawals of contributing employers from privately maintained benefit plans under collective bargaining agreements derived from an agreement with the United States, covering retirees within the coal industry, result in substantially increased funding burdens for employers that continue to contribute to such plans, adversely affect labor-management relations and the stability and strength of the coal industry, and impair the provision of health care to retirees.

(b) ADDITIONAL FINDINGS.—The Congress further finds that—

(1) it is necessary to modify and reform the current private benefit plan structure for retirees within the coal industry in order to stabilize the provision of health care benefits to such retirees; and

(2) it is necessary to supplement the current private benefit plan structure with a benefit protection program that will assure continued funding and contain program costs.

(c) DECLARATION OF POLICY.—It is hereby declared to be the policy of this title—

(1) to remedy problems that discourage the provision, funding, and delivery of health care to coal industry retirees;

(2) to provide reasonable protection for the health benefits of coal industry retirees;

(3) to require use of state-of-the-art cost containment and managed care measures as part of the overall package of health care delivery and financing; and

(4) to provide a financially self-sufficient program for the provision of retiree health benefits in the coal industry.

SEC. 6003. COAL INDUSTRY HEALTH BENEFITS PROGRAM.

(a) IN GENERAL.—The Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subtitle:

"Subtitle J—Coal Industry Health Benefits

"CHAPTER 99. Coal industry health benefits.

"CHAPTER 99—COAL INDUSTRY HEALTH BENEFITS

"SUBCHAPTER A. Coal Industry Retiree Health Benefits Corporation.
"SUBCHAPTER B. Eligibility for and payment of benefits.
"SUBCHAPTER C. Other provisions.

"Subchapter A—Coal Industry Retiree Health Benefit Corporation

"Sec. 9701. Establishment of the Corporation.
"Sec. 9702. Directors of Corporation.
"Sec. 9703. Powers; tax status.
"Sec. 9704. Operation of Corporation.

"SEC. 9701. ESTABLISHMENT OF THE CORPORATION.

"There is hereby created the Coal Industry Retiree Health Benefit Corporation (hereafter in this chapter referred to as the 'Corporation'), which shall be a governmental body corporate under the direction of a board of directors. Within the limitations of law and regulation, the board of directors shall determine the general policies that govern the operations of the Corporation. The principal office of the Corporation shall be in the District of Columbia or at any other place determined by the Corporation.

"SEC. 9702. DIRECTORS OF CORPORATION.

"(a) APPOINTMENT.—The board of directors of the Corporation shall consist of 5 persons, who shall be appointed by the Secretary of Labor. The board shall at all times have the following as members:

"(1) 2 persons from employers in the coal-mining industry (only 1 of whom shall be from an entity that is or was a settlor of a plan described in section 404(c));

"(2) 1 person from an organization that represents coal industry employees (and that is or was a settlor of a plan described in section 404(c));

"(3) 1 person from another labor organization representing employees (whether or not in the coal industry); and

"(4) 1 other person who shall serve as the chairman.

"(b) TERMS OF OFFICE, SUCCESSORS.—Each director shall be appointed for a term of 3 years, except for the initial term. The initial terms of the directors shall be as follows:

"Coal industry employee representative .... *(section 404(c) settlor)*	*4 years*
"Coal-mining industry employer .... *(section 404(c) settlor)*	*3 years*
Other employee representative	*3 years*
Other coal-mining industry employer	*2 years*
Chairman	*1 year.*

A vacancy on the board shall be filled in the same manner as the original appointment was made. Any director appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor was appointed shall be appointed for the remainder of such term. A director may serve after the expiration of a term until a successor has taken office.

"(c) QUORUMS.—Vacancies on the board shall not impair the powers of the board to execute the functions of the Corporation so long as there are 3 members in office. The presence of 3 members shall constitute a quorum for the transaction of the business of the board.

"(d) INDEPENDENT AUDIT.—The Corporation shall annually employ an independent certified or licensed public accountant who shall examine and audit the books and financial transactions of the Corporation. The Corporation shall, not later than June 30 of each year, submit to the Congress a report describing the activities of the Corporation under this chapter.

"(e) ADOPTION OF BYLAWS; AMENDMENT; ALTERATION; PUBLICATION IN THE FEDERAL REGISTER.—As soon as practicable, but not later than 180 days after the date of the enactment of this chapter, the board shall adopt initial bylaws and rules relating to the conduct of the business of the Corporation. Thereafter, the board may alter, supplement or repeal any existing bylaw or rule, and may adopt additional bylaws and rules from time to time as may be necessary. Any bylaw or rule relating to the conduct or business of the Corporation shall be adopted in compliance with the Administrative Procedure Act, including the notice and comment provisions thereof.

"SEC. 9703. POWERS; TAX STATUS.

"(a) POWERS OF CORPORATION.—The Corporation shall have power—

"(1) to adopt, alter, and use a corporate seal;

"(2) to have succession until dissolved by Act of Congress;

"(3) to make and enforce such bylaws, rules, and regulations as may be necessary or appropriate to carry out the purposes or provisions of this chapter;

"(4) to make and perform contracts, agreements, and commitments;

"(5) to prescribe and impose fees and charges for services by the Corporation;

"(6) to settle, adjust, and compromise, and with or without consideration or benefit to the Corporation, to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Corporation;

"(7) to sue and be sued, complain and defend, in any State, Federal, or other court;

"(8) to acquire, take, hold, and own, and to deal with and dispose of any property;

"(9) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and to appoint, employ, and fix and provide for the compensation and benefits of officers, employees, attorneys, and agents;

"(10) to borrow funds from the United States Treasury for startup and operating costs;

"(11) to collect delinquent accounts; and

"(12) to execute instruments, to incur liabilities, and to do any and all other acts and things as may be necessary or incidental to the conduct of its business and the exercise of all other rights and powers granted to the Corporation by this chapter.

"(b) EXEMPTION FROM TAXATION.—The Corporation, its property, its franchise, capital, reserves, surplus, and its income (including but not limited to, any income of any fund established under section 9704(f)), shall be exempt from all taxation now or hereafter imposed by the United States (other than taxes imposed under chapter 21, relating to the Federal Insurance Contributions Act and chapter 23, relating to the Federal Unemployment Tax Act) or by any State or local taxing authority, except that any real property and any tangible personal property (other than cash and securities) of the Corporation shall be subject to State and local taxation to the same extent according to its value as other real and tangible personal property is taxed.

"(c) CORPORATION AS AGENCY.—Notwithstanding section 1349 of title 28 or any other provision of law—

"(1) the Corporation shall be deemed to be an agency included in sections 1345 and 1442 of such title 28;

"(2) all civil actions to which the Corporation is a party shall be deemed to arise under the laws of the United States, and the district courts of the United States shall have original jurisdiction of all such actions, without regard to amount or value; and

"(3) any civil or other action, case or controversy in a court of a State, or any court other than a district court of the United States, to which the Corporation is a party may at any time before the trial thereof be removed by the Corporation to the United States district court for the district and division embracing the place where the same is pending, or if there is no such district court, to the district court of the United States for the district in which the principal office of the Corporation is located, by following

any procedure for removal of causes in effect at the time of such removal. No attachment or execution shall be issued against the Corporation or any of its property before final judgment in any State, Federal, or other court.

"(d) REPORT TO CONGRESS.—No later than 1 year after the effective date of this chapter, the Corporation shall present a report to Congress on its activities, including an evaluation of the economic impact of this chapter on small coal companies and an evaluation of the effectiveness of the Corporation in achieving its goals, and recommending any changes to this chapter as it considers beneficial, including any recommended changes in premiums considered warranted to minimize any undue economic impact on small coal companies. At such time, Congress shall review the activities and operations of the Corporation.

"SEC. 9704. OPERATION OF CORPORATION.

"(a) INVESTIGATORY AUTHORITY.—

"(1) The Corporation may make such investigations as it deems necessary to enforce any provision of this chapter or any rule or regulation thereunder, and may require or permit any person to file with it a statement in writing, under oath or otherwise as the Corporation shall determine, as to all the facts and circumstances concerning the matter to be investigated.

"(2) The Corporation shall keep strictly confidential all information received relating to—

"(A) trade secrets or financial or commercial information pertaining specifically to a given person, the disclosure of which could cause competitive injury to such person, or

"(B) personnel or medical data or similar data, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy,

unless the portions containing such matters, information, or data have been excised, but may use such information to the extent necessary to enforce the premium obligation imposed under subsection (g).

"(b) DISCOVERY POWERS VESTED IN BOARD OR DESIGNATED OFFICERS.—For the purpose of any investigation described in subsection (a), or any other proceeding under this chapter, the board or any officer designated by the board, may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence and require the production of any books, papers, correspondence, memoranda or other records which the Corporation deems relevant or material to the inquiry.

"(c) CONTEMPT.—In case of contumacy by, or refusal to obey, a subpoena issued to any person, the Corporation may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on (or where such person resides or carries on business) in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda and other records. The court may issue an order requiring such person to appear before the Corporation, and to produce records or to give testimony related to the matter under investigation or in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof. All process in any such case may be served in the judicial district in which such person is an inhabitant or may be found.

"(d) COOPERATION WITH GOVERNMENTAL AGENCIES.—In order to avoid unnecessary expense and duplication of functions among government agencies, the Corporation may make such arrangements or agreements for cooperation or mutual assistance in the performance of its functions under this chapter as is practicable and consistent with law. The Corporation may utilize the facilities or services of any department, agency or establishment of the United States or of any State or political subdivision of a State, including the services of any of its employees, with the lawful consent of such department, agency or establishment. The head of each department, agency or establishment of the United States shall cooperate with the Corporation and, to the extent permitted by law, provide such information and facilities as it may request for its assistance in the performance of its functions under this chapter.

"(e) CIVIL ACTIONS.—

"(1) Civil actions may be brought by the Corporation for appropriate relief, legal or equitable or both, to enforce the provisions of this chapter.

"(2) Except as otherwise provided in this chapter, if an action is brought in a district court of the United States, it may be brought in the district where the Corporation is administered, where the violation took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.

"(3) The district courts of the United States shall have jurisdiction of actions brought by the Corporation under this chapter without regard to the amount in controversy in any such action.

"(4)(A) An action under this subsection may not be brought after the later of—

"(i) 6 years after the date on which the cause of action arose; or

"(ii) 3 years after the applicable date specified in subparagraph (B).

"(B) The applicable date specified in this subparagraph is the earliest date on which the Corporation acquired or should have acquired actual knowledge of the existence of such cause of action.

"(C) For purposes of this paragraph, in an action by the Corporation to collect premiums due under this chapter, the cause of action shall be treated as having arisen no earlier than the date on which the premium was due.

"(5) In any action brought under this chapter, whether to collect premiums, penalties (in the amount determined by the Corporation, which shall be no greater than the greater of interest on the unpaid premium or 20 percent of the amount of the unpaid premium), or interest (at the rate determined by the Corporation) or for any other purpose, in which a judgment in favor of the Corporation is awarded, the court shall award the Corporation its costs and reasonable counsel fees.

"(f) ESTABLISHMENT OF COAL INDUSTRY RETIREE BENEFIT FUND.—

"(1) Except as provided in paragraph (2), the Corporation shall establish a Coal Industry Retiree Benefit Fund (hereafter in this chapter referred to as the 'Fund'). All amounts received by the Corporation shall be deposited in the Fund, and all expenditures made by the Corporation shall be made out of the Fund.

"(2) The Corporation shall transfer to the Secretary of the Treasury for deposit in the general fund of the Treasury of the United States any portion of the premiums received under subsection (g) which are allocable to the portion of such premiums which are imposed to offset Federal revenue losses by reason of deductions being allowed under chapter 1 with respect to such premiums.

"(3) Except as otherwise provided in this chapter, the balance of the Fund shall at any time consist of the aggregate at such time of the following items:

"(A) Cash on hand or on deposit.

"(B) Amounts invested in United States Government or agency securities.

"(g) IMPOSITION OF PREMIUM PAYMENT OBLIGATION.—

"(1)(A) There is hereby imposed on each person that produces bituminous coal for use or for sale the obligation to pay to the Corporation an hourly premium equal to—

"(i) in the case of bituminous coal produced in an eastern State, the rate for each hour worked in coal production work by such person's employees determined in accordance with the following:

"In the case of calendar year	**The rate is:**
1992	$0.99
1993	$1.09
1994	$1.20
1995	$1.32
1996 or thereafter	$1.45

, or

"(ii) in the case of bituminous coal produced in a western State, 15 cents on each hour worked in coal production work by such person's employees.

"(B)(i) There is hereby imposed on bituminous coal imported to the United States, for use or for sale, a per-ton premium obligation to be paid to the Corporation. Such premium is intended to be equivalent to the premium imposed on domestically produced bituminous coal.

"(ii) The amount of the per-ton premium shall be equal to 25 percent of the hourly premium imposed pursuant to subparagraph (A).

"(iii) For purposes of this subparagraph, the term 'ton' means 2,000 pounds, and the term 'United States' means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the Outer Continental Shelf lands defined in the Outer Continental Shelf Lands Act (43 U.S.C. 1331–1343).

"(C)(i) In addition to the amounts specified in subparagraphs (A) and (B), each last signatory operator and each other employer referred to in this subparagraph shall pay to the Corporation an annual per beneficiary premium. The amount of the annual per beneficiary premium shall be the product of the total number of orphan miners, spouses, surviving spouses, and dependents (determined under section 9711) attributable to such last signatory operator or employer and the per beneficiary premium as calculated in clause (iii).

"(ii) For purposes of this subparagraph, an orphan miner (and his spouse, surviving spouse and dependents) shall be attributable—

"(I) to an employee if his employment with such employer resulted in his eligibility under section 9711(b)(1)(E); or

"(II) to a last signatory operator meeting the conditions described in section 9723(6) with respect to such orphan miner.

"(iii) The amount of the per beneficiary premium shall be determined in accordance with the following table:

"In the case of calendar year	**The premium is:**
1992	$1,646
1993	$2,512
1994	$2,878
1995	$3,295
1996 or thereafter	$3,772.

"(iv) A last signatory operator shall have no liability under this subparagraph if—

"(I) as of November 5, 1990, and for all periods thereafter, such last signatory operator, and the persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, have ceased all involvement in the mining, production, preparation, marketing, sale, distribution, transportation, leasing or licensing of coal; and

"(II) such last signatory operator, and the persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, were, in the aggregate, involved in the production of fewer than 50,000 tons of coal during *each of the 3 years immediately preceding the cessation of such involvement.*

The limitation of liability set forth in the preceding sentence shall cease to apply at any time that a last signatory operator, or any persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, ceases to meet the conditions described in subclause (I).

"(v) The annual per beneficiary premium shall be payable in equal monthly installments, due by the tenth day of each month. In no event shall a last signatory operator be obligated to pay a per beneficiary premium for an individual for any month for which the last signatory operator has paid its required assessment for such individual under section 9713(d).

"(vi) A last signatory operator shall have no liability under this subparagraph if as of January 1, 1992, such last signatory operator and the persons described in section 9723(5) (B) and (C) with respect to such last signatory operator, have ceased all involvement in the production, sale, distribution, transportation, or use in processes for producing products of the operator and such persons, of bituminous and sub-bituminous coal (other than the sale or leasing of any interest in coal reserves).

"(2)(A) In the event that a person required to make payments under paragraph (1) fails to do so, the Corporation shall assess liability against the person, based upon the Corporation's estimate of the person's liability.

"(B) No later than 90 days after the assessment of liability by the Corporation, the person may request administrative review of the Corporation's assessment, in accordance with procedures adopted by the Corporation.

"(C) Notwithstanding the pendency of administrative review of any assessment of liability, the person shall, no later than 30 days after the assessment of such liability, pay all amounts required by the assessment in accordance with any payment schedule applied by the Corporation. In the event a person fails to make such payments, all amounts owed by the person shall become immediately due and payable.

"(D) In the event the person that has made payments in accordance with subparagraph (C) is ultimately determined, in accordance with subparagraph (B), to have paid in excess of the amounts actually due, the person shall receive a refund of such excess amounts, with interest.

"(3) The Corporation shall report to the Congress before the close of any calendar year with respect to any adjustment in the amount of the premiums imposed under subparagraphs (A)(i) and (B) of paragraph (1) for the following calendar year which the Corporation determines necessary to enable the provision of benefits under section 9712. Any recommendation with respect to any adjustment shall reflect the reduction in Federal revenues by reason of deductions being allowed under chapter 1 with respect to such premiums.

"(4) Premiums owed under subparagraphs (A) and (B) of paragraph (1) shall be due on the tenth day of each calendar month immediately following the month in which the coal is produced or imported, and shall be paid to the Corporation in accordance with forms and schedules promulgated by the Corporation.

"(5) The premium obligation imposed under this section shall take effect on the date of the enactment of this chapter. Premiums paid under this section shall be deemed to be fully deductible under this title without regard to any limitation on deductibility set forth in this title.

"(6) For purposes of this subsection—

"(A) the term 'bituminous coal' means coal classified as bituminous coal according to the publication of the American Society for Testing and Materials under the title 'Standard Classification of Coals by Rank' (ASTM D 388-91a), as in effect on the date of the enactment of this chapter, and

"(B) the term "Eastern States" includes Alabama, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin; and

"(C) the term "Western States" includes Alaska, Arizona, Arkansas, California, Colorado, Hawaii, Idaho, Iowa, Kansas, Louisiana, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

"Subchapter B—Eligibility for and Payment of Benefits

"Sec. 9711. Eligibility; orphan miners.
"Sec. 9712. Payment of benefits.
"Sec. 9713. Establishment of Coal Industry 1991 Benefit Fund.
"Sec. 9714. Obligation of last signatory operator to provide benefits to retirees.
"Sec. 9715. Transition benefits; premium nonpayment; transfers between 1991 Fund and Corporation.

"SEC. 9711. ELIGIBILITY; ORPHAN MINERS.

"(a) IN GENERAL.—Any person who is an orphan miner, as defined in subsection (b), or who meets the conditions set forth in subsection (c), shall be eligible to receive benefits provided by the Corporation pursuant to section 9712, except that no person shall be eligible to receive benefits from the Corporation because of a failure to receive benefits resulting from a temporary labor dispute.

"(b) ORPHAN MINER STATUS.—For purposes of this section—

"(1) An orphan miner is any person who—

"(A)(i) as of the date of enactment of this chapter, was eligible to receive benefits as a retiree from a plan described in section 9721(d) (or, but for the enactment of this chapter, would be eligible to receive benefits as a retiree from the plan described in section 9721(d)(2)(A)), and

"(ii) is not receiving benefits as a retiree from a plan described in section 9721(d) or from the plan established pursuant to section 9713;

"(B) is not described in subparagraph (A), but was eligible to receive benefits as a retiree from the plan established pursuant to section 9713 and is not receiving benefits from such plan;

"(C)(i) is receiving a pension from the defined benefit pension plan maintained pursuant to the agreement described in section 9723(7) (other than the plan described in section 9721(c)),

"(ii) but for the enactment of this chapter, would be eligible to receive medical benefits as a retiree as of February 1, 1993, from the plan described in section 9721(d)(2)(B), and

"(iii) is not receiving medical benefits as a retiree from the plan described in section 9721(d)(2)(B) or from any other plan;

"(D)(i) is receiving a pension from the defined benefit pension plan maintained pursuant to the agreement described in section 9723(7) (other than the plan described in section 9721(c));

"(ii) as of February 1, 1993, had earned 20 years of credited service under such plan;

"(iii) is at any time after beginning to receive such pension not receiving retiree medical benefits equal to the benefits in effect as that time under the plans described in section 9712(b)(3); and

"(iv) meets the eligibility requirements for retiree medical benefits then in effect under such plans; or

"(E)(i) was eligible as a result of coal production work performed in the bituminous, sub-bituminous or lignite coal industry to receive retiree medical benefits from a health care plan that met the requirements of subparagraphs (D) and (E) of paragraph (2);

"(ii) initially ceased to receive retiree medical benefits on or after the date of enactment of this chapter, despite continued eligibility therefore;

"(iii) had been receiving such benefits from a plan that had been in existence for at least 3 years prior to the cessation of benefits; and

"(iv) was included in a category of retirees that had been eligible to receive benefits for at least 3 years prior to the cessation of benefits.

"(2) For purposes of paragraph (1)(E), the following rules shall apply:

"(A) Eligibility is continuing where benefits ceased incident to an employer's cessation of operations, but is not continuing where benefits ceased pursuant to a lawful termination or modification of a plan (under circumstances other than a cessation of operations).

"(B) In the case of any individual who has 20 years of credited service under a defined benefit pension plan maintained pursuant to the agreement described in section 9723(7), or who was otherwise eligible to receive retiree medical benefits from a single employer health care plan pursuant to a coal wage agreement, all health care plans in which such individual was a participant during a period of such credited service or during such period of eligibility shall be taken into account in determining whether the 3-year tests have been met.

"(C) In the case of an employer that established a new health care plan as a replacement for a prior plan, such prior plan shall be taken into account in determining whether the 3-year tests have been met.

"(D) A health care plan meets the requirements of this subparagraph if the employer maintaining the plan, a labor organization representing the employees of the employer, or an employee of the employer submits a copy of the plan to the Corporation within 180 days from the later of—

"(i) the date of establishment of the plan; or

"(ii) the date of enactment of this chapter.

"(E) A health care plan meets the requirements of this subparagraph if the employer maintaining the plan, a labor organization representing the employees of the employer, or an employee of the employer submits a copy of any amendment or modification to the plan to the Corporation within 180 days from the later of—

"(i) the date of such amendment or modification; or

"(ii) the date of enactment of this chapter.

"(c) ELIGIBILITY OF SPOUSES AND DEPENDENTS.—

"(1) A spouse, surviving spouse or dependent of an orphan miner or a deceased coal miner meets the conditions of this section if such individual was eligible to receive benefits from a plan described in section 9721(d) as of the date of enactment of this chapter, and is not receiving benefits from that plan or from the plan established pursuant to section 9713.

"(2) A spouse, surviving spouse or dependent of an orphan miner or a deceased coal miner meets the conditions of this section if such individual is not described in paragraph (1), but was eligible to receive benefits from the plan established pursuant to section 9713 and is not receiving benefits from such plan.

"(3) In the case of any spouse, surviving spouse or dependent of an orphan miner described in subsection (b)(1)(A) or (b)(1)(C) of this section, eligibility shall be based upon the rules set forth in the plans described in section 9721(d) as of the date of enactment of this chapter. In the case of any spouse, surviving spouse or dependent of an orphan miner described in subsection (b)(1)(D), eligibility shall be based upon the rules set forth in individual employer plans maintained pursuant to the agreement described in section 9723(7) on the date that the orphan miner first became eligible for benefits from the Corporation. In all other cases, eligi-

bility shall be based upon the rules of the plan that was or would have been applicable to the orphan miner or deceased coal miner for the 3-year period preceding eligibility for benefits from the Corporation. The Corporation is authorized to promulgate regulations consistent with this paragraph establishing the eligibility of other spouses, surviving spouses and dependents of orphan miners or deceased coal miners for health benefits.

"(d) REENROLLMENT OF ORPHAN MINERS AND BENEFICIARIES.—The Corporation and the joint board of trustees of the plan established pursuant to section 9713 shall cooperate to review the eligibility of individuals under this section. Pending such review, any individual receiving benefits from a plan described in section 9721(d) as of the date of enactment of this chapter shall be presumed to meet the first part of the eligibility tests of subsections (b)(1)(A) and (c)(1). However, no individual shall be considered eligible to receive benefits provided by the Corporation unless a determination is made that such individual in fact met or meets all eligibility requirements necessary to receive benefits as required under subsection (b) or (c). No individual shall be eligible under subsection (b)(1)(A) or (c)(1) if such individual was finally determined to be ineligible to receive benefits from a plan described in section 9721(d) prior to the date of enactment of this chapter.

"SEC. 9712. PAYMENT OF BENEFITS.

"(a) IN GENERAL.—The Corporation shall provide medical benefits to orphan miners, their spouses, surviving spouses and dependents, who meet the eligibility requirements of section 9711, and shall provide coverage for death benefits to orphan miners eligible for such benefits. The board shall establish schedules of benefits applicable to classes of orphan miners, their spouses, surviving spouses and dependents, in accordance with this section. All benefit obligations of the Corporation shall be contingent upon the continued imposition of an hourly premium payment obligation as specified in section 9704(g)(1)(A).

"(b) BENEFIT LEVELS.—

"(1) An orphan miner eligible for benefits pursuant to section 9711(b)(1)(A) or 9711(b)(1)(C) shall be entitled to benefit coverage that is substantially the same as (but not exceeding) the coverage provided by the plans described in section 9721(d) as of the date of enactment of this chapter, and shall be subject to all limitations of such coverage. Such orphan miner shall also be eligible for death benefits, which shall be equal to the death benefits provided as of the date of enactment of this chapter under the plan described in section 9721(c).

"(2) An orphan miner eligible for benefits pursuant to section 9711(b)(1)(B) or 9711(b)(1)(E) shall be entitled to a level of benefits and benefit coverage that is substantially the same as (but not exceeding) the retiree benefit coverage applicable to him immediately preceding his eligibility for benefits from the Corporation, and shall be subject to all limitations of such coverage. Notwithstanding the foregoing, the following rules shall apply:

"(A) The level of benefits and benefit coverage provided under this paragraph shall not exceed that which is provided under paragraph (1) of this subsection.

"(B) In determining the retiree benefit coverage applicable to an orphan miner for purposes of this paragraph, the Corporation shall disregard any increases or decreases in benefits or benefit coverage that were in effect for fewer than 3 years preceding the orphan miner's eligibility for benefits from the Corporation, except that—

"(i) any death benefit applicable to an orphan miner as a result of 1991 amendments to the agreement described in section 9723(7) shall not be disregarded; and

"(ii) increases or decreases in benefits or benefit coverage that were the subject of a collective bargaining agreement shall not be disregarded.

"(3) An orphan miner eligible for benefits pursuant to section 9711(b)(1)(D) shall be entitled to a level of benefits and benefit coverage equivalent to the level of benefits and benefit coverage, if any, provided under individual employer plans maintained pursuant to the agreement described in section 9723(7) on the date that the orphan miner first became eligible for benefits from the Corporation, and shall be subject to all limitations of such coverage.

"(4) An individual eligible for benefits pursuant to section 9711(c) shall be entitled to medical benefit coverage that does not exceed the medical benefit coverage that is or would have been applicable to the coal miner through whom the individual claims eligibility, and the individual shall be subject to all limitations of such coverage.

"(5) The Corporation may make increases to its schedules of benefits that are desirable for efficiency of administration, except that such adjustments to benefits may not result in an increase in cost to the Corporation or an increase in any premium under section 9704(g).

"(c) MANDATORY MANAGED CARE.—The Corporation shall develop managed care rules which shall be applicable to the payment of benefits under this section. The rules shall preserve freedom of choice while reinforcing managed care network use by allowing a point of service decision as to whether a network medical provider will be used. Major elements of such rules shall include, but not be limited to—

"(1) implementing formulary for drugs and subjecting the prescription program to a rigorous review of appropriate use;

"(2) obtaining a unit price discount in exchange for patient volume and preferred provider status, with the amount of the potential discount varying by geographic region;

"(3) limiting benefit payments to physicians to the medicare allowable charge, while protecting beneficiaries from balance billing by providers;

"(4) utilizing Medicare's 'appropriateness of service' protocols in the claims payment function where they are more stringent;

"(5) creating mandatory utilization review (UR) procedures, but placing the responsibility to follow such procedures on the physician or hospital, not the beneficiaries;

"(6) selecting the most efficient physicians and state-of-the-art utilization management techniques, including ambulatory care techniques, for medical services delivered by the managed care network; and

"(7) utilizing a managed care network provider system as practiced in the health care industry at the time medical services are needed (point-of-service) in order to receive maximum benefits available under this section.

Any managed care or cost containment program shall have as its primary goal the provision of quality medical care. In no event shall any such program result in the reduction of the quality of care provided to participants and beneficiaries consistent with sound medical practice.

"(d) EFFECTIVE DATE.—Benefits shall be payable under this section as of January 1, 1992. Pursuant to section 9715, the Corporation shall pay the trustees of the plans described in section 9721(d) and the plan established pursuant to section 9713 for all benefit and administrative costs expended with respect to eligible orphan miners, spouses, surviving spouses and dependents, from the effective date to the date that such individuals are transferred to the Corporation.

"(e) ELECTIVE COVERAGE.—

"(1) An employer may elect to provide retirement health coverage to its employees by meeting the following conditions:

"(A) The employer must employ workers in the coal industry.

"(B) The employer agrees to pay an annual premium, as determined by the Corporation, sufficient to provide retirement health coverage to all of its employees who perform classified work as determined under the agreement described in section 9723(7), or any successor agreement, who have worked a total of 20 years, including both service with that employer, service for any other employer described in this subsection, and service for any other employer that is credited for purposes of eligibility by a plan described in section 404(c).

"(C) The employer is not currently obligated by a collective bargaining agreement to make contributions to the plan established pursuant to section 9713.

"(D) The employer's election, once made, is irrevocable.

"(2) Upon the retirement of an employee of an employer described in paragraph (1), with 20 or more years of service, upon such terms and conditions as established by the Corporation, such employee and his or her dependents shall receive benefits, upon such terms and conditions as determined by the Corporation.

"SEC. 9713. ESTABLISHMENT OF UNITED MINE WORKERS OF AMERICA 1991 BENEFIT FUND.

"(a) MERGER OF RETIREE BENEFIT PLANS.—

"(1) As soon as practicable after the enactment of this chapter, and in no event later than 60 days, the settlors of the plans described in section 9721(d) shall cause such plans to be merged, and shall appoint a joint board of trustees to manage the operation and administration of the merged plan. The merged plan shall be known as the United Mine Workers of America 1991 Benefit Fund (hereinafter referred to as the '1991 Fund'). The 1991 Fund shall be an employee welfare benefit plan within the meaning of section 3(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(1)) and a multiemployer plan within the meaning of section 3(37) of such Act (29 U.S.C. 1002(37)).

"(2) The settlors shall design the structure and administration of the 1991 Fund. The settlors may at any time and for any reason change the number and identity of the members comprising the board of trustees of the 1991 Fund.

"(b) ELIGIBILITY.—

"(1) The following individuals shall be eligible to receive benefits from the 1991 Fund:

"(A) Any individual who, as of the date of enactment of this chapter, was eligible to receive benefits from the plan described in section 9721(d)(2)(A) (or who, but for the enactment of this chapter, would be eligible for benefits from such plan), and with respect to whom the last signatory operator is and remains signatory to an agreement that is described in section 9723(7) or that contains provisions relating to pension and health care benefits that are the same as those contained in such agreement.

"(B) Any individual who retired from classified employment under an agreement that is described in section 9723(7) or that contains provisions relating to pension and health care benefits that are the same as those contained in such agreement, and any spouse, surviving spouse or dependent of such retiree, with respect to whom the last signatory operator makes an election prior to February 1, 1993, to pay premiums to the 1991 Fund for such benefits and is and remains signatory to an agreement that is described in section 9723(7) or that contains provisions relating to pension and health care benefits that are the same as those contained in such agreement. Any election made pursuant to this subparagraph must cover, at a minimum, all of the last signatory operator's retirees who retired from classified employment as of February 1, 1993.

"(2) No individual shall be eligible under subparagraph (A) of paragraph (1) unless the joint board of trustees of the 1991 Fund determines that such individual in fact met all eligibility requirements of the plan described in section 9721(d)(2)(A) as of the date of enactment of this chapter. Any individual who was finally determined to have been ineligible for benefits from a plan described in section 9721(d)(2)(A) prior to such date of enactment shall be ineligible under subparagraph (A) of paragraph (1).

"(c) BENEFITS.—

"(1) Except as otherwise provided in this subsection, health care benefits provided under the 1991 Fund shall be identical to the benefits provided under the plans described in section 9721(d). The 1991 Fund shall provide coverage for death benefits to retirees, equal to the death benefits provided under the plan described in section 9721(c).

"(2) The joint board of trustees of the 1991 Fund shall develop managed care rules, subject to section 9714(b), which shall be applicable to the payment of benefits under this section. The rules shall preserve freedom of choice while reinforcing managed care network use by allowing a point of service decision as to whether a network medical provider will be used. The board of trustees shall permit any last signatory operator subject to section 9714 to utilize the managed care and cost containment rules and programs developed pursuant to this paragraph, at the election of such last signatory operator. Major elements of such rules shall include, but not be limited to—

"(A) implementing formulary for drugs and subjecting the prescription program to a rigorous review of appropriate use;

"(B) obtaining a unit price discount in exchange for patient volume and preferred provider status, with the amount of the potential discount varying by geographic region;

"(C) limiting benefit payments to physicians to the medicare allowable charge, while protecting beneficiaries from balance billing by providers;

"(D) utilizing medicare's 'appropriateness of service' protocols in the claims payment function where they are more stringent;

"(E) creating mandatory utilization review (UR) procedures, but placing the responsibility to follow such procedures on the physician or hospital, not the beneficiaries;

"(F) selecting the most efficient physicians and state-of-the-art utilization management techniques, including ambulatory care techniques, for medical services delivered by the managed care network; and

"(G) utilizing a managed care network provider system as practiced in the health care industry at the time medical services are needed (point-of-service) in order to receive maximum benefits available under this section.

Any managed care or cost containment program shall have as its primary goal the provision of quality medical care. In no event shall any such program result in the reduction of the quality of care provided to participants and beneficiaries consistent with sound medical practice.

"(d) ASSESSMENTS.—

"(1) As of November 30 of each plan year, the joint board of trustees of the 1991 Fund shall set a monthly assessment for each person required to pay assessments pursuant to paragraph (2). The monthly assessment for each such person shall be equal to 1/12 of the product of—

"(A) the projected cost of operating the 1991 Fund during the succeeding plan year (less any assets received from a plan described in section 9721(c) and any other surplus assets) divided by the number of participants and beneficiaries for the current plan year; and

"(B) the projected number of the 1991 Funds' eligible participants and beneficiaries attributable to such person, determined as of the nearest November 1.

In projecting the cost of operating the 1991 Fund, the board of trustees shall take into account the anticipated benefit experience and administrative expenses of the 1991 Fund as a whole, and amounts needed to eliminate any accumulated deficit. The monthly assessment determined under this paragraph shall be verified by an independent auditor, and shall continue in effect for each month of the succeeding plan year, except that the joint board of trustees shall determine a monthly assessment for any new contributor or other person for whom a monthly assessment has not been established, and a revised monthly assessment for any last signatory operator that makes the election described in subsection (b)(1)(B) and with respect to which new participants and beneficiaries become eligible for benefits. Any new monthly assessment or revised monthly assessment shall be based upon the number of projected participants and beneficiaries attributable to the contributor as of the date the new or revised assessment is made. Each person required to pay assessments pursuant to paragraph (2) shall continue to pay to the plans described in section 9721(d) the contributions required under the applicable coal wage agreement, until the first month for which the assessment described in this paragraph in set. In no event shall a person required to pay assessments pursuant to paragraph (2) be required to make any payment to the 1991 Fund for the same period for which a contribution to a plan described in section 9721(d) is required.

"(2) Each last signatory operator with respect to any person described in subsection (b)(1)(A), and each last signatory operator with respect to any person described in subsection (b)(1)(B) that has agreed to provide benefits coverage through the 1991 Fund, shall pay to the 1991 Fund for each month the assessment determined by the joint board of trustees pursuant to paragraph (1). The assessments paid under this section shall be deemed to be fully deductible under this title without regard to any limitation on deductibility set forth in this title.

"(3) Either of the settlors shall have the right to audit the accounts, books and records, and operation of the 1991 Fund, at any time and for any reason, upon reasonable notice to the joint board of trustees. The joint board of trustees shall cooperate fully with the settlors in connection with any such audit and shall make available appropriate personnel and records deemed necessary by the auditors for inspection and copying at reasonable times and places.

"(4) Each last signatory operator obligated to pay assessments to the 1991 Fund pursuant to paragraph (2) shall be bound by all of the provisions of the plan and trust documents establishing and governing the 1991 Fund.

"(5) As of the date any assessment owed under this subsection is due, the persons described in section 9723(5) (B) or (C) with respect to any last signatory operator shall be treated as such last signatory operator and shall be jointly and severally liable for such assessment.

"(e) EXCLUSIVE OBLIGATION.—Except as provided in this chapter, no employer that was a signatory to the 1978 or any subsequent coal wage agreement and that had an obligation to provide health care benefits to coal mine retirees shall be obligated to provide benefits to individuals covered by the plans described in section 9721(d), or to make contributions to any plan described in section 9721(d), or to the 1991 Fund, with respect to work performed or coal mined after the date of enactment of this chapter, or to pay withdrawal liability to a plan described in section 9721(d) as a result of the change in the contribution obligation required by this chapter.

"SEC. 9714. OBLIGATION OF LAST SIGNATORY OPERATOR TO PROVIDE BENEFITS TO RETIREES.

"(a) DURATION OF OBLIGATION.—The last signatory operator of any individual receiving retiree health care benefits as of February 1, 1993 (including retiree, spouse, surviving spouse and dependent benefits) from an individual employer plan maintained pursuant to a coal wage agreement (or who has applied for such benefits as of February 1, 1993, and has met every eligibility requirement for such benefits as of such date) shall provide retiree health care benefits to such individual equal to the benefits required to be provided by such last signatory operator's individual employer plan as of January 1, 1992, as limited by any managed care or cost containment rules of the type described in sections 9712(c) and 9713(c)(2), and subject to subsection (b), for as long as the last signatory operator remains in business. The existence, level and duration of benefits provided to a last signatory operator's former employees (and their spouses, surviving spouses and dependents), other than those described in this subsection, who are or were covered by a coal wage agreement, shall only be as determined by and subject to collective bargaining or lawful unilateral action, except that this subsection shall not be construed to impair the eligibility of any individual described in section 9711(b)(1)(D) for the benefit coverage described in section 9712(b)(3).

"(b) MANAGED CARE PROVIDER SYSTEM QUALITY CONTROL.—Any managed care provider system adopted by a last signatory operator as permitted under subsection (a), or by the joint board of trustees of the 1991 Fund, pursuant to section 9713(c)(2), shall be subject to the following requirements of this subsection:

"(1) The settlors shall establish a medical peer review panel, which shall determine standards of quality for managed care provider systems. Standards of quality shall include accessibility to medical care, taking into account that accessibility requirements may differ depending upon the nature of the medical need. Each settlor shall have the power to appoint and remove 2 individuals who shall serve on the panel. A panel member shall be either a medical practitioner knowledgeable in managed care, or an individual who is expert in managed care.

"(2) Each last signatory operator and the joint board of trustees of the 1991 Fund shall submit a description of any managed care provider system to the panel prior to implementation of the system, and shall, on the same date or prior to such submission, provide notice of the submission to the participants of the affected employee benefit plan or plans. The last signatory employer or the joint board of trustees may implement the proposed system on a provisional basis on or after the 120th day after the submission to the panel, unless the panel issues a preliminary determination that the system has not been shown to meet the requisite standards. The requirements of this paragraph shall not apply to a last signatory operator electing to utilize the managed care provider system established by the 1991 Fund if the panel has issued a favorable determination for such system.

"(3)(A) Upon receipt of a submission by a last signatory operator or by the joint board of trustees, the panel shall conduct a preliminary examination of the managed care provider system. In the event that the preliminary review reveals a failure to show compliance with established standards such that provisional implementation by a last signatory operator or by the joint board of trustees may be detrimental to participants subject to the system, the panel shall, within 120 days of the submission, issue a preliminary determination that the system has not been shown to meet the requisite standards.

"(B) Within 240 days from the date of any submission, the panel shall issue a final deter-

mination of whether the system has been shown to meet the established standards of quality. In the event of a negative determination, the panel shall list specific steps that may be taken by the last signatory operator or by the joint board of trustees to qualify the system under the established standards.

"(C) The first-named settlor in section 9723(8) shall have the authority to review submissions made under paragraph (2), and to designate the order in which such submissions shall be considered by the panel.

"(D) In the event that the members of the panel deadlock on a determination to be made under this paragraph, they shall, by majority vote, appoint a neutral person, who would be qualified to serve as a panel member, to break such deadlock.

"(4) In the event of a negative determination by the panel, the last signatory operator shall have the options described in subparagraph (A), (B), or (C), and the joint board of trustees shall have the options described in subparagraphs (A) and (B):

"(A) implementing the specific steps outlined by the panel pursuant to paragraph (3);

"(B) consistent with the requirements of this subsection, establishing a new managed care provider system that meets the requisite standards; or

"(C) electing to utilize the managed care provider system established by the 1991 Fund if the panel has issued a favorable determination for such system.

"(5) The panel shall develop rules for the periodic review of determinations made, except that reviews shall be no more frequent than once every 3 years; and for the reconsideration of any prior determination upon a showing that the managed care provider system does not or has ceased to meet the established standards. The panel may take into account written complaints received from affected participants and beneficiaries, but the authority of the panel shall be limited to determining the continued qualification of a managed care provider system under the established standards, and shall not extend to resolving claims of medical malpractice or any other issue.

"(6) The panel shall withhold from all persons not connected with the conduct of a reconsideration or review described in paragraph (5) (other than the first-named settlor in section 9723(8) all information relating to the subject of any written complaint received by an affected participant or beneficiary; and may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceedings to identify such information. Notwithstanding the foregoing, the panel shall provide the last signatory operator or the joint board of trustees of the 1991 Fund with a copy of any written complaint relating to a managed care provider system maintained by such last signatory operator or joint board of trustees.

"(7)(A) The panel, any person acting as a member or staff to the panel, any person under a contract or other formal agreement with the panel, and any person who participates with or assists the panel with respect to any action taken pursuant to this subsection, shall not be liable in damages under any law of the United States or of any State (or political subdivision thereof) with respect to the action. The preceding sentence shall not apply to damages under any law of the United States or any State relating to the civil rights of any person or persons, including the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) and the Civil Rights Acts (42 U.S.C. 1981 et seq.). Nothing in this subparagraph shall prevent the United States or any attorney general of a State from bringing an action, where such an action is otherwise authorized.

"(B) Notwithstanding any other provision of law, no person (whether as a witness or otherwise) providing information to the panel regarding the competence or professional conduct of a physician shall be held, by reason of having provided such information, to be liable in damages under any law of the United States or of any State (or political subdivision thereof) unless such information is false and the person providing it knew that such information was false.

"(8) The joint board of trustees of the 1991 Fund and each last signatory operator that makes a submission pursuant to subsection (b)(2) shall be liable for reasonable fees assessed by the panel in connection with the review of managed care provider systems.

"(c) SATISFACTION OF OBLIGATIONS.—Subject to the provisions of sections 9711 and 9713, the obligations of a last signatory operator under this section may be satisfied for any period with respect to any individual by payment of the required assessment under section 9713(d) or the premium under section 9704(g)(1)(C), or by the provision of the required benefits under an individual employer plan.

"(d) CONTROL GROUP LIABILITY.—As of the date that any benefit obligation owed pursuant to this section is due, the persons described in section 9723(5) (B) and (C) with respect to any last signatory operator shall be treated as such last signatory operator, and shall be jointly and severally liable for such benefit obligation.

"SEC. 9715. TRANSITION BENEFITS; PREMIUM NONPAYMENT; TRANSFERS BETWEEN 1991 FUND AND CORPORATION.

"(a) PAYMENT OF BENEFITS TO ORPHAN MINERS.—The plans described in section 9721(d) and the 1991 Fund shall continue to provide benefits to orphan miners, spouses, surviving spouses and dependents described in section 9711 (b) and (c), until the end of the second month beginning after the effective date of section 9712(d). Such orphan miners, spouses, surviving spouses and dependents shall be transferred to the Corporation as of the first day of the third month following the effective date of section 9712(d). The defined benefit pension plans maintained pursuant to the agreement described in section 9723(7) shall, on behalf of the Corporation and the 1991 Fund, continue to provide death benefits to orphan miners described in section 9711(b) and to retirees described in section 9713(b)(1) until the end of the second month beginning after the effective date of section 9712(d). Such pension plans shall have no liability for death benefits for the orphan miners described in section 9711(b), or for the retirees described in section 9713(b)(1), as of the first day of the third month following the effective date of section 9712(d). The Corporation may elect to pay the plans described in section 9721(d), the 1991 Fund, or the defined benefit pension plans maintained pursuant to the agreement described in section 9723(7) to continue to provide transition benefits after the end of the second month beginning after the effective date of section 9712(d), and for a period not to exceed 6 months. If the Corporation so elects, it shall pay such plans all amounts necessary to enable the provision of benefits and to cover all costs of administration associated with the provision of benefits. The schedule for such payments shall be determined by the boards of trustees of the plans, and may require advance payments. Amounts paid pursuant to this subsection shall not be included in the amounts to be reimbursed pursuant to subsection (b).

"(b) REIMBURSEMENT OF COST FOR TRANSITION BENEFITS.—No later than the first day of the fourth month after the effective date of section 9712(d), the Corporation shall reimburse the plans described in section 9721(d) and the 1991 Fund, with interest, for the amounts of benefits paid and administrative expenses incurred pursuant to subsection (a). No later than the first day of the fourth month after the effective date of section 9712(d), the Corporation and the 1991 Fund shall reimburse the defined benefit pension plans maintained pursuant to the agreement described in section 9723(7), with interest, for the amount of death benefits paid and administrative expenses incurred pursuant to subsection (a).

"(c) ACCESS TO RECORDS.—The joint boards of trustees of the plans described in section 9721(d) and the 1991 Fund shall share with the Corporation all records, files and documents related to the orphan miners, spouses, surviving spouses and dependents transferred to the Corporation, to the extent necessary for the Corporation to administer the payment of benefits to such individuals.

"(d) PREMIUM NONPAYMENT.—

"(1) No individual shall be eligible for benefits from the 1991 Fund during any month for which the assessments required under section 9713(d) have not been paid by such individual's last signatory operator. Such individual shall be immediately eligible to receive benefits from the Corporation and the Corporation shall have a cause of action against such individual's last signatory operator for the per beneficiary premium imposed under section 9704(g)(1)(C).

"(2) The 1991 Fund shall continue to treat an individual described in paragraph (1) as if he or she were eligible for benefits until the end of the third month for which an assessment due has not been paid. If the last signatory operator with respect to such individual has not paid its assessments due by the end of such month (with such interest and liquidated damages imposed by the board of trustees in their discretion, up to the amounts provided in section 9722(d)(2) (B) and (C)), the 1991 Fund shall notify the Corporation that the individual is transferred to the Corporation pursuant to paragraph (1), and the Corporation shall reimburse the 1991 Fund, with interest, for any benefits paid to or on behalf of such individual for all months for which assessments have not been paid.

"Subchapter C—Other Provisions

"Sec. 9721. Determination and disposition of excess assets.
"Sec. 9722. Civil enforcement.
"Sec. 9723. Definitions.
"Sec. 9724. Sham transactions.

"SEC. 9721. DETERMINATION AND DISPOSITION OF EXCESS PENSION ASSETS.

"(a) DETERMINATION OF EXCESS PENSION ASSETS.—

"(1) Within 30 days after the enactment of this chapter, the joint board of trustees of the plan described in subsection (c) shall, through the independent actuaries of the plan, calculate the amount of the excess pension assets. The trustees of the plan described in subsection (c) shall recalculate the excess pension assets at any time that they are directed to do so by the settlors.

"(2) Immediately following the calculation (or recalculation) of the excess pension assets, the trustees of the plan described in subsection (c) shall segregate the excess pension assets from the remaining assets of such plan. The segregated excess pension assets (including all earnings thereon) shall be held in the plan until disbursed pursuant to subsection (b).

"(b) DISPOSITION OF EXCESS PENSION ASSETS.—Notwithstanding any other provision of law, the excess pension assets (including all earnings thereon) shall be expended in the following order:

"(1) Fifty million dollars shall be added to the general assets of the Corporation.

"(2) The deficits in the plans described in subsection (d) as of the date of enactment of this chapter shall be reduced to zero.

"(3) Fifty million dollars shall be added to the general assets of the 1991 Fund.

"(4) The remainder of the excess pension assets, if any, shall be added to the general assets of the 1991 Fund, at such times and in such amounts as may be directed by the settlors.

"(c) PLAN CONTAINING EXCESS PENSION ASSETS.—A plan is described in this subsection if it is a pension plan and—

"(1) it is a plan described in section 404(c) or a continuation thereof; and

"(2) participation in the plan is substantially limited to individuals who retired prior to January 1, 1976.

"(d) RELATED WELFARE PLANS.—A plan is described in this subsection if—

"(1) it is a plan described in section 404(c) or a continuation thereof; and

"(2) it provides health benefits to retirees and beneficiaries of the industry which maintained the plan described in subsection (c); and

"(A) participation in the plan is substantially limited to individuals who retired prior to January 1, 1976; or

"(B) participation in the plan is substantially limited to individuals who retired on or after January 1, 1976.

"(e) TAX TREATMENT, VALIDITY OF TRANSFER OF EXCESS PENSION ASSETS.—

"(1) No deduction shall be allowed under this title with respect to the expenditure of excess pension assets pursuant to subsection (a), but such transfer shall not adversely affect the deductibility (under applicable provisions of this title) of contributions previously made by employers or amounts hereafter contributed by employers to the plans described in subsection (c) or (d), or to the 1991 Fund.

"(2) The expenditure of excess pension assets pursuant to subsection (b)—

"(A) shall not be treated as an employer reversion from a qualified plan for purposes of section 4980, and

"(B) shall not be includible in the gross income of any employer maintaining a plan described in subsection (c).

"(3) Neither the segregation of excess pension assets pursuant to subsection (a)(2), the expenditure of excess pension assets pursuant to subsection (b), nor any direction made by the settlors pursuant to subsection (a)(1) or (b)(4) shall be deemed to violate or be prohibited by any provision of law, or to cause the settlors, joint board of trustees, employers or any related person to incur or be subject to taxes, fines, or penalties of any kind whatsoever.

"SEC. 9722. CIVIL ENFORCEMENT.

"(a) Civil actions may be brought by the 1991 Fund for appropriate relief, legal or equitable or both, to enforce the provisions of this chapter.

"(b) Except as otherwise provided in this chapter, where such an action is brought in a district court of the United States, it may be brought in the district where the 1991 Fund is administered, in the district where the violation took place, or where a defendant resides or may be found, and process may be served in any other district where a defendant resides or may be found.

"(c) The district courts of the United States shall have jurisdiction of actions brought by the 1991 Fund under this chapter without regard to the amount in controversy in any such action.

"(d)(1) In any action brought under subsection (a) (other than an action described in paragraph (2)), the court in its discretion may award to the 1991 Fund all or a portion of the costs of litigation, including reasonable attorneys' fees, incurred by the 1991 Fund in connection with such action.

"(2) In any action by the 1991 Fund to enforce section 9713(d)(2), in which a judgment in favor of the 1991 Fund is awarded, the court shall award the 1991 Fund—

"(A) the unpaid assessments;

"(B) interest on the unpaid assessments;

"(C) an amount equal to the greater of—

"(i) interest on the unpaid assessments; or

"(ii) liquidated damages in the amount of 20 percent of the amount determined by the court under subparagraph (A);

"(D) reasonable attorneys' fees and costs of the action, to be paid by the defendant; and

"(E) such other legal or equitable relief as the court deems appropriate.

For purposes of this paragraph, interest on unpaid assessments shall be determined by using the rate provided under the rules of the 1991 Fund, or, if none, the rate prescribed under section 6621.

"(e)(1) Except as provided in paragraph (2), an action under this subsection may not be brought after the later of—

"(A) 6 years after the date on which the cause of action arose; or

"(B) 3 years after the earliest date on which the 1991 Fund acquired or should have acquired actual knowledge of the existence of such cause of action.

"(2) In the case of fraud or concealment, the period described in paragraph (1)(b) shall be extended to 6 years after the applicable date.

"(f) Any person who is an employer, a last signatory operator, a person described in section 9723(5) (B) or (C) with respect to an employer or last signatory operator, a bituminous coal industry retiree, or any spouse, surviving spouse or dependent of a bituminous coal industry retiree, and is adversely affected by any act or omission of any party under this chapter, or who is an employee organization of which such a coal industry retiree is a member, or an employer association of which such an employer is a member, may bring an action for appropriate equitable relief in the appropriate court.

"(1) During the pendency of any proceeding under this subsection by an employer, employer association, last signatory operator, or person described in section 9723(5) (B) or (C) with respect to an employer or last signatory operator, all potentially affected retirees, spouses, surviving spouses and dependents eligible for benefits from the 1991 Fund shall be transferred to the Corporation, which shall—

"(A) provide such benefits as would have been provided from the 1991 Fund, and

"(B) have and exercise all of the rights and obligations of the 1991 Fund with respect to—

"(i) the collection of assessments relating to such retirees and spouses, surviving spouses and dependents, and

"(ii) the defense of the proceeding.

"(2) In the event that a last signatory operator or other person pays to the 1991 Fund the assessments required pursuant to section 9713(d) for any month during the pendency of a proceeding described in paragraph (1), the 1991 Fund, and not the Corporation, shall be responsible for providing any benefits required to be paid for that month to eligible individuals under section 9713(b).

"(g) In any action brought under subsection (f), the court may award all or a portion of the costs and expenses, including reasonable attorneys' fees, incurred in connection with such action to any party that prevails or substantially prevails in such action.

"(h) This subsection shall be the exclusive means for bringing actions against the Corporation or the 1991 Fund under this chapter.

"(i)(1) Except as provided in paragraph (2), an action under this subsection may not be brought after the later of—

"(A) 6 years after the date on which the cause of action arose; or

"(B) 3 years after the earliest date on which the plaintiff acquired or should have acquired actual knowledge of the existence of such cause of action.

"(2) In the case of fraud or concealment, the period described in paragraph (1)(B) shall be extended to 6 years after the applicable date.

"(j) The district courts of the United States have jurisdiction of actions brought under this subsection without regard to the amount in controversy.

"(k) In any suit, action or proceeding in which the 1991 Fund is a party, in any State court, the 1991 Fund may, without bond or security, remove such suit, action, or proceeding from the State court to the United States district court for the district or division in which such suit, action or proceeding is pending by following any procedure for removal now or hereafter in effect.

"SEC. 9723. DEFINITIONS.

"For purposes of this chapter—

"(1) The term 'coal production work' shall mean work in which an individual engages in physical operations consisting of the mining, preparation, handling, processing, cleaning and loading of coal, including removal of overburden and coal waste, the transportation of coal (except by waterway or rail not owned by an employer engaged in the production of coal), repair and maintenance work normally performed at a mine site or central shop of an employer engaged in the production of coal, maintenance of gob piles and mine roads, construction of mine or mine-related facilities including the erection of mine tipples and sinking of mine shafts or slopes performed by employees of the employer engaged in the production of coal, and work of the type customarily related to the foregoing; except that the term shall not mean managerial, supervisory, warehouse, clerical or technical work, unless such work is performed subject to a coal wage agreement binding the employer engaged in the production of coal.

"(2) The term 'coal wage agreement' shall mean—

"(A) the National Bituminous Coal Wage Agreement;

"(B) any agreement substantially identical or substantially similar to such agreement, but only if, as of the date of enactment of this chapter, such agreement provided for contributions to be made to the plans described in section 9721(d); or

"(C) any other agreement entered into between an employer in the bituminous coal industry and the United Mine Workers of America that requires the provision of health benefits to retirees of such employer, eligibility for which is based on years of service credited under a plan established by the settlors and described in section 404(c) or a continuation of such plan.

"(3) The term 'credited service' shall have the same meaning as determined under the applicable defined benefit pension plan, but only if such service was of the type used to determine eligibility under the plan described in section 9721(d)(2)(B).

"(4) The term 'excess pension assets' shall mean the excess of the current value of plan assets (as defined in section 3(26) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(26)) of the plan described in section 9721(c) over the actuarial present value of all benefits for all plan participants under such plan, determined as of the date of enactment, in accordance with the actuarial assumptions and methods which reflect the plan actuary's best estimate of anticipated experience under such plan, except that where excess pension assets are recalculated as required under section 9721(a)(1), the amount of excess pension assets shall be determined as of the July 1 next preceding the date of the recalculation.

"(5) A last signatory operator shall be considered to be in business for purposes of this chapter if any of the following conducts or derives revenue from any business, whether or not within the coal industry—

"(A) such last signatory operator;

"(B) any member of the controlled group of corporations (within the meaning of section 414(b)) of such last signatory operator; or

"(C) any trade or business which is under common control (as determined under section 414(c)) with such last signatory operator.

If a last signatory operator is no longer in business and there is no successor, the relationships described in paragraphs (2) and (3) shall be determined at the time it ceased to be in business.

"(6)(A) The term 'last signatory operator shall mean, with respect to any orphan miner or other coal industry retiree eligible for medical benefits, a person that meets or at one time met the following conditions:

"(i) A person meets the conditions of this clause if such person is—

"(I) an owner, lessee or other person who operates, controls or supervises a coal mine;

"(II) an independent contractor who operates, controls or supervises a coal mine; or

"(III) in the event a person described in (I) or (II) is no longer in business, any successor to such person, except that a purchaser shall not be considered to be a successor with respect to any orphan miner or other coal industry retiree eligible for medical benefits, if responsibility for the medical benefits of such orphan miner or other coal industry retiree was retained by the seller in the purchase and sale transaction.

"(ii) A person meets the conditions of this clause if such person or, in the case of a person described in clause (i)(III), such person's predecessor—

"(I) was a signatory to a 1978 coal wage agreement, or any subsequent coal wage agreement; and

"(II) was the last coal industry employer of such orphan miner or other retiree.

"(B) Notwithstanding subparagraph (A), if, as of the date of enactment of this chapter, a person has assumed or retained responsibility for retiree medical benefit obligations for individuals who retired from employment under a coal wage agreement, then such person shall be treated as the last signatory operator with respect to such individuals for purposes of this chapter, and any person from whom such responsibility was assumed shall not be treated as the last signatory operator.

"(C) For purposes of this chapter, the last signatory operator of any orphan miner or other coal industry retiree shall be considered to be the last signatory operator with respect to such orphan miner's or other coal industry retiree's spouse, surviving spouse and dependents, if any.

"(7) The term 'National Bituminous Coal Wage Agreement' shall mean the collective bargaining agreement negotiated by the settlors.

"(8) The term 'settlors' means the United Mine Workers of America and the Bituminous Coal Operators' Association, Inc. (hereinafter referred to as the 'BCOA'), except that if the BCOA ceases to exist, members of the BCOA representing more than 50 percent of the tonnage membership of BCOA on the date of enactment of this Act shall collectively be considered a settlor.

"SEC. 9724. SHAM TRANSACTIONS.

"If a principal purpose of any transaction is to evade or avoid liability under this chapter, this chapter shall be applied (and liability shall be imposed) without regard to such transaction. A bona fide, arm's-length sale of an entity subject to liability under this chapter to an unrelated party (within the meaning of section 4204(d) of the Employee Retirement Income Security Act of 1974, as amended), shall not by itself be sufficient to establish a principal purpose to evade or avoid liability within the meaning of this section."

(b) CONFORMING AMENDMENT.—The table of subtitles for the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subtitle:

"Subtitle J. Coal Industry health benefits."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply on and after the date of the enactment of this Act.

And the Senate agree to the same.

That the Senate recede from its amendment to the title of the bill.

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
Managers on the part of the House.

LLOYD BENTSEN,
GEORGE MITCHELL,
DANIEL PATRICK MOYNIHAN,
Managers on the part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

I. INCOME TAX TREATMENT OF WORKING FAMILIES

1. TAX CREDIT FOR MIDDLE-INCOME TAXPAYERS

Present law

Present law provides no income tax credit based on social security tax liability. Under present law, a payroll tax is imposed to finance social security programs through the old-age, survivors, and disability insurance (OASDI) and hospital insurance (HI) trust funds. As of January 1992, the employer and employee each pay an OASDI tax equal to 6.20 percent of the first $55,500 of covered earnings and an HI tax equal to 1.45 percent of the first $130,200 of covered earnings. Self-employed individuals pay tax at the combined employer-employee rate, but are permitted to deduct one-half of the payment as a business expense in determining their income tax liability.

Present law provides no income tax credit to taxpayers on the basis of whether taxpayers have a child residing with them. However, present law permits a personal exemption deduction from gross income for each of the taxpayer's dependent children. For 1992, the amount of this deduction is $2,300 for each exemption claimed. This exemption amount is adjusted annually for inflation.

In addition, low-income workers with children are able to claim a refundable earned income tax credit (EITC) of up to 17.6 percent (18.4 percent for taxpayers with more than one qualifying child) of the first $7,520 of earned income for 1992. The maximum amount of credit for 1992 is $1,324 ($1,384 for taxpayers with more than one qualifying child). This maximum credit is reduced by 12.57 percent (13.14 percent for taxpayers with more than one qualifying child) of earned income (or adjusted gross income, if greater) in excess of $11,840. The EITC is totally phased out for workers with earned income (or adjusted gross income, if greater) over $22,370. The maximum amount of earned income on which the EITC may be claimed and the income threshold for the phaseout of the EITC are indexed for inflation. Earned income consists of wages, salaries, other employee compensation, and net self-employment income.

The credit rates for the EITC change over time under present law, as shown in the following table.

Year	One qualifying child—		Two or more qualifying children—	
	Credit rate	Phaseout rate	Credit rate	Phaseout rate
1992	17.6	12.57	18.4	13.14
1993	18.5	13.21	19.5	13.93
1994 and after	23.0	16.43	25.0	17.86

House bill

The House bill provides a refundable income tax credit in calendar years 1992 and 1993 for up to 20 percent of an employee's social security tax liability. The employee's social security tax liability equals the sum of the employee share of OASDI and HI tax liability and not the employer portion. In the case of self-employed individuals, the base of the credit will be one-half total OASDI and HI tax liability. The maximum credit is $200 for single taxpayers and $400 for married couples filing joint returns. The income tax credit will not reduce social security trust fund reserves.

Effective date.—The provision is effective for taxable years beginning after December 31, 1991. The provision will not apply to taxable years beginning after December 31, 1993.

Senate amendment

The Senate amendment provides a $300 income tax credit for each qualifying child of the taxpayer. A "qualifying child" is defined as a child under age 16 who resided with the taxpayer for more than 6 months during the taxable year. The tax credit offsets regular tax liability and is not refundable (although, through the offset of tax liability, the tax credit could act to increase the amount of refund from the earned income tax credit that a taxpayer might receive). The credit amount is indexed annually for inflation (though no indexing occurs until the inflation adjustment is greater than $50). In addition, the credit is phased out ratably for taxpayers with adjusted gross income between $47,500 and $60,000 (the phaseout range is not adjusted for inflation).

Effective date.—The provision is effective for taxable years beginning after December 31, 1991.

Conference agreement

The conference agreement follows both the House bill and the Senate amendment, with modifications.

For 1992 and 1993, the conference agreement provides an income tax credit for up to 20 percent of an employee's social security tax liability. In the case of State and local government workers who do not pay FICA taxes, contributions to a retirement plan maintained by the State or local government will be considered equivalent to social security tax liability. The maximum credit is $150 for unmarried taxpayers and $300 for married couples filing joint returns. The tax credit is phased out ratably for taxpayers with adjusted gross income between $50,000 and $70,000 (married taxpayers filing a joint return), or between $35,000 and $50,000 (unmarried taxpayers filing as single or as head of household). The tax credit is refundable to taxpayers with a "qualifying child", for purposes of this credit generally defined as a child under age 19 who resided with the taxpayer for more than 6 months during the taxable year.

For taxable years beginning in 1994 and thereafter, the conference agreement provides a nonrefundable $300 income tax credit (indexed for inflation) for each qualifying child of the taxpayer. For purposes of this credit, a "qualifying child" is defined as a child under age 16 who resided with the taxpayer for more than 6 months during the taxable year. The credit is phased out ratably for taxpayers with adjusted gross income between $50,000 and $70,000 (the phaseout range is not adjusted for inflation).

2. SIMPLIFICATION AND EXPANSION OF EARNED INCOME TAX CREDIT

Present law

Eligible low-income workers are able to claim a refundable earned income tax credit (EITC) of up to 17.6 percent of the first $7,520 of earned income for 1992 (18.4 percent for taxpayers with more than one qualifying child). The maximum amount of credit for 1992 is $1,324 ($1,384 for taxpayers with more than one qualifying child). This maximum credit is reduced by 12.57 percent of earned income (or adjusted gross income, if greater) in excess of $11,840 (13.14 percent for taxpayers with more than one qualifying child). The EITC is totally phased out for workers with earned income (or adjusted gross income, if greater) over $22,370. The maximum amount of earned income on which the EITC may be claimed and the income threshold for the phaseout of the EITC are indexed for inflation. Earned income consists of wages, salaries, other employee compensation, and net self-employment income.

The credit rates for the EITC change over time under present law, as shown in the following table.

Year	One qualifying child—		Two or more qualifying children—	
	Credit rate	Phaseout rate	Credit rate	Phaseout rate
1992	17.6	12.57	18.4	13.14
1993	18.5	13.21	19.5	13.93
1994 and after	23.0	16.43	25.0	17.86

A supplemental young child credit is available to taxpayers with qualifying children under the age of one year. This young child credit rate is 5 percent and the phase-out rate is 3.57 percent. It is computed on the same income base as the ordinary EITC. The maximum supplemental young child credit for 1992 is $376. If a taxpayer claims the supplemental young child credit, the child that qualifies the taxpayer for such credit is not a qualifying individual for purposes of the dependent care tax credit (sec. 21).

A supplemental health insurance credit is available to taxpayers who provide health insurance coverage for their qualifying children. This health insurance credit rate is 6 percent and the phase-out rate is 4.285 percent. It is computed on the same income base as the ordinary EITC, but the credit claimed cannot exceed the out-of-pocket cost of the health insurance coverage. In addition, the taxpayer is denied an itemized deduction for medical expenses of qualifying insurance coverage up to the amount of credit claimed. The maximum supplemental health insurance credit for 1992 is $451.

House bill

The House bill repeals the supplemental young child credit and the supplemental health insurance credit and increases the basic EITC rate for taxpayers with two or more qualifying children as shown in the following table.

Year	One qualifying child—		Two or more qualifying children—	
	Credit rate	Phaseout rate	Credit rate	Phaseout rate
1992	17.6	12.57	22.2	15.84
1993	18.5	13.21	23.3	16.64
1994 and after	23.0	16.43	28.8	20.58

Effective date.—The provision is effective for taxable years beginning after December 31, 1991.

Senate amendment

The Senate amendment repeals the supplemental young child credit and increases the basic EITC rate for taxpayers with two or more qualifying children as shown in the following table.

Year	One qualifying child—		Two or more qualifying children—	
	Credit rate	Phaseout rate	Credit rate	Phaseout rate
1992	17.6	12.57	20.15	14.39
1993	18.5	13.21	21.25	15.17
1994 and after	23.0	16.43	26.75	19.10

The Senate amendment permits taxpayers to include all health insurance expenses as medical expenses, subject to the 7.5 percent of adjusted gross income floor on deductible medical expenses, regardless of whether these expenses had been used to claim the health insurance component of the EITC. The amendment also permits a self-employed taxpayer to claim the allowable deduction for health insurance costs and to use the full amount of these expenses that are related to coverage of dependent children to claim the health insurance component of the EITC.

Effective date.—Same as the House bill.

Conference agreement

The conference agreement generally follows the Senate amendment except that the basic EITC credit rates are increased for families with two or more qualifying children as shown in the following table:

Year	One qualifying child—		Two or more qualifying children—	
	Credit rate	Phaseout rate	Credit rate	Phaseout rate
1992	17.6	12.57	18.9	13.49
1993	18.5	13.21	20.5	14.64
1994 and after	23.0	16.43	26.0	18.56

3. EMPLOYER-PROVIDED TRANSPORTATION BENEFITS

Present law

Under Treasury regulations, monthly transit passes, tokens, etc., provided by an employer are excludable from an employee's income (for both income and payroll tax purposes) as a de minimis fringe benefit if the total value of the transit pass does not exceed $21. If the total value of such benefits exceeds $21 per month, the full value of the benefits is includible in income.

Parking at or near the employer's business premises that is paid for by the employer is excludable from the gross income of the employee (for both income and payroll tax purposes) as a working condition fringe benefit, regardless of the value of the parking.

House bill

Under the House bill, gross income and wages (for both income and payroll tax purposes) does not include qualified transportation fringe benefits. In general, a qualified transportation fringe is (1) transportation in a commuter highway vehicle if such transportation is in connection with travel between the employee's residence and place of employment, (2) a transit pass, or (3) qualified parking. The maximum amount of qualified parking that is excludable from an employee's gross income is $160 per month (regardless of the total value of the parking). Other qualified transportation fringes are excludable from gross income to the extent that the aggregate value of the benefits does not exceed $60 per month (regardless of the total value of the benefits).

A transit pass includes any pass, token, farecard, voucher, or similar item entitling a person to transportation on mass transit facilities (whether publicly or privately owned). Types of transit facilities that may qualify for the exclusion include, for example, rail, bus, and ferry.

Qualified parking is parking provided to an employee on or near the business premises of the employer or on or near a location from which the employee commutes to work by mass transit, in a commuter highway vehicle, or by carpool.

Effective date.—The provision applies to benefits provided by the employer on or after January 1, 1992, except that the $160 per month limit on the exclusion for qualified parking benefits applies to benefits provided after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill, except that the $60 and $160 limits are indexed for inflation. The limits as indexed are rounded down to the next whole dollar.

Conference agreement

The conference agreement follows the Senate amendment.

II. Economic Growth Tax Incentives

A. Temporary Cost Recovery Provisions

1. TEMPORARY INCREASE IN AMOUNT OF EXPENSING FOR SMALL BUSINESSES

Present law

In lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct up to $10,000 of the cost of qualifying property placed in service for the taxable year. In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business. The $10,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $200,000. In addition, the amount eligible to be expensed for a taxable year may not exceed the taxable income of the taxpayer for the year that is derived from the active conduct of a trade or business (determined without regard to this provision). Any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding taxable years (subject to similar limitations).

House bill

For taxable years beginning after December 31, 1991, and before January 1, 1994, the $10,000 amount allowed to be expensed is increased to $25,000.

Effective date—The provision is effective for taxable years beginning after December 31, 1991, and before January 1, 1994.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill except that the amount allowed to be expensed is $20,000 (rather than $25,000).

2. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN EQUIPMENT ACQUIRED IN 1992

Present law

Depreciation deductions

A taxpayer is allowed to recover, through annual depreciation deductions, the cost of certain property used in a trade or business or for the production of income. The amount of the depreciation deduction allowed with respect to tangible property for a taxable year is determined under the accelerated cost recovery system ("ACRS"), as modified by the Tax Reform Act of 1986. Under ACRS, different types of property generally are assigned applicable recovery periods and depreciation methods. The recovery periods applicable to most tangible personal property (generally tangible property other than residential rental property and nonresidential real property) range form 3 to 20 years. The depreciation methods generally applicable to tangible personal property are the 200-percent and 150-percent declining balance methods, switching to the straight-line method for the taxable year in which depreciation deduction would be maximized.

For purposes of the alternative minimum tax ("AMT"), tangible personal property generally is depreciated using the 150-percent declining balance method over useful lives that are typically longer than the applicable recovery periods for regular tax purposes. In addition, for purposes of the adjusted current earnings ("ACE") component of the corporate AMT, tangible personal property is depreciated using the straight-line method over these longer useful lives.

Expensing election

In lieu of depreciation, a taxpayer with a sufficiently small amount of annual investment may elect to deduct up to $10,000 of the cost of qualifying property placed in service for the taxable year. In general, qualifying property is defined as depreciable tangible personal property that is purchased for use in the active conduct of a trade or business. The $10,000 amount is reduced (but not below zero) by the amount by which the cost of qualifying property placed in service during the taxable year exceeds $200,000. In addition, the amount eligible to be expensed for a taxable year may not exceed the taxable income of the taxpayer for the year that is derived from the active conduct of a trade or business (determined without regard to this provision). Any amount that is not allowed as a deduction because of the taxable income limitation may be carried forward to succeeding taxable years (subject to similar limitations).

House bill

The House bill allows an additional first-year depreciation deduction equal to 15 percent of the adjusted basis of certain qualified property that is placed in service before July 1, 1993. The additional depreciation deduction is allowed for both regular tax and AMT purposes for the taxable year in which the property is placed in service. The basis of the property and the depreciation allowances in the year of purchase and later years are appropriately adjusted to reflect the additional first-year depreciation deduction. A taxpayer may elect to not claim the additional first-year depreciation for qualified property.

Property qualifies for the additional first-year depreciation deduction if (1) the property is section 1245 property to which ACRS applies (other than property that is required to be depreciated under the alternative depreciation system of ACRS) and (2) the original use of the property commences with the taxpayer on or after February 1, 1992.[1] In addition, the property must be acquired by the taxpayer (1) on or after February 1, 1992, and before January 1, 1993, but only if no binding written contract for the acquisition is in effect before February 1, 1992, or (2) pursuant to a binding written contract which was entered into on or after February 1, 1992, and before January 1, 1993. Finally, property that is manufactured, constructed, or produced by the taxpayer for use by the taxpayer will qualify if the taxpayer begins the manufacture, construction, or production of the property on or after February 1, 1992, and before January 1, 1993 (and all other requirements are met).

The limitations on the amount of depreciation deductions allowed with respect to certain passenger automobiles (sec. 280F of the Code) are adjusted to reflect the additional first year depreciation deduction. Thus, the limitation on the amount of depreciation allowable for the taxable year that the automobile is placed in service with respect to which this provision applies will be increased by 15 percent and subsequent year depreciation allowances will be decreased to reflect this first year increase.

The following examples illustrate the operation of the provision.

Example 1.—Assume that on July 1, 1992, a calendar year taxpayer acquires and places in service qualified property that costs $1 million. Under the provision, the taxpayer is allowed an additional first-year depreciation deduction of $150,000. The remaining $850,000 of adjusted basis is to be recovered in 1992 and subsequent years pursuant to the depreciation rules of present law.

Example 2.—Assume that on July 1, 1992, a calendar year taxpayer acquires and places in service qualified property that costs $45,000. In addition, assume that the property qualifies for the expensing election under section 179 (as amended by the House bill). Under the provision, the taxpayer is first allowed a $25,000 deduction under section 179. The taxpayer then is allowed an additional first-year depreciation deduction of $3,000 based on $20,000 ($45,000 original cost less the section 179 deduction of $25,000) of adjusted basis. Finally, the remaining adjusted basis of $17,000 ($20,000 adjusted basis less $3,000 additional first-year depreciation) is to be recovered in 1992 and subsequent years pursuant to the depreciation rules of present law.

Effective date.—The provision applies to property placed in service on or after February 1, 1992.

Senate amendment

The Senate amendment is the same as the House bill, with two exceptions. The Senate amendment allows an additional first-year depreciation deduction equal to 10 percent of the adjusted basis of certain qualified property (rather than 15 percent as provided in the House bill). In addition, under the Senate amendment, 50 percent of the amount of the additional first-year depreciation deduction is allowed as a deduction in the year the property is placed in service and 50 percent is allowed as a deduction in the succeeding taxable year.

Conference agreement

The conference agreement follows the Senate amendment with the following clarifications. First, except as otherwise provided in regulations, repaired or reconstructed property is not qualified property. Second, if property that qualifies for additional first-year depreciation is disposed of in the year that the property is placed in service, the amount of the additional first-year depreciation deduction that would have been allowed in the succeeding taxable year is not allowed, and the adjusted basis of the property immediately before the disposition is increased by the amount of the disallowed deduction. Finally, property that is manufactured, constructed, or produced for the taxpayer by another person under a contract that is entered into prior to the manufacture, construction, or production of the property is considered to be manufactured, constructed, or produced by the taxpayer.

B. Individual Retirement Arrangements (IRAs)

1. RESTORATION OF IRA DEDUCTION

Present law

Under present law, an individual that is not an active participant in an employer-sponsored retirement plan (and whose spouse also is not an active participant in such a plan) may make deductible contributions to an individual retirement arrangement (IRA) up to the lesser of $2,000 or 100 percent of compensation. The amounts held in an IRA, including earnings on contributions, generally are not included in taxable income until withdrawn.

If the individual (or the individual's spouse) is an active participant in an employer-sponsored retirement plan, the $2,000 deduction limit is phased out over certain adjusted gross income (AGI) levels. The limit is phased out between $25,000 and $35,000 for individuals, and between $40,000 and $50,000 for joint filers. An individual may make nondeductible IRA contributions (up to the contribution limit) to the extent the individual is not permitted to make deductible IRA contributions.

House bill

No provision.

Senate amendment

The Senate amendment restores the deductibility of IRA contributions for all taxpayers under the rules in effect prior to the Tax Reform Act of 1986, and provides for the indexing of the limits on contributions to IRAs, in increments of $500. In addition, the limit on contributions (deductible and nondeductible) to IRAs is coordinated with the limit on elective deferrals to a qualified cash or deferred arrangement (sec. 401(k) plan), tax-sheltered annuity (sec. 403(b) annuity), simplified employee pension (SEP), or a section 501(c)(18) plan. Under the coordinated limit, IRA contributions cannot exceed the difference (if any) between the limit on elective deferrals ($8,728 in 1992) and the amount in fact deferred. For example, if the limit were in effect in 1992, a taxpayer who elected to defer $8,000 under a 401(k) plan could contribute only $728 to an IRA. (A taxpayer who elected to defer $5,000 under a 401(k) plan could still only contribute $2,000 (indexed) to an IRA.)

---

[1] A special rule applies in the case of certain leased property. In the case of any property that is originally placed in service by a person and that is sold to the taxpayer and leased back to such person by the taxpayer within three months after the date that the property was placed in service, the property is to be treated as originally placed in service by the taxpayer not earlier than the date that the property is used under the leaseback.

Effective date.—The provision applies to taxable years beginning after December 31, 1992.

Conference agreement

The conference agreement follows the Senate amendment.

2. SPECIAL IRAS

Present law

Under present law, certain individuals may make deductible contributions to an IRA up to the lesser of $2,000 or 100 percent of compensation. The amounts held in an IRA, including earnings on contributions, generally are not included in taxable income until withdrawn.

House bill

No provision.

Senate amendment

The Senate amendment permits individuals to establish and maintain new "special IRAs" to which they can make nondeductible contributions. Withdrawals from a special IRA are not includible in income if attributable to contributions that have been held in the special IRA for at least 5 years.

The limits on contributions to deductible IRAs and special IRAs are coordinated. Thus, the sum of contributions to a deductible IRA and a special IRA cannot exceed the lesser of $2,000 (indexed) or 100 percent of compensation. In addition, this limit is coordinated with the limit on elective deferrals.

The Senate amendment also permits transfers from deductible IRAs to special IRAs without imposition of the 10-percent tax on early withdrawals. The amount transferred to a special IRA generally is includible in income in the year withdrawn from the deductible IRA. However, in the case of a transfer before January 1, 1994, the transferred amount is includible in income ratably over the 4-taxable year period beginning in the taxable year in which the distribution was made.

Effective date.—The provision generally applies to taxable years beginning after December 31, 1992. However, the provision permitting transfers from deductible IRAs to special IRAs is effective for taxable years beginning after December 31, 1991. Thus, special IRAs can be established and maintained in taxable years beginning before January 1, 1993, only with funds transferred from a deductible IRA.

Conference agreement

The conference agreement follows the Senate amendment.

3. PENALTY-FREE DISTRIBUTIONS

Present law

Under present law, withdrawals from an IRA (other than withdrawals of nondeductible contributions) are includible in gross income. In addition, amounts withdrawn prior to age 59½, death, or disability are subject to an additional 10-percent income tax, unless the withdrawals are in the form of substantially equal periodic payments over the life (or life expectancy) of the IRA owner or over the joint lives (or life expectancies) of the IRA owner and his or her beneficiary. The 10-percent additional tax also applies to early withdrawals from tax-qualified retirement plans.

There is an exception to the additional 10-percent income tax on early withdrawals for distributions from a tax-qualified retirement plan that do not exceed the amount allowable as a deduction for medical care for the year. This exception does not apply to IRAs.

House bill

First-time home purchasers

The House bill waives the 10-percent additional income tax on early withdrawals from an IRA with respect to the first $10,000 of withdrawals applied within 60 days of the date of distribution for the purchase or construction of a principal residence of the purchaser. This provision applies to an individual if the individual (and, if married, the individual's spouse) (1) did not own any interest in a residence at any time within the 36-month period ending on the date on which a principal residence is purchased or constructed and (2) is not in an extended period for rolling over gain from the sale of a principal residence.

In addition, the waiver of the early withdrawal tax is available for withdrawals from an IRA by a parent on behalf of a child, provided the child (and, if married, the child's spouse) qualifies as a first-time homebuyer. However, in no event will the waiver of the tax apply to more than $10,000 per principal residence purchased.

The waiver of the early withdrawal tax does not apply to withdrawals of amounts (1) from an inherited IRA or (2) that had been previously rolled over from a qualified retirement plan.

If any IRA distribution fails to satisfy the requirements for the early withdrawal tax exception solely because of a delay or cancellation of the purchase or construction of the residence, the amount that was distributed from the IRA may be recontributed to an IRA and treated as a qualifying rollover contribution except that (1) the contribution is not treated as failing to satisfy the requirements for a rollover contribution if the contribution is made within 120 days of the original IRA withdrawal, (2) the rule that prohibits more than one IRA rollover per year does not apply, and (3) the amount contributed is not taken into account for purposes of determining whether any other contribution to an IRA qualifies as a rollover contribution or for purposes of the dollar limit on subsequent withdrawals from an IRA for a first home purchase.

Under the provisions, if the total amount withdrawn exceeds $10,000, then the excess over $100,000 is subject to the 10-percent additional tax.

Education expenses

The House bill provides an exception to the 10-percent additional tax for withdrawals from an IRA for amounts that do not exceed the amount of qualifying educational expenses of the taxpayer or the taxpayer's spouse or dependent. Qualifying educational expenses are expenses for higher education and post-economy vocational education. The amount of qualified higher educational expenses for any taxable year is reduced by any amount excludable from gross income under the provision in the Code pertaining to U.S. education savings bonds (sec. 135). As in the case of the waiver of the early withdrawal tax for first home purchases, the waiver does not apply to withdrawals of amounts from an inherited IRA or amounts that had been previously rolled over from a qualified retirement plan.

Deductible medical expenses

The House bill extends to IRAs the present-law exception to the 10-percent additional income tax for distributions from qualified retirement plans used to pay deductible medical expenses. Moreover, for purposes of the medical expense exception (with regard to both IRAs and qualified retirement plans), a child, grandchild, or ancestor of the taxpayer is treated as a dependent of the taxpayer in determining whether medical expenses are deductible.

5-year holding period

No provision.

Effective date

The provisions are effective for withdrawals on or after February 1, 1992.

Senate amendment

First-time home purchasers

The Senate amendment allows withdrawals from an IRA and from amounts attributable to elective deferrals under (1) a cash or deferred arrangement (sec. 401(k) plan), (2) a tax-sheltered annuity (sec. 403(b) annuity), or (3) a section 501(c)(18) plan without imposition of the 10-percent additional income tax on early withdrawals (and without disqualification of the 401(k) plan or 403(b) annuity) to the extent the amount withdrawn is used to pay qualified acquisition, construction, or reconstruction costs with respect to a principal residence of a first-time homebuyer who is the taxpayer, the taxpayer's spouse, or the taxpayer's child or grandchild. There is no dollar limitation on the amount that can be withdrawn without penalty.

A first-time homebuyer is any individual (and if married, such individual's spouse) who (1) did not own an interest in a principal residence during the 2 years prior to the purchase of a home and (2) is not in an extended period for rolling over gain from the sale of a principal residence.

If any IRA distribution fails to satisfy the requirements for the early withdrawal tax exception solely because of a delay or cancellation of the purchase or construction of the residence, the amount that was distributed from the IRA may be recontributed to an IRA and treated as a qualifying rollover contribution except that (1) the contribution is not treated as failing to satisfy the requirements for a rollover contribution if the contribution is made within 120 days of the original IRA withdrawal, (2) the rule that prohibits more than one IRA rollover per year does not apply, and (3) the amount recontributed is not taken into account for purposes of determining whether any other contribution to an IRA qualifies as a rollover contribution.

Education expenses

The Senate amendment is generally the same as the House bill, except the Senate provision also allows penalty-free withdrawals from amounts attributable to elective deferrals under (1) a section 401(k) plan, (2) a sec. 403(b) annuity, or (3) a section 501(c)(18) plan.

The Senate amendment also provides that qualifying educational expenses of the taxpayer's grandchild qualify for the exception.

Deductible medical expenses

The Senate amendment is the same as the House bill.

5-year holding period

The Senate amendment provides that the present-law rule permitting penalty-free IRA withdrawals after an individual reaches 59-1/2 does not apply in the case of amounts attributable to contributions made during the previous 5 years. Thus, contributions to a deductible IRA generally must remain in the account for at least 5 years to avoid withdrawal penalties. This restriction only applies to contributions (and earning allocated thereto) that are made after December 31, 1992. Moreover, for purposes of applying the rule, distributions are treated as having been made first from the earliest contributions (and earnings) remaining in the account, and then from other contributions in the order in which made.

Effective dates

The provisions generally are effective for withdrawals after December 31, 1991. The provision requiring a 5-year holding period to avoid withdrawal penalties applies to contributions (and earnings allocable thereto) made after December 31, 1992.

Conference agreement

First-time home purchasers

The conference agreement follows the House bill, except that the provision also applies to a first-time homebuyer who is the taxpayer's spouse or grandchild.

Education expenses

The conference agreement follows the House bill, except that the provision applies to qualifying education expenses of the taxpayer's child or grandchild without regard to whether they are dependents.

Deductible medical expenses

The conference agreement follows the House bill and the Senate amendment.

5-year holding period

The conference agreement follows the Senate amendment.

Effective dates

The provisions are generally effective for withdrawals on or after February 1, 1992. The provision requiring a 5-year holding period to avoid withdrawal penalties applies to contributions (and earnings allocable thereto) made after December 31, 1992.

4. PENALTY-FREE IRA AND QUALIFIED PLAN WITHDRAWALS FOR THE LONG-TERM UNEMPLOYED

Present law

Under present law, withdrawals from an IRA (other than withdrawals of nondeductible contributions) are includible in gross income. In addition, amounts withdrawn prior to age 59½, death, or disability are subject to an additional 10-percent income tax, unless the withdrawals are in the form or substantially equal periodic payments over the life (or life expectancy) of the IRA owner or over the joint lives (or life expectancies) of the IRA owner and his or her beneficiary. The 10-percent additional tax also applies to early withdrawals from tax-qualified retirement plans.

House bill

No provision.

Senate amendment

The Senate amendment permits distributions from an IRA and from amounts attributable to elective deferrals under (1) a cash or deferred arrangement (sec. 401(k) plan), (2) a tax-sheltered annuity (sec. 403(b) annuity), or (3) a section 501(c)(18) plan without imposition of the 10-percent additional income tax on early withdrawals (and without disqualification of the 401(k) plan or 403(b) annuity) to the extent distributions are made to an individual after separation from employment, if (1) the individual has received unemployment compensation for 12 consecutive weeks under any Federal or State unemployment compensation law by reason of the separation and (2) the distributions are made during the taxable year during which such unemployment compensation is received or the succeeding taxable year.

Effective date.—Distributions made on or after December 31, 1991.

Conference agreement

The conference agreement follows the Senate amendment, except that penalty-free distributions are permitted only from an IRA (not from an employer-provided plan), and the waiver of the early withdrawal tax does not apply to withdrawals of amounts (1) from an inherited IRA or (2) that had been previously rolled over from a qualified retirement plan.

Effective date.—Distributions made on or after February 1, 1992.

5. PENALTY-FREE WITHDRAWALS FROM IRAS AND RETIREMENT PLANS THROUGH 1992

Present law

Under present law, withdrawals from an IRA (other than withdrawals of nondeductible contributions) are includible in gross income. In addition, amounts withdrawn prior to age 59½, death, or disability are subject to an additional 10-percent income tax, unless the withdrawals are in the form of substantially equal periodic payments over the life (or life expectancy) of the IRA owner or over the joint lives (or life expectancies) of the IRA owner and his or her beneficiary. The 10-percent additional tax also applies to early withdrawals from tax-qualified retirement plans.

House bill

No provision.

Senate amendment

The Senate amendment permits certain individuals to make withdrawals totalling no more than $10,000 from an IRA or from amounts attributable to elective deferrals under (1) a cash or deferred arrangement (sec. 401(k) plan), (2) a tax-sheltered annuity (sec. 403(b) annuity), or (3) a section 501(c)(18) plan without imposition of the 10-percent additional income tax on early withdrawals (and without disqualification of the 401(k) plan or 403(b) annuity) to the extent the amount withdrawn is used to purchase a first home or a new passenger automobile (a "qualified withdrawal"). The provision applies to individuals whose adjusted gross income (AGI) in 1991 did not exceed $75,000 ($100,000 for joint filers).

For Federal income tax purposes, qualified withdrawals are treated as made first from amounts that are includible in gross income when distributed, and then from amounts not so includible. The taxable portion of a qualified withdrawal generally is includible in income ratably over the 4-taxable year period beginning with the taxable year in which the withdrawal occurs. However, the amount required to be included in income for any taxable year is reduced by any designated recontribution that is made not later than the due date (without extension) for such taxable year. A designated recontribution is a contribution to an IRA or any retirement plan from which a qualified withdrawal can be made which is designated by the taxpayer as in lieu of all (or any portion of) the amount that would otherwise be included in gross income for the taxable year. The recontribution would not be treated as a contribution to an IRA or retirement plan. Thus no deduction would be permitted for the recontribution, nor would the recontribution reduce the amount that the individual could otherwise contribute to an IRA or retirement plan.

A first-time homebuyer is any individual (and if married, such individual's spouse) who did not own an interest in a principal residence during the 2 years prior to the purchase of a principal residence. Parents and grandparents can make withdrawals to help their children or grandchildren purchase a first home (but *not* a new automobile). In this case, the AGI limits are applied by reference to the income of the child or grandchild.

If any qualified withdrawal fails to satisfy the requirements for the early withdrawal tax exception solely because of a delay or cancellation of the purchase or construction of the residence, the amount that was withdrawn may be recontributed to an IRA and treated as a qualifying rollover contribution except that (1) the rule that prohibits more than one IRA rollover per year does not apply, and (2) the amount recontributed is not taken into account for purposes of determining whether any other contribution to an IRA qualifies as a rollover contribution.

The provision applies only to withdrawals made in 1992 that are used to purchase a first home or new automobile within 6 months of withdrawal.

Effective date.—The provision applies to withdrawals after December 31, 1991.

Conference agreement

The conference agreement does not include the Senate amendment.

C. Education Provisions

1. TAX BENEFIT FOR INTEREST ON STUDENT LOANS

Present law

The Tax Reform Act of 1986 repealed the deduction for personal interest. Student loan interest is generally treated as personal interest and thus is not allowable as an itemized deduction from income. There is no tax credit allowed for student loan interest paid by a taxpayer.

House bill

In general

The House bill allows individuals a nonrefundable credit against regular tax liability generally equal to 15 percent of the interest paid on qualified education loans. The amount of the credit is subject to certain dollar limits and is phased out based upon the taxpayer's income.

A qualified education loan generally is any indebtedness[1] incurred to pay for qualified higher education expenses of the taxpayer or the taxpayer's spouse or dependents with respect to higher education institutions and certain area vocational education schools (i.e., eligible educational institutions defined in Code section 135(c)(3)). The qualified higher education expenses must be paid or incurred within a reasonable period of time before or after the indebtedness is incurred and must be attributable to education furnished during a period of time that the individual benefiting from the loan proceeds was at least a half-time student. Indebtedness that is used to refinance a qualified education loan is also treated as a qualified education loan.

Qualified higher education expenses include tuition, fees, books, supplies, and reasonable living expenses while the student lives away from home. At the time the expenses are incurred, the student must be the taxpayer or the taxpayer's spouse or dependent (as defined under Code section 152). Qualified higher education expenses taken into account for the purpose of this credit are reduced by the amount excluded from gross income under Code section 135 (relating to the redemption of United States savings bonds to pay for higher education expenses).

Limit on size of credit

In general

In general, the maximum credit in a taxable year is $300 with respect to the interest paid with respect to each individual whose qualified higher education expenses were financed by a qualified education loan. For example, for a taxpayer who, during the taxable year, paid $2,500 of qualified education loan interest with respect to one child and $1,000 of qualified education loan interest with respect to a second child, the credit generally would be limited to $450.[2]

---

[1] Indebtedness with respect to related parties as defined in Code sections 267(b) and 707(b)(1) will not be treated as a qualified education loan.

For taxpayers whose education loan interest payments are large relative to the taxpayer's income, the maximum credit is increased. If interest paid on qualified education loans exceeds 10 percent of the taxpayer's modified adjusted gross income (AGI), the maximum credit is determined according to the following scale:

If the ratio of interest to modified AGI is—	The maximum credit is—
At least 10% but less than 11%	$350
At least 11% but less than 12%	400
At least 12% but less than 13%	450
At least 13%	500

Modified AGI is defined as in section 86(b)(2).[3]

Carryover of excess interest and of unused credit

If 15 percent of the amount of qualified education loan interest paid in a given taxable year exceeds the limit on the maximum credit for such taxable year, the excess is carried forward to the next taxable year and treated as interest paid during that next taxable year.

If the taxpayer's income tax liability for a given taxable year is reduced to zero because of the credit allowed for that taxable year, any unused portion of the credit may be carried forward for the next 5 taxable years.

Limitations on claiming credit

In general

No credit is allowed to an individual if that individual is claimed as a dependent on another taxpayer's return for the taxable year beginning in the calendar year in which such individual's taxable year begins.

No credit is allowed for interest on any amount of education loan indebtedness for which a deduction is claimed under any other provision.

Credit claimed for interest on borrowing for expenses of taxpayer or spouse

In the case of qualified education loans used to pay the qualified higher education expenses of the taxpayer or the taxpayer's spouse, no credit is allowed for any taxable year after the first five taxable years (whether or not consecutive) with respect to which the taxpayer or spouse (as the case may be) is not at least a half-time student. For purposes of this rule, an individual is treated as a half-time student during any period in which payment of interest is deferred under Federal or State law.

The amount of the otherwise allowable credit is phased out ratably for taxpayers with modified AGI in the following ranges: $50,000-$75,000 for married individuals filing joint returns, $30,000-$55,000 for unmarried individuals, and $25,000-$37,500 for married individuals filing separate returns.

If the taxpayer is under 23 years old (or, in the case of a joint return, if both spouses are under 23) at the end of the calendar year ending with or within the taxable year, the amount of the credit is not to exceed the taxpayer's regular tax liability multiplied by the ratio of the taxpayer's earned income (defined in sec. 911(d)(2)) to the taxpayer's modified AGI.

Credit claimed for interest on borrowing for expenses of taxpayer's dependent

In the case of qualified education loans used to pay the qualified higher education expenses of an individual other than the taxpayer or the taxpayer's spouse, no credit is allowed unless the individual is claimed as a dependent of the taxpayer for that taxable year and the individual is at least a half-time student during that taxable year.

The amount of the otherwise allowable credit is phased out ratably for taxpayers with modified AGI in the following ranges: $75,000-$100,000 for married individuals filing joint returns, $45,000-$70,000 for unmarried individuals, and $37,500-$50,000 for married individuals filing separate returns.

Effective date

The provision is effective for taxable years beginning after December 31, 1991. Interest paid after the effective date on indebtedness incurred before January 1, 1992, is eligible for the credit if it satisfies all of the requirements above for qualified education loan indebtedness.[4]

Senate amendment

In general

The Senate amendment allows individuals who have paid interest on qualified education loans to choose either a deduction for such interest or a nonrefundable credit against regular tax liability generally equal to 15 percent of such interest, subject to a maximum credit of $300. Unused amounts of credit may not be carried forward or backward to other taxable years.

A qualified education loan generally is any indebtedness[5] incurred to pay for qualified higher education expenses of the taxpayer or the taxpayer's spouse or dependents (within the definition of section 152) with respect to higher education institutions and certain area vocational education schools (i.e., eligible educational institutions defined in sec. 135(c)(3)) and institutions conducting internship or residency programs leading to a degree or certificate from an institution of higher education, a hospital, or a health care facility conducting postgraduate training.

The qualified higher education expenses must be paid or incurred within a reasonable period of time before or after the indebtedness is incurred and must be attributable to education furnished during a period of time that the individual benefiting from the loan proceeds was at least a half-time student. Indebtedness that is used to refinance any indebtedness described in the previous sentence is also treated as a qualified education loan.

Qualified higher education expenses are defined as the student's cost of attendance.[6] At the time the expenses are incurred, the student must be the taxpayer or the taxpayer's spouse or dependent (as defined under Code section 152). Qualified higher education expenses taken into account for the purpose of this credit are reduced by (1) amounts excluded from gross income under Code section 135 (relating to the redemption of United States savings bonds to pay for higher education expenses), (2) the amount of the reduction described in sec. 135(d)(1) (relating to certain scholarships and veterans benefits), and (3) amounts withdrawn from individual retirement arrangements used to pay education expenses.

Deduction or credit claimed for interest on borrowing for expenses of taxpayer's or spouse

In the case of qualified education loans used to pay the qualified higher education expenses of the taxpayer or the taxpayer's spouse, the credit or deduction is allowed only with respect to interest paid on a qualified education loan that is allocable to the first 48 months during which interest accrued on the loan.[7]

Deduction or credit claimed for interest on borrowing for expenses of taxpayer's dependent

In the case of qualified education loans used to pay the qualified higher education expenses of an individual other than the taxpayer or the taxpayer's spouse, no deduction or credit is allowed unless the individual is claimed as a dependent of the taxpayer for that taxable year and the individual is at least a half-time student during that taxable year.

Limitation on claiming deduction

A taxpayer may not claim a deduction for interest on any amount of education loan indebtedness for which a credit or deduction is allowed under any other provision.

Limitations on claiming credit

No credit is allowed to an individual if that individual is claimed as a dependent on another taxpayer's return for the taxable year beginning in the calendar year in which such individual's taxable year begins.

No credit is allowed for interest on any amount of education loan indebtedness for which a deduction is claimed under any other provision.

Effective date

The provision is effective for taxable years beginning after December 31, 1991, and only for loans whose first payments are due after that date.

Conference agreement

The conference agreement follows the House bill with the following modifications. The rate of the credit is 25 percent, with a maximum credit of $400 with respect to the interest paid with respect to each individual whose qualified higher education expenses were financed by a qualified education loan. The maximum credit is not adjusted for taxpayers whose education loan interest payments are large relative to the taxpayer's income. There is no carryforward of either excess interest or unused credit.

---

[2] The $300 maximum is applied separately with respect to each child's interest. Fifteen percent of the $2,500 of interest paid with respect to the first child is $375. That exceeds the $300 maximum, so the amount of the credit for that child's education loan interest is $300. Fifteen percent of the $1,000 of interest paid with respect to the second child is $150, so the amount of the credit for that child's education loan interest is $150. Thus the taxpayer may claim a total credit of $450.

[3] AGI plus (1) tax-exempt interest received or accrued during the taxable year, (2) amounts earned in a foreign country, a United States possession, or Puerto Rico that are excluded from gross income, (3) housing cost amounts of individuals living abroad that are excluded from gross income, and (4) amounts of redemptions of United States savings bonds that are excluded from gross income under Code section 135, minus amounts of Social Security and tier 1 railroad retirement benefits included in gross income under Code section 86.

[4] In particular, the taxpayer must satisfy the limitations described above on the number of years the credit may be claimed. If the interest is on borrowing for the education expenses of the taxpayer or the taxpayer's spouse, no credit can be claimed if the first five taxable years (whether or not consecutive) with respect to which the taxpayer or spouse (as the case may be) is not at least a half-time student have elapsed. If the interest is on borrowing for the education expenses of the taxpayer's dependent, such dependent must be at least a half-time student during the taxable year.

[5] Indebtedness incurred by a student from borrowing from a related party (as defined in secs. 267(b) and 707(b)(1)) will not be treated as a qualified education loan.

[6] For purposes of the Senate amendment, "cost of attendance" is defined in section 472 of the Higher Education Act of 1965 as in effect on the day before the date of enactment of this provision (generally, tuition, fees, room and board, and related expenses).

[7] For purposes of counting the 48 months, any qualified education loan and all refinancing (that is treated as a qualified education loan) of such loan is treated as a single loan.

In the case of qualified education loans used to pay the qualified higher education expenses of the taxpayer or the taxpayer's spouse, the credit or deduction is allowed only with respect to the interest paid on a qualified education loan that is allocable to the first 48 months during which interest accrued on the loan.[8]

There is the same phaseout range for the credit regardless of the relationship of the taxpayer to the student. The amount of the otherwise allowable credit is phased out ratably for taxpayers with modified AGI in the following ranges: $60,000–$85,000 for married individuals filing joint returns, $40,000–$65,000 for unmarried individuals, and $30,000–$42,500 for married individuals filing separate returns.

No credit is allowed for interest on any amount of education loan indebtedness for which a deduction is claimed under any other provision.

Effective date.—Follows the Senate amendment.

2. INCOME-DEPENDENT EDUCATION ASSISTANCE: SELF-RELIANCE LOANS

Present law

The Department of Education subsidizes guaranteed student loans under the Stafford, Parent Loans to Undergraduate Students (PLUS), and Supplemental Loans for Students (SLS) programs. These loan programs generally are available for certain postsecondary educational expenses and, in the cases of the PLUS and SLS programs, are available regardless of a student's financial need. The subsidies provided under the guaranteed student loan programs generally take three forms. First, the Department of Education guarantees repayment of qualified student loans made by banks. Second, the Department pays special allowance payments as an interest subsidy on qualifying student loans so that student borrowers are required to pay less interest on the loans. Third, with Stafford loans the Department of Education pays an additional interest subsidy on qualified loans while the student is attending school.[1]

In addition, through the National Direct Student Loan (NDSL) program, the Federal government has made available revolving, direct-loan funds at certain participating educational institutions. Such loans (commonly referred to as "Perkins loans") are available only to low-income students with significant demonstrated financial need. The schools participating in the NDSL program are responsible for collecting amounts due from student borrowers.

Federal agencies are authorized to notify the IRS that a person owes a past-due, legally enforceable debt (such as a delinquent student loan) to that agency. The IRS then is required to reduce the amount of any Federal tax refund due such person by the amount of the debt and pay that amount to the agency. The refund offset program applies with respect to debts of individuals and corporations (sec. 6402(d)).

House bill

No provision.

Senate amendment

In general

The Senate amendment creates a program ("Income-Dependent Education Assistance") of direct loans ("Self-Reliance Loans") for higher education expenses. The Secretary of Education will make payments to participating institutions on the basis of estimated borrowing needs of the students at such institution. Eligible students who borrow funds under the program will have an account established with the Secretary of Education to record interest on and repayment of the Self-Reliance Loans. Such borrowers will make income-dependent repayment installments through the income tax system by means of a specially computed addition to tax that generally represents principal and interest on the loan.

Eligible students

Eligible students are United States citizens at least 17 years old, but not yet 51 years old, who are enrolled at a participating institution (which are selected by the Secretary of Education). Eligible students are able to receive Self-Reliance Loans without regard to financial need. Notwithstanding any other provision of law, an eligible student may not receive a Self-Reliance Loan in any fiscal year unless such student's eligibility for assistance under section 428 and subpart 1 of part A of the Higher Education Act has been assessed.

Limits on amounts borrowed

In general

The maximum amount of Self-Reliance Loans that may be borrowed by a student in his or her lifetime is $30,000, with no more than $25,000 of that amount for undergraduate education. A student may receive Self-Reliance Loans in the amount of no more than $5,000 per fiscal year in the case of an undergraduate student and no more than $15,000 per fiscal year in the case of a graduate student.

Coordination with other Federal loan programs

The combined maximum amount of loans a student may borrow under the Income-Dependent Education Assistance program, Part B (Stafford and Perkins loans), and Part E (Supplemental Loans for Students) of the Higher Education Act of 1965 may not exceed $52,000 for a dependent undergraduate, $62,000 for an independent undergraduate[2] who borrows at least $10,000 in Self-Reliance Loans, and $115,000 for a graduate student.

Limit by cost of attendance

In any fiscal year, a student may not receive Self-Reliance Loans in an amount greater than such student's cost of attendance[3] at a postsecondary school[4] less any other Federal educational financial assistance received by such student.

Interest rate on loans

The interest rate on a Self-Reliance Loan is established at the time of issuance and is equal to the average market yield on the 10-year and 30-year Treasury bonds. The Secretary of Education will establish the interest rate on Self-Reliance Loans at the same time (and with the same frequency) as is done for the Supplemental Loans for Students program.[5]

Repayment procedure

In general

Repayment on an individual's Self-Reliance Loan obligations is collected through the individual income tax. For a taxpayer in repayment status, the taxpayer's income tax liability generally is increased by the applicable Self-Reliance Loan repayment rate multiplied by the taxpayer's adjusted gross income (AGI).[6] The repayment installments are treated as a tax imposed by section 1 of the Code except for purposes of determining the amount of any tax credit or the amount of minimum tax.

The applicable repayment rate for a loan obligation is fixed at the time the taxpayer first enters repayment status and depends upon the taxpayer's amount of outstanding Self-Reliance Loan indebtedness.[7] Students with "high" indebtedness (as determined by the Secretary of Education) will have a repayment rate of 7 percent. Students with "moderate" indebtedness will choose between a repayment rate of 5 percent or 7 percent. Students with "low" indebtedness will choose among a repayment rate of 3 percent, 5 percent, or 7 percent. The Secretary of Education will make the determination of "low" and "moderate" indebtedness ranges so that the average borrower in each indebtedness status will be projected to repay the Self-Reliance Loan over a similar number of years as the average borrower with "high" indebtedness status.

With respect to any Self-Reliance Loan, the borrower enters repayment status in the first taxable year following the taxable year in which the borrower ceases (after the loan was incurred) to be at least a half-time student. The borrower remains in repayment status until the loan obligation is repaid or, if earlier, the end of the 25th taxable year after entering repayment status.

A borrower may prepay all or part of a Self-Reliance Loan without penalty.

Repayment tax payments received on or before the due date (without regard to any extension) for filing of the income tax return for a given taxable year are credited to the taxpayer's Self-Reliance Loan account as if received on the last day of the previous taxable year. Repayment tax payments received after the due date (without regard to any extension) for filing of the income tax return for a given taxable year are credited to the taxpayer's Self-Reliance Loan account as if received on the last day of the following taxable year.

---

[8] For purposes of counting the 48 months, any qualified education loan and all refinancing (that is treated as a qualified education loan) of such loan is treated as a single loan.

[1] In the case of Supplemental Loans for Students there is no in-school interest subsidy provided by the Federal government. SLS loans are available only to independent students (as defined in the Higher Education Act of 1965).

Stafford loans generally are limited to $3,500 for freshmen and sophomores, $5,500 for juniors and seniors, with a total undergraduate cap of $23,000. SLS loans generally are limited to $4,000 for freshmen and sophomores, $5,000 for juniors and seniors, with a total undergraduate cap of $23,000.

[2] As determined in section 428A of the Higher Education Act of 1965.

[3] As defined in section 472 of the Higher Education Act of 1965 (generally, tuition, fees, room and board, and related expenses).

[4] As defined in section 481(a) of the Higher Education Act of 1965.

[5] If, during a continuous period of study, the student incurs multiple Self-Reliance loan obligations bearing different interest rates, the Secretary of Education will provide for a consolidation of the loan obligations into one loan bearing an interest rate that is the weighted average of the interest rates on the multiple loan obligations.

[6] In the case of a married individual whose spouse has not received a Self-Reliance Loan and who files a joint return, the income tax liability on the joint return is increased by the individual's repayment rate multiplied by the AGI on the joint return. In the case of a married individual whose spouse has not received a Self-Reliance Loan and who files a separate return, such individual's income tax liability is increased by the individual's repayment rate multiplied by the sum of the AGI of that individual and the AGI of the individual's spouse (from the spouse's separate return).

[7] If the taxpayer in repayment status later takes out another Self-Reliance loan, the repayment rate may be changed to reflect the new, larger amount of outstanding Self-Reliance Loan indebtedness.

Exception for borrowers not required to file a tax return

No repayment of a Self-Reliance Loan is required in any year in which the borrower is not required to file an income tax return.

Discharge of liability of the borrower

In general.—The Secretary of Education will discharge the liability to repay a Self-Reliance Loan in the event of the death or total permanent disability of a borrower. If a loan were discharged because of expiration of the 25-year repayment status period, the borrower (or his or her estate) is not considered to have discharge of indebtedness income.

Bankruptcy.—A Self-Reliance Loan will not be dischargeable in bankruptcy. The Secretary of Treasury, however, may postpone payment on past-due amounts owed by bankrupt individuals.

Delinquent taxpayers

Borrowers who are delinquent in repaying their Self-Reliance Loan and who subsequently make interest payments to the Secretary of the Treasury on their underpayment are entitled to have interest that is properly allocable to such loans credited by the Secretary of Education to their Self-Reliance Loan repayment.

Administration of the loan program

The Secretary of the Treasury will enter into an agreement with the Secretary of Education to process information on repayments and credit such repayments to the Department of Education.

The Secretary of the Treasury will make appropriate provisions to require borrowers to make Self-Reliance Loan repayments through payroll withholding and estimated tax payments to the extent practicable and will determine the liability of borrowers for incorrect withholding according to rules on estimated tax payments.

The Secretary of Education will develop a central data system to administer the Income-Dependent Education Assistance program. Such data system will provide borrowers with information on their Self-Reliance Loan balance and on prepayment options, on at least an annual basis.

Not later than January 1 of each year, the Secretary of Education will certify to the Secretary of the Treasury a list of borrowers in repayment status for that year and such borrowers' repayment rates. The Secretary of the Treasury will report to the Secretary of Education the amount of loan repayment installments made by the borrower.

Not later than January 31 of each calendar year, the Secretary of Education will certify to each borrower the amount of interest and principal paid on such loans for the second preceding calendar year.[8]

Any borrower who receives the certifications described above relating to principal, interest, or balances and who believes such certification contains an error of statement or omission or believes that such certification asserts a debt not owed will be required to notify the Secretary of Education within 60 days of receipt. The Secretary of Education will, within 30 days of receipt of such objection, affirm, adjust, or withdraw such certification and send notice to the borrower and the Secretary of the Treasury. Such decisions will be reviewable by the appropriate district court as a final agency decision.

Demonstration program

In general

The Secretary of Education will select institutions of higher education for participation in the Self-Reliance Loan program from those institutions submitting applications that are eligible to participate in part B loan programs. Not later than May 1, 1993, the Secretary will select not more than 500 institutions to participate in the program. The participating institutions will be chosen so as to represent a cross-section by educational sector, length of academic program, default experience, annual loan volume, highest degree offered, enrollment size, and geographic location. The Secretary will also select participating institutions in such a manner that the volume of student borrowing under the demonstration program would not exceed the following amounts:

$450,000,000 in fiscal year 1994.
$550,000,000 in fiscal year 1995.
$650,000,000 in fiscal year 1996.
$900,000,000 in fiscal year 1997.

Each institution wishing to offer an Income-Dependent Education Assistance program is required to submit an application to the Secretary of Education and, if accepted, enter into an agreement with the Secretary of Education for receipt of funds. Each participating school must agree to follow procedures specified by the Secretary of Education in consultation with the Secretary of the Treasury in disbursing such loans; to accept liability stemming from mismanagement of loans or false origination of loans; to provide the Secretary of Education at least once a month with a list of Self-Reliance Loan participants and any change in their enrollment status; and to counsel borrowers on their repayment options and their obligations.

The Secretary of Education has the same authority to limit, suspend, or terminate an institution's participation in the Income-Dependent Education Assistance program as applies to an institution's participation in loan programs under Part B of the Higher Education Act of 1965, and may also impose additional regulations or criteria for participation. The demonstration program concludes at the end of fiscal year 1997.

Administrative costs

There will be available to the Secretaries of Education and the Treasury for administrative costs amounts not to exceed the following:

Fiscal year	Treasury	Education
1992	0	0
1993	$1,000,000	$40,000,000
1994	$7,500,000	$20,000,000
1995	$4,500,000	$20,000,000
1996	$3,600,000	$20,000,000
1997	$4,000,000	$20,000,000

It is expected that if, in a given fiscal year, amounts less than the above maxima are appropriated, the unused balance will be devoted to deficit reduction.

Evaluation and reporting

Beginning one year after enactment, the Secretary of Education, in consultation with the Secretary of the Treasury, will make annual reports to Congress describing and evaluating the implementation and administration of the Income-Dependent Education Assistance program and identifying problems that require legislative action.

Not later than January 1, 1997, the Secretary of Education, in consultation with the Secretary of the Treasury, will make a report to the Senate Committee on Labor and Human Resources and the House Committee on Education and Labor analyzing the administrative capacity of the Departments of Education and of the Treasury to operate this program; the administrative burden and costs imposed on the Departments of Education and of the Treasury by this program; the accuracy of information provided by the Secretary of Education; the administrative and financial factors that would affect the ability of all schools to participate in the program; the impact of this program on repayments, delinquencies and defaults under all federal student loan programs; and any other relevant information. The report will also (1) publish the tuition and cost of attendance at each institution participating in the program and analyze changes in those costs compared to changes occurring at institutions not participating in the program, (2) examine the feasibility of including individuals over age 50 as eligible students and of adjusting repayment rates and schedules to insure such individuals' repayment before retirement, (3) examine the feasibility of integrating the Income-Dependent Education Assistance program with a national service program, and (4) make recommendations for criteria to govern institutional eligibility if the Income-Dependent Education Assistance program were continued or later expanded to all eligible institutions of higher education.

Effective date

The provision generally is effective on the date of enactment. Amendments made to the Internal Revenue Code are effective for taxable years beginning after December 31, 1992. The first Self-Reliance Loans may be issued on or after September 1, 1993. No Self-Reliance Loans may be issued after September 30, 1997.

Conference agreement

The conference agreement does not include the Senate amendment.

3. WORKFORCE TRAINING: FORMATION OF, AND CONTRIBUTIONS TO, TAX-EXEMPT YOUTH TRAINING ORGANIZATIONS AND ESTABLISHMENT OF NATIONAL BOARD FOR PROFESSIONAL AND TECHNICAL STANDARDS

Present law

In order to qualify as a tax-exempt organization under section 501(c)(3) and be eligible to receive tax-deductible contributions, an organization must be organized and operated exclusively for charitable, educational, or other exempt purposes specified in section 501(c)(3), and no part of the organization's net earnings may inure to the benefit of any private shareholder or individual. Section 501(c) also provides tax-exempt status for other types of organizations (e.g., social welfare organizations and business associations), provided certain requirements are satisfied.

Charitable contributions to organizations described in section 501(c)(3) are allowed as an itemized deduction, subject to certain percentage limitations (sec. 170). In addition, donations to States or political subdivisions are deductible as charitable contributions, provided that the donation is made for exclusively public purposes. Depending on the type of property contributed and the type of the donee organization, the amount of a taxpayer's charitable contribution deduction generally is allowed in an amount up to the contributed property's fair market value. However, special rules provide for an augmented charitable contribution deduction for certain contributions made by corporations of inventory property used for the care of the ill, the needy, or infants, and certain scientific research property donated to educational or scientific organizations (sec. 170(e)(3) and (4)). The deduction allowed for such donations is equal to the corporation's basis in the property plus one-half of the amount of ordinary income that would have been realized if the property had been sold (but in no event may the deduction exceed twice the basis in the contributed property).

---

[8] Thus, under the provision in section 2121 of the Senate amendment that allows a credit or deduction for student loan interest, interest paid on Self-Reliance Loans will be treated as paid in the taxable year beginning in the calendar year following the calendar year in which such interest was paid.

Payments made by a taxpayer to a tax-exempt organization are deductible as ordinary and necessary business expenses under section 162, provided that the taxpayer has a reasonable expectation of financial return to his trade or business commensurate with the amount of the transfer. In such a case, a "gift or contribution" has not been made for purposes of section 170.[1]

House bill

No provision.

Senate amendment

Tax-exempt status

The Senate amendment specifically provides tax-exempt status for certain youth skills training and education organizations meeting the following requirements: (1) the organization is organized and operated solely for the purpose of administering a program that qualifies as a youth skills training and education program under subtitle B of title II of the Wagner-Peyser Act; (2) the organization is controlled by a board of directors consisting of representatives of employers contributing to such program (and certain of their employees),[2] schools and higher education institutions participating in the program, and State and local governments; and (3) the organization does not pay for, and prohibits the use of any contributions it receives for, employment training expenses or compensation for any student participating in the youth skills training and employment program.[3]

Augmented deduction

The Senate amendment also provides an augmented deduction for cash contributions made by a corporation or partnership to a tax-exempt youth skills training and education organization.[4] The allowable deduction under the provision is 150 percent of the contributed amount.

National Board for Professional and Technical Standards

The Senate amendment amends the Wagner-Peyser Act (29 U.S.C. 49 et seq.) to establish a National Board for Professional and Technical Standards ("National Board"), which will be an independent national board to develop a system of industry-based, occupational proficiency standards and certifications of mastery for occupations within each major industry (and occupations that involve more than one industry), for which no recognized training standards currently exist. The bill specifies criteria for the composition of the membership of the National Board, and requires that the National Board develop proficiency standards, assessments, and curricula for certain industrial or occupational categories. Such proficiency standards, assessments, and curricula will be made available for voluntary use by institutions of postsecondary education offering professional and technical education, labor organizations, trade and technical associations, employers and labor-management organizations providing formalized training, private training providers, and other organizations likely to benefit from such proficiency standards, assessments, and curricula.

Youth skills training and education programs

The Senate amendment also amends subtitle B of title II of the Wagner-Peyser Act to specify the criteria for qualified youth skills training and education programs. In general, a qualified youth skills training program is one that provides eleventh and twelfth grade high school students with the opportunity to voluntarily enter into a course of study that integrates academic instruction with supervised on-the-job training and instruction in the workplace in a curriculum designed to lead to a high school diploma and to qualify the student for further education or an advanced technical or professional training program. The program must be certified by a State or local educational agency as meeting the educational standards established and approved by such agency. In addition, the program must be certified by a State agency responsible for occupational training as meeting certain occupational-related requirements, including conforming to standards registered with the Department of Labor's Bureau of Apprenticeship or established by the National Board (or if such standards are not available, the provision of broad-based competencies and skills for career progression), coordination with participating schools, review and evaluation by the program of the student's progress in job performance and related academic instruction, and certain other labor requirements governing the terms and conditions of employment of students by employers participating in the program.

Department studies

The Treasury, Labor, and Education Departments are directed to jointly study and report to Congress within three years after enactment on the effects of the provisions and any recommendations for further legislative modifications.

Effective date

The provisions amending the Internal Revenue Code are effective for taxable years beginning after the date of enactment.

The National Board is required to develop, not later than December 31, 1993, proficiency standards, assessments, and criteria for at least 30 identified industrial or occupational categories. In addition, the National Board is required to develop a program to ensure that the proficiency standards, assessments, and curricula for all remaining identified industrial or occupational categories are completed not later than January 1, 1997.

Conference agreement

The conference agreement does not include the Senate amendment.

4. EXPANSION OF EDUCATION SAVINGS BOND PROVISIONS

Present law

Code section 135 provides that interest income earned on a qualified U.S. Series EE savings bond issued after December 31, 1989, is excludible from gross income if the proceeds of the bond upon redemption do not exceed qualified higher education expenses paid by the taxpayer during the taxable year.[1] "Qualified higher education expenses" include tuition and required fees for the enrollment or attendance of the taxpayer, the taxpayer's spouse, or a dependent of the taxpayer at an eligible educational institution.[2] A taxpayer cannot qualify for the interest exclusion by paying for the education expenses of another person (such as a grandchild or other relative) who is not a dependent of the taxpayer.

The exclusion provided by section 135 is phased out for certain higher-income taxpayers. A taxpayer's AGI for the year the bond is redeemed (not the year the bond was issued) determines whether or not the phaseout applies. For taxpayers filing a joint return, the phaseout range is for AGI between $60,000 and $90,000 (adjusted for inflation). For single taxpayers and heads of households, the phaseout range is for AGI between $40,000 and $55,000 (adjusted for inflation).

To prevent taxpayers from effectively avoiding the income phaseout limitation (through the issuance of bonds directly in the child's name), section 135(c)(1)(B) provides that the interest exclusion is available only with respect to U.S. Series EE savings bonds issued to taxpayers who are at least 24 years old.

The interest rate on Series EE savings bonds varies, depending on how long the bonds are held. The interest rate on such bonds held for more than five years is based on the market rate for Treasury outstanding obligations with five years to maturity. Bonds held for less than five years earn interest on a fixed, graduated scale (generally below current rates on comparable Treasury instruments). Interest earned on Series EE bonds is paid when the bonds are redeemed.

House bill

No provision.

Senate amendment

The Senate amendment expands the definition of "qualified higher education expenses" under section 135 to include tuition and required fees paid by a taxpayer for the enrollment or attendance of *any* individual (not simply dependents) at an eligible educational institution.

The Senate amendment also repeals the present-law AGI phaseout limitation under section 135 (and the related rule requiring that bonds be issued to a person who is at least 24 years old). Thus, interest earned on

---

[1] See Treas. Reg. sec. 1.170A-1(c)(5); Rev. Rul. 84-110, 1984-2 C.B. 35.

[2] Representatives of employers (and certain of their employees) may not constitute more than 50 percent of the members of the board of directors.

[3] The Senate amendment specifically provides tax-exempt status under new section 501(c)(26) of the Internal Revenue Code for qualifying youth skills training and education organizations meeting the requirements of the bill. No inference is intended as to the required characteristics for any tax-exempt educational organization described in present-law section 501(c)(3).

[4] For purposes of this provision, amounts paid by a corporation or partnership to a tax-exempt youth skills training and education organization are treated as a charitable contribution under section 170.

---

[1] If the aggregate redemption amount (i.e., principal plus interest) of all Series EE bonds redeemed by a taxpayer during the taxable year exceeds the qualified education expenses incurred, then the excludable portion of interest income is based on the ratio that the education expenses bears to the aggregate redemption amount (sec. 135(b)).

[2] Eligible educational institutions are defined in section 1201(a) and 481(a)(1)(C) and (D) of the Higher Education Act of 1965, as in effect on October 21, 1988, and in the Carl D. Perkins Vocational Education Act (subparagraph (C) or (D) of section 521(3)), as in effect on October 21, 1988. An eligible educational institution does not include proprietary institutions.

"Qualified higher education expenses" do not include expenses with respect to any course or other education involving sports, games, or hobbies other than as part of a degree program (sec. 135(c)(2)(B)).

a Series EE savings bond is not subject to tax regardless of the taxpayer's AGI during the year the bond is redeemed if, during that year, the taxpayer pays for qualified higher education expenses of any individual and such expenses exceed the proceeds (principal plus interest) received upon redemption.[3]

Effective date.—The provision applies to U.S. Series EE savings bonds issued after December 31, 1989, and redeemed after December 31, 1991.

Conference agreement

The conference agreement follows the Senate amendment.

5. EXTENSION OF EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE

Present law

An employee's gross income and wages for income and employment tax purposes do not include amounts paid or incurred by the employer for education assistance provided to the employee if such amounts are paid or incurred pursuant to an educational assistance program that meets certain requirements. This exclusion, which expires with respect to amounts paid after June 30, 1992, is limited to $5,250 of educational assistance with respect to an individual during a calendar year.

In the absence of this exclusion, an employee generally would be required to include in income and wages, for income and employment tax purposes, the value of educational assistance provided by an employer to the employee, unless the cost of such assistance qualified as a deductible job-related expense of the employee.

House bill

The exclusion for employer-provided educational assistance is permanently extended.

Effective date.—The provision is effective for taxable years ending after June 30, 1992.

Senate amendment

The exclusion for employer-provided educational assistance is extended through December 31, 1993.

Effective date.—The provision is effective for taxable years ending after June 30, 1992.

Conference agreement

The conference agreement extends the exclusion for employer-provided educational assistance through June 30, 1993.

Effective date.—The provision is effective for taxable years ending after June 30, 1992.

D. Health Insurance and Health Care Provisions

1. EXTEND HEALTH INSURANCE DEDUCTION FOR SELF-EMPLOYED

Present law

Present law provides a deduction for 25 percent of the amount paid for health insurance for a self-employed individual (e.g., a partner in a partnership or a sole proprietor) and the individual's spouse and dependents. The 25-percent deduction is also available to more than 2-percent shareholders of S corporations. The amount of expenses in excess of the deductible amount can be taken into account in determining whether the individual is entitled to a medical expense deduction (sec. 213).

The 25-percent deduction expires for taxable years beginning after June 30, 1992. In the case of years beginning in 1992, only amounts paid before July 1, 1992, for coverage before July 1, 1992, are taken into account in determining the amount of the deduction.

House bill

The House bill extends the 25-percent deduction through December 31, 1992.

Effective date.—The provision is effective for taxable years ending after June 30, 1992.

Senate amendment

The Senate amendment increases and makes permanent the deduction for health insurance expenses of self-employed individuals. For 1992, the deduction is 75 percent. For 1993 and thereafter, the deduction is 100 percent.

Effective date.—The provision is effective for taxable years ending after June 30, 1992.

Conference agreement

The conference agreement extends the 25-percent deduction for health insurance expenses of self-employed individuals through June 30, 1993.

Effective date.—The provision is effective for taxable years ending after June 30, 1992.

2. IMPROVEMENTS IN HEALTH INSURANCE AFFORDABILITY FOR SMALL EMPLOYERS

a. Grants to States for small employer health insurance purchasing programs

Present law

Currently, there is no Federal grant program to finance group purchasing arrangements to assist small employers in purchasing health insurance. Several States have undertaken related initiatives.

House bill

No provision.

Senate amendment

The Senate amendment would establish a grant program to assist States in developing small employer health insurance group purchasing arrangements. Funds could be expended for administrative costs including marketing and outreach efforts, negotiations with insurers, and performance of administrative functions such as eligibility screening, claims administration and customer service. In awarding grants to States, the Secretary of Health and Human Services (HHS) would be required to fund qualified applications employing a variety of approaches to group purchasing.

Such sums as necessary would be authorized for fiscal years 1993 through 1995 for the purpose of funding grant applications.

The Secretary of HHS would be required to conduct an evaluation and report to the Congress by January 1, 1995, on the impact of these programs on the number of uninsured and the price of insurance available to small employers.

Effective date.—Date of enactment.

Conference agreement

The conference agreement does not include the Senate amendment.

b. Study use of Medicare rates by private health insurance plans

Present law

In general, prices paid for health care services are arranged privately between insurers and health care providers. No Federal law directs these prices. Some States have laws regulating payments to hospitals by private insurers.

House bill

No provision.

Senate amendment

The Senate amendment directs the Secretary of Health and Human Services (the Secretary) to study and report to the Congress by January 1, 1993, on the feasibility and desirability of developing prices based on Medicare payment methodologies for use by private health insurance. In developing the study, the Secretary would take into account the findings and views of the Prospective Payment Assessment Commission and the Physician Payment Review Commission.

The study would include an evaluation of (1) the appropriateness of using Medicare payment rules to determine payments for services provided to the non-Medicare population, with particular emphasis on services furnished to children; (2) the potential impact of such prices on health insurance premiums, access to health care services by Medicare beneficiaries and others and national health care spending; and (3) the advantages and disadvantages of alternative mechanisms for enforcing the use of such rates when private insurers opt to use them.

Effective date.—Date of enactment.

Conference agreement

The conference agreement does not include the Senate amendment.

3. IMPROVEMENTS IN HEALTH INSURANCE FOR SMALL EMPLOYERS: STANDARDS AND REQUIREMENTS OF SMALL EMPLOYER HEALTH INSURANCE; EXCISE TAX ON PREMIUMS RECEIVED ON HEALTH INSURANCE POLICIES WHICH DO NOT MEET CERTAIN REQUIREMENTS; GAO STUDY AND REPORT ON RATING REQUIREMENTS AND BENEFIT PACKAGES FOR SMALL GROUP HEALTH INSURANCE

Present law

There is no Federal law regulating the terms of sale of private health insurance sold to small employers. The National Association of Insurance Commissioners (NAIC) has adopted model legislation for State laws governing premium rates and renewability of coverage for health insurance sold to small employers, and guaranteeing availability of health insurance sold to small employers. Fourteen States have enacted legislation similar to the NAIC model on rating and renewability of coverage. Another four States have enacted additional legislation to guarantee the availability of health insurance sold to small employers.

House bill

No provision.

Senate amendment

Standards and requirements of small employer health insurance

The Senate amendment would establish minimum Federal requirements for State laws regarding the sale of health insurance to small employers. The requirements would apply to insurance sold to employers with between 2 and 50 employees working at least 30 hours a week.

Development of standards.—The Secretary of Health and Human Services would request the National Association of Insurance Commissioners (NAIC) to develop standards for State implementation of the statutory requirements by September 30, 1992. If the NAIC fails to act in time, or if the Secretary finds that the NAIC standards do not meet the statutory requirements, the Secretary will develop standards by December 31, 1992.

State adoption and enforcement.—States would be required to establish a regulatory program for adoption and enforcement of the standards, subject to approval and oversight by the Secretary of HHS. The General Accounting Office would conduct periodic reviews to evaluate State compliance.

---

[3] Present-law section 135(b) prorates the excludible interest when aggregate proceeds from bonds redeemed by a taxpayer during the taxable year exceed qualified education expenses paid by the taxpayer during that year. Consistent with this rule, it is expected that the Treasury Department will prescribe procedures for allocating the income exclusion provided for by section 135 in cases where, with respect to a particular taxable year, two (or more) taxpayers redeem savings bonds and claim to have paid qualified education expenses for the same student, but the aggregate redemption proceeds received by the taxpayers exceed the student's qualified education expenses.

States could enact more stringent standards. The Secretary of HHS would be authorized to provide waivers for rating band requirements in the case of a State with equally stringent but not identical standards in effect prior to January 1, 1992.

The standards would apply to all entities subject to State insurance laws and regulations, including multiple employer welfare arrangements. In the case of a multiple employer welfare arrangement that is fully insured, the standards would apply to the insurer of the arrangement. Self-funded multiple employer welfare arrangements would be subject to State regulation in the same way as under current law. Nothing in the Federal requirements is intended to interfere with a State's ability to regulate licensure or financial solvency of insurers.

Standards would provide for guaranteed eligibility, guaranteed renewability, limits on pre-existing condition exclusions, restrictions on rating practices, requirements for benefit package offerings, and guaranteed availability of coverage.

Guaranteed eligibility.—Eligible employees or their dependents could not be excluded from coverage under a small group health insurance plan.

Guaranteed renewability.—Insurance sold to small employers could not be canceled due to claims experience or health conditions.

Pre-existing condition exclusions.—Newly covered employees and dependents with previous health insurance coverage would generally be protected against pre-existing condition exclusions. In the case of an individual without coverage for a particular service within the 90-day period prior to beginning employment, insurers could exclude coverage for that service for a one-time period of up to 6 months for any pre-existing condition. A pre-existing condition would be defined as one that was diagnosed or treated within 3 months of the beginning of coverage. Individuals with previous health insurance coverage would be given credit for each month of coverage toward the pre-existing condition exclusion period. Pre-existing condition exclusions could not be applied to services furnished to newborns.

Rating requirements.—Minimum Federal requirements for rating of small employer premiums would limit variation in premiums for health insurance sold to small employers on account of health status, claims experience, duration since issue, industry and occupation.

Rating bands would be established such that the highest premium charged to the lowest premium charged to a small employer with similar demographic characteristics (age, sex and family size) for the same or similar benefits could not exceed 1.5 for the first three years the law is in effect, and 1.35 in subsequent years.

Under limited circumstances, insurers could sort small employers into separate blocks of business, and the rating bands would apply independently to each block of business. Variation in premiums charged between all blocks of business could not exceed 20 percent. Insurers would be allowed to create no more than six blocks of business to segregate plans purchased from another insurer, plans provided through an association of small employers, and plans marketed through direct mail or another marketing approach.

These rating bands would not apply to differences in premiums due to age and sex, or geography. Adjustments to premiums based on these factors would have to be applied consistently across small employers. In addition, demographic rating factors would have to be consistent with guidelines developed by the National Association of Insurance Commissioners.

Insurers would disclose to the employer information on rating practices, the impact of rating factors on the employer's premiums, and the potential for future rate changes.

Annual rate increases.—Premiums for a small employer could increase by no more than 5 percent above the underlying trend in health care costs, as measured by the increase in the lowest rate charged by the insurer for the block of business.

Benefit packages.—All insurers offering coverage to small employers must make available at least a standard and a basic benefit package to all small employers in all blocks of business. State laws requiring the coverage of specified items and services would not apply to either benefit package. State laws involving the coverage of newborn children, adopted children or other individuals would continue to govern. Neither does the Finance Committee intend to preclude state requirements with respect to continuation and conversion benefits.

The standard benefit package would provide for the following benefits:

(1) inpatient and outpatient hospital services, except that mental health services could be limited annually to at least 45 days of inpatient treatment and 20 outpatient visits;

(2) physician services and diagnostic tests; and

(3) preventive services limited to prenatal care, well baby care for children under 1 year, well-child care, Pap smears, mammograms and colorectal screening services.

Physician services would be defined to include services lawfully provided by a physician under State medical practice acts, and includes services provided by a dentist, licensed advance-practice nurse, physician assistant, optometrist, podiatrist, or chiropractor acting within the scope of their practices as determined under State law. Outpatient psychotherapy and counseling could be provided by a physician, clinical psychologist, clinical social worker or other licensed providers operating within the scope of state law. Mental health services would include treatment of alcohol and drug dependency.

Out-of-pocket costs would be limited in several ways. The annual deductible could not exceed $400 for an individual and $700 for a family in 1993. These limits would be indexed to the consumer price index. Coinsurance could not exceed 20 percent, except in the case of outpatient mental health services for which a 50-percent coinsurance rate would apply. An overall annual cap on deductibles and coinsurance would be established at $3,000 for individuals and families in 1993, indexed to the consumer price index thereafter.

The basic benefit package would provide for inpatient and outpatient hospital care, including emergency services; inpatient and outpatient physician services, preventive services which may include prenatal and well-baby care, well-child care, mammograms, Pap smears and colorectal screening. Nothing in the Federal requirements prohibits the inclusion of mental health services in the basic benefit package. Deductibles and coinsurance could be imposed. A limit on out-of-pocket spending would be required.

Within the scope of these Federal requirements, a State could choose to define a specific basic benefit package that all insurers must offer, or a State could allow insurers to offer alternative basic benefit packages. The intent of the basic benefit package requirement is to encourage the development of affordable health benefit packages for small employers.

Guaranteed availability of coverage.—Insurance coverage would be made available to every small employer within a state. States could choose among alternative approaches to guarantee availability of coverage. The National Association of Insurance Commissioners (or the Secretary) would develop standards to implement at least the four alternatives, including (1) mandating that all insurers issue insurance to any small employer, and be required to participate in a reinsurance pool designed to spread risk among insurers, and (2) mandating that all insurers issue insurance to any small employer and allowing voluntary participation in a reinsurance pool, (3) requiring participation in a system for allocating high-risk groups among insurers, and (4) allowing insurers to choose between issuing insurance to any small employer and participating in an allocation system. In addition, the Secretary may approve other programs guaranteeing the availability of insurance to small employers. For example, a State could require insurers to issue insurance to any small employer without establishing a reinsurance pool. Under each approach, States would be required to adopt standards to assure fair marketing of insurance sold to small employers.

Enforcement of standards: Excise tax on premiums on health insurance policies not meeting certain requirements

Insurers violating standards would be subject to a Federal excise tax equal to 25 percent of premiums received on all policies sold to small employers. Insurers in States having a regulatory program approved by the Secretary would be exempt from the tax, as would insurers in other States that are individually certified by the Secretary as meeting the Federal standards.

Effective date

The requirements take effect for health insurance plans offered, issued, or renewed to a small employer on or after January 1, 1994, except in States with a legislature that does not meet during 1993. In these States, the requirements would be effective on first day of the first calendar quarter after the close of the first regular legislative session occurring after January 1, 1994.

GAO Study

The General Accounting Office (GAO) would report to the Congress on (1) the impact of the standards for small group insurance on the availability and price of insurance offered to small employers, differences in available benefit packages, and the number of small employers choosing standard or basic benefit packages; (2) differences in State laws and regulations affecting the price of health insurance plans sold to individuals; and (3) the impact of the standards on the number of small employers offering insurance to employees through a self-funded group health plan.

The GAO would also make recommendations with respect to adjusting the minimum rating requirements to eliminate experience rating based on health status and claims experience and to eliminate variation in premiums associated with age and sex.

Conference agreement

The conference agreement does not include the Senate amendment.

4. IMPROVEMENTS IN THE PORTABILITY OF PRIVATE HEALTH INSURANCE: EXCISE TAX IMPOSED ON FAILURE TO PROVIDE FOR PREEXISTING CONDITION

Present law

Group health plans often exclude coverage for a period of time for services related to a preexisting medical condition of a newly covered employee or his or her dependents, regardless of previous health insurance coverage.

House bill

No provision.

Senate amendment

All group health insurance and self-insured employer group health plans would be prohibited from denying or limiting coverage on the basis of medical history or health status, except that a limited preexisting condition exclusion could apply to individuals with respect to services for which they did not previously have health insurance coverage.

Newly covered employees and dependents with previous health insurance coverage would generally be protected against preexisting condition exclusions. In the case of an individual without coverage for a particular service within the 90 day period prior to beginning employment, insurers could exclude coverage for that service for a onetime period of up to 6 months for any preexisting condition. Preexisting conditions would be defined as those that were diagnosed or treated during the three months prior to enrollment.

Individuals would be given credit for previous health insurance coverage. A period of preexisting condition exclusion would be reduced by one month for each month of previous coverage with respect to particular services. Credit would be given for previous coverage ending up to three months prior to the start of coverage under the new health plan.

Insurers or self-insured employer group health plans offering health plans not in compliance with these requirements would be required to retroactively cover any illegally excluded services and pay a tax penalty of $100 a day for each violation.

Effective Date.—Date of enactment.

Conference agreement

The conference agreement does not include the Senate amendment.

5. Health care cost containment

a. Establishment of Health Care Cost Commission

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment would establish a Health Care Cost Commission to advise the Congress and the President on strategies for reducing health care costs.

The Commission would consist of 11 members appointed by the President and confirmed by the Senate. The term of the Chairman would be 4 years and coincident with the term of the President. Other members would serve for three-year terms, except that the terms of initial appointees would be staggered so that the terms of no more than 4 members would expire each year.

The President would be required to appoint members within six months of enactment of this provision, and would be required to assure representation of consumers of health services, large and small employers, State and local governments, labor organizations, health care providers, health care insurers, and experts on the development of medical technology.

The Commission would report by March 30th each year on trends in health care spending, the cost of private health insurance, sources of increases in health care costs and comparative trends in other countries. The report would also include the Commission's assessment of public and private strategies for reducing growth in health spending and its recommendations for cost containment efforts.

As part of its first annual report, the Commission would, in consultation with the Secretary of Health and Human Services, recommend a national model uniform claims form and uniform standards for the collection of medical and billing records for use by insurers and providers. The Commission would recommend a strategy and schedule for implementing by January 1, 1996, national use of these forms and standards, taking into account the need for patient confidentiality and special implementation issues, including those of providers in rural areas. The Commission would consider the use of electronic cards or other technology that allows expedited access to medical records and insurance information.

The Commission would also make recommendations to the Secretary of Health and Human Services with respect to the development and ongoing review of standards for managed care plans and utilization review programs.

Effective date.—Date of enactment.

Conference agreement

The conference agreement does not include the Senate amendment.

b. Federal certification of managed care plans and utilization review programs

Present law

Under present law, a health maintenance organization meeting certain standards may apply to the Health Care Financing Administration for certification as a federally qualified health maintenance organization.

House bill

No provision.

Senate amendment

The Secretary of HHS would be directed to establish a voluntary certification program for managed care plans and utilization review programs.

Standards for certification of qualified managed care plans would include standards related to the qualification and selection of participating providers, the distribution of providers necessary to assure that plan enrollees have access to needed health services, the provision of benefits for emergency services and the establishment of an ongoing quality assurance program. In order to be certified as a qualified managed care plan, a managed care plan would also have to meet standards identical to those established for designation of qualified utilization review programs.

Standards for certification of qualified utilization review programs include standards related to the qualification of individuals performing utilization review, the utilization review criteria and procedures for evaluating the necessity and appropriateness of health services, the timeliness of utilization review determinations and procedures for operating an appeals process and standards related to the expenses associated with requests from providers for information needed to conduct utilization review. The Secretary would be required to periodically review these criteria, taking into account recommendations of the Health Care Cost Commission.

The Secretary could consider a plan or utilization review program accredited if it meets the requirements of a State licensure program or national accreditation body that the Secretary determines are at least as stringent as the Federal standards.

Certain State laws would not apply with respect to qualified managed care plans and qualified utilization review programs. These include laws that prohibit a qualified managed care plan from including financial incentives for enrollees to use the services of participating providers, laws that prohibit a qualified managed care plan from requiring that services be authorized by a participating primary care physician selected by the enrollee, and laws that prohibit the use of utilization review procedures by a qualified utilization review program or a qualified managed care plan.

Effective date.—Date of enactment.

Conference agreement

The conference agreement does not include the Senate amendment.

c. Additional funding for outcomes research

Present law

The Omnibus Budget Reconciliation Act of 1989 authorized funding in the Department of Health and Human Services, through the Agency for Health Care Policy and Research, for research on the outcomes, effectiveness, and appropriateness of health care services and procedures. Authorization for appropriations for these activities are set at $110 million for fiscal year 1992, two thirds of which is appropriated from the Medicare trust funds; $148 million for 1993, 70 percent of which is appropriated from the Medicare trust funds; and $185 million for 1994, 70 percent of which is appropriated from the Medicare trust funds.

House bill

No provision.

Senate amendment

The Senate amendment increases authorization of appropriations to $175 million in fiscal year 1992, $225 million in fiscal year 1993, $275 million in fiscal year 1994, and $300 million in fiscal year 1995. The amount contributed from the Medicare trust funds in fiscal years 1993 and 1994 would be reduced to 50 percent of the total appropriation.

Effective date.—Date of enactment.

Conference agreement

The conference agreement does not include the Senate amendment.

6. MEDICARE PREVENTION BENEFITS

a. Coverage of certain immunizations

Present law

With certain exceptions, Medicare does not generally cover preventive health services. OBRA 1987 established a demonstration project to test the cost effectiveness of including influenza vaccine under the Medicare program. The legislation required that a report on the cost effectiveness of the benefit be submitted to the Congress by October 1, 1990. If the results were inconclusive, the demonstration would be extended an additional two years with a final report submitted to the Congress by April 1, 1993. The demonstration is slated to end September 1992. Medicare will not pay for influenza vaccines except at the designated sites.

House bill

No provision.

Senate amendment

The Senate amendment would provide for coverage of annual influenza vaccinations and for tetanus-diphtheria boosters every 10 years.

Effective date.—Applies to influenza vaccinations furnished on or after October 1, 1992, and for tetanus-diphtheria boosters furnished on or after January 1, 1993.

Conference agreement

The conference agreement does not include the Senate amendment.

b. Coverage of well-child care

Present law

As has been explained in the preceding item, the Medicare program generally does not cover preventive services. Medicare coverage is provided for persons suffering from end-stage renal disease. Included in this group are approximately 300 children under the age of 7.

House bill

No provision.

Senate amendment

The Senate amendment would provide for coverage of pediatric well-child care, including appropriate immunizations, for children entitled to Medicare who have not attained 7 years of age. This would benefit the approximately 300 children who are entitled to Medicare because they have end-stage renal disease.

Effective date.—Applies to well-child services provided on or after January 1, 1993.

Conference agreement

The conference agreement does not include the Senate amendment.

c. Demonstration projects for coverage of other preventive services

Present law

Section 9314 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), as amended by COBRA 1990, requires the Secretary to establish a five-year demonstration program to measure the costs and benefits of providing preventive services to Medicare beneficiaries. The program must be conducted at no fewer than five demonstration sites. An interim report is due April 1993, and a final report (including a comprehensive evaluation of the long-term effects of the program) is due April 1995.

House bill

No provision.

Senate amendment

The Senate amendment would provide for the establishment of an on-going series of demonstrations to evaluate the appropriateness of covering additional preventive services under Medicare. A different service would be provided at each site, so that the effect of that service on life expectancy and Medicare costs could be isolated. The Secretary would be required to evaluate specific services but could extend the demonstrations to include other services as well. Services that the Secretary would be required to evaluate include: glaucoma screening; cholesterol screening and cholesterol reducing drug therapies; screening and treatment for osteoporosis, including tests for bone-mass measurement and hormone replacement therapy; screening services for pregnant women, including ultrasound and clamydial testing and maternal serum alfa-protein; one-time comprehensive assessment for individuals beginning at age 65 or 75; and prostate-specific antigen (PSA) testing for prostate cancer. Although the Secretary would be required to use the sites at which the COBRA demonstrations are currently being conducted, he could designate other sites as well.

Effective date.—Date of enactment.

Conference agreement

The conference agreement does not include the Senate amendment.

d. OTA study of process for review of medicine coverage of preventive services

Present law

The Department of HHS has established a process for making coverage decisions for medical procedures and technologies, which, if approved, could be included under one of the covered service categories (such as physicians' services).

House bill

No provision.

Senate amendment

The Senate amendment would require an Office of Technology Assessment (OTA) study of the process by which Medicare should decide whether to cover new preventive services in the event that the current statutory exclusion of preventive services from Medicare coverage is repealed. The OTA study would be subject to the approval of the Technology Assessment Board.

Effective date.—Date of enactment.

Conference agreement

The conference agreement does not include the Senate amendment.

e. Financing of new benefits

Present law

Ordinarily, the basic part B premium paid by enrollees is the lower of: (1) an amount sufficient to cover one-half of the projected costs of the program for aged enrollees, or (2) the previous year's premium increased by the percentage increase in Social Security cash benefits payments.

This general requirement has been superseded since 1984. For the period 1984-1990, the Congress approved a series of amendments which set the part B premium equal to 25 percent of program costs for the aged. OBRA 1990 established specific dollar amounts for calendar years 1991-1995; these amounts were based on projections of 25 percent of program costs. The premiums established by OBRA 1990 are: $29.90 for 1991; $31.80 for 1992; $36.60 for 1992; $41.10 for 1994; and $46.10 for 1995.

The calculation of the Part B premium will revert to the basic rules beginning in 1996.

House bill

No provision.

Senate amendment

The new preventive benefits would be financed in the same manner as other part B services currently are paid for, with beneficiaries paying 25 percent of the increased program costs attributable to the benefits. CBO estimates that this would increase monthly part B premiums 10 cents above current law levels for each of the years 1993 through 1997.

Effective date.—Date of enactment.

Conference agreement

The conference agreement does not include the Senate amendment.

7. HEALTH BENEFITS FOR RETIRED COAL MINERS

Present law

The United Mine Workers of America (UMWA) health and retirement funds were established in 1974 pursuant to an agreement between the UMWA and the Bituminous Coal Operator's Association (BCOA) to provide pension and health benefits to retired coal miners. The funds have been maintained for this purpose through a series of collective bargaining agreements. The funds created in 1974 were a restructuring of the original benefit fund, which was established in 1946.

The funds consists of four different plans, each of which is funded through a separate trust. The 1950 Pension Plan provides retirement benefits to miners who retired on or before December 31, 1975, and their beneficiaries. The 1950 Benefit Plan provides health benefits for retired mine workers who receive pensions from the 1950 Pension Plan and their dependents. The 1974 Benefit Plan provides health benefits to miners who retired after December 31, 1975. It also provides benefits to miners whose last employers are not longer in business or, in some cases, no longer signatory to the applicable bargaining agreement. These miners are generally referred to as "orphan" retirees.

House bill

No provisions.

Senate amendment

The Senate amendment creates a Coal Industry Retiree Health Benefit Corporation (the Corporation), a government corporation, to provide retiree health benefits for certain retired mine workers (and their spouses and dependents)—generally retirees whose last employer is out of business or not currently paying for retiree health benefits. The Corporation's health plan is financed by a cents/hour tax on certain coal production, a per-ton tax on imported coal, and a per-participant tax on certain former signatories to bargaining agreements who were the last employer of someone covered under the Corporation plan. The Senate amendment also (1) creates a new fund (the United Mine Workers of America (UMWA) 1991 Benefit Fund) to provide retiree health benefits to retirees of current signatories to the UMWA agreements, and (2) authorizes the tax-free transfer of excess assets from UMWA pension trusts to the Corporation and the 1991 Benefit Fund.

Effective date.—The provision is generally effective on the date of enactment.

Conference agreement

The conference agreement generally follows the Senate amendment. The conference agreement modifies the definition of Western States, eliminates the ability of the Corporation to set tax rates and premiums, and eliminates certain provisions relating to interaction with titles XVIII and XIX of the Social Security Act. As has historically been the case, retiree health benefits provided by the program would be secondary to benefits paid under other governmental programs, except as otherwise provided by law. It is anticipated that the Corporation and the 1991 Fund will have at least the same rights to coordinate benefits with other benefit plans and programs as the UMWA Benefit Plans have exercised in the past.

E. Capital Gains Provisions

1. INDIVIDUAL CAPITAL GAINS

Present law

Tax rate on net capital gain

Under present law, ordinary income of an individual is taxed at a maximum marginal rate of 31 percent. Net capital gain of an individual is taxed at the same rates applicable to ordinary income, subject to a maximum marginal rate of 28 percent. Net capital gain is the excess of net long-term capital gain for the taxable year over net short-term capital loss for the year. Gain or loss from the sale or exchange of a capital asset is treated as long term if the asset is held for more than one year.

A capital asset generally means any property except (1) inventory, stock in trade, or property held primarily for sale to customers in the ordinary course of the taxpayer's trade or business, (2) depreciable or real property used in the taxpayer's trade or business, (3) specified literary or artistic property, (4) business accounts or notes receivable, or (5) certain U.S. publications.

The Tax Reform Act of 1986 repealed a provision allowing a noncorporate taxpayer a deduction for 60 percent of its net capital gain for the taxable year.

The amount taken into account under present law in computing gain from the disposition of any asset is the sales price of the asset reduced by the taxpayer's basis in that asset. The taxpayer's basis reflects his actual cost in the asset adjusted for depreciation, depletion, and certain other amounts. No adjustment is allowed for inflationary increases in the value of the asset.

Depreciation recapture

In general, gain on the sale or other disposition of section 1245 property (depreciable personal property) is taxed as ordinary income to the extent of all previous depreciation or amortization allowances with respect to the property. Gain on the sale or other disposition of section 1250 property (depreciable real property) is taxed as ordinary income to the extent of the excess of accelerated depreciation allowances over the depreciation that would have been available under the straight-line method.

House bill

In general

The House bill generally provides for an inflation adjustment to (i.e., indexing of) the basis of certain assets (called "indexed assets") for purposes of determining gain (but not loss) upon sale or other disposition. Assets eligible for the inflation adjustment generally include corporate stock and tangible property which are capital assets or property used in a trade or business. The adjustment generally applies only to assets held for more than one year and which are acquired on or after February 1, 1992.

The provision generally applies to assets held by taxpayers other than C corporations, and to assets held by regulated investment companies and real estate investment trusts. Thus, for example, assets held by individuals, trusts, estates, S corporations, and partnerships are eligible for indexing, to the extent gain is taken into account by taxpayers other than corporations.

The adjustment is based on the increase in the consumer price index (CPI) between the calendar year prior to the year in which the asset was acquired and the year prior to the year in which the disposition takes place.

Indexed assets

The House bill generally provides for the indexing of corporate stock. For this purpose, options, warrants, or other contract rights with respect to stock are not considered stock. The inflation adjustment does not apply to stock in an S corporation, or generally to stock in a foreign corporation.[1]

The bill provides for the indexing of tangible personal property and real property which are capital assets or property used in a trade or business. This is intended to include leasehold interests in such property, and in the case of real property, includes land, structures, various mineral interests with respect to real property, and timber. However, it does not include any contract rights with respect to real property nor any mortgage or other creditor's interest.

The basis of debt is not indexed in order to avoid the complexity required to provide an inflation adjustment for both parties to the transaction. For example, in the case of a loan, the precise inflation adjustment would require the lender to deduct a loss from inflation and the borrower to report a gain. Similarly, the bill excludes from indexing intangible assets, such as options, where there is an option writer and option buyer who have offsetting inflation adjustments. The lessor's interest in property subject to a net lease is also not eligible for indexing.

The bill does not allow indexing of collectibles (as defined in sec. 408(m)).

Computation of inflation adjustment

The inflation adjustment under the House bill is computed by multiplying the taxpayer's adjusted basis in the indexed asset by the ratio of the CPI for the calendar year (as determined under sec. 1(f)) prior to the year in which disposition of the asset takes place to the CPI for the calendar year prior to the year in which the asset was acquired. The prior years' CPI is used in order to allow taxpayers to know the applicable inflation adjustment at the time at which the asset is disposed.

Under the bill, indexing is allowed for the number of years equal to the full number of years the taxpayer held the asset. For example, assume that an asset was purchased on November 1, 1993, and disposed of on March 1, 1997. For purposes of computing the inflation ratio, the bill treats the taxpayer as having disposed of the asset on December 31, 1997 and having acquired the asset in 1994, thus providing for indexing for three years. The inflation ratio is determined by dividing the CPI for 1996 by the CPI for 1993. If, instead, the asset had been purchased on February 1, 1993, the bill treats the asset as having been acquired in 1993 for this purpose. The denominator of the ratio would be the CPI for 1992, thus allowing for four years of indexing.

The inflation ratio is rounded to the nearest one-thousandth. For example, if the CPI is 48.34 percent higher at the time of sale than at the time of acquisition, the gain is determined by multiplying the original basis by 1.483 and subtracting this adjusted basis from the sales proceeds. It is intended that the Internal Revenue Service publish a table setting forth the applicable inflation ratios each year.

Indexing with respect to any asset is to end at the time the asset is treated as disposed of for tax purposes. Thus, with respect to installment sales, the inflation adjustment to the seller does not take into account any periods after the sale is made. The purchaser is entitled to inflation adjustments beginning with the date of purchase.

In computing the inflation ratio, periods of time for which an asset is not an indexed asset are not taken into account. For example, if convertible debt is converted into common stock, the period prior to conversion is disregarded in determining the inflation ratio applicable to the disposition of the common stock.

For purposes of determining the amount of depreciation, depletion, etc. recapture under sections 1245, 1250, and 1254, indexing does not apply.[2] The amount recaptured is added to the basis for purposes of then computing the indexing adjustment. The indexing adjustment does not apply to dispositions between related parties (as defined in sec. 465(b)(3)(C)) if the property is of a character subject to an allowance for depreciation in the hands of the transferee.

Example 1—An individual purchases depreciable property at a cost of $100 for use in his trade or business, claims $60 of depreciation, and then sells the property for $175. The applicable inflation ratio is 1.500. The taxpayer has $60 of gain attributable to recapture. The remaining gain is determined by using a $150 basis (i.e., $100 (the sum of $40 basis before recapture plus $60 recapture) multiplied by 150 percent). Thus, in addition to the $60 of recapture, the taxpayer has $25 of capital gain.

Special entities

RICs and REITs

In the case of a regulated investment company (RIC) or a real estate investment trust (REIT), the indexing adjustments provided by this provision generally apply in computing the taxable income and the earnings and profits of the RIC or REIT.

However, for certain specified purposes the indexing adjustments do not apply. First, in order to deny the benefit of indexing to corporate shareholders of the RIC or REIT, the House bill provides that, under regulations, (a) the determination of whether a distribution to a corporate shareholder is a dividend is made without regard to this provision, (b) the amount treated as a capital gain dividend is increased to take into account that the amount distributed was reduced by reason of the indexing adjustment, and (c) such other adjustments as are necessary shall be made to ensure that the benefits of indexing are not allowed to corporate shareholders. Second, the indexing adjustments do not apply in determining whether a corporation qualifies as a RIC or REIT. Third, the indexing adjustment does not apply in determining the taxes imposed under section 857(b)(4), (5), or (6) in the case of a REIT, and the tax imposed on the failure to distribute gain under section 852(b)(3)(A) or section 857(b)(2) or (3) is properly increased in order to eliminate the benefit of the indexing adjustment.

In the case of stock held in a RIC or REIT, partial indexing is provided by the bill based on the ratio of the value of indexed assets held by the entity to its total assets.[3] This ratio is determined every month. However, in the case of a REIT, an actual valuation is required only once every three years because of the cost and difficulty of more frequent valuations. Where the ratio of indexed assets to total assets exceeds 90 percent in any month, full indexing of the stock is allowed for that month. Where less than 10 percent of the assets are indexed assets in any month, no indexing is allowed that month for the stock.

Partnerships and S corporations, etc.

Under the House bill, stock in a S corporation or an interest in a partnership is not an indexed asset. This rule is adopted because of the complexity which would result in determining the proper measure of the basis adjustment if indexing were to take into account the fluctuating basis of the S corporation stock or partnership interest attributable to earnings and distributions. Also, the mix of assets (i.e., indexed assets and other assets) held by the entity can fluctuate greatly over time. Under the bill, the shareholder[4] or partner receives the benefit of the indexing adjustment to his or her stock or partnership interest to the extent the corporation or partnership disposes of indexed assets.[5] Under the bill, any inflation adjustments at the entity level flow through to the holders and result in a corresponding increase in the basis of the holder's interest in the entity. Where a partnership has a section 754 election in effect, a partner transferring his interest in the partnership is entitled to any indexing adjustment that has accrued at the partnership level with respect to the partner and the transferee partner is entitled to the benefits of indexing for inflation occurring after the transfer.

---

[1] See further discussion below relating to these entities.

[2] Under the bill, the amount of recapture with respect to indexed assets that are section 1250 property (i.e., real property) is determined in the same manner as section 1245 property (i.e., personal property).

[3] This determination is made without regard to whether the holding period of the indexed assets began on or after February 1, 1992.

[4] Indexing does not apply for purposes of the taxes imposed by sections 1374 and 1375 on S corporations.

Example 2.—A, B, and C form an equal partnership, and each contributes $50 cash. The partnership purchases common stock in corporation X for $150. At a time when the indexed basis to the partnership for the stock is $240, the partnership sells the stock for $300. Under the bill, the partnership recognizes $60 gain. Each partner takes into account $20 gain and increases his basis in his partnership interest by the $20 gain (under present law sec. 705). In addition, under the bill, each partner increases his basis for purposes of determining gain on his partnership interest by $30 (his share of the $90 indexing adjustment made by the partnership). Thus, if any partner sells his partnership interest for $100, no gain or loss is recognized to the partner.

Example 3.—Same facts as in Example 2, except that the partnership does not sell the stock. Rather, partner A sells his partnership interest to D for $100. The partnership does not have an election under section 754 in effect. Partner A recognizes $50 of gain. Partner D's basis in the partnership is the $100 purchase price. Assume that after the sale by A, the partnership sells the stock for $300 (at a time when the indexed basis is $240). The partnership recognizes $60 of gain and each partner takes into account $20 gain and makes the same adjustments as in the above example. If partner D then sold his partnership interest for $100, he will recognize a loss of $20 ($100 amount realized less adjusted basis for purposes of determining loss of $120).

Example 4.—Same facts as in Example 3, except that the partnership has an election under section 754 in effect. When A sells his partnership interest to D, A recognizes $20 of gain, because under the bill, A's share of the partnership indexing adjustment is available to A at that time. Upon the sale of the stock by the partnership, D recognizes no gain or loss since the adjustment under section 743(b) had been made with respect to his share of the partnership properties. No adjustment is made by D to the basis in his partnership interest as a result of the sale by the partnership.

Foreign corporations

Stock of a foreign corporation is generally not an indexed asset. This exception is included to prevent investors from placing nonindexed assets in a foreign corporation (which is generally not subject to United States tax) and, in effect receiving an inflation adjustment for those assets by selling their stock in the foreign corporation at a later date. However, an exception is made in the case of stock of a foreign corporation traded on an established domestic securities market, because there is little potential for the shareholders to transfer nonindexed assets to the corporation to obtain the adjustment. This exception does not apply to passive foreign corporations, which may hold substantial debt, or to stock held by persons subject to possible dividend treatment on the sale of their stock.

Other rules

Short sales

The bill provides that in the case of a short sale of an indexed asset with a short sale period in excess of one year, the amount realized is indexed for inflation in the same manner that the basis would be indexed to the holder of the property. If the taxpayer (or taxpayer's spouse) sells short substantially identical property to an asset held by the taxpayer (i.e., sells short "against the box") no indexing adjustments are allowed during the short sale period.

Investment interest limitation

The bill provides that gains and losses from the disposition of indexed assets are not taken into account as investment income in computing the limitation on the deductibility of investment interest. This rule is added to account for the fact that interest deductions are allowed in full, without an indexing adjustment. A taxpayer may elect to not index the basis of an asset and to treat the gain as investment income.

Depreciation recapture

Under the bill, a special rule applies with respect to gain on the disposition of section 1250 property (depreciable real property) eligible for indexing that is realized by any taxpayer other than a corporation or by an S corporation, RIC or REIT. Such gain is taxed as ordinary income to the extent of all previous depreciation allowances with respect to the property (as opposed to recapturing only the excess of accelerated depreciation over straight-line depreciation, as under present law). The bill does not change the installment sale treatment of recapture income in the case of section 1250 property (under sec. 453(i)).

Effective date

The provisions apply to dispositions of property the holding period of which begins on or after February 1, 1992.

The provisions do not apply to property acquired on or after February 1, 1992, from a related party (as defined in section 465(b)(3)(C)) at less than fair market value if the provisions did not apply to the property immediately before the acquisition.

A taxpayer holding any readily tradable security on February 1, 1992, may elect to treat such security as having been sold on the last business day before such date for an amount equal to its closing market price, and as having been reacquired for an amount equal to such closing price. If the election is made, the security would be eligible for indexing under the provision. Any gain resulting from the election is treated as received on the date of the deemed sale, and any loss is not allowed. An election may be made with respect to some securities and not others. For these purposes, the term "readily tradable" means readily tradable on an established securities market or otherwise.

Senate amendment

Progressive rates

Under the Senate amendment, the present law maximum 28 percent marginal rate is repealed and replaced with a new progressive rate system. The progressive rates apply to a noncorporate taxpayer's qualified capital gain.[6]

In general, the amendment imposes a capital gain marginal tax rate of 5, 19, 23, or 28 percent, depending on the individual's taxable income. The applicable capital gain tax rate is determined by first taking into account taxable income computed without regard to qualified capital gain. Qualified capital gain then is added to such amount. The portion of qualified capital gain otherwise taxed at a 15-percent rate is taxed at a rate of 5 percent; the portion otherwise taxed at a 28-percent rate is taxed at a rate of 19 percent; the portion otherwise taxed at a 31-percent rate is taxed at a rate of 23 percent; and the portion otherwise taxed at the 36-percent rate[7] is taxed at a rate of 28 percent.

The regular tax rates and the progressive capital gain rates for 1992 for married individuals filing a joint return are set forth below as an illustration of the new rates:

Regular tax schedule

Taxable income	*Tax liability*
0–$35,800	15%.
35,800–86,500	$5,370 plus 28% of the excess over 35,800.
86,500–175,000	$19,566 plus 31% of the excess over 86,500.
175,000 and over	$47,001 plus 36% of the excess over 175,000.

Progressive capital gain tax schedule

Taxable income	*Tax liability*
0–$35,800	5%.
35,800–86,500	$1,790 plus 19% of the excess over 35,800.
86,500–175,000	$11,423 plus 23% of the excess over 86,500.
175,000 and over	$31,778 plus 28% of the excess over 175,000.

The following examples illustrate the progressive capital gain rates (using the rate schedules set forth above). Gain from the sale or other disposition of property is the excess of the amount realized (generally, the sales price) over the taxpayer's adjusted basis (generally, the cost) in the property.

Example 1.—A has $35,000 of ordinary income, $5,000 of qualified capital gain, and deductions, adjustments and personal exemptions of $15,000. Under present law, the $5,000 of net capital gain is taxed at 15 percent, for a tax of $750.

Under the Senate amendment, the $5,000 of qualified capital gain is taxed at five percent, for a tax of $250.

Example 2.—B has $40,000 of ordinary income, $150,000 of qualified capital gain, and deductions, adjustments and personal exemptions of $20,000. Under present law, the first $15,800 of net capital gain is taxed at 15 percent, and the remaining $134,200 is taxed at 28 percent, for a total tax on net capital gain of $39,946.

Under the Senate amendment, the first $15,800 of qualified capital gain is taxed at five percent, the next $50,700 is taxed at 19 percent, and the remaining $83,500 is taxed at 23 percent, for a total tax on qualified capital gain of $29,628.

Example 3.—C has $225,000 of ordinary income, $150,000 of qualified capital gain, and deductions, adjustments and personal exemptions of $50,000. Under present law, the $150,000 of gain is taxed at 28 percent, for a tax of $42,000.

Under the Senate amendment, the $150,000 of qualified capital gain is taxed at 28 percent, for a tax of $42,000, the same as under present law.

Example 4.—D has $150,000 of ordinary income, $50,000 of qualified capital gain, and deductions, adjustments and personal exemptions of $40,000. Under present law, the $50,000 of net capital gain is taxed at 28 percent, for a tax of $14,000.

---

[5] Similar rules apply to common trust funds.

[6] Qualified capital gain is the net capital gain determined without regard to any gain taken into account in computing the 50-percent exclusion of gain from the sale of certain small business stock (as added by section 2311 of the Senate amendment).

[7] Another provision of the Senate amendment increases the maximum marginal rate on ordinary income to 36 percent.

Under the Senate amendment, the $50,000 of qualified capital gain is taxed at 23 percent, for a tax of $11,500.

Holding period

The Senate amendment lengthens the holding period defining long term capital gain or loss from "more than one year" to "more than two years."

Treatment of collectibles

Gain or loss from the sale or exchange of collectibles (as defined in section 408(m)) is treated as short-term gain or loss without regard to the actual holding period, for all purposes of the Code other than in determining the amount of the charitable deduction. Thus, gain from the sale or exchange of collectibles is not eligible for the progressive capital gain rates. Any gain from the sale or exchange of an interest in a partnership, S corporation or trust which is attributable to unrealized appreciation in the value of collectibles is treated as gain from the sale of a collectible.

Minimum tax

The entire amount of qualified capital gain is included in alternative minimum taxable income.

Depreciation recapture

Gain on the disposition of section 1250 property (depreciable real property) is taxed as ordinary income to the extent of all previous depreciation allowances with respect to the property, subject to a maximum marginal rate of 31 percent in the case of individuals. Thus, depreciation previously allowed with respect to such property under any method, straight-line or accelerated, is taken into account as ordinary income in the same manner as depreciation and amortization are recaptured under section 1245 (personal property), subject, however, to the 31-percent maximum marginal rate in the case of individuals. The amendment does not change the installment sale treatment of recapture income in the case of section 1250 property (under sec. 453(i)).

Effective date

The capital gain rate provision applies to taxable years ending after January 31, 1992. For a taxable year beginning on or before that date, the new rates apply to the lesser of (i) the net capital gain for the taxable year, or (ii) the net capital gain determined by taking into account only gain or loss properly taken into account (including installment payments received) for the portion of the year after January 31, 1992. The excess, if any, of the amount described in (i) over the amount described in (ii), is taxed at a maximum rate of 28 percent as under present law. In determining when gain is taken into account in the case of a pass-through entity (i.e., a regulated investment company, a REIT, an S corporation, a partnership, an estate or trust, or a common trust fund), the date taken into account by the entity is the appropriate date. Thus, for example, if a fiscal year partnership sells a qualified capital asset on November 1, 1991, the gain from which partners take into account for the calendar year 1992, the gain will not qualify for the progressive capital gain rates.

The provisions relating to collectibles and depreciation recapture apply to dispositions after January 31, 1992.

The holding period provision applies to taxable years beginning after December 31, 1992.

Conference agreement

The conference agreement generally follows the Senate amendment, with the following modifications: (1) the new capital gain marginal tax rates are zero, 14, 21 and 28 percent; and (2) the maximum marginal rate on depreciation recapture in the case of individuals is 28 percent.

2. SMALL BUSINESS STOCK

Present law

Under present law, ordinary income of an individual is taxed at a maximum marginal rate of 31 percent. Net capital gain of an individual is taxed at the same rates applicable to ordinary income, subject to a maximum marginal rate of 28 percent. For corporations, the maximum rate on net capital gain is the same as the maximum rate on ordinary income, i.e., 34 percent.

Net capital gain is the excess of net long-term capital gain for the taxable year over net short-term capital loss for that year. Gain or loss from the sale or exchange of a capital asset is treated as long term if the asset is held for more than one year.

The Tax Reform Act of 1986 repealed a provision allowing a noncorporate taxpayer a deduction for 60 percent of its net capital gain for the taxable year. Also under prior law, corporations were subject to an alternative tax of 28 percent on net capital gain.

House bill

In general

The House bill generally provides taxpayers other than C corporations with a capital gains exclusion with respect to dispositions of qualified small business stock. Such taxpayers who hold qualified small business stock for more than five years can exclude 50 percent of their gain from the sale or exchange of such stock.[8]

Qualified small business stock

In order to qualify as small business stock, the following requirements must be met.

Eligible corporation

The stock generally is any stock (such as common and preferred stock) in a domestic C or S corporation. Such a corporation does not include a corporation predominantly engaged in a disqualified business. Such a business means any farming business, any business involving the production or extraction of products for which percentage depletion allowances are allowable, any business of operating a hotel, motel, restaurant or similar property, or any banking, insurance, financing or similar business. In addition, an eligible corporation does not include a corporation with more than 10 percent of its assets in portfolio stock investments[9] or real property not used in an active business,[10] a corporation the principal activity of which is the performance of personal services, a DISC, a 936 company, a regulated investment company, a real estate investment trust, a REMIC, or any cooperative.

A corporation must constitute an eligible corporation as of the date of issuance and during substantially all of the period that the taxpayer holds the stock.

Active business

The corporation must be engaged in the active conduct of a trade or business and substantially all of its assets must be used in the active conduct of a trade or business, as of the date of issuance and during substantially all of the period that the taxpayer holds the stock. If in connection with any future trade or business, a corporation is engaged in certain start-up activities, research and experimental expenditures or in-house research expenses, the corporation is treated as satisfying the active business requirement with respect to such activities.

Any assets held for investment that are to be used to finance future research and experimentation or working capital needs of the corporation are treated as used in the active conduct of a trade or business. In addition, certain rights to computer software are treated as an asset used in the conduct of a trade or business.

Gross assets

As of the date of issuance, the excess of (1) the amount of cash and the aggregate adjusted bases of other property held by the corporation, over (2) the aggregate amount of indebtedness of the corporation which does not have an original maturity of more than one year (such as short-term payables), cannot exceed $100 million. For these purposes, amounts received in the issuance are taken into account.

If a corporation satisfies the gross assets test as of the date of issuance but subsequently exceeds the $100 million threshold, stock that otherwise constitutes qualified small business stock would not lose such characterization solely as a result of such subsequent event. If a corporation (or a predecessor corporation) exceeds the $100 million threshold at any time on or after February 1, 1992, such corporation can never issue stock that would qualify for the exclusion.[11]

Original issue

The stock must be originally issued on or after February 1, 1992, and acquired by the taxpayer at such original issuance (directly or through an underwriter) in exchange for money, other property (not including stock) or as compensation for services (other than services performed as an underwriter of such stock).

In order to prevent the evasion of the requirement that the stock be newly issued, the exclusion does not apply if the issuing corporation purchases any of its stock either one year before or one year after the new issuance, unless the corporation has a business purpose for the redemption. For these purposes, purchases made by any corporation that is a member of the same affiliated group as the issuing corporation of any stock in any corporation that is a member of such group is treated as a purchase by the issuing corporation of its stock.

---

[8] For purposes of determining the amount of gain eligible for the exclusion, no reduction is to be made for any capital loss, whether from disposition of small business stock or other asset. Also, any gain excluded under this provision is not to be taken into account in computing long-term capital gain as defined in section 1222(3) since the excluded portion of the gain is not taken into account in computing gross income. In addition, any excluded gain is not taken into account in applying the capital loss rules of sections 1211 and 1212. The taxable portion of the gain is taxed at a maximum marginal rate of 28 percent.

The basis of qualified small business stock eligible for indexing under another provision of the bill is indexed prior to determining the amount excluded under this provision.

[9] It is understood that a small business investment company operating under the Small Business Investment Act of 1958 generally would not qualify as an eligible corporation, either due to the restriction regarding portfolio stock investments, or due to the restriction regarding engaging in a financing or similar business.

[10] The ownership of, dealing in, or renting of real property is not treated as the active conduct of a trade or business.

[11] The Secretary of the Treasury is authorized to prescribe regulations to carry out the purposes of the provision, including preventing the evasion of the gross assets test. Thus, for example, it is intended that a corporation that exceeds the threshold cannot split itself into smaller companies in an attempt to qualify new stock issued by such companies for the exclusion. It is also intended that if a corporation acquires substantially all the assets of a trade or business from another corporation that exceeds the threshold, stock in the acquiring corporation would not qualify for the exclusion.

Subsidiaries of issuing corporation

In the case of a corporation that owns at least 50 percent of the vote or value of a subsidiary, the parent corporation is deemed to own its ratable share of the subsidiary's assets, to conduct its ratable share of the subsidiary's activities and to be liable for a ratable share of the subsidiary's indebtedness, for purposes of the "eligible corporation," "active business" and "gross assets" tests described above.

Options, nonvested stock and convertible instruments

Stock acquired by the taxpayer through the exercise of options or warrants, or through the conversion of convertible debt, is treated as acquired at original issue. However, the determination whether the gross assets test is met is made at the time of exercise or conversion. In addition, the holding period of such stock is treated as beginning on the date of exercise or conversion.

In the case of convertible preferred stock, the gross assets determination is made at the time the convertible stock is issued, and the holding period of the convertible stock is added to that of the common stock acquired upon conversion.

Stock received in connection with the performance of services is treated as issued by the corporation and acquired by the taxpayer when included in the taxpayer's gross income in accordance with the rules of section 83.

Certain tax-free and other transfers

If qualified small business stock is transferred by gift or at death, the transferee is treated as having acquired the stock in the same manner as the transferor, and as having held the stock during any continuous period immediately preceding the transfer during which it was held by the transferor. Transferees in other cases are not eligible for the exclusion. Thus, for example, if qualified small business stock is transferred to a partnership or corporation and such entity disposes of the stock, any gain from the disposition will not be eligible for the exclusion.

In the case of certain incorporations and reorganizations where qualified small business stock is transferred for other stock, the transferor treats the stock received as qualified small business stock. The holding period of the original stock is added to that of the stock received. However, the amount of gain eligible for the exclusion is limited to the gain accrued as of the date of the incorporation or reorganization. In addition, in the case of certain other reorganization transactions (such as those described in sections 368(a)(1)(E) and (F)), the stock issued in exchange for qualified small business stock will be treated as qualified small business stock.

Special basis rules

If property (other than money or stock) is transferred to a corporation in exchange for its stock, the basis of the stock received is treated as equal to the fair market value of the property exchanged. Thus, only gains that accrue subsequent to the transfer are eligible for the exclusion.

For purposes of determining the amount of gain eligible for the exclusion, the adjusted basis of stock in an S corporation shall not be less than its adjusted basis determined without regard to the basis adjustments of section 1367.

Pass-through entities

Gain from the disposition of qualified small business stock by a partnership, S corporation, regulated investment company or common trust fund that is taken into account by a partner, shareholder or participant (other than a C corporation) is eligible for the exclusion, provided that (i) all eligibility requirements with respect to qualified small business stock are met, (ii) the stock was held by the entity for more than five years, and (iii) the partner, shareholder or participant held its interest in the entity beginning on the date the entity acquired the stock and at all times thereafter before the disposition of the stock.

Investment interest

The amount treated as investment income for purposes of the investment interest limitation does not include any gain excluded under the provision.

Minimum tax

The qualified small business capital gain exclusion is treated as a preference for purposes of the alternative minimum tax.

Effective date

The provision applies to stock issued on or after February 1, 1992.

Senate amendment

The Senate amendment generally is the same as the House bill, except for the following: (1) corporate shareholders are also eligible for the exclusion (other than a corporate shareholder that owned at any time more than 50 percent of the voting power or value of the stock of the corporation issuing the small business stock); (2) any gain eligible for the exclusion is not also eligible for the new progressive capital gains rate system under section 2311 of the Senate amendment (the result being that the taxable portion of the gain is taxed at ordinary income rates); (3) a disqualified farming business does not include the business of raising or harvesting trees; (4) a business involving the production or extraction of products for which percentage depletion allowances are allowable is not treated *per se* as disqualified; (5) a corporation is treated as a subsidiary only if the parent owns more than 50 percent (as opposed to 50 percent or more) of its stock; (6) certain transfers of qualified small business stock from a partnership to a partner or from a subsidiary corporation to its parent in complete liquidation, are allowed; and (7) a taxpayer's share of gain eligible for the exclusion from the disposition of qualified small business stock by a pass-through entity cannot exceed the amount that would be eligible if the determination were made by reference to the interest the taxpayer held in the entity on the date the stock was acquired by the entity.

Conference agreement

The conference agreement follows the Senate amendment, except that any business involving the production or extraction of products for which percentage depletion allowances are allowable is a disqualified business.

F. Real Estate Provisions

1. EXCLUSION OF GAIN ON THE SALE OF A PRINCIPAL RESIDENCE

Present law

In general, a taxpayer may elect to exclude from gross income up to $125,000 of gain from the sale of a principal residence if the taxpayer (1) has attained age 55 before the sale and (2) has owned and used the residence as a principal residence for three or more years of the five years preceding sale of the residence. Generally, farmland does not qualify under the definition of principal residence for purposes of the exclusion. The taxpayer may only make the election once in his or her lifetime.

House bill

The House bill makes three modifications to the one-time exclusion of gain from the sale of principal residence by individuals who have attained age 55.

First, the bill indexes the $125,000 exclusion amount for inflation. The inflation index is calculated in the same manner as provided in present law for determining the inflation index for purposes of adjusting the standard deduction, personal exemptions, and rate brackets.

Second, the bill repeals the age limit if the individual or the individual's spouse was permanently and totally disabled at the time of the sale.

Third, the exclusion is extended to include up to 160 contiguous acres of farmland on which the principal residence is located. Also, the exclusion only applies to farmland which has been actively farmed by the taxpayer or his family.[1]

Effective date.—Generally, the provision is effective for sales or exchanges after December 31, 1991. The $125,000 exclusion amount is indexed for sales or exchanges after December 31, 1991, for inflation occurring since 1990.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. TAX CREDIT FOR FIRST-TIME HOMEBUYERS

Present law

There is no tax credit for the purchase of a principal residence under present law.

House bill

No provision.

Senate amendment

Under the Senate amendment, individuals who purchase a new principal residence are eligible to receive a tax credit equal to 10 percent of the purchase price of the residence, up to a maximum credit of $5,000. The credit applies to a new principal residence if the original use of the residence commences with the taxpayer and if the taxpayer (1) acquires such residence on or after February 1, 1992, and before January 1, 1994, or (2) enters into a binding contract to acquire the residence on or after February 1, 1992, and before January 1, 1994, and purchases the residence within 90 days of entering into that binding contract. Only one tax credit may be claimed per residence.

First-time homebuyers are defined as individuals who did not have a present interest in a residence in the 3 years preceding the purchase of a home. If an individual is deferring tax on gain from the sale of a previous principal residence and is permitted an extended rollover period, he or she is not considered a first-time homebuyer until after the end of the extended rollover period.

The first-time homebuyer credit is nonrefundable, and thus is available only to the extent the taxpayer had income tax liability to offset. However, any unused portion of the credit may be carried forward for up to 5 years and applied against future income tax liability.

---

[1] For purposes of satisfying the active farming requirement, the taxpayer or a member of his family must materially participate in the farm operation. For these purposes, rules similar to those included in sec. 2032A(b)(1)(c)(ii) shall apply.

The credit is recaptured if the residence on which the credit was claimed is sold or otherwise disposed of within 3 years of the date the residence was purchased. The recapture rule does not apply, however, to dispositions by reason of the taxpayer's death or divorce. If the taxpayer sells the residence within 3 years but purchases a new home within the rollover period, the credit is recaptured to the extent the amount of the credit that the taxpayer could have claimed under this section (had the new home been eligible for the credit) is less than the amount of credit claimed by the taxpayer on the purchase of the initial residence.

Effective date.—The provision is effective for purchases on or after February 1, 1992.

Conference agreement

The conference agreement does not include the Senate amendment.

3. MODIFICATION OF PASSIVE LOSS RULES FOR CERTAIN REAL ESTATE PERSONS

Present law

The passive loss rules limit deductions and credits from passive trade or business activities. Deductions attributable to passive activities, to the extent they exceed income from passive activities, generally may not be deducted against other income, such as wages, portfolio income, or business income that is not derived from a passive activity. Credits from passive activities may not reduce the taxpayer's tax liability, to the extent such credits exceed regular tax liability from passive activities. Deductions and credits that are suspended under these rules are carried forward and treated as deductions and credits from passive activities in the next year. The suspended losses from a passive activity are allowed in full when a taxpayer disposes of his entire interest in the passive activity to an unrelated person.

The passive loss rules apply to individuals, estates and trusts, closely held C corporations, and personal service corporations. A special rule permits closely held C corporations to apply passive activity losses and credits against active business income (or tax liability allocable thereto) but not against portfolio income.

Passive activities are defined to include trade or business activities in which the taxpayer does not materially participate. To materially participate in an activity, a taxpayer must be involved in the operations of the activity on a regular, continuous, and substantial basis. Except as provided in regulations, a taxpayer is treated as not materially participating in an activity held through a limited partnership interest.[1]

Rental activities (including rental real estate activities) are also treated as passive activities, regardless of the level of the taxpayer's participation. In general, rental activities cannot be treated as part of a larger activity that includes nonrental activities. A special rule permits the deduction of up to $25,000 of losses from rental real estate activities (even though they are considered passive), if the taxpayer actively participates in them. This $25,000 amount is allowed for taxpayers with adjusted gross incomes of $100,000 or less, and is phased out for taxpayers with adjusted gross incomes between $100,000 and $150,000. Active participation is a lesser standard of involvement than material participation. A taxpayer is treated as actively participating if, for example, he participates, in a significant and bona fide sense, in the making of management decisions or arranging for others to provide services (such as repairs). The active participation standard is not satisfied, however, if the taxpayer's interest is less than 10 percent (by value) of all interests in the activity. A taxpayer generally is deemed not to satisfy the active participation standard with respect to property he holds through a limited partnership interest.

If the taxpayer has suspended losses from a former passive activity (an activity that is not a passive activity for the current taxable year but was a passive activity for the taxable year in which the loss arose), the losses are offset against the income from such activity for the taxable year, and any excess after the offset continues to be treated as a loss from a passive activity.

House bill

The House bill changes the tax treatment of rental real estate under the passive loss rules in the case of an individual or closely held C corporation meeting the definition of a person engaged in the real property business. For such persons, the determination of what constitutes an activity and whether an activity is a passive activity generally is made by treating the taxpayer's rental real property operations, undertakings, and activities in the same manner as nonrental trade or business operations, undertakings, and activities.

An individual is deemed to be engaged in the real property business under the bill if the individual meets a 2-part test: (1) he spends at least 50 percent of his working time in real property operations; and (2) he spends more than 500 hours during the taxable year in real property operations. For this purpose, real property operations means any real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, brokerage, appraisal, and finance operations. Working time means time spent working as an employee, sole proprietor, S corporation shareholder, partner in a partnership, or beneficiary of a trust or estate.

A closely held C corporation is deemed to be engaged in the real property business if it meets either of 2 tests. The first test is satisfied if one or more shareholders owning stock representing more than 50 percent (by value) of the outstanding stock of such corporation materially participate in the aggregate real property activities of the corporation. The second test is satisfied if, with respect to the corporation's aggregate real property activities, (1) during the entire 12-month period ending on the last day of the taxable year, it had at least one full-time employee substantially all of whose services were in the active management of such activities; (2) during the entire 12-month period ending on the last day of the taxable year, it had at least 3 full-time, nonowner employees substantially all of whose services were directly related to such activities; and (3) the amount of the deductions attributable to such activities that are allowable to the corporation solely by reason of sections 162 and 404 of the Code for the taxable year exceeds 15 percent of the gross income from such activities for the year.

The bill provides that 80 percent of the items of income, gain, loss deduction or credit allocable to a rental real property activity to which it applies shall be treated in the same manner as items from a nonrental trade or business activity. Twenty percent of the items allocable to a rental real property activity continue to be treated as from a passive activity and may be offset against items from other passive activities. In the case of a loss from a rental real property activity, if the 20 percent portion such loss exceeds the income from other passive activities in the current taxable year, the difference is carried forward as a suspended passive activity loss. The carried over loss may be offset against future income (including both income treated as passive and income treated as nonpassive under this provision of the bill[2]) from the rental real property activity in which it arose. For this purpose, the holding and renting of each separate property is treated as a separate activity that may not be aggregated with other rental property or with any other real property operations of the taxpayer. For example, if a taxpayer owns three condominium apartments that he rents out, two in one building and one in another building, each apartment is treated as a separate activity for this purpose. When the taxpayer disposes of the activity (as so determined) in a fully taxable transaction with an unrelated party, any remaining suspended losses allocable to the activity (as so determined) are allowed in full.

The bill does not apply with respect to any real property originally placed in service (by the taxpayer or another person) after the date of enactment. Thus, for example, the bill does not apply to property constructed after the date of enactment. The Treasury Department is directed to provide guidance with respect to the determination of what constitutes property placed in service after the date of enactment.

The bill also does not apply with respect to any interest held as a limited partner. No inference is intended that an interest held as a limited partner generally is treated as nonpassive under present law.

A special rule applies with respect to suspended losses from any rental real property activity that is treated as not passive by reason of the provision. Such suspended losses generally are treated as losses from a former passive activity, but for this purpose, the holding and renting of each separate property is treated as a separate activity that may not be aggregated with other rental property or with any other real property operations of the taxpayer. When the taxpayer disposes of his entire interest in the activity (as so determined) in a fully taxable transaction with an unrelated party, any remaining suspended losses allocable to the activity (as so determined) are allowed in full.

Effective date.—The provision is effective with respect to taxable years beginning after December 31, 1991.

Senate amendment

The Senate amendment modifies the present-law passive loss rules to treat a taxpayer's performance of certain qualified real estate services and rental of certain qualified real property as a single activity. If the taxpayer materially participates in this activity, net losses from the rental of the qualified real property generally are allowed to the extent of a portion of the taxpayer's income.

---

[1] Treas. Reg. section 1.469-5T(e) provides exceptions to this general rule for limited partnership interests in certain circumstances, including the circumstance where an individual taxpayer is both a general and a limited partner, or where the taxpayer meets certain of the material participation tests (including the 500 hour test) applicable to persons other than limited partners.

[2] The order in which the loss is applied against different categories of income is to be determined in a manner consistent with present law.

In particular, losses from rental activities with respect to qualified real property are allowed to the extent of the sum of (1) income from such activities and (2) net income[3] from other passive activities. Losses in excess of this sum are allowed in an amount equal to 80 percent of the lesser of (1) the taxpayer's net income from activities consisting of the performance of qualified real estate services, or (2) the taxpayer's taxable income (determined without regard to any item of income, gain, loss or deduction from rental activities with respect to qualified real property). Credits from rental activities with respect to qualified real property are allowed subject to a similar rule.

Qualified real estate services means services in the construction, substantial renovation, and management of real property or in the lease-up and sale of qualified real property in which the taxpayer owns more than a de minimis interest.[4] Services as an employee are not taken into account unless the taxpayer owns more than a de minimis interest in the employer.

Qualified real property means real property if during the taxable year the taxpayer actively participates in rental activities with respect to the property. Active participation has the same meaning as under present law, except that the taxpayer is required to have an interest in the property that is not de minimis, rather than to meet the 10 percent test of present law. Thus, as under present law, for determining active participation (as well as for determining material participation), except as provided in regulations,[5] no interest as a limited partner in a limited partnership shall be treated as an interest with respect to which the taxpayer actively (or materially) participates. Similarly, in determining whether a taxpayer actively (or materially) participates, the participation of the taxpayer's spouse is taken into account, and active participation is not required with respect to rehabilitation and low income housing credits.

The determination of whether an item is from the rental of qualified real property is made in the same manner as the determination of whether an item is from a rental real estate activity under present law. Thus, for example, gain or loss from sale or exchange of qualified real property generally is treated as from the rental of qualified real property.

Suspended passive activity losses and credits arising in a prior taxable year from the rental of property that is qualified real property in the current year are not treated as former passive activity losses and credits, but rather are treated in the same manner as losses and credits from the rental of qualified property.

The Senate amendment does not apply with respect to any real property originally placed in service (by the taxpayer or another person) after March 3, 1992. Property that is substantially renovated after that date is treated as originally placed in service after that date. Property is treated as substantially renovated after that date if, during any 24-month period beginning after that date, expenditures for renovation equal or exceed the adjusted basis of the property at the start of the 24-month period. Expenditures for renovation are any expenditures that are added to the basis of the property. Thus, generally, if the renovation expenditures double the basis of the property within any 24-month period beginning after March 3, 1992, then the property is thereupon treated as having been placed in service after March 3, 1992.

The provision applies to taxpayers subject to the passive loss rule, other than closely held C corporations.

Effective date.—The provision is effective with respect to taxable years beginning after December 31, 1991.

Conference agreement

The conference agreement follows the Senate amendment, with the following modifications.

Under the conference agreement, qualified real estate services means services in the construction, substantial renovation, and management of real property or in the leasing and brokerage of real property provided the taxpayer spends more than 500 hours during the taxable year performing such leasing or brokerage services. Services as an employee are not taken into account unless the taxpayer owns more than a de minimis interest (within the meaning of the Senate amendment) in the employer, except in the case of services consisting of leasing and brokerage of real property. Thus, under the conference agreement, the services that determine taxpayer eligibility for the provision, and the income that may be offset under the provision, are modified by the change in the definition of qualified real estate services.

The conference agreement modifies the Senate amendment to provide that the provision does not apply with respect to any real property originally placed in service (by the taxpayer or another person) after the date of enactment, but retains the Senate amendment rule that property that is substantially renovated after that date is treated as originally placed in service after that date.

The conference agreement also provides several technical modifications and clarifications. For purposes of the 80 percent limitation on income that rental activity losses or credits may offset, the conference agreement clarifies that taxable income is determined without regard to any loss allowable by reason of the provision, without regard to items of income, gain, loss, or deduction from rental of qualified real property or from passive activities to which the provision does not apply, and without regard to any net income from passive activities to which the provision does not apply. Suspended passive activity losses and credits arising in a prior taxable year from the rental of property that is qualified real property in the current year are not treated as former passive activity losses and credits, but rather are carried forward to the next taxable year and treated in the same manner as losses and credits from the rental of qualified property. The conference agreement also provides that modified adjusted gross income is determined without regard to any loss allowable by reason of this provision, for purposes of the present-law $25,000 allowance of losses and deduction-equivalent credits from certain rental activities.

4. CHANGES RELATING TO REAL ESTATE INVESTMENTS BY PENSION FUNDS AND OTHERS

a. Modification of the rules related to debt-finance income

Present law

In general, a qualified pension trust or an organization that is otherwise exempt from Federal income tax is taxed on any income from a trade or business that is unrelated to the organization's exempt purposes (Unrelated Business Taxable Income or "UBTI") (sec. 511). Certain types of income, including rents, royalties, dividends, and interest are excluded from UBTI, except when such income is derived from "debt-financed property." Income from debt-financed property generally is treated as UBTI in proportion to the amount of debt financing (sec. 514(a)).

An exception to the rule treating income from debt-financed property as UBTI is available to pension trusts, educational institutions, and certain other exempt organizations (collectively referred to as "qualified organizations") that make debt-financed investments in real property (sec. 514(c)(9)(A)). Under this exception, income from investments in real property is not treated as income from debt-financed property. Mortgages are not considered real property for purposes of the exception.

The real property exception to the debt-financed property rules is available for investments in debt-financed property, only if the following six restrictions are satisfied: (1) the purchase price of the real property is a fixed amount determined as of the date of the acquisition (the "fixed price restriction"); (2) the amount of the indebtedness or any amount payable with respect to the indebtedness, or the time for making any payment of any such amount, is not dependent (in whole or in part) upon revenues, income, or profits derived from the property (the "participating loan restriction"); (3) the property is not leased by the qualified organization to the seller or to a person related to the seller (the "leaseback restriction"); (4) in the case of a pension trust, the seller or lessee of the property is not a disqualified person (the "disqualified person restriction"); (5) the seller or a person related to the seller (or a person related to the plan with respect to which a pension trust was formed) is not providing financing in connection with the acquisition of the property (the "seller-financing restriction"); and (6) if the investment in the property is held through a partnership, certain additional requirements are satisfied by the partnership (the "partnership restrictions") (sec. 514(c)(9)(B)(i) through (vi)).

House bill

Relaxation of the leaseback and disqualified person restrictions

The House bill relaxes the leaseback and disqualified person restrictions to permit a de minimis leaseback of debt-financed real property to the seller (or a person related to the seller) or to a disqualified person.[1] The de minimis exception applies only where (1) no more than 10 percent of the leasable floor space in a building is leased back to the seller (or related party) or to the disqualified person, and (2) the lease is on commercially reasonable terms.

---

[3] This net income is to be determined after taking into account suspended losses, if any, from such other passive activities.

[4] For example, an ownership interest is considered de minimis under the provision if it was acquired principally for the purpose of qualifying the taxpayer's activities as qualified real estate services, or if the taxpayer's interest is disproportionately small in relation to the value of the taxpayer's services with respect to the property. Ownership interests acquired through stock options, employee stock ownership plans, or other similar compensation arrangements, for example, are also considered de minimis.

[5] It is anticipated that any Treasury regulations setting forth circumstances in which a taxpayer may be treated as actively participating in a rental real property activity through a limited partnership interest (provided he otherwise actively participates) will include among such circumstances those in which the taxpayer performs significant qualified real estate services with respect to the real property, and those in which the taxpayer is a general partner in the partnership at all times he holds a limited partnership interest in the same partnership.

[1] As under present law, a leaseback to a disqualified person remains subject to the prohibited transaction rules set forth in section 4975.

Relaxation of the seller-financing restriction

The bill relaxes the seller-financing restriction to permit seller financing on terms that are commercially reasonable. The bill grants authority to the Treasury Department to issue regulations for the purpose of determining commercially reasonable financing terms.

The bill does not modify the present-law fixed price and participating loan restrictions. Thus, for example, income from real property acquired with financing where the timing or amount of payment is based on revenue, income, or profits from the property generally will continue to be treated as income from debt-financed property, unless some other exception applies.

Relaxation of the fixed price and participating loan restriction for property foreclosed on by financial institutions

The bill relaxes the fixed price and participating loan restrictions for certain sales of real property foreclosed upon by financial institutions.[2] The relaxation of these rules is limited to cases where: (1) a qualified organization acquires the property from a financial institution that acquired the real property by foreclosure (or after an actual or imminent default); (2) the property is not a capital asset of the financial institution; (3) the stated principal amount of the seller financing does not exceed the financial institution's outstanding indebtedness (including accrued but unpaid interest) with respect to the property at the time of foreclosure; and (4) the value of any participation feature at the time of sale does not exceed 25 percent of the value of the property.

The bill grants authority to the Treasury Department to issue regulations for the purpose of clarifying these limitations. In particular, these regulations are expected to establish standards for determining what constitutes a participation feature and how to determine whether the value of a participation feature at the time of sale exceeds 25 percent of the value of the property. For example, a participation feature that provides the seller with less than a 25 percent interest in net proceeds, net income, or gain on sale of the property is expected to be valued at less than 25 percent of the value of the property.

Elimination of the section 514(c)(9)(B) restrictions for investments through certain large partnerships

The bill eliminates the six section 514(c)(9)(B) restrictions for qualified organizations that invest in real property through certain "large" partnerships.

A "large" partnership is a partnership having at least 250 partners that satisfies the following three tests: (1) interests in the partnership are registered with the Securities and Exchange Commission; (2) a significant percentage (at least 50 percent) of each class of interests is owned by taxable individuals; and (3) a principal purpose of the partnership allocations is not tax avoidance. Partnership interests that are subject to the same terms are considered to be in the same class, regardless of whether the interests are subject to different ownership restrictions (a partnership can therefore monitor the 50-percent ownership restriction by requiring that designated interests be held only by taxable persons).

Effective date

The provision is effective for debt-financed acquisitions of real estate on or after February 1, 1992, and for partnership interests acquired on or after February 1, 1992.

Senate amendment

The Senate amendment is the same as the House bill, except that (1) the de minimis leaseback may be no more than 20 percent of leasable space, (2) seller financing that is on terms that include a down payment of at least 15 percent of the sales price and an interest rate of at least 150 percent of the applicable Federal rate is deemed to be commercially reasonable, and (3) mortgages are treated as real property for purposes of section 514(c)(9) under the following conditions: (a) the mortgages have been acquired from a financial institution that is in conservatorship or receivership, (b) the mortgages have been acquired with a cash down payment of at least 50 percent of the sales price (i.e., the acquisition indebtedness is less than 50 percent of the price of the mortgages), (c) the mortgages are not debt-financed property except on account of acquisition indebtedness that is granted by the seller, and (d) the mortgages are acquired prior to January 1, 1994. Mortgages are eligible for treatment as real property for two-and-a-half years after they are acquired by the tax-exempt purchaser.

Conference agreement

The conference agreement follows the House bill with the following modifications: (1) the de minimis leaseback may be no more than 20 percent of leasable space, (2) the value of a participation feature at the time of sale cannot exceed 30 percent of the value of property, (3) the property eligible for the relaxation of the fixed price and participating loan restrictions is expanded to include all real property owned by a financial institution at the time that it goes into conservatorship or receivership.[3]

b. Repeal of the automatic UBTI rule for publicly-traded partnerships

Present law

In general, the character of a partner's distributive share of partnership income is the same as if the income had been directly realized by the partner. Thus, whether a tax-exempt organization's share of income from a partnership (other than from a publicly-traded partnership) is treated as unrelated business income depends on the underlying character of the income (sec. 512(c)(1)).

However, a tax-exempt organization's distributive share of gross income from a publicly-traded partnership (that is not otherwise treated as a corporation) automatically is treated as UBTI (sec. 512(c)(2)(A)). The organization's share of the partnership deductions is allowed in computing the organization's taxable unrelated business income (sec. 512(c)(2)(B)).

House bill

The House bill repeals the rule that automatically treats income from publicly-traded partnerships as UBTI. Thus, under the provision, investments in publicly-traded partnerships are treated the same as investments in other partnerships for purposes of the UBTI rules.

Effective date.—The provision is effective for partnership interests acquired on or after February 1, 1992.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

c. Permit title-holding companies to receive small amounts of UBTI

Present law

Section 501(c)(2) provides tax-exempt status to certain corporations organized for the exclusive purpose of holding title to property and turning over any income from the property to one or more related tax-exempt organizations. Section 501(c)(25) provides tax-exempt status to certain corporations and trusts that are organized for the exclusive purposes of acquiring and holding title to real property, collecting income from such property, and remitting the income therefrom to no more than 35 shareholders or beneficiaries that are: (1) qualified pension, profit-sharing, or stock bonus plans (sec. 401(a)); (2) governmental pension plans (sec. 414(d)); (3) the United States, a State or political subdivision, or governmental agencies or instrumentalities; or (4) tax-exempt charitable, educational, religious, or other organizations described in section 501(c)(3). However, the IRS has taken the position that a title-holding company described in section 501(c)(2) or 501(c)(25) will lose its tax-exempt status if it generates any amount of UBTI.[4]

House Bill

The House bill permits a title-holding company that is exempt from tax under sections 501(c)(2) or 501(c)(25) to receive UBTI up to 10 percent of its gross income for the taxable year, provided that the UBTI is incidentally derived from the holding of real property. For example, income generated from parking or operating vending machines located on real property owned by a title-holding company generally would qualify for the 10-percent de minimis rule, while income derived from an activity that is not incidental to the holding of real property (e.g., manufacturing) would not qualify. In cases where unrelated income is incidentally derived from the holding of real property, receipt by a title-holding company of such income (up to the 10-percent limit) will not jeopardize the title-holding company's tax-exempt status, but nonetheless, will be subject to tax as UBTI.

In addition, the bill provides that a section 501(c)(2) or 501(c)(25) title-holding company will not lose its tax-exempt status if UBTI that is incidentally derived from the holding of real property exceeds the 10-percent limitation, provided that the title-holding company establishes to the satisfaction of the Secretary of the Treasury that the receipt of UBTI in excess of the 10-percent limitation was inadvertent and reasonable steps are being taken to correct the circumstances giving rise to such excess UBTI.

Effective date.—The provision is effective for taxable years beginning after December 31, 1991.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

---

[2] For this purpose, financial institutions include financial institutions in conservatorship or receivership and certain affiliates of financial institutions.

[3] The definition of financial institution is modified to include those subsidiaries of financial institution that, by virtue of being affiliated with a financial institution, are subject to supervision and examination by a Federal or State financial regulatory agency.

[4] IRS Notice 88-121, 1988-2 C.B. 457. See also Treas. Reg. sec. 1.501(c)(2)-1(a).

d. Exclusion from UBTI any gains from the disposition of property acquired from financial institutions in conservatorships or receiverships

Present law

In general, gains or losses from the sale, exchange or other disposition of property are excluded from UBTI (sec. 512(b)(5)). However, gains or losses from the sale, exchange or other disposition of property held primarily for sale to customers in the ordinary course of a trade or business are not excluded from UBTI (the "dealer UBTI rule") (sec. 512(b)(5)(B)).

House bill

The House bill provides an exception to the dealer UBTI rule by excluding gains from the sale, exchange or other disposition of real property acquired from financial institutions that are in conservatorship or receivership. The exclusion is limited to properties designated as disposal property within six months of acquisition, and disposed of within two-and-a-half years of acquisition. The exclusion is not available for properties that are substantially improved or renovated after acquisition and before disposition.

Effective date.—The provision is effective for property acquired after February 1, 1992.

Senate amendment

The Senate amendment is the same as the House bill, except that the exception applies both to real property and to mortgages acquired from financial institutions that are in conservatorship or receivership. In addition, the Senate amendment provides that the two-and-a-half-year disposition period may be extended by the Treasury Secretary if an extension is necessary for the orderly liquidation of the property.

Conference agreement

The conference agreement follows the Senate amendment with the following modifications: (1) property cannot be developed in any significant manner and be eligible for the exception (thus, for example, property that is developed by the securing of zoning permits is not eligible for the exception); (2) property must be owned by a financial institution (or be security for a loan extended by the financial institution) at the time that the institution entered conservatorship or receivership to be eligible for the exception; and (3) no more than one-third by value of properties acquired in a single transaction may be designated as disposal property.

e. Exclusion of loan commitment fees and certain option premiums from UBTI

Present law

Income from a trade or business that is unrelated to an exempt organization's purpose generally is UBTI. Passive income such as dividends, interest, royalties, and gains or losses from the sale, exchange or other disposition of property generally is excluded from UBTI (sec. 512(b)). In addition, gains on the lapse or termination of options on securities are explicitly exempted from UBTI (sec. 512(b)(5)).

Present law is unclear on whether loan commitment fees and premiums from unexercised options on real estate are UBTI.

House bill

No provision.

Senate amendment

The Senate amendment provides that loan commitment fees and premiums from unexercised options on real estate are excluded from UBTI. For purposes of this provision, loan commitment fees are non-refundable charges made by a lender to reserve a sum of money with fixed terms for a specified period of time. These charges are to compensate the lender for the risk inherent in committing to make the loan (e.g., for the lender's exposure to interest rate changes and for potential lost opportunities).

Effective date.—The provision is effective for premiums or loan commitment fees that are received after February 1, 1992.

Conference agreement

The conference agreement follows the Senate amendment.

f. Exclusion of certain hotel rental income from UBTI

Present law

Rents from real property generally are excluded from UBTI unless the rents are measured by reference to the net income derived by any person from the leased property (sec. 512(b)(3)). Payments for the use or occupancy of rooms and other space where services are also rendered to the occupant, such as for the use or occupancy of rooms or other quarters in hotels, do not constitute rents from real property (Treas. Reg. sec. 1.512(b)-1(c)(5)).

House bill

No provision.

Senate amendment

The Senate amendment excludes from UBTI any hotel rental income when (1) the hotel has been acquired from a financial institution in receivership or conservatorship, (2) the hotel has been designated as disposal property within six months of acquisition, and (3) the hotel either is disposed within two-and-a-half years of acquisition or, after two-and-a-half years, any related services are rendered by an independent contractor pursuant to a contract that does not permit the exempt organization to share any of the income of the independent contractor.

Effective date.—The provision is effective for hotels acquired after February 1, 1992.

Conference agreement

The conference agreement does not include the Senate amendment.

g. Relaxation of limitations on investments in real estate investment trusts by pension funds

Present law

A real estate investment trust ("REIT") is not taxed on income distributed to shareholders. A corporation does not qualify as a REIT if at any time during the last half of its taxable year more than 50 percent in value of its outstanding stock is owned, directly or indirectly, by five or fewer individuals ("the five or fewer rule"). A domestic pension trust is treated as a single individual for purposes of this rule.

Dividends paid by a REIT are not UBTI,[5] unless the stock in the REIT is debt-financed. Depending on its character, income earned by a partnership may be UBTI (sec. 512(c)). Special rules treat debt-financed income earned by a partnership as UBTI (sec. 514(c)(9)(B)(vi)).

House bill

Qualification as a REIT

The House bill provides that a pension trust generally is not treated as a single individual for purposes of the five-or-fewer rule. Rather, the House bill treats beneficiaries of the pension trust as holding stock in the REIT in proportion to their actuarial interests in the trust. This rule does not apply if disqualified persons, within the meaning of section 4975(e)(2), together own five percent or more of the value of the REIT stock and the REIT has earnings and profits attributable to a period during which it did not qualify as a REIT.[6]

In addition, the House bill provides that a REIT cannot be a personal holding company and, therefore, is not subject to the personal holding company tax on its undistributed income.

Unrelated business taxable income

Under the House bill, certain pension trusts owning 10 percent or more of the value of a REIT determine their UBTI as if the REIT were a partnership (the "UBTI rule").

The UBTI rule applies only if the REIT qualifies as a REIT by reason of the above modification of the five or fewer rule. Moreover, the UBTI rule applies only if (1) stock in the REIT is not readily tradable on an established securities market (the REIT is "privately-traded"), (2) at least one pension trust owns more than 25 percent of the value of the REIT, or (3) a group of pension trusts individually holding at least 10 percent of the value of the REIT collectively own more than 50 percent of the value of the REIT.

Effective date

The House bill applies to taxable years beginning after December 31, 1991.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, with the following modifications. First, the conference agreement eliminates the distinction between privately-traded and publicly-traded REITs. Dividends from a privately-traded REIT give rise to UBTI in the same circumstances as would dividends from a publicly-traded REIT. Thus, dividends from a privately-traded REIT give rise to UBTI only if (1) one pension trust owns more than 25 percent of the value of the REIT, or (2) a group of pension trusts individually holding more than 10 percent of the value of the REIT collectively own more than 50 percent of the value of the REIT.

Second, the conference agreement modifies the determination of UBTI received by a pension trust from its investment in a REIT. Under the agreement, UBTI is not determined as if the REIT were a partnership; rather, the pension trust treats a percentage of dividends from the REIT as UBTI. This percentage is the gross income derived from an unrelated trade or business (determined as if the REIT were a pension trust) divided by the gross income of the REIT for the year in which the dividends are paid. Dividends are not treated as UBTI, however, unless this percentage is at least five percent.

Third, the conference agreement raises the threshold that triggers the UBTI from 10 percent to more than 10 percent. Accordingly, only pension trusts owning more than 10 percent of the REIT would receive UBTI and the determination of 50 percent collective ownership is made only by reference to trusts owning more than 10 percent of the REIT.

Fourth, the conference agreement modifies the definition of disqualified person contained in the House bill. Under this modification, a disqualified person does not include a person providing services to the relevant pension plan or a 10 percent or more partner of a disqualified person.

---

[5] See Rev. Rul. 66-151, 1966-1 C.B. 151.

[6] Moreover, as under present law, any investment by a pension trust must be in accordance with the fiduciary rules of the Employee Retirement Security Act ("ERISA") and the prohibited transaction rules of the Code and ERISA.

5. INCREASE RECOVERY PERIOD FOR DEPRECIATION OF REAL PROPERTY

Present law

In general

A taxpayer is allowed to recover, through annual depreciation allowances, the cost or other basis of real property (other than land) that is used in a trade or business or that is held for the production of rental income.

Residential rental property

For regular tax purposes, the amount of the depreciation deduction allowed with respect to residential rental property for any taxable year generally is determined using the straight-line method and a recovery period of 27.5 years. For alternative minimum tax purposes, the amount of the depreciation deduction allowed with respect to residential rental property for any taxable year is determined using the straight-line method and a recovery period of 40 years. Residential rental property is defined as any building or structure if 80 percent or more of the gross rental income from the building or structure for the taxable year is rental income from dwelling units. For this purpose, a dwelling unit does not include a unit in a hotel, motel, or other establishment more than one-half of the units in which are used on a transient basis.

Nonresidential real property

For regular tax purposes, the amount of the depreciation deduction allowed with respect to nonresidential real property for any taxable year generally is determined using the straight-line method and a recovery period of 31.5 years. For alternative minimum tax purposes, the amount of the depreciation deduction allowed with respect to nonresidential real property for any taxable year is determined using the straight-line method and a recovery period of 40 years. Nonresidential real property is generally defined as any real property that is not residential rental property.

House bill

The House bill requires the depreciation deduction for residential rental property (other than property with respect to which the low-income housing credit of section 42 of the Code is allowable) to be determined by using a recovery period of 31 years.[1] In addition, the House bill requires the depreciation deduction for nonresidential real property to be determined by using a recovery period of 40 years. The House bill does not change the determination of the depreciation allowances for alternative minimum tax purposes.

Effective date.—The provision of the House bill relating to real property depreciation generally applies to property placed in service after February 12, 1992. The provision does not apply to property that is placed in service by a taxpayer before January 1, 1995, if: (1) the taxpayer or a qualified person entered into a binding written contract to purchase or construct the property before February 13, 1992; or (2) construction of the property was commenced by or for the taxpayer or a qualified person before February 13, 1992. For this purpose, a qualified person is defined as any person who transfers his or her rights in such a contract or in the property to the taxpayer, but only if the property is not placed in service by such person before such rights are transferred to the taxpayer.

Senate amendment

The Senate amendment is the same as the House bill, except that the Senate amendment does not change the recovery period for residential rental property.

Conference agreement

The conference agreement follows the House bill.

6. EXTENSION OF THE LOW-INCOME HOUSING TAX CREDIT

a. Extension of credit

Present law

A tax credit is allowed in annual installments over ten years for qualifying newly constructed or substantially rehabilitated low-income rental housing. The credit is scheduled to expire after June 30, 1992.

House bill

The House bill permanently extends the low-income housing credit.

Senate amendment

The Senate amendment extends the credit for 18 months (through December 31, 1993).

Conference agreement

The conference agreement follows the House bill.

b. Maximum rent

Present law

The maximum rent that may be charged a family in a low-income housing credit unit depends on the number of bedrooms in that unit. Prior to 1990, maximum rent was determined on the actual family size of the occupants.

House bill

The House bill allows an irrevocable election by the owner of a building placed-in-service before 1990 to use either apartment size or family size in determining maximum allowable rent. This election must be made within 180 days after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

c. Community service areas

Present law

The basis on which the low-income housing credit is computed is determined as a percentage of the eligible basis of a qualified low-income building that is attributable to low-income rental units.

House bill

No provision.

Senate amendment

The Senate amendment provides that community service buildings in projects in qualified census tracts are included in eligible basis as functionally related and subordinate facilities if (a) the size of the facilities is commensurate with tenant needs, (b) the use of the facilities is predominantly (although not exclusively) by tenants and employees of the project owner, and (c) no more than 20 percent of the housing project's eligible basis is attributable to such facilities.

Conference agreement

The conference agreement follows the Senate amendment.

d. Limit on eligible basis

Present law

There is no per-housing unit limitation on the amount of eligible basis.

House bill

No provision.

Senate amendment

The maximum eligible basis of each unit in a credit project is limited to $124,875 (indexed for inflation). In high-cost areas, this maximum basis amount can be increased to 130 percent of the otherwise allowable maximum amount.

Conference agreement

The conference agreement follows the Senate amendment.

e. Ten-year anti-churning rule

Present law

The low-income housing credit is not allowed with respect to buildings that have been previously placed in service within ten years of placement in service for credit purposes. Waivers from the ten-year rule may be granted by the Treasury Department under certain circumstances (e.g., certain buildings which are substantially assisted, financed, or operated under section 221(d)(3) of the National Housing Act).

House bill

No provision.

Senate amendment

The Senate amendment authorizes the Treasury Department to grant waivers from the credit's ten-year anti-churning rule for certain projects substantially assisted, financed, or operated under section 221(d)(4) of the National Housing Act.

Conference agreement

The conference agreement follows the Senate amendment.

f. Minimum set-aside rule: De minimis errors

Present law

Under the general low-income tenant occupancy requirement, a residential rental project qualifies for the tax credit only if at least: (1) 20 percent or more of the aggregate residential rental units in the project are occupied by individuals with incomes of 50 percent or less of area median income or (2) 40 percent or more of the aggregate residential rental units in the project are occupied by individuals with incomes of 60 percent or less of area median income.

House bill

No provision.

Senate amendment

The Senate amendment authorizes the Treasury Department to provide a waiver of penalties for de minimis errors in the application of the low-income tenant occupancy requirement.

Conference agreement

The conference agreement follows the Senate amendment.

g. Minimum set-aside rule: annual recertification

Present law

Generally, tenant incomes must be annually recertified to meet the low-income tenant occupancy requirements regardless of whether the building is entirely devoted to low-income tenants.

House bill

No provision.

Senate amendment

The Senate amendment authorizes the Treasury Department to grant a waiver from the annual recertification of tenant income for tenants in buildings, if the buildings are devoted entirely to low-income tenants.

Conference agreement

The conference agreement follows the Senate amendment.

h. Student housing

Present law

A housing unit generally is not eligible for the low-income housing tax credit if the tenants are full-time students who are not married individuals filing joint returns. Exceptions to this rule allow the credit to be claimed on housing units occupied by persons who are enrolled in certain job training programs or by students who are receiving Aid to Families with Dependent Children (AFDC) payments.

---

[1] In the case of property with respect to which the low-income housing credit is allowable, the depreciation deduction is to continue to be determined using the present-law recovery period of 27.5 years.

House bill

No provision.

Senate amendment

The Senate amendment provides that a housing unit occupied entirely by full-time students may qualify for the credit if the full-time students are a single parent and his or her minor children and none of the tenants is a dependent of a third party. The amendment also codifies the present-law exception regarding married students filing joint returns (which continues to apply to all buildings placed in service since original enactment of the low-income housing credit by the Tax Reform Act of 1986).

Conference agreement

The conference agreement follows the Senate amendment.

i. State credit authority limitation

Present law

Each State receives an annual low-income housing credit volume ceiling of $1.25 per resident. To qualify for the credit, a building owner generally must receive a credit allocation from the appropriate State credit authority. An exception is provided for property which is substantially financed with the proceeds of tax-exempt bonds subject to the State's private-activity bond volume limitation.

That portion of a State's credit authority which is unallocated in the year in which it originally arises may be carried forward and added to the State's credit authority for the subsequent calendar year. If allocations in the subsequent year exceed that year's annual credit authority, but do not exhaust the sum of that year's annual credit authority plus any credit authority carried forward from the preceding year, any remaining carried-forward credit authority is allocated in the next subsequent year to the national pool.

House bill

No provision.

Senate amendment

For purposes of the carryforward rule, the Senate amendment treats credits carried forward from previous years as used before current year credits.

Conference agreement

The conference agreement follows the Senate amendment.

j. Effective dates

Present law

The credit is scheduled to expire after June 30, 1992.

House bill

The provision relating to the extension of the credit is effective after June 30, 1992. The provision relating to maximum rent is effective on the date of enactment.

Senate amendment

The provision relating to the extension of the credit is effective after June 30, 1992. The provisions relating to modification of the credit are also effective after June 30, 1992 except in three cases. The two provisions relating to the Treasury Department's authority to grant waivers are effective on date of enactment. The provision relating to the credit carryforward rules is effective on or after January 1, 1992.

Conference agreement

The conference agreement follows the Senate amendment except that it also includes a date of enactment effective date for the provision of the House bill relating to maximum rent.

7. QUALIFIED MORTGAGE BONDS AND MORTGAGE CREDIT CERTIFICATES

Present Law

Qualified mortgage bonds

Qualified mortgage bonds ("QMBs") are bonds the proceeds of which are used to finance the purchase, or qualifying rehabilitation or improvement, of single-family, owner-occupied residences located within the jurisdiction of the issuer of the bonds. Persons receiving QMB loans must satisfy principal residence, purchase price, borrower income, first-time homebuyer, and other requirements. Part or all of the interest subsidy provided by QMBs is recaptured if the borrower experiences substantial increases in income and disposes of the subsidized residence within nine years after it was purchased.

The volume of QMBs that a State may issue is limited by an annual State private activity bond volume limit.

Mortgage credit certificates

Qualified governmental units may elect to exchange private activity bond volume authority for authority to issue mortgage credit certificates ("MCCs"). MCCs entitle home buyers to nonrefundable income tax credits for a specified percentage of the interest paid on mortgage loans on their principal residences. Once issued, an MCC remains in effect as long as the loan remains outstanding and the residence being financed continues to be the MCC-recipient's principal residence. MCCs are subject to the same targeting requirements as QMBs. MCCs also are subject to the same recapture rules as QMBs.

Expiration

Authority to issue QMBs and to elect to trade in private activity bond volume authority to issue MCCs is scheduled to expire after June 30, 1992.

House Bill

(1) The House bill permanently extends the authority to issue QMBs and to elect to trade in bond volume authority to issue MCCs.

(2) The House bill also clarifies the treatment of certain housing affordability programs. Specifically, it provides that, in high housing cost areas, the fact that an issuer of QMBs or MCCs also provides certain second mortgage loans to homebuyers in conjunction with QMB or MCC financing will not preclude availability of the QMB- or MCC-assistance on the purchase of a residence.

Effective date.—The extension of the QMB and MCC programs is effective for bonds issued after June 30, 1992.

The provision relating to treatment of certain housing affordability programs applies to QMB and MCC financing provided after the date of enactment.

Senate Amendment

(1) The Senate amendment extends the authority to issue QMBs and to elect to trade in bond volume authority to issue MCCs for 18 months (through December 31, 1993).

(2) No provision.

Effective date.—The extension of the QMB and MCC programs is effective for bonds issued after June 30, 1992.

Conference Agreement

The conference agreement provides an extension of authority for the QMB and MCC programs for 12 months (through June 30, 1993). Also, the conference agreement follows the House bill with respect to the treatment of certain housing affordability programs.

8. TREATMENT OF CONTRIBUTIONS IN AID OF CONSTRUCTION

Present Law

In general

The gross income of a corporation does not include contributions to its capital. A contribution to the capital of a taxpayer does not include any contribution in aid of construction or any other contribution as a customer or potential customer.

Prior law

Prior to the enactment of the Tax Reform Act of 1986, a regulated public utility that provided electric energy, gas, water, or sewage disposal services was allowed to treat any amount of money or property received from any person as not includible in the gross income of the taxpayer so long as such amount: (1) was a contribution in aid of construction and (2) was not included in the taxpayer's rate base for rate-making purposes. A contribution in aid of construction did not include a connection fee. The adjusted basis of any property acquired with a contribution in aid of construction was zero.

If the contribution was in property other than an electric energy, gas, steam, water, or sewage disposal facility, such contribution was not includible in the gross income of the taxpayer so long as: (1) an amount at least equal to the amount of the contribution was expended for tangible property which was the purpose motivating the contribution and which was used predominantly in the trade or business of furnishing utility services; (2) the expenditure occurred before the end of the second taxable year after the year that the contribution was received; and (3) certain records were kept with respect to the contribution and the expenditure. In addition, the statute of limitations for the assessment of deficiencies was extended in the case of certain contributions of property other than an electric energy, gas, steam, water, or sewage disposal facility.

These rules were repealed by the Tax Reform Act of 1986.

House bill

No provision.

Senate Amendment

The Senate amendment restores the contributions in aid of construction rules that were repealed by the Tax Reform Act of 1986 for amounts received by a regulated public utility that provides water or sewerage disposal services.

Effective date.—The provision is effective for amounts received after the date of enactment.

Conference agreement

The conference agreement does not include the Senate amendment.

9. REQUIRE REPORTING OF TAXPAYER IDENTIFICATION NUMBERS OF PARTIES IN SELLER-FINANCED MORTGAGE TRANSACTIONS

Present law

Taxpayers are generally allowed an itemized deduction from adjusted gross income for the amount of qualified residence interest paid. If qualified residence interest is paid to an individual, the name and address (but not the taxpayer identification number[1]) of the interest recipient must be reported on Schedule A of the payor's tax return.

---

[1] An individual's taxpayer identification number is generally that individual's Social Security number.

Individuals receiving taxable interest in excess of $400 are required to report the amounts received and the names (but not the addresses or taxpayer identification numbers) of the payors on Schedule B of the payee's tax return.

House bill

No provision.

Senate amendment

Interest paid or accrued on any seller-provided financing is not treated as qualified residence interest unless the name, address, and taxpayer identification number of the person to whom the interest is paid or accrued are included on the return claiming the deduction for such qualified residence interest.

Effective date.—The provision is effective for taxable years beginning after December 31, 1991.

Conference agreement

The conference agreement generally follows the Senate amendment as to the requirement of reporting taxpayer identification numbers, modified as follows. If any taxpayer claims a deduction for qualified residence interest on any seller-provided financing, such taxpayer (the buyer) shall include on his or her tax return the name, address, and taxpayer identification number of the person (the seller) to whom the interest is paid or accrued. In general, this information must be furnished on Schedule A of the buyer's tax return for every year in which the buyer deducts this interest.

If any person receives or accrues interest from seller-provided financing, such person (the seller) shall include on his or her tax return the name, address, and taxpayer identification number of the person (the buyer) from whom the interest is received or accrued. In general, this information must be furnished on Schedule B of the seller's tax return for every year in which the seller is required to include this interest in income.

If any person involved in seller-provided financing is required to include on his or her tax return the taxpayer identification number of another person, such other person is required to furnish his or her taxpayer identification number to such person.

Failure to meet the requirements for information reporting described above are subject to information reporting penalties under sec. 6723. In general, these penalties are $50 for each failure.

The conferees anticipate that all parties to real estate closings will make every effort to inform both buyers and sellers of the requirements of this provision, and will also facilitate (to the maximum extent possible) the exchange of taxpayer identification numbers between buyers and sellers.

Effective date.—Same as the Senate amendment.

G. Minimum Tax Provisions

1. AMT TREATMENT OF CHARITABLE CONTRIBUTIONS OF APPRECIATED PROPERTY

Present law

In computing taxable income, a taxpayer who itemizes deductions generally is allowed to deduct the fair-market value of property contributed to a charitable organization.[1] However, in the case of a charitable contribution of inventory or other ordinary-income property, short-term capital gain property, or certain gifts to private foundations, the amount of the deduction is limited to the taxpayer's basis in the property.[2] In the case of a charitable contribution of tangible personal property, a taxpayer's deduction is limited to the adjusted basis in such property if the use by the recipient charitable organization is unrelated to the organization's tax-exempt purpose (sec. 170(e)(1)(B)(i)).

For purposes of computing alternative minimum taxable income (AMTI), the deduction for charitable contributions of capital gain property (real, personal, or intangible) is disallowed to the extent that the fair-market value of the property exceeds its adjusted basis (sec. 57(a)(6)). However, in the case of a contribution made in a taxable year beginning in 1991 or made before July 1, 1992, in a taxable year beginning in 1992, this rule does not apply to contributions of tangible personal property.

House bill

Repeal of AMT preference for donated appreciated property

The House bill repeals the alternative minimum tax (AMT) provision which treats as a preference item the amount by which the value of contributed capital gain property exceeds the basis of the property. Thus, if a taxpayer makes a gift to charity of property (other than inventory or other ordinary income property, short-term capital gain property, or certain gifts to private foundations) that is real property, intangible property, or tangible personal property the use of which is related to the donee's tax-exempt purpose, the taxpayer is allowed to claim a deduction for both regular tax and AMT purposes in the amount of the property's fair-market value (subject to present-law percentage limitations). Contributions of inventory or other ordinary income property, short-term capital gain property, and certain gifts to private foundations continue to be governed by present-law rules.

Advance determination of value of charitable gifts

The House bill directs the Secretary of the Treasury to develop and implement a procedure under which the value of donated property would be determined for Federal income tax purposes prior to the charitable transfer.

Effective date

The provision repealing section 57(a)(6) is effective for contributions made in taxable years beginning after 1991.

Senate amendment

Extension of AMT relief for donated appreciated property

The Senate amendment provides that charitable contributions of appreciated property (real, personal, and intangible) made during 1992 and 1993 are not treated as a tax preference item for AMT purposes.

Advance determination of IRS position of value of donated tangible personal property

The Secretary of the Treasury is directed to develop and implement a procedure under which the Secretary's position as to the value of tangible personal property could be ascertained for Federal income tax purposes prior to the transfer of such property to a qualifying charitable organization. The Secretary is required to submit a report not later than December 31, 1992, to the Senate Committee on Finance and the House Committee on Ways and Means, reporting on the development of such a procedure and the projected timetable for its implementation.

Study of tax treatment of corporate sponsorship payments to charitable organizations

The Secretary of the Treasury is directed to conduct a study on the tax treatment of corporate sponsorship payments received by charitable and other tax-exempt organizations in connection with athletic and other events, including the ramifications of IRS proposed examination guidelines contained in Announcement 92-15, 1992-5 I.R.B. 51. Within one year after the date of enactment, the Secretary is required to report the results of this study to the Senate Committee on Finance and the House Committee on Ways and Means.

Effective date

The provision governing the AMT treatment of gifts of appreciated property is effective for contributions made in 1992 and 1993.

The Secretary of the Treasury is required to report to Congress prior to December 31, 1992, on the development of an advance valuation procedure for certain donations, and within one year after the date of enactment, the results of a study of corporate sponsorship payments received by tax-exempt organizations.

Conference agreement

Extension of AMT relief for donated appreciated property

The conference agreement provides that charitable contributions of appreciated property (real, personal, and intangible) made during the period January 1, 1992, through June 30, 1993, are not treated as a tax preference item for AMT purposes.[3]

Effective date.—Contributions made during the period January 1, 1992, through June 30, 1993.

Advance determination of IRS position of value of donated tangible personal property

The conference agreement generally follows the House bill and Senate amendment, except that the directive to the Secretary of the Treasury is modified as follows: The Secretary of the Treasury is directed to develop a procedure under which taxpayers could elect to seek an agreement with the Secretary as to the value of tangible personal property prior to the donation of such property to a qualifying charitable organization (provided that time limits for donation and any other conditions contained in the agreement are satisfied). The Secretary is required to submit a report not later than December 31, 1992, to the Senate Committee on Finance and the House Committee on Ways and Means, reporting on the development of such a procedure, including the setting of possible threshold amounts for claimed value (and the payment of fees) by a taxpayer in order to seek agreement under the procedure, possible limitations on applying the procedure only to items with significant artistic or cultural value, recommendations for legislative action needed to implement the proposed procedure, and a projected timetable for its implementation.

---

[1] The amount of the deduction allowable for a taxable year with respect to a charitable contribution may be reduced depending on the type of property contributed, the type of charitable organization to which the property is contributed, and the income of the taxpayer (secs. 170(b) and 170(e)).

[2] Section 170(e)(3) provides an augmented deduction for certain corporate contributions of inventory property for the care of the ill, the needy, or infants.

[3] Any carryover of an excess charitable contribution deduction from a contribution made during the period January 1, 1992, through June 30, 1993, also will not be treated as a tax preference item for AMT purposes in any succeeding taxable year to which the excess may be carried under the rules of section 170.

Study of tax treatment of corporate sponsorship payments to charitable organizations

The conference agreement follows the Senate amendment.[4]

2. ALTERNATIVE MINIMUM TAX RELIEF FOR INTANGIBLE DRILLING COSTS OF INDEPENDENT OIL AND GAS PRODUCERS

Present law

In general

Corporate and noncorporate taxpayers are subject to an alternative minimum tax ("AMT") which is payable, in addition to all other tax liabilities, to the extent that it exceeds the taxpayer's regular income tax owed. The tax is imposed at a flat rate of 20 percent (24 percent in the case of noncorporate taxpayers) on alternative minimum taxable income in excess of an exemption amount. Alternative minimum taxable income is the taxpayer's taxable income increased by tax preferences and adjusted by determining the tax treatment of certain items in a manner which negates the deferral of income resulting from the regular tax treatment of those items.

For taxable years beginning after 1989, the alternative minimum taxable income of a corporation is increased by an amount equal to 75 percent of the amount by which adjusted current earnings ("ACE") exceed pre-net operating loss alternative minimum taxable income. In general, adjusted current earnings means alternative minimum taxable income with additional adjustments. These adjustments generally follow the rules presently applicable to corporations in computing their earnings and profits.

Net operating losses and foreign tax credits generally cannot be used to offset, in the aggregate, more than 90 percent of the pre-foreign tax credit tentative minimum tax which would otherwise be determined.

Treatment of oil and gas intangible drilling costs

Independent oil and gas producers (i.e., taxpayers other than integrated oil companies (as defined in Code sec. 291(b)(4))) that pay or incur intangible drilling or development costs ("IDCs") in the development of domestic oil or gas properties or certain geothermal wells may elect either to expense or capitalize such amounts. If an election to expense IDCs is made, the taxpayer deducts the amount of the IDCs as an expense in the taxable year the cost is paid or incurred. Generally, if IDCs are capitalized rather than expensed, they can be recovered through depletion or depreciation, as appropriate. Alternatively, at the election of the taxpayer, IDCs may be amortized over a 60-month period.

The difference between the amount of a taxpayer's IDC deductions and the amount which would have been currently deductible had IDCs been capitalized and recovered over a 10-year period constitutes an item of tax preference for the AMT to the extent that this difference exceeds 65 percent of the taxpayer's net income from oil, gas, and geothermal properties for the taxable year.

Moreover, for purposes of computing the corporate AMT's ACE adjustment, IDCs incurred in taxable years beginning after 1989 are capitalized and amortized over the 60-month period beginning with the month in which they are paid or incurred.

AMT deduction for certain energy-related items

A portion of the IDC tax preference and ACE IDC adjustment (together with a portion of the preference and ACE adjustment related to percentage depletion from marginal properties) may operate to reduce an independent oil and gas producer's alternative minimum taxable income ("AMTI") under a provision enacted as part of the Omnibus Budget Reconciliation Act of 1990 (the so-called "special energy deduction"). The special energy deduction is initially determined by identifying the taxpayer's (1) IDC preference[1] and (2) marginal production depletion preference.[2] The IDC preference is apportioned between the portion of the preference related to IDCs on exploratory wells and the portion related to IDCs on all other wells. The portion of the preference related to exploratory IDCs is multiplied by 75 percent and the remaining portion is multiplied by 15 percent. The marginal production depletion preference is multiplied by 50 percent. These three products are then added together to arrive at the taxpayer's special energy deduction.

The special energy deduction may not reduce the taxpayer's AMTI by more than 40 percent. In addition, the combination of the special energy deduction, the alternative minimum tax net operating loss and the alternative minimum tax foreign tax credit generally may not offset, in the aggregate, more than 90 percent of a taxpayer's AMT liability determined without such attributes. Any special energy deduction amount limited by the 40-percent threshold may not be carried to another taxable year.

House bill

No provision.

Senate amendment

In general

The Senate amendment contains several provisions relating to the AMT treatment of IDCs incurred by independent producers of oil and gas. Included among these provisions are amendments to (1) the computation of the AMT preference for IDCs, (2) the ACE adjustment, and (3) the AMT special energy deduction. These provisions are not applicable to integrated oil companies (as defined in section 291(b)(4) of the Code).

AMT preference for IDCs

For purposes of computing the AMT preference for IDCs, the Senate amendment raises the 65-percent net oil and gas income offset to 70 percent. Thus, the difference between the amount of an independent oil and gas producer's IDC deductions and the amount which would have been currently deductible had IDCs been capitalized and recovered over a 10-year period constitutes an item of tax preference to the extent that this difference exceeds 70 percent of the producer's net income from oil and gas properties for the taxable year.

ACE adjustment for IDCs

For purposes of computing the ACE adjustment, the Senate amendment eliminates the requirement that independent oil and gas producers make an adjustment to AMTI for IDCs.

AMT special energy deduction

Under the Senate amendment, the IDC component of the special energy deduction would be computed by multiplying the IDC preference by 50 percent. Thus, any necessity to apportion the IDC preference between exploratory and all other IDCs is eliminated. Under the Senate amendment, the IDC preference for purposes of the special energy deduction is the amount by which the taxpayer's AMTI would be reduced if it were computed without regard to the excess IDC preference.[3]

The Senate amendment does not affect the computation of the marginal depletion component of the special energy deduction. As under present law, the special energy deduction may not reduce a taxpayer's AMTI by more than 40 percent.

Effective date

The provisions of the Senate amendment related to AMT relief for IDCs are effective for taxable years beginning after December 31, 1991.

Conference agreement

The conference agreement follows the Senate amendment.

3. ELIMINATION OF ACE DEPRECIATION ADJUSTMENT

Present law

Under present law, a corporation is subject to an alternative minimum tax ("AMT") which is payable, in addition to all other tax liabilities, to the extent that it exceeds the corporation's regular income tax liability. Alternative minimum taxable income ("AMTI") is the corporation's taxable income increased by the corporation's tax preferences and adjusted by determining the tax treatment of certain items in a manner which negates the deferral of income resulting from the regular tax treatment of those items. For a corporation, the amount of AMT paid in a year may be carried forward as a credit and used to reduce the corporation's regular tax liability (but not below the corporation's tentative minimum tax for the year).

One of the adjustments that is made to taxable income to arrive at AMTI relates to depreciation. Depreciation on most personal property to which the modified ACRS system adopted in 1986 applies is calculated using the 150-percent declining balance method (switching to straight line in the year necessary to maximize the deduction) over the life described in Code section 168(g) (generally the ADR class life of the property).

For taxable years beginning after 1989, AMTI is increased by an amount equal to 75 percent of the amount by which adjusted current earnings ("ACE") exceeds AMTI (as determined before this adjustment). The ACE adjustment replaced the book-income adjustment applicable to tax years 1987 through 1989. In general, ACE equals AMTI with additional adjustments that generally follow the rules presently applicable to corporations in computing their earnings and profits. For purposes of ACE, depreciation is computed using the straight-line method over the class life of the property. Thus, a corporation generally must make two depreciation calculations for purposes of the AMT—once using the 150-percent declining balance method and again using the straight-line method.

---

[4] The conferees are concerned about the application of the proposed examination guidelines contained in Announcement 92-15 to royalties and other payments that may be received by the U.S. Olympic Committee and the Atlanta Committee for the Olympic Games, Inc., in connection with the 1996 Games of the XXVI Olympiad. The conferees expect that, under general UBIT rules (see Rev. Rul. 81-178, 1981-2 C.B. 135), royalty income derived from licensing Olympic trademarks, emblems, and designations, as well as all income from broadcasting, filming, and videotaping the Olympics, will be treated as exempt from the UBIT.

[1] The IDC preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to the excess IDC preference and the ACE IDC adjustment.

[2] The marginal production depletion preference is the amount by which the taxpayer's alternative minimum taxable income would be reduced if it were computed without regard to the preference for percentage depletion claimed in excess of basis and the ACE adjustment related to depletion from marginal properties.

[3] In contrast to present law, calculation of the IDC preference for purposes of the special energy deduction does not take into account an ACE IDC adjustment since that adjustment is repealed by the Senate amendment with respect to independent producers.

House bill

Effective for property placed in service on or after February 1, 1992, the House bill would eliminate the depreciation component of ACE for corporate AMT purposes. Thus, in computing ACE, a corporation would use the same depreciation methods and lives that it uses in computing AMTI (generally, the 150-percent declining balance method for tangible personal property).

Effective date.—The provision is effective for property placed in service on or after February 1, 1992.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

H. EXTENSION OF OTHER EXPIRING TAX PROVISIONS

1. RESEARCH AND EXPERIMENTATION TAX CREDIT

Present law

A 20-percent tax credit is allowed to the extent that a taxpayer's qualified research expenditures for the current year exceed its base amount for that year. The credit will not apply to amounts paid or incurred after June 30, 1992.

The base amount for the current year generally is computed by multiplying the taxpayer's "fixed-base percentage" by the average amount of the taxpayer's gross receipts for the four preceding years. If a taxpayer both incurred qualified research expenditures and had gross receipts during each of at least three years from 1984 through 1988, then its "fixed-base percentage" is the ratio that its total qualified research expenditures for the 1984-1988 period bears to its total gross receipts for that period (subject to a maximum ratio of .16). All other taxpayers (such as "start-up" firms) are assigned a fixed-base percentage of .03.

In computing the credit, a taxpayer's base amount may not be less than 50 percent of its current-year qualified research expenditures.

Qualified research expenditures eligible for the credit consist of: (1) "in-house" expenses of the taxpayer for research wages and supplies used in research; (2) certain time-sharing costs for computer use in research; and (3) 65 percent of amounts paid by the taxpayer for contract research conducted on the taxpayer's behalf. Expenditures attributable to research that is conducted outside the United States do not enter into the credit computation. In addition, the credit is not available for research in the social sciences, arts, or humanities, nor is it available for research to the extent funded by any grant, contract, or otherwise by another person (or governmental entity).

In addition, the 20-percent tax credit also applies to the *excess* of (1) 100 percent of corporate cash expenditures (including grants or contributions) paid for university basic research *over* (2) the sum of (a) the greater of two fixed research floors plus (b) an amount reflecting any decrease in nonresearch giving to universities by the corporation as compared to such giving during a fixed-base period, as adjusted for inflation.

Deductions for qualified research expenditures allowed to a taxpayer under section 174 are reduced by an amount equal to 100 percent of the taxpayer's research credit determined for that year.

House bill

The House bill extends permanently the 20-percent research tax credit for qualified research expenditures and university basic research expenditures.

The technical explanation accompanying the House bill states that, in making permanent the research credit, Congress wishes to reaffirm its intent that neither the enactment of the credit in 1981 nor the "targeting" modifications to the credit in 1986 affect the definition of "research or experimental expenditures" for purposes of section 174. Thus, the various new credit limitations enacted in the Tax Reform Act of 1986 (such as the "process of experimentation" requirement) apply in determining eligibility for the credit (in taxable years beginning after December 31, 1985), and do not determine eligibility of product development costs under section 174.

Effective date.—The provision applies to taxable years ending after June 30, 1992.

Senate amendment

The Senate amendment extends the research tax credit for 18 months (i.e., for qualified research expenditures and university basic research expenditures incurred through December 31, 1993).

Effective date.—The provision applies to qualified expenditures incurred during the period July 1, 1992, through December 31, 1993.

Conference agreement

The conference agreement extends the research tax credit for one year (i.e., for qualified research expenditures and university basic research expenditures incurred through June 30, 1993).

In extending the research tax credit, the conferees wish to reaffirm Congressional intent that neither the enactment of the credit in 1981 nor the "targeting" modifications to the credit in 1986 affect the definition of "research or experimental expenditures" for purposes of section 174.

Effective date.—The provision applies to qualified expenditures incurred during the period July 1, 1992, through June 30, 1993.

2. EXTENSION OF TARGETED JOBS TAX CREDIT

Present law

Tax credit

The targeted jobs tax credit is available on an elective basis for hiring individuals from several targeted groups. The credit is scheduled to expire for individuals who begin work for an employee after June 30, 1992.

Authorization of appropriations

Present law authorizes appropriations for administration and publicity expenses relating to the credit through June 30, 1992. These monies are to be used by the Internal Revenue Service and the Department of Labor to inform employers of the credit program.

House bill

The House bill permanently extends the targeted jobs tax credit and the authorization for appropriations.

Effective date.—The provision is effective for individuals who begin work for an employer after June 30, 1992.

Senate amendment

The Senate amendment extends the targeted jobs tax credit and the authorization for appropriations for 18 months (through December 31, 1993).

Effective date.—The provision is effective for individuals who begin work for an employer after June 30, 1992.

Conference agreement

The conference agreement follows the Senate amendment except that the credit and authorization for appropriations is only extended for 12 months (through June 30, 1993).

3. QUALIFIED SMALL-ISSUE BONDS

Present law

Interest on small issues of private activity bonds issued by States or local governments ("qualified small-issue bonds") is excluded from gross income if certain conditions are met. First, at least 95 percent of the bond proceeds must be used to finance manufacturing facilities or certain agricultural land or equipment. Second, the bond issue must have an aggregate face amount of $1 million or less, or alternatively the aggregate face amount of the issues, together with the aggregate amount of certain related capital expenditures during the six-year period beginning three years before the date of the issue and ending three years after that date, must not exceed $10 million.

Issuance of qualified small-issue bonds, like most other private activity bonds, is subject to annual State volume limitations and to other rules.

Authority to issue qualified small-issue bonds is scheduled to expire after June 30, 1992.

House bill

The House bill permanently extends the authority to issue qualified small-issue bonds.

Effective date.—The provision is effective for bonds issued after June 30, 1992.

Senate amendment

The Senate amendment extends the authority to issue qualified small-issue bonds for 18 months (through December 31, 1993).

Effective date.—The provision is effective for bonds issued after June 30, 1992.

Conference agreement

The conference agreement provides an extension of authority to issue qualified small-issue bonds for 12 months (through June 30, 1993).

4. BUSINESS ENERGY TAX CREDITS FOR SOLAR AND GEOTHERMAL PROPERTY

Present law

Nonrefundable business energy tax credits are allowed for ten percent of the cost of qualified solar and geothermal energy property (sec. 48(a)). Solar energy property that qualifies for the credit includes any equipment that uses solar energy to generate electricity, to heat or cool (or provide hot water for use in) a structure, or to provide solar process heat. Qualifying geothermal property includes equipment that produces, distributes, or uses energy derived from a geothermal deposit, but, in the case of electricity generated by geothermal power, only up to (but not including) the electrical transmission stage.[1]

The business energy tax credits are scheduled to expire with respect to property placed in service after June 30, 1992.

The business energy tax credits are components of the general business credit (sec.

---

[1] For purposes of the credit, a geothermal deposit is defined as a domestic geothermal reservoir consisting of natural heat which is stored in rocks or in an aqueous liquid or vapor, whether or not under pressure (sec. 613(e)(2)).

38(b)(1)). The business energy tax credits, when combined with all other components of the general business credit, generally may not exceed for any taxable year the excess of the taxpayer's net income tax over the greater of (1) 25 percent of net regular tax liability above $25,000 or (2) the tentative minimum tax. An unused general business credit generally may be carried back three years and carried forward 15 years.

House bill

No provision.

Senate amendment

The Senate amendment extends the business credits for investments in solar and geothermal property for 18 months, through December 31, 1993.

Effective date.—Qualifying solar and geothermal property placed in service after June 30, 1992.

Conference agreement

The conference agreement generally follows the Senate amendment, except that the business energy tax credits are only extended for 12 months, through June 30, 1993.

5. EXCISE TAX ON CERTAIN VACCINES FOR THE VACCINE INJURY COMPENSATION TRUST FUND

Present Law

Vaccine Injury Compensation Trust Fund

The Vaccine Injury Compensation Trust Fund ("Vaccine Trust Fund") provides a source of revenue to compensate individuals who are injured (or die) as a result of the administration of certain vaccines: diphtheria, pertussis, and tetanus ("DPT"); diphtheria and tetanus ("DT"); measles, mumps, and rubella ("MMR"); and polio. The Vaccine Trust Fund provides the funding source for the National Vaccine Injury Compensation Program ("Program"), which provides a substitute, Federal "no-fault" insurance system for the State-law tort and private liability insurance systems otherwise applicable to vaccine manufacturers.[1]

Under the Program, all persons who were immunized with a covered vaccine after the effective date of the Program, October 1, 1988, are prohibited from commencing a civil action in State court for vaccine-related damages unless they first file a petition with the United States Claims Court, where such petitions are assigned to a special master and governed by streamlined procedural rules designed to expedite the proceedings.[2] In these cases, the Federal Government is the respondent party in the proceedings, and the claimant generally must show only that certain medical conditions (or death) followed the administration of a covered vaccine and that the first onset of symptoms occurred within a prescribed time period.[3] Compensation under the Program generally is limited to actual and projected unreimbursed medical, rehabilitative, and custodial expenses, lost earnings, pain and suffering (or, in the event of death, a recovery for the estate) up to $250,000, and reasonable attorney's fees.[4] Only if the final settlement under the Program is rejected may the claimant proceed with a civil tort action in the appropriate State court, where recovery generally will be governed by State tort law principles[5], subject to certain limitations and specifications imposed by the National Childhood Vaccine Injury Act of 1986.[6]

Amounts in the Vaccine Trust Fund are available for the payment of compensation under the Program with respect to vaccines administered after September 30, 1988, and before October 1, 1992.

Vaccine excise tax

The Vaccine Trust Fund is funded by a manufacturer's excise tax on DPT, DT, MMR, and polio vaccines (and any other vaccines used to prevent these diseases). The excise tax per dose is $4.56 for DPT, $0.06 for DT, $4.44 for MMR, and $0.29 for polio vaccines.

The vaccine excise tax will expire after the later of: (1) December 31, 1992; or (2) the date on which the Vaccine Trust Fund revenues exceed the projected liabilities with respect to compensable injuries from vaccines administered before October 1, 1992.

House bill

Extension of vaccine excise tax and Program funding

The House bill extends the present-law excise taxes imposed on certain vaccines for two years (i.e., through December 31, 1994). Authorization for compensation to be paid from the Vaccine Trust Fund for certain damages resulting from vaccines administered after September 30, 1988, and before October 1, 1992, also is extended for two years (i.e., for vaccines administered after September 30, 1988, and before October 1, 1994).[7]

Study

The Secretary of the Treasury, in consultation with the Secretary of Health and Human Services, is directed to conduct a study of: (1) the estimated amount that will be paid from the Vaccine Trust Fund with respect to vaccines administered after September 30, 1988, and before October 1, 1994; (2) the rates of vaccine-related injury or death with respect to various types of vaccines; (3) new vaccines and immunization practices being developed or used for which amounts may be paid from the Vaccine Trust Fund; and (4) whether additional vaccines should be included in the Program. The Secretary of the Treasury must submit a report detailing his findings no later than January 1, 1994, to the House Committee on Ways and Means and the Senate Committee on Finance.

Effective date

The provisions are effective on the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and Senate amendment.

6. PERMANENT EXTENSION OF GENERAL FUND TRANSFER TO RAILROAD RETIREMENT TIER 2 FUND

Present law

The proceeds from the income taxation of railroad retirement Tier 2 benefits are transferred from the general fund of the Treasury to the Railroad Retirement Account. This transfer applies only to proceeds from the taxation of benefits which have been received prior to October 1, 1992. Proceeds from the taxation of benefits received after this date remain in the general fund.

House bill

The transfer of proceeds from the income taxation of railroad retirement Tier 2 benefits from the general fund of the Treasury to the Railroad Retirement Account is made permanent.

Effective date.—The provision is effective beginning September 30, 1992.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

7. TAX CREDIT FOR ORPHAN DRUG CLINICAL TESTING EXPENSES

Present law

A 50-percent nonrefundable tax credit is allowed for a taxpayer's qualified clinical testing expenses paid or incurred in the testing of certain drugs for rare diseases, generally referred to as "orphan drugs." Qualified testing expenses are costs incurred to test an orphan drug after the drug has been approved for human testing by the Food and Drug Administration (FDA) but before the drug has been approved for sale by the FDA. Present law defines a rare disease or condition as one that (1) affects less than 200,000 persons in the United States or (2) affects more than 200,000 persons, but there is no reasonable expectation that businesses could recoup the costs of developing a drug for it from U.S. sales of the drug. These rare diseases and conditions include Huntington's disease, myoclonus, ALS (Lou Gehrig's disease), Tourette's syndrome, and Duchenne's dystrophy (a form of muscular dystrophy).

---

[1] Congress created the National Vaccine Injury Compensation Program as part of the National Childhood Vaccine Injury Act of 1986, in view of concerns that the combination of significantly higher prices and uncertain compensation for injuries could result in reduced compliance with the nation's childhood immunization efforts. The Program became effective following enactment of a Federal funding source. This funding source was provided by the enactment of vaccine excise taxes in the Omnibus Budget Reconciliation Act of 1987, with the excise taxes imposed on sales of covered vaccines on or after January 1, 1988. The Program for administering claims became effective on October 1, 1988, but was not fully operational until February 1, 1989. Several procedural aspects of the Program were amended by section 6601 of the Omnibus Budget Reconciliation Act of 1989.

[2] Persons who received vaccines before the Program's effective date of October 1, 1988 ("retrospective cases") also may be eligible for compensation under the Program if they had not yet received compensation and elected to file a petition with the United States Claims Court on or before January 31, 1991. Under the Program, awards in retrospective cases are somewhat limited compared to "prospective cases" (i.e., those where the vaccine was administered on or after October 1, 1988). Awards in retrospective cases are not paid out of the Vaccine Trust Fund but are paid out of funds specially authorized by Congress. See 42 U.S.C. sec. 300aa-15(i), (j) (appropriating $80 million for fiscal year 1989 and for each subsequent year). To date, most of the dispositions under the Program have involved retrospective cases. See Mariner, Wendy K., *Innovation and Challenge: The First Year of the National Vaccine Injury Compensation Program*, May 1991, report prepared for consideration by the Administrative Conference of the United States.

[3] Compensation may not be awarded, however, if there is a preponderance of the evidence that the claimant's condition or death resulted from factors unrelated to the vaccine in question.

[4] 42 U.S.C. sec. 300aa-15.

[5] In most State proceedings, significant issues arise whether injuries suffered by a child after immunization were, in fact, caused by the vaccine administered and whether the manufacturer was at fault in either the manufacture or marketing of the vaccine.

[6] Title III, P.L. 99-660. This Act preempts State tort law to a limited extent by imposing limits on recovery from vaccine manufacturers. Among the limitations are a prohibition on compensation if the injury or death resulted from side effects that were unavoidable; a presumption that manufacturers are not negligent in manufacturing or marketing vaccines if they complied, in all material respects, with Federal Food and Drug Administration requirements; and limits on punitive damage awards.

[7] The technical explanation accompanying the House bill clarifies that amounts received by a claimant from the Vaccine Trust Fund constitute damages received on account of personal injuries or sickness for purposes of the exclusion from gross income provided by the general rules of section 104(a)(2).

The orphan drug tax credit is scheduled to expire after June 30, 1992.

House bill

No provision.

Senate amendment

The Senate amendment extends the orphan drug tax credit for 18 months (i.e., for qualified clinical testing expenses incurred through December 31, 1993).

Effective date.—The provision is effective for expenses incurred during the period July 1, 1992, through December 31, 1993.

Conference agreement

The conference agreement follows the Senate amendment, except that the orphan drug tax credit is extended for one year (i.e., for qualified clinical testing expenses incurred through June 30, 1993).

Effective date.—The provision is effective for expenses incurred during the period July 1, 1992, through June 30, 1993.

8. ACCESS TO TAX INFORMATION BY THE DEPARTMENT OF VETERANS AFFAIRS

Present law

The Internal Revenue Code prohibits disclosure of tax returns and return information of taxpayers, with exceptions for authorized disclosure to certain Governmental entities in certain enumerated instances (sec. 6103). Unauthorized disclosure is a felony punishable by a fine not exceeding $5,000 or imprisonment of not more than five years, or both (sec. 7213). An action for civil damages also may be brought for unauthorized disclosure (sec. 7431).

Among the disclosures permitted under the Code is disclosure to the Department of Veterans Affairs (DVA) of self-employment tax information and certain tax information supplied to the IRS and SSA by third-parties. Disclosure is permitted to assist DVA in determining eligibility for, and establishing correct benefit amounts under, certain of its needs-based pension and other programs (sec. 6103(l)(7)(D)(viii)). The income tax returns filed by the veterans themselves are not disclosed to DVA.

The DVA disclosure provision is scheduled to expire after September 30, 1992.

House bill

No provision.

Senate amendment

The Senate amendment extends this authority to disclose tax information for six years.

Effective date.—The DVA disclosure provision expires after September 30, 1998.

Conference agreement

The conference agreement follows the Senate amendment, except that the provision expires after September 30, 1997.

9. EXCLUSION FOR EMPLOYER-PROVIDED GROUP LEGAL SERVICES AND TAX EXEMPTION FOR GROUP LEGAL SERVICES ORGANIZATIONS

Present law

Certain amounts contributed by an employer to and benefits provided under a qualified group legal services plan are excluded from an employee's gross income for income and employment tax purposes. The exclusion is limited to an annual premium value of $70. The exclusion expires after June 30, 1992.

Present law provides tax-exempt status for an organization the exclusive function of which is to provide legal services or indemnification against the cost of legal services as part of a qualified group legal services plan. The tax exemption for such an organization expires after June 30, 1992.

House bill

No provision.

Senate amendment

The Senate amendment extends the exclusion from income for employer-provided group legal services and the tax exemption for group legal services organizations through December 31, 1993.

Effective date.—Taxable years beginning after June 30, 1992.

Conference agreement

The conference agreement extends the exclusion from income for employer-provided group legal services and the tax exemption for group legal services organizations through June 30, 1993.

Effective date.—Taxable years beginning after June 30, 1992.

10. ALLOCATION AND APPORTIONMENT OF RESEARCH EXPENSES

Present law

U.S. persons are taxable on their worldwide income, including their foreign income. Foreign source taxable income equals foreign source gross income less the expenses, losses and other deductions properly apportioned or allocated to that income. The Internal Revenue Code generally articulates only the broad principles of how expenses reduce U.S. and foreign source gross income, leaving the Treasury Department to provide detailed rules for the task of allocating and apportioning expenses.

Treasury regulations issued in 1977 described methods for allocating expenses between U.S. and foreign source income, including rules for the allocation of research and development (R&D) expenses. Upon issuance of these regulations, a significant dispute regarding the appropriate allocation of R&D expenses developed between taxpayers and the Treasury Department. This unresolved dispute between taxpayers and the Treasury Department precipitated Congressional involvement on this issue, and since 1981, the R&D allocation regulations have been subject to a series of eight suspensions and temporary modifications. The current temporary provision is applicable generally for the first six months of the first taxable year beginning after August 1, 1991, and among other rules, automatically allocates 64 percent of U.S. performed R&D to U.S. source income, and generally permits a greater amount of taxable income to be classified as foreign source than under the 1977 regulations. This will increase the benefits of the foreign tax credit to many taxpayers.

House bill

The House bill contains no provision on the allocation and apportionment of R&D expenses. However, the Technical Explanation of H.R. 4287 (WMCP 102-35) states that Congress believes that the Administration has broad authority under current law to revise the current R&D allocation regulations. The Technical Explanation of H.R. 4287 states that since the Administration has indicated its support of an allocation system that provides incentives to increase the performance of U.S.-based research activities, the Congress expects, and in the strongest terms, urges the Treasury Department to revise its permanent regulations in a manner consistent with the Administration's objectives and proposals as set forth in the *General Explanations of the President's Budget Proposals Affecting Receipts* (January 1992). The Technical Explanation of H.R. 4287 states that the Congress believes that such a revision would be consistent both with current law regulatory authority and with the stated goals of the Administration.

The Technical Explanation of H.R. 4287 states that the Congress further urges the Treasury Department, when revising its regulations, to take into consideration that taxpayers, in appropriate circumstances, are required for business purposes to conduct significant amounts of R&D at foreign sites and should not be penalized by the allocation rules.

The Technical Explanation of H.R. 4287 states that the Congress expects and requests the Treasury Department to issue regulations no later than June 1, 1992, to be effective for all periods after the termination of the current temporary rules.

Senate amendment

The Senate amendment contains no provision on the allocation and apportionment of R&D expenses. The Technical Explanation of the Senate Finance Committee amendment to H.R. 4210 (S. Prt. 102-77) states views of the committee which are the same as the views expressed in the Technical Explanation of H.R. 4287, except with respect to the committee's view as to the effective date of the regulations to be issued. In that connection, the Technical Explanation of the Senate Finance Committee amendment to H.R. 4210 states that the committee expects and requests the Treasury Department to issue regulations no later than June 1, 1992, to be effective after the termination of the current temporary rules.

Conference agreement

The conference agreement follows the House bill and Senate amendment. The conferees adopt the common views expressed in the Technical Explanations of the two bills. The conferees expect that final regulations will adopt the substantive rules set forth in the Administration proposal, that such regulations will be issued no later than June 1, 1992, and that such regulations will take effect without delay upon expiration of the current temporary statutory R&D allocation rules.

I. URBAN TAX ENTERPRISE ZONES AND RURAL DEVELOPMENT INVESTMENT ZONES

Present law

In general, the Internal Revenue Code does not contain rules that target specific geographic areas for special Federal income tax treatment. Within certain Code sections, however, there are definitions of targeted areas for limited purposes. For example, the provisions relating to qualified mortgage bonds define targeted areas for the purpose of promoting housing development within economically distressed areas. Similarly, for purposes of the low-income housing credit, certain geographic areas are designated as high cost or difficult to develop for the purpose of increasing the rate of credit applicable to such areas. In addition, present law provides favorable Federal income tax treatment for certain U.S. corporations that operate in Puerto Rico, the U.S. Virgin Islands, or a possession of the United States as a means to encourage the conduct of trades or businesses within these areas.

House bill

Designation of tax enterprise zones

In general.—The House bill provides that, during the period 1993 through 1995, 35 tax enterprise zones may be designated. Tax enterprise zones may be either urban tax enterprise zones or rural development investment zones. The Secretary of Housing and Urban Development may designate 10 areas as urban tax enterprise zones. The Secretary of Agriculture (in consultation with the Secretary of Commerce) may designate 25 areas as rural development investment zones. All designated areas shall be selected from areas each of which will have been nominated by State and local governments, a State-chartered economic development corporation (or similar entity), or the governing body of an Indian reservation. Designation of an area as a tax enterprise zone generally will remain in effect for 15 years.

Eligibility criteria for urban tax enterprise zones.—To be eligible for designation as an urban tax enterprise zone, a nominated area is required to have all of the following characteristics: (1) a population of at least 4,000; (2) a condition of pervasive poverty, unemployment, and general economic distress, which may include the distress resulting from a high incidence of crime and narcotics use; (3) with respect to size, (a) does not exceed 12 square miles, (b) consists of not more than three noncontiguous parcels, and (c) is located entirely within one State; (4) an unemployment rate at least 1.5 times the national unemployment rate; (5) poverty rates of at least 20 percent in each of 90 percent of the area's census tracts; and (6) a satisfactory course of action (described below) adopted by the State or local governments for the nominated area designed to promote economic development in the zone.

Eligibility criteria for rural development investment zones.—To be nominated as a rural development investment zone, an area is required to be either outside a standard metropolitan statistical area or determined by the Secretary of Agriculture (in consultation with the Secretary of Commerce) to be a rural area. To be eligible for designation, a nominated rural area is required to possess the following four characteristics: (1) a population of at least 1,000; (2) a condition of general economic distress; (3) with respect to size, (a) does not exceed 10,000 square miles, (b) is located within not more than four contiguous counties, (c) consists of not more than three noncontiguous parcels, and (d) is located entirely within one State;[1] and (4) a satisfactory course of action (described below) adopted by State or local governments for the nominated area. In addition, a rural area is required to meet at least two of the following four requirements: (1) an unemployment rate at least 1.5 times the national unemployment rate; (2) poverty rates of at least 20 percent in each of 90 percent of the area's census tracts;[2] (3) a decline in employment (as measured by total wages) of more than five percent over the five-year period prior to the zone's designation; and (4) a decline in population of 10 percent or more over the period from 1980 to 1990.

Course of action.—In order for any nominated area to be eligible to be designated as a tax enterprise zone, the local government and State in which the area is located are required to agree in writing that they will follow a specified course of action designed to reduce burdens borne by employers or employees in the area. A specified course of action may include one or more of the following actions with respect to a nominated area: reduced tax rates or fees; increased delivery of local public services; simplified government paperwork requirements; involvement in the program by public or private entities (e.g., community groups), including a commitment to provide jobs and job training, and technical, financial, or other assistance to employers, employees, and residents of the area; special preferences granted to minority contractors; donations of surplus land to community organizations agreeing to operate businesses on the land; programs to encourage employers to purchase health insurance for employees on a pooled basis; certain programs to encourage local financial institutions to make loans to area businesses (with emphasis on start-up firms and other small businesses); and special preferences for projects within the area in allocations of the State's low-income housing credit ceiling and private activity bonds ceiling. Programs which serve as part of the required course of action with respect to a nominated zone may not be funded from proceeds from any Federal program.[3]

Selection process and criteria.—The Secretary of Housing and Urban Development may designate a total of ten urban tax enterprise zones, consisting of five urban zones designated in 1993, three in 1994, and two in 1995. The Secretary of Agriculture (in consultation with the Secretary of Commerce) may designate a total of 25 rural development investment zones, consisting of 12 rural zones designated in 1993, seven in 1994, and six in 1995.[4]

All designated tax enterprise zones shall be selected from nominated areas on the basis of the following criteria (each of which is to be given equal weight): (1) the strength and quality of promised contributions by State and local governments relative to their fiscal ability; (2) the effectiveness and enforceability of the guarantees that the promised course of action actually will be implemented; (3) the level of commitments by private entities of additional resources to the economy of the nominated area, including the creation of new or expanded business activities; (4) the average ranking (relative to other nominated areas) with respect to (a) in the case of a nominated urban tax enterprise zone, the degree of poverty and unemployment, or (b) in the case of a nominated rural development investment zone, two of the following criteria that give the area a higher average ranking: poverty, unemployment, job loss, or population loss; and (5) the potential for revitalization of the nominated area (including the potential reduction in the incidence of crime and narcotics use and traffic), taking into account particularly the number of jobs to be created and retained.

Period designation in effect.—Designation of an area as a tax enterprise zone generally will remain in effect for a period of 15 years. However, an area's designation as a tax enterprise zone will be revoked if it is determined (after a hearing on the record) by the Secretary of Housing and Urban Development (in the case of an urban tax enterprise zone) or the Secretary of Agriculture (in the case of a rural development investment zone) that the local government or State in which the area is located has significantly modified the boundaries of the zone or is not complying substantially with commitments made as part of the required course of action.

Regulations.—Within four months after the date of enactment, the Secretary of Housing and Urban Development and the Secretary of Agriculture must issue regulations regarding: (1) procedures for nominating tax enterprise zones, (2) the method for comparing the enumerated selection criteria; and (3) recordkeeping requirements to assist in the preparation of Congressionally mandated studies (described below).

Tax incentives for enterprise zones

Wage credit.—A 7.5-percent nonrefundable tax credit is provided to certain small employers for qualified enterprise zone wages. Qualified zone wages are paid to an individual who does not receive annual wages or salary exceeding $30,000, resides in the tax enterprise zone, and performs substantially all services for the employer trade or business within the tax enterprise zone. However, wages are not eligible for the credit if paid to certain relatives of the employer or, if the employer is a corporation, certain relatives of a person who owns more than 50 percent of the corporation. In addition, wages are not eligible for the credit if paid to a person who owns more than five percent of the stock of the employer (or if the employer is not a corporation, more than five percent of the capital or profits interest in the employer).[5]

For purposes of this credit, a "small employer" is defined as an employer that, on average, did not employ more than 100 full-time employees during the taxable year.[6] If an employee is terminated less than one year after initial employment, the amount of credits previously claimed by the employer with respect to that employee generally is recaptured.[7]

The wage credit is not available for wages or salary paid to an employee beyond five years after the date such employee first began work for the employer (whether or not in a tax enterprise zone). The total wage credit that may be claimed by any small employer for any taxable year cannot exceed the credit amount allocated to that employer by the tax enterprise zone allocating official (whose functions are described below). The employer's deductions for wages or salaries paid are reduced by the amount of credit determined for the taxable year. For alternative minimum tax (AMT) purposes, the wage credit is not allowed to offset tentative minimum tax.[8]

---

[1] In the case of a nominated area which is located on one or more Indian reservations, the nominated area need not be located entirely within one State.

[2] If the areas in question are not tracted, the analogous divisions as defined by the Bureau of the Census for purposes of defining poverty areas should be used.

[3] In addition, the course of action implemented generally may not include any action to assist any business establishment in relocating into the zone from another area. However, this limitation will not be construed to prohibit assistance for the expansion of an existing business if the Secretary of Housing and Urban Development (in the case of an urban tax enterprise zone) or Secretary of Agriculture (in the case of a rural development investment zone) finds that establishment of a new branch or subsidiary will not increase unemployment in an area where the existing business conducts business operations and that there is no reason to believe that the new branch or subsidiary is being established with the intention of closing down the operations of the existing business in other locations.

[4] For both urban tax enterprise zones and rural development investment zones, any shortfall in designations below the annual maximum for 1993 and 1994 may be carried forward by the respective Secretaries, but may not be carried beyond 1995.

A designation made during any calendar year will be treated as made on January 1 of the following calendar year if so provided in the designation.

[5] In addition, wages are not eligible for the credit if attributable to services rendered by an employee during the first year he or she begins employment if any portion of such wages are qualified wages for purposes of the targeted jobs tax credit (sec. 51).

[6] For purposes of the credit, certain related employers that are considered to be part of a controlled group under section 52(a) or (b) are treated as a single employer.

[7] However, this rule does not apply if the employee voluntarily leaves the employment, becomes disabled to perform the services of such employment (unless the disability is removed before the close of the one-year period and the employer fails to offer reemployment), or if it is determined under applicable State unemployment compensation law that the termination was due to misconduct by the employee.

Moreover, employment relationships generally will not be treated as terminated merely because of an acquisition of the employer or other transaction that changes the form in which the employer conducts business, provided that the employee continues to be employed for the requisite one-year period.

Deduction for purchase of enterprise zone stock.—An individual is allowed an itemized deduction for the amount paid in cash during any taxable year to purchase enterprise zone stock. The amount allowed as a deduction for any taxable year is limited to the lesser of (1) $25,000, or (2) the enterprise zone stock amount allocated to the taxpayer for the taxable year by the tax enterprise zone allocating official (whose functions are described below). If the amount paid in cash during any taxable year to purchase enterprise zone stock exceeds the limitation for such year, then the excess amount is treated as paid for such stock during the immediately succeeding taxable year. In no event, however, is the amount of the deduction allowed under the provision with respect to any one individual to exceed $250,000.[9] In addition, the maximum amount of enterprise zone stock that may be issued by any corporation is limited to $5 million.[10]

Enterprise zone stock is defined as stock of a C corporation which is acquired on original issue from a corporation that is a qualified issuer, but only to the extent that the cash paid for the stock is used by the corporation within a 12-month period to acquire qualified enterprise zone property. A qualified issuer is defined as a domestic C corporation that satisfies the following requirements: (1) the corporation does not have more than one class of stock outstanding; (2) the sum of (a) the unadjusted bases of the assets owned by the corporation and (b) the value (as determined under Treasury regulations) of the assets leased by the corporation does not exceed $5 million; (3) more than 20 percent of the total value and total voting power of the stock of the corporation is owned by individuals (directly or through partnerships or trusts) or by estates; and (4) the corporation satisfies the enterprise zone business requirements.

A corporation satisfies the enterprise zone business requirements for any taxable year if: (1) at least 80 percent of the gross income of the corporation for the taxable year is derived from the active conduct of a trade or business within a tax enterprise zone;[11] (2) substantially all of the use of the tangible property of the corporation (whether owned by the corporation or leased by the corporation) during the taxable year occurs within a tax enterprise zone; (3) substantially all of the services performed for the corporation by employees of the corporation during the taxable year are performed in a tax enterprise zone; (4) less than 10 percent of the average of the aggregate unadjusted bases of the property owned by the corporation during the taxable year is attributable to securities (as defined in section 165(g)(2));[12] and (5) no more than an insubstantial portion of the property owned by the corporation during the taxable year constitutes collectibles that are not held primarily for sale to customers in the ordinary course of an active trade or business.

For purposes of determining whether a corporation satisfies these requirements, leasing real property that is located within a tax enterprise zone to (or otherwise holding real property for use by) persons that are not related to the corporation is treated as the active conduct of a trade or business. In addition, a corporation is treated as failing to satisfy the enterprise zone business requirements for any taxable year if either: (1) more than 50 percent of the property or services acquired by the corporation during any taxable year is acquired from persons that are related to the corporation and that are not qualified issuers; or (2) more than 50 percent of the gross income of the corporation for the taxable year is derived from property or services provided to persons that are related to the corporation and that are not qualified issuers.[13]

Qualified enterprise zone property is defined as tangible property (whether real or personal) to which section 168 of the Code applies, but only if the original use of the property commences with the qualified issuer and substantially all of the use of the property is in the tax enterprise zone.

Special "recapture" rules apply if, at any time after the acquisition of the enterprise zone stock, the stock is disposed of,[14] or, if, at any time during the 10-year period beginning on the date of the acquisition of the enterprise zone stock, either (1) the issuer of the enterprise zone stock ceases to satisfy the definition of a qualified issuer;[15] or (2) the amount paid for the enterprise zone stock ceases to be invested by the qualified issuer in qualified enterprise zone property. First, the amount realized on the disposition of the enterprise zone stock is required to be recognized notwithstanding any other provision of the Code and is to be treated as ordinary income to the extent that the amount realized does not exceed the amount allowed as a deduction.[16] Second, if enterprise zone stock is disposed of within five years after the date of acquisition of the stock, the taxpayer is required to pay interest on the amount of tax that would otherwise have been due if a deduction had not been allowed for the purchase of the enterprise zone stock.

The basis of enterprise zone stock is reduced by the amount of the deduction allowed under this provision. In addition, the deduction for the purchase of enterprise stock is an adjustment that is required to be taken into account by individuals in computing alternative minimum taxable income (i.e., the deduction is to be added to taxable income in determining alternative minimum taxable income).

Additional first-year depreciation allowance.—An additional depreciation allowance equal to 25 percent of the adjusted basis of certain qualified zone property is allowed for the taxable year that the property is placed in service.[17] The additional depreciation, however, is allowed only with respect to the adjusted basis of qualified zone property for which the taxpayer has received an additional first-year depreciation allowance from the tax enterprise zone allocating official (whose functions are described below). In addition, the adjusted basis of any qualified zone property with respect to which the additional first-year depreciation allowance is allowed is reduced by the amount of such allowance before computing the amount otherwise allowable as a depreciation deduction with respect to the property for the taxable year that the property is placed in service and for any subsequent taxable year.

For this purpose, qualified zone property is defined as any tangible property to which section 168 of the Code applies (other than property that is required to be taken into account under the alternative depreciation system of section 168(g)) but only if: (1) the property is section 1245 property (generally tangible personal property and certain real property other than buildings and structural components of buildings); (2) the original use of the property commences with the taxpayer in a tax enterprise zone;[18] and (3) substantially all of the use of the property is in a tax enterprise zone and in the active conduct of a trade or business by the taxpayer in a tax enterprise zone.

The additional depreciation allowance is to be taken into account for regular tax purposes and for purposes of the alternative minimum tax.

Overall limitation on zone tax incentives

In general.—Each tax enterprise zone is subject to an annual overall limitation on the amount of tax incentives that can be provided with respect to that zone. Urban tax enterprise zones generally have an annual limitation of $13 million, and rural development investment zones generally have an annual limitation of $5 million. However, this annual limitation is increased with respect to a zone by up to an additional 10 percent (i.e., an additional $1.3 million for an urban tax enterprise zone, and an additional $.5 million for a rural development investment zone) if certain expenditures are made to promote development in the zone (e.g., for public improvements or additional police protection) and certain incentives are provided (e.g., property or sales tax abatements) by the local governments and State in which the zone is located.

---

[8] The wage credit is subject to the general business credit limitations of section 38.

[9] For purposes of the $25,000 annual limitation and the $250,000 lifetime limitation, an individual and all members of his or her family (as defined in section 267(c)(4)) are treated as a single individual.

[10] For this purpose, two or more corporations that are related are treated as a single corporation.

[11] This requirement does not apply to the first taxable year of a corporation.

[12] This requirement does not apply to the first taxable year of a corporation.

[13] For purposes of these rules, a person is related to another person if: (1) the person bears a relationship to that person which would be specified in section 267(b) or 707(b)(1) of the Code if those sections were amended by substituting 33 percent for 50 percent; or (2) the persons are engaged in trades or businesses under common control (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of the Code).

[14] A transfer by reason of death is not considered a disposition for this purpose.

[15] The determination of whether a corporation ceases to satisfy the definition of a qualified issuer is to be made without regard to the requirement that the sum of (1) the unadjusted bases of the assets owned by the corporation and (2) the value (as determined under Treasury regulations) of the assets leased by the corporation does not exceed $5 million. In addition, a corporation is not to be treated as ceasing to satisfy the definition of a qualified issuer solely by reason of a termination or a revocation of a tax enterprise zone designation.

[16] In the case of an issuer that ceases to satisfy the definition of a qualified issuer or in the case where the amount paid for the enterprise zone stock ceases to be invested by the qualified issuer in qualified enterprise zone property, the taxpayer is treated as disposing of his or her stock during the taxable year in which the cessation occurs at a price equal to the fair market value of the stock as of the first day of such taxable year.

[17] The additional first-year depreciation allowance for qualified zone property is added to any other additional first-year depreciation allowance provided for by the bill.

[18] A special rule applies in the case of certain leased property. In the case of any property that is originally placed in service by a person and that is sold and leased back by such person within three months after the date that the property was placed in service, the property is treated as originally placed in service not earlier than the date that the property is used under the leaseback.

Allocation of tax incentives.—With respect to each tax enterprise zone, the local governments and the State in which the zone is located must designate a government official (the "allocating official") with responsibility for making allocations of employment wage credits, deductible enterprise zone stock amounts, and additional first-year depreciation allowance amounts. Enterprise zone tax incentives are available to a taxpayer only if the allocating official provides a specific allocation to that taxpayer. For instance, a wage credit may be claimed by a small employer only up to the amount for which that employer has received an allocation for that taxable year. Similarly, the allocating official must specify the particular stock purchases for which the deduction provided for by the bill may be claimed, as well as the specific property for which the additional first-year depreciation allowance may be claimed.[19]

The allocating official for each tax enterprise zone may make total allocations for each calendar year up to an amount which corresponds with the overall zone limitation on tax incentives for that year. Total allocations made in a year may be for one or more of the three tax incentives provided in the bill, depending on the combination of incentives determined by the allocating official to be appropriate for the particular enterprise zone during that year. To the extent the allocating official allocates less than the total amount of allowable tax incentives for any year, unused allocations may be carried forward to the following year (except that total unused allocations carried forward from previous years may not exceed 70 percent of the otherwise applicable zone limitation). Allocations of tax incentives made by the allocating official are counted towards the annual overall zone limitation in the following manner: for each allocated dollar of employment wage credit, the zone limitation is reduced by 67 cents; for each allocated dollar of deduction for enterprise zone stock, the zone limitation is reduced by 35 cents; and for each allocated dollar of adjusted basis of property with respect to which the additional first-year depreciation is allowed, the zone limitation is reduced by 1.5 cents.[20]

Studies

The Secretary of the Treasury and Comptroller General each are directed to submit an interim report by July 1, 1996, and a final report by July 1, 2001, to the House Committee on Ways and Means and the Senate Committee on Finance, analyzing the effectiveness of the tax enterprise zones.

Effective date

Tax enterprise zone designations can be made only during calendar years 1993 through 1995. Designations generally will remain in effect through the 15th calendar year after the year in which the designation first becomes effective.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill, except that the Secretary of Agriculture (in consultation with the Secretary of Commerce) is required to designate at least one rural development investment zone located on an Indian reservation.

J. EXCISE TAXES

1. REPEAL OF LUXURY EXCISE TAX ON BOATS, AIRCRAFT, JEWELRY, AND FURS; INDEXING OF LUXURY EXCISE TAX ON AUTOMOBILES

Present law

Present law imposes a ten-percent excise tax on the portion of the retail price of the following items that exceeds the thresholds specified: automobiles above $30,000; boats above $100,000; aircraft above $250,000; jewelry above $10,000; and furs above $10,000.

The tax applies to sales before January 1, 2000.

House bill

Repeal of tax on boats, aircraft, jewelry, and fur

The House bill repeals the luxury excise tax imposed on boats, airplanes, jewelry, and furs.

Indexing of tax on automobiles

The House bill modifies the luxury excise tax on automobiles to provide that the $30,000 threshold is indexed annually for inflation occurring after 1990. Consequently, the applicable threshold for 1992 will be $30,000 increased by the 1991 inflation rate. Consequently, the applicable threshold for 1992 will be $30,000 increased by the 1991 inflation rate.

Effective date

The repeal of the luxury excise taxes on boats, aircraft, jewelry, and furs is effective for sales on or after February 1, 1992. The indexation of the threshold applicable to automobiles is effective for sales on or after February 1, 1992.

Persons entitled to a refund may request it from the seller from whom they purchased the taxed item, who then obtains the refund as provided under present-law Code section 6416.

Senate amendment

The Senate amendment is the same as the House bill, except for its effective date. The Senate amendment repeals the luxury excise taxes on boats, aircraft, jewelry, and furs effective for sales on or after January 1, 1992. The Senate amendment indexes the threshold applicable to automobiles effective for sales on or after January 1, 1992.

Persons entitled to a refund may request it from the seller from whom they purchased the taxed item, who then obtains the refund as provided under present-law Code section 6416.

Conference agreement

The conference agreement follows the Senate amendment.

2. IMPOSE EXCISE TAX ON DIESEL FUEL USED IN NONCOMMERCIAL BOATS

Present law

Federal excise taxes generally are imposed on gasoline and special motor fuels used in highway transportation and by boats (14 cents per gallon). A Federal excise tax also is imposed on diesel fuel (20 cents per gallon) used in highway transportation. Diesel fuel used in trains generally is taxed at 2.5 cents per gallon.

The revenues from these taxes, minus 2.5 cents per gallon, are deposited in the Highway Trust Fund ("HTF") through September 30, 1999. The revenues attributable to the taxes on boat and small engine gasoline fuels deposited in the HTF are transferred to the Aquatic Resources Trust Fund.

Revenues from the remaining 2.5 cents per gallon are retained in the General Fund through September 30, 1995, after which time the 2.5 cents-per-gallon portion of the taxes (including the tax on diesel fuel used in trains) is scheduled to expire.

An additional 0.1-cent-per-gallon tax applies to these fuels to finance the Leaking Underground Storage Trust Fund ("LUST Fund"), generally through December 31, 1995.

Diesel fuel used in boats is not taxed.

House bill

The House bill extends the diesel fuel excise taxes to diesel fuel used by boats. Fuel used by boats for commercial fishing, transportation for compensation or hire, or for business use other than predominantly for entertainment, amusement, or recreation, remains exempt.

As under the President's budget proposal, the tax is collected at the same point in the distribution chain as the highway diesel fuel tax (i.e., on sale to a retailer). However, to prevent unnecessary tax-paid sales followed by refunds, retailers that sell diesel fuel exclusively to commercial (i.e., nonpleasure) boats are permitted to buy and sell the fuel tax-free.

The revenues from the taxes on diesel fuel used by boats will be retained in the General Fund.

Effective date.—The provision is effective after June 30, 1992.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

3. INCREASE BASE TAX RATE ON OZONE-DEPLETING CHEMICALS

Present law

An excise tax is imposed on certain ozone-depleting chemicals. The amount of tax generally is determined by multiplying the base tax rate applicable for the calendar year by an ozone-depleting factor assigned to the chemical. Certain chemicals are subject to a reduced rate of tax for years prior to 1994.

Between 1992 and 1995 there are two base tax rates applicable, depending upon whether the chemicals were initially listed in the Omnibus Budget Reconciliation Act of 1989 or whether they were newly listed in the Omnibus Budget Reconciliation Act of 1990. The base tax rate applicable to initially listed chemicals is $1.67 per pound for 1992, $2.65 per pound for 1993 and 1994, and an additional 45 cents per pound per year for each year thereafter. The base tax rate applicable to newly listed chemicals is $1.37 per pound for 1992, $1.67 per pound for 1993, $3.00 per pound for 1994, $3.10 per pound for 1995, and an additional 45 cents per pound per year for each year thereafter.

House bill

No provision.

Senate amendment

The Senate amendment increases and applies the same base tax rate to both initially listed chemicals and newly listed chemicals. The new base tax rate is $1.85 per pound for 1992, $2.75 per pound in 1993, $3.65 per pound in 1994, and $4.55 per pound in 1995. For years after 1995, the base tax amount will increase (as under present law) by 45 cents per pound per year.

In addition, the Senate amendment reduces the applicable percentage used in the computation of the tax applied to chemicals used in rigid foam insulation in 1992 and 1993. The provision reduces the applicable percentage from 15 percent to 13.5 percent for

---

[19] In making such allocations, the allocating official is to give preference to certain small business concerns.

[20] These amounts by which the overall zone limitation is reduced are designed to represent the approximate revenue cost of each of the enterprise zone tax incentives provided for by the bill.

1992, and reduces the applicable percentage from 10 percent to 9.6 percent for 1993. The effect of this provision is to continue present-law rates on these chemicals for 1992 and 1993.

Effective date.—The provision is effective for taxable chemicals sold or used on or after July 1, 1992. Floor stocks taxes are imposed on taxed chemicals held on the effective dates of changes in the base tax rate.

Conference agreement

The conference agreement follows the Senate amendment.

K. TRADE-RELATED PROVISIONS

1. CLASSIFICATION OF MULTI-PURPOSE VEHICLES

Present law

Under present regulations, multi-purpose vehicles (MPVs) such as mini-vans and sport utility vehicles are inconsistently classified as autos or trucks. For purposes of emission and fuel economy standards, most MVPs are classified as trucks. However, for customs purposes, MVPs with more than two doors are generally classified under the Harmonized Tariff System (HTS) as vehicles "principally designed for the transport of persons" (HTS heading 8703), subject to a 2.5-percent duty. Two-door MPVs are generally classified as "vehicles for the transport of goods" (HTS heading 8704), subject to a 25-percent duty.

House bill

No provision.

Senate amendment

The Senate amendment incorporates into the HTS language from the regulations of the Environmental Protection Agency and the Department of Transportation such that MPVs classified as trucks for emission and fuel economy standards would be classified under HTS heading 8704.

Effective date.—Effective 15 days after enactment.

Conference agreement

The conference agreement does not include the Senate amendment.

2. WESTERN HEMISPHERIC TRADE CENTER

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment amends the Caribbean Basin Economic Recovery Act, as amended, 19 U.S.C. 2701 et seq., to establish a new Center for the Study of Western Hemispheric Trade (the Center). The Center is to be established not later than December 31, 1992. The Commissioner of Customs and the United States International Trade Commission, after consultation with appropriate public and private sector authorities, are authorized and directed to select an institution of higher education, as that term is defined in 20 U.S.C. 1141(a), or a consortium of such institutions, located in the State of Texas, to operate the Center, which will be affiliated with such institution or institutions. The Senate amendment authorizes to be appropriated $10 million for the first fiscal year, and such sums as may be necessary in the three succeeding fiscal years, to assist in establishing and operating the Center.

Conference agreement

The conference agreement does not include the Senate amendment.

III. TAX PAYMENTS BY HIGH-INCOME TAXPAYERS

A. Treatment of High-Income Taxpayers

1. INDIVIDUAL INCOME TAX RATES

Present law

For 1992, the individual income tax rate schedules are as follows—

If taxable income is:	Then income tax equals:
Single individuals	
$0–$21,450	15 percent of taxable income.
$21,450–$51,900	$3,217.50 plus 28% of the amount over $21,450.
Over $51,900	$11,743.50 plus 31% of the amount over $51,900.
Heads of household	
$0–$28,750	15 percent of taxable income.
$28,750–$74,150	$4,312.50 plus 28% of the amount over $28,750.
Over $74,150	$17,024.50 plus 31% of the amount over $74,150.
Married individuals filling joint returns	
$0–$35,800	15 percent of taxable income.
$35,800–$86,500	$5,370 plus 28% of the amount over $35,800.
Over $86,500	$19,566.50 plus 31% of the amount over $86,500.
Married individuals filling separate returns	
$0–$17,900	15 percent of taxable income.
$17,900–$43,250	$2,685 plus 28% of the amount over $17,900.
Over $43,250	$9,783 plus 31% of the amount over $43,250.
Estates and trusts	
$0–$3,600	15 percent of taxable income.
$3,600–$10,900	$540 plus 28% of the amount over $3,600.
Over $10,900	$2,584 plus 31% of the amount over $10,900.

The individual income tax brackets are indexed for inflation.

Under present law, an individual taxpayer is subject to an alternative minimum tax (AMT) to the extent it exceeds the taxpayer's regular tax liability. The AMT liability generally equals 24 percent of alternative minimum taxable income (generally the taxpayer's adjusted gross income plus certain preferences and adjustments).

House bill

The House bill creates a 35-percent tax bracket for taxable incomes above: $85,000 for unmarried individuals filing single returns; $125,000 for unmarried individuals filing as heads of households; $145,000 for married individuals filing joint returns; $72,500 for married individuals filing separate returns; and $7,000 for estates and trusts. The thresholds for the 35-percent bracket are adjusted for inflation in the same manner as under present law. Under the bill, the individual rate schedules for 1992 are as follows—

If taxable income is:	Then income tax equals:
Single individuals	
$0–$21,450	15 percent of taxable income.
$21,450–$51,900	$3,217.50 plus 28% of the amount over $21,450.
$51,900–$85,000	$11,743.50 plus 31% of the amount over $51,900.
Over $85,000	$22,004.50 plus 35% of the excess over $85,000.
Heads of household	
$0–$28,750	15 percent of taxable income.
$28,750–$74,150	$4,312.50 plus 28% of the amount over $28,750.
$74,150–$125,000	$17,024.50 plus 31% of the amount over $74,150.
Over $125,000	$32,788.50 plus 35% of the excess over $125,000.
Married individuals filing joint returns	
$0–$35,800	15 percent of taxable income.
$35,800–$86,500	$5,370 plus 28% of the amount over $35,800.
$86,500–$145,000	$19,566 plus 31% of the amount over $86,500.
Over $145,000	$37,701 plus 35% of the excess over $145,000.
Married individuals filing separate returns	
$0–17,900	15 percent of taxable income.
$17,900–$43,250	$2,685 plus 28% of the amount over $17,900.
$43,250–$72,500	$9,783 plus 31% of the amount over $43,250.
Over $72,500	$18,850.50 plus 35% of the excess over $72,500.
Estates and trusts	
$0–$3,000	15 percent of taxable income.
$3,000–$5,000	$450 plus 28% of the amount over $3,000.
$5,000–$7,000	$1,010 plus 31% of the amount over $5,000.
Over $7,000	$1,630 plus 35% of the amount over $7,000.

The House bill also increases the individual alternative minimum tax rate from 24 percent to 25 percent.

Effective date.—The provision is effective for taxable years beginning after December 31, 1991.

Senate amendment

The Senate amendment creates a 36-percent bracket for taxable incomes above: $150,000 (unmarried individuals filing single returns); $162,500 (unmarried individuals filing as heads of households); $175,000 (married individuals filing joint returns); $87,500 (married individuals filing separate returns); and $3,500 (estates and trusts). In addition, the Senate amendment reduces the number of tax brackets for estates and trusts from four to two. The thresholds for the 36-percent bracket are adjusted for inflation in the same manner as under present law. The individual income tax rate schedules for 1992 are as follows—

If taxable income is:	Then income tax equals:
Single individuals	
$0–$21,450	15 percent of taxable income.
$21,450–$51,900	$3,217.50 plus 28% of the amount over $21,450.
$51,900–$150,000	$11,743.50 plus 31% of the amount over $51,900.
Over $150,000	$42,154.50 plus 36% of the amount over $150,000.
Heads of household	
$0–$28,750	15 percent of taxable income.
$28,750–$74,150	$4,312.50 plus 28% of the amount over $28,750.
$74,150–$162,500	$17,024.50 plus 31% of the amount over $74,150.
Over $162,500	$44,413 plus 36% of the amount over $162,500.
Married individuals filing joint returns	
$0–$35,800	15 percent of taxable income.
$35,800–$86,500	$5,370 plus 28% of the amount over $35,800.
$86,500–$175,000	$19,566 plus 31% of the amount over $86,500.
Over $175,000	$47,001 plus 36% of the amount over $175,000.
Married individuals filing separate returns	
$0–$17,900	15 percent of taxable income.
$17,900–$43,250	$2,685 plus 28% of the amount over $17,900.
$43,250–$87,500	$9,783 plus 31% of the amount over $43,250.
Over $87,500	$23,500.50 plus 36% of the amount over $87,500.
Estates and trusts	
$0–$3,500	15 percent of taxable income.
Over $3,500	$525 plus 36% of the amount over $3,500.

Effective date.—Same as the House bill.

Conference agreement

The conference agreement creates a 36-percent bracket for taxable incomes above: $115,000 (unmarried individuals filing single returns); $127,500 (unmarried individuals filing as heads of households); $140,000 (married individuals filing joint returns); $70,000 (married individuals filing separate returns); and $7,000 (estates and trusts). The thresholds for the 36-percent bracket are adjusted for inflation in the same manner as under present law. The individual income tax rate schedules for 1992 are as follows—

If taxable income is:	Then income tax equals:
Single individuals	
$0–$21,450	15 percent of taxable income.
$21,450–$51,900	$3,217.50 plus 28% of the amount over $21,450.
$51,900–$115,000	$11,743.50 plus 31% of the amount over $51,900.
Over $115,000	$31,304.50 plus 36% of the amount over $115,000.
Heads of household	
$0–$28,750	15 percent of taxable income.
$28,750–$74,150	$4,312.50 plus 28% of the amount over $28,750.
$74,150–$127,500	$17,024.50 plus 31% of the amount over $74,150.
Over $127,500	$33,563 plus 36% of the amount over $127,500.
Married individuals filing joint returns	
$0–$35,800	15 percent of taxable income.
$35,800–$86,500	$5,370 plus 28% of the amount over $35,800.
$86,500–$140,000	$19,566 plus 31% of the amount over $86,500.
Over $140,000	$36,151 plus 36% of the amount over $140,000.
Married individuals filing separate returns	
$0–$17,900	15 percent of taxable income.
$17,900–$43,250	$2,685 plus 28% of the amount over $17,900.
$43,250–$70,000	$9,783 plus 31% of the amount over $43,250.
Over $70,000	$18,075.50 plus 36% of the amount over $70,000.
Estates and trusts	
$0–$3,000	15 percent of taxable income.
$3,000–$5,000	$450 plus 28% of the amount over $3,000.
$5,000–$7,000	$1,010 plus 31% of the amount over $5,000.
Over $7,000	$1,630 plus 36% of the amount over $7,000.

The conference agreement does not include an increase in the individual alternative minimum tax rate.

Effective date.—The provision is effective for taxable years beginning after December 31, 1991.

2. SURTAX ON TAXABLE INCOME IN EXCESS OF $1 MILLION

Present law

Under present law, there is no surtax imposed on higher-income individuals.

House bill

The House bill imposes a 10-percent surtax on individuals with taxable income over $1,000,000 ($500,000 for married taxpayers filing separate returns). The surtax equals 10 percent of otherwise computed tax liability multiplied by the ratio of taxable income in excess of $1,000,000 to total taxable income. The effect of the proposal is that the more that taxable income exceeds $1,000,000, the closer the surtax approaches a 10-percent increase in total tax liability.

A 2.5-percentage point surtax applies to individuals with alternative minimum taxable income above $1,000,000 ($500,000 for married taxpayers filing separate returns). The surtax is applied by increasing the taxpayer's tentative minimum tax by 2.5 percent of the amount by which the taxpayer's alternative minimum taxable income exceeds $1,000,000 ($500,000 for married taxpayers filing separate returns). The bill includes trusts and estates as individuals for purposes of the surtax.

Effective date.—The provision is effective for taxable years beginning after December 31, 1991.

Senate amendment

The Senate amendment is the same as the House bill except: (1) the surtax rate for alternative minimum tax purposes is 2.4 percent; and (2) the surtax does not apply to trusts and estates.

Conference agreement

The conference agreement follows the House bill, except that the surtax rate for alternative minimum tax purposes is 2.4 percent.

3. EXTENSION OF ITEMIZED DEDUCTION LIMITATION

Present law

Under present law, individuals who do not elect the standard deduction may claim itemized deductions (subject to certain limitations) for certain nonbusiness expenses incurred during the taxable year. Among these deductible expenses are unreimbursed medical expenses, casualty and theft losses, charitable contributions, qualified residence interest, State and local income and property taxes, unreimbursed employee business expenses, and certain other miscellaneous expenses.

Certain itemized deductions are allowed only to the extent that the amount exceeds a specified percentage of the taxpayer's adjusted gross income (AGI). Unreimbursed medical expenses for care of the taxpayer and the taxpayer's spouse and dependents are deductible only to the extent that the total of these expenses exceeds 7.5 percent of the taxpayer's AGI. Nonbusiness casualty or theft losses are deductible only to the extent that the amount of loss arising from each casualty or theft exceeds $100 and only to the extent that the net amount of casualty and theft losses exceeds 10 percent of the taxpayer's AGI. Unreimbursed employee business expenses and certain other miscellaneous expenses are deductible only to the extent that the total of these expenses exceeds 2 percent of the taxpayer's AGI.

The total amount of otherwise allowable itemized deductions (other than medical expenses, casualty and theft losses, and investment interest) is reduced by 3 percent of the amount of the taxpayer's AGI in excess of $105,250 in 1992 (indexed for inflation). Under this provision, otherwise allowable itemized deductions may not be reduced by more than 80 percent. In computing the reduction of total itemized deductions, all present-law limitations applicable to such deductions are first applied and then the otherwise allowable total amount of deductions is reduced in accordance with this provision.

The reduction of otherwise allowable itemized deductions does not apply to taxable years beginning after December 31, 1995.

House bill

The House bill delays the expiration date of the present-law itemized deduction limitation applicable to higher-income individuals for two years. That is, under the bill, the reduction of itemized deductions will not apply to taxable years beginning after December 31, 1997.

Effective date.—The provision is effective for taxable years beginning in 1996 and 1997.

Senate amendment

The Senate amendment extends permanently the present-law itemized deduction limitation applicable to higher-income individuals.

Effective date.—The provision is effective for taxable years beginning in 1996 and thereafter.

Conference agreement

The conference agreement follows the House bill.

4. EXTENSION OF PERSONAL EXEMPTION PHASEOUT

Present law

Present law permits a personal exemption deduction from gross income for an individual, the individual's spouse, and each dependent. For 1992, the amount of this deduction is $2,300 for each exemption claimed. This exemption amount is adjusted for inflation. The deduction for personal exemptions is phased out for taxpayers with adjusted gross income (AGI) above a threshold amount (indexed for inflation) which is based on filing status. For 1992, the threshold amounts are $157,900 for married taxpayers filing joint returns, $78,950 for married taxpayers filing separate returns, $131,550 for unmarried taxpayers filing as head of household, and $105,250 for unmarried taxpayers filing as single.

The total amount of exemptions which may be claimed by a taxpayer is reduced by 2 percent for each $2,500 (or portion thereof) by which the taxpayer's AGI exceeds the applicable threshold (the phaseout rate is 4 percent for married taxpayers filing separate returns). Thus, the personal exemptions claimed are phased out over a $122,500 range, beginning at the applicable threshold.

This provision does not apply to taxable years beginning after December 31, 1995.

House bill

The House bill delays the expiration date for the personal exemption phaseout applicable to higher-income individuals for two years. That is, under the bill, the phaseout of personal exemptions will not apply to taxable years beginning after December 31, 1997.

Effective date.—The provision is effective for taxable years beginning in 1996 and 1997.

Senate amendment

The Senate amendment extends permanently the present-law personal exemption phaseout applicable to higher-income individuals.

Effective date.—The provision is effective for taxable years beginning in 1996 and thereafter.

Conference agreement

The conference agreement follows the Senate amendment.

B. Administrative Provisions

1. MODIFY INDIVIDUAL ESTIMATED TAX REQUIREMENTS

Present law

Under present law, an individual taxpayer generally is subject to an addition to tax for any underpayment of estimated tax. An individual generally does not have an underpayment of estimated tax if he or she makes timely estimated tax payments at least equal to: (1) 100 percent of the tax liability of the prior year (the "100 percent of last year's liability safe harbor") or (2) 90 percent of the tax liability of the current year. Income tax withholding from wages is considered to be a payment of estimated taxes.

In addition, under a special rule, for taxable years beginning after 1991 and before 1997, a taxpayer that has an adjusted gross income (AGI) in the current year that exceeds the taxpayer's AGI in the prior year by more than $40,000 ($20,000 in the case of a separate return by a married individual) and (2) the taxpayer has an AGI in excess of $75,000 in the current year ($37,500 in the case of a separate return by a married individual) generally may not use the 100 percent of last year's liability safe harbor.

House bill

The special rule that denies the use of the 100 percent of last year's liability safe harbor is repealed. In addition, the 100 percent of last year's liability safe harbor is modified to be a 115 percent of last year's liability safe harbor.

Thus, under the House bill, an individual generally does not have an underpayment of estimated tax if he or she makes timely estimated tax payments at least equal to: (1) 115 percent of the tax liability of the prior year or (2) 90 percent of the tax liability of the current year.

Effective date.—The provision is effective for estimated tax payments applicable to taxable years beginning after December 31, 1991. Taxpayers may continue to use the 100 percent of last year's liability safe harbor for the estimated tax payment for the first quarter of 1992 (with a catch-up in the subsequent payment).

Senate amendment

The special rule that denies the use of the 100 percent of last year's liability safe harbor is made permanent.

In addition, the bill clarifies that for purposes of the special rule, an estate or a trust is to calculate its AGI (and modified AGI) pursuant to rules similar to those of section 67(e) of the Code.

Effective date.—The provision is effective for estimated tax payments applicable to taxable years beginning after December 31, 1991.

Conference agreement

The conference agreement follows the House bill.

2. MODIFY ESTIMATED TAX PAYMENT RULES FOR LARGE CORPORATIONS

Present law

A corporation is subject to an addition to tax for any underpayment of estimated tax. For taxable years beginning in 1993, 1994, 1995, and 1996, a corporation does not have an underpayment of estimated tax if it makes four equal timely estimated tax payments that total at least 95 percent of the tax liability shown on the return for the current taxable year. In addition, a corporation may annualize its taxable income and make estimated tax payments based on 95 percent of the tax liability attributable to such annualized income.

For taxable years beginning in 1992, the 95 percent requirement is a 93 percent requirement; the 95 percent requirement becomes a 90 percent requirement for taxable years beginning in 1997 and thereafter.

A corporation that is not a "large corporation" generally may avoid the addition to tax if it makes four timely estimated tax payments each equal to at least 25 percent of its tax liability for the preceding taxable year (the "100 percent of last year's liability safe harbor"). A large corporation may use this rule with respect to its estimated tax payment for the first quarter of its current taxable year. A large corporation is one that had taxable income of $1 million or more for any of the three preceding taxable years.

House bill

For taxable years beginning after 1996, a corporation that does not use the 100 percent of last year's liability safe harbor for its estimated tax payments is required to base its estimated tax payments on 95 percent (rather than 90 percent) of its current year tax liability, whether such liability is determined on an actual or annualized basis.

The House bill does not change the present-law availability of the 100 percent of last year's liability safe harbor for large or small corporations.

Effective date.—The provision is effective for estimated tax payments with respect to taxable years beginning after December 31, 1993.

Senate amendment

The Senate amendment is the same as the House bill, except the Senate amendment is effective for estimated tax payments with respect to taxable years beginning after December 31, 1992. There is no substantive effect from the difference in the effective dates between the House bill and the Senate amendment, since both provisions do not have an effect until taxable years beginning after 1996.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

3. EXPANSION OF 45-DAY INTEREST-FREE PERIOD

Present law

No interest is paid by the Government on a refund arising from an income tax return if the refund is issued by the 45th day after the later of the due date for the return (determined without regard to any extensions) or the date the return is filed (Code sec. 6611(e)).

There is no parallel rule for refunds of taxes other than income taxes (i.e., employment, excise, and estate and gift taxes), for refunds of any type of tax arising from amended returns, or for claims for refunds of any type of tax.

If a taxpayer files a timely original return with respect to any type of tax and later files an amended return claiming a refund, and if the IRS determines that the taxpayer is due a refund on the basis of the amended return, the IRS will pay the refund with interest computed from the due date of the original return.

House bill

The House bill provides that no interest is to be paid by the Government on a refund arising from any type of tax return (including amended returns and claims for refunds) if the refund is issued by the 45th day after the later of the due date for the return (determined without regard to any extensions) or the date the return is filed.

The House bill also provides that, if interest is not refunded within 45 days after the date the taxpayer files an amended return or claim for refund with respect to any type of tax, interest is to be paid only for periods after the date on which the amended return or claim for refund is filed by the taxpayer.

Effective date.—The extension of the 45-day processing rule is effective for returns required to be filed (without regard to extensions) on or after July 1, 1992. The amended return rule is effective for amended returns and claims for refunds filed on or after July 1, 1992 (regardless of the taxable period to which they relate).

Senate amendment

No interest is to be paid by the Government on a refund arising from any type of original tax return if the refund is issued by the 45th day after the later of the due date for the return (determined without regard to any extensions) or the date the return is filed.

A parallel rule applies to amended returns and claims for refunds: if the refund is issued by the 45th day after the date the amended return or claim for refund is filed, no interest is to be paid by the Government for that 45-day period (interest would continue to be paid for the period from the due date of the return to the date the amended return or claim for refund is filed). If the IRS does not issue the refund by the 45th day after the date the amended return or claim for refund is filed, interest would be paid (as under present law) for the period from the due date of the original return to the date the IRS pays the refund.

A parallel rule also applies to IRS-initiated adjustments (whether due to computational adjustments or audit adjustments). With respect to these adjustments, the IRS is to pay interest for 45 fewer days than it otherwise would.

Effective date.—The extension of the 45-day processing rule is effective for returns required to be filed (without regard to extensions) on or after July 1, 1992. The amended return rule is effective for amended returns and claims for refunds filed on or after July 1, 1992 (regardless of the taxable period to which they relate). The rule relating to IRS-initiated adjustments is applicable to refunds paid on or after July 1, 1992 (regardless of the taxable period to which they relate).

Conference agreement

The conference agreement follows the Senate amendment.

C. Other Revenue-Increase Provisions

1. MARK TO MARKET ACCOUNTING METHOD FOR DEALERS IN SECURITIES

Present Law

A taxpayer that is a dealer in securities is required for Federal income tax purposes to maintain an inventory of securities held for sale to customers. A dealer in securities is allowed for Federal income tax purposes to determine (or value) the inventory of securities held for sale based on: (1) the cost of the securities; (2) the lower of the cost or market value of the securities; or (3) the market value of the securities.

If the inventory of securities is determined based on cost, unrealized gains and losses with respect to the securities are not taken into account for Federal income tax purposes. If the inventory of securities is determined based on the lower of cost or market value, unrealized losses (but not unrealized gains) with respect to the securities are taken into account for Federal income tax purposes. If the inventory of securities is determined based on market value, both unrealized gains and losses with respect to the securities are taken into account for Federal income tax purposes.

For financial accounting purposes, the inventory of securities generally is determined based on market value.

House Bill

The House bill generally requires any dealer in securities that holds any security or hedge as of the close of any taxable year (1) to recognize gain or loss as if the security or hedge were sold on the last business day of the taxable year, and (2) to take into account any such gain or loss in determining gross income for such year (the "mark-to-market requirement"). If gain or loss is taken into account with respect to a security or hedge for any taxable year by reason of the mark-to-market requirement, then the amount of gain or loss subsequently realized as a result of a sale, exchange, or other disposition of such security or hedge or as a result of the application of the mark-to-market requirement is appropriately adjusted to reflect such gain or loss.

For purposes of the House bill, a dealer in securities is defined as any taxpayer that either (1) regularly purchases securities from, and sells securities to, customers in the ordinary course of a trade or business, or (2) regularly offers to enter into, assume, offset, assign, or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

In addition, for purposes of the House bill, a security is defined as: (1) any share of stock in a corporation; (2) any partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; (3) any note, bond, debenture, or other evidence of indebtedness issued by a corporation or by a government or political subdivision thereof with interest coupons or in registered form; (4) any derivative financial instrument in a security, including an option, forward contract, short position, and any similar financial instrument in a security (but not including a futures contract); and (5) any notional principal contract and any similar financial instrument, including a currency swap, option and a forward contract on a notional principal contract, but not including any commodity-linked notional principal contract.

For purposes of the House bill, the term "hedge" is defined to include a long or short position in a security or commodity, including a futures contract and any similar financial instrument purchased, entered into, or assumed by a dealer in securities in order to reduce the dealer's risk of loss with respect to a security (or securities).

Notwithstanding the definition of security and hedge, the mark-to-market requirement does not apply to any security or hedge if, before the close of the day on which the security is acquired or the hedge is entered into (or such earlier time as specified in Treasury regulations), the security or hedge is clearly identified in the dealer's records as held for investment. This exception is to apply to a security or hedge only if the security is not, at any time after the close of such day (or such earlier time), held by the dealer for sale to customers in the ordinary course of the dealer's trade or business.[1]

The House bill also provides that the uniform cost capitalization rules of section 263A of the Code do not apply to any security or hedge to which the mark-to-market requirement applies. Finally, the House bill authorizes the Treasury Department to promulgate such regulations as may be appropriate to carry out the provisions of the House bill, including rules to prevent the use of year-end transfers, related persons, or other arrangements to avoid the provisions of the bill.

Effective date.—The provision of the House bill relating to dealers in securities applies to taxable years ending on or after December 31, 1992. A taxpayer that is required to change its method of accounting to comply with the requirements of the provision is treated as having initiated the change in method of accounting and as having received the consent of the Treasury Department to make such change. In order for a taxpayer to implement this change in accounting method, the securities and hedges to which the provision applies are to be valued at their fair market value on the last day of the first taxable year of the taxpayer ending on or after December 31, 1992, and 10 percent of any increase or decrease in the value of the securities or hedges is to be taken into account for each of the 10 taxable years beginning with the first taxable year ending on or after December 31, 1992.

Senate amendment

The Senate amendment is the same as the House bill, except as otherwise provided below.

Mark-to-market rules

The Senate amendment provides two general rules (the "mark-to-market rules") that apply to certain securities that are held by a dealer in securities. First, any such security that is inventory in the hands of the dealer is required to be included in inventory at market value. Second, any such security that is not inventory in the hands of the dealer and that is held as of the close of any taxable year is treated as sold for its fair market value on the last business day of the taxable year and any gain or loss is required to be taken into account in determining gross income for that taxable year.[2]

If gain or loss is taken into account with respect to a security by reason of the second mark-to-market rule, then the amount of gain or loss subsequently realized as a result of a sale, exchange, or other disposition of the security, or as a result of the application of the mark-to-market rules, is to be appropriately adjusted to reflect such gain or loss. In addition, the Senate amendment authorizes the Treasury Department to promulgate regulations that provide for the application of the second mark-to-market rule at times other than the close of a taxable year or the last business day of a taxable year.

The mark-to-market rules described above apply only for purposes of determining the amount of gain or loss that is taken into account by a dealer in securities for any taxable year. Thus, for example, the mark-to-market rules do not apply in determining the character of any gain or loss and do not begin a new holding period for any security. As a further example, the mark-to-market rules do not apply in determining whether gain or loss is recognized by any other taxpayer that may be a party to a contract with a dealer in securities.

For purposes of the Senate amendment, a dealer in securities is defined as any taxpayer that either (1) regularly purchases securities from, or sells securities to, customers in the ordinary course of a trade or business, or (2) regularly offers to enter into, assume, offset, assign, or otherwise terminate positions in securities with customers in the ordinary course of a trade or business.

For purposes of the Senate amendment, a security is defined as: (1) any share of stock in a corporation; (2) any partnership or beneficial ownership interest in a widely held or publicly traded partnership or trust; (3) any note, bond, debenture, or other evidence of indebtedness; (4) any notional principal contract, including any interest rate or currency swap, but not including any other commodity-linked notional principal contract; and (5) any evidence of an interest in, or any derivative financial instrument in, a security described in (1) through (4) above, including any option, forward contract, short position, or any similar financial instrument in such a security (but not including a contract to which section 1256(a) applies).

In addition, a security is defined to include any position if: (1) the position is not a security described in the preceding paragraph; (2) the position is a hedge[3] with respect to a security described in the preceding paragraph; and (3) before the close of the day on which the position was acquired or entered into (or such other time as the Treasury Department may specify in regulations), the position is clearly identified in the dealer's records as a hedge with respect to a security described in the preceding paragraph.[4]

Exceptions to the mark-to-market rules

Notwithstanding the definition of security, the mark-to-market rules generally do not apply to: (1) any security that is held for investment;[5] (2) any evidence of indebtedness that is originated or acquired by a dealer in the ordinary course of a trade or business of the dealer but only if the evidence of indebtedness is not held for sale; (3) any security which is a hedge with respect to a security that is not subject to the mark-to-market rules (*i.e.*, any security that is a hedge with respect to a security held for investment or that is a hedge with respect to an evidence of indebtedness described in (2)); and (4) any security which is a hedge with respect to a position or a liability that is not a security in the hands of the taxpayer.[6]

These exceptions to the mark-to-market rules do not apply unless before the close of the day on which the security (including any evidence of indebtedness) is acquired, originated, or entered into (or such other time as the Treasury Department may specify in regulations),[7] the security is clearly identified in the dealer's records as being described in one of the exceptions listed in the preceding paragraph.[8]

---

[1] See section 1236(a) of the Code.

[2] For purposes of this provision, a security is treated as sold to a person that is not related to the dealer even if the security is a contract between the dealer and a related person. Thus, for example, sections 267 and 707(b) of the Code are not to apply to any loss that is required to be taken into account under this provision.

[3] The Senate amendment defines a hedge as any position which reduces the dealer's risk from interest rate or price changes or currency fluctuations.

[4] If at any time a dealer identifies a position as a hedge with respect to a security described in the preceding paragraph but the position is not at such time a hedge with respect to a security described in the preceding paragraph, or if a dealer fails to properly identify a position as a hedge with respect to a security described in the preceding paragraph as of the time that the identification is required, then any gain, but not any loss, with respect to the position is to be taken into account under the mark-to-market rules.

[5] To the extent provided in regulations to be promulgated by the Treasury Department, the exception to the mark-to-market rules for a security that is held for investment does not apply to any notional principal contract or any derivative financial instrument that is held by a dealer in such securities.

[6] For purposes of the mark-to-market rules, debt issued by a taxpayer is not considered to be a security in the hands of such taxpayer.

[7] Under the Senate amendment, it is anticipated that the Treasury regulations will permit a floor specialist to identify a security as held for investment before the close of the seventh business day following the day that the security is acquired, originated, or entered into (see section 1236(d)). In addition, it is anticipated that the Treasury regulations will permit a dealer that originates or acquires evidences of indebtedness in the ordinary course of a trade or business to identify such evidences of indebtedness as not held for sale based on the accounting practices of the dealer but in no event later than the date that is 60 days after any such evidence of indebtedness is originated or acquired.

[8] A security is to be treated as clearly identified in a dealer's records as being described in one of the exceptions listed in the preceding paragraph if all of securities of the taxpayer that are not so described are clearly identified in the dealer's records as not being described in such exception.

For example, assume that, in the ordinary course of its trade or business, a bank originates loans that are sold if the loans satisfy certain conditions. In addition, assume that (1) the bank determines whether a loan satisfies the conditions within 30 days after the loan is made, and (2) if a loan satisfies the conditions for sale, the bank records the loan in a separate account on the date that the determina-

In addition to clearly identifying a security as qualifying for one of the exceptions to the mark-to-market rules listed above, a dealer must continue to hold the security in a capacity that qualifies the security for one of the exceptions listed above. If at any time after the close of the day on which the security was acquired, originated, or entered into (or such other time as the Treasury Department may specify in regulations), the security is held for sale to customers in the ordinary course of the taxpayer's trade or business or the security is held as a hedge with respect to a security that is subject to the mark-to-market rules, then the exception to the mark-to-market rules does not apply to the security as of such time.

Further, if at any time a dealer identifies a security as qualifying for an exception to the mark-to-market rules when, in fact, the security does not, at that time, qualify for an exception to these rules, or a dealer fails to identify a security that qualifies for an exception as qualifying for an exception as of the time that the identification is required, then any gain, but not any loss, with respect to the security is to be taken into account under the mark-to-market rules.

Other rules

The Senate amendment also provides that the uniform cost capitalization rules of section 263A of the Code and the rules of section 263(g) of the Code that require the capitalization of certain interest and carrying charges in the case of straddles do not apply to any security to which the mark-to-market rules apply. Finally, the Senate amendment authorizes the Treasury Department to promulgate such regulations as may be appropriate to carry out the provisions of the bill, including rules to prevent the use of year-end transfers, related persons, or other arrangements to avoid the provisions of the Senate amendment.

Effective date

The provision of the Senate amendment relating to dealers in securities applies to taxable years ending on or after December 31, 1993. A taxpayer that is required to change its method of accounting to comply with the requirements of the provision is treated as having initiated the change in method of accounting and as having received the consent of the Treasury Department to make such change. The net amount of any section 481(a) adjustment that is required by the change in method of accounting generally is to be taken into account by the taxpayer ratably over a 10-taxable year period beginning with the first taxable year ending on or after December 31, 1993.

Under the Senate amendment, it is anticipated that the provisions of section 8 of Rev. Proc. 92-20, 1992-12 I.R.B., which provides rules for the acceleration of section 481(a) adjustments, will apply to any section 481(a) adjustment that is required by reason of the enactment of this provision. In addition, it is anticipated that net operating losses will be allowed to offset the section 481(a) adjustment, tax credit carryforwards will be allowed to offset any tax attributable to the section 481(a) adjustment, and, for purposes of determining liability for estimated taxes, the section 481(a) adjustment will be taken into account ratably throughout the taxable year in question.

Conference agreement

The conference agreement follows the Senate amendment with the following modifications.

Definition of security

The conference agreement clarifies that the definition of a security includes any interest rate, currency, or equity notional principal contract but not any other notional principal contract (such as a notional principal contract that is based on the price of oil, wheat, or other commodity). In addition, under the conference agreement, the definition of a security includes any evidence of an interest in, or a derivative financial instrument in, any currency, including any option or forward contract with respect to currency.[9]

Exception for certain hedges

The conference agreement contains several modifications to the exception to the mark-to-market rules for certain hedges. First, the conference agreement provides that the mark-to-market rules do not apply to any security which is a hedge with respect to a right to income that is not a security in the hands of the taxpayer, provided that before the close of the day that the security is acquired or entered into (or such other time as the Treasury Department may specify in regulations), the security is clearly identified in the dealer's records as being so described.

Second, the conference agreement provides that any security that is reasonably expected to become a hedge within 60 days after the acquisition of the security is to be treated as a hedge. Thus, under the conference agreement, the mark-to-market rules do not apply to any security that is reasonably expected to become a hedge within 60 days after the acquisition of the security with respect to (1) a security to which the mark-to-market rules do not apply, or (2) a position, right to income, or a liability that is not a security in the hands of the taxpayer, provided that before the close of the day that the security is acquired or entered into (or such other time as the Treasury Department may specify in regulations), the security is clearly identified in the dealer's records as being so described.

Third, the conference agreement provides that the exception to the mark-to-market rules for certain hedges does not apply to any security that is held by a taxpayer in its capacity as a dealer in securities. Thus, the exception to the mark-to-market rules for certain hedges does not apply to (1) any security that is held for sale in the ordinary course of a trade or business, or (2) any security that is entered into with customers in the ordinary course of a trade or business.

Fourth, the conference agreement authorizes the Treasury Department to promulgate regulations which provide for the treatment of hedges that reduce a dealer's risk of interest rate or price changes or currency fluctuations with respect to securities that are subject to the mark-to-market rules as well as with respect to securities, positions, rights to income, or liabilities that are not subject to the mark-to-market rules. The conferees anticipate that the Treasury regulations will allow taxpayers to treat any such hedge as not subject to the mark-to-market rules provided that such treatment is consistently followed from year to year.

Improper identification

The conference agreement also modifies the rules that apply in the case of a failure to comply with the identification requirements contained in the Senate amendment. Under the conference agreement, if (1) a dealer identifies a security as qualifying for an exception to the mark-to-market rules but the security does not qualify for that exception, or (2) a dealer fails to identify a position that is not a security as a hedge of a security but the position is a hedge of a security, then the mark-to-market rules are to apply to any such security or position, except that loss is to be recognized under the mark-to-market rules prior to the disposition of the security or position only to the extent of gain previously recognized under the mark-to-market rules (and not previously taken into account under this provision) with respect to the security or position.

The conferees anticipate that the identification rules with respect to hedges will be applied in such a manner as to minimize the imposition of additional accounting burdens on dealers in securities. For example, the conferees understand that certain dealers in securities use accounting systems which treat certain transactions entered into between separate business units as if such transactions were entered into with unrelated third parties. The conferees anticipate that for purposes of the mark-to-market rules, such an accounting system generally will provide an adequate identification of hedges with third parties.

Effective date

The provision applies to taxable years ending on or after December 31, 1992. The net amount of the section 481(a) adjustment is to be taken into account ratably over a 10-taxable year period beginning with the first taxable year ending on or after December 31, 1992, to the extent that such amount does not exceed the net amount of the section 481(a) adjustment that would have been determined had the change in method of accounting occurred for the last taxable year beginning before March 20, 1992.

The excess (if any) of (1) the net amount of the section 481(a) adjustment for the first taxable year ending on or after December 31, 1992, over (2) the net amount of the section 481(a) adjustment that would have been determined had the change in method of accounting occurred for the last taxable year beginning before March 20, 1992, is to be taken into account ratably over a 4-taxable year period beginning with the first taxable year ending on or after December 31, 1992.

The principles of section 8.03 of Rev. Proc. 92-20, 1992-12 I.R.B., are to apply to the section 481(a) adjustment. The conferees anticipate that section 8.03(1) of Rev. Proc. 92-20 will be applied by taking into account all securities of a dealer that are subject to the mark-to-market rules (including those securities that are not inventory in the hands of the dealer).

2. LIMIT DEDUCTION FOR EXECUTIVE COMPENSATION

Present law

Under present law, a deduction is allowed in computing Federal income tax liability for ordinary and necessary expenses paid or incurred during the taxable year in carrying on a trade or business, including a reasonable allowance for salaries or other compensation for personal services actually rendered.

---

tion is made. For purposes of the bill, the bank is a dealer in securities with respect to the loans that it holds for sale. In addition, by identifying these loans as held for sale, the bank is considered to have identified all other loans as not held for sale. Consequently, the loans that are not held for sale are not subject to the mark-to-market rules.

[9] The conference agreement also provides that (1) the mark-to-market rules do not apply to any section 988 transaction (generally, a foreign currency transaction) that is part of a section 988 hedging transaction, and (2) the determination of whether a transaction is a section 988 transaction is to be made without regard to whether the transaction would otherwise be marked-to-market under the conference agreement.

House bill

For purposes of the regular income tax and the alternative minimum tax, the otherwise allowable deduction for compensation paid or accrued with respect to a covered employee is limited to no more than $1 million per year. A covered employee means any employee of the taxpayer who is an officer of the taxpayer, other than an employee-owner of a personal service corporation.

For purposes of the provision, an officer generally is an administrative executive who is in regular and continued service, regardless of the employee's job title. An employee who has the title of an officer but does not have the authority of an officer is not considered an officer. Similarly, an employee who does not have the title of an officer but has the authority of an officer is an officer for purposes of this rule.

An employee-owner of a personal service corporation is generally defined as under section 269A of the Code. Thus, a personal service corporation is a corporation the principal activity of which is the performance of personal services if the services are substantially performed by employee-owners. An employee-owner is any employee who owns more than 10 percent of the outstanding stock of the personal service corporation.

The term covered employee includes former employees. Thus, for example, the provision applies to compensation paid to former employees (e.g., nonqualified deferred compensation that is not paid until after termination of employment) as well as current employees.

The provision does not apply to compensation paid to employees who are not officers. Similarly, the provision does not apply to payments to partners in a partnership because they are not employees. The provision also does not apply to payments to independent contractors.

The deduction limitation generally applies to all remuneration for services, including the cash value of all remuneration (including benefits) paid in a medium other than cash. The limit does not apply to fringe benefits excludable from income under section 132, meals and lodging furnished on the business premises of the employer that are excludable under section 119, or any payment made to, or on behalf of, an employee or beneficiary (1) from or to a qualified pension, profit-sharing, or annuity plan, or (2) under a simplified employee pension (SEP) or tax-sheltered annuity (other than elective deferrals to such a plan or annuity). The deduction limitation applies to all compensation paid to a covered employee, regardless of whether the compensation is paid for services as an officer.

The deduction limitation applies at the time the deduction would otherwise be taken.

Certain related employers are treated as a single employer for purposes of the provision. In particular, employers treated as a single employer under section 52 (a) or (b) or section 414 (m) or (n) are treated as a single employer. An employee who is an officer of any of the members of a group of employers treated as a single employer is treated as an officer of the single employer. Similarly, compensation from related employers is aggregated for purposes of the $1 million limit.

It is intended that the Secretary will prevent avoidance of the rule through the use of arrangements other than employee-employer arrangements.

Effective date.—The provision is effective for taxable years beginning on or after January 1, 1992.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

3. TAX TREATMENT OF CERTAIN FSLIC FINANCIAL ASSISTANCE

Present law and background

A taxpayer may claim a deduction for a loss on the sale or other disposition of property only to the extent that the taxpayer's adjusted basis for the property exceeds the amount realized on the disposition and the loss is not compensated for by insurance or otherwise (sec. 165 of the Code). In the case of a taxpayer on the specific charge-off method of accounting for bad debts, a deduction is allowable for the debt only to the extent that the debt becomes worthless and the taxpayer does not have a reasonable prospect of being reimbursed for the loss. If the taxpayer accounts for bad debts on the reserve method, the worthless portion of a debt is charged against the taxpayer's reserve for bad debts, potentially increasing the taxpayer's deduction for an addition to this reserve.

A special statutory tax rule, enacted in 1981, excluded from a thrift institution's income financial assistance received from the Federal Savings and Loan Insurance Corporation (FSLIC)[1], and prohibited a reduction in the tax basis of the thrift institution's assets on account of the receipt of the assistance. Under the Technical and Miscellaneous Revenue Act of 1988 (TAMRA), taxpayers generally were required to reduce certain tax attributes by one-half the amount of financial assistance received from the FSLIC pursuant to certain acquisitions of financially troubled thrift institutions occurring after December 31, 1988. These special rules were repealed by FIRREA, but still apply to transactions that occurred before May 10, 1989.

Prior to the enactment of FIRREA, the FSLIC entered into a number of assistance agreements in which it agreed to provide loss protection to acquirers of troubled thrift institutions by compensating them for the difference between the book value and sales proceeds of "covered assets." "Covered assets" typically are assets that were classified as nonperforming or troubled at the time of the assisted transaction but could include other assets as well. Many of these covered assets are also subject to yield maintenance guarantees, under which the FSLIC guaranteed the acquirer a minimum return or yield on the value of the assets. The assistance agreements also generally grant the FSLIC the right to purchase covered assets. In addition, many of the assistance agreements permit the FSLIC to order assisted institutions to write down the value of covered assets on their books to fair market value in exchange for a payment in the amount of the write-down.

Under most assistance agreements, one or more Special Reserve Accounts are established and maintained to account for the amount of FSLIC assistance owed by the FSLIC to the acquired entity. The assistance agreements generally specify the precise circumstances under which amounts with respect to covered assets are debited to an account. Under the assistance agreements, these debit entries generally are made subject to prior FSLIC direction or approval. When amounts are so debited, the FSLIC generally becomes obligated to pay the debited balance in the account to the acquirer at such times and subject to such offsets as are specified in the assistance agreement.

In September 1990, the Resolution Trust Corporation (RTC), in accordance with the requirements of FIRREA, issued a report to Congress and the Oversight Board of the RTC on certain FSLIC-assisted transactions (the "1988/89 FSLIC transactions"). The report recommended further study of the covered loss and other tax issues relating to these transactions. A March 4, 1991 Treasury Department report ("Treasury report") on tax issues relating to the 1988/89 FSLIC transactions concluded that deductions should not be allowed for losses that are reimbursed with exempt FSLIC assistance. The Treasury report states that the Treasury view is expected to be challenged in the courts and recommended that Congress enact clarifying legislation disallowing these deductions.[2]

The Treasury report reasoned that allowing tax deductions for losses on covered assets that are compensated for by FSLIC assistance gives thrift institutions a perverse incentive to minimize the value of these assets when sold. The FSLIC, and not the institution, bears the economic burden corresponding to any reduction in value because it is required to reimburse the thrift institution for the loss. However, the tax benefit to the thrift institution and its affiliates increases as tax losses are enhanced. The thrift institution, therefore, has an incentive to minimize the value of covered assets in order to maximize its claimed tax loss and the attendant tax savings.

House bill

General rule

Any FSLIC assistance with respect to any loss of principal, capital, or similar amount upon the disposition of an asset shall be taken into account as compensation for such loss for purposes of section 165 of the Code. Any FSLIC assistance with respect to any debt shall be taken into account for purposes of determining whether such debt is worthless (or the extent to which such debt is worthless) and in determining the amount of any addition to a reserve for bad debts. For this purpose, FSLIC assistance means any assistance or right to assistance with respect to a domestic building and loan association (as defined in section 7701(a)(19) of the Code without regard to subparagraph (C) thereof) under section 406(f) of the National Housing Act or section 21A of the Federal Home Loan Bank Act (or under any similar provision of law).[3]

Thus, if a taxpayer disposes of an asset entitled to FSLIC assistance, no deduction is allowed under section 165 of the Code for a loss (if any) on the disposition of the asset to the extent the assistance agreement contemplates a right to receive FSLIC assistance with respect to the loss. Similarly, if a loan held by a taxpayer constitutes an asset entitled to FSLIC assistance, the thrift institution shall not charge off any amount of the loan covered by the assistance agreement against the bad debt reserve and no charge-off will be taken into account in computing an addition to the reserve under the experience method, to the extent the assistance agreement contemplates a right to receive FSLIC assistance on a write-down of such asset under the agreement or on a disposition. The institution also shall not be allowed to deduct such amount of the loan under the specific charge-off method.[4]

---

[1] Until it was abolished by the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), FSLIC insured the deposits of its member savings and loan associations and was responsible for insolvent member institutions. FIRREA abolished FSLIC and established the FSLIC resolution Fund (FRF) to assume all of the assets and liabilities of FSLIC (other than those expressly assumed or transferred to the Resolution Trust Corporation (RTC)). FRF is administered by the Federal Deposit Insurance Corporation (FDIC). The term "FSLIC" is used hereafter to refer to FSLIC and any successor to FSLIC.

[2] Department of the Treasury, *Report on Tax Issues Relating to the 1988/89 Federal Savings and Loan Insurance Corporation Assisted Transactions*, March, 1991 at pp. 16-17.

[3] FSLIC assistance for purposes of the provision does not include "net worth assistance". "Net worth assistance" is generally computed at the time of an acquisition, without targeting loss coverage to ultimate dispositions or write-downs with respect to particular assets.

It is intended that the right to FSLIC assistance for purposes of this provision is to be determined by reference to the gross amount of FSLIC assistance that is contemplated by the assistance agreement with respect to the sale or other disposition, or write-down, without taking into account any offsets that might reduce the net amount FSLIC is obligated to pay under the agreement. For example, under an assistance agreement an institution's right to be reimbursed for a loss on the disposition or write-down of an asset may be reflected as a debit to a Special Reserve Account, while certain other items that will reduce the ultimate amount of assistance to be paid may be reflected as credits to the account. In such a case, the gross amount of FSLIC assistance contemplated by the agreement is the amount represented by the debit, without regard to any offset.

Financial assistance to which the FIRREA amendments apply

The provision does not apply to any financial assistance to which the amendments made by section 1401(a)(3) of FIRREA apply.

No inference

No inference is intended as to prior law or as to the treatment of any item to which this provision does not apply.

Effective date

In general

The provision applies to financial assistance credited on or after March 4, 1991, with respect to (1) assets disposed of and charge-offs made in taxable years ending on or after March 4, 1991; and (2) assets disposed of and charge-offs made in taxable years ending before March 4, 1991, but only for purposes of determining the amount of any net operating loss carryover to a taxable year ending on or after March 4, 1991.

For this purpose, financial assistance generally is considered to be credited when the taxpayer makes an approved debit entry to a Special Reserve Account required to be maintained under the assistance agreement to reflect the asset disposition or write-down. An amount will also be considered to be credited prior to March 4, 1991 if the asset was sold, with prior FSLIC approval, before that date.

An amount is not deemed to be credited for purposes of the provision merely because the FSLIC has approved a management or business plan or similar plan with respect to an asset or group of assets, or has otherwise generally approved a value with respect to an asset.

As an example of the application of the effective date provision, assume that a thrift institution is subject to a FSLIC assistance agreement that, through the use of a Special Reserve Account, operates to compensate the institution for the difference between the book and fair market values of certain covered assets upon their disposition or write-down. Further assume that on February 1, 1991 the thrift institution wrote down a covered asset that has a book value and tax basis of $100 to $60, the asset's fair market value. With FSLIC approval, the institution debited the Special Reserve Account prior to March 4, 1991, to reflect the write-down of $40, and properly submitted to the FSLIC a summary of the account that reflected that debit, along with other debits for the quarter ended March 31, 1991. The provision would not apply to a loss claimed by the thrift institution with respect to the write-down of the covered asset on February 1, 1991. The same result would apply if the institution had sold the asset for $60 on February 1 with prior FSLIC approval. In the sale case, the provision would not apply even if there were no debit to the Special Reserve Account prior to March 4, 1991, so long as the FSLIC approved the amount of the reimbursable loss for purposes of providing assistance under the agreement.

Application to certain net operating losses

The provision applies to the determination of any net operating loss[5] carried into a taxable year ending on or after March 4, 1991, to the extent that the net operating loss is attributable to a loss or charge-off for which the taxpayer had a right to FSLIC assistance which had not been credited before March 4, 1991.

For example, assume a calendar year thrift institution is a party to a FSLIC assistance agreement that compensates the institution for the amount that covered loans are written down or charged off pursuant to the agreement. The agreement provides that the institution must receive the prior approval of the FSLIC to write down a loan for purposes of this compensation. Further assume that the institution uses the experience method to account for bad debts for tax purposes, and that in 1990 it charged off $100 with respect to a covered loan. Assume that this charge-off initially reduced the taxpayer's bad debt reserve balance by $100 and allowed the taxpayer to increase its addition to its reserve by $100 to bring the reserve to an appropriate balance. The taxpayer deducted this amount and utilized $20 for the year ended in 1990 (i.e., the last taxable year of the taxpayer ending before March 4, 1991). This produced a net operating loss of $80 for the remainder. The net operating loss is carried forward to 1991 (a taxable year of the taxpayer ending on or after March 4, 1991). Assume that the taxpayer did not debit the Special Reserve Account prior to March 4, 1991. The net operating loss carried to 1991 would be redetermined taking into account the provision. Applying the provision to 1990 would result in disallowing the charge-off of the $100 loan against the experience method reserve, in effect disallowing the $100 addition to the reserve. In such case, the taxpayer would continue to owe no tax for 1990, but the $80 net operating loss would be disallowed. However, the taxpayer's tax liability for 1990 would not be redetermined under the provision.

As a further example, assume that the net operating loss described in the example directly above were carried back to, and absorbed in, an earlier year ending prior to March 4, 1991 (rather than being carried forward). In that case, the provision would not apply to reduce the net operating loss carryback.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

4. DEDUCTION FOR MOVING EXPENSES

Present law

An employee or self-employed individual may claim a deduction from gross income for certain expenses incurred as a result of moving to a new residence in connection with beginning work at a new location (sec. 217). The deduction is not subject to the floor which generally limits a taxpayer's allowable miscellaneous itemized deductions only to those amounts which exceed 2 percent of his or her adjusted gross income. Any amount received directly or indirectly by such individual as a reimbursement of moving expenses must be included in the taxpayer's gross income as compensation (sec. 82). The taxpayer may offset this income by deducting the moving expenses that would otherwise qualify as deductible items under sec. 217.

Deductible moving expenses are the expenses of transporting the taxpayer and members of his household, as well as his household goods and personal effects, from the old to the new residence; the cost of meals and lodging en route; the expenses for pre-move househunting trips; temporary living expenses for up to 30 days in the general location of the new job; and certain expenses related to both the sale or settlement of a lease on the old residence and the purchase of a new residence in the general location of the new job.

The moving expense deduction is subject to a number of limitations. A maximum of $1,500 can be deducted for pre-move househunting and temporary living expenses in the general location of the new job. A maximum of $3,000 (reduced by any deduction claimed for househunting or temporary living expenses) can be deducted for certain qualified expenses for the sale and purchase of a residence or settlement of a lease. If both a husband and wife begin new jobs in the same general location, the move is treated as a single commencement of work. If a husband and wife file separate returns, the maximum deductible amounts available to each is one-half the amounts otherwise allowed.

Also, in order for a taxpayer to claim a moving expense deduction, his new principal place of work has to be at least 35 miles farther from his former residence than was his former principal place of work (or his former residence, if he has no former place of work).

House bill

The House bill increases the mileage limitation from 35 to 75 miles.

Effective date.—The provision is effective for moving expenses paid on or after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with three modifications:

---

[4] It is expected that, for purposes of the adjusted current earnings adjustment of the corporate alternative minimum tax, there will not be any net positive adjustment to the extent that FSLIC assistance is taken into account as compensation for a loss or in determining worthlessness and there is, therefore, no deductible loss or bad debt charge-off.

[5] For purposes of determining any alternative minimum tax net operating loss carryover to periods ending on or after March 4, 1991 it is expected that the principles described in the preceding footnote will apply.

(1) The $1,500 limit on pre-move househunting and temporary living expenses in the general location of the new job is repealed. The overall $3,000 limit is retained.

(2) An individual is allowed an above-the-line deduction under section 62 in computing adjusted gross income for an amount equal to the otherwise allowable deduction for moving expenses but only to the extent such expenses are reimbursed and included in the gross income of the taxpayer under section 82.

(3) To the extent that moving expenses are unreimbursed, the deduction is made subject to the 2-percent floor on miscellaneous itemized deductions.

Effective date.—The provision is effective for moving expenses paid or incurred after the date of enactment.

5. TREATMENT OF PRE-CONTRIBUTION GAIN ON CERTAIN PARTNERSHIP REDEMPTIONS

Present law

Generally, if a partner contributes appreciated property to a partnership, no gain is recognized to the contributing partner at the time of the contribution, but gain recognized subsequently by the partnership with respect to that property must be allocated to the contributing partner to the extent of the pre-contribution appreciation. In addition, if the property is subsequently distributed to another partner within 5 years of the contribution, the contributing partner generally will recognize gain as if the property was sold for its fair market value at the time of the distribution (sec. 704(c)(1)(B)). Generally, the contributing partner's basis in His partnership interest is increased by the basis of the contributed property at the time of the contribution.

If a partnership distributes property to a partner, the partner does not recognize income except to the extent any cash received in the distribution exceeds such partner's basis for his partnership interest. The distributee partner's basis in distributed property is determined by reference to either the partnership's basis for the property or the partner's basis for his partnership interest depending on various factors. Present law generally does not require a partner who contributes appreciated property to a partnership to recognize pre-contribution gain upon a subsequent distribution of other property to that partner even if the value of that other property exceeds the partner's basis in his partnership interest.[1]

House bill

The House bill requires a partner who contributes appreciated property to a partnership to include pre-contribution gain in income to the extent that the value of other property distributed by the partnership exceeds his adjusted basis in his partnership interest. The bill applies whether or not the contributing partner's interest in the partnership is reduced in connection with the distribution. It generally applies only if the distribution is made within 5 years after the contribution of the appreciated property. The bill provides rules for taking into consideration multiple contributions by the same partner within the five-year period and generally permits the netting of precontribution losses against pre-contribution gains. Generally, the character of the gain or loss is determined as if the partnership had sold the distributed property.

Appropriate basis adjustments are to be made in the basis of the distributed property and the relevant contributed property to take account of gain recognized by the distributee partner under the bill.

Gain recognition generally is not required to the extent the partnership distributes property which had been contributed by the distributee partner. If the property distributed consists of an interest in an entity, however, gain recognition is nevertheless required to the extent that the value of the interest in the entity is attributable to property contributed to the entity after the interest in it was contributed to the partnership. For example, contributing partner A is required to recognize pre-contribution gain in the following transaction. Partner A contributes appreciated asset X and the stock of a corporation with no substantial assets. Partner B contributes cash in an amount equal to the value of appreciated asset X. The partnership thereupon contributes the cash it received from B to the corporation, and then distributes the stock of the corporation (whose value is increased by the amount of the cash) back to A (within 5 years of A's contribution). Although A contributed the stock of the corporation to the partnership, he is subject to tax on pre-contribution gain with respect to asset X. Similarly, the bill provides that if contributed property is distributed indirectly to a partner other than its contributor, the contributing partner is subject to tax on the pre-contribution gain as if the property had been distributed directly rather than indirectly. Thus, if in the above example B (rather than A) had contributed stock of a corporation to the partnership, and the partnership had contributed appreciated asset X to the corporation and distributed the stock back to B, A would have been subject to tax on pre-contribution gain with respect to asset X.

Effective date.—The House bill applies to partnership distributions after February 14, 1992.

Senate amendment

No provision.

Conference agreement

The conference agreement does not adopt the House bill.

IV. SIMPLIFICATION PROVISIONS

A. Provisions Relating to Individuals

1. ROLLOVER OF GAIN ON SALE OF PRINCIPAL RESIDENCE IN THE CASE OF MULTIPLE ROLLOVERS AND IN CASE OF DIVORCE OR SEPARATION

Present law

No gain is recognized on the sale of a principal residence if a new residence at least equal in cost to the sales price of the old residence is purchased and used by the taxpayer as his or her principal residence within a specified period of time (sec. 1034). This replacement period generally begins two years before and ends two years after the date of sale of the old residence. The basis of the replacement residence is reduced by the amount of any gain not recognized on the sale of the old residence by reason of section 1034.

In general, nonrecognition treatment is available only once during any two-year period. In addition, if the taxpayer purchases more than one residence during the replacement period and such residences are each used as the taxpayer's principal residence within two years after the date of sale of the old residence, only the last residence so used is treated as the replacement residence.

Special rules apply, however, if residences are sold in order to relocate for employment reasons. First, the number of times nonrecognition treatment is available during a two-year period is not limited. Second, if a residence is sold within two years after the sale of the old residence, the residence sold is treated as the last residence used by the taxpayer and thus as the only replacement residence.

The determination whether property is used by a taxpayer as a principal residence depends upon all the facts and circumstances in each case, including the good faith of the taxpayer. No safe harbor is provided for sales of principal residences incident to divorce or marital separation.

House bill

Under the House bill, gain is rolled over from one residence to another residence in the order the residences are purchased and used, regardless of the taxpayer's reasons for the sale of the old residence. In addition, gain may be rolled over more than once within a two-year period. Thus, the rules that formerly applied only if a taxpayer sold his residence in order to relocate for employment purposes will apply in all cases. As under present law, the basis of each succeeding residence is reduced by the amount of gain not recognized on the sale of the prior residence.

Also, the bill provides a safe harbor in the determination of principal residence in certain cases incident to divorce or marital separation. Specifically, the bill provides that a residence is treated as the taxpayer's principal residence at the time of sale if (1) the residence is sold pursuant to a divorce or marital separation and (2) the taxpayer used such residence as his or her principal residence at any time during the two-year period ending on the date of sale.

Effective date.—The provision applies to sales of old residences (within the meaning of section 1034) after the date of enactment.

Senate amendment

The Senate amendment contains the provision relating to the case of divorce but not the provision relating to multiple rollovers.

Conference agreement

The conference agreement follows the House bill.

2. DE MINIMIS EXCEPTION TO PASSIVE LOSS RULE

Present law

The passive loss rules limit deductions and credits from passive trade or business activities. Deductions from passive activities, to the extent they exceed income from passive activities, generally may not be deducted against other income, such as wages, portfolio income, or business income that is not from a passive activity. Deductions that are suspended under this rule are carried forward and treated as deductions from passive activities in the next year. The suspended losses from a passive activity are allowed in full when a taxpayer disposes of the entire interest in the passive activity to an unrelated person.

Passive activities are defined to include trade or business activities in which the taxpayer does not materially participate. Material participation requires a taxpayer to be involved in the operations of the activity on a regular, continuous and substantial basis.

---

[1] Present law does limit the use of partnerships to make disguised sales of appreciated property by providing that if there is a direct or indirect transfer of money or property by a partner to a partnership, and a related transfer of money or other property by the partnership to the transferor partner or another partner, and the transfers, viewed together, are properly characterized as a sale or exchange of property, then the transfers are treated as a transaction occurring between the partnership and a non-partner, or between non-partners (sec. 707(a)(1)(B)).

Rental activities are also included in the definition of passive activities. A special rule permits the deduction of up to $25,000 of losses from certain rental real estate activities in which the taxpayer actively participates (even though the activities are considered passive) for taxpayers with adjusted gross incomes of $100,000 or less. This deduction is phased out for taxpayers with adjusted gross incomes between $100,000 and $150,000. A rental activity is defined as any activity where payments are principally for the use of tangible property.

House bill

The House bill creates a $200 de minimis exception to the rule disallowing net passive activity losses. Under the exception, a taxpayer who is an individual and whose total net passive activity losses for the year do not exceed $200 for the taxable year generally may deduct such losses for the year. The exception also applies to estates for the first two taxable years following the decedent's death. Similarly to the present-law rules applicable to the $25,000 exception, the amount under the exception provided in the bill is $100 in the case of a married taxpayer filing a separate return, and the exception is not available in the case of a married taxpayer filing a separate return who does not live apart from his spouse at all times during the taxable year.

The $200 exception is available only for taxpayers with net passive activity losses totalling $200 or less; a taxpayer with $300 of passive losses for the year, for example, is not eligible for the $200 exception. The $200 exception is applied after determining the taxpayer's net passive activity loss for the year (which includes taking into account suspended losses from prior years), but before taking the $25,000 allowance for rental real estate. Thus, for example, if a taxpayer has $500 of losses from rental real estate, he is not eligible for the $200 exception but may be eligible for the $25,000 exception (assuming he otherwise meets the requirements of the $25,000 exception). In all other respects, the $200 exception is applied after all other applicable rules under the passive loss rule.

The $200 exception does not apply with respect to passive activity credits.

The $200 exception does not apply with respect to items from publicly traded partnerships, to which the passive loss rule has separate application under present law.

Effective date.—The provision applies to taxable years beginning after December 31, 1991.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

3. PERMIT PAYMENT OF TAXES BY CREDIT CARD

Present law

Payment of taxes may be made by checks or money orders, to the extent and under the conditions provided by regulations.

House bill

The House bill permits payment of taxes by credit card, to the extent and under the conditions provided by regulations.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

4. ELECTION BY PARENT TO CLAIM UNEARNED INCOME OF CERTAIN CHILDREN ON PARENT'S RETURN

Present law

The net unearned income of a child under 14 years of age is taxed to the child at the parents' statutory rate. Net unearned income means unearned income less the sum of $600 and the greater of: (1) $600 or, (2) if the child itemizes deductions, the amount of allowable deductions directly connected with the production of the unearned income. The dollar amounts are adjusted for inflation.

In certain circumstances, a parent may elect to include a child's unearned income on the parent's income tax return if the child's income is less than $5,000. A parent making this election must include the gross income of the child in excess of $1,000 in income for the taxable year. In addition, the parent must report an additional tax liability equal to the lesser of (1) $75 or (2) 15 percent of the excess of the child's income over $500. The dollar amounts for the election are not adjusted for inflation.

A person claimed as a dependent cannot claim a standard deduction exceeding the greater of $600 or such person's earned income. For alternative minimum tax purposes, the exemption of a child under 14 years of age generally cannot exceed the sum of such child's earned income plus $1,000. The $600 amount is adjusted for inflation but the $1,000 amount is not.

House bill

The House bill adjusts for inflation the dollar amounts involved in the election to claim unearned income on the parent's return. It likewise indexes the $1,000 amount used in computing the child's alternative minimum tax.

Effective date.—The provision applies to taxable years beginning after December 31, 1991.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

5. SIMPLIFIED FOREIGN TAX CREDIT LIMITATION FOR INDIVIDUALS

Present law

In order to compute the foreign tax credit, a taxpayer computes foreign source taxable income and foreign taxes paid in each of the applicable separate foreign tax credit limitation categories. In the case of an individual, this requires the filing of IRS Form 1116, designed to elicit sufficient information to perform the necessary calculations.

In many cases, individual taxpayers who are eligible to credit foreign taxes may have only a modest amount of foreign source gross income, all of which is income from investments (e.g., dividends from a foreign corporation subject to foreign withholding taxes or dividends from a domestic mutual fund that can pass through its foreign taxes to the shareholder (see sec. 853)). Taxable income of this type ordinarily is subject to the single foreign tax credit limitation category known as passive income. However, under certain circumstances, the Code treats investment-type income (e.g., dividends and interest) as income in several other separate limitation categories (e.g., high withholding tax interest income, general limitation income) designed to accomplish certain policy objectives or forestall certain abuses. For this reason, any taxpayer with foreign source gross income is required to provide sufficient detail on Form 1116 to ensure that foreign source taxable income from investments, as well as all other foreign source taxable income, is allocated to the correct limitation category.

House bill

The House bill allows individuals with no more than $200 of creditable foreign taxes, and no foreign source income other than income that is in the passive basket, to elect a simplified foreign tax credit limitation equal to the lesser of 25 percent of the individual's foreign source gross income or the amount of the creditable foreign taxes paid or accrued by the individual during the taxable year. (It is intended that an individual electing this simplified limitation calculation not be required to file Form 1116 in order to obtain the benefit of the credit.) A person who elects the simplified foreign tax credit limitation is not allowed a credit for any foreign tax not shown on a payee statement (as that term is defined in sec. 6724(d)(2)) furnished to him or her. Nor is the person entitled to treat any excess credits for a taxable year to which the election applied as a carryover to another taxable year. Because the limitation for a taxable year to which the election applies can be no more than the creditable foreign taxes actually paid for the taxable year, it is also the case under the House bill that no excess credits from another year can be carried over to the taxable year to which the election applies.

For purposes of the simplified limitation, passive income generally is defined to include all types of income that would be foreign personal holding company income under the subpart F rules, plus income inclusions from passive foreign corporations (as defined by the House bill), so long as the income is shown on a payee statement furnished to the individual. Thus, for purposes of the simplified limitation, passive income includes all dividends, interest (and income equivalent to interest), royalties, rents, and annuities; net gains from dispositions of property giving rise to such income; net gains from certain commodities transactions; and net gains from foreign currency transactions that give rise to foreign currency gains and losses as defined in section 988. The statutory exceptions to treating these types of income as passive for foreign tax credit limitation purposes, such as the exceptions for high-taxed income and high-withholding-tax interest, are not applicable in determining eligibility to use the simplified limitation.

Although an estate or trust generally computes taxable income and credits in the same manner as in the case of an individual (Code sec. 641(b); Treas. Reg. sec. 1.641(b)-1), the simplified limitation does not apply to an estate or trust.

Effective date.—The provision applies to taxable years beginning after December 31, 1991.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate agreement.

6. PERSONAL TRANSACTIONS BY INDIVIDUALS IN FOREIGN CURRENCY

Present law

When a U.S. taxpayer with a U.S. dollar functional currency makes a payment in a foreign currency, gain or loss (referred to as "exchange gain or loss") arises from any change in the value of the foreign currency relative to the U.S. dollar between the time the currency was acquired (or the obligation to pay was incurred) and the time that the payment is made. Gain or loss results because foreign currency, unlike the U.S. dollar, is treated as property for Federal income tax purposes.

Exchange gain or loss can arise in the course of a trade or business or in connection with an investment transaction. Exchange gain or loss can also arise where foreign currency was acquired for personal use. For example, the IRS has ruled that a taxpayer who converts U.S. dollars to a foreign currency for personal use—while traveling abroad—realizes exchange gain or loss on reconversion of appreciated or depreciated foreign currency (Rev. Rul. 74-7, 1974-1 C.B. 198).

Prior to the Tax Reform Act of 1986 (the "1986 Act"), most of the rules for determining the Federal income tax consequences of foreign currency transactions were embodied in a series of court cases and revenue rulings issued by the Internal Revenue Service ("IRS"). Additional rules of limited application were provided by Treasury regulations and, in a few instances, statutory bills. Pre-1986 law was believed to be unclear regarding the character, the timing of recognition, and the source of gain or loss due to fluctuations in the exchange rate of foreign currency. The result of prior law was uncertainty of tax treatment for many legitimate transactions, as well as opportunities for tax-motivated transactions. Therefore, in 1986 Congress determined that a comprehensive set of rules should be provided for the U.S. tax treatment of transactions involving "nonfunctional currencies;" that is, currencies other than the taxpayer's "functional currency."

However, the 1986 Act provisions designed to clarify the treatment of currency transactions, primarily found in section 988, apply to transactions entered into by an individual only to the extent that expenses attributable to such transactions would be deductible under section 162 (as a trade or business expense) or section 212 (as an expense of producing income, other than expenses incurred in connection with the determination, collection, or refund of taxes). Therefore, the principles of pre-1986 law continue to apply to personal currency transactions.[1]

House bill

In a case where an individual acquires nonfunctional currency and then disposes of it in a personal transaction, and where exchange rates have changed in the intervening period, the House bill provides for nonrecognition of an individual's resulting exchange gain not exceeding $200. The House bill does not change the treatment of resulting exchange losses. It is understood that under other Code provisions, such losses typically are not deductible by individuals (e.g., sec. 165(c)).

Effective date.—The provision applies to taxable years beginning after December 31, 1991.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

7. MAKE INCOME TAX WITHHOLDING RULES PARALLEL TO RULES FOR EXCLUSION FROM INCOME FOR COMBAT PAY

Present law

Exclusion for combat pay

Gross income does not include certain combat pay of members of the Armed Forces (sec. 112). If enlisted personnel serve in a combat zone during any part of any month, military pay for that month is excluded from gross income (special rules apply if enlisted personnel are hospitalized as a result of injuries, wounds, or disease incurred in a combat zone). In the case of commissioned officers, these exclusions from income are limited to $500 per month of military pay.

Income tax withholding

There is no income tax withholding with respect to military pay for a month in which a member of the Armed Forces of the United States is entitled to the benefits of section 112 (sec. 3401(a)(2)). With respect to enlisted personnel, this income tax withholding rule parallels the exclusion from income under section 112: there is total exemption from income tax withholding and total exclusion from income. With respect to officers, however, the withholding rule is not parallel: there is total exemption from income tax withholding, although the exclusion from income is limited to $500 per month.

House bill

The House bill makes the income tax withholding exemption rules parallel to the rules providing an exclusion from income for combat pay.

Effective date.—The provision is effective as of January 1, 1993.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

8. EXPANDED ACCESS TO SIMPLIFIED INCOME TAX RETURNS

Present law

There are three principal tax forms that are utilized by individual taxpayers: Form 1040EZ, Form 1040A, and Form 1040.

House bill

The House bill provides that the Secretary of the Treasury (or his delegate) shall take such actions as may be appropriate to expand access to simplified individual income tax forms and otherwise to simplify the individual income tax returns.

The bill also requires that the Secretary submit a report to the Congress on the actions undertaken pursuant to this bill, together with any recommendations he may deem advisable.

Effective date.—The report is due no later than one year after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

9. SIMPLIFICATION OF TAX TREATMENT OF RURAL LETTER CARRIERS' VEHICLE EXPENSES

Present law

A taxpayer who uses his or her automobile for business purposes may deduct the business portion of the actual operation and maintenance expenses of the vehicle, plus depreciation (subject to the limitations of sec. 280F). If the taxpayer is an employee and these expenses are not reimbursed, the deduction is subject to the two-percent floor. Alternatively, the taxpayer may elect to utilize a standard mileage rate in computing the deduction allowable for business use of an automobile that has not been fully depreciated. Under this election, the taxpayer's deduction equals the applicable rate multiplied by the number of miles driven for business purposes and is taken in lieu of deductions for depreciation and actual operation and maintenance expenses.

An employee of the U.S. Postal Service may compute his or her deduction for business use of an automobile in performing services involving the collection and delivery of mail on a rural route by using, for all business use mileage, 150 percent of the standard mileage rate.

House bill

The House bill repeals the special rate of 150 percent of the standard mileage rate. In its place, the bill provides that the rate of reimbursement provided by the Postal Service to rural letter carriers is considered to be equivalent to their expenses. The rate of reimbursement that is considered to be equivalent to their expenses is the rate of reimbursement contained in the 1991 collective bargaining agreement, which may in the future be increased by no more than the rate of inflation.

Effective date.—The provision is effective for taxable years beginning after December 31, 1991.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate agreement.

10. EXEMPTION FROM LUXURY EXCISE TAX FOR CERTAIN EQUIPMENT INSTALLED ON PASSENGER VEHICLES FOR USE BY DISABLED INDIVIDUALS

Present law

The Code imposes a 10-percent excise tax on the portion of the retail price of a passenger vehicle that exceeds $30,000. The tax also applies to separate purchases of component parts and accessories occurring within six months of the date the vehicle is placed in service.

House bill

The House bill provides that the luxury excise tax does not apply to a part or accessory installed on a passenger vehicle to enable or assist an individual with a disability to operate the vehicle, or to enter or exit the vehicle, in order to compensate for the effect of the disability.

Persons entitled to a refund may obtain it through the dealer at which they purchased the taxed item, as provided under present-law Code section 6416.

Effective date.—The provision is effective for purchases after December 31, 1990.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

B. Pension Simplification

1. SIMPLIFIED DISTRIBUTION RULES

Present law

In general

Under present law, a distribution of benefits from a tax-favored retirement arrangement generally is includible in gross income in the year it is paid or distributed under the rules relating to the taxation of annuities. A tax-favored retirement arrangement includes (1) a qualified pension plan (sec. 401(a)), (2) a qualified annuity plan (sec. 403(a)) and (3) a tax-sheltered annuity (sec. 403(b)). Special rules apply in the case of lump-sum distributions from a qualified plan, distributions that are rolled over to an individual retirement arrangement (IRA), distributions of employer securities, and employer-provided death benefits.

---

[1] See, e.g., Rev. Rul. 90-79, 1990-2 C.B. 187 (where the taxpayer purchased a house in a foreign country, financed by a foreign currency loan, and the currency appreciates before the house is sold and the loan is repaid, the taxpayer's exchange loss on repayment of the loan is not deductible under sec. 165 and does not offset taxable gain on the sale of the house).

Rollovers

Under present law, a total or partial distribution of the balance to the credit of an employee under a qualified plan, a qualified annuity plan, or a tax-sheltered annuity may, under certain conditions, be rolled over tax free to an IRA or another qualified plan or annuity (secs. 402(a), 403(a), and 403(b)). A rollover of a partial distribution is permitted if (1) the distribution equals at least 50 percent of the balance to the credit of the employee, (2) the distribution is not one of a series of periodic payments, (3) the distribution is made on account of death, disability, or separation from service, and (4) the employee elects rollover treatment. A partial distribution may only be rolled over to an IRA and not to another qualified plan.

The maximum amount of a distribution that can be rolled over is the amount of the distribution that would otherwise be taxable. That is, after-tax employee contributions cannot be rolled over. In addition, minimum required distributions (sec. 401(a)(9)) may not be rolled over. The rollover must be made within 60 days after the distribution is received.

Lump-sum distributions

Under present law, lump-sum distributions from qualified plans and annuities are eligible for special 5-year forward income averaging (sec. 402(e)). In general, a lump-sum distribution is a distribution within one taxable year of the balance to the credit of an employee which becomes payable to the recipient (1) on account of the death of the employee, (2) after the employee attains age 59½, (3) on account of the employee's separation from service, or (4) in the case of self-employed individuals, on account of disability. In addition, a distribution is treated as a lump-sum distribution only if the employee has been a participant in the plan for at least 5 years before the year of the distribution. Lump-sum treatment is not available for distributions from tax-sheltered annuity contracts (sec. 403(b)).

A taxpayer is permitted to make an election with respect to a lump-sum distribution received on or after the employee attains age 59½ to use 5-year forward income averaging under the tax rates in effect for the taxable year in which the distribution is made. However, only one such election on or after age 59½ may be made with respect to any employee.

Special transition rules adopted in the Tax Reform Act of 1986 are available with respect to an employee who attained age 50 before January 1, 1986. Under these rules, an individual, trust, or estate may elect to use 5-year forward averaging (using present-law tax rates) or 10-year forward income averaging (using the tax rates in effect prior to the Tax Reform Act of 1986) with regard to a single lump-sum distribution, without regard to whether the employee has attained age 59½. In addition, an individual, trust, or estate receiving a lump-sum distribution with respect to such employee may elect to retain the capital gains character of the pre-1974 portion of the lump-sum distribution (using a tax rate of 20 percent).

Tax on excess distributions

Under present law, a 15 percent excise tax is imposed on excess distributions from qualified plans (sec. 4980A). Excess distributions are aggregate distributions from qualified retirement plans made with respect to an individual during any calendar year to the extent the distributions exceed the greater of (1) $150,000, or (2) $112,500 (indexed). A special higher ceiling applies for purposes of determining excess distributions for any calendar year in which an individual receives a lump-sum distribution. The higher ceiling is 5 times the otherwise applicable ceiling for the calendar year ($750,000 in 1992).

Net unrealized appreciation

Under present law, a taxpayer is not required to include in gross income amounts received in the form of a lump-sum distribution to the extent that the amounts are attributable to net unrealized appreciation in employer securities (sec. 402(a)). Such unrealized appreciation is includible in gross income when the securities are sold or exchanged. The special treatment of net unrealized appreciation applies only if a valid lump-sum distribution election is made, but disregarding the 5 plan years of participation requirement for lump-sum distributions.

In addition, gross income does not include net unrealized appreciation on employer securities attributable to employee contributions, regardless of whether the securities are received in a lump-sum distribution. Such appreciation is includible in income when the securities are disposed of.

Employer-provided death benefits

Under present law, the beneficiary or estate of a deceased employee generally can exclude up to $5,000 in benefits paid by or on behalf of an employer by reason of the employee's death (sec. 101(b)).

Recovery of basis

Qualified plan distributions other than lump-sum distributions generally are includible in gross income in the year they are paid or distributed under the rules relating to taxation of annuities (sec. 402). Amounts received as an annuity generally are includible in income in the year received, except to the extent they represent the return of the recipient's investment in the contract (i.e., basis) (sec. 72). Under present law, a pro-rata basis recovery rule generally applies, so that the portion of any annuity payment that represents nontaxable return of basis is determined by applying an exclusion ratio equal to the employee's total investment in the contract divided by the total expected payments over the term of the annuity.

The total expected payments depends on the form of the payment, e.g., a single-life annuity, an annuity with payments guaranteed for a specified number of years, or a joint and survivor annuity. For example, if benefits are paid in the form of an annuity during the life of the employee, the expected payments are calculated by multiplying the annual payment amount by the employee's life expectancy on the annuity starting date. If benefits are paid in the form of a joint and survivor annuity, then the total expected return depends on the life expectancies of both the primary annuitant and the person who is to receive the survivor annuity. The IRS has issued tables of life expectancies that are used to calculate expected returns.

Under a simplified alternative method provided by the Internal Revenue Service (IRS) (Notice 88-118) for payments from or under qualified retirement arrangements, the taxable portion of qualifying annuity payments is determined under a simplified exclusion ratio method. Under the simplified method, the portion of each annuity payment that represents nontaxable return of basis is equal to the employee's total investment in the contract (including the $5,000 death benefit exclusion under section 101(b), to the extent applicable), divided by the number of anticipated payments listed in a table published by the IRS. The number of anticipated payments listed in the table is based on the employee's age on the annuity starting date. The simplified method is available if (1) the annuity payments depend on the life expectancy of the recipient (or the joint lives of the recipient and his or her beneficiary), and (2) the recipient is less than age 75 on the annuity starting date or there are fewer than 5 years of guaranteed payments under the annuity.

Under both the pro rata and simplified alternative methods, in no event will the total amount excluded from income as nontaxable return of basis be greater than the recipient's total investment in the contract.

House bill

In general

The House bill expands the circumstances in which a distribution may be rolled over tax free and, in conjunction with such expansion, repeals 5- and 10-year averaging for lump-sum distributions from qualified plans, the special rules for unrealized appreciation in employer securities, and the $5,000 death benefit exclusion. The bill also simplifies the basis recovery rules applicable to distributions from qualified plans and requires that qualified plans give participants the option of having a distribution transferred directly to an IRA.

Rollovers

Under the bill, any portion of any distribution to the employee or the surviving spouse of the employee (other than a minimum required distribution (sec. 401(a)(9)) may be rolled over tax free to an IRA or another qualified plan or annuity, unless the distribution is part of a series of substantially equal payments made (1) over the life (or life expectancy) of the participant or the joint lives (or joint life expectancies) of the participant and his or her beneficiary, or (2) over a specified period of 10 years or more. The present-law prohibition on rolling over employee contributions is retained due to recordkeeping concerns.

Lump-sum distributions

The bill repeals the general 5-year forward averaging rule, as well as the transition rules under the Tax Reform Act of 1986 relating to 5- and 10-year averaging and capital gains treatment.

Tax on excess distributions

Under the bill, for purposes of determining the excise tax on excess distributions from qualified plans, an individual can elect in any calendar year to apply a special higher ceiling of 5 times the otherwise applicable ceiling for the calendar year ($750,000 in 1992). An individual can make such an election only once. The election is not available if the special higher ceiling applied to an individual in a taxable year prior to the effective date of the provision.

Net unrealized appreciation

The bill repeals the exclusion from income of net unrealized appreciation in employer securities. Distributions of employer securities are taxed the same as other distributions.

Employer-provided death benefits

The bill repeals the exclusion from gross income of up to $5,000 in employer-provided death benefits.

Recovery of basis

Under the bill, the portion of an annuity distribution from a qualified retirement plan, qualified annuity, or tax-sheltered annuity that represents nontaxable return of basis generally is determined under a method similar to the present-law simplified alternative method provided by the Internal Revenue Service. Under the simplified method provided in the bill, the portion of each annuity payment that represents nontaxable return of basis generally is equal to the employee's total investment in the contract as of the annuity starting date, divided by the number of anticipated payments determined by reference to the age of the participant listed in the table set forth in the bill. The number of anticipated payments listed in the table is based on the employee's age on the annuity starting date. If the number of payments is fixed under the terms of the annuity, that number is to be used instead of the number of anticipated payments listed in the table.

The simplified method does not apply if the primary annuitant has attained age 75 on the annuity starting date unless there are fewer than 5 years of guaranteed payments under the annuity. If in connection with commencement of annuity payments, the recipient receives a lump-sum payment that is not part of the annuity stream, such payment is taxable under the rules relating to annuities (sec. 72) as if received before the annuity starting date, and the investment in the contract used to calculate the simplified exclusion ratio for the annuity payments is reduced by the amount of the payment. As under present law, in no event will the total amount excluded from income as nontaxable return of basis be greater than the recipient's total investment in the contract.

Direct transfers to IRAs or other eligible transferee plans

Under the bill, a qualified retirement or annuity plan must permit participants to elect to have any distribution that is eligible for rollover treatment transferred directly to an eligible transferee plan specified by the participant. An eligible transferee plan is an IRA, a qualified defined contribution retirement plan (sec. 401(a)), or a qualified annuity plan (sec. 403(a)). Transfers to a qualified defined benefit plan (sec. 401(a)) are not permitted. As under present law, a transfer cannot be made to another qualified plan unless the terms of the transferee plan permit the acceptance of such transfer. Amounts transferred to an eligible transferee plan are includible in income when distributed from the transferee plan in accordance with the rules applicable to that plan.

Before making an eligible rollover distribution, the plan administrator is required to provide a written explanation to the participant of the direct transfer option. When making a distribution not in the form of a direct transfer, the administrator must provide a written explanation of the 60-day rollover limitation period.

Minimum required distributions

No provision.

Effective dates

The provisions are generally effective for years beginning after December 31, 1992.

The grandfather rules under the Tax Reform Act of 1986 are phased out over a number of years. In 1993, the grandfather rules apply to 60 percent of any lump-sum distribution. In 1994, the rules apply to 50 percent of any lump-sum distribution. In 1995, the rules apply to 45 percent of any lump-sum distribution. The portion of any lump-sum distribution to which the special averaging rules do not apply is subject to the rules of the bill regarding taxation of distributions and may, for example, be rolled over tax free into an IRA or another qualified plan under the rollover provisions of the bill. The 1986 Act grandfather rules do not apply to any amounts distributed in a taxable year beginning after December 31, 1995.

Senate Amendment

Rollovers

The Senate amendment is the same as the House bill.

Lump-sum distributions

The Senate amendment repeals 5-year forward averaging, but maintains the transition rules under the Tax Reform Act of 1986.

Tax on excess distributions

The Senate amendment is the same as the House bill.

Net unrealized appreciation

The Senate amendment maintains present law with regard to net unrealized appreciation in employer securities.

Employer-provided death benefits

The Senate amendment is the same as the House bill.

Recovery of basis

The Senate amendment is the same as the House bill.

Direct transfer to IRAs or other eligible transferee plans

The Senate amendment generally requires that distributions in excess of $500 be transferred directly to an IRA or to a qualified defined contribution plan that provides for the acceptance of the transfer. Annuity distributions, distributions after age 55, distributions on account of the death of the employee (other than distributions to the surviving spouse), and hardship distributions are not subject to the transfer requirement.

Minimum required distributions

The Senate amendment provides that, except in the case of 5-percent owners of an employer and IRA owners, distributions are required to begin by April 1 of the calendar year following the later of the calendar year in which (1) the employee attains age 70½ or (2) the employee retires. As under present law, distributions to 5-percent owners and IRA owners are required to begin by the April 1 following the year in which the individual attains age 70½.

The benefits of participants who continue to work for an employer after attaining age 70½ are required to be actuarially increased to take into account the period after age 70½ during which the employee receives no benefits under the plan. (Age 70½ is changed to age 70 under another provision of the Senate amendment described below.)

Effective dates

The provisions are generally effective for years beginning after December 31, 1992. However, the rules relating to rollovers apply to distributions after the date of enactment, and the provision requiring that certain distributions be transferred directly to an eligible plan is effective for years beginning after December 31, 1993.

Conference Agreement

Rollovers

The conference agreement follows the House bill and the Senate amendment. As under the House bill and the Senate amendment, as well as under present law, for purposes of the rule denying rollover treatment in the case of certain periodic payments, nonperiodic payments made with or after the commencement of the periodic payments are not treated as part of the stream of periodic payments. For example, if an employee receives 50 percent of his or her accrued benefit in the form of a single-sum distribution upon retirement, with the balance payable in annuity form, the single sum would not be denied rollover treatment under the provision.

Lump-sum distributions

The conference agreement follows the House bill and the Senate amendment with respect to the repeal of 5-year averaging, and the Senate amendment with respect to the transition rules under the Tax Reform Act of 1986.

Tax on excess distributions

The conference agreement follows the House bill and the Senate amendment.

Net unrealized appreciation

The conference agreement follows the Senate amendment.

Employer-provided death benefits

The conference agreement follows the House bill and the Senate amendment.

Recovery of basis

The conference agreement follows the House bill and the Senate amendment.

Direct transfers to IRAs or other eligible transferee plans

The conference agreement follows the House bill.

Effective dates

The provisions are generally effective for years beginning after December 31, 1992. The provision regarding direct transfers to IRAs or other eligible transferee plans is effective for years beginning after December 31, 1993.

2. INCREASED ACCESS TO PENSION PLANS

a. Simplified salary reduction arrangements for small employers

Present law

Under present law, certain employers (other than tax-exempt and governmental employers) can establish a simplified employee pension (SEP) for the benefit of their employees under which the employees can elect to have contributions made to the SEP or to receive the contributions in cash (sec. 408(k)(6)). If an employee elects to have contributions made on the employee's behalf to the SEP, the contribution is not treated as having been distributed or made available to the employee. In addition, the contribution is not treated as an employee contribution merely because the SEP provides the employee with such an election. Therefore, an employee is not required to include in income currently the amounts the employee elects to have contributed to the SEP. Elective deferrals under a SEP are to be treated in the same manner as elective deferrals under a qualified cash or deferred arrangement and, thus, are subject to the $8,728 (for 1992) cap on elective deferrals.

The election to have amounts contributed to a SEP or received in cash is available only if at least 50 percent of the employees of the employer elect to have amounts contributed to the SEP. In addition, such election is available for a taxable year only if the employer maintaining the SEP had 25 or fewer eligible employees at all times during the prior taxable year.

Under present law, elective deferrals under SEPs are subject to nondiscrimination standards. The amount eligible to be deferred as a percentage of each highly compensated employee's compensation (i.e., the deferral percentage) is limited by the average deferral percentage (based solely on elective deferrals) for all nonhighly compensated employees who are eligible to participate. The deferral percentage for each highly compensated employee (taking into account only the first $222,220 (indexed) of compensation) cannot exceed 125-percent of the average deferral percentage for all other eligible employees. Nonelective SEP contributions may not be combined with the elective SEP deferrals for purposes of this test. An employer may not make any other SEP contributions conditioned on elective SEP deferrals. If the 125-percent test is not satisfied, rules similar to the rules applicable to excess contributions to a cash or deferred arrangement are applied.

If any employee is eligible to make elective SEP deferrals, all employees satisfying the participation requirements must be eligible to make elective SEP deferrals. An employee satisfies the participation requirements if the employee (1) has attained age 21, (2) has performed services for the employer during at least 3 of the immediately preceding 5 years, and (3) received at least $363 (indexed) in compensation from the employer for the year. An employee can participate even though he or she is also a participant in one or more other qualified retirement plans sponsored by the employer. However, SEP contributions are added to the employer's contribution to the other plans on the participant's behalf in applying the limits on contributions and benefits (sec. 415).

House bill

The House bill repeals the present-law rules applying to salary reduction arrangements under a SEP and replaces them with new rules that simplify the administration of such arrangements.

Under the bill, employers (including tax-exempt employers) who do not maintain a qualified plan and who had no more than 100 employees eligible to participate in a SEP on each day of the preceding plan year can maintain a qualified salary reduction arrangement for their employees. The arrangement must satisfy the following requirements to be a qualified arrangement. First, the employer must contribute to each eligible employee's SEP an amount equal to 1 percent of the employee's compensation for the year (not in excess of $100,000 (indexed)). Second, each eligible employee must be permitted to make salary reduction contributions to the SEP of up to a maximum of $3,000 (indexed) per year.[1] Third, the employer is required to make matching contributions to each employee's SEP equal to 100 percent of an employee's contributions to the account up to 3 percent of compensation and 50 percent of an employee's contributions that are greater than 3 percent of compensation and do not exceed 5 percent of compensation.

If these conditions are satisfied, the arrangement is a qualified salary reduction arrangement that can be maintained under a SEP. The qualified arrangement is not subject to nondiscrimination testing requirements. In addition, it is intended that a qualified salary reduction arrangement will be deemed to satisfy the minimum benefit requirements of the top-heavy rules (sec. 416(c)(2)).

Under the bill, an employer maintaining a salary reduction SEP is required to provide a description of the SEP to all eligible employees.

Effective date.—The provision is generally effective with respect to years beginning after December 31, 1991.

Under a transition rule, salary reduction SEPs established before the date of enactment are not subject to the new rules contained in the bill regarding qualified salary reduction arrangements unless the employer elects to have the new rules apply for any year and all subsequent years. Employers who do not make such an election are subject to the rules in effect for years beginning before January 1, 1992.

Senate amendment

The Senate amendment conforms the eligibility requirements for SEP participation to the rules applicable to pension plans generally by providing that contributions to a SEP must be made with respect to each employee who has at least one year of service with the employer.

The Senate amendment modifies the rules relating to salary reduction SEPs by providing that such SEPs may be established by employers with 100 or fewer employees. The Senate amendment also repeals the requirement that at least half of eligible employees actually participate in a salary reduction SEP.

The Senate amendment also provides that an employer is deemed to satisfy the nondiscrimination requirements applicable to salary reduction SEPs if the plan satisfies the safe harbor nondiscrimination rules applicable to qualified cash or deferred arrangements and employees are notified of the availability and features of the SEP.

Effective date.—The provision applies to years beginning after December 31, 1992.

Conference agreement

The conference agreement follows the Senate amendment, except that the conference agreement does not adopt the provision in the Senate amendment that modifies SEP eligibility rules.

b. Repeal of limitation on ability of nongovernmental tax-exempt employers to maintain cash or deferred arrangements

Present law

Under present law, if a tax-qualified profit-sharing or stock bonus plan meets certain requirements, then an employee is not required to include in income any employer contributions to the plan merely because the employee could have elected to receive the amount contributed in cash (sec. 401(k)). Plans containing this feature are referred to as cash or deferred arrangements. Tax-exempt organizations are generally prohibited from establishing qualified cash or deferred arrangements. Because of this limitation, many of such employers are precluded from maintaining broad-based, funded, elective deferral arrangements for their employees.

House bill

The House bill allows nongovernmental tax-exempt organizations to maintain cash or deferred arrangements. As under present law, the limitation on the amount that may be deferred by an individual participating in both a cash or deferred arrangement and another elective deferral arrangement applies.

Effective date.—The provision applies to nongovernmental tax-exempt organizations with respect to years beginning after December 31, 1992. The provision does not affect the ability of certain State and local government employers to maintain qualified cash or deferred arrangements that were adopted before May 6, 1986.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

c. Duties of master and prototype plan sponsors

Present law

The Internal Revenue Service (IRS) master and prototype program is an administrative program under which trade and professional associations, banks, insurance companies, brokerage houses, and other financial institutions can obtain IRS approval of model retirement plan language and then make these preapproved plans available for adoption by their customers, investors, or association members. Rules regarding who can sponsor master and prototype programs, the prescribed format of the model plans, and other matters relating to the program are contained in revenue procedures and other administrative pronouncements of the IRS.

The IRS also maintains related administrative programs that authorize advance approval of model plans prepared by law firms and others, i.e., the regional prototype plan program and volume submitter program.

House bill

The House bill authorizes the IRS to define the duties of organizations that sponsor master and prototype, regional prototype, and other preapproved plans, including mass submitters. These duties would become a condition of sponsoring preapproved plans. The bill is not intended to be interpreted as diminishing the IRS's administrative authority with respect to the master and prototype, regional prototype, or similar programs, including the authority to define who is eligible to sponsor prototype plans, or to create other rules relating to these programs. Rather, it is intended to create a system of sponsor accountability, subject to IRS monitoring, that will give adopters of master and prototype and other preapproved plans a level of protection, comparable to that in the regional prototype plan program, against failure of master and prototype and other plan sponsors to fulfill certain obligations.

The bill thus authorizes the IRS to prescribe duties of sponsors of prototype and other preapproved plans that include, but are not limited to, maintaining annually current lists of adopting employers and providing certain annual notices to adopting employers and to the IRS. While reflecting the IRS's own requirements in its regional prototype plan procedure, the bill does not require the IRS to mandate a master and prototype accountability system that is identical to the regional prototype plan procedure. The bill also authorizes the IRS to prescribe such other reasonable duties as are consistent with the objective of protecting adopting employers from a sponsor's failure to amend a plan in a timely manner or to communicate amendments or other notices required by the IRS's procedures.

The bill authorizes the IRS to define the duties of preapproved plan sponsors that relate to providing administrative services to the plans of adopting employers. This authorization is not intended to obligate sponsors to undertake the complete day-to-day administration of the plans they sponsor (although it does not preclude the IRS from mandating the performance of specific functions), but rather to protect employers against loss of qualification merely because they are unaware of the need to arrange for such services, or the unavailability of professional assistance from parties familiar with the sponsor's plan.

---

[1] The employer may limit contributions to the extent necessary to ensure compliance with the limits on contributions and benefits (sec. 415).

It is thus intended that, at a minimum, sponsors should (1) advise adopting employers that failure to arrange for administrative services to the plan may significantly increase the risk of disqualification and resulting sanctions, and (2) furnish employers with the name of firms that are familiar with the plan and can provide professional administrative service. This is not intended to preclude the sponsor from providing that service itself.

The bill should not be construed as creating fiduciary relationships or responsibilities under Title I of ERISA that would not exist in the absence of the provision.

To the extent deemed reasonably necessary to carry out the purposes of this provision of the bill, the Secretary is authorized to issue regulations that permit the relaxation of the anti-cutback rules contained in ERISA (sec. 204(g)) and the Code (sec. 411(d)(6)) when employers replace an individually designed plan with an IRS model plan, provided that the rights of participants to accrued benefits under the individually designed plan are not significantly impaired. This discretion will facilitate the shift by employers from individually designed plans to IRS model plans.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

3. NONDISCRIMINATION PROVISIONS

a. Simplification of nondiscrimination tests applicable under sections 401 (k) and (m)

Present law

A profit-sharing or stock bonus plan, a pre-ERISA money purchase pension plan, or a rural cooperative plan may include a qualified cash or deferred arrangement (sec. 401(k)). Under such an arrangement, an employee may elect to have the employer make payments as contributions to a plan on behalf of the employee, or to the employee directly in cash. Contributions made at the election of the employee are called elective deferrals. The maximum annual amount of elective deferrals that can be made by an individual is $8,728 for 1992. This dollar limit is indexed annually for inflation. A special nondiscrimination test applies to cash or deferred arrangements.

The special nondiscrimination test applicable to elective deferrals under qualified cash or deferred arrangements is satisfied if the actual deferral percentage (ADP) for eligible highly compensated employees for a plan year is equal to or less than either (1) 125 percent of the ADP of all nonhighly compensated employees eligible to defer under the arrangement, or (2) the lesser of 200 percent of the ADP of all eligible nonhighly compensated employees or such ADP plus 2 percentage points. The ADP for a group of employees is the average of the ratios (calculated separately for each employee in the group) of the contributions paid to the plan on behalf of the employee to the employee's compensation.

Employer matching contributions and after-tax employee contributions under qualified defined contribution plans are subject to a special nondiscrimination test similar to the special nondiscrimination test applicable to qualified cash or deferred arrangements.

The special nondiscrimination test for employer matching contributions and after-tax employee contributions is satisfied for a plan year if the actual contribution percentage (ACP) for eligible highly compensated employees does not exceed the greater of (1) 125 percent of the ACP for all other eligible employees, or (2) the lesser of 200 percent of the contribution percentage for all other eligible employees, or such percentage plus 2 percentage points. The ACP for a group of employees for a plan year is the average of the ratios (calculated separately for each employee in the group) of the sum of matching and employee contributions on behalf of each such employee to the employee's compensation for the year.

To determine the amount of excess contributions and the employees to whom they are allocated, the elective deferrals of highly compensated employees are reduced in the order of their actual deferral percentage beginning with those highly compensated employees with the highest actual deferral percentages.

House bill

In general

The House bill modifies the present-law nondiscrimination test applicable to elective deferrals and employer matching and after-tax employee contributions to permit the use of the average deferral percentage for nonhighly compensated employees for the preceding plan year to be used in determining the permitted average deferral percentage for highly compensated employees for the current year. In the case of the first plan year of a qualified cash or deferred arrangement, the average deferral percentage for nonhighly compensated employees for the previous year is deemed to be 3 percent or, at the election of the employer, the average deferral percentage for the first plan year.

In addition, the bill adds alternative methods of satisfying the special nondiscrimination requirements applicable to elective deferrals and employer matching contributions. Under these safe harbor rules, a cash or deferred arrangement is treated as satisfying the actual deferral percentage test if the plan of which the arrangement is a part (or any other plan of the employer maintained with respect to the employees eligible to participate in the cash or deferred arrangement) meets (1) one of two contribution requirements and (2) a notice requirement. A plan satisfies the safe harbor with respect to matching contributions if (1) the plan meets the contribution and notice requirements under the safe harbor for cash or deferred arrangements and (2) the plan satisfies a special limitation on matching contributions. These safe harbors permit a plan to satisfy the special nondiscrimination tests through plan design, rather than through the testing of actual contributions.

Safe harbor for cash or deferred arrangements

Contribution requirements.—A plan satisfies the contribution requirements under the safe harbor rule for qualified cash or deferred arrangements if (1) the plan satisfies a matching contribution requirement or (2) the employer makes a nonelective contribution to a defined contribution plan of at least 3 percent of an employee's compensation on behalf of each nonhighly compensated employee who is eligible to participate in the arrangement without regard to whether the employee makes elective contributions under the arrangement.

A plan satisfies the matching contribution requirement if, under the arrangement: (1) the employer makes a matching contribution on behalf of each nonhighly compensated employee that is not less than (a) 100 percent of the employee's elective contributions up to 3 percent of compensation and (b) 50 percent of the employee's elective contributions from 3 to 5 percent of compensation; and (2) the level of match for highly compensated employees is not greater than the match rate for nonhighly compensated employees at any level of compensation.

Alternatively, if the matching contribution requirement is not satisfied at some level of employee compensation, the requirement is deemed to be satisfied if (1) the level of employer matching contributions does not increase as employee elective contributions increase and (2) the aggregate amount of matching contributions with respect to elective contributions up to that level of compensation at least equals the amount of matching contributions that would be made if matching contributions satisfied the percentage requirements. For example, the alternative test is satisfied if an employer matches 125 percent of an employee's elective contributions up to the first 3 percent of compensation, 25 percent of elective deferrals from 3 to 4 percent of compensation, and provides no match thereafter. This is because the employer match does not increase with the employee's contributions and the aggregate amount of matching contributions is at least equal to the matching contributions required under the general safe harbor rule.

Under the safe harbor, an employee's rights to employer matching contributions or nonelective contributions used to meet the contribution requirements are required to be 100-percent vested.

An arrangement does not satisfy the contribution requirements unless the requirements are met without regard to the permitted disparity rules (sec. 401(l)) and contributions used to satisfy the contribution requirements are not taken into account for purposes of determining whether an employer's plan satisfies the permitted disparity rules.

Employer matching and nonelective contributions used to satisfy the contribution requirements of the safe harbor rules are nonforfeitable and subject to the restrictions on withdrawals that apply to an employee's elective deferrals under a qualified cash or deferred arrangement (sec. 401(k)(2) (B) and (C)).

The matching or nonelective contribution safe harbor requirements are deemed satisfied if the employer maintains another qualified plan that meets such requirements.

Notice requirement.—The notice requirement is satisfied if each employee eligible to participate in the arrangement is given written notice within a reasonable period before any year of the employee's rights and obligations under the arrangement. This notice must be sufficiently accurate and comprehensive to apprise the employee of his or her rights and obligations and must be written in a manner calculated to be understood by the average employee eligible to participate.

Alternative method of satisfying special nondiscrimination test for matching contributions

The bill provides a safe harbor method of satisfying the special nondiscrimination test applicable to employer matching contributions. Under this safe harbor, a plan is treated as meeting the special nondiscrimination test if (1) the plan meets the contribution and notice requirements applicable under the safe harbor method of satisfying the special nondiscrimination requirement for qualified cash or deferred arrangements, and (2) the plan satisfies a special limitation on matching contributions.

The limitation on matching contributions is satisfied if (1) the matching contributions on behalf of any employee may not be made with respect to employee contributions or elective deferrals in excess of 6 percent of compensation and (2) the level of an employer's matching contribution does not increase as an employee's contributions or elective deferrals increase.

Effective date

The provision is effective for plan years beginning after December 31, 1992.

Senate Amendment

Safe harbor for cash or deferred arrangements

The Senate amendment is the same as the House bill.

Alternative method of satisfying special nondiscrimination test for matching contributions

The Senate amendment is the same as the House bill.

Distribution of excess contributions

Under the Senate amendment, the total amount of excess contributions is determined in the same manner as under present law, but the distribution of excess contributions is required to be made on the basis of the amount of contribution by, or on behalf of, each highly compensated employee. Thus, under the Senate amendment, excess contributions are deemed attributable first to those highly compensated employees who have made the greatest dollar amount of elective deferrals under the plan.

For example, assume that an employer maintains a qualified cash or deferred arrangement under section 401(k). Assume further that the actual deferral percentage ("ADP") for the eligible nonhighly compensated employees is 2 percent. In addition, assume the following facts with respect to the eligible highly compensated employees:

Employee	Compensation	Deferral	Deferral (percent)
A	$200,000	$7,000	3.5
B	200,000	7,000	3.5
C	70,000	7,000	10.0
D	70,000	5,250	7.5
E	70,000	2,100	3.0
F	70,000	1,750	2.5

Under these facts, the highly compensated employees' (A and B) ADP is 5 percent, which fails to satisfy the special nondiscrimination requirements.

Under present law, the highly compensated employees with the highest deferral percentages would have their deferrals reduced until the ADP of the highly compensated employees is 4 percent. Accordingly, C and D would have their deferrals reduced to $4,025 (i.e., a deferral percentage of 5.75 percent). Thus, the reduction under present law would be $2,975 for C and $1,225 for D, for a total reduction of $4,200.

Under the Senate amendment, the amount of the total reduction is calculated in the same manner as under present law so that the total reduction remains $4,200. However, this total reduction of $4,200 is allocated to highly compensated employees based on the employees with the largest contributions. Thus, A, B, and C would each be reduced by $1,400 from $7,000 to $5,600. The ADP test would not be performed again.

Effective date

The Senate amendment is the same as the House bill.

Conference agreement

Safe harbor for cash or deferred arrangements

The conference agreement follows the House bill and the Senate amendment.

Alternative method of satisfying special nondiscrimination test for matching contributions

The conference agreement follows the House bill and the Senate amendment.

Distribution of excess contributions

The conference agreement follows the Senate amendment, but clarifies that it is intended that the modified distribution method also applies to excess contributions that are treated as distributed to an employee and then contributed by the employee to the plan (recharacterization). In addition, it is intended that the Secretary interpret and apply the section 401(k) and 401(m) nondiscrimination tests in a manner consistent with the modified distribution rule. For example, a plan will not fail to be a qualified cash or deferred arrangement merely because the plan fails to satisfy the section 401(k) nondiscrimination test after excess contributions are distributed or recharacterized under the modified distribution rule.

Effective date

The conference agreement follows the House bill and the Senate amendment.

b. Definition of highly compensated employee and family aggregation rules

Present law

In general

For purposes of the rules applying to qualified retirement plans under the Code, an employee, including a self-employed individual, is treated as highly compensated with respect to a year if, at any time during the year or the preceding year, the employee: (1) was a 5-percent owner of the employer; (2) received more than $93,518 in annual compensation from the employer; (3) received more than $62,345 in annual compensation from the employer and was one of the top-paid 20 percent of employees during the same year; or (4) was an officer of the employer who received compensation greater than $56,111. These dollar amounts are adjusted annually for inflation at the same time and in the same manner as the adjustments to the dollar limit on benefits under a defined benefit pension plan (sec. 415(d)). If, for any year, no officer has compensation in excess of $56,111 (indexed), then the highest paid officer of the employer for such year is treated as a highly compensated employee.

An employee is not treated as in the top-paid 20 percent, as an officer, or as receiving $93,518 or $62,345 solely because of the employee's status during the current year, unless such employee also is among the 100 employees who have received the highest compensation during the year.

Election to use simplified method

Employers are permitted to elect to determine their highly compensated employees under a simplified method. Under this method, an electing employer may treat employees who received more than $62,345 in annual compensation from the employer as highly compensated employees in lieu of applying the $93,518 threshold and without regard to whether such employees are in the top-paid group of the employer. This election is available only if at all times during the year the employer maintained business activities and employees in at least 2 geographically separate areas.

Treatment of family members

A special rule applies with respect to the treatment of family members of certain highly compensated employees. Under the special rule, if an employee is a family member of either a 5-percent owner or 1 of the top 10 highly compensated employees by compensation, then any compensation paid to such family member and any contribution or benefit under the plan on behalf of such family member is aggregated with the compensation paid and contributions or benefits on behalf of the 5-percent owner or the highly compensated employee in the top 10 employees by compensation. Therefore, such family member and employee are treated as a single highly compensated employee. An individual is considered a family member if, with respect to an employee, the individual is a spouse, lineal ascendant or descendant, or spouse of a lineal ascendant or descendant of the employee.

Similar family aggregation rules apply with respect to the $228,860 limit on compensation that may be taken into account under a qualified plan (sec. 401(a)(17)) and for deduction purposes (sec. 404(l)). However, under such provisions, only the spouse of the employee and lineal descendants of the employee who have not attained age 19 are taken into account.

House Bill

The House bill replaces the present-law test for determining who is a highly compensated employee with a simplified test. The bill provides that an employee is highly compensated for a year if, at any time during the year or the preceding year, the employee (1) was a 5-percent owner of the employer, or (2) received compensation in excess of $62,345. This dollar amount is adjusted annually for inflation at the same time and in the same manner as the adjustments to the dollar limit on benefits under a defined benefit pension plan (sec. 415(d)). An employee is not treated as receiving $62,345 solely because of the employee's status during the current year, unless such employee also is among the 100 employees who have received the highest compensation during the year.

Under the bill, if no employee is treated as being highly compensated under the rules described above, then the employee with the highest compensation for the year is generally treated as a highly compensated employee. However, this rule does not apply in the case of a plan maintained by tax-exempt organization if the plan (1) provides a nonforfeitable right to 100 percent of an employee's accrued benefit, (2) covers a fair section of employees, determined on the basis of their compensation, and (3) was in effect on February 1, 1992, and at all times thereafter.

The bill repeals the family aggregation rules.

Effective date.—The provision is effective for years beginning after December 31, 1992.

Senate Amendment

The Senate amendment provides that an employee is highly compensated with respect to a year if the employee (1) was a 5-percent owner of the employer at any time during the year or the preceding year, or (2) had compensation for the preceding year in excess of the dollar limit for the preceding year. The dollar limit is $50,000 (indexed). The $50,000 threshold is adjusted for cost-of-living increases in the same manner as the limitations on contributions and benefits (sec. 415(d)). Under the Senate amendment, as under present law, the dollar limit in effect (i.e., the indexed value of $50,000) for 1992 is $62,345. For example, in determining whether an employee is highly compensated in 1993, the employee's compensation for 1992 would be compared to the 1992 dollar limit, i.e., $62,345.

Under the Senate amendment, if no employee is a 5-percent owner or has compensation in excess of $50,000 (indexed), then the highest paid officer for the year is treated as a highly compensated employee. This special rule does not apply for purposes of the nondiscrimination rules applicable to elective deferrals, matching contributions, and employee contributions (secs. 401(k) and (m)), and does not apply with respect to employees of tax-exempt organizations and State and local governments (sec. 457(e)(1)).

The Senate amendment repeals the family aggregation rules.

Effective date.—The provision is effective for years beginning after December 31, 1992, except that an employer may elect not to have the provision apply to years beginning in 1993.

Conference agreement

The conference agreement follows the Senate amendment, except that there are no exceptions from the special rule that provides that if no employee is a 5-percent owner or has compensation in excess of $50,000 (indexed), then the highest paid officer for the year is treated as a highly compensated employee.

c. Election to treat base pay as compensation

Present law

Present law provides a definition of compensation that is to be used for nondiscrimination testing purposes (sec. 414(s)). Under this definition, compensation generally is defined as compensation used for purposes of the limits on contributions and benefits (sec. 415). Pursuant to statutory authority, final regulations provide alternative permissible definitions of compensation. The regulations permit certain items, such as bonuses and similar payments, to be excluded from the definition of compensation.

House bill

No provision.

Senate amendment

The Senate amendment permits an employer to elect to use base pay as a permissible definition of compensation for purposes of all provisions which specifically refer to section 414(s) of the Code. It is intended that base pay is defined generally as under Treasury regulations. Thus, subject to the applicable facts and circumstances, the employer could exclude from the definition of compensation, on a consistent basis, certain types of compensation, including (but not limited to) one or more of the following: any type of additional compensation for employees working outside their regularly scheduled duties (such as overtime pay, premiums for shift differential, and call-in premiums); bonuses; or reimbursements or other expense allowances, fringe benefits (cash and noncash), moving expenses, deferred compensation, and welfare benefits. It is intended that the resulting definition may not discriminate in favor of highly compensated employees. The election applies for purposes of all applicable provisions and to all employees, and may be revoked only with the consent of the Secretary.

Effective date.—The provision is effective for years beginning after December 31, 1992.

Conference agreement

The conference agreement does not include the Senate amendment.

d. Modification of additional participation requirements

Present law

Under present law, a plan is not a qualified plan unless it benefits no fewer than the lesser of (a) 50 employees of the employer or (b) 40 percent of all employees of the employer (sec. 401(a)(26)). This requirements may not be satisfied by aggregating comparable plans, but may be applied separately to different lines of business of the employer. A line of business of the employer does not qualify as a separate line of business unless it has at least 50 employees.

House bill

No provision.

Senate amendment

The Senate amendment provides that the minimum participation rule (sec. 401(a)(26)) applies only to defined benefit pension plans (not defined contribution plans). Under the Senate amendment, a defined benefit pension plan is not a qualified plan unless it benefits no fewer than the lesser of 25 employees or 40 percent of all employees of the employer. However, a plan maintained by an employer with only 2 employees must cover both. The excludable employee rule applies as under present law. As an illustration of the operation of the modification of the minimum participation rule, assume that an employer has 150 nonexcludable employees. Under present law, any plan of the employer is required to cover a minimum of 50 employees. Under the Senate amendment, any defined benefit plan of the employer is required to cover a minimum of 25 employees.

In the case of an employer with only 2 employees, the minimum participation rule under the Senate amendment is satisfied only if the plan covers both employees.

The Senate amendment provides that the requirement that a line of business has at least 50 employees does not apply in determining whether a plan satisfied the minimum participation rule on a separate line of business basis.

Effective date.—The provision is generally effective for years beginning after December 31, 1991. An employer may elect to have the provision apply as if it were included in section 1112(b) of the Tax Reform Act of 1986.

Conference agreement

The conference agreement follows the Senate amendment, except that the rule providing that a defined benefit pension plan does not satisfy the rule unless it benefits no fewer than the lesser of 25 employees or 40 percent of all employees of the employer is dropped.

Effective date.—The provision is generally effective for years beginning after December 31, 1991.

4. MISCELLANEOUS PENSION SIMPLIFICATION

a. Definition of leased employee

Present law

An individual (a leased employee) who performs services for another person (the recipient) may be required to be treated as the recipient's employee for various employee benefit provisions, even if the individual is not a common law employee. This leased employee relationship may exist if the services are performed pursuant to an agreement between the recipient and a third person (the leasing organization) who is otherwise treated as the individual's employer (sec. 414(n)). The individual is to be treated as the recipient's employee only if the individual has performed services for the recipient on a substantially full-time basis for a year, and the services are of a type historically performed by employees in the recipient's business field.

An individual who otherwise would be treated as a recipient's leased employee will not be treated as such an employee if the individual participates in a safe harbor plan maintained by the leasing organization meeting certain requirements. This exception does not apply if more than 20 percent of an employer's nonhighly compensated workforce is leased.

House bill

Under the House bill, the present-law "historically performed" test is replaced with a new rule defining who must be considered a leased employee. Under the bill, an individual is not considered a leased employee unless the services are performed under any significant direction or control by the service recipient. As under present law, the determination of whether someone is a leased employee is made after determining whether the individual is a common-law employee of the service recipient. Thus, an individual who is not a common-law employee of the service recipient may nevertheless be a leased employee of the service recipient. Similarly, the fact that a person is or is not found to perform services under the significant direction or control of the recipient for purposes of the employee leasing rules is not relevant in determining whether the person is or is not a common-law employee of the recipient for other tax purposes.

Whether services are performed by an individual under any significant direction or control by the service recipient depends on the facts and circumstances.

Effective date.—The provision is effective for years beginning after December 31, 1992, except that the changes do not apply to relationships that have been previously determined by an IRS ruling not to involve leased employees. In applying the leased employee rules to years beginning before the effective date, it is intended that the Secretary use a reasonable interpretation of the statute to apply the leasing rules to prevent abuse.

Senate amendment

Under the Senate amendment, the present-law historically performed test is repealed and replaced with a new rule defining who must be considered a leased employee. This change is made because the proposed regulations under the leased employee rules (sec. 414(n)) are overly broad in defining who may be a leased employee. Under the provision, the proposed regulations are no longer valid. One of the principal purposes for adopting the significant direction or control test is to relieve the unnecessary hardship and uncertainty created for employers in these circumstances. It is intended that the Secretary interpret and apply the new control test in a manner that is targeted to prevent clear abuses.

Under the provision, an individual is not considered a leased employee unless the individual is under the control of the recipient organization. The determination of whether an individual is controlled by the employer is based on all the facts and circumstances. Among the factors that are relevant in this determination are whether the recipient organization: (1) prescribes the individual's work methods; (2) supervises the individual; (3) sets the individual's working hours; and (4) sets the individual's level of compensation. Other factors that may be considered include those that are relevant for determining whether the employer is responsible for employment taxes on the compensation paid to the individual. The Secretary may designate other relevant factors. It is not necessary that all these factors indicate that the individual is under the control of the employer in order to find that such individual is a leased employee. Nor is it necessary that the recipient organization be responsible for employment taxes in order to find that the individual is a leased employee because, if the recipient organization is liable for employment taxes, the individual is an employee of the organization who generally must be taken into account. The provision does not alter the definition of a common-law employee, nor the rules that such employees are to be taken into account unless specifically excluded.

The changes made by this provision are not intended to broaden the scope of the leased employee rules. Thus, to the extent an individual is not a leased employee under present law, such employee generally will not be a leased employee under the provision. For example, in those specific situations where the Internal Revenue Service has ruled that service relationships do not involve "leased employees" under the test of present law requiring the services to be of a type historically performed, in the business field of the recipient, by employees, the recipients of those rulings may continue to rely on them.

Effective date.—The provision is effective for years beginning after December 31, 1983. In applying the leased employee rules to years beginning before the effective date, it is intended that the Secretary use a reasonable interpretation of the statute to apply the leasing rules to prevent abuse.

Conference agreement

The conference agreement generally follows the House bill. Under the conference agreement, as under the House bill, the present-law "historically performed" test is replaced with a new rule defining who must be considered a leased employee. Under the conference agreement, an individual is not considered a leased employee unless such services are performed under significant direction or control by the service recipient. As under present law, the determination of whether someone is a leased employee is made after determining whether the individual is a common-law employee of the service recipient. Thus, an individual who is not a common-law employee of the service recipient may nevertheless be a leased employee of the service recipient. Similarly, the fact that a person is or is not found to perform services under significant direction or control of the recipient for purposes of the employee leasing rules is not determinative of whether the person is or is not a common-law employee of the recipient.

Whether services are performed by an individual under significant direction or control by the service recipient depends on the facts and circumstances. Factors that are relevant in determining whether significant direction or control exists include whether the individual is required to comply with instructions of the service recipient about when, where, and how he or she is to perform the services, whether the services must be performed by a particular person, whether the individual is subject to the supervision of the service recipient, and whether the individual must perform services in the order or sequence set by the service recipient. Factors that would generally not be relevant in determining whether such direction or control exists include whether the service recipient has the right to hire or fire the individual and whether the individual works for others.

For example, an individual who works under the direct supervision of the service recipient would be considered to be subject to significant direction or control of the service recipient even if another company hired and trained the individual, had the ultimate (but unexercised) legal right to control the individual, paid his wages, withheld his employment and income taxes, and had the exclusive right to fire him. Thus, for example, temporary secretaries, receptionists, word processing personnel and similar office personnel who are subject to the day-to-day control of the employer in essentially the same manner as a common law employee are treated as leased employees if the period of service threshold is reached.

On the other hand, an individual who is a common-law employee of Company A who performs services for Company B on the business premises of the Company B under the supervision of Company A would generally not be considered to be under significant direction or control of Company B. The supervision by Company A must be more than nominal, however, and not merely a mechanism to avoid the literal language of the direction or control test.

An example of the situation in the preceding paragraph might be a work crew that comes into a factory to install, repair, maintain, or modify equipment or machinery at the factory, and that includes a supervisor who is an employee of the equipment (or equipment repair) company and who has the authority to direct and control the crew, and who actually does exercise such direction and control. In this situation, the supervisor and his or her crew are not the leased employees of the manufacturer, even if the supervisor is in frequent communication with the employees of the manufacturer and even if the supervisor and his or her crew are required to comply with the safety and environmental precautions of the manufacturer.

Under the direction or control test, clerical and similar support staff (e.g., secretaries and nurses in a doctor's office) generally would be considered to be subject to significant direction or control of the service recipient and would be leased employees provided the other requirements of section 414(n) are met. On the other hand, outside professionals who maintain their own businesses (e.g., lawyers and accountants) generally would not be considered to be subject to such primary control. However, the Secretary is encouraged to continue efforts to prevent abuses in the leased manager area.

In many cases, the "historically performed" test is overly broad, and results in the unintended treatment of individuals as leased employees. One of the principal purposes for changing the leased employee rules is to relieve the unnecessary hardship and uncertainty created for employers in these circumstances. However, it is not intended that the direction or control test enable employers to engage in abusive practices. Thus, it is intended that the Secretary interpret and apply the leased employee rules in a manner so as to prevent abuses. This ability to prevent abuses under the leasing rules is in addition to the present-law authority of the Secretary under section 414(o). For example, one potentially abusive situation exists where the benefit arrangements of the service recipient overwhelmingly favor its highly compensated employees, the employer has no or very few nonhighly compensated common-law employees, yet the employer makes substantial use of the services of nonhighly compensated individuals who are not its common-law employees.

Effective date.—The provision is effective for years beginning after December 31, 1992, except that the changes do not apply to relationships that have been previously determined by an IRS ruling not to involve leased employees. In applying the leased employee rules to years beginning before the effective date, it is intended that the Secretary use a reasonable interpretation of the statute to apply the leasing rules to prevent abuse. Relationships that would not be treated as involving leased employees under the standard adopted in the conference agreement are conclusively presumed to be nonabusive.

b. Cost-of-living adjustments

Present law

The rules relating to qualified plans contain a number of dollar limits that are indexed annually for cost-of-living adjustments (e.g., the dollar limit on benefits under a defined benefit plan (sec. 415(b)), the limit on elective deferrals under a qualified cash or deferred arrangement (sec. 402(g)), and the dollar amounts used in determining highly compensated employees (sec. 414(q)). The Secretary publishes annually a list of the amounts applicable under each provision for the year.

House bill

The House bill provides that the cost-of-living adjustment with respect to any calendar year is based on the increase in the applicable index as of the close of the calendar quarter ending September 30 of the preceding calendar year. Thus, adjusted dollar limits will be published before the beginning of the calendar year to which they apply.

In addition, the bill provides that the dollar limits determined after application of the cost-of-living adjustments are generally rounded to the nearest $1,000. Dollar limits relating to elective deferrals and elective contributions to simplified employee pensions (SEPs) are rounded to the nearest $100.

Effective date.—The provision is effective for years beginning after December 31, 1992.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

c. Plans covering self-employed individuals

Present law

Prior to the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) different rules applied to retirement plans maintained by incorporated employers and unincorporated employers (such as partnerships and sole proprietors). In general, plans maintained by unincorporated employers were subject to special rules in addition to the other qualification requirements of the Code. Most, but not all, of this disparity was eliminated by TEFRA. Under present law, certain special aggregation rules apply to plans maintained by owner-employees that do not apply to other qualified plans (sec. 401(d) (1) and (2)).

House bill

The House bill eliminates the special aggregation rules that apply to plans maintained by self-employed individuals that do not apply to other qualified plans.

Effective date.—The provision is effective for years beginning after December 31, 1992.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

d. Alternative full funding limitation

Present law

Under present law, subject to certain limitations, an employer may make deductible contributions to a defined benefit pension plan up to the full funding limitation. The full funding limitation is generally defined as the excess, if any, of (1) the lesser of (a) the accrued liability under the plan (including normal cost) or (b) 150 percent of the plan's current liability, over (2) the lesser of (a) the fair market value of the plan's assets, or (b) the actuarial value of the plan's assets (sec. 412(c)(7)).

The Secretary may, under regulations, adjust the 150-percent figure contained in the full funding limitation to take into account the average age (and length of service, if appropriate) of the participants in the plan (weighted by the value of their benefits under the plan). In addition, the Secretary is authorized to prescribe regulations that apply, in lieu of the 150 percent of current liability limitation, a different full funding limitation based on factors other than current liability. The Secretary may exercise this authority only in a manner so that in the aggregate, the effect on Federal budget receipts is substantially identical to the effect of the 150-percent full funding limitation.

House bill

In general

The House bill provides that an employer may elect to disregard the 150-percent limitation if each plan in the employer's control group is not top-heavy and the accrued liability of active participants is 90 percent of the plan's total accrued liability (the "alternative full funding limitation"). The Secretary is required to adjust the 150-percent full funding limitation (in the manner specified under the bill) for employers that do not use the alternative full funding limit to ensure that the election by employers to disregard the 150-percent limit does not result in a substantial reduction in Federal revenues for any fiscal year.

Notice requirement

The Secretary must be notified of the election to use the alternative limitation at least 425 days before the first day of the election period, so that the Secretary has an opportunity to make the adjustments to the 150-percent full funding limitation described above. Thus, the alternative limitation is available to electing employers no earlier than plan years beginning in mid-1993.

Effective date

The provision is effective on the date of enactment.

Senate amendment

In general

The Senate amendment is the same as the House bill, except that an employer may elect to apply the alternative if the average accrued liability of active participants under the plan for the immediately preceding 5 plan years is at least 80 percent of the plan's total accrued liability.

Notice requirement

Under the Senate amendment, employers electing to apply the alternative limitation must notify the Secretary by January 1 of the calendar year preceding the calendar year in which the election period begins. In addition, under a special transition rule, in the case of any election period beginning after December 31, 1991, and before January 1, 1994, the notice requirement is deemed satisfied if the Secretary is notified of the election by December 31, 1992. Thus, the alternative limitation is available to electing employers for plan years beginning in 1992 or thereafter.

Effective date

The provision is effective on the date of enactment.

Conference agreement

In general

The conference agreement follows the Senate amendment.

Notice requirement

The conference agreement follows the Senate amendment, except the special transition rule is modified. Under the conference agreement, in the case of any election period beginning on or after July 1, 1992, and before January 1, 1994, the notice requirement is deemed satisfied if the Secretary is notified of the election by October 31, 1992. In addition, the Secretary is required, by January 1, 1993, to notify defined benefit plans that have not made an election to apply the alternative limitation of any adjustment to the 150-percent full funding limitation required under the provision.

To the extent a defined benefit plan sponsor makes a contribution to a defined benefit plan with respect to the transition period that exceeds the full-funding limitation, as adjusted by the secretary for the transition period, the sponsor is required to offset the excess contribution against allowable contributions to the plan in subsequent quarters in the taxable year of the sponsor. If no subsequent contributions may be made for the taxable year, the trustee of the defined benefit plan must return the excess contribution to the sponsor in that taxable year or the subsequent taxable year.

Effective date

The conference agreement follows the House bill and the Senate amendment.

e. In-service distributions from rural cooperative plans

Present law

Under present law, a qualified cash or deferred arrangement can permit withdrawals by participants only after the earlier of (1) the participant's separation from service, death, or disability, (2) termination of the arrangement, (3) in the case of a profit-sharing or stock bonus plan, the attainment of age 59½, or (4) in the case of a profit-sharing or stock bonus plan to which section 402(a)(8) applies, upon hardship of the participant (sec. 401(k)(2)(B)). In the case of a rural cooperative qualified cash or deferred arrangement, which is part of a money purchase pension plan, withdrawals by participants cannot occur upon attainment of age 59½ or upon hardship.

House bill

The House bill provides that a rural cooperative plan that includes a qualified cash or deferred arrangement will not be treated as violating the qualification requirements merely because the plan permits distributions to plan participants after the attainment of age 59½.

Effective date.—The provision is effective for distributions after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill (age 59½ is changed to 59 under another provision of the Senate amendment).

Effective date.—The provision is effective as if included in section 1011(k)(5) of the Technical and Miscellaneous Revenue act of 1988.

Conference agreement

The conference agreement follows the House bill.

f. Special rule for plans covering pilots

Present law

Under present law, for purposes of determining whether a qualified pension plan satisfies the minimum coverage requirements, in the case of trust established pursuant to a collective bargaining agreement between airline pilots and one or more employers, all employees not covered by the collective bargaining agreement are disregarded (sec. 410(b)(3)(B)). This provision applies only in the case of a plan that provides contributions or benefits for employees whose principal duties are customarily performed aboard aircraft in flight. Thus, a collectively bargained plan covering only airline pilots is tested separately for purposes of the minimum coverage requirements.

House bill

The House bill provides that, in the case of a plan established by one or more employers to provide contributions or benefits for air pilots employed by one or more common carriers engaged in interstate or foreign commerce or air pilots employed by carriers transporting mail for or under contract with the United States government, all employees who are not air pilots are excluded from consideration in testing whether the plan satisfies the minimum coverage requirements. In addition, the bill provides that this exception does not apply in the case of a plan that provides contributions or benefits for employees who are not air pilots or for air pilots whose principal duties are not customarily performed aboard aircraft in flight.

Effective date.—The provision is effective for years beginning after December 31, 1992.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

g. Elimination of special vesting rule for multiemployer plans

Present law

Under present law, except in the case of multiemployer plans, a plan is not a qualified plan unless a participant's employer-provided benefit vests at least as rapidly as under 1 of 2 alternative minimum vesting schedules. A plan satisfies the first schedule if a participant acquires a nonforfeitable right to 100 percent of the participant's accrued benefit derived from employer contributions upon the participant's completion of 5 years of service. A plan satisfies the second schedule if a participant has a nonforfeitable right to at least 20 percent of the participant's accrued benefit derived from employer contributions after 3 years of service, 40 percent at the end of 4 years of service, 60 percent at the end of 5 years of service, 80 percent at the end of 6 years of service, and 100 percent at the end of 7 years of service.

In the case of multiemployer plan, a participant's accrued benefit derived from employer contributions is required to be 100 percent vested no later than upon the participant's completion of 10 years of service. This special rule applies only to employees covered by the plan pursuant to a collective bargaining agreement.

House bill

The House bill conforms the vesting rules for multiemployer plans to the rules applicable to other qualified plans.

Effective date.—The provision is effective for plan years beginning on or after the earlier of (1) the later of January 1, 1993, or the date on which the last of the collective bargaining agreements pursuant to which the plan is maintained terminates, or (2) January 1, 1995, with respect to participants with an hour of service after the effective date.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

h. Treatment of deferred compensation plans of State and local governments and tax-exempt organizations

Present law

Under a general principle of the Federal income tax system, individuals are taxed currently not only on compensation actually received, but also on compensation constructively received during the taxable year. An individual is treated as having constructively received compensation during the current taxable year if the compensation would have been payable during the current taxable year but for the individual's election to defer receipt of the compensation to a later taxable year.

An exception to this rule applies to compensation deferred under an eligible unfunded deferred compensation plan (a sec. 457 plan) of a tax-exempt or State or local governmental employer.

Under a section 457 plan, an employee who elects to defer the receipt of current compensation will be taxed on the amounts deferred when such amounts are paid or made available. The maximum annual deferral under such a plan is the lesser of (1) $7,500 or (2) 33-1/3 percent of compensation (net of the deferral).

In general, amounts deferred under a section 457 plan may not be made available to an employee before the earlier of (1) the calendar year in which the participant attains age 70½, (2) when the participant is separated from service with the employer, or (3) when the participant is faced with an unforeseeable emergency. Amounts that are made available to an employee upon separation from service are includible in gross income in the taxable year in which they are made available.

Under present law, benefits under a section 457 plan are not treated as made available if the participant may elect to receive a lump sum payable after separation from service and within 60 days of the election. This exception to the general rules is available only if the total amount payable to the participant under the plan does not exceed $3,500 and no additional amounts may be deferred under the plan with respect to the participant.

House bill

The House bill makes three changes to the rules governing unfunded deferred compensation plans (sec. 457 plans) of tax-exempt and governmental employers.

First, the bill permits in-service distributions of accounts that do not exceed $3,500 if no amount has been deferred under the section 457 plan with respect to the account for 2 years and there has been no prior distribution under this cash-out rule.

Second, the bill increases the number of elections that can be made with respect to the time distributions must begin under a section 457 plan. The bill provides that the amount payable to a participant under a section 457 plan is not to be treated as made available merely because the participant may elect to defer commencement of distributions under the plan if (1) the election is made after amounts may be distributed under the plan but before the actual commencement of benefits, and (2) the participant makes only 1 such additional election. This additional election is permitted without the need for financial hardship, and the election can only be to a date that is after the date originally selected by the participant.

Finally, the bill provides for indexing of the dollar limit on deferrals.

Effective date.—The provisions are effective for taxable years beginning after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

i. Limits on contributions and benefits under governmental plans

Present law

Present law imposes limits on contributions and benefits under qualified plans based on the type of plan (sec. 415). The limits apply to plans maintained by private and public employers. Certain special rules apply to governmental plans.

In the case of a defined contribution plan, the annual additions to the plan with respect to each plan participant are limited to the lesser of (1) 25 percent of compensation, or (2) $30,000. The limit on the annual benefits payable by a defined benefit pension plan is generally the lesser of (1) 100 percent of compensation, or (2) $112,221 for 1992. The dollar limit is increased annually for inflation. The dollar limit is reduced actuarially if payment of benefits is to begin before the social security retirement age, and increased if benefits are to begin after that age.

Under special rules for plans maintained by State or local governments, such plans may provide benefits greater than those permitted by the limits on benefits applicable to plans maintained by private employers.

House bill

The House bill makes the following modifications to the limits on contributions and benefits as applied to governmental plans: (1) compensation includes employer contributions to certain employee plans under a salary reduction arrangement; (2) the 100 percent of compensation limitation does not apply; and (3) the defined benefit pension plan limitation does not apply to certain disability and survivor benefits. The provision also permits State and local government employers to maintain excess benefit plans (i.e., plans that provide benefits that cannot be provided under a qualified plan due to the limits on contributions and benefits) without regard to the limits on unfunded deferred compensation arrangements of State and local government employers (sec. 457). Benefits provided by such plans are subject to the same tax rules applicable to excess plans maintained by private employers (e.g., sec. 83).

Effective date.—The provision is effective for years beginning after the date of enactment. Governmental plans are treated as if in compliance with the requirements of section 415 for years beginning on or before the date of enactment.

Senate amendment

The Senate amendment is generally the same as the House bill, with only minor technical differences.

Conference agreement

The conference agreement follows the House bill.

j. Use of 501(c)(21) black lung trust assets to fund retiree health benefits

Present law

A qualified black lung benefit trust described in section 501(c)(21) of the Internal Revenue Code is exempt from federal income taxation. In addition, a deduction is allowed for contributions to a qualified black lung benefit trust to the extent such contributions are necessary to fund the trust.

Under present law, no assets of a qualified black lung benefit trust may be used for, or diverted to, any purpose other than (i) to satisfy labilities, or pay insurance premiums to cover liabilities, arising under the Black Lung Acts, (ii) to pay administrative costs of operating the trust, or (iii) investment in U.S., State, or local securities and obligations, or in time demand deposits in a bank or insured credit union.

Under present law, excess trust assets may be paid into the national Black Lung Disability Trust Fund, or into the general fund of the U.S. Treasury.

House bill

The House bill allows excess assets in qualified black lung benefit trusts to be used to pay accident and health benefits or premiums for insurance for such benefits (including administrative and other incidental expenses relating to such benefits) for retired coal miners and their spouses and dependents. The amount of assets available for such purpose is subject to a yearly limit as well as an aggregate limit. The yearly limit is be the amount of assets in excess of 110 percent of the present value of the liability for black lung benefits determined as of the close of the preceding taxable year of the trust. The aggregate limit is the amount of assets in excess of 110 percent of the present value of the liability for black lung benefits determined as of the close of the taxable year of the trust ending prior to the effective date, plus earnings thereon. Each of these determinations is required to be made by an independent actuary.

The amounts used to pay retiree accident or health benefits are not includible in the income of the company, nor is a deduction allowed for such amounts.

Effective date.—The provision would be effective for taxable years beginning after December 31, 1991.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

k. Definition of employer reversion

Present law

Under present law, employer reversions from qualified pension plans are generally subject to an excise tax. In some cases, Federal regulations require that a portion of any reversion from a plan maintained by a government contractor be paid to the United States. Such amounts are subject to the excise tax on reversions.

House bill

The House bill provides that, for purposes of the excise tax, an employer reversion does not include certain amounts paid to the Federal government by reason of certain government contracting regulations.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

l. Clarification of application of health care continuation rules to savings and loan associations

Present law

Under the health care continuation rules, persons who are covered under a group health plan are required to be offered the opportunity to continue to participate for a specified period of time in a group health plan of the employer (or a plan of successor employer) despite the occurrence of a qualifying event that otherwise would terminate such participation. Qualified beneficiaries are employees covered by the plan and the spouse and dependent children of a covered employee.

Qualifying events include termination of employment of a covered employee, the divorce or death of a covered employee, the covered employee becoming entitled to Medicare, and, in the case of a retired employee, the commencement of a bankruptcy proceeding under title 11 of the United States Code.

The period for which coverage is required to be continued depends on the qualifying event, and is generally either 18 months or 36 months. Persons electing continuation coverage can be required to pay for the coverage.

The health care continuation provisions are enforced under the Code by means of an excise tax (sec. 4980B).

The Federal Deposit Insurance Corporation Improvement Act of 1991 contained a provision clarifying the application of the health care continuation rules in the case of failed depository institutions. In general, the provision provides that the Federal Deposit Insurance Corporation (FDIC), a bridge bank, or any successor of a failed depository institution is required to provide continuation health care coverage to former employees of the failed institution. This provision is effective for plan years beginning on or after the date of enactment of the Act, regardless of whether the qualifying event occurred before, on, or after such date.

House bill

Under the House bill, the obligations of bridge banks and successors to failed institutions are incorporated into the health care continuation provisions of the Code. The provision also provides that retired employees of a failed depository institution are entitled to the same continuation coverage rights as retirees of a company in bankruptcy.

Effective date.—The provision is effective as if included in section 451 of the Federal Deposit Insurance Corporation Improvement Act of 1991.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

m. Elimination of half-year requirements

Present law

Under present law, a number of employee plan rules refer to the age of an individual at a certain time. For example, distributions under a qualified pension plan are generally required to begin no later than the April 1 following the year in which an individual attains age 70-½ (sec. 401(a)(9)). Similarly, an additional income tax on early withdrawals applies to certain distributions from qualified pension plans and IRAs prior to the time the participant or IRA owner attains age 59-½ (sec. 72(t)).

House bill

No provision.

Senate amendment

The Senate amendment changes the half-year requirements to birthdate requirements. Those rules under present law that refer to age 59-½ are changed to refer to age 59, and those that refer to age 70-½ are changed to refer to age 70.

Effective date.—The provision applies to years beginning after December 31, 1992.

Conference agreement

The conference agreement does not include the Senate amendment.

n. Penalties for failure to provide reports relating to pension payments

Present law

Any person who fails to file an information report with the Internal Revenue Service on or before the prescribed filing date is subject to penalties for each failure. The general penalty structure provides that the amount of the penalty is to vary with the length of time within which the taxpayer corrects the failure, and allows taxpayers to correct a de minimis number of errors and avoid penalties entirely (sec. 6721). A different, flat-amount penalty applies for each failure to provide information reports to the IRS or statements to payees relating to pension payments (sec. 6652(e)).

House bill

The House bill incorporates into the general penalty structure the penalties for failure to provide information reports relating to pension payments to the IRS and to recipients. Thus, information reports with respect to pension payments would be treated in a similar fashion to other information reports.

Effective date.—The provision applies to returns and statements the due date for which is after December 31, 1992.

Senate amendment

The Senate amendment is generally the same as the House bill, except that the class of reports to which the Senate amendment applies is slightly different, and no reporting is required with respect to designated distributions of less than $10.

Conference agreement

The conference agreement follows the House bill.

o. Contributions on behalf of disabled employees

Present law

Under present law, an employer may elect to continue deductible contributions to a defined contribution plan on behalf of an employee who is permanently and totally disabled. For purposes of the limit on annual additions (sec. 415(c)), the compensation of a disabled employee is deemed to be equal to the annualized compensation of the employee prior to the employee's becoming disabled. Contributions are not permitted on behalf of disabled employees who were officers, owners, or highly compensated before they became disabled.

House bill

No provision.

Senate amendment

The Senate amendment provides that the special rule for contributions on behalf of disabled employees is applicable without an employer election and to highly compensated employees if the defined contribution plan provides for the continuation of contributions on behalf of all participants who are permanently and totally disabled.

Effective date.—The provision applies to years beginning after December 31, 1992.

Conference agreement

The conference agreement follows the Senate amendment.

p. Affiliation requirements for employers jointly maintaining a VEBA

Present law

A voluntary employees' beneficiary association (VEBA) that satisfies certain requirements is entitled to tax-exempt status. The Code generally describes a VEBA as an association that provides for the payment of life, sick, accident, or other benefits to the members of such association or their dependents or designated beneficiaries, if no part of the net earnings of the association inures (other than through such payments) to the benefit of any private shareholder or individual. The requirements a VEBA must comply with in order to be tax exempt are further specified in regulations.

Under Treasury regulations, membership in a VEBA is required to be limited to individuals whose eligibility is determined by reference to objective standards that constitute an employment-related common bond. Such a common bond exists if eligibility is determined by the following standards: (1) employment by a common employer (or affiliated employers); (2) coverage under one or more collective bargaining agreements; (3) membership in a labor union (or in one or more locals of a national or international labor union); or (4) employment by one or more employers in the same line of business in the same geographic locale.

House bill

No provision.

Senate amendment

The Senate amendment provides that otherwise unrelated employers are treated as affiliated and, therefore, can maintain a tax-exempt VEBA if the employers (1) are in the same line of business, (2) act jointly to perform tasks which are integral to the activities of each of the employers, (3) act jointly to such an extent that the joint maintenance of a VEBA is not a major part of the joint activities, and (4) a substantial number of the employers are tax exempt.

Under the bill, employers are considered affiliated, for example, under the following circumstances. The employers participating in the VEBA are in the same line of business and belong to an association that provides to its members a significant amount of each of the following services: (1) research and development relating to the members' primary activity; (2) education and training of members' employees; and (3) public relations. In addition, the employers are sufficiently similar (e.g., subject to similar regulatory requirements) that the association's services provide material assistance to all of the employers. The employers also demonstrate the importance of their joint activities by having meetings at least annually attended by substantially all of the employers. Finally, the employers maintain a common retirement plan.

On the other hand, it is not intended that the mere existence of a trade association is a sufficient basis for the member-employers to be considered affiliated, even if they are in the same line of business. It is also not sufficient if the trade association publishes a newsletter and provides significant public relations services, but only provides nominal amounts, if any, of other services integral to the employers' primary activity.

A group of employers are also not considered affiliated under the bill by virtue of the membership of their employees in a professional association.

Effective date.—The provision applies to years beginning before, on, or after the date of enactment. The provision is intended as a clarification of present law. However, it is not intended to create any inference as to whether any part of the Treasury regulations affecting VEBAs, other than the affiliated employer rule, is or is not present law.

Conference agreement

The conference agreement follows the Senate amendment.

q. Disaggregation of union plans

Present law

Under present law, employees covered by a collective bargaining agreement are excluded from consideration in testing whether a qualified plan satisfies the minimum coverage and nondiscrimination tests. In addition, such employees are not counted for purposes of determining whether a line of business has at least 50 employees, the threshold number for designating a unit as a separate line of business for purposes of applying the coverage and nondiscrimination tests.

House bill

No provision.

Senate amendment

The Senate amendment provides that an employer can elect to include union employees who benefit under the plan on the same terms as other employees in testing whether a plan satisfies the minimum coverage and nondiscrimination tests, and in applying the 50-employee test under the line of business rules.

Effective date.—The provision applies to years beginning after December 31, 1992.

Conference agreement

The conference agreement does not include the Senate amendment.

r. Uniform retirement age

Present law

A qualified plan generally must provide that payment of benefits under the plan must begin no later than 60 days after the end of the plan year in which the participant reaches age 65. Also, for purpose of the vesting and benefit accrual rules, normal retirement age generally can be no later than age 65. For purposes of applying the limits on contributions and benefits (sec. 415), social security retirement age is generally used as retirement age. The social security retirement age as used for such purposes is presently age 65, but is scheduled to gradually increase.

House bill

No provision.

Senate amendment

The Senate amendment provides that for purposes of the general nondiscrimination rule (sec. 401(a)(4)) the social security retirement age (as defined in sec. 415) is a uniform retirement age and that subsidized early retirement benefits and joint and survivor annuities based on an employee's social security retirement age (as defined in sec. 415) are treated as being available to employees on the same terms.

Effective date.—The provision is effective for years beginning after December 31, 1992.

Conference agreement

The conference agreement follows the Senate amendment, with the clarification that subsidized early retirement benefits and joint and survivor annuities are not treated as not being available to employees on the same terms merely because they are based on an employee's social security retirement age.

s. National Commission on Private Pension Plans

Present law

None.

House bill

No provision.

Senate amendment

The provision establishes a National Commission on Private Pension Plans to study national retirement income policy. The Commission is directed to submit a report to the Congress by Labor Day 1994, the 20th anniversary of the enactment of the Employee Retirement Income Security Act of 1974, setting forth its findings and recommendations for increasing the level and security of private retirement savings.

The provision authorizes appropriations through fiscal year 1994 for such sums as may be necessary to carry out the provision.

Conference agreement

The conference agreement does not include the Senate amendment.

t. Date for adoption of plan amendments

Present law

Under regulations, plan amendments to reflect changes in the generally must be made within the remedial amendment period. Such period generally ends at the time prescribed by law for filing the income tax return of the employer for the employer's taxable year in which the change in law occurs. The plan must be operated in accordance with the law at all times, and any plan amendment must apply retroactively to the period following the effective date of the change which it reflects.

House bill

No provision.

Senate amendment

The Senate amendment provides that any plan amendments required by the bill are not required to be made before the first plan year beginning on or after January 1, 1994, if the plan is operated in accordance with the applicable provision and the amendment is retroactive to the effective date of the applicable provision.

Effective date.—Date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

u. Full funding limitation of multiemployer plans

Present law

Under the Internal Revenue Code, subject to certain limitations, an employer may make deductible contributions to a defined benefit pension plan up to the full funding limitation. The full funding limitation is generally defined as the excess, if any, of (1) the lesser of (a) the accrued liability under the plan (including normal cost) or (b) 150 percent of the plan's current liability, over (2) the lesser of (a) the fair market value of the plan's assets, or (b) the actuarial value of the plan's assets (sec. 412(c)(7)).

Plans subject to the minimum funding rules are required to make an actuarial valuation of the plan not less frequently than annually.

House bill

No provision.

Senate amendment

The Senate amendment amends the Internal Revenue Code to provide that the 150 percent of current liability limitation does not apply to multiemployer plans. In addition, the bill repeals the Internal Revenue Code annual valuation requirement for multiemployer plans and applies the prior-law rule that valuations generally be performed at least every 3 years.

Effective date.—The provision applies to years beginning after December 31, 1991.

Conference agreement

The conference agreement does not include the Senate amendment.

C. Treatment of large partnerships

1. GENERAL PROVISIONS

a. Simplified flow-through for large partnerships

Present law

Treatment of partnerships in general

A partnership generally is treated as a conduit for Federal income tax purposes. Each partner takes into account separately his distributive share of the partnership's items of income, gain, loss, deduction or credit. The character of an item is the same as if it had been directly realized or incurred by the partner. Limitations affecting the computation of taxable income generally apply at the partner level.

The taxable income of a partnership is computed in the same manner as that of an individual except that no deduction is permitted for personal exemptions, foreign taxes, charitable contributions, net operating losses, certain itemized deductions, or depletion. Elections affecting the computation of taxable income derived from a partnership are made by the partnership, except for certain elections such as those relating to discharge of indebtedness income and the foreign tax credit.

Capital gains

The net capital gain of an individual is taxed generally at the same rates applicable to ordinary income, subject to a maximum marginal rate of 28 percent. Net capital gain is the excess of net long-term capital gain over net short-term capital loss. Individuals with a net capital loss generally may deduct up to $3,000 of the loss each year against ordinary income. Net capital losses in excess of the $3,000 limit may be carried forward indefinitely.

A special rule applies to gains and losses on the sale, exchange or involuntary conversion of certain trade or business assets (sec. 1231). In general, net gains from such assets are treated as long-term capital gains but net losses are treated as ordinary losses.

A partner's share of a partnership's net short-term capital gain or loss and net long-term capital gain or loss from portfolio investments is separately reported to the partner. A partner's share of a partnership's net gain or loss under section 1231 generally is also separately reported.

Deductions

Miscellaneous itemized deductions (e.g., certain investment expenses) are deductible only to the extent that, in the aggregate, they exceed two percent of the individual's adjusted gross income.

In general, taxpayers are allowed a deduction for charitable contributions, subject to certain limitations. The deduction allowed an individual generally cannot exceed 50 percent of the individual's adjusted gross income for the taxable year. The deduction allowed a corporation generally cannot exceed 10 percent of the corporation's taxable income. Excess contributions are carried forward for five years.

A partner's distributive share of a partnership's miscellaneous itemized deductions and charitable contributions are separately reported to the partner.

Credits in general

Each partner is allowed his distributive share of credits against his taxable income.

A refundable credit for gasoline used for exempt purposes is allowed. Nonrefundable credits for clinical testing expenses for certain drugs for rare diseases, for producing fuel from nonconventional sources, and for the general business credit are also allowed. The general business credit includes the investment credit (which in turn includes the rehabilitation credit), the targeted jobs credit, the alcohol fuels credit, the research credit, and the low-income housing credit.

The credits for clinical testing expenses and for the production of fuel from nonconventional sources are limited to the excess of regular tax over tentative minimum tax. Excess credits generally cannot be carried to another taxable year. The amount of general business credit allowable in a taxable year is limited to the excess of a partner's net income tax over the greater of (1) the tentative minimum tax for the year or (2) 25 percent of the taxpayer's net regular tax liability in excess of $25,000. The general business credit in excess of this amount is carried back three years and forward 15 years.

The benefit of the investment credit and the low-income housing credit is recaptured if, within a specified time period, the partner transfers his partnership interest or the partnership converts or transfers the property for which the credit was allowed.

Foreign taxes

The foreign tax credit generally allows U.S. taxpayers to reduce U.S. income tax on foreign income by the amount of foreign income taxes paid or accrued with respect to that income. In lieu of electing the foreign tax credit, a taxpayer may deduct foreign taxes. The total amount of the credit may not exceed the same proportion of the taxpayer's U.S. tax which the taxpayer's foreign source taxable income bears to the taxpayer's worldwide taxable income for the taxable year.

Unrelated business taxable income

Tax-exempt organizations are subject to tax on income from unrelated businesses. Certain types of income (such as dividends, interest and certain rental income) are not treated as unrelated business taxable income. Thus, for a partner that is an exempt organization, whether partnership income is unrelated business taxable income depends on the character of the underlying income. Income from a publicly traded partnership, however, is treated as unrelated business taxable income regardless of the character of the underlying income.

Special rules related to oil and gas activities

Taxpayers involved in the search for and extraction of crude oil and natural gas are subject to certain special tax rules. As a result, in the case of partnerships engaged in such activities, certain specific information is separately reported to partners.

A taxpayer who owns an economic interest in a producing deposit of natural resources (including crude oil and natural gas) is permitted to claim a deduction for depletion of the deposit as the minerals are extracted. In the case of oil and gas produced in the United States, a taxpayer generally is permitted to claim the greater of a deduction for cost depletion or percentage depletion. Cost depletion is computed by multiplying a taxpayer's adjusted basis in the depletable property by a fraction, the numerator of which is the amount of current year production from the property and the denominator of which is the property's estimated reserves as of the beginning of that year. Percentage depletion is equal to a specified percentage (generally 15 percent in the case of oil and gas) of gross income from production. Cost depletion is limited to the taxpayer's basis in the depletable property; percentage depletion is not so limited. Once a taxpayer has exhausted its basis in the depletable property, it may continue to claim percentage depletion deductions (generally referred to as "excess percentage depletion").

Certain limitations apply to the deduction for oil and gas percentage depletion. First, percentage depletion is not available to oil and gas producers who also engage (directly or indirectly) in significant levels of oil and gas retailing or refining activities (so-called "integrated oil and gas companies"). Second, the deduction for percentage depletion may be claimed by a taxpayer only with respect to up to 1,000 barrels-per-day of production. Third, the percentage depletion deduction may not exceed 100 percent of the taxpayer's net income for the taxable year from the depletable oil and gas property. Fourth, a percentage depletion deduction may not be claimed to the extent that it exceeds 65 percent of the taxpayer's pre-percentage depletion taxable income.

In the case of a partnership that owns depletable oil and gas properties, the depletion allowance is computed separately by the partners and not by the partnership. In computing a partner's basis in his partnership interest, basis is increased by the partner's share of any partnership-related excess percentage depletion deductions and is decreased (but not below zero) by the partner's total amount of depletion deductions attributable to partnership property.

Intangible drilling and development costs (IDCs) incurred with respect to domestic oil and gas wells generally may be deducted at the election of the taxpayer. In the case of integrated oil companies, no more than 70 percent of IDCs incurred during a taxable year may be deducted. IDCs not deducted are capitalized and generally are either added to the property's basis and recovered through depletion deductions or amortized on a straight-line basis over a 60-month period.

The special treatment granted oil and gas activities through the percentage depletion rules and the election to deduct IDCs may give rise to items of tax preference or (in the case of corporate taxpayers) an adjusted current earnings ("ACE") adjustment for the alternative minimum tax. With respect to percentage depletion, any excess percentage depletion constitutes an amount of tax preference.

For IDCs, the tax preference item is based on a concept of "excess IDCs." In general, excess IDCs are the excess of IDCs deducted for the taxable year over the amount of those IDCs that would have been deducted had they been capitalized and amortized on a straight-line basis over 120 months commencing with the month production begins from the related well. The amount of tax preference is then computed as the difference between the excess IDC amount and 65 percent of the taxpayer's net income from oil and gas (computed without a deduction for excess IDCs).

Taxpayers other than integrated oil companies that incur oil and gas related amounts of tax preference and ACE adjustments are permitted a "special energy deduction" in computing alternative minimum taxable income. The special energy deduction generally is comprised of various specified percentages of IDC preference (and associated ACE adjustment) related to exploratory and development drilling and to a specified portion of percentage depletion preference (and associated ACE adjustment) related to marginally producing depletable properties. The cumulative special energy deduction may not offset more than 40 percent of pre-special energy deduction alternative minimum taxable income.

Passive losses

The passive loss rules generally disallow deductions and credits from passive activities to the extent they exceed income from passive activities. Losses not allowed in a taxable year are suspended and treated as current deductions from passive activities in the next taxable year. These losses are allowed in full when a taxpayer disposes of the entire interest in the passive activity to an unrelated person in a taxable transaction. Passive activities include trade or business activities in which the taxpayer does not materially participate. (Limited partners generally do not materially participate in the activities of a partnership.) Passive activities also include rental activities (regardless of the taxpayer's material participation).[1] Portfolio income (such as interest and dividends), and expenses allocable to such income, are not treated as income or loss from a passive activity.

A partnership's operations may be treated as multiple activities for purposes of the passive loss rules. In such case, the partnership must separately report items of income and deductions from each of its activities.

Income from a publicly traded partnership is treated as portfolio income under the passive loss rules. In addition, loss from such a partnership is treated as separate from income and loss from any other publicly traded partnership, and also as separate from any income or loss from passive activities.

REMICs

A tax is imposed on partnerships holding a residual interest in a real estate mortgage investment conduit (REMIC). The amount of the tax is the amount of excess inclusions allocable to partnership interests owned by certain tax-exempt organizations ("disqualified organizations") multiplied by the highest corporate tax rate.

Contribution of property to a partnership

In general, a partner recognizes no gain or loss upon the contribution of property to a partnership. However, income, gain, loss and deduction with respect to property contributed to a partnership by a partner must be allocated among the partners so as to take into account the difference between the basis of the property to the partnership and its fair market value at the time of contribution. In addition, the contributing partner must recognize gain or loss equal to such difference if the property is distributed to another partner within five years of its contribution (sec. 704(c)). Under regulations, the amount of depreciation and gain or loss that is allocated under these rules is limited to the depreciation allowable to, or gain or loss recognized by, the partnership for tax purposes with respect to the contributed property (the "ceiling rule").

---

[1] An individual who actively participates in a rental real estate activity and holds at least a 10 percent interest may deduct up to $25,000 of passive losses. The $25,000 amount phases out as the individual's income increases from $100,000 to $150,000.

The $25,000 allowance also applies to low-income housing and rehabilitation credits (on a deduction equivalent basis), regardless of whether the taxpayer claiming the credit actively participates in the rental real estate activity generating the credit. In addition, the income phaseout range for the $25,000 allowance for rehabilitation credits is $200,000 to $250,000 (rather than $100,000 to $150,000). For interests acquired after December 31, 1989 in partnerships holding property placed in service after that date, the $25,000 deduction-equivalent allowance is permitted for the low-income housing credit without regard to the taxpayer's income.

Election of optional basis adjustments

In general, the transfer of a partnership interest or a distribution of partnership property does not affect the basis of partnership assets. A partnership, however, may elect to make certain adjustments in the basis of partnership property (sec. 754). Under a section 754 election, the transfer of a partnership interest generally results in an adjustment in the partnership's basis in its property for the benefit of the transferee partner only, to reflect the difference between that partner's basis for his interest and his proportionate share of the adjusted basis of partnership property (sec. 743(b)). Also under the election, a distribution of property to a partner in certain cases results in an adjustment in the basis of other partnership property (sec. 734(b)).

Terminations

A partnership terminates if (1) all partners cease carrying on the business, financial operation or venture of the partnership, or (2) within a 12-month period 50 percent or more of the total partnership interests are sold or exchanged (sec. 708).

House bill

In general

The House bill modifies the tax treatment of a large partnership (generally, a partnership with at least 250 partners, or an electing partnership with at least 100 partners) and its partners. The bill provides that each partner takes into account separately the partner's distributive share of the following items, which are determined at the partnership level: (1) taxable income or loss from passive loss limitation activities; (2) taxable income or loss from other activities (e.g., portfolio income or loss); (3) net capital gain or loss to the extent allocable to passive loss limitation activities and other activities; (4) tax-exempt interest; (5) net alternative minimum tax adjustment separately computed for passive loss limitation activities and other activities; (6) general credits; (7) low-income housing credit; (8) rehabilitation credit; (9) credit for producing fuel from a nonconventional source; and (10) creditable foreign taxes and foreign source items.[2]

Under the House bill, the taxable income of a large partnership is computed in the same manner as that of an individual, except that the items described above are separately stated and certain modifications are made. These modifications include disallowing the deduction for personal exemptions, the net operating loss deduction and certain itemized deductions.[3] All limitations and other provisions affecting the computation of taxable income or any credit (except for the at risk, passive loss and section 68 itemized deduction limitations, and any other provision specified in regulations) are applied at the partnership (and not the partner) level. Thus, for example, any investment interest of the partnership is limited at the partnership level, and any carryover is made at that level.

All elections affecting the computation of taxable income or any credit generally are made by the partnership.

Capital gains

Under the House bill, netting of capital gains and losses occurs at the partnership level. A partner in a large partnership takes into account separately his distributive share of the partnership's net capital gain or net capital loss.[4] Such net capital gain or loss is treated as long-term capital gain or loss.

A partner's distributive share of the partnership's net capital gain is allocated between passive loss limitation activities and other activities. The net capital gain is allocated to passive loss limitation activities to the extent of net capital gain from sales and exchanges of property used in connection with such activities, and any excess is allocated to other activities. A similar rule applies for purposes of allocating any net capital loss.

Any gains and losses of the partnership under section 1231 are netted at the partnership level. Net gain is treated as long-term capital gain and is subject to the rules described above. Net loss is treated as ordinary loss and consolidated with the partnership's other taxable income.

Deductions

The House bill contains two special rules for deductions. First, miscellaneous itemized deductions are not separately reported to partners. Instead, 70 percent of the amount of such deductions is disallowed at the partnership level;[5] the remaining 30 percent is allowed at the partnership level in determining taxable income, and is not subject to the two-percent floor at the partner level.

Second, charitable contributions are not separately reported to partners under the bill. Instead, the charitable contribution deduction is allowed at the partnership level in determining taxable income, subject to the limitations that apply to corporate donors.

Credits in general

Under the House bill, general credits are separately reported to partners as a single item. General credits are any credits other than the low-income housing credit, the rehabilitation credit and the credit for producing fuel from a nonconventional source. A partner's distributive share of general credits is taken into account as a current year general business credit. Thus, for example, the credit for clinical testing expenses is subject to the present law limitations on the general business credit. The refundable credit for gasoline used for exempt purposes and the refund or credit for undistributed capital gains of a regulated investment company are allowed to the partnership, and thus are not separately reported to partners.

In recognition of their special treatment under the passive loss rules, the low-income housing and rehabilitation credits are separately reported.[6] In addition, the credit for producing fuel from a nonconventional source is separately reported.

The House bill imposes credit recapture at the partnership level and determines the amount of recapture by assuming that the credit fully reduced taxes. Such recapture is applied first to reduce the partnership's current year credit, if any; the partnership is liable for any excess over that amount. Under the bill, the transfer of an interest in a large partnership does not trigger recapture.

Foreign taxes

The House bill retains present-law treatment of foreign taxes. The partnership reports to the partner creditable foreign taxes and the source of any income, gain, loss or deduction taken into account by the partnership. Elections, computations and limitations are made by the partner.

Tax-exempt interest

The House bill retains present-law treatment of tax-exempt interest. Interest on a State or local bond is separately reported to each partner.

Unrelated business taxable income

The House bill retains present-law treatment of unrelated business taxable income. Thus, a tax-exempt partner's distributive share of partnership items is taken into account separately to the extent necessary to comply with the rules governing such income.

Passive losses

Under the House bill, a partner in a large partnership takes into account separately his distributive share of the partnership's taxable income or loss from passive loss limitation activities. The term "passive loss limitation activity" means any activity involving the conduct of a trade or business (including any activity treated as a trade or business under sec. 469(c)(5) or (6)) and any rental activity. A partner's share of a large partnership's taxable income or loss from passive loss limitation activities is treated as an item of income or loss from the conduct of a trade or business which is a single passive activity, as defined in the passive loss rules. Thus, a large partnership generally is not required to separately report items from multiple activities.

A partner in a large partnership also takes into account separately his distributive share of the partnership's taxable income or loss from activities other than passive loss limitation activities. Such distributive share is treated as an item of income or expense with respect to property held for investment. Thus, portfolio income (e.g., interest and dividends) is reported separately and is reduced by portfolio deductions and allocable investment interest expense.

In the case of a partner holding an interest in a large partnership which is not a limited partnership interest, such partner's distributive share of any items are taken into account separately to the extent necessary to comply with the passive loss rules. Thus, for example, income of a large partnership is not treated as passive income with respect to the general partnership interest of a partner who materially participates in the partnership's trade or business.

---

[2] In determining the amounts required to be separately taken into account by a partner, those provisions of the large partnership rules governing computations of taxable income are applied separately with respect to that partner by taking into account that partner's distributive share of the partnership's items of income, gain, loss, deduction or credit. This rule permits partnerships to make otherwise valid special allocations of partnership items to partners.

[3] A large partnership is allowed a deduction under section 212 for expenses incurred for the production of income, subject to 70-percent disallowance, as described below. No income from a large partnership is treated as fishing or farming income.

[4] The term "net capital gain" has the same meaning as in section 1222(11). The term "net capital loss" means the excess of the losses from sales or exchanges of capital assets over the gains from sales or exchanges of capital assets. Thus, the partnership cannot offset any portion of capital losses against ordinary income.

Any excess of net short-term capital gain over net long-term capital loss is consolidated with the partnership's other taxable income and is not separately reported.

[5] The "70 percent" figure is intended to approximate the amount of such deductions that would be denied at the partner level as a result of the two-percent floor.

[6] It is understood that the rehabilitation and low-income housing credits which are subject to the same passive loss rules (i.e., in the case of the low-income housing credit, where the partnership interest was acquired or the property was placed in service before 1990) could be reported together on the same line.

Under the bill, income from a publicly traded partnership continues to be treated as portfolio income.

Alternative minimum tax

Under the House bill, alternative minimum tax ("AMT") adjustments and preferences are combined at the partnership level. A large partnership would report to partners a net AMT adjustment separately computed for passive loss limitation activities and other activities. In determining a partner's alternative minimum taxable income, a partner's distributive share of any net AMT adjustment is taken into account instead of making separate AMT adjustments with respect to partnership items. The net AMT adjustment is determined by using the adjustments applicable to individuals (in the case of partners other than corporations), and by using the adjustments applicable to corporations (in the case of corporate partners). Except as provided in regulations, the net AMT adjustment is treated as a deferral preference for purposes of the section 53 minimum tax credit.

Discharge of indebtedness income

If a large partnership has income from the discharge of any indebtedness, such income is separately reported to each partner. In addition, the rules governing such income (sec. 108) are applied without regard to the large partnership rules. Thus, for example, the large partnership provisions do not affect section 108(d)(6), which provides that certain section 108 rules apply at the partner level, or section 108(b)(5), which provides for an election to reduce the basis of depreciable property.

REMICs

For purposes of the tax on partnerships holding residual interests in REMICs, all interests in a large partnership are treated as held by disqualified organizations. Thus, a large partnership holding a residual interest in a REMIC is subject to a tax equal to the excess inclusions multiplied by the highest corporate rate. The amount subject to tax is excluded from partnership income. The partner's adjusted basis in the partnership is increased by his distributive share of the amount subject to tax (under section 705(a)(1)(B)) and is decreased by his distributive share of the taxes paid by the partnership (under section 705(a)(2)(B)).

Deferred sale treatment for contributed property

In general

For all partners contributing property to a large partnership (including partners who are disqualified persons, as described below), the House bill replaces section 704(c) with a "deferred sale" approach. Under the bill, a large partnership is treated as if it had purchased the property from the contributing partner for its then fair market value, thus taking a fair market value basis in the property. The contributing partner's gain or loss on the contribution (the "precontribution gain or loss")[7] is deferred until the occurrence of specified recognition events. In general, the character of the precontribution gain or loss is the same as if the property had been sold to the partnership by the partner at the time of contribution. The contributing partner's basis in his partnership interest is adjusted for precontribution amounts recognized under the provision. These adjustments generally are made immediately before the recognition event.

The bill effectively repeals the ceiling rule for large partnerships, i.e., the amount of precontribution gain or loss recognized by the contributing partner under the provision is not limited to the overall gain or loss from the contributed property recognized by the partnership. In addition, the amount of depreciation allowable to the partnership is not limited to the contributing partner's basis in the property.

Recognition events

Certain events occurring at either the partnership or partner level cause recognition of precontribution gain or loss. Loss is not recognized, however, by reason of a disposition to a person related (within the meaning of sec. 267(b) or sec. 707(b)(1)) to the contributing partner.

Transactions at partnership level.—The contributing partner recognizes precontribution gain or loss as the partnership claims an amortization, depreciation, or depletion deduction with respect to the property. The amount of gain (or loss) recognized equals the increase (or decrease) in the deduction attributable to changes in basis of the property occurring by reason of its contribution. Any gain or loss so recognized is treated as ordinary.

The contributing partner also generally recognizes precontribution gain or loss if the partnership disposes of the contributed property to a person other than the contributing partner. If such property is distributed to the contributing partner, its basis in the hands of the contributing partner equals its basis immediately before the contribution, adjusted for any gain or loss previously recognized on account of the deferred sale. No adjustment is made to the basis of undistributed partnership property on account of a distribution to the contributing partner.[8]

A contributing partner's deferred gain or loss is not recognized if the partnership disposes of the property in certain nonrecognition transactions: a like-kind exchange (sec. 1031); an involuntary conversion (sec. 1033); or a contribution to a partnership (sec. 721), provided the contributing partnership owns more than 50 percent of the recipient partnership.

Transactions at partner level.—A contributing partner recognizes precontribution gain or loss to the extent that he disposes of his partnership interest other than at death.[9] Such partner also recognizes precontribution gain or loss to the extent that the cash and fair market value of property (other than the contributed property) distributed to him exceeds the adjusted basis of his partnership interest immediately before the distribution (determined without regard to any basis adjustment under the deemed sale rules resulting from the distribution).

It is intended that the Secretary of the Treasury have regulatory authority to apply the deferred sale rules in the case of so-called "reverse 704(c)" situations, i.e., in cases where a partnership revalues its assets. *See* Treas. Reg. sec. 1.704–1(b)(2)(iv)(*f*).

Election of optional basis adjustments

Under the House bill, a large partnership may still elect to adjust the basis of partnership assets with respect to transferee partners. The computation of a large partnership's taxable income is made without regard to the section 743(b) adjustment. As under present law, the section 743(b) adjustment is made only with respect to the transferee partner. In addition, a large partnership is permitted to adjust the basis of partnership property under section 734(b) if property is distributed to a partner, as under present law.

Terminations

The House bill provides that a large partnership does not terminate for tax purposes solely because 50 percent of its interests are sold or exchanged within a 12-month period.

Partnerships and partners subject to large partnership rules

Definition of large partnership

A "large partnership" is any partnership with at least 250 partners in a taxable year beginning after December 31, 1992.[10] Any partnership treated as a large partnership for a taxable year is so treated for all succeeding years, even if the number of partners falls below 250. Regulations may provide, however, that if the number of partners in any taxable year falls below 100, the partnership is not treated as a large partnership. Partnerships with at least 100 partners can elect to be treated as if they had 250 partners. The election applies to the year for which made and all subsequent years and cannot be revoked without the Secretary's consent.

Special rules for certain service partnerships

A large partnership does not include any partnership if substantially all the partners are: (1) individuals performing substantial services in connection with the partnership's activities, or personal service corporations the owner-employees of which perform such services; (2) retired partners who had performed such services; or (3) spouses of partners who had performed such services. In addition, the term "partner" does not include any individual performing substantial services in connection with the partnership's activities and holding a partnership interest, or an individual who formerly performed such services and who held a partnership interest at the time the individual performed such services.

Exclusion for commodity partnerships

The large partnership rules do not apply to any partnership the principal activity of which is the buying and selling of commodities (not described in section 1221(1)), or options, futures or forwards with respect to commodities.

Special rules for partnerships holding oil and gas properties

Election to use simplified reporting

In general, a large partnership that otherwise meets the qualifications for simplified reporting is not required to report information to its partners under the rules of that regime if it is substantially engaged in oil and gas related activities. Rather, such a partnership continues to report information to its partners as under present law. The House bill permits such a partnership, however, to elect to utilize the simplified reporting regime, as modified for oil and gas purposes. If an election is made for any taxable year, it will also apply for all subsequent taxable years unless revoked with the consent of the Secretary.

---

[7] Precontribution gain is the excess of the fair market value of the contributed property at the time of contribution over the adjusted basis of such property immediately before such contribution. Precontribution loss is the excess of the adjusted basis of such property over its fair market value.

[8] Amounts recognized by reason of these recognition events are taken into account in the partner's taxable year in which or with which ends the partnership taxable year of the deduction or disposition.

[9] It is intended that a deceased partner's successor in interest would not recognize any remaining precontribution gain or loss.

[10] The number of partners is determined by counting only persons directly holding partnership interests in the taxable year, including persons holding through nominees; persons holding indirectly (e.g., through another partnership) are not counted. It is not necessary for a partnership to have 250 or more partners at any one time in a taxable year for the partnership to constitute a large partnership.

A partnership is considered to be substantially engaged in oil and gas activities if at least 25 percent of the average value of its assets during the taxable year consists of oil or gas properties.[11] In making this determination, a partnership is treated as owning its proportionate share of assets of any partnership in which it holds an interest.

Simplified reporting treatment of large partnerships with oil and gas activities

The House bill provides special rules for large partnerships with oil and gas activities that operate under the simplified reporting regime (i.e., either (1) large partnerships that are substantially engaged in oil and gas activities and which elect to use the regime, or (2) large partnerships that are not substantially engaged in oil and gas operations, but do have some oil and gas activities). These partnerships are collectively referred to herein as "oil and gas large partnerships." Generally, the House bill provides that an oil and gas large partnership reports information to its partners under the general simplified large partnership reporting regime described above. To prevent the extension of percentage depletion deductions to persons excluded therefrom under present law, however, certain partners are treated as disqualified persons under the bill.

The treatment of a disqualified person's distributive share of any item of income, gain, loss, deduction, or credit attributable to any partnership oil or gas property is determined under the bill without regard to the special rules applicable to large partnerships. Thus, an oil and gas large partnership reports information related to oil and gas activities to a partner who is a disqualified person in the same manner and to the same extent that it reports such information to that partner under present law. The simplified reporting rules of the bill, however, apply with respect to reporting such a partner's share of items related to non-oil and gas activities.

The House bill defines two categories of taxpayers as disqualified persons. The first category encompasses taxpayers who do not qualify for the deduction for percentage depletion under section 613A (i.e., integrated oil and gas companies). The second category includes any person whose average daily production of oil and gas (for purposes of determining the depletable oil and natural gas quantity under section 613A(c)(2)) is at least 500 barrels for its taxable year in which (or with which) the partnership's taxable year ends. In making this computation, all production of domestic crude oil and natural gas attributable to the partner is taken into account, including such partner's proportionate share of any production of the large partnership.

A taxpayer that falls within a category of disqualified person has the responsibility of notifying any large partnership in which it holds a direct or indirect interest (e.g., through a pass-through entity) of its status as such. Thus, for example, if an integrated oil company owns an interest in a partnership which in turn owns an interest in an oil and gas large partnership, the company is responsible for providing the management of the large partnership information regarding its status as a disqualified person and details regarding its indirect interest in the large partnership.

Under the House bill, an oil and gas large partnership computes its deduction for oil and gas depletion under the general statutory rules (subject to certain exceptions described below) under the assumptions that it (the partnership) is the taxpayer and that it qualifies for the percentage depletion deduction. The amount of the depletion deduction, as well as other oil and gas related items, generally are reported to each partner (other than to partners who are disqualified persons) as components of that partner's distributive share of taxable income or loss from passive loss limitation activities.

The House bill provides that in computing the partnership's oil and gas percentage depletion deduction, the 1,000-barrel-per-day limitation does not apply. In addition, an oil and gas large partnership is allowed to compute percentage depletion under the bill without applying the 65-percent-of-taxable-income limitation under section 613A(d)(1).

As under present law, an election to deduct IDCs under section 263(c) is made at the partnership level. Since the bill treats those taxpayers required by the Code (sec. 291) to capitalize 30 percent of IDCs as disqualified persons, an oil and gas large partnership may pass through a full deduction of IDCs to its partners who are not disqualified persons. In contrast to present law, an oil and gas large partnership also has the responsibility with respect to its partners who are not disqualified persons for making an election under section 59(e) to capitalize and amortize certain specified IDCs. Partners who are disqualified persons are permitted to make their own separate section 59(e) elections under the bill.

Consistent with the general reporting regime for large partnerships, the House bill provides that a single AMT adjustment (under either corporate or non-corporate principles, as the case may be) is made and reported to the partners (other than disqualified persons) of an oil and gas large partnership as a separate item. This separately-reported item is affected by a number of oil-and-gas factors: the tax preference for excess percentage depletion, the tax preference for excess IDCs, the adjusted current earnings adjustment, and the special energy deduction.

Since an oil and gas large partnership computes a deduction for percentage depletion under the bill, it also is required to compute the amount of tax preference for excess percentage depletion. The preference item for excess IDCs also is computed by an oil and gas large partnership. In this case, the partnership compares the amount of excess IDCs it incurs with 65 percent of its net income from oil and gas. To the extent that the excess IDC amount exceeds the partnership's 65-percent-net-income-from-oil-and-gas amount, there is an amount of tax preference for excess IDCs which is factored into the amount reported as AMT adjustment to the partners.

Under the House bill, the AMT special energy deduction is computed by an oil and gas large partnership. The current-law special energy deduction is limited so that it may not reduce the taxpayer's pre-special energy deduction alternative minimum taxable income by more than 40 percent. Under the bill, an oil and gas large partnership is treated as the taxpayer for this purpose. Thus, the limitation on the special energy deduction is applied at the partnership level using the same 40-percent threshold.

The House bill provides that in making partnership-level computations, any item of income, gain, loss, deduction, or credit attributable to a partner who is a disqualified person is disregarded. For example, in computing the partnership's net income from oil and gas for purposes of determining the IDC preference to be reported to partners who are not disqualified persons as part of the AMT adjustment, disqualified persons' distributive shares of the partnership's net income from oil and gas are not to be taken into account.

Regulatory authority

The Secretary of the Treasury is granted authority to prescribe such regulations as may be appropriate to carry out the purposes of the provisions.

Effective date

The House bill generally applies to partnership taxable years ending on or after December 31, 1992. The deferred sale provision applies to any contribution of property (other than cash) made on or after the date of enactment to a partnership which is, or is reasonably expected to become, a large partnership. It is intended that no inference be drawn as to the proper treatment of contributions of appreciated or depreciated property to a partnership made prior to the effective date.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

b. Simplified audit procedures for large partnerships

Present law

In general

Prior to 1982, regardless of the size of a partnership, adjustments to a partnership's items of income, gain, loss, deduction, or credit had to be made in separate proceedings with respect to each partner individually. Because a large partnership sometimes had many partners located in different audit districts, adjustments to items of income, gains, losses, deductions, or credits of the partnership had to be made in numerous actions in several jurisdictions, sometimes with conflicting outcomes.

The Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") established unified audit rules applicable to all but certain small (10 or fewer partners) partnerships. These rules require the tax treatment of all "partnership items" to be determined at the partnership, rather than the partner, level. Partnership items are those items that are more appropriately determined at the partnership level than at the partner level, as provided by regulations.

Administrative proceedings

Under the TEFRA rules, a partner must report all partnership items consistently with the partnership return or must notify the IRS of any inconsistency. If a partner fails to report any partnership item consistently with the partnership return, the IRS may make a computational adjustment and immediately assess any additional tax that results.

The IRS may challenge the reporting position of a partnership by conducting a single administrative proceeding to resolve the issue with respect to all partners. But the IRS must still assess any resulting deficiency against each of the taxpayers who were partners in the year in which the understatement of tax liability arose.

---

[11] For this purpose, "oil or gas properties" means the mineral interests in oil or gas which are of a character with respect to which a deduction for depletion is allowable under section 611.

Any partner of a partnership can request an administrative adjustment or a refund for his own separate tax liability. Any partner also has the right to participate in partnership-level administrative proceedings. A settlement agreement with respect to partnership items binds all parties to the settlement.

Tax matters partner

The TEFRA rules establish the "Tax Matters Partner" as the primary representative of a partnership in dealings with the IRS. The Tax Matters Partner is a general partner designated by the partnership or, in the absence of designation, the general partner with the largest profits interest at the close of the taxable year. If no Tax Matters Partner is designated, and it is impractical to apply the largest profits interest rule, the IRS may select any partner as the Tax Matters Partner.

Notice requirements

The IRS generally is required to give notice of the beginning of partnership-level administrative proceedings and any resulting administrative adjustment to all partners whose names and addresses are furnished to the IRS. For partnerships with more than 100 partners, however, the IRS generally is not required to give notice to any partner whose profits interest is less than one percent.

Adjudication of disputes concerning partnership items

After the IRS makes an administrative adjustment, the Tax Matters Partner (and, in limited circumstances, certain other partners) may file a petition for readjustment of partnership items in the Tax Court, the district court in which the partnership's principal place of business is located, or the Claims Court.

Statute of limitations

The IRS generally cannot adjust a partnership item for a partnership taxable year if more than 3 years have elapsed since the later of the filing of the partnership return or the last day for the filing of the partnership return.

House bill

In general

The House bill creates a new audit system for large partnerships. The bill defines "large partnership" the same way for audit and reporting purposes (generally partnerships with at least 250 partners) except that certain oil and gas partnerships exempted from the large partnership reporting requirements are large partnerships for the audit rules.

As under present law, large partnerships and their partners are subject to unified audit rules. The tax treatment of "partnership items" are determined at the partnership, rather than the partner, level. The term "partnership items" is defined as under present law.

Unlike present law, however, partnership adjustments generally will flow through to the partners for the year in which the adjustment takes effect. Thus, the current-year partners' share of current-year partnership items of income, gains, losses, deductions, or credits will be adjusted to reflect partnership adjustments that take effect in that year. The adjustments generally will not affect prior-year returns of any partners (except in the case of changes to any partner's distributive shares).

In lieu of flowing an adjustment through to its partners, the partnership may elect to pay an imputed underpayment. The imputed underpayment generally is calculated by netting the adjustments to the income and loss items of the partnership and multiplying that amount by the highest tax rate (whether individual or corporate). A partner may not file a claim for credit or refund of his allocable share of the payment.

Regardless of whether a partnership adjustment flows through to the partners, an adjustment must be offset if it requires another adjustment in a year after the adjusted year and before the year the offsetted adjustment takes effect. For example, if a partnership expensed a $1,000 item in year 1, and it was determined in year 4 that the item should have been capitalized and amortized ratably over 10 years, the adjustment in year 4 would be $700, apart from any interest or penalty. (The $900 adjustment for the improper deduction would be offset by $200 of adjustments for amortization deductions.) The year 4 partners would be required to include an additional $700 in income for that year. The partnership may ratably amortize the remaining $700 of expenses in years 4-10.

In addition, the partnership, rather than the partners individually, generally is liable for any interest and penalties that result from a partnership adjustment. Interest is computed for the period beginning on the return due date for the adjusted year and ending on the earlier of the return due date for the partnership taxable year in which the adjustment takes effect or the date the partnership pays the imputed underpayment. Thus, in the above example, the partnership would be liable for 4 years' worth of interest (on a declining principal amount).

Penalties (such as the accuracy and fraud penalties) are determined on a year-by-year basis (without offsets) based on an imputed underpayment. All accuracy penalty criteria and waiver criteria (such as reasonable cause, substantial authority, etc.) are determined as if the partnership were a taxable individual. Accuracy and fraud penalties are assessed and accrue interest in the same manner as if asserted against a taxable individual.

Any payment (for Federal income taxes, interest, or penalties) that a large partnership is required to make is non-deductible.

If a partnership ceases to exist before a partnership adjustment takes effect, the former partners are required to take the adjustment into account, as provided by regulations. Regulations are also authorized to prevent abuse and to enforce efficiently the audit rules in circumstances that present special enforcement considerations (such as partnership bankruptcy).

Administrative proceedings

Under the large partnership audit rules, a partner is not permitted to report any partnership items inconsistently with the partnership return, even if the partner notifies the IRS of the inconsistency. The IRS could treat a partnership item that was reported inconsistently by a partner as a mathematical or clerical error and immediately assess any additional tax against that partner.

As under present law, the IRS could challenge the reporting position of a partnership by conducting a single administrative proceeding to resolve the issue with respect to all partners. Unlike under present law, however, partners will have no right individually to participate in settlement conferences or to request a refund.

Partnership representative

The bill requires each large partnership to designate a partner or other person to act on its behalf. If a large partnership fails to designate such a person, the IRS is permitted to designate any one of the partners as the person authorized to act on the partnership's behalf. After the IRS's designation, a large partnership could still designate a replacement for the IRS-designated partner.

Notice requirements

Unlike under present law, the IRS is not required to give notice to individual partners of the commencement of an administrative proceeding or of a final adjustment. Instead, the IRS is authorized to send notice of a partnership adjustment to the partnership itself by certified or registered mail. The IRS could give proper notice by mailing the notice to the last known address of the partnership, even if the partnership had terminated its existence.

Adjudication of disputes concerning partnership items

As under present law, an administrative adjustment could be challenged in the Tax Court, the district court in which the partnership's principal place of business is located, or the Claims Court. However, only the partnership, and not partners individually, can petition for a readjustment of partnership items.

If a petition for readjustment of partnership items is filed by the partnership, the court with which the petition is filed will have jurisdiction to determine the tax treatment of all partnership items of the partnership for the partnership taxable year to which the notice of partnership adjustment relates, and the proper allocation of such items among the partners. Thus, the court's jurisdiction is not limited to the items adjusted in the notice.

Statute of limitations

Absent an agreement to extend the statute of limitations, the IRS generally could not adjust a partnership item of a large partnership more than 3 years after the later of the filing of the partnership return or the last day for the filing of the partnership return. Special rules apply to false or fraudulent returns, a substantial omission of income, or the failure to file a return. The IRS would assess and collect any deficiency of a partner that arises from any adjustment to a partnership item subject to the limitations period on assessments and collection applicable to the year the adjustment takes effect (secs. 6248, 6501 and 6502).

Regulatory authority

The Secretary of the Treasury is granted authority to prescribe regulations as may be necessary to carry out the simplified audit procedure provisions, including regulations to prevent abuse of the provisions through manipulation. The regulations may include rules that address transfers of partnership interests, in anticipation of a partnership adjustment, to persons who are tax-favored (e.g., corporations with net operating losses, tax-exempt organizations, and foreign partners) or persons who are expected to be unable to pay tax (e.g., shell corporations). For example, if prior to the time a partnership adjustment takes effect, a taxable partner transfers a partnership interest to a nonresident alien to avoid the tax effect of the partnership adjustment, the rules may provide, among other things, that income related to the partnership adjustment is treated as effectively connected taxable income, that the partnership adjustment is treated as taking effect before the partnership interest was transferred, or that the former partner is treated as a current partner to whom the partnership adjustment is allocated.

Effective date

The provision applies to partnership taxable years ending on or after December 31, 1992.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

c. Advance due date for furnishing information to partners

Present law

A partnership required to file an income tax return with the IRS must also furnish an information return to each of its partners on or before the day on which the income tax return for the year is required to be filed, including extensions. Under regulations, a partnership must file its income tax return on or before the fifteenth day of the fourth month following the end of the partnership's taxable year (on or before April 15, for calendar year partnerships). This is the same deadline by which most individual partners must file their tax returns.

House bill

The House bill provides that a large partnership must furnish information returns to partners by the first March 15 following the close of the partnership's taxable year. Large partnerships would be only those partnerships subject to the simplified reporting rules for large partnerships, as described above.

The bill also provides that, if the partnership is required to provide copies of the information returns to the Internal Revenue Service on magnetic media, each schedule (such as each Schedule K-1) with respect to each partner is treated as a separate information return with respect to the corrective periods and penalties that are generally applicable to all information returns.

Effective date.—The provision is effective for taxable years ending on or after December 31, 1992.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

d. Partnership returns on magnetic media

Present law

Partnerships are permitted, but not required, to provide the tax return of the partnership (Form 1065), as well as copies of the schedules sent to each partner (Form K-1), to the Internal Revenue Service on magnetic media.

House bill

The bill authorizes the Internal Revenue Service to require large partnerships and other partnerships with 250 or more partners to provide the tax return of the partnership (Form 1065), as well as copies of the schedules sent to each partner (Form K-1), to the Internal Revenue Service on magnetic media.

Effective date.—For partnerships that are large partnerships (as defined in the simplified reporting provision), the provision is effective for partnership taxable years ending on or after December 31, 1992. For partnerships that are not large partnerships (as defined) but that have 250 or more partners, the provision is effective for partnership taxable years ending on or after December 31, 1998.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

2. PARTNERSHIP PROCEEDINGS UNDER THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982 (TEFRA)

a. Clarify the treatment of partnership items in deficiency proceedings

Present law

TEFRA partnership proceedings must be kept separate from deficiency proceedings involving the partners in their individual capacities. Prior to the Tax Court's opinion in *Munro v. Commissioner*, 92 T.C. 71 (1989), the IRS computed deficiencies by assuming that all items that were subject to the TEFRA partnership procedures were correctly reported on the taxpayer's return. However, where the losses claimed from TEFRA partnerships were so large that they offset any proposed adjustments to nonpartnership items, no deficiency could arise from a non-TEFRA proceeding, and if the partnership losses were subsequently disallowed in a partnership proceeding, the non-TEFRA adjustments might be uncollectible because of the expiration of the statute of limitations with respect to nonpartnership items.

Faced with this situation in *Munro*, the IRS issued a notice of deficiency to the taxpayer that presumptively disallowed the taxpayer's TEFRA partnership losses for computational purposes only. Although the Tax Court ruled that a deficiency existed and that the court had jurisdiction to hear the case, the court disapproved of the methodology used by the IRS to compute the deficiency. Specifically, the court held that partnership items (whether income, loss, deduction, or credit) included on a taxpayer's return must be completely ignored in determining whether a deficiency exists that is attributable to nonpartnership items.

House bill

The House bill overrules *Munro* and allows the IRS to return to its prior practice of computing deficiencies by assuming that all TEFRA items whose treatment has not been finally determined had been correctly reported on the taxpayer's return. This will eliminate the need to do special computations that involve the removal of TEFRA items from a taxpayer's return, and will restore to taxpayers a prepayment forum with respect to the TEFRA items. In addition, the bill provides a special rule to address the factual situation presented in *Munro*.

Specifically, the bill provides a declaratory judgment procedure in the Tax Court for adjustments to an oversheltered return. An oversheltered return is a return that shows no taxable income and a net loss from TEFRA partnerships. In such a case, the IRS is authorized to issue a notice of adjustment with respect to non-TEFRA items, notwithstanding that no deficiency would result from the adjustment. However, the IRS may only issue such a notice if a deficiency would have arisen in the absence of the net loss from TEFRA partnerships.

The Tax Court would be granted jurisdiction to determine the correctness of such an adjustment as well as to make a declaration with respect to any other item for the taxable year to which the notice of adjustment relates, except for partnership items and affected items which require partner-level determinations. No tax would be due upon such a determination, but a decision of the Tax Court would be treated as a final decision, permitting an appeal of the decision by either the taxpayer or the IRS. An adjustment determined to be correct would thus have the effect of increasing the taxable income that would be deemed to have been reported on the taxpayer's return. If the taxpayer's partnership items were then adjusted in a subsequent proceeding, the IRS would have preserved its ability to collect tax on any increased deficiency attributable to the nonpartnership items.

Alternatively, if the taxpayer chooses not to contest the notice of adjustment within the 90-day period, the bill provides that when the taxpayer's partnership items are finally determined, the taxpayer has the right to file a refund claim for tax attributable to the items adjusted by the earlier notice of adjustment for the taxable year. Although a refund claim is not generally permitted with respect to a deficiency arising from a TEFRA proceeding, such a rule is appropriate with respect to a defaulted notice of adjustment because taxpayers may not challenge such a notice when issued since it does not require the payment of additional tax.

In addition, the bill incorporates a number of provisions intended to clarify the coordination between TEFRA audit proceedings and individual deficiency proceedings. Under these provisions, any adjustment with respect to a non-partnership item that caused an increase in tax liability with respect to a partnership item would be treated as a computational adjustment and assessed after the conclusion of the TEFRA proceeding. Accordingly, deficiency procedures would not apply with respect to this increase in tax liability, and the statute of limitations applicable to TEFRA proceedings would be controlling.

Effective date.—The provision is effective for partnership taxable years ending after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

b. Permit the IRS to rely on partnership returns to determine the proper audit procedures

Present law

TEFRA established unified audit rules applicable to all partnerships, except for partnerships with 10 or fewer partners, each of whom is a natural person (other than a nonresident alien) or an estate, and for which each partner's share of each partnership item is the same as that partner's share of every other partnership item. Partners in the exempted partnerships are subject to regular deficiency procedures.

House bill

The House bill permits the IRS to apply the TEFRA audit procedures if, based on the partnership's return for the year, the IRS reasonably determines that those procedures should apply. Similarly, the bill permits the IRS to apply the normal deficiency procedures if, based on the partnership's return for the year, the IRS reasonably determines that those procedures should apply.

Effective date.—The provision is effective for partnership taxable years ending after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

c. Statute of limitations suspensions

i. Suspend statute when an untimely petition is filed

Present law

In a deficiency case, section 6503(a) provides that if a proceeding in respect of the deficiency is placed on the docket of the Tax Court, the period of limitations on assessment and collection is suspended until the decision of the Tax Court becomes final, and for 60 days thereafter. The counterpart to this provision with respect to TEFRA cases is contained in section 6229(d). That section provides that the period of limitations is suspended for the period during which an action may be brought under section 6226 and, if an action is brought during such period, until the decision of the court becomes final, and for 1 year thereafter. As a result of this difference in language, the running of the statute of limitations in a TEFRA case will only be tolled by the filing of a timely petition whereas in a deficiency case, the statute of limitations is tolled by the filing of any petition, regardless of whether the petition is timely.

House bill

The House bill conforms the suspension rule for the filing of petitions in TEFRA cases with the rule under section 6503(a) pertaining to deficiency cases. Under the provision, the statute of limitations in TEFRA cases would be suspended by the filing of any petition under section 6226, regardless of whether the petition is timely or valid, and the suspension will remain in effect until the decision of the court becomes final, and for one year thereafter. Hence, if the statute of limitations is open at the time that an untimely petition is filed, the limitations period will no longer continue to run and possibly expire while the action is pending before the court.

Effective date.—The provision is effective with respect to all cases in which the period of limitations has not expired under present law as of the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

ii. Suspend statute of limitations during bankruptcy proceedings

Present law

The period for assessing tax with respect to partnership items generally is the longer of the periods provided by section 6229 or section 6501. For partnership items that convert to nonpartnership items, section 6229(f) provides that the period for assessing tax shall not expire before the date which is 1 year after the date that the items become nonpartnership items. Section 6503(h) provides for the suspension of the limitations period during the pendency of a bankruptcy proceeding. However, this provision only applies to the limitations periods provided in sections 6501 and 6502.

Under present law, because the suspension provision in section 6503(h) applies only to the limitations periods provided in section 6501 and 6502, some uncertainty exists as to whether section 6503(h) applies to suspend the limitations period pertaining to converted items provided in section 6229(f) when a petition naming a partner as a debtor in a bankruptcy proceeding is filed. As a result, the limitations period provided in section 6229(f) may continue to run during the pendency of the bankruptcy proceeding, notwithstanding that the IRS is prohibited from making an assessment against the debtor because of the automatic stay provisions of the Bankruptcy Code.

House bill

The House bill clarifies that the statute of limitations is suspended for a partner who is named in a bankruptcy petition. The suspension period is for the entire period during which the IRS is prohibited by reason of the bankruptcy proceeding from making an assessment, and for 60 days thereafter. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective date.—The provision is effective with respect to all cases in which the period of limitations has not expired under present law as of the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

iii. Extend statute of limitations for bankrupt TMPs

Present law

Section 6229(b)(1)(B) provides that the statute of limitations is extended with respect to all partners in the partnership by an agreement entered into between the tax matters partner (TMP) and the IRS. However, Temp. Treas. Reg. secs. 301.6231(a)(7)–1T(1)(4) and 301.6231(c)–7T(a) provide that upon the filing of a petition naming a partner as a debtor in a bankruptcy proceeding, that partner's partnership items convert to nonpartnership items, and if the debtor was the tax matters partner, such status terminates. These rules are necessary because of the automatic stay provision contained in 11 U.S.C. sec. 362(a)(8). As a result, if a consent to extend the statute of limitations is signed by a person who would be the TMP but for the fact that at the time that the agreement is executed the person was a debtor in a bankruptcy proceeding, the consent would not be binding on the other partners because the person signing the agreement was no longer the TMP at the time that the agreement was executed.

House bill

The House bill provides that unless the IRS is notified of a bankruptcy proceeding in accordance with regulations, the IRS can rely on a statute extension signed by a person who would be the tax matters partner but for the fact that said person was in bankruptcy at the time that the person signed the agreement. Statute extensions granted by a bankrupt TMP in these cases will be binding on all of the partners in the partnership. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective date.—The provision is effective for extension agreements entered into after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

d. Expand small partnership exception from TEFRA

Present law

TEFRA established unified audit rules applicable to all partnerships, except for partnerships with 10 or fewer partners, each of whom is a natural person (other than a nonresident alien) or an estate, and for which each partner's share of each partnership item is the same as that partner's share of every other partnership item. Partners in the exempted partnerships are subject to regular deficiency procedures.

House bill

The House bill permits a small partnership to have a C corporation as a partner or to specially allocate items without jeopardizing its exception from the TEFRA rules. However, the bill retains the prohibition of present law against having a flow-through entity (other than an estate of a deceased partner) as a partner for purposes of qualifying for the small partnership exception.

Effective date.—The provision is effective for partnership taxable years ending after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

e. Exclude partial settlements from 1-year assessment rule

Present law

The period for assessing tax with respect to partnership items generally is the longer of the periods provided by section 6229 or section 6501. For partnership items that convert to nonpartnership items, section 6229(f) provides that the period for assessing tax shall not expire before the date which is 1 year after the date that the items become nonpartnership items. Section 6231(b)(1)(C) provides that the partnership items of a partner for a partnership taxable year become nonpartnership items as of the date the partner enters into a settlement agreement with the IRS with respect to such items.

House bill

The House bill provides that if a partner and the IRS enter into a settlement agreement with respect to some but not all of the partnership items in dispute for a partnership taxable year and other partnership items remain in dispute, the period for assessing any tax attributable to the settled items would be determined as if such agreement had not been entered into. Consequently, the limitations period that is applicable to the last item to be resolved for the partnership taxable year shall be controlling with respect to all disputed partnership items for the partnership taxable year. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective date.—The provision is effective for partnership taxable years ending after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

f. Extend time for filing a request for administrative adjustment

Present law

If an agreement extending the statute is entered into with respect to a non-TEFRA statute of limitations, that agreement also extends the statute of limitations for filing refund claims (sec. 6511(c)). There is no comparable provision for extending the time for filing refund claims with respect to partnership items subject to the TEFRA partnership rules.

House bill

The House bill provides that if a TEFRA statute extension agreement is entered into, that agreement also extends the statute of limitations for filing refund claims attributable to partnership items or affected items until 6 months after the expiration of the limitations period for assessments.

Effective date.—The provision is effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

g. Provide innocent spouse relief for TEFRA proceedings

Present law

In general, an innocent spouse may be relieved of liability for tax, penalties and interest if certain conditions are met (sec. 6013(e)). However, existing law does not provide the spouse of a partner in a TEFRA partnership with a judicial forum to raise the innocent spouse defense with respect to any tax or interest that relates to an investment in a TEFRA partnership.

House bill

The House bill provides both a prepayment forum and a refund forum for raising the innocent spouse defense in TEFRA cases.

With respect to a prepayment forum, the bill provides that within 60 days of the date that a notice and demand for payment (or notice of computational adjustment) relating to partnership items is mailed to the spouse of a partner, the spouse may request that the assessment be abated. Upon receipt of such a request, the assessment will be abated and any reassessment will be subject to the deficiency procedures. If an abatement is requested, the statute of limitations will not expire before the date which is 60 days after the date of the abatement. If the spouse files a petition with the Tax Court, the Tax Court will only have jurisdiction to determine whether the requirements of section 6013(e) have been satisfied. In making this determination, the treatment of the partnership items that gave rise to the liability in question will be conclusive.

Alternatively, the bill provides that the spouse of a partner may file a claim for refund to raise the innocent spouse defense. The claim must be filed within 6 months from the date that the notice and demand (or notice of computational adjustment) is mailed to the spouse. If the claim is not allowed the spouse may file a refund action. For purposes of any claim or suit under this provision, the treatment of the partnership items that gave rise to the liability in question will be conclusive.

Effective date.—The provision is effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

h. Determine penalties at the partnership level

Present law

Partnership items include only items that are required to be taken into account under the income tax subtitle. Penalties are not partnership items since they are contained in the procedure and administration subtitle. As a result, penalties may only be asserted against a partner through the application of the deficiency procedures following the completion of the partnership-level proceeding.

House bill

The House bill provides that the partnership level proceeding is to include a determination of the applicability of penalties at the partnership level. However, the bill allows partners to raise any partner-level defenses in a refund forum.

Effective date.—The provision is effective for partnership taxable years ending after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

i. Clarify jurisdiction of the Tax Court

Present law

Improper assessment and collection activities by the IRS during the 150-day period for filing a petition or during the pendency of any Tax Court proceeding, "may be enjoined in the proper court." Present law may be unclear as to whether this includes the Tax Court.

For a partner other than the Tax Matters Partner to be eligible to file a petition for redetermination of partnership items in any court or to participate in an existing case, the period for assessing any tax attributable to the partnership items of that partner must not have expired. Since such a partner would only be treated as a party to the action if the statute of limitations with respect to them was still open, the law is unclear whether the partner would have standing to assert that the statute of limitations had expired with respect to them.

House bill

The House bill clarifies that an action to enjoin premature assessments of deficiencies attributable to partnership items may be brought in the Tax Court. The bill also permits a partner to participate in an action or file a petition for the sole purpose of asserting that the period of limitations for assessing any tax attributable to partnership items has expired for that person. Additionally, the bill clarifies that the Tax Court has overpayment jurisdiction with respect to affected items.

Effective date.—The provision is effective for partnership taxable years ending after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

j. Treatment of premature petitions filed by certain partners

Present law

The Tax Matters Partner is given the exclusive right to file a petition for a readjustment of partnership items within the 90-day period after the issuance of the notice of a final partnership administrative adjustment (FPAA). If the Tax Matters Partner does not file a petition within the 90-day period, certain other partners are permitted to file a petition within the 60-day period after the close of the 90-day period. There are ordering rules for determining which action goes forward and for dismissing other actions.

House bill

The House bill treats premature petitions filed by certain partners within the 90-day period will be treated as being filed on the last day of the following 60-day period under specified circumstances, thus affording the partnership with an opportunity for judicial review that is not available under present law.

Effective date.—The provision is effective with respect to petitions filed after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

k. Clarify bond requirement for appeals from TEFRA proceedings

Present law

A bond must be filed to stay the collection of deficiencies pending the appeal of the Tax Court's decision in a TEFRA proceeding. The amount of the bond must be based on the court's estimate of the aggregate deficiencies of the partners.

House bill

The House bill clarifies that the amount of the bond should be based on the Tax Court's estimate of the aggregate liability of the parties to the action (and not all of the partners in the partnership). For purposes of this provision, the amount of the bond may be estimated by applying the highest individual rate to the total adjustments determined by the Tax Court and doubling that amount to take into account interest and penalties.

Effective date.—The provision is effective as if included in the amendments made by section 402 of the Tax Equity and Fiscal Responsibility Act of 1982.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

l. Suspend interest where there is a delay in computational adjustment resulting from TEFRA settlements

Present law

Interest on a deficiency generally is suspended when a taxpayer executes a settlement agreement with the IRS and waives the restrictions on assessments and collections, and the IRS does not issue a notice and demand for payment of such deficiency within 30 days. Interest on a deficiency that results from an adjustment of partnership items in TEFRA proceedings, however, is not suspended.

House bill

The House bill suspends interest where there is a delay in making a computational adjustment relating to a TEFRA settlement.

Effective date.—The provision is effective with respect to settlements entered into after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

D. Foreign Provisions

1. DEFERRAL OF TAX ON INCOME EARNED THROUGH FOREIGN CORPORATIONS AND EXCEPTIONS TO DEFERRAL

Present law

U.S. citizens and residents and U.S. corporations (collectively, "U.S. persons") generally are taxed currently by the United States on their worldwide income. Income earned by a foreign corporation, the stock of which is owned in whole or in part by U.S. persons, generally is not taxed by the United States until the foreign corporation repatriates those earnings by payment to its U.S. stockholders.

The Code sets forth several regimes providing exceptions to the general rule deferring U.S. tax on income earned indirectly through a foreign corporation: the controlled foreign corporation rules (secs. 951–964); the foreign personal holding company rules (secs. 551–558); passive foreign investment company (PFIC) rules (secs. 1291–1297); the personal holding company rules (secs. 541–547); the accumulated earnings tax (secs. 531–537); and rules for foreign investment companies (sec. 1246) and electing foreign investment companies (sec. 1247). These separate regimes have complex and overlapping application to foreign corporations with U.S. stockholders.

House bill

The House bill replaces the separate anti-deferral regimes of present law with a unified set of rules. The House bill retains the controlled foreign corporation rules as the foundation of its unified anti-deferral regime. It includes a modified version of the PFIC rules while eliminating the other regimes as redundant to one or the other.

The House bill creates a single definition of a passive foreign corporation (PFC) that will unify and replace the foreign personal holding company and PFIC definitions. The rules applicable to PFCs represent a hybrid of characteristics of the foreign personal holding company rules, the PFIC rules, and the controlled foreign corporation rules (subpart F), plus a new mark-to-market regime, as well as a variety of simplifying or technical changes to rules under the existing systems.

Effective date.—The provision generally applies to taxable years beginning after December 31, 1992.

Senate amendment

The Senate amendment is the same as the House bill.

In addition, the Technical Explanation of the Senate Finance Committee amendment to H.R. 4210 states that the committee intends that the Treasury Department conduct a certain study regarding the tax treatment of certain activities of securities dealers under the PFC rules.

Conference agreement

The conference agreement follows the House bill and the Senate amendment (with clerical and conforming amendments).

The conferees have been informed that dealers in stocks and securities engage in securities sale and repurchase transactions (so-called "repos" and "reverses") and securities lending and borrowing transactions. For example, the conferees have been informed that securities dealers may engage in offsetting repo and reverse transactions—i.e., may run a "matched book" with respect to such transactions. In addition, the conferees have been informed that securities dealers enter into reverse repos and securities borrowing transactions to cover short sales and failed deliveries of securities for settlement of trades, and use repos and securities loans to finance inventory positions.

The conferees have been informed that such transactions engaged in by regular dealers in stocks or securities may generate some income that is treated as passive under the PFIC rules of present law. The conferees intend that a study be conducted by the Treasury Department as to the tax treatment for purposes of the PFC rules of such transactions, and the consequences and merits of possible changes in such current-law tax treatment. The conferees intend that the Treasury study be completed within one year after the date of enactment of the bill.

2. TREATMENT OF CONTROLLED FOREIGN CORPORATIONS

Present law

Treatment of controlled foreign corporation earnings

In general

A U.S. shareholder generally treats dividends from a controlled foreign corporation as ordinary income from foreign sources that carries both direct and indirect foreign tax credits. Under look-through rules, the income and credits are subject to those foreign tax credit limitations which are consistent with the character of the income of the foreign corporation.

Several Code provisions result in similar tax treatment of a U.S. shareholder if it either disposes of the controlled foreign corporation stock, or the controlled foreign corporation realizes certain types of income (including income with respect to lower-tier controlled foreign corporations). First, under section 1248, gain resulting from the disposition by a U.S. person of stock in a foreign corporation that was a controlled foreign corporation with respect to which the U.S. person was a U.S. shareholder in the previous five years is treated as a dividend to the extent of allocable earnings.

Second, a controlled foreign corporation has subpart F income when it realizes gain on disposition of stock and, ordinarily, when it receives a dividend. Under sections 951 and 960, such subpart F income may result in taxation to the U.S. shareholder similar (but not identical) to that on a dividend from the controlled foreign corporation. In addition to provisions for characterizing income and credits in these situations, the Code also provides certain rules that adjust basis, or otherwise result in modifying the tax consequences of subsequent income, to account for these and other subpart F income inclusions.

Third, when in exchange for property any corporation (including a controlled foreign corporation) acquires stock in another corporation (including a controlled foreign corporation) controlled by the same persons that control the acquiring corporation, earnings of the acquiring corporation (and possibly the acquired corporation) may be treated under section 304 as having been distributed as a dividend to the seller.

For foreign tax credit separate limitation purposes, a controlled foreign corporation is not treated as a noncontrolled section 902 corporation with respect to any distribution out of its earnings and profits for periods during which it was a controlled foreign corporation and except as provided in regulations, the recipient of the distribution was a U.S. shareholder in such corporation. The consequence of not being treated as a section 902 corporation is application of the so-called "look-through" rule. That is, dividends paid by such controlled foreign corporation to its U.S. shareholder are characterized for separate limitation purposes by reference to the character of the underlying earnings of the controlled foreign corporation.

Lower-tier controlled foreign corporations

For purposes of applying the separate foreign tax credit limitations, receipt of a dividend from a lower-tier controlled foreign corporation by an upper-tier controlled foreign corporation may result in a subpart F income inclusion for the U.S. shareholder that is treated as income in the same limitation category as the income of the lower-tier controlled foreign corporation. The income inclusion of the U.S. shareholder may carry deemed-paid credits for foreign taxes paid by the lower-tier controlled foreign corporation, and the basis of the U.S. shareholder in the stock of the first-tier controlled foreign corporation is increased by the amount of the inclusion. If, on the other hand, the upper-tier controlled foreign corporation sells stock of a lower-tier controlled foreign corporation, then the gain generally is also included in the income of the U.S. shareholder as subpart F income and the U.S. shareholder's basis in the stock of the first-tier controlled foreign corporation is increased to account for the inclusion, but the inclusion is not treated for foreign tax credit limitation purposes by reference to the nature of the income of the lower-tier controlled foreign corporation. Instead it generally is treated as passive income.

If subpart F income of a lower-tier controlled foreign corporation is included in the gross income of a U.S. shareholder, no provision of present law allows adjustment of the basis of the upper-tier controlled foreign corporation's stock in the lower-tier controlled foreign corporation.

Subpart F inclusions in year of disposition

The subpart F income earned by a foreign corporation during its taxable year is taxed to the persons who are U.S. shareholders of the corporation on the last day, in that year, on which the corporation is a controlled foreign corporation. In the case of a U.S. shareholder who acquired stock in a controlled foreign corporation during the year, such inclusions are reduced by all or a portion of the amount of dividends paid in that year by the foreign corporation to any person other than the acquirer with respect to that stock. The reduction is the lesser of the amount of dividends with respect to such stock received by other persons during the year or the amount determined by multiplying the subpart F income for the year by the proportion of the year during which the acquiring shareholder did not own the stock.

Distributions of previously taxed income

If in a year after the year of a subpart F income inclusion, a U.S. shareholder in the controlled foreign corporation receives a distribution from the corporation, the distribution may be deemed to come first out of the corporation's previously taxed income and, therefore, may be excluded from the U.S. shareholder's income. However, a distribution by a foreign corporation to a domestic corporation of earnings and profits previously taxed under subpart F is treated as an actual dividend, solely for purposes of determining the indirect foreign tax credit available to the domestic corporation (sec. 960(a)(3)).

In addition, the domestic corporation is permitted to increase its foreign tax credit limitation in the year of the distribution of previously taxed earnings and profits in an amount equal to the excess of the amount by which its foreign tax credit limitation for the year of the subpart F inclusion was increased as a result of that inclusion, over the amount of foreign taxes which were allowable as a credit in that year and which would not have been so allowable but for the subpart F inclusion (sec. 960(b)). The increase in the foreign tax credit limitation may not, however, exceed the amount of the foreign taxes taken into account under this provision with respect to the distribution of previously taxed earnings and profits. In order for this rule to apply, the domestic corporation either must have elected to credit foreign taxes in the year of the subpart F inclusion or must not have paid or accrued any foreign taxes in such year, and it must elect the foreign tax credit in the year of the distribution of previously taxed earnings and profits.

Treatment of United States source income earned by a controlled foreign corporation

As a general rule, subpart F income does not include income earned from sources within the United States if the income is effectively connected with the conduct of a U.S. trade or business by the controlled foreign corporation. This general rule does not apply, however, if the income is exempt from, or subject to a reduced rate of, U.S. tax pursuant to a provision of a U.S. treaty.

Indirect foreign tax credits

A U.S. corporation owning at least 10 percent of the voting stock of a foreign corporation is treated as if it had paid a share of the foreign income taxes paid by the foreign corporation in the year in which the foreign corporation's earnings and profits become subject to U.S. tax as dividend income of the U.S. shareholder (sec. 902(a)).

A U.S. corporation may also be deemed to have paid taxes paid by a second- or third-tier foreign corporation. That is, where a first-tier foreign corporation pays a dividend to a 10-percent-or-more U.S. corporate shareholder, then for purposes of deeming the U.S. corporation to have paid foreign tax, the first-tier foreign corporation may be deemed to have paid a share of the foreign taxes paid by a second-tier foreign corporation of which the first-tier foreign corporation owns at least 10 percent of the voting stock, and from which the first-tier foreign corporation received dividends. The same principle applies to dividends from a second-tier or third-tier foreign corporation. No taxes paid by a second- or third-tier foreign corporation are deemed paid by the first- or second-tier foreign corporation, respectively, unless the product of the percentage ownership of voting stock at each level from the U.S. corporation down equals at least 5 percent (sec. 902(b)). Under present law, foreign taxes paid below the third tier of foreign corporations are not eligible for the indirect foreign tax credit.

An indirect foreign tax credit generally is also available to a U.S. corporate shareholder meeting the requisite ownership threshold with respect to inclusions of subpart F income from controlled foreign corporations (sec. 960(a)).[1] Moreover, an indirect foreign tax credit may also be available to U.S. corporate shareholders with respect to inclusions of income from passive foreign investment companies.

House bill

In general

The House bill makes a number of modifications in the treatment of income derived from the disposition of stock in a controlled foreign corporation. The House bill provides deemed dividend treatment for gains on dispositions of lower-tier controlled foreign corporations. Where the lower-tier controlled foreign corporation previously earned subpart F income, the House bill permits the amount of gain taxed to the U.S. shareholder to be adjusted for previous income inclusions. Where proceeds from the sale of stock to a controlled foreign corporation that previously has earned subpart F income would be treated as a dividend under the principles of section 304, the House bill expressly permits exclusion of the deemed section 304 dividend from taxation to the extent of the previously taxed earnings and profits of the controlled foreign corporation from which the property was deemed to be distributed. (Appropriate basis adjustments also are permitted to be made.) Where a controlled foreign corporation (whether or not it is a lower-tier controlled foreign corporation) earns subpart F income in a year in which a U.S. shareholder sells its stock, in a transaction that does not result in the foreign corporation ceasing to be a controlled foreign corporation, the House bill contains statutory language providing for a proportional reduction in the taxation of the subpart F income in that year to the acquiring U.S. shareholder.

The House bill contains four additional provisions related to controlled foreign corporations. First, the House bill repeals the limitation on look-through treatment (for foreign tax credit separate limitation purposes) of dividends from controlled foreign corporations to U.S. shareholders out of earnings from periods in which the payor was a controlled foreign corporation, but the dividend recipient was not a U.S. shareholder of the controlled foreign corporation. Second, the House bill provides regulatory authority to develop a simplified mechanism for computing indirect foreign tax credits and increases in foreign tax credit limitations resulting upon certain distributions by controlled foreign corporations of previously taxed earnings and profits. Third, the House bill clarifies the effect of a treaty exemption or reduction of the branch profits tax on the determination of subpart F income. Fourth, the House bill extends application of the indirect foreign tax credit to fourth-, fifth-, and sixth-tier controlled foreign corporations where the necessary ownership thresholds (as extended under the House bill to these tiers) are satisfied.

Lower-tier controlled foreign corporations

Characterization of gain on stock disposition

The House bill provides that if a controlled foreign corporation is treated as having gain from the sale or exchange of stock in a foreign corporation, the gain is treated as a dividend to the same extent that it would have been so treated under section 1248 if the controlled foreign corporation were a U.S. person. This provision, however, does not affect the determination of whether the corporation whose stock is sold or exchanged is a controlled foreign corporation.

Thus, for example, if a U.S. corporation owns 100 percent of the stock a foreign corporation, which owns 100 percent of the stock of a second foreign corporation, then under the House bill, any gain of the first corporation upon a sale or exchange of stock of the second corporation is treated as a dividend for purposes of subpart F income inclusions to the U.S. shareholder, to the extent of earnings and profits of the second corporation attributable to periods in which the first foreign corporation owned the stock of the second foreign corporation while the latter was a controlled foreign corporation with respect to the U.S. shareholder.

As another example, assume that the U.S. corporation has always owned 40 percent of the voting stock and 60 percent of the value of all of the stock of a foreign corporation, which has always owned 40 percent of the voting stock and 60 percent of the value of all of the stock of a second foreign corporation. All the other stock of the foreign corporations has always been owned by foreign individuals unrelated to the U.S. corporation. In this case, the second foreign corporation has never been a controlled foreign corporation. Therefore, none of the gain of the first corporation upon a sale of stock of the second corporation is treated as a dividend.

Gain on disposition of stock in a related corporation created or organized under the laws of, and having substantial part of assets in a trade or business in, the same foreign country as the gain recipient, even if recharacterized as a dividend under the House bill, is not therefore excluded from foreign personal holding company income under the same-country exception that applies to actual dividends.

The House bill provides that for purposes of this provision, a controlled foreign corporation is treated as having sold or exchanged stock if, under any provision of subtitle A of the Code, the controlled foreign corporation is treated as having gain from the sale or exchange of such stock. Thus, for example, if a controlled foreign corporation distributes to its shareholder stock in a foreign corporation, and the distribution results in gain being recognized by the controlled foreign corporation under section 311(b) as if the stock were sold to the shareholder for fair market value, the House bill makes clear that for purposes of this provision, the controlled foreign corporation is treated as having sold or exchanged the stock.

The House bill also repeals a provision added to the Code by the Technical and Miscellaneous Revenue Act of 1988[2] (the "1988 Act") which, except as provided by regulations, requires a recipient of a distribution from a controlled foreign corporation to have been a United States shareholder of that controlled foreign corporation for the period during which the earnings and profits which gave rise to the distribution were generated in order to avoid treating the distribution as one coming from a noncontrolled section 902 corporation. Thus, under the House bill, a controlled foreign corporation is not treated as a noncontrolled section 902 corporation with respect to any distribution out of its earnings and profits for periods during which it was a controlled foreign corporation, whether or not the recipient of the distribution was a U.S. shareholder of the corporation when the earnings and profits giving rise to the distribution were generated.

Adjustments to basis of stock

The House bill also provides that when a lower-tier controlled foreign corporation earns subpart F income, and stock in that corporation is later disposed of by an upper-tier controlled foreign corporation, the resulting income inclusion of the U.S. shareholders are, under regulations, adjusted to account for previous inclusions, in a manner similar to the adjustments currently provided to the basis of stock in a first-tier controlled foreign corporation. Thus, just as the basis of a U.S. shareholder in a first-tier controlled foreign corporation rises when subpart F income is earned and falls when previously taxed income is distributed, so as to avoid double taxation of the income on a later disposition, it is intended that by regulation the subpart F income from gain on the disposition of a lower-tier controlled foreign corporation generally would be reduced by income inclusions of earnings that were not subsequently distributed by the lower-tier controlled foreign corporation. It is intended that the Secretary will have sufficient flexibility in promulgating regulations under this provision to permit adjustments only in those cases where, by virtue of the historical ownership structure of the corporations involved, the Secretary is satisfied that the inclusions for which adjustments can be made can be clearly identified.

---

[1] Unlike the indirect foreign tax credit for actual dividend distributions, the indirect credit for subpart F inclusions can be available to individual shareholders in certain circumstances if an election is made (sec. 962).

[2] P.L. 100-647, sec. 1012(a)(10).

For example, assume that a U.S person is the owner of all of the stock of a first-tier controlled foreign corporation which, in turn, is the sole shareholder of a second-tier controlled foreign corporation. In year 1, the second-tier controlled foreign corporation earns $100 of subpart F income which is included in the U.S. person's gross income for that year. In year 2, the first-tier controlled foreign corporation disposes of the second-tier controlled foreign corporation's stock and recognizes $300 of income with respect to the disposition. All of that income would constitute subpart F foreign personal holding company income. Under the House bill, the Secretary is granted regulatory authority to reduce the U.S. person's year 2 subpart F inclusion by $100—the amount of year 1 subpart F income of the second-tier controlled foreign corporation that was included, in that year, in the U.S. person's gross income. Such an adjustment would, in effect, allow for a step-up in the basis of the stock of the second-tier controlled foreign corporation to the extent of its subpart F income previously included in the U.S. person's gross income.

As another example, assume the same facts as in the preceding paragraph except that in year 2, the first-tier controlled foreign corporation distributes the stock of the second-tier controlled foreign corporation to the U.S. person. Assume that as a result of the distribution, the first-tier controlled foreign corporation recognizes taxable income of $300 under section 311(b). This income represents subpart F income, $100 of which is due to no adjustment having been made to the basis of the second-tier controlled foreign corporation's stock for its year 1 subpart F income. The House bill contemplates that in such a situation, the $300 of subpart F income would be reduced under regulations to $200 to account for the year 1 subpart F income inclusion.

Subpart F inclusions in year of disposition

If a U.S. shareholder acquires the stock of a controlled foreign corporation from another U.S. shareholder during a taxable year of the controlled foreign corporation in which it earns subpart F income, the House bill reduces the acquirer's subpart F inclusion for that year by a portion of the amount of the dividend deemed (under sec. 1248) to be received by the transferor. The portion by which the inclusion is reduced (as is currently the case if a dividend was paid to the previous owner of the stock) would not exceed the lesser of the amount of dividends with respect to such stock deemed received (under sec. 1248) by other persons during the year or the amount determined by multiplying the subpart F income for the year by the proportion of the year during which the acquiring shareholder did not own the stock.

Avoiding double inclusions in other cases

The House bill clarifies the appropriate scope of regulatory authority with respect to the treatment of cross-chain section 304 dividends out of the earnings of controlled foreign corporations that were previously included in the income of a U.S. shareholder under subpart F. The House bill contemplates that in such a case, the Secretary in his discretion may by regulation treat such dividends as distributions of previously taxed income, with appropriate basis adjustments. It is also anticipated that other occasions may arise where the exercise of similar regulatory authority may be appropriate to avoid double income inclusions, or an inclusion or exclusion of income without a corresponding basis adjustment. Therefore, the House bill states that, in addition to cases involving section 304, the Secretary may by regulation modify the application of subpart F in any other case where there would otherwise be a multiple inclusion of any item of income (or an inclusion or exclusion without an appropriate basis adjustment) by reason of the structure of a U.S. shareholder's holdings in controlled foreign corporations or by reason of other circumstances. The House bill is not intended to create any inference as to the application of present law in these cases.

Foreign tax credit in year of receipt of previously taxed income

With respect to the present-law provisions which permit a foreign tax credit to be claimed in the case of a distribution of previously taxed income, the House bill provides authority for Treasury regulations to establish a simplified method for computing the increase in foreign tax credit limitation that results from the application of these provisions. It is understood that the Secretary has regulatory flexibility in the determination of the amount of creditable foreign taxes on or with respect to the accumulated earnings and profits of a foreign corporation from which a distribution of previously taxed income is made, which were not deemed paid by the domestic corporation in a prior taxable year.

The House bill makes clear that the regulations may require taxpayers to use any simplified methods so established, rather than making the use of such methods elective by taxpayers. The House bill does not mandate, however, that regulations provide such simplified methods, or in the case that such methods are provided, that they be made uniformly applicable to all taxpayers.

For example, in certain situations the Treasury Secretary might deem it appropriate not to require taxpayers to trace specific items of previously taxed income of specific controlled foreign corporations and to associate those items with specific amounts of excess foreign tax credit limitation. Rather, regulations might allow for some sort of simplified approach for accounting for excess limitation amounts (allocated to the various foreign tax credit separate limitation categories from which they originally arose) and for utilization of portions of these amounts upon distributions of previously taxed income from the same categories.

Treatment of United States income earned by a controlled foreign corporation

The House bill provides that an exemption or reduction by treaty of the branch profits tax that would be imposed under section 884 on a controlled foreign corporation does not affect the general statutory exemption from subpart F income that is granted for U.S. source effectively connected income. For example, assume a controlled foreign corporation earns income of a type that generally would be subpart F income, and that income is earned from sources within the United States in connection with business operations therein. Further assume that repatriation of that income is exempted from the U.S. branch profits tax under a provision of an applicable U.S. income tax treaty. The House bill provides that, notwithstanding the treaty's effect on the branch tax, the income is not treated as subpart F income as long as it is not exempt from U.S. taxation (or subject to a reduced rate of tax) under any other treaty provision.

Indirect foreign tax credit

The House bill extends the application of the indirect foreign tax credit (secs. 902 and 960) to certain taxes paid or accrued by certain fourth-, fifth-, and sixth-tier foreign corporations. In general, three requirements must be satisfied by a foreign company at any of these tiers to qualify for the credit. First, the company must be a controlled foreign corporation. Second, the domestic corporation referred to in section 902(a) must be a U.S. shareholder (as defined in section 951(b)) with respect to the foreign company. Third, the product of the percentage ownership of voting stock at each level from the U.S. corporation down must equal at least 5 percent. The House bill limits the application of the indirect foreign tax credit below the third tier to taxes paid or incurred in taxable years during which the payor is a controlled foreign corporation. No inference is intended as to the availability of indirect foreign tax credits, under present law, for taxes paid by foreign corporations in the first three tiers, for periods prior to the time when the present-law ownership requirements were met as to those corporations. All foreign taxes paid below the sixth tier of foreign corporations remain ineligible for the indirect foreign tax credit.

Effective dates

Lower-tier controlled foreign corporations

The provision of the House bill treating gains on dispositions of stock in lower-tier controlled foreign corporations as dividends under section 1248 principles applies to gains recognized on transactions occurring after date of enactment of the House bill. The provision of the House bill that expands look-through treatment, for foreign tax credit limitation purposes, of dividends from controlled foreign corporations, is effective for distributions after the date of the House bill's enactment.

The House bill's provision providing for regulatory adjustments to U.S. shareholder inclusions, with respect to gains of controlled foreign corporations from dispositions of stock in lower-tier controlled foreign corporations that previously had subpart F income, is effective for determining inclusions for taxable years of U.S. shareholders beginning after December 31, 1992. Thus, the House bill permits regulatory adjustments to an inclusion occurring after the effective date to account for previous subpart F income inclusions occurring both prior to and subsequent to the effective date of the provision.

Subpart F inclusions in year of disposition

The provision of the House bill permitting dispositions of stock to be taken into consideration in determining a U.S. shareholder's subpart F inclusion for a taxable year is effective with respect to dispositions occurring after the date of enactment of the House bill.

Distributions of previously taxed income

The provision of the House bill allowing the Secretary to make regulatory adjustments to avoid double inclusions in cases such as those to which section 304 applies takes effect on the date the House bill is enacted.

Foreign tax credit in year of receipt of previously taxed income

The provision of the House bill granting regulatory authority to establish simplified methods for determining the amount of increase in foreign tax credit limitation resulting from a distribution of previously taxed income is effective as of the date of enactment of the House bill.

Treatment of United States source income earned by a controlled foreign corporation

The provision of the House bill concerning the effect of treaty exemptions from or reductions of the branch profits tax on the determination of subpart F income is effective for taxable years beginning after December 31, 1986.

Indirect foreign tax credit

The provision of the House bill which extends application of the indirect foreign tax credit to certain controlled foreign corporations below the third tier is effective for foreign taxes paid or incurred by controlled foreign corporations for taxable years of such corporations beginning after the date of enactment of the House bill.

In the case of any chain of foreign corporations the taxes of which would be eligible for the indirect foreign tax credit, under present law or under the House bill, but for the denial of indirect credits below the third or sixth tier, as the case may be, no liquidation, reorganization, or similar transaction in a taxable year beginning after the date of enactment of the House bill shall have the effect of permitting taxes to be taken into account under the indirect foreign tax credit provisions of the Code which could not have been taken into account under those provisions but for such transaction. As one example, no such transaction shall have the effect of permitting credits for taxes which, but for such transaction, would have been noncreditable (given the effective date provisions of the House bill) because they are taxes of a fourth-, fifth-, or sixth-tier corporation for a year beginning *before* the date that the House bill is enacted. No inference is intended regarding the creditability or noncreditability of such taxes under present law.

Senate amendment

The Senate amendment is the same as the House bill, except that it does not include the provision of the House bill that extends the application of the indirect foreign tax credit to taxes paid by certain fourth-, fifth-, and sixth-tier controlled foreign corporations.

Conference agreement

The conference agreement follows the House bill.

3. TRANSLATION OF FOREIGN TAXES INTO U.S. DOLLAR AMOUNTS

Present law

Translation of foreign taxes

Foreign income taxes paid in foreign currencies are required to be translated into U.S. dollar amounts using the exchange rate as of the time such taxes are paid to the foreign country or U.S. possession (sec. 986(a)(1)). This rule applies equally to foreign taxes paid directly by U.S. taxpayers, which are creditable only in the year paid or accrued (or during a carryover period), and to foreign taxes paid by foreign corporations that are deemed paid by a U.S. corporation, and hence creditable, in the year that the U.S. corporation receives a dividend or income inclusion.

Redetermination of foreign taxes

For taxpayers who utilize the accrual basis of accounting for determining creditable foreign taxes, accrued and unpaid foreign tax liabilities denominated in foreign currencies are translated into U.S. dollar amounts at the exchange rate as of the last day of the taxable year of accrual.[1] In certain cases where a difference exists between the dollar value of accrued foreign taxes and the dollar value of those taxes when paid, a redetermination (or adjustment) of foreign taxes is required.[2] Generally, such an adjustment may be attributable to one of three causes. One such cause would be a refund of foreign taxes. Second, a foreign tax redetermination may be required because the amount of foreign currency units actually paid differs from the amount of foreign currency units accrued. These first two cases generally give rise to a so-called "section 905(c) regular adjustment." Third, a redetermination may arise due to fluctuations in the value of the foreign currency relative to the dollar between the date of accrual and the date of payment giving rise to a so-called "section 905(c) translation adjustment."

As a general matter, a redetermination of foreign tax paid or accrued directly by a U.S. person requires notification of the Internal Revenue Service and a redetermination of U.S tax liability for the taxable year for which the foreign tax was claimed as a credit. Exceptions to this rule apply for de minimis amounts of foreign tax redeterminations.[3] In the case of redeterminations of foreign taxes that qualify for the deemed-paid foreign tax credit under sections 902 and 960, taxpayers generally are required to make appropriate adjustments to the pools of earnings and profits and foreign taxes.[4]

House bill

In general

The House bill sets forth two sets of operating rules for the translation of foreign taxes. The first set establishes new rules for the translation of certain accrued foreign taxes. The other set modifies the rules of present law for translating all other foreign taxes.

Translation of foreign taxes

Translation of certain accrued foreign taxes

With respect to taxpayers who take foreign income taxes into account when accrued for purposes of determining the foreign tax credit, the House bill generally permits foreign taxes to be translated at the average exchange rate for the taxable year to which such taxes relate. If tax in excess of the accrued amount is actually paid, such excess amount would be translated using the exchange rate in effect as of the time of payment.

This set of rules does not apply (1) to taxpayers that are not on the accrual basis for determining creditable foreign taxes, (2) with respect to taxes of an accrual-basis taxpayer that are actually paid in a taxable year prior to the year to which they relate, or (3) to the extent provided in regulations, to tax payments denominated in a currency determined to be an inflationary currency in accordance with such regulations. It is intended that the Secretary will have discretion to define "inflationary" for this purpose so as to take into account the particular need under this provision to avoid distortions in the computation of the foreign tax credit. In addition, as discussed in detail below, this set of rules does not apply to, and thus a redetermination of foreign tax is required for, any foreign income tax paid after the date two years after the close of the taxable year to which such taxes relate.

For example, assume that in year 1 a taxpayer accrues 1,000 units of foreign tax that relate to year 1. Further assume that as of the end of year 1 the tax is unpaid and the currency involved is not treated as inflationary by the Secretary for translation purposes. In this case, the House bill provides that the taxpayer would translate 1,000 units of accrued foreign tax into U.S. dollars at the average exchange rate for year 1.[5] If the 1,000 units of tax were paid by the taxpayer in either year 2 or year 3, no redetermination of foreign tax would be required. If, any portion of the tax so accrued remained unpaid as of the end of year 3, however, the taxpayer would be required to redetermine its foreign tax accrued in year 1 to account for the accrued but unpaid tax.

As another example, assume a taxpayer accrues 1,000 units of foreign tax in year 2, but pays the tax in year 1. Also assume that the tax relates to year 2. In this case, the taxpayer would translate the tax using the exchange rate as of the time the tax is paid (i.e., using the applicable year 1 exchange rate) since the tax is paid in a year prior to the year to which it relates.

As an illustration of what is meant by the taxable year to which taxes relate, assume that a foreign corporation is charged by a foreign government with an income tax of 100 units for 1993. Assume that the currency involved is not treated as inflationary by the Secretary for translation purposes under the House bill. Due to a contest between the foreign government and the corporation that ends in 1994, the 100 units of tax are not paid until 1994. Assume that under the U.S. rules governing accrual, the foreign tax accrues *for* 1993 but does not do so *until* 1994.[6] Under the House bill, the taxes will be translated at the rate in effect for 1993, because the taxes relate to 1993, even though they did not accrue until 1994. If instead the contest was over, and the taxes were accrued and paid, in 1998, the translation rate used would be that of 1998, rather than 1993 because 1998 is more than 2 years after the end of 1993. Now assume that the contest was over in 1998, but the taxes were deposited in 1994 and not accrued until 1998. These taxes are paid before the beginning of the year in which the taxes were accrued (1998), but after the year to which the taxes relate (1993). Thus, under the House bill, the taxes may be translated at the rate for the year (1993) to which the taxes relate. If the taxes are instead paid in 1996, under the House bill they will be translated at the relevant rate for 1996 because 1996 is more than 2 years after the end of 1993. Finally, assume that under a long-term contract method of accounting, a foreign income tax liability accrues in 1998, but advance deposits are made in each of the years 1993 through 1997. Under the House bill, it is intended that the payments in 1993 through 1997 be treated as relating to 1998. Therefore these payments are translated at the relevant rates for 1993 through 1997.

Translation of all other foreign taxes

Foreign taxes not eligible for application of the preceding rules generally are translated into U.S. dollars using the exchange rates as of the time such taxes are paid. The House bill grants the Secretary of the Treasury authority to issue regulations that would allow foreign tax payments made by a foreign corporation or by a foreign branch of a U.S. person to be translated into U.S. dollar amounts using an average U.S. dollar exchange rate for a specified period. It is anticipated that the applicable average exchange rate would be the rate as published by a qualified source of exchange rate information for the period during which the tax payments were made.

---

[1] Temp. Treas. Reg. sec. 1.905-3T(b)(1).

[2] Temp. Treas. Reg. sec. 1.905-3T(c).

[3] Temp. Treas. Reg. sec. 1.905-3T(d)(1).

[4] Temp. Treas. Reg. sec. 1.905-3T(d)(2); Notice 90-26, 1990-1 C.B. 336.

[5] The same result would occur if the 1,000 units of tax were both accrued and paid in year 1.

[6] See, e.g., Rev. Rul. 84-125, 1984-2 C.B. 125.

Redetermination of foreign taxes

As revised by the House bill, section 905(c) requires foreign tax redeterminations to occur in three cases: (1) if accrued taxes when paid (in foreign currency) differ from the amounts claimed (in foreign currency) as credits by the taxpayer, (2) if accrued taxes are not paid before the date two years after the close of the taxable year to which such taxes relate, and (3) if any tax paid is refunded in whole or in part. Thus, for example, the House bill provides that if at the close of the second taxable year after the close of the accrual year any tax so accrued has not yet been paid, a foreign tax redetermination under section 905(c) is required for the amount of such unpaid tax. That is, the accrual of any tax that is unpaid as of that date would be retroactively denied. In cases where a redetermination is required, as under present law, the House bill specifies that the taxpayer must notify the Secretary, who shall redetermine the amount of the tax for the year or years affected.

The House bill provides that in the case of accrued taxes not paid within the date two years after the close of the taxable year to which such taxes relate, whether or not such taxes were previously accrued, any such taxes if subsequently paid are taken into account for the taxable year in which paid, and no redetermination with respect to the original year of accrual is required on account of such payment. In such a case, those taxes would be translated into U.S. dollar amounts using the exchange rates in effect for the period during which such taxes are paid. Nothing in the House bill is intended to change present law as to the length of time after the year to which the redetermination relates within which redeterminations may be made or required.[7]

Effective date

Effective for taxes paid (in the case of taxpayers using the cash basis for determining the foreign tax credit) or accrued (in the case of taxpayers using the accrual basis for determining the foreign tax credit) in taxable years beginning after December 31, 1991.

Senate amendment

The Senate amendment is the same as the House bill, except that the Senate amendment clarifies the provision's application to certain foreign tax liabilities which accrue under a long-term contract method of accounting.

As an example of the treatment prescribed under the Senate amendment, assume that under foreign law, a foreign income tax liability accrues in 1998 under a long-term contract method of accounting, but advance deposits of that liability accruing in 1998 are made in each of the years 1993 through 1997. It is intended under the Senate amendment that if the payments in 1993 through 1997 are treated as relating to 1998, these payments are nevertheless to be translated at the relevant rates for 1993 through 1997. Although the Senate amendment provides a rule for the translation of the taxes in this case, no change is intended as to the application of present law accounting rules determining the year for which the taxes are eligible for credit or deduction for U.S. income tax purposes.

Conference agreement

The conference agreement follows the Senate amendment.

With respect to taxes of an accrual-basis taxpayer that relate to a taxable year beginning before January 1, 1992, the return for which (if one were due) would not yet be due on date of enactment (taking into account extensions of time to file), the conferees contemplate that the Secretary would, in appropriate circumstances, provide taxpayers with a reasonable average-rate method for translating such taxes that are not paid until after the effective date of the Act.

As an additional illustration of what is meant by the conference agreement as the taxable year to which taxes relate, assume that a foreign corporation accrues a foreign income tax of 100 units of noninflationary currency for 1993. Further assume that the actual amount of foreign tax liability of the foreign corporation for 1993 is 110 units, all of which is paid in 1994. Under the conference agreement, the 110 units of foreign tax are translated at the rate in effect for 1993 because the taxes relate to 1993, even though the total tax liability for that year was not actually accrued by the taxpayer in 1993.

4. FOREIGN TAX CREDIT LIMITATION UNDER THE ALTERNATIVE MINIMUM TAX

Present law

Computing foreign tax credit limitations requires the allocation and apportionment of deductions between items of foreign source and U.S. source income. Foreign tax credit limitations must be computed both for regular tax purposes and for purposes of the alternative minimum tax (AMT). Consequently, after allocating and apportioning deductions for regular tax foreign tax credit limitation purposes, additional allocations and apportionments generally must be performed in order to compute the AMT foreign tax credit limitation.

House bill

The House bill permits taxpayers to elect to use as their AMT foreign tax credit limitation fraction the ratio of foreign source *regular* taxable income to entire alternative minimum taxable income, rather than the ratio of foreign source *alternative minimum* taxable income to entire alternative minimum taxable income. Foreign source regular taxable income may be used, however, only to the extent it does not exceed entire alternative minimum taxable income.

The election under the bill is available only in the first taxable year beginning after December 31, 1992, for which the taxpayer claims an AMT foreign tax credit. A taxpayer will be treated, for this purpose, as claiming an AMT foreign tax credit for any taxable year for which the taxpayer chooses to have the benefits of the foreign tax credit, and in which the taxpayer is subject to the alternative minimum tax or would be subject to the alternative minimum tax but for the availability of the AMT foreign tax credit. The election applies to all subsequent taxable years, and may be revoked only with the permission of the Secretary of the Treasury.

Effective date.—The provision applies to taxable years beginning after December 31, 1992.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

5. INBOUND AND OUTBOUND TRANSFERS

Present law

Outbound transfers

Corporate nonrecognition provisions

Certain types of exchanges relating to the organization, reorganization, and liquidation of a corporation can be made without recognition of gain to the corporation involved or to its shareholders. In 1932 Congress enacted an exception to the nonrecognition rules, which became section 367 of the 1954 Code, for the case where such an exchange involves a foreign corporation. The legislative history indicates that the exception was enacted in order to prevent tax avoidance that might have otherwise occurred upon the transfer of appreciated property outside U.S. tax jurisdiction.[1] Under that provision, in determining the extent to which gain (but not loss) was recognized in these exchanges, a foreign corporation was not considered a corporation unless it was established to the satisfaction of the IRS that the exchange was not in pursuance of a plan having as one of its principal purposes the avoidance of Federal income taxes.

The Code now provides that if a U.S. person transfers property to a foreign corporation in connection with certain corporate organizations, reorganizations, or liquidations, the foreign corporation will not, for purposes of determining the extent to which gain is recognized on such transfer, be considered to be a corporation (sec. 367(a)(1)). Various exceptions to the operation of this rule are provided, including a broad grant of authority to provide exceptions by regulation. The statutory language has changed substantially since 1932, but it has retained in large part its primary operative result—that of treating a foreign corporation as not a corporation. Since corporate status is essential to qualify for the tax-free organization, reorganization, and liquidation provisions, failure to satisfy the requirements of section 367 could result in the recognition of gain to the participant corporations and shareholders.

Excise tax on transfers to a foreign entity

At the same time that Congress enacted the original predecessor of current section 367, Congress also enacted an excise tax on outbound transfers that might not constitute income tax recognition events even after imposition of the anti-avoidance income tax rule adopted for corporate transactions. As in the case of the corporate nonrecognition override provision, the purpose of the excise tax was to check transfers of property in which there was a large appreciation in value to foreign entities for the purpose of avoidance of taxes on capital gains.[2] Therefore, as in the case of the corporate provision, the excise tax generally has been imposed only in certain cases where it has been believed necessary or appropriate to preserve U.S. tax on appreciated assets.

Under present law, the excise tax generally applies on transfers of property by a U.S. person to a foreign corporation—as paid-in surplus or as a contribution to capital—or to a foreign estate, trust, or partnership. The tax is 35 percent of the amount of gain inherent in the property transferred, but not recognized for income tax purposes at the time of the transfer (sec. 1491). For income tax purposes, the basis of the property whose appreciation and transfer triggers the tax is not increased to account for imposition of the tax.

---

[7] See sec. 6501(c)(5). See also, e.g., *Pacific Metals Corp. v. Commissioner*, 1 T.C. 1028 (1943); *Texas Co. (Caribbean) Ltd. v. Commissioner*, 12 T.C. 925 (1949).

[1] H.R. Rep. No. 708, 72d Cong., 1st Sess. 20 (1932).

[2] *Id.* at 52.

The excise tax does not apply in certain cases where the transferee is exempt from U.S. tax under Code sections 501–505 (sec. 1492(1)). In addition, the excise tax does not apply in some cases where income tax rules governing outbound transfers apply, either by their terms or by the election of the taxpayer. Thus, the excise tax does not apply to a transfer described in section 367, or to a transfer not described in section 367 but with respect to which the taxpayer elects (before the transfer) the application of principles similar to the principles of section 367 (sec. 1492(2)).

In addition, a taxpayer may elect (under regulations prescribed by the Secretary) to treat a transfer described in section 1491 as a sale or exchange of the property transferred and to recognize as gain (but not loss) in the year of the transfer the excess of the fair market value of the property transferred over the adjusted basis (for determining gain) of the property in the hands of the transferor (sec. 1057; Treas. Reg. sec. 7.0). To the extent that gain is recognized pursuant to the election in the year of the transfer, the transfer is not subject to the excise tax, and the basis of the property in the hands of the transferee will be increased by the amount of gain received (sec. 1492(3)). The legislative history of the elective income recognition provision indicates that the making of an election which has as one of its principle purposes the avoidance of Federal income taxes is not permitted.[3]

The excise tax is due at the time of the transfer (sec. 1494(a)). Under regulations, the excise tax may be abated, remitted, or refunded if the taxpayer, after the transfer, elects the application of principles similar to the principles of section 367 (sec. 1494(b)).

Inbound corporate transfers

Although the legislative history of the 1932 Act indicated a concern with outbound transfers, the statutory standard for determining that a transaction did not have as one of its principal purposes tax avoidance evolved through administrative interpretation into a requirement that, in the case of transfers into the United States by a foreign corporation, tax-free treatment generally would be permitted only if the U.S. tax on accumulated earnings and profits was paid. For example, in 1968, the IRS issued guidelines (Rev. Proc. 68–23, 1968–1 C.B. 821) as to when favorable rulings "ordinarily" would be issued. As a condition of obtaining a favorable ruling with respect to certain transactions, the section 367 guidelines required the taxpayer to agree to include certain items in income (the amount to be included was called the section 367 toll charge). For example, if the transaction involved the liquidation of a foreign corporation into a domestic parent corporation, a favorable ruling was issued if the domestic parent agreed to include in its income as a dividend for the taxable year in the which the liquidation occurred the portion of the accumulated earnings and profits of the foreign corporation which were properly attributable to the domestic corporation's stock interest in the foreign corporation (Rev. Proc. 68–23, sec. 3.01(1); see also sec. 3.03(1)(b)).

Absence of a toll charge on accumulated earnings of a foreign corporation upon liquidation or asset reorganization into a U.S. corporation clearly would permit avoidance of tax. For example, if a U.S. corporation owns 100 percent of the stock of a U.S. subsidiary, no tax is imposed either on a dividend from the subsidiary to the parent (sec. 243) or the liquidation of the subsidiary into the parent (secs. 332 and 337). In each case, the earnings of the subsidiary already have been subject to U.S. tax jurisdiction, and the liquidation provisions allow nonrecognition of gain inherent in appreciated property of the subsidiary. On the other hand, if a U.S. corporation owns 100 percent of the stock of a foreign subsidiary, earnings of the subsidiary generally are not subject to current U.S. tax. Instead, tax generally is imposed on a dividend from the subsidiary to the parent, net of creditable foreign taxes. If a liquidation of the subsidiary could be accomplished tax-free under the Code, U.S. tax on its earnings would be avoided; more generally, the parent would be able to succeed to the basis and other tax attributes of the foreign corporation without having subjected to U.S. tax jurisdiction the earnings that gave rise to those tax attributes.

Outbound transfers since the Tax Reform Act of 1976

For purposes of the transactions described above, section 367 (and its predecessors) remained largely unchanged between 1932 and 1976. In 1976, however, a number of problems caused Congress to revise section 367. One result of the 1976 revision was to separate the provision into 2 sets of rules: one set dealing with outbound transfers, where the statutory aim is to prevent the removal of appreciated assets or inventory from U.S. tax jurisdiction prior to their sale (sec. 367(a)), and the other set dealing with both transfers into the United States and those which are exclusively foreign (sec. 367(b)).

Section 367(b) now provides, in part, that in the case of certain exchanges in connection with which there is no transfer of property described in section 367(a)(1), a foreign corporation will be considered to be a corporation except to the extent provided in regulations which are necessary or appropriate to prevent the avoidance of Federal income taxes.

Although it is clear that absence of a toll charge on accumulated earnings of a foreign corporation upon liquidation or reorganization into a U.S. corporation leads to avoidance of tax, and Congress in 1976 noted without disapproval the adoption of IRS positions that would prevent the avoidance of tax in these cases,[4] neither section 367(b) as revised in 1976, nor its predecessors, were drafted in such a way that directly causes tax to be imposed on foreign earnings.

For example, assume that a U.S. corporation owns 100 percent of the stock of a liquidating foreign corporation, and, pursuant to regulations under section 367(b), the foreign corporation is not treated as a corporation for purposes of section 332. In that case, the U.S. corporation would be required under the Code to recognize the difference between the basis and the value of its stock in the foreign corporation. That gain, however, may be more or less than the accumulated earnings of the foreign corporation attributable to the period when the U.S. corporation owned the stock of the foreign corporation.

Perhaps as a result, neither the present temporary regulations nor the recently proposed regulations under section 367(b) mandate a tax based on the accumulated earnings of a foreign corporation that liquidates or reorganizes into a U.S. corporation. The temporary regulations allow the taxpayer to elect treatment of the foreign corporation as a corporation if the tax on earnings is paid. If the taxpayer chooses not to make the election, the foreign corporation is not treated as a corporation under the relevant nonrecognition provision (e.g., sec. 332, 354), but *is* treated as a corporation for other purposes, such as for purposes of the basis rules (secs. 334, 358, 362), and carryover provisions (sec. 381) (Temp. Treas. Reg. secs. 7.367(b)–5(b) and 7.367(b)–7(c)(2)). The proposed regulations generally require that the foreign corporation be treated as a corporation, and permit the taxpayer to elect either to pay the tax on earnings, or to pay tax on the gain; but if the latter option is chosen, adjustments must be made to either net operating loss carryovers, capital loss carryovers, or asset bases (Proposed Treas. Reg. sec. 1.367(b)–3(b)(2)).

House bill

Outbound transfers

The House bill repeals the excise tax on outbound transfers. In its place, the bill requires the full recognition of gain on a transfer of property by a U.S. person to a foreign corporation as paid-in surplus, or as a contribution to capital, or to a foreign estate, trust, or partnership. The Secretary may, however, in lieu of applying this full recognition rule, provide regulations under which principles similar to the principles of section 367 shall apply to any such transfer. Moreover, the Secretary may provide rules under which recognition of gain will not be triggered by section 1491 in cases where the Secretary is satisfied that application of other Code rules (such as those relating to partnerships or trusts) will prevent the avoidance of tax consistent with the purposes of the bill. Full recognition of gain can also be avoided in the case of a transfer described in section 367. It is anticipated that prior to the promulgation of regulations, the Secretary generally will continue to permit taxpayers to elect the application of principles similar to the principles of section 367, provided the election is made by the time for filing the income tax return for the taxable year of the transfer.

Inbound transfers

The House bill provides that in the case of certain corporate organizations, reorganizations, and liquidations described in section 332, 351, 354, 355, 356, or 361 in which the status of a foreign corporation as a corporation is a condition for nonrecognition by a party to the transaction, income shall be recognized to the extent provided in regulations prescribed by the Secretary which are necessary or appropriate to prevent the avoidance of Federal income taxes. This provision is limited in its application, under the bill, so as not to apply to a transaction in which the foreign corporation is not treated as a corporation under section 367(a)(1). Thus, the bill permits the IRS to provide by regulations for recognition of income, without regard to the amount of gain that would be recognized in the absence of the relevant nonrecognition provision listed above. As under current law, such regulations will be subject to normal court review as to whether they are necessary or appropriate for the prevention of avoidance of Federal income taxes.

---

[3] Staff of the Joint Committee on Taxation, 94th Cong., 2d Sess., *General Explanation of the Tax Reform Act of 1976*, at 226 (1976).

[4] E.g., Staff of the Joint Comm. on Taxation, 94th Cong., 2d Sess., *General Explanation of the Tax Reform Act of 1976*, at 264 (1976).

In addition, the bill clarifies that rules for income recognition under section 367(b) may also be applied in a case involving a transfer literally described in section 367(a)(1), where necessary or appropriate to prevent the avoidance of Federal income taxes.[5]

Effective date

The provision that amends the outbound rules and repeals the excise tax applies to transfers after date of enactment. The provision that amends section 367(b) applies to transfers after December 31, 1993.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

E. Treatment of Intangibles

1. AMORTIZATION OF GOODWILL AND CERTAIN OTHER INTANGIBLES

Present law

In determining taxable income for Federal income tax purposes, a taxpayer is allowed depreciation or amortization deductions for the cost or other basis of intangible property that is used in a trade or business or held for the production of income if the property has a limited useful life that may be determined with reasonable accuracy. No depreciation or amortization deductions are allowed with respect to goodwill or going concern value.

House bill

In general

The House bill allows an amortization deduction with respect to the capitalized costs of certain intangible property (defined as a "section 197 intangible") that is acquired by a taxpayer and that is held by the taxpayer in connection with the conduct of a trade or business or an activity engaged in for the production of income. The amount of the deduction is determined by amortizing the adjusted basis (for purposes of determining gain) of the intangible ratably over a 14-year period that begins with the month that the intangible is acquired.[1] No other depreciation or amortization deduction is allowed with respect to a section 197 intangible that is acquired by a taxpayer.

In general, the House bill applies to a section 197 intangible acquired by a taxpayer regardless of whether it is acquired as part of a trade or business. In addition, the House bill generally applies to a section 197 intangible that is treated as acquired under section 338 of the Code. The House bill generally does not apply to a section 197 intangible that is created by the taxpayer if the intangible is not created in connection with a transaction (or series of related transactions) that involves the acquisition of a trade or business or a substantial portion thereof.

Except in the case of amounts paid or incurred under certain covenants not to compete (or under certain other arrangements that have substantially the same effect as covenants not to compete) and certain amounts paid or incurred on account of the transfer of a franchise, trademark, or trade name, the House bill generally does not apply to any amount that is otherwise currently deductible (*i.e.*, not capitalized) under present law.

No inference is intended as to whether a depreciation or amortization deduction is allowed under present law with respect to any intangible property that is either included in, or excluded from, the definition of a section 197 intangible. In addition, no inference is intended as to whether an asset is to be considered tangible or intangible property for any other purpose of the Internal Revenue Code.

Definition of section 197 intangible

In general

The term "section 197 intangible" is defined as any property that is included in any one or more of the following categories: (1) goodwill and going concern value; (2) certain specified types of intangible property that generally relate to workforce, information base, know-how, customers, suppliers, or other similar items; (3) any license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof; (4) any covenant not to compete (or other arrangement to the extent that the arrangement has substantially the same effect as a covenant not to compete) entered into in connection with the direct or indirect acquisition of an interest in a trade or business (or a substantial portion thereof); and (5) any franchise, trademark, or trade name.

Certain types of property, however, are specifically excluded from the definition of the term "section 197 intangible." The term "section 197 intangible" does not include: (1) any interest in a corporation, partnership, trust, or estate; (2) any interest under an existing futures contract, foreign currency contract, notional principal contract, interest rate swap, or other similar financial contract; (3) any interest in land; (4) certain computer software; (5) certain interests in films, sound recordings, video tapes, books, or other similar property; (6) certain rights to receive tangible property or services; (7) certain interests in patents or copyrights; (8) any interest under an existing lease of tangible property; (9) any interest under an existing indebtedness (except for the deposit base and similar items of a financial institution); and (10) a franchise to engage in any professional sport, and any item acquired in connection with such a franchise.

Goodwill and going concern value

For purposes of the bill, goodwill is the value of a trade or business that is attributable to the expectancy of continued customer patronage, whether due to the name of a trade or business, the reputation of a trade or business, or any other factor.

In addition, for purposes of the bill, going concern value is the additional element of value of a trade or business that attaches to property by reason of its existence as an integral part of a going concern. Going concern value includes the value that is attributable to the ability of a trade or business to continue to function and generate income without interruption notwithstanding a change in ownership. Going concern value also includes the value that is attributable to the use or availability of an acquired trade or business (for example, the net earnings that otherwise would not be received during any period were the acquired trade or business not available or operational).

Workforce, information base, know-how, customer-based intangibles, supplier-based intangibles and other similar items

Workforce.—The term "section 197 intangible" includes workforce in place (which is sometimes referred to as agency force or assembled workforce), the composition of a workforce (for example, the experience, education, or training of a workforce), the terms and conditions of employment whether contractual or otherwise, and any other value placed on employees or any of their attributes. Thus, for example, the portion (if any) of the purchase price of an acquired trade or business that is attributable to the existence of a highly-skilled workforce is to be amortized over the 14-year period specified in the bill. As a further example, the cost of acquiring an existing employment contract (or contracts) or a relationship with employees or consultants (including but not limited to any "key employee" contract or relationship) as part of the acquisition of a trade or business is to be amortized over the 14-year period specified in the bill.

Information base.—The term "section 197 intangible" includes business books and records, operating systems, and any other information base including lists or other information with respect to current or prospective customers (regardless of the method of recording such information). Thus, for example, the portion (if any) of the purchase price of an acquired trade or business that is attributable to the intangible value of technical manuals, training manuals or programs, data files, and accounting or inventory control systems is to be amortized over the 14-year period specified in the bill. As a further example, the cost of acquiring customer lists, subscription lists, insurance expirations,[2] patient or client files, or lists of newspaper, magazine, radio or television advertisers is to be amortized over the 14-year period specified in the bill.

Know-how.—The term "section 197 intangible" includes any patent, copyright, formula, process, design, pattern, know-how, format, or other similar item. For this purpose, the term "section 197 intangible" is to include package designs, computer software, and any interest in a film, sound recording, video tape, book, or other similar property, except as specifically provided otherwise in the bill.[3]

Customer-based intangibles.—The term "section 197 intangible" includes any customer-based intangible, which is defined as the composition of market, market share, and any other value resulting from the future provision of goods or services pursuant to relationships with customers (contractual or otherwise) in the ordinary course of business. Thus, for example, the portion (if any) of the purchase price of an acquired trade or business that is attributable to the existence of customer base, circulation base, undeveloped market or market growth, insurance in force, mortgage servicing contracts, investment management contracts, or other relationships with customers that involve the future provision of goods or services, is to be amortized over the 14-year period specified in the bill. On the other hand, the portion (if any) of the purchase price of an acquired trade or business that is attributable to accounts receivable or other similar rights to income for those goods or services that have been provided to customers prior to the acquisition of a trade or business is not to be taken into account under the bill.[4]

---

[5] See Temp. Treas. Reg. sec. 7.367(b)-4(b); Proposed Treas. Reg. sec. 1.367(a)-3(a).

[1] In the case of a short taxable year, the amortization deduction is to be based on the number of months in such taxable year.

[2] Insurance expirations are records that are maintained by insurance agents with respect to insurance customers. These records generally include information relating to the type of insurance, the amount of insurance, and the expiration date of the insurance.

[3] See below for a description of the exceptions for certain patents, certain computer software, and certain interests in films, sound recordings, video tapes, books, or other similar property.

[4] As under present law, the portion of the purchase price of an acquired trade or business that is attrib-

In addition, the bill specifically provides that the term "customer-based intangible" includes the deposit base and any similar asset of a financial institution. Thus, for example, the portion (if any) of the purchase price of an acquired financial institution that is attributable to the checking accounts, savings accounts, escrow accounts and other similar items of the financial institution is to be amortized over the 14-year period specified in the bill.

Supplier-based intangibles.—The term "section 197 intangible" includes any supplier-based intangible, which is defined as the value resulting from the future acquisition of goods or services pursuant to relationships (contractual or otherwise) in the ordinary course of business with suppliers of goods or services to be used or sold by the taxpayer. Thus, for example, the portion (if any) of the purchase price of an acquired trade or business that is attributable to the existence of a favorable relationship with persons that provide distribution services (for example, favorable shelf or display space at a retail outlet), the existence of a favorable credit rating, or the existence of favorable supply contracts, is to be amortized over the 14-year period specified in the bill.[5]

Other similar items.—The term "section 197 intangible" also includes any other intangible property that is similar to workforce, information base, know-how, customer-based intangibles, or supplier-based intangibles.

Licenses, permits, and other rights granted by governmental units

The term "section 197 intangible" also includes any license, permit, or other right granted by a governmental unit or any agency or instrumentality thereof (even if the right is granted for an indefinite period or the right is reasonably expected to be renewed for an indefinite period).[6] Thus, for example, the capitalized cost of acquiring from any person a liquor license, a taxi-cab medallion (or license), an airport landing or takeoff right (which is sometimes referred to as a slot), a regulated airline route, or a television or radio broadcasting license is to be amortized over the 14-year period specified in the bill. For purposes of the bill, the issuance or renewal of a license, permit, or other right granted by a governmental unit or an agency or instrumentality thereof is to be considered an acquisition of such license, permit, or other right.

Covenants not to compete and other similar arrangements

The term "section 197 intangible" also includes any covenant not to compete (or other arrangement to the extent that the arrangement has substantially the same effect as a covenant not to compete; hereafter "other similar arrangement") entered into in connection with the direct or indirect acquisition of an interest in a trade or business (or a substantial portion thereof). For this purpose, an interest in a trade or business includes not only the assets of a trade or business, but also stock in a corporation that is engaged in a trade or business or an interest in a partnership that is engaged in a trade or business.

Any amount that is paid or incurred under a covenant not to compete (or other similar arrangement) entered into in connection with the direct or indirect acquisition of an interest in a trade or business (or a substantial portion thereof) is chargeable to capital account and is to be amortized ratably over the 14-year period specified in the bill. In addition, any amount that is paid or incurred under a covenant not to compete (or other similar arrangement) after the taxable year in which the covenant (or other similar arrangement) was entered into is to be amortized ratably over the remaining months in the 14-year amortization period that applies to the covenant (or other similar arrangement) as of the beginning of the month that the amount is paid or incurred.

For purposes of this provision, an arrangement that requires the former owner of an interest in a trade or business to continue to perform services (or to provide property or the use of property) that benefit the trade or business is considered to have substantially the same effect as a covenant not to compete to the extent that the amount paid to the former owner under the arrangement exceeds the amount that represents reasonable compensation for the services actually rendered (or for the property or use of property actually provided) by the former owner. As under present law, to the extent that the amount paid or incurred under a covenant not to compete (or other similar arrangement) represents additional consideration for the acquisition of stock in a corporation, such amount is not to be taken into account under this provision but, instead, is to be included as part of the acquirer's basis in the stock.

Franchises, trademarks, and trade names

The term "section 197 intangible" also includes any franchise, trademark, or trade name. For this purpose, the term "franchise" is defined, as under present law, to include any agreement that provides one of the parties to the agreement the right to distribute, sell, or provide goods, services, or facilities, within a specified area.[7] In addition, as provided under present law, the renewal of a franchise, trademark, or trade name is to be treated as an acquisition of such franchise, trademark, or trade name.[8]

The bill continues the present-law treatment of certain contingent amounts that are paid or incurred on account of the transfer of a franchise, trademark, or trade name. Under these rules, a deduction is allowed for amounts that are contingent on the productivity, use, or disposition of a franchise, trademark, or trade name only if (1) the contingent amounts are paid as part of a series of payments that are payable at least annually throughout the term of the transfer agreement, and (2) the payments are substantially equal in amount or payable under a fixed formula.[9] Any other amount, whether fixed or contingent, that is paid or incurred on account of the transfer of a franchise, trademark, or trade name is chargeable to capital account and is to be amortized ratably over the 14-year period specified in the bill.

Exceptions to the definition of a section 197 intangible

In general.—The bill contains several exceptions to the definition of the term "section 197 intangible." Several of the exceptions contained in the bill apply only if the intangible property is not acquired in a transaction (or series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion of a trade or business. It is anticipated that the Treasury Department will exercise its regulatory authority to require any intangible property that would otherwise be excluded from the definition of the term "section 197 intangible" to be taken into account under the bill under circumstances where the acquisition of the intangible property is, in and of itself, the acquisition of an asset which constitutes a trade or business or a substantial portion of a trade or business.

The determination of whether acquired assets constitute a substantial portion of a trade or business is to be based on all of the facts and circumstances, including the nature and the amount of the assets acquired as well as the nature and the amount of the assets retained by the transferor. It is not intended, however, that the value of the assets acquired relative to the value of the assets retained by the transferor is determinative of whether the acquired assets constitute a substantial portion of a trade or business.

For purposes of the bill, a group of assets is to constitute a trade or business if the use of such assets would constitute a trade or business for purposes of section 1060 of the Code (*i.e.*, if the assets are of such a character that goodwill or going concern value could under any circumstances attach to the assets). In addition, the acquisition of a franchise, trademark or trade name is to constitute the acquisition of a trade or business or a substantial portion of a trade or business.

In determining whether a taxpayer has acquired an intangible asset in a transaction (or series of related transactions) that involves the acquisition of assets that constitute a trade or business or a substantial portion of a trade or business, only those assets acquired in a transaction (or a series of related transactions) by a taxpayer (and persons related to the taxpayer) from the same person (and any related person) are to be taken into account. In addition, any employee relationships that continue (or covenants not to compete that are entered into) as part of the transfer of assets are to be taken into account in determining whether the transferred assets constitute a trade or business or a substantial portion of a trade or business.

Interests in a corporation, partnership, trust, or estate.—The term "section 197 intangible" does not include any interest in a corporation, partnership, trust, or estate. Thus, for example, the bill does not apply to the cost of acquiring stock, partnership interests, or interests in a trust or estate, whether or not such interests are regularly traded on an established market.[10]

Interests under certain financial contracts.—The term "section 197 intangible" does not

---

utable to accounts receivable is to be allocated among such receivables and is to be taken into account as payment is received under each receivable or at the time that a receivable becomes worthless.

[5] See below, however, for a description of the exception for certain rights to receive tangible property or services from another person.

[6] A right granted by a governmental unit or an agency or instrumentality thereof that constitutes an interest in land or an interest under a lease of tangible property is excluded from the definition of a section 197 intangible. See below for a description of the exceptions for interests in land and for interests under leases of tangible property.

[7] Section 1253(b)(1) of the Code.

[8] Only the costs incurred in connection with the renewal, however, are to be amortized over the 14-year period that begins with the month that the franchise, trademark, or trade name is renewed. Any costs incurred in connection with the issuance (or an earlier renewal) of a franchise, trademark, or trade name are to continue to be taken into account over the remaining portion of the amortization period that began at the time of such issuance (or earlier renewal).

[9] Section 1253(d)(1) of the Code.

[10] A temporal interest in property, outright or in trust, may not be used to convert a section 197 intangible into property that is amortizable more rapidly than ratably over the 14-year period specified in the bill.

include any interest under an existing futures contract, foreign currency contract, notional principal contract, interest rate swap, or other similar financial contract, whether or not such interest is regularly traded on an established market. Any interest under a mortgage servicing contract, credit card servicing contract or other contract to service indebtedness issued by another person, and any interest under an assumption reinsurance contract[11] is not excluded from the definition of the term "section 197 intangible" by reason of the exception for interests under certain financial contracts.

Interests in land.—The term "section 197 intangible" does not include any interest in land. Thus, the cost of acquiring an interest in land is to be taken into account under present law rather than under the bill. For this purpose, an interest in land includes a fee interest, life estate, remainder, easement, mineral rights, timber rights, grazing rights, riparian rights, air rights, zoning variances, and any other similar rights with respect to land. An interest in land is not to include an airport landing or takeoff right, a regulated airline route, or a franchise to provide cable television services.

Certain computer software.—The term "section 197 intangible" does not include computer software (whether acquired as part of a trade or business or otherwise) that (1) is readily available for purchase by the general public; (2) is subject to a non-exclusive license; and (3) has not been substantially modified. In addition, the term "section 197 intangible" does not include computer software which is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion of a trade or business.

For purposes of the bill, the term "computer software" is defined as any program (*i.e.*, any sequence of machine-readable code) that is designed to cause a computer to perform a desired function. The term "computer software" includes any incidental and ancillary rights with respect to computer software that (1) are necessary to effect the legal acquisition of the title to, and the ownership of, the computer software, and (2) are used only in connection with the computer software. The term "computer software" does not include any data base or other similar item regardless of the form in which it is maintained or stored.

If a depreciation deduction is allowed with respect to any computer software that is not a section 197 intangible, the amount of the deduction is to be determined by amortizing the adjusted basis of the computer software ratably over a 36-month period that begins with the month that the computer software is placed in service. For this purpose, the cost of any computer software that is taken into account as part of the cost of computer hardware or other tangible property under present law is to continue to be taken into account in such manner under the bill. In addition, the cost of any computer software that is currently deductible (*i.e.*, not capitalized) under present law is to continue to be taken into account in such manner under the bill.

Certain interests in films, sound recordings, video tapes, books, or other similar property.—The term "section 197 intangible" does not include any interest (including an interest as a licensee) in a film, sound recording, video tape, book, or other similar property if the interest is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion of a trade or business.

Certain rights to receive tangible property or services.—The term "section 197 intangible" does not include any right to receive tangible property or services under a contract (or any right to receive tangible property or services granted by a governmental unit or an agency or instrumentality thereof) if the right is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion of a trade or business.

If a depreciation deduction is allowed with respect to a right to receive tangible property or services that is not a section 197 intangible, the amount of the deduction is to be determined in accordance with regulations to be promulgated by the Treasury Department. It is anticipated that the regulations may provide that in the case of an amortizable right to receive tangible property or services in substantially equal amounts over a fixed period that is not renewable, the cost of acquiring the right will be taken into account ratably over such fixed period. It is also anticipated that the regulations may provide that in the case of a right to receive a fixed amount of tangible property or services over an unspecified period, the cost of acquiring such right will be taken into account under a method that allows a deduction based on the amount of tangible property or services received during a taxable year compared to the total amount of tangible property or services to be received.

For example, assume that a taxpayer acquires from another person a favorable contract right of such person to receive a specified amount of raw materials each month for the next three years (which is the remaining life of the contract) and that the right to receive such raw materials is not acquired as part of the acquisition of assets that constitute a trade or business or a substantial portion thereof (*i.e.*, such contract right is not a section 197 intangible). It is anticipated that the taxpayer may be required to amortize the cost of acquiring the contract right ratably over the three-year remaining life of the contract. Alternatively, if the favorable contract right is to receive a specified amount of raw materials during an unspecified period, it is anticipated that the taxpayer may be required to amortize the cost of acquiring the contract right by multiplying such cost by a fraction, the numerator of which is the amount of raw materials received under the contract during any taxable year and the denominator of which is the total amount of raw materials to be received under the contract.

It is also anticipated that the regulations may require a taxpayer under appropriate circumstances to amortize the cost of acquiring a renewable right to receive tangible property or services over a period that includes all renewal options exercisable by the taxpayer at less than fair market value.

Certain interests in patents or copyrights.—The term "section 197 intangible" does not include any interest in a patent or copyright which is not acquired in a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion of a trade or business.

If a depreciation deduction is allowed with respect to an interest in a patent or copyright and the interest is not a section 197 intangible, then the amount of the deduction is to be determined in accordance with regulations to be promulgated by the Treasury Department. It is expected that the regulations may provide that if the purchase price of a patent is payable on an annual basis as a fixed percentage of the revenue derived from the use of the patent, then the amount of the depreciation deduction allowed for any taxable year with respect to the patent equals the amount of the royalty paid or incurred during such year.[12]

Interests under leases of tangible property.—The term "section 197 intangible" does not include any interest as a lessor or lessee under an existing lease of tangible property (whether real or personal).[13] The cost of acquiring an interest as a lessor under a lease of tangible property where the interest as lessor is acquired in connection with the acquisition of the tangible property is to be taken into account as part of the cost of the tangible property. For example, if a taxpayer acquires a shopping center that is leased to tenants operating retail stores, the portion (if any) of the purchase price of the shopping center that is attributable to the favorable attributes of the leases is to be taken into account as a part of the basis of the shopping center and is to be taken into account in determining the depreciation deduction allowed with respect to the shopping center.

The cost of acquiring an interest as a lessee under an existing lease of tangible property is to be taken into account under present law (see section 178 of the Code and Treas. Reg. sec. 1.162–11(a)) rather than under the provisions of the bill.[14] In the case of any interest as a lessee under a lease of tangible property that is acquired with any other intangible property (either in the same transaction or series of related transactions), however, the portion of the total purchase price that is allocable to the interest as a lessee is not to exceed the excess of (1) the present value of the fair market value rent for the use of the tangible property for the term of the lease,[15] over (2) the present value of the rent reasonably expected to be paid for the use of the tangible property for the term of the lease.

Interests under indebtedness.—The term "section 197 intangible" does not include any interest (whether as a creditor or debtor) under any indebtedness that was in existence on the date that the interest was acquired.[16] Thus, for example, the value of assuming an existing indebtedness with a below-market interest rate is to be taken into account under present law rather than under the bill. In addition, the premium paid for acquiring the right to receive an above-market rate of interest under a debt instrument may be taken into account under section 171 of the Code, which generally allows the amount of the premium to be amortized on a yield-to-maturity basis over the remaining term of the debt instrument. This exception for interests under existing indebtedness does not apply to the deposit base and other similar items of a financial institution.

---

[11] See below for a description of the treatment of assumption reinsurance contracts.

[12] *See Associated Patentees, Inc.*, 4 T.C. 979 (1945); and Rev. Rul. 67–136, 1967–1 C.B. 58.

[13] The bill provides that a sublease is to be treated in the same manner as a lease of the underlying property. Thus, the term "section 197 intangible" does not include any interest as a sublessor or sublessee of tangible property.

[14] The lease of a gate at an airport for the purpose of loading and unloading passengers and cargo is a lease of tangible property for this purpose. It is anticipated that such treatment will serve as guidance to the Internal Revenue Service and taxpayers in resolving past disputes.

[15] In no event is the present value of the fair market value rent for the use of the tangible property for the term of the lease to exceed the fair market value of the tangible property as of the date of acquisition. The present value of such rent is presumed to be less than the value of the tangible property if the duration of the lease is less than the economic useful life of the property.

[16] For purposes of this exception, the term "interest under any existing indebtedness" is to include mortgage servicing rights to the extent that the rights are stripped coupons under section 1286 of the Code. See Rev. Rul. 91–46, 1991–34 I.R.B. 5 (August 26, 1991).

Professional sports franchises.—The term "section 197 intangible" does not include a franchise to engage in professional baseball, basketball, football, or other professional sport, and any item acquired in connection with such a franchise. Consequently, the cost of acquiring a professional sports franchise and related assets (including any goodwill, going concern value, or other section 197 intangibles) is to be allocated among the assets acquired as provided under present law (see, for example, section 1056 of the Code) and is to be taken into account under the provisions of present law.

Exception for certain self-created intangibles

The bill generally does not apply to any section 197 intangible that is created by the taxpayer if the section 197 intangible is not created in connection with a transaction (or a series of related transactions) that involves the acquisition of assets which constitute a trade or business or a substantial portion thereof.

For purposes of this exception, a section 197 intangible that is owned by a taxpayer is to be considered created by the taxpayer if the intangible is produced for the taxpayer by another person under a contract with the taxpayer that is entered into prior to the production of the intangible. For example, a technological process or other know-how that is developed specifically for a taxpayer under an arrangement with another person pursuant to which the taxpayer retains all rights to the process or know-how is to be considered created by the taxpayer.

The exception for "self-created" intangibles does not apply to the entering into (or renewal of) a contract for the use of a section 197 intangible. Thus, for example, the exception does not apply to the capitalized costs incurred by a licensee in connection with the entering into (or renewal of) a contract for the use of know-how or other section 197 intangible. These capitalized costs are to be amortized over the 14-year period specified in the bill.

In addition, the exception for "self-created" intangibles does not apply to: (1) any license, permit, or other right that is granted by a governmental unit or an agency or instrumentality thereof; (2) any covenant not to compete (or other similar arrangement) entered into in connection with the direct or indirect acquisition of an interest in a trade or business (or a substantial portion thereof); and (3) any franchise, trademark, or trade name. Thus, for example, the capitalized costs incurred in connection with the development or registration of a trademark or trade name are to be amortized over the 14-year period specified in the bill.

Special rules

Determination of adjusted basis

The adjusted basis of a section 197 intangible that is acquired from another person generally is to be determined under the principles of present law that apply to tangible property that is acquired from another person. Thus, for example, if a portion of the cost of acquiring an amortizable section 197 intangible is contingent, the adjusted basis of the section 197 intangible is to be increased as of the beginning of the month that the contingent amount is paid or incurred. This additional amount is to be amortized ratably over the remaining months in the 14-year amortization period that applies to the intangible as of the beginning of the month that the contingent amount is paid or incurred.

Treatment of certain dispositions of amortizable section 197 intangibles

Special rules apply if a taxpayer disposes of a section 197 intangible that was acquired in a transaction or series of related transactions and, after the disposition,[17] the taxpayer retains other section 197 intangibles that were acquired in such transaction or series of related transactions.[18] First, no loss is to be recognized by reason of such a disposition. Second, the adjusted bases of the retained section 197 intangibles that were acquired in connection with such transaction or series of related transactions are to be increased by the amount of any loss that is not recognized. The adjusted basis of any such retained section 197 intangible is increased by the product of (1) the amount of the loss that is not recognized solely by reason of this provision, and (2) a fraction, the numerator of which is the adjusted basis of the intangible as of the date of the disposition and the denominator of which is the total adjusted bases of all such retained section 197 intangibles as of the date of the disposition.

For purposes of these rules, all persons treated as a single taxpayer under section 41(f) of the Code are treated as a single taxpayer. Thus, for example, a loss is not to be recognized by a corporation upon the disposition of a section 197 intangible if after the disposition a member of the same controlled group as the corporation retains other section 197 intangibles that were acquired in the same transaction (or a series of related transactions) as the section 197 intangible that was disposed of. It is anticipated that the Treasury Department will provide rules for taking into account the amount of any loss that is not recognized due to this rule (for example, by allowing the corporation that disposed of the section 197 intangible to amortize the loss over the remaining portion of the 14-year amortization period).

Treatment of certain nonrecognition transactions

If any section 197 intangible is acquired in a transaction to which section 332, 351, 361, 721, 731, 1031, or 1033 of the Code applies (or any transaction between members of the same affiliated group during any taxable year for which a consolidated return is filed),[19] the transferee is to be treated as the transferor for purposes of applying this provision with respect to the amount of the adjusted basis of the transferee that does not exceed the adjusted basis of the transferor.

For example, assume that an individual owns an amortizable section 197 intangible that has been amortized under section 197 for 4 full years and has a remaining unamortized basis of $300,000. In addition, assume that the individual exchanges the asset and $100,000 for a like-kind amortizable section 197 intangible in a transaction to which section 1031 applies. Under the bill, $300,000 of the basis of the acquired amortizable section 197 intangible is to be amortized over the 10 years remaining in the original 14-year amortization period for the transferred asset and the other $100,000 of basis is to be amortized over the 14-year period specified in the bill.[20]

Treatment of certain partnership transactions

Generally, consistent with the rules described above for certain nonrecognition transactions, a transaction in which a taxpayer acquires an interest in an intangible held through a partnership (either before or after the transaction) will be treated as an acquisition to which the bill applies only if, and to the extent that, the acquiring taxpayer obtains, as a result of the transaction, an increased basis for such intangible.[21]

For example, assume that A, B and C each contribute $700 for equal shares in partnership P, which on January 1, 1993, acquires as its sole asset an amortizable section 197 intangible for $2,100. Assume that on January 1, 1997, (1) the sole asset of P is the intangible acquired in 1993, (2) the intangible has an unamortized basis of $1,500 and A, B, and C each have a basis of $500 in their partnership interests, and (3) D (who is not related to A, B, or C) acquires A's interest in P for $800. Under the bill, if there is no section 754 election in effect for 1997, there will be no change in the basis or amortization of the intangible and D will merely step into the shoes of A with respect to the intangible. D's share of the basis in the intangible will be $500, which will be amortized over the 10 years remaining in the amortization period for the intangible.

On the other hand, if a section 754 election is in effect for 1997, then D will be treated as having an $800 basis for its share of P's intangible. Under section 197, D's share of income and loss will be determined as if P owns two intangible assets. D will be treated as having a basis of $500 in one asset, which will continue to be amortized over the 10 remaining years of the original 14-year life. With respect to the other asset, D will be treated as having a basis of $300 (the amount of step-up obtained by D under section 743 as a result of the section 754 election) which will be amortized over a 14-year period starting with January of 1997. B and C will each continue to share equally in a $1,000 basis in the intangible and amortize that amount over the remaining 10-year life.

As an additional example, assume the same facts as described above, except that D acquires both A's and B's interests in P for $1,600. Under section 708, the transaction is treated as if P is liquidated immediately after the transfer, with C and D each receiving their pro rata share of P's assets which they then immediately contribute to a new partnership. The distributions in liquidation are governed by section 731. Under the bill, C's interest in the intangible will be treated as having a $500 basis, with a remaining amortization period of 10 years. D will be treated as having an interest in two assets: one with a basis of $1,000 and a remaining amortization period of 10 years, and the other with a basis of $600 and a new amortization period of 14 years.

---

[17] For this purpose, the abandonment of a section 197 intangible or any other event that renders a section 197 intangible worthless is to be considered a disposition of a section 197 intangible.

[18] These special rules do not apply to a section 197 intangible that is separately acquired (*i.e.*, a section 197 intangible that is acquired other than in a transaction or a series of related transactions that involve the acquisition of other section 197 intangibles). Consequently, a loss may be recognized upon the disposition of a separately acquired section 197 intangible. In no event, however, is the termination or worthlessness of a portion of a section 197 intangible to be considered the disposition of a separately acquired section 197 intangible. For example, the termination of one or more customers from an acquired customer list or the worthlessness of some information from an acquired data base is not to be considered the disposition of a separately acquired section 197 intangible.

[19] The termination of a partnership under section 708(b)(1)(B) of the Code is a transaction to which this rule applies. In such a case, the bill applies only to the extent that the adjusted basis of the section 197 intangibles before the termination exceeds the adjusted basis of the section 197 intangibles after the termination. *See* the example below in the discussion of "Treatment of Certain Partnership Transactions."

[20] No inference is intended whether any asset treated as a section 197 intangible under the bill is eligible for like kind exchange treatment.

[21] This discussion is subject to the application of the anti-churning rules which are discussed below.

As discussed more fully below, the bill also changes the treatment of payments made in liquidation of the interest of a deceased or retired partner in exchange for goodwill. Except in the case of payments made on the retirement or death of a general partner of a partnership for which capital is not a material income-producing factor, such payments will not be treated as a distribution of partnership income. Under the bill, however, if the partnership makes an election under section 754, section 734 will generally provide the partnership the benefit of a stepped-up basis for the retiring or deceased partner's share of partnership goodwill and an amortization deduction for the increase in basis under section 197.

For example, using the facts from the preceding examples, assume that on January 1, 1997, A retires from the partnership in exchange for a payment from the partnership of $800, all of which is in exchange for A's interest in the intangible asset owned by P. Under the bill, if there is a section 754 election in effect for 1997, P will be treated as having two amortizable section 197 intangibles: one with a basis of $1,500 and a remaining life of 10 years, and the other with a basis of $300 and a new life of 14 years.

Treatment of certain reinsurance transactions

The bill applies to any insurance contract that is acquired from another person through an assumption reinsurance transaction (but not through an indemnity reinsurance transaction).[22] The amount taken into account as the adjusted basis of such a section 197 intangible, however, is to equal the excess of (1) the amount paid or incurred by the acquirer/reinsurer under the assumption reinsurance transaction,[23] over (2) the amount of the specified policy acquisition expenses (as determined under section 848 of the Code) that is attributable to premiums received under the assumption reinsurance transaction. The amount of the specified policy acquisition expenses of an insurance company that is attributable to premiums received under an assumption reinsurance transaction is to be amortized over the period specified in section 848 of the Code.

Treatment of amortizable section 197 intangible as depreciable property

For purposes of chapter 1 of the Internal Revenue Code, an amortizable section 197 intangible is to be treated as property of a character which is subject to the allowance for depreciation provided in section 167. Thus, for example, an amortizable section 197 intangible is not a capital asset for purposes of section 1221 of the Code, but an amortizable section 197 intangible held for more than one year generally qualifies as property used in a trade or business for purposes of section 1231 of the Code. As further examples, an amortizable section 197 intangible is to constitute section 1245 property, and section 1239 of the Code is to apply to any gain recognized upon the sale or exchange of an amortizable section 197 intangible, directly or indirectly, between related persons.

Treatment of certain amounts that are properly taken into account in determining the cost of property that is not a section 197 intangible

The bill does not apply to any amount that is properly taken into account under present law in determining the cost of property that is not a section 197 intangible. Thus, for example, no portion of the cost of acquiring real property that is held for the production of rental income (for example, an office building, apartment building or shopping center) is to be taken into account under the bill (*i.e.*, no goodwill, going concern value or any other section 197 intangible is to arise in connection with the acquisition of such real property). Instead, the entire cost of acquiring such real property is to be included in the basis of the real property and is to be recovered under the principles of present law applicable to such property.

Modification of purchase price allocation and reporting rules for certain asset acquisitions

Sections 338(b)(5) and 1060 of the Code authorize the Treasury Department to promulgate regulations that provide for the allocation of purchase price among assets in the case of certain asset acquisitions. Under regulations that have been promulgated pursuant to this authority, the purchase price of an acquired trade or business must be allocated among the assets of the trade or business using the "residual method."

Under the residual method specified in the Treasury regulations, all assets of an acquired trade or business are divided into the following four classes: (1) Class I assets, which generally include cash and cash equivalents; (2) Class II assets, which generally include certificates of deposit, U.S. government securities, readily marketable stock or securities, and foreign currency; (3) Class III assets, which generally include all assets other than those included in Class I, II, or IV (generally all furniture, fixtures, land, buildings, equipment, other tangible property, accounts receivable, covenants not to compete, and other amortizable intangible assets); and (4) Class IV assets, which include intangible assets in the nature of goodwill or going concern value. The purchase price of an acquired trade or business (as first reduced by the amount of the assets included in Class I) is allocated to the assets included in Class II and Class III based on the value of the assets included in each class. To the extent that the purchase price (as reduced by the amount of the assets in Class I) exceeds the value of the assets included in Class II and Class III, the excess is allocable to assets included in Class IV.

It is expected that the present Treasury regulations which provide for the allocation of purchase price in the case of certain asset acquisitions will be amended to reflect the fact that the bill allows an amortization deduction with respect to intangible assets in the nature of goodwill and going concern value. It is anticipated that the residual method specified in the regulations will be modified to treat all amortizable section 197 intangibles as Class IV assets and that this modification will apply to any acquisition of property to which the bill applies.

Section 1060 also authorizes the Treasury Department to require the transferor and transferee in certain asset acquisitions to furnish information to the Treasury Department concerning the amount of any purchase price that is allocable to goodwill or going concern value. The bill provides that the information furnished to the Treasury Department with respect to certain asset acquisitions is to specify the amount of purchase price that is allocable to amortizable section 197 intangibles rather than the amount of purchase price that is allocable to goodwill or going concern value. In addition, it is anticipated that the Treasury Department will exercise its existing regulatory authority to require taxpayers to furnish such additional information as may be necessary or appropriate to carry out the provisions of the bill, including the amount of purchase price that is allocable to intangible assets that are not amortizable section 197 intangibles.

Regulatory authority

The Treasury Department is authorized to prescribe such regulations as may be appropriate to carry out the purposes of the bill including such regulations as may be appropriate to prevent avoidance of the purposes of the bill through related persons or otherwise. It is anticipated that the Treasury Department will exercise its regulatory authority where appropriate to clarify the types of intangible property that constitute section 197 intangibles.

Effective date

In general

The provision generally applies to property acquired after the date of enactment of the bill. As more fully described below, however, a taxpayer may elect to apply the bill to either (1) all property acquired after July 25, 1991, or (2) all property acquired in certain taxable years for which the statute of limitations has not expired. In addition, a taxpayer may elect to apply present law (rather than the provisions of the bill) to property that is acquired after the date of enactment of the bill pursuant to a binding written contract in effect on February 14, 1992. Finally, special "anti-churning" rules may apply to prevent taxpayers from converting existing goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not have been allowable under present law into amortizable property to which the bill applies.

Election to apply bill to property acquired after July 25, 1992

A taxpayer may elect to apply the bill to all property acquired by the taxpayer after July 25, 1991. If a taxpayer makes this election, the bill also applies to all property acquired after July 25, 1991, by any taxpayer that is under common control with the electing taxpayer (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of the Code) at any time during the period that begins on November 22, 1991, and that ends on the date that the election is made.[24]

---

[22] An assumption reinsurance transaction is an arrangement whereby one insurance company (the reinsurer) becomes solely liable to policyholders on contracts transferred by another insurance company (the ceding company). In addition, for purposes of the bill, an assumption reinsurance transaction is to include any acquisition of an insurance contract that is treated as occurring by reason of an election under section 338 of the Code.

[23] The amount paid or incurred by the acquirer/reinsurer under an assumption reinsurance transaction is to be determined under the principles of present law. See Treas. Reg. sec. 1.817-4(d)(2).

[24] An amortization deduction is not to be allowed under the bill, however, for goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not be allowable but for the provisions of the bill if: (1) the section 197 intangible is acquired after July 25, 1991; and (2) either (a) the taxpayer or a related per-

The election is to be made at such time and in such manner as may be specified by the Treasury Department,[25] and the election may be revoked only with the consent of the Treasury Department.

Election to apply bill to property acquired during certain open taxable years

A taxpayer may elect to apply the bill to all property acquired by the taxpayer in any taxable year for which the statute of limitations for the assessment of tax has not expired as of July 25, 1991 (other than a taxable year that occurs before a taxable year for which the statute of limitations for the assessment of tax has expired as of July 25, 1991).[26] If a taxpayer makes this election, the bill also applies to all property acquired during any such open taxable year of any other taxpayer that is under common control with the electing taxpayer (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of the Code) at any time during the period that begins on November 22, 1991, and that ends on the date that the election is made.

In the case of any section 197 intangible that was acquired by an electing taxpayer (or a person under common control with the electing taxpayer) on or before the date of enactment of the bill, the adjusted basis of the intangible is to be amortized ratably over a 17-year period that begins with the month that the intangible was acquired.[27] An electing taxpayer (as well a person under common control with an electing taxpayer) is required to pay interest on any deficiency that arises as a result of the election. The Internal Revenue Service, however, is not required to pay interest on any refund that is payable as a result of the election. In addition, the statute of limitations on the assessment of tax and a claim for refund of tax for any open taxable year to which the election applies does not expire any sooner than two years after the date of the election.

The bill also provides a special rule for property that is acquired by certain electing taxpayers in certain taxable years for which the statute of limitations has expired as of July 25, 1991. If (1) an "open taxable year" election applies to a taxpayer, (2) the taxpayer and the Internal Revenue Service have agreed on the treatment of an acquired intangible for a taxable year to which the "open taxable year" election does not apply, and (3) as of February 14, 1992, there was a dispute between the taxpayer and the Internal Revenue Service that arose because the Internal Revenue Service took a position with respect to an open taxable year that was contrary to that specified in the agreement with respect to the treatment of the acquired intangible, then the taxpayer is to be allowed to amortize such intangible in accordance with the agreement between the taxpayer and the Internal Revenue Service.

The "open taxable year" election is to be made at such time and in such manner as may be specified by the Treasury Department,[28] and the election may be revoked only with the consent of the Treasury Department.

Elective binding contract exception

A taxpayer may also elect to apply present law (rather than the provisions of the bill) to property that is acquired after the date of enactment of the bill if the property is acquired pursuant to a binding written contract that was in effect on February 14, 1992, and at all times thereafter until the property is acquired. This election may not be made by any taxpayer that is subject to either of the elections described above that apply the provisions of the bill to property acquired before the date of enactment of the bill.

The election is to be made at such time and in such manner as may be specified by the Treasury Department,[29] and the election may be revoked only with the consent of the Treasury Department.

Anti-churning rules

Special rules are provided by the bill to prevent taxpayers from converting existing goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not have been allowable under present law into amortizable property to which the bill applies.

Under these "anti-churning" rules, goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not be allowable but for the provisions of the bill may not be amortized as an amortizable section 197 intangible if: (1) the section 197 intangible is acquired by a taxpayer after the date of enactment of the bill; and (2) either (a) the taxpayer or a related person held or used the intangible at any time during the period that begins on July 25, 1991, and that ends on the date of enactment of the bill; (b) the taxpayer acquired the intangible from a person that held such intangible at any time during the period that begins on July 25, 1991, and that ends on the date of enactment of the bill and, as part of the transaction, the user of the intangible does not change; or (c) the taxpayer grants the right to use the intangible to a person (or a person related to such person) that held or used the intangible at any time during the period that begins on July 25, 1991, and that ends on the date of enactment of the bill. The anti-churning rules, however, do not apply to the acquisition of any intangible by a taxpayer if the basis of the intangible in the hands of the taxpayer is determined under section 1014(a) (relating to property acquired from a decedent).

For purposes of the anti-churning rules, a person is related to another person if: (1) the person bears a relationship to that person which would be specified in section 267(b)(1) or 707(b)(1) of the Code if those sections were amended by substituting 20 percent for 50 percent; or (2) the persons are engaged in trades or businesses under common control (within the meaning of subparagraphs (A) and (B) of section 41(f)(1) of the Code). A person is treated as related to another person if such relationship exists immediately before or immediately after the acquisition of the intangible involved.

In addition, in determining whether the anti-churning rules apply with respect to any increase in the basis of partnership property under section 732, 734, or 743 of the Code, the determinations are to be made at the partner level and each partner is to be treated as having owned or used the partner's proportionate share of the partnership property. Thus, for example, the anti-churning rules do not apply to any increase in the basis of partnership property that occurs upon the acquisition of an interest in a partnership that has made a section 754 election if the person acquiring the partnership interest is not related to the person selling the partnership interest.[30]

The bill also contains a general anti-abuse rule that applies to any section 197 intangible that is acquired by a taxpayer from another person. Under this rule, a section 197 intangible may not be amortized under the provisions of the bill if the taxpayer acquired the intangible in a transaction one of the principal purposes of which is to (1) avoid the requirement that the intangible be acquired after the date of enactment of the bill or (2) avoid any of the anti-churning rules described above that are applicable to goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not be allowable but for the provisions of the bill.

Finally, the special rules described above that apply in the case of a transactions described in section 332, 351, 361, 721, 731, 1031, or 1033 of the Code also apply for purposes of the effective date. Consequently, if the transferor of any section 197 property is not allowed an amortization deduction with respect to such property under this provision, then the transferee is not allowed an amortization deduction under this provision to the extent of the adjusted basis of the transferee that does not exceed the adjusted basis of the transferor. In addition, this provision is to apply to any subsequent transfers of any

---

son held or used the intangible on July 25, 1991; (b) the taxpayer acquired the intangible from a person that held such intangible on July 25, 1991, and, as part of the transaction, the user of the intangible does not change; or (c) the taxpayer grants the right to use the intangible to a person (or a person related to such person) that held or used the intangible on July 25, 1991. See below for a more detailed description of these "anti-churning" rules.

[25] It is anticipated that the Treasury Department will require the election to be made on the timely filed Federal income tax return of the taxpayer for the taxable year that includes the date of enactment of the bill.

[26] The statute of limitations for a taxable year is to be treated as expired for purposes of this election if, as of July 25, 1991, the statute of limitations for such taxable year is extended solely with respect to issues that do not involve the proper treatment for Federal income tax purposes of acquired intangibles that are defined as section 197 intangibles under the bill.

[27] An amortization deduction is not to be allowed under the bill, however, for goodwill, going concern value, or any other section 197 intangible for which a depreciation or amortization deduction would not be allowable but for the provisions of the bill if: (1) the section 197 intangible is acquired after July 25, 1991; and (2) either (a) the taxpayer or a related person held or used the intangible on July 25, 1991; (b) the taxpayer acquired the intangible from a person that held such intangible on July 25, 1991, and, as part of the transaction, the user of the intangible did not change; or (c) the taxpayer granted the right to use the intangible to a person (or a person related to such person) that held or used the intangible on July 25, 1991. See below for a more detailed description of these "anti-churning" rules.

[28] It is anticipated that Treasury Department will require the election to be made by the due date of the return for the taxable year that includes the date of enactment of the bill.

[29] It is anticipated that the Treasury Department will require the election to be made on the timely filed Federal income tax return of the taxpayer for the taxable year that includes the date of enactment of the bill.

[30] In addition to these rules, it is anticipated that rules similar to the anti-churning rules under section 168 of the Code will apply in determining whether persons are related. *See* Prop. Treas. Reg. 1.168-4 (February 16, 1984). For example, it is anticipated that a corporation, partnership, or trust that owned or used property at any time during the period that begins on July 25, 1991, and that ends on the date of enactment of the bill and that is no longer in existence will be considered to be in existence for purposes of determining whether the taxpayer that acquired the property is related to such corporation, partnership, or trust.

As a further example, it is anticipated that in the case of a transaction to which section 338 of the Code applies, the corporation that is treated as selling its assets will not to be considered related to the corporation that is treated as purchasing the assets if at least 80 percent of the stock of the corporation that is treated as selling its assets is acquired by purchase after July 25, 1991.

such property in a transaction described in section 332, 351, 361, 721, 731, 1031, or 1033.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. MODIFY SPECIAL TREATMENT OF CERTAIN LIQUIDATION PAYMENTS

Present law

Payments for purchase of goodwill and accounts receivable

A current deduction generally is not allowed for a capital expenditure (*i.e.*, an expenditure that yields benefits beyond the current taxable year). The cost of goodwill acquired in connection with the assets of a going concern normally is a capital expenditure, as is the cost of acquiring accounts receivable. The cost of acquiring goodwill is recovered only when the goodwill is disposed of, while the cost of acquiring accounts receivable is taken into account only when the receivable is disposed of or becomes worthless.

Payments made in liquidation of partnership interest

The tax treatment of a payment made in liquidation of the interest of a retiring or deceased partner depends upon whether the payment is made in exchange for the partner's interest in partnership property. A liquidating payment made in exchange for such property is treated as a distribution by the partnership (sec. 736(b)). Such distribution generally results in gain to the retiring partner only to the extent that the cash distributed exceeds the partner's adjusted basis in his partnership interest.

A liquidating payment not made in exchange for the partner's interest in partnership property receives either of two possible treatments. If the amount of the payment is determined without reference to partnership income, it is treated as a guaranteed payment and is generally deductible (sec. 736(a)(2)). If the amount of payment is determined by reference to partnership income, the payment is treated as a distributive share of partnership income, thereby reducing the distributive shares of other partners (which is equivalent to a deduction) (sec. 736(a)(2)).

A special rule treats amounts paid for goodwill of the partnership (except to the extent provided in the partnership agreement) and unrealized receivables as not made in exchange for an interest in partnership property (sec. 736(b)(2)(B)). Thus, such amounts may be deductible. Unrealized receivables include unbilled amounts, accounts receivable, depreciation recapture, market discount, and certain other items (sec. 751(c)).

Sale or exchange of a partnership interest

The sale or exchange of a partnership interest results in capital gain or loss to the transferor partner, except to the extent that ordinary income or loss is recognized with respect to the partner's share of the partnership's unrealized receivables and substantially appreciated inventory items (sec. 741). It is often unclear whether a payment by a partnership to a retiring partner is made in sale or exchange of, or in liquidation of, a partnership interest.

House bill

In general

The House bill generally repeals the special treatment of liquidation payments made for goodwill and unrealized receivables. Thus, such payments would be treated as made in exchange for the partner's interest in partnership property, and not as a distributive share or guaranteed payment that could give rise to a deduction or its equivalent. The House bill does not change present law with respect to payments made to a general partner in a partnership in which capital is not a material income-producing factor.[31] In addition, the House bill does not affect the deductibility of compensation paid to a retiring partner for past services.

Unrealized receivables

The House bill also repeals the special treatment of payments made for unrealized receivables (other than unbilled amounts and accounts receivable) for all partners. Such amounts would be treated as made in exchange for the partner's interest in partnership property. Thus, for example, a payment for depreciation recapture would be treated as made in exchange for an interest in partnership property, and not as a distributive share or guaranteed payment that could give rise to a deduction or its equivalent.

Effective date

The provision generally applies to partners retiring or dying after February 14, 1992. The provision does not apply to any partner who retires after February 14, 1992, if a written contract to purchase the partner's interest in the partnership was binding on February 14, 1992, and at all times thereafter until such purchase. For this purpose, a written contract is to be considered binding only if the contract specifies the amount to be paid for the partnership interest and the timing of any such payments.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

F. Provisions Relating to Subchapter S Corporations

1. DETERMINATION OF WHETHER AN S CORPORATION HAS ONE CLASS OF STOCK

Present law

Under present law, a small business corporation eligible to be an S corporation may not have more than one class of stock. Differences in voting rights are disregarded in determining whether a corporation has more than one class of stock. In addition, certain debt instruments may not be treated as a second class of stock for purposes of this rule.

On October 5, 1990, the Treasury Department issued proposed regulations[1] providing that a corporation has more than one class of stock if all of the outstanding shares of stock do not confer identical rights to distribution and liquidation proceeds, regardless of whether any differences in rights occur pursuant to the corporate charter, articles or bylaws, by operation of State law, by administrative action, or by agreement. The proposed regulations also provided that, notwithstanding that all outstanding shares of stock confer identical rights to distribution and liquidation proceeds, a corporation has more than one class of stock if the corporation makes non-conforming distributions (i.e., distributions that differ with respect to timing or amount with respect to each share of stock), with limited exceptions for certain redemptions and certain differences in the timing of distributions. The proposed regulations were to apply to taxable years beginning after December 31, 1982.

On August 8, 1991, the Treasury Department issued revised proposed regulations replacing the proposed regulations described above. The revised proposed regulations provide that a corporation is treated as having only one class of stock if all outstanding shares of stock confer identical rights to distribution and liquidation proceeds. Under the revised proposed regulations, any distributions that differ in timing or amount are to be given appropriate tax effect in accordance with the facts and circumstances. These proposed regulations generally apply to taxable years beginning after December 31, 1991.

House bill

The House bill provides that a corporation is treated as having only one class of stock if all outstanding shares of stock of the corporation confer identical rights to distribution and liquidation proceeds. Applicable State law, taking into account legally enforceable rights under the corporate charter, articles or bylaws, administrative action, and agreements relating to distributions or liquidation proceeds with respect to shares, determines whether the outstanding shares confer different rights to distributions or liquidation proceeds.

Where an S corporation in fact makes distributions which differ as to timing or amount, the bill in no way limits the Internal Revenue Service from properly characterizing the transaction for tax purposes. For example, if a distribution is properly characterized as compensation, the Service could require it to be so treated for tax purposes. Similarly, if a payment appearing as compensation should be properly characterized as a distribution, the Service could require it to be so treated for purposes of computing taxable income.

Effective date.—The provision applies to taxable years beginning after December 31, 1982.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

2. AUTHORITY TO VALIDATE CERTAIN INVALID ELECTIONS

Present law

Under present law, if the Internal Revenue Service determines that a corporation's Subchapter S election is inadvertently terminated, the Service can waive the effect of the terminating event for any period if the corporation timely corrects the event and if the corporation and shareholders agree to be treated as if the election had been in effect for that period. Present law does not grant the Internal Revenue Service the ability to waive the effect of an inadvertent invalid Subchapter S election.

In addition, under present law, a small business corporation must elect to be an S corporation no later than the 15th day of the third month of the taxable year for which the election is effective. The Internal Revenue Service may not validate a late election.

House bill

Under the House bill, the authority of the Internal Revenue Service to waive the effect of an inadvertent termination is extended to allow the Service to waive the effect of an invalid election caused by an inadvertent failure to qualify as a small business corporation or to obtain the required shareholder consents (including elections regarding qualified subchapter S trusts), or both.

---

[31] The determination of whether capital is a material income-producing factor would be made under principles of present and prior law (*e.g.*, sections 401(c)(2) and 911(d) of the Code and old section 1348(b)(1)(A) of the Code).

[1] Proposed Treasury Regulation sec. 1.1361-1(l)(2).

The bill also allows the Internal Revenue Service to treat a late Subchapter S election as timely where the Service determines that there was reasonable cause for the failure to make the election timely.

Effective date.—The provision applies to taxable years beginning after December 31, 1982.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

3. TREATMENT OF DISTRIBUTIONS BY S CORPORATIONS DURING LOSS YEAR

Present law

Under present law, the amount of loss an S corporation shareholder may take into account for a taxable year cannot exceed the sum of shareholder's adjusted basis in his or her stock of the corporation and the adjusted basis in any indebtedness of the corporation to the shareholder. Any excess loss is carried forward.

Any distribution to a shareholder by an S corporation generally is tax-free to the shareholder to the extent of the shareholder's adjusted basis of his or her stock. The shareholder's adjusted basis is reduced by the tax-free amount of the distribution. Any distribution in excess of the shareholder's adjusted basis is treated as gain from the sale or exchange of the stock.

Under present law, income (whether or not taxable) and expenses (whether or not deductible) serve, respectively, to increase and decrease an S corporation shareholder's basis in the stock of the corporation. These rules appear to require that the adjustments to basis for items of both income and loss for any taxable year apply before the adjustment for distributions applies.[2]

These rules limiting losses and allowing tax-free distributions up to the amount of the shareholder's adjusted basis are similar in certain respects to the rules governing the treatment of losses and cash distributions by partnerships. Under the partnership rules (unlike the S corporation rules), for any taxable year, a partner's basis is first increased by items of income, then decreased by distributions, and finally is decreased by losses for that year.[3]

In addition, if the S corporation has accumulated earnings and profits,[4] any distribution in excess of the amount in an "accumulated adjustments account" will be treated as a dividend (to the extent of the accumulated earnings and profits). A dividend distribution does not reduce the adjusted basis of the shareholder's stock. The "accumulated adjustments account" generally is the amount of the accumulated undistributed post-1982 gross income less deductions.

House bill

The House bill provides that the adjustments for distributions made by an S corporation during a taxable year are taken into account before applying the loss limitation for the year. Thus, distributions during a year reduce the adjusted basis for purposes of determining the allowable loss for the year, but the loss for a year does not reduce the adjusted basis for purposes of determining the tax status of the distributions made during that year.

The bill also provides that in determining the amount in the accumulated adjustment account for purposes of determining the tax treatment of distributions made during a taxable year by an S corporation having accumulated earnings and profits, net negative adjustments (i.e., the excess of losses and deductions over income) for that taxable year are disregarded.

The following examples illustrate the application of these provisions:

Example 1.—X is the sole shareholder of A, a calendar year S corporation with no accumulated earnings and profits. X's adjusted basis in the stock of A on January 1, 1992, is $1,000 and X holds no debt of A. During the taxable year, A makes a distribution to X of $600, recognizes a capital gain of $200 and sustains an operating loss of $900. Under the bill, X's adjusted basis in the A stock is increased to $1,200 ($1,000 plus $200 capital gain recognized) pursuant to section 1368(d) to determine the effect of the distribution. X's adjusted basis is then reduced by the amount of the distribution to $600 ($1,200 less $600) to determine the application of the loss limitation of section 1366(d)(1). X is allowed to take into account $600 of A's operating loss, which reduces X's adjusted basis to zero. The remaining $300 loss is carried forward pursuant to section 1366(d)(2).

Example 2.—The facts are the same as in Example 1, except that on January 1, 1992, A has accumulated earnings and profits of $500 and an accumulated adjustments account of $200. Under the bill, because there is a net negative adjustment for the year, no adjustment is made to the accumulated adjustments account before determining the effect of the distribution under section 1368(c).

As to A, $200 of the $600 distribution is a distribution of A's accumulated adjustments account, reducing the accumulated adjustments account to zero. The remaining $400 of the distribution is a distribution of accumulated earnings and profits ("E&P") and reduces A's E&P to $100. A's accumulated adjustments account is then increased by $200 to reflect the recognized capital gain and reduced by $900 to reflect the operating loss, leaving a negative balance in the accumulated adjustment account on January 1, 1993, of $700 (zero plus $200 less $900).

As to X, $200 of the distribution is applied against A's adjusted basis of $1,200 ($1,000 plus $200 capital gain recognized), reducing X's adjusted basis to $1,000. The remaining $400 of the distribution is taxable as a dividend and does not reduce X's adjusted basis. Because X's adjusted basis is $1,000, the loss limitation does not apply to X, who may deduct the entire $900 operating loss. X's adjusted basis is then decreased to reflect the $900 operating loss. Accordingly, X's adjusted basis on January 1, 1993, is $100 ($1,000 plus $200 less $200 less $900).

Effective date.—These provisions apply to distributions made in taxable years beginning after December 31, 1991.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

4. TREATMENT OF S CORPORATIONS AS SHAREHOLDERS IN C CORPORATIONS

Present law

Present law contains several provisions relating to the treatment of S corporations as corporations generally for purposes of the Internal Revenue Code.

First, under present law, the taxable income of an S corporation is computed in the same manner as in the case of an individual (sec. 1363(b)). Under this rule, the provisions of the Code governing the computation of taxable income which are applicable only to corporations, such as the dividends received deduction, do not apply to S corporations.

Second, except as otherwise provided by the Internal Revenue Code and except to the extent inconsistent with subchapter S, subchapter C (i.e., the rules relating to corporate distributions and adjustments) applies to an S corporation and its shareholders (sec. 1371(a)(1)). Under this second rule, provisions such as the corporate reorganization provisions apply to S corporations. Thus, a C corporation may merge into an S corporation tax-free.

Finally, an S corporation in its capacity as a shareholder of another corporation is treated as an individual for purposes of subchapter C (sec. 1371(a)(2)). The Internal Revenue Service has taken the position that this rule prevents the tax-free liquidation of a C corporation into an S corporation because a C corporation cannot liquidate tax-free when owned by an individual shareholder.[5] Thus, a C corporation may elect S corporation status tax-free or may merge into an S corporation tax-free, but may not liquidate into an S corporation tax-free.[6] Also, the Service's reasoning would also prevent an S corporation from making an election under section 338 where a C corporation was acquired by an S corporation.

House bill

The House bill repeals the rule that treats an S corporation in its capacity as a shareholder of another corporation as an individual. Thus, the liquidation of a C corporation into an S corporation will be governed by the generally applicable subchapter C rules, including the provisions of sections 332 and 337 allowing the tax-free liquidation of a corporation into its parent corporation. Following a tax-free liquidation, the built-in gains of the liquidating corporation may later be subject to tax under section 1374 upon a subsequent disposition. An S corporation will also be eligible to make a section 338 election (assuming all the requirements are otherwise met), resulting in immediate recognition of all the acquired C corporation's gains and losses (and the resulting imposition of a tax).

The repeal of this rule does not change the general rule governing the computation of income of an S corporation. For example, it does not allow an S corporation, or its shareholders, to claim a dividends received deduction with respect to dividends received by the S corporation, or to treat any item of income or deduction in a manner inconsistent with the treatment accorded to individual taxpayers.

No inference is intended regarding the present-law treatment of these transactions.

Effective date.—The provision applies to taxable years beginning after December 31, 1991.

Senate amendment

The Senate amendment is the same as the House bill.

---

[2] *See* section 1366(d)(1)(A); H. Rep. 97-826, p. 17; S. Rep. 97-640, p. 18.

[3] Treas. Reg. sec. 1.704-1(d)(2); Rev. Rul. 66-94, 1966-1 C.B. 166.

[4] An S corporation may have earnings and profits from years prior to its subchapter S election or from pre-1983 subchapter S years.

[5] *See* PLR 8818049, (Feb. 10, 1988).

[6] A tax is imposed with respect to LIFO inventory held by a C corporation becoming an S corporation.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

5. S CORPORATIONS PERMITTED TO HOLD SUBSIDIARIES

Present law

Under present law, an S corporation may not be a member of an affiliated group of corporations (other than by reason of ownership in certain inactive corporations). The legislative history indicates that this rule was adopted to prevent the filing of consolidated returns by a group which includes an S corporation.[7]

House bill

The House bill repeals the rule that an S corporation may not be a member of an affiliated group of corporations. Thus, an S corporation will be allowed to own up to 100 percent of the stock of a C corporation. However, an S corporation cannot be included in a group filing a consolidated return.

Under the bill, if an S corporation holds 100 percent of the stock of a C corporation that, in turn, holds 100 percent of the stock of another C corporation, the two C corporations may elect to file a consolidated return (if otherwise eligible), but the S corporation may not join in the election.

Effective date.—The provision applies to taxable years beginning after December 31, 1991.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

6. ELIMINATION OF PRE-1983 EARNINGS AND PROFITS OF S CORPORATIONS

Present law

Under present law, the accumulated earnings and profits of a corporation are not increased for any year in which an election to be treated as an S corporation is in effect. However, under the subchapter S rules in effect before revision in 1982, a corporation electing subchapter S for a taxable year increased its accumulated earnings and profits if its earnings and profits for the year exceeded both its taxable income for the year and its distributions out of that year's earnings and profits. As a result of this rule, a shareholder may later be required to include in his income the accumulated earnings and profits when it is distributed by the corporation. The 1982 revision to subchapter S repealed this rule for earnings attributable to taxable years beginning after 1982 but did not do so for previously accumulated S corporation earnings and profits.

House bill

The House bill provides that if a corporation is an S corporation for its first taxable year beginning after December 31, 1991, the accumulated earnings and profits of the corporation as of the beginning of that year are reduced by the accumulated earnings and profits (if any) accumulated in any taxable year beginning before January 1, 1983, for which the corporation was an electing small business corporation under subchapter S. Thus, such a corporation's accumulated earnings and profits will be solely attributable to taxable years for which an S election was not in effect. This rule is generally consistent with the change adopted in 1982 limiting the S shareholder's taxable income attributable to S corporation earnings to his share of the taxable income of the S corporation.

Effective date.—The provision applies to taxable years beginning after December 31, 1991.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

7. TREATMENT OF ITEMS OF INCOME IN RESPECT OF A DECEDENT HELD BY AN S CORPORATION

Present law

Income in respect of a decedent (IRD) generally consists of items of gross income that accrued during the decedent's lifetime but were not yet includible in the decedent's income before his death under his method of accounting. IRD is includible in the income of the person acquiring the right to receive such item. A deduction for the estate tax attributable to an item of IRD is allowed to the person who includes the item in gross income (sec. 691(c)).

The cost or basis of property acquired from a decedent is its fair market value at the date of death (or alternate valuation date if that date is elected for estate tax purposes). This basis often is referred to as a "stepped-up basis". Property that constitutes a right to receive IRD does not receive a stepped-up basis.

The basis of a partnership interest or corporate stock acquired from a decedent generally is stepped-up at death. Under Treasury regulations, the basis of a partnership interest acquired from a decedent is reduced to the extent that its value is attributable to items constituting IRD.[8] Although S corporation income is included in the income of the shareholders in a manner similar to the inclusion of partnership income in the income of the partners, no comparable regulation provides for a reduction in the basis of stock of an S corporation acquired from a decedent where the S corporation holds items of IRD on the date of death of a shareholder. Thus, under present law, the treatment of an item of IRD held by an S corporation is unclear.

House bill

The House bill provides that a person acquiring stock in an S corporation from a decedent will treat as IRD his pro rata share of any item of income of the corporation which would have been IRD if that item had been acquired directly from the decedent. Where a item is treated as IRD, a deduction for the estate tax attributable to the item generally will be allowed under the provisions of section 691(c). The stepped-up basis in the stock will be reduced by the extent to which the value of the stock is attributable to items consisting of IRD. This basis rule is comparable to the present-law partnership rule.

No inference is intended regarding the present-law treatment of IRD in the case of S corporations.

Effective date.—The provision applies with respect to decedents dying after date of enactment of the bill.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

G. Accounting Provisions

1. MODIFICATIONS TO THE LOOK-BACK METHOD FOR LONG-TERM CONTRACTS

Present law

Taxpayers engaged in the production of property under a long-term contract generally must compute income from the contract under the percentage of completion method. Under the percentage of completion method, a taxpayer must include in gross income for any taxable year an amount that is based on the product of (1) the gross contract price and (2) the percentage of the contract completed as of the end of the year. The percentage of the contract completed as of the end of the year is determined by comparing costs incurred with respect to the contract as of the end of the year with the estimated total contract costs.

Because the percentage of completion method relies upon estimated, rather than actual, contract price and costs to determine gross income for any taxable year, a "look-back method" is applied in the year a contract is completed in order to compensate the taxpayer (or the Internal Revenue Service) for the acceleration (or deferral) of taxes paid over the contract term. The first step of the look-back method is to reapply the percentage of completion method using actual contract price and costs rather than estimated contract price and costs. The second step generally requires the taxpayer to recompute its tax liability for each year of the contract using gross income as reallocated under the look-back method. If there is any difference between the recomputed tax liability and the tax liability as previously determined for a year, such difference is treated as a hypothetical underpayment or overpayment of tax to which the taxpayer applies a rate of interest equal to the overpayment rate, compounded daily.[1] The taxpayer receives (or pays) interest if the net amount of interest applicable to hypothetical overpayments exceeds (or is less than) the amount of interest applicable to hypothetical underpayments.

The look-back method must be reapplied for any item of income or cost that is properly taken into account after the completion of the contract.

The look-back method does not apply to any contract that is completed within two taxable years of the contract commencement date and if the gross contract price does not exceed the lesser of (1) $1 million or (2) one percent of the average gross receipts of the taxpayer for the preceding three taxable years. In addition, a simplified look-back method is available to certain pass-through entities and, pursuant to Treasury regulations, to certain other taxpayers. Under the simplified look-back method, the hypothetical underpayment or overpayment of tax for a contract year generally is determined by applying the highest rate of tax applicable to such taxpayer to the change in gross income as recomputed under the look-back method.

House bill

Election not to apply the look-back method for de minimis amounts

The House bill provides that a taxpayer may elect not to apply the look-back method with respect to a long-term contract if for each prior contract year, the cumulative taxable income (or loss) under the contract as determined using estimated contract price and costs is within 10 percent of the cumulative taxable income (or loss) as determined using actual contract price and costs.

---

[7] *See* S. Rpt. No. 1983 (85th Cong., 2d Sess., 1958), p. 88.

[8] Treas. Reg. sec. 1.742-1.

[1] The overpayment rate equals the applicable Federal short-term rate plus two percentage points. This rate is adjusted quarterly by the IRS. Thus, in applying the look-back method for a contract year, a taxpayer may be required to use five different interest rates.

Thus, under the election, upon completion of a long-term contract, a taxpayer would be required to apply the first step of the look-back method (the reallocation of gross income using actual, rather than estimated, contract price and costs), but would not be required to apply the additional steps of the look-back method if the application of the first step resulted in de minimis changes to the amount of income previously taken into account for each prior contract year.

The election applies to all long-term contracts completed during the taxable year for which the election is made and to all long-term contracts completed during subsequent taxable years, unless the election is revoked with the consent of the Secretary of the Treasury.

Example 1.—A taxpayer enters into a three-year contract and upon completion of the contract, determines that annual net income under the contract using actual contract price and costs is $100,000, $150,000, and $250,000, respectively, for Years 1, 2, and 3 under the percentage of completion method. An electing taxpayer need not apply the look-back method to the contract if it had reported cumulative net taxable income under the contract using estimated contract price and costs of between $90,000 and $110,000 as of the end of Year 1; and between $225,000 and $275,000 as of the end of Year 2.

Election not to reapply the look-back method

The bill provides that a taxpayer may elect not to reapply the look-back method with respect to a contract if, as of the close of any taxable year after the year the contract is completed, the cumulative taxable income (or loss) under the contract is within 10 percent of the cumulative look-back income (or loss) as of the close of the most recent year in which the look-back method was applied (or would have applied but for the other de minimis exception described above). In applying this rule, amounts that are taken into account after completion of the contract are not discounted.

Thus, an electing taxpayer need not apply or reapply the look-back method if amounts that are taken into account after the completion of the contract are de minimis.

The election applies to all long-term contracts completed during the taxable year for which the election is made and to all long-term contracts completed during subsequent taxable years, unless the election is revoked with the consent of the Secretary of the Treasury.

Example 2.—A taxpayer enters into a three-year contract and reports taxable income of $12,250, $15,000 and $12,750, respectively, for Years 1 through 3 with respect to the contract. Upon completion of the contract, cumulative look-back income with respect to the contract is $40,000, and 10 percent of such amount is $4,000. After the completion of the contract, the taxpayer incurs additional costs of $2,500 in each of the next three succeeding years (Years 4, 5, and 6) with respect to the contract. Under the bill, an electing taxpayer does not reapply the look-back method for Year 4 because the cumulative amount of contract taxable income ($37,500) is within 10 percent of contract look-back income as of the completion of the contract ($40,000). However, the look-back method must be applied for Year 5 because the cumulative amount of contract taxable income ($35,000) is not within 10 percent of contract look-back income as of the completion of the contract ($40,000). Finally, the taxpayer does not reapply the look-back method for Year 6 because the cumulative amount of contract taxable income ($32,500) is within 10 percent of contract look-back income as of the last application of the look-back method ($35,000).

Interest rates used for purposes of the look-back method

The bill provides that for purposes of the look-back method, only one rate of interest is to apply for each accrual period. An accrual period with respect to a taxable year begins on the day after the return due date (determined without regard to extensions) for the taxable year and ends on such return due date for the following taxable year. The applicable rate of interest is the overpayment rate in effect for the calendar quarter in which the accrual period begins.

Effective date

The provisions apply to contracts completed in taxable years ending after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

2. SIMPLIFIED METHOD FOR APPLYING UNIFORM COST CAPITALIZATION RULES

Present law

In general, the uniform cost capitalization rules require taxpayers that are engaged in the production of real or tangible personal property or in the purchase and holding of property for resale to capitalize or include in inventory the direct costs of the property and the indirect costs that are allocable to the property. In determining whether indirect costs are allocable to production or resale activities, taxpayers are allowed to use various methods so long as the method employed reasonably allocates indirect costs to production and resale activities.

House bill

The House bill authorizes (but does not require) the Treasury Department to issue regulations that allow taxpayers in appropriate circumstances to determine the costs of any administrative, service, or support function or department that are allocable to production or resale activities by multiplying the total amount of costs of any such function or department by a fraction, the numerator of which is the amount of costs of the function or department that was allocable to production or resale activities for a base period and the denominator of which is the total amount of costs of the function or department for the base period. It is anticipated that the regulations will provide that the base period is to begin no earlier than 4 taxable years prior to the taxable year with respect to which this simplified method applies.

Effective date

The provision applies to taxable years beginning after the date of enactment of the bill. Thus, the regulations may permit the use of the simplified method for taxable years beginning after this date. The simplified method, however, may not be used for any taxable year that begins prior to the date that the Treasury Department publishes regulations that authorize the use of the simplified method and set forth the requirements that must be satisfied in order for the method to be used.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

H. Provisions Relating to Regulated Investment Companies

1. REPEAL THE SHORT-SHORT TEST FOR REGULATED INVESTMENT COMPANIES

Present law

A regulated investment company ("RIC") generally is treated as a conduit for Federal income tax purposes. The Code provides conduit treatment by permitting a RIC to deduct dividends paid to its shareholders in computing its taxable income.

A RIC is a domestic corporation that, at all times during the taxable year, is registered under the Investment Company Act of 1940 as a management company or as a unit investment trust, or has elected to be treated as a business development company under that Act (sec. 851(a)).

In addition, to qualify as a RIC, a corporation must elect such status and must satisfy certain tests (sec. 851(b)). In particular, a corporation must derive less than 30 percent of its gross income from the sale or disposition of certain investments (including stock, securities, options, futures, and forward contracts) held less than 3 months (the "short-short test") (sec. 851(b)(3)).

House bill

The House bill repeals the short-short test.

Effective date.—The provision is effective for taxable years ending after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. REQUIRE BROKERS AND MUTUAL FUNDS TO REPORT BASIS TO CUSTOMERS

Present law

Information returns

Brokers[1] are required to report to the Internal Revenue Service the gross proceeds from sales and exchanges by customers (sec. 6045(a)). Brokers also must give each customer a written statement containing that information by January 31 of the year following the calendar year the transaction occurred (sec. 6045(b)).[2]

Gain or loss from the sale of mutual fund shares

A taxpayer who sells or exchanges mutual fund shares is required to report the gain or loss along with any other capital gains or losses. A taxable sale or exchange includes a direct redemption or sale, a check written on a fund, or exchanges from one fund into another fund.

The amount of gain or loss is the difference between the amount the taxpayer realized from the sale or exchange and the taxpayer's adjusted basis in the shares (sec. 1001). In general, the amount a taxpayer realizes from a sale or exchange of shares is the money and value of any property received for the shares minus expenses (such as sales commissions, sales charges, or exit fees). A taxpayer's adjusted basis generally is his original cost (including any sales charges or "load") or other basis adjusted for such things as wash sales and return of capital distributions.

---

[1] Under section 6045, "broker" is defined to include dealers, barter exchanges, and any other person who, for a consideration, regularly acts as a middleman with respect to property or services. Under the regulations, the term is defined to include mutual funds that deal directly with customers (i.e., mutual funds that stand ready to redeem their shares). The term "broker" has this meaning for purposes of this section.

[2] Brokers are required to use Form 1099-B, Statement for Recipients of Proceeds From Broker and Barter Exchange Transactions (or an IRS-authorized substitute) for these reporting purposes.

A taxpayer who sells any of his shares may choose one of three methods to determine the adjusted basis of the shares that were sold (Treas. Reg. secs. 1.1012-1(c) and (e)):

(1) the first-in, first-out (FIFO) method which requires the taxpayer to assume that the first shares sold were the first ones purchased by the taxpayer;

(2) the specific identification method which permits the taxpayer to identify exactly which shares were sold—but the method is available only if, at the time of sale, the taxpayer specified to the broker the particular shares to be sold and the broker confirms such specification in a written document within a reasonable time after the sale; or

(3) the average cost method which permits the taxpayer to calculate his gain or loss based on the average price he paid for his shares. The average cost method may be determined either by the single category method (which uses the average cost of all of the taxpayer's shares and determines the holding period for the shares that are sold on a first-in first-out basis) or the double category method (which separates the taxpayer's shares into long-term and short-term holdings and provides a separate average cost for each category). A taxpayer may elect the average cost method by attaching a statement to his return. Once the taxpayer elects the average cost method, the taxpayer must use that method for all of his accounts in that fund.

House bill

Information returns

In general.—The House bill requires brokers that are currently required to report gross proceeds on sales or exchanges of mutual fund shares to report basis and holding-period information on the same information return. Those brokers that are not currently required to report gross proceeds, such as money market mutual funds, are not required by the bill to report basis information.

Required basis information.—For each sale or exchange, a broker is required to report the basis of the shares that have been sold and the portion of the gross proceeds for the shares that have been held for more than 1 year. Basis is determined using the single-category average cost basis method (and not the double-category). The bill also provides the Secretary of the Treasury authority to determine the manner in which basis and holding period are to be reported. Such authority includes the authority to require brokers to take into account wash sales, return of capital distributions, and other events that might affect a basis calculation.

Multiple accounts.—The bill requires the basis calculation to be done on an account-by-account basis. If an individual holds shares in two separate accounts with a mutual fund, then a separate basis calculation must be done for each account. In addition, if a customer holds shares in two mutual funds through a securities broker (rather than directly through the mutual funds themselves), the shares for each mutual fund (i.e., for each position) must be considered separate accounts for purposes of these rules.

Due date of returns.—Under the bill, information returns are required to be sent to shareholders by January 31, which is, under present law, the same date by which the information returns for gross proceeds must be provided to taxpayers. The bill contemplates that amended basis information returns may be necessary in certain cases (such as certain wash sales).

Treasury is authorized to promulgate regulations to require a transfer of information between brokers (including RICs) where the transfer is necessary to comply with the reporting requirements of this section. For example, if a broker holds shares in a mutual fund as a nominee for another person and the shares are transferred to another broker, the old broker would be required to furnish the new broker the information necessary for the new broker to meet the information-reporting requirements.

Gain or loss from the sale of mutual fund shares

The House bill generally requires a taxpayer to calculate basis and adjustments to basis as under present law. However, unless a taxpayer elects otherwise, a taxpayer must determine basis for mutual fund shares by using the single-category average basis of all of the shares of the account from which a sale or exchange was made (which generally is the amount required to be reported by the broker).

Under the bill, a taxpayer can elect a method other than the single-category average basis (i.e., FIFO or specific identification) if he made such an election on his return for the first taxable year in which a sale from the account occurs (and he satisfied present law requirements). In addition, under the bill, a taxpayer can elect different methods for different accounts in the same fund.

Effective date.—The provision is effective for mutual fund shares held in accounts opened on or after January 1, 1994. For example, if prior to the effective date a taxpayer holds shares in mutual fund B in an account maintained by a securities broker and holds shares in mutual fund F directly from the fund, additions to either of those positions after January 1, 1994, would not trigger the basis reporting requirement. If, however, after January 1, 1994, the taxpayer purchased shares in mutual fund F through the securities broker, or through a new account opened with mutual fund F, a new position would have been opened and basis reporting would be required on that new position.

The provision is not applicable, however, to shares in an account that includes shares not acquired by purchase. Thus, the provision does not apply to shares in an account opened after January 1, 1994, that includes shares that had been acquired by gift. The basis in such shares is determined as under present law.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with a modification that a broker is required to report the portion of the gross proceeds for the shares that have been sold that have been held for more than 2 years (rather than for more than 1 year). The conferees expect that the Internal Revenue Service will consult with representatives of the industries affected by the basis reporting provision to develop the regulations necessary to implement the provision.

3. PERMIT COMMON TRUST FUNDS TO CONVERT TO REGULATED INVESTMENT COMPANIES WITHOUT TAXATION

Present law

A common trust fund is a fund maintained by a bank exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity as a trustee, executor, administrator, guardian, or custodian of certain accounts and in conformity with rules and regulations of the Board of Governors of the Federal Reserve System or the Comptroller of the Currency pertaining to the collective investment of trust funds by national banks (sec. 584(a)).

The common trust fund of a bank is not subject to tax and is not treated as a corporation (sec. 584(b)). Each participant in a common trust fund includes his proportional share of common trust fund income, whether or not the income is distributed or distributable (sec. 584(c)).

No gain or loss is realized by the fund upon admission or withdrawal of a participant. Participants generally treat their admission to the fund as the purchase of such interest. Withdrawals from the fund generally are treated as the sale of such interest by the participant (sec. 584(e)).

A regulated investment company (RIC) also is treated as a conduit for Federal income tax purposes. Present law is unclear as to the tax consequences when a common trust fund transfers its assets, or converts its status, to a RIC.

House bill

In general, the House bill permits a common trust fund to transfer substantially all of its assets to a RIC without gain or loss being recognized by the fund or its participants. The fund must transfer its assets to the RIC solely in exchange for shares of the RIC, and the fund must then distribute the RIC shares to the fund's participants in exchange for the participant's interests in the fund.

The basis of any asset that is received by the RIC will be the basis of the asset in the hands of the fund prior to transfer. In addition, the basis of any RIC shares that are received by a fund participant will be the participant's basis in the interests exchanged. If the interests exchanged have different bases, then the RIC shares received by the participant will have different bases.

The tax-free transfer is not available to a common trust fund with assets that are not diversified. This rule assures that a fund participant will not change the nature of his investment without recognizing gain.

Effective date.—The provision is effective for transfers after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

I. Tax-Exempt Bond Provisions

Overview

Interest on State and local government bonds generally is excluded from gross income for purposes of the regular individual and corporate income taxes if the proceeds of the bonds are used to finance direct activities of these governmental units (sec. 103).

Unlike the interest on governmental bonds, described above, interest on private activity bonds generally is taxable. A private activity bond is a bond issued by a State or local governmental unit acting as a conduit to provide financing for private parties in a manner violating either (a) a private business use and payment test or (b) a private loan restriction. However, interest on private activity bonds is not taxable if (a) the financed activity is specified in the Code and (b) at least 95 percent of the net proceeds of the bond issue is used to finance the specified activity.

Issuers of State and local government bonds must satisfy numerous other requirements, including arbitrage restrictions (for all such bonds) and annual State volume limitations (for most private activity bonds) for the interest on their bonds to be excluded from gross income.

1. SIMPLIFICATION OF ARBITRAGE REBATE REQUIREMENT FOR GOVERNMENTAL BONDS

Present law

Subject to limited exceptions, arbitrage profits from investing bond proceeds in investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. No rebate is required if the gross proceeds of an issue are spent for the governmental purpose of the borrowing within six months after issuance.

This six-month exception is deemed to be satisfied by issuers of governmental bonds (other than tax and revenue anticipation notes) and qualified 501(c)(3) bonds if (1) all proceeds other than an amount not exceeding the lesser of five percent or $100,000 are so spent within six months and (2) the remaining proceeds are spent within one year after the bonds are issued.

House bill

The $100,000 limit on proceeds that may remain unspent after six months for certain governmental and qualified 501(c)(3) bonds otherwise exempt from the rebate requirement is deleted. Thus, if at least 95 percent of the proceeds of these bonds is spent within six months after their issuance, and the remainder is spent within one year, the six-month exception is deemed to be satisfied.

Effective date.—This provision applies to bonds issued after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

2. SIMPLIFICATION OF COMPLIANCE WITH 24-MONTH ARBITRAGE REBATE EXCEPTION FOR CONSTRUCTION BONDS

Present law

In general, arbitrage profits from investing bond proceeds in investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. An exception is provided for certain construction bond issues if the bonds are governmental bonds, qualified 501(c)(3) bonds, or exempt-facility private activity bonds for governmentally owned property.

This exception is satisfied only if the available construction proceeds of the issue are spent at least at specified rates during the 24-month period after the bonds are issued. The exception does not apply to bond proceeds invested after the 24-month expenditure period as part of a reasonably required reserve or replacement fund, a bona fide debt service fund, or to certain other investments (e.g., sinking funds). Issuers of these construction bonds also may elect to comply with a penalty regime in lieu of rebating if they fail to satisfy the exception's spending requirements.

House bill

The House bill exempts earnings on bond proceeds invested in bona fide debt service funds from the arbitrage rebate requirement and the penalty requirement of the 24-month exception if the spending requirements of that exception are otherwise satisfied.

Effective date.—This provision applies to bonds issued after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

3. AUTOMATIC EXTENSION OF INITIAL TEMPORARY PERIOD FOR CERTAIN CONSTRUCTION BONDS

Present law

Issuers of all tax-exempt bonds generally are subject to two sets of arbitrage restrictions with respect to investment of their bond proceeds. First, a yield restriction requirement provides that tax-exempt bond proceeds generally may not be invested at a yield materially higher (generally defined as 0.125 percentage points) than the bond yield. Exceptions are provided to this restriction for investments during any of several "temporary periods" pending use of the proceeds, and throughout the term of the issue, for proceeds invested as part of a reasonably required reserve or replacement fund or a "minor" portion of the issue proceeds.

Second, in general, all arbitrage profits earned on investments unrelated to the governmental purpose (i.e., principally earnings on investments not subject to the yield restriction requirement) of the borrowing must be rebated to the Federal Government. Arbitrage profits include all such earnings (in excess of bond yield) derived from the investment of bond proceeds (and subsequent earnings on any such earnings).

House bill

The House bill provides that the initial temporary period for construction bonds is automatically extended for a period of 12 months if at least 85 percent of the available construction proceeds are spent within the original initial temporary period and the issuer reasonably expects to spend the remaining proceeds within the 12-month extension period. Construction bonds eligible for this automatic extension include only those bonds currently eligible for the 24-month arbitrage rebate expenditure exception, described above. Thus, these bond proceeds may be invested without yield restriction during this additional period; however, the arbitrage rebate or alternative penalty requirements for certain construction bonds will continue to apply during the extension period.

Effective date.—This provision applies to bonds issued after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

4. SIMULTANEOUS ISSUANCE OF CERTAIN DISCRETE ISSUES NOT AGGREGATED

Present law

In certain cases, the Treasury Department treats multiple issues of tax-exempt bonds paid from substantially the same source of funds as a single issue in applying the Code's tax-exempt bond restrictions when the bonds are issued within a relatively short period of time.

House bill

The House bill provides that discrete issues of governmental bonds issued simultaneously will not be treated as a single issue in cases where one of the issues is a TRAN reasonably expected to satisfy the arbitrage rebate safe harbor of Code section 148(f)(4)(B)(iii).

Effective date.—This provision applies to bonds issued after the date of enactment; no inference language is included with respect to bonds issued on or before that date.

Senate Amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

5. REPEAL OF UNRELATED AND DISPROPORTIONATE USE LIMIT

Present law

Bonds issued by States and local governments are private activity bonds if (1) more than ten percent of the proceeds of the issue of which they are part satisfies a private business use and payment test or (2) more than five percent ($5 million, if less) of the proceeds is used to finance loans to persons other than States or local governments. The ten-percent private business limits are reduced to five percent in the case of uses that are unrelated to a governmental use also being financed with the proceeds of the issue (the "unrelated and disproportionate use limit").

House bill

The House bill repeals the five-percent unrelated and disproportionate use limit.

Effective date.—This provision applies to bonds issued after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the provision of the House bill.

6. SIMPLIFICATION OF ARBITRAGE REBATE REQUIREMENT FOR SMALLER ISSUERS OF GOVERNMENTAL BONDS

Present law

Subject to limited exceptions, arbitrage profits earned by investing bond proceeds in investments unrelated to the governmental purpose of the borrowing must be rebated to the Federal Government. The rebate requirement does not apply to governmental bonds issued by issuers with general taxing powers if they issue $5 million or fewer of such bonds during the calendar year when the bonds are issued.

House bill

The House bill increases the $5 million annual issuance limit for small issuers whose governmental bonds are not subject to rebate to $10 million.

Effective date.—This provision applies to bonds issued in calendar years beginning after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

7. REPEAL OF 150-PERCENT OF DEBT SERVICE LIMIT

Present law

Issuers of all tax-exempt bonds generally are subject to two sets of arbitrage restrictions on investment of their bond proceeds. The first set requires that tax-exempt bond proceeds be invested at a yield that is not materially higher (generally defined as 0.125

percentage points) than the bond yield. Exceptions are provided to this restriction for investments during any of several "temporary periods" pending use of the proceeds and, throughout the term of the issue, for proceeds invested as part of a reasonably required reserve or replacement fund or a "minor" portion of the issue proceeds.

Except for temporary periods and amounts held pending use to pay current debt service, present law also limits the amount of the proceeds of private activity bonds (other than qualified 501(c)(3) bonds) that may be invested at materially higher yields at any time during a bond year to 150 percent of the debt service for that bond year. This restriction affects primarily investments in reasonably required reserve or replacement funds. Present law further restricts the amount of proceeds from the sale of bonds that may be invested in these reserve funds to ten percent of such proceeds.

The second set of arbitrage restrictions requires generally that all arbitrage profits earned on investments unrelated to the governmental purpose of the borrowing be rebated to the Federal Government. Arbitrage profits include all earnings (in excess of bond yield) derived from the investment of bond proceeds (and subsequent earnings on any such earnings).

House bill

The House bill repeals the 150-percent of debt service yield restriction.

Effective date.—This provision applies to bonds issued after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

8. CLARIFICATION OF DEFINITION OF "INVESTMENT-TYPE PROPERTY"

Present law

Interest on State and local government bonds is not tax-exempt if the bonds are arbitrage bonds. A bond generally is an arbitrage bond if the proceeds are invested in materially higher yielding "investment-type property," other than during prescribed temporary periods or as a part of a reasonably required reserve or replacement fund. Additionally, all profits earned on investment of bond proceeds other than for the governmental purpose of the borrowing generally must be rebated to the Federal Government.

If issuers of tax-exempt bonds prepay amounts for activities being financed with the bonds, arbitrage profits may be indirectly earned and retained by the issuers. Therefore, present law provides that property or services acquired pursuant to most transactions involving prepayments is investment-type property, and is subject to either yield restriction or arbitrage rebate requirements.

House bill

The House bill deletes and reinserts the term "investment-type property" in the Code arbitrage restrictions to clarify the original intent as to the meaning of that term. The House bill states that, as was stated in the legislative history accompanying the Tax Reform Act of 1986, absent restrictions, issuers might use bond proceeds to prepay items in such a manner that the tax-exempt bond arbitrage restrictions would be avoided and the issuers would retain the economic benefit of arbitrage profits. The expansion of property subject to the Code arbitrage restrictions to include all "investment-type property" was intended to preclude such arrangements.

In certain circumstances, however, advance payments for property or services may be made because of non-arbitrage-motivated business customs. For example, a governmental unit may decide to purchase property (e.g., a government office building or equipment) with an accompanying bond-financed up-front payment rather than lease the property without such an initial debt issuance. The House bill clarifies that it is not intended that the fact that an issuer purchases, rather than leases, property should necessarily be construed as giving rise to investment-type property.

Similarly, certain services (e.g., bond insurance for the entire term of the bonds) may be available only in exchange for a lump-sum payment made in advance, or the credit standing of an issuer may be such that vendors will not supply property or services before receiving payment. The House bill clarifies that, as was indicated in 1986, the term investment-type property is not intended to include property or services acquired in exchange for debt-financed lump-sum payments, whether or not discounted, that are dictated by independent, non-arbitrage-motivated business customs governing availability of the property or services to all similarly-situated persons (whether or not State or local governmental units).

Further, the House bill clarifies the application of these restrictions to certain governmental procurement activities. When States and local governments purchase property and services for use in carrying out their governmental activities, they may be offered discounts on the same terms as nongovernmental purchasers for prompt or early payment or for volume purchases. Availability of these discounts presents an opportunity for economic arbitrage, and by taking advantage of the discounts, States and local governments could be viewed as acquiring investment-type property. The House bill provides, however, that acquisition at a discounted price of property or services to be used in carrying out a governmental activity should not be treated as the acquisition of investment-type property if—

(a) the trade discount is available on the same terms to all purchasers of the property or services (both governmental and nongovernmental entities);[1] and

(b) the scheduled or actual timing of any early payment or the volume of any purchase by a governmental unit is not substantially different from the comparable timing of payments or volume of purchases by similarly situated nongovernmental purchasers of the same property or services.

Effective date.—This provision is effective as if included in Title XIII of the Tax Reform Act of 1986.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill with three clarifications. First, the conferees wish to clarify that the rules governing trade discounts described above in the fourth paragraph of the House bill description are not intended to clarify, not to modify, the other present-law rules described in the first three paragraphs of that description and in the legislative history accompanying the Tax Reform Act of 1986.

Second, the conferees wish to clarify the requirement that trade discounts be set at a level such that issuers of tax-exempt bonds are not more likely to take advantage of the discounts than are nongovernmental purchasers using taxable financing. The conferees recognize that the implicit discount rate in any purchase arrangement is related to borrowing costs, and that therefore, tax-exempt borrowers should benefit economically more from any uniform discount rate than comparable taxable borrowers. This fact alone is not to be construed as violating the requirement, provided the discount rate is uniform for governmental and nongovernmental purchasers and is set at a sufficient level to be taken advantage of generally by nongovernmental purchasers using taxable financing as well as by issuers of tax-exempt bonds.

Third, the conferees wish to clarify that the trade discount discussion applies to procurement activities of section 501(c)(3) organizations as well as those of governmental units.

9. EXPAND EXCEPTION TO PRO RATA DISALLOWANCE OF BANK INTEREST EXPENSE RELATED TO INVESTMENT IN TAX-EXEMPT BONDS

Present law

Banks and other financial institutions generally are denied a deduction for the portion of their interest expense (e.g., interest paid to depositors) that is attributable to investment in tax-exempt bonds acquired after August 7, 1986. This disallowance is computed using a pro-rata formula that compares the institution's average adjusted basis in tax-exempt bonds acquired after that date with the average adjusted basis of all assets of the institution.

An exception to the pro-rata disallowance rule is permitted for governmental bonds and qualified 501(c)(3) bonds issued by or on behalf of governmental units that issue no more than $10 million of such bonds during a calendar year (the "small-issuer exception").

House bill

No provision.

Senate amendment

The Senate amendment increases from $10 million to $25 million the amount of governmental and qualified 501(c)(3) bonds that an entity may issue annually while qualifying those bonds for the small-issuer exception to the general bank interest disallowance rule.

The amendment also provides that pooled financing tax-exempt bonds (other than private activity bonds) may qualify for the small-issuer exception if—

(a) all of the proceeds of the pooled financing bonds (net of issuance costs associated with the bonds) are used exclusively to acquire from the issuer thereof bonds ("acquired bonds") eligible for the small-issuer exception,

(b) the acquired bonds are not designated under section 265(b)(3)(B)(i)(III) as "bank qualified" for purposes of the small-issuer exception;[2]

(c) the weighted average maturity of the pooled financing bonds does not exceed the weighted average maturity of the acquired bonds; and

(d) the issuer of the pooled financing bonds designates those bonds as "bank qualified" under section 265(b)(3)(i)(B)(III).

---

[1] Any trade discount which is structured differently for governmental and nongovernmental purchasers or which is set at a level such that issuers of tax-exempt bonds are more likely to take advantage of the discount than nongovernmental purchasers (e.g., in a manner related to the tax-exempt borrowing costs of the governmental unit) does not qualify as a trade discount that is available on the same terms to all purchasers of the property or services.

[2] The acquired bonds are taken into account in determining how many bonds are reasonably expected to be issued by the borrowers from the pool in the calendar year in which they are issued.

Effective date.—The provision is effective for bonds issued and acquired in calendar years beginning after December 31, 1992.

Conference agreement

The conference agreement follows the Senate amendment with two modifications. First, the conference agreement increases the small-issuer exception from $10 million to $20 million (rather than $25 million). Second, the conference agreement does not include the expansion of the exception to pooled financing bonds.

10. MODIFICATION OF RULES GOVERNING QUALIFIED 501(C)(3) BONDS

Present law

Interest on State and local government bonds generally is excluded from income if the bonds are issued to finance direct activities of these governments (sec. 103). Interest on bonds issued by these governments to finance activities of other persons, e.g., private activity bonds, is taxable unless a specific exception is included in the Code. One such exception is for private activity bonds issued to finance activities of private, charitable organizations described in Code section 501(c)(3) ("section 501(c)(3) organizations") when the activities do not constitute an unrelated trade or business (sec. 141(e)(1)(G)).

Classification of section 501(c)(3) organization bonds as private activity bonds

Before enactment of the Tax Reform Act of 1986, States and local governments and section 501(c)(3) organizations both were defined as "exempt persons," under the Code bond provisions, and their bonds generally were subject to the same requirements. As exempt persons, section 501(c)(3) organizations were not treated as "private" persons, and their bonds were not "industrial development bonds" or "private loan bonds" (the predecessor categories to current private activity bonds).

Under present law, a bond is a private activity bond if its proceeds are used in a manner violating either (a) a private business test or (b) a private loan test. The private business test is a conjunctive two-pronged test. First, the test limits private business use of governmental bonds to no more than ten percent of the proceeds.[3] Second, no more than ten percent of the debt service on the bonds may be derived from private business users of the proceeds. The private loan test limits to the lesser of five percent or $5 million the amount of governmental bond proceeds that may be used to finance loans to persons other than governmental units.

Special restrictions on tax-exemption for section 501(c)(3) organization bonds

As stated above, present law treats section 501(c)(3) organizations as private persons; thus, bonds for their use may only be issued as private activity "qualified 501(1)(3) bonds," subject to the restrictions of Code section 145. The most significant of these restrictions limits the amount of outstanding bonds from which a section 501(c)(3) organization may benefit to $150 million. In applying this "$150 million limit," all section 501(c)(3) organizations under common management or control are treated as a single organization. The limit does not apply to bonds for hospital facilities, defined to include only acute care, primarily inpatient, organizations. A second restriction limits to no more than five percent the amount of the net proceeds of a bond issue that may be used to finance any activities (including all costs of issuing the bonds) other than the exempt purposes of the section 501(c)(3) organization.

Legislation enacted in 1988 imposed low-income tenant occupancy restrictions on existing residential rental property that is acquired by section 501(c)(3) organizations in tax-exempt-bond-financed transactions. These restrictions require that a minimum number of the housing units comprising the property be continuously occupied by tenants having family incomes of 50 percent (60 percent in certain cases) of area median income for periods of up to 15 years. These same low-income tenant occupancy requirements apply to for-profit developers receiving tax-exempt private activity bond financing.

Other restrictions

Several restrictions are imposed on private activity bonds generally that do not apply to bonds used to finance State and local government activities. Many of these restrictions also apply to qualified 501(c)(3) bonds.

No more than two percent of the net proceeds of a bond issue may be used to finance the costs of issuing the bonds, and these monies are not counted in determining whether the bonds satisfy the requirement that at least 95 percent of the net proceeds of each bond issue be used for the exempt activities qualifying the bonds for tax-exemption.

The weighted average maturity of a bond issue may not exceed 120 percent of the average economic life of the property financed with the proceeds.

A public hearing must be held and an elected public official must approve the bonds before they are issued (or the bonds must be approved by voter referendum).

If property financed with private activity bonds is converted to a use not qualifying for tax-exempt financing, certain loan interest penalties are imposed.

House bill

No provision.

Senate amendment

The Senate amendment changes the tax-exempt bond provisions of the Code to conform generally the treatment of bonds for section 501(c)(3) organizations to that provided for bonds issued to finance direct State or local government activities. Certain restrictions, described below, that have been imposed on qualified 501(c)(3) bonds (but not on governmental bonds) since 1986, and that address specialized policy concerns, are retained.

Repeal of private activity bond classification for bonds for section 501(c)(3) organizations

The concept of an "exempt person" that existed in the bond provisions before 1986, is reenacted. An exempt person is defined as (a) a State or local governmental unit or (b) a section 501(c)(3) organization, when carrying out its exempt activities under Code section 501(a). Thus, bonds for section 501(c)(3) organizations would no longer be classified as private activity bonds. However, financing for unrelated business activities of such organizations would continue to be treated as a private activity for which tax-exempt financing is not authorized.

As exempt persons, section 501(c)(3) organizations would be subject to the same limits as States and local governments on using their bond proceeds to finance private business activities or to make private loans. Thus, no more than ten percent of the bond proceeds[4] could be used in a business use of a person other than an exempt person if the Code security interest test is satisfied, and no more than five percent ($5 million if less) could be used to make loans to such "non-exempt" persons.

Repeal of most additional special restrictions on section 501(c)(3) organization bonds

Present Code section 145, which establishes additional restrictions on qualified 501(c)(3) bonds, is repealed, along with the restriction on bond-financed costs of issuance for section 501(c)(3) organization bonds (sec. 147(h)). This eliminates the $150-million-per-organization limit on nonhospital bonds for section 501(c)(3) organizations.

Retention of certain specialized requirements for section 501(c)(3) organization bonds

As stated above, the Senate amendment retains certain specialized restrictions on bonds for section 501(c)(3) organizations. First, the bill retains the requirement that existing residential rental property acquired by a section 501(c)(3) organization in a tax-exempt-bond-financed transaction satisfy the same low-income tenant requirements as similar housing financing for for-profit developers. Second, the amendment retains the present-law maturity limitations applicable to bonds for section 501(c)(3) organizations, and the public approval requirements applicable generally to private activity bonds. Third, the amendment continues to apply the penalties on changes in use of tax-exempt-bond-financed section 501(c)(3) organization property to a use not qualified for such financing.

Finally, the Senate amendment makes no amendments, other than technical conforming amendments, to the tax-exempt arbitrage restrictions, the alternative minimum tax tax-exempt bond preference, or the provisions generally disallowing interest paid by banks on monies used to acquire or carry tax-exempt bonds.

Effective date

The Senate amendment applies to bonds issued after December 31, 1992.

Conference agreement

The conference agreement does not include the provision of the Senate amendment.

11. AUTHORITY FOR TREASURY DEPARTMENT TO EXEMPT CERTAIN TAXPAYERS FROM TAX-EXEMPT INTEREST REPORTING REQUIREMENT

Present law

Present law requires all individuals to report on their income tax returns the amount of interest on State and local government bonds they receive.

House bill

No provision.

Senate amendment

The Senate amendment authorizes the Treasury Department to provide exceptions to the requirement that taxpayers report interest on State and local government bonds on their Federal income tax returns in cases where the Secretary determines that such information is not useful to the administration of the tax laws.

Effective date.—This provision is effective for taxable years beginning after the date of enactment.

Conference agreement

The conference agreement does not include the provision of the Senate amendment.

---

[3] No more than five percent of bond proceeds may be used in a private business use that is unrelated to the governmental purpose of the bond issue. The ten percent debt service test, described below, likewise is reduced to five percent in the case of such "disproportionate" private business use.

[4] This limit is reduced to five percent in the case of disproportionate private use as under the present-law governmental bond disproportionate private use limit.

12. REPEAL OF EXPIRED PROVISIONS

Present law

Present law includes two special exceptions to the arbitrage rebate and pooled financing temporary period rules for certain qualified student loan bonds. This exception applied only to bonds issued before January 1, 1989.

House bill

These special exceptions are deleted as "deadwood."

Effective date.—This provision is effective on the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

J. Taxable Year Election for Partnerships, S Corporations, and Personal Service Corporations

Present law

In general

A partnership is generally required for Federal income tax purposes to use the taxable year that is used by a majority of its partners. An S corporation is generally required for Federal income tax purposes to use the calendar year as its taxable year. A personal service corporation also is generally required for Federal income tax purposes to use the calendar year as its taxable year.[1]

A partnership, S corporation, or personal service corporation, however, may elect to use a taxable year other than the required taxable year. In the case of a partnership, S corporation, or personal service corporation that is adopting a taxable year or changing a taxable year, the taxable year that may be elected generally may not result in a deferral period of more than three months. For this purpose, the deferral period generally is the number of months between (1) the beginning of the taxable year of the partnership, S corporation, or personal service corporation, and (2) the close of the first required taxable year that ends within such year.

A partnership, S corporation, or personal service corporation is required to obtain the approval of the Internal Revenue Service in order to change to a taxable year other than the required taxable year. A partnership, S corporation, or personal service corporation that terminates an election to use a taxable year other than the required taxable year may not make an election for any subsequent taxable year.

An election may not be made by a partnership, S corporation, or personal service corporation that is part of a tiered structure other than a tiered structure that is comprised of one or more partnerships or S corporations, all of which have the same taxable year. An electing partnership, S corporation, or personal service corporation that becomes part of a proscribed tiered structure is considered to have terminated its election.

Required payment for electing partnerships and S corporations

A partnership or S corporation that elects a taxable year other than the required taxable year is required to make a payment to the Internal Revenue Service (a "required payment") that is designed to compensate the Federal government for the deferral of tax that results from the use of a taxable year other than the required taxable year. The amount of the required payment for any taxable year for which an election is in effect (an "applicable election year") equals the excess (if any) of (1) the highest rate of tax in effect under section 1 of the Code plus 1 percentage point multiplied by the net base year income of the partnership or S corporation, over (2) the net required payment balance. The net required payment balance is the aggregate amount of required payments less refunds of required payments for all preceding taxable years for which an election was in effect.

The required payment is due on May 15 of the calendar year that follows the calendar year in which the applicable election year began. The required payment is required to be refunded by the Internal Revenue Service if certain conditions are satisfied. No interest is to be paid by the Internal Revenue Service with respect to a refund of a required payment.

Minimum distribution requirement for electing personal service corporations

A personal service corporation that elects a taxable year other than the required taxable year is required to satisfy a minimum distribution requirement that applies to applicable amounts paid by the personal service corporation.[2] If the minimum distribution requirement is not satisfied for any taxable year for which a taxable year election is in effect, the deduction otherwise allowed for applicable amounts paid or incurred during such taxable year is limited to the applicable amounts paid during the deferral period of the taxable year multiplied by a ratio, the numerator of which is the number of months in the taxable year and the denominator of which is the number of months in the deferral period of the taxable year.

The minimum distribution requirement is satisfied with respect to a taxable year only if the applicable amounts paid or incurred during the deferral period of the taxable year equal or exceed the lesser of (1) the applicable amounts paid during the preceding taxable year multiplied by a ratio, the numerator of which is the number of months in the deferral period of the taxable year and the denominator of which is the number of months in the taxable year, or (2) the applicable percentage of the adjusted taxable income for the deferral period of the taxable year.

A net operating loss carryback is not allowed to or from a taxable year of a personal service corporation for which a taxable year election is in effect.

House bill

In general

The House bill allows a partnership, S corporation, or personal service corporation to elect any taxable year without regard to the length of the deferral period of the taxable year elected. A partnership, S corporation, or personal service corporation, however, is allowed to elect a taxable year other than the required taxable year only if the taxable year elected covers the same period as any annual financial reports or statements of the entity used for credit purposes or provided to the partners, shareholders, or other proprietors of the entity.

The House bill repeals the provision of present law that prohibits a partnership, S corporation, or personal service corporation from electing a taxable year other than the required taxable year if an earlier taxable year election has been terminated. In addition, the House bill provides that a partnership, S corporation, or personal service corporation is not to be considered part of a tiered structure merely because a trust that uses the calendar year owns an interest in the partnership, S corporation, or personal service corporation.

Required payment for electing partnerships and S corporations

The House bill increases the amount of the required payment that must be made by a partnership or S corporation that elects a taxable year other than the required taxable year (including any partnership or S corporation that has an election in effect on the date of enactment of the bill). Under the House bill, the amount of the required payment for any applicable election year equals the excess (if any) of (1) the highest rate of tax in effect under section 1 of the Code as of the close of the first required taxable year ending within the applicable election year plus 2 percentage points, multiplied by the net base year income of the partnership or S corporation,[3] over (2) the net required payment balance.

The House bill also requires an additional payment for any taxable year that a partnership or S corporation first makes a taxable year election or changes a taxable year election to increase the deferral period. This additional payment is required to be made on or before September 15 of the calendar year in which the applicable election year begins.

The House bill requires interest to be paid by the Internal Revenue Service with respect to a refund of a required payment but only for the period that begins on the date that the refund is payable and that ends on the date of the payment of the refund.

Minimum distribution requirement for electing personal service corporations

The House bill modifies the minimum distribution requirement that must be satisfied by a personal service corporation that elects a taxable year other than the required taxable year (including a personal service corporation that has an election in effect on the date of enactment of the bill). The minimum distribution requirement is satisfied with respect to a taxable year only if the applicable amounts paid during the deferral period of the taxable year equal or exceed the lesser of (1) 110 percent of the applicable amounts paid during the preceding taxable year multiplied by a ratio, the numerator of which is the number of months in the deferral period of the taxable year and the denominator of which is the number of months in the taxable year, or (2) 110 percent of the applicable percentage of the adjusted taxable income for the deferral period of the taxable year.

---

[1] For this purpose, a personal service corporation is defined as a C corporation the principal activity of which is the performance of services if (1) the services are substantially performed by employee-owners, and (2) more than 10 percent of the stock of the corporation is owned by employee-owners.

[2] The term "applicable amount" generally is defined as any amount paid to an employee-owner that is includible in the gross income of the employee-owner other than any dividend paid by the personal service corporation or any gain from the sale or exchange of property by the employee-owner to the personal service corporation.

[3] In determining the net base year income of the partnership or S corporation for this purpose, the base year is defined as the first 12-month (or 52-53 week) taxable year of the partnership or S corporation that precedes the applicable election year. The Treasury Department is authorized to promulgate regulations that provide for the application of the required payment rules if there is no 12-month (or 52-53 week) taxable year of the partnership or S corporation that precedes the applicable election year. It is anticipated that these regulations will annualize the results of any short taxable year that is used as the base year.

The House bill also permits a personal service corporation to carry back a net operating loss from a taxable year for which a taxable year election was not in effect to a taxable year for which a taxable year election was in effect.

Effective date

The provisions of the House bill relating to the taxable year election apply to taxable years beginning after December 31, 1991.

Senate amendment

The Senate amendment is the same as the House bill, except as follows.

In general

The Senate amendment continues to require a partnership, S corporation, or personal service corporation to obtain the approval of the Internal Revenue Service in order to change a taxable year (including, unlike present law, a change to the required taxable year). Under the Senate amendment, it is anticipated that the Internal Revenue Service will provide a procedure by which a partnership, S corporation, or personal service corporation may expeditiously obtain the approval of the Internal Revenue Service in order to change a taxable year (for example, by timely filing a form with the Internal Revenue Service). It is anticipated that this "automatic consent" procedure will only apply to a partnership, S corporation, or personal service corporation that has not changed its taxable year within the past 6 calendar years, except that the 6-year limitation will not apply to any partnership, S corporation, or personal service corporation that has changed its taxable year in order to comply with the taxable year requirements contained in the Tax Reform Act of 1986.

It is also anticipated that the "automatic consent" procedure will require any net operating loss of a personal service corporation that arises in a short period required to effect a change in taxable year to be deducted ratably over a 6-year period beginning with the first taxable year after the short period. In addition, it is anticipated that the "automatic consent" procedure will require any excess of deductions over income of a partnership or S corporation that arises in a short period required to effect a change in taxable year to be taken into account by the partners or shareholders over a 6-year period beginning with the taxable year of the partners or shareholders that includes the last day of the first taxable year of the partnership or S corporation that occurs after the short period.

The Senate amendment also provides that a taxable year election is to remain in effect until the partnership, S corporation, or personal service corporation terminates its election and changes to the required taxable year.[4] A change from a taxable year that is not a required taxable year to another taxable year that is not a required taxable year is not treated as a termination of the taxable year election unless the taxable year is allowable by reason of a business purpose.

The Senate amendment provides that a partnership, S corporation, or personal service corporation is not to be considered part of a tiered structure solely because a trust the beneficiaries of which use the calendar year owns an interest in the partnership, S corporation, or personal service corporation. Consequently, an election of a taxable year other than the required taxable year may be made by a partnership, S corporation, or personal service corporation with respect to which a trust owns an interest if all of the beneficiaries of the trust use the calendar year and the partnership, S corporation, or personal service corporation is not otherwise considered to be part of a proscribed tiered structure.

Required payment for electing partnerships and S corporations

The Senate amendment requires an additional required payment for any new applicable election year of a partnership or S corporation. For this purpose, a new applicable election year is defined as any applicable election year that either (1) immediately follows a taxable year for which a taxable year election was not in effect, or (2) covers a different period than the preceding taxable year by reason of a change in the taxable year elected. If, however, the applicable election year described in the preceding sentence is a short taxable year that does not include the last day of a required taxable year, then the new applicable election year is the taxable year immediately following the short taxable year.

In the case of a new applicable election year that does not result from a change in the taxable year elected, the amount of the additional required payment equals 75 percent of the amount of the required payment for such applicable election year (determined without regard to the additional required payment). In the case of a new applicable election year that results from a change in the taxable year elected, the amount of the additional required payment equals 75 percent of the excess (if any) of (1) the amount of the required payment for such applicable election year (determined without regard to the additional required payment), over (2) the amount of the required payment for such applicable election year (determined without regard to the additional required payment) determined by using the deferral ratio and the deferral period that applied to the taxable year that was used prior to the change.[5]

In addition, in the case of a new applicable election year, the net income for the base year is to be increased by the excess (if any) of (1) the applicable payments taken into account in determining net income for the base year, over (2) 120 percent of the average amount of applicable payments made during the three taxable years immediately preceding the base year.[6] A partnership or S corporation that fails to make the additional required payment by the due date of such payment is treated as having terminated the taxable year election and changed to the required taxable year.

Minimum distribution requirement for electing personal service corporations

Under the Senate amendment, the minimum distribution requirement is satisfied with respect to a taxable year only if the applicable amounts paid during the deferral period of the taxable year equal or exceed the lesser of (1) 110 percent of the applicable amounts paid during the first preceding taxable year of 12 months (or 52–53 weeks)[7] multiplied by a ratio, the numerator of which is the number of months in the deferral period of the taxable year and the denominator of which is 12, or (2) 110 percent of the applicable percentage of the adjusted taxable income for the deferral period of the taxable year.

Conference agreement

The conference agreement follows the Senate amendment.

K. Provisions Relating to Cooperatives

1. DISCHARGE OF INDEBTEDNESS INCOME FROM PREPAYMENT OF REA LOANS AT A DISCOUNT

Present law

Internal Revenue Code

Section 501(c)(12) of the Internal Revenue Code provides an income tax exemption for rural electric cooperatives if at least 85 percent of the cooperative's income is derived from member sources. Income from cancellation of indebtedness generally is not derived from member sources. Nonetheless, section 501(c)(12)(B)(iv) provides that the 85-percent test is determined without regard to any discharge of indebtedness income arising from prepayment of loans of the Rural Electrification Administration (REA) pursuant to sections 306A, 306B, or 311 of the Rural Electrification Act (as in effect on January 1, 1987).

1990 Farm Act

Section 2387 of the Food, Agriculture, Conservation, and Trade Act of 1990 ("1990 Farm Act") amended section 306B of the Rural Electrification Act to provide that rural electric cooperatives that merge with another rural electric cooperative that previously had prepaid REA loans under the 1988 or 1989 Budget Reconciliation Acts also could prepay REA loans at a discount.

House bill

No provision.

Senate amendment

The Senate amendment provides that the 85-percent test of section 501(c)(12) would be determined without regard to discharge of indebtedness income from the prepayment of loans of the Rural Electrification Administration under section 2387 of the 1990 Farm Act.

Effective date.—The provision applies to taxable years beginning before, on, or after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

2. PRIVATE FOUNDATION COMMON INVESTMENT FUND

Present law

Section 501(c)(3) requires that an organization be organized and operated exclusively for an exempt purpose in order to qualify for tax-exempt status under that section.

Section 501(f) provides that an organization is treated as organized and operated exclusively for charitable purposes if it is comprised solely of members that are educational institutions and is organized and operated solely to hold, commingle, and collectively invest (including arranging for investment services by independent contractors) in stocks and securities, the moneys contributed thereto by the members, and to collect income therefrom and turn over the entire amount thereof, less expenses, to such members.

---

[4] As under present law, a taxable year election is also terminated if: (1) the entity becomes part of a proscribed tiered structure; or (2) a partnership or S corporation willfully fails to comply with the required payment rules. In addition, the Senate amendment authorizes the Treasury Department to issue regulations which provide for the termination of a taxable year election if the entity does not comply with the annual financial statement requirement.

[5] In the case of a new applicable election year that results from a change in the taxable year elected, an additional required payment is required only if the deferral period of the new applicable election year exceeds the deferral period of the former applicable election year.

[6] In the event that there are not three taxable years immediately preceding the base year, the provision is to apply based on the number of taxable years immediately preceding the base year.

[7] The Treasury Department is authorized to promulgate regulations that provide for the application of the minimum distribution requirement if there is no preceding taxable year of 12 months (or 52-53 weeks) of the personal service corporation. It is anticipated that these regulations will annualize the results of any short year that is taken into account for purposes of these rules.

House bill

No provision.

Senate amendment

The Senate amendment provides that a cooperative service organization comprised solely of members that are tax-exempt private foundations and community foundations[1] shall be treated as organized and operated exclusively for charitable purposes if: (1) it has at least 20 members; (2) no one member holds (after the organization's second taxable year) more than 10 percent (by value) of the interests in the organization; (3) no one member controls the organization or any other member; (4) the members are permitted to dismiss any of the organization's investment advisors (following reasonable notice) upon a vote of members holding a majority of interest in the account managed by such advisor; (5) the organization is organized and operated solely to hold, commingle, and collectively invest (including arranging for investment services by independent contractors) in stocks and securities, the monies contributed by the members, and to collect income therefrom and turn over the entire amount thereof, less expenses, to such members.[2]

A cooperative service organization meeting the criteria of the proposed modification would be subject to the present-law excise tax provisions applicable to private foundations (e.g., sec. 4941 rules governing self-dealing arrangements), other than sections 4940 and 4942. In addition, each member's allocable share (whether or not distributed) of the capital gain net income and gross investment income of the organization for any taxable year of the organization is treated, for purposes of the excise tax imposed under present-law section 4940, as capital gain net income and gross investment income of the member for the taxable year of such member in which the taxable year of the organization ends.

Effective date.—The provision applies to taxable years ending after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

---

[1] For purposes of the provision, "community foundations" are a form of charitable trust or fund (which generally are established to attract large contributions of a capital or endowment nature for the benefit of a particular community or area) as to which section 170(b)(1)(A)(vi) applies. See Treas. Reg. sec. 1.170A-9(e)(10).

It is expected that members will present the organization with verification of their status as tax-exempt private foundations or community foundations at the time they become members (i.e., when they make an initial investment). Further, it is intended that a reasonable time period should be allowed for withdrawal by a member that subsequently ceases to qualify as a tax-exempt private foundation or community foundation.

[2] It is intended that an organization will be deemed to be organized and operated solely to collectively invest in stocks and securities if its income is derived solely from investing in stocks and securities, and ordinary and routine investments in connection with a stock and securities portfolio.

A cooperative service organization described in the provision qualifies for tax-exempt status under section 501(c)(3) only if the other applicable requirements of that section (e.g., prohibition of private inurement, political activities, and substantial lobbying) are satisfied.

3. TREATMENT OF AMOUNTS RECEIVED BY TELEPHONE COOPERATIVES

Present law

Mutual or cooperative telephone companies ("telephone cooperatives") are exempt from Federal income tax if 85 percent or more of their income consists of amounts collected from members for the sole purpose of meeting losses and expenses (sec. 501(c)(12)(A)). In applying this 85-percent test, certain income received by a telephone cooperative is disregarded, including income received from a nonmember telephone company for the performance of communication services which involve members of the telephone cooperative, certain pole rental income, and income from the sale of display listings in a telephone directory sold to members of the telephone cooperative (sec. 501(c)(12)(B)).

Tax-exempt organizations generally are subject to the unrelated business income tax (UBIT) on income from a trade or business that is not substantially related to the organization's tax-exempt purposes. Under special rules, certain investment income (e.g., interest, dividends, royalties, and certain rents) generally is exempt from UBIT, although some tax-exempt organizations, such as social clubs described in section 501(c)(7) and certain mutual benefit organizations, are subject to UBIT on their investment income.

House bill

No provision.

Senate amendment

Amounts received from other telephone companies

The Senate amendment provides that, for purposes of section 501(c)(12), 50 percent of the income received by a telephone cooperative from a nonmember telephone company for performing communication services—e.g., fees received for originating (or terminating) a long-distance call placed by (or to) a member—are treated as collected from members of the telephone cooperative for the sole purpose of meeting the losses and expenses of the telephone cooperative.[1] The remaining 50 percent of income received by a telephone cooperative from a nonmember telephone company is, as under present law, excluded from the 85-percent test under section 501(c)(12)(B)(i).

The Senate amendment also excludes from the 85-percent test under section 501(c)(12) amounts received by a telephone cooperative from billing and collection services performed for another telephone company.[2]

---

[1] Amounts received by a telephone cooperative for performing communication services for a nonmember telephone company (e.g., long-distance carrier) often are referred to as "access charges." Thus, under the Senate amendment, 50 percent of such access charges received by a telephone cooperative from another telecommunications company are treated as member-source income for purposes of the 85-percent test of section 501(c)(12).

[2] Telephone cooperatives (and other local telephone companies) often serve as billing and collection agents for other telecommunications companies. (That is, a telephone cooperative bills, and collects from, its members not only charges for local phone service provided by the cooperative but also charges for amounts owed to a long-distance carrier for the member's long-distance calls.) Telephone cooperatives are compensated for performing billing and collection services, generally by retaining a portion of the long-distance charges collected from members. Similar to the present-law treatment of certain pole rental income and directory listing (e.g., "yellow pages") revenue, the Senate amendment treats such billing and collection revenues as excluded from the 85-percent test under section 501(c)(12).

Effective date.—This provision is effective for taxable years beginning before, on, or after the date of enactment.

Excess investment income

In addition, the Senate amendment provides that telephone cooperatives will not lose their tax-exempt status under section 501(c)(12) if they earn certain investment "reserve income" in excess of 15 percent of their total income, but only if such reserve income (when added to other income not collected from members) does not exceed 35 percent of the cooperative's total income. For purposes of this provision, "reserve income" is defined as income that otherwise would be excluded from UBIT under section 512(b) (e.g., interest and dividends) and that is set aside for the repair or replacement of telephone facilities of the cooperative. Under the provision, tax-exempt telephone cooperatives are subject to the UBIT on such reserve income between the 15-percent and 35-percent range.

Effective date.—This provision is effective for taxable years beginning after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

4. TREATMENT OF HOUSING COOPERATIVES

Present law

Treatment of cooperatives generally

A cooperative association is an organization, usually a corporation, which benefits its members and patrons by selling goods to them and purchasing products from them and returning to them any income in excess of costs. Unlike other corporations, a cooperative association may exclude from its taxable income patronage dividends paid to its members or patrons. For a cooperative subject to tax under subchapter T of the Code (secs. 1381–88), a patronage dividend must be determined by reference to the net earnings of the organization from business done with or for its patrons and cannot include any earnings other than from such business.

Deductions by membership organizations

A membership organization operated primarily to furnish services or goods to its members may deduct costs attributable to such operation only to the extent of income derived from the members (sec. 277). The Internal Revenue Service has ruled that section 277 applies to housing cooperatives.[1] Two courts have refused to apply section 277 to cooperatives subject to tax under subchapter T.[2]

House bill

No provision.

Senate amendment

The Senate amendment provides that section 277 does not apply to a cooperative housing corporation[3] and that patronage losses of the corporation cannot offset earnings that are not patronage earnings.

Patronage earnings and losses generally include earnings and losses derived from business done with or for patrons of the corporation. In addition, the bill treats the following as patronage sourced: (1) interest on reasonable reserves established in connection with the corporation, including reserves required by a government agency or lender, (2) rents from laundry and parking to the extent attributable to use of the facilities by tenant-stockholders[4] and their guests, and (3) in the case of a limited equity cooperative housing corporation,[5] rental income attributable to a housing project operated by the corporation.

---

[1] *See* Rev. Rul. 90-36, 1990–1 C.B. 59.

[2] *See* Landmark v. United States, 92–1 Tax Cas. (CCH) para. 50,058 (Cl. Ct. 1992); Farm Service Cooperative v. Commissioner, 70 T.C. 145, 155-57 (1978), *rev'd on other grounds*, 611 F.2d 1270 (9th Cir. 1980).

[3] A cooperative housing corporation generally is a corporation (1) that has one class of stock, (2) each of the stockholders of which is entitled, solely by reason of ownership of stock, to occupy a dwelling owned or leased by the cooperative, (3) no stockholder of which is entitled to receive any distribution not out of earnings and profits of the cooperative, and (4) 80 percent or more of the gross income for the taxable year of which is derived from tenant-stockholders.

It is intended that no inference be drawn from the provision regarding the deductibility of patronage losses under present law.

Effective date.—The Senate amendment applies to taxable years beginning after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

5. TREATMENT OF SAFE HARBOR LEASES OF MEMBERSHIP ORGANIZATIONS

Present law

Deductions of membership organizations

A membership organization operated primarily to furnish services or goods to its members may deduct costs attributable to such operations only to the extent of income derived from the members (sec. 277). In essence, section 277 prohibits using losses incurred from transactions with members to offset income derived from transactions with nonmembers.

Safe harbor leases

The Economic Recovery Tax Act of 1981 ("ERTA") contained rules designed to permit full utilization of tax benefits. Under these so-called "safe harbor lease rules," a lease meeting certain requirements was respected for Federal income tax purposes notwithstanding other legal principles. Thus, the lessor under the safe harbor lease was treated as the property owner, and accordingly, entitled to cost recovery deductions and investment credits. The safe harbor lease rules were repealed by the Tax Equity and Fiscal Responsibility Act of 1982.

House bill

No provision.

Senate amendment

The Senate amendment provides that the interest income and rental expense from the sale and leaseback of the property under a safe harbor lease are to be first netted and the difference allocated between members and nonmembers in proportion to the business done with each group.

Effective date.—The amendment applies to taxable years beginning before, on, or after the date of enactment.

Conference agreement

The conference agreement does not include the Senate amendment.

L. Provisions Relating to Employment

1. EMPLOYER TAX CREDIT FOR FICA PAID ON TIP INCOME (SEC. 4551 OF THE SENATE AMENDMENT)

Present law

Under present law, all employee tip income is treated as employer-provided wages for purposes of the Federal Unemployment Tax Act (FUTA) and the Federal Insurance Contributions Act (FICA). For purposes of the minimum wage provisions of the Fair Labor Standards Act (FLSA), reported tips are treated as employer-provided wages to the extent they do not exceed one-half of such minimum wage.

House bill

No provision.

Senate amendment

The Senate amendment provides a business tax credit in an amount equal to the employer's FICA tax obligation (7.65 percent) attributable to reported tips in excess of those treated as wages for purposes of satisfying the minimum wage provisions of the FLSA. To prevent double dipping, no deduction is allowed for any amount taken into account in determining the credit. The bill prohibits carryback of unused FICA credits to a taxable year ending before the date of enactment.

Effective date.—The provision is effective for tips received and wages paid after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

2. DENY DEDUCTION FOR CLUB DUES

Present law

No deduction is permitted for club dues unless the taxpayer establishes that his or her use of the club was primarily for the furtherance of the taxpayer's trade or business and the specific expense was directly related to the active conduct of that trade or business. Luncheon club dues are deductible to the same extent and subject to the same rules as business meals in a restaurant and are not subject to these special rules for club dues. No deduction is permitted for an initiation or similar fee that is payable only upon joining a club if the useful life of the fee extends over more than one year. Such initiation fees are nondeductible capital expenditures.

House bill

No provision.

Senate amendment

No deduction is permitted for club dues. This rule applies to all types of clubs: business, social, athletic, luncheon, or sporting clubs. Specific business expenses (e.g. meals) incurred at a club would be deductible only to the extent they otherwise satisfy present-law standards for deductibility.

Effective date.—The provision is effective for club dues paid on or after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

3. EMPLOYMENT TAX STATUS OF FISHERMEN

Present law

Under present law, service as a crew member on a fishing vessel is generally excluded from the definition of employment for purposes of income tax withholding on wages and for purposes of the Federal Insurance Contributions Act (FICA) and the Federal Unemployment Tax Act (FUTA) taxes if the operating crew of the boat normally consists of fewer than 10 individuals, the individual receives a share of the catch based on the total catch, and the individual does not receive cash remuneration other than proceeds from the sale of the individual's share of the catch.

House bill

No provision.

Senate amendment

The operating crew of a boat is to be treated as normally made up of fewer than 10 individuals if the average size of the operating crew on trips made during the preceding 4 calendar quarters consisted of 10 or fewer individuals. In addition, the exemption applies if the crew member receives, in addition to the cash remuneration permitted under present law, cash remuneration which does not exceed $100 per trip, is contingent on a minimum catch, and is paid solely for additional duties (e.g., mate, engineer, or cook) for which additional cash remuneration is traditional.

Effective date.—The provision applies to remuneration paid after December 31, 1992. In addition, the provision applies to remuneration paid after December 31, 1984, and before January 1, 1993, unless the payor treated such remuneration when paid as being subject to wage withholding and employment taxes.

Conference agreement

The conference agreement follows the Senate amendment.

M. Miscellaneous Simplification Provisions

1. TREATMENT OF CERTAIN REVOCABLE TRUSTS AS ESTATES

Present law

A grantor trust is treated as owned by the grantor, who is taxed on its income and is entitled to its deductions. A grantor trust includes a revocable trust, one in which the grantor retains the power to revest the title of the trust property in himself (sec. 676).

Trusts and estates are subject to different income tax rules. An estate receives a deduction for amounts permanently set aside for charity (sec. 642(c)), and, for two years after the decedents death, a $25,000 offset for rental real estate activities (sec. 469(i)). Trusts but not estates are subject to the so-called throwback rules, under which beneficiaries are taxed on distributions of previously accumulated income from trusts in substantially the same manner as if the income had been distributed to the beneficiaries when collected, instead of being accumulated in the trust (secs. 665-67).

Trusts and estates generally are required to pay estimated taxes in the same manner as individuals. A special rule exempts estates from estimated taxes for taxable years ending within two years of the decedent's death. This exemption also applies to a grantor trust that either receives the residue of the probate estate under the grantor's will, or, if there is no such trust, is the trust primarily responsible for paying taxes, debts and expenses of administration.

House bill

For limited purposes, the House bill treats as an estate a grantor trust receiving the residue of the probate estate under the grantor's will. If there is no such trust, the grantor trust that is primarily responsible for paying taxes, debts and expenses of administration is treated as an estate. The bill applies only for years ending after the decedent's death and beginning within three years, nine months of the decedent's death. As a conforming amendment, the bill adopts the same definition of trust for applying the special rule regarding estimated taxes.

---

[4] A tenant-stockholder generally is a person owning fully paid-up stock in the cooperative corporation, the purchase price of which bore a reasonable relationship to the value of the cooperative's equity in land and buildings attributable to the dwelling unit occupied by such person.

[5] Generally, a cooperative housing corporation is a limited equity cooperative housing corporation if the amount paid by a tenant-stockholder for stock in the corporation cannot exceed the sum of (1) the consideration paid by the first tenant-stockholder adjusted for cost of living, (2) payments for improvements to the dwelling unit, and (3) payments to amortize corporate indebtedness arising from the acquisition or development of real property.

The House bill applies for three purposes. First, it allows a trust described within its terms a deduction for an amount set aside for charity. Second, it allows the trust the $25,000 offset for rental real estate activities to the extent the offset is not utilized by the estate. Third, accumulations by the trust during the period of estate treatment are exempted from the throwback rules.

Effective date.—The provision applies to decedents dying after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

2. CLOSE PARTNERSHIP TAXABLE YEAR WITH RESPECT TO DECEASED PARTNER

Present law

The partnership taxable year closes with respect to a partner whose entire interest is sold, exchanged, or liquidated. Such year, however, generally does not close upon the death of a partner. Thus, a decedent's entire share of items of income, gain, loss, deduction and credit for the partnership year in which death occurs is taxed to the estate or successor in interest rather than to the decedent on his or her final income tax return. See *Estate of Hesse v. Commissioner*, 74 T.C. 1307, 1311 (1980).

House bill

The House bill provides that the taxable year of a partnership closes with respect to a partner whose entire interest in the partnership terminates, whether by death, liquidation or otherwise.

Effective date.—The House bill applies to partnership taxable years beginning after December 31, 1991.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment. The conferees do not intend to change present law with respect to the effect of a transfer of a partnership interest by a debtor to the debtor's estate (under chapter 7 or 11 of Title 11, relating to bankruptcy) upon the partnership taxable year.

3. TREATMENT OF BUILT-IN LOSSES FOR PURPOSES OF THE CORPORATE ALTERNATIVE MINIMUM TAX

Present law

For purposes of the regular corporate tax, if at the time of an ownership change, a corporation has a net operating loss or a net unrealized built-in loss, the use of such losses in post-change periods is limited. A corporation has a net unrealized built-in loss if the aggregate adjusted bases of the assets of the corporation exceed the fair market value of the assets immediately before the change of ownership (sec. 382).

For purposes of the adjusted current earnings (ACE) component of the corporate alternative minimum tax (AMT), if a corporation with a net unrealized built-in loss undergoes an ownership change in a taxable year beginning after 1989, the adjusted basis of each asset of such corporation generally is adjusted to each asset's fair market value (sec. 56(g)(4)(G)). This rule essentially eliminates, rather than limits, the use of built-in losses for ACE purposes. The net operating loss of a corporation, on the other hand, is not eliminated for AMT purposes after a change of ownership.

House bill

The House bill repeals the ACE rule relating to the treatment of built-in losses after a change of ownership. Thus, for ACE purposes, the treatment of built-in losses would be similar to the treatment of net operating loss carryovers (in the same way that the treatment of built-in losses is similar to the treatment of net operating losses for regular tax purposes).

Effective date.—The provision is effective for changes of ownership occurring after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill, except that the Senate amendment is effective for changes of ownership occurring after December 31, 1991.

Conference agreement

The conference agreement follows the Senate amendment.

4. AUTHORIZATION FOR BUREAU OF LAND MANAGEMENT TO USE PROCEEDS OF REFORESTATION TRUST FUND

Present law

The United States Treasury contains a Reforestation Trust Fund the proceeds of which are used by the Department of Agriculture for reforestation and timber stand improvement of lands in the national forest system and for related administrative costs. The amount transferred to the Reforestation Trust Fund for any fiscal year equals the amount collected during such year from custom tariffs on certain wood products, except that the maximum amount transferred for any fiscal year may not exceed $30 million.

House bill

No provision.

Senate amendment

The Senate amendment increases from $30 million to $45 million the maximum amount that may be transferred to the Reforestation Trust Fund for any fiscal year. The additional $15 million that is transferred to the Reforestation Trust Fund for any fiscal year is to be allocated and made available to the Department of the Interior for the reforestation, forest development, and forest conservation activities of the Bureau of Land Management and for related administrative costs.

Of the additional $15 million that is transferred to the Reforestation Trust Fund for any fiscal year, $14 million is to be allocated for Oregon and California Railroad and Coos Bay Wagon Road grant lands in Oregon. The remaining $1 million is to be allocated for public domain lands located in any State based on (in order of priority): (1) the level of timber sales (measured in board feet) during the previous calendar year from public domain lands located within the State; (2) the amount of reforestation backlog in the State; (3) the need for planting as part of the reforestation program; and (4) the need for forest development as part of the reforestation program.

The Senate amendment also provides that if the wood product tariffs are insufficient to provide an additional $15 million for any fiscal year, the Treasury Department is required to transfer to the Reforestation Trust Fund an amount equal to the shortfall in the wood product tariffs. In the case of any such shortfall in the wood product tariffs, 93-and-1/3 percent of the amount of the shortfall is to be taken from the Federal portion of the Bureau of Land Management timber receipt payments from the Coos Bay Wagon Road grant lands in Oregon and the remainder of the shortfall is to be taken from the Federal portion of the Bureau of Land Management timber receipt payments from public domain lands in the States.

Effective date.—The provision is effective on October 1, 1992.

Conference agreement

The conference agreement does not include the provision of the Senate amendment.

5. REPEAL OF INVESTMENT RESTRICTIONS APPLICABLE TO NUCLEAR DECOMMISSIONING FUNDS

Present law

A taxpayer that is required to decommission a nuclear power plant may elect to deduct certain contributions that are made to a nuclear decommissioning fund. A nuclear decommissioning fund is a segregated fund the assets of which are to be used exclusively to pay nuclear decommissioning costs, taxes on fund income, and certain administrative costs. The assets of a nuclear decommissioning fund that are not currently required for these purposes must be invested in (1) public debt securities of the United States, (2) obligations of a State or local government that are not in default as to principal or interest, or (3) time or demand deposits in a bank or an insured credit union located in the United States. These investment restrictions are the same restrictions which apply to black lung trusts that are established under section 501(c)(21) of the Code.

House bill

No provision.

Senate amendment

The Senate amendment repeals the present-law investment restrictions that apply to nuclear decommissioning funds.

Effective date.—The provision applies to taxable years beginning after December 31, 1991.

Conference agreement

The conference agreement follows the Senate amendment.

6. DETERMINATIONS OF GAS PRODUCED FROM QUALIFYING SOURCES UNDER THE NONCONVENTIONAL FUELS PRODUCTION CREDIT

Present law

Nonconventional fuels are eligible for a production credit ("the section 29 credit") equal to $3 per barrel or Btu oil barrel equivalent[1] (the credit amount generally is adjusted for inflation, except for gas produced from a tight formation). Qualified fuels must be produced domestically from a well drilled, or a facility placed in service, before January 1, 1993. The production credit is available for qualified fuels sold before January 1, 2003.

Qualified fuels include (1) oil produced from shale and tar sands, (2) gas produced from geopressured brine, Devonian shale, coal seams, a tight formation, or biomass (i.e., any organic material other than oil, natural gas, or coal (or any product thereof), and (3) liquid, gaseous, or solid synthetic fuels produced from coal (including lignite), including such fuels when used as feedstocks. The amount of the credit is determined without regard to any production attributable to a property from which gas from Devonian shale, coal seams, geopressured brine, or a tight formation was produced in marketable quantities before 1980.

As a general rule, the determination of whether any gas is produced from geopressured brine, Devonian shale, coal seams, or a tight formation is made in accordance with section 503 of the Natural Gas Policy Act of 1978 (the "NGPA").[2] The term "gas from a tight formation" means only gas from a tight formation which either, as of April 20, 1977, was committed or dedicated to interstate commerce (as defined in section 2(18) of the NGPA, as in effect on the date of enactment of the Omnibus Budget Reconciliation Act of 1990, or is produced from a well drilled after November 5, 1990.

---

[1] A barrel-of-oil equivalent generally means that amount of the qualifying fuel which has a Btu content of 5.8 million.

Under section 503 of the NGPA,[3] if any State or Federal agency [4] makes any final determination that a well produces certain "high-cost natural gas,"[5] that determination is applicable unless it is reversed by the Federal Energy Regulatory Commission (FERC) under special procedures established under the NGPA.[6]

Under the regulatory authority granted to it by the NGPA, FERC has established the following definitions of certain types of high-cost natural gas. Natural gas produced from geopressured brine is natural gas which is dissolved before initial production of the natural gas in subsurface brine aquifers with at least 10,000 parts of dissolved solids per million parts of water and with an initial reservoir geopressure gradient in excess of 0.465 pounds per square inch for each vertical foot of depth.[7]

Occluded natural gas produced from coal seams means naturally occurring natural gas from entrapment from the fractures, pores and bedding planes of coal seams.[8]

Natural gas produced from Devonian shale means natural gas produced from fractures, micropores and bedding planes of shales deposited during the Paleozoic Devonian Period. Shales deposited during such period are defined as either (1) the gross Devonian age stratigraphic interval encountered by a well bore, at least 95 percent of which has a gamma ray index of 0.7 or greater; or (2) generally, one continuous interval within the gross Devonian age stratigraphic interval, encountered by a well bore, as long as at least 95 percent of the selected Devonian shale interval has a gamma ray index of 0.7 or greater.[9] When measuring the Devonian age stratigraphic interval, the gamma ray index at any point is calculated by dividing the gamma ray log value at that point by the gamma log value at the shale base line established over the entire Devonian age interval penetrated by the well bore.

In general, guidelines for making a determination that a formation is a tight formation are as follows: (1) The estimated average *in situ* gas permeability, throughout the pay section, is expected to be 0.1 millidarcy or less; (2) the stabilized production rate, against atmospheric pressure, of wells completed for production in the formation, without stimulation, is not expected to exceed the production rate set forth by FERC in regulations;[10] and (3) no well drilled into the recommended tight formation is expected to produce, without stimulation, more than 5 barrels of crude oil per day.[11] The FERC regulations establishing a definition of tight formation also set forth determination and review requirements similar to those provided by the NGPA for high-cost natural gas.

Any Federal or State agency that makes a determination that a formation is a tight formation or that a well produces high-cost natural gas is required to provide timely notice in writing of such determination to FERC.[12] The notice must include such substantiation and be in such a manner as FERC may, by ruling, require.

The NGPA provides that FERC will reverse any final State or Federal agency determination that a formation is a tight formation or that a well produces high-cost natural gas if (1) FERC finds that such determination is not supported by substantial evidence in the record upon which such determination was made; and (2) the preliminary finding and required notice thereof is made within 45 days after the date on which FERC received notice of the determination by the State or Federal agency and the final finding is made within 120 days after the date of the preliminary finding.[13] If (1) FERC finds that a State or Federal agency determination is not consistent with information contained in FERC's public records, and which is not part of the record upon which the State or Federal agency's determination was made, and (2) the preliminary finding by FERC and required notice thereof is made within 45 days after the date on which FERC received notice of the determination and the final finding is made within 120 days after the date of the preliminary finding, FERC may remand the matter to the State or Federal agency for consideration of such information.[14] If the agency, after consideration of the information transmitted to it by FERC, affirms its previous determination, such determination, as so affirmed, is subject to additional review by FERC. Such findings and remands by FERC may be subject to judicial review.[15]

In general, any final determination by a State or Federal agency (or by FERC) that a formation is a tight formation or that a well produces high-cost natural gas which is no longer subject to FERC or judicial review is thereafter binding with respect to such natural gas.[16]

In 1989, the Natural Gas Wellhead Decontrol Act[17] was enacted. That Act repealed Title I of the NGPA, effective on January 1, 1993. It also repealed FERC's determination review responsibility under section 503 of the NGPA. The legislative history to the 1989 legislation stated that the Senate Committee on Energy and Natural Resources did not intend, by repealing sections of the NGPA referenced in section 29 of the Internal Revenue Code, to reflect an adverse judgment as to the merits of the tax credits for any categories of natural gas production that might be affected by such action.[18] In view of this indication that Congress did not intend the 1989 legislation to limit the availability of the section 29 credit, FERC announced that it will continue to process well determinations until January 1, 1993, in order to allow producers to obtain tax credits that are dependent upon such determinations even if the gas has been otherwise decontrolled.[19]

House bill

No provision.

Senate amendment

The Senate amendment provides that with respect to determinations required under the Internal Revenue Code of whether gas is produced from geopressured brine, Devonian shale, coal seams, or from a tight formation, in the event that such a determination is not made by the Federal Energy Regulatory Commission in accordance with section 503 of the Natural Gas Policy Act of 1978 due to the expiration of that statute, the Secretary of Treasury is required to make such determinations. For this purpose, the Senate amendment mandates that any such determination by the Treasury Department be based on the guidelines for making determinations set forth in the Natural Gas Policy Act of 1978 (and in regulations thereunder) prior to its repeal.

In addition, the Senate amendment clarifies that for purposes of the section 29 credit, the definitions of gas produced from geopressured brine, Devonian shale, coal seams, or from a tight formation are as established by the Federal Energy Regulatory Commission under the Natural Gas Policy Act of 1978 prior to repeal of provisions of that statute relating to such definitions.

Effective date.—The provision is effective for determinations not made by the Federal Energy Regulatory Commission as a result of the repeal of relevant provisions of the Natural Gas Policy Act of 1978.

Conference agreement

The conference agreement follows the Senate amendment.

N. Estate and Gift Tax Provisions

1. WAIVER OF RIGHT OF RECOVERY FOR CERTAIN MARITAL DEDUCTION PROPERTY

Present law

For estate and gift tax purposes, a marital deduction is allowed for qualified terminable interest property (QTIP). Such property generally is included in the surviving spouse's gross estate. The surviving spouse's estate is entitled to recover the portion of the estate tax attributable to such inclusion from the person receiving the property, unless the spouse directs otherwise by will (sec. 2207A). A will provision specifying that all taxes be paid by the estate may waive the right of recovery.

The gross estate includes the value of previously transferred property in which the decedent retains enjoyment or the right to income (sec. 2036). The estate is entitled to recover from the person receiving the property a portion of the estate tax attributable to the inclusion (sec. 2207B). This right may be waived only by a provision in the will (or revocable trust) specifically referring to section 2207B.

House bill

The House bill provides that the right of recovery with respect to QTIP is waived to the extent that language in the decedent's will or revocable trust specifically so indicates. The bill also provides that the right of contribution for property over which the decedent retained enjoyment or the right to income is waived by such indication.

---

[2] P.L. 95-621, Nov. 9, 1978.

[3] 15 U.S.C. sec. 3413 (1988).

[4] Under the NGPA, a State or Federal agency having regulatory jurisdiction with respect to the production of natural gas is authorized to make determinations for qualifying under certain categories of natural gas. Such an agency, however, may waive its authority to make such determinations by entering into an agreement with FERC allowing FERC to be the determination-making body. (15 U.S.C. sec. 3413(c) (1988).)

[5] Under the NGPA, high-cost natural gas includes gas produced from geopressured brine, coal seams, or Devonian shale. In addition, the NGPA grants FERC the authority to treat other types of natural gas as high-cost natural gas if the gas is produced under such other conditions that FERC determines to present extraordinary risks or costs. Under this authority, FERC treats gas produced from a tight formation as high-cost natural gas. (15 U.S.C. sec. 3317(c) (1988).)

[6] 15 U.S.C. sec. 3413(a)(1) (1988).

[7] 18 C.F.R. sec. 272.103(c).

[8] 18 C.F.R. sec. 272.103(d).

[9] 18 C.F.R. sec. 272.103(e).

[10] See table in 18 C.F.R. sec. 271.703(c)(1)(B).

[11] 18 C.F.R. sec. 271.703(c).

[12] 15 U.S.C. sec. 3413(a)(2) (1988).

[13] 15 U.S.C. sec. 3413(b)(1) (1988).

[14] 15 U.S.C. sec. 3413(b)(1) (1988).

[15] 15 U.S.C. sec. 3413(b)(2) (1988).

[16] 15 U.S.C. sec. 3413(b)(4) (1988).

[16] 15 U.S.C. sec. 3413(d) (1988).

[17] P.L. 101-60, July 26, 1989.

[19] F.E.R.C. Order No. 523, 55 Fed. Reg. 17425, April 25, 1990.

Effective date.—The provision applies to decedents dying after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

2. INCLUSION IN GROSS ESTATE OF CERTAIN GIFTS MADE WITHIN THREE YEARS OF DEATH

Present law

The first $10,000 of gifts of present interests to each donee during any one calendar year are excluded from Federal gift tax.

The value of the gross estate includes the value of any previously transferred property if the decedent retained the power to revoke the transfer (sec. 2038). The gross estate also includes the value of any property with respect to which such power is relinquished during the three years before death (sec. 2035). This rule has been interpreted to include in the gross estate certain transfers made from a revocable trust within three years of death.[1] Such inclusion subjects gifts that would otherwise qualify under the annual $10,000 exclusion to estate tax.

House bill

The House bill provides that a transfer from a trust over which the grantor held the power to revoke would be treated as if made directly by the grantor. Thus, an annual exclusion gift from such trust is not included in the gross estate.

The bill also revises section 2035 to improve its clarity.

Senate amendment

The Senate amendment is the same as the House Bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment. The conferees intend that no inference be drawn from the provision with respect to the treatment of transfers from revocable trusts under present law.

Effective date.—The provision applies to decedents dying after the date of enactment.

3. DEFINITION OF QUALIFIED TERMINABLE INTEREST PROPERTY

Present law

A marital deduction is allowed for qualified terminable interest property (QTIP). Property is QTIP only if the surviving spouse has a qualifying income interest for life (e.g., the spouse is entitled to all of the income from the property, payable at least annually). QTIP generally is includible in the surviving spouse's gross estate.

Under proposed Treasury regulations, an income interest may constitute a qualifying income interest for life even if income accumulating between the last distribution date and the date of the surviving spouse's death (the "accumulated income") is not required to be distributed to the surviving spouse or the surviving spouse's estate. See Prop. Treas. Reg. secs. 20.2056(b)-7(c)(1), 25.2523(f)-1(b). Contrary to the proposed regulations, the United States Tax Court has held that in order to satisfy the QTIP requirements, the accumulated income must be paid to the spouse's estate or be subject to a power of appointment held by the spouse. See *Estate of Howard v. Commissioner*, 91 T.C. 329, 338 (1988), *rev'd*, 910 F.2d 633 (9th Cir. 1990).

House bill

Under the House bill, an income interest does not fail to be a qualified income interest for life solely because the accumulated income is not required to be distributed to the surviving spouse. Such income is includible in the surviving spouse's gross estate.

Effective date.—The House bill applies to decedents dying, and gifts made, after date of enactment. However, the bill does not include in the surviving spouse's gross estate property transferred before the date of enactment for which no marital deduction was claimed.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment. The conferees intend that no inference be drawn from the provision with respect to the definition of a qualified income interest for life under present law.

4. INCLUDE FRACTIONAL SHARE OF PROPERTY QUALIFYING FOR THE MARITAL DEDUCTION IN THE GROSS ESTATE

Present law

A marital deduction against the estate and gift tax generally is permitted for the value of property passing between spouses. No marital deduction is permitted, however, if, upon termination of the spouse's interest, possession or enjoyment of the property passes to another person (the "terminable interest rule"). Certain exceptions to this rule may apply if the spouse receives a general power of appointment over, or an income interest in, a "specific portion" of property (sec. 2056(b)(5), (6), (7)). The spouse is subject to transfer tax on property over which he or she holds a general power of appointment.

A Treasury regulation defines a "specific portion" to be a fractional or percentile share of a property interest (Treas. Reg. sec. 20.2056(b)-5(c)). Finding this regulation invalid, courts have held that the term "specific portion" includes a fixed dollar amount. See ***Northeastern Pennsylvania National Bank & Trust Co. v. United States***, 387 U.S. 213 (1967); *Estate of Alexander v. Commissioner*, 82 T.C. 34 (1984), aff'd, No. 8401600 (4th Cir. April 3, 1985). Under the court holdings, appreciation in certain marital deduction property may be includible in neither spouse's estate.

House bill

The House bill provides that, for purposes of the marital deduction, a "specific portion" only includes a portion determined on a fractional or percentage basis. Thus, a trust does not qualify under the exceptions to the terminable interest rule unless the required income interest and general power of appointment are expressed as a fraction or a percentage of the property. The bill thereby reverses the court holdings and codifies the position of the Treasury regulations. The bill does not generally affect the marital deduction allowed for a pecuniary formula marital deduction bequest. See, e.g., Rev. Rul. 64-19, 1964-1 C.B. 682.

Effective date.—The House bill generally applies to gifts made, and decedents dying, after date of enactment. The bill does not apply to a transfer under a will or revocable trust executed before the date of enactment if either (1) on that date the decedent was under a mental disability to change the disposition of his property and did not regain his competence to dispose of such property before the date of death, or (2) the decedent dies within three years after the date of enactment. The bill applies, however, if the will or trust is amended after the date of enactment in any respect that increases the amount of the transfer qualifying for the marital deduction or alters the terms by which the interest passes.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment. The conferees intend that no inference be drawn from the provision with respect to definition of "specific portion" under present law.

5. REQUIREMENTS FOR QUALIFIED DOMESTIC TRUST

Present law

A deduction generally is allowed for Federal estate tax purposes for the value of property passing to a spouse. The Technical and Miscellaneous Revenue Act of 1988 ("TAMRA") denied the marital deduction for property passing to a noncitizen spouse outside a qualified domestic trust ("QDT"). An estate tax is imposed on corpus distributions from a QDT.

TAMRA defined a QDT as a trust that, among other things, required all trustees be U.S. citizens or domestic corporations. This provision was modified in the Omnibus Budget Reconciliation Acts of 1989 and 1990 to require that at least one trustee be a U.S. citizen or domestic corporation and that no corpus distribution be made unless such trustee has the right to withhold any estate tax imposed on the distribution (the "withholding requirement").

House bill

The House bill treats a trust created before the enactment of the Omnibus Budget Reconciliation Act of 1990 as satisfying the withholding requirement if its governing instrument requires that all trustees be U.S. citizens or domestic corporations.

Effective date.—The bill applies as if included in the Omnibus Budget Reconciliation Act of 1990.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

6. ELECTION OF SPECIAL USE VALUATION OF FARM PROPERTY FOR ESTATE TAX PURPOSES

Present law

For estate tax purposes, an executor may elect to value certain real property used in farming or other closely held business operations at its current use value rather than its highest and best use (sec. 2032A). A written agreement signed by each person with an interest in the property must be filed with the election.

Treasury regulations require that a notice of election and certain information be filed with the Federal estate tax return (Treas. Reg. sec. 20.2032A-8). The administrative policy of the Treasury Department is to disallow current use valuation elections unless the required information is supplied.

Under procedures prescribed by the Secretary of the Treasury, an executor who makes the election and substantially complies with the regulations but fails to provide all required information or the signatures of all persons with an interest in the property may supply the missing information within a reasonable period of time (not exceeding 90 days) after notification by the Secretary.

---

[1] See, e.g., *Jalkut Estate v. Commissioner*, 96 T.C. 675 (1991) (transfers from revocable trust to permissible beneficiaries of the trust includible in the grantor's gross estate); LTR 9117003 (same).

House bill

The House bill extends the procedures allowing subsequent submission of information to any executor who makes the election and submits the recapture agreement, without regard to compliance with the Treasury regulations. Thus, the bill allows the current use valuation election if the executor supplies the required information within a reasonable period of time (not exceeding 90 days) after notification by the IRS. During that time period, the bill also allows addition of signatures to a previously filed agreement.

Effective date.—The House bill applies to decedents dying after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

7. INCOME TAXATION OF ACCUMULATION TRUSTS

Present law

In general

A nongrantor trust is treated as a separate taxpayer for Federal income tax purposes. Such trust is generally treated as a conduit with respect to amounts distributed currently and taxed as an individual with respect to undistributed income. The conduit treatment is achieved by allowing the trust a deduction for amounts distributed to beneficiaries during the taxable year to the extent of distributable net income and by including the distributions in the beneficiaries' income.

Distributions of accumulated income

A distribution of previously accumulated income is taxed under the so-called throwback rules, which provide that beneficiaries are taxed on distributions of previously accumulated income from trusts in substantially the same manner as if the income had been distributed in the year received.

Distributions of appreciated property

If property is sold within two years of its contribution to a trust, the gain that would have been recognized had the contributor sold the property is taxed at the contributor's marginal tax rates (sec. 644). In effect, section 644 treats such gains as if the contributor had realized the gain and then transferred the net after-tax proceeds from the sale to the trust as corpus.

Treatment of multiple trusts

Effective March 1, 1984, two or more trusts are treated as one trust if (1) the trusts have substantially the same grantor or grantors and substantially the same primary beneficiary or beneficiaries, and (2) a principal purpose for the existence of the trusts is the avoidance of Federal income tax (sec. 643(f)). For trusts that were irrevocable as of that date, section 643(f) applies only to subsequent contributions to corpus.

House bill

No provision.

Senate amendment

The Senate amendment exempts amounts accumulated in domestic trusts after December 31, 1992, from "throwback rules." It also provides that precontribution gain on property sold by a domestic trust is no longer taxed at the contributor's marginal tax rates. The amendment does not apply to a trust created before March 1, 1984, unless the taxpayer establishes that the trust would not have been aggregated under the standard contained in section 643(f).

Effective date.—The change in the throwback rules applies to taxable years beginning after December 31, 1992. The modification in section 644 applies to sales or exchanges after December 31, 1992.

Conference agreement

The conference agreement does not include the Senate amendment.

O. Excise Tax Simplification

1. FUELS TAX PROVISIONS

a. Consolidate provisions imposing diesel and aviation fuel excise taxes

Present law

Code section 4091 imposes a tax on the sale of diesel and aviation fuel by a "producer." The term producer generally includes refiners, compounders, blenders, and wholesalers who are registered with the Internal Revenue Service. The term also includes persons to whom diesel or aviation fuel has been sold tax-free.

As a backup, section 4041 imposes a tax on certain sales or uses of diesel and aviation fuel if a taxable sale of such fuel does not occur under section 4091.

House bill

The House bill combines the diesel and aviation fuel tax provisions currently divided between Code sections 4041 and 4091 into a revised section 4091. The use of diesel and aviation fuel in a taxable use by producers will be taxed under section 4091, and the definition of producer is clarified to include purchasers in tax-reduced sales.

The bill also simplifies the Code by eliminating two unnecessary provisions, sections 4041(b)(1)(B) and (j) of the Code. These provisions are redundant.

Effective date.—The provision is effective for sales or uses on or after January 1, 1993.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

b. Permit refund of tax to taxpayer for diesel and aviation fuel resold to certain exempt purchasers

Present law

As a general matter, purchasers who use tax-paid fuels for an exempt use are entitled to a refund or credit. Purchasers of tax-paid fuels generally are not permitted a refund or credit if they resell the fuels to another person who subsequently uses them in an exempt use.

However, persons who buy and then resell (a) fuel subject to the special motor fuel or gasoline taxes or (b) certain other articles are permitted a refund or credit (in place of the ultimate users claiming the credit or refund) if they resell the fuel or article for use in the following exempt uses: (1) export, (2) supplies for aircraft or vessels, (3) use by a State or local government, or (4) use by a nonprofit educational organization for its exclusive use.

House bill

The House bill allows a refund or credit to sellers of diesel and aviation fuel who purchase the fuels tax-paid and re-sell the fuels without payment of tax for any of the four exempt uses described above.

Effective date.—The provision is effective for sales on or after January 1, 1993.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

c. Consolidate refund provisions for fuel excise taxes

Present law

As a general matter, purchasers who use fuels for exempt uses are entitled to a refund if the fuels have been purchased tax-paid. The refund provisions for the fuels excise taxes are found in several sections of the Code.

In general, a purchaser entitled to a refund may file a quarterly refund claim for any of the first three quarters of the purchaser's tax year, if the claim exceeds a threshold dollar amount (with the lowest threshold being $750). The threshold amounts differ for different fuels and different exempt uses. A purchaser cannot file a quarterly claim for refund for its fourth quarter, but must file the claim as a credit on that year's income tax return.

There is an expedited procedure for gasohol blenders claiming a refund of part of the excise tax included in the price of the gasoline used for blending into gasohol.

Finally, only an income tax credit, and not a refund, may be claimed for excise taxes on gasoline and special motor fuel used on a farm for farming purposes.

House bill

The House bill consolidates the user credit and refund provisions for the fuels excise taxes into one section of the Code. The bill also combines the three refund procedures for fuels taxes into a uniform refund procedure. The new uniform refund procedure permits an exempt user to aggregate its refund claims for all fuels taxes and file for a refund in any calendar quarter in which the amount of the aggregate claim exceeds $750. The uniform refund procedure also permits such a user to file for a refund for its fourth quarter rather than apply for a credit.

The special expedited procedure for gasohol blenders is unchanged.

Effective date.—The provision is effective for sales on or after January 1, 1993.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

d. Repeal waiver requirement for fuel tax refunds for cropdusters and other fertilizer applicators

Present law

In general, farmers who use gasoline and aviation fuel on farms are entitled to refunds of the taxes that have been paid on that fuel. Cropdusters and other fertilizer applicators that use gasoline and aviation fuel on farms are entitled to refunds of the taxes paid on that fuel in lieu of the farmers, but only if the owners or operators of the farms waive their right to refunds for such fuel.

House bill

The House bill eliminates the waiver requirement for fuels tax refunds for cropdusters and other fertilizer applicators.

Effective date.—The provision is effective for fuels purchased on or after January 1, 1993.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

e. Authorize exceptions from information reporting for certain sales of diesel and aviation fuel

Present law

Certain producers and importers and purchasers are required to file information returns for reduced-tax sales of diesel and aviation fuel.

House bill

The House bill permits the Internal Revenue Service by regulation to provide exceptions to the mandatory information return requirement for certain sales of diesel and aviation fuel.

Effective date.—The provision applies to sales on or after January 1, 1993.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

2. PROVISIONS RELATING TO DISTILLED SPIRITS, WINES, AND BEER

Present Law

Refund on return to bonded premises of imported bottled distilled spirits

Present law provides that when tax-paid distilled spirits which have been withdrawn from bonded premises of a distilled spirits plant are returned for destruction or redistilling, the excise taxes are refunded (sec. 5008(c)). This provision does not apply to imported bottled distilled spirits because they are withdrawn from customs custody and not from bonded premises.

Bond for exported distilled spirits

Bond generally must be furnished to the Treasury Department when distilled spirits are removed from bonded premises for exportation without payment of tax. These bonds are cancelled or credited when evidence is submitted to the Department of the Treasury that the distilled spirits have been exported (sec. 5175(c)).

Distilled spirits plant records

Distilled spirits plant proprietors are required to maintain records of their production, storage, denaturation, and other processing activities on the premises where the operations covered by the records are carried on (sec. 5207(c)).

Transfers from breweries to distilled spirits plants

Under present law, beer may be transferred without payment of tax from a brewery to a distilled spirits plant to be used in the production of distilled spirits, but only if the brewery is contiguous to the distilled spirits plant (sec. 5222(b)).

Posting of sign by wholesale liquor dealers

Wholesale liquor dealers (i.e., dealers, other than wholesale dealers in beer alone, who sell distilled spirits, wines, or beer to other persons who re-sell such products) are required to post a sign conspicuously on the outside of their place of business indicating that they are wholesale liquor dealers (sec. 5115).

Refund of tax for wine returned to bond

Under present law, when unmerchantable wine is returned to bonded production premises, tax that has been paid is returned or credited to the proprietor of the bonded wine cellar to which the wine is delivered (sec. 5044). In contrast, when beer is returned to a brewery, tax that has been paid is returned or credited, regardless of whether the beer is unmerchantable (sec. 5056(a)).

Use of ameliorating material in certain wines

The Code contains rules governing the extent to which ameliorating material (e.g., sugar) may be added to wines made from high acid fruits and the product still be labelled as a standard, natural wine. In general, ameliorating material may not exceed 35 percent of the volume of juice and ameliorating material combined (sec. 5383(b)(1)). However, wines made exclusively from loganberries, currants, or gooseberries are permitted a volume of ameliorating material of up to 60 percent (sec. 5384(b)(2)(D)).

Domestically produced beer for use by foreign embassies, etc.

Under present law, domestically produced distilled spirits and wine may be removed from bond, without payment of tax, for transfer to any customs bonded warehouse for storage pending removal for the official or family use of representatives of foreign governments or public international organizations (secs. 5066 and 5362(e)). (A similar rule also applies to imported distilled spirits, wine, and beer.) No such provision exists under present law for domestically produced beer.

Withdrawal of beer for destruction

Present law does not specifically permit beer to be removed from a brewery for destruction without payment of tax.

Records of exportation of beer

Present law provides that a brewer is allowed a refund of tax paid on exported beer upon submission to Treasury Department of certain records indicating that the beer has been exported (sec. 5055).

Transfer to brewery of beer imported in bulk

Imported beer brought into the United States in bulk containers may not be transferred from customs custody to brewery premises without payment of tax. Under certain circumstances, distilled spirits imported into the United States in bulk containers may be transferred from customs custody to bonded premises of a distilled spirits plant without payment of tax (sec. 5232).

House bill

Return of imported bottled distilled spirits

The procedures for refunds of tax collected on imported bottled distilled spirits returned to bonded premises are conformed to the rules for domestically produced and imported bulk distilled spirits. Thus, refunds are available for all distilled spirits on their return to a bonded distilled spirits plant.

Bond for exported distilled spirits

For purposes of cancelling or crediting bonds furnished when distilled spirits are removed from bonded premises for exportation, the Treasury Department is authorized to permit records of exportation to be maintained by the exporter, rather than requiring submission of proof of exportation to Treasury in all cases.

Distilled spirits plant records

Distilled spirits plant proprietors are permitted to maintain records of their activities at locations other than the premises where the operations covered by the records are carried on (e.g., corporate headquarters), provided that the records are available for inspection by the Treasury Department during business hours.

Transfers from breweries to distilled spirits plants

The House bill allows beer to be transferred without payment of tax from a brewery to a distilled spirits plant to be used in the production of distilled spirits, regardless of whether the brewery is contiguous to the distilled spirits plant.

Posting of sign by wholesale liquor dealers

The requirement that wholesale liquor dealers post a sign outside their place of business indicating that they are wholesale liquor dealers is repealed.

Refund of tax for wine returned to bond

The House bill deletes the requirement that wine returned to bonded premises be "unmerchantable" in order for tax to be refunded to the proprietor of the bonded wine cellar to which the wine is delivered.

Use of ameliorating material in certain wines

The wine labelling restrictions are modified to allow any wine made exclusively from a fruit or berry with a natural fixed acid of 20 parts per thousand or more (before any correction of such fruit or berry) to contain a volume of ameliorating material not in excess of 60 percent.

Domestically produced beer for use by foreign embassies, etc.

The House bill extends to domestically produced beer the present-law rule applicable to domestically produced distilled spirits and wine (and imported distilled spirits, wine, and beer) which permits these products to be withdrawn without payment of tax for the official or family use of representatives of foreign governments or public international organizations.

Withdrawal of beer for destruction

The House bill allows beer to be removed from a brewery without payment of tax for destruction, subject to Treasury Department regulations.

Records of exportation of beer

The House bill repeals the requirement that proof of exportation be submitted to the Treasury Department in all cases as a condition of receiving a refund of tax. This proof will continue to be required to be maintained at the exporter's place of business.

Transfer to brewery of beer imported in bulk

The House bill extends the present-law rule applicable to distilled spirits imported into the United States in bulk containers to beer imported into the United States in bulk containers, so that imported beer may, subject to Treasury regulations, be withdrawn from customs custody for transfer to a brewery without payment of tax.

Effective date

These provisions of the bill generally are effective beginning 180 days after the date of enactment. The provision deleting the requirement that wholesale liquor dealers post a sign outside their place of business is effective on the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill, except the Senate amendment also allows brewers to receive credit or refund for tax paid on beer that is transferred to a distilled spirits plant for use in the production of distilled spirits after having been removed from a brewery without such beer first being required to be returned to a brewery for the transfer.

Conference agreement

The conference agreement follows the House bill and the Senate amendment, including the Senate amendment's provision related to tax-paid beer transferred to distilled spirits plants without first being returned to a brewery.

3. OTHER EXCISE TAX PROVISIONS

a. Authority for IRS to grant exemptions from registration requirements

Present law

Under section 4222, certain sales of articles subject to Federal excise taxes may not be made without payment of tax unless the manufacturer, the first purchaser, and the second purchaser (if any) are all registered under regulations prescribed by the Secretary.

House bill

The House bill allows the IRS to provide exemption from generally applicable excise tax registration requirements for certain classes of taxpayers.

Effective date.—The provision applies to sales after the 180th day after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

b. Repeal temporary reduction in tax on piggyback trailers

Present law

Piggyback trailers and semitrailers sold within the one-year period beginning on July 18, 1984 were permitted a temporary reduction in the retail excise tax on trailers.

House bill

The House bill repeals the temporary reduction in tax on piggyback trailers as "deadwood."

Effective date.—The provision is effective on the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

c. Expiration of excise tax on deep seabed minerals

Present law

The Deep Seabed Mineral Resources Act (the "Resources Act," P.L. 96-283), imposed an excise tax on certain hard minerals mined on the deep seabed. The tax revenues were intended to fund obligations of the United States under a contemplated Law of the Sea Convention.

The tax was scheduled to terminate on the earlier of the date on which a U.N. international deep seabed treaty took effect with respect to the United States, or June 28, 1990 (10 years after the date of enactment of the tax). Because the United States did not sign the treaty, the excise tax provisions expired on June 28, 1990.

House bill

The House bill deletes the deep seabed hard minerals excise tax provisions as "deadwood."

Effective date.—The provision is effective on the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

d. Firearms excise tax exemption for small manufacturers

Present law

Present law imposes an 11-percent excise tax on the manufacture or importation of rifles and shotguns and on ammunition (shells and cartridges). Present law also imposes a 10-percent excise tax on the manufacture or importation of pistols and revolvers (sec. 4181).

Revenues from these taxes are appropriated, in the fiscal year following receipt, to the Federal Aid to Wildlife Program for support of State wildlife programs.

House bill

No provision.

Senate amendment

The Senate amendment exempts small manufacturers and importers from the 11-percent excise tax on firearms (rifles and shotguns) and ammunition and the 10-percent excise tax on pistols and revolvers, if the manufacturer or importer manufactures or imports fewer than 50 such articles per year.

Effective date.—The provision is effective for articles sold after September 30, 1983. In the case of any taxable year ending before the date of enactment, the period for claiming a credit or refund of any overpayment of tax resulting from the proposed exemption from tax will not expire before one year after the date of enactment.

Conference agreement

The conference agreement does not include the provision of the Senate amendment.

P. Administrative Provisions

1. GENERAL PROVISIONS

a. Simplify payroll tax deposit requirements

Present law

The Code provides that the Secretary of the Treasury ("Secretary") may establish the mode or time for collecting any tax if the mode or time is not specified in the Code (sec. 6302(a)). In general, Treasury regulations have established the system under which employers deposit income taxes withheld from employees' wages and FICA taxes. The frequency with which these taxes must be deposited increases as the amount required to be deposited increases.

Employers are required to deposit these taxes as frequently as eight times per month, provided that the amount to be deposited equals or exceeds $3,000. These deposits must be made within three banking days after the end of each eighth-monthly period. Monthly or quarterly deposits are required for smaller amounts.

In addition, the Code requires employers who are on this eighth-monthly system to deposit income taxes withheld from employees' wages and FICA taxes by the close of the next banking day (instead of by the close of the third banking day) after any day on which the business cumulates an amount to be deposited equal to or greater than $100,000 (regardless of whether that day is the last day of an eighth-monthly period).

House bill

In general

The House bill replaces the entire payroll tax deposit system with a new system that is clearer and easier to understand. In general, the new system consists of three basic deposit timetables. The first, which replaces the eighth-monthly system, requires deposits twice a week, on Tuesdays and Fridays. The second, which applies to large depositors, retains the requirement of present law that cumulations of an amount to be deposited of $100,000 or more must be deposited on or before the next day. The third, which applies to many small depositors, provides generally that if the amount required to be deposited was $12,000 or less per quarter for a previous one-year base period, deposits must be made only once a month, on or before the fifteenth day of the following month.

Tuesday, Friday deposit rule

The Tuesday/Friday rule operates in the following manner. Amounts attributable to wage payments made on Wednesday, Thursday, or Friday are to be deposited on or before the following Tuesday. Amounts attributable to wage payments made on Saturday, Sunday, Monday, or Tuesday are to be deposited on or before the following Friday. Utilizing Tuesday and Friday as both the final days of the portion of the week with respect to which amounts to be deposited are cumulated as well as the days on which deposits must be made will provide a simple, easily remembered rule that will simplify the administration of these deposit requirements for both employers and the IRS.

Small depositor rules

The small depositor rules operate as follows. If an employer is a small depositor, deposits of employment taxes attributable to wage payments during a month must be made on or before the fifteenth day of the following month.

A person is a small depositor for a calendar quarter if, for each calendar quarter in the base period, the amount of employment taxes attributable to payments in each of those calendar quarters was $12,000 or less. The base period is defined to be the four calendar quarters ending with the second preceding calendar quarter before the quarter with respect to which the deposit requirements are being determined. For example, the base period for the calendar quarter of April through June 1993 is January 1992 through December 1992. If with respect to each of the calendar quarters in that one-year base period, the amount of employment taxes was $12,000 or less, then the employer is a small depositor for the April through June 1993 calendar quarter and is required to make monthly deposits of employment taxes for that quarter. This is true regardless of the amount of employment taxes for the April through June 1993 quarter. The only exception to this is that the $100,000 rule applies to all depositors, including small depositors. This application of the $100,000 rule should have no impact on small employers; it is designed to prevent very large new companies from making deposits only once a month.

New companies will initially be treated as small depositors. For purposes of performing the base period determination, a company is considered to have employment taxes of zero for any calendar quarter in which a company did not exist. Consequently, new companies will, for at least the first two calendar quarters of their existence, be required to deposit only once a month (unless they fall within the $100,000 rule).

The small depositor rule is designed to provide certainty to small employers with respect to their current deposit requirements. Most employers will be able to examine their quarterly employment tax returns (Form 941) for the one year in the base period and readily determine on that basis whether they are small depositors or must deposit on the Tuesday/Friday system. The "second preceding quarter" provision is designed to provide employers with ample lead time to make this determination prior to the start of a calendar quarter.

Safe harbor

The bill provides a statutory safe harbor with respect to certain shortfalls in deposits. An employer will be treated as having deposited the required amount of employment taxes in any deposit if the shortfall does not exceed the greater of $100 or two percent of the amount of employment taxes otherwise required to be deposited. A shortfall is the excess of the amount required to be deposited (without regard to this rule) over the amount actually deposited on or before the last day on which that deposit is required. Any shortfall is to be deposited as required by Treasury regulations.

Definitions and other rules

The bill provides that deposits are required only on banking days. (This rule is also contained in present law.) If a deposit is required to be made on or before a day that is not a banking day, the deposit is considered to have been made on a timely basis if it is made on or before the close of the next banking day. It is anticipated that the substance of Treasury regulations defining the term "banking day" will not be changed. For example, if a deposit is required to be made on a Friday which is also the July 4 holiday, that deposit would be considered to be made on a timely basis if it is made on or before the following Monday.

The bill defines "employment taxes" to mean FICA taxes (both the employer and employee portions), Railroad Retirement Tax Act taxes, and withheld income taxes (as well as similar withheld taxes under chapter 24 of the Code).

These provisions generally do not apply to employment taxes that are not required to be deposited pursuant to Treasury regulations issued pursuant to section 6302. Under present law, employers with less than $500 of employment taxes for a calendar quarter are not required to deposit those taxes. They are instead permitted to remit those taxes with the quarterly employment tax return (Form 941). It is anticipated that a similar system permitting remittance (rather than requiring deposit) of these small amounts will be continued.

Treasury regulations

The bill provides that the Secretary may prescribe regulations relating to specific issues (in addition to the general authority to issue regulations with respect to collecting tax in sec. 6302 or generally in sec. 7805). First, the regulations may specify alternate employment tax requirements for employers who fail to comply with the requirements of this provision. This would enable the IRS to continue its practice (currently authorized by regulations issued pursuant to sec. 6302(a)) of specifying more frequent deposit requirements or alternate payment mechanisms for employers who have seriously violated the established deposit requirements.

The bill also permits the Secretary to issue regulations specifying the additional circumstances (beyond those provided in the bill) under which an employer may be treated as a small depositor. This in effect permits the Treasury to expand (but not contract) the definition of small depositors.

In addition, the bill permits the Secretary to issue regulations modifying these provisions for end-of-quarter periods. This is designed to permit the IRS to require appropriate treatment of amounts that overlap two quarters. For example, assume that a quarter ends on Wednesday. The deposit normally required to be made on or before the following Tuesday could include amounts attributable to the previous quarter (with respect to Wednesday) as well as amounts attributable to the current quarter (with respect to Thursday and Friday). Treasury regulations can specify an alternate rule to distinguish amounts relating to the two quarters.

Finally, the bill permits the Secretary to issue regulations establishing different deposit requirements for amounts withheld pursuant to the backup withholding requirements of section 3406. Under present law, these amounts are treated the same as amounts withheld from income taxes. Because amounts withheld pursuant to the backup withholding requirements are often relatively small and are not generally handled by payroll offices, it is appropriate for Treasury to provide alternate deposit rules with respect to these amounts.

Effective date

The provision is effective for amounts attributable to payments made after December 31, 1992.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

b. Simplify employment tax reporting for household employees

Present law

An employer who pays a household employee wages of $50 or more in a calendar quarter for household work must withhold social security taxes (including medicare taxes) from wages paid to the employee during the quarter. The employer must also pay an amount of tax that matches the tax withheld from the employee's wages. The employer must file an Employer's Quarterly Tax Return (Form 942) each quarter and a Wage and Tax Statement (Form W-2) at the end of the year.

In addition, an employer must pay Federal unemployment taxes if he or she paid cash wages to household employees totalling $1,000 or more in a calendar quarter in the current or preceding year. The employer must file an Employer's Annual Federal Unemployment Tax Return (Form 940 or Form 940-EZ) at the end of the year.

House bill

The House bill changes the threshold for withholding and paying social security taxes with respect to domestic service employment from $50 a quarter to $300 a year. The bill requires an individual who employs only household employees (regardless of the amount of the remuneration) to report any social security or Federal unemployment tax obligation for wages paid to such employees on his or her income tax return for the year. The bill includes a household employer's social security and unemployment taxes in the estimated tax provisions. The bill also authorizes the Secretary to enter into agreements with States to collect State unemployment taxes in the same manner.

Effective date.—The provision is effective for remuneration paid in calendar years beginning after December 31, 1992.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

c. Simplify estimated tax payment rules for small corporations

Present law

A corporation is subject to an addition to tax for any underpayment of estimated tax. A corporation does not have an underpayment of estimated tax if it makes four timely estimated tax payments each equal to at least 22.5 percent of its tax liability for the current taxable year. In addition, a corporation that is not a "large corporation" may avoid the addition to tax if it makes four timely estimated tax payments each equal to at least 25 percent of its tax liability for the preceding taxable year, so long as the preceding year was not a short taxable year and corporation filed a return showing a tax liability for such year. A large corporation may use this second rule only with respect to its estimated tax payment for the first quarter of its current taxable year. A large corporation is one that had taxable income of $1 million or more for any of the three preceding taxable years.

House bill

The House bill provides that a small corporation (i.e., a corporation that is not a "large corporation" under present law) with no tax liability in the preceding taxable year may avoid the addition to tax if it makes four timely estimated tax payments each equal to at least 25 percent of its tax liability for the second preceding taxable year.[1] This rule will apply so long as (1) neither the preceding taxable year nor the second preceding taxable year was a short tax year, and (2) the corporation filed tax returns for both years. If the corporation satisfies these two requirements and did not have a tax liability for either of the two preceding taxable years, the corporation will not be required to make estimated tax payments for the current taxable year.

A large corporation may use this expanded safe harbor with respect to its estimated tax payment for the first quarter of its taxable year, as under present law.

Effective date.—The provision is effective for taxable years beginning after the date of enactment of this Act.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill.

d. Interest rate on large corporate underpayments

Present law

The interest rate on a large corporate underpayment of tax is the Federal short-term rate plus five percentage points. A large corporate underpayment is any underpayment by a subchapter C corporation of any tax imposed for any taxable period, if the amount of such underpayment for such period exceeds $100,000. The large corporate underpayment rate generally applies to periods beginning 30 days after the earlier of the date on which the first letter of proposed deficiency, a statutory notice of deficiency, or a nondeficiency letter or notice of assessment or proposed assessment is sent. For this purpose, a letter or notice is disregarded if the taxpayer makes a payment equal to the amount shown on the letter or notice within that 30 day period.

House bill

For purposes of determining the period to which the large corporate underpayment rate applies, any letter or notice will be disregarded if the amount of the deficiency, proposed deficiency, assessment, or proposed assessment set forth in the letter or notice is not greater than $100,000 (determined by not taking into account any interest, penalties, or additions to tax).

---

[1] As under present law, a small corporation may continue to use the current taxable year rule for estimated tax purposes.

Effective date.—The provision is effective for purposes of determining interest for periods after December 31, 1990.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

e. Clarify that reproductions from digital images are reproductions for recordkeeping purposes

Present law

Reproductions of a return, document, and certain other matters have the same legal status as the original for purposes of judicial and administrative proceedings. It is unclear whether reproductions made from digital images are also accorded the same legal status as originals.

House bill

The House bill provides that the term reproduction includes a reproduction from a digital image. The bill also requires the Comptroller General to conduct a study of available digital image technology for the purpose of determining the extent to which reproductions of documents stored using that technology accurately reflect the data on the original document and the appropriate period for retaining the original document.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

f. Repeal tax shelter registration requirements

Present law

Organizers of tax shelters must register their shelters with the IRS before offering any interests for sale.

House bill

The House bill repeals the tax shelter registration requirements.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House bill provision.

g. Repeal of authority to disclose whether a prospective juror has been audited

Present law

In connection with a civil or criminal tax proceeding to which the United States is a party, the Secretary must disclose, upon the written request of either party to the lawsuit, whether an individual who is a prospective juror has or has not been the subject of an audit or other tax investigation by the Internal Revenue Service (sec. 6103(h)(5)).

House bill

The House bill repeals the requirement that the Secretary disclose, upon the written request of either party to the lawsuit, whether an individual who is a prospective juror has or has not been the subject of an audit or other tax investigation by the Internal Revenue Service.

Effective date.—The provision is effective for judicial proceedings pending on, or commenced after, the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

h. Repeal TEFRA audit rules for S corporations

Present law

An S corporation generally is not subject to income tax on its taxable income. Instead, it files an information return and the shareholders report their pro rata share of the S corporation's income and deductions on their own tax returns.

The Subchapter S Revision Act of 1982 generally made the TEFRA partnership audit and litigation rules applicable to S corporations. These rules require the determination of all "Subchapter S items" at the corporate, rather than the shareholder, level. These rules also require a shareholder to report all Subchapter S items consistently with the corporation's information return or to notify the IRS of any inconsistency. Temporary regulations contain an exception from these rules for "small S corporations," i.e., those with five or fewer shareholders, each of whom is a natural person or an estate.

House bill

The House bill repeals the unified audit procedures for S corporations. The bill retains, however, the requirement that shareholders report items in a manner consistent with the corporation's return.

Effective date.—The provision is effective for taxable years beginning after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

i. Clarify statute of limitations for items from passthrough entities

Present law

Passthrough entities (such as S corporations, partnerships, and certain trusts) generally are not subject to income tax on their taxable income. Instead, these entities file information returns and the entities' shareholders (or beneficial owners) report their pro rata share of the gross income and are liable for any taxes due.

Some believe that present law may be unclear as to whether the statute of limitations for adjustments that arise from distributions from passthrough entities should be applied at the entity or individual level (i.e., whether the 3-year statute of limitations for assessments runs from the time that the entity files its information return or from the time that a shareholder timely files his or her income tax return). (Compare *Fehlhaber* v. *Comm.*, 94 TC 863 (1990) and *Alan F. Bartol*, et ux. v. *Commissioner*, T.C. Memo 1992-141, with *Kelly* v. *Comm.*, 877 F.2d 7567 (9th Cir. 1989)).

House bill

The House bill clarifies that the return that starts the running of the statute of limitations for a taxpayer is the return of the taxpayer and not the return of another person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit. The provision is not intended to create any inference as to the proper interpretation of present law.

Effective date.—The provision is effective for taxable years beginning after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

2. TAX COURT PROVISIONS

a. Clarify jurisdiction of Tax Court with respect to overpayment determinations

Present law

The Tax Court may order the refund of an overpayment determined by the Court, plus interest, if the IRS fails to refund such overpayment and interest within 120 days after the Court's decision becomes final. Whether such an order is appealable is uncertain.

In addition, it is unclear whether the Tax Court has jurisdiction over the validity or merits of certain credits or offsets (e.g., providing for collection of student loans, child support, etc.) made by the IRS that reduce or eliminate the refund to which the taxpayer was otherwise entitled.

House bill

The House bill clarifies that an order to refund an overpayment is appealable in the same manner as a decision of the Tax Court. The bill also clarifies that the Tax Court does not have jurisdiction over the validity or merits of the credits or offsets that reduce or eliminate the refund to which the taxpayer was otherwise entitled.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

b. Clarify procedures for administrative cost awards

Present law

Any person who substantially prevails in any action brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty may be awarded reasonable administrative costs incurred before the IRS and reasonable litigation costs incurred in connection with any court proceeding.

No time limit is specified for the taxpayer to apply to the IRS for an award of administrative costs. In addition, no time limit is specified for a taxpayer to appeal to the Tax Court an IRS decision denying an award of administrative costs. Finally, the procedural rules for adjudicating a denial of administrative costs are unclear.

House bill

The House bill provides that a taxpayer who seeks an award of administrative costs must apply for such costs within 90 days of the date on which the taxpayer was determined to be a prevailing party. The bill also provides that a taxpayer who seeks to appeal an IRS denial of an administrative cost award must petition the Tax Court within 90 days after the date that the IRS mails the denial notice.

The bill clarifies that dispositions by the Tax Court of petitions relating only to administrative costs are to be reviewed in the same manner as other decisions of the Tax Court.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

c. Clarify Tax Court jurisdiction over interest determinations

Present law

A taxpayer may seek a redetermination of interest after certain decisions of the Tax Court have become final by filing a petition with the Tax Court.

House bill

The House bill provides that a taxpayer must file a "motion" (rather than a "petition") to seek a redetermination of interest in the Tax Court.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

d. Clarify net worth requirements for awards of administrative or litigation costs

Present law

Any person who substantially prevails in any action brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty may be awarded reasonable administrative costs incurred before the IRS and reasonable litigation costs incurred in connection with any court proceeding.

A person who substantially prevails must meet certain net worth requirements to be eligible for an award of administrative or litigation costs. In general, only an individual whose net worth does not exceed $2,000,000 is eligible for an award, and only a corporation or partnership whose net worth does not exceed $7,000,000 is eligible for an award. (The net worth determination with respect to a partnership or S corporation applies to all actions that are in substance partnership actions or S corporation actions, including unified entity-level proceedings under sections 6226 or 6228, that are nominally brought in the name of a partner or a shareholder.)

House bill

The House bill provides that the net worth limitations currently applicable to individuals also apply to estates and trusts. The bill also provides that individuals who file a joint tax return shall be treated as one individual for purposes of computing the net worth limitations. Consequently, the net worths of both spouses are aggregated for purposes of this computation. An exception to this rule is provided in the case of a spouse otherwise qualifying for innocent spouse relief.

Effective date.—The provision applies to proceedings commenced after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

3. PERMIT IRS TO ENTER INTO COOPERATIVE AGREEMENTS WITH STATE TAX AUTHORITIES

Present law

The IRS is generally not authorized to provide services to non-Federal agencies even if the cost is reimbursed (62 Comp. Gen. 323,335 (1983)).

House bill

The House bill provides that the Secretary is authorized to enter into cooperative agreements with State tax authorities to enhance joint tax administration. These agreements may include (1) joint filing of Federal and State income tax returns, (2) single processing of these returns, and (3) joint collection of taxes (other than Federal income taxes).

The bill provides that these agreements may require reimbursement for services provided by either party to the agreement. Any funds appropriated for tax administration may be used to carry out the responsibilities of the IRS under these agreements, and any reimbursement received under an agreement shall be credited to the amount appropriated.

No agreement may be entered into that does not provide for the protection of confidentiality of taxpayer information that is required by section 6103.

Effective date.—This provision is effective on the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

V. TAXPAYER BILL OF RIGHTS 2

A. Taxpayer Advocate

1. ESTABLISHMENT OF POSITION OF TAXPAYER ADVOCATE WITHIN INTERNAL REVENUE SERVICE

Present law

The Office of the Taxpayer Ombudsman was created by the IRS in 1979. The Taxpayer Ombudsman's duties are to serve as the primary advocate, within the IRS, for taxpayers. As the taxpayers' advocate, the Taxpayer Ombudsman participates in an ongoing review of IRS policies and procedures to determine their impact on taxpayers, receives ideas from the public concerning tax administration, identifies areas of the tax law that confuse or create an inequity for taxpayers, and supervises cases handled under the Problem Resolution Program. Under current procedures, the Taxpayer Ombudsman is selected by the Commissioner of the IRS and serves at his discretion.

House bill

The House bill establishes a new position, Taxpayers' Advocate, within the IRS. This replaces the position of Taxpayer Ombudsman. Compensation is at a level equal to that of the IRS Chief Counsel. The person is to be nominated by the President, by and with the advice and consent of the Senate. The Taxpayers' Advocate is required to make an annual report to the tax-writing Committees to identify the 20 most serious problems which taxpayers have in dealing with the IRS, to include recommendations for such administrative and legislative action as may be appropriate to resolve such problems, and to include other such information as the Taxpayers' Advocate may deem advisable. This report is also to include changes recommended by the Taxpayers' Advocate that have not been implemented and the reasons for the lack of implementation. This report is also to include a list of the recommendations the Taxpayers' Advocate received from Problem Resolution Officers or other IRS employees. The Commissioner is required to establish internal procedures that will ensure a formal IRS response to all recommendations submitted to the Commissioner by the Taxpayers' Advocate.

Effective date.—The provision is effective on the date of enactment. The bill provides that the first appointment by the President of the Taxpayers' Advocate shall be made without regard to the requirement for advice and consent of the Senate if the individual so appointed is the head of the Office of Taxpayer Ombudsman on the date of enactment. The first annual report of the Taxpayers' Advocate is due not later than December 31, 1992.

Senate amendment

The Senate amendment establishes a new position, Taxpayer Advocate, within the IRS. This replaces the position of Taxpayer Ombudsman. The Advocate is appointed by the IRS Commissioner and reports directly to the Commissioner. Compensation of the Advocate is at a level equal to that of the IRS Chief Counsel.

The Senate amendment also establishes the Office of Taxpayer Advocate within the IRS. All problem resolution officers are part of that office, and are under the supervision and direction of the Taxpayer Advocate. The functions of the office are (1) to assist taxpayers in resolving problems with the IRS, (2) to identify areas in which taxpayers have problems in dealings with the IRS, (3) to propose changes (to the extent possible) in the administrative practices of the IRS that will mitigate those problems, and (4) to identify potential legislative changes that may mitigate those problems.

The Taxpayer Advocate is required to make two annual reports to the tax-writing Committees. The first report is to contain the objectives of the Taxpayer Advocate for the next calendar year. This report is to contain full and next calendar year. This report is to contain full and substantive analysis, in addition to statistical information. This report is due not later than October 31 of each year. The second report is on the activities of the Taxpayer Advocate during the previous fiscal year. The report must identify the initiatives the Taxpayer Advocate has taken to improve taxpayer services and IRS responsiveness, contain recommendations received from individuals who have the authority to issue a TAO, contain a summary of at least 20 of the most serious problems which taxpayers have in dealing with the IRS, describe in detail the progress made in implementing these recommendations, include recommendations for such administrative and legislative action as may be appropriate to resolve such problems, and to include other such information as the Taxpayer Advocate may deem advisable. The Commissioner is required to establish internal procedures that will ensure a formal IRS response to all recommendations submitted to the Commissioner by the Taxpayer Advocate.

Effective date.—The provision is effective on the date of enactment. The first annual reports of the Taxpayer Advocate are due in 1992.

Conference agreement

The conference agreement follows the Senate amendment, except that it follows the House bill in requiring the Advocate to be nominated by the President, by and with the advice and consent of the Senate.

2. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER ASSISTANCE ORDERS

Present law

Section 7811(a) authorizes the Taxpayer Ombudsman to issue a Taxpayer Assistance

Order (TAO). TAOs may order the release of taxpayer property levied upon by the IRS and may require the IRS to cease any action, or refrain from taking any action if, in the determination of the Taxpayer Ombudsman, the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered.

House bill

The House bill provides the Taxpayers' Advocate with broader authority to affirmatively take any action with respect to taxpayers who would otherwise suffer a significant hardship as a result of the manner in which the IRS is administering the tax laws.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

The Senate amendment eliminates the requirement that the hardship experienced by the taxpayer be significant as a condition for the issuance of a TAO. The Senate amendment also provides the Taxpayer Advocate with broader authority to affirmatively take any action with respect to taxpayers who would otherwise suffer a hardship as a result of the manner in which the IRS is administering the tax laws. The Senate amendment provides that a TAO may specify a time period within which the TAO must be followed. Finally, the Senate amendment provides that only the Taxpayer Advocate, the Commissioner of the IRS, or a superior of those two positions, as well as a delegate of the Taxpayer Advocate, may modify or rescind a TAO.

Effective date.—The provision is effective on the date of enactment.

Conference agreement

The conference agreement follows the House bill. In addition, the conference agreement follows the Senate amendment on (1) specifying a time period within which the TAO must be followed, and (2) the limitations on who may modify or rescind a TAO.

B. Modifications to Installment Agreement Provisions

1. NOTIFICATION OF REASONS FOR TERMINATION OR DENIAL OF INSTALLMENT AGREEMENTS

Present law

Section 6159 authorizes the IRS to enter into written installment agreements with taxpayers to facilitate the collection of tax liabilities. In general, the IRS has the right to terminate (or in some instances, alter or modify) such agreements if the taxpayer provided inaccurate or incomplete information before the agreement was entered into, if the taxpayer fails to make a timely payment of an installment or another tax liability, if the taxpayer fails to provide the IRS with a requested update of financial condition, if the IRS determines that the financial condition of the taxpayer has changed significantly, or if the IRS believes collection of the tax liability is in jeopardy. If the IRS determines that the financial condition of a taxpayer that has entered into an installment agreement has changed significantly, the IRS must provide the taxpayer with a written notice that explains the IRS determination at least 30 days before altering, modifying or terminating the installment agreement. No notice is statutorily required if the installment agreement is altered, modified, or terminated for other reasons.

House bill

The House bill requires the IRS to notify taxpayers 30 days before altering, modifying, or terminating any installment agreement for any reason other than that the collection of tax is determined to be in jeopardy. The IRS must include in the notification an explanation of why the IRS intends to take this action.

Effective date.—The provision is effective six months after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill. In addition, it requires that the IRS notify taxpayers 30 days before denying any installment agreement for any reason other than that the collection of tax is determined to be in jeopardy.

Effective date.—The provision is effective six months after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment. The conferees intend that notice of denial of an installment agreement be given to a taxpayer so that the taxpayer can discuss the denial with the IRS before it is formalized. Any insufficiency in the explanation of the denial has no effect on the availability of an installment agreement to the taxpayer.

2. ADMINISTRATIVE REVIEW OF DENIAL OF REQUESTS FOR, OR TERMINATION OF, INSTALLMENT AGREEMENTS

Present law

A taxpayer whose request for an installment agreement is denied can appeal to successively higher levels of Collection Division management, including the District Director. The IRS is currently testing an appeal process for various collection actions, including installment agreements, that will permit taxpayers to appeal these collection actions to Appeals Division personnel.

House bill

The House bill requires the IRS to establish additional procedures for administrative review by the Appeals Division of denials of requests for installment agreements.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill. In addition, the administrative review must also include terminations of installment agreements.

Effective date.—The provision is effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

3. RUNNING OF FAILURE TO PAY PENALTY SUSPENDED DURING THE PERIOD AN INSTALLMENT AGREEMENT IS IN EFFECT

Present law

Section 6651 provides that a taxpayer is liable for a "failure to pay" penalty on late payments of tax. The penalty is imposed on the unpaid tax at the rate of one-half percent per month up to a maximum of 25 percent. The penalty applies to unpaid amounts without regard to whether the taxpayer is making payments pursuant to an installment agreement.

House bill

The House bill suspends the application of the failure to pay penalty with respect to taxpayers who have installment agreements in effect and are meeting the conditions of the agreements.

Effective date.—The provision is effective for installment agreements entered into after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

C. Interest

1. EXTENSION OF INTEREST-FREE PERIOD FOR PAYMENT OF TAX AFTER NOTICE AND DEMAND

Present law

In general, a taxpayer must pay interest on late payments of tax. An interest-free period of ten days is provided to taxpayers who pay the tax due within ten days of notice and demand.

House bill

The House bill extends the interest-free period provided to taxpayers for the payment of the tax liability reflected in the notice from 10 days to 21 days, provided that the total tax liability shown on the notice of deficiency is less than $100,000.

Effective date.—The provision applies in the case of any notice and demand given after the date six months after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

2. EXPANSION OF AUTHORITY TO ABATE INTEREST

Present law

Any assessment of interest on any deficiency attributable in whole or in part to any error or delay by an officer or employee of the IRS (acting in his official capacity) in performing a ministerial act may be abated.

House bill

The House bill expands the authority to abate interest to managerial acts as well as ministerial acts.

Effective date.—The provision applies to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of enactment.

Senate amendment

The Senate amendment requires the IRS to abate interest in any case in which the taxpayer establishes that there was an unreasonable and excessive IRS error or delay and the taxpayer has fully cooperated in resolving outstanding issues. To allow the taxpayer to develop the facts of the error or delay, the IRS is required to provide to the taxpayer, within 30 days of the taxpayer's written request (which is to be made in the form the Secretary prescribes), all information and copies of relevant records in the possession of the IRS with respect to the taxpayer's case.

Effective date.—The provision applies to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of enactment.

Conference agreement

The conference agreement follows the House bill.

D. Joint Returns

1. REQUIREMENT OF SEPARATE DEFICIENCY NOTICES IN CERTAIN CASES

The IRS may send a single notice of deficiency with respect to a joint return unless a spouse has notified the IRS that separate residences have been established, in which case the IRS must send a copy of the notice to each spouse at his or her last known address.

House bill No provision.

Senate amendment

The Senate amendment requires the IRS to send each spouse a copy of the notice of deficiency if the spouses have not filed a joint return for the most recent taxable year for which the IRS's master files have been updated or if the IRS has been notified by either spouse that separate residences have been established.

Effective date.—The provision is effective on the date six months after the date of enactment.

Conference agreement

The conference agreement follows the House bill.

2. DISCLOSURE OF COLLECTION ACTIVITIES WITH RESPECT TO JOINT RETURNS

Present law

The IRS does not disclose collection information to spouses that have filed a joint return.

House bill

If a tax deficiency with respect to a joint return is assessed, and the individuals filing the return are no longer married or no longer reside in the same household, the House bill permits the IRS to disclose in writing (in response to a written request by one of the individuals) to that individual whether the IRS has attempted to collect the deficiency from the other individual, the general nature of the collection activities, and the amount (if any) collected.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill, except that the IRS is required to disclose the information.

Effective date.—The provision is effective on the date of enactment.

Conference agreement

The conference agreement follows the House bill.

3. JOINT RETURN MAY BE MADE AFTER SEPARATE RETURNS WITHOUT FULL PAYMENT OF TAX

Present law

Taxpayers who file separate returns and subsequently determine that their tax liability would have been less if they had filed a joint return are precluded by statute from reducing their tax liability by filing jointly if they are unable to pay the entire amount of the joint return liability before the expiration of the three-year period for making the election to file jointly.

House bill

The House bill repeals the requirement of full payment of tax liability as a precondition to switching from married filing separately status to married filing jointly status.

Effective date.—The provision applies to taxable years beginning after the date of the enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

4. REPRESENTATION OF ABSENT DIVORCED OR SEPARATED SPOUSE BY OTHER SPOUSE

Present law

A taxpayer that has joined in the filing of a joint return may represent the taxpayer's spouse with respect to a deficiency assessed for the taxable year to which the return applies. Current IRS procedures allow each spouse to separately appeal the statutory notice of deficiency.

House bill

No provision.

Senate amendment

The Senate amendment provides that an individual who had filed a joint return with a spouse but who is no longer married to that spouse (or no longer resides in the same household) and that spouse is absent from the examination of that return may not represent that absent spouse at the examination unless the absent spouse permits it in writing.

Effective date.—The provision is effective on the date of enactment.

Conference agreement

The conference agreement follows the House bill.

E. Collection Activities

1. NOTICE OF PROPOSED DEFICIENCY

Present law

The IRS generally issues a notice of proposed deficiency prior to issuing a notice of deficiency. The notice of proposed deficiency, commonly referred to as the "30-day letter," offers a taxpayer the opportunity for review of the case by the IRS Appeals Office. The IRS is not required to issue a 30-day letter, but generally does unless the statute of limitations on assessment will expire within six months. If a 30-day letter is not issued and the taxpayer files a petition in the Tax Court, the taxpayer is permitted to have the case reviewed by Appeals after it is docketed.

House bill

No provision.

Senate amendment

The IRS is required to issue a notice of proposed deficiency in every case (other than jeopardy assessment cases). The mailing of the notice of proposed deficiency must precede the mailing of the notice of deficiency by at least 60 days. If the statute of limitations would expire within six months, the IRS may ask the taxpayer to extend the statute of limitations so that the IRS may issue a notice of proposed deficiency. Failure to issue a notice of proposed deficiency would invalidate the notice of deficiency.

Effective date.—The provision is effective with respect to deficiencies determined on or after 1 year after the date of enactment.

Conference agreement

The conference agreement follows the House bill.

2. MODIFICATIONS TO LIEN AND LEVY PROVISIONS

a. Withdrawal of public notice of lien

Present law

The IRS must file a notice of lien in the public record, in order to protect the priority of a tax lien. A notice of tax lien provides public notice that a taxpayer owes the Government money. The IRS has discretion in filing such a notice, but may withdraw a filed notice only if the notice (and the underlying lien) was erroneously filed or if the underlying lien has been paid, bonded, or become unenforceable.

House bill

The House bill allows the IRS to withdraw a public notice of tax lien prior to payment in full by the indebted taxpayer when it is in the best interest of the taxpayer and the Government. The bill also requires that, at the written request of the taxpayer, the IRS make reasonable efforts to give notice of the withdrawal of a lien to credit reporting agencies or financial institutions specified by the taxpayer.

Effective date.—The provisions are effective on the date of enactment.

Senate amendment

The Senate amendment allows the IRS to withdraw a public notice of tax lien prior to payment in full by the indebted taxpayer if the Secretary determines that (1) the filing of the notice was premature or otherwise not in accordance with the administration procedures of the IRS, (2) the taxpayer has entered into an installment agreement to satisfy the tax liability, (3) the withdrawal of the lien will facilitate collection of the tax liability, or (4) the withdrawal of the lien would be in the best interests of the taxpayer and the Government (with the consent of the taxpayer or the Taxpayer Advocate). The bill also requires that, at the written request of the taxpayer, the IRS make reasonable efforts to give notice of the withdrawal of a lien to credit reporting agencies or financial institutions specified by the taxpayer.

Effective date.—The provisions are effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

b. Return of levied property

Present law

The IRS is authorized to return levied property to a taxpayer only when the taxpayer has overpaid its liability to tax, interest, and penalty.

House bill

The House bill allows the IRS to return property (including money deposited in the Treasury) that has been levied upon if doing so is in the best interest of the taxpayer and the United States.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

The Senate amendment allows the IRS to return property (including money deposited in the Treasury) that has been levied upon if the Secretary determines that (1) the levy was premature or otherwise not in accordance with the administrative procedures of the IRS, (2) the taxpayer has entered into an installment agreement to satisfy the tax liability, (3) the return of the property will facilitate collection of the tax liability, or (4) the return of the property would be in the best interests of the taxpayer and the United States (with the consent of the taxpayer or the Taxpayer Advocate).

Effective date.—The provisions are effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

c. Modifications in certain levy exemption amounts

Present law

Property exempt from levy includes personal property with a value of up to $1,650, and books and tools necessary for the taxpayer's trade, business, or profession with a value of up to $1,100.

House bill

No provision.

Senate amendment

The Senate amendment increases the exemption amounts to $1,700 for personal property and $1,200 for books and tools. Both these amounts are indexed for inflation commencing with calendar year 1994.

Effective date.—The provisions are effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

3. OFFERS-IN-COMPROMISE

Present law

The IRS has the authority to settle a tax debt pursuant to an offer-in-compromise. IRS regulations provide that such offers can be accepted if: the taxpayer is unable to pay the full amount of the tax liability and it is doubtful that the tax, interest, and penalties can be collected or there is doubt as to the validity of the actual tax liability. Amounts over $500 can only be accepted if the reasons for the acceptance are documented in detail and supported by an opinion of the IRS Chief Counsel.

House bill

The House bill allows acceptance of an offer-in-compromise where the compromise would be in the best interest of the Government. The bill also increases from $500 to $50,000 the amount requiring a written opinion from the Office of Chief Counsel.

Effective date.—The provision is effective on the date of enactment.

SENATE AMENDMENT

The Senate amendment is the same as the House bill. In addition, compromises below the $50,000 threshold must be subject to continuing quality review by the IRS.

Effective date.—The provision is effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

4. NOTIFICATION OF EXAMINATION

Present law

In general, the IRS notifies taxpayers in writing prior to commencing an examination and encloses a copy of Publication 1, "Your Rights as a Taxpayer," with the notice. Sometimes, however, the IRS uses the telephone to schedule an examination.

House bill

No provision.

Senate amendment

The Senate amendment requires the IRS to notify a taxpayer in writing prior to commencing an examination and to provide the taxpayer with an explanation of the examination process prior to commencing the examination.

Effective date.—The provision is effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment, with a modification exempting from this requirement any examination with respect to which the Secretary determines (1) that it is in connection with a criminal investigation, (2) that the collection of the tax is in jeopardy, (3) that the requirements are inconsistent with national security needs, or (4) that the requirements would interfere with the effective conduct of a confidential law enforcement or foreign counterintelligence activity. The conferees intend that this provision not preclude the IRS from using the telephone to attempt to schedule an examination, so long as the written notice required by this provision is given.

5. MODIFICATION OF CERTAIN LIMITS ON RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIVITIES

Present law

A taxpayer may sue the United States for up to $100,000 of damages caused by an officer or employee of the IRS who recklessly or intentionally disregards provisions of the Internal Revenue Code or the Treasury regulations promulgated thereunder.

House bill

No provision.

Senate amendment

The Senate amendment increases the cap to $1 million with respect to reckless or intentional acts. In addition, it permits a taxpayer to sue the United States for damages caused by an IRS employee who negligently disregards the provisions of the Code or regulations, subject to a cap of $100,000 in damages.

Effective date.—The provision applies to actions by IRS employees that occur after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment as to increasing the cap to $1 million with respect to reckless or intentional acts, and otherwise follows the House bill.

6. DESIGNATED SUMMONS

Present law

The period for assessment of additional tax with respect to most tax returns, corporate or otherwise, is three years. The IRS and the taxpayer can together agree to extend the period, either for a specified period of time or indefinitely. The taxpayer may terminate an indefinite agreement to extend the period by providing notice to the IRS.

During an audit, the IRS may informally request that the taxpayer provide additional information necessary to arrive at a fair and accurate audit adjustment, if any adjustment is warranted. Not all taxpayers cooperate by providing the requested information on a timely basis. In some cases the IRS seeks information by issuing an administrative summons. Such a summons will not be judicially enforced unless the Government (as a practical matter, the Department of Justice) seeks and obtains an order for enforcement in Federal court. In addition, a taxpayer may petition the court to quash an administrative summons where this is permitted by statute.[1]

In certain cases the running of the assessment period is suspended during the period when the parties are in court to obtain or avoid judicial enforcement of an administrative summons. Such a suspension is provided in the case of litigation over a third-party summons (sec. 7609(e)) or litigation over a summons regarding the examination of a related party transaction. Such a suspension can also occur with respect to a corporate tax return if a summons is issued at least 60 days before the day on which the assessment period (as extended) is scheduled to expire. In this case, suspension is only permitted if the summons clearly states that it is a "designated summons" for this purpose. Only one summons may be treated as a designated summons for purposes of any one tax return. The limitations period is suspended during the judicial enforcement period of the designated summons and of any other summons relating to the same tax return that is issued within 30 days after the designated summons is issued.

Under current internal procedures of the IRS, no designated summons is issued unless first reviewed by the Office of Chief Counsel to the IRS, including review by an IRS Deputy Regional Counsel for the Region in which the examination of the corporation's return is being conducted.

House bill

No provision.

Senate amendment

The Senate amendment requires that issuance of any designated summons with respect to a corporation's tax return must be preceded by review of such issuance by the Regional Counsel, Office of Chief Counsel to the IRS, for the Region in which the examination of the corporation's return is being conducted.

In addition, the Senate amendment requires that the corporation whose return is in issue be promptly notified in writing in any case where the Secretary issues a designated summons (or another summons, the litigation over which suspends the running of the assessment period under the designated summons procedure) to a third party. It is expected that the IRS generally will meet this requirement by issuing such notice on the same day that it issues such summons, and by transmitting such notice to the corporation in a manner reasonably designed to bring it to the prompt attention of an agent of the corporation responsible for communicating with the IRS in connection with the examination.

Effective date.—This provision of the Senate amendment applies to summonses issued after date of enactment.

Conference agreement

The conference agreement follows the Senate amendment. The conferees do not intend the notice requirement in the conference agreement to imply that any summons issued to an unrelated third party, the purpose of which is to obtain information regarding comparable transactions involving unrelated parties, would require disclosure to the taxpayer of any information relating to the unrelated third party that would otherwise remain confidential under any other provision of the law.

F. Information Returns

1. PHONE NUMBERS OF PERSON PROVIDING PAYEE STATEMENT REQUIRED TO BE SHOWN ON SUCH STATEMENT

Present law

Information returns must contain the name and address of the payor.

House bill

The House bill requires that information returns also contain the payor's phone number.

Effective date.—The provision applies to statements required to be furnished after December 31, 1992 (determined without regard to any extension).

Senate amendment

The Senate amendment requires that information returns contain the name, address, and phone number of the payor's information contact.

Effective date.—The provision applies to statements required to be furnished after December 31, 1992 (determined without regard to any extension).

Conference agreement

The conference agreement follows the Senate amendment.

2. CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS

Present law

Federal law provides no private cause of action to a taxpayer who is injured because a false or fraudulent information return has been filed with the IRS asserting that payments have been made to the taxpayer.

---

[1] Petitions to quash are permitted, for example, in connection with the examination of certain related party transactions under section 6038A(e)(4), and in the case of certain third-party summonses under section 7609(b)(2).

House bill

The House bill provides that, if any person willfully files a false or fraudulent information return with respect to payments purported to have been made to another person, the other person may bring a civil action for damages against the person filing that return. Recoverable damages are the greater of $5,000 or the amount of actual damages (including the costs of the action). An action seeking damages under this provision must be brought within six years after the filing of the false or fraudulent information return.

Effective date.—The provision applies to false or fraudulent information returns filed after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

3. REQUIREMENT TO VERIFY ACCURACY OF INFORMATION RETURNS

Present law

Deficiencies determined by the IRS are generally afforded a presumption of correctness.

House bill

The House bill requires that the IRS, when making a determination of a tax deficiency based on an information return, take reasonable steps to corroborate the accuracy of the information return, when the return is disputed by the taxpayer. The reasonable steps which the IRS must take to corroborate the disputed information return would vary in response to the facts and circumstances of each case. Failure by the IRS to corroborate the disputed information return shall not invalidate any notice of a deficiency or any assessment of a deficiency.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

The Senate amendment provides that, in any court proceeding, if a taxpayer asserts a reasonable dispute with respect to any item of income reported on an information return filed by a third party and the taxpayer has fully cooperated with the IRS, the Government must, in presenting evidence of the deficiency based on the information return, present reasonable evidence of the deficiency (in addition to the information return itself). One way in which the taxpayer must cooperate with the IRS is to bring the reasonable dispute over the item of income to the attention of the IRS at the earliest possible time.

Effective date.—The provision is effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

G. *Modification To Penalty For Failure To Collect and Pay Over Tax*

1. PRELIMINARY NOTICE REQUIREMENTS

Present law

A "responsible person" is subject to a penalty equal to the amount of trust fund taxes that are not collected or paid to the government on a timely basis. An individual the IRS has identified as a responsible person is permitted an administrative appeal on the question of responsibility.

House bill

No provision.

Senate amendment

The IRS is required to issue a notice to an individual the IRS had determined to be a responsible person with respect to unpaid trust fund taxes at least 60 days prior to issuing a notice and demand for the penalty. After exhausting the administrative remedies available within the IRS, the recipient could seek a declaratory judgment from the Tax Court prior to assessment. The statute of limitations for the collection of the penalty is suspended during the periods that these rules preclude the IRS from collecting the penalty. The provision does not apply if the Secretary finds that the collection of the penalty is in jeopardy.

Effective date.—The provision applies to failures occurring after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment with respect to the notice requirement. It follows the House bill with respect to declaratory judgments. It modifies the Senate amendment with respect to the statute of limitations by providing that the statute of limitations shall not expire before the date 60 days after the date on which the notice was mailed. The conference agreement follows the Senate amendment with respect to jeopardy.

2. NO PENALTY IF PROMPT NOTIFICATION OF IRS

Present law

A responsible person may be subject to a penalty equal to 100 percent of the amount of trust fund taxes that are not collected and paid to the Government on a timely basis.

House bill

The House bill provides that a responsible person who notifies the IRS within 10 days of the failure to pay over trust fund taxes to the Government is not liable for this penalty, so long as the notification is made prior to the IRS's contacting the business about the failure to pay over the taxes, and provided that the person is not a significant owner (of a 5-percent or more interest) or a highly compensated employee (with compensation in excess of $75,000).

Effective date.—The provision applies in the case of failures to collect and pay over tax that occur after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

3. DISCLOSURE OF CERTAIN INFORMATION WHERE MORE THAN ONE PERSON SUBJECT TO PENALTY

Present law

The IRS may not disclose to a responsible person the IRS's efforts to collect unpaid trust fund taxes from other responsible persons, who may also be liable for the same tax liability.

House bill

The House bill authorizes the IRS, if requested in writing by a person considered by the IRS to be a responsible person, to disclose in writing to that person the name of any other person the IRS has determined to be a responsible person with respect to the tax liability. The IRS would be permitted to disclose in writing whether it has attempted to collect this penalty from other responsible persons, the general nature of those collection activities, and the amount (if any) collected.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill, except that the IRS is required to disclose the information.

Effective date.—The provision is effective on the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment. The conferees intend that failure by the IRS to follow this provision does not absolve any individual for any liability for this penalty.

H. *Awarding of Costs and Certain Fees*

1. IRS EMPLOYEES PERSONALLY LIABLE IN CERTAIN CASES

Present law

IRS employees are not personally liable for the payment of any litigation costs under section 7430.

House bill

The House bill gives discretion to the court in tax cases to assess all or a portion of any award under section 7430 against an IRS employee, if the court determines that the proceeding resulted from any arbitrary, capricious, or malicious act of the employee.

Effective date.—The provision applies to proceedings commenced after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. COMMENCEMENT DATE OF REASONABLE ADMINISTRATIVE COSTS

Present law

A taxpayer that successfully challenges a determination of deficiency by the IRS may recover attorneys' fees and other administrative and litigation costs if the taxpayer qualifies as a "prevailing party." These costs are recoverable to the extent incurred on or after the earlier of (i) the date of the receipt by the taxpayer of the notice of decision of the IRS Office of Appeals, or (ii) the date of the notice of deficiency.

House bill

No provision.

Senate amendment

Attorney's fees and other administrative costs are recoverable to the extent incurred after the earlier of the date of the notice of proposed deficiency or the date of the notice of deficiency.

Effective date.—The provision is effective for notices made and proceedings commenced after the date of enactment.

Conference agreement

The conference agreement follows the House bill.

3. MOTION FOR DISCLOSURE OF INFORMATION

Present law

A taxpayer that successfully challenges a determination of deficiency by the IRS may recover attorneys' fees and other administrative and litigation costs if the taxpayer qualifies as a "prevailing party." A taxpayer qualifies as a prevailing party if it (1) establishes that the position of the United States was not substantially justified; (2) substantially prevails with respect to the amount in controversy or with respect to the most significant issue or set of issues presented; and (3) meets certain net worth and (if the taxpayer is a business) size requirements.

House bill

No provision.

Senate amendment

Once a taxpayer has substantially prevailed, the IRS must provide to the taxpayer all information and copies of relevant records in the possession of the IRS with respect to the taxpayer's case and the substantial justification for the position taken by the IRS. Disclosure under this provision is subject to the confidentiality restrictions of section 6103.

Effective date.—The provision is effective for notices made and proceedings commenced after the date of enactment.

Conference agreement

The conference agreement generally follows the Senate amendment, by providing that once a taxpayer has substantially prevailed, the taxpayer may file a motion for an order requiring the disclosure (within a specified period) of all information and copies of relevant records in the possession of the IRS with respect to the taxpayer's case and the substantial justification for the position taken by the IRS. Disclosure under this provision is subject to the confidentiality restrictions of section 6103. The conferees intend that relevant records be disclosed as quickly as practicable, and that courts conform their rules to this provision. The conferees do not intend to require the disclosure of privileged or otherwise non-disclosable information.

4. INCREASED LIMIT ON ATTORNEY FEES

Present law

Attorneys' fees recoverable by prevailing parties as litigation or administrative costs are limited to a maximum of $75 per hour.

House bill

No provision.

Senate amendment

The maximum recoverable rate for attorneys' fees is indexed for inflation occurring since 1981.

Effective date.—The provision applies to notices made and proceedings commenced after the date of enactment.

Conference agreement

The conference agreement generally follows the Senate amendment by raising the statutory rate to $110 per hour, indexed for inflation beginning after 1992.

5. FAILURE TO AGREE TO EXTENSION NOT TAKEN INTO ACCOUNT

Present law

To qualify for an award of attorney's fees, the taxpayer must have exhausted the administrative remedies available within the IRS. The IRS has taken the position in regulations that attorney's fees cannot be awarded if the taxpayer has not agreed to extend the statute of limitations. In *Minahan* v. *Commissioner*, 88 T.C. 492 (1987), the Tax Court held that regulation invalid insofar as it provides that a taxpayer's refusal to consent to extend the statute of limitations is to be taken into account in determining whether the taxpayer has exhausted administrative remedies available to the taxpayer.

House bill

The House bill provides that any failure to agree to an extension of the statute of limitations cannot be taken into account for purposes of determining whether a taxpayer has exhausted the administrative remedies for purposes of determining eligibility for an award of attorney's fees.

Effective date.—The provision applies to proceedings commenced after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

I. Other Provisions

1. RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS

Present law

Treasury may prescribe the extent (if any) to which regulations shall be applied without retroactive effect.

House bill

No provision.

Senate amendment

Temporary and proposed regulations are required to have an effective date no earlier than the date of publication in the Federal Register. This provision may be superseded by a legislative grant authorizing the Treasury to prescribe the effective date with respect to a statutory provision. In addition, the Treasury may provide that taxpayers may elect to apply a temporary or proposed regulation retroactively from the date of publication of the regulation. Final regulations may take effect from the date of publication of the temporary or proposed regulation to which they relate.

Effective date.—The provision applies with respect to any temporary or proposed regulation published on or after February 20, 1992, and any temporary or proposed regulation published before February 20, 1992, and published as a final regulation after that date.

Conference agreement

The conference agreement follows the Senate amendment, with modifications (1) permitting the Treasury to issue retroactive temporary or proposed regulations to prevent abuse of the statute and (2) permitting the Treasury to issue retroactive temporary, proposed, or final regulations to correct a procedural defect in the issuance of a regulation. The conference agreement does not apply to regulations prescribed under Code section 986(a)(1)(C) or 986(a)(3) (as amended by the conference agreement).

The conferees recognize that there may be additional instances in which retroactive application of Treasury regulations has created undue hardship. The conference agreement does not preclude the tax-writing committees from both examining these cases and providing any appropriate relief in the future.

2. REQUIRED CONTENT OF CERTAIN NOTICES

Present law

The Code requires the IRS to describe the basis for and identify the amounts of tax due, interest, penalties, and any other additional amounts owed in the notice of deficiency sent to taxpayers.

House bill

The House bill requires that the IRS set forth the components of and explanation for each specific adjustment that is the basis for the total tax deficiency. An inadequate description does not invalidate the notice.

Effective date.—The provision applies to notices sent after the date six months after the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

3. TREATMENT OF SUBSTITUTE RETURNS FOR PURPOSES OF THE PENALTY FOR FAILURE TO PAY TAXES

Present law

Section 6651(a)(2) provides that the IRS may assess a penalty for failure to pay tax from the due date of the return until the tax is paid. If no return is filed by the taxpayer and the IRS files a substitute return under section 6020, the tax on which the penalty is measured is considered a deficiency assessable under section 6212 or 6213, and the failure to pay penalty begins to accumulate ten days after the IRS sends the taxpayer a notice and demand for payment of the tax.

House bill

The House bill applies the failure to file penalty to substitute returns in the same manner as the penalty applies to delinquent filers.

Effective date.—The provision applies in the case of any return the due date for which (determined without regard to extensions) is after the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

4. UNAUTHORIZED ENTICEMENT OF INFORMATION DISCLOSURE

Present law

There is no criminal penalty for enticing a tax professional to disclose information about clients in exchange for forgiving the taxes of the professional.

House bill

No provision.

Senate amendment

The Senate amendment provides that a Government employee who defers or offers to defer (or forgives or offers to forgive) the determination or collection of any tax due to a tax professional in exchange for information concerning the professional's clients shall (upon conviction) be guilty of a felony.

Effective date.—The provision applies to actions taken after the date of enactment.

Conference agreement

The conference agreement follows the Senate amendment.

J. Form Modifications

1. EXPLANATION OF CERTAIN PROVISIONS

Present law

Section 6159 authorizes the IRS to enter into written installment agreements with any taxpayer. Section 7122 authorizes the IRS to accept offers in compromise from taxpayers in certain situations. Section 6161 authorizes the IRS to extend the time for payment of tax.

House bill

The House bill requires the IRS to take such actions as may be appropriate (including improved publicity) to ensure that taxpayers are aware of the availability of installment agreements, offers in compromise, and the extension of time to pay tax. The IRS must do so in both the income tax return instructions and collection notices.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. IMPROVED PROCEDURES FOR NOTIFYING IRS OF CHANGE OF ADDRESS OR NAME

Present law

Generally, the IRS posts the new address of a taxpayer only upon the filing of the subsequent tax return which contains a new address or if the taxpayer submits a Form 8822, *Change of Address*, to the IRS.

House bill

The House bill requires the IRS to provide improved procedures for taxpayers to notify the IRS of changes in names or addresses. In addition, the House bill requires that the IRS institute procedures before 1993 for the timely updating of all IRS records with change of address information provided to the IRS by taxpayers.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

3. RIGHTS AND RESPONSIBILITIES OF DIVORCED INDIVIDUALS

Present law

The IRS provides information on the rights and responsibilities of divorced individuals in Publication 504, *Tax Information for Divorced or Separated Individuals*. This publication is not as widely utilized as Publication 1, *Your Rights As a Taxpayer*.

House bill

The House bill requires the IRS to include a section on the rights and responsibilities of divorced individuals in Publication 1, *Your Rights As a Taxpayer*.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

4. PENALTIES RELATING TO FAILURE TO COLLECT AND PAY OVER TAX

a. Public information requirements

Present law

Under section 6672, a "responsible person" is subject to a penalty equal to the amount of trust fund taxes that are not collected and paid to the Government on a timely basis.

House bill

The House bill requires the IRS to print warnings on payroll tax deposit coupon books and appropriate tax returns indicating that certain employees may be liable for this penalty, and to develop a special information packet relating to this penalty.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

b. Board members of tax-exempt organizations

Present law

Under section 6672, "responsible persons" of tax-exempt organizations are subject to a penalty equal to the amount of trust fund taxes that are not collected and paid to the Government on a timely basis.

House bill

The House bill clarifies that the section 6672 responsible person penalty is not to be imposed on volunteer members of any board of trustees or directors of a tax-exempt organization to the extent such members are solely serving in an honorary capacity and do not participate in the day-to-day or financial activities of the organization. The House bill requires the IRS to develop materials to better inform board members of tax-exempt organizations (including voluntary or honorary members) that they may be treated as responsible persons. The IRS must make such materials routinely available to tax-exempt organizations. The House bill also requires the IRS to clarify its instructions to IRS employees on application of the responsible person penalty with regard to honorary or volunteer members of boards of trustees or directors of tax-exempt organizations.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill, except that (1) the board members are required to be unpaid, and (2) the requirement that they serve in an honorary capacity is deleted.

Conference agreement

The conference agreement follows the House bill, with the additional requirement that board members be unpaid.

c. Prompt notification

Present law

The IRS is not required to notify promptly taxpayers who fall behind in depositing trust fund taxes.

House bill

The House bill requires the IRS, to the maximum extent practicable, to notify all taxpayers with delinquent trust fund deposits within 30 days of the first indication that there has been a failure to make a timely and complete deposit.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment. The conferees intend that failure to provide this notice does not absolve any individual from any liability for this penalty.

5. REQUIRED NOTICE TO TAXPAYERS OF CERTAIN PAYMENTS

Present law

If the IRS receives a payment without sufficient information to properly credit it to a taxpayer's account, the IRS may attempt to contact the taxpayer. If contact cannot be made, the IRS places the payment in an unidentified remittance file.

House bill

The House bill requires the IRS to make reasonable efforts to notify, within 60 days, those taxpayers who have made payments which the IRS cannot associate with any outstanding tax liability.

Effective date.—The provision is effective on the date of enactment.

Senate amendment

The Senate amendment is the same as the House bill.

Conference agreement

The conference agreement follows the House bill and the Senate amendment.

K. Studies

1. PILOT PROGRAM FOR APPEAL OF ENFORCEMENT ACTIONS

Present law

A taxpayer who disagrees with an IRS collection action generally can only appeal to successively higher levels of management in the Collection Division. Certain cases involving the 6672 penalty, offers-in-compromise, and employment tax issues may, however, be appealed to the Appeals Division.

House bill

The House bill requires the IRS to establish a one-year pilot program to evaluate the merits of allowing an independent appeal, by the taxpayer, to the Appeals Division of enforcement actions (including lien, levy, and seizure actions) where the deficiency was assessed without the actual knowledge of the taxpayer, where the deficiency was assessed without an opportunity for administrative appeal, and in other appropriate circumstances.

Effective date.—The IRS is required to report to the tax-writing committees by December 31, 1992, on the effectiveness of this pilot program.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

2. STUDY ON TAXPAYERS WITH SPECIAL NEEDS

Present law

The IRS is responsible for providing timely and accurate assistance to taxpayers who want to comply with Federal tax laws.

House bill

The House bill requires the IRS to conduct a study of ways to assist the elderly, physically impaired, foreign-language speaking, and other taxpayers with special needs to comply with the tax laws.

Effective date.—The report (and any recommendations) must be submitted to the tax-writing committees by December 31, 1992.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

3. REPORTS ON TAXPAYER RIGHTS EDUCATION PROGRAM

Present law

The IRS is currently conducting a program to educate revenue officers concerning the rights of taxpayers.

House bill

The House bill requires the IRS to report to the tax-writing Committees on its taxpayer rights education program for its officers and employees, including the scope and content of the program, and on the effectiveness of the program.

Effective date.—The report on the scope and content of the taxpayer-rights education program must be submitted to the tax-writing committees by August 1, 1992, and the report on the effectiveness of the program must be submitted by December 31, 1992.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

4. BIENNIAL REPORTS ON MISCONDUCT BY IRS EMPLOYEES

Present law

As mandated by the Inspector General Act, every six months the Inspector General of the Department of the Treasury receives information from the IRS for the Secretary of the Treasury's semiannual report to Congress on employee misconduct. The Inspector

General Act, in part, requires that these reports include summary information and descriptions of significant investigative activities and a summary of matters referred to prosecuting authorities and the prosecutions and convictions that have resulted.

House bill

The House bill requires the IRS to report to the tax-writing committees every two years on all cases involving complaints about IRS employee misconduct and on the disposition of those complaints.

Effective date.—The first report is required to be submitted during December 1992.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

5. STUDY OF NOTICES OF DEFICIENCY

Present law

Under section 6212, the IRS is required to send a notice of tax deficiency to taxpayers by registered or certified mail.

House bill

The House bill requires the GAO to study the effectiveness of current IRS efforts to notify taxpayers with regard to tax deficiencies under section 6212, the number of registered or certified letters and other notices returned to the IRS as undeliverable, any follow-up action taken by the IRS to locate the taxpayers, the effect that failures to receive actual notice have on taxpayers, and recommendations on how the IRS can better notify taxpayers of tax deficiencies.

Effective date.—The report and recommendations are required to be furnished by December 31, 1992.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

6. NOTICE AND FORM ACCURACY STUDY

Present law

The IRS is responsible for providing accurate and instructive notices, forms, and instructions to taxpayers to assist them in complying with Federal tax laws.

House bill

The House bill requires the GAO to study annually the accuracy of 25 of the most commonly used IRS forms, notices, and publications. In conducting its review, the GAO is to seek and consider the comments of organizations representing taxpayers, employers, and tax professionals.

Effective date.—The initial report (and any recommendations) must be submitted to the tax-writing committees by December 31, 1992.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

7. IRS EMPLOYEES' SUGGESTIONS STUDY

Present law

The IRS maintains several programs to encourage and reward employees who make suggestions for improving the administration of the tax system.

House bill

The House bill requires the GAO to conduct a review of the IRS employee suggestion programs. The study is to include a review of all suggestions that were accepted and rewarded by the IRS, an analysis as to how many of these suggestions were implemented, and why the remaining suggestions were not implemented.

Effective date.—The report (and any recommendations) must be submitted to the tax-writing committees by December 31, 1992.

Senate amendment

No provision.

Conference agreement

The conference agreement follows the House bill.

VI. OTHER PROVISIONS

1. BUDGET COMPLIANCE PROVISION

Present law

The Budget Enforcement Act of 1990 ("1990 Act") amended the 1985 Balanced Budget and Emergency Deficit Control Act to establish new budget scorekeeping rules for legislation with budgetary consequences. The 1990 Act subjects discretionary spending for 1991 through 1995 to specified dollar maximums. Increases in discretionary spending may not be offset by higher taxes or fees under the new budget rules.

Direct spending programs (entitlements and other mandatory spending) may be increased only if the increases are offset in each year by lower direct spending in other programs or by higher taxes or fees ("pay-as-you-go accounting"). Under the pay-as-you-go accounting regime, if direct spending increases or revenue losses are not offset within the pay-as-you-go accounts, a sequester (automatic reduction) in these accounts will occur at the end of the fiscal year.

House bill

Any changes in budget authority, outlays, or receipts resulting from the provisions of the bill are not to be considered for sequester calculations under section 252 or 253 of the 1985 Balanced Budget and Emergency Deficit Control Act, as amended by the 1990 Budget Enforcement Act, including the pay-as-you-go accounting regime. This will prevent a sequester of entitlement accounts in years in which the bill increases the deficit, and will reserve excess revenues for deficit reduction in years in which the bill reduces the deficit.

Senate amendment

No provision.

Conference agreement

The conference agreement does not include the House provision.

2. SENSE OF THE SENATE RESOLUTION ON NOT ESTABLISHING A SENATE BANK

Present law

No provision.

House bill

No provision.

Senate amendment

The Senate amendment provides that it is the sense of the Senate that no Senate bank with characteristics similar to those of the former House bank should ever be established.

Conference agreement

The conference agreement does not include the Senate amendment.

3. WORKFARE REQUIREMENT FOR RECIPIENTS OF GENERAL ASSISTANCE

Present law

About 30 States have general assistance programs which provide cash benefits to needy individuals. These programs are funded out of State revenues. States determine who is eligible for benefits, the level of benefits, and the conditions under which benefits are payable.

House bill

No provision.

Senate amendment

If the Secretary of Health and Human Services certifies that a State has a general assistance program that (1) provides benefits to an able bodied individual (as determined by the Secretary) who is age 18 or above and who has no dependents, and (2) does not require such individual to participate in a State workfare program, the Secretary must reduce by 10 percent the amount the State would otherwise receive in aid to families with dependent children. A State's workfare program must meet requirements of the Secretary as provided in regulations to be issued by October 1, 1992.

Effective date.—For calendar quarters beginning on or after January 1, 1994.

Conference agreement

The conference agreement does not include the Senate provisions.

4. LIMIT ON AMOUNT OF AFDC BENEFITS FOR INDIVIDUALS WHO MOVE TO ANOTHER STATE

Present law

States must determine need and the amount of assistance for all applicants and recipients on an objective and equitable basis. There must be a statewide standard (uniformly applied) that is used in determining the need of applicants and recipients and the mount of the assistance payment. There is no variation in the amount of the payment for individuals who have recently moved into the State.

House bill

No provision.

Senate amendment

A State's AFDC plan must provide that for a period of 1 year from the date an individual becomes a new resident in a State, the individual is eligible to receive AFDC in an amount that is the lower of (1) the amount the individual received or could have received in the former State of residence, or (2) the amount the individual could receive in the new State of residence.

Effective date.—Thirty days after enactment.

Conference agreement

The conference agreement does not include the Senate provisions.

5. SENSE OF SENATE RESOLUTION SUPPORTING TAX CREDITS FOR RENEWABLE ENERGY TECHNOLOGIES

Present law

Renewable energy production tax credit

No provision.

Business energy tax credits

Nonrefundable business energy tax credits are allowed for ten percent of the cost of qualified solar and geothermal energy property (sec. 48(a)). The business energy tax credits are scheduled to expire with respect to property placed in service after June 30, 1992.

House bill

No provision.

Senate amendment

The Senate amendment states that it is the Sense of the Senate that the national energy tax policy include a production tax credit for renewable energy in conjunction with a permanent business energy tax credit.

Conference Agreement

The conference agreement does not include the Senate amendment.

6. STATE TAXATION OF NONRESIDENT RETIREMENT BENEFITS

Present law

Currently, a number of States impose income tax on retirement income earned in the State but paid to individuals who are no longer residents of the State. These States impose income tax on such income because the States provide a deferral of tax on retirement income earned in the State, not an exclusion. This is consistent with the treatment of such income under the Internal Revenue Code.

House bill

No provision.

Senate amendment

The Senate amendment prohibits a State from imposing income tax on the pension or retirement income of any individual who is not a resident or domiciliary of such State. The term "State" includes any political subdivision of a State, the District of Columbia, and any U.S. possession.

Effective date.—Taxable years beginning after December 31, 1991.

Conference agreement

The conference agreement does not include the Senate amendment.

DAN ROSTENKOWSKI,
SAM GIBBONS,
J.J. PICKLE,
CHARLES B. RANGEL,
PETE STARK,
Managers on the Part of the House.

LLOYD BENTSEN,
GEORGE MITCHELL,
DANIEL PATRICK MOYNIHAN,
Managers on the Part of the Senate.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3553, HIGHER EDUCATION ACT OF 1965 EXTENSION

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102–462) on the resolution (H. Res. 403) providing for the consideration of the bill (H.R. 3553) to amend and extend the Higher Education Act of 1965, which was referred to the House Calendar and ordered to be printed.

INTRODUCTION OF YOUTH EMPLOYABILITY SERVICES 2000 ACT OF 1992 (YES 2000)

(Mrs. COLLINS of Michigan asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS of Michigan. Mr. Speaker, I am delighted to introduce today the Youth Employability Services 2000 Act of 1992, my YES 2000 initiative. This legislation substantially expands current job training programs for economically disadvantaged youth.

Many disadvantaged youth in my district, as well as thousands of at-risk youth throughout the country, drop out of school or graduate without sufficient employment skills. These young people spend their teenage and adult years floundering in the labor market, jobless or underemployed.

My bill provides a second chance for most of these forgotten youth by offering basic education, vocational skills training, work experience, counseling, health care, and related support services in the residential setting of a Job Corps center. Moreover, the legislation expands this successful job training program incrementally over the next 10 years.

Increasing numbers of Job Corps graduates will be better prepared for employment, advanced training opportunities, or careers in the armed services.

Let us provide part of the foundation for our young people to be productive citizens in the year 2000. I strongly urge my colleagues to join me in cosponsoring YES 2000.

CONFERENCE REPORT ON TAX PACKAGE

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, tax increases are not economic growth incentives. Tax increases deepened and lengthened the recession.

The President challenged Congress to pass an economic growth package. My constituents have demanded that Congress pass an economic growth package.

Instead, the Democratic-controlled Congress is trying to pass a tax-growth package and a deficit-growth package. This is not what the American economy needs and this is not what the American people need.

A few extra cents a day will not bring relief to the middle class. Higher taxes and a higher budget deficit will not bring relief to the American economy.

Americans need jobs, and the economy needs a balanced Federal budget and a lower cost of capital.

Two-thirds of the new jobs in this country will be created in small businesses, yet this bill would raise taxes on the over 90 percent of these businesses that file returns subject to individual income tax rates.

A TAX BREAK FOR WORKING FAMILIES

(Mr. WISE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WISE. Mr. Speaker, I stand in favor of the bill today to provide middle income tax relief for America's working families. The President said he would veto this bill, and I hope he will reconsider that.

This bill gives a $300 tax credit for 2 years to working families. That means for the average West Virginian family a Federal income tax cut of 5 to 10 percent. It gives a permanent $300 tax credit for working families starting in 1994. There is a capital gains provision that actually gives benefits to the working person, to the middle income person, not to the wealthy.

Individual retirement accounts are significantly restored. There are enterprise zones for job creation in rural and urban areas, and there are incentives for the real estate market to continue its resurgence.

I hope the President will not veto a bill that has middle income tax cuts, investment incentives, and taxpayer incentives. It is time that working people in this country got a break once in a while, and that includes a tax break.

INTRODUCTION OF THE FEDERAL OPEN SPACE ACQUISITION AND PRESERVATION ACT

(Mr. ZIMMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZIMMER. Mr. Speaker, every year hundreds of thousands of acres of open space are developed, marring the natural beauty of our country and paving over our national heritage.

Unfortunately, Federal policy does not do enough to promote open space preservation.

Today, I will introduce the Federal Open Space Acquisition and Preservation Act, which encourages estates to donate land to the Federal Government. Provided that the inherited land is desired by a Federal agency, heirs could donate the land to the Government and subtract the fair market value of the land from their estate taxes.

Too often, estates have no choice but to sell undeveloped land to developers simply to pay estate taxes, even when both the heirs and the Federal Government would rather see the land preserved. My legislation would simplify the process for transfering lands to the Federal Government. The bill would reduce administrative costs and legal fees associated with land acquisition and enhance open space preservation.

I urge my colleagues to join me in support of this legislation to help American families and protect America's heritage.

A CASE OF MISTAKEN IDENTIFICATION?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, John Demjanjuk of Cleveland has been convicted as being "Ivan the Terrible" of Treblinka. He is on death row. Since his crime, 60 different statements of 60 different people identify Ivan Marczenko as Ivan the Terrible, not Demjanjuk. In fact, there are now three photographs which prove conclusively that Demjanjuk is not Ivan the Terrible.

I have been bringing this case to the Congress for a long time, but I keep hearing that this case is too hot. Let me say this: Congress is more concerned about politics than our Constitution. Our Congress should in fact hear this case, bring Demjanjuk home and have a hearing. We are now laying the blame on Israel, and Israel is not at fault.

Mr. Speaker, this man is not Ivan. He should be brought home. Congress should do the right thing.

ENEMIES OF ISRAEL STRIKE AGAINST PEACE ONCE AGAIN

(Mr. GILMAN asked and was given permission to address the House for one minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, earlier this week, a vehicle packed with 220 pounds of plastique explosives exploded in Buenos Aires, killing at least 20 and wounding over 250 people. The blast destroyed the Israeli Embassy and was specifically directed against Israeli diplomats. Our hearts go out to the families of those unfortunate victims.

The notorious terrorist organization, the Palestinian Islamic Jihad has taken credit for this diabolical attack. That is the very same organization, which, supported by links to Syria and Iran, has been responsible for many of the lethal attacks in the West Bank and Gaza.

I certainly hope our administration will condemn this despicable act—as well as two of the leading exporters of mayhem and violence to the international community, Iran and Syria—with the same vehemence that it has demonstrated in denying humanitarian help for the Jews resettling in Israel to avoid the consequences of anti-Semitism and violence in the lands of their birth.

As columnist William Safire wrote this week:

> This terror-bombing, throat-cutting, and arm-twisting is supposed to give Israelis the confidence necessary to take risks for peace.

Mr. Speaker, there is something radically wrong with that policy.

□ 1140

TIME TO PASS EFFECTIVE CAMPAIGN REFORM LEGISLATION

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, the clock is ticking, the hourglass is running down, and I do not mean with regard to today, March 20, the deadline on passing tax fairness and economic growth legislation, which deadline we will meet. I refer, Mr. Speaker, to the clock running out on passing effective campaign reform legislation.

Throughout this entire week, I have addressed that issue. Today I will speak to two provisions in those bills which are in conference, which I hope will receive encouragement to finish its work.

One is so-called soft money, or what the New York Times calls sewer money, which is unregulated, unlimited money, which is often abused at the State and Federal level. The other provision is political action committee contributions.

Mr. Speaker, I think they should be eliminated. Both bills in conference, Mr. Speaker, severely restrict the use of political action money.

Mr. Speaker, big money is the engine driving politics today. People should be the engine driving politics. We have time, Mr. Speaker, to pass a bill to put people back as the heart and soul of the political process.

HOUSE PROBLEMS AFFECT ALL MEMBERS

(Mr. MCCLOSKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCCLOSKEY. Mr. Speaker, I am sure I am not alone, along with most other Democrats and Republicans. I yearn and pray for the day when this Chamber can debate and resolve the massively pressing issues that are facing this country and the American people.

As news accounts highlight accusations surrounding an alleged House post office scandal, it is worthwhile to recall recent floor remarks by a Republican leader to the effect, "We have the House bank now, the post office next, and no doubt something else will follow."

Is it possible that any of the House postal problems have little to do with legislative leadership or Members' transgressions, but much to do with larger societal problems?

Meanwhile, in today's New York Times, we have the insights of an eminently respected Republican Member. He pointed out, "Nobody is comfortable with all the finger pointing because clearly a sufficient number of prominent Republicans have become entangled." He said, "I'm speaking particularly of the Cabinet members whose embarrassment has been demonstrated."

He, concluded the Republican leader, "started down the bobsled course before he realized the nature and extent of this debacle."

THE GREAT ENERGY BUST

(Mr. COMBEST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COMBEST. Mr. Speaker, today I rise to take note of an article that appeared in this week's Time magazine entitled "The Great Energy Bust." The time article noted, "Along highway 80 in west Texas between Midland and Odessa, giant drilling rigs sit rusting in the winter sun. Gas wells that dot the bleak mesquite-covered prairie lie shut down." This site is all too familiar to me, as this site is in my congressional district.

Since my first day in Congress, I have been a strong advocate of a balanced and workable national energy strategy which provides the needed incentives for domestic oil and gas production. At times I have been accused for looking out for the parochial interests of the oil patch. However, it is nice to see that others are finally taking notice of the dire situation in the domestic oil and gas industry—as this week's Time magazine article so clearly points out.

The rig count, which best gauges the life of the oil patch, has dropped to its lowest level in history and hundreds of thousands of jobs have been lost. Natural gas producers have been hit with the lowest prices in a decade causing many wells to shut down. Now is the time to direct our reliance back to our domestic resources and stop the growing dependence on foreign oil.

A SALUTE TO BOYS TOWN'S 75TH ANNIVERSARY

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker, during the past year, a number of national newspapers have highlighted the good life of Nebraska. Nebraska has been recognized nationally for our low unemployment rate, our job-creation record, our strong work ethic, and the beauty of our countryside. Today, I would like to join my colleagues from Nebraska and recognize the 75th anniversary of one of Nebraska's proudest heritages, Father Flanagan's Boys' Home.

Americans are familiar with Boys Town and know well the wonderful support services the institution provides to children and families in need. During 1992, Boys Town is celebrating its 75th anniversary and I am particularly honored to join in this celebration. Boys Town is a wonderful product of Nebraska values.

Since 1917, when the Reverend Edward J. Flanagan founded Boys Town as a home for orphan boys on farmland 10 miles west of Omaha, it has been a unique place for troubled youths who have had nowhere else to go. Father Flanagan began by borrowing $90 to help five boys. That initial effort evolved to a nationwide network of facilities which provide food, shelter, education, and spiritual and medical care to abused, handicapped and homeless girls and boys and their families.

Many people think Boys Town is little more than a beautiful campus, buildings and a population of children west of Omaha. In recent years, under the leadership of Father Robert Hupp and Father Val Peter, it has grown to become a nationwide network of facilities and services, all dedicated to helping the children of America. Father Flanagan's Boys Home now shares its 75 years of experience with children in Omaha and develops workshops, training programs, technical assistance and materials through its facilities around the country to help other child care providers and organizations over America.

A toll-free national hotline serves as a crisis, resource and referral service for troubled children and parents and operates around the clock to deal with missing children, runaways, suicidal children, drug problems, and family problems.

Boys Town's role in the 1990s is more important than ever. The breakdown of the American family is resulting in even more children in desperate need. Boys Town, one of the most successful charitable organizations in American history, is and will continue to address the basic needs of troubled children and families.

It is an honor and a privilege to represent the home campus of Boys Town and to recognize the invaluable service that Boys Town has provided to the people of this Nation. Boys Town offers troubled children a hope for a better tomorrow. Father Flanagan said it best:

> The youth who makes a mistake may be compared to a plant growing in depleted soil and deprived of health-giving sunshine. He hasn't got a chance.

END IS NEAR FOR COMMUNISM IN CUBA

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, recently a U.N. resolution was passed in Geneva pointing out once again the human rights violations which routinely take place under Fidel Castro's brutal regime. Testimony was given by former political prisoners who had languished for years in Castro's gulag.

Once again, a team of international investigators will attempt to go to Cuba to inspect the jails and examine the lack of freedom for all Cubans. But Castro does not want the world community to fully appreciate the total oppression which a Cuban has to live with every day.

In Cuba, the state controls every aspect of a person's life, and any attempts at going against the abusive system are met with harsh reprisals.

Yet, I believe that the end is near for communism in Cuba. Castro is desperately looking for escape valves everywhere. Let us stop him from being successful in this desperate last ditch measure.

PROGRESS IN SOUTH AFRICA

(Mr. ESPY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ESPY. Mr. Speaker, on Tuesday, voters in America sent out some unmistakable messages. But today, I want to talk about the message from white voters in South Africa.

By voting "yes" in overwhelming numbers in Tuesday's referendum, the majority of white South Africans sent a message to the world that they want to fully rejoin the international community.

But most importantly, they sent a message to Nelson Mandela and their black countrymen that they want to join them in building a new, democratic society.

And they sent a message to the Conservative Party that their attempts at maintaining apartheid are doomed to failure.

There is no doubt that South Africa still has a long way to go. The remaining pillars of apartheid still must be dismantled. The same rights white South Africans exercised in Tuesday's referendum must be extended to the vast majority of South Africans, who are nonwhite.

But the progress in South Africa is unmistakable, and Tuesday's vote was most encouraging.

The message from the white population is clear. In the past they have deserved our harshest criticism. Today, white South Africans, President F.W. de Klerk, and President Bush, deserve our congratulations.

□ 1150

A SALUTE TO THE MEN AND WOMEN IN AMERICAN AGRICULTURE

(Mr. EWING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EWING. Mr. Speaker, 200 years ago, Thomas Jefferson articulated his vision of an agrarian democracy in America. Those 200 years have seen the transformation of Jefferson's America into a nation of diverse economic strength. Two centuries have not, however, diluted this basic truth: American agriculture is a pillar of this Nation's economy, and U.S. farmers feed not only their fellow citizens but much of the rest of the world.

On March 20, 1992, we celebrate our 20th National Agriculture Day. We should take the opportunity provided by this celebration to thank and salute the men and women who produce this Nation's food and fiber. At a time when many question the competitiveness of American industry, U.S. farmers remain the most efficient and productive in the world.

The success of American agriculture has provided much more than the world's cheapest and safest food supply, however. From the factory employee who produces agricultural machinery to the dockworker who sends the bounty of our fields to distant shores, the people of this country are part of the enormous industry that is American agriculture.

Mr. Speaker, I ask that my colleagues join me in saluting the men and women of our food and agribusiness industry by celebrating National Agriculture Day.

THERE IS NO LINKAGE FOR THE ARABS

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, it now appears that the $10 billion loan guarantees to help Israel absorb the flood of Russian-Jewish immigrants to Israel is dead. Earlier this week, President Bush rejected a very moderate compromise.

Under the proposed compromise, only $1 billion in loan guarantees would have been issued to Israel now, with the President having total discretion on the provision of the remaining $9 billion in guarantees over 5 years.

Apparently, Mr. Speaker, even that was not enough for this administration, which is obsessed with tying the loan guarantees to Israel's settlement policy.

Such linkage is unfair and unwise, especially at a time when the Middle East peace talks are beginning to address substantive issues.

It is grossly unfair because there is no such linkage when it comes to guaranteeing loans for Arab nations. Just last year, Mr. Speaker, the U.S. Government provided $3 billion in loan guarantees to Arab countries, unconditionally—no ifs, ands, or buts.

As we granted $12 billion in loan guarantees to the Arab nations in the past 5 years, did the President ever consider asking them to moderate their policies? Did he ever ask for a commitment from them to end their state of war with Israel? To cease their sponsorship and support for terrorism against Western targets? To staunch the flow of vicious bile emanating from Arab radio, television, and press every day?

No, Mr. Speaker, we heard no such demands for linkage.

Rejecting this very moderate compromise is unwise because it sends entirely the wrong message to Israel's Arab negotiating partners at the Middle East peace talks. By harshly and ruthlessly pressuring Israel on settlement policy, while never ever mentioning the Arab policies that militate against peace and have done so for the past 43 years, the Bush administration has sent them this clear message:

> Israeli policies, not yours, are the main obstacle to peace. Don't compromise. Don't negotiate. Dig in your heels. Just wait and we'll deliver Israel to you, hogtied and powerless.

Mr. Speaker, this tactic will not promote peace and conciliation. It is perfectly clear that Israel, right or wrong, is not going to roll over to satisfy the administration's every demand while there is no United States attempt to change Arab policies that urgently need changing.

Mr. Speaker, before Egypt and Israel made peace at Camp David, President Anwar Sadat publicly gave up war and entered into a state of nonbelligerency as a way station on the path to peace.

The administration's tactic of harassing Israel while ignoring Arab obstacles to peace promotes intransigence, not compromise. As a result, the peace talks will sink ever deeper into impasse and deadlock.

THIS IS THE DEMOCRATS HOUSE

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, this manual is the rules of the House. These rules are written in the Democrat caucus prior to the organization of the House. They are brought to the body and they are voted in at the same time they vote down those rules written by the Republicans.

The Speaker of the House is elected in the Democrat caucus and voted in at the same time they vote down the person nominated to that job by the Republicans.

In the rules of the House the Democrat caucus also put up a slate of officers for Clerk of the House, Sergeant at Arms of the House, Doorkeeper, Postmaster, and Chaplain. They also vote their slate of officers in at the same time they defeat the slate of officers offered by the Republicans.

In this House the majority rules. They rule by their rules. They rule with an iron hand. They run the House. They have run it into the ground to the point that it is an embarrassment to all of us and a source of intense anger for the American people.

Now that they have corrupted one of the greatest institutions in the history of the world, they ask us to accept bipartisan blame. Mr. Speaker, it is their House, their rules, their officers, their Speaker.

Let them live with the consequences and explain it to the American people.

IN DEFENSE OF DEFENSE WORKERS

(Mr. GEJDENSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEJDENSON. Mr. Speaker, our colleagues on the Republican side of the aisle are in somewhat of a panic. They are in a panic that the country will take a look at the economic situation of defense workers, of the homeless, of young couples who are looking to buy a home.

Today, Mr. Speaker, we have an opportunity to take a step forward for the middle class. Tax credits for people with children, a reduction of the rate for working people in that sense so that they have a better chance to raise families. But we in this Congress and we need to engage the White House that seems to have gone back to hiding since they have gotten rid of Mr. Buchanan, we have to engage the White House in trying to deal with the economic woes of this Nation.

In my district defense workers are sitting in dire straits worried about an administration that has no plan for their future. For decades we used these defense workers to defend this country. Now the Republican administration wants to push them off a cliff.

These heroes of the cold war and others deserve better. They need to have opportunities to work, to provide for their families, to have jobs so they can pay their mortgages.

Mr. Speaker, we need an economic policy that builds America, that focuses on American workers.

INTRODUCTION OF CONCURRENT RESOLUTION CONDEMNING BOMBING OF ISRAELI EMBASSY IN ARGENTINA

(Mrs. MEYERS of Kansas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEYERS of Kansas. Mr. Speaker, today I am introducing a sense-of-the-Congress resolution to condemn the terrorist bombing of the Israeli Embassy in Buenos Aires on Tuesday. This cowardly attack killed at least 21 innocent people and wounded 240. The U.S. Congress should add its voice in denouncing this terrorism and extending our sympathy to the victims and their families.

I commend President Bush for offering assistance to the Government of Argentina in investigating this bombing. Everything must be done to identify and bring to justice all those responsible for planning, preparing, and executing this vicious crime.

The pro-Iranian terrorist organization Islamic Jihad has claimed responsibility for the attack. This is the same group that is suspected of murdering our Marines and Embassy staff in Lebanon in 1983. These killers must be tracked down and put out of business.

I ask my colleagues to join me in cosponsoring this resolution.

AN ECONOMIC GROWTH PACKAGE

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, today Congress will vote on legislation which was originally intended to bring our Nation out of a recession, a bill which will affect every man, woman and child in the United States.

I ask my colleagues—except for a few select Members—Has anybody seen this bill? Does anyone know what is in it? Who will it hurt? Who will it help, if anyone?

I can venture a guess .... given its authors. Don't be fooled. If it is anything like the House bill, it will have huge tax increases, more spending, and a blatant disregard for economic growth.

All this, despite the fact that this is not what the American people want.

Mr. Speaker, with the recent problems in this body, we need to show the Nation we can at least do one thing right—legislate. Unfortunately, we are not even doing that. No wonder the American people are disgusted.

Let us get a growth plan on the floor that the President can sign and that will truly help this country. For once, let's put politics aside.

A PERSPECTIVE ON CHECK-BOUNCING SCANDAL

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, the most important issue we are facing today is the economy and how to cure the recession. But the check bouncing has taken over. And we are told it is the biggest issue that is facing us.

Let me tell my colleagues something. It pales next to Watergate. It pales next to abscam. It pales next to the big deficits that we have had and the recession that we are living in today. Yet the media has chosen this to be what they want the people to know.

I think it is time that we get back to try to cure the economic ills of the country and stay on track. The President gave us until today to give an economic package. We are going to do it, and he is going to veto it, and we are going to be right back to stage 1.

I will say this: Neither Congress nor the administration right now is looking too good in the eyes of the people. They expect us and are saying to us, "It is time to do for us what we sent you to Washington to do, and that is to sit down as reasonable people, to reason together, to bring forth an equitable package."

Mr. Speaker, that is the right thing to do.

CONFERENCE REPORT ON H.R. 4210, TAX FAIRNESS AND ECONOMIC GROWTH ACT OF 1992

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 402 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 402

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families. All points of order against the conference report and against its consideration are hereby waived. The conference report shall be considered as having been read when called up for consideration.

The SPEAKER pro tempore (Mr. McNULTY). The gentleman from South Carolina [Mr. DERRICK] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from California [Mr. DREIER], pending which I yield myself such time as I may consume.

During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. DERRICK. Mr. Speaker, House Resolution 402 waives points of order against the conference report on H.R. 4210, the Economic Growth Acceleration Act of 1992, and against its consideration. The rule also provides that the conference report will be considered as read when called up for consideration.

Mr. Speaker, as I said a few days ago when we considered the House bill, the people of my State of South Carolina are hurting. In fact the people of every State of this Union are hurting after a year and a half of recession.

Unemployment stands at 7.3 percent, meaning there are over 9 million Americans who want to work but cannot find jobs. Millions have only part-time jobs. Millions of others have given up looking for jobs altogether.

The conference board reported last month that consumer confidence has fallen to its lowest level since the 1970's. Obviously, many who now have jobs fear they might lose them before the recession ends.

Mr. Speaker, it has been years since there was so much pain and apprehension in our land. Our people are looking to us for leadership and help as they struggle to keep their families intact and their heads above water. And we will provide that leadership.

Mr. Speaker, the conference report offers substantial tax relief to our middle class while at the same time offering the business community targeted incentives for growth. This important legislation sends help where it's needed most: to middle-class workers and families. Our middle class has been squeezed hard during the last decade by stagnating wages and increasing payroll taxes.

H.R. 4210 will give middle-income families up to $600 in tax relief over 2 years to ease that squeeze. Beginning in 1994 the bill will provide a permanent tax credit of $300 for each child under age 16 in a middle-class family, which is far more valuable to families than the increased personal exemption proposed by the President.

The bill will also restore full deductibility for IRA contributions for all taxpayers and create a new Special IRA Program where earnings on nondeductible contributions held for at least 5 years would be tax free. The bill would let families dip into IRA's without penalty to buy homes, pay major medical bills or college tuition, and where unemployed for more than 12 weeks. It would also provide a tax credit for student loan interest.

The conference agreement also contains a variety of incentives for businesses to help get our economy moving again. These incentives include a 2-year investment tax allowance; increased expensing for small businesses; passive-loss reform for real estate professionals and a facilitation of pension plan investment in real property; a repeal of the luxury taxes on boats, airplanes, furs, and jewelry; and a new Enterprise Zone Program to spur investment and employment in cities and rural areas alike. The bill makes permanent the low-income housing credit, and extends for 1 year various other expiring provisions of interest to businesses large and small.

Mr. Speaker, with regard to capital gains, the conference agreement will create a new progressive capital gains tax rate system tied to income. The proposed rates will apply to both new and existing assets held for at least 2 years, and provide a zero capital gains tax for taxpayers in the 15-percent bracket and 14 percent for those in the 28-percent bracket. The bill also provides a special venture capital exclusion providing for a 50-percent break for gains on stock in small startup companies of the future. Finally, the maximum capital gains tax will remain at 28 percent.

Mr. Speaker, the conference report does all these things and more without increasing the national debt; in fact, the bill will actually reduce the deficit by more than $10 billion over 6 years.

Unlike the President, who ducked the tough decisions and proposed to finance his economic growth package with accounting gimmicks and other blue smoke and mirrors, in this bill Congress has demonstrated its willingness to make hard choices by requiring our wealthiest citizens to contribute their fair share. The conference agreement would create a new top income tax bracket of 36 percent for singles with taxable income of $115,000 or more and couples with income over $140,000. The bill also would impose a 10-percent surtax on millionaires and cap the amount a corporation can deduct for compensating each of its officers at $1 million annually.

Mr. Speaker, the American people are in great pain and looking to Congress to relieve their suffering. It's up to us to provide the shelter our people so desperately need to weather the storm and the incentives our economy needs to resume its growth. I urge all Members to support the rule and to support the conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, many of our colleagues on the other side of the aisle will undoubtedly come to the well this afternoon and claim that, with passage of this conference report, we will meet the President's March 20 deadline for enacting a short-term economic growth package. I'm sorry, Mr. Speaker, but that bird won't fly.

In his State of the Union Address, the President presented to Congress a sensible plan for stimulating the economy, expanding economic opportunity, and creating hundreds of thousands of new jobs. Regrettably, what he will find on his desk, if this tax increase bill is enacted, is a manifesto on class warfare.

And it is a tax increase, Mr. Speaker: $70 billion on top of the $170 billion in new taxes imposed on working Americans in 1990. It is a political document that masters the art of subliminal political patronage by disguising tax increases as tax fairness.

This bill raises the explicit top tax rate to 36 percent. It adds on top of that a 10-percent millionaires surtax, permanently extends the phaseout of the personal exemption and standard deduction, and taxes executive compensation twice. That does not create fairness, Mr. Speaker. That creates Sweden.

Frankly, this is not a good faith effort to meet the terms set forth by the President. In addition to massive tax increases that will hinder economic expansion, there is no significant capital gains tax cut, no tax credit for first-time home buyers, and it will increase the deficit. History shows conclusively that increases in tax rates raise no new revenue.

Mr. Speaker, as the distinguished ranking member of the Ways and Means Committee, BILL ARCHER, stated: "This train is engineered to go nowhere." Since that is clearly the case, I urge my colleagues to reject the charade so that we can move forward on a real tax relief and economic growth package.

Mr. Speaker, I reserve the balance of my time.

□ 1210

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I support the rule.

I would like to start out by saying that Congress cannot expect a stable economy if Congress continues to change the tax laws of this country every year to 18 months.

I think Paul Tsongas is right. A dollar a day tax break is not going to be a cure for our economy. In fact, I say it is going to cost us jobs, and that is what worries me.

I want to say today that I will not be part of any charade simply to get involved in political games to try and sabotage the President. I want no part of that.

I want to see our economy get better and I want to see things get worked out, but I am upset today because we have, in my opinion, not much difference between the government of George Bush and the policies of DAN ROSTENKOWSKI and Mr. BENTSEN.

In fact, I am fed up with it. We do not have a say in these tax bills. We are nothing but spectators around here.

Before we send the Roto-Rooters to the White House, I think we better take a look at the Democrat Party, and Mr. ROSTENKOWSKI should open up the process, not only to Democrats, but to Republicans and let everybody's ideas get a chance to be heard.

I have lost a lot of jobs in my district, and I will tell you what, whether it is Mr. Bush or Mr. ROSTENKOWSKI, I do not want to hear it anymore. I have nothing against the chairman, but it is a damn shame, and if you are going to be treated like a wimp, then you deserve it.

I want a say in these bills. I want everybody to have a say, and if Congress does not stand up for that, you might as well go home, send a band, play a few tunes and get it all over with.

Mr. DREIER of California. Following the remarks of the gentleman from Ohio, Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the soft-spoken member of the Rules Committee.

Mr. SOLOMON. Mr. Speaker, I concur with a lot of what the previous speaker, the gentleman from Ohio, just had to say. He really does tell it like it is.

I rise in opposition to the bill that this rule puts in order.

Let me just read briefly an editorial from a small newspaper in upstate New York. This newspaper is not always on the side of the Republicans or on the side of the Democrats, but it also kind of tells it like it is, from certainly a nonpartisan viewpoint. The editorial starts off by saying:

> BUSH IS ON RIGHT SIDE OF TAX ISSUE
>
> Let's cut to the chase: There will be no tax relief this year. No $300 to $400 tax credit for middle-class families. No $5,000 credit for first-time homebuyers. No repeal of the ill-conceived, revenue-losing luxury levy. No reduction of the growth-stunting tax on capital gains.
>
> The Democratic majorities that control the Senate and House are merely going through the motions of preparing a tax bill in advance of Friday's deadline set by President Bush in his State of the Union speech.
>
> In reality, the tax package lawmakers will offer to Mr. Bush would do little or nothing to stimulate economic growth or close the yawning deficit.
>
> Thus, Mr. Bush properly promises to veto the Democrats' lame tax legislation "the minute it hits my desk."
>
> It must be. The only slight chance Americans have of seeing any form of tax relief this year is if the President goes to the mat for them.

Which he is going to do, Mr. Speaker.

> The White House tax plan includes no radical tax-cutting proposals, but it wouldn't raise any family's taxes. Moreover, it would significantly lower capital gains tax rates for most assets. That would provide a much needed economic stimulus and also generate increased revenues, at least in the short term, for the federal treasury.
>
> Mr. Bush clearly is on the right side of the tax issues, and Congress is on the wrong side. In this election year, the President should make sure the American people understand this.

Mr. Speaker and my colleagues, Mr. Bush is going to do just that. He will veto this bill, this 10-pound political piece of trash which goes against every sane economic principle. Raising taxes during a recession, would not John F. Kennedy turn over in his grave if he knew this was going on?

God knows what else is in this 10-pound monstrosity which no Member of Congress has read. Not even the chairman, the gentleman from Illinois [Mr. ROSTENKOWSKI] has read this monstrosity.

Mr. Speaker, I want the Members to remember 1986, when we all stood on this floor and even I voted for that so-called tax reform bill.

Mr. Speaker, that was the beginning of the problems we see today, the recession that we are in today. God help us if we vote for this conference report today because we are going to be haunted with this thing for years to come.

So vote down this conference report and let us get to work with the President so that we can get something done to stimulate the economy and put Americans back to work. Think about that, my colleagues, as this debate goes on for the next hour. It will be well worth your while and certainly worth the while of the American people.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, why should we pass this middle-class tax package? There are three reasons.

First, because people are hurting.

Second, because we need to show that we can meet any deadline, including the President's.

And third, because we need to show that we are governing, that we are not paralyzed by the bank scandal.

Mr. Speaker, we know that this bill will be vetoed by midnight, that it is a political document, that we are talking about political realities and not legislative realities. Nonetheless, the American people need to know the clear difference between the two parties and the two proposals.

Our package, we want to help the middle class at a time when they are hurting and we want those who can afford it to pay for it.

Mr. Speaker, this is not a political charade. The President does not want to budge. What we have here is a classic difference between the two parties. The American people have voted for divided government. Let them now judge who is protecting their interests.

Mr. DREIER of California. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding me this time.

I am just trying to clarify where we are. Yesterday on the floor, we had a discussion about various things that would be a part of the procedure here. Do I understand correctly that under the rule there would be the opportunity for the minority to offer a motion to recommit?

Mr. DREIER of California. Mr. Speaker, if the gentleman will yield, yes, there is a recommital motion that is included in this rule.

Mr. WALKER. A recommital motion, and that can be with instructions, is that correct?

Mr. DREIER of California. Yes. We are counting on that.

Mr. DERRICK. Mr. Speaker, if the gentleman will yield, that is correct.

Mr. WALKER. Well, I thank the gentleman from South Carolina.

Have we some assurance that this rather large compendium of papers that is the conference report has been scrubbed of all the special interest items that often find their way into a tax bill?

Mr. DREIER of California. Mr. Speaker, if my friend will yield, it is difficult for those of us on the Rules Committee to make that determination. As the ranking member on our side said just a few minutes ago, it is stacked pretty high and seemed to be growing. I cannot tell the gentleman exactly what is in it, as I know very few Members here probably can.

Mr. WALKER. We were assured yesterday that at least some people would read this bill and give us some assurance. The majority leader told me yesterday that he planned to read it. This is the first I have seen it.

I certainly would like to go through it. I guess we will have a little bit of time between now and the end of the debate for some of us who want to go through it.

☐ 1220

But is there some assurance as to the scrubbing? Mr. Speaker, I yield to the gentleman from South Carolina. Do we have some assurance that this has been scrubbed of the special interest stuff?

Mr. DERRICK. If the gentleman would yield just a moment, I certainly cannot speak for that stack of papers over there, but I can tell you this, we did agree to give the minority 2 hours prior to coming to the floor with the bill, which was done, to give it to them.

And it is my understanding—although you probably ought to ask someone from the Committee on Ways and Means about this—it is my understanding that just about everything, maybe with the exception of a coal miner's provision in there, was scrubbed out, just about everything was scrubbed. But I am not positive about that. As I say, the gentleman would probably be better asking a member of the Committee on Ways and Means.

Mr. WALKER. I certainly want to do that.

Mr. DERRICK. But it is my understanding that it did receive a thorough scrubbing. Now, whether they got all—whether they scrubbed everything out, I am just not sure. But a lot of it did come out.

Mr. WALKER. There is often a problem, when we thoroughly scrub things, of finding a few that seem to slip through and do not get scrubbed off. But I appreciate knowing that there was an attempt to do that.

Mr. DERRICK. If the gentleman would yield for just another moment.

Mr. WALKER. Sure.

Mr. DERRICK. It is my understanding that the minority has had the report for 3½ hours.

Mr. WALKER. For 3½ hours. Well, on a report that big, that certainly is generous time.

Mr. DERRICK. We understand that most of the gentlemen on your side of the aisle are speed readers over there. So it would be no problem.

Mr. WALKER. And Evelyn Wood——

Mr DERRICK. After all, that is what they asked for. You asked for 2 hours, and we gave you 3½. As usual, we are always doing the best we can by the minority.

Mr. WALKER. And we really appreciate it.

Mr. Speaker, I yield to the gentleman from California.

Mr. DREIER of California. I would say in response to that that I have been informed by staff that we received the first copy here at 9:30. Now, one copy cannot be read by every Member. So, we began the process on this side of making copies of it.

Mr. DERRICK. Well, I am informed——

Mr. DREIER of California. If I may reclaim my time.

Mr. WALKER. I have the time. I yield to the gentleman.

Mr. DREIER of California. I thank the gentleman.

Mr. Speaker, I would respond by saying that we spent the time xeroxing this so that Mr. SOLOMON could lug his copy around, and there are a few others around. But I have not gotten my own personal copy to study myself. I thank my friend.

Mr. WALKER. In other words, we do have some overheated Xerox machines as a result of trying to make copies for Members to look over.

Mr. DREIER of California. I would say one machine probably could not handle all of that too quickly, certainly this morning.

Mr. WALKER. We cannot be assured that all Members have had an opportunity to look at it. Members do want a chance to look at it. Mr. SOLOMON now has a Xerox machine. We have a Xerox machine probably overheated and down for a while, but we may have some copies that we can look at.

Mr. DREIER of California. I would say to my friend that I feel sorry for the pages who have to lug copies of these to each office, even if the Xerox machines could handle it.

Mr. SOLOMON. I have a strained back from lugging this thing around.

Mr. DERRICK. Would my friend yield for just a moment?

Mr. DREIER of California. I would be happy to yield to my friend from South Carolina.

Mr. DERRICK. I really do not see why the gentlemen are so concerned about this, because the President has said he is going to veto it and he has not read it either.

Mr. DREIER of California. I would say that the President's determination to veto it is probably because he has not been able to look at it, although he has seen some indications as to what is in it.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from New York.

Mr. SOLOMON. I thank the gentleman for yielding.

Mr. Speaker, I am glad he brought up the word "veto," because we have been urging the President to use a line-item veto for months now. Of course, he feels constrained not to because he gets advice from the Department of Justice that it would not be legal. But he is going to ask for 75 recissions.

And so you know what? This gutless body, because of the way the majority writes the rules, is going to turn down all 75 of those requests to cut out pork-barrel projects. Simply by Congress taking no action on his request, the President is not allowed to cut out the money. I have an amendment which is coming to the floor next week if the Democratic majority ever brings up H.R. 3732, the firewalls demolition bill. I have a line-item veto amendment. It would say to the President, "You asked not to spend certain money, so then this Congress has to take a vote to disapprove your not spending that money." That is the way it ought to be. I hope all of you gentlemen—there are 42 good Democrats on that side of the aisle, including Mr. BUTLER DERRICK, who is managing this rule, who is a strong supporter of the line-item veto, will support my amendment. I am looking forward to his vote and 42 more. And with our 167 we will pass that amendment and settle this thing once and for all.

Mr. DREIER of California. Mr. Speaker, I would also say to my friend that there is another very important amendment in there, and that is going to be the one that will repeal the tax increase in that 1990 budget summit agreement. We look forward to consideration of that.

I would respond to the statement made by my friend from South Carolina, Mr. Speaker, it was very magnanimous, telling us that we had a 2-hour period. But I would remind the gentleman that under the Constitution the President of the United States is granted 10 days to look at it. We have 2 hours as Members of this House, the President, 10 days. The President has indicated he is going to veto it, in large part because he has an idea of what is in that bill. And I thank my friend for responding to our questions so graciously.

Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. It sounds to me like rather equal balance, 2 hours, 10 days.

Mr. DREIER of California. Mr. Speaker, I yield 3 minutes to the very distinguished gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Speaker, I feel rather reluctant to stand up here. I feel as if I am in the middle of a tennis match, looking back and forth.

What I am going to say is really quite dull compared to the fireworks going on here. I appreciate that there has been time constraints here. I appreciate the fact that the leadership is bringing this before the President asked it. But at the same time, I have got to admit that I have been doing budgets all my life in a variety of fashions, and you really cannot make an intelligent decision on a budget if you do not see it.

Mr. Speaker, I do not think that is very difficult to comprehend.

Now, Mr. Speaker, the thing that bothers me—and I am not going to get into the technicalities of the rules—but I would like to talk a little bit about a particular feature of this bill which I think is important to put in focus for all those people who are going to be making a decision.

I think the thing that bothers me is that we are going off in one direction when we should be going in another. Let me tell you what I mean.

We are going to be increasing taxes in this bill, and we are going to be decreasing taxes in this bill. Boy, that sounds terrific. You know, we are going to be socking it to those people who can afford it and we are going to give some money, lowering taxes on those people who need the money. That sounds pretty nice. But, you know, that is not what the bill, to me, was supposed to do. The whole concept of our meeting here today in trying to go over the individual items which make up an economic package is to try to focus in on creating more jobs. This does not create more jobs.

For example, when you increase the tax, what it does is hit the higher income individuals, which is fine; but it also hits two-thirds of the job employers in this country. When you make $75,000 as an individual, it is a lot of money; when you make $75,000 as a business, it is not a lot of money. And you are increasing the tax on those people who are unincorporated who will be paying that additional amount of money. That is not what we are trying to do.

The point of what we are doing here is to try to stimulate the economy, and although taxes go up and taxes go down, they do not go to the job-creating facilities, which is really the bottom line here.

Mr. Speaker, I am disappointed because that is what I thought we were trying to do.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume and would like to ask my friend, the gentleman from South Carolina, a couple of questions. I would like to engage in a colloquy with my friend, the gentleman from South Carolina.

Mr. Speaker, I would like to ask my friend if he could explain because—well, let me say from our side of the aisle, we do not want to do anything at all to jeopardize the prospect of getting this manifesto on class warfare to the President's desk just as quickly as possible. But we look at this, we do not want to impede the process but I would like to know what kinds of waivers there are in this rule, which is something that, frankly, gives our side a great deal of concern. And we have a pattern of opposing those kinds of waivers here.

Mr. Speaker, I wonder if my friend from South Carolina could outline that for us.

Mr. DERRICK. Mr. Speaker, would the gentleman yield?

Mr. DREIER of California. I yield to the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. I thank the gentleman for yielding.

Mr. Speaker, the only waiver I can think of at the moment is the 3-day layover waiver.

Mr. DREIER of California. What other House rules violations are being protected by this rule?

Mr. DERRICK. Well, I am not aware of all—protected? The Rules Committee has a right to do that. The gentleman serves on the Committee on Rules with great distinction, and he does not need to ask me that question.

Mr. DREIER of California. Is the Budget Act being violated here?

Mr. DERRICK. I do not think so. The rule is properly before the House, that I can assure the gentleman.

Mr. DREIER of California. Let me say once again that we do not want to do anything on this side to impede this process, because we are here at March 20, the President stood here on January 28 and asked us to get a bill to his desk by that time. But a number of us here do have great concerns with this bill.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I yield to my friend, the gentleman from New York [Mr. SOLOMON].

☐ 1230

Mr. SOLOMON. Mr. Speaker, that is the point I was trying to make earlier. No one really knows what is in this bill, which the gentleman from Pennsylvania [Mr. WALKER] is looking through now. It looks like there is more than a thousand pages. We do not know whether it exceeds scope; we do not know whether it busts the Budget Act. I am sure it does. It has got to. And there are many, many other things. Members are going to be voting on this. They are not going to have any idea what they are voting on.

Mr. Speaker, it is going to be 1986 all over again. We created tax policies that absolutely turned the economy upside down.

That is why we should not be voting on this today, but, nevertheless, I guess we will.

Mr. DREIER of California. Mr. Speaker, it appears to me that we have a speedreader on our conference, and that is the gentleman from Pennsylvania [Mr. WALKER] who has the thousand pages, and I yield to him such time as he may consume.

Mr. WALKER. Mr. Speaker, I thank the gentleman from California [Mr. DREIER] for yielding this time to me.

Mr. Speaker, Evelyn Wood would be proud of me, but I am looking down through here to see whether or not we might have scrubbed this bill completely, and I am finding down in here provisions such as domestically produced beer for use by foreign embassies. It sounds to me as though that gets fairly technical and fairly clear in a particular direction.

Mr. DREIER of California. Mr. Speaker, could the gentleman from Pennsylvania [Mr. WALKER] repeat that for me?

Mr. WALKER. There is something in here, and it is a little hard to understand exactly what they are doing. It is called domestically produced beer for use by foreign embassies.

Mr. DREIER of California. Domestically?

Mr. WALKER. One has to wonder if these kinds of things are down in the bill somewhere.

First of all, it is a little hard to figure out what that means. We have things in here like the Tuesday-Friday deposit rule. There are a series of things, records.

Mr. DREIER of California. Mr. Speaker, I yield such time as he may consume to the distinguished ranking member of the Committee on Ways and Means, the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Speaker, I would like the gentleman from Pennsylvania [Mr. WALKER] to stay in the well with that bulky document, and hopefully the people of this country that are watching C-SPAN can see what is being presented to us.

Mr. Speaker, we did have 2 hours to go over the bill, and we are grateful for that because so often it just bounces out on the floor without the 2 hours.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. DERRICK. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I yield to the gentleman from South Carolina.

Mr. DERRICK. Mr. Speaker, as my colleagues know, they did get either 3 or 3½ hours, depending on what, but, as my colleagues know, that is what the minority requested, and that was what was agreed to between the minority and the majority, and we lived up to——

Mr. DREIER of California. Mr. Speaker, if I can respond to my friend, the gentleman from South Carolina [Mr. DERRICK], our request up in the Committee on Rules was that we have at least 2 hours. Now, those of us on the minority side, maybe from the gentleman's perspective, make requests which go further than he would like, but we were trying to be very reasonable by saying, "At least 2 hours." We did not know what size this bill was going to be at that point, and, when we see the gentleman from Pennsylvania [Mr. WALKER] down there with what looks to be a thousand pages, yes, it is a lot larger than anything we had anticipated, and I know that the gentleman from Texas [Mr. ARCHER], the ranking member, is just now looking at it himself.

Mr. ARCHER. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I yield such time as he may consume to the gentleman from Texas [Mr. ARCHER].

Mr. ARCHER. Mr. Speaker, the point that I would like to make, because it is very important, with the bill as voluminous as this is that it is not possible in a 2-hour or a 3-hour period to fully absorb and understand all of its contents. Now we have done our best. But we have not had an opportunity to fully examine the very complex, very lengthy, comprehensive, so-called simplification title of the bill. We are concerned that there could be some of the rifle-shot types of provisions that the gentleman from Pennsylvania [Mr. WALKER] is questioning in the simplification section of the bill. That would be in addition to those things which are clearly stated in the various other specific titles which might fall into that category.

So, Mr. Speaker, we cannot assure this House that there are not single-shot provisions in the bill.

Mr. DREIER of California. Mr. Speaker, I would like to say that the gentleman from South Carolina [Mr. DERRICK], my friend, did not mention the fact that this bill does waive, or this rule does waive, the Budget Act, but, as we look at 1993 and 1994, it is very clear that it does with a $2.694 billion shortfall in 1993 and $6.3 billion in 1994, and so I think that it is important that we recognize the fact that we are seeing waiving of the Budget Act here.

Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the President of the United States appeared before this body earlier this year and in his State of the Union Address challenged the House and the Senate, the Congress as a whole, to produce a tax bill by March 20. We have done work that is very hard. Many Members of the House, primarily on the Committee on Ways and Means have tirelessly worked to ensure that this bill was before the House on or before that date, and we have succeeded.

As far as some of these provisions are concerned, like the simplification provision, this has been around for months. To say that this is the first time that anyone has seen it is stretching the imagination a little bit.

Mr. Speaker, I ask, "Why don't we just say that we are using dilatory tactics over there on the other side and let it go at that?"

Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. DREIER of California. Mr. Speaker, would the gentleman from South Carolina yield for just one moment?

Mr. DERRICK. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Speaker, I understand we were just accused of using dilatory tactics. We want very much to move this through, and I say to the gentleman from South Carolina [Mr. DERRICK], my friend, "All I was trying to do was ask a couple of questions during this 1 hour of time that we are allotted for the rule."

Mr. Speaker, I thank the gentleman.

Mr. SCHEUER. Mr. Speaker, I rise in strong support of H.R. 4210, the Middle Income Tax Relief and Economic Growth Incentives Act. This bill will make our tax system more equitable and give our economy the jump start it needs in order to get going again.

Let me tell you about some of the provisions in this bill, provisions that will get this economy going and help business, industry, and all people.

H.R. 4210 will liberalize depreciation equipment rules, provide a capital gains tax cut for long-term investment in new small businesses, restore passive loss deductions, make permanent the low-income housing credit, restore the individual retirement account, promote the use of mass transit, and spur investment in our most precious resource, our people. It will educate and train them by restoring the deductibility of student loans and making employer-assisted education tax free.

And what is the price for all this goodness? Well, the wealthiest among us will be asked to pay slightly more taxes. This bill meets the test of plain fundamental tax fairness. The rich were the ones who benefited the most from the tax cuts and the trickle down policies of the 1980's, the policies that got us into the deficit mess in which we now find ourselves.

The Congressional Budget Office found that the top 1 percent of families received 75 percent of the growth which occurred in the 1980's. The top 5 percent accounted for virtually all of the increase in family income.

During the Reagan years the average income tax for those earning more than a million dollars a year fell by almost 50 percent. That's right; people with salaries and interest income over a million dollars a year, many of whom have net worth in excess of $20 million, had their taxes cut in half. In contrast, the tax burden borne by the middle 60 percent of all families actually rose slightly.

It is the wealthier among us who will benefit the most from the repeal of the luxury taxes included by H.R. 4210. Only those with extremely high incomes will actually end up paying more taxes, while middle- and working-class Americans will get the tax relief and help they need. The rich among us got a break in the eighties and if raising taxes is the only way we can afford to do the things we need to do to get our economy going again, well then I see nothing wrong with asking them to pay their fair share.

Mr. Speaker, this bill is a good comprehensive bill which calls upon the ultrarich to pay their fair share and will help get us out of this recession we are mired in and restore the public confidence in our economy.

The President wanted the Congress to send him an economic growth package by March 20. Well, we have given him a growth package, one that will spur investment and open up new business opportunities by making equipment purchases more attractive, by lowering the cost of health care for self-employed workers, and by providing a better trained, better educated work force. We are sending him a good bill, a bill that will help America get back on her feet. I urge all my colleagues to vote for H.R. 4210.

Mr. DREIER of California. Mr. Speaker, I would say that we have been spending our time on the rule here trying to analyze this, and, while agriculture is very important for my State of California, I have to say that the gentleman from Pennsylvania [Mr. WALKER], my friend, has just come up with some very interesting information which he would be happy to share with my colleagues.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. WALKER].

□ 1240

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would just be interested in finding out what this means:

> The Code contains rules governing the extent to which ameliorating material may be added to wines made from high acid fruits and the product still be labelled as a standard, natural wine. In general, ameliorating material may not exceed 35 percent of the volume of juice and ameliorating material combined. However, wines made exclusively from loganberries, currants, or gooseberries are permitted a volume of ameliorating material of up to 60 percent.

Mr. Speaker, this may not be much for middle-class relief, but it is good for gooseberries, incidentally. Gooseberries of the world may rejoice.

I am a little puzzled as to whether or not that is a fairly specialized kind of language which has been buried down in this bill.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. DREIER of California. I am happy to yield to my friend, the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I heard someone mention dilatory tactics, and I just wanted to inform the majority that we understand the pressures and that Members have obligations. Because of that, we are not going to ask for a recorded vote. We are going to try to speed up the process for them. I just wanted the Members to know that.

Mr. DREIER of California. Mr. Speaker, I think that is a very good point for my friend, the gentleman from New York, to make. We want to move this process along as quickly as possible, Mr. Speaker, so we can get this bill to the President's desk as rapidly as we can. So we will at this point waive the 15 minutes that it takes for a recorded vote.

Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding time to me.

For the nth time in a row, the Rules Committees has declined to accept the reasonable amendment I have offered on our budget process. I have always felt—and I have offered this same type of legislation for the last three terms—that when the Congress, as it has always done, fails to meet the budget deadline of September 30, we ought to have an automatic renewal of last year's budget occur the next day. This would go a long way toward solving a lot of our bloated budget problems and all the Christmas tree types of machinations that go on, because we just go into a temporary arrangement until a budget is adopted.

The other thing this would do would be to prevent forever the shutdown of Government. It is a crime and a shame for us to hold every bit of the Federal establishment hostage until a budget is enacted. My legislation would prevent that.

Mr. DREIER of California. Mr. Speaker, I yield 1 minute to my good friend, the gentleman from California [Mr. HUNTER].

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding this time to me.

I just wanted to say that I have spent the last 3 days traveling 300 miles among the working folks in my district, and I think the one thing they want is not a tax break of $200 or $400 or what they consider to be the amount of money necessary for existence for maybe a week or two. They want a job, and I think the crisis that has occurred over the last several weeks in this House can be addressed by Democrats and Republicans working with the President to pass a signable tax bill.

Mr. Speaker, this is not a signable tax bill.

Mr. DREIER of California. Mr. Speaker, may I inquire of the Chair as to how much time is remaining?

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from California [Mr. DREIER] has 4 minutes remaining, and the gentleman from South Carolina [Mr. DERRICK] has 17 minutes remaining.

Mr. DREIER of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, may I ask, are we going to be able to move this process along, or are we going to be calling for a recorded vote here? I would ask my friend that question.

The SPEAKER pro tempore. Members have the right to make that request at the proper time.

Mr. DREIER of California. I just wanted to make that inquiry of the manager of the rule.

Mr. DERRICK. Mr. Speaker, if the gentleman will yield, as the gentleman well knows, because I sent word over to him 15 minutes ago, we expect to call for a recorded vote.

Mr. DREIER of California. Mr. Speaker, I reserve the balance of my time.

Mr. DERRICK. Mr. Speaker, I have no further requests for time.

Mr. DREIER of California. Mr. Speaker, I am happy to yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. DERRICK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 244, nays 151, not voting 39, as follows:

[Roll No. 53]

YEAS—244

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Beilenson
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Carper
Carr
Chapman
Clay
Clement
Coleman (TX)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dwyer
Early
Eckart
Edwards (CA)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Hutto
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Lehman (CA)
Levin (MI)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Luken
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Mineta
Mink
Moakley
Mollohan
Montgomery
Moody
Moran
Murphy
Murtha
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Peterson (MN)
Pickett
Pickle
Poshard
Price
Rahall
Rangel
Ray
Reed
Richardson
Roemer
Rose
Rostenkowski
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Sisisky
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
Staggers
Stallings
Stark
Stenholm
Stokes
Studds
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thornton
Torres
Torricelli
Towns
Traficant
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—151

Allard
Allen
Archer
Armey
Ballenger
Barrett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Callahan
Camp
Clinger
Coble
Coleman (MO)
Combest
Coughlin
Cox (CA)
Crane
Cunningham
Davis
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Emerson
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hammerschmidt
Hancock
Hansen
Hefley
Henry
Herger
Hobson
Hopkins
Horton
Houghton
Hughes
Hunter
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Leach
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lowery (CA)
Machtley
Martin
McCandless
McCollum
McCrery
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Morella
Myers
Nichols
Nussle
Oxley
Packard
Paxon
Petri
Porter
Quillen
Ramstad
Ravenel
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (OR)
Snowe

Solomon
Spence
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—39

Baker
Barnard
Bruce
Campbell (CA)
Chandler
Collins (IL)
Dannemeyer
Dickinson
Dymally
Edwards (OK)
Ford (MI)
Hastert
Hatcher
Hayes (LA)
Holloway
Huckaby
Laughlin
Lehman (FL)
Levine (CA)
Lipinski
Livingston
Manton
Marlenee
Miller (CA)
Miller (WA)
Morrison
Mrazek
Nagle
Orton
Pursell
Roe
Russo
Skaggs
Smith (TX)
Thomas (CA)
Thomas (GA)
Waters
Whitten
Wylie

□ 1305

The Clerk announced the following pairs:

On this vote:

Mrs. Collins of Illinois for, with Mr. Thomas of California against.

Mr. Dymally for, with Mr. Baker against.

Mr. Miller of California for, with Mr. Chandler against.

Mr. FISH and Mr. SPENCE changed their vote from "yea" to "nay."

Mr. AuCOIN changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to House Resolution 402, I call up the conference report on the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families.

The Clerk read the title of the bill:

The SPEAKER pro tempore (Mr. McNULTY). Pursuant to House Resolution 402, the conference report is considered as having been read.

(For conference report and statement, see prior proceedings of the House of today, Friday, March 20, 1992.)

The SPEAKER pro tempore. The gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes, and the gentleman from Texas [Mr. ARCHER] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the conference report on H.R. 4210, now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Exactly 52 days ago, in the State of the Union Address, the President of the United States challenged the Congress to craft a tax bill by today, March 20. With many long hours of hard work, we have met the President's challenge. And although we had to expedite our consideration, I am also very proud we observed regular order—hearings, markups, floor debate in the House and Senate and conference. Congress succeeded as an institution; we worked quickly and efficiently.

But Congress is not a rubber stamp. We have accepted the Presidents schedule, and we have worked with his priorities, but we have also made modifications to improve his proposals. That is how the American political system is supposed to work.

The President said that if Congress missed the deadline, "The battle would be joined." Well, I have news for the President. Congress won't miss the deadline, and we say: If you wish, Mr. President let the battle be joined.

The battle is joined because the legislation we have crafted will provide significant relief to millions of middle-class Americans and families with children. Under our compromise, over 80 million middle-class taxpayers would get important tax relief to help them pay their bills and make ends meet during the current recession.

The battle is joined because our bill will provide real and significant economic growth and investment incentives.

The battle is joined because wealthy Americans will be asked to pay their fair share—only 1 percent of all taxpayers would have a rate increase under this bill—only 1 million of the richest taxpayers in the country. And the battle is joined because this product helps the vast majority of all Americans, and is not designed to help the privileged few as the President has proposed in his seven point plan.

We have produced a bill—on time and on target. It was a tough deadline and it was a tough conference. But I can honestly say that we have brought back a package that responsibly meets the President's challenge and responds to the concerns of the American people for tax fairness.

On Wednesday, the House instructed the conferees to include middle-class tax relief in this bill. We have done that. It is permanent relief, and it will benefit the great majority of all middle-class taxpayers.

For the first 2 years, the bill would provide a credit for 20 percent of Social Security taxes paid, up to $150 for single individuals and $300 for married couples. The credit would benefit 78 million middle-class families, including 3 million State and local government employees, and would be refundable for many lower income workers with children. Beginning in 1994, and permanently thereafter, the bill would provide a $300 credit for each child under age 16 of middle-class taxpayers.

The conference agreement marries the best aspects of the House and Senate approach, a temporary wage credit to help 78 million middle-class taxpayers during the recession coupled with a permanent child credit thereafter. The credits are smaller than I would have liked. However, we were able to provide permanent middle-income tax relief which many Members favor.

What could be more consistent with democratic values and principles? What could be more helpful to the hard pressed middle class? And, what could be more wrong than for the President to threaten a veto of this bill that will benefit millions of middle-class Americans.

The conference agreement also provides significant economic growth incentives: a special depreciation allowance for property acquired during 1992 and a 2-year increase in the amount of expensing of equipment for small businesses would encourage American business.

The conference report provides a middle-class capital gains tax incentive and a venture capital incentive that would provide 8 million taxpayers with the incentive to take risk and invest in American business. Under the compromise, taxpayers in the 15-percent tax bracket would qualify for a 100-percent capital gains exclusion. The exclusion would decline to 22 percent for taxpayers at the top tax rate.

I want to emphasize that under our compromise, 70 percent of the benefit would go to people with incomes under $100,000. That compares with almost 80 percent of the benefit that would go to people with incomes over $100,000 under the President's capital gains proposal. In addition, expanded availability of individual retirement accounts would help families save.

The conference agreement repeals the luxury taxes on most products and indexes the tax on automobiles; provides relief from the passive loss rules for real estate; permanently extends the low-income housing credit; and provides a 1-year extension of the R&D credit, mortgage revenue bonds, targeted jobs tax credit and other expiring provisions. These extensions will provide new jobs for Americans, and, as we know, there is probably no word outside the beltway right now that is more important than jobs.

The middle-class tax relief is paid for fairly, with a tax increase on the very wealthiest Americans. It is only fair and appropriate that the very wealthiest citizens make a modest contribution to make the Tax Code fairer for the two-thirds of all American families who are solidly middle class.

The conference agreement would create a new fourth rate for taxable incomes above $115,000 for single taxpayers and $140,000 for married taxpayers. In addition, the agreement would impose a 10-percent surtax on the Nation's 60,000 millionaires. Further, the bill would cap the corporate deduction for executive compensation at $1 million.

Mr. Speaker, we have hammered out a balanced agreement that provides necessary relief to the middle class and incentives for economic growth, while at the same time contributing significantly to deficit reduction. This conference agreement raises $2 billion in the first year, and $10 billion over a 6-year period.

The President criticizes us for raising taxes, and we do. But let me set the record straight and make it clear that the President proposes to raise significant taxes in his budget. In fact, the tax increases in his 1993 budget would raise over $26 billion in revenues. So, the truth is that both the President's budget and the conference report raise taxes, but the method by which taxes are raised is very different. Ours is fairer.

The President raises revenues by increasing payroll taxes on more than 2 million State and local employees, like firemen, policemen and teachers, and another 2 million Federal workers. The President would also raise taxes on 900 credit unions with about 30 million members. He would also tax thousands of annuitants and further increase the tax burden relating to certain life insurance policies.

The conference report, on the other hand raises taxes only on the very wealthy. I ask the American taxpayer—which manner of raising revenue to promote economic growth is more fair and more appropriate? Of course, it is the conference agreement.

So, let the President explain his veto of tax relief for 78 million middle-class American workers, families, and children. Let the President explain his veto of capital gains tax incentives, something that he's been fighting for, for years. Let the President explain his veto of IRA's. Let the President explain his veto of the millionaire surtax.

Let the President explain his veto of the $1 million cap on the compensation of top corporate executives, and let the President explain his veto of the low-income housing credit, mortgage bonds, the targeted jobs tax credit and the other extenders. By my count, he will alienate about 99 percent of all American taxpayers with that veto pen. The wiser course is to put aside the veto threat and avoid trying to explain the unexplainable.

As I urge my colleagues to vote for this bill, I urge our President to join us in embracing this measure which is so important to the American economy and millions of middle-class Americans across the country.

Stand tall for the middle class, and vote "ayes" on this conference report.

□ 1320

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. McNulty). The gentleman from Illinois must refrain from addressing the President directly and address his remarks to the Chair.

Mr. ARCHER. Mr. Speaker, I yield myself as much time as I may consume.

When President Bush challenged the Congress to pass an economic growth package by today, the Democrat leadership had two alternatives. One was to immediately sit down with the White House and the minority in this Chamber and find areas of common agreement, and there is much of that, in order to get a bill passed that could be signed into law today to help the economy and to help create jobs. The other option available to the Democrat leadership was to design a package which clearly the President could not sign, which would include tax increases, and to do so solely in the hope of gaining political advantage in a Presidential election year. I am sad to say that the Democrat leadership chose the latter alternative.

The President envisioned a program that would create new jobs, preserve existing jobs, and get the economy moving again. What we have before us today is a freight train that is headed nowhere. It is a bill that cannot and will not become law, and everyone in this Chamber, including all of the Democrat leadership, knows that.

As a result, it will not create a single new job or provide any stimulus to the economy whatsoever, and that is the simple truth. This important bill is in that dismal state because the Democrat leadership in Congress never once responded to our continuing effort of cooperation and compromise, never once did they attempt to work with the President on his initiatives to put people back to work.

The sad thing for the American people is that the possibility of compromise clearly existed up until now. This conference report contains six of the growth initiatives in some form which the President challenged us to send to him by today, but you have to dig through massive job-destroying tax increases of $78 billion on families and employers to find those growth initiatives.

The one Presidential initiative left out entirely was, amazingly and unbelievably, the one that would create the most jobs, the $5,000 first-time home buyer credit that the President proposed. What a slap in the face to young American families and their dreams of owning their own homes. What a slap in the face to the real estate industry and home building in particular that Americans were depending upon to help lead the economic recovery, 700,000 potential new jobs prevented. This Democrat compromise is a disaster in that regard.

And what about jobs? The National Federation of Independent Business says this bill is terrible for small business, terrible for small businesses that create the overwhelming majority of new jobs in this country. The small employers in your district want a no vote on this bill.

The Democrat leadership has also now staked the fate of this bill on an ever shrinking middle-income tax relief provision. The maximum benefit of the middle-income credit in this bill for a single person is about 41 cents a day, for a family it would amount to about 82 cents a day, and that minimal amount of so-called relief is not even available to millions of Americans.

Unemployed workers who are paying taxes on their unemployment benefits that are supporting their families will receive no tax relief. Neither will senior citizens living on Social Security benefits which are taxed, and on the earnings from their savings, which are taxed, and who are middle class will receive no tax relief. Tax relief will be denied as well to millions of other middle-income people because of income limitations that the compromise contains.

Finally, Mr. Speaker, by waiving all points of order in the rule it cleared the way for a violation of the one important feature of the Budget Enforcement Act of 1990, the disciplines that prevent increased deficits, because in the second year and third year of this bill there is a $9-billion increase in the fiscal deficits of this country. Oh, yes, the majority will claim that it is picked up in the fourth and fifth year. But we all know that once the year closes, the Congress never goes back and picks up the deficits of previous years.

The Democratic leadership simply could not put aside partisanship and send the President what he asked for or a compromise that would be agreed to by both sides. They were afraid the President might succeed. Rather than put people back to work, the Democrat leaders have tried to invent a bogus political issue for November that attempts to stimulate class warfare through the politics of envy, and that is a terrible mistake because it will not work.

The Democrat leadership is asking its Members to walk the plank one more time for massive tax increases that will not become law to pay for paltry tax reductions that will not become law either. I say to my colleagues on the other side of the aisle, tell your leadership no. Tell them that you want to finally accept the hand of cooperation and compromise to reach a bipartisan bill that can be signed into law.

Defeat this conference report so we can get to work immediately on one that the President can sign.

Mr. SPEAKER, I reserve the balance of my time.

□ 1330

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Mrs. BOXER]

Mrs. BOXER. Mr. Speaker, I want to thank the chairman for yielding me this moment, and I congratulate him on this bill.

This is not about the politics of envy. This is about the politics of fairness. This is a vote for middle-class tax relief. It is a bill for workers with children, children who are our future, who need a hand. This is a bill to help our families send their children to college. This bill will help create housing, education, health care. It helps our senior citizens.

Now, the President asked us to act by today, and we did, not on his proposal. We would be remiss acting on his proposal because his proposal simply is a giveaway to the same people that he has helped for years and years. They are doing just fine. They are doing great.

I think the millionaires in our society can pay a little more so that the rest of Americans can have a fair shake and they can get the American dream.

So I am proud to rise in support of this bill. I urge my colleagues on both sides of the aisle, send it over to the President. Maybe he will have a change of heart and think of the middle-class people and sign it.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. HOAGLAND].

Mr. HOAGLAND. Mr. Speaker, working families in America are hurting today, and we have an opportunity to help them with this legislation. We have unemployment. We have underemployment. We have a declining standard of living in America.

The permanent tax increase for each child in working families will help American families stay together. America's working families are under more pressure today to make ends meet than they have been in decades, and this bill will help.

This bill also helps new small businesses by cutting the capital gains tax in half on investments held for 5 years. We have hundreds of these kinds of businesses in Nebraska. This will make it significantly easier for new startup businesses to raise startup capital.

Mr. Speaker, Ambrose Bierce defines a coward as one who "in perilous emergencies thinks with his legs."

We in this branch of government do not have time for that today. Today we must think with our hearts and our heads.

Mr. Speaker and my colleagues, we must enact this measure today.

Mr. ARCHER. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois [Mr. MICHEL], the distinguished minority leader.

Mr. MICHEL. Mr. Speaker, I thank the distinguished Member from Texas for yielding me this time.

On January 28, the President challenged the Congress to pass a targeted bill to create jobs. He asked the legislation be on his desk by March 20.

Unfortunately, the Democratic leadership has not heeded the President's warnings about tax increases and have come up with a bill they know is going to be vetoed for certain.

It is ironic that this bill should come to the floor the day after Paul Tsongas bowed out of the race for the Democratic Presidential nomination. You know, brother Tsongas was a voice crying out in the economic wilderness of the Democratic Party. He said he would veto this measure if he were President. But Tsongas is now gone. Governor Clinton smiles and embraces the bill. So do the Democratic House leaders.

Even among House Democrats, the support for this strategy, I sense, is eroding. On Wednesday, when there was a motion to instruct conferees on this measure to include "significant middle-class tax relief," the motion was barely agreed to by a vote of just 206 ayes to 200 nays. What a sad commentary on the inexorable decline of a once great party and its view.

I would like simply to repeat what I said when we first debated this bill. People who do not have jobs cannot benefit from middle-income tax cuts. First, they need a job.

So let me ask the majority. Where is the job creation in this conference report? I do not see it.

It does, however, increase the deficit in 1993 and 1994. It offers only $150 to $300 in tax cuts each year to individuals and families, but far more importantly, it imposes a whopping $78 billion tax increase.

Who do we think we are kidding out there, friends.?

You have declared economic warfare on every American family—in the name of "fairness."

The President proposed 7 provisions, which have been discussed at length. Very briefly, they are the $5,000 first-time home buyers credit, an investment tax allowance, a capital gains tax cut, a simplification of the alternative minimum tax. These provisions do create jobs, no question about it.

There is a variation of four of the President's proposals buried in this conference report. But you on the majority do not even include the most popular, and in my opinion, effective job creation tool, the $5,000 tax credit for first-time home buyers. That is the kind of thing that immediately triggers action. When you buy a new home or when you are constructing one, purchasing the bricks, the mortar, and all the things that go into the construction of a house does not take long-term planning.

The reservoir of need is out there. All it needs is a flash, a trigger, to get those who can benefit from that $5,000 tax credit to act.

I cannot believe for the life of me that my friends on the Democratic side, even if they were motivated to do the kind of thing we all would like to see, creating jobs, think there is political mileage in the kind of thing you have brought to the floor of this House.

I tell you, I have a labor-intensive district with 9.6 percent unemployment, and with Caterpillar on strike. When I go out there and talk to my constituents and ask them quite frankly, do you think it is going to do any good to willy-nilly spread around a couple hundred bucks to every family? Is that going to get you back to work?" I get a resounding, "No, not in my area."

I am telling you, Mr. Speaker and friends, I am just surprised that there are those on the Democratic side, good friends of mine, yes, who think there is that kind of political mileage in this conference report.

The President is going to veto it, if it is unfortunately going to be passed later today.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Speaker, no one in this Chamber disagrees that America is in trouble. No one disagrees that we ought to do something to try to improve and stimulate the economy.

The disagreement is in how we do that. President Bush would say to us that there is only one way to do it, and that is to give the wealthy in America another very large tax cut and it will filter down and trickle down and the rest will ultimately be better off.

This bill that is before us today says there is another way, and that is for us to invest in and believe in the middle-income people in this country who have been squeezed like lemons for a decade with shrinking incomes and higher taxes. This invests in those families. It says we will give you a modest tax cut, an IRA investment again. It says yes, we will pay for it with a tax on the upper income folks, a surtax on millionaires that the President does not want, and a slightly higher tax on families earning incomes approaching $200,000 a year for a couple. That is the right thing for us to do.

I know the White House does not like it, but our job is to legislate the right thing.

I wrote a piece of this bill called rural development investment zones, and I have to tell you, you ask where the jobs are. For rural America, it is in that section of the bill, rural development investment zones to bring jobs and opportunity and economic expansion and growth to rural America.

Where I come from, some of our counties have lost 20 and 30 percent of their people in a decade. We need opportunity. This invests in them. This gives them economic opportunity.

This bill is a good bill. It has all the elements of fairness and all the elements to stimulate new economic activity in this country. I hope the President will not reject it simply because it does not match his political philosophy. This is not an issue of political philosophy. This issue is will America grow again. Will we provide new economic opportunity for this country again?

That is the issue, Mr. President. Look at this bill. Read it. Understand it. Then sign it for the country's sake.

The SPEAKER pro tempore (Mr. McNULTY). Members are reminded to address their remarks to the Chair.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. America, this is what the Democrats want to give you in return for a $78 billion tax increase. Now, I am wrong. This candy bar cost 50 cents, and they want to give you a 41-cent-a-day tax credit. Forty-one cents, you cannot even buy a candy bar with it, and that is going to stimulate economic growth? And in exchange they are going to raise your taxes $78 billion.

Two years ago, they said they were going to get control of the deficit by raising your taxes. They raised taxes by $181 billion 2 years ago. The deficit was supposed to go down. It is the largest in U.S. history. Why? Because when you raise taxes, you hurt the economy. You take away jobs and you create a recession, and that is what has happened.

So what are they going to do to solve the recession? They are going to give you a candy bar, less than a candy bar, in exchange for another tax increase of $78 billion.

□ 1340

Now, let me tell you something: The people in this country who create jobs are in the free enterprise sector, the private sector, they are small businessmen and small businesswomen who provide jobs and create jobs for the unemployed.

Let me tell you what this bill does: 90 percent of all U.S. businesses will have their taxes increased under this bill, 90 percent; 14.3 million sole proprietorships will have their taxes increased and 18.4 million partnerships, small business people. They provide jobs, and you are going to increase their taxes, which means that they are going to have to cut back on their overhead. And when they cut back their overhead, what are they going to do? They are going to start laying people off and you are going to exacerbate the recession.

What are they doing? Raising your taxes again. Tax and tax, and spend and spend, that is the philosophy of that party. They have been doing it forever. What happened? The deficit went up to $400 billion, and it is going up and you are raising the taxes again. What are the American people going to get for it? Less than a Hershey bar.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, hidden in this bill before us, the Democrat conference tax increase bill, is an interesting result. By the estimates of the Congressional Budget Office, which is the official scoring entity for the Congress, they tell us this morning that, if this bill passes, in 1992–93 there will be a sequester of Medicare funds of $329 million. But more importantly, in the year 1994 there will be a sequester of $5.2 billion out of Medicare. That will severely cut back medical benefits to the elderly of this country. Under the budget, there is no alternative. That would be the effect.

So, for those who are fiscally responsible on the Democratic side, I say to you that fiscal responsibility is still in the law. But the conference agreement eliminates the waiver of the Budget Act which was in the House bill. When you did that, you most surely turned the dogs loose on cutting vital medical services to the elderly in this country, both in 1992–93 and in 1994.

Thank goodness, Mr. Speaker, this bill will never become law.

Mr. Speaker, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I rise today in support of H.R. 4210, the Middle Income Tax Relief and Economic Growth Incentives Act of 1992. Title V of this bill the taxpayer bill of rights 2, is a most important provision which will be of genuine assistance to average taxpayer. It will help those taxpayers who are honestly trying to comply with the tax law, but who somehow slip through the cracks of the tax system.

The very first provision of this taxpayer bill of rights establishes a new position of Taxpayers' Advocate within the IRS. This Advocate is to be nominated by the President, confirmed by the Senate. But, most importantly the Advocate is required to report to the Congress, so that we who are held accountable for their actions might know what is going on at the IRS. He is required to make reports directly to the Congress so that his voice on behalf of the everyday working American taxpayer will never be swallowed up in the halls of the IRS bureaucracy.

Mr. Speaker, in addition to creating the position of Taxpayer Advocate, this bill, by combining the strongest protaxpayer provisions of the House and Senate bills makes changes in over 40 different areas of tax administration. As my time is short, I will share with the Members just some of the most important of these new taxpayer safeguards. The bill before the House today:

First, establishes a Taxpayers' Advocate, nominated by the President, confirmed by the Senate, and reporting directly to the Congress, with expanded authority to issue taxpayer assistance orders to force the IRS to act on behalf of taxpayers;

Second, allows the Federal courts to hold IRS employees personally liable if the court finds that the proceeding against a taxpayer resulted from any arbitrary, capricious or malicious act of the IRS employee. It further allows a taxpayer to sue the Government for up to $1 million for damages resulting from an IRS employee's reckless or intentional disregard of the tax laws or regulations;

Third, provides taxpayers relief in cases involving temporary and proposed regulations, by limiting the circumstances under which these regulations are given retroactive effective dates;

Fourth, requires that if a taxpayer asserts a reasonable dispute about the accuracy of an information return, the IRS must take reasonable steps to determine the validity of these returns, and present reasonable evidence supporting any tax deficiency based on the information return. This provision helps taxpayers in cases similar to the situation addressed by the Federal court in the Portillo decision;

Fifth, provides additional notice and protection for taxpayers who are determined to be responsible officers in Federal tax deposit situations;

Sixth, improves installment agreements by requiring prior notice of their cancellation, allowing for administrative appeals, and suspending certain penalties while they are in effect;

Seventh, expands the authority of the IRS to abate interest payments and gives taxpayers 45 days after receiving a notice of additional tax due to pay the tax without further interest;

Eighth, improves the procedures concerning liens, levies, and offers in compromise;

Ninth, requires the inclusion of the payer's telephone number on information returns, and gives the taxpayer a civil cause of action if an information return is fraudulently filed;

Tenth, requires the IRS to improve its forms and notices concerning changes of address, divorce, and the payment of employee withholding and payroll taxes;

Eleventh, requires the IRS to study and report on better ways to serve taxpayers with special needs, the taxpayer rights education program, and the misconduct of IRS employees, and also requires the IRS to conduct a pilot program for taxpayer appeals of collection and enforcement actions; and

Twelfth, requires the GAO to study and report on the accuracy of IRS forms and notices, and the operations of the IRS employee suggestions programs.

Mr. Speaker, I support H.R. 4210, and I think this taxpayer bill of rights is one of the most important aspects of this bill. At a time when partisan passions are running high, this taxpayer bill of rights is the result of true bipartisan work. I know that this is not the cure for all taxpayer problems, and our efforts to protect the legitimate interests of taxpayers are by no means over. But, this is a good, responsible package and I strongly urge that it be favorably acted upon today.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from California. [Mr. MATSUI].

Mr. MATSUI. I thank the chairman for yielding this time to me.

Mr. Speaker, I would like to not talk so much about the middle-class provisions but the provisions pertaining to the extenders. I have to address the other side of the aisle on this issue.

As many of you know, we have on June 30 of this year the expiration of R&D, credit for research, and development credits, mortgage revenue bonds, low-income housing and a number of other provisions. I am afraid that if this bill is vetoed by this President, we are not going to see those provisions come back before the expiration date. And for low-income housing, mortgage revenue bonds and many others, it is going to cause a catastrophic situation for these businesses.

Mr. Speaker, I just hate to say that if anybody votes against this bill, they are going to have to say to these groups, to explain why the provisions have not been extended. I can just tell you the housing market will suffer, the economy will suffer if these provisions are not extended. They will not be extended if the President vetoes this bill tonight.

Mr. ARCHER, Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. DELAY].

Mr. DELAY I thank the gentleman for yielding this time to me, and I rise in opposition to this bill.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Wyoming [Mr. THOMAS].

Mr. THOMAS of Wyoming. I thank the gentleman from Texas, the ranking member of this committee, for yielding this time to me.

Mr. Speaker, this debate has gone on now for a very long time—it started in October when Republicans brought to this floor a jobs package—a series of proposals to provide incentives to create jobs. That early debate clearly created the public demand for Congress and the President to move forward to stimulate the economy.

Then the President succinctly laid out his plan in his State of the Union Message—by the way I congratulate the committee on meeting the deadline—unfortunately, they are meeting with the wrong proposals.

You know the issue is complex as tax issues are—but this vote is really quite simple.

If you want to redistribute income, gather votes by spreading small tax breaks which do not deal with incentives for jobs, then this is your bill, vote "yes."

If you want to create incentives for jobs and stimulate investment in job-creating areas, then this is the bill that you should vote and vote "no." Vote "yes" for doing something that could be a follow-up to this that would create jobs.

I was impressed with former Democratic Presidential candidate Tsongas' observation that the Democrats in the bill are more interested in distributing the golden eggs, than they are in encouraging the goose.

We need job incentives—not higher taxes.

I urge a "no" vote.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. I thank the gentleman from Texas for yielding this time to me.

Mr. Speaker, it is difficult to find exactly what is in this bill. It turns out that one provision in there evidently is one of some serious concern by at least several Members of the Congress.

It is a provision that has to deal with airline pilot pensions, and it was so serious that 47 Democrats wrote the Speaker just the other day and they said this about this particular provision:

> Mr. Speaker, we urge you to work to delete this provision from the House-passed tax legislation. Without the deletion of this blatant anti-union measure, we will be unable to support final passage of the conference report.

Mr. Speaker, that is a letter that was signed by CLAY, MINETA, VISCLOSKY, ACKERMAN, LANTOS, KOLTER, GAYDOS, LAROCCO, SLAUGHTER, OWENS, RAHALL, PELOSI, PERKINS, PASTOR, BUSTAMANTE, COSTELLO, WASHINGTON, KOPETSKI, DEFAZIO, WEISS, HERTEL, MCCLOSKEY, OBERSTAR, JONTZ, BRYANT, BILBRAY, BORSKI, KILDEE, ANDERSON, EVANS, HORN, DOOLEY, HAYES, JOHNSON, LOWEY, MURPHY, NOWAK, NAGLE, KOSTMAYER, COLLINS, JONES, DURBIN, BROWN, ABERCROMBIE, and ENGEL.

□ 1350

Mr. Speaker, it says very flatly what they would do. They say we would be unable to support final passage of the conference report.

I have checked the conference report. The provision is in there. I say to my colleagues, "Folks, you have a dilemma."

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, I rise today in strong support of the conference report.

If you support a capital gains reduction but do not want to give a huge tax break at a time of recession, you should support the conference report. While the President's capital gains proposal would have given 80 percent of the relief to taxpayers with incomes in excess of $100,000, the conference report has given 60 percent of the relief to taxpayers with incomes of less than $100,000.

If you support middle-income tax relief or a child's credit, you should support the conference report. The conference report provides for a 2-year refundable wage credit of up to $300 for couples and $150 for singles. In addition, in year 3 a permanent children's credit of $300 per child up to age 16.

If you are one of the 265 Members who have cosponsored the Pickle IRA expansion bill, you should support the conference report.

If you support economic growth, you should support the conference report. The conference report includes a number of growth items contained in the President's challenge: penalty-free IRA withdrawals for home ownership; capital gains and passive loss changes; allowing pension funds to invest in real estate; repealing the AMT preference for gifts of appreciated property; increased expensing for small business; and an ACE adjustment in the corporate alternative minimum tax.

If you support the extenders—mortgage revenue bonds, small-issue IDB's, R&D, educational assistance, group legal services, TJTC, health insurance deduction for the self-employed, you should support the conference report. The low-income housing tax credit would be permanently extended while all of the others would be extended for 1 year.

Mr. Speaker, this is an excellent conference report which is progressive and paid for. It strikes a good balance between middle-income tax relief and economic growth. I would strongly urge my colleagues to support it.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Speaker, I note that in extending the research credit, H.R. 4210 clarifies that the targeting modifications to the research credit enacted in 1986—for example, the process of experimentation requirement—do not determine the eligibility of product development costs under Code section 174. In my view this restatement of congressional intent as to the definition of research or experimental expenditures for purposes of Code section 174 appropriate in this legislation. The development of new or improved products in industries such as the automobile industry that results from research or experimental expenditures is extremely important to the United States today.

Uncertainty regarding the appropriate scope of Code section 174 might allow interpretations that restrict taxpayer deductions for research in contravention of congressional intent. I want to thank the chairman for including this clarification in the statement of managers, and I might suggest that this may be an appropriate subject for future hearings.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. COX.]

Mr. COX of California. Mr. Speaker, when I first came to Washington, Federal spending annually had not yet reached $1 trillion. Now, just a few years later, I do not have a gray hair yet, but the Federal Government, according to this Congress, is going to spend over $1.5 trillion. That creates an enormous appetite for new taxes, and so the Democratic Congress is here today to raise the taxes on the American people, and they call it an economic growth package. Well, they do.

The President asked for an economic growth package. The Democratic Congress is giving him a tax growth package. The President asked for action on his economic growth package in January, and the people who run this Congress have waited until the very last day to bring a bill to the floor.

Mr. Speaker, let me show my colleagues what this bill is. This is it, all of these pages, not yet even numbered, and no one who has spoken on this bill has read it. Not a single person has read what is in this enormous monstrosity.

Mr. Speaker, I used to teach Federal income tax at Harvard. I would have liked to have read the bill. No opportunity.

I do know this bill is going to raise taxes on 1 million Americans. Tax fairness means an income tax code that the American people can understand. This is complication to the max. The people who did this should be embarrassed and ashamed. They have not read it. No one here has had the opportunity to do so.

The American people have seen the way that this Congress has overdrawn the House bank. They are not ready to let this Congress do the same thing to their bank.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Speaker, I thank the gentleman from Illinois [Mr. ROSTENKOWSKI] for yielding this time to me.

Just two points, my fellow colleagues. We have heard the President and speaker after speaker, including the last one, call this a tax increase. He just said it was a tax increase for over one million people. Well, it is a tax decrease for 78 million families. And when someone stands up and says this is a tax increase bill, they apparently are only considering 1 million people and ignoring the other 78 million families.

I ask, "Why don't you call it a tax increase for this tiny number of people and a tax decrease for this enormous number of people?" At least be honest about it. You are trying to sell this bill as a tax increase, and it is not. Moreover, this bill is fiscally responsible, which is more than they can say for the President's bill, which is a sham with smoke and mirrors and huge deficit increases. It is probably the most irresponsible piece of tax legislation sent to this floor.

For those who complain that we are pandering to the middle class, yes, if you call extending tax cuts to the middle class pandering. The middle took a real beating in the last decade. I do not think we should make any apologies for helping the middle-income folks in this country. They are the ones who need it the most. The President did not put anything behind his middle-class tax rhetoric. His proposal that came to the floor did not even include that, and Mr. Buchanan showed what hypocrisy this involved.

So, Mr. Speaker, I say we should pass this bill. It is a tax cut for 78 million American families.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Speaker, today is a sad day for our country. While Congress contends that it is meeting President Bush's deadline for enactment of an economic growth program, nothing could be further from the truth. This legislation is not the economic stimulus plan the President asked us to adopt by March 20. Instead it is yet another tax increase disguised as fairness.

According to the National Federation of Independent Business, it will destroy jobs by raising taxes on 90 percent of all small businesses. Since small business creates 80 percent of all new jobs, this legislation will actually cause economic contraction, not growth.

Mr. Speaker, we could afford genuine tax relief for every American if the Congress had not added $1.83 in new spending for every $1 in new taxes it enacted in 1990. Now we are seeking to repair some of the damage done then by repealing selective punitive taxes. Unfortunately this package relies upon the same formula by merely hiking other taxes to pay for the benefit it provides.

Mr. Speaker, this bill does nothing to shrink the size and cost of Government, which is the single largest drag upon our economy. It fails to reduce our $400 billion Federal deficit despite the fact that the President in his package offered concrete proposals to cut wasteful spending.

Mr. Speaker, the President and the American people expect and deserve leadership from the Congress, and the Congress is providing nothing but partisanship. Tragically it is the unemployed who will pay the price of this latest example of congressional irresponsibility.

Mr. ARCHER. Mr. Speaker, I reserve the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. DOWNEY].

Mr. DOWNEY. Mr. Speaker, the conventional wisdom is that, when this bill passes the House and is sent over to the Senate, where it will pass, that the President will get it, and he will veto it. I do not believe in conventional wisdom. I believe that maybe Pat Buchanan will grant President Bush a last-minute reprieve from his partisan political posturing and President Bush will sign this bill.

"Nah."

He is likely to follow the Republican script of the last 12 years which basically laid out the plan to raise the taxes, say he is against tax increases for everybody, but just make sure the rich do not get taxed and raise everybody else's taxes. That is what happened for 12 years.

What we want to do here is very simple. We want to lower the taxes on middle-income people and visit a tax increase on all those folks who for the last 12 years have gotten a completely free ride.

This tax bill, my colleagues, is good for working families with kids, it is good for kids who want to go to college, it is good for people who want to afford houses. It is good for America. Please vote for it.

□ 1400

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. RIGGS].

Mr. RIGGS. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, this is truly an unfortunate exercise because the fate of the bill, as I think we all know, is preordained. There will be a certain Presidential veto.

It is equally unfortunate because it revisits the politics of envy and resentment, and it will increase the polarization in this body and further erode public confidence in this institution through the widespread impression that we are incapable of setting aside election-year politics to deal with the real issues confronting the American people.

The purpose of this legislation exercise was to craft legislation which would jump start the economy and move us out of the recession. However, early on in this process the Democrat Party abandoned any pretense of economic growth when the Speaker said on February 21 that the Democratic alternative was an effort at tax fairness and economic equity.

Our mission in this exercise is to create jobs, not new taxes, and only the President's bill does that job by stimulating investment through capital gains reductions, encouraging construction through tax credits to first-time home buyers, and repealing stifling taxes on planes, boats, and other items that actually cost more in jobs than they earn in revenues for the Federal Government.

This legislation, Mr. Speaker, will probably pass this House today, although I would dare say by a very narrow margin, and the Democrat Party will get what they want, a certain Presidential veto on a charged issue during the midst of an election year. But I say there is a better way. Let us stop playing these partisan games and enact an economic growth bill that will get this country moving again.

The SPEAKER pro tempore (Mr. MCNULTY). The gentleman from Texas [Mr. ARCHER] has 5 minutes remaining, and the gentleman from Illinois [Mr. ROSTENKOWSKI] has 7 minutes remaining.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 30 seconds to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank the gentleman for yielding me the time, and I rise in support of the bill.

Obviously within 30 seconds I cannot speak to many provisions of the bill, but I would salute the gentleman from Illinois for having brought back to this House a bill which improves very much Individual Retirement Accounts. Not only do the bill continue to waive the penalties for using the IRA for tuition and medical care, but the gentleman has also made IRA's universally deductible up to a $2,000 contribution. It also establishes Special IRA's which call for after-tax contributions but allow the inside buildup to be tax free if held for 5 years.

Mr. Speaker, for the foregoing and for these following reasons H.R. 4210, the Tax Fairness and Economic Incentive Act, is a very supportable bill:

First, the conference report restores universal deductibility to individual retirement accounts [IRS's] up to $2,000 a year. Individuals can withdraw up to $10,000 from their IRA's for a first-time home purchase without penalty. The conference report also allows for a penalty-free withdrawal for educational and medical expenses. The conference report creates a special IRA whereby individuals are not taxes on earnings if the IRA is not used for 5 years. During my town hall meetings over the past years, the idea of restoring and expanding IRA's always received strong support. I am certainly pleased the conference report contains these IRA provisions.

Second, the conference report keeps the House-passed provision for providing 10 urban and 25 rural enterprise ones. The conference report provides three tax incentives for investment and employment in the 35 enterprise zones.

Third, the conference report creates a progressive capital gains tax rate system tied to the income tax rate. I believe this provision is a positive and fair growth incentive which our economy desperately needs.

Fourth, the conference report provides balanced passive-loss relief for persons actively engaged in the business of real estate development.

Fifth, the conference report permanently extends the low-income housing tax credit. The low-income housing tax credit has been a major success in my community of Louisville and Jefferson County. The conference report extends for 12 months—through June 30, 1993—the following tax credits which I wish had been made permanent: the research and experimentation tax credit; the mortgage revenue bond tax credit; the targeted jobs tax credit; the educational assistance tax credit; the health insurance tax credit for the self-employed; and, the orphan drug tax credit.

Last, Mr. Speaker, I supported the President's proposal for a $5,000 tax credit for first-time home buyers. The provision was included the Senate bill, however, it was dropped in conference. But, the conference report does contain the following provisions which will encourage home ownership: extends permanently the low-income housing tax credit; allows for the early, penalty-free withdrawal from IRA's of up to $10,000 for first-time home buyers; enhances the provision for a one-time $125,000 exclusion of gain on the sale of a principal residence; reduces the capital gains tax rate on the sale of a home which is linked to a taxpayer's ordinary tax rate and, extends for 12 months the mortgage revenue bond tax credit;

Mr. Speaker, this is not a perfect tax bill nor the perfect cure for our nation's economic ills. However, it does promote tax fairness and economic growth, and I support it.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 30 seconds to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, the question is, do we continue Reaganomics, giving an additional advantage to the rich and adding to our sky-rocketing deficits? This country cannot take four more years of what Republican Presidents have given us. It is time to come home to economic discipline and fairness.

The Democratically controlled House is meeting its responsibility by sending the President our recommendation for middle income tax relief and economic growth incentives.

Is a veto a threat? Let the President veto. Nothing will so clearly distinguish President Bush from the Democrats. Let him veto middle class tax benefits paid for by the wealthy. Let him veto progressive capital gains tax provisions. Let him veto a capital gains cut for small companies.

Mr. Speaker, I support the conference report.

Mr. Speaker, the bill before us moves us toward some of the major changes I believe we must make to get this Nation back on the right track.

First, it would help jump start the economy. Although I believe putting the unemployed back to work through job programs like the old CCC is the best way to boost the stalled economy, targeting tax cuts to the middle class and small business moves us in the right direction.

Second, it would spur investment. Innovation and business growth, with small business in the forefront, is the engine that drives our economy. This bill includes a wide range of incentives to promote research, venture capital, investment in new equipment, and tax relief for small business. The progressive, long-term nature of the capital gains tax reductions help make this feature fairer to the middle class.

Third, it would encourage long-term investment in our human resources. The conference report has several provisions that make education, medical care, and home ownership more affordable.

Fourth, it would help reverse the unfairness of Reaganomics. Under Reaganomics the rich got richer, the poor got poorer, and the middle-class shrank. The national debt also quadrupled to nearly $4 trillion. This measure helps to reverse this trend, by bringing greater fairness to the Tax Code, and by reducing, not raising, the deficit. I am also pleased that the middle-class tax cut provisions target families with children, and makes permanent the $300 per child tax credit for low- and middle-income families.

This measure is a compromise that moves toward economic growth, fiscal responsibility, and tax fairness. I urge its adoption.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 30 seconds to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Speaker, the people of Connecticut have been struggling under the burden of a prolonged, 3-year recession. They are losing their jobs and for many their homes are at risk.

Yet the President remains indifferent to the calls for help from America's working middle-class families. In 12 long years his policies have done little for those who have worked hard and played by the rules.

Mr. Speaker, today we have a serious bill on the floor, one that responds to the needs of the American people, repairs the inequities of the past decade, and confronts the economic challenges we face.

It provides tax relief, incentives for investment, and holds the promise of new jobs.

It gives middle-income families a much-deserved tax break, and asks the rich to pay their fair share.

It provides 60 percent of its benefits to those making less than $100,000.

While the President's bill would give 80 percent of its benefits to those making more than $100,000.

It is easy to see which approach meets the needs of working Americans. I call on my colleagues today to listen to the American people and pass this bill. And I ask the President to take a moment, stop playing politics, do what is right, and sign this bill into law.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Oregon [Mr. AUCOIN].

Mr. AUCOIN. Mr. Speaker, I fought to get a first-time home buyer tax credit in this bill, and I have to say that I am angry it has not been included in this bill. I could vote against the bill because of that, but I am not going to do that. I am going to vote for the bill because of what is in the bill, I'm voting for the bill because there are a number of provisions that give working families a fair deal. For the first time since the beginning of the 1980's, for the first time since Ronald Reagan threw that great economic party for the super rich of this country, middle-class families get a break.

This bill will give working families a $300 tax credit. That may not sound like much to the House Republican leader, but I want to tell the Members that in Oregon it can mean a month's rent—not a candy bar, as the gentleman from Indiana said, but a month's rent.

That will mean real help for America's working families.

And there are IRA's that can be used to buy a first home, and for education and medical expenses. The IRA's can also help unemployed workers pay the bills. In Oregon, where more than 125,000 people are out of work, this legislation will also let them use their savings to learn new skills.

These important measures don't add a penny to the deficit. They're paid for by making the rich—the millionaires who made out like gangbusters in the 1980's while the middle class paid the bill. This bill limits tax breaks for corporations who pay executives $1 million salaries and their country club dues—while laying off workers and shipping jobs overseas.

Mr. Speaker, this is a bill that deserves our support. I think the President is out of touch with working Americans by threatening to veto it, and so are his allies today. I urge the passage of this bill.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from West Virginia [Mr. RAHALL].

Mr. RAHALL. Mr. Speaker, I thank the distinguished chairman of the committee for yielding time to me, and I rise in support of this bill. I rise on behalf of the 120,000 retired coal miners in this country.

Mr. Speaker, we have heard a great deal of debate on the pending measure on items of great import to the working men and women of this country.

I rise today on behalf of a class of citizens who once worked.

Who labored in one of the most dangerous occupations there is.

And who now, in retirement, face betrayal by their former employers and possibly by the Federal Government if this legislation is not passed.

In the near future, more than 120,000 retired coal miners, their families, and their widows will lose their health insurance if we do not take action to return the UMWA health funds to solvency.

At this time, the UMWA health funds are in deficit, threatening the continuity of benefits to both existing and future retirees.

The growing deficit in the UMWA health funds is primarily due to thousands of beneficiaries whose last employers are no longer operating, or who are no longer signatories to the current national bituminous coal wage agreement.

As such, 75 percent of the retirees served by the health funds never worked for, or had any connection with, a currently contributing company.

I would submit that this is an unjust situation.

Let me remind my colleagues that there is a Federal responsibility to these funds, dating back to 1946, under an agreement between then-UMW President John L. Lewis and the Federal Government to resolve a long-running labor dispute.

At the time, President Truman had ordered the Interior Secretary to take possession of all bituminous coal mines in the country in an effort to break a United Mine Workers of America strike.

Eventually, Lewis and Secretary Julius Krug reached an agreement that included an industrywide, miner-controlled health plan.

The pending legislation affords us with a unique opportunity to address this matter by providing for an industrywide tax to be dedicated to the health care of retired coal miners.

And if there is anybody here who would question this proposal, I would ask that you come with me, travel through the hills and hollows of Appalachia, and see, first-hand, the pain and suffering on the faces of these retired coal miners.

These are not people who are looking for a handout.

These are people who daily descended underground, who labored in darkness, who gave their sweat and their blood to produce the coal that made the industrialization of this Nation possible.

These are people who were promised compensation by their companies and their Government.

Let us not forsake them today.

There are good reasons for supporting this bill, and there are some reasons in my mind why I should not support it. In my judgment the good outweighs the bad, and so I will vote for the conference agreement today.

The provisions have been weighed according to their importance to a people burdened for so long by a recession denied by the administration. The 2-year tax credit of $150 and $300 respectively for single and joint filers, as little as it may put into the pockets of middle-income America, is looked upon with favor by many of my constituents. In fairness, I must say that other of my constituents look upon it as too little, too late, and they reject it out of hand.

But the additional permanent tax credit of $300 per child under the age of 16 for people with low incomes, beginning in fiscal year 1994, is a decent response to the cry for tax fairness for middle America—and it has my wholehearted support.

The new IRA provisions, waiving the penalty for first-time homebuyers, for education and medical expenses, and for those who have been unemployed for 12 weeks or more, is also a decent thing to do for Americans. Needless to say, the additional full deductibility for $2,000 in contributions to IRA's per year and the creation of special IRA's in which contributions would be taxed, but interest on the account would be tax free, is a desirable provision on the part of many of my constituents, and so I welcome it.

The tax credits for student loan interest, and the expansion of the exclusion for education savings bonds will assist many a financially strapped student borrower, and may even help reduce the default rate among student borrowers.

The conference agreement also repeals the onerous luxury taxes imposed in 1990—which I voted against at the time—and it extends for 1 year certain expiring tax credits. The temporary extensions are for targeted jobs, R&E, employer-provided educational assistance, mortgage revenue bonds, and small issue bonds. It makes permanent the tax credit for low-income housing—something I had hoped would be done for all expiring tax credits—but the permanent status of the housing credit for low-income housing is an excellent move.

The investment tax credit in the agreement will permit 10-percent extra depreciation allowance over a 2-year period, and the expensing, or writeoff, of equipment for small businesses are provisions I can support, but given a choice would have done differently. I am anxious to see the outcome of these provisions, their impact on small businesses, and particularly their impact, if any, on expanding small businesses and their ability to hire new workers.

The passive loss rules for real estate entities have been modified—a provision that I wholeheartedly supported in the name of economic recovery.

Finally, Mr. Speaker, the bill allows deductions of fair market value, not the original cost for charitable gifts of appreciated property under the alternative minimum tax, and that is a good thing. Regrettably, the conference agreement permits this for a period of only 1 year, and that is disturbing, for I believe it should be made permanent.

I wish to go on record as being disappointed that the House bill did not contain the $5,000 tax credit for first-time home buyers—and further express my disappointment that the Senate provision doing so did not survive conference.

I am unsure about the capital gains tax reduction provisions being called economic growth incentives. Only time will tell, and I intend to monitor this situation carefully—just to determine where, in fact, capital gains tax reductions result in bigger investments in our own economy, or if, in fact, it is the revenue loser it is said to be by some budget experts and well-known economists.

Mr. Speaker, I wish the President had not issued his March 20 deadline—for ultimatums seldom allow adequate time for deliberations of quality on subjects as important as economic growth—putting America back to work. More than that, I wish the Congress had not tried so hard to meet that arbitrary deadline. Putting America back to work is far too important an issue for us to doom to failure just in order to respond to political rhetoric and threats.

I hope the President will look at this bill, and regardless of the taxes it imposes on the richest 1 percent of American earners—a tax to be used to pay for decent breaks for middle America—will not veto the bill, but meet us half way and approve the bill.

The President's own bill was rejected by his own party. That says a lot—it speaks eloquently and in volumes, politically. I call upon President Bush to regard this conference agreement as meeting him halfway, and urge him to sign it into law.

But if the President does veto H.R. 4210, and if we fail to have the courage of our convictions enough to override it—let us put our efforts and our energies not into temporary tax relief of less than a dollar a day for middle America—but into public works infrastructure projects that will create instant jobs and put the unemployed middle American back to work. It will provide the dignity of a paycheck, and increased tax revenues for the Treasury, while at the same time supporting families and making them whole again. And after doing all that, we will find that we have rebuilt America.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I rise in support of the bill.

Mr. Speaker, I rise in support of the legislation and would like to point out to Members three excellent provisions in the bill.

First, the bill includes a research and development tax credit for a wide range of U.S. industries, from automotive to computers to electronics. The bill provides a 20-percent tax credit for increases in R&D spending over what business otherwise would spend. I must express some disappointment that the provision is effective for only 1 year, and urge that it be made permanent in the future. The R&D tax credit is an indispensable weapon in our fight to become more competitive and create high-paying jobs for Americans.

Second, the bill restores full deductibility for individual retirement accounts [IRA's]. There were 265 Members who joined in cosponsoring the Pickle-Thomas IRA bill, upon which the provision is based. This provision will encourage new savings, while allowing penalty-free withdrawals for home purchases, college expense, and certain health care expenses.

Finally, the bill provides some relief on the passive loss rules for real estate investors. Real estate professionals whose main business is real estate will be able to deduct losses from real estate against other income. This provision gives real estate professionals the same tax treatment as professionals in other businesses. It is also important to recognize that the provision does not encourage tax shelters and the type of overbuilding which could lead to another boom and bust cycle in the real estate market.

Mr. Speaker, no one should pretend that this bill will cure everything which ails our economy. But it does provide solid incentives for investment which will fundamentally strengthen our economy, while also improving the fairness of the Tax Code.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 30 seconds to the gentleman from Massachusetts [Mr. NEAL].

Mr. NEAL of Massachusetts. Mr. Speaker, today I rise in support of the conference agreement on H.R. 4210, middle-income tax relief and economic growth incentives for one main reason—the provision on IRA's.

Over a year ago, I introduced the Individual Options Improvement Act of 1991. This legislation would increase the deductibility of contributions made to individual retirement accounts. In addition, this bill provided for distributions from individual retirement accounts to be used without penalty to purchase a first home, to pay for higher educational expenses, or to pay for certain catastrophic illnesses.

I am pleased the conference report agreement before us includes similar provisions to the proposal I introduced on IRA's. During the 102d Congress, individual retirement accounts have been an extremely popular topic for legislation. Over 20 bills in the House have addressed IRA's and over 300 Members of this body have cosponsored some form of legislation that addresses IRA's. And many of us have heard from our constituents requesting us to support various bills that deal with IRA's. Today, we will be able to tell our constituents that we hear clearly their message. And we are responding by returning a proven tool of savings to the American people.

I strongly believe to turn the economy around, we need to boost our family savings rate and the IRA proposal of this conference agreement takes action that is headed in the right direction. Chairman Alan Greenspan of the Federal Reserve has stated that the lack of savings in this country is our major long-term economic problem.

By restoring and creating new tax benefits for IRA's, we will give people an incentive to continue or to start saving. Removing the tax penalty for first-time purchase of home, certain medical or college expenses, or an individual who has been unemployed for more than 12 weeks represent four valid reasons for removing the penalty. The removal of this penalty will not discourage long-term savings. In fact, it makes IRA's a more attractive investment for the young people of our work place.

In addition, Mr. Speaker, the fact that public employees will qualify for the middle-class tax credit in the conference agreement is of considerable importance to me. This is an important issue for my State, Massachusetts, and I appreciate the manner in which Chairman ROSTENKOWSKI resolved the issue.

I am also pleased that the conference agreement has included a tax credit for student loan interest. This will certainly help the thousands of middle-income families who in the last decade have seen costs of public and private college costs rise two to three times faster than the growth in median family income.

Mr. ARCHER. Mr. Speaker, I yield 30 seconds to the gentleman from Pennsylvania [Mr. SCHULZE], a respected member of the Committee on Ways and Means.

Mr. SCHULZE. Mr. Speaker, I rise in opposition to the conference report on H.R. 4210, what I choose to call the tax redistribution and job elimination act of 1992.

Not only does this measure continue the legacy of the Democrat tax-and-spend philosophy, but if examined closely, it truly reveals the difference between Republicans and Democrats.

Yes, Mr. Speaker, we Republicans stand for hard work, for the average America, for sound fiscal policy, and for a government that works for the people and for American business. Your tax bill, Mr. Speaker, is a clear indication of what your party stands for. I am sure that the President will take appropriate action and veto it.

Mr. Speaker, you Democrats want to increase taxes, to continue the largest congressional spending spree in history, and to initiate class warfare in America. What you really covet most is not jobs for the jobless, homes for the homeless, or fairness for the middle class. No, you and your leadership covet the White House above all of our domestic needs.

One section of your bill clearly demonstrates the difference between Republicans and Democrats—a section on taxpayer rights.

In bipartisan fashion, the Ways and Means Oversight Subcommittee developed a new taxpayer bill of rights. We obtained the cosponsorship of our entire subcommittee, Democrats and Republicans. But when the backroom smoke cleared form the Democrat Caucus, in the dark of the night behind closed doors, provisions sought by Republicans were dropped from the bill.

Let me briefly describe a few Republican ideas that didn't appeal to the Democrats. Our ideas were discarded in late night dealing.

A provision I included in the taxpayer bill of rights would ensure that taxpayers who are owed money by the IRS would receive interest on that balance equal to what they would pay the IRS if they owed the IRS. In 1986, my Democrat colleague, Mr. DORGAN, thought the IRS should get 1 percent more in interest than ordinary taxpayers. Let em ask my colleagues on the other side of the aisle, is this fairness? Is it fair that the American taxpayer pays interest to the IRS at 9 percent but is only paid 8 percent if the IRS owes him money? No, it is not fair.

Another provision was dropped that would allow taxpayers who prevail in court over the IRS to recover attorneys' fees from the IRS unless the Government could show it was substantially justified in bringing its case. I suppose my Democrat colleagues think taxpayers should never be awarded attorneys' fees when the IRS goes on fishing expedition or takes unwarranted enforcement action.

And what about a taxpayer who cannot afford an attorney? Can he be compensated for his own counsel to offset his income loss due to time away from work. You Democrats excluded the working man from compensation in your bill to keep fat-cat tax attorney's happy.

A provision we Republicans put in to ensure protection for taxpayers who act in good faith on complex and confusing tax law was dropped. We think that taxpayers who act in good faith based on initial guidance from the IRS on complex tax regulations should be protected.

You Democrats think the IRS should be able to sucker taxpayers into making tax decisions based on IRS guidance and then have the rug pulled out from under them with new IRS interpretations. We stand for the principle that a man's word is his bond. You Democrats stand for the principle that whatever is convenient at the moment is the best recourse.

A fifth taxpayer protection provision was rescued by Senator PRYOR. If not for his intervention, a House provision would have gutted protections for American taxpayers.

Let me tell you a story about section 5153 of the House bill.

A hard-working Texas house painter, Ramon Portillo, took on the IRS when they were blatantly wrong. Based on an unverified third-party report, the IRS said Portillo earned far more money than he claimed. IRS did nothing to verify the third party's report.

The case went to tax court, where the IRS initially won because their determinations are presumed correct, unless the taxpayer can prove his innocence. How can someone prove a negative fact, that they never received additional inocme?

Finally, Ramon Portillo won the day in the U.S. court of appeals where the court found tha the IRS should verify its information before taking harsh action against taxpayers.

The commissioner of the IRS testified before the Ways and Means Oversight Subcommittee in favor of the appeals court decision requiring the IRS to verify third-party reports. Despite the fact that our subcommittee, on a bipartisan basis, codified the Portillo case, you Democrats, behind closed doors, added one sentence.

The change was made behind closed doors in secret sessions. You chose to ignore the appeals court, to ignore the plight of Ramon Portillo, and to perpetrate a fraud on every American taxpayer. You added a sentence, not to codify the Portillo case, but to overturn it. The fine print says that failure by the IRS to comply shall not invalidate any notice or assessment of a deficiency.

In other words, if Ramon Portillo went back to court, the failure of the IRS to corroborate third-party reports would not invalidate their claims against him. He would have lost his case.

Behind closed doors, you Democrats crafted a sham, a fraud, a deception, a lie. While piously claiming to represent the little man, you instead tried to throw him to the wolves.

Thank God that Senator PRYOR was able to come to the rescue of the Ramon Portillos of our Nation.

Mr. Speaker, the difference between our parties can clearly be seen in the tax bill you are bringing to the floor today.

We Republicans represent average working men and women and the working class. You Democrats represent the interests of big Government and the IRS. You want to tax more, so you can spend more, so you can keep control of the Congress and take the White House.

On the other hand, we Republicans want to control spending, to keep taxes low, and make Government work for the best interests of the American people, not against them.

We want to create jobs and put people to work. You Democrats want to create bureaucracies and employ people in Government, not in free enterprise.

We Republicans view American business and small business men and women as entrepreneurs and job creators. You Democrats view business as special interests.

We Republicans understand that free enterprise is the foundation upon which America remains the greatest nation on Earth.

You Democrats want to turn us toward socialism and pit income class against income class. You want to redistribute income, to rob from the rich and the middle class to give to the poor and to Government bureaucracy.

Mr. Speaker, it is twilight in America. As the sun is setting on our role as the greatest nation on Earth, you Democrats are fiddling as we Republicans are fighting to create jobs and economic growth.

Enough is enough. It is time to buckle down and make the difficult choices.

We must cut spending. We must keep taxes low. We must provide incentives to save and to produce goods and services.

Above all, we must make Government work for the American people and not create roadblocks to opportunity and economic progress.

It is unfortunate, but true, Mr. Speaker, that the choice America chooses to take is yours. It is the House of Representatives that you Democrats have controlled for 36 years that sets the economic course for America.

Our Constitution dictates that all revenue measures must originate in the House. The American people are learning that every dollar spent by our Government is controlled by Congress, not the President.

The choice is yours, Mr. Speaker, and if you choose wrong, the American people seem ready to choose for themselves a new party to control Congress and to represent their views.

Mr. ARCHER. Mr. Speaker, I yield 1 minute to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, tax increases are not economic growth incentives. Tax increases deepened and lengthened the recession.

The President challenged Congress to pass an economic growth package. More importantly, my constituents have demanded that Congress pass an economic growth package.

Instead, the Democratic majority in Congress is trying to pass a tax-growth package and a deficit-growth package. This is not what the American economy needs and this is not what the American people need.

A few extra cents a day will not bring relief to the middle clas. Higher taxes and a higher budget deficit will not bring relief to the American economy.

Americans need jobs and the economy needs a balanced Federal budget and a lower cost of capital. How else can we compete with our foreign competitors who have no or lower capital gains tax rates?

Two-thirds of the new jobs in this country will be created in small businesses, yet this bill would raise taxes on the over 90 percent of these businesses that file returns subject to individual income tax rates. Tax rates will increase from 31 percent to 36 percent. This includes 14.3 million sole proprietorships, 18.4 million partnerships.

If tax incentives are needed to stimulate the economy, then let's pay for those incentives by cutting Federal spending and shifting Federal priorities within the discipline of the Budget Enforcement Act.

Our colleagues, Congressman MICHEL and Congressman ARCHER, introduced a seven-point plan, which I supported, centered on job-creation and capital formation and paid for by spending cuts and Federal reforms. I urge the House to reconsider the Michel-Archer plan.

I deeply regret that the Democratic leadership prevented the House from voting on Mr. ARCHER's proposal to send this legislation back to committee so as to create a measure that the President can sign.

I urge my colleagues to reject higher taxes and irresponsible budgeting. The President will not sign this bill, and voting to send it to the White House is not a vote for responsible economic policy.

□ 1410

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the chairman for yielding.

The 1 million who will have their taxes increased, the richest of America, who have done very well, are not average Americans. The 78 million Americans, whom the gentleman from Pennsylvania does not believe are average working Americans, will receive a tax reduction.

I supported the Democratic alternative to the tax package when it was here before us previously, but I did so, with the strong belief that a tax credit for first-time home buyers should have been part of our proposal. I am disappointed that the tax credit was not included in the conference agreement, but nonetheless I will support this bill.

There is a lot of suffering in our country right now and no industry has managed to remain unscathed. The homebuilding industry, where we look for an indicator of our economy's health, has seen a continuous decline for many months. While some conditions exist which should be favorable for a production rebound, the homebuilding industry has yet to see this rebound occur. Last year was the worst year for housing in nearly 50 years, and housing starts are at their lowest since 1946.

It has been estimated that a tax credit for first-time home buyers would stimulate the production of 215,000 homes in 1992 and 100,000 homes in 1993. This translates into 600,000 jobs for the 2 years and $6 billion in new Federal taxes. The tax credit would have paid for itself.

It is clear to me, that since the housing industry has led this country out of recession seven times since World War II, it has the ability to lead us out of this one.

Mr. Speaker, I think it is important, and very frankly, I think that the proposal that we are sending to the President ought to have included such a tax credit. Young people, taught to believe in the American way, see the dream of home ownership slowly dissipating. We need to offer encouragement and incentive to our young people so that the economic disadvantages to purchasing a home do not prevail.

Mr. Speaker, I applauded the Senate's decision to include a tax credit for first-time home buyers and I wrote each member of the conference committee to ask that they retain that provision in conference. They did not, but I applaud the decision to retain penalty free early withdrawals from IRA's for first-time home buyers, their parents and their grandparents.

In addition, there will be a capital gains provision in this bill which has been talked abut for many years, which will increase incentives and help the average working American.

Mr. Speaker, this is a bill that provides for tax fairness and economic growth. For those reasons, this bill ought to be supported by both sides of the aisle.

This is a business of trying to reach reasonable agreement in a democracy, not as the President has said, "My way, or no way." That is not democracy. That is not working together on behalf of the American public to solve problems.

Mr. Speaker, in closing let me say that this is a $40 billion turnaround from the President's proposal to ours in terms of deficit reduction.

I urge my colleagues to support the passage of this conference agreement.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in response to the gentleman from Maryland [Mr. HOYER]. One of the few good things that was in the original House package was indexing of the cost basis on capital gains. It has been one of the most popular bipartisan methods of approaching capital gains, and has now been eliminated from this package.

Mr. Speaker, I yield 1 minute to the gentleman from Louisiana [Mr. McCRERY].

Mr. McCRERY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this is clearly not a bill to create jobs. This is a bill to buy votes. It is a clear election year ploy by the Democrats to heighten their attempt to create class warfare in the United States.

Mr. Speaker, I think the President will veto this bill today. He will explain to the American people why this is not a job creating bill, but probably a job destroying bill. He will tell us that this is a tax on small businesses in this country, and that small businesses create most of the jobs here. He will also tell you that this is a budget busting bill.

Mr. Speaker, take a look at just the first 2 years of the effects of this bill. It is a minus $7 billion for the budget. That is increasing the deficit by $7 billion. Not until the outyears under this Democrat plan do the figures come back together and reconcile themselves.

How many times have the American people seen Congress save money in the outyears and take into account money they should have saved now? It is ridiculous. Nobody will believe it.

Mr. ARCHER. Mr. Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mr. McNULTY). The gentleman from Texas is recognized for 2 minutes.

Mr. ARCHER. Mr. Speaker, this debate has gone on now up and down, backward and forward, for a period of several weeks, if not months.

The issue is the same. The issue is whether we increase taxes in a time when we need to get the economy moving, always knowing that increased taxes hurt jobs and hurt the economy.

But it is extremely important. If I could, I would say directly to the senior citizens of this country, many of whom are struggling to live on their savings and the income from those savings. But, Mr. Speaker, under the rules, I cannot speak directly to them, so I will simply say that they should understand that they get nothing but penalties from this bill.

Mr. Speaker, senior citizens get no tax reduction, zero tax reduction to the elderly, who are paying taxes on their Social Security benefits and the earnings off their savings. But they get a penalty, because Medicare benefits will be cut by sequestration in the second and third years.

Let the Democrats explain to the senior citizens of this country what they have done to them, and let those senior citizens thank the President of the United States that this bill will never become law. Thank him for his veto.

Mr. Speaker, I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, to conclude the debate, I yield the balance of my time to the majority leader, the gentleman from Missouri [Mr. GEPHARDT].

The SPEAKER pro tempore. The gentleman from Missouri is recognized for up to 3 minutes.

Mr. GEPHARDT. Mr. Speaker, 52 days ago the President asked us to deliver this stimulus package, and today, on time, we are doing precisely that.

I think in this package we have done more than simply meet a deadline. I think our responsibility was to try to put together a package that would actually help our people create economic growth and jobs and higher wages.

The President asked for capital gains reduction. This bill has it. He asked for growth incentives for business. This bill has them. The President asked for real estate incentives, and this bill has them. The President asked us to extend things like the research and development credit, and this bill has it.

The President asked for the getting rid of the luxury taxes, and, even though some of us find that hard after we raised taxes on middle-income people in the budget summit, this bill has the repeal of those luxury taxes.

So I say that this is not an exercise in partisan politics in any sense. Much of what the President asked for is in this bill.

But there is more. There is real relief for small business people, and there is real relief for hardworking, hard pressed, middle-income families.

The price of this bill, which is where I think the President finds it unacceptable, is that we are simply asking the wealthiest people in the country, the people who have done the best, to pay their fair share of the tax burden in this country, so we can stimulate this economy and move this country in the right direction.

Mr. Speaker, I think this is a good bill. I urge Republicans and Democrats to vote for it. I urge President Bush, when it is on his desk, to look at it seriously, to understand its serious intent, and to agree with us that this bill is good for the American people, it is good for small businesses, and it is especially good for middle-income American families.

Mr. ALLARD. Mr. Speaker, I rise today to call for a reduction in the tax burden placed on the citizens of the United States.

It seems that many times in the House of Representatives I am asked to cast a vote on legislation that is either going to increase the deficit, raise taxes, increase spending, increase Government bureaucracy, increase regulations, or decrease the confidence of the public in the actions of Congress.

My colleagues, we are doing a grave injustice to our constituents. Let us stop the partisan positioning and let us start working together on legislation to get our economy on its feet again. I am speaking of legislation that reduces the capital gains tax, offers targeted job tax credits, favorable passive loss treatment, and reduces Government spending.

I would describe H.R. 4210 recently reported by the Senate and House conference committee as a bait and switch tactic. For the first 2 years it offers short-term tax cuts, then it switches to a permanent tax increase.

As a veterinarian, I was taught that if it looks like a dog, and barks like a dog, it's a dog. Now as a Congressmen, I am told that H.R. 4210 has provisions that look like tax cuts, sound like tax cuts, but are tax increases.

I do not, nor will I support, any bill that calls for an increase in taxes. I refuse to continue to place the future generations of our country further and further into debt.

Increasing taxes discourage investment—limiting spending frees up more income for individuals to spend and contributes to the growth of our economy.

Congress needs to make a commitment to pass legislation that lessons the tax burden. Again, H.R. 4210 does not do this. Even more troubling they try to tell America it's all in the name of economic growth. Sure doesn't look like economic growth.

Mr. OWENS of Utah. Mr. Speaker, when this bill initially came to the floor 3 weeks ago, I reluctantly supported its passage. I did so with the hope that provisions of this legislation would be improved in the Senate and in conference. Unfortunately, the bill was altered only minimally, and fails to meet the standards I set at that time. For that reason, I am voting no today.

A middle-income tax cut is unquestionably tempting during an election year. The class language that has pounded the airwaves in the past months serves no legitimate purpose and I find it distasteful and harmful at a time when we need unified bipartisan efforts. Our deficit and economic situations are simply too serious. There are undoubtedly fundamental inequities in the tax code, but this bill does little for middle-income families. This year is not the time for a tax increase; it will merely postpone what we really need to do, which is cut spending.

Rather, we should enact incentives for investment, incentives for economic growth, incentives that enable our industry to regain its competitive standing in the world. Unfortunately, this bill failed to do enough of that.

Mr. Speaker, this vote is an exercise in futility. It will receive a veto stamp, and we will have absolutely no hope of overriding it. And for what? Tonight on our local newscasts, Americans will shake their heads at today's divisive round of partisan bickering. This ordeal will simply reenforce Americans' already declining opinion of the Congress, and serve to fuel the fires of discontent already painfully apparent in the electorate.

Given past performance, I am not convinced that the President and Republican leadership can themselves come up with a credible alternative. The initial Republican tax proposal was as fraught with gimmickry as the Democratic proposal is fraught with election-year posturing. The President's own proposal failed to receive a single vote among his own party. His State of the Union ultimatum served no end other than political. Mr. Speaker, nearly every one of the President's proposals had been under consideration in the Congress for over 1 year. He could have sparked congressional action months ago if he had simply acknowledged the existence of the recession, had presented a plan, and had demanded action.

But there is more common ground, and potential for concrete results, than today's debate would show. We agree on revising passive loss rules. We agree in principle on a capital gains tax cut. We agree on the need for an investment tax credit. We agree on the need to make permanent the important expiring provisions of the Tax Code. We agree on the need for tax simplification. In many respects, the differences between the Republican and Democratic proposals are minimal.

Americans are impatient with our habit of widening rifts and exploiting division. There are undoubtedly differences in our parties priorities. But Americans have lost sight of what those differences are, and because of our economic condition, they do not care. They are tired of bickering, and demand that we search for common ground. As long as we fail to produce results, they do not see any differences at all.

Let's start exploiting our common interests rather than our differences—our constituents demand and deserve nothing less.

Mr. FORD of Michigan. Mr. Speaker, I rise today in support of the conference report on H.R. 4210, the Middle Income Tax Relief and Economic Growth Act.

While this is not a perfect conference report, there are too many good provisions here for me, in good conscience, to vote against it. Compared to the proposals offered by President Bush, which I considered a slap in the face to working and middle-class Americans, this proposal is a Cadillac.

As chairman of the Committee on Education and Labor, I was pleased to see that this conference report also contains a number of education-related provisions. It would offer a tax credit for 25 percent of the interest on student loans, up to $400. This change recognizes the importance of higher education for our Nation's future and will help to eliminate some of the student loan burden facing many young people today.

This report also allows penalty free withdrawals from individual retirement accounts [IRA's] for first-time home buyers, to help pay for the costs of higher education or to cope with the bills from a serious illness. In addition, this report sets up special IRA's to promote long-term savings in which contributions to that IRA would be taxed, but the interest generated on the account would not.

It would extend for 1 year the tax-free status of employer-provided educational benefits, which will enable our workers to be retrained, or better trained to meet the demands of our changing economy. This provision helps not only college students, but nontraditional students like displaced homemakers to train for better jobs while still working fulltime.

This proposal would also allow the deduction of fair market value for charitable gifts in the alternative minimum tax [AMT]. The misguided taxation of these gifts in the AMT has deterred many people from making valuable donations to universities and museums.

Compared to the trickle-down policies advocated by President Bush in his growth package, this bill concentrates on the people who really need our help—working and middle-class Americans. It offers a tax break for working Americans in each of the next 2 years and a $300 tax credit for children beginning in 1994. These breaks are paid for by permanently raising taxes on the wealthiest Americans, those who cleaned up during the 1980's.

The proposal also extends for 1 year the tax credit for research and experimentation [R&E]. By doing this, we are providing more incentive for private sector companies to invest in our country's technology and innovation.

This proposal would further expand the tax exclusion for education savings bonds.

Mr. Speaker, I had hoped for a little more today. The unemployed autoworkers and the working families in my district need drastic relief. This bill is but an important first step. Congress also must break down the budget firewalls that are preventing us from concentrating on the urgent unmet needs of Americans. If we are going to have true economic growth, we must do more for education and job training. Redirecting the billions of dollars now spent on Pentagon waste and foreign aid will help us to do that.

Congress also needs to quickly enact a jobs bill. An accelerated public works bill will build our country's crumbling infrastructure and get our unemployed workers back on the job.

Mr. Speaker, this is a vital first step toward our Nation's recovery. I urge my colleagues to support the conference report before us today.

Mr. HUGHES. Mr. Speaker, I voted against H.R. 4210, the Middle Income Tax Relief and Growth Incentives Act, when it was first considered 3 weeks ago. The conference committee has made some substantial improvements in the bill, but the most glaring flaws appear to remain.

I say appear to remain because I have not yet seen the actual conference report or a detailed description of the various provisions. It is unacceptable for the Congress to be voting on such important and complex matters without knowing the full details of the legislation. I have no choice but to vote against the conference report for these reasons.

Mr. Speaker, taxpayers, our constituents and voters, fear for their jobs and fear for America's future. It seems that we are letting our country drift into debt and disrepair. While other nations are developing comprehensive economic strategies, we neglect our infrastructure and fail to focus our resources on the industries that are essential to the overall health of our economy. Now Americans fear that no one in Washington can or will do anything about these economic problems.

In 1981, the President and many here in Congress offered America a miraculous promise—we will cut your taxes and spur miraculous economic growth that will pay your bills for you. In the end, the economic growth rate of the 1980's was relatively low compared to other periods following recessions, and this plan has left the Federal Government mired in debt. At the end of fiscal year 1991, the Federal debt stood at $3.67 trillion, interest payments on the debt came to $286 billion—43 percent of general fund revenues—and the annual deficit was $269 billion.

This debt has also weighed heavily on the private sector, soaking up $3 trillion that would have been available for private investment over the past 10 years. During much of that period, interest rates here were much higher than in Japan, while our savings and investment rate plummeted.

I voted against that 1981 tax cut because common sense told me that it would lead to the debt problem we face today. While they may disagree about the causes of the debt, reducing it is the one thing that Democrats and Republicans, economists and ordinary citizens, and even Presidents and Congressmen agree would help our economy.

Despite that consensus, President Bush sent Congress a tax proposal centered around an expensive, untargeted, across-the-board capital gains tax cut that would have made the deficit even larger. As long as we have a deficit, any investment tax cut will be funded by the Treasury borrowing the money from other investors, thus doing little to change the among of investment capital available.

Not only will these cuts increase the deficit in the future, they could exacerbate serious problems in our banking sector right now. According to the Wall Street Journal, $150 billion was withdrawn from bank and thrift accounts in 1990 while mutual fund deposits increased by $280 billion. At a time when banks are failing and everyone is concerned about the credit crunch from tighter bank lending policies, a generic capital gains incentive would have encouraged even more people to pull their money out of savings accounts because interest earnings from these accounts are fully taxed.

One thing we do need is an economic plan that focuses our scarce resources on creating jobs in critical industries. I commend the conference committee for doing a good job in this regard. Of the roughly $70 billion in tax cuts in the conference report, roughly $20 billion went to a range of relatively inexpensive investment incentives such as the tax exemptions for mortgage revenue bonds and industrial development bonds, a targeted 50 percent reduction in the capital gains tax on venture capital invested in startup companies, the research and experimentation tax credit, increased first-year depreciation allowances on new equipment, and an increase in depreciation write offs for small businesses.

Another good provision that I worked hard to get passed is the repeal of the luxury tax on boats. The luxury tax has hurt the boat builders in my district, and repealing it will save jobs and reduce unemployment. Any lost revenue will be replaced by a tax on the diesel fuel that most of the bigger boats use.

The conference report also stops some corporate abuses. It limits the deduction for corporate salaries to $1 million. Companies can pay more to their executives if they want, but they should not be able to write those salaries off as a business expense. The second provision in this area came from a bill authored by my colleague from New Jersey, Representative FRANK GUARINI, to stop double dipping—a loophole that allows the new owners of failed S&L's to take tax deductions for losses that have already been reimbursed by the Federal Deposit Insurance Program.

Unfortunately, these sound provisions are less than a third of the bill. The vast majority of the cost of the bill—$50 billion over 5 years—goes to cutting everyone's taxes by $150 for 2 years and then providing a permanent, dollar-a-day tax credit of $300 for dependent children under the age of 16.

In addition, as chairman of the Select Aging Committee's Retirement Income Subcommittee, I can assure each of my colleagues that allowing IRA funds to be used, without penalty, for something other than retirement is a grave mistake. I agree that we need to help people buy homes, pay for educational expenses, and cover catastrophic health expenses, but raiding your retirement savings is the wrong way to achieve those goals. During the latter 1980's, over half of those who were entering retirement did so with less than $10,000 in savings, excluding their homes, and the savings rates among younger generations are even more.

There are also needed reforms that could have been included in this bill but were not. We need to limit the tax deductions that made so many leveraged buyouts possible in the 1980's, and we need to examine our laws that may actually encourage companies to shift jobs from the U.S. mainland to U.S. possessions or low-tax foreign countries. I am cosponsoring a bill, H.R. 4061, that proposes reforms in all of these areas.

Despite these objections, however, at least the conference committee had the courage and integrity to pay for the tax cuts in this bill. The President's budget relied heavily on a bald-faced accounting gimmick for the Pension Benefit Guarantee Corporation [PBGC] to pay for $22 billion of their tax cuts.

While accrual accounting may be more accurate than cash accounting, it does not bring one single dollar of new funds into the Federal Treasury, and the PBGC is on shaky ground already. If anything, we should be preparing to fund possible shortfalls at the PBGC rather than pretending it is a source of funds.

Overall, the conference report on the Middle Income Tax Relief and Growth Incentives Act is an excellent $20 billion growth incentives package. Unfortunately, it costs roughly $70 billion over 5 years. What we need to do, and perhaps what we will do once the President vetoes the bill, it is to use the remaining $50 billion to reduce the Federal deficit rather than a 50-cent-per-day tax cut.

I urge my colleagues to vote against this conference report. All that we need to do to transform this conference report into an excellent bill that will help our economy is to drop the 50-cent-a-day giveways and the IRA-busting provisions. If we do those things, we will have produced a much better package than the President's original bill—one that will both spur private investment in key areas and reduce the deficit.

Mrs. LLOYD. Mr. Speaker, I rise in opposition to H.R. 4210, the conference agreement on tax relief and economic growth incentives.

I favor middle-class tax relief. Studies show that working Americans are seeing their after-tax income steadily decline. The recessionary climate has left many families struggling to pay their bills and meet the expenditures which come with raising children and keeping a roof over their heads. Clearly, hard-working families need help.

But I am concerned that this measure will significantly add to the Nation's already staggering debt burden, despite the proponents' claim that it will pay for itself. If we work, instead, to shrink the deficit, we are working to create jobs, and encourage savings and investment. This has got to be our primary objective. Deficit reduction will spur economic growth and move the country in a positive direction. It will encourage job creation which is desperately needed in so many communities.

The tax increases the bill calls for will not create one job. Its middle-income tax relief provisions will not help the average worker whose job is eliminated by a small business who can't afford to bear the additional tax burden.

I want to see our economy grow and I want to see a true economic growth package worked out. But while this bill has many individual components which I support, the sum is not nearly as good as its parts. The overall package, and the process which brought it to the floor are flawed. The administration has got to shoulder their share of the blame for this because of their lack of leadership on the economy. After virtually ignoring the recession for months, President Bush imposed an arbitrary March 20 deadline for action on a growth package. The result is bad legislation, hurriedly pushed through, which is not carefully constructed or thought out.

Members did not even have a copy of the final conference agreement prior to the vote. This is unacceptable. Time after time, I have heard from Third District residents who complain, rightly so, about projects which are buried deep in massive bills which Members were not even aware of. Because of my inability to see in print the final provisions of this bill, I can not be sure that this is not the case today.

Many portions of the bill are favorable, such as providing tax relief for working, middle-income families; tax incentives for businesses and allowing all taxpayers to make deductible contributions to IRA's.

I have long endorsed the bill's special IRA plan which waives the penalty for first-time home buyers, and for education and medical expenses. I favor the tax credit for interest on student loans and expanding the exclusion for education savings bonds.

I also support extending expiring tax credits for research, mortgage revenue bonds, the exclusion for employer-provided educational assistance, small-issue manufacturing bonds, orphan drugs, business energy tax credits, the health deduction for the self-employed, and the targeted jobs tax credit. I endorse making permanent the low-income housing tax credit.

I support other business provisions such as providing passive loss relief for real estate developers, a 10-percent temporary investment tax allowance over 2 years, and accelerated depreciation for the alternative minimum tax for corporations.

I hope that these provisions can go forth in a good, responsible package. But what this debate narrowly comes down to today is whether or not we can pay for the growth package contained in the Rostenkowski proposal. This is the challenge we face and it is a difficult one.

The bill purports to pay for the growth incentives through tax increases. We need to support economic growth and activity and put Americans back to work. But raising taxes will slow the economy, which leads to a lack of jobs. This is not the direction we should be moving.

Moreover, if payment for the growth package means adding to the debt burden for future generations, this bill merely represents a short-term fix which is not in the Nation's long-term best interests. I hope we can forge a responsible agreement which reflects congressional support for real middle-income tax relief and job creation.

Mr. FAZIO. Mr. Speaker, there are obvious and very serious problems facing our country. Yet, during this persistent recession, we have found ourselves hand tied in terms of fiscal policy because of the enormous debt we owe as a nation.

And, what does the President want us to do? He wants us to pass a tax bill that will put us further in the hole. The President's proposal would add tens of billions of dollars to the deficit, depending on which version of the bill he's endorsed today.

Every economist agrees that the best thing that we can do to spur long-term economic growth is to reduce the deficit, and at the very least, not increase the deficit. From this standpoint, the bill we have before us today is the only responsible game in town.

The Democratic bill reduces the deficit by $5 billion, over 5 years, and $10 billion over 6 years. At the same time, we've done just as much as the President to help spur an economic recovery. The difference is, instead of directing help to the wealthiest among us, we direct our resources toward working-class families.

Our bill provides a permanent tax cut for middle-income families.

Like the President, we have a significant capital gains tax cut. But, ours is progressive, and targeted at people with average incomes. Like the President, we have an expanded IRA that will help with the purchase of a home and with medical or educational expenses. Like the President, we provide relief for taxpayer involved in the real estate business. Like the President, we provide help for small business by providing a 50-percent venture capital exclusion on gains from small business stock.

We do all of this and more to help get this Nation out of recession. But, unlike the President, we do it without repeating the mistakes of the 1980's and crippling our Nation with additional debt.

Mr. Speaker, I hope that President Bush will surprise us all and sign this bill, instead of sacrificing economic growth and fairness for the sake of protecting his wealthy friends from paying their fair share.

Mr. RINALDO. Mr. Speaker, I rise in opposition to this conference report and I urge that it be rejected by the House.

In this State of the Union Message, President Bush outlined several initiatives to help revive our economy and create new jobs. These initiatives included lower taxes on capital gains in order to encourage new investment, a permanent tax credit for research and development expenses, and other incentives for saving and investment. The President's proposals were aimed squarely at fostering economic growth in the private sector.

Sadly, but somewhat predictably, the majority in Congress have responded with legislation that raises taxes once again. There is a lot to like in this conference report. It contains several provisions that I have cosponsored as separate legislation, including tax relief for families, more flexible IRA's, the modification of the passive loss rules for real estate investment, and the extension of several expiring tax provisions.

However, raising taxes was a mistake in 1990, and it continues to be a mistake today. The 1990 tax increases contributed significantly to the economic recession from which we are only very slowly recovering. It would be completely counterproductive to begin taking more money out of the private sector just as American businesses are starting to have some glimmer of hope that the recession may be ending.

A prominent former Democratic colleague of ours, Jim Jones of Oklahoma, recently touched the heart of the present debate. In writing for the American Business Conference, Mr. Jones, who is now the chairman of the American Stock Exchange, pointed out:

> Whatever the solutions to our present economic problems, they invariably presuppose economic growth and job creation. The reason is simple: you can't redistribute wealth if you aren't willing to help create it. Greater economic equity means little unaccompanied by greater economic opportunity.

Mr. Jones' statement goes to the crux of the problem with this conference report. Middle-income families will not benefit from the tax benefits the report provides if they do not have jobs and income. This conference report goes completely in the wrong direction, and I urge my colleagues to reject it.

Mr. GRADISON. Mr. Speaker, I am disappointed that we are voting on a tax bill that we know the President will veto. Everyone knows that this bill will never become law, but I am nevertheless discouraged that we are considering this bill just as the economy is showing strong signs of recovery. The American people deserve much better.

The conference report before us will not raise the confidence of American taxpayers with respect to our ability to deal with the serious problems facing the country—namely, high deficits, low productivity growth, and low national saving. Instead, we are presented with a zero sum game with respect to income redistribution and a plan that is counterproductive economically because it will only reduce private investment.

What we should be doing is reducing the Federal deficit and enhancing long-term growth—and thereby raising future living standards for all Americans. The President's proposal, and the Republican alternatives, which were rebuffed out of hand by the Democratic leadership, came closest to that goal.

The Democrats, on the other hand, propose to soak the not so rich to pay for a small, temporary tax cut for parts of the middle class. This would not help the economy recover, and may actually hurt it. Redistributing income in this way will not create any new jobs; on the contrary, it will almost certainly cause jobs to be lost.

My constituents do not want partisan demagoguery; instead, they want jobs; and they want long-term economic growth and prosperity. It is a shame that the Democratic leadership in the Congress has decided to squander this opportunity to make critical, fundamental reforms to enhance the economic performance of this country.

The fact is that the Democrats have chosen to play partisan games with the economy and therefore the American people.

Mr. Speaker, I urge my colleagues to defeat the conference report.

Mr. KYL. Mr. Speaker, it was 2 months ago that the President challenged Congress to approve his seven-point short-term plan to provide quick economic stimulus and get the Nation on the road to economic recovery.

It took a month before the House leadership brought the President's plan before the full House for consideration. Then, on a near party-line vote on February 27, the House rejected the President's plan.

Instead of trying to craft an acceptable compromise, the Democrat leadership then set in motion a tax increase bill which they knew from the start the President would veto, and which they knew from the start they didn't have the votes to enact over the President's veto. This bill will be vetoed.

In other words, instead of working with us to produce legislation to get the Nation on the road to economic recovery, the Democrat leadership wasted 2 months—wasted them—crafting a tax increase bill they know will never become law.

Mr. Speaker, efforts to paint the tax increase in terms of middle-class tax relief or rich versus poor just won't wash anymore. How many times have the American people heard that line before? And, how many times have middle-income Americans found that when the rich got soaked, they got dunked? How many think their tax bills are lower today despite Congress' 13 attempts at making the Tax Code more fair over the last 11 years?

Mr. Speaker, I believe the Democrats mean it when they say that they want to raise taxes on the rich. But, what I think they ought to tell the American people frankly is that they want to raise taxes on the middle income and the poor, too, so that Congress can continue on the spending binge it has been on for the last 20 years.

Today is d-day, the President's deadline, and economic recovery legislation is no closer to enactment than it was in January when the President issued his challenge.

No more tax increases, Mr. Speaker. No more. The American people have had enough.

If the Democrat majority isn't willing to try to help the economy, please don't insist on making the recession worse either. Reject this bill.

Mr. RAY. Mr. Speaker, I rise in opposition to H.R. 4210, the tax bill conference report.

While I commend the chairman of the Ways and Means Committee and the chairman of the Senate Finance Committee and the chairman of the Senate Finance Committee for their hard work, this bill will not solve our economic problems. The bill provides a hodge podge of tax changes which will have an overall effect of nothing, except to further confuse our Tax Code.

It is unfortunate that this bill is being driven by partisan politics rather than good policy. Both parties have messages they would like to deliver to the American people, and they are using our Tax Code—in the middle of the longest recession since World War II—to accomplish their purposes.

The American people would be better served if we addressed this Nation's long-term needs—particularly our budget deficit—rather than providing a $1 per day tax cut for most taxpayers and an income tax rate increase on those families with incomes above $140,000.

I am fearful this bill will increase our budget deficit which is the last thing we need to do. We do not need to continue the philosophy of "we'll pay you later." That philosophy has led to $400-billion budget deficits and a $3.8-trillion debt.

Mr. Speaker, people can see through this whole debate for what it is—pure gamesmanship. Let's defeat this bill and begin to consider legislation to reduce the budget deficit while focusing on our real long-term needs in education, health care, and our national infrastructure.

Mr. KYL. Mr. Speaker, if there is one way to create new jobs around the country, it is with the $5,000 first-time home buyer tax credit recommended by the President.

Nationwide, over a 2-year period, such a credit would create 600,000 additional jobs, stimulate the production of 315,000 homes, and increase revenues to the Treasury by $6 billion as a result of the additional employment and income taxes paid.

A home buyer credit would help thousands of middle income families finally realize the American dream of home ownership. It would give them the chance they would otherwise not have to buy their own home.

Mr. Speaker, a first-time home buyer credit is not in this bill. It should be in the bill if the leadership is really serious about helping the middle class and creating new jobs.

When this bill is returned to Congress after it is vetoed—and it will be vetoed—a home buyer credit must be included. Let's give the American people the help they need, and let's do what we know will create thousands of jobs. Include a home buyer credit in the next tax bill.

Mr. DELAY. Mr. Speaker, I rise in strong opposition to the conference agreement on H.R. 4210. The President asked this Congress to pass an economic growth package to get America working again. Instead, the Democrat majority brings a tax growth bill to the floor.

The economy will not grow if we pass this bill. More than 20 economists hand picked by the Democrats have testified before Congress that the Democrat tax bill will not help the economy. All they brought to the people is another income redistribution scheme. The Democrats appear to be more interested in maintaining the recession and taxing away the American dream of a better life, than in providing opportunities and incentives to everyone to improve their economic status.

In 1986, the Congress promised the American people that the Tax Code would be simplified to just two income tax brackets of 15 and 28 percent. In 1990, they added a third bracket of 31 percent. Today, in this conference report, the Democrats are telling the American people that we now need five tax brackets by adding two new ones of 36 and 29.4 percent.

What are the Democrats doing with this tax increase? They plan to redistribute some of it to certain taxpayers. It won't be very much. For the average family of four, it amounts to only one thin dime per day per person.

Will one thin dime jump start the economy? Hardly?

Will one thin dime work toward providing job security?

Certainly not.

This tax redistribution scheme will not improve the economy in any significant way nor will it improve the status of the middle class in any significant way.

However, the Democrats are sincerely hoping that one thin dime will be able to buy just enough votes from Americans this fall to allow them to continue their control of the House.

As has been pointed out on the House floor previously in this debate, the rich already pay plenty of taxes. The top 1 percent of all taxpayers already account for more than 28 percent of all income taxes collected by the Federal Government. In fact, the top 10 percent of all taxpayers shoulder over 55.5 percent of the total tax burden.

Clearly, soaking the rich and urging more class warfare which the Democrats are seeking is not what is needed in the current situation of an economy in recession with high deficits and unemployment.

What America needs now is economic growth and new jobs. It's very sad to see that the Democrats continue to offer Americans government welfare checks rather than paychecks from jobs.

The President and the Republicans offered the country an economic growth bill to create jobs and revive the sagging economy. The Democrats rejected that an offered a bill to increase taxes and redistribute income instead.

I urge my colleagues to reject this tax increase bill demand the passage of an economic growth immediately.

The SPEAKER pro tempore. All time has expired.

Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ARCHER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 211, nays 189, not voting 35, as follows:

[Roll No. 54]

YEAS—211

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bacchus
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bryant
Bustamante
Byron
Campbell (CO)
Cardin
Chapman
Clay
Clement
Coleman (TX)
Collins (MI)
Conyers
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Eckart
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Harris
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Levin (MI)
Lewis (GA)
Lowey (NY)
Luken
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McHugh
McNulty
Mfume
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Owens (NY)
Panetta
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (FL)
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Rose
Rostenkowski
Rowland
Roybal
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stenholm
Stokes
Studds
Swift
Synar
Tallon
Tanner
Thornton
Torres
Torricelli
Towns
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Weiss
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—189

Allard
Allen
Andrews (NJ)
Archer
Armey
Ballenger
Barrett
Barton
Bateman
Beilenson
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Camp
Carper
Carr
Clinger
Coble
Coleman (MO)
Combest
Condit
Cooper
Coughlin
Cox (CA)
Crane
Cunningham
Davis
DeLay
Doolittle
Dornan (CA)
Dreier
Duncan
Dwyer
Early
Emerson
English
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hefley
Henry
Herger
Hobson
Hopkins
Horton
Houghton
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Jones (GA)
Kasich

Klug
Kolbe
Kyl
Lagomarsino
Leach
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lloyd
Long
Lowery (CA)
Machtley
Martin
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Myers
Nichols
Nussle

Owens (UT)
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Peterson (MN)
Petri
Pickett
Porter
Quillen
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze

Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (NJ)
Smith (OR)
Solomon
Spence
Stallings
Stark
Stearns
Stump
Sundquist
Swett
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (WY)
Traficant
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—35

Baker
Barnard
Bruce
Callahan
Campbell (CA)
Chandler
Collins (IL)
Dannemeyer
Dickinson
Dymally
Edwards (OK)
Gingrich

Hatcher
Hayes (LA)
Holloway
Huckaby
Laughlin
Lehman (FL)
Levine (CA)
Lipinski
Livingston
Manton
Marlenee
Miller (CA)

Morrison
Mrazek
Orton
Pursell
Russo
Skaggs
Smith (TX)
Thomas (CA)
Thomas (GA)
Whitten
Wylie

□ 1437

The Clerk announced the following pairs:

On this vote:

Mr. Miller of California for, with Mr. Barnard against.

Mr. Hatcher for, with Mr. Orton against.

Mr. Skaggs for, with Mr. Gingrich against.

Mrs. Collins of Illinois for, with Mr. Marlenee against.

Mr. Manton for, with Mr. Campbell of California against.

Mr. WILSON changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. DANNEMEYER. Mr. Speaker, I was unavoidably absent for rollcall votes 52 through 54. Had I been present during these votes, I would have voted "nay" on rollcalls 52 through 54.

PERSONAL EXPLANATION

Mr. BRUCE. Mr. Speaker, I was absent due to an illness in my family. On that day I missed roll-call votes No. 52, approving the Journal; No. 53, a motion to move the previous question; and No. 54, final passage of the conference report for H.R. 4210, the Tax Fairness and Economic Growth Act of 1992. I would like the record to show that had I been present, I would have voted "yea" on rollcall votes 52, 53, and 54.

PERSONAL EXPLANATION

Mr. HASTERT. Mr. Speaker, during today's vote on the rule for the conference report on House Resolution 402, Roll No. 53, I inserted my card into the electronic voting device to vote, but the vote did not register. I ask that my vote be recordedimmediately following this vote in the RECORD as a "no" vote.

The clerk conducted a check, and verified that my card had been inserted, but when the "no" button was pushed, it did not register.

If my vote had been recorded, it would have been "no." Please amend the RECORD to reflect my "no" vote on this rule.

PERMISSION FOR SUBCOMMITTEE ON TRANSPORTATION AND HAZARDOUS MATERIALS OF THE COMMITTEE ON ENERGY AND COMMERCE TO SIT DURING 5-MINUTE RULE ON WEDNESDAY, MARCH 25, AND THURSDAY, MARCH 26, 1992

Mr. SWIFT. Mr. Speaker, I ask unanimous consent that the Subcommittee on Transportation and Hazardous Materials of the Committee on Energy and Commerce be permitted to sit during proceedings of the House under the 5-minute rule on Wednesday, March 25, and Thursday, March 26, 1992.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. RITTER. Mr. Speaker, reserving the right to object, as the ranking Republican on the Transportation and Hazardous Materials Subcommittee, I yield to the gentleman from Washington, the chairman of the subcommittee, to explain the reason for his request.

Mr. SWIFT. Mr. Speaker, I thank the gentleman for yielding.

This request has been made in order to mark up legislation reauthorizing the Resource Conservation and Recovery Act, a piece of legislation the gentleman from Pennsylvania and I and the rest of the subcommittee have been working on for well over a year.

Mr. RITTER. I concur with the chairman, we are engaged in the markup of our Nation's solid waste disposal law, the Resource Conservation and Recovery Act, and we are engaged in this together. There is no problem with the minority.

Mr. Speaker, at this point I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I inquire of the gentleman from Missouri, the distinguished majority leader, regarding the program for next week.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am pleased to yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

There will be no more votes today in the House. Members have asked if there would be action later in the day. Members have been asking me on the floor if there would be additional votes today or, if the Senate took certain actions, would we vote again on this legislation. That is not going to happen. There will not be further votes today.

On Monday there will not be legislative business.

On Tuesday the House will meet at noon on six suspensions, but the votes will be postponed until Wednesday, March 25.

We will be considering:

H.R. 3698, Community Mental Health and Substance Abuse Services Improvement Act;

H.R. 2926, Jefferson National Expansion Memorial;

S. 1254, Assateague Island National Seashore;

S. 870, Golden Gate National Recreation Area;

H.R. 3011, American Discovery Trail; and

House Resolution 401, recognizing transfer for the Virgin Islands.

□ 1440

On Wednesday, March 25, we will meet at 2 p.m., 11 a.m. on Thursday, and if a Friday session is needed to consider H.R. 3553, Higher Education Reauthorization, subject to a rule; H.R. 3732, Budget Process Reform Act of 1992, completing consideration; and a House resolution on the committee funding resolution, 1 hour debate; and H.R. 4241, the Resolution Trust Corporation financing, subject to a rule.

Mr. MICHEL. I thank the distinguished majority leader.

Might I inquire, if perchance the other body completes its action on the measure that we just passed here, and the President sees fit to veto it, as he has suggested, when would that be scheduled for a vote to sustain or override?

Mr. GEPHARDT. If the gentleman will yield, we first hope the President will sign the legislation.

Mr. MICHEL. I understand that.

Mr. GEPHARDT. And second, if that were not to happen, we would obviously consult with the distinguished minority leader and other Members on the other side about scheduling that matter in a timely manner.

Mr. MICHEL. I understand.

I have been asked whether or not there would be an inclination on the part of the majority to simply refer it back to committee, or would there definitely be a vote on it? Have you all made that decision?

Mr. GEPHARDT. We, obviously, have to consult with the chairman, and will consult with the leaders on the other side as well.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I thought we had a pretty firm assurance out here yesterday—when we allowed this thing to go on a fast track—that absolutely we would have a vote on the veto message, on the floor, in a timely manner. That was the understanding that we had before we allowed this to move ahead.

Mr. GEPHARDT. If the gentleman will yield, that is what I said. But we do need to see the veto message, and we need to make a decision after we have seen that and had a chance to consult with the leaders on the other side. But it will be in a timely manner.

Mr. WALKER. I thank the gentleman.

ADJOURNMENT TO TUESDAY, MARCH 24, 1992

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Tuesday, March 24, 1992.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1527

Mr. ESPY. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1527.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

TRIBUTE TO DIRECTORS AND EMPLOYEES OF TENNESSEE VALLEY AUTHORITY

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, the Tennessee Valley Authority, I believe is one of the most efficient and well-managed agencies of the Federal Government. Under the leadership of Chairman Marvin Runyon, TVA has unfortunately had to lay off a large number of workers.

However, no longer can anyone say that TVA is just another bloated bureaucracy. Also, respect for the agency among my fellow east Tennesseans has gone way up. Most importantly, TVA has not had a rate increase for almost 5 years. This has greatly helped those with lower incomes and has helped improve the overall business climate in the region.

Now, Chairman Runyon has announced that TVA plans to reduce electricity charges by $75 million to public schools, including colleges, and major industries. Public schools will receive a 10-percent reduction in rates. This will save my home county of Knox about $620,000, which can be applied toward making our schools better.

The 5-percent reduction to manufacturers will help improve our economy. The benefits of this action will be felt for many years.

I salute TVA, and its Directors, Marvin Runyon, John Waters, and William Kennoy and all TVA's employees for a job well done and for holding costs down so these reductions could be made.

I include for the RECORD an article on the Tennessee Valley Authority.

TVA PROGRAM A BIG BOOST

In an example of good corporate citizenship, the Tennessee Valley Authority this week announced plans to reduce electricity charges by $75 million to public schools, including colleges, and major industries. The savings will be used to improve education and create jobs.

Called a "schools and job credits program," the rate reductions will go into effect on May 1 and continue for a year. Public schools, along with state colleges and universities, will receive a 10 percent reduction in their rates, which manufacturing firms will have a 5 percent discount.

TVA's proposal should not be seen as a substitute for a sound system of funding education at the state level or for solid support for improved education from an enlightened citizenry. But the agency's plan can help push Tennessee in that direction.

For Tennessee's ailing school system and the troubled economy in the seven-state region served by the federal utility, TVA's plan is more than welcome. It could be the shot in the arm that both industry and education need to weather the recession and to move forward despite the slow pace of the recovery.

As an example of how the rate reduction can help Knox County schools, the 10 percent cut—based on the past year's electric bill—would amount to about $620,000. That sum could pay the salaries of 24 teachers, increase textbook purchases by 54 percent, operate school buses for three weeks or pay a month's electric bill.

At the same time, the University of Tennessee calculated that the rate reduction will save $1.8 million for the UT system statewide, including $750,000 at the Knoxville campus and $300,000 a UT Hospital in Knoxville.

The program passes to schools and industries part of the savings from the agency's recent cost-cutting moves, including a refinancing package that trimmed annual interest costs by $184 million. Spreading the $75 million as an across-the-board decrease would have amounted only to a 1 percent rate reduction for the 3 million valley ratepayers.

No doubt most would agree that TVA's plan is a wiser use of the savings since it can lead to productive jobs and better education opportunities, thing which benefit the entire region in the long run. In a historic sense, the plan links TVA with one phase of its early mission—to boost the economy of the region it served.

The program's weakness is one of control. There is no assurance, for example, that industries will use their savings to employ new workers or rehire those who might have been laid off. Likewise, there is no guarantee that county commissions will not reduce school budgets accordingly and use the savings in other areas.

That should not be TVA's worry. The federal utility is fulfilling its citizenship role admirably by its offer to plow its savings back into the regional economy.

Yet, practices that would defeat both the spirit and letter of what TVA is seeking would prove to be serious mistakes. Preventing them will require vigilance at all levels in industry and in local government to ensure the money is going for the intended purposes. That will be a responsibility for everyone.

In that way, the entire valley will benefit, not merely for one year but for years to come.

□ 1200

AMERICA IS STILL THE WORLD'S MOST COMPETITIVE ECONOMY

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DREIER of California. Mr. Speaker, 5 years ago there were many people in this House who got a great deal of political mileage out of the fact that this country had a $146 billion trade deficit. We have not in recent weeks and months heard about the fact that last year we had a $7 billion trade deficit, really a drop in the bucket when you look at our $6 trillion economy.

We need to realize that we are clearly the most competitive industrialized nation on the face of the Earth, as pointed out in an article in the March 30 Forbes by Mr. Howard Banks entitled "The World's Most Competitive Economy." I will include that article at the end of my remarks.

We have to recognize, Mr. Speaker, that if we look at countries like Mexico, not many people are aware of the fact that we today have a $2.1 billion trade surplus with Mexico. As we listen to people around this place bash the fact that international trade is a great sign of hope for us in the future, we have to realize that we are on track in doing just that.

Mr. Speaker, I include the following article from Forbes magazine on this subject:

[From the Forbes Magazine, Mar. 30, 1992]

THE WORLD'S MOST COMPETITIVE ECONOMY

(By Howard Banks)

If one were to judge the state of the economy purely by the rhetoric in the presidential primaries, the conclusion would have to be that the U.S. was an economic disaster. Factories closing. Consumers gloomy. Productivity lousy compared with Japan's. So elect me and I'll salvage the economy and save your jobs.

But why isn't anyone talking about what's happening to the trade deficit, the worry that so exercises politicians, TV newsreaders and newspaper headline writers? It must be that these newsmakers and news processors think the public doesn't like good news. Because the news from the trade front is very good indeed.

In overall trade, the U.S. had a record deficit of $146 billion in 1987. In 1990 the gap was down to $70 billion. But by the close of 1991, the trade deficit was $7 billion—a nothing number in a $6 trillion economy.

It is also nothing like any trade number thrown around by politicians, who mostly concern themselves with merchandise trade. But even here U.S. exports have been growing an average of 9.5% a year since 1985, much faster than the growth in imports. This has cut the U.S. trade deficit in merchandise goods by almost $95 billion since 1987.

In merchandise goods, including the cost of importing oil, the U.S. last year still ran a fair-size deficit—$66.8 billion. But this is 1992, not 1952. These days not all trade is in manufactured goods. The overall balance reflects two other major items in trade. Last year the U.S. had a $49.5 billion surplus in services, from the sale of such things as custom software, movies, insurance, and travel and tourism. It also had a surplus in net investment income, of around $10 billion.

What's that about the U.S. not being competitive?

Management seer Peter Drucker, who has a knack for seeing big trends before other people do, recently said: "What's already happened to U.S. trade performance, especially in manufacturing, is unprecedented."

It may profit the presidential hopefuls to peddle gloom so that they can promise to fix it, but listen to Martin N. Baily, professor of economics at the University of Maryland: "What else do you expect, with the U.S. now the world's low-cost producer?"

Low-cost? Three factors have combined to bring about this little-acknowledged fact.

One, since the 1985 Plaza Agreement by the Group of Seven major industrial countries, the value of the dollar has fallen by around a third in trade-weighted terms.

Two, U.S. productivity in manufacturing has been rising strongly since 1982.

Three, U.S. wages increased only 3% a year in current dollars between 1982 and 1990. By contrast, German wages rose 9.7% a year, Japanese 10.5% a year.

The result is that per unit of output, U.S. manufacturing labor costs have gone down in real, inflation-adjusted, terms by 7% since 1982, according to the Organization for Economic Cooperation & Development in Paris. On the same basis, the OECD says that average unit labor costs for the eight other top industrial economies rose by over 45% in the same period.

You can turn that into gloom if you want: It means U.S. workers no longer have the same wide edge in standard of living they once had over workers in other advanced countries. But the other side of that is that consumers in the other countries can now afford to buy more imported goods—and the U.S. is getting its share of those dollars. If jobs are the issue—and they seem very much to be—a job making goods for export is at least as good as a job making goods for domestic consumption.

The U.S. economy is now so highly competitive with the rest of the world that in Europe there are already the first rumbles of complaint about the American export juggernaut. Last year the U.S. ran a $16 billion merchandise trade surplus with Europe. In 1986 it was a $23 billion deficit.

What accounts for such a swing? The devastating pain of the early 1980s, the shakeout of weak companies with bad management and poor products—and the unemployment that inevitably followed—has been like a blast of pure oxygen to the economy. Productivity in manufacturing has been increasing at 3.1 percent a year on average since 1983. That is faster than in all other industrialized countries, with the exception of Britain (coming back from depression levels). Japan, with a proportionally higher investment level, managed about the same improvement, but from a much lower base.

Is it possible that the recent improvement in the trade figures owes primarily to the recession—that once the economy recovers, imports will again jump and U.S. business people will slip back into the easier job of selling to fellow Americans? "No, no, no, no, no!" says General Electric Co.'s Jack Welch, and the present chairman of the Business Council. "We're all globalists now, and we are staying that way."

Other Forbes 500s, executives echo his view. Says United Technologies Corp.'s chairman and chief executive, Robert F. Daniell: "We must export to grow. And companies that export heavily have learned that when one country or market is down, another will be up." A.D. (Pete) Correll, president and chief operating officer of papermaker Georgia-Pacific Corp., chimes in: "Export markets have been [at least] as profitable as domestic markets."

Welch and Daniell, with other corporate leaders such as Dexter F. Baker, chairman and chief executive of Air Products & Chemicals Inc. and current chairman of the National Association of Manufacturers, make another telling point: Concentrating on the home market today spells disaster, because companies that try doing so end up losing out to imports even at home. "It is the companies that export that are doing best here at home" says Baker.

Low-cost imports squeeze margins here in the U.S. That has been a wonderful prod to U.S. companies to improve their productivity," says Gary C. Hufbauer of Georgetown University.

The likelihood now is that the U.S. will achieve a small trade surplus as soon as sometime later this year. After that? It is more than likely that for a while, the U.S. will slide back into a small overall deficit.

The gloom-mongers will have a field day with this. But it is simply the outcome of what economists call asynchronous growth—trading partners, that is, grow at different rates at different times. Because the U.S. went into recession earlier than other industrial countries, imports here slowed while exports continued on a fairly strong paths. Now things have reversed. The U.S. seems headed for modest growth, while Europe and Japan are headed for the economic tank. So, temporarily, U.S. imports will likely increase, and U.S. exports will be squeezed by slowdowns overseas. But when Europe and Japan recover, so will the U.S. trade position head back into surplus. The long-term trend is right and good.

None of this is, of course, foreordained. To be competitive internationally, it is not enough just for the U.S. to improve domestic productivity and efficiency—as it has done. The dollar must also be kept a reasonable level vis-a-vis other currencies; a too-expensive dollar would price U.S. goods out of foreign markets.

If the U.S. goes back to policies that encourage a strong dollar, as happened in the early 1989s, then all bets are off. Says GE's Jack Welch: "Each 10 percent increase in the relative value of the dollar requires a 10 percent increase in productivity to offset it."

Fortunately, the indications on the dollar look positive for trade. The key reason the dollar rose so much in the early 1980s was Congress' pushing up the budget deficit. The two accounts—federal budget and foreign trade—are closely interlinked. The budget deficit left the U.S. with insufficient national savings to pay for the capital investment boom that began in 1982. The gap had to be filled by borrowing from abroad; to achieve that required high real interest rates, which pumped up the value of the dollar.

But hold it. Isn't the U.S. budget deficit now at record levels? Yes, it is, but we are no longer as dependent on foreign money to finance it as we were in the decade just past. Beginning in 1982, the budget deficit began to increase at the very time when Americans started to save less. Thus, to finance the deficit we had to borrow heavily abroad, and this required high interest rates to attract foreign money. If also strengthened the dollar, because in order to invest here foreigners had to buy dollars.

But we no longer required all this foreign money. A decade later, even though the budget deficit is rising sharply again, the same pattern will not be repeated. Personal savings are higher today, and—far more important—so are corporate saving in the form of retained earnings and depreciation. As a result, the Fed is no longer forced to keep interest rates crippling high, nor is there the same upward pressure on the dollar.

Consider these numbers: in 1987 the U.S. imported $150 billion in foreign capital. In 1991, including allies' contributions toward the cost of Desert Storm, the U.S. barely borrowed a cent from abroad. This year the requirement will be no more than $40 billion or so.

Again the caveat: These favorable trends could be reversed if a demagogic Congress goes on a spending spree or on a taxing spree that penalizes savings.

According to the Congressional Budget Office, always the gloomiest forecaster on the subject, the budget deficit by 1996 will be back down to around 2.4% of the total economy, versus nearly 6% by the end of this fiscal year. By mid-decade the worst costs of the S&L bailout should be over and defense spending will have started to moderate.

The best news about the U.S.' strong export performance is that the improvement is broadly based across most world markets. The fastest-growing markets for U.S. exports have been Europe, the newly industrializing countries and Asia and some longstanding customers who were out of the market for most of the 1980s but who are now coming back with a vengeance: the Latin Americans. "Exports to Latin America grew at over 15% in 1991," says Adrian T. Dillion, vice president, planning, Eaton Corp. "This market will become more important as their economies continue to improve and when we get a free-trade deal with Mexico."

The export boom, no flash in the pan, also spreads across a broad sweep of the economy.

The U.S. is, for instance, particularly strong in services, dominating in areas like software and insurance. On international air route, weak Pan American and TWA have been replaced with three strong carriers, United, Delta, and American; today 25% of total U.S. airline revenues come from international routes. Up to 1988, the U.S. mostly had a $2 billion to $3 billion deficit on its travel and tourism account. In 1991 there was a $9.4 billion surplus.

There is great strength in high-tech exports, in computers, semiconductors (where 47% of U.S. output is now exported), in scientific instruments, airliners, pharmaceuticals and telecommunications equipment.

"Revolution" is an overworked word, but there's no better way to characterize what has happened in the capital goods sector. U.S. capital goods makers now export nearly half their total output. Even basic industries, like chemicals, paper and pulp, and relatively mundane equipment, such as electric motors share in the boom.

What's striking, if common sense, is that companies that are competitive and are successfully exporting rarely complain much about foreign governments' blocking their efforts. They have put in the groundwork, which can sometimes take years to bear fruit (especially in Japan).

So how far can this boom go? The U.S. currently exports around 7% of gross domestic product. Japan exports 9.7%, and the European Community around 9% outside the community. Suppose that the U.S. can add the equivalent of another 3% of GDP to its exports, to match the export share of its major industrial rivals. Today that would equal $170 billion in new trade, which would sustain at least 2.75 million jobs.

These extra exports would, incidentally, just about replace the output and jobs likely to be trimmed over the coming five or six years as a result of defense spending cutbacks. So we are not talking of a jobs bonanza, the more so since many successful exporters are still trimming unneeded jobs to cut costs and boost productivity further. Nevertheless, such an increase in exports would greatly ease the inevitable pain of massive cuts in the defense budget.

It would be pleasant to conclude this article on a wholly optimistic note, but it would be unrealistic to overlook the very real dangers of politics intervening. Senator Donald W. Riegle Jr. (D-Mich.) has, for instance, introduced a bill that would reclassify Japanese minivans as trucks (thereby adding perhaps $5,000 to their cost). Riegle's bill will probably go nowhere, but one never knows. History shows that free trade works, generating jobs and profit. And trade has played a significant part in helping squash inflation.

Trade, more now than at any time since the end of World War II, holds center stage when it comes to the nation's future economic well-being. Yes, there are many, many problems. We can all list them: inadequate education, crumbling infrastructure, crime, overspending politicians and the rest. But sustaining the trade boom will at least provide the means to deal with some of these problems. Should the boom wither, the prospects would be as dark again as they were in 1979.

LET NONPARTISAN REFORM BEGIN

The SPEAKER pro tempore Mr. JOHNSON of South Dakota. Under a previous order of the House, the gentleman from Maine [Mr. ANDREWS] is recognized for 5 minutes.

Mr. ANDREWS of Maine. Mr. Speaker, partisan name calling has reached new depths with the House banking scandal.

It is time to stop pointing fingers and start taking responsibility. To stop making excuses and start making reform.

Anyone can make a miscalculation in their checkbook. Inadvertant errors are not what is at issue here.

What is at issue is abuse by some.

What is at issue is a violation of trust.

What is also at issue is the erosion of faith and confidence of the American people in this institution.

Mr. Speaker, allegations of illegal activity must be thoroughly investigated and, if substantiated, violating Members and former members of this body should be prosecuted to the full extent of the law.

We must take action that will allow us to restore faith among the American people and move on to do the job we were sent here to do.

We must act to uncover the whole truth about the deliberate, unlawful actions that may have been taken by Members of this House.

This must be done above the taint of partisan politics.

It must be done in a fair and impartial way that will earn the faith and confidence of the American people.

I believe that this requires the establishment of a special prosecutor to do the job.

And, Mr. Speaker, I believe that we must also act to reform the financial and administrative functions of the House of Representatives.

We can start by replacing political patronage with accountability and competence.

Let reform begin. And let it be done not to score cheap partisan political points, but because it is the right thing to do for this institution and for this Nation.

□ 1450

TRIO: A VALUABLE EDUCATIONAL TOOL

The SPEAKER pro tempore Mr. JOHNSON of South Dakota. Under a previous order of the House, the gentleman from Arkansas [Mr. ALEXANDER] is recognized for 5 minutes.

Mr. ALEXANDER. Mr. Speaker, today I am introducing a bill to extend and revise the TRIO Programs authorized under the Higher Education Act of 1965, as amended.

These programs have been a superlative educational tool in Arkansas and across the Nation. Each year TRIO programs provide a helping hand to thousands of Arkansans, and hundreds of thousands of Americans.

They aid young people, and, in some instances, adults in achieving their education goals.

The bill I am introducing contains the same TRIO programs authorizing and revision language as is included in H.R. 3553, the Higher Education Amendments of 1992.

TRIO programs include Educational Opportunity Centers, the Ronald E. McNair Post-Baccalaureate Achievement Program, Student Support Programs, Talent Search, and Upward Bound. There are six TRIO programs. For decades TRIO programs have been used to prepare and motivate students for post-secondary education. Without TRIO many students in the United States would have never had the opportunity or taken the opportunity to go to college.

In Arkansas 36 institutions and 12,742 students participate in TRIO programs. In the First Congressional District of Arkansas which I represent, five higher education institutions are participating in TRIO. They are benefiting 1,832 students. TRIO programs are indispensable to the advancement of our young people's futures.

TRIO programs provide opportunities to low-income individuals, who are the first generation in their families to attend college. They help these students overcome class, social, and cultural barriers to higher education. TRIO programs provide counseling, academic instruction, tutoring, assistance in applying for financial aid, and encouragement. The goal is to prepare students to participate in post-secondary education at a competitive level with their contemporaries. TRIO programs provide special supportive services to low-income, first generation students with physical disabilities while they pursue programs of secondary education.

Nearly 1,700 TRIO projects operate in over 1,000 higher education institutions and 100 community agencies across the country. In fiscal year 1992 the six TRIO programs will serve over 670,000 students nationwide. Two-thirds of these are from families where the total taxable income is less than 150 percent of the poverty level and neither parent has graduated from college.

This country needs TRIO programs because they open doors in the education system. TRIO widens the entryway to higher education.

Educational opportunity centers provide low-income adults with information about educational and career opportunities.

The Ronald E. McNair Post-Baccalaureate Achievement Program increases the number of low-income, minority, and first generation students who pursue doctoral degrees and who become members of college faculties.

Talent Search is an early intervention program that gets disadvantaged students who would be lost to post-secondary education to be aware of their opportunities. It encourages them to select the appropriate high school courses to be prepared for college. Talent search encourages them to take advantage of the possibilities.

Upward Bound, one of the oldest TRIO programs, tutors, counsels, and organizes a college-based program of academics for disadvantaged high school students who are first generation post-secondary students in their families.

TRIO programs are worth the investment. I encourage my colleagues to join me in passing the reauthorization of the TRIO programs.

ADMINISTRATION LOAN GUARANTEE DECISION: TRAGIC ABANDONMENT OF COMMITMENT TO REFUGEES

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York, Mrs. LOWEY is recognized for 5 minutes.

Mrs. LOWEY of New York. Mr. Speaker, this week the administration gave its final answer to Israel's request for loan guarantees to meet the humanitarian needs of hundreds of thousands of Soviet and Ethiopian refugees. The administration's decision appears to end all prospects for providing what amounts to no-cost assistance for this urgent need. And this decision rejects a compromise which would have left the President with discretion over 90 percent of the guarantees.

The administration has pursued a one-sided, biased Middle East policy that has left the Arab States free to continue their longstanding policy of intransigence and has sought to pressure Israel to make unilateral concessions before serious negotiations.

None of the Arab States have recognized the legitimacy of the State of Israel. None have ended their boycotts or states of belligerency against Israel. None appear to be moving toward these objectives. No one can ignore the fact that these are clearly obstacles to the peace process.

So what has the administration done to encourage them to remove these obstacles? Nothing. Instead, the President has requested $77 million in economic and military aid without contentions for Jordan, a nation which supported Saddam Hussein during the gulf war. In effect, Jordan is being rewarded for its intransigence.

The Bush administration has sold Saudi Arabia $15 billion in high technology weaponry since the gulf war despite the Saudis' continuing human rights abuses, their leading role in the Arab boycott, and their obstruction of U.S. security plans in the gulf. The State Department has also recently eased strict anti-boycott regulations against the Saudis.

While saying no to the Israelis, the administration has approved $2.75 billion in loan guarantees for Kuwait which has failed to make democratic or human rights reforms. It has also approved additional loan guarantees for military-controlled Algeria.

Despite Syria's involvement in terrorism, persecution of 4,000 Syrian Jews, and intransigence at the peace talks, the administration has refused to revoke the trade benefits they enjoy, and has placed no restrictions on dual-use technology that is exported to that country.

Likewise, the administration has placed no restrictions on dual-use technology for Iran, the Middle East's most radical military power whose opposition to any sort of peace negotiations between Arab States and Israel is well noted.

Even Saddam Hussein received unconditional U.S. loan guarantees in the months leading up to the Persian Gulf War.

In adopting a totally inflexible position on Israel's request for guarantees, the administration has undermined a longstanding United States policy to help Soviet and Ethiopian refugees who have finally fled danger in their homelands to seek a safe haven in Israel. This decision represents a tragic abandonment of our longstanding commitment to protect people everywhere fleeing persecution. It also threatens the ability of Jews facing harassment and intimidation today in some regions of Eastern Europe and the former Soviet Union to find safety and security in Israel.

I was in Israel during the historic Operation Solomon in which 14,000 Ethiopian refugees were airlifted to safety. I remember looking into their eyes, full of excitement and anticipation, as they embarked on a life they hoped would be free from persecution, starvation, and civil war. At the time, I told them with confidence that the United States would assist in making this miracle a reality. This week's news will no doubt hit them, and all refugees in Israel, extremely hard. Their eyes must reflect a sense of betrayal.

I remember well the Mevasseret Zion Absorption Center—one of 46 absorption centers around Israel—where immigrant children from around the would practiced Hebrew together and learned about their new homeland. In that center, there were beautiful Ethiopian children, side by side with children from the Soviet Union and other nations of the world. This image conveyed the importance and the meaning of Israel.

For in that room, Zionism was at work, rescuing Jewish lives from the clutches of famine, violence, and oppression—without regard to their circumstances and, certainly, without regard to their color.

In the eyes of Ethiopian Jewish children, I saw an affirmation of life and freedom and security for all Jews, black and white, Ashkenazim and Sephardim, observant and secular.

Now, the administration has turned its back on these refugees, and abandoned our traditional commitment to aid those struggling to flee persecution around the world. They should rethink this decision and what it means for these vulnerable individuals before time runs out.

TIME FOR DEMOCRATS AND REPUBLICANS TO WORK TOGETHER

(Mr. HUNTER asked and was given permission to address the House for 1 minute.)

Mr. HUNTER. Mr. Speaker, let me just say that we have had a day in which the Democrat package, the so-called growth package, passed by a narrow vote. The conference report will probably be rejected by the President. We all know that.

I think this is a time for Democrats and Republicans to start working together for the first time on a signable package that will include capital gains cuts and will include passive loss and will include nonwithdrawal penalties for IRA accounts for first-time home buyers, and all the things that will put America back to work. We have had a crisis of confidence in this House, but I think now more than ever we have an incentive for both sides of the aisle, Democrat and Republican, to work together on a bill that can be signed by the President of the United States.

I hope that this day with the narrow passage of this Democrat proposal that will be vetoed will be the start of this new initiative to truly work together and let us get a growth package for the American people.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CHAPMAN) to revise and extend their remarks and include extraneous material:)

Mr. ANDREWS of Maine, for 5 minutes, today.

Mr. ALEXANDER, for 5 minutes, today.

Mrs. LOWEY of New York, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mrs. MINK, for 30 minutes, today.

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Ms. ROS-LEHTINEN, for 60 minutes, on April 1.

Mr. NICHOLS, for 60 minutes each day, on March 24 and 25.

Mr. RIGGS, for 60 minutes each day, on March 24, 25, and 26.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. CHAPMAN) and to include extraneous matter:)

Mr. STARK in two instances.
Mr. FASCELL in two instances.
Mr. BONIOR.
Mr. ACKERMAN.
Mr. TRAFICANT.
Mrs. MINK.
Mr. STUDDS.
Mr. HAMILTON.
Mr. LEVINE of California.
Mr. MCCLOSKEY.
Mr. SWETT.
Mr. HOCHBRUECKNER.
Ms. PELOSI.
Mr. ORTON.

Mr. SCHEUER.
Mr. SERRANO.
Mr. HALL of Ohio.
Mr. SABO.
Mr. HOYER.
Ms. SLAUGHTER.

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. PORTER.
Mr. DICKINSON.
Mr. BROOMFIELD.
Mr. HANSEN in three instances.
Mr. GILMAN in two instances.
Mr. KOLBE.
Mrs. ROUKEMA.
Mr. BATEMAN.
Mrs. MORELLA.
Mr. HUNTER.
Mr. REGULA.
Mr. HYDE.
Mr. BOEHNER.
Mr. MCCOLLUM.

ENROLLED JOINT RESOLUTIONS SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled joint resolutions of the House of the following titles, which were thereupon signed by the Speaker:

H.J. Res. 284. Joint resolution to designate the week beginning April 12, 1992, as "National Public Safety Telecommunicators Week"; and

H.J. Res. 446. Joint resolution waiving certain enrollment requirements with respect to H.R. 4210 of the 102d Congress.

ADJOURNMENT

Mr. PENNY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 55 minutes p.m.), under its previous order, the House adjourned until Tuesday, March 24, 1992, at 12 noon.

CONTRACTUAL ACTIONS, CALENDAR YEAR 1991 TO FACILITATE NATIONAL DEFENSE

The Clerk of the House of Representatives submits the following report for printing in the CONGRESSIONAL RECORD pursuant to section 4(b) of Public Law 85–804:

CONTRACTUAL ACTIONS TAKEN PURSUANT TO PUBLIC LAW 85-804 TO FACILITATE THE NATIONAL DEFENSE, CALENDAR YEAR 1991

SECTION A—DEPARTMENT OF DEFENSE SUMMARY

OFFICE OF THE SECRETARY OF DEFENSE,
Washington, DC, March 13, 1992.
Hon. THOMAS S. FOLEY,
Speaker of the House of Representatives, Washington, DC.

DEAR MR. SPEAKER: In compliance with Section 4(a) of Public Law 85–804, enclosed is the calendar year (CY) 1991 report entitled Extraordinary Contractual Actions to Facilitate the National Defense.

Section A, Department of Defense Summary, indicates that 44 contractual actions were approved and that 13 were disapproved. Those approved include actions for which the Government's liability is contingent and cannot be estimated.

Section B, Department Summary, presents those actions which were submitted by affected Military Departments/Agencies with an estimated or potential cost of $50,000 or more. A list of contingent liability claims is also included where applicable. The Strategic Defense Initiative Organization, Defense Information Systems Agency, Defense Mapping Agency, and the Defense Nuclear Agency reported no actions while the Departments of the Army, Navy, and Air Force, and the Defense Logistics Agency (DLA) provided data regarding actions that were either approved or denied. Please note that one pending request submitted by LDH Instandsetzungswerke GmbH to DLA during CY 1990 was transferred to the Department of the Army following a final determination, as described in the enclosed report.

Sincerely,

D.O. COOKE,
Director.

Enclosure: As stated.

SECTION B—DEPARTMENT SUMMARY

SUMMARY REPORT OF CONTRACTUAL ACTIONS TAKEN PURSUANT TO PUBLIC LAW 85–804 TO FACILITATE THE NATIONAL DEFENSE, JANUARY–DECEMBER 1991

Department and Type of Action	Actions approved			Actions denied	
	Number	Amount requested	Amount approved	Number	Amount
Department of Defense, total	44	163,709,973.45	105,165,470.45	13	44,020,243.42
Amendments without consideration	4	163,701,782.00	105,157,279.00	10	43,797,180.42
Other, contingent liabilities	39			1	
Nonpayment of subcontractors	0			2	223,063.00
Formalization of informal commitment	1	8,191.45	8,191.45		
Army, total	5	126,508,834.00	74,457,279,00	5	4,597,181.00
Amendments without consideration	2	126,508,834.00	74,457,279.00	5	4,597,181.00
Contingent liabilities	3				
Navy, total	35	37,192,948.00	30,700,000.00	6	35,205,002.00
Amendments without consideration	2	37,192,948.00	[1] 30,700,000.00	[2] 4	34,981.939.00
Other, nonpayment of subcontractors	0			[3] 2	223,063.00
Contingent liabilities	[4] 33				
Air Force, total	3			2	4,218,060.42
Amendment without consideration	0			1	4,218,060.42
Contingent liabilities	3			1	
Defense Logistics Agency, total	1	8,191.45	8,191.45		
Formalization of informal commitment	1	8,191.45	[5] 8,191.45		
Strategic defense initiative organization, total					
Defense information systems agency, total					
Defense Mapping Agency, total					
Defense Nuclear Agency, total					

[1] A $25,000,000.00 payment was approved as interim relief for the National Steel and Shipbuilding Company pending settlement of outstanding claims. These claims were settled in the amount of $239,000,000.00 on December 26, 1991, and the interim action taken under Public Law 85–804 was deleted.

[2] Denials involved the following contractors and dollar amounts: National Office World, Incorporated ($263,533.00); City of Oxnard, California ($718,406.00); Robert E. Derektor of Rhode Island ($30,000,000,00); and GMI Industries, Incorporated ($4,000,000.00).

[3] Denials involved Gerson Electric Company ($415,209.00) and Douglass and Company ($77,854.00).

[4] Written descriptions are not available; no documentation exists.

[5] Additional monetary award is expected at a later date.

DEPARTMENT OF THE ARMY

Contractor: LDH Instandsetzungswerke (LDH) and REM Ryder System—EWK GmbH (Ryder) (Joint decision).

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $2,581,087 and $1,376,192, respectively.

Service and activity: United States Army Contracting Command, Central Germany.

Description of product or service: Operation of an Industrial Maintenance Activity.

Background: On August 1, 1988, the United States Army Contracting Command issued a massive, 1600-page solicitation seeking contractor proposals to operate the Mainz Army Depot on a cost-plus-fixed-fee basis. The Request for Proposals (RFPs) asked offerors to propose services for a base period of performance from October 1, 1990, through September 30, 1991, and for four one-year option periods through September 30, 1995. In order to permit offerors to prepare their proposals responsibly and in order to facilitate evaluation of contractor proposals, the RFP included an estimate of direct maintenance labor hours—a key measurement of Mainz workload.

LDH and Ryder, the two requestors before the Army, submitted offers to perform services at Mainz, along with the incumbent contractor, MIP, Incorporated. Negotiations took over a year to complete, given the size and complexity of Mainz's operations, and best and final offers were submitted on September 20, 1989. The Contracting Command completed the evaluation of the three final proposals in early 1990. Prior to the award, it became clear to officials in the Office of the Assistant Secretary of the Army (Research, Development, and Acquisition) (OASA(RDA)) that the RFP's projections of workload at Mainz for the base period of performance were grossly overstated due, primarily, to unforeseen budget and force reductions in Europe. In fact, because of unexpected reductions in fiscal years 1990 and 1991 maintenance funds and the changing force requirements for the NATO alliance, the Army estimated direct maintenance labor requirements at Mainz for fiscal year 1991—the first year of performance under the new contract—to be cut a fraction of the RFP estimate. Even under the most favorable circumstances, the Army would likely be able to generate maintenance orders requiring only 1.8 million man hours at Mainz, barely 50 percent of the RFP's projections. In light of these changes, OASA(RDA) directed that the competition be cancelled and that any recompetition of the Mainz contract be postponed until the Army prepared new estimates of European depot-level maintenance requirements and determined the future size and structure of the Mainz Army Depot.

OASA(RDA) took this action in spite of the fact that the RFP contemplated a cost contract, which presumably could have accommodated some fluctuations in projected workload levels. The OASA(RDA) official who served as Acting Assistant Secretary at the time cancellation was ordered addressed this point in great detail in a memorandum dated April 12, 1990. In the end, along with cancellation of the solicitation, OASA(RDA) directed the Army command with the responsibility for Mainz—the Army Materiel Command (AMC)—to study all possible alternatives for meeting depot-level maintenance requirements in Europe under new force-structure assumptions. In particular, the Acting Assistant Secretary ordered an analysis of returning all depot-level requirements generated in Europe to the continental United States; awarding depot-level maintenance contracts to commercial sources in Europe for performance in contractor-owned facilities; and returning Mainz to the German Government and acquiring needed services from that government under the NATO Mutual Support Act. Both LDH and Ryder filed protests with the Comptroller General challenging the Army's decision to cancel the Mainz competition as unreasonable. After discussions were held between protestors and OASA(RDA) in which the willingness of the Army to entertain Public Law 85-804 requests was disclosed, the protestors voluntarily dismissed their challenges, although each reserved the right to reinstate its protest at a later date. Subsequently, LDH and Ryder lodged these extraordinary contractual relief requests with the Army in which they sought approximately $2.581 million and $1.744 million, respectively, to cover their allocable and reasonable costs of preparing proposals in the Mainz competition.

Justification: Before proceeding to the merits of the requests before the Army, it is appropriate to address the important question of whether Public Law 85-804 can lawfully be applied to provide relief to contractors situated as the requestors are. In particular, it is necessary to determine whether the absence of an express contract between the requestors and the Army means, literally, that there are no contracts that can be "adjusted" by the Board within the meaning of the statute. Thus, implied contracts of "fair consideration" exist between the Army and the requestors, and these contracts may be formalized and adjusted by the Army in the interest of fairness to provide retroactively for reimbursement of the requestors' proposal preparation costs. No reason exists to doubt that such implied contracts of fair consideration were formed when LDH and Ryder submitted their proposals in the Mainz competition. The Board also does not believe that cancellation of the procurement prior to award under the solicitation rendered these implied contracts null. The question posed is whether, absent Government breach of these implied contracts, which might entitle the requestors to proposal preparation costs, Public Law 85-804 can be used to modify these implied contracts and provide for Government payment of proposal preparation costs in any event. The text of Public Law 85-804, together with the constructions of Executive Branch officials charged with the statute's implementation, provides an affirmative answer to this question.

The central point is that the availability of Public Law 85-804's amendment or modification authority does not turn on the form of the contract or contracts under review. The Executive Order, more explicit on this score than the statute, makes the time, circumstances of the making, and the form of the contracts to be modified expressly irrelevant to the question of the extent of Public Law 85-804's reach. The Federal Acquisition Regulation, in its description of the "types of contract adjustment" permissible under Public Law 85-804, appears to contemplate action of a character similar to that proposed by the requestors. The Regulation includes in its categorization the act of "formalizing informal commitments" made by officials without authority to bind the Government, an action not unlike the act of formalizing an implied contract and retroactively including a payment term. Granted, the "informal commitments" described in the Regulation typically involve a person who has provided supplies or services to the Government with the expectation of receiving payment, an expectation the requestors did not have when they submitted proposals to operate Mainz; however, the difference is relevant not to the availability of Public Law 85-804 power in these circumstances but rather to the "merits" of the requests.

The requestors seek formalization of, and amendments (without consideration) to, their implied contracts of fair consideration in order to shift to the Army their costs of preparing proposals under the Mainz solicitation. Each requestor submits that such an action would facilitate the national defense by encouraging them to remain interested in, and familiar with, the operation of the Mainz Army Depot, such that they would be willing to participate in any successor competition for the Mainz contract once the depot's requirements have reasonably stabilized. Participation in the first Mainz competition, according to the requestors, required an extraordinary level of effort and expense. The extent of the undertaking, in fact, discouraged many prospective participants from entering a proposal, and will likely do so again when the Mainz contract is recompeted in the future. In the requestors' view, the Army should do everything possible to keep LDH and Ryder "engaged" in the future of Mainz and ready to participate fully in a successor competition when it is announced. Otherwise, when the Army eventually seeks a fresh round of proposals for the operation of the Mainz Depot, it may be faced with little or no industry interest in the competition. This would be an especially likely outcome given the possibility that any successor competition would again be delayed or put aside due to large undulations in Mainz workload levels.

It is in the interest of the national defense to have a viable base from which to draw competitors for such a major industrial activity as Mainz, and although there is an illusion that refinancing the requestors' proposals in Round I of the Mainz competition will guarantee meaningful participation in Round II, granting the requests in the interest of fairness and thus communicating to the requestors that their interest in Mainz operations is appreciated. The government's interest in keeping the requestors available for participation in the next Mainz solicitation is genuine indeed. Funding the requestors' proposals retroactively will make it more likely that these competitors' new and original ideas will be available to the Government once the depot's future direction is charted.

The Federal Acquisition Regulation contemplates that it may be appropriate to redress losses such as those suffered by the requestors during their participation in the Mainz competition. Federal Acquisition Regulation 50.302-1(b), discussing "Amendments Without Consideration," provides:

"When a contractor suffers a loss (not merely a decrease in anticipated profits) under a defense contract because of Government action, the character of the action will generally determine whether any adjustment in the contract will be made, and its extent. When the Government directs its action primarily at the contractor and acts in its capacity as the other contracting party, the contract may be adjusted in the interest of fairness. Thus, when Government action, while not creating any liability on the Government's part, increases performance cost and results in a loss to the contractor, fairness may make some adjustment appropriate."

The Army did not incur any liability to the requestors when it cancelled the Mainz solicitation because the Army had a reasonable basis to do so, but there is no question that the Army's action denied the requestors an opportunity to recover their costs of proposal preparation through fee-bearing work at Mainz Army Depot. In addition, as a result of the cancellation, the requestors will be compelled to finance preparation of a second proposal in order to have a chance of gaining the Mainz contract. Consequently, these increased costs of participating in the Mainz competition are appropriate for treatment under Federal Acquisition Regulation 50.302-1(b) and Public Law 85-804. An additional element of fairness militates in favor of granting extraordinary contractual relief in this setting, for it appears that the incumbent contractor at Mainz, MIP, Incorporated, has been able to recover its costs of proposal preparation, as indirect "bid and proposal costs," against the Mainz operating contract. It would seem especially unfair to leave the requestors with their proposal preparation losses when one of the three competitors has been able to shift its proposal costs to the Government as the incidental beneficiary of the solicitation's cancellation. This is not to suggest that the extension of MIP's contract after the Army cancelled the competition was in any way improper; the Army had a reasonable basis to support cancellation and a reasonable basis to extend the incumbent's services pending recompetition.

Decision: In view of the protracted character of the Mainz competition in which the requestors satisfactorily participated at substantial expense; in view of the unexpected events that resulted in cancellation of the competition; and in order to keep the three entities that competed for the Mainz contract on equal standing as is practicable pending the start of a new competition, the Board finds that it would facilitate the national defense to formalize and amend the requestors' implied contracts of fair consideration and to provide for payment of the contractors' allocable and reasonable costs of preparing and submitting proposals in that competition.

The United States Army Contracting Command is hereby authorized and directed to make payment to the requestors in accordance with the above opinion. The Command shall require the requestors to substantiate their incurrence of proposal preparation costs and, if appropriate, shall subject the requestors' submissions to audit. In addition, the Command shall take steps to ensure that the requestors remove the proposal preparation costs subject to reimbursement under this action.

Contractor: Remington Arms Company, Incorporated (Remington).

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $70,500,000.

Service and activity: Lake City Army Ammunition Plant (LCAAP), Wilmington, Delaware.

Description of product or service: Pension Program.

Background: In 1941, Remington became the Army's operating contractor and served in that capacity continuously until late 1985. During that period of service, Remington, with the Army's approval, initiated and administered a pension program and began paying health and life insurance benefits (HLIB) to its LCAAP retirees. Remington accrued pension expenses during is tenure as LCAAP operating contractor and made regular contributions to its pension trust, and these contributions were billed to and reimbursed by the Army under LCAAP cost reimbursement contracts; in 1984, the Remington pension was merged with the pension trust of its corporate parent Du Pont Company and, with the approval of the Army, the Remington LCAAP retirees thereupon became entitled to receive their pension plan benefits from the Du Pont pension trust. This practice met the requirement of the Employee Retirement Income and Security Act (ERISA) that employers fully fund. Although Remington was entitled to accrue and "prefund" its retirement HLIB expenses (and bill these accruals to the Army), Remington elected to fund the costs of its HLIB program on a "pay-as-you-go" basis (i.e., as the expenses were incurred), and the Army reimbursed these costs on that basis. Remington's accounting treatment for retirement HLIB were consistent with generally accepted accounting principles and with prevailing industry practices.

For a variety of reasons that are immaterial to the instant Public Law 85-804 request, the Army in the early 1980s decided to open the operating contract at LCAAP to competition. A fully competitive request for proposals (to which Remington and others responded) was issued in early 1984; this culminated in an award to Olin Corporation in July 1985. An analysis by the Defense Contract Audit Agency (DCAA) was based upon Cost Accounting Standards (CAS). These standards, which were promulgated in series at various points during the 1970s, regulated the composition, measurement, and assignment of pension and insurance costs under Remington's contracts. CAS 412 and 413 governed the allocation of pension costs, while CAS 416 covered the allocation of insurance costs, including insurance costs for retirees. Had Remington accounted for its retirement HLIB costs as part of its pension program in accordance with CAS 412, it would have been entitled both to periodic reimbursements for accruals of future HLIB costs and, upon contract termination, to an "adjustment" in respect to unfunded HLIB costs allocable to the period of Government contract performance. Instead, Remington disclosed and accounted for the costs of its HLIB program on a "pay-as-you-go" basis as insurance costs under CAS 416, and allocated these costs to its LCAAP contract as general and administrative expense. Although CAS 416 permitted Remington to prefund retirement health and life insurance coverage for its employees and bill these prefunded amounts to the Army, Remington did not take such a stand. Thus, under the DCAA analysis, when Remington's LCAAP contract expired in November 1985, Remington found itself with a large, unfunded HLIB liability with no mechanism to have these costs reimbursed by the Government.

Remington disagrees with DCAA's analysis in many respects. Points of disagreement concern such issues as the proper interpretation of the CAS when the individual standards became applicable to the LCAAP contracts, and the extent to which Remington could have accrued HLIB costs and prefunded them on a reimbursable basis under then-applicable Department of Defense procurement and IRS regulations. Further, Remington points out that if responsibility for Remington's LCAAP retirees had been transferred to Olin in November 1985, the retiree's HLIB costs would have been paid by Olin and reimbursed by the Army. During the competition for the LCAAP contract in 1984-1985, however, the Army directed that the retirees remain on Remington's pension rolls. Remington maintains that the Army's action in this respect should not affect reimbursability of the HLIB costs at issue. With the Army having agreed with the DCAA analysis, Remington now seeks an adjustment to its operating contract under Public Law 85-804 to cover these HLIB costs. Remington believes that such relief is clearly justified on the grounds of equity and fairness. It argues that the HLIB costs at issue were an integral part of the personal compensation that Remington afforded to its employees at the LCAAP. The provision of these benefits was reviewed and approved by the Army, according to Remington, and the associated HLIB costs were routinely paid by Remington and reimbursed by the Army on a pay-as-you-go basis for many years.

Remington further argues that it accounted for the HLIB costs as insurance and, therefore, claimed reimbursement for those costs as general and administrative expense only because it desired to use insurance companies as the medium for reviewing and paying the benefit claims submitted by LCAAP retirees. Under Remington's accounting system, as fully explained in its CAS Disclosure Statement, the HLIB costs were accounted for and charged to contracts as general and administrative expense in the same manner as were other insurance costs incurred by Remington. Nevertheless, according to Remington, the HLIB costs were clearly pension benefits and were expressly promised to LCAAP pensioners as such, along with the other benefits to which they might become entitled in accordance with Remington's regular pension plan. Remington's choice of accounting treatment, in the company's view, benefitted not only Remington but the Army as well. Specifically, because Remington accounted for the HLIB costs on a pay-as-you-go basis, the company argues that the Army enjoyed lower LCAAP operating costs for many years. Remington has estimated that during the 7⅓ year term of the most recent contract alone (July 1, 1978 through November 2, 1985), Remington's reimbursable costs were reduced by approximately $62.8 million (prior to consideration of any amount for interest) as the result of its accounting for HLIB costs on a pay-as-you-go basis rather than on an accrual basis.

Justification: Public Law 85-804 authorizes the amendment or modification of contracts without regard to certain laws governing the administration of federal contracts when such action would facilitate the national defense. In implementation of this broad statutory authority, Paragraph 50.301-1 of the Federal Acquisition Regulation sets forth an exemplary listing of circumstances in which it may be appropriate to award a contract amendment to a defense contractor without consideration, ordinarily a requirement for the amendment of federal contracts. Several of the principles which support the Regulation also provide support to the Remington application. To be sure, Remington's productive ability is not "essential to the national defense"; even if it were, the failure to award relief on the terms requested would be unlikely to plunge Remington into financial failure. Although the Army contends that its action in this respect was lawful and proper, Remington maintains that Government action caused the company's present inability to obtain reimbursement for its continuing HLIB costs beyond the termination of its LCAAP operation. Remington points specifically to the Army's direction during the 1984-1985 competition that the post-contract termination liability for retirees' pensions and HLIB remain with Remington rather than be transferred to the successor contractor. At the time Remington acquiesced in this action, it was unaware that DCAA would subsequently rule that the retirees' post-termination HLIB costs were nonreimbursable to Remington. Indeed, this ruling appeared to take the Army's Armament, Munitions, and Chemical Command by surprise as well, for they were negotiating with Remington over the coverage of these costs until DCAA issued this ruling in June 1987.

This is not to say that Remington is entitled to an adjustment for its retirement HLIB costs; the terms of Remington's contract made it possible for the company to accrue and prefund retirement HLIB costs and bill these accruals to the Army during periods of active contract performance, but it did not do so. Nevertheless, an award of Public Law 95-804 relief to Remington in the amount of its post-1985 HLIB costs for LCAAP pensioners would facilitate the national defense by showing the members of the defense industrial base that the Army is a "world class customer." Specifically, it would demonstrate that the Army is willing to respond with fairness to those who have operated under long-term, cost-reimbursement relationships with the Army when an unexpected chain of events renders them with large, unanticipated liabilities that substantially change the bargain struck earlier by the contracting parties.

Decision: The Board hereby grants Remington's request for Public Law 85-804 relief in the amount of $75 million, less an amount reflecting the portion of Remington's 1990 and 1991 health and dental care costs that is reimbursed out of excess Remington pension earnings in accordance with this decision. These funds are to be held in a trust for the satisfaction of the HLIB costs incurred by Remington with respect to its LCAAP retirees. The United States Government shall have a reversionary interest in the trust. This award of relief is expressly conditioned on Congress' approval (through its authorizing and appropriating committees) of a reprogramming request to make available the necessary funds out of legally available appropriations.

This award is subject to two additional conditions: (1) that Remington transfer to the Olin pension trust (on the Army's behalf) a portion of excess LCAAP pension money in accordance with this opinion; and (2) that Remington enter into an agreement, on terms satisfactory to the Army, that closes out Remington's LCAAP contract in an orderly fashion and in a manner consistent with the Federal Acquisition Regulation. As a result, it is found that this particular case agrees with the conditions of Public Law 95-804 and, therefore, facilitates the national defense.

Contractor Totalab, Incorporated.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $0.

Service and activity: Army Supplier, Spring, Texas.

Description of product of service: Modular Labs.

Background: The request for extraordinary contractual relief relates to two separate contracts for similar items: modular labs for use in Korea under contract number DAMD17-88-C-8176, and modular labs for use in Building 1412 at Fort Detrick under contract number DAMD17-89-C-9152.

Justification: The essence of Totalab, Incorporated's request is that (a) it did not agree with the negotiated costs and that the Government forced it into a contract and (b) the provisional billing rates proposed by the Government were not acceptable. These bases essentially could have been formulated as a claim to the contracting officer under the Contract Disputes Act of 1978; however, Totalab, Incorporated, has never submitted a claim to the contracting officer. Federal Acquisition Regulation 50.102 states as a matter of policy that relief, if any is available, should be pursued under the Contract Disputes Act of 1978 in preference to seeking relief under Public Law 85-804. Therefore, as a matter of stated policy, the request for extraordinary contractual relief by Totalab, Incorporated, should be denied because the request could have been pursued as a claim under the Contract Disputes Act.

Decision: The request by Totalab, Incorporated, is denied. This decision is made under the authority delegated to the Board in accordance with the Army Supplement to the Federal Acquisition Regulation, Part 1.9101(b)(12).

Contractor: Powell Construction, Incorporated.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $0.

Service and activity: Subcontracting Services, Hagerstown, Maryland.

Description of product or service: Fabrication and Installation of Modular Laboratories.

Background: Powell Construction, Incorporated, requests an amendment without consideration to contract number DAM17-89-C-9152 because it suffered a loss as a subcontractor to Totalab, Incorporated, due to Government action. The contract in question was a cost-reimbursement type contract for the fabrication and installation of modular laboratories into Building 1412 at Fort Detrick, Frederick, Maryland.

Justification: The essence of Powell's request is that the U.S. Army improperly characterized a construction project as a supply contract which resulted in the contract not requiring performance and payment bonds otherwise required by the Miller Act (40 U.S.C. 270a-270f). Powell argues this Government action resulted in a loss to it which, in the interest of fairness, requires an adjustment to the contract. However, the acquisition activity properly determined that work to be performed under the contract was "non-construction" and not "construction," as those terms are defined by Army Regulations 415-15, 415-25, and 735-5. Therefore, the Miller Act bonds were not required. Moreover, even if the contract was improperly characterized as "non-construction," the Department of Defense Supplement to the Federal Acquisition Regulation at Part 228.102-1 has waived the requirement for Miller Act bonds for all cost-reimbursement type construction contracts.

Decision: The request by Powell Construction, Incorporated, is denied because it is not seen as vital to the national defense of the United States Government.

Contractor: George S. Hann & Son.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $0.

Service and activity: Subcontracting Services, McConnellsburg, Pennsylvania.

Description of product or service: Progress Payments.

Background: In this contractor's request, the basis for relief is indicated to be Government action. It is contended that the Letterkenny Army Depot contracting officer and project contracting officer's representative were aware that this contractor had not been paid for work performed even though the prime contractor had been given progress payments. It is also charged that the Government failed to monitor the prime contractor's progress, paying the contractor for more work than had actually been completed.

Justification: For a contractor to prevail on the basis of Government action, three criteria must be satisfied. First, the contractor must suffer an actual loss. Second, the loss must result from some Government action. Third, the Government action must result in a potential unfairness to the contractor. It is important to understand that not all Government action is of the type which will afford a contractor extraordinary relief. The character or nature of the Government action determines whether any adjustment in the contract will be made. This particular loss resulted not from Government action but from the prime contractor's action/inaction. Personnel at Letterkenny Army Depot did not, at any time, indicate that the Government would pay the company's invoices directly. Rather, personnel were mindful of this subcontractor's status and of the privity of contract limitations. In recognition of the legality and practicality of the privity doctrine, Federal Acquisition Regulation 28.106-7 states that agencies shall not withhold payments due a prime contractor because its subcontractors have not been paid.

Decision: The United States did not deliberately act so as to induce this company's performance to its financial injury; the United States properly followed the privity of contract course. The Army is not the equitable guardian of its subcontractors. It simply deals with its prime contractors according to the terms of the prime contracts and cannot monitor the affairs of all of its subcontractors. In this instance, Letterkenny Army Depot personnel acted in a businesslike and appropriate manner. Legal recourse is, therefore, against the prime contractor and not against the Government. As such, this request for extraordinary contractual relief under Public Law 85-804 is denied.

Contractor: Superior Engineering and Electronics Company, Incorporated (SEEC).

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $0.

Service and activity: Troop Support Acquisition Center, El Segundo, California.

Description of product or service: Subcontracting Claim Reimbursements.

Background: On April 11, 1991, the Army received from SEEC a request for relief under Public Law 85-804. Several reviews were conducted, with a final review indicating that no further consideration will be given to this claim.

Justification: SEEC does not have a Public Law 85-804 claim against the Government unless the Government acted in a manner which caused the contractor to incur damages, but did not result in the Government becoming liable to the contractor for those damages. In this case, SEEC filed an equitable adjustment claim against the Government in 1988 and 1989. SEEC based this claim on an allegedly invalid stop work order. The Government agreed with the contractor's contention that it had issued an invalid stop work order. However, the Government did not compensate SEEC for the damages allegedly incurred due to SEEC's failure to adequately document those damages.

Based on the above, it does not appear that SEEC has a valid Public Law 85-804 claim under Federal Acquisition Regulation, Part 50 because the Government's actions created liability on the Government's part. The Government's actions made it liable for an equitable adjustment claim, and SEEC can not use a Public Law 85-804 claim to overcome its inability to establish the damages for that liability. Also, SEEC's claim does not contain any time cards or documentation of hiring in support of its increased labor costs. Consequently, it would appear that SEEC has failed to establish a basis for a damage award.

Decision: The Government will no longer consider SEEC's claim, and considers it to not be essential to the national defense.

Contractor: Urethane Products Corporation.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $0.

Service and Activity: Contract Consideration, Gardena, California.

Description or product or service: Solvent Uses.

Background: The Government acknowledged the receipt of this request for extraordinary contractual relief on February 7, 1991.

Justification: Upon the advice of legal counsel, the Army's Procuring contracting officer did not consider this claim as appropriate to areas described in the Contract Disputes Act and in Federal Acquisition Regulation 50.203(b)(2).

Decision: The Board has rendered this request as not being essential to the interests of the national defense.

Contingent liabilities

Provisions to indemnify contractors against liabilities because of claims for death, injury, or property damage arising from nuclear radiation, use of high energy propellants, or other risks not covered by the contractor's insurance program were included in one contract; the potential cost of the liabilities can not be estimated since the liability to the United States Government, if any, will depend upon the occurrence of an incident as described in the indemnification clause. Items procured are generally those associated with nuclear-powered vessels, nuclear armed missiles, experimental work with nuclear energy, handling of explosives, or performance in hazardous areas.

Contractor:	*Number*
	Number
United Engineers and Construction, Incorporated	1
The Mitre Corporation	1
Program Resources, Incorporated	1
Total	3

DEPARTMENT OF THE NAVY

Contractor: Colonna's Shipbuilding, Incorporated (CSI).

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $5,700,000.

Service and activity: USS Papago, USS Charleston, Major maintenance availabilities program, US Coast Guard, Norfolk, Virginia.

Description of product or service: Ship Repair/Building.

Background: CSI, founded in 1875, is one of Virginia's oldest private repair companies. Colonna Marine Railway Corporation, as the company was known then, repaired all types of wooden commercial sailing ships. In the 1920s, the yard branched into boat building as well and continued in that business into the 1950s when it again became strictly a ship repair firm. W.W. Colonna, grandson of the company's founder, took over the presidency and full ownership of CSI in 1977. Under W.W. Colonna, the yard aggressively expanded into repairs of larger Navy and Coast Guard vessels. In 1986, as part of this expansion, the company invested approximately $9 million into a 17,200 ton floating drydock and an extensive upgrading of piers and other facilities at its yard. This investment made CSI the third ship repair yard eligible to perform work for the Navy in the Norfolk homeport area that owned a Navy-certified drydock. The "Captain Will" is a steel floating drydock which can lift vessels up to 650 feet in length. CSI also owns three marine railways capable of handling vessels up to 420 feet in length and six piers extending to 900 feet.

CSI is one of six shipyards in the Norfolk homeport area with which the Navy has executed a Master Ship Repair Agreement (MSRA). An MSRA is entered into upon request with prospective contractors who possess the organization and facilities to perform ship repair work satisfactorily. Although not a contract itself, an MSRA contemplates the issuance of separate future ship repair and alteration contracts (or job orders) that incorporate by reference the terms and conditions contained in the MSRA. In September 1986, CSI was competitively awarded what promised to be the largest job order in its history: a job order, worth up to $63 million, to overhaul as many as 11 Coast Guard cutters if all options were exercised. The job order, awarded by the Naval Sea Systems Command (NAVSEA) for the Coast Guard and administered by the Supervisor of Shipbuilding, Conversion and Repair, USN Portsmouth, Virginia (SUPSHIP Portsmouth), a NAVSEA activity, was plagued with problems shortly after award. Specifications provided by the Coast Guard were imprecise and defective, requiring CSI to hire a subcontractor to correct specification defects and provide good drawings. The need to perform design, engineering, and production work concurrently introduced inefficiencies into CSI's execution of the job order and resulted in numerous job order changes. Ultimately, because of schedule and cost overrun problems, the US Coast Guard decided in 1989 not to exercise options for the remaining nine cutters.

On April 24, 1990, CSI filed for Chapter 11 bankruptcy protection. In September 1990, the Bankruptcy Court approved a request to extend, until January 1991, the time period during which CSI has exclusive rights to file a reorganization plan. In the same time period, the Navy approved CSI's request to lease its floating drydock to another Norfolk homeport area ship repair firm and MSRA holder, the Jonathon Corporation. CSI is using the money from the leasing arrangement to ease its debt. The agreement calls for an initial lease period of five years. Pursuant to the agreement, CSI may sublease the dock from Jonathon Corporation under a "preferred customer" arrangement. The dock remains located at CSI's yard. It is unclear whether Jonathon or any other shipyard in the Norfolk homeport area has a business base sufficient to enable it to purchase CSI's drydock should CSI be forced to liquidate. CSI, however, continues to submit proposals in response to solicitations for maintenance and repair work from the Navy and has operated at a profit since the Chapter 11 filing. Indeed, despite the problems that resulted in the US Coast Guard decision not to exercise the options for the remaining nine cutters in the Major Maintenance Availabilities Program, the Coast Guard recently awarded CSI a job order for approximately one-half million dollars to repair one cutter, USCGC BEAR (WMEC-901). The contract to repair USCGC BEAR includes a drydocking. In addition, CSI has successfully completed a selected restricted availability of USS Donald B. Beary (FF-1085).

Justification: The initial award of two ships was the largest single job order ever awarded to CSI. In its Public Law 85-804 request, CSI anticipated that performance of the Major Maintenance Availabilities Program, in accordance with the statement of work as originally written and including all 11 vessels, would last a minimum of five years. Accordingly, CSI claims that it reduced its pursuit of additional major work because the program job order was expected to provide a profitable base for the yard's operations over that time period and because much of its drydock availability was needed to support the program.

Problems with the job order developed very early. As soon as performance began, it became apparent that the specification package provided in the solicitation neither adequately reflected the condition of the vessels nor, therefore, the work necessary to accomplish the repairs required. The specification inadequacies resulted in the first of many increases in the scope of the job order in the form of an added line item to perform engineering and design work to provide the necessary corrections to the specification package. The value of this item alone ultimately doubled from slightly over an initial $2 million to $4.4 million. Because CSI was ill-equipped to undertake the required engineering and design work itself, it competitively secured the services of a subcontractor to handle the effort. Thus, CSI found itself performing significant design and engineering work, an effort CSI never anticipated when it submitted its proposal and an effort which it was not required to fulfill at the time of the award. In effect, what had been advertised as an overhaul effort was transformed in part into a design and development effort, a change that was difficult to compensate for in dollars alone.

Prior to the award of the job order, the Navy conducted a preaward survey of CSI. At that time, CSI was determined to be capable of preforming the work required. Moreover, no question was ever raised as to the appropriateness of the use of a firm-fixed-price job order, based upon a description of work in the original solicitation. In retrospect, as soon as the problems with the Coast Guard specification package were discovered and the scope of the job order was increased to include the engineering effort necessity to correct these problems, the Navy should have realized that a firm-fixed-price job order was no longer appropriate and the job order should have been modified accordingly. The deficient Coast Guard specification package, combined with adherence to a firm-fixed-price job order, subjected CSI to a far greater risk than was intended at the time of award. The determental economic impact of providing a contractor with improper Government Furnished Information (GFI) has previously served as a basis upon which to grant extraordinary contractual relief. Because CSI is a small business, the inefficiencies introduced as a result of the unanticipated increase in contract scope had a devastating impact on its operations, more than they might have had on a larger business. It is the declared policy of Congress to assist and protect small businesses. In this case, the Government is in the anomalous position of having solicited only small businesses for what initially appeared to be an overhaul effort appropriate for a small business set-aside, only to then cause the contractor to which the effort was awarded to incur a loss far beyond its capacity to absorb when the nature of the initial effort changed significantly as a result of defective specifications.

Growth also occurred in the work packages and prices of the USS Papago and the USS Charleston job orders. The growth that occurred on these job orders, however, was not, upon analysis, attributable to Government action; nor was it as unusual in amount or consequence as the growth that occurred in the program. In its Public Law 85-804 request, CSI attributes the growth on the USS Papago job order to four primary areas: main and Ships Service Diesel Generator (SSDG) diesel engine installation and alignment problems; potable water system problems;

steam and condensate return system problems; and disputed warranty repairs. CSI raised these issues in a claim which, as in the case of its program claim, was based on a total cost approach. This claim was denied for failure to demonstrate entitlement, lack of adequate supporting data, and because much of the amount requested was for work already required by the specifications or for which CSI had already received compensation in modifications to the job order containing full and final settlement releases. The growth that occurred during performance of the USS Papago job order was typical of the growth that usually occurs during a ship overhaul when performance of the work required by the solicitation uncovers additional repairs that are necessary. These changes were recognized and compensated for in bilateral negotiated job order modifications. They were the type of changes that an MSRA contractor is expected to be able to handle, in contrast to the unexpected challenge of performing significant design and production work concurrently that CSI faced in performing the program job order. None of the changes that occurred indicated that the use of a firm-fixed-price job order was inappropriate. Nor were any of the problems encountered attributable to Government action or inaction. The growth in the USS Papago requirement did not alter its essential nature, in contrast to the effect of the growth in the program requirement because the specifications for the USS Papago requirement accurately reflected the ship's condition and, therefore, the work necessary to accomplish the required repairs.

Job order 9296, to accomplish the drydocking phased-maintenance fixed-price availability on USS Charleston, was awarded on August 24, 1989, in the amount of $4,367,256. The completed job order price of approximately $5.6 million reflects problems that arose during the overhaul as a result of sandblast contamination, record low temperatures resulting in the bursting of frozen pipes, and difficulties with shafting and riveting of the hull. These problems were the subject matter of three claims submitted on May 24, 1990. The claim for the sandblast contamination was denied in its entirety, based on CSI's failure to provide proper required protection for the contaminated equipment. Entitlement in the amount of $19,714 was determined to be due for repair of the freeze damage. The difference between the amount claimed and the amount of entitlement is due primarily to the $5,000 deductible claims pursuant to the insurance clause of the job order as well as to a lack of entitlement of claim preparation costs.

CSI proposed essentiality as an alternative basis for extraordinary contractual relief. CSI's situation does not, however, meet the requirements for relief based on essentiality. Pursuant to Public Law 85-804, to be essential to the national defense, a contractor's continued performance of a particular defense contract must be urgently required or that contractor must be essential to the Government as a continued source of supply. CSI has completed performance of the three job orders which are the subject of its request for relief, the performance of an urgent contract will be impaired. Moreover, because there are five other contractors in the Norfolk homeport area with the capability and sufficient capacity to perform ship repair services for the Navy, CSI is not an essential source of supply.

Decision: Applicable regulations provide that no contracts, amendments or modifications shall be entered into under the authority of Public Law 85-804 unless other legal authority in the agency is deemed lacking or inadequate. In the present case, the financial situation of CSI has already deteriorated to the point where it has sought protection from creditors under Chapter 11 of the Bankruptcy Code. Although CSI has been realizing a profit from operations since the filing, its debts to creditors amount to more than two-thirds of the worth of its assets. Therefore, absent the granting of extraordinary contractual relief, CSI has no realistic alternative but to liquidate to satisfy its creditors.

FAR 50.302.1(b) contains appropriate authority regarding the nature of the relief considered in this case. This section provides the following:

"When a contractor suffers a loss (not merely a decrease in anticipated profits) under a defense contract because of Government action, the character of the action will generally determine whether any adjustment in the contract will be made, and its extent. When the Government directs its action primarily at the contractor and acts in its capacity as the other contracting party, the contract may be adjusted in the interest of fairness. Thus, when Government action, while not creating any liability on the Government's part, increases performance cost and results in a loss of the contractor, fairness may make some adjustment appropriate."

For the foregoing reasons, CSI did in fact incur a loss under a defense contract because of Government action which, while not creating any liability on the Government's part, should be recompensed in the interest of fairness. Equity also indicates that extraordinary contractual relief in the amount of $5.7 million is warranted based upon the Government's continued use of a firm-fixed-price contract instrument when unforeseeable performance problems arose during CSI's performance of the Coast Guard program. An amendment without consideration in the amount of $5.7 million increases the likelihood that CSI will be able to satisfy its major creditors and emerge successfully from bankruptcy. In the absence of extraordinary contractual relief, the chance of CSI successfully reorganizing is minimal.

Even if CSI is unable successfully to reorganize, a grant of extraordinary contractual relief in this case to the extent warranted by considerations of equity will support the overall objective of Public Law 85-804 to prevent delay in the Government's procurement programs by assuring contractors of fair and equitable treatment in the resolution of difficulties attributable to Government action. If a grant of relief does enable CSI to reorganize successfully, the collateral benefits to the Navy of CSI's survival are many. The possibility that CSI will emerge from bankruptcy as a viable economic entity, willing and able to continue supporting the Navy's maintenance and repair needs, positively affects the Navy's ability to maximize competition for drydocking work under the current homeport policy. While CSI is not considered "essential" for the purposes of Public Law 85-804, as discussed previously, CSI is one of only three shipyards providing ship maintenance and repair services to Naval vessels homeported in Norfolk that possess a Navy-certified floating drydock. Ownership of this facility gives CSI an advantage in bidding for ship repair contracts, which, in turn, heightens the likelihood that CSI will emerge successfully from bankruptcy. If a grant of relief does enable CSI to reorganize successfully, continued access to its ship repair facilities can only serve to strengthen the Navy's maintenance and repair base in the port of Norfolk. For these reasons, the granting of extraordinary contractual relief will facilitate the national defense. Accordingly, in the exercise of the authority necessary to grant an amendment without consideration under Public Law 85-804, it will facilitate the national defense to amend its contract without consideration.

Contractor: National Steel and Shipbuilding Company (NASSCO).

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $25,000,000.

Service and activity: Naval Sea Systems Command (NAVSEA), San Diego, California.

Description of product or service: Fast Combat Support Ships.

Background: On February 22, 1991, NASSCO submitted a request for relief regarding its existing contract N00024-87-C-2002 for detail design and construction of three fast combat support ships (AOEs 6, 7, and 8). The current projected loss at NASSCO is $150 million to $170 million to complete two ships. Certain factors have contributed to these losses incurred by NASSCO in performing the AOE 6 Class contract; these factors include NASSCO's difficulty in the early stages of the contract in obtaining not only an adequately experienced design staff to produce design documentation to support production schedules but also sufficient numbers of skilled production craftsmen at the required labor rates to maintain required ship production schedules and achieve target costs. In addition to these production and schedule problems, NASSCO has identified and submitted 40 claims or requests for equitable adjustment (REA) under the contract as contributing to NASSCO losses. Many of these claims/REAs are based on alleged errors in the specifications furnished by the Government and what NASSCO considers to be the Government's failure to effectively administer the AOE Class 6 contract.

Justification: The Chief of Naval Operations has found that AOEs 6 and 7 are essential to meet the Navy's Combat Logistics Force (CLF) shortfall. The mission of the AOE 6 Class is to provide delivery of on-station munitions, bulk petroleum/oil/lubricants, and dry and frozen provisions to the Carrier Battle Group (CBG) underway in hostile environments. The AOE 6 Class significantly extends the endurance of the CBG for combat operations. The AOE 6 Class fast combat support ships are built to a specified combatant standards design. The ships have survivability features to shocks, blasts, etc., which are equivalent to other ships in the CBG. The Vice Chief of Naval Operations has indicated that AOEs 6 and 7 are essential to meeting the Navy's immediate logistics support requirements. Attaining the force level objective of one AOE per CBG has already been delayed by recent budget actions; elimination of four AOE 6 ships from the Navy leaves only four AOE 1 Class ships plus the remaining four planned in the AOE 6 Class. AOEs 6 and 7 are an integral first step in countering obsolescence of its CLF. Delays in the program, or elimination of deliveries, would exacerbate and accelerate the CLF shortfall.

Absent Public Law 85-804 relief, NASSCO's financial condition will not allow it to continue performance of the AOE 6 Class contract to the point when AOE 7 can be launched—let alone complete AOEs 6 and 7. NAVSEA has conducted an independent analysis of NASSCO's financial condition.

Based thereon, the current projected loss at NASSCO is $250 million to complete three ships and $150 million to $170 million to complete two ships. Currently, NASSCO is experiencing negative cash flow of approximately $6 million per month. Due to continuing negative cash flow, NASSCO's President and Chief Executive Officer advised that, absent some form of cash flow relief, NASSCO would file a petition under Chapter 11 of the Bankruptcy Code. NASSCO stated that it has invested $42 million in the AOE 6 Class ship program as a result of its previous negative cash flow and that it is unwilling to deplete any more of its own funds in the performance of the AOE 6 Class contract.

There are no practicable or feasible alternatives to obtaining AOEs 6 and 7; transferring the ships to another facility for completion would add significant cost and schedule delays. Alternative methods for obtaining delivery of AOEs 6 and 7 include the following: pursuit of resolving NASSCO's financial problems through the normal claims dispute process; filing for protection under Chapter 11 of the Bankruptcy Code; terminating NASSCO's contract and completing AOEs 6 and 7 elsewhere; or providing $25 million in immediate Public Law 85-804 relief. The first alternative is not practicable because NASSCO's financial problems would lead to an early NASSCO stop work on all ships—many months before NAVSEA could analyze and settle the numerous and complex claims submitted. The second alternative is not practicable because of the many risks and uncertainties associated therewith. Actions following bankruptcy filing can not be predicted or controlled and could involve substantial costs and schedule delays. The third alternative of terminating NASSCO's contract and completing AOEs 6 and 7 at another location involves undue costs and delays. Completing the two ships at a Naval Shipyard or a private shipyard, for example, is projected to require an additional appropriation in the amount of $237 million for a Naval Shipyard and $127 million for a private shipyard—in addition to any reapplied funds from AOE 8. Delay in delivery is estimated at between two to four years.

Providing $25 million in immediate relief under Public Law 85-804 is the most advantageous alternative for many reasons. An amendment without consideration under Public Law 85-804 increasing the contract price immediately by $25 million to resolve NASSCO's short term cash flow problem would allow NASSCO to continue working, thereby increasing the likelihood of either completing two ships, or at least launching AOE 7, within the existing AOE 6 Class appropriation and minimizing cost growth and schedule delays. The Navy would then proceed to complete the claims evaluation, with the objective of making a settlement offer to NASSCO on the claims within six months. In the meantime, the $25 million Public Law 85-804 relief would allow NASSCO to continue progress on AOEs 6 and 7—up to at least September 1991 when AOE 7 is scheduled to be launched. During this time, the evaluation of claims entitlement will continue. In the event that adequate cash is not available to NASSCO for completion, both ships would then be towable to another facility for completion. Reapplying AOE 8 funds would be sufficient to fund completion at NASSCO.

The purpose of $25 million in immediate Public Law 85-804 relief is to resolve NASSCO's short term cash flow problem and enable it to continue work and launch the AOE 7 scheduled for September 1991. Further, it will allow NAVSEA the time to analyze NASSCO's claims and to make a settlement offer. At that point, even if NASSCO were to stop work, the Navy could move both ships to another shipyard for completion; therefore, the $25 million extraordinary relief will preserve the Navy's investment to date on both ships.

Decision: Applicable regulations provide that no contracts, amendments, or modifications shall be entered into under the authority of Public Law 85-804 unless other legal authority is deemed lacking or inadequate. In the present case, the financial situation of NASSCO has deteriorated due to losses it has incurred, and projects it will incur, to the extent that, absent the granting of extraordinary contractual relief, NASSCO will file for protection under bankruptcy laws and stop work on the AOE 6 Class ships. Furthermore, due to the complexity of the pending claims and the period of time necessary for claims evaluation and resolution, the normal process for resolving contractual disputes under the disputes clause of the contract is considered inadequate because NASSCO can not or will not sustain continued operations through the time necessary to resolve these matters.

NASSCO, therefore, faces an actual or threatened loss which will impair its productive ability on a contract whose continued performance is essential to the national defense. The operating forces need AOEs 6 and 7 to provide adequate logistics support for the CBGs. There is a shortfall of CLF ships, which have not attained the force level objective of one AOE per CBG. The relief of $25 million recommended by NAVSEA is the minimum amount necessary to achieve the Navy's objective of ensuring contract performance until the scheduled launch of AOE 7 in September 1991, thereby best preserving the Navy's investment in the AOE 6 program.

Accordingly, in the exercise of the authority granted under Public Law 85-804, it is decided that it will facilitate the national defense to amend this contract without consideration in the amount of $25 million. The $25 million contract price increase will be applied to ensure the timely launch of AOE 7, and any portion that is unnecessary to ensure the timely launch of AOE 7 shall be used to continue work on AOE 6. Adequate internal controls and audit trails shall be in place for the Navy to validate the appropriate use of these additional payments. This action is taken on the condition that with the additional payments permitted by this price increase, NASSCO will continue work and launch the AOE 7 regardless of whether NASSCO files for bankruptcy. In addition, NASSCO has agreed that with the $25 million extraordinary contractual relief, it will make no bankruptcy filing through April 12, 1991. The contracting officer shall prepare and execute the required contractual documents in accordance with this decision under the terms proposed in NAVSEA's memorandum dated March 15, 1991, and in compliance with the requirements of the Federal Acquisition Regulation.

Contingent liabilities

Provisions to indemnify contractors against liabilities because of claims for death, injury, or property damage arising from nuclear radiation, use of high energy propellants, or other risks not covered by the contractor's insurance program were included in one contract; the potential cost of the liabilities can not be estimated since the liability to the United States Government, if any, will depend upon the occurrence of an incident as described in the indemnification clause. Items procured are generally those associated with nuclear-powered vessels, nuclear armed missiles, experimental work with nuclear energy, handling of explosives, or performance in hazardous areas.

Contractor:	*Number*
	Number
Unisys Defense Supplies	1
Hughes Aircraft Company	2
General Electric Company	7
Lockheed Missiles and Space Company	2
Rockwell International	1
Honeywell Incorporated	1
Litton Systems, Incorporated	1
General Dynamics Corporation	8
Kearfott Guidance and Navigation Corporation	1
Raytheon Company	1
Westinghouse Electric Corporation	3
Newport News Shipbuilding and Drydock Company	2
McDonnell Douglas Corporation	3
Total	33

DEPARTMENT OF THE AIR FORCE

Contractor: Crestview Aerospace Corporation.

Type of action: Amendment Without Consideration.

Actual or estimated potential cost: $0.

Service and activity: Formerly known as Fairchild Industries, Incorporated, (Fairchild), Crestview, Florida.

Description of product or service: Aircraft Services.

Background: Crestview Aerospace Corporation has requested extraordinary contractual relief in the amount of $4,218,060.42 to offset potential losses as a result of corporate management changes during the performance of contract FO9603-86-C-1181. This multi-year contract, in the amount of $16,994,308, was awarded to it on May 29, 1986. The contract called for the acquisition of 1,494 engine mount assemblies applicable to the C-130 aircraft. The acquisition was conducted under full and open competitive procedures. Fairchild submitted the first article item on March 31, 1987, and began delivery of the production quantities in November 1987. The second and third program years were funded April 17, 1987, and March 29, 1988, respectively. As of June 27, 1990, Fairchild had delivered 1,048 items, and contract performance was satisfactory. On October 12, 1989, Fairchild transferred all assets under contract FO9603-86-C-1181 to Crestview by mutual agreement. Notwithstanding this agreement, Fairchild retained financial control over Crestview. Fairchild filed for voluntary Chapter 11 bankruptcy on February 10, 1990, but did not include Crestview in its petition. By letter dated June 13, 1990, Crestview notified the Government of direction from Fairchild to cease operations at the close of business on June 14, 1990. On June 15, 1990, three of Crestview's largest creditors filed a petition to force them into involuntary Chapter 11 bankruptcy. Crestview subsequently petitioned for and was granted voluntary Chapter 11 bankruptcy status. Crestview, therefore, bases its request for relief on the concept of essentiality to the national defense; it is not only a supplier of C-130 engine mounts under contract FO9603-86-1181 but also as the sole source for ballistics foam products used by other Defense Agencies. Crestview has provided a list of nine other Defense contracts which it is presently performing. These contracts are with the Departments of the Navy and the Army, and the Defense Logistics Agency. Crestview advises that it has been a Defense supplier for approximately 30 years.

Justification: Under the essentiality provision of Public Law 85-804, a contractor must meet the following three requirements:

a. The contractor must be essential to the national defense—either in the performance of a particular defense contract or as a continued source of supply;

b. There must be an actual or threatened loss under the defense contract regardless of whether or not the loss is the fault of the contractor; and

c. The actual or threatened loss must impair the contractor's productive ability.

A new competitive procurement for the engine mounts will be issued in fiscal year 1991. As of October 15, 1990, there were 104 back orders for contract 1560-00652-9686LG. A quick engine change refurbishment program will begin in November 1990 at Little Rock Air Force Base under contract F34601-88-D-0144 to provide interim support until a new source of supply can be qualified. Rohr Industries, Incorporated, the previous supplier of these engine mounts, is capable of fulfilling any emergency requirements that may be generated, although at a much higher price. Therefore, continuation of performance under contract FO9603-86-1181 is not considered essential to the national defense.

Decision: After a review of the available information and the contracting officer's recommendation, it has been determined that relief under the provisions of Public Law 85-804 and Executive Order 10789, as amended, is not appropriate for contract FO9603-86-C-1181. Accordingly, Crestview's request for amendment without consideration is hereby denied.

Contingent liabilities

Provisions to indemnify contractors against liabilities because of claims for death, injury, or property damage arising from nuclear radiation, use of high energy propellants, or other risks not covered by the contractor's insurance program were included in one contract; the potential cost of the liabilities can not be estimated since the liability to the United States Government, if any, will depend upon the occurrence of an incident as described in the indemnification clause. Items procured are generally those associated with nuclear-powered vessels, nuclear-armed missiles, experimental work with nuclear energy, handling of explosives, or performance in hazardous areas.

Contractor:	*Number*
	Number
General Dynamics Space Systems Division	1
Boeing Aerospace and Electronics Division	1
Hercules, Incorporated	1
TRW, Incorporated	1
Total	[1]4

[1] Two additional indemnifications were approved; however, the Air Force has deemed them to be "Classified," not subject to this report's purview.

DEFENSE LOGISTICS AGENCY

Contractor: American University (AU).

Type of Action: Formalization of Informal Commitment.

Actual or estimated potential cost: $8,191.45 (additional amount anticipated).

Service and activity: Navy Regional Contracting Center, Office of the Secretary of Defense, the Military Services, and Other Defense Agencies, Washington, DC.

Description of product or service: Public Financial Management Courses.

Background: The Defense Logistics Agency (DLA) participates in a program known as "The American University Public Financial Management Program" whereby the Agency sponsors selected employees to attend financial management classes at AU for two and a half years, leading to a Masters Degree in Public Financial Management. DLA participates in the program under the auspices of a contract between the Navy Regional Contracting Center and AU (N00600-86-C-0300). The Office of the Secretary of Defense, the Military Services, and the Other Defense Agencies also participate in the program.

The Department of the Navy's contract is a continuing one. Since there are both incoming and continuing students participating in the program, students are grouped depending upon what year they are in (Year 1, Year 2, Year 3, etc.). Each time an agency sponsors a student, the Navy modifies the contract to reflect the student's participation, either as an incoming student or a continuing student. The contract modification indicates the year of the student's participation, with a line item reflecting the agency participating, the number of students it has authorized to attend, and the amount of monetary funding. DLA employees must make application to and receive approval from their supervisors to participate in the program; they must also receive the approval of the Program Manager. Approval authorizes both initial entry into the program and continuation leading to the degree from the University. DLA makes payment for the students it sponsors by transmitting a Military Interdepartmental Purchase Request (MIPR) to the Navy authorizing funds to pay for the DLA participants. The Navy adds the funding cite directly to the modification sponsoring a particular student, along with an address describing where invoices should be sent. As a result, AU bills DLA directly for DLA students who participate in the program.

Justification: During the Spring 1987 semester, John G. Moore, Jr. continued his participation in the program. An invoice from AU reflects his enrollment in a course entitled "Government Budgeting." Mr. Moore's continued participation in the program was with the knowledge of his supervisor in DLA (Office of the Comptroller, Program Budget Division). A MIPR authorizing funding for Mr. Moore was signed on April 15, 1987. Funds were certified as available on April 17, 1987, and the MIPR was forwarded to the Navy. However, due to an administrative oversight by the Navy, the necessary paperwork to amend the contract was not processed in order that the contract could be modified to reflect Mr. Moore's continued participation and enrollment in the class. Therefore arrangements for Mr. Moore's enrollment in this class were not formalized.

Another student, Sheryl Guardiani, was approved for the program and began attending classes in March 1986. She continued through May 1987, after which time she took "maternity" leave from the program. She then returned to the program in January 1989 whereupon she enrolled for Spring 1989 semester classes. Her continuation with the program was with the knowledge of her supervisor in DLA. Although the DLA Program Manager was unaware that Ms. Guardiani had returned to and was continuing with the program by enrolling in several courses, the Program Manager has since approved Ms. Guardiani's participation. Due to an administrative oversight, the necessary paperwork to modify the contract to reflect Ms. Guardiani's enrollment was not processed. Therefore, arrangements for Ms. Guardiani's enrollment were not made.

Decision: DLA made informal commitments to contract with AU for the training of Mr. Moore and Ms. Guardiani by authorizing their registration for and attendance of classes. The services contemplated by the informal commitments have been satisfactorily performed. The University complied with its commitment to DLA by offering the class Mr. Moore enrolled in, although Mr. Moore did not complete the class because of work commitments at DLA. Ms. Guardiani, however, completed the courses in which she was enrolled.

AU has been seeking payment for the training since May 12, 1987, for Mr. Moore. At the same time these informal commitments were made, it was impracticable to use normal contracting procedures. The informal commitments resulted from errors made by Government personnel. With respect to Mr. Moore, although DLA transmitted a MIPR authorizing funds for Mr. Moore's courses, the Navy did not modify the contract to reflect Mr. Moore's enrollment. His enrollment was with the knowledge of his supervisor. Furthermore, Mr. Moore followed what he believed to be proper procedures and enrolled in the class believing that he was authorized to attend. Ms. Guardiani's enrollment was with the knowledge of her supervisor. She enrolled in and attended classes believing that her attendance was authorized by DLA under the program.

Although AU may have compounded the errors by instructing Mr. Moore and Ms. Guardiani to attend classes without the necessary paperwork in place, the errors that lead to a failure to formalize the commitment were due primarily to the errors of Government personnel. To decide otherwise would penalize AU for the omissions of Government personnel.

The Contract Adjustment Board has therefore concluded that if an informal commitment resulted from a mistake or error on the part of Government personnel, the policy of contracting only through authorized procedures is not prejudiced by formalizing a commitment to a person who has supplied goods or services to the Government in good faith, as supported by the following past decisions: American Nucleonics Corporation (1981); Todd Shipyards Corporation (1980); and Radio Corporation of America (1962). This present action does not deal with or directly affect any matter which has been submitted to the General Accounting Office. Also, this action will not obligate the Government in any amount in excess of $50,000. Consequently, pursuant to Public Law 85-804, Executive Order 10789, as amended, and Federal Acquisition Regulations 50.302-3 and 50.306, it is determined that the awarding of a contract to AU in the amount of $8,191.45 for the training of Mr. Moore and Ms. Guardiani will facilitate the national defense by assuring that AU and other defense contractors are treated fairly and paid expeditiously.

Contingent liabilities

Provisions to indemnify contractors against liabilities because of claims for death, injury, or property damage arising from nuclear radiation, use of high energy propellants, or other risks not covered by the contractor's insurance program were included in one contract; the potential cost of the liabilities can not be estimated since the liability to the United States Government, if any, will depend upon the occurrence of an incident as described in the indemnification clause. Items procured are generally those associated with nuclear-powered vessels, nuclear armed missiles, experimental work with nuclear energy, handling of explosives, or performance in hazardous areas.

Contractor and number: None.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3124. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to recover costs of carrying out Federal marketing agreements and orders; to the Committee on Agriculture.

3125. A letter from the Department of Defense, transmitting the calendar year 1991 report on extraordinary contractual actions to facilitate the national defense pursuant to 50 U.S.C. 1434; to the Committee on Armed Services.

3126. A letter from the Comptroller, Department of Defense, transmitting the Department's multiyear defense program, pursuant to 10 U.S.C. 114; to the Committee on Armed Services.

3127. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting political contributions by nominees as chiefs of mission, ambassadors at large, or ministers, and their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3128. A letter from the Administrator, Small Business Administration, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(a); to the Committee on Government Operations.

3129. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3130. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3131. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3132. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to extend the duration of the Patent and Trademark Office user fee surcharge through 1997; to the Committee on the Judiciary.

3133. A letter from the Executive Director, U.S. Holocaust Memorial Council, transmitting a draft of proposed legislation to authorize appropriations to carry out the programs of the U.S. Holocaust Memorial Council; jointly, to the Committees on House Administration, Interior and Insular Affairs, and Post Office and Civil Service.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROSTENKOWSKI: Committee of conference. Conference report on H.R. 4210 (Rept. 102-461). Ordered to be printed.

Mr. GORDON: Committee on Rules. House Resolution 403. Resolution providing for the consideration of H.R. 3553, a bill to amend and extend the Higher Education Act of 1965 (Rept. 102-462). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER:

H.R. 4522. A bill to extend the authorization of appropriations of the TRIO Programs under the Higher Education Act of 1965, and for other purposes; to the Committee on Education and Labor.

By Mr. BATEMAN (for himself and Mr. DAVIS):

H.R. 4523. A bill to amend title 46, United States Code, to prohibit the Secretary of the department in which the Coast Guard is operating from establishing any fee or charge for issuing a license, certificate of registry, or merchant mariners' document under that title; to the Committee on Merchant Marine and Fisheries.

By Mr. BENNETT:

H.R. 4524. A bill to amend title 5, United States Code, to provide the Federal employees stationed abroad who qualify for travel and transportation expenses associated with returning to their original place of residence between assignments be afforded the option of traveling elsewhere, so long as the expenses associated therewith are not more than 80 percent of the amount which otherwise be allowable; to the Committee on Government Operations.

By Mr. TAUZIN (for himself, Mr. HARRIS, Mr. COOPER, and Mr. BOUCHER):

H.R. 4525. A bill to amend the Communications Act of 1934 to enhance competition in the video marketplace; to the Committee on Energy and Commerce.

By Mr. BEREUTER (for himself, Mr. ALLARD, Mr. CAMPBELL of Colorado, Mr. CLINGER, Mr. HORTON, Mr. LAFALCE, Mr. LAGOMARSINO, Mr. MRAZEK, Mr. PENNY, Mr. SMITH of Florida, and Mr. STARK):

H.R. 4526. A bill to authorize the admission to the United States of certain scientists of the Commonwealth of Independent States as employment-based immigrants under the Immigration and Nationality Act, and for other purposes; jointly, to the Committees on the Judiciary and Foreign Affairs.

By Mr. BEREUTER:

H.R. 4527. A bill to amend the Export-Import Bank Act of 1945 to repeal the limitation on financing for exports to the Soviet Union; jointly, to the Committees on Banking, Finance and Urban Affairs and Ways and Means.

By Ms. COLLINS of Michigan (for herself, Mr. PANETTA, Mr. CLAY, Mr. CONYERS, Mr. DE LUGO, Mr. DICKS, Mr. DOWNEY, Mr. DYMALLY, Mr. FORD of Tennessee, Mr. HAYES of Illinois, Mr. HOCHBRUECKNER, Mr. MCDERMOTT, Mr. MARTINEZ, Ms. NORTON, Mr. PETERSON of Florida, Mr. RANGEL, Mr. SABO, Mr. SCHEUER, Mr. TOWNS, Mr. BUSTAMANTE, Mrs. COLLINS of Illinois, Mr. MFUME, Mr. JEFFERSON, Ms. PELOSI, Mr. SAVAGE, and Mr. ECKART):

H.R. 4528. A bill to amend the Job Training Partnership Act to authorize the establishment of additional Job Corps centers, and for other purposes; to the Committee on Education and Labor.

By Mr. DIXON:

H.R. 4529. A bill to amend the Internal Revenue Code of 1986 to provide that distributions to unemployed individuals from individual retirement accounts will not be subject to the additional tax on early distributions; to the Committee on Ways and Means.

By Mr. KANJORSKI (for himself, Mr. AUCOIN, Mr. BRYANT, Mr. CAMPBELL of Colorado, Mr. COBLE, Mr. DORGAN of North Dakota, Mr. DWYER of New Jersey, Mr. FRANK of Massachusetts, Mr. GILCHREST, Ms. HORN, Mr. JACOBS, Mr. JOHNSON of South Dakota, Ms. KAPTUR, Mr. KILDEE, Mr. KOLTER, Mr. KOSTMAYER, Ms. LONG, Mr. LUKEN, Mr. MINETA, Mr. MOODY, Mr. ORTON, Mr. PACKARD, Mr. PALLONE, Mr. PENNY, Mr. RINALDO, Mr. RITTER, Mr. SHAYS, Mr. SLATTERY, Ms. SLAUGHTER, Mr. WOLPE, and Mr. ZIMMER):

H.R. 4530. A bill to provide for greater disclosure of and accountability for Federal Government travel; jointly, to the Committees on Government Operations, House Administration, and the Judiciary.

By Mr. ESPY (for himself, Mr. DE LA GARZA, Mr. HALL of Ohio, Mr. HUCKABY, Mr. TALLON, and Mr. EMERSON):

H.R. 4531. A bill to require the Secretary of Agriculture to include rice in the definition of supplemental foods for purposes of the Special Supplemental Food Program for Women, Infants, and Children under section 17 of the Child Nutrition Act of 1966; to the Committee on Education and Labor.

By Mr. EVANS:

H.R. 4532. A bill to amend title 38, United States Code, to require the Secretary of Veterans Affairs to restructure defaulted housing loans when possible, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. FAZIO (for himself, Mr. ALEXANDER, Mr. BROOKS, Mr. HAYES of Louisiana, Mr. HERGER, and Mr. THORNTON):

H.R. 4533. A bill to require the U.S. Trade Representative to take action authorized under section 301 of the Trade Act of 1974 against certain foreign countries in retaliation for the imposition by such countries of a ban on the importation of rice and rice products of the United States, and for other purposes; to the Committee on Ways and Means.

By Mr. HEFLEY:

H.R. 4534. A bill to abolish the Economic Development Administration; to the Committee on Public Works and Transportation.

H.R. 4535. A bill to abolish the Interstate Commerce Commission; jointly, to the Committees on Public Works and Transportation and Energy and Commerce.

By Mr. JOHNSON of Texas (for himself, Mr. DICKINSON, Mr. BROOMFIELD, Mr. ROYBAL, Mr. HENRY, Mr. HORTON, Mr. MCCOLLUM, Mr. LENT, Mr. HARRIS, Mr. LAGOMARSINO, Mr. TOWNS, Mr. PASTOR, Mr. HUNTER, Mr. REED, Mr. CUNNINGHAM, Mr. MCMILLEN of Maryland, Mr. ARMEY, Mr. MACHTLEY, Mrs. VUCANOVICH, Mr. BROOKS, Mr. PALLONE, and Mr. MAVROULES):

H.R. 4536. A bill to amend title 10, United States Code, to repeal the requirement enacted in Public Law 102-190 that service academy graduates be initially commissioned in a Reserve grade; to the Committee on Armed Services.

By Mr. SCHEUER (for himself, Mr. LEWIS of Florida, Mr. FASCELL, Mr. HERTEL, and Mr. BROWN):

H.R. 4537. A bill entitled, the "Coral Reef Environmental Research Act;" jointly, to the Committees on Science, Space, and Technology; Merchant Marine and Fisheries; and Foreign Affairs.

By Mr. SERRANO:

H.R. 4538. A bill to provide assistance to local educational agencies for the prevention and reduction of violent crime in elementary and secondary schools; to the Committee on Education and Labor.

By Mr. TAYLOR of Mississippi:

H.R. 4539. A bill to designate the general mail facility of the U.S. Postal Service in Gulfport, MS, as the "Larkin I. Smith General Mail Facility" and the facility of the U.S. Postal Service in Poplarville, MS, as the "Larkin I. Smith Post Office"; to the Committee on Post Office and Civil Service.

By Mr. WILSON:

H.R. 4540. A bill to amend the Forest Resource Conservation and Shortage Relief Act of 1990 to extend the restrictions on exports of unprocessed timber originating from Federal lands from the 100th to the 93d meridian; jointly, to the Committees on Foreign Affairs; Agriculture; and Interior and Insular Affairs.

By Mr. ZIMMER:

H.R. 4541. A bill to amend the Internal Revenue Code of 1986 to allow a credit against the estate tax for certain transfers of the real property for conservation purposes; to the Committee on Ways and Means.

By Mr. LAGOMARSINO (for himself and Mr. GALLEGLY):

H.J. Res. 448. Joint resolution proposing to amend to the Constitution of the United States to limit the number of years Representatives and Senators may serve; to the Committee on the Judiciary.

By Mr. LAGOMARSINO:

H.J. Res. 449. Joint resolution designating the month of November 1992 as "Dyslexia Awareness Month;" to the Committee on Post Office and Civil Service.

By Mr. SANGMEISTER (for himself, Mr. BACCHUS, Mr. BEVILL, Mr. DEFAZIO, Mr. DICKINSON, Mr. DORGAN of North Dakota, Mr. FAWELL, Mr. GUARINI, Mr. HARRIS, Mr. HEFNER, Ms. HORN, Mr. HUBBARD, Mr. JEFFERSON, Ms. KAPTUR, Mr. MARTINEZ, Mr. MCGRATH, Mr. MCMILLAN of North Carolina, Mr. MONTGOMERY, Ms. NORTON, Mr. OWENS of Utah, Mr. RANGEL, Mr. SKEEN, Ms. SLAUGHTER, Mr. SMITH of Florida, Mr. SPENCE, Mr. THOMAS of Georgia, Mr. TOWNS, Mr. WAXMAN, AND Mr. WILSON):

H.J. Res. 450. Joint resolution designating December 7 of each year as "National Pearl Harbor Remembrance Day;" to the Committee on Post Office and Civil Service.

By Mrs. MEYERS of Kansas (for herself, Mr. GILMAN, Mr. TORRICELLI, Mr. GALLEGLY, Mrs. ROUKEMA, Mr. WALKER, Mr. SOLOMON, Mr. BALLENGER, Mr. WEBER, Mr. DORGAN of North Dakota, Mr. ROBERTS, Mr. ARMEY, Mr. CUNNINGHAM, Mr. HUNTER, Mr. HYDE, and Mr. MCDADE):

H. Con. Res. 297. Concurrent resolution condemning the bombing of the Embassy of Israel in Buenos Aires; to the Committee on Foreign Affairs.

By Mr. UPTON (for himself and Mr. CAMP):

H. Res. 404. Resolution amending the Rules of the House of Representatives to limit the availability of appropriations for the official mail allowance of the House of Representatives to 1 year and to require that any amounts remaining unobligated at the end of the year shall revert to the Treasury; to the Committee on Rules.

By Mr. HUNTER:

H. Res. 405. Resolution requiring that Members of the House of Representatives pay for certain goods and services, and for other purposes; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII,

348. The SPEAKER presented a memorial of the Senate of the State of New Mexico, relative to the desecration of the flag; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. HYDE, Mr. APPLEGATE, Mr. RAMSTAD, Mr. MOORHEAD, and Mr. TAYLOR of North Carolina.

H.R. 118: Mr. ZELIFF.

H.R. 187: Mr. BURTON of Indiana and Mrs. LOWEY of New York.

H.R. 252: Mr. LEHMAN of Florida.

H.R. 299: Mr. TAYLOR of Mississippi and Mr. STEARNS.

H.R. 330: Mr. MORAN and Mr. BONIOR.

H.R. 371: Mr. WOLF.

H.R. 565: Mr. WALSH.

H.R. 911: Mr. HAYES of Illinois, Mr. MRAZEK, Mr. GOODLING, Ms. MOLINARI, and Mr. SENSENBRENNER.

H.R. 1124: Mr. JONTZ.

H.R. 1145: Mrs. SCHROEDER and Mr. DORNAN of California.

H.R. 1245: Mr. PACKARD.

H.R. 1251: Mr. VENTO.

H.R. 1252: Mr. VENTO.

H.R. 1253: Mr. VENTO.

H.R. 1467: Mr. ANDREWS of Maine and Mr. LIVINGSTON.

H.R. 1473: Mr. FOGLIETTA.

H.R. 1516: Mr. HUBBARD.

H.R. 1531: Mr. GALLEGLY.

H.R. 1681: Mr. FROST, Mr. JOHNSON of South Dakota, and Mr. MINETA.

H.R. 1856: Mr. MFUME, Mr. HATCHER, and Mr. ATKINS.

H.R. 1969: Mr. HENRY and Mr. KOLTER.

H.R. 2059: Mr. ENGEL.

H.R. 2083: Mr. ENGEL, Mr. REED, and Mr. FORD of Tennessee.

H.R. 2333: Mr. COSTELLO.

H.R. 2448: Mr. RAHALL.

H.R. 2534: Mrs. PATTERSON, Mr. MCMILLEN of Maryland, Mr. MORAN, Mr. GILMAN, Mr. NUSSLE, Mr. ZIMMER, Mr. HOYER, Mr. EDWARDS of California, Mr. STALLINGS, and Mr. RHODES.

H.R. 2540: Mr. WILLIAMS and Mr. CARDIN.

H.R. 2541: Mr. COLEMAN of Texas.

H.R. 2695: Mr. LEHMAN of Florida, Mrs. JOHNSON of Connecticut, Mr. MCCOLLUM, Mrs. LOWEY of New York, Mr. BREWSTER, and Mr. MCCLOSKEY.

H.R. 2798: Mrs. BYRON.

H.R. 2802: Mr. WILSON.

H.R. 2872: Mr. JOHNSON of Texas and Mr. SCHIFF.

H.R. 2881: Mr. ATKINS and Mr. VENTO.

H.R. 2915: Mrs. MEYERS of Kansas and Mr. MILLER of Washington.

H.R. 2945: Mr. TRAXLER, Mr. NEAL of Massachusetts, and Mr. SCHAEFER.

H.R. 2966: Mr. EWING and Mr. FORD of Tennessee.

H.R. 3011: Mr. SKELTON and Mr. ROBERTS.

H.R. 3067: Mr. ROE and Mr. KOSTMAYER.

H.R. 3149: Mr. GILMAN and Mr. BLACKWELL.

H.R. 3166: Mr. SCHIFF, Mr. BURTON of Indiana, Mr. HUGHES, Mr. MCEWEN, Mr. DWYER of New Jersey, Mr. RHODES, and Mr. CHANDLER.

H.R. 3220: Mr. SAWYER.

H.R. 3516: Mr. LAGOMARSINO and Mr. TAYLOR of North Carolina.

H.R. 3545: Mr. MCMILLEN of Maryland and Mr. HARRIS.

H.R. 3555: Mr. SIKORSKI.

H.R. 3636: Mr. JOHNSTON of Florida, Mr. KOSTMAYER, Mr. PAYNE of Virginia, and Mr. PALLONE.

H.R. 3741: Mr. MCMILLEN of Maryland.

H.R. 3748: Mr. ENGEL, Mr. PALLONE, and Mr. MRAZEK.

H.R. 3781: Mr. COX of California, Mr. SWIFT, Mr. DREIER of California, Ms. PELOSI, Mr. MORRISON, Mr. MARLENEE, and Mr. BOEHNER.

H.R. 3836: Mr. KLECZKA, Mr. ANDREWS of New Jersey, Mr. EVANS, Mr. GUARINI, Mr. KOLTER, Mr. MURTHA, Mr. GREEN of New York, Mr. NEAL of Massachusetts, Mr. FRANK of Massachusetts, Mr. BEILENSON, Mr. GEJDENSON, Mr. HOCHBRUECKNER, Mr. ANDREWS of Maine, Mr. WOLPE, and Mr. RANGEL.

H.R. 3989: Mr. LAGOMARSINO and Mr. IRELAND.

H.R. 3992: Mr. LAGOMARSINO and Mr. IRELAND.

H.R. 4002: Mr. JONTZ, Mr. GEJDENSON, and Mr. GREEN of New York.

H.R. 4045: Mr. FORD of Michigan, Mr. SANGMEISTER, Mr. ANDREWS of Maine, Mr. PANETTA, Mr. LEVIN of Michigan, Ms. KAPTUR, Mr. CARDIN, Mr. MILLER of California, and Mr. TOWNS.

H.R. 4093: Mr. INHOFE.

H.R. 4111: Mr. LIPINSKI, Mr. SARPALIUS, Mr. RAMSTAD, Ms. SLAUGHTER, Mr. BILBRAY, Mr. PETERSON of Minnesota, Mr. FAZIO, and Mr. FOGLIETTA.

H.R. 4120: Mr. FROST and Mr. GUARINI.

H.R. 4175: Mr. DWYER of New Jersey, Mr. BENNETT, Mr. NAGLE, Mr. MOLLOHAN, Mr. WYDEN, Mr. BONIOR, Mr. BERMAN, Mr. WEISS, Mr. STAGGERS, Ms. KAPTUR, Ms. PELOSI, Mr. LEWIS of Florida, Mrs. BENTLEY, and Mr. TRAXLER.

H.R. 4194: Mr. BONIOR, Mr. BLACKWELL, and Mr. WALSH.

H.R. 4206: Mr. KOPETSKI, Mr. LUKEN, Mrs. KENNELLY, Mr. LAROCCO, Mr. WOLPE, Ms. MOLINARI, Mr. FEIGHAN, Mr. FOGLIETTA, and Mr. COLORADO.

H.R. 4230: Mr. GOODLING and Mr. WILSON.

H.R. 4256: Mr. ECKART, Mr. GALLEGLY, and Mr. MCNULTY.

H.R. 4265: Mr. ANDREWS of Maine.

H.R. 4272: Mr. GILLMOR, Mr. KLUG, Mr. BLILEY, Mr. CLINGER, Mr. BOEHLERT, and Mr. SENSENBRENNER.

H.R. 4294: Mr. TAYLOR of North Carolina.

H.R. 4295: Mr. TAYLOR of North Carolina.

H.R. 4296: Mr. TAYLOR of North Carolina.

H.R. 4297: Mr. TAYLOR of North Carolina.

H.R. 4341: Mr. ZELIFF, Mrs. VUCANOVICH, and Mr. MOORHEAD.

H.R. 4342: Mr. BREWSTER.

H.R. 4385: Mr. OBERSTAR.

H.R. 4399: Mr. DELLUMS and Mr. FAZIO.

H.R. 4430: Mr. SUNDQUIST, Mr. PACKARD, and Mr. CRANE.

H.R. 4436: Mr. KOPETSKI, Mr. THORTON, Ms. HORN, and Mrs. LLOYD.

H.R. 4447: Mr. RHODES, Mr. DORNAN of California, and Mr. SMITH of Florida.

H.R. 4464: Mr. WEBER.

H.R. 4477: Mr. GREEN of New York, Mr. JEFFERSON, and Mr. MARTINEZ.

H.J. Res. 271: Mr. YATES.

H.J. Res. 371: Mr. ATKINS, Mr. BUSTAMANTE, Mr. DE LUGO, Mr. EMERSON, Mr. HAMMER-

Schmidt, Ms. Horn, Ms. Kaptur, Mrs. Kennelly, Mr. McEwen, Mr. McDermott, Mr. McHugh, Mr. Machtley, Mrs. Mink, Mr. Montgomery, and Mr. Schiff.

H.J. Res. 378: Mr. Mazzoli, Mr. Kildee, Mr. Hubbard, Mr. Wyden, Ms. Norton, Mr. Wolf, Mr. Bunning, and Mr. Lent.

H.J. Res. 423: Mr. Erdreich, Mr. Chandler, Mr. Hughes, and Mr. Mavroules.

H.J. Res. 424: Mr. Solarz, Mrs. Mink, Mr. Gilman, Mr. Fascell, Mr. Towns, Mr. Tauzin, Ms. Kaptur, Mr. Mavroules, Mr. Moakley, Mr. Panetta, Mr. Stump, Mr. Frost, Mr. Solomon, and Mr. Regula.

H.J. Res. 427: Mr. Hall of Ohio, Mr. Yates, Mr. Stokes, Mr. Regula, Mr. Coughlin, Mr. Bateman, Mr. Jacobs, Ms. Kaptur, Mr. Cardin, Mr. Waxman, Mrs. Kennelly, Mr. Moorhead, Mr. Schulze, Mr. Fascell, Mr. Gonzalez, Mr. Kasich, Mrs. Collins of Michigan, Mr. Conyers, Mr. Tauzin, and Mr. Hoagland.

H.J. Res. 434: Mr. Bonior, Mr. Clement, Mr. Frank of Massachusetts, Mr. Horton, Mr. Lagomarsino, Mr. Lehman of Florida, Mr. Lewis of California, Mr. Matsui, Mr. McCollum, Mr. Rose, Mr. Scheuer, Mr. Schumer, Mr. Sharp, Mr. Smith of Oregon, Mr. Slattery, Mr. Towns, and Mr. Yatron.

H.J. Res. 440: Mr. Clement, Mr. Lehman of Florida, Mr. Martinez, Mrs. Mink, Ms. Pelosi, Mr. Towns, Mrs. Unsoeld, and Mr. Walsh.

H. Con. Res. 89: Mr. Vento.

H. Con. Res. 141: Mr. Valentine.

H. Con. Res. 233: Mr. Callahan., Mr. Roybal, Mr. Solomon, Mr. Vento, Mr. Saxton, Mr. McDade, Mrs. Lowey of New York, Mr. Allard, Mr. Lewis of Florida, Mr. Weldon, Mr. Holloway, Mr. Inhofe, Mr. Edwards of Texas, Mr. Hancock, Mr. Hatcher, Mr. Andrews of New Jersey, Mr. Henry, Ms. Kaptur, and Mr. Tallon.

H. Con. Res. 246: Mr. Hughes, Mr. Andrews of Maine, Mr. Moody, Mr. Peterson of Minnesota, Mr. Wilson, Ms. Horn, Mr. Stokes, and Mr. DeFazio.

H. Con. Res. 248: Mr. Foglietta, Mr. Slattery, and Mr. Johnson of Texas.

H. Con. Res. 276: Mr. Geren of Texas, Mr. Solarz, Mr. Tauzin, Ms. Kaptur, Mr. Spence, Mr. Mavroules, Mr. Moakley, Mr. Jontz, Mr. Stump, Mrs. Mink, Mr. Vento, Mr. Regula, and Mr. Johnson of South Dakota.

H. Res. 153: Mr. McMillan of North Carolina and Mr. Valentine.

H. Res. 234: Mr. Pallone.

H. Res. 291: Mr. Mazzoli.

H. Res. 350: Mr. Vento and Mr. Dellums.

H. Res. 359: Mr. Thomas of Georgia and Mr. Fascell.

H. Res. 370: Mr. Bliley, Mr. Petri, Mr. Skeen, and Mr. Atkins.

H. Res. 377: Mr. McCandless.

H. Res. 385: Mrs. Vucanovich and Mr. Moorhead.

H. Res. 398: Mr. Jacobs, Mr. Dixon, Mr. Abercrombie, Mr. Mfume, Mr. Richardson, and Mr. Moody.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1527: Mr. Espy.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3553

By Mr. WILLIAMS:

—Page 87, after line 10 insert the following new subsection (and redesignate the succeeding subsection accordingly):

(i) Insufficient Appropriations.—Section 411(g) of the Act (20 U.S.C. 1070a(g)) is amended to read as follows:

"(g) Insufficient Appropriations.—If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b) (but at the maximum grant level specified in such appropriation), the Secretary shall promptly transmit a notice of such insufficiency to each House of the Congress, and identify in such notice the additional amount that would be required to be appropriated to satisfy fully all entitlements (as so calculated at such maximum grant level).".

—Page 87, after line 10 insert the following new subsection (and redesignate the succeeding subsection accordingly):

(i) Adjustments for Insufficient Appropriations.—Section 411(g) of the Act (20 U.S.C. 1070a(g)) is amended to read as follows:

"(g) Adjustments for Insufficient Appropriations.—If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b) (but at the maximum grant level specified in such appropriation), the Secretary shall, from the next succeeding fiscal year's appropriation for this subpart, expend such sums as may be necessary to meet any such insufficiencies for the preceding fiscal year.".

H.R. 3553

By Mr. PENNY:

—Page 252, after line 6, insert the following new subsection (and redesignate the succeeding subsections accordingly):

"(c) Definition of Community Service.—Section 441 of the Act is amended by adding at the end the following new subsection:

"(c) Community Services.—For purposes of this part, the term 'community services' means services which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, as designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs, including (but not limited to) such fields as health care, child care, literacy training, education (including tutorial services), welfare, social services, transportation, housing and neighborhood improvement, public safety, crime prevention and control, recreation, rural development, and community improvement, and includes support services to students with disabilities and activities in which a student serves as a mentor for such purposes as—

"(1) tutoring;

"(2) supporting educational and recreational activities; and

"(3) counseling; including career counseling.

—Page 252, strike lines 9 through 23 and insert the following:

"(e) Reallocation of Excess Allocations.—If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year, the Secretary shall reallot such excess to eligible institutions to carry out community service work-study programs, which may include programs under section 1131.

—Page 253, strike lines 1 through 14 and insert the following:

"(e) Use for Community Service.—Section 447(b)(2)(A) of the Act is amended to read as follows:

"(A) in fiscal year 1994 and succeeding fiscal years, an institution shall use at least 10 percent of the total amount of funds granted to such institution under this section in any fiscal year to compensate students employed in community service work-study programs;";

—Page 255, line 13, strike "(10)" and insert "(11)"; on line 17, strike "paragraph" and insert "paragraphs"; on line 21, strike "and'."; and after line 21 insert the following new paragraph:

"(10) provide assurances that the institution will inform all eligible students of the opportunity to perform community service work-study, and will consult with local nonprofit, governmental, and community-based organizations to identify such opportunities; and".

—Page 256, line 17, after "jobs" insert ", including community service jobs,".

H.R. 3553

By Mr. TOWNS:

—Page 86, line 20, strike out the close quotation marks and following period and after such line insert the following:

"(7)(A) No basic grant shall be awarded to an incarcerated student under this subpart that exceeds the sums of the amount of tuition and fees normally assessed by the institution of higher education for the course of study such student is pursuing plus an allowance (determined in accordance with regulations issued by the Secretary) for books and supplies associated with such course of study, except that no basic grant shall be awarded to any incarcerated student serving under sentence of death or any life sentence without eligibility for parole or release.

"(B) Basic grants under this subpart shall only be awarded to incarcerated individuals in a State if such grants are used to supplement and not supplant the level of postsecondary education assistance provided by such State to incarcerated individuals in fiscal year 1988.".

—Page 345, line 20, strike the close quotation marks and following period and after such line insert the following:

"(5) Any entity shall not be considered to be an institution of higher education pursuant to paragraph (1), if such entity has a student enrollment in which more than 30 percent of the students are incarcerated.".

H.R. 3553

By Mr. ORTON:

—Page 534, line 25, strike out the close quotation marks and following period and after such line insert the following new part:

"Subpart 11—Veterans Teacher Corps

"SEC. 596A. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to provide assistance to local educational agencies to establish programs to inform United States military veterans of teaching opportunities and to provide assistance in the establishment of teaching opportunities for the individuals described in this section.

"SEC. 596B. VETERANS TEACHER CORPS AUTHORIZED.

"(a) Program authorized.—The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to local educational agencies to conduct Veterans Teachers Corps activities.

"(b) Activities Authorized.—Grants under this subpart may be used, in accordance with applications approved under section 596C for—

"(1) planning and implementation of informational and outreach programs leading to the development of programs specifically designed to inform United States military veterans about teaching opportunities and the qualifications necessary for such opportunities;

"(2) planning and implementation of programs leading to the creation of teaching opportunities for such veterans;

"(3) support for programs to assist such veterans and to meet the qualifications to become teachers;

"(4) disseminating information on the Veterans Teacher Corps program and on sources of students financial assistance available under title IV of this Act and under programs administered by the Department of Veterans Affairs and other Federal agencies; and

"(5) from not more than 65 percent of the funds received under this subpart, make scholarships available to such military veterans under the same terms and conditions specified in subpart 1 of part B of this subtitle.

"SEC. 596C. APPLICATIONS.

"Each local educational agency desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall—

"(1) describe the local educational agency's plan for disseminating information regarding teaching opportunities and necessary qualifications;

"(2) provide an estimate of the number of United States military veterans in the jurisdiction of the agency;

"(3) describe any commitments of support for the program from United States military veterans groups;

"(4) describe in detail the activities to be supported with the grant, including, the specific identification of the personnel to administer the program, the procedures to be used, in awarding scholarships under this subpart, the methodologies to be used for information dissemination, and a timetable for implementation of the program; and

"(5) contain such other assurances and other information as the Secretary may reasonably require.

"SEC. 596D. LIMITATIONS ON AMOUNT AND DURATION OF ASSISTANCE.

"Each grant awarded pursuant to this subpart to establish and operate a Veterans Teacher Corps program shall be for a period of 5 years and shall be for not less than $250,000 for each fiscal year.

"SEC. 596E. PRIORITY IN AWARDS.

"In awarding grants under this subpart, the Secretary shall give priority to applications evidencing commitments of support for the program from veterans and teacher organizations in the jurisdiction of the applicant.

"SEC. 596F. REPORTS AND INFORMATION.

"Each recipient of funds under this subpart shall provide the Secretary with a report and detailed description of the activities supported with funds received. Such report shall include an evaluation of the success of the program and such recommendations as the grantee deems appropriate.

—Page 432, after line 4, insert the following new paragraph:

"(11) For subpart 11 of part C there are authorized to be appropriated $100,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

H.R. 3553

By Mr. SHAW:

—Page 165, after line 3, insert the following new subsection:

(d) RATES FOR BORROWERS WHO ENTER THE TEACHING PROFESSION.—Section 427A of the Higher Education Act of 1965 is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection:

"(f) RATES FOR BORROWERS WHO ENTER THE TEACHING PROFESSION.—Notwithstanding subsections (a), (b), and (d) of this section, with respect to a loan (other than a loan made pursuant to section 428A, 428B, or 428C) to any borrower who qualifies for and obtains a deferment under section 427(a)(2)(C)(vi) or 428(b)(1)(M)(vi) for service as a full-time teacher for three years, the applicable rate of interest shall be 4 percent per year on the unpaid balance of the loan during the period from the end of such deferment and until the end of the repayment period or until the borrower ceases to be a full-time teacher, whichever first occurs.".

EXTENSIONS OF REMARKS

WORLD FOOD DAY TELECONFERENCE

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. GILMAN. Mr. Speaker, October 16, 1991, was "World Food Day." Under the direction of the National Committee for World Food Day and the technical expertise of the U.S. Information Agency [USIA], a ground breaking teleconference was broadcast to more than 500 receiving sites around the world. This was the 11th year "World Food Day" has been celebrated and it was the ninth teleconference. With USIA's WorldNet linking all the sites it guaranteed the 1991 teleconference to be the most successful ever.

I want to thank and congratulate Pat Young and all the volunteers world wide who made it possible. And I want to especially praise WorldNet for a job well done. Countless hungry people will benefit from the outcome and much future suffering will be avoided.

Mr. Speaker, I urge my colleagues to read the executive summary of the 1991 "World Food Day" teleconference executive report and insert it in full in the RECORD at this point:

1991 TELECONFERENCE EXECUTIVE SUMMARY

The eighth annual World Food Day Teleconference was broadcast from the studios of George Washington University Television in Washington, DC on October 16, 1991. It linked a distinguished panel of experts on food and economic development issues to more than 500 receive sites across the United States and Canada and, for the first time, the program was broadcast to all countries of the Western Hemisphere. The theme for the teleconference discussion was "The Hunger Puzzle: Adding the International and Macroeconomic Pieces."

After years of growth since the World Food Day Teleconference began in 1984, the program is believed to be the largest, single development education broadcast ever organized in the U.S. The Spanish language broadcast, involving simultaneous interpretation from English, began in 1990 with a pilot project in Mexico made possible through the cooperation of the Instituto Tecnologico de Monterrey in Mexico, which relayed the Spanish broadcast to its 26 national campuses over that country's Morelos II satellite. Outreach to the rest of Latin America in 1991 was made possible through the added support of the UN Food and Agriculture Organization (FAO) and the U.S. Information Agency WorldNet system.

World Food Day, held for the first time in 1981 and marking the anniversary of the founding of FAO in 1945, has captured the imagination of people throughout the world. In the U.S. the Day is observed in virtually every community throughout the country, with especially strong support in schools and worship centers. The U.S. National Committee for World Food Day has grown in membership to 450 private voluntary organizations and works directly through more than 17,000 volunteer community organizers.

Serving on the teleconference expert panel in 1991 were Brazilian Minister of Agriculture Antonio Cabrera de Mano Filho, author and futurist Hazel Henderson, former Dominican Minister of Agriculture Atherton Martin and World Bank economic advisor for Latin America Norman Hicks. TV and film star Eddie Albert hosted the program, and the moderator was syndicated columnist and author Georgia Ann Geyer. FAO Director-General Saouma also appeared on the program through a special videotape message from the organization's Rome headquarters.

THE TELECONFERENCE CONCEPT

In the U.S. the World Food Day Teleconference has become a model for development of education on global issues, in part because of the enormous growth in interactive site participation and the additional millions of viewers accessed through collaborating networks and in part because of the year-around use of the program's study materials and the teleconference itself in college-level courses in a great variety of disciplines. The "internationalization" of the program since 1990 has further increased its impact and was broadly welcomed by participating colleges and universities in the U.S. The main components of the teleconference package are: (1) a Study/Action Packet of printed materials prepared by the non-governmental U.S. National Committee for World Food Day and distributed to all participating schools and other study centers (and distributed in 1991 in Spanish translation to the participating sites in Latin America); (2) the three-hour satellite telecast on October 16 composed of three hour-long segments for expert panel presentation, site consideration of the issues and a site-panel question and answer interchange; publication of the Teleconference Report including written responses by panelists to questions that were not taken up on the air for reasons of time; and (4) analysis by selected site organizers after each year's program to make recommendations for the year to follow. All of the main teleconference components are designed as college-level curricular aids.

THE STUDY/ACTION PACKET

The Study/Action Packet is designed as an integral part of the teleconference program, but also serves as a separate study resource for groups planning World Food Day observances but not participating in the telecast. More than 1,500 copies of the packet were distributed on request in the months prior to the broadcast to colleges, other institutions, community study groups, schools and individuals. All or part of the packet materials were reproduced by many of the participating sites and, as in previous years, copies were distributed by the USDA Extension Service to their field offices.

In 1991, for the first time, the entire Study/Action Packet was translated into Spanish and reprinted by the FAO Regional Office for Latin America and the Caribbean and distributed throughout the region in one language or the other through the network FAO country representatives. Copies of the English version were also distributed to U.S. embassies by USIA WorldNet. Following the teleconference, the main section of the packet also was reproduced in the annual "global issues" series of the Dushkin Publishing Group in Guilford CT.

The 1991 packet was developed by the U.S. National Committee for World Food Day with the cooperation of several institutions and organizations which offered special contributions from their own research and analysis. The theme, in a departure from previous years, was chosen to explore how nonfarm issues such as debt, terms of trade and macroeconomic development policies affect hunger and food availability. Although not intended to provide a comprehensive analysis of all the issues raised, the packet served as an overview. It dealt especially with the reforms undertaken by the Latin American and Caribbean countries over the past decade that fall under the general term "structural adjustment." These reforms encompass broad efforts to open national economies to international trade and competition and reduce state intervention in the private sector. Separate viewpoint papers were contributed by the World Bank, the AFL-CIO and Mexican Confederation of Workers (on issues raised by the proposed North American Free Trade Association), the American Catholic Bishops, the Population Reference Bureau, UNICEF, FAO and the Economic Commission for Latin America.

This was the eighth Study/Action Packet prepared in conjunction with the teleconference series and the third to be undertaken directly by the U.S. National Committee for World Food Day. Previous packets were prepared by the Center for Advanced International Studies at Michigan State University and by the Office of International Agriculture at the University of Illinois. Funding for the 1991 packet was provided by the Agency for International Development. General funding for the teleconference program was provided by the U.S. National Committee for World Food Day, FAO, Covenant Presbyterian Church of Scranton, PA and the Xerox Foundation.

TELECONFERENCE OUTREACH

The WFD Teleconference has grown each year since it was begun in 1984, reaching more than 500 interactive sites in the U.S., Canada, Latin America and the Caribbean in 1991. Although the highlight of the 1991 growth was through the satellite links to all countries of the Americas, the event also was marked by important developments in the U.S., where the great majority of participating sites are located. Particularly important to organizers was the emergence of new county and state distribution networks, especially from universities to extension offices and branch campuses.

Teleconference impact continued to grow in at least three other ways. For the sixth year the program was used by professional organizations for continuing education credits. These credits (or professional development units) were offered again in 1991 by the American Dietetic Association, the American Home Economics Association and, through The Catholic University of America, to clergy and social service professionals. Beginning in 1989 there has been a steady

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

rise in teleconference participation by high school students, sometimes through college outreach to surrounding schools but increasingly initiated by individual schools or school systems. The audience of home television sets accessed by cooperating networks is believed to number in the millions, reached through the Catholic Telecommunication Network of America, AgSat, Vision Interfaith Satellite Network, PBS Adult Learning Satellite Service and individual cable stations.

LOCAL SITE PROGRAMS

Over the eight-year experience of the teleconference, organizers believe the single most important development has been the growth of programs initiated at the participating sites, both through curriculum integration and extra-curricular activities, in which the actual telecast is only one element. A main thrust of the teleconference over the past two years has been to increase course and class use of the teleconference study components, and 1991 reports from the sites reveal the range of this evolution. They show, first of all, the broadening of interest in global food/hunger issues beyond the obvious disciplines of international agriculture and economics into courses such as anthropology, biology, chemistry, food science and nutrition, languages, literature, religion, women's studies and many more. Courses in journalism, electronic media and public affairs often use the site activities for "hands on" work projects.

Extra-curricular activities are part of the World Food Day program at most of the teleconference sites. Site reports in 1991 show activities such as fasts in residence and dining halls to raise funds for world hunger relief, concerts and film festivals, panel discussions and seminars with prominent invited guests, college-community joint study/action to support local food programs, visits to poverty areas to offer work support such as carpentry and painting, special food programs to show Third World diets and hunger, and a great range of devices to encourage anti-poverty fundraising. Often these activities continue over a day, a week or even a month.

TELECONFERENCE BROADCAST SUMMARY

As in previous years, the teleconference broadcast was open by actor Eddie Albert, who was followed by a taped message from FAO Director-General Edouard Saouma. Mr. Saouma strongly supported the global trend toward "structural adjustment" but warned that it had to include a priority for food security, that steps were needed to protect the poorest people from food deprivation during the reform period, and that solutions would require action by both poor and rich countries. The moderator, Georgie Ann Geyer, then cited evidence that in many cases these reform criteria were not being met and that conditions of poverty were worsening in the reforming countries because of government austerity measures. She then introduced the panel and asked for their initial reaction to these trends.

Brazilian Agriculture Minister Cabrera noted that his government was attempting to make very profound reforms, but that it was difficult for Brazil and other agricultural exporters of Latin America to fund their reforms and their debt payments as long as world trading systems maintained barriers against their products. Ms. Henderson said there was a need to revise the concept of growth to get away from the simple measure of gross national product and that structural adjustment policies failed to take such changes into account. She compared the debt owed by developing countries to the "pollution debt" owed to the world by the rich countries.

The next panelist, Mr. Martin, noted that the main thrusts of structural-adjustment policies—including openness to foreign trade competition, reduction of government's economic role and fostering private investment—had been tried in the Caribbean for many years but in fact hadn't served to raise the standard of living of the people. He called for a development model that put more stress on farming, food production and learning from the people.

Mr. Hicks, supporting structural adjustment, noted that the problem in Latin America and the Caribbean was precisely that the old system of heavy state intervention and protectionism had failed, but that the new policies often hadn't yet been given enough time to show results. He said that those countries which had several years of experience with the new policies in fact had shown positive return, citing Mexico, Chile and Bolivia as examples. Raising GNP was not the only answer, he said, and economic reforms needed to be supported by targeted programs to protect those most at risk such as children rather than policies subsidizing entire economies.

Ms. Henderson argued, in response, that the World Bank/IMF modeling was based on concept of equilibrium within and among nations whereas in fact we were undergoing a period of global chaos in which nearly all basic systems—of production, finance, trade, population movement and others—were in transition and equilibrium was impossible. Mr. Martin added that beyond broad theories there were many specific examples in developing countries to show the structural-adjustment policies were failing and in any case were unfair to the poor.

The moderator then asked the panel to give examples in the world of policies that work and that could be used as models, especially in light of the failure of the Soviet socialist system that many in the Third World had wanted to copy. Mr. Martin stressed again that there needed to be "half-way" steps to modernization where people could use their own ingenuity and knowledge of their needs rather than turning the world into a global market in which the poor couldn't compete. Ms. Henderson seconded this view, noting that the industrialized countries of the North had a "cultural DNA" which laid down rules and rewards that were not relevant to the developing countries, where people had a better sense of their needs, culture and environment. Mr. Hicks disagreed. He noted that there were examples in East Asia, such as South Korea, Taiwan, Singapore and Hong Kong, where different cultures did not stop governments and peoples from making very rapid gains using the Western economic model. It is impossible to think we can go back to a world where everybody grows his own food, he added.

Minister Cabrera said that he wanted to agree with Mr. Hicks, but he noted that developing countries with efficient agriculture were being denied their natural advantage by a world system of tariffs and other barriers. Developing countries need to earn money by exports in order to pay their debts, he said, so they had to have better market access.

Asked about Brazil's experience with rural-urban migration and environmental degradation, Mr. Cabrera returned to the free trade priority. His country was very interested in keeping people in the rural areas, he said, but that was impossible if the rural dwellers couldn't make a living. It was rural poverty, he noted, that was the main reason for deforestation of the Amazon. Ms. Henderson agreed with the need to keep people in rural areas and cited a number of successful programs to help them, such as the work of the Grameen Bank in Bangladesh and the Women's World Banking system.

Much of the ensuing discussion in the first hour revolved around these main points, and especially on World Bank policies favoring structural reform. Mr. Martin noted that these reforms didn't take into account historical problems such as the concentration of infrastructure in capital cities that were left over from colonial times. Mr. Hicks made the point that most World Bank loans had nothing to do with structural adjustment and that these other loans often favored the least advantaged. He then added the problem of population growth, which in many cases negated economic gains and was a cause of environmental degradation. Ms. Henderson suggested that environmental exploitation was inevitable because natural resources were given no economic value. Mr. Martin spoke of the frustration for many people in assigning responsibility. The World Bank would say that such and such was up to the governments, but then the governments would say the Bank set the rules as conditions for getting money.

Mr. Hicks noted that no matter what measure was applied the likelihood was that many Third World countries would show a much greater rate of progress as structural reforms showed their expected results. Mr. Cabrera noted that the world was still divided into two camps—one in whch people went hungry and another in which people needed to go on a diet. The challenge of the next generation, he said, would be to correct this distortion. Ms. Geyer closed the first hour by noting that at least we are now in a world where such issues could be the main concern of governments and people, which had not been the case in the decades before.

THIRD HOUR QUESTIONS AND ANSWERS

As in previous years, the third hour of the teleconference program was devoted to questions directed to the panel from the participating sites. All questions received were answered, either on the air or in writing by the panelists afterward. More than 60 questions were received, including several from Latin America and the Caribbean.

Subjects in which there tended to be broad interest among the participating sites included: how the World Bank formed its policies and where it was under the influence of rich countries and banks; why the needs and views of women were not more often taking into account in economic modeling and policymaking; and what changes should be made in the organizating of the international system to better help the poor and protect the environment. In their replies, the panel tended to continue the sharp divisions which had been expressed in the first hour, but with all of the four expressing the view that the system continued to need improvement.

TRIBUTE TO LEON SAVAGE AND ALL INVOLVED IN FAMINE RELIEF EFFORT TO ARMENIA

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. HANSEN. Mr. Speaker, I have the honor today to pay a special tribute to a group of hardworking people who combined abilities to aid the Armenian famine relief effort. Less than 1 month ago, a constituent of mine, Mr. Leon Savage, called my office wanting to coordinate an effort to donate milk to the famine ridden people of Armenia. With the help of Utah dairymen Gordon Zilles and Ted King, as well as Kay Carter of Idaho, Mr. Savage organized the donation of more than 300,000 ½-pint cartons of milk to be delivered to disaster-ridden Yerevan, Armenia.

This milk has been donated by dairy farmers at there own expense. The worth of the milk is substantial especially to many farmers who have suffered from present problems in the dairy industry. The sacrifice associated with this donation should be recognized and appreciated for the great sacrifice that it is.

Mr. Savage also secured the donation of the processing of the milk by Gossner Foods, a Logan, Utah-based milk and cheese manufacturer. Tetrapak Corp. of America in Denver, and Millers Bros. Feed Yard, of Hyrum, UT, as well as several local milk haulers aided the effort by donating the aseptic packaging materials and transportation of the milk.

Mr. Savage and those involved requested that the milk reach those that need it most, and therefore, enlisted the help of the diocese of the Armenian Church of America. The diocese was crucial in coordinating the effort and assuring that the milk reached the appropriate people.

Gen. Dale Thompson, U.S. Air Force and the entire staff at Hill Air Force Base also deserve a great deal of thanks for their help to provide temporary storage and transportation of the milk. Their efforts have not gone unrecognized.

The long hours and effort put forth by Leon Savage and all others involved have been greatly appreciated by myself, and more importantly, by the needy people of Armenia. I would hope that this endeavor will lead to more humanitarian efforts to aid the hungry everywhere.

TRIBUTE TO NEW HAMPSHIRE CIVIL ENGINEER WAYNE N. TOBIASSON

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. SWETT. Mr. Speaker, I rise today to pay tribute to an outstanding research civil engineer from my home State of New Hampshire. Wayne N. Tobiasson, of the Army Corps of Engineers Cold Regions Research and Engineering Laboratory in Hanover, was recently named "Engineer of the Year" for the corps. Part of a large program sponsored by the National Society of Engineers, the annual award recognizes engineers employed by the Federal Government for their significant contributions.

Mr. Tobiasson has been with CRREL since it first opened and has dedicated over 30 years of his life to addressing the unique problems and opportunities of the world's cold regions. Over his career he has been involved in projects from Greenland to the South Pole. He was the primary Government consultant for the USAF Tactical Command's distant early warning line stations, and his contributions helped extend the station's lifetimes from 10 to 30 years. In Antarctica, as primary Government advisor to the National Science Foundation, he has played an instrumental role in upgrading and protecting the U.S. facilities at the South Pole from the harsh effects of cold weather. He has also been a leader in developing new and safer snow load design criteria for buildings and other structures.

Yet, Mr. Tobiasson's contributions have not been confined to the laboratory. While preparing for his work in Antarctica, he coordinated activities at a local elementary school and taught the children about the region. As part of the program, the students made a school flag that Mr. Tobiasson took with him to the Antarctic. He planted the flag in the snow at the South Pole and returned it to the children as a souvenir of his trip.

Mr. Speaker, I ask my colleagues to join me in congratulating Mr. Tobiasson on receiving this most deserved award. At a time when American children are scoring poorly on international science examinations, it is encouraging to see someone like Mr. Tobiasson get involved in the community and make science fun and exciting for our youth. I am sure that his program will have a lasting effect on many of the children, inspiring them to pursue careers in science and engineering. I commend Mr. Tobiasson upon being named "Engineer of the Year," and I thank him for his service to our country and his positive involvement with our young students.

A TRIBUTE TO DR. ALDEN W. BADAL

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. STARK. Mr. Speaker, today I rise to offer my best wishes to Dr. Alden W. Badal upon his retirement after 43 years of dedicated and distinguished service to the school children, teachers, and parents of the San Francisco Bay area.

During 1959 to 1978, Dr. Badal served the Oakland School District as the assistant and later director of research associate superintendent, and acting superintendent. In July 1978, he began his tenure as the superintendent of the San Lorenzo Unified School District which will end this year.

He has served the community in other roles as well. He has served as the president of the San Lorenzo Rotary Club, the San Lorenzo district Scholarship Foundation, and the Oakland Scottish Rite Scholarship Foundation.

Dr. Badal has made a positive impact both on the individual students, parents, and teachers with whom he has come in contact over the past 43 years and on the district as a whole. For his active participation in the San Lorenzo education community, he will be missed.

NOTING THE PASSING OF FORMER CONGRESSMAN MICHAEL A. FEIGHAN

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. STOKES. Mr. Speaker, I am saddened to rise today to inform the House of the passing of our former colleague, Michael A. Feighan. Mr. Feighan, who represented the west side of Cleveland, OH in the House of Representatives for 28 years, passed away yesterday at the age of 87. With his passing, our Nation has lost a great and distinguished leader.

Michael Feighan, who practiced law in Cleveland, entered the House in 1943, having served as a State legislator from Cuyahoga County. In the Congress, he developed a reputation as a hard worker and outspoken advocate on behalf of his constituency. Feighan served as chairman of the Immigration and Nationality Subcommittee of the House Judiciary Committee. He was the author of the 1965 Immigration Reform Act which retired national origin quotas. During his tenure in Congress, Michael Feighan was also known for his staunch opposition to communism.

Mr. Speaker, I was privileged to serve in the House with Michael Feighan. He was someone whom I greatly admired and respected. And he was a special friend to both me and my brother, Judge Carl B. Stokes.

After he left the Congress, I would often have opportunities to visit with him during his trips to Washington. I have also been privileged to serve in Congress with his nephew and our colleague, ED FEIGHAN, who has distinguished himself in this body in the tradition of the Feighan family.

Michael Feighan leaves to mourn his passing his son, William M. Feighan; his daughter, Fleur Jones; a sister and two grandsons.

Mr. Speaker, generations of politicians will remember Michael Feighan as a great legislator. He was a remarkable individual who served his constituency and our Nation to the very best of his ability. I ask that my colleagues join me in extending our prayers to his family upon his passing.

[From the Cleveland Plain Dealer, Mar. 20, 1992]

MICHAEL FEIGHAN, SERVED IN CONGRESS FOR 28 YEARS

WASHINGTON.—Former Rep. Michael Aloysius Feighan, a Democrat who represented Cleveland's West Side in Congress for 26 years, died yesterday at Georgetown Hospital in Washington, D.C. He was 87, and had cancer.

His nephew, Rep. Edward Feighan, D–19, of Lakewood, a member of Congress since 1982, described Michael Feighan as his friend and memtor. He said his uncle was "a constant source of guidance and encouragement."

Former Rep. Charles A. Vanik, who represented Cleveland's East Side for many years, said he and Michael Feighan worked together to support housing and urban renewal programs in Cleveland.

"He was a vigourous worker. There are many monuments to his service in Cleveland," Vanik said.

Most of Mr. Feighan's 28 years in Congress were devoted to fighting communism. He also was responsible for the Federal Immigration Act of 1965.

He entered the House in 1943 as an idealistic New Dealer, after whipping incumbent Rep. Martin L. Sweeney. The isolationist Sweeney had beaten him in 1940.

Mr. Feighan had an iron grip on his office, with only token or no opposition until 1964 when former Parma Council President Ronald M. Mottl gave him a race and 1966 when he won narrowly over State Rep. Michael A. Sweeney.

Cleveland Council President James V. Staton ended Feighan's 14th re-election bid by defeating him in the 1970 Democratic primary.

Mr. Feighan was born Feb. 16, 1905, in Lakewood. His grandparents on both sides were Irish immigrants. His father, John T. was a vice president of Cleveland Trust Co., and after Prohibition was president of the Standard Brewing Co. Old John T. was a Republican, but he supported Franklin D. Roosevelt.

All five of the Feighan sons became lawyers, Michael was a graduate of Harvard Law School.

He played end and managed the football team at St. Ignatius High School. He also played football at John Carroll University, which he attended for a year, and at Princeton University, where he graduated in 1928. He was president of the Democratic Club and welterweight boxing champion at Princeton.

After finishing law school, Mr. Feighan returned to Cleveland to practice law with his four brothers.

Four years later, in 1935, he ran for Lakewood City Council and lost.

He won political office in 1937 as a state legislator from Cuyahoga County.

At the beginning of his second term in the Ohio House, he was chosen to lead the Democratic minority. After two terms, he ran his first campaign for Congress and lost. Campaigning against an isolationist, he supported a large Air Force to protect the United States from invasion. It was a platform that was useful in his successful 1942 campaign after Pearl Harbor.

At the end of World War II, Mr. Feighan was one of a 10-member House committee that studied food and other postwar problems in Europe and the Near East for nine weeks. It was a strenuous, wearing trip and the fore-runner of many other foreign trips Mr. Feighan took as a congressman. He later was criticized for the number and expense of his congressional junkets.

The late Drew Pearson, a columnist, reported in 1964 for Mr. Feighan, at a reception in Rome, had said President John F. Kennedy was "soft on communism."

Retorting on the floor of the House, the congressman said Pearson was "acting as an agent for a foreign power, the Communist regime of Yugoslavia and its dictator, Vito."

Feighan also once demanded that the State Department revoke actor Richard Burton's visa on formal grounds.

In 1953, Mr. Feighan became chairman of the immigration and rationality subcommittee of the Judiciary Committee.

His major accomplishment was the 1965 immigration reform bill, which retired national origin quotas and removed the barriers that gave precedence to residents of the British Isles and northern Europe.

Mr. Feighan's principal recreation was golf.

Since retiring, he divided his time between the family's apartment near the Washington National Cathedral and a home at Scottsdale, Ariz.

He is survived by a son, William M. of Paradise Valley, Ariz; a daughter, Fleur Jones, of Greenwich, Conn; a sister and two grandsons. His wife, Florence, and son, Michael Jr., are deceased.

Services will be at 10 a.m. Tuesday at St. John Cathedral in Cleveland.

THE CLASSROOM SAFETY ACT OF 1992

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. SERRANO. Mr. Speaker, I have been deeply saddened by the stories of innocent children being killed while inside schools in which they are supposed to be getting an education.

We have thought for so long that our children were safe once inside their school. Well it seems that children may not be safe inside the schools after all. We thought schools were isolated from the ills of our society: illegal drugs and gang violence. They are not.

Two students were shot and killed last month in Thomas Jefferson High School, in Brooklyn. There were 13 security guards in the school at the time of the shooting. The guards are unarmed. Some of the students are.

Despite the beliefs of many, violence inside schools is happening in small towns as well as in the urban enclaves of New York City, Chicago, and Los Angeles. In September, 1991, in Crosby, TX, a county of 7,304 people, a 17-year-old varsity football captain was shot and killed while in the school cafeteria by a 15-year-old girl armed with a .38 caliber revolver. three weeks ago at Valley Point Middle School in Dalton, GA, a 13-year-old boy went to school with a loaded .22 caliber rifle and took his teacher hostage in a classroom.

While we make efforts to reauthorize funding for all elementary and secondary education programs next year, we should keep in mind that, today, children are being killed right in the very classrooms that these programs pay for. We need to take an immediate step to help guarantee the safety of our children. They have to be taught that there are better and safer ways to resolve conflicts.

For these reasons, I have introduced the Classroom Safety Act of 1992, to make grants to local educational agencies most directly affected by violence and crime and assist those agencies in the prevention and reduction of violence in schools.

Local educational agencies in our Nation's cities are currently operating in the red, and they need an infusion of Federal funds to help pay for their added burden of increased safety procedures for students and teachers.

I urge you to join me, and help protect children in the classroom. Let's end the need for gun firedrills in our schools. Cosponsor this bill for our children in the classroom.

FREEDOM FOR SYRIAN JEWS

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mrs. MORELLA. Mr. Speaker, this week, my Jewish constituents and Jews around the world have been observing Shabbat Zachor, a Sabbath of concern for Jews in Arab and Muslim lands. This remembrance is traditionally made around the time of the Purim holiday because the Purim story took place in Persia, and because of the Purim story's theme of victimizing the defenseless. On Shabbat Zachor, synagogue congregants will read from the Torah portion discussing Amalek, who attacked defenseless women and children during the exodus.

I am especially concerned about the plight of approximately 4,000 Jews living in Syria. The Syria Jewish community is concentrated in ghettos in Damascus, Aleppo, and Quamishli, where the Mukhabarat, Syria's secret policy, keeps them under 24-hour a day surveillance. The Mukhabarat also maintains a file on each Syrian Jew, taps their phones, and reads their mail. In addition, Syrian Jews must have Mukhabarat approval before making property transfers. Syrian Jews are denied equal opportunity for employment; the Government will not hire them, except for the most menial positions.

Syrian Jews may not even educate themselves about their own heritage and community. Secondary schools for Jewish education do not exist, and the elementary schools are supervised by Muslim headmasters. Any use of Hebrew, the language of the Torah, is illegal. Furthermore, the Mukhabarat requires that Jewish leaders make regular reports about activities in their communities.

So why don't Syrian Jews leave?

Because they cannot. Syrian Jews must deposit money with the Government, and leave other family members behind, as a means of assuring their return. In addition, the Government puts Syrian Jews through a long and involved procedure, requiring an explanation of their reasons for traveling, before deciding whether it will grant permission to leave the country. In this regard, it should be noted that in Damascus in 1989, Syrian Foreign Minister Shara'a absolutely denied. Under persistent questioning from a member of my staff, that the Syrian Government's restrictions and regulation of the travel of Jews differed in any way from that of Syrian Muslims and Christians.

Syrian Jewish attempts to defy Government travel restrictions have severe consequences. In 1974, four single Jewish women trying to cross the Syrian border were captured by the Mukhabarat. They were disfigured and killed.

I would like to call to Members' attention a fact sheet on Syrian Jewry provided to me by the International Affairs Commission of the Jewish Community Council of Greater Washington. It provides an excellent introduction for my colleagues who have not yet familiarized themselves with this issue.

SYRIAN JEWRY

1948 Jewish population: 45,000.

1987: 5,000.

Damascus was the site of a blood libel and pogrom which killed many Jews in 1840.

Even before the 1967 war, Jews in Syria were terrorized by night arrest, interrogations, imprisonment and torture. Jews were not permitted to leave the Damascus ghetto. After the war their situation worsened.

An airport road was paved over the Jewish cemetery in Damascus; school examinations were scheduled on Saturdays to prevent Jewish participation.

Jews are singled out on identity cards. Palestinian Arab refugees are housed in the Jewish quarter to harass residents.

Until 1976, Jews were not permitted to leave the country, to go more than four kilometers from their place of business, to sell immovable property, to work for the government or banks, to have telephones and driver's licenses, to bequeath property to heirs. The state confiscated the property of those who escaped. Most Jews working for Arab merchants were dismissed. There were numerous reports of torture and murder of Jews trying to flee the country.

In Dec. 1975, *The Chicago Daily News* interviewed a 24-year-old Jewish woman who had escaped from Syria the year before. Fearing Syrian officials would retaliate against her relatives in Damascus, the refugee gave her name only as Jamile.

Four of her friends, Jamile related, were killed trying to flee Syria, their bodies "completely burned and disfigured by acid."

Describing life in Syria, she said: "After primary school, there was no high school for us, and no chance to work in an office or bank. We were forbidden this kind of work. We were surrounded by hatred. Sometimes there were attacks on us when we went to the synagogue."

After 1976, in an apparent effort to improve its image in the West, the Syrian government lifted some of its restrictions against the Jewish community. However, emigration is still forbidden, and identity papers are still stamped with the term "Musawi," identifying the bearer as a Jew. Jews are usually permitted to sell a house or car only if they can prove the money is being used to buy a replacement. Agents of the Muhabarat (the Syrian secret police) are reported to be present at all synagogue services. While Jews may now travel between cities, they must sign out before leaving one city and report to police on arriving at their destination. In 1988 it was difficult for Jews to obtain permission to travel abroad, and those who did posted a deposit, which in the past varied from $2,000 to $10,000. They also had to leave close relatives behind.

Government agents patrolled the Jewish quarter, and most Syrians Jews feared being seen in public with foreigners.

In July 1977, after months of negotiation at the highest governmental levels, Syrian President Assad permitted 12 Jewish women to marry men of the Syrian Jewish community in New York and to emigrate. However, there are an estimated 500 Jewish women still in Syria unable to find Jewish husbands there. A decade later some intermarriage was reported; more young men were able to escape Syria than women, leaving the latter with fewer prospective Jewish spouses.

In 1979, there were numerous reports of Jews, some as young as eight, being arrested on suspicion of trying to flee the country. There was also a report of a Jewish family that managed to escape to Lebanon, only to be recognized by a Syrian soldier in Beirut, arrested, and sent back to Syria.

Thirteen Syrian Jews, including four women and seven children, were able to escape to Turkey by motorboat in 1979. But an unsuccessful escape attempt in the same year left a young Jewish woman gravely wounded. She was eventually permitted to go to the United States for surgery, but she had to leave her four small children behind, and her husband was arrested.

In 1980, two Jewish women in Aleppo were raped by Syrian security men who were supposedly searching for members of the Moslem Brotherhood.

In Dec. 1983, Lilly Abadi, then pregnant, and her two children—aged four and seven—were stabbed and shot in the Syrian city of Aleppo by unknown assailants.

In 1987, the secret police seized several Jewish men. No formal charges were lodged but according to the American Jewish Committee, the men were suspected of trying to escape from the country or of having returned from unauthorized trips abroad.

The men reportedly were mistreated while in custody. In May 1988, the secret police still held at least eight Jewish men; a ninth, teenager Mousa Khalife, had been released. As a result of brutal beatings while incarcerated and subsequent formation of blood clots, Khalife faced possible amputation of his legs.

At the same time, several young Jewish women reportedly were kidnapped and forced to marry Syrian or Palestinian men.

Syria's attitude toward Jews was reflected in its continued sheltering of Alois Brunner, one of the most notorious Nazi war criminals still believed to be at large. Brunner, a chief aide to Adolf Eichmann, told the Chicago Sun-Times in a 1987 telephone interview from his Damascus home that he regretted nothing and would do it all again. All Jews "deserved to die because they were the devil's agents and human garbage," he said.

Brunner, 75 reportedly advised the Hafez Assad regime on "security matters." For years Syria denied that it hosted him: after West Germany requested Brunner's extradition. Damascus replied that he committed no punishable crimes.

The on going Middle East peace talks, and the discussions which have resulted between the United States and Syria and Israel and Syria offer an important opportunity to press again for the freedom of Syrian Jews. For years the United States has demonstrated its commitment to the freedom of world Jewry, and combined with the efforts of Israel, other governments, and private individuals and organizations, thousands of Jews, from the former Soviet Union, Albania, Ethiopia, and other lands, have found freedom. We must not forget those who remain.

JULIE FRANCES ROACH ON "MEETING AMERICA'S CHALLENGE"

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. HUBBARD. Mr. Speaker, today it is with great pleasure that I rise to pay tribute to an outstanding young constituent of mine from Hopkinsville, KY: Julie Frances Roach. Julie, a junior at Christian County High School in Hopkinsville and daughter of Robert W. and Mildred S. Roach, also of Hopkinsville, has been named the 17th place honors winner in the 1992 Voice of Democracy Broadcast Scriptwriting Contest sponsored by the Veterans of Foreign Wars of the United States [VFW]. With the aid of her dramatics teacher, Sarah Kranz, the principal of Christian County High School, Kay Lancaster, and the sponsorship of VFW Post 6513 and its ladies auxiliary in Hopkinsville, Julie was one of only 22 national winners out of a total of 147,000 participants. In addition, she is the recipient of this year's $1,000 Jane Young Memorial Scholarship Award. Julie plans to attend Wake Forest University and to pursue a career in journalism, a vocation for which I believe she has all the requisite talent, as can be observed in reading her award-winning essay on "Meeting America's Challenge" which follows in its entirety:

MEETING AMERICA'S CHALLENGE

(By Julie F. Roach)

Meeting America's challenge is like working a jigsaw puzzle. A group crowds around a card table with hundreds of puzzle pieces spread upon its surface. Slowly, the group begins to place the pieces into position, for they know what the puzzle should look like when it is finished. These people are today's Americans. The pieces are our country's founding beliefs. The finished picture is our ideal country.

Perhaps this is the way our famous and not-so-famous colonists began their quest for democracy and meeting America's challenge. Their challenge was to lay the foundation of the puzzle. The Thomas Jeffersons and the Thomas Paines cried out for freedom. The unknown people who scribbled notes to help spread the idea of democracy and sang songs about it helped the bell of freedom ring through a new land—America. This was a challenge. They shaped and molded the future picture for us. They foresaw a country with freedom of speech, religion, press, and equality all working together in harmony. They were the definers of our challenge who boxed the pieces into a constitution and sent them directly to us, the puzzleworkers.

Today as we move toward a new century, we strive to meet America's challenge by fitting the pieces of the puzzle accurately together. We face the problems of education, illiteracy, environment, homelessness, and unemployment.

One of our biggest challenges today is education and illiteracy. Our classrooms are crowded. Our funds are low. And our apathy is rising. If we have an uneducated nation that cannot read, we will fail. To keep the rights that our forefathers gave us, we must be able to understand the issues.

Another challenge facing us is our environment. As we become freer and more affluent, we become more wasteful. Like our forefathers before us, we must remember that we have to pass the puzzle on to the next generation. Therefore, it is important to preserve and protect what we have.

The problems of homelessness and unemployment must also be faced. Each person within our country has the right to a home and a job—providing, that is, that he is willing to do his part. Because no rights can be taken lightly, and no rights can be handed out freely. Only when these challenges are met can we ever really consider ourselves free.

Challenge creates growth and with growth our nation will only become better. America's jigsaw puzzle is never completed. Old problems will be solved, and new problems will arise. More pieces will always be around to put in. No matter what changes occur, however, the basic foundation and framework upon which the puzzle is designed is solidly embedded in our life and in our hearts.

How the unfinished product will turn out is unknown. Whether we like the result or not will ultimately depend on us and the decisions we make within our own lives. As President Abraham Lincoln said in his first inaugural address in 1861, "This country, with its institutions, belongs to the people that inhabit it, whenever they shall grow weary of the existing government, they can exercise their constitutional rights of amending it." One can start making a difference by enforcing his right to vote. This is a primary founding belief in our country that men of the revolution fought for.

So many Americans have contributed to the making of the puzzle. And it is not always the people we hear about daily in the news. The men of the Battleship Arizona at Pearl Harbor are a piece of the puzzle. The men and women of Operation Desert Storm have their place. In other words, the unsung heroes of our country make up a major portion of the design.

America's challenge may lead us to discover the unknown, but isn't that what America is all about? The puzzlemakers of the Revolution and the puzzleworkers of today ultimately had and have one goal—to keep dreams alive, to keep freedom alive, and to keep America, a challenging nation, alive.

COOPERATION IS THE KEY

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. RAY. Mr. Speaker, I would like to draw the Members' attention to an article published in the Wall Street Journal. This article highlights a cooperative effort between the BellSouth Co. and Cox Newspapers of Atlanta, GA. It is my sincere hope that this cooperative venture is indicative of future relations between the regional Bell operating companies and the newspaper industry.

In order to improve the ability of newspapers to provide information services to the public, BellSouth will offer Cox enterprises' newspaper unit and other information providers the three-digit telephone numbers 211, 311, 511, and 711 which will be available in the companies' local calling areas.

Mr. Speaker, the future of information services should not be held back by the type of acrimonious debate we have seen between competing providers. The future of our country's information services should reflect the kind of cooperative effort embraced by this proposal.

I hope that our Nation's finest information providers—the newspapers, the broadcasters, the cable and telephone companies—will look toward this important agreement between BellSouth and Cox Newspapers. Cooperation is possible, it is beneficial, and, most importantly, it is in the best interest of our Nation.

I insert this article in the RECORD following my statement:

BELLSOUTH TO OFFER NEWSPAPER, OTHERS 3-DIGIT NUMBERS

(By Mary Lu Carnevale)

WASHINGTON.—BellSouth Corp. said it plans to offer Cox Enterprises Inc.'s newspaper unit and others three-digit numbers for their information services.

The move, a milestone in the battle between phone companies and publishers over information services, could give callers an easier way to obtain news, weather, shopping and other information provided by phone company competitors. But it also raises big concerns over how the numbers would be allocated.

BellSouth, the regional Bell telecommunications company, said it will petition the Federal Communications Commission for an expedited ruling on public-interest aspects of its proposal. It will also ask the FCC to decide how to allocate the four numbers it will reserve for the new services. BellSouth said it would make 211, 311, 511 and 711 available in the company's local calling areas, but not on a long-distance basis.

NOT SIMPLE AND CLEAR CUT

"It is not as simple and clear cut as it might appear on the surface," said James Spurlock, special assistant to the FCC's common carrier bureau chief. The agency, he said, will be examining the proposal, and won't have any comment until the review is completed. As with other controversial proposals, the agency is likely to seek public comment on the matter.

BellSouth said it was acting on a request from Cox Newspapers, which has argued that 411 service gives phone companies a huge, unfair advantage in providing information services to the public. Both BellSouth and Cox are based in Atlanta.

Jim McKnight, vice president of telecommunications for Cox Newspapers, said the company wants to offer electronic classified advertising and various newspaper-based information services for nominal fees. Crucial elements, he said, are three-digit numbers as well as phone company billing and collection services—all at rates considerably below traditional pay-per-call 900 or 976 service.

The seven regional Bell companies last summer won a court fight to get into the information services business. Since then, newspaper publishers and other information providers have been lobbying Congress for a law that would prevent the Bells from using their monopoly power to harm competitors. Last month, David Easterly, president of Cox Newspapers, testified before a House subcommittee that phone companies' 411 service gives them an unfair advantage. BellSouth, he complained, had turned down Cox's request for a three-digit number in both Atlanta and West Palm Beach, Fla.

SOME REAL PROBLEMS

Rick Parkhill, president of InforText Publishing Inc., publisher of a trade journal for the interactive telephone industry, applauded BellSouth's innovation and willingness to work with the newspaper industry, but said "some real problems must be overcome before such a service car be introduced."

How to allocate the numbers is the top problem, according to Mr. Parkhill and others. "This lends itself to more monopoly controlled information services," he said. "Perhaps BellSouth has designed this plan to satisfy the request of Cox Newspapers, but it may open up a Pandora's box of antitrust problems."

"There is a danger of oligopoly." said Steven Metalitz, vice present and general counsel of the Information Industry Association. "But at the same time, if the numbers and services get implanted and consumers come to associate those numbers with a particular service, it could be a boon to some information providers."

SALT LAKE VETERANS' HOSPITAL SETS HIGH STANDARDS

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. HANSEN. Mr. Speaker, the veteran's health care system has been attacked over the years by some as delivering slow and inadequate medical care at the hands of indifferent and uncaring doctors and personnel. While individual experiences may differ, these negative stereotypes do not apply to the veteran's hospital located in Salt Lake City. I recently received a letter from a veteran in my district, Mr. Lee Brown of Farr West, UT, whose remarks are an apt tribute to an outstanding organization.

Mr. Brown wrote:

In this day of what seems to be nearly constant negativity and criticism, I would like to offer a word of positive praise. I am a World War II veteran and have many times found it necessary to take advantage of the medical services provided at Veteran's hospitals. I have, in fact, just returned home from a twenty day stay at the Veteran's hospital in Salt Lake City. This stay included heart by-pass surgery and the services of their intensive care unit.

As a Utah citizen, Representative Hansen, I would like you to know how proud I am of our local Veteran's Hospital and its staff. During my stay, I was treated with extreme care, compassion, professionalism, and dedication. The warmth and decency of the doctors and nurses was second to none! The equipment used during my testing and surgical procedures was up to date and obviously in the hands of skilled professionals.

It has been many years since I served my country, and perhaps because it has been so many years, I have sometimes wondered if my fellow citizens remembered or cared about our veteran's well-being. The last twenty days has shown me—they care in Salt Lake City!

It will be my prayer that this standard of care found here in our state of Utah will be that found throughout our great country!

FARR WEST, UT,
February 19, 1992.

Representative JIM HANSEN,
Rayburn House Office Building,
Washington, DC.

DEAR REPRESENTATIVE HANSEN: In this day of what seems to be nearly constant negativity and criticism I would like to offer a word of positive praise. I am a World War Two Veteran, and have many times found it necessary to take advantage of the medical services provided at Veteran's Hospitals. I have, in fact, just returned home from a twenty day stay at the Veteran's Hospital in Salt Lake City. This stay included heart by-pass surgery and the services of their intensive care unit.

As a Utah citizen, Representative Hansen, I would like you to know how proud I am of our local Veteran's Hospital and its staff. During my stay I was treated with extreme care, compassion, professionalism, and dedication. The warmth and decency of the doctors and nurses was second to none! The equipment used during my testing and surgical procedures was up to date and obviously in the hands of skilled professionals.

It has been many years since I served my country, and perhaps because it has been so many years I have sometimes wondered if my fellow citizens remembered or cared about our veteran's well-being. The last twenty days has shown me . . . they care in Salt Lake City!

It will be my prayer that this standard of care found here in our state of Utah will be that found throughout our great country!

Sincerely,

LEE BROWN.

BIOGRAPHY OF GERONIMO (APACHE)

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res. 217, H.J. Res. 342), Congress and the President designated 1992 as the "Year of the American Indian." This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the "Year of the American Indian," and as part of my ongoing series this year, I am providing for the consideration of my colleagues a short biography of Geronimo, the last and most feared Apache war leader whose name spread panic in the frontier settlements of the Southwest. This biography was taken from a U.S. Department of the Interior publication entitled "Famous Indians, A Collection of Short Biographies."

GERONIMO (APACHE)

With the piercing shout of "Geronimo," U.S. paratroopers plummet from their troop-carrying aircraft. The cry recalls the fiery spirit of the last and most feared of Apache war leaders. Geronimo fought beside Cochise, Victorio, and Mangas Coloradas, but long after these bold chieftains had passed from the scene his name spread panic in the frontier settlements of the Southwest.

One after another, in the 1860's and 1870's, the Apache tribes capitulated to the advancing frontier, abandoned their raiding forays into Mexico, and allowed themselves to be concentrated on reservations. Among the last to succumb were the Chiricahua Apaches. These were Geronimo's people. Although not born a Chiricahua, he had married a Chiricahua woman and gained stature in the tribe as a warrior of note. A short, thick-set man with a perpetual scowl, he bore the unlikely name of Goyathlay—One Who Yawns—but to his white enemies he was known as Geronimo. By 1876 he was in his middle forties.

In this year the Government removed the Chiricahuas from their mountain homeland in southeastern Arizona. Geronimo rose to leadership of rebellious tribesmen who wanted no part of farming on the parched bottomlands of the San Carlos Reservation. For the next decade he and a small band of "renegades" alternately raided in Arizona and Mexico and grudgingly accepted reservation restraints at San Carlos.

In the autumn of 1881, Geronimo and other leaders once more bolted the reservation and took refuge in Mexico. From strongholds in the rugged Sierra Madre they ranged through the settlements of Mexico and southern Arizona, plundering, burning, and killing. The U.S. Army sent Gen. George Crook to Arizona. An experienced Indian fighter who believed that only Apaches could catch Apaches, Crook enlisted Chiricahua scout units and plunged into Mexico. Persistent pressure, allowing the hostiles no security, finally brought about their return to San Carlos in 1883 and 1884.

But in 1885 Geronimo fled again with a following of less than 50 warriors, and their families. Again Crook put columns into Mexico. Again, in the spring of 1886, Geronimo surrendered to Crook. But this time, fired with intoxicating mescal obtained from a white trader, he dashed for his mountain refuge before even crossing the border.

Stung by criticism from his superiors, Crook asked to be relieved. Gen Nelson A. Miles took his place, and throughout the summer of 1886 his troops hunted Geronimo and his people in the Mexican wilderness. At last Lt. Charles B. Gatewood succeeded in getting into Geronimo's camp and persuading him to give up. With him at the last were less than two dozen warriors and their families.

This time the Army took no chances. A military band played "Auld Lang Syne" on the parade ground of Fort Bowie as Geronimo and the last of the Apache hostiles were loaded on wagons to be taken to the railroad and deported from their Arizona homeland.

Nearly all the Chiricahuas—those who had remained peacefully at San Carlos as well as the hostiles and, cruelly, Crook's former scouts too—were imprisoned first in Florida, then in Alabama, and finally in Oklahoma. Resigned to the inevitable, Geronimo allowed himself to be exhibited at expositions in St. Louis and Omaha and even rode in President Theodore Roosevelt's inaugural parade in 1905. He embraced Christianity, affected a stovepipe hat, and once was photographed behind the steering wheel of an automobile. Pneumonia finally took his life at the Fort Sill hospital in 1909. Some of Geronimo's followers may still be found at Fort Sill, Okla., and on the Mescalero Apache Reservation in New Mexico.

TODAY'S MAIL REFLECTS CONSUMER OUTRAGE ABOUT PRESCRIPTION PRICE INCREASES

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. STARK. Mr. Speaker, today's mail included three letters from my constituents about increasing prices of prescription medications. They reflect a collective call for reform of this industry. I offer them to my colleagues for consideration:

LIVERMORE, CA.

My wife is 66 years old. She receives Social Security and SSI, and is covered by Medi-Cal.

I am not complaining about anything directly unfair to us—but I am complaining that these pharmaceutical companies and businesses charging our government.

These prices seem to be excessively exorbitant.

R.S.

FREMONT, CA.

I've got a really great example of pharmaceutical greed. For some reason this prescription is not covered by my health insurance so I have been able to follow the price progression as the price increases almost weekly. In about October of 1991 the company 3M that makes this asthma inhaler discontinued the large size which was 22.5 milliliters and sold at that time for $24.95. I was very upset about this and called 3M and was told only that it was an "executive decision" to discontinue the large size. This was in November, 1991. I was able to find some stores that still had the larger one so I transferred my prescription. Now no one has any large ones so I had to purchase the 15 milliliter on January 20, 1992 and it had increased by $5.00 so now it was selling for the same price as the large one three months earlier. When I refilled the prescription 13 days later because I needed to take extras along while I go to care for my parents who are out of state the price had gone up another $1.00. So my rough calculations are that this drug, if you figure it on a milliliter basis which is the only way to figure this because of size, has gone up about 60% since October, 1991.

Something has got to be done about prescription prices. What can I do as a consumer when there is no choice? Just last month I found that some ulcer medication that I had to get would have been $178.00 for one month if my medical coverage had not paid it, but it all comes back to the consumer one way or another. If I can help your cause in this fight, let me know. Good luck.

C.F.

HAYWARD, CA.

An example of prescription medication price changes:

Lucky Pharmacy, Synthroid .05 mg tablets on 11/25/91 cost $6.97;

Lucky Pharmacy, Synthroid .05 mg tablets on 12/24/91 cost $10.97.

Example provided by C.H.

UNBELIEVABLY ARROGANT CONDUCT BY THE DEPARTMENT OF ENERGY

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. HALL of Ohio. Mr. Speaker, on December 16, 1991, the Energy Department announced plans to consolidate the nonnuclear manufacturing activities of the weapons complex, an action that would close the Miamisburg, OH, Mound plant and the Clearwater, FL Panellas plant. Though the Energy Department claims the move would reduce costs, it has not made available any cost estimates or studies to justify the decision. Despite repeated requests from Members of Congress and the public, and despite repeated promises to do so, the Energy Department has released no information.

For the benefit of my colleagues, I submit an editorial which appeared in the March 15, 1992, Canton OH, Repository, which expresses the outrage which is felt when an agency of the U.S. Government tries to make major decisions in secrecy.

UNBELIEVABLY ARROGANT CONDUCT BY AGENCY

Inexcusable. The U.S. Energy Department's handling of the closing of a nuclear weapons plant in Miamisburg has been high-handed, an affront to open government and detrimental to the national interest.

The Mound Plant produces triggers for nuclear weapons. Energy Secretary James Watkins said in December that the plant was no longer needed and its work would be moved to other facilities by 1995.

Rep. Tony Hall; D–Dayton, asked Watkins for a report outlining his reasons for shutting down the plant. He also asked for a copy of a report filed by the operator of the plant—EG&G Mound Applied Technologies Inc.—outlining how the government can save hundreds of millions dollars by keeping Mound open.

The Energy Department made a written promise Jan. 31 to report within a month how it reached the conclusion to close Mound. The month passed. Another week. Hall asked for the report. The department said it needed another two weeks: Finally last week Hall filed a request for the material under-the Freedom of Information Act. Imagine that. A member of Congress being forced to use the Freedom of Information Act to get some answers from a U.S. government agency.

No wonder Hall became agitated and said: "I am ashamed for the people of this country that an agency of the United States government is so unresponsive that I have to use this law to pry out . . . something that should be a public document."

What is this material the Energy Department is trying so hard to keep under wraps? Material that Hall, Sen. John Glenn, D–Ohio, and Gov. George Voinovich have been unable to pry away from the agency?

According to one published account, the report contends the government could save $500 million by keeping Mound open instead of sending its work to a complex in South Carolina; and the government could save another $100 million in construction costs by consolidating non-nuclear work at Mound instead of building a new plant near Kansas City, Mo.

Can the Energy Department's case top those figures? Show us.

The Energy Department should release the pertinent information immediately so a public debate can lead to federal policy on the Mound question that truly is in the national interest. The lack of candor so far makes one wonder what the Energy Department is trying to pull.

TRIBUTE TO HON. MICHAEL A. FEIGHAN

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. FEIGHAN. Mr. Speaker, with deep sadness I pay tribute to one of the House of Representatives' great and historic Members, my uncle, the Honorable Michael A. Feighan.

Some of you served with this distinguished gentleman in his 28 years of service to country and the Greater Cleveland community. He was a constant source of guidance and encouragement throughout my political career. He will always be remembered as a vigorous proponent and fighter for the democratic principles that he so strongly believed in and supported. As chairman of the House Immigration and Naturalization Subcommittee, he was a vocal foe of Soviet aggression and protector of America's national interest.

In 1965, through his effort, Congress adopted a sweeping Immigration Act that phased out the 50-year-old system of national origin quotas and liberalized immigration to this country. Generations of Greater Clevelanders and their children are indebted to this honorable gentleman for making it possible for them to become citizens of the United States.

My uncle's political career began in 1937 as a State legislator from Cuyahoga County. He served in the Ohio House and in 1942 was elected to Congress. His concern for war victims in Europe and the Near East led him to support programs to help the destitute of World War II and to address the postwar problems caused by this worldwide conflict.

To thousands of Greater Clevelanders whose families were victimized by the oppressive regimes in the former Communist-bloc countries, this compassionate man was a hero because he believed in freedom and democracy for the oppressed. They will surely miss him.

Mr. Speaker, I—and the rest of my family—will miss Uncle Michael. I will miss his words of counsel and insight into the great issues facing this Nation. And he will miss the excitement of the history he was so instrumental in forging. For the RECORD, I want to include a tribute from the Plain Dealer, our hometown newspaper:

MICHAEL FEIGHAN, SERVED IN CONGRESS FOR 28 YEARS

WASHINGTON.—Former Rep. Michael Aloysius Feighan, a Democrat who represented Cleveland's West Side in Congress for 28 years, died yesterday at Georgetown Hospital in Washington, D.C. He was 87, and had cancer.

His nephew, Rep. Edward Feighan, D–19, of Lakewood, a member of Congress since 1982, described Michael Feighan as his friend and mentor. He said his uncle was "a constant source of guidance and encouragement."

Former Rep. Charles A. Vanik, who represented Cleveland's East Side for many years, said he and Michael Feighan worked together to support housing and urban renewal programs in Cleveland.

"He was a vigorous worker. There are many monuments to his service in Cleveland," Vanik said.

Most of Mr. Feighan's 28 years in Congress were devoted to fighting communism. He also was responsible for the Federal Immigration Act of 1965.

He entered the House in 1943 as an idealistic New Dealer, after whipping incumbent Rep. Martin L. Sweeney. The isolationist Sweeney had beaten him in 1940.

Mr. Feighan had an iron grip in his office, with only token or no opposition until 1964 when former Parma Council President Ronald M. Mottl gave him a race and 1966 when he won narrowly over State Rep. Michael A. Sweeney.

Cleveland Council President James V. Stanton ended Feighan's 14th re-election bid by defeating him in the 1970 Democratic primary.

Mr. Feighan was born Feb. 18, 1905, in Lakewood. His grandparents on both sides were Irish immigrants. His father, John T., was a vice president of Cleveland Trust Co. and after Prohibition was president of the Standard Brewing Co. Old John T. was a Republican, but he supported Franklin D. Roosevelt.

All five of the Feighan sons became lawyers. Michael was a graduate of Harvard Law School.

He played end and managed the football team at St. Ignatius High School. He also played football at John Carroll University, which he attended for a year, and at Princeton University, where he graduated in 1928. He was president of the Democratic Club and welterweight boxing champion at Princeton.

After finishing law school, Mr. Feighan returned to Cleveland to practice law with his four brothers.

Four years later, in 1935, he ran for Lakewood City Council and lost.

He won political office in 1937 as a state legislator from Cuyahoga County.

At the beginning of his second term in the Ohio House, he was chosen to lead the Democratic minority. After two terms, he ran his first campaign for Congress and lost. Campaigning against an isolationist, he supported a large Air Force to protect the United States from invasion. It was a platform that was useful in his successful 1942 campaign after Pearl Harbor.

At the end of World War II, Mr. Feighan was one of a 10-member House committee that studied food and other postwar problems in Europe and the Near East for nine weeks. It was a strenuous, wearing trip and the fore-runner of many other foreign trips Mr. Feighan took as a congressman. He later was criticized for the number and expense of his congressional junkets.

The late Drew Pearson, a columnist, reported in 1964 that Mr. Feighan, at a reception in Rome, had said President John F. Kennedy was "soft on communism."

Retorting on the floor of the House, the congressman said Pearson was "acting as an agent for a foreign power, the Communist regime of Yugoslavia and its dictator, Tito."

Feighan also once demanded that the State Department revoke actor Richard Burton's visa on moral grounds.

In 1953, Mr. Feighan became chairman of the immigration and nationality subcommittee of the Judiciary Committee.

His major accomplishment was the 1965 immigration reform bill, which retired national origin quotas and removed the barriers that gave precedence to residents of the British Isles and northern Europe.

Mr. Feighan's principal recreation was golf.

Since retiring, he divided his time between the family's apartment near the Washington National Cathedral and a home in Scottsdale, Ariz.

He is survived by a son, William M. of Paradise Valley, Ariz.; a daughter, Fleur Jones, of Greenwich, Conn.; a sister and two grandsons. His wife, Florence, and son, Michael Jr., are deceased.

Services will be at 10 a.m. Tuesday at St. John's Cathedral in Cleveland.

ALABAMA SEABEES MONTH

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. DICKINSON. Mr. Speaker, in honor of the 50th anniversary of the founding of the Seabees, Gov. Guy Hunt of Alabama has issued the following proclamation:

PROCLAMATION

Whereas, 50 years ago, when the security of our nation was threatened by the Axis powers, the United States Navy organized its Construction Battalions, known then and today as the Seabees; and

Whereas, throughout their history, the Seabees, sometimes referred to as sea-going engineers, have worked tirelessly to build the air strips, roadways and other installations vital to maintain the free world; and

Whereas, often operating under enemy fire, with limited facilities and equipment, the Seabees earned fame for their ability to get their assignment accomplished, carrying the motto "Can Do;" and

Whereas, since their inception, the Seabees have served whenever and wherever there was a need for their skills and determination; and

Whereas, their reputation for ingenuity and dedication, began in World War II and has continued through actions in Korea, Vietnam, Lebanon, and the Persian Gulf; and

Whereas, during March 1992, the Seabees will observe the 50th Anniversary of their founding, along with the Navy Civil Engineer Corps, the branch of the Naval Service affiliated with the Seabees, who will celebrate their 125th Anniversary;

Now, therefore, I, Guy Hunt, Governor of the State of Alabama, do hereby proclaim March 1992 as "Seabees Month" in Alabama, and urge all citizens to make this an occasion for deserved tribute to the active and reserve forces of the Seabees and the Navy Engineer Corps for the great contributions they have made in our nation's defense effort.

I ask Members of Congress to join me and the State of Alabama in expressing our congratulations and thanks to the Seabees and naval engineers for their many years of dedicated service to our Nation.

IT'S TIME TO DE"PERK"OLATE CONGRESS

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. SWETT. Mr. Speaker, public anger and frustration reached the boiling point this past month when the news media revealed that Members of Congress has written thousands of rubber checks which were then covered by the so-called House bank. The fact that no public tax dollars were used to run the bank and that no interest was accrued did little or nothing to cool the heat felt on Capitol Hill.

As a new Congressman who typically spends 4 days of every week working back home in New Hampshire for my constituents, the whole fiasco was an unforgettable spectacle and learning experience. I watched as longtime Members' careers disappeared before their eyes and was reminded once again how fleeting are power's privileges. I also reflected on my good fortune to be raised in a family and State where frugality, hard work, and a simple lifestyle are a way of life.

The House banking scandal, however, only acted as a catalyst for a long-held, deeper anger felt by the American people—an anger of ordinary citizens who feel betrayed, used and discarded by an elite group of our society. It is anger fueled by the S&L crisis, golden parachutes and the other perks of those who ran our banks into the ground and then bailed out leaving their employees and their communities bankrupt.

It is a frustration with corporate America where top executives earn multimillion-dollar salaries and unbelievable perks, while laying off thousands of hard-working employees due to tight finances.

It is the last straw, however, when the public learns that their elected public servants have abused and used the very system they are sworn to uphold. Americans expect more from their Government and have lost their patience for the self-indulgent, corrupt behavior we've witnessed in the last 10 years.

How did we get so disconnected from our Government? It is my feeling that overtime, the lifestyle and honors, including the perks of being a high-ranking Government official, have a way of separating both the administration and Members of Congress from the everyday life of the citizens they are to represent. As my wife loves to remind me, changing the diapers and cleaning up after our five children are character-building experiences.

It was shortly after I came to Washington that I began to notice the quiet benefits of life on the Hill. They exist without fanfare, often to be discovered in conversation with another Member. In the case of the House bank, many Members, including myself, were unaware of the bank's rules and perks. Some of the other perquisites I have discovered include gym facilities which Members can join for $100 a year, a House Barber Shop that until recently charged only $5 for haircuts, the price has gone up to a whopping $10; quality carwash services in the House Office Buildings for only $3; free reserved parking spaces at Dulles and National Airports; and a small amount of free picture framing for Members offices. While health insurance is paid by Members, there is a Capitol Hill medical office, staffed by a doctor and professional nurses that dispense limited medical treatment as needed during office hours to Members. Prescriptions can also be had at a reduced price. The office administers care to House employees and visitors to the Capitol, as well. Of course, there are hundreds of unofficial perks provided by the private sector, in addition to those already mentioned.

While most Fortune 500 companies would consider these perks minor, they nonetheless are inappropriate, and I believe they are a disservice both to our elected officials and their constituencies. They insulate us from the everyday expenses of our citizens and most importantly are done so at a cost to our taxpayers. This simply is wrong.

Behind the scenes some of us are trying to eliminate these perks. Last year, Representative CHRISTOPHER SHAYS, a Republican from Connecticut, and I wrote a series of letters to Speaker FOLEY and the bipartisan leadership of the House Administration Committee to protest special privileges and cut-rate fees for services for Members. We also worked with other Members of Congress to gain support for these ideas. In related matters, I refused the congressional pay raise and cost-of-living increase and have instead donated that money to our State's local charities. I am also the cosponsor of H.R. 811, the Congressional Pay Reduction Act of 1991 which would repeal the pay raise to Members. Recently, I introduced legislation which would help reduce the wasteful spending of the franking—free postage—privilege. In my bill, unused appropriated franking funds would be returned to the Member's home State to help its local citizens. In my case, this would mean an additional $130,000 for New Hampshire's citizens.

It has been disheartening to see our citizens' respect for their Government nosedive to today's low levels, but it is my hope that the recent scandal will have a positive, cleansing effect on the institution of Congress. The cleansing should consist of more than just the election defeat of those who have abused the system, it should eliminate the high and mighty lifestyle that contributes to a corrupt system. A democracy such as ours can ill afford elite representatives who are out-of-touch or who consider themselves to be above the law.

It is time to de"perk"olate Washington—from the White House to Capitol Hill. As our President learned the hard way when he discovered he was 10 years behind in supermarket technology, there is much one can learn whether from washing your own car or from sharing a barbershop seat with your constituents. Or as in my case, from changing diapers.

LESSONS FROM OUR PRESIDENTIAL PRIMARIES AND NUCLEAR POWER

HON. JAMES V. HANSEN

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. HANSEN. Mr. Speaker, our Presidential primary season this year has seen the issue of nuclear power debated. As the former ranking Republican on the House Subcommittee on Energy and the Environment, I think this debate helps shed some light on the various issues facing the Congress.

Senator Tsongas, who won the New Hampshire primary, was challenged on his nuclear power stance. This is significant because Mr. Tsongas won a State where the issue of nuclear power has been in the forefront for nearly a generation as the Seabrook Nuclear Power Plant was constructed and ultimately licensed.

In his now famous campaign publication, "A Call to Economic Arms," this leading Presidential candidate argues that with the environment and global warming issues our country experiences, nuclear power should be part of our energy mix of power. He subsequently defended his position in New Hampshire debates.

He defeated the other candidates who challenged his position.

What is significant about the debate is not simply the fact Mr. Tsongas won in New Hampshire and continues to do well in other parts of the country, the significant issue is the inconsistency in our congressional agenda. We generally agree on our environmental concerns for clean air, for global warming, for proper waste disposal, and for energy independence. Yet we have failed to make progress toward making nuclear power a viable long-term part of our energy mix in this country by failing to deal with waste or licensing matters effectively.

I salute the efforts of President Bush, who recognizes this need. I also recognize the efforts of one of the Democratic Presidential frontrunners, Paul Tsongas.

There is a proper role for nuclear power in our Nation's energy mix. It is frustrating to see other countries—including France, Sweden, and Japan—benefit from our technology and be progressive in regulating this important source of energy.

I urge the Congress, as it considers the 1992 energy bill, to be sensitive to the environment and the overall security of our energy supply. I applaud the effort of the various Members of Congress who are working to resolve solutions to these difficult issues.

A TRIBUTE TO FATHER O'KEEFE

HON. JOSÈ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to an outstanding American, a clergyman of boundless energy and deep compassion, and a truly exceptional member of our South Bronx community, Rev. Jack O'Keefe. Father O'Keefe's devotion to the service of our people in his various roles as parish priest, teacher, guidance counselor, and administrator have earned him the love and respect of all who have had the good fortune to know him.

Father O'Keefe is a native New Yorker educated at St. John the Evangelist Grammar School and Cathedral Prep. He obtained his B.A. in philosophy from St. John's Seminary. Father O'Keefe then went on to acquire a master of divinity in theology from St. Joseph's Seminary and an M.S. in education in counseling from St. John's University. During the summers of his post-secondary education years, Father O'Keefe studied Spanish language and Latin culture at the Catholic University of Ponce, Puerto Rico, and carried out field work in the Dominican Republic.

Following 1 year as a deacon at St. Athanasius Church in the South Bronx, Father O'Keefe was ordained to the priesthood at St. Patrick's Cathedral in 1972. He spent the next 7 years in St. Thomas Aquinas Church and Christ the King Church, both of which are located in the South Bronx. In 1979, Father O'Keefe was appointed assistant director of the Catholic Youth Organization of the Archdiocese of New York, organizing numerous recreational and spiritual activities for our young people. Father O'Keefe then joined the community formed by Cardinal Hayes High School in the Bronx, to which he has dedicated himself for the past decade. He has been a religion teacher, freshman program coordinator, director of admissions, director of recruiting, and director of the retreat program for seniors. Father O'Keefe also supervises the sponsorship program at the high school and coordinates the summer work program for inner-city scholarship students.

Throughout the past 12 years, Father O'Keefe has directed the Cardinal's Leadership Project. Founded by him, it is a special archdiocesan program of leadership training for talented Hispanic high school students which strives to raise their consciousness about their background and ethnicity. Father O'Keefe has spent much time organizing workshops about Hispanic culture and trips that bring Hispanic students to Washington. During these trips, students have the opportunity to visit the Nation's Capital and see firsthand how the Government works. This is a very positive project which points out to our young people the significance of leadership and how their unique cultural characteristics can enable them to make singular contributions to our Nation.

Father O'Keefe directs the Hayes Leadership Center, which he also founded. It is a facility that provides overnight accommodations for leadership seminars and spiritual retreats. Father O'Keefe is a frequent speaker at numerous workshops and seminars on leadership training of youth and adolescent issues.

In the near future, Father O'Keefe will be leaving Cardinal Hayes High School to become the principal of Archbishop Stepinac High School in White Plains, NY. For 21 years, Father O'Keefe has been an invaluable member of the community and he will be sorely missed by his numerous friends in the South Bronx. Father O'Keefe has been a great source of inspiration to us all and we are grateful that we have had the opportunity to live and work with him. On behalf of all those who at different times in their lives were uplifted by his exemplary leadership, I would like to wish Father O'Keefe the very best in this new endeavor and express my deep appreciation for his undying commitment to enriching the lives of all who have known him.

ARIZONA SUPPORT FOR THE PRESIDENT

HON. JIM KOLBE

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. KOLBE. Mr. Speaker, I wanted to bring to the attention of my colleagues, a resolution recently passed by the Arizona State Senate Republican Caucus in support of the President's economic plan. I thought it was appropriate to share this information on the day we are to consider the conference report on the economic growth package:

REPUBLICAN CAUCUS RESOLUTION SUPPORTING PRESIDENT'S ECONOMIC PLAN

Whereas, the citizens of the United States look to the President and Congress to work together to ensure our nation's prosperity and economic health; and

Whereas, the President proposed in his State of the Union Address a substantive and far-reaching economic growth program for the United States, advancing both short-term and long-term initiatives to help the economy and create jobs; and

Whereas, these proposals include increasing the personal exemption by $500 per child; providing a 15% investment tax allowance; providing a $5,000 tax credit for first-time home buyers; reducing the capital gains tax; establishing alternative minimum tax enhancement and simplification; easing passive loss restrictions on real estate developers; waiving penalties on IRA withdrawals for first-time home buyers and allowing penalty-free withdrawals from all pension and equity funds in order to encourage real estate investment; and

Whereas, President Bush's plan for American economic growth adheres to the budget agreement; reduces taxes; cuts defense by a substantial, yet reasonable amount and controls spending; and

Whereas, President Bush called upon Congress to temporarily put aside partisan political differences to enact this sound, much-needed economic growth program by March 20th; therefore be it

Resolved, That the Arizona State Senate Republican Caucus does unanimously express support for President Bush's economic plan and urge Congress to approve it by the March 20th date; and be it further

Resolved, That copies of this Resolution be transmitted to U.S. Senate Majority Leader George Mitchell, House Speaker Thomas Foley, President Bush and members of the Arizona Congressional Delegation.

WAS IT A $12.5 MILLION HEIST? WHO'S LOOKING INTO IT?

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. BROOMFIELD. Mr. Speaker, yesterday I spoke about a recent Postal Service transaction that appeared in an Associated Press report.

Last December, according to the dispatch, a real estate developer bought a commercial building in downtown St. Louis for $4.1 million and sold it later the same day to the U.S. Postal Service for $12.5 million.

A number of my fellow Members came up to me after the speech and asked if the matter was being investigated. I am told that both the U.S. Postal Inspection Service and the House Post Office and Civil Service Committee are looking into the matter.

Yesterday I wrote to the Deputy Postmaster General, asking him to send me a detailed description of the transaction and a complete report of what the Postal Service is doing to investigate it.

Anyone who has looked through the latest primary election returns knows that the voters are angry and want to change the way things have been run in Washington for so many years.

I might add that one source of their frustration is an organization that touches the life of every person in America—the U.S. Postal Service. I receive critical letters about the Postal Service all the time, as do many of my fellow Members. It's clear that the American people want changes in the way the Postal Service is being managed.

Last July, I introduced a resolution which calls for a bipartisan commission to study the U.S. Postal Service. This recent transaction speaks eloquently for the need to create such a commission as soon as possible.

I urge my fellow Members to sign onto the resolution as cosponsors and insert my letter to the Deputy Postmaster General in the RECORD:

HOUSE OF REPRESENTATIVES,
Washington, DC, March 19, 1992.
Mr. MICHAEL S. COUGHLIN,
Deputy Postmaster General, U.S. Postal Service, Washington, DC.

DEAR SIR: On Tuesday I read an Associated Press account of a transaction involving the purchase by the Postal Service of an office building in downtown St. Louis.

Today I spoke about the transaction, as it was described in the A.P. report, in a short speech on the House floor. No sooner had I finished than a number of Members came up to me and wanted to know what the Postal Service was doing to investigate this situation.

The A.P. report mentions investigations by the U.S. Postal Inspection Service and the House Post Office and Civil Service Committee.

I understand from your legislative relations office that investigations are underway. While I don't want to jeopardize an ongoing investigation, I would urge you to send me at your earliest convenience as detailed a description as possible of what you already know about the transaction in question and a complete report on the steps you are taking to investigate this situation.

Sincerely,
WILLIAM S. BROOMFIELD,
Member of Congress.

WALTER J. BENNETT PUBLIC SERVICE AWARDS BY THE NATIONAL WEATHER ASSOCIATION HONOR PEGGY JO DYSON AND JACK WILSON

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. BENNETT. Mr. Speaker, it is my privilege to call attention to the National Weather Association's 1991 Walter J. Bennett Public Service Award recipients: Peggy Jo Dyson and Jack Wilson. Ms. Dyson's letter from Andrew Horvitz, chairman of the awards committee, describes her heroic actions during the 1987 Alaskan earthquake and reads as follows;

OCTOBER 24, 1991.
PEGGY DYSON,
P.O. Box 1726,
Kodiak, AK.

DEAR MS. DYSON: Congratulations on receiving the National Weather Association's Walter J. Bennett Public Service Award.

You are known far and wide across the waters of the North Pacific as the Voice of Weather. Under contract from the National Weather Service, you broadcast "Miss Peggy's Weather" from your home in Kodiak over high Frequency marine radio twice daily for each day of the year. your broadcasts reach 65 foot fishing boats, tugs towing barges, and 650 foot container ships alike as they ply the troubled waters of the Gulf of Alaska and the Bering Sea. They depend on you for the NWS marine weather forecasts and warnings so vital to their operations and to their very lives. An example of your strong dedication was the 1987 strong earthquake in the Gulf of Alaska that knocked the NWS marine radios off the air in Yakutat, AK (center point of the quake), just when the broadcasts were needed most urgently. You answered the call from Yakutat and broadcast the tsunami warning from your home in Kodiak.

The National Weather association appreciated the appearance of Mr. Richard J. Hutcheon, Regional Director, Alaska Region who accepted the award in your absence at our recent conference and banquet in Salt Lake City. We hope you will continue to support the NWA.

Sincerely,
ANDREW H. HORVITZ,
Chairman, Awards Committee.

Mr. Wilson's letter from Chairman Horvitz describes his important contributions to the development of the bureau of Land Management's automated Lightning Detection System [ALDS] and reads as follows:

OCTOBER 24, 1991.
JACK WILSON,
Director BIFC,
8905 Vista Drive, Boise, ID.

DEAR MR. WILSON: Congratulations on receiving the National Weather Association's Walter J. Bennett public Service Award!

Since 1972, you have lead land managements agencies' efforts in promoting and emphasizing the key role that accurate and timely weather information plays in the suppression and control of dangerous wildfires. Your support for the National Weather Service's Fire Weather Program has created an environment of healthy interaction and exchange. During the developmental stages of the Bureau of Land Managements Automated Lightning Detection System (ALDS), you provided the NWS direct access to the real-time lightning data. The ALDS network is one of the most dependable and widely used data networks in the western third of the U.S. for severe weather and flash flood warnings, fire weather forecasting, and forecasting to the general public. In addition, you helped obtain the necessary funding for the first portable computers to enhance the NWS development of Air Transportable Mobile Units which enable the rapid deployment of the forecaster and communications equipment directly to remote sites around the country. These units were effectively used during the 1989 San Francisco earthquake where timely meteorological information was provided directly to emergency centers.

The National Weather Association appreciated your appearance at our recent conference and banquet in Salt Lake City to accept this award. We hope you will continue to support the NWA.

Sincerely,
ANDREW H. HORVITZ,
Chairman, Awards Committee.

Mr. Speaker, I express my congratulations to each of these distinguished citizens for their great public service.

I also would like to express my gratitude to the National Weather Association for naming this award for my father, Walter J. Bennett, who was a U.S. meteorologist for 50 years and, in truth, a dedicated public servant.

Public service beyond the call of duty is a tradition among meteorologists. We are all deeply indebted to Ms. Dyson and Mr. Wilson for their fine work that brought to them these awards.

TRIBUTE TO DAVID J. HORNING

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to a courageous American who on December 7, 1941, personally experienced the day that will live in infamy. I am referring to an individual stationed at Pearl Harbor.

I would like to officially recognize Mr. David J. Horning of Michigan's 12th Congressional District. He will be receiving the Pearl Harbor Commemorative Medal this year. My deepest gratitude goes out to this proud veteran of Pearl Harbor.

It is appropriate we remember those who served at Pearl Harbor. Their battle was the first salvo in the long fight to bring an end to imperialism, fascism, and communism. Pearl Harbor has become a symbol of America's commitment to defend our values and interests. All our veterans deserve tremendous honor and respect for their efforts in maintaining this commitment. We owe them an enormous debt of gratitude for their valiant service which has made the world a better place to live for everyone.

Today, the veterans of Pearl Harbor can see that war they fought in, and so bravely won, helped, in time, bring freedom to the rest of the world. The sweeping changes in Eastern Europe and the former Soviet Union are a testament to our veterans' resolve to fight for freedom. With each new headline we see that our World War Ii victory was a victory for all of humanity.

The surprise attack Pearl Harbor veterans endured paved the way for our entry into World War II. In the 50 years since, the world has become a more secure place for freedom and democracy. This is the ultimate tribute to the brave men and women who fought that morning, and each morning thereafter, to keep our great sovereign Nation free.

SLOVAKIA'S CHOICE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. HOYER. Mr. Speaker, March 14, this past Saturday, was the anniversary of the founding of the fascist World War II puppet state of Slovakia. Its founder, Father Joseph Tiso, was stripped of his religious rank by the Catholic Church after the war and hanged as a war criminal for the deportation of some 70,000 Jews and an untold number of Roma. On this anniversary, like last year, there was a demonstration in Bratislava, the Capitol of Slovakia, by extreme nationalist elements. That demonstration was an exercise in demagogic sloganeering, social and political intolerance, and homage to an historical era that the rest of the world remembers in disgust and shame. Each speaker rose to blame any and all troubles of Slovakia on Czechs, Hungarians, Jews, and others; each promised that a Slovakia for the Slovaks—presumably to the exclusion and at the expense of the numerous ethnic and religious minorities that live there—would be a prosperous and ideal world. Happily, Mr. Speaker, this was not the only demonstration in Bratislava on Saturday. This year, a few blocks away, in the historic part of the capitol, a diverse crowd of young and old gathered to hold a concert against fascism, racism, and communism. Until now, it has been all too easy to generalize about Slovakia based on the actions of a small but vocal minority that lauds the fascist Tiso regime and, consequently, fosters an image of Slovaks as too dangerous and too irresponsible to be trusted with their own fate, let alone the fate of the minorities amongst them. But Saturday's counter-demonstration in the old square illustrates that the democrats of Slovakia are at last finding their voices. They look to the future, not the past; the name they call is not Tiso but democracy.

Czechoslovakia's revolution has often been called velvet. Unfortunately, the period of transition since then has not been smooth in every way. On the economic front, the transition to a free market has been particularly hard on Slovakia. It has brought disproportionately high unemployment, high instability in finance and industry, and, above all, high uncertainty in the minds of the people. Indeed, it is a credit to the people of Slovakia that such difficulties—similar to those found in other regions in Europe undergoing economic transition—have been met so stoically. Politically, there is perhaps even greater uncertainty. The mandate won in the June 1990 elections has long since dissipated, as virtually every party has split in successive waves. As a result, more than 80 parties will contend for power in the elections scheduled for June of this year.

Key among the issues that must be resolved in Czechoslovakia after the next election is the fundamental nature of that state. Although the 1918 union of the Czech and Slovak lands was voluntary and had a certain logic, it was, nevertheless, somewhat artificial. The absence of a common bonding experience between the Czech and Slovak people—and the ability of first the fascists and then the communists to exploit the differences between them—has left unresolved tensions and unanswered questions.

Mr. Speaker, as chairman of the Commission on Security and Cooperation in Europe, I have watched the process of Europe's transformation up close. And as I look at the crossroads at which Slovakia stands today, two things are clear. First, whatever goal Slovakia seeks, whatever destiny it chooses, the end result must be a democratic political system based on the CSCE Copenhagen document and a free market economic system, based on the CSCE Bonn document. Second, however Slovakia shapes its fate, the process used to make its choice must be democratic and must reflect the will of all the people of Slovakia. Anything less will be out of step with the process of reform and revitalization taking place throughout Eurasia.

This is a time of great awakening and a time of great historic opportunity. The standards which have emerged in the Helsinki process for individual and minority rights, for the rule of law, for the equal rights and self-determination of peoples achieved through peaceful and democratic means, and for free market economies, have now been accepted from the Baltic Sea to the Adriatic and from the Atlantic to the Pacific. As Slovakia approaches its critical elections this June, its citizens must decide whether they will isolate themselves and their Republic with tired old rhetoric, old arguments, and old thinking, or whether they, too, will endorse democratic values and CSCE principles and, in this way, find their place in the new Europe.

A NATIONAL COMMITMENT TO SCIENCE AND MATH EDUCATION

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. SWETT. Mr. Speaker, we are all disappointed and alarmed with the results of recent studies detailing the poor state of science and mathematics education in the United States and the correspondingly low scores of American students on international examinations. Yet, I am sure that, working together, the Congress and the administration can identify ways in which we can help American children to once again become the premier math and science students in the world.

Many problems exist with our current educational system. Recently, in the international assessment of educational progress' examination of students in 20 countries, American 13-year-olds consistently scored below their international counterparts. In mathematics, our students tested below average, far behind countries such as Korea, Taiwan, France, and the Soviet Union. In science, our students scored at the IAEP average, but still lower than many of our international competitors.

Furthermore, Mr. Speaker, the problem will not resolve itself. According to a recent report by the Committee on Education and Human Resources of the Federal Coordinating Council for Science, Engineering, and Technology, the number of qualified teachers entering the educational system has dropped by over 50 percent in the past two decades, and we are currently losing 13 math and science teachers for every one that joins the profession. Also, very few elementary school teachers, those that are best able to influence our children in the early formative years, are trained to teach science. As a result of these numerous problems, only 5 percent of high school seniors demonstrate the basic level of preparedness required to pursue studies in advanced mathematics. Japan, a country with only one-half of our population, annually trains nearly as many engineers as we do.

Unfortunately, the solutions are not as evident as the problems. Effective solutions will require new approaches to learning. They will involve the coordinated participation of students, teachers, parents, business leaders, and public officials. Solving these problems calls for a fundamental reexamination of our educational system and a renewed commitment to provide our students with the education and resources necessary to successfully compete in today's global economy.

Mr. Speaker, many of us remember that day in October of 1957 when we were startled by the news that the Soviet Union had sent the first spacecraft into orbit. *Sputnik* woke up this Nation and reminded us that we could not rest on our laurels—that if we were to remain players in the international arena, we had to excel in the realm of education. We had to work, not only with our hands, but also with our minds.

Looking back, sputnik was a blessing in disguise, for it created the political will to do what was necessary to make up lost ground in the race for the Moon. It emphasized that the quality of our educational system is a critical component of our national competitiveness.

It is my hope that the recent examples of bad news regarding our educational system will not cause us to throw up our hands in frustration and despair, but rather, as with sputnik in 1957, inspire us to roll up our shirtsleeves and work together to solve the difficult problems that face us.

Today, the stakes are higher than winning the race to space and placing a symbolic flag on the Moon. The future international position and economic competiveness of this country depends on how successfully we resolve these problems now.

Mr. Speaker, I hope that, in the coming months, the Congress will successfully address the problems of our Nation's educational system. I am confident that, with the commitment of Congress and the necessary resources, our children can once again be first in the world in education.

COUPLE EMBARKS ON 26-WEEK TREK OF PACIFIC CREST NATIONAL SCENIC TRAIL

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. HUNTER. Mr. Speaker, I would like to inform my colleagues of a remarkable challenge being undertaken by two of my constituents and fellow Californians. On April 21, 1992, Mr. Ben York, Jr., and his wife, Adeline, will embark on a 26-week trek of the Pacific Crest National Scenic Trail. This 2,638-mile trail runs from Mexico to the border of Canada and is one of only two National Scenic Trails in the United States.

The York's plan to accomplish the trip on horseback with the aid of a 3-mule train. They will ride the entire distance without furlough, making them the first ever to have done so. Even more astounding is the fact that the Yorks are both in their sixties.

Dr. York currently serves as president of the State of California Backcountry Horsemen. It is the York's hope that an endeavor of this magnitude will help bring attention to the wonderful asset out country has in its recreational trails.

I highly commend the Yorks for their courage and dedication, and I wish them the best of luck throughout their journey.

IN MEMORY OF EDWARD ALBERT PATRICK O'MALLEY

HON. LEON E. PANETTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. PANETTA. Mr. Speaker, I rise today to pay tribute to the memory of Lt. Col. Edward Albert Patrick O'Malley, who passed away on December 28, 1991 in Carmel, CA. He was 81 years old.

Lieutenant Colonel O'Malley, known as Pat to his friends, was born November 2, 1910, and graduated from the University of California at Los Angeles. He worked as a reporter and editor for several news organizations before becoming a career military officer. Pat was a World War II veteran who, in 1960, retired from the Army after 29 years and settled in Carmel.

Pat enjoyed a long and active retired life in the Carmel community. He had been a Grand Knight of the Carmel Knights of Columbus and of the Fourth Degree Santa Rosalia Assembly. He served as president of the Monterey County Federal Employees Credit Union, as well as being a member of numerous community organizations. This included the Retired Officers Association, the American Legion, the Monterey Elks Lodge, and the Monterey Hot Jazz Society.

As everyone who knew him could see, Pat dedicated his life to serving others. He modeled his life on the old German expression, "Ich bien," meaning "I serve." He once said, "I have been called upon to serve as principal leader of nearly every organization that I have joined."

Mr. Speaker, I ask my colleagues to rise with me now in memory of Edward Albert Patrick O'Malley and share with me in comforting his wife, Mary Katherine and his two stepsons, Col. Joseph O'Malley DeAmusategui and Ramond O'Malley DeAmusategui. The community of Carmel deeply feels the vacancy that Pat has left. His contributions to his parish and community are exceptional and he will truly be missed by all who knew him.

HOLLYWOOD TEMPLE BETH EL CELEBRATES 70TH ANNIVERSARY

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. LEVINE of California. Mr. Speaker, it is with great pleasure that I rise today to honor Hollywood Temple Beth El, on the celebration of their 70th anniversary. This occasion is particularly special to me, as my family has been closely tied to the temple since its inception. As a tribute to the temple, I would like to include in the RECORD a small piece of their rich history.

Seventy years ago, on January 26, 1922, Hollywood Temple Beth El was founded to serve the needs of the fledgling Jewish community that had arisen as a result of the burgeoning cinema industry in Hollywood. The first Friday evening services were held in a bungalow on Wilton Place just south of Sunset Boulevard. An improvised Ark, two Torah scrolls and some folding chairs transformed the living room into a house of worship.

A few months later a lot was purchased at 1058 North Wilton Place and plans for the erection of a temple were under way. In September of that year, services for the High Holy Days were held in their new building. Despite the fact that the interior was unfurnished, temple members began to give of themselves by donating among other things memorial lights, a Torah, and their time and energy. Rabbi Alstead was the first to occupy the pulpit and the little 600-seat temple began to attract men and women from all walks of life.

Although the temple struggled through the days of the national economic depression, its members held tough. At times it was necessary to collect a few dollars at board meetings to pay for gas, electricity, and other utilities. Yet the doors were always open and the Jews of Hollywood knew they could depend upon Temple Beth El for a "minyon" three times daily.

Many of the congregation's young men left to fight for freedom's cause when World War II broke out. Some never returned. Boys who but a few years previous had recited their bar mitzvah speeches from the pulpit became names on the memorial tablet in the temple's foyer. Also during the war years, the temple Sisterhood worked countless hours sewing garments for the Red Cross. The product of their fingers kept many a soldier warm in the foxholes on the battlefronts of Europe and Asia. So faithfully did they perform their duties that the American Red Cross honored them with certificates citing their extraordinary service.

Recognizing that the new Hollywood Freeway was compelling many worshippers, whose homes were in its path, to move from the district, and that the new generation needed a more modern building, Hyman Levine activated a plan to construct a new temple. In April 1948, a large lot was purchased on Crescent Heights Boulevard and the new Hollywood Temple Beth El was soon in the blueprint state. In 1949, through the leadership of Harry Sherman, president of the temple, a gala fund-raising show was put on at the Biltmore Bowl. Over $40,000 was raised at this event in which Eddie Cantor was master of ceremonies. While this event revitalized the whole organization, only through tireless effort and dedicated leadership, was the congregation able to help make the new building possible.

Today, Hollywood Temple Beth El provides a focal point for the community, a vehicle for the teaching of ethical and spiritual social values to our youth and a spiritual haven for refugees from oppression. Rabbi Norbert Weinberg, teacher and spiritual leader, presently guides the congregation, not only with respect for the rich history and traditions of the temple, but with foresight and vision for the future, helping to create a new chapter in the temple's history.

This year the temple is celebrating its 70th anniversary on April 5, 1992. At that time the congregation will honor two dedicated and committed members for their civil, humanitarian, and religious causes—Frances and Arthur Linsk. Arthur Linsk, is chairman of the board and past president. Frances Linsk is currently a member of the executive board and past president of the temple sisterhood. I would like to take this opportunity to congratulate Mr. and Mrs. Linsk for their contributions. The honorees are exemplary of the purpose and function of this temple.

I ask that my colleagues join me in honoring Hollywood Temple Beth El on its 70th anniversary and to wish its members continued success for the future.

HUMAN RIGHTS ABUSES AGAINST THE JEWISH POPULATION IN SYRIA

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. TRAFICANT. Mr. Speaker, I rise today to condemn Syria for denying the right to emigrate to approximately 4,000 Syrians of Jewish descent. As a signatory nation, Syria is in violation of the Universal Declaration of Human Rights. Reports indicate that Jewish citizens that try to escape Syria are beaten, tortured, and thrown in prisons that are in horrid condition. Moreover, free Syrian Jews are monitored by secret police and cannot travel unless they leave behind large monetary deposits and members of their immediate family.

The right to emigrate is a basic human right. At the same time, arbitrary arrests and torture and police-sponsored intimidation are obvious human rights abuses. The world community must apply pressure on Syria to force the nation to release those citizens that do not wish to remain there.

IN HONOR OF THE DEDICATION OF THE ST. JUDE THADDEUS SHRINE

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to pay tribute to Count Rudolph and his wife, Countess Michaela Almeida, of Austria, who have presented a lovely gift to the members of the city of Miami. A shrine to St. Jude Thaddeus has been put up at the Woodland Park Cemetery in south Miami courtesy of the Count and Countess Almeida.

There will be a special celebration—a dedication and benediction of the shrine on Sunday, the 5th of April, at the Caballero Woodland Park Cemetery for its inauguration. A dedication of this kind is a first for south Florida's community, and we are proud that the Count and the Countess Almeida chose our city to display the shrine to St. Jude Thaddeus.

The original shrine to St. Jude Thaddeus stands in their home in Austria, overlooking a lake. The count and countess decided to duplicate the shrine to St. Jude Thaddeus in Miami as a gift for south Florida. Materials for the shrine were imported from Europe, and the count and the countess took part in the design and the construction process. For many years, they have devoted their time to the design and purpose of the shrine. Some years later, they are prepared to present it to the members of the community.

The count and the countess have found Miami's ethnic diversity an incentive to make their winter home here. We are delighted that they have done so and the city of Miami welcomes them and thanks them for their generous gift.

I would also like to recognize the president of Caballero Woodland Funeral Homes and Cemeteries for his participation in bringing a reproduction of the shrine to Miami.

THE LUSO-AMERICAN DEVELOPMENT FOUNDATION

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. HAMILTON. Mr. Speaker, I wrote to the Secretary of State on February 4, 1992 with a series of inquiries concerning the Luso-American Development Foundation, which has received over $100 million of U.S. foreign assistance funds over the last 7 years. On February 20, I received an interim reply, and on March 5, I received a reply from Janet G. Mullins, Assistant Secretary of State for Legislative Affairs. Attached with it was the text of a U.S. Embassy letter to the Portuguese Treasury.

I would like to draw the attention of my colleagues to the correspondence and the attachment. The text follows:

COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC, February 4, 1992.

Hon. JAMES A. BAKER III,
Secretary of State,
Department of State, Washington, DC.

DEAR MR. SECRETARY: I write regarding the Luso-American Development Foundation which has received well over $100 million of U.S. foreign assistance funds over the last seven years.

I have supported our assistance program for Portugal and have agreed with successive administrations that the Foundation should be a centerpiece of a durable relationship with an important ally that can take us into the next century. Many of my colleagues join me in expressing support for efforts to broaden and deepen educational, cultural, scientific, and economic ties between the United States and Portugal.

Because of the importance attached to the Foundation and its key position in our ties and dealings with Portugal, what the Foundation does, how it does it, and what role it plays in cementing our ties is something upon which both the State Department and the Congress should focus. I would like to ask several questions regarding the Foundation's accomplishments and its future goals:

1. What do you see as the chief accomplishments of the Foundation in promoting closer ties between the United States and Portugal?

What percentage of the Foundation's program activities have an identifiable Luso-American component?

2. What do you see as the future of the Foundation and the focus of its activities?

Do you expect that the Foundation will play a central role in promoting Luso-American ties?

Do you expect that the future work of the Foundation will have a strong Luso-American connection?

What do you see as the role of the United States and the role of the State Department in future Foundation activities?

3. Is it correct that the United States Government plans no further capital contributions to the Foundation?

Do Portuguese officials share your view that the Foundation is fully funded?

Has the United States maintained sufficient oversight with regard to the administration and programs of the Foundation?

How will the United States maintain its influence over the work of the Foundation in the future?

4. What steps do you plan to maximize a continuing U.S. role in the activities of the Foundation?

How will this be done, given that the United States Ambassador to Portugal resigned his position on the Management Board?

How often does the Embassy meet with Foundation officials?

How often has or does the U.S. Embassy receive the correspondence of the Directive, Executive, and Consultative Councils of the Foundation and how regularly do these Councils meet?

What steps is the Embassy taking to keep up a continuing dialogue with the Foundation and Portuguese government officials on the Foundation's future?

Does the Embassy believe it receives sufficient and timely information from the Foundation in response to its queries?

What steps do you believe can be taken to improve communication and coordination with Foundation officials?

5. Do you believe the Foundation should, or should not, use capital funds for annual program activities?

Should the Foundation concentrate on grant-making or lending programs?

6. Has the Foundation used its resources effectively to achieve its goals during the past seven years?

Has the Foundation taken all possible measures to reduce administrative costs and maximize program activities?

Has the Foundation taken steps to avoid conflicts of interest between its officials and Foundation programs and activities in Portugal and in the United States?

7. What do you see as the Foundation's priority in promoting activities that enhance the transatlantic educational opportunities of young people and bilateral cooperation in science and technology, private sector development, public administration and culture?

What percent of the Foundation's annual programming is devoted to each of these activities?

Do you believe activities of any of these areas should be accorded greater priority and resources?

As a strong supporter of U.S.-Portuguese relations and of the role of an effective Luso-American Development Foundation, I want to be helpful in insuring that the Foundation plays a useful and productive role and serves our bilateral goals. I also hope you agree that answers to these questions can be helpful in promoting the fulfillment of important objectives both we and the Portuguese share.

With best regards,

Sincerely,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

U.S. DEPARTMENT OF STATE,
Washington, DC, February 20, 1992.

Hon. LEE HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of February 4 to Secretary Baker concerning the Luso-American Development Foundation. We have asked our Embassy in Lisbon to provide us with the information necessary to respond fully to your questions. We expect to have that information shortly and will include it in a complete reply.

In the interim, let me express my appreciation for your interest in the Foundation. I agree that the Foundation, which has received approximately $113 million in ESF provided since FY 1985 to the Government of Portugal, should play a central role in supporting the broadest possible cooperation between Portugal and the United States.

Sincerely,

JANET G. MULLINS,
Assistant Secretary,
Legislative Affairs.

U.S. DEPARTMENT OF STATE,
Washington, DC, March 5, 1992.

Hon. LEE HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Further to my interim reply to you of February 21, 1992, I am pleased to be able to provide you with this full response to your letter of February 4, 1992, regarding the Luso-American Development Foundation.

I share your view that the Foundation, which has received approximately $113 million in ESF provided to the Portuguese Republic, should play a central role in supporting broad cooperation between Portugal and the United States. Ambassador Briggs has also made clear in Lisbon our desire to see the Foundation fulfill this function effectively. The Foundation's charter states its principal objectives as the promotion of Luso-American ties and the development of Portugal.

Responses to your specific questions are contained in the enclosure.

Sincerely,

JANET G. MULLINS,
Assistant Secretary,
Legislative Affairs.

1. What do you see as the chief accomplishments of the Foundation in promoting closer ties between the United States and Portugal?

The Foundation has supported exchanges of students and professors in a variety of disciplines, funded cooperative activities in such sectors as the environment, city management, science and technology, culture and art, journalism and business partnerships.

What percentage of the Foundation's program activities have an identifiable Luso-American component?

According to the 1990 annual report, approximately 66 percent of program expenditures involved U.S. and Portuguese partners.

2. What do you as the future of the Foundation and the focus of its activities?

We believe the Foundation can and should play an important role in promoting Luso-American ties primarily by supporting technological, scientific, educational exchanges and cooperative endeavors that deepen and broaden bilateral ties. It is our view that the Foundation in general supports these priorities as well.

Do you expect that the Foundation will play a central role in promoting Luso-American ties?

We believe it is possible for the Foundation to operate more efficiently and better focus its programs on enriching Luso-American ties. There is no doubt that it is potentially an important resource in support of bilateral cooperation.

Do you expect that the future work of the Foundation will have a strong Luso-American connection.

We will continue working with the Foundation to keep it focused on Luso-American relations. We discourage the Foundation from embarking on projects in third countries so that it can concentrate its limited budget on deepening and broadening our bilateral relations.

What do you see as the role of the United States and the role of the Department of State in future Foundation activities?

By dint of the Foundation's charter, the United States should figure prominently in current and future Foundation activities. Moreover, State, USIA, Commerce, and other U.S. agencies represented at the U.S. Embassy in Lisbon should continue working closely with the Foundation to develop the Luso-American relationship. Recently, the Embassy has proposed exploring ways the Foundation can cooperate closely with the American Cultural Center and expand activities with the Fulbright Commission.

3. Is it correct that the United States Government plans no further capital contributions to the Foundation?

The United States has never given capital contributions directly to the Foundation. The Foundation has been capitalized (approximately $113 million) by the Portuguese Government, using United States ESF. The Portuguese Government chose to pass on to the Azorean Regional Government the sum of $40 million per year, with any ESF in excess of $40 million received from the U.S. given to the Foundation. Last year, the excess over $40 million (passed on to the Foundation) was $2.5 million. The proposed FY 1992 level of ESF for Portugal is $40 million. There is nothing in the appropriations or in our annual bilateral agreement covering apportionment of ESF that would impede the Portuguese Government from allocating any of that amount to the Foundation, if it so chose. Looking ahead to FY 1993, and beyond, the U.S. Government expects Portugal to be graduated from ESF consistent with Portugal's dynamic economic development, massive amounts of EC assistance, and competing international demands on a limited U.S. security assistance budget.

Do Portuguese officials share your view that the Foundation is fully funded?

The Foundation's charter allows for contributions by both countries. It did not establish a specific capitalization goal. To date, all funding has come through ESF. The Portuguese Government has not provided any additional funds.

Some Portuguese officials have privately expressed the view that the U.S. Government, by failing in recent years to provide ESF well in excess of $40 million per year, has failed to keep its understanding with Portugal. The claim is made that the U.S. promised to fund the LADF to the level of around $300 million, through annual ESF transfers of $80 million.

The 1984 exchange of letters that updated the Defense Cooperation Agreement between the U.S. and Portugal did not guarantee annual ESF payments of $80 million ($40 million for the Azores and $40 million for LADF). Nor does the negotiating record indicate that any such commitment was made, or that any specific funding level was considered.

There is no obstacle to the Foundation's conducting its own fund raising to increase its capitalization level. We understand this is under consideration by the Foundation.

Has the United States maintained sufficient oversight with regard to the administration and programs of the Foundation?

It is important to keep in mind the Foundation is a Portuguese entity that has been funded by Portugal's apportionment of ESF provided by the United States. Our only formal means of oversight is granted in the implementation letters to the ESF cash transfers. The Embassy exercised this right in June 1991 when its AID office asked the Portuguese Government to query the Foundation about management practices and program expenditures. A copy of this letter is enclosed. The Portuguese Government conveyed the request to the Foundation. We have not yet had a response from the Portuguese Government, but we have learned the Foundation's Executive Council considered our request inappropriate.

The Department and AID review the annual reports of the Foundation and the annual independent audits performed by the accounting firm of Price Waterhouse.

How will the United States maintain its influence over the work of the Foundation in the future?

Embassy Lisbon maintains frequent contact with Foundation management. The Ambassador sits on the Foundation's Advisory Council, and two private American citizens sit on the Foundation's Directive Council. Elimination of ESF does not portend a change in the status quo.

4. What steps do you plan to maximize a continuing U.S. role in activities of the Foundation? How will this be done, given that the United States Ambassador to Portugal resigned his position on the Management Board?

Ambassador Briggs was never a member of the Executive Council (Management Board). He resigned his seat on the Directive Council (Board of Directors) in the summer of 1990 on advice of the Department of State Legal Adviser's Office that such a position could appear to pose a conflict of interest and could also involve unacceptable fiduciary obligations. Under LADF's statutes, the Ambassador retains the authority to nominate persons to fill two positions on the Directive Council. The United States will retain its role in the Foundation's work through the two American members of the Directive Council.

Furthermore, the U.S. Ambassador to Portugal sits on the Advisory Council of the Foundation and has the right to name three other U.S. representatives. The Advisory Council includes U.S. and Portuguese citizens with management experience who have an interest in U.S.-Portuguese relations. The Embassy also brings its views about the Foundation directly to the highest levels of the Portuguese Government.

How often does the Embassy meet with Foundation officials?

Embassy Lison Public Affairs, Economic, Commercial and Agricultural Officers meet with Foundation officials regularly (bi-weekly on average) for programs, conferences, etc. Less frequent are meetings to discuss Foundation management or program direction.

How often has or does the U.S. Embassy receive the correspondence of the Directive, Executive and Consultative Councils of the Foundation and how regularly do these Councils meet?

The Executive Council meets every three to four weeks. The Embassy does not receive minutes of these meetings. The Directive Council is supposed to meet every eight weeks, but meetings are only sporadically scheduled. American members usually provide oral read-outs on this body. The Advisory (Consultative) Council has only had two group meetings, with no minutes.

The Directive and Advisory Council meetings would be more effective if the Board members were provided advance scheduling of meetings, sufficient briefing material before the meetings, and if the agenda were more focused.

What steps is the Embassy taking to keep up a continuing dialogue with the Foundation and Portuguese Government officials of the Foundation's future?

The Ambassador in Lisbon has raised Foundation management issues with senior Portuguese officials. Prime Minister Anibal Cavaco Silva recently appointed former Portuguese President Ramalho Eanes and former Socialist Party leader Vitor Constancio to the Directive Council. Each are respected figures, with whom we have good working relations. Their energies and background in U.S.-Portuguese relations should make a positive contribution to the work of the Foundation.

Although the Embassy has attempted unsuccessfully to establish monthly meetings between the Embassy Public Affairs Officer and Foundation officials to discuss and promote projects of mutual interest, we remain hopeful that the opposition of the Executive Council President to such working-level meetings can be overcome.

Does the Embassy believe it receives sufficient and timely information from the Foundation in response to its queries?

No. Providing information on the Foundation's management and programs has not been a Foundation priority. The Foundation's annual reports are published four to six months after the close of its fiscal year.

What steps do you believe can be taken to improve communication and coordination with Foundation officials?

The Embassy would like to establish monthly working-level contacts. The Advisory Council should meet at least twice annually, and at predictable times to ensure attendance by transatlantic members, and the Foundation should provide Directive and Advisory Council members with clear information on existing projects, programs, priorities, and plans for the future.

5. Do you believe the Foundation should, or should not, use capital funds for annual program activity?

When the return on investment permits it is clearly preferable that the Foundation not deplete its capital funds for annual programs. We believe the Foundation's capital portfolio should be turned over to professionals, and managed against specific return guidelines. Executive Board members should not manage the portfolio nor move it in whole or in part from one institution to another, nor mix program objectives with investments, or vice versa.

Should the Foundation concentrate on grant-making or lending programs?

We believe there is a place for both grant-making and lending programs, as long as the latter are well-managed, accountable, avoid conflict of interest and are funded and accounted for as programming, not as capital. In the past, the Foundation's annual reports have reflected a very low amount of income from loan repayments compared to loans conceded. (In 1989 and 1990, the Foundation extended loans of $2,483,829 and $3,143,059 respectively. The Foundation carries these loans as assets, and has made loans since its inception in 1985. However, the Foundation's annual reports show no income from loan reimbursements for 1989 or 1990.)

6. Has the Foundation used its resources effectively to achieve its goals during the past seven years?

The Foundation's heavy expenditures on its headquarters, personnel and administrative expenses diminish program resources. According to the annual reports, the value of projects approved dropped precipitously (375 percent from $12,728,755 in 1988, to $3,394,407 in 1990, while personnel and administrative costs rose 80 percent over the same period. The Foundation's accounting system considers grants paid when they are approved, and treats loans and capital investment grants as investments. Accordingly, the Foundation's annual report for 1990 shows personnel and administrative costs making up 63 percent of total expenditures.

The Foundation informs us that calculations based on the annual report are misleading and promises to make available more comprehensive numbers.

Has the Foundation taken all possible measures to reduce administrative costs and maximize program activities?

The Foundation has informed its Directive Council that it is taking measures to reduce administrative costs. The Embassy has no numbers yet to confirm or deny whether the deteriorating ratios were reversed in 1991.

Has the Foundation taken steps to avoid conflicts of interest between its officials and Foundation programs and activities in Portugal and in the United States?

The Foundation is aware of our concerns regarding the appearance of conflict of interest. This is a subject of ongoing discussion.

7. What do you see as the Foundation's priority in promoting activities that enhance the trans-Atlantic educational opportunities of young people and bilateral cooperation in science and technology, private sector development, public administration and culture?

We believe that these should be LADF priorities.

LADF sees these as among its most important priorities, although it has spent substantial program funds on other items such as programs related to Portuguese-speaking Africa and expensive works of European artists.

Given Portugal's economic performance and large inflows of EC funds, we do not believe the Foundation's limited program budget should focus so heavily on economic development, be it through private or public sectors.

What percent of the Foundation's annual programming is devoted to each of these activities?

According to LADF officials, the 1386 projects approved since its beginning break down as follows:

	Percent
Education	19
Science and technology	14
Private Sector development	42
Public Administration	12
Culture	13

Do you believe activities of any of these areas should be accorded greater priority and resources?

Yes, we would like to see the Foundation's limited budget focus on programs and projects that enhance and deepen bilateral relations, especially in those areas mentioned above: education, cooperation in science and technology, environment and Luso-American cultural ties.

EMBASSY OF THE
UNITED STATES OF AMERICA
Lisbon, Portugal, June 25, 1991.

DR. MANUEL FRANCA E SILVA,
Director General of the Treasury.

Subject: U.S. Cash Transfers: FY 1985–1990.

DR. FRANCA E SILVA: Implementation Letter No. 1 to the above referenced Cash Transfer Grant Agreements provides that following its review of the annual reports of the Luso American Development Foundation, the U.S. Agency for International Development (A.I.D.) may request additional information on Foundation operations and that the Government of Portugal will obtain the requested information from the Foundation on behalf of A.I.D.

We have not yet received the Foundation's annual report for 1990, but reviewing annual reports for 1985 through 1989, we note that the percentage of the Foundation's expenditures on grants has been steadily declining and the percentage of its expenditures on personnel and services has been steadily increasing. We would appreciate any further information that may explain this trend, estimates for 1991 and advice from you as to whether the Government of Portugal believes the ratio of the Foundation's expenditures on grants relative to overall expenditures is reasonable.

We understand the Foundation provides loans rather than grants on some of its projects. We also understand the Foundation may consider some of those loans as investments. Its annual reports, however, do not provide information on loans made, the objectives of those loans as projects or the performance of those loans made as investments. We would appreciate any such information and advice from you as to whether the Government of Portugal believes the Foundation's loan program is appropriate.

Your assistance in obtaining this information would be appreciated.

Very truly yours,
DAVID LEIBSON,
A/AID Representative.

BUSINESSPERSON OF THE YEAR—JOHN GROUTEN

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mrs. JOHNSON of Connecticut. Mr. Speaker, on March 31, 1992, John W. Grouten will be awarded the Farmington Businessperson of the Year Award. A lifelong resident of Farmington, CT, John has given of himself unselfishly to the community and, since 1958, has been a member of the Farmington Savings Bank team. Starting his career as a part-time employee in 1958 while a student at Farmington High School and continuing during his years at Bentley College, he was elected chairman of the bank in December of 1991.

Not only has he contributed significantly to the bank, but he has also been an active member of the Farmington Valley community. John has recognized the need for a partnership between the business and philanthropic communities and serves as treasurer of the Farmington Emergency Fuelbank and director of the Farmington Community Chest, Inc.

His dedication to and understanding of the financial needs of the community are appreciated by all who have had the opportunity to work with him. His many contributions are well known and the award as businessperson of the year is much deserved. I extend my heartfelt congratulations to John and his family and wish him many more years of success.

CORAL REEF ENVIRONMENTAL RESEARCH ACT OF 1992

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. SCHEUER. Mr. Speaker, Today, I am pleased to be joined by Congressmen TOM LEWIS, DANTE FASCELL, GEORGE E. BROWN and DENNIS HERTEL in introducing the Coral Reef Environmental Research Act of 1992. This bill sets a national policy to promote the sustainable use of coral reef ecosystems and the biological resources associated with them. It establishes a program of environmental research, monitoring and public education relating to coral reef ecosystems. It directs the President to facilitate international cooperation to ensure their sustainable use.

Coral reefs are fragile and dynamic ecosystems. They provide considerable benefits, including: scientific and medical products, fishery and mariculture industries, tourism and recreation, storm protection, and marine ecosystem functions.

Coral reefs are especially vulnerable to phenomena associated with global climate changes, such as rises in global temperature, increased levels of ultraviolet radiation, and sea level changes. They are threatened by a variety of problems associated with human activities including: pollution, terrestrial runoff, under-regulated trade in coral products, overexploitation of fisheries, and anchor damage.

In a symposia on coral reefs, convened recently by the American Society of Zoologists, a prominent marine biologist from the University of Georgia, Dr. James Porter, warned that "the coral reefs of the Florida Keys, the only extensive living reefs in North America, are dying so swiftly that some of the most beautiful areas may be gone within 10 years, killed by an accumulating burden of man made and natural stresses." Similar stresses are taking their toll on coral reefs worldwide. Massive bleaching of reefs and die-offs have been reported throughout the Caribbean region. Widespread coral death has even occurred in the relatively pristine reefs of the Eastern Pacific Ocean. These losses have been attributed to periodic increases in water temperatures, caused by El Nino.

In order to use our coral reefs sustainably, we must increase our present understanding of the environmental threats to these ecosystems. We need to develop methodologies and technologies to repair damaged coral reefs. Global leadership will be pivotal to saving the world's coral reefs. We must act now.

This bill is an important first step toward ensuring the sustainable use of coral reef ecosystems. I urge my colleagues to support the Coral Reef Environmental Research Act of 1992.

ON TERRY ANDERSON

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Ms. SLAUGHTER. Mr. Speaker, this year, for the first time since I came to Congress, I was not led by a heavy and troubled heart to the House floor on March 16 to ask my colleagues not to forget Terry Anderson.

Instead, it is with joy that I ask my colleagues to think of Terry today—not because he languishes in unjust captivity; but because in freedom, Terry offers us all a model of courage, grace, and dignity that we would do well to emulate.

Terry Anderson, by his unassuming and quiet example, has taught us how far understanding, compassion, and humility can carry us—as individuals and as a nation—toward reconciliation and peace. For this important lesson, for Terry's freedom, for his health and for the new life he shares with his family, I offer a prayer of thanksgiving.

GREEK INDEPENDENCE DAY

HON. BILL ORTON

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. ORTON. Mr. Speaker, Aristotle said that "the basis of a democratic state is liberty." The United States is the modern Nation that has perhaps best embodied the philosopher's words. Once a democratic experiment, we are now proof that democracy can succeed—even in a nation as vast as ours—if liberty is allowed to flourish. In 1992, the 200th anniversary of the Bill of Rights, we must naturally repay the kindness given to us by Ancient Greece and congratulate, in turn, the emergence of independent democracy in that very same land today. On the 171st year of modern Greece, then, I call on all the Members of Congress to join me in support of House Joint Resolution 390, "Greek Independence Day: A National Day of Celebration of Greek and American Democracy," introduced by our colleague, Mr. BILIRAKIS.

I also would like to express my deep concern for the longstanding conflict on the island of Cyprus. The cries of suffering from the people of Cyprus should not go unheard. It is past time to encourage the formation of a legitimate government for the entire island. With hope, the negotiations between Greece and Turkey on this matter, set to resume in the next months, will result in the liberation of this island from a separatist rule into a democratic society.

INDEPENDENT COUNSEL ON ENDLESS PURSUIT FOR MISCONDUCT IN CONNECTION WITH IRAN-CONTRA AFFAIR

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. HYDE. Mr. Speaker, I rise today to question the wisdom of continuing the expenditure of time and treasure in the apparently endless pursuit of working level employees of the Central Intelligence Agency for alleged misconduct in connection with the Iran-Contra affair.

The American people want to see the law enforced. But spending millions of dollars to determine who, more than 5 years ago and on the periphery of the Iran-Contra affair, said what to whom and when is not what they have in mind. With our law enforcement and judicial system already stretched to the breaking point, the present effort of the independent counsel can only be viewed as marginal.

Mr. Speaker, the independent counsel's office has already spent over tens of millions of dollars in an attempt to prosecute a dozen or so individuals, and we all know the results. Despite the hundreds of attorneys, paralegals and investigators at his beck and call, the courts did not sustain the two major convictions the independent counsel did achieve. On the other hand, the CIA employees caught in his vise do not have private means. What is the effect on CIA people still on active duty who see highly respected colleagues with 30 or more years of service to our country now faced with bankruptcy as they seek to defend themselves? Where are our national priorities?

Mr. Speaker, I am deeply disturbed by the plight of the CIA employees who are objects of scrutiny or indictment by the independent counsel and who lack the resources to defend themselves properly, no matter what the outcome. In this respect, I am gratified to report that a number of their retired colleagues have banded together to help support them financially. They are soliciting funds from which to pay legal expenses and thereby ensure a more level playing field. Their efforts deserve the support of all Americans.

IN HONOR OF MIMI SILBERT

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Ms. PELOSI. Mr. Speaker, I would like to bring to the attention of my colleagues the remarkable work of Mimi Silbert, the founder and energizer of Delancey Street in my district of San Francisco.

The article which follows was printed in the Washington Post Parade magazine on March 15 in recognition of Mimi Silbert's phenomenal efforts to recondition hardcore criminals into productive, responsible citizens. Mimi Silbert is a gift to San Francisco, and we are grateful for her tireless efforts to improve our community and our society.

HITTING BOTTOM CAN BE THE BEGINNING

(By Hank Wittemore)

In his teens, Robert Rocha was selling drugs night and day to survive. He was a street kid in San Francisco—using and pushing heroin, sleeping wherever he could. His mother had been in and out of jail for robbing banks ever since he could remember, he says. He had been sent to foster homes from the age of 8. He lived on the edge, hustling and stealing.

Rocha carried a gun to pull holdups. He stabbed people too; and while still a juvenile, he was arrested and charged with 27 armed robberies.

His dream, to go to a big-time prison, came true at age 19, when he was sent to San Quentin. "I'd lost touch with everything," Rocha says, "and had no belief in myself. No hope. No trust in nothing or nobody. The reason I wanted to go to prison was because that's where I could be somebody. But when I got there, nothing in prison excited me, because I'd done everything by then. When I got back out on the street, I thought about changing my life. Then I got busted again—for selling heroin to an undercover cop."

That was in 1987. Today, at 26, the same young man is well-groomed, wears a business suit and carries himself with quiet pride. He has the warm, confident smile of a person with solid ground under his feet along with a future. In the four years since he went on parole, he has learned eight construction trades. He takes college courses in criminology. He tutors other ex-convicts in geometry, helping them earn high school diplomas. He has transformed his life on every level—not in some magical way, but through a painful process of taking one small step after another.

Robert Rocha is one of 10,000 men and women with similar stories of tragedy and triumph. Over the last two decades, these former felons, drug abusers and prostitutes have helped each other survive to become healthy, productive citizens. Each of them has spent an average of four years as part of the Delancey Street Foundation, based in San Francisco, which has received worldwide acclaim for its ability to mend even the most broken of lives.

At the heart of this unique "extended family" is the spirit and unswerving resolve of Dr. Mimi Silbert, 49, a criminologist who has dedicated her life since 1972 to keeping Delancey Street open and growing. An elfin woman weighing less than 100 pounds, she stands toe-to-toe with the meanest, toughest ex-felons until the shouting turns to laughter, tears and hard work, and deep wounds gradually heal.

"You want to quit?" she challenged Robert Rocha and other Delancey Street residents while they were building their new San Francisco complex on the waterfront. Despite their lack of experience, they were doing the job by themselves. "Well," Silbert told them, "that's what you've *always* done—given up every time it has gotten difficult! I know you're hammering away and thinking that this isn't worth it, but you're hammering away on your *lives*.

"You're building your *own* foundation. If you make a mistake with that wall, tear it down and rebuild it! That's what we're doing at Delancey Street, for *ourselves*—tearing down bad things and making good things to replace 'em. And if you're too guilty and angry and hopeless to fight for yourself, then do it for the next guy. Because he's counting on you. Meanwhile, you're learning new skills. You're getting something that nobody can take away from you. You're building your lives."

There are 500 current residents at the San Francisco complex that opened in late 1990. About 500 others are going through this same rigorous program in Brewster, N.Y.; in Greensboro, N.C.; and in San Juan Pueblo, N.M. With neither funding nor a permanent staff other than Silbert herself, Delancey Street is almost entirely self-supporting. Its business enterprises, run by residents, net $3 million a year.

"We're trying to prove that the 'losers' in our society can, in fact, be helped," Silbert says, "and also that they, in turn, can help. Essentially they make up an underclass. A third of our population was homeless. The average resident is four or five generations into poverty and two or three generations into prisons. They've been hard-core dope fiends. They're unskilled and functionally illiterate. They've had horrible violence done to them, and they've been violent.

"Most people would rather see them locked up for the rest of their lives, but our point is the opposite—that they can be taught to help themselves. They can learn to be responsible and self-reliant. And we believe that helping these same people is a critical part of turning around all the rest of society."

Last fall Silbert was among six recipients of the second annual America's Awards, sponsored by the Positive Thinking Foundation, of which Dr. Norman Vincent Peale is co-founder. "These unsung heroes personify the American character and spirit," Dr. Peale says. "They are ordinary people who are extraordinary examples of values that make our country great."

Over the years, Silbert has been besieged by requests from groups around the country wanting to learn about Delancey Street in order to duplicate it. Now, with typically large vision, she plans to create a "training institute" that would include up to several months of internship. Delancey Street could become a model for the nation.

"There's no way I'd go back to my old life," says Shirley LaMarr, 43, a resident for nearly three years. "I went through the whole siege of drugs and prostitution, getting beat up and having guns drawn on me, getting raped and carried out on pills, you name it. I've robbed people, all kinds of stuff, and each year I'd feel more disgusted. I lived on the street, with my own space on the sidewalk, When I was arrested, I sent a letter to Delancey Street. I was at the bottom, with a choice of coming here or going back out to die."

Those who enter Delancey Street invariably are filled with bitterness and despair. Having lost all trust and hope, they are angry and defensive. To be admitted, however, they must go through the motions of writing and asking to be let in.

Although they must promise to stay at least two years, the doors are not locked—so they can leave at any time, and few believe they will remain longer than a couple of months.

"But we already know that," Silbert says, laughing because the pattern is repeated so often, "and we're up front about it right away. I tell a new person who's scowling at me with utter contempt, 'Hey, we know you're trying to manipulate us! Our job is to out-manipulate you! And we're better at it than you are.'

"They always play the victim: 'It wasn't my fault.' We ask them to explain: 'Somebody tied you down and injected a needle into your arm? Someone forced you to take a gun and bash that old lady on the head? Is that what happened? Who actually did those things?' Finally they admit, 'Well, yeah, it was me. I did it.' We don't care that they don't mean what they say, just as long as they say it. Then we remind them of it every day that they're here!"

New arrivals at Delancey Street are given maintenance chores at the bottom of a long, intricate chain of command that includes every resident. A drug addict who wakes up in the lobby is given a broom to push and told, "Now you're no longer an addict. Why? Because we don't allow drugs in here. So the question for you is how you're going to live your life without drugs."

This "outside-in" approach is central to the Delancey Street process. "Image is important to them, so we start there," Silbert says. "They have to cut their hair, get into a suit and even change the way they walk. We ask them to act as if they were upstanding citizens or successful executives, even though they feel the opposite. Through external imitation, something gets internalized."

The same person also is told to be responsible for the next arrival, and so forth up the tightly structured chain of interaction, based on the premise that people will change simply by "doing" for somebody else.

"For my first eight months here," Robert Rocha remembers, "I don't believe in anything that Mimi and the others were saying. I had such a hard attitude that nobody could tell me nothing. I'd say, 'Get away from me,' because there was no way that I could trust anybody with my feelings. Nobody had ever cared about me, so why should I care about anyone else?

"Then one day I saw that one of the guys was going to leave, and I found myself shouting at him. I got hysterical, trying to get him to listen to me. Some people told me, 'Hey, Robert, stop. We've taken care of it. But you know what? You're starting to care.' And when I realized that it was true—that I did care—I almost broke into tears."

Delancey Street's rules forbid alcohol or drugs and prohibit threatening—much less committing—violence. In two decades, there has never been a violent incident, and the few residents who have made threats were thrown out. Eighty percent have kept their promise to stay at least two years. Graduates, with an average residency of four years, today include attorneys, business people, technocrats, construction workers and others who represent an extraordinary record of transformation.

Mimi Silbert came from an immigrant neighborhood of Boston, where her father ran the corner drugstore. "Delancey Street functions the way my own family did," she says. "I've duplicated here what worked for me in that neighborhood, where everybody looked out for everybody else as we struggled upward. It was like holding hands while climbing a mountain. Together we rise or together we fall. And that's what happens here every day."

Although her family moved to the Boston suburbs when she was in sixth grade, Mimi Silbert never forgot the supportive structure of that immigrant neighborhood and its values of hard work and self-reliance. A cheerleader who was voted "nicest girl" in the class of 1959 at Brookline High School, Silbert majored in English and psychology at the University of Massachusetts. After that came a doctorate in criminology from the University of California at Berkeley.

"I interned as a prison psychologist," she recalls, "and it was clear to me that this system of punishment doesn't work. The people who wind up there are given everything, all paid for by the taxpayers, and they are responsible for nothing. And then we wonder why, when they come out, they're no different."

Silbert was approached in 1971 by John Maher, a former felon who invited her to join him in creating a center for criminal rehabilitation and vocational training. It would be for ex-cons and run by ex-cons.

When they joined forces, Maher and Silbert agreed on a system of total self-sufficiency. All residents would work to support the group, with no outside funds. They would follow strict rules of behavior and be self-governing. Each resident would develop at least three marketable skills as well as earn a high school equivalency diploma.

Named for the section of New York City's Lower East Side where immigrants congregated at the turn of the century, Delancey Street started with four addicts in a San Francisco apartment. By late 1972, about 100 former felons were jammed into that single space. Yet, by helping each other, and by working and pooling their incomes, they were able to buy an old mansion—formerly housing the Soviet consulate—in fashionable Pacific Heights.

Silbert and Maher fell in love. "We shared a life and a dream," she says. For a decade, as their work continued to gain recognition, Maher helped Silbert raise her twin sons from an early marriage. However, personal problems took up more and more of Maher's time, and he resigned from Delancey Street in 1984. Four years later, at age 48, he died of a heart attack.

Since then Mimi Silbert has emerged not only as the driving force behind Delancey Street's continued success but also as a leader. One testament to her drive and ability is the foundation's new Italian-style complex in San Francisco. Because it was constructed almost entirely by the residents, the spacious complex—assessed at $30 million—cost only half that figure to build.

Called the Embarcadero Triangle, it contains 177 apartments, along with meeting rooms, a movie theater, a swimming pool and space for some businesses—such as printing, picture-framing and catering—run by residents. At street level is an upscale restaurant, also operated solely by Delancey Street people, and Silbert is now getting major businesses to set up discount retail stores, which residents will learn to run.

Meanwhile she has begun a new alliance with the California Department of Corrections, through which Delancey Street people are interviewing San Quentin prisoners before their release. The purpose is to give them alternatives to going directly back out on the street, including the option of entering Delancey Street itself—before, instead of after, they hit rock bottom.

Aside from the new programs and businesses, daily life at Delancey Street continues at an intense pace. Activities include frequent "games" held for residents to develop their interpersonal skills. For those at the one-year mark, there are marathon sessions called "dissipations" to help them get rid of the tremendous guilt over what they did in the past. And a final area of education involves volunteer community or social work, with residents engaged in numerous projects, from helping the elderly to working with young people in poor neighborhoods.

"We're coming together to make things happen," Silbert says, "not just with good results but also with a good process. Because life itself is a process. If you fall apart, it doesn't have to end there. Hitting bottom can be the beginning. And I think, right now, that America itself has the same problem that brings people to Delancey Street.

"At one time, we all believed we were going up as a country, but now we've started to feel like losers. There's a sense of being powerless, an attitude of fear and distrust. We're on the way down. Maybe we have to hit bottom before we can wake up the spirit of hope in America. But there's tremendous good in being able to get excited that rebuilding is possible. Once you know it's possible, you can take the risk of starting again. Then the best part of life is the struggle."

CONGRATULATIONS TO MINNESOTA SCHOLARSHIP WINNER BARBARA JEAN MERZ

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. SABO. Mr. Speaker, I come before you today to commend an outstanding student and citizen from my district, Ms. Barbara Merz. Because of her outstanding academic, athletic, and community service achievements, Barbara has been selected as one of eight outstanding high school seniors from across the country to receive a prestigious $10,000 college scholarship from AAU/Mars Milky Way High School All-American Award. A blue ribbon selection panel of nationally recognized educators selected Barbara from a field of over 13,000 high school seniors nominated nationwide.

Academically, Barbara is ranked first in her class at Breck School in Minneapolis, is a National Merit Commended Scholar, and a recipient of the Minnesota Teen Leadership Award for outstanding academic achievement. Athletically, Barbara is captain of her soccer team, a 4-year varsity player, and earned honorable mention to the all-conference team.

Barbara has also found time to be active in her community. She serves as the representative to the United Way for Minneapolis, and has served as the chairperson for the Special Olympics Tournament for the past 4 years.

I would like to take this opportunity to commend Barbara for her many and varied achievements, and to wish her success in the future. As a winner of the award, Barbara will now also be eligible for an additional $40,000 scholarship. In the tradition of Charles Lindberg, Hubert Humphrey, Walter Mondale, Warren Burger, and others, I am confident that Barbara will help continue Minnesota's long record of providing the country with outstanding citizens and public servants. Good luck, Barbara.

NATIONAL AGRICULTURE DAY

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. ROTH. Mr. Speaker, I rise to honor our Nation's hardworking farmers. Today is National Agriculture Day. Every year for the last two decades we have set aside this time to acknowledge the debt we owe to the agricultural community.

Farming is more than just an industry. It is our heritage. Most of our founding fathers were farmers. George Washington, Thomas Jefferson, John Adams—they all came from agricultural backgrounds. Yet, because so few Americans live on farms today—a mere 2 percent, as opposed to 90 percent in 1789—we often lose sight of what farming means, and has meant, to the United States and to the world.

There is an ancient saying that "When tillage begins, the other arts follow. The farmers, therefore, are the founders of human civilization." I think it is never more true than it is now, as we move into the 21st century. Our abundant agricultural resources and the efficiency of our farmers have made it possible for our country to survive as a superpower and to be at the forefront of industrial and technological advances. We take it for granted, but agriculture is, in many ways, the basis for our society.

Our farmers work hard every day, with little thanks and even less financial reward, to put the food on our tables that sustains us as we go about our daily business. One American farm provides food for nearly 100 people here in the United States and for another 34 individuals overseas.

Too many people seem to believe that food simply appears, as if by magic, in the grocery store. Too few recognize the enormous effort that goes into getting that food onto the shelf. The average American spends barely 12 percent of their income on food. We are the best-fed and best-clothed people in the world, thanks to our farmers.

Farmers certainly aren't getting rich. The agricultural sector has had a very slow and arduous recovery from the serious economic problems suffered in the 1980's. We must take action to help them get going. Their recovery means the recovery of the whole Nation. When farmers prosper, every one prospers. For example, in my home State of Wisconsin, every time seven farms disappear, one business is forced to close its doors.

What must be done? Domestically, we need to ensure stable prices and eliminate the price swings which devastate our rural economies. Big business enjoys the ability to deduct 100 percent of their employees health insurance costs; farmers deserve the same. Reductions in the capital gains tax will help. Most importantly, we need to find ways to encourage investment in agriculture and to keep young people on the farms.

On the international side, we must make greater efforts to expand our export markets. Furthermore, foreign products should conform to the same high standards of safety that our products do. U.S. assistance programs should be required to use American dairy products. Finally, we need to set up barter programs to trade our farm goods for other commodities that we need from abroad.

Of particular concern to me, of course, are our dairy farmers. I come from the heart of America's dairyland. Wisconsin produces almost 20 percent of the Nation's milk, 32 percent of its cheese, and one-quarter of all the butter. In addition to excellent dairy products, the citizens of the 8th District produce some of the world's finest apples, cherries, and cranberries. And nearly all of our farms, 96 percent, are family owned.

Today is their day, and I hope Americans throughout all sectors of business and society will take this opportunity to realize the contributions of our Nation's farmers. Thomas Jefferson summed it up well:

> Cultivators of the earth are the most valuable citizens. They are the most vigorous, the most independent, the most virtuous, and they are tied to their country and wedded to its liberty and interests by the most lasting bands.

TRIBUTE TO JOHN BURRY, JR.

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. REGULA. Mr. Speaker, I would like to bring to my colleagues attention to work on John Burry, Jr., chairman and chief executive officer of Blue Cross and Blue Shield of Ohio. He has accomplished some remarkable things in northeast Ohio demonstrating affordable health care can be made available in a uniquely American public-private partnership.

When President Bush came to Cleveland to announce his health care reform program, he recognized the health care insurance program Jack Burry and the Council of Smaller Enterprises [COSE], an arm of the Greater Cleveland Growth Association, put together for small businesses. COSE, which is not only Blue Cross and Blue Shield of Ohio's largest customer, but is a national example of an insurance success story for managed competition and offers great potential for national application. The Blue Cross and Blue Shield-COSE story certainly is a model for successful small-group health coverage which is a segment of the economy suffering from very disproportionate rates for health care coverage.

Blue Cross and Blue Shield of Ohio's ability to shop for the best hospital prices has afforded the COSE small groups a desperately needed shelter from rampant health care inflation. Under Burry's leadership, the organization was instrumental in getting legislation passed in Ohio—the Health Insurance Reform Act of 1987—that made it possible for Blue Cross to apply the good old American way of doing business through competition and shop for the best price and service.

Mr. Speaker, I ask my colleagues to join me in recognizing Jack Burry, and Blue Cross and Blue Shield of Ohio. He truly is a revolutionary in the health care delivery system and has a vision of how to effectively repair our troubled health care system.

IN HONOR OF MARGARET (PEG) SHERFEY

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. BOEHNER. Mr. Speaker, today I rise to pay tribute and recognize the public service of Margaret (Peg) Sherfey.

Peg is retiring on March 24 after 10 years of loyal service to the village of Union City, OH. She began her work with Union City as a member of the town council in 1980, and served there for 3 years. After a break in service, she felt the need to reenter public service in order to better her community. She became the Village Clerk in June 1986 and will retire from this post next week.

Peg's job has not been easy. She has been faced with rough economic times during her tenure. Union City has suffered from high unemployment and lost several companies. These tough times have forced her to be as equally tough. Even though she had to be strong to do the job the village expected of her, she has been able to steer them through the rough times. Peg brought Union City through, even though there was little money to get things accomplished.

I wish to join the village of Union City, OH, in thanking Margaret (Peg) Sherfey for her undaunted, faithful, and loving years of public service.

NATIONAL AGRICULTURE DAY

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. DURBIN. Mr. Speaker, I rise today to pay tribute to the men and women of this country who work the land, process and refine our agriculture commodities, and engage in the research that keeps American farmers and ranchers the most efficient in the world. In short, the U.S. agriculture community.

Today, Friday, March 20, 1992, has been proclaimed "National Agriculture Day" by 48 States in our country, including my home State of Illinois, as well as the U.S. House of Representatives. I am very happy to join Chairman DE LA GARZA and 236 of my colleagues in cosponsoring this joint resolution.

Mr. Speaker, American agriculture is the most efficient in the world. And, it is not difficult to see that the foundation on which our success in agriculture is built is the family farm. Throughout the 20th Congressional District in west-central Illinois, which I represent, counties like Adams, Pike, Greene, Jersey, Macon, Macoupin, Montgomery, Christian, Sangamon, Moultrie, Shelby, Cumberland, and Calhoun, family farming and agriculture are a way of life.

The men and women who work tirelessly to provide food and fiber for communities like Decatur, Quincy, and Springfield, as well as our country; the scientists and researchers who labor at facilities like the University of Illinois to discover ways to combat the crippling effects of aflatoxin; the food processors and refiners and those who transport our farm commodities all deserve a sincere thank you for their efforts and contributions to American life, health, and prosperity.

It has become increasingly obvious that agriculture not only holds the key to revitalization for our rural economies but our urban areas as well. That is why celebrating "national Agriculture Day" is so important. We need to take time to recognize the significant contributions that agriculture makes to our everyday lives. American agriculture touches almost every aspect of our lives.

To those men and women who strive to make U.S. agriculture even more efficient; to the youth in our country who participate through their involvement in organizations that enhance the understanding and importance of agriculture in today's society, I thank you for your positive contributions to our country.

Mr. Speaker, we pause today to reflect on the past contributions of American agriculture. And, we look to the future, a future which holds great promise, for the continued development of our agricultural system.

THE PLIGHT OF SYRIAN JEWRY

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. ACKERMAN. Mr. Speaker, there are an estimated 4,000 Jews still trapped in Syria. In chilling parallel to the treatment of other persecuted minorities throughout history, these Jews are concentrated in ghettos, where their movements are under constant surveillance by the Mukhabarat. This is the Syrian secret police, and it lives up to all the most ugly images conjured by that term. The Mukhabarat keeps a file on every Jew in Syria; it monitors all their contacts with foreigners, even family members; it reads their mail and taps their telephones.

Jews are denied education beyond the primary level, are denied government jobs except at the lowest level, are denied the right to buy or sell property with approval from the Mukhabarat. It is not then surprising that most, and probably all, Syrian Jews would like to leave the country. But the Syrian Government considers this a crime against the state, and therefore Jews are the only religious group totally forbidden to emigrate. Even Jews who wish to leave the country for only a short period of time are required to leave a substantial monetary deposit, and to leave close family members behind, as a guarantee that they will return. Thus many Jews are cruelly denied the right to visit members of their family who reside in other countries—in the case of the Swed Brothers, now languishing in prison, charges of espionage and treason were brought because they dared to visit relatives they had not seen in 30 years.

In 1987 two Syrian brothers, Eli and Salim Swed, were accused of committing a crime, arrested, and were held incommunicado for 2 years. They have been brutally tortured, held in dank underground cells, and given only sham trials. Three years later two young couples were arrested for similar crimes. One woman gave birth to a baby in prison; the two men were tortured while in prison.

Their crimes were the same—they were Jews, and they wanted to leave Syria. Under the current, dictatorial regime of America's new Middle Eastern ally, Hafez al-Assad, this has become crime enough to warrant brutal treatment, imprisonment, and complete suspension of whatever human rights are left to the small community of Jews who remain in Syria.

Mr. Speaker, none of us in this body can deny that the basic human rights of the Jews of Syria are being grossly violated. Two of the rights which we in the United States hold most sacred—freedom of religion and freedom of movement—are denied to the Jews of Syria. We in this body should note that the right to emigrate freely has been enshrined in no less a document than the Universal Declaration on Human Rights, to which Syria is a signatory. Thus these rights are not only central to our own constitution, but are guaranteed by the United Nations. It is extremely disappointing that, at a time when the United Nations ideal seems to be finally taking hold in our post-cold war world, Syria is still able to flaunt these fundamental elements of international law and morality.

Many times before in history, the nations of the world have stood aside silently and ignored the persecution of minorities by dictators. We all know what has resulted. The current administration has, to its credit, has used diplomatic channels to protest the treatment of Jews in Syria to President Assad. But far more needs to be done, as the Syrian Government continues to ignore our protests. As a step in this direction I was proud to have been an original cosponsor of House Concurrent Resolution 188, which condemns Syria's treatment of its Jews and urges the Government of that country to immediately grant them free emigration privileges. This resolution also urged both the President of the United States and the United Nations to press the Syrian Government to comply with this demand.

We are all present in a time of unparalleled opportunity to reform the course of world events. It would be a tragedy if we were to allow this opportunity in the Middle East to pass, without doing all we can to help this oppressed minority. We are faced with a choice: we can stand by and do nothing while Syrian Jews face oppression, imprisonment and torture in the pursuit of their basic rights; or we can speak out, we can take a stand, we can do all we can to correct this great wrong. Let us be sure that we do not once again look back, and regret that we had not done more.

THE UNIVERSITY OF MIAMI'S COMMITMENT TO EXCELLENCE

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. FASCELL. Mr. Speaker, this week, I will, once again, have the distinct honor and privilege of hosting my alma mater's football team in Washington, DC—the University of Miami Hurricanes. Again, the team enjoys being invited to Washington by President Bush at a Rose Garden ceremony honoring the Nation's No. 1 college football champions. The Hurricanes are conational champions along with the Washington Huskies.

Since coming to the House of Representatives, I have been honored to work with and represent the people of south Florida, which includes the University of Miami.

The University of Miami enjoys a symbolic relationship with its neighbors in the Greater Miami area. First and possibly foremost, the university has become the largest private employer in Dade County. With 10,458 full-time and part-time employees, and a total current operations budget of $580 million, the economic impact of the university on the community is considerable.

Through the schools of medicine and nursing, the university provides medical care for thousands of south Floridians each year. Advances in research and patient care translate into healthier, more productive lives for all members of the community. The school of medicine, in concert with its partner, Jackson Memorial Hospital, now treats more than 90 percent of Dade County's trauma victims.

The Miami Coalition, with university President, Tad Foote, as the founding chairman, was one of three programs recently recognized by the National Leadership Forum as a national model in the fight against drug abuse. The school of law includes in its curriculum, a class that puts law students in touch with homeless people who need help untangling the web of bureaucracy.

The university's intercollegiate athletics program has been a source of entertainment and immense pride for south Florida. The decade of the 1980's saw the university win three national college football championships, two national baseball championships, and one national women's golf championship, as well as significant national and international titles in tennis, swimming, and crew.

The 1991 University of Miami football team was crowned national champion by the Associated Press, after compiling a perfect 12–0 season. The 1991 squad also won the Big East Football Conference crown and is the third undefeated team in the football program's 66-year history. Since the beginning of the 1983 season, the Hurricanes have compiled a 94–13 record, which is the best in college football. Miami currently has the Nation's longest winning streak, with 18 consecutive victories and has also compiled the Nation's longest home field winning streak with 45 consecutive wins.

The road to the national championship was not easy, but it was exciting and full of big plays and records. In the season opener at Arkansas, quarterback Gino Torretta unleashed a 99-yard touchdown pass to Horace Copeland. Miami then took its No. 2 ranking into its home opener against the No. 10 ranked Houston Cougars. The 'Canes dominated the Houston Cougars, the Nation's top-ranked offensive unit in 1990, by a score of 44–10. The next big challenge was 10th-ranked Penn State. Miami speedster Kevin Williams exploded on a 90-yard punt return and the Hurricanes won the game 26–20.

The Hurricanes biggest challenge of the season occurred when they traveled to Tallahassee to face their intrastate rival, the No. 1 ranked Florida State Seminoles. The Hurricanes entered the game ranked No. 2, and won the biggest game of the regular season in a dramatic finish. The Hurricanes rolled to an 11–0 record, but faced the Nebraska Cornhuskers in the Federal Express Orange Bowl classic. The 'Canes had little trouble, and opened the New Year with a victory over Nebraska and another national championship.

Five Hurricanes earned post-season all-American recognition—kicker Carlos Huerta, offensive tackle Leon Searcy, free safety Darryl Williams, linebacker Darrin Smith and return specialist Kevin Williams. Head football coach Dennis Erickson became the second coach ever to win national championships in two of his first three seasons at a school and was honored as "Coach of the Year" by the Football News and Street and Smith's. He was also unanimously selected as "Big East Football Coach of the Year."

Dedicated to excellence in the classroom as well as on the football field, Erickson's players results in the classroom are equally impressive. All 17 seniors on the 1990 championship squad graduated; all 17 seniors on the 1991 national championship squad are on target to receive their diplomas; and 13 of the 21 seniors on Miami's spring roster will receive their degree before the season starts. Three players—Gino Torretta, Kevin Kirkeide and David Dziczkowski—have already earned their bachelor's degrees and are currently pursuing their MBA's. I hope our colleagues will join me in recognizing the University of Miami for its achievements on the playing field and in the classroom, as well as for its contributions to the community.

A TRIBUTE TO KARA MARK: RECIPIENT OF THE ENGLISH-SPEAKING UNION'S HIGHEST NATIONAL AWARD FOR EXCELLENCE IN TEACHING

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mrs. MINK. Mr. Speaker, I rise today to congratulate Kara Mark, a teacher in my State of Hawaii who was recently presented with the English-Speaking Union's highest national award for "Excellence in Teaching."

Kara Mark teaches English as a second language and is coordinator of that program at Likelike Elementary School on the island of Oahu. She receives this award in recognition of the creativity and effectiveness of the program she created.

She also, though, should receive particular notice for the involvement of parents in her unique approach to English instruction. Ms. Mark has developed workshops which enlighten parents on how best to help their children utilize English at home, and she teaches classes for parents in conversational English.

In addition, she works to actively involve students new to America about broader aspects of life in this country by taking them on field trips in the community, by introducing them to foods and items they may not be familiar with, and by teaching them about playground sports. She does this because she believes that by giving them experiences which help them understand English, they will be able to learn it more quickly, and use it more effectively.

We often hear the concerns of people who are worried about the numbers of people who speak languages other than English. Many of these people see English only initiatives as a solution to this problem. But it is not enough to demand that people speak English. People from other nations, particularly children, need more than to simply be told that they must speak English—they need to be able to learn English. With teachers like Kara Mark they can.

Under her guidance, children and families who come here from other nations are given the instruction they need to be able to function in and contribute to our society on equal and familiar terms. And they are taught in a manner that emphasizes participation, incorporates their families, and makes clear to them that learning English and becoming an active and effective member of this society go hand in hand. In her words, "you learn a language because you need it, and you learn it by speaking and listening, not by looking up words and using them in sentences. Language is developed through experience."

I commend Kara Mark for her outstanding contribution to our community, and her commitment to the betterment of our society. It is always special to find a teacher who goes beyond existing methods to find innovative ways to help children learn. When that person is committed to children who are struggling to learn not just a new language, but a new culture, he or she should receive special notice. Kara Mark is just such a teacher, and she deserves not just this award for excellence, but our heartfelt gratitude as well.

CONGRATULATIONS TO LONGWOOD HIGH SCHOOL CHEERLEADERS

HON. GEORGE J. HOCHBRUECKNER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. HOCHBRUECKNER. Mr. Speaker, I am greatly honored to have this opportunity to extend my heartfelt congratulations to the Longwood, Long Island, NY, High School junior varsity and varsity cheerleading squads, who recently captured first and seventh places in their respective divisions at the International Open Cheerleading Championship in Nashville, TN.

Back in 1990, the Longwood junior varsity and varsity cheerleading squads challenged the national powerhouses of the South on their home turf and captured first and fifth places, respectively. By combining their collective talents with strict discipline, dedication, and the desire to be the best, the Longwood High School cheerleading squads have proved themselves to be as formidable as they were 2 years ago in Nashville.

I join Longwood High School and the entire Long Island community in saluting the Longwood High School cheerleading teams on their significant achievements. Their efforts and consistent reputation for excellence are to be commended, and wish them continued success.

Well done, Longwood.

TRIBUTE TO REV. HARRIS M. MERIWEATHER

HON. CLAUDE HARRIS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. HARRIS. Mr. Speaker, I rise today to pay tribute to the Reverend Harry M. Meriweather as he celebrates his 50th anniversary as pastor of the New Prospect Baptist Church, in Northport, AL. Reverend Meriweather began his ministry at New Prospect Baptist Church in March 1942. At the age of 92, he is still actively preaching and teaching.

Reverend Meriweather's devotion to the ministry extends beyond the walls of his church. Throughout his community he shares his spiritual services as a member of the Druid City Hospital ministerial visiting staff, a chaplain of both Hale Memorial Hospital and Bryce Hospital, and a pastor on the jail ministry for Tuscaloosa County. Reverend Meriweather has also remained committed to the training of younger ministers by frequently sharing his pulpit with aspiring preachers.

Mr. Speaker, I would like to praise Reverend Meriweather on his accomplishments. We should all be inspired by this great man's dedication to his ministry and his commitment to making it a true lifetime career.

INDIANA'S MISS BASKETBALL, MARLA INMAN

HON. FRANK McCLOSKEY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. McCLOSKEY. Mr. Speaker, I would like to commend the efforts of Marla Inman, a senior at Bedford North-Lawrence High School, who was recently named Indiana's Miss Basketball for 1992. Not only is Ms. Inman the first female BNL cager to receive this honor, she is the first Miss Basketball from the Eighth District in the award's 17-year history.

A starter at guard since her sophomore year, Marla has led the Lady Stars to an 104–3 record, including three straight trips to the State finals, and an undefeated, State championship season in 1991. That same season, Bedford North-Lawrence also rose to a No. 2 ranking in the Nation.

In addition to her on-court presence, Marla has also possessed leadership qualities that have helped to separate her from her peers. These traits were apparent in this year's State finals, as Marla was selected as the winner of the IHSAA's Mental Attitude Award.

According to her coach, Austin "Pete" Pritchett,

> Marla is a great listener, and that's something we're losing in our youth today. She leads by example and with just a word here and there. You have some who talk their way through as leaders and some who do it by example.

Her talents on the basketball court have earned Marla a scholarship to Indiana University. I am confident that she will continue to excel at the collegiate level, and we should all wish her success in her future athletic and academic endeavors.

INTRODUCTION OF A BILL TO PROHIBIT MERCHANT MARINER LICENSING FEES

HON. HERBERT H. BATEMAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. BATEMAN. Mr. Speaker, today, I am introducing legislation to prohibit the Coast Guard from charging fees for the licensing and documentation of merchant mariners.

The Omnibus Budget Reconciliation Act of 1990 amended 46 U.S.C. 2110 to remove longstanding restrictions prohibiting the Coast Guard from collecting certain user fees. The 1990 act required the Secretary of Transportation to establish user fees for Coast Guard services related to mariner licensing and other agency activities.

The Coast Guard now has regulations under consideration that will require seamen, engineers, officers and others who serve on U.S. vessels to pay for the evaluations and examinations necessary to qualify for documents and licenses. A separate fee will then be charged to issue the needed papers, which under the provisions of the Oil Pollution Act of 1990, will have to be renewed every 5 years.

No other sector of the transportation industry is required to pay a fee in order to work, and it is not fair that mariners should be singled out. I am hopeful that this bill will be acted on this year. I would also be pleased to have any of my colleagues join me as cosponsors.

TRIBUTE TO VICTOR RABASCA

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mrs. ROUKEMA. Mr. Speaker, I rise today to ask my colleagues to join with me in paying tribute to a man who has dedicated his career to the enrichment and education of children.

Tonight, the citizens of the Borough of Oakland, NJ, will gather to pay tribute to Victor Rabasca who is retiring after 35 years as a professional educator and 31 years in the Oakland school system.

Vic Rabasca began his teaching career shortly after earning his bachelor of science degree from William Paterson College in 1957. Knowing the value of a complete education, Vic continued his own studies as he taught grades seven and eight. In fact, Vic Rabasca completed his masters in education and continued to earn 45 credits beyond graduation.

In 1961, Vic joined the staff of the Oakland public school system. He has served as a grade school teacher, counselor, vice principal, administrative assistant, and most recently as assistant superintendent of schools. He has also served the school district as the thorough and efficient [T&E] officer and is charged with assuring that the borough's schools fulfill education requirements mandated by the New Jersey State Constitution. True to form, Vic, is recognized as the most knowledgeable T&E official in the county and, as a result, the Oakland school system is frequently cited as a model of compliance for other districts to emulate.

Mr. Speaker, success is sweet. However, it is sweetest when it comes with the respect, approval and admiration of one's colleagues. Here again, Vic Rabasca has achieved. Recently, the Oakland Superintendent of Schools characterized Vic as "one of the most sensitive and competent educators I have had the pleasure of working with."

I ask my colleagues today to join me and the citizens of Oakland, NJ, in saying "thank you and a job well done" to Victor Rabasca on his retirement.

HONORING FORDHAM UNIVERSITY BASKETBALL TEAM

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. ENGEL. Mr. Speaker, Tuesday, March 10, was a time of great celebration on the campus of Fordham University in my district in the Bronx. For the first time in 21 years, the Rams basketball team gained a spot in the NCAA tournament when they defeated Bucknell University to capture the Patriot League tournament crown.

The story of the Fordham University basketball team is a lesson in persistence and second effort. Last year, even though they won 25 games during the season, the Rams were told they were not NCAA tournament material. Although coach Nick Macarchuk and his squad were heartbroken, they refused to complain about this oversight. They set their sights on the next season and strove for a record of success that could not be denied. And in the end, they proved that they are indeed worthy to play in the "big" tournament.

No matter how far the Rams advance in the tournament, they will treasure their accomplishments forever. Their victory is the essence of amateur sports—playing for pride, not money, and putting individual desires aside in order to improve the team. It is an inspiring example for their fellow students, and, in fact, for any person who is told they are not good enough to belong at the top.

GLAAD MEDIA AWARDS

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. STUDDS. Mr. Speaker, it is unfortunately still true that portrayals of lesbians and gay men in media of all types are often negative and inaccurate. Bigotry and violence against lesbians and gay men are unintentionally reinforced by media myths and stereotypes.

The Gay and Lesbian Alliance Against Defamation [GLAAD] was formed in 1985 to respond directly to inaccurate depictions of lesbians and gay men in the media. GLAAD also works to educate the media about the harmful effects of negative stereotypes perpetuated through biased reporting, insufficient representation, and insensitive portrayals in film and on televisions.

GLAAD assists professionals in the media by providing information about the lesbian and gay community, offering access to community experts on various issues, and encouraging creative efforts in dealing with lesbian and gay characters and topics.

The GLAAD organization has created their own media awards to honor outstanding portrayals of lesbians and gay men in film, television, and the recording industry, as well as accurate coverage by the electronic and print media.

Nominating committees in Los Angeles and New York have selected as media award recipients many extraordinary individuals responsible for outstanding media portrayals of lesbians and gay men during 1991. Members of the news media and the entertainment industry are honored. A formal presentation of the media awards will take place in California in April.

I hold in high regard the mission and goals of GLAAD: to remove bigotry and defamation from print coverage and broadcast media representations of gay and lesbian people. I commend to my colleagues the important work of the Gay and Lesbian Alliance Against Defamation and its contribution to the lives of all our citizens.

A TRIBUTE TO OLIN CORP.

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, March 20, 1992

Mr. COSTELLO. Mr. Speaker, I rise today in recognition of the 100th anniversary of the Olin Corp. Olin's Brass Division and Winchester Division headquarters are located in my congressional district, in East Alton, IL, where many of my fellow Illinoisans have been gainfully employed through the generations.

The first of the Olin companies, the Equitable Powder Manufacturing Co., was founded by Franklin W. Olin on May 28, 1992, in East Alton, IL. Over the years, the Equitable Powder Manufacturing Co. enjoyed steady growth as Franklin W. Olin and his sons, John M. and Spencer T. Olin, expanded into other businesses, and the company has become a Fortune 200 company known world wide for its expertise in ammunition, chemicals, and metals.

Olin continues to move forward in research, investment, and the development of high quality products that are respected around the world. The ammunition manufacturing facilities operated by Olin in my district are models of efficiency and examples of how American business can remain strong and competitive internationally.

Mr. Speaker, I congratulate Olin Corp. on its 100-year history of corporate and community accomplishments, and commend Olin's management and employees for their commitment to excellence.

SENATE—*Tuesday, March 24, 1992*

(Legislative day of Thursday, January 30, 1992)

The Senate met at 2:30 p.m., on the expiration of the recess, and was called to order by the Honorable BROCK ADAMS, a Senator from the State of Washington.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Let us observe a moment of silence to remember Frances Shaw of the upholstery shop and his family in the tragic loss of their 12-year-old daughter by fire.

* * * *Thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy mind.* * * * *Thou shalt love thy neighbour as thyself. On these two commandments hang all the law and the prophets.*—Matthew 22:37, 39, 40.

Almighty God, as election campaigns heat up, anger grows, cynicism deepens, and emphasis seems to be placed on personality rather than on issues. Somehow, gracious Father, help us hear the word of God, that "love is the fulfilling of the law." We accept the diversity endemic in democracy and the healthy dynamics of a two-party system, but deliver us from attitudes and actions which are designed to destroy opponents. Help us heed the wisdom of a wise man, the late Rev. Vance Havner, who said, "The foundations of this country were not laid by politicians running for something, but by statesmen standing for something!" And grant grace to those engaged in political battle to cool it.

We ask this in the name of Jesus, the Prince of Peace who incarnated love. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 24, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BROCK ADAMS, a Senator from the State of Washington, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. ADAMS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of the proceedings has been approved?

The ACTING PRESIDENT pro tempore. The majority leader is correct.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that during the period for morning business, Senators be permitted to speak for up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears no objection, and it is so ordered.

SCHEDULE

Mr. MITCHELL. Mr. President, this afternoon the period of morning business will extend until 3 p.m. At 3 p.m., it will be my intention to proceed to the consideration of S. 1696, the Montana wilderness bill. It is my hope that those Members interested in that legislation will be able to work out a compromise which will be acceptable to all and enable the Senate to proceed on that matter.

Mr. LEAHY. Mr. President, I should inform the distinguished majority leader that when he moves to the Montana bill on a motion to proceed, I will have some lengthy discussion of its status. I have alerted the leader previously. I do not want in any way to mislead him on that matter; he has, no doubt, the most difficult job in this whole body. I hate to involve myself like this when bills such as this are brought up, but there is a problem which I hope can be resolved. We have moved a long way to resolve it, but it has not yet been resolved. I say to my good friend, the majority leader, I will have to speak at some length when the matter comes up.

Mr. MITCHELL. Mr. President, I was previously advised of that by the distinguished Senator from Vermont, accept it, and we will simply proceed to that discussion at 3 p.m.

Mr. President, last Friday, following consultation with the Republican leader, I read into the RECORD a list of legislative items which the Senate might consider this week. For those Members and staff interested, I refer them to the RECORD for last Friday.

RETIREMENT OF SENATOR WARREN B. RUDMAN

Mr. MITCHELL. Mr. President, it is with great regret that I learned today of the intention of Senator WARREN RUDMAN, of New Hampshire, to retire at the expiration of his term of office this year.

Senator RUDMAN has brought independent judgment and iron integrity to his Senate duties. His service on the Ethics Committee and his complete dedication to the fair working of that body in a particularly difficult period have helped preserve the Senate's institutional integrity.

His work on the Iran-Contra hearings was a model of even-handed fairness. Senator RUDMAN believes his allegiance is owed first to the Constitution, and everyone who recalls those controversial hearings can have no doubt of that.

I am sorry he is leaving. He is a colleague whose judgment I value, even when it is not in agreement with my own, because he never fails to present a perspective that demands serious consideration.

His commitment to budget discipline cannot be doubted, and he has never

NOTICE

We wish to inform all Members of Congress that part of today's Congressional Record has been printed on paper manufactured from 100-percent postconsumer recovered material. The first complete Record to be produced on 100-percent postconsumer recovered materials will be on or about May 1, 1992.

CHARLIE ROSE, *Chairman.*

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

lacked the courage to go clearly on the record with his views, whether popular or not.

WARREN RUDMAN has the kind of intellectual integrity that is important to the Senate, and this will be a poorer institution for his leaving it. I shall miss him a great deal, as I regard him not only as a valued colleague but a close personal friend.

RESERVATION OF LEADER TIME

Mr. MITCHELL. Mr. President, I now reserve the remainder of my time and I reserve all of the leader time of the distinguished Republican leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for morning business not to extend beyond the hour of 3 o'clock with Senators permitted to speak for not to exceed 5 minutes each.

The Senator from Vermont is recognized.

Mr. LEAHY. I thank the Chair.

(The remarks of Mr. LEAHY pertaining to the introduction of S. 2387 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LEAHY. I see other Senators waiting to speak. I yield the floor.

Mr. HELMS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina.

Mr. HELMS. Mr. President, the distinguished Republican leader, Mr. DOLE, has yielded to me his 10 minutes of the leadership time of which I will claim the first 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina is recognized.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $3,861,945,425,314.20 as of the close of business on Friday, March 20, 1992, the latest available figures.

As anybody familiar with the U.S. Constitution knows, no President of whatever party has spent a dime that has not first been authorized and appropriated by the Congress of the United States.

So it is not fair, it is in fact a canard, to say that this is the President's debt, whether it be Jimmy Carter, or Ronald Reagan, or George Bush.

During the past fiscal year it cost the American taxpayers $286,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income during that period. Averaged out, this amounts to $5.5 billion every week, or $785 million every day, just for interest alone.

So the question is obvious. What would America be like if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

Mr. President, I have in hand a column written by Boyce Rensberger and published back in February in the Washington Post in which Mr. Rensberger performs a useful service in stressing the enormity of the estimated $399 billion Federal deficit for fiscal year 1992.

A little later I shall ask unanimous consent that the Rensberger column be printed in the RECORD. I recommend it as a must to be read by every American, and particularly by Members of Congress, both House and Senate.

Perhaps the most startling aspect of the column is that it addresses only the latest 1-year additional debt that will be run up by Congress. Mr. Rensberger does not even mention the specifics of the total national debt, let alone extrapolate that total debt into timeframes, et cetera. And for good reason: There probably is no way to measure the enormity of the total Federal debt as of this past Friday, March 20, which I just stated was $3,861,945,425,314.20.

Look at it this way: If one could conceive of 1,000 stacks of currency, with $1 million in each stack, one could conceive of $1 billion. But if you try to visualize a trillion dollars, you would have to conceive of a 1 million stacks of currency with $1 million in each stack. It is a little mind boggling, is it not?

Mr. President, are we not talking about an impossible burden of debt that the Congress of the United States is dumping onto the backs of not only our children and their children, but on the backs of the present generation as well?

There is a fine young man on our staff named Luke Harvin who has been concerned for quite awhile about this staggering debt—and staggering arithmetic. Luke lamented, in a staff memo to me last week, that few Americans can fathom a $399 billion 1-year Federal deficit. Luke picked up on a statistic in the Rensberger column that if we choose to think of 399 billion seconds, we would be thinking of 12,652 years. Factor that into a time machine and we would be back in the era of prehistoric man.

As I mentioned at the outset, the liberal media and politicians delight in referring to this massive debt as being the fault of President Reagan and President Bush. That is a canard, as I observed at the outset of my remarks, because no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States. If Congress had wanted to be fiscally responsible, it passed up countless opportunities.

This debt has been run up by a succession of Congresses down through the years. I shall not mention which political party has been in control of Congress for practically all of those years. But I will say that Members of Congress of that party have repeatedly refused to approve a balanced budget amendment that some of us have been proposing for years on end.

Mr. President, I began some weeks ago this daily report to the Senate on the exact size of the Federal debt, down to the penny, as of the close of business of the most recent available debt.

I will continue to do this—not that I expect that it will be persuasive to the big spenders in the U.S. Senate and the House of Representatives. But my hope, Mr. President, is that eventually enough American citizens will begin to think of what is being done to them and their children and grandchildren by the U.S. Congress. Perhaps there may 1 day be a groundswell of demands by the American people that Congress stop this business of bloated Federal deficit spending—and, further, that there will be a demand that Congress approve a balanced budget amendment to the U.S. Constitution to require politicians to stop spending more of the taxpayers' money than the Federal Government takes in.

Mr. President, that is my sermon for today.

I ask unanimous consent that the aforementioned column by Boyce Rensberger be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Feb. 27, 1992]

$399 BILLION AND COUNTING

(By Boyce Rensberger)

President Bush recently proposed to take out a $399 billion loan to help pay for federal spending in fiscal 1992—a step that would put the nation further in hock for the biggest deficit the world has ever known—and most of the country yawned.

It is often said, especially in Washington, that people don't appreciate the difference between a million and a billion. If that's true, they certainly don't have much of a grasp of 399 billion—of anything, let alone valuable objects like dollars.

Just how big is 399 billion? If it doesn't seem to be much in money, how about the other valuable commodity, time?

Imagine the units as seconds ticking on the clock. One million seconds flits by in a mere 11½ days. One billion seconds is a thousand times longer—31.7 years. Most American have not lived 1 billion seconds. And 399 billion seconds is 12,652 years—roughly the time it's been since prehistoric peoples first gave up hunting and gathering and learned to plant crops.

So, 399 billion is a big number. What if you're counting dollars instead of seconds? What if the government borrowed all that money but instead of spending it on the budget, simply gave $1 million apiece to the poorest people in the country? There would be 399,000 instant millionaires. Or, if the money were spread more widely, there would be enough to give each of the 33.6 million Americans living below the official "poverty line" nearly $12,000 each—a step that would instantly eliminate all poverty in the United States, at least as officially defined.

But that's not very realistic. So instead, let's say a financial angel comes through and offers to pay off the entire federal deficit for this year in $1 bills. How long would it take to count his contribution?

Laying down the bills at a rate of $1 per second and working 24 hours a day with not a wink of sleep or even one federal holiday, it would take one person 12,652 years (the same, obviously, as 399 billion seconds). That's about how long it's been since the last Ice Age.

Of course, if you wanted to get the job done faster, you could enlist all 5.1 million federal employees including military personnel and postal workers (more people, incidentally, than there are in any of 35 states or, for that matter, 66 countries) and divide the job equally among them. Counting the entire federal deficit one dollar at a time in this way would still take nearly 22 hours. But, of course, because the average federal worker puts in shorter days than that, the job would run about 3 workdays.

Then there would be the job of transporting all those dollar bills to the Treasury. If you packed Bush's 1992 deficit—in the form of $1 bills—into 50-foot-long boxcars, you could get about $63.5 million into each car. The train would have 6,299 boxcars and be 66 miles long.

It would be a pretty heavy load—399 billion dollar bills would weigh about 439,000 tons.

Even if you met the proposed deficit by loading the boxcars with $100 bills, you'd still need 63 boxcars.

But, of course, no financial angel is likely to come forward. So let's imagine that one typical American family decides to devote itself to paying this year's deficit.

The median family income in this country is about $34,000 a year. If that family gave every penny to the government, it would not be able to retire for 11.7 million years. (Of course, with no money to spend on itself, the family might not last that long.) In other words, to eliminate this year's deficit, that selfless family would have had to start contributing its entire before-taxes income back in the Miocene. That's the geological epoch when the separate land masses of Africa, Arabia and Asia drifted into contact.

So, that's not too realistic either. Let's say corporate America decided to spare "the little guy" the burden and altruistically liquidated its assets to pay off this year's deficit. Starting with the biggest U.S. corporation (in terms of the total market value of its stock), and working down, the following companies would have to turn over their total assets: Exxon, General Electric, IBM, AT&T, Philip Morris, Merck & Co., Coca-Cola Co., Bristol-Myers Squibb and E.I. du Pont de Nemours.

Not likely. Which brings us to the old standby of illustrating big numbers—laying dollar bills end to end. How far would they reach?

One million dollar bills would stretch about 96.7 miles, enough to go around the Beltway 1½ times. One billion dollar bills would, of course, go a thousand times as far—96,700 miles, enough to go around the Earth four times. So what about 399 billion greenbacks? They'd reach more than 38.5 million miles. That's about 1,600 times around the Earth or, along a less monotonous route, Bush's deficit would be more than enough to reach from Earth's orbit to that of Venus.

Because it would be hard to keep all those bills lined up, it might make more sense simply to stack them. The stack would be 27,000 miles high. Make the stack out of $1,000 bills instead and you'd still have an appreciable 27-mile-high measure of the administration's proposed deficit for 1992.

Mr. HELMS. I reserve the remainder of my time.

Mr. BROWN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

Mr. BROWN. I ask to proceed in morning business.

The ACTING PRESIDENT pro tempore. The regular order is morning business. The Senator is recognized for 5 minutes.

THE TAX BILL

Mr. BROWN. Mr. President, last week this body passed a major tax bill, H.R. 4210. That bill went to the President of the United States, who promptly vetoed it. That bill will probably come back to the House of Representatives rather than the Senate, but it appears now certain that the measure will fail, and a veto will be sustained.

One of the sad things to report is not necessarily the death of that bill, because I think it had many problems that the conscientious Members on both sides will acknowledge, but it was developed in an atmosphere that did not lend itself to bipartisan efforts. We pride ourselves in the Senate on a greater willingness to work in a bipartisan manner. Unfortunately, that measure was drafted in the House originally in a very partisan atmosphere, one that excluded Republicans from much of the deliberations about the bill.

What is the problem with that? The problem is it overlooks the great value that can come from a bipartisan effort through the legislative process, where men and women of good spirit join together to think about each others' ideas.

What could have happened? One of the things I think that could have happened would have been to eliminate the misimpressions, the misrepresentations, and the misunderstandings that had fostered that bill's philosophy.

Let me be specific, Mr. President. One of the things that was said about that bill was that in the 1980's, under Reagan and Bush, the wealthy in this country had enjoyed great tax breaks. The tax burden it was alleged had increased on lower incomes, and had decreased on upper incomes. One of the values of the legislative process, if it were followed is that the misimpressions and misrepresentations can be straightened out before they produce the legislation.

Mr. President, let us take a look at the facts of what has happened to the tax burden in this country in the last decade. This does not come from a Republican source. It comes from a Democratic source. It comes from the so-called Green Book which is published by the Democratic chairman of the House Ways and Means Committee; not a Republican source, a Democratic source.

Here is what it says about the tax burden in the 1980's. The upper incomes in this country, as this chart clearly demonstrates, paid 18.3 percent of the income tax burden in 1980. That went up, not down, as a result of the 1981 tax bill and other tax legislation, to 21.2 percent of the tax burden in 1985.

It went up even further in 1988 to 25.6 percent of the tax burden. That was primarily a result of the 1986 Tax Act and other legislative initiatives by President Reagan. It continued on upward to the estimate this year by the Green Book, again, that the upper income tax group, the upper 1 percent, will pay 30.1 percent of the tax burden.

That is significant because the tax philosophy involved in this tax bill was based on the mistaken assumption that the burden had declined for the upper income groups. The truth is exactly the opposite. The burden had gone up and up dramatically.

Does that mean that you would not want to increase it even more? I am sure there are Members of this Chamber who would want to increase it even more. But the fact is that the philosophy surrounding that bill was based on that mistaken impression. If we look at the facts and join together in the legislative process, that kind of mistake can be corrected.

Mr. President, on the other side of the ledger, it was alleged that the burden of the income tax had been increased on lower incomes. This chart addresses that, again from a Democratic source, the Green Book. What we find is exactly the opposite of what was alleged in the debate. Rather than the burden on low incomes being increased, it has decreased dramatically—from 13.6 percent in 1980 to 8.9 percent projected for 1992.

The whole purpose of this is, first, to correct the record, but, second, to ask that before another tax bill is drafted, we sit down and counsel together so that obvious mistakes of this kind can be ironed out before they become public law.

I also heard a discussion of a trickle-down theory.

Mr. President, the trickle-down theory attributed to the Republican Party has never been articulated by President Reagan and has never been articulated by President Bush and has never been advocated by either one of them. One might argue whether trickle down makes any sense or not. I do not think it does. To attribute to people who have advocated the opposite in policies is not only inaccurate but poisons the debate on public issues.

The simple facts are these: The Republican Party believes in keeping the resources in the hands of the men and women who work to produce them. It is an incentive for them to work and produce. It is an incentive for them to become effective—far from trickle down. Republicans believe in leaving the resources in the hands of the men and women who do the work in this country.

The PRESIDING OFFICER. The time of the Senator, as allocated under the order, has expired.

Mr. BROWN. I ask unanimous consent that the following table be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SHARE OF THE INDIVIDUAL INCOME TAX TOP 1 PERCENT COMPARED TO THE BOTTOM 60 PERCENT

[In percent]

	1980	1985	1988	1992	Change	
					1980–88	1980–92
Top 1 percent	18.3	21.2	25.6	30.1	39.9	64.5
Bottom 60 percent	13.6	12.6	10.3	8.9	−24.3	−34.5

Source: "1991 Green Book, Overview of Entitlement Programs," Committee on Ways and Means.

The PRESIDING OFFICER. The Senator from North Carolina has 10 minutes remaining under the leader's time.

I say to the Senator from Washington that we are in morning business, and the Senator is entitled to 5 minutes, until 3 o'clock.

TAX MANIPULATION BY FOREIGN CORPORATIONS

Mr. HELMS. Mr. President, last week, President Bush vetoed H.R. 4210, the tax bill rammed through this body by the majority over the wishes of the minority and, I might add, the vast majority of the American people.

President Bush believed—and I agree with him—that the tax burden is already too heavy on the American people. We are certainly not going to have economic growth and prosperity by raising taxes. Equally as a matter of principle, we should collect from those who are manipulating the tax system and not carrying their fair share of the load before we add one more penny of tax burden on the American people.

Let me get to the point. On March 22, this past Sunday, the Sunday Times of London published the results of months of investigation of the Sony Corp.'s failure to pay its fair share of taxes in Britain and in the United States. According to former Sony executives who are assisting British officials in their inquiries, they reduced Sony's tax bill in Britain by "manipulating internal accounts."

The investigators for the newspaper have also found that although Sony is the biggest Japanese manufacturer in Britain and the first to set up shop there, Sony had not paid any corporate taxes for 10 years. Let me repeat: Sony, the biggest Japanese corporation in Britain, paid nothing at all in corporation tax through the 1980's. This was published in the Sunday Times of London, and it squares with information that we have been accumulating in the Foreign Relations Committee.

Nor is Sony alone in the Japanese not paying—the London Sunday Times noted that the 10 largest Japanese firms operating in Britain in total paid just $68 million in 1988 and 1989 and 1990, 1991 to the British Treasury.

At the same time, the Sunday Times noted that by contrast, American firms operating in Britain are good public citizens. General Motors, Ford, IBM, and Kodak all paid their fair share based on their operations in Britain.

Mr. President, it is very important to emphasize that the investigators for the London newspaper concluded that Sony's tax manipulation was not confined to Britain, but as we have been discovering in this country, the Sony Corp. has been manipulating its taxes in the United States as well.

How much money is involved? The answer in general is a lot—perhaps as much as $30 billion a year if all foreign companies operating in the United States are lumped together.

We have a chart showing the data from 1988, the most recent year we have available.

Foreign companies operating in this country, United States, had more than $1 trillion in total receipts. According to Charles Triplett, Deputy Associate Chief Counsel of the IRS, testifying before the Ways and Means Committee in 1990, U.S. companies operating abroad showed a profit range of 8 to 10 percent on receipts.

So I think it is fair to estimate that foreign businessmen are at least as capable as our American businessmen and we can split the difference to 9 percent. Foreign companies should have reported income of $107.9 billion in their U.S. operations.

Applying the 34-percent corporate tax rate, foreign companies anticipated tax should have been $36.69 billion. They paid $5.8 billion, leaving a shortfall of more than $30 billion.

One way or another, Mr. President, the American people are picking up the tab for these tax shenanigans either through payment of an additional $30 billion in taxes, or an increase in the Federal deficit which is, in effect, a tax on our children and grandchildren, as I said earlier this afternoon.

Let me emphasize that this $30 billion shortfall is only for 1 year, 1988. A shortfall for all of the decade of the 1980's would be astronomical, perhaps hundreds of billions of dollars.

Mr. President, 2 years ago, the House Ways and Means Committee held hearings on this issue and I understand the committee plans another set of hearings in early April. But to my knowledge, no hearings have been held directly on this specific subject in the Senate.

Accordingly, I have written to the distinguished chairman of the Finance Committee, Senator BENTSEN, and the distinguished ranking minority member, Senator PACKWOOD, urging them to address this issue with hearings in the Senate at the earliest possible moment.

There is no question, Mr. President, that the American people do not deserve to have their taxes increased because of things like this. They are paying more than enough taxes already. Certainly, taxes must not be increased until all of those who are now manipulating the system are paying, and we should begin with Sony.

Mr. President, I ask unanimous consent that an article "Inland Revenue Probes Tax Avoidance at Sony," which appeared in the March 22, 1992, issue of the Sunday Times of London, be printed in the RECORD at the conclusion of my remarks, along with letters I have written to Senator BENTSEN and Senator PACKWOOD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Sunday Times of London, Mar. 22, 1992]

INLAND REVENUE PROBES TAX AVOIDANCE AT SONY

(By John Cassidy)

Tax inspectors are investigating allegations that Sony, the Japanese electronics giant, may have avoided paying millions of pounds in tax by generating profits in Japan rather than in Britain and America.

Inland Revenue officials have interviewed former Sony executives who say they reduced the company's tax bills in Britain by manipulating internal accounts.

The allegations are strongly denied by Sony, the biggest Japanese manufacturer in Britain and the first to set up in this country.

Two former executives told The Sunday, Times they inflated prices paid to a German division of Sony for products imported into Britain. This cut the profits—and tax liability—of Sony Europa, a British branch of the company, they say.

One, a former sales and marketing manager, said: "It was hard to believe. I was a professional salesman, yet I set a goal of zero profits." Sony said if such price manipulation occurred, it was against its policies and in defiance of company rules.

Sony Europa, in Staines, Middlesex, is one of 625 subsidiaries of the Japanese electronics giant which include CBS, the American record label, famous for artists such as Bruce Springsteen and Michael Jackson. In America, Internal Revenue Service investigators have interviewed former Sony employees who also claim the prices of imported products were inflated to increase profits to the Japanese parent.

The British Inland Revenue investigation follows an Insight inquiry which found that many Japanese multinationals legally pay only a fraction of the tax of other firms operating in this country.

Sony UK paid nothing at all in corporation tax throughout the 1980s. In the last financial year (1990–1), it paid only 1.4% of its £875m turnover to the British exchequer in profits tax, compared with 5.3% paid by Kodak, a foreign-owned multinational that has a similar turnover.

Yet last year, Sony Corporation achieved its highest ever worldwide sales and consolidated profits. It will be in surplus again this year, despite a fourth-quarter downturn in Japan.

There is no suggestion that Sony UK, which has received grants and pledges of £20m from British taxpayers, has acted illegally or improperly. It says its tax bills were wiped out by government allowances and relief carried forward.

But Insight's findings—which show that the Treasury would, benefit by at least £200m a year if leading Japanese firms paid proportionately as much tax as British and other foreign multinationals—have prompted MPs to call for an urgent inquiry.

Tory backbencher John Watts, a member of the select committee on Treasury affairs, has written to Norman Lamont, the chancellor, asking for a full investigation by the Revenue.

"There are potentially hundreds of millions of pounds going begging here. If firms benefit from publicly funded grants they must pay their fair share of taxes," he said.

After analysing Insight's findings, Professor John Kay of the London Business School, an expert on international taxation, said: "The striking thing is that Japanese companies clearly pay little or no tax in the UK while other foreign companies do."

The Japanese embassy in London angrily denied the allegations. "If Japanese firms lose credibility over here they will face a very difficult situation, so they would not do such manipulation," it said.

Tax avoidance by so-called "transfer price manipulation" is prohibited in America. In 1990 a congressional committee calculated that during the 1980s the practice had been used by 36 multinational companies, two thirds of them Japanese, and had cost the US treasury £100 billion.

But in Britain, such manipulation is not against the law. The Inland Revenue's only remedy is to demand additional tax payments if it suspects that this has occurred.

Insight examined the profits declared and taxes paid by the biggest Japanese companies in Britain during two financial years, 1988–9 and 1990–1. It found British firms and foreign (non-Japanese) multinationals paid five times as much tax per pound of turnover (the measure used by the Revenue to test for tax avoidance on profits) as their Japanese counterparts.

While there is no suggestion of illegal tax evasion, it is striking that Japanese firms paid proportionately far more tax—roughly three times as much per pound of turnover—to the Tokyo government than they did to the British exchequer, even though tax rates in the two countries are comparable.

For example, Hitachi Consumer Products, the UK arm of the Japanese electronics giant, declared tiny profits and paid nothing in British corporation tax last year. By contrast, Hitachi's parent paid £379m in profits tax—2.3% of its turnover—in Japan. Hitachi said last night its British made consumer products were a "very low-margin business".

In total, the Inland Revenue collected less than £40m in profits tax from the 10 biggest Japanese firms in Britain, including Toshiba UK, Mitsubishi Electric and Hitachi consumer products, in 1988–9 and 1990–1. That represented only 0.6% of their combined UK turnover.

During the same period, the 10 largest British firms, including ICI, British Aerospace and Unilever, paid more than £14 billion in profits tax—equal to 3% of their combined turnover. Leading foreign-owned multinationals, including Ford, IBM and Vauxhall, also paid tax equal to 3% of turnover.

Some American states, notably California, now assess tax on a multinational's worldwide profits, rather than on profits in that state alone. Some experts believe that Britain should adopt the same approach.

Professor Kay said: "All we have is a 19th-century tax law that sometimes collects tax and often doesn't. The only way to deal satisfactorily with transfer pricing is to take a company's worldwide profits, and tax it according to the British share of its turnover."

All companies based in Britain are required to pay between a quarter and a third of their profits in tax, regardless of which country their owners come from. Thus, foreign-owned firms should not enjoy special advantages over their British rivals.

But not only do British companies pay more tax in this country than their Japanese counterparts, they also pay proportionately more tax on their operations in Japan. For example, Nippon Wellcome, part of the British Wellcome Foundation, paid 14.5% of its £112m turnover in corporation tax to the Tokyo government last year.

Tax revenue from company profits accounted for £21 billion last year, the exchequer's fourth-biggest source of revenue after income tax, National Insurance contributions and Vat.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, March 24, 1992.
Hon. LLOYD BENTSEN,
Chairman, Committee on Finance, U.S. Senate,
Washington, DC.

DEAR LLOYD: In the summer of 1990 the House Ways and Means Committee held hearings on "Tax Underpayments by U.S. Subsidiaries of Foreign Companies." As a result of those hearings Congress mandated an IRS study through the Revenue Reconciliation Act of 1990 concerning the application and administration of Section 482 of the Internal Revenue Code. Ways and Means informs me that the study is due April 2 and that they will hold another set of hearings "within the week".

What is at stake here are serious underpayments of American corporate taxes by foreign companies operating in the United States. Based on IRS estimates to Ways and Means in 1990, the Treasury could have lost up to $30 billion dollars through various kinds of manipulations in 1988 alone.

This system of internal manipulation is not confined to activities in the United States. On March 22, 1992 the *Sunday Times of London* published the results of a long investigation into the activities of the Sony Corporation in Britain. Their investigators concluded that, although Sony is the biggest Japanese company operating in Britain, it failed to pay any corporate taxes there during the 1980s. This accusation tracks completely with a letter I received in 1990 from a former Sony American official who reported on Sony's tax avoidance in the United States.

Lloyd, this is an issue which needs to be investigated completely on both this side as well as the House. Certainly, before we ask the American people to pay any more taxes, those who are manipulating the system and not paying their fair share, should do so. I urge you to hold hearings on this issue at the earliest possible convenience.

Sincerely,

JESSE HELMS.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.
Hon. ROBERT PACKWOOD,
Ranking Member, Committee on Finance, U.S. Senate, Washington, DC.

DEAR BOB: In the summer of 1990 the House Ways and Means Oversight Subcommittee held hearings on "Tax Underpayments by U.S. Subsidiaries of Foreign Companies." As a result of those hearings Congress mandated an IRS study through the Revenue Reconciliation Act of 1990 concerning the application and administration of Section 482 of the Internal Revenue Code. Ways and Means informs me that the study is due April 2 and that they will hold another set of hearings "within the week".

What is at stake here are serious underpayments of American corporate taxes by foreign companies operating in the United States. Based on IRS estimates to Ways and Means in 1990, the Treasury could have lost up to $30 billion through various kinds of manipulations in 1988 alone.

This system of internal manipulation is not confined to activities in the United States. On March 22, 1992 the Sunday Times of London published the results of a long investigation into the activities of Sony Corporation in Britain. Their investigators concluded that, although Sony is the biggest Japanese company operating in Britain, it failed to pay any corporate taxes there during the 1980s. This accusation tracks completely with a letter I received in 1990 from a former Sony America official who reported on Sony's tax avoidance in the United States.

Bob, this is an issue which needs to be investigated completely on both this side as well as the House. Certainly, before we ask the American people to pay any more taxes, those who are manipulating the system and not paying their fair share, should do so. I urge your committee to hold hearings on this issue at the earliest possible convenience.

Sincerely,

JESSE HELMS.

Mr. HELMS. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Senator from Washington.

STAY MARINERS

Mr. GORTON. Mr. President, opening day of the baseball season is less than 2 weeks away. It is not a secret that I have invested a great deal of time insuring that the Seattle Mariners remain in the Pacific Northwest. As a consequence, some people have asked about the role of a U. S. Senator in the sale of a major league baseball team.

The answer is simple: My primary goal as a U.S. Senator is to work to expand jobs and economic opportunities for people and families in Washington State. When jobs are threatened in timber towns, in apple orchards, at Boeing, or in the tricities, I fight to keep those jobs. Keeping the Mariners is important for every family in Washington State, even those who don't care at all about baseball.

The Mariners provide innumerable benefits to the city of Seattle and the State at large. The team provides more than 1,500 direct and indirect jobs to the community. On game days, the restaurants around the Kingdome are overflowing, and the economy in Pioneer Square booms. The Mariners provide the State with more than $1 million in tax revenue.

The Mariners and local businesses together donate almost $1 million in charitable contributions through live appearances, speaking tours, ticket donations to Seattle-area schools, auctions, and collectibles. In addition, individual team members log countless hours in meeting with the youth of the community and participating in other charity events. Mariner players are local role models for our children.

Perhaps even more important is the psychological value of major league baseball to Seattle or to any similar community. The Mariners are a part of what makes the Puget Sound area attractive to businesses, individuals, and tourists. Baseball contributes to the community's image of itself and thus to its own viability. The value of retaining the Mariners cannot be measured in dollars alone.

Mr. President, I have two messages to deliver today on the proposed sale. First, I will give an update on the proposed purchase of the Seattle Mariners by the Baseball Club of Seattle. For 3 months, the major league baseball owners have delayed their approval of the offer because 60 percent of the money, but no portion of the team's control, will come from Japan. We, in the Pacific Northwest, realize the importance of foreign trade with Japan, and the Nintendo Co. in particular. I am confident that the major league baseball owners will also realize the importance of this foreign trade as well as the local nature of this extraordinary deal and approve the sale. It will benefit all of them.

I believe that this sale will be approved by opening day, April 6. Approval will for the first time bring local ownership to the Mariners. In turn, this sale will secure a long and prosperous future for the Mariners in Seattle.

My second message is that the Mariners are an exciting team that deserves strong local support. The Mariners are coming off their first ever winning season, and have made additions to the team to improve it even more. Many preseasons predictions list the Mariners as a sleeper to win the American League West.

The Mariners have a young and promising pitching staff, a solid defense, and a line up that can compare with any in the majors. Kevin Mitchell, acquired this off season, is the legitimate righthanded power hitter the team has been lacking, and Ken Griffey, Jr., is perhaps the best all-around player in major league baseball.

This team gives Seattle its first legitimate shot at a pennant. Team optimism is flowing over into the community as well. Season ticket sales are estimated to be almost double last season's sales. The principals are close to closing the mariners' first cable television package.

For reasons both on and of the field, I encourage the major league baseball owners to approve the sale of the Mariners to the Baseball Club of Seattle in an expeditious manner. The sale will give the team the local ownership it has not had for the past 17 years.

I also encourage the residents of the Pacific Northwest to support the Mariners. The business community of Seattle has stepped up to the plate to purchase the team; now it is time for the community to come out and support the team as well. First, the fans will not be disappointed as this is an exciting and promising team, and second, this team is valuable to the city, county, and State, and most of all to the people of Seattle and the Pacific Northwest.

Mr. ADAMS. Mr. President, I join in the remarks of the junior Senator from Washington and say that I support the Mariners, and we are united along with the whole delegation.

The PRESIDING OFFICER. The record will so note. It is a team effort of the Senators from the State of Washington.

HONORING BERTHA GIPP'S SERVICE TO NATIVE AMERICAN WOMEN AND CHILDREN

Mr. BURDICK. Mr. President, there is a woman in my State of North Dakota who has made a real difference for Indian women and children in this country. Bertha Gipp has devoted her career to improving the health of native Americans and the status of minorities in the nursing profession. I was pleased to learn recently that the American Nurses Association recognizes her contributions and has chosen Bertha Gipp to receive its distinguished Mary Mahoney Award.

Bertha Gipp was one of the first Lakota Sioux Indians from the Standing Rock Indian Reservation to become a registered nurse. After 40 years in nursing, she is still working as a nurse consultant with the North Dakota State Department of Health and Consolidated Laboratories.

Bertha Gipp worked for 20 years at Indian Health Services hospitals on North Dakota's Standing Rock and Turtle Mountain Indian Reservations. After working 4 years in a veterans' hospital in Milwaukee, Bertha returned to North Dakota to provide primary health care service to students at the United Tribes Training Center for 7 years.

In 1978, the North Dakota State Health Department hired Bertha to develop maternal and child health projects for the State's four Indian reservations. Under her guidance, North Dakota became the first State to implement an infant car safety seat loan program on an Indian reservation. She also focused on improved perinatal care for native American women and children, including breast feeding, injury prevention, and improved immunization rates.

American Indians have a high rate of diabetes, heart disease and other serious health care problems. Cultural differences make it important that American Indians be prepared to meet and deliver needed health care services to their people. Bertha Gipp recognizes that need and has served as a role model for other native Americans, encouraging them to attain postsecondary education and, specifically, to enter the field of nursing.

Bertha has received numerous awards for her work for healthy mothers and healthy babies, improved health care for native Americans, and her contributions to the nursing profession. As I mentioned, the American Nurses Association [ANA] is giving Bertha Gipp its Mary Mahoney Award at the ANA's June meeting in Las Vegas. Bertha's colleagues at the North Dakota Nurses Association will honor her at their annual convention on April 9.

I regret that I cannot attend that recognition ceremony, and I want to take this opportunity to publicly congratulate Bertha Gipp, to thank her for her tireless efforts, and to let her know that her follow North Dakotans greatly appreciate and take pride in her achievements.

In the language of her tribe: Oiyokipiya winyan wan yu-onihan pe. Oyate Kin Zani pi kta un wowasi econ wopida tanka.

In English that means: My friend, joyously this woman is being honored. The people will be in good health. She is working so the people will be in good health.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business originally allocated under the previous order has expired.

EXTENSION OF MORNING BUSINESS

Mr. CONRAD. Mr. President, I ask unanimous consent that the time for morning business be extended until 3:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

SENATOR WARREN RUDMAN

Mr. CONRAD. Mr. President, it was with real regret that I learned today of the decision of Senator WARREN RUDMAN not to seek reelection. I express regret because I have found Senator RUDMAN to be one of the great men of the U.S. Senate.

I say that because I serve on the Senate Budget Committee with the Senator from New Hampshire, and I have found in my 5 years of service on that committee that Senator RUDMAN is one of those people in the U.S. Senate who is able to rise above partisanship, to work for what is in the best interest of our country.

In my own view, there is no more critical time for men of the stature of WARREN RUDMAN than right now.

Several weeks ago, Senator RUDMAN spoke passionately on the floor of the need for us to address the fundamental problems facing this country. He called on his colleagues to respond. Senator RUDMAN was right. All across this country, there is a disillusionment with Washington, the President, and Congress for a failure to deal with the fundamental problems and challenges facing this country.

I contrast what I saw as the bipartisanship of Senator RUDMAN with the harsh partisan attacks last week of the President. The President criticized Congress for the tax bill that was passed here. Congress is not above criticism. The unfortunate thing is how did it all start? We had the President, in the State of the Union Address, basically laying down a partisan plan, laying down the gauntlet to Congress, and Congress responded in kind.

We have to move beyond narrow partisanship if we are going to advance the interests of this Nation.

When we examined the President's plan in the Budget Committee, Mr. Darman came before that committee. And I asked him, if we enacted every proposal the President made, how much would it increase economic growth in our country? You know what the answer was? One-half of 1 percent. That is what would happen, according to the President's own calculation, if we enacted every element of his proposal.

What of the President's plan? The President says to us we will have a $400 billion deficit this year. He said to us in his 5-year plan, add to the national debt another $1.8 trillion. Look at where we have been. We have gone from a national debt of less than $1 trillion 10 years ago, to a debt that will be $4 trillion at the end of this year, and the President sends us a plan that adds another $1.8 trillion. That is not good enough.

We need a plan to get this country back on track, and that plan ought to be one that provides for aggressive growth in this economy, not one-half of 1 percent a year.

That plan ought to include dramatically reducing the budget deficit over the next 5 years, not adding another $1.8 trillion to the national debt.

What this country desperately needs is for this President and this Congress to work together.

Mr. President, WARREN RUDMAN is leaving this body. Perhaps one reason is he is disheartened with our seeming inability in Washington to deal with the challenges facing this country. I think many of my colleagues share that feeling. I think people are disheartened. They are really beginning to wonder, not only across the country but right here in this Chamber, if we, the President and the Congress, have the capability to face up to the problems facing our Nation.

Mr. President, we ought to prove them wrong. We ought to prove the doubters and the nay-sayers and those who say nothing can be done—we ought to prove them wrong.

We have a great opportunity lying before us. There are low expectations in the country. There are low expectations right here in the House and the Senate, apparently very low expectations right in the White House, because when the President delivered his State of the Nation Address he did not ask much of us, he did not ask much of the Congress, and he did not ask much of the American people.

We are a great Nation. We ought to be challenged to live up to our greatness.

Mr. President, in view of the decision of Senator RUDMAN, it seems to me we could provide no finer tribute than to hereby resolve that this year, not next year, not the "sweet bye and bye," but right now we are going to start facing up to the problems facing this country. And the first is we do something serious about the budget deficits that are choking the economic growth of our Nation. Would it not be a wonderful thing if we could get together, the President and the Congress, and really do something serious about the challenges facing this country? What a fine tribute to a great colleague, Senator WARREN RUDMAN, that would be.

Mr. President, I hope we do not wait one more year. I just came from a meeting, and over and over I heard it repeated, "Well, it will not be done this year because this is an election year." I have been here 5 years. Every year it is the same song: "We cannot do it this year. We will wait until next year."

Time is running out. We ought to act now. I think the American people are ready for leadership. I think they understand that nibbling around the edges of these problems is not going to solve them. And I think they are ready to support a decision by the Congress and the White House to actually face up to these problems. I think we would all feel better.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I understand we are in morning business until when?

The PRESIDING OFFICER. The Chair advises the Senator from Vermont the Senate is in morning business until the hour of 3:30 p.m.

Mr. LEAHY. Mr. President, I see nobody else on the floor waiting to speak. The Senator from Vermont is privileged to be sharing the floor with the distinguished senior Senator from Mississippi, who, of course, is a giant presence by himself here. But I noticed he was not about to speak. Of course, if he was, the Senator from Vermont would not say a word because he would want to hear what the Senator from Mississippi said.

That having been stated, the Senator from Vermont asks unanimous consent to be allowed to consume such time as he may need of the morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ASSISTANCE TO THE FORMER SOVIET UNION

Mr. LEAHY. Mr. President, I would like to speak on the question of assistance to the former Soviet Union. It is a matter I have discussed at some length before, and I think it is something that should be discussed more, not only in this body, but at both ends of Pennsylvania Avenue.

In this Chamber, we hear calls to action almost every day. I think sometimes we get a little jaded when we hear another appeal for leadership.

But if there ever was a time for leadership and action, that time is now. A once-in-a-lifetime opportunity to build a world of peace and international cooperation lies before us. The West, led by the United States, can give Russia and the other Republics of the former Soviet Union the moral and political and economic support they so desperately need. If we do that, we will do more to give our children a peaceful future than anything else I can imagine.

For several months I have criticized the administration's piecemeal, and backdoor approach to helping the former Soviet Union. I recognize it is a national election year. It is an election year for a third of the Senate. It is an election year for all Members of the House. It is an election year for the President. Sometimes election year fears can cause people to do things they otherwise would not do. Maybe, because of those fears, the White House has been reluctant to come out forcefully with a coordinated and comprehensive aid for Russia and the republics. If so, that is unfortunate. Instead of a comprehensive plan, the administration has chosen to give loan guarantees to the former Soviet Union, guarantees that probably will never be repaid.

Instead, the administration sends photo opportunity flights which took about enough food to feed one large Russian city for 1 day. We got to see it on our television sets here at home for several days. The food ran out before the television spot ran out. Instead, they have sent to Congress timid, symbolic aid programs that are never really going to make any difference.

Fortunately, there are others who felt differently. Senators BOREN and NUNN for example, last fall led us in providing significant aid to help the Russians through the winter and, also, to dismantle nuclear weapons. Congress did that without any help from the White House. I think, politically traumatized by the election of Senator WOFFORD, the administration became frightened of foreign affairs and they left it to Congress to show leadership on the Nunn-Boren proposal.

There are many in the administration who know better and have the ability to do better. I have a great deal of respect for them. But they are not providing leadership. As I have said, when I have criticized White House foreign aid gimmickry, I strongly support a serious program of assistance to the former Soviet Republics.

But I have also insisted that aid must be carefully coordinated with our Western allies and our friends. We cannot and we should not bear this burden alone. An aid program should be directly aimed at helping the forces of reform create the institutions of democracy and free enterprise so desperately needed in what was the Soviet Union.

To the great relief of all of us, the democratic forces in Russia and the other Republics of the former Soviet Union survived the winter. Spring is coming in Moscow, St. Petersburg and Kiev, and, with it, hopes that things will begin to get better. The Russian, Ukranian, and other peoples of the former Soviet Union have an immense capacity to endure. They have shown they will suffer terrible hardships for a chance at freedom and a better life for the years ahead. They have refused to fall prey to the promises of extremists of the old Communist order or the ultranationalist right. However, threats of a return to a totalitarian system remain just beneath the surface. That danger is real. We in the United States would be foolish to underestimate its strength. But so far the people's patience and courage are stronger than the forces who want to go backward, whether to Stalinism or to Great Russian nationalism.

Those of us in the West who have wanted to see reform have been extraordinarily lucky. The hopes for a peaceful transition to democracy and free enterprise in the former Communist empire remain alive and vibrant. Western confusion, indecision, inward preoccupation, and lack of leadership have not yet led to calamity.

But how long can the forces for democracy and reform survive without real inspiration, leadership, and help from the West? And how long dare we risk our national interest in a peaceful transformation of the old Soviet empire by confining our help to symbolic flights of food and loan guarantees that only deepen dependence on handouts?

More than anything else, the times cry out for bold leadership from the United States, the only country able to shape a concerted international aid effort. That leadership, even though we seek help in the Congress, must come directly from the Oval Office.

As a top priority, President Bush should pull together a bipartisan coalition in Congress behind an imaginative plan to support democracy in Russia and the Republics.

The fact is that there are Democrats and Republicans alike who would join with the President in answer to such a call. Many of us know we really have no more time for a show-the-flag kind of assistance to the former Soviet Union. They can understand gimmicks in that country just as well as the people in this country understand gimmicks.

No longer can we allow every executive branch agency and every petty bureaucratic vested interest to grab a little piece of the aid program so they can put on their resume: "I was involved in that." Far too much is at stake for Washington turf wars and bureaucratic power struggles.

So I urge the President to put forward as soon as possible a comprehensive aid program for the Republics, and to seek funding for it in a supplemental appropriation if necessary.

In fact, I think if you did this program in stand-alone legislation, it should combine everything we are doing, from agricultural credits to technical assistance, from humanitarian aid to technology transfer, from export promotion to institution building. It should deal with a ruble stabilization fund and the Republics' membership in the IMF. It should have mechanisms for coordination and burdensharing with our friends and allies.

The President's aid program should be dramatic and inspiring. It should seize the imagination of the American people, galvanize Congress, and send hope to the democratic forces in the Republics.

So let us stop squabbling over how many hundreds of billions of dollars to spend on defense. Instead, let the President ask Congress to shift a few hundred million dollars from cold war weapons to forge democracy and free enterprise in our former adversary. What greater way to strengthen our security than to help Russia and the Republics become democracies?

Mr. President, history shows democracies do not go to war against each other. Democracies band together to resist tyranny.

Perhaps our aid will not be on the level of the Marshall plan; we do not have that kind of money available, though in combination with other nations we could approach even the Marshall plan. But a plan put forward by President Bush should be as creative and courageous as was President Truman's leadership in forming NATO in the face of the Soviet menace.

Mr. President, foreign aid is never popular, and never more so than now, in a time of economic recession. But our national interest in helping the Republics make this dramatic transformation to peaceful democratic societies is so clear that all of us, the President and Republicans and Democrats alike in Congress, must be willing to act. Leadership is often politically risky, especially in an election year. But if we who are elected to do what is right for the future of this country are afraid to act, we do not deserve to be here.

After spending trillions to defend freedom against Communism, do we not owe it to our children and our grandchildren to build a world of peace, where they will not have to pour out the national treasure so lavishly on weapons of war?

And most important, Mr. President, we owe to our children and grandchildren to shape a world where they will not be asked to fight and die against nations which never again need be considered our enemies.

If the President will give us leadership, and come forward with a national plan for aid to the Republics, as chairman of the Foreign Operations Subcommittee, I will do my part. I am eager to participate in a bipartisan coalition in support of a bold new program to build democracy and freedom in the former Soviet empire.

I do not do this to help either party's political agenda. I do not do this to help either party in this great body. I do this for the sake of my children and some day for their children.

Mr. President, I yield the floor, but before doing so, I should not when I started speaking, there was no one else seeking recognition. I know, because I am involved in the next bill coming up, there would be no objection raised if somebody asked to extend the morning business time because we are in the process of working in the cloakroom on the matter which is supposed to come up next. I mention that to my good friend from Arizona and my good friend from Massachusetts who came in after I started to speak.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

PRIVILEGE OF THE FLOOR

Mr. McCAIN. Mr. President, I ask unanimous consent that a member of my staff, Diane Humetewa, be granted privilege of the floor during this period of my speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. McCAIN. I thank the Chair.

(The remarks of Mr. McCAIN pertaining to the introduction of S. 2388 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

EXTENSION OF MORNING BUSINESS

Mr. KERRY. Mr. President, I ask unanimous consent that the time for morning business be extended not to go beyond the hour of 4 o'clock.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR WARREN RUDMAN

Mr. KERRY. Mr. President, I would like to join with my colleague from North Dakota in mentioning a few words about the retirement of Senator RUDMAN.

It may well be that because of his experience in law enforcement as an attorney general, and the stories and shared experiences that we have related to each other of our work as prosecutors, that I feel a loss. It is also certainly because he is a graduate of the same law school, Boston College Law School, that I feel a closeness to Senator RUDMAN. But I also believe the Senate is going to be considerably less for the retirement of this public servant.

Senator RUDMAN has served with great distinction on a number of very difficult tasks, ranging from ABSCAM to the Iran-Contra Committee to the Ethics Committee. He has dealt with some of the most difficult, complicated, politically thorny issues, and I think all of my colleagues would agree he has done so with great good humor, with charity, and with unblemished integrity that has earned the respect of all.

I think New Hampshire is losing a great public servant. While he has not been in the Senate as long as some people who over the years have earned well-deserved reputations for the length of their service and what they have accomplished in it, he has made enormous contributions in the two terms that he has been here.

What strikes me particularly is that he has taken on most of the issues of public concern with a directness which makes us feel that he is one of the real straight shooters in the U.S. Senate.

One of the really nice things about this institution is that we earn friends, gain friends, across the aisle, across political lines. And it is really nice to be able to look at somebody like WARREN RUDMAN and feel not only the good things about him as a public servant, but also sense that friendship.

Senator RUDMAN is going to be greatly missed here for the quality of his contribution and service.

CAMPAIGN FINANCE REFORM

Mr. KERRY. Mr. President, I rise to talk about a subject which is at the heart of the dilemma that we face in this country today when we think about our political system and the stress that it is under.

The House banking scandal is really only the latest in a seemingly endless series of body blows that undermine people's trust in this institution and the Congress as a whole. I do not think there is one among us who does not feel an enormous amount of personal frustration right now about the ever-increasing public doubts about the integrity of this process, perhaps even the honesty of the democratic system.

It is interesting, on both sides of the aisle, in the course of the Presidential races, that there has been a very significant protest vote. Even today, as the distinguished Chair knows, in his home State of Connecticut, that protest vote is going to be well registered. And it is making a very significant statement about change and about the lack of connection between us, those who have been given the privilege of being elected to high public office and the people who have given us that privilege.

The clear challenge for those of us who care about our Government, who want to make it work and restore the bonds of trust between ourselves and the people of this country—is to undertake—changes to bring that connection together, to somehow get over the gap of cynicism, of disbelief, the feeling that somehow everything that happens in Washington is for the people in Washington, that those folks who are out there struggling to live by the standards that Washington establishes for them are somehow not taken into consideration in that process.

I think we have to face it. There is not any one thing that can happen here now—because of the level of the incline we have to climb to get back—there is not any one thing, any one piece of legislation, any one program that we can pass, or any single event that is going to create that kind of change that is necessary.

But I deeply believe that if there is one thing that could meet the cynicism and deal with the question of term limitations and all the other things that are circulating out there against incumbents, the most important thing that we could do to begin a healing process between ourselves and those that we purport to lead would be the enactment of comprehensive campaign finance reform.

Campaign finance reform is the solution to term limitations. I have—and all 99 other Members of the U.S. Senate have—a term limit today. Our term limit is 6 years. There is a term limit in the House of Representatives today. It is 2 years. But because of the campaign finance system in the United States of America, it is well nigh impossible in some districts for anybody to challenge that incumbent adequately; for somebody to run with the sense that any American who has a grievance or a legitimacy to their candidacy has the ability to vie for public office.

I would respectfully submit that all of those important ingredients of service to country that are recognized and experienced, and all of the down sides to term limits, would be far better met by having campaign finance reform that is meaningful than by anything else.

If we do not want to have the process of government turned over to a revolving door of freshmen coming to Washington every term who do not know what legislating is about, and who rely on a perennial staff that will not be subject to term limits, then we could ignore campaign finance. If we want to turn yet more power over to the Chief Executive of this country, then we could ignore campaign finance.

If we want to wind up making Congress people supplicants for jobs for everybody who walks into their office from the day they come here, then give them a term limit, because anybody who walks into their office may be their future employer. And who knows what then happens to legislation?

Last year, we took a major step in the right direction by approving a system of campaign finance spending limits, voluntary spending limits backed up by limited public funding, limited voluntary public funding which comes through a voluntary tax checkoff, just like the Presidential race.

That legislation would not only drastically reduce the perception, but the reality that big money influence over election campaigns and legislative process is what greases the system in the United States today.

I know people cringe when we say that. Colleagues cringe; lobbyists who are friends of mine in Washington cringe. People say: You know, boy, there is a discomfort somehow in talking about it, but the reality is this: You hear it in the dining room when you talk with people privately; you hear it in conversations with Senators when they talk about the idiocy of three or four people from the east coast winding up in Midwest America at the same hotel raising money the same night rather than being back in their districts representing people.

You hear it. You know it is the truth here. And the truth is that money creates access, money creates influence. What you wind up with is such powerful countervailing forces represented by that money that you get the gridlock that the President of the United States has referred to; you get no action. You get the insurance industry on this side; you get the banking industry over here, and they are all contributing significantly, and they diminish the power of any ordinary individual to be heard.

Anyone who takes a cursory look at the funding of individual campaigns can see the correlation between the numbers of different interest groups supporting that person, and the committees on which they serve, or the legislation that they have been involved with in the Senate. And everyone also knows that is the same kind of ticking time bomb that we have been dealing with here in terms of the Ethics Committee and choices that we make about who gets helped and who does not get helped.

Campaign finance reform would be the single most important thing that we could do to wipe away the strain, wipe away people's sense that this institution is not in touch with the average citizen of this country, but somehow cares more about the Beltway, as it is referred to, and those who have access within it.

I might add that campaign finance reform does not strip away from people their capacity to organize politically. It does not strip away their capacity to have influence around ideas. Indeed, they could still influence, still push, but the central theme of decisionmaking would not be around the campaign coffers; it would rather be around the issues themselves and the kinds of ebb and flow that you feel in this country by those who are pushing those issues at the grass roots. Campaign finance reform would help enormously to return the political process to the American people, each person with a single share, a single vote, an equal opportunity to be able to influence the politics of this country.

Why do I stand up here today and raise this subject, when it is not on the floor? Well, it appears that the campaign finance reform bill may be blocked once again this year, by becoming yet another victim of government by veto. There are two reasons for this, and they both have to do with President Bush. President Bush objects to spending limits, as do many members of the Republican Party, and he refuses to support even limited voluntary public financing, where each American can decide whether or not on his or her tax form they simply want to check off $3 or $6 of their tax bill to give them elections that are free of influence. That is what we are buying here. We are buying liberation from the current imprisonment that the U.S. Congress has to money.

I think, if most Americans were given a choice between having the incredible amounts of money spent in campaigns, and the amount of money that we have to go out and raise, directly attached to our efforts, versus their giving $3 or $6 to guarantee that people can run without the influence of political action committees and big dollars, I believe the American people that is, in fact, what they would choose.

I want to quickly look at the President's two objections to this bill. First of all, he opposes spending limits. He says that is a partisan ploy, a devilish scheme cooked up by Democratic incumbents to prevent their potential opponents from outspending them. Think about that. I cannot recall a single argument that has been so seriously advanced for so long by so many substantive people that is really so outrageously and self-evidently flat out wrong. Ask anyone what is wrong with the current system—and I alluded to it earlier—and they will tell you that it is the incumbent's advantage of attracting money. It is not a question of whether Democrats or Republicans will have more money to outspend. It is that incumbents have more money to outspend. And incumbents, therefore, intimidate the other people who might consider running from even getting into a race, because they cannot hope to be competitive and buy the kind of television time and advertising time that you need in order to be able to run. In 90 percent of the races or more, the incumbent has an enormous fundraising advantage. Only a small fraction of the races, nevertheless, have been truly competitive.

Now, in this particular bill that we have pending, we have a voluntary system. You can choose to live with it or not live with it. The only penalty is, if you choose not to live with it, then the system provides an equal amount of money to your opponent so he or she can be on an equal footing. I ask people, what could be fundamentally more democratic than to allow two people of different parties—or of major parties, if their are more than two—to be able to have equal access to take their ideas to the American people and give the American people a legitimate choice about office? That is one side.

The other side of the President's argument. The President suggests that public funds should not be used to finance election campaigns in our democracy. This argument is, No. 1, flawed in its reasoning, but, No. 2, this argument, Mr. President, is extraordinarily hypocritical. The President wants us to believe that it is wrong for us to use voluntarily contributed $3 or $6 by any American who decides they want that money to go to the election process. And he keeps saying, we are not going to tax Americans to pay for politicians.

Well, that sounds great, given the status of most politics in America today. That is a pretty easy applause line, a pretty good way to go to people and get them angry. But if you really give Americans the choice that putting their $3 or $6 into the system voluntarily as a way to guarantee that the politicians are, in fact, accountable to them and that any one of them might have the chance of running for high public office and representing the best interests of this Nation, I submit that on those terms, people would not react violently to the concept of public funds being spend.

More important, I said it is hypocritical. Why is it hypocritical for the President to make this argument? Well, the fact is, the President is about to become the single largest recipient of public money for campaigns in the history of the United States of America. The President, President Bush, will have accepted more tax money to run in his campaigns than any other President of the United States or any other politician in American political history.

Four years ago, President Bush's campaign took in $54.5 million in public money. This year, when he is nominated—and it appears he obviously will be—he will take another world record amount of money, some $60 million. If you add in the totals that he took in when he was Vice President and running with President Reagan, he will be politics' first $200-million public expenditure man—$200 million that the President of the United States has spent in tax dollars running for office. But he has the gall to stand up and deny that same treatment to Americans for the rest of their elected officials in order to distance them from the very evils that brought us the system that he takes advantage of.

So, Mr. President, I believe the President knows full well that public funding works. It does work. It is cheaper than today's system because today's system is costing Americans billions of dollars for all the kinds of things that individual companies or individual donors and others manage to manipulate in Washington to provide them in the absence of a fair system.

Back in 1972, when President Bush headed the Republican National Committee we saw firsthand what out-of-control solicitations were doing.

And the Committee To Reelect the President back in that period of time we all recall produced Watergate, and Watergate produced the first round of reform in campaign financing.

The fact is we have not had another round of reform since 1974 when we wound up with the current system that we work under. I think most people feel that the current system is out of control and it needs reform.

I would like to call my colleague's attention to the words of former Senator Paul Laxalt from Nevada. He was chairman of the Ronald Reagan campaigns in 1976, 1980, and 1984. Here is what he said just before he left the U.S. Senate. He said:

> There is far too much emphasis on money and far too much time spent collecting it. It is the most corrupting thing I see on the congressional scene. The problem is so bad that we ought to start thinking about Federal financing of House and Senate campaigns. It was anathema to me but in my experience with the Presidential campaigns it worked and it was a breathe of fresh air.

So what is most important to remember and what President Bush seems to want us to forget is that public financing is not politician financing. Politicians are going to find the money no matter what. They are doing it today. Public financing is liberation politics in the context of our current predicament. It was precisely what would eliminate the problem.

A system of spending limits, backed up by public funding is more accountable. It is not less corrupting. It is paying for a better democracy. And anyone surveying the political scene today who does not believe that changing the system is one of our higher priorities obviously does not understand what is happening out there in grassroots America.

The provisions in the bill that the Senate passed and which we could put into law this year would go far in helping to cure our current problem. The bill actually encourages the democratic process in our own States because it allows people to raise money outside of the limits in small contributions in their own State. That places a premium on getting out in your State and having living room meetings, coffees, all kinds of methods of small donor fundraising. It will bring people back into the system and restore their sense that small dollars do make a difference and it all is not big dollar money.

I think every single one of us can today look at the Keating affair, look at the House right now, look at choices people had to make about the savings and loan scandal and see the consequences of our past failure to reform company finance laws. All of us threatened with the possibility that someone who contributed at some point in time will later get into trouble and subsequently an opponent will use it against you, even though there was no way of knowing that that person might have been on the verge of being in trouble, we can see the failings of the current system, too. Campaign reform, of the kind we have passed here already and which the President threatens to veto would literally remove us and distance us from the kinds of things that are giving the people the sense that this institution is not theirs.

Mr. President, I believe that moving ahead with campaign finance reform is the best way really to be able to distance us from the stain. It is the best way to restore integrity. It is the best way to give us back our own time to legislate. And it is clearly the best way to restore democracy.

Twenty-five years ago Robert Kennedy warned that:

> We are in the danger of creating a situation which our candidates must be chosen from among the rich or those willing to be beholden to others.

I fear that the U.S. Senate today in its makeup is closer to that than ever before.

The time has come to create a better and more accountable democracy. The time has come for action to clean up the political system, and everybody in America knows that.

So I believe that we would be greatly helped if the President of the United States, the single biggest user of public money, that person who has wielded his veto pen on almost everything else we put before him, would put down the veto pen and pick up the challenge of administering to the needs of this country and of helping to heal our political process.

Mr. President, I yield the floor.

EXTENSION OF MORNING BUSINESS

Mr. KERRY. Mr. President, I ask unanimous consent the time for morning business be extended to the hour of 4:20 p.m.

The PRESIDING OFFICER (Mr. FOWLER). Without objection, it is so ordered.

The Senator from Connecticut [Mr. DODD] is recognized.

Mr. DODD. Mr. President, we are still in morning business?

The PRESIDING OFFICER. The Senator is correct.

CAMPAIGN FINANCING

Mr. DODD. Mr. President, before my colleague from Massachusetts leaves, and I intend to talk on a subject that is somewhat different than the subject he addressed, I wanted to commend him for his comments and remarks. He is absolutely correct. While the Senator from Massachusetts is not a candidate this year, the Senator from Connecticut is in that situation and is out today trying to raise dollars for a campaign.

I can tell you firsthand exactly what the Senator from Massachusetts described is correct, and it is wrong, and the costs continue to skyrocket. And until we decide we are going to come to terms on this and have a far more intelligent way in which to support these candidacies and allow the people to enter the contests on some sort of equal footing, then I think the American public will be shortchanged.

Some have suggested a constitutional amendment to limit the amount of funds to be spent in a campaign. I am for that. In fact, think that is the easiest way to deal with it. It will take a constitutional amendment because the Supreme Court ruled that, unless we decide we are going to declare for the purposes of Federal elections, money is not speech. We have no way of depriving anyone of raising the kinds of dollars that we are being subjected to.

The only way to get out of that fix is through some form of public financing, and I think the American public would be well served by that particular approach on a voluntary basis. I think many people would applaud it and welcome it. I think we would end up with a far more intelligent electorate in this country than the one we are under.

I commend the Senator from Massachusetts for his remarks.

AMERICAN CHILDREN: LEFT BEHIND IN THE 1980'S

Mr. DODD. Mr. President, I rise this afternoon to raise the issue that was brought to so many people's attention a little over 48 hours ago in a study called Kids Count. This is one of the most reliable groups in the country in reporting the details of what is happening to children.

These results should have shocked the conscience of every single person in this country regardless of party, ideology, or where you came from in this Nation of ours. It is a stunning indictment of what has happened to children in our society when you realize how shortchanged they have been over these last 10 years.

We hear all of the rhetoric, from every single person running for office or holding office, about how we have to get the country going again. We hear that we have to make changes in our Tax Code to encourage expanding investment opportunities and increased job opportunities to become a society that deals with the technological changes, with more skilled, better prepared to face the challenges of the 21st century. But all of these things we might do about the Tax Code, all those things we might do to encourage manufacturing and move into the high technology areas are going to be for naught, absolutely for naught, unless we have a work force by the end of this decade, and going into the 21st century, that is capable of meeting the challenges that the 21st is going to present us.

Yet if you look at the data that came out of this Kids Count study, then the answer ought to be quite clear. If we continue to follow our present path, our abilities to meet the challenges in the 21st century, or for that matter even the remainder of this decade, are going to fail.

Over the past decade the condition of American children has worsened in 33 States, where 82 percent of all children in our country now reside.

The third annual Kids Count report released just yesterday, Mr. President, documents how children are doing nationwide and State by State. It grades each State's comparative performance on key measures of a child's well-being.

I commend the Center of the Study of Social Policy and the Annie E. Casey Foundation for their work in tracking these trends.

Unfortunately, Mr. President, the picture, as I said a moment ago, is rather bleak. In most of the benchmarks, we are doing worse today when it comes to our children than we were at the beginning of the 1980's.

Here is a little chart. It outlines some of these statistics. In each of the areas except one, we are far worse today than we were a decade ago.

The percentage of children living in poverty, this first number, is 22 percent worse today. We have far many more children living in poverty, 22 percent more in 1992, than we did at the beginning of 1980's.

In the case of low birth weight babies, we have 3 percent more problems than we did 10 years ago.

Infant mortality is the one area we are doing better in than we did a decade ago.

In the area of percentage of all births to single teens, that is up to 14 percent than a decade ago. The percent of children in single-parent families—13 percent more in the early 1990's than a decade ago. Avoidable violent death rates between 15- and 19-year-olds are 11 percent worse than a decade ago. Juvenile custody rates are 10 percent worse than they were a decade ago, and the percentage of graduating high students shows no change at all. We are as bad as we were a decade ago, where the numbers have hovered around 20 to 25 percent, but as high as 60 percent in our inner cities.

I just remind my colleagues, Mr. President, before this school day ends, 4,000 more children will have dropped out of school. And every single day that the 3 o'clock hour arrives in your community, just remind yourself that 4,000 more kids are not in school that day than were the day before.

Compare those rates with our major economic competitors' in Western Europe or Japan where their dropout rates are less than 1 percent of their student population. Yet people run around and give speeches about how strong we are going to be, how economically vibrant we are going to be in the 21st century. The fact of the matter is if these children do not have the education and the skills and the health and the housing and the love and the care that they should be getting, then the likelihood of reaching those lofty goals, which are included in speech after speech, are not even going to be remotely met, in my view.

The state of America's children is indeed shocking. Yet, if we were honest with ourselves I suppose we should not be shocked at all because we have not made the investments that would have helped improve our children's chances. Over the past decade, Federal spending on children grew at only one-fourth the rate of the budget as a whole.

We have talked about how this budget has mushroomed and grown over the last 10 years and it has, not for one group of people: children. They do not vote, they do not make political contributions, they do not belong to political action committees. They are just one out of four of every one of us. Their budget increases—if you will, the Federal investments in them—have been only one-quarter, 25 percent, of increases in the budget as a whole. The portion of the Federal budget spent on children declined, in fact, by 15 percent in the last 10 years.

President Bush persists in playing, in my view, a budgetary shell game with children's programs. For the fiscal year 1993 he has proposed increased funding for a few of the high profile programs while cutting less visible programs that serve the very same families.

While we hear a lot of rhetoric from all sides about caring for our children, the bottom line is clear—kids really do not count. What is most appalling is that we now know how to address many of these indicators in the Kids Count report card. This is where I would like to share this second graph. It is based on analyses done by nonpartisan groups. This is not a chart prepared by Republicans or Democrats or people who have a particular axe to grind. These are well-established statistics about what can happen if we are willing to make greater investments in these children despite the fact they rarely get heard around here.

Let's take some of the key programs that we know make a difference. The Woman Infants and Children Program—there is no debate around here about the value of that program. But we are only serving about 60 percent of all of the eligible children in that program. Yet we know for every dollar we invest in that WIC Program, in those prenatal programs, we save $3 in short-term hospital costs.

Today, by not investing that $1, we pay those costs. By not making the investment and trying to deal with these preventable diseases with Medicaid, 50 percent of poor pregnant women and children are not served in this country.

Childhood immunization. This ought to be a simple one. This ought not to be complicated. Yet we are missing 30 percent of our children who are not being immunized every year because we do not put the money into it—this simple thing, child immunization. Is there anybody in America who is opposed to serving 100 percent of our children in immunization programs? Yet every time we fail to invest $1 in those 30 percent, it costs us $10 for every one of those children who are not being served by that program.

Employment and training, Job Corps—again, we know it works, giving these kids the kind of skills they are going to need to meet the job requirements of the new technologies. Three percent of unemployed teenagers are served by job training programs; $1.45 is saved for every $1 you invest in that.

Head Start—how many Americans do not know what Head Start is? I think most people know what it is. It has worked for a quarter of a century. We are serving 32 percent of poor 3- to 5-year-olds; everybody knows it works.

Mr. President, when I authored the Head Start reauthorization bill a couple of years ago, we made major changes in it. I came to the floor of this Chamber prepared to do battle with some opponents who did not like Head Start. No one showed up. There was not a single voice raised by any one of 99 other U.S. Senators in opposition to Head Start. Everybody believes in the value and the merit of that program. Yet only 32 percent of our children are being served. For every dollar you invest in it, you save $4.75 in special education, public assistance and crime because the kids are not getting the value of that program. Chapter 1 funding, the neediest, remedial education program—we are serving only 50 percent of our children. For every $1 you invest in that program, we are told by objective analysis that you save $6.67 in the cost of repeated grades for children who are not meeting the standard they should.

Education for disabled children, the Federal Government is not honoring its commitment to share costs in this area. We do not have the exact percentage, but again we are told for every $1 you spend here, you save $1,500 per disabled pupil.

Mr. President, it seems quite clear here if we would make some modest investments, $1 for each of these areas, those are the tremendous savings we make. Otherwise, we ultimately pay and we are paying now. We are paying them already.

So I hope as we look at this Kids Count report, that maybe in these budget debates and the like, we can raise the level of awareness and get people to be more interested, and not only to speak about children and to talk to their constituents about them, but to actually go back and say we are trying to do something. That is why I take the floor this afternoon, to raise the profile of these issues.

I go back to the point I tried to make at the outset. Even if you do not care about these issues on a moral or ethical basis, if you are only impressed by the fiscal, the financial questions, it seems to me that everyone ought to come to some agreement that it makes sense to try and give to those who are least capable of being heard. Children do not get heard, they cannot speak for themselves. It is up to those who understand what is going on in this country to try to make a difference and try to see that their voices are heard.

Let me also say in conclusion on these points, I do not believe that all the answers reside in authorizations or appropriations. There are many things that individuals can do, like mentoring programs, volunteering to go in and tutor children. It does not cost anybody anything but some time and it may save us dollars when people in this country are willing to reach out and find ways in which to take their talents and their experiences and their abilities, and share them with a child: Big Brothers, Big Sisters, programs that are supported by our local businesses. There are 200,000 public-private partnerships in this country. That is a way people can plug in and provide some help. Boys clubs, girls clubs, YMCA's. I will guarantee that in almost every single community in this country there is a program that exists that, if you care about these issues, you can step forward and volunteer and help. Because, believe me, if we do not come together, if we do not work together on these issues, all of the rhetoric and all of the speechifying about children and caring about them does not amount to a thing.

So, Mr. President, I hope people pay attention to this study. Take hard note of these statistics—they are real. They are going to affect this country's well-being. They are going to determine largely whether or not this Nation is going to remain in a first-class status or slip to some second-class or third-class status in the next decade. These are the critical issues facing this country, Mr. President.

My hope is that this Congress and this President can stop the finger pointing and can come together and get something done in these next few months because the only people we are hurting besides from ourselves are the very people we try to represent.

Mr. President, I yield the floor.

Mr. LEAHY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana is recognized.

Mr. BAUCUS. I thank the Chair.

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 2395 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

JUSTICE REFORM IN GUATEMALA

Mr. LEAHY. Madam President, as chairman of the Foreign Operations Subcommittee I have emphasized the importance of encouraging and supporting the protection of human rights. Each year, as my subcommittee decides how much foreign aid to give to different countries and programs, we have looked carefully at what the governments that are requesting our aid are doing to protect human rights. One such country is Guatemala.

Few countries in this hemisphere can boast of more geographical and cultural beauty than Guatemala, with its magnificent mountains and forests inhabited by the descendants of the Mayas. Yet, in a region plagued by years of violence, few countries have endured a more tragic history than Guatemala.

The mercilous slaughter of tens of thousands of Guatemala's Indians in the late 1970's and early 1980's is well-known. It is often said that compared to those unspeakable years, the human rights situation in Guatemala today is improved. That is true, but partly because it is only possible to murder the same person once.

That scorched earth campaign, as it was known, not only decimated the guerrilla insurgency—the less than 1,000 remaining no longer pose a serious challenge to the Government, it also terrorized the Indians who were seen as potentially threatening to the large landowners whose wealth depended on the Indians' subjugation.

The stark inequities that divide a rightist oligarchy, backed up by the army, from the impoverished peasantry who make up the rest of Guatemalan society, remain intact. Human rights abuses—abductions, torture and murder—by the Guatemalan security forces and civil patrols continue at levels unmatched by few if any countries in the hemisphere.

In recent years, Guatemala has elected successive civilian Governments, and President Serrano, like his predecessor former President Cerezo, has spoken publicly about the importance of human rights. He has also said he wants to negotiate an end to the guerrilla insurgency.

Despite these welcome statements, the human rights situation remains largely unchanged. There has been virtually no progress in bringing to justice those responsible for the major human rights atrocities of recent years. In a report issued last month, the State Department said "the number of politically motivated killings, though fewer than in 1990, was very high. * * * Most of these killings are credibly believed to have been committed by the armed forces. * * * The security forces are virtually never held accountable for human rights violations. With few exceptions, the Government failed properly to investigate, detain and prosecute perpetrators of extrajudicial and politically motivated killings."

In addition, despite efforts by the United Nations to facilitate the peace negotiations, no discernable progress has been made.

In recent years, the United States has tried to support democracy in Guatemala. We provided substantial economic aid to the Cerezo government and have continued to support the Serrano government. Last year we gave over $60 million to Guatemala, not counting food aid.

But we have also warned the Guatemalan Government that future aid to that country would depend on its efforts to improve human rights, including bringing to justice those responsible for the murders of several human rights activists and American Michael Divine, and the abduction and torture of Sister Diana Ortiz. According to the State Department, there has been no progress in any of the murder cases, and the "Army High Command continued to impede a thorough investigation into the murder by army personnel of * * * Michael Divine." In the Ortiz case, a special prosecutor has been appointed but the case has languished.

Countless other cases of torture and murder, in which the security forces are implicated, remain unvestigated.

Madam President, I mention this bit of history as a preface to what I want to say next. Perhaps it is because I am an optimist at heart, but despite this dismal record of violence and impunity, despite all the broken promises and declarations and words of concern about human rights that have amounted to little more than that—words, there is reason to be cautiously hopeful about the future of justice in Guatemala.

A few months ago, the Guatemalan Legislature elected a new President of the Guatemalan Supreme Court. For the next 6 years, this man, Juan Jose Rodil, will oversee the entire Guatemalan justice system. Unlike our own Supreme Court Justice, he is the administrator of all the lower trial and appellate courts.

Justice Rodil has declared his intention to reform and restructure Guatemala's criminal justice system—a system so plagued by corruption and so manipulated by politics that it has lost all credibility. According to the State Department, "the judicial system is virtually ineffective in human rights cases. Most human rights cases are never investigated."

This undertaking is fraught with dangers, but it is Guatemala's only hope if there is to be any real protection of human rights, or any real democracy in that country.

One of Justice Rodil's stated goals is to develop a capacity to conduct real oversight of lower court judges, which is his responsibility, to ensure that corrupt judges are got rid of and the law is applied fairly.

Other plans include creating a criminal investigation capacity under the authority of the courts instead of the Army or National Police, establishing municipal courts and forensic medical facilities in each of the 330 municipalities, providing training for judges, investigators and prosecutors, and focusing attention on the most serious unsolved murder cases.

The United States has tried for years to improve and modernize the Guatemalan criminal justice system, largely to no avail. Justice Rodil is not the first Government official to declare his commitment to reform the Guatemalan justice system, and it will be months if not years before we know whether he is capable of turning rhetoric into reality. While I am not able to judge the merits of each of his planned reforms, many of them are basic to any effective justice system.

I urge President Serrano to support Justice Rodil's efforts, and the Bush administration to do the same. In my capacity as chairman of the Foreign Operations Subcommittee I intend to follow his progress closely.

HUMAN RIGHTS IN INDONESIA

Mr. LEAHY. Madam President, for as long as I have been a Senator, including the last 3 years as chairman of the Foreign Operations Subcommittee, I have received reports of widespread human rights abuses by Indonesian security forces, particularly in Aceh and East Timor. According to the State Department's Country Reports on Human Rights, released in February 1992, Indonesian "government forces clearly appear responsible for the majority of ['hundreds, perhaps thousands'] of civilian deaths" in Aceh, but "no charges have been brought against members of the security forces in connection with the civilian deaths." That report also states that "credible reports of torture and mistreatment, including rape, of criminal suspects, detainees, and prisoners were frequent," but "there were no known instances in 1991 of officials being punished for mistreatment of political prisoners or detainees. * * * Corruption permeates the Indonesian legal system. * * * [T]he use in trials of forced confessions [is] reportedly common."

This is only the latest report of systematic human rights abuses by Indonesian soldiers and police. Amnesty International, Asia Watch, and other human rights groups have documented these kinds of abuses for years.

On November 12, 1991, the world was shocked by the massacre of civilian demonstrators by Indonesian soldiers in Santa Cruz, East Timor. From 50 to more than 100 people were shot, knifed, or clubbed to death, and at least 90 are still missing. Although the Indonesian Government appointed a commission to investigate the killings, the commission's preliminary report blames the demonstrators for the soldiers' response. Several members of the commission were army officers who received training from the United States. Human rights groups have severely criticized the commission's investigation and findings, and continue to report ongoing arrests and torture of political opponents by Indonesian security forces. The State Department concluded "there is no evidence that the use of such deadly force was justified," but praised the commission's report and President Suhuarto for apologizing for the killings and disciplining several officers.

The Indonesian Government has announced that it will demote or transfer six officers, and bring criminal charges against eight soldiers who were involved in the killings. This is unprecedented and commendable. However, it is also prosecuting several of the demonstrators for subversion, a capital crime, and access by the press and human rights groups to East Timor has been severely restricted. It is too soon to say whether the Indonesian Government's response to this tragedy will be adequate to deter future abuses.

Madam President, I am disappointed by the State Department's response to the November 12 massacre. It has commended the Indonesian Government despite the continuing abuses in the aftermath of the massacre, despite a report that attempts to shift blame for the tragedy to the demonstrators, despite statements by top army officials that the demonstrators got what they deserved, and despite the fact that so far it is the demonstrators who are facing charges carrying the death penalty, not the soldiers who fired the shots.

Over the years, the United States has provided hundreds of millions of dollars in aid to Indonesia, including training for Indonesian army officers. Indonesia has also purchased millions of dollars in lethal military equipment from the United States, including M-16 rifles which were used on November 12. Indonesia is also a beneficiary of large loans from the World Bank and Asian Development Bank, both of which receive large contributions from the United States.

State Department officials have urged against any suspension of aid to Indonesia. They argue that it gives them leverage to address the human rights problems there. It is a familiar argument, but what did they do with that leverage during all those years that we gave millions of dollars to Indonesia despite the human rights abuses? Even the State Department acknowledges no member of the Indonesian security forces was brought to justice for those crimes. The November 12 massacre and the arrests and beatings since then speak volumes about the State Department's use of leverage.

Madam President, Indonesia is the fourth most populous country in the world. It has urgent development needs, and the United States has great economic interests there. But so do we have a responsibility to support human rights, particularly in countries that receive our aid. This is a policy I have pursued as chairman of the Foreign Operations Subcommittee, and which I will continue to emphasize. We should be clear about what the Indonesian Government should do if it expects our support to continue. At a minimum, it should:

Cooperate fully with U.N. human rights initiatives, including an international investigation of the Santa Cruz massacre;

Fully account for the bodies of those killed in the massacre;

Bring to justice members of the security forces responsible for human rights abuses, in particular those committed during and after the Santa Cruz massacre;

Permit free and regular monitoring of human rights in East Timor and Indonesia by domestic and international human rights organizations;

Establish a registry of detainees that is readily accessible to human rights groups, lawyers and the public;

Permit international observers at political trials, in particular those of East Timorese arrested in connection with the Santa Cruz massacre; and

Release those imprisoned for their nonviolent political activities or beliefs.

Madam President, I urge the administration to insist that the Indonesian Government take at least these steps to demonstrate its commitment to protecting human rights. The history of Indonesia's treatment of the people of East Timor and Aceh requires no less.

PETER J. CROTTY

Mr. MOYNIHAN. Madam President, I rise to mourn the passing on March 3, 1992 of Peter J. Crotty, lawyer, civic and party leader, and public servant of Buffalo, NY. I knew Peter Crotty for 35 years, from the time that I was a young assistant secretary to Gov. Averell Harriman. My strongest memories of him go back to the 1958 New York State committee meeting at which he was nominated to run for attorney general. The meeting itself, held in Buffalo's old Memorial Auditorium, was a disaster. The only good thing coming out of it being Crotty's nomination. Peter Crotty lost the election to Jacob Javits but then Harriman lost to Nelson Rockefeller. And New York's Democratic Party was in tatters. Torn apart by the mutual distrust of its reformers and its regulars.

At the risk of simplifying a most complex subject, it can be said that the reformers, accustomed as they were to success in every other sphere of life, simply could not understand how and why people like the regulars should have come to dominate them in the party offices and legislative posts, and therefore they have resorted to bossism as an explanation. On the other side the party regulars regarded the liberals as pushy, arrogant newcomers who did none of the work in turning out the vote and yet got all the gravy.

Peter Crotty should have been called on to save the party from itself. Following his election in 1960, President Kennedy wanted a new State chairman to replace Mike Prendergast of the Bronx. Prendergast was the quintessential regular. Politics, Prendergast style, was a decent, quiet, family affair, and the highest priority was assigned to those things which kept it so: patronage, small and not-so-small favors, the strict observance of the complex prerogatives of party members on various levels. Issues in the world of Prendergast were viewed as essentially divisive influences that one would hope to do without. But Kennedy and the reformers wanted him out—so he had to go.

As I wrote some years later:

> In casting about for a Catholic liberal to succeed Prendergast, the President chose Peter J. Crotty of Buffalo. Crotty is a working politician from a big, ugly, turbulent city, where tens of thousands of Democrats but very few liberals live. He has managed to bring together a baffling collection of Democratic factions to produce an effective party organization in Buffalo. He is a man of intellect, a diligent student of Catholic social theory, a formidable labor lawyer, and a passionate believer in racial equality. (He once resigned as county chairman when the party balked at making the first major negro political appointment in Buffalo. The party gave in and he withdrew his resignation.) Given all this, Crotty should have been acceptable as state chairman both to the regulars and to the liberals. But the depth of the Democratic division turned out to be deeper than anyone knew, and the New York reform movement promptly announced that Crotty was unacceptable. The reason was visceral rather than logical, much as was the Liberal party's refusal to endorse Crotty when he ran for state Attorney General in 1958. Organized liberals cannot help being suspicious of the liberalism of Irish Catholic county leaders who are at ease on city councils and who get along with police chiefs.[1]

In all events, Peter Crotty did not get the job. He returned to Buffalo cheerful as ever. And to work. He lost nothing for his efforts but New York's democracy lost a great deal. For Peter Crotty represented all that was lacking in our politics in 1961 and all that is lacking this day. We will miss him greatly.

Madam President, I ask that obituaries from the New York Times and the Buffalo News be printed in the RECORD.

There being no objection, the obituaries were ordered to be printed in the RECORD, as follows:

[From the New York Times, Mar. 4, 1992]

PETER J. CROTTY, DEMOCRATIC FORCE IN WESTERN NEW YORK, DIES AT 82

(By Sam Roberts)

Peter J. Crotty, the erudite kingmaker who dominated Democratic politics in western New York as the party chairman of Erie County and was a force in the campaigns of John F. Kennedy for President and Robert F. Kennedy for the United States Senate, died yesterday at Mercy Hospital in Buffalo. He was 82 years old and lived in Buffalo.

He died of a heart attack, his son James said.

Mr. Crotty was elected president of the Buffalo City Council in 1947, but he was far more successful in elevating other candidates. He was also the patriarch of a dynasty of public servants, including Gerald C. Crotty, who resigned last year as Gov. Mario M. Cuomo's chief of staff, and Paul A. Crotty, a former New York City finance and housing commissioner.

"They are an Irish clan in the most complete sense of the word," said Timothy J. Russert, former counselor to Mr. Cuomo and now an NBC executive, who was Gerald Crotty's high school classmate.

SON OF IRISH IMMIGRANTS

Peter J. Crotty was born and raised in Buffalo, the son of Irish immigrants. His father was a longshoreman. Mr. Crotty worked his way through Canisius College and the University of Buffalo Law School by sorting mail at night at the Buffalo Post Office. After he graduated, he began his government career as a lawyer for the National Labor Relations Board in Buffalo during the administration of Franklin D. Roosevelt.

In 1945, he formed a law firm, McMahon & Crotty, and represented, among others, locals of the steelworkers, teamsters, longshoremen and carpenters in western New York. He continued to practice law until his death and was also a member of the Statler Foundation, which awards grants to schools and students pursuing careers in the hotel and restaurant industry.

After serving as Council President until 1951, he ran unsuccessfully for Mayor of Buffalo in 1953. Five years later, he was nominated for Attorney General on the slate topped by Gov. W. Averell Harriman, but lost in the Rockefeller landslide to Louis J. Lefkowitz.

His greatest political success was not as a candidate though, but in orchestrating campaigns for others as the Erie County Democratic chairman from 1954 to 1965. One of those was John F. Kennedy, for whom he helped swing the New York delegation. The next spring, he was invited to the White House in what was widely viewed as the President's anointment of Mr. Crotty as Democratic state chairman.

BRIDGED BOSS RULE AND REFORM

Mr. Crotty, said Richard Wade, a professor of urban history at the City University of New York Graduate Center, "was a bridge between the old days of boss rule in the Democratic Party in New York and the emergence of reform."

As a boss, he was never fully embraced by the party's reform faction, although he subsequently reconciled with the wing of the party led by Mayor Robert F. Wagner in New York City, and was a pivotal player in delivering the Senate nomination to Robert F. Kennedy in 1964 and the gubernatorial nomination to Hugh L. Carey in 1974. He was elected as a delegate pledged to Senator George McGovern at the 1972 Democratic national convention.

In 1965, Mr. Crotty retired as county chairman. He was succeeded by a protégé, Joseph F. Crangle, with whom he also frequently feuded. His expected Federal appointment to a judgeship or ambassadorship never materialized.

But the public careers of his children contributed to his legacy. In addition to Gerald, who was Mr. Cuomo's counsel and secretary and is now a vice president of the ITT Corporation, and Paul, who returned to private practice in Manhattan after serving in the Koch administration, another son, Peter, was a counsel to two state agencies and still another, James, a lawyer, unsuccessfully sought the Erie County Democratic chairmanship in 1978.

Mr. Crotty is survived by his wife of 52 years, Margaret McMahon Crotty; six sons, Peter and Gerald of Albany; Paul, Robert and Kevin of New York City and James of Buffalo; a daughter, Mary Jo Shapiro of New York City, and 25 grandchildren.

[From the Buffalo News, Mar. 4, 1992]

PETER J. CROTTY, LONGTIME POWER IN DEMOCRATIC PARTY, DIES AT 82

(By George Borrelli)

Political leaders and the legal community mourned the death Tuesday of Peter J. Crotty, a Buffalo attorney who attained national recognition in the Democratic Party.

One of the warmest tributes came from Gov. Cuomo, who said the state had lost "one of its grand citizens."

"In many important public and private roles, his dignity, his great quiet strength and his unflagging commitment to the larger community demonstrated his religious faith in a practical and uplifting way that gave instruction and inspiration to the whole world of people who were fortunate enough to know him," Cuomo said.

Former Gov. Hugh L. Carey said Crotty was "a great friend, a gentleman's political person who knew the game of politics."

"He was the most friendly New Yorker I ever met," added Carey, who recalled staying overnight at Crotty's South Buffalo home during his 1974 campaign for governor. "I think it may have been the luck of the Crotty house that got us elected."

Crotty, a political power on several levels for nearly 50 years, died Tuesday (March 3, 1992) in Mercy Hospital. He was 82.

Prayers will be said at 9:15 a.m. Friday in the Nightengale Funeral Home, 1884 South

---

[1] Daniel Patrick Moynihan, COPING, On the Practice of Government, New York, Random House, Inc., 1974, p. 66.

Park Ave., followed by a Mass of Christian Burial at 10 in St. Thomas Aquinas Church, 450 Abbott Road. Burial will be in Holy Cross Cemetery, Lackawanna.

State Supreme Court Justice James B. Kane, Jr., administrative judge in the 8th Judicial District, said Crotty, who served as Erie County Democratic leader from 1954 to 1965, was "the last of the strong political leaders."

Crangle's successor as Democratic county leader, Vincent J. Sorrentino, said Crotty was "a significant force" in the Democratic Party and "left an imprint on the party and community that will stand for years to come."

At the time of his death, Crotty was the senior member and chairman of the Statler Foundation, to which he was named a trustee in 1961.

Crotty in 1959 became the first major Democratic county leader in the nation to endorse John F. Kennedy for the party's nomination for president.

During the 1960 presidential campaign, Crotty played a key role in lining up support in the state for Kennedy in the preconvention and general election campaigns.

As a political leader, Crotty also helped elect U.S. senators, governors, mayors and scores of local officials.

"He was a close friend of my family, a mentor of my father's political career and an example for all of us," said County Executive Gorski, whose father, Chester, served as a congressman and Common Council president.

Roger I. Blackwell, D-Buffalo, chairman of the County Legislature, remembered Crotty as a "savvy" and "brilliant" leader. "What amazed so many of us is how he'd never slam the door, even in the heat of an argument," recalled Blackwell. "When the hot water was flowing, he'd stop, turn on the cool and attempt to find an avenue. He would never just walk away."

Crotty was elected Council president in 1947 and served four years. In 1953, he ran as an independent in the Democratic primary for mayor, losing to Steven Pankow, who went on to win the general election.

Crotty supported and helped elect Frank A. Sedita as mayor in 1957. Sedita lost his bid for a second term but again was elected mayor in 1965 and 1969.

In 1958, Crotty ran statewide as the Democratic candidate for state attorney general, losing to the Republican incumbent, Louis J. Lefkowitz.

"He was an excellent county leader, a forceful speaker and a devoted family man," said Kane, who served as secretary of the Erie County Democratic Committee during the 11 years that Crotty was county chairman.

John A. Dillon, a retired Erie County judge, said Crotty was "a decent, beautiful, honorable man."

"More than one Dillon learned his politics at Peter Crotty's knee," added Dillon, whose late brother, Michael, served as Erie County district attorney and presiding justice of the Appellate Division of State Supreme Court, 4th Department.

Philip H. Magner Jr., a past president of the Erie County Bar Association, said Crotty was "a gentleman in every sense of the word, a lawyer of real distinction and shining integrity, a true example of a life well-lived."

Magner said Crotty was motivated "always by the public interest, with which his deeply held partisan convictions were never allowed to conflict."

Common Council President George K. Arthur described Crotty as "truly a giant in the political arena. He was responsible for a lot of careers and mine in particular."

Joseph F. Crangle, who learned politics under Crotty's tutelage, remembered his mentor as "a highly principled political leader," despite the political differences that divided them after Crangle became party chairman.

He recalled that Crotty, in the late 1950s, resigned as Democratic county leader after the Common Council refused to appoint Edward Bennett, a black, as city clerk. Party leaders later persuaded Crotty to rescind the resignation.

Crangle succeeded Crotty as Democratic county chairman in 1965 and served as party leader until 1988.

In 1974, Crotty supported Hugh L. Carey in the Democratic primary for governor, while Crangle and other organization Democrats here backed Howard J. Samuels, the endorsed candidate. Carey won the primary and the general election.

Crotty again bucked the party organization in 1977, when he was a key supporter and a co-chairman of Mayor Griffin's first successful campaign for the office.

For many years he was a member and chairman of the board of governors of Roswell Park Cancer Institute.

He is survived by his wife, the former Margaret McMahon, and seven children and 24 grandchildren.

His six sons, all attorneys, are James E. of Hamburg; Peter Jr. of Albany; Paul A., Robert E. and Kevin M., all of New York City, and Gerald C. of Minneapolis. His daughter, Mary Jo Shapiro of New York City, is a writer.

His son Gerald served as counsel and secretary to Gov. Cuomo before leaving recently to take a position in the private sector.

REPRESENTATIVE HANK NOWAK, MULTIFACETED LEADER

Mr. MOYNIHAN. Madam President, one of the pleasures of serving in the Senate is that it affords an opportunity to become acquainted with Members of the other body. Why each House persists in referring to the other as the "other body" remains a mystery to me. But what is not a mystery is that for 18 years, Erie County has been blessed by the representation of HENRY J. NOWAK.

HANK NOWAK and I arrived in Congress at about the same time, he having preceded me by 2 years. And during our service together my respect for his clear thinking, ingenuity, and tenacity have continued to grow. Most recently we served together on the joint House/Senate Conference on the Intermodal Surface Transportation Efficiency Act, now known as ICE–TEA. Not only was HANK a mainstay of our efforts to reform transportation policy to accommodate the postinterstate era, but he also made sure that western New York's needs were provided for.

Recently the Buffalo magazine of the Buffalo News ran an article describing this multifaceted leader. What western New York has long known is now in print for all to see. I ask that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Buffalo News Magazine, Mar. 8, 1992]

HANK'S PLACE: HENRY NOWAK HAS BEEN IN WASHINGTON 17 YEARS, BUT HIS HEART BELONGS TO BUFFALO

(By Rose Ciotta)

After 13 days of tough talks, the lawmakers and staffers were anxious to end the session. It was the weekend, and it was 3 a.m.

Everyone was tired, eager to celebrate their historic agreement as the year's most significant legislation.

The bill on the table dispensed $155 billion for road and transit projects nationwide, with $100 million of it en route to Buffalo.

But when the chairman made his last call, Rep. Henry Nowak spoke up, surprising even his own staff. "Just one more thing, Mr. Chairman," Nowak said. Then he made an unscheduled pitch for $2 million for suburban bus centers for Western New York.

"He explained it. Everybody nodded yes, and he got it," recalls Rep. Sherwood Boehlert, of Utica, a Republican negotiator. "That's typical of Hank.

"His timing was perfect."

Call it the Nowak touch—speak softly, play ball, and get results. Nowak doesn't lecture his colleagues. He gets along and he never takes his eye off where he's going. It's a trait that has guided him well from the streets of Black Rock to his Canisius College Big Three glory years and through the halls of Congress.

Nowak first dreamed of success when he was 12, sitting in a bar, munching on pretzels, drinking root beer and watching Canisius basketball on the neighborhood's only television. "If I could get good enough, I can go there," he told himself.

He was the quiet, determined kid, the one who practiced shooting baskets late into the evening at the school playground. One night, Nowak got carried away, bouncing and shooting until after midnight. The neighbors called police to send him home.

But he was small then, only 5-foot-4, and had no hope of making any team. At Riverside High School, he was cut his first year. He came back as a 6-foot-3 junior to become captain of a winning team.

Nowak had realized that basketball could become his ticket to college. And with the determination that would distinguish him throughout his career, he didn't stop until he had gotten what he wanted—his Canisius team went to the NCAA quarterfinals three times, from 1955 to 1957, and as captain, he scored more points in his senior year than any other Canisius player before him.

"He was a hard-nosed player, physical," said one of his coaches, Bob MacKinnon, now a pro scout. "He drove to the basket, forcing the foul. He was very good at converting an ordinary play into a three-point play."

And quiet didn't mean retiring: From grade school to college, Nowak stood out as class president and team captain.

"He had very obvious leadership qualities," recalled Gene Bartkowski, a Canisius teammate who's now a Williamsville Central School District official. "There was a commanding presence about him."

In 17 years in Congress, Henry Nowak has directed about $1 billion in federal aid to Buffalo. He has mastered the art of lawmaking in ways that some of his colleagues never learn. You can see him working the House floor—it's like peeking into a men's club. He approaches a cluster of congressmen, sweeps his long arms around two sets of shoulders and leans into the conversation, smiling. In the corridors, warm hellos and handshakes meet him. The elevator operator tells him about her holiday break.

But Nowak is more than a nice guy. He succeeds by paying attention to detail, taking advantage of openings that others just don't see. His methodical style and his knack of manipulating language, formulas and regulations for his district and for New York State have given him the ironic reputation of being a very successful but obscure congressman. Roll Call, the congressional newspaper, put Nowak among the Top 10 "Most Invisible" lawmakers in 1990.

The label is a badge of honor for him.

"There are some members who feel inclined to speak on every issue that comes to the House floor," said Ronald J. Maselka, Nowak's Washington assistant. "Mr. Nowak is very selective about that." His positions on welfare, drugs and foreign policy are rarely sought. And he devotes a limited amount of his own and his staff's time to positioning himself in those areas.

"Henry Nowak is a very aggressive guy, but he doesn't strike you like that," said James T. Molloy, the former Buffalonian who is now doorkeeper of the House of Representatives. He helped Nowak make his first political run in 1965 for county comptroller. "He doesn't shout or pound on the tables, but when he decides on something, it's going to get done."

The millions for the NFTA bus centers were crumbs in the transportation bill, but frosting for Buffalo and New York State, which will reap benefits through the decade.

Nowak's success here illustrates why Western New York's future is in his hands. If everything that Nowak has his sights on gets built, the region will surely reflect his dream.

"It's more than a job to him," said Maselka. "He cares about what he's doing. He has a vision of a better Buffalo."

Like anyone who's creative, intense and driven, Nowak encounters frustrations—ideas that languish, officials who can't agree and state agencies that often have to be dragged by federal law to take on a project.

His supporters say he's not appreciated and not thanked enough. Critics say he's not "collaborative enough." As one official put it, "He's not one to share his plans beforehand with a lot of people."

Others question why he doesn't use his power to force agreement on thorny issues like the stalled waterfront development.

He does speak up, those close to him say, but it's done privately and directly.

Brad Johnson, New York's Washington lobbyist, is a frequent Nowak tennis partner (a bad back has put a stop to Nowak's game lately) and he often bears the brunt of Nowak's frustration with state agencies dragging their heels on projects that have federal money. "He skewers you," says Johnson. "He uses humor, guilt, feigns outrage just to let you know what it would be like if he wanted to (really get angry)."

"I think you make more progress by persuasion," says Nowak.

Those closest to Nowak say he enjoys down time, whether he's fishing with his older brother, Norman, or hitting golf balls.

"He's a quite man and does a lot of introspective thinking. He knows what he's going to do long before he does it," said Godby E. Plummer, a Nowak staffer in Washington who joined him 27 years ago after Nowak was elected county comptroller, his first and only political upset.

Nowak's laid-back demeanor masks a fierce competitiveness. He likes to win in all contests, and he usually does. "When Henry and I used to play tennis, he was the toughest and most competitive opponent," said former Buffalo congressman Jack Kemp, now secretary of housing and urban development.

"He loved to beat me and I loved to beat him. He won most of the time."

Mrs. Nowak, who died in 1965, urged her sons to reach, to become supervisors or even go to college. Norman went the trade school route and later became a customs inspector; Henry used basketball as his ticket to Canisius.

"College was very important to my mother," said Nowak. "Basketball was very important to my father." He spent much of his career proving to people that "Hambone," the tall, lanky forward, was also a serious student.

Nowak never forgot being poor. Although he's now worth more than $1 million, he's conservative, even frugal. And he always has been.

On his wedding day in 1965, Nowak planned to marry Rose Santa Lucia, a woman he met through the Young Democrats, in his best pair of well-worn shoes. "We went there to help him get ready," recalls Thomas Santa Lucia, Nowak's best man, and when they saw his feet, he told him, "You have to have *new* shoes."

It was too late to shop, so Santa Lucia called Burns Brothers, where Nowak once worked selling school jackets to college students. The new shoes were delivered just in time for the ceremony.

Politics just happened. After a stint in the Army during the Berlin crisis, Nowak graduated from the University at Buffalo Law School.

He joined a downtown law firm with George M. Martin, a former Canisius alumni director who was active in Buffalo's Democratic politics. It was a heady time for Democrats—they were the underdogs countywide. When Michael F. Dillon won the district attorney's office in 1963, Nowak was among the young Democratic lawyers chosen to become assistant DAs. And he served as a confidential law clerk for Supreme Court Justice Arthur J. Cosgrove before making his first political run in 1965.

Martin suggested to newly elected party chairman Joseph Crangle that they run Nowak as the county comptroller candidate. No one else would make the sacrificial run. "We had to have some fresh blood brought into that office, and a person like Hank Nowak made a lot of sense," recalls Crangle, a former Canisius cheerleader.

In Nowak, Crangle had a young, smart athlete with a Polish last name known throughout Erie County—a perfect combination to balance the party ticket and to challenge the entrenched Republican, Clinton C. "Bud" Couhig.

"There was no one helping him," recalls Nowak's campaign manager and soon-to-be brother-in-law, Thomas Santa Lucia, who had worked with Nowak on his own unsuccessful county clerk race. All eyes were on the mayoral race, in which popular former mayor Frank A. Sedita was facing a three-way primary. On election night, Nowak's tiny group of campaigners was huddled in a small hotel room, beer chilling in the bathtub.

His campaign slogan was, "A AAA candidate for a AAA job," touting his assets as an attorney, athlete and accountant.

"No one thought he would win," recalls Plummer, who campaigned with Nowak among the city's black voters. He took him to a beer blast where Nowak was invited to address a crowd of some 200. "He was a neophyte. He was stiff. He didn't know how to talk. He wasn't a politician. The other politicians had been around. But Nowak had just a few words and that was it."

On Election Day, Nowak won by just over 10,000 votes.

Since then, Nowak has owned Election Day. His predecessor in Congress, Thaddeus J. Dulski, resigned after the primary deadline and the seat went to Nowak. He has easily won re-election eight times to the most Democratic district in upstate New York.

In Washington, Nowak's focus is Buffalo and everyone knows it. "Buffalo to me is the client I represent in Congress, says Nowak.

"He's always got Buffalo on his mind and his agenda," says Jack Kemp. When he was in Congress, he and Nowak disagreed on how to solve Buffalo's problems, but that didn't stop them from being friends. "A lot of Republicans criticize me for saying nice things about Henry, but certain things transcend politics."

Nowak's goal has always been to bring home federal dollars to improve how Buffalo looks, how it rides and how it grows. He also has staked out his claim as an environmentalist promoting the Great Lakes.

"I found out very quickly that if we didn't receive it, somebody else was going to receive it," said Nowak. "One sewer by itself doesn't turn anybody on. But it's the basic infrastructure that acts as a catalyst for all of the private development that comes after it."

Nowak's jewel is the Buffalo waterfront, where he dreams the city's rebirth will begin.

Visitors to his Washington office immediately get the message. His desk faces a huge black-and-white aerial photo of the Buffalo harbor.

As it begins detail for the outer harbor, the Horizons Waterfront Commission is starting with a proposal first made by Nowak in 1989 for an attraction that blends Great Lakes research, a public aquarium, a planetarium and a Great Lakes museum.

It's no surprise, then, that officials here and in Washington shudder at the prospect that Nowak may be thinking seriously of retirement.

"There's no possible way we can let Henry Nowak leave the House," says New York Sen. Daniel P. Moynihan. "The poor man is sentenced to re-election."

Nowak, who is 57, offers a characteristic shrug on the subject.

"I'm looking at the rest of my life at the same time," said Nowak. "I'm examining whether I want to continue this or have a different lifestyle or career." (He has ruled out running for office locally.)

Can Nowak possibly be ready to leave Buffalo's rebuilding to the next generation? Hard to tell. What's clear, though, is that he's pleased with what he has done and he enjoys making the system work for him.

There's more to Nowak's musings than a midlife crisis, however. He's also looking at redistricting (his district is not expected to be hurt) and the impact of 100 new members. He worries that if he waits two more years to leave, his successor will be behind in seniority to this huge freshman class.

Whatever his plans, Nowak keeps them close to the vest, saying, "It's going to be a personal decision based on a lot of factors."

Already he limits his time in Washington to several long days midweek, preferring both the Buffalo social scene and his Point Abino summer home to the Washington circuit. His schedule these days is opposite to what it was 11 years ago, when his wife—now a Hunt Real Estate agent—and two children, Diane, now 25, and Henry Joseph, 23, lived in Bethesda, Md.

Even then, he reserved time for his family. "He really tried to keep politics and the family separate," said Mrs. Nowak. "That's why we felt it was a job and not an all-encompassing thing."

Young Hank, a second-year law student at the University of Buffalo, chuckles to think that his friends envied him for his insider's information on current affairs. But his father rarely brought politics home to dinner. "When he got home it would be: 'How was baseball practice? What did you learn today?' "

"He's never let me down," said Diane, a practicing attorney. "That ranges from being in grade school and needing materials for a paper to making a vacation possible."

His wife, Rose, says he likes to spend his free time reading or, in the summer, playing tennis or golf. "He doesn't have to have a lot of people around him."

If it's influence he wants, Nowak has it in Washington.

It flows from his position as fifth ranking Democrat on Public Works and since 1987, chairman of the Subcommittee on Water Resources. This year, Nowak's subcommittee will hold hearings and possibly pass a water resources bill, legislation approving up to 25 water projects nationwide and a clean water bill, a national policy legislation.

James F. Schmidt, a boyhood friend who has worked with Nowak for almost 30 years, sees it like this: "He's established IOUs over 18 years. He's done a lot of favors for people and he's put those IOUs in his pocket."

Nowak is known for conducting thorough hearings that let everyone have his say, but he's still untested on controversial issues such as the ongoing clash over the wetlands. While he pushes compromise and consensus, the sides are far apart and many wonder if Nowak will be able to control the issue.

"This will be the toughest issue for his committee, and a place we'll be watching with concern and hopefulness for him to exert environmental leadership," said Jessica Landman, senior attorney with the Natural Resources Defense Council, a 170,000-member national environmental group.

Nowak's power also comes from having another New Yorker, Moynihan, as chairman of the companion committee in the Senate. "This is the first time in a generation that we've had New Yorkers in public works on either side," said Moynihan.

The positioning helps, but it doesn't mean automatic approval. Moynihan couldn't help Nowak much on a 5-cent gas tax increase backed by Nowak's committee but objected to by the Senate and the House majority. Nowak's committee was out on a limb favoring the tax as the best way to pump monies into public works, including millions more for Buffalo. They eventually pulled back the bill and rewrote it for lower amounts.

Critics say he's too focused on public works at the expense of other policy issues.

Among his most controversial stands is his pro-life voting record, including a 1983 vote against the Equal Rights Amendment because he saw it as helping abortion. Yet he's not very vocal about being pro-life. He votes against federal funding for abortions and supported Bush on the so-called gag rule prohibiting workers at federally funded clinics from telling a woman about abortion. When he's pressed, Nowak says there are other ways to fund abortions and federal funding is the only issue he has to vote on. He won't talk about his personal feelings.

Conservative groups like to lump him among the big spenders because of his public works bills.

Nowak lets the pork label roll off. Pork is when it's someone else's district, not his own.

While Nowak wins kudos for what he does with his committee assignments, the public rarely sees what happens behind the scenes. "Henry Nowak is the consummate insider player," observed Boehlert, the Utica Republican who serves with Nowak on Public Works.

"He's crazy abut it," said brother Norman. "He enjoys the committee work, the sense of accomplishment. He enjoys making it work. He was so tickled getting that last (transportation) bill through."

Nowak says his strategy is "to be prepared—to put yourself in the other person's position. What would convince you if you were in their position?" He adds, "You really learn more by listening than you do by talking, especially if you need something."

Nowak's staffers in Washington and Buffalo arm him regularly with the detailed memos that allow him to finalize talks. His forte is his negotiating skill. Most of the time, his opponents don't know what he has done to them.

Notre Dame knows how that feels. Schmidt still remembers Canisius' fabulous 94–89 1957 win over Notre Dame in double overtime with Nowak making key shots. "He just smiled, and I knew he was happy," said Schmidt, who went to Riverside and Canisius with Nowak and shares a unique closeness with him.

"We complemented each other," said Schmidt. "He was good in accounting and I was good in English, history and theology. (Homework) was a great team effort."

The effort continues with Schmidt acting as detail man for Nowak, getting him to the airport on time, representing him at Buffalo events, solving countess constituency problems and running his limited fund-raising and reelection campaigns.

With no re-election worries, Nowak has been free to concentrate on strategy for Buffalo projects.

"He's got a mind like a computer," said Schmidt. "He has things planted back there and he's waiting for these things to strike."

Like the time early in his congressional terms when Nowak found himself chatting at a reception with Wilmer "Vinegar Bend" Mizell, a star St. Louis Cardinals pitcher and former congressman from North Carolina who had become a deputy commerce secretary.

Mizell had heard of "Hammerin' Hank," who had turned down an offer to play for the St. Louis Hawks so he could go to law school. When Nowak got Mizell's ear, he didn't hesitate to tell him, "One of the things I'd like to do is get the waterfront started." Mizell got him $500,000 that turned mounds of dirt on Erie Street into a small park.

Water holds a special magic for Nowak, who first learned fishing at the towpath along the Black Rock Channel and Delaware Park. "He just likes the quiet moments away from the pressure and everything," says Norman Nowak.

"It was a great existence," said Nowak, recalling his boyhood. His days were filled with basketball, fishing and swimming either in the nearby river, the local pool or his uncle's Swormville farm pond. "We'd milk cows, swim and fish."

From his days fishing with Schmidt along the old Bird Island pier, Nowak knew how easily fishermen slipped off the rocks and drowned in the rushing river waters.

About 10 years ago on Palm Sunday, Nowak hosted a visit to the pier by Robert Dawson, and assistant Army secretary. After climbing the rocks, Dawson got the point. He agreed to the $3.5 million rehabilitation project.

At last, Nowak could help the old neighborhood. In many ways he's still at it, turning dreams into reality. If Baltimore can turn its harbor into a mecca for tourists and playground for residents, Buffalo can, too, says Nowak. "And they look out on an industrial area. We can look off into a great Canadian sunset."

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BAUCUS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDENT BUSH'S MESSAGE ON THE TAX BILL

Ms. MIKULSKI. Mr. President, I want to take this opportunity to address the Senate, and others who might be watching these proceedings, on the President's message to Congress last Friday, and also how that relates to the peace dividend.

Mr. President, I was very concerned about the President's veto of the tax break bill, which I know the occupant of the Chair worked on, and I know its consequences for housing in this country, as well as his rescission message.

Mr. President, last Friday, when the President vetoed the tax break message, he essentially eliminated an idea of his own to provide a $5,000 tax credit to be able to purchase housing. He eliminated the opportunity for there to be a flexible IRA which, again, would have provided opportunities for first-time home ownership. These were a series of actions he took that will really impede the ability of the middle class to have access to home ownership, particularly for that young first-time homeowner.

More seriously and also simultaneously, equally as seriously, he rescinded a whole series of legislative line items which he called quirks and which he trivialized. Well, some of them might be subject to ridicule, but I will tell you one that is not, Mr. President. He rescinded a half-billion dollars for the construction of new public housing.

That is regrettable. Because what would that buy? First of all, Mr. President, it would buy jobs—jobs today in the construction industry, men and women out there building public housing to provide an opportunity structure for the working poor.

The fact that he rescinded a half billion dollars in that HUD appropriations account I find shocking, because that half a billion dollars would mean construction jobs, new public housing, which would help the working poor. In my own hometown of Baltimore, we have 30,000 families on the waiting list for public housing. No new public housing has been built for more than a decade and a half. Thirty-thousand people—many of them are working poor—who get up every day, go to work, perform their duties and earn the minimum wage, and in this country, a minimum wage at a full-time job can still mean poverty. That half billion dollars would have provided them an opportunity to live in Government-sponsored housing until they could move farther on up.

Mr. President, I have spoken before about public housing. I do not believe it should be a way of life, but I believe it should be a way to a better life, as people move up the opportunity structure and better themselves.

So I regret that the President chose, through both his veto of the tax break bill passed by this Congress, as well as rescinding the half billion dollars on public housing construction, to really set back jobs today in the construction industry, as well as the opportunities for the working poor to begin to move up, and to move out, and to show that hard work does mean something.

Mr. President, I know these are tough budget times, and we have to make tough decisions. I agree with that. But, Mr. President, we are going to have a time in the next few days in which we are going to be voting on the budget. We have to decide whether we are going to give the United States of America a peace dividend, how we will essentially remove the firewall now that will prevent cuts in defense and drawdowns in defense being prudently transferred to the domestic spending area.

I know that you and I share with joint enthusiasm the end of imperial communism, the end of the cold war, but the end of the cold war should not mean a continued big chill on our domestic needs. We hope that we would draw down defense in a prudent way that would leave us still with a strong military infrastructure, where we can follow a risk-based strategy, have the ability to respond, follow the doctrine of flexible response and not hollow out our defense industry. However, we can draw down and transfer to our domestic economy and still maintain a ready resolve in the event that somewhere in the world we have to respond 911.

The consequences for the budget subcommittee that I chair, the Appropriation Subcommittee on Veterans, Housing, Space, the Environment, and the National Science Foundation, have dire consequences if we do not take down the firewall and take to garnering and canceling the Stealth bomber and other unneeded weapons in the cold war. What this means is the current allocation that could be available, we might have to shrink veterans' medical care, shrink veterans' medical care in terms of both hospital staff, nursing personnel, the availability of medical equipment, and prosthetic devices. That is one option that has been presented to this Appropriations Committee.

We reject unilaterally any cuts in veterans' health care. So then where must I go to garner the cuts? Mr. President, I regret that I must have to look to those very areas that could generate jobs today and jobs tomorrow. That is in space, environment, and the National Science Foundation. Those three agencies offer a cornucopia of opportunity to do the type of research and development that could lead to jobs today and jobs tomorrow, because this is the very research to find out the new ideas that lead to the new products, which leads to new jobs.

I know that the Presiding Officer really is an advocate of jobs right here in the domestic program. He has been outspoken in not wanting jobs to be in a fast track to Mexico or in a slow boat to China. He has spoken eloquently on that matter.

Yet, I believe that the Presiding Officer knows that we must have products that we can sell in the global economy. Well, what are they going to be? Yes, agricultural products. Yes, entertainment products, which are the envy of and what the world wants. But I want to make sure we have scientific products, engineering products, things that the world needs that will make it safer and better, and the ability to offer pharmaceuticals that perhaps are the cure for cancer, AIDS, or for Alzheimer's.

Those solutions lie in our domestic scientific spending. I will tell you, if the firewalls do not come down, we might have to shrink or even cancel the space station. We will have to think and severely handicap our mission to planet Earth, in which we will go out and study what appears to be the only intelligence in the universe—that is our own planet. By looking at ourselves, it will yield tremendous environmental information. And also the new technologies to even take a look at us are the very kinds that could be used—radiology equipment at our major high-technology hospitals.

When we look at the National Science Foundation, which is the agency that funds individual scientific pursuits and research that leads to those new products, we might have to eliminate as many as 2,000 grants. What does that mean? People say what is scientific research? Somebody might have to hang up a lab coat. It does not quite work that way.

The University of Wisconsin received grants many years ago, and they found vitamin C. They did other types of research that have yielded untold amounts of medical information. The National Science Foundation, right now, is working on new opportunities to improve manufacturing and engineering, as well as developing new models for science education.

Mr. President, that is what the peace dividend is supposed to be, that we deal with the new security threat to the United States of America, that we would lose out on jobs in the future.

I would hope those walls could come down. I want the United States of America to be No. 1 in science, in engineering, and in technology. I believe we can do it.

Mr. President, you know that we are only 8 years from the year 2000. A new century is coming. A new economy is being born. If the United States of America must continue and can continue to lead the way, the walls must come down and we must make productive investments that generate jobs today and jobs tomorrow. And I hope that my discussion here today enlightens Senators of the consequences that if we do not give ourselves a peace dividend we might seriously harm the future of this country well into the next century.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WOFFORD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MITCHELL. Mr. President, I ask unanimous consent that there now be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MONTANA NATIONAL FOREST MANAGEMENT ACT

MOTION TO PROCEED

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I move to proceed to the consideration of Calendar No. 385, S. 1696, a bill to designate certain lands in Montana as wilderness, and I send to the desk a cloture motion on this motion to proceed.

The PRESIDING OFFICER. The clerk will report the cloture motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close the debate on the motion to proceed to S. 1696, the Montana Wilderness bill:

George Mitchell, Claiborne Pell, Wyche Fowler, Tom Daschle, E. Hollings, J. Bennett Johnston, Paul Simon, Kent Conrad, Wendell Ford, Daniel K. Akaka, Jay Rockefeller, Max Baucus, David Pryor, Dale Bumpers, Dennis DeConcini, Harry Reid, Conrad Burns.

Mr. MITCHELL. Mr. President, I now withdraw the motion to proceed.

The PRESIDING OFFICER. The motion is withdrawn.

UNANIMOUS-CONSENT AGREEMENT—S. 1696

Mr. MITCHELL. Mr. President, I ask unanimous consent that on Thursday, March 26, following the conclusion of morning business, there be 2 hours of debate on the motion to invoke cloture on the motion to proceed to S. 1696, with the time equally divided and controlled between Senators JOHNSTON and LEAHY or their designees; that when the time is used or yielded back, the Senate, without intervening action or debate, vote on the motion to invoke cloture on the motion to proceed to S. 1696; that if cloture is invoked on the motion to proceed, the motion be agreed to without any intervening action or debate; and that all amendments must be offered to and be germane to the committee-reported substitute to this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

REMOVAL OF INJUNCTION OF SECRECY—TREATY WITH SRI LANKA CONCERNING THE ENCOURAGEMENT AND RECIPROCAL PROTECTION OF INVESTMENT (TREATY DOCUMENT NO. 102–25)

Mr. MITCHELL. Mr. President, as in executive session I ask unanimous consent that the injunction of secrecy be removed from the Treaty with Sri Lanka Concerning the Encouragement and Reciprocal Protection of Investment (Treaty Document No. 102–25), transmitted to the Senate today by the President; and ask that the treaty be considered as having been read the first time; that it be referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the United States of America and the Democratic Socialist Republic of Sri Lanka Concerning the Encouragement and Reciprocal Protection of Investment, with Protocol and a related exchange of letters, signed at Colombo on September 20, 1991. I transmit also, for the information of the Senate, the report of the Department of State with respect to this treaty.

The treaty is an integral part of U.S. efforts to encourage Sri Lanka and the governments of other developing countries to adopt macroeconomic and structural policies that will promote economic growth. The treaty is fully consistent with U.S. policy toward international investment. According to that policy, an open international investment system in which participants respond to market forces provides the best and most efficient mechanism to promote global economic development. A specific tenet, reflected in this treaty, is that U.S. investment abroad and foreign investment in the United States should receive fair, equitable, and nondiscriminatory treatment. Under this treaty, the Parties also agree to international law standards for expropriation and compensation; free transfer of funds associated with investments; and the option of the investor to resolve disputes with the host government through international arbitration.

I recommend that the Senate consider this treaty as soon as possible and give its advice and consent to ratification of the treaty, with protocol and exchange of letters, at an early date.

GEORGE BUSH.

THE WHITE HOUSE, *March 24, 1992.*

EXECUTIVE SESSION

NOMINATION OF CARL J. KUNASEK TO BE COMMISSIONER ON NAVAJO AND HOPI RELOCATION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nomination: Calendar No. 545, Carl J. Kunasek, to be Commissioner on Navajo and Hopi Relocation; I further ask unanimous consent that the Senate proceed to immediate consideration of the nomination; that the nominee be confirmed; that any statements appear in the RECORD as if read; that the motion to reconsider be laid upon the table; that the President be immediately notified of the Senate's action; and that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

NAVAJO AND HOPI INDIAN RELOCATION

Carl J. Kunasek, of Arizona, to be Commissioner on Navajo and Hopi Relocation, Office of Navajo and Hopi Indian Relocation.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

RELATING TO THE CONSTRUCTION OF ADDITIONAL COURT SPACE IN BROOKLYN, NY, AND TO MAKE A TECHNICAL CORRECTION

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2398, a bill to clarify the provisions relating to the construction of additional court space in Brooklyn, NY, introduced earlier today by Senator MOYNIHAN; that the bill be deemed read three times, passed, and the motion to reconsider laid upon the table; and that statements with respect to passage of this bill be printed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 2398) was deemed read the third time and passed, as follows:

S. 2398

SECTION 1. CLARIFICATION OF PROVISIONS RELATING TO THE CONSTRUCTION OF ADDITIONAL COURT SPACE IN BROOKLYN, NEW YORK.

(a) The obligation authority authorized by section 1095 of the Intermodal Surface Transportation Efficiency Act of 1991 shall not be treated as obligation authority established under the Act for purposes of section 1004 of such Act. Any reduction in obligation authority authorized in the Intermodal Surface Transportation Efficiency Act of 1991 resulting from the enactment of section 1095 is restored.

(b) Section 1095 of the Intermodal Surface Transportation Efficiency Act of 1991 is amended in the first sentence by inserting ", subject to appropriations," after "is authorized".

Mr. MITCHELL. Mr. President, I ask that the bill be read for the second time.

Mr. BURNS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The bill will lay over for 1 legislative day.

BILL READ THE FIRST TIME—S. 2399

Mr. MITCHELL. Mr. President, on behalf of Senators SASSER, BYRD, MITCHELL, BENTSEN, and others, I ask that S. 2399, introduced earlier today, be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The assistant legislative clerk read as follows;

A bill (S. 2399), to allow rational choice between defense and domestic discretionary spending.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations and treaty received today are printed at the end of the Senate proceedings.)

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 120

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 121

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.3 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 122

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.5 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 123

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.5 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 124

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $2.7 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 125

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.4 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 126

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the

Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $3.1 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 127

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.2 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 128

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.2 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 129

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.8 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 130

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.8 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 131

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 132

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $39 thousand in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 133

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the

Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.4 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 134

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 135

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $49 thousand in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 136

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 137

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.2 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 138

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 139

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 140

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the

Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 141

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $46 thousand in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 142

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.2 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 143

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 144

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.2 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 145

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 146

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 147

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the

Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.6 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 148

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.2 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 149

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.5 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 150

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Armed Services:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $2,955.3 million in budgetary resources.

The proposed rescissions affect the Department of Defense. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 151

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $547.7 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 152

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.5 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 153

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.0 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 154

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $2.0 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 155

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.2 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 156

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 157

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing and Urban Affairs:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.2 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 158

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.0 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 159

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.3 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 160

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $3.9 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 161

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $2.5 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 162

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.5 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 163

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.5 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 164

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.0 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 165

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.0 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 166

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.5 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 167

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 168

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 169

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.5 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 170

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.7 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 171

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.0 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 172

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.8 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 173

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.4 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 174

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $3.4 million in budgetary resources.

The proposed rescission affects the National Aeronautics and Space Administration. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 175

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.8 million in budgetary resources.

The proposed rescission affects the National Aeronautics and Space Administration. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 176

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Energy and Natural Resources:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $8.6 million in budgetary resources.

The proposed rescission affects the Department of the Interior. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 177

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Energy and Natural Resources:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $7.7 million in budgetary resources.

The proposed rescission affects the Department of the Interior. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 178

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Energy and Natural Resources:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $2.0 million in budgetary resources.

The proposed rescission affects the Department of the Interior. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 179

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Environment and Public Works:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $3.0 million in budgetary resources.

The proposed rescission affects the Corps of Engineers. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 180

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Environment and Public Works:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.4 million in budgetary resources.

The proposed rescission affects the Corps of Engineers. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 181

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget and the Committee on Environment and Public Works:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.3 million in budgetary resources.

The proposed rescission affects the Environmental Protection Agency. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 182

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Environment and Public Works:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.4 million in budgetary resources.

The proposed rescission affects the Environmental Protection Agency. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 183

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Environment and Public Works:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Environmental Protection Agency. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 184

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Environment and Public Works:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.5 million in budgetary resources.

The proposed rescission affects the Environmental Protection Agency. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 185

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on environment and Public Works:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $20.0 million in budgetary resources.

The proposed rescission affects the Environmental Protection Agency. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 186

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Environment and Public Works:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Environmental Protection Agency. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

REPORT ON RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 187

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Agriculture, Nutrition, and Forestry:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.2 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

ANNUAL REPORT OF THE COUNCIL ON ENVIRONMENTAL QUALITY—MESSAGE FROM THE PRESIDENT—PM 188

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Environment and Public Works:

To the Congress of the United States:

In 1991 two events set the stage for a new era in history: the West won the Cold War and the United States led a U.N. coalition to roll back aggression in the Middle East. Both watershed events demonstrated the power of sustained international cooperation in pursuit of just and moral causes. They underscored the need for U.S. leadership in a complex, interdependent world.

Historic changes are also occurring in the relationship between humanity and the environment. We increasingly recognize that environmental improvement promotes peace and prosperity, while environmental degradation can cause political conflict and economic stagnation. We see that environmental protection requires international commitment and strategic American leadership in yet another just and moral cause.

MERGING ECONOMIC AND ENVIRONMENTAL GOALS

As I often have stated, we can have both economic growth and a cleaner, safer environment. Indeed, the two can be mutually supportive. Sound policies provide both.

My environmental strategy seeks to merge economic and environmental goals. For example, boosting two engines of economic growth—technological change and international trade—can also provide benefits for the environment. Likewise, regulatory approaches that emphasize economic efficiency can help lower the costs of securing greater environmental quality. The following examples are illustrative:

Investments in Technology: My Administration has invested aggressively in key areas of research and development that will boost productivity and economic performance. Several technologies heralded primarily for their benefit to economic growth and competitiveness, such as advanced materials, high performance computing, electric batteries, and biotechnology, also have valuable environmental applications. Increasing investments in basic environmental research will enable policymakers to devise more informed, effective, and efficient policies.

International Trade: In negotiations on the General Agreement on Tariffs and Trade [GATT], the United States calls on other nations to reduce farm subsidies, which harm competitive farm exports and contribute to environmental degradation. In parallel with negotiations toward a North American Free Trade Agreement [NAFTA], the United States and Mexico are expanding environmental cooperation. A free trade agreement would lead to stronger growth in both countries and provide increased financial resources for environmental protection.

Economically Efficient Regulations: Our Clean Air Act initiatives spur utility energy efficiency through innovative tradable sulfur emission allowances and an overall cap on emissions. Restraining electricity demand cuts emissions of carbon dioxide and acid rain precursors, lowers energy bills for homeowners and businesses, and limits the need for new powerplant construction.

THE GLOBAL ENVIRONMENT AND DEVELOPMENT

Robust economic growth is needed to meet the needs and aspirations of the world's peoples. At the same time, the nations of the world must ensure that economic development does not place untenable burdens on the Earth's environment.

My Administration has been working with business leaders, environmentalists, scientists, and the governments of other countries to develop more effective, efficient, and comprehensive approaches to global economic and environmental issues. Preparations for the United Nations Conference on Environmental and Development [UNCED or Earth Summit], which convenes this June in Rio de Janeiro, Brazil, have accelerated this process.

My priorities for this historic conference are as follows:

—*Sign a satisfactory global framework convention on climate change;*

—*Agree on initial steps leading to a global framework convention on the conservation and management of all the world's forests;*

—*Improve U.N. environmental and developmental agencies as well as the Global Environment Facility (GEF), which provides financial assistance to developing nations in meeting the costs of gaining global environmental benefits;*

—*Launch an action program to conserve biodiversity and, if possible, sign a satisfactory global framework convention on biodiversity;*

—*Agree on a strategy and expand efforts to improve the condition of oceans and seas; and*

—*Adopt a strategy and initiatives to promote technology cooperation in a free market context.*

Climate Change: On behalf of the United States, I hope to sign by June 1992 a global framework convention that will commit as many nations as possible to the timely development of comprehensive national climate action plans. Such plans would commit nations to a process of continuous improvement, addressing sources and reservoirs of all greenhouse gases as well as adaptation measures. Parties to the convention would compare their action programs on a regular basis and revise them as necessary.

By producing specific, comprehensive environmental commitments that fit each nation's particular circumstances, this approach is preferable on environmental and economic grounds to the carbon-dioxide-only proposals that others have espoused. The United States will continue to restrain or reduce its net carbon dioxide emissions by improving energy efficiency, developing cleaner energy sources, and planting billions of trees in this decade. But an exclusive focus on targets and timetables for carbon dioxide emissions is inadequate to address the complex dynamics of climate change.

Forests and Biodiversity: The nations of the world need to do a better job of studying and conserving the diversity of life on Earth. Nations also need to work together to improve the management and protection of all the world's forests. For these reasons, I am renewing my call for a global framework convention on the management and conservation of forests and restating the U.S. hope that UNCED will be the occasion for making progress toward such a convention. I am also hopeful that a convention on the conservation of biodiversity may be signed at UNCED.

Institutional Reform and Funding: Member nations need to coordinate U.N. structures and make them more efficient and effective in meeting UNCED goals. I related priority is to continue development of the World Bank's Global Environment Facility (GEF). The GEF should become the principal vehicle for assisting developing nations with the incremental costs of gaining global environmental benefits under new international agreements.

Oceans: Coastal and estuarine areas include some of the most diverse and productive ecosystems on Earth. Increasing population and development are stressing these areas, particularly in nations that lack effective programs to protect and manage marine resources. The United States urges UNCED parties to adopt a set of principles and an action plan to address such issues as the status of living marine resources, coastal zone management, ocean monitoring, and land-based sources of marine pollution.

Technology: The UNCED participants should adopt a strategy and initiatives to promote market-based environmental technology cooperation with developing nations. In some cases, the transfer of environmentally preferable technologies results from official foreign assistance. However, in the vast majority of cases it occurs as the result of private sector activities such as direct foreign investment, joint ventures, licensing, exports, and professional training. Thus the rule of governments and international institutions should be to foster the market conditions that accelerate private sector activity in the growing global market for environmental goods and services.

THE DOMESTIC ENVIRONMENT

In the midst of increased attention to global environmental issues, the United States in the last 3 years has enacted and begun to implement sweeping environmental reforms. We will continue to take action predicated on sound science and efficient solutions.

State and local governments, businesses, community groups, and individual citizens must also play a part.

A number of items on the environmental agenda, including reauthorization of the Clean Water Act, the Resource Conservation and Recovery Act, and the Endangered Species Act, require a thorough, judicious review with an eye toward the long term. Wherever possible, such legislation should encourage economically sensible, market-based mechanisms. Quick-fix actions will not be in the best interest of the enviroment or of our economy.

The Congress should make a significant contribution to economic growth and the environment by taking the following steps during this session:

—*Enact balanced national energy legislation, providing equal measures of new conservation and production;*

—*As requested in my budget, provide increased funds to a number of key environmental and natural resources programs; and*

—*Establish a U.S. Department of the Environment.*

National Energy Legislation: In the year that has passed since I proposed a National Energy Strategy (NES) providing equal measures of new energy conservation and production, the Administration has moved to implement more than 90 NES initiatives that do not require legislative action. The Congress has followed through by increasing funding for an array of research and development initiatives. Now, in addition to these measures, the Congress needs to complete action on comprehensive national energy legislation.

Environmental and Natural Resources Budget: Within the context of initiatives to tighten Federal budget discipline, my proposed budget for fiscal 1993 reflects my continuing belief that we should increase national investments in key environmental and natural resources programs. Among my priorities are the following:

—$1.85 billion (a 17-percent increase over fiscal 1992) for the America the Beautiful program, including acquisition of key park, forest, refuge, and other public lands; my program to encourage public participation in the planting of one billion trees per year; a partnership with the States to create state parks and recreation facilities; and projects to improve environmental infrastructure and recreational opportunities on the public lands;

—A record $5.5 billion (a 26-percent increase over fiscal 1992) for the cleanup of Department of Energy facilities involved in nuclear weapons manufacture;

—$201 million (almost double the fiscal 1992 level) for U.S.-Mexico border region cleanup, consistent with the Environmental Action Plan I presented to the Congress last year in support of the proposed North American Free Trade Agreement;

—Almost $1 billion for energy research and development, including over $350 million for conservation research and development (more than double the fiscal 1989 level) and $162.4 million (a 47-percent increase over fiscal 1992) for transportation programs such as development of electric automotive batteries and the purchase of 5,000 alternative-fuel vehicles;

—$812 million (a 35-percent increase over fiscal 1992) for wetlands research, acquisition, restoration, and enhancement, achieving a 175-percent increase over fiscal 1989 levels;

—For the second year in a row, $340 million for accelerated construction of sewage treatment facilities in six coastal cities that currently have inadequate treatment facilities;

—$7 million (a 46-percent increase over fiscal 1992) for the designation and management of National Marine Sanctuaries;

—$229 million (a 22-percent increase over fiscal 1992) for implementation of the 1990 Clean Air Act;

—$1.75 billion (an 8-percent increase over fiscal 1992) for cleanup of Superfund toxic waste sites; and

—$1.37 billion (a 24-percent increase over fiscal 1992) for further expansion of the world's largest global climate change research program.

U.S. Department of the Environment: Considering the scope and importance of responsibilities conferred upon the Environmental Protection Agency (EPA), I announced my support in 1990 for legislative efforts to elevate EPA to Cabinet status. The Congressional leadership has responded with controversial, extraneous amendments and parliamentary delays. This legislation should not be held hostage any longer. Once again, I call on the Congress to elevate EPA to Cabinet status and make it the U.S. Department of the Environment.

A NATIONAL COMMITMENT

There is a growing commitment from all segments of society to improve the environment. A key element of my environmental strategy is encouraging private companies and organizations to work with each other and with government to deliver conservation benefits that go far beyond what government acting alone could provide.

In July 1991 I named leaders of business, environmental, recreational, educational, and philanthropic organizations to serve as members of the President's Commission on Environmental Quality (PCEQ). I have challenged this Commission to develop and implement an action agenda to improve the environment through voluntary private sector activities that meet the test of economic efficiency.

I also established a Presidential medal for environment and conservation achievement and had the honor of presenting medals to an outstanding group of Americans last October. This program rewards private initiative in service to the environment in a manner equivalent to long-standing Presidential recognition of excellence in the arts, humanities, sciences, and world affairs.

We have encouraged additional private sector initiatives through such ground-breaking efforts as the "Green Lights" energy efficiency project, the "33-50" toxic emission reduction program, the U.S. Advanced Battery Consortium to support development of electric vehicles, and land management partnerships between conservation groups and the Departments of Defense, Agriculture, and the Interior.

FREEDOM'S FULL MEANING

As more people around the world join the democratic family and reach for their God-given rights and aspirations, we Americans who have led the way for over 200 years will continue to bear a responsibility to give freedom its full meaning, including freedom from want and freedom from an unsafe environment.

The Cold War was a stark test of the global community's faith in these ideals. We passed that test.

The deadlock in negotiations for improved international trade rules is another challenge to the principles that have drawn the world closer together in the last half century. We must not fail that test.

These struggles for national security and economic growth are now joined by environmental concerns such as deforestation and potential climate change, which also have profound long-term implications. The year ahead will test our ability to redefine the relationship between humanity and the environment—and in so doing, to secure a greater peace and prosperity for generations to come. We must not fail that test.

GEORGE BUSH.

THE WHITE HOUSE, *March 24, 1992.*

MESSAGES FROM THE HOUSE RECEIVED DURING RECESS

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of January 3, 1991, the Secretary of the Senate, on March 20, 1992, during the recess of the Senate, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled bill:

H.R. 4210. An Act to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families.

Under the authority of the order of the Senate of January 3, 1991, the enrolled bill was signed on March 20, 1992, during the recess of the Senate, by the

President pro tempore [Mr. BYRD].

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTION SIGNED

At 2:33 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolution:

H.J. Res. 272. Joint resolution to proclaim March 20, 1992, as "National Agriculture Day."

The enrolled joint resolution was subsequently signed by the President pro tempore [Mr. BYRD].

At 5:30 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the bill (H.R. 1306) to amend title V of the Public Health Service Act to revise and extend certain programs, to restructure the Alcohol, Drug Abuse and Mental Health Administration, and for other purposes, with amendments; it insists upon its amendments to the bill, asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. DINGELL, Mr. WAXMAN, Mr. ROWLAND, Mr. LENT, and Mr. BLILEY as managers of the conference on the part of the House.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

S. 2185. A bill to suspend the forcible repatriation of Haitian nationals fleeing after the coup d'etat in Haiti until certain conditions are met;

S. 2199. A bill to provide for the protection of Haitian nations with a well-founded fear of persecution, to provide for the orderly return of those Haitian nationals without such a fear, and to discourage the departure by boat of those Haitians who are unlikely to qualify for refugee status;

S. 2246. A bill to suspend the forcible repatriation of Haitian nationals fleeing after the coup d'etat in Haiti until certain conditions are met; and

H.R. 3844. An Act to assure the protection of certain Haitians in the custody of the United States, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PELL, from the Committee on Foreign Relations:

Exec. 95-2. International Covenant on Civil and Political Rights (Exec. Rept. No. 102-23).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. LEAHY (for himself and Mr. DOLE):

S. 2387. A bill to make appropriations to begin a phase-in toward full funding of the special supplemental food program for women, infants, and children (WIC) and of Head Start programs, to expand the Job Corps program, and for other purposes; to the Committee on Appropriations.

By Mr. MCCAIN (for himself, Mr. MCCONNELL, and Mr. ROBB):

S. 2388. A bill to provide for a Democracy Corps to mobilize and coordinate the expertise and resources of United States citizens in providing targeted assistance to support the development of democratic institutions and free market economies in the former Soviet republics and the Baltic states; to the Committee on Foreign Relations.

By Mr. BRADLEY (for himself and Mr. LAUTENBERG):

S. 2389. A bill to extend until January 1, 1999, the existing suspension of duty on Tamoxifen citrate; to the Committee on Finance.

By Mr. PACKWOOD (by request):

S. 2390. A bill to amend the Harmonized Tariff Schedule of the United States provisions implementing Annex D of the Nairobi Protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials, and for other purposes; to the Committee on Finance.

By Mr. MURKOWSKI:

S. 2391. A bill to amend the Marine Mammal Protection Act to make improvements in the regulation of the importation of certain native articles of handicrafts and clothing; to the Committee on Commerce, Science, and Transportation.

By Mr. REID (for himself, Mr. BRYAN, Mr. GARN, Mr. HATCH, and Mr. CRAIG):

S. 2392. A bill to establish a right-of-way corridor for electric power transmission lines in the Sunrise Mountain in the State of Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WALLOP (by request):

S. 2393. A bill to designate certain lands in the State of California as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HARKIN (for himself, Mr. BURDICK, and Mr. PRYOR):

S. 2394. A bill to amend title XVIII of the Social Security Act and title III of the Public Health Service Act to protect and improve the availability and quality of health care in rural areas; to the Committee on Finance.

By Mr. BAUCUS:

S. 2395. A bill to increase the competitiveness of the United States automotive industry by requiring United States automotive manufacturers to make certain improvements in quality and efficiency and by requiring the President to negotiate a trade agreement with Japan limiting Japanese automotive exports to the United States; to the Committee on Finance.

By Mr. LIEBERMAN (for himself and Mr. LEVIN):

S. 2396. A bill to establish the Manufacturing and Industrial Research Foundation for the Eurasian Republics, and for other purposes; to the Committee on Foreign Relations.

By Mr. WIRTH (for himself and Mr. BROWN):

S. 2397. A bill to expand the boundaries of Yucca House National Monument in Colorado, to authorize the acquisition of certain lands within the boundaries, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN:

S. 2398. A bill to clarify the provisions relating to the construction of additional court space in Brooklyn, New York, and to make a technical correction; considered and passed.

By Mr. SASSER (for himself, Mr. BYRD, Mr. MITCHELL, Mr. BENTSEN, Mr. SIMON, Mr. SARBANES, Mr. FORD, Mr. BIDEN, Mr. BUMPERS, Mr. BURDICK, Mr. CRANSTON, Mr. JOHNSTON, Mr. KENNEDY, Mr. LEAHY, Mr. PELL, Mr. RIEGLE, Mr. LAUTENBERG, Mr. SANFORD, Mr. WIRTH, Mr. FOWLER, Mr. CONRAD, Mr. DECONCINI, Mr. HARKIN, Mr. REID, Mr. ADAMS, Mr. KERREY, Mr. AKAKA, Mr. BREAUX, Mr. DASCHLE, Mr. DIXON, Mr. KERRY, Mr. KOHL, Mr. METZENBAUM, Mr. PRYOR, Mr. ROCKEFELLER, Mr. WELLSTONE, Mr. WOFFORD, Mr. HATFIELD, Mr. BAUCUS, Mr. BRADLEY, Mr. BRYAN, Mr. GRAHAM, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. LEVIN, Mr. GLENN, Mr. BINGAMAN, and Mr. BOREN):

S. 2399. A bill to allow rational choice between defense and domestic discretionary spending; placed on the calendar.

By Mr. PRYOR (for himself, Mr. BOREN, Mr. BUMPERS, Mr. BURDICK, and Mr. HARKIN):

S. 2400. A bill to amend title XVIII of the Social Security Act to extend special payments under part A of medicare for the operating costs of inpatient hospital services of hospitals with a high proportion of patients who are medicare beneficiaries; to the Committee on Finance.

By Mr. GORE:

S. 2401. A bill to provide for the formation of an endowed, nongovernmental, nonprofit foundation to encourage and fund collaborative research and development projects between the United States and Russia, Ukraine, Belarus, and other democratic republics emerging from the former Soviet Union; to the Committee on Foreign Relations.

By Mr. GARN (for himself and Mr. MOYNIHAN):

S.J. Res. 275. A joint resolution providing for the appointment of Wesley Samuel Williams, Jr. as a citizen regent of Board of Regents of the Smithsonian Institution; to the Committee on Rules and Administration.

By Mr. ADAMS (for himself, Mr. AKAKA, Mr. CRANSTON, Mr. COATS, Mr. COCHRAN, Mr. DOLE, Mr. DODD, Mr. HEFLIN, Mr. KENNEDY, Mr. METZENBAUM, Mr. PELL, Mr. PRESSLER, Mr. REID, Mr. WELLSTONE, Mr. LAUTENBERG, and Mrs. KASSEBAUM):

S.J. Res. 276. A joint resolution to designate May, 1992, as "Older Americans Month"; to the Committee on the Judiciary.

By Mr. D'AMATO:

S.J. Res. 277. A joint resolution to designate May 13, 1992, as "Irish Brigade Day"; to the Committee on the Judiciary.

By Mr. DODD (for himself, Mr. PRESSLER, Mr. GLENN, Mr. HOLLINGS, Mr. STEVENS, Mr. SEYMOUR, Mr. HEFLIN, Mr. DOLE, and Mr. COCHRAN):

S.J. Res. 278. A joint resolution designating the week of January 3, 1993, through January 9, 1993, as "Braille Literacy Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. LEAHY:

S. 2387. A bill to make appropriations to begin a phase-in toward full funding of the special supplemental food program for women, infants, and children [WIC] and of Health Start Programs, to expand the Job Corps Program, and for other purposes; to the Committee on Appropriations.

EVERY FIFTH CHILD ACT

Mr. LEAHY. Mr. President, children are our most precious resource. They are our future. Yet when it comes to facing children's problems on the national level, the military, savings and loans, and foreign aid seem to command more attention. Perhaps it is because children do not vote or form political action committees. Perhaps it is because they are not seen as a constituent group about which we have to be concerned. But we should be.

Every fifth child in the United States lives in poverty. Children, who account for 15 percent of all homeless people, are the fastest growing segment of the homeless population. In the last decade, child poverty increased 21 percent.

Today I am introducing legislation to increase funding for three cost-saving programs which dramatically reduce childhood hunger and poverty: the Special Supplemental Food Program for Women, Infants, and Children [WIC]; Head Start; and Job Corps.

If the United States is to progress into the 21st century, we must dedicate ourselves to sustaining and strengthening our Nation's children. These three programs—WIC, Head Start, and Job Corps—are a step toward achieving that goal.

The purpose of the Every Fifth Child Act of 1992 is simple—to ensure that all children have enough food to eat and the educational skills to lead a productive, successful life.

Bread for the World has been tireless in pursuing this legislation—they have truly been child advocates. With the help of Bread for the World, and other organizations like it, the plight of child poverty across the country has been brought to the forefront of our Nation's consciousness.

It is time to rethink our priorities and set then straight once and for all. We must end child poverty and hunger.

We must invest in our children and make their future our top priority. To be a productive and competitive nation we must nurture and support our children. The very same children that are now lining up at food shelters, or worse yet, going without food, are unable to learn and live a normal childhood.

With the end of the cold war, we have a once-in-a-generation opportunity to redirect taxpayer money—previously lavished on the military—into programs that help our children. There is no better use for the money saved by reductions in military spending.

I am calling for full funding for WIC phased-in by 1996; full funding for Head Start phased-in by 1998; and increased funding for Job Corps, to set up 50 additional Job Corps Centers by the year 2000.

These programs help children at three critical periods of their life: WIC, a program which reduces infant mortality by providing nutritious foods to low-income pregnant women, infants and children; Head Start, which provides a comprehensive preschool program to low-income children; and Job Corps, which offers education and vocational training to disadvantaged youth.

Despite their outstanding record, all of these programs are underfunded. WIC reaches only 55 percent of eligible participants, Head Start reaches only 28 percent, and Job Corps serves only one in seven eligible youth.

The Special Supplemental Food Program for Women, Infants, and Children [WIC], created by Congress in 1972, is universally acclaimed as one of our Nation's most successful nutritional programs. In addition to food, WIC provides nutritional instruction, health assessments, and medically prescribed supplements. WIC also is a cost-saving program.

Much of the short-term savings realized by WIC is due to the fact that WIC reduces the chances that babies will have low birthweights, or that they will be born prematurely. Babies with low birthweight are at greater risk of a range of physical impairments, and often require very expensive long-term care. A 1990 USDA study showed that for every WIC dollar spent on a pregnant woman, between $2.84 and $3.90 was saved in Medicaid costs during the first 60 days after birth.

Head Start is an early childhood development program that addresses the wide ranging needs of preschool children. Eligible children receive nutrition, education, and medical services, and their parents receive child rearing counseling. Head Start has dramatically influenced the educational and social development of the children involved. In fact, children in programs such as Head Start are twice as likely to graduate from high school, than those children in similar circumstances who cannot participate. Head Start has a 25-year record of success.

Job Corps is a program that was established to help disadvantaged youths gain job skills and work experience. Through Job Corps Centers, participating youths, ages 16 to 21, attend classes to gain high school equivalency degrees and receive career training, counseling, and health care. Job Corps has helped millions of young adults further their education and has opened doors to job opportunities the children otherwise would not have had.

WIC, Head Start and Job Corps are programs that have proven themselves as worthwhile public investments—not useless public expenses. Up to $4.21 is returned to the U.S. economy for every dollar invested in WIC, $4.75 for each dollar spent on Head Start, and $1.46 for every dollar invested in Job Corps. Few investments provide such a high rate of return on taxpayer money.

More and more people are falling below the poverty line, and we are only just beginning to feel the magnitude of the recession. As the poverty rates continue to rise, WIC, Head Start, and Job Corps are being placed under increased pressure to handle the swelling numbers of people that rely on these programs for day to day existence.

We must recommit ourselves to policies that show we have a compassionate leadership at the helm of our country. This leadership must be one that realizes that providing basic human needs to struggling Americans is more important than oil, savings and loans, and foreign aid.

This is not a matter, Mr. President, that will gain votes. It is not a matter that will gain political contributions. What it will gain is this: a stronger America, a better America, and the ability for each one of us in our conscious to know that we have done the right thing, not the politic thing, not the grandiose thing, but the right thing.

As I have said so many times on this floor, when it comes to issues of children, when it comes to issues of hunger, we speak not of political or economic issues. We speak of moral issues.

We must end this era of greed and self-interest, and act now to protect our children. Let us not wait, let us make the most of the opportunity before us, and do what is right—help those children crying out for our attention.

Mr. DOLE. Mr. President, I want to join the distinguished chairman of the Senate Agriculture Committee in introducing this bill because I agree with him that we can do more for our Nation's children. The President has demonstrated his concern by requesting significant increases in funding for Head Start and the Special Supplemental Food Program for Women, Infants, and Children [WIC]. Let me stress however that I don't agree with all the findings in the bill and I don't believe all its funding levels are realistic given the Nation's budget deficit. Still, the problems the bill addresses are real, and the programs the bill identifies for increased funding—Job Corps, WIC, and Head Start—are among the best weapons we have in our fight against poverty. So, while I could not vote for the bill if brought to the Senate floor in its original form, it does set the right priorities and I'm pleased to support it for that reason. I hope we can work in a bipartisan, fiscally responsible way to increase funding for these programs.

I want to thank Bread for the World for its work on developing this measure and its untiring advocacy on behalf of the less fortunate.

By Mr. McCAIN (for himself, Mr. McCONNELL, and Mr. ROBB):

S. 2388. A bill to provide for a Democracy Corps to mobilize and coordinate the expertise and resources of United States citizens in providing targeted assistance to support the development of democratic institutions and free market economies in the former Soviet Republics and the Baltic States; to the Committee on Foreign Relations.

DEMOCRACY CORPS ACT

Mr. McCAIN. Mr. President, today I am introducing legislation, the Democracy Corps Act of 1992, on behalf of myself and Senators ROBB and McCONNELL, which offers an alternative to the American responses to the collapse of the Soviet Union which we have considered to date. However, the bill also recognizes the reluctance of the American public to respond to this historic opportunity by indulging in failed forms of foreign assistance which mirror so completely the failure of welfare state policies here at home.

Mr. President, we have an opportunity to help remake the world, if not in the exact image of our own society, then at least in accordance with the political and economic values which have made our society the greatest force for good on Earth.

The Democracy Corps Act provides for the mobilization and coordination of private American citizens, and the skills and resources they possess, into resident teams of expert advisors, in the new republics of the Commonwealth of Independent States, C.I.S., and the Baltic States. Professionals with legal, political, economic, business, informational, language, and logistical skills will volunteer to serve at least 2 years in what we will call Democracy Houses.

The Democracy Corps would field at least 40 teams, with 5 members each. The teams will operate out of Democracy Houses in key localities in the eligible republics within 4 months after the enactment of initial appropriations for the Democracy Corps.

These volunteers will be drawn from the vast human resources of the United States and other established democracies, and they will help the United States and the West target our assistance so that it supports the development of democratic institutions and free market economies rather than create a permanent dependency on Western largess. They will also serve to develop close, advisory relationships with the emerging political and economic leaders of the nascent democracies of the Commonwealth of Independent States and the Baltics.

Under the provisions of this bill, the Democracy Corps will be terminated after 5 years, so there need be no fear that we will have added yet another permanent layer to our foreign aid bureaucracy. The bill also employs the resources of experienced American governmental and nongovernmental leaders in the promotion of free economies and democratic political institutions.

The governing Board of the Democracy Corps will be comprised of representatives from the relevant executive branch agencies such as the Departments of State, Commerce, and Defense, the U.S. Information Agency, the Peace Corps, and the Agency for International Development. Representatives from the National Endowment for Democracy, the National Democratic and National Republican Institutes for International Affairs, representatives from the Free Trade Institute, and the National Chamber Foundation will serve on the Board, as well as other Government or Government-funded entities. Finally, nine individuals of nongovernmental organizations will complete the Board.

Mr. President, I am aware that the President will soon submit to Congress a new plan to ensure that the collapse of the Soviet Union will result in a safer, more peaceful and freer world. I hope that the administration will give careful consideration to incorporating into their proposals the provisions of the legislation I am introducing today.

I should note that this legislation has already been introduced in the other body, by Congressmen McCURDY and HYDE. I am pleased and honored to join them in this important effort. I am also very pleased that Senators ROBB and McCONNELL have joined me in sponsoring the Democracy Corps Act in the Senate. I am sure that the measure will enjoy broad bipartisan support in both Houses of Congress, as Members consider how best the United States can continue to lead the cause to which generation after generation of Americans have been dedicated—the cause of freedom.

Mr. President, the end of the cold war triggered a strong and understandable impulse in the United States to divert our attention from world affairs to our pressing problems at home. This impulse has inspired some very lively, and some very curious, rhetoric here in Congress and on the campaign trail.

Instead of taking stock of America's vast accomplishments in the world and debating how best to consolidate our gains, we are beckoned by calls of "Come home, America." Instead of appreciating how important breaking Saddam Hussein's choke hold on the world's oil supply was to the national security and economic well-being of the United States, we are assailed by shortsighted isolationists who resent American leadership in world affairs.

Certainly, in recognition of changed geopolitical circumstances, America can and should reduce our military spending, and scale back our vast diplomatic and political efforts that so successfully won the cold war. Our problems at home do require our most urgent attention. But to virtually ignore opportunities to influence international events risks losing not only a more stable world, but our own prospects for a stronger economy and better quality of life. Our society's progress will depend more and more on developing new markets for our goods, taking advantage of new resources, and capitalizing on the technological and political developments that this radically changed world has made available to us.

Shortly before the global collapse of communism began, America's critics warned us that we were dangerously overextended, that we were a nation in decline. Had Americans taken those critics seriously we would not have won the cold war. If we take them seriously now, we will lose the opportunities that our success has created for us.

It will be difficult for the President to win support in an election year for a substantial aid program to the Commonwealth of Independent States. But I hope that thoughtful leaders of both parties will recognize the significant impact that developments there will have on our own security and prosperity. This is a challenge for Republicans and Democrats, for the administration and Congress.

If we are to make the case effectively to the American people we will need to demonstrate to them that we are not becoming the sponsors of an enormous Eurasian welfare state. We must not become indefinite providers to societies that will not develop the means to provide for themselves.

I have not yet seen the details of the President's proposals. But it is imperative that we in Congress begin our own deliberations immediately. We will need to act quickly if we are to influence the course of events overseas.

Mr. President, I would like to offer some considerations that I believe must be addressed if we are to win public support for our policies, and if those policies are to be successful.

Our purpose is to help these nations through a transition, to help them develop the working institutions of democracy and a market economy. All too often in the past, U.S. foreign aid programs have become permanent subsidies to governments that cannot or will not stand on their own feet.

Even today, there are a number of ways that American aid could be exploited to slow down or even derail progress toward democracy and the free enterprise system in the Commonwealth of Independent States. If our assistance allows the leaders to these nations to postpone hard decisions, or provides a life-support system for remnants of the old bureaucracies, we will have defeated our purposes and sown cynicism among the American public.

First, we need to make clear to the leaders of the Commonwealth of Independent States that our willingness to be helpful is strictly connected to their willingness to take very visible steps to reduce any threat, military or otherwise, that they pose to the United States. Such a tradeoff should not be whispered in closed door negotiations—it should be plainly on the table for public inspection.

The simple truth is that I cannot persuade the people of Arizona to spend their money to help anyone who has nuclear weapons aimed at them. Nor am I inclined to support any government that provides arms to America haters in the Middle East and elsewhere, or that bankrolls regimes like Fidel Castro's dictatorship. If, however, aid can be used to eliminate these threats, the American people will see the close connection between our welfare and the peaceful political and economic development of these nations.

Second, we need to be clear that for Americans democracy is not just a matter of elections and majority rule. It also requires respect for civil liberties and minority rights. Yelena Bonner, wife of the late Andrei Sakharov, has spoken forcefully about her concerns that governments or other forces which do not respect individual and minority rights could benefit from foreign assistance. Congress has a special responsibility to insist that this mistake not occur intentionally or unintentionally.

Third, and most important, we should support those individuals who are doing the actual work of building the institutions of democracy and the free market. These are the people who best understand the needs of their countries. These are the people who can best encourage their societies to stand on their own feet.

It is on this point, Mr. President, that I have my greatest concerns about a United States assistance program to the Commonwealth of Independent States. I worry that we will stress humanitarian assistance, especially overcoming food shortages, while there remain serious questions about how much that kind of assistance is really needed. Indeed, many argue that the current food shortage is not attributable to a lack of food, but is caused by a failure of markets and distribution.

Moreover, I am concerned that in our haste to address short-term problems, we will treat support for people engaged in the transformation of their societies as an afterthought.

This should be the primary focus of any assistance to the Commonwealth of Independent States. There are ways to support the hard labor of democracy-building that will cost a fraction of the amounts currently being discussed in Washington, and that will provide larger and more lasting benefits to the United States and to the people of the former U.S.S.R.

In much of our discussion about change in the Communist world, we speak of democracy and free markets as if they were simply mechanical systems that can be set up and turned on like a carnival ride. But a true conservative understands that the institutions of political and economic freedom must be founded on a culture: an array of human values, attitudes, and habits that holds the system together and makes it work.

The culture of freedom has roots in the realm once ruled by Soviet communism. That culture will grow more quickly and more securely with help from the free world. It must grow at its own pace and according to its own lights. But those societies with a long tradition of living freely can help enormously by offering our experience and know-how and even a kind of civic spirit.

During the Marshall plan years in Germany, the United States established some 60 centers throughout the Western Zone—called "America Houses"—which became places for representatives of the emerging civic and business life of the new Germany to meet their counterparts from government and nongovernment agencies of the older democracies.

The "Democracy Houses" provided for in our legislation are patterned after these very successful experiments in sharing the benefits of our own political and economic experiences with the builders of new democracies and free markets.

To staff the America Houses our Government sought out Americans with language skills and an understanding of local culture who would remain in communities long enough to gain real trust and understanding from the people. When special problems emerged in the reconstruction effort, Americans were at hand to make an informed assessment of the problems, contact an appropriate source of expertise or resources to help, and monitor how the help was being used.

Mr. President, there are many Americans today with valuable skills and experience who are willing to help transform the civic and economic life of the peoples of the late Soviet Union, from retired CEO's to former local, State and Federal Government officials. They range across our political spectrum. Both Paul Weyrich of the Free Congress Foundation and Lane Kirkland of the AFL–CIO are already deeply involved.

Any assistance effort must endeavor to get teams of these old hands at democracy out to the grass root levels, to assess the practical obstacles to political and economic development, and to mobilize and target Western support to overcome them.

Mr. President, this is the best way for us to keep ourselves from deluging these societies with excessive amounts of aid they do not need. This is a way to gain an understanding of the real problems in the area and to build relationships with the competent, pro-democracy leaders who can solve them. This is a way for Americans to learn about peoples in remote regions who have been trapped under the permafrost, but who are not important to the future of world politics and the world economy.

Whatever euphoria there may have been in these societies about the collapse of communism has dissipated quickly. Anxiety about the prospect of building viable new systems is growing fast, and can soon turn to panic. Wheat and soybeans can ease the pain, but democracy does not live by bread alone. This is the time to show our solidarity with the new democrats by being there with them—not for brief visits with prominent leaders, but for extended periods, down where the real work of democracy building is done, where the culture of freedom is put to the acid test.

Mr. President, the United States has won the cold war, now we must move quickly to win the peace. I look forward to discussing this legislation with my colleagues and administration officials as we begin this urgent undertaking.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2388

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Democracy Corps Act of 1992".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the dissolution of the Union of Soviet Socialist Republics represents an historic moment for the United States and the international community to seize the opportunity to strengthen world peace and economic prosperity;

(2) former Soviet republics and the Baltic states of Estonia, Latvia, and Lithuania have requested the involvement of the United States in making the transition from Communist political systems and centrally planned economies to democratic societies and free market economies;

(3) it is in the immediate economic and national security interests of the United States to ensure the successful transformation of the former Soviet republics and the Baltic states into fully democratic societies;

(4) the former Soviet republics and the Baltic states have an educated labor force and the capability for productive economies, but they lack many of the basic organizations, institutions, skills, and attitudes—the culture and mechanisms of civil society—on which democracy and free markets must ultimately rest;

(5) traditional United States foreign assistance programs and mechanisms are inad-

equate for responding to this new challenge because they are not designed to mobilize the practical expertise of the American people or to target and deliver that kind of practical assistance to the grassroots level in the widely divergent societies of the region;

(6) there is great willingness on the part of United States citizens to offer hands-on, person-to-person training, advice, support, and technical assistance to the people of former Soviet republics and the Baltic states;

(7) this challenge requires an immediate emergency response, but one that can be of relatively brief duration;

(8) the experience of the United States during the reconstruction of western Germany after World War II proved that the creation of local centers (known as "America Houses") throughout the country was invaluable in providing logistical bases and information clearinghouses that greatly facilitated the work of government agencies and private groups;

(9) the limited United States diplomatic presence in the former Soviet republics and the Baltic states, the inability of United States private organizations to work there under the previous system of government, and difficulties in developing relationships with emerging democratic forces there have resulted in poor understanding of the precise needs of the former Soviet republics and the Baltic states, and of how United States assistance efforts can be carefully targeted to avoid duplication, waste, and corruption;

(10) there needs to be greater coordination and exchange of information between and among the various United States Government, Government-funded, and nongovernmental entities involved in efforts to provide assistance of all kinds for this transformation to democracy and free market economies, including such entities as the Department of State, the Department of Commerce, the Department of Defense, the Peace Corps, the Agency for International Development, the National Endowment for Democracy and its grantees, the Library of Congress, RFE/RL, Incorporated, the Citizens Democracy Corps, the United States Information Agency, and the vast and diverse array of nongovernmental organizations (including business, labor, media, academic, service, and philanthropic organizations) that wish to become involved in assisting this historic transformation; and

(11) by assisting this transformation, the United States will enhance international peace and thereby avoid great expense for military defense, will develop new markets for American goods and services, and will create a group of United States citizens with detailed knowledge of the leaders and peoples of the states that have emerged from the former Soviet Union.

(b) PURPOSE.—The primary purpose of this Act is to establish a Democracy Corps—

(1) that will use United States citizens who have appropriate expertise and reflect the values of American democracy to provide detailed, independent, onsite assessments of the needs of the individuals, institutions, and organizations working at every level in the former Soviet republics and the Baltic states to build democratic institutions, free market economies, and the basic infrastructure of a civil society;

(2) that will assist in mobilizing United States citizens to act to help meet those needs and will assist in coordinating United States assistance directed at meeting those needs; and

(3) that will establish a significant number of local centers (to be known as "Democracy Houses") in key locations throughout the former Soviet republics and the Baltic states, which will be staffed by Democracy Corps members and serve as logistical and information resources for all those assisting in the work of building democracy.

SEC. 3. THE DEMOCRACY CORPS.

(a) THE DEMOCRACY CORPS.—

(1) ESTABLISHMENT.—The Democracy Corps Board shall establish a Democracy Corps.

(2) MEMBERSHIP.—The Democracy Corps shall be composed of United States citizens who have expertise that is relevant to the development of democratic institutions and free market economies in eligible republics, including individuals with expertise relevant to the provision of humanitarian assistance. Each member of the Democracy Corps shall be required to serve as a member of the Democracy Corps for a period of at least 2 years (subject to section 7), unless otherwise determined by the Democracy Corps Board.

(3) ONSITE ASSESSMENT AND TARGETING TEAMS.—The Democracy Corps shall recruit and train teams of Democracy Corps members and assign such teams to eligible republics to make detailed, onsite assessments of the needs of individuals, institutions, and organizations for training and other assistance relevant to the development of democratic institutions and free market economies. These teams shall also study and prepare detailed reports on critical needs at the regional and local levels, including the need for humanitarian assistance, for assistance in the development of economic processes and institutions, for improvements in political organization and public administration, and for strengthening civic, service, and other private and voluntary organizations. Needs shall be ranked in order of priority and shall be specified as short term or long term needs. The assessments shall also include estimates of the capabilities available through local leaders and organizations for conducting programs to meet these needs. The Democracy Corps teams shall identify local leaders who might benefit from training programs in the United States and other democratic countries. The teams shall also review the effectiveness of the distribution at the local level of United States humanitarian assistance, both public or private. The teams should coordinate their activities with the activities of indigenous democratic organizations and of the governments of other foreign democracies.

(4) DEMOCRACY HOUSES.—The Democracy Corps teams shall establish centers in the localities to which they are assigned. These centers, which shall be known as "Democracy Houses", shall assist local efforts to create democratic institutions and a market economy and shall provide logistical support (including communications) and information resources to United States Government agencies and nongovernmental organizations that are assisting in the development of democracy.

(5) INITIAL ASSESSMENTS.—Each team sent to an eligible republic shall seek to complete its initial assessment with respect to the area for which it is responsible within 90 days after arriving in the eligible republic, including an assessment of the need for emergency humanitarian assistance.

(6) DISSEMINATING NEEDS ASSESSMENTS.—The Democracy Corps shall disseminate the needs assessments made pursuant to paragraph (3) to relevant Government agencies, to the National Endowment for Democracy and its grantees, and to other nongovernmental organizations that are engaged in assisting the transition to democratic institutions and free market economies in the eligible republics. These needs assessments may also be made available to foreign governments and organizations engaged in assisting that transformation.

(7) MOBILIZING SUPPORT.—After the needs of an eligible republic have been assessed pursuant to paragraph (3), the Democracy Corps shall seek to obtain support in the United States, from both Government and nongovernment sources, for those working to consolidate the transition to democracy and free market economies in the eligible republics. This support may include financial support, but priority shall be given to developing direct person-to-person educational activities and technical and training assistance. The Democracy Corps shall also provide training and orientation, upon request, to United States citizens who are involved in activities designed to meet needs identified pursuant to paragraph (3).

(8) NUMBER AND SIZE OF TEAMS.—The Democracy Corps shall seek to have at least 40 teams, with 5 members each, operating out of Democracy Houses in key localities in the eligible republics within 4 months after the date of enactment of the initial appropriations to carry out this Act, and should seek to have at least 75 such teams in eligible republics by the end of fiscal year 1993.

(9) COMPENSATION AND EXPENSES.—Funds made available to carry out this Act may be used to compensate members of the Democracy Corps and to pay expenses related to their service as members of the Democracy Corps, including travel between the United States and eligible republics, living expenses while serving in eligible republics, the establishment and maintenance of Democracy Houses in eligible republics, and other expenses incurred in carrying out their duties as members of the Democracy Corps.

(b) COORDINATING ACTIVITIES.—The Democracy Corps Board, utilizing the Democracy Corps to the extent feasible, shall assist, as appropriate, and cooperate with the efforts of Government agencies, entities receiving Government funds, and private entities, that are providing assistance to the eligible republics to meet needs identified through the assessments made by the Democracy Corps. Activities of the Board (or the Democracy Corps, as the case may be) under this subsection may only be of an advisory nature, and may range from simply providing information to assisting in developing assistance programs or in carrying out such programs. In carrying out this subsection, the Democracy Corps Board shall undertake to limit duplication, waste, and abuses among the various public and private assistance programs.

(c) DEFINITION OF ELIGIBLE REPUBLICS.—As used in this Act, the term "eligible republic" means—

(1) Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan; and

(2) Estonia, Latvia, and Lithuania.

SEC. 4. DEMOCRACY CORPS BOARD: ESTABLISHMENT AND ADMINISTRATIVE PROVISIONS.

(a) ESTABLISHMENT OF THE BOARD.—There is established a Democracy Corps Board (hereafter in this Act referred to as the "Board") which shall be responsible for carrying out this Act.

(b) ADMINISTRATIVE AUTHORITIES RELATING TO THE DEMOCRACY CORPS.—The Board may carry out its responsibilities for establishing and operating the Democracy Corps (including establishing and operating Democracy Houses)—

(1) directly, and for this purpose shall have the same employment authorities as are available to the Secretary of State with respect to Fellows under the Fascell Fellowship Act (22 U.S.C. 4901 and following); or

(2) through another entity or entities by means of grants or contracts (except that the Board may enter into contracts only to the extent that the budget authority for such contracts has been provided in advance in appropriations Acts); the Board shall, however, be responsible for establishing the policies under which the Democracy Corps operates and for overseeing the activities of the Democracy Corps.

(c) Membership of the Board.—The Board shall have 20 members appointed by the President, after consultation with the Congress, as follows:

(1) Not more than 3 individuals who are representatives of relevant executive branch agencies such as the Department of State, the Department of Commerce, the Department of Defense, the Peace Corps, the United States Information Agency, and the Agency for International Development.

(2) The president or another representative of the National Endowment for Democracy, the president or another representative of the National Democratic Institute for International Affairs, the president or another representative of the National Republican Institute for International Affairs, the president or another representative of the Free Trade Union Institute, and the president or another representative of the National Chamber Foundation.

(3) Not less than 9 individuals who are representatives of the diverse array of nongovernmental organizations that have the interest and expertise to assist in the development of democratic institutions and free market economies in eligible republics.

(4) The membership of the Board may also include representatives of relevant Government or Government-funded entities such as the Library of Congress, RFE/RL, Incorporated, and the Citizens Democracy Corps.

Appointments pursuant to paragraph (3) shall be made on a nonpartisan basis.

(d) Advisory Committee.—The Board shall establish an Advisory Committee consisting of representatives of organizations described in paragraph (3) of subsection (c) that are not represented on the Board, who should include representatives of American ethnic and cultural organizations with ties to the peoples of the Commonwealth of Independent States and the Baltic states.

(e) Terms and Vacancies.—Members of the Board appointed pursuant to paragraph (1) of subsection (c) shall serve as members of the Board at the pleasure of the President. Members of the Board appointed pursuant to paragraphs (2), (3), and (4) of subsection (c) shall be appointed for a 1 year term (except that a member appointed to fill a vacancy occurring before the expiration of a term shall be appointed for the remainder of such term); and members so appointed may be reappointed.

(f) Initial Appointments.—The initial appointments to the Board shall be made within 30 days after the date of enactment of this Act.

(g) Chair.—The Board shall determine which member of the Board shall serve as Chair, except that the Chair may not be an individual who is a full-time officer or employee of the United States Government.

(h) Compensation.—

(1) Basic pay.—Except for members of the Board who are full-time officers or employees of the United States Government, each member of the Board shall be paid at a rate not to exceed the rate payable for GS–15 of the General Schedule for each day (including travel time) during which he or she is engaged in the actual performance of duties vested in the Board, except that such payments shall be made only to the extent that the necessary budget authority for such payments is provided in advance in appropriations Acts.

(2) Travel expenses.—Each member of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(i) Appointment and Compensation of Staff.—The staff of the Board shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 of subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(j) Experts and Consultants.—The Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(k) Detailing of Government Personnel.—Upon the request of the Board, the head of any Government agency may detail, on a reimbursable basis, personnel of that agency to the Board to assist the Board in carrying out this Act.

(l) Gifts.—The Board may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Board, including the work of the Democracy Corps. Gifts, bequests, or devises of money and proceeds of sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Board.

(m) Delegation of Authorities.—The Board may delegate any of the authorities granted by this section to the Chair of the Board or to the staff director.

SEC. 5. REPORTS.

Not later than January 31 each year, the Board shall submit a report to the Congress on the activities carried out pursuant to this Act during the preceding fiscal year.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Board to carry out this Act, $30,000,000 for fiscal year 1992, $60,000,000 for fiscal year 1993, and $70,000,000 for fiscal year 1994. Amounts appropriated to carry out this Act are authorized to remain available until expended.

SEC. 7. TERMINATION.

Unless otherwise provided by a subsequent enactment of the Congress, the activities carried out pursuant to this Act shall be terminated as of the end of the fifth fiscal year beginning after the date of enactment of this Act. Upon submitting its final report with respect to that fiscal year, the Board shall cease to exist.

By Mr. BRADLEY:

S. 2389. A bill to extend until January 1, 1999, the existing suspension of duty on tamoxifen citrate; to the Committee on Finance.

EXTENSION OF DUTY SUSPENSION

• Mr. BRADLEY. Mr. President, I rise to reintroduce legislation that will extend the suspension on the duty of tamoxifen citrate, a drug used to treat breast cancer patients. Joining me is my friend and colleague Senator LAUTENBERG. In 1989, Senator LAUTENBERG and I introduced the initial duty suspension for tamoxifen citrate. Identical legislation has been introduced on the House side as H.R. 4401 by Congressman GUARINI.

In 1978, ICI Americas, Inc., a company that has several plants in New Jersey, brought tamoxifen citrate to the market in the United States. According to the International Trade Commission, no comparable drug exists in the United States. Tamoxifen is used in conjunction with chemotherapy after breast cancer surgery.

Clearly, breast cancer, directly or indirectly, touches all of us at some point in our lives. According to the National Cancer Care Foundation, Inc., one out of every nine American women will develop breast cancer. Because breast cancer does not discriminate along economic lines, ICI America, Inc., has established a patient assistance program through which over 25,000 women from every State have received tamoxifen. In 1991, ICI donated close to $8 million worth of tamoxifen to women who could not otherwise afford it. I commend the efforts of ICI America, Inc., for these activities.•

By Mr. PACKWOOD (by request):

S. 2390. A bill to amend the Harmonized Tariff Schedule of the United States provisions implementing annex D of the Nairobi protocol to the Florence Agreement on the Importation of Educational, Scientific, and Cultural Materials, and for other purposes; to the Committee on Finance.

AMENDMENTS TO TARIFF SCHEDULE

• Mr. PACKWOOD. Mr. President, I rise today to introduce a bill, on behalf of the administration, that will update and clarify that part of the Educational, Scientific and Cultural Materials Importation Act of 1966 [the Act] pertaining to duty-free entry of scientific instruments and apparatus. The Act implements U.S. obligations under the UNESCO-sponsored Florence Agreement, including annex D to the agreement relating to duty-free entry for scientific instruments.

Mr. President, two decisions by the court of review highlighted, in particular, the Act's omission of a definition for "scientific instruments," and also the absence of clarity on the question of burden of proof. Furthermore, clarification is needed to bring the Act's commercial-use provisions into conformity with existing national policies regarding cooperative research and development.

More specifically, legislation is needed to centralize decisionmaking regarding the fundamental eligibility of an instrument, a task now split between the administering agencies, and to prevent the anomaly of duty-free entry under annex D of products such as machine tools, liquid nitrogen plants, and training simulators. Under existing law, even common household appliances such as toasters or hair curlers are eligible for duty-free treatment under annex D. The probability of such outcomes is increased by the absence of any language in the Act specifically placing the burden of proof on the applicant institution. As a result, the burden now effectively rests on the agencies.

Since the early 1980's, the United States has been pursuing a new policy on research and development in an effort to enhance competitiveness in international trade. The policy emphasizes cooperation among the public, private, and nonprofit segments of our national R&D triad, and the rapid and cost-effective dissemination of research products into the commercial realm. It is now urgent to conform existing law to this policy. This bill would allow shared instrumentation, research, or funding and the patenting of results, so long as the nonprofit partner retains control over the instrument and the publication of findings.

Mr. President, I am not aware of any opposition to this proposal, but part of the purpose of introducing this bill is to determine whether opposition exists. However, I do not expect there to be any. Enactment of this bill will cure the deficiencies of existing law, will give the administrators the tools they need in the next decade and into the next century, and will set the stage for renewed efforts to persuade other signatories of the Florence Agreement to follow the forward-looking lead of the United States in this important area.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2390

Be it enacted by the Senate and the House of Representatives of the United States in Congress assembled,

SECTION 1. AMENDMENT OF TARIFF SCHEDULE.

Whenever an amendment or repeal is expressed herein in terms of an amendment to or repeal of a heading, subheading, U.S. note, or other provision, the reference shall be considered to be made to a heading, subheading, U.S. note, or other provision of the Harmonized Tariff Schedule of the United States.

SEC. 2. AMENDMENT TO SUPERIOR TEXT.

The superior text to subheadings 9810.00.60 through 9810.00.67 is deleted and the following new superior text is inserted in lieu thereof:

"Articles entered for the use of any nonprofit institution established for educational or scientific purposes or for the use of any governmental entity:"

SEC. 3. AMENDMENT TO SUBHEADING 9810.00.60.

The article description of subheading 9810.00.60 is deleted and the following new subheading is inserted in lieu thereof:

"Scientific instruments and apparatus, if no instrument or apparatus of equivalent scientific value for the purposes for which the instrument or apparatus is intended to be used is being manufactured in the United States, certified by the Secretary of Commerce under the terms of U.S. note 6 to this subchapter".

SEC. 4. DEFINITION OF SCIENTIFIC INSTRUMENTS AND APPARATUS.

Paragraph (a) of U.S. note 6, subchapter X of chapter 98 is deleted and the following new paragraph (a) is inserted in lieu thereof:

"(a) For the purposes of subheading 9810.00.60 and its superior text:

(i) the term "scientific" means pertaining to the physical or life sciences and, unless otherwise precluded by the terms of this note, to applied sciences, but excluding therapeutic and diagnostic applications, other specialized applications, skills, knowledge or uses pertaining solely to or developed principally for commerce, business or professional or vocational training; and

(ii) the term "*instruments and apparatus*" means devices, instruments, machines or similar contrivances specially designed for generating data useful for scientific experimentation or research or for collecting information therefrom, by means of sensing analyzing, measuring, classifying, recording, separating, or similar operations; but the term does not include instruments and apparatus principally used in the production of merchandise, ordinary equipment suitable for use in building construction or maintenance, or equipment or materials of the type used in the supporting activities of the applicant institution or its administrative, eating, residential, or religious facilities."

SEC. 5. APPLICATION TO SECRETARY OF COMMERCE.

Paragraph (b) of U.S. note 6, subchapter X of chapter 98 is deleted and the following new paragraph (b) is inserted in lieu thereof:

"(b) An institution desiring to enter an article under this subheading shall make an application therefor to the Secretary of Commerce, including therein, in addition to such other information as may be prescribed by regulation, a description of the apparatus or instrument, the purpose for which the instrument or apparatus is intended to be used, the basis for the institution's belief that no instrument or apparatus of equivalent scientific value for that purpose is being manufactured in the United States, a statement that the institution either has already placed a bona fide order for such instrument or apparatus or has a firm intention, in the event of favorable action on its application, to place an order therefor on or before the final day specified in paragraph (f) of this U.S. note. Provided that the instrument or apparatus and the purposes intended for it by the applicant are in accordance with this U.S. note and pertinent regulations, the Secretary of Commerce shall regard the instrument as eligible. If the Secretary of Commerce finds the instrument or apparatus eligible, the application shall be promptly forwarded to the Secretary of Health and Human Services. If, at any time while its application is under consideration by the Secretary of Commerce or on appeal from a finding by the Secretary before the United States Court of Appeals for the Federal Circuit, an institution cancels an order for the instrument or apparatus covered by its application, or if it no longer has a firm intention to order such instrument or apparatus, it shall promptly so notify the Secretary or the Court, as the case may be."

SEC. 6. BURDEN OF PROOF.

(a) Paragraph (f) of U.S. note 6, subchapter X of Chapter 98 is deleted.

(b) Paragraphs (c) through (e); inclusive, of U.S. note 6, subchapter X of chapter 98 are redesignated as paragraphs (e) through (g), inclusive, and the following new paragraphs (c) and (d) are added:

"(c) Notwithstanding U.S. note 1 to this subchapter, an instrument or apparatus found otherwise eligible for duty-free entry under this U.S. note shall not be disqualified on the basis of commercial use:

(i) if such use comprises shared instrumentation, funding, or research under joint venture, consortium or other cooperative arrangement between a qualifying institution and one or more private participants provided that the qualifying institution retains title and control of the instrument or apparatus and retains control over publication of research results. An agreement to delay publication for a reasonable period to allow for timely filing of patent applications shall not be deemed relinquishment of control over publication; or

(ii) if a qualifying institution patents or otherwise commercializes its research results.

(d) The applicant institution shall have the burden of proving the eligibility of an instrument or apparatus under this U.S. note, including the burden of proving that no instrument or apparatus of equivalent scientific value for that purpose is being manufactured in the United States."

SEC. 7. CONFORMING AMENDMENTS

(a) U.S. note 1 of subchapter X of chapter 98 is amended by striking "this U.S. note" and inserting "this U.S. note and U.S. note 6 to this subchapter".

(b) Paragraph (e), as redesignated, of U.S. note 6 is amended as follows:

(1) by deleting the second to last sentence and inserting in lieu thereof "Each finding by the Secretary of Commerce under this paragraph shall be promptly certified to the Secretary of the Treasury and reported to the applicant institution."

(2) by deleting in the last sentence "of the Treasury".

(c) The following new paragraph (h) is inserted at the end of U.S. note 6, subchapter X of chapter 98:

"(h) The Secretary of Commerce may prescribe regulations to carry out the functions under this U.S. note."

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall be effective with respect to articles both (1) certified by the Secretary of Commerce from applications filed under U.S. note 6, subchapter X of Chapter 98, on or after the 60th day following the date of enactment of this Act, and (2) entered, or withdrawn from warehouse for consumption, on or after such 60th day.●

By Mr. MURKOWSKI:

S. 2391. A bill to amend the Marine Mammal Protection Act to make improvements in the regulation of the importation of certain native articles of handicrafts and clothing; to the Committee on Commerce, Science, and Transportation.

ALASKA NATIVE CULTURE PROTECTION ACT

● Mr. MURKOWSKI. Mr. President, I rise today to offer a bill to amend the Marine Mammal Protection Act to make improvements in the regulation of the importation of Alaska Native handicrafts and clothing.

The Marine Mammal Protection Act was passed on October 21, 1972, to protect certain species of marine mammals that were in danger of depletion or extinction. The act has done much to preserve many marine mammal species; however, its effects on the native people of Alaska have not always been so benign. I call this bill the Alaska Native Culture Protection Act to highlight the fact that the Marine Mammal Protection Act is in many ways detrimental to Alaska Native culture.

This legislation will allow Alaska Natives to engage in traditional trade activities with their counterparts in other countries and to bring their personal clothing and handicrafts back into the United States after a visit abroad. The legislation will also expand permit options for Eskimos, Indians, and Aleuts of other countries to temporarily import their own personal items and handicrafts.

SUBSISTENCE NEEDS

Alaska Natives have traditionally depended on marine mammals for a large part of their subsistence needs. The Inupiaq of the North hunt bowhead whales. The Inupiaq and Yupik of the Northwest depend on walrus and beluga whale. Alaska Natives throughout the southeast and southwest coasts utilize the sea otter. Seals are hunted throughout much of Alaska and the Aleut people on the Pribilof Islands are totally dependent on them. These animals are used for food, clothing, and handicrafts to trade and sell.

Alaska Native dependence on marine mammals predates the arrival of nonnatives by hundreds of years and yet the Marine Mammals Protection Act could have destroyed that life on the whim of Congress. Fortunately, in 1972, Congress was concerned for the future of Alaska's Native peoples and included an exemption which allows Alaska Natives to continue to harvest mammals for subsistence uses relatively free of government interference.

TRADITIONAL TRADE OVERLOOKED

However, one area of Alaska Native culture was overlooked in the 1972 act—traditional trade between Alaska Natives and their relatives in what was then the Soviet Union and Canada. The act bans the importation of any marine mammal part or product from other countries. Permits are obtainable only for scientific or display purposes.

This ban severely limits Alaska Natives' ability to continue their customary and traditional relationships with their Eskimo, Aleut, and Indian brethren in other countries. Alaska Natives who visit relatives in Lavrentiya cannot return with a gift of sealskin boots from a Russian native, an item that would be legal if received from another Alaska Native. An Alaska Native woman crossing the border into Canada with her sea-otter-fur-trimmed coat cannot return with that same article of clothing even though she legally possessed it in the United States.

UNNECESSARY ENFORCEMENT

Over the years I have heard of, and observed, many, many instances of Alaska Natives having their possessions confiscated by the Fish and Wildlife Service when they return into the country. These items are sometimes displayed in Fish and Wildlife Service offices where their rightful owner can visit them.

This situation is unfair and unnecessary. The Alaska Native Culture Protection Act will remedy this situation by permitting Alaska Natives to receive gifts from their cultural relatives in other countries and to return to the United States with their personal clothing. I will also expand permit options for the Eskimo, Aleut, and Indian peoples of Russia, Canada, and Greenland who have cultural relatives in Alaska to bring their own personal clothing into the United States when they visit and to allow artisans to temporarily import marine mammal parts to be used in cultural activities.

CONCLUSION

Mr. President, with the parting of the so-called ice curtain separating Alaska and the Soviet Far East, Alaska Natives are eager to continue and renew their traditional ties with their relatives in other countries. It is important to remember that for Alaska Natives, the boundaries that were created between countries often split families apart by nationality. National boundaries will continue to exist, but their is no reason Alaska Natives should suffer the end of their traditional cultural ties.●

By Mr. WALLOP (by request):

S. 2393. A bill to designate certain lands in the State of California as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

CALIFORNIA PUBLIC LANDS WILDERNESS ACT

Mr. WALLOP. Mr. President, I rise today to introduce, by request, the California Public Lands Wilderness Act, a bill to designate certain lands in the State of California as wilderness, and for other purposes.

The legislation being proposed by the administration represents the culmination of a 15-year Bureau of Land Management study on the wilderness suitability of all the public lands in California. The lands recommended for wilderness contain outstanding natural qualities and opportunities for solitude and primitive recreation.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis be printed in their entirety immediately following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2393

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "California Public Lands Wilderness Act"

SEC. 2. The Congress finds that—

(a) Many areas of undeveloped public land in California and one parcel in Washoe County, Nevada, administered by the Bureau of Land Management have outstanding natural characteristics that give them high value as wilderness and that can, if properly managed, served as an enduring resource of wilderness for the benefit of the American people.

(b) It is in the national interest that these areas be promptly designated as components of the National Wilderness Preservation System in order to preserve and maintain them as an enduring resource of wilderness to be managed to promote and perpetuate their wilderness character and their specific multiple values for natural systems biodiversity, watershed preservation, wildlife habitat protection, scenic and historic preservation, scientific research and educational use, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of present and future generations of the American people.

(c) Certain areas of public lands located in Inyo and Riverside Counties, California and appropriate for transfer from the Bureau of Land Management to the National Park Service as additions to the Death Valley and Joshua Tree National Monuments.

SEC. 3. (a) As used in this Act, the term "public lands" shall have the same meaning as defined in section 103(e) of the Federal Land Policy and Management Act of 1976.

(b) As used in this Act the term "Secretary" means the Secretary of the Interior.

SEC. 4. (a) In furtherance of the purposes of the Wilderness Act, the following public lands are hereby designated as wilderness, and therefore, as components of the National Wilderness Preservation System:

(1) certain public lands in the Bakersfield District of the Bureau of Land Management, California, which comprise approximately fifteen thousand eight hundred ninety-seven acres as generally depicted on a map entitled Owens Peak Proposal, dated June 1988 (CA–010–026), and which shall be known as the Owens Peak Wilderness;

(2) certain public lands in the Bakersfield District of the Bureau of Land Management, California, which comprise approximately ten thousand seven hundred twenty one acres, as generally depicted on a map entitled Sacatar Meadows Proposal, dated June 1988 (CA–010–027), and which shall be known as the Sacatar Meadows Wilderness;

(3 certain public lands in the Bakersfield District of the Bureau of Land Management, California, which comprise approximately twenty eight thousand two hundred ninety-one acres, as generally depicted on a map entitled Southern Inyo Proposal, dated June 1988 (CA–010–056), and which shall be known as the Southern Inyo Wilderness;

(4) certain public lands in the Bakersfield District of the Bureau of Land Management, California, which comprise approximately one thousand nine hundred eighty three acres, as generally depicted on a map entitled Pinnacles Proposals, dated June 1988 (CA–040–303), and which shall be known as the Pinnacles Wilderness;

(5) certain public lands in the Susanville District of the Bureau of Land Management, California, which comprise approximately seven thousand four hundred forty three acres, as generally depicted on a map entitled Pit River Canyon Proposal, dated June 1988 (CA–020–103), and which shall be known as the Pit River Canyon Wilderness;

(6) certain public lands in the Susanville District of the Bureau of Land Management, California, which comprise approximately seven thousand eight hundred eighty nine acres, as generally depicted on a map entitled Tunnison Mountain Proposal, dated June 1988 (CA-020-311), and which shall be known as the Tunnison Mountain Wilderness;

(7) certain public lands in the Susanville District of the Bureau of Land Management, California, which comprise approximately thirty seven thousand four hundred eighty-two acres located in Lassen County California, and one hundred sixty-two acres located in Washoe County, Nevada, as generally depicted on a map entitled Skedaddle Proposal, dated June 1988 (CA-020-612), and which shall be known as the Skedaddle Wilderness. However, the designation of the Skedaddle Wilderness will in no way be construed or used to restrain current or future activities associated with the adjacent Sierra Army Depot;

(8) certain public lands in the Susanville District of the Bureau of Land management, California, which comprise approximately one thousand one hundred sixty one acres, as generally depicted on a map entitled South Warner Proposal, dated June 1988 (CA-020-708), and which shall be known as the South Warner Wilderness;

(9) certain public lands in the Ukiah District of the Bureau of Land Management, California, which comprise approximately four thousand one hundred forty three acres, as generally depicted on a map entitled Chemise Mountain Proposal, dated June 1988 (CA-050-111), and which shall be known as the Chemise Mountain Wilderness;

(10) certain public lands in the Ukiah District of the Bureau of Land Management, California, which comprise approximately twenty thousand two hundred forty eight acres, as generally depicted on a map entitled King Range Proposal, dated June 1988 (CA-050-112), and which shall be known as the King Range Wilderness;

(11) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately three hundred forty four acres, as generally depicted on a map entitled Agua Tibia Proposal, dated June 1988 (CA-060-002), and which shall be known as the Agua Tibia Wilderness;

(12) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty two thousand eight hundred seventy five acres, as generally depicted on a map entitled Sawtooth Mountains Proposal, dated June 1988 (CA-060-024B), and which shall be known as the Sawtooth Mountains Wilderness;

(13) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifteen thousand four hundred eight acres, as generally depicted on a map entitled Carrizo Gorge Proposal, dated June 1988 (CA-060-025A), and which shall be known as the Carrizo Gorge Wilderness;

(14) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately four thousand three hundred twenty three acres, as generally depicted on a map entitled Western Otay Mountain Proposal, dated June 1988 (CA-060-028), and which shall be known as the Western Otay Mountain Wilderness;

(15) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately six thousand seven hundred eighty three acres, as generally depicted on a map entitled Southern Otay Mountain Proposal, dated June 1988 (CA-060-029), and which shall be known as the Southern Otay Mountain Wilderness;

(16) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately three hundred ninety two thousand six hundred forty three acres, as generally depicted on a map entitled Saline Valley Proposal, dated June 1988 (CDCA-117), and which shall be known as the Saline Valley Wilderness. Of this acreage approximately thirty thousand two hundred ninety five acres are added to the National Park System pursuant to section 4(a)(1) of this Act.

(17) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately two thousand one hundred fifty four acres, as generally depicted on a map entitled Lower Saline Valley Proposal, dated June 1988 (CDCA-117A), and which shall be known as the Lower Saline Valley Wilderness;

(18) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirty five thousand seven hundred ninety two acres, as generally depicted on a map entitled Little Sand Spring Proposal, dated June 1988 (CDCA-119), and which shall be known as the Little Sand Spring Wilderness. All of this acreage is hereby added to the National Park System pursuant to section 4(a)(1) of this Act.

(19) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifty eight thousand three hundred ninety two acres, as generally depicted on a map entitled Inyo Mountains Proposal, dated June 1988 (CDCA-122), and which shall be known as the Inyo Mountains Wilderness;

(20) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty thousand thirty acres, as generally depicted on a map entitled Hunter Mountain Proposal, dated June 1988 (CDCA-123), and which shall be known as the Hunter Mountain Wilderness;

(21) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately ninety thousand six hundred twenty six acres, as generally depicted on a map entitled Panamint Dunes Proposal, dated June 1988 (CDCA-127), and which shall be known as the Panamint Dunes Wilderness;

(22) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fourteen thousand seventy nine acres, as generally depicted on a map entitled Wild Rose Canyon Proposal, dated June 1988 (CDCA-134), and which shall be known as the Nova Canyon Wilderness;

(23) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty four thousand five hundred thirty six acres, as generally depicted on a map entitled Slate Range Proposal, dated June 1988 (CDCA-142), and which shall be known as the South Panamint Wilderness;

(24) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty three thousand four acres, as generally depicted on a map entitled Funeral Mountains Proposal, dated June 1988 (CDCA-143), and which shall be known as the Funeral Mountains Wilderness. Of this acreage approximately fifteen thousand seven hundred seventy eight acres are added to the National Park System pursuant to section 4(a)(1) of this Act.

(25) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty two thousand eight hundred eleven acres, as generally depicted on a map entitled Greenwater Valley Proposal, dated June 1988 (CDCA-148), and which shall be known as the Salsberry Peak Wilderness;

(26) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately seventy nine thousand eight hundred sixty eight acres, as generally depicted on a map entitled Nopah Range Proposal, dated June 1988 (CDCA-150), and which shall be known as the Nopah Range Wilderness;

(27) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately one hundred twenty one thousand nine hundred twelve acres, as generally depicted on a map entitled Owlshead Mountains Proposal, dated June 1988 (CDCA-156), and which shall be known as the Owlshead Mountains Wilderness;

(28) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirty two thousand two hundred twenty-five acres, as generally depicted on a map entitled Little Lake Canyon Proposal, dated June 1988 (CDCA-157), and which shall be known as the Little Lake Canyon Wilderness;

(29) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty-six thousand one hundred thirteen acres, as generally depicted on a map entitled Owens Peak Proposal, dated June 1988 (CDCA-158), and which shall be known as the Owens Peak Wilderness;

(30) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirteen thousand nine hundred eighty six acres, as generally depicted on a map entitled El Paso Mountains Proposal, dated June 1988 (CDCA-64), and which shall be known as the El Paso Mountains Wilderness;

(31) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty nine thousand one hundred thirteen acres, as generally depicted on a map entitled Golden Valley Proposal, dated June 1988 (CDCA-170), and which shall be known as the Golden Valley Wilderness;

(32) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty thousand two hundred ninety one acres, as generally depicted on a map entitled Newberry Mountains Proposal, dated June 1988 (CDCA-206), and which shall be known as the Newberry Mountains Wilderness;

(33) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately seventeen thousand six hundred thirty acres, as generally depicted on a map entitled Rodman Mountains Proposal, dated June 1988 (CDCA-207), and which shall be

known as the Rodman Mountains Wilderness;

(34) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately eleven thousand sixty eight acres, as generally depicted on a map entitled Bighorn Mountains Proposal, dated June 1988 (CDCA-217), and which shall be known as the Bighorn Mountains Wilderness;

(35) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately six thousand four hundred ten acres, as generally depicted on a map entitled Morongo Proposal, dated June 1988 (CDCA-218), and which shall be known as the Morongo Wilderness;

(36) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately eleven thousand one hundred sixty nine acres, as generally depicted on a map entitled Whitewater Proposal, dated June 1988 (CDCA-218A), and which shall be known as the Whitewater Wilderness;

(37) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirty four thousand three hundred sixty nine acres, as generally depicted on a map entitled Kingston Range Proposal, dated June 1988 (CDCA-222), and which shall be known as the Kingston Range Wilderness;

(38) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty one thousand seven hundred one acres, as generally depicted on a map entitled Cinder Cones Proposal, dated June 1988 (CDCA-239), and which shall be know as the Cinder Cones Wilderness;

(39) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty six thousand four hundred five acres, as generally depicted on a map entitled Kelso Dunes Proposal, dated June 1988 (CDCA-250), and which shall be known as the Kelso Dunes Wilderness;

(40) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty three thousand two hundred thirty two acres, as generally depicted on a map entitled Bristol/Granite Mountains Wilderness;

(41) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty four thousand two hundred thirty eight acres, as generally depicted on a map entitled South Providence Mountains Proposal, dated June 1988 (CDCA-262), and which shall be known as the South Providence Mountains Wilderness;

(42) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifty nine thousand six hundred eighty one acres, as generally depicted on a map entitled Providence Mountains Proposal, dated June 1988 (CDCA-263), and which shall be known as the Providence Mountains Wilderness;

(43) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately forty three thousand five hundred nineteen acres, as generally depicted on a map entitled Castle Peaks Proposal, dated June 1988 (CDCA-266), and which shall be known as the Castle Peaks Wilderness;

(44) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirty four thousand eight hundred fifty four acres, as generally depicted on a map entitled Fort Piute Proposal, dated June 1988 (CDCA-267), and which shall be known as the Fort Piute Wilderness;

(45) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately one hundred sixteen thousand four hundred eighty acres, as generally depicted on a map entitled Turtle Mountains Proposal, dated June 1988 (CDCA-307), and which shall be known as the Turtle Mountains Wilderness;

(46) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately sixty one thousand eight hundred fifty three acres, as generally depicted on a map entitled Chemehuevi Mountain Proposal, dated June 1988 (CDCA-310), and which shall be known as the Chemehuevi Mountains Wilderness;

(47) certain public lands in the Yuma, Arizona District of the Bureau of Land Management, located in California, which compromise approximately nine hundred thirty eight acres, as generally depicted on a map entitled Chemehuevi/Needles Addition Proposal, dated June 1988 (AZ-050-004), and which shall be known as the Chemehuevi Mountains Wilderness-East Unit;

(48) certain public lands in the Yuma, Arizona District of the Bureau of Land Management, located in California, which comprise approximately seventy two thousand sixty three acres, as generally depicted on a map entitled Whipple Mountains Proposal, dated June 1988 (CDCA-312), and which shall be known as the Whipple Mountains Wilderness;

(49) certain public lands in the California Desert District of the Bureau of Land Management, located in California, which comprise approximately one thousand three hundred forty three acres, as generally depicted on a map entitled Whipple Mountains Addition Proposal, dated June 1988 (AZ-050-010), and which shall be known as the Whipple Wilderness-East Unit;

(50) certain public lands in the California Desert District of the Bureau of Land Management, located in California, which comprise approximately seventy five thousand six hundred sixty five acres, as generally depicted on a map entitled Palen/McCoy Proposal, dated June 1988 (CDCA-325), and which shall be known as the Palen Mountains Wilderness;

(51) certain public lands in the California Desert District of the Bureau of Land Management, located in California, which comprise approximately fifty two thousand seven hundred eighty two acres, as generally depicted on a map entitled Coxcomb Mountains Proposal, dated June 1988 (CDCA-328), and which shall be known as the Coxcomb Mountains Wilderness;

(52) certain public lands in the California Desert District of the Bureau of Land Management, located in California, which comprise approximately fifty one thousand four hundred thirty four acres, as generally depicted on a map entitled Eagle Mountains Proposal, dated June 1988 (CDCA-334), and which shall be known as the Eagle Mountains Wilderness;

(53) certain public lands in the California Desert District of the Bureau of Land Management, located in California, which comprise approximately forty seven thousand one hundred forty acres, as generally depicted on a map entitled Santa Rosa Mountains Proposal, dated June 1988 (CDCA-341), and which shall be known as the Santa Rosa Mountains Wilderness;

(54) certain public lands in the California Desert District of the Bureau of Land Management, located in California, which comprise approximately seven thousand one hundred ninety nine acres, as generally depicted on a map entitled Mecca Hills Proposal, dated June 1988 (CDCA-343), and which shall be known as the Mecca Hills Wilderness;

(55) certain public lands in the California Desert District of the Bureau of Land Management, located in California, which comprise approximately twenty eight thousand two hundred seven acres, as generally depicted on a map entitled Orocopia Mountains Proposal, dated June 1988 (CDCA-344), and which shall be known as the Orocopia Mountains Wilderness;

(56) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifty seven thousand thirty acres, as generally depicted on a map entitled Chuckwalla Mountains Proposal, dated June 1988 (CDCA-348), and which shall be known as the Chuckwalla Mountains Wilderness;

(57) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately thirty one thousand four hundred ninety three acres, including eight hundred ninety one acres adjacent to the Wilderness Study Area, as generally depicted on a map entitled Indian Pass Proposal, dated June 1988 (CDCA-355), and which shall be known as the Julian Wash Wilderness;

(58) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately five thousand four hundred fifty five acres, as generally depicted on a map entitled Picacho Peak Proposal, dated June 1988 (CDCA-355A), and which shall be known as the Gavilan Wilderness;

(59) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty five thousand seven hundred sixteen acres, as generally depicted on a map entitled North Algodones Dunes Proposal, dated June 1988 (CDCA-360), and which shall be known as the North Algodones Dunes Wilderness;

(60) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately twenty six thousand one hundred twenty eight acres, as generally depicted on a map entitled Jacumba Proposal, dated June 1988 (CDCA-368), and which shall be known as the Jacumba Wilderness;

(61) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately fifteen thousand three hundred fifty-nine acres, as generally depicted on a map entitled Fish Creek Mountains Proposal, dated June 1988 (CDCA-372), and which shall be known as the Fish Creek Mountains Wilderness; and

(62) certain public lands in the Carson City Nevada District of the Bureau of Land Management, located in California, which comprise approximately five hundred fifty acres, as generally depicted on a map entitled Carson Iceberg Proposal, dated June 1988 (NV-030-532), and which shall be known as the Carson Iceberg Wilderness.

(b) The acreages cited in this Act are approximate. In the event of discrepancies between acreages cited in this Act and the acreages depicted on the referenced maps, the maps shall control.

SEC. 5. As soon as practicable after enactment of this Act, a map and a legal description for each designated wilderness area and area added to the National Park System shall be filed by the Secretary with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical, and cartographic errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Offices of the Director and California State Director, Bureau of Land Management, Department of the Interior.

SEC. 6. (a) Subject to valid existing rights, each wilderness area designated by Section 4(a) of this Act shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act (16 U.S.C. 1131 et seq.) and pursuant to the rules and regulations promulgated in implementation thereof.

(b) The following lands are hereby added to the National Park System:

(1) certain public lands in the California Desert District of the Bureau of Land Management, California, which comprise approximately one hundred and three thousand eight hundred acres, as described in the Bureau of Land Management's Monument Environmental Impact Statement, 1989, and generally depicted on maps entitled Proposed Additions to National Park System Death Valley National Monument, 1989, are hereby incorporated in, and shall be deemed to be a part of Death Valley National Monument; and

(2) certain public lands which comprise approximately four thousand eight hundred acres, as described in the Bureau of Land Management's Monument Environmental Impact Statement, 1989, and generally depicted on a map entitled: Proposed Addition to National Park System Joshua Tree National Monument, 1989, are hereby incorporated in, and shall be deemed to be a part of Joshua Tree National Monument.

(c) Upon enactment of this title, the lands described in subsection (a) of this section, are, by operation of law and without consideration, transferred to the administrative jurisdiction of the National Park Service. The boundaries of the California Desert District; Death Valley National Monument and Joshua Tree National Monument are adjusted accordingly. The areas added to the National Park System by this section shall be administered in accordance with the provisions of law generally applicable to units of the National Park System.

(d) The Secretary shall, within a reasonable period of time, prepare plans to manage each designated wilderness area.

(e) For purposes of this Act, any reference in the Wilderness Act to the effective date of that Act shall be deemed to be a reference to the effective date of this Act.

SEC. 7. Any lands within the boundaries of a wilderness area established by this Act that are acquired by the United States after the date of enactment of this Act shall become part of the wilderness area within which they are located and shall be managed in accordance with all the provisions of this Act and other laws applicable to such wilderness area.

SEC. 8. Except as otherwise provided in this Act, and subject to valid existing rights, all Federal lands established as wilderness by this Act and all lands within wilderness areas designated by this Act which are hereafter acquired by the United States are hereby withdrawn from all forms of entry, appropriation, or disposal under the public lands laws, including the mining, mineral leasing, geothermal leasing, and material sales laws.

SEC. 9. (a) Nothing in this Act designating lands as wilderness shall constitute or be construed to constitute either an express or implied reservation of water or water rights for wilderness purposes. The United States may acquire such water rights as it deems necessary to carry out its responsibilities on any lands designated as wilderness pursuant to the substantive and procedural requirements of the laws of the States of California and Nevada as appropriate.

(b) Nothing in this Act shall be construed to limit the exercise of water rights as provided under California and Nevada State laws as appropriate.

SEC. 10. (a) Military aircraft testing and training activities as well as demilitarization activities in California are an important part of the national defense system of the United States, and are essential in order to secure for the American people of this and future generations an enduring and viable national defense system.

(b) Nothing in this Act shall be construed to restrict, forbid, or interfere with demilitarization activities and the overflight of military aircraft over areas designated in this Act as the components of the National Wilderness Preservation System.

(c) The designation by this Act of wilderness areas in the State of California shall not restrict military overflights of wilderness areas for the purposes of military testing and training.

(d) The fact that military overflights can be seen or heard shall not preclude such activities over the wilderness areas designated by this Act.

(e) Nothing in this Act shall be construed to restrict, forbid, or interfere with demilitarization activities at Sierra Army Depot which is located adjacent to areas designated in this Act as components of the National Wilderness Preservation System and the fact that such demilitarization activities can be detected from within the adjacent wilderness areas shall not preclude such activities.

SEC. 11. In recognition of the past use of portions of the wilderness areas designated by this Act by Indian people for traditional cultural and religious purposes, the Secretary shall assure access to the wilderness areas by Indian people for traditional cultural and religious purposes. In implementing this section, the Secretary, upon the request of an appropriate Indian tribe or Indian religious community, may from time to time temporarily close to general public use of one or more specific portions of wilderness areas in order to protect the privacy of religious cultural activities in such areas by Indian people. Any such closure shall be made so as to affect the smallest practicable area for the minimum period necessary for such purposes.

SEC. 12. (a) Except as provided in subsections (b) and (c) of this section, the Congress finds and directs that all public lands in the State of California administered by the Bureau of Land Management have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1712 and 1782). Those California public lands not designated as wilderness by this Act are no longer subject to the requirements contained in section 603 of the said Act for management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness, and shall be managed for their multiple use or other values in accordance with land management plans developed pursuant to said Act, or as part of the National Park System pursuant to section 6 of this Act.

(b) Those public lands situated in Lassen County, California, and comprising portions of the Dry Valley Rim (CA-020-615), Buffalo Hills (CA-020-619) or Twin Peaks (CA-020-619A) WSAs are hereby excepted from the provisions of this section.

(c) Those public lands situated in Washoe County, Nevada, and included in either the Five Springs WSA (CA-020-609) or the Skedaddle WSA (CA-020-612) have been adequately studied for wilderness designation pursuant to Sections 202 and 603 of FLPMA. Those lands not designated as wilderness by this Act are no longer subject to the requirements contained in Section 603 of the FLPMA and shall be managed in the same manner as provided for public lands in the State of California by subsection (a) of this section.

SEC. 13. There are authorized such sums as may be necessary to carry out the provisions of this Act.

SECTION-BY-SECTION ANALYSIS—CALIFORNIA PUBLIC LANDS WILDERNESS ACT

SEC. 1. SHORT TITLE

This Act would be cited as the "California Public Lands Wilderness Act".

SEC. 2. CONGRESSIONAL FINDINGS

The Congress finds that—

(a) Many areas of undeveloped public land in California and one parcel in Washoe County, Nevada, administered by the Bureau of Land Management (BLM) have outstanding natural characteristics that give them high value as wilderness.

(b) It is in the national interest that these areas be promptly designated as components of the National Wilderness Preservation Systems in order to preserve and maintain them as an enduring resource of wilderness to be managed to promote and perpetuate their wilderness character and generations of the American people.

(c) Certain areas of public lands in Inyo and Riverside Counties, California, are appropriate for transfer from the BLM to the National Park Service as additions to the Death Valley and Joshua Tree National Monuments.

SEC. 3. DEFINITIONS

Section 3(a) would define the term "public lands" to mean the same as defined in section 103(e) of the Federal Land Policy and Management Act of 1976 (FLPMA).

Section 3(b) would define the term "Secretary" to mean the Secretary of the Interior.

SEC. 4. LANDS DESIGNATED AS WILDERNESS/ LANDS ADDED TO THE NATIONAL PARK SYSTEM

Section 4(a) would designate the following 62 areas as components of the National Wilderness Preservation System:

WSA name	Acreage	WSA No.	BLM district, State
Owens Peak	15,897	CA-010-026	Bakersfield, CA.
Sacatar Meadows	10,721	CA-010-027	Do.
Southern Inyo	28,291	CA-010-056	Do.
Pinnacles	1,983	CA-040-303	Do.
Pit River Canyon	7,443	CA-020-103	Susanville, CA.
Tunnison Mountain	7,889	CA-020-311	Do.
Skedaddle	[1] 37,482	CA-020-612	Do.
	[2] 152	....	
South Warner	1,161	CA-020-708	Do.
Chemise Mountain	4,143	CA-050-111	Ukiah, CA.

WSA name	Acreage	WSA No.	BLM district, State
King Range	20,248	CA-050-112	Do.
Agua Tibia	344	CA-060-002	CA Desert, CA.
Sawtooth Mountains	22,875	CA-060-024B.	Do.
Carrizo Gorge	15,408	CA-060-025A.	Do.
Western Otay Mountain	4,323	CA-060-028	Do.
Southern Otay Mountain	6,783	CA-060-029	Do.
Saline Valley	392,643	CDCA-117	Do.
Lower Saline Valley	2,154	CDCA-117A	Do.
Little Sand Spring	35,792	CDCA-119	Do.
Inyo Mountains	58,392	CDCA-122	Do.
Hunter Mountain	20,030	CDCA-123	Do.
Panamint Dunes	90,626	CDCA-127	Do.
Wild Rose Canyon	14,079	CDCA-134	Do.
Slate Range	44,536	CDCA-142	Do.
Funeral Mountains	23,004	CDCA-143	Do.
Greenwater Valley	22,811	CDCA-148	Do.
Nopah Range	79,868	CDCA-150	Do.
Owlshead Mountains	121,912	CDCA-156	Do.
Little Lake Canyon	32,225	CDCA-157	Do.
Owens Peak	26,113	CDCA-158	Do.
El Paso Mountains	13,986	CDCA-164	Do.
Golden Valley	29,113	CDCA-170	Do.
Newberry Mountains	20,291	CDCA-206	Do.
Rodman Mountains	17,630	CDCA-207	Do.
Bighorn Mountains	11,068	CDCA-217	Do.
Morongo	6,410	CDCA-218	Do.
Whitewater	11,169	CDCA-218A	Do.
Kingston Range	34,369	CDCA-222	Do.
Cinder Cones	41,701	CDCA-239	Do.
Keslo Dunes	46,405	CDCA-250	Do.
Bristol/Granite Mountains.	43,232	CDCA-256	Do.
South Providence Mountains.	24,238	CDCA-262	Do.
Providence Mountains	59,681	CDCA-263	Do.
Castle Peaks	43,519	CDCA-266	Do.
Fort Piute	34,854	CDCA-267	Do.
Turtle Mountains	116,480	CDCA-307	Do.
Chemehuevi Mountains	61,853	CDCA-310	Do.
Chemehuevi Needles Addition.	938	AZ-050-004	Yuma, AZ, CA.
Whipple Mountains	72,063	CDCA-312	Do.
Whipple Mountains Addition.	1,343	AZ-050-010	Do.
Palen/McCoy	75,665	CDCA-825	CA Desert, CA.
Coxcomb Mountains	52,782	CDCA-328	Do.
Eagle Mountains	51,434	CDCA-334	Do.
Santa Rose Mountains	47,140	CDCA-341	Do.
Mecca Hills	7,199	CDCA-343	Do.
Orocopia Mountains	28,207	CDCA-344	Do.
Chuckwalla Mountains	57,030	CDCA-348	Do.
Indian Pass	31,493	CDCA-355	Do.
Picacho Peak	5,455	CDCA-355A	Do.
North Algodones Dunes	25,716	CDCA-360	Do.
Jacumba	26,128	CDCA-368	Do.
Fish Creek Mountains	15,359	CDCA-372	Do.
Carson Iceberg	550	NV-030-532	Carson City, NV, CA.

[1] California.
[2] Nevada.

Section 4(b) would provide that the acreages are approximate, and the maps shall control in the event of discrepancies between acreages cited in this Act and the acreages depicted on the referenced maps.

SEC. 5. MAPS

Section 5 would require the Secretary, as soon as practicable after enactment, to file a map and a legal description for each designated wilderness area and area added to the National Park System with the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs. Each such map and legal description would have the same force and effect as if included in this Act, and would be on file and available for public inspection in the Offices of the Director and California State Director, BLM, Department of the Interior.

SEC. 6. ADMINISTRATION

Section 6(a) would require the Secretary, subject to valid existing rights to administer each wilderness area designated by this Act in accordance with the provisions of the Wilderness Act (16 U.S.C. 1131 et seq.) and its implementing rules and regulations.

Section 6(b) would add the following lands to the National Park System:

Name	Acreage	BLM district, State
Proposed additions to National Park System, Death Valley National Monument.	103,800	CA Desert, CA.
Proposed addition to National Park System, Joshua Tree National Monument.	4,800	Do.

Section 6(c) would provide that, upon enactment of this section, the lands described in section 6(b) would be transferred to the administrative jurisdiction of the National Park Service by operation of law and without consideration. The boundaries of the California Desert District, Death Valley National Monument, and Joshua Tree National Monument would be adjusted accordingly. The areas added to the National Park System by this section would be administered in accordance with the provisions of law generally applicable to units of the National Park System.

Section 6(d) would require the Secretary to prepare plans, within a reasonable period of time, to manage each designated wilderness area.

Section 6(e) would provide that, for purposes of this Act, any reference in the Wilderness Act to the effective date of that Act shall be deemed to be a reference to the effective date of this Act.

SEC. 7. AUTOMATIC INCORPORATION OF ACQUIRED LANDS INTO WILDERNESS AREAS

Section 7 would require that any lands within the boundaries of a wilderness area established by this Act become part of the wilderness area within which they are located and be managed in accordance with all the provisions of this Act and other laws applicable to such wilderness area.

SEC. 8. WITHDRAWAL FROM MINING AND MINERAL LEASING

Except as otherwise provided in this Act, and subject to valid existing rights, section 8 would withdraw all Federal lands established as wilderness by this Act and all lands within designated wilderness areas which are hereafter acquired by the United States from all forms of entry, appropriation, or disposal under the public land laws, including the mining, mineral leasing, goethermal leasing, and material sales laws.

SEC. 9. WATER RIGHTS

Section 9(a) would provide that nothing in this Act shall constitute or be construed to constitute either an express or implied reservation of water or water rights for wilderness purposes. The United States would be authorized to acquire such water rights as it deems necessary to carry out its responsibilities on any lands designated as wilderness pursuant to the substantive and procedural requirements of California and Nevada State laws.

Section 9(b) would provide that nothing in this Act shall be construed to limit the exercise of water rights as provided under California and Nevada State laws.

SEC. 10. MILITARY OVERFLIGHTS

Section 10(a) states that military aircraft testing and training activities, as well as demilitarization activities in California, are an important part of the U.S. national defense system, and are essential to secure an enduring and viable national defense system for the present and future generations of the American people.

Section 10(b) would provide that nothing in this Act shall be construed to restrict, forbid, or interfere with demilitarization activities and the overflight of military aircraft over areas designated in this Act as components of the National Wilderness Preservation System.

Under section 10(c), the designation by this Act of wilderness areas in the State of California would not restrict military overflights of wilderness areas for military testing and training.

Under section 10(d), the fact that military overflights could be seen or heard would not preclude such activities over the wilderness areas designated by this Act.

Section 10(e) would provide that nothing in this Act shall be construed to restrict, forbid, or interfere with demilitarization activities at Sierra Army Depot which is located adjacent to areas designated in this Act as components of the National Wilderness Preservation System and the fact that demilitarization activities could be detected from within the adjacent wilderness areas would not preclude such activities.

SEC. 11. AMERICAN INDIAN RELIGIOUS FREEDOM PROVISIONS

Section 11 would require the Secretary to assure access to the wilderness areas designated by this Act by Indian people for traditional cultural and religious purposes. Upon the request of an appropriate Indian tribe or Indian religious community, the Secretary would be authorized from time to time to temporarily close to general public use one or more specific portions of wilderness areas to protect the privacy of the Indian people's religious cultural activities. Any such closure would be made so as to affect the smallest practicable area for the minimum period necessary for such purposes.

SEC. 12. RELEASE LANGUAGE

Under section 12, the Congress finds and directs that, except as provided in subsections (b) and (c) of this section, all BLM-administered public lands in the State of California have been adequately studied for wilderness designation pursuant to sections 202 and 603 of the Federal Land Policy and Management Act of 1976 (FLPMA) (43 U.S.C. 1712 and 1782). Those California public lands not designated as wilderness by this Act are no longer subject to the requirements of section 603 of FLPMA for management of wilderness study areas in a manner that does not impair the suitability of such areas for designation as wilderness, and shall be managed for their multiple use or other values in accordance with land management plans developed pursuant to said Act, or as part of the National Park System pursuant to section 6 of this Act.

Section 12(b) would except public lands situated in Lassen County, California, and comprising portions of three WSAs from the provisions of the section. The three WSAs are Dry Valley Rim (CA-020-615), Buffalo Hills (CA-020-619) and Twin Peaks (CA-020-619A).

Section 12(c) would provide that those public lands situated in Washoe County, Nevada, and included in either the Five Springs WSA (CA-020-609) or the Skedaddle WSA (CA-020-612) have been adequately studied for wilderness designation pursuant to Sections 202 and 603 of FLPMA. Those lands not designated as wilderness by this Act would no longer be subject to the requirements contained in Section 603 of said Act and shall be managed in the same manner as provided for public lands in the State of California by subsection (a) of this section.

SEC. 13. APPROPRIATION AUTHORIZATION

Section 13 would authorize to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. HARKIN (for himself, Mr. BURDICK, and Mr. PRYOR.)

S. 2394. A bill to amend title XVIII of the Social Security Act and title III of the Public Health Service Act to protect and improve the availability and quality of health care in rural areas; to the Committee on Finance.

RURAL HEALTH CARE PROTECTION AND IMPROVEMENT ACT

• Mr. HARKIN. Mr. President, I rise to introduce legislation I have been working on for some time that I believe is of critical importance for the protection and improvement of access to health care in rural America. My bill, the Rural Health Care Protection and Improvement Act of 1992, will extend and expand three important and successful rural health programs. I am very pleased to be joined in this effort by the cochair of the Senate rural health caucus, the senior Senator from North Dakota [Mr. BURDICK].

The Rural Health Care Protection and Improvement Act of 1992 would do three things:

Extend the special Medicare-dependent small rural hospital payment provisions until 1995, when the urban-rural payment differential is fully phased out;

Authorize an expansion of the Rural Health Outreach Grant Program that was created in the fiscal year 1991 Labor, Health and Human Services appropriations bill; and

Keep the Rural Health Transition Grant Program alive by extending it authorization, set to expire this year, for 5 more years and increasing its authorization level from $25 million to $30 million a year.

Mr. President, nowhere is our Nation's health care crisis more acute than in rural America. A particular problem in rural America has been the steady decline in the number of hospitals serving it. Between 1980 and 1990, 330 rural hospitals were forced to close their doors, in large part because of inequities in Medicare reimbursement. In 1989, Congress wisely acted to redress this inequity by establishing the Medicare Dependent Hospital Program as a part of the Omnibus Budget Reconciliation Act [OBRA]. The MDH Program allows rural hospitals under 100 beds to qualify for a cost reimbursement if over 60 percent of their patient days were supported under Medicare. Even with this funding, these hospitals have had a negative Medicare reimbursement—but these funds have provided the needed margin for survival for many. This inequity will continue until at least 1995, when the rural/urban differential is scheduled to be eliminated. The MDH Program will, however, end in 1992, unless extended through this legislation. It is therefore essential to extend this program at least until the urban-rural payment differential is completely phased out in 1995.

Mr. President, the impending end of the MDH Program is already having a profound effect on these critically important health care providers, their employees and their patients across rural America. In my home State of Iowa, where four rural hospitals have closed in the last 6 years, and where a quarter of rural hospitals are now operating at a loss, the Franklin General Hospital in Hampton, IA will lay off 25 employees—11 percent of their staff—effective immediately due to the anticipated cutbacks in Medicare funding. If this program is not extended, the Van Buren County Hospital, a 40-bed acute care facility, will lose $149,000 next year, an amount equal to their entire bottom line last year. Francis T. Carr, administrator of the Eldora Regional Medical Center, told me that the $100,000 his hospital would lose if the Medicare Dependent Hospital Program ended would amount to 5 percent of its annual budget. Their only recourse would be to raise taxes on country residents who are already bearing more than their fair share of health care costs, or to increase fees which would have the same effect, further fueling the spiraling cost of health care. Richard C. Hamilton, administrator of the Clarinda Municipal Hospital refers to the scheduled end of this program as "slow, constant financial strangulation."

A total of 35 rural Iowa hospitals participate in this program. Without continued supplemental Medicare funding they will lose $7.2 million a year. For some, that could well mean the end. And for thousands Iowans, that would mean significantly reduced health care access.

Mr. President, this legislation also authorizes an expansion of the Rural Health Outreach Program that I worked to establish as a part of the fiscal year 1991 Labor, Health and Human Services appropriations bill. We began this initiative to demonstrate the effectiveness of outreach programs in rural areas that do not normally seek or have trouble accessing health or mental health services. The outreach grants are designed to address two major needs: First, improved outreach efforts by community and migrant health centers and local health departments to reach many people in need of primary and preventive care who now are not being reached until they are acutely ill and need extensive and expensive hospital care; and second, improved cooperation between health and social service agencies in reaching these people. This program has received overwhelmingly positive response from around the Nation.

In the outreach grant program's short history, it has already had a great impact on improving coordination between health care providers and expanding access to needed health and mental health services. In 1991, $18.3 million in grants was awarded to 100 communities in 46 States. In Iowa, the Grundy County Memorial Hospital in Grundy Center will establish a hospice program to provide needed care to terminally ill individuals. Case management and respite care services will be provided as well. Mahaska County Hospital in Oskaloosa, IA, will coordinate improved occupational health services to farm families and agribusiness employees in 15 southeastern Iowa counties. This outreach grant project is the result of a tremendous collaborative effort of 17 hospitals, the university, and farm related organizations.

As chairman of the Labor-HHS Subcommittee, I was pleased to be able to win an increase to $22.5 million in appropriations for this program in fiscal year 1992. I was very distressed, however, to see that the President's fiscal year 1993 budget contains no funding for this critical rural health program.

The legislation we are introducing today would authorize an expansion of the outreach grant program to $30 million in 1993 and such sums as necessary for fiscal years 1994–97.

The Rural Health Care Protection and Improvement Act of 1992 would also keep alive the Rural Health Transition Grant Program which is scheduled to expire this year. This very successful program, established as a part of OBRA '87, helps small rural hospitals and their communities adapt to changing situations and needs. Situations such as excess hospital capacity and a declining supply of health professionals, increasing demand for ambulatory and emergency services, and the need for adequate access to emergency and inpatient care in areas where many underutilized hospital beds are being eliminated. Eligible hospitals receive grants of up to $50,000 a year for up to 3 years. In 1991, 188 hospitals in 44 States received grants under this program. As chairman of the Labor, Health and Human Services appropriations subcommittee, I have worked to significantly expand funding for this program. And this legislation would allow an even further expansion by increasing the program's authorization $50 million a year.

Iowa has been particularly helped by the Transition Grant Program. It has consistently ranked among the top states in the number of hospitals receiving grants under the program. Among Iowa hospitals receiving new grant awards last year were the Winneshiek County Memorial in Decorah, Anamosa Community Hospital in Anamosa, Virginia Gay Hospital in Vinton, Grundy County in Grundy Center, Veterans Memorial in Waukon, Mercy in Corning, Van Buren County in Keosauqua, Story County in Nevada, Cass County Memorial in Atlantic, and Humboldt County Memorial in Humboldt.

This legislation would extend authorization for the transition grants until 1997 and increase the maximum funding level from $25 million to $30 million a year.

Mr. President, rural Americans are at triple jeopardy—they are more often poor, more often uninsured, and more often without access to health care.

They are at increased risk to motor vehicle injury and death with two-thirds of motor vehicle deaths occurring in rural areas. Over 12 million rural Americans also face the increased occupational risks of farming, America's most hazardous occupation. Rural America is home to a disproportionately large segment of older citizens who more often require long-term care for their illnesses and disabilities. And rural America is not immune from the social stresses of modern society. This is manifest by escalating needs for mental health services to deal with necessary alcohol and drug related treatment, and by the significantly higher rate of suicide in rural areas. Yet, rural Americans are increasingly becoming commuters for their health care. Rural Americans deserve to be treated equitable and this legislation takes several meaningful steps toward assuring that quality health care is readily accessible to them.

It is time for fundamental health care reform in America. This reform must provide not only affordable and comprehensive health care, but offer real access to health care for all Americans including those living in rural and other underserved areas. It must provide comprehensive long-term care for the elderly and for those with disabilities. It must provide a system of care that assures vertical integration that provides preventive care, primary care, acute care, long-term care, mental health care, and social services through public and private partnerships. Without a strong and functional infrastructure for health care delivery, no type of health care reform will meet the mandatory test of equal access of health care for all Americans.

Mr. President, I urge my colleagues to join us in supporting this important legislation and ask unanimous consent that a copy and summary of the proposed bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2394

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Health Care Protection and Improvement Act of 1992."

SEC. 2. EXTENSION OF CERTAIN PAYMENT PROVISIONS FOR MEDICARE-DEPENDENT SMALL RURAL HOSPITALS.

(a) IN GENERAL.—Section 1886(d)(5)(G)(i) of the Social Security Act (42 U.S.C. 1395ww(d)(5)(G)(i)) is amended by striking "March 31, 1993" and inserting "March 31, 1995".

(b) PAYMENT.—Section 1886(b)(3)(D) of such Act (42 1395ww(b)(3)(D)) is amended by striking "March 31, 1993" and inserting "March 31, 1995".

SEC. 3. EXTENSION AND EXPANSION OF RURAL HEALTH TRANSITION GRANT PROGRAM.

(a) IN GENERAL.—Section 4005(e)(9) of the Omnibus Budget Reconciliation Act of 1987, as amended by section 6003(g)(1)(B) of the Omnibus Budget Reconciliation Act of 1989 is amended—

(1) by striking "1989 and" and inserting "1989,"; and

(2) by striking "1992" and inserting "1992 and $30,000,000 for each of the fiscal years 1993, 1994, 1995, 1996 and 1997".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 4. ESTABLISHMENT OF RURAL HEALTH OUTREACH GRANT PROGRAM.

(a) IN GENERAL.—Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by inserting after part L the following new part M:

"SEC. 399B. RURAL HEALTH OUTREACH GRANT PROGRAM.

(a) IN GENERAL.—The Secretary may make grants to demonstrate the effectiveness of outreach to populations in rural areas that do not normally seek or do not have adequate access to health or mental health services. Grants shall be awarded to enhance linkages, integration, and cooperation in order to provide health or mental health services, to enhance services, or increase access to or utilization of health or mental health services.

"(b) MISSION OF THE OUTREACH PROJECTS.—Projects under subsection (a) should be designed to facilitate integration and coordination of services in or among rural communities in order to address the needs of populations living in rural or frontier communities.

"(c) COMPOSITION OF PROGRAM.—

"(1) CONSORTIUM ARRANGEMENTS.—Participation in the program established in subsection (a) requires the formation of consortium arrangements among three or more separate and distinct entities to carry out an outreach project.

"(2) CERTAIN REQUIREMENTS.—

"(A) A consortium under paragraph (1) must be composed of three or more public or private nonprofit health care or social service providers. Consortium members may include such entities as: local health departments, community or migrant health centers, community mental health centers, hospitals or private practices, or other publicly funded health or social services agencies.

"(B) Grantees currently receiving support under this program shall continue to be eligible for support.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $50,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994, 1995, 1996 and 1997.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SUMMARY OF THE RURAL HEALTH CARE PROTECTION AND IMPROVEMENT ACT OF 1992

This legislation would preserve and expand three programs that are critical to maintaining and improving access to health care in hundreds of rural communities across the nation. The "Rural Health Care Protection and Improvement Act of 1992":

Extends the special Medicare-Dependent Small Rural Hospital payment provisions until 1995, when the urban-rural payment differential is fully phased out.

Keeps the Rural Health Transition Grant Program alive by extending its authorization, set to expire this year, for five more years and increasing its authorization level from $25 million to $30 million a year.

Authorizes an expansion of the Rural Health Outreach grant program that was created in the Fiscal Year 1991 Labor, Health and Human Services Appropriations bill.

MEDICARE DEPENDENT HOSPITAL PROGRAM

Established in OBRA'89, this program provides a measure of relief to rural hospitals with 100 or fewer beds that are dependent upon Medicare for at least 60 percent of their patient days and do not qualify as sole community hospitals (SCHs). These hospitals are eligible for the same payment rules available so SCHs which allow them to receive hospital-specific rates higher than they would normally receive under PPS. 21 percent of rural hospitals are designated as Medicare Dependent Hospitals (MDHs) and 45 percent of MDHs receive higher Medicare payments because of this status. For those 243 hospitals, the average increase in Medicare payments is 17 percent what they would otherwise be receiving.

This legislation would extend the MDH program, which is set to expire with cost reporting periods ending April 1, 1993, for two additional years. It would provide strapped rural hospitals much needed relief until the urban/rural differential in Medicare payments is completely phased out in 1995.

RURAL HEALTH TRANSITION GRANT PROGRAM

This very successful program, established as a part of OBRA'87, helps small rural hospitals and their communities adapt to changing situations and needs. Situations such as excess hospital capacity and a declining supply of health professionals, increasing demand for ambulatory and emergency services, and the need for adequate access to emergency and inpatient care in areas where many underutilized hospital beds are being eliminated. Eligible hospitals receive grants of up to $50,000 a year for up to 3 years. In 1991, 188 hospitals in 44 states received grants under this program. Fiscal year 1992 funding is $23 million.

Authorization for the transition grants expires in 1992. This legislation would extend it until 1997 and increase the authorization from $25 million to $30 million a year.

RURAL HEALTH OUTREACH PROGRAM

The FY '91 Labor, Health and Human Services Appropriations Act began this initiative to demonstrate the effectiveness of outreach programs to populations in rural areas that do not normally seek or have trouble accessing health or mental health services. The outreach grants, which have proven to be in great demand, are designed to address two major needs: 1) improved outreach efforts by community and migrant health centers, local health departments and other providers to reach many people in need of primary and preventive care who now are not being reached until they are acutely ill and need extensive and expensive hospital care, and, 2) improved cooperation between health and social service agencies in reaching these people. In 1991, $18.3 million in grants were awarded to 100 communities in 46 states. $22.5 million will be awarded in 1992.

This legislation would authorize an expansion of the outreach grant program to $50 million in 1993 and such sums as necessary for fiscal year 1994–97.●

By Mr. BAUCUS:

S. 2395. A bill to increase the competitiveness of the United States automotive industry by requiring United States automotive manufacturers to make certain improvements in quality and efficiency and by requiring the

President to negotiate a trade agreement with Japan limiting Japanese automotive exports to the United States; to the Committee on Finance.

AUTOMOTIVE COMPETITIVENESS ACT OF 1992

Mr. BAUCUS. Mr. President, on October 4, 1957, a startled America learned that a Soviet rocket had placed the satellite Sputnik in orbit around the Earth. The event spurred widespread panic. American technology, it appeared, was no match for the Soviets. The United States was losing the battle for the future.

Today, more Americans fear Japanese manufacturing prowess than Russian rockets. And rightfully so. The end of the cold war has focused a new light on international commerce.

Tough economic competition has forced our nation to ask fundamental questions about basic components of our economy. Too often, we find ourselves lacking.

I introduce today the Automotive Competitiveness Act of 1992.

The act challenges the American auto industry to rise to the demands of this new era.

SOMETHING FOR NOTHING

There is a pattern in U.S. trade policy that has become all too familiar. In sector after sector, American industries face tough competition from abroad.

Thirty years ago, Americans set the standard of excellence for autos, steel, and electronics. Today, these standards are set more often by the Japanese, the Koreans, and the Germans.

In reaction to this competition, American industries often have requested import relief from the Federal Government. More often than not, the siren's call of protection has proved too strong to resist—the Government granted the request.

Protection usually is sold as an opportunity for breathing space. At the end of the protection period, we are told, industry will be competitive enough to stand alone.

Unfortunately, this is rarely the case. In most cases, protected industries do not become more competitive. Instead, they become addicted to the protection. At the end of the relief period, Congress hears a new call for "just a few more years" of breathing space.

THE AUTOMOTIVE COMPETITIVENESS ACT

The Automotive Competitiveness Act that I am introducing today seeks to remedy the primary flaw with relief extended to industry in the past. Namely, it makes sure Americans get something for their investment.

And let's be honest—it is a big investment. When a VRA is negotiated to limit imports, consumers pay a cost. For example, it is estimated that the last auto VRA cost consumers $5 billion.

In a year of recession and massive budget deficits, it is certainly reasonable for Americans to insist that they get a return on their investment. They have the right to insist that they get a competitive industry in return for temporary protection.

The core of my proposal is a straightforward swap: The U.S. Government will provide temporary relief in exchange for a tough competitiveness commitment on the part of the Big Three.

First, my bill establishes a standstill of 3.6 million on the number of Japanese vehicles that can be sold in the United States—including both direct exports from Japan and vehicles produced in so-called transplant facilities. Any vehicle containing 70 percent or more U.S. content does not count against the limit.

Second, and most importantly, my legislation charges the auto industry a price for this relief. Namely, the ITC will evaluate the Big Three every 2 years against the competitiveness criteria established by the Department of Commerce in awarding the prestigious Baldrige Award.

I ask unanimous consent that a copy of the Baldrige criteria and an article from today's Wall Street Journal be placed in the RECORD at the end of my statement.

My bill will also force the auto industry to reduce executive salaries to levels consistent with those in Germany and Japan. Auto executives cannot expect to become multimillionaires while their companies live off the public dole.

If the ITC determines that the Big Three are not meeting these requirements, the relief will be terminated.

Frankly, I do not know if these terms are acceptable to the U.S. auto industry. If they are unacceptable, I will not push this proposal. If the Big Three determine they can go it alone, more power to them.

But let me be clear: I will work against any VRA for the auto industry—or any other industry—that does not include tough conditions along the lines that I have outlined. Our country can no longer afford something for nothing import relief.

CONCLUSION

The task of returning America's auto industry to a position of preeminence will not be achieved overnight.

In the years following the launching of Sputnik, the Soviets beat the Americans to several more milestones. It was a Soviet who first entered space. It was a Soviet who first orbited the Earth.

But on July 20, 1969, it was an American who first walked on the Moon. A decade of national dedication to excellence put America first.

There is nothing unique about the space race. When Americans commit to achieving, great achievements follow.

Today we must commit to building national industries that lead the world in quality, efficiency and innovation. Americans came from behind to put the first man on the Moon. Does anyone doubt that we can once again set the standard for automobiles and steel?

To their credit, U.S. automakers have taken significant initial steps toward reestablishing the credentials of "Made in U.S.A." Names like Taurus, Saturn, and Viper are associated with state-of-the-art achievement.

If we can turn the promise of these products into the norm throughout the industry, we will see a day when the United States recaptures its preeminent position in the international auto industry.

The bill I introduce today is a first step toward that day.

I ask unanimous consent that the text of the bill, the Baldrige criteria, and two articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2395

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Automotive Competitiveness Act of 1992".

SEC. 2. NEGOTIATION OF TRADE AGREEMENT.

(a) IN GENERAL.—The President shall take action to initiate negotiations with Japan for the purpose of entering into a bilateral agreement which meets the requirements of subsection (b).

(b) REQUIREMENTS OF AGREEMENT.—In order to meet the requirements of this subsection the bilateral agreement negotiated under subsection (a), shall provide—

(1) that the level of "Japanese motor vehicle exports" (as defined in subsection (d)) to the United States does not exceed 3,600,000, or such adjusted level established by the United States International Trade Commission under section 3, in any calendar year in which the agreement is in effect;

(2) that it shall be reviewed every 2 years by the United States International Trade Commission (hereafter in this Act referred to as the "Commission") as provided in section 3; and

(3) that such agreement shall not be in effect for a period that exceeds 7 calendar years from the effective date of this Act.

(c) INCREASE IN TARIFFS IN CASE OF NONAGREEMENT.—If the President is unable by January 1, 1993, to enter into an agreement with Japan which meets the requirements of subsection (b), the President shall provide for the imposition of tariffs on Japanese motor vehicle exports at such a rate as to achieve a level of imports of such vehicles into the United States as would have been achieved under the requirements of the bilateral agreement described in subsection (b) had such agreement been in effect.

(d) JAPANESE MOTOR VEHICLE EXPORTS DEFINED.—For purposes of this Act, the term "Japanese motor vehicle exports" means—

(1) passenger automobiles, multipurpose vehicles and light trucks exported from Japan to the United States; and

(2) sales in the United States of passenger automobiles, multipurpose vehicles and light trucks, if such automobiles, vehicles and trucks have an aggregate average value of goods originating in the United States incor-

porated into such automobiles, vehicles and trucks which is less than 70 percent of the average total value of the automobile, vehicle or light truck.

In making a determination as to the origination of goods under this subsection, such determination shall be made in the same manner as determined under Article 301 and annex 301.2 of the Canada-United States Free Trade Agreement.

SEC. 3. CONDITIONS OF CONTINUED ENFORCEMENT OF AGREEMENT.

(a) IN GENERAL.—The bilateral agreement negotiated under section 2(a) or the imposition of tariffs under section 2(b), shall terminate or be modified—

(1) at the close of the seventh anniversary of the effective date of this Act; or

(2) before the close of the second, fourth, or sixth anniversary of the effective date of this Act, if the Commission submits to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a recommendation based on the review and findings of the Commission under subsection (b) that such agreement or tariffs should be terminated or modified, unless such recommendation is rejected by means of a joint disapproval resolution as described in subsection (d).

(b) RECOMMENDATIONS AND FINDINGS OF THE INTERNATIONAL TRADE COMMISSION.—The Commission in consultation with the President and the Congress, shall prior to the close of the second, fourth, and sixth years of the effective date of this Act, review the bilateral agreement negotiated under section 2(a) or the tariffs imposed under section 2(b) of such section and may make a recommendation to the Congress providing—

(1) for elimination of the import limits negotiated under the bilateral agreement or the tariffs imposed in lieu of such agreement, if the Commission makes a negative determination under section 4 as to the competitiveness of the United States auto industry;

(2) for adjustments in the number of Japanese motor vehicle exports to the United States based on United States consumer demand; or

(3) for a one-to-one adjustment in Japanese motor vehicle exports to the United States if United States motor vehicle exports to Japan increase.

(c) IMPLEMENTATION OF COMMISSION RECOMMENDATION.—A recommendation of the Commission under this section shall take effect unless such recommendation is rejected by means of a joint disapproval resolution as described in subsection (d).

(d) JOINT DISAPPROVAL RESOLUTION DEFINED.—For purposes of this section, the term "joint disapproval resolution" means only a joint resolution of the two Houses of the Congress—

(1) the matter after the resolving clause of which is as follows: "That the Congress disapproves the recommendation of the United States International Trade Commission under section 3 of the Automotive Competitiveness Act of 1992, as submitted by the Commission on March 15; and

(2) the title of which is as follows: "Joint Resolution disapproving the recommendation of the United States International Trade Commission submitted under section 3 of the Automotive Competitiveness Act of 1992".

SEC. 4. UNITED STATES AUTOMOTIVE INDUSTRY COMPETITIVE MEASURES.

(a) IN GENERAL.—In order for the Commission not to make a "negative determination" (as defined in subsection (b)) under this section, the United States automotive industry must, taken as a whole, be able to demonstrate to the Commission that it has undertaken the following measures:

(1) Improvements in quality of product and efficiency of production process as measured against the criteria utilized by the Department of Commerce for selecting Baldridge award winners.

(2) A reduction in executive compensation that provides that such compensation is consistent with the executive compensation paid in the automotive industry in Japan and the European Communities.

(b) NEGATIVE DETERMINATION DEFINED.—The term "negative determination" means for purposes of this section, a determination by the Commission that the United States automotive industry has failed in a reporting period to meet the measures for such industry described in subsection (a) of this section.

BALDRIGE CRITERIA

INTRODUCTION

The Malcolm Baldrige National Quality Award is an annual Award to recognize U.S. companies that excel in quality management and quality achievement.

The Award promotes: awareness of quality as an increasingly important element in competitiveness; understanding of the requirements for quality excellence; and sharing of information on successful quality strategies and the benefits derived from implementation of these strategies.

Award Participation: The Award has three eligibility categories: Manufacturing companies, Service companies and Small businesses.

Up to two Awards may be given in each category each year. Award recipients may publicize and advertise their Awards. In addition to publicizing the receipt of the Award, recipients are expected to share information about their successful quality strategies with other U.S. organizations.

Companies participating in the Award process submit applications that include completion of the Award Examination.

Award Examination Review: The Award Examination is based upon quality excellence criteria created through a public-private partnership. In responding to these criteria, each applicant is expected to provide information and data on the company's quality processes and quality improvement. Information and data submitted must be adequate to demonstrate that the applicant's approaches could be replicated or adapted by other companies.

The Award Examination is designed not only to serve as a reliable basis for making Awards but also to permit a diagnosis of each applicant's overall quality management.

All applications are reviewed and evaluated by members of the Malcolm Baldrige National Quality Award Board of Examiners. When Board members are assigned to review applications, business and quality expertise is matched to the business of the applicant. Accordingly, applications from manufacturing companies are assigned primarily to Board members with manufacturing expertise, and service company applications are assigned primarily to those with service expertise. Strict rules regarding real and potential conflicts of interest are followed in assigning Board members to review applications.

Applications are reviewed without funding from the United States government. Review expenses are paid primarily through application fees; partial support the reviews is provided by the Foundation for the Malcolm Baldrige National Quality Award.

After the Award Examination review, all applicants receive feedback reports prepared by members of the Board of Examiners.

Purpose of This Document: This document contains the Award Criteria, a description of the Criteria, scoring guidelines, and other information. In addition to serving as a basis for submitting an Award application, the material contained in this document helps provide a basis for self-assessment, planning, training, and other uses by any organization.

DESCRIPTION OF THE 1992 AWARD CRITERIA

Award Criteria Purposes

The Malcolm Baldrige National Quality Award Criteria are the basis for making Awards and providing feedback to applicants. In addition, they have three other important national purposes:

To help elevate quality standards and expectations;

To facilitate communication and sharing among and within organizations of all types based upon common understanding of key quality requirements; and

To serve as a working tool for planning, training, assessment, and other uses.

The Award Criteria are directed toward dual results-oriented goals: To project key requirements for delivering ever-improving value to customers while at the same time maximizing the overall productivity and effectiveness of the delivering organization.

To achieve these results-oriented goals, the Criteria need to be built upon a set of values that together address and integrate the overall customer and company performance requirements.

Core values and concepts

The Award Criteria are built upon these core values and concepts: Customer-driven quality, leadership, continuous improvement, full participation, fast response, design quality and prevention, long-range outlook, management by fact, partnership development, and public responsibility.

Brief descriptions of the core values and concepts follow.

Customer-Driven Quality: Quality is judged by the customer. All product and service attributes that contribute value to the customer and lead to customer satisfaction and preference must be addressed appropriately in quality systems. Value, satisfaction, and preference may be influenced by many factors throughout the customer's overall purchase, ownership, and service experiences. This includes the relationship between the company and customers—the trust and confidence in products and services—that leads to loyalty and preference. This concept of quality includes not only the product and service attributes that meet basic requirements. It also includes those that enhance them and differentiate them from competing offerings. Such enhancement and differentiation may include new offerings, as well as unique product-product, service-service, or product service combinations.

Customer-driven quality is thus a strategic concept. It is directed toward market share gain and customer retention. It demands constant sensitivity to emerging customer and market requirements, and measurement of the factors that drive customer satisfaction. It also demands awareness of developments in technology, and rapid and flexible response to customer and market requirements. Such requirements extend well beyond defect and error reduction, merely meeting specifications, or reducing complaints. Nevertheless, defect and error reduction and elimination of causes of dissatisfaction contribute significantly to the customers' view of quality and are thus also important parts of customer-driven quality. In addition, the company's approach to recovering from defects and errors is crucial to its improving both quality and relationships with customers.

Leadership: A company's senior leaders must create clear and visible quality values and high expectations. Reinforcement of the values and expectations requires their substantial personal commitment and involvement. The leaders must take part in the creation of strategies, systems, and methods for achieving excellence. The systems and methods need to guide all activities and decisions of the company and encourage participation and creativity by all employees. Through their regular personal involvement in visible activities, such as planning, review of company quality performance, and recognizing employees for quality achievement, the senior leaders serve as role models reinforcing the values and encouraging leadership in all levels of management.

Continuous Improvement: Achieving the highest levels of quality and competitiveness requires a well-defined and well-executed approach to continuous improvement. Such improvement needs to be part of all operations and of all work unit activities of a company. Improvements may be of several types: (1) enhancing value to the customer through new and improved products and services; (2) reducing errors, defects, and waste; (3) improving responsiveness and cycle time performance; and (4) improving productivity and effectiveness in the use of all resources. Thus, improvement is driven not only by the objective to provide better quality, but also by the need to be responsive and efficient—both conferring additional marketplace advantages. To meet all of these objectives, the process of continuous improvement must contain regular cycles of planning, execution, and evaluation. This requires a basis—preferably a quantitative basis—for assessing progress, and for deriving information for future cycles of improvement.

Full Participation: Meeting the company's quality and performance objectives requires a fully committed, well-trained, and involved work force. Reward and recognition systems need to reinforce full participation in company quality objectives. Factors bearing upon the safety, health, well-being, and morale of employees need to be part of the continuous improvement objectives and activities of the company. Employees need education and training in quality skills related to performing their work and to understanding and solving quality-related problems. Training should be reinforced through on-the-job applications of learning, involvement, and empowerment. Increasingly, training and participation need to be tailored to a more diverse work force.

Fast Response: Success in competitive markets increasingly demands ever-shorter product and service introduction cycles and more rapid response to customers. Indeed, fast response itself is often a major quality attribute. Reduction in cycle times and rapid response to customers can occur when work processes are designed to meet both quality and response goals. Accordingly, response time improvement should be included as a major focus within all quality improvement processes of work units. This requires that all designs, objectives, and work unit activities include measurement of cycle time and responsiveness. Major improvements in response time may require work processes and paths to be simplified and shortened. Response time improvements often "drive" simultaneous improvements in quality and productivity. Hence, it is highly beneficial to consider response time, quality, and productivity objectives together.

Design Quality and Prevention: Quality systems should place strong emphasis on design quality—problem prevention achieved through building quality into products and services and into the processes through which they are produced. Excellent design quality may lead to major reductions in "downstream" waste, problems, and associated costs. Design quality includes the creation of fault-tolerant (robust) processes and products. A major design issue is the design-to-introduction cycle time. To meet the demands of ever-more rapidly changing markets, companies need to focus increasingly on shorter product and service introduction times. Consistent with the theme of design quality and prevention, continuous improvement and corrective actions need to emphasize interventions "upstream"—at the earliest stages in processes. This approach yields the maximum overall benefits of improvements and corrections. Such upstream intervention also needs to take into account the company's suppliers.

Long-Range Outlook: Achieving quality and market leadership requires a future orientation and long-term commitments to customers, employees, stockholders, and suppliers. Strategies, plans, and resource allocations need to reflect these commitments and address training, employee development, supplier development, technology evolution, and other factors that bear upon quality. A key part of the long-term commitment is regular review and assessment of progress relative to long-term plans.

Management by Fact: Meeting quality and performance goals of the company requires that process management be based upon reliable information, data, and analysis. Facts and data needed for quality assessment and quality improvement are of many types, including: customer, product and service performance, operations, market, competitive comparisons, supplier, employee-related, and cost and financial. Analysis refers to the process of extracting larger meaning from data to support evaluation and decision making at various levels within the company. Such analysis may entail using data individually or in combination to reveal information—such as trends, projections, and cause and effect—that might not be evident without analysis. Facts, data, and analysis support a variety of company purposes, such as planning, reviewing company performance, improving operations, and comparing company quality performance with competitors.

A major consideration relating to use of data and analysis to improve competitive performance involves the creation and use of performance indicators. Performance indicators are measurable characteristics of products, services, processes, and operations the company uses to evaluate performance and to track progress. The indicators should be selected to best represent the factors that determine customer satisfaction and operational performance. A system of indicators tied to customer and/or company performance requirements represents a clear and objective basis for aligning all activities of the company toward common goals. Through the analysis of data obtained in the tracking processes, the indicators themselves may be evaluated and changed. For example, indicators selected to measure product and service quality may be judged by how well they correlate with customer satisfaction.

Partnership Development: Companies should seek to build internal and external partnerships, serving mutual and larger community interests. Such partnerships might include those that promote labor-management cooperation such as agreements with unions, cooperation with suppliers and customers, and linkages with education organizations. Partnerships should consider longer-term objectives as well as short-term needs, thereby creating a basis for mutual investments. The building of partnerships should address means of regular communication, approaches to evaluating progress, means for modifying objectives, and methods to accommodate to changing conditions.

Public Responsibility: A company's customer requirements and quality system objectives should address areas of corporate citizenship and responsibility. These include business ethics, public health and safety, environment, and sharing of quality-related information in the company's business and geographic communities. Health, safety, and environmental considerations need to take into account the life cycle of products and services and include factors such as waste generation. Quality planning in such cases should address adverse contingencies that may arise throughout the life cycle of production, distribution, and use of products. Plans should include problem avoidance and company response if avoidance fails, including how to maintain public trust and confidence. Inclusion of public responsibility areas within a quality system means not only meeting all local, state, and federal legal and regulatory requirements, but also treating these and related requirements as areas for continuous improvement. In addition, companies should support—within reasonable limits of their resources—national, industry, trade, and community activities to share nonproprietary quality-related information.

Criteria framework

The core values and concepts are embodied in seven categories, as follows:

1.0 Leadership.

2.0 Information and Analysis.

3.0 Strategic Quality Planning.

4.0 Human Resource Development and Management.

5.0 Management of Process Quality.

6.0 Quality and Operational Results.

7.0 Customer Focus and Satisfaction.

The framework connecting and integrating the categories is given in the figure on page 5.

The framework has four basic elements:

Driver: Senior executive leadership creates the values, goals, and systems, and guides the sustained pursuit of quality and performance objectives.

System: System comprises the set of well-defined and well-designed processes for meeting the company's quality and performance requirements.

Measures of Progress: Measures of progress provide a results-oriented basis for channeling actions to delivering ever-improving customer value and company performance.

Goal: The basic aim of the quality process is the delivery of ever-improving value to customers.

The seven Criteria categories shown in the figure are further subdivided into Examination Items and Areas to Address. These are described below.

Examination Items: In all, there are 28 Examination Items among the seven Examination Categories. Examination Categories each contain two or more Examination Items. Each Item focuses on a major element of an effective quality system. All information submitted by applicants is in response to the specific requirements given within these Items. Each Item is assigned an Examination point value.

Areas to Address: Each Examination Item includes a set of Areas to Address (Areas). The Areas serve to illustrate and clarify the intent of the Items and to place limits on the types and amounts of information the applicant should provide. Areas are not assigned individual point values, because their relative importance depends upon factors such as the applicant's type and size of business and quality system.

The Pivotal Role of the Quality and Operational Results Category: The Quality and Operational Results Category (6.0) plays a central role in the Award Criteria. This Category provides a focus and purpose for all quality system actions. In addition, it represents the bridge between the quality system and the customer. Through this focus, the dual purpose of quality—superior value of offerings as viewed by the customer and the marketplace, and superior company performance as determined through productivity and effectiveness indicators—is maintained. The other major purpose of Category 6.0 is to provide key information (measures of progress) for evaluation and improvement of quality system processes and practices.

The Quality and Operational Results Category consists of four items:

6.1 Product and Service Quality Results.—This item calls for reporting quality levels and improvements for key product and service attributes—attributes that truly matter to the customer and to the marketplace. These attributes are derived from customer-related Items ("listening posts") which make up Category 7.0. If the attributes have been properly selected, improvements in them should show a strong positive correlation with customer and marketplace improvements indicators—captured in Items 7.4 and 7.5. The correlation between quality and customer indicators is a critical management tool. It is a device for focusing on key attributes. In addition, the correlation may reveal emerging or changing market segments or changing importance of attributes.

6.2 Company Operational Results.—This Item calls for reporting performance and improvements in quality and productivity of the company. Paralleling Item 6.1, which focuses on attributes that matter to the customer, Item 6.2 focuses on attributes that best reflect overall company performance. Such attributes are of two types: (1) generic—common to all companies; and (2) business-specific. Generic attributes include cycle time, internal quality, and those that relate to productivity, as reflected in use of labor, materials, energy, capital, and assets. Indicators of productivity, cycle time, or internal quality should reflect overall company performance. Business- or company-specific effectiveness indicators vary greatly and may include indicators such as rates of invention, environmental quality, export levels, new markets, and percent of sales from recently introduced products or services.

6.3 Business Process and Support Service Results.—This Item calls for reporting performance and improvements in quality, productivity, and effectiveness of the business processes and support services which support the principal product and service production activities. This permits a demonstration of how support units of the company link to and contribute to overall improvement in quality (reported in Item 6.1) and overall improvement in company operational performance (reported in Item 6.2). This Item is thus a useful device in aligning support activities with the company's overall principal quality, productivity, and business objectives. Through this Item, special requirements, which differ from work unit to work unit and define work-unit effectiveness, can be set, tracked, and linked to one another.

6.4 Supplier Quality Results.—This Item calls for reporting quality levels and improvements in key indicators of supplier quality. The term "supplier" refers to external providers of products and services, "upstream" and/or "downstream" from the company. The focus should be on the most critical quality attributes from the point of view of the company—the buyer of the products and services. Trends and levels of quality should reflect results by whatever means they occur—via improvements by suppliers within the supply base, through changes in selection of suppliers, or both.

Key characteristics of the award criteria

1. The Criteria are directed toward producing results.

The values outlined above are directed toward the results-oriented goals of the Criteria. Results, as used in the Criteria, are a composite of key performance areas:

Customer satisfaction.

Customer satisfaction relative to competitors.

Market share.

Customer indicators such as complaints and customer retention.

Market responsiveness and cycle time.

Product and service quality.

Internal quality, productivity, waste reduction, and asset utilization.

Company-specific effectiveness indicators such as new markets, new technology, and new products.

Supplier quality and supplier development.

Environmental quality, occupational safety and health, and regulatory compliance.

Employee development, well-being, and satisfaction.

Contributions to national and community well-being.

Assessment of these results is based upon one or more of three factors: (1) improvement trends; (2) current levels; and (3) benchmarks, evaluations, and other comparisons that establish levels and trends relative to the performance of others, especially appropriately selected leaders.

2. The Criteria are nonprescriptive.

The Criteria represent an integrated set of requirements incorporating the ten core values described above. However, the Criteria do not prescribe how the core values are to be implemented in a particular company. Specifically, they do not prescribe:

Company organization.

Quality organization, if any (The seven categories of the Criteria do not necessarily correspond to departments or company units.)

Specific quality techniques.

Type of quality system.

Method of quality system implementation.

Technologies to be used.

The Criteria are nonprescriptive for two important reasons:

(1) Organizations, techniques, and technologies vary greatly among businesses, depending on business size, type, and other factors.

(2) By focusing on requirements, companies are encouraged to develop unique, creative, or adaptive overall approaches to achieving the goals of the Criteria.

3. The Criteria link process to results.

The Award Criteria provide a link between processes and results, as described above in the Pivotal Role of the Quality and Operational Results Category. Integration in the Criteria is achieved through many direct and indirect relationships and linkages among the requirements. In addition, many parts of the Criteria call for aggregation and assessment of unit-level and company-level performance, thus encouraging an integrated view of all activities.

4. The Criteria are part of a diagnostic system.

The Criteria and the scoring system make up a two-part diagnostic system. The Criteria focus on requirements. The scoring system focuses on the factors that should be used in assessing strengths and areas for improvement. Together the two parts of the diagnostic system direct attention to activities that contribute to reaching the goals of the Criteria.

5. The Criteria are comprehensive.

The requirements contained in the Criteria cover all operations, processes, and work units of the company. In addition, the Criteria support business strategy and business decisions and pertain to all transactions, including those related to fulfilling public responsibilities.

6. The Criteria include key learning cycles.

The arrows in the figure on page 5 denote linkage and dynamic relationships and feedback among the framework elements. The primary dynamic characteristic of the Criteria is their inclusion of cycles of continuous improvement. These cycles of learning, adaptation, and improvement are explicit and implicit in every part of the Criteria. The cycles have four, clearly-defined stages:

(1) Planning, design of processes, selection of indicators, deployment of requirements.

(2) Execution of plans.

(3) Assessment of progress, taking into account internal and external indicators.

(4) Revision of plans, taking into account progress, learning, and new information.

7. The Criteria emphasize quality system alignment.

The Criteria call for improvement cycles to occur at all levels and in all parts of the company. In order to ensure that such improvement cycles carried out in different parts of the organization do not operate at counterpurposes, overall aims need to be consistent or aligned. Alignment in the Award Criteria is achieved via interconnecting and mutually reinforcing key indicators, derived from overall company requirements. The latter relate directly to delivery of customer value, improvement of organizational performance, or both. The use of key indicators channels activities toward agreed-upon goals. At the same time, use of indicators avoids detailed procedural prescriptions or unnecessary centralization of process management. Key indicators provide a basis for deploying customer and company performance requirements to all work units. Such alignment ensures consistency while at the same time challenging work units to consider new approaches to superior performance.

Linkage of the award criteria to quality-related corporate issues

Incremental and Breakthrough Improvement: Use of nonprescriptive, results-oriented Criteria and key indicators are intended to focus on what needs to be improved. This approach helps to ensure that improvements throughout the organization contribute to the organization's overall purposes. In addition to supporting creativity in approach and organization, results-oriented Criteria and key indicators encourage "breakthrough thinking"—openness to the possibility for major improvements as well as incremental ones. However, if key indicators are tied too directly to existing work methods, processes, and organizations, breakthrough changes may be discouraged. For this reason, analysis of operations, processes, and progress should focus on the selection of and the value of the indicators themselves. This will help to ensure that indicator selection does not unwittingly contribute to stifling creativity and preventing beneficial changes in organization.

Benchmarks may also serve a useful purpose in stimulating breakthrough thinking. Benchmarks offer the opportunity to achieve significant improvements based on adoption or adaptation of current best practice. In addition, they help encourage creativity through exposure to alternative approaches and results. Also, benchmarks represent a clear challenge to "beat the best," thus encouraging major improvements rather than only incremental refinements of existing approaches. As with key indicators, benchmark selection is critical, and benchmarks should be reviewed periodically for appropriateness.

Financial Performance: The Award Criteria address financial performance via three major avenues: (1) emphasis on quality factors and management actions that lead to better market performance, market share gain, and customer retention; (2) emphasis on improved productivity, asset utilization, and lower overall operating costs; and (3) support for business strategy development and business decisions.

The focus on superior offering and lower costs of operation means that the Criteria's principal route to improved financial performance is through requirements that seek to channel activities toward producing superior overall value. Delivering superior value—an important part of business strategy—also supports other business strategies such as pricing. For example, superior value offers the possibility of price premiums or competing via lower prices, which may enhance market share and asset utilization, and thus may also contribute to improved financial performance.

Business strategy usually addresses factors in addition to quality and value. For example, strategy may address market niche, facilities location, diversification, acquisition, export development, research, technology leadership, and rapid product turnover. A basic premise of the Award Criteria is that quality principles support the development and evaluation of business decisions and strategies, even through many factors other than product and service quality must be considered. Examples of applications of the Criteria to business decisions and strategies include:

Quality management of the information used in business decisions and strategy—scope, validity, and analysis.

Quality requirements of riches, new businesses, export target markets.

Quality statue of acquisitions—key benchmarks.

Analysis of factors—societal, regulatory, economic, competitive, and risk—that may bear upon the success or failure of strategy.

Development of scenarios built around possible outcomes of strategy or decisions including risks of failures, probable consequences of failures, and management of failure.

Lessons learned from previous strategy developments—within the company or available through research.

The Award Criteria and evaluation system take into account market share, customer retention, customer satisfaction, productivity, asset utilization, and other factors that contribute to financial performance. However, the Criteria do not call for aggregate financial information such as quarterly or annual profits in evaluation of applications for Awards. This exclusion is made for several reasons—technical, fairness, and procedural:

Short-term profits may be affected by such factors as accounting practices, business decisions, write-offs, dividends, and investments.

Some industries historically have higher profit levels than others.

The time interval between quality improvement and overall financial improvement depends upon many factors. Nor would this interval likely be the same from industry to industry or even for companies in the same industry.

The Award Criteria measure performance relative to rigorous, customer-oriented, company-performance criteria. Though improved quality may improve a company's financial performance, its financial performance depends also on the quality performance of competitors—which the Award process cannot measure directly. The inclusion of aggregate financial indicators in evaluations would place at a disadvantage many applicants in the most competitive businesses.

Financial performance depends upon many external factors, such as local, national, and international economic conditions and business cycles. Such conditions and cycles do not have the same impact on all companies.

Some companies would not participate in the Award process if required to provide more detailed financial information.

Invention, Innovation, and Creativity: Invention, innovation, and creativity—discovery, novel changes to existing practices or products, and imaginative approaches—are important aspects of delivering ever-improving value to customers and maximizing productivity. While state of technology may play a key role in corporate involvement in research leading to discovery, innovation and creativity are crucial features in company competitiveness and can be applied to products, processes, services, human resource development, and overall quality systems.

The Award Criteria encourage invention, innovation, and creativity in all aspects of company decisions and in all work areas:

Nonprescriptive criteria, supported by benchmarks and indicators, encourage creativity and breakthrough thinking as they channel activities toward purpose, not toward following procedures.

Customer-driven quality places major emphasis on the "positive side of quality," which stresses enhancement, new services, and customer relationship management. Success with the positive side of quality depends heavily on creativity—usually more so than steps to reduce errors and defects which tend to rely more on well-defined quality techniques.

Human resource utilization stresses employee involvement, development, and recognition, and encourages creative approaches to improving employee effectiveness, empowerment, and contributions.

Continuous improvement and cycles of learning are integral parts of the activities of all work groups. This requires analysis and problem solving everywhere within the company.

Strong emphasis on cycle time reduction in all company operations encourages companies to analyze work paths, work organization, and the value-added contribution of all process steps, thus fostering change, innovation, and creative thinking of how work is organized and conducted.

Strong emphasis on cycle time and design encourages rapid introduction of new products and services, including those based on new concepts emerging from research areas.

Quality and quality improvement requirements are deployed to all work units, including research, development, and other groups which have responsibility for addressing future requirements. For such groups, measures and indicators are expected to reflect quality, productivity, and effectiveness appropriate to the exploratory nature of their activities.

Focusing on future requirements of customers, customer segments, and customers of competitors encourages companies to think in terms of attributes and, hence, innovative and creative ways to serve needs.

Changes from the 1991 award criteria

The 1992 Award Criteria are built upon the same seven-category framework and use the same approach as in 1991. However, numerous changes have been made to improve clarify and to strengthen key themes. Major changes are:

The number of items has been reduced from 32 to 28. A description of the actual changes is summarized, by Category, below.

The number of Areas to Address has been reduced from 99 to 89.

Point values have been adjusted to provide a better overall balance among items and to place more emphasis on results.

An expanded introductory section entitled "Description of the 1992 Award Criteria" replaces the "Description of the 1991 Examination." The purpose of this new section is to enhance the educational value of the Criteria for wide usage—training, self-assessment, and design of quality systems, as well as actual Award applications.

Key Themes Strengthened in the 1992 Criteria:

Cycle time reduction.

Productivity.

Overall company performance.

Work process and organization simplification and waste reduction.

Relationship between quality and other business management considerations: business planning, financial results, overall company effectiveness, innovation, and future orientation.

Alignment of requirements in plans.

Design quality and prevention.

Data aggregation, analysis, and use.

Work force development.

Quality system integration via Category 6.0.

A summary of the most significant changes from 1991, by Category, follows:

Leadership:

The Category has been reduced from four to three items. The Quality Values item (1991) has been subsumed in items 1.1 and 1.2.

The importance of personal involvement of senior executive leadership has been further stressed through increased point value and greater emphasis on executives' personal use of improvement processes.

The Management for Quality item (1992) now requires applicants to analyze their organizational structures to determine how well they support quality, cycle time, and innovation objectives. The intent of this change is to encourage users of the Criteria to work toward organizations capable of speed and flexibilty, maximizing value-added work.

Information and Analysis:

The importance of item 2.3 has been increased and is now more clearly the "central intelligence" item within the Criteria. This item serves as the analysis point for the development of company strategy and plans and for the review of company progress. Analyses carried out in item 2.3 support the dual, result-oriented goals given on page 2.

The Item addressing Competitive Comparisons and Benchmarks now requires applicants to describe how benchmark data encourage innovation and better knowledge of processes.

Strategic Quality Planning:

Item 3.1 seeks to provide a better integration of quality and performance planning into overall business planning. Planning issues such as research and development and technology leadership are now more explicitly addressed.

Together, items 3.1 and 3.2 place more emphasis on the process the company uses to deploy customer and company performance requirements to all company units. The importance of such deployment is discussed under quality system alignment (page 8).

Human Resource Development and Management:

The title of this Category has been changed to better reflect development and the investment in human resources which the Category seeks to balance with utilization.

More emphasis is placed on improvement of personnel practices such as recruitment and management to achieve excellence taking into account a more diverse work force.

Management of Process Quality:

The title of this Category has been changed to reflect the greater emphasis on definition, management, and improvement of processes.

The Category has been reduced from seven to five items. The themes of the 1991 Continuous Improvement of Processes Item have been built into all items of the Category. The 1991 Documentation item requirements have been included under the Quality Assessment item for 1992.

Research and development work of companies with such activities can be described in one or more of three Items: 5.1, 5.2, and 5.3. Product research and development is covered under 5.1; process research is covered under 5.2; and basic research is covered under 5.3. Applicants are not expected to reveal proprietary research and development activities. However, they are expected to provide information on how they use quality principles in managing research and development for greater innovation and better coupling to the company's chosen directions.

Quality and Operational Results:

The title of this Category has been changed to better reflect its dual purposes and the composite nature of results.

The Category has been increased from three to four Items. The Business Process, operational, and Support Service Quality Results Item (1991) has been divided into two Items to provide better clarity and focus. The four Items of this Category are described in detail on page 6.

Customer Focus and Satisfaction:

The title of this Category has been changed to better reflect its overall purposes.

The Category has been reduced from eight Items to six. Customer Relationship management (1992) is a composite of three Items from the 1991 Criteria: Customer Relationship Management; Customer Service Standards; and Complaint Resolution for Quality improvement.

The 1991 Item, Determining Customer Requirements and Expectations, is given more of a future orientation in 1992. The new title of the Item is Future Requirements and Expectations of Customers. This Item (7.6) occurs last in the sequence. The first five Items in the Category are devoted to current and near-term customer issues.

Business factors considered in the evaluation of applications

The Award Examination is designed to permit evaluation of any quality system for manufacturing and service companies of any size, type of business, or scope of market. The 28 Items and 89 Areas to Address have been selected because of their importance to virtually all businesses. Nevertheless, the importance of the Items and Areas to Address may not be equally applicable to all businesses, even to businesses of comparable size in the same industry. Specific business factors that may bear upon the evaluation are considered at every stage of evaluation. Below is an outline of the key business factors considered in the Award Examination.

Key Business Factors:

Size and resources of the applicant.

Number and types of employees.

Nature of the applicant's business: products, services, and technologies used.

Special requirements of customers or markets.

Scope of the applicant's market: local, regional, national, or international.

Regulatory environment within which the applicant operates.

Importance of suppliers, dealers, and other external businesses to the applicant and the degree of influence the applicant has over its suppliers.

Application Overview:

Applicants need to submit a four-page Overview that addresses key business factors that must be considered in the Award evaluation process. The Overview is intended to "set the stage" for the Examiners who conduct the evaluation.

Information that should be included in the Overview:

Types of major products and services.

Key quality requirements for products and services.

Nature of major markets (local, regional, national, or international).

Description of principal customers (consumers, other businesses, government).

Competitive environment.

Applicant's position in the industry.

Major equipment and facilities used.

Types of technologies used.

General description of the applicant's employee base, including: number, type, and education level.

Importance of and types of suppliers of goods and services.

Occupational health and safety, environmental, and other regulatory considerations.

Other factors important to the applicant.

If the applicant is a subsidiary, a description of the organizational structure and management links to the parent company should be presented. Subsidiaries should also include information that shows key relationships to the parent company: (1) percent of employees; (2) percent of sales; and (3) types of products and services. (The overview is not counted as part of the page limit.)

[From the Wall Street Journal, Mar. 24, 1992]

DESPITE BIG 3'S CLAIMS OF HIGHER QUALITY, JAPANESE STILL BOAST FEWER SAFETY RECALLS

(By Neal Templin)

DETROIT.—The Big Three auto makers, despite claims that they have closed the quality gap with Japan, have a much higher rate of safety recalls than the top Japanese companies.

Last year, General Motors Corp., Ford Motor Co. and Chrysler Corp. recalled 6.2 million cars and trucks for various safety problems, such as malfunctioning brakes and defective seat belts, according to the National Highway Transportation Safety Administration. The top three Japanese companies—Toyota Motor Corp., Honda Motor Co. and Nissan Motor Co.—recalled a total of 297,500 vehicles.

Of course, the Big Three sell almost four times as many cars and trucks in the U.S. as the Japanese. But even adjusting for that, the numbers are way out of whack. While Honda recalled one car for every 24 it sold last year, both Ford and Chrysler recalled more than three-quarters of the number that they sold. Just yesterday, Ford said it is recalling 689,000 1988–1991 Taurus and Sable models because of a defect in the front brakes.

"The recall comparisons reinforce the view that the Big Three really haven't completely closed the gap with Japan," says analyst Susan Jacobs of Jacobs Automotive, a Little Falls, N.J., consulting firm. "If you bring out a product right the first time, there won't be a recall.

What's more, Japanese cars continued to dominate Consumer Reports magazine's list of recommended vehicles, released yesterday. There were a few bright spots for Detroit, though, notably GM's Saturn cars, which the magazine said had "exceptional first-year reliability, a breakthrough for a car designed and built in the U.S."

EARLIER MODELS

Detroit maintains that the recall numbers are misleading because last year's recalls include models from previous years when their quality wasn't as good as it is today. The current Ford cars "are surpassing many of the Japanese in quality," asserts Ross Roberts, general manager of Ford's largest marketing division. Ford recalled 2.3 million vehicles last year, but nearly two-thirds of them were from previous model years, company officials note.

Still, some of Detroit's latest models are being hit with worrisome safety recalls. Just last month, Chrysler quietly recalled 19,000 1992 model cars and minivans because of a defective bolt that could cause the vehicles to lose steering. And Ford announced in November that it was recalling 755,700 recent-model trucks—including its red-hot Explorer sport utility vehicle—because the vehicles may roll away when the automatic transmission is left in the park position. Ford has received 500 reports of runaway trucks.

In the Taurus/Sable recall announced yesterday, Ford says the cars' brake rotors can become corroded and malfunction. As a result, the cars may take longer to stop and pull to one side. The recall affects only cars sold or registered in 14 Midwestern and Northeastern states where road salt is used heavily. Ford says it isn't aware of any accidents caused by the defect.

The Japanese aren't immune to recalls. Nissan last year recalled 33,000 vans after it received 20 reports of engine fires caused by leaking power steering fluid. Back in 1989, Toyota had to recall its newly launched Lexus luxury car because of a serious cruise-control defect.

FUEL LEAKS

Honda has an impressive recall record the past three years, but it recalled more than 700,000 vehicles in 1988 and is expected to announce in the next few days another big recall of Honda Accords built in the mid-1980s that are prone to fuel leaks.

Even so, all three Japanese companies had significantly lower recall rates in 1991 than their U.S. counterparts. The numbers bounce around a lot from year to year, and Ford and Chrysler each had relatively few recalls in 1990. But over the past three years—1989 through 1991—two of the three Japanese companies had far lower recall rates than any U.S. car maker. The exception is Nissan, which recalled 750,000 trucks in 1990 because of a technicality: The vehicles carried an incorrect tire-inflation sticker.

Virtually all recalls today are classified as voluntary actions by car makers, which are required to tell the government promptly of any defects. In reality, car makers often don't initiate recalls until they learn that the federal traffic safety agency has launched its own investigation of a suspected defect.

As a result, safety recalls aren't the definitive measure of quality, particularly on any specific model. A model with exceptionally high overall quality ratings—such as the Lexus—may be hit with a safety recall while another model with lousy paint and loose trim may never get a safety recall.

ONE DEATH

Sometimes, too, alarming safety problems don't result in recalls. Last December, GM sent letters to 1.5 million owners of 1986 and 1987 cars that are prone to stalling. The problem has been linked to 300 accidents and one death, GM says. Still, the federal traffic safety agency didn't require a safety recall once GM had sent out its letters.

But over time, high numbers of recalls often indicate high numbers of other car problems, says Derek Tetlow, a Nissan engineering executive. "Recall problems are just the tip of the iceberg of the types of problems you have with vehicles," he says. "These are just the serious ones."

Reducing the high number of safety recalls has proved an elusive task for Detroit. The Big Three say one reason—GM's tactics on the stalling problem notwithstanding—is that they initiate recalls today for problems that they probably would have ignored in the past. Chrysler, for instance, recalled 640,000 minivans last year after receiving just four reports of a damaged seat-belt anchor.

"We bend over backwards to make sure if there's any question the vehicles are brought in," says Dale Dawkins, Chrysler's director of vehicles compliance. "If that makes the numbers big, so be it. The arithmetic of recalls doesn't make a difference to what we're going to do."

Nonetheless, Detroits' bigwigs have complained to underlings for years about the high number of recalls, partly because they're so expensive. Some of the large ones cost tens of millions of dollars, which is why Ford and GM won't announce a major recall unless is has been approved by their top officers.

Car makers also worry about what safety recalls do to their image. That's why Ford, while acknowledging that it recalled one vehicle for every 1.3 that it sold last year, notes that the recalls totaled "only" 6% of the 38 million Fords on the road.

It's also why Chrysler and Toyota rarely announce their recalls. Instead, both usually send out letters to affected owners without issuing a news release. That way, the news media rarely report the recalls until they appear in the traffic-safety agency's monthly report.

"You get a double hit" of bad publicity by announcing safety recalls, explains Tom Houston, Chrysler's manager of media relations, "because you get another hit when the federal government puts it out."

By Mr. LIEBERMAN (for himself and Mr. LEVIN):

S. 2396. A bill to establish the Manufacturing and Industrial Research Foundation for the Eurasian Republics, and for other purposes; to the Committee on Foreign Relations.

MANUFACTURING AND INDUSTRIAL RESEARCH FOUNDATION FOR THE EURASIAN REPUBLICS ACT

• Mr. LIEBERMAN. Mr. President, I am introducing today, along with my colleague and friend Senator LEVIN, legislation that would create a foundation—the Manufacturing and Industrial Research [MIR] Foundation—to help American entrepreneurs and scientists from the nations of the Commonwealth of Independent States [CIS] to set up joint business ventures. These joint ventures would help to channel the skills of the scientific community in CIS nations for peaceful purposes, while enabling American businesses to take advantage of their special knowledge in certain cutting edge scientific fields.

In addition, the foundation would fund cooperative research efforts for nondefense products and technologies, as well as fund scientific exchanges between the United States and the nations of the CIS. The foundation would also promote the development of teaching factories in the nations of the CIS as part of the joint venture projects. These teaching factories would operate much like teaching hospitals. Their purpose would be to make money but also to instruct factory employees in business and other skills related to the factory's production process.

The legislation also requests that the President draw on the resources and expertise of international organizations like the International Atomic Energy Agency and the International Energy Agency to devise a program to employ scientists from CIS nations in peaceful pursuits. The bill recommends that exchange programs be established by these and other related agencies for these scientists.

I have introduced legislation in the last two Congresses to establish a similar foundation for Eastern Europe. That foundation—the Industrial Development in Eastern Europe [IDEE] Foundation—was accepted as an amendment to the Senate-passed Foreign Assistance Act last year. Both MIR and IDEE are modeled after the highly successful Binational Industrial Research and Development [BIRD] Foundation, which was established in 1977 to develop a cooperative relationship between American and Israeli high technology industries. BIRD has an income of approximately $10 million a year, most of which comes from its $110 million endowment. With its income, it shares the expense—50-50—with an Israeli-American venture trying to develop and commercialize a nondefense technical produce or process. In the last decade, BIRD has supported over 250 joint ventures, and over 100 of these led to sales of about $1.5 billion.

The word "mir' in Russian means world, or peace. And that is the rationale behind the MIR Foundation—it will bring a measure of stability and peace to the old by promoting ventures and research projects that will prevent scientists from CIS nations from becoming nuclear mercenaries, selling their services to the highest bidder.

We can not only do good, we can also do well by funding profitable joint ventures for American entrepreneurs. In a study I requested of the Congressional Research Service to last year entitled "Eastern European and Soviet Science and Technology: Capabilities and Needs," Bill Boesman, the study's author, writes that "the Soviets excel in some areas of basic research and in military and space science and technology, while being unable to conduct much satisfactory civilian R&D or produce many state-of-the-art civilian products * * *" By putting together our business expertise with the skills of CIS scientists, American investors will be able to share in any profits and innovations developed through joint ventures. And these new enterprises can help to create a culture of capitalism in CIS nations.

For over four decades, we promised the people of the nations of the former Eastern bloc that we would help them in their struggle to free themselves of the yoke of communism. They have succeeded beyond our expectations, but we are not yet living up to our end of the bargain. We are understandably concerned about our domestic economic problems. There is little money to spare in our budget. But with a creative use of our resources, we can help the nations of the CIS. A cost effective program like the MIR Foundation is such a useful approach for channeling our aid efforts because it is conditioned on the commitment of these nations to fundamental economic reforms and elective democracy.

MIR, like BIRD, would receive its operating expenses from the interest on its endowment, as well as any royalties it may receive from successful projects. Contributions would be made by all member nations not just the United States.

An initial contribution of $28 million from the United States would be complemented by a contribution of $5 million from any CIS nation wishing to be a member of the foundation. These contributions to the foundation would be made over a period of time and could be made in local currency. Contributions could also be made in lieu of the repayment of debt owed by these governments to the United States.

MIR would be governed by a board which would control its activities. The board would consist of representatives from the U.S. State Department, Department of Commerce, Secretary of Defense, Secretary of Energy, and the head of the National Science Foundation, along with a representative from each member nation. An executive director, appointed by the board, would be in charge of the foundation's day to day activities. In addition, an advisory council consisting of business executives would help the board and the executive director and his or her staff evaluate projects and make recommendations on investment opportunities.

Finally, it is my hope that the MIR Foundation will develop a mutually beneficial relationship with BIRD, facilitating closer contact between the Israeli private sector, the private sector of CIS nations, and the American business community. Since BIRD has been a tremendous success, it would be very useful to have the board and staff of the MIR Foundation work closely with the BIRD staff to make certain that it is equally successful.

I ask unanimous consent that a copy of the bill be included in the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2396

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Manufacturing and Industrial Research Foundation for Eurasian Republics Act".

SEC. 2. DEFINITION.

For the purposes of this Act—

(1) the term "Board" means the Board of Governors of the Foundation appointed under section 102;

(2) the term "Commonwealth" (hereafter in this Act referred to as "Commonwealth") means the Commonwealth of Independent States consisting of the republics of Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan;

(3) the term "Council" means the Advisory Council on Manufacturing and Industrial Research for the Eurasian Republics established under section 105;

(4) the term "eligible foreign country" means any Commonwealth member country that the President determines, and so certifies to the Congress—

(A) has made sufficient progress toward marketization, democratization;

(B) is observant of arms control agreements previously agreed upon by the United States and the Government of the Soviet Union;

(C) is not in violation of section 502B of the Foreign Assistance Act of 1961; and

(D) is in compliance with the Final Act of the Conference on Security and Cooperation in Europe;

(5) the term "Foundation" means the Foundation established under section 101;

(6) the term "International Energy Agency" means the agency by that name established under the Organization for Economic Cooperation and Development on November 15, 1974; and

(7) the term "participating country" means any eligible foreign country that is a party to an agreement under section 101(b).

SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to promote and support joint, nondefense, industrial research and development activities of mutual benefit to the United States and participating Commonwealth countries;

(2) to develop nondefense high technology industry in these countries, particularly through joint and cooperative projects between firms in participating countries;

(3) to assist these countries to modernize their economies through the creation of a more sophisticated manufacturing base;

(4) to assist these countries to become economically viable by providing benefits to their industrial sector, particularly through joint projects;

(5) to assist with the conversion of defense industries in participating Commonwealth countries for the research and development of nondefense products, including the development of teaching factories, similar to teaching hospitals, where personnel of a factory are given on-the-job training on how a modern, technologically advanced factory functions;

(6) to promote cooperative research in science, particularly nuclear science, for the research and development of products and technologies for nondefense purposes;

(7) to assist the countries of the Commonwealth to improve their energy systems and to otherwise assist with the cleaning up of the environment of the countries of the Commonwealth;

(8) to facilitate scientific exchanges and to assist with the relocation of scientists from participating countries into endeavors not related to the research and development of defense or defense-related products; and

(9) to support and promote collaborative research and development activities which—

(A) involve all applied science activities in the process through which an innovation becomes a commercial product;

(B) assist with product engineering and manufacturing start up; and

(C) support pure scientific research and scientific exchange programs.

TITLE I—THE MANUFACTURING AND INDUSTRIAL RESEARCH AND FOUNDATION FOR THE EURASIAN REPUBLICS

SEC. 101. ESTABLISHMENT OF THE FOUNDATION.

(a) ESTABLISHMENT.—There is established as a United States Government agency the Manufacturing and Industrial Research Foundation for the Eurasian Republics. The Foundation shall be a nonprofit corporation and shall have no capital stock.

(b) COMMONWEALTH PARTICIPATION.—(1) The President is authorized to negotiate and enter into an agreement with each eligible foreign country for the participation by such country in the Foundation if such country agrees—

(A) to contribute at least $5,000,000 to the Foundation during the first 5 years of its membership, which amount may be paid in dollars or local currency; and

(B) to make such changes in its laws as may be necessary to enable the Foundation to operate in such country.

(2) The President is authorized, to the extent and in the amounts provided in an appropriation Act, to cancel the indebtedness owed by a participating country to the United States to the extent of that country's contribution under paragraph (1)(A).

(c) RESPONSIBILITIES.—The Foundation shall—

(1) carry out the purposes of this Act through direct investment, grants, and joint ventures with one or more Commonwealth participating countries; and

(2) develop technology, research, and products, consistent with the purposes of this Act, which shall be freely transferable among the countries participating in a program being carried out by the Foundation; and

(3) work closely with, and to the extent practicable coordinate its activities with, the Organization for Economic Cooperation Development (OECD), and the International Energy Agency, the European Bank for Economic Recovery and Development, the International Atomic Energy Agency, the Binational Industrial Research and Development Foundation of the United States and Israel, and the International Institute for Applied Systems Analysis, drawing on the expertise of those institutions in achieving its purposes.

(d) LOCATION.—The Foundation shall establish a principal office in a nonparticipating country. The Foundation is authorized to establish agencies, branch offices, or other offices in any place or places within the United States or elsewhere in any of which locations the Foundation may carry on all or any of its operations and business.

(e) EXEMPTION FROM TAXATION.—The Foundation, including its franchise and income, shall be exempt from taxation now or hereafter imposed by the United States, or any territory or possession thereof, or by any State, county, municipality, or local taxing authority.

(f) COMPLIANCE WITH UNITED STATES EXPORT CONTROL LAWS.—All programs undertaken by the Foundation shall comply with the export control laws of the United States.

(g) DISPOSITION OF INTELLECTUAL PROPERTY RIGHTS IN JOINT VENTURES.—Notwithstanding any other provision of law, the intellectual property rights derived from a joint venture under this Act shall be the property of the joint venture partners.

(h) CONSTRUCTION.—Nothing in the Act may be construed to preclude any other arrangement for scientific cooperation between the United States and any other participating country.

(i) TERMINATION.—Upon termination of the corporate life of the Foundation all of its assets shall be liquidated and, unless otherwise provided by Congress, shall be transferred to the Treasury of the United States as property of the United States, except that a pro rata share (not to exceed the contributions to the Foundation by participating countries) shall be returned to those countries.

SEC. 102. BOARD OF GOVERNORS.

(a) ESTABLISHMENT.—(1) The Foundation shall have a Board of Governors, and all powers of the Foundation shall vest in, and be exercised by or under the authority of the Board.

(2) The Board may prescribe, amend, and repeal bylaws, rules, and regulations governing the manner in which the business of the Foundation may be conducted and in which the powers granted to it by law may be exercised and enjoyed. A majority of the Board shall be required as a quorum.

(3) The powers of the Board shall take effect on the date the President makes the first appointment to the Board of a representative of a participating Commonwealth country.

(b) COMPOSITION.—The Board shall consist of—

(1) the Secretary of State or his designee;

(2) the Secretary of Commerce or his designee;

(3) the Secretary of Energy or his designee;

(4) the Secretary of Defense or his designee;

(5) the head of the National Science Foundation or his designee;

(6) one representative from each participating country, appointed by the President of the United States upon the recommendation of the government of that country; and

(7) one additional United States Government official, appointed by the President of the United States, for each foreign country represented on the Board in excess of four.

(c) Tenure; Vacancies.—(1) Members of the Board appointed by the President under paragraph (5) or (6) of subsection (b) shall serve at the pleasure of the President.

(2) Any vacancy on the Board shall be filled in the same manner as was the original appointment.

(d) Chairmanship.—The chairman of the Board shall be a United States national and shall serve for a one-year term. The President shall designate a chairman for the first one-year term and, thereafter, the chairmanship shall rotate among the other Board members who are United States nationals.

(e) Direction by the President.—Members of the Board who are nationals of the United States shall cast their votes as directed by the President.

(f) Travel Expenses.—(1) Except as provided in paragraph (2), members of the Board shall serve without compensation.

(2) While away from their homes, regular places of businesses, or official stations in performance of services under this Act, members of the Board shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

(g) Prohibition.—The Board shall not approve expenditures in any participating Commonwealth country unless the Board first determines that such country is capable of carrying out the program, project, or activity to be funded.

(h) Meetings.—The Board shall meet at least twice a year, but meetings of the Board may be held at such times and places as the Board may from time to time determine.

(i) Voting.—The Board shall act by a vote of at least two-thirds of its entire membership.

(j) Audits.—(1) Financial transactions of the Commission shall be audited by the Comptroller General of the United States pursuant to chapter 35 of title 31, United States Code. In conducting any audit pursuant to such Act, the appropriate representatives of the Comptroller General shall have access to all books, accounts, financial records, reports, files, and other papers, items, or property in use by the Commission and necessary to facilitate such audit, and such representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians.

(2) The report of each audit, which shall be submitted to all governments of participating countries, shall contain certification as to the accounts of the Foundation and shall evaluate the Foundation's internal control and auditing system.

SEC. 103. EXECUTIVE DIRECTOR.

(a) Appointment.—(1) There shall be an Executive Director of the Foundation, who shall be appointed by the Board from among United States citizens and who shall act as chief executive officer of the Foundation.

(2) The Executive Director shall receive compensation at the rate provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) Deputy Directors.—There shall be one deputy director for each participating Commonwealth country, who shall be appointed by the Board who shall be responsible for evaluating programs from his country and making recommendations to the Board and the Executive Secretariat as to whether or not the Foundation shall support the project.

(c) Duties.—The Executive Director shall—

(1) employ, oversee, and dismiss the members of the professional administrative staff, subject to the approval of the Board;

(2) evaluate proposals submitted to the Foundation and prepare and submit recommendations and draft agreements concerning program proposals to the Board for its approval;

(3) prepare and submit to the Board for its approval an annual budget and research program, including long-range plans for use of the Foundation's resources;

(4) prepare and submit to the Board for its approval an annual report, including an audited financial statement, on the activities of the Foundation; and

(5) implement decisions of the Board.

(d) Delegation Authority.—Any power of the Executive Director under this Act or delegated to him by the Board may be delegated by him to other officers of the Foundation, except as otherwise prescribed by the Board.

(e) Books and Records.—The Executive Director shall maintain an appropriate system of internal control, including books and records which reflect the transactions of the Foundation and show the current financial condition of the Foundation. Such system shall include adequate internal financial and operational audits. The books, records, and internal audit reports shall be available for review by authorized representatives of participating countries. The Executive Director shall be permitted to retain financial and accounting experts for the purposes of carrying out this provision.

(f) Reporting Requirement.—.—The Executive Director shall submit an annual report to the President, the Speaker of the House of Representatives, and the President of the Senate.

SEC. 104. POWERS OF THE FOUNDATION.

The Foundation shall be a legal entity and shall have all the powers necessary to carry out its objective, including the power to—

(1) shall have perpetual succession unless sooner dissolved by an Act of Congress;

(2) may adopt, alter, and use a corporate seal, which shall be judicially notices;

(3) may make and perform contracts and other agreements with any individual, corporation, or other body of persons however designated whether within or without the United States of America, and with any government or governmental agency, domestic or foreign;

(4) acquire, hold, administer, and dispose of real and personal property;

(5) employ and fix the compensation of staff;

(6) employ experts and consultants, as authorized by section 3101 of title 5, United States Code;

(7) may accept money, funds, property, and services of every kind by gift, devise, bequest, grant, or otherwise, and make advances, grants, and loans to any individual, corporation, or other body of persons, whether within or without the United States of America, or to any government or governmental agency, domestic or foreign, when deemed advisable by the Foundation in furtherance of its purposes;

(8) may sue and be sued, complain, and defend, in its corporate name in any court of competent jurisdiction; and

(9) shall have such other powers as may be necessary and incident to carry out its powers and duties under this section.

SEC. 105. ADVISORY COUNCIL.

(a) Establishment.—There is established an Advisory Council on Manufacturing and Industrial Research for the Eurasian Republics, which shall consist of three members from the business and science community from each participating country, appointed by the President upon the recommendation of each participating country. Members of the Council who are United States nationals shall serve five-year terms.

(b) Duties.—The Council shall—

(1) assist the Board in evaluating programs and proposals;

(2) make proposals as to which sectors of the economies of Commonwealth participating countries offer the best opportunity for a favorable return on investment; and

(3) make such other recommendations to the Board regarding the activities of the Foundation as the Council deems necessary.

(c) Chairmanship.—The chairmanship of the Council shall rotate once a year among the members of the panel and alternating among member countries.

(d) Meetings.—The Council shall meet at least twice a year. To the extent practical, it shall meet at the same time and place as the Board.

(e) Travel Expenses.—(1) Except as provided in paragraph (2), members of the Council shall serve without compensation.

(2) While away from their homes, regular places of businesses, or official stations in performance of services under this Act, members of the Council shall be allowed travel or transportation expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5, United States Code.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization of Appropriations.—(1) There are authorized to be appropriated to the Foundation $28,000,000 for fiscal year 1993 to carry out the purposes of this Act.

(2) Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

(b) Limitation on Administrative Expenses.—Of the amount appropriated pursuant to subsection (a), not more than $3,000,000 may be used for administrative expenses.

(c) Deposit of Funds.—Amounts appropriated pursuant to subsection (a) may be deposited in accounts of financial institutions in Commonwealth participating countries if such deposits would earn interest at prevailing market or LIBOR rates.

TITLE II—INTERNATIONAL ENERGY AGENCY ASSISTANCE

SEC. 201. POLICY ON NEGOTIATIONS.

It is the sense of Congress that the President should direct the United States representative to International Atomic Energy Agency and the International Energy Agency to enter into discussions with other member countries of such Agencies for the purposes of facilitating a process—

(1) to assist the development and funding of research projects for scientists from the

Commonwealth, particularly nuclear scientists working in defense-related industries;

(2) to develop international exchange programs for Commonwealth scientists;

(3) to assist scientists from Commonwealth member countries who have been employed in defense-related industries to find employment in nondefense-related occupations, either within the Commonwealth or within other member countries of the International Energy Agency or the International Atomic Energy Agency;

(4) to assist in providing financial support for scientists who have been working in highly sensitive, nuclear-related defense industry until such time as nondefense-related employment can be found for these individuals;

(5) to assist, to the fullest extent possible, the conversion of defense-related industries in the Commonwealth to the production of products for commercial, nonmilitary purposes; and

(6) to assist, to the maximum extent possible, scientists from the Commonwealth to use their skills to improve the energy systems and capability of the countries of the Commonwealth and to otherwise help them clean up their environment.

SEC. 202. COORDINATION OF IEA ACTIVITIES.

It is further the sense of the Congress that, to the maximum extent practicable, the International Energy Agency and the International Atomic Energy Agency should coordinate their activities described in section 201 of this Act with—

(1) the Organization for Economic Cooperation and Development (OECD);

(2) the European Bank for Reconstruction and Development; and

(3) the International Institute for Applied Systems Analysis.

SEC. 203. REPORTING REQUIREMENT.

Not later than 6 months after the date of enactment of this Act, and every 12 months thereafter, the President shall submit a report to Congress on the progress of the negotiations described in section 201 of this Act.•

By Mr. WIRTH (for himself and Mr. BROWN):

S. 2397. A bill to expand the boundaries of Yucca House National Monument in Colorado, to authorize the acquisition of certain lands within the boundaries, and for other purposes; to the Committee on Energy and Natural Resources.

YUCCA HOUSE NATIONAL MONUMENT EXPANSION ACT

• Mr. WIRTH. Mr. President, I rise today to introduce the Yucca House National Monument Expansion Act of 1992. This bill would simply allow the Secretary of the Interior to accept the donation of roughly 24 acres of lands adjacent to the monument in southwestern Colorado. I am also pleased to be joined by Senator BROWN in supporting this measure.

Yucca House National Monument, located in southwestern Colorado near the town of Cortez, preserves and provides for the public enjoyment of cultural resources of great archeological value related to the Anasazi culture. While the National Park Service manages a number of ruin sites associated with the Anasazi, Yucca House is unique. It is unlike any other site now in the National Park System, and its significance lies in its part within the whole Anasazi network.

Yucca House offers unparalleled potential to add significant information to the understanding of the interactions between two major groups of the Anasazi culture—the Chaco branch and the Mesa Verde branch. Because of its size and its physiographic location at the southern end of the Montezuma Valley, it appears that the site played an important role along the trade route extending north from the large trade centers of Chaco Canyon and Aztec ruins to the farmlands of Montezuma Valley and the major ruins of Mud Springs, Goodman Point, Yellowjacket, Ackman/Lowery, Escalante, and a large number of other ruins scattered throughout the area. Yucca House is considered to be the gateway to the Montezuma Valley.

Unlocking the secrets of Yucca House is dependent on the addition of certain lands adjacent to the current boundary. On April 2, 1990, Ms. Hallio Ismay fulfilled a long-stated intention of hers to donate approximately 24 acres of her land to the National Park Service for administration as a part of the national monument by signing a deed which transferred these lands to the National Park Foundation for ultimate addition to the national monument.

Legislation is now required in order for the National Park Service to accept these 24 acres on behalf of the United States. It gives me great pleasure today to introduce a bill to accomplish this very objective, and in so doing I wish to add my sincere appreciation to those who have already recognized her generosity.

I ask unanimous consent that the text of the bill be included in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2397

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Yucca House National Monument Expansion Act of 1992".

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to enhance visitor use of Yucca House National Monument (referred to in this Act as the "Monument");

(2) to permit necessary archaeological research to ensure the scientific integrity of National Park Service investigations of the archaeological resources at the Monument; and

(3) to permit effective management of the Monument.

SEC. 3. BOUNDARY EXPANSION.

(a) IN GENERAL.—The boundaries of the Monument are revised to include the approximately 24.27 acres of lands generally depicted on the map entitled "Boundary—Yucca House National Monument, Colorado", numbered 318/80,001-8, and dated February 1990.

(b) MAP.—The map referred to in subsection (a) shall be on file and available for public inspection in appropriate offices of the National Park Service of the Department of the Interior.

SEC. 4. ACQUISITION OF LANDS.

(a) IN GENERAL.—Within the lands described in section 3(a), the Secretary of the Interior may acquire lands and interests in lands by donation.

(b) ADMINISTRATIVE COSTS.—The Secretary of the Interior may pay administrative costs arising out of any donation described in subsection (a) with appropriated funds.

SEC. 5. ADMINISTRATION AND ACQUIRED LANDS.

Lands and interests in land acquired pursuant to section 4 shall be administered as part of the Monument and shall be subject to all laws applicable to the Monument.•

By Mr. PRYOR (for himself and Mr. BOREN):

S. 2400. A bill to amend title XVIII of the Social Security Act to extend special payments under part A of Medicare for the operating costs of inpatient hospital services of hospitals with a high proportion of patients who are medicare beneficiaries; to the Committee on Finance.

MEDICARE-DEPENDENT HOSPITAL RELIEF ACT OF 1992

• Mr. PRYOR. Mr. President, I am pleased to be joined today by my good friend from Oklahoma, Senator BOREN, the senior Senator from Arkansas, Senator BUMPERS, the cochairman of the Senate Rural Health Caucus, Senator BURDICK, and Senator HARKIN, the chairman of Appropriations Subcommittee on Labor-HHS, in introducing the Medicare Dependent Hospital Relief Act of 1992. This legislation would extend a provision included in OBRA 1989 that grants a modified payment status to small, rural Medicare dependent hospitals—that is, those rural hospitals which are under 100 beds and have at least 60 percent of their patient days paid for by Medicare.

Since the implementation of the Medicare prospective payment system [PPS], rural hospitals have fared poorly. In 1989, I authored a provision, later incorporated into OBRA 1989, to provide some modest, short-term—3 years—relief to financially vulnerable rural hospitals who were serving disproportionate numbers of Medicare patients. At that time, we were unable to eliminate the discriminatory Medicare urban/rural payment differential that was contributing to the closures of countless hospitals in rural America.

In 1990, I was proud to join Chairman BENTSEN in eliminating the Medicare PPS urban/rural reimbursement differential when we passed OBRA 1990. Unfortunately, this reimbursement disparity had to be phased out over a number of years and, because of budget constraints, it wil not be completely eliminated until 1995. As a result, the relief we provide to the Medicare-dependent hospitals needs to be extended to coincide with the final elimination of the urban/rural differential.

Medicare dependent hospitals have been particularly hard hit by PPS. Hospitals eligible for this assistance have lower average operating margins than their nonhigh Medicare counterparts. It has become clear that the higher the proportion of Medicare patients served, the lower the operating margin. These hospitals are disadvantaged because they are more vulnerable to payment inaccuracies, and less able to revenue shift to other payers to make up for shortfalls in Medicare reimbursement. Their Medicare patients also tend to be older; in fiscal year 1989, 36 percent of high Medicare hospitals' Medicare patients were age 80 or older, compared to only 29 percent for nonhigh Medicare hospitals.

An estimated 541 hospitals, or 21 percent of rural hospitals, are designated as Medicare-dependent hospitals, with about 20 in my home State of Arkansas. In fiscal year 1988, before this provision went into effect, these hospitals' average PPS operating margin was −5.2 percent, compared to −3.0 percent for nonhigh Medicare rural hospitals.

The Prospective Payment Assessment Commission [ProPAC] examined the issue of Medicare dependent hospitals in 1990, and found that these hospitals had lower aggregate PPS and total margins. Although ProPAC was not able to fully explain the reasons for these lower margins, it did conclude that "hospitals with high Medicare shares are more likely to have characteristics that lead to poor performance under PPS."

A recent CBO study on rural hospitals simulated PPS operating margins for 1989 using 1991 payment rules, which includes the Medicare dependent hospital provision. CBO found that these hospitals had a Medicare operating margin of 10.5 percent, with an overall operating margin of 5.9 percent. I have also asked ProPAC to analyze the actual effect of this provision, which I expect to receive in the next few weeks. Preliminary estimates from ProPAC demonstrate that Medicare-dependent hospitals are in fact faring better as a result of this provision.

The OBRA 1989 provision will begin to expire April 1 of this year, with a final expiration date of March 31, 1993, and our bill would extend this provision until March 31, 1995. Urban Medicare-dependent hospitals, who are similarly disadvantaged under PPS, have asked for comparable help. While I believe they are deserving of assistance, limited resources demand that we in Congress make difficult decisions. However, it is my intention to work closely with Chairman BENTSEN of the Senate Finance Committee to explore ways to help all such hospitals, be they urban or rural.

I urge my colleagues to join Senators BOREN, BUMPERS, BURDICK, HARKIN, and me in cosponsoring the Medicare Dependent Hospital Relief Act of 1992.•

• Mr. BOREN. Mr. President, I rise today along with Senator PRYOR to introduce a bill to sustain rural hospitals which are in danger of closing without the immediate relief this bill proposes. Specifically, the bill allows small rural hospitals with a Medicare patient load of at least 60 percent to choose to be reimbursed by a target amount based either on their 1982 or 1987 cost report; or accept the current Federal rate, whichever is more favorable to the hospital.

For a long time, we have recognized that providing quality health care in rural areas requires our special attention. We know that rural hospitals serve a broad range of needs in the community. It is not only a place for care of the sick, it is also an important part of the economy. The local hospital provides jobs, and new industries looking to relocate are attracted by good health services. Many times attracting and maintaining qualified health professionals depends on the quality of the local hospital.

Rural hospitals face a number of special challenges. Often, people in rural areas don't have health insurance so many rural hospitals provide more charity care than hospitals in urban areas. It is more difficult to recruit and retain physicians. Poverty rates are higher in rural areas than in urban areas so financing rural health care is more difficult.

We have shown our commitment to rural health care by passing legislation that will phase out the difference in payment between urban and rural hospitals by 1995. Other measures have provided more immediate relief. These measures have made a difference. Because of them, many rural hospitals are still open. We are beginning to succeed in making improvements in access to quality care in rural areas.

Now, is not the time to withdraw our support. The financial health of Medicare-dependent rural hospitals will be weakened if we do not continue to recognize their special circumstances. In my home State, we have 26 of these hospitals. I hear from their administrators who are concerned that their hospitals will close if we do not extend this provision; they are aware that this provision brings a much needed $4 million of additional hospital reimbursement payments to our State.

Seventy-five percent of hospital closures in rural areas have involved facilities with the smallest number of beds. This flexible reimbursement policy keeps their doors open. Let us not forget the difference we make in small communities by helping them maintain this total service.•

By Mr. GORE:

S. 2401. A bill to provide for the formation of an endowed, nongovernmental, nonprofit foundation to encourage and fund collaborative research and development projects between the United States and Russia, Ukraine, Belarus, and other democratic republics emerging from the former Soviet Union; to the Committee on Foreign Relations.

AMERUS FOUNDATION FOR RESEARCH AND DEVELOPMENT ACT OF 1992

• Mr. GORE. Mr. President, I am pleased to introduce the Senate version of a bill scheduled to be introduced today in the House by several distinguished Members there, including the chairman of the House Committee on Science, Space, and Technology. This bill, entitled the "AmeRus Foundation for Research and Development Act of 1992," aims to create an independent foundation to help define and support cooperative R&D ventures in nondefense fields, between the engineering and scientific communities of the United States and those of the states emerging from the former Soviet Union, beginning with Russia, Ukraine, and Belarus.

The AmeRus Foundation would be initially brought into being by the Directors of the National Science Foundation and the National Institute of Standards and Technology. It would be an endowed, nongovernmental, nonprofit body, funded by a mix of direct governmental appropriations, private donations, debt conversions, and local foreign currency accounts. The legislative intent is that after a 5-year period, the Foundation would no longer require official U.S. Government financial support. In fiscal years 1992, 1993, 1994, and 1995, however, it would require $50 million, for the purpose of getting operations underway and establishing its endowment.

In my opinion, this bill opens the way for the kinds of cooperation that are essential if we are to successfully close the book on the history of our relations with the former Soviet Union, and begin a new era in our relations with its successor states. The scientific and engineering talent that exists in those states is now available to join with us in working out products and processes for a peaceful future. I am hopeful that this measure will gain bipartisan support as well as approval from the Bush administration. It is a good-faith effort to find practical and affordable means to build a new kind of relationship, and to make that much more certain that the democratic experiment manages to survive in the successor states.

This bill is an opportunity for the administration to make up its mind whether it thinks American purposes are best served by trying to salvage as much as possible of the Soviet Union's scientific and engineering establishment, or to stand aside in hopes that as much of it as possible will be trashed. We cannot have it both ways in the same policy. It is time for the administration to make a fundamental choice.

This bill offers them an excellent chance to do so.●

By Mr. ADAMS (for himself, Mr. AKAKA, Mr. CRANSTON, Mr. COCHRAN, Mr. COATS, Mr. DOLE, Mr. DODD, Mr. HEFLIN, Mr. KENNEDY, Mr. METZENBAUM, Mr. PELL, Mr. PRESSLER, Mr. REID, Mr. WELLSTONE, Mr. LAUTENBERG, and Mrs. KASSEBAUM):

S.J. Res. 276. Joint resolution to designate May 1992 as "Older Americans Month"; to the Committee on the Judiciary.

OLDER AMERICANS MONTH

● Mr. ADAMS. Mr. President, I rise today to recognize a special group of individuals, our Nation's older citizens. I am proud to introduce legislation that would formally designate May 1992 as Older Americans Month. During that month, we, as a Nation, recognize the wisdom, knowledge, and experience of our senior Americans and pay tribute to their numerous achievements and accomplishments.

May has been recognized as Older Americans Month since President Kennedy signed the first resolution almost three decades ago in 1963. This resolution not only recognizes the contributions of senior Americans, but also reaffirms our national commitment to respect and protect the rights of the elderly and enhance their life through better health care and other services.

Americans are living longer these days and millions of them are leading full, healthy, and productive lives. Yet, there are too many who suffer from serious and debilitating health problems that can be both emotionally and financially draining. As for all Americans, current health care costs are astronomical. A recent report from Families U.S.A. shows that seniors now spend proportionately more out of pocket on health care than they did before the enactment of Medicare.

Millions of older Americans are able to enjoy their retirement years in the comfort of their own homes, but for others who need care for chronic conditions, the costs of care can force them into nursing homes. A considerable portion of the out-of-pocket costs paid by seniors is for nursing home costs. It is crucial that we commit ourselves to ensuring access to affordable, high quality long-term care for seniors. I hope that Older Americans Month will serve as a reminder of the necessity to enact true long-term care reform.

Finally, I hope that our older citizens will soon have another important accomplishment to celebrate: reauthorization of the Older Americans Act [OAA]. Pending amendments to the OAA will improve many of the important services, such as congregate and home-delivered meals, and ombudsman and legal assistance services.

As chairman of the Committee on Labor and Human Resources Subcommittee on Aging, I intend for the subcommittee to keep the concerns of our older citizens at the forefront of our national agenda. I ask my colleagues to join me in recognizing the contributions and needs of the Nation's elderly by joining me in legislation to proclaim May 1992 as Older Americans Month.●

By Mr. D'AMATO:

S.J. Res. 277. Joint resolution to designate May 13, 1992, as "Irish Brigade Day"; to the Committee on the Judiciary.

IRISH BRIGADE DAY

● Mr. D'AMATO. Mr. President, I rise today to offer a joint resolution calling for May 13, 1992, to be designated as Irish Brigade Day. This day has been chosen to commemorate the day in 1779, when members of the Irish Brigade volunteered their services to John Paul Jones.

The United States of America has always been a Nation of immigrants and those of Irish descent have always been characterized by their defense of liberty.

The officers and men of the Irish Brigade in the service of France, volunteered to fight for American Independence in 1775, 3 full years prior to French intervention. The soldiers of the Walsh regiment of the Irish Brigade volunteered to serve as American continental Marines with John Paul Jones on the *Bonhomme Richard*. During our war for independence, the Irish Brigade fought at Savannah, GA and at Gloucester Point, VA. The Irish troops of Count Arthur Dillon of the Legion of Lauzin, tightened the noose around Cornwallis at Yorktown.

Irish military and naval service to the United States has produced many heroes. The predominantly Irish Battalion of Pennsylvania, under Anthony Wayne, was known as the Line of Ireland. At Fort Leavenworth, KS, the U.S. Army Command and General Staff School, has chosen Col. William "Wild Bull" Donovan of the 69th Regiment of New York—165 U.S. infantry—as the "epitome of combat leadership" in World War I. To this day Irish-Americans continue the tradition of brave and honorable military service in the defense of the United States.

I urge my colleagues to join me in honoring these brave men by designating May 13, 1992 as Irish Brigade Day. I ask that the full text of my resolution follow my statement.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 277

Whereas the United States of America is a nation of immigrants and the contributions of Irish immigrants and their descendants to the defense of the Public Liberty has been a hallmark of Irish Americans;

Whereas the officers and men of the Irish Brigade in the service of France volunteered to fight for American liberty in 1775, three years before the entry of France in our War for Independence;

Whereas the Irish Brigade fought for American liberty in our war for independence at Savannah, Georgia and Irish troops at Glouster Point, Virginia under Count Arthur Dillon of the Legion of Lauzin in the Army of Rochambeau close the ring around Cornwallis at Yorktown, thus assuring victory for Washington and independence for the United States;

Whereas throughout history, the Irish military and naval contribution to the United States has included many noted heroes;

Whereas the predominately Irish Thompson Battalion of Pennsylvania became the keystone of Washington's Continental Army and under Anthony Wayne, the Infantry Line of Pennsylvania was known as the "Line of Ireland";

Whereas the United States Army command and General Staff School at Fort Leavenworth, Kansas in its Hallway of Combat Leaders, has chosen Colonel William "Wild Bill" Donovan of the 69th Regiment of New York (165th U.S. Infantry) as "epitome of combat leadership in World War I; and,

Whereas Irish Americans continue the tradition of honorable military service in the defense of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 13, 1992 is designated as "Irish Brigade Day," and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.●

Mr. DODD (for himself, Mr. PRESSLER, Mr. GLENN, Mr. HOLLINGS, Mr. STEVENS, Mr. SEYMOUR, Mr. HEFLIN, Mr. DOLE, and Mr. COCHRAN):

S.J. Res. 278. Joint resolution designating the week of January 3, 1993, through January 9, 1993, as "Braille Literacy Week"; to the Committee on the Judiciary.

BRAILE LITERACY WEEK

● Mr. DODD. Mr. President, I rise today to amend Senate Joint Resolution 226, which designated the week of January 4, 1992, as "National Braille Literacy Week" to the week of January 3–9, 1993. I introduced Senate Joint Resolution 226 during the first session of the 102d Congress, however, it did not receive a sufficient number of cosponsors before the first session ended to secure passage.

As you may know, braille is a system of raised dots that offers blind and visually impaired children and adults the opportunity to read and write. However, approximately 10 percent of the blind population is not literate in braille. National Braille Literacy Week raises public awareness to the importance of braille literacy. It recognizes braille as an effective medium that provides blind people with the ability to work, learn and communicate. Also, it acknowledges the need that more documents be made available in braille.

Braille literacy is necessary for blind people to lead independent, successful lives. Passage of this resolution will bring well-deserved attention to a system that serves millions of people. I feel that this is a very important issue and urge my colleagues to cosponsor this resolution with me. I ask unanimous consent that the text of this resolution be printed in the record.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 278

Whereas Braille, the system of raised dots used by the blind to read and write, is an elegant and effective medium of literacy;

Whereas blind and visually impaired children and adults must be afforded the opportunity to achieve literacy so that they can compete in employment, succeed in education, and live independent, fruitful lives;

Whereas recording devices, the optacon, and other reading machines and computer access programs have enabled blind individuals to gain access to a wide variety of printed material, but such devices cannot be a replacement for a medium that allows an individual to read and write independently;

Whereas the teaching of braille has been neglected over the past several decades;

Whereas in many States, legislation is being considered or has already been enacted to ensure that blind and visually impaired school age students are taught Braille if it is the appropriate medium to provide literacy for those students: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION

The week of January 3, 1993, through January 9, 1993, is designated as "Braille Literacy Week".

SEC. 2. PROCLAMATION BY THE PRESIDENT.

The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe Braille Literacy Week with appropriate ceremonies and activities.

SEC. 3. PROCLAMATIONS BY STATE AND OTHER OFFICIALS.

Each State governor, the chief executive of the District of Columbia, each chief executive of each territory or possession of the United States, and each chief executive of each political subdivision of each State, territory or possession is urged to issue a proclamation or other appropriate official statement calling upon the citizens of the State, the District of Columbia, the territory, the possession, or the political subdivision to observe Braille Literacy Week with appropriate ceremonies and activities.

SEC. 4. CEREMONIES AND ACTIVITIES.

The ceremonies and activities referred to in sections 2 and 3 should include educational activities—

(1) to celebrate the contributions of the inventor of Braille, Louis Braille, who was born on January 4, 1809;

(2) to heighten public awareness of the importance of Braille literacy among children and adults who are blind; and

(3) to heighten public awareness of the great need for the production of a wide variety of commonly available print documents in Braille.●

ADDITIONAL COSPONSORS

S. 972

At the request of Mr. BRADLEY, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 972, a bill to amend the Social Security Act to add a new title under such Act to provide assistance to States in providing services to support informal caregivers of individuals with functional limitations.

S. 1333

At the request of Mr. SASSER, the names of the Senator from Montana [Mr. BURNS] and the Senator from Florida [Mr. MACK) were added as cosponsors of S. 1333, a bill to amend the Federal Property and Administrative Services Act of 1949 to authorize the Administrator of General Services to make available for humanitarian relief purposes any nonlethal surplus personal property, and for other purposes.

S. 1423

At the request of Mr. DODD, the name of the Senator from Tennessee [Mr. SASSER] was added as a cosponsor of S. 1423, a bill to amend the Securities Exchange Act of 1934 with respect to limited partnership rollups.

S. 1931

At the request of Mr. STEVENS, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 1931, a bill to authorize the Air Force Association to establish a memorial in the District of Columbia or its environs.

S. 1992

At the request of Mr. DURENBERGER, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 1992, a bill to amend title XIX of the Social Security Act to provide for waivers to allow States that meet certain criteria to operate pharmaceutical benefit programs independent of the medicaid drug purchasing requirements.

S. 2070

At the request of Mr. MOYNIHAN, the names of the Senator from Maine [Mr. MITCHELL] and the Senator from Nevada [Mr. REID] were added as cosponsors of S. 2070, a bill to provide for the Management of Judicial Space and Facilities.

S. 2109

At the request of Mr. BAUCUS, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 2109, a bill to amend the Internal Revenue Code of 1986 to permit certain entities to elect taxable years other than taxable years required by the Tax Reform Act of 1986, and for other purposes.

S. 2167

At the request of Mr. SEYMOUR, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2167, a bill to restrict trade and other relations with the Republic of Azerbaijan.

S. 2246

At the request of Mr. KENNEDY, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2246, a bill to suspend the forcible repatriation of Haitian nationals fleeing after the coup d'etat in Haiti until certain conditions are met.

S. 2277

At the request of Mr. COHEN, the names of the Senator from Wyoming [Mr. WALLOP] and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 2277, a bill to amend the Public Health Service Act to facilitate the entering into of cooperative agreements between hospitals for the purpose of enabling such hospitals to share expensive medical or high technology equipment or services, and for other purposes.

S. 2345

At the request of Mr. SPECTER, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2345, a bill to extend the provisions of the Steel Import Stabilization Act for specialty steel and other purposes.

S. 2357

At the request of Mr. DOMENICI, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 2357, a bill to reduce and control the Federal deficit.

S. 2373

At the request of Mr. BOREN, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of S. 2373, a bill to amend the Job Training Partnership Act to establish a community works progress program, and a national youth community corps program, and for other programs.

SENATE JOINT RESOLUTION 35

At the request of Mr. HOLLINGS, the names of the Senator from Texas [Mr. BENTSEN] and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of Senate Joint Resolution 35, a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect congressional and Presidential elections.

SENATE JOINT RESOLUTION 242

At the request of Mr. SPECTER, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of Senate Joint Resolution 242, a joint resolution to designate the week of September 13, 1992, through September 19, 1992, as "National Rehabilitation Week."

SENATE JOINT RESOLUTION 248

At the request of Mr. CONRAD, the name of the Senator from Ohio [Mr. METZENBAUM] was added as a cosponsor of Senate Joint Resolution 248, a joint resolution designating August 7, 1992, as "Battle of Guadalcanal Remembrance Day."

SENATE JOINT RESOLUTION 251

At the request of Mrs. KASSEBAUM, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from Alabama [Mr. SHELBY], the Senator from Arizona [Mr. DECONCINI], the Senator from Florida [Mr. MACK], the Senator from Louisiana [Mr. JOHNSTON], the Senator from Michigan [Mr. RIEGLE], the Senator from North Carolina [Mr. SANFORD], the Senator from California [Mr. SEYMOUR], the Senator from Georgia [Mr. FOWLER], the Senator from Illinois [Mr. SIMON], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Minnesota [Mr. WELLSTONE], the Senator from Wisconsin [Mr. KOHL], the Senator from Nebraska [Mr. EXON], the Senator from Michigan [Mr. LEVIN], the Senator from Indiana [Mr. COATS], the Senator from Texas [Mr. BENTSEN], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of Senate Joint Resolution 251, a joint resolution to designate the month of May 1992 as "National Huntington's Disease Awareness Month."

SENATE JOINT RESOLUTION 257

At the request of Mr. LAUTENBERG, the names of the Senator from Washington [Mr. ADAMS], the Senator from Michigan [Mr. RIEGLE], the Senator from Ohio [Mr. METZENBAUM], and the Senator from Utah [Mr. GARN] were added as cosponsors of Senate Joint Resolution 257, a joint resolution to designate the month of June 1992, as "National Scleroderma Awareness."

SENATE JOINT RESOLUTION 260

At the request of Mr. COCHRAN, the names of the Senator from New York [Mr. D'AMATO], the Senator from North Dakota [Mr. BURDICK], the Senator from Connecticut [Mr. DODD], the Senator from Alabama [Mr. HEFLIN], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Montana [Mr. BURNS], the Senator from Colorado [Mr. BROWN], and the Senator from California [Mr. SEYMOUR] were added as cosponsors of Senate Joint Resolution 260, a joint resolution designating the week of October 18, 1992, through October 24, 1992, as "National School Bus Safety Week."

SENATE JOINT RESOLUTION 263

At the request of Mr. SARBANES, the names of the Senator from Tennessee [Mr. SASSER], the Senator from Hawaii [Mr. AKAKA], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 263, a joint resolution to designate May 4, 1992, through May 10, 1992, as "Public Service Recognition Week."

SENATE JOINT RESOLUTION 274

At the request of Mr. DODD, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of Senate Joint Resolution 274, a joint resolution to designate April 9, 1992, as "Child Care Worthy Wage Day."

SENATE CONCURRENT RESOLUTION 57

At the request of Mr. BOREN, the names of the Senator from New Hampshire [Mr. SMITH], and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of Senate Concurrent Resolution 57, a concurrent resolution to establish a Joint Committee on the Organization of Congress.

SENATE CONCURRENT RESOLUTION 89

At the request of Mr. KERRY, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of Senate Concurrent Resolution 89, a concurrent resolution to express the sense of the Congress concerning the United Nations Conference on Environment and Development.

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. DODD, the names of the Senator from Pennsylvania [Mr. SPECTER], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of Senate Concurrent Resolution 94, a concurrent resolution urging the Government of the United Kingdom to address continuing human rights violations in Northern Ireland and to seek the initiation of talks among the parties to the conflict in Northern Ireland.

SENATE CONCURRENT RESOLUTION 99

At the request of Mr. PELL, the name of the Senator from Connecticut [Mr. DODD] was added as a cosponsor of Senate Concurrent Resolution 99, a concurrent resolution expressing the sense of the Congress concerning travel to Taiwan.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup on Wednesday, March 25, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building, on S. 1607, the Northern Cheyenne reserved water rights; and, recommendations to the Appropriations Committee on the funding of Indian programs for fiscal year 1993.

Those wishing additional information should contact the Select Committee on Indian Affairs at 224-2251.

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. PRYOR. Mr. President, I would like to announce that the Subcommittee on Federal Services, Post Office, and Civil Service, of the Committee on Governmental Affairs, will hold a hearing on Wednesday, March 25, 1992. The focus of the hearing will be to examine procurement irregulaties associated with the Department of Defense's airborne self-protection jammer program. The subcommittee will hear witnesses from the Department of Defense and the General Accounting Office.

The hearing is scheduled for 9:30 a.m., in room 342 of the Senate Dirksen Office Building. For further information, please contact Ed Gleiman, subcommittee staff director, on 224-2254.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON STRATEGIC FORCES AND NUCLEAR DETERRENCE

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces and Nuclear Deterrence of the Committee on Armed Services be authorized to meet on Tuesday, March 24, 1992, at 2:30 p.m., in open session, to receive testimony on the Department of Energy's Environmental Restoration and Waste Management Program in review of the amended Defense authorization request for fiscal year 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGING

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Subcommittee on Aging of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, March 24, 1992, at 9:30 a.m. for a joint hearing with the House Select Committee on Aging on "Alzheimer's Disease: The Time Bomb in the Health Care System."

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

DR. MIMI SILBERT AND THE DELANCEY STREET FOUNDATION

• Mr. BRADLEY. Mr. President, I rise today to honor the Delancey Street Foundation and its founder, Dr. Mimi Silbert, during the week of the foundation's 21st anniversary and Dr. Silbert's birthday.

At a time when our cities are being strangled by increasing violence, rising poverty and homelessness, escalating racial tensions, and rapidly eroding resources, the Delancey Street Foundation is breathing hope into the urban landscape. For 21 years, this entirely self-supporting residential program has encouraged those who have hit bottom to begin again, to learn useful trades, to complete their education, and to make responsible choices.

When I visited the foundation in San Francisco, I met people who had pulled themselves up from despair and were building a new future based on the principles of self-respect, hard work, community, and self-reliance. I saw a vast new residential complex and several successful business enterprises, built and managed entirely by Delancey Street residents, which stand as testaments to the efficacy of the program and the determination of Dr. Silbert. I learned of the 10,000 graduates of the program, many of whom are now attorneys, business people, construction workers, and others who have developed skills and left their previous lives of drug abuse, prostitution, and street crime far behind.

It is appropriate that we take a moment to celebrate the success of Dr. Silbert, a woman who not only understands the problems, but has the creativity to propose the solutions and the courage to put them into practice. I ask my colleagues to join me in recognizing the achievement of Dr. Silbert and of the thousands of strong men and women who have accepted the challenge of rebuilding their lives.●

50TH ANNIVERSARY OF THE SEABEES

● Mr. D'AMATO. Mr. President, March 5, 1992, was the 50th anniversary of the Seabees, and I rise today to proclaim that day as "Seabee Day." The celebrating which began on that day will continue throughout the rest of this year.

The Naval Facilities Engineering Command [NAVFAC] is responsible for advanced base construction plus the acquisition, maintenance and operation of naval facilities worldwide. The Naval Construction Force [NCF] exists to support wartime requirements and is comprised of three major commands: the 1st Brigade, the Reserve Seabees; the Regional Wartime Construction Manager for the Mediterranean region; and the Reserve Division Naval Facilities Engineering Command.

The Seabees evolved from the Navy's need for advanced base construction capability during World War II. The Naval Construction Force consisted of nine active duty battalions. The 17 Reserve Seabee battalions would be deployed to theatres of operation and provide the advanced base construction, battle damage repair, and facility operation and repair support required by the theatre commander.

The Seabees have served our country both on the battlefield and in times of peace. Their skills have been utilized both in military contingency construction and in humanitarian relief efforts. They are known throughout the world for their can-do spirit.

Founded on March 5, 1942, the Seabees, both Regular and Reserve, demonstrate professionalism, knowledge of construction and individual skills which fulfill their motto: "With Compassion for Others We Build—We Fight for Peace With Freedom."

New York State is proud to be the home of the distinguished Seabees from Naval Construction Battalion 13, headquartered at Camp Smith, Peekskill, NY. Naval Construction Battalion 13 has members from across New York State—Buffalo to Horseheads to Long Island—who continually train for possible mobilization assignments anywhere in the world.

The anniversary celebration has already begun and will continue throughout the year. The years of service that the Seabees have provided have brought proficiency and expertise to many challenging assignments and have certainly been a tremendous asset to the Navy. I wish the Seabees many challenges and many rewards in the years ahead.●

IN MEMORY OF HAL O. HALL

● Mr. DIXON. Mr. President, I have come to the floor today to mourn the passing of Hal O. Hall who died this past Sunday in a nursing home in Louisa, VA. Like many Americans today Hal lived well into his eighties and outlived most of his dear friends. His death was therefore all but unnoticed by the thousands of people that so greatly benefited from his contributions and long public service.

Mr. President, Hal O. Hall was a native of Illinois. He was born and raised in Carbondale, IL, where he graduated from Southern Illinois University and returned for some years to serve as a coach, commerce teacher, and superintendent of the University High School. He held similar positions in Greenview, IL; he was superintendent of the high schools in Elmhurst, IL; and along the way he found the time and energy to earn an MBA from Northwestern University and a doctorate in education from New York University. In the last 15 years of his career he served with the Agency for International Development in Indonesia, Vietnam, and finally in Washington, DC.

I did not know Hal for most of the years of his long career in education and public service. However, in the middle years of his career—from 1945 until 1956—Hal served as the superintendent of Belleville Township High School in my hometown of Belleville, IL. Upon his appointment as superintendent the board of education announced that they wanted to establish a junior college. Dr. Hall's background made him just the man to do that.

On February 29, 1946, Dr. Hall obtained approval for the college in Belleville. The college, which offered tuition-free instruction to students residing in the district, opened later that year. From that beginning, Dr. Hall became a leader in the Illinois junior college movement. From that beginning, the Belleville Area College was founded and continues today with an enrollment of over 60,000.

Mr. President, it is many leaders like Hal Hall who weave the fabric of our communities, who nurture and build the institutions that educate and train our children, who tend to the requirements of our civic life. Hal Hall and his wife Hazel paid their mortgage, raised their children, and sent them to college. These are the efforts that built our Nation and these are the efforts that must continue if we are to meet the new challenges of America today.

Mr. President, I come to the floor to honor the life of Hal O. Hall. He was well known and well loved in my hometown of Belleville, IL. I know that my community will long remember his life and his contributions.●

TRIBUTE TO ROLLIN HELTON

● Mr. McCONNELL. Mr. President, I rise today to recognize an outstanding Kentuckian, Rollin Helton. Mr. Helton recently joined millions of Americans in observing the 50th anniversary of the attack on Pearl Harbor, a tragedy which he witnessed as a member of the 27th Infantry.

Rollin Helton, a native of Leslie County, is now retired from the JOC Coal Co. and lives in Harlan County. However, he has no difficulty remembering the time he spent away from his Kentucky home during World War II.

Mr. Helton enlisted in the Army in 1940, expecting the United States to be drawn into a fight across the Atlantic. However, on December 7, 1941, Mr. Helton found himself in the center of battle on the Hawaiian island of Oahu. He remembers the Pearl Harbor attack vividly. He says he was just pouring his morning coffee when the first attack came. According to Mr. Helton, the infantry troops were caught off guard, even though they had been training for months to prepare for an amphibious assault. More than 2,000 Americans lost their lives at Pearl Harbor. Mr. Helton considers himself lucky to have survived.

After the Pearl Harbor attack, Mr. Helton and his fellow infantrymen prepared for ground troops they were certain would eventually come. However, that never happened, and about 1 month later, Mr. Helton, along with the rest of the 25th Division, was transferred to Guadalcanal to relieve marines stationed there. Mr. Helton later joined the 27th Division, fighting in the Marshall and Gilbert Islands, and on Saipan and Tinian in the Marianas chain. He was wounded on Okinawa, where he remained until the end of the war.

Rollin Helton came home to Kentucky after being discharged from the military. His mother had moved from Leslie County to Harlan County, and Mr. Helton followed. He married Hazel Howard, and worked for Georgia Pacific before moving on the JOC Coal Co.

Mr. President, as we mark the 50th anniversary of the Pearl Harbor attack, we must remember the survivors as well as the victims. Rollin Helton recently said, "December the 7th, 1941 will be with me as long as I live." I commend Mr. Helton for his service to this great country during World War II, and also for his role as an outstanding Kentucky citizen.

Please enter my comments, as well as an article from the Harlan Daily Enterprise into the RECORD.

The article follows:

[From the Harlan (KY) Daily Enterprise, Dec. 7, 1991]

COUNTIANS RECALL "DAY OF INFAMY"—TODAY MARKS 50TH ANNIVERSARY OF PEARL HARBOR ATTACK

(By Andy Messer)

When the first bomb shattered windows in Scofield Barracks, Rollin Helton thought a plane had crashed.

Instead, what crashed that Sunday morning was America's sense of invincibility and its last hopes of remaining untouched by the conflagration that was already sweeping Europe and would soon engulf the Pacific.

Helton, a Leslie County native, had enlisted in the army in 1940, expecting the U.S. to be drawn into the fighting across the Atlantic. But on Dec. 7, 1941, Helton found himself with the 27th Infantry on the Hawaiian island of Oahu, guarding the American naval base at Pearl Harbor.

Helton was up early and pouring a cup of coffee when the first wave hit. When he ran outside, he saw one Japanese plane begin its dive, preparing to drop another bomb on Wheeler Field. Meanwhile, the first plane wheeled around toward the barracks for a strafing run.

Infantry troops on the island had been training for several months in preparation for an amphibious assault; they strung barbed wire in the surf to slow down attackers attempting to wade ashore; they built concrete pillboxes to house machine gun emplacements.

But when the attack came, the island's defenders were caught off guard as the Hawaiian skies filled with fighter planes.

Along Battleship Row, greasy black smoke boiled into the sky as the USS Arizona, the Oklahoma, the New Mexico, the Utah, the Nevada and the California burned at their moorings and slipped down in to the oil-coated waves.

American fighter planes were destroyed on the ground. The infantry's rifles were locked in gunracks, their ammunition stowed away for safety's sake.

But no one was safe that day.

All told, the U.S. military lost eight ships and 170 aircraft in the attack. More than 2,000 Americans—military personnel and civilians—lost their lives. Nearly as many were wounded.

Franklin Roosevelt called it "a day that will live in infamy."

For Helton, it is a day that lives in memory.

"You could be old or young," he says, "and yet you'd sit down and cry to see what had taken place."

Helton and his fellow infantrymen spread out along miles of beach to man the pillboxes and wait for the ground troops they believed would come.

As days and then weeks passed, the threat of a beachhead assault waned. But reminders of the battle and portents of battles to come lingered on the island as dumptrucks full of bodies lumbered up Red Hill, bound for mass graves.

"It was sickening to see," Helton says.

After 30 days, Helton's unit and the rest of the 25th Division were transferred to Guadalcanal to relieve the Marines.

Later, Helton left the 25th and joined the 27 Division, fighting in the Marshall and Gilbert Islands, and on Saipan and Tinian in the Marianas chain.

He was wounded on Okinawa.

He describes the kamikaze attacks on Okinawa as "almost like watching a movie," the shrapnel flying "like a hailstorm."

From the day Pearl Harbor was attacked to July of 1944, Helton says he never slept in a bed.

Helton was on Okinawa, part of the force making ready for the invasion of Honshu, largest of the Japanese islands, when two atomic bombs dropped on Hiroshima and Nagasaki ended the second world war.

While Helton had been in the Pacific, his mother had moved to Harlan County.

Helton followed her there after he was discharged from the army. Soon, he married Hazel Howard.

He worked in several capacities for Georgia Pacific, and later retired from his post as a superintendent for JOC Coal Co.

"I've not been a burden to my country," he says.

Today, he is distressed that many do not remember Pearl Harbor and the day that plunged this country into a war that remade the world.

"December the seventh, 1941," Helton says, "will be with me as long as I live."•

TELECOMMUNICATIONS DEVELOPMENT

• Mr. BURNS. Mr. President, on Friday, March 20, 1992, I introduced S. 2377 and asked that a copy of the bill be printed in the RECORD at that time. Since it was not, I would ask that the bill be printed in today's RECORD and that the permanent RECORD be corrected to place the text of the bill immediately after my introductory remarks.

The text of S. 2377 follows:

S. 2377

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSE.

It is the purpose of this Act to acquire a dedicated communications satellite system on which instructional programming can be colocated and free from preemption.

SEC. 2. EDUCATIONAL SATELLITE LOAN GUARANTEE PROGRAM.

(a) PROGRAM AUTHORIZED.—

(1) IN GENERAL.—The Secretary of Education is authorized to carry out a program to guarantee any lender against loss of principal or interest on a loan described in paragraph (2) made by such lender to a non-Federal, nonprofit, public corporation—

(A) in existence as of January 1, 1992;

(B) whose charter is designed for affiliation with State and local instructional institutions and agencies, and other distance learning and instructional resource providers;

(C) whose governing board includes members representing elementary and secondary education, vocational and technical education, community and State colleges, and universities; and

(D) whose sole purpose is to acquire and operate a communications satellite system dedicated to transmitting instructional programming.

(2) ELIGIBLE LOANS.—The Secretary of Education only shall guarantee a loan under this Act if—

(A) the non-Federal, non-profit, public corporation described in paragraph (1) has—

(i) investigated all practical means to acquire a communications satellite system;

(ii) reported to the Secretary the findings of such investigation; and

(iii) recommended the most cost-effective, high-quality communications satellite system to meet the purpose of this Act; and

(B) the proceeds of such loan are used solely to acquire and operate a communications satellite system dedicated to transmitting instructional programming.

(3) DEFINITION.—For purposes of this subsection—

(A) the term "acquire" includes acquisition through lease, purchase or donation; and

(B) the term "communications satellite system" means one or more communications satellites capable of providing service from space, including transponder capacity, on such satellite or satellites.

(b) LOAN AMOUNT LIMITATIONS.—The Secretary of Education shall not guarantee more than $270,000,000 in loans described in subsection (a) pursuant to the program assisted under this section, of which—

(1) not more than $250,000,000 shall be for the guarantee of such loans the proceeds of which are used to acquire a communications satellite system; and

(2) not more than $20,000,000 shall be for the guarantee of such loans the proceeds of which are used to pay the costs of not more than 3 years of operating and management expenses associated with providing the communications satellite system services described in subsection (a).

(c) LIQUIDATION OR ASSIGNMENT.—

(1) IN GENERAL.—In order for a lender to receive a loan guarantee under this section such lender shall agree to assign to the United States any right or interest in the communications satellite system or communications satellite system services that such lender possesses upon payment by the Secretary of Education on such loan guarantee.

(2) DISPOSITION.—The United States may exercise, retain, or dispose of any right or interest acquired pursuant to paragraph (1) in any manner the United States deems fit, upon the recommendation of the Secretary of Education.

(d) SPECIAL RULE.—Any loan guaranteed under this section shall be guaranteed with full faith and credit of the United States.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each fiscal year to carry out this section.•

TRIBUTE TO MAZAK CORP.

• Mr. McCONNELL. Mr. President, I rise today to recognize an outstanding Kentucky company which has overcome tough economic times by investing in new technology. The success of Mazak Corp., a machine-tool industry located in Florence, KY, can serve as an important lesson for other American manufacturers.

Mazak has continued to make money in an unfavorable economic climate because of its continuing investment in new technology. Mazak officials recently unveiled "Super Quick Turn"—a new series of machines that marry a traditional lathe with drilling and milling machine capability to dramatically cut the cost of making small parts. In May of last year, Mazak completed a $50 million investment. This expansion almost doubled the Florence plant's capacity and made it the most modern machine-tool facility in the United States.

Despite a slow economy, Mazak has been profitable every month this fiscal year. While other tool builders have been forced to close plants and lay off workers, Mazak's work force has remained unchanged. The Florence plant continues to employ just under 600 people.

Mazak is continuing its commitment to new investments. Recently, the corporation acquired 30 acres adjoining its existing facility for future expansion, which includes plans for a customer training center.

Mazak's commitment to investment in new technology is not only commendable, it is an option that other industries should consider. Mr. President, I would like to insert the following article from the Cincinnati Enquirer into the RECORD.

The article follows:

MAZAK PROFITS FROM NEW TECHNOLOGY INVESTMENT TOUTED AS KEY TO GROWTH

(By Mike Boyer)

Mazak Corp., the Florence, Ky., machine tool builder, says it has an important lesson for other American manufacturers.

Despite tough times in the machine-tool industry, Japanese-owned Mazak said it has continued to make money.

And Brian Papke, Mazak president, said Thursday that the company managed to do it not in spite of its continuing investment in new technology, but precisely because of it.

"We believe it is essential to invest, and we want manufacturing companies to see that investment in new technology will work for them," he told an industry news conference to unveil Mazak's new Super Quick Turn—a new series of machines that marry a traditional lathe with drilling and milling machine capability to dramatically cut the cost of making small parts.

As one of the world's largest machine-tool builders, privately owned Mazak has global sales in excess of $1 billion.

"We are concerned with the U.S. market compared to other countries," Papke said. "It is absolutely essential that U.S. companies step up and make a commitment to new technology in their plants."

Last year, U.S. machine-tool consumption slipped to fourth behind Japan, the Soviet Union and Germany.

"The average age of a (U.S) machine tool is 14 years while, technologically, machine tools are probably out of date in five years," he said.

"How can we compete in manufacturing as a nation when companies in other countries are using much newer and advanced equipment technology?" he asked.

In May, 1990, Mazak completed a $50 million investment in Florence, almost doubling capacity and making it the most modern machine-tool plant in the United States.

Despite that investment and the downturn in the market, Papke said Mazak, which doesn't report its earnings publicly, has been profitable every month this fiscal year. "It is directly attributable to Mazak's investment in modern manufacturing technology and systems," he said.

The inside of Mazak's 425,000-square-foot plant is peppered with robots and computer-driven systems, which make it seem like "a Disney World for machine tools," one trade press executive said.

The automated systems allow the plant to run unattended two-thirds of the time, "And, still, we can turn our inventory over eight times per year and assemble machines with lead times of two to six weeks," Papke said. "We get lower inventory, and the customer gets shorter delivery."

With the expansion, Mazak planned to increase production to more than 100 machines a month, but, because of the current state of the market, production is running at between 70 and 80 machines a month, Papke said.

While other tool builders have been closing plants and laying off workers, Mazak's U.S. work force has remained unchanged at about 775 people, including just less than 600 people in Florence.

So far this year, new orders for machines that cut and form metal are down about 16 percent from a year ago, according to industry trade figures. But some parts of the industry are hurting more than others. Donald Firm, Mazak's vice president for sales and marketing, said the lathe and turning machine market, where Mazak competes, is off about 25 percent.

And Mazak is continuing to invest. Recently it acquired 30 acres adjoining its existing plant on Industrial Road for future expansion including a planned customer training center.

To protect its investment, Mazak has joined other U.S.-based machine-tool builders such as Cincinnati Milacron Inc., in urging President Bush to extend the current voluntary restraint arrangements, which limit tool imports from Japan and Taiwan.

The agreements expire at the end of this year. Machine tool builders say an extension is necessary to protect the industry, a key technology for national defense.

Many U.S. tool makers, Papke said, "aren't profitable. The (U.S.) industry is still weak and needs a little more time to get strong."

But some tool makers, such as Indianapolis-based Hurco Cos. Inc., which makes computer controls mainly used on imported machines, argue import controls haven't worked and only weaken the U.S. position worldwide.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 35, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. SANFORD. Mr. President, it is required by paragraph 4 of Rule 35 that I place in the CONGRESSIONAL RECORD notices of Senate employees who participate in programs, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The select committee received a request for a determination under rule 35 for Angela Chiu, a member of the staff of Senator RIEGLE, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs, from April 13–24, 1992.

The committee has determined that participation by Angela Chiu in this program, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Niles L. Godes, a member of the staff of Senator BURDICK, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs, from April 13–24, 1992.

The committee has determined that participation by Mr. Godes in this program, at the expense of the Chinese People's Institute of Foreign Affairs, is in the interest of the Senate and the United States.

The select committee received a request for a determination under rule 35 for Edward Edens, a member of the staff of Senator WARNER, to participate in a program in China, sponsored by the Chinese People's Institute of Foreign Affairs, from April 13–24, 1992.

The committee has determined that participation by Mr. Edens in this program, at the expense of the Chinese Institute of Foreign Affairs, is in the interest of the Senate and the United States.●

NEW NAMES

● Mr. PRYOR. Mr. President, yesterday I had the good fortune of hosting a concert performance of a visiting classical musical troupe in the Dirksen Auditorium.

The New Names group from the Russian Confederation of Independent States is making its American debut in performances in the Nation's Capital this week.

This group, discovered by the New Names International Charity Programme of the Cultural Foundation Moscow, finds and nurtures emerging young artists in Russia and seeks out an international showcase for their talent.

While in Washington, New Names is presenting concerts at Bethesda-Chevy Chase High School, the Russian Embassy and at the Kennedy Center.

The general director of the New Names is Ivetta Voronova. The performers, ranging in age from 17 to 30, are Eugeny Andrusenko, violin; Oleg Vedernikov, cello; Georgy Gorjunov, cello; Alexei Goribol, piano-accompanist; Alexander Ivanov, piano; Ilya Lebedev, flute; Polina Osetinskaya, piano; and Eugeny Petrov, clarinet.

Other members of the visiting delegation are Svyatoslav Belza, master of ceremonies for the concert; Tamara Kazakova, Natalia Kossova, Larisa Kozlova, Irina Korobova, Igor Potemkin, Sergei Pishkin, Sergei Razgonov, Vladimir Neroznak, and Victor Karavdin.

Mr. President, I am pleased to have been a part of the Washington hosting committee for this most talented group of classical musicians.

I also wanted to express thanks to the Occidental, the Botwinick-Wolfensohn Foundation, and to Graham Catlett, a Little Rock, AR, and

Moscow businessman, who have underwritten the expense of bringing this group to the United States.

I am certain that we will be hearing more from these New Names.●

NEW TECHNOLOGY TRANSFER AGREEMENT BETWEEN THE COMPUTER SYSTEMS POLICY PROJECT AND THE DEPARTMENT OF ENERGY

● Mr. GORE. Mr. President, I wish to bring to my colleague's attention an article by John Burgess in the Washington Post on March 20 about a new agreement between the Computer Systems Policy Project and the Department of Energy that will accelerate the transfer of technology from DOE labs to the computer industry. This is a very important agreement, and both CSPP and DOE should be commended for making it possible.

Last year, the Congress passed and the President signed the High-Performance Computing Act, which I first introduced in 1988. This bill set up a 5-year, multiagency program to help ensure that the United States maintains its lead in high-performance computing. In all, the bill authorizes more than $2.9 billion over the next 5 years for research and development on more powerful supercomputers, better software, faster computer networks, and training for scientists and engineers using advanced computing.

The technology developed under this program will have a profound impact on the American economy. According to a study by the Gardner Group and commissioned by the Department of Energy, the High-Performance Computing Program created by the bill will increase productivity in hundreds of industries, from aerospace to the oil industry, leading to an increase in the U.S. GNP of between $172 and $503 billion over the next 10 years. All this for an investment of less than $3 billion over the next 5 years. This is the kind of high leverage investment in technology that the Federal Government needs to do more of.

Of course, those economic benefits require that the technology developed under the High-Performance Computing Program be transferred out of the laboratories and into American companies. Unfortunately, too often, that has been the weak link in the technology chain that stretches from discovery to development to prototype to product to profits. Too often, a good idea has languished on the laboratory shelf, not for technological reasons but because of institutional and legal barriers.

That is why this new agreement between the CSPP and the Department of Energy is so very important. This is a model agreement that will be used whenever one of the twelve computer companies in the CSPP wish to work on a joint research project with a DOE lab, like Oak Ridge National Laboratory in Tennessee, which employs some of the most talented computer scientists in the country. In the past, a new agreement had to be negotiated from scratch each time a company wanted to work with a DOE researcher who has discovered a promising new technology. Because of all the thorny legal issues—patent rights, liability, and so on—it could take years to negotiate an agreement. Often companies could not wait and gave up. Now, with this model agreement, agreements can be finalized in weeks, not years. With technology advancing so quickly—particularly in the field of computing—researchers and companies must be able to move quickly to commercialize their technological advances. Our foreign competitors have figured out how to do that with a minimum of paperwork, we must do the same.

Once again, I commend CSPP for the effort they put into negotiating this agreement. It took more than a year to wade through the legal nuances and to break down some of the institutional barriers at DOE that still inhibit technology transfer. But I think we all agree that the effort is worth it.

I ask to include the Washington Post article on the CSPP agreement in the RECORD.

The article follows:

COMPUTER FIRMS, UNITED STATES IN LAB ACCORD

(By John Burgess)

The nation's largest computer companies and the Department of Energy yesterday reached an agreement that is intended to redirect some of the department's vast expertise in nuclear bomb building toward the creation of better commercial computers.

The deal would give companies quicker access to advanced software, new materials, microelectronics and manufacturing techniques crafted in the Energy Department's huge national laboratories, often in secret and for the nuclear arsenal.

The Sandia National Laboratories will host a meeting in Albuquerque next month for computer industry executives and officials from four other federal laboratories to discuss specifics of future cooperation.

Some experts play down how much the federal labs can offer the commercial sector. Many labs have focused on nuclear weapons work and other military technology over the last five decades, and even the optimists say a quick pay-off is unlikely. "There's not much there that's immediately usable," said Mark Eaton, a vice president at Microelectronics and Computer Technology Corp. of Austin, Tex. ". . . To exploit this resource base an awful lot of hard work is going to have to be done."

But many are upbeat about cooperation's long-term benefits. "You've got some of the best and brightest in this country in these labs," said Piper Cole, associate general counsel for Sun Microsystems Inc. and the computer industry's head negotiator in talks with the Energy Department. "You've got funding that's outside of industry funding. You've got a pool of research talent and research results."

The agreement marks a milestone in efforts by the Energy Department, which employs about 59,000 scientists and engineers, to find a new mission in the post-Cold War era.

Skills used in building military products—developing new materials for use as nuclear bomb components or advanced communications systems, for instance—can be directed toward commercial purposes, many experts say.

Some firms are already using the expertise and facilities of the federal labs. Cray Research Inc., a maker of supercomputers, recently began selling software derived from a computer program developed at Los Alamos National Laboratory to study the impact of missiles. Modified to make it easier to use, the software can simulate the workings of internal combustion engines and assist in their design.

The company and national labs also are discussing joint research, mostly in software, in three areas, said John Sullivan, Cray's software counsel.

Digital Equipment Corp. is interested in tapping the labs' expertise in supercomputer software for its work on networks that can transmit information at a billion bits per second and in new techniques for making ceramics, the materials used in silicon chips, according to Jack DeMember, the company's federal laboratory liaison.

Cherri Langenfeld, the Energy Department's director of technology utilization, called the deal "very important" to opening the labs' doors. She suggested that major cooperation could result in a federal program to promote a high-capacity data network linking computers around the country.

Despite the new emphasis on civilian work, the labs will continue major military work. The Bush administration has proposed spending $1.9 billion on military research at the Department of Energy, mostly for nuclear weapons, in the next fiscal year.

For the past two years, the department has been authorized to enter cooperative research and development accords with companies and to keep the results confidential among the participants. But it has had few corporate takers, in part because of red tape in negotiating ventures.

The new agreement was worked out between the department and 12 large computer companies whose chief executives are members of the Computer Systems Policy Project (CSPP). The firms include International Business Machines Corp., Digital Equipment Corp., Apple Computer Inc., Hewlett-Packard Co., Cray Research Inc. and Compaq Computer Corp.

The agreement creates a fill-in-the-blanks contract that any computer company and the research labs can use. It covers safeguards for proprietary information and liability for damages resulting from research malfunctions. "The idea is to get what has been an 18- or a 20-month process collapsed down to 30 days," said Ken Kay, executive director of the CSPP.

Federal policy generally holds that manufacturing that results from a joint R&D program with the labs must be done in the United States.

The computer firms successfully argued that in their industry, the manufacturing process is a simple, low-cost operation that does little for local employment, and that the companies should be free to produce any products wherever they choose. Many of them already have extensive overseas manufacturing operations.

But they agreed that the job-intensive part of their business—writing software and developing products—would be done in this country.●

SEATTLE, WA, SBA BUSINESS INFORMATION CENTER

• Mr. GORTON. Mr. President, the Seattle District office of the U.S. Small Business Administration is celebrating the 1-year anniversary of its Business Information Center. The center provides free business counseling, an electronic library, and other invaluable resources to the small business entrepreneur. Much of the credit for the success of the center goes to Bob Meredith, SBA Seattle District Director, who developed the idea and diligently saw to its implementation. SBA Administrator Patricia Saiki took note of the outstanding success of this program, which has been visited by over 4,500 entrepreneurs within the course of its first year, and requested the startup of 9 other business information centers across the United States.

I thank my colleagues for allowing me the opportunity to congratulate the SBA Seattle District office on the 1 year anniversary of its Business Information Center, and ask that the article from the Business News on this same subject be included in the CONGRESSIONAL RECORD following my remarks.

The article follows:

[From Small Business News, Mar. 4–17, 1992]

SBA'S BUSINESS INFORMATION CENTER OFFERS "SELF-HELP" BONANZA

(By Erik Krema)

Can you imagine a place where a small-business owner can create and a business plan, research potential markets in a foreign country, discuss management issues with an experienced counselor and persue hundreds of business publications with the touch of a button—all at no charge? Thanks to the Seattle District office of the U.S. Small Business Administration, such a place now exists..

"Our new Business Information Center was only a dream a year ago," says SBA District Director, Bob Meredith. "Today this rich resource plays a pivotal role in assisting thousands of small-business owners who previously had to search high and low for different types of assistance."

"The success of the center has been so phenomenal that Patricia Saiki, SBA's Administrator, will replicate the concept in nine additional centers throughout the country this year," Meredith says.

"This is an exciting time for SBA as we expand our services to America's entrepreneurs. It's also a critical time for the small firms of our country since past trends tell us the key to economic recovery rests in the hands of the small business community," Meredith adds. "Our hope is that the Business Information Center will make more accessible the tools a small business needs to prosper and grow."

Cited by Entrepreneur Magazine as a "one of a kind resource for anyone lucky enough to live in the state of Washington," the center boasts a wide array of services and information for the budding or even experienced entrepreneur. The center offers an up-to-date reference library, five computer counseling stations, video and audio cassette libraries and more than 250 sample business planning guides.

"Our biggest challenge now," says Darlene Robbins, manager of the Business Information Center, "is to expand the center quickly enough to meet the increasing demand for services we provide. We have recently expanded from 700 square feet to over 1,100 square feet, but the number of people seeking assistance seems to be growing by leaps and bounds."

Since its opening in March, 1991, over 4,500 people have utilized the center's services. In addition, over 6,000 calls registered on the center's computer bulletin board, a service which makes hundreds of publications immediately available to anyone with a computer and phone-line modem. To date, some 14,000 files have been downloaded from this "electronic library."

Operating 24 hours a day, the computerized bulletin board gives its users access to over 300 publications, brochures and documents. These publications can assist in planning and development of a small business. The bulletin board, like all the center's services, is free of cost.

The Business Information Center has roots to a similar business center based in Vancouver, British Columbia.

That facility encompasses over 12,000 square feet of space and focuses on getting Canadian businesses involved in exporting products and services. Besides containing a "huge" reference library, the Canadian information center includes numerous "showcase displays" of products coming out of British Columbia.

"The concept of a user-friendly small-business center came from the Vancouver model," Robbins admits, but quickly adds, "That is where the similarity ends."

Ways in which the Seattle information center differs include a more "user-friendly atmosphere" and a focus toward business planning. To accomplish these goals, Robbins, who is the center's sole full-time employee, oversees matching up of Senior Care of Retired Executives (S.C.O.R.E.) volunteers with inquiring small businesses. This one-on-one counseling only scratches the surface of this multi-task small-business information center.

An essential feature of the center was developed when several corporations including IBM and Microsoft donated computers, software and other materials. Robins and the center's volunteers quickly put the technology to use by assembling computer counseling stations.

Depending on the computer, users of the center can accomplish such tasks as designing a business plan, watch a comprehensive video simulation—affectionately called "Harry"—lead them through the process of starting and running a business, as well as utilize other information designed to keep their small business afloat. There is even a CD ROM system containing over 14,000 pages of reference material geared for small-business applications. Other information on this system includes data from the U.S. Bureau of the Census and the International Trade Administration.

Assembling volunteers and reference material was not just intended for the use of start-up small businesses. In fact, existing small businesses are encouraged to take advantage of the center's service. Whether seeking information about hiring employees, or filling out the latest IRS form, the center seems to cover it all.

The center even offers a modern-access program that keeps local leading institutions abreast of changes in the SBA's loan-backing policies.

As interest grows, Meredith may plan even more expansion.

"As long as SBA can see a return on this investment, the center can continue to grow," Meredith says. "We have a one-year anniversary to celebrate, and what better could we hope for in honor of the occasion than an expansion of the center for our clients . . . it's a tall order."•

AUDIT OF CONTRACTOR ACCOUNTING PRACTICES CHANGES FOR C–17 ENGINEERING COSTS

• Mr. D'AMATO. Mr. President, after much pulling of teeth, I have received a copy of the sanitized version of Department of Defense Office of Inspector General's report: "Audit of Contractor Accounting Practice Changes for C–17 Engineering Costs." I will ask that this report be inserted in the RECORD at the end of my remarks.

I say sanitized, because, on the cover of my copy of the report, the following appears: "This special version of the report has been revised to omit contractor sensitive data." Fair enough, were it true; but, Mr. President, I have reason to believe that the omissions cover more than company secrets. A number of press reports based upon the confidential version of the report indicate that the real matter being buried in classification is a conscious plan on the part of the Air Force to bail out financially troubled McDonnell Douglas. I will deal with those press stories at another time.

For now, I will limit myself to what my scrubbed version of the IG's report does say. The IG makes it clear that the acquisition process was perverted to bolster a program, and possibly a company, plagued by schedule delays and cost overruns. Accounting practices were violated to allow funds to slop from one account to another or to accelerate payments simply because officials in the Air Force made a political decision not to hold the contractor's feet to the fire when costs spun out of control.

For those victimized by similar bureaucratic manipulation intended to bury programs, and the V–22 Osprey comes very much to mind as only the most egregious example, the politicization of the acquisition process comes as no surprise. Politics, plain and simple, and double standards are what this is all about. Yet, Pentagon favoritism is always bathed in the pure light of the national good. Congressional initiatives, on the other hand, no matter what the motivation, are branded pork. Show me a difference.

Fortunately, there is another side to the story. A Pentagon spokesman, when questioned about the findings of this report, characterized the acceleration of progress payments as an accounting error. So, Mr. and Mrs. Taxpayer, name your poison: conspiracy or incompetence. Not a pretty choice with public confidence in Government at an all-time low and with the defense budget in a power dive. This was a bailout.

Nothing more. Nothing less. We all paid for a decision over which we had no control and were never consulted. I do not like it, I will not stand for it, and I put those involved on notice that this Senator will pursue this issue until every fact is known to the public, and the American taxpayer can be certain that this sort politically inspired secret financing can never happen again.

I ask that the report be printed in the RECORD.

The report follows:

[Audit Report, Office of the Inspector General, Department of Defense, Feb. 13, 1992]

AUDIT OF CONTRACTOR ACCOUNTING PRACTICE CHANGES FOR C–17 ENGINEERING COSTS

(This special version of the report has been revised to omit contractor sensitive data)

The following acronyms are used in this report.

ACO—Administrative Contracting Officer.

DAB—Defense Acquisition Board.

DCAA—Defense Contract Audit Agency.

DPRO—Defense Plant Representative Office.

EAC—Estimate at Completion.

FAR—Federal Acquisition Regulation.

PPR—Progress Payment Request.

RDT&E—Research, Development, Test and Evaluation.

T–1—C–17 Flight Test Aircraft.

USD(A)—Under Secretary of Defense for Acquisition.

WBS—Work Breakdown Structure.

DEPARTMENT OF DEFENSE,
Arlington, VA, February 13, 1992.

Memorandum for: Under Secretary of Defense for Acquisition; Assistant Secretary of the Air Force (Financial Management and Comptroller); Director, Defense Logistics Agency; Director, Defense Contract Audit Agency.

Subject: Report on the Audit of Contractor Accounting Practice Changes for C–17 Engineering Costs (Report No. 92–046).

We are providing this report for your information and use. Comments on a draft of this report were considered in preparing this final report. DoD Directive 7650.3 requires that all audit recommendations be resolved promptly. Therefore, the Director, Defense Contract Audit Agency, must provide final comments on the unresolved recommendations by April 13, 1992. The comments must indicate concurrence or nonconcurrence in the finding and each recommendation addressed to you. If you nonconcur, you must state your specific reasons. If appropriate, you may propose alternative methods for accomplishing desired improvements.

We appreciate the courtesies extended to the audit staff. If you have any questions on this audit, please contact Russell Rau at (703) 693–0186 (DSN 223–0186) or Patricia Brannin at (703) 693–0392 (DSN 223–0392). The report distribution is listed in Appendix E.

ROBERT J. LIEBERMAN,
Assistant Inspector General for Auditing.

[Office of the Inspector General, Feb. 13, 1992]

CONTRACTOR ACCOUNTING PRACTICE CHANGES FOR C–17 ENGINEERING COSTS

(Audit Report No. 92–046—Project No. 1AE–5006.03)

EXECUTIVE SUMMARY

Introduction: In 1981, the Air Force initiated development of the C–17 aircraft to provide additional capability to airlift the full range of Defense cargo. The Air Force plans to buy 120 aircraft for an estimated $35 billion. Douglas Aircraft Company, the prime contractor, has a fixed-price-incentive contract for development and production of six aircraft, including the production of the C–17 flight test aircraft, with an estimated ceiling price of $6.6 billion. As of July 1991, a Government estimate for completion of the contract was $7.3 billion. In July 1991, the Air Force awarded a contract for four more aircraft with target and ceiling prices of $1.0 billion and $1.2 billion, respectively.

Objective: The C–17 was one of the nine programs included in the "Audit of the Effectiveness of the DoD Use of Contractor Cost and Schedule Control System Data on Major Defense Acquisition Programs." The audit objective was to evaluate the effectiveness of the implementation and oversight of cost and schedule control systems and the use of data reported by contractors complying with Cost and Schedule Control System Criteria. The accounting practice changes were reflected in contractor Cost Performance Reports reviewed as part of the overall audit.

Audit Results: Douglas Aircraft Company was allowed to inappropriately redefine the point at which the transition to sustaining engineering occurred, and progress payments were approved to Douglas based on retroactive cost accounting changes, which were contrary to Cost Accounting Standards. Also, the Defense Contract Audit Agency did not comply with its audit manual and ensure compliance with applicable Federal Acquisition Regulations in reviewing and approving the accounting change. The Defense Contract Audit Agency also did not adequately address the funding implications of the accounting change. As a result, at least $172 million in engineering costs for the development effort were charged as production costs, and progress payments totaling $148 million were prematurely paid.

Internal Controls: The audit identified material internal control weaknesses in that Douglas did not submit a Disclosure Statement revision and cost impact statement in a timely manner for the accounting practice change, and a noncompliance report was not issued as required in the Defense Contract Audit Agency's Contract Audit Manual and the Federal Acquisition Regulation. Also, the Defense Contract Audit Agency did not adequately review funding implications of the accounting practice change. These internal control weaknesses are further discussed in Part I of the report.

Potential Benefits of Audit: the benefits (Appendix C) to be realized for implementing the recommendations in this report are nonmonetary. Recommendation 1. will correct the improper implementation of an accounting practice change. Recommendation 2. will result in improved review of contractor actions.

Summary of Recommendations: We recommend that the retroactive accounting journal entries be disapproved and the contractor's Disclosure Statement be revised to reflect prospective application of the change; the impact of disapproving the retroactive change be reported; and the funding implications of contractor activities be included in audits and audit report qualifications be reviewed.

Management Comments: The Office of the Under Secretary of Defense for Acquisition concurred with the intent of the recommendations, and actions have been taken to implement the intent of the recommendations. The Defense Contract Audit Agency nonconcurred with Recommendations 2.a.(1) and 2.a.(2) and concurred with Recommendation 2.b. Therefore, the Defense Contract Audit Agency must comment on this final report by April 13, 1992.

PART I—INTRODUCTION

Background

In 1981, the Air Force initiated development of the C–17 aircraft to provide additional capability to airlift the full range of DoD cargo and to provide military capabilities not available in any one cargo aircraft. The C–17 was planned to meet shortfalls in long range airlift capabilities by providing an all-weather, air-refuelable aircraft that can operate from small, austere airfields and deliver troops and all types of cargo for intertheater and intratheater operations. Initially, the Air Force planned to buy 210 C–17 aircraft for about $42 billion. However, because of reductions in the DoD budget, in April 1990, the Secretary of Defense, based on the Major Aircraft Review, reduced the quantity of C–17 aircraft to be procured to 120. As of July 1991, the estimated cost for the 120 aircraft was $35 billion.

In December 1984, the Air Force awarded contract F33657–81–C–2108 to Douglas Aircraft Company (Douglas) for the full-scale engineering development and testing of one C–17 flight test aircraft (T–1) and two ground test articles. On January 13, 1988, and July 28, 1989, the Air Force exercised options for two (Lot I) and four (Lot II) production aircraft, respectively. The Douglas contract experienced significant cost overruns and schedule delays, as well as technical problems. The contract had a single ceiling price[1] for development and production Lots I and II. As of July 1991, the target price for development was $4.9 billion, while the target price for production of the first six aircraft was $1.7 billion. The contract was estimated to overrun its $6.6 billion contract ceiling price by $0.7 billion to $2.6 billion, depending on what analysis was used. As of July 1991, the estimate-at-completion (EAC) for development and Lots I and II used for progress payment purposes was $7.3 billion. On July 25, 1991, the Under Secretary of Defense for Acquisition (USD[A]) approved the award of the Lot III production contract to acquire four more aircraft. The target and ceiling prices were $1.03 billion and $1.2 billion, respectively. First flight, which was originally scheduled for February 1990, occurred on September 15, 1991.

Objective

As a result of issues identified during Project Number 1AE–5006, "Audit of the Effectiveness of the DoD Use of Contractor Cost and Schedule Control System Data on Major Defense Acquisition Programs," we expanded the scope of our audit related to the C–17. The overall audit objective was to evaluate the implementation and oversight of cost and schedule control systems and the use of data reported by contractors complying with the Cost and Schedule Control System Criteria. The expanded audit objective was to evaluate the management review process for an accounting practice change to reallocate sustaining engineering costs on the C–17 contract. The accounting practice change had been reflected in contractor Cost Performance Reports reviewed as part of the overall audit.

---

[1] The contract ceiling price covered the contract line items without distinguishing between those funded with appropriations available only for development and those funded with appropriations available for procurement. Thus, the contract had a single ceiling price.

Scope

We selected the C–17 as one of nine major Defense acquisition programs to be included in the overall audit. This program audit was conducted in accordance with auditing standards issued by the Comptroller General of the United States, as implemented by the Inspector General, DoD, and accordingly included such tests of internal controls as were deemed necessary. We reviewed data and information dated from 1988 to 1991 related to the issues addressed in the report. Our review was performed between December 1990 and September 1991. Personnel involved in the acquisition of the C–17 and cognizant of the issues identified were interviewed. A list of activities visited or contacted is in Appendix D.

Internal controls

The audit identified material internal control weaknesses as defined by Public Law 97–255, Office of Management and Budget Circular A–123, and DoD Directive 5010.38. The internal controls that existed as of the time of the audit, if properly implemented, were adequate to prevent or detect the deficiencies identified in this report. However, the internal control weakness was due to noncompliance with policies and procedures for the review and approval of contractor accounting changes. The Defense Contract Audit Agency (DCAA) did not comply with its Contract Audit Manual and applicable sections of the Federal Acquisition Regulation (FAR) in reviewing and approving an accounting change at Douglas and did not adequately consider the impact of the accounting practice change on contract funding and financing. Further, the series of decisions by the Air Force, the Defense Plant Representative Office (DPRO), and DCAA were uncoordinated, resulting in no proper assessment of the accounting practice changes and their proposed implementation. The decisions did not ensure that the transition point for segregating nonrecurring and engineering recurring efforts was reasonable, that compliance with Cost Accounting Standards was ensured, and that funding implications were adequately considered. Recommendations in this report, if implemented, will help correct these weaknesses. A copy of this report is being provided to the senior officials responsible for internal controls within the Office of the Secretary of Defense and the Department of the Air Force.

Prior audits and other reviews

With the exception of DCAA audit reports discussed in Part II, there have been no audit reports or other reviews that have addressed issues on the C–17 Program similar to those in this audit report.

PART II—FINDING AND RECOMMENDATIONS

Accounting Practice Change

Full-scale engineering development costs were retroactively charged to procurement-funded production lots under the C–17 single ceiling development and production contract. The Government "approved" Douglas' inappropriate definition of the point of transition sustaining engineering costs from development to production. Also, Douglas made a retroactive cost accounting practice change, contrary to Cost Accounting Standards, and the accounting practice change was not evaluated in accordance with required Government procedures and did not include an adequate assessment of the impacts of the change on funding and financing the contract. As a result, at least $172 million of development costs was improperly reallocated to production lots. Also, the reallocation resulted in at least $148 million in additional financing provided to Douglas that otherwise would not have been received in FY 1991 because of limitations on Government contract obligations.

Discussion of details

Background

During the latter part of FY 1990, it became apparent to the Air Force and Douglas that sufficient FY 1990 Research, Development, Test and Evaluation (RDT&E) funding was not available to continue to finance contract performance through progress payments. Douglas had received the last financing for FY 1990 RDT&E effort in July 1990. The contract's Limitation of Government Obligation Clause required that the contractor perform within the funding availability constraints established in the contract and continue to perform, at the contractor's expense, if incremental funding is exceeded. By October 1, 1990, Douglas had a progress payment request for development efforts totaling over $235 million for which no payments could be made by the Government because FY 1990 RDT&E funds on the contract had been expended. Also, during the latter part of FY 1990, it was clear that projected expenditures would rapidly deplete development related funding in FY 1991, which at that time was estimated to be an additional $417 million.

Also, during September and October 1990, the DPRO for Douglas Aircraft Company, a Defense Contract Management Command organization, determined that the contractor's EAC for the total single ceiling contract was unreasonable and that the EAC was expected to exceed the contract ceiling price. Thus, the application of a loss ratio to protect the Government's interest was warranted. It was in this environment that Douglas requested, and the Government "approved," the accounting practice change to transition engineering cost from development to production.

Accounting Practice Change

The accounting practice change defining the transition from nonrecurring to sustaining engineering was not in accordance with the intent of the Air Force Pamphlet used as justification for the change. Implementation of the change was not in accordance with Cost Accounting Standards and Government approval procedures, including the reallocation of funds to long-lead items that would be made part of a future contract. We also believe that the change resulted in an improper reallocation of RDT&E and procurement expenditures, thereby providing a means of permitting additional financing to the contractor during FY 1991 that would otherwise not have been available. It should be noted that the reallocation of engineering costs did not increase the price of the single ceiling contract or the total amount of progress payments that would eventually be paid to the contractor at contract completion, but significantly accelerated the timing of the cash-flow.

Establishment of the change: Nonrecurring engineering is the work associated with the actual design and development activities. Sustaining engineering is engineering effort that ensures that the system design is correctly and efficiently implemented during the system's production phase. The Air Force and Douglas considered an allocation method necessary because of the high concurrency in development and production in the C–17 Program. The C–17 contract required that development (RDT&E funds) and production costs (Aircraft Procurement funds) be segregated but did not address how the costs were to transition from development to production. According to Douglas, the allocation of past costs from development to production was necessary to better assign costs to the "benefiting cost objectives."

For almost 2 years, the Air Force and Douglas attempted to agree on how to allocate the sustaining engineering costs between development and production efforts. Because of the shortfalls in development funding, impetus was given to resolving the issue of how to allocate the engineering cost. On October 11, 1990, Douglas requested that the Procurement Contracting Officer at the C–17 Program Office and the Administrative Contracting Officer (ACO) concur with Douglas' proposal to allocate sustaining engineering effort between full-scale engineering development and all production buys. The proposal would allocate sustaining engineering costs based on the number of aircraft in the manufacturing process. The Douglas-proposed practice would allocate engineering costs associated with work breakdown structure (WBS) elements related to the C–17 air vehicle (WBS 1010), system engineering management (WBS 1061), and project management (WBS 1062) (see Appendix A for a description of the WBS elements). The point of transition for allocating sustaining engineering from development to production was determined to be "90-percent initial drawing release," which had occurred in November 1988, 2 years before the October 1990 request. According to Douglas and the C–17 Program Office, this transition point was in accordance with Air Force Systems Command Pamphlet 800–15, "Acquisition Management, Contractor Cost Data Reporting (CCDR) System"[2] (the Pamphlet), November 5, 1973.

In October 1990, the ACO documented that he would not concur with the proposed change but would "implement this reallocation if DCAA finds no problems exist. But that's all." On November 1, 1990, the C–17 System Program Office indicated that the Douglas request to use the 90-percent initial drawing release was acceptable, subject to scrutiny by DCAA and the DPRO. The change was to be effective on October 1, 1990.

In addition to making the accounting practice change beginning October 1, 1990, Douglas made retroactive adjustments to reflect the change. At least $172 million, including $13 million for production Lot III, that had been charged to the development contract from December 1988 to September 1990 was reallocated to the production effort. As of October 1990, the amount reallocated has increased to $184.5 million, including $14.9 million and $0.5 million for long-lead requirements for Lots III and IV, respectively. In July 1991, these long-lead requirements and corresponding contract prices were moved to a new production contract.

Policy on recognition of recurring cost: We believe that the Air Force Pamphlet 800–15 was misinterpreted and misused. Douglas and the C–17 Program Office used the Pamphlet as a basis for the method of allocating sustaining engineering between development and production. The Pamphlet states:

"* * * it is preferable to identify the point of segregation between nonrecurring and recurring engineering costs as a specific event or point in time. Ideally, the event used would be the point at which "design freeze" takes place as a result of a formal test or inspection, and after which formal engineering change proposal procedures must be followed to change design. If no reasonable event can be specified for this purpose, then all engineering cost incurred up to the date of 90 percent engineering drawing release may be used."

---

[2] The Contractor Cost Data Reporting System was developed to provide the primary common data base for use in most cost estimating efforts, including procurement management activities involved with monitoring contractor progress related to cost. The System provides uniform procedures for collecting contractor cost data in accordance with standard definitions, against a uniform reporting structure.

The C–17 Program had scheduled Functional and Physical Configuration Audits that met the definition in the Pamphlet. Functional Configuration Audits provide a means of validating that development has been satisfactorily completed and that the item functions as required. Physical Configuration Audits provide a means of validating that the system is built in accordance with its design documentation. After successful completion of the Physical Configuration Audit, changes are processed by engineering change actions. The C–17 Configuration Audits were to occur on the fifth production vehicle, which was scheduled for delivery in October 1992. Normally, the Physical Configuration Audit would be done on the first production aircraft or the first aircraft delivered for operational use. When the accounting practice change was proposed, the first C–17 production aircraft was scheduled for delivery in September 1991. However, when the production schedule was restructured in July 1991, the delivery of the first production aircraft had slipped to February 1992.

Also, the Air Force and Douglas used 90-percent initial drawing release instead of final drawing release to determine the point of 100-percent transition to sustaining engineering. Initial drawing release occurs earlier than final drawing release. The number of drawings generally increases over the development period and, in fact, did significantly increase on the C–17 Program. In validating the initial drawing release date, the Program Office did not use actual initial drawing release. Instead, the Program Office stated that the count of drawing releases was not of actual drawings, but rather was a count of engineering orders that the contractor used to authorize the work that creates the drawings. The Air Force determined that 90-percent initial drawing release occurred in November 1988. Based on this determination, Douglas proceeded with charging all of the engineering work in the affected WBS elements as sustaining effort, primarily to the production lots.

Although we believe that the configuration audits, as scheduled, were the appropriate point to transition to 100-percent sustaining engineering for the C–17 Program, we would expect a gradual transition to 100-percent sustaining effort to occur, rather than an abrupt, single transition point. Therefore, we agree that an allocation methodology to permit this gradual transition was needed. Although some sustaining engineering may have occurred before October 1990, it was not reasonable that most of the affected costs incurred were applied to production aircraft, as was planned and implemented by Douglas.

Specifically, most of the engineering effort in the affected WBSs should not have been charged to production lots, given that the first aircraft had not flown or even completed assembly, mission computer software was still under development and testing, and the static and durability test articles were significantly behind schedule. In addition, the first four production aircraft, as well as the T–1 flight test aircraft, were to be used for the flight test program, a function of RDT&E. We also noted that the Configuration Audits were planned to be accomplished on the fifth production aircraft after the test program and before the aircraft is released for use. In addition, the Air Force did not plan to validate Douglas' cost and schedule control system for production contracts until Lot III, relying instead on the development cost and schedule control system.

The increasingly high degree of concurrency between development and production was not indicative that a stable production configuration was achieved in November 1988 or by October 1990. Rather, it reflects the significant schedule delays in the aircraft's development. Therefore, the Program's concurrency is not a valid basis for a retroactive adjustment of the cost charging. Also, the nature of the work that was being done from November 1988 to October 1990 did not support the use of the per-aircraft allocation methodology based on the WBS descriptions of the work performed.

Cost Accounting Standards: Douglas did not comply with Cost Accounting Standards in implementing the accounting practice changes, and the Government did not comply with normal procedures for reviewing and approving the accounting change. Cost Accounting Standard 331.50 requires that, unless determined to be in the Government's best interest, any change in cost accounting practices must be applied prospectively to the contract, and the Disclosure Statement[3] must be amended accordingly. The cost accounting change was not in accordance with the Cost Accounting Standards because it retroactively reallocated at least $172 million incurred from December 1988 to September 1990, despite the requirement for prospective implementation, resulting in payment of progress payments to the contractor earlier than would have otherwise occurred. Also, Douglas did not provide timely revision to its Disclosure Statement or a cost impact statement before the change from a direct to an indirect allocation methodology for charging the engineering costs was made.

In its October 11, 1990, letter requesting approval for the reallocation of sustaining engineering costs, Douglas identified the November 1988 90-percent initial drawing release date. Douglas also stated that its proposed methodology did not constitute a change in its disclosed accounting practices. Rather, according to Douglas, the methodology reflected a better recognition of when the recurring effort began. However, we agree with the DCAA advice to the ACO that the proposed methodology was a retroactive change to the disclosed accounting practices that affected a number of cost objectives, including the separately funded items within the single ceiling contract and subsequent production contracts.

In our opinion, the adequacy of the Disclosure Statement should have been determined before the change's effective date. In its October 31, 1990, Audit Report No. 4461–91B13980003 on Douglas' proposed allocation method, the cognizant DCAA field office at Douglas Aircraft Company recommended that the contractor submit a Disclosure Statement revision, as required and as DCAA had verbally informed Douglas. However, DCAA took no exception to Douglas' proposed methodology or the costs proposed for reallocation. Therefore, the Program Office and the DPRO allowed the change to proceed and began making progress payments based on the change. DCAA Contract Audit Manual 8–303.3, "Changes to Disclosure Statements and/or Established Practices," July 1991, requires that DCAA issue a noncompliance report when a Disclosure Statement revision is required but not made. In its report, DCAA notified Douglas, the Air Force, and the DPRO that the accounting change required a revision to the Disclosure Statement and qualified its report accordingly. We believe that DCAA should not have concluded it took no exception to the accounting change until Douglas provided a Disclosure Statement revision and cost impact statement for review and the Government determined the adequacy of the revision and cost impact statement.

Although the DPRO should not have approved progress payments or accepted contractor reports that reflected the accounting practice changes until the Revised Disclosure Statement and cost impact statement had been approved, it is DCAA's responsibility to provide advice on cost accounting matters and make recommendations concerning proposed cost accounting changes. FAR 42.302, "Contract Administration Functions," states that the Contract Administration Office (DPRO) is responsible for determining the contractor's compliance with Cost Accounting Standards, with support from DCAA. In this case, the DPRO did not agree with the contractor's proposal, but did not exercise its authority based on the DCAA's and the Air Force's acceptance of the accounting practice change. Had DCAA followed guidance and recommended not accepting the proposed change until the Disclosure Statement and the cost impact statement had been reviewed, the DPRO would have had additional support for not allowing implementation of the change for payment purposes.

Since the October 31, 1990, DCAA report, Douglas submitted three revisions (December 19, 1990, March 4, 1991, and April 11, 1991) to its Disclosure Statement, and DCAA issued three reports on the adequacy of the revisions to the Disclosure Statement describing the accounting practice change. The December 19, 1990, revised Disclosure Statement showed a November 1988 effective date, resulting in retroactive implementation of the accounting change.

The revision also provided that the C–17 sustaining engineering costs in the affected WBS elements for the development contract, including long lead for the Lot III production, would be allocated based on the "quantity of aircraft in production (fabrication start to assembly complete) during a given calendar quarter. . . ." On February 28, 1991, DCAA issued Audit Report No. 4461–91B44100007 on the December 19, 1990, revision to Douglas' Disclosure Statement. DCAA observed that this disclosed practice for the WBS 1010 engineering cost was different from the practice actually being applied on the Lot III C–17 production aircraft. For the Lot III production aircraft, Douglas was charging these costs directly to the aircraft for which the effort was incurred based on the effective date of the design change. DCAA recommended that Douglas be cited for noncompliance with Cost Accounting Standard 331.50(a)(1) and be requested to furnish the Government a revision to the Disclosure Statement to reflect Douglas' current cost accounting practice. Cost Accounting Standard 331.50(a)(1) was not met because actual cost accounting practices were not adequately described in the proposed revision to the Disclosure Statement. As of September 1991, an adequate Disclosure Statement reflecting the accounting practice changes still had not been provided.

---

[3] The FAR defines a Disclosure Statement as a written description of a contractor's cost accounting practices and procedures and states that contractors are responsible for maintaining accurate Disclosure Statements and complying with disclosed practices.

In its February 1991 report, DCAA also recommended that Douglas be notified that the Government would not permit the contractor to charge Government contracts using a cost accounting practice resulting from a retroactive change. When the contractor issued its December 1990 revised Disclosure Statement, it failed to give the Government the required 60-day notice before the October 1990 implementation of the change which, in fact, had already occurred in October 1990. Douglas also failed to provide the required cost impact statement. Without the cost impact statement, the Government could not estimate the magnitude of the total cost impact of the proposed changes on the affected cost objectives. While the February 1991 DCAA report partially corrected the weaknesses in the October 31, 1990, DCAA report, it still did not consider the funding implications of the proposed changes and the nature of the underlying costs being allocated.

On March 4, 1991, Douglas provided another revision to the Disclosure Statement to correct the inadequacies that DCAA noted in its February 1991 report. In its March 28, 1991, Audit Report No. 4461-91B44100002, DCAA did not identify an inadequacy in the March revision that described the revised accounting practice relating to the allocation of the sustaining engineering costs. However, on April 12, 1991, DCAA issued a supplement to its March 28, 1991, report stating that the Disclosure Statement was unclear as to whether the allocation of the engineering cost for the affected WBS elements ceased at "T-1 Assembly Complete" or at some other time, such as "Ramp Complete."

As a result of the questions that DCAA raised in its March 1991 report, Douglas submitted another revision to the Disclosure Statement on April 11, 1991. In its May 29, 1991, Audit Report No. 4461-91B44100003, DCAA determined that the accounting practice involving WBS 1010 sustaining engineering costs directly identifiable to all future contracts was not adequately described. Douglas proposed to directly charge these costs to the "benefiting contract"; however, Douglas informed DCAA that it was considering changing its cost accounting practice regarding what the benefiting contract is. Determining the benefiting contract, or benefiting cost objective, is critical to determining where aircraft sustaining engineering costs will be allocated. The proper allocation of sustaining engineering cost was given as the primary reason for considering the accounting practice change. Yet almost a year later, Douglas was still considering the proper definition of the benefiting cost objective.

Funding impact of the accounting practice change: By implementing the accounting practice change, Douglas did not properly charge development and production costs. The contract required that the contractor segregate costs incurred for the full-scale development portion of the contract, which were paid with RDT&E funds, and the production line items, which were paid with aircraft procurement funds.

The timing of the decision to implement the accounting change and make the change retroactive was driven primarily by the projected shortage of available RDT&E appropriated funds. RDT&E funds on the contract were expended by July 1990 and therefore the Government could not continue to make progress payments for eligible incurred development costs. However, production funds for the FY 1988 and FY 1989 buys were still available. The retroactive accounting practice change would have allowed the contractor to receive at least the reallocated $172 million as progress payment for costs incurred through September 30, 1990.

However, the DPRO's action to institute a loss ratio[4] in calculating the approved progress payment resulted in delaying the benefit to the contractor of the $172 million until after the FY 1991 funding was exhausted.

Although DCAA requested technical assistance to determine the date for the 90-percent initial drawing release, it failed to review or request technical evaluation of the appropriateness of allocating the work described in the affected WBS elements as nonrecurring or recurring (sustaining) engineering costs before issuing its October 1990 report. In addition, based on its own assessment, DCAA concluded that the cost objective was the single ceiling contract for development and production and that the accounting change had no material impact on the Government because only a "small amount," $13 million, was expected to be shifted to the C-17 Lot III production contract. Thus, DCAA did not review and report on the effect the proposed change would have on the expenditure of different types of appropriated funds specified in the contract.

In a December 1990 memorandum, the Office of the DoD General Counsel stated that the contract provided for the single ceiling price for the line items without distinguishing between those line items funded with appropriations available only for research and development and those line items funded with appropriations available only for procurement. However, the memorandum stated that "overruns" of the development portion of the contract should be funded with research and development funds.

We believe that the inappropriate method of allocating the sustaining engineering between development and production portions of the C-17 development contract could result in a violation of U.S.C., title 31, sec. 1301, which requires that funds only be spent for the purposes for which they were appropriated. By charging the cost of development work to procurement accounts, the costs are paid out of funds not appropriated for that purpose. Government costs can be affected by the ramifications of funding issues including the impact on progress payments discussed below. Therefore, we believe that DCAA should consider funding issues and the impact of the issues it identifies on the appropriate use of funds in its audits.

Financial impact of the accounting practice change: Although no additional funding was added to the contract and the contract price was not increased, the accounting practice change resulted in at least an additional $172 million in RDT&E funds being made available for progress payments, thus providing financing to the contractor through progress payments that otherwise could not have been made in FY 1992. Also, we estimated that of the $172 million, at least $148 million was actually paid to the contractor in FY 1991. On November 1, 1990, as a result of the accounting practice change requested by the contractor and "approval" of the change by the C-17 Program Office and DCAA, the ACO approved payment of $59.2 million of Douglas' resubmitted Progress Payment Request (PPR) No. 98 for $386.5 million. The $59.2 million was after adjustment for a loss ratio calculated using an EAC of $7.1 billion instead of the contractor's EAC of $6.6 billion.

PPR No. 98, for costs incurred through September 30, 1990, included an estimated reallocation of $170.6 million of sustaining engineering cost to production. Thus, the $170.6 million of RDT&E funding previously disbursed for those costs became available for funding additional RDT&E effort. PPR No. 99 for costs incurred through October 28, 1990, included the actual transfer of $171.7 million sustaining engineering costs to the production lots that had been incurred from December 1988 to September 1990. The total sustaining engineering cost that was transferred in PPR No. 99 was $184.5 million from December 1988 through October 1990. the $184.5 million included $15.4 million of sustaining engineering cost that was transferred to the Lot III and Lot IV long-lead contract line items. In July 1991, Lot III and Lot IV long-lead costs were transferred to contract F33657-89-C-0001, the contract for production of four Lot III aircraft. The table, on the next page shows that, as of September 30, 1991, at least $148 million was disbursed to finance development efforts (progress payments made from RDT&E funds) that would not have otherwise been available in FY 1991 as a direct result of the retroactive accounting change.

It should be noted that there additional progress payments are based on costs that the contractor incurred and do not result in the contractor eventually receiving more than the total contract price less its share of costs based on the share ratio established in the contract. The additional progress payments result in payments of the incurred cost being made earlier than would otherwise have been made because of the additional RDT&E funds available before reaching the Limitation of Government Obligation. Thus, the cost to the Government would be the imputed interest cost of financing the earlier payments to Douglas and increased risk to the Government because of higher than warranted unliquidated progress payment balance.

Increase in progress payments for RDT&E resulting from the accounting journal entry

	Dollars
Limitation of Government obligation for RDT&E through Nov. 13, 1991	$4,401
Total progress payments disbursed through Sept. 26, 1991	4,340
Additional amounts invoiced and disbursed for accepted line items	38
Total disbursed	4,378
Remaining limitation of Government obligation on Sept. 26, 1991	23
Amount journaled in October 1990, result of accounting policy change	−171
Journaled amount disbursed through Sept. 26, 1991 (increase in available obligation actually disbursed)	−148

Douglas made corresponding retroactive adjustments in its cost and schedule control system as indicated in the C-17 Cost Performance Reports. Costs were reallocated from the development portion of the contract to the production portion of the contract without also reallocating the budget no basis for categorizing these costs as charged in error to the development portion of the contract. More importantly, we believe that because the allocated budget was not moved, the relationship between cost and work performed was not maintained and, in essence, the result was a transfer solely of overruns from RDT&E funded cost accounts to procurement funded cost accounts. The result of the accounting change caused a $225 million increase in the EAC for production with a corresponding decrease in the EAC for the development portion of the contract.

---

[4] FAR 32.503-6(g), "Loss Contracts," requires that if the EAC for the contract is likely to exceed the contract price, the contracting officer shall compute a loss ratio factor. The loss ratio reduces the contractor's request for progress payment by an amount equal to the ratio of the EAC and the contract ceiling price.

Because only prospective changes are allowed, all retroactive changes should be reversed. This includes any changes to progress payments; adjustments to other cost reports, such as Cost Performance Reports and Contractor Cost Data Reports; and changes in appropriation accounts charged for those costs.

Decisions Affecting Contract Financing

The contractor's request, and the Air Force's subsequent "approval," to reallocate C-17 development costs to production appeared to be part of an overall plan to provide [deleted].[5] This plan was documented in a briefing on the results of a review of the McDonnell Douglas Corporation contract performance problems, financial condition, and actions that could be taken to "fix" these problems (Financial Condition Review). The Financial Condition Review took place during September 1990 and October 1990. The team conducting the Financial Condition Review (the Team) was comprised of representatives of the contractor, OSD, Air Force, and Defense Contract Management Command, as well as Army and Navy participants. Specifically, the briefing outlined six options available to the Government. Three options could be implemented within DoD and three options required external approval. [Deleted]. Douglas' October 1990 request to reallocate sustaining engineering costs came shortly after the Air Force presented the options from the Financial Condition Review. The accounting practice change that reallocates sustaining engineering appeared to fit the option dealing with allocation of costs. However, as previously stated, we disagree that it was a proper allocation of costs. In essence, the reallocation had the impact of a transfer or reprogramming because it increased, by more than $170 million, the amount of funding available to finance development during FY 1991. However, this increase in financing burdened the production lots for the same amount. It should be emphasized that this measure was temporary because, as production effort increased, there would be insufficient incremental funding available to continue to finance production efforts through progress payments, a situation which was dependent on the loss ratio applied.

Progress payment financing: In addition to the accounting practice change, other actions were taken that inappropriately provided financing to the contractor. We found particularly disturbing an October 1, 1990, memorandum by the Government Principal ACO at Douglas directing the payment of the September progress payment, PPR No. 97. The memorandum indicated that senior Air Force officials, based on information from the Chairman of the Board and Chief Executive Officer of McDonnell Douglas, had stressed the need for approval of the progress payment [deleted] potential adverse impact to the C-17 program." The information was provided to the Principal ACO on "Saturday, September 28, 1990 [sic]." The Principal ACO, in turn, directed the C-17 ACO to proceed with the progress payments. This situation lends the appearance of undue influence being used to compromise the independence of the ACO to use his best judgment concerning contract administration matters. The Principal ACO did not request any further justification from the Air Force concerning why progress payments, already being paid at 99 percent of eligible costs incurred, should be paid based on contractor financial need. Also, the Principal ACO did not require that Defense Contract Management Command headquarters officials document that decision based on the Air Force information to release progress payments based on financial need. We do not consider this matter a failing of the Principal ACO, but rather indicative of the environment under which the accounting practice change was approved.

As a result of the direction, $81.2 million for PPR No. 97 (costs incurred through September 2, 1990) was paid to the contractor. The ACO had indications that PPR No. 97 should not be paid because the contractor's EAC was not realistic and the contract was likely to go over its ceiling price. The $81.2 million was for production related costs because the RDT&E funds had been exhausted. We calculated that the contractor should have been paid only $9.1 million instead of $81.2 million for PPR No. 97 if a loss ratio based on an EAC of $7.1 billion was applied (Appendix B). This excess $72.1 million payment should not have been made because the Government was aware that the probable EAC would exceed the contract ceiling price. Therefore, application of a loss ratio was appropriate. If the loss ratio had been applied to PPR No. 97 and the accounting practice change not been implemented in PPR No. 98, Douglas would have been paid $53.7 million less than the $153.4 million actually paid (Appendix E, page 31).

The ACO had documented indicators of an over ceiling condition including "ambitious" overhead rates, unrealistic assembly learning curves, subcontractor EAC problems, and questionable adjustments to cost account manager estimates. Similarly, we observed that Douglas had artificially kept EACs low by capping manufacturing hours for the four Lot II production aircraft to compensate for increased engineering costs associated with the off-loading of engineering effort caused by the accounting practice change.

[Deleted]. The application of the loss ratio did not occur with this or prior progress payments although the FAR requires immediate unilateral action in circumstances such as overpayments or unsatisfactory contractor performance. Before PPR No. 97, Douglas had not submitted a progress payment request since the July 1990 PPR No. 96 was submitted. Since contract performance continued and additional costs were incurred, this delay in submission eliminated the need for the Government to recoup the overpayment calculated based on the contract's expected loss. PPR No. 97 was actually approved on October 1, 1990, after the fall 1990 Financial Condition Review Team had concluded the initial part of its review and the day before the Defense Acquisition Executive was to be briefed on the review results. At that time, the Team had essentially concluded that use of an EAC of $7.1 billion was necessary, and the ACO had concluded that the contractor EAC was understated. The ACO was nevertheless directed by the Principal ACO to pay PPR No. 97 without calculating a loss ratio.

Progress payment rates: FAR 32, "Contract Financing," provides that customary flexible progress payments may be authorized if the contractor demonstrates actual financial need or the unavailability of private financing. The customary flexible progress payments are paid at a rate determined through a cash flow analysis. Douglas was already receiving flexible progress payments at the rate of 99 percent of eligible costs incurred, rather than the customary rate of 80 percent for large DoD contracts. The FAR provides for other forms of contract financing, specifically advance payments and loan guarantees, but both require determinations that the activities being financed are critical to national defense and other suitable means of financing are not available, as well as a formal approval process.

On October 12, 1990, the ACO notified the procurement contracting officer that the flexible progress payment rate of 99 percent needed to be changed. In the September 28, 1990, Audit Report No. 4461-0B175030 on a review of Douglas' request to change the flexible progress payment rate from 99 to 100 percent, DCAA recommended that the 99-percent progress payment rate should be reduced to 96 percent. The reduction was required because of the significant lag in Douglas' payments to subcontractors and vendors relative to what the 99-percent rate was based on. If PPR No. 97 had been paid based on the 96-percent progress payment rate, the maximum permissible progress payment and maximum unliquidated progress payment would have been $61.9 million less than that paid using the 99-percent rate. As a result, Douglas was paid $10.8 million more than it would have been using a 96-percent progress payment rate (the $10.8 million was exclusive of the $123.8 million development costs eligible for progress payment because of the nonavailability of RDT&E funds). In May 1991, Douglas resubmitted its flexible progress payment proposal, again requesting a 100-percent progress payment rate. As of September 1991, DCAA continued to recommend 96 percent, and the DPRO had developed an interim position of 97 percent. At the conclusion of our audit, a final determination was being negotiated.

The FAR emphasizes that contract financing through progress payments is to aid, not impede, an acquisition. However, in this case, the provisions of the FAR were not properly applied, resulting in additional contract financing. The FAR also states that the contracting officer shall avoid any undue risk of monetary loss to the Government through contract financing. [Deleted].

We strongly disagree that the Government should have proceeded with production related progress payments based on a contractor EAC that was seriously in doubt, especially given that the contractor's financial condition had already been determined to be weak. As required in the FAR, the Air Force and the DPRO should have withheld progress payments based on the established loss ratio. Such action would protect the Government's interest and adjust the progress payment rate in a timely manner.

DCAA audits of progress payments: DCAA repeatedly qualified its audit reports on contractor progress payment requests by stating that supporting documentation for the estimate-to-complete the contract did not exist. Therefore, the estimate could not be tested to determine its reasonableness. The estimate-to-complete the contract, along with the incurred cost to date, make up the EAC. On August 27, 1990, the cognizant DCAA field office issued Audit Report No. 4461-0B110014-S1 on Douglas' Billing System. The report detailed numerous significant deficiencies relating to procedures for calculating the C–17's EAC. However, DCAA made no recommendations either to withhold or suspend progress payments or to substitute a Government EAC in the calculation of the appropriate amount for the progress payments.

---

[5] Contractor confidential or proprietary data has been deleted.

The DCAA field office issued audit reports on PPR Nos. 94, 95, and 96[6] that were qualified because of the unauditable estimate-to-complete and lack of a technical evaluation from the DPRO. A DPRO technical evaluation was necessary to determine the reasonableness of the estimate-to-complete. Each of these reports stated that the audit disclosed no weaknesses in the contractor's internal procedures that would necessitate a restriction of contract financing through progress payments. We disagree with this conclusion and believe that the lack of documentation for the EAC is an internal control weakness. As stated in Office of Management and Budget Circular A–123, "Internal Control Systems," August 1983, readily available and clear documentation is a specific standard for internal control systems, transactions, and other significant events.

In Audit Report no. 4461-91B17500006, October 24, 1990, on PPR No. 97, DCAA once again qualified its report because of the lack of supporting documentation and DPRO technical evaluation. Also, DCAA identified a $2 million error in the cumulative allowable incurred cost claimed by Douglas. DCAA recommended more frequent progress reviews because of the deficiencies noted in earlier reports. However, DCAA again failed to make recommendations or draw conclusions that were commensurate with the qualifications and other available, pertinent information.

In none of the audit reports related to the C–17 Program progress payments did DCAA recommend a withhold or suspension of progress payments, a substitution of a Government EAC, or other such recommendation commensurate with the qualifications and findings. Rather, they recommended more frequent progress payment reviews which, in our opinion, added little to the administration of progress payments. DCAA was already reviewing each progress payment; therefore, this recommendation had little meaning.

However, as a result of the November 28, 1990, Report on the A–12 Administrative Inquiry by the Office of the Secretary of the Navy, DCAA and the Defense Contract Management Command initiated a number of actions aimed at improving progress payment administration and DCAA revised its audit program for progress payments. Starting with the November 28, 1990, Audit Report No. 4461-91B17500013 on PPR No. 98, DCAA stopped qualifying its report for the unsupported EAC and, instead, noted the DPRO's EAC. DCAA also recommended that progress payments be submitted for audit before payment. We would expect DCAA to be more proactive in its process payment reviews as a result of the policy revisions implemented in response to the A–12 Administrative inquiry.

Conclusion

The actions surrounding PPR Nos. 97 and 98, that is, the failure to promptly implement a loss ratio, and the reallocation of sustaining engineering costs were part of a common effort to [deleted]. These actions involved significant noncompliance with requirements of the FAR related to timely implementation of a loss ratio, requirements of the Defense Supplement to the FAR related to adjustments to flexible progress payment rates, and requirements of Cost Accounting Standards related to permitting only prospective application of accounting practice changes. The accounting practice change and the delay in changing the process payment rate, as recommended by DCAA, resulted in $172 million available for FY 1991 progress payments that otherwise would not have been available and $62 million of additional unliquidated obligations.

At the conclusion of our audit, the Disclosure Statement describing the accounting practice change had not yet been approved. The accounting change resulted in allocating at least $172 million of sustaining engineering costs from full-scale engineering development to the production lots. Consequently, the effort was improperly charged as production costs. This could be construed to be a violation of U.S.C., title 31, sec. 1301, which requires that funds be used only for the purposes for which they are appropriated. Also, the accounting practice change resulted in progress payments being made to the contractor in FY 1991 that would otherwise not have been made. We believe that the accounting practice change should only be made prospectively in accordance with Cost Accounting Standards. The change cannot be shown to be in the Government's best interest and does have a cost impact to the Government, specifically imputed interest from earlier financing. It is essential that the Air Force, DCAA, and DPRO protect the Government's interests through review of the total impact to the Government of contractor actions. The individual decisions made by the Program Office, DCAA, and DPRO in allowing Douglas to make the accounting change did not consider the full impact and results of the change. Each organization based its decision on the assumptions made by others; thus, no one appeared to recognize the overall consequences of the accounting practice change.

Recommendations for corrective action

1. We recommend that the Under Secretary of Defense for Acquisition:

a. Direct the cognizant Defense Plant Representative Office to require that the Douglas Aircraft Company submit a revision to its Cost Accounting Standards Disclosure Statement and associated cost impact statement based only on prospective application of the accounting practice change that affects the allocation of sustaining engineering costs. The effective date of the application of the change should be no earlier than October 1990, when tacit approval of the change was given.

b. Direct the Secretary of the Air Force to report the impact of the prospective application of the revised accounting practice change on the use of appropriated funds.

c. Direct the cognizant Defense Plant Representative Office to apply the Government-approved contractor accounting practice change prospectively from October 1990, including for approving progress payments, in accordance with the Cost Accounting Standards clause in the contract.

2. We recommend that the Director, Defense Contract Audit Agency:

a. Direct the review of funding implications of contractor activities, to include:

(1) guidance on how to incorporate funding considerations into audit scope and related findings in such areas as progress payment reviews, cost accounting practice changes, and Contract Fund Status Report reconciliations; and

(2) audit procedures to ensure that the contractor is properly segregating costs by appropriation.

b. Direct the review of audit report qualifications as part of Defense Contract Audit Agency's Quality Control Program to ensure that serious qualifications are addressed in the conclusions of the report and progress payment withholds are recommended when warranted:

Management comments

The Office of the USD(A) concurred with Recommendations 1.b. and partially concurred with Recommendations 1.a. and 1.c. (Part IV). The Program Office, DCAA, and DPRO agreed on the prospective treatment of sustaining engineering costs. The correction of the change will be made by January 31, 1992; the Air Force will provide the impact of the prospective application within 45 days; and the DPRO will take action to adjust $142 million of sustaining engineering costs from production to development by January 31, 1992, and has made an interim adjustment on the November 1991 progress payment. The DPRO determined that $30 million ($172 million minus $142 million) was legitimate sustaining engineering cost for development aircraft.

The Office of the USD(A) did not agree that the problem identified in the report was a material internal control weakness. Instead, it believed the weakness was a miscommunication among the parties involved.

DCAA concurred with Recommendation 2.b. and nonconcurred with Recommendations 2.a.(1) and 2.a.(2). DCAA did not agree that guidance to incorporate funding considerations into its audit scope was necessary because proper cost accounting treatment is not, and should not be, influenced by contract funding issues. Also, DCAA did not agree that audit procedures needed to be established to ensure that contractors are properly segregating costs by appropriation because DCAA is responsible for ensuring that contractors comply with contract terms and conditions requiring separate accounting and billing of cost. DCAA stated that the contracting officer is responsible for making decisions on contract cost disputes and monitoring contract funding, as well as including terms and conditions in contracts, which address restrictions on appropriations.

In addition, DCAA stated that it did not agree with the finding regarding the misapplication of Cost Accounting Standards requirements because DCAA's original audit opinion was in error.

Audit response to management comments

The Office of the USD(A) comments are considered responsive to the intent of our recommendations. Therefore, no additional comments are required from the USD(A).

We agree that miscommunication between the parties was a key factor in the problem we found. We disagree, however, with the comment that the problem is not a material internal control weakness. The internal control weakness existed because of failure to comply with important existing procedures. The significance of the problem, which resulted in actual or potential violations of public law and evoked considerable concern during November 1991 congressional hearings, should not be minimized. We will review the Air Force's assessment of the impact of the prospective application and ensure that any violations of public law are properly reported.

We believe that DCAA misinterpreted our recommendations. We agree that the contracting officer is responsible for monitoring contract funding and addressing restrictions on funding. Recommendation 2.a.(1) was not meant to imply that this responsibility should be changed. However, DCAA, in its role as advisor to the contracting officer, must be able to provide advice and recommendations concerning issues that affect contract funding and restrictions on funding, including issues related to the proper use of funds within a contract. We also agree that the proper accounting practice should not be influenced by funding issues. However, as DCAA commented, the auditor should be interested in contractor motivations, including those related to funding issues, and this motivation should be used in determining the extent of audit testing to be conducted. Although DCAA obtained the Program Office's determination for the point of transition, it did not adequately consider the implications of the change. DCAA stated that the effect of the change was minor because an insignificant amount was transferred to another contract. However, the change reallocated costs within contract 2108 that resulted in violations of public law concerning the proper use of appropriated funds. Such information must be considered by the auditors and reported when appropriate. The auditors must be knowledgeable of the requirements of public law concerning the use of appropriated funds in order to recognize and report on issues related to funding, including the importance of funding related contract clauses. This knowledge is also necessary to establish the degree of testing mentioned by DCAA in its comments, not only for cost accounting issues, but also for its work in other areas such as progress payments and Contract Fund Status Report reconciliations. We did not find guidance or information in the DCAA Audit Manual on the public laws concerning appropriations or the consequences of misapplication of the contract funds.

---

[6] Audit Report Nos. 4461-B175016, June 21, 1990; 4461-0B175029, August 27, 1990; and 4461-0B175028, August 27, 1990, were issued on PPR Nos. 94, 95, and 96, respectively.

Regarding DCAA's comments to Recommendation 2.a.(2), we also agree that DCAA is responsible for auditing contractor compliance with contract requirements, including those that call for separate accounting and billing, and we agree that the contracting officer must include appropriate contract clauses in the contract. Contract 2108 did require that the contractor segregate the cost between development and production (that is, by appropriation) and report segregated costs in its Cost Performance Reports and contract Funds Status Reports. The contractor also provides supplements to its progress payment requests that segregates the cost. DCAA recognized that different funds existed on the contract; however, DCAA concluded that the issues with the accounting change were a funding consideration and had no affect on the contract. We believe that DCAA should have reported the change's impact on the funding and its possible consequences, specifically violations of public law. It is our opinion that DCAA guidance does not sufficiently emphasize the importance of funding considerations. Such guidance is necessary to provide adequate advice concerning the result of audits to the contract administrators. The DCAA Audit Manual did not provide information on the importance of properly segregating costs related to the requirement of appropriation, or funding, laws.

Although DCAA stated that its original determination of the accounting practice change was in error and that the proper classification of recurring versus nonrecurring engineering costs is not an accounting practice, DCAA still classified the change in allocation methods for these costs as a cost accounting practice change. The most significant monetary impact occurred because of the redefinition of recurring versus nonrecurring to nonrecurring costs and its retroactive application. Nevertheless, DCAA failed to follow its own guidance and the applicable federal regulations on how to process a cost accounting practice change. Although DCAA stated that a disclosure statement had been received from Douglas, the final resolution of the change is still not completed.

We request that DCAA reconsider its position on Recommendations 2.a.(1) and 2.a.(2) and comment by April 13, 1992.

PART III—ADDITIONAL INFORMATION

Appendix A: Work breakdown structure elements

Below is a description of the WBS elements included in the accounting change described in this report.

WBS Element 1010 represents the C-17 air vehicle. The air vehicle is the complete flyaway C-17 for delivery to the Air Force. The flyaway C-17 includes the structural airframe with all subsystems, power-plant, communications/navigation systems, electronics systems, automatic flight control systems and mission systems. WBS subelement 1011L, Airframe Integration, was not included in the accounting practice change.

WBS Element 1061 represents C-17 system engineering management. This Element includes contractor efforts to perform system engineering feasibility, research and development activities directly contributing to the overall C-17 system performance. The activities include technical and management programs designed to improve the effectiveness of the weapon system through application of specialized disciplines and techniques.

WBS Element 1062 represents the C-17 project management. It summarizes the contractor effort required to plan, organize, coordinate, direct, and control the overall management of the C-17 Program during development and production. Project management activities include business management, program reviews, cost/schedule control, design to life cycle cost, configuration and data, manufacturing and quality assurance and the management information system.

Appendix B: Calculation of progress payment request Nos. 97 and 98 using a loss ratio and no accounting practice change

The ACO was directed to pay PPR No. 97 based on financial need and not to consider the loss ratio that should be calculated because of an EAC that exceeded the contract ceiling price. As a result, the contractor was paid $81.2 million,[7] rather than $9.1 million. We calculated the progress payment based on a 92.4-percent loss ratio using a $7.1 billion Government EAC and a $6.6 billion contractor EAC. This was the loss ratio used by the ACO is calculating the appropriate progress payment for PPR No. 98. We have also shown the calculation of PPR No. 98 without the effect of the accounting practice change. PPR No. 98 was the first progress payment where the Government reduced the contractors payment for the loss ratio.

If these progress payments had been made as calculated in this Appendix, the contractor would have been paid $53.7 million less than the actual payments of $153.4 million, as shown in the following table.

	As paid (millions)	As recalculated (millions)	Difference
PPR No. 97	$81.2	$9.1	$72.1
PPR No. 98	59.2	90.6	(31.4)
Note 13	13.0	0	13.0
Total	153.4	99.7	53.7

[In millions of dollars]

	Development	Lot I	Lot II	Total	Notes
CALCULATION OF PROGRESS PAYMENT NO. 97					
Cost billable through September 2, 1990	3,690.4	294.4	64.1	4,048.9	1
Loss ratio at 92.4 percent	3,409.9	272.0	59.2	3,741.1	2
Subcontractor costs	494.2	62.9	55.3	612.4	3
Total for current period	3,904.1	334.9	114.5	4,353.5	4
Previous progress payment requested	3,949.0	304.0	91.4	4,344.4	5
Eligible for progress payment	(44.9)	30.9	23.1	9.1	6
Douglas progress payment request	235.6	53.3	27.9	316.8	7
Paid by Government	0	53.3	27.9	81.2	8,11
Reduction in payment by Government	235.6	0	0	235.6	9
Reduction in payment if loss ratio used	280.5	22.4	4.8	307.7	10
Costs eligible under progress payment clause	3,781.5	391.0	178.5	4,351.0	12
Reversal of accounting practice	170.6	(52.3)	(105.3)	13.0	13
Reversal costs eligible under clause	3,952.1	338.7	73.2	4,364.0	
Cost billable through September 30, 1991	3,912.6	335.3	72.4	4,320.3	1
Loss ratio at 92.4 percent	3,615.2	309.8	67.0	3,992.0	2
Subcontractor costs	386.3	63.0	55.3	504.6	3
Total for current period	4,001.5	372.8	122.3	4,496.6	4
Previous progress payments requested	3,904.1	334.9	114.5	4,353.5	5,14
Eligible for progress payment	97.4	37.9	7.8	143.1	6
If paid as calculated	44.9	37.9	7.8	90.6	15
Douglas progress payment request	181.0	92.8	112.7	386.5	7
Paid by Government	(103.5)	63.4	99.3	59.2	5,8
Reduction in payment made by Government	284.5	29.4	13.4	327.3	9
Reduction in payment if no accounting practice change	136.1	54.9	104.9	295.9	16

1. Progress Payment rate of 99 percent applied to "Paid Costs Eligible Under Progress Payment Clause," line 9 on "Contractors Request for Progress Payment" Form.

2. Loss ratio of 92.4 percent applied to billable cost.

3. "Eligible Subcontractor Progress Payments" from line 14e of "Contractor's Progress Payment" Form.

4. Total cost for the current month is equal to subcontractor cost plus billable cost after loss ratio.

5. Total of "Previous Progress Payments Requested" from line 18 of the "Contractor's Progress Payment" Form.

6. Amount eligible for progress payment is equal to the total costs for the current period less "Previous Progress Payment Requested."

7. "Maximum Balance Eligible Progress Payment" (without application of loss ratio) from line 19 of "Contractors Progress Payment Request Form.

8. Progress Payments as approved and paid by the Government.

---

[7] The contractor was actually paid $71 million because at the same time the progress payment 97 was processed a credit of $10.1 million was also processed that was the result of a change in the liquidation rate from 98.5 percent to 99 percent.

9. Reduction in payment over requested amount.

10. Reduction in payment if a loss ratio had been used.

11. RDT&E (development) funds were not available on contract to pay for the development cost incurred.

12. "Paid Costs Eligible Under Progress Payment Clause" from line 9 on "Contractors Request for Progress Payment" Form.

13. The accounting practice change resulted in $13 million transfered to lot III production aircraft, which was paid separately.

14. As adjusted based on the recalculation of PPR 97 in this Appendix.

15. Only $44.9 million of the $97.4 million eligible would have been paid. RDT&E funds for development had been exhausted. However, the application of the loss ratio for PPR 97 would have resulted in a credit of $44.9 million to RDT&E funds. Thus, $44.9 million was available to pay development costs.

16. Reduction from contractor's request because of both loss ratio and reversal of the accounting practice change.

Appendix C: Summary of potential benefits resulting from audit

Recommendation reference	Description of benefit	Type of benefit
A.1.a., A.1.b., A.1.c ...	Compliance with Laws and Regulations. Implementation of the recommendation will result in an accounting practice change that meets Cost Accounting Standards and correct the improper implementation of a cost accounting change.	Nonmonetary.
A.2.a.(1), A.2.a.(2)	Internal Controls. Implementation of the recommendation will help ensure that appropriations are properly controlled in accordance with public law and DoD Instructions.	Nonmonetary.
A.2.b	Internal Control. Implementation of the recommendation will ensure compliance with DCAA guidance and procedures.	Nonmonetary.

Appendix D: Activities visited or contacted

Office of the Secretary of Defense

Under Secretary of Defense for Acquisition, Washington, DC.

Director, Tactical Warfare Programs, Office of Director, Defense Research and Engineering, Washington, DC.

Assistant Secretary of Defense (Program Analysis and Evaluation), Washington, DC.

Office of the Director, Defense System Procurement Strategies, Office of the Assistant Secretary of Defense (Production and Logistics), Washington, DC.

Air Force

Assistant Secretary of the Air Force (Acquisition), Washington, DC.

Deputy Assistant Secretary of the Air Force (Contracting), Washington, DC.

Program Executive Office, Tactical and Airlift Programs, Washington, DC.

C-17 System Program Office, Aeronautical Systems Division, Wright Patterson Air Force Base, OH.

Other DoD

Defense Contract Audit Agency, Douglas Aircraft Company Field Office, Long Beach, CA.

Defense Plant Representative Office, Douglas Aircraft Company, Long Beach, CA.

Non-DoD

Douglas Aircraft Company, Long Beach, CA.

Appendix E: Report distribution

Office of the Secretary of Defense

Under Secretary of Defense for Acquisition.

Director, Defense Research and Engineering.

Assistant Secretary of Defense (Production and Logistics).

Comptroller of the Department of Defense.

Department of the Air Force

Secretary of the Air Force.

Assistant Secretary of the Air Force (Acquisition).

Assistant Secretary of the Air Force (Financial Management and Comptroller).

Commander, Air Force Systems Command.

Program Executive Office, Tactical and Airlift Programs C-17 System Program Office, Aeronautical Systems Division.

Defense Activities

Director, Defense Contract Audit Agency.

Director, Defense Logistics Agency.

Commander, Defense Contract Management Command.

Non-DoD

Office of Management and Budget.

U.S. General Accounting Office, NSIAD Technical Information Center.

Congressional Committees:

Senate Subcommittee on Defense, Committee on Appropriations.

Senate Committee on Armed Services.

Senate Committee on Governmental Affairs.

Ranking Minority Member, Senate Committee on Armed Services.

House Committee on Appropriations.

House Subcommittee on Defense, Committee on Appropriations.

Ranking Minority Member, House Committee on Appropriations.

House Committee on Government Operations.

House Subcommittee on Legislation and National Security, Committee on Government Operations.

Part IV—Management comments

Under Secretary of Defense for Acquisition Comments

OFFICE OF THE
UNDER SECRETARY OF DEFENSE,
Washington, DC, January 10, 1992.

Memorandum for Inspector General, Department of Justice.

Subject: Draft Report on the Audit of Contractor Accounting Practice Changes for C-17 Engineering Costs (Project No. 1AE-5006.03).

This is in response to your request for comments on the subject draft report. Attached are specific comments on the recommendations addressed to USD(A).

JOHN D. CHRISTIE,
Director, Acquisition Policy & Program Integration.

Recommendation 1. A.: We recommend that the Under Secretary of Defense for Acquisition (USD(A)) direct the cognizant Defense Plant Representative Office (DPRO) to require the Douglas Aircraft Company to submit a revision to its Cost Accounting Standards Disclosure Statement and associated cost impact statement based only on prospective application of the accounting practice change that affects the allocation of sustaining engineering costs. The effective date of the application of the change should be no earlier than October 1990, when tacit approval of the change was given.

USD(A) response: Partially concur. Action has already been taken by the DPRO to ensure the proper accounting treatment of sustaining engineering costs, both retroactively and prospectively. In May 1991, the resident Defense Contract Audit Agency (DCAA) office determined the accounting practice disclosed by Douglas Aircraft Company for sustaining engineering costs was inadequate. In July 1991, the DPRO notified Douglas Aircraft Company in writing that sustaining engineering costs must be allocated to the particular contract line item (full scale development or production effort) which benefited from the engineering task performed, rather than being automatically allocated to production effort.

The C-17 system program office, DCAA, the DPRO, and the contractor have reached agreement on the prospective treatment of sustaining engineering costs. While the contractor has not yet submitted a change to his disclosure statement reflecting this agreement, the DPRO expects Douglas Aircraft Company to do so in the near future.

The C-17 system program office, DCAA, and DPRO agree on the retroactive adjustments necessary to ensure that sustaining engineering costs are properly allocated, and the estimated completion date for DPRO action is January 31, 1992. Approximately $142 million will be transferred from production to full scale development effort. Because the C-17 contract is a single contract which includes both full scale development and production (Lot I and Lot II) effort, the allocation and reallocation of sustaining engineering costs did not result in any increased costs to the Government. Thus, there is no need for the USD(A) to direct the DPRO to take any action.

Recommendation 1. B.: We recommend that the USD(A) direct the Secretary of the Air Force to report the impact of the prospective application of the revised accounting practice change on the use of the appropriated funds.

USD(A) response: Concur. The Air Force will be asked to provide an impact assessment within 45 days.

Recommendation 1. C.: We recommend that the USD(A) direct the cognizant DPRO to apply the Government-approved contractor accounting practice change prospectively from October 1990, including for approving progress payments, in accordance with the Cost Accounting Standards clause in the contract.

USD(A) response: Partially concur. The DPRO will retroactively allocate approximately $142 million in sustaining engineering costs from production to full scale development effort. Final resolution is planned for January 31, 1992. As an interim measure, the DPRO adjusted the November 1991 progress payment billing by increasing full scale development costs and reducing production costs to partially correct for the accounting change. This interim measure did not result in any progress payment reductions to the contractor. Therefore, there is no need for the USD(A) to direct the DPRO to take any action.

Material internal weakness: As stated on Page 4 of the draft audit report, existing internal controls, if properly implemented, were adequate to prevent or detect the deficiencies identified in the report. The DPRO and DCAA have adequate procedures for determining the acceptability of cost accounting systems and disclosure statements. The problem identified in this report resulted from miscommunication among the parties involved in reviewing the proposed accounting change, and does not constitute a material internal control weakness. The problem is not recurring in nature and no increase in cost resulted.

DEFENSE CONTRACT AUDIT AGENCY,
CAMERON STATION,
Alexandria, VA, January 14, 1992.

PLD 703.3.3.10 (1AE-5006.03)

Memorandum for Assistant Inspector General for Auditing, Department of Defense, Acquisition Management Directorate.

Subject: Draft Report on the Audit of Contractor Accounting Practice Changes for C-17 Engineering Costs (Project No. 1AE-5006.03).

Our response to your draft report dated 5 November 1991 is enclosed.

We will be pleased to discuss our response further with you or your staff. Please direct questions concerning our response to Mr. William I. Luke, Chief, Policy Liaison Division at (703) 274-7521.

WILLIAM J. SHARKEY,
Assistant Director,
Policy and Plans.

DOD IG DRAFT REPORT, AUDIT OF CONTRACTOR ACCOUNTING PRACTICE CHANGES FOR C-17 ENGINEERING COSTS, PROJECT NO. 1AE-5006.03

Report findings and comments on Cost Accounting Standards matter (page 7)

We do not agree with the comments regarding the misapplication of Cost Accounting Standards requirements. They are based on the premise that the retroactive adjusting journal entry transferring engineering costs from full-scale engineering development (nonrecurring) to production (recurring) represents a change in a cost accounting practice. This is consistent with DCAA's advisory audit report in which we informed the ACO that the journal entry was an accounting change and recommended that the contractor be required to submit a Disclosure Statement revision. However, our analysis of the circumstances surrounding the cost transfer leads us to conclude that our audit opinion was in error. There was no cost accounting practice change resulting from the untimely recognition of the transition from nonrecurring to recurring engineering.

The issue here is the proper classification of recurring/nonrecurring engineering costs, not a change in cost accounting practice. Once the proper nature of the costs is determined, i.e. recurring vs. nonrecurring, it is simply a matter of classifying the costs in accordance with the contractor's disclosed accounting practice. Doing this with an adjusting journal entry does not constitute a change in an accounting practice. There was, however, a Cost Accounting Standard (CAS) issue involved with how the contractor allocated the costs. The change, which had only a minor effect on contract costs, involved allocating the costs on the "quantity of aircraft during a given calendar quarter" rather than the disclosed allocation base of "quantity of units being produced". A disclosure statement revision has been submitted for this change and any cost impact will be determined through normal CAS procedures.

Recommendation 2 a.

We recommend that the Director, Defense Contract Audit Agency direct the review of funding implications of contractor activities to include:

(1) Guidance on how to incorporate funding considerations into audit scope and related findings in such areas as progress payment reviews, cost accounting practice changes, and Contract Fund Status Report reconciliations.

DCAA Response:

Nonconcur. The proper cost accounting treatment is not and should not be influenced by contracting funding issues. The auditor's role is to advise the contracting officer on accounting matters. The contracting officer's role is to administer the contract by making decisions on contract cost disputes and monitoring contract funding.

We do agree that contractor motivation for reclassifying costs or making other billing related changes are of interest to the auditor in assessing risk and establishing the extent of audit testing to be conducted. In the immediate case, field audit office was aware that the reclassification of cost may have been motivated by funding limitations. Accordingly, they had discussions with the cognizant DPRO and the C-17 SPO on the matter and the need for engineering scrutiny of the contractor's rationale.

With respect to distinguishing between recurring and nonrecurring engineering costs, we relied on a technical opinion provided by the Air Force Systems Program Office regarding the transition point (90% initial drawing release, November 1988). Unfortunately, this was not a sufficient technical analysis of the engineering effort to determine proper classification of these costs.

The DPRO is performing a detailed analysis of the nature of the engineering costs. Upon receipt of their technical report (expected in January 1992), we will be in a position to determine the proper classification and accounting treatment of the costs. In the meantime, we have recommended to the ACO that the adjusting journal entry be reversed until proper classification of engineering costs can be determined.

Recommendation 2 a.

We recommend that the Director, Defense Contract Audit Agency direct the review of funding implications of contractor activities to include:

(2) Audit procedures to ensure that the contractor is properly segregating costs by appropriation.

DCAA Response:

Nonconcur. It is our responsibility to ensure that contract costs are properly accumulated and billed in accordance with Federal Acquisition Regulations, Cost Accounting Standards, and contract terms and conditions. When the terms of a contract call for separate accounting and billing of costs by contract line item, we are responsible for ensuring that contractors comply with such terms and conditions. The inclusion of terms and conditions in contracts which address restrictions on appropriations is, however, a contracting officer's responsibility. Our audit guidance is already adequate to accomplish DCAA responsibilities.

Recommendation 2 b.

We recommend that the Director, Defense Contract Audit Agency direct the review of audit report qualifications as part of DCAA's Quality Control Program to ensure that serious qualifications are addressed in the conclusions of the report and progress payment withholds are recommended when warranted.

DCAA Response:

Concur. As part of our Quality Control Program, we will add a step to the audit report review critique which will require a comparison of any report qualifications to the conclusion paragraph to ensure that they are consistent with each other. In addition, we will issue a memorandum to the field which will emphasize the importance of recommending the withholding or suspension of progress payments when serious deficiencies are noted in internal controls, e.g. the calculation of the contractor's estimate at completion.

AUDIT TEAM MEMBERS

Donald Reed, Director, Acquisition Management Directorate.

Russell Rau, Program Director.

Patricia A. Brannin, Project Manager.

Jack Snider, Team Leader.

John Sullivan, Senior Auditor.

Martin Gordon, Auditor.

Dennis Wokeck, Auditor.

Wayne Berry, Program Director, Office of Assistant Inspector General, Audit Policy and Oversight.

Dianne Stetler, Assistant Program Director, Office of Assistant Inspector General Audit Policy and Oversight.

SYRIAN JEWRY

• Mr. SIMON. Mr. President, March 14, 1992, marked Shabbat Zachor, the Sabbath of Remembrance, for Jews around the world. This day has been recently dedicated to the remembrance of the plight of the Jewish community in Syria.

In our effort to secure regional allies against Iraq before, during, and following the gulf war, we have essentially befriended a regime comparable in brutality to the Iraqi one we united to defeat. The administration has tacitly allied itself with the repressive regime of President Assad in Syria. The State Department's Syria section of the "Country Reports on Human Rights Practices for 1991" touches on the plight of Syrian Jewry, but it fails to give due weight to the dangerous and difficult situation facing Syrian Jews.

The Jewish community in Syria is subject to constant government surveillance, which increasingly heightens the atmosphere of fear and insecurity in which they already live. Syria, unlike its Arab neighbors, has refused to allow Jews to emigrate, and has curtailed their personal freedoms. Martin Luther King, Jr., compared racism to a festering boil that must be exposed in order to heal. So, too, must the plight of our Jewish brothers and sisters in Syria be revealed to the international community.

Unfortunately, the current administration seems intent on the ignoring these concerns in an effort to curry Syrian favor. Mr. President, this is ominously similar to the policy of the Reagan and Bush administrations toward Iraq in the 1980's. There, too, the administration turned a blind eye to serious human rights abuses, especially against the Iraqi Kurds.

As we celebrate the successes of democratic movements around the world, we must not forget those still suffering repression. It is time that the administration gave human rights abuses, like those perpetrated against Syrian Jews, their due priority.

Finally, I applaud the energy and efforts of groups like the Jewish Community Relations Council of Chicago, which has been instrumental in making people aware of the egregious human rights violations suffered by Syrian Jewry.•

ADJOURNMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate adjourn for 30 seconds, that upon reconvening, the Journal of the proceedings be approved to date; the call of the calendar be waived; no motions or resolutions come over under the rule; that the time for the two leaders be waived; and that the morning hour be deemed to have expired following the second reading of the bills that have been read for the first time.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, at 6:29:40 p.m. on Tuesday, March 24, 1992, the Senate adjourned until 6:30 p.m., the same day.

AFTER ADJOURNMENT

TUESDAY, MARCH 24, 1992

The Senate met at 6:30 p.m., pursuant to adjournment, and was called to order by Hon. HARRIS WOFFORD, a Senator from the State of Pennsylvania.

THE JOURNAL

WAIVING OF LEADER TIME

Mr. MITCHELL. Mr. President, am I correct that under the previous order the Journal of the proceedings stands approved to date and the time for the two leaders waived?

The PRESIDING OFFICER. The Senator is correct.

BILLS PLACED ON CALENDAR—S. 2185, S. 2199, S. 2246, H.R. 3844, S. 2399

Mr. MITCHELL. Mr. President, I ask unanimous consent that the 5 bills that have been read for the first time, be deemed to have had their second readings, with objections lodged against further proceedings on each of the bills.

The PRESIDING OFFICER. Without objection, it is so ordered. The bills will be placed on the calendar.

PROGRAM

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate adjourns today, it stand in adjournment until 10 a.m., Wednesday, March 25; that on Wednesday, following the prayer, the Journal of Proceedings be deemed to have been approved to date; that the call of the calendar be waived; and no motions or resolutions come over under the rule; and that the morning hour be deemed to have expired; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 11:30 a.m., with Senators permitted to speak therein for up to 5 minutes each; with Senators CHAFEE and BENTSEN recognized for up to 15 minutes each; Senator DURENBERGER for up to 20 minutes; and Senator JEFFORDS for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. MITCHELL. Mr. President, if there is no further business to come before the Senate today, and I see no other Senator seeking recognition, I now ask unanimous consent that the Senate stand adjourned as under the previous order.

There being no objection, the Senate, at 6:31 p.m., adjourned until Wednesday, March 25, 1992, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate March 24, 1992:

THE JUDICIARY

GENE E. VOIGTS, OF MISSOURI, TO BE U.S. DISTRICT JUDGE FOR THE WESTERN DISTRICT OF MISSOURI VICE SCOTT O. WRIGHT, RETIRED.

DEPARTMENT OF STATE

THOMAS R. PICKERING, OF NEW JERSEY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, WITH THE PERSONAL RANK OF CAREER AMBASSADOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO INDIA.

DEPARTMENT OF EDUCATION

BRUNO VICTOR MANNO, OF OHIO, TO BE ASSISTANT SECRETARY OF EDUCATION FOR POLICY AND PLANNING, VICE CHARLES E. M. KOLB, RESIGNED.

DEPARTMENT OF AGRICULTURE

DUANE ACKER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF AGRICULTURE, VICE CHARLES E. HESS, RESIGNED.

SMALL BUSINESS ADMINISTRATION

THOMAS P. KERESTER, OF VIRGINIA, TO BE CHIEF COUNSEL FOR ADVOCACY, SMALL BUSINESS ADMINISTRATION, VICE FRANK S. SWAIN, RESIGNED.

DEPARTMENT OF DEFENSE

DAVID SPEARS ADDINGTON, OF VIRGINIA, TO BE GENERAL COUNSEL FOR THE DEPARTMENT OF DEFENSE, VICE TERRENCE O'DONNELL, RESIGNED.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE U.S. AIR FORCE TO THE GRADE OF BRIGADIER GENERAL UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 624:

To be Brigadier General

COL. KURT B. ANDERSON, [redacted] REGULAR AIR FORCE.
COL. WILLIAM J. BEGERT, [redacted] REGULAR AIR FORCE.
COL. ALLEN D. BUNGER, [redacted] REGULAR AIR FORCE.
COL. ROGER E. CARLETON, [redacted] REGULAR AIR FORCE.
COL. JOHN P. CASCIANO, [redacted] REGULAR AIR FORCE.
COL. JAMES S. CHILDRESS, [redacted] REGULAR AIR FORCE.
COL. WILLIAM J. DONAHUE, [redacted] REGULAR AIR FORCE.
COL. MARVIN R. ESMOND, [redacted] REGULAR AIR FORCE.
COL. BOBBY O. FLOYD, [redacted] REGULAR AIR FORCE.
COL. GEORGE A. GRAY, III, [redacted] REGULAR AIR FORCE.
COL. JEFFREY R. GRIME, [redacted] REGULAR AIR FORCE.
COL. JOHN W. HAWLEY, [redacted] REGULAR AIR FORCE.
COL. WILLIAM S. HINTON, JR., [redacted] REGULAR AIR FORCE.
COL. WALTER S. HOGLE, JR., [redacted] REGULAR AIR FORCE.
COL. CLINTON V. HORN, [redacted] REGULAR AIR FORCE.
COL. HAL M. HORNBURG, [redacted] REGULAR AIR FORCE.
COL. DENNIS K. HUMMEL, [redacted] REGULAR AIR FORCE.
COL. ROBERT G. JENKINS, [redacted] REGULAR AIR FORCE.
COL. LEONARD F. KWIATKOWSKI, [redacted] REGULAR AIR FORCE.
COL. THOMAS J. LENNON, [redacted] REGULAR AIR FORCE.
COL. LANCE W. LORD, [redacted] REGULAR AIR FORCE.
COL. STEPHEN C. MANNELL, [redacted] REGULAR AIR FORCE.
COL. MICHAEL J. MCCARTHY, [redacted] REGULAR AIR FORCE.
COL. THOMAS R. MIKOLAJCIK, [redacted] REGULAR AIR FORCE.
COL. GEORGE W. NORWOOD, [redacted] REGULAR AIR FORCE.
COL. RICHARD R. PAUL, [redacted] REGULAR AIR FORCE.
COL. DONALD L. PETERSON, [redacted] REGULAR AIR FORCE.
COL. RICHARD H. ROELLIG, [redacted] REGULAR AIR FORCE.
COL. DAVID A. SAWYER, [redacted] REGULAR AIR FORCE.
COL. ERVIN C. SHARPE, JR., [redacted] REGULAR AIR FORCE.
COL. LAWRENCE E. STELLMON, [redacted] REGULAR AIR FORCE.
COL. THOMAS A. TWOMEY, [redacted] REGULAR AIR FORCE.
COL. DAVID L. VESELY, [redacted] REGULAR AIR FORCE.
COL. JOHN L. WELDE, [redacted] REGULAR AIR FORCE.
COL. JOHN R. WORMINGTON, [redacted] REGULAR AIR FORCE.
COL. DAVID L. YOUNG, [redacted] REGULAR AIR FORCE.

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 601, FOR ASSIGNMENT TO A POSITION OF IMPORTANCE AND RESPONSIBILITY AS FOLLOWS:

To be lieutenant general

MAJ. GEN. ROBERT A. TIEBOUT, [redacted] USMC.

IN THE NAVY

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be admiral

ADM. JEROME L. JOHNSON, U.S. NAVY, [redacted]

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF VICE ADMIRAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be vice admiral

VICE ADM. MICHAEL P. KALLERES, U.S. NAVY [redacted]

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICERS OF THE MARINE CORPS RESERVE FOR PERMANENT APPOINTMENT TO THE GRADE OF LIEUTENANT COLONEL UNDER TITLE 10, UNITED STATES CODE, SECTION 624:

BRUCE A. ALBRECHT, [redacted]
JOHN R. ALLEN, [redacted]
DAVID W. ANDERSEN, [redacted]
FREDERICK E. ANDERSON, JR, [redacted]
MICHAEL F. APPLEGATE, [redacted]
ROY A. ARNOLD, [redacted]
DOUGLAS F. ASHTON, [redacted]
WILLIAM S. BARKLEY, JR, [redacted]
MARK S. BARNHART, [redacted]
DAVID L. BARRACLOUGH, [redacted]
DENNIS T. BARTELS, [redacted]
JOHN A. BASS, [redacted]
JOHN R. BATES, [redacted]
RONALD D. BEAN, [redacted]
JAMES C. BECK, [redacted]
GEORGE R. BEDAR, [redacted]
DAVID L. BEEMAN, [redacted]
WAYNE C. BELL, [redacted]
KATHLEEN G. BERGERON, [redacted]
EDDIE BICKHAM, [redacted]
BRUCE E. BISSETT, [redacted]
MICHAEL J. BLAINE, [redacted]
KENNETH D. BONNER, [redacted]
DAVID F. BONWIT, [redacted]
CHARLES E. BOYD, [redacted]
ROBERT J. BOZELLI, [redacted]
GREGORY K. BRICKHOUSE, [redacted]
GERMAIN B. BROECKERT, JR, [redacted]
RUSSELL A. BROOKS, [redacted]
LARRY K. BROWN, JR, [redacted]
ROY D. BRYANT, [redacted]
JOHN R. BUCHANAN, [redacted]
DAVID L. BULAND, [redacted]
JOSEPH F. BURANOSKY, [redacted]
WILLIAM M. BURGESS, [redacted]
STEVEN BUSCH, [redacted]
MARK A. CAGIANO, [redacted]
ANDREW H. CAMPBELL, II, [redacted]
WILLIAM F. CAMPBELL, III, [redacted]
PAUL S. CARIKER, [redacted]
MARIO V. CARMO, [redacted]
JACK P. CARTER, JR, [redacted]
FREDERICK E. CHASNEY, [redacted]
ROXANNE W. CHENEY, [redacted]
PAUL C. CHRISTIAN, [redacted]
LOUIS J. CIPRIANI, JR, [redacted]
ROBERT A. COATES, [redacted]

HENRY J. COBLE, [redacted]
MELVIN L. COCHRAN, [redacted]
RUSSELL W. COLMAN, JR, [redacted]
THOMAS L. CONANT, [redacted]
JOSEPH E. CONNELL, II, [redacted]
JAMES E. CONNICK, [redacted]
KAREN L. CORBETT, [redacted]
RODNEY M. COTTEN, [redacted]
RONALDO A. COULTER, [redacted]
MICHAEL S. CRAIG, [redacted]
DONALD G. CROOM, [redacted]
ROBERT F. CURTIS, [redacted]
DOUGLAS A. DARLING, [redacted]
RODELL C. DARLING, [redacted]
ROBERT G. DAVID, JR, [redacted]
DAVID R. DEAN, [redacted]
JOSEPH J. DEFRANCO, [redacted]
THOMAS V. DEMARS, JR, [redacted]
JAMES E. DERDEYN, [redacted]
CHARLES E. DOLEJS, [redacted]
JOHN P. DONATO, [redacted]
DOYLE G. DOUGLAS, [redacted]
GLEN W. DUNCAN, [redacted]
RICHARD H. DUNNIVAN, [redacted]
STEPHEN J. DYROFF, [redacted]
ALFRED W. ELLIS, III, [redacted]
PHILIP J. EXNER, [redacted]
ALLIE C. FELDER, III, [redacted]
BARRY R. FETZER, [redacted]
WAYNE T. FLEMING, [redacted]
GEROLD J. FLOTTE, [redacted]
JOHN W. FOLEY, [redacted]
HAROLD H. FOX, II, [redacted]
EUGENE J. FRASER, [redacted]
GREGORY H. FREED, [redacted]
LEE W. FREUND, [redacted]
THOMAS E. FULTZ, [redacted]
WILLIAM H. GAFFNEY, [redacted]
MICHAEL A. GALT, [redacted]
TIMOTHY M. GASKINS, [redacted]
GARY A. GIACOMA, [redacted]
JOSEPH B. GILBERT, [redacted]
MICHAEL J. GODFREY, [redacted]
TIMOTHY R. GOLIKE, [redacted]
KEVIN L. GORDON, [redacted]
STANTON R. GOULD, [redacted]
TOMMY S. GRAY, [redacted]
JEFF D. GRELSON, [redacted]
TERRY W. GRIFFIN, [redacted]
GERALD M. HAMMES, [redacted]
MYRON L. HAMPTON, [redacted]
JACK R. HARKINS, JR, [redacted]
CHARLES T. HAYES, [redacted]
THOMAS A. HEFFNER, [redacted]
MARK S. HELGESON, [redacted]
JOHN T. HENNESSEY, [redacted]
DOUGLAS C. HERRINGTON, [redacted]
ROBIN L. HIGGINS, [redacted]
PAUL R. HILL, [redacted]
TERRY L. HILL, [redacted]
ALDEN E. HINGLE, JR, [redacted]
CHARLES A. HODGES, [redacted]
WILLIAM M. HOFFMAN, [redacted]
DANNY L. HOGG, [redacted]
OTIS L. HOLLAR, II, [redacted]
WILLIAM P. HOLLERICH, [redacted]
JAMES G. HUGHES, [redacted]
TIMOTHY P. HUGHES, [redacted]
JAMES E. HUNTER, JR [redacted]
PHILLIP R. HUTCHERSON, [redacted]
DAVID T. ISRAEL, [redacted]
ANTHONY L. JACKSON, [redacted]
DENNIS J. JACKSON, JR, [redacted]
MARY V. JACOCKS, [redacted]
JOHN M. JAGIELSKI, [redacted]
KEVIN P. JANOWSKY, [redacted]
WESLEY A. JARMULOWICZ, [redacted]
LARRY E. JELLISON, [redacted]
ROBERT L. JENKINS, JR, [redacted]
WILLIAM C. JOHNSON, [redacted]
WILLIAM F. JOHNSON, [redacted]
JAMES L. JOHNSTON, [redacted]
DAVID L. JONES, JR, [redacted]
DWIGHT W. JONES, [redacted]
JERRI L. JONES, [redacted]
KEVIN B. JORDAN, [redacted]
DENNIS JUDGE, [redacted]
GEORGE H. KEATING, [redacted]
RICKI A. KELISH, [redacted]
WILLIAM R. KELLNER, JR, [redacted]
BRUCE R. KELLY, [redacted]
MICHAEL J. KELLY, [redacted]
TIMOTHY J. KIRK, [redacted]
FREDERICK J. KLAUSER, [redacted]
MARVIN A. KNORR, JR, [redacted]
LEELLEN KRATOCHVIL, [redacted]
ROBERT F. KUHLOW, [redacted]
JOSEPH P. KUSIOR, JR, [redacted]
JOHN C. LADD, [redacted]
STEPHEN C. LAMBETH, [redacted]
RANDALL W. LARSEN, [redacted]
MARCUS L. LENDERMAN, [redacted]
ROLAND J. LEVESQUE, JR, [redacted]
ROBERT W. LIVINGSTON, [redacted]
ROBERT R. LOGAN, [redacted]
JAMES M. LOWE, [redacted]
AARON R. MADDOX, [redacted]
BRON N. MADRIGAN, [redacted]
MICHAEL A. MALACHOWSKY, [redacted]
RONALD V. MALDONADO, [redacted]
GEORGE P. MANDIS, [redacted]
GARY L. MCCLURE, [redacted]
A. V. MCCOY, JR, [redacted]
ELIZABETH K. MCGILLICUDDY, [redacted]
JAMES D. MCLELLAN, [redacted]
RANDALL D. MCMAHON, [redacted]
JOHN R. MILES, [redacted]
STEVEN C. MILLER, [redacted]
PAUL T. MOFFETT, [redacted]
JOHN S. MOORE, [redacted]
RICHARD S. MOORE, [redacted]
JOE W. MORRIS, [redacted]
MATT R. MORRISON, [redacted]
GARY E. MUELLER, [redacted]
GEORGE E. MUELLER, JR, [redacted]
ARTHUR L. NALLS, JR, [redacted]
THOMAS E. NICOLL, [redacted]
KELLEY J. NIELSEN, [redacted]
THOMAS J. NIELSEN, [redacted]
MARK H. OCONNOR, [redacted]
MICHAEL M. OCONNOR, [redacted]
WILLIAM F. OHARA, JR, [redacted]
ALLEN E. OLIVER, [redacted]
RENE P. ORTIZ, [redacted]
RICHARD J. PACKARD, [redacted]
HARRY A. PAGE, [redacted]
PHILIP S. PARKHURST, [redacted]
CRAIG T. PATRANC, [redacted]
MARTIN D. PEATROSS, [redacted]
REYNOLDS B. PEELE, [redacted]
FRANK D. PELLI, [redacted]
ROSS D. PENNINGTON, [redacted]
GARY N. PETERS, [redacted]
NICHOLAS C. PETRONZIO, [redacted]
DIMAS PINZON, JR, [redacted]
CHRISTOPHE D. PLATT, [redacted]
HAROLD E. POOLE, SR, [redacted]
MARTIN POST, [redacted]
FRANK L. POTE, III, [redacted]
LOREN D. PRIMMER, JR, [redacted]
JOHN C. RADER, [redacted]
JOSEPH G. RADZIKOWSKI, [redacted]
THOMAS D. RANKIN, [redacted]
STEVEN W. RAWSON, [redacted]
JOHN D. REARDON, [redacted]
JAMES R. REETZ, [redacted]
DENNIS W. REILLY, [redacted]
STEPHEN C. ROBB, [redacted]
MASTIN M. ROBESON, [redacted]
WAYNE D. ROBINSON, [redacted]
BONNIE J. ROBISON, [redacted]
LEWIS W. ROLLINS, [redacted]
JONATHAN T. RYBERG, [redacted]
BENNETT W. SAYLOR, [redacted]
DUANE R. SCHATTLE, [redacted]
JOHN F. SCHEINER, [redacted]
HOWARD P. SCHICK, [redacted]
ROBERT E. SCHMIDLE, JR, [redacted]
DANIEL C. SCHULTZ, [redacted]
ELLETT M. SMITH, [redacted]
MICHAEL W. SMYTH, [redacted]
PAUL SOFRANAC, [redacted]
JACK K. SPARKS, JR, [redacted]
LOUIS P. SPOSATO, JR, [redacted]
BRADLEY A. STEPHAN, [redacted]
TERRY G. STEVENS, [redacted]
CRAIG P. STEVISON, [redacted]
STEPHEN J. TALBOT, [redacted]
VICTOR J. THOMBS, [redacted]
THEODORE R. TIMMERMAN, III, [redacted]
CHARLES F. TOLER, III, [redacted]
JOSEPH F. TRACEY, [redacted]
BRADLEY E. TURNER, [redacted]
WILMA L. TURNER, [redacted]
CHARLES M. TYE, [redacted]
JANICE M. VANCAMP, [redacted]
DUANE VANFLEET, JR, [redacted]
MICHAEL A. VANUGA, [redacted]
JAMES I. VANZUMMEREN, [redacted]
THOMAS D. WALDHAUSER, [redacted]
JAMES C. WALKER, [redacted]
CLARENCE L. WALLACE, JR, [redacted]
JAMES R. WALLACE, [redacted]
JOHN E. WANGSGARD, [redacted]
MICHAEL J. WARREN, [redacted]
DENNIS E. WATTS, [redacted]
DANIEL A. WEHRLE, [redacted]
ROBERT M. WEIDERT, [redacted]
MARTY J. WEYGANDT, [redacted]
PETER A. WHITENACK, [redacted]
WILLIAM J. WHITTAKER, [redacted]
GEORGE K. WILCUTT, [redacted]
ALLEN W. WILLIAMS, III, [redacted]
KENNETH G. WILLIAMS, [redacted]
KENNETH R. WILLIAMS, JR, [redacted]
MICHAEL B. WILLIAMS, [redacted]
DEBRA A. WOODARD, [redacted]
RUSSELL C. WOODY, [redacted]
WILLIAM G. WRIGHT, [redacted]
GERALD A. YINGLING, JR, [redacted]
RAYMOND H. YOUNG, [redacted]
STEPHEN M. YOUNG, [redacted]
EDWARD J. ZELCZAK, JR, [redacted]

WITHDRAWAL

Executive message transmitted by the President to the Senate on March 24, 1992, withdrawing from further Senate consideration the following nomination:

U.S. AIR FORCE

THE NOMINATION OF THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF BRIGADIER GENERAL, WHICH WAS SENT TO THE SENATE ON SEPTEMBER 11, 1991:

To be brigadier general

COL. GEORGE E. WYNNE, [redacted] AIR NATIONAL GUARD OF THE UNITED STATES.

HOUSE OF REPRESENTATIVES—*Tuesday, March 24, 1992*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

At this time in the history of the nations when new freedoms are touching the lives of those who have known travail and pain, we remember, O gracious and loving God, those whose sacrifice and tears and faithfulness has brought this new day of celebration into being. With praise we recall the names of those who are the martyrs of freedom and liberty, and also those whose names we do not readily know, but who carried hope in their hearts, whose prayers were joined with ours in a solidarity of concern for peace. Bless these new freedoms, O God, and may that beacon of hope and light grow through the years. This is our earnest prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Wyoming [Mr. THOMAS] come forward and lead the House in the Pledge of Allegiance.

Mr. THOMAS of Wyoming led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 272. Joint resolution to proclaim March 20, 1992, as "National Agriculture Day".

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
March 20, 1992.

Hon. THOMAS S. FOLEY,
The Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on Friday, March 20, 1992 at 4:09 p.m.: That the Senate agreed to Conference Report on H.R. 4210.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to announce that pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Friday, March 20, 1992:

H.R. 4210. An act to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families.

DESPITE OBSTACLES CONGRESS MUST PASS CAMPAIGN FINANCE REFORM

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, in 1976 in the Supreme Court case of Buckley versus Valeo, an immense obstacle was placed in the path of congressional efforts to reform campaign election finance laws. I cannot quarrel with the constitutionality of that decision, but it has made our job and your job Mr. Speaker, very much more difficult in moving a good, solid campaign reform bill to passage.

The Buckley-Valeo case said that while Congress could mandate limits on how much money could come into a campaign and the sources from which that money could come, Congress could not limit the amount of outgo. Congress could not limit campaign spending.

This has made our efforts to fashion campaign laws center around the issue of how to induce and to achieve voluntary spending limits. That has led generally to reduced campaign expenses in postage or television, and also led to experiments in partial public financing.

I realize how controversial partial public financing is. I do, however, hope, Mr. Speaker, that the conferees who will meet and soon adjudicate the differences between the two bodies on the two campaign bills will retain in the bill some form of partial public financing. I think it would be a step forward.

I certainly believe the Speaker's efforts to achieve campaign reform in this session of Congress are very salutary.

A LETTER FROM HOME

(Mr. OXLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OXLEY. Mr. Speaker, we all get letters from home; that is the way the system works. It is the essence of representative democracy. Well, the other day I really got a letter from home. It was signed, "Dad."

My father's insurance company, American Family Life Assurance, wrote him a letter pointing out that last November, as a result of the Omnibus Budget Reconciliation Act of 1990, a new Medicap law took effect which places onerous restrictions on my father's ability to select supplemental insurance. Having looked into the matter, I have learned that most of the key legislators involved believe that this was not the intent of Congress. Apparently the intent was laudable—to prevent duplication of Medigap coverage—but that was not the result.

The mistake was not recognized until after enactment, and since then the key committees have been trying to correct it. Nonetheless, the bungling consequences of OBRA 1990 continue, and they are hitting home on our senior citizens. I understand Congress came close to fixing the problem last year in a technical corrections bill, but failed because the complex committee jurisdiction enabled one critical committee to block the effort.

Mr. Speaker, when will this body ever learn that tying substantive legislation and funding bills together not only violates our rules but often does more harm than good?

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

WASHINGTON, DC,
March 23, 1992.

Hon. THOMAS S. FOLEY,
The Speaker,
U.S. House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit four sealed envelopes received from the White House on Friday, March 20, 1992 as follows:

(1) Three sealed envelopes received at 6:15 P.M. and said to contain 67 special messages from the President whereby, in accordance with the Congressional Budget and Impoundment Control Act of 1974, he reports 68 rescission proposals; and

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

(2) One sealed envelope received at 8:28 P.M. and said to contain H.R. 4210, the Tax Fairness and Economic Growth Act of 1992, and a veto message thereon.

With great respect, I am
Sincerely yours,
DONNALD K. ANDERSON,
Clerk, House of Representatives.

TAX FAIRNESS AND ECONOMIC GROWTH ACCELERATION ACT OF 1992—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–206)

The SPEAKER laid before the House the following veto message from the President of the United States:

To the House of Representatives:

I am returning herewith without my approval H.R. 4210, the "Tax Fairness and Economic Growth Acceleration Act of 1992." In my State of the Union Message, I proposed a responsible, balanced economic growth program. I challenged the Congress to pass incentives for growth by March 20. The Congress failed to meet that challenge. The Congress' response, H.R. 4210, is a formula for economic stagnation, not economic expansion.

My Administration's economic growth program would create jobs, generate long-term economic growth, and promote health, education, savings, and home ownership. My plan would encourage investment and enhance real estate values—without tax increases.

Tax increases would undermine the emerging recovery and act as a barrier to long-term growth. I call on the Congress to pass the seven commonsense measures that I asked for by this date, without tax increases, and to join me in pursuing a long-term agenda for growth.

I am disappointed that after 52 days the Congress has produced partisan, flawed legislation. Rather than work in a constructive manner to strengthen the economy and to create jobs, congressional leaders chose the path of partisanship. H.R. 4210 would jeopardize the recovery. It would not create jobs. It would not create incentives for long-term investment and growth, it does not contain a tax credit for first-time homebuyers, and it contains wholly inappropriate special interest provisions.

H.R. 4210 would increase taxes by more than $100 billion. More than two-thirds of all taxpayers facing tax increases as a result of this bill would be owners of small businesses and entrepreneurs. Small businesses are the primary source of new job creation.

H.R. 4210 would raise income tax rates substantially for some individuals, in some cases increasing marginal rates by more than 30 percent.

This is the wrong time to raise taxes, to increase the deficit, or to send a message of fiscal irresponsibility to financial markets.

I am therefore returning H.R. 4210, and I ask the Congress again to pass my economic growth program, without raising taxes.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

□ 1210

The SPEAKER. The objections of the President will be spread at large upon the Journal, and the veto message and the bill will be printed as a House document.

Mr. BONIOR. Mr. Speaker, I ask unanimous consent that further consideration of the veto message on the bill, H.R. 4210, be postponed until Wednesday, March 25, 1992.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

MIDDLE-CLASS AMERICANS ABANDONED BY PRESIDENT

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Mr. Speaker, with last week's veto the President has abandoned America's middle class.

The veto said he does not care about families who cannot make ends meet.

The veto said he does not care about people who have to pay a mortgage—or help with a kid's schooling.

The Republican recession is now almost 2 years old.

The Republican recession has squeezed the middle class.

But the President's veto showed once again he just wants to take care of his rich friends—the country club crowd.

The President should forget the country club.

He should start thinking about the country.

FULL FINANCING FOR THE EXIMBANK

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, for my export 1 minute today I would like to address a serious problem concerning the underfinancing of the Export-Import Bank. Currently the United States is the world's No. 1 exporting Nation, and one of the institutions responsible for this success, the Export-Import Bank, may soon run out of money to pay its employees.

Mr. Speaker, this lack of funding for the Export-Import Bank could not happen at a worse time. Growth in U.S. exports is critical in leading this country out of recession. Yet, a continuing resolution freezes the Bank's operating budget at 1991 levels. While the House has approved an additional $2 million for the Bank to cover new positions for greater demand on its services, this initiative has been held up in the Senate. Unfortunately, if these additional funds are not included in the continuing resolution, the Eximbank will be forced to furlough employees for as long as a month, thus crippling the Bank's programs and hindering U.S. exports and jobs.

Mr. Speaker, the Export-Import Bank is one of this country's best tools for keeping the stream of exports flowing. Last year, the Bank provided $11 billion in loans, guarantees and insurance for U.S. exports. This financing is critical because commercial banks have become increasingly reluctant to provide export financing for U.S. exporters.

Nevertheless, by freezing the Bank's administrative expenses and underfinancing it by $2 million, we risk a much greater loss in U.S. exports and jobs. Therefore, this Member urges his colleagues in both Houses of Congress to invest in the future of this country by supporting the full financing of the Export-Import Bank.

PAUL TSONGAS: AN EXAMPLE OF COURAGE, INTEGRITY, AND COMMITMENT

(Mr. FRANK of Massachusetts asked and was given permission to address the House for 1 minute.)

Mr. FRANK of Massachusetts. Mr. Speaker, I wanted to talk for just 1 minute about Paul Tsongas. This has been a time when even more than usual the unpleasant aspects of politics and public service have been held out before the public. Given that, I think it is especially important to note the example of integrity, courage, and dignity that Paul Tsongas has provided the people in his candidacy for the Presidency of the United States.

Mr. Speaker, he started this because he thought it was important at a time when people were quite literally laughing at him. By the force of his intellect and his commitment, he turned that laughter into praise.

At a point in that campaign when it seemed like he would not be able to run on the terms on which he wanted to run, he did a very honorable thing; he said:

> I will forego the intention, I will forego the glory, I won't try to change my basic approach, I will simply withdraw because I am not getting any further along the lines that I thought made most sense.

Mr. Speaker, this kind of example of courage, integrity and commitment reminds people that politics at its best is a very, very noble profession, and I am, as I think all of us are, indebted to Paul Tsongas for his performance and for his willingness to, among other things, emphasize that point.

SUPPORT URGED FOR COMPREHENSIVE PREVENTIVE HEALTH CARE ACT OF 1992

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, both Newsweek and the Washington Post health section have recently published articles on the deadly return of tuberculosis. Just 8 years ago, the United States had the lowest TB rate in modern history. In 1985, TB incidence started rising and has continued to rise. By 1990, Americans were suffering 16 percent more TB than in 1984, and nearly 40 percent more than previous trends would have predicted. Currently, in my home State of New York, TB has risen by 30.4 percent.

According to the American Lung Association, a TB skin test is the only way to tell if you have a tuberculosis infection. Additionally, the Centers for Disease Control have stated that if it is diagnosed correctly, drug-resistant TB can be successfully treated about 50 percent of the time, and drug-responsive TB has a 98-percent cure rate.

Mr. Speaker, in the past we were able to combat this deadly disease through periodic health exams and screening, but most recent statistics show that we no longer have TB under control. TB, once ranked as the Nation's leading killer is back and poised to reestablish itself as a major cause of suffering and death.

It is time for Congress to take some significant steps in preventing diseases such as tuberculosis by educating the public on the importance of practicing preventive health care.

Mr. Speaker, it is obvious that periodic health exams, which include screening, immunizations, and counseling is essential to combat this new deadly epidemic. Accordingly, I invite my colleagues to examine and support my Comprehensive Preventive Health Care Act of 1992—H.R. 4094—which provides periodic health exams in order to prevent serious, costly illnesses.

REPEAL THE 5-PERCENT ORIGINATION FEE FOR STUDENT LOANS

(Mrs. MINK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MINK. Mr. Speaker, I take this time to alert the House, my colleagues in particular who serve on the Committee on Education and Labor, that the rule which has been adopted and which will be brought before the House for consideration preliminary to debate on the higher education bill includes in it an amendment which was agreed to by the leadership which in fact imposes a 5-percent tax on students who take out loans because they are needy and because they need the money to go on to college.

Mr. Speaker, during the dark hours when we were debating the Omnibus Budget Reconciliation Act of 1990, unbeknownst to many of us there was a provision put into that law which imposed a 5-percent origination fee for student loans under the guaranteed student loan program.

This year the Committee on Education and Labor attempted to do away with that 5 percent. It is an unfair tax on students. Students are being asked to do something about the Nation's deficit at a time when they need every penny they can get in order to go on to college.

Well, the higher education bill that came before the Committee on Rules was in a deficit situation, it did not meet the budget authority requirements, and therefore additional funds had to be found. Unfortunately, the additional funds are a new tax on students. I am calling upon the House to vote down the rule tomorrow so that we can get rid of this onerous burden which is being put upon the students and find the additional funds in some other quarters.

CONCERN ABOUT OUR LEGISLATIVE RESPONSIBILITIES

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker I rise to express my total frustration with the management of this body. I came here to deal with issues and solutions that affect the Republic. That, I believe, is our job. I am extremely disappointed in the ability of the leadership to provide the Congress with an opportunity to address these issues—let alone resolve them.

Mr. Speaker, the current tide of concern is about the failure of the leadership to manage the administrative functions—bank, post office—that performance has been dismal. But Mr. Speaker, I am talking about the handling of our legislative responsibilities. Leadership has done little better in that arena. The Congress has been in session for 3 months—only three or four substantive issues have been addressed by the full House. Last week was a horrible example of the waste of time and resources. This Congress has done nothing all week—finally some action on Friday.

I am offended by the fact that there are not better plans for use of our collective time—no timetable for handling legislation—no apparent goals or priorities.

Committee chairmen and the House leadership must lead—Mr. Speaker—we need fundamental change.

AMENDMENT TO H.R. 3553 IS NEEDED TO PROTECT CAMPUS SEXUAL ASSAULT VICTIMS

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, tomorrow the House is expected to begin consideration of H.R. 3553, the Higher Education Amendments of 1992. I am sure we will argue for hours about a number of amendments, but there is one amendment, Mr. Speaker, about which there should be no dispute, and that is an amendment that Ms. MOLINARI and I will offer to protect the rights of campus sexual assault victims.

Mr. Speaker, our amendment is based on H.R. 2362, which I introduced last May and which now has strong bipartisan support of 185 cosponsors.

□ 1220

Mr. Speaker, the facts about campus rape are absolutely startling. A campus rape is reported every 21 hours. Only 5 percent of campus rape victims ever report their attacks to police. And the most respected study estimates that one of four college women in America will be the victim of either attempted rape or rape during her 4-year college career.

Mr. Speaker, our amendment would simply require colleges and universities to adopt meaningful campus sexual assault policies. These policies would address rape education and prevention, as well as other procedures to be followed after a campus sexual offense occurs.

Say "no" to campus rape by voting "yes" on the Ramstad-Molinari amendment.

TRIBUTE TO FREDERICK HAYEK

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, today my Wall Street Journal brought me sad news, news of the passing of the great economist and Nobel laureate, Frederick Hayek. I remember as a student reading Hayek's plaintive plea for sanity that he wrote in 1944 when he wrote, "The Road to Serfdom." The essential lesson of "The Road to Serfdom" is that freedom works.

Not only did Hayek demonstrate he had the superior mind as he wrote that book, but he demonstrated a superior compassion found only in conservatives, a compassion even for the misguided left where he argued that proponents of centralization of power, proponents of strong government planning, proponents of ideas that hurt people and diminished freedom will ultimately be the victims.

I say to my friends on the left, "Read Hayek, and read that the pain your ideas inflict on others may be inevitable, but your own inevitable suffering at these ideas is optional, or, as Willie Nelson says, 'Be careful what you're dreaming. Soon your dreams will be dreaming you.'"

IT IS TIME TO NAME NAMES

(Mr. ROGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGERS. Mr. Speaker, Members of this body voted overwhelmingly 11 days ago for full disclosure of the names of those who wrote bad checks on their House bank accounts. We agreed then that the 24 worst offenders' names would be released within 10 days. Today is the 11th day, and we are told there will be a delay in releasing those names, that, despite months of work, the Committee on Standards of Official Conduct could not meet the deadline.

This makes me wonder, Mr. Speaker, if the leadership of this body cannot identify the worst 24 within the promised timeframe, why should the public put any faith in our pledge to disclose all the names in a timely fashion? This delay is inexcusable, Mr. Speaker.

I did not write any cold checks, and I am tired of being tarred with the same feather as those that did. Let us disclose all the names as quickly as possible. All of the rest of us would like to have our names cleared.

A Member of the other body, Mr. COATS of Indiana, said 90 percent of Congress is giving the rest of us a bad name, and I agree. The American people are waiting, Mr. Speaker. They are waiting for the leadership of this body to name names, and they are waiting for us to reform this institution.

The clock is ticking, and it is long past time the leadership of this House got the job done.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MONTGOMERY). The Chair advises the gentleman from Kentucky [Mr. ROGERS] that such a reference to Members of the other body is against the rules of the House.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Wednesday, March 25, 1992.

JEFFERSON NATIONAL EXPANSION MEMORIAL

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2926) to amend the act of May 17, 1954, relating to the Jefferson National Expansion Memorial to authorize increased funding for the East St. Louis portion of the memorial, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2926

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EAST SAINT LOUIS PORTION OF JEFFERSON NATIONAL EXPANSION MEMORIAL.

The Act of May 17, 1954, entitled "An Act to provide for the construction of the Jefferson National Expansion Memorial at the site of old Saint Louis, Missouri, in general accordance with the plan approved by the United States Territorial Expansion Memorial Commission, and for other purposes" (68 Stat. 98; 16 U.S.C. 450jj and following) is amended as follows:

(1) The first sentence of section 4(a) is amended—

(A) by striking out "The Secretary of the Interior is further authorized to designate" and inserting in lieu thereof "There is hereby designated";

(B) by striking out "not more than" and inserting in lieu thereof "approximately"; and

(C) by striking out "MWR-366/80.004, and dated February 9, 1984," and inserting in lieu thereof "366-80013, dated January 1992,".

(2) Section 9 is repealed.

(3) Section 11 is amended by striking out subsection (d) and by amending subsection (b), as added by section 201(b) of Public Law 98-398, to read as follows:

"(b)(1) For the purposes of the East Saint Louis portion of the Memorial, there are authorized to be appropriated $2,000,000 for land acquisition and such sums as may be necessary for development. Such development shall be consistent with the level of development described in phase one of the draft Development and Management Plan and Environmental Assessment, East St. Louis Addition to Jefferson National Expansion Memorial—Illinois/Missouri, dated August 1987.

"(2) Funds expended under paragraph (1) for development may not exceed 75 percent of the annual cost of such development. The remaining share of such annual costs shall be provided from non-Federal funds, services, or materials, or a combination thereof, fairly valued as determined by the Secretary. For the purposes of this paragraph, the Secretary may accept and utilize for such purposes any non-Federal funds, services, and materials so contributed.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks in the RECORD on the measure before us.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2926 is legislation introduced by Representative JERRY COSTELLO to complete the designation of the East St. Louis portion of the Jefferson National Expansion Memorial. Congressman COSTELLO is unable to be present today because of a serious injury to a close family member. Similar legislation has been introduced in the Senate by the four Senators from Illinois and Missouri.

The Jefferson National Expansion Memorial is located on the west side of the Mississippi River in St. Louis, MO. It was designated by Presidential order in 1935 and authorized by Congress in 1954. The centerpiece of the existing memorial is the 630-foot stainless steel Gateway Arch, which is a monument to the period of westward expansion in U.S. history.

Legislation was enacted in 1984 which authorized the Secretary of the Interior to designate 100 additional acres across the river from the arch in the city of East St. Louis, IL. The original design and subsequent plans for the park called for an extension to the east side of the river to provide an open green area and a backdrop and viewing platform for the arch. The expansion to the east side is supported by the National Park Service and the Secretary of the Interior. However, as a result of overly restrictive language in the 1984 Act, the East St. Louis portion of the memorial has never been designated.

H.R. 2926, as amended, would designate a 100-acre site and make other modifications in the 1984 legislation providing for the extension of Jefferson National Expansion Memorial to East St. Louis. The Committee on Interior and Insular Affairs made several changes to the bill as introduced, including requiring a 3 to 1 match for development of the park. Although it is unusual to require a match for development of a national park unit, this requirement will continue the strong tradition of non-Federal participation in this park. In fact, the match is identical to that which was required for the construction of the arch and the development of the west side of the memorial.

H.R. 2926, as amended, provides for a basic level of development at the park consisting of clearing the site and basic improvements such as walkways, scenic overlooks and a small multipurpose building. The bill, as reported by the Interior Committee, deletes the authorization for a Museum of American Ethnic Culture that was contained in the bill as introduced. This deletion will substantially reduce overall costs and focus this legislative effort on the basic designation and development of the site.

Mr. Speaker, the designation of the East St. Louis portion of the Jefferson National Expansion Memorial is long overdue. The bill, as reported by the Interior Committee, is cost effective and reasonable in scope. This measure has strong bipartisan support from the administration and the Illinois and Missouri delegations. I urge Members to support H.R. 2926 as amended by the Interior Committee.

☐ 1230

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2926, a bill to revise the 1984 statute which expanded the existing Jefferson National Expansion Memorial into the State of Illinois.

This bill makes needed changes to ensure that this area is developed and managed in a fashion similar to other National Park System Areas. Mr. VENTO has explained the nature of these revisions.

I note that the administration has no objection to this measure and am aware of no opposition to it. Therefore, I commend it to my colleagues and urge its passage.

Mr. COSTELLO. Mr. Speaker, I want to thank Congressman BRUCE VENTO, the National Parks and Public Lands Subcommittee chairman, and Congressman RON MARLENEE, the ranking minority member, for their cooperation in bringing this bill to the floor on an issue which has become very important to my congressional district and the St. Louis metropolitan area.

H.R. 2926, which I introduced in the House on July 17, 1991, would allow for congressional action extending the Jefferson National Memorial Park by designating a national park on the Mississippi riverfront in East St. Louis, IL. As the Members of this House know, opposite this area on the west side of the Mississippi sits the Jefferson National Memorial Park and Gateway Arch, one of the Midwest's most famous monuments.

My colleagues may not know that it was the original intent of the designers of the arch and its architect, Eero Saarinen, that the Jefferson National Expansion Memorial, which surrounds the arch, be a bi-State memorial with land on both sides of the river. In fact, when Congress originally authorized the JNEM in 1954, and when it passed the 1984 JNEM Amendments Act, it referred to the historical linkage between Illinois and Missouri in designating such a memorial to our Nation's westward expansion.

What I would like to do today on the House floor is offer a brief congressional history of legislative action on the JNEM expansion, and why this legislation is needed.

In 1984, my predecessor, Congressman Mel Price, and then Congressman PAUL SIMON introduced legislation to amend the JNEM Act of 1954 to allow for a memorial on the east side of the Mississippi River. Their legislation, which was approved by the Senate and signed by President Reagan, established a commission to study the location and development of such a memorial. The Commission consisted of local officials, private citizens, and representatives of both the State and Federal Governments.

Commission members spent years putting together a plan that would create a memorial appropriate with the JNEM on the west side.

As required in the 1984 law, this Commission forwarded its plan and recommendations to then Secretary of the Interior Donald Hodel in late 1987. In 1988, Secretary Hodel wrote to this committee and informed its members that while he supported the JNEM proposal and the Commission's recommendations, he could not give final approval to the plan because two provision in the law had not been met: That binding commitments from the city of East St. Louis and State of Illinois to fund annual operation and maintenance above $350,000 annually were not in place; and that binding commitments from private interests to fund the park above and beyond the Federal appropriation were not in place.

It was for this reason that Senator SIMON and I introduced legislation early in the 101st Congress to remove the binding commitments clauses in the law, which would allow the Secretary to move forward in designating the park and approving the final plan.

Soon after this legislation was introduced in 1989, the new Interior Secretary, Manuel Lujan, stated that he would like the opportunity to see what could be accomplished under existing law in lieu of congressional action. In July 1989, Senators DIXON, SIMON, Chairman VENTO and I met with Secretary Lujan at which time the Secretary said that he was unable to designate the part under existing law.

However, in a letter following our meeting, he made it clear that steps could be made to designate the park, given that two conditions were met. One, that the land be deemed environmentally safe; and that negotiations begin to convince landowners to donate their land for park use.

It has long been the desire of the Department of Interior to have the land for the JNEM extension donated, without cost, to the National Park Service, despite the 1984 law which allows the Secretary to purchase such lands with appropriated funds.

However, the landowners in the area have been extremely reluctant to donate their land until some commitment is made by Interior to demonstrate that a national park will actually be developed in that site. Hence, for many years we have worked with a chicken-or-the-egg syndrome which has halted our progress. However, late last year the Southwestern Illinois Development Authority announced that it had acquired, through good faith negotiations, 17 acres of land within the park site for donation to the National Park Service.

It was at that time that Senators DIXON, SIMON, DANFORTH, and BOND, as well as Congressmen GEPHARDT, CLAY, POSHARD, and I urged Secretary Lujan to move forward and designate the park, given that land had been donated and that negotiations were continuing, and that the 100-acre site had been deemed environmentally clean.

Since that letter, Secretary Lujan has agreed to accept any 100 acres of donated land within the 300-acre, broad site examined by the Commission. However, while this was a step forward, it still represents no firm commitment by the Interior Department to see a national park on the riverfront.

What is especially curious about this statemate is that funds have been appropriated to the National Park Service specifically for land acquisition purposes. In the fiscal year 1991 Interior appropriations bill, I requested that $1,325,000 be included for land acquisition and development. The Secretary has at his disposal $1,000,000 for land acquisition, and $325,000 for development. Despite the Secretary's insistence that land be donated prior to designation of the park, of these appropriated funds we believe the Secretary could have the 100 acres he seeks for designation.

Dr. Lazerson and others who have been working on this project for some time believe that with a designation, the land owners in the area would come forth and deed their land to the National Park Service. Therefore, this legislation is necessary.

During the legislation's markup the week of March 6, in the Interior National Parks and Public Lands Subcommittee, Chairman VENTO offered his own substitute bill which raises the authorization levels for land acquisition to $2 million; designates a specific area on the riverfront as the park boundary; removes the present authorization on ceiling on park development, and replaces the current 50–50 Federal/local match with a 3-to-1 match, which mirrors the original park development. In addition, H.R. 2926 removes two stumbling blocks in present law, the binding commitments clauses which have prevented the Secretary's action to date.

This bill has the support of the Bush administration and will give the Southwestern Illinois Development Authority the opportunity to work with the Congress and Interior to make the park a reality.

I urge my colleagues to vote in favor of H.R. 2926.

Mr. VENTO. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2926, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ASSATEAGUE ISLAND NATIONAL SEASHORE EXPANSION

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1254) to increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, and for other purposes, as amended.

The Clerk read as follows:

S. 1254

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN ACREAGE LIMIT FOR ASSATEAGUE ISLAND.

The Act entitled "An Act to provide for the establishment of the Assateague Island National Seashore in the States of Maryland and Virginia, and for other purposes", approved September 21, 1965 (16 U.S.C. 495f-1), is amended as follows:

(1) Amend the second sentence of subsection (a) of section 2 to read as follows: "The Secretary is authorized to include within the boundaries of the seashore, not to exceed 112 acres of land or interests therein on the mainland in Worcester County, Maryland.".

(2) Amend the last sentence of subsection (a) of section 2 to read as follows: "Notwithstanding any other provision of law, any Federal property located within the boundaries of the seashore may, with the concurrence of the agency having custody thereof, be transferred without consideration to the administrative jurisdiction of the Secretary for purposes of the seashore."

(3) Add the following at the end of subsection (b) of section 2: "Notwithstanding the acreage limitation set forth in this Act, the Secretary is authorized to accept the donation of a scenic easement covering the parcel of land adjacent to the seashore and known as the 'Woodcock Property'.".

(4) Amend the first sentence of subsection (b) of section 2 to read as follows: "When acquiring lands by exchange, the Secretary may accept title to any non-Federal property within the boundaries of the seashore and convey to the grantor of such property any federally owned property under the jurisdiction of the Secretary which the Secretary classifies suitable for exchange or other disposal, and which is located in Maryland or Virginia.".

(5) Amend section 6 by adding the following new subsection at the end thereof:

"(c) The Secretary is authorized and directed to enter into cooperative agreements with local, State, and Federal agencies and with educational institutions and nonprofit entities to coordinate research designed to maximize protection for the seashore's natural and cultural resources and to implement the recommendations arising from such research, consistent with the purposes of the seashore. The Secretary is also authorized to provide technical assistance to local, State, and Federal agencies and to educational institutions and nonprofit entities in order to further such purposes.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 1254, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1254, which passed the Senate on October 16, 1991, increases the authorized acreage limit for the Assateague Island National Seashore in Maryland. The legislation, introduced by Senator SARBANES, is similar to H.R. 2963, which was introduced by Representative GILCHREST.

When Assateague Island National Seashore was authorized in 1965, a limitation was put on the acreage that could be acquired on the mainland. Assateague Island National Seashore still lacks a proper visitor center. Now, many years and much planning later, the National Park Service is proposing to construct a visitor center on the mainland.

S. 1254 will facilitate the planned construction of this visitor center. In October of last year and again this past January major storms battered the barrier island. Construction of the visitor center on the mainland will provide additional protection from these periodic but devastating storms and decrease development in the barrier island. This visitor center will greatly assist in the interpretation, research, and administration of the seashore. Acquisition of the Woodcock property, on which the visitor center would be located, will enhance the park's management of the area and the visitors' experience of it. Mrs. Woodcock's recent death has given the acquisition of this property further urgency.

The Committee on Interior and Insular Affairs amended S. 1254 with a technical amendment that clarifies the language regarding National Park Service land acquisition, adds authority for the National Park Service to accept a donation of an easement over the rest of the Woodcock property and authorizes and directs the National Park Service to enter into cooperative agreements for research and implementation of that research on the seashore's natural and cultural resources. The sponsors of the legislation support these changes. Mr. Speaker, I endorse S. 1254, as amended, and recommend its adoption by the House.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I rise to be recognized on S. 1254, a bill to expand the existing Assateague Island National Seashore.

Mr. Speaker, I agree with the basic premise of this bill that additional lands should be added to this park in the vicinity of the proposed visitor center. However, I believe that the new park boundary proposed in this bill includes unnecessary lands and am concerned that elimination of current limitations on acquiring lands on the mainland could lead to significant, unnecessary Federal acquisitions in the future.

Despite repeated questioning of the administration, we are unable to get any solid information on why these specific boundaries were being proposed. Last year, the Interior Committee considered bipartisan legislation, which was designed to ensure that the administration completed objective studies prior to making any boundary recommendations. That bill was advanced precisely because of situations such as this one. Unfortunately, by the time that measure was enacted, many of the important aspects contained in the original bill had been deleted.

As in many other park expansion bills acted on by the Interior Committee, this one had two primary justifications. The first was that the local park managers support the measure and the second was that the land was threatened by development. In response to the first reason for this bill, I must say that I have rarely met a Federal bureaucrat who didn't think that the world would become a better place if his or her land base or budget or number of employees or even salary was a little larger or higher.

Second, whenever the environmentalists have no good justification for some park expansion proposal, I find they resort to raising the threat of imminent development since virtually all undeveloped property could be developed at some point in time, this is an argument which proves impossible to counter. However, in this case, as in so many others, I find that there is no developer poised to buy this land. In fact, the county is currently reviewing its zoning plan with the anticipation of down-zoning this property.

The language in this bill authorizing inclusion within the park boundary of a 224-acre scenic easement on soybean fields up to a mile from the park visitor center is also totally unnecessary from a resource preservation standpoint. I believe it reflects the thinking among many members of the Interior Committee that expanded Federal control is always in the public good, regardless of the facts associated with a specific instance.

Mr. Speaker, I reserve the remainder of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. MCMILLEN], a supporter of this measure.

Mr. MCMILLEN of Maryland. Mr. Speaker, I rise in support of S. 1254, a bill to increase the authorized acreage limit for the Assateague Island National Seashore.

I would like to commend the distinguished full committee chairman, the gentleman from California [Mr. MILLER] and the subcommittee chairman, the gentleman from Minnesota [Mr. VENTO] for their fine leadership in bringing this legislation before the House for consideration today. I would also like to thank my colleague, Mr. GILCHREST for his support and work on this legislation.

S. 1254, introduced by Senators SARBANES and MIKULSKI and passed by the Senate, seeks to expand the boundaries of Assateague Island National Seashore to include 96 of the 320-acre tract of privately owned land adjacent to the southern border of the park near the national seashore headquarters.

Since the establishment of the seashore by the Congress in 1965, this area has been farm land and therefore compatible with the seashore. However, it is now in jeopardy of being purchased and commercially developed. It is for this reason that is essential that the House pass S. 1254, to protect one of the crown jewels of our National Park System from the onslaught of development.

This legislation is critical to protecting this pristine coastal area. The national seashore is home to over 500 species of plants, many animals, and over 275 species of birds including the endangered piping plover.

Not only is this area important for its natural resources, but it is also important from a historic perspective as well. The island is named after the Assateague Indians who were the areas earliest visitors. Assateague is inhabited by wild ponies who are believed to be descended from horses that escaped from a shipwrecked 16th century Spanish galleon. In addition, the infamous pirate Blackbeard is believed to have used Assateague as his base of operations.

On the property which this legislation seeks to encompass into the national seashore, there is a farmhouse which dates back to the 18th century. Clearly, this addition would benefit the seashore and also preserve a valuable historic asset.

The reality is, if this legislation is not passed, then there is a imminent danger that the privately owned land directly adjacent to, and within the viewshed of, Assateague will be commercially developed. There is little doubt that if left unprotected this land would be consumed by development. The route 611 corridor which leads into Assateague from West Ocean City has experienced explosive growth in both commercial and residential development. The area adjacent to the park will likely follow suit as portions are currently zoned for construction of hotels, motels, and restaurants.

This park should be protected not just for the benefit of the State of Maryland, but for the 2 million people who visit the park each year. It is a natural treasure for the entire Nation. I strongly encourage my colleagues to support this most important piece of legislation.

□ 1240

Mr. THOMAS of Wyoming. Mr. Speaker, I yield such time as he may consume to the gentleman from Maryland [Mr. GILCHREST], the original sponsor of this bill in the House.

Mr. GILCHREST. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the legislation before us expands the boundaries of the Assateague Island National Seashore. The committee and subcommittee chairmen, Mr. MILLER and Mr. VENTO as well as the ranking members, Mr. YOUNG and Mr. MARLENEE, should be commended for their timely hearings and swift action on S. 1254. Last summer, I introduced a companion bill H.R. 2963 which also called for the extension of the national seashore's borders.

The 37-mile-long Assateague Island, located just off the Maryland and Virginia mainland, was established as national seashore by the Congress in 1965. The act authorized acquisition of the barrier island and not more than 10 acres of land on the mainland in Worchester County, MD. Since then, however, heavy development pressure, spilling over from neighboring seashore communities, has threatened the integrity and character of Assa-teague National Seashore.

Assateague provides a unique example of an intact barrier island ecosystem. In this capacity, the park hosts the educational and recreational visits of 2 million people a year.

Change at the park's boundaries makes passage of this legislation the best hope for maintaining Assateague in its present unspoiled state. Growth in development in the area, and the recent change in ownership of neighboring farmland requires an expansion of the park's borders to ensure open space and compatible use of the land between a proposed visitor's center and the barrier island. The additional acres will also be needed to facilitate the transportation needs of a projected increase of 250,000 visitors.

Previously, the 320-acre tract neighboring the national park on the mainland was farmed, but the recent death of the owner opened the possibility that this open space could be developed. So close to the national park, the tract would be enticing to hotel and restaurant developers.

While the farming that has taken place on this property until now was compatible with the national park's efforts to retain the scenic and natural approach to the barrier island, a burst of homes and commercial establishments would irreversibly detract from this effort.

By expanding the current mainland boundary to 112 acres, S. 1254 will recognize a previous addition of 6 acres donated by the State of Maryland for a proposed visitor's center, and allow for the acquisition of 96 acres of the farm immediately bordering the park.

The additional acreage would act as a buffer between the highly developed corridor leading up to the park, and the wild and scenic ecosystem the Park Service strives to protect. S. 1254 would also allow the donation of a scenic easement for that portion of the Woodcock property not being purchased by the National Park Service.

This bill preserves Assateague Island as a viable barrier island ecosystem for future generations. Acquisition of this buffer area will protect the pristine shores on the mainland across from the island. These coastal bays of Maryland are priceless resources and delicate ecosystems that deserve the same protection as that accorded the Chesapeake Bay.

I thank all who have worked to preserve Assateague National Seashore as one of our Nation's treasures.

Mr. Speaker, there is a tremendous contrast between the coast of Maryland, Ocean City, MD, on the one side, and Assateague on the other side. Ocean City offers an array of activities for families in the spring and summer to visit the seashore.

The absolute opposite contrast is available for families that would rather have a very quiet, pristine, primitive association with nature. So the two are very compatible, but the two must remain separate.

Mr. Speaker, the other thing about this bill is that it does provide protection for an ecosystem. The mainland is as much a part of the Assateague barrier island as the ecosystem can provide. So this is an important part of the bill.

Mr. Speaker, the other thing, naturally the Park Service managers would like to expand their boundaries, and in most instances the reason they would like to do that is because it affords much more protection for that ecosystem, for that watershed.

The imminent possibility for development is tremendous. If you look at geography and you consider from Boston, through Connecticut to New York City, to Philadelphia, to Wilmington, to Baltimore, to Washington, to Norfolk, this is kind of an island of grace in the middle of the Mid-Atlantic States. So it is incumbent upon us to make the right decisions for future generations to preserve this pristine place, and there is no better way to do that than to expand and include this entire watershed.

Mr. Speaker, the other thing brought up about farming in the area where there will be an easement, we can in that area continue to farm soybeans, corn, wheat, or whatever else is useful for that particular area, as long as farmers, as they do in our area, provide protection through best management practices in their farming practices.

Mr. Speaker, this bill is essential for the continuing prosperity of Assateague. It is essential so that future generations will have not only the barrier island to visit, but so that the whole watershed in that community can be much better protected.

Mr. VENTO. Mr. Speaker, I am pleased to yield such time as she may consume to the gentlewoman from

Maryland [Mrs. BYRON], a member of the Subcommittee on National Parks and Public Lands of the Committee on Interior and Insular Affairs.

Mrs. BYRON. Mr. Speaker, I rise today in support of S. 1254, an act to increase the acreage of the Assateague Island National Seashore. We in the State of Maryland recognize the importance of barrier islands and the ecosystems which exist there. Assateague Island is visited by thousands of schoolchildren each year to study these unique barrier island ecosystems and gain an understanding of their importance.

Development pressure is apparent throughout the area and we have a golden opportunity to acquire a key piece of land to provide needed protection for this unit of the National Park System. Today that piece of property is available. The acquisition of this property will ensure future generations the opportunity to enjoy this National Seashore. I urge all of my colleagues to support passage of this legislation.

As one that has traipsed the seashore areas, and has camped with my children in this area, I only know too well of the importance of a firsthand opportunity, and I look forward to my grandchildren having the same opportunity that we have enjoyed and generations to follow. I totally support this legislation.

Mr. VENTO. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would say Assateague Island Seashore is a pristine jewel on the eastern seaboard. This small addition of land will permit the removal of facilities on the barrier island and the potential pollution coming from human use in those areas because of the uncertain nature of barrier islands, and putting it on the mainland. It is a willing seller-willing buyer basis, buying 100 acres.

Mr. Speaker, this is an important bill. I am certain that is why Senator SARBANES appeared before the committee, and why we have three members of the Maryland delegation, led by the gentleman from Maryland [Mr. GILCHREST] today to present that.

It is certainly worthy of passage.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 1254, as amended.

The question was taken; and, two-thirds having voted in favor thereof, the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GOLDEN GATE NATIONAL RECREATION AREA ADDITION ACT OF 1992

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 870) to authorize inclusion of a tract of land in the Golden Gate National Recreation Area, CA, as amended.

The Clerk read as follows:

S. 870

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Golden Gate National Recreation Area Addition Act of 1992".

SEC. 2. ACQUISITION AND ADDITION TO GOLDEN GATE NATIONAL RECREATION AREA.

(a) ACQUISITION.—The Secretary of the Interior is authorized to acquire by donation or purchase with donated or appropriated funds approximately 1,232 acres of land in San Mateo County, California, known generally as the Phleger property, as generally depicted on the map entitled "1991 Addition to Golden Gate National Recreation Area (Phleger Estate)" and numbered GGNRA641/40062. The Federal share of the acquisition of the lands acquired pursuant to this Act may not exceed 50 percent of the purchase price of such lands.

(b) BOUNDARY REVISION.—(1) Section 2(a) of the Act entitled "An Act to establish the Golden Gate National Recreation Area in the State of California, and for other purposes" (16 U.S.C. 460bb–1(a)) is amended by adding at the end the following: "The recreation area shall also include those lands acquired pursuant to the Golden Gate National Recreation Area Addition Act of 1992.".

(2) Upon acquisition of the land under subsection (a) and after publication of notice in the Federal Register, the Secretary shall—

(A) revise the boundary of Golden Gate National Recreation Area to reflect the inclusion of such land; and

(B) prepare and make available a map displaying such boundary revision in accordance with section 2(b) of such Act (16 U.S.C. 460bb–1(b)).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous material on S. 870, the Senate bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 870 authorizes the addition of a parcel known as the Phleger Estate to the Golden Gate National Recreation Area in the State of California. This bipartisan bill was introduced by Senators CRANSTON and SEYMOUR and was passed by the Senate October 16, 1991. A companion House bill H.R. 2062, was introduced by Representatives TOM LANTOS and TOM CAMPBELL. The lands authorized for addition by S. 870 lie wholly within the districts of Mr. CAMPBELL and Mr. LANTOS.

□ 1250

The Golden Gate National Recreation Area was established in 1972. The park encompasses shoreline areas of San Francisco, Marin, and San Mateo Counties and contains ocean beaches, redwood forest, lagoons, marshes, military properties, a cultural center at Ft. Mason and Alcatraz Island.

Mr. Speaker, this has characterized or has some of the same qualities as most urban parks that were developed, but this has been one that has been enormously successful. The cooperation between the local community of San Francisco and the State of California has been extraordinary.

The Golden Gate National Recreation Area, of course, will soon grow by the addition of Presidio, I think an event that no one recognized would happen quite as quickly as it is happening today.

S. 870 would authorize the addition of the 1,230-acre Phleger Estate and modify the boundaries of Golden Gate National Recreation Area to reflect this addition. The Phleger Estate is located south of San Francisco and is the most important piece of unprotected open space on the San Francisco Peninsula. It is directly adjacent to the existing national recreation area and it contains old growth redwood and mixed evergreen forest. A variety of plant and animal species exist on the property including mountain lions, coyotes, eagles, and hawks. The property also contains an important archaeological site and a portion of the San Andreas Fault.

Inclusion of the property in the park would provide increased recreation opportunities for the nearby population centers of San Francisco, the East Bay, and San Jose. It would provide linkage for a number of trails including, but not limited to, the bay area ridge trail which is located along a portion of the property's boundary. The property's location near dense urban areas makes it highly attractive location for development. In fact, current zoning would allow for the construction of 557 units on the property, and conservative plans for developing 350 units on the property would likely be approved.

Such development on lands surrounded by parkland would certainly pose a threat or a diminishment of the national recreation area, the GGNRA.

The subcommittee on national parks and public lands that I chair held a hearing on this measure last October. At the hearing the Park Service testified about the significant natural and recreation resource qualities of the Phleger Estate. Although the National Park Service did not conduct a formal study of the Phleger property, park staff strongly support the property's inclusion in the Golden Gate National Recreation Area.

The Committee on Interior and Insular Affairs adopted an amendment that modified this measure.

The committee amendment gives the Secretary of the Interior the normal authorities for acquiring the Phleger Estate with one notable exception: At least 50 percent of the funds for purchasing this property must come from non-Federal sources. This matching requirement is unusual and it reflects the fact that significant financial contributions have already been made by local organizations and individuals. Over $14 million has been raised by a nonprofit land trust organization to go toward the purchase of this property.

It has an appraised value of $26 million. This is an appraised value which has the value reduced because of a donated conservation easement by the land owner today. So the National Government not only would receive that donation but it would receive $14 million at least to help defray the costs of purchasing this land. This means the Federal Government will be paying probably about a third of the value for this property.

The legislation before us is an excellent example of the kind of private/public partnership that is frequently heralded by the Secretary of the Interior, Manuel Lujan, and by the director of the National Park Service, James Ridenour.

Members would be hard-pressed to find a partnership which rivals this particular effort in terms of amount of private funds raised. Not since Statue of Liberty and Ellis Island has there been such a large amount of non-Federal funds collected for a national park project. It is quite possible that more than 50 percent of the purchase price will come from private funds, as I stated.

Mr. Speaker, this measure, as amended, is an authorization bill. It simply gives this property the chance to compete with hundreds of other projects for land acquisition funding. I would like to remind my colleagues that land acquisition funding comes from the Land and Water Conservation Fund, a separate trust fund made up of principally a portion of the receipts from offshore oil and gas leasing, and the sale of surplus Federal property. The Land and Water Conservation Trust Fund was based on a simple and compelling idea: That if we as a nation are going to be depleting our natural resources, we should use some of the proceeds of this to protect and preserve other natural resources for the benefit of present and future generations.

That fund, Mr. Speaker, provides $900 million a year in dollars to the Federal Treasury, a small portion, about half, less than half of which is usually appropriated for the purpose of many of the projects that I bring before this body.

This bill before us has the bipartisan support of both Members from the districts, both Senators from the State. The bill was unanimously reported out of the Committee on Interior and Insular Affairs.

Mr. Speaker, I would commend this bill to my colleagues. It is a good bill and it should be passed.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to S. 870, a bill which would cost the American taxpayers $10.5 million to acquire lands for addition to Golden Gate National Recreation Area. I oppose this bill because these lands are a nonessential addition to this park. The result of the passage of this bill, will be to divert funds from an already underfunded agency, to purchase park lands of interest to a local constituency.

I must commend proponents of this bill for their clever packaging of this measure. They have advertised this measure as a bargain for the Federal Government, which will be acquiring about 1,200 acres for about $10.5 million or approximately one-half the fair market value. But in reality, it is the local governments which will be getting the bargain, because this bill will result in the use of limited Federal dollars for acquisition of lands of local interest.

This bill will authorize acquisition of lands, which have never been proposed in any Government study for acquisition, lands which include resource values not significantly different from those already included in the 73,000-acre national recreation area. This proposal to add lands to Golden Gate National Recreation Area comes at a time when the park is already hemorrhaging in red ink.

Last year, Golden Gate reported to the Interior Appropriation Committee that it had an operational shortfall of $5.6 million, fourth highest of any unit in the National Park System. At the national level, the National Park Service is facing a similar funding crisis. NPS reports an annual operational shortfall of $375 million, and multibillion dollar shortfalls in both land acquisition and facility construction funding. For just one other park in the State of California, Santa Monica Mountains National Recreation Area, the NPS reported at our recent budget hearing that an additional $500 million could be required to purchase all private lands within the park boundary.

It is time for Congress to be part of the solution to this funding backlog rather than part of the problem. We must begin to say no to every single park expansion bill which is not absolutely necessary. We must say no to those acquisitions, such as this Phleger acquisition which might be nice to do, but not essential to meet the needs of the agency.

Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. CAMPBELL], a sponsor of the bill.

Mr. CAMPBELL of California. Mr. Speaker, I thank my colleague and friend, the gentleman from Wyoming [Mr. THOMAS].

There is no debate, really, about the environmentally desirable nature of this property, nor do I hear any of my colleagues raising that point. There is no debate about the value to the U.S. Government and its taxpayers and citizens of having the Golden Gate National Recreation Area expanded in this manner.

I would point out the advantages that my good friend and colleague, the chairman of the committee, has pointed out in his remarks.

The debate, therefore, comes down to the question of funding. Here I take no second seat to anyone in my concern for protecting the U.S. taxpayer who, from time to time, appears to be the least protected person on the floor of this House.

It was for that reason that I took a hand in crafting this legislation, both here in the House and also in conversing with our colleagues in the other body.

What we have in this bill is a proposal that the land in question be acquired by donation or acquisition.

☐ 1300

That is an explicit provision put in in order to be sure we leave open the option of donations.

I think this is one of those instances where it may be that the degree of local support is so strong that we may be able to get, if not all, then the lion's share by donation.

Early on there was discussion of possibly asking for tax forgiveness. That is no longer part of this bill. Early on there was discussion that perhaps this would be added to some priority or given a head start above other competing projects, and it does not. It will take its place along with other projects, if it goes that route, for the land conservation and water conservation funds.

In the other body there is a provision of S. 870 which explicitly does not cost the taxpayers a dime. That is offered by my colleague and friend, the gentleman from California, the junior Senator. I believe that it will go to conference and may very well come out that way. We cannot predict conference, I understand that.

I do want to assure the Members that fiscal conservatism, a principle I hold very highly, should not stand in the way of this particular bill because of the steps that I and others have taken, explicitly, to make the donation the option and the alternative in the other body.

I conclude by saying that we are pleased that the administration has given me a statement to read on the floor, which I will do now, that it has no objection to the House passage of this bill as reported by the Committee on Interior and Insular Affairs. The bill would authorize the Secretary of the Interior to acquire by donation or purchase the Phleger estate as an addition to the Golden Gate National Recreation Area in San Francisco.

I hope my colleagues and friends on the minority side of the aisle can agree that this is a provision which is somewhat unique in its attempt to be fiscally responsible. It is not simply another in a catalog of additions to the national park and recreation area, without concern for cost.

Mr. THOMAS of Wyoming. Mr. Speaker, let me just reiterate. The administration has no objection, but urges that Congress in its further consideration adopt the Senate version.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, I reluctantly rise in opposition to S. 870 because of its fiscal implications. Some Members on this floor seem to think that $10 or $11 million is not a whole lot of money, especially for the common good, and we can put that kind of money into more land, into the National Park System.

I have to say, I compliment the gentleman from California [Mr. CAMPBELL] in that he understands fiscal responsibility and he understands fiscal conservativism. He has told me privately that he greatly supports setting this up so that the land would only be acquired by donation. I appreciate that, and I appreciate the gentleman and his fiscal conservativism.

However, we also know the record of the Committee on Interior and Insular Affairs, and the Interior Appropriations Subcommittee, and we understand that systematically we have parcels of land, albeit in some cases very creative financing, some parcels of land going more under Federal control.

I have great reservations about this particular parcel of land and what will happen in the conference committee. I have been assured by the gentleman from California that he is going to work very hard on the conference committee to only allow donation of the land in acquiring this land into the Golden Gate National Recreation Area of San Francisco, but we do not know what will come out of conference.

I also understand, by being a member of the Committee on Appropriations, that we have not bought a whole lot or spent a whole lot of money on acquiring new land, but we just keep adding to the potential of setting this land aside for some day where we might find the money to purchase it. That completely negates the use of this land once it is set aside. We all understand that.

This is still in the making, but I still have a lot of concerns. For instance, analysis of the site today indicates that it contains no unique or outstanding natural or cultural resources values which warrant its inclusion within Golden Gate. In fact, there are already thousands of acres of undeveloped land in the immediate vicinity of this parcel of land which provide adequate recreational opportunities.

At this time the Federal Government, and we will hear this time and time again, every time a bill like this comes up, but the Federal Government already owns close to one-third of the land in this country. In the 13 Western States it owns 63 percent of the land. During the first session of the 102d Congress alone, we converted approximately 650,000 acres of private land to public land and placed more restrictive rules over 10.5 million acres of existing Federal lands. We simply do not need more land.

Proponents of this bill, as has been stated earlier, claim that it is a bargain. It is a bargain, but not for the Federal Government. The only way that I would support this bill is if it comes back from conference saying that this land can be acquired but it will be acquired through donated money.

I just urge my colleagues to oppose this bill under suspension of the rules, and try to curb the increasing appetite of the Federal Government.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield 30 seconds to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL of California. Mr. Speaker, I appreciate my colleague yielding time to me.

I am proud to stand here with my colleague, the gentleman from Texas [Mr. DELAY], whose fiscal conservatism is an inspiration to us all. I deeply appreciate his remarks.

On just three quick points, however, the uniqueness I do know something about because it is my district. We have in this particular piece of property a larger stand of redwoods than any other in the Golden Gate National Recreational Area, including Muir Woods. We have the Ohloni Indian artifacts, which is rather unique, and most important, and I should have mentioned in my opening remarks, we have the last provision right in the bay area of undeveloped land along the San Andreas fault, which has tremendous value for earthquake study and measurement. I raised this when I testified before the subcommittee.

Mr. THOMAS of Wyoming. Mr. Speaker, I would simply say that I commend to my colleagues a wonderful idea about when there is land acquired, to dispose of an amount in equal value.

I have no further requests for time, Mr. Speaker, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield myself 1 minute to point out that this land is unique.

Obviously, and I do not think anyone would argue, the Golden Gate National Recreation Area has not been and is not being well utilized. It is one of the most intensely used units in the National Park System. It is the third most visited park in the Nation. The property is within 45 minutes of 5 million people in the bay area. There is not any more. Once this is gone, we will not have these types of parcels back, so we either get on with it, at about 40 percent of the cost here, because much of it is being picked up by others, or we completely lose the opportunity to provide these recreational opportunities close to home.

We know what problems the States and local governments are having. All they are asking, the gentlemen from California, Mr. LANTOS and Mr. CAMPBELL, is to be able to go before the mighty Committee on Appropriations and ask for an appropriation to do this, to match it.

Most of the problems, I might say, with my good friends from the Committee on Appropriations are not the matters that come up here on the floor and are passed by the House and Senate and signed into law by the President, those individual measures. That is not where the problems lie. They lie in those little measures that they add to the bill without ever being debated, discussed, or the process of an open hearing or debate on this floor. I would submit that is generally where the problem is. I hope that we can avoid most of that in the future.

Clearly, I think this measure deserves strong support in this House, Mr. Speaker.

With that, Mr. Speaker, I would urge that support.

Mr. LANTOS. Mr. Speaker, I rise in strong and enthusiastic support of S. 870, the Golden Gate National Recreation Area Expansion Act. I introduced the House version of this legislation, H.R. 2062, last year with my distinguished colleague and neighbor on the San Francisco Peninsula, TOM CAMPBELL. Our legislation authorizes the Secretary of Interior to acquire approximately 1,300 acres of land in San Mateo County, CA, known as the Phleger Estate, for inclusion in the Golden Gate National Recreation Area.

I am delighted, Mr. Speaker, that the House is considering this important legislation today, and I would like to pay tribute to our distinguished colleagues, BRUCE VENTO of Minnesota, who chairs the Subcommittee on National Parks and Public Lands and to my fellow California, GEORGE MILLER, who chairs the

Interior Committee. Both of them have been most supportive of our efforts with this bill.

Mr. Speaker, the Phleger Estate is the most important piece of currently unprotected open space on the San Francisco Peninsula. It contains scattered individual old growth redwoods, as well as prime second growth forest. The declining range of redwood forests in California and the scarcity of streams with environmental conditions to support redwoods make the Phleger Estate a particularly significant botanical resource for preservation.

The Phleger property I indistinguishable from the surrounding, protected open-space lands. The Golden Gate National Recreation Area [GGNRA] shares a 6-mile boundary with the Phleger property. The inclusion of this property in the GGNRA would create a critical link between existing open space areas on the peninsula and areas now protected within the GGNRA. This land provides an important link in the Bay Area Ridge Trail. The existing privately developed trail system is well maintained and ready for public use.

This property holds immense value as a natural recreation area, a cultural resource, and wildlife habitat. The land is located in an area that is densely populated. There are not many open areas still available in the center of the San Francisco Peninsula. With the high population density in the surrounding region, this natural wooded area would be extensively used by bay area residents and by many other Americans who visit the bay area in large numbers.

Funding for the purchase of this land is being arranged through a unique cooperative public/private effort, and this will permit its acquisition at a price well below its current appraised value. Well over half of the acquisition cost has already been raised through local funds. Some $6 million through the regional park district, and an additional $8.5 million through private donated funds. For an investment of $10.5 million, the National Park Service will acquire this entire property for less than half of its market value. It is rare that we have the opportunity to obtain such an important piece of property on such advantageous terms.

Local environmental leaders in San Mateo County and throughout the peninsula deserve high commendation for their efforts in raising these funds. It is an outstanding reflection of their commitment to preserving our natural heritage. This effort reflects the intense desire of the people of the peninsula to preserve this property for the benefit and use of all, both now and in the future. Mr. Speaker, I pay tribute to these environmental leaders for their great effort.

Mr. Speaker, we now have a unique opportunity to add this critical land to the GGNRA. It is vital that the Congress take the necessary action now to authorize the acquisition of this land. If the Phleger property is not acquired now and other use for that land is approved by local government officials, it may not be possible to reverse that decision in the future. For the sake of our children and of future generations we must seize this exceptional opportunity to include the Phleger property in the GGNRA.

This legislation is supported by the National Parks and Conservation Association, the Wilderness Society, the National Audubon Society, the Sierra Club, and the American Land Conservancy.

Mr. Speaker, I urge my colleagues to support adoption of this legislation to authorize the acquisition of this critical and unique Phleger property. The affirmative action of the House here today is the final step. I strongly urge your support of this bill.

Ms. PELOSI. Mr. Speaker, I join my colleagues today in support of S. 870, to expand the Goldengate National Recreation Area [GGNRA].

As many of you may know, in 1972 former Congressman Phillip Burton created the GGNRA in San Francisco, the district I now represent in Congress. It is because of his vision for the GGNRA that we have seen this small urban park more than double in size into an area that covers over 73,000 acres, including portions of Marin and San Mateo Counties.

There were many leaders and activists from San Francisco, and throughout the bay area, such as former Congresswoman Sala Burton, Amy Meyer, and Dr. Edgar Wayburn who continued to champion the expansion of the GGNRA after Phillip Burton's death so that what exists today is an almost continuous greenbelt that extends from Point Reyes in Marin, along the coast of San Francisco County, to Sweeney Ridge in San Mateo County.

The addition of the Phleger Estate to the GGNRA will increase the greenbelt by 1,200 acres at the southern end of San Francisco Bay. This acquisition will also add a critical link in the 400-mile Bay Ridge Trail which will eventually surround San Francisco Bay, connection over 75 ridgeline parks and 100 communities.

In San Francisco proper, our community is currently preparing the way for departure of the Army at the Presidio to realize the addition of over 1,400 acres to the GGNRA in 1994. Any time we can add open space lands to parks in a densely populated area, we are also enhancing the quality of life for millions of urban dwellers and park visitors.

I am very pleased with this important acquisition of the GGNRA and I commend the efforts of Senator CRANSTON, Congressman LANTOS, the Peninsula Open Space Trust and the many other individuals who worked to make this expansion possible.

The GGNRA is the most visited park in the entire National Park System. Its unique urban setting at the gateway to the Pacific offers some of California's most scenic coastal landscapes and makes it a truly outstanding gem in the National System. In an area where urban encroachment is steadly consuming open space, the addition of 1,200 acres to the GGNRA is a remarkable achievement.

I urge my colleagues to vote for passage of S. 870.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MONTGOMERY). The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the Senate bill, S. 870, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

AMERICAN DISCOVERY TRAIL

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3011) to amend the National Trails System Act to designate the American Discovery Trail for study to determine the feasibility and desirability of its designation as a national trail.

The Clerk read as follows:

H.R. 3011

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF AMERICAN DISCOVERY TRAIL AS A STUDY TRAIL.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraph:

"(34) American Discovery Trail, extending from Pt. Reyes, California, across the United States through Nevada, Utah, Colorado, Kansas, Missouri, Illinois, Indiana, Ohio, West Virginia, Maryland, and the District of Columbia, to Cape Henlopen State Park, Delaware.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3011, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

□ 1310

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3011 was introduced by my colleague on the Interior Committee, Representative BYRON, along with a bipartisan group of cosponsors.

The bill would amend the National Trails System Act to require a study by the Secretaries of the Interior and Agriculture to determine the feasibility and desirability of designating the American Discovery Trail as a national scenic trail. The proposed American Discovery Trail would be 4,800 miles long and would traverse 12 States and the District of Columbia. It would be the first coast to coast national trail and would connect Point Reyes National Seashore in California to Cape Henlopen State Park in Delaware. Almost all of the trail would be located on public lands.

In hearings before the Committee on Interior and Insular Affairs, the administration, Members of Congress, and public witnesses testified in support of this trail study. The bill was favorably approved by the Interior Committee without opposition. Subsequent to the committee's action on H.R. 3011, it was brought to my attention that there may be interest in providing for the study of two additional States as part of the trail. After consulting with interested Members, Representative PETER HOAGLAND and Representative DOUGLAS BEREUTER, it was determined that it was best to proceed with the bill as reported and not further delay its consideration. If this additional study proves to have merit, I would be glad to consider it at the appropriate time.

I want to commend my colleague, Mrs. BYRON, for all her work on this legislation. I urge my colleagues to join me in passing H.R. 3011.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I rise in support of H.R. 3011, a bill to authorize a study of the American Discovery Trail.

Mr. Speaker, I commend Mrs. BYRON for her efforts on this bill and all her work on behalf of the trail community in this body.

As we consider this bill, I must point out an uneasiness on this side of the aisle with respect to land acquisition and development restrictions along these federally designated trail corridors. Many persons who generally support the concept of designation of trails for recreational use are very concerned by efforts to use trail corridors as excuses to preclude compatible development in adjacent areas. For example, last year, the National Park Service spent over $1 million acquiring buffer lands in four different States along the Appalachian Trail.

I realize that this trail has an underlying premise, maximizing the use of existing public rights-of-ways and I commend the authors of this measure for their foresight in this regard.

I note that this measure is supported by the administration and am aware of no objections to it. Therefore, I commend this to my colleagues and urge they support it.

Mr. Speaker, I reserve the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Maryland, [Mrs. BYRON] the principal sponsor of this measure.

Mrs. BYRON. Mr. Speaker, I would like to begin by thanking both my subcommittee chairman, Mr. VENTO and my full committee chairman, Mr. MILLER, for the expeditious manner in which they considered H.R. 3011. I would also like to thank Eric Seaborg, Ellen Dudley, Sam Carlson, and Bill Sprotte for their trailblazing efforts. Mr. Speaker, on June 2, 1990, these trailblazers began to make a dream come true as they raised their feet out of the Pacific Ocean at Point Reyes National Seashore in California and started east toward their destination of Cape Henlopen State Park in Delaware. They had the incredible responsibility of creating the ultimate hikers dream: A permanent east-west nonmotorized trail called the American Discovery Trail that would join existing trails such as the Pony Express Trail in Nevada, the Sante Fe National Historic Trail in Kansas, and the C&O Canal located just a few miles away from the Capitol—for hiking, biking, and recreation.

By adding existing towpaths, greenways, wilderness areas, city streets, and existing rights-of-way would also be tapped as resources. In the end, the American discovery trail would extend approximately 5,000 miles, winding through 12 states—becoming the backbone for our National Trails System. It would become this Nation's missing link to the Appalachian Trail. And, once in place, the ADT will link over 30,000 miles of trails across this country.

As I mentioned earlier, the most important thought to keep in mind when discussing the ADT is that it is not a new trail. The goal of the trailblazers when creating the ADT was to create a trail virtually compromised of existing trails on Federal and State lands. The idea was that the ADT would become a living memorial, a historic textbook if you will, offering to every citizen of this country a firsthand hiking experience into our history while at the same time, winding through every conceivable type of American lifestyle—rural, urban, and suburban.

A hiker or a rider on horseback could experience first hand the Pony Express Trail while imaging himself as of those daring riders of yesteryear blazing through the searing heat of the Nevada desert. Ultimately, when the ADT is completed it will represent a slice of Americana.

One of the most important advantages to H.R. 3011 is that most of the preliminary work has already been completed, thus the cost of the bill will be minimal. Thanks to the support of the American Hiking Society, Backpacker magazine, and many other private companies, as well as the wonderful cooperation from the National Park Service, the U.S. Forest Service and the Bureau of Land Management, the trailblazers piecing together the ADT were able to meet their goal of completing a detailed map of the trail to offer the Department of the Interior and Department of Agriculture for their 3-year study.

In addition, the ADT will fulfill the goals set by the National Trails System Act: First, establish trails for all Americans; second, link all of America from wilderness areas to urban greenways, and, third, benefit local communities with greater recreational and economic activities.

On a related matter, 3 weeks ago an article appeared in the Omaha World-Herald newspaper where a representative of Omaha's friends of the parks stated they were concerned that the section of the trail originally drawn through Nebraska in 1990 was redrawn through Kansas.

The ADT Planning Committee wished that they had heard from the organizations in Nebraska earlier and looked forward to working with them in the future.

At the same time, the committee became aware of the East-West Katy Trail in Missouri and the Sante Fe Trail in Kansas at a time when the Iowa Trails Council determined that there was no east-west trail corridor available. As a result, the logical direction for the trail to take was to go from Colorado to Kansas and then into Missouri. Therefore, it was the local trail clubs in Kansas and Missouri that helped direct the trail through their States.

Therefore Mr. Speaker, whether you are an experienced hiker, skier, horseback rider, or just leaving the office for the weekend to try out your first pair of hiking boots, the American Discovery Trail will be a treasure that everyone in this country will be able to enjoy.

Mr. Speaker, a companion bill has been introduced in the Senate by Senator HANK BROWN of Colorado. That bill is S. 1537. It has been scheduled for hearing on April 1, and I urge passage of H.R. 3011 and look forward to being able to say that the East and the West are finally combined.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield 5 minutes to the gentleman from Nebraska, [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, this Member rises to be recognized on H.R. 3011, a bill to study the feasibility and desirability of designating the American Discovery Trail a national trail.

Mr. Speaker, this Member would begin by commending the distinguished gentleman from California [Mr. MILLER], the chairman of the Committee on Interior and Insular Affairs, as well as the distinguished gentleman from Alaska [Mr. YOUNG], the ranking member of the committee, for their assistance in bringing this legislation to the floor.

Appropriate commendations are also directed to the distinguished gentleman from Minnesota [Mr. VENTO], the chairman of the subcommittee, and the distinguished gentleman from Montana [Mr. MARLENEE] and the distinguished gentleman from California [Mr. LAGOMARSINO], the ranking members of the subcommittee.

This Member would like to mention his longstanding support for the national trails system as well as his support for the concept of a coast-to-coast trail using existing public rights-of-ways and trails which encourages hikers, bicyclists, and others to discover the many national treasures throughout the country. However, first and foremost, the distinguished gentlewoman from Maryland [Mrs. BYRON] deserves to be highly commended for her introduction of this bill and her great efforts on behalf of this proposed trail.

This Member, however, would like to express his concern about the reported impact that a private business had on the selection of the proposed route for the trail. It recently came to this Member's attention that the original route chosen for the American Discovery Trail was revised in order to recognize the support and contributions of the Wichita-based Coleman Co., a manufacturer of outdoor equipment.

The original route, which crossed Nebraska and Iowa, was reportedly altered after the Coleman Co. joined Chevrolet Truck Sales Co. and Backpacker magazine as corporate sponsors of a three-member team that surveyed the route. Referring to the Coleman Co., the Lincoln (NE) Journal-Star acting on information they received stated in an editorial on March 1, 1992, that "rewarding the firm for a donation motivated by apparent self-interest casts a cloud * * * over the trail revision." Interested parties in Nebraska brought this allegation and information about the deletion of the traditional trails-west Platte River route to this Member's attention only after the Interior Committee had completed their mark up of H.R. 3011.

Certainly, there is nothing wrong with the proposed trail crossing Missouri and Kansas. However, the decision on the trail's route should be based solely on the attributes of the sites and features along a trail route, rather than recognition for contributions by a private business. This Member recommends and expresses his desire that the final version of this proposed trail recognizes the benefits of having the trail cross through Iowa and Nebraska, as originally planned, as well as Missouri and Kansas. This could be achieved by studying the feasibility and eventual implementation of both a northern route and a southern route for the trail through these Midwestern States.

Such an alternative would benefit not only these States but also those who would use this trail. This member believes that an objective study would recognize the desirability of allowing the many hikers and bicyclists the opportunity to discover the numerous historical sites and natural attractions available in Nebraska and Iowa as well as the benefits offered by Missouri and Kansas. This alternative would recognize the importance of the Mormon Trail, the Oregon Trail, the Lewis and Clark Expedition, and the Union Pacific Transcontinental Railroad as well as the Santa Fe Trail.

This Member would conclude by expressing his sincere appreciation to the chairman of the Interior Committee and his staff, including Mr. Rick Healy, for their willingness to listen to this Member's concerns about this proposed trail. This Member would similarly like to thank the gentlewoman from Maryland [Mrs. BRYON] and her staff for their consideration of the concerns which have been mentioned.

Mr. Speaker, however, it is only this Member's desire not to delay this legislation since Nebraska interests expressed their concerns late which permits me to support this legislation today. But I do that only since I have asked the junior Senator from Colorado and other members of the other body to amend their counterpart resolution to H.R. 3011 to include both, and I underline the word "both," the northern route across the Midwest and Great Plains—Illinois, Iowa, Nebraska, and Colorado—as well as the southern route—Illinois, Missouri, Kansas, and Colorado. Therefore, this Member would ask the chairmen and ranking minority members of the full Interior Committee and the subcommittee and other conferees eventually appointed to accept the Senate version in this respect out of both fairness and appropriateness in routing.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. BEREUTER. I yield to the chairman of the subcommittee.

Mr. VENTO. Mr. Speaker, I want to commend the gentleman from Nebraska [Mr. BEREUTER]. He has been one of the most interested Members in the work of the National Parks and Public Lands Subcommittee as a member of that subcommittee, as a member of that subcommittee initially and today is obviously an active Member on the floor.

We certainly want to work with the gentleman from Nebraska to resolve the issue and to provide for an ample study of both the northern and southern versions of this passing through Nebraska, and I guess Wyoming. You cannot get out of Nebraska without going through Wyoming. So we will certainly look to that as a help to try to gain the type of insights we need to provide for ultimate designations.

Mr. Speaker, I thank the gentleman and thank him for his cooperation.

The SPEAKER pro tempore (Mr. MONTGOMERY). The time of the gentleman from Nebraska has expired.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield an additional 30 seconds to the gentleman from Nebraska.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman for yielding me this time.

I thank the chairman of the subcommittee for his very cooperative attitude and his comments about the matter.

I just wanted to emphasize for the record and in recognition of what the chairman has said that this Member is contemplating the study and implementation for both the northern and southern routes. I am not about to have a Nebraska-Kansas dispute here.

I just wondered if the chairman understands that I am suggesting both, and making that quite clear.

Mr. VENTO. Mr. Speaker, if the gentleman will yield, I understand what he is suggesting and I certainly am receptive to it.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska [Mr. HOAGLAND], the other third of the Nebraska delegation and an effective member of the committee who has worked on a variety of different measures and has an extreme interest in this matter.

Mr. HOAGLAND. Mr. Speaker, I thank the committee chairman for yielding me this time.

I want to begin as well by commending the work of the chairman and the staff at the full committee and subcommittee level.

I particularly want to commend the work of our most effective colleague, the gentlewoman from Maryland [Mrs. BYRON] who has had a long and spectacular career here in the House as one of our most worthy, thoughtful, and productive Members. We are going to miss her, I say to the gentlewoman from Maryland, and I think this is an appropriate capstone to a very fine career here in the House. This is a wonderful bill for her to be remembered by, when all is said and done.

I want to second the efforts of my colleague, the gentleman from Nebraska [Mr. BEREUTER] and voice the same concerns. We have received some opposition to this bill in Nebraska because of the proposed route of study, and the opposition that the gentleman from Nebraska [Mr. BEREUTER] has indicated raises a question of how and why Nebraska was not included along the route. I think we know that, but I think it is not too late to propose a Nebraska route as a candidate for an alternate study when the study is actually conducted.

There is no doubt that Nebraska has many trails suitable for hiking, both for their esthetic and their historic value.

The truth of the matter is that the Platte Valley route across America was more widely used, I believe, than any other route in the Midwest. Thousands of explorers, pioneers, and settlers, crossed Nebraska in search of dreams and new lives over trails such as the Mormon Trail, Oxbow Trail, the Oregon Trail, the Pony Express Trail, and the Deadwood Trail.

As the gentleman from Nebraska [Mr. BEREUTER] has indicated, the transcontinental railroad was built along the Platte River Valley. My great-grandfather, George Hoagland, I should note, supplied all of the ties. He ran a lumber company back in the last century and supplied all the ties from Omaha to Promontory Point along the transcontinental route. All these trails by foot, by covered wagon, by rail, bring life to America's history in this country's westward expansion in the last century, and Nebraska played a very important role in it.

Now, Kansas also has its historical and geographic importance that merits inclusion in this study for a national trail as well. The Santa Fe Trail was a very important trail in the development of the West and contains many important criteria.

I do not think we are here today to suggest that it should be one or the other, but we would certainly like inclusion of the Nebraska trails as well.

One possibility would be, of course, to route the national trail through St. Louis and then Kansas City and have it go upward along the Missouri River, as did Lewis and Clark when they explored the great expanses of the Midwest and the West, and then in the vicinity of Omaha join the rest of the trails and follow the Platte River Valley across into Wyoming, Colorado, and specifically Denver and then on across the Nation.

So we would plead that case here, Mr. Speaker, that this legislation be amended at some appropriate point in the Senate or perhaps in conference to include a study of an alternate route, the route that so many pioneers took across Nebraska, and that we let them, the authors of the study, make the ultimate decision as to whether to have one route or to have the trail split into two trails as they go across this part of America.

Mr. MILLER of Ohio. Mr. Speaker, I am pleased to rise today in strong support of H.R. 3011 which amends the National Trails System Act to designate the American Discovery Trail as a study trail, for possible inclusion in the National Trail System. I am impressed by the innovative design of the proposed American Discovery Trail. It makes use of existing trails, when possible; and it will be located almost entirely on public lands. In addition, it will thoughtfully wind near major metropolitan areas to make it more accessible for the general public. It will be the Nation's first coast-to-coast recreational trail.

One of the most attractive aspects of the plan is the encouragement in the bill for the conversion of abandoned rail rights-of-way to trails. Knowing the 10th District of Ohio as I do, I can see distinct possibilities for the worthwhile conversion of abandoned rail property to be included in the American Discovery Trail System. Such conversion would be ideal for trails and bike paths. Instead of unused rail beds wasting into weeds and misuse they could be folded into the trail system and made available to the public.

The proposed American Discovery Trail passes through some of the most inviting scenic areas of southeastern Ohio—through State parks and woodlands rich in history and environmentally appealing. The scenery changes along this stretch of the trail with each passing season. Hiking along paths that pioneers once used to discover America would be an experience of a lifetime. The trail promises to take the public where an automobile could not and where the inspiring handiwork of Mother Nature is evident and untouched.

In addition the trail would spur tourism and travel in rural areas such as southeastern Ohio—an area which has been especially hard hit in recent years. These added dollars would help to prod the much-needed development in these areas, such as for the building of schools, where children can learn about our Nation's past and obtain the skills needed for their future.

I support the idea of the trail for all the reasons outlined. The trail is a good idea and this bill is a major step toward making an idea a reality. I thank the gentlewoman, BEVERLY BYRON, for introducing this bill and I urge my colleagues to support H.R. 3011.

Mr. RITTER. Mr. Speaker, I urge my colleagues to support H.R. 3011 introduced by the avid hiker and gentlewoman from Maryland [Mrs. BYRON].

H.R. 3011 would authorize a study of the American Discovery Trail for designation as a national scenic trail. It would create a 5,000 mile backbone for our National Trails System. Once in place, it will serve as an interstate link for a system of over 30,000 miles for hiking, biking, horseback riding, and skiing; an artery of recreational possibilities.

As a runner, bicyclist, backpacker, and fitness enthusiast, I am not unbiased in my desire to promote the development and expansion of trails. But aside from my personal interest, I strongly encourage these types of activities to promote physical and mental wellness.

More and more, we are experiencing a trend toward healthy exercise and recreation quite apart from organized sports. The No. 1 outdoor activity for Americans is walking for pleasure and fitness. It is both physically and mentally healthy. Over 100 million people are out walking and over 60 million are now bicycling, most often on a regular basis.

Physicians recommend these types of activities not only for fitness but for stress reduction; stress being the underlying cause of so much mental and physical illness.

Backpacker magazine, published by Rodale Press in my district, has led in support of the designation of an American Discovery Trail. Backpacker represents the outdoor industry and over 12 million backpackers. Indeed, I understand they conceived the American Discovery Trail and have contributed to its funding, along with substantial other private sector contributors. However, they face an interesting dilemma. By promoting backpacking—a wonderful way to experience the great outdoors, away from civilization—they are encouraging more people to go into the areas of solitude that they, backpackers themselves, want to experience. A real catch-22 that can be avoided by adding new trails to the backpacker's menu.

Also, as more people become aware of trail resources and understand their value, the more there are to work to enhance the trail's long-term prospects.

Spanning the country from California to Delaware, the concept of an American Discovery Trail [ADT] has begun to capture the hearts of Americans. As initially scouted by American Hiking Society enthusiasts who were privately financed—one of whom, Eric Seaborg, you will hear from today—the American Discovery Trail is for all Americans. The American Hiking Society represents over 100 hiking clubs and, collectively, over 200,000 members. Some $400,000 have been contributed thus far by companies like Chevrolet Trucks, Coleman Outdoor Products, Recreational Equipment Inc. [REI], Nike, Trek Bicycles, Canon, AT&T, Nature Valley, Yakima, Kodak, Spenco, Duofold, Merrell Hiking Boots, Wild Country USA, Nalgene Trail Products, Mountainsmith, and others.

There are segments for hardy backpackers, but most of the trail is accessible to everyone, from youngsters to senior citizens. As spelled out in the Trails for All Americans report, a goal of this project is to encourage the expansion of trails so that, someday, every American will be able to experience such a trail.

Thanks to the tremendous headstart provided by the preliminary scouting work, the cost of the ADT study is now estimated to be less than $200,000.

The American Discovery Trail is not a new trail, with the attending startup problems of land acquisition and funding. It is a trail almost ready for today. The route is there now—virtually all on public lands—linking existing trails on Federal, State, and local lands—except for a few isolated instances where it follows an established trail with long-standing easements across small sections of private land.

It loops through major metropolitan areas such as Denver and Cincinnati, and links them to countless small towns, with beautiful natural areas, along quiet country roads, urban greenways, rail-to-trail conversions, from the prairies to the deserts to the mountains, and along an historic canal towpath, making it accessible to millions of Americans. It provides people in urban areas with an accessible link to nature.

The American Discovery Trail has sparked pride and enthusiasm along its route. Citizens are excited about the prospect of a major trail through their State and through their community.

The American Discovery Trail offers educational and cultural opportunities along its route, both for those who explore a short stretch close to home and for those who plan a trip to a distant state.

It brings American history to life. It follows historic paths such as the Pony Express Trail and the Sante Fe Trail. It passes by a great number of historic sites, such as Abraham Lincoln's boyhood home, and passes right down Main Street through countless small towns that are living museums with century-old stores and homes.

The American Discovery Trail will also be a boon for local economies. A National Park Service study shows that the presence of trails such as the ADT enhance real estate values, small business revenues, tourism, and even corporate relocations.

Towns along the trail route are looking at the results from other areas where trails that connect communities to each other have not only added to the quality of life, but also brought in tourism dollars. For instance, in 1988, the 32-mile Elroy-Sparta Park Trail that winds through five west-central Wisconsin communities brought in an estimated $1,257,000 in trail-related revenue, 49 percent of that from out-of-state tourists.

The American Discovery Trail offers a slice of Americana for anyone who wants to leave their car behind and travel under their own power in the fresh air. It offers scenery, history, and a chance to meet people.

A trail that links the east with the west across the heartland of America would be a priceless asset and could provide the spark for additional trail links that vastly enhance our national trails system.

Mr. Speaker, I urge my colleagues to support this legislation to study the American Discovery Trail. Such a trail can provide millions of Americans with healthy, economical, recreation opportunities and allow more Americans and visitors to experience the diverse geography, social settings and flora and fauna of our great Nation. Such experiences, while boosting travel and tourism, foster unity and respect for America.

Mr. THOMAS of Wyoming. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 3011.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1330

RECOGNIZING TRANSFER FOR THE VIRGIN ISLANDS

Mr. DE LUGO. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 401) recognizing the development of the relationship of the Virgin Islands with the United States.

The Clerk read as follows:

H. RES. 401

Whereas United States efforts to acquire the islands of the Danish West Indies date to at least 1865;

Whereas the United States entered into a convention on August 4, 1916, with His Majesty the King of Denmark to cede these islands, with respect to which the Senate advised ratification on September 7, 1916;

Whereas the territory was ceded from Denmark to the United States effective on January 17, 1917, and formally transferred on March 31, 1917;

Whereas what is now the Virgin Islands has developed socially, economically, and politically since becoming a territory of the United States;

Whereas the people of the Virgin Islands have developed a rich and vibrant culture during this period;

Whereas the territory has prospered as a cosmopolitan center of tourism, manufacturing, and regional trade;

Whereas the people of the Virgin Islands now elect a legislature empowered to enact legislation on all rightful subjects of legislation; elect a governor; elect a delegate to the House of Representatives; have authority to establish a local judicial system; and have authority to organize a government pursuant to a constitution of their own adoption as provided by law;

Whereas the people of the Virgin Islands have been invited by the President to discuss their future relationship with the United States;

Whereas the Government of the Virgin Islands has planned for the people of the territory to determine their political status aspirations;

Whereas the people of the Virgin Islands have demonstrated continuing loyalty to the United States as well as continuing friendship for Denmark;

Whereas the Virgin Islands serve as the United States' gateway to the Eastern Caribbean; and

Whereas it has been 75 years since the transfer: Now, therefore, be it

Resolved, That the House of Representatives recognizes—

(1) the historic significance of the transfer of the Virgin Islands to the United States on its 75th anniversary;

(2) the development of the Virgin Islands during its relationship with the United States;

(3) that as loyal citizens of the United States the people of the Virgin Islands have contributed to the Nation;

(4) the friendship between the people of the territory and Denmark; and

(5) the role of the territory as a link to the Eastern Caribbean region.

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, the gentleman from the Virgin Islands [Mr. DE LUGO] will be recognized for 20 minutes, and the gentleman from Wyoming [Mr. THOMAS] will be recognized for 20 minutes.

The Chair recognizes the gentleman from the Virgin Islands [Mr. DE LUGO].

Mr. DE LUGO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the title of the resolution states, House Resolution 401 would recognize the development of the relationship between the United States and the territory that I am privileged to represent, the Virgin Islands.

This recognition is particularly appropriate this year, which marks the 75th anniversary of the transfer of the Virgin Islands from Denmark to the United States. As you know Mr. Speaker, this anniversary will be marked next Tuesday with appropriate ceremonies and celebrations. I am honored that you have selected me to represent the Speaker on that occasion.

Although the Virgin Islands became a United States territory in 1917, United States interest in acquiring what were then the Danish West Indies dates to at least 1865. In that year, Secretary of State William Seward proposed the purchase of two of the three major islands—St. Thomas and St. John.

A treaty was signed in October 1867, ceding the islands to the United States for $7.5 million. But a growing mood of isolationism and a Congress reluctant to approve another "Seward's Folly" combined to thwart the effort.

Following the outbreak of World War I, United States interest in the islands was renewed because of concern that German occupation of Denmark could lead to German control of the Virgin Islands. That presented a strategic threat to the vital Panama Canal because of the location of the islands and their magnificent ports.

So in 1916, the United States and Denmark entered into a convention to transfer the islands for $25 million. It provided for cession to occur on January 17, 1917, and the islands to be formally transferred when payment was made.

On March 31, 1917, the flag of Denmark was lowered for the last time over the Danish West Indies and the flag of the United States was raised for the first time over what became the Virgin Islands.

U.S. citizenship was conferred on the people of the islands a decade later. And in 1936, an Organic Act established the government of the territory. Under this law, the people of the Virgin Islands elected representatives to municipal councils in St. Croix, St. Thomas, and St. John.

The Organic Act was revised in 1954 to provide increased local autonomy for the islands. It provided for a unified legislature for the territory, as well as for rebate of taxes on locally produced products to fund capital improvements.

The 1954 Revised Organic Act expanded the jurisdiction of the Federal district court for the territory. Incidently, authorization for a second Federal judge was added in 1970. Unfortunately and, I think, to the shame of our country, both judgeships remain vacant today, as they have been since 1989.

In 1968, the people of the Virgin Islands were authorized to elect their Governor and a Lieutenant Governor in 1970. In 1972, the territory was authorized to elect a Delegate to this House in the general election of that year; a position which I have been privileged to have held in all but two of the years since.

In 1976, a law that I sponsored authorized the people of the Virgin Islands to adopt their own constitution. In 1984, another law that I sponsored authorized the territory to establish a court of last resort so that a judicial relationship similar to that which exists between the Federal Government and the States could go into effect.

Mr. Speaker, the resolution would recognize these and other aspects of the islands' political development. It would also recognize the Virgin Islands' impressive social and economic development during its association with the United States.

It would further acknowledge the contributions that the people of the

Virgin Islands have made to the United States. And it would recognize the continuing affection the people of the territory feel for the people of Denmark, and the role that the Virgin Islands plays for our country in the eastern Caribbean region.

It is, in short, a fitting way for this House to express its appreciation for the development of the islands; the relationship between them and the rest of the American political family; and the contributions made by the loyal Americans of our territory to our Nation.

And, although it has not been reported by the committee of jurisdiction—Interior and Insular Affairs—it has been sponsored by a majority of the committee's members.

Mr. Speaker, I urge the House to approve the resolution and I reserve the balance of my time.

Mr. THOMAS of Wyoming. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the resolution commemorating the 75th anniversary of the transfer of the Virgin Islands from Denmark to the United States. We are fortunate to have this lovely set of islands in the Caribbean under the American flag. Columbus landed in the Virgin Islands and in the neighboring island of Puerto Rico, the only territories of the United States to have actually hosted the discoverer firsthand.

Although U.S. sovereignty over the Virgin Islands was established in 1917 and U.S. citizenship extended 10 years later, the U.S. Constitution was made applicable only in part. The U.S. citizens of the Virgin Islands have remained loyal citizens throughout the years, and have served in the Armed Forces in defense of the flag and the Constitution which only partially applies. Certainly they deserve to fully participate in our democracy, with all of the rights, benefits, duties, and responsibilities.

Let me commend the gentleman from the Virgin Islands for bringing this resolution before the House. The people of the Virgin Islands are fortunate to have Mr. RON DE LUGO representing their interests in the Congress. I urge my colleagues to approve this measure.

Mr. Speaker, I yield back the balance of my time.

Mr. DE LUGO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Wyoming [Mr. THOMAS] for those very kind and generous remarks.

Mr. Speaker, once again, I want to urge my colleagues to approve this measure so that people of the Virgin Islands will know how much the House of Representatives appreciates the association we have had over these 75 years.

In conclusion, I want to thank BOB LAGOMARSINO, the ranking minority member of the Insular and International Affairs Subcommittee which I am privileged to chair, for working with me in developing this resolution. I also want to thank the distinguished chairman and ranking minority member of the full Committee on Interior and Insular Affairs, the gentleman from California [Mr. MILLER], and the gentleman from Alaska [Mr. YOUNG], for their cooperation in this matter.

Mr. Speaker, finally, I want to thank the other members who have supported this measure: Majority whip DAVID BONIOR, BRUCE VENTO, PHILIP SHARP, AUSTIN MURPHY, RICHARD LEHMAN, BILL RICHARDSON, WAYNE OWENS, JOHN LEWIS, PETER DEFAZIO, ENI FALEOMAVAEGA, CHARLES SCHUMER, BEN BLAZ, JOSEPH EARLY, CHARLES RANGEL, ROBERT MATSUI, CARDISS COLLINS, BEN JONES, CHARLES HAYES, WILLIAM CLAY, JIM CHAPMAN, BILL BREWSTER, DONALD PAYNE, GUS SAVAGE, RONALD DELLUMS, KWEISI MFUME, FRANK GUARINI, RICHARD NEAL, WILLIAM HUGHES, ESTEBAN TORRES, DALE KILDEE, LOUIS STOKES, CRAIG WASHINGTON, JULIAN DIXON, BOB TRAXLER, ED JENKINS, WILLIAM LEHMAN, GEORGE (BUDDY) DARDEN, PETER KOSTMAYER, NEIL ABERCROMBIE, EDWARD MARKEY, CALVIN DOOLEY, BEN NIGHTHORSE CAMPBELL, PAT WILLIAMS, and HARRY JOHNSTON.

At this point Mr. Speaker, I insert into the RECORD, several statements that were made during celebrations of the 50th anniversary of the transfer of the islands that give an accurate, interesting, and informative description of the real essence of the people of the Virgin Islands. These statements were made by Bishop Cedric Mills, distinguished educator Eldra Shulterbrandt, then Gov. Ralph M. Paiewonsky, and renowned musician Bill LaMotta, and are worth reflecting on today.

The rich West Indian culture and heritage of the people of the Virgin Islands was expressed thus in 1967 by the Right Reverend Cedric E. Mills at the 50-year celebration of the Transfer:

"Let us remember that basically and deep down we have something to contribute to the whole universal culture, and don't ever be in the position of forgetting that. Be proud of this culture. Be sure that it is not swallowed up in some transcontinental era, either coming from the Senate or from Europe or from any place. Stand in the sunlight and be proud."

Also, at the time of the 50-year celebration, Bill La Motta wrote of the music of the islands:

"Contrary to popular belief, in the Virgin Islands calypso is a borrowed folk form. The music played by the scratchbands is really our indigenous music. Within the music is the crude and earthy portrayal of local feeling—colorful, festive, tribal music of the gay masquerade troops, zulu dangers and mocko jumbies. The instruments usually consisted of wourri drums (African tom toms), tambourines, bones, guiros, claves, maracas and five gallon kerosene tins with holes and indentations which produced curious tonal effects when sung into by the leader.

"There were also huge steel triangles, cuatros, pum flutes and tailpipe basses that were made from old cut-down automobile muffler pipes bent into snake curves. To this strange accompaniment the "cariso" singers depicted in song any local incident, embarrassing or otherwise. Many of these haunting, extemporaneous melodies have survived, like "Queen Mary", "Matti-Gru", "Good Morning, Good Morning", "Seedy Bell" and "Roll Isabella". These sings are a part of our folk culture and the music is the true native music of today's cosmopolitan Virgin Islands".

Also at the celebration of the 50th anniversary, Eldra L.M. Shulterbrandt noted in a commemorative for the St. Thomas Friends of Denmark Society:

"We know of no spot in the world that has the magic blend of qualities—human and natural—as we have here in the Virgin Islands. This, then constitutes our 'way of life'—a beautiful, natural setting—people living in dignity and mutual respect for one another with a common goal of creating and developing a better life, each having an opportunity of sharing in the fruits of his labor, in accordance with his ability and regardless of the roots from which he sprang."

And in that same commemorative piece, Ralph M. Paiewonsky, who was Governor of the United States Virgin Islands at the time, had this to say:

"What is a Virgin Islander? The Virgin Islander represents a way of life. He is a man of dignity. He is a member of all races and of different religious beliefs. He selects his friends and associates on the basis of human worth and value without regard to race, creed or color. He is the leader; he is our legislator; he is our administrator; he is our teacher; he is the farmer; he is the laborer—he is in every walk of life. He is our physician, he is our law-enforcement officer; he is the planner; he is the newspaper, radio and TV owner; he is the businessman—he is of all hues and of all beliefs. He is the majority.

"He does not apologize to any man for being a Virgin Islander—he is proud of it—to him it is a title of distinction. He was either born in the Virgin Islands or he came here to live among us with the same ideals, principles and dedication to preserve this way of life. New people who come here to live among us earn this title only after they have proved that they can appreciate, accept and participate in this society of men of goodwill. They are accepted by us, not because they are rich or poor, white or black, Jew or Gentile, Republican or Democrat, but because they are decent human beings. Those who remain outside this happy association are constantly dissatisfied with our Virgin Islands way of life. We in the Virgin Islands welcome all to our shores and we are happy to offer them mutuality and equality, but more we cannot give. We are proud of our way of life, not only because we enjoy it, but because we know it is right. Official and other visitors have repeatedly commented on the ease and harmony in which we live. Many have pointed out that this demonstration represents the greatest asset the Virgin Islands can offer the United States. We will preserve this Virgin Islands way of life, not only because it is important to us and to our children, but because it is important to the world."

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from the Virgin Islands

[Mr. DE LUGO] that the House suspend the rules and agree to the resolution, House Resolution 401.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1340

COMMUNITY MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES IMPROVEMENT ACT OF 1992

Mr. WAXMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3698) to amend the Public Health Service Act with respect to services for mental health and substance abuse, including establishing separate block grants to enhance the delivery of such services, as amended.

The Clerk read as follows:

H.R. 3698

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Community Mental Health and Substance Abuse Services Improvement Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—BLOCK GRANTS TO STATES REGARDING MENTAL HEALTH AND SUBSTANCE ABUSE

Sec. 101. Establishment of separate block grant regarding mental health.
Sec. 102. Establishment of separate block grant regarding substance abuse.
Sec. 103. General provisions regarding block grants.
Sec. 104. Related categorical programs.
Sec. 105. Temporary provisions regarding funding.

TITLE II—OTHER PROGRAMS OF ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Subtitle A—Mental Health

Sec. 201. Service research on community-based treatment programs.
Sec. 202. Program for research on mental health.
Sec. 203. Demonstration projects.
Sec. 204. Establishment of Office of Rural Mental Health.
Sec. 205. Miscellaneous provisions.

Subtitle B—Substance Abuse

PART I—OFFICE FOR TREATMENT IMPROVEMENT

Sec. 211. Establishment, general authorities, and certain programs.
Sec. 212. Conforming amendment.

PART II—OFFICE FOR SUBSTANCE ABUSE PREVENTION

Sec. 221. General activities of Office.
Sec. 222. Prevention, treatment, and rehabilitation model projects for high risk youth.
Sec. 223. Striking of certain provisions; revisions in program for pregnant and postpartum women.
Sec. 224. Training in provision of treatment services.

PART III—OTHER PROVISIONS REGARDING SUBSTANCE ABUSE

Sec. 231. Research on alcohol abuse and alcoholism.
Sec. 232. Research on drug abuse.
Sec. 233. Study by National Academy of Sciences.
Sec. 234. Study of barriers to insurance coverage of treatment for substance abuse.
Sec. 235. Study on fetal alcohol effect and fetal alcohol syndrome.

PART IV—CHILDREN OF SUBSTANCE ABUSERS

Sec. 241. Establishment of program of services.

PART V—MISCELLANEOUS PROVISIONS

Sec. 251. Grants for small instrumentation in research on mental health and substance abuse.

TITLE III—TRAUMA CENTERS AND DRUG-RELATED VIOLENCE

Sec. 301. Establishment of program of grants.
Sec. 302. Conforming amendments.

TITLE IV—NATIONAL COMMISSION ON ALCOHOL AND TOBACCO USE BY CHILDREN

Sec. 401. Establishment and duties of commission.

TITLE V—MISCELLANEOUS

Sec. 501. Physicians comparability allowance.
Sec. 502. Substance abuse among employees of small businesses.

TITLE I—BLOCK GRANTS TO STATES REGARDING MENTAL HEALTH AND SUBSTANCE ABUSE

SEC. 101. ESTABLISHMENT OF SEPARATE BLOCK GRANT REGARDING MENTAL HEALTH.

(a) IN GENERAL.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1)(A) by transferring section 1923 to subpart 3 of part B of title V;

(B) by redesignating such section as section 518A; and

(C) by inserting such section after section 518; and

(2) in part B of title XIX, by striking subparts 1 and 2 and inserting the following:

"Subpart I—Block Grants for Community Mental Health Services

"SEC. 1911. FORMULA GRANTS TO STATES.

"For the purposes described in section 1912, the Secretary, acting through the Director of the National Institute of Mental Health, shall make an allotment each fiscal year for each State in an amount determined in accordance with section 1916. The Secretary shall make a grant to the State of the allotment made for the State for the fiscal year if the Secretary approves for the fiscal year an application submitted by the State pursuant to section 1915.

"SEC. 1912. PURPOSE OF GRANTS.

"(a) COMPREHENSIVE COMMUNITY MENTAL HEALTH SERVICES FOR CERTAIN INDIVIDUALS.—The Secretary may not make a grant under section 1911 unless—

"(1) in the case of fiscal year 1992, the State involved submits to the Secretary a plan for providing comprehensive community mental health services to adults with a serious mental illness and to children with a serious emotional disturbance;

"(2) in the case of fiscal year 1993 and subsequent fiscal years, the State submits such revisions in the plan as the State determines to be appropriate; and

"(3) in the case of each fiscal year—

"(A) the plan (with any revisions) meets the criteria specified in subsection (b);

"(B) the plan (or revision, as the case may be) is approved by the Secretary; and

"(C) the State agrees that—

"(i) the grant will be expended only for the purpose of providing, in accordance with the plan as in effect for the fiscal year, the services described in paragraph (1) to the adults and children described in such paragraph;

"(ii) services under the plan will be provided only through appropriate, qualified community programs (which may include community mental health centers, child mental-health programs, psychosocial rehabilitation programs, mental health peer-support programs, and mental-health primary consumer-directed programs); and

"(iii) services under the plan will be provided through community mental health centers only if the centers meet the criteria specified in subsection (d).

"(b) CRITERIA FOR STATE PLAN.—With respect to the provision of comprehensive community mental health services to individuals who are either adults with a serious mental illness or children with a serious emotional disturbance, the criteria referred to in subsection (a) regarding a plan are as follows:

"(1) The plan provides for the establishment and implementation of an organized community-based system of care for such individuals.

"(2) The plan contains quantitative targets to be achieved in the implementation of such system, including the numbers of such individuals residing in the areas to be served under such system.

"(3) The plan describes services, available treatment options, and available resources (including Federal, State and local public services and resources, and to the extent practicable, private services and resources) to be provided such individuals to enable the individuals to gain access to mental health services, including access to treatment, prevention, and rehabilitation services.

"(4) The plan describes health and mental health services, rehabilitation services, employment services, housing services, educational services, medical and dental care, and other support services to be provided to such individuals with Federal, State and local public and private resources to enable such individuals to function outside of inpatient or residential institutions to the maximum extent of their capabilities, including services to be provided by local school systems under the Individuals with Disabilities Education Act.

"(5) The plan describes the financial resources and staffing necessary to implement the requirements of such plan, including programs to train individuals as providers of mental health services, and the plan emphasizes training of providers of emergency health services regarding mental health.

"(6) The plan provides for activities to reduce the rate of hospitalization of such individuals.

"(7)(A) Subject to subparagraph (B), the plan requires the provision of case management services to each such individual in the State who receives substantial amounts of public funds or services.

"(B) The plan may provide that the requirement of subparagraph (A) will not be substantially completed until the end of fiscal year 1992.

"(8) The plan provides for the establishment and implementation of a program of outreach to, and services for, such individuals.

"(9) In the case of children with serious emotional disturbances, the plan describes a system of integrated social services, educational services, juvenile services, and substance abuse services that, together with health and mental health services, should be provided in order for such children to receive care appropriate for their multiple needs, including services to be provided by local school systems under the Individuals with Disabilities Education Act.

"(10) The plan describes the manner in which mental health services will be provided to the residents of rural areas.

"(c) REQUIREMENT OF IMPLEMENTATION OF PLAN.—

"(1) COMPLETE IMPLEMENTATION.—Except as provided in paragraph (2), in making a grant under section 1911 to a State for a fiscal year, the Secretary shall make a determination of the extent to which the State has implemented the plan required in subsection (a). If the Secretary determines that a State has not completely implemented the plan, the Secretary shall reduce the amount of the allotment under section 1911 for the State for the fiscal year involved by an amount equal to 10 percent of the amount determined under section 1916 for the State for the fiscal year.

"(2) SUBSTANTIAL IMPLEMENTATION AND GOOD FAITH EFFORT REGARDING FISCAL YEAR 1992.—

"(A) In making a grant under section 1911 to a State for fiscal year 1992, the Secretary shall make a determination of the extent to which the State has implemented the plan required in subsection (a). If the Secretary determines that the State has not substantially implemented the plan, the Secretary shall, subject to subparagraph (B), reduce the amount of the allotment under section 1911 for the State for such fiscal year by an amount equal to 10 percent of the amount determined under section 1916 for the State for the fiscal year.

"(B) In carrying out subparagraph (A), if the Secretary determines that the State is making a good faith effort to implement the plan required in subsection (a), the Secretary may make a reduction under such subparagraph in an amount that is less than the amount specified in such subparagraph, except that the reduction may not be made in an amount that is less than 5 percent of the amount determined under section 1916 for the State for fiscal year 1992.

"(d) CRITERIA FOR MENTAL HEALTH CENTERS.—The criteria referred to in subsection (a)(3)(C)(iii) regarding community mental health centers are—

"(1) that, with respect to mental health services, the centers provide—

"(A) services principally to individuals residing in a defined geographic area (hereafter in this subsection referred to as a 'service area');

"(B) outpatient services, including specialized outpatient services for children, the elderly, individuals with a serious mental illness, and residents of the service areas of the centers who have been discharged from inpatient treatment at a mental health facility;

"(C) 24-hour-a-day emergency care services;

"(D) day treatment or other partial hospitalization services, or psychosocial rehabilitation services; and

"(E) screening for patients being considered for admission to State mental health facilities to determine the appropriateness of such admission;

"(2) that the mental health services of the centers are provided, within the limits of the capacities of the centers, to any individual residing or employed in the service area of the center regardless of ability to pay for such services; and

"(3) that the mental health services of the centers are available and accessible promptly, as appropriate and in a manner which preserves human dignity and assures continuity and high quality care.

"(e) PLANNING, ADMINISTRATION, AND EDUCATIONAL ACTIVITIES.—A State may expend a grant under section 1911 for planning, administration, and educational activities related to providing services under the plan of the State under subsection (a). Entities receiving a grant pursuant to such subsection may expend the grant for planning, administration, and educational activities related to providing such services.

"(f) MAINTENANCE OF EFFORT REGARDING STATE EXPENDITURES FOR MENTAL HEALTH.—

"(1) IN GENERAL.—The Secretary may not make a grant under section 1911 for a fiscal year unless the State involved agrees to maintain State expenditures for community mental health services at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying for the grant.

"(2) WAIVER.—The Secretary may, upon the request of a State, waive the requirement established in paragraph (1) if the Secretary determines that extraordinary economic conditions in the State justify the waiver.

"(g) MONITORING OF CERTAIN ENTITIES RECEIVING FACILITIES ASSISTANCE UNDER COMMUNITY MENTAL HEALTH CENTERS ACT.—

"(1) IN GENERAL.—With respect to entities that received payments under the Community Mental Health Centers Act for fiscal year 1981 or prior fiscal years for any of the projects described in section 221(a) of such Act (as such section was in effect on August 12, 1981), if any such entity is located in the State involved and there remains in effect for the entity obligations under agreements made by the entity as a condition of the receipt of the payments, then the Secretary may not make a grant under section 1911 unless the State agrees—

"(A) to monitor the activities of the entity in order to determine the extent to which the entity is complying with such obligations; and

"(B) to submit to the Secretary a report describing the findings made by the State pursuant to subparagraph (A) for the fiscal year involved.

"(2) REPORTS TO CONGRESS.—Not later than February 1 of each fiscal year, the Secretary shall submit to the Congress a report summarizing the information contained in the reports submitted under paragraph (1) to the Secretary by the States for the previous fiscal year. The Secretary shall provide a copy of each such report to the Inspector General of the Department of Health and Human Services.

"(3) DEFINITION.—For purposes of this subsection, the term 'Community Mental Health Centers Act' means such Act as in effect prior to the repeal of the Act on August 13, 1981, by section 902(e)(2)(B) of Public Law 97-35 (95 Stat. 560).

"SEC. 1913. RESTRICTIONS ON USE OF PAYMENTS.

"(a) IN GENERAL.—The Secretary may not make a grant under section 1911 unless the State involved agrees that the grant will not be expended—

"(1) to provide inpatient services;

"(2) to make cash payments to intended recipients of health services;

"(3) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

"(5) to provide financial assistance to any entity other than a public or nonprofit private entity.

"(b) LIMITATION ON ADMINISTRATIVE EXPENSES.—The Secretary may not make a grant under section 1911 unless the State involved agrees that the State will not expend more than 5 percent of the grant for administrative expenses with respect to the grant.

"SEC. 1914. STATE MENTAL HEALTH PLANNING COUNCIL.

"(a) IN GENERAL.—The Secretary may not make a grant under section 1911 unless the State involved agrees to establish and maintain a State mental health planning council in accordance with this section.

"(b) DUTIES.—A Council is in accordance with this section if the duties of the Council are—

"(1) to serve as an advocate for adults with a serious mental illness, children with a severe emotional disturbance, and other individuals with mental illnesses or emotional problems; and

"(2) to monitor, review, and evaluate, not less than once each year, the allocation and adequacy of mental health services within the State.

"(c) MEMBERSHIP.—

"(1) IN GENERAL.—A Council is in accordance with this section if the Council is composed of residents of the State, including representatives of—

"(A) the principal State agencies with respect to—

"(i) mental health, education, vocational rehabilitation, criminal justice, housing, and social services; and

"(ii) the development of the plan submitted pursuant to title XIX of the Social Security Act;

"(iii) public and private entities concerned with the need, planning, operation, funding, and use of mental health services and related support services;

"(B) adults with serious mental illnesses who are receiving (or have received) mental health services; and

"(C) the families of such adults.

"(2) CERTAIN REQUIREMENTS.—A Council is in accordance with the section if—

"(A) with respect to the membership of the Council, the ratio of parents of children with a serious emotional disturbance to other members of the Council is sufficient to provide adequate representation of such children in the deliberations of the Council; and

"(B) not less than 50 percent of the members of the Council are individuals who are not State employees or providers of mental health services.

"(d) AUTHORITY REGARDING INTENDED EXPENDITURES.—A Council may assist the State in the preparation of the description of intended expenditures required in section 1941 with respect to this subpart.

"(e) DEFINITION.—For purposes of this section, the term 'Council' means a State mental health planning council.

"SEC. 1915. APPLICATION FOR GRANT.

"The Secretary may not make payments under section 1911 unless—

"(1) the State involved submits to the Secretary an application for the grant containing any agreement required in this subpart or subpart III as a condition of receiving the grant;

"(2) the agreements are made through certification from the chief executive officer of the State;

"(3) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;

"(4) the application contains the plan required in section 1912(a), the description of intended expenditures required in section 1941(a)(1), and the report required in section 1942(a); and

"(5) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

"SEC. 1916. DETERMINATION OF AMOUNT OF ALLOTMENT.

"(a) STATES.—

"(1) DETERMINATION UNDER FORMULA.—Subject to subsection (b), the Secretary shall determine the amount of the allotment required in section 1911 for a State for a fiscal year in accordance with the following formula:

$$A\left(\frac{X}{U}\right)$$

"(2) DETERMINATION OF TERM 'A'.—For purposes of the formula specified in paragraph (1), the term 'A' means the difference between—

"(A) an amount equal to the amount appropriated under section 1917(a) for allotments under section 1911 for the fiscal year involved; and

"(B) an amount equal to 1.5 percent of the amount referred to in subparagraph (A).

"(3) DETERMINATION OF TERM 'U'.—For purposes of the formula specified in paragraph (1), the term 'U' means the sum of the respective terms 'X' determined for each State under paragraph (4).

"(4) DETERMINATION OF TERM 'X'.—

"(A) For purposes of the formula specified in paragraph (1), the term 'X' means the product of—

"(i) an amount equal to the term 'P', as determined for the State involved under subparagraph (B); and

"(ii) the greater of—

"(I) 0.4; and

"(II) an amount equal to an amount determined for the State in accordance with the following formula:

$$1—.35\left(\frac{S}{N}\right)$$

"(B) For purposes of subparagraph (A)(i), the term 'P' means the sum of—

"(i) an amount equal to the product of—

"(I) 0.107; and

"(II) an amount equal to the number of individuals in the State who are between 18 and 24 years of age (inclusive), as indicated by the most recent data collected by the Bureau of the Census;

"(ii) an amount equal to the product of—

"(I) 0.166; and

"(II) an amount equal to the number of individuals in the State who are between 25 and 44 years of age (inclusive), as indicated by the most recent data collected by the Bureau of the Census;

"(iii) an amount equal to the product of—

"(I) 0.099; and

"(II) an amount equal to the number of individuals in the State who are between 25 and 64 years of age (inclusive), as indicated by the most recent data collected by the Bureau of the Census; and

"(iv) an amount equal to the product of—

"(I) 0.082; and

"(II) an amount equal to the number of individuals in the State who are 65 years of age or older, as indicated by the most recent data collected by the Bureau of the Census.

"(C) In the case of the several States, for purposes of the formula specified in subparagraph (A)(ii)(II), the term 'S' means the quotient of—

"(i) an amount equal to the most recent 3-year average of the total taxable resources of the State involved, as determined by the Secretary of the Treasury; divided by

"(ii) an amount equal to the term 'P', as determined for the State under subparagraph (B).

"(D) In the case of the several States, for purposes of the formula specified in subparagraph (A)(ii)(II), the term 'N' means the quotient of—

"(i) an amount equal to the sum of—

"(I) the sum of the respective amounts determined for each of the several States under subparagraph (C)(i); and

"(II) an amount equal to the most recent 3-year average of the total taxable resources of the District of Columbia, as determined by the Secretary of the Treasury; divided by

"(ii) an amount equal to the sum of the respective terms 'P' determined for each of the several States, and for the District of Columbia, under subparagraph (B).

"(E) In the case of the District of Columbia, for purposes of the formula specified in subparagraph (A)(ii)(II)—

"(i) the term 'S' means the quotient of—

"(I) an amount equal to the most recent 3-year average of the total personal income in such District, as determined by the Secretary of Commerce; divided by

"(II) an amount equal to the term 'P', as determined for such District under subparagraph (B); and

"(ii) the term 'N' means the quotient of—

"(I) an amount equal to the most recent 3-year average of the total personal income in the United States, as determined by the Secretary of Commerce; divided by

"(II) an amount equal to the sum of the respective terms 'P' determined for each of the several States, and for the District of Columbia, under subparagraph (B).

"(b) MINIMUM ALLOTMENT FOR CERTAIN STATES.—If the allotment under section 1911 for a State for a fiscal year would be less than $7,000,000 as determined under subsection (a), the amount of the allotment under such section for the State for the fiscal year shall be the greater of—

"(1) the amount determined for the State under subsection (a); and

"(2) an amount equal to 20.6 percent of the allotment made for the State under section 1912A for fiscal year 1989 (as such section was in effect for such fiscal year).

"(c) TERRITORIES.—

"(1) DETERMINATION UNDER FORMULA.—Subject to paragraphs (2) and (4), the allotment under section 1911 for a territory of the United States shall be the product of—

"(A) an amount equal to the amounts reserved under paragraph (3); and

"(B) a percentage equal to the quotient of—

"(i) the civilian population of the territory, as indicated by the most recently available data; divided by

"(ii) the aggregate civilian population of the territories of the United States, as indicated by such data.

"(2) MINIMUM ALLOTMENT FOR TERRITORIES.—Each territory of the United States shall receive a minimum allotment under section 1911 of $50,000.

"(3) RESERVATION OF AMOUNTS.—The Secretary shall each fiscal year reserve for the territories of the United States 1.5 percent of the amounts appropriated under section 1917(a) for allotments under section 1911 for the fiscal year.

"(4) AVAILABILITY OF DATA ON POPULATION.—With respect to data on the civilian population of the territories of the United States, if the Secretary determines for a fiscal year that recent such data for purposes of paragraph (1)(B) do not exist regarding a territory, the Secretary shall for such purposes estimate the civilian population of the territory by modifying the data on the territory to reflect the average extent of change occurring during the ensuing period in the population of all territories with respect to which recent such data do exist.

"(5) APPLICABILITY OF CERTAIN PROVISIONS.—For purposes of subsection (a), the term 'State' does not include the territories of the United States.

"SEC. 1917. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subpart, subpart III and section 509D with respect to mental health, and section 518A, there are authorized to be appropriated $303,000,000 for fiscal year 1992, $350,000,000 for fiscal year 1993, and $450,000,000 for fiscal year 1994.

"(b) ALLOCATIONS FOR TECHNICAL ASSISTANCE, SERVICE RESEARCH, AND DATA COLLECTION.—

"(1) IN GENERAL.—For the purpose of carrying out section 1949(a) with respect to mental health, section 518A, and the purpose specified in paragraph (2), the Secretary shall obligate 5 percent of the amounts appropriated under subsection (a) for a fiscal year.

"(2) DATA COLLECTION.—The purpose specified in this paragraph is the collection of data—

"(A) to assist in the operation of publicly-supported mental-health service systems; and

"(B) to assist the States in the preparation of the plans required in section 1912.

"(c) AVAILABILITY TO STATES.—

"(1) IN GENERAL.—Subject to paragraph (2), any amounts paid to a State under section 1911 shall be available for obligation until the end of the fiscal year for which the amounts were paid, and if obligated by the end of such year, shall remain available for expenditure until the end of the succeeding fiscal year.

"(2) EXCEPTION REGARDING NONCOMPLIANCE OF SUBGRANTEES.—If a State has in accordance with paragraph (1) obligated amounts paid to the State under section 1911, in any case in which the Secretary determines that the obligation consists of a grant or contract awarded by the State, and that the State has terminated or reduced the amount of such financial assistance on the basis of the failure of the recipient of the assistance to comply with the terms upon which the assistance was conditioned—

"(A) the amounts involved shall be available for reobligation by the State through September 30 of the fiscal year following the fiscal year for which the amounts were paid to the State; and

"(B) any of such amounts that are obligated by the State in accordance with subparagraph (A) shall be available for expenditure through such date.".

(b) CONFORMING AMENDMENT.—Part B of title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) is amended by amending the heading for the part to read as follows:

"PART B—BLOCK GRANTS REGARDING MENTAL HEALTH AND SUBSTANCE ABUSE".

SEC. 102. ESTABLISHMENT OF SEPARATE BLOCK GRANT REGARDING SUBSTANCE ABUSE.

Part B of title XIX of the Public Health Service Act, as amended by section 101 of this Act, is amended by adding at the end the following:

"Subpart II—Block Grants for Prevention and Treatment of Substance Abuse

"SEC. 1921. FORMULA GRANTS TO STATES.

"(a) IN GENERAL.—For the purpose described in subsection (b), the Secretary, acting through the Director of the Office for Treatment Improvement, shall make an allotment each fiscal year for each State in an amount determined in accordance with section 1931. The Secretary shall make a grant to the State of the allotment made for the State for the fiscal year if the State makes each of the agreements described in this subpart, and in subpart III with respect to substance abuse, and the State submits to the Secretary an application in accordance with section 1930.

"(b) AUTHORIZED ACTIVITIES.—A funding agreement under subsection (a) is that, subject to section 1929, the State involved will expend a grant under subsection (a) only for the purpose of planning, carrying out, and evaluating activities to prevent and treat the abuse of alcohol and other drugs.

"SEC. 1922. CERTAIN ALLOCATIONS.

"(a) PRIORITY FOR CERTAIN COMMUNITIES.—A funding agreement under section 1921 is that, in expending a grant under such section, the State involved will give priority to carrying out authorized activities in communities with the highest prevalence of substance abuse or the greatest need for treatment services, as determined by the State after consideration of—

"(1) the demand for such services or a need for such services that exceeds the capacity to provide such services;

"(2) a high prevalence of drug-related criminal activities; and

"(3) a high incidence of communicable diseases transmitted through intravenous drug abuse.

"(b) ALLOCATIONS REGARDING ALCOHOL AND OTHER DRUGS.—A funding agreement under section 1921 is that, in expending a grant under such section, the State involved will expend—

"(1) not less than 35 percent for prevention and treatment activities regarding alcohol; and

"(2) not less than 35 percent for prevention and treatment activities regarding other drugs.

"(c) ALLOCATION REGARDING PRIMARY PREVENTION PROGRAMS.—With respect to individuals who do not engage in drug abuse, a funding agreement under section 1921 is that, in expending a grant under such section, the State involved—

"(1) will expend not less than 20 percent for programs designed to educate the individuals on such abuse and to encourage the individuals to continue abstaining from such abuse; and

"(2) will, in carrying out paragraph (1)—

"(A) give priority to programs for populations that are at risk of developing a pattern of such abuse; and

"(B) ensure that programs receiving priority under subparagraph (A) develop community-based strategies for the prevention of such abuse, including strategies to discourage the use of alcoholic beverages and tobacco products by individuals to whom it is unlawful to sell or distribute such beverages or products.

"(d) ALLOCATIONS REGARDING WOMEN.—

"(1) IN GENERAL.—Subject to paragraph (2), a funding agreement under section 1921 is that, in expending a grant under such section, the State involved—

"(A)(i) for fiscal year 1992, will expend not less than 5 percent to increase (relative to fiscal year 1991) the availability of treatment services designed for pregnant women and women with dependent children (either by establishing new programs or expanding the capacity of existing programs);

"(ii) for fiscal year 1993, will expend not less than 10 percent to so increase (relative to fiscal year 1992) the availability of such services for such women; and

"(iii) for fiscal year 1994, will expend not less than 10 percent to so increase (relative to fiscal year 1993) the availability of such services for such women; and

"(B)(i) for fiscal year 1993, will expend, in addition to amounts expended pursuant to clause (ii) of subparagraph (A), 5 percent to maintain the level of availability of services provided pursuant to clause (i) of such subparagraph for fiscal year 1992; and

"(ii) for fiscal year 1994, will expend, in addition to amounts expended pursuant to clause (iii) of subparagraph (A), 15 percent to maintain the level of availability of services provided pursuant to clauses (i) and (ii) of such subparagraph for fiscal year 1993.

"(2) WAIVER.—

"(A) Upon the request of a State, the Secretary may provide to the State a waiver of all or part of the requirement established in paragraph (1) if the Secretary determines that the State is providing an adequate level of treatments services for women described in such paragraph, as indicated by a comparison of the number of such women seeking the services with the availability in the State of the services.

"(B) The Secretary shall approve or deny a request for a waiver under subparagraph (A) not later than 120 days after the date on which the request is made.

"(C) Any waiver provided by the Secretary under subparagraph (A) shall be applicable only to the fiscal year involved.

"(3) CHILDCARE AND PRENATAL CARE.—A funding agreement under section 1921 for a State is that each entity providing treatment services with amounts reserved under paragraph (1) by the State will make available childcare and prenatal care to women receiving the treatment services.

"(e) CONTINUATION OF CERTAIN PROGRAMS.—

"(1) IN GENERAL.—In the case of any entity that received a grant under section 509E for fiscal year 1991 to carry out a program of services in the State involved, a funding agreement under section 1921 for the State for a fiscal year is that, subject to paragraph (2)—

"(A) the State will expend the grant under section 1921 to provide financial assistance to the entity for the purpose of continuing the program; and

"(B) the amount of such assistance for the fiscal year will be an amount equal to the amount the entity received under section 509E for fiscal year 1991.

"(2) WAIVER.—The Secretary shall waive the requirement established in paragraph (1) with respect to a program of services if the State involved certifies to the Secretary that, in the geographic area in which the program is carried out, there is no need for the services of the program.

"SEC. 1923. INTRAVENOUS SUBSTANCE ABUSE.

"(a) ALLOCATION.—

"(1) IN GENERAL.—Subject to paragraph (2), a funding agreement under section 1921 is that, of the amounts reserved under section 1922(b)(2) by a State, the State will expend not less than 25 percent—

"(A) to develop, implement, and operate programs of treatment for intravenous drug abuse, with priority given to programs to treat individuals infected with the etiologic agent for acquired immune deficiency syndrome;

"(B) to train drug abuse counselors, and other health care providers, to provide such treatment; and

"(C) with respect to individuals in need of treatment for intravenous drug abuse, to carry out outreach activities for the purpose of encouraging such individuals to undergo such treatment.

"(2) ADJUSTMENT BY SECRETARY.—

"(A) If the Secretary determines that the incidence of intravenous drug abuse in a State requires a greater level of funding than the level of funding provided pursuant to paragraph (1), the Secretary may increase the percentage specified in such paragraph, subject to not exceeding 50 percent.

"(B) For purposes of subparagraph (A), the Secretary shall make a determination for each fiscal year of the percentage that is to be in effect for each State for the fiscal year. After making such a determination for a State for the fiscal year, the Secretary may not during such year alter the percentage, except as provided in paragraph (3).

"(3) WAIVER.—

"(A) Upon the request of a State, the Secretary may provide to the State a waiver of all or part of the requirement established under paragraph (1) for the State if the Secretary determines that the incidence of intravenous drug abuse in the State does not require the level of funding required under such paragraph.

"(B) The Secretary shall approve or deny a request for a waiver under subparagraph (A) not later than 120 days after the date on which the request is made. The Secretary may approve such request only after providing interested persons in the State an opportunity to comment upon the request.

"(C) Any waiver provided by the Secretary under subparagraph (A) shall be applicable only to the fiscal year involved.

"(b) CAPACITY OF TREATMENT PROGRAMS.—

"(1) NOTIFICATION OF REACHING CAPACITY.—A funding agreement under section 1921 is that the State involved will, in the case of programs of treatment for intravenous drug abuse, require that any such program receiving amounts from a grant under such section, upon reaching 90 percent of its capacity to admit individuals to the program, provide to the State a notification of such fact.

"(2) PROVISION OF TREATMENT.—A funding agreement under section 1921 is that the State involved will, with respect to notifications under paragraph (1), ensure that each individual who requests and is in need of treatment for intravenous drug abuse is admitted to a program of such treatment not later than 7 days after making the request.

"(c) OUTREACH REGARDING INTRAVENOUS SUBSTANCE ABUSE.—A funding agreement under section 1921 is that the State involved, in providing amounts from a grant under such section to any entity for treatment services for intravenous drug abuse, will require the entity to carry out outreach activities described in subsection (a)(1)(C).

"(d) EARLY INTERVENTION SERVICES REGARDING HUMAN IMMUNODEFICIENCY VIRUS.—

"(1) In general.—Subject to paragraph (2), a funding agreement under section 1921 is that—

"(A) the State involved will require that any entity receiving amounts from a grant under such section for the provision of treatment services for drug abuse will routinely offer and encourage early intervention services for HIV disease with respect to each individual seeking treatment for such abuse;

"(B) the early intervention services will be undertaken voluntarily and with the informed consent of the individual, and will not be required as a condition of receiving treatment services for drug abuse or other services; and

"(C) information regarding receipt of the early intervention services will be confidential.

"(2) Limitation.—With respect to compliance by a State with an agreement under paragraph (1), an entity described in subparagraph (A) of such paragraph may not be required to offer, encourage, or provide early intervention services for HIV disease after the entity has in offering, encouraging, and providing such services obligated 12.5 percent of the amounts received by the entity from the grant made under section 1921 to the State for the fiscal year involved.

"(3) Provision of services through other entities.—With respect to compliance by a State with an agreement under paragraph (1), an entity may expend the amounts involved to provide early intervention services directly and may expend the amounts to enter into agreements with other public or nonprofit private entities under which the other entities will provide the services.

"(4) Requirements regarding offering and encouraging services.—For purposes of this section, an entity to which the requirements of this subsection apply is offering and encouraging early intervention services with respect to individuals if the entity—

"(A) offers such services to the individuals, and encourages the individuals to receive the services, as a regular practice in the course of providing treatment services for drug abuse; and

"(B) provides the early intervention services only with the consent of the individuals.

"(5) Definitions.—For purposes of this subsection:

"(A) The term 'early intervention services', with respect to HIV disease, means—

"(i) appropriate pretest counseling;

"(ii) testing individuals with respect to such disease, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the disease;

"(iii) appropriate post-test counseling; and

"(iv) providing the therapeutic measures described in clause (ii).

"(B) The term 'HIV disease' means infection with the etiologic agent for acquired immune deficiency syndrome.

"SEC. 1924. GROUP HOMES FOR RECOVERING SUBSTANCE ABUSERS.

"(a) State Revolving Funds for Establishment of Homes.—For fiscal year 1992 and subsequent fiscal years, the Secretary may not make a grant under section 1921 unless the State involved has established, and is providing for the ongoing operation of, a revolving fund as follows:

"(1) The purpose of the fund is to make loans for the costs of establishing programs for the provision of housing in which individuals recovering from alcohol or drug abuse may reside in groups of not less than 6 individuals. The fund is established directly by the State or through the provision of a grant or contract to a nonprofit private entity.

"(2) The programs are carried out in accordance with guidelines issued under subsection (b).

"(3) Not less than $100,000 is available for the fund.

"(4) Loans made from the revolving fund do not exceed $4,000 and each such loan is repaid to the revolving fund by the residents of the housing involved not later than 2 years after the date on which the loan is made.

"(5) Each such loan is repaid by such residents through monthly installments, and a reasonable penalty is assessed for each failure to pay such periodic installments by the date specified in the loan agreement involved.

"(6) Such loans are made only to nonprofit private entities agreeing that, in the operation of the program established pursuant to the loan—

"(A) the use of alcohol or any illegal drug in the housing provided by the program will be prohibited;

"(B) any resident of the housing who violates such prohibition will be expelled from the housing;

"(C) the costs of the housing, including fees for rent and utilities, will be paid by the residents of the housing; and

"(D) the residents of the housing will, through a majority vote of the residents, otherwise establish policies governing residence in the housing, including the manner in which applications for residence in the housing are approved.

"(b) Issuance by Secretary of Guidelines.—The Secretary, acting through the Administrator, shall ensure that there are in effect guidelines issued by the Secretary for the operation of programs described in subsection (a).

"(c) Applicability to Territories.—The requirements established in subsection (a) shall not apply to any territory of the United States other than the Commonwealth of Puerto Rico.

"SEC. 1925. STATE LAW REGARDING SALE OF TOBACCO PRODUCTS TO INDIVIDUALS UNDER AGE OF 18.

"(a) Relevant Law.—

"(1) In general.—Subject to paragraph (2), for fiscal year 1994 and subsequent fiscal years, the Secretary may not make a grant under section 1921 unless the State involved has in effect a law providing that it is unlawful for any manufacturer, retailer, or distributor of tobacco products to sell or distribute any such product to any individual under the age of 18.

"(2) Delayed applicability for certain States.—In the case of a State whose legislature does not convene a regular session in fiscal year 1992, and in the case of a State whose legislature does not convene a regular session in fiscal year 1993, the requirement described in paragraph (1) as a condition of a receipt of a grant under section 1921 shall apply only for fiscal year 1995 and subsequent fiscal years.

"(b) Enforcement.—

"(1) In general.—For the first applicable fiscal year and for subsequent fiscal years, a funding agreement under section 1921 is that the State involved will enforce the law described in subsection (a) in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 18.

"(2) Activities and reports regarding enforcement.—For the first applicable fiscal year and for subsequent fiscal years, a funding agreement under section 1921 is that the State involved will—

"(A) annually conduct random, unannounced inspections to ensure compliance with the law described in subsection (a); and

"(B) annually submit to the Secretary a report describing—

"(i) the activities carried out by the State to enforce such law during the fiscal year preceding the fiscal year for which the State is seeking a grant under section 1921;

"(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18; and

"(iii) the strategies to be utilized by the State for enforcing such law during the fiscal year for which the grant is sought.

"(c) Noncompliance of State.—Before making a grant under section 1921 to a State for the first applicable fiscal year or any subsequent fiscal year, the Secretary shall make a determination of whether the State has maintained compliance with subsections (a) and (b). If, after notice to the State and an opportunity for a hearing, the Secretary determines that the State is not in compliance with such subsections, the Secretary shall reduce the amount of the allotment under such section for the State for the fiscal year involved by an amount equal to—

"(1) in the case of the first applicable fiscal year, 10 percent of the amount determined under section 1931 for the State for the fiscal year;

"(2) in the case of the first fiscal year following such applicable fiscal year, 20 percent of the amount determined under section 1931 for the State for the fiscal year;

"(3) in the case of the second such fiscal year, 30 percent of the amount determined under section 1931 for the State for the fiscal year; and

"(4) in the case of the third such fiscal year or any subsequent fiscal year, 40 percent of the amount determined under section 1931 for the State for the fiscal year.

"(d) Definition.—For purposes of this section, the term 'first applicable fiscal year' means—

"(1) fiscal year 1995, in the case of any State described in subsection (a)(2); and

"(2) fiscal year 1994, in the case of any other State.

"SEC. 1926. TREATMENT SERVICES FOR PREGNANT WOMEN.

"(a) In General.—A funding agreement under section 1921 is that the State involved—

"(1) will ensure that treatment services are available to each pregnant woman in the State who seeks or is referred for and would benefit from such services; and

"(2) will, in carrying out paragraph (1)—

"(A) identify facilities in the State that provide treatment services to such women;

"(B) publicize the availability to the women of services from the facilities; and

"(C) provide to the Secretary a list of the facilities and an assessment of the capability of the programs to meet the needs of such women for treatment services.

"(b) Referrals by States.—A funding agreement under section 1921 is that the State involved, in carrying out subsection (a)(1)—

"(1) will require that, in the event that a treatment facility has insufficient capacity to provide treatment services to any woman described in such subsection who seeks the services from the facility, the facility refer the woman to the State; and

"(2) will, in the case of each woman for whom a referral under paragraph (1) is made to the State, refer the woman to a treatment facility that has the capacity to provide treatment services to the woman or will otherwise ensure that such services are made available to the woman.

"SEC. 1927. ADDITIONAL AGREEMENTS.

"(a) Performance-Based Evaluation as Condition of Carrying Out Authorized Activities.—A funding agreement under section 1921 is that the State involved—

"(1) will make an evaluation of an entity before providing to the entity amounts from a grant under such section in order that the entity may carry out prevention or treatment activities or both;

"(2) will provide such amounts to the entity only if the evaluation indicates that the program of the entity for carrying out the activity involved is efficient and effective; and

"(3) will conduct the evaluation according to criteria that measure the performance of the entity.

"(b) Improvement of Process for Appropriate Referrals for Treatment.—With respect to individuals seeking treatment services, a funding agreement under section 1921 is that the State involved will, relative to fiscal year 1991, improve the process in the State for referring the individuals to treatment facilities that can provide to the individuals the treatment modality that is most appropriate for the individuals.

"(c) Continuing Education.—With respect to any prevention or treatment facility that is receiving amounts from a grant under section 1921, a funding agreement under such section is that continuing education in treatment services will be provided by the facility to employees of the facility who provide the services.

"(d) Coordination of Various Activities and Services.—A funding agreement under section 1921 is that the State involved will coordinate prevention and treatment activities with health, social, correctional and criminal justice, educational, vocational rehabilitation, and employment services.

"(e) Waiver of Requirements.—

"(1) In general.—Upon the request of a State, the Secretary may provide to a State a waiver of any or all of the requirements established in this section if the Secretary determines that, with respect to the prevention and treatment of the abuse of alcohol and other drugs, the requirement is unnecessary for the State.

"(2) Date certain for acting upon request.—The Secretary shall approve or deny a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made.

"(3) Applicability of waiver.—Any waiver provided by the Secretary under paragraph (1) shall be applicable only to the fiscal year involved.

"SEC. 1928. SUBMISSION TO SECRETARY OF CERTAIN INFORMATION.

"(a) Statewide Assessment of Needs.—

"(1) In general.—The Secretary may not make a grant under section 1921 unless the State submits to the Secretary an assessment of the need in the State for authorized activities, both by locality and by the State in general, which assessment includes a description of—

"(A) current prevention and treatment activities in the State;

"(B) the need of the State for technical assistance to carry out such activities;

"(C) efforts by the State to improve such activities; and

"(D) the extent to which the availability of such activities is insufficient to meet the need for the activities, and the plans of the State to meet any unmet such need.

"(2) Specification of methodology for making assessment.—The Secretary may not make a grant under section 1921 unless the assessment submitted to the Secretary pursuant to paragraph (1) specifies the methodology through which the assessment was made.

"(b) Methodology for Allocations Among Prevention and Treatment Activities.—The Secretary may not make a grant under section 1921 unless the State submits to the Secretary a description of the methodology by which the State will allocate the grant among prevention activities and treatment activities.

"(c) Coordination With Drug-Free Schools and Communities Act.—The Secretary may not make a grant under section 1921 unless the State submits to the Secretary a description of the manner in which grants made under the Drug-Free Schools and Communities Act of 1986 coordinate with other statewide efforts on prevention and treatment activities.

"(d) Waiver of Requirements.—

"(1) In general.—Upon the request of a State, the Secretary may provide to the State a waiver of any or all of the requirements established in any of subsections (a) through (c) if the Secretary determines that, with respect to the prevention and treatment of the abuse of alcohol and other drugs, the requirement involved is unnecessary for the State.

"(2) Date certain for acting upon request.—The Secretary shall approve or deny a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made.

"(3) Applicability.—Any waiver provided by the Secretary under paragraph (1) shall be applicable only to the fiscal year involved.

"SEC. 1929. RESTRICTIONS ON EXPENDITURE OF GRANT.

"(a) In General.—

"(1) Certain restrictions.—A funding agreement under section 1921 is that the State involved will not expend a grant under such section—

"(A) to provide inpatient hospital services, except as provided in subsection (b);

"(B) to make cash payments to intended recipients of health services;

"(C) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(D) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

"(E) to provide financial assistance to any entity other than a public or nonprofit private entity.

"(2) Limitation on administrative expenses.—A funding agreement under section 1921 is that the State involved will not expend more than 5 percent of a grant under such section to pay the costs of administering the grant.

"(3) Limitation regarding penal and correctional institutions.—A funding agreement under section 1921 for a State is that, in expending a grant under such section for the purpose of providing treatment services in penal or correctional institutions of the State, the State will not expend more than an amount equal to the amount expended for such purpose by the State from the grant made under section 1912A to the State for fiscal year 1991 (as section 1912A was in effect for such fiscal year).

"(b) Exception Regarding Inpatient Hospital Services.—

"(1) Medical necessity as precondition.—With respect to compliance with the agreement made under subsection (a), a State may expend a grant under section 1921 to provide inpatient hospital services as treatment for substance abuse only if it has been determined that such treatment is a medical necessity for the individual involved, and that the individual cannot be effectively treated in a community-based, nonhospital, residential program of treatment.

"(2) Rate of payment.—In the case of an individual for whom a grant under section 1921 is expended to provide inpatient hospital services described in paragraph (1), a funding agreement under such section for the State involved is that the daily rate of payment provided to the hospital for providing the services to the individual will not exceed the comparable daily rate provided for community-based, nonhospital, residential programs of treatment for substance abuse.

"(c) Waiver regarding construction of facilities.—

"(1) In general.—The Secretary may provide to any State a waiver of the restriction established in subsection (a)(1)(C) for the purpose of authorizing the State to expend a grant under section 1921 for the construction of a new facility or rehabilitation of an existing facility, but not for land acquisition.

"(2) Standard regarding need for waiver.—The Secretary may approve a waiver under paragraph (1) only if the State demonstrates to the Secretary that adequate treatment cannot be provided through the use of existing facilities and that alternative facilities in existing suitable buildings are not available.

"(3) Amount.—In granting a waiver under paragraph (1), the Secretary shall allow the use of a specified amount of funds to construct or rehabilitate a specified number of beds for residential treatment and a specified number of slots for outpatient treatment, based on reasonable estimates by the State of the costs of construction or rehabilitation. In considering waiver applications, the Secretary shall ensure that the State has carefully designed a program that will minimize the costs of additional beds.

"(4) Matching funds.—The Secretary may grant a waiver under paragraph (1) only if the State agrees, with respect to the costs to be incurred by the State in carrying out the purpose of the waiver, to make available non-Federal contributions in cash toward such costs in an amount equal to not less than $1 for each $1 of Federal funds provided under section 1921.

"(5) Date certain for acting upon request.—The Secretary shall act upon a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made.

"SEC. 1929A. MAINTENANCE OF EFFORT REGARDING STATE EXPENDITURES.

"(a) In General.—A funding agreement under section 1921 for a State for a fiscal year is that State will for such year maintain State expenditures for prevention and treatment activities regarding alcohol, and for prevention and treatment activities regarding other drugs, respectively, at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying for the grant.

"(b) Waiver.—

"(1) In general.—Upon the request of a State, the Secretary may waive all or part of the requirement established in subsection (a) regarding alcohol, or regarding other drugs, or both, if the Secretary determines that extraordinary economic conditions in the State justify the waiver.

"(2) DATE CERTAIN FOR ACTING UPON REQUEST.—The Secretary shall approve or deny a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made.

"(3) APPLICABILITY OF WAIVER.—Any waiver provided by the Secretary under paragraph (1) shall be applicable only to the fiscal year involved.

"SEC. 1930. APPLICATION FOR GRANT; APPROVAL OF STATE PLAN.

"(a) IN GENERAL.—For purposes of section 1921, an application for a grant under such section for a fiscal year is in accordance with this section if—

"(1) the State involved submits the application not later than the date specified by the Secretary as being the date after which applications for such a grant will not be considered (in any case in which the Secretary specifies such a date);

"(2) the application contains each funding agreement under section 1921;

"(3) the agreements are made through certification from the chief executive officer of the State;

"(4) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;

"(5) the application contains the information required in section 1928;

"(6) subject to subsection (c)(2)—

"(A) the application contains a plan in accordance with subsection (b) and the plan is approved by the Secretary; and

"(B) the State provides assurances satisfactory to the Secretary that the State complied with the provisions of the plan under subparagraph (A) that was approved by the Secretary for the most recent fiscal year for which the State received a grant under section 1921; and

"(7) the application (including the plan under paragraph (6)) is otherwise in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

"(b) STATE PLAN.—

"(1) IN GENERAL.—A plan submitted by a State under subsection (a)(6) is in accordance with this subsection if the plan contains detailed provisions for complying with each funding agreement under section 1921, including provisions for expending the grant under such section.

"(2) AUTHORITY OF SECRETARY REGARDING MODIFICATIONS.—As a condition of making a grant under section 1921 to a State for a fiscal year, the Secretary may require that the State modify any provision of the plan submitted by the State under subsection (a)(6) (including provisions on priorities in carrying out authorized activities). If the Secretary approves the plan and makes the grant to the State for the fiscal year, the Secretary may not during such year require the State to modify the plan.

"(3) AUTHORITY OF OFFICE OF SUBSTANCE ABUSE PREVENTION.—With respect to plans submitted by the States under subsection (a)(6), the Secretary, acting through the Director of the Office for Substance Abuse Prevention, shall review and approve or disapprove the provisions of the plans that relate to prevention activities.

"(c) ISSUANCE OF REGULATIONS; APPLICABILITY OF REQUIREMENT OF PLAN.—

"(1) REGULATIONS.—The Secretary, acting as appropriate through the Director of the Office for Treatment Improvement or the Director of the Office for Substance Abuse Prevention, shall by regulation establish standards specifying the circumstances in which the Secretary will consider an application for a grant under section 1921 to be in accordance with this section.

"(2) APPLICABILITY OF REQUIREMENT OF PLAN.—The requirement established in subsection (a)(6) regarding a plan shall not apply until October 1 of the first fiscal year beginning after the date on which, under paragraph (1), the Secretary issues standards for the plan.

"SEC. 1931. DETERMINATION OF AMOUNT OF ALLOTMENT.

"(a) STATES.—

"(1) DETERMINATION UNDER FORMULA.—Subject to subsection (b), the Secretary shall determine the amount of the allotment required in section 1921 for a State for a fiscal year in accordance with the following formula:

$$A\left(\frac{X}{U}\right)$$

"(2) DETERMINATION OF TERM 'A'.—For purposes of the formula specified in paragraph (1), the term 'A' means the difference between—

"(A) an amount equal to the amount appropriated under section 1933(a) for allotments under section 1921 for the fiscal year involved; and

"(B) an amount equal to 1.5 percent of the amount referred to in subparagraph (A).

"(3) DETERMINATION OF TERM 'U'.—For purposes of the formula specified in paragraph (1), the term 'U' means the sum of the respective terms 'X' determined for each State under paragraph (4).

"(4) DETERMINATION OF TERM 'X'.—

"(A) For purposes of the formula specified in paragraph (1), the term 'X' means the product of—

"(i) an amount equal to the term 'P', as determined for the State involved under subparagraph (B); and

"(ii) the greater of—

"(I) 0.4; and

"(II) an amount equal to an amount determined for the State in accordance with the following formula:

$$1-.35\left(\frac{S}{N}\right)$$

"(B) For purposes of subparagraph (A)(i), the term 'P' means the sum of—

"(i) an amount equal to the product of—

"(I) 04; and

"(II) an amount equal to the population living in urbanized areas of the State involved, as indicated by the most recent data collected by the Bureau of the Census;

"(ii) an amount equal to the product of—

"(I) 0.2; and

"(II) an amount equal to the number of individuals in the State who are between 18 and 24 years of age (inclusive) as indicated by the most recent data collected by the Bureau of the Census;

"(iii) an amount equal to the product of—

"(I) 0.2; and

"(II) an amount equal to the number of individuals in the State who are between 25 and 44 years of age (inclusive) as indicated by the most recent data collected by the Bureau of the Census; and

"(iv) an amount equal to the product of—

"(I) 0.2; and

"(II) an amount equal to the number of individuals in the State who are between 25 and 64 years of age (inclusive) as indicated by the most recent data collected by the Bureau of the Census.

"(C) In the case of the several States, for purposes of the formula specified in subparagraph (A)(ii)(II), the term 'S' means the quotient of—

"(i) an amount equal to the most recent 3-year average of the total taxable resources of the State involved, as determined by the Secretary of the Treasury; divided by

"(ii) an amount equal to the term 'P', as determined for the State under subparagraph (B).

"(D) In the case of the several States, for purposes of the formula specified in subparagraph (A)(ii)(II), the term 'N' means the quotient of—

"(i) an amount equal to the sum of—

"(I) the sum of the respective amounts determined for each of the several States under subparagraph (C)(i); and

"(II) an amount equal to the most recent 3-year average of the total taxable resources of the District of Columbia, as determined by the Secretary of the Treasury; divided by

"(ii) an amount equal to the sum of the respective terms 'P' determined for each of the several States, and for the District of Columbia, under subparagraph (B).

"(E) In the case of the District of Columbia, for purposes of the formula specified in subparagraph (A)(ii)(II)—

"(i) the term 'S' means the quotient of—

"(I) an amount equal to the most recent 3-year average of the total personal income in such District, as determined by the Secretary of Commerce; divided by

"(II) an amount equal to the term 'P', as determined for such District under subparagraph (B); and

"(ii) the term 'N' means the quotient of—

"(I) an amount equal to the most recent 3-year average of the total personal income in the United States, as determined by the Secretary of Commerce; divided by

"(II) an amount equal to the sum of the respective terms 'P' determined for each of the several States, and for the District of Columbia, under subparagraph (B).

"(b) MINIMUM ALLOTMENT FOR CERTAIN STATES.—If the allotment under section 1921 for a State for a fiscal year would be less than $7,000,000 as determined under subsection (a), the amount of the allotment under such section for the State for the fiscal year shall be the greater of—

"(1) the amount determined for the State under subsection (a); and

"(2) an amount equal to 79.4 percent of the allotment made for the State under section 1912A for fiscal year 1989 (as such section was in effect for such fiscal year).

"(c) TERRITORIES.—

"(1) DETERMINATION UNDER FORMULA.—Subject to paragraphs (2) and (4), the allotment under section 1921 for a territory of the United States shall be the product of—

"(A) an amount equal to the amounts reserved under paragraph (3); and

"(B) a percentage equal to the quotient of—

"(i) the civilian population of the territory, as indicated by the most recently available data; divided by

"(ii) the aggregate civilian population of the territories of the United States, as indicated by such data.

"(2) MINIMUM ALLOTMENT FOR TERRITORIES.—Each territory of the United States shall receive a minimum allotment under section 1921 of $50,000.

"(3) RESERVATION OF AMOUNTS.—The Secretary shall each fiscal year reserve for the territories of the United States 1.5 percent of the amounts appropriated under section 1933(a) for allotments under section 1921 for the fiscal year.

"(4) AVAILABILITY OF DATA ON POPULATION.—With respect to data on the civilian population of the territories of the United States, if the Secretary determines for a fiscal year that recent such data for purposes of paragraph (1)(B) do not exist regarding a territory, the Secretary shall for such purposes estimate the civilian population of the territory by modifying the data on the territory to reflect the average extent of change occurring during the ensuing period in the population of all territories with respect to which recent such data do exist.

"(5) APPLICABILITY OF CERTAIN PROVISIONS.—For purposes of subsections (a) and (b), the term 'State' does not include the territories of the United States.

"(d) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—

"(1) IN GENERAL.—If the Secretary—

"(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this subpart be provided directly by the Secretary to such tribe or organization; and

"(B) makes a determination that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this;

the Secretary shall reserve from the allotment under section 1921 for the State for the fiscal year involved an amount that bears the same ratio to the allotment as the amount provided under this subpart to the tribe or tribal organization for fiscal year 1991 for activities relating to the prevention and treatment of the abuse of alcohol and other drugs bore to the amount of the portion of the allotment under this subpart for the State for such fiscal year that was expended for such activities.

"(2) TRIBE OR TRIBAL ORGANIZATION AS GRANTEE.—The amount reserved by the Secretary on the basis of a determination under this paragraph shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

"(3) APPLICATION.—In order for an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this paragraph, it shall submit to the Secretary a plan for such fiscal year that meets such criteria as the Secretary may prescribe.

"(4) DEFINITION.—The terms 'Indian tribe' and 'tribal organization' have the same meaning given such terms in subsections (b) and (c) of section 4 of the Indian Self-Determination and Education Assistance Act.

"SEC. 1932. DEFINITIONS.

"For purposes of this part:

"(1) The term 'authorized activities', subject to section 1929, means the activities described in section 1921(b).

"(2) The term 'funding agreement under section 1921' means an agreement that is required in section 1921(a) as a condition of receiving a grant under such section.

"(3) The term 'prevention activities', subject to section 1929, means activities to prevent the abuse of alcohol, or other drugs, or both, as indicated by the context of usage.

"(4) The term 'substance abuse' means the abuse of alcohol or other drugs.

"(5) The term 'treatment activities' means treatment services and, subject to section 1929, authorized activities that are related to treatment services.

"(6) The term 'treatment facility' means an entity that provides treatment services.

"(7) The term 'treatment services', subject to section 1929, means treatment for the abuse of alcohol, or other drugs, or both, as indicated by the context of usage.

"SEC. 1933. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subpart, subpart III and section 509D with respect to substance abuse, and section 571(b)(11), there are authorized to be appropriated $1,057,000,000 for fiscal year 1992, $1,100,000,000 for fiscal year 1993, and $1,150,000,000 for fiscal year 1994.

"(b) ALLOCATIONS FOR TECHNICAL ASSISTANCE, NATIONAL DATA BASE, SERVICE RESEARCH, AND DATA COLLECTION.—

"(1) IN GENERAL.—

"(A) For the purpose of carrying out section 1949(a) with respect to substance abuse, sections 508(d) and 571(b)(11), and the purpose specified in subparagraph (B), the Secretary shall from amounts appropriated under subsection (a) obligate—

"(i) 3 percent, in the case of such amounts for each of the fiscal years 1992 and 1993; and

"(ii) 5 percent, in the case of such amounts for fiscal year 1994 and each subsequent fiscal year.

"(B) The purpose specified in this subparagraph is the collection of data—

"(i) to assist in the operation of publicly-supported systems for treatment services; and

"(ii) to assist the States in the preparation of the plans required in section 1930(a)(6).

"(2) ACTIVITIES OF OFFICE FOR SUBSTANCE ABUSE PREVENTION.—Of the amounts reserved under paragraph (1) for a fiscal year, the Secretary shall obligate 20 percent for carrying out section 1949(a) with respect to prevention activities and for carrying out section 508(d).

"(c) PROGRAM FOR PREGNANT AND POSTPARTUM WOMEN.—For the purpose of carrying out section 509F, the Secretary shall obligate 2 percent of the amounts appropriated under subsection (a) for each of the fiscal years 1992 and 1993.

"(d) AVAILABILITY TO STATES.—

"(1) IN GENERAL.—Subject to paragraph (2), any amounts paid to a State under section 1921 shall be available for obligation until the end of the fiscal year for which the amounts were paid, and if obligated by the end of such year, shall remain available for expenditure until the end of the succeeding fiscal year.

"(2) EXCEPTION REGARDING NONCOMPLIANCE OF SUBGRANTEES.—If a State has in accordance with paragraph (1) obligated amounts paid to the State under section 1921, in any case in which the Secretary determines that the obligation consists of a grant or contract awarded by the State, and that the State has terminated or reduced the amount of such financial assistance on the basis of the failure of the recipient of the assistance to comply with the terms upon which the assistance was conditioned—

"(A) the amounts involved shall be available for reobligation by the State through September 30 of the fiscal year following the fiscal year for which the amounts were paid to the State; and

"(B) any of such amounts that are obligated by the State in accordance with subparagraph (A) shall be available for expenditure through such date.".

SEC. 103. GENERAL PROVISIONS REGARDING BLOCK GRANTS.

Part B of title XIX of the Public Health Service Act, as amended by section 102 of this Act, is amended by adding at the end the following:

"Subpart III—General Provisions

"SEC. 1941. SUBMISSION OF DESCRIPTION OF INTENDED USES OF BLOCK GRANT.

"(a) ANNUAL APPROVAL BY SECRETARY.—The Secretary may not make a grant under subpart I or II for a fiscal year unless—

"(1)(A) the State involved submits to the Secretary a description of the purposes for which the State intends to expend the grant for the fiscal year;

"(B) the description identifies the populations, areas, and localities in the State with a need for the services or activities authorized in the program involved; and

"(C) the description provides information relating to the programs and activities to be supported and services to be provided; and

"(2) the Secretary approves the description.

"(b) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary may not make a grant under subpart I or II for a fiscal year unless the State involved agrees to make the description required in subsection (a) public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during the development of the description (including any revisions) and after the submission of the description pursuant to such subsection.

"SEC. 1942. REQUIREMENT OF REPORTS AND AUDITS BY STATES.

"(a) REPORT.—The Secretary may not make a grant under subpart I or II for a fiscal year unless the State involved submits to the Secretary a report in such form and containing such information as the Secretary determines (after consultation with the States and the Comptroller General) to be necessary for securing a record and a description of—

"(1) the purposes for which the grant received by the State for the preceding fiscal year under the program involved were expended and a description of the activities of the State under the program;

"(2) the recipients of amounts provided in the grant; and

"(3) determining whether the grant was expended in accordance with the program involved and consistent with the needs within the State identified pursuant to section 1941(a)(1)(B).

"(b) AUDITS.—The Secretary may not make a grant under subpart I or II unless, with respect to the grant, the State involved agrees to comply with chapter 75 of title 31, United States Code.

"(c) PERFORMANCE REVIEWS.—For fiscal year 1994 and subsequent fiscal years, the Secretary may not make a grant under subpart I or II for a fiscal year unless the expenditures of the grant made to the State for the second fiscal year preceding such fiscal year have undergone a thorough performance review in accordance with standards established by the Comptroller General.

"(d) AVAILABILITY TO PUBLIC.—The Secretary may not make a grant under subpart I or II unless the State involved agrees—

"(1) to make copies of the reports and audits described in this section available for public inspection within the State;

"(2) to provide copies of the report under subsection (a), upon request, to any interested person (including any public agency); and

"(3) to make available for public inspection a copy of any audit report under paragraph (2) not later than 30 days after the completion of an audit under such paragraph.

"SEC. 1943. ADDITIONAL REQUIREMENTS.

"(a) IN GENERAL.—The Secretary may not, except as provided in subsection (c), make a grant under subpart I or II for a fiscal year unless the State involved agrees that—

"(1) the legislature of the State will conduct public hearings on the proposed use and distribution of the grant to be received for the fiscal year;

"(2) the State will provide for annual independent peer review to assess the quality and appropriateness of treatment services provided by a representative sample of entities that receive funds from the State pursuant to the program involved;

"(3) the State will permit and cooperate with Federal investigations undertaken in accordance with section 1947; and

"(4) the State will provide to the Secretary any data required by the Secretary pursuant to section 509D and will cooperate with the Secretary in the development of uniform criteria for the collection of data pursuant to such section.

"(b) PATIENT RECORDS.—The Secretary may not make a grant under subpart I or II unless the State involved has in effect a system to protect from inappropriate disclosure patient records maintained by the State in connection with an activity funded under the program involved or by any entity which is receiving amounts from the grant.

"SEC. 1944. CONSOLIDATION OF APPLICATIONS REGARDING SUBPARTS I AND II.

"The Secretary may, for any fiscal year, authorize any State to submit to the Secretary a single application through which the State requests funds under both subparts I and II, subject to the application meeting the requirements of sections 1915 and 1930, respectively.

"SEC. 1945. DISPOSITION OF CERTAIN FUNDS APPROPRIATED FOR ALLOTMENTS.

"(a) IN GENERAL.—Amounts described in subsection (b) and available for a fiscal year pursuant to subpart I or II, as the case may be, shall be allotted by the Secretary to States receiving a grant under the program involved, other than any State referred to in paragraph (1)(C) of subsection (b), any State with respect to which paragraph (2) of such subsection applies, and in the case of the program established in subpart I, any State to which paragraph (3) of such subsection applies. Such amounts shall be allotted in a manner equivalent to the manner in which the allotment under the program involved was determined.

"(b) SPECIFICATION OF AMOUNTS.—The amounts referred to in subsection (a) are any amounts that—

"(1) are not paid to States under the program involved as a result of—

"(A) the failure of any State to submit an application in accordance with the program;

"(B) the failure of any State to prepare, within a reasonable period of time, such application in compliance with the program; or

"(C) any State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State under the program;

"(2) are terminated, repaid, or offset under section 1946; or

"(3) in the case of the program established in subpart I, are withheld from allotments under section 1911 pursuant to reductions under section 1912(c).

"SEC. 1946. FAILURE TO COMPLY WITH AGREEMENTS.

"(a) SUSPENSION OR TERMINATION OF PAYMENTS.—Subject to subsection (d), if the Secretary determines that a State has materially failed to comply with the agreements required as a condition of receiving a grant under the program involved, the Secretary may suspend payments under the grant, terminate the grant for cause, or employ such other remedies (in addition to remedies provided for in subsections (b) and (c)) as may be legally available and appropriate in the circumstances involved.

"(b) REPAYMENT OF PAYMENTS.—

"(1) IN GENERAL.—Subject to subsection (d), the Secretary may require a State to repay with interest any payments received by the State under subpart I or II that the Secretary determines were not expended by the State in accordance with the agreements required under the program involved.

"(2) OFFSET AGAINST PAYMENTS.—If a State fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against the amount of any payment due to be paid to the State under the program involved.

"(c) WITHHOLDING OF PAYMENTS.—

"(1) IN GENERAL.—Subject to subsections (d) and (f)(4), the Secretary may withhold payments due under subpart I or II if the Secretary determines that the State involved is not expending amounts received under the program involved in accordance with the agreements required under the program.

"(2) TERMINATION OF WITHHOLDING.—The Secretary shall cease withholding payments from a State under paragraph (1) if the Secretary determines that there are reasonable assurances that the State will expend amounts received under the program involved in accordance with the agreements required under the program.

"(d) OPPORTUNITY FOR HEARING.—Before taking action against a State under any of subsections (a) through (c), the Secretary shall provide to the State involved adequate notice and an opportunity for a hearing.

"(e) PROMPT RESPONSE TO SERIOUS COMPLAINTS.—The Secretary shall promptly respond to any complaint of a substantial or serious nature that a State is in violation of any of the agreements required in the program involved as a condition of receiving a grant under the program, and shall promptly determine whether a hearing under subsection (d) should be held regarding the alleged violation.

"(f) INVESTIGATIONS.—

"(1) REQUIREMENT REGARDING SECRETARY.—The Secretary shall each fiscal year conduct in not less than 15 States investigations of the expenditure of grants received by the States under subpart I or II in order to evaluate compliance with the agreements required under in the program involved.

"(2) AUTHORITY REGARDING COMPTROLLER GENERAL.—The Comptroller General may conduct investigations of the expenditure of grants received by the States under subpart I or II in order to ensure compliance with the agreements required under the program involved.

"(3) PROVISION OF RECORDS ETC. UPON REQUEST.—Each State receiving a grant under subpart I or II, and each entity receiving funds from the grant, shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

"(4) LIMITATIONS ON AUTHORITY.—The Secretary may not institute proceedings to withhold funds under subsection (c) unless the Secretary has conducted an investigation concerning whether the State has expended payments under the program involved in accordance with the agreements required under the program. Any such investigation shall be conducted within the State by qualified investigators.

"SEC. 1947. PROHIBITIONS REGARDING RECEIPT OF FUNDS.

"(a) ESTABLISHMENT.—

"(1) CERTAIN FALSE STATEMENTS AND REPRESENTATIONS.—A person shall not knowingly and willfully make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payments may be made by a State from the grant made to the State under subpart I or II.

"(2) CONCEALING OR FAILING TO DISCLOSE CERTAIN EVENTS.—A person with knowledge of the occurrence of any event affecting the initial or continued right of the person to receive any payments from a grant made to a State under subpart I or II shall not conceal or fail to disclose any such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such amount is due.

"(b) CRIMINAL PENALTY FOR VIOLATION OF PROHIBITION.—Any person who violates any prohibition established in subsection (a) shall for each violation be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

"SEC. 1948. NONDISCRIMINATION.

"(a) IN GENERAL.—

"(1) RULE OF CONSTRUCTION REGARDING CERTAIN CIVIL RIGHTS LAWS.—For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under subpart I or II shall be considered to be programs and activities receiving Federal financial assistance.

"(2) PROHIBITION.—No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under subpart I or II.

"(b) ENFORCEMENT.—

"(1) REFERRALS TO ATTORNEY GENERAL AFTER NOTICE.—Whenever the Secretary finds that a State, or an entity that has received a payment pursuant to subpart I or II, has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), the Secretary shall notify the chief executive officer of the State and shall request the chief executive officer to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

"(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

"(B) exercise the powers and functions provided by the Age Discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973, title IX of the Education Amendments of 1972, or title VI of the Civil Rights Act of 1964, as may be applicable; or

"(C) take such other actions as may be authorized by law.

"(2) AUTHORITY OF ATTORNEY GENERAL.—When a matter is referred to the Attorney General pursuant to paragraph (1)(A), or whenever the Attorney General has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

"SEC. 1949. TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.

"(a) TECHNICAL ASSISTANCE.—The Secretary shall, without charge to a State receiving a grant under subpart I or II, provide to the State (or to any public or nonprofit private entity within the State) technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to the program involved. The Secretary may provide such technical assistance directly, through contract, or through grants.

"(b) PROVISION OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

"(1) IN GENERAL.—Upon the request of a State receiving a grant under subpart I or II, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out the program involved and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

"(2) CORRESPONDING REDUCTION IN PAYMENTS.—With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under the program involved to the State by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"SEC. 1950. REPORT BY SECRETARY.

"Not later than October 1, 1993, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report on the activities of the States carried out pursuant to subparts I and II. Such report may include any recommendations of the Secretary for appropriate changes in legislation.

"SEC. 1951. RULE OF CONSTRUCTION REGARDING DELEGATION OF AUTHORITY TO STATES.

"With respect to States receiving grants under any of the subparts of this part, this part may not be construed to authorize the Secretary to delegate to the States the primary responsibility for interpreting the governing provisions of this part, including delegating authority with the result that different States are permitted to reach different interpretations of any provision of this part.

"SEC. 1952. DEFINITIONS.

"(a) DEFINITIONS FOR SUBPART III.—For purposes of this subpart, the term 'program involved' means the program of allotments established in subpart I or II, or both, as indicated by whether the State involved is receiving or is applying to receive a grant under subpart I or II, or both.

"(b) DEFINITIONS FOR PART B.—For purposes of this part:

"(1) The term 'Comptroller General' means the Comptroller General of the United States.

"(2) The term 'State', except as provided in sections 1916(c)(5) and 1931(c)(5), means each of the several States, the District of Columbia, and each of the territories of the United States.

"(3) The term 'territories of the United States' means each of the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Palau, the Marshall Islands, and Micronesia.".

SEC. 104. RELATED CATEGORICAL PROGRAMS.

Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end the following new part:

"Part C—Related Categorical Grants

"Subpart I—Mental Health

"SEC. 1961. COMPREHENSIVE COMMUNITY MENTAL HEALTH SERVICES FOR CHILDREN WITH SERIOUS EMOTIONAL DISTURBANCES.

"(a) GRANTS TO CERTAIN PUBLIC ENTITIES.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the National Institute of Mental Health, shall make grants to public entities for the purpose of providing comprehensive community mental health services to children with a serious emotional disturbance. The Secretary may make such a grant only if the public entity involved makes each of the agreements described in this subpart.

"(2) DEFINITION OF PUBLIC ENTITY.—For purposes of this subpart, the term 'public entity' means any State, any political subdivision of a State, and any Indian tribe or tribal organization (as defined in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act).

"(b) CONSIDERATIONS IN MAKING GRANTS.—

"(1) REQUIREMENT OF STATUS AS GRANTEE REGARDING BLOCK GRANTS UNDER SUBPART I.—The Secretary may not make a grant under subsection (a) to a public entity unless—

"(A) in the case of a public entity that is a State, the State is receiving payments under subpart I;

"(B) in the case of a public entity that is a political subdivision of a State, the State in which the political subdivision is located is receiving such payments; and

"(C) in the case of a public entity that is an Indian tribe or tribal organization, the State in which the tribe or tribal organization is located is receiving such payments.

"(2) CERTAIN CONSIDERATIONS.—In making grants under subsection (a), the Secretary shall—

"(A) equitably allocate such assistance among the principal geographic regions of the United States;

"(B) consider the extent to which the public entity involved has a need for the grant;

"(C) give special consideration to any public entity that agrees, as a condition of the receipt of such a grant, to provide non-Federal contributions under subsection (c) in a greater amount than the amount required under such subsection for the applicable fiscal year; and

"(D) in the case of any public entity that is a political subdivision of a State or that is an Indian tribe or tribal organization—

"(i) shall consider any comments regarding the application of the entity for such a grant that are received by the Secretary from the State in which the entity is located; and

"(ii) shall give special consideration to the entity if the State agrees to provide a portion of the non-Federal contributions required in subsection (c) regarding such a grant.

"(c) MATCHING FUNDS.—

"(1) IN GENERAL.—An agreement referred to in subsection (a) is that the public entity involved will, with respect to the costs to be incurred by the entity in carrying out the purpose described in such subsection, make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is—

"(A) for the first fiscal year for which the entity receives payments from a grant under subsection (a), not less than $1 for each $3 of Federal funds provided in the grant;

"(B) for any second or third such fiscal year, not less than $1 for each $3 of Federal funds provided in the grant;

"(C) for any fourth such fiscal year, not less than $1 for each $1 of Federal funds provided in the grant; and

"(D) for any fifth such fiscal year, not less than $2 for each $1 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—

"(A) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(B) In making a determination of the amount of non-Federal contributions for purposes of subparagraph (A), the Secretary may include only non-Federal contributions in excess of the average amount of non-Federal contributions made by the public entity involved toward the purpose described in subsection (a) for the 2-year period preceding the first fiscal year for which the entity receives a grant under such section.

"SEC. 1962. REQUIREMENTS WITH RESPECT TO CARRYING OUT PURPOSE OF GRANTS.

"(a) SYSTEMS OF COMPREHENSIVE CARE.—

"(1) IN GENERAL.—An agreement referred to in section 1961(a) is that, with respect to children with a serious emotional disturbance, the public entity involved will carry out the purpose described in such section only through establishing and operating 1 system of care for making each of the mental health services specified in subsection (c) available to each child admitted to the system. In providing for such a system, the public entity may make grants to, and enter into contracts with, public and nonprofit private entities.

"(2) STRUCTURE OF SYSTEM.—An agreement referred to in section 1961(a) is that a system of care under paragraph (1) will—

"(A) be established in a community selected by the public entity involved;

"(B) consist of such public agencies and nonprofit private entities in the community as are necessary to ensure that each of the services specified in subsection (c) is available to each child admitted to the system;

"(C) be established pursuant to agreements that the public entity enters into with the agencies and entities described in subparagraph (B);

"(D) coordinate the provision of the services of the system; and

"(E) establish an office whose functions are to serve as the location through which children are admitted to the system, to coordinate the provision of services of the system, and to provide information to the public regarding the system.

"(3) COLLABORATION OF LOCAL PUBLIC ENTITIES.—An agreement referred to in section 1961(a) is that, for purposes of the establishment and operation of a system of care under paragraph (1), the public entity involved will ensure collaboration among all public agencies that provide human services in the community in which the system is established, including but not limited to those providing mental health services, educational services, child welfare services, or juvenile justice services.

"(b) LIMITATION ON AGE OF CHILDREN ADMITTED TO SYSTEM.—An agreement referred to in section 1961(a) is that a system of care under subsection (a) will not admit an individual to the system if the individual is more than 21 years of age.

"(c) REQUIRED MENTAL HEALTH SERVICES OF SYSTEM.—An agreement referred to in section 1961(a) is that mental health services provided by a system of care under subsection (a) will include, with respect to a serious emotional disturbance in a child—

"(1) diagnostic and evaluation services;

"(2) outpatient services provided in a clinic, office, school or other appropriate location, including individual, group and family counseling services, professional consultation, and review and management of medications;

"(3) emergency services, available 24-hours a day, 7 days a week;

"(4) intensive home-based services for children and their families when the child is at imminent risk of out-of-home placement;

"(5) intensive day-treatment services;

"(6) respite care;

"(7) therapeutic foster care services, and services in therapeutic foster family homes or individual therapeutic residential homes, and groups homes caring for not more than 8 children; and

"(8) assisting the child in making the transition from the services received as a child to the services to be received as an adult.

"(d) REQUIRED ARRANGEMENTS REGARDING OTHER APPROPRIATE SERVICES.—

"(1) IN GENERAL.—An agreement referred to in section 1961(a) is that—

"(A) a system of care under subsection (a) will enter into a memorandum of understanding with each of the providers specified in paragraph (2) in order to facilitate the availability of the services of the provider involved to each child admitted to the system; and

"(B) the grant under such section 1961(a), and the non-Federal contributions made with respect to the grant, will not be expended to pay the costs of providing such linked non-mental-health services to any individual.

"(2) SPECIFICATION OF SERVICES.—The providers referred to in paragraph (1) are providers of medical services other than mental health services, providers of educational services, providers of vocational counseling and vocational rehabilitation services, and providers of protection and advocacy services with respect to mental health.

"(3) FACILITATION OF SERVICES OF CERTAIN PROGRAMS.—An agreement referred to in section 1961(a) is that a system of care under subsection (a) will, for purposes of paragraph (1), enter into a memorandum of understanding regarding facilitation of—

"(A) services available pursuant to title XIX of the Social Security Act, including services regarding early periodic screening, diagnosis, and treatment;

"(B) services available under parts B and H of the Individuals with Disabilities Education Act; and

"(C) services available under other appropriate programs, as identified by the Secretary.

"(e) GENERAL PROVISIONS REGARDING SERVICES OF SYSTEM.—

"(1) CASE MANAGEMENT SERVICES.—An agreement referred to in section 1961(a) is that a system of care under subsection (a) will provide for the case management of each child admitted to the system in order to ensure that—

"(A) the services provided through the system to the child are coordinated and that the need of each such child for the services is periodically reassessed;

"(B) information is provided to the family of the child on the extent of progress being made toward the objectives established for the child under the plan of services implemented for the child pursuant to section 1963; and

"(C) the system provides assistance with respect to—

"(i) establishing the eligibility of the child, and the family of the child, for financial assistance and services under Federal, State, or local programs providing for health services, mental health services, educational services, social services, or other services; and

"(ii) seeking to ensure that the child receives appropriate services available under such programs.

"(2) OTHER PROVISIONS.—An agreement referred to in section 1961(a) is that a system of care under subsection (a), in providing the services of the system, will—

"(A) provide the services of the system in the cultural context that is most appropriate for the child and family involved;

"(B) ensure that individuals providing such services to the child can effectively communicate with the child and family in the most direct manner;

"(C) provide the services without discriminating against the child or the family of the child on the basis of race, religion, national origin, sex, disability, or age;

"(D) seek to ensure that each child admitted to the system of care remains in the least restrictive, most normative environment that is clinically appropriate; and

"(E) provide outreach services to inform individuals, as appropriate, of the services available from the system, including identifying children with a serious emotional disturbance who are in the early stages of such disturbance.

"(3) RULE OF CONSTRUCTION.—An agreement made under paragraph (2) may not be construed—

"(A) with respect to subparagraph (C) of such paragraph—

"(i) to prohibit a system of care under subsection (a) from requiring that, in housing provided by the grantee for purposes of residential treatment services authorized under subsection (c), males and females be segregated to the extent appropriate in the treatment of the children involved; or

"(ii) to prohibit the system of care from complying with the agreement made under subsection (b); or

"(B) with respect to subparagraph (D) of such paragraph, to authorize the system of care to expend the grant under section 1961(a) (or the non-Federal contributions made with respect to the grant) to provide legal services or any service with respect to which expenditures regarding the grant are prohibited under subsection (d)(1)(B).

"(f) RESTRICTIONS ON USE OF GRANT.—An agreement referred to in section 1961(a) is that the grant under such section, and the non-Federal contributions made with respect to the grant, will not be expended—

"(1) to purchase or improve real property (including the construction or renovation of facilities);

"(2) to provide for room and board in residential programs serving 8 or fewer children;

"(3) to provide for room and board or other services or expenditures associated with care of children in residential treatment centers serving more than 8 children or in inpatient hospital settings, except intensive home-based services and other services provided on an ambulatory or outpatient basis; or

"(4) to provide for the training of any individual, except training authorized in section 1964(a)(2) and training provided through any appropriate course in continuing education whose duration does not exceed 2 days.

"SEC. 1963. INDIVIDUALIZED PLAN FOR SERVICES.

"(a) IN GENERAL.—An agreement referred to in section 1961(a) is that a system of care under section 1962(a) will develop and implement an individualized plan of services for each child admitted to the system, and that the plan will be developed and implemented with the participation of the family of the child and, unless clinically inappropriate, with the participation of the child.

"(b) CONTENTS OF PLAN.—An agreement referred to in section 1961(a) is that the individualized plan under subsection (a) for a child will—

"(1) be developed, and reviewed and as appropriate revised not less than once each year, by a multidisciplinary team of appropriately qualified individuals who provide services through the system, including mental health services, other health services, educational services, social services, and, subject to paragraph (3), vocational counseling and vocational rehabilitation;

"(2) identify and state the needs of the child for the services available pursuant to section 1962 through the system;

"(3) provide for each of such services that is appropriate to the circumstances of the child, including, except in the case of children who are less than 14 years of age, the provision of appropriate vocational counseling and vocational rehabilitation;

"(4) establish objectives to be achieved regarding the needs of the child and the methodology for achieving the objectives; and

"(5) designate an individual to be responsible for providing the case management required in section 1962(e)(1).

"SEC. 1964. ADDITIONAL PROVISIONS.

"(a) OPTIONAL SERVICES.—In addition to services described in subsection (c) of section 1962, a system of care under subsection (a) of such section may, in expending a grant under section 1961(a), provide for—

"(1) preliminary assessments to determine whether a child should be admitted to the system;

"(2) training in the administration of the system, in providing foster care or group homes under section 1962(c)(7), and in the development of individualized plans for purposes of section 1963;

"(3) recreational activities for children admitted to the system; and

"(4) such other services as may be appropriate in providing for the comprehensive needs with respect to mental health of children with a serious emotional disturbance.

"(b) COMPREHENSIVE PLAN.—The Secretary may not make a grant under section 1961(a) unless, with respect to the jurisdiction of the public entity involved, the entity has submitted to the Secretary, and has had approved by the Secretary, a plan for the development a jurisdiction-wide system of care for community-based services for children with a serious emotional disturbance that specifies the progress the public entity has made in developing the jurisdiction-wide system, the extent of cooperation across agencies serving children in the establishment of the system, the Federal and non-Federal resources currently committed to the establishment of the system, and the current gaps in community services and the manner in which the grant under section 1961(a) will be expended to address such gaps and establish local systems of care.

"(c) LIMITATION ON IMPOSITION OF FEES FOR SERVICES.—An agreement referred to in section 1961(a) is that, if a charge is imposed for the provision of services under a grant under such section, such charge—

"(1) will be made according to a schedule of charges that is made available to the public;

"(2) will be adjusted to reflect the income of the family of the child involved; and

"(3) will not be imposed on any child whose family has income and resources of equal to or less than 100 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(d) RELATIONSHIP TO ITEMS AND SERVICES UNDER OTHER PROGRAMS.—An agreement under section 1961(a) is that the grant under such section, and the non-Federal contributions made with respect to the grant, will not be expended to make payment for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

"(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(2) by an entity that provides health services on a prepaid basis.

"(e) LIMITATION ON ADMINISTRATIVE EXPENSES.—An agreement under section 1961(a) is that not more than 2 percent of the grant under such section will be expended for administrative expenses incurred with respect to the grant by the public entity involved.

"(f) REPORTS TO SECRETARY.—An agreement referred to in section 1961(a) is that the public entity involved will annually submit to the Secretary a report on the activities of the entity under the grant that includes a description of the number of children admitted to systems of care operated pursuant to the grant, the demographic characteristics of the children, the types and costs of services provided pursuant to the grant, estimates of the unmet need for such services in the jurisdiction of the entity, and the manner in which the grant has been expended toward the establishment of a jurisdiction-wide system of care for children with a serious emotional disturbance, and such other information as the Secretary may require with respect to the grant.

"(g) DESCRIPTION OF INTENDED USES OF GRANT.—The Secretary may not make a grant under section 1961(a) unless—

"(1) the public entity involved submits to the Secretary a description of the purposes for which the entity intends to expend the grant;

"(2) the description identifies the populations, areas, and localities in the jurisdiction of the entity with a need for services under this section; and

"(3) the description provides information relating to the services and activities to be provided, including a description of the manner in which the services and activities will be coordinated with any similar services or activities of public or nonprofit entities.

"(h) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under section 1961(a) unless an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in subsection (g), and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"SEC. 1965. GENERAL PROVISIONS.

"(a) DURATION OF SUPPORT.—The period during which payments are made to a public entity from a grant under section 1961(a) may not exceed 5 fiscal years.

"(b) TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall, upon the request of a public entity receiving a grant under section 1961(a)—

"(A) provide technical assistance to the entity regarding the process of submitting to the Secretary applications for grants under section 1961(a); and

"(B) provide to the entity training and technical assistance with respect to the planning, development, and operation of systems of care pursuant to section 1962.

"(2) AUTHORITY FOR GRANTS AND CONTRACTS.—The Secretary may provide technical assistance under subsection (a) directly or through grants to, or contracts with, public and nonprofit private entities.

"(c) EVALUATIONS AND REPORTS BY SECRETARY.—

"(1) IN GENERAL.—The Secretary shall, directly or through contracts with public or private entities, provide for annual evaluations of programs carried out pursuant to section 1961(a). The evaluations shall assess the effectiveness of the systems of care operated pursuant to such section, including longitudinal studies of outcomes of services provided by such systems, other studies regarding such outcomes, the effect of activities under this subpart on the utilization of hospital and other institutional settings, the barriers to and achievements resulting from interagency collaboration in providing community-based services to children with a serious emotional disturbance, and assessments by parents of the effectiveness of the systems of care.

"(2) REPORT TO CONGRESS.—The Secretary shall, not later than 1 year after the date on which amounts are first appropriated under subsection (c), and annually thereafter, submit to the Congress a report summarizing evaluations carried out pursuant to paragraph (1) during the preceding fiscal year and making such recommendations for administrative and legislative initiatives with respect to this section as the Secretary determines to be appropriate.

"(d) DEFINITIONS.—For purposes of this subpart:

"(1) The term 'child' means an individual not more than 21 years of age.

"(2) The term 'family', with respect to a child admitted to a system of care under section 1962(a), means—

"(A) the legal guardian of the child; and

"(B) as appropriate regarding mental health services for the child, the parents of the child (biological or adoptive, as the case may be) and any foster parents of the child.

"(3) The term 'serious emotional disturbance' includes, with respect to a child, any child who has a serious emotional disorder, a serious behavioral disorder, or a serious mental disorder.

"(e) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subpart, there are authorized to be appropriated $50,000,000 for fiscal year 1993, $100,000,000 for fiscal year 1994, and $150,000,000 for fiscal year 1995.

"(2) SET-ASIDE REGARDING TECHNICAL ASSISTANCE.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available not less than $3,000,000 for the purpose of carrying out subsection (b).

"Subpart II—Substance Abuse

"SEC. 1971. GRANTS TO STATES FOR EXPANDING CAPACITY TO PROVIDE TREATMENT FOR SUBSTANCE ABUSE.

"(a) GRANTS FOR STATES WITH INSUFFICIENT CAPACITY.—

"(1) IN GENERAL.—The Secretary, acting through the Director of the Office for Treatment Improvement, may make grants to States for the purpose of increasing the maximum number of individuals to whom public and nonprofit private entities in the States are capable of providing effective treatment for substance abuse.

"(2) ELIGIBLE STATES.—The Director may not make a grant under subsection (a) to a State unless the number of individuals seeking treatment services in the State significantly exceeds the maximum number described in paragraph (1) that is applicable to the State.

"(b) PRIORITY IN MAKING GRANTS.—

"(1) RESIDENTIAL TREATMENT SERVICES FOR PREGNANT WOMEN.—In making grants under subsection (a), the Director shall give priority to States that agree to give priority in the expenditure of the grant to carrying out the purpose described in such subsection as the purpose relates to the provision of residential treatment services to pregnant women.

"(2) ADDITIONAL PRIORITY REGARDING MATCHING FUNDS.—In the case of any application for a grant under subsection (a) that is receiving priority under paragraph (1), the Director shall give further priority to the application if the State involved agrees as a condition of receiving the grant to provide non-Federal contributions under subsection (c) in a greater amount than the amount required under such subsection for the applicable fiscal year.

"(c) REQUIREMENT OF MATCHING FUNDS.—

"(1) IN GENERAL.—Subject to paragraph (3), the Director may not make a grant under subsection (a) unless the State agrees, with respect to the costs of the program to be carried out by the State pursuant to such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that—

"(A) for the first fiscal year for which the State receives such a grant, is not less than $1 for each $9 of Federal funds provided in the grant;

"(B) for any second such fiscal year, is not less than $1 for each $2 of Federal funds provided in the grant; and

"(C) for any subsequent such fiscal year, is not less than $1 for each $1 of Federal funds provided in the grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(3) WAIVER.—The Director may waive the requirement established in paragraph (1) if the Director determines that extraordinary economic conditions in the State justify the waiver.

"(d) Limitation Regarding Direct Treatment Services.—The Director may not make a grant under subsection (a) unless the State involved agrees that the grant will be expended only for the direct provision of treatment services. The preceding sentence may not be construed to authorize the expenditure of such a grant for the planning or evaluation of treatment services.

"(e) Requirement of Application.—The Secretary may not make a grant under subsection (a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(f) Duration of Grant.—The period during which payments are made to a State from a grant under subsection (a) may not exceed 3 years. The provision of such payments shall be subject to annual approval by the Director of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. The preceding sentence may not be construed to establish a limitation on the number of grants under such subsection that may be made to the State.

"(g) Maintenance of Effort.—The Director may not make a grant under subsection (a) unless the State involved agrees to maintain State expenditures for treatment services at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period preceding the first fiscal year for which the State receives such a grant.

"(h) Restrictions on Use of Grant.—

"(1) In general.—The Director may not make a grant under subsection (a) unless the State involved agrees that the grant will not be expended—

"(A) to provide inpatient hospital services, except as provided in paragraph (2);

"(B) to make cash payments to intended recipients of health services;

"(C) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

"(D) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

"(E) to provide financial assistance to any entity other than a public or nonprofit private entity.

"(2) Exception regarding inpatient hospital services.—

"(A) With respect to compliance with the agreement made under paragraph (1), a State may expend a grant under subsection (a) to provide inpatient hospital services as treatment for substance abuse only if it has been determined that such treatment is a medical necessity for the individual involved, and that the individual cannot be effectively treated in a community-based, nonhospital, residential program of treatment.

"(B) The Director may not make a grant under subsection (a) unless, in the case of an individual for whom such a grant is expended to provide inpatient hospital services described in subparagraph (A), the State involved agrees that the daily rate of payment provided to the hospital for providing the services to the individual will not exceed the comparable daily rate provided for community-based, nonhospital, residential programs of treatment for substance abuse.

"(i) Definitions.—For purposes of this section—

"(1) The term 'Director' means the Director of the Office for Treatment Improvement.

"(2) The term 'substance abuse' means the abuse of alcohol or other drugs.

"(j) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated $68,000,000 for fiscal year 1992, $70,000,000 for fiscal year 1993, and $72,000,000 for fiscal year 1994.".

SEC. 105. TEMPORARY PROVISIONS REGARDING FUNDING.

(a) Contingent Authority for Transfers Between Allotments.—

(1) Subpart II to subpart I.—In the case of any State for which an allotment for fiscal year 1992, 1993, or 1994 under section 1911 of the Public Health Service Act (as added by section 101 of this Act) is made in an amount that is less than the mental health portion of the allotment under former section 1912A for fiscal year 1991, the Secretary of Health and Human Services shall, upon the request of the State, transfer from the allotment under section 1921 of such Act (as added by section 102 of this Act) for the fiscal year involved to the allotment under such section 1911 for the fiscal year such amounts as the State may direct, subject to the allotment under such section 1911 not exceeding the amount of such portion.

(2) Subpart I to subpart II.—In the case of any State for which an allotment for fiscal year 1992, 1993, or 1994 under section 1921 of the Public Health Service Act (as added by section 102 of this Act) is made in an amount that is less than the substance-abuse portion of the allotment under former section 1912A for fiscal year 1991, the Secretary of Health and Human Services shall, upon the request of the State, transfer from the allotment under section 1911 of such Act (as added by section 101 of this Act) for the fiscal year involved to the allotment under such section 1921 for the fiscal year such amounts as the State may direct, subject to the allotment under such section 1921 not exceeding the amount of such portion.

(3) Definitions.—For purposes of this subsection:

(A) The term "mental health portion", with respect to an allotment under former section 1912A, means the portion of the allotment reserved with respect to mental health pursuant to former section 1916(c)(6).

(B) The term "substance-abuse portion", with respect to an allotment under former section 1912A, means the portion of the allotment reserved with respect to alcohol and and drug abuse pursuant to former section 1916(c)(6).

(C) The term "former section 1912A" means section 1912A of the Public Health Service Act, as such section was in effect for fiscal year 1991.

(D) The term "former section 1919(c)(6)" means section 1916(c)(6) of the Public Health Service Act, as such section was in effect for fiscal year 1991.

(b) Allocation for Certain Program Regarding Mental Health.—Of the amounts appropriated for fiscal year 1992 under 1917(a) of the Public Health Service Act (as added by section 101 of this Act), the Secretary of Health and Human Services shall obligate 10 percent for the purpose of carrying out subpart I of part C of title XIX of the Public Health Service Act (as added by section 104 of this Act).

TITLE II—OTHER PROGRAMS OF ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

Subtitle A—Mental Health

SEC. 201. SERVICE RESEARCH ON COMMUNITY-BASED TREATMENT PROGRAMS.

(a) Transfer of Authority Regarding Model Plans.—

(1) In general.—Subpart 3 of part B of title V of the Public Health Service Act, as amended by section 101(a)(1) of this Act, is amended—

(A) by transferring subsection (c) of section 518A to section 518;

(B) by redesignating the subsection as subsection (b); and

(C) by adding the subsection at the end of section 518.

(2) Conforming amendment.—Section 518 of the Public Health Service Act, as amended by paragraph (1) of this subsection, is amended in the first sentence by striking "The Secretary" and inserting "(a) The Secretary".

(b) Authorization of Appropriations.—Section 518A of the Public Health Service Act, as amended by subsection (a) of this section, is amended by adding at the end the following new subsection:

"(c) Of the amounts appropriated under this Act for any fiscal year for conducting or supporting research regarding mental health, the Secretary shall make available not less than 15 percent for carrying out this section.".

SEC. 202. PROGRAM FOR RESEARCH ON MENTAL HEALTH.

(a) Administration.—

(1) In general.—Section 518 of the Public Health Service Act, as amended by section 201 of this Act, is amended—

(A) in subsection (a), by striking "the Administrator," and inserting the following: "the Director of the National Institute of Mental Health (in this subpart referred to as the 'Director'),"; and

(B) in subsection (b)—

(i) by striking "Administrator" each place such term appears and inserting "Director"; and

(ii) in paragraph (2), in the second sentence, by striking "Secretary" and inserting "Director".

(2) Conforming amendment.—Section 519 of the Public Health Service Act (42 U.S.C. 290cc-12) is amended by striking "Administrator" and inserting "Director".

(b) Certain Authorities.—Section 518 of the Public Health Service Act, as amended by section 201, is amended in subsection (a)—

(1) by inserting before the period the following: ", and relative to the promotion of mental health"; and

(2) by adding at the end the following new sentence: "Activities under the preceding sentence may include studies of the psychological, social, and legal factors that influence behavior.".

(c) Authorization of Appropriations.—Section 518 of the Public Health Service Act, as amended by section 201 of this Act, is amended by adding at the end the following new subsection:

"(c) For the purpose of carrying out this section, there are authorized to be appropriated $500,000,000 for fiscal year 1992, $600,000,000 for fiscal year 1993, and $675,000,000 for fiscal year 1992.".

SEC. 203. DEMONSTRATION PROJECTS.

(a) Designation of Subpart 4.—Part B of title V of the Public Health Service Act (42 U.S.C. 290bb et seq.) is amended—

(1) by inserting before section 520 the following:

"Subpart 4—Demonstration Projects"; and

(2) in the heading for section 520, by amending the heading to read as follows:

"CERTAIN PROJECTS".

(b) DURATION OF SUPPORT FOR CERTAIN DEMONSTRATION PROJECTS.—Section 520(c) of the Public Health Service Act (42 U.S.C. 290cc-13(c)) is amended by inserting before the period the following: ", except that grants under subsection (a) for demonstration projects described in paragraph (1)(A) of such subsection may be made for not more than five consecutive one-year periods".

SEC. 204. ESTABLISHMENT OF OFFICE OF RURAL MENTAL HEALTH.

Subpart 3 of part B of title V of the Public Health Service Act (42 U.S.C. 290cc-11 et seq.) is amended by inserting after section 519 the following new section:

"OFFICE OF RURAL MENTAL HEALTH

"SEC. 519A. (a) IN GENERAL.—There is established within the National Institute of Mental Health an office to be known as the Office of Rural Mental Health (hereafter in this section referred to as the 'Office'). The Office shall be headed by a director, who shall be appointed by the Director of such Institute from among individuals experienced or knowledgeable in the provision of mental health services in rural areas. The Secretary shall carry out the authorities established in this section acting through the Director of the Office.

"(b) COORDINATION OF ACTIVITIES.—The Director of the Office, in consultation with the Director of the Institute and with the Director of the Office of Rural Health Policy, shall—

"(1) coordinate the activities of the Department of Health and Human Services as such activities relate to the mental health of residents of rural areas; and

"(2) coordinate the activities of the Office with similar activities of public and nonprofit private entities.

"(c) RESEARCH, DEMONSTRATIONS, EVALUATIONS, AND DISSEMINATION.—The Director of the Office may, with respect to the mental health of adults and children residing in rural areas—

"(1) conduct research on conditions that are unique to the residents of rural areas, or more serious or prevalent in such residents;

"(2) conduct research on improving the delivery of services in such areas;

"(3) carry out demonstration projects for the provision of services in such areas, including such projects regarding outreach, interventions, and the provision of off-site services;

"(4) establish model programs, and carry out demonstrations of such models (at 1 or more sites);

"(5) conduct evaluations of projects and programs carried out by the Director under this subsection; and

"(6) disseminate information to appropriate public and nonprofit private entities.

"(d) AUTHORITY REGARDING GRANTS AND CONTRACTS.—The Director of the Office may carry out the authorities established in subsection (c) directly and through grants, cooperative agreements, or contracts with public or nonprofit private entities.

"(e) DEMONSTRATIONS REGARDING LINKAGE OF MENTAL HEALTH AND OTHER SERVICES.—In carrying out subsection (c), the Director of the Office shall make grants to public or nonprofit private entities for the purpose of carrying out, in rural areas, demonstration projects to improve the availability of mental health services by providing such services in the same facilities as other health or social services are provided, and through otherwise integrating the provision of mental health services, other health services, and social services.

"(f) REPORT TO CONGRESS.—Not later than February 1 of fiscal year 1993 and each fiscal year thereafter, the Director of the Office shall submit to the Subcommittee on Health and the Environment of the Committee on Energy and Commerce (of the House of Representatives), and to the Committee on Labor and Human Resources (of the Senate), a report describing the activities of the Office during the preceding fiscal year, including a summary of the activities of demonstration projects and a summary of evaluations of the projects.

"(g) FUNDING.—Of the amounts appropriated under this Act for fiscal year 1992, fiscal year 1993, and fiscal year 1994 for research regarding mental health, the Secretary shall make available for carrying out this section not less than $5,000,000, $8,000,000, and $10,000,000, respectively.".

SEC. 205. MISCELLANEOUS PROVISIONS.

(a) CERTAIN SERVICES.—

(1) IN GENERAL.—Section 2441 of the Public Health Service Act (42 U.S.C. 300dd-41)—

(A) is transferred to part B of title V of such Act;

(B) is redesignated as section 520A; and

(C) is inserted after section 520 of such part.

(2) CONFORMING AMENDMENTS.—The Public Health Service Act (42 U.S.C. 201 et seq.), as amended by paragraph (1), is amended—

(A) in part C of title XXIV—

(i) by striking the heading for subpart I;

(ii) in section 2432(e), by striking "subpart" each place such term appears and inserting "part"; and

(iii) by striking the heading for subpart II; and

(B) in section 520A—

(i) in subsection (a), in the matter preceding paragraph (1), by inserting after "Secretary" the following: ", acting through the Director of the National Institute of Mental Health,";

(ii) in subsection (j), by striking "1991" and inserting "1994"; and

(iii) by striking "**SEC.**" and all that follows through "(a) IN GENERAL.—" and inserting the following:

"CERTAIN COUNSELING AND MENTAL HEALTH SERVICES

"SEC. 520A. (a) IN GENERAL.—".

(b) FEDERAL ACCOUNTABILITY.—Any rule or regulation of the Department of Health and Human Services that is inconsistent with the amendments made by this Act shall not have any legal effect, including section 50(e) of part 96 of title 45, Code of Federal Regulations (45 CFR 96.50(e)).

Subtitle B—Substance Abuse

PART I—OFFICE FOR TREATMENT IMPROVEMENT

SEC. 211. ESTABLISHMENT, GENERAL AUTHORITIES, AND CERTAIN PROGRAMS.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following new part:

"Part F—Office for Treatment Improvement

"Subpart 1—Establishment and General Authorities

"SEC. 571. ESTABLISHMENT AND GENERAL AUTHORITIES.

"(a) IN GENERAL.—There is established in the Administration an Office for Treatment Improvement, which shall be headed by a director appointed by the Secretary. The Secretary shall carry out this part acting through the Director of the Treatment Office.

"(b) DUTIES.—With respect to the treatment of substance abuse, the Director shall carry out the following duties:

"(1) Collaborate with the Director of the Office for Substance Abuse Prevention in order to provide outreach services to identify individuals in need of treatment services, with emphasis on the provision of such services to pregnant and postpartum women and their infants and to individuals who abuse drugs intravenously.

"(2) Collaborate with the Director of the National Institute on Drug Abuse, with the Director of the National Institute on Alcohol Abuse and Alcoholism, and with the States to promote the study, dissemination, and implementation of research findings that will improve the delivery and effectiveness of treatment services.

"(3) Collaborate with the Administrator of the Health Resources and Services Administration to promote the increased integration into the mainstream of the health care system of the United States of programs for providing treatment services.

"(4) Evaluate plans submitted by the States pursuant to section 1930(a)(6) in order to determine whether the plans adequately provide for the availability, allocation, and effectiveness of treatment services.

"(5) Sponsor regional workshops on improving the quality and availability of treatment services.

"(6) Provide technical assistance to public and nonprofit private entities that provide treatment services, including technical assistance with respect to the process of submitting to the Director applications for any program of grants or contracts carried out by the Director.

"(7) Improve coordination between treatment facilities and nonhealth care systems such as employers, labor unions, and schools, and encourage the adoption of employee assistance programs and student assistance programs.

"(8) Encourage the States to expand the availability (relative to fiscal year 1992) of programs providing treatment services through self-run, self-supported recovery based on the programs of housing operated pursuant to section 1924.

"(9) Carry out activities to educate individuals on the need for establishing treatment facilities within their communities.

"(10) Encourage public and private entities that provide health insurance to provide benefits for outpatient treatment services and other nonhospital-based treatment services.

"(11) Evaluate treatment programs to determine the quality and appropriateness of various forms of treatment, including the effect of living in housing provided by programs established under section 1924. Such evaluations shall be carried out through grants, contracts, or cooperative agreements provided to public or nonprofit private entities. In carrying out this paragraph, the Director shall assess the quality, appropriateness, and costs of various treatment forms for specific patient groups.

"(c) GRANTS AND CONTRACTS REGARDING GENERAL DUTIES.—In carrying out the duties established in subsection (b), the Director may make grants to and enter into contracts with public and nonprofit private entities.

"SEC. 572. GENERAL PROVISIONS.

"(a) APPLICATIONS FOR FINANCIAL ASSISTANCE.—The Director may not provide a grant or contract under this part unless—

"(1) an application for such financial assistance is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the assistance is to be provided, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out the purpose for which the assistance is to be provided.

"(b) DEFINITIONS.—For purposes of this part:

"(1) The term 'Director' means the Director of the Treatment Office, unless the context of usage indicates otherwise.

"(2) The term 'substance abuse' means the abuse of alcohol or other drugs.

"(3) The term 'treatment' means treatment for substance abuse, unless the context of usage indicates that the meaning of the term is limited to providing treatment only for the abuse of alcohol, or only for the abuse of another drug or drugs, as the case may be.

"(4) The term 'Treatment Office' means the Office for Treatment Improvement.

"Subpart 2—Certain Programs

"SEC. 576. DEMONSTRATION PROJECTS OF NATIONAL SIGNIFICANCE.

"(a) GRANTS FOR TREATMENT IMPROVEMENT.—The Director of the Treatment Office shall provide grants to public and nonprofit private entities for the purpose of establishing demonstration projects that will improve the provision of treatment services for substance abuse.

"(b) NATURE OF PROJECTS.—Grants under subsection (a) shall be awarded to—

"(1) projects that focus on providing treatment to adolescents, female addicts and their children, racial and ethnic minorities, or individuals in rural areas;

"(2) projects that provide treatment and vocational training in exchange for public service;

"(3) projects that provide treatment services and which are operated by public and nonprofit private entities receiving grants under section 329, 330 or 340;

"(4) 'treatment campus' projects that—

"(A) serve a significant number of individuals simultaneously;

"(B) provide residential, non-community based drug treatment;

"(C) provide patients with ancillary social services and referrals to community-based aftercare; and

"(D) provide services on a voluntary basis;

"(5) projects in large metropolitan areas to identify individuals in need of treatment services and to improve the availability and delivery of such services in the areas;

"(6) in the case of individuals who engage in intravenous drug abuse, projects to conduct outreach activities to the individuals regarding the prevention of exposure to and the transmission of the etiologic agent for acquired immune deficiency syndrome, and to encourage the individuals to seek treatment for such abuse; and

"(7) projects to determine the long-term efficacy of the projects described in this section and to disseminate to appropriate public and private entities information on the projects that have been effective.

"(c) PREFERENCES IN MAKING GRANTS.—In awarding grants under subsection (a), the Director of the Treatment Office shall give preference to projects that—

"(1) demonstrate a comprehensive approach to the problems associated with substance abuse and provide evidence of broad community involvement and support; or

"(2) initiate and expand programs for the provision of treatment services (including renovation of facilities, but not construction) in localities in which, and among populations for which, there is a public health crisis as a result of the inadequate availability of such services and a substantial rate of drug abuse.

"(d) DURATION OF GRANTS.—The period during which payments are made under a grant under subsection (a) may not exceed 5 years.

"(e) EVALUATIONS.—The Director of the Treatment Office shall require, as a condition of awarding grants under subsection (a), a systematic evaluation of the projects funded under such subsection.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out this section, there are authorized to be appropriated $240,000,000 for fiscal year 1992, $300,000,000 for fiscal year 1993, and $400,000,000 for fiscal year 1994. The amounts so authorized are in addition to any other amounts that are authorized to be appropriated and available for such purpose.

"(2) ALLOCATION.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Director of the Treatment Office shall reserve not less than 10 percent for carrying out projects described in subsection (b)(3).

"SEC. 577. MODEL DEMONSTRATION PROGRAMS FOR TREATMENT SERVICES IN PENAL AND CORRECTIONAL INSTITUTIONS.

"(a) IN GENERAL.—The Director of the Treatment Office may make grants to public and nonprofit private entities for the purpose of carrying out demonstration programs to provide treatment services for substance abuse to inmates of penal or correctional institutions of States or political subdivisions of States.

"(b) REQUIREMENTS FOR PROGRAMS.—With respect to a program of treatment established pursuant to subsection (a), the Director may not make a grant unless the applicant involved agrees as follows:

"(1) The goal of treatment will be for the inmate involved to overcome any dependency on alcohol or other drugs, to cease engaging in substance abuse and make a commitment not to relapse into such abuse, and to acquire the minimum skills necessary for obtaining and maintaining employment.

"(2) Participation in the program by an inmate will be voluntary. An inmate will be admitted to the program only if—

"(A) the applicant has determined that the individual is in need of treatment;

"(B) the term or terms of incarceration of the inmate are scheduled to be completed not later than 1 year after the date on which the individual is to be admitted to the program; and

"(C) there is a reasonable basis for believing that the inmate will make significant progress toward achieving the goal described in paragraph (1) before the end of such term.

"(3) If an inmate is admitted to the program, the applicant will make available to the inmate, directly or through arrangements with other public or nonprofit private entities, such services as may be necessary to provide the inmate with a reasonable opportunity to make significant progress toward the goal described in paragraph (1).

"(4) For purposes of facilitating treatment, the applicant will, to the extent practicable, separate inmates participating in the program from other inmates.

"(5) In the case of an inmate participating in the program whose date of release from incarceration is nearing, the applicant will make reasonable efforts to refer the individual (the former inmate), upon such release, to public or nonprofit private entities that can make available to the individual services that will assist the individual with respect to the goal described in paragraph (1).

"(c) AGREEMENT REGARDING INSTITUTION INVOLVED.—With respect to any penal or correctional institution in which an applicant for a grant under subsection (a) proposes to carry out a program under such subsection, the Director may not make the grant to the applicant unless the State or political subdivision administering the institution has agreed to cooperate with the applicant regarding the establishment and operation of the program.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $50,000,000 for each of the fiscal years 1992 through 1994.

"Subpart 3—Model Comprehensive Program for Treatment of Substance Abuse

"SEC. 581. DEMONSTRATION PROGRAM IN NATIONAL CAPITAL AREA.

"(a) IN GENERAL.—The Director of the Treatment Office shall make a demonstration grant for the establishment, within the national capital area, of a model program for providing comprehensive treatment services for substance abuse.

"(b) PURPOSES.—The Director may not make a grant under subsection (a) unless, with respect to the comprehensive treatment services to be offered by the program under such subsection, the applicant for the grant agrees—

"(1) to ensure, to the extent practicable, that the program has the capacity to provide the services to all individuals who seek and would benefit from the services;

"(2) as appropriate, to provide education on obtaining employment and other matters with respect to assisting the individuals in preventing any relapse with respect to substance abuse, including education on the appropriate involvement of parents and sexual partners in preventing such a relapse;

"(3) to provide services in locations accessible to substance abusers and, to the extent practicable, to provide services through mobile facilities;

"(4) to give priority to providing services to individuals who abuse drugs intravenously, to pregnant women, to homeless individuals, and to residents of publicly-assisted housing;

"(5) with respect to women with dependent children, to provide child care to such women seeking treatment services for substance abuse;

"(6) to conduct outreach activities to inform individuals of the availability of the services of the program;

"(7) to provide case management services, including services to determine eligibility for assistance under Federal, State, and local programs providing health services, mental health services, or social services;

"(8) to ensure the establishment of one or more offices to oversee the coordination of the activities of the program, to ensure that treatment is available to those seeking it, to ensure that the program is administered efficiently, and to ensure that the public is informed that the offices are the locations at which individuals may make inquiries concerning the program, including the location of available treatment services within the national capital area; and

"(9) to develop and utilize standards for certifying the knowledge and training of individuals, and the quality of programs, to provide treatment services for substance abuse.

"(c) Certain Requirements.—

"(1) Regarding eligibility for grant.—

"(A) The Director may not make the grant under subsection (a) unless the applicant involved is an organization of the general-purpose local governments within the national capital area, or another public or nonprofit private entity, and the applicant submits to the Director assurances satisfactory to the Director that, with respect to the communities in which services will be offered, the local governments of the communities will participate in the program.

"(B) The Director may not make the grant under subsection (a) unless—

"(i) an application for the grant is submitted to the Director;

"(ii) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Director; and

"(iii) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director determines to be necessary to carry out this section.

"(2) Authority for cooperative agreements.—The grantee under subsection (a) may provide the services required by such subsection directly or through arrangements with public and nonprofit private entities.

"(d) Requirement of Non-Federal Contributions.—

"(1) In general.—The Director may not make a grant under subsection (a) unless the applicant for the grant agrees, with respect to the costs to be incurred by the applicant in carrying out the purpose described in such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than $1 for each $4 of Federal funds provided under the grant.

"(2) Determination of amount contributed.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(e) Evaluations.—The Director shall make a grant or enter into a contract for the conduct of an evaluation of the effectiveness of the program carried out under subsection (a). The grant or contract shall provide for an evaluation of the extent to which the program has effectively utilized innovative methods for overcoming the resistance of the residents of communities to the establishment of treatment facilities within the communities.

"(f) Reports.—

"(1) Initial criteria.—The Director shall make a determination of the appropriate criteria for carrying out the program required in subsection (a), including the anticipated need for, and range of, services under the program in the communities involved and the anticipated costs of the program. Not later than 90 days after the date of the enactment of the Community Mental Health and Substance Abuse Services Improvement Act of 1992, the Director shall submit to the Congress a report describing the findings made as a result of the determination.

"(2) Annual reports.—Not later than 1 year after the date on which the grant is made under subsection (a), and annually thereafter, the Director shall submit to the Congress a report describing the extent to which the program carried out under subsection (a) has been effective in carrying out the purposes of the program.

"(g) Definition.—For purposes of this section, the term 'national capital area' means the metropolitan Washington area, including the District of Columbia, the cities of Alexandria, Falls Church, and Fairfax in the State of Virginia, the counties of Arlington and Fairfax in such State (and the political subdivisions located in such counties), and the counties of Montgomery and Prince George's in the State of Maryland (and the political subdivisions located in such counties).

"(h) Funding.—Of the amounts made available in appropriations Acts for the fiscal years 1992 through 1994 for carrying out the programs administered by the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, the Secretary, acting through the Director of the Treatment Office, shall reserve for carrying out this section, respectively, $10,000,000, for fiscal year 1992, $10,000,000, for fiscal year 1993, and $5,000,000, for fiscal year 1994.".

SEC. 212. CONFORMING AMENDMENT.

Section 501(b) of the Public Health Service Act (42 U.S.C. 290aa(b)) is amended by adding at the end the following new paragraph:

"(5) The Office for Treatment Improvement.".

PART II—OFFICE FOR SUBSTANCE ABUSE PREVENTION

SEC. 221. GENERAL ACTIVITIES OF OFFICE.

(a) In General.—Section 508(b) of the Public Health Service Act (42 U.S.C. 290aa-6(b)) is amended—

(1) by striking paragraphs (5), (10), and (11);

(2) by redesignating paragraphs (6) through (9) as paragraphs (5) through (8), respectively;

(3) by redesignating paragraph (12) as paragraph (9); and

(4) in paragraph (8) (as so redesignated), by adding "and" after the semicolon at the end.

(b) Authorization of Appropriations.—Section 508 of the Public Health Service Act (42 U.S.C. 290aa-6) is amended by striking subsection (d).

(c) National Data Base.—Section 508 of the Public Health Service Act, as amended by subsection (b) of this section, is amended by adding at the end the following new subsection:

"(d) The Director of the Prevention Office shall establish a national data base providing information on programs for the prevention of substance abuse. The data base shall contain information appropriate for use by public entities and information appropriate for use by private entities.".

(d) References.—Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended—

(1) in section 508—

(A) in subsection (a), in the first sentence, by striking "(hereafter" and all that follows and inserting "(hereafter referred to in this part as the 'Prevention Office')."; and

(B) in subsection (b), in the matter preceding paragraph (1), by striking "Office" and inserting "Prevention Office"; and

(2) in section 509, in the first sentence, by striking "Office" and inserting "Prevention Office".

(e) Community Programs.—Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by inserting after section 508 the following new section:

"COMMUNITY PROGRAMS

"Sec. 508A. (a) The Secretary, acting through the Director of the Prevention Office, shall—

"(1) provide assistance to communities to develop comprehensive long-term strategies for the prevention of substance abuse; and

"(2) evaluate the success of different community approaches toward the prevention of such abuse.

"(b) The Director of the Prevention Office shall ensure that strategies developed under subsection (a)(1) include strategies for reducing the use of alcoholic beverages and tobacco products by individuals to whom it is unlawful to sell or distribute such beverages or products.

"(c) For the purpose of carrying out subsection (a), there are authorized to be appropriated $114,000,000 for fiscal year 1992, $165,000,000 for fiscal year 1993, and $215,000,000 for fiscal year 1994.".

SEC. 222. PREVENTION, TREATMENT, AND REHABILITATION MODEL PROJECTS FOR HIGH RISK YOUTH.

(a) In General.—Section 509A of the Public Health Service Act (42 U.S.C. 290aa-8) is amended—

(1) redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) The Secretary shall ensure that projects under subsection (a) include projects to develop strategies for reducing the use of alcoholic beverages and tobacco products by individuals to whom it is unlawful to sell or distribute such beverages or products.".

(b) Authorization of Appropriations.—Section 509A of the Public Health Service Act, as amended by subsection (a) of this subsection, is amended by adding at the end the following new subsection:

"(h) For the purpose of carrying out this section, there are authorized to be appropriated $60,000,000 for fiscal year 1992, $80,000,000 for fiscal year 1993, and $100,000,000 for fiscal year 1994.".

(c) References.—Section 509A(a) of the Public Health Service Act (42 U.S.C. 290aa-8(a)) is amended by striking "Office" and inserting "Prevention Office".

SEC. 223. STRIKING OF CERTAIN PROVISIONS; REVISIONS IN PROGRAM FOR PREGNANT AND POSTPARTUM WOMEN.

(a) In General.—Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended—

(1) by striking section 509G; and

(2) by amending section 509F to read as follows:

"RESIDENTIAL TREATMENT PROGRAMS FOR PREGNANT AND POSTPARTUM WOMEN

"Sec. 509F. (a) In General.—The Director of the Prevention Office shall make grants to public and nonprofit private entities for the purpose of providing to pregnant and postpartum women treatment for substance abuse through programs in which, during the course of receiving treatment—

"(1) the women, and any minor children of the women, reside in facilities provided by the programs;

"(2) the programs provide ongoing supervision of the women; and

"(3) the services described in subsection (d) are available to or on behalf of the women.

"(b) Availability of Services for Each Participant.—A funding agreement under subsection (a) for an applicant is that, in the program operated pursuant to such subsection—

"(1) treatment services and each supplemental service will be available through the applicant, either directly or through agreements with other public or nonprofit private entities; and

"(2) the services will be made available to each woman admitted to the program.

"(c) Individualized Plan of Services.—A funding agreement under subsection (a) for an applicant is that—

"(1) in providing authorized services for an eligible woman pursuant to such subsection, the applicant will, in consultation with the women, prepare an individualized plan for the provision to the woman of the services; and

"(2) treatment services under the plan will include—

"(A) individual, group, and family counseling regarding substance abuse; and

"(B) follow-up services to assist the woman in preventing a relapse into such abuse.

"(d) Required Supplemental Services.—In the case of an eligible woman, the services referred to in subsection (a)(3) are as follows:

"(1) Prenatal and postpartum health care.

"(2) Referrals for necessary hospital services.

"(3) For the infants and children of the woman—

"(A) pediatric health care, including treatment for any perinatal effects of maternal substance abuse and including screenings regarding the physical and mental development of the infants and children;

"(B) counseling and other mental health services, in the case of children; and

"(C) comprehensive social services.

"(4) Providing supervision of children during periods in which the woman is engaged in therapy or in other necessary health or rehabilitative activities.

"(5) Training in parenting.

"(6) Counseling on acquired immune deficiency syndrome.

"(7) Counseling on domestic violence and sexual abuse.

"(8) Counseling on obtaining employment, including the importance of graduating from a secondary school.

"(9) Reasonable efforts to preserve and support the family units of the women, including promoting the appropriate involvement of parents and others, and counseling the children of the women.

"(10) Planning for and counseling to assist reentry into society, both before and after discharge, including referrals to any public or nonprofit private entities in the community involved that provide services appropriate for the women and the children of the women.

"(11) Case management services, including—

"(A) assessing the extent to which authorized services are appropriate for the women and their children;

"(B) in the case of the services that are appropriate, ensuring that the services are provided in a coordinated manner; and

"(C) assistance in establishing eligibility for assistance under Federal, State, and local programs providing health services, mental health services, housing services, employment services, educational services, or social services.

"(e) Minimum Qualifications of Grantees.—

"(1) Certification by relevant State agency.—With respect to the principal agency of the State involved that administers programs relating to substance abuse, the Director may make a grant under subsection (a) to an applicant only if the agency has certified to the Director that—

"(A) the applicant has the capacity to carry out a program described in subsection (a);

"(B) the plans of the applicant for such a program are consistent with the policies of such agency regarding the treatment of substance abuse; and

"(C) the applicant, or any entity through which the applicant will provide authorized services, meets all applicable State licensure or certification requirements regarding the provision of the services involved.

"(2) Status as medicaid provider.—

"(A) Subject to subparagraphs (B) and (C), the Director may make a grant under subsection (a) only if, in the case of any authorized service that is available pursuant to the State plan approved under title XIX of the Social Security Act for the State involved—

"(i) the applicant for the grant will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(ii) the applicant will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement plan and is qualified to receive such payments.

"(B)(i) In the case of an entity making an agreement pursuant to subparagraph (A)(ii) regarding the provision of services, the requirement established in such subparagraph regarding a participation agreement shall be waived by the Director if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits plan.

"(ii) A determination by the Director of whether an entity referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

"(C) With respect to any authorized service that is available pursuant to the State plan described in subparagraph (A), the requirements established in such subparagraph shall not apply to the provision of any such service by an institution for mental diseases to an individual who has attained 21 years of age and who has not attained 65 years of age. For purposes of the preceding sentence, the term 'institution for mental diseases' has the meaning given such term in section 1905(i) of the Social Security Act.

"(f) Requirement of Matching Funds.—

"(1) In general.—With respect to the costs of the program to be carried out by an applicant pursuant to subsection (a), a funding agreement under such subsection is that the applicant will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than—

"(A) $1 for each $9 of Federal funds provided for the first year of payments under the grant; and

"(B) $1 for each $3 of Federal funds provided in any subsequent year of payments under any such grant.

"(2) Determination of amount contributed.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(g) Outreach.—A funding agreement under subsection (a) for an applicant is that the applicant will provide outreach services in the community involved to identify women who are engaging in substance abuse and to encourage the women to undergo treatment for such abuse.

"(h) Accessibility of Program; Cultural Context of Services.—A funding agreement under subsection (a) for an applicant is that—

"(1) the program operated pursuant to such subsection will be operated at a location that is accessible to low-income pregnant and postpartum women; and

"(2) authorized services will be provided in the language and the cultural context that is most appropriate.

"(i) Continuing Education.—A funding agreement under subsection (a) is that the applicant involved will provide for continuing education in treatment services for the individuals who will provide treatment in the program to be operated by the applicant pursuant to such subsection.

"(j) Imposition of Charges.—A funding agreement under subsection (a) for an applicant is that, if a charge is imposed for the provision of authorized services to on behalf of an eligible woman, such charge—

"(1) will be made according to a schedule of charges that is made available to the public;

"(2) will be adjusted to reflect the income of the woman involved; and

"(3) will not be imposed on any such woman with an income of less than 185 percent of the official poverty line, as established by the Director of the Office for Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"(k) Reports to Director.—A funding agreement under subsection (a) is that the applicant involved will submit to the Director a report—

"(1) describing the utilization and costs of services provided under the grant;

"(2) specifying the number of women served, the number of infants served, and the type and costs of services provided; and

"(3) providing such other information as the Director determines to be appropriate.

"(l) Requirement of Application.—The Director may make a grant under subsection (a) only if the applicant involved makes each of the agreements described in this section. Such a grant may be made only if an application for the grant is submitted to the Director containing such agreements, and the application is in such form, is made in such manner, and contains such other agreements and such assurances and information as the Director determines to be necessary to carry out this section.

"(m) Equitable Allocation of Grants.—In making grants under subsection (a), the Director shall ensure that the grants are equitably allocated among the principal geographic regions of the United States, subject to the availability of qualified applicants for the grants.

"(n) Duration of Grant.—The period during which payments are made to an entity from a grant under subsection (a) may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Director of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This subsection may not be construed to establish a limitation on the number of grants under such subsection that may be made to an entity.

"(o) Evaluations; Dissemination of Findings.—The Director shall, directly or though contract, provide for the conduct of evaluations of programs carried out pursuant to subsection (a). The Director shall disseminate to the States the findings made as a result of the evaluations.

"(p) Reports to Congress.—Not later than October 1, 1993 and every 2 years thereafter, the Director shall submit to the Congress a report describing programs carried out pursuant to this section. Each such report shall include any evaluations conducted under subsection (m) during the preceding fiscal year.

"(q) Definitions.—For purposes of this section:

"(1) The term 'authorized services' means treatment services and supplemental services.

"(2) The term 'eligible woman' means a woman who has been admitted to a program operated pursuant to subsection (a).

"(3) The term 'funding agreement under subsection (a)' means an agreement required in subsection (l) as a condition of receiving a grant under subsection (a).

"(4) The term 'treatment services' means treatment for substance abuse, including the counseling and services described in subsection (c)(2).

"(5) The term 'supplemental services' means the services described in subsection (d).

"(r) Authorization of Appropriations.—

"(1) In general.—For the purpose of carrying out this section and section 509G, there are authorized to be appropriated $100,000,000 for fiscal year 1992, $125,000,000 for fiscal year 1993, and $175,000,000 for fiscal year 1994.

"(2) Transfer.—In addition to the amounts authorized in paragraph (1) to be appropriated for the fiscal year involved, there is authorized to be appropriated for the fiscal year for the purpose described in such paragraph $31,000,000 from the special forfeiture fund of the Director of the Office of National Drug Control Policy.

"(3) Rule of construction.—The amounts authorized in this subsection to be appropriated are in addition to any other amounts that are authorized to be appropriated and are available for the purpose described in paragraph (1).".

(b) Prevention Programs.—Part A of title V of the Public Health Service Act, as amended by subsection (a) of this section, is amended by adding at the end the following:

"PREVENTION PROGRAMS FOR PREGNANT AND POSTPARTUM WOMEN

"Sec. 509G. (a) The Secretary, acting through the Director of the Prevention Office, shall make grants to establish projects for prevention and education activities, and outpatient treatment, regarding the effects of drug and alcohol abuse on pregnant and postpartum women and their infants.

"(b) The Secretary shall evaluate projects carried out under subsection (a) and shall disseminate to appropriate public and private entities information on effective projects.".

(c) Transitional and Savings Provisions.—

(1) Savings provision for completion of current projects.—

(A) Subject to paragraph (2), in the case of any project for which a grant under former section 509F was provided for fiscal year 1991, the Secretary of Health and Human Services may continue in effect the grant for fiscal year 1992 and subsequent fiscal years, subject to the duration of any such grant not exceeding the period determined by the Secretary in first approving the grant.

(B) Subparagraph (A) shall apply with respect to a project notwithstanding that the project is not eligible to receive a grant under current section 509F or 509G.

(2) Limitation on funding for certain projects.—With respect to the amounts appropriated for any fiscal year under current section 509F, any such amounts appropriated in excess of the amount appropriated for fiscal year 1991 under former section 509F shall be available only for grants under current section 509F.

(3) Definitions.—For purposes of this subsection:

(A) The term "former section 509F" means section 509F of the Public Health Service Act, as in effect for fiscal year 1991.

(B) The term "current section 509G" means section 509G of the Public Health Service Act, as in effect for fiscal year 1992 and subsequent fiscal years.

(C) The term "current section 509F" means section 509F of the Public Health Service Act, as in effect for fiscal year 1992 and subsequent fiscal years.

SEC. 224. TRAINING IN PROVISION OF TREATMENT SERVICES.

Part A of title V of the Public Health Service Act, as amended by section 223(b) of this Act, is amended by adding at the end the following new section:

"TRAINING IN PROVISION OF TREATMENT SERVICES FOR SUBSTANCE ABUSE

"Sec. 509H. (a) In General.—The Director of the Prevention Office shall develop programs to increase the number of full-time substance abuse treatment professionals and the number of health professionals providing treatment services through the awarding of grants to appropriate public and nonprofit private entities, including agencies of State and local governments, hospitals, schools of medicine, schools of osteopathic medicine, schools of nursing, schools of social work, and graduate programs in marriage and family therapy.

"(b) Priority.—In awarding grants under subsection (a), the Director of the Prevention Office shall give priority to projects that train full-time substance abuse treatment professionals and projects that will receive financial support from public entities for carrying out the projects.

"(c) Health Professions Education.—In awarding grants under subsection (a), the Secretary may make grants to health professions schools (including schools of nursing and allied health professions schools) and schools of social work for programs—

"(1) to train individuals in the diagnosis and treatment of substance abuse; and

"(2) to develop appropriate curricula and materials for the training described in paragraph (1).

"(d) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated $26,000,000 for fiscal year 1992, $28,000,000 for fiscal year 1993, and $30,000,000 for fiscal year 1994.".

PART III—OTHER PROVISIONS REGARDING SUBSTANCE ABUSE

SEC. 231. RESEARCH ON ALCOHOL ABUSE AND ALCOHOLISM.

Section 513(a) of the Public Health Service Act (42 U.S.C. 290bb-2(a)) is amended—

(1) by inserting "(other than section 512(c))" after "subpart";

(2) by striking "and" after "1987,"; and

(3) by inserting before the period the following: ", $160,000,000 for fiscal year 1992, $210,000,000 for fiscal year 1993, and $310,000,000 for fiscal year 1994".

SEC. 232. RESEARCH ON DRUG ABUSE.

(a) In General.—Section 515(a) of the Public Health Service Act (42 U.S.C. 290cc(a)) is amended—

(1) in paragraph (5), by striking "and" after the semicolon at the end;

(2) in paragraph (6), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(7) the development and demonstration of new and improved methods of screening and early detection, referral, and diagnosis of individuals with a risk of drug abuse; and

"(8) the development and demonstration of new and improved methods for the dissemination of findings of research on drug abuse, and of information on the prevention and treatment of such abuse.".

(b) Authorization of Appropriations.—Section 515 of the Public Health Service Act (42 U.S.C. 290cc) is amended by adding at the end the following new subsection:

"(c) For the purpose of carrying out this section, there are authorized to be appropriated $293,000,000 for fiscal year 1992, $330,000,000 for fiscal year 1993, and $360,000,000 for fiscal year 1994.".

(c) Striking of Certain Authorities.—Subpart 2 of part B of title V of the Public Health Service Act (290cc et seq.) is amended by striking sections 516 and 517.

SEC. 233. STUDY BY NATIONAL ACADEMY OF SCIENCES.

(a) In General.—In the case of programs in the United States that provide both sterile hypodermic needles and bleach to individuals in order to provide for a reduction in the risk of the individuals contracting acquired immune deficiency syndrome or related conditions, the Secretary of Health and Human Services, acting through the Director of the National Institute on Drug Abuse, shall enter into a contract with a public or nonprofit private entity, subject to subsection (b), for the purpose of conducting a study to make determinations of the following:

(1) The extent to which the programs promote, directly or indirectly, the abuse of drugs through providing information or devices (or both) regarding the manner in which the adverse health consequences of such abuse can be minimized.

(2) In the case of individuals participating in the programs, the number of individuals who have engaged in the abuse of drugs prior to admission to the programs and the number of individuals who have not engaged in such abuse prior to such admission.

(3) The extent to which participation in the programs has altered any behaviors constituting a substantial risk of contracting acquired immune deficiency syndrome or hepatitis B, or of transmitting either of the diseases.

(4) The number of programs that provide referrals for the treatment of such abuse and the number of programs that do not provide such referrals.

(5) The extent to which programs safely dispose of used hypodermic syringes and needles.

(b) National Academy of Sciences.—The Secretary shall request the National Academy of Sciences to enter into the contract under subsection (a) to conduct the study described in such subsection. If such Academy declines to conduct the study, the Secretary shall carry out such subsection through another public or nonprofit private entity.

(c) Limitation Regarding Existing Programs.—The study required in subsection (a) may not be conducted with respect to programs established after the date of the enactment of this Act.

(d) Date for Completion.—The Secretary shall ensure that, not later than 18 months after the date of the enactment of this Act, the study required in subsection (a) is completed and a report describing the findings made as a result of the study is submitted to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Labor and Human Resources of the Senate.

(e) DEFINITION.—For purposes of this section, the term "Secretary" means the Secretary of Health and Human Services.

(f) FUNDING.—Of the aggregate amounts appropriated under the Public Health Service Act for fiscal years 1992 and 1993 for research on drug abuse, the Secretary shall make available $5,000,000 for conducting the study required in subsection (a).

SEC. 234. STUDY OF BARRIERS TO INSURANCE COVERAGE OF TREATMENT FOR SUBSTANCE ABUSE.

(a) STUDY.—The Secretary of Health and Human Services shall conduct a study of the barriers to insurance coverage for the treatment of substance abuse. The study shall include an assessment of the effect of managed care on the quality and financing of such treatment.

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.

SEC. 235. STUDY ON FETAL ALCOHOL EFFECT AND FETAL ALCOHOL SYNDROME.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into a contract with a public or nonprofit private entity to conduct a study on the prevalence of fetal alcohol effect and fetal alcohol syndrome in the general population of the United States and on the adequacy of Federal efforts to reduce the incidence of such conditions (including efforts regarding appropriate training for health care providers). The Secretary shall ensure that the study—

(1) describes diagnostic tools for identifying such conditions;

(2) compares the rate of each of such conditions with the rates of other drug-related conditions;

(3) evaluates the adequacy of available treatment for such conditions; and

(4) evaluates the plans of Federal agencies to conduct research on the conditions and determines the adequacy of such plans in relation to the impact on public health of the conditions.

(b) NATIONAL ACADEMY OF SCIENCES.—The Secretary shall request the National Academy of Sciences to enter into the contract under subsection (a) to conduct the study described in such subsection. If such Academy declines to conduct the study, the Secretary shall carry out such subsection through another public or nonprofit private entity.

(c) REPORT.—The Secretary shall ensure that, not later than 18 months after the date of the enactment of this Act, the study required in subsection (a) is completed and a report describing the findings made as a result of the study is submitted to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Labor and Human Resources of the Senate.

PART IV—CHILDREN OF SUBSTANCE ABUSERS

SEC. 241. ESTABLISHMENT OF PROGRAM OF SERVICES.

Title III of the Public Health Service Act (42 U.S.C. 301 et seq.) is amended by adding at the end the following new part:

"PART M—SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS

"SEC. 399D. GRANTS FOR SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS.

"(a) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make grants to public and nonprofit private entities for the purpose of carrying out programs to provide the services described in subsection (b) to children of substance abusers and to provide the applicable services described in subsection (c) to families in which a member is a substance abuser.

"(b) SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS.—The Secretary may make a grant under subsection (a) only if the applicant involved agrees to make available (directly or through agreements with other entities) to children of substance abusers each of the following services:

"(1) Periodic evaluation of children for developmental, psychological, and medical problems.

"(2) Primary pediatric care, consistent with early and periodic screening, diagnostic, and treatment services described in section 1905(r) of the Social Security Act.

"(3) Other necessary and mental health services.

"(4) Therapeutic intervention services for children, including provision of therapeutic child care.

"(5) Preventive counseling services.

"(6) Counseling related to the witnessing of chronic violence.

"(7) Referral to related services, and assistance in establishing eligibility for related services.

"(8) Additional developmental services that are consistent with the provision of early intervention services, as such term is defined in part H of the Individuals with Disabilities Education Act.

"(c) SERVICES FOR AFFECTED FAMILIES.—The Secretary may make a grant under subsection (a) only if, in the case of families in which a member is a substance abuser, the applicant involved agrees to make available (directly or through agreements with other entities) each of the following services, as applicable to the family member involved:

"(1)(A) Services to—

"(i) Accomplish early identification of families where substance abuse is present.

"(ii) Accomplish early identification of children affected by parental substance abuse.

"(iii) Provide counseling to substance abusers on the benefits and availability of substance abuse treatment services and services for children of substance abusers.

"(iv) Assist substance abusers in obtaining and using substance abuse treatment services and services for children of substance abusers.

"(v) Visit and provide support to substance abusers, especially pregnant women, who are receiving substance abuse treatment services or services for children of substance abusers.

"(B) The Secretary may make a grant under subsection (a) only if the applicant involved agrees that services under subparagraph (A) will, the program carried out under subsection (a), be provided by a public health nurse, social worker, or similar professional, or by a trained worker from the community supervised by a professional.

"(2) In the case of substance abusers:

"(A) Encouragement and, where necessary, referrals to participate in appropriate substance abuse treatment.

"(B) Assessment of adult roles other than parenting, including periodic evaluation of social status, economic status, educational level, psychological condition, and skill level.

"(C) Primary health care and mental health services, including prenatal and post partum care for pregnant women.

"(D) Consultation and referral regarding subsequent pregnancies and life options, including education and career planning.

"(E) Where appropriate, counseling regarding family conflict and violence.

"(F) Remedial education services.

"(G) Referral to related services, and assistance in establishing eligibility for related services.

"(3) In the case of substance abusers, spouses of substance abusers, extended family members of substance abusers, caretakers of children of substance abusers, and other people significantly involved in the lives of substance abusers or the children of substance abusers:

"(A) An assessment of the strengths and service needs of the family and the assignment of a case manager who will coordinate services for the family.

"(B) Therapeutic intervention services, such as parental counseling, joint counseling sessions for families and children, and family therapy.

"(C) Child care or other care for the child to enable the parent to attend treatment or other activities and respite care services.

"(D) Parenting education services and parent support groups.

"(E) Support services, including, where appropriate, transportation services.

"(F) where appropriate, referral of other family members to related services such as job training.

"(G) Aftercare services, including continued support through parent groups and home visits.

"(d) CONSIDERATIONS IN MAKING GRANTS.—

"(1) IN GENERAL.—In making grants under subsection (a), the Secretary shall ensure that the grants are reasonably distributed among the following types of entities:

"(A) Alcohol and drug treatment programs, especially those providing treatment to pregnant women and mothers and their children.

"(B) Public or private nonprofit entities that provide health or social services to disadvantaged populations, including community-based organizations, local public health departments, community action agencies, hospitals, community health centers, child welfare agencies, developmental disabilities service providers, and family resource and support programs, and that have—

"(i) expertise in applying the services to the particular problems of substance abusers and the children of substance abusers; and

"(ii) an affiliation or contractual relationship with one or more substance abuse treatment programs.

"(C) Consortia of public or private nonprofit entities that include at least one substance abuse treatment program.

"(D) Indian tribes, Indian organizations, and Alaska Native villages.

"(2) ADDITIONAL CONSIDERATIONS.—In making grants under subsection (a), the Secretary shall ensure that the grants are—

"(A) distributed to an adequate number of eligible entities that—

"(i) provide residential treatment to substance abusers and provide appropriate therapeutic services to meet the needs of children of substance abusers while they reside with their parents during treatment;

"(ii) provide in-home and community-based services on an out-patient basis or in a primary pediatric care setting; or "(iii) provide residential care for the parent with the child participating in the provision of such care while residing with a caretaker, and provide outreach, supportive, and therapeutic services for the child and the caretaker;

"(B) distributed to give priority to areas with a high incidence of poverty and a high incidence of children of substance abusers, infant mortality, infant morbidity, or child abuse;

"(C) distributed to ensure that entities serving Native American and Native Hawaiian communities are represented among the grantees; and

"(D) equitably distributed between urban and rural States and among all geographic regions of the country.

"(e) FEDERAL SHARE.—The Federal share of a program carried out under subsection (a) shall be 90 percent. The Secretary shall accept the value of in-kind contributions made by the grant recipient as a part or all of the non-Federal share of grants.

"(f) EVALUATION.—The Secretary shall periodically conduct evaluations to determine the effectiveness of programs supported under subsection (a)—

"(1) in reducing the incidence of alcohol and drug abuse among substance abusers participating in the programs;

"(2) in preventing adverse health conditions in children of substance abusers;

"(3) in promoting better utilization of health and developmental services and improving the health, developmental, and psychological status of children receiving services under the program;

"(4) in improving parental and family functioning;

"(5) in reducing the incidence of out-of-home placement for children whose parents receive services under the program; and

"(6) in facilitating the reunification of families after children have been placed in out-of-home care.

"(g) REPORT.—The Secretary shall annually prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report that contains a description of programs carried out under this section. At a minimum, the report shall contain—

"(1) information concerning the number and type of programs receiving grants;

"(2) information concerning the type and use of services offered;

"(3) information concerning—

"(A) the number and characteristics of families, parents, and children served;

"(B) the number of children served who remained with their parents during or after the period in which entities provided services under this section;

"(C) the number of children served who were placed in out-of-home care during the period in which entities provided services under this section;

"(D) the number of children described in subparagraph (C) who were reunited with their families; and

"(E) the number of children described in subparagraph (D) who were permanently placed in out-of-home care;

analyzed by the type of eligible entity described in subsection (e) that provided services;

"(4) an analysis of the access provided to, and use of, related services and alcohol and drug treatment through programs carried out under this section; and

"(5) a comparison of the costs of providing services through each of the types of eligible entities described in subsection (e).

"(h) DATA COLLECTION.—The Secretary shall periodically collect and report on information concerning the numbers of children in substance abusing families, including information on the age, gender and ethnicity of the children and the composition and income of the family.

"(i) REQUIREMENT OF APPLICATION.—The Secretary may not make any grant under this section unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $50,000,000 for each of the fiscal years 1992 through 1994.".

PART V—MISCELLANEOUS PROVISIONS

SEC. 251. GRANTS FOR SMALL INSTRUMENTATION IN RESEARCH ON MENTAL HEALTH AND SUBSTANCE ABUSE.

Section 501(m)(5) of the Public Health Service Act (42 U.S.C. 290aa(m)(5)) is amended by striking "1991" and inserting "1994".

TITLE III—TRAUMA CENTERS AND DRUG-RELATED VIOLENCE

SEC. 301. ESTABLISHMENT OF PROGRAM OF GRANTS.

Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101-590 (104 Stat. 2915), is amended by adding at the end the following new part:

"PART D—TRAUMA CENTERS OPERATING IN AREAS SEVERELY AFFECTED BY DRUG-RELATED VIOLENCE

"SEC. 1241. GRANTS FOR CERTAIN TRAUMA CENTERS.

"(a) IN GENERAL.—The Secretary may make grants for the purpose of providing for the operating expenses of trauma centers that have incurred substantial uncompensated costs in providing trauma care in geographic areas with a significant incidence of violence arising from the abuse of drugs. Grants under this subsection may be made only to such trauma centers.

"(b) MINIMUM QUALIFICATIONS OF CENTERS.—

"(1) SIGNIFICANT INCIDENCE OF TREATING PENETRATION WOUNDS.—

"(A) The Secretary may not make a grant under subsection (a) to a trauma center unless the population of patients that has been served by the center for the period specified in subparagraph (B) includes a significant number of patients who were treated for wounds resulting from the penetration of the skin by knives, bullets, or other weapons.

"(B) The period specified in this subparagraph is the 2-year period preceding the fiscal year for which the trauma center involved is applying to receive a grant under subsection (a).

"(2) PARTICIPATION IN TRAUMA CARE SYSTEM OPERATING UNDER CERTAIN PROFESSIONAL GUIDELINES.—The Secretary may not make a grant under subsection (a) unless the trauma center involved is a participant in a system that—

"(A) provides comprehensive medical care to victims of trauma in the geographic area in which the trauma center is located;

"(B) is established by the State or political subdivision in which such center is located; and

"(C) has adopted guidelines for the designation of trauma centers, and for triage, transfer, and transportation policies, equivalent to (or more protective than) the applicable guidelines developed by the American College of Surgeons or utilized in the model plan established under section 1213(c).

"SEC. 1242. PREFERENCES IN MAKING GRANTS.

"(a) IN GENERAL.—In making grants under section 1241(a), the Secretary shall give preference to any application—

"(1) made by a trauma center that, for the purpose specified in such section, will receive financial assistance from the State or political subdivision involved for each fiscal year during which payments are made to the center from the grant, which financial assistance is exclusive of any assistance provided by the State or political subdivision as a non-Federal contribution under any Federal program requiring such a contribution; or

"(2) made by a trauma center that, with respect to the system described in section 1241(b)(2) in which the center is a participant—

"(A) is providing trauma care in a geographic area in which the availability of trauma care has significantly decreased as a result of a trauma center in the area permanently ceasing participation in such system as of a date occurring during the 2-year period specified in section 1241(b)(1)(B); or

"(B) will, in providing trauma care during the 1-year period beginning on the date on which the application for the grant is submitted, incur uncompensated costs in an amount rendering the center unable to continue participation in such system, resulting in a significant decrease in the availability of trauma care in the geographic area.

"(b) FURTHER PREFERENCE FOR CERTAIN APPLICATIONS.—With respect to applications for grants under section 1241 that are receiving preference for purposes of subsection (a), the Secretary shall give further preference to any such application made by a trauma center for which a disproportionate percentage of the uncompensated costs of the center result from the provision of trauma care to individuals who are undocumented aliens.

"SEC. 1243. COMMITMENT REGARDING CONTINUED PARTICIPATION IN TRAUMA CARE SYSTEM.

"The Secretary may not make a grant under subsection (a) of section 1241 unless the trauma center involved agrees that—

"(1) the center will continue participation in the system described in subsection (b) of such section throughout the 3-year period beginning on the date that the center first receives payments under the grant; and

"(2) if the agreement made pursuant to paragraph (1) is violated by the center, the center will be liable to the United States for an amount equal to the sum of—

"(A) the amount of assistance provided to the center under subsection (a) of such section; and

"(B) an amount representing interest on the amount specified in subparagraph (A).

"SEC. 1244. GENERAL PROVISIONS.

"(a) APPLICATION.—The Secretary may not make a grant under section 1241(a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"(b) LIMITATION ON DURATION OF SUPPORT.—The period during which a trauma center receives payments under section 1241(a) may not exceed 3 fiscal years, except that the Secretary may waive such requirement for the center and authorize the center to receive such payments for 1 additional fiscal year.

"SEC. 1245. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000 for fiscal year 1992, $75,000,000 for fiscal year 1993, and $100,000,000 for fiscal year 1994.".

SEC. 302. CONFORMING AMENDMENTS.

Title XII of the Public Health Service Act (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101-590 (104 Stat. 2915), is amended—

(1) in the heading for part C, by inserting "REGARDING PARTS A AND B" after "PROVISIONS";

(2) in section 1231, in the matter preceding paragraph (1), by striking "this title" and inserting "this part and parts A and B"; and

(3) in section 1232(a), by striking "this title" and inserting "parts A and B".

TITLE IV—NATIONAL COMMISSION ON ALCOHOL AND TOBACCO USE BY CHILDREN

SEC. 401. ESTABLISHMENT AND DUTIES OF COMMISSION.

The Secretary of Health and Human Services shall establish a commission to be known as the National Commission on Alcohol and Tobacco Use By Children.

SEC. 402. DUTIES.

The Commission shall—

(1) identify the factors that encourage the initial use of tobacco products and alcoholic beverages by children, and the factors that influence the duration and extent of such use;

(2) assess the direct and indirect health consequences of such use by children;

(3) examine the effect and adequacy of efforts by manufacturers of such products and beverages to discourage such use, including an assessment of any activities of the manufacturers that may appeal to children and may promote such use;

(4) examine the adequacy and effect of Federal, State and local laws to prevent such use; and

(5) develop recommendations on the policies that should be established by public and private entities in order to reduce such use.

SEC. 403. MEMBERSHIP.

(a) COMPOSITION.—

(1) IN GENERAL.—The Commission shall be composed of 19 members. Of such members—

(A) 5 shall be ex officio members designated in accordance with subsection (b);

(B) 4 shall be members of the Congress designated in accordance with subsection (c); and

(C) 10 shall be appointed in accordance with subsection (d) from among individuals who are not officers or employees of the Federal Government.

(2) VOTING MEMBERS.—Each member of the Commission shall be a voting member.

(b) EX OFFICIO MEMBERS.—The following officials shall serve as ex officio members of the Commission:

(1) The Secretary.

(2) The Surgeon General of the Public Health Service.

(3) The Director of the Centers for Disease Control.

(4) The Director of the Office of National Drug Control Policy.

(5) The Chairman of the Federal Trade Commission.

(c) CONGRESSIONAL MEMBERS.—The congressional members of the Commission shall be appointed as follows:

(1) The Speaker of the House of Representatives shall appoint 2 members from the Members of the House, after consideration of the recommendations made by the Majority Leader and the Minority Leader of the House.

(2) The President Pro Tempore shall appoint 2 members from among the Members of the Senate, after consideration of the recommendations made by the Majority Leader and the Minority Leader of the Senate.

(d) APPOINTED MEMBERS.—The appointed members of the Commission shall be appointed by the Secretary, and shall be individuals who are specially qualified to serve as members of the Commission by virtue of the education, training, or experience of the individuals.

(e) TERMS.—

(1) IN GENERAL.—Each Member shall be appointed for the life of the Commission.

(2) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(f) BASIC PAY.—Members shall serve without pay.

(g) TRAVEL EXPENSES.—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(h) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(i) CHAIR.—The Secretary shall serve as the chair of the Commission.

(j) MEETINGS.—The Commission shall meet at the call of the Chairperson or a majority of its members.

SEC. 404. STAFF AND OTHER SUPPORT.

(a) IN GENERAL.—The Secretary shall appoint a director for the Commission. Such director shall be paid at a rate equal to the maximum rate of basic pay payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code. The Secretary shall provide to the Commission such other staff, and such information and other assistance (including quarters, and experts and consultants) as may be necessary to carry out the duties of the Commission.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(c) STAFF OF FEDERAL AGENCIES.—Upon request of the Secretary, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of the agency to the Commission to assist the Commission in carrying out its duties under this Act.

SEC. 405. REPORT.

Not later than 18 months after the date on which the process of establishing the membership of the Commission in accordance with section 403 is completed, the Commission shall submit to the President and the Congress a report describing the findings and recommendations made by the Commission under section 402.

SEC. 406. TERMINATION.

The Commission shall terminate 6 months after the date on which the Commission submits its final report pursuant to section 405.

SEC. 407. DEFINITIONS.

For purposes of this title:

(1) The term "Commission" means the National Commission on Alcohol and Tobacco Use by Children established under section 401.

(2) The term "Secretary" means the Secretary of Health and Human Services.

TITLE V—MISCELLANEOUS

SEC. 501. PHYSICIANS COMPARABILITY ALLOWANCE.

Section 1003 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1502) is amended by adding at the end the following new subsection:

"(f) COMPENSATION OF DEPUTY DIRECTOR FOR DEMAND REDUCTION.—The position of Deputy Director for Demand Reduction, when occupied by a physician, shall be considered a Government physician for purposes of eligibility for the physicians comparability allowance, as defined in section 5948 of title 5, United States Code. For purposes of determining the amount of such allowance, such Deputy Director shall be deemed to have served as a Government physician for more than twenty-four months, and the amount necessary to deal with the recruitment and retention problem for such position shall be deemed to be $20,000.".

SEC. 502. SUBSTANCE ABUSE AMONG EMPLOYEES OF SMALL BUSINESSES.

Subpart 2 of part F of title V of the Public Health Service Act, as added by section 211 of this Act, is amended by adding at the end the following new section:

"SEC. 578. TREATMENT SERVICES FOR EMPLOYEES OF SMALL BUSINESSES.

"(a) IN GENERAL.—The Secretary may make grants to public and nonprofit private entities for the purpose of carrying out programs to assist business organizations that have 500 or fewer employees with the costs of providing to the employees of the organizations, and the families of the employees, prevention and treatment services regarding the abuse of alcohol and drugs (including counseling on interacting with individuals who engage in such abuse).

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there is authorized to be appropriated $3,000,000 for each of the fiscal years 1992 through 1994.".

The SPEAKER pro tempore (Mr. MONTGOMERY). Pursuant to the rule, the gentleman from California [Mr. WAXMAN] will be recognized for 20 minutes, and the gentleman from Virginia [Mr. BLILEY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from California [Mr. WAXMAN].

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to present to the House H.R. 3698. The purpose of H.R. 3698 is to revise and extend expiring substance abuse and mental health programs of the Alcohol, Drug Abuse and Mental Health Administration [ADAMHA].

The legislation includes provisions to:

First, establish separate State block grants for community mental health and substance abuse services;

Second, establish a program of financial assistance to trauma centers severely impacted by drug-related violence;

Third, authorize a program of demonstration grants to improve treatment of severely disturbed children and adolescents;

Fourth, establish an Office of Rural Mental Health within the National Institute of Mental Health;

Fifth, revise the allocation formula for community mental health service block grant funds to more accurately reflect the incidence of mental illness between States;

Sixth, strengthen accountability for State substance abuse block grant funds through preparation of State treatment plans;

Seventh, establish the Office for Treatment Improvement as an agency of ADAMHA;

Eighth, require States receiving substance abuse block grant funds to enact a law establishing 18 as the minimum age of sale for tobacco products;

Ninth, incorporate into substance abuse prevention programs strategies for reducing the use of tobacco products by underage youth; and

Tenth, establish a new Substance Abuse Treatment Capacity Expansion Program.

Existing categorical grant programs reauthorized by the legislation include: High-risk youth substance abuse prevention grants, community partnership substance prevention grants, pregnant and postpartum women substance abuse programs, substance abuse treatment demonstrations of national significance, substance abuse treatment waiting list reduction grants, National Institute on Alcohol Abuse and Alcoholism research, National Institute on Drug Abuse [NIDA] research, and small instrumentation grants for alcohol, drug abuse, and mental health research.

A new authorization of appropriations is provided for biomedical and behavioral research at the National Institute of Mental Health [NIMH].

Mr. Speaker, H.R. 3698 is critical to strengthening Federal drug and alcohol abuse demand reduction programs. Central to achieving this goal is revision of the Federal block grant program to bolster program accountability and assure fairness in the allocation of funds between States. The committee believes that the Alcohol, Drug Abuse and Mental Health Services block grant [ADMS] no longer provides an effective means of meeting the public health crisis which drug and alcohol abuse represent.

Mr. Speaker, there has been much talk about the drug crisis in this country—and the crisis it creates for the criminal justice system, for our law enforcement officials, in our schools, and at our border. Drug abuse touches peoples' lives in every city and every State—and it destroys them.

As chairman of the Subcommittee on Health and the Environment I submit to you that this crisis is a health crisis as well. Victims of the war on the streets overwhelm the doctors and nurses in our trauma centers. Drug-addicted women give birth to addicted babies and send infant mortality rates soaring. Inadequate numbers of treatment programs doom thousands of children to painful drug withdrawals in the cradle and a lifelong battle with disability.

The President's national drug control strategy has laid out the need for improved and expanded drug treatment programs. The President has asked for more drug treatment slots. He told the States to coordinate their services and better plan how they will spend their money. He asked for resources targeted at pregnant women to protect their babies and to get them off drugs.

Mr. Speaker, I note that the legislation contains changes from the committee-reported bill which reduce authorization levels to make the legislation more acceptable to the minority.

Mr. Speaker, I urge support for the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, despite significant strides that have been made in the reduction of illicit drug abuse, many problems associated with substance abuse still remain. Among the problems that continue to plague the country:

Each year an estimated 375,000 babies are born exposed to cocaine and other drugs;

Fetal alcohol syndrome [FAS] affects as many as 1 to 3 infants per 1,000 live births;

Nearly 50 percent of Federal prison inmates and 75 percent of State prison inmates have used drugs. In major cities, as many as 80 percent of those surveyed who were arrested for serious crimes tested positive for drug use;

IV drug use now accounts for almost a third of the people infected with AIDS and is the primary cause of transmission of AIDS to newborns. Over half of the heterosexuals infected with HIV have contracted the virus through sex with an IV drug user.

These few statistics demonstrate the need for an effective program of substance abuse treatment. In light of this, I am pleased that a compromise could be reached on the reauthorization of the Alcohol, Drug Abuse and Mental Health Administration [ADAMHA].

One of the major objections that the minority has had with this bill is that H.R. 3698 placed a number of onerous set-asides, earmarks, and taps on the block grant to fund new categorical programs. This shifting of moneys from the block grant to set-asides and categorical grant programs significantly reduces the flexibility of States to address the critical needs of their populations. It takes the initiative away from local people who have the best grasp of their local environments and shifts it to Federal bureaucrats.

To increase State flexibility in administering the block grant we have made the following compromises with the majority:

First, the permanent 2-percent tap on the substance abuse block grant to fund the pregnant and postpartum women grant program has been limited to 2 years;

Second, the 25-percent tap on the substance abuse block grant for programs for pregnant women will end in 1995;

Third, the tap on the substance abuse block grant for small employers will become a stand alone categorical grant program;

Fourth, the $40 million waiting list reduction program has been dropped; and

Fifth, services and evaluation research will now become a permissible use of funds for the research component of both the mental health and substance abuse block grants.

Also, I am pleased to state that we have been able to compromise on the overall funding levels of this bill. For fiscal year 1993, the bipartisan compromise reduces authorization levels compared to the full committee bill by $310 million. And for the 3-year authorization period of the bill authorization limits have been reduced by $705 million.

Finally, I am pleased that at full committee we were able to work out a compromise regarding tobacco use by underage youth. This compromise discourages tobacco use by underage youth by requiring that States receiving substance abuse block grant funds enact a law prohibiting the sale or distribution of tobacco products to those under the age of 18. States will be required to enforce such laws in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to underage youths.

Mr. Speaker, I ask my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. WAXMAN. Mr. Speaker, I yield 4 minutes to the gentleman from Texas [Mr. COLEMAN], and, in so doing, I want to acknowledge his contribution to this legislation with regard to the trauma centers that are part of the bill.

Mr. COLEMAN of Texas. Mr. Speaker, I thank the gentleman from California for yielding this time to me, and I rise today to thank the chairman, Mr.

WAXMAN, for his support of efforts by myself and my colleague, Mr. LOWERY, to provide Federal assistance for trauma centers that are struggling under the additional burden of providing care for undocumented persons. Many of these hospitals, including R.E. Thomason General Hospital in El Paso are already in crisis as they attempt to deal with the effects of increased drug and gang-related violence, and the increasing number of uninsured. But that crisis has been worsened by the Federal Government, which has asked these hospitals to also provide trauma care to undocumented persons in our country as a result of the Federal Government's immigration policy. That is unfair; the taxpayers of El Paso County and San Diego should not have to shoulder the burden of this Federal policy alone.

In 1985, Thomason Hospital in El Paso was placed under a court order that forbid them from asking any questions to determine whether patients who came into the emergency room were U.S. citizens. The lawsuit behind this court order has recently been settled, but Thomason Hospital is still understandably reluctant to serve as an agent of the immigration service. Despite this lack of hard numbers, however, some estimates place the number of Thomason patients who are undocumented as high as 20 percent. Thomason Hospital continues to fulfill its mission: to serve the medically needy residents of El Paso County. It fulfills that mission as best it can, by using its limited resources to provide desperately needed care, not by asking questions to collect immigration data. I support that mission, and I am pleased to see that the Federal Government is finally going to shoulder a part of its responsibility and play its role in supporting that mission as well.

□ 1350

Mr. BLILEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise today in support of H.R. 3698, the Community Mental Health and Substance Abuse Services Improvement Act.

I would like to commend the distinguished chairman of the Health Subcommittee, the gentleman from California [Mr. WAXMAN], for introducing this important measure, and the distinguished chairman of the Energy and Commerce Committee, the gentleman from Michigan [Mr. DINGELL] and the ranking minority member, the gentleman from New York [Mr. LENT] and the gentleman from Virginia [Mr. BLILEY], the acting ranking minority member for their efforts in bringing this important issue to the floor.

H.R. 3698 reauthorizes the Alcohol, Drug Abuse and Mental Health Administration [ADAMHA]. ADAMHA provides services for the chronically mentally ill, severely mentally disturbed children and adolescents, and mentally ill senior citizens through grant programs.

Additional grants are allocated for prevention, treatment, and rehabilitation programs and other activities to deal with alcohol and drug abuse.

Mr. Speaker, substance abuse and mental illness are matters of great concern to our Nation. The drug scourge has claimed countless victims; our citizens are being caught in the drug dealers crossfire, substance abuse addicts are dying of overdoses, and innocent babies born addicted to crack cocaine are dying only after a few short days of life. A recent household survey indicates that 37 percent of Americans aged 12 and older have used one or more illicit drugs in their lifetimes. In addition, nearly 18 million aged 18 and older have problems related to alcohol abuse and alcoholism. Obviously there is a critical need for the rehabilitation and treatment programs provided by ADAMHA as part of our Nation's drug control strategy.

ADAMHA's services in caring for those afflicted with mental illness are also critical. The National Institute of Mental Health [NIMH] estimates that more than 1 percent of the adult population of the United States have serious mental illnesses, such as schizophrenia, severe forms of depression, psychosis, dementia, and others. In order for these individuals to maintain productive lives they must be given proper and adequate treatment.

Mr. Speaker, it is vital that the Alcohol Drug Abuse and Mental Health Administration be reauthorized. Accordingly, I urge the full support of this measure by my colleagues.

Mr. WAXMAN. Mr. Speaker, I yield 3 minutes to my friend and colleague and fellow Californian, the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I rise in support of H.R. 3698, the Community Mental Health and Substance Abuse Services Improvement Act, especially the provisions to improve the Nation's mental health system. I am particularly pleased to speak on behalf of the Children's and Communities' Mental Health Systems Improvement Act, which I originally introduced with the support of my colleagues—both Democrats and Republicans alike.

I want to thank Mr. WAXMAN, chairman of the Subcommittee on Health and the Environment for his continued and determined support and leadership on behalf of children, and for incorporating this bill into the very important legislation we are considering today. I also want to thank the National Mental Health Association for its leadership in the development of this legislation on behalf of children and youth with mental health problems.

SELECT COMMITTEE ON CHILDREN, YOUTH, AND FAMILIES DOCUMENTS LACK OF APPROPRIATE SERVICES FOR MILLIONS OF EMOTIONALLY TROUBLED YOUTH

The history of the Select Committee on Children, Youth, and Families, which I formerly chaired, has been to take on the issues no one else wanted—the significant, yet unspoken concerns about our most vulnerable youth and their families. Perhaps the most disturbing issue that emerged was the dismal lack of attention paid to emotionally troubled children.

Despite years of silence about children with mental health problems, their presence is not unfamiliar. We know them as children who are too aggressive or too withdrawn, who have learning problems in school, or who will get into trouble with the law. Now we know that for many children these are not just passing phases of childhood, but serious mental health problems that will persist into adulthood.

But even when families seek guidance or needed services, there are few places to turn. The select committee, in its investigation of child welfare, juvenile justice, and mental health systems, found that economic and social trends are fueling a collapse in children's services.

The state of children's mental health services in particular is a national disgrace. As many as 80 percent of the 7 to 9 million children with emotional disturbances get inappropriate mental health services, or no services at all.

OFFICE OF TECHNOLOGY ASSESSMENT CONFIRMS CHILDREN UNSERVED OR TOO OFTEN PLACED IN INAPPROPRIATE PSYCHIATRIC HOSPITALS

The report on adolescent health released last year by the Congressional Office of Technology Assessment found that as many as one out of five adolescents experience diagnosable mental disorders, and that while many do not get any treatment at all, psychiatric hospitalization of teens has been escalating.

SELECT COMMITTEE DOCUMENTS CHILDREN WITH MENTAL HEALTH PROBLEMS LOST IN CHILD WELFARE, EDUCATION, MENTAL HEALTH, AND JUVENILE JUSTICE SYSTEMS

When treatment options are absent, a vast number of youth are placed out-of-home in foster care or wind up in the juvenile justice system—often lost in a system that can't even track them, let alone treat them.

At a hearing of the Select Committee on Children, Youth, and Families on children's mental health services, this issue was brought home by Governor Wilder of Virginia, who testified that these children:

> * * * bounce from agency to agency; from foster home to group home to institution; and from funding stream to funding stream. They are often defined by the system whose door they happen to enter: a welfare child, a juvenile justice child, a school system child, or a mental health child * * * but these children are often the same child.

Virginia identified 14,000 names of children in the child welfare, mental health, education, and juvenile justice systems. These 14,000 names, however, represented only 4,993 children, because the same children were being shuffled from one agency to another without appropriate followup.

COMPREHENSIVE, COMMUNITY-BASED SYSTEMS WORK AND SAVE MONEY BUT THEY ARE FEW AND UNDERSUPPORTED

Most tragic is the scarcity of community-based, family intervention services, which remain few and undersupported. In California, as many as 1 million children may have serious mental health problems, but as few as 6 percent receive mental health services in the State's public programs.

Despite the lack of services in California, there is a model that provides evidence that community-based services are successful and save money. The California model system of care was developed during the mid-1980's in Ventura County. As a result of State legislation, the model has been disseminated to three additional California counties—San Mateo, Santa Cruz, and Riverside.

The California model is designed to create service plans and case management procedures that serve adolescents with severe emotional disorders. These plans seek to integrate services related to mental health care, social services, education, and juvenile justice.

Data from the three demonstration counties in the California model indicate that placement in group homes and private hospitals declined significantly. Based on the cost-savings generated by these counties, the State of California might have saved $171 million over 2 years in the cost of group homes alone, had the entire State adopted the model.

We also received testimony about two demonstration efforts in North Carolina which are developing community based services for children with mental health problems. The first provides a full continuum of child mental health services with an emphasis on alternatives to inpatient and residential treatment for children in military families. During Operation Desert Storm, even at the height of demand for services, the availability of community based alternatives resulted in declining hospitalizations.

The second, a Robert Wood Johnson Foundation demonstration project in rural North Carolina, is proving that even when the population is sparse and distances are great, it is possible to successfully coordinate and tailor mental health and related services for emotionally troubled youth.

Such efforts, however, are few and far between. Across the Nation, limited and overloaded mental health systems are serving only the most seriously ill youth. The alternatives for the rest are most costly and inappropriate institutionalization, foster care, or residential placements that only exacerbate the problem.

Barbara Huff, the parent of a child with a serious mental health problem and also the organizer of the first parent support group in Kansas, testified about the severe emotional and financial stress that her family has experienced, and the lack of treatment options and supportive services. She described the anguish of being told that she had to relinquish custody of her child in order to obtain State funded services.

Another parent, Dixie Jordan, told the committee:

> For many of us * * * the choice exists between denying a child needed mental health treatment * * * or sending the child to a hospital or institutional setting for treatment, recognizing that the psychic trauma from separation from family and familiar surroundings may be more damaging than the original problem.

As a native American, Ms. Jordan told the committee that children who are ethnically, linguistically, culturally, or racially different are frequently overidentified or underidentified as having a serious emotional disorder. In Minnesota, native American children are overrepresented by 300 percent in special education programs for children with emotional or behavioral problems according to Jordan.

Today, I was joined by my colleagues Mrs. SCHROEDER and Senator INOUYE in releasing a report, "State of Native American Youth Health," prepared by the adolescent health program at the University of Minnesota in conjunction with the Indian Health Service. Interviews with over 14,000 American Indian and Alaskan Native youths across the country found that they experience significant mental health problems. While about 6 percent reported very significant levels of emotional distress, 21 percent of females, and 12 percent of males reported ever having attempted suicide. Over half of these youth had attempted suicide more than once.

FEDERAL RESPONSE TO DATE LIMITED

The Federal response has been virtually no response at all. The current Alcohol, Drug and Mental Health Services block grant provides only token resources for seriously ill children. The National Institute of Mental Health has shifted its emphasis from direct services and improved State coordination to more and better research. Scientific inquiry is important, but without improved and expanded services, we won't keep troubled youth out of jail or adult psychiatric wards.

That is why I am especially pleased, Mr. Speaker, that the Children's and Communities' Mental Health Systems Improvement Act has been incorporated into the bill under consideration today. This legislation builds on the successful models I discussed earlier and would establish a program of grants to States and other political subdivisions on a matching basis to provide community based, comprehensive mental health services to children and youth with severe emotional disturbances.

Given the unique and often neglected problems of native American youth and their families, I am very gratified that this bill will permit Indian tribes to be suitable grant applicants. As Dixie Jordan informed the Select Committee, "culturally appropriate services" and the need for cultural sensitivity when identifying and diagnosing children need more than lip service. And family and community involvement in setting the context is critical if minority children are to receive appropriate diagnoses and services. For native American children who live on reservations, their families and their communities are in the best position to determine appropriate treatments.

CONCLUSION

A major achievement of the select committee, of which I am most proud, was in bringing these issues out into the open. For too long, the stigma of emotional disturbance prevented many parents from seeking help.

This legislation represents an important first step. And it will be a good first step, because there are model programs out there that work to build on. But this new grant program will need to become the framework on which we develop a system of comprehensive, community based mental health services around the country—not just in Ventura County or in North Carolina—but in every community where there is a need.

I urge my colleagues to support this bill, Mr. Speaker, so that with our continued vigilance on behalf of children with emotional disturbances, families who now seek help will be able to find it.

Mr. BLILEY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I rise in support of H.R. 3698, the Community Mental Health and Substance Abuse Services Improvement Act, legislation to replace the current Alcohol, Drug Abuse, and Mental Health Services block grant with two separate block grants, one for Substance Abuse Services and one for Mental Health Services. Our investment in the war on drugs has had a negative impact on mental health funding; the separate block grants are intended to correct the funding disparities that have developed.

I am particularly pleased that the legislation includes a provision to provide for residential substance abuse treatment for pregnant women, a bill introduced by my friend and colleague, Congressman DURBIN; I am an original cosponsor of the legislation.

The failure to provide residential treatment has had a tragic impact on our Nation. We are experiencing an epidemic of drug-exposed infants. An estimated 375,000 drug-affected babies are born every year, many with serious medical problems. the cost of providing medical treatment and foster care for these children is far greater than the cost of residential substance abuse treatment for pregnant women. Hospital care for drug-affected newborns alone totaled $121 million in Maryland in 1989. The cost of providing hospital and foster care services through age 5 for the 9,000 cocaine-exposed children in only eight major cities in 1989 totaled $500 million. This cost does not include special education programs and services needed after the age of 5.

And yet, two-thirds of the hospitals surveyed in 1989 by the Select Committee on Children, Youth, and Families reported that they had no place to refer pregnant addicts for treatment. This bill authorizes grants for residential treatment, providing these women with the services needed to regain control over their lives, and preventing damage to their children. Society would benefit from the contributions of these women and their children, and we would avoid the enormous costs of caring for addicted infants.

H.R. 3698 also reauthorizes a number of demonstration projects to fund innovative programs of treatment and outreach that are critical in our efforts to prevent the spread of HIV disease, as well as to provide substance abuse treatment where it is most needed. This demonstration project funding has been one of the only means of reaching women at high risk of contracting HIV. This program must be supported and expanded.

Mr. Speaker, I commend Chairman WAXMAN and the members of the subcommittee for their efforts, and I urge my colleagues to join me in supporting this legislation.

□ 1400

Mr. WAXMAN. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma [Mr. SYNAR], a very important member of the subcommittee who has made an important contribution to this legislation.

Mr. SYNAR. Mr. Speaker, alcohol and drug use is a serious problem in our country. Abusers of these substances account for a substantial amount of the violent crime. Until we treat drug and alcohol addictions, we will be fighting a losing battle against the war on drugs and the violence spawned by drug use. This bill gives our States resources to help those in need of treatment.

This bill deserves support for another very critical reason. Every day 3,000 teenagers try a product that contains an addicting drug. This is not harmless experimentation as some would suggest. Use of this product leads to a lifelong addiction that is responsible for over 400,000 deaths each year. The product? Tobacco. In 1982 the U.S. Public Health Service concluded that cigarette smoking is the most widespread example of drug dependence in this country.

Tobacco use is a serious health threat. The U.S. Surgeon General reports that people over age 25 who ever smoked will incur total lifetime medical care costs of $501 billion. The estimated average lifetime medical costs for a smoker exceed those for a nonsmoker by over $6,000.

It is also a contributing factor to illicit drug use. Children who try cigarettes are at greater risk of experimenting with other marijuana and crack cocaine according to the presidentially appointed National Commission on Drug-Free Schools, among others who have studied this problem.

H.R. 3698 takes important steps in the fight to eliminate tobacco use among adolescents. It requires every State to enact laws prohibiting the sale of tobacco products to youths under 18. More importantly, it requires that these laws be enforced—something that is not being done today. Finally, the bill requires that drug education and prevention programs teach young people about the dangers of tobacco and alcohol use. Such action is necessary to counter the suggestive and misleading messages youth receive through tobacco industry advertising campaigns.

Mr. Speaker, with these remarks I commend this report, congratulate the gentleman from California [Mr. WAXMAN] and the gentleman from Virginia [Mr. BLILEY] for their outstanding work, and ask Members to support H.R. 3698.

Mr. BLILEY. Mr. Speaker, I wish to thank the gentleman from Oklahoma [Mr. SYNAR] for his kind words.

Mr. WAXMAN. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Virginia [Mr. MORAN] to speak on this legislation.

Mr. Speaker, I wish to acknowledge the enormous contribution to the legislation of the gentleman from Virginia. We have labored over this bill for some years, and in a previous Congress we heard from the mayor of Alexandria, who is now a colleague of ours. At that time he urged upon us a provision of this bill, which at this time is incorporated in the legislation, a national drug treatment demonstration for the National Capital Area.

Mr. MORAN. Mr. Speaker, I wish to thank the gentleman from California [Mr. WAXMAN] very much for those kind words, but it is we who are now and have attempted to govern the localities throughout this country that have been beset by the problem of substance abuse who must acknowledge and thank the gentleman for his leadership and hard work for several years. We know that we can come to the gentleman from California [Mr. WAXMAN], and in fact the gentleman would respond with the type of bill that we have today.

Mr. Speaker, I would like to thank the competent and diligent committee staff, as well as the ranking minority member of the committee, the gentleman from Virginia [Mr. BLILEY].

Mr. Speaker, I obviously rise in support of H.R. 3698 today, because it is a terribly important bill.

Among many other programs, H.R. 3698 would specifically fund the establishment of a model program in the Washington metropolitan region for providing comprehensive treatment services for substance abuse.

The committee has aptly chosen Washington, DC for this demonstration project because the substance abuse problem here is so acute. The Washington metropolitan region greatly exceeds national averages of incidence of both alcohol use and drug abuse. Conservative estimates for the number of DC residents needing drug and alcohol treatment, using federally approved formulas, are 62,191 and 328,000 respectively. This great demand for services has overwhelmed the ability of local government to provide drug and alcohol treatment and, as a result, a majority of residents in the area must wait more than 4 weeks to be admitted to a treatment program.

Mr. Speaker, the first and most important thing that has to happen after somebody has become addicted to drugs is they have to make that decision within themselves that they are going to break the habit. They have to be willing to go to treatment. If they are forced into treatment or they go without a commitment, that treatment is not going to work. What we are seeing is that in the District of Columbia if a person makes that decision to seek that treatment, they then have to wait a month before we can provide that treatment. If we cannot respond to people when they need help and when they are willing to accept treatment, we lose the opportunity and the situation just becomes exacerbated. That is what is happening throughout this country.

The legislation being considered today would greatly assuage this problem by establishing a model treatment program in the Washington metropolitan area. Such a program would ensure, to the extent practical, that all individuals seeking drug and alcohol abuse treatment can be provided with this important service. By also providing education and employment assistance for patients, this program would go a long way toward ending the cycle of unemployment and limited opportunities that often cause individuals to fall into substance abuse.

The Washington metropolitan region greatly needs this program as the entire Nation needs the other provisions contained in this important bill. I urge my colleagues to join me in passing this terribly important bill.

Mr. BLILEY. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois [Mr. POSHARD].

□ 1410

Mr. POSHARD. Mr. Speaker, I rise in strong support of H.R. 3698, the Community Mental Health and Substance Abuse Services Improvement Act. While all the components of the bill are vitally needed, I am especially pleased that the bill contains the provisions of my bill, H.R. 2237, to establish an Office of Rural Mental Health within the National Institute of Mental Health. It authorizes a new program of rural mental health demonstration grants which will initiate methods of delivering basic mental health outreach services to rural Americans, a concept that is long overdue for millions of people who most often must suffer in silence because of the alarming lack of such health benefits.

In southern Illinois, the vast majority of residents are nowhere near a community mental health center, and many of them are a long drive from even the nearest hospital. Unfortunately, many people see mental health as separate and less important than physical care, so mental health services are the first to be cut when budget reductions are considered.

My interest in rural mental health began a number of years ago when hundreds of farm families began losing their farms—devastating circumstances to those whose land had been held for generations. However, independence and self-reliance are admirable traits of farmers and rural populations in general, so that there remains a stigma attached to the need and acceptance of mental and emotional help. Because of this very real pain rural citizens have been suffering, several residents of my district established the Farm Resource Center. That program provides rural residents with stress management services, outreach counseling and operates a toll-free hotline that offers counseling and referral services. Programs like the Farm Resource Center are indispensable in assisting our rural citizens and H.R. 3698 recognizes this critical need. Hopefully, with more mental health outreach programs, the sometimes overwhelming problems our rural residents face can be alleviated and resolved without ending in tragedy.

Mr. WAXMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us is the work of the Subcommittee on Health and the Environment. The members of that subcommittee deserve credit for this legislation, as do others who have offered their own bills on various aspects of this legislation, which are incorporated in the bill before us.

I want to single out the gentleman from Virginia [Mr. BLILEY] for the very constructive way that he worked with us to overcome the differences which were really not all that significant but required some discussion in this legislation.

I want to also thank the staff people who worked on it, Rip Forbes, who has worked on this legislation for a number of years, along with Howard Cohen, representing the minority.

Mr. WYDEN. Mr. Speaker, the cost of substance abuse in the workplace has been estimated to be as high as $140 billion a year in lost productivity.

The national drug strategy over 4 years ago named the drug-free workplace as a top priority in its blueprint for the multibillion-dollar per year Federal war on drugs.

After a lengthy investigation last year, my Subcommittee on Regulation, Business Opportunities and Energy found that Federal support for reducing drug abuse in our Nation's small businesses is mere cheerleading. Substance abuse in small businesses is a health care problem of forest fire proportions, but the Federal Government is doing far too little in response.

For small businesses, the result of this neglect is inescapable; for workers who abuse drugs, America's small businesses are becoming the employers of last resort.

This legislation, H.R. 3968, the Community Mental Health and Substance Abuse Services Act, contains a modest, but potentially dynamic provision that will provide small businesses with a much needed boost toward establishing effective and humane drug-free workplace policies.

This provision would establish a $3 million grant program for States to apply toward the creation of innovative projects for small businesses to educate their employees about the dangers of drug abuse and help find treatment for workers who are abusing drugs.

According to drug treatment and labor-management experts, big businesses have gotten very good at screening out drug-abusing applicants. Those drug-troubled workers are falling into the ranks of small business. The fact is that if millions of these workers cannot get help in the small business sector, they will not get help at all.

In many cases, the small business owners, trying to meet a payroll are forced to deal simultaneously with the shrapnel of the drug war: overdoses, alcoholism, and suicide. Other business owners, justifiably concerned over the workplace safety hazards presented by drug abusers have adopted a "find 'em and fire 'em" policy, which mean additional hidden costs, such as higher unemployment insurance, lost production time, and greater employee training expenses.

Two out of three substance abusers in this Nation have jobs, and well over half of our work force is in the small business sector. Yet less than .0002 percent of the administration's drug war budget goes for direct assistance, demand reduction programs targeted to the workplace.

This legislation is a modest step in the right direction for bringing the national priority of a drug-free society to millions of workers employed by small businesses.

Mr. LOWERY of California. Mr. Speaker, I would like to take this opportunity to thank the manager, Mr. WAXMAN, for working with me on incorporating my bill, H.R. 4285, the Trauma Care Center Alien Compensation Act of 1992, into the pending measure before the House today. I am also glad that he agrees with me that the Federal Government should shoulder its share of the burden that the undocumented alien population is placing on our Nation's trauma care centers. Along those lines, I extend my thanks to the gentleman from Texas [Mr. COLEMAN] for not only being an original cosponsor of my measure, but helping me raise the awareness in the Congress of this problem which has existed for quite some time.

I introduced this same measure last Congress with the intention of assisting State and local governments in the maintenance and improvement of regional systems in trauma care. Based upon recent Congressional Budget Office [CBO] estimates of the undocumented alien population and the Census Bureau's estimates of yearly growth in this targeted population, approximately 6 million undocumented aliens and alien workers will be potential users of America's health care systems in 1992. Of the 6 million undocumented aliens present in the country, approximately 1.8 million will utilize some form of health care services available to the population at large, and that 40 percent of the costs incurred will be attributable to emergency medical services.

My legislation establishes a program of formula grants to compensate in whole or in part, certain trauma care centers for unreimbursed costs incurred by treating undocumented aliens. The bill provides for $50 million in each of fiscal years 1993–96 to trauma care centers which show they incurred at least 15 percent of their unreimbursed trauma care costs from undocumented aliens. Under this provision, trauma care centers must prove that they attempted to track down the patient to recover the costs. But once they have demonstrated to the Secretary of Health and Human Services that a genuine effort at recouping the costs of trauma care provided has been attempted, assistance from the Federal Government will be provided. While the formula may be subject to change, it is estimated that the 15 percent figure will address the most dramatic needs of the various trauma care centers throughout the country enabling them to keep their doors open. I would like to draw the attention of the gentleman from Texas [Mr. COLEMAN] and assure him that while I understand the hospitals in his district may be a bit gun shy from asking general questions regarding resident status, I have been informed by the Government Accounting Office that the list of questions they provided the Congress back in September 1987 are legal and not subject to challenge. I would like to stress that I am not advocating now, nor have I ever, asked trauma care doctors to ask these questions at the time of injury. My philosophy has always been to treat now, and when the patient has been stabilized, ask the questions later.

This problem is not a new one. In 1977, the House Committee on Interstate and Foreign Commerce, and the House Subcommittee on Health and Environment held hearings on five separate pieces of legislation which would have authorized the Public Health Service to provide financial assistance to medical facilities for trauma and medical emergency treatments provided to indigent and undocumented aliens. On September 11, 1985, the House Subcommittee on Immigration, Refugees, and International Law held similar hearings on this exact issue.

I do not think it is necessary for me to stand here on the floor and praise the virtues of trauma centers and the role they play in saving lives. Without immediate treatment, many trauma patients die within the first hour of sustaining their injury. States such as California and Florida have set up trauma network systems to ensure that state-of-the-art surgical services would be available during the critical 60-minute period in which trauma patients must receive medical treatment or quite possibly die. The importance of trauma facilities in savings lives has been proven.

However, the financial viability of trauma centers is under tremendous strain. My legislation is but one response to the plea for Federal assistance from various hospitals and trauma care centers throughout the country. While undocumented aliens are not the sole reason for the untimely closing and financing problems facing many of our Nation's trauma care centers, this segment of our population receives approximately 18 percent of our Nation's uncompensated emergency care.

In September 1987, the GAO issued a report stating that:

> [F]or many years undocumented aliens have also been a cause for public concern both because they are violating the law and because of the social problems believed to be associated with their presence.

I am pleased that the Committee on Energy and Commerce found that there is a proper role for the Federal Government to assist State and local governments with the costs of providing uncompensated trauma care to undocumented aliens. The costs of providing emergency medical services to undocumented aliens are increasing the already heavy burden shouldered by county taxpayers. Cities such as San Diego, Los Angeles, Houston, Tucson, Miami, Orlando, El Paso, and Las Cruces are treating a growing number of uninsured, undocumented trauma patients. This is an unfortunate direct result of the Federal Government's inability to control our borders and a failure to implement an effective immigration policy. The closing of over 60 trauma care centers in recent years is clear and convincing evidence to me and the committee that time for Federal assistance is now.

I realize that a larger financial problem exists in the arena of trauma care throughout the Nation. However, it is my belief that a limited measure at this time makes more economic sense in light of today's budget environment. Before I close, I wish to thank the chairman of the Energy and Commerce Committee, Mr. DINGELL; the chairman of the Subcommittee on Health and Environment, Mr. WAXMAN; the ranking member, Mr. LENT, and the members of this distinguished committee for their cooperation. I respectfully urge the House conferees to ensure the integrity and viability of this amendment during the Senate-House conference and look forward to its speedy enactment into law.

Mr. CARDIN. Mr. Speaker, I rise to support H.R. 3698, the Community Mental Health and Substance Abuse Services Improvement Act. I applaud the efforts of the chairman of the full committee, Mr. DINGELL, and the subcommittee, Mr. WAXMAN.

I note, however, that this bill does not contain a very important provision contained in the Senate counterpart of this bill, S. 1306, the Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act. I strongly urge my colleagues who will serve on the conference committee to accept the Senate position regarding the Medication Development Program.

The Medication Development Program will provide a statutory framework for the administration's ongoing efforts in pharmacotheraphy and provide a long-term commitment to drug addiction research which will attract the talent and resources to rid our society of this scourge. Specifically, this program will encourage and promote expanded research programs, investigations, experiments, and studies into the development and use of medications to treat drug addiction. It is also designed to establish more research facilities, as well as reporting on other agencies' activities regarding the development and use of pharmacotherapeutic treatments for drug addiction. This program will also collect, analyze, and distribute pertinent data regarding the development and use of pharmacotherapeutic treatments for drug addiction, and the results of this testing will be published for widespread use. Training will be supported in the fundamental sciences and clinical disciplines related to the pharmacotherapeutic treatment of drug abuse, including training stipends and fellowships. And finally, this program will coordinate the activities conducted under this section with related activities conducted within the related National Institutes and their directors.

Presently, the Medication Development Program is funded at less than one-half the level of similar programs conducted at the National Institute on Allergy and Infectious Disease. Without a long-term funding commitment to this program, we cannot hope to attract the Nation's top medical scientists to the pharmacotherapy field. There are more hardcore cocaine addicts in America today than there were in 1988. Now is the time to stop this life threatening trend, and the Medication Development Program is an excellent first step.

Mr. Speaker, I urge my colleagues to support H.R. 3698 and to accept this vital provision from S. 1306 in conference.

Mr. DURBIN. Mr. Speaker, this bill contains two important provisions that I would like to call attention to. First, the bill revises the demonstration grant program for substance-abusing pregnant and post-partum women to emphasize comprehensive residential treatment services. I would like to thank the chairman of the subcommittee, Mr. WAXMAN, for working with me in the revision of this program.

Second, the bill contains a provision creating a National Commission on Alcohol and Tobacco Use By Children, for which I would like to thank the gentleman from Ohio, Mr. ECKART.

Nationwide, 375,000 babies are born each year who were exposed to illegal drugs before birth—1 out of every 10 newborns. According to the inspector general of the Department of Health and Human Services, the total cost for just eight major cities of providing initial hospital care plus subsequent foster care, special education, and other social services before these children reach age 5, is $1.5 billion each year.

For many addicted pregnant women, the only effective treatment is a comprehensive program in a residential setting that provides counseling, child care, room and board for the women and their children, and other services. This type of residential program provides the necessary support system to allow the women to stop their drug use and focus on their recovery.

Tragically, pregnant women are among those least likely to receive comprehensive residential treatment. For example, a survey of 78 treatment programs in New York City found that more than half excluded all pregnant women. Of the programs that did accept pregnant women, less than half provided or arranged for prenatal care and only two made provision for the clients' children. None of the programs that provided residential treatment accepted pregnant women addicted to crack.

Similarly, only 18 percent of California's 366 publicly funded drug treatment programs treat women and only 4 percent can accommodate their children.

This bill will provide new hope for addicted pregnant women and drug-exposed infants by establishing a grant program to offer them the opportunity for comprehensive treatment in a residential setting, and allow their children to reside in the facility with them. This grant program and a related prevention program are jointly authorized at a funding level of $100 million in 1992, $125 million in 1993, and $175 million in 1994, plus potential funds from the special drug asset forfeiture fund.

The bill also establishes a National Commission on Alcohol and Tobacco Use By Children. Over the past few years, it has become very apparent that our Nation's cigarette manufacturers rely on our children to replace their customers who die of tobacco-related diseases. Every day, more than 3,000 children take up the tobacco habit for the first time, and 90 per cent of new smokers begin smoking before the age of 21.

Since children are not permitted to buy tobacco, it is a tragedy that so many of them choose to use tobacco products. They are too young to make an informed decision, yet the addictive nature of cigarettes makes it difficult for them to give up the habit when they become more knowledgeable about the terrible effects of smoking on their health.

The Commission will investigate this problem; assess the adequacy of Federal, State, and local laws to prevent the use of these products by children; examine the ways that manufacturers either discourage or promote the use of their products by children; and report to Congress on the policies that should be established to reduce that use. I look forward to the deliberations and recommendations of this Commission.

Mr. Speaker, I support this bill and look forward to the enactment of these provisions.

Mr. SHARP. Mr. Speaker, I appreciate my colleague bringing this issue before us today. Mental health and substance abuse treatment needs deserve a prominent place in our discussion of the overall health of our Nation.

In my State of Indiana, the network of mental health and substance abuse providers are working diligently with limited funds to meet the vast need across the State. I am concerned because this legislation proposes an increase in the total authorization but a decrease in funding for my State and others.

This is not the first time the allocation formula has reduced the funding to Indiana and other States. In the past, the size of the program increased at such a rate or there were provisions included so that no State experienced a decline in real funding. That is not the case this year. Reduction in block-grant amounts to Indiana will result in cuts in successful programs. Now is not the time to turn clients away from successful treatment.

I have received a list of particularly valuable programs in Indiana that are threatened by this bill. It includes outreach team services for 300 homeless persons disabled by serious mental illness in Indianapolis, Fort Wayne, Evansville, South Bend, Gary, East Chicago, and Muncie and psychosocial rehabilitation which includes counseling and life skills training for 500 people disabled by serious mental illness in Michigan City, Gary, Anderson, and Richmond.

A provision to hold the funding level to the fiscal year 1991 amount would allow States to continue their current level of services, and any new amounts could be distributed according to the Senate formula. The Senate version of this bill includes a hold harmless to fiscal year 1991, and I strongly support this provision.

Also, I would like to make note a provision that is vital to States that would be adversely affected by the proposed split in the existing block-grant program. The bill allows a State to transfer funding from substance abuse programs to mental health programs or vice versa up to the fiscal year 1991 level of spending for the entire 3-year life of the bill. This will help my State and others that otherwise would lose a substantial portion of mental health funding or substance abuse treatment funding because of the split between the two parts of the existing block grant.

Again, I am pleased to reauthorize these substance abuse treatment and mental health programs. I urge my colleagues to join me in my request for a hold harmless provision to fiscal year 1991 so that an increased authorization does not result in decreased real funding for any State.

Mr. McMILLEN of Maryland. Mr. Speaker, I rise in support of H.R. 3698, the Community Mental Health and Substance Abuse Service Improvement Act of 1991. I applaud the efforts of the chairman of the full Energy Commerce Committee, Mr. DINGELL, and the chairman of the Health and Environment Subcommittee, Mr. WAXMAN.

Although I support the bill as reported from committee, I strongly encourage the conference to consider two provisions contained in the Senate-passed counterpart of this bill, which I believe will allow this country to take great strides in combating the problem of substance abuse addiction.

Specifically, I am asking my colleagues to give serious consideration to accepting the Medication Development Program, and the National Substance Abuse Research Centers which are contained in S. 1306.

The Medication Development Program will provide the long-term commitment necessary to address the serious problem of drug abuse. It will encourage and promote expanded research programs, investigations, experiments, and studies into the development and use of medications to treat drug addiction. It is designed to establish more research facilities necessary for basic research.

The second program that I encourage the conference to consider adopting is the creation of the National Substance Abuse Research Centers. This will allow funding to academic institutions to train predoctoral and postdoctoral students regarding research on substance abuse.

Again, I commend the committee on this excellent bill. I urge my colleagues to consider the benefits of these extremely important drug abuse treatment and research related programs.

Mr. TOWNS. Mr. Speaker, with the passage of H.R. 3698, today, we are taking the first step toward authorizing programs which will support increases in substance abuse treatment programs. This is particularly important for populations like pregnant women who have heretofore been denied access to treatment services. The legislation also recognizes the importance of alcoholism as a serious substance abuse problem and encourages States to train emergency medical personnel in the provision of appropriate services to the mentally ill.

In addition, the amendment language to permit a patent extension for the drug, Ansaid, will restore market exclusivity for a drug which has the potential to assist patients with various kinds of inflammatory ailments. In 1982, the Upjohn Co. had every reason to believe that they would be able to receive FDA approval for marketing Ansaid within a 2-year period. At that time, the average approval time was approximately 2 years for this type of drug. Because Upjohn did not receive approval until 1988, it has lost a large measure of the exclusive marketing period that it had relied on to recoup its investment in the development and research of Ansaid.

In general, every effort should be made to ensure that companies can rely on a reasonable mechanism for obtaining a return on their research and development dollars. Today's legislation restores some measure of confidence for those drug companies who are relying on a timely FDA approval process to protect their investments.

Mr. THOMAS of Wyoming. Mr. Speaker, I rise in support for reauthorization of the alcohol, drug abuse, and mental health services block grant. The program adds another level of defense to our communities as they continue the fight against drug abuse with treatment and prevention.

I especially want to thank Chairman WAXMAN and ranking minority member, Mr. DANNEMEYER, for including my bill, the rural drug abuse amendment, into H.R. 3698. The amendment provides local agencies with the authority to design their own substance abuse programs—a necessary step since they sit on the frontline and need this flexibility. Currently, States must spend 50 percent of their drug abuse block grant funds on intravenous needle use and my amendment reduces that mandate to 25 percent to meet the needs of rural States.

While this particular set-aside was successfully reduced, it wouldn't be fair to rural areas to ignore the other burdensome programs added to H.R. 3698. The increased micromanagement of this bill, coupled by the urban-weighted formula, doesn't enhance basic treatment centers commonly found in rural States, like Wyoming.

It's a recognized fact that rural practitioners must be generalists and services must be generic. Rural areas simply don't have the population to justify a specialized approach, and I hope this will be given serious consideration by the House and Senate conferees.

Mr. SANDERS. Mr. Speaker, I am very concerned about some changes being made as part of the reauthorization of the Alcohol, Drug Abuse, and Mental Health Services block grant, H.R. 3698, which we are dealing with today under suspension of the rules. It is my understanding that the committee replaced the Alcohol, Drug Abuse, and Mental Health Services block grant with two new grant programs in an effort to reflect the different at-risk groups receiving funding. I also understand that the impact of the war on drugs has resulted in many States choosing substance abuse over mental health in terms of funding, and the separate block grants are seen as a way to guarantee that certain dollars are spent on mental health.

In Vermont, however, this is not the case. The State of Vermont has not deprived mental health of needed dollars but has funded mental health and substance abuse equally. In fact, Vermont is a leader in the country in reforming and restructuring both its child and adult mental health systems. So while I appreciate the total amount of dollars allocated to Vermont in the combined grant programs, splitting the grant program in two will be very injurious to mental health programs in Vermont. Vermont's mental health funding will be slashed by 71 percent, from $2,010,718 to $646,445. A vital component of this legislation will allow the Governors a 3-year discretionary period, in which they can determine the proportions of the dollars going to these two block grant programs. This 3-year period is not only essential in the case of Vermont, but I would ask that the conference committee consider making this discretionary period indefinite.

I would also ask that the conference reconsider an aspect of the bill that will force States to cut community services to both adults and children in order to create funding for the Child Mental Health Competitiveness Program. As the State of Vermont Agency for Human Services has correctly pointed out, by asking the States to finance the Child Mental Health Program through current State allocations we are truly robbing Peter to pay Paul.

Mr. RANGEL. Mr. Speaker, I rise in support of H.R. 3698, the Community Mental Health and Substance Abuse Services Improvement Act, although I do so with some reservations.

This bill would reauthorize important drug abuse prevention programs administered by the Alcohol, Drug Abuse and Mental Health Administration [ADAMHA] in the Department of Health and Human Services. The authorization for many of these programs expired at the end of fiscal year 1991.

Drug abuse continues to exact an enormous toll on our Nation. Although some studies indicate that casual drug use may be declining, we have yet to make any inroads in reducing serious and addictive drug use which are responsible for the most costly consequences of the drug scourge. In fact, current surveys show that serious drug abuse is up, and these surveys often leave out those groups most likely to be experiencing the highest rates of drug use—the homeless, the unemployed, runaways, school dropouts, and criminal offenders. I can think of no other social problem in our country today that is so tied to the wholesale disintegration of families and communities in cities and towns across our Nation as drug abuse. We are witnessing an explosion in the number of children—the future of our country—who are born exposed to cocaine and other harmful drugs. Drug abuse is fueling the AIDS epidemic and also plays a major role in the spread of tuberculosis, a disease we though we had conquered, and other infectious diseases. The increase in drug overdoses and drug-related injuries, violence, and medical problems is overburdening the Nation's emergency medical services and straining a public health care system that is already deteriorating in the face of the AIDS epidemic and the medical demands of 37 million uninsured and 100 million underinsured Americans. Jurisdictions throughout the country report sharp increases in rates of child abuse and neglect and spousal abuse cases related to drugs. Richard Darman, the director of the President's Office of Management and Budget, estimates that drug abuse costs our society $300 billion a year in terms of lost revenues, lost productivity, and increased governmental spending for prisons, law enforcement, health care, welfare, and other services.

No where is the impact of drug abuse more severe than in my city and my State, New York. Roughly, half of the heroin addicts in the United States reside in New York. In the city, the addict population, including intravenous [IV] and non-IV users, is estimated to be between 500,000 and 600,000. At least 14,000 babies are born to addicted mothers in New York City each year, and substance abuse is a contributing, if not the primary, factor in 25 percent of all child abuse and neglect cases in the city. Up to 80 percent of the city's large and growing homeless population have a substance abuse problem, an estimated 140,000 of 12 to 17-year-olds abuse drugs, 50 to 60 percent of the IV drug users in New York are already infected with the AIDS virus and an additional 200,000–300,000 non-IV users, especially crack addicts, are at high risk for acquiring AIDS because of high-risk sexual behavior as a result of sex-for-drugs transactions. Unemployment in New York remains well above the national average, an estimated 14 percent of the city's population is receiving public assistance, and the rate of tuberculosis in New York City is five times the national average and growing. The drug abuse problem in New York City is strongly associated with each of these problems, sometimes as cause, sometimes as effect.

For these reasons, I am pleased that H.R. 3698 would continue a number of important programs to meet critical substance abuse needs including block grants to States; substance abuse treatment programs for pregnant and post partum women; a variety of treatment demonstration projects targeted to special needs such as crisis cities, high-risk populations, outreach to IV drug users at risk of AIDS, treatment campuses, and treatment linked to primary health care and vocational training; community partnership prevention grants; programs for high-risk youth; prisons treatment programs; and funding for drug abuse research and training activities.

In addition, H.R. 3698 incorporates a number of other provisions requested by the administration to implement its national drug control strategy. The bill includes a State maintenance of effort requirement for the substance abuse block grant and a new requirement for statewide treatment and prevention plans to increase the States' accountability for use of block grant funds. These provisions are not controversial and have passed the House several times in the past only to get bogged down because they were attached to other, highly controversial measures. The bill also authorizes a new treatment capacity expansion program requested by the administration last year and authorizes $68 million for this initiative in fiscal year 1992, $70 million for 1993, and $72 million for 1994. This program is also not controversial but Congress was not able to act on the administration's request last year in time for the program to be considered for full funding. With the need for substance abuse treatment far exceeding available capacity, I hope this program will be authorized in time for the Appropriations Committee to fully fund it this year.

This bill also authorizes a new grant program to help defray the uncompensated costs incurred by trauma centers for care provided to victims of drug-related violence, a measure I have supported for years, and it establishes a new program of Federal grants to provide services to children of substance abusers.

While I support much of what is in the bill, I do have a number of concerns about some of its provisions. The bill replaces the existing Alcohol, Drug Abuse and Mental Health Services [ADMS] block grant with two separate block grants: The substance Abuse Prevention and Treatment block grant and the Community Mental Health Services block grant. As a result of this split, the proportion of Federal funds going to support substance abuse and mental health services in New York will shift. Mental health services will receive an increase of about $10 million, while substance abuse services will receive a corresponding cut of about $10 million. I recognize the need for more attention to mental health needs, but I am concerned that an arbitrary shift of $10 million will severely undermine substance abuse services at a time when serious substance abuse problems in New York are destroying whole communities and segments of the State's population. H.R. 3698 allows States to shift funds between the two new block grants for up to 3 years to offset losses in substance abuse or mental health as a result of splitting the current block grant. But, with States throughout the country, including New York, facing severe budget constraints, I am concerned that this transitional authority will not be enough to prevent severe degradation of substance abuse services in New York. Moreover, new set-asides and other requirements in the substance abuse block grant will further restrict the State's flexibility to tailor substance abuse services to meet identified needs.

In addition, the new substance abuse block grant in H.R. 3698 fails to retain the current ban that prohibits States from using ADMS block grant funds for needle exchange programs. I am extremely concerned about this omission for a number of reasons. First, there is no evidence that needle exchange programs reduce the incidence of HIV infection. Some recent studies, such as the New Haven needle exchange project reported last summer, claim that needle exchange programs can reduce the spread of AIDS. I have asked GAO for an independent evaluation of such claims to see if there is anything new that would warrant a reconsideration of Federal policy. At this time, however, I remain opposed to any Federal plan or program that would give drug users the tools to continue to injecting drugs and exposing them to all the attendant risks, not just of AIDS, but overdoses, death, and other serious health and social problems. The policy change incorporated in this bill is premature.

Moreover, I strongly object to the notion that Federal funds provided for drug treatment could be diverted to needle exchange programs. At a time when treatment capacity is woefully inadequate to meet the need for drug treatment services, I am appalled that Federal drug treatment dollars might be used to encourage some drug users to continue injecting drugs while addicts who desperately need and want treatment to stop using drugs are being turned away. Our Nation would be better served, and public health better protected, by making effective, comprehensive drug treatment available for all who need and want it than by squandering our scarce Federal treatment resources on ill-conceived needle exchange programs.

Notwithstanding my concerns, I urge Members to support H.R. 3698. Authorization of these important substance abuse programs has been delayed long enough. The Senate has already passed an ADAMHA reauthorization bill. It is time we sent this bill to conference so that the differences between the House and Senate can be ironed out. I am hopeful that the conference report will address the concerns I have raised in a more satisfactory fashion than the current House bill.

Mr. SMITH of Florida. Mr. Speaker, I support H.R. 3698, but I do so with reservations.

According to the Florida Department of Health and Rehabilitative Services, the new funding formula in the bill will reduce Florida's funds by more than $1.2 million. Floridians needing alcohol, drug abuse, and mental health services will be unable to receive assistance if the funding formula is changed.

I hope that the conference committee will be able to achieve a more reasonable and equitable allocation formula that at least minimizes the adverse impact H.R. 3698 would have on Florida. It simply is not fair to reduce funds when the local need is increasing. This hardly is the way to combat the war against drug abuse.

Nevertheless, H.R. 3698 contains many needed and admirable initiatives that must be funded. I, therefore, commend the committee for its efforts.

Mr. FORD of Michigan. Mr. Speaker, I rise in general support of H.R. 3698, the Community Mental Health and Substance Abuse Services Improvement Act. I do so, however, with reservations concerning its potential impact on certain programs authorized by, and within the jurisdiction of, the Committee on Education and Labor. These concerns regard the impact of the new "grants for services for children of substance abusers" added to the Public Health Services Act by section 241 of the bill on programs serving children with disabilities and other children with special education needs. These concerns have been the subject of several staff discussions. I have outlined them in a letter I have sent to the chairman of the Committee on Energy and Commerce, the Hon. JOHN DINGELL and which I now enter into the RECORD.

The letter basically reflects our understanding that the inclusion of this program does not, in any way, alter or affect the services to be provided, the beneficiaries eligible, or the funds otherwise available under programs authorized by the Committee on Education and Labor. It also clarifies that programs and services not required under such programs, but deemed necessary to meet the requirements of this new act, would be funded by grants received pursuant to this new authority. Further, no public authority will, by virtue of receipt of a grant under this new program, be required to change programs under the jurisdiction of the Committee on Education and Labor to provide services not otherwise required.

I have been assured that such is the intent of the bill, and this understanding is reflected in the portion of the committee's report explaining section 241 of the bill.

COMMITTEE ON EDUCATION AND LABOR,
Washington, DC, March 24, 1992.
Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Commerce, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: I am writing concerning H.R. 3698, the Community Mental Health and Substance Abuse Services Improvement Act of 1991, which was ordered reported recently by the Committee on Energy and Commerce.

During the full committee mark-up, an amendment was adopted which would amend title III of the Public Health Service Act by adding a new Part M relating to grants for services for children of substance abusers (SFC program). This amendment raises two concerns.

First, the amendment could be construed to require the provision of direct and related services not now mandated for eligible children and families. In some cases these services would be drawn from programs under the jurisdiction of the Committee on Education and Labor, and this would reduce the funds otherwise available under those programs.

Second, the amendment (new section 399D(b)(1) and (2)) requires, as a condition of receiving a grant, the provision of services to a new class of eligible recipients, essentially at-risk children. It is probable that the bulk of these services would be provided under Part H of the Individuals With Disabilities Education Act, which would otherwise be potentially reducing funds available under that program.

Based on discussions between our staffs, it is my understanding the Committee on Energy and Commerce does not intend the creation of this new program to affect, in any way, the services provided, beneficiaries eligible, or funds otherwise available under programs under the jurisdiction of the Committee on Education and Labor. To the extent a grantee under the proposed SFC program determines that a service not required under a program under the jurisdiction of the Committee on Education and Labor is necessary, the funds for that service shall be provided by the SFC program. Finally, the fact that a public entity receives a SFC program grant does not require that public entity to provide services under programs under the jurisdiction of the Committee on Education and Labor if those services are otherwise discretionary.

If the above accurately reflects the understandings reached by our staffs, I would appreciate your confirming this understanding.

Thank you for your cooperation and assistance.

With kind regards,
Sincerely,
WILLIAM D. FORD,
Chairman.

Mr. WAXMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BLILEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. COOPER). The question is on the motion offered by the gentleman from California [Mr. WAXMAN] that the House suspend the rules and pass the bill, H.R. 3698, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1306) to amend title V of the Public Health Service Act to revise and extend certain programs, to restructure the Alcohol, Drug Abuse and Mental Health Administration, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1306

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Alcohol, Drug Abuse, and Mental Health Administration Reorganization Act of 1991".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References.

TITLE I—ADMINISTRATION AND INSTITUTES

Subtitle A—Restructuring

Sec. 101. Restructuring.

"PART A—ALCOHOL, DRUG ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

"Subpart 1—Establishment and General Duties

"Sec. 501. Alcohol, Drug Abuse and Mental Health Services Administration.
"Sec. 502. General duties and activities with respect to substance abuse and mental health.

"Subpart 2—Substance Abuse Prevention and Treatment Programs and Mental Health Services

"Sec. 505. Substance abuse prevention and treatment projects for high risk youth.
"Sec. 506. Projects for reducing the incidence of substance abuse among pregnant and postpartum women and their children.
"Sec. 507. Treatment projects of national significance.
"Sec. 508. Grants for substance abuse treatment in state and local criminal justice systems.
"Sec. 509. Treatment and prevention services training.
"Sec. 510. Substance abuse treatment capacity expansion program.
"Sec. 511. Other services programs.
"Sec. 512. Community partnership grants.
"Sec. 513. Establishment of grant program for demonstration projects.

"Subpart 3—Administrative Provisions

"Sec. 515. Advisory council.
"Sec. 516. Peer review for services grants.
"Sec. 517. Applications and Native American governing units.
"Sec. 518. Procedures for misconduct.
"Sec. 519. Experts and consultants.
"Sec. 520. Office for special populations.
"Sec. 520A. Office of women's health services.

Sec. 102. National Institutes.

"Subpart 14—National Institutes on Alcohol Abuse and Alcoholism, on Drug Abuse and of Mental Health

"CHAPTER 1—ESTABLISHMENT AND GENERAL DUTIES

"Sec. 464I. National Institute on Alcohol Abuse and Alcoholism.
"Sec. 464J. National Institute on Drug Abuse.
"Sec. 464K. National Institute of Mental Health.

"CHAPTER 2—RESEARCH PROGRAMS

"Sec. 464L. Mental health and substance abuse research.
"Sec. 464M. National mental health and substance abuse education programs.
"Sec. 464N. National substance abuse research centers.
"Sec. 464O. Medication development program.

Subtitle B—Miscellaneous Provisions

Sec. 111. Miscellaneous provisions.

"PART C—MISCELLANEOUS PROVISIONS RELATING TO SUBSTANCE ABUSE AND MENTAL HEALTH

"Sec. 541. Technical assistance to state and local agencies.
"Sec. 542. Substance abuse among government and other employees.
"Sec. 543. Admission of substance abusers to private and public hospitals and outpatient facilities.
"Sec. 544. Confidentiality of records.
"Sec. 545. Data collection.
"Sec. 546. Public health emergencies.

Subtitle C—Transfer Provisions
Sec. 121. Transfers.
Sec. 122. Delegation and assignment.
Sec. 123. Transfer and allocations of appropriations and personnel.
Sec. 124. Incidental transfers.
Sec. 125. Effect on personnel.
Sec. 126. Savings provisions.
Sec. 127. Separability.
Sec. 128. Transition.
Sec. 129. References.
Subtitle D—Conforming Amendments
Sec. 131. Conforming amendments.
Sec. 132. Additional conforming amendments.
Subtitle E—Miscellaneous provisions
Sec. 141. Alternative sources of funding for certain grantees.
Sec. 142. Peer review.
Sec. 143. Budgetary authority.
Sec. 144. Substance abuse training and research.
Sec. 145. Mental Health Services.
Sec. 146. Grants for certain trauma centers.
Sec. 147. Drug salvager compensation program.
Sec. 148. Sense of the Senate concerning certain reporting requirements.
TITLE II—REAUTHORIZATION AND IMPROVEMENT OF ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICE BLOCK GRANT PROGRAM
Sec. 201. Reauthorization of block grant.
Sec. 202. Revision of block grant formula.
Sec. 203. Use of unobligated funds by States.
Sec. 204. Revision of intravenous drug set-aside.
Sec. 205. Use of allotments.
Sec. 206. Maintenance of effort.
Sec. 207. Requirement of statewide substance abuse prevention and treatment plans.
Sec. 208. Repeals.
Sec. 209. Technical amendment.
TITLE III—CHILDREN OF SUBSTANCE ABUSERS
Sec. 301. Short title.
Sec. 302. Findings and purposes.
Subtitle A—Services for Children of Substance Abusers
Sec. 311. Services.
Subtitle B—Grants for Home-Visiting Services for At-Risk Families
Sec. 321. Short title.
Sec. 322. Grants for home-visiting services for at-risk families.
TITLE IV—CHILDHOOD MENTAL HEALTH
Sec. 401. Short title.
Sec. 402. Purpose.
Sec. 403. Establishment of program of grants to States with respect to comprehensive mental health services for children with serious emotional disturbance.
TITLE V—STUDIES
Sec. 501. Study on private sector development of pharmacotherapeutics.
Sec. 502. Study on medications review process reform.
Sec. 503. Sense of Congress.
Sec. 504. Report by the Institute on Medicine.
Sec. 505. Definition of serious mental illness.
Sec. 506. Provision of mental health services to individuals in correctional facilities.
Sec. 507. Study of barriers to treatment coverage.
Sec. 508. Report on fetal alcohol syndrome.
Sec. 509. Report on research.

SEC. 2. REFERENCES.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

TITLE I—ADMINISTRATION AND INSTITUTES

Subtitle A—Restructuring

SEC. 101. RESTRUCTURING.

Title V (42 U.S.C. 290aa et seq.) is amended—

(1) by redesignating parts C through E as parts B through D, respectively; and

(2) by striking out parts A and B and inserting in lieu thereof the following new part:

"PART A—ALCOHOL, DRUG ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

"Subpart 1—Establishment and General Duties

"SEC. 501. ALCOHOL, DRUG ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION.

"(a) ESTABLISHMENT.—There is hereby established, as an agency of the Service, the Alcohol, Drug Abuse and Mental Health Services Administration.

"(b) ADMINISTRATOR, ASSOCIATE ADMINISTRATORS AND OTHER ENTITIES.—

"(1) ADMINISTRATOR.—The Alcohol, Drug Abuse and Mental Health Services Administration shall be headed by an Administrator (hereinafter in this title referred to as the 'Administrator') who shall be appointed by the President by and with the advice and consent of the Senate.

"(2) ASSOCIATE ADMINISTRATORS FOR SUBSTANCE ABUSE AND FOR MENTAL HEALTH.—The Administrator with the approval of the Secretary, shall appoint an Associate Administrator for Substance Abuse and an Associate Administrator for Mental Health.

"(3) OTHER ENTITIES.—The Administrator with the approval of the Secretary, may establish and prescribe the functions of such offices and entities within the Administration as are necessary to administer the activities to be carried out through the Administration, including the establishment of an Office for Substance Abuse Prevention, an Office for Treatment Improvement, an Office for Mental Health Services and an Office for Evaluations and Statistics.

"(c) COMPREHENSIVE PROGRAM.—The Administrator shall establish and implement a comprehensive program to improve the provision of treatment, rehabilitation, and related services to individuals with substance abuse and mental illness and emotional disorders, improve prevention, promote mental health and protect the legal rights of individuals with mental illnesses and individuals who are substance abusers. The Administrator shall carry out the administrative and financial management, policy development and planning, evaluation, knowledge development, and public information functions that are required for the implementation of such program.

"(d) GRANTS FOR SERVICES.—

"(1) PURPOSE.—It is the purpose of the program established under this subsection to support the provision of substance abuse treatment, rehabilitation, prevention, and related services, to encourage others to provide such services and to further the application of knowledge to meet prevention, rehabilitation, treatment, and other related service needs. All programs conducted under this subsection shall include focus, to the extent appropriate, on both the mental health and substance abuse needs of the individuals to be served.

"(2) ESTABLISHMENT.—The Secretary, acting through the Administrator, shall establish and implement a program to award grants to, and enter into cooperative agreements and contracts with, public and nonprofit private entities for the conduct, promotion, and coordination of demonstration projects, evaluation and service system assessments, and other activities relative to the provision of treatment, rehabilitation, prevention, and related services.

"(e) EMPLOYEES.—The Administrator, with the approval of the Secretary, may employ and prescribe the functions of such officers and employees as are necessary to administer the programs and authorities to be carried out through the Administration.

"(f) OTHER SERVICES.—The Administrator may accept voluntary and uncompensated services.

"(g) PARTICIPATION.—The programs to be carried out through the Administration shall be administered so as to encourage the broadest possible involvement of professionals, paraprofessionals, and other knowledgeable participants.

"(h) PEER REVIEW GROUPS AND ADVISORY COMMITTEES.—The Administrator shall, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates, establish such technical and scientific peer review groups as are needed to carry out the requirements of section 516, establish program advisory committees pursuant to section 515, and pay members of such groups and committees, except that officers and employees of the United States shall not receive additional compensation for services as members of such groups or committees. The Federal Advisory Committee Act shall not apply to the duration of a peer review group appointed under this subsection.

"SEC. 502. GENERAL DUTIES AND ACTIVITIES WITH RESPECT TO SUBSTANCE ABUSE AND MENTAL HEALTH.

"(a) DEFINITION.—For purposes of this section, the term 'treatment, rehabilitation, prevention, and related services' means primary prevention services, treatment of substance abuse, mental illness, or emotional disorders and services to rehabilitate persons with mental or substance abuse disorders, to promote mental health and improve individual functioning, and to assure needed care and support.

"(b) DUTIES.—The Administrator shall—

"(1) engage in activities that will support the improvement and provision of, and encourage others to provide treatment, rehabilitation, prevention, and related services, including the development of national mental health and substance abuse goals;

"(2) conduct activities to obtain and provide data and other information with respect to programs that provide treatment, rehabilitation, prevention, and related services;

"(3) collaborate with the appropriate Directors of the Institutes of the National Institutes of Health to assure that research programs are conducted by such institutes with appropriate information obtained and maintained with the knowledge and experience of service programs under this title, and to assure that knowledge developed through research programs is appropriately applied through service programs;

"(4) in cooperation with the Centers for Disease Control, the Health Resource Services Administration and the National Institute on Drug Abuse, develop educational materials and intervention strategies to reduce the risks of acquired immune deficiency syndrome among intravenous drug abusers, and to develop appropriate mental health services for individuals with such disease;

"(5) conduct training, technical assistance, data collection, and evaluation activities with respect to programs that provide treatment and prevention services;

"(6) collaborate with the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health to promote and conduct evaluations of the process, outcomes, and community impact of treatment and prevention services and systems of services in order to identify the manner in which such services can most effectively be provided;

"(7) collaborate with the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health to promote and conduct the dissemination and implementation of research findings that will improve the delivery and effectiveness of treatment and prevention services;

"(8) collaborate with the National Institute on Aging to promote and evaluate mental health services for older Americans in need of such services through resource centers for long term care as authorized in section 412 of the Older Americans Act;

"(9) engage in activities to encourage the adoption of, and provide technical assistance to student assistance programs and employee assistance programs, especially those associated with small business;

"(10) in consultation with the States and provider associations, carry out activities to educate communities on the need for providing treatment and prevention services within such communities;

"(11) engage in activities to encourage public and private entities that provide health insurance to provide benefits for treatment, rehabilitation, and prevention services;

"(12) promote the increased integration of treatment, rehabilitation, and prevention services into the mainstream of the health care system of the United States;

"(13) develop and disseminate guidelines on the financing, organization and provision of treatment and prevention services;

"(14) establish a clearinghouse for substance abuse and mental health information to assure the widespread dissemination of such information to States, political subdivisions, educational agencies and institutions, treatment and prevention service providers, and the general public;

"(15) administer the block grant program authorized in section 1911, and the programs authorized in sections 1916B, 1924 and 1928;

"(16) carry out the programs established in sections 505 to 513, and the program established in part D, and in administering such programs, assure that—

"(A) all grants that are awarded for the provision of services are subject to performance and outcome evaluation studies; and

"(B) all grants awarded to entities other than States are awarded only after consultation with the appropriate State agency;

"(17) prepare and submit an annual report to the Secretary and the appropriate committees of Congress describing and assessing the collaborative activities conducted with the National Institutes of Health;

"(18) promote the coordination of service programs conducted by the Administration and similar programs conducted by other departments, agencies, organizations, and individuals that are or may be related to the problems of individuals suffering from mental illnesses and substance abuse, including liaisons with the Social Security Administration, Health Care Financing Administration, and other programs of the Department, as well as liaisons with the Department of Education, Department of Justice, and other Federal Departments and offices as appropriate;

"(19) promote policies and programs at Federal, State, and local levels and in the private sector that foster independence and protect the legal rights of persons disabled by mental illness or substance abuse, including carrying out the provisions of the Protection and Advocacy of Mentally Ill Individuals Act (42 U.S.C. 10801 et seq.);

"(20) carry out the program of Projects to Aid the Transition from Homelessness and demonstration programs for persons who are homeless, as authorized under the Stewart B. McKinney Homeless Assistance Act;

"(21) carry out responsibilities for the Human Resource Development program, and programs of clinical training for professional and paraprofessional personnel; and

"(22) conduct services-related assessments, including evaluations of the organization and financing of care, self-help and consumer-run programs, mental health economics, mental health service systems, rural mental health, and improve the capacity of State to conduct evaluations of publicly funded mental health programs.

"(c) GRANTS AND CONTRACTS.—The Administrator may make grants and enter into contracts and cooperative agreements in carrying out the activities described in subsection (b).

"(d) APPLICATIONS.—Applications for grants under this part shall be in such form, shall contain such information, and shall be submitted at such time as the Secretary may prescribe.

"(e) EQUITABLE DISTRIBUTION.—To the extent feasible, the Secretary in awarding grants under this part, shall award such grants in all regions of the United States, and shall ensure the distribution of grants under this part among urban and rural areas.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $150,000,000 for fiscal year 1992 and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"Subpart 2—Substance Abuse Prevention and Treatment Programs and Mental Health Services

"SEC. 505. SUBSTANCE ABUSE PREVENTION AND TREATMENT PROJECTS FOR HIGH RISK YOUTH.

"(a) AUTHORITY.—The Secretary, acting through the Administrator, shall make grants to public and nonprofit private entities for projects to prevent and treat substance abuse among youth at high risk of substance abuse.

"(b) PRIORITY.—

"(1) CHILDREN.—In making grants for substance abuse prevention projects under this section, the Secretary shall give priority to applications for projects directed at children of substance abusers, latchkey children, children at risk of abuse or neglect, preschool children eligible for services under the Head Start Act, children at risk of dropping out of school, children at risk of becoming adolescent parents, children placed in foster care or at risk of such placement, and children who do not attend school and who are at risk of being unemployed.

"(2) PROJECTS ADDRESSING CERTAIN RELATIONSHIPS.—In making grants for substance abuse treatment projects under this section, the Secretary shall give priority to projects which address the relationship between substance abuse and physical child abuse, sexual child abuse, emotional child abuse, dropping out of school, unemployment, delinquency, pregnancy, violence, suicide, or mental health problems.

"(3) COMMUNITY BASED ORGANIZATIONS.—In making grants under this section, the Secretary shall give priority to applications from community based organizations for projects with comprehensive coordinated services for the prevention or treatment of substance abuse by high risk youth that may be replicated.

"(c) APPLICATION.—In order to receive a grant for a project under this section for a fiscal year, a public or nonprofit private entity shall submit an application to the Secretary.

"(d) YOUTH AT HIGH RISK OF SUBSTANCE ABUSE.—For purposes of this section, the term 'youth at high risk of substance abuse' means an individual who has not attained the age of 21 years, who is at high risk of becoming, or who has become, a substance abuser, and who—

"(1) is identified as a child of a substance abuser;

"(2) is a victim of physical, sexual, or psychological abuse;

"(3) has dropped out of school;

"(4) has become pregnant;

"(5) is economically disadvantaged;

"(6) has committed a violent or delinquent act;

"(7) has experienced mental health problems;

"(8) has attempted suicide;

"(9) has experienced long-term physical pain due to injury; or

"(10) has experienced chronic failure in school.

"(e) LIMITATION.—Programs which receive assistance under this section shall not promote or encourage homosexual or heterosexual sexual activity programs receiving assistance under this section are intended to reduce substance abuse among all youth at risk of substance abuse; however, no youth shall be deemed at risk of substance abuse solely on the basis of the youth's sexual behavior.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $75,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"SEC. 506. PROJECTS FOR REDUCING THE INCIDENCE OF SUBSTANCE ABUSE AMONG PREGNANT AND POSTPARTUM WOMEN AND THEIR CHILDREN.

"(a) GRANTS.—The Secretary, acting through the Administrator, shall make grants to public and nonprofit private entities for the purpose of carrying out projects to provide to pregnant and postpartum women and their children prevention, education, and treatment services regarding substance abuse.

"(b) PRIORITY.—

"(1) IN GENERAL.—In making grants under subsection (a), the Secretary shall give priority to any qualified applicant that agrees to provide treatment services.

"(2) FURTHER PRIORITY.—

"(A) NUMBER OF SERVICES PROVIDED.—In the case of any applicant for a grant under subsection (a) that is receiving priority under paragraph (1), the Administrator shall give further priority to the applicant commensurate with the number of different services described in subparagraph (B) that will be provided through the applicant and commensurate with the quality of such services. For purposes of the preceding sentence, such services may be provided directly by the applicant or through arrangements with other public or nonprofit private entities.

"(B) Services.—The services referred to in subparagraph (A) are—

"(i) outreach services in the community involved to encourage women who are abusing alcohol or drugs to undergo treatment for such abuse;

"(ii) primary health care, including prenatal and postpartum health care for women who are undergoing treatment for such abuse;

"(iii) for the children of such women, pediatric health care and comprehensive social services;

"(iv) child care, transportation, and other support services regarding such treatment;

"(v) as appropriate, referrals to facilities for necessary hospital services;

"(vi) employment counseling;

"(vii) counseling on parenting skills and nutrition;

"(viii) appropriate follow-up services to assist in preventing relapses;

"(ix) case management services, including assistance in establishing eligibility for assistance under Federal, State, and local programs providing health services, mental health services, or social services;

"(x) reasonable efforts to preserve and support the family unit, including promoting the appropriate involvement of parents and others, and counseling the children of women receiving services pursuant to this subsection; and

"(xi) housing in the course of treatment under circumstances that permit the children of the women to reside with their mothers.

"(c) Accessibility and Language Context.—The Administrator may not make a grant under subsection (a) unless the applicant for the grant agrees, with respect to the services provided pursuant to subsection (a), to—

"(1) provide services at locations accessible to low-income pregnant and postpartum women;

"(2) provide services in the cultural context that is most appropriate; and

"(3) ensure that individuals providing services are able to effectively communicate with the women and their children, directly or through interpreters.

"(d) Health Service Covered by State Plan Under Title XIX of the Social Security Act.—

"(1) Requirement.—Subject to paragraph (2), the Administrator may not make a grant under subsection (a) unless, in the case of any health service under subsection (b)(2)(B) that is covered by the State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) for the State in which the service will be provided—

"(A) the applicant for the grant will provide the health service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

"(B) the applicant for the grant has entered into a contract with an entity under which the entity will provide the health service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

"(2) Waiver Regarding Participation Agreements.—

"(A) No Charge or Reimbursement.—In the case of an entity making an agreement under paragraph (1)(B) regarding the provision of health services under subsection (a), the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the organization does not, in providing health services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

"(B) Determination.—A determination by the Secretary of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the organization accepts voluntary donations regarding the provision of services to the public.

"(e) Imposition of Charges.—The Administrator may not make a grant under subsection (a) unless the applicant for the grant agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge—

"(1) will be made according to a schedule of charges that is made available to the public;

"(2) will be adjusted to reflect the income and resources of the woman involved; and

"(3) will not be imposed on any woman with an income of less than 100 percent of the official poverty line, as established by the Director of the Office for Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 9902(2)).

"(f) Requirement of Non-Federal Contributions.—

"(1) In general.—The Administrator may not make a grant under subsection (a) unless the applicant for the grant agrees, with respect to the costs to be incurred by the applicant in carrying out the purpose described in such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than—

"(A) $1 for each $9 of Federal funds provided for each of the first 5 years of payments under the grant; and

"(B) $1 for each $3 of Federal funds provided in any subsequent year of such payments if the grant is renewed pursuant to subsection (h).

"(2) Type of contribution.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(g) Limitations and Waiver.—

"(1) Limitations.—The Administrator may not, except as provided in paragraph (2), make a grant under subsection (a) unless the applicant for the grant agrees that the grant will not be expended—

"(A) to provide inpatient services, except with respect to residential treatment for alcohol and drug abuse provided in settings other than hospitals;

"(B) to make cash payments to intended recipients of services under the program involved;

"(C) to purchase real property or major medical equipment; or

"(D) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(2) Waiver.—If the Administrator finds that the purpose of the program involved cannot otherwise be carried out, the Director may, with respect to an otherwise qualified grantee, waive the restriction established in paragraph (1)(C).

"(h) Payments.—The period during which payments are made by the Administrator under a grant under subsection (a) may not exceed 5 years, but the Administrator may renew the grant.

"(i) Collaboration With Other Federal Agencies and With States.—The Administrator shall collaborate with all other relevant Federal agencies on issues relating to maternal substance abuse, including relevant institutes within the National Institutes of Health, the Bureaus of Maternal and Child Health and Health Resources Development, the Indian Health Service, the Bureau of Indian Affairs, the Bureau of Health Care Delivery and Assistance, and the Administration for Children and Families. Such collaboration may be accomplished through the establishment of interagency task forces, as appropriate. The Administration shall collaborate with the States to ensure that grants awarded under this section are coordinated with other treatment efforts undertaken within each State.

"(j) Nondiscrimination.—The Secretary may not, in the awarding of grants under subsection (a), discriminate against applicants that propose or provide residential or outpatient treatment to substance abusing pregnant and postpartum women that receive treatment by order of a court or other appropriate public agency, subject to the availability of qualified applicants.

"(k) Annual Reports.—The Administrator may not make a grant under subsection (a) unless the applicant for the grant agrees—

"(1) to include in the report the number of women served, the number of children served, the utilization rates, and the type and costs of services provided to women and their children; and

"(2) to include in the report such other information as the Secretary determines to be appropriate; and

"(3) to prepare the report in such form, and to submit the report at such time and in such manner, as the Secretary determines to be necessary.

"(l) Report.—Not later than October 1, 1993 and every 3 years thereafter, the Administrator shall submit to the appropriate committees of Congress a report describing programs carried out pursuant to this section.

"(m) Authorization of Appropriations.—

"(1) In general.—There are authorized to be appropriated to carry out this section, $75,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) Residential treatment.—Of the amounts appropriated in each fiscal year under paragraph (1), the Secretary shall make available not less than $10,000,000 in each such fiscal year to award grants for the establishment of projects in which addicted mothers in residential drug abuse treatment facilities are permitted to have their children reside with them during the course of such treatment, or in which residential services are provided for mothers and their children while the mother participates in outpatient drug abuse treatment.

"(n) Definition.—For purposes of this section, the term 'post-partum' means the 12-month period following the delivery of a child.

"SEC. 507. TREATMENT PROJECTS OF NATIONAL SIGNIFICANCE.

"(a) GRANTS FOR TREATMENT IMPROVEMENT.—The Administrator shall award grants to public and nonprofit private entities for the purpose of establishing projects that will improve the provision of substance abuse treatment services.

"(b) NATURE OF PROJECTS.—Grants under subsection (a) may be awarded for—

"(1) projects that focus on providing treatment to adolescents, minorities, female addicts and their children, the residents of public housing projects, or substance abusers in rural areas;

"(2) projects that provide substance abuse treatment and vocational training in exchange for public service;

"(3) projects that provide treatment services and which are operated by public and nonprofit private entities receiving grants under section 329, 330 or 340;

"(4) projects that provide substance abuse treatment to women with children in the setting in which such children receive primary pediatric care or in which such women receive primary health care;

"(5) 'treatment campus' projects that—

"(A) serve a significant number of individuals simultaneously;

"(B) provide residential drug treatment;

"(C) provide patients with ancillary social services and referrals to community-based aftercare, including psychosocial rehabilitation, peer support and group homes; and

"(D) provide services on a voluntary basis; or

"(6) projects to determine the long-term efficacy of the projects described in this section.

"(c) PREFERENCES IN MAKING GRANTS.—In awarding grants under subsection (a), the Administrator shall give preference to projects that—

"(1) demonstrate a comprehensive approach to the problems associated with substance abuse and provide evidence of broad community involvement and support; or

"(2) initiate and expand programs for the provision of treatment services (including renovation of facilities, but not construction) in localities in which, and among populations for which, there is a public health crisis as a result of the inadequate availability of such services.

"(d) DURATION OF GRANTS.—Projects funded under subsection (a) shall be for a period of at least 3 years, but in no event to exceed 5 years, and may be renewed after competitive application.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 and 1994.

"SEC. 508. GRANTS FOR SUBSTANCE ABUSE TREATMENT IN STATE AND LOCAL CRIMINAL JUSTICE SYSTEMS.

"(a) IN GENERAL.—The Secretary, acting through the Administrator, shall establish a program to provide grants to public and nonprofit private entities that provide drug and alcohol treatment services to individuals under criminal justice supervision.

"(b) ELIGIBILITY.—In awarding grants under subsection (a), the Administrator shall ensure that the grants are reasonably distributed among—

"(1) projects that provide treatment services to individuals who are incarcerated in prisons, jails, or community correctional settings; and

"(2) projects that provide treatment services to individuals who are not incarcerated, but who are under criminal justice supervision because of their status as pretrial releasees, post-trial releasees, probationers, parolees, or supervised releasees.

"(c) PRIORITY.—In awarding grants under subsection (a), the Administrator shall give priority to programs commensurate with the extent to which such programs provide, directly or in conjunction with other public or private nonprofit entities, one or more of the following—

"(1) a continuum of offender management services as individuals enter, proceed through, and leave the criminal justice system, including identification and assessment, drug and alcohol treatment, pre-release counseling and pre-release referrals with respect to housing, employment and treatment;

"(2) comprehensive treatment services for juvenile offenders;

"(3) comprehensive treatment services for female offenders, including related services such as violence counseling, parenting and child development classes, and perinatal care;

"(4) outreach services to identify individuals under criminal justice supervision who would benefit from substance abuse treatment and to encourage such individuals to seek treatment; or

"(5) treatment services that function as an alternative to incarceration for appropriate categories of offenders or that otherwise enable individuals to remain under criminal justice supervision in the least restrictive setting consistent with public safety.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 and 1994.

"SEC. 509. TREATMENT AND PREVENTION SERVICES TRAINING.

"(a) IN GENERAL.—The Secretary, acting through the Administrator, shall develop programs to increase the number of substance abuse treatment and prevention providers and the number of health professionals providing treatment and prevention services as a component of primary health care. Such programs shall include the awarding of grants, contracts or cooperative agreements to appropriate public and nonprofit private entities, including agencies of State and local governments, provider associations, hospitals, schools of medicine, schools of osteopathic medicine, schools of nursing, schools of public health, schools of chiropractic services, schools of social work, graduate programs in family therapy, and graduate programs in clinical psychology.

"(b) USE OF AMOUNTS.—Amounts awarded under subsection (a) shall be utilized to—

"(1) train individuals in the diagnosis, treatment and prevention of substance abuse; and

"(2) to develop appropriate curricula and materials for the training described in paragraph (1);

"(c) PRIORITY.—In awarding grants under subsection (a), the Administrator shall give priority to applicants that train full-time substance abuse treatment providers.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 and 1994.

"SEC. 510. SUBSTANCE ABUSE TREATMENT CAPACITY EXPANSION PROGRAM.

"(a) CAPACITY EXPANSION PROJECTS.—

"(1) ESTABLISHMENT.—The Secretary, acting through the Administrator, shall award grants to States for the purpose of assisting such States to expand their substance abuse treatment capacity.

"(2) STATE ELIGIBILITY.—The Secretary shall award grants under paragraph (1) to States in which the demand for substance abuse treatment services exceeds the capacity of entities operating in those States to provide such services. In making such determination concerning demand, the Secretary shall consider indicators of capacity shortage, such as a high prevalence of substance abuse, a high crime rate, a high rate of acquired immune deficiency syndrome among intravenous drug users, waiting lists at treatment facilities within a State, and any other criteria that the Secretary determines are appropriate.

"(3) PRIORITY.—In awarding grants under this section, the Secretary shall develop criteria to assess the extent to which States are utilizing non-Federal funds to expand treatment capacity, and shall give priority to such States commensurate with the per capita expenditure of such funds and may establish such other priorities as appropriate.

"(4) USE OF GRANTS.—Grants awarded under this section shall be used directly for the provision of treatment services, except that the Secretary may authorize the use of grant funds to renovate or improve property to make such property suitable for use as a treatment facility if the Secretary determines, with respect to a prospective grantee, that inadequate facilities are a significant barrier to capacity expansion. Grants awarded under this section may not be used to purchase real property.

"(5) SUPPLEMENTATION OF FUNDING.—Projects funded under paragraph (1) shall supplement, not supplant, existing or planned substance abuse treatment services in a State.

"(b) REQUIREMENT OF NON-FEDERAL CONTRIBUTIONS.—

"(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees, with respect to the costs to be incurred by the applicant in carrying out the purpose described in such subsection, to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than—

"(A) $1 for each $9 of Federal funds provided for each of the first 5 years of payments under the grant; and

"(B) $1 for each $3 of Federal funds provided in any subsequent year of such payments if the grant is renewed pursuant to subsection (c).

"(2) TYPE OF CONTRIBUTION.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(c) PAYMENTS.—The period during which payments are made by the Secretary under a grant under subsection (a) may not exceed 5 years, but the Secretary may renew the grant.

"(d) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $100,000,000 for the fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) AVAILABILITY.—Funds appropriated in accordance with paragraph (1) shall remain available until expended.

"SEC. 511. OTHER SERVICES PROGRAMS.

"(a) AIDS OUTREACH GRANTS.—The Secretary, acting through the Administrator and in consultation with the National Institute on Drug Abuse and the Health Resources and Services Administration, may make grants to, or enter into contracts with, public and nonprofit private entities to support projects to carry out outreach activities to intravenous drug abusers and their sexual partners with respect to preventing exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome and encouraging intravenous drug abusers to seek treatment for such abuse.

"(b) GRANTS FOR THE BENEFIT OF HOMELESS INDIVIDUALS.—The Secretary, acting through the Administrator, may make grants to, and enter into contracts and cooperative agreements with, community-based public and private nonprofit entities for the purpose of developing and expanding mental health and substance abuse treatment services for homeless individuals. In carrying out this subsection, the Administrator shall consult with the Administrator of the Health Resources and Services Administration and with the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health.

"(c) TERM OF GRANT.—No entity may receive grants under subsection (a) or (b) for more than 5 years although such grants may be renewed.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $150,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 and 1994.

"(e) LIMITATION.—None of the funds expended under this section shall be used for carrying out any program for the distribution of sterile needles for the hypodermic injection of any illegal drug.

"SEC. 512. COMMUNITY PARTNERSHIP GRANTS.

"(a) GRANTS.—The Secretary, acting through the Administrator, may make grants to communities—

"(1) for the development of comprehensive long-term strategies for the prevention of substance abuse; and

"(2) to evaluate the success of different community approaches towards the prevention of substance abuse.

"(b) APPLICATION.—To be eligible to receive a grant under this section, a community shall prepare and submit to the Secretary an application at such time, in such manner and containing such information as the Secretary may require.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $130,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 and 1994.

"SEC. 513. ESTABLISHMENT OF GRANT PROGRAM FOR DEMONSTRATION PROJECTS.

"(a) SERIOUSLY MENTALLY ILL INDIVIDUALS, AND CHILDREN AND ADOLESCENTS WITH SERIOUS EMOTIONAL AND MENTAL DISTURBANCES.—

"(1) IN GENERAL.—The Secretary, acting through the Administrator, may make grants to public and nonprofit private entities for—

"(A) mental health services demonstration projects for the planning, coordination, implementation, evaluation and improvement of community services (including outreach and consumer-run self-help services) for seriously mentally ill individuals and their families, seriously emotionally and mentally disturbed children and youth and their families, and seriously mentally ill homeless and elderly individuals;

"(B) demonstration projects for the prevention of youth suicide, except that such projects shall not promote, condone, justify, or advocate suicide or provide instruction in methods of suicide;

"(C) demonstration projects for the improvement of the recognition, assessment, treatment and clinical management of depressive disorders;

"(D) demonstration projects for programs to prevent the occurrence of sex offenses, and for the provision of treatment and psychological assistance to the victims of sex offenses; and

"(E) demonstration projects for programs to provide mental health services to victims of family violence.

"(2) MENTAL HEALTH SERVICES.—Mental health services provided under paragraph (1)(A) should encompass a range of delivery systems designed to permit individuals to receive treatment in the most therapeutically appropriate, least restrictive setting. Grants shall be awarded under such paragraph for—

"(A) demonstration programs and evaluations concerning such services; and

"(B) systems improvements to assist States and local entities to develop appropriate comprehensive mental health systems for adults with serious long-term mental illness and children and adolescents with serious emotional and mental disturbance.

"(b) INDIVIDUALS AT RISK OF MENTAL ILLNESS.—

"(1) GRANTS.—The Secretary, acting through the Administrator, may make grants to States, political subdivisions of States, and private nonprofit agencies for prevention services demonstration projects for the provision of prevention services for individuals who, in the determination of the Secretary, are at risk of developing mental illness.

"(2) TYPES OF DEMONSTRATIONS.—Demonstration projects under paragraph (1) may include—

"(A) prevention services for populations at risk of developing mental illness, particularly displaced workers, those confined in correctional facilities, young children, and adolescents;

"(B) the development and dissemination of education materials;

"(C) the sponsoring of local, regional, or national workshops or conferences;

"(D) the conducting of training programs with respect to the provision of mental health services to individuals described in paragraph (1); and

"(E) the provision of technical assistance to providers of such services.

"(c) LIMITATION ON DURATION OF GRANT.—The Secretary may make a grant under subsection (a) or (b) for not more than five consecutive one-year periods.

"(d) LIMITATION ON ADMINISTRATIVE EXPENSES.—The Secretary may not make a grant under subsection (a) or (b) to an applicant unless the applicant agrees that not more than 10 percent of such a grant will be expended for administrative expenses.

"(e) AUTHORIZATIONS OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purposes of carrying out this section, there are authorized to be appropriated $40,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(2) RURAL AREAS.—Of the amounts appropriated pursuant to paragraph (1), the Secretary shall make available 15 percent for demonstration projects to carry out the purpose of this section in rural areas.

"Subpart 3—Administrative Provisions

"SEC. 515. ADVISORY COUNCIL.

"(a) APPOINTMENT.—

"(1) IN GENERAL.—The Secretary acting through the Administrator, shall appoint one or more advisory councils for the Alcohol, Drug Abuse and Mental Health Services Administration (hereinafter referred to in this part as the 'Administration'). Such an advisory council shall advise, consult with, and make recommendations to the Administrator concerning matters relating to the activities carried out by and through the Administration and the policies respecting such activities.

"(2) DUTIES.—An advisory council appointed under paragraph (1)—

"(A)(i) shall review applications for grants and cooperative agreements for services or training and for which advisory council approval is required under section 516(c)(2), and recommend for approval applications for projects which show promise of improving the provision of treatment and prevention services; and

"(ii) may review any grant, contract, or cooperative agreement proposed to be made or entered into by the Administration;

"(B) may appoint subcommittees and convene workshops and conferences; and

"(C) may prepare reports.

"(b) COMPOSITION.—

"(1) IN GENERAL.—An advisory council appointed under subsection (a) shall consist of nonvoting ex officio members and not more than 12 members appointed by the Secretary.

"(2) EX OFFICIO MEMBERS.—The ex officio members of an advisory council shall consist of—

"(A) the Secretary and the Administrator (or the designees of such officers); and

"(B) such additional officers or employees of the United States as the Secretary determines necessary for the advisory council to effectively carry out its functions.

"(3) APPOINTMENT OF MEMBERS.—The members of an advisory council who are not ex officio members shall be appointed as follows:

"(A) Nine of the members shall be appointed by the Secretary from among the leading representatives of the fields of substance abuse and mental health treatment and prevention and two of such members shall be individuals who have received substance abuse or mental health treatment.

"(B) Three of the members shall be appointed by the Secretary from the general public and shall include leaders in fields of public policy, public relations, law, health policy, economics, and management.

"(4) COMPENSATION AND EXPENSES.—Members of an advisory council who are officers or employees of the United States shall not receive any compensation for service on an advisory council. The other members of an advisory council shall receive, for each day (including travel time) they are engaged in the performance of the functions of an advisory council, compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule.

"(c) TERM OF OFFICE.—

"(1) IN GENERAL.—The term of office of an appointed member of an advisory council shall be 4 years, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term and the Secretary shall make appointments to an advisory council in such manner as to ensure that the terms of the members do not all expire in the same year. A member may serve after the expiration of the member's term until a successor has taken office.

"(2) REAPPOINTMENTS.—A member who has been appointed for a term of 4 years may not be reappointed to an advisory council before 2 years from the date of expiration of such term of office.

"(3) VACANCIES.—If a vacancy occurs on an advisory council among the appointed members, the Secretary shall make an appointment to fill the vacancy within 90 days from the date the vacancy occurs.

"(d) CHAIRPERSON.—The chairperson of an advisory council shall be selected by the Secretary from among the members. The term of office of chairperson shall be 2 years.

"(e) MEETINGS.—An advisory council shall meet at the call of the chairperson or upon the request of the Administrator but at least 3 times each fiscal year. The location of the meetings of an advisory council shall be subject to the approval of the Administrator.

"(f) ADMINISTRATION.—The Administrator shall designate a member of the staff of the Administration to serve as the Executive secretary of an advisory council. The Administrator shall make available to an advisory council such staff, information, and other assistance as it may require to carry out its functions, and shall provide orientation and training for new members of an advisory council to provide them with such information and training as may be appropriate for their effective participation in the functions of an advisory council.

"SEC. 516. PEER REVIEW FOR SERVICES GRANTS.

"(a) PROVISION.—The Secretary, after consultation with the Administrator, shall by regulation require appropriate peer review of services, and services training, grants, cooperative agreements, and contracts to be administered through the Administration.

"(b) MEMBERSHIP.—The members of any peer review group established under such regulations shall be individuals who by virtue of their training or experience are eminently qualified to perform the review functions of the group and not more than one-fourth of the members of any peer review group established under such regulations shall be officers or employees of the United States.

"(c) REQUIREMENTS BASED ON AMOUNTS.—

"(1) UNDER $50,000.—If the direct cost of a grant, cooperative agreement, or contract to be made does not exceed $50,000, the Secretary may make such grant, cooperative agreement, or contract only if such grant, cooperative agreement, or contract is recommended after technical and scientific peer review required by regulations under subsections (a) and (b).

"(2) OVER $50,000.—If the direct cost of a grant, cooperative agreement, or contract (described in subsection (a)) to be made exceeds $50,000, the Secretary may make such grant, cooperative agreement, or contract only if such grant, cooperative agreement, or contract is recommended—

"(A) after peer review required by regulations under subsections (a) and (b); and

"(B) by the advisory council established under section 515.

"SEC. 517. APPLICATIONS AND NATIVE AMERICAN GOVERNING UNITS.

"(a) APPLICATIONS.—Except as otherwise specifically provided, grants under this title may be made only to public and nonprofit private entities that prepare and submit to the administering entity an application for such grant that—

"(1) with respect to carrying out the purpose for which the assistance is to be provided, provides assurances of compliance satisfactory to the Secretary; and

"(2) is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out the purpose of the program under which the application is submitted.

"(b) NATIVE AMERICAN GOVERNING UNITS.—For purposes of this title, Native American governing units and agencies shall be considered public entities.

"SEC. 518. PROCEDURES FOR MISCONDUCT.

"The Administrator shall establish a process for the prompt and appropriate response to information regarding misconduct in connection with projects, to be administered by the Administrator, for which funds have been made available under this title. Such process shall include procedures for the receiving of reports of such information from recipients of funds under this title and taking appropriate action with respect to such misconduct and violations.

"SEC. 519. EXPERTS AND CONSULTANTS.

"(a) AUTHORITY TO OBTAIN.—The Administrator may obtain (in accordance with section 3109 of title 5, United States Code, but without regard to the limitation in such section on the number of days or the period of service) the services of not more than 20 experts or consultants who have scientific or professional qualifications. Such experts and consultants shall be obtained for the Administration and each of the agencies of such.

"(b) COMPENSATION AND EXPENSES.—

"(1) IN GENERAL.—Experts and consultants whose services are obtained under subsection (a) shall be paid or reimbursed for their expenses associated with traveling to and from their assignment location in accordance with sections 5724, 5724a(a)(1), 5724a(a)(3), and 5726(c) of title 5, United States Code.

"(2) AGREEMENTS.—Expenses specified in paragraph (1) may not be allowed in connection with the assignment of an expert or consultant whose services are obtained under subsection (a), unless and until the expert or consultant agrees in writing to complete the entire period of assignment or one year, whichever is shorter, unless separated or reassigned for reasons beyond the control of the expert or consultant that are acceptable to the Secretary. If the expert or consultant violates the agreement, the money spent by the United States for the expenses specified in paragraph (1) is recoverable from the expert or consultant as a debt of the United States. The Secretary may waive in whole or in part a right of recovery under this subparagraph.

"SEC. 520. OFFICE FOR SPECIAL POPULATIONS.

"(a) ESTABLISHMENT.—The Administrator shall establish, within the Administration, an Office for Special Populations.

"(b) DIRECTOR.—

"(1) DESIGNATION.—The Administrator shall designate a Director for Special Populations for the Office established under subsection (a).

"(2) DUTIES.—The Secretary, acting through the Director for Special Populations shall—

"(A) develop and coordinate policies and programs to assure increased emphasis on the needs of adolescents, children, individuals with disabilities, minority populations and the elderly with respect to substance abuse and mental health;

"(B) develop a plan to increase the provision of treatment and prevention services to adolescents, children, individuals with disabilities, minority populations and the elderly; and

"(C) support and develop programs designed to counteract discrimination against adolescents, children, individuals with disabilities, minority populations and the elderly in the fields of substance abuse and mental health services.

"(c) ANNUAL REPORT.—The Secretary shall periodically report to the appropriate committees of Congress concerning the actions taken by the Administrator under this section.

"(d) NATIVE AMERICANS.—For purposes of this section, the term 'minority populations' shall include Native Americans.

"SEC. 520A. OFFICE OF WOMEN'S HEALTH SERVICES.

"(a) ESTABLISHMENT AND GENERAL PROVISIONS.—

"(1) IN GENERAL.—There is established within the Office of the Administrator an office to be known as the Office of Women's Health Services (hereafter in this section referred to as the 'Office'). The Office shall be headed by a director, who shall be appointed by the Administrator.

"(2) PURPOSE.—The Director of the Office shall ensure that women's health and mental health services are identified and addressed by the Alcohol, Drug Abuse, and Mental Health Administration.

"(3) COORDINATING COMMITTEE.—

"(A) In carrying out subsection (a)(2), the Director of the Office shall establish a committee to be known as the Coordinating Committee for Research on Women's Health (hereafter in this paragraph referred to as the 'Coordinating Committee').

"(B) The Coordinating Committee shall be composed of the Directors of the agencies of the Alcohol, Drug Abuse, and Mental Health Administration (or the designees of the Directors).

"(C) The Director of the Office shall serve as the chair of the Coordinating Committee.

"(E) The Coordinating Committee shall, with respect to women's health and mental health services—

"(i) identify the need for such services, and make an estimate each fiscal year of the funds needed to adequately support the services;

"(ii) identify needs regarding the coordination of services, including with respect to intramural and extramural multidisciplinary projects and programs;

"(iii) encourage the agencies of the Alcohol, Drug Abuse, and Mental Health Services Administration to support such services; and

"(iv) determine the extent to which women are represented among senior physicians and scientists of the Alcohol, Drug Abuse, and Mental Health Services Administration and of entities conducting services with funds provided by such Administration, and as appropriate, carry out activities to increase the extent of such representation.

"(4) ADVISORY COMMITTEE.—

"(A) In carrying out subsection (a)(2), the Director of the Office shall establish an advisory committee to be known as the Advisory Committee for Women's Health Services (hereafter in this paragraph referred to as the 'Advisory Committee').

"(B) The Advisory Committee shall be composed of not more than 18 individuals who are not officers or employees of the Federal Government. The Director of the Office shall make appointments to the Advisory Committee from among physicians, practitioners, scientists, and other health professionals, whose clinical practice, specialization, or professional expertise includes a significant focus on women's health and mental health conditions.

"(C) The Director of the Office shall serve as the chair of the Advisory Committee.

"(D) The Advisory Committee shall—

"(i) advise the Director of the Office on appropriate activities to be undertaken by the agencies of the Alcohol, Drug Abuse, and

Mental Health Administration with respect to—

"(I) women's health and mental health services, including services relating to menopause, premenstrual syndrome, postpartum depression, and other conditions related to the reproductive system, and including depression, attacks of panic, and eating disorders; and

"(II) women's health and mental health services which require a multidisciplinary approach;

"(ii) report to the Director of the Office on publicly and privately supported women's health and mental health services; and

"(iii) provide recommendations to the Director of the Office regarding activities of the Office.

"(E)(i) The Advisory Committee shall prepare a biennial report describing the activities of the Committee, including findings made by the Committee regarding—

"(I) the extent of expenditures made for women's health and mental health research by the agencies of the Alcohol, Drug Abuse, and Mental Health Services Administration; and

"(II) the level of funding needed for women's health and mental health research.

"(ii) The report required in subparagraph (A) shall be submitted to the Administrator for inclusion in the report required in subsection (c).

"(b) NATIONAL DATA SYSTEM AND CLEARINGHOUSE.—

"(1) DATA SYSTEM.—

"(A) The Administrator shall establish a single data system for the collection, storage, analysis, retrieval, and dissemination of information regarding women's health and mental health research. Information from the data system shall be available through information systems available to health care professionals and providers, researchers, and members of the public.

"(B) The data system established under subparagraph (A) shall include a registry of clinical trials of experimental treatments that have been developed for women's health and mental health research. Such registry shall include information on subject eligibility criteria, sex, age, ethnicity or race, and the location of the trial site or sites. Principal investigators of such clinical trials shall provide this information to the registry within 30 days after it is available. Once a trial has been completed, the principal investigator shall provide the registry with information pertaining to the results, including potential toxicities or adverse effects associated with the experimental treatment or treatments evaluated.

"(2) CLEARINGHOUSE.—The Administrator, in consultation with the Director of the Office and the National Library of Medicine, shall establish, maintain, and operate a program to provide information on women's health and mental health services.

"(c) BIENNIAL REPORT.—Not later than February 1, 1994, and February 1 of every second year thereafter, the Director of the Office shall, with respect to women's health and mental health services, submit to the Congress a report—

"(1) describing and evaluating the progress made during the preceding 2 fiscal years in research and treatment conducted or supported by the Alcohol, Drug Abuse, and Mental Health Services Administration;

"(2) summarizing and analyzing expenditures made by the agencies of such Administration (including the Office) during the preceding 2 fiscal years; and

"(3) making such recommendations for legislative and administrative initiatives as the Director of the Office determines to be appropriate.

"(d) DEFINITIONS.—For purposes of this section:

"(1) WOMEN'S HEALTH AND MENTAL HEALTH CONDITIONS.—

"(A) Except as provided in subparagraph (B), the term 'women's health and mental health conditions', with respect to women of all age, ethnic, and racial groups, means all diseases, disorders, and other conditions (including with respect to mental health)—

"(i) unique to or more prevalent in women; or

"(ii) with respect to which there has been insufficient services involving women.

"(B) The term 'women's health and mental health conditions' does not include a disease, disorder, or other condition unless the condition—

"(i) relates to alcohol, drug abuse, or mental health; or

"(ii) relates to another condition with respect to which the Alcohol, Drug Abuse, and Mental Health Services Administration is authorized, by a provision of law other than this section, to provide services.

"(2) WOMEN'S HEALTH AND MENTAL HEALTH SERVICES.—The term 'women's health and mental health services' means services for women's health and mental health conditions.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $20,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 1995. The authorization of appropriations established in the preceding sentence shall be in addition to any other amounts authorized to be appropriated for providing and supporting women's health and mental health services.".

SEC. 102. NATIONAL INSTITUTES.

(a) NATIONAL INSTITUTES OF HEALTH.—Section 401(b)(1) (42 U.S.C. 281(b)(1)) is amended by adding at the end thereof the following new subparagraphs:

"(N) The National Institute on Alcohol Abuse and Alcoholism.

"(O) The National Institute on Drug Abuse.

"(P) The National Institute of Mental Health.".

(b) ORGANIZATION.—Part C of title IV (42 U.S.C. 285 et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart 14—National Institutes on Alcohol Abuse and Alcoholism, on Drug Abuse and of Mental Health

"CHAPTER 1—ESTABLISHMENT AND GENERAL DUTIES

"SEC. 464I. NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established within the National Institutes of Health, the National Institute on Alcohol Abuse and Alcoholism (hereafter in this section referred to as the 'Institute') to administer the programs and authorities relating to alcohol abuse and alcoholism assigned to the Director of such Institute by this Act.

"(2) COMPREHENSIVE PROGRAMS.—The Director of the Institute shall develop and conduct a comprehensive research program on the cause, diagnosis, epidemiology, prevention and treatment of alcohol abuse and alcoholism, including services research. The Director of the Institute shall carry out the administrative and financial management, policy development and planning, evaluation, and public information functions which are required for the implementation of such programs and authorities.

"(3) PURPOSE.—The general purpose of the Institute is the conduct and support of biomedical, behavioral, epidemiological, social, and clinical research, including health services research, research training, health information dissemination, and other research with respect to the etiology, prevention, treatment, and consequences of alcohol abuse and alcoholism.

"(b) DIRECTOR.—

"(1) IN GENERAL.—The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

"(2) EMPLOYEES.—The Director, with the approval of the Secretary, may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs to be carried out through the Institute, and may obtain the services of not more than 10 expert consultants in accordance with the terms and conditions provided for in section 402(d).

"(c) PARTICIPATION.—The programs to be carried out through the Institute shall be administered so as to encourage the broadest possible participation of professionals and paraprofessionals in the fields of medicine, science, the social sciences, and other related disciplines.

"(d) REPORTS.—The Director shall, every 3 years, prepare and submit to Congress a report containing—

"(1) current information concerning the health consequences of using alcoholic beverages;

"(2) a description of current research findings made with respect to alcohol abuse and alcoholism; and

"(3) such recommendations for legislation and administrative action as the Director considers appropriate.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $200,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1996.

"SEC. 464J. NATIONAL INSTITUTE ON DRUG ABUSE.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established within the National Institutes of Health the National Institute on Drug Abuse (hereinafter in this section referred to as the 'Institute') to administer the programs and authorities relating to drug abuse assigned to the Director of such Institute by this Act.

"(2) COMPREHENSIVE PROGRAMS.—The Director of the Institute shall develop and conduct a comprehensive research program on the cause, diagnosis, epidemiology, prevention and treatment of drug abuse, including services research. The Director of the Institute shall carry out the administrative and financial management, policy development and planning, evaluation, and public information functions which are required for the implementation of such programs and authorities.

"(3) PURPOSE.—The general purpose of the Institute is the conduct and support of biomedical, behavioral, epidemiological, social, and clinical research, including health services research, research training, health information dissemination, and other research with respect to the etiology, prevention, treatment, and consequences of drug abuse.

"(b) DIRECTOR.—

"(1) IN GENERAL.—The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

"(2) EMPLOYEES.—The Director, with the approval of the Secretary, may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs and authorities to be carried out through the Institute, and may obtain the services of not more than 10 expert consultants in accordance with the terms and conditions provided for in section 402(d).

"(c) PARTICIPATION.—The programs of the Institute shall be administered so as to encourage the broadest possible participation of professionals and paraprofessionals in the fields of medicine, science, the social sciences, and other related disciplines.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $400,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1996.

"SEC. 464K. NATIONAL INSTITUTE OF MENTAL HEALTH.

"(a) ESTABLISHMENT.—

"(1) IN GENERAL.—There is established within the National Institutes of Health the National Institute of Mental Health (hereinafter in this part referred to as the 'Institute') to administer the programs and authorities of the Director with respect to mental health.

"(2) COMPREHENSIVE PROGRAM.—The Director of the Institute, shall develop and conduct a comprehensive research program on the cause, diagnosis, epidemiology, prevention and treatment of mental illness, including services research. The Director of the Institute shall carry out the administrative and financial management, policy development and planning, evaluation, and public information functions which are required for the implementation of such programs and authorities. The research program established under this paragraph shall include support for biomedical and behavioral neuroscience and shall be designed to further the treatment and prevention of mental illness, the promotion of mental health, and the study of the psychological, social and legal factors that influence behavior.

"(3) PURPOSE.—The general purpose of the Institute is the conduct and support of research, research training, mental health information dissemination, and other research with respect to the cause, diagnosis, prevention, treatment, and consequences of mental disorders, and the promotion of mental health.

"(b) DIRECTOR.—

"(1) IN GENERAL.—The Institute shall be under the direction of a Director who shall be appointed by the Secretary.

"(2) EMPLOYEES.—The Director, with the approval of the Secretary, may employ and prescribe the functions of such officers and employees, including attorneys, as are necessary to administer the programs and authorities to be carried out through the Institute, and may obtain the services of not more than 20 expert consultants in accordance with the terms and conditions provided for in section 402(d).

"(c) PARTICIPATION.—The programs to be carried out through the Institute shall be administered so as to encourage the broadest possible participation of professionals and paraprofessionals in the fields of medicine, science, the social sciences, and other related disciplines.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $600,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1996.

CHAPTER 2—RESEARCH PROGRAMS

"SEC. 464L. MENTAL HEALTH AND SUBSTANCE ABUSE RESEARCH.

"(a) IN GENERAL.—The Secretary, acting through the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health, may make grants to, and enter into cooperative agreements and contracts with, public and nonprofit private entities for the conduct of, promotions of, coordination of, research, investigation, experiments, demonstrations, clinical trials and studies relative to the cause, diagnosis, treatment, control, epidemiology, and prevention of mental illness and substance abuse.

"(b) AUTHORITY TO CARRY OUT ACTIVITIES.—In carrying out the programs described in subsection (a), the Secretary, acting through each Director, is authorized to—

"(1) collect and disseminate through publications and other appropriate means (including the development of curriculum materials), information as to, and the practical application of, the research and other activities under the program;

"(2) make available research facilities of the Public Health Service to appropriate public authorities, and to health officials and scientists engaged in special study;

"(3) secure from time to time and for such periods as the Directors deem advisable, the assistance and advice of experts, scholars, and consultants;

"(4) promote the coordination of appropriate research programs conducted by the Directors, and similar programs conducted by other departments, agencies, organizations, and individuals, including the Centers for Disease Control and all National Institutes of Health research activities;

"(5) conduct intramural programs of biomedical, behavioral, epidemiological, and social research, including research involving human subjects, each of which is—

"(A) located in an institution capable of providing all necessary medical care for such human subjects, including complete 24-hour medical diagnostic services by or under the supervision of physicians, acute and intensive medical care, including 24-hour emergency care, psychiatric care, and such other care as is determined to be necessary for individuals suffering from substance abuse; and

"(B) associated with an accredited medical or research training institution;

"(6) for purposes of study, admit and treat at institutions, hospitals, and stations of the Public Health Service, persons not otherwise eligible for such treatment;

"(7) provide to health officials, scientists, and appropriate public and other nonprofit institutions and organizations, technical advice and assistance on the application of statistical and other scientific research methods to experiments, studies, and surveys in health and medical fields;

"(8) conduct research directly or through grants and contracts concerning the development of new and improved medications for the treatment of the diseases within the Institute's mission;

"(9) enter into contracts under this subpart without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5);

"(10) collaborate with the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration to ensure that research programs are appropriately informed with the knowledge and experience obtained through service programs, and to assure that knowledge developed through research programs is appropriately applied through service programs;

"(11) collaborate with the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration to promote the study of the outcomes of treatment, rehabilitation, and prevention services in order to identify the manner in which such services can most effectively be provided;

"(12) collaborate with the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration to promote the dissemination and implementation of research findings that will improve the delivery and effectiveness of treatment, rehabilitation, and prevention services;

"(13) prepare and submit an annual report to the Secretary and the appropriate committees of Congress describing and assessing the collaborative activities conducted with the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health; and

"(14) adopt such additional means as the Directors determines necessary or appropriate to carry out the purposes of this section.

"SEC. 464M. NATIONAL MENTAL HEALTH AND SUBSTANCE ABUSE EDUCATION PROGRAMS.

"The Secretary, acting through the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health, shall establish National Mental Health and Substance Abuse Education Programs for the purpose of—

"(1) disseminating by publication and other appropriate means, information concerning improved methods of treating substance abusers and individuals with mental health problems and improved methods of assisting the families of such individuals; and

"(2) supporting, by grant, contract, or otherwise, programs of training and education with respect to the causes, diagnosis, and treatment of, and research concerning, substance abuse and mental health problems.

"SEC. 464N. NATIONAL SUBSTANCE ABUSE RESEARCH CENTERS.

"(a) DESIGNATION.—The Secretary, acting through the Directors of the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse, may designate National Substance Abuse Research Centers for the purpose of interdisciplinary research relating to substance abuse and other biomedical, behavioral, and social issues. No entity may be designated as a Center unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be submitted in such manner and contain such information as the Secretary may reasonably require. The Secretary may not approve such an application unless—

"(1) the application contains or is supported by reasonable assurances that—

"(A) the applicant has the experience, or capability, to conduct, through biomedical, behavioral, social, and related disciplines, long-term research on substance abuse and to provide coordination of such research among such disciplines;

"(B) the applicant has available to it sufficient facilities (including laboratory, reference, and data analysis facilities) to carry out the research plan contained in the application;

"(C) the applicant has facilities and personnel to provide training in the prevention and treatment of substance abuse;

"(D) the applicant has the capacity to train predoctoral and postdoctoral students for careers in research on substance abuse;

"(E) the applicant has the capacity to conduct courses on substance abuse and research on substance abuse problems for undergraduate and graduate students, and medical and osteopathic, nursing, social work, and other specialized graduate students; and

"(F) the applicant has the capacity to conduct programs of continuing education in such medical, legal, and social service fields as the Secretary may require.

"(2) FIVE-YEAR PLAN.—The application contains a detailed 5-year plan for research relating to substance abuse.

"(b) GRANTS.—The Secretary shall, under such conditions as the Secretary may reasonably require, make annual grants to Centers which have been designated under this section. No funds provided under a grant under this subsection may be used for the purchase of any land or the purchase, construction, preservation, or repair of any building. For the purposes of the preceding sentence, the term 'construction' has the meaning given that term by section 702(2).

"(c) TYPES OF CENTERS.—Grants under this section may be awarded to entities that specialize in the study of either alcohol or drug abuse or both.

"SEC. 464O. MEDICATION DEVELOPMENT PROGRAM.

"(a) ESTABLISHMENT.—There is established in the National Institute on Drug Abuse a Medication Development Program through which the Director of such Institute shall—

"(1) conduct periodic meetings with the Commissioner of Food and Drugs to discuss measures that may facilitate the approval process of drug abuse treatments;

"(2) encourage and promote (through grants, contracts, international collaboration, or otherwise) expanded research programs, investigations, experiments, and studies, into the development and use of medications to treat drug addiction;

"(3) establish or provide for the establishment of research facilities;

"(4) report on the activities of other relevant agencies relating to the development and use of pharmacotherapeutic treatments for drug addiction;

"(5) collect, analyze, and disseminate data useful in the development and use of pharmacotherapeutic treatments for drug addiction and collect, catalog, analyze, and disseminate through international channels, the results of such research;

"(6) directly or through grants, contracts, or cooperative agreements, support training in the fundamental sciences and clinical disciplines related to the pharmacotherapeutic treatment of drug abuse, including the use of training stipends, fellowships, and awards where appropriate; and

"(7) coordinate the activities conducted under this section with related activities conducted within the National Institute on Alcohol Abuse and Alcoholism, the National Institute of Mental Health, and other appropriate institutes and shall consult with the Directors of such Institutes.

"(b) DUTIES OF DIRECTOR.—In carrying out the activities described in subsection (a), the Director—

"(1) shall collect and disseminate through publications and other appropriate means, information pertaining to the research and other activities under this section;

"(2) shall make grants to or enter into contracts and cooperative agreements with individuals and public and private entities to further the goals of the program;

"(3) shall, in accordance with other provisions of Federal law, through grants, contracts, or cooperative agreements acquire, construct, improve, repair, operate, and maintain pharmacotherapeutic centers, laboratories, and other necessary facilities and equipment, and such other property as the Director determines necessary to carry out the purposes of this subpart;

"(4) may accept voluntary and uncompensated services;

"(5) may accept gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible; and

"(6) shall take necessary action to ensure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the Administration and the other scientific, medical, and biomedical disciplines and organizations nationally and internationally.

"(c) REPORT TO OFFICE OF NATIONAL DRUG CONTROL POLICY.—

"(1) IN GENERAL.—Not later than December 31, 1991, and each December 31 thereafter, the Director shall submit to the Office of National Drug Control Policy established under section 1002 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1501) a report, in accordance with paragraph (3), that describes the objectives and activities of the program assisted under this section.

"(2) INCORPORATION.—The Director of National Drug Control Policy shall incorporate, by reference or otherwise, each report submitted under this subsection in the National Drug Control Strategy submitted the following February 1 under section 1005 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1504).

"(d) REVIEW OF GRANTS.—The Director shall provide for the proper scientific review of all research grants, cooperative agreements, and contracts made or entered into under this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the provisions of this section—

"(1) $70,000,000 for fiscal year 1992;

"(2) $85,000,000 for fiscal year 1993;

"(3) $100,000,000 for fiscal year 1994;

"(4) $110,000,000 for fiscal year 1995; and

"(5) $130,000,000 for each of the fiscal years 1996 through 2000.

"(f) DEFINITION.—As used in this section, the term 'pharmacotherapeutics' means medications used to treat the symptoms and disease of drug abuse, including medications to—

"(1) block the effects of abused drugs;

"(2) reduce the craving for abused drugs;

"(3) moderate or eliminate withdrawal symptoms;

"(4) block or reverse the toxic effect of abused drugs;

"(5) prevent, under certain conditions, the initiation of drug abuse; or

"(6) prevent relapse in persons who have been detoxified from drugs of abuse.".

Subtitle B—Miscellaneous Provisions

SEC. 111. MISCELLANEOUS PROVISIONS.

Part C (42 U.S.C. 290dd et seq.) (as redesignated by section 101(1)) is further amended to read as follows:

"PART C—MISCELLANEOUS PROVISIONS RELATING TO SUBSTANCE ABUSE AND MENTAL HEALTH

"SEC. 541. TECHNICAL ASSISTANCE TO STATE AND LOCAL AGENCIES.

"(a) AUTHORITY.—At the request of any State, the Secretary, acting through the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration, shall, to the extent feasible, make available technical assistance for—

"(1) collecting data and developing and improving systems for data collection;

"(2) program management, accountability, and evaluation;

"(3) certification, accreditation, or licensure of treatment facilities and personnel;

"(4) monitoring compliance by hospitals and other facilities with the requirements of section 543; and

"(5) improving the scope of health insurance and other public or private third party coverage offered in the State for mental health and substance abuse services.

"(b) COORDINATION.—Technical assistance provided under this section shall be provided in a manner which will improve coordination between activities supported under this title.

"(c) DUTIES OF ADMINISTRATOR.—In carrying out this section, the Administrator may—

"(1) provide technical assistance, including advice and consultation relating to local programs, technical and professional assistance, and, where deemed necessary, use of task forces of public officials or other persons assigned to work with State and local governments, to analyze and identify State and local problems and assist in the development of plans and programs to meet the problems so identified;

"(2) convene conferences of State, local, and Federal officials, and such other persons as the Administrator shall designate; and

"(3) draft and make available to State and local governments model legislation with respect to State and local substance abuse and mental health programs and activities.

"SEC. 542. SUBSTANCE ABUSE AMONG GOVERNMENT AND OTHER EMPLOYEES.

"(a) PROGRAMS AND SERVICES.—

"(1) DEVELOPMENT.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration, shall be responsible for fostering substance abuse prevention and treatment programs and services in State and local governments and in private industry.

"(2) MODEL PROGRAMS.—

"(A) IN GENERAL.—Consistent with the responsibilities described in paragraph (1), the Secretary, acting through the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration, shall develop a variety of model programs suitable for replication on a cost-effective basis in different types of business concerns and State and local governmental entities.

"(B) DISSEMINATION OF INFORMATION.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration, shall disseminate information and materials relative to such model programs to the State agencies responsible for the administration of substance abuse prevention, treatment, and rehabilitation activities and shall, to the extent feasible provide technical assistance to such agencies as requested.

"(b) DEPRIVATION OF EMPLOYMENT.—

"(1) PROHIBITION.—No person may be denied or deprived of Federal civilian employment or a Federal professional or other license or right solely on the grounds of prior substance abuse.

"(2) APPLICATION.—This subsection shall not apply to employment in—

"(A) the Central Intelligence Agency;

"(B) the Federal Bureau of Investigation;

"(C) the National Security Agency;

"(D) any other department or agency of the Federal Government designated for purposes of national security by the President; or

"(E) in any position in any department or agency of the Federal Government, not referred to in subparagraphs (A) through (D), which position is determined pursuant to regulations prescribed by the head of such agency or department to be a sensitive position, except that the Rehabilitation Act of 1973 shall, if otherwise applicable, apply to an individual holding such position.

"(c) CONSTRUCTION.—This section shall not be construed to prohibit the dismissal from employment of a Federal civilian employee who cannot properly function in his employment.

"SEC. 543. ADMISSION OF SUBSTANCE ABUSERS TO PRIVATE AND PUBLIC HOSPITALS AND OUTPATIENT FACILITIES.

"(a) NONDISCRIMINATION.—Substance abusers who are suffering from medical conditions shall not be discriminated against in admission or treatment, solely because of their substance abuse, by any private or public general hospital, or outpatient facility (as defined in section 1633(6)) which receives support in any form from any program supported in whole or in part by funds appropriated to any Federal department or agency.

"(b) REGULATIONS.—

"(1) IN GENERAL.—The Secretary shall issue regulations for the enforcement of the policy of subsection (a) with respect to the admission and treatment of substance abusers in hospitals and outpatient facilities which receive support of any kind from any program administered by the Secretary. Such regulations shall include procedures for determining (after opportunity for a hearing if requested) if a violation of subsection (a) has occurred, notification of failure to comply with such subsection, and opportunity for a violator to comply with such subsection. If the Secretary determines that a hospital or outpatient facility subject to such regulations has violated subsection (a) and such violation continues after an opportunity has been afforded for compliance, the Secretary may suspend or revoke, after opportunity for a hearing, all or part of any support of any kind received by such hospital from any program administered by the Secretary. The Secretary may consult with the officials responsible for the administration of any other Federal program from which such hospital or outpatient facility receives support of any kind, with respect to the suspension or revocation of such other Federal support for such hospital or outpatient facility.

"(2) DEPARTMENT OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs, acting through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary under paragraph (1) to the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from substance abuse. In prescribing and implementing regulations pursuant to this paragraph, the Secretary shall, from time to time, consult with the Secretary of Health and Human Services in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.

"SEC. 544. CONFIDENTIALITY OF RECORDS.

"(a) REQUIREMENT.—Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research, which is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e), be confidential and be disclosed only for the purposes and under the circumstances expressly authorized under subsection (b).

"(b) PERMITTED DISCLOSURE.—

"(1) CONSENT.—The content of any record referred to in subsection (a) may be disclosed in accordance with the prior written consent of the patient with respect to whom such record is maintained, but only to such extent, under such circumstances, and for such purposes as may be allowed under regulations prescribed pursuant to subsection (g).

"(2) METHOD FOR DISCLOSURE.—Whether or not the patient, with respect to whom any given record referred to in subsection (a) is maintained, gives written consent, the content of such record may be disclosed as follows:

"(A) To medical personnel to the extent necessary to meet a bona fide medical emergency.

"(B) To qualified personnel for the purpose of conducting scientific research, management audits, financial audits, or program evaluation, but such personnel may not identify, directly or indirectly, any individual patient in any report of such research, audit, or evaluation, or otherwise disclose patient identities in any manner.

"(C) If authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause therefor, including the need to avert a substantial risk of death or serious bodily harm. In assessing good cause the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate safeguards against unauthorized disclosure.

"(c) USE OF RECORDS IN CRIMINAL PROCEEDINGS.—Except as authorized by a court order granted under subsection (b)(2)(C), no record referred to in subsection (a) may be used to initiate or substantiate any criminal charges against a patient or to conduct any investigation of a patient.

"(d) APPLICATION.—The prohibitions of this section continue to apply to records concerning any individual who has been a patient, irrespective of whether or when such individual ceases to be a patient.

"(e) NONAPPLICABILITY.—The prohibitions of this section do not apply to any interchange of records—

"(1) within the Armed Forces or within those components of the Department of Veterans Affairs furnishing health care to veterans; or

"(2) between such components and the Armed Forces.

The prohibitions of this section do not apply to the reporting under State law of incidents of suspected child abuse and neglect to the appropriate State or local authorities.

"(f) PENALTIES.—Any person who violates any provision of this section or any regulation issued pursuant to this section shall be fined not more than $500 in the case of a first offense, and not more than $5,000 in the case of each subsequent offense.

"(g) REGULATIONS.—Except as provided in subsection (h), the Secretary shall prescribe regulations to carry out the purposes of this section. Such regulations may contain such definitions, and may provide for such safeguards and procedures, including procedures and criteria for the issuance and scope of orders under subsection (b)(2)(C), as in the judgment of the Secretary are necessary or proper to effectuate the purposes of this section, to prevent circumvention or evasion thereof, or to facilitate compliance therewith.

"(h) APPLICATION TO DEPARTMENT OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs, acting through the Chief Medical Director, shall, to the maximum feasible extent consistent with their responsibilities under title 38, United States Code, prescribe regulations making applicable the regulations prescribed by the Secretary of Health and Human Services under subsection (g) of this section to records maintained in connection with the provision of hospital care, nursing home care, domiciliary care, and medical services under such title 38 to veterans suffering from substance abuse. In prescribing and implementing regulations pursuant to this subsection, the Secretary of Veterans Affairs shall, from time to time, consult with the Secretary of Health and Human Services in order to achieve the maximum possible coordination of the regulations, and the implementation thereof, which they each prescribe.

"SEC. 545. DATA COLLECTION.

"(a) REQUIREMENT.—The Secretary, acting through the Administrator and the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health, as appropriate, shall collect data each year on the national incidence and prevalence of the various forms of mental illness and substance abuse.

"(b) MENTAL HEALTH.—With respect to the activities under subsection (a) relating to mental health, the Secretary shall ensure that such activities include, at a minimum, the collection of data on—

"(1) the number and variety of public and nonprofit private treatment programs;

"(2) the number and demographic characteristics of individuals receiving treatment through such programs;

"(3) the type of care received by such individuals; and

"(4) such other data as may be appropriate.

"(c) SUBSTANCE ABUSE.—

"(1) IN GENERAL.—With respect to the activities under subsection (a) relating to substance abuse, the Secretary shall ensure that such activities include, at a minimum, the collection of data on—

"(A) the number of individuals admitted to the emergency rooms of hospitals as a result of substance abuse;

"(B) the number of deaths occurring as a result of substance abuse;

"(C) the number and variety of public and private nonprofit treatment programs, including the number and type of patient slots available;

"(D) the number of individuals seeking treatment through such programs, the number and demographic characteristics of individuals receiving such treatment, the percentage of individuals who complete such programs, and, with respect to individuals receiving such treatment, the length of time between an individual's request for treatment and the commencement of treatment;

"(E) the number of such individuals who return for treatment after the completion of a prior treatment in such programs and the method of treatment utilized during the prior treatment;

"(F) the number of individuals receiving public assistance for such treatment programs;

"(G) the costs of the different types of treatment modalities for drug and alcohol abuse and the aggregate relative costs of each such treatment modality provided within a State in each fiscal year;

"(H) to the extent of available information, the number of individuals receiving treatment for alcohol or drug abuse who have private insurance coverage for the costs of such treatment;

"(I) the extent of substance abuse among high school students and among the general population; and

"(J) the number of alcohol and drug abuse counselors and other substance abuse treatment personnel employed in public and private treatment facilities.

"(2) Surveys.—Annual surveys shall be carried out in the collection of data under this section. Summaries and analyses of the data collected shall be made available to the public and nonconfidential data files shall be made available to qualified researchers.

"(d) Specific Studies.—The Secretary, acting through the Directors of the National Institute on Alcohol Abuse and Alcoholism and the National Institute on Drug Abuse, as appropriate, shall award grants under this section on a competitive basis to qualified entities to support—

"(1) epidemiological studies of infants and the families of infants with fetal cocaine syndrome and fetal alcohol syndrome; and

"(2) longitudinal studies of infants and the families of infants afflicted with such syndromes.

"(e) Uniform Criteria.—After consultation with the States, provider associations, and appropriate national organizations, the Administrator and the Directors shall develop uniform criteria for the collection of data, using the best available technology, pursuant to this section.

"(f) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section, $25,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"SEC. 546. PUBLIC HEALTH EMERGENCIES.

"(a) Requirements.—If the Secretary determines, after consultation with the Administrator, the Commissioner of Food and Drugs, or the Director of the Centers for Disease Control, that a disease or disorder within the jurisdiction of the Administration constitutes a public health emergency, the Secretary, acting through the Administrator—

"(1) shall expedite the review by advisory councils and by peer review groups of applications for grants for services concerning such disease or disorder or proposals for contracts for such services;

"(2) shall exercise the authority in section 3709 of the Revised Statutes (41 U.S.C. 5) respecting public exigencies to waive the advertising requirements of such section in the case of proposals for contracts for such services;

"(3) may provide administrative supplemental increases in existing grants and contracts to support new services relevant to such disease or disorder; and

"(4) shall disseminate, to health professionals and the public, information on the cause, prevention, and treatment of such disease or disorder that has been developed under this section.

The amount of an increase in a grant or contract provided under paragraph (3) may not exceed one-half the original amount of the grant or contract.

"(b) Report.—Not later than 90 days after the end of a fiscal year, the Secretary shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate on actions taken under subsection (a) in such fiscal year if any actions were taken under such subsection in such fiscal year.".

Subtitle C—Transfer Provisions

SEC. 121. TRANSFERS.

(a) Alcohol, Drug Abuse and Mental Health Services Administration.—Except as specifically provided otherwise in this Act or an amendment made by this Act, there are transferred to the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration all service related functions which the Administrator of the Alcohol, Drug Abuse and Mental Health Administration exercised before the date of the enactment of this Act and all related functions of any officer or employee of the Alcohol, Drug Abuse and Mental Health Administration.

(b) National Institutes.—Except as specifically provided otherwise in this Act or an amendment made by this Act, there are transferred to the appropriate Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health, through the Director of the National Institutes of Health, all research related functions which the Administrator of the Alcohol, Drug Abuse and Mental Health Administration exercised before the date of the enactment of this Act and all related functions of any officer or employee of the Alcohol, Drug Abuse, and Mental Health Administration.

(c) Adequate Personnel and Resources.—The transfers required under this subtitle shall be effectuated in a manner that ensures that the Alcohol, Drug Abuse and Mental Health Services Administration has adequate personnel and resources and that the National Institutes of Health have adequate personnel and resources to enable the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health to carry out their respective functions.

SEC. 122. DELEGATION AND ASSIGNMENT.

(a) Alcohol, Drug Abuse and Mental Health Services Administration.—Except where otherwise expressly prohibited by law, the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration may delegate any of the functions transferred to the Administrator by this subtitle and any function transferred or granted to the Administrator after the date of enactment of this Act to such officers and employees of the Alcohol, Drug Abuse and Mental Health Services Administration as the Administrator may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the Administrator under this section or under any other provision of this subtitle shall relieve the Administrator of responsibility for the administration of such functions.

(b) National Institutes.—Except where otherwise expressly prohibited by law, the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health may delegate any of the functions transferred to the Directors by this subtitle and any function transferred or granted to the Directors after the date of enactment of this Act to such officers and employees of such Institutes as the Directors may designate, and may authorize successive redelegations of such functions as may be necessary or appropriate. No delegation of functions by the Directors under this section or under any other provision of this subtitle shall relieve the Directors of responsibility for the administration of such functions.

SEC. 123. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.

(a) Alcohol, Drug Abuse and Mental Health Services Administration.—Except as otherwise provided in the Public Health Service Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred to the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration by this subtitle, subject to section 1531 of title 31, United States Code, shall be transferred to the Alcohol, Drug Abuse and Mental Health Services Administration. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) National Institutes.—Except as otherwise provided in the Public Health Service Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, used, held, arising from, available to, or to be made available in connection with the functions transferred to the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health by this subtitle, subject to section 1531 of title 31, United States Code, shall be transferred to the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

SEC. 124. INCIDENTAL TRANSFERS.

The Secretary of Health and Human Services is authorized to make such determinations as may be necessary with regard to the functions transferred by this subtitle, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with such functions, as may be necessary to carry out the provisions of this subtitle and the Public Health Service Act. Such Secretary shall provide for the termination of the affairs of all entities terminated by this subtitle and for such further measures and dispositions as may be necessary to effectuate the purposes of this subtitle.

SEC. 125. EFFECT ON PERSONNEL.

(a) In General.—Except as otherwise provided by this subtitle and the Public Health Service Act, the transfer pursuant to this subtitle of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after the date of transfer of such employee under this subtitle.

(b) Executive Schedule Positions.—Any person who, on the day preceding the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Alcohol, Drug Abuse and Mental Health Services Administration to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position, for the duration of the service of such person in such new position.

SEC. 126. SAVINGS PROVISIONS.

(a) EFFECT ON PREVIOUS DETERMINATIONS.—All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges that—

(1) have been issued, made, granted, or allowed to become effective by the President, any Federal agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred by this subtitle; and

(2) are in effect on the date of enactment of this Act;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Director of the National Institutes of Health, or the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration, as appropriate, a court of competent jurisdiction, or by operation of law.

(b) CONTINUATION OF PROCEEDINGS.—

(1) IN GENERAL.—The provisions of this subtitle shall not affect any proceedings, including notices of proposed rule making, or any application for any license, permit, certificate, or financial assistance pending on the date of enactment of this Act before the Department of Health and Human Services, which relates to the Alcohol, Drug Abuse and Mental Health Administration or the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, or the National Institute of Mental Health, or any office thereof with respect to functions transferred by this subtitle. Such proceedings or applications, to the extent that they relate to functions transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made under such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health by a court of competent jurisdiction, or by operation of law. Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this subtitle had not been enacted.

(2) REGULATIONS.—The Secretary of Health and Human Services is authorized to issue regulations providing for the orderly transfer of proceedings continued under paragraph (1).

(c) EFFECT ON LEGAL ACTIONS.—Except as provided in subsection (e)—

(1) the provisions of this subtitle do not affect actions commenced prior to the date of enactment of this Act; and

(2) in all such actions, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) NO ABATEMENT OF ACTIONS OR PROCEEDINGS.—No action or other proceeding commenced by or against any officer in his official capacity as an officer of the Department of Health and Human Services with respect to functions transferred by this subtitle shall abate by reason of the enactment of this Act. No cause of action by or against the Department of Health and Human Services with respect to functions transferred by this subtitle, or by or against any officer thereof in his official capacity, shall abate by reason of the enactment of this Act. Causes of action and actions with respect to a function transferred by this subtitle, or other proceedings may be asserted by or against the United States or the Administrator of the Alcohol, Drug Abuse and Mental Health Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health, as may be appropriate, and, in an action pending when this Act takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(e) SUBSTITUTION.—If, before the date of enactment of this Act, the Department of Health and Human Services, or any officer thereof in the official capacity of such officer, is a party to an action, and under this subtitle any function of such Department, Office, or officer is transferred to the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health, then such action shall be continued with the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health, as the case may be, substituted or added as a party.

(f) JUDICIAL REVIEW.—Orders and actions of the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health in the exercise of functions transferred to the Administrator or the Directors by this subtitle shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the Administrator of the Alcohol, Drug Abuse and Mental Health Administration or the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health, or any office or officer thereof, in the exercise of such functions immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this subtitle shall apply to the exercise of such function by the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration or the Directors.

SEC. 127. SEPARABILITY.

If a provision of this subtitle or its application to any person or circumstance is held invalid, neither the remainder of this Act nor the application of the provision to other persons or circumstances shall be affected.

SEC. 128. TRANSITION.

With the consent of the Secretary of Health and Human Services, the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration and the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health are authorized to utilize—

(1) the services of such officers, employees, and other personnel of the Department with respect to functions transferred to the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration and the Director of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health by this subtitle; and

(2) funds appropriated to such functions for such period of time as may reasonably be needed to facilitate the orderly implementation of this subtitle.

SEC. 129. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Alcohol, Drug Abuse and Mental Health Administration or to the Administrator of the Alcohol, Drug Abuse and Mental Health Administration shall be deemed to refer to the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration.

Subtitle D—Conforming Amendments

SEC. 131. CONFORMING AMENDMENTS.

(a) TITLE V.—Title V is amended—

(1) in section 521 (42 U.S.C. 290cc–21), by striking "Director of the National Institute of Mental Health" and inserting in lieu thereof "Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration";

(2) in section 528 (42 U.S.C. 290cc–28)—

(A) by striking "the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse" and inserting in lieu thereof "and the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration" in subsection (a); and

(B) by striking "National Institute of Mental Health" and inserting in lieu thereof "Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration" in subsection (c);

(3) in section 530 (42 U.S.C. 290cc–30), by striking "the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse" and inserting in lieu thereof "and the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration"; and

(4) in section 561(a) (42 U.S.C. 290ff), by striking "National Institute of Drug Abuse" and inserting in lieu thereof "Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration".

(b) TITLE XIX.—Part B of title XIX (42 U.S.C. 300x et seq.) is amended in section 1911 (42 U.S.C. 300x) (as such section is amended by section 201) by adding at the end thereof the following new subsection:

"(c) The Secretary shall carry out this part through the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration.";

(c) GENERAL PUBLIC HEALTH SERVICE ACT AMENDMENTS.—The Act (42 U.S.C. 201 et seq.) is amended—

(1) in section 227 (42 U.S.C. 236)—

(A) by striking out ", and the the Alcohol, Drug Abuse, and Mental Health Administration" in subsection (c)(2);

(B) by striking out ", the the Alcohol, Drug Abuse, and Mental Health Administration" in subsection (c)(3);

(C) by striking out "and the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration" in subsection (e); and

(D) by striking out "and the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration" in subsection (e);

(2) in section 319(a) (42 U.S.C. 247d(a)), by striking out "the Alcohol, Drug Abuse, and Mental Health Administration" and inserting in lieu thereof "the Alcohol, Drug Abuse, and Mental Health Services Administration";

(3) in section 487(a)(1) (42 U.S.C. 288(a)(1))—

(A) by striking out "and the Alcohol, Drug Abuse, and Mental Health Administration" in subparagraph (A)(i); and

(B) by striking out "or the Alcohol, Drug Abuse, and Mental Health Administration" in the matter immediately following subparagraph (B); and

(4) in section 489(a)(2) (42 U.S.C. 288b(a)(2)), by striking out "and institutes under the Alcohol, Drug Abuse, and Mental Health Administration".

(d) OTHER LAWS.—

(1) Section 4 of the Orphan Drug Amendments of 1985 (42 U.S.C. 236 note) is amended—

(A) in subsection (b), by striking out "the Alcohol, Drug Abuse, and Mental Health Administration,";

(B) in subsection (c)—

(i) by striking out "the Alcohol, Drug Abuse, and Mental Health Administration," in the matter preceding paragraph (1); and

(ii) by striking out "the institutes of the Alcohol, Drug Abuse, and Mental Health Administration," in paragraph (7); and

(C) in subsection (d)—

(i) by striking out paragraph (3) and inserting in lieu thereof the following new paragraph:

"(3) Four nonvoting members shall be appointed for the directors of the national research institutes of the National Institutes of Health which the Secretary determines are involved with rare diseases."; and

(ii) by striking out "or an institute of the Alcohol, Drug Abuse, and Mental Health Administration" in the matter immediately following paragraph (3).

(2) The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended—

(A) in section 202(b)(1) (42 U.S.C. 3012(b)(1)), by striking out "the Alcohol, Drug Abuse, and Mental Health Administration" and inserting in lieu thereof "the Alcohol, Drug Abuse, and Mental Health Services Administration";

(B) in section 301(b)(2) (42 U.S.C. 3021(b)(2)), by striking out "the Alcohol, Drug Abuse, and Mental Health Administration" and inserting in lieu thereof "the Alcohol, Drug Abuse, and Mental Health Services Administration"; and

(C) in section 402(b) (42 U.S.C. 3030bb(b)), by striking out "the Alcohol, Drug Abuse, and Mental Health Administration" and inserting in lieu thereof "the Alcohol, Drug Abuse, and Mental Health Services Administration".

(3) Section 116 of the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10826) is amended by striking out "the Alcohol, Drug Abuse, and Mental Health Administration" and inserting in lieu thereof "the Alcohol, Drug Abuse, and Mental Health Services Administration".

SEC. 132. ADDITIONAL CONFORMING AMENDMENTS.

(a) RECOMMENDED LEGISLATION.—After consultation with the appropriate committees of the Congress, the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration and the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health shall prepare and submit to the Congress recommended legislation containing technical and conforming amendments to reflect the changes made by this subtitle to the Public Health Service Act or any other provision of law.

(b) SUBMISSION TO THE CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration and the Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health shall submit the recommended legislation referred to under subsection (a).

Subtitle E—Miscellaneous Provisions

SEC. 141. ALTERNATIVE SOURCES OF FUNDING FOR CERTAIN GRANTEES.

The Secretary of Health and Human Services shall undertake diligent efforts to obtain alternative sources of Federal funds, including funds available under section 505, to provide assistance to grantees who have been receiving assistance under the community youth activity program established under section 3521 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11841).

SEC. 142. PEER REVIEW.

The peer review systems, advisory councils and scientific advisory committees utilized, or approved for utilization, by the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse and the National Institute of Mental Health prior to the transfer of such Institutes to the National Institute of Health shall be utilized by such Institutes after such transfer.

SEC. 143. BUDGETARY AUTHORITY.

The Directors of the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health shall have independent authority to formulate the budgets of such institutes to the same extent as the Director of the National Cancer Institute.

SEC. 144. SUBSTANCE ABUSE TRAINING AND RESEARCH.

Section 303 (42 U.S.C. 242a) is amended—

(1) in subsection (c), by striking out the second sentence; and

(2) by adding at the end thereof the following new subsection:

"(e) The Secretary shall have the same authority with respect to substance abuse as the Secretary has with respect to mental health under this section.".

SEC. 145. MENTAL HEALTH SERVICES.

Section 2441(j) (42 U.S.C. 300dd-41(j)) is amended by striking out "1991" and inserting in lieu thereof "1994".

SEC. 146. GRANTS FOR CERTAIN TRAUMA CENTERS.

(a) SHORT TITLE.—This section may be cited as the "Trauma Center Revitalization Act".

(b) ESTABLISHMENT OF GRANT PROGRAM.—Title XII (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101-590 (104 Stat. 2915), is amended by adding at the end thereof the following new part:

"PART D—TRAUMA CENTERS OPERATING IN AREAS SEVERELY AFFECTED BY DRUG-RELATED VIOLENCE

"SEC. 1241. GRANTS FOR CERTAIN TRAUMA CENTERS.

"(a) IN GENERAL.—The Secretary may make grants for the purpose of providing financial assistance for the payment of operating expenses by hospital trauma centers that have incurred substantial uncompensated costs in providing trauma care. Grants under this subsection may be made only to such hospitals specifically for the operation of their trauma centers.

"(b) MINIMUM QUALIFICATIONS OF CENTERS.—

"(1) SIGNIFICANT INCIDENCE OF UNCOMPENSATED CARE.—The Secretary may not make a grant under subsection (a) to a hospital trauma center unless the trauma center demonstrates a significant incidence of uncompensated care debt as a result of treating patients with trauma wounds during the 2-year period preceding the fiscal year for which the hospital trauma center involved is applying to receive a grant under subsection (a).

"(2) PARTICIPATION IN TRAUMA CARE SYSTEM OPERATING UNDER CERTAIN PROFESSIONAL GUIDELINES.—The Secretary may not make a grant under subsection (a) unless the hospital trauma center involved is a participant in a system that—

"(A) provides comprehensive medical care to victims of trauma in the geographic area in which the hospital trauma center involved is located;

"(B) is established by the State or political subdivision in which such center is located; and

"(C) has adopted guidelines for the designation of hospital trauma centers, and for triage, transfer, and transportation policies, equivalent to (or more protective than) the applicable guidelines developed by the American College of Surgeons or utilized in the model plan established under section 1213(c).

"SEC. 1242. PRIORITIES IN MAKING GRANTS.

"(a) IN GENERAL.—In making grants under section 1241(a), the Secretary shall give priority to any application—

"(1) made by a hospital trauma center that, for the purpose specified in such section, will receive financial assistance from the State or political subdivision involved for each fiscal year during which payments are made to the hospital from the grant, which financial assistance is exclusive of any assistance provided by the State or political subdivision as a non-Federal contribution under any Federal program requiring such a contribution; or

"(2) made by a hospital trauma center that, with respect to the system described in section 1241(b)(2) in which the center is a participant—

"(A) is providing trauma care in a geographic area in which the availability of trauma care has significantly decreased as a result of a trauma center in the area permanently ceasing participation in such system as of a date during the previous 5-year period; or

"(B) will, in providing trauma care during the 1-year period beginning on the date on which the application for the grant is submitted, incur uncompensated costs in an amount rendering the center unable to continue participation in such system, resulting in a significant decrease in the availability of trauma care in the geographic area.

"(b) ADDITIONAL PRIORITY.—In considering the grant applications of hospital trauma centers under subsection (a)(2), the Secretary shall give additional priority to those hospitals that submit plans that indicate that such hospital trauma centers are developing long term strategies, financial, medical and otherwise, to survive the impact of providing uncompensated trauma care. The goal of such strategies shall be to continue as a hospital trauma center after the period required in section 1243(1).

"SEC. 1243. COMMITMENT REGARDING CONTINUED PARTICIPATION IN TRAUMA CARE SYSTEM.

"The Secretary may not make a grant under subsection (a) of section 1241 unless the hospital trauma center involved agrees that—

"(1) the hospital will continue to participate in the system described in subsection (b) of such section throughout the 2-fiscal years immediately succeeding the fiscal year for which a grant is received;

"(2) during the year in which the grant is received the hospital will maintain its trauma care efforts, financial and otherwise, from those of the preceding year;

"(3) if the agreement made pursuant to paragraph (1) is violated by the hospital, the hospital will be liable to the United States for an amount equal to the sum of—

"(A) the amount of assistance provided to the center under subsection (a) of such section; and

"(B) an amount representing interest on the amount specified in subparagraph (A); and

"(4) the hospital will establish a trauma registry not later than 6 months from the date on which the grant is received that shall include the number of trauma cases and the extent to which the care for such cases is uncompensated.

"SEC. 1244. GENERAL PROVISIONS.

"(a) Application.—The Secretary may not make a grant under section 1241(a) unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"(b) Limitation on Duration of Support.—The period during which a hospital trauma center receives payments under section 1241(a) may not exceed 3 fiscal years, except that the Secretary may waive such requirement for the center and authorize the center to receive such payments for 1 additional fiscal year.

"(c) Limitation on Amount of Grant.—The Secretary may not make a grant to any single hospital trauma center in an amount that exceeds $5,000,000 in any fiscal year.

"(d) Consultation.—Grants shall be awarded under section 1241(a) only after the Secretary has consulted with the appropriate State agency.

"(e) Joint Efforts.—Notwithstanding any other provision of law, trauma centers may cooperate, collaborate or coordinate their activities with other trauma centers for the purpose of improving the provision of services to victims of trauma.

"SEC. 1245. AUTHORIZATION OF APPROPRIATIONS.

"For the purpose of carrying out this part, there are authorized to be appropriated $50,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.".

(c) Conforming Amendments.—Title XII (42 U.S.C. 300d et seq.), as added by section 3 of Public Law 101-590 (104 Stat. 2915), is amended—

(1) in the heading for part C, by inserting "Regarding Parts A and B" after "Provisions";

(2) in section 1231, in the matter preceding paragraph (1), by striking "this title" and inserting "this part and parts A and B"; and

(3) in section 1232(a), by striking "this title" and inserting "parts A and B".

(d) Effective Date.—The amendments made by this section shall take effect October 1, 1991, or upon the date of the enactment of this Act, whichever occurs later.

SEC. 147. DRUG SALVAGER COMPENSATION PROGRAM.

Chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 710. DRUG SALVAGER COMPENSATION PROGRAM.

"(a) Purpose.—It is the purpose of this section to establish a program to decrease the availability of drugs that are acquired through salvage of shipments of pharmaceuticals and controlled substances through the provision of assistance to salvagers of such products to enable such salvagers to return such product to the manufacturer or to destroy such product.

"(b) Establishment.—The Commissioner, in consultation with the Administrator of the Drug Enforcement Administration, shall establish a drug salvager compensation program (hereinafter referred to in this section as the 'program') to carry out the purpose described in subsection (a).

"(c) Contracts.—

"(1) In general.—To carry out the program the Commissioner, in consultation with the Administrator of the Drug Enforcement Administration, shall enter into contracts with private nonprofit or profit making entities that acquire pharmaceuticals and controlled substances through the salvage of shipments of such products.

"(2) Requirement.—A contract entered into under paragraph (1) shall require the entity that is subject to the contract to return any pharmaceuticals and controlled substances acquired by such entity through salvage to the manufacturer or to destroy such products if the manufacturer cannot be determined.

"(3) Compensation.—In exchange for entering into a contract under paragraph (1), the Commissioner shall reimburse such entity for any costs incurred by such entity in complying with the requirement of paragraph (2).

"(d) DEA Numbers.—Entities that are subject to a contract under subsection (c) shall be assigned a Drug Enforcement Administration number and shall be considered as an appropriate recipient of any controlled substances salvaged and disposed of under this section.

"(e) Reports.—

"(1) Entities.—Entities that are subject to a contract under subsection (c) shall prepare and submit, to the Commissioner and the Administrator of the Drug Enforcement Administration, quarterly reports concerning their activities under this section.

"(2) Congressional.—Not later than 90 days after the end of each fiscal year, the Secretary, in consultation with the Attorney General, shall prepare and submit, to the Committee on Energy and Commerce and Judiciary of the House of Representatives and the Committee on Labor and Human Resources and Judiciary of the Senate, a report concerning the amount of drugs that have been obtained through salvage and disposed of under this section.".

SEC. 148. SENSE OF THE SENATE CONCERNING CERTAIN REPORTING REQUIREMENTS.

It is the sense of the Senate that the Secretary of Health and Human Services should review the reporting requirements that are imposed on the States by the Office of Treatment Improvement under title V of the Public Health Service Act to ensure that reports required pursuant to such requirements are not redundant, unnecessary, or overly burdensome on the States.

TITLE II—REAUTHORIZATION AND IMPROVEMENT OF ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICE BLOCK GRANT PROGRAM

SEC. 201. REAUTHORIZATION OF BLOCK GRANT.

Section 1911 (42 U.S.C. 300x) is amended to read as follows:

"SEC. 1911. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—There are authorized to be appropriated to carry out this subpart, $1,500,000,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 and 1994.

"(b) Technical Assistance.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration may use not more than 5 percent of the amounts appropriated for a fiscal year pursuant to subsection (a) to carry out sections 541, 1916B, 1921 and 1924, to monitor expenditures pursuant to subsection (a), and to conduct evaluations on the effectiveness of treatment and prevention programs.".

SEC. 202. REVISION OF BLOCK GRANT FORMULA.

(a) In General.—Section 1912A of the Act (42 U.S.C. 300x-1a) is amended—

(1) in the formula specified in subsection (a)(4)(A)(ii)(II) by striking "N" and inserting "P";

(2) in subparagraphs (B) and (C) of subsection (a)(4), to read as follows:

"(B) For the purposes of clause (i) and the formula specified in clause (ii)(II), of subparagraph (A), the term 'P' means the product of the at-risk population percentage and the cost index of the State involved.

"(C)(i) Except as provided in clause (ii), for purposes of the formula specified in subparagraph (A)(ii)(II), the term 'S' means the percentage of the most recent 3-year average of the total taxable resources of the State involved as compared to the most recent 3-year average of the taxable resources of all States, as determined by the Secretary of the Treasury.

"(ii) In the case of the District of Columbia, for purposes of the formula specified in subparagraph (A)(ii)(II), the term 'S' means the percentage of the most recent 3-year average of personal income in the District of Columbia as compared to the most recent 3-year average of personal income in all States, as reported by the Secretary of Commerce.";

(3) by striking subparagraphs (D) and (E) of subsection (a)(4);

(4) in subsection (b), to read as follows:

"(b)(1) Each State that received an allotment of $7,000,000 or less under this subpart in fiscal year 1989 shall receive a minimum allotment under this subpart in each fiscal year, which allotment shall be the greater of—

"(A) the amount determined in accordance with the formula described in subsection (a)(1); and

"(B) the amount determined in accordance with the following formula:

$E (1 + 0.25 (R))$

"(2) For the purpose of the formula specified in paragraph (1)(B)—

"(A) the term 'E' means the amount the State involved received under this subpart in fiscal year 1989; and

"(B) the term 'R' means the cumulative percentage by which the total amount appropriated pursuant to the authority of section 1911 has increased or decreased since fiscal year 1989.";

(5) in subsection (c)—

(A) in paragraph (2)(A), by inserting "or the amount such territory received in fiscal year 1989" after "100,000";

(B) by inserting the following flush sentence after clause (ii) of paragraph (1)(B):

"In the absence of reliable recent population data with respect to a given territory, the Secretary shall assume that the population of the territory has changed at the same rate as the population of the territories generally."; and

(C) by adding at the end the following new paragraph:

"(4) As used in this subsection, the term 'population' means the civilian population.";

(6) in subsection (g), to read as follows:

"(g)(1) Notwithstanding any other provision of law, no State shall receive an allotment under this section for a fiscal year after fiscal year 1991 that is less than the allotment such State received under this section in the preceding fiscal year.

"(2) Notwithstanding any other provision of law, in any fiscal year in which the total amount appropriated under 1911(a) increases by less than $200,000,000 as compared to the previous fiscal year, no State shall receive an allotment under this section in such fiscal year in an amount that exceeds the sum of—

"(A) the allotment such State received in such previous fiscal year; and

"(B) $20,000,000.

"(3) Notwithstanding any other provision of law, in fiscal year 1993 and in fiscal years thereafter, in order to ensure that each State receives an allotment under this section for each fiscal year in accordance with paragraph (1), the Secretary shall constrain the maximum percentage increase in the amount of the allotment to which any State is entitled, if any, under this section in each fiscal year, as compared to the amount of the allotment that such State received in the previous fiscal year, to the value necessary to meet the requirements of paragraph (1)."; and

(7) by adding at the end the following new subsection:

"(j) As used in this section—

"(1)(A) The term 'at risk population percentage' means the sum of—

"(i) one-third of the percentage obtained by dividing the number of individuals in the State aged 25 through 64, by the number of individuals in all States aged 25 through 64;

"(ii) one-third of the percentage obtained by dividing the number of individuals in the State aged 18 through 24, by the number of individuals in all States aged 18 through 24; and

"(iii) one-third of the percentage obtained by dividing of the number of individuals in the State aged 25 through 44, by the number of individuals in all States aged 25 through 44.

"(B) In making the determination required in clause (ii) of subparagraph (A) the Secretary shall count twice the number of individuals aged 18 through 24 who reside in urban areas. If current data regarding the number of individuals aged 18 through 24 who reside in urban areas is not available for any fiscal year, then the Secretary shall estimate such number by multiplying the total population of each State as determined by the Secretary of Commerce for such year by the percentage obtained by dividing the number of individuals in the State aged 18 through 24 who reside in urban areas within the State, by the total number of individuals in the State. The Secretary shall make such determinations in accordance with the data available from the most recent decennial census, and shall update population data as frequently as possible.

"(2)(A) The term 'cost index' means the overall cost index for the State that appears in table 4 of the March 30, 1990 report entitled 'Adjusting the Alcohol, Drug Abuse and Mental Health Services Block Grant Allocations for Poverty Population and Cost of Service' prepared by the Health Economics Research, Inc. pursuant to a contract with the National Institute on Drug Abuse.

"(B) The Secretary shall, in consultation with the Comptroller General of the United States, update the cost index described in subparagraph (A) prior to making allotments under this section for fiscal year 1993 and at least once every 3 years thereafter as more current data becomes available. The Secretary may make reasonable refinements in the methodology used in constructing such cost index and may phase in such changes in the cost index as the Secretary determines to be appropriate.

"(3)(A) The term 'State' means, except as provided in subparagraph (B), each of the several States, the District of Columbia, and each of the territories of the United States.

"(B) As used in subsections (a), (b), (e), and (f), the term 'State' means each of the several States and the District of Columbia.

"(4) The term 'territories of the United States' means each of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.".

(b) Report on Allotment Formula.—

(1) Report.—Not later than than 6 months after the date of enactment of this Act, the Secretary of Health and Human Services, in consultation with the Director of the Office of National Drug Control Policy, shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report concerning the statutory formula under which funds made available under section 1911 of the Public Health Service Act are allocated among the States and territories.

(2) Contents.—The report required under paragraph (1) shall include—

(A) an assessment of the degree to which the formula allocates funds according to the respective needs of the States and territories;

(B) a review of relevant epidemiological research regarding the incidence of substance abuse and mental illness among various age groups and geographic regions of the country;

(C) the identification of factors not included in the formula that are reliable predictors of the incidence of substance abuse and mental illness;

(D) an assessment of the validity and relevance of factors currently included in the formula, such as age, urban population and cost; and

(E) any other information that the Secretary of Health and Human Services believes would contribute to a thorough assessment of the appropriateness of the current formula.

(3) Consultation.—In preparing the report required under paragraph (1), the Secretary shall consult with the Comptroller General of the United States. The Comptroller General shall review the study after its transmittal to the committees described in paragraph (1) and within three months make appropriate recommendations concerning such report to such committees.

SEC. 203. USE OF UNOBLIGATED FUNDS BY STATES.

Section 1914(a)(2) (42 U.S.C. 300x-2(a)(2)) is amended by adding at the end thereof the following new sentence: "Unobligated funds shall remain available to the State if the Secretary finds that said funds were obligated but subsequently rendered unobligated due to the State's diligence in carrying out the purposes of this subpart.".

SEC. 204. REVISION OF INTRAVENOUS DRUG SET-ASIDE.

Section 1916(c)(7)(B)(ii) of the Public Health Service Act (42 U.S.C. 300x-4(c)(7)(B)(ii)) is amended in the first sentence by striking "may" and inserting in lieu thereof "shall".

SEC. 205. USE OF ALLOTMENTS.

(a) Seriously Mentally Ill Individuals.—Section 1915(a)(2) (42 U.S.C. 300x-3(a)(2)) is amended by striking out "chronically" each place that such occurs and inserting in lieu thereof "seriously".

(b) Services for Certain Individuals.—Section 1915(a)(2)(D) (42 U.S.C. 300x-3(a)(2)(D)) is amended by inserting "(which may include mentally ill individuals in local jails and detention facilities)" after "populations".

(c) Renovation.—Section 1915(b)(3) (42 U.S.C. 300x-3(b)(3)) is amended—

(1) by striking "(other than minor remodeling)"; and

(2) by inserting ", except that the Secretary may authorize the use of funds for renovation that makes land or a building or other facility suitable for use under this part, including renovation to remove hazardous conditions or make the land, building, or facility accessible to disabled persons" after "equipment".

(d) Waiver.—The matter immediately following paragraph (5) of section 1915(b) (42 U.S.C. 300x-3(b)) is amended—

(1) in the first sentence by striking out "or rehabilitation of an existing facility"; and

(2) by inserting after the fifth sentence the following new sentence: "The Secretary may waive or reduce the matching rate requirement of the preceding sentence if the State requests such a waiver and the Secretary determines that a failure to grant such a request would result in a reduction in the resources that would otherwise be used to provide direct treatment services and that are essential to implementation of the State drug abuse plan.".

(e) Substance Abusers in Justice Systems.—Section 1915(c)(1) (42 U.S.C. 300x-3(c)(1)) is amended—

(1) in subparagraph (B), by striking "and" after the semicolon at the end;

(2) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(D) to develop, implement, and operate programs of treatment for adult and juvenile substance abusers in State and local criminal and juvenile justice systems, including treatment programs for individuals in prisons and jails and individuals on probation, parole, supervised release, and pretrial release.".

(f) Prohibition Against Certain Programs.—Section 1915(c)(2)(A) (42 U.S.C. 300x-3(c)(2)(A)) is amended to read as follows:

"(A) to carry out any program prohibited by section 256(b) of the Health Omnibus Programs Extension of 1988 (42 U.S.C. 300ee-5); or".

(g) ADMINISTRATIVE EXPENSES.—Section 1915(d) (42 U.S.C. 300x-3(d)) is amended to read as follows:

"(d) Of the amount paid to any State under section 1914 for a fiscal year, not more than 5 percent may be used for the administrative expenses of carrying out this subpart. In determining the percentage of the amount used for the administrative expenses, the Secretary shall not include reasonable expenses, as determined by the Secretary, incurred for the training of individuals as required under this subpart, including training required under plans submitted under section 1916B.".

(h) NONDISCRIMINATION.—Section 1915 (42 U.S.C. 300x-3) is amended by adding at the end thereof the following new subsection:

"(f) Substance abuse treatment facilities and mental health treatment facilities receiving assistance under this title may not discriminate against mentally ill substance abusers in the provision of services.".

SEC. 206. MAINTENANCE OF EFFORT.

(a) IN GENERAL.—Paragraph (11) of section 1916(c) (42 U.S.C. 300x-4(c)(11)) is amended to read as follows:

"(11)(A) The State agrees to maintain State expenditures for alcohol and drug abuse services at a level that is not less than the average annual level maintained by the State for such services during the 2-year period preceding the fiscal year for which the State is applying to receive payments under section 1914.

"(B) The State agrees to maintain State expenditures for community mental health services at a level that is not less than the average annual level maintained by the State for such services during the 2-year period preceding the fiscal year for which the State is applying to receive payments under section 1914.".

(b) DUTIES OF COUNCIL.—Section 1916(e)(2) (42 U.S.C. 300x-4(e)(2)) is amended—

(1) in subparagraph (A), by striking out "and" at the end thereof;

(2) in subparagraph (B), by striking out the period and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new subparagraph:

"(C) to review and comment concerning the State plan required under section 1925, and at the request of the council, the State shall submit such comments to the Secretary together with such State plan.".

(c) WAIVER.—Section 1916 (42 U.S.C. 300x-4) is amended by adding at the end the following new subsection:

"(h) Upon the request of a State, the Secretary may waive a requirement established in subparagraph (A) or (B) of subsection (c)(11) if the Secretary determines that extraordinary economic conditions in the State justify the waiver.".

SEC. 207. REQUIREMENT OF STATEWIDE SUBSTANCE ABUSE PREVENTION AND TREATMENT PLANS.

Subpart 1 of part B of title XIX (42 U.S.C. 300x et seq.) is amended by inserting after section 1916A the following new section:

"SEC. 1916B. STATEWIDE SUBSTANCE ABUSE PREVENTION AND TREATMENT PLAN.

"(a) NATURE OF PLAN.—To receive the substance abuse portion of its allotment, in whole or in part, under section 1912A for fiscal year 1992 or a subsequent fiscal year, a State shall develop, implement, and submit as part of the application required by section 1916(a), a statewide Substance Abuse Prevention and Treatment Plan which shall designate a single State agency that shall formulate and implement the Statewide Substance Abuse Prevention and Treatment Plan, and shall contain a description of—

"(1) the mechanism that shall be used to assess the needs for substance abuse prevention and treatment, and related technical assistance needs, in localities throughout the State, including the presentation of relevant data;

"(2) a statewide plan that shall be implemented to expand treatment capacity and overcome obstacles that restrict the expansion of treatment capacity (such as zoning ordinances), or an explanation of why such a plan is unnecessary;

"(3) the process and the needs- and performance-based criteria that shall be used in the allocation of funds to substance abuse prevention and treatment facilities, which shall be identified, receiving assistance under this subpart;

"(4) the mechanisms that shall be used to make funding allocations under this subpart;

"(5) the actions that shall be taken to improve the referral of substance abusers to treatment facilities that offer appropriate treatment modalities;

"(6) the program of training that shall be implemented for employees of prevention and treatment programs receiving Federal funds, designed to permit such employees to stay abreast of the latest and most effective treatment techniques;

"(7) the plan that shall be implemented—

"(A) to coordinate substance abuse prevention and treatment services with other social, health, correctional and vocational services; and

"(B) to assure that individuals receiving substance abuse treatment also receive primary health care, directly or through arrangement with other entities;

"(8) the need for services for female substance abusers, including—

"(A) an unduplicated count of the number of women served with funds set aside pursuant to section 1916(c)(14), the demographic characteristics of the women, the specific services offered to women, the average expenditure per woman for services funded under the set-aside, and the numerical objectives for new substance abuse treatment services for women; and

"(B) the strategy for providing, or linking with existing service provision entities, prenatal and postpartum health care for women undergoing such treatment, pediatric care for the children of such women, child care, transportation and other support services that facilitate treatment, case management services, including assistance in establishing eligibility for public economic support, and employment counseling and other appropriate follow-up services to help prevent a relapse of alcohol or drug abuse;

"(9) the plan that shall be implemented to expand drug treatment opportunities for individuals under criminal justice supervision;

"(10) the plan that shall be implemented to expand drug treatment opportunities for homeless individuals;

"(11) the plan that shall be implemented, considered in terms of the plan formulated pursuant to section 1924, to expand and improve specialized services for individuals with substance abuse and coexisting mental disorders and to describe the actions to be taken to improve the organization and financing of services for individuals with coexisting substance abuse and mental disorders;

"(12) the plan that shall be implemented to assist businesses, labor unions, and schools to establish employee assistance programs and student assistance programs;

"(13) the steps taken to assure that each recipient of financial assistance pursuant to the provisions of this subpart shall not engage in discrimination on the basis of race, religion, color, national origin, gender, reproductive status, or handicap in the course of the activities assisted in whole or in part pursuant to the provisions of this subpart;

"(14) the actions of the State to encourage treatment facilities to provide aftercare, either directly or through arrangements with other individuals or entities, for patients who have ended a course of treatment provided by the facility, that shall include periodic contacts with the patient to monitor the progress of the patient and provide services or additional treatment and rehabilitation as needed;

"(15) interim assistance that is available for individuals who apply for treatment, and who must wait for the availability of treatment opportunities;

"(16) actions taken to ensure and maintain patient confidentiality;

"(17) the performance of the State in implementing the previous year's plan, including the presentation of relevant data;

"(18) with respect to States with a significant number of Native Americans, the plan for providing appropriate services to that population, including services to reduce the incidence of Fetal Alcohol Syndrome; and

"(19) such other information as the Secretary determines to be appropriate.

"(b) SUBMISSION OF PLAN.—The plan required by subsection (a) shall be submitted to the Secretary annually for review and approval. The Secretary shall have the authority to approve or disapprove, in whole or in part, such State plans and the implementation thereof, and to propose changes to such plans.

"(c) REGULATIONS.—

"(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary, in consultation with the States, shall issue regulations to carry out this section. Such regulations may include uniform data collection criteria and shall include criteria for each area to be covered by the State plan prepared under subsection (a). Pending the adoption of such regulations, the Secretary may implement this section through the issuance of mandatory guidelines.

"(2) APPLICABILITY.—For fiscal year 1993 and subsequent fiscal years, no payment shall be made to a State from the allotment of the State under section 1912A unless such State has submitted, and the Secretary has approved, a plan in accordance with the regulations issued under paragraph (1). The Secretary may withhold such portion of a State's allotment as the Secretary determines to be appropriate upon a finding by the Secretary that the State is only partially in compliance with this section and has made a good faith effort to be in complete compliance.

"(3) MONITORING.—The Secretary shall monitor and evaluate the compliance of the State's implementation of the plan submitted under this section and provide technical assistance to assist in achieving such compliance.

"(4) OTHER REGULATIONS.—Notwithstanding any other provision of law, any other rule or regulation that is inconsistent with this section (including the provisions of section 50(e) of part 96 of title 45 of the Code of Federal Regulations) shall not be enforced to the extent of such inconsistency.

"(d) Submission of Progress Reports.—Each State shall submit reports in such form, and containing such information as the Secretary may, from time to time, require, and shall comply with such additional requirements as the Secretary may from time to time find necessary to verify the accuracy of such reports.

"(e) Waiver of Plan Requirement.—At the discretion of the Secretary, the Secretary may waive any or all of the requirements of this section on the written request of a State, upon a finding by the Secretary that—

"(1) one or more of the requirements of this section is inapplicable to a State; or

"(2) it is not reasonably practical for a State to comply with one or more of the requirements of this section.".

SEC. 208. REPEALS.

Sections 1922 and 1923 (42 U.S.C. 300x-9a and 300x-9b) are repealed.

SEC. 209. TECHNICAL AMENDMENT.

Section 1924(a) (42 U.S.C. 300x-10(a)) is amended by inserting ", acting through the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration," after "The Secretary".

TITLE III—CHILDREN OF SUBSTANCE ABUSERS

SEC. 301. SHORT TITLE.

This title may be cited as the "Children of Substance Abusers Act".

SEC. 302. FINDINGS AND PURPOSES.

(a) Findings.—Congress finds that—

(1) an estimated 375,000 infants each year are exposed to drugs before birth and an estimated 5,000 infants have documented cases of Fetal Alcohol Syndrome which result in a distinct cluster of congenital birth defects;

(2) there are an estimated 28,600,000 children of alcoholics in the United States, of whom 6,600,000 are under the age of 18, and an estimated total of 9,000,000 to 10,000,000 children under the age of 18 are affected by a type of parental substance abuse;

(3) children of alcoholics and other drug abusers are at risk of developing a range of physical, psychological, emotional, and developmental problems, and of becoming substance abusers themselves;

(4) alcohol and other drugs are a factor in an increasing number of child abuse and neglect cases, and placements in foster care have risen almost 30 percent since 1986, resulting in the disruption of families;

(5) pregnant women often have difficulty in obtaining drug or alcohol treatment because of the risks their pregnancies pose, and women in general are underrepresented in drug and alcohol treatment programs;

(6) parents, particularly women, often have a range of additional problems that must be addressed, including their own physical or sexual abuse, chemical dependency in their family backgrounds, lack of job skills, and high levels of family conflict and violence;

(7) effective treatment must be comprehensive and address the needs of the entire family, and where possible, be directed at preserving the family over time;

(8) children whose parents are substance abusers must have access to services regardless of the participation of their parents, and caretakers other than parents also need supportive services;

(9) earlier intervention with vulnerable families is needed to strengthen families and prevent crises from developing, including those stemming from parental substance abuse; and

(10) home visiting has been proven to contribute to healthy births, the healthy development of children, and the development of better parenting skills and social support networks.

(b) Purposes.—The purposes of this title are—

(1) to increase the ability of mothers and fathers who are substance abusers to participate in alcohol and drug treatment;

(2) to ensure that the physical, emotional, and psychological needs of children of substance abusers, including children exposed to drugs or alcohol before birth, are identified, assessed, and addressed;

(3) to promote the economic and social well-being of families in which a parent is a substance abuser by providing comprehensive services directed at the entire family;

(4) to develop a service delivery system to provide family intervention based on a case management approach;

(5) to promote early intervention through the use of home visiting to families with children at risk of health or developmental complications; and

(6) to promote the healthy development of children and preserve families by improving parenting skills and providing support systems of social services.

Subtitle A—Services for Children of Substance Abusers

SEC. 311. SERVICES.

Title III (42 U.S.C. 301 et seq.) is amended by adding at the end thereof the following new part:

"PART M—SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS

"SEC. 399D. DEFINITIONS.

"As used in this part:

"(1) Caretaker of a child of a substance abuser.—The term 'caretaker of a child of a substance abuser' means a birth parent, foster parent, adoptive parent, relative of a child of a substance abuser, or other individual acting in a parental role.

"(2) Child of a substance abuser.—The term 'child of a substance abuser' means any child of a substance abuser, including a child born to a mother who abused alcohol or other drugs during pregnancy or any child living in a household with an individual acting in a parental role who is a substance abuser.

"(3) Community outreach services.—The term 'community outreach services' means services provided by a public health nurse, social worker, or similar professional, or by a trained worker from the community supervised by a professional, to—

"(A) accomplish early identification of families where substance abuse is present;

"(B) accomplish early identification of children affected by parental substance abuse;

"(C) provide counseling to substance abusers on the benefits and availability of substance abuse treatment services and services for children of substance abusers;

"(D) assist substance abusers in obtaining and using substance abuse treatment services and services for children of substance abusers; and

"(E) visit and provide support to substance abusers, especially pregnant women, who are receiving substance abuse treatment services or services for children of substance abusers.

"(4) Indian tribe.—The term 'Indian tribe' means any tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village (as defined in, or established pursuant to, the Alaska Native Claims Settlement Act), that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(5) Native Americans.—The term 'Native Americans' means of, or relating to, a tribe, people, or culture that is indigenous to the United States.

"(6) Native Hawaiian.—the term 'Native Hawaiian' means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

"(7) Related services.—The term 'related services' means services provided by—

"(A) education and special education programs;

"(B) Head Start programs established under the Head Start Act (42 U.S.C. 9831 et seq.);

"(C) other early childhood programs;

"(D) employment and training programs;

"(E) public assistance programs provided by Federal, State, or local governments; and

"(F) programs offered by vocational rehabilitation agencies, recreation departments, and housing agencies.

"(8) Services for children of substance abusers.—The term 'services for children of substance abusers' includes—

"(A) in the case of children of substance abusers—

"(i) periodic evaluation of children for developmental, psychological, and medical problems;

"(ii) primary pediatric care, consistent with early and periodic screening, diagnostic, and treatment services described in section 1905(r) of the Social Security Act (42 U.S.C. 1396d(r));

"(iii) other necessary and mental health services;

"(iv) therapeutic intervention services for children, including provision of therapeutic child care;

"(v) preventive counseling services;

"(vi) counseling related to the witnessing of chronic violence;

"(vii) referral to related services, and assistance in establishing eligibility for related services; and

"(viii) additional developmental services that are consistent with the definition of 'early intervention services' in part H of title VI of the Individuals with Disability Education Act (20 U.S.C. 1471 et seq.);

"(B) in the case of substance abusers—

"(i) encouragement and, where necessary, referrals to participate in appropriate substance abuse treatment;

"(ii) assessment of adult roles other than parenting, including periodic evaluation of social status, economic status, educational level, psychological condition, and skill level;

"(iii) primary health care and mental health services, including prenatal and post partum care for pregnant women;

"(iv) consultation and referral regarding subsequent pregnancies and life options, including education and career planning;

"(v) where appropriate counseling regarding family conflict and violence;

"(vi) remedial education services; and

"(vii) referral to related services, and assistance in establishing eligibility for related services; and

"(C) in the case of substance abusers, spouses of substance abusers, extended family members of substance abusers, caretakers of children of substance abusers, and other people significantly involved in the lives of substance abusers or the children of substance abusers—

"(i) an assessment of the strengths and service needs of the family and the assignment of a case manager who will coordinate services for the family;

"(ii) therapeutic intervention services, such as parental counseling, joint counseling sessions for families and children, and family therapy;

"(iii) child care or other care for the child to enable the parent to attend treatment or other activities and respite care services;

"(iv) parenting education services and parent support groups;

"(v) support services, including, where appropriate, transportation services;

"(vi) where appropriate, referral of other family members to related services such as job training; and

"(vii) aftercare services, including continued support through parent groups and home visits.

"(9) SUBSTANCE ABUSE.—The term 'substance abuse' means the abuse of alcohol or other drugs.

"(10) SUBSTANCE ABUSER.—The term 'substance abuser' means a pregnant woman, mother, father, or other individual acting in a parental role who abuses alcohol or other drugs.

"Subpart I—Grants for Services for Children of Substance Abusers

"SEC. 399E. GRANTS FOR SERVICES FOR CHILDREN OF SUBSTANCE ABUSERS.

"(a) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make grants to eligible entities to pay for the Federal share of the costs of establishing programs to provide community outreach services and services for children of substance abusers.

"(b) USE OF FUNDS.—

"(1) SERVICES PROVIDED.—An eligible entity shall use grants made under subsection (a) to provide, either directly or by contract or agreement—

"(A) the services described in section 399D(5)(A) and community outreach services to the children of substance abusers, including children not living with their parents;

"(B) the services described in section 399D(5)(B) and community outreach services to substance abusers; and

"(C) the services described in section 399D(5)(C) to substance abusers, spouses of substance abusers, extended family members of substance abusers, caretakers of children of substance abusers, and other people significantly involved in the lives of substance abusers or the children of substance abusers.

"(2) SERVICE CHARACTERISTICS.—A program established through a grant made under this section shall—

"(A) provide comprehensive services directed at the needs of the entire family, including caretakers of children of substance abusers;

"(B) be accessible to recipients of community outreach services and services for children of substance abusers;

"(C) maintain maximum confidentiality of information in compliance with local laws about substance abusers with respect to substance abuse treatment or receipt of community outreach services, services for children of substance abusing, or related services;

"(D) coordinate the referral, determination of eligibility for, and provision of services with other services for children of substance abusers, substance abuse treatment services, and related services;

"(E) use service providers from a variety of disciplines;

"(F) provide long-term services; and

"(G) provide a range of services corresponding to the varying needs of recipients of community outreach services and services for children of substance abusers.

"(c) GRANT AWARDS.—In making grants under subsection (a), the Secretary shall ensure that the grants are—

"(1) reasonably distributed among the three types of eligible entities described in subsection (e);

"(2) distributed to an adequate number of eligible entities that—

"(A) provide residential treatment to substance abusers and provide appropriate therapeutic services to meet the needs of children of substance abusers while they reside with their parents during treatment;

"(B) provide in-home and community-based services on an out-patient basis or in a primary pediatric care setting; or

"(C) provide residential care for the parent with the child participating in the provision of such care while residing with a caretaker, and provide outreach, supportive, and therapeutic services for the child and the caretaker;

"(3) distributed to give priority to areas with a high incidence of poverty and a high incidence of children of substance abusers, infant mortality, infant morbidity, or child abuse;

"(4) distributed to ensure that entities serving Native American and Native Hawaiian communities are represented among the grantees; and

"(5) equitably distributed between urban and rural States and among all geographic regions of the country.

"(d) APPLICATION.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may by regulation require. At a minimum, each application shall contain—

"(1) a description of the services to be provided, which shall meet the requirements of subsection (b)(2), and measurable goals and objectives;

"(2) information demonstrating an ongoing mechanism to involve the local public agencies responsible for health, mental health, child welfare, education, juvenile justice, developmental disabilities, and substance abuse treatment programs in planning and providing community outreach services, services for children of substance abusers, and substance abuse treatment services as well as evidence that the proposal contained in the application has been coordinated with the State agencies responsible for administering those programs and the State agency responsible for administering public maternal and child health services;

"(3) information demonstrating that the applicant has established a relationship with child welfare agencies and child protective services that will enable the applicant, where appropriate, to—

"(A) provide advocacy on behalf of substance abusers and the children of substance abusers in child protective services cases;

"(B) provide services to help prevent the unnecessary placement of children in substitute care; and

"(C) promote reunification of families or permanent plans for the placement of the child;

"(4) an assurance that the applicant will coordinate with the State lead agency and Interagency Coordinating Council as defined in part H of title VI of the Individuals with Disability Education Act (20 U.S.C. 1476 and 20 U.S.C. 1482);

"(5) an assurance that the applicant will obtain at least 10 percent of the costs of providing services for community outreach services and services for children of substance abusers from non-Federal funds;

"(6) an assurance that nonresidential programs will incorporate home-based services;

"(7) an assurance that the applicant will initiate and maintain efforts to enter substance abusers to whom they provide services into appropriate substance abuse treatment programs;

"(8) baseline information (including health status information) regarding the population to be targeted and the service characteristics of the community; and

"(9) an assurance that the applicant will submit to the Secretary an annual report containing—

"(A) a description of specific services and activities provided under the grant;

"(B) information regarding progress toward meeting the program's stated goals and objectives;

"(C) information concerning the extent of use of services provided under the grant, including the number of referrals to related services and information on other programs or services accessed by children, parents, and other caretakers;

"(D) information concerning the extent to which parents were able to access and receive treatment for alcohol and drug abuse and sustain participation in treatment over time until the provider and the individual receiving treatment agree to end such treatment, and the extent to which parents reenter treatment after the successful or unsuccessful termination of treatment;

"(E) information concerning the costs of the services provided;

"(F) information concerning—

"(i) the number and characteristics of families, parents, and children served, including a description of the type and severity of childhood disabilities, and an analysis of the number of children served by age;

"(ii) the number of children served who remained with their parents during the period in which entities provided services under this section;

"(iii) the number of children served who were placed in out-of-home care during the period in which entities provided services under this section;

"(iv) the number of children described in clause (iii) who were reunited with their families; and

"(v) the number of children described in clause (iii) for whom a permanent plan has not been made or for whom the permanent plan is other than family reunification;

"(G) information on hospitalization or emergency room use by the family members participating in the program; and

"(H) such other information as the Secretary determines to be appropriate.

"(e) ELIGIBILITY.—Entities eligible to receive a grant under this section shall include—

"(1) alcohol and drug treatment programs, especially those providing treatment to pregnant women and mothers and their children;

"(2) public or private nonprofit entities that provide health or social services to disadvantaged populations, including community-based organizations, local public health departments, community action agencies, hospitals, community health centers, child welfare agencies, developmental disabilities service providers, and family resource and support programs, and that have—

"(A) expertise in applying the services to the particular problems of substance abusers and the children of substance abusers; and

"(B) an affiliation or contractual relationship with one or more substance abuse treatment programs;

"(3) consortia of public or private nonprofit entities that include at least one substance abuse treatment program; and

"(4) Indian tribes, Indian organizations, and Alaska Native villages.

"(f) REVIEW PANEL.—

"(1) REQUIREMENT.—In making determinations for awarding grants under subsection (a), the Secretary shall rely on the recommendations of the review panel established under paragraph (2).

"(2) COMPOSITION.—The Secretary shall establish a review panel to make recommendations under paragraph (1) that shall be composed of representatives of the—

"(A) Health Resources and Services Administration;

"(B) Alcohol, Drug Abuse, and Mental Health Services Administration;

"(C) Administration for Children, Youth, and Families;

"(D) entity within the Department of Health and Human Services responsible for providing services to individuals with developmental disabilities; and

"(E) the Office on Family and Child Health of the Administration for Children and Families.

"(g) FEDERAL SHARE.—The Federal share of grants provided under this section shall be 90 percent. The Secretary shall accept the value of in-kind contributions made by the grant recipient as a part or all of the non-Federal share of grants.

"(h) EVALUATION.—The Secretary shall periodically conduct evaluations to determine the effectiveness of programs supported under subsection (a)—

"(1) in reducing the incidence of alcohol and drug abuse among substance abusers participating in the programs;

"(2) in preventing adverse health conditions in children of substance abusers;

"(3) in promoting better utilization of health and developmental services and improving the health, developmental, and psychological status of children receiving services under the program;

"(4) in improving parental and family functioning;

"(5) in reducing the incidence of out-of-home placement for children whose parents receive services under the program; and

"(6) in facilitating the reunification of families after children have been placed in out-of-home care.

"(i) REPORT.—The Secretary shall annually prepare and submit to appropriate committees of Congress a report that contains a description of programs carried out under this section. At a minimum, the report shall contain—

"(1) information concerning the number and type of programs receiving grants;

"(2) information concerning the type and use of services offered;

"(3) information concerning—

"(A) the number and characteristics of families, parents, and children served;

"(B) the number of children served who remained with their parents during or after the period in which entities provided services under this section;

"(C) the number of children served who were placed in out-of-home care during the period in which entities provided services under this section;

"(D) the number of children described in subparagraph (C) who were reunited with their families; and

"(E) the number of children described in subparagraph (D) who were permanently placed in out-of-home care; analyzed by the type of eligible entity described in subsection (e) that provided services;

"(4) an analysis of the access provided to, and use of, related services and alcohol and drug treatment through programs carried out under this section; and

"(5) a comparison of the costs of providing services through each of the types of eligible entities described in subsection (e).

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $50,000,000 for each of the 1992 and subsequent fiscal years.

"SEC. 399F. COORDINATION AND INFORMATION.

"(a) COORDINATION.—In carrying out the provisions of this subpart the Secretary shall ensure that the activities and services assisted provided under this subpart are coordinated with the activities and services assisted under section 506, and shall ensure coordination with and consultation regarding expanding and improving services for parents who are substance abusers and their children, among—

"(1) the Administrator of the Health Resources and Services Administration;

"(2) the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration;

"(3) the Commissioner of the Administration for Children, Youth, and Families;

"(4) the Commissioner of the Administration on Developmental Disabilities;

"(5) the Commissioner of Child and Family Health;

"(6) appropriate officials within the Department of Education; and

"(7) the Director of the Indian Health Service.

"(b) STUDY.—Not later than 1 year after the date of enactment of this part, the Secretary shall conduct a study and prepare and submit to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives a report concerning—

"(1) the various efforts within the Department of Health and Human Services to address the needs of parents who are substance abusers and the needs of the children of such parents; and

"(2) the ways in which—

"(A) coordination among the efforts described in paragraph (1) can be improved; and

"(B) duplication of the efforts described in paragraph (1), if any, can be reduced.

"(c) DATA COLLECTION.—The Secretary shall periodically collect and report on information concerning the numbers of children in substance abusing families, including information on the age, gender and ethnicity of the children and the composition and income of the family.

"Subpart II—Grants for Training on Substance Abuse in Families

"SEC. 399G. GRANTS FOR TRAINING ON SUBSTANCE ABUSE IN FAMILIES.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall award grants for the training of professionals and other staff who provide services to, or come in contact with, children and families of substance abusers.

"(b) TRAINING STRATEGY.—Not later than 6 months after the date of enactment of this part, the Administrator of the Health Resources and Services Administration shall identify the training needs of professionals and other staff who provide services to, or come in contact with, children and families of substance abusers and develop a strategy for the establishment and implementation of curriculum to satisfy such training needs. In developing such strategy, the Administrator shall collaborate with—

"(1) the Administrator of the Alcohol, Drug Abuse, and Mental Health Services Administration;

"(2) the Commissioner of the Administration on Children, Youth, and Families;

"(3) the Commissioner of the Administration on Developmental Disabilities;

"(4) the Director of the Indian Health Services;

"(5) relevant officials in the Department of Education; and

"(6) representatives of State and Tribal agencies responsible for administering health programs including maternal and child health, mental health, substance abuse treatment, child welfare, education, juvenile justice, and developmental disabilities programs.

"(c) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section an entity shall—

"(1) be a public or private nonprofit entity with expertise in providing training or services involving substance abuse or children of substance abusers;

"(2) have expertise in providing training and education to Native American and Native Hawaiian communities, including Tribally Controlled Community Colleges, Navajo Community College, and Tribally Controlled Postsecondary Vocational Institutions; or

"(3) be an entity that provides services to, or comes into contact with, substance abusers and children and families of substance abusers, including those entities that provide community outreach services and services for children of substance abusers as described in section 399E.

"(d) APPLICATION.—To be eligible to receive a grant under subsection (a), an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such agreements, assurances, and information as the Secretary may require, including—

"(1) a description of the training to be provided or purchased with the assistance provided under the grant;

"(2) a description of the qualifications of the entity providing the training;

"(3) in cases where the training provider is the entity applying for the grant, information indicating the commitment of entities that will be recipients of the training to participate in the training program;

"(4) in the case of applications for grants that will be used to provide the services described in subsection (e)(4), assurances that the agencies that are the training recipients will continue to use the approach to service delivery that is the subject of such training to address cases involving children of substance abusers; and

"(5) any other information determined appropriate by the Secretary.

"(e) USE OF FUNDS.—An entity that receives a grant under subsection (a) shall use the grant proceeds—

"(1) to develop and disseminate interdisciplinary curricula for training professionals and other staff who provide services to children and families of substance abusers, including community outreach services, or who provide services that bring the professionals into contact with substance abusers, children and families of substance abusers, or caretakers of children of substance abusers;

"(2) to provide or purchase training for staff or volunteers in programs specifically designed to provide community outreach services and services for children of substance abusers, as defined in section 399D;

"(3) to provide or purchase training for professionals and other staff whose regular duties involve the provision of services to children and families of substance abusers or to caretakers of children of substance abusers, except that such training—

"(A) shall cover topics including identification, referral, and evaluation of substance abusers, family members affected by substance abuse, and caretakers of children of substance abusers, and, where appropriate, specialized techniques for providing services to these families; and

"(B) shall be attended by representatives from at least one and, to the maximum extent practicable, two or more of agencies responsible for the provision of child protective and child welfare services, health care, developmental services, education, including school administrators, social workers, and teachers, mental health, judiciary, public health, and social services; and

"(4) to provide or purchase training, case support, and consultation to interdisciplinary teams of personnel from child protective service or child welfare agencies and personnel from public health, mental health, developmental service providers, or social services agencies or from entities providing those services, in order for such teams to provide support to, and arrange services for, caretakers of children of substance abusers, except that such training shall—

"(A) include instruction concerning what is known about the effects of prenatal substance abuse, the implications of such substance abuse for infant care, health, and development, and methods of providing instruction and support for caretakers of children of substance abusers;

"(B) support an approach to service delivery that is interagency, interdisciplinary, comprehensive, oriented toward case management, and focused on improving the health and development of the child;

"(C) be provided in sessions that include participants from all agencies contributing members to the team; and

"(D) be provided in classroom, home-based, and clinical settings.

"(f) GRANT AWARDS.—In awarding grants under subsection (a), the Secretary shall—

"(1) consult with the Administrator of the Alcohol, Drug Abuse and Mental Health Administration, the Commissioner of the Administration on Children, Youth, and Families and the Commissioner of the Administration on Developmental Disabilities;

"(2) ensure that grants are awarded in a manner consistent with the training strategy developed under subsection (b);

"(3) ensure that such grants are reasonably distributed among the grantee types described in subsection (c); and

"(4) ensure that the grants are distributed to ensure that entities serving Native American and Native Hawaiian communities are represented among the grantees.

"(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $20,000,000 for fiscal year 1992 and for each such subsequent fiscal year.".

Subtitle B—Grants for Home-Visiting Services for At-Risk Families

SEC. 321. SHORT TITLE.

This subtitle may be cited as the "Healthy Beginnings Act of 1991".

SEC. 322. GRANTS FOR HOME VISITING SERVICES FOR AT-RISK FAMILIES.

Part L of title III is amended—

(1) by redesignating sections 399 and 399A (42 U.S.C. 280c-4 and 280c-5) as sections 398A and 398B, respectively; and

(2) by adding at the end thereof the following new subpart:

"Subpart III—Grants for Home Visiting Services for At-Risk Families

"SEC. 398E. DEFINITIONS.

"As used in this subpart:

"(1) ELIGIBLE FAMILY.—

"(A) IN GENERAL.—The term 'eligible family' means a family that includes—

"(i) a pregnant woman who is at risk of delivering an infant with a health or developmental complication, or other poor birth outcome; or

"(ii) a child below the age of 3 who has experienced or is at risk for a health or developmental complication, or child maltreatment.

"(B) POOR BIRTH OUTCOME.—A pregnant woman may be considered to be at risk of delivering an infant with a poor birth outcome, for purposes of subparagraph (A)(i), if during her pregnancy such woman;

"(i) lacks appropriate access to and information concerning early and routine prenatal care;

"(ii) lacks the transportation necessary to gain access to the services described in this subparagraph;

"(iii) lacks appropriate child care assistance, which results in impeding the ability of such woman to utilize health and related social services;

"(iv) is fearful of accessing substance abuse services or child and family support services;

"(v) has an income that is below 100 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981); or

"(vi) is without health insurance.

"(2) HEALTH OR DEVELOPMENTAL COMPLICATION.—The term 'health or developmental complication' means—

"(A) low birthweight;

"(B) premature birth;

"(C) a physical or developmental disability or delay; or

"(D) exposure to parental substance abuse.

"(3) HOME VISITING SERVICES.—The term 'home visiting services' includes—

"(A) prenatal and postnatal health care;

"(B) primary health care for eligible children, including developmental assessments;

"(C) education for mothers and caretakers concerning infant care, and child development, including the development and utilization of parents and teachers resource networks and other family resource and support networks where such networks are available;

"(D) education for women concerning the health consequences of smoking, alcohol, or other substance abuse, inadequate nutrition, use of nonprescription drugs, and the transmission of sexually transmitted diseases;

"(E) assistance in obtaining necessary health, mental health, developmental, and social services, including services offered by maternal and child health programs, the special supplemental food program for women, infants, and children, authorized under section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), early and periodic screening, diagnostic, and treatment services, as described in section 1905(r) of the Social Security Act (42 U.S.C. 1396d(r)), assistance programs under titles IV and XIX of the Social Security Act, housing programs, other food assistance programs, and appropriate alcohol and drug dependency treatment programs, according to need; and

"(F) development of a family service plan as provided for in section 398F(d)(4).

"(4) HOME VISITOR.—The term 'home visitor' means a person who provides home visiting services.

"SEC. 398F. HOME VISITING SERVICES.

"(a) ESTABLISHMENT.—The Secretary shall make competitive grants to eligible entities to pay for the Federal share of the costs of providing home visiting services to eligible families. The Secretary shall award grants for periods of at least 3 years.

"(b) PURPOSES.—The purposes of this section are—

"(1) to increase the use of, and to provide information on the availability of early, continuous and comprehensive prenatal care;

"(2) to reduce the incidence of infant mortality and of infants born prematurely, with low birthweight, or with other impairments including those associated with maternal substance abuse;

"(3) to assist pregnant women and mothers of children below the age of 3 whose children have experienced, or are at risk of experiencing, a health or developmental complication, in obtaining health and related social services necessary to meet the special needs of the women and their children;

"(4) to assist, when requested, women who are pregnant and at-risk for poor birth outcomes, or who have young children and are abusing alcohol or other drugs in obtaining appropriate treatment; and

"(5) to reduce the incidence of child abuse and neglect.

"(c) GRANT AWARD.—

"(1) IN GENERAL.—In awarding grants under this section, the Secretary shall—

"(A) give priority to those entities—

"(i) that would provide home visiting services in an area where a shortage of primary health care or health professionals exists or where the population targeted by the applicant for the grant has limited access to health care and related social, family support, and developmental services;

"(ii) that have the ability to provide, either directly or through linkages, a broad range of preventive and primary health care services and related social, family support, and developmental services, as defined in section 398E(3);

"(iii) that have demonstrated a commitment to serving low income and uninsured individuals and families; and

"(iv) where appropriate for the proposed target population, have experience in providing outreach, preventive public health services, and developmental services to families with alcohol and drug problems;

"(B) in those urban areas in which more than one qualified application for a grant under this section is received, give priority to those entities that have the ability to provide comprehensive preventative and primary health care and related and social, family support, and development services that meet the criteria described in subparagraph (A)(i), and that have a history of providing health or related social services to the target at-risk population in the communities they serve; and

"(C) ensure that entities targeting families where substance abuse is present and entities serving Native American communities are represented among the grantees.

"(2) CONSIDERATIONS IN AWARDING GRANTS.—To demonstrate the effectiveness of home visiting programs among differing target populations, the Secretary, when awarding grants, shall take into consideration—

"(A) whether such grants are equitably distributed among urban and rural settings; and

"(B) different combinations of professional and lay home visitors utilized within programs that are reflective of the identified service needs and characteristics of target populations.

"(d) Delivery of Services and Case Management.—

"(1) Case management model.—Home visiting services provided under this section shall be delivered according to a case management model, and a registered nurse, licensed social worker, or other licensed health care professional with experience and expertise in providing health and related social services in the home, shall be assigned as the case manager for individual cases under such model.

"(2) Case manager.—A case manager assigned under paragraph (1) shall have primary responsibility for coordinating and overseeing the development of a family service plan for each home visited under this section, and for coordinating the delivery of services provided through appropriate personnel.

"(3) Appropriate personnel.—In determining which personnel shall be utilized in the delivery of services, the case manager shall consider—

"(A) the stated objective of the home visiting program involved, as determined after considering identified gaps in the current service delivery system; and

"(B) the nature of the needs of the client to be served, as determined at the initial assessment of the client that is conducted by the case manager, and through follow-up contacts by home visitors with the family.

"(4) Family service plan.—A case manager, in consultation with the members of the home visiting team, shall develop a family service plan for the client following the initial home visit of the case manager. Such plan shall reflect—

"(A) an assessment of the health and related social service needs of the client family;

"(B) a structured plan for the delivery of services to meet the identified needs of the client family;

"(C) the frequency with which home visits are to be made concerning the client family;

"(D) ongoing revisions made as the needs of family members change; and

"(E) the continuing voluntary participation of the client in the plan.

"(5) Home visiting team.—The home visiting team to be consulted under paragraph (4) on behalf of a client family shall include, as appropriate, other nursing professionals, social workers, child welfare professionals, infant and early childhood specialists, nutritionists, and laypersons trained as home visitors. The case manager shall ensure that the family service plan is coordinated with those physician services that may be required by the mother or child.

"(6) Services.—Services provided under this section shall be made available through the applicant, either directly, or indirectly through agreements entered into by the applicant with other public or nonprofit private entities.

"(e) Application.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary by regulation requires. At a minimum, each application shall contain—

"(1) a well defined description of the population to be targeted for home visiting services;

"(2) a plan for the delivery of structured services designed to meet the needs of the targeted population with a description of the objectives to be met through the provision of services by the entity and a plan for measuring the progress made toward achieving such objectives;

"(3) a description of the services to be provided by the entity directly, and the services to be provided by other public or nonprofit private entities under agreement with the entity;

"(4) assurances that the entity will provide case planning for eligible families that incorporates an interdisciplinary approach and, to the extent practicable, interagency involvement;

"(5) a description of the types and qualifications of home visitors used by the entity, including assurances that the skill level of the home visitor will be matched with the services to be provided by the visitor;

"(6) assurances that, to meet the objectives of the program, the home visitors will receive training in recognizing and addressing, or making referrals to address, parental substance abuse and its effects on children;

"(7) a description of the process by which the entity will provide continuing training, adequate supervision, and sufficient support to home visitors to ensure that trained home visitors are able to provide effective home visiting services;

"(8) a description of the means to be employed to provide outreach to eligible women;

"(9) assurances that the entity will provide home visiting services conducted by—

"(A) public health nurses, social workers, child welfare professionals, or other health or mental health professionals including developmental service providers who are trained or have experience in home visiting services; or

"(B) teams of home visitors, which shall include at least one individual described in subparagraph (A) and which may include workers recruited from the community and trained in home visiting services;

"(10) assurances that the entity will provide home visiting services with reasonable frequency—

"(A) to families with pregnant women, as early in the pregnancy as is practicable, and until the infant reaches at least 2 years of age;

"(B) to other eligible families, for at least 2 years;

if they remain within the service delivery area;

"(11) assurances that, in the case of an applicant who provides home visiting services to children age 3 or younger, the applicant will to the maximum extent practicable ensure that such children receive continued services through early childhood programs, such as the Head Start program;

"(12) assurances that the entity will deliver home visiting services in a manner that accords proper respect to the cultural traditions of the eligible families;

"(13) information demonstrating that the applicant is familiar with the socioeconomic and cultural groups who will receive home visiting services from the entity;

"(14) an assurance that the applicant will obtain at least 10 percent of the costs of providing home visiting services from non-Federal funds (such contribution to costs may be in cash or in-kind, including facilities and personnel);

"(15) an assurance that the applicant will spend not more than 10 percent of the Federal funds received under this subpart on other administrative costs, exclusive of training;

"(16) an assurance that the applicant will submit the report required by subsection (g);

"(17) assurances that the entity will coordinate with public health and related social service agencies to improve the delivery of comprehensive health and related social services to women and children served by the entity; and

"(18) evidence that the development of the proposal has been coordinated with the State agencies responsible for maternal and child health and child welfare, coordinated with services provided under part H of the Individuals with Disabilities Education Act, as well as evidence of the existence of a mechanism to ensure continuing collaboration and consultation with these agencies.

"(f) Eligibility.—Entities eligible to receive a grant under this section shall include public and private nonprofit entities that provide health or related social services, including community-based organizations, hospitals, local health departments, community health centers, Native Hawaiian health centers, nurse managed clinics, family service agencies, child welfare agencies, developmental service providers, and family resource and support programs.

"(g) Federal Share.—The Federal share of grants provided under this section shall be 90 percent.

"(h) Report and Evaluation.—

"(1) Report.—To be eligible to receive a grant under this section, an entity shall agree to submit an annual report on the services provided under this section to the Secretary in such manner and containing such information as the Secretary by regulation requires. At a minimum, the entity shall report information concerning eligible families, including—

"(A) the characteristics of the families and children receiving services under this section;

"(B) the usage, nature, and location of the provider, of preventive health services, including prenatal, primary infant, and child health care;

"(C) the incidence of low birthweight and premature infants;

"(D) the length of hospital stays for pre- and post-partum women and their children;

"(E) the incidence of substantiated child abuse and neglect for all children within participating families;

"(F) the number of emergency room visits for routine health care;

"(G) the extent to which the utilization of health care services, other than routine screening and medical care, available to the individuals under the program established under title XIX of the Social Security Act, and under other Federal, State, and local programs, is reduced;

"(H) the number and type of referrals made for health and related social services, including alcohol and drug treatment services, and the utilization of such services provided by the grantee; and

"(I) the incidence of developmental disabilities.

"(2) Evaluation.—

"(A) In general.—The Secretary shall, directly or through contracts with public or private entities, conduct evaluations to determine the impact of programs supported under subsection (a) on the criteria specified in subsection (b), and not less than once during each 3-year period, prepare and submit to the appropriate committees of Congress, a report concerning the results of such evaluations.

"(B) CONTENTS.—The evaluations conducted under subparagraph (A), shall—

"(i) include a summary of the data contained in the annual reports submitted under subsection (h);

"(ii) assess the relative effectiveness of home visiting programs located in urban and rural areas, and among programs utilizing differing combinations of professionals and trained home visitors, to meet the needs of defined target service populations; and

"(iii) make further recommendations necessary or desirable to achieve the objectives identified in subsection (b) through home visiting programs.

"(i) CONFIDENTIALITY.—In accordance with applicable State law, an entity receiving a grant under this section shall maintain confidentiality with respect to services provided to clients under this section.

"(j) LIMITATION.—Nothing in this section shall be construed to permit an entity receiving a grant under this section to provide services without the consent of the client.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $30,000,000 for the 1992 fiscal year and such sums as may be necessary for subsequent fiscal years.".

TITLE IV—CHILDHOOD MENTAL HEALTH

SEC. 401. SHORT TITLE.

This title may be cited as the "Children's and Communities' Mental Health Systems Improvement Act of 1991".

SEC. 402. PURPOSE.

It is the purpose of this title to—

(1) provide funds to States for the development of systems of community care for children and adolescents with serious emotional disturbance that will provide such children and adolescents with access to a comprehensive range of services;

(2) ensure that such services are provided in a cooperative manner by all appropriate public and nonprofit private entities that provide human services in the community, including entities providing mental health services, education, special education, juvenile justice and child welfare services;

(3) ensure that each child or adolescent shall receive such services according to an individualized plan, developed with the participation of the family and, as appropriate, the child or adolescent; and

(4) provide funding for mental health services provided in the systems referred to in this section.

SEC. 403. ESTABLISHMENT OF PROGRAM OF GRANTS TO STATES WITH RESPECT TO COMPREHENSIVE MENTAL HEALTH SERVICES FOR CHILDREN WITH SERIOUS EMOTIONAL DISTURBANCE.

Part B of title XIX (42 U.S.C. 300x et seq.) is amended by adding at the end thereof the following new subpart:

"Subpart 3—Comprehensive Mental Health Services for Children With Serious Emotional Disturbance

"SEC. 1928. CATEGORICAL GRANTS TO STATES.

"(a) IN GENERAL.—The Secretary, acting through the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration, shall make grants to States for the purpose of providing comprehensive community mental health services to children with serious emotional disturbance. The Secretary may make such a grant to a State only if the State makes each of the agreements described in this subpart.

"(b) CONSIDERATIONS IN MAKING GRANTS.—

"(1) REQUIREMENT OF STATUS AS GRANTEE REGARDING BLOCK GRANTS UNDER SUBPART 1.—The Secretary may not make a grant under subsection (a) unless the State involved is receiving payments under subpart 1.

"(2) CERTAIN CONSIDERATIONS.—In making grants under subsection (a), the Secretary shall—

"(A) equitably allocate assistance made available under this subpart among the principal geographic regions of the United States;

"(B) equitably allocate such assistance between States that are predominantly urban and those which are nonurban; and

"(C) consider the extent to which the State involved has a need for the grant.

"(c) MATCHING FUNDS.—

"(1) IN GENERAL.—To be eligible to receive a grant under this subpart the State involved shall, with respect to the costs to be incurred by the State in carrying out the purpose described in subsection (a), agree to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to not less than—

"(A) 25 percent of such costs in the first year in which the State receives such a grant;

"(B) 30 of such costs in the second year in which the State receives such a grant;

"(C) 40 of such costs in the third year in which the State receives such a grant;

"(D) 55 of such costs in the fourth year in which the State receives such a grant; and

"(E) 70 of such costs in the fifth year in which the State receives such a grant.

"(2) DETERMINATION OF AMOUNT OF NON-FEDERAL CONTRIBUTION.—

"(A) IN GENERAL.—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

"(B) PERIOD OF DETERMINATION.—In making a determination of the amount of non-Federal contributions for purposes of subparagraph (A), the Secretary may include only non-Federal contributions in excess of the average amount of non-Federal contributions made by the State involved toward the purpose described in subsection (a) for the 2-year period preceding the first fiscal year for which the State receives a grant under such section.

"SEC. 1928A. REQUIREMENTS WITH RESPECT TO CARRYING OUT PURPOSE OF GRANTS.

"(a) SYSTEMS OF COMPREHENSIVE CARE.—

"(1) IN GENERAL.—To be eligible to receive a grant under this section a State shall, with respect to children with serious emotional disturbance, agree to carry out the purpose described in section 1928(a) only through establishing and operating one or more systems of care for making each of the mental health services specified in subsection (c) available to each child that is provided access to the system. In providing for such a system, the State may make grants to, and enter into contracts with, public and nonprofit private entities.

"(2) STRUCTURE OF SYSTEM.—To be eligible to receive a grant under this section a State shall, with respect to a system of care under paragraph (1), agree—

"(A) to establish such system in a community selected by the State;

"(B) that such system will be managed by such public and nonprofit private entities in the community as are necessary to ensure that each of the services specified in subsection (c) is available to each child that is provided access to the system;

"(C) that such system will be established pursuant to agreements entered into between such entities and the State;

"(D) to coordinate the provision of the services of the system; and

"(E) to establish a local office in each system whose functions are to serve as the location through which children are provided with access to the system, to coordinate the provision of services of the system, and to provide information to the public regarding the system.

"(3) COLLABORATION OF LOCAL PUBLIC ENTITIES.—To be eligible to receive a grant under this subpart a State shall, for purposes of the establishment and operation of a system of care under paragraph (1), agree to ensure collaboration among all appropriate public entities that provide human services in the community in which the system is established, including public entities providing mental health services, education, special education, juvenile justice and child welfare services.

"(b) LIMITATION ON AGE OF CHILDREN ELIGIBLE FOR SERVICES FROM THE SYSTEM.—To be eligible to receive a grant under this subpart, a State shall agree that a system of care established under subsection (a) will provide services only to individuals who are not more than 21 years of age.

"(c) REQUIRED MENTAL HEALTH SERVICES OF SYSTEM.—To be eligible to receive a grant under this subpart, a State shall agree that mental health services provided by a system of care under subsection (a) will include, with respect to serious emotional disturbance in a child—

"(1) diagnostic and evaluation services;

"(2) outpatient services provided in a clinic, office, school, home or other appropriate location, including individual, group and family counseling services, professional consultation, and review and management of medications;

"(3) emergency services, available 24-hours a day, 7 days a week;

"(4) intensive home-based services for children and their families when the child is at imminent risk of out-of-home placement;

"(5) intensive day-treatment services;

"(6) respite care;

"(7) therapeutic foster care services, and services in therapeutic foster family homes or individual therapeutic residential homes, and group homes caring for not more than 10 children; and

"(8) assisting the child in making the transition from the services received as a child to the services to be received as an adult.

"(d) REQUIRED ARRANGEMENTS REGARDING OTHER APPROPRIATE SERVICES.—

"(1) IN GENERAL.—To be eligible to receive a grant under this subpart a State shall agree that—

"(A) a system of care under subsection (a) will enter into a memorandum of understanding with each of the providers specified in paragraph (2) in order to facilitate the availability of the services of the provider involved to each child admitted to the system; and

"(B) the grant under section 1928(a), and the non-Federal contributions made with respect to the grant, will not be expended to pay the costs of providing such services to any individual.

"(2) SPECIFICATION OF SERVICES.—The providers referred to in paragraph (1) are providers of medical services other than mental health services, providers of education including special education, providers of vocational counseling and vocational rehabilitation services, and providers of protection and advocacy services with respect to mental health.

"(3) PROVISION OF SERVICES OF CERTAIN PROGRAMS.—To be eligible to receive a grant under this subpart a State shall agree that a system of care under subsection (a) will, for purposes of paragraph (1), enter into a memorandum of understanding regarding the provision of—

"(A) services available pursuant to title XIX of the Social Security Act, including services regarding early periodic screening, diagnosis, and treatment;

"(B) services available under parts B and H of the Individuals with Disabilities Education Act; and

"(C) services available under other appropriate programs, as identified by the Secretary.

"(e) GENERAL PROVISIONS REGARDING SERVICES OF SYSTEM.—

"(1) CASE MANAGEMENT SERVICES.—To be eligible to receive a grant under this subpart a State shall agree that a system of care under subsection (a) will provide for the case management of each child admitted to the system in order to ensure that—

"(A) the services provided through the system to the child are coordinated and that the need of each such child for the services is periodically reassessed;

"(B) information is provided to the family of the child on the extent of progress being made toward the objectives established for the child under the plan of services implemented for the child pursuant to section 1928B; and

"(C) the system provides assistance with respect to—

"(i) establishing the eligibility of the child, and the family of the child, for financial assistance and services under Federal, State, or local programs providing for health services, mental health services, education including special education, social services, or other services; and

"(ii) seeking to ensure that the child receives appropriate services available under such programs.

"(2) OTHER PROVISIONS.—To be eligible to receive a grant under this subpart a State shall agree that a system of care under subsection (a), in providing the services of the system, will—

"(A) provide the services of the system in the cultural context that is most appropriate for the child;

"(B) ensure that individuals providing services to the child can effectively communicate with the child and with the child's family, either directly or through interpreters;

"(C) provide the services without discriminating against the child or the family of the child on the basis of race, religion, national origin, sex, disability, or age;

"(D) seek to ensure that each child that is provided access to the system of care remains in the least restrictive, most normative environment that is clinically appropriate; and

"(E) provide outreach services to inform individuals, as appropriate, of the services available from the system, including identifying children with serious emotional disturbance who are in the early stages of such emotional disturbance.

"(f) RESTRICTIONS ON USE OF GRANT.—To be eligible to receive a grant under this subpart a State shall agree that the grant under such subpart, and the non-Federal contributions made with respect to the grant, will not be expended—

"(1) to purchase or improve real property (including the construction or renovation of facilities);

"(2) to provide for room and board in residential programs serving 8 or fewer children;

"(3) to provide for room and board or any other services or expenditures associated with care of children in long-term residential treatment centers serving more than 8 children or in inpatient hospital settings; or

"(4) to provide for the training of any individual, except training authorized in section 1928C(b)(2).

"SEC. 1928B. DEVELOPMENT OF SERVICE PLANS.

"(a) IN GENERAL.—To be eligible to receive a grant under this subpart a State shall agree that a system of care under section 1928A(a) will establish, for each child that is provided access to the system, a multidisciplinary team of appropriately qualified individuals who provide services through the system, including, as appropriate, mental health services, other health services, education, social services and vocational counseling and vocational rehabilitation. Such teams will ensure, for each child that is provided access to the system that—

"(1) an Individualized Services Plan is developed and implemented with the participation of the family of the child involved and, unless clinically inappropriate, with the participation of the child, that meets the requirements of subsection (b);

"(2) an Individualized Education Program, or an Individual Family Services Plan, is developed for the child pursuant to the requirements of the Individuals with Disabilities Education Act and the requirements of subsection (b); or

"(3) a combination of such plans are developed which, taken together, will meet the requirements of subsection (b).

"(b) TREATMENT OF CHILDREN.—

"(1) TREATMENT OF CHILDREN FOR WHICH A PROGRAM IS ESTABLISHED.—For any child for whom the school system has developed an Individualized Education Program, the system of care under section 1928A(a) will specify the services which are to be available to the child in accordance with such Program and identify and state any additional needs of the child for services available pursuant to section 1928A through the system, provide for the provision of services to meet such additional needs of the child in accordance with the requirements of subsection (c), and describe how the system will coordinate these additional services with the services provided pursuant to the child's Individualized Education Program.

"(2) TREATMENT OF CHILDREN FOR WHICH NO PROGRAM IS ESTABLISHED.—For any child for whom an Individualized Education Program has not been established, the system of care under section 1928A(a) will ensure that an appropriate assessment is made (or has been made within the past 6 months) of the child's need for special education and related services under the Individuals with Disabilities Education Act. If such assessment results in the child's not being eligible for special education and related services under the Individuals with Disabilities Education Act, the system shall specify and provide services to the child in accordance with subsection (c).

"(c) CONTENTS OF PLAN.—To be eligible to receive a grant under this subpart a State shall agree that the individualized plan under subsection (a) for a child will—

"(1) identify and state the needs of the child for the services available pursuant to section 1928A through the system;

"(2) provide for each of such services that are appropriate to the circumstances of the child, including, except in the case of children who are less than 14 years of age, the provision of appropriate vocational counseling and transition services, as defined in section 602A(19) of the Individuals with Disabilities Education Act;

"(3) establish objectives to be achieved regarding the needs of the child and the methodology for achieving the objectives;

"(4) be reviewed and, as appropriate, revised not less than once each year by the multidisciplinary team pursuant to section 1928B(a); and

"(5) designate an individual to be responsible for providing case management required in section 1928A(e)(1), or certify that case management services will be provided to the child as part of the child's Individualized Education Program or Individual Family Services Plan.

"SEC. 1928C. ADDITIONAL PROVISIONS.

"(a) ESTABLISHMENT OF SYSTEM OF CARE DURING FIRST TWO YEARS OF GRANT.—To be eligible to receive a grant under this subpart a State shall agree that the State will establish not less than 1 system of care under section 1928A(a) during the first 2 fiscal years for which the State receives payments under the grant.

"(b) OPTIONAL SERVICES.—In addition to services described in subsection (c) of section 1928A, a system of care under subsection (a) of such section may, in expending a grant under section 1928(a), provide for—

"(1) preliminary assessments to determine whether a child should be provided with access to the system, including, when requested by the family of the child, an independent assessment of the need of the child for special education and related services, as defined in the Individuals with Disabilities Education Act;

"(2) training in the provision of foster care or group home care, in the provision of intensive home-based services and intensive day treatment services under section 1928A(c)(7), and in the development of individualized plans for purposes of section 1928B;

"(3) recreational activities for children that are provided access to the system; and

"(4) such other services as may be appropriate in providing for the comprehensive needs with respect to mental health of children with serious emotional disturbances.

"(c) REPRESENTATION ON STATE PLANNING COUNCIL.—In the case of a State where the State mental health authority is responsible for administration of services to children and youth with emotional disturbance, such State, to be eligible to receive a grant under this subpart, shall agree that the mental health planning council established pursuant to section 1916(e) will include as members of the council a ratio of parents of children with serious emotional disturbances to other members of the council that is sufficient to provide adequate representation of such children in the deliberations of the council.

"(e) LIMITATION ON IMPOSITION OF FEES FOR SERVICES.—To be eligible to receive a grant under this subpart a State shall agree that, if a charge is imposed for the provision of services under a grant under such subpart, such charge—

"(1) will be made according to a schedule of charges that is made available to the public;

"(2) will be adjusted to reflect the income of the family of the child involved;

"(3) will not be imposed on any child whose family has income and resources of equal to or less than 100 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981; and

"(4) will not be imposed on any child with respect to services described in the Individualized Education Program for the child.

"(f) RELATIONSHIP TO ITEMS AND SERVICES UNDER OTHER PROGRAMS.—To be eligible to receive a grant under this subpart a State shall agree that the grant, and the non-Federal contributions made with respect to the grant, will not be expended to make payment for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

"(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

"(2) by an entity that provides health services on a prepaid basis.

"(g) LIMITATION ON ADMINISTRATIVE EXPENSES.—To be eligible to receive a grant under this subpart a State shall agree that not more than 2 percent of the grant under such section will be expended for State administrative expenses with respect to the grant.

"(h) REPORTS TO SECRETARY.—To be eligible to receive a grant under this subpart a State shall agree that the State involved will annually submit to the Secretary a report on the activities of the State under the grant that includes a description of the number of children that are provided access to systems of care operated pursuant to the grant, the demographic characteristics of the children, the types and costs of services provided pursuant to the grant, estimates of the unmet need for such services in the State (as demonstrated through supporting evidence and a description of how such evidence was obtained), and the manner in which the grant has been expended toward the establishment of a State-wide system of care for children with serious emotional disturbance, and such other information as the Secretary may require with respect to the grant.

"(i) DESCRIPTION OF INTENDED USES OF GRANT.—The Secretary may not make a grant under section 1928(a) unless—

"(1) the State involved submits to the Secretary a description of the purposes for which the State intends to expend the grant;

"(2) the description identifies the populations, areas, and localities in the State with a need for services under this section; and

"(3) the description provides information relating to the services and activities to be provided, including a description of the manner in which the services and activities will be coordinated with any similar services or activities of public or nonprofit entities.

"(j) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under section 1928(a) unless an application for the grant is submitted to the Secretary, the application contains the description of intended uses required in subsection (i), and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"SEC. 1928D. GENERAL PROVISIONS.

"(a) DURATION OF SUPPORT REGARDING SYSTEMS OF CARE.—The period during which payments are made to a State from a grant under section 1928(a) may not exceed 5 fiscal years.

"(b) EXPANSION OF SYSTEMS OF CARE ACROSS THE STATE.—

"(1) IN GENERAL.—The Secretary may not make a grant under section 1928(a), for the third, fourth or fifth year to a State unless—

"(A) the State provides assurances satisfactory to the Secretary that it has a plan for achieving long-term financial support for systems of comprehensive care (as described in section 1928A(a) and funded through this Act); and

"(B) the State is making progress satisfactory to the Secretary to expand access to such systems in all areas of the State.

"(2) COMPLIANCE.—In making determinations on State compliance under this subsection, the Secretary shall assess the changes being planned and being made by the State in the organization, financing and delivery of children's services. Such assessment shall be based on a demonstration by the State that it is—

"(A) fully using existing resources;

"(B) taking actions to secure additional financing from mental health, child welfare, juvenile justice, State and Federal education programs, Medicaid, and other programs;

"(C) implementing effective case-management systems to assure that children and their families receive appropriate care; and

"(D) expanding such services in communities beyond the demonstration area.

The Secretary shall also take into account such factors as the development of multiagency and State-community partnership agreements, community-wide interagency agreements outlining respective roles and responsibilities of local mental health, child welfare, education, including special education, and juvenile justice agencies, changes in State statutes and related policy developments that will facilitate expansions of children's services.

"(c) TECHNICAL ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall, upon the request of a State receiving a grant under section 1928(a)—

"(A) provide technical assistance to the State regarding the process of submitting to the Secretary applications for grants under section 1928(a);

"(B) provide to the State, and to local systems of care established under section 1928A(a), training and technical assistance with respect to the planning, development, and operation of systems of care pursuant to section 1928A.

"(2) AUTHORITY FOR GRANTS AND CONTRACTS.—The Secretary may provide technical assistance under subsection (a) directly or through grants to, or contracts with, public and nonprofit private entities.

"(d) EVALUATIONS AND REPORTS BY SECRETARY.—

"(1) IN GENERAL.—The Secretary shall, directly or through contracts with public or private entities, provide for annual evaluations of programs carried out pursuant to section 1928(a). The evaluations shall assess the effectiveness of the systems of care operated pursuant to such section, including longitudinal studies of outcomes of services provided by such systems, other studies regarding such outcomes, the effect of activities under this subpart on the utilization of hospital and other institutional settings, the barriers to and achievements resulting from interagency collaboration in providing community-based services to children with serious emotional disturbance, and assessments by parents of the effectiveness of the systems of care.

"(2) REPORT TO CONGRESS.—The Secretary shall, not later than 1 year after the date on which amounts are first appropriated under subsection (f), and annually thereafter, prepare and submit to the appropriate committees of Congress a report summarizing evaluations carried out pursuant to paragraph (1) during the preceding fiscal year and making such recommendations for administrative and legislative initiatives with respect to this section as the Secretary determines to be appropriate.

"(e) DEFINITIONS.—For purposes of this subpart:

"(1) CHILD.—The term 'child' means an individual not more than 21 years of age.

"(2) FAMILY.—The term 'family', with respect to a child admitted to a system of care under section 1928A(a), means—

"(A) the legal guardian of the child; and

"(B) as appropriate regarding mental health services for the child, the parents of the child (biological or adoptive, as the case may be) and any foster parents of the child.

"(3) SERIOUS EMOTIONAL DISTURBANCE.—The term 'serious emotional disturbance' includes, with respect to a child, any child who has a serious emotional, serious behavioral, or serious mental disorder.

"(f) FUNDING.—

"(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subpart, there are authorized to be appropriated $100,000,000 for fiscal year 1992, $200,000,000 for fiscal year 1993, and $300,000,000 for fiscal year 1994.

"(2) SET-ASIDE REGARDING TECHNICAL ASSISTANCE.—Of the amounts appropriated under paragraph (1) for a fiscal year, the Secretary shall make available not less than $3,000,000 for the purpose of carrying out subsection (c).

"(3) LIMITATION ON INITIAL NUMBER OF GRANTS.—For fiscal year 1992, the Secretary may not make more than 10 grants under section 1928(a).

"SEC. 1928E. EFFECT ON OTHER LAWS.

"Nothing in this subpart shall be construed as limiting the rights of a child with a serious emotional disturbance under the Individuals with Disabilities Education Act.".

TITLE V—STUDIES

SEC. 501. STUDY ON PRIVATE SECTOR DEVELOPMENT OF PHARMACOTHERAPEUTICS.

(a) IN GENERAL.—The Director of the National Institute on Drug Abuse shall prepare a report on the role of the private sector in the development of anti-addiction medications. Such report shall contain legislative proposals designed to encourage private sector development of anti-addiction medications.

(b) SUBMISSION.—The report described in subsection (a) shall be submitted to the appropriate committees of the Congress not later than 1 year after the date of enactment of this Act.

SEC. 502. STUDY ON MEDICATIONS REVIEW PROCESS REFORM.

(a) IN GENERAL.—The Commissioner of the Food and Drug Administration, in consultation with the Director of the National Institute on Drug Abuse, shall prepare a report on the process by which anti-addiction medications receive marketing approval from the Food and Drug Administration. Such report shall assess the feasibility of expediting the marketing approval process in a manner consistent with public safety.

(b) SUBMISSION.—The report described in subsection (a) shall be submitted to the appropriate committees of the Congress not later than 1 year after the date of enactment of this Act.

SEC. 503. SENSE OF CONGRESS.

It is the sense of Congress that the Medications Development Division of the National Institute on Drug Abuse shall devote special attention and adequate resources to achieve the following urgent goals—

(1) the development of medications in addition to methadone;

(2) the development of a long-acting narcotic antagonist;

(3) the development of agents for the treatment of cocaine abuse and dependency, including those that act as a narcotic antagonist;

(4) the development of medications to treat addiction to drugs that are becoming increasingly prevalent, such as methamphetamine;

(5) the development of additional medications to treat safely pregnant addicts and their fetuses; and

(6) the development of medications to treat the offspring of addicted mothers.

SEC. 504. REPORT BY THE INSTITUTE ON MEDICINE.

(a) PHARMACOTHERAPY REVIEW PANEL.—Not later than 120 days after the date of enactment of this Act, the Director of the National Institute on Drug Abuse shall establish a panel of independent experts in the field of pharmacotherapeutic treatment of drug addiction to assess the national strategy for developing such treatments and to make appropriate recommendations for the improvement of such strategy.

(b) REPORT.—Not later than January 1, 1993, the Institute of Medicine of the National Academy of Science shall prepare and submit, to the appropriate Committees of Congress, a report that sets forth—

(1) the recommendations of the panel established under subsection (a);

(2) the state of the scientific knowledge with respect to pharmacotherapeutic treatment of drug addiction;

(3) the assessment of the Institute of Medicine of the progress of the Nation toward the development of safe, efficacious pharmacological treatments for drug addiction; and

(4) any other information determined appropriate by the Institute of Medicine.

(c) AVAILABILITY.—The report prepared under subsection (b) shall be made available for use by the general public.

SEC. 505. DEFINITION OF SERIOUS MENTAL ILLNESS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall develop and submit to the appropriate committees of Congress—

(1) a uniform definition of "serious mental illness"; and

(2) a recommendation for standardized methods that may be utilized by States to estimate the incidence and prevalence of mental illness.

SEC. 506. PROVISION OF MENTAL HEALTH SERVICES TO INDIVIDUALS IN CORRECTIONAL FACILITIES.

Not later than 18 months after the date of enactment of this Act, the Administrator of the Alcohol, Drug Abuse and Mental Health Services Administration, acting jointly with the Director of the National Institute for Mental Health, shall prepare and submit to the appropriate committees of Congress a report concerning the most effective methods for providing mental health services to individuals residing in correctional facilities, and the obstacles to providing such services.

SEC. 507. STUDY OF BARRIERS TO TREATMENT COVERAGE.

Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report concerning the barriers to insurance coverage for substance abuse treatment, that shall include an assessment of the effect of managed care on the quality and financing of these services.

SEC. 508. REPORT ON FETAL ALCOHOL SYNDROME.

Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report concerning the prevalence of, and Federal efforts to combat, fetal alcohol syndrome.

SEC. 509. REPORT ON RESEARCH.

The Director of the National Institutes of Health shall annually prepare and submit to the appropriate committees of Congress a report concerning the status of behavioral and services-related research at the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health.

MOTION OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. WAXMAN moves to strike all after the enacting clause of the Senate bill, S. 1306, and to insert in lieu thereof the provisions of H.R. 3698, as passed by the House.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California [Mr. WAXMAN].

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend the Public Health Service Act with respect to services for mental health and substance abuse, including establishing separate block grants to enhance the delivery of such services."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3698) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 1306

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill, S. 1306, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none and, without objection, appoints the following conferees and reserves the right to appoint additional conferees: Messrs. DINGELL, WAXMAN, ROWLAND, LENT, and BLILEY.

There was no objection.

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–207)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

AUTHORIZING SUNDRY RESCISSION MESSAGES TO BE LAID BEFORE THE HOUSE EN GROS

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to lay before the House en gros the rescission messages transmitted by the President and received by the Clerk on March 20, 1992, and that the messages be considered as read when laid down.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. Without objection, the messages will be printed as separate House documents and separately referred to the Committee on Appropriations and separately indicated in the RECORD and Journal.

There was no objection.

Pursuant to the foregoing unanimous-consent authority, the texts of the messages are as follows, and each message, together with the accompanying papers, is referred to the Committee on Appropriations and ordered to be printed:

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–208)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.3 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–209)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.5 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-210)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.5 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-211)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $2.7 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-212)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.4 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-213)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $3.1 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-214)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.2 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-215)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.2 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-216)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.8 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-217)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-218)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $39 thousand in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-219)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.4 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-220)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-221)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $49 thousand in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–222)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–223)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.2 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–224)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–225)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–226)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–227)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $46 thousand in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–228)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.2 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–229)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.2 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–230)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–231)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.2 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–232)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–233)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-234)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.6 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-235)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.2 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF AGRICULTURE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-236)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.5 million in budgetary resources.

The proposed rescission affects the Department of Agriculture. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-237)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $547.7 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-238)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.5 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-239)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.0 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-240)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $2.0 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-241)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.2 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-242)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-243)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.2 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-244)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.0 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

George Bush.

The White House, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–245)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.3 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

George Bush.

The White House, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–246)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $3.9 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

George Bush.

The White House, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–247)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $2.5 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

George Bush.

The White House, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–248)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.5 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

George Bush.

The White House, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–249)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.5 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

George Bush.

The White House, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–250)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.0 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

George Bush.

The White House, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–251)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.0 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

George Bush.

The White House, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–252)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.5 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

George Bush.

The White House, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–253)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

George Bush.

The White House, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–254)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

George Bush.

The White House, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102–255)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.5 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-256)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.7 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-257)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.0 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-258)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.8 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-259)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.4 million in budgetary resources.

The proposed rescission affects the Department of Housing and Urban Development. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF THE INTERIOR—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-260)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $8.6 million in budgetary resources.

The proposed rescission affects the Department of the Interior. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF THE INTERIOR—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-261)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $7.7 million in budgetary resources.

The proposed rescission affects the Department of the Interior. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF THE INTERIOR—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-262)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $2.0 million in budgetary resources.

The proposed rescission affects the Department of the Interior. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE CORPS OF ENGINEERS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-263)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $3.0 million in budgetary resources.

The proposed rescission affects the Corps of Engineers. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE CORPS OF ENGINEERS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-264)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.4 million in budgetary resources.

The proposed rescission affects the Corps of Engineers. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE ENVIRONMENTAL PROTECTION AGENCY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-265)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.3 million in budgetary resources.

The proposed rescission affects the Environmental Protection Agency. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE ENVIRONMENTAL PROTECTION AGENCY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-266)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.4 million in budgetary resources.

The proposed rescission affects the Environmental Protection Agency. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE ENVIRONMENTAL PROTECTION AGENCY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-267)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Environmental Protection Agency. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE ENVIRONMENTAL PROTECTION AGENCY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-268)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $1.5 million in budgetary resources.

The proposed rescission affects the Environmental Protection Agency. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE ENVIRONMENTAL PROTECTION AGENCY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-269)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $20.0 million in budgetary resources.

The proposed rescission affects the Environmental Protection Agency. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE ENVIRONMENTAL PROTECTION AGENCY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-270)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.1 million in budgetary resources.

The proposed rescission affects the Environmental Protection Agency. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-271)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $3.4 million in budgetary resources.

The proposed rescission affects the National Aeronautics and Space Administraiton. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-272)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report one rescission proposal, totaling $0.8 million in budgetary resources.

The proposed rescission affects the National Aeronautics and Space Administration. The details of this rescission proposal are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

RESCISSION RELATING TO THE DEPARTMENT OF DEFENSE—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 102-273)

To the Congress of the United States:

In accordance with the Congressional Budget and Impoundment Control Act of 1974, I herewith report two rescission proposals, totaling $2,955.3 million in budgetary resources.

The proposed rescissions affects the Department of Defense. The details of this rescission proposals are contained in the attached report.

GEORGE BUSH.

THE WHITE HOUSE, *March 20, 1992.*

AMENDMENT TO THE HIGHER EDUCATION ACT ON THE DEFERMENT OF STUDENT LOANS FOR MEDICAL RESIDENTS AND INTERNS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii [Mrs. MINK] is recognized for 5 minutes.

Mrs. MINK. Mr. Speaker, the House will be debating the Higher Education Act Amendments of 1992 tomorrow. At that time I plan to offer an amendment to reinstate the deferment of student loans for medical residence and interns. I ask unanimous consent that this amendment be inserted in the RECORD at this time.

The bill approved by the Education and Labor Committee replaces the 13 current deferments in the student loan system with three broad categories eligible for deferment. These categories include individuals who are still in school, unemployed, or experiencing economic hardship.

Although the intent of the committee was to simplify the deferment system, I believe that we have made a serious mistake by not providing a specific deferment for medical residents and interns.

It is no secret that during the course of their education medical students accumulate a large amount of debt. Once these students graduate from medical school their profession requires them to complete an internship and/or residency during which they receive little or no compensation. Saddled with high debt medical students often cannot begin to repay their loans as would be required without deferment.

The current provision in the Higher Education Act amendments does not assure these students that they will receive a deferment during this time of additional education and training. Medical interns and residents would qualify under the inschool category and assured a deferment only if they are paying tuition during this time. However, all others would not have this assurance and would have to live with the uncertainty or forego the assistance of Federal student loans for their medical education.

We must make it clear to these students that they will qualify to defer their loans by reinstating a specific deferment for medical residents and interns. I urge my colleagues to support this amendment.

□ 1420

REPUBLICAN RECESSION CONTINUES

The SPEAKER pro tempore (Mr. COOPER). Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes.

Mr. BONIOR. Mr. Speaker, with last week's veto, the President, I believe, has clearly abandoned the middle class in America. The veto proves he does not care about families who cannot make ends meet, does not care about people who have to pay a mortgage, help their kids get through school, pay tuition. This Republican recession is already 2 years old and George Bush is trying very hard to make it even longer. He is getting a lot of help from the so-called experts, who are now saying that our economic problems are about to disappear: The same language, the same song that we heard month after month from these same people over the last 2 years. The same economists who told us 12 months ago that the recession was over are at it again, even though the unemployment rate has risen to 7.3 percent last month, the highest it has been in 6 years.

If we really want to know the figure on unemployment, take the people who have been discouraged and are not looking, add the people who cannot find full-time work, who are working part-time, and we are talking over 10 percent. The same experts, the same people who tell us it is a rosy world out there 8 months ago said the recovery was just about around the corner, it is going to end, and they repeated their predictions again last week, that this recession is about to end.

Mr. Speaker, maybe they are right this time. I genuinely hope they are. No matter how we look at it, however, our middle income families are still hurting and they are hurting badly. The number of unemployed Americans grew by 315,000 in February, bringing the official total to more than 9 million, the highest level since December 1985. That is 2.8 million more than when the recession began in July 1990.

These are only the official figures. In fact, they really mask the depth and magnitude of the problem. A more complete picture, one that portrays, I think, the real human dimensions of this Republican recession, can be found in a different set of statistics which are often ignored by the experts who are straining to find good news. Let me give some examples, 541,000 Americans were laid off and fired in February. That is over a half million people in the month of February. In Michigan, where we have, regrettably, led the Nation in unemployment in 1991, the GM plants that closed in my home State are just an example of this problem. We have 9,000 people last month that were put out of work by GM alone.

The jobless rate for teenagers has dramatically increased by 20 percent. For black teenagers it is 42 percent. The number of people unemployed for 6 months or more has nearly doubled since this time last year—125,000. The length of time the average jobless worker stays unemployed rose 17 weeks in February, up from 16 weeks in January, up from 15 weeks in December.

The official statistics do not take account, as I mentioned a second age, of the invisible jobless, those people who are discouraged, have stopped looking for work, for part-time employment. People who have part-time employment cannot find full-time work. If we counted these victims of the recession, the unemployment figures will be closer to 14 percent; not 10 percent, 14 percent.

All this proves, regardless of the cautious optimism of the experts, that the suffering and hardship of our working families is continuing. We see it everyday when we go back to our districts. Every weekend when I go back there people come up and say:

> I cannot afford health insurance for my kids. What am I going to do, Congressman? My health insurance has increased. It is rising three or four times the rate of inflation. What can I do? We have two or three people working in our family trying to make ends meet and we cannot. We are slipping, falling behind.

Middle class Americans are working harder, they are putting in longer hours, working two jobs, and they still cannot make ends meet. Unfair taxes, soaring health care costs, rising education expenses for kids, costs that have risen for college tuition 8 percent in the decades of the 1980's alone, and the burden continues and it continues.

Mr. Speaker, our economy did not get into this sorry state by chance. We got there as a direct result of 11 years of Republican leadership, 11 years of Republican politics, 11 years of Republican mismanagement, and we are now reaping the harvest of a 22-month long Republican recession. The "R" word is in. In fact, two "R" words are in, Republican recession; that is what it is.

The seeds of this Republican recession were planted a decade ago with this massive tax giveaway to the wealthiest people in this country. I am proud to say on this floor that I was one of the few at that time who voted against the Reagan tax cuts that bankrupted this country. Trickle down, supply side, whatever you want to call it, it was the opening salvo in the Republican assault on the American middle class, and it was based on a very simplistic and false notion that if we give billions of dollars to the wealthy, then the benefits will eventually cascade down from the sky, and people will have work, and they will have health care, and they will have happiness.

We know that they did not trickle down. In fact, the middle class, as my friend from the Senate, Senator MITCHELL, has said, has been trickled on long enough. We are here a decade later and they are still waiting, waiting for the jobs, waiting for the growth, waiting for benefits, waiting for some strategy so we can be competitive in this new economic international climate that we find ourselves in.

The trickle-down hoax did not do anything for the middle class except raise their taxes and leave their income stagnant, but it did work quite well for another group of Americans, for a certain group of Americans that are protected to this day by President Bush, by the Republican Party.

During the 1980's, the richest 1 percent, about 2.5 million people in this country, saw their yearly income skyrocket from $315,000 to over $560,000 a 77-percent increase in a single decade. Think about that, an increase in a decade of over $250,000, 77 percent.

The top 1 percent of the same people now make as much as the bottom 40 percent. There are 2.5 million people, the top 1 percent. They take home in income each day, each month, each year, more than the bottom 40 percent, or 100 million Americans. So much for trickle down. All it got us was the Republican recession.

Now George Bush says we need more of the same, more of the same, more of the same. His so-called economic growth proposal would give a $12,000 tax cut to every American who makes more than $200,000 a year, while ignoring the middle class entirely. He did not even try to spruce up the old policy with some new rhetoric. It is a straightforward "cut taxes for the wealthy, abandon the middle class" approach, trickle down. That was the first mistake.

The roots of the Republican recession go much deeper. They go with the basic misunderstanding of the role of Government in promoting economic growth.

What were the Republican policymakers doing during the 1980's while the wealthy were spending their tax breaks on junk bonds and S&L's and overseas investments? The Republicans, under the leadership of Reagan and Bush, were slashing the very investments, the very investments that increased our long-term productivity in this country. They gave all the wealth, the breaks, to the wealthy, and then they slashed the mechanism for the rest of the country.

How could we expect to build a strong and vibrant economy if our roads and our bridges were crumbling? Sixty-one percent of them need repair; 61 percent of the roads in this country. We lose two bridges every day. We cannot pay attention to that. Or how can we hope to compete in an international market if our work force did not have the education and training to keep pace? How could we make our cities and towns into centers of economic activity and prosperity if we did not invest in community development?

□ 1430

The simple answer is we could not. That is just what Republicans tried to do over the last decade. In virtually every category of productive Federal investment such as highways, education, job training, scientific research, our spending is less today than it was 10 years ago. Forget about last year, forget about 2 years ago, forget about 5 years ago. Our spending is less today than it was 10 years ago. In real inflation-adjusted dollars the Federal Government is investing $23 billion less each year in these programs than it did at the beginning of the Reagan administration, and President Bush wants to continue this trend, wants to continue more Republican recession.

Under his 5-year plan, the investment portion of the Federal budget would decline even faster over the next 5 years than during the last 11. For example, if the self-styled education President had his way, Federal funding for education at the end of his 5-year plan would be 3 percent less than it was in 1980. The President's budget for job training and employment programs in 1997, 5 years down the road, would be 70 percent below the 1980 level. Transportation programs under the President's plan would be 6 percent less; 69 percent less for community and regional development; scientific research and natural resources, the list goes on and on.

We are not making any investments in our country, ladies and gentlemen, and we are not doing so because we have taken the resources, the hard-earned resources that came out of the paychecks of people who punch the clock every day, go to work with their lunch and try and work a second job if they have to, we are taking their resources under this administration and plowing them back into the pockets of the very wealthy in this country.

All one has to do is look at a very simple figure. The top 1 percent make as much income, take as much income home every day, every week, every month, every year as the bottom 40 percent, or 100 million Americans. What an outrage. What an absolute outrage that we tolerate this.

People say, "Well, you Democrats control the House and you control the Senate, why can't you change that?" The fact of the matter is, all you need when you have the Presidency in this city to control what happens is one-third plus one. The President, with his veto pen and a third of either this body plus one or a third of the other body plus one can stop anything and everything if they want. And they did it again the other day when he vetoed the tax bill we gave him that would have put $600 to $800 in the pockets of working and middle-class families, and would require that millionaires pay a 10 percent surtax, and people making over $140,000 a year, couples, go into a fourth bracket.

That is what we asked, some fair distribution in addition to some tax incentives to put people to work in specific industries and jobs, and the President vetoed that.

And then, of course, we had the President's budget. Fortunately, even Republicans found the President's plan was impossible to swallow, and they voted, and they overwhelmingly rejected it.

Mr. Speaker, these are the two seeds of Republican recession, trickle-down tax policy and neglect of the crucial investments in our economic future. These seeds have been germinating for the last decade. That is how we got where we are today, and the harvest is indeed a bitter one, 22 long months of Republican recession.

President Bush says we need to stay the course, do not rock the boat, do not change too much, just stay the course. But before we continue down that road, let us look where it has brought us so far.

Economic growth under this administration has been the slowest of any since the Second World War, slower than Eisenhower, slower than Truman, slower than Roosevelt, slower than Kennedy, slower than Nixon, slower than Johnson, slower than Carter, slower than Reagan. We are losing 9,400 jobs a month under this administration, 9,400 jobs a month. George Bush has the worst job growth record of any postwar President. He is the only President in 40 years to register a negative growth in productivity during his administration. And George Bush has run up a budget deficit at the fastest rate in history.

What can we except for the future but more Republican recession? Unemployment continues to rise while consumer confidence continues to fall. It is now at a 17-year low. Almost 1 million individuals and businesses filed for bankruptcy in 1991, a 21-percent increase over the previous year, a million individuals and businesses. Think of that. That is the only growth industry we have in America, a million individuals and businesses who filed for bankruptcy. Only 19 percent of the American people think the country is on the right track. That is not a prescription for more of the same. It is a mandate, a mandate for fundamental change.

The only way to get out of the Republican recession is to jetison the misguided Republican policies that have gotten us here in the first place. If America wants to stay the course with this President, it will suffer 22 more months of what we have been through.

There is no plan. There is no forethought of where we want to go as a country in health care, in industrial policy, in competitiveness abroad. There are no goals for education and a clean environment.

We Democrats think that the 11 years of this failed leadership is enough. We have a concrete plan to turn this country around. And we started pushing this administration when this recession began. I do not know if some remember in the summer last year when the President was out at Kennebunkport in his boat, also playing golf, and on his desk was a bill to extend unemployment compensation for those who had been thrown out of work. He said it was not an emergency. But he said it was an emergency to help people in other countries, the Kurds, Bangladesh, others—it was an emergency for them and we could send dollars abroad. But when it came time to take care of our own here at home, it was not an emergency. He ignored that bill.

We came back in the fall and sent him another bill to help the unemployed, which were increasing at an astronomical rate. The President vetoed that bill. Finally, we embarrassed him into signing a bill.

Then we said we need to put people to work on jobs, 2 million jobs in the transportation industry. The President did not like that bill. He said he was going to veto it. We embarrassed him into signing that bill.

Then the middle-income tax cut bill that would have made the transfer from the millionaires to the middle class so that we could have some bubble up in our economy, so that we could put some money into the pockets of average working people who have been squeezed, and of course last week the President vetoed that bill.

Our plan includes tax fairness, investments in our economic future, health care reform, rebuilding America starting with the middle class.

President Bush has consistently blocked our agenda for the middle class, and he can do it. I am finding it, I should not say to my amazement because I have been around politics and this institution long enough, but the press, even some professors I talk to do not understand the basic arithmetic of how this institution works.

The President has consistently blocked this agenda for the middle class because he has allies, he has a third of this institution, this body here, and a third in the Senate, and that is all he needs. We can pass whatever we want and he vetoes it, and it comes back and he gets his one-third to line up with him, the country club crowd, and boom, it is gone.

□ 1440

He has used his veto power in case after case to overrule congressional majorities to help middle-class programs, and since his inauguration, he has vetoed 25 bills approved by this Congress aimed at helping people who have been pressed at home. We cannot get them to cover this.

So I talk to the country. I talk to my colleagues. Increased minimum wage, we did, he vetoed. Civil rights bill, vetoed. Parental leave so people do not have to choose between a sick child or a dying mother or father and their job so they can have an option, veto. Help for the jobless and the unemployed, veto. And now the biggest outrage of all, he has vetoed our tax cut for the middle-class families without even reading it. He had the speech written. He had the veto message written. Before it even got to him it was written.

He held this trumped-up pep rally in the White House with Republican leadership sitting in front of him applauding all of his lines of, "Boy, we are going to show those Democrats."

What he said was, "We are abandoning the middle class," and they stood there and they sat there and they cheered the President on, an outrage. It is a pathetic, insensitive, nearsighted and destructive record, and that is what you can do when you have got one-third plus one.

But Government by veto cannot be sustained for long, Mr. Speaker. The ultimate source of political power is the American people, and they are sick and tired of Republican economic policies, and they are tired of this Republican recession.

We Democrats have a different vision. We put our own platform on the table, tax relief, investing in our economic future, reducing the deficit. The President says no. He says that we need another dose of Republican mismanagement and a longer Republican recession.

Well, we disagree, and we are putting our competing visions to the test here on the floor of the House and at the ballot box in the fall.

Mr. Speaker, and my colleagues, I come from a State, one of the great States in the Union, one of the great places in America. It has the largest body of fresh water in North America, hard-working people, give you a good day's work when they can find it, and we are having a tough time.

In 1991 Michigan's unemployment was high, and Michigan's unemployed were hit harder than the unemployed in perhaps any other State in the Nation. Michigan has had the Nation's second-highest unemployment rate indicating it was much harder to find a job there than in most other States, and in addition in major respects, the State's unemployment insurance system was deficient.

Let me tell the Members about this so-called protection that we are supposed to have for workers. You know, they had this deferred system with their employer where a certain amount of the payroll is taken out in case they get unemployed so that there is some coverage, some guide period, there is some leniency until they can get over the hump, unemployment compensation. In 1991 Michigan's unemployed rate averaged 9.2 percent, well above the national rate of 6.7 percent. Only 41 percent of Michigan's unemployed receives unemployment insurance benefits in the average month. This protection rate was sightly below the national average.

In Michigan some 247,000 jobless workers went without benefits in an average month; 247,000 got zippo, and it bears noting that unemployment insurance protection is not intended to cover all jobless workers. Its primary aim is to protect those who have involuntarily lost their jobs.

Unemployment protection has fallen sharply in Michigan, and this can be shown by comparing the proportion of unemployed workers receiving benefits in Michigan in 1991 to the proportion receiving benefits in 1980. Both were recession years with similar national unemployment rates.

In Michigan unemployment protection fell by 27 percent. This was the sharpest decline in the Nation between those two recession periods.

In 1980, some 68 percent of the State's jobless workers, nearly 7 in 10, received some benefits. In 1991, 41 percent, slightly more than 4 in 10, received some benefits, and 6 in 10 did not.

Compounding the decline in unemployment insurance protection in Michigan were State cuts in other parts of the safety net. In 1991, Michigan made what are probably the deepest cuts in programs for the poor any State has made in recent history, American history.

For jobless individuals who are unable to obtain unemployment benefits and who do not have children and are not elderly and disabled, the only source of Government cash support used to be Michigan's General Assistance Program. The State virtually terminated this program in the fall of 1991 as the recession was building and climbing, and there were jobs absent in the economy. However, cutting off cash assistance resulted in putting 82,000 people on the streets, indigent, and the State also terminated health insurance for nearly all of these individuals, all of these 82,000 individuals, while cutting its AFDC Program as well.

The unemployment rate is still high. It is 9 percent in Michigan, and as the Members know, last month we had the GM announcements; in 1 day, 9,000 people were notified that they were out of work.

Mr. Speaker, and my colleagues, I do not know how much longer the country wants to tolerate this type of economic mismanagement. I do not know if the country is ready for another 22 more months of Republican recession. I do not know if the people are willing to trust the rest of this decade to the misguided, unguided, lack of foresight and leadership of this administration.

I mean, we have got to get our house in order in education, in industrial policy. What do I mean by industrial policy? I mean knowing where we want to go in terms of selling our products abroad.

We have no plan at all, and everybody else has a game plan. Everybody that is competing, that is, the French, the Germans, the Japanese, the Koreans, they all have a game plan. They all know where they want to be. They all know how they are going to get there, and yet we bounce here and we bounce there as if some magical, mystical free-enterprise spirit is going to lead us to a pot of gold. Nonsense.

You have to have an idea where you want to go. You have to have a plan. You have to have free enterprise, entrepreneurial spirit to get there, but you have to have a plan. You have to know how many people you want educated in engineering and in math, in biotechnology to get there, and you have got to get a plan together to make sure that that is done so we have the people capable and competent enough to perform these activities and make us competitive, but there is none. There is none.

So I say to my colleagues and the American people that we are at a critical point in the history of our country, I believe especially in the economic realm. We really have to decide whether we want to continue any longer with the people that are supposedly running the show, and if they are, they are putting on a very lousy show, and they are hurting a lot of people.

The anguish of people in the unemployment line, the depression, the mental pain in their eyes and the tenseness in their faces is almost unbearable for them, obviously, but even to see and to watch as we all visit them when we are back in our districts. They deserve better. The country deserves better.

Let us hope that they will give our party a chance to demonstrate that we, in fact, can lead in creating jobs and moving our country forward in education and technology and in development and in the other areas that we need to do to make ourselves competitive internationally. We can do it. We have got the talent. We have got the will power. We know the need. It is just a matter of getting our priorities in order.

The Republican recession is sapping the energy and the spirit of the American people in a way that I think is very, very detrimental not only to those people who are working today, but the younger generation hoping for a better tomorrow.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. COOPER). The Speaker would remind all Members that it is not in order to refer to the President in terms that are personally offensive.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise today in continuation of the subject matters that I have been discussing for almost 2 years and to which the Committee on Banking, Finance and Urban Affairs has been dedicating quite a bit of time and hours as well as staff time.

I particularly wish to express my heartfelt appreciation to the staff director, Kelsay Meek, under whose direction and assistance a professional staffer, Mr. Dennis Kane, very ably assisted by professional counsel, Debra Carr, has been very diligently working on what started out as the oversight or the concern expressed by us and the committee with respect to the Agency Bank of the Italian Bank, Banca Nazionale del Lavoro, which main headquarters started and has been in New York, but which operates and has operated agency branches in Atlanta, GA, in Florida, in Illinois, and in California.

The disturbing thing I have brought out time after time and now and then things will happen that will underline and stress the importance of this matter.

We are looking at it strictly from the standpoint of the responsibilities that inure to the Committee on Banking and its oversight responsibility with respect to the regulatory structure in our country to defend the public interest in the matter of this now extremely high volume of so-called international money. It was the scandals coming out of the letters of credit issued in several billion dollars worth by this agency in Atlanta, letters of credit in favor of Iraq, that has laid open a badly needed correction and one in which some of us have been trying to do something about since the passage of the first 1978 International Banking Act, which I pride myself in having everything to do with bringing about as a result of the hearings that we first had in my district, San Antonio, TX, in 1975, but with the act of 1978 have felt and said in the interim was totally inadequate for the public interest protection and the people's protection in our country.

Today I want to develop one aspect and also a suggested bit of legislation to address it. It has to do with this tremendous exponential increase and now very alarming spread of weapons of mass destruction.

We live in eras. The 20th century in which we are here in the dying years and hours will turn out to be in history as perhaps one of the bloodiest and the most violent in the history of all total mankind to date.

It looks as if the augur, the prediction, as we march into the 21st century is not too promising. But all those people who talk about 2000 and the year 2000, we must remind you that what we do now or do not do now is going to determine what we look forward to in the year 2000. I can recall when this year, 1992, seemed so distant that none of us ever thought it was within the realm of possibility that we could imagine it, much less that we would live to it. That was—just how long ago? When I was growing up, when we entered into the war and I saw many of my classmates, friends, and relatives, go off and not return. These are things as we look back then seemed impossible of ever happening.

So as we peer into the future we must recall that what we do tomorrow or do not do, fail to do, is going to determine just what shape the so-called new 21st century will be like.

We know this, that the proliferation of these fantastic weapons of disruption is of such a nature that now even some of the poorest countries in the world have that capacity. We do not have a good record. You would think that after our experience in the Persian Gulf we would do something in the name of stabilizing that area and trying to control that. We have not. In fact, we have contributed to the sale, wholesale processing of armaments of all types and kinds.

So it is very difficult for me to come and say I have now an amendment to the International Financial Institutions Act over which our committee has jurisdiction, by the way, in order that our representatives to these institutions be instructed not to vote in favor of any kind of assistance to those nations that do not belong to the Nonproliferation Agreement or area of nations, but it seems like morally we are the last ones to preach that right.

As a matter of fact, I feel that all of those who consider the so-called Persian Gulf war to be over to be very deceptively mistaken. It has just barely started. We have not seen the end of it at all, because rather than stabilizing, we have destabilized this area that is potentially the most explosive in the world.

I said in last week's statement that in revealing the incredible sort of self-divided policy of an administration or two where we started out since 1983, when President Reagan removed Iraq from the list of terrorist nations to peddle all kinds of goods, commercial as well as military to Iraq, to suddenly find that as late as the spring and early summer of 1990, just 2 years ago, we were still doing that, only to find that the invasion on August 2, led to a precipitous decision to enter into a state of war.

Now, I was one of those who not only criticized it from the beginning, but voted against it. There was never any debate about the war. The debate was whether or not to be loyal or disloyal to what the President had already done since August 1991. So when we had the so-called discussion in January 1991, it was over with. The decision and the die had been cast and made.

So we are in a similar position today, not too far removed. We have learned nothing. The only thing that I see is that the potential for a tremendously increased and enhanced destabilized world is so great that it takes a very special effort to keep from being demoralized.

The issue of the alarm of worldwide proliferation of this weaponry of mass destruction has now reached the point of what should be total concern to us. Clearly, we in the Congress and the administration could be doing a lot more, and we are not.

□ 1500

I am not one of those—my record shows that I have been a consistent supporter of an adequate defense posture. There have been specific issues in which I have taken the side of some opinion among our own military which differs from that opinion that happened to be in control at the time. And this goes back almost 30 years, or at least 26 years.

So I am not speaking now with hindsight. I am saying that at this time with this haste on the part of the administration as well as the Congress to decimate what was very extensively built up, particularly since 1980–81, and our very, very heavy allocation of resources to so-called defense, but which on occasions we have used for other than defense, we have used it in what I consider to be a very, very unforgivable and, I think, mistaken—I hope I am wrong but up to now I do not think so—manner.

Mr. Speaker, I say this by way of parentheses: We are in the midst of repeating mistakes that were made in the 1920's, in the 1930's, then in the 1950's—the late 1940's, 1950's, and 1960's, and then with the buildup during Vietnam in the middle 1960's in, I believe, a misdirected way.

At this point, we are about to discharge 50,000 military from the Department of the Air Force alone, this year, 50,000, just like that. We are about to discharge three times that number from the Army. I do not recall the figures for the Navy.

To me at this time, with no planned phase, no planned easing in for these very, very trustworthy citizens who have made their lives work that of performing in our service, and discharging them into a depressed economy I think is one of the most abominable mistakes ever made.

Now, I have written as of weeks ago to my colleagues who have the responsibility for chairing the Committee on Armed Services, the Committee on Appropriations; I have addressed letters to the executive branch; I have addressed letters to the Secretary of Defense, saying to please give some thought, because one thing is to dismantle and bring back from overseas in a hasty and intemperate manner, at least, at least 200,000 of our military, with no planned phase, and at the same time reduce domestic defense facilities that have a very basic, basic defense mission. I just cannot imagine how we could have allowed ourselves to reach that point.

So, when I speak with the backdrop of trying to do something to control the proliferation of these terrible weapons of mass destruction, I also pause to say that we have to learn from our past errors.

Mr. Speaker, we have the same thing; there is really nothing new under the Sun. If we are closely interested in our history, we will read the same thing happened after World War I. No question about it, the only thing is the timespan was shorter. And it is the same thing today except the timespan has been enlarged with respect to the events that now impose themselves upon us. It should be no surprise that we would be floundering in a situation that has been described by the predecessor speaker in these special orders, the gentleman from Michigan [Mr. BONIOR], our distinguished majority whip. We know full well, those of us in touch with our constituencies, that our people are hurting and suffering. But I am particularly aware, also, of the pathetic circumstances in which men and women who have served our country loyally, well, patriotically and faithfully, but who now find themselves trying to eke out an existence; say, a retired sergeant with a total family of 4, he cannot live on his retirement pay.

I think these are things we ought to consider while we start, while we begin to add and subtract the so-called peace dividend. I think we have to start first with, as we do other fundamental things, with such as what kind of a banking system do we want for our country? We are here on the threshold of having to make that decision one way or the other.

The same thing with what kind of a defense do we wish for our country and the world as it is evolving?

I think too much has been misperceived about what has happened in other parts of the world, not only in China but in Germany, middle Europe, and Russia, above all.

I think the day is going to come when we wish we had the old Communists to battle, because what we are going to face—and I hope again I am dead wrong in my prediction—will be a lot more worrisome, it will be a lot more destructive and it will hit us here at home a lot more than the other old-time religion known as anti communism.

So, having said that and also let me say having given some suggestions to these people and my colleagues as well in the Defense Department as well as here in the Congress who have that responsibility for our defense mechanism, what my suggestions would be, they are born out of observations I have made to my colleagues in the RECORD years ago, since the 1960's when I was saying that we were spending 55 percent of our defense budget for the so-called defense of Europe but which was a Europe of the 1949-50, and the 1950's, which was long gone. I predicted that when the new generation, which now are either in power or on the threshold of power, that it would be another world, that Germany would, by the very nature of things, reunite or merge or whatever you want to call it, and that in Russia there would be a transformation. But how that transformation works out, I have not seen any real knowledgeable, knowledgeable expression yet from our officialdom in this country.

It is not just simplistically put that from our standpoint, socialism is over with and capitalism is coming in, that is too simplistic and it is a misforgotten and misperceptive interpretation of what is happening. But it all has connotations to what we do in these other areas.

We must never forget that the actions we took and the fact that we intervened in a most massive way in the Middle East has overshadowed our intervention in Central America, our invasion of Panama, where we still have two-thirds of the troops we had at the height of the invasion in Panama. And we had better keep them there because the day they are removed, the regime we put in there will not last 3 hours and no American life is going to be safe.

Now, is that victory? Is that successful policy, or a bankrupt one?

In the Middle East, what do we have? We have the results of the folly of a sort of a vague, inconsistent and contradictory policy by the same administrations in power. These were not anybody else making these decisions.

□ 1510

Mr. Speaker, today what I want to stress is what we can do at this time, and I have already suggested what I intend to do with respect to the other problem of those $800 billion floating around in our country every day of foreign interests over which none of our governmental agencies has the slightest notion exactly where they are going or how they are doing. They might have a little idea, but not even a fragmentary idea. And so much of it, just a little bit of that $800 billion, can be leveraged in moments to a 1,000 percent more than that amount in such things as drug money laundering to even the continuation of arms peddling. The committee's investigation of the BNL, the Italian branch bank, has even covered a multitude of troubling issues. I have reported what our investigation has uncovered by the use of the credit programs; that is, taxpayers-backed credit programs, Commodity Credit Corporation, the Export-Import Bank particularly, and these were letters of credit through these agencies to Iraq, which was actually very well defined in its plans, building up to a very, very sizable proportion its armament and its arms, and with highly developed and sophisticated arms.

The administration turned a blind eye to all these developments, and it showed the disarray within an administration between these various entities and agencies that presumably we all assume an executive branch would have control of and would synchronize or, at least, coordinate. That was to the fact. At that time the United States, right or wrong, was trying to take the side of Iraq against Iran, but at the same time President Reagan was venturing forth with his deals with Iran with respect to missiles, the TOW missiles, and what turned out to be the very questionable thing known as the Iran-Contra business.

I think what we ought to see here is that in all of these instances what has turned out to be most embarrassing and reflects very badly on our country to the outside world—we do not see ourselves as the outside world does. Our perception of ourselves in many ways is a misperception as compared to the perception external countries have of us. Our misperception of other countries is equaled by their misperception of ourselves. Had we had the correct perception, had we had the cultural and historical knowledge that should have been guiding our leadership, I doubt seriously we would have had 55,000 to 58,000 Americans die in Southeast Asia in Vietnam alone.

Now I said this even before I came to the Congress in the case of Korea. I was saying in 1950, when hostilities had broken out and for the first time we had a cold war type of situation, where we had dismantled our fighting apparatus, we then had a call in a hot shooting phase of a draft system that was predicated on a declared war/hot war status, and of course everyone knows the result of that. But even at that time I was saying that we had obviously failed in our diplomacy because in the name of anticommunism we were sending thousands of our boys to the Korean Peninsula, whereas, as far as I know, not one Russian soldier was out there fighting an Asian. We were. To me that was failure of diplomacy and everything else. I think, had we known the history of that area, instead of having been lost in that tremendous anti-Communist cold war culture, which is still keeping us from making wise decisions even now with respect to Russia, doubt seriously we would have had that mistake, even though the Korean incident was done in the name of the United Nations, and President Truman did have some other countries. It was really, truly an American war. But, unlike Vietnam where you did not have that, other than under aegis of American flag, you did not have anybody else participating in what we said was our goal.

We know the results. We know that a lot of things happened, including the hostage taking in Iran, that probably would not have happened if we had not had the predecessor occurrences in Vietnam. But, be that as it might, the only reason we can let the experiences of the past even be attributed to is for us to learn. If we have not learned anything from experience, where is the gain?

What does it profit us now to flagellate ourselves and say, "Well, we're still in need of watching out"? There are a lot of dangers, unspecified dangers. But the point is that one immediate thing that I think we can do so we can help bring about, I think, a welcome relief, is in doing everything we know how to reduce the possession of these mass-destruction weapons. It is just one of those things that we certainly must do so that, as far as we can in our time, do the best we can to safeguard the interests of our children and grandchildren.

I think that the most disturbing of all is the fact that Saddam Hussein was able to utilize these credit programs to build a war machine that included all aspects of weapons of mass destruction.

Well now, as I said, have we learned from experience? No. As far as I can see, we are doing the same thing with China. We have had a succession of Presidents, and Secretaries of Defense, and Directors of the National Security Council, go to China, and come back and make reports that China has finally agreed not to send any more of these weapons to the Middle East. Well, that is hogwash. The first time that was said was several years ago when the Secretary of Defense then came back and said China has given us its word. Just a few months after that, the Secretary of State went over and discovered that China said, "Oh, we're going to stop now."

In other words, the United States has been sashayed by China in identically the same way as Iraq. There is no difference because most of these weapons, such as the missile known as the Silkworm; it was us, a President and a Secretary of Defense, that gave China the license to manufacture that missile.

□ 1520

That was a missile that was used in the gulf to hit one of our Navy ships, killing 37 of our sailors.

Now, this is how ridiculous and how abominable the situation has become and so contrary to our interests, in not having learned from experience.

It so happens that the policy of the regime, not only of Mr. Bush, but Mr. Reagan, was to have extremely friendly relations with China. In fact, the Presidential veto of the conditioning of the most-favored-nation status to China was recently defeated because the Senate did not do what the House did and override that veto.

So I do not know what the expectation there is, other than maybe perhaps President Reagan, who was most vehement in his denunciation of Russian communism, and President Bush, feel that they can get a gentler and kinder communism in China. But let me assure my colleagues, that is not the case. China, like every other nation should, including ours, is looking out for No. 1 first and foremost. Then they consider whatever it is they can to accommodate the United States in its wishes.

But right now the policy of our Government was after the buildup in the Persian Gulf and in Saudi Arabia for the United States to consider anybody who was against Iraq as our friend. So President Bush met with Assad, the leader of Syria, in Switzerland in November 1990. Why, because Syria was the only Arabic nation that went in favor of Iran as against Iraq. Every other Arabic nation supported Iraq in the Iraq-Iran war because, as I have told my colleagues, there seems to be no perception in our country that Iran is a non-Arabic country.

So have we learned anything? No. We are still making deals under the table with Iran.

They are getting arms. For what purpose? At this point I wish I knew completely. All I know is that Iran is building up a tremendous armament and is looking up toward the Russian border where you have 3 million Muslims, a border that is just 90 miles from Iraq, incidentally. So these weapons include all devices capable of killing many people indiscriminately.

Also the proliferation of chemical and nuclear weapons has traditionally been a major concern to the international community. The aftermath of the Persian Gulf war clearly demonstrates a need for not only getting tougher standards to limit this proliferation of nuclear, chemical, and biological weaponry, missiles, missile systems, but also the proliferation of advanced conventional weapons and the transfer of dual use goods and technology that can be converted with little or no difficulty to military use.

The demise apparently, certainly of the so-called Soviet Union, and the increased threat of the development and use of weapons of mass destruction by Third World countries, should be sounding international alarm bells all throughout the world.

The collapse of the Soviet economy is unleashing a flood of uranium ore and other nuclear materials and technical expertise into the world market, and it will only be a matter of time before dangerous products such as plutonium from spent Soviet reactor fuel reaches the black market, if it has not done so already.

In addition, sophisticated weapons are becoming standard equipment in Armed Forces throughout the world. As a matter of fact, Syria and its leader Assad in the Arab world and in the Middle East are not considered too much different from Saddam Hussein.

I reported to my colleagues months ago that Syria had obtained 300 newly improved, sophisticated Scud missiles by way of North Korea almost a year ago, or at least 10 months ago.

Here about 3 weeks ago I saw there was some ship supposedly delivering arms to Iran, and maybe Syria too. But the fact is, Syria got its 300 improved, sophisticated Scuds at least 9½ or 10 months ago.

These have contributed to the regional insecurity and instability, and will vastly increase the death and destruction when and if hostilities do break out.

Many of my colleagues think the Persian Gulf situation is over with. My friends, I wish it were. It is not.

The number of declared nuclear powers has grown slowly since World War II and is still limited to the five permanent members of the U.N. Security Council, that is, the full power.

You have some sort of a subsuming of that power in some much lesser nations, that is, considered lesser. I do not think there is such a thing.

These five, of course, are our country, the Soviet Union, Great Britain, France, and China. However, at least four other countries probably have a nuclear capability. I would say they do, not just probably. But there again, it is my word. These countries are India, Israel, Pakistan, and South Africa.

Several other nations are considered capable of developing nuclear weapons in the next several years if they want to. Those countries include Argentina, Brazil, Iran, North Korea, South Korea, and Taiwan.

As a matter of fact, our CIA Director, Robert Gates, recently warned that North Korea may be only months away from building an atomic bomb. My information is that Pakistan was a lot closer than North Korea months ago.

Remember, in the Persian Gulf war we killed better than 200,000 Moslems. If my colleagues think that there is not a very bitter, anti-United States feeling where you have vast multitudes sworn to revenge, if it takes a thousand years, that is the translation from at least the Arab Moslem.

But remember, the Moslem world is worldwide; Pakistan is a Moslem country.

We have been lucky, up to now. But these things are changing so quickly, so unpredictably, that the potential for great and serious mischief is great.

Iraq and Syria have reportedly developed offensive biological weapons, and five more countries are progressing toward the development of biological weapons. It has been reported that Iraq used biological weapons. Certainly the accusation has been passed.

But there again, where is the moral right? The first one to use gas against Arabs was Winston Churchill, the British, in the early 1920's. They were Iraq Arabs they used them against.

In the words of Winston Churchill, or his military head, it was used in order to subdue the, quote/unquote, recalcitrant Arabs.

So where is the moral right? Who are we to preach?

At least 14 Third World countries have offensive chemical weapons, and 10 other countries are trying to develop them. Most of these countries are located in regions of political and military tension, the Middle East, South Asia, Southeast and Northeast Asia.

Iraq repeatedly used chemical weapons against Iranian troops during the brutal Iran-Iraq war, and even against its own citizens of Kurdish extraction.

□ 1330

Approximately 25 countries now have surface-to-surface ballistic missiles and 12 of those countries are in the Middle East and Asia, not counting Africa.

The transfer of advanced conventional weapons has since contributed to regional instability. In the last decade and a half, at least, the sheer amount of money spent on armament in the Middle East defies any kind of calculation. Iraq was able to build the world's sixth largest armed forces and equip them with some of the best weapons systems of the industrial powers.

It did not expose that during the Persian Gulf, so-called, war. I have always been intrigued by that. It was a war without a battle. There were no battles in the recent Persian Gulf war. There were some skirmishes.

The administration has done little to contain the proliferation, and clearly there is a need for action, my colleagues. It is not enough to insist that Iraq cleanse itself when China ships Scuds, Pakistan develops nuclear bombs, and North Korea produces weapons-grade plutonium.

The United States must show leadership in response to these unprecedented threats and one way to do this, at least from our standpoint and jurisdiction, is to insist that countries who benefit from multilateral development banks comply with all weapons control regimes. Those regimes should be tighter, tougher, better enforced, but there also must be incentives for compliance. For this reason, I have planned to, I had planned tomorrow, we were going to have the markup on the International Institutions legislation, but I understand that the chairman of the subcommittee has requested we postpone that. I may offer it as a separate bill, but I think the best way to do it is as I intend, and I would like to place a copy of this amendment, which I will append sooner or later, assuming I get the majority of the committee to go along with me, when and if we do have that markup, and I intend to have a copy of that here in the RECORD for the study of my colleagues when the RECORD is printed and delivered tomorrow.

For this reason I plan to introduce legislation that would prohibit the United States from providing funds or agreeing to provide funds through these international monetary institutions, such as the IMF, the International Monetary Fund, the World Bank and its affiliates, as well as the multilateral development banks, if a member country of these institutions is capable of producing or seeking to produce a type of weapon that is a subject of a regime for controlling weapons of mass destruction, unless such country is adhering to the applicable weapons control regimes. We shall not vote for those funds.

There are four internationally recognized nonproliferation regimes. We have a nuclear nonproliferation regime, a chemical, biological and missile. The nuclear nonproliferation is more extensive and fully developed than those designed to control the spread of chemical and biological weapons and missiles.

This nuclear regime is organized on the foundation provided by the Nuclear Nonproliferation Treaty and is supported by an international organization, the International Atomic Energy Agency, dedicated to servicing the regime with verification mechanisms.

It is this one, the IAEA, that is monitoring the situation in Iraq. The nuclear nonproliferation regime, however, suffers from several inadequacies. For instance, two of the five declared nuclear weapon nations, China and France, because France has had nuclear weapons for a long time, certainly since it removed itself from NATO, have not signed this treaty. Neither has India, nor Israel, nor Pakistan, nor South Africa.

At the same time China, India, and Israel are all heavy users of one facility or another of the multilateral institutions.

We should, and I intend to, exert some effort in that area.

The chemical and biological regimes are structured loosely around two treaties; the Geneva Protocol of 1925. Well, that was 3 years or 4 after Mr. Churchill sanctioned the use of gas, I think it was mustard gas, if I remember correctly, against the recalcitrant Arabs, which is now Iraq, which prohibits the use but not the stockpiling of chemical weapons.

That is interesting. It prohibits the use but not the stockpiling. And the Biological and Toxin Weapons Convention, which outlaws the use, development, production, stockpiling of biological weapons.

Despite the existence of these regimes and the international organizations that monitor these weapons, Iraq not only had the ability to purchase the technology and materials to produce chemicals and biological weapons in the international marketplace, including the United States. They were also able to develop the technology to produce these weapons themselves, which was the prime objective of Saddam Hussein.

The missile technology control regime consists almost exclusively of multilateral export control groups and support for the regime is limited to a relatively small number of technologically advanced nations.

These export controls can obviously be manipulated by the governments that control them, including ours.

Iraq hopes to produce its own missiles but in the meanwhile had no problem in obtaining Scuds from Soviet and Chinese sources. Although these control regimes serve a purpose in slowing down the spread of these lethal weapons, clearly more must be done. Countries that take advantage of and benefit from the programs available through the international development and financial institutions have an obligation to the same international community that comprises these organizations.

My legislation requires that the countries that belong to these institutions, and thereby benefit from them financially and economically, step up to the plate and be responsible citizens of the world community.

If not, they should be outside of the pale of law and certainly outside of the area of assistance through these international financial institutions.

The United States must insist that those countries that expect to receive credit from the IMF, World Bank and the other multilateral development institutions stop wasting resources on the futile and possible fatal request for weapons of mass destruction. How can we and why should we provide credit to countries that spend the resources building terror weapons?

Someday they can very well and quite easily be directed against us. And for the first time on our own land, and see the terrible consequences of war and all its accoutrements. God forbid what I say, but I say the potential is there.

Should we wait to find out if that is right or wrong? We should apply that lesson by refusing to provide funds for international institutions that do not insist on adherence to international regimes for the control of nuclear, chemical and biological weapons and to regimes intended to stop the proliferation of the missiles to deliver them. Surely this is not too much to ask of the clients and the recipients of these institutions like the IMF, the World Bank, and the other, of which the United States was one of the initiator countries, and the other multilateral economic assistance agencies.

Mr. Speaker, I include for the RECORD the amendment to which I referred.

At the end of the bill, insert the following:

TITLE IX—NON-PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

SEC. 901. FUNDING OF INTERNATIONAL DEVELOPMENT INSTITUTIONS DENIED.

(A) FUNDING PROHIBITION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, beginning 1 year after the date of the enactment of this Act, no department, agency, or officer of the United States Government may, on behalf of the United States, provide funds to any international development institution, or enter into any agreement to do so, if the most recent determination of the Secretary of the Treasury to paragraph (2) is that a member country of the institution—

(A) is capable of producing, or is seeking to produce, a type of weapon that is a subject of a regime for controlling weapons of mass destruction; and

(B) is not adhering to the regime.

(2) ROLE OF THE SECRETARY OF THE TREASURY.—Within 6 months after the date of the

enactment of this Act, and annually thereafter, the Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of Defense, and the Director of the Central Intelligence Agency, shall—

(A) determine which member countries referred to in paragraph (1) are capable of producing, or are seeking to produce, a type of weapon that is a subject of a regime for controlling weapons of mass destruction;

(B) with respect to each country described in subparagraph (A)—

(i) identify the international development institutions of which the country is a member; and

(ii) determine whether or not the country is adhering to the regime; and

(C) report such information to the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(b) UNITED STATES TO URGE ADOPTION OF REQUIREMENT.—The Secretary of the Treasury shall instruct the United States Executive Director of each international development institution to use the voice and vote of the United States to urge the respective institution to amend the charter of the institution to require that, not later than 1 year after the date of the enactment of this Act, each member country of the institution which is capable of producing, or is seeking to produce, a type of weapon that is a subject of a regime for controlling weapons of mass destruction adhere to the regime.

(c) DEFINITIONS.—As used in this section:

(1) ADHERE.—The terms "adhere" and "adhering" mean, with respect to a country and a regime, that the country is honoring a formal commitment to participate in the regime that was made by the country to the other participants in the regime.

(2) INTERNATIONAL DEVELOPMENT INSTITUTION.—The term "international development institution" means the International Monetary Fund, the International Bank for Reconstruction and Development, the European Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guarantee Agency, the African Development Bank, the African Development Fund, the Asian Development Bank, the Inter-American Development Bank, and the Inter-American Investment Corporation.

(3) REGIME FOR CONTROLLING WEAPONS OF MASS DESTRUCTION.—The term "regime for controlling weapons of mass destruction" means—

(A) the nuclear weapons non-proliferation regime;

(B) the chemical weapons non-proliferation regime;

(C) the biological weapons non-proliferation regime; and

(D) the missile Technology Control Regime (as defined in section 11B(c) of the Export Administration Act of 1979).

(4) NUCLEAR WEAPONS NON-PROLIFERATION REGIME.—The term "nuclear weapons non-proliferation regime" means—

(A) the Treaty of the Non-Proliferation of Nuclear Weapons, signed at Washington, D.C., London, and Moscow on July 1, 1968, (TIAS 6839), and any amendments thereto;

(B) Additional Protocols I and II to the Treaty for the Prohibition of Nuclear Weapons in Latin America (also known as the "Treaty of Tlatelolco"), signed at Mexico on February 14, 1967, (TIAS 7137), and any amendments thereto;

(C) the guidelines adopted by the Nuclear Suppliers Group, also known as the "London Club"; and

(D) the Convention on the Physical Protection of Nuclear Material, and any amendments thereto.

(5) CHEMICAL WEAPONS NON-PROLIFERATION REGIME.—The term "chemical weapons non-proliferation regime" means—

(A) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (also known as the "Geneva Protocol of 1925"), and any amendments thereto; and

(B) the chemicals export controls adopted by the group known as the "Australia Group".

(6) BIOLOGICAL WEAPONS NON-PROLIFERATION REGIME.—The term "biological weapons non-proliferation regime" means—

(A) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (also known as the "Geneva Protocol of 1925"), and any amendments thereto; and

(B) the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (also known as the "Biological Weapons Convention"), and any amendments thereto.

SEC. 902. PROHIBITION AGAINST EXPORT-IMPORT BANK ASSISTANCE FOR EXPORTS TO CERTAIN COUNTRIES NOT ADHERING TO REGIMES FOR CONTROLLING WEAPONS OF MASS DESTRUCTION.

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i(b)) is amended by adding at the end the following:

"(13) The Bank may not guarantee, insure, extend credit, or participate in the extension of credit in connection with any export of goods or services to any country which—

"(A) is capable of producing, or is seeking to produce, a type of weapon that is a subject of a regime for controlling weapons of mass destruction (as defined in section 901(c) of the International Development, Trade, and Finance Act of 1991); and

"(B) is not adhering to the regime (as determined in accordance with subsection (a) of such section)."

Amend the table of contents accordingly.

U.N. CONFERENCE ON ENVIRONMENT AND DEVELOPMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. COOPER) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries:

To the Congress of the United States:

In 1991 two events set the stage for a new era in history: the West won the Cold War and the United States led a U.N. coalition to roll back aggression in the Middle East. Both watershed events demonstrated the power of sustained international cooperation in pursuit of just and moral causes. They underscored the need for U.S. leadership in a complex, interdependent world.

Historic changes are also occurring in the relationship between humanity and the environment. We increasingly recognize that environmental improvement promotes peace and prosperity, while environmental degradation can cause political conflict and economic stagnation. We see that environmental protection requires international commitment and strategic American leadership in yet another just and moral cause.

MERGING ECONOMIC AND ENVIRONMENTAL GOALS

As I often have stated, we can have both economic growth and a cleaner, safer environment. Indeed, the two can be mutually supportive. Sound policies provide both.

My environmental strategy seeks to merge economic and environmental goals. For example, boosting two engines of economic growth—technological change and international trade—can also provide benefits for the environment. Likewise, regulatory approaches that emphasize economic efficiency can help lower the costs of securing greater environmental quality. The following examples are illustrative:

Investments in Technology: My Administration has invested aggressively in key areas of research and development that will boost productivity and economic performance. Several technologies heralded primarily for their benefit to economic growth and competitiveness, such as advanced materials, high performance computing, electric batteries, and biotechnology, also have valuable environmental applications. Increasing investments in basic environmental research will enable policymakers to devise more informed, effective, and efficient policies.

International Trade: In negotiations on the General Agreement on Tariffs and Trade (GATT), the United States calls on other nations to reduce farm subsidies, which harm competitive farm exports and contribute to environmental degradation. In parallel with negotiations toward a North American Free Trade Agreement (NAFTA), the United States and Mexico are expanding environmental cooperation. A free trade agreement would lead to stronger growth in both countries and provide increased financial resources for environmental protection.

Economically Efficient Regulations: Our Clean Air Act initiatives spur utility energy efficiency through innovative tradable sulfur emission allowances and an overall cap on emissions. Restraining electricity demand cuts emissions of carbon dioxide and acid rain precursors, lowers energy bills for homeowners and businesses, and limits the need for new powerplant construction.

THE GLOBAL ENVIRONMENT AND DEVELOPMENT

Robust economic growth is needed to meet the needs and aspirations of the world's peoples. At the same time, the nations of the world must ensure that economic development does not place untenable burdens on the Earth's environment.

My Administration has been working with business leaders, environmentalists, scientists, and the governments of other countries to develop more effective, efficient, and comprehensive approaches to global economic and environmental issues. Preparations for the United Nations Conference on Environment and Development (UNCED or Earth Summit), which convenes this June in Rio de Janeiro, Brazil, have accelerated this process.

My priorities for this historic conference are as follows:

—Sign a satisfactory global framework convention on climate change;

—Agree on initial steps leading to a global framework convention on the conservation and management of all the world's forests;

—Improve U.N. environmental and developmental agencies as well as the Global Environment Facility (GEF), which provides financial assistance to developing nations in meeting the costs of gaining global environmental benefits;

—Launch an action program to conserve biodiversity and, if possible, sign a satisfactory global framework convention on biodiversity;

—Agree on a strategy and expand efforts to improve the condition of oceans and seas; and

—Adopt a strategy and initiatives to promote technology cooperation in a free market context.

Climate Change: On behalf of the United States, I hope to sign by June 1992 a global framework convention that will commit as many nations as possible to the timely development of comprehensive national climate action plans. Such plans would commit nations to a process of continuous improvement, addressing sources and reservoirs of all greenhouse gases as well as adaptation measures. Parties to the convention would compare their action programs on a regular basis and revise them as necessary.

By producing specific, comprehensive environmental commitments that fit each nation's particular circumstances, this approach is preferable on environmental and economic grounds to the carbon-dioxide-only proposals that others have espoused. The United States will continue to restrain or reduce its net carbon dioxide emissions by improving energy efficiency, developing cleaner energy sources, and planting billions of trees in this decade. But an exclusive focus on targets and timetables for carbon dioxide emissions is inadequate to address the complex dynamics of climate change.

Forests and Biodiversity: The nations of the world need to do a better job of studying and conserving the diversity of life on Earth. Nations also need to work together to improve the management and protection of all the world's forests. For these reasons, I am renewing my call for a global framework convention on the management and conservation of forests and restating the U.S. hope that UNCED will be the occasion for making progress toward such a convention. I am also hopeful that a convention on the conservation of biodiversity may be signed at UNCED.

Institutional Reform and Funding: Member nations need to coordinate U.N. structures and make them more efficient and effective in meeting UNCED goals. A related priority is to continue development of the World Bank's Global Environment Facility (GEF). The GEF should become the principal vehicle for assisting developing nations with the incremental costs of gaining global environmental benefits under new international agreements.

Oceans: Coastal and estuarine areas include some of the most diverse and productive ecosystems on Earth. Increasing population and development are stressing these areas, particularly in nations that lack effective programs to protect and manage marine resources. The United States urges UNCED parties to adopt a set of principles and an action plan to address such issues as the status of living marine resources, coastal zone management, ocean monitoring, and land-based sources of marine pollution.

Technology: The UNCED participants should adopt a strategy and initiatives to promote market-based environmental technology cooperation with developing nations. In some cases, the transfer of environmentally preferable technologies results from official foreign assistance. However, in the vast majority of cases it occurs as the result of private sector activities such as direct foreign investment, joint ventures, licensing, exports, and professional training. Thus the role of governments and international institutions should be to foster the market conditions that accelerate private sector activity in the growing global market for environmental goods and services.

THE DOMESTIC ENVIRONMENT

In the midst of increased attention to global environmental issues, the United States in the last 3 years has enacted and begun to implement sweeping environmental reforms. We will continue to take action predicated on sound science and efficient solutions. State and local governments, businesses, community groups, and individual citizens must also play a part.

A number of items on the environmental agenda, including reauthorization of the Clean Water Act, the Resource Conservation and Recovery Act, and the Endangered Species Act, require a thorough, judicious review with an eye toward the long term. Wherever possible, such legislation should encourage economically sensible, market-based mechanisms. Quick-fix actions will not be in the best interest of the environment or of our economy.

The Congress should make a significant contribution to economic growth and the environment by taking the following steps during this session:

—Enact balanced national energy legislation, providing equal measures of new conservation and production;

—As requested in my budget, provide increased funds to a number of key environmental and natural resources programs; and

—Establish a U.S. Department of the Environment.

National Energy Legislation: In the year that has passed since I proposed a National Energy Strategy (NES) providing equal measures of new energy conservation and production, the Administration has moved to implement more than 90 NES initiatives that do not require legislative action. The Congress has followed through by increasing funding for an array of research and development initiatives. Now, in addition to these measures, the Congress needs to complete action on comprehensive national energy legislation.

Environmental and Natural Resources Budget: Within the context of initiatives to tighten Federal budget discipline, my proposed budget for fiscal 1993 reflects my continuing belief that we should increase national investments in key environmental and natural resources programs. Among my priorities are the following:

—$1.85 billion (a 17-percent increase over fiscal 1992) for the America the Beautiful program, including acquisition of key park, forest, refuge, and other public lands; my program to encourage public participation in the planting of one billion trees per year; a partnership with the States to create state parks and recreation facilities; and projects to improve environmental infrastructure and recreational opportunities on the public lands;

—A record $5.5 billion (a 26-percent increase over fiscal 1992) for the cleanup of Department of Energy facilities involved in nuclear weapons manufacture;

—$201 million (almost double the fiscal 1992 level) for U.S.-Mexico border region cleanup, consistent with the Environmental Action Plan I presented to the Congress last year in support of the proposed North American Free Trade Agreement;

—Almost $1 billion for energy research and development, including over $350 million for conservation research and development (more than double the fiscal 1989 level) and $162.4 million (a 47-percent increase over fiscal 1992) for transportation programs such as development of electric automotive batteries and the purchase of 5,000 alternative-fuel vehicles;

—$812 million (a 35-percent increase over fiscal 1992) for wetlands research, acquisition, restoration, and enhancement, achieving a 175-percent increase over fiscal 1989 levels;

—For the second year in a row, $340 million for accelerated construction of sewage treatment facilities in six coastal cities that currently have inadequate treatment facilities;

—$7 million (a 46-percent increase over fiscal 1992) for the designation and management of National Marine Sanctuaries;

—$229 million (a 22-percent increase over fiscal 1992) for implementation of the 1990 Clean Air Act;

—$1.75 billion (an 8-percent increase over fiscal 1992) for cleanup of Superfund toxic waste sites; and

—$1.37 billion (a 24-percent increase over fiscal 1992) for further expansion of the world's largest global climate change research program.

U.S. Department of the Environment: Considering the scope and importance of responsibilities conferred upon the Environmental Protection Agency (EPA), I announced my support in 1990 for legislative efforts to elevate EPA to Cabinet status. The Congressional leadership has responded with controversial, extraneous amendments and parliamentary delays. This legislation should not be held hostage any longer. Once again, I call on the Congress to elevate EPA to Cabinet status and make it the U.S. Department of the Environment.

A NATIONAL COMMITMENT

There is a growing commitment from all segments of society to improve the environment. A key element of my environmental strategy is encouraging private companies and organizations to work with each other and with government to deliver conservation benefits that go far beyond what government acting alone could provide.

In July 1991 I named leaders of business, environmental, recreational, educational, and philanthropic organizations to serve as members of the President's Commission on Environmental Quality (PCEQ). I have challenged this Commission to develop and implement an action agenda to improve the environment through voluntary private sector activities that meet the test of economic efficiency.

I also established a Presidential medal for environment and conservation achievement and had the honor of presenting medals to an outstanding group of Americans last October. This program rewards private initiative in service to the environment in a manner equivalent to long-standing Presidential recognition of excellence in the arts, humanities, sciences, and world affairs.

We have encouraged additional private sector initiatives through such ground-breaking efforts as the "Green Lights" energy efficiency project, the "33-50" toxic emission reduction program, the U.S. Advanced Battery Consortium to support development of electric vehicles, and land management partnerships between conservation groups and the Departments of Defense, Agriculture, and the Interior.

FREEDOM'S FULL MEANING

As more people around the world join the democratic family and reach for their God-given rights and aspirations, we Americans who have led the way for over 200 years will continue to bear a responsibility to give freedom its full meaning, including freedom from want and freedom from an unsafe environment.

The Cold War was a stark test of the global community's faith in these ideals. We passed that test.

The deadlock in negotiations for improved international trade rules is another challenge to the principles that have drawn the world closer together in the last half century. We must not fail that test.

These struggles for national security and economic growth are now joined by environmental concerns such as deforestation and potential climate change, which also have profound long-term implications. The year ahead will test our ability to redefine the relationship between humanity and the environment—and in so doing, to secure a greater peace and prosperity for generations to come. We must not fail that test.

GEORGE BUSH.

THE WHITE HOUSE, *March 24, 1992.*

□ 1540

Pension Security Act of 1992

The SPEAKER pro tempore (Mr. COOPER). Under a previous order of the House, the gentleman from Illinois [Mr. MICHEL] is recognized for 10 minutes.

Mr. MICHEL. Mr. Speaker, today I am introducing the Pension Security Act of 1992, H.R. 4545, at the request of the administration. This bill contains reforms intended to strengthen single-employer pension plans and the Pension Benefit Guaranty Corporation, which is the insurance program that stands behind those plans. Below is a section-by-section analysis of H.R. 4545.

PENSION SECURITY ACT OF 1992

(All references to "Code" are references to the Internal Revenue Code of 1986, as amended. All references to "ERISA" are references to the Employee Retirement Income Security Act of 1974, as amended.)

TITLE I. AMENDMENTS TO PENSION PLAN FUNDING REQUIREMENTS.

SUBTITLE A. AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.

Sec. 101. Revision of additional funding requirements for plans that are not multiemployer plans

Section 101 of the bill revises the additional funding requirements for plans that are not multiemployer plans by replacing the deficit reduction contribution with a similar "underfunding reduction requirement" and adding a new "solvency maintenance requirement". The new requirements apply to underfunding plans with more than 100 participants.

Subsection (a) of section 101 of the bill amends section 412(a) of the Code to redefine the term "accumulated funding deficiency" as the largest of: (1) the contribution required under the funding standard account or alternative minimum funding standard account, whichever is less, (2) the underfunding reduction requirement, if applicable, or (3) the solvency maintenance requirement, if applicable.

Subsection (b) amends section 412(l) of the Code to eliminate the deficit reduction contribution and replace it with a definition of the new underfunding reduction requirement. The underfunding reduction requirement is the sum of:

(1) a percentage of underfunding calculated according to a formula that is the same as the one in current section 412(l) that applies to "new current liability"—that is, 30 percent of underfunding for plans with a funding ratio of 35 percent or less, which underfunding percentage is reduced by .25 multiplied by the excess (if any) of the initial funding ratio over 35 percent;

(2) the charges for normal cost and any waived funding deficiencies under section 412(b) of the Code;

(3) the sum of charges after December 31, 1993, for net experience losses and losses due to changes in actuarial assumptions to the extent that they exceed the sum of credits after December 31, 1993 for net experience gains, changes in actuarial assumptions, and contributions in excess of section 412(b) requirements; and

(4) the sum of charges and credits before December 31, 1993 for net experience losses and gains, and losses and gains from changes in actuarial assumptions, and contributions in excess of section 412(b) requirements.

Subsection (c) adds a new section 412(o) to the Code defining the new solvency maintenance requirement. The solvency maintenance requirement is the sum of:

(1) disbursements in the plan year and interest on the plan's initial unfunded liability (liabilities under section 401(a)(2) of the code that are not funded as of the first day of the plan year);

(2) the charges for normal cost and any waived funding deficiencies under section 412(b);

(3) the sum of charges after December 31, 1993, for net experience losses and changes in actuarial assumptions losses to the extent that they exceed the sum of credits after December 31, 1993 for net experience gains, changes in actuarial assumptions, and contributions in excess of section 412(b) requirements; and

(4) the sum of charges and credits before December 31, 1993 for net experience losses and gains, and losses and gains from changes in actuarial assumptions, and contributions in excess of section 412(b) requirements.

The amount of the solvency maintenance requirement exceeding the section 412(l) requirement is phased-in at 20 percent per year.

Subsection (c) also defines various terms for purposes of the solvency maintenance requirement and the underfunding reduction requirement. It also exempts plans with 100 or fewer participants from both requirements and applies the requirements on a phased-in basis for plans with 101 to 150 participants.

Subsection (d) of section 101 makes conforming changes to sections 412, 401(a)(29) and 404(a)(1)(D) of the Code.

The amendments made by section 101 are effective for plan years beginning after December 31, 1993.

Sec. 102 Correction to ERISA citation

This section corrects section 404(g)(4) of the Code to provide that the applicable version of ERISA for purposes of determining deductibility of contributions under section 404 is the version in effect on the date of the transaction.

The amendment made by this section shall be effective on the date of enactment.

Sec. 103. Effective dates

The effective dates to the amendments made by Subtitle A are described along with the section to which they relate.

SUBTITLE B. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 121. Revision of additional funding requirements for plans that are not multiemployer plans

Section 121 amends section 302 of ERISA to conform to the changes made by section 101 of this bill to section 412 of the Code.

Sec. 122. Effective date

This section conforms the effective date provision for the corresponding ERISA amendments.

TITLE II. AMENDMENTS TO TITLE IV OF ERISA

Sec. 201. Limitation on benefits guaranteed

This section amends section 4022(b) of ERISA to eliminate the guarantee for new benefits or benefit increases due to plan amendments made after December 31, 1991 for plans that are not fully funded for vested benefits at the end of the plan year in which the amendment is made. If plan is or subsequently becomes fully funded for vested benefits, any such benefit or benefit increase would be guaranteed in full provided the amendment was made at least one year prior to plan termination. This new rule does not apply to certain post-December 31, 1991 amendments resulting from collective bargaining agreements in existence on that date.

Section 201 also provides that any plan provision or amendment adopted or effective after December 31, 1991 that creates or increases unpredictable contingent event benefits would not be guaranteed by the PBGC. Benefits adopted and effective on or before that date would not be affected by this rule.

The amendments made by this section shall be effective on December 31, 1991.

Sec. 202. Enforcement of minimum funding requirements

Section 202 of the bill gives the PBGC the power to bring a civil action to enforce minimum funding standards, including the enforcement of liens, in plans covered by the PBGC's guarantee under section 4021 of ERISA. (The enforcement authority of the Department of Labor would not be changed.)

The amendment made by this section is effective for installments and other required payments due on or after the date of enactment.

Sec. 203. Definition of contributing sponsor.

Section 203 of the bill makes a clarifying change in the definition of contributing sponsor of a single-employer plan to clarify that the contributing sponsor is the person entitled to receive a tax deduction under section 404(a)(1) of the Internal Revenue Code for contributions required to be made to the plan under section 302 of the Act or 412 of the Code.

The amendment made by this section is effective as if included in the Pension Protection Act.

Sec. 204. Recovery ratio payable under corporation's guaranty.

Section 204 of the bill clarifies that the average recovery ratio that PBGC applies to outstanding benefit liabilities to determine the portion of nonguaranteed benefits that will be paid to participants in small plans terminated in distress or involuntary terminations is calculated using the PBGC's recovery experience for distress and involuntary terminations of small plans only. The section also extends from three to seven years the transitional rule under which the recovery ratio in small plans is based on the recovery in the plan rather than the average recovery ratio.

The amendments made by this section are effective as if included in the provision of the Pension Protection Act to which such amendments relate.

Sec. 205. Seventh revolving fund.

The Pension Protection Act created a seventh revolving fund to receive premiums for plan years beginning on or after January 1, 1988, and to pay benefits in plans terminating on or after October 1, 1988, or before that date if other funds are no longer available. This section discontinues the seventh fund and merges its assets and liabilities with the assets and liabilities of the first revolving fund (the single-employer basic benefits guaranty fund).

The elimination of the seventh fund is effective as of September 30, 1992.

Sec. 206. Distress termination criteria for banking institutions.

A contributing sponsor or controlled group member can qualify for a distress termination under the first distress test of ERISA section 4041(c)(2)(B) if the sponsor or member is liquidating under Title 11, United States Code, or under any similar law of a State or political subdivision of a State. Section 206 of the bill extends the first distress test to proceedings under other Federal laws that are similar to Title 11 proceedings.

The amendment made by this section is effective for terminations initiated on or after the date of enactment.

Sec. 207. Variable rate premium exemption.

A single-employer plan that is at the full funding limitation under section 412(c)(7) of the Internal Revenue Code for the preceding plan year is exempt from the variable-rate PBGC premium charge for unfunded vested benefits. Section 207 of the bill amends section 4006(a)(3)(E)(v) of ERISA to allow an exemption from the variable-rate charge when contributions to the plan for the preceding plan year are not less than the maximum amount that may be contributed without incurring an excise taxes under section 4972 of the Code.

The amendments made by this section are effective for plan years beginning after December 31, 1992.

TITLE III. EMPLOYER LIABILITY, LIEN AND PRIORITY

SUBTITLE A. AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 301. Employer liability lien and priority amount.

Subsection (a) of section 301 of the bill amends section 4068(a) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") to provide that for terminations initiated on or after January 1, 1992, the PBGC's lien for employer liability shall not exceed the sum of:

(1) the amount of benefits attributable to the occurrence of unpredictable contingent events within the three years before plan termination, plus

(2) the greater of—

(a) 30 percent of the collective net worth of liable persons, or

(b) the currently applicable percentage of the excess of the amount of unfunded benefit liabilities over the amount of unpredictable contingent event benefits in (1) above. The applicable percentage is 10 percent of terminations initiated in 1992 and increases by two percentage points a year up to 50 percent, where it remains.

The term "amount of benefits attributable to the occurrence of unpredictable contingent events" means the present value of unpredictable contingent event benefits (within the meaning of section 302(d)(7)(B)(ii) of ERISA) determined as of the termination date on the basis of assumptions prescribed by the PBGC for purposes of section 4044 of ERISA.

The PBGC may, where cost effective, compute the amount of the lien without regard to the 30 percent of net worth described in (2)(a) above.

Subsections (b) and (c) amend section 4068(c)(2) of ERISA to clarify that liability to the PBGC under sections 4062, 4063 and 4064 of ERISA has the priority of a tax due and owning the United States in bankruptcy and insolvency proceedings and conforms the limit on the amount of this liability to the revisions to the limit made by section 301(a) of the bill.

The amendments made by subsections (a) and (b) of this section and the conforming amendments thereto made by subsection (c) are effective for terminations initiated on or after January 1, 1992. The clarification set out in subsection (c) is effective as if included in the Pension Protection Act.

Sec. 302. Liability upon liquidation of contributing sponsor where plan remains ongoing.

Section 302 of the bill adds a new subsection (f) to section 4062 of ERISA that provides that in the event all or substantially all of the assets of a contributing sponsor of an ongoing plan are being liquidated in a bankruptcy proceeding and, therefore, the sponsor's controlled group members become responsible for maintaining the plan by operation of law, such sponsor is liable as though the plan had terminated in a distress termination as of a date determined by the PBGC as the date liquidation was initiated. The PBGC shall collect the liability and pay amounts it collects to the plan; however, it may assign this right to controlled group members. The PBGC may, by regulation, issue rules to implement this subsection.

The amendment made by this section is effective for liquidation initiated on or after the date of enactment.

SUBTITLE B. AMENDMENTS TO TITLE 11, UNITED STATES CODE

Sec. 321. Pension Benefit Guaranty Corporation permitted to be a member of an unsecured creditors' committee.

This section amends section 101(a)(35) of the Bankruptcy Code to permit the PBGC to be a member of an unsecured creditors' committee.

The amendment made by this section is effective for cases initiated on or after the date of enactment.

Sec. 322. Clarification of priorities in conformity with ERISA.

Subsection (a) of section 322 of the bill adds two new subparagraphs to section 507(a)(7) of the Bankruptcy Code to clarify that seventh priority claims include:

(1) unpaid pension contributions that are attributable to the pre-petition period and treated as taxes owing the United States under section 412(n)(4)(C) of the Internal Revenue Code and

(2) employer liability that arises under sections 4062, 4036, and 4064 of ERISA, to the extent the employer liability is treated as a tax under section 4068(c)(2) of ERISA, where termination occurs on or prior to the petition dated.

Subsection (b) adds a new paragraph (7) to section 503(b) to clarify that unpaid contributions for plan years beginning after December 31, 1987, that are attributable to the post-petition period, and that employer liability arising after bankruptcy exist in the amounts specified in section 412(n)(4)(C) of the Internal Revenue Code and in Title IV of ERISA.

The clarifications set out in this section with respect to unpaid contributions are effective as if included in the Pension Protection Act. The clarifications with respect to employer liability are effective for cases commenced on or after the date of enactment or cases pending on the date of enactment in which claims for liability have not been resolved as of such date.

Sec. 323. Notice required where federally insured pension plan is administered by the debtor or its affiliate.

Section 323 of the bill amends the Bankruptcy Rules to provide that the bankruptcy court shall give the PBGC notice of a petition filed and all other notices required to be served upon creditors and interested parties, in any case under Title 11 in which the debtor or an affiliate maintains a pension plan covered under Title IV of ERISA.

This section is effective on the date of enactment.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BLILEY) to revise and extend their remarks and include extraneous material:)

Mr. LEWIS of California, for 30 minutes, on April 7.

Mr. MICHEL, for 10 minutes, today.

(The following Members (at the request of Mr. POSHARD) to revise and extend their remarks and include extraneous material:)

Mrs. MINK, for 5 minutes, today and on March 25.

Mr. ANNUNIZO, for 5 minutes, today.

Mr. GONZALEZ, for 60 minutes, today.

Mr. PICKETT, for 60 minutes, on March 25.

Mr. KANJORSKI, for 60 minutes, on March 25.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BLILEY) and to include extraneous matter:)

Mr. LEWIS of California.

Mr. CUNNINGHAM.

Mr. GALLEGLY in four instances.

Mr. GEKAS in three instances.

Mr. MCDADE.

Mr. ZIMMER.

Mr. DORNAN of California.

Mr. GINGRICH in two instances.

(The following Members (at the request of Mr. POSHARD) and to include extraneous matter:)

Mr. SWETT.

Mr. ROE in two instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. FASCELL in two instances.

Mr. TORRES.

Mr. TAUZIN.

Mr. SLATTERY.

Mr. HALL of Ohio.

Mr. ATKINS.

Mr. SCHUMER.

Mr. MANTON.

Mr. KILDEE.

Mr. FALEOMAVAEGA.

Mr. SAWYER.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. ROSE, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4210. An act to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families; and

H.J. Res. 272. Joint resolution to proclaim March 20, 1992, as "National Agriculture Day."

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 40 minutes p.m.) the House adjourned until tomorrow, Wednesday, March 25, 1992, at 2 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred to as follows:

3134. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to authorize appropriations for the planning, construction, acquisition, alteration, repair of facilities, and other public improvements of Agricultural Research Service facilities at Beltsville, MD; Peoria, IL; Albany, CA; and Greenport, NY; to the Committee on Agriculture.

3135. A communication from the President of the United States, transmitting amendments to the fiscal year 1992 request for appropriations for the Department of Housing and Urban Development, pursuant to 31 U.S.C. 1107 H. Doc. No. 102-274; to the Committee on Appropriations and ordered to be printed.

3136. A communication from the President of the United States, transmitting amendments to the fiscal year 1992 and fiscal year 1993 request for appropriations for the Small Business Administration, pursuant to 31 U.S.C. 1107 (H. Doc. No. 102-275); to the Committee on Appropriations and ordered to be printed.

3137. A letter from the Comptroller of the Currency, transmitting the Comptroller's annual report to Congress; to the Committee on Banking, Finance and Urban Affairs.

3138. A letter from the Board of Governors, Federal Reserve System, transmitting the Board's staff report, pursuant to Public Law 101-73, section 918 (103 Stat. 183); to the Committee on Banking, Finance and Urban Affairs.

3139. A letter from the Federal Trade Commission, transmitting the 14th annual report on the administration of the Fair Debt Collection Practices Act, pursuant to 15 U.S.C. 1692m; to the Committee on Banking, Finance and Urban Affairs.

3140. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to provide for the restructuring of the public housing, housing voucher and certificate, and other HUD programs, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

3141. A letter from the Secretary of Education, transmitting the fiscal year 1991 annual report of the Intergovernmental Advisory Council on Education, pursuant to 20 U.S.C. 3423(b)(1)(D); to the Committee on Education and Labor.

3142. A letter from the Secretary of Education, transmitting notice of final procedures for the Robert C. Byrd Honors Scholarship Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3143. A letter from the Secretary of Health and Human Services, transmitting the Surgeon General's Report on Smoking in the Americas, pursuant to 15 U.S.C. 1337(a); to the Committee on Energy and Commerce.

3144. A letter from the Secretary of Transportation, transmitting the annual report on railroad financial assistance for fiscal year 1991, pursuant to 49 U.S.C. 308(d); to the Committee on Energy and Commerce.

3145. A letter from the Securities and Exchange Commission, transmitting a draft of proposed legislation entitled, "Small Business Incentive Act of 1992"; to the Committee on Energy and Commerce.

3146. A letter from the Defense Security Assistance Agency, transmitting a copy of Transmittal No. 02-92, concerning a proposed Memorandum of Understanding [MOU] with the NATO Airborne Early Warning and Control Program Management Organization

[NAPMO], pursuant to 22 U.S.C. 2767(f); to the Committee on Foreign Affairs.

3147. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a listing of gifts by the U.S. Government to foreign individuals during fiscal year 1991, pursuant to 22 U.S.C. 2694(2); to the Committee on Foreign Affairs.

3148. A letter from the Department of State, transmitting the 15th annual report on Americans Incarcerated Abroad, pursuant to 42 U.S.C. 2151n–1; to the Committee on Foreign Affairs.

3149. A letter from the Department of Energy, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3150. A letter from the Secretary of Veterans Affairs, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(e); to the Committee on Government Operations.

3151. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notice of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3152. A letter from the Department of the Interior, transmitting a draft of proposed legislation to amend the National Historic Preservation Act to extend the authorization for the Historic Preservation Fund; to the Committee on Interior and Insular Affairs.

3153. A letter from the Deputy Administrator, General Services Administration, transmitting an informational copy of a lease prospectus, pursuant to 40 U.S.C. 606(a); to the Committee on Public Works and Transportation.

3154. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to ratify the Department of Veterans Affairs' interpretation of the provisions of section 1151 of title 38, the United States Code; to the Committee on Veterans' Affairs.

3155. A letter from the Administrator, Small Business Administration, transmitting the administration's Natural Resource Development Program Annual Report 1991; jointly, to the Committees on Appropriations and Small Business.

3156. A letter from the Director, Office of Management and Budget, transmitting his certification that the amounts appropriated for the Board for International Broadcasting for grants to Radio Free Europe/Radio Liberty, Inc., are less than the amount necessary to maintain the budgeted level of operation because of exchange rate losses in the first quarter of fiscal year 1992, pursuant to 22 U.S.C. 2877(a)(2); jointly, to the Committees on Foreign Affairs and Appropriations.

3157. A letter from the General Counsel, Federal Aviation Administration, transmitting copies of the fiscal year 1993 budget requests of the Federal Aviation Administration to the Department, including requests for "Facilities and Equipment" and "Research, Engineering, and Development," pursuant to 49 U.S.C. 2205(f); jointly, to the Committees on Public Works and Transportation and Science, Space, and Technology.

3158. A letter from the Chairman, Prospective Payment Assessment Commission, transmitting the Commission's report required by section 1886(e) of the Social Security Act as amended by Public Law 101–508; jointly, to the Committees on Ways and Means and Energy and Commerce.

3159. A letter from the Director, Central Intelligence Agency, transmitting a draft of proposed legislation entitled "Intelligence Authorization Act for Fiscal Year 1993"; jointly, to the Committees on Intelligence (Permanent Select), Armed Services, the Judiciary, and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Omitted from the Record of March 20, 1992]

Mrs. SCHROEDER: Committee on Armed Services. H.R. 1435. A bill to direct the Secretary of the Army to transfer jurisdiction over the Rocky Mountain Arsenal, CO, to the Secretary of the Interior; with an amendment (Rept. 102–463, Pt. 1). Ordered to be printed.

[Submitted March 24, 1992]

Mr. DINGELL: Committee on Energy and Commerce. H.R. 3698. A bill to amend the Public Health Service Act with respect to services for mental health and substance abuse, including establishing separate block grants to enhance the delivery of such services; with an amendment (Rept. 102–464). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 2926. A bill to amend the act of May 17, 1954, relating to the Jefferson National Expansion Memorial to authorize increased funding for the East Saint Louis portion of the Memorial, and for other purposes; with an amendment (Rept. 102–465). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. H.R. 3011. A bill to amend the National Trails System Act to designate the American Discovery Trail for study to determine the feasibility and desirability of its designation as a national trail (Rept. 102–466). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. S. 870. An act to authorize inclusion of a tract of land in the Golden Gate National Recreation Area, CA; with an amendment (Rept. 102–467). Referred to the Committee of the Whole House on the State of the Union.

Mr. MILLER of California: Committee on Interior and Insular Affairs. An act to increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, and for other purposes; with an amendment (Rept. 102–468). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. SCHUMER (for himself and Mr. SENSENBRENNER):

H.R. 4542. A bill to prevent and deter auto theft; jointly, to the Committees on the Judiciary and Ways and Means.

By Mr. ATKINS (for himself and Mr. DONNELLY):

H.R. 4543. A bill to amend the Internal Revenue Code of 1986 to allow partners and certain shareholders of subchapter S corporations to exclude from gross income contributions by the partnership or S corporation to an accident or health plan for such partners and shareholders and their employees; to the Committee on Ways and Means.

By Mr. AUCOIN:

H.R. 4544. A bill to authorize the Commissioner of the Administration for Children, Youth, and Families to make grants to carry out programs and activities to improve the educational performance, health and fitness, life skills, and family relationships of adolescents; to the Committee on Education and Labor.

By Mr. MICHEL (by request):

H.R. 4545. A bill to amend the Employee Retirement Security Act of 1974, the Internal Revenue Code of 1986, and title 11, United States Code; to improve pension plan funding; to limit growth in insurance exposure; to protect the single-employer plan termination insurance program by clarifying the status of claims of the Pension Benefit Guaranty Corporation and the treatment of pension plans in bankruptcy proceedings; and for other purposes; jointly, to the Committees on Ways and Means, Education and Labor, and the Judiciary.

By Mr. FASCELL:

H.R. 4546. A bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize appropriations for foreign assistance programs for fiscal years 1992 and 1993, and for other purposes; to the Committee on Foreign Affairs.

By Mr. FASCELL (for himself, Mr. BROOMFIELD, Mr. HAMILTON, Mr. GILMAN, Mr. SOLARZ, Mr. WOLPE, Mr. DYMALLY, Mr. LANTOS, Mr. BERMAN, Mr. FEIGHAN, Mr. ACKERMAN, Mr. FALEOMAVAEGA, Mr. KOSTMAYER, Mr. FOGLIETTA, Mr. SAWYER, Mr. LEACH, Mrs. MEYERS of Kansas, and Mr. BLAZ):

H.R. 4547. A bill to authorize supplemental assistance for the former Soviet Republics; to the Committee on Foreign Affairs.

By Mr. FASCELL (for himself, Mr. BROOMFIELD, Mr. YATRON, Mr. BERMAN, Mr. HAMILTON, Mr. SOLARZ, Mr. WOLPE, Mr. DYMALLY, Mr. LANTOS, Mr. FEIGHAN, Mr. ACKERMAN, Mr. FALEOMAVAEGA, Mr. MURPHY, Mr. KOSTMAYER, Mr. FOGLIETTA, Mr. MCCLOSKEY, Mr. GILMAN, Mr. LEACH, Mrs. MEYERS of Kansas, and Mr. BLAZ):

H.R. 4548. A bill to authorize contributions to U.N. peacekeeping activities; to the Committee on Foreign Affairs.

By Mr. FASCELL (for himself, Mr. BROOMFIELD, Mr. HAMILTON, Mr. YATRON, Mr. WOLPE, Mr. DYMALLY, Mr. LANTOS, Mr. BERMAN, Mr. FEIGHAN, Mr. ACKERMAN, Mr. FALEOMAVAEGA, Mr. MURPHY, Mr. KOSTMAYER, Mr. FOGLIETTA, Mr. MCCLOSKEY, Mr. SAWYER, Mr. GILMAN, Mr. LEACH, Mrs. MEYERS of Kansas, and Mr. BLAZ):

H.R. 4549. A bill to amend the Foreign Assistance Act of 1961 to establish a Nonproliferation and Disarmament Fund; to the Committee on Foreign Affairs.

By Mr. BROWN (for himself, Mr. ASPIN, Mr. BOUCHER, Mr. MCCURDY, Mrs. LLOYD, Mr. SENSENBRENNER, Mr. SCHEUER, and Mr. SPRATT):

H.R. 4550. A bill to provide for the formation of an endowed, nongovernmental, nonprofit, foundation to encourage and fund collaborative research and development projects between the United States and Russia, Ukraine, Belarus, and other democratic republics emerging from the former Soviet Union; jointly, to the Committees on Science, Space, and Technology and Foreign Affairs.

By Mr. GEPHARDT (for himself, Mr. Gingrich, Mr. Edwards of California, Mr. Hyde, Mr. Mineta, Mr. Matsui, Ms. Pelosi, Mrs. Mink, Mr. Horton, Mr. Abercrombie, Mr. AuCoin, Mr. Berman, Mrs. Boxer, Mr. Bustamante, Mr. Clay, Mr. Dellums, Mr. Dixon, Mr. Dymally, Mr. Faleomavaega, Mr. Fascell, Mr. Fazio, Mr. Gonzalez, Mr. Hochbrueckner, Mr. Jacobs, Mr. Jontz, Mr. Kildee, Mr. Lantos, Mr. Levine of California, Mr. Martinez, Mr. McDermott, Mr. Moody, Ms. Norton, Mr. Panetta, Mr. Pastor, Mr. Rangel, Mr. Roe, Mr. Sanders, Mr. Sangmeister, Mrs. Schroeder, Mr. Schumer, Mr. Serrano, Mr. Skaggs, Mr. Solarz, Mr. Stark, Mr. Stokes, Mr. Towns, Mrs. Unsoeld, Mr. Vento, Mr. Waxman, Mr. Weiss, Mr. Yates, Mr. Miller of California, and Mr. Fish):

H.R. 4551. A bill to amend the Civil Liberties Act of 1988 to increase the authorization for the trust fund under that act, and for other purposes; to the Committee on the Judiciary.

By Mr. GINGRICH:

H.R. 4552. A bill to amend the Internal Revenue Code of 1986 to permit individual retirement accounts to be used as security for loans; to the Committee on Ways and Means.

By Mr. MATSUI (for himself, Mr. Mineta, and Mr. Edwards of California):

H.R. 4553. A bill to amend the Civil Liberties Act of 1988 to clarify that payments under that act shall not be includible as income for purposes of all laws administered by the Secretary of Veterans Affairs; jointly, to the Committees on the Judiciary and Veterans' Affairs.

By Mrs. MINK:

H.R. 4554. A bill to amend title 5, United States Code, to provide that any Federal employee serving under a temporary appointment who has completed at least 1 year of service in such position within the preceding 2 years shall be eligible for the Government's health benefits program, and for other purposes; to the Committee on Post Office and Civil Service.

By Mr. NICHOLS:

H.R. 4555. A bill to limit the number of years that a person may be employed by the House of Representatives; to the Committee on House Administration.

By Mr. SCHUMER:

H.R. 4556. A bill to amend the Immigration and Nationality Act to provide for the expedited processing of certain aliens and citizens arriving from abroad by air at any port of entry within the United States, and for other purposes; to the Committee on the Judiciary.

By Mr. VALENTINE:

H.R. 4557. A bill to authorize appropriations to the Federal Aviation Administration for research, engineering, and development to increase the efficiency and safety of air transport; to the Committee on Science, Space, and Technology.

By Mr. WISE:

H.R. 4558. A bill to improve budgetary information by establishing within the unified budget an infrastructure investment account; to the Committee on Government Operations.

By Mr. NICHOLS:

H.J. Res. 451. Joint resolution proposing an amendment to the Constitution of the United States to limit the number of years a person may serve as a Representative in, or Delegate or Resident Commissioner to, the Congress; to the Committee on the Judiciary.

By Mr. FEIGHAN (for himself, Mr. Owens of Utah, Mr. Lantos, Mr. Schumer, Mr. Panetta, Mr. Sawyer, Mr. McCloskey, Mr. Scheuer, Mr. Ackerman, Mr. Kostmayer, Mr. Waxman, Mr. Levin of Michigan, Mr. Solarz, Mr. LaFalce, Mr. Owens of New York, Mr. Berman, Ms. Pelosi, Mr. Eckart, Mr. Fazio, Mr. Smith of Florida, Mr. Horton, Mr. McGrath, Mrs. Morella, Ms. Ros-Lehtinen, Mr. Bonior, Mr. Spratt, Mr. Atkins, Mr. Torricelli, Mr. Levine of California, Mr. Frank of Massachusetts, Mr. Borski, Mr. Lehman of Florida, Mr. Bustamante, Mr. Dornan of California, Mr. DeFazio, Mr. Frost, and Mr. Espy):

H. Con. Res. 298. Concurrent resolution expressing the sense of the Congress that the Vatican should recognize the State of Israel and should establish diplomatic relations with that country; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

349. By the SPEAKER: Memorial of the Senate of the State of Washington, relative to the numerous bad checks written at the House bank; to the Committee on House Administration.

350. Also, memorial of the Senate of the State, relative to the Supplemental Security Income Benefits Program to American Samoa; to the Committee on Ways and Means.

351. Also, memorial of the Legislature of the State of Washington, relative to H.R. 2463, the Forest and Families Protection Act; jointly, to the Committees on Agriculture, Merchant Marine and Fisheries, and Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 299: Mr. Campbell of California and Mr. Barton of Texas.

H.R. 423: Mr. Wise.

H.R. 722: Mr. Ackerman and Mr. Hammerschmidt.

H.R. 723: Mr. Ackerman and Mr. Hammerschmidt.

H.R. 776: Mr. Alexander.

H.R. 815: Mr. Lewis of Georgia.

H.R. 911: Mr. Carper, Mr. Barton of Texas, Mr. Sanders, Mr. Grandy, Mr. Hunter, and Mr. Durbin.

H.R. 1110: Mr. Olin, Mr. Edwards of California, and Mrs. Mink.

H.R. 1147: Ms. DeLauro.

H.R. 1154: Mr. Miller of Washington and Mr. Hall of Texas.

H.R. 1303: Mr. Downey.

H.R. 1473: Mr. Downey.

H.R. 1572: Mr. Ridge, Mr. Applegate, and Mr. Volkmer.

H.R. 1693: Mr. Livingston.

H.R. 2070: Mr. Panetta, Mr. Dooley, Mr. Campbell of California, Mr. Coleman of Texas, and Mr. Valentine.

H.R. 2075: Mr. Walsh, Mr. Vento, and Mr. Eckart.

H.R. 2385: Mrs. Mink, Mr. Lagomarsino, Mr. McNulty, and Mr. Alexander.

H.R. 2420: Mr. DeLay.

H.R. 2555: Mr. Atkins, Mr. Espy, Ms. Norton, and Mr. Dellums.

H.R. 2650: Ms. Slaughter.

H.R. 2782: Mr. Shays, Mr. Poshard, Mr. Eckart, Mr. Neal of Massachusetts, Mr. Torricelli, Mr. Torres, Mr. Atkins, Mr. Yatron, and Mr. Borski.

H.R. 2861: Mr. Rinaldo.

H.R. 2872: Mr. Ewing and Mr. Kyl.

H.R. 2880: Mr. Pickle and Mr. Walsh.

H.R. 2890: Mr. Rose and Mr. Nagle.

H.R. 3071: Mr. Livingston, Mr. Bateman, Mr. Wolf, and Mr. Skelton.

H.R. 3258: Mr. Berman, Mr. Vento, Mr. Kildee, Mr. Horton, and Mr. Hughes.

H.R. 3317: Mr. Slattery.

H.R. 3373: Mr. Callahan, Mr. Huckaby, Mr. Moran, Mr. James, Mr. Martin, and Mr. Paxon.

H.R. 3393: Mr. Ravenel and Mrs. Collins of Michigan.

H.R. 3451: Mr. DeLay.

H.R. 3462: Mr. Coleman of Texas, Mr. Johnston of Florida, Mr. Gonzalez, Mr. Torres, Mr. Coleman of Missouri, and Mrs. Boxer.

H.R. 3484: Mr. Kanjorski, Mr. Schulze, Mrs. Bentley, Mr. Durbin, Mr. Taylor of North Carolina, Mr. Stark, and Mr. Olin.

H.R. 3555: Mr. Bryant, Mr. Penny, Mr. Riggs, Mr. Slattery, Mr. Gibbons, Mr. Ray, and Mr. Packard.

H.R. 3601: Mr. Coyne, Mr. Ford of Michigan, Mr. Flake, Mr. Hall of Texas, Mr. Staggers, Mr. Abercrombie, Mr. Serrano, Mr. de Lugo, Mr. Olver, Mr. Mollohan, Mr. Jefferson, Mrs. Unsoeld, Mr. Berman, Mr. Brown, and Mr. Andrews of Maine.

H.R. 3605: Mr. DeLay.

H.R. 3612: Mr. Torricelli.

H.R. 3620: Mr. Downey.

H.R. 3655: Mr. Lantos and Mr. Sanders.

H.R. 3656: Mr. Sanders and Mr. Lantos.

H.R. 3776: Mr. Frank of Massachusetts, Mr. Stark, and Mr. Dwyer of New Jersey.

H.R. 3918: Mr. McGrath and Mr. Reed.

H.R. 3939: Mr. Russo, Mr. Dwyer of New Jersey, Mr. Gilchrest, Mr. Mavroules, Mr. Torres, and Mr. Waxman.

H.R. 3960: Mr. Serrano, Mr. Rangel, Mr. Green of New York, and Mr. Owens of New York.

H.R. 3975: Mr. Mavroules, Mr. Yates, Mr. Washington, Ms. DeLauro, Mr. Jones of North Carolina, Mr. Lantos, Mr. Fascell, Mr. Dellums, Mr. Vento, and Mr. Kennedy.

H.R. 3978: Mr. Jontz.

H.R. 3986: Mr. Mrazek and Ms. Norton.

H.R. 3998: Mr. Klug, Mr. Colorado, and Mr. Atkins.

H.R. 4013: Mr. DeFazio, Mr. Kostmayer, and Mr. Sanders.

H.R. 4083: Mr. Solomon, Mr. Andrews of Maine, Mr. Sisisky, and Mr. Ford of Tennessee.

H.R. 4100: Ms. Long, Ms. Norton, Mr. Engel, Mr. Sanders, Mr. Dwyer of New Jersey, Mr. Dymally, and Mr. Wise.

H.R. 4130: Mr. Rhodes and Mr. Gunderson.

H.R. 4149: Mr. Sanders.

H.R. 4155: Mr. Sensenbrenner, Mr. Zimmer, Mr. Archer, Mr. Walsh, Mr. Ewing, Mr. Burton of Indiana, Mr. Lent, Mr. Marlenee, and Mr. Dornan of California.

H.R. 4178: Mr. AuCoin and Mr. Smith of Florida.

H.R. 4190: Mr. Blackwell, Mr. Poshard, Mr. Hayes of Louisiana, and Mr. Combest.

H.R. 4207: Mr. Hamilton, Mr. Gillmor, Mr. Ravenel, Mr. Hansen, and Mr. Schiff.

H.R. 4234: Mr. PAXON and Mr. DERRICK.

H.R. 4278: Mr. ALEXANDER.

H.R. 4279: Mr. ESPY, Mr. WILSON, Mr. STALLINGS, and Mr. ALLARD.

H.R. 4342: Mr. ROSE and Mr. BLAZ.

H.R. 4351: Mr. DOOLEY and Mr. FRANK of Massachusetts.

H.R. 4356: Mr. MRAZEK, Mr. MORAN, and Mr. ROE.

H.R. 4399: Mr. GEKAS.

H.R. 4410: Mr. TOWNS.

H.R. 4414: Mr. WYDEN.

H.R. 4416: Mr. ROYBAL, Mr. OLIN, Mr. GAYDOS, Mr. TAYLOR of Mississippi, Mr. JEFFERSON, Mr. KOLTER, Mr. FLAKE, and Mr. BERMAN.

H.R. 4419: Mr. PANETTA, Mr. MRAZEK, Mr. LAGOMARSINO, Mr. SYNAR, Mr. PENNY, Mr. KOSTMAYER, Mr. BACCHUS, Mr. SPRATT, Mr. BLACKWELL, Mr. HUBBARD, Mr. OLIN, Mrs. KENNELLY, Mr. HORTON, Ms. SLAUGHTER, Mr. SOLOMON, Mr. HOCHBRUECKNER, and Mr. DOOLEY.

H.R. 4430: Mr. OXLEY.

H.R. 4460: Mr. HENRY, Mr. SMITH of Texas, Mr. ROHRABACHER, Mr. CAMPBELL of California, Mr. RHODES, Mr. ALLEN, Mr. BARTON of Texas, and Mr. JOHNSON of Texas.

H.R. 4530: Mr. HOCHBRUECKNER, Mr. POSHARD, Mr. RHODES, Mr. TAYLOR of Mississippi, and Mr. VALENTINE.

H.J. Res. 81: Mr. KOLTER and Mr. DORNAN of California.

H.J. Res. 336: Ms. PELOSI, Mr. QUILLEN, and Mr. MARTINEZ.

H.J. Res. 357: Mr. DELAY.

H.J. Res. 358: Mr. SCHUMER, Mr. BILIRAKIS, Mr. VENTO, Mr. BONIOR, Mr. BENNETT, Mr. SHAYS, Ms. WATERS, Mr. BLACKWELL, Mr. FASCELL, Mr. ROYBAL, Mr. ALEXANDER, Mr. BEILENSON, Mrs. BOXER, Mr. BREWSTER, Mr. BRYANT, Mr. CARPER, Mr. CHAPMAN, Mr. CONDIT, Mr. COX of California, Mr. DREIER of California, Mr. EVANS, Mr. FLAKE, Mr. FRANK of Massachusetts, Mr. GEREN of Texas, Mr. GORDON, Mr. HAYES of Illinois, Mr. KLECZKA, Mr. LEWIS of Georgia, Mr. MONTGOMERY, Mr. OLIN, Mr. ROBERTS, Mr. ROSE, Mr. ROWLAND, Mr. SANDERS, Mr. WYDEN, Mr. TALLON, Mr. VALENTINE, Mr. WASHINGTON, Mr. KANJORSKI, and Mr. KOLTER.

H.J. Res. 371: Mr. APPLEGATE, Mr. BATEMAN, Mr. GREEN of New York, Mrs. JOHNSON of Connecticut, Mr. KOSTMAYER, Mr. MORAN, and Mr. MURPHY.

H.J. Res. 400: Mr. GILMAN, Ms. DELAURO, Mr. FOGLIETTA, Mr. ESPY, Mr. ANNUNZIO, Mr. RINALDO, Mr. NEAL of Massachusetts, Mr. TRAXLER, Mr. LAROCCO, Mr. LAFALCE, Mr. MCGRATH, Mr. FASCELL, Mr. MCNULTY, Mr. BILBRAY, Mr. ERDREICH, Mr. ALEXANDER, Mr. HATCHER, Mr. DEFAZIO, Mr. PANETTA, Mr. TOWNS, Mr. SMITH of Florida, Mr. LEWIS of Florida, Mr. CLEMENT, Mr. MARTINEZ, Mr. MORAN, Mr. LAGOMARSINO, Mr. GREEN of New York, Mr. HUGHES, and Mr. MACHTLEY.

H.J. Res. 430: Mr. ROYBAL, Mr. CALLAHAN, Mr. ESPY, Mr. FORD of Tennessee, Mr. SOLARZ, Ms. KAPTUR, Mr. COYNE, Mr. MAVROULES, Mr. HYDE, Mr. JONTZ, Mr. PALLONE, Mr. LEVIN of Michigan, Mr. DOWNEY, Mr. SMITH of Florida, Mr. HORTON, Mrs. BENTLEY, Mr. EMERSON, Mr. OWENS of New York, and Mr. CLAY.

H.J. Res. 442: Mr. GINGRICH, Mr. MCDADE, Mr. PURSELL, Mr. DICKINSON, Mr. WEBER, Mr. LOWERY of California, Mr. HORTON, Mr. SKEEN, Mr. BENNETT, Mr. LEHMAN of Florida, Mr. KILDEE, Mr. BEVILL, Mr. MFUME, Mrs. UNSOELD, Mrs. MINK, Mr. JEFFERSON, Mr. MORAN, and Mr. LANCASTER.

H. Con. Res. 180: Mrs. BOXER.

H. Con. Res. 192: Mr. HOUGHTON, Mr. EVANS, Mr. MCEWEN, Mr. OXLEY, Mr. WASHINGTON, Mr. ENGEL, Mr. HATCHER, Mr. JONES of Georgia, Mr. CONYERS, and Mr. MICHEL.

H. Con. Res. 212: Mr. SIKORSKI.

H. Con. Res. 224: Mr. MCDERMOTT and Mr. VENTO.

H. Con. Res. 284: Mr. BROOMFIELD.

H. Con. Res. 297: Ms. ROS-LEHTINEN, Mr. OWENS of Utah, Mr. MAVROULES, Mr. SARPALIUS, Mr. MATSUI, Mr. KOSTMAYER, and Mr. SCHUMER.

H. Res. 245: Mr. ALLEN.

H. Res. 314: Mr. ALLEN.

H. Res. 321: Mr. PALLONE and Mr. ATKINS.

H. Res. 332: Mr. FRANKS of Connecticut.

H. Res. 347: Mr. ALLEN and Mr. RITTER.

H. Res. 376: Mr. PETRI and Mr. ZIMMER.

H. Res. 380: Mr. ERDREICH and Mrs. MEYERS of Kansas.

H. Res. 384: Mr. NOWAK, Mr. SCHIFF, and Mr. HOCHBRUECKNER.

H. Res. 387: Mr. DERRICK, Mr. SHAYS, and Mr. SKAGGS.

H. Res. 404: Mr. HEFLEY.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3428

By Mr. GONZALEZ:

—At the end of the bill, insert the following:

TITLE IX—NON-PROLIFERATION OF WEAPONS OF MASS DESTRUCTION

SEC. 901. FUNDING OF INTERNATIONAL DEVELOPMENT INSTITUTIONS DENIED.

(a) FUNDING PROHIBITION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, beginning 1 year after the date of the enactment of this Act, no department, agency, or officer of the United States Government may, on behalf of the United States, provide funds to any international development institution, or enter into any agreement to do so, if the most recent determination of the Secretary of the Treasury pursuant to paragraph (2) is that a member country of the institution—

(A) is capable of producing, or is seeking to produce, a type of weapon that is a subject of a regime for controlling weapons of mass destruction; and

(B) is not adhering to the regime.

(2) ROLE OF THE SECRETARY OF THE TREASURY.—Within 6 months after the date of the enactment of this Act, and annually thereafter, the Secretary of the Treasury, in consultation with the Secretary of State, the Secretary of Defense, and the Director of the Central Intelligence Agency, shall—

(A) determine which member countries referred to in paragraph (1) are capable of producing or are seeking to produce, a type of weapon that is a subject of a regime for controlling weapons of mass destruction;

(B) with respect to each country described in subparagraph (A)—

(i) identify the international development institutions of which the country is a member; and

(ii) determine whether or not the country is adhering to the regime; and

(C) report such information to the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(b) UNITED STATES TO URGE ADOPTION OF REQUIREMENT.—The Secretary of the Treasury shall instruct the United States Executive Director of each international development institution to use the voice and vote of the United States to urge the respective institution to amend the charter of the institution to require that, not later than 1 year after the date of the enactment of this Act, each member country of the institution which is capable of producing, or is seeking to produce, a type of weapon that is a subject of a regime for controlling weapons of mass destruction adhere to the regime.

(c) DEFINITIONS.—As used in this section:

(1) ADHERE.—The terms "adhere" and "adhering" mean, with respect to a country and a regime, that the country is honoring a formal commitment to participate in the regime that was made by the country to the other participants in the regime.

(2) INTERNATIONAL DEVELOPMENT INSTITUTION.—The term "international development institution" means the International Monetary Fund, the International Bank for Reconstruction and Development, the European Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guarantee Agency, the African Development Bank, the African Development Fund, the Asian Development Bank, the Inter-American Development Bank, and the Inter-American Investment Corporation.

(3) REGIME FOR CONTROLLING WEAPONS OF MASS DESTRUCTION.—The term "regime for controlling weapons of mass destruction" means—

(A) the nuclear weapons non-proliferation regime;

(B) the chemical weapons non-proliferation regime;

(C) the biological weapons non-proliferation regime; and

(D) the Missile Technology Control Regime (as defined in section 11B(c) of the Export Administration Act of 1979).

(4) NUCLEAR WEAPONS NON-PROLIFERATION REGIME.—The term "nuclear weapons non-proliferation regime" means—

(A) the Treaty on the Non-Proliferation of Nuclear Weapons, signed at Washington, D.C., London, and Moscow on July 1, 1968, (TIAS 6839), and any amendments thereto;

(B) Additional Protocols I and II to the Treaty for the Prohibition of Nuclear Weapons in Latin America (also known as the "Treaty of Tlatelolco"), signed at Mexico on February 14, 1967, (TIAS 7137), and any amendments thereto;

(C) the guidelines adopted by the Nuclear Suppliers Group, also known as the "London Club"; and

(D) the Convention on the Physical Protection of Nuclear Material, and any amendments thereto.

(5) CHEMICAL WEAPONS NON-PROLIFERATION REGIME.—The term "chemical weapons non-proliferation regime" means—

(A) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (also known as the "Geneva Protocol of 1925"), and any amendments thereto; and

(B) the chemicals export controls adopted by the group known as the "Australia Group".

(6) BIOLOGICAL WEAPONS NON-PROLIFERATION REGIME.—The term "biological weapons non-proliferation regime" means—

(A) the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare (also known as the "Geneva Protocol of 1925"), and any amendments thereto; and

(B) the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and

Toxin Weapons and on Their Destruction (also known as "Biological Weapons Convention"), and any amendments thereto.

SEC. 902. PROHIBITION AGAINST EXPORT-IMPORT BANK ASSISTANCE FOR EXPORTS TO CERTAIN COUNTRIES NOT ADHERING TO REGIMES FOR CONTROLLING WEAPONS OF MASS DESTRUCTION.

Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i(b)) is amended by adding at the end the following.

"(13) The Bank may not guarantee, insure, extend credit, or participate in the extension of credit in connection with any export of goods or services to any country which—

"(A) is capable of producing, or is seeking to produce, a type of weapon that is a subject of a regime for controlling weapons of mass destruction (as defined in section 901(c) of the International Development, Trade, and Finance Act of 1991); and

"(B) is not adhering to the regime (as determined in accordance with subsection (a) of such section).".

Amend the table of contents accordingly.

H.R. 3553

By Mr. BOEHNER:

—Page 356, strike out lines 13 through 20 and insert the following:

(a) IN GENERAL.—Section 484(a) of the Act is amended—

(1) in paragraph (1), by inserting "(including a program of study abroad approved for credit by the eligible institution)" immediately following "or other program";

(2) by amending paragraph (2) to read as follows:

"(2) satisfy the minimum academic achievement standards specified in subsection (c);";

(3) by amending paragraph (4) to read as follows:

—Page 357, line 8, redesignate paragraph (3) as paragraph (4).

—Page 357, line 10, redesignate paragraph (4) as paragraph (5).

—Page 358, after line 11, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(c) MINIMUM ACADEMIC ACHIEVEMENT STANDARDS.—Section 484(c) of the Act is amended to read as follows:

"(c) MINIMUM ACADEMIC ACHIEVEMENT STANDARDS.—For the purposes of subsection (a)(2), a student shall meet minimum academic achievement standards established by the institution. Such standards shall be established in accordance with regulations of the Secretary and shall be at least as rigorous as the equivalent of a cumulative 'C' average, unless the institution demonstrates to the satisfaction of the Secretary that a different standard is more appropriate for its students.".

By Mr. COLEMAN of Missouri:

—Page 86, line 20, strike the close quotation marks and following period and after such line insert the following:

"(7) No basic grant shall be awarded under this subpart to any individual who is incarcerated in any Federal or State penal institution.".

—Page 177, after line 12, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(l) GUARANTY AGENCY INCENTIVE PAYMENTS.—Section 428(b)(3) of the Act is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) offer, directly or indirectly, any premium, payment, or other inducement to any lender, or any agent or employee of any lender, in order to secure the designation of that guaranty agency loans made under this part (other than a loan made under section 428H);".

—At each of the following locations, strike out "Presidential" and insert "Congressional": page 132, lines 18, 21, and 22; page 133, lines 2, 5, and 7; page 134, line 11; page 135, line 1; page 136, lines 8 and 20; page 137, line 5.

—At each of the following locations, strike out "Congressional" and insert "Presidential": page 146, lines 6; page 114, lines 14 and 16; and page 149, lines 5, 7, 13, and 17.

Conform the table of contents accordingly.

—Page 273, line 24, after the quotation marks insert "(b) ADMINISTRATIVE EXPENSES.—", and before such line insert the following:

"(a) LOAN FUNDS AUTHORIZED.—There are authorized to be appropriated for the purpose of making direct loan payments under section 451(b)(1), not to exceed $500,000,000 for fiscal year 1994 and each of the 4 succeeding fiscal years.

—Page 262, line 15, after "shall" insert ", subject to subsection (c)".

—Page 262, after line 17, insert the following new subsection:

"(c) ACCESS TO LOANS WHEN DEMAND EXCEEDS SUPPLY.—If the demand for loans under this part for any academic year at institutions with which the Secretary has an agreement under section 454 exceeds, in the aggregate, the amount available (pursuant to section 459A(a)) for such loans for such academic year, the Secretary shall notify each such institution of that fact and establish for each such institution an allocation (from such available amount) that such institution will be permitted to lend under this part. Each such institution shall make that allocation available for loans to its students on a first-come, first-served basis, in accordance with regulations prescribed by the Secretary. Any additional demand for loans from such students shall be met by providing such students with the certifications required to permit such students to obtain loans under part B of this title.

—Page 263, beginning on line 14, strike "was $500,000,000 in the most recent year for which data is available" and insert "can reasonably be expected to be $500,000,000 in each year of the demonstration program".

—Page 267, line 6, after "will not" insert ", except as necessary because of the application of section 451(c),".

—Page 271, strike line 3, and insert the following (and indent lines 4 through 15 accordingly)

"(d) CONTROL GROUP.—

"(1) REGULAR REPAYMENT.—To assist the Comptroller

—Page 271, after line 15 insert the following new paragraphs:

"(2) INCOME CONTINGENT REPAYMENT.—Within the control group selected under paragraph (1), the Secretary shall identify a group of institutions to serve as a control group for comparison with the institutions offering income contingent loans under this part pursuant to section 454(6). The institutions selected for the control group under this paragraph shall select a reasonable cross section of the institutions selected under paragraph (1). The Secretary shall publish an identification of the institutions that are so selected. Any eligible lender of a loan to a student for attendance at any such institution shall, in accordance with regulations prescribed by the Secretary, offer such students the option of repaying such loans on an income contingent basis consistent with such regulations.

"(3) INCOME CONTINGENT TERMS AND CONDITIONS.—The Secretary shall, by regulation, establish the terms and conditions for loans that are subject to paragraph (2) of this subsection. Such terms and conditions shall, to the extent practicable, be the same as the terms and conditions of loans made pursuant to section 454(6). The Secretary is authorized to enter into such agreements (and amendments to agreements) under part B of this title as may be necessary to carry out paragraph (2) and this paragraph.

—Page 267, line 11, strike "and", and after such line insert the following new paragraph (and redesignate the succeeding paragraph accordingly):

"(6) in the case of 20 percent of the institution selected by the Secretary for operations under this part, include such terms and conditions as the Secretary may require by regulation for testing income contingent repayment methods, which shall include—

"(A) requiring such institutions to offer the option of income contingent repayment, based on an annual review of the borrower's Federal income tax return, to any student who applies for a loan under this part;

"(B) the additional or different terms and conditions to be included in the notes or other agreements entered into by the borrower, as required by such regulations, including provisions with respect to the disclosure by the borrower of subsequent income;

"(C) providing for the discharge of loans after not more than 25 years of income contingent repayment;

"(D) such data and reporting requirements and such other provisions as the Secretary considers necessary to carry out the purposes of section 458(d)(2) and to the protection of the Federal fiscal interest; and

—Page 268, line 6, insert after the quotation marks the following: "(a) IN GENERAL.—".

—Page 268, line 10, insert before the semicolon the following: ", at least one of which shall be for serving loans that are subject to Income contingent repayment".

—Page 268, line 19, insert the following new subsection:

"(b) SERVICING FOR INCOME CONTINGENT LOANS.—The Secretary shall, through contract, ensure the availability of servicing of loans made pursuant to section 454(6) at a cost comparable to that available for loans under part B of this title (that are not subject to income contingent repayment).

"(c) INFORMATION ON INCOME CONTINGENT LOANS.—The Secretary shall acquire such information as is necessary regarding the adjusted gross income of borrowers (under this part and under part B) of loans that are subject to income contingent repayment for the purpose of determining the annual repayment obligations of such borrowers. The Secretary shall, not less provide often than once per year, provide to the servicer, lender, or holder of a loan the Secretary's determination of the borrower's repayment obligation on that loan for such year.

By Mr. COYNE:

—Page 392, after line 5, insert the following new subsection (and redesignate the succeeding subsection accordingly):

(g) AUDIT REFUNDS.—Section 487(c) of the Act is further amended by adding at the end the following new paragraph:

"(7) Effective with respect to any audit conducted under this subsection after December 31, 1988, if, in the course of conducting any such audit, the personnel of the Department of Education discover, or are informed of, grants or other assistance provided by an institution in accordance with this title for which the institution has not received funds appropriated under this title (in the amount necessary to provide such assistance), including funds for which reimbursement was not requested prior to such discovery or information, such institution shall be permitted to offset that amount against any sums determined to be owed by the institution pursuant to such audit, or to receive reimbursement for that amount (if the institution does not owe any such sums)."

By Mr. DICKS:

—Page 31, line 13, strike "and" and after such line insert the following new paragraph (and redesignate the succeeding paragraph accordingly):

"(4) to develop agreements with local educational agencies for vocational course equivalency approval procedures for purposes of satisfying entrance requirements to qualified institutions; and

By Mr. ENGEL:

—Page 169, line 23, strike "and"; on page 170, line 5, insert "and" after the semicolon; and after line 5, insert the following:

"(iii) not in excess of 2 years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service, or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers post-graduate training;".

—Page 170, line 16, strike "and"; on line 23, insert "and" after the semicolon; and after line 23, insert the following.

"(iii) not in excess of 2 years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service, or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers post-graduate training;".

By Mr. FORD of Michigan:

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) Origination Fees.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) Plus loans.—With respect to any loans made under section 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 2 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) Discounting.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 208, insert the following after line 23 (and redesignate the following subsections accordingly):

(a) Default Reduction.—Section 431 of the Act is amended by adding at the end the following new subsection:

"(c) Use for Default Reduction Management.—(1) Use required.—The Secretary shall expend no less than $25,000,000 for fiscal year 1994 and $24,000,000 for fiscal year 1995 from funds under this section for default reduction management activities. Such funds shall be in addition to, and not in lieu of, other appropriations made for such purposes.

"(2) Allowable Activities.—Allowable activities for which such funds shall be expended by the Secretary shall include (but not be limited to) the following: (a) program reviews; (B) audits; (c) debt management programs; (D) training activities; and (E) such other management improvement activities approved by the Secretary.

"(3) Plan For Use Required.—The Secretary shall submit a plan, for inclusion in the materials accompanying the President's budget each fiscal year, detailing the expenditure of funds authorized by this section. At the conclusion of each fiscal year, the Secretary shall report his findings and activities concerning the expenditure of funds authorized by this section to the Appropriations Committees of the House of Representatives and the Senate and to the Committee on Education and Labor of the House and the Committee on Labor and Human Resources of the Senate.

"(4) Training Activities.—Not less than $5,000,000 for fiscal years 1994 and 1995 of the amount made available under paragraph (1) of this subsection shall be used to carry out section 486 of this Act.".

—Page 208, insert the following after line 23 (and redesignate the following subsections accordingly):

(a) Default Reduction.—Section 431 of the Act is amended by adding at the end the following new subsection:

"(c) Use for Financial Assistance.—The Secretary shall expend no less than $95,000,000 for fiscal year 1994 and each of the succeeding three fiscal years from funds under this section to provide student financial assistance to eligible students, with need determined pursuant to Part F of this title, in accordance with regulations prescribed by the Secretary. Such funds shall be in addition to, and not in lieu of, other appropriations made for such purposes.".

—Page 208, insert the following after line 23 (and redesignate the following subsections accordingly):

(a) Default Reduction.—Section 431 of the Act is amended by adding at the end the following new subsections:

"(c) Use for financial assistance.—The Secretary shall expend no less than $95,000,000 for fiscal year 1994 and each of the succeeding three fiscal years from funds under this section to provide student financial assistance to eligible students, with need determined pursuant to Part F of this title, in accordance with regulations prescribed by the Secretary. Such funds shall be in addition to, and not in lieu of, other appropriations made for such purposes.

"(d) Authorization.—There are authorized to be appropriated such sums as necessary to carry out the purposes of subsection (c).".

—Page 190, insert the following new subsection (b) after line 16 and redesignate the following subsections accordingly:

(b) Increased Loan Limits Due to Origination Fees.—Section 428A(b)(1) of the Act is amended by striking "$4,000" and inserting "$4,200".

—Page 309, line 10, strike "and"; on line 12, strike the period and insert "; and"; and after line 12 insert the following:

"(D) the amount (if any) by which the parents' contribution from adjusted available income (as determined by subsection (b)) is less than zero.

—Page 190, insert the following new subsection (b) after line 16 and redesignate the following subsections accordingly:

(b) Increased Loan Limits Due to Origination Fees.—Section 428A(b)(1) of the Act is amended by striking "$4,000" and inserting "$4,200".

—Page 299, line 21, strike the semicolon and insert a period and strike lines 22 and 23.

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) Discounting.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) Origination Fees.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) New Origination Fees.—(A) With respect to any loans made under section 428 on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 4.75 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

"(B) With respect to any loans made under section 428A or 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) Discounting.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) Origination Fees.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) New origination fees.—(A) With respect to any loans made under section 428 on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 4.75 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

"(B) With respect to any loans made under section 428A on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 4.5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

"(C) With respect to any loans made under section 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) Discounting.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 18 and all that follows through line 5 on page 233 and insert the following:

(c) Special Rule.—Section 438(b)(5) is amended by adding at the end thereof the following flush sentence: "As used in this section, the term 'eligible loan' includes all loans subject to section 428(c)(10).".

(d) Origination Fees.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) New origination fees.—(A) With respect to any loans made under section 428 on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 4 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

"(B) With respect to any loans made under section 428A on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 4.5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

"(C) With respect to any loans made under section 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) Discounting.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

SEC. 438. STUDENT LOAN MARKETING ASSOCIATION FACILITY FINANCING.

Section 439(d) (5) of the Act is amended by striking "third highest rating" and inserting "second highest rating".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) Origination Fees.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) SLS and plus loans.—(A) With respect to any loans made under section 428A on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 4 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

"(B) With respect to any loans made under section 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) Discounting.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) Origination Fees.— Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) SLS and plus loans.—(A) With respect to any loans made under section 428A on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 3 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

"(B) With respect to any loans made under section 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) Discounting.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) Origination Fees.— Section 438(c) is amended—

(1) in paragraph (2) by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) SLS and plus loans.—(A) With respect to any loans made under section 428A on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 2 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

"(B) With respect to any loans made under section 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) Discounting.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) Origination Fees.— Section 438(c) is amended—

(1) in paragraph (2) by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) SLS and plus loans.—(A) With respect to any loans made under section 428A on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 1 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

"(B) With respect to any loans made under section 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) Discounting.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) Origination Fees.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) SLS and plus loans.—(A) With respect to any loans made under section 428A on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 3 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

"(B) With respect to any loans made under section 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 4 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) Discounting.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) Origination Fees.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) SLS and plus loans.—(A) With respect to any loans made under section 428A on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 2 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

"(B) With respect to any loans made under section 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 4 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) Discounting.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) Origination Fees.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) New origination fees.—(A) With respect to any loans made under section 428 on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 4 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

"(B) With respect to any loans made under section 428A or 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) Discounting.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) Origination Fees.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) New Origination Fees.—(A) With respect to any loans made under section 428 on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 3 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

"(B) With respect to any loans made under section 428A or 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) Discounting.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) Origination Fees.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) New Origination Fees.—(A) With respect to any loans made under section 428 on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 2 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

"(B) With respect to any loans made under section 428A or 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) Discounting.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) Origination Fees.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) New Origination Fees.—(A) With respect to any loans made under section 428 on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 1 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

"(B) With respect to any loans made under section 428A or 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) Discounting.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) Origination Fees.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) New origination fees.—(A) With respect to any loans made under section 428 on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 0 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

"(B) With respect to any loans made under section 428A or 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) Discounting.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) Origination Fees.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) SLS and plus loans.—(A) With respect to any loans made under section 428A on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 1 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

"(B) With respect to any loans made under section 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 2 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) Discounting.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) Origination Fees.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) SLS and plus loans.—(A) With respect to any loans made under section 428A on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 1 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

"(B) With respect to any loans made under section 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 4 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) Discounting.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) Origination Fees.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this Subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) SLS and plus loans.—(A) With respect to any loans made under section 428A on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 1 percent of the principal amount of the loan, to be deducted proportionately from each installment payment on the proceeds of the loan prior to payments to the borrower.

"(B) With respect to any loans made under section 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 3 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) Discounting.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) Origination Fees.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) SLS and plus loans.—(A) With respect to any loans made under section 428A on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 2 percent of the principal amount of the loan, to be deducted proportionately from each installment payment on the proceeds of the loan prior to payments to the borrower.

"(B) With respect to any loans made under section 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 3 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) Discounting.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) Origination Fees.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this Subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) PLUS LOANS.—(A) With respect to any loans made under section 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment on the proceeds of the loan prior to payments to the borrower.".

(e) DISCOUNTING.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) ORIGINATION FEES.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) SLS AND PLUS LOANS.—With respect to any loans made under section 428A or 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 3 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) DISCOUNTING.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) ORIGINATION FEES.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) SLS AND PLUS LOANS.—With respect to any loans made under section 428A or 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 2 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) DISCOUNTING.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) ORIGINATION FEES.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) SLS AND PLUS LOANS.—With respect to any loans made under section 428A or 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 2 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) DISCOUNTING.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) ORIGINATION FEES.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) SLS AND PLUS LOANS.—With respect to any loans made under section 428A or 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 4 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) DISCOUNTING.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) ORIGINATION FEES.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) PLUS LOANS.—With respect to any loans made under section 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 1 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) DISCOUNTING.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) ORIGINATION FEES.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) PLUS LOANS.—With respect to any loans made under section 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 4 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) DISCOUNTING.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) ORIGINATION FEES.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) PLUS LOANS.—With respect to any loans made under section 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 3 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.".

(e) DISCOUNTING.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

By Mr. GOODLING:

—Page 201 beginning on line 6, strike "No origination fee" and all that follows through "this section." on line 8.

—Page 202, after line 8 insert the following new subsection:

"(h) LOAN ORIGINATION FEE.—With respect to loans for which a completion note or other written evidence of the loan was sent or delivered to the borrower for signing, each eligible lender shall charge to the borrower an origination fee of two percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payment to the borrower. Such origination fee shall be transmitted to the Secretary, who shall use such fee to pay the Federal costs of default claims under this part and to reduce the cost of special allowances paid under section 438(b).

—Page 346, line 7, strike "(i)" and all the follows through line 12 and insert the following: "the institution shall provide assurances to the Secretary that it has a completion rate of at least 70 percent and a placement rate of at least 70 percent.".

—Page 375, after line 13, insert the following new paragraph:

(4) EFFECTIVE DATE PROVISION.—The amendment made by this subsection to subparagraph (F)(ii) of section 485(f)(1) of the Act shall be effective with respect to reports made pursuant to such section on or after September 1, 1993. The statistics required by subparagraph (F) of such section shall—

(A) in the report required on September 1, 1992, include statistics concerning the occurrence on campus of offenses during the period from August 1, 1991, to July 31, 1992;

(B) in the report required on September 1, 1993, include statistics concerning the occurrence on campus of offenses during (i) the period from August 1, 1991, to December 31, 1991, and (ii) the calendar year 1992;

(C) in the report required on September 1, 1994, include statistics concerning the occurrence on campus of offenses during (i) the period from August 1, 1991, to December 31, 1991, and (ii) the calendar years 1992 and 1993; and

(D) in the report required on September 1 of 1995 and each succeeding year, include statistics concerning the occurrence on campus of offenses during the two calendar years preceding the year in which the report is made.

—Page 346, line 7, strike "(i)" and all that follows through line 12 and insert the following: "the institution shall provide assurances to the Secretary that it has a completion rate of at least 70 percent and a placement rate of at least 70 percent.".

—Page 426, after line 2, insert the following new part (and conform the table of contents accordingly):

PART J—AMENDMENTS TO RELATED PROGRAMS.

SEC. 499A. EXCELLENCE IN MATHEMATICS, SCIENCE AND ENGINEERING EDUCATION ACT OF 1990.

Section 601(b) of the Excellence in Mathematics, Science and Engineering Education Act of 1990 is amended—

(1) by striking "1992 and" and inserting "1992,"; and

(2) by striking "1993" and inserting "1993, and such sums as may be necessary for each of the 4 succeeding fiscal years,".

By Mr. GORDON:

—Page 86, line 20, strike the close quotation marks and following period and after such line insert the following:

"(7) No basic grant shall be awarded under this subpart to any individual who is incarcerated in any Federal or State penal institution.".

—Page 184, beginning on line 24, strike all of subsection (u) through page 185, line 12, and redesignate the succeeding subsections accordingly.

—Page 185, line 5, strike out "36 months" and insert in lieu thereof "at any time".

—Page 416, strike line 20 and all that follows through line 6 on page 417 and insert the following:

"(1)(a) a cohort default rate (as defined in section 435(m)) equal to or greater than 15 percent; or

"(B) a cohort default rate (as so defined) equal to or greater than 10 percent and either—

"(i) more than two-thirds of this total undergraduates enrolled on a half-time or more basis receive assistance under this title (except subparts 4 and 6 of part A), or

"(ii) two-thirds or more of the institution's education and general expenditures are derived from funds provided to students enrolled at the institution from the programs established by this title (except subparts 4 and 6 of part A and section 428B);

—Page 345, after line 16, insert the following new paragraph (and redesignate the succeeding paragraph accordingly):

"(4) An institution may not qualify as an institution of higher education for purposes of the Pell Grant program under subpart 2 of part A of this title if such institution is ineligible to participate in a loan program under part B of this title as a result of a default rate determination under section 435(a), unless the majority of the undergraduate programs of study offered by such institution lead to an associate or baccalaureate degree.

—Page 685, line 25, strike "and", on page 686, line 5, strike out "and", and after such line insert the following:

"(J) default rates in the student loan programs under title IV of this Act,

"(K) record of student complaints, and

"(L) compliance with its program responsibilities under title IV of this Act, including any results of financial or compliance audits, program reviews, and such other information as the Secretary may provide to the agency or association, and

By Mr. GRADISON:

—Page 233, beginning on line 6, strike out all of Section 439 through page 251, line 15 and insert the following new section.

SEC. 439. STUDENT LOAN MARKETING ASSOCIATION FINANCIAL SAFETY AND SOUNDNESS.

(a) SHORT TITLE.—This section may be cited as the "Government-Sponsored Education Association Financial Safety and Soundness Act of 1992".

(b) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the Student Loan Marketing Association has important public missions that are reflected in the statutes establishing the Association;

(2) because the continued ability of the Student Loan Marketing Association to accomplish its public missions is important to providing education in the United States, more effective Federal regulation is needed to reduce the risk of failure of the Association:

(3) the Student Loan Marketing Association currently poses minimal financial risk to the Federal Government;

(4) the Student Loan Marketing Association is not backed by the full faith and credit of the United States;

(5) the entity regulating the Student Loan Marketing Association should have sufficient autonomy from the Association and special interest groups; and

(6) the entity regulating the Student Loan Marketing Association should have the authority to establish capital standards, require financial disclosure, prescribe adequate standards for books and records and other internal controls, conduct examinations when necessary, and enforce compliance with the standards and rules that it establishes.

(c) DEFINITIONS.—For purposes of this Act:

(1) COMPENSATION.—The term "compensation" means any payment of money or the provision of any other thing of current or potential value in connection with employment.

(2) CORE CAPITAL.—The term "core capital" means, with respect to the Student Loan Marketing Association, the sum of the following (as determined in accordance with generally accepted accounting principles):

(A) The par value of outstanding common stock.

(B) The par value of outstanding preferred stock.

(C) Paid-in capital.

(D) Retained earnings.

(3) DIRECTOR.—The term "Director" means the Director of the Office of SLMA Market Examination and Oversight of the Department of Treasury.

(4) ASSOCIATION.—The term "Association" means the Student Loan Marketing Association and any subsidiary thereof, other than the College Construction Loan Insurance Association.

(5) EXECUTIVE OFFICER.—The term "executive officer" means, with respect to the Association, the chief executive officer of the Association, chief financial officer of the Association, president of the Association, vice chairman of the Association, any executive vice president of the Association, and any senior vice president of the Association in charge of a principal business unit, division, or function.

(6) OFFICE.—The term "Office" means the Office of SIMA Market Examination and Oversight of the Department of Treasury.

(7) REGULATORY CAPITAL.—The term "regulatory capital" means, with respect to the Association—

(A) the core capital of the Association plus any allowances for losses (including any allowance for losses related to student loan purchases); plus

(B) any other amounts from sources of funds available to absorb losses incurred by the Association, that the Director by regulation determines are appropriate to include in determining regulatory capital.

(8) SECRETARY.—The term "Secretary" means the Secretary of Treasury.

(9) CAPITAL DISTRIBUTION—

(A) IN GENERAL.—The term "Capital Distribution" means—

(i) a dividend or other distribution in cash or in kind made with respect to any share or other ownership interest of the Association, except a dividend consisting only of shares of the Association;

(ii) a payment made by the Association to repurchase, redeem, retire, or othewise acquire any of its shares, including any extension of credit made to finance an acquisition of such share, or

(iii) a transaction that the Director determines by an order or regulation to be in substance the distribution of capital.

(B) EXCEPTION.—A payment made by the Association to repurchase its shares for the purpose of fulfilling the Association's obligation under an existing employee stock ownership plan that is a qualified plan under Section 401 of the Internal Revenue Code shall not be considered a capital distribution.

(d) ESTABLISHMENT OF OFFICE OF SLMA MARKET EXAMINATION AND OVERSIGHT.—Effective January 1, 1993, there shall be established in the Department of Treasury the Office of SLMA Market Examination and Oversight, which shall be an office within the Department.

(e) DIRECTOR.—The Office shall be under the management of a full-time Director, who shall be selected by and report to the Secretary. An individual may not be selected as Director if the individual has served as an executive officer of the Association at any time during the 5-year period ending upon the selection of such individual.

(f) AUTHORITY OF DIRECTOR.—

(1) EXCLUSIVE AUTHORITY.—The Director shall make determinations and take actions that the Director determines necessary with respect to the Association regarding—

(A) examinations of the Association under subsection (z);

(B) decisions to appoint conservators for the Association;

(C) enforcement actions under this Act, including any final decisions in contested administrative enforcement proceedings; and

(D) approval of capital distributions by the Association under section 439(f) of the Higher Education Act.

The authority of the Director under this paragraph shall not be subject to the review or approval of the Secretary.

(2) AUTHORITY SUBJECT TO APPROVAL OF SECRETARY.—Any authority of the Director not referred to in paragraph (1), including the authority to issue rules and regulations, shall be subject to the review and approval of the Secretary, but the Secretary may delegate the authority to review to other officers and employees of the Department of Treasury.

(3) DELEGATION OF AUTHORITY.—The Director may delegate to employees of the Office any of the functions, powers, and duties of the Director, as the Director considers appropriate.

(g) PERSONNEL.—The Director shall hire such employees of the Office as the Director considers necessary to carry out the functions of the Director and the Office.

(h) FUNDING.—

(1) ASSESSMENTS AND FEES.—The Director may establish and collect from the Association such assessments, fees, and other charges that the Director considers necessary so that the amount collected is an amount sufficient to provide for reasonable costs and expenses of the Office of SLMA Market Examination and Oversight, including the expenses of any examinations under subsection (z).

(2) FUND.—There is established in the Treasury of the United States a fund to be known as the SLMA Market Examination and Oversight Fund. Any assessments, fees, and charges collected pursuant to paragraph (1) shall be deposited in the Fund. Amounts in the Fund shall be available, to the extent provided in appropriations Acts—

(A) to carry out the responsibilities of the Director relating to the Association; and

(B) for necessary administrative and nonadministrative expenses of the Office to carry out the purposes of this Act.

(i) ANNUAL REPORTS.—The Director shall submit to the Congress, not later than April 15 of each year, a written report, which shall include—

(1) a description of the actions taken, and being undertaken, by the Director to carry out this Act;

(2) a description of the financial safety and soundness of the Association, including the results and conclusions of the annual examinations of the Association conducted under subsection (z)(1)(A); and

(3) any recommendations for legislation to enhance the financial safety and soundness of the Association.

(j) DISCLOSURE.—The Director of the Office and any conservators and examiners under this Act, shall each submit to the Secretary of Treasury annually during such individual's tenure in such position—

(1) a statement disclosing personal income and finances, which shall be consistent with Federal financial disclosure laws relating to Federal employees; and

(2) a statement certifying that no conflict of interest exists with the position occupied by such individual and describing any circumstance which may reasonably be perceived as a conflict of interest, which shall be consistent with Federal laws relating to conflict of interest.

(k) INFORMATION, RECORDS, AND MEETINGS.—For purposes of subchapter II of chapter 5 of title 5, United States Code (5 U.S.C. 551 et seq.), the Office shall be considered an agency responsible for the regulation or supervision of financial institutions.

(l) REGULATIONS AND ORDERS.—Subject to the approval of the Secretary (as provided in subsection (f)(2)), the Director shall issue any regulations and orders necessary to carry out the duties of the Director and to carry out this Act. The regulations under this subsection shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (b)(B) and (d)(3) of such section).

(m) AMENDMENTS TO THE HIGHER EDUCATION ACT.—Section 439 of the Higher Education Act of 1965 (20 U.S.C. 1087-2) is amended by—

(1) amending subsection (c) to read as follows:

"(c) BOARD OF DIRECTORS.—

"(1) COMPOSITION OF BOARD; CHAIRMAN.—The Association shall have a Board of Directors which shall consist of 21 members, 7 of whom shall be appointed by the President of the United States and shall be representative of the general public. The remaining 14 directors shall be elected by the common stockholders of the Association entitled to vote pursuant to subsection (f). Commencing with the annual shareholders meeting to be held in 1993—

"(A) 7 of the elected directors shall be affiliated with an eligible institution, and

"(B) 7 of the elected directors shall be affiliated with an eligible lender.

The President shall designate one of the directors to serve as Chairman.

"(2) TERMS OF APPOINTED AND ELECTED MEMBERS.—The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

"(3) AFFILIATED MEMBERS.—For the purpose of this subsection, the references to a director 'affiliated with an eligible institution' or a director 'affiliated with an eligible lender' mean an individual who is, or within 5 years of election to the Board has been, an employee, officer, director, or similar official of—

"(A) an eligible institution or an eligible lender;

"(B) an association whose members consist primarily of eligible institutions or eligible lenders; or

"(C) a State agency, authority, instrumentality, commission, or similar institution, the primary purpose of which relates to educational matters or banking matters.

"(4) MEETINGS AND FUNCTIONS OF THE BOARD.—The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the officers of the Association and shall discharge all such functions, powers, and duties.".

(2) amending subsection (f) to read as follows:

"(f) STOCK OF THE ASSOCIATION.—

"(1) VOTING COMMON STOCK.—The Association shall have voting common stock having such par value as may be fixed by the Board from time to time. Each share of voting common stock shall be entitled to 1 vote with rights of cumulative voting at all elections of directors.

"(2) NUMBER OF SHARES; TRANSFERABILITY.—The maximum number of shares of voting common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board from time to time. Any voting common stock issue shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(3) DIVIDENDS.—

"(A) To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on voting common stock by the Board. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of voting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call. All dividends shall be charged against the general surplus account of the Association.

"(B) The Association may not make any capital distribution that would decrease the regulatory capital of the Association (as such term is defined in subsection (c) of the Government-Sponsored Education Association Financial Safety and Soundness Act of 1992) to an amount less than the risk-based capital level for the Association established under subsection (p) of such Act or that would decrease the core capital of the Association (as such term is defined in such subsection (c)) to an amount less than the minimum capital level for the Association established under subsection (q) of such Act, without prior written approval of the payment by the Director of the Office of SLMA Market Examination and Oversight of the Department of Treasury.

"(C) The Director of the Office of SLMA Market Examination and Oversight may require the Association to submit a report to the Director after the declaration of any dividend by the Association and before the payment of the dividend. The report shall be made in such form and under such circumstances and shall contain such information as the Director shall require.";

"(4) SINGLE CLASS OF VOTING COMMON STOCK.—As of the effective date of the Student Loan Marketing Association Financial Safety and Soundness Act of 1992, all of the previously authorized shares of voting common stock and nonvoting common stock of the Association shall be converted to shares of a single class of voting common stock on a share-for-share basis, without any further action on the part of the Association or any holder. Each outstanding certificate for voting or nonvoting common stock shall evidence ownership of the same number of shares of voting stock into which it is converted. All preexisting rights and obligations with respect to any class of common stock of the Association shall be deemed to be rights and obligations with respect to such converted shares.".

(3) by striking paragraph (h)(2) and inserting the following new paragraph:

"(2) DEBT.—The Association shall insert appropriate language in all of the securities issued by it clearly indicating that such securities, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the Association.".

(4) in paragraph (i)(8) by inserting a period after "thereof" and inserting the following new sentence: Salaries shall be set at such levels as the Board of Directors determines reasonable and comparable with compensation for employment in positions in other similar businesses (including other major financial services companies) involving similar duties and responsibilities, except that a significant portion of potential compensation of all executive officers of the Association shall be based on the performance of the Association"; and by adding at the end the following new paragraph:

"(10)(A) Not later than June 30, 1993, and annually thereafter, the Association shall submit a report to the Congress on (i) the comparability of the compensation policies of the Association with the compensation policies of other similar businesses, (ii) in the aggregate, the percentage of total cash compensation and payments under employee benefit plans (which shall be defined in a manner consistent with the Association's proxy statement for the annual meeting of shareholders for the preceding year) earned by executive officers of the Association during the preceding year that was based on the Association's performance, and (iii) the comparability of the Association's financial performance with the performance of other similar businesses. The report shall include a copy of the Association's proxy statement for the annual meeting of shareholders for the preceding year.

"(B) After the date of the enactment of the Government-Sponsored Education Association Financial Safety and Soundness Act of 1992, the Association may not enter into any agreement or contract to provide any payment of money or other thing of current or potential value in connection with the termination of employment of any executive officer of the Association, unless such agreement or contract is approved in advance by the Secretary of the Treasury. The Secretary may not approve any such agreement or contract unless the Secretary determines that the benefits provided under the agreement or contract are comparable to benefits under such agreements for officers of other public and private entities involved in financial services and education interests who have comparable duties and responsibilities. For purposes of this subparagraph, any renegotiation, amendment, or change after such date of enactment to any such agreement or contract entered into on or before such date of enactment shall be considered entering into an agreement or contract.

"(C) For purposes of this paragraph, the term 'executive officer' has the meaning given the term in subsection (c) of the Government-Sponsored Education Association Financial Safety and Soundness Act of 1992.".

(5) in subsection (j) by adding onto the end thereof the following new sentence: "The programs, activities, receipts, expenditures, and financial transactions of the Association shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General.".

(6) by adding the following new subsection:

"(r) Quarterly Reports.—

"(1) Timing.—The Association shall submit to the Director of the Office of SLMA Market Examination and Oversight of the Department of the Treasury quarterly reports of the financial condition of the Association which shall be in such form, contain such information, and be submitted on such dates as the Director of the Office of SLMA Market Examination and Oversight shall require.

"(2) Each report of condition shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the Board of Directors of the Association to make such declaration, that the report is true and correct to the best of such officer's knowledge and belief.

"(3) The Director of the Office of SLMA Market Examination and Oversight may require the Association to submit additional reports of financial condition, which shall be in such form, contain such information, and be submitted on such dates as the Director may require. The Director may also require the Association to submit special reports whenever, in the judgment of the Director, such reports are necessary to carry out the purposes of the Government-Sponsored Education Association Financial Safety and Soundness Act of 1992. The Director may not require the inclusion in any such special report of any information that is not reasonably obtainable by the Association. The Director shall notify the Association, a reasonable period in advance of the date for submission of any report, of any specific information to be contained in the report and the date for the submission of the report.".

(7) Effective Date.—Except as otherwise provided in this subsection and the amendments made by this subsection, the amendments made by this subsection shall take effect on January 1, 1993.

(n) Amendments to Title 5, United States Code.—

(1) Director at Level II of Executive Schedule.—Section 5313 of title 5, United States Code, is amended by inserting at the end the following new item: "Director of the Office of SLMA Market Examination and Oversight, Department of the Treasury.".

(2) Definition of Agency.—Section 3132(a)(1)(D) of title 5, United States Code, is amended by inserting "the Office of SLMA Market Examination and Oversight of the Department of Treasury," after "Farm Credit Administration,".

(o) Implementation.—

(1) In General.—The Secretary of the Treasury and the Director of the Office of SLMA Market Examination and Oversight of the Department of the Treasury, as appropriate, shall issue final regulations providing for the implementation of the provisions of this Act and the amendments made by this Act not later than the expiration of the 18-month period beginning on the date of the enactment of this Act. Such regulations shall clearly delineate the responsibilities and authority of the Secretary and the Director pursuant to the provisions of and amendments made by this Act. Any regulations issued by the Director pursuant to this subsection shall be issued under the authority provided in subsection (1).

(2) Notice and Comment.—The regulations under this subsection shall be issued after notice and opportunity for public comment pursuant to the provisions of section 533 of title 5, United States Code (notwithstanding subsections (b)(B) and (d)(3) of such section).

(p) Risk-Based Capital Level.—

(1) Risk-based capital test.—The Director shall, by regulation, establish a risk-based capital test under this subsection for the Association. When applied to the Association, the risk-based capital test shall determine the amount of regulatory capital for the Association that is sufficient for the Association to maintain positive capital during a 10-year period in which both of the following circumstances occur:

(A) Credit risk.—With respect to student loans owed by the Association, other assets or obligations, and other activities of the Association related to credit risk (including any off-balance sheet obligations), the Director will establish risk-based capital requirements based on the expected losses of the various classes of financial assets and obligations occurring on a nationwide basis at a rate that is reasonably related to the worst actual two-year regional (contiguous area of the United States containing an aggregate of not less than 5 percent of the total population of the United States) experience for such financial instruments and activities.

(B) Interest rate risk.—Interest rates on Treasury obligations of varying terms increase or decrease over the first 12 months of such 10-year period by not more than the lesser of (i) 50 percent (with respect to the average interest rates on such obligations during the 12-month period preceding the 10-year period), or (ii) 600 basis points, and remain at such level for the remainder of the period. This subparagraph may not be construed to require the Director to determine interest rate risk under this subparagraph based on the interest rates for various long-term and short-term obligations all increasing or all decreasing concurrently.

(2) Considerations.—In establishing the risk-based capital test under paragraph (1), the Director shall take into account appropriate distinctions based on various types of loans, varying terms of Treasury obligations, and any other factors the Director considers appropriate.

(3) Risk-based capital level.—For purposes of this Act, the risk-based capital level for the Association shall be equal to the sum of the following amounts:

(A) Credit and interest rate risk.—The amount of regulatory capital determined by applying the risk-based capital test under paragraph (1) to the Association, adjusted to account for foreign exchange risk.

(B) Management and operations.—To provide for management and operations risk, the Director shall establish a requirement of regulatory capital that is a fixed percentage of the amount of capital established under the risk-based capital test under paragraph (1).

(4) Regulations.—The Director shall issue final regulations establishing the risk-based capital test under this subsection not later than the expiration of the 2-year period beginning on the date of the enactment of this Act. Such regulations shall contain specific requirements, definitions, methods, variables, and parameters used under the risk-based capital test and in implementing the test (such as loan loss severity, float income, taxes, yield curve slopes, default experience, and prepayment rates). The regulations shall be sufficiently specific to permit an individual other than the Director to apply the test in the same manner as the Director.

(5) Availability of model.—The Director shall make copies of the statistical model or models used to implement the risk-based capital test under this subsection available for public acquisition and may charge a reasonable fee for such copies.

(q) Minimum Capital Level.—For purposes of this Act, the minimum capital level for the Association shall be an amount of core capital equal to the sum of—

(1) 2.0 percent of the aggregate on-balance sheet assets of the Association, as determined in accordance with generally accepted accounting principles; and

(2) 0.4 percent of the aggregate off-balance sheet obligations of the Association, as determined in accordance with generally accepted accounting principles.

(r) Critical Capital Level.—For purposes of this Act, the critical capital level for the Association shall be an amount of core capital equal to the sum of—

(1) 1.0 percent of the aggregate on-balance sheet assets of the Association, as determined in accordance with generally accepted accounting principles; and

(2) 0.2 percent of the aggregate off-balance sheet obligations of the Association, as determined in accordance with generally accepted accounting principles.

(s) Enforcement Levels.—

(1) In general.—The Director shall classify the Association, for purposes of this Act, according to the following enforcement levels:

(A) Level I.—The Association shall be classified as within level I if it—

(i) maintains an amount of regulatory capital that is equal to or exceeds the risk-based capital level established for the Association under subsection (p); and

(ii) equals or exceeds the minimum capital level for the Association established under subsection (q).

(B) Level II.—The Association shall be classified as within level II if—

(i) the Association—

(a) maintains an amount of regulatory capital that is less than the risk-based capital level established for the Association; and

(b) equals or exceeds the minimum capital level for the Association; or

(ii) the Association is otherwise classified within level II under paragraph (2) of this subsection.

(C) Level III.—The Association shall be classified as within level III if—

(i) the Association—

(a) does not equal or exceed the minimum capital level for the Association; and

(b) equals or exceeds the critical capital level for the Association established under subsection (r); or

(ii) the Association is otherwise classified within level III under paragraph (2) of this subsection.

(D) Level IV.—The Association shall be classified as within level IV if the Association—

(i) does not equal or exceed the critical capital level for the Association; or

(ii) is otherwise classified level IV under paragraph (2) of this subsection.

(2) Discretionary classification.—If at any time the Director determines in writing

that the Association is taking any action not approved by the Director that could result in a rapid depletion of core capital or that the value of the loans held by the Association has decreased significantly, the Director may classify the Association—

(A) as within level II, if the Association is otherwise within level I;

(B) as within level III, if the Association is otherwise within level II; or

(C) as within level IV, if the Association is otherwise within level III.

(3) QUARTERLY DETERMINATION.—The Director shall determine the classification of the Association for purposes of this Act on not less than a quarterly basis (and as appropriate under paragraph (2)). The first such determination shall be made for the quarter ending March 31, 1993.

(4) NOTICE.—Upon determining under paragraph (2) or (3) that the Association is within level II or III, the Director shall provide written notice to the Congress and to the Association—

(A) that the Association is within such level;

(B) that the Association is subject to the provisions of subsection (t) or (u), as applicable; and

(C) stating the reasons for the classification of the Association within such level.

(5) IMPLEMENTATION.—Notwithstanding paragraph (1)(A), during the period beginning on the date of the enactment of this Act and ending upon the effective date of subsection (t) (as provided in paragraph (t)(4)), the Association shall be classified as within level I if the Association equals or exceeds the applicable minimum capital level for the Association under subsection (q).

(t) MANDATORY SUPERVISORY ACTIONS APPLICABLE TO THE ASSOCIATION WITHIN LEVEL II.—

(1) CAPITAL RESTORATION PLAN.—The Association within level II shall, within the time period provided in subsection (x)(2) and in consultation with the Director, submit to the Director a capital restoration plan that complies with subsection (x) and, after approval, carry out the plan.

(2) RESTRICTION ON CAPITAL DISTRIBUTIONS.—The Association within level II may not make any capital distribution that would result in the Association being reclassified as within level III or IV.

(3) RECLASSIFICATION FROM LEVEL II TO LEVEL III.—The Director shall immediately reclassify the Association within level II as within level III (and the Association shall be subject to the provisions of subsection (u)), if—

(A) the Association does not submit a capital restoration plan that is substantially in compliance with subsection (x) within the applicable period or the Director does not approve the capital restoration plan submitted by the Association; or

(B) the Director determines that the Association has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

(4) EFFECTIVE DATE.—This subsection shall take effect upon the expiration of the 1-year period beginning on the date of the effectiveness of the regulations issued under subsection (p) establishing the risk-based capital test.

(u) SUPERVISORY ACTIONS APPLICABLE TO THE ASSOCIATION WITHIN LEVEL III.—

(1) MANDATORY SUPERVISORY ACTIONS.—

(A) CAPITAL RESTORATION PLAN.—The Association within level III shall, within the time period provided in subsection (x)(2) and in consultation with the Director, submit to the Director a capital restoration plan that complies with subsection (x) and, after approval, carry out the plan.

(B) RESTRICTIONS ON CAPITAL DISTRIBUTIONS.—

(i) PRIOR APPROVAL.—The Association within level III may not make any capital distribution that would result in the Association being reclassified as within level IV. An Association within level III may make any other capital distribution only if the Director approves the payment before the payment.

(ii) STANDARD FOR APPROVAL.—The Director may approve a capital distribution by the Association within level III only if the Director determines that the payment (a) will enhance the ability of the Association to meet the risk-based capital level and the minimum capital level for the Association promptly, (b) will contribute to the long-term safety and soundness of the Association, or (c) is otherwise in the public interest.

(C) APPROVAL OF ACTIVITIES.—The Association within level III may undertake an activity subject to the approval of the Secretary of Education or the Secretary of the Treasury under the Higher Education Act only with the additional approval of the Director.

(D) RECLASSIFICATION FROM LEVEL III TO LEVEL IV.—The Director shall immediately reclassify the Association within level III as within level IV (and the Association shall be subject to the provisions of subsection (v)), if—

(i) the Association does not submit a capital restoration plan that is substantially in compliance with subsection (x) within the applicable period or the Director does not approve the capital restoration plan submitted by the Association; or

(ii) the Director determines that the Association has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

(2) DISCRETIONARY SUPERVISORY ACTIONS.—In addition to any other actions taken by the Director (including actions under paragraph (1)), the Director may, at any time, take any of the following actions with respect to the Association within level III:

(A) LIMITATION ON INCREASE IN OBLIGATIONS.—Limit any increase in, or order the reduction of, any obligations of the Association, including off-balance sheet obligations.

(B) LIMITATION ON GROWTH.—Limit or prohibit the growth of the assets of the Association or require contraction of the assets of the Association.

(C) PROHIBITION ON CAPITAL DISTRIBUTIONS.—Prohibit the Association from making any capital distribution.

(D) ACQUISITION OF NEW CAPITAL.—Require the Association to acquire new capital in any form and in any amount sufficient to provide for the reclassification of the Association as within level II.

(E) RESTRICTION OF ACTIVITIES.—Require the Association to terminate, reduce, or modify any activity that the Director determines creates excessive risk to the Association.

(F) CONSERVATORSHIP.—Appoint a conservator for the Association pursuant to subsection (w).

(3) EFFECTIVE DATE.—This subsection shall take effect upon the expiration of the 18-month period beginning on the date of the enactment of this Act.

(v) MANDATORY APPOINTMENT OF CONSERVATOR FOR THE ASSOCIATION WITHIN LEVEL IV.—

(1) NOTICE.—Upon determining that the Association is within level IV, the Director shall provide written notice to the Congress and to the Association—

(A) that the Association is within level IV;

(B) that a conservator shall be appointed for the Association pursuant to this section.

(2) APPOINTMENT.—If the Director determines that the Association is within level IV, the Director shall, not later than 30 days after providing notice under paragraph (1), appoint a conservator for the Association. A conservator appointed pursuant to this subsection shall have the authority, in the discretion of the conservator, to take any actions under subsections (t) and (u) not inconsistent with the authority of the conservator and to take any other actions authorized under subsection (w).

(3) APPROVAL OF ACTIVITIES.—The conservator of any Association within level IV may undertake an activity subject to the approval of the Secretary of Education or the Secretary of the Treasury under the Higher Education Act only with the additional approval of the Director.

(4) EFFECTIVE DATE.—This subsection shall take effect on January 1, 1993.

(w) CONSERVATORSHIP.—

(1) APPOINTMENT.—

(A) DISCRETIONARY AUTHORITY.—The Director may, after providing notice under subparagraph (B), appoint a conservator for the Association upon a determination—

(i) that the Association is not likely to pay its obligations in the normal course of business;

(ii) that—

(a) the Association has incurred or is likely to incur losses that will deplete all or substantially all of its core capital; and

(b) there is no reasonable likelihood that the Association will replenish its core capital without Federal assistance;

(iii) that the Association has concealed books, papers, records, or assets of the Association that are material to the discharge of the Director's responsibilities under this Act, or has refused to submit such books, papers, records, or information regarding the affairs of the Association for inspection to the Director upon request; or

(iv) that the Association is classified within level III.

(B) NOTICE.—Upon making a determination under subparagraph (A) to appoint a conservator under this subsection for the Association, the Director shall provide written notice to the Congress and to the Association—

(i) that a conservator will be appointed for the Association under this subsection;

(ii) stating the reasons under subparagraph (A) for the appointment of the conservator; and

(iii) identifying the person, company, or governmental agency that the Director intends to appoint as conservator.

(2) JUDICIAL REVIEW.—

(A) IN GENERAL.—

(i) TIMING AND JURISDICTION.—Upon the appointment of a conservator (pursuant to this subsection or subsection (v)), the Association may bring an action in the United States District Court for the District of Columbia, for an order requiring the Director to terminate the appointment of the conservator. The court, upon the merits, shall dismiss such action or shall direct the Director to terminate the appointment of the conservator. Such an action may be commenced only before the expiration of the 20-day period beginning upon the appointment of the conservator.

(ii) STANDARD.—A decision of the Director to appoint a conservator may be set aside under this subparagraph only if the court finds that the decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with applicable laws.

(B) STAY.—

(i) IN GENERAL.—A conservator appointed pursuant to this subsection or subsection (v) may request that any judicial action or proceeding to which the conservator or the Association is or may become a party be stayed for a period not exceeding 45 days commencing upon the appointment of the conservator. Upon petition, the court shall grant such stay as to all parties.

(ii) FEDERAL AGENCY AS CONSERVATOR.—In any case in which the conservator appointed for the Association is a Federal agency or an officer or employee of the Federal Government, the conservator may make a request for a stay under clause (i) only with the prior consent of the Attorney General and subject to the direction and control of the Attorney General.

(C) ACTIONS AND ORDERS.—

(i) LIMITATION ON JURISDICTION.—Except as otherwise provided in this paragraph, no court may take any action regarding the removal of a conservator or otherwise restrain or affect the exercise of powers or functions of a conservator.

(ii) ENFORCEMENT OF ORDERS.—The Director, with the prior consent of the Attorney General and subject to the direction and control of the Attorney General, may apply to a court which shall have the jurisdiction to enforce an order of the Director relating to—

(a) the conservatorship and the Association in conservatorship; or

(b) restraining or affecting the exercise of authority or functions of a conservator.

(3) APPOINTMENT BY CONSENT.—Notwithstanding paragraph (1), the Director may appoint a conservator for the Association if the Association, by an affirmative vote of a majority of its board of directors or by an affirmative vote of a majority of its shareholders, consents to such appointment.

(4) EXCLUSIVE APPOINTMENT AUTHORITY AND LIMITATION.—The Director shall have exclusive authority to appoint a conservator for the Association. The Director may not appoint as a conservator for the Association the Offfce of SLMA Market Examination and Oversight, the Department of Treasury, the Department of Education, or any officer or employee of such Office or Departments.

(5) REPLACEMENT OF CONSERVATOR.—The Director may, without notice of hearing, replace a conservator with another conservator. Such replacement shall not affect the right of the Association under paragraph (2) to obtain judicial review of the decision of the Director to appoint a conservator.

(6) EXAMINATIONS.—The Director may examine and supervise any Association in conservatorship during the period in which the Association continues to operate as a going concern.

(7) TERMINATION.—

(A) DISCRETIONARY.—At any time the Director determines that termination of a conservatorship pursuant to an appointment under paragraph (1) is in the public interest and may safely be accomplished, the Director may terminate the conservatorship and permit the Association to resume the transaction of its business subject to such terms, conditions, and limitations as the Director may prescribe.

(B) MANDATORY.—Except upon a determination under paragraph (1), the Director shall terminate a conservatorship pursuant to this subsection or subsection (v) upon a determination by the Director that the Association equals or exceeds the minimum capital level for the Association established under subsection (q). The Director may not impose any terms, conditions, or limitations on the transaction of business of the Association whose conservatorship is terminated under this subparagraph.

(8) POWERS AND DUTIES.—

(A) GENERAL POWERS.—A conservator shall have all the powers of the shareholders, directors, and officers of the Association under conservatorship and may operate the Association in the name of the Association, unless the Director provides otherwise.

(B) LIMITATIONS BY DIRECTOR.—A conservator shall be subject to any rules, regulations, and orders issued from time to time by the Director and, except as otherwise specifically provided in such rules, regulations, or orders or in paragraph (9), shall have the same rights and privileges and be subject to the same duties, restrictions, penalties, conditions, and limitations applicable to directors, officers, or employees of the Association.

(C) PAYMENT OF CREDITORS.—The Director may require a conservator to set aside and make available for payment to creditors any amounts that the Director determines may safely be used for such purpose. All creditors who are similarly situated shall be treated in a similar manner.

(D) COMPENSATION OF CONSERVATOR AND EMPLOYEES.—A conservator and professional employees (other than Federal employees) appointed to represent or assist the conservator may be compensated for activities conducted as conservator. Compensation may not be provided in amounts greater than the compensation paid to employees of the Federal Government or similar services, except that the Director may provide for compensation at higher rates (but not in excess of rates prevailing in the private sector), if the Director determines that compensation at higher rates is necessary in order to recruit and retain competent personnel.

(E) EXPENSES.—All expenses of a conservatorship pursuant to this subsection (including compensation under subparagraph (D)) shall be paid by the Association and shall be secured by a lien on the Association, which shall have priority over any other lien.

(9) LIABILITY PROTECTIONS.—

(A) FEDERAL AGENCIES AND EMPLOYEES.—In any case in which the conservator is a Federal agency or an officer or employee of the Federal Government, the provisions of chapters 161 and 171 of title 28, United States Code, shall apply with respect to the liability of the conservator for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship.

(B) OTHER CONSERVATORS.—In any case where the conservator is not a conservator described in subparagraph (A), the conservator shall not be personally liable for damages in tort or otherwise for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship, unless such acts or omissions constitute gross negligence, including any similar conduct or any form of intentional tortious conduct.

(C) INDEMNIFICATION.—The Director, with the approval of the Attorney General, may indemnify the conservator on such terms as the Director considers appropriate.

(x) CAPITAL RESTORATION PLANS.—

(1) CONTENTS.—Each capital restoration plan submitted under this Act shall set forth a feasible plan for the Association to equal or exceed the minimum capital level for the Association and for restoring the level of regulatory capital of the Association subject to the plan to not less than the risk-based capital level for the Association. Each capital restoration plan shall—

(A) specify the level of capital the Association will achieve and maintain;

(B) describe the actions that the Association will take to equal or exceed the minimum capital level for the Association and to restore the regulatory capital of the Association to not less than the risk-based capital level for the Association;

(C) establish a schedule for completing the capital restoration plan;

(D) specify the types and levels of activities in which the Association will engage during the term of the capital restoration plan; and

(E) describe the actions that the Association will take to comply with any mandatory and discretionary requirements imposed under this Act.

(2) DEADLINES FOR SUBMISSION.—The Director shall, by regulation, establish a deadline for submission of a capital restoration plan, which may not be more than 45 days after the Association is notified in writing that a plan is required. The regulations shall provide that the Director may extend the deadline to the extent that the Director determines necessary. Any extension of the deadline shall be in writing and for a time certain.

(3) APPROVAL.—The Director shall review each capital restoration plan submitted under this subsection and, not later than 45 days after submission of the plan, approve or disapprove the plan. The Director may extend the period for approval or disapproval for any plan for a single additional 45-day period if the Director determines it necessary. The Director shall notify any Association submitting a plan in writing of the approval or disapproval for the plan (which shall include the reasons for any disapproval of the plan) and of any extension of the period for approval or disapproval. The Director shall provide by regulation for resubmission and review of any plans disapproved.

(y) JUDICIAL REVIEW OF DIRECTOR ACTION—GENERALLY.—

(1) JURISDICTION.—

(A) FILING OF PETITION.—Except as otherwise provided in this act, the Association within level I, II, or III, that is the subject of a mandatory or discretionary supervisory action taken under this Act by the Director (other than action under subsection (v), (w), (bb), (cc) or (gg)) may obtain review of the action by filing, within 10 days after receiving written notice of the Director's action, a written petition requesting that the action of the Director be modified, terminated, or set aside.

(B) PLACE FOR FILING.—A petition filed pursuant to this subsection shall be filed in the United States Court of Appeals for the District of Columbia Circuit.

(2) SCOPE OF REVIEW.—An action taken by the Director under this Act (other than under subsection (v), (w), (bb), (cc) or (gg)) may be modified, terminated, or set aside only if the court finds, on the record on which the Director acted, that the action of the Director was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with applicable laws.

(3) UNAVAILABILITY OF STAY.—The commencement of proceedings for judicial review

pursuant to this subsection shall not operate as a stay of any action taken by the Director. Except with respect to any Association within level I or II that has not been reclassified to level III under subsection (s)(2) or (t)(3), no court shall have jurisdiction to stay, enjoin, or otherwise delay any mandatory or discretionary supervisory enforcement action taken by the Director under this Act pending judicial review of the action.

(4) LIMITATION ON JURISDICTION.—Except as provided in this subsection, no court shall have jurisdiction to affect, by injunction or otherwise, the issuance or effectiveness of any action of the Director under this Act (other than action under subsection (v), (w), (bb), (cc), or (gg)) or to review, modify, suspend, terminate, or set aside such action.

(z) EXAMINATIONS.—

(1) TIMING.—

(A) ANNUAL EXAMINATION.—The Director shall annually conduct an examination under this subsection of the Association to determine the condition of the Association for the purpose of ensuring its financial safety and soundness.

(B) OTHER EXAMINATIONS.—Whenever the Director determines that an examination is necessary to determine the condition of the Association for the purpose of ensuring its financial safety and soundness the Director may conduct an examination under this subsection.

(2) EXAMINERS.—The Director shall appoint examiners to conduct examinations of the Association under this subsection.

(3) TECHNICAL EXPERTS.—The Director may obtain the services of any technical experts the Director considers necessary and appropriate to provide temporary technical assistance relating to examinations to the Director and officers and employees of the Office of SLMA Market Examination and Oversight. The Director shall describe, in the public record of each examination, the nature and extent of any such temporary technical assistance.

(4) OATHS, EVIDENCE, SUBPOENA POWERS.—In connection with examinations under this subsection, the Director may—

(A) administer oaths and affirmations;

(B) take and preserve testimony under oath; and

(C) issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence.

The attendance of witnesses and the production of evidence may be required from any place within any State at any designated place where a hearing relating to an examination is conducted.

(5) SECOND EXAMINATION BY GAO.—Upon a determination by the Director that an examination of the Association is necessary under paragraph (1)(B), the Comptroller General shall conduct an examination of the Association solely to provide an independent determination regarding the safety and soundness of the Association. The examination shall be conducted at a time and in a manner that results in minimal disruption to the normal business activities of the Association. The Comptroller General may obtain the services of technical experts in the same manner as the Director may obtain such services under paragraph (3), except that any entity that assists the Director in examining the Association may not concurrently assist the Comptroller General to examine the Association under this subsection.

(aa) SAFE HARBOR.—

(1) VOLUNTARY RATINGS.—Upon request from the Association, the Director shall contract with two nationally recognized statistical rating organizations—

(A) to assess the likelihood that the Association might not be able to meet its future obligations from its own resources and to express that likelihood as a traditional credit rating; and

(B) to review the rating of the Association for one year from the effective date of the rating.

(2) QUALIFICATION FOR SAFE HARBOR.—

(A) DETERMINATION BY DIRECTOR.—If, after receiving a rating from each statistical rating organization described in paragraph (1), the Director determines that the Association merits the highest investment grade rating awarded by that organization, the Association shall be deemed, effective for one year following the date of the Director's determination, to meet the minimum risk-based capital levels for all relevant capital measures for purposes of subsection(s).

(B) WRITTEN FINDING REQUIRED.—If—

(i) each statistical rating organization described in paragraph (1) assigns the Association the highest investment grade rating awarded by that organization, and

(ii) the Director fails to make the determination described in subparagraph (A),

the Director shall make a written finding detailing the reasons for the Director's failure to make such determination.

(3) EARLY TERMINATION OF SAFE HARBOR.—Paragraph (2) shall cease to apply at such time as any such statistical rating organization described in paragraph (1) notifies the Director, and the Director determines, that the Association no longer merits the highest investment grade rating awarded by that organization. The Director shall promptly notify the Association that the Director has received the notice described in this paragraph.

(4) ASSESSMENTS FOR RATINGS.—The Director shall impose and collect an assessment on the Association, if it requests ratings under paragraph (1), to cover the full cost to the Federal Government of obtaining the ratings.

(5) DISCRETIONARY RATINGS.—Nothing in this subsection shall prevent the Director from contracting with any nationally recognized statistical rating organization to rate the Association at any time and for any purpose that the Director deems appropriate.

(6) DEFINITION OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—For purposes of this subsection, the term "nationally recognized statistical rating organization" means any entity effectively recognized by the Division of Market Regulation of the Securities and Exchange Commission as a nationally recognized statistical rating organization for the purposes of the capital rates for broker-dealers.

(bb) CEASE-AND-DESIST PROCEEDINGS.—

(1) GROUNDS FOR ISSUANCE.—The Director may issue and serve upon the Association or any executive officer of the Association a notice of charges under this subsection if, in the determination of the Director, the Association or executive officer—

(A) is engaging or has engaged, or the Director has reasonable cause to believe that the Association or executive officer is about to engage, in any activity that could result in a rapid depletion of the core capital of the Association; or

(B) is violating or has violated, or the Director has reasonable cause to believe that the Association or executive officer is about to violate—

(i) any law, rule, or regulation; or

(ii) any written agreement entered into by the Association with the Director.

(2) PROCEDURE.—

(A) NOTICE OF CHARGES.—Each notice of charges shall contain a statement of the facts constituting the alleged violation or violations or the activity that could result in a rapid depletion of the core capital of the Association, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist from such violation or activity should issue against the Association or executive officer.

(B) DATE OF HEARING.—A hearing pursuant to a notice under subparagraph (A) shall be fixed for a date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is met by the Director at the request of the Association or executive officer served.

(C) FAILURE TO APPEAR.—Unless the Association or executive officer served appears at the hearing through a duly authorized representative, the Association or executive officer shall be deemed to have consented to the issuance of the cease-and-desist order.

(D) ISSUANCE OF ORDER.—In the event of such consent, or if, upon the record made at any such hearing, the Director finds that any violation or activity specified in the notice of charges has been established, the Director may issue and serve upon the Association or executive officer an order requiring the Association or executive officer to cease and desist from any such violation or activity and to take affirmative action to correct the conditions resulting from any such violation or activity.

(3) AFFIRMATIVE ACTION TO CORRECT CONDITIONS RESULTING FROM VIOLATIONS OR ACTIVITIES.—The authority under this subsection and subsection (cc) to issue any order which requires the Association or executive officer to take affirmative action to correct or remedy any conditions resulting from any violation or activity with respect to which such order is issued includes the authority to require such Association or executive officer—

(A) to make restitution or provide reimbursement, indemnification, or guarantee against loss if the violation or activity involves a reckless disregard for the law or any applicable regulations or prior order of the Director or the Association or executive officer was unjustly enriched in connection with such violation or practice;

(B) to restrict the growth of the Association;

(C) to dispose of any asset involved;

(D) to rescind agreements or contracts;

(E) to employ qualified officers or employees (who may be subject to approval by the Director at the direction of the Director); and

(F) to take such other action as the Director determines appropriate.

(4) AUTHORITY TO LIMIT ACTIVITIES.—The authority to issue an order under this subsection or subsection (cc) includes the authority to place limitations on the activities or functions of the Association or any director or executive officer of the Association.

(5) EFFECTIVE DATE.—A cease-and-desist order under this subsection shall become effective upon the expiration of the 30-day period beginning on the service of the order upon the Association or executive officer concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided in the order, except to the extent that the order is stayed, modified, terminated, or set aside by action of the Director or otherwise as provided in this Act.

(cc) TEMPORARY CEASE-AND-DESIST ORDERS.—

(1) Grounds for issuance and scope.—Whenever the Director determines that any violation, threatened violation, or activity that could result in a rapid depletion of the capital of the Association, specified in the notice of charges served upon the Association or executive officer pursuant to subsection (bb)(1), or the continuation thereof, is likely—

(A) to cause insolvency of the Association, or

(B) to weaken the condition of the Association prior to the completion of the proceedings conducted pursuant to subsection (bb)(2),

the Director may issue a temporary order requiring the Association or executive officer to cease-and-desist from any such violation or practice and to take affirmative action to prevent and remedy such insolvency or condition pending completion of such proceedings. Such order may include any requirement authorized under subsection (bb)(3).

(2) Effective date.—An order issued pursuant to paragraph (1) shall become effective upon service upon the Association or executive officer and, unless set aside, limited, or suspended by a court in proceedings pursuant to paragraph (4), shall remain in effect and enforceable pending the completion of this proceedings pursuant to such notice and shall remain effective until the Director dismisses the charges specified in the notice or until superseded by a cease-and-desist order issued pursuant to subsection (bb).

(3) Incomplete or inaccurate records.—

(A) Temporary order.—If a notice of charges served under subsection (bb)(1) specifies that the books and records of the Association served are so incomplete or inaccurate that the Director is unable, through the normal supervisory process, to determine the financial condition of the Association or the details or the purpose of any transaction or transactions that may have a material effect on the financial condition of that Association, the Director may issue a temporary order requiring—

(i) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

(ii) affirmative action to restore the books or records to a complete and accurate state, until the completion of the proceedings under subsection (bb).

(B) Effective period.—Any temporary order issued under subparagraph (A)—

(i) shall become effective upon service; and

(ii) unless set aside, limited, or suspended by a court in proceedings pursuant to paragraph (4), shall remain in effect and enforceable until the earlier of—

(a) the completion of the proceeding initiated under subsection (bb) in connection with the notice of charges; or

(b) the date the Director determines, by examination or otherwise, that the books and records of the Association are accurate and reflect the financial condition of the Association.

(4) Judicial review.—Within 10 days after the Association or executive officer has been served with a temporary cease-and-desist order pursuant to this subsection, the Association or executive officer may apply to the United States District Court for the District of Columbia for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the Association or executive officer under subsection (bb)(1). Such court shall have jurisdiction to issue such injunction.

(5) Enforcement by attorney general.—In the case of violation or threatened violation of, or failure to obey, a temporary order issued pursuant to this subsection, the Director may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia for an injunction to enforce such order. If the court finds any such violation, threatened violation, or failure to obey, the court shall issue such injunction.

(dd) Hearings.—

(1) Venue and procedure.—Any hearing under subsection (bb), (cc), or (gg)—

(A) shall be held in the Federal judicial district or in the territory in which the home office of the Association is located unless the Association consents to another place; and

(B) shall be conducted in accordance with the provisions of chapter 5 of title 5, United States Code.

(2) Issuance of order.—

(A) In general.—After any such hearing, and within 90 days after the Director has notified the parties that the case has been submitted to the Director for final decision, the Director shall render the decision (which shall include findings of fact upon which the decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this Act.

(B) Modification.—Except as provided in subsection (cc)(4), judicial review of any such order shall be exclusively as provided in subsection (ee). Unless such a petition for review is timely filed as provided in subsection (ee), and thereafter until the record in the proceeding has been filed as so provided, the Director may at any time, modify, terminate, or set aside any such order, upon such notice and in such manner as the Director considers proper. Upon such filing of the record, the Director may modify, terminate, or set aside any such order with permission of the court.

(ee) Judicial review of cease-and-desist orders and civil money penalties.—

(1) Commencement.—Any party to a proceeding under subsection (bb) or (gg) may obtain review of any final order issued under such subsection by filing in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Director be modified, terminated, or set aside. The clerk of the court shall transmit a copy of the petition to the Director.

(2) Filing of record.—Upon receiving a copy of a petition, the Director shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

(3) Jurisdiction.—Upon the filing of a petition, such court shall have jurisdiction, which upon the filing of the record by the Director shall (except as provided in the last sentence of subsection (dd)(2)(B)) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Director.

(4) Review.—Review of such proceedings shall be governed by chapter 7 of title 5, United States Code.

(5) Order to pay penalty.—Notwithstanding any other provision of law, such court shall have the authority in any such review to order payment any penalty imposed by the Director under this Act.

(6) No automatic stay.—The commencement of proceedings for judicial review under this subsection shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Director.

(ff) Enforcement and jurisdiction.—

(1) Enforcement.—The Director may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia for the enforcement of any effective notice or order issued under this Act, and the court shall have jurisdiction and power to order and require compliance herewith.

(2) Limitation on jurisdiction.—Except as otherwise provided in this Act, no court shall have jurisdiction to affect, by injunction or otherwise, the issuance or enforcement of any notice or order under subsection (bb) or (cc), or to review, modify, suspend, terminate, or set aside any such notice or order.

(gg) Civil money penalties.—

(1) Failure to submit reports.—The Director may impose a civil money penalty, in accordance with the provisions of this subsection, on any Association that fails to make any report required under section 439(r) of the Higher Education Act within the period of time established by the Director for submission of the report (except in the case of a report submitted minimally late). The amount of the penalty, as determined by the Director, may not exceed $5,000 per day for each day during which such failure continues.

(2) Unintentional violations.—The Director may impose a civil money penalty, in accordance with the provisions of this subsection, on any Association that, without knowledge—

(A) violates any law, rule, or regulation;

(B) violates any final order or temporary order issued pursuant to subsection (bb) or (cc); or

(C) violates any written agreement between the Association and the Director.

The amount of the penalty, as determined by the Director, may not exceed $5,000 for each day during which such violation continues.

(3) Intentional violations.—The Director may impose a civil money penalty, in accordance with the provisions of this subsection, on any Association that—

(A) submits to the Director any false or misleading report or information with actual knowledge of inaccuracy, deliberate ignorance of inaccuracy, or reckless disregard for accuracy; or

(B) knowingly commits any violation described in paragraph (2).

The amount of the penalty, as determined by the Director, may not exceed, for each day during which such violation, practice, or breach continues, the lesser of (i) $1,000,000, or (ii) one percent of the total assets of the Association.

(4) Procedures.—

(A) Establishment.—The Director shall establish standards and procedures governing the imposition of civil money penalties under paragraphs (1), (2), or (3). The standards and procedures—

(i) shall provide for the Director to make the determination to impose the penalty;

(ii) shall provide for the imposition of a penalty only after the Association has been given notice of, and opportunity for, a hearing on the record; and

(iii) may provide for review by the Director of any determination or order, or interlocutory ruling, arising from a hearing.

(B) Final orders.—If the Association does not request a hearing within 20 days after receipt of a notice of opportunity for hearing, the imposition of a penalty shall constitute a final and unappealable determination. If the Director reviews the determination on order, the Director may affirm, modify, or reverse the determination or order, and shall state with reasonable specificity the basis upon which any such affirmation, modification, or reversal is made. If the Director does not review the determination or order within 90 days after the issuance of the determination or order, the determination or order shall be final.

(C) Factors in Determining Amount of Penalty.—In determining the amount of a penalty under paragraph (1), (2), or (3), the Director shall give consideration to such factors as the gravity of the violation, any history of prior violations (including violations occurring before the date under paragraph (9)), the effect of the penalty on the safety and soundness of the Association, any injury to the public, any benefits received, and deterrence of future violations, and any other factors the Director may determine by regulation.

(D) Review of Imposition of Penalty.—The determination or order of the Director imposing a penalty under paragraph (1), (2), or (3) shall not be subject to review, except as provided in subsection (ee).

(5) Action to Collect Penalty.—If the Association fails to comply with a determination or order of the Director imposing a civil money penalty under paragraph (1), (2), or (3), after the determination or orders is no longer subject to review as provided under paragraph (4)(A) and subsection (ee), the Director may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia to obtain a monetary judgment against the Association and such other relief as may be available. The monetary judgment may, in the discretion of the court, include any attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this paragraph, the validity and appropriateness of the determination or order of the Director imposing the penalty shall not be subject to review.

(6) Settlement by Director.—The Director may comprise, modify, or remit any civil money penalty which may be, or has been imposed under this subsection.

(7) Availability of Other Remedies.—Any civil money penalty under this subsection shall be in addition to any other available civil remedy and may be imposed whether or not the Director imposes other administrative sanctions.

(8) Deposit of Penalties.—The Director shall deposit any civil money penalties collected under this subsection into the general fund of the Treasury.

(9) Applicability.—This subsection shall apply only to violations under paragraphs (1), (2), and (3) occurring on or after January 1, 1993.

(hh) Notice of Service.—Any service required or authorized to be made by the Director under this Act may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Director may by regulation or otherwise provide.

(ii) Subpoena Authority.—

(1) In General.—In the course of or in connection with any administrative proceeding under this Act, the Director shall have the authority—

(A) to administer oaths and affirmations;

(B) to take or cause to be taken depositions;

(C) to issue subpoenas and subpoenas duces tecum; and

(D) to revoke, quash, or modify subpoenas and subpoenas duces tecum issued by the Director.

(2) Witnesses and Documents.—The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State at any designated place where such proceeding is being conducted.

(3) Enforcement.—The Director may request the Attorney General of the United States to bring an action in the United States district court for the judicial district in which such proceeding is being conducted, or where the witness resides or conducts business, or the United States District Court for the District of Columbia, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this subsection. Such courts shall have jurisdiction and power to order and require compliance therewith.

(4) Fees and Expenses.—Witnesses subpoenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this subsection by the Association may allow to any such party such reasonable expenses and attorneys fees as the court deems just and proper. Such expenses and fees shall be paid by the Association or from its assets.

(jj) Study of Impact of Privatization of the Association.—

(1) In General.—The Comptroller General of the United States, in consultation with the Secretary of Education and the Secretary of the Treasury, shall conduct and submit to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, a study regarding the effect of repealing the Federal charter of the Student Loan Marketing Association and allowing the Association to continue to operate as a fully private entity.

(2) Requirements.—In evaluating the effect of such action, the study shall particularly examine the impact on—

(A) the availability and supply of student loans;

(B) the availability of financing for student loans and the interest rates for such loans in the secondary markets;

(C) the size, liquidity, and stability of the secondary market for student loans; and

(D) the overall banking and financial system

The study shall also examine the direct and indirect monetary benefits that accrue to the Student Loan Marketing Association from its quasi-governmental status.

(3) Information.—The Student Loan Marketing Association shall provide full and prompt access to the Comptroller General, the Secretary of Education and the Secretary of the Treasury to any books, records, and other information requested for the purposes of conducting the study under this subsection.

By Mr. GUNDERSON:

—Page 63, strike out lines 12 through 14 and insert in lieu thereof the following:

amended in the first sentence therein—

(A) by inserting immediately after "full-time basis" the following: "(including a student who attends an institution of higher education on less than a half-time basis)"; and

(B) by inserting before the period at the end thereof the following: ", computed in accordance with this subpart".

—Page 86, line 16, strike out "and inserting" through line 20 and insert a period.

—Page 201 beginning on line 6, strike "No origination fee" and all that follows through "this section." on line 8.

—Page 202, after line 8 insert the following new subsection:

"(h) Loan Origination Fee.—With respect to loans for which a completion note or other written evidence of the loan was sent or delivered to the borrower for signing, each eligible lender shall charge to the borrower an origination fee of two percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payment to the borrower. Such origination fee shall be transmitted to the Secretary, who shall use such fee to pay the Federal costs of default claims under this part and to reduce the cost of special allowances paid under section 438(b).

—Page 63, strike out lines 12 through 14 and insert in lieu thereof the following:

amended in the first sentence therein—

(A) by inserting immediately after "full-time basis" the following: "(including a student who attends an institution of higher education on less than a half-time basis)"; and

(B) by inserting before the period at the end thereof the following: ", computed in accordance with this subpart".

—Page 86, line 16, strike out "and inserting" through line 20 and insert a period.

—Page 265, line 10, strike "15 percent" and insert "5 percent".

—Page 265, line 11, insert the following before the "." "and the Secretary shall determine that such guarantee agency will remain financially sound."

By Mr. HENRY:

—Page 690, line 9, strike out "section." and insert in lieu thereof "section, provided that such additional standards are not applied in a manner that is inconsistent with the institution's mission or contrary to the religious beliefs espoused by the institution."

—Page 690, line 9, strike out "section." and insert in lieu thereof "section, provided that such additional standards are not applied in a manner that is inconsistent with the institution's mission or contrary to the religious beliefs espoused by the institution."

—Page 358, strike line 12 and all that follows through line 9 on page 359 and insert the following:

(c) Elimination of Ability-to-Benefit Provisions From Student Eligibility Requirements.—

(1) Repeal.—Subsection (d) of section 484 of the Act is repealed.

(2) Conforming Amendments.—

(A) Section 435 of the Act is amended—

(i) in subsection (b)(1), by striking ", or who are beyond the age of compulsory school attendance"; and

(ii) in subsection (c), by striking paragraph (1) and inserting the following:

"(1) admits as regular students only persons having secondary education, or the recognized equivalent of such certificate;".

(B) Section 481 of the Act is amended—

(i) by striking the second sentence of subsection (b); and

(ii) by striking the second sentence of subsection (c).

—Page 383, strike line 9 and all that follows through line 3 on page 884 and insert the following:

"(2)(A) With respect to any institution that offers athletically related student aid, the institution will—

"(i) cause an annual compilation, independently audited not less often than every 3 years, to be prepared within 6 months after the end of its fiscal year, of—

"(I) the total revenues, and the revenues from football, men's basketball, women's basketball, all other men's sports combined, and all other women's sports combined, derived by the institution from its intercollegiate athletics activities;

"(II) the total expenses, and the expenses attributable to football, men's basketball, women's basketball, all other men's sports combined and all other women's sports combined, made by the institution for its intercollegiate athletics activities; and

"(III) the total revenues and operating expenses of the institution; and

"(ii) make the reports on such compilations and, where allowable by State law, the audits available for inspection by the Secretary and the public.

"(B) For the purpose of subparagraph (A)—

"(i) revenues from intercollegiate athletics activities allocable to a sport shall include without limitation gate receipts, broadcast revenues, appearance guarantees and options, concessions and advertising, but revenues such as student activities fees or alumni contributions not so allocable shall be included in the calculation of total revenues only; and

"(ii) expenses for intercollegiate athletics activities allocable to a sport shall include without limitation grants-in-aid, salaries, travel, equipment, and supplies, but expenses such as general and administrative overhead not so allocable shall be included in the calculation of total expenses only.

By Mr. JEFFERSON:

—Page 52, line 8, strike "and", on line 10 strike the periods and quotation marks and insert a semicolon, and after line 10 insert the following:

"(11) Morgan State Graduate School

"(12) Hampton University Graduate School

"(13) Alabama A&M Graduate School

"(14) North Carolina A&T State University Graduate School

"(15) University of Maryland Eastern Shore Graduate School and

"(16) Jackson State Graduate School

—Page 53, lines 2, 9, and 16, strike "(10)" and insert "(16)".

By Mr. JOHNSON of South Dakota:

—Page 534, line 25, strike the close quotation marks and following period and after such line insert the following new part (and conform the table of contents accordingly):

"PART D—SMALL STATE TEACHING INITIATIVE

"SEC. 596A. MODEL PROGRAMS AND EDUCATIONAL EXCELLENCE.

"(a)(1) PURPOSE.—It is the purpose of this section to provide sufficient funds to small States to develop model programs for educational excellence, teacher training and educational reform.

"(2) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to institutions of higher education for the purpose of enhancing and improving the quality of teacher education, training, and recruitment in the Nation's smallest States.

"(3) INSTITUTIONAL USE OF FUNDS.—Eligible institutions of higher education receiving funds under this section may use such funds for the development of innovative teaching techniques and materials, preservice and inservice training programs, renovation of training facilities and construction of model classrooms. Special consideration should be given to proposals that include the rehabilitation of historic education facilities.

"(b) ALLOTMENT OF FUNDS.—The Secretary shall allot funds in equal portions among the eligible applicants.

"(c) DEFINITIONS.—

"(1) SMALL STATE.—For the purposes of this section the term "Small State" includes the several States whose population is in each case less than 1,108,500 as reported in the 1990 Census of Population and Housing.

"(2) INSTITUTIONS OF HIGHER EDUCATION.—For the purposes of this section, the term "institution of higher education' mean an institution (as defined in section 1201) that the Secretary determines is under public supervision and control.

"(d) APPLICATION.—IN GENERAL.—Any eligible institution which desires to receive an allotment under this seciton shall submit to the Secretary an application which—

"(1) certifies that the State educational agency has approved the plan and entered into a partnership for its implementation.

"(2) provides for a process of active discussion and consultation with an advisory committee convened by the State educational agency and the eligible institution;

"(3) describes how the institution will use the funding;

"(4) describes how the plan will be evaluated for dissemination.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this part there are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary in each of the six succeeding fiscal years.".

By Mr. KASICH:

—Page 168, after line 19, insert the following subsection (and redesignate the succeeding subsections and the table of contents accordingly):

(c) RISK SHARING BY LENDERS.—

Section 428(b)(1)(G) of the Act (20 U.S.C. 1078(b)(1)(G)) is amended to read as follows:

'(G) insures not less than 90 percent of the unpaid principal of loans insured under the program.

—Page 217, after line 6, subsection (n)(1) shall read as follows:

(1) AUTHORIZATION.—There are authorized to be appropriated $25,000,000 for fiscal year 1993 and each of the four succeeding fiscal years for the Secretary to expend for default reduction management activities to result in a performance measure of reducing defaults by 5% relative to the prior fiscal year. Such funds shall be in addition to, and not in lieu of, other appropriations made for such purposes.

After line 20, subsection (n)(3) shall read as follows:

(3) PLAN FOR USE REQUIRED.—The Secretary shall submit a plan, for inclusion in the materials accompanying the President's budget each fiscal year, detailing the expenditure of funds authorized by this section to accomplish the 5% reduction in defaults. At the conclusion of the fiscal year, the Secretary shall report his findings and activities concerning the expenditure of funds and whether the performance measure was met. If the performance measure was not met, the Secretary shall report the following:

(A) why the goal was not met, including an indication of any managerial deficiencies or of any legal obstacles;

(B) plans and schedule for achieving the established performance goal;

(C) recommended legislative or regulatory changes necessary to achieve the goal; and

(D) if the performance standard or goal is impractical or infeasible, why that is the case and what action is recommended, including whether the goal should be changed or the program altered or eliminated.

This report shall be submitted to the Appropriations Committees of the House of Representatives and the Senate and to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

—Page 180, after line 17, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(p) ADDITIONAL LENDER COLLECTION EFFORTS.—Section 428(b) of the Act is further amended by adding at the end the following new paragraph:

"(9) ADDITIONAL LENDER COLLECTION EFFORTS.—Notwithstanding any other provision of this part, for any loan made after the date of enactment of this paragraph a lender shall be required to retain for collection, for an additional 90 days, any loan that, but for this paragraph, is eligible to be presented to the guaranty agency for reimbursement. Notwithstanding such provisions, during such additional 90 days—

"(A) the lender may not present such loan for reimbursement;

"(B) no interest shall accrue on the loan;

"(C) the lender may use its normal, consumer loan collection practices in seeking to obtain payment from the borrower on the loan (without regard to procedures established under this part concerning due diligence); and

"(D) if the borrower makes payments sufficient to return the loan to current status, the interest that is prohibited from accruing under subparagraph (B) shall be added to principal.".

By Mr. KLUG:

—Page 169, line 23, and page 170, line 16, strike "and"; and on page 170, after line 5 and after line 23, insert the following new clauses:

"(iii) not in excess of 3 years during which the borrower is engaged as a full-time teacher in a public on nonprofit private elementary or secondary school in a teacher shortage area established by the Secretary pursuant to paragraph (4) of this subsection;

—Page 177, strike lines 13 through 16 and redesignate the succeeding subsections accordingly.

—Page 177, line 18, strike "428(b)(4) of the Act as redesignated)" and insert "428(b)(5) of the Act".

—Page 178, line 4, and page 179, lines 14 and 23, redesignate paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7), respectively.

By Mr. KOLBE:

—Page 416, strike line 20 and all that follows through line 6 on page 417 and insert the following:

"(1)(A) a cohort default rate (as defined in section 435(m)) equal to or greater than 15 percent; or

"(B) a cohort default rate (as so defined) equal to or greater than 10 percent and either—

"(i) more than two-thirds of its total undergraduates enrolled on a half-time or more basis receive assistance under this title (except subparts 4 and 6 of part A), or

"(ii) two-thirds or more of the institution's education and general expenditures are derived from funds provided to students enrolled at the institution from the programs established by this title (except subparts 4 and 6 of part A and section 428B);

By Mr. MCCURDY:

—Page 356, line 18, strike "and"; and after line 18 insert the following new paragraph (and redesignate the succeeding paragraphs accordingly):

(2) by striking paragraph (2) and inserting the following:

"(2)(A) if the student is enrolled or accepted for enrollment in the first year of an educational program on or after August 1, 1995, comply with the minimum achievement requirements applicable under subsection (j); or

"(B) if the student is enrolled or accepted for enrollment in a second or any succeeding year of an educational program, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with the provisions of subsection (c);";

—Page 357, line 9, strike "and"; on line 14, strike the second period and insert "; and"; and after such line insert the following new paragraph:

(6) in subsection (c)(1), by striking "subsection (a)(2)" and inserting "subsection (a)(2)(B)".

—Page 365, line 6, strike the close quotation marks and following period and after such line insert the following new subsection:

"(j) MINIMUM ACHIEVEMENT REQUIREMENTS.—For the purposes of subsection (a)(2)(A), a student complies with the minimum achievement requirements applicable under this subsection if—

"(1) in the case of a student enrolled or accepted for enrollment in an institution of higher education that provides an educational program for which it awards a bachelor's degree, such student has—

"(A) scored in or above the 55th percentile on a nationally accepted college entrance examination approved by the Secretary for the purposes of this subsection; or

"(B) attained, in non-elective academic courses in secondary school, a cumulative grade point average of at least 2.5 (out of a possible 4.0) or the equivalent of such a grade point average as determined under regulations prescribed by the Secretary; or

"(2) in the case of a student enrolled or accepted for enrollment in a proprietary institution of higher education, a postsecondary vocational institution, or an institution of higher education that provides a two-year educational program that is acceptable for credit toward a bachelor's degree, such student has—

"(A) passed an ability-to-benefit test approved by the Secretary for purposes of this subsection; or

"(B) obtained a diploma or certificate of graduation from a secondary school or the recognized equivalent of such a diploma or certificate.".

—Page 655, line 11, strike "(a) AMENDMENT.—".

—Page 655, beginning on line 15, strike all of part A through page 658, line 14, and redesignate the succeeding parts accordingly.

—Page 680, strike lines 16 and 17.

By Mrs. MINK:

—Page 169, line 23, strike "and"; on page 170, line 5, insert "and" after the semicolon; and after line 5, insert the following.

"(iii) not in excess of 2 years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service, or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers post-graduate training;".

—Page 170, line 16, strike "and"; on line 23, insert "and" after the semicolon; and after line 23, insert the following.

"(iii) not in excess of 2 years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service, or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers post-graduate training;".

—Page 231, strike line 22 and all that follows through line 22 on page 232 and insert the following:

(d) ORIGINATION FEES.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) PHASEOUT OF ORIGINATION FEE.—For each of the following academic years, the origination fee shall not exceed the following percentages of the principal amount of the loan:

"(A) For the academic year beginning July 1, 1993, 4 percent.

"(B) For the academic year beginning July 1, 1994, 3 percent.

"(C) For the academic year beginning July 1, 1995, 2 percent.

"(D) For the academic year beginning July 1, 1996, 1 percent.

"(E) For the academic year beginning July 1, 1997, and thereafter, the origination fee shall be zero.".

(e) DISCOUNTING.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

By Mr. PANETTA:

—Page 449, line 23, strike "5 core" and insert "6 core"; and on line 25, insert "foreign languages," after "history,".

—Page 450, line 18, insert "foreign languages," after "history,".

—Page 451, line 1, strike "five core" and insert "6 core".

—Page 534, line 25, strike the close quotation marks and following period and after such line insert the following new part (and conform the table of contents accordingly):

"PART D—FOREIGN LANGUAGE INSTRUCTION

"SUBPART 1—DEMONSTRATION GRANTS FOR CRITICAL LANGUAGE AND AREA STUDIES

"SEC. 596A. DEMONSTRATION GRANTS FOR CRITICAL LANGUAGE AND AREA STUDIES.

"(a) PROGRAM AUTHORITY.—The Secretary is authorized to make demonstration grants to eligible consortia to enable such eligible consortia to—

"(1) operate critical language and area studies programs;

"(2) develop and acquire educational equipment and materials; and

"(3) develop teacher training programs, texts, curriculum, and other activities designed to improve and expand the instruction of foreign languages at elementary and secondary schools across the Nation.

"(b) GRANT LIMITATION.—The Secretary shall not award a grant which exceeds $2,000,000 to an eligible consortium under this section in any fiscal year, but shall award grants of sufficient size, scope and quality for a program of comprehensive instruction of foreign languages.

"(c) SPECIAL RULES.—

"(1) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to eligible consortia with demonstrated, proven effectiveness in the field of critical language and area studies and which have been in existence for at least 1 year prior to applying for a grant under this section.

"(2) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall take into consideration providing an equitable geographic distribution of such grants among the regions of the United States.

"(3) PROGRAM REQUIREMENT.—Each eligible consortium receiving a grant under this section shall include in the activities assisted pursuant to such grant, a study abroad or cultural exchange program.

"(d) ELIGIBILE CONSORTIUM.—

"(1) IN GENERAL.—For the purpose of this section, the term 'eligible consortium' means a cooperative effort between entities in one or more States that must include at least 4 schools, of which—

"(A) one shall be an institution of higher education;

"(B) one shall be a secondary school with experience in teaching critical languages;

"(C) one shall be a secondary school with experience in teaching critical languages and in which at least 25 percent of the students are eligible to be counted under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

"(D) one shall be a secondary school in which at least 25 percent of the students are eligible to be counted under chapter 1 if title I of the Elementary and Secondary Education Act of 1965.

"(2) NONPROFIT ORGANIZATIONS.—Each eligible consortium described in paragraph (1) may include a nonprofit organization to provide services not otherwise available from the entities described in paragraph (1).

"(e) ADMINISTRATION.—Each eligible consortium receiving a grant under this section may use not more than 10 percent of such grant for administrative expenses.

"(f) APPLICATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each eligible consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(2) SPECIAL RULE.—The State educational agency or State higher education agency responsible for the supervision of any one school participating in an eligible consortium may submit the application described in paragraph (1) on behalf of such eligible consortium.

"(g) DEFINITIONS.—For purpose of this section the term 'critical language' means each of the languages obtained in the list of critical foreign languages designated by the Secretary pursuant to section 212(d) of the Education for Economic Security Act (50 Federal Register 149, 31413).

"SUBPART 2—DEVELOPMENT OF FOREIGN LANGUAGE AND CULTURE INSTRUCTIONAL MATERIALS

"SEC. 596B. DEVELOPMENT OF FOREIGN LANGUAGE AND CULTURE INSTRUCTIONAL MATERIALS.

"(a) GRANTS AUTHORIZED.—The Secretary of Education is authorized to provide grants on a competitive basis to qualified State and local educational agencies, institutions of higher education, private nonprofit foreign language organizations, nonprofit education associations, or a consortium thereof, to enable such entity or entities to act as a resource center for—

"(1) coordinating the development of and disseminating foreign language and culture instructional material, including children's literature in foreign languages, videotapes and computer software, and teacher's instructional kits relating to international study; and

"(2) encouraging the expanded use of technology in teaching foreign languages and culture at the elementary school level and, when the needs of elementary schools have been met, at the secondary school level, with a particular emphasis on expanding the use of technology in teaching foreign languages and culture at elementary and secondary schools that have proportionally fewer resources available for teaching foreign languages and cultures, including schools in urban and rural areas.

"(b) COORDINATION.—In developing materials and technologies under this section, the Secretary shall, where appropriate, make use of materials and technologies developed under the Star Schools Assistance Program Act.".

—Page 432, after line 4, insert the following new subsection:

"(d) PART D.—

"(1) CRITICAL LANGUAGE AND AREA STUDIES.—There are authorized to be appropriated $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out the provisions of subpart 1.

"(2) FOREIGN LANGUAGE AND CULTURE INSTRUCTIONAL MATERIALS.—There are authorized to be appropriated $4,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out the provisions of subpart 2.

By Mr. PETRI:

—Page 63, strike lines 12 through 14 and insert the following:

amended—

(A) by inserting after "full-time basis" in the first sentence the following: "(including a student who attends an institution of higher education on less than a half-time basis)"; and

(B) by inserting before the period at the end of such sentence the following: ", computed in accordance with this subpart".

—Page 86, beginning on line 16, strike "and inserting the" and all that follows through line 20 and insert a period.

—Page 165, after line 3 insert the following new section (and conform the table of contents accordingly);

LESS THEN HALF-TIME ATTENDANCE

SEC. 426A. (a) FISL PROGRAM.—Section 427 of the Act is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) made to a student who (A) is an eligible student under section 484, and (B) has agreed to notify promptly the holder of the loan concerning any change of address; and"; and

(B) in paragraph (2)(B)(i), by striking out the semicolon at the end thereof and inserting in lieu thereof "and subsection (d)"; and

(2) by adding at the end thereof the following new subsection:

"(d) SPECIAL RULE FOR LESS THAN HALF-TIME STUDENTS.—A borrower who is attending an eligible institution on a less than half-time basis (as determined by the institution)—

"(1) shall be required

"(A) without regard to the borrower's less than half-time attendance, to repay any loans received while attending an eligible institution on at least a half-time basis; and

"(B) to commence repayment of any loans received under this part while attending on a less than half-time basis immediately upon ceasing such attendance; and

"(2) may receive deferments under subsection (a)(2)(C)(ii) for loans received while attending on a less than half-time basis.".

(b) GSL PROGRAM.—Section 428(b) of the Act is amended—

(1) in the matter preceding clause (i) of paragraph (1)(A), by striking "who is carrying at an eligible institution at least one-half the normal full-time academic workload (as determined by the institution)" and inserting "who is enrolled at an eligible institution";

(2) by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULE FOR LESS THAN HALF-TIME STUDENTS.—A borrower who is attending an eligible institution on a less than half-time basis (as determined by the institution) shall be required—

"(A) without regard to the borrower's less than half-time attendance, to repay any loans received while attending an eligible institution on at least a half-time basis; and

"(B) to commence repayment of any loans received under this part while attending on a less than half-time basis immediately upon ceasing such attendance; and".

—Page 233, after line 7 insert the following new subsection (and redesignate the succeeding subsections accordingly):

(a) LIFETIME LINE OF CREDIT; INCOME CONTINGENT LOAN REPAYMENT PROGRAMS.—Section 439 of the Act is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively; and

(B) by inserting immediately after paragraph (1) the following: "(2) through such corporation, to enable working men and women desiring to upgrade their job skills, and unemployed individuals, or those not in the labor force, who are seeking new skills, to borrow funds for less than-half time study as described in subsection (r); (3) to provide for agreements between such corporation and a limited number of institutions for the replacement of such institutions' current participation in the loan program under section 428A with loans originated by such corporation that shall be repaid on a income contingent basis in accordance with subsection (s);';

(2) in subsection (d)(1)—

(A) in subparagraph (D), by striking out "and" at the end thereof;

(B) by redesignating subparagraph (E) as subparagraph (F); and

(C) by inserting immediately after subparagraph (D) the following:

"(E) to issue obligations to carry out the purposes of subsections (r) and (s), in the amounts specified therein; and"; and

(3) by adding at the end thereof the following new subsections:

"'(r) LIFETIME LINE OF CREDIT.—(1) PURPOSE.—In order to enhance the lifetime education and training opportunities available to working men and women desiring to upgrade their job skills, or unemployed individuals, or those not in the labor force, who are seeking new skills, it is the purpose of this subsection to require the Association to originate loans for such individuals who are enrolled at an eligible institution on a less than half-time basis, under the terms and conditions described in this subsection. The Association shall issue obligations in an amount sufficient to carry out the purposes of this subsection and subsection (s), but in no case to exceed $100,000,000 for fiscal year 1993 and each of the four succeeding fiscal years.

"(2) APPLICABILITY OF GSL LOAN LIMITS.—A student who is enrolled at an eligible institution on a less than half-time basis may borrow up to $25,000 in the aggregate under this section, which shall be counted toward his or her aggregate loan limits under sections 427, 428, and 428A. In no case may a loan made under this subsection for a period of enrollment exceed the student's cost of attendance for such period of enrollment.

"'(3) REPAYMENT.—(A) The Secretary shall enter into an agreement with the Association specifying the terms of loans originated under this subsection, which shall include the availability of such loans to all students eligible under this subsection (subject to the availability of funds the issuance of the obligations described in paragraph (1)), and the establishment of income-contingent repayment schedules satisfactory to the Secretary and the Association for such loans. Such agreements shall also specify the maximum interest rate that the Association may charge, and such other terms as the Secretary may require to accomplish the purposes of this subsection.

"(B) The Secretary shall establish in regulations the procedures necessary for the efficient collection of loans made under this subsection. Notwithstanding any other provision of law, the Secretary may enter into such arrangements with another Federal agency or agencies as the Secretary determines are necessary to support the efficient administration of the program by the Association.

"(4) ELIGIBLE PROVIDERS OF TRAINING.—The Secretary, in consultation with the Secretary of Labor, may specify in regulations such other providers of training that are not currently eligible to participate in programs under this part, such as community-based organizations, public or private agencies, and private sector employers, that, along with other institutions, may be considered eligible for participation for purposes of loans made under this subsection, provided that the Secretary determines that adequate controls on program integrity and accountability can be maintained, and that participation would supplement, and not supplant, current expenditures for training by such providers.

"(5) OTHER TERMS AND CONDITIONS.—The Secretary shall establish in regulations such other terms and conditions for loans under this subsection as are consistent with the purposes of this subsection.

"(6) FEASIBILITY STUDY.—Notwithstanding any other provision of law, the Secretary, in consultation with the Secretary of Labor, shall examine the feasibility of integrating the multiple data systems relating to the benefits available to students under Federal postsecondary education and training programs through the use of an electronic card by borrowers of loans made under this section, and by other participants in such Federal programs.

"(B) The Secretary of Education shall report his findings to Congress within one year of the data of enactment of this Act.

"(C) There are authorized to be appropriated $1,000,000 to carry out the study authorized by this paragraph.

"(s) INCOME CONTINGENT LOANS.—(1) From funds available from the issuance of the obligations described in subsection (r)(1), the Association shall enter into agreements with no more than 50 eligible institutions to replace all or part of such institutions' participation in the loan program under section 428A with a program of income-contingent loans originated by the Association. Such agreements shall be subject to the approval of the Secretary.

"(2) The Secretary shall prescribe in regulations such minimum or model terms for such agreements, loan terms and conditions, and collection procedures as the Secretary determines are necessary to carry out the purposes of this subsection.

"(3) Notwithstanding any other provision of law, the Secretary may enter into such arrangements with another Federal agency or agencies as the Secretary determines are necessary to support the efficient administration of the program by the Association.

"(4) Notwithstanding paragraph (1), when the program authorized under this subsection has been in operation for at least 2 years, the Secretary and the Association may agree to expand the number of schools participating under this subsection, or the volume of loans made under this subsection, or both, if, in the judgment of both the Secretary and the Association, the success of such program warrants such expansion.".

—Page 341, strike out lines 1–16, and insert in lieu thereof the following:

"'(d) Independent Student.—The term "independent," when used with respect to a student, means by individual who—

"'(A) is 26 years of age or older by December 31 of the award year; or

"'(B) meets the requirements of paragraph (2).

"'(2) Except as provided in paragraph (3), an individual meets the requirements of this paragraph if such individual—

"'(A) is an orphan or ward of the court;

"'(B) is a veteran of the Armed Forces of the United States;

"'(C) is a graduate or professional student;

"'(D) is a married individual;

"'(E) has legal dependents other than a spouse;

"'(F) is a single undergraduate student with no dependents who—

"(i) did not live with his or her parents for more than six weeks in the aggregate during the calendar year preceding the award year;

"(ii) will not live with his or her parents for more than six weeks in the aggregate during the first calendar year of the award year; and

"(iii) prior to the disbursal of assistance under this title, demonstrates to the student financial aid administrator self-sufficiency during each of the two calendar years preceding the award year by demonstrating annual total income (excluding resources from parents, student financial assistance, and living allowances from programs established under the National and Community Service Act of 1990) that is equal to or exceeds the amount specified in the Department of Labor's Lower Living Standard Income Level, adjusted for a family size of one; or

"'(G) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

"'(3) An individual who meets the requirements of paragraphs (1) and (2) may, in unusual circumstances, be determined to be a dependent student by a student financial aid administrator, provided that such determination is documented.'.".

—Page 356, strike out line 13 and insert in lieu thereof "'paragraphs:'".

—Page 356, line 16, strike out close quotation mark and the following period and after line 16 insert the following new paragraph:

"(6) Notwithstanding subsection (a), in order to be eligible to receive a loan under part B of this title (other than a loan under section 428C), a student who is enrolled at an institution on a less than half-time basis (as determined by the institution) shall be—

"(A) enrolled in a program of study leading to a degree or certificate; or

"(B) enrolled in training designed to prepare students for gainful employment in a recognized occupation.".

By Mr. PETRI:

—Page 190, after line 11, insert the following new subsection:

(x) Income Contingent Repayment.—

(1) Establishment of repayment mechanism.—Section 428 of the Act is amended by adding at the end the following new subsection:

"(m) Income Contingent Repayment.—

"(1) Establishment of terms and conditions.—The Secretary may establish by regulation terms and conditions requiring the income contingent repayment of loans that are required to be repaid under this subsection. Such regulations shall specify the schedules under which the borrower's income will be assessed for repayment of loans, shall permit the discharge of remaining obligation on the loan not later than 25 years after the commencement of income contingent repayment, and may provide for the potential collection of amounts in excess of the principal and interest owed on the original loan or loans.

"(2) Collection mechanism.—The Secretary shall, to the extent funds are available therefor, enter into one or more contracts or other agreements with private firms or other agencies of the Government as necessary to carry out the purposes of this subsection. The regulations required by paragraph (1) shall not be effective unless the Secretary publishes a funding that—

"(A) the Secretary has, pursuant to this paragraph, established a collection mechanism that will provide a high degree of certainty that collections will be made in accordance with the repayment option established under paragraph (1); and

"(B) the use of such repayment option and collection mechanism will result in an increase in the net amount the Government will collect.

"(3) Loans for which income contingent repayment is required.—A loan made under this part (other than under section 428B) is required to be repaid under this section if—

"(A) the note or other evidence of the loan contains a notice that it is subject to repayment under this subsection;

"(B) the note or other evidence of the loan has been assigned to the Secretary for collection pursuant to subsection (b)(8); and

"(C) the Secretary has published the funding required by paragraph (2) of this subsection.

"(4) Additional authority.—The Secretary is authorized to prescribe such regulations as are necessary to carry out the purposes of this section and to protect the Federal fiscal interest.".

(b) Conforming Amendment.—Section 428(b)(1)(D) is amended by inserting before the semicolon at the end thereof the following: ", and shall contain a notice that repayment may, following a default by the borrower, be subject to repayment in accordance with the regulations required by subsection (m) if the Secretary has published the finding required by paragraph (2) of such subsection".

—Page 184, strike out line 24 and all that follows through line 12 on page 185 and redesignate the succeeding subsections accordingly.

By Mr. PETRI:

—Page 231, after line 3 insert the following new section (and conform the table of contents accordingly):

SEC. 436A. DEBT MANAGEMENT OPTIONS.

Part B of title IV of the Act is amended by inserting after section 437 the following new section:

"DEBT MANAGEMENT OPTIONS

"Sec 437A. (a) Program Authority.—For the purpose of offering additional debt management options, the Secretary is authorized, to the extent of funds appropriated under subsection (d)—

"(1) to acquire from eligible holders the notes of borrowers under this part (other than section 428B) who are considered to be at high risk of default and who submit a request to the Secretary for an alternative repayment option;

"(2) to offer such borrowers one or more alternative repayment options, which may include graduated or extended repayment and which shall, subject to subsection (b)(2), include an income contingent repayment option established in accordance with subsection (b);

"(3) to enter into contracts or other agreements with private firms or other agencies of the Government as necessary to carry out the purposes of this section.

"(b) Income Contingent Repayment Options.—

"(1) Regualtions.—For the purposes of subsection (a)(2), the Secretary shall, by regulation, establish the terms and conditions for an income contingent repayment option. Such regulations shall specify the schedules under which income will be assessed for repayment of loans, shall permit the discharge of remaining obligation on the loan not later than 25 years after the commencement of income contingent repayment, and may provide for the potential collection of amounts in excess of the principal and interest owed on the original loan or loans.

"(2) Collection mechanism determination required.—Such regulations shall not be effective unless the Secretary publishes a finding that—

"(A) the Secretary has, pursuant to subsection (a)(3), established a collection mechanism that will provide a high degree of certainty that collections will be made in accordance with the repayment option established under paragraph (1); and

"(B) the use of such repayment option and collection mechanism will result in an increase in the net amount the Government will collect.

"(c) Determinations of High Risk of Default.—In making determinations under subsection (a)(1), the Secretary shall—

"(1) consider the ratio of part B debt repayment to income; or

"(2) establish, by regulation, such other indicators of high risk as the Secretary considers appropriate.

"(d) Loan Limitation.—Not more than $200,000,000 may be used to acquire loans under this section in any fiscal year.

"(e) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 1994 and for each of the 4 succeeding fiscal years.".

By Mr. PETRI:

—At the end of the bill add the following new title:

TITLE XV—INCOME-DEPENDENT EDUCATION ASSISTANCE LOANS

PART A—LENDING AUTHORITY

SEC. 1501. PROGRAM AUTHORITY.

(a) In General.—The Secretary of Education (hereinafter referred to as the "Secretary") shall, in accordance with the provisions of this title—

(1) make loans to eligible students in accordance with this title, and

(2) establish an account for each borrower of such a loan, and collect repayments on such loans in accordance with this title; and

(3) enter into agreements with other agencies of the Government as may be necessary to carry out the purposes of this title, and delegate to such agencies any of the Secretary's functions specified herein.

(b) Limitation on Authority.—The authority granted by this title shall not be effective unless the Secretary publishes a finding that the Secretary has, pursuant to this title, established a collection mechanism that will provide a high degree of certainty that collections will be made in accordance with the repayment provisions established under part B of this title.

SEC. 1502. AGREEMENTS BY ELIGIBLE INSTITUTIONS.

(a) TERMS OF AGREEMENT.—In order to qualify its students for loans under this title, an eligible institution shall enter into an agreement with the Secretary which—

(1) provides that the institution will collect applications for loans under this title from its students that are in such form and contain or are accompanied by such information as the Secretary may require by regulation;

(2) contains assurances that the institution will, on the basis of such applications, provide to the Secretary the information required by section 1504 and will certify to the Secretary—

(A) the cost of attendance determination for each student; and

(B) the amount of any outstanding loans to such student under title IV of the Higher Education Act of 1965 or title VII of the Public Health Service Act;

(3) provides that the institution will provide to each student applying for a loan under this title a notice provided by the Secretary of the student's obligations and responsibilities under the loan;

(4) provides that, if a student withdraws after receiving a loan under this title and is owed a refund—

(A) the institution will pay to the Secretary a portion of such refund, in accordance with regulations prescribed by the Secretary to ensure receipt of an amount which bears the same ratio to such refund as such loan bore to the cost of attendance of such student; and

(B) the amount of such refund will be credited to the student's account in accordance with regulations prescribed by the Secretary; and

(5) contains such additional terms and conditions as the Secretary prescribes by regulation to protect the fiscal interest of the United States and to ensure effective administration of the program under this title.

(b) ENFORCEMENT OF AGREEMENT.—The Secretary may, after notice and opportunity for a hearing to the institution concerned, suspend or revoke, in whole or in part, the agreement of any eligible institution if he finds that such institution has failed to comply with this title or any regulation prescribed under this title or has failed to comply with any term or condition of its agreement under subsection (a). No funds shall be loaned under this title to any student at any institution while its agreement is suspended or revoked, and the Secretary may institute proceedings to recover any funds held by such an institution. The Secretary shall have the same authority with respect to his functions under this Act as he has with respect to his functions under part B of title IV of the Higher Education Act of 1965.

SEC. 1503. AMOUNT AND TERMS OF LOANS.

(a) ELIGIBLE AMOUNTS.—

(1) ANNUAL LIMITS.—Any individual who is determined by an eligible institution to be an eligible student for any academic year shall be eligible to receive an IDEA loan for such academic year in an amount which is not less than $500 or more than the cost of attendance at such institution, determined in accordance with section 484 of the Higher Education Act of 1965. The amount of such loan shall not exceed—

(A) $6,500 in the case of any student who has not completed his or her second year of undergraduate study;

(B) $8,000 in the case of any student who has completed such second year but who has not completed his or her course of undergraduate study;

(C) $30,000 in the case of any student who is enrolled in a graduate degree program in medicine, dentistry, veterinary medicine, podiatry, optometry, or osteopathic medicine; or

(D) $22,500 in the case of any student who is enrolled in a graduate degree program in pharmacy, chiropractic, public health, health administration, clinical psychology, or allied health fields, or in an undergraduate degree program in pharmacy; or

(E) $11,000 in the case of any other student.

(2) LIMITATION ON BORROWING CAPACITY.—No individual may receive any amount in an additional IDEA loan if the sum of the original principal amounts of all IDEA loans to such individual (including the pending additional loan) would equal or exceed—

(A) $70,000, minus

(B) the product of (i) the number of years by which the borrower's age (as of the close of the preceding calendar year) exceeds 35, and (ii) one-twentieth of the amount specified in subparagraph (A), as adjusted pursuant to paragraph (3).

(3) EXCEPTIONS TO BORROWING CAPACITY LIMITS FOR CERTAIN GRADUATE STUDENTS.—For a student who is—

(A) a student described in paragraph (1)(C), paragraph (2) shall be applied by substituting "$143,370" for "$70,000"; or

(B) a student described in paragraph (1)(D), paragraph (2) shall be applied by substituting "$115,770" for "$70,000".

(4) ADJUSTMENT OF LIMITS FOR INFLATION.—Each of the dollar amounts specified in paragraphs (1), (2), and (3) shall be adjusted for any academic year after calendar year 1995 by the cost-of-living adjustment for the calendar year preceding such academic year determined as the percentage (if any) by which the CPI for the preceding calendar year exceeds the CPI for the calendar year 1995, rounded to the nearest multiple of $100 (or, if such adjustment is a multiple of $50 and not a multiple of $100, such adjustment shall be increased to the next higher multiple of $100).

(5) COMPUTATION OF OUTSTANDING LOAN OBLIGATIONS.—For the purposes of this subsection, any loan obligations of an individual under student loan programs under title IV of the Higher Education Act of 1965 or title VII of the Public Health Service Act shall be counted toward IDEA annual and aggregate borrowing capacity limits. For purposes of annual and aggregate loan limits under any such student loan program, IDEA loans shall be counted as loans under such program.

(6) ADJUSTMENTS OF ANNUAL LIMITS FOR LESS THAN FULL-TIME STUDENTS.—For any student who is enrolled on a less than full-time basis, loan amounts for which such student shall be eligible for any academic year under this subsection shall be reduced in accordance with regulations prescribed by the Secretary of Education.

(b) DURATION OF ELIGIBILITY.—An eligible student shall not be eligible to receive a loan under this title for more than a total of the full-time equivalent of 9 academic years, of which not more than the full-time equivalent of 5 academic years shall be as an undergraduate student and not more than the full-time equivalent of 5 academic years shall be as a graduate student.

(c) TERMS OF LOANS.—Each eligible student applying for a loan under this title shall sign a written agreement which—

(1) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, endorsement may be required,

(2) provides that such student will repay the principal amount of the loan and any interest or additional charges thereon in accordance with part B of this title;

(3) provides that the interest on the loan will accrue in accordance with section 1505;

(4) certifies that the student has received and read the notice required by section 1502(a)(3); and

(5) contains such additional terms and conditions as the Secretary may prescribe by regulation.

(d) DISBURSEMENT OF PROCEEDS OF LOANS.—The Secretary shall, by regulation, provide for the distribution of loans to eligible students and for the appropriate notification of eligible institutions of the amounts of loans which are approved for any eligible student, and for the allocation of the proceeds of such loan by semester or other portion of an academic year. The Secretary shall distribute the proceeds of loans under this title by disbursing to the institution a check or other instrument that is payable to and requires the endorsement or other certification by the student. Such proceeds shall be credited to any obligations of the eligible student to the institution related to the cost of attendance at such institution, with any excess being paid to the student. The first installment of the proceeds of any loan under this title that is made to a student borrower who is entering the first year of a program of undergraduate education, and who has not previously obtained a loan under this title, shall not be presented by the institution to the student for endorsement until 30 days after the borrower begins a course of study, but may be delivered to the eligible institution prior to the end of that 30-day period.

SEC. 1504. INFORMATION REQUIREMENTS FOR LOAN PROGRAM.

(a) RESPONSIBILITIES OF ELIGIBLE INSTITUTIONS.—Each eligible institution which receives funds under this title shall—

(1) submit to the Secretary, at such time and in such form as the Secretary may require by regulation, a machine-readable list of applicants and the amounts for which they are qualified under section 1503;

(2) promptly notify the Secretary, on request, of any change in enrollment status of any recipient of a loan under this title; and

(3) submit, at such time and in such forms as the Secretary may require by regulation for use in determining the repayment status of borrowers, a machine-readable list of eligible students who have previously received loans under this title but who are not included as current applicants in the list required by such paragraph.

(b) RESPONSIBILITES OF THE SECRETARY.—The Secretary shall, on the basis of the lists received under subsection (a)(2), establish an obligation account, by name and taxpayer identification number, with respect to each recipient of a loan under this title. The Secretary shall provide for the increase in the total amounts subsequently loaned to that recipient under this title and by the amount of any interest charges imposed pursuant to section 1505. The Secretary shall transmit to each recipient of a loan under this title a statement of the total amount of the obligation of such recipient as of the close of the preceding calendar year.

SEC. 1505. INTEREST CHARGES.

Interest charges on loans made under this title shall be added to the recipient's obligation account at the end of each calendar year. Such interest charges shall be based upon an interest rate equal to the lesser of—

(1) the sum of the average bond equivalent rates of 91-day Treasury bills auctioned during that calendar year, plus 2 percentage points, rounded to the next higher one-eighth of 1 percent; or

(2) 10 percent.

SEC. 1506. CONVERSION AND CONSOLIDATION OF OTHER LOANS.

(a) IN GENERAL.—The Secretary may, upon request of a borrower who has received a federally insured or guaranteed loan or loans under title IV of the Higher Education Act of 1965 or under title VII of the Public Health Service Act, make a new loan to such borrower in an amount equal to the sum of the unpaid principal on the title IV or title VII loans. The proceeds of the new loan shall be used to discharge the liability on such title IV or title VII loans. Except as provided in subsection (b), any loan made under this subsection shall be made on the same terms and conditions as any other loan under this Act and shall be considered a new IDEA loan for purposes of this title.

(b) CONVERSION REGULATIONS.—The Secretary shall prescribe regulations concerning the methods and calculations required for conversion to IDEA loans under subsection (a). Such regulations shall provide appropriate adjustments in the determination of the principal and interest owned on the IDEA loan in order to—

(1) secure payments to the Government commensurate with the amounts the Government would have received had the original loans been IDEA loans;

(2) fairly credit the borrower for principal and interest payments made on such original loans and for origination fees deducted from such original loans; and

(3) prevent borrowers from evading their obligations or otherwise taking unfair advantage of the conversion option provided under this section.

(c) MANDATORY CONVERSION OF DEFAULTED LOANS.—

(1) CONVERSION IN ACCORDANCE WITH REGULATIONS.—Any loan which is—

(A) made, insured, or guaranteed under title IV of the Higher Education Act of 1965 after the date of enactment of this Act, and

(B) assigned to the Secretary of Education for collection after a default by the borrower in repayment of such loan,

shall, in accordance with regulations prescribed by the Secretary be treated for purposes of collection as if such loan had been converted to an IDEA loan under subsections (a) and (b) of this section.

(2) NOTICE.—The Secretary shall notify the borrower of the conversion of the defaulted loans to an IDEA loan and of the procedures for collection.

SEC. 1507. TERMINATION OF OTHER STUDENT LOAN PROGRAMS.

The authority to make additional loans under section 428A and part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1078–1) is terminated for any academic year beginning after the date that regulations are prescribed by the Secretary to carry out this title. This section shall not affect the administration of such section and part with respect to loans made prior to that date.

SEC. 1508. AUTHORIZATION OF APPROPRIATIONS.

(a) LOAN FUNDS.—There are authorized to be appropriated to make distribution of loan funds under section 1502 such sums as may be necessary.

(b) ADMINISTRATION EXPENSES.—There are authorized to be appropriated such sums as may be necessary to administer and carry out this title.

SEC. 1509. DEFINITIONS.

For purposes of this title—

(1) the term "eligible institution" has the meaning given it by section 435(a) (1) or (2) of the Higher Education Act of 1965;

(2) the term "eligible student" means a student who is eligible for assistance under title IV of the Higher Education Act of 1965 as required by section 484 of such Act (relating to eligibility for student assistance) and who is carrying at least one-half the normal full-time academic workload (as determined by the institution); and

(3) the term "IDEA loan" means a loan made under this title.

PART B—COLLECTION SYSTEM

SEC. 1521. COLLECTION OF INCOME-DEPENDENT EDUCATION ASSISTANCE LOANS.

(a) NOTICE TO BORROWER.—

(1) IN GENERAL.—Each year, the Secretary shall furnish to each borrower of an IDEA loan notices as to—

(A) whether the records of the Secretary indicate that such borrower is in repayment status,

(B) the maximum account balance of such borrower,

(C) the current account balance of such borrower as of the close of the preceding calendar year, and

(D) the procedure for computing the amount of repayment owing for the repayment year beginning in the preceding calendar year.

(2) FORM, ETC.—The notice under paragraph (1) shall be in such form as the Secretary may by regulations prescribe and shall be sent by mail to the individual's last known address or shall be left at the dwelling or usual place of business of such individual.

(b) COMPUTATION OF ANNUAL REPAYMENT AMOUNT.—

(1) IN GENERAL.—The annual amount payable under this section by the borrower for any repayment year shall be the lesser of—

(A) the product of—

(i) the base amortization amount, and

(ii) the progressivity factor for the borrower for such repayment year, or

(B) 20 percent of the excess of—

(i) the adjusted gross income of the borrower for such repayment year, over

(ii)(I) in the case of a married borrower, $10,900 in 1994 and adjusted for inflation thereafter,

(II) in the case of an unmarried borrower who is a head of household, $7,650 in 1994 and adjusted for inflation thereafter, and

(III) in the case of an unmarried borrower who is not a head of household, $6,050 and adjusted for inflation thereafter.

(2) BASE AMORTIZATION AMOUNT.—

(A) IN GENERAL.—For purposes of this section, the term "base amortization amount" means the amount which, if paid at the close of each year for a period of 12 consecutive years, would fully repay (with interest) at the close of such period the maximum account balance of the borrower. For purposes of the preceding sentence, an 8-percent annual rate of interest shall be assumed.

(B) MARRIED BORROWERS.—In the case of a married borrower where each spouse has an account balance and is in repayment status, the amount determined under subparagraph (A) shall be the sum of the base amortization amounts of each spouse.

(3) PROGRESSIVITY FACTOR.—

(A) IN GENERAL.—For purposes of this section, the term "progressivity factor" means the number determined under tables prescribed by the Secretary which is based on the following tables for the circumstances specified:

(i) MARRIED BORROWERS.—In the case of a married borrower—

If the borrower's adjusted gross income is:	The progressivity factor is:
Not over $7,860	0.429
11,700	0.500
16,740	0.571
21,720	0.643
26,880	0.786
32,700	0.893
39,060	1.000
48,600	1.000
63,480	1.152
87,360	1.272
117,000	1.364
163,080	1.485
240,000 and over	2.000

(ii) HEADS OF HOUSEHOLDS.—In the case of an unmarried borrower who is a head of household—

If the borrower's adjusted gross income is:	The progressivity factor is:
Not over $6,540	0.429
10,320	0.500
12,300	0.607
16,080	0.643
19,920	0.714
25,020	0.857
31,380	1.000
37,740	1.000
47,280	1.094
63,180	1.313
85,440	1.406
114,060	1.500
204,000 and over	2.000

(iii) OTHER UNMARRIED INDIVIDUALS, ETC.—In the case of an unmarried borrower who is not a head of household—

If the borrower's adjusted gross income is:	The progressivity factor is:
Not over $6,540	0.467
9,000	0.500
11,580	0.533
14,220	0.600
16,740	0.667
19,920	0.767
25,020	0.867
31,380	1.000
37,740	1.000
45,360	1.118
58,080	1.235
82,260	1.412
94,320	1.500
168,000 and over	2.000

(B) RATABLE CHANGES.—The tables prescribed by the Secretary under subparagraph (A) shall provide for ratable increases (rounded to the nearest 1/1,000) in the progressivity factors between the amounts of adjusted gross income contained in the tables.

(C) INFLATION ADJUSTMENT OF AGI AMOUNTS.—For inflation adjustment of amounts of adjusted gross income, see subsection (h)(3).

(c) TERMINATION OF BORROWER'S REPAYMENT OBLIGATION.—

(1) IN GENERAL.—The repayment obligation of a borrower of an IDEA loan shall terminate only if there is repaid with respect to such loan an amount equal to—

(A) in the case of any repayment during the first 12 years for which the borrower is in repayment status with respect to any loan, the sum of—

(i) the principal amount of the loan, plus

(ii) interest computed for each year the loan is outstanding at an annual rate equal to the annual rate otherwise applicable to such loan for such year, plus 1.5 percent, and

(B) in the case of any repayment during any subsequent year, the principal amount of the loan plus interest computed at the rates applicable to the loan.

(2) NO REPAYMENT REQUIRED AFTER 25 YEARS IN REPAYMENT STATUS.—No amount shall be required to be repaid under this section with respect to any loan for any repayment year after the 25th year for which the borrower is in repayment status with respect to such loan.

(3) EXCEPTION FOR DE MINIMUS LOANS REPAID DURING THE FIRST 12 YEARS IN REPAYMENT STATUS.—In any case where the maximum account balance of any borrower is $3,000 or less, subparagraph (B), and not subparagraph (A), of paragraph (1) shall apply to repayment of such loan.

(4) DETERMINATION OF YEARS IN REPAYMENT STATUS.—For purposes of paragraphs (1)(A) and (2), the number of years in which a borrower is in repayment status with respect to any IDEA loan shall be determined without regard to any year before the most recent year in which the borrower received an IDEA loan.

(5) EXTENSION OF REPAYMENT YEARS FOR MEDICAL INTERNS.—The number of years specified in paragraphs (1)(A) and (2) shall be increased by 1 year for each calendar year during any 5 months of which the individual is an intern in medicine, dentistry, veterinary medicine, or osteopathic medicine.

(d) DEFINITIONS.—For purposes of this section—

(1) MAXIMUM ACCOUNT BALANCE.—The term "maximum account balance" means the highest amount (as of the close of any calendar year) of unpaid principal and unpaid accrued interest on all IDEA loan obligations of a borrower.

(2) CURRENT ACCOUNT BALANCE.—The term "current account balance" means the amount (as of the close of a calendar year) of unpaid principal and unpaid accrued interest on all IDEA loans of a borrower.

(3) REPAYMENT STATUS.—A borrower is in repayment status for any repayment year unless—

(A) such borrower was, during at least 7 months of such year, an eligible student, as that term is defined in section 109(3) of the Income-Dependent Education Assistance Act of 1991; or

(B) such repayment year was the first year in which the borrower was such an eligible student and the borrower was such an eligible student during the last 3 months of such repayment year.

(4) IDEA LOAN.—The term "IDEA loan" means any loan made under part A of this title.

(e) PAYMENT OF AMOUNT OWING.—The Secretary shall prescribe by regulation the definition of a repayment year and the terms and conditions for making payments.

(f) FAILURE TO PAY AMOUNT OWING.—The Secretary shall prescribe by regulation the procedures to assess and collect the unpaid amount if an individual fails to pay the full amount required to be paid on or before the last date described in the regulations required by subsection (e)(1).

(g) LOANS OF DECEASED AND PERMANENTLY DISABLED BORROWERS; DISCHARGE BY SECRETARY.—

(1) DISCHARGE IN THE EVENT OF DEATH.—If a borrower of an IDEA loan dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), then the Secretary shall discharge the borrower's liability on the loan.

(2) LIMITATION ON DISCHARGE.—The discharge of the liability of an individual under this subsection shall not discharge the liability of any spouse with respect to any IDEA loan made to such spouse.

(h) CREDITING OF COLLECTIONS; SPECIAL RULES.—

(1) CREDITING OF AMOUNTS PAID BY MARRIED BORROWERS.—Amounts collected under this section from a husband and wife both of whom are in repayment status shall be credited to the accounts of such spouses in the following order:

(A) first, to repayment of interest added to each account at the end of the preceding calendar year in proportion to the interest so added to the respective accounts of the spouses, and

(B) then, to repayment of unpaid principal, and unpaid interest accrued before such preceding calendar year, in proportion to the respective maximum account balances of the spouses.

(2) COMPUTATION OF ALTERNATIVE ANNUAL PAYMENT FOR INDIVIDUALS WHO HAVE ATTAINED AGE 55.—In the case of an individual who attains age 55 before the close of the calendar year ending in the repayment year, or of an individual whose spouse attains age 55 before the close of such calendar year, the progressivity factor applicable to the base amortization amount of such individual for such repayment year shall not be less than 1.0.

(3) INFLATION ADJUSTMENT IN COMPUTATION OF PROGRESSIVITY FACTOR.—

(A) IN GENERAL.—Not later than December 15 of 1996 and of each 3d calendar year thereafter, the Secretary shall prescribe tables which shall apply in lieu of the tables contained in subsection (b)(3)(A) with respect to the succeeding 3 calendar years.

(B) METHOD OF PRESCRIBING TABLES.—The table which under subparagraph (A) is to apply in lieu of the table contained in clause (i), (ii), (iii), or (iv) of subsection (b)(3)(A), as the case may be, shall be prescribed—

(i) by increasing each amount of adjusted gross income in such table by the cost-of-living adjustment for the calendar year, and

(ii) by not changing the progressivity factor applicable to the adjusted gross income as adjusted under clause (i).

If any increase under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or, if such increase is a multiple of $5 and is not a multiple of $10, such increase shall be increased to the next highest multiple of $10).

(C) COST-OF-LIVING ADJUSTMENT.—For purposes of this paragraph, the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

(i) the CPI for the preceding calendar year, exceeds

(ii) the CPI for the calendar year 1995.

(D) CPI FOR ANY CALENDAR YEAR.—For purposes of subparagraph (C), the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on September 30 of such calendar year.

(E) CONSUMER PRICE INDEX.—For purposes of subparagraph (D), the term 'Consumer Price Index' means the last Consumer Price Index for all-urban consumers published by the Department of Labor.

(5) RULES RELATING TO BANKRUPTCY.—

(A) IN GENERAL.—An IDEA loan shall not be dischargeable in a case under title 11 of the United States Code.

(B) CERTAIN AMOUNTS MAY BE POSTPONED.—If any individual receives a discharge in a case under title 11 of the United States Code, the Secretary may postpone any amount of the portion of the liability of such individual on any IDEA loan which is attributable to amounts required to be paid on such loan for periods preceding the date of such discharge.

By Mr. RAMSTAD:

—Page 372, beginning on line 11, strike out paragraph (1) through line 18; on line 19, redesignate paragraph (2) as paragraph (1); on page 373, line 10, redesignate paragraph (3) as paragraph (2); and on page 372, beginning on line 13, strike out paragraph (7) through page 375, line 13, and insert the following:

"(7)(A) Each institution of higher education participating in any program under this title shall develop and distribute as part of the report described in paragraph (1) a statement of policy regarding—

"(i) such institution's campus sexual assault programs which shall be aimed at prevention of sex offenses; and

"(ii) the Procedures followed once a sex offense has occurred.

"(B) The policy described in subparagraph (A) shall address the following areas:

"(i) Education programs to promote the awareness of rape, acquaintance rape, and other sex offenses, and possible sanctions to be imposed following the final determination of an on campus disciplinary procedure.

"(ii) Procedures students should follow if a sex offense occurs, including who should be contacted, the importance of preserving evidence as may be necessary to the proof of criminal sexual assault, and to whom the alleged offense should be reported.

"(iii) Procedures for on-campus disciplinary action in cases of alleged sexual assault which shall include—

"(I) a clear statement that the accuser and the accused are entitled to the same opportunities to have others present during a campus disciplinary proceeding; and

"(II) a clear statement that both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault.

"(iv) Counseling students on their options to notify proper law enforcement authorities, both on campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses.

"(v) Notification of students of existing counseling, mental health or student services for victims of sexual assault, both on campus and in the community.

"(vi) Notification of students of options for and available assistance in changing academic and living situations subsequent to an alleged sexual assault incident, if so requested by the victim and if they are reasonably available.

"(C) Nothing in this paragraph shall be construed to confer a private right of action upon any person to enforce the provisions of this paragraph.".

By Mr. RICHARDSON:

—TITLE III—INSTITUTIONAL AID

PART D—GENERAL PROVISIONS

AUTHORIZATIONS OF APPROPRIATIONS

SEC. 360.—

(2)(A) There are authorized to be appropriated to carry out part B (other than section 326), $160,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

(B) There are authorized to be appropriated to carry out section 326, $25,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

—Page 49, after line 22, insert the following new subsection (and redesignate the succeeding subsection accordingly):

(e) HISPANIC-SERVING INSTITUTIONS.—

(1) IN GENERAL.—Part A of title III of the Act (20 U.S.C. 1057 et seq.) is amended—

(1) by redesignating sections 313 and 314 as sections 314 and 315, respectively; and

(2) by inserting after section 313 the following new section:

"SEC. 313. HISPANIC—SERVING INSTITUTIONS.

"(a) PROGRAM AUTHORIZED.—The Secretary shall provide grants and related assistance to Hispanic-serving institutions to enable such institutions to improve and expand their capacity to serve Hispanic and other low-income students.

"(b) DEFINITIONS.—For the purpose of this section—

"(1) the term 'Hispanic-serving institution' means an institution of higher education which—

"(A) has a full-time student undergraduate enrollment that is at least 25 percent Hispanic;

"(B) is duly accredited by an agency recognized for that purpose by the Secretary;

"(C) has been so accredited for 3 of its previous 5 years;

"(D) provides a 4-year program leading to a baccalaureate degree or a 2-year program leading to an associate's degree; and

"(E) is a public or nonprofit private institution of higher education;

"(F) is described in section 312(a), meets the requirements of paragraphs (1), (2) and (3) of section 312(b) and has an enrollment of needy students; and

"(G) provides assurances that—

"(i) not less than 50 percent of its Hispanic students be low-income individuals who are first generation college students; and

"(ii) another 25 percent of its Hispanic students be either low-income individuals or be first generation college students;

"(2) the term 'first generation college student' means—

"(A) an individual both of whose parents did not complete a baccalaureate degree; or

"(B) in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree; and

"(3) the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

"(c) AUTHORIZED ACTIVITIES.—

"(1) TYPES OF ACTIVITIES AUTHORIZED.—Grants awarded under this section shall be used by Hispanic-serving institutions of higher education to assist such institutions to plan, develop, undertake, and carry out programs in any of the following areas:

"(A) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

"(B) Renovation and improvement in classroom, library, laboratory, and other instructional facilities.

"(C) Faculty salaries and support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in their field of instruction.

"(D) Curriculum development and academic instruction.

"(E) Purchase of library books, periodicals, microfilm, and other educational materials.

"(F) Funds and administrative management, and acquisition of equipment for use in strengthening funds management.

"(G) Joint use of facilities such as laboratories and libraries.

"(H) Academic tutoring and counseling programs.

"(I) Transfer centers to support the development or expansion of centers designed to increase the transfer rate of underrepresented students from 2-year to 4-year institutions, which may include joint admissions programs, shared advisement programs, and student transfer management information data systems.

"(J) Academic partnership coalitions, including partnerships among colleges, elementary and secondary schools, community-based organizations, parents, and low-income students.

"(K) Collaborative arrangements with nonprofit organizations or private sector business entities, in order to carry out the activities described in this subsection.

"(d) APPLICATION PROCESS.—

"(1) INSTITUTIONAL ELIGIBILITY.—Each Hispanic-serving institution desiring to receive assistance under this Act shall submit to the Secretary such enrollment data as may be necessary to demonstrate that it is a Hispanic-serving institution as defined in paragraph (1) of subsection (b), along with such other information and data as the Secretary may be regulation require.

"(2) APPLICATIONS.—Any institution which is determined by the Secretary to be a Hispanic-serving institution (on the basis of the information and data submitted under paragraph (1) may submit an application for assistance under this section to the Secretary. Such application shall include—

"(A) a 5-year plan for improving the assistance provided by the Hispanic-serving institution to Hispanic and other low-income students at the collegiate and pre-collegiate levels;

"(B) satisfactory evidence that such institution will, if provided with assistance, enter into a collaborative arrangement with at least one local educational agency to provide such agency with assistance in reducing Hispanic dropout rates, improving Hispanic rates of academic achievement, and increasing the rates at which Hispanic high school graduates enroll in higher education; and

"(C) such other information and assurance as the Secretary may require.

"(3) APPROVAL.—The Secretary shall approve any application which meets the requirements of paragraph (1) and shall not disapprove any application submitted under this section, or any modification thereof, without first affording such institution reasonable notice and opportunity for hearing.

"(e) SPECIAL RULE.—For the purpose of this section, no Hispanic-serving college or university which is eligible for and receives funds under this section may concurrently receive other funds under this part or part B.".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Title III of the Act is further amended—

(A) by adding at the end of subsection (b) of section 352 the following new paragraph:

"(4) The Secretary shall waive the requirements set forth in section 312(b)(1)(B) in the case of an institution which qualifies for assistance under section 313."; and

(B) by striking $150,000,000 on Page 59, line 11, and inserting $160,000,000; and

(C) by striking $20,000,000 on Page 59, line 15, and inserting $25,000,000; and

(D) by adding at the end of subsection (a) of section 360 the following new paragraph:

"(5) There are authorized to be appropriated to carry out section 313, $45,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.".

—Page 50, line 3, strike "315" and insert "316".

—Page 49, after line 22, insert the following new subsection (and redesignate the succeeding subsection accordingly):

(e) HISPANIC-SERVING INSTITUTIONS.—

(1) IN GENERAL.—Part A of title III of the Act (20 U.S.C. 1057 et seq.) is amended—

(1) by redesignating sections 313 and 314 as sections 314 and 315, respectively; and

(2) by inserting after section 313 the following new section:

"SEC. 313. HISPANIC-SERVING INSTITUTIONS.

"(a) PROGRAM AUTHORIZED.—The Secretary shall provide grants and related assistance to Hispanic-serving institutions to enable such institutions to improve and expand their capacity to serve Hispanic and other low-income students.

"(b) DEFINITIONS.—For the purpose of this section—

"(1) the term 'Hispanic-serving institution' means an institution of higher education which—

"(A) has a full-time student undergraduate enrollment that is at least 25 percent Hispanic;

"(B) is duly accredited by an agency recognized for that purpose by the Secretary;

"(C) has been so accredited for 3 of its previous 5 years;

"(D) provides a 4-year program leading to a baccalaureate degree or a 2-year program leading to an associate's degree; and

"(E) is a public or nonprofit private institution of higher education;

"(F) is described in section 312(a), meets the requirements of paragraphs (1), (2) and (3) of section 312(b) and has an enrollment of needy students; and

"(G) provides assurances that—

"(i) not less than 50 percent of its Hispanic students be low-income individuals who are first generation college students; and

"(ii) another 25 percent of its Hispanic students be either low-income individuals or be first generation college students;

"(2) the term 'first generation college student' means—

"(A) an individual both of whose parents did not complete a baccalaureate degree; or

"(B) in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree; and

"(3) the term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census.

"(c) AUTHORIZED ACTIVITIES.—

"(1) TYPES OF ACTIVITIES AUTHORIZED.—Grants awarded under this section shall be used by Hispanic-serving institutions of higher education to assist such institutions to plan, develop, undertake, and carry out programs in any of the following areas:

"(A) Purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional and research purposes.

"(B) Renovation and improvement in classroom, library, laboratory, and other instructional facilities.

"(C) Faculty salaries and support of faculty exchanges, and faculty development and faculty fellowships to assist in attaining advanced degrees in their field of instruction

"(D) Curriculum development and academic instruction.

"(E) Purchase of library books, periodicals, microfilm, and other educational materials.

"(F) Funds and administrative management, and acquisition of equipment for use in strengthening funds management.

"(G) Joint use of facilities such as laboratories and libraries.

"(H) Academic tutoring and counseling programs.

"(I) Transfer centers to support the development or expansion of centers designed to increase the transfer rate of underrepresented students from 2-year to 4-year institutions, which may include joint admissions programs, shared advisement programs, and student transfer management information data systems.

"(J) Academic partnership coalitions, including partnerships among colleges, elementary and secondary schools, community-based organizations, parents, and low-income students.

"(K) Collaborative arrangements with nonprofit organizations or private sector business entities, in order to carry out the activities described in this subsection.

"(d) APPLICATION PROCESS.—

"(1) INSTITUTIONAL ELIGIBILITY.—Each Hispanic-serving institution desiring to receive assistance under this Act shall submit to the Secretary such enrollment data as may be necessary to demonstrate that it is a Hispanic-serving institution as defined in paragraph (1) of subsection (b), along with such other information and data as the Secretary may be regulation require.

"(2) APPLICATIONS.—Any institution which is determined by the Secretary to be a Hispanic-serving institution (on the basis of the information and data submitted under paragraph (1)) may submit an application for assistance under this section to the Secretary. Such application shall include—

"(A) a 5-year plan for improving the assistance provided by the Hispanic-serving institution to Hispanic and other low-income students at the collegiate and pre-collegiate levels;

"(B) satisfactory evidence that such institution will, if provided with assistance, enter into a collaborative arrangement with at least one local educational agency to provide such agency with assistance in reducing Hispanic dropout rates, improving Hispanic rates of academic achievement, and increasing the rates at which Hispanic high school graduates enroll in higher education; and

"(C) such other information and assurance as the Secretary may require.

"(3) APPROVAL.—The Secretary shall approve any application which meets the requirements of paragraph (1) and shall not disapprove any application submitted under this section, or any modification thereof, without first affording such institution reasonable notice and opportunity for hearing.

"(e) SPECIAL RULE.—For the purposes of this section, no Hispanic-serving college or university which is eligible for and receives funds under this section may concurrently receive other funds under this part or part B.".

(2) TECHNICAL AND CONFORMING AMENDMENTS.—Title III of the Act is further amended—

(A) by adding at the end of subsection (b) of section 352 the following new paragraph:

"(4) The Secretary shall waive the requirements set forth in section 312(b)(1)(B) in the case of an institution which qualifies for assistance under section 313."; and

(B) by adding at the end of subsection (a) of section 360 the following new paragraph:

"(5) There are authorized to be appropriated to carry out section 313, $45,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years.".

—Page 50, line 3, strike "315" and insert "316".

By Mr. ROHRABACHER:

—Page 700, strike lines 21 and 22 and insert the following:

(a) FINDINGS.—The Congress finds that—

(1) racial discrimination is indefensible, improper, and immoral;

(2) it has been reported that many institutions of higher education have instituted admissions quotas designed to limit the admission of Asian-Americans;

(3) these restrictive quotas are similar to those instituted in the 1920's to limit the admission of Jewish students;

(4) statistics show that Asian-American students face greater obstacles in their attempts to attend institutions of higher education than students of other races;

(5) the Office of Civil Rights of the Department of Education is conducting investigations at the University of California at Berkeley and the University of California at Los Angeles to determine whether the schools in violation of title VI (relating to nondiscrimination in federally assisted programs) of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-6); and

(6) the Chancellor of the University of California at Berkeley apologized to Asian-Americans for an admission process of the school which had a negative impact on the admission of Asian-Americans.

—Page 701, line 2, insert before the semicolon the following: "because of their race in violation of Regents of the University of California v. Bakke, 438 U.S. 265 (1978)".

By Mrs. ROUKEMA:

—Page 165, strike line 18 and all that follows through line 4 on page 167 and insert the following:

"(i) in the case of a student at an eligible institution who has not successfully completed the first year of a program of undergraduate education—

"(I) $2,625, if such student is enrolled in a program whose length is one academic year in length (as provided for in section 481(d));

"(II) $1,750, if student is enrolled in a program whose length is at least 2/3 of an academic year; and

"(III) $875, if such student is enrolled in a program whose length is less than 2/3, but at least 1/3, of an academic year (as provided for in section 481(b));

"(ii) in the case of a student at an eligible institution who has successfully completed the first, but has not successfully completed the second, year of a program of undergraduate education—

"(I) $3,500, if such student is enrolled in a program whose length is one academic year in length (as provided for in section 481(d));

"(II) $2,334, if student is enrolled in a program whose length is at least 2/3 of an academic year; and

"(III) $1,167, if such student is enrolled in a program whose length is less than 2/3, but at least 1/3, of an academic year (as provided for in section 481(b));

"(iii) in the case of a student at an eligible institution who has successfully completed such first and second year, but has not successfully completed the third year of a program of undergraduate education—

"(I) $4,750, if such student is enrolled in a program whose length is one academic year in length (as provided for in section 481(d));

"(II) $3,166, if student is enrolled in a program whose length is at least 2/3 of an academic year; and

"(III) $1,583, if such student is enrolled in a program whose length is less than 2/3, but at least 1/3, of an academic year (as provided for in section 481(b));

"(iv) in the case of a student at an eligible institution who has successfully completed such third year, but has not successfully completed the remainder of a program of undergraduate education—

"(I) $5,000, if such student is enrolled in a program whose length is one academic year in length (as provided for in section 481(d));

"(II) $3,334, if student is enrolled in a program whose length is at least 2/3 of an academic year; and

"(III) $1,677, if such student is enrolled in a program whose length is less than 2/3, but at least 1/3, of an academic year (as provided for in section 481(b));

"(iv) in the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, $9,000;".

—Page 167, strike line 9 and all that follows through line 18 on page 168 and insert the following:

"(i) in the case of a student at an eligible institution who has not successfully completed the first year of a program of undergraduate education—

"(I) $2,625, if such student is enrolled in a program whose length is one academic year in length (as provided for in section 481(d));

"(II) $1,750, if student is enrolled in a program whose length is at least 2/3 of an academic year; and

"(III) $875, if such student is enrolled in a program whose length is less than 2/3, but at least 1/3, of an academic year (as provided for in section 481(b));

"(ii) in the case of a student at an eligible institution who has successfully completed the first, but has not successfully completed the second, year of a program of undergraduate education—

"(I) $3,500, if such student is enrolled in a program whose length is one academic year in length (as provided for in section 481(d));

"(II) $2,334, if student is enrolled in a program whose length is at least 2/3 of an academic year; and

"(III) $1,167, if such student is enrolled in a program whose length is less than 2/3, but at least 1/3, of an academic year (as provided for in section 481(b));

"(iii) in the case of a student at an eligible institution who has successfully completed such first and second year, but has not successfully completed the third year of a program of undergraduate education—

"(I) $4,750, if such student is enrolled in a program whose length is one academic year in length (as provided for in section 481(d));

"(II) $3,166, if student is enrolled in a program whose length is at least 2/3 of an academic year; and

"(III) $1,583, if such student is enrolled in a program whose length is less than 2/3, but at least 1/3, of an academic year (as provided for in section 481(b));

"(iv) in the case of a student at an eligible institution who has successfully completed such third year, but has not successfully completed the remainder of a program of undergraduate education—

"(I) $5,000, if such student is enrolled in a program whose length is one academic year in length (as provided for in section 481(d));

"(II) $3,334, if student is enrolled in a program whose length is at least 2/3 of an academic year; and

"(III) $1,677, if such student is enrolled in a program whose length is less than 2/3, but at least 1/3, of an academic year (as provided for in section 481(b));

"(iv) in the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, $9,000.".

—Page 168, after line 18, insert the following new paragraph:

(3) ADDITIONAL CONFORMING AMENDMENTS.—(A) Section 425(a)(2) of the Act is amended—

(i) by striking "$17,250" in clause (i) and inserting "$21,125"; and

(ii) by striking "$54,750" in clause (ii) and inserting "$71,125".

(B) Section 428(b)(1)(B) of the Act is amended—

(i) by striking "$17,250" in clause (i) and inserting "$21,125"; and

(ii) by striking "$54,750" in clause (ii) and inserting "$71,125".

—Page 198, line 9, strike "UNSUBSIDIZED LOANS;"

—Page 198, line 12, strike "sections" and insert "section".

—Page 198 strike line 13 and all that follows through line 8 on page 202.

—Page 202, line 10, redesignate section 428H as section 428G.

—Page 225, line 16, strike "and" and after such line insert the following new paragraph (and redesignate the succeeding paragraph accordingly):

(2) by striking clause (ii) of paragraph (3)(B) and inserting the following:

"(ii) for any succeeding fiscal year—

"(I) 30 percent if a majority of the undergraduate programs of study offered by such institution lead to an associate or baccalaureate degree; or

"(II) 25 percent."; and

—Page 416, strike out lines 20 through 22 and insert the following (and redesignate the succeeding paragraphs accordingly):

"(1) a cohort default rate as defined in section 435(m) equal to or greater than 25 percent;

"(2) a cohort default rate as defined in section 435(m) equal to or greater than 20 percent and either—

By Mr. SHAW:

—Page 165, after line 3, insert the following new subsection:

(d) RATES FOR BORROWERS WHO ENTER THE TEACHING PROFESSION.—Section 427A of the Higher Education Act of 1965 is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following new subsection:

"(f) RATES FOR BORROWERS WHO ENTER THE TEACHING PROFESSION.—Notwithstanding subsections (a), (b), and (d) of this section, with respect to a loan (other than a loan made pursuant to section 428A, 428B, or 428C) to any borrower who qualifies for and obtains a deferment under section 427(a)(2)(C)(iv) or 428(b)(1)(M)(iv) for service as a full-time teacher for 3 years, the applicable rate of interest shall be 4 percent per year on the unpaid balance of the loan during the period from the end of such deferment and until the end of the repayment period or until the borrower ceases to be a full-time teacher, whichever first occurs.".

—Page 169, line 23, and page 170, line 16, strike "and"; and on page 170, after line 5 and after line 23, insert the following new clause:

"(iv) not in excess of 3 years during which the borrower is engaged as a full-time teacher in a public or nonprofit private elementary or secondary school in a teacher shortage area established by the Secretary pursuant to paragraph (4) of this subsection;

—Page 177, strike lines 13 through 16 and redesignate the succeeding subsections accordingly.

—Page 177, line 18, strike "428(b)(4) of the Act as redesignated)" and insert "428(b)(5) of the Act".

—Page 178, line 4, and page 179, lines 14 and 23, redesignate paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7), respectively.

By Mr. SLATTERY:

—Page 163, strike line 20 and all that follows through line 3 on page 164 and insert the following:

an adjustment shall be made—

"(A) by calculating excess interest in the amount computed under paragraph (4) of this subsection; and

"(B)(i) during any period in which a student is eligible to have interest payments paid on his or her behalf by the Government pursuant to section 428(a), by crediting the excess interest to the Government; or

"(ii) during any other period, by crediting such excess interest to the reduction of principal to the extent provided in paragraph (5) of this subsection.

By Mr. SOLOMON:

—Page 364, strike out lines 10 through 18 and insert the following:

"(3) FIRST CONVICTIONS.—A student whose eligibility has been suspended under paragraph (1) and is convicted of his or her first offense may resume eligibility before the end of the period determined under such paragraph if—

"(A) the student demonstrates that he or she has enrolled or been accepted for enrollment in a drug rehabilitation program that complies with such criteria as the Secretary shall prescribe for purposes of this subsection; and

"(B) the student agrees that, if the student fails to complete such program within the earlier of (i) 2 years after the date the student enrolls in such programs, or (ii) 3 years after the date the student is accepted for enrollment in such program, the student will reimburse the Federal Government for the amount of grant or work assistance received pursuant to this paragraph and for twice the amount of any loan received pursuant to this paragraph, unless such failure is excused by the Secretary for good cause.

By Mr. TOWNS:

—On page 416, lines 18–22, substitute the following:

"REVIEW CRITERIA.—The criteria for the initial review of institutions of higher education are as follows:

"(1) a cohort default rate as defined in section 435(m) equal to greater than 25 percent or the total student loan dollar volume in default at the institution, for the relevant fiscal year, exceeds $1 million and either—

Strike subparagraphs (A) and (B)

—In lieu of the matter proposed to be inserted on page 86 after line 20 by the Amendment of the Gentleman from Tennessee, insert the following:

"(7)(A) No basic grant shall be awarded to an incarcerated student under this subpart that exceeds the sum of the amount of tuition and fees normally assessed by the institution of higher education for the course of study such student is pursuing plus an allowance (determined in accordance with regulations issued by the Secretary) for books and supplies associated with such course of study, except that no basic grant shall be awarded to any incarcerated student serving under sentence of death or any life sentence without eligibility for parole or release, any individual who will not be eligible for parole or release within 5 years, or any individual classified as a 'habitual criminal' as defined by State statute.

"(B) Basic grants under this subpart shall only be awarded to incarcerated individuals in a State if such grants are used to supplement and not supplant the level of postsecondary education assistance provided by such State to incarcerated individuals in fiscal year 1988.

"(C) No grant shall be awarded to an incarcerated individual to attend an institution unless the majority of the undergraduate programs of study offered by such institution lead to an associate or baccalaureate degree.".

—Page 345, line 20, strike the close quotation marks and following period and after such line insert the following:

"(5) Any entity shall not be considered to be an institution of higher education pursuant to paragraph (1), if such entity has a student enrollment in which more than 30 percent of the students are incarcerated.".

—Page 86, line 20, strike out the close quotation marks and following period and after such line insert the following:

"(7)(A) No basic grant shall be awarded to an incarcerated student under this subpart that exceeds the sum of the amount of tuition and fees normally assessed by the institution of higher education for the course of study such student is pursuing plus an allowance (determined in accordance with regulations issued by the Secretary) for books and supplies associated with such course of study, except that no basic grant shall be awarded to any incarcerated student serving under sentence of death or any life sentence without eligibility for parole or release, any individual who will not be eligible for parole or release within 5 years, or any individual classified as a 'habitual criminal' as defined by State statute.

"(B) Basic grants under this subpart shall only be awarded to incarcerated individuals in a State if such grants are used to supplement and not supplant the level of postsecondary education assistance provided by such State to incarcerated individuals in fiscal year 1988.

"(C) No grant shall be awarded to an incarcerated individual to attend an institution unless the majority of the undergraduate programs of study offered by such institution lead to an associate or baccalaureate degree.".

—Page 345, line 20, strike the close quotation marks and following period and after such line insert the following:

"(5) Any entity shall not be considered to be an institution of higher education pursuant to paragraph (1), if such entity has a student enrollment in which more than 30 percent of the students are incarcerated.".

—Page 86, line 20, strike out the close quotation marks and following period and after such line insert the following:

"(7)(A) No basic grant shall be awarded to an incarcerated student under this subpart that exceeds the sum of the amount of tuition and fee normally assessed by the institution of higher education for the course of study such student is pursuing plus an allowance (determined in accordance with regulations issued by the Secretary) for books and supplies associated with such course of study, except that no basic grant shall be awarded to any incarcerated student serving under sentence of death or any life sentence without eligibility for parole or release, any individual who will not be eligible for parole or release within 5 years, or any individual classified as a 'habitual criminal' as defined by State statute.

"(B) Basic grants under this subpart shall only be awarded to incarcerated individuals in a State if such grants are used to supplement and not supplant the level of postsecondary education assistance provided by such State to incarcerated individuals in fiscal year 1988.

"(C) No grant shall be awarded to an incarcerated individual to attend an institution unless the majority of the undergraduate programs of study offered by such institution lead to an associate or baccalaureate degree.".

—Page 345, line 20, strike the close quotation marks and following period and after such line insert the followig:

"(5) Any entity shall not be considered to be an institution of higher education pursuant to paragraph (1), if such entity has a student enrollment in which more than 30 percent of the students are incarcerated.".

—Page 416, strike line 23 and all that follows through line 6 on page 417 and insert the following:

"(1)(A) a cohort default rate as defined in section 435(m) equal to or greater than 25 percent, or

"(B) a total student loan volume in default at the institution (for the relevant fiscal year) exceeding $1,000,000;

By Mr. TRAFICANT:

—Page 426, after line 2, insert the following new part (and conform the table of contents accordingly):

PART J—AMENDMENTS TO RELATED PROGRAMS

SEC. 499A. EXCELLENCE IN MATHEMATICS, SCIENCE AND ENGINEERING EDUCATION ACT OF 1990.

Section 621(o) of the Excellence in Mathematics, Science and Engineering Education Act of 1990 is amended by striking "fiscal year 1991" and inserting "each of the fiscal years 1993 and 1994".

—Page 426, after line 2, insert the following new part (and conform the table of contents accordingly):

PART J—AMENDMENTS TO RELATED PROGRAMS

SEC. 499A. EXCELLENCE IN MATHEMATICS, SCIENCE AND ENGINEERING EDUCATION ACT OF 1990.

Section 621 of the Excellence in Mathematics, Science and Engineering Education Act of 1990 is amended—

(1) in subsection (b), by amending paragraph (2) to read as follows:

"(2) FUNCTION.—The Advisory Board shall develop an exam for secondary students testing knowledge in science, mathematics, and engineering, or shall select an exam from among existing national exams, and shall annually administer such exam.";

(2) by striking subsections (d), (e), and (f);

(3) by redesignating subsection (c) as subsection (d);

(4) by inserting after subsection (b), the following new subsection:

"(c) RESULTS OF EXAM.—The Advisory Board shall annually certify the top 10 scorers in each congressional district on the exam developed or selected under subsection (b)(2), and award to the top 2 scorers in each district a scholarship under this section.";

(5) in subsection (d)(1), as so redesignated by paragraph (3) of this section, by striking "subsection (n)" and inserting in lieu thereof "subsection (l)";

(6) in subsection (d)(2), as so redesignated by paragraph (3) of this section, by striking "subsection (h)" and inserting in lieu thereof "subsection (g)";

(7) in subsection (d)(3), as so redesignated by paragraph (3) of this section—

(A) by striking "subsection (h)" and inserting in lieu thereof "subsection (f)"; and

(B) by inserting "such additional" after "maximum of 3";

(8) by redesignating subsections (g) through (o) as subsections (e) through (m), respectively;

(9) in subsection (f)(2), as so redesignated by paragraph (8) of this section, by striking "subsection (f)" and inserting in lieu thereof "subsection (d)(3)"; and

(10) in subsection (m), as so redesignated by paragraph (8) of this section by striking "$2,200,000 for fiscal year 1991" and inserting in lieu thereof "$4,400,000 for fiscal year 1993 and $8,800,000 for fiscal year 1994".

—Page 579, line 15, strike the close quotation marks and following period and after such line insert the following new subsection:

"(c) BUY AMERICAN REQUIREMENT.—No funds appropriated pursuant to this section may be expended by an institution of higher education for any procurement contract that an agency of the Government would be prohibited from entering into under the Act of March 3, 1933 (41 U.S.C. 10a et seq., popularly known as the 'Buy American Act').".

—At the end of the bill add the following new title:

TITLE XV—BUY AMERICA

Sec. 1501. SENSE OF CONGRESS.

It is the sense of the Congress that a recipient (including a nation, individual group, or organization) of any form of student assistance or other Federal assistance under the Act should, in expanding that assistance, purchase American-made equipment and products.

SEC. 1502. NOTICE.

The Secretary of Education shall provide to each recipient of student assistance or other Federal assistance under the Act a notice describing the sense of the Congress states under section 1501.

By Mr. VENTO:

—Page 197, after line 10 insert the following new section (and conform the table of contents accordingly):

SEC. 430A. DEFAULT REDUCTION PROGRAMS.

Section 428F of the Act (20 U.S.C. 1078-6) amended—

(1) by striking subsection (a);

(2) in subsection (b)—

(A) in subparagraph (A) of paragraph (1)—

(i) by striking "Upon" and inserting "Each guaranty agency shall enter into an agreement with the Secretary which shall provide that upon"; and

(ii) by adding at the end the following new sentence: "Neither the guaranty agency nor the Secretary shall demand from a borrower as monthly payment amounts referred to in this paragraph more than is reasonable and affordable based upon the borrower's total financial circumstances.";

(B) in paragraph (3), by inserting "or grants" after "loans";

(3) by redesignating subsection (b) (as amended in paragraph (2)) as subsection (a); and

(4) by adding at the end the following new subsection:

"(b) SPECIAL RULE.—Each guaranty agency shall establish a program which allows a borrower with a defaulted loan or loans to renew their eligibility for all title IV student financial assistance (regardless of whether their defaulted loan has been sold to an eligible lender) upon the borrower's payment of 6 consecutive monthly payments. The guaranty agency shall not demand from a borrower as a monthly payment amount under this subsection more than is reasonable and affordable based upon the borrower's total financial circumstances.".

By Ms. WATERS:

—Page 224, strike out line 5 through page 225, line 7 and insert in lieu thereof the following:

"(7) a statement that—

"(A) prominently and clearly states that the borrower is receiving a loan that must be repaid;

"(B) notwithstanding any other provision of Federal or State law, the borrower's loan repayment obligation is separate and distinct from the institution's obligation to the borrower and that except as provided in section 435A, a failure by the institution to comply with any Federal, State, or local law shall not excuse any portion of the borrower's obligation to repay the loan.".

—Page 228, insert immediately after line 13 the following new section:

SEC. 435A. DEFENSES.

(a) Part B of title IV of the Act is further amended by inserting immediately following section 435 the following new section:

"DEFENSES

"SEC. 435A. Notwithstanding any other provision of Federal or State law, a borrower may assert the act or omission of an institution as a defense to repayment of a loan guaranteed under this part and made in connection with attendance at that institution only if—

"(1) at the time the loan was made, the lender had notice of a significant number of substantial complaints by students that the institution had failed to provide promised services, supplies or refunds and had failed to address satisfactorily such complaints within a reasonable time;

"(2) the lender delegated substantial loan making functions normally performed by lenders to the institution with respect to that loan;

"(3) the loan was made by the institution, or by a lender that is affiliated with a school, as defined in section 481(b), by common control, ownership, contract, or business arrangement or has an origination or referral agreement with said school; or

"(4) the terms of the loan agreement permit the borrower to raise such defenses.".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective for loans made under this part on or after the date of enactment.

—Page 365, strike out line 19 through page 366, line 2.

—Page 225, strike line 9 and all that follows through line 5 on page 226 and insert the following (and redesignate the succeeding subsections accordingly):

(a) VOCATIONAL SCHOOLS.—Section 435(c) of the Act is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) has, as at least 15 percent of its students during any calendar year, students who do not have any part of their tuition, fees, or other charges paid for them by the institution or by any assistance under this title.".

—Page 345, line 24, strike "and" and on 346, strike lines 1 through 12 and insert the following:

(2) by striking "and" at the end of clause (4);

(3) by striking the period at the end of clause (5) and inserting the following: ", and (6) which has, as at least 15 percent of its students during any calendar year, students who do not have any part of their tuition, fees, or other charges paid for them by the institution or by assistance under this title.".

—Page 197, after line 10, insert the following new section:

SEC. 430A. GARNISHMENT AND COLLECTION PROCEDURES.

(a) GARNISHMENT LIMITATIONS.—Section 428E of the Act is amended by adding at the end the following new subsection:

"(e) LIMITATIONS.—Notwithstanding any provision of law, no garnishment order or writ shall be issued or levied in connection with the collection of the amount due on a loan by a student borrower unless—

"(1) the net income of the student borrower and the borrower's spouse, including any cash benefits received under a needs-based government assistance program, exceeds 150 percent of the poverty level for the size of family which the student borrower has;

"(2) the party attempting to garnish wages makes reasonable inquiry concerning the amount of the net income of the borrower and the borrower's spouse;

"(3) the party attempting to garnish wages files a statement with the clerk of the court before the garnishment order or writ is issued that certifies that (A) the net income of the borrower and the borrower's spouse exceeds the amount specified in paragraph (1) or (B) after reasonable inquiry, the party seeking the garnishment order or writ is unable to ascertain whether the net income of the borrower and the borrower's spouse exceeds the amount specified in paragraph (1);

"(4) in the event a garnishment order or writ is issued and levied and the net income of the borrower and the borrower's spouse is less than the amount specified in paragraph (1), the garnishment shall be terminated and all wages garnished shall be returned to the wage earner, and if after reasonable inquiry the party seeking the garnishment order or writ knew or should have known that the net income was less than the amount specified in paragraph (1), that party shall be subject to liability, if any, established under State law for wrongful garnishment; and

"(5) in the event a garnishment order or writ is issued and levied, that net amount garnished shall not reduce the borrower's and the borrower's spouse's income to less than the amount specified in paragraph (1) and any amount which is garnished in violation of this paragraph shall be returned to the borrower.".

(b) COLLECTIONS ON DEFAULTED LOANS.—Section 430 of the Act is amended by adding at the end the following new subsections:

"(e) LIMITATION.—No action shall be commenced against a student borrower for any amount due on a loan made pursuant to this title unless the net income of the student borrower and the borrower's spouse, including any cash benefits received under a needs-based government assistance program, exceeds 150 percent of the poverty level for the size of the family which the student borrower has.

"(f) OFFSET LIMITATION.—If the Secretary or a guaranty agency seeks to offset all or any portion of the amount owed on a loan made pursuant to this title against an income tax refund intercept under State or Federal law—

"(1) the student borrower shall be provided with written notice setting forth clearly and conspicuously all of the applicable valid objections to offset and the borrower's rights to a hearing;

"(2) if the student borrower objects to the offset and the objection is denied, the borrower shall be informed of all of the grounds for denial and of the borrower's right of administrative appeal and judicial review;

"(3) if a tax intercept program under State law is invoked, all of the procedures for notice, hearing, and appeal under the State program shall be at least as protective of the student borrower as the procedures under Federal law, notwithstanding any contrary State law; and

"(4) if the requirements of the State or Federal income tax refund intercept program are not satisfied, the student borrower shall be entitled to recover treble the amount of the tax refund wrongfully intercepted as an offset to the balance of the loan debt, or as damages to the extent the amount exceeds the debt, plus reasonable attorney's fees and costs.".

(c) FORBEARANCE AND DEFERMENT INFORMATION.—Part B of title IV of the Act is amended by inserting after section 430A the following new section:

"FORBEARANCE AND DEFERMENT INFORMATION

"SEC. 430B. (a) DESCRIPTION REQUIRED.—An eligible lender or loan servicing agent shall provide a student borrower with a clear, conspicuous, concise, and complete description of all of the student borrower's rights to a forbearance or deferment at or before the time that the student borrower is first required to begin paying the loan and, if the student borrower becomes delinquent, at each time demand for payment is made following delinquency and before default.

"(b) APPLICABILITY.—If a student borrower is entitled to a forbearance or deferment, the forbearance or deferment shall relate back to the date on which the student borrower first became eligible to receive the forbearance or deferment notwithstanding whether the student has been placed in default status with regard to the loan.

"(c) CURE OF DELINQUENCY.—If a student borrower was eligible for a forbearance or deferment but was not adequately informed of the right to apply or was not given assistance in the completion of the application and if the student is deemed delinquent, all collection activity shall be suspended to provide a reasonable period for the student borrower to apply for a forbearance or deferment and for a decision to be made on the borrower's application.

"(d) REMOVAL OF DEFAULT.—If a student borrower is granted a forbearance of deferment after being placed in default status, the default shall be removed, all collection activity shall terminate, and credit reporting agencies and the agency seeking collection shall be informed of the grant of a forbearance or deferment and the removal of the default.".

(d) COMPROMISE AND DISCHARGE.—Section 437 of the Act is amended by adding at the end the following new subsection:

"(c) FRAUD OR MISREPRESENTATION.—The Secretary shall discharge a student borrower's liability on a loan described in this subchapter and shall repay the amount of the loan discharged if a State attorney general or other law enforcement agency, State educational licensing agency, guaranty agency, or the Secretary finds or has substantial evidence or reason to believe that an institution has engaged in fraud or misrepresentation or any violation of State or Federal law in connection with soliciting, offering, contracting for, or providing instruction.".

(e) DUE PROCESS.—Part G of title IV of the Act is amended by adding at the end the following new section:

"DUE PROCESS

"SEC. 492. Lenders, guaranty agencies, and any other person involved in the collection of any amount due under a loan made under this title shall, in addition to any provisions of law applicable to them, be subject to section 552 of title 5, United States Code, and to the same constitutional and statutory requirements of due process, including requirements for notice and hearing, that would apply to the Secretary if the Secretary were collecting on the loan.".

—Page 191, after line 18, insert the following new subsection:

(d) LIMITATION.—Section 428A of the Act is amended by adding at the end the following new subsection:

"(e) LIMITATION.—No student shall be eligible to borrow funds under this section if the student is enrolled in an undergraduate degree or nondegree program of less than 2 academic years in an institution of higher education as defined in section 481(b) unless the student is ineligible to receive a Stafford loan.".

—Page 224, line 24, strike "and" and insert "or".

—Page 350, line 9, strike "(other than subsection (b)(5))".

—Page 351, line 19, strike the close quotation marks and following period and after such line insert the following new subsection:

"(j) TWO-YEAR RULE.—Notwithstanding any other provision of this title, for the purpose of subsection (b)(5), an institution shall be deemed not to have been in existence for 2 years if, within the preceding 2-year period, the institution has had a change of ownership or control, has substantially changed the program of instruction offered (including the curriculum, program length, and amount of tuition and other charges), or has increased the number of students enrolled by more than 100 students or 10 percent of the prior years enrollment (whichever is greater).".

By Mr. WISE:

—Page 299, line 21, strike the semicolon and insert a period and strike lines 22 and 23.

—Page 309, line 10, strike "and"; on line 12, strike the period and insert "; and"; and after line 12 insert the following:

"(D) the amount (if any) by which the parents' available income (as determined under subsection (c)) is less than zero.

EXTENSIONS OF REMARKS

THE AMERUS FOUNDATION FOR RESEARCH AND DEVELOPMENT ACT OF 1992

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. BROWN. Mr. Speaker, today I am joined by my good colleagues—Representatives ASPIN, BOUCHER, McCURDY, LLOYD, SENSENBRENNER, SCHEUER, and SPRATT—in introducing the AmeRus Foundation for Research and Development Act of 1992. This bill will establish an independent, endowed foundation which will identify and fund cooperative research and development ventures between engineers and scientists working in industry, academia, and defense in the United States and the former Soviet Union. This legislation will help lay the foundation for a new civilian economic infrastructure in the newly independent states of the former Soviet Union.

The changes that have been provoked by the break-up of the Soviet Empire requires a major adjustment in United States thought and action. We must support emerging democratic institutions wherever they take root, while encouraging the rebuilding of economic infrastructures based on free-market systems. The period of transition during which these changes take place, as we have seen has been one of despair and holds the potential for international instability. In the case of the Republics of the former Soviet Union, economic hardship, ethnic divisiveness, and sophisticated weaponry combine to suggest the potential for particularly dangerous consequences. The United States has an unprecedented opportunity to influence the evolution of these formerly Communist States into stable democracies with free-market economies. Our inaction—or inappropriate action—could invite negative long-term consequences.

The establishment of binational foundations to support cooperative scientific and technological work is not a novel idea. In the mid-1970's, the United States and Israel established three nongovernmental foundations to support various types of scientific and technological cooperation between United States and Israeli engineers and scientists. These foundations have proved to be very successful and have provided substantial benefits to both the United States and Israel.

Nor is the concept of scientific and technological assistance to Russia a new one. However, the approach I outline today is a significant departure from other legislative proposals introduced in the last few months. Unlike other schemes, this approach has been endorsed by the National Academy of Sciences in its recent report: "Reorientation of the Research Capabilities of the Former Soviet Union—A Report to the Assistant to the President for Science and Technology."

While the humanitarian aid of food and medical supplies is necessary to address immediate problems, this assistance will not, in and of itself, foster the capabilities needed for long-term economic and political stability. Humanitarian aid will do nothing in the way of helping the newly independent states help themselves toward a prosperous, self-sufficient future.

Today, there is universal recognition that a strong science and technology base is fundamental to the strength of an industrial economy. The Soviet Union once maintained the largest scientific establishment in the world. Fully one-quarter of the scientific workers on the planet now reside in the Republics of the former Soviet Union, and more than half the world's engineers work there. Engineers and scientists in the newly independent states will play a key role in determining whether the transition to an open and market-driven society will succeed, or whether economic distress will invite a return to repressive governance and military confrontation.

Today, however, Russia, Ukraine, and Belarus face the imminent dissolution of their science and technology infrastructure, within their Academies of Science and within their numerous educational institutions. In my recent discussions with Boris Saltykov, Minister of Science, Higher Education, and Technology Policy of the Russian Federation; and with Yuriy Osipov, President of the Russian Academy of Science; both reiterated their belief that world-class research is being suspended or terminated because of insufficient budgetary support. They emphasized that even modest cooperative efforts could maintain research efforts of potential significance to the entire world. World-class scientific facilities in the former Soviet Union must be preserved; if they are not, the loss will be not just to the new republics, but to all humanity.

In the United States we ourselves are faced with a serious economic downturn, complicated by economic readjustment to a military draw-down that will change the nature of our economy. Thus, it is difficult to justify increased foreign assistance programs that do not offer tangible domestic benefits. I believe that the only rational approach to helping the states of the former Soviet Union will be one based on mutual cooperation, collaboration, and benefit. Technological and scientific cooperation with the newly independent states, if structured correctly, could utilize our mutual expertise to help rebuild their economic infrastructure. Scientific and technological cooperation can:

First, assist all of the new states in applying technological capabilities to the task of economic growth.

Second, provide new civilian research opportunities which could divert technological talent away from military pursuits and contribute to the urgent U.S. goal of redirecting military efforts and providing alternative challenges for underutilized weapons scientists who might otherwise consider emigration to countries where they could continue working on advanced military systems.

Third, allow United States firms access to the many novel technologies that have been developed in former Soviet laboratories. Businesses from Japan, Germany, and other countries, with the support of their governments, aggressively are searching out commercial targets. Stronger United States Government encouragement of business alliances with the former Soviet Republics promises both short- and long-term boosts to our technology base and our competitiveness.

To this end, the AmeRus Foundation for Research and Development Act of 1992 authorizes the Director of the National Science Foundation to establish a foundation for research and development which will make grants for joint research projects in basic and applied research between engineers and scientists in the United States and the new Republics. These projects would be carried out within academic institutions, government laboratories, and nonprofit research institutes. Representatives of both countries would establish priority research areas that are mutually beneficial. In addition, the foundation would support industrial research development. The foundation would provide partial support to high-technology ventures—from laboratory bench to the marketplace. It would link Russian entrepreneurs in high-technology sectors with interested United States business partners. This framework would assist United States businesses in developing new markets, and would give them access to first-rate researchers. For the newly independent states, this type of cooperation will help them learn Western-style business practices while utilizing their own scientists and engineers. Not only will such a program assist these states in retaining their cadre of highly skilled workers, I envision that it also will provide an impetus for defense-conversion projects. Highly skilled personnel will have a financial incentive to develop alternative uses for their knowledge and technologies.

I want to emphasize that this legislation differs in four significant ways from Secretary Baker's proposal to establish an International Science and Technology Center in Moscow. First, it addresses the crisis in the civilian scientific community, as well as in the defense sector. Second, it provides funds only for joint research projects evaluated on scientific merit. Third, it limits bureaucratic redtape by establishing an independent, nongovernment entity. And fourth, the bill establishes a foundation which will look beyond the immediate crisis to foster the development of a new commercial high-technology sector that will absorb the talents of both civilian and defense research communities.

This is not a foreign aid bill. This legislation establishes a framework for cooperative re-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

search which will ensure that benefits flow equally to all partners.

I realize that in order for substantive research and development collaboration to occur, U.S. technology-transfer laws must be reevaluated. While there has been some relaxation of technology-transfer restrictions, the United States must keep pace with events if we want to reap the benefits of genuine cooperation. I should further point out that if we don't act soon to harvest these benefits, our economic competitors will beat us to it. I urge my colleagues to join me in cosponsoring this legislation.

Mr. Speaker, a section-by-section description of the bill follows:

THE AMERUS FOUNDATION FOR RESEARCH AND DEVELOPMENT ACT

SUMMARY OF THE BILL

Short Title (Sec. 1): This Act may be cited as the "AmeRus Foundation for Research and Development Act of 1992."

Findings (Sec. 2): The general theme of the findings is that the dissolution of the Soviet Union and its accompanying economic anarchy has adversely affected the health of the scientific and technological infrastructure in the Russian Federation, Ukraine, Belarus, and other former Soviet republics. This infrastructure, which is vital to a sound market economy, is threatened by loss of economic support and consequent brain drain. Modest external resources can be leveraged to provide a significant source of support for both civilian and defense scientists and engineers engaged in collaborative research projects for peaceful purposes. In addition, resources targeted at collaborative research and development projects involving U.S. industrial participants can help develop an understanding of commercial business practice among Russian scientists and entrepreneurs, in addition to linking U.S. researchers and business to highly trained personnel and sophisticated new technologies and manufacturing processes.

Definitions (Sec. 3): The bill defines the term "Director" to mean the Director of the National Science Foundation (NSF); and "debt conversion" to mean an agreement whereby a country's external debt burden (either government-to-government or commercial) is exchanged by the holder for local currencies, policy commitments, other economic activities or assets, or for an equity interest in an enterprise owned by the debtor government.

Establishment of the Foundation (Sec. 4): The bill authorizes the Director of the National Science Foundation, in consultation with the Director of the National Institute of Standards and Technology (NIST), to establish an AmeRus Foundation for Research and Development. The Foundation is an endowed, nongovernmental, nonprofit entity.

The functions of the Foundation are: (1) to promote and support joint research projects for peaceful purposes between scientists and engineers in the United States and former Soviet states on subjects of mutual interest; and (2) to establish joint nondefense industrial research and development activities through private sector linkages which may also involve participation by academic scientists and engineers. The resources of the Foundation must be equally distributed to support these two Foundation functions, and projects involving industrial participation must include some industrial contribution.

The governing body of the Foundation is a Board of Governors which has sole responsibility for determining the structure and operation of the Foundation, and the fields of cooperative research supported by the Foundation. Membership of the Board shall be equally divided between representatives of the United States and representatives of other participants in the Foundation. Board membership is limited to a minimum of six and a maximum of 12 voting members. The Directors of NSF and NIST will serve as additional nonvoting members of the Board, and the U.S. representatives will be appointed by the Director of NSF, in consultation with the Directors of NIST and the Office of Science and Technology Policy (OSTP).

The Board will adopt a charter to define the policies and the range of activities of the Foundation, and will appoint an Executive Director who will be responsible for managing the Foundation.

Funding (Sec. 5): The Foundation may accept funding from direct governmental appropriations, private donations, debt conversions, and local foreign currencies generated by U.S. assistance programs, as available. Funds for government-to-government debt conversions must be specifically provided for in advance by appropriations acts, and local currencies generated by U.S. assistance programs are authorized to be made available to the Foundation.

The Foundation is authorized to invest and retain any earnings on revenue provided to it through government assistance. An amount equal to five percent of royalty revenues on any patents resulting from Foundation assistance must be turned over to the Foundation, to be added to the endowment or used to fund research projects. Contributions made to the endowment in U.S. dollars must be retained in dollars, and not less than 20 percent of the Foundation's financial resources must be retained in dollars.

The Board is required to set a minimum contribution to the endowment for any country seeking to participate in the Foundation. That contribution should reflect the country's ability to make a financial contribution and its expected level of participation in Foundation programs.

Participation in the Foundation (Sec. 6): Foundation activities will be conditioned on a waiver, by participating countries of normal customs, duties and other taxes on personal travel or importation of goods in connection with Foundation projects.

Participation in the Foundation may be extended to any republic formerly within the Soviet Union.

If the Foundation does not adequately carry out the purposes of this Act, the Director of NSF may withdraw from the endowment that portion which represents the contribution of the U.S. Government. This must be done, however, in consultation with the Directors of NIST and OSTP, and not less than 30 days after notification to the Congress.

Audit and Report (Sec. 7): The Foundation is required to engage an independent auditor to perform an annual organization-wide audit, and to publish a biennial report of its activities and the results of the independent audits.

Authorization of Appropriations (Sec. 8): There are authorized to be appropriated, and made available to the Director of NSF, to establish the endowment and otherwise for carrying out this Act, $50,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995.

A TRIBUTE TO SUPER TEACHER, SARA GELTNER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to congratulate Ms. Sara Geltner for being acknowledged by the members of our community for her outstanding contribution to their schools. Ms. Geltner has dedicated 40 years to our educational system, and in those 40 years she has bestowed our children with kindness and self-esteem as well as a good education. She has worked hard and dedicated much time to making children understand that they are important and that they matter to us. The difference Ms. Geltner makes in our young students is overwhelming and is evident in their response to her. The children just love her and her classroom.

In an article titled "Teacher Wants Kids to Learn Right From the Start," John O'Neill of the Miami Herald reports:

Sara Geltner believes kids today face a tough world. Her job is to help them get ready to face it, and that means starting early.

Geltner is a kindergarten teacher at Riverside Elementary, 221 SW 12th Ave., and although she has seen a lot of changes in the 40 years she has been working with the wee ones, her basic theme remains the same.

"It's important for them to have good self-images," said Geltner. "That's where it starts. I want to make them feel important and beautiful. A lot of my students have already had very hard lives, and they're only 5 years old."

In class, her 35 kids seem to hang on Geltner's every word. They scramble to help her erase the board or pick up something that has dropped on the floor. And they smile a lot.

"She gives me homework," said Diana Hernandez, 6. "I like homework."

"She gives the students a wonderful start," said Carol LeBlanc, a lead teacher. "And that's important because we have so many immigrant children here. She insists they learn English well. It's funny, because at the end of the year most of the kids talk just like her."

Geltner works especially hard on English, helping the kids translate their native words and phrases. She teaches them about America and the American way of life.

She also gives them things they can get their hands on. The class does a lot of "hands-on" things, like growing plants.

"They're so curious and thrilled, I want to give them things they can touch," Geltner said. "They want very much to be involved, because it makes them feel like human beings."

Born in Chicago, Geltner moved to Miami with her family in 1934 and graduated from Miami High. She got a degree in elementary education from the University of Miami and has since gotten a master's in administration and supervision from Florida International University.

She went to work at Riverside in 1952. Since then, the building has been rebuilt three times and the school has seen every social upheaval Miami has been through, Geltner said.

She vividly remembers her first class: Thirty-nine kids, all non-Hispanic whites.

Today, her class is 100 percent Hispanic and includes youngsters from Nicaragua, Honduras and South America.

"It is a challenge, but I look forward to being with them," she said. "They keep me young."

Mr. Speaker, I applaud Ms. Geltner for her terrific success in the classroom and with her students. Her commitment to better education is evident in her work, and we appreciate her. She is an example to teachers everywhere.

TRIBUTE TO ARTHUR R. TAYLOR, M.D.

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. GEKAS. Mr. Speaker, I rise today to pay tribute to Arthur R. Taylor, M.D., of Williamsport, PA, on the occasion of his retirement after 42 years of practice as a physician.

Dr. Taylor is considered by some to be the father of primary care and family practice medicine in Lycoming County. Through his tireless work and dedication over the years, countless area residents have benefited from the high-quality medical care that he has provided.

In the late 1960's, several physicians, including Dr. Taylor, formed the American Academy of Family Physicians, and the American board of Family Practice. Taking a substantial risk, he then developed the Family Practice Residency Program at the Williamsport Hospital. Dr. Taylor donated his private practice so other physicians could receive training in a specialty that was just beginning to develop.

Under Dr. Taylor's tutelage, 102 physicians have graduated from the Family Practice Residency Program of the Williamsport Hospital and Medical Center. Of that number, 30 have stayed in practice in Lycoming county, adding significantly to the quality of medical care in the region. These doctors have served at hospitals throughout the county and at area nursing homes as well. Many indigent patients would have gone without needed medical care had it not been for the physicians trained under Dr. Taylor.

Mr. Speaker, I ask all of my colleagues to join me in honoring Dr. Arthur Taylor for his many outstanding accomplishments over the years, including his professorships at the University of Pennsylvania School of Medicine, Temple University School of Medicine, and the College of Medicine at the Pennsylvania State University, Hershey Medical Center. Most of all, we want to thank Dr. Taylor for his hard work and devotion to the practice of medicine. May his future years be rewarding and joyful.

HUMAN RIGHTS FOR SYRIAN JEWS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. LEHMAN of Florida. Mr. Speaker, one of the most intractable human rights situations that I have encountered over the nearly 20 years that I have served in Congress is that faced by Syrian Jews. This small, vulnerable community has been subjected to deprivation and hardship. The Syrian Government has refused to allow Syrian Jews to be reunited with family outside Syria despite being a signatory to the Universal Declaration of Human Rights.

During my last visit to Syria, I again raised issues relating to Syrian Jewry with Syrian officials. Like other Members of Congress, I handed lists to high officials and pleaded specific cases. The Syrians never deviated from their position that Syrian Jews are treated no different from other Syrian citizens. Yet, the Swed brothers have still not been released from prison after 4 years of confinement for trying to exercise their right to emigration.

Syrian Jews live under the difficult condition of close surveillance and onerous prohibitions. The Syrian Government has shown very little if any sign of liberalization of human rights toward the Jewish community.

I urge human rights organizations to press for human rights for Syrian Jews and to increase the awareness of those inside and outside Government to urge Syria to improve its overall human rights record toward its Jewish citizens.

TRIBUTE TO JAIME D. HEFFINGTON

HON. BUD CRAMER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. CRAMER. Mr. Speaker, I rise today to pay a most fitting tribute to Jaime D. Heffington of Florence, AL. Jaime is the State winner of the 1992 VFW Voice of Democracy Scholarship Program. I would like to insert Jaime's winning speech entitled "Meeting America's Challenge" into the CONGRESSIONAL RECORD.

MEETING AMERICA'S CHALLENGE

(By Jaime D. Heffington)

I believe today's teenagers have tremendous challenges ahead of them. Employment, environmental pollution, drug and alcohol abuse, and poverty are just a few. If we are to meet America's challenge, we must eliminate those forces which threaten us.

A more highly skilled work force will be required to meet the demands of advanced technology. By the year 2000, 85 percent of the work force will need additional training. Many positions will require a masters degree where a bachelors degree once sufficed. Individuals who are not properly trained will find it increasingly difficult to find employment.

That is why we must work toward improving our educational system in order to furnish tomorrow's work force. America's children is its most valuable asset. More emphasis on education can only enhance their productivity and achievement. Only through better education and teachers will the teenagers be able to meet the demands of advanced technology.

Environmental pollution threatens our very existence. With Ozone depletion, acid rain and industrial waste, we are killing ourselves. Our nonrenewable resources are being depleted. We cannot continue to be a throw away society. We must recycle, and alternative power sources must be explored. Teenagers need to inform industries to take responsibility for their waste byproducts and to invest in cleaning up their manufacturing processes.

Drug and alcohol abuse are one of the most challenging dilemmas facing American teenagers today. The loss in human resource due to drug and alcohol abuse is staggering. Cost to social services run into the millions of dollars. Increased education and public awareness are helping to teach the youth that drugs are wrong. Mandatory drug testing will deter the casual user. We teenagers must send a clear message to the dealers by informing the police of the dealers activities. The challenge to youth is to withstand peer pressure and "just say no".

If the teenagers are willing to accept the challenges, they must be met by the contributions of our parents, American society, and its government. The government should put more emphasis on solving the problems at home. We cannot continue to bailout bankrupt foreign governments and maintain a stable economy. We must stimulate our economy to increase job opportunities and reduce the number of people on welfare and unemployment. Those who continue to stay on welfare should work for their benefits. We must start running this country like a corporation and stop wasteful spending.

People of my parents and grandparents age feel that teenagers lack motivation and values. They fear we will not meet the challenges of the future. I submit that adults should remember their youth and realize that those fears were once shared by their parents. When called upon to lead, we will do so. I, like many of my peers, am motivated. We have firm goals and values. We do accept the challenges as opportunities. The youth of today are tomorrow's leaders and we will meet America's challenge.

Jaime is 15 years old and is a sophomore at Bradshaw High School in Florence, AL. She is an extraordinary student who plans to pursue a career in corporate law. I would like to extend my best wishes to her as she sets out on the journey of adulthood. Jaime and the many youngsters like her are indeed our hope for the future.

THE ABRAVANEL FAMILY CELEBRATES FIVE REMARKABLE CENTURIES

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. AuCOIN. Mr. Speaker, I rise today to call attention to an extraordinary family reunion that took place this past weekend in New York City. Over 130 descendants of Don Isaac Abravanel—1437–1508—the noted philosopher and statesman, gathered together in a joyful celebration of the human spirit.

Don Isaac Abravanel is best remembered for his theological and philosophical works, especially his commentaries on the Old Testament. He also served as treasurer to Kings Alfonso V and John II of Portugal, and later to Ferdinand and Isabella of Spain. In 1492, Ferdinand and Isabella expelled the Jews from Spain as demanded by Torquemada, the head of the Inquisition. Don Isaac tried to convince Ferdinand and Isabella to revoke the decree of expulsion, but without success. He then went into exile rather than give up his Jewish faith.

Since then, the Abravanel family has flourished in many countries. Last weekend's reunion included visitors from Argentina, Brazil, France, Israel, and all over the United States. Some family members spell the name "Abarbanel," "Barbanel," or "Barbanell," but all are justifiably proud of the family's accomplishments.

My friend and constituent Allan R. Abravanel of Portland, OR, helped to organize this reunion. To Allen, his wife Susan, and their many relatives throughout the world, I extend my congratulations and my best wishes for the next 500 years.

[From the New York Times, Mar. 23, 1992]

130 ABRAVANELS HONOR HEROIC NAME

(By Ari L. Goldman)

Five hundred years ago Don Isaac Abravanel, a Jew who was finance minister to Queen Isabella of Spain, was given a choice: Convert to Christianity or be exiled forever from Spain. Together with thousands of other Jews, Abravanel chose exile, and in the words of one scholar, became the classic wandering Jew, journeying to Naples, Sicily, Corfu and Venice.

Over the weekend, 130 of his descendants gathered in Queens to pay tribute to the courage of Abravanel and to bask in his name. There were Abravanels, Abarbanels, Barbanels and Barbanells, among other variations, and they brought with them ancient books and documents and stories and family trees going back eight generations and more.

None could trace their heritage directly to Don Isaac, a Renaissance man on the eve of the Renaissance, a statesman, philosopher, Bible commentator and mystic. The standard for being accepted into the extended family could best be summed up by the family motto, "Basta mi nombre que es Abravanel!" or "It is enough that my name is Abravanel!"

The family gathering Saturday night, and an academic conference on the works of Abravanel held yesterday at Queens College, are among dozens of events around the world recalling the 500th anniversary of the expulsion of the Jews from Spain. On March 31, the precise anniversary of the decree, King Juan Carlos of Spain is expected to formally rescind the order in a ceremony in a Madrid synagogue.

The expulsion came in the same year as Columbus's voyage of discovery. There are those who maintain that Abravanel and other Jews helped finance the voyage, either voluntarily or through forced appropriation of their wealth, and still others who contend that Columbus himself was a Jew.

But little was made of the Columbus connection. The weekend belonged to Don Isaac Abravanel. People bearing his name came for the occasion from Florida, California, Oregon, Illinois, Texas, the Carolinas and all over the Northeast. Alain Abravanel came from Brazil; David Abravanel came from Israel; Dr. Roberto Senor Abravanel came from Argentina, and Christian Abravanel came with his two children from France.

"I've been hearing stories about Don Isaac since I was this little," said Christian Abravanel, dipping his hand to half the size of his 12-year-old son, David. Mr. Abravanel, who owns a limousine company in Cannes, said that his mother was Roman Catholic and his father a Jew from Salonika, Greece.

He is a nephew of Maurice Abravanel, conductor emeritus of the Utah Symphony Orchestra, who could not make the gathering but sent a taped greeting that brought a roar of approval from the audience.

"We cannot be humble with a name like that," Maurice Abravanel said. "That's impossible. The best we can do is try to live in a way that the grand old man would be proud of us."

Allan R. Abravanel, a lawyer from Portland, Ore., and the mastermind behind the family reunion, said that the extended family had both Mediterannean and Northern European branches—Sephardic and Askenazic. But no one is sure how, when or even if the migration north occurred.

Like other Askenazic family members, Jonathan Abarbanel, a freelance theater critic from Chicago, said that his paternal grandfather came from Ukraine at the turn of the century, the descendant of poor Russian peasant Jews. "But I've always felt ennobled by the name," he said.

Others said that ennobling or not, the name was sometimes a burden. Howard Barbanel, who grew up on Long Island and attended Jewish day schools, said he was greeted by more than one rabbi with: "Do you know who are are? Do you know where you come from?"

TRADING SPELLING STORIES

As they gathered for a family photograph at the Sephardic Jewish Center of Forest Hills, where a reunion dinner was held, family members traded stories. "I spend half my time as a lawyer spelling my name," said Allan Abravanel. One parlor game was to describe the corruptions of the name by well-meaning listeners: Barbarelli, Barnell, Barbaro, Barbarillio. And more than a few admitted to checking phone directories for long-lost family members whenever they visit a new city.

Members of the clan also talked about famous relatives that they have yet to track down. There was talk of Oded Abarbanel of Tel Aviv, who, according to the family newsletter, holds the distinction of being the only El Al pilot whose aircraft was ever hijacked. And there was Mickey Abarbanel, a baseball pitcher who played for an Indianapolis farm team, was featured on a White Sox baseball card as a "rookie star" and then dropped from view without playing in the major leagues.

Perhaps the most unusual story came from Maurice Abravanel, who said that even the sound of the Abravanel name inspired greatness. "When Beethoven did not know how to start his Fifth Symphony, he heard the name Abravanel," the conductor said, singing his name with an emphasis on each syllable but especially the last: ah-brah-vah-NEL.

INTRODUCTION OF LEGISLATION TO PERMIT IRA ACCOUNTS TO BE USED AS SECURITY FOR LOANS WITHOUT TAX PENALTIES

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. GINGRICH. Mr. Speaker, recently one of my constituents, Mr. Thomas Wilkerson, of McDonough, GA, telephoned my office to report that although he was financially secure and had planned for the future, he was unable to use his individual retirement account as collateral in order to obtain a loan to build his house. Even though no funds would be transferred or withdrawn from his account, as long as his loan is in good standing, Mr. Wilkerson would still be subject to penalties for withdrawing his hard earned money.

Today, I am introducing a bill to amend the Internal Revenue Code of 1986 to permit IRA accounts to be used as security for loans without tax penalties.

Many people throughout our Nation have worked hard for many years to save money for the future. This legislation will permit people to use the funds which they have accrued over the years and to which they are entitled. It is time that we allow this money to be used by them for improving their current quality of life and investing in their futures.

A TRIBUTE TO ONE OF ISRAEL'S GIANTS: MENACHEM BEGIN

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. FASCELL. Mr. Speaker, I consider it an honor to pay tribute to former Prime Minister Menachem Begin and to acknowledge with sadness the passing of this man who throughout his long and active life exemplified the indomitable spirit of the people of Israel.

Mr. Begin will be remembered by some primarily for his implacable determination to assure the survival of his country. This, despite opposition to his sometimes blunt methods and despite the arrows of public opinion, even in Israel.

He will be remembered by others as a forceful leader who was willing to go the extra mile to make peace—despite a highly vocal level of opposition from many of his own people.

Mr. Begin rose to the status of statesman the day in 1978 when he shook hands with an old foe, Anwar Sadat, at Camp David and agreed to hand back the Sinai Peninsula to Egypt—all in the name of giving peace a chance.

Mr. Begin was not a native Israeli and he was early-on considered a political outsider for his fundamentalist beliefs. Born in Poland and imprisoned by the Communists, he found his way to Israel and was known as a terrorist while fighting for his country's independence.

For a man who was born in obscurity, shaped in conflict and scorned as an idealistic firebrand, Mr. Begin eventually took his place in history as the first Israeli leader to arrange a peace accord with a neighboring Arab State. A pact which earned him the Nobel Prize, along with his copeacemaker, Anwar Sadat.

Mr. Begin has been called a man of contrasts and contradictions. A man who was an outsider and a fierce parliamentary debater for three decades of his political life. A man who, particularly in his early years, would rather fight than negotiate. For these traits he was often condemned by world opinion. Through it all, however, he was always respected as a leader who put the survival of his adopted Israel above all else.

There came a time, particularly after his wife Aliza's death in 1983, that Mr. Begin seemed to lose heart. He resigned his leadership position and retired from public life.

"Whoever has followed my story knows that fate has not pampered me," he wrote. "From my earliest youth, I have known hunger and been acquainted with sorrow. And often death has brooded over me * * * But for such things I have never wept."

At his passing, Israel loses one of the last of its well-known freedom fighters whose lives encompassed the Jewish national movement and the leadership of the tiny nation's first four decades.

Mr. Begin will be remembered as a man who wisely made peace when he deemed that to be the correct path, but was determined enough to stand up and be counted when he considered the security of his nation at stake.

SALUTE TO DR. JERRY MILLER

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. GALLEGLY. Mr. Speaker, I rise today to honor Dr. Jerry Miller for his 11 years of leadership and accomplishment as president of California Lutheran University in Thousand Oaks, CA.

Both in terms of bricks and mortar and, more importantly, in terms of academic excellence, Cal Lutheran owes a tremendous debt to Jerry, who has left the school a better place than he found it.

Jerry became the fourth president of what was then called California Lutheran College on March 15, 1981. Under his leadership, the university began an active fund raising campaign and expanded the campus facilities, including the Pearson Library, the Ahmanson Science Center, and the magnificent Samuelson Chapel.

As I mentioned, the curriculum also underwent changes under Jerry's leadership. He established a major faculty development program during the 1980's and led the way for a new core curriculum effective this year termed "Core 21," designed to lead students into the 21st century. And in 1986, the college became a university to reflect the growth of its graduate programs.

Jerry's outstanding leadership has been recognized many times, but I would like to share with this House the words of Creed Black, president of the Knight Foundation in Miami, FL, which gave CLU a $100,000 grant to serve as a presidential discretionary fund. In his letter, Mr. Black stated, "The grant, by its nature, acknowledges the quality of your presidential leadership and is intended to provide special opportunity for the university to benefit from your experience and judgment."

On July 1, Jerry Miller will formally resign the presidency and will become the university's first chancellor. As such, he will lead and direct the university's development and fundraising activities.

Mr. Speaker, I ask my colleagues to join me in saluting Dr. Jerry Miller for his service to California Lutheran University and to higher education, and to wish him well as he embarks on his new challenge.

FRANCES JAKOVLJEVIC TO BE EXCHANGE STUDENT TO RUSSIA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, Ms. Frances Jakovljevic of Miami, FL endeavors to travel to Russia, the homeland of her grandfather, to learn about that country and its people. Currently a senior at the Greater Miami Academy in West Dade County, Ms. Jakovljevic was chosen as one of 33 students from Florida to participate in Initiative for Understanding, an exchange program between Russian and American kids. The Miami Herald ran a story about Ms. Jakovljevic and her efforts to raise money for this spectacular learning experience. That article follows:

> Frances Jakovljevic hopes to sink her feet into Russian soil this summer. She wants to see Moscow and visit St. Petersburg, the city where her grandfather was born.
>
> Frances is about 5,500 miles and $3,000 from her goal. But the 17-year-old senior from Greater Miami Academy in West Dade isn't daunted, even though she has to raise the money for the trip herself.
>
> "I'll go no matter what," she said. "This is very important to me."
>
> Frances was one of the 33 students from Florida chosen to be part of the Initiative for Understanding, an exchange between American and Russian kids. It's part of the People to People program, a Washington-based group that organizes educational trips abroad for students and adults.
>
> "The kids work hard when they travel," said Paul Chapin, director of Initiative for Understanding. "When they get there, they're 'on' all the time because people want to know what life in America is like."
>
> The trip is set for July and will last 23 days. The kids who go will first attend a series of orientation meetings to learn about the culture and a few basic survival phrases.
>
> "That's in case you get lost," Frances said.
>
> People to People has been around for more than 30 years and the exchange with Russia started in 1986. One student who took the trip is now working as an intern at the American Embassy in Moscow, Chapin said.
>
> This year's student delegation which will include about 1,000 kids from around the country, will travel first to Moscow, then go on to St. Petersburg and three other cities. They spend time with Russian kids and visit government offices, churches, farms and factories.
>
> Given what's happened in the former Soviet Union during the past year, Frances believes there will be a lot to look at.
>
> "I want to see what kind of changes have taken place," she said. "I want to see what the kids are like there and how they think."
>
> Frances has spent some time abroad. Born in California, she lived for two years in Spain and lived in Orlando before coming to Miami four years ago. But Russia is something else.
>
> "It's a place I've always wanted to go," she said.
>
> She's already been turned down in her fund-raising quest by the Rotary and Lions clubs, but she remains optimistic.
>
> "I believe people will help me, because I'll be representing Miami there," she said.

Mr. Speaker, I wish Ms. Jakovljevic much success in her efforts to raise funds for this educational trip. I am confident that she will learn much about Russia during this time of monumental historical change and bring this understanding back to south Florida.

TRIBUTE TO BETHANY PRESBYTERIAN CHURCH OF BLOOMFIELD, NJ, ON ITS 50TH ANNIVERSARY CELEBRATION

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. ROE. Mr. Speaker, it is with the deepest reverence and the greatest sense of pride that I rise today to salute an outstanding house of worship in my Eighth Congressional District of New Jersey which, for half a century, has been a spiritual focal point and a beacon of faith for countless numbers of worshipers in the greater northern New Jersey area.

I am speaking of Bethany Presbyterian Church of Bloomfield, NJ, which will be celebrating its 50th anniversary on Sunday, March 29, by hosting a celebration service that morning and a dinner the evening before for the congregation. I know the observance of this historic occasion will be an especially proud event for Rev. James D. Henkel, the pastor of Bethany Presbyterian Church and its guiding force for these past 9 years.

Mr. Speaker, the history of Bethany Presbyterian Church is a rich one, beginning on November 30, 1941, when the first service of worship was held in a storeroom at 395 West Passaic Avenue in Bloomfield, NJ. The decision to open this storefront church resulted from interest and survey work done by Hudson Presbytery. Discovering that there existed "considerable interest in a church of the Presbyterian faith in the community," this Presbytery "applied to the Board of American Missions of the United Presbyterian Church of North America for aid in the calling of a missionary to serve in the new field and establish a church."

The appointment to serve this church planning missionary was accepted by the Reverend William H. Neebe, who arrived to assume the post on October 20, 1941. After a month's remodeling and redecorating of the mission's storefront home, 35 people attended the first morning worship service on November 30, 19 children and adults attended Bible school.

Regular services were held in the storeroom church each Sunday morning and Tuesday evening. In March 1942, applications for membership were received and the congregation was officially organized on Palm Sunday, March 29, with 65 charter members. Officers were elected at the first congregational meeting of the church on April 12, 1942, and a name was selected for the newly organized fellowship, "The Bethany United Presbyterian Church."

In January 1943, a constitution was adopted and a building committee established to plan the structure to be built on the corner lot at High Street and West Passaic Avenue. The lot had been purchased for the congregation by the Board of American Missions on a $20,000 grant/loan arrangement.

The official congregational record recalls, "These were the war years. The world was at war in the most destructive battles this earth has ever experienced. Amid these days of horrible destruction, our community was constructing a place of worship to almighty God."

Continuing to honor God in service to the community, Bethany currently houses a preschool and both Gamblers Anonymous and Gamanon Chapters. The congregation directly sponsors Troop and Club Pack 23 of the Boy Scouts, a Senior Citizen's "Up and Doing" Club, and a mature singles group in addition to their regular worship, Christian education, and fellowship activities.

Bethany provides supplies and volunteer staff to a local food pantry and supports a variety of local mission concerns including Essex County Hospitality Network, Montclair Chaplaincy Council, Montclair Hospice, Newark Habitat for Humanity, and Newark World Impact.

As Bethany marks this 50th anniversary, the congregation is preparing an outreach which will offer prayer support for all who sense a need for God's grace to touch their lives.

Over the years, two denominational mergers have resulted in Bethany's present affiliation with the Presbyterian Church (U.S.A.), as a member congregation of the Presbytery of Newark.

Bethany's membership stands at 130, with an average Sunday worship attendance of 60 persons. The congregation is currently served by the Reverend James D. Henkel.

Mr. Speaker, these are just a few of the many dates that hold a great significance in the long and historic past of Bethany Presbyterian Church, and give a brief glimpse of the road it has traveled to its status as the spiritual and civic hub of its great community.

Mr. Speaker, I appreciate this opportunity to present a portion of the history of this distinguished parish that has remained dedicated to helping others and guiding them spiritually. As Bethany Presbyterian Church of Bloomfield, NJ, celebrates its 50th anniversary, I know that you and all our colleagues here in Congress will want to join me in extending our warmest greetings and felicitations for both the service and guidance it has provided for its community, State, and Nation.

TRIBUTE TO CONTACT USA ON ITS 25TH ANNIVERSARY

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. GEKAS. Mr. Speaker, I rise today to pay tribute to CONTACT USA on its 25th anniversary. This outstanding organization, based in my hometown of Harrisburg, PA, has established a network of telephone helpline and crisis intervention centers nationwide that have helped millions of people over the last quarter century.

CONTACT USA's 75 help centers across the Nation use intensively trained volunteers, who answer telephones 24 hours a day, 365 days a year, to help those who are reaching out for someone to listen to their problems and assist them in their time of need. CONTACT reaches out to the lonely and the depressed, to the abused and the abusers. They provide suicide-prevention services, and will refer people who are in need of counseling to the appropriate assistance organizations.

The fact that this organization is celebrating its 25th anniversary is amazing, considering the fact that most hotlines usually last no more than 3 years. The hard work, long hours, and extreme dedication of the staff and volunteers of CONTACT USA from across the Nation deserve our thanks and appreciation for all they have done to help those in need.

Mr. Speaker, I ask all of my colleagues to join me in congratulating CONTACT USA on its silver anniversary, and to wish them the best in the next 25 years as they continue their mission to help those who are just looking for someone to listen.

TRIBUTE TO AUGUSTINE RAMIREZ

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. BROWN. Mr. Speaker, I rise today to pay a tribute to Augustine Ramirez, Ed.D, who is retiring after 39 years of service in public education.

Dr. Ramirez has served with great effectiveness to improve the education system for many children. Beginning as a teacher in the early 1950's, he then moved on to serve as director of student activities of Fontana Unified School District, assistant principal at Corona Senior High School, principal of Norco Junior High School, superintendent of schools at Corona-Norco Unified School District and ending with his role as assistant superintendent in San Bernardino.

Dr. Ramirez assisted in two reorganizations of the San Bernardino County superintendent of schools, the coordination of the Inland Empire proeducation rally, and worked with the county committee in four unifications. Through his involvement with the county committee, he helped to identify the need for bylaws and a code of ethnics. The booklet covering this information, written under the direction of Dr. Ramirez, is now used by the State and held by every county in California as a model and reference for their efforts.

In addition to his tremendous work in education, he has donated countless hours to community activities. He has served as community director of the Corona Community Hospital; team chairman of the United Fund Building Fund Campaign. He has also served on the honorary board for the Corona Chamber of Commerce; citizen's advisory council of Western Community Bank and been a member of various task forces in Riverside County.

Dr. Ramirez will be leaving public service, but is not truly retiring. He will continue with the San Bernardino County superintendent of schools as a consultant working with the county committee on school district organization, planning conferences, and assisting with special projects. I am sure that Dr. Ramirez will continue his involvement with a variety of programs and know that our community will benefit from his work.

TOTAL QUALITY MANAGEMENT IN THE PERFORMING ARTS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. GINGRICH. Mr. Speaker, I would like to call my colleague's attention to an article sent to me by Samuel C. Welch of Cincinnati, OH. The article is entitled, "Total Quality Management in the Performing Arts."

I would commend it to my colleagues as an example of what is possible through total quality management:

TOTAL QUALITY MANAGEMENT IN THE PERFORMING ARTS

(By Samuel C. Welch)

"It seems like only yesterday we realized there was a crisis in the arts. It seems like only yesterday we started to hear warnings against complacency and mismanagement in the business of the arts, found ourselves charting the erosion of public and private support for the arts and began to get alarmed at the growth of insincerity, antipathy, and potentially worse, just plain mediocrity among the participants on all sides of the cultural debate. It seems like only yesterday, but it has been going on for years." These sobering words, written by Theodore W. Libby, Jr. opened the keynote article in the 1991 Musical America, International Artists Directory.

PERFORMING ARTS AND THE G.N.P.

In 1970, the overall U.S. Amusement and Recreation Industry comprised about 1 percent of the G.N.P., with the combined symphony and opera component occupying about one fourth of that, or approximately $2.1 billion dollars.

By 1988, the U.S. Amusement and Recreation industry had dropped to about half of 1 percent of the GNP, with the symphony and opera component sliding to approximately 15 percent of that amount, or about $2.8 billion. With such a small and dwindling portion of the nation's 5 trillion dollar economy effected, why would any one be particularly concerned?

WHY SHOULD PEOPLE PARTICIPATE IN THE ARTS?

"About a century ago Sir John Lubbock, Lord Avebury, declared that Art is unquestionably one of the purest and highest elements in human happiness. It trains the mind through the eye, and the eye through the mind. As the sun colors flowers, so does art color life."

"As Sir John Lubbock so aptly observed, art is one of the great pleasures of life, as well as a practical necessity. Others have made more extravagant claims. Charles Fairbanks believed 'Art is the surest and safest civilizer. . . . Open your galleries of art to the people, and you confer on them a greater benefit than mere book education; you give them a refinement to which they would otherwise be strangers.' Fairbanks was convinced that mere exposure to art would have lifelong effects."

The brilliant 19th century art critic John Ruskin wrote: "Great nations write their autobiographies in three manuscripts—the book of their deeds, the book of their words, and the book of their arts. Not one of these books can be understood unless we read the other two, but of the three, the only trustworthy one is the last."

WHO ATTENDS AND WHO STAYS AWAY?

"Americans spent over $2.8 billion attending arts events in 1988, according to U.S. government statistics. That's almost as much as Americans spent attending sports events. But taking part in the arts still pales in comparison with other leisure activities. While 40 percent of Americans may attend some arts events in a year, 65 percent play cards or other games, 62 percent attend movies, 59 percent repair their home or car, 59 percent garden, 53 percent exercise, 49 percent attend sports events, and 48 percent visit amusement parks. None of these activities comes close, however, to the most popular leisure pursuit—watching television." Summarizes Professor John P. Robinson of the University of Maryland, writing in American Demographics.

HOW MANY ARE REALLY INTERESTED?

A recent (1991) report by Professor Alan R. Andreasen of the University of Connecticut reveals that about 53 percent, or nearly 135 million, of the adult U.S. population has an interest in Fine Arts performance attendance. His study reflects this interest distribution among Americans:

Interest level:	Percent
Disinterest: Has not attended any of the performing arts forms in the last twelve months and is not interested in attending	47.0
Interest: Has not attended any of the performing arts forms in the last twelve months but is interested in attending	22.2
Trial: Has attended one performance of one or more of the performing arts forms in the last twelve months and is not interested in attending more often	6.6
Positive evaluation: Has attended one performance of one or more of the performing arts forms in the last twelve months and is interested in attending more often	11.8
Adoption: Has attended two or more performances of one or more of the performing arts forms in the last twelve months but is not interested in attending more often	3.8
Confirmation: Has attended two or more performances of one or more of the performing arts forms in the last twelve months and is interested in attending more often	8.7

Professor Andreasen suggests that the ideal task for Arts management is to facilitate the progress of the 44.4 percent of U.S. population who responded "interest" through "Adoption" in their progress to higher stages of Arts attendance. He suggests this can be accomplished only by the Performing Arts presenters' increased knowledge of the values inherent in these interested segments of society.

WHO PAYS FOR THE ARTS?

Theodore W. Libby writes: "American opera companies, like American orchestras, receive little support from government. When subsidies from federal, state, and local authorities are totaled, public money usually accounts for only 5 to 10 percent of most companies' annual budgets.

As a rule, between 50 and 65 percent of operating expenses are met with earned income—generated from ticket sales, recordings, concessions, and the like—and whatever remains is offset by contributions from the private sector."

"Finding money in the private sector is hard work, and getting harder. Corporate support for the arts is actually shrinking, and so is the percentage of charitable contributions going to the arts as a whole. One of the reasons that American corporations and donors have begun redirecting their money toward more visible, less "elitist" needs such as education and welfare, is in response to cuts in federal spending in these areas."

"In America, the arts are a business, not a ward of the state. But to say that an opera company or an orchestra is run as a business is not to imply that it makes a profit; not one of them does. It would be more accurate to say that to survive, orchestras and opera companies must be run efficiently, though even efficient operations presently fail to balance costs and revenues."the tradit

THE TRADITIONAL MANAGEMENT VIEW

Traditional Arts management wisdom is fond of saying that American orchestras and arts institutions in general are in the business of losing money wisely.

And that is why the managements and boards of our cultural institutions continue to desperately seek short term, large scale, support from the shrinking base of well-to-do citizens who just happen to love the arts.

WHY NOT DO IT DIFFERENTLY

There is an alternative to these traditional Arts management methods, concepts and consequences.

This article is written to share an application of Total Quality Management for the reframing of Performing Arts organization management concepts into a paradigm similar to those of many successful manufacturing and service organizations throughout the world.

This article makes a relevant connection between the needs of Performing Arts and other cultural organizations, foundations and other donor agencies, and the robust management teachings of Dr. W. Edwards Deming. This application equally supports symphony orchestras, ballet, opera, theater companies, and many other cultural organizations. It provides a source of new knowledge and a robust mechanism for success and growth in the 1990's and beyond.

The key to this success and growth lies in changing the "product orientation" of traditional Arts management to a functional "process orientation" which optimizes the relationship between Arts organizations and their existing and potential audiences. In our overall shrinking economy, with many competing entertainment forms and rapidly changing audiences tastes, the success and survival of not-for-profit classical arts organizations lies in their understanding of and responsiveness to their audience members.

The greatest aid to Performing Arts organizations can, indeed, come as a gift from the business community, but not in the form of money. The most potent help will come in the form of shared market study expertise and in Total Quality Management instruction which will lead to a focus on value and quality as defined by the audience.some basic

SOME BASIC NEW KNOWLEDGE

The management theory which is transforming the world's largest corporations applies equally to comparatively tiny organizations such as symphony, opera, or classical performing companies.

In order to understand how this might be possible, we need to first review some thoughts from the world's leaders in management theory; Dr. W. Edwards Deming, Dr. William Scherkenbach of General Motors, Dr. Nancy Mann, Dr. Donald Petersen of Ford Motor Company and Mr. William Conway of Nashua Corporation.

Dr. Scherkenbach writes: "The business process starts with the customer. In fact, if it is not started with the customer, it all too many times abruptly ends with the customer." Dr. Deming has said for decades that—

"Consumer research is an integral part of production. . . . Without consumer research, the product has little chance of being maximally useful, or made in the most economical way. In fact, a concern can hardly hope to stay in business today without vigorous consumer research."

"It is a mistake to suppose that efficient production of product and service can, with certainty, keep an organization solvent and ahead of its competition. It is possible and, in fact, fairly easy for an organization to go downhill and out of business making the wrong product or offering the wrong type of service, even though everyone in the organization performs with devotion, employing statistical methods and every other aid that can boost efficiency."

"In the olden days, before the industrial era, the tailor, the carpenter, the shoemaker, the milkman, the blacksmith knew his customers by name. He knew whether they were satisfied, and what he should do to improve appreciation for his product. With the expansion of industry, this personal touch was lost. But sampling, a new science, steps in and provides that personal touch. Modern statistical techniques, such as sampling and design of experiment, combined with the arts of questioning and interviewing, provide information on consumer reactions with economy and reliability."

"Communication between the producer and the user and the potential user, gives the public a chance. It gives the user a better service, better suited to his needs and cheaper. Consumer research is a continuous process by which the service is continually improved and modified to meet changing requirements of the consumer."

"It is this customer-driven, team-fueled, and even-keel approach to business that forms the basis for the organizational constancy that Dr. Deming is urging. Until recently, the customer has been the forgotten half of the equation. Marketing and sales people must first determine the customers' needs and then pass this usable information on to design and management for translation into something that can be produced."

WHO REALLY DOES THIS?

Mr. Donald Petersen, President and Chairman of Ford, has said that in Ford's new philosophy of never-ending improvement, one of the basic operating principles is customer focus, which means "redefining quality in the organization in customer terms, improving product feedback mechanisms, and developing innovative products and services that meet new customer needs."

General Motors and the U.A.W. have jointly published a booklet entitled "Beliefs and Values". In the chapter titled "Customer Satisfaction Through Continuous Improvement" is found this paragraph:

"All of us are suppliers to those who receive the results of our work. We need to continually ask who our customers are, what their need and wants are, and how those can be best fulfilled. Our internal customer chain should be driven by the expectations of our external customer."

HOW DOES ANYONE MANAGE THIS?

Dr. Scherkenbach suggests: "Constancy of purpose is a necessary condition for business success. But it is not sufficient. The wishes and hopes of top management for the future might be very noble, and in fact be on a course that could effectively meet customer needs and expectations except for one thing: the rest of the company is off somewhere else doing their best."

Dr. Deming says, "Do you know that doing your best is not good enough? You have to know what to do. Then do your best.

Dr. Nancy R. Mann writes: "Too many U.S. companies do not understand that they are experiencing a profound threat. William Conway, President of Nashua Corporation cautions that unless businesses in this country embrace the Deming philosophies, they will be left behind.

Mr. Conway is credited with designing a technique he calls "imagineering." It consists of thinking of what a system would be were it working perfectly and then comparing this concept of perfection with reality. The major points of difference show both problem areas and areas of opportunity for change.

Mr. Conway designed imagineering after much interaction with Dr. Deming. It is a useful technique, especially for people who do not see that they have problems. This can be a small step toward the commitment to never ending progress that must be central to a company's goal."

HOW EASY IS ALL THIS?

Dr. Deming cautions: "The central problem in management, leadership, and production is failure to understand the nature and interpretation of variation."

"Efforts and methods for improvement of quality and productivity are, in most companies fragmented, with no overall competent guidance, no integrated system for continual improvement."

"In a climate of fragmentation, people go off in different directions, unaware of what other people are doing. They have no chance to work to the best advantage of the company nor for themselves, and have little chance to develop. Everyone, regardless of his job, needs a chance to learn and develop."

HOW DOES MANAGEMENT LEARN TO CHANGE THIS?

Ford's dramatic changes in attitude and outlook since exposure to the Deming doctrine are reflected in these remarks by Mr. Donald Petersen to Ford senior management.

"It can be very difficult to make significant changes, especially when you have been in the habit of doing things differently for decades, and especially when the very success that brought you to the positions you now hold was rooted in doing some things, frankly, the wrong way. It is going to be hard for you to accept that you were promoted for the wrong reasons a time or two."

Dr. Deming writes: "We rely on our experience," is the answer that came from the manager of quality in a large company recently.

"This answer is self-incriminating—a guarantee that your company will continue to have about the same amount of trouble. There is a better way, now. Experience can be cataloged and put to use rationally only by application of statistical theory. One function of statistical methods is to design experiments and to make use of relevant experience in a way that is effective. Any claim to make use of relevant experience without a plan based on theory is a disguise for rationalization of a decision that has already been made."

HOW CAN THE ARTS USE THIS KNOWLEDGE?

Performing Arts production is a series of processes. Any process can be measured if the desire to do so and a guiding theory exists, if measurement tools are provided, and if diligence is applied. Once a process capability is defined and measured, it can be understood, controlled, and improved. These principles apply to any enterprise, including the production of the lyric and classical arts.

This application of Total Quality Management to the Arts differs from traditional management practice in several fundamental respects.

It focuses all organization activity on understanding and producing customer satisfaction.

It emphasizes knowledge of system capability.

It advocates a management culture which relies on leadership, persuasion, and influence rather than on traditional control and hierarchal management.

It relies heavily on employee empowerment and collaboration between peers as an operative quality focused management system.

This new management culture brings to the Arts an "ultimate maturity" as it facilitates improving performance systems capability. It empowers individual artists or groups with an organizational system which leads to optimal performance based on bonafide knowledge of quality as defined by the audience.

THE AIMS OF THIS MANAGEMENT SYSTEM

The system has four basic aims:

(1) To build loyalty and commitment between the audience and the Performing Arts Organization.

(2) To create an Arts management vision and an organizational Mission Statement which is focused on systematically improved quality of service, continued employee learning and audience satisfaction.

(3) To create and respond to a quality evaluation mechanism designed to record audience satisfaction and to supply specific measurements of satisfaction directly to the administrator/technician/artist who is responsible for each observed facet of the performing company.

(4) To facilitate a learning system for all organizational personnel, based on statistical data from the quality evaluation mechanism, which leads to planned and continual quality improvement experimentation.

HOW DOES THIS WORK?

The key to arts attendance and support development lies in first understanding the values of the active audience already served. Based on this knowledge, Arts management can begin to reach and transform the large, inactive but interested, community audience into active performing arts attenders.

This proposed management model is based on the application of market knowledge, gained from present audiences, to facilitate product and service development which will attract an increasing audience base.

Secondly, as existing audience members refine their perception of performance quality, and see the improvements which result from their contributions, they will reward such responsive behavior with increased levels of support and loyalty.

This new method accomplishes many desirable benefits by optimizing utilization of the existing season ticket holder and others, as an operative mechanism to reflect and qualify their satisfaction of performance and services in a controlled statistical format. The statistical measurement of satisfaction from the client/audience provides a basis for immediate and systematic quality improvement, for the efforts of all persons involved in the Arts presentation.

WHO BENEFITS AND HOW?

Patrons and funding agencies will benefit by focusing their evaluations on knowledge based, benefits oriented criteria for support.

Trustees benefit through being obliged only to raise money for activities which are of value to the audience and the community.

Professional arts management, which usually is criticized from all sides for failure to anticipate the unknowable, will hear more praise for their community leadership and responsiveness.

Artists, technicians and designers will be able to focus on finding artistic success based on knowledge of what works best.

Volunteers will have a new, vital role to play in dealing with knowledge based support activity.

Audience will re-evaluate their own commitment to the organization, through being "incorporated" in the work of an Arts organization committed to improvement of quality.

SOME FUNDAMENTAL ADVICE

To supporting organizations

Grantwriting and solicitation have become a high art; sometimes the art of justifying the actions and rationalizations of boards of trustees of Arts and cultural organizations. Funding organizations, corporate and private donors should clearly recognize this, and be unpersuaded by eloquent sales pitches. They must determine first, whether the applicant Arts organization has sufficiently studied and understood what services are of value to the community being served.

As part of grant proposal criteria, supporters should require results of market/constituent studies which reflect the values of the community served and a specific functional organization plan which demonstrates clearly the goal congruency of the cultural organization with the needs of its internal and external constituency.

For performing arts of cultural organizations

Have your house in order before asking for supplemental resources. Base your organization on bonafide knowledge of the needs of your internal and external community.

Impress patrons and supporting agencies with your understanding of and commitment to quality service as defined by the community.

Boldly enter teaching and outreach programs to share your cultural vision with the community, but base your efforts on knowledge of the background and values of the persons being served.

TO BOTH TYPES OF ORGANIZATION

In all circumstances, avoid allocating human and fiscal resources to any effort which produces services that lack goal congruence with the community and *its* definition of value and quality.

WHO CAN HELP MOST?

The transformation of Performing Arts Management to a maximally functional relationship with its internal and external clients can be achieved only by an infusion of new knowledge. This knowledge already exists, and can be acquired, in any community, through the enlistment of experienced quality and statistical consultants or industry professionals. These persons are well along the path of transforming much larger portions of our economy, and they may find the Performing Arts a splendid venue to benefit the community in which they reside. They can and will help. Ask them.

BEYOND SATISFIED?

Dr. Deming has summarized all of these benefits to U.S. cultural organizations and to their future.

"It will not suffice to have customers that are merely satisfied. Satisfied customers switch, for no good reason, just to try something else. Why not?

Success and growth come from customers that *boast* about your product or service—the loyal customer. He requires no advertising or other persuasion, *and he brings a friend along with him.*"

THE ACTION PLAN

The following thirteen general tasks are based on the writings of Dr. Deming, Dr. Gen-ichi Taguchi and others. These steps would facilitate a functional management culture change in an Arts organization. These tasks occur before, during and following an artistic performance event. Following the initial performance of a particular work, tasks 6 through 9 are repeated to facilitate quality improvements for each subsequent performance of the work.

Procedural Plan To Initiate and Utilize Total Quality Management in Performing Arts Organizations

Task 1: Meeting of the Arts organization Board of Trustees and professional chief executives with a Deming master, to review Total Quality Management and to outline steps for a transformation to a system improvement culture within the organization.

Task 2: Engagement of a Deming master to assist Board and the Executives in developing a Mission Statement which encompasses the vision for a functional Total Quality Management culture within the organization.

Task 3: Meeting with the Board, Executives, and all functional participants in the organization to share the Mission Statement and to identify the proposed technical tools and skills which will be most beneficial to each member of the organization.

Task 4: Skills and tools training, conducted by a Deming master, for statistical process control general concepts and specific application development for all members of the organization.

As each employee is empowered with performance criteria and a method of measuring and understanding his or her success in terms of audience satisfaction, systematic performance improvement, based on knowledge of the system, will become an operational path to achieve the mission statement of the organization.

Task 5: Identification and creation of an audience-based "Quality Study Committee," consisting of a statistically adequate percentage of season ticket holding audience persons who are adequately proficient in the individual technical areas of the Arts organizational service activities. The areas for quality study concentration will range widely from advance season advertising, marketing efforts, ticket sales, subscriber communications; concert attendance issues such as automobile and pedestrian traffic patterns, parking efficiency and costs, lobby congestion, box office efficiency; specific technical performance quality issues such as make-up, costumes, stage properties, scenery, lighting, stage direction, conducting, orchestra sections, ballet/choreography and individual solo performances.

Task 6: Development by employees and volunteers of specific quality criteria for observation by the audience "Quality Study Committee", and development of data collection systems and procedures under the guidance of a Deming master.

Some capability studies will require data from longer time periods than others. Some studies of performance issues will be directed towards improvement through the multiple variable experiments designed by Dr. Genichi Taguchi.

Artistic Performance Occurs:

Task 7: The "Quality Study Committee" records the specific data during each performance. This data is provided to the individuals in the professional or volunteer organization who are responsible for the production of the observed and evaluated specific areas of performance or service.

Task 8: Organization performing personnel (professional or volunteers) chart certain areas of the data for immediate study prior to the next performance, and, in collaboration with peers, plan an experiment design, based on Dr. Taguchi's teaching, of specific improvements to the quality of the production or service over which they have control. This audience satisfaction study process is repeated, each performance, and employees continue to measure and study the consequences of the planned improvement changes.

Task 9: Senior management participates with the administrator/technician/artists in interpretation of the study data and the results of the experiment designs for each observed performance or service facet and compare the consequences and results with the intended plan.

Task 10: Technician/artists return to Task 6 prior to each subsequent performance of the work with a specific improvement experiment plan and repeat tasks 6 through 9 in a Taguchi experiment to achieve continuous performance quality improvements. Other members of the organization continue to chart and study system capability over a longer period.

Task 11: Senior management and the Board of Trustees study the overall system capability and the consequences of improvement efforts, with a view to budget modifications, and assignment of assets to the most needy areas of improvement.

Task 12: Senior management is presented a plan of cost reduction initiatives by the administrator/technician/artist which are likely to allow production cost efficiency benefits without loss of audience satisfaction and a list of initiatives which will increase audience enjoyment without an increase in production costs.

Task 13: The "Quality Study Committee" of audience members are informed of the quality improvement initiatives and system knowledge which resulted from their contributions.

UKRAINIAN-AMERICANS SHOW EFFORT TO HELP UKRAINE

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. RITTER. Mr. Speaker, as ranking House Member on the Commission for Security and Cooperation in Europe [CSCE], and the cochairman of the Ad Hoc Committee on the Baltic States and Ukraine, I have long fought for human rights and the independence of the Ukraine.

Dr. Ihor and Martha Fedoriw, from my district in Pennsylvania, have also been at the forefront of the effort to help Ukraine achieve its independence and have been doing important work there.

Mr. Speaker, Ukrainian-Americans like the Fedoriws have done, and are doing, a great deal to try and help Ukraine both politically and economically. I submit a copy of the front page article which appeared in the Wall Street Journal about some of the Fedoriw's efforts at restoring Lvov's Grand Hotel to its former splendor:

If It's Baroque, Let's Fix It, Says Ukrainian-American

(By John J. Fialka)

Lvov, Ukraine—People here thumb their noses at everything Lenin held sacred. The Catholic Church holds press conferences in the former "Museum of Atheism." Old men hold forth in the town square, shouting political opinions at one another. Visiting capitalists are put up in the old Communist Party headquarters.

But none of the current heresies quite match the feat of Martha Fedoriw, the 46-year-old owner of an Allentown, Pa., travel agency. She is restoring Lvov's 62-room Grand Hotel to its pre-Communist Austro-Hungarian Empire splendor

Lvov (pronounced "le view" in Ukrainian) is a city of 700,000 near the Polish border. It is a classy place, with four universities and an opera that presents a different production practically every night. But Lvov's hotels are decidedly declasse.

THIN GRUEL

The best of them, run by Intourist, is several notches below Western luxury-hotel standards. Rooms are cramped, plumbing ranges from inadequate to amusing, meals are dull. Phones, television sets and fluffy towels are unheard-of.

The five-story Grand, built in 1898 to cater to visiting Viennese nobles and merchants, is another matter. Restored, it will have ceilings with elaborately carved moldings, murals with rural themes and lots of stained glass. Rooms will have modern heating, 20th-century bathrooms, telephones, television sets and baroque flourishes.

Expatriate Ukrainians visiting from the U.S. and interested in their roots should feel quite at home at the Grand. Mrs. Fedoriw (pronounced "Fedorie") herself studied Ukrainian as a child. Her father, a music teacher, last saw Lvov in 1944 when his family fled the approaching Red Army. They eventually came to the U.S. from a displaced-persons camp in Germany.

Mrs. Fedoriw thinks pride of place needs to be restored here. Which is why she makes a point of strolling around this sooty city in her sable coat. "It used to be the only way you get one of these here was to be the wife of party official or the KGB," she says, "I want them to know there is another way to do it."

If the old building could talk, it would tell a sad story. In 1913, with World War I looming, the owner turned the upstairs into a brothel and rented out parts of the lobby to an appliance store and a grocer. In 1937, when Lvov was part of Poland, an inept architect botched a restoration attempt and the place ended up with sagging walls and warped floors.

In 1939, after the Soviets invaded Lvov, the Nazis bombed the city and the concussion from a near-miss cracked a wall. After the Nazis chased out the Soviets, the hotel was host to recuperating German soldiers. In 1944 the Soviets returned, looted the building and turned it, temporarily, into a sewing factory.

But nothing was quite as debilitating for the hotel and Lvov generally as the arrival of the Communist bureaucracy after the war, which meant the nationalization of businesses and the end of most normal building maintenance.

Anatolij F. Ryborak, the vice mayor of Lvov, explains what has happened to his city: "Look, I take care of my car because it's mine. I take care of my dacha because it's mine and my flat because it belongs to me. But the building is not mine. It belongs to the people, which means nobody takes care of it."

Before Mrs. Fedoriw arrived, the Grand Hotel was a mess. The Communists had converted it back to a hotel in 1948. It started out as a fleabag and went downhill from there.

Two years ago, Mrs. Fedoriw complained to a former mayor of Lvov that his city had no decent accommodations for Ukrainian-American tourists. "We have some old hotels," she recalls him saying. "Why don't you take one and fix it up?" She took him up on the offer made possible by perestroika. She signed a 15-year lease on the hotel with an option to buy should private property become legal.

Mrs. Fedoriw has put more than $480,000 into the hotel. She plans to open it in late spring as living commercial proof that Ukrainian construction workers and staff can build and run a first-class business that also turns a profit.

It might just. Among the things the Grand Hotel has going for it apart from Old World charm and modern plumbing is the competition: the sterile, modern In-tourist Hotel. While the hotel serves dinner from the old Soviet menu, Mrs. Fedoriw has her restaurant staff combing cookbooks for old Ukrainian recipes and creating dishes from German menus construction workers found stuffed in a wall.

Getting to the point where she has an obvious competitive advantage hasn't been easy. Rousting three city-owned stores from the hotel took six months because Lvov has no legal eviction process. Mrs. Fedoriw spent weeks trying to explain to her unwelcome tenants that she was the landlord and they had to go.

Landlord? "You mean you are trying to be like Stalin was with us?" she recalls someone asking.

In a city where construction projects sometimes take decades, the rebuilding of the Grand Hotel took a little more than two years. Mrs. Fedoriw is no expert in any of this. The only other construction job she had ever supervised was remodeling her house. But what Ukraine seemed to lack until she came along was a manager who made work conform to a schedule and a balance sheet. "I'm known here as the impatient one," she says.

Judgments depend on perspective. Sometimes Semen Lepsky, Mrs. Fedoriw's sharp-faced Ukrainian construction engineer, stands in front of the hotel on Freedom Prospect and puzzles over the contradictions: "People come by and they say, 'Oh, this is beautiful, and you have done it so quickly.'" Then, he says an American engineer hired as an adviser came by. "He says to me, 'Why is this taking so long?'"

Mycailo P. Zagrebelny, Mrs. Fedoriw's business consultant in Kiev, says that buying materials for the hotel reconstruction was quite an adventure. The ruble gyrated from eight to the dollar a couple of years ago to 140 and back to 100 or so. "Prices are idiotic," he says. Some materials still sell as if the ruble's buying power were undiminished, he says.

Also, old tools such as bribery don't work as well as they once did. "Under the command system, the bribe was paid and the deal was done with one phone call from the top," he says. "Under the new system, a bribe may be given, but there is no assurance that the deal will be done."

Josef Bandyrsky, a stocky, stone-faced 60-year-old, coordinates the construction crews and cares about quality and on-time performance. He used to run "Building Organization No. 584," which put up lavish Communist Party buildings on schedule.

When the Grand Hotel opens, he will be its manager. He has no experience running a hotel but says it makes no difference, because he knows how to organize people.

It is a capitalist axiom that risk takers get the rewards, if they don't lose their shirts. Bonnie Burnham, head of the World Monument Fund in New York, has been studying restoration problems in Eastern Europe for the Samuel H. Kress Fund. "The people who go in now have a potential opportunity to realize a very handsome profit," she says. "Labor costs are low throughout the region."

Restoration projects that create new hotels, she says, may be "almost a guaranteed formula" for success if one is patient. Investors, Ms. Burnham says, may have to think in terms of getting their money out in, say, 20 years.

DADE COUNTY CELEBRATES 20 YEARS OF SCHOOL VOLUNTEER PROGRAM

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I wish to acknowledge the members of the School Volunteer Program of Dade County Public Schools on their 20-year anniversary.

For the last 20 years, the volunteers in this program have dedicated their time and effort into making a difference in the classrooms throughout our community. These trained volunteers come into the classroom and provide assistance to the teachers and the students. Many times they are able to contribute to the lesson plans with new and creative perspectives. Volunteers also help to raise funds for learning materials. Last year, volunteers of the School Volunteer Program served 2,882,490 hours.

The 25,000-plus volunteers are also involved in additional programs for the assistance of both students and teachers as well as other school personnel. These programs include: "Listen to Children," "Oyentes," "Ambassadors for Public Education," "I'm Thumbody," "Superstars," "Networks," "Senior Mentors," "Adopt a Grandparent," "Law Advocacy," "Project MOVE," "One-to-One Volunteer Tutors," and "Corporate Volunteers."

The School Volunteer Program of the Dade County Schools is certainly working to make some changes in the value of our educational system. These are individuals who have concerned themselves enough about the problems in our schools to become directly involved in making the necessary changes.

I would like to congratulate this year's nominees of the Dade County Public Schools: Stephanie Goodman, Miami Killian Senior High School, youth volunteer/peer tutor; Libby Bowen, Little River Elementary School, intergenerational volunteer; Velma Ricci, Cypress Elementary School, special education volunteer; Maryon Freifelder, Intergenerational Law Advocacy Project, volunteer program organizer; Betty Martin, George W. Carver Middle School, adult secondary school volunteer; Roger Carlton, WOM Enterprises, business partnership volunteer; Zoila Ballester, Charles Hadley Elementary School, adult elementary school volunteer.

I applaud the commitment of these wonderfully dedicated people, and I wish them much continued success. For it is their enthusiasm and their efforts that will make a difference in our young people—in the way they learn and interact with others, in the way they carry out their daily lives.

I acknowledge each volunteer who, in this own way, has changed the life of a young child, and has provided for a better future. In addition, I would like to congratulate the members of the advisory board, who have made this organization a tremendous success: John W. Salmon, chairman; Carol Renick, executive director; Linda Brown, supervisor; Eugenia Thomas, past president; and coordinators, Ramona Frischman, Yvonne Peterson, Clay Foster, and Zandra Albury; as well as Beba Sosa, Paul M. Rashkind, Steve Leifman, Frank Thompson, Anita Rafky, Robert Gropper, Lisa Thurber, Wendy Unger, Sherrie Avery, Dorothy Fields, Steve Eckardt, Vincent Lopez, Jr., Pat Pollard, Patti Lanthier, Tina Warfield, John Salmon, Mindy Welch, Vivianne Garcia-Suazo, Lee Osiason, Claudia Perker, Barbara Epes, Mark Ford, Josefina Randal, and Dorothy Freites.

SALUTE TO CARL HERMAN

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. GALLEGLY. Mr. Speaker, I rise today to honor a true leader of the business community in my hometown of Simi Valley, CA, as he ends his term as president of the Simi Valley Chamber of Commerce.

Carl Herman, the chamber's outgoing president, has done an outstanding job steering the business community through difficult economic times. Despite the recession, which has seriously affected Simi Valley and the rest of southern California, Carl has many achievements to be congratulated for.

Among his many accomplishments, Carl increased member participation, expanded dialogue with chamber members and the community, strengthened the links between business and education, helped recognize and publicize the companies and business people who are doers in the community, enhanced the variety and content of chamber programs, and established the foundation for a joint relationship between the chamber and the city to enhance economic development.

Currently senior vice president for administration for the bank card division of First Interstate Bank of California, Carl is also executive vice president and a member of the board of directors of First Interstate Bancard Co. Despite the great demands on his time, serving as chamber president is only the latest in a long history of community involvement.

Most recently, he was vice chairman of the Los Angeles County Private Industry Council, and past chairman of the Parents Fund and Parents Council of the University of California, Santa Barbara. He also serves on the boards of directors of the Moorpark College Foundation and the Ventura County United Way.

Mr. Speaker, the Simi Valley Chamber of Commerce will honor Carl this Saturday for his outstanding service as president. I ask my colleagues to join me in honoring him, and in wishing him well.

MEMOIRS OF A RIVER

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. SCHEUER. Mr. Speaker, I wish to bring to the attention of this House an important project that deserves mention.

Two film executives, Julian Schlossberg and Myer Ackerman, have put aside considerations of profit and have brought to the screen, at their own financial risk, a film that documents the historical trials the Jewish people of Eastern Europe endured through the ages.

"Memoirs of a River" delves into the history of anti-Semitism in Eastern Europe, exploring the growth of such hatred from the trumped-up blood libel trials to the Holocaust.

Mr. Schlossberg and Mr. Ackerman have dedicated this film to the Jewish people of America. The filmmakers intend to distribute the film to schools, organizations, and other interested groups in order to ensure that history be kept alive.

Mr. Speaker, I applaud their vision and their determination to make us all better understand the travails of the Jewish people of Eastern Europe through the ages, and to make sure that we do not forget the virulence of anti-Semitism and racial hatred.

Films such as "Memoirs of a River" not only promote better understanding, but also send an important historical message: history must be kept alive, so that we may remain vigilant to the threat of such hatreds and so that those who would prefer to forget the past will never be able to deny what happened.

I salute Julian Schlossberg and Myer Ackerman for their effort on behalf of people the world over who are exposed to or are the victims of anti-Semitism and racial hatred.

TRIBUTE TO MORRIS "POP" PRAVITZ; 100 YEARS YOUNG

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. LEHMAN of Florida. Mr. Speaker, the phrase respect your elders was and is a familiar one in many households. The idea is that we should defer to those who have lived longer than us, who have achieved more goals, dealt with more disappointments and survived more of life's crises.

It is easy to respect Morris Pravitz on the occasion of his 100th birthday, and not just because he has lived for a full century. He is a truly remarkable man who has been and remains an important asset to our community.

Morris Pravitz arrived in New York from Russia in 1907 without a penny in his pocket and worked for a dressmaker for $7 a week, 6 days a week. He continued his career as a tailor until he retired almost 30 years ago with a fine reputation for quality work.

About 15 years ago, Mr. Pravitz decided to become a volunteer—the oldest volunteer—at South Miami Hospital. That decision changed his life, and the life of everyone he met.

Mr. Pravitz became the wardrobe master of the hospital, making Christmas stockings for newborns, altering shirts to accommodate pacemakers for heart patients, and designing special pillows to ease the sleep of people suffering back pain. He even made bunny suit receiving blankets for babies born around Eastertime.

Morris Pravitz has brought joy into the life of everyone he has met. We wish him much happiness as he begins his next hundred years.

THE NATIONAL CHILD PROTECTION ACT OF 1992

HON. BUD CRAMER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. CRAMER. Mr. Speaker, I rise today on behalf of the millions of children in America who are victims of child abuse.

Our Nation faces a state of emergency. This deploring sickness known as child abuse is plaguing the country and quietly undermining America's future. The U.S. Advisory Board on Child Abuse and Neglect states that 2½ million cases of child maltreatment are reported each year.

The time has come for us to take action against the molesters who prey upon our children. The traditional message, "Don't take candy from strangers," is not enough. Research on the child sexual offender shows that these criminals victimize vast numbers of children. They are serial offenders, often dangerous and violent. They seek legitimate access to children, often finding employment at schools and child care facilities.

As the former district attorney in Huntsville, AL, I prosecuted hundreds of child abusers. The majority were repeat offenders. One child sexual offender incarcerated in the Alabama prison system admits to abusing more than 300 children in five States. He is a career child molester with a master in manipulation. Like most child abusers, he would seek out jobs with access to children. He would befriend his prey, gain their trust, then violate their innocence.

Our society unknowingly welcomes child abusers, like this man, into our schools and child care centers. While most employees and volunteers at these facilities are well-meaning people, we must be ready for those individuals who use their jobs as a front for deviant behavior. The National Child Protection Act of 1992 is the tool we can use to filter out child molesters from true child care providers.

The National Child Protection Act was initiated by television personality and child sexual abuse survivor Oprah Winfrey. Ms. Winfrey knows too well the scars forever left on child abuse victims. She calls on society to protect children before they are victimized. Her request is simple: Keep track of the child abuser and prevent the abuser from entering child care centers.

The National Child Protection Act establishes procedures for national criminal background checks for child care providers. This Federal policy will help ensure the safety of our schools and child care agencies. Can we take any more chances with our children? I think not. We must protect this country's next generation. We must adopt the National Child Protection Act of 1992.

INTRODUCTION OF THE YOUTH DEVELOPMENT ACT OF 1992

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. AuCOIN. Mr. Speaker, I'm concerned about the future of America's 20 million young adolescents. These 10- to 15-year-olds need help and support to make constructive choices about education, health, and family relationships. Yet there is no Federal policy or plan targeted at positive youth development. Instead, we fund programs for teens after they get into trouble or fail in school.

We need only look at the facts to know that more must be done. These young people are at the age where they either make it or they just don't. As many as 25 percent have suicidal thoughts, and another 20 percent suffer from moderate depression.

I care about these young people because they are our future. They are the workers of tomorrow and the parents of tomorrow.

It's time for this House to make a real commitment to our 10- to 15-year-olds. Our investment today will save us countless dollars later on. Investing now means less spent on substance abuse programs, teen parent programs, and school dropout programs.

What are the messages we're sending to youth now? "Just say no." We say no to smoking, no to drugs, no to sex, no to riding skateboards. I think it's time we say yes to sports, yes to art activities, yes to community service, yes to youth leadership programs. Research shows that approximately 40 percent of adolescents' time is at their own disposal. They often get into trouble because they are bored and don't have anything better to do.

Clearly, shopping malls are the largest provider of child care to middle-school-age youth. I've been to the malls after 3 p.m. and they are teeming with adolescents. In fact, I've heard that shopping malls are now hiring older teens to kick the younger ones out.

I recently heard that a convenience store was piping classical music into the parking lot to keep the kids from hanging out. That's a scene straight from "Wayne's World."

I've spent the last year visiting with adolescents asking them what they want and expect from adults. I've gone to their schools and community-based programs. These kids want leadership from us. The universal response I got from them was, thanks for asking. Thanks for taking the time to get involved. Thanks for listening. I think if we involve young people in developing programs we're going to find they have a lot to offer.

What do teens want?

They want choices. They don't want to go to the same program every day and do the same thing. They want a variety—and despite occasional excesses—they want balance. They want to do well in school. They want opportunities to release their boundless energy through sports and fitness programs.

They want respect. They want to know that adults value them and their opinion.

They want to connect to real adults who care. My life was changed because two teachers took the time to show me that I could write, that I could think. I'm a real life example that when adults take the time to reach out to kids, they respond positively.

Finally, kids are nervous about their future. They want to know that we're worrying about it too.

Today, I'm introducing the Youth Development Act of 1992. It's the first legislation ever introduced to target this critical age group. The bill authorizes four competitive grant programs designed to improve adolescents' educational performance, health and fitness, life skills, and family relationships. The bill authorizes $100 million, $25 million for each program. Schools, community-based organizations, service groups, government agencies, and libraries are some of the groups that would be eligible for grants of up to $500,000.

My bill provides the seed money to encourage good ideas at the local level and get them going.

What kinds of programs could be funded?

Peer-to-peer counseling programs that help elementary school students make the transition to middle school and middle-school students make the transition to high school.

Tutoring programs at libraries to help adolescents do better in school.

Community sports programs, such as those sponsored by YMCA's and YWCA's, where teens learn more than how to play games. They learn how to get along with their peers, how to lose and how to win, and how to work as a team.

Leadership programs like the mock political convention that's held in Portland every 4 years and sponsored by the Beaverton School District. This huge event teaches students about the political process; at the same time it helps them develop leadership skills.

Family support programs that involve parents and their adolescents, programs that help parents better understand what their teens are experiencing and those that help the teens better understand their parents. As a parent of two, I know that they didn't come with a handbook and I know that parenting is not an inmate skill; it's learned. Even the best parents know they need support.

Yesterday, I held a briefing on this bill involving national experts in the area of youth development. These experts agreed that this legislation sends an important message to adolescents, parents, teachers, and community leaders: It's time the Federal Government make prevention a priority. These experts are: Jane Quinn, from the Carnegie Council on Adolescent Development; Karen Johnson Pittman, from the Center for Youth Development and Policy Research, the Academy for Educational Development; Dale Lestina, from the National Education Association; Gordon Raley, from the National Collaboration for Youth; Cliff Johnson, from the Children's Defense Fund; and Bob Boisture, from the YMCA of the U.S.A.

Mr. Speaker, this bill transcends partisan politics. It's a bill that is good for children, good for families, good for schools, and good for communities. I invite my colleagues to cosponsor this bill and urge its passage.

TRIBUTE TO PETER ZAKREWSKI

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. RITTER. Mr. Speaker, the Lehigh Valley has lost a great friend and patriot—Peter Zakrewski. Peter was a leader in the Military Order of the Purple Heart, Chapter 190. His recent death has been deeply felt by the Lehigh Valley's veterans and many in the community.

I would like to submit a copy of the letter that I asked to be read on my behalf at Peter Zakrewski's memorial service by Mr. Gene Salay, the Director of the Lehigh County Office of Veterans Affairs.

HOUSE OF REPRESENTATIVES,
Washington, DC, March 19, 1992.

Peter A. Zakrewski Memorial Service,
St. Francis of Assisi Catholic Church,
Allentown, PA.

DEAR DOROTHY, FAMILY AND FRIENDS OF PETER ZAKREWSKI, AND MEMBERS OF THE MILITARY ORDER OF THE PURPLE HEART: Today we say goodbye to a dear friend and dedicated man who lived his life with conviction and enthusiasm.

Pete's death came as shock to all of us, but he died with his boots on—and that is probably the way he would have wanted it.

Peter was a real patriot. He understood the crucial contribution of America's armed services in bringing the 20th Century out of the darkness of totalitarianism and into the light of freedom and democracy.

The credo of the Military Order of the Purple Heart, which Peter so dedicated himself to, was also his personal credo. He devoted his life to personal sacrifice for others. If it would not have been for Peter Zakrewski's effort through the years, the Lehigh Valley Chapter 190 of the Military Order of the Purple Heart would not have attracted the proud recognition it so richly deserves.

Peter Zakrewski was a tireless and kindhearted man and our memory of him will long outlast the days he was with us.

As we part now, may we ever remember his dedication and love for his family, community and nation.

Most Sincerely,

DON RITTER,
Member of Congress.

TREASURE ISLAND ELEMENTARY STUDENTS IMPROVE WRITING SKILLS BY PLAYING "POST OFFICE"

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize the students and teachers of Treasure Island Elementary School in North Bay Village, FL, who were recently featured in the Miami Herald. The article "Students Are Delivering at Their Own Post Office" by Aaron S. Rubin tells how the school has started their own post office to encourage students to practice writing.

At first glance, 10-year-old Mandy Olique seems an unlikely postal worker.

But Mandy and her classmates at Treasury Island Elementary School in North Bay Village have crafted a postal system that in some ways rivals the U.S. Postal Service—and inspires the kids to write.

Treasury Island inaugurated the post office last month and will remain in operation for at least several months more, said fourth-grade teacher Mary Martin, whose class takes turns sorting the letters. Martin developed the idea as a fun way to encourage students to practice writing.

All Treasure Island Elementary students participate. Mailing letters is free. And delivery sometimes takes place the same day—at no extra charge.

But sometimes student postal workers take more liberties than their professional counterparts. Take the case of an improperly addressed envelope:

"When they don't put the right address, we send it back. Either that, or we throw it away," said Mandy, a fourth grader.

Each classroom has been assigned an address using street names drawn from a list of Florida birds. So learning the streets—such as Mockingbird Lane—helps students learn the birds, Principal Beverly Karrenbauer said.

The United States Postal Service doesn't feel threatened by the Treasure Island Elementary School effort, said Cesta Ayers, manager of communications for the Miami division. In fact, it encourages such school programs to help students improve their writing skills.

More than 10,000 schools nationwide have signed up with the Post Office's Wee Deliver campaign to encourage letter-writing and learn more about postal operations, Ayers said. Kensington Park Elementary, 771 NW 30th Ave., was the first of seven schools in Dade County to implement the program in January 1991.

"There's nothing in the world like receiving a letter," Ayers said. "The younger you learn, the longer it will stay with you."

I am happy to pay tribute to the U.S. Postal Service and the Dade County School System for participating in this new and innovative way to encourage letterwriting and learn more about postal operations.

SALUTE TO OFFICER JERRY DeROSA

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. GALLEGLY. Mr. Speaker, I am pleased to rise today to salute an outstanding police officer as he is honored for 25 years of service to the residents of Los Angeles.

Police Officer II Jerry DeRosa joined the Los Angeles Police Department [LAPD] in 1966. After graduating from the police academy, he was assigned to the Van Nuys area as a patrol officer, and a year later was transferred to duty at the central jail. While serving as a jailer, he met and married his wife, Penny, and I'm pleased to say they recently celebrated their 23d anniversary.

In 1971, Officer DeRosa was assigned to the Rampart area, where he served as a patrol officer, vice officer, and then a youth services officer. Showing his selfless nature, Officer DeRosa gave up his recent promotion to police officer III status in order to take on the youth position, but in doing so he began a career-long dedication to the Explorer Scouts. While serving as Explorer adviser at Rampart, membership in the group doubled.

In May 1982, he was assigned to juvenile division, where his primary responsibilities included coordination of the Explorer program, the Explorer Academy, citywide events in which Explorers participate as volunteers, and the Devil Pups Program. Officer DeRosa can be particularly proud that his dedication to the Explorer program encouraged numerous opportunities for community service and positive role models.

Mr. Speaker, law enforcement officers daily risk their lives to protect and serve the public, but far too often the good they do goes unnoticed. That's why I am proud to ask my colleagues to join me in saluting Officer Jerry DeRosa for making a difference in the lives of so many young people and for representing the caliber of the vast majority of officers in LAPD and in thousands of police agencies around the country. We wish him well in his retirement.

KENDALL AWARENESS MONTH

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. FASCELL. Mr. Speaker, from April 4 to 26, the Kendall neighborhood of Dade County, FL, will be celebrating Kendall Awareness Month.

This neighborhood, which has been my home for the last 37 years, has seen tremendous growth since 1985 and has evolved into a cohesive, definable community with its own flag, song, and newspaper. It has become the community of choice for young families and is equally attractive to singles and senior citizens. Its schools and other community institutions are among the best in the county.

While Kendall has a predominantly suburban ambiance, it also encompasses rural areas with horse farms and u-pick-fields, and is on the edge of the Everglades—one of our national treasures.

The residents of Kendall have taken an active role in the political life of Dade County, with numerous associations. The umbrella organization, the Kendall Federation of Homeowner Associations, represents them on issues of concern at the local, State and Federal levels of government. Their influence is important and it is felt. They have had a significant impact on the kind of community Kendall has become.

It is a pleasure to bring to the attention of our colleagues this unique and very special community and to congratulate it during this upcoming month of festivities and observance.

Therefore, Mr. Speaker, I want to advise everyone that April 4–26 should be known as Kendall Awareness Month.

All citizens in the 19th Congressional District of Florida, which I am honored to represent, are requested to join in celebrating and commemorating this joyous event in Kendall, a great place to live. And, if any of our colleagues are in Florida, they are especially invited to join in the festivities, as are all folks who care to participate.

TRIBUTE TO A. PHILIP RANDOLPH INSTITUTE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. BROWN. Mr. Speaker. The weekend of March 27 to 29, the 36th Congressional District of California is proud to host the California State A. Philip Randolph Institute [APRI], Chapter's Eleventh Annual Conference. As the Representative from the 36th District, I wanted my colleagues to join me in welcoming the institute to my district and in recognizing its significant contributions to the empowerment and inclusion of black Americans in this country's political process.

The A. Philip Randolph Institute was founded in 1965 at a pivotal time in the history of the civil rights movement. The institute would further the civil rights movement's expanded goals of gaining political power and economic stability. The institute would continue the dynamic unity between black Americans and the trade union movement and other groups that advocated social progress.

A. Philip Randolph, the veteran black labor activist, and Bayard Rustin, civil rights pioneer, were among the first to recognize the vital need for a labor-black alliance. They realized that most black Americans were working people, and they emphasized the central role of the black trade unionist as a valuable conduit between the black community and the multifaceted labor movement. APRI is a direct outgrowth of Mr. Randolph's vision.

Mr. Randolph was born in Florida in 1889, and organized the Brotherhood of Sleeping Car Porters Union in 1925. In 1937, the Pullman Co. signed an agreement with the brotherhood. Mr. Randolph went on to election to The AFL–CIO's executive council in 1957 and as its vice president in 1957. The labor movement and the Nation mourned his passing in 1979.

The institute, while giving meaning to the importance of this Nation's 3 million black trade unionists, has worked for a program in the interest of all working people: full employment, adequate wages, job safety and security, pensions, job training, quality public education, and livable communities.

In addition, the APRI has supported a wide range of human rights issues around the globe, including the valiant struggle for freedom in South Africa and the Solidarity Trade Union movement in Poland.

Since 1986, the APRI has been in the forefront of voter registration drives and get-out-the-vote efforts in its ongoing campaign to encourage greater black participation in the political process. Much of this important work is done with the cooperation of local APRI affiliates, like the affiliate in my own congressional district led by Mr. Albert Casey.

APRI also assists its nationwide affiliates in organizing drives, consumer boycotts, and strikes, especially when they impact on the black community, and provides guidance and service to the affiliate chapters to enable them to be effective local civil rights-oriented community organizations. The affiliates are helped to work in areas of community development such as housing for the homeless, food banks, and skills centers.

In 1966, Bayard Rustin discussed the establishment of an APRI affiliate chapter in San Bernardino with William Wilson. Wilson met with members of Laborers Local 783 about such an affiliate, and the San Bernardino chapter subsequently received its charter in 1967, with Wilson as its first president.

Freedom, Mr. Randolph believed, is only possible in an environment of political, social, and economic security. Mr. Randolph's legacy to this nation, the APRI, continues this important quest.

COMMENTS MADE AT A MEETING OF THE CONGRESSIONAL BIOMEDICAL RESEARCH CAUCUS

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. GEKAS. Mr. Speaker, I rise today to share with my colleagues some comments which were made at a recent meeting of the congressional biomedical research caucus. On March 16, 1992, Dr. David Housman addressed the caucus on his work with unstable genes. Below is the text of his speech:

SPEECH OF DR. DAVID HOUSMAN

Good morning. It is a great privilege to have the opportunity to present to you this morning a report from the research laboratory and the clinic on recent discoveries which lead to an understanding of instability in the transmission of genes from one generation to the next which forms the basis of at least two significant illnesses in our population myotonic dystrophy the most frequent adult form of muscular dystrophy and the fragile X syndrome, an important cause of mental retardation. It is important to realize that in these early days of research on this problem, we do not yet know the full extent of the prevalence of this mechanism and its possible impact on other problems of human health.

To tell you the story this morning I would like to focus on myotonic dystrophy. Together with my colleague Dr. Hilary Worthen, I would like to tell you the story of the discovery of genetic expansion in myotonic dystrophy from my personal perspective. I would like to note in advance that inevitably I will not name all the individuals in research groups around this country and around the world whose dedication and skill have led to our current state of understanding of this important problem. However, as my talk progresses, I hope the contributions of this group will be brought home to you. I want to begin by giving you an overview of where we are headed this morning. The story of myotonic dystrophy is from my perspective the story of what I call a "gene hunt". The characteristics of a gene hunt are the original observation by physicians in clinical practice that an illness or predisposition to illness "runs in families".

The observation that illness runs in families means to geneticists that it is likely that there are one or more genes which are present in the effected members of these families in a form which carries or contributes to the illness. The challenge to the geneticist is to use the clues provided by the clinical investigators and the tools of molecular biology to track down the gene involved and figure out what that gene does and what has gone wrong in the affected individuals. The motivation for carrying out this often arduous process is usually the same regardless of the target. Often, the illness in question presents a confusing pattern of symptoms. Sorting out the root cause of pathology can be key to developing effective modes of therapeutic intervention. Indeed, we are today witnessing an overall revolution in the strategies used to develop such therapeutic intervention based on clear understanding of the underlying molecular basis of pathophysiology but the intrigue of the myotonic dystrophy and the fragile X stories goes a step beyond this inherently exciting process. To understand the issue more clearly, we must return to the meeting place of the clinicians and the geneticists and realize that for quite a long time there has been a gulf between the day to day observations of the clinicians and the framework of knowledge built by geneticists. The key observation that startled the geneticists and left them skeptical was the clinicians' clear insistence that when transmitted from one generation to the next symptoms of myotonic dystrophy became significantly worse. As you will hear directly in Dr. Worthen's presentation, this was a clear view which clinicians communicated to their patients as far back as 20 years ago. However, when the geneticists were asked to explain this observation, there were no models available to explain it. In fact, it was suggested, by the geneticists, perhaps the situation only appears this way to you clinicians because only the most severe cases come to your attention leading to a "ascertainment bias." The issue has swirled back and forth between the groups over the past decade. Now that we can visualize the DNA sequences which are responsible for causing myotonic dystrophy the resolution of the issue becomes clear. Before I tell you about the scientific side of this question, I would like Dr. Worthen to introduce the problem to you in a very direct way.

Thank you very much Hilary and H * * *, I think you can see quite clearly the issues that motivated us in the laboratory to attempt to track down the myotonic dystrophy gene. Let's stop for a minute to talk strategy. How do you track down a gene like the myotonic dystrophy gene? The first part of our story shares a common theme with the hunt for all other genes which cause serious illness such as the genes for cystic fibrosis, Duchenne type muscular dystrophy, familial cardiac myopathy, neurofibromatosis, Huntington's disease as well as cancers such as retinoblastoma, familial colon cancer, childhood kidney cancer (Wilms termor) and breast cancer. The strategy has been to establish the pattern of transmission of the illness in families and then to locate the chromosomal position at which the target gene resides. This strategy, termed positional cloning, has been successful in almost all of the cases listed as well as quite a number of other cases. The strategy depends on the ability to trace segments of chromosomes from one generation to the next using differences in DNA structure which distinguish each chromosome. Let me show you what I mean. The DNA differences occur at many sites on each chromosome. Most of these differences (known as polymorphisms) are not significant to health or other characteristics. However, they serve as markers to distinguish one chromosome from the next and trace their transmission from one generation to the next. In the laboratory, we trace the inheritance of these marker DNA segments from one generation to the next and compare that pattern to the pattern of inheritance of the illlness whose gene we are trying to battle. In most cases, the target gene and the marker are on different chromosomes or are far apart on the same chromosome. However, if the marker and the target are close together on the same chromosome, then they will travel together from one generation to the next. When we observe such an association between target and marker we are able to focus our search in the DNA segment which we know contains the target and the increasingly powerful arsenal of tools of molecular biology to identify the target gene.

For myotonic dystrophy, the chromosomal location for the gene was first determined ten years ago. Despite the potential worsening of illness as the gene is passed on, the inheritance pattern for myotonic dystrophy has always been clear—on average 50% of the children of those affected with myotonic dystrophy will show symptoms of the disease. Myotonic dystrophy thus fits an autosomal dominant pattern of inheritance.

Comparing the inheritance pattern of genetic markers to the inheritance pattern of myotonic dystrophy, the location of the myotonic dystrophy gene on chromosome 19 was established about ten years ago. It was also established that every myotonic dystrophy family studied showed association between the transmission of myotonic dystrophy and genetic markers on chromosome 19. The location of the myotonic dystrophy gene on chromosome 19 was well established but exactly where the gene was to be found was the focus of the next ten years of work. The effort involved the development and use of techniques and strategies which have now become the province of the Human Genome Initiative. Gradually the interval in which the gene might reside was narrowed from 10 million pairs to 5 million to 1 million to 250,000. But now I must pose a question to you: "How do you know when you have finally found the gene you are tracking?" The key to answering this question is that we will be sure that we have found the myotonic dystrophy gene when we find DNA sequence differences in the target region of chromosome 19, which are found only in affected individuals. At this point I want to turn to a concept which has drawn so much attention to myotonic dystrophy and fragile X syndrome, the concept of rapid and explosive change in DNA sequence. Every time before a cell in the body divides, a complete copy of each DNA molecule of the cell must be made. This process is accomplished with remarkable accuracy, but occasionally mistakes are made. The technical term for such errors is mutation. Many mutations are benign and have no effects on the cell and its descendants, but others can cause problems. In Congress, you may be familiar with this problem from a regulatory point of view. Some chemicals are particularly effective in causing such changes. You know these chemicals as carcinogens. When changes occur in genes which regulate cell growth in just one cell of the body, the consequence of these genetic changes can be the formation of a tumor. For body cells, mutations may occur once per million cells or less. The presence of carcinogens can increase this frequency to a rate perhaps ten times higher. For one cell in 10,000 to have mutations in a particular gene would be considered a very high mutation rate. Errors in transmission of the DNA in germ cells which give rise to sperm or egg also can cause serious health problems when transmitted to the next generation. For most genes this rate is also perhaps 1 in a million. For a few very large and vulnerable genes, the rate of mutation may be 1 in several thousand transmissions. But for myotonic dystrophy and fragile X syndrome, we now know that the gene can be transmitted in a form which is completely mutable.

The chance that the gene will change in sequence when transmitted from one generation to the next in an altered form is not 1 in a million or even 1 in a thousand, it is closer to 1. i.e. It is almost certain that the gene will be transmitted in an altered form to the next generation. It is this inherent instability of the gene in transmission from one generation to the next which is responsible for the disease getting worse from one generation to the next.

What did we find when we scanned the region of chromosome 19 in which the myotonic dystrophy gene was known to reside? For most of the 250,000 base genes, we saw nothing unusual; but when we scanned one particular stretch of DNA, the results were striking. (Slide). This is an example of what we saw. Each affected individual had a DNA fragment that was different in size from the normal, but even within families the fragment was often different in size from one generation to the next. I will show you an example of this in more detail in a moment.

But first we wanted to know what caused this apparent genetic instability, so we turned up the level of resolution one notch higher and examined this stretch of DNA base pair by base pair. What we saw looked like this. (Slide). What you see here is a DNA sequence of the unstable region of DNA from a myotonic dystrophy patient. What is striking there is that the same three base pairs, CTG, are repeated over and over again. The number of times the three base pairs are repeated is what varies from individual to individual within each family. Every normal individual has some member of these repeats (Slide), but no normal individual has more than 28 CTG repeats.

In myotonic dystrophy families every individual who carries the myotonic dystrophy gene has more than 50 copies of the CTG repeat. In the family shown here, the symptoms of myotonic dystrophy are worst in the last two generations. In these generations the number of repeats has increased from 50 to over 500. The expansion of the number of repeats in conjunction with the worsening of myotonic dystrophy symptoms was seen over and over again in the families we studied as well as the families studied by other groups. The cause of the worsening of myotonic dystrophy symptoms appears to be the increase in the size of the CTG repeat sequence. But learning this much about myotonic dystrophy raises many new important questions:

How does the expansion of the repeat cause the disease symptoms to worsen?

What are the reasons why the repeat sequence becomes unstable as it becomes larger?

How can the knowledge gained so far lead to improvements in treatment and care for myotonic dystrophy patients?

Let us look first at the last question. Over the past 20 years many possible primary causes of myotonic dystrophy have been suggested. Now, the location of the expanding sequence gives us a clue which we and others in the field can pursue because the CTG repeat is embedded in a gene. What we have already learned a bit about this gene by decoding its sequence. (Slide) The gene in which the CTG repeat is embedded encodes a protein which is a member of a large gene family. The members of this gene family, the protein kinase gene family, are involved in signalling within and between cells. The challenge ahead of us will be to see if we can make sense out of all of the symptoms of myotonic dystrophy through changes in the activity of the gene. If that turns out to be true, then we can begin to think about designing specific drugs which can alter the action of thus gene and help to alleviate the debilitating effects of myotonic dystrophy.

What causes the CTG repeat to expand out of control? This is a question we must understand better as soon as possible but one clue which is already clear is that there are great similarities between fragile X syndrome and myotonic dystrophy. In fragile X the work of Dr. Tom Caskey and Dr. David Nelson at Baylor University and Dr. Steven Warren at Emory University and their colleagues have shown that a CGG triplet is expanded in an uncontrolled way just as the CTG repeat is expanded in myotonic dystrophy. The longer the repeat gets the more difficulty the cell appears to have in replicating it accurately. This question may be particularly pressing if additional situations are discovered in which this mechanism contributes to or is responsible for a serious illness.

But perhaps the most immediate issue which must be addressed is the prevalence of families in which the severe effects of myotonic dystrophy have not yet been experienced because the gene has not yet expanded in size to a point where the effects of gene expansion are severe.

If we look at the upper generations of myotonic families such as this one, we see the gene passed from one generation to the next with little or no expansion of the CTG repeat and few, if any, severe symptoms. It is only because of the severely affected individuals in the later generation that we diagnose this family as severely affected. We already have evidence that the chromosomes carrying the myotonic dystrophy in most, if not all, of the myotonic dystrophy families we have studied are related to a single ancestral central chromosome 19. This is true even for families of very diverse ethnic backgrounds such as Europeans and Japanese. How could this be? What we believe may have happened is that very long ago on human history, a chromosome 19 having perhaps 25 or more CTG repeats, doubled the number of repeats. A population of chromosome 19 with 50 or so repeats was created which could them be passed on without major expansion most of the time from one generation to the next. Individuals carrying this chromosome would have minimal symptoms such as cataracts. However, in some families the expansion of the CTG repeat over a threshold number triggered further expansion in future generations. When this happens, the family picture you see here and described so clearly by H. . . . . has begun. If this picture is correct, then there are many more families at risk to become myotonic dystrophy families in our population. How should we as a society approach this problem? For today, I leave this as a conundrum for all of us to ponder. But, I do not wish to point out that this type of problem is encountered frequently along the road to the endpoint to which we are all fervently committed, providing a treatment or a cure for devastating diseases like myotonic dystrophy.

Finally, I would like to give you a brief perspective on the way in which the work you have heard about is funded. The perspective is my own and I want to be quite sure to be clear that the inputs to this work have come from many institutions and individuals, and in each case you will encounter somewhat different mixes of funding inputs, but I believe the same bottom line.

First, in my case, it is essential to describe the role of the Muscular Dystrophy Association (MDA). The MDA supported the work of Dr. David Brook, the postdoctoral fellow who led the team in my laboratory and our close collaborators in the U.K., Drs. Duncan Shaw, Peter Harper, and Helen Harley of the Medical College of Wales, and Dr. Keith Johnson in London. The MDA works tirelessly, effectively and creatively to raise funds to support research towards the cures to the muscular dystrophies. But like many of the other health voluntary organizations, the MDA would be the first to tell you that it is tough to do the job alone. They would compliment you in Congress for your foresight and effectiveness in creating programs to complement their own. Let me show you how that worked in my case. My laboratory is located in the Center for Career Research at M.I.T. The NCI Initiative which created the Cancer Institutes program 20 years ago has provided a stable base and a research environment for work of this type to proceed. But why is muscular dystrophy work been carried out in a cancer research institute, you may ask. Please recall that earlier in my talk, I told you that the problem in cancer is one of mutation. In fact, in the same laboratory at the benches near Dr. Brook are fellows and students studying the mutations responsible for childhood kidney cancer, malignant melanoma, ovarian cancer, breast cancer and adult kidney cancer. NCI created this environment at a time when the tools to address gene mutation in other diseases were primitive and ineffective.

But a second source of funding in my laboratory is the human genome program. In 1980, I submitted my first grant to carry out research of the type I described to you today. For the next seven years, this research was funded by the General Medical Institute, but the development and application of the tools required to carry out this research now has a very specific home, the Office of Human Genome Research. NIHGR has made a difference in this work.

Finally, as the ability to make the connection between the world of molecular genetics and the world of clinical medicine becomes increasingly possible, the development of innovative programs to bridge that gap has become a vital part of the overall picture. In the case of myotonic dystrophy, the support of an innovative program of the National Heart, Lung and Blood Institute of the NIH. The "Program of Excellence," designed by Dr. Claude L'Enfant and Dr. Steven Mockrin, has been particularly effective. This program has among other things brought an experienced physician and diagnostician such as Dr. Worthen into our laboratory to bring more focus into our research efforts.

There is one last topic I must comment upon in conclusion and that is education. The revolution in medical genetics has posed the world of medical education with a set of important challenges. Today, the medical students that I teach learn about clinically relevant principles and ideas which were simply unknown five or certainly ten years ago. As we scramble to keep our medical school curricula up to date, we also face a challenge in communicating vital information to our physicians already in practice. Without this development our work in the research lab will not be effectively used. This is an important challenge which we must meet effectively.

Thank you very much for your attention. I would now like to return the floor to Dr. Worthen so that she may comment further on the transition between the laboratory and the clinic.

HONORING BETTY AND BEN ZION KRIEGER

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. SCHEUER. Mr. Speaker, I rise at this time to honor two constituents of mine who have dedicated themselves to the advancement of Jewish education in my district. Betty and Ben Zion Krieger are active members in their synagogues and devotedly involved in the Bais Yaakov Academy of Queens.

Betty, herself an alumna of Bais Yaakov Academy, went on to graduate magna cum laude from Queens College and is now a certified public accountant. Ben Zion, a native of Israel, graduated from the Bologna Medical School and trained at Tel Aviv University Medical School before coming to America. Once here, he and colleagues at the Albert Einstein College of Medicine began pioneering work in researching the terrible scourge of pediatric AIDS.

Mr. Speaker, Betty and Ben Zion Krieger are model members of the local community, remaining actively involved in community affairs. Betty is deeply involved in Tomchei Shabbos of Queens, a remarkable project that has been delivering food to indigent Jewish families for more than 15 years.

The Kriegers also see to it that their children—Yitzchak, Elazar, Chani, and Nurit—as well as those of others receive a full and meaningful education in the elementary years. Their work in supporting the Bais Yaakov Academy of Queens deserves the warmest of tributes.

A TRIBUTE TO THE ASSOCIATION OF CRITICS AND COMMENTATORS OF THE ARTS [ACCA]

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity to recognize the achievements of one of our community's most reputable and respected cultural institutions, the Association of Critics and Commentators of the Arts.

Since its founding in 1975 by a group of distinguished journalists and writers dedicated to the nurturing and development of all art forms within our ever growing Hispanic community, the association has become a haven for artists everywhere who yearn for an opportunity to further and enrich their individual talents.

Our State of Florida, situated at the gateway to the Americas, has always welcomed the proud heritage and cherished traditions of numerous cultures from all over Latin America, giving many renowned and aspiring artists from these areas of the world the opportunity to cultivate their respective abilities.

To promote artistic growth and recognize outstanding individual achievement, the association sponsors many events and programs throughout the year designed to introduce these aspiring artists to the appreciation of the general public.

In their efforts to help cultivate the arts in our ever growing society, the association is currently embarking on their most ambitious project yet, the establishing of an international cultural center, where permanent exhibitions, cultural and musical pageants can take place, doubling as a recreation center for artists visiting or residing in our community.

Mr. Speaker, throughout its 16-year history, under the careful direction of president Dra. Josefina Rubio, vice president Mannix De Leon, as well as the rest of the dedicated members of the Association of Critics and Commentators of the Arts including: general director Ivan Guitierrez; public relations directors Maria Antonia Bode and Fabiola Naya; secretary general Dr. Nelson Hernandez; vice secretary general Laura Curbelo; secretary of organization Ubaldo Henriquez; vice secretary of the association Hall Estrada; treasurer Elvira Paches; vice treasurer Alsela Torres; and executive assistants Hilda Alvarez and Maria Ofelia Garcia. Among the permanent members of the association are past members and former executives, Jose Camacho Lagos, Pedro R. Herrera, Roberto Minagorri, and Adelfa Cantell.

Benefactor members are: Manny Herrera of Manny's Buffet, Humberto Rodriguez of Humberto Florist and Caroline Weiss of Royal Tower. Honorary members are: director of cultural relations Manny Soto; director of special events, Mirta Lopez Polacek; Celia Touzet of the commission on special events; and director of the commission on historical research, Dr. Armando Cobelo. Music department members are Solange Lasarte and Yolanda del Castillo Cobelo. Visual arts department members are Berta Randin, Orlando Acosta, Delio Liebrez and Carlos Rafael Gonzalez. Literature department members are Dr. Jose E. Puente and Olga Gonzalez del Pico. Technical assistance members are musical director Professor Olga Martinez; theatre director, Sergio Dore; director of literature and director of photography, Asela Torres; director of literature, Leonardo Fernandez Marcane. Our community has gained a new and much needed appreciation toward the arts and I would like to extend to all members my very best and warmest wishes for continued success in all future endeavors they undertake.

TRADE DEAL A GOOD DEAL

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. GALLEGLY. Mr. Speaker, many Americans are deeply divided over the benefits of the proposed North American Free Trade Agreement. Protectionists and "America Firsters" argue that a treaty with Mexico will only help Mexico, will result in the loss of United States jobs, and will weaken our environmental and other health and safety laws. Free traders contend that a pact with Mexico will promote trade and cooperation across our borders, will help both economies, and will lead to employment opportunities in both countries.

I have maintained for some time that a properly negotiated free-trade agreement should prove economically beneficial to both the United States and our neighbors. Most significantly, by promoting economic growth and creating jobs in Mexico, it will remove one of the major incentives for illegal immigration into this country. That, in itself, is sufficient reason to support a treaty.

Such an agreement is no cure-all. If we can end the payment of attractive welfare benefits and services to illegal aliens at the expense of our poor and needy citizens and their families, eliminate widespread document fraud, strengthen the Border Patrol, increase Federal resources for border control, stop the hiring of illegals and the transportation of illegals to and from jobs which they are taking from taxpaying citizens, while encouraging Mexico to inaugurate programs to stop the smuggling of illegals across the border—as I have proposed in my package of seven bills—then we can finally stop the flood of illegal immigration into the United States and the social and economic costs that this problem brings to our country.

I am pleased that the Camarillo Daily News, in an editorial, agrees with my contention. I quote:

> Nurturing economic growth in Mexico is the only effective way to address illegal immigration into the United States. Until Mexicans are able to support themselves and their families in Mexico, illegal immigration will continue to plague the United States, and especially states such as California.

Mr. Speaker, I submit the complete text of "Trade Deal A Good Deal" to be printed in the RECORD as it appeared in the Camarillo Daily News, March 20, 1992.

TRADE DEAL A GOOD DEAL

> Voters' frustration with the sagging economy threatens the pending free-trade agreement with Mexico.
>
> President George Bush and Democratic candidate Bill Clinton support the North American Free Trade Agreement, which leaders of Mexico and the United States have crafted. Paul Tsongas, who dropped out of the presidential race Thursday, also supports the pact.
>
> Republican Pat Buchanan and Democrat Jerry Brown oppose the deal. Pandering to voters' fears about lost jobs—a tactic especially effective among Michigan and Illinois auto workers—Buchanan and Brown talk not of the pact's benefits, but of its costs to certain segments of the economy.
>
> It is true that removing current trade barriers with Mexico likely would hurt auto workers in the United States. That's the scare Brown and Buchanan wanted to put into the minds of Michigan and Illinois voters before they went to the polls on Tuesday.
>
> What they didn't say is that the potential for new jobs outweighs the cost to American workers. Independent studies show that as many as 100,000 jobs could be lost because of the agreement, but that at least 130,000 would be created.
>
> The growth is expected to be strongest in industries dealing with computers, communications technology, pharmaceuticals and agriculture. Those are areas that would be particular benefit to California.
>
> At the same time, the trade agreement is a constructive means of supporting economic reforms now taking place in Mexico.
>
> Mexico's leaders are trying to unleash their economy from the inefficiencies and corruption of its government bureaucracy. Assurances from the United States that Mexican companies will have access to U.S. markets will aid the effort.
>
> And for the "America First" types who can't understand why the United States should care about Mexico's economy: Nurturing economic growth in Mexico is the only effective way to address illegal immigration into the United States. Until Mexicans are able to support themselves and their families in Mexico, illegal immigration will continue to plague the United States, and especially states such as California.
>
> The danger is that election-year pandering to people's fears could derail the free-trade agreement.
>
> In Illinois and Michigan, the voters' mood and Jerry Brown's exploitation of their fears persuaded Tsongas and Clinton to weaken their support of the deal with Mexico.
>
> And the nation has seen how Buchanan can push Bush around on the issues; it's possible the president could backtrack on trade.
>
> Political candidates do need to recognize the needs of specific segments of the economy, and attempt to offset significant losses with funds for retraining and assistance. But they should not let the fevered pitch for protectionism overshadow the benefits of a free-trade agreement. The pact with Mexico would hurt some U.S. workers, but for a far larger number of Americans, the advantages are clearly greater than the costs.

TRIBUTE TO ANTHONY J. FUSCO, JR., ESQ., THE AMERICAN CANCER SOCIETY'S SECOND ANNUAL "MAN OF THE YEAR"

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. ROE. Mr. Speaker, it is with the greatest pride and admiration that I rise today to salute a truly outstanding citizen from my eighth congressional district whose dedication and commitment to the goals of the American Cancer Society and his community have truly merited him this great honor as the second annual "Man of the Year."

I am speaking of Anthony J. Fusco, Jr., of Passaic, NJ. His deep involvement in his community for several years has earned him the honor of "Man of the Year" by the American Cancer Society of Passaic County. For all he has done, Anthony will be honored by the American Cancer Society at the Loews Glenpointe Hotel in Teaneck on March 28, 1992.

Mr. Speaker, I know that this event will be a source of great pride for Anthony, his devoted wife Patricia, and their children A.J. and Allyson. In addition, Anthony's many friends and colleagues will be on hand to honor him on this most special occasion.

Mr. Speaker, Anthony J. Fusco, Jr., has an extensive and praiseworthy record of inspiring and effective leadership, for which he has earned the deepest respect and admiration of the citizenry of his community. This includes a distinguished tenure as a member of the Essex County prosecutor's office, trustee of the Passaic County Bar Association and current chairmanship of the American Cancer Society Board of Passaic County Unit.

Through his efforts in behalf of the city of Passaic, Passaic County, and New Jersey, Anthony J. Fusco, Jr. has inspired a new commitment to volunteer service within his community and has instilled a spirit of unity and optimism amongst all those who share this commitment.

Mr. Speaker, it is citizens such as Anthony J. Fusco, Jr., who contribute so much to the business and social fabric of our communities. I appreciate the opportunity to present a brief profile of a man who has given so much to his community, State, and Nation, and who has immeasurably improved his world through his innumerable contributions—Anthony J. Fusco, Jr., the recipient of the second annual American Cancer Society, Passaic County Chapter, "Man of the Year".

CONGRATULATIONS TO WISCONSIN'S "VOICE OF DEMOCRACY" WINNER

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. GUNDERSON. Mr. Speaker, it is with great pleasure that I rise to congratulate Donald Barkauskas, the Wisconsin winner of the Voice of Democracy Broadcast Scriptwriting Program.

The Veterans of Foreign Wars of the United States and its Ladies Auxiliary sponsor the program each year in which over 147,000 students from around the country compete for $76,500 in scholarships. The topic of this years contest was "Meeting America's Challenge".

I would also like to commend Don, a senior at Logan High School in La Crosse, WI, on the many academic awards and recognitions he has received. I wish him success in the future as he pursues his goal of becoming a professor of mathematics.

I am including Don's impressive essay as it attests to the exceptional ability this young man has.

MEETING AMERICA'S CHALLENGE

(By Donald Barkauskas)

In the last few years, the world as we know it has been drastically changed. National boundaries have been drawn and redrawn almost daily, and more and more people have been crying for freedom. As recently as three years ago, it seemed the Iron Curtain would never lift from Eastern Europe. However, since the removal of the Berlin wall, Communist leaders have watched helplessly as the Soviet bloc has rapidly disintegrated. With the decline of the Soviet Union's prestige among these newly independent nations, there is a vacuum of leadership which must be filled. America's challenge is to serve as an example for these countries as they rebuild their governments. Now is the time for America to lead the way into the future.

But before America can serve as an example for these countries, it must insure that its own democracy is solidly based. Democracy is the ultimate belief in freedom; it is based on the tenet that every member of society should have the chance to participate in government. The entire country consists of a government, and every person in the nation must be capable of making good decisions. Therefore, for any democracy to be truly successful, there is one basic requirement: an educated populace. Without educated voters, a democracy degenerates to near-anarchy, with chance as the ruling force. Thus, America's challenge can best be met by improving our educational system to meet today's needs.

To improve our educational system, there are several goals that need to be accomplished. First, we must attract more people to teaching. Many people who would be excellent teachers do not pursue careers in education because salaries are too low. Teachers are the foundation of our educational system, and as such, they should be among the highest paid workers in America. We cannot afford to have our students taught by anyone other than the best. Secondly, we must adjust the curricula in our schools to de-emphasize rote learning and memorization and encourage independent thinking. An education cannot merely consist of facts; it must also involve putting those facts together, forming conclusions, and expressing those conclusions both orally and in writing. To be valuable members of a democracy, people must have the ability to think, not just memorize.

Finally, we must be certain that everyone has an equal opportunity to a good education. Many students, especially the poor, receive sub-standard educations due to the lack of proper materials and good teachers. If a democracy is to work, every person in it must have the opportunity to be a valuable participant; that is, the entire population must have an opportunity to be educated, contributing citizens.

With better education to improve our own system, the United States can serve as an example of what goals a democratic society can accomplish. Admittedly, other nations could serve as examples for democracy, but the United States must be an example, because in the eyes of the world, it is democracy. The United States' system is not perfect, but as Natwar Ghandi said, "What matters is not that America falls short of its promise, but that it continually strives toward that promise. That is American genius." This, then, is America's challenge to: to provide world leadership by striving toward the ultimate goal: a society of free, educated people.

GET SMART WITH WATER

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. MILLER of California. Mr. Speaker, Californians continue to confront two droughts that endanger the future of our State.

One is a drought caused by a lack of precipitation combined with antiquated irrigation policies, costly subsidies, and archaic allocation formulas.

The other is a drought of sound legislative remedies to bring California's water policies into the modern era.

The legislation that I have developed, together with Senators BENNETT JOHNSTON and BILL BRADLEY, would end the wasteful, costly, and harmful practices that have forced taxpayers to subsidize unconscionable irrigation practices and have destroyed much of our State's wetlands and fish and wildlife habitat.

For years, we have made diligent efforts to end the widely documented, flagrant abuses that pervade the Western water program. We have had some success. This House continually votes to end the abuses and to defer approval of additional projects, or improvements, until the program is environmentally and fiscally sound.

Unfortunately, we have had less success in having the laws implemented. The intervention of financially and politically connected forces on behalf of a small agricultural lobby have effectively stonewalled against reform. They have the ear of the Interior Department and White House. Indeed, they boast about their political muscle to block measures designed to assure that our water policies serve all Californians and all Americans not simply the greedy few.

Tragically, last week, the latest act in the drama of subsidized growers versus the public's best interest was played out in the Senate Committee on Energy and Natural Resources. Once again, despite the leadership of Senators JOHNSTON and BRADLEY, the irrigators blocked our reform measure and substituted instead a grower-crafted alternative that would perpetuate subsidies-as-usual, and send the bill to millions of water-short/cash-short taxpayers in Los Angeles, San Jose, San Diego, and scores of other cities.

Over the past year, the press of California has recognized the huge stakes involved in this debate, and have rightly condemned those who act solely in the interests of a small cabal of self-interested irrigators. A forceful and accurate statement was published in the San Jose Mercury News this past weekend, and I wish to share it with my colleagues, who will hopefully soon have the opportunity to vote again in support of meaningful reform of the Central Valley project.

The article follows.

[From The San Jose (CA) Mercury News, Mar. 22, 1992]

GET SMART WITH WATER

The fishing season for salmon off California may be canceled. Some Central Valley farmers canceled the cotton-growing season last year. Many homeowners in the Bay Area have canceled lawn-watering for a couple summers.

These cancellations have a common cause in California's two systems of dams, reservoirs and canals—the State Water Project and the federal Central Valley Project—that provide water to Central Valley farmers and cities from San Jose to Los Angeles. They have been taxed by the drought. As with a drained lake that reveals the skeletons of sunken ships, two water problems now stand in stark outline, one environmental, one economic.

Environmentally, the diversion of water to agriculture is killing fisheries and wetlands. Salmon, which used to be counted in the hundreds of thousands, are down to tens of thousands. One subspecies is listed as endangered.

The delta smelt is a candidate for the endangered list. Migrating waterfowl, which numbered 10 million in the Central Valley in 1970, now number about 3.5 million.

Economically, agriculture, which accounts for 3.5 percent of the total state economy, receives 80 percent of the developed water, which is the water that is captured and distributed. As California's population continues to grow, the need for water in cities—and the businesses in them that drive the economy—will grow as well.

The federal system costs the nation's taxpayers about $135 million annually, because the recipients of water don't pay the full cost of the water they get.

A rational water distribution system would set aside a reliable supply for fisheries and wildlife refuges. It would price and distribute water to encourage conservation, to use it for the greatest economic benefit and to save the taxpayers some money.

A market in water will not devastate agriculture. Farmers use 80 of every 100 gallons of developed water; cities, 20. Drop farmers to 70, a 12.5 percent cut, and the cities' supply increases 50 percent, plenty for the near future.

Sen. Bill Bradley, D-N.J., with Democratic California Sen. Alan Cranston, has introduced a bill to turn the Central Valley Project toward those goals.

When long-term water contracts with farmers expire, as they are doing now, the bill would block renewal unless water is set aside for fisheries and wetlands. And it would allow farmers to sell water to anyone, as long as the farmers pay, either in money or water, into a conservation fund.

This gives farmers an incentive to conserve, because, unlike now, they will be able to sell the water they save.

Bradley's bill was stopped in the Senate Energy and Natural Resources Committee last week by California's other senator, Republican John Seymour. He has introduced his own bill, in an attempt to maintain business as usual, with farmers receiving subsidized water through long-term contracts.

Despite Democratic control of the committee, Seymour's bill passed the committee as part of an omnibus water bill dealing with water projects in several states. Committee chairman J. Bennett Johnston, D-La., who has proposed a bill very similar to Bradley's, adopted a strategy of waiting until the bill reaches a House-Senate conference committee to fix it.

Californians should hope the strategy will work. Seymour's ideas for water policy won't help California's environment or economy.

Seymour would help the environment if there is water and money left after farmers are taken care of. Mostly his bill would just tinker with the distribution facilities, such as a new temperature control device at Shasta Dam. But there's no promise of additional water for rivers or wetlands.

The contrast between Bradley-Johnston and Seymour illustrates which bill protects which interests.

Unlike Bradley and Johnston's conditions on contract renewals, Seymour's bill mentions nothing.

Bradley and Johnston propose a surcharge on the customers of CVP water and power to raise $30 million a year. Seymour limits what CVP customers have to pay and sticks taxpayers with the rest of the bills.

Bradley and Johnston would require conservation. Seymour would study it.

Seymour claims his bill will let California's water policy be set by Californians. But it is Bradley and Johnston who would study transferring the Central Valley Project to California. Seymour's bill says nothing.

Bradley and Johnston would free farmers to resell water. Seymour would make sales subject to the veto of irrigation districts, which block them now.

Johnston has proposed tiered pricing so that the last 20 percent of a farmer's contract would cost him full price, another inducement to conserve. Seymour doesn't address pricing.

Had Bradley and Johnston's plan been in place during the drought, fish and waterfowl would have received better protection; rising prices would have encouraged conservation, by farmers and suburbanites, from the drought's beginning; farmers could have profited by selling water to cities; businesses could have been more confident of their water supply.

Seymour's plan, instead, benefits a fraction of California's population and economy at the expense of the environment and the majority.

INDIAN DERIVATION OF STATE NAMES

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res 217, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my ongoing series this year, I am providing for the consideration of my colleagues a short article from the National Geographic Society written by Wallace L. Chafe entitled "A Richness of Words, A Babel of Tongues."

A RICHNESS OF WORDS, A BABEL OF TONGUES

(Wallace L. Chafe)

WHAT'S IN A NAME?

"Leaving natural breaths,
sounds of rain and winds . . .
they depart, charging the water
and the land with names."

So Walt Whitman heard the music of Indian names that dot the land by the tens of thousands. Half our states take their names from Indian words. The following derivations, with meanings where known, are based on contemporary scholarship

Alabama—from the Muskogee tribe name *alipama;* the state motto, "Here we rest," is a legendary interpretation. Alaska—from alakhskhakh, Aleut name for the Alaska Peninsula. Arizona—a Spanish mining camp, from the Papago for "little spring." Arkansas—from *akansea*, the Illinois name for the Quapaw. Connecticut—from the Mohegan for "long river." Illinois—French tribal name from Algonquian *iliniwak*—men. Iowa—tribal name, via French, from the Fox *aayahooweewa*, perhaps ultimately Dakota *ayuhba*, interpreted as "sleepy." Kansas—from the Kaw name for themselves, via Illinois and French. Kentucky—first recorded as a river name, but perhaps from an Iroquois word for "planted field." Massachusetts—adaptation of a tribal name derived from the name for Blue Hill south of Boston; literally "big hill." Michigan—perhaps Ottawa for "big lake." Minnesota—from *mnisota*—"cloudy water," a Dakota river name. Mississippi—Illinois for "big river." Missouri—French adaptation of an Illinois name meaning "those with dugout canoes."

Nebraska—from *nibdhathka*—"flat river," the Omaha name for the Platte. New Mexico—from the Aztec name of Mexico City, believed by some scholars to mean "place of the god Mexitli." North and South Dakota—from *dakhota*—"friendly ones," the Dakota name for themselves. Ohio—French form of the Seneca name for the Allegheny-Ohio; means "beautiful river." Oklahoma—Choctaw for "red men"; the name "Oklahoma Territory" was coined by a Choctaw leader as a translation of "Indian Territory." Tennessee—from *tanasi*, a Cherokee name for the Little Tennessee River. Texas—see page 154. Utah—from *yuuttaa*, the Ute name for themselves. Wisconsin—an Algonquian river name. Wyoming—Delaware for "big river-flats," the name of a Pennsylvania valley widely popularized in a romantic tale of the 19th century.

RACHEL SAPOZNIK HONORED AMONG DADE'S TOP BUSINESSWOMEN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, it is an honor to acknowledge Ms. Rachel Sapoznik for her success as president of Sapoznik Insurance. Ms. Sapoznik was honored at a luncheon sponsored by the National Association of Women Business Owners at the Miami Airport Hilton. During Women's History Month, in a celebration titled "Recognition '92," the luncheon honored five of Dade's top women business owners. The women were honored for having excelled in their businesses as well as for their community involvement. Susana Barciela of the Miami Herald reports:

When Rachel Sapoznik couldn't meet sales quotas after her first child was born, she was fired. So she started her own insurance company out of her home, changing diapers with one hand and handling phone calls with the other.

"Sometimes, if you can't work within the confines of corporate America, you have to go out and start something of your own," said Sapoznik, 31.

At the time she left the big insurance firm in 1985, there was no maternity leave for insurance agents. Though she initially feared it would be impossible to run a business and take care of a newborn, Sapoznik grew her firm, selling even more policies through two additional pregnancies.

Today, her firm handles $4 million in annual premiums and doesn't apply monthly sales quotes. "I feel people work a lot better that way. The incentive is theirs," she said, "I use the same tactic I would want used on me." Of the eight people who work in her firm, three are insurance agents.

Antonia Gary, one of the awards judges, said Sapoznik showed impressive drive.

"She took something that could have been a very negative and inhibiting experience and turned it into a successful venture," Gary said. "She's a very smart cookie."

Those smarts led Sapoznik to specialize in selling group health plans, primarily to small businesses. Her sales approach: She shows companies how they may save money down the road.

A south Florida native, Sapoznik lives in North Miami Beach and works across from John F. Kennedy Middle School, which she attended. Supporting her community not just with money but with time, she attends school and Jewish Federation events and is active in Hadassah, a social service group.

"You have to show your support for anything you believe in," Sapoznik said. "I feel people are beginning to care more now, and I hope my generation makes a difference."

I wish to congratulate Ms. Sapoznik for her outstanding leadership in our community, as well as her dedication and perseverance to succeed in her business. Ms. Sapoznik is a model and a source of inspiration for our community's young adults and inspiring entrepreneurs.

SALUTE TO FRANK SALAZAR

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. GALLEGLY. Mr. Speaker, this coming Friday, the man whose name is synonymous with the cultural resources of Ventura County, CA, will be honored for more than 30 years of service to his community, and I ask my colleagues to join me in saluting him as well.

Frank Salazar has been and remains the driving force behind symphonic music in the county, and his efforts have truly enriched the lives of thousands of people.

A native of Albuquerque, NM, Frank Salazar was educated at the University of New Mexico, the Juilliard School of Music in New York, and the University of Southern California, where he earned his master's degree with emphasis on the establishment of community orchestras.

He began his educational career in 1950 at Oxnard High School. Over the course of 6 years, he established two bands, an orchestra and chamber ensembles, as well as cofounding the Ventura County Youth Symphony. In 1956, he founded the Ventura College Community Orchestra, and then 6 years later founded the Ventura County Symphony Orchestra, of which he remains musical director and conductor.

Mr. Salazar's honors are many, but I would like to share a few of them with my colleagues. He received the first annual Latino Achievement Award from Gente magazine in 1983 for devoted service to the community, he was named Ventura's Citizen of the Year in 1986 and in 1985 he was named by the Ventura County Star-Free Press as one of the area's 10 most influential residents of the past 50 years.

Mr. Speaker, I once again ask my colleagues to join me in saluting Frank Salazar as he is honored this weekend by Interface Children, Family Services for his valued contributions to Ventura County.

SUPPORT FOR H.R. 2200

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. DORNAN of California. Mr. Speaker, I would like to include for the RECORD a letter signed by representatives of 17 different veterans groups expressing support for my bill, H.R. 2200, which would amend the Uniformed Services Former Spouses Protection Act.

All of these groups, including the American Retirees Association, the Commissioned Officers Association of USPHS, the Air Force Sergeants Association, Catholic War Veterans, AMVETS, Jewish War Veterans of the United States, Association of the U.S. Army, Fleet Reserve Association, Marine Corps League, the Retired Enlisted Association, Military Order of the Purple Heart, Coast Guard Chief Petty Officers and Enlisted Associations, Naval Reserve Association, Veterans of the Vietnam War, the Navy League, National Association for Uniformed Services, and the Naval Enlisted Reserve Association, have called upon this body to restore fairness and equity to the military divorce process by passing H.R. 2200.

This legislation would not prevent former spouses from collecting military retirement pay in divorce proceedings. It would only place equity back in the process and put the Former Spouse Protection Act in conformance with other Federal retirement programs. Please join me in restoring fairness for our military members by becoming a cosponsor of H.R. 2200.

AMERICAN RETIREES ASSOCIATION,
March 16, 1992.

Hon. LES ASPIN,
House of Representatives, Washington, DC.

DEAR CONGRESSMAN ASPIN: The Uniformed Services Former Spouses Protection Act (USFSPA), Public Law 97-252, was a well-intentioned piece of legislation, enacted in September 1982 to protect deserving, divorced spouses of military members. But it has created an even larger class of victims than the spouses it was designed to assist: the military retiree and his or her second family.

The undersigned representatives of veterans and military service organizations respectfully request your support for a package of amendments that would effectuate long-delayed reform of the USFSPA, restoring fairness and equity to the military divorce process.

The amendments have been introduced by Rep. Robert K. Dornan as H.R. 2200. They were developed in close coordination with the Department of Defense. Background information is provided herewith.

The proposed legislation, called the "Uniformed Services Former Spouses Protection Act Fairness Amendments", would:

1) Terminate payments of retired pay upon remarriage of former spouses, placing USFSPA in conformance with other federal retirement programs.

2) Restrict awards of retired pay to an amount of percentage based on pay grade and length of service at time of divorce, not at retirement.

3) Set a statute of limitations giving former spouses two years from the date of final divorce to file for a division of retired pay.

4) Make more specific the current prohibition on division of veteran's disability compensation.

5) prohibit courts from ordering any payments under the act from active duty pay.

We strongly feel that military members—active and retired, women and men—have been treated unfairly by the act since its passage in 1982. Although congress two years ago passed a much-needed prohibition on certain retroactive reopenings of divorces, a comprehensive set of amendments continues to be required to make the act more equitable and curb judicial misinterpretation. The legislation we advocate is designed to do both.

We believe that reform of USFSPA will be a perennial issue on Capitol Hill unless Congress, once and for all, passes amendments similar to those we are advocating. We hope 1992 will be the year that happens.

Thank you for your consideration on this very important issue.

Sincerely,

TRIBUTE TO LONNIE McCOLLOUGH

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. SAXTON. Mr. Speaker, all of us who sit in Congress appreciate the hard work put in by legislative liaisons. These people—the conduits through which Congressmen and their staffs get necessary and vital information about Government agencies—are invaluable to us and the people we serve.

Today, I would like to honor the legislative liason from Fort Dix in my home State of New Jersey.

Since June of 1970, Lonnie McCollough has fielded congressional inquiries with genuine dedication. He has given each inquiry the utmost attention, no matter how trivial or difficult.

My staff and I owe Lonnie a great deal of thanks for the help he has given us over the years.

Lonnie has announced his retirement and now will give his attention to the one person who truly deserves it: his wife, Hedy.

I am sure I am joined by my colleagues who have worked with Lonnie through the years in wishing him and his family the best of luck.

Lonnie, thanks for a job well done.

SUMMARY OF CONGRESSMAN SLATTERY'S AMENDMENT TO H.R. 3553

HON. JIM SLATTERY

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. SLATTERY. Mr. Speaker, currently, the interest rate accruing on guaranteed student loans is a fixed rate set at 8 percent. This rate is calculated by adding the 91-day Treasury bill rate to a special allowance for lenders set at 3.25 percent. During the loan period, the Federal Government subsidizes the student's loan by paying the interest on it while the student is in school.

Because the T-bill rate is currently very low, the actual interest accruing on student loans, T-bill rate + 3.25 percent special allowance, is less than the 8 percent being charged. This excess interest can be used for cost savings by the Government.

H.R. 4471, the substitute for the higher education reauthorization, uses the excess interest to reduce the loan principal of the borrowing student while he or she is repaying their loan.

The Slattery amendment would benefit the Government in a similar way. While the Government is paying interest on a student's loan during his or her in-school period, any excess interest would be credited to the Government. This measure alone could save the Treasury millions of dollars.

Even conservative estimates point to large savings. If one estimates an annual loan volume of $6.75 billion, only half of the 1991 loan volume, times 1 percent excess interest, the estimated cost savings for a single year would be $67.5 million.

The Slattery amendment would not affect the banks special allowance, a rate calculated to protect the financial interests of the lending community. At the same time substantial cost savings can be realized by the Government during this time of fiscal austerity.

AMENDMENT TO H.R. 3553, AS REPORTED

(Offered By Mr. Slattery)

Page 163, strike line 20 and all that follows through line 3 on page 164 and insert the following:

an adjustment shall be made—

"(A) by calculating excess interest in the amount computed under paragraph (4) of this subsection; and

"(B)(i) during any period in which a student is eligible to have interest payments paid on his or her behalf by the Government pursuant to section 428(a), by crediting the excess interest to the Government; or

"(ii) during any other period, by crediting such excess interest to the reduction of principal to the extent provided in paragraph (5) of this subsection.

TRIBUTE TO ELKIN C. McCALLUM

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. ATKINS. Mr. Speaker, it is with great respect that I rise today to pay tribute to Mr. Elkin C. McCallum of Tyngsborogh, MA who has recently been selected as the recipient of the An Wang Award and the Northern Middlesex Chamber of Commerce Businessman of the Year.

Elkin McCallum is truly remarkable individual, a man who has come to symbolize the belief that commitment to hard work, education, and family is still the key to success.

Upon his graduation from Lowell High School, Elkin began working in the fabric development area of Joan Fabrics in Lowell, MA at the age of 18. His dedication to his work during the day and night classes at Bentley College, where he earned his degree, enabled Elkin to reach a tremendous level of achievement. Just 27 years later he had worked this way to become the president, CEO, and sole owner of the company, one of the leading manufacturers of car seats and furniture upholstery.

Mr. McCallum is also a dedicated family man. Together with Donna, his wife of 28 years, Elkin has raised a daughter, Kerry, who has chosen to follow in her father's footsteps with a career at Joan Fabrics.

In addition to his numerous achievements in the business world, Elkin McCallum has contributed a great deal to his community. He is currently chairman of the board of St. John's Medical Center and a member of the Bentley College Board of Trustees. He was a member of the board of directors for the Northern Middlesex Chamber of Commerce, the Merrimack Valley United Way, and treasurer of the Centralville United Methodist Church. Perhaps his greatest contribution to the community, one that illustrates his strong commitment to education, was his creation of the McCallum Foundation Scholarship Fund which helps provide funding to less fortunate students who wish to pursue higher education.

So, Mr. Speaker, I ask that you join me today in congratulating Mr. McCallum for receiving both the An Wang and Businessman of the Year awards. While at this time it is satisfying to look back at Elkin's achievements, it is even more gratifying to look forward to his continued involvement in the community as a role model to the importance of hard work, education, and family.

TRIBUTE TO ROBERT SYLVANUS DALLEY, PIONEER AND VETERAN OF WORLD WAR I

HON. RANDY "DUKE" CUNNINGHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. CUNNINGHAM. Mr. Speaker, on November 12, 1991, California lost a beloved citizen and valued witness to American history, Robert Sylvanus Dalley. What distinguished him was not only his longevity—he lived to the age of 101—but the life he lived, a life that embodied the pioneer spirit of the old West.

His grandparents immigrated to America from England and Denmark, settling in Utah with the earliest Mormon settlers.

Traveling by covered wagon westward to Wyoming, his family settled in the 1890's. From pioneer beginnings, Mr. Dalley's biography is a threat through the American century, waving through the sparsely populated Rocky Mountain West, World War I, and the great migration to the Golden State of California, from the Industrial Revolution to the Space Age.

After completing grade school in Alta, Mr. Dalley continued his education at the Ricks Academy in Rexburg, ID, then the Teton Valley High School in Driggs, ID. He dropped out in his third year of high school in 1911 to work in the print shop of the Teton Valley News.

Mr. Dalley termed this a spur of the moment decision, and his tenure at the News was short. Barely a week after quitting school, Mr. Dalley was called to fill a mission for the Church of Jesus Christ, Latter Day Saints. Being that his Teton Valley High School principal was also the L.D.S. Church's stake clerk, Mr. Dalley felt that the principal must have had a hand in his mission.

Mr. Dalley was ordained an Elder in the church in April 1911, and sent to the Central States Mission, then headquartered in Independence, MO. His initial homesickness was overcome as he preached in L.D.S. chapels, on street corners, and in the homes of friends and prospective church members, gaining skill and reputation as an accomplished public speaker. Mr. Dalley figured he walked over half of Missouri in the 27 months he spent there.

On one of his journeys, in the spring of 1913, he was distributing pamphlets in a residential district of St. Louis when he heard a woman scream. He looked and saw a man chasing her with a raised hatchet, striking a glancing blow to her head before Mr. Dalley could get to them. He prevented another blow by grabbing the man's arm. A crowd gathered, the police arrived, and the man was arrested. Mr. Dalley stayed over in St. Louis as a witness in the case.

His selfessness marked his whole life.

Mr. Dalley finished his mission in the winter of 1915, in Jackson Hole, WY, where he returned to work at the Teton Valley News. In 1916, he was hired to manage and edit the Jackson Hole Courier. Two years later, the Army drafted him.

Mr. Dalley received his basic training at Camp Lewis, WA, where he learned Army life and became a squad leader. His company then moved to Camp Kearny in Fresno, CA, where the company continued drilling and rifle practice in preparation for action in the war in Europe.

They crossed the country and the Atlantic and arrived in Liverpool, England, marching to a rest camp where they stayed until August 22.

Packed like sardines, with only standing room, the troops left England for Cherbourg, France, where their march to the German frontier, with its battlefront in the Argonne Forest, began. For 3 weeks the troops marched, fortified by a meager diet of corned beef slum and hard tack crackers. Mr. Dalley's company had outrun the supply trains, and the officers didn't wait. The company finally stopped for a week or two in the French town of San Surgis, where the men came down with the flu, interrupting their usual schedule of drill and range fire.

Around September 15, 1918, the company boarded cattle cars headed for the front. Mr. Dalley was attached to Company E of the 305th Infantry, 77th Division, New York's Own. From a high, wooded hill, Mr. Dalley had his first view of the trench warfare of World War I. On September 23, 1918, Company E's extra equipment, including personal effects, was taken from the troops, leaving them with only battle dress and a rain slicker. They were issued fresh ammunition and grenades and marched to the front, where they replaced the French in the Argonne.

They waited for an all night allied artillery barrage to abate, then the company was ordered over the top and into the German defenses. There were no Germans in the first set of trenches, and in the second set of trenches, Mr. Dalley and Company E surprised the enemy completely. They captured hundreds of Germans with scarcely a casualty among the American troops—a rare achievement in a war known for its high cost in human lives.

Having cleared the second set of trenches, the company advanced over rolling, sparsely timbered country and met their first resistance. Machinegun and artillery fire fell in their midst. The American troops were flanked, taking heavy fire. Favorable cover kept Mr. Dalley protected, while several nearby soldiers were killed and wounded.

From the opening of the Argonne drive, Mr. Dalley describes how the Americans pressured the Germans to grudgingly give ground. The company advanced by night under cover of darkness, with the balance of the night spent lying prone on the ground with guns loaded and out in front of us, as Mr. Dalley described the scene. Company E had orders to shoot anything that moved, and they did some shooting.

The men scarcely had a night's rest. Several times, the company was ordered to stay awake all night, ready to move out at a moment's notice. Mr. Dalley described the situation thus: "It was not enough that we starve and work, and freeze, and fight; that we wallow in mud and endure enemy fire, but we also were subjected to severe bombardment by our own artillery and ordered over the top into enemy fire when it was well known that the enemy had been heavily reinforced, were well entrenched, and ready for us."

After a night of retrieving Americans wounded in the daylight assaults, then carrying them a half mile behind the line to the aid station, Mr. Dalley arrived back at the line as the Germans were continuing a moderately heavy bombardment, using proximity-fuzed rounds that exploded directly overhead. Before digging in, he aided a man who had been shot through the kneecap the previous afternoon. As he dug his own bivouac, a round exploded directly overhead. Shrapnel pierced his helmet, wounded his head, and knocked him out; he awoke with blood streaming down his face. Mr. Dalley made his way back to an aid station, where his wound was bandaged. He traveled rearward to Allerey, France, to recuperate for a month in a hospital.

On November 11, 1918, while Mr. Dalley was preparing to return to the front, the armistice was signed with Germany, ending the Great War. "That was a particularly happy day for those of us who were booked to go back to the front at once," Mr. Dalley recalled, with characteristic understatement.

Returning to the United States as a soldier in the 77th Division, New York's own, Mr. Dalley marched in a parade down New York's 5th Avenue, then spent much of the spring of 1919 seeing the sights in and around New York City. He returned to Wyoming, where he was discharged on May 19, 1919.

Ordinarily, a soldier is awarded the Purple Heart for wounds suffered in combat. But a clerk's error on Mr. Dalley's discharge papers meant that he did not receive his decoration until 66 years later, in 1984, when the mistake was discovered and corrected.

Mr. Dalley settled in Driggs, ID, where he left off before he left for the war. He was engaged to Reva M. Goodrick of Wilson, WY, having met in the winter of 1917. On October 2, 1919, they were married in the Salt Lake City L.D.S. temple.

In the years following their marriage, Mr. Dalley worked in a Teton Valley hydro-electric plant as a construction worker on the Snake River Bridge, in a sawmill, and was elected county assessor of Jackson County, WY, on the Republican ticket. After finishing his assessor's work for the summer, in September 1923, Mr. Dalley edited the Jackson Hole Courier. But the owner died on a hunting trip, and Mr. Dalley found himself running a newspaper alone.

He noticed an advertisement for prospective forest rangers. He took the exam, passed it, and was offered an appointment in the Forest Service, which he accepted. He ran several forest districts in Wyoming before being sent to Kansas in 1936—the Great Dust Bowl—to work on soil and range improvement.

After 28 years in the Forest Service, Mr. Dalley retired and settled in Lemon Grove, CA, with Reva. He didn't slow down. He worked in an aircraft plant, then as a bookkeeper for two moving companies, actively participating in the L.D.S. church until his death last fall.

Mr. Dalley is survived by two daughters, Iwana Baranov of Ramona, and Viora Woempner of Lemon Grove; a son, Dennis Dalley of Sandy, UT; a brother, Milo H. Dalley of Rexburg, ID; five grandchildren; twelve great-grandchildren; and one great-great-grandchild. His beloved bride Reva preceded him in death, having passed in June 1991.

May this tribute to Robert Sylvanus Dalley, today entered into the permanent RECORD of the Congress of the United States, serve to give honor to the values he exemplified and valued during his long and fruitful life.

A SPECIAL TRIBUTE TO THE SHAW HIGH SCHOOL MOCK TRIAL TEAM

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. STOKES. Mr. Speaker, I would like to congratulate the Shaw High School Mock Trial Team for placing in the Cleveland-Marshall Seventeenth Annual Areawide Mock Trial Competition earlier this month.

The mock trial brings together high school students and social studies teachers and presents them with a fictitious case to argue or defend. The College of Law's Street Law Program, the Cleveland Bar Association, the Ohio Center for Law-Related Education are sponsors of the mock trial competition.

Shaw High School, which is located in the East Cleveland section of my district, is recognized throughout the State of Ohio as an eight-time winner of the mock trial competition.

Mr. Speaker, the competition provides Shaw High students with valuable experience and knowledge, allowing them to view everyday experiences from a more mature perspective.

This year students argued an AIDS case. In the case, a student tests HIV positive and sues a medical provider. The media intervenes asking the court to allow media access to the court proceedings. The students had to decide which is more important. The right to privacy or the public's right to know. The high school students performed as witnesses and attorneys as they argued their case before a panel of actual judges. The students worked extra hard in order to prepare for the trial by researching months in advance.

Mr. Speaker, I am honored to pay tribute to the Shaw High School mock trial team members Gayle Williams, Harlynn Goolfby, Aquil Wynn Bey, Sharell Brooks, Terry Ballard, Kimberly Floyd, James Walker, and Honey Bell-Bey. I would like to commend Shaw High School principal Stephen J. Lloyd and his staff for assisting the students in this important endeavor. I wish him and the Shaw High School mock trial team much continued success.

PERTINENT POINTS ABOUT THE STATE OF THE NATION AND ITS FUTURE

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. DANNEMEYER. Mr. Speaker, Mr. Bob Shirk, a constituent from my home district, had some thoughtful and pertinent points to make about the state of the Nation and its future. I bring his comments to your attention:

> I am 70, twice retired, and work part-time driving for an auto auction, with many other WWII retirees. During lunch, we often have round table discussions about World and Domestic affairs. Yesterday, of seven participants, surprisingly six of us declared intentions of not voting for any incumbent now in office. This is a disturbing indication of the extreme dissatisfaction which most people in the U.S. have, with the incompetence and in-

difference of our Congress (and our President) to balancing the Budget, and resolution of the many domestic problems which confront us. We are so tightly bound with the umbilical cords of every other Nation on Earth, which we are contributing support, that we have neglected to maintain a healthy economy at home. (I am anxious to learn how soon California flood victims will be flooded with disaster relief funds and contributions from Israel, Egypt, England, France, et cetera, et cetera, due to the Red Cross Director's recent announcement that they are $25 million in debt).

One of our group, a Mexican man, with an 11th grade education, posed this question: "How did I raise a family of four children, on a minimal income, balance my budget, pay my taxes, with only minimal education, when those high salaried, well-educated Congressmen (mostly lawyers—nothing personal intended) cannot balance the Federal Budget?" The very simple and basic solution is to restrict your spending to less than your income, setting aside a small portion for emergencies.

His question would be an appropriate one to present to your fellow Congressmen. Mr. Bush has stated that "We Won the Cold War!" Oh, Really? Russia defeated itself. He also takes credit for a victory in the Gulf War, yet Hussein still retains his liberty and license to continue in practice, despite the millions the American taxpayers spent over there, and the disastrous damage he caused to Kuwait and to the ecology. Mr. Bush's reference to the ostrich in his speech was rightfully included, but misdirected. Perhaps he should have mentioned the chicken, instead of the eagle, with respect to our status in world affairs.

Bill, you are my one, and only, favorite Congressman, and the only one, for whom I will cast a vote for re-election.

Voting incumbents out of office, in mass, may be a dangerous approach, but retaining them in office, seems even more dangerous.

I am becoming more and more convinced that a limit of two terms with no pensions or perks, may be the one and only way to attract truly dedicated men to restore this Country to the stature it had before World War II.

The only conclusion which we have drawn in our discussions is that the majority of Congressmen are self-serving, selfish, and dedicated only to their own interests, serving those who can return their favors, and don't give a damn about the future of our Country and future generations.

TRIBUTE TO CARTER MANASCO

HON. TOM BEVILL

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. BEVILL. Mr. Speaker, I rise today to pay tribute to my good friend Carter Manasco, the former Alabama Congressman and long-time lobbyist for the National Coal Association who passed away recently.

Carter was a special friend to many of us on Capitol Hill—Congressmen, journalists, and staff members. We enjoyed his wry sense of humor, his pearls of wisdom and his frequent visits.

Carter was from my hometown of Townley, which is located in Walker County, AL. It's coal mining country and Carter actually worked in the mines during his younger years.

He worked his way through the University of Alabama Law School and practiced law in Jasper. After serving in the Alabama State Legislature, Carter moved to Washington in 1933 to work for House Speaker William B. Bankhead.

I imagine that Carter and his cigar contributed to more than a few smoke-filled back rooms, in those days. As Speaker Bankhead's right-hand man, he certainly learned the ways of Washington. And, he made some long-lasting friendships in the press galleries which he visited on a regular basis.

After Speaker Bankhead died, his nephew, Walter Will Bankhead, served briefly in the seat before returning home to Jasper. When the next general election came around in 1940, Carter's friends talked him into running.

He was elected to represent what was then Alabama's Seventh District and served in Congress from 1941 to 1949.

Carter was a very conservative Congressman. In fact, he was frequently at odds with the Democratic leadership and with then-President Harry Truman. As chairman of what is now the Government Operations Committee, he bottled up the full employment bill and got quite a bit of national attention.

Knowing Carter, he wasn't letting anyone tell him what to do. Carter kept his own counsel throughout his life and I never heard anyone question his integrity and judgment. He was a pretty good poker player and I'm sure he knew "when to hold 'em and when to fold 'em."

When he left Congress, Carter went to work as a lobbyist for the National Coal Association and became a well-known figure on Capitol Hill.

As a former Member of the House, he had floor privileges and access to Member lounges. Carter kept up his friendships with the Members, the congressional staff, and the press. I don't think anyone knew more people in Washington than Carter did.

Even after his retirement in 1985, Carter came to the Capitol every day, visiting the press galleries and the offices of the Alabama congressional delegation.

He would come to my office, visit with the staff and catch up on our hometown newspaper. Then he'd make the rounds on the Senate side. If Carter didn't show up, we'd be calling around to find out where he was. That's how much we thought of him.

We're all going to miss Carter. He was such a unique individual. Everybody who knew him, loved him. And, just about everybody knew him.

There won't be any way to replace him and we surely won't forget him.

DEFENSE CUTS SHOW HOW LITTLE WE HAVE LEARNED IN 50 YEARS

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. BENNETT. Mr. Speaker, the Florida Times-Union of Jacksonville, FL, recently ran the following editorial on the defenses of the United States and how Congress is reacting to its responsibilities in these days looking to the future. It cautions against foolhardy and too deep cuts which may cost us in lives and money in the future.

After victory in World War II, the world seemed safe. America demobilized its military forces with a vengeance.

Peace was in hand and the world expected it would remain so. Defense plants closed, soldiers, sailors, airmen and Marines came home as fast as bulging troop ships could sail across the oceans.

In 1945, while the allies were mopping up the Germans and finishing off the Japanese, the United States had 12 million citizens under arms.

In 1946, it had less than 3 million.

That number dwindled until, in 1950, it was 1.4 million.

In June 1950, North Korea—under the direction of its patron, the Soviet Union—attached South Korea.

The United Nations stood up to defend the tiny country from the communist invasion, and the United States was back at war.

The problem was that in the previous five years, the nation had decimated its military force, using the "peace dividend" to balance the federal budget and to get the economy in order.

Fighting raged during that time in Southeast Asia, Greece and the Mideast but the United States was at work rebuilding Europe and trying to devise a policy to deal with the Soviet Union's ambitions.

By 1947, the United States had little military force at all. Manpower was minimal. It had no ready atomic bombs and there was great doubt that the Strategic Air Command could hit any targets anyway. When President Harry Truman told Secretary of State George C. Marshall that he would like to "give the Russians hell" Marshall tactfully suggested that one American division in Europe was not an adequate instrument for even the threat of hell.

Much later, nuclear deterrence would become the policy, but when the shooting started in Korea, the United States found itself little better off militarily than it had been eight years earlier when the shooting started in Pearl Harbor, and almost as surprised.

When the shooting stopped in Korea, the United States had tripled the size of its armed forces and quadrupled the size of its defense budget.

Fast forward to 1992. The Cold War is over and the U.S. House of Representatives is proposing to slash the military budget by twice as much as the president recommended.

Jacksonville area Representatives Charles Bennett and Craig James voted against the $1.5 trillion budget containing those drastic cuts.

Over a period of five years, the House budget would trim $88 billion from the defense spending. The Pentagon calls that excessive.

Certainly, the collapse of the Soviet Union calls for defense budget reductions of reasonable size. But the former superpower's nuclear warheads still exist and there are still formidable threats in the world from other quarters, as we learned 18 months ago in Kuwait.

There is a difference between paring defense down to reasonable size and stripping our defenses to get money to ensure liberal officeholders sufficient votes to remain in office. Congress needs to learn that difference and act accordingly.

NUMBER 1 PROPERTY CRIME—AUTO THEFT

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. SCHUMER. Mr. Speaker, automobile theft has become the Nation's No. 1 property crime problem. Auto crime accounts for more than half of the value of property lost to crime—some $8 to $9 billion each year. Auto theft touched 1 in every 50 American households last year, with more than 1.6 million motor vehicles reported stolen.

To address the growing crisis, I and the gentleman from Wisconsin, the chairman and ranking Republican member of the Subcommittee on Crime and Criminal Justice, join together today to introduce the Anti-Car Theft Act of 1992. This bill would significantly toughen the Federal penalties for auto theft. It would create a new offense for armed carjacking—this is the most recent innovation in auto theft, in which the criminal brazenly walks up to a car waiting at a traffic light, points a gun at the driver, and demands that the car be turned over. Our bill would make armed carjacking punishable by up to 20 years in prison. It would also double the penalties for existing auto theft offenses.

The bill also includes a program for assisting State law enforcement efforts. Several States are now taking creative and resourceful approaches to the problem. Michigan, for example, has set up an Auto Theft Prevention Authority, funded by a $1 per car surcharge collected by insurance companies, that is devoted exclusively to fighting auto crime. This program has been astonishingly successful. Since its establishment, as national auto theft rates have skyrocketed, Michigan's has actually declined by more than 13 percent. Our bill would authorize $10 million in assistance to States following the Michigan example.

In addition to tougher penalties and enhanced enforcement, the bill contains three new and inventive programs aimed at deterring auto theft by taking the profit out of stolen cars. The most prevalent method for making money from auto theft is with so-called "chop shops," which dismantle the stolen car and sell it in parts to shady auto repairers. Broken up, an automobile's parts can fetch up to four times the value of the whole car. Our bill would require that an automobile's major parts be marked with the car's vehicle identification number. This would allow police officers raiding a suspected chop shop to quickly and definitely determine whether the establishment is indeed trafficking in stolen parts. The bill would also provide for repair shops who sell used parts to check the ID numbers of the parts they sell against the FBI database of stolen car ID numbers, to ensure that the parts they are selling are not stolen.

Some auto thieves simply resell the car whole, by obtaining an apparently valid washed title document. A thief washes a title by going to a State's department of motor vehicles, presenting a fraudulent out-of-State title, and saying that he or she has just purchased the car and wants to title it in the new State. By the time the new State checks with the old State, the thief has already sold the stolen car to an unsuspecting purchaser. Our bill would create an electronic clearinghouse that would permit States to instantaneously check the validity of a purported out-of-State title.

A third, increasingly popular, method for profiting from auto theft is to export the stolen vehicle for sale abroad. The stolen automobile is simply hidden in a shipping container and put on an outgoing boat. Our bill would tighten the Customs Service's supervision of exported automobiles, and would direct Customs to spot check containers destined for overseas.

The Anti-Car Theft Act of 1992 is a critically needed step toward reducing the overwhelming cost that auto theft is now exacting. I urge my colleagues to cosponsor this bill.

A TRIBUTE TO FRANCES JEAN NICHOLS

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today the fine work and outstanding public service of Deputy Frances Jean Nichols. She is retiring after dedicating 26 years of service to the Los Angeles County Sheriff's Department and will be recognized at a dinner in her honor on March 27.

Frances Jean was born on January 2, 1941, in Los Angeles where she grew up and attended public schools. From an early age, she had her sights on a career in law enforcement and joined the L.A. County Sheriff's Department in June 1965.

Frances Jean graduated from the Sheriff's Academy in 1965 as a member of Class 107 and began her law enforcement career at the Sybil Brand Institute for Women. During this time, she formulated a waitress training program for inmates in an effort to provide them with a marketable skill.

In 1968, she was transferred to the West Hollywood Patrol Station and began assisting in the production of departmental training films. Ten years later, she was assigned to the San Dimas Station Detective Bureau where she investigated crimes against children and also coordinated the station's Juvenile Diversion Program. Her additional duties included lectures to various civic organizations on rape prevention and training station personnel in first aid and CPR. In 1982, Frances Jean was transferred to the preemployment bureau where she conducted background investigations on Sheriff's Department applicants.

Mr. Speaker, in over 26 years of service, Frances Jean Nichols has served honorably and made extraordinary contributions to our community. I ask that you join me, our colleagues, and friends in recognizing her selfless dedication. Her many years of public service is certainly worthy of recognition by the House today.

MY MAN: CLIFTON W. SKEEN, WILY STATEHOUSE VETERAN

HON. THOMAS C. SAWYER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. SAWYER. Mr. Speaker, I rise today to pay tribute to a most remarkable man, State Representative Cliff Skeen, who, after an outstanding career dedicated to serving the people of the 69th House District of the State of Ohio, will be retiring at the end of this year.

Cliff Skeen celebrated his 69th birthday on March 17, 1992, but he began a long and outstanding career of representing the interests of his community in 1949 when he hired on as a spray painter at Goodyear Aerospace Corp. Cliff quickly became active in the United Auto Workers Local 856 where he held leadership positions of steward, chief steward, plant committeeman, and financial secretary-treasurer.

After 20 years at Goodyear and two earlier races for State representative, Cliff Skeen continued his commitment to serving the community as labor participation director for the Summit County United Way. In 1975, Summit County Democrats elected Cliff to complete the term of office of retiring State Representative Ron Weyandt, when Weyandt became the county sheriff.

Since his appointment in 1975, Cliff Skeen has served eight additional consecutive terms in the Ohio State House of Representatives. Over the years, he has served on every house committee, including his current seats on the joint committee on agency review, finance and development subcommittee, rules, ethics and standards, and children and youth. Skeen also serves on the advisory committees of the bureau of unemployment compensation and the bureau of worker's compensation.

In addition to his numerous professional responsibilities, Cliff Skeen has devoted a significant amount of time and effort to community-oriented projects. He led in the struggle to attain State status for the University of Akron; he was a founding member of the Summit-Portage Comprehensive Health Planning Agency, the Greater Akron Area Council on Alcoholism, and the Ellet Amateur Athletic Association. Cliff was also a trustee of the Salvation Army, Edwin Shaw Hospital, and the Summit Community Action Council.

In recognition of his involvement and dedication to the community, Cliff has received many honors. They included the Good Neighbor Award, the Goodyear Employee Honor Award, the AFL–CIO Community Service Award, Northeast Ohio University College of Medicine President's Award, several Legislator of the Year Awards, and the Distinguished Service to Veterans Award, to name a few.

I am honored to have served in the Ohio House of Representatives with Cliff Skeen and to call him my friend. There are few of us who truly make a difference—Cliff is one of those. He is a man of the highest integrity and sincerity who truly cares about his neighbors, his community and his country.

Cliff has always urged his colleagues, in his words, to remember from whence they came. He has always followed his own advice. And as a result, he remains as close and true to those he serves as anyone I've ever known in public life. He is a model to us all.

I am proud to ask you to join me today in paying tribute to this exceptional man whose dedication and many years of service are certainly worthy of recognition.

CONGRATULATIONS TO THE FINDLAY FALCONS

HON. GLENN POSHARD

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. POSHARD. Mr. Speaker, I rise today to pay tribute to a team that made Illinois High School history earlier this month by winning the Class A basketball State championship tournament. The Findlay Falcons, led by coach Mike Reynolds, became the smallest team to ever win this championship on March 15, 1992 when they beat the Normal-University High School.

Located in central Illinois, neither the community of Findlay, population 868, or its high school with 96 students, is known for its size. But Findlay is known for its basketball teams. For the past 2 years, the Falcons have progressed to the supersectionals. The third time was a charm which gave the Falcons its first ever State championship.

The Findlay Falcons had an impressive regular season record of 31–2. During the regional championship tournament, the Falcons put away the Lovington, Arcola, and Chrisman teams. The Falcons proceeded to the sectionals where they proved themselves again over the Maroa-Forsyth High School. They kept up the momentum when they beat the Springfield Calvary High School, 62–55, at the supersectionals. The final test was when the Falcons emerged victorious over the Normal-University High school with a score of 61–45.

Mr. Speaker, I salute the Findlay Falcons and ask that the following names be included in the RECORD so that the Falcons can be recognized as the champions they are. I wish them all the success in the future.

FINDLAY HIGH SCHOOL

Superintendent: Ron Hash; Principal: Larry Bradford; Head Coach: Mike Reynolds; Assistant Coach: Brett Chaney; Cheerleading Sponsor: Chris Tippit.

PLAYERS

Clayton Stivers; Eric Smith; Jim Allen; Tony Sparks; Joey Howell; Jeremy Chaney; Jason Tucker; Michael Been; Greg Mitchell; Tyler Bradford; Cameron Lawrence; John Cruit; and Dustin Cruit.

Student Managers: John Knieram and David Heinz.

CHEERLEADERS

Marci McClain; Shanna Buechele; Rayna Aper; Chastity McLain; Sarah Been; Christy Cloyd; Chastity Rodman; Decka Carroll; Tanya Park; and Stephanie Lebo.

THE VATICAN SHOULD RECOGNIZE ISRAEL

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. FEIGHAN. Mr. Speaker, today I am introducing a resolution calling on the Vatican to recognize Israel. Today, 100 countries have full diplomatic relations with the State of Israel. Over the last 2 years, the former Soviet Union, along with Bulgaria, Czechoslovakia, Hungary, and Poland have restored relations with Israel. In January, China and India joined the list.

This growing trend toward global recognition of Israel makes the Vatican's position that much more anomalous. The Vatican has special concerns when it comes to the Middle East: for Christian minorities throughout the region; for preservation of and free access to the holy places; and for the constructive role it can play as a force for reconciliation and peace among those of differing faiths. Its role in each of these areas can only be enhanced through the establishment of full diplomatic relations with the State of Israel.

Historically, the Vatican has held informal diplomatic exchanges and consultations with Israeli officials. On January 5, John Cardinal O'Connor, in an act that would have been highly controversial 5 years ago, met with Israeli Prime Minister, Yitzhak Shamir in his Jerusalem office. This meeting was the culmination of a warming trend in Catholic-Jewish relations that began with the papal publication of "Nostra Aetate" following Vatican II. This landmark document deplored anti-Semitism and rejected the belief that Jews were collectively responsible for the death of Christ.

In recognizing Israel, the Vatican could truly culminate this warming trend and at the same time make a powerful contribution to the search for peace in the Middle East—a peace that can only occur when countries are willing to recognize the reality and the legitimacy of the State of Israel. It's time for the Vatican to join the rest of Europe and the international community and change its current policy.

Today, along with 37 of my colleagues, I am introducing a resolution expressing the sense of the Congress that the Vatican should recognize the State of Israel and establish full diplomatic relations with that country. I ask that a copy of the resolution be printed following this statement.

H. CON. RES. 298

Whereas 100 governments of every political form maintain full and formal diplomatic relations with the State of Israel;

Whereas the Vatican and the State of Israel have maintained formal channels of communication;

Whereas the Vatican and the State of Israel participate in ongoing consultations and informal diplomatic exchanges;

Whereas the end of the Cold War facilitated the re-establishment of diplomatic relations between Israel and the nations of Eastern Europe and between Israel and the former Soviet Union;

Whereas the 5 permanent members of the United Nations Security Council all now maintain full diplomatic relations with Israel;

Whereas the "Nostra Aetate" calls for Catholic-Jewish dialogue and understanding;

Whereas the National Conference on Catholic Bishops' statement, entitled "The Pursuit of Peace with Justice," supports the "rights of Israel to existence as a sovereign state with secure and recognized boundaries";

Whereas the National Christian Leadership Conference has urged Pope John Paul II to formally recognize the State of Israel;

Whereas the Vatican has demonstrated constructive support for the Egypt-Israel peace treaty; and

Whereas the establishment of formal diplomatic relations between the Vatican and the State of Israel would be a positive step toward peace and stability in the Middle East and would promote increased harmony between Christians and Jews throughout the world: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the Vatican should grant official recognition to the State of Israel and should establish diplomatic relations with that country.

SEC. 2. The Clerk of the House of Representatives shall transmit copies of this resolution to the President with a request that the President transmit those copies to the Vatican and to the Government of Israel.

TRIBUTE TO RALPH LIBERATO

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. LEVIN of Michigan. Mr. Speaker, I rise today to pay tribute to Ralph Liberato, a dedicated public servant, a good friend and a good Democrat with a great spaghetti recipe, who is retiring as director of governmental affairs at the American Federation of State, County and Municipal Employees, Council 25.

Mr. Liberato has served with distinction as chair of the Macomb County Democratic Party from 1964 through 1991. An outstanding and respected labor leader, Mr. Liberato served as secretary-treasurer of the Metro Detroit AFL–CIO. For many years his spaghetti dinners, which he cooks and serves at Democratic and labor functions, have been legendary.

In addition to his service with the labor movement and the Democratic Party, Mr. Liberato has served his country. He was in the Marines during World War II, fought at Guadalcanal, Guam, the Solomon Islands, and Okinawa. When he finished his tour of duty, he returned home to Michigan to get his bachelor's degree at Wayne State University. In 1952 he went to work at the GM Tech Center in Warren, MI, and became the first president of Local 160 of the United Auto Workers.

Mr. Liberato has made an outstanding contribution to his community and should be commended for his years of service.

TRIBUTE TO ERNEST NESPECA, JR.

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. TRAFICANT. Mr. Speaker, today I rise to pay tribute to Ernest Nespeca, Jr., who will retire from the Youngstown Board of Health Department on April 1, 1992. For over 25 years Ernest has served the community of Youngstown in my 17th Congressional District in Ohio.

Ernest, born in 1929, has been a lifelong resident of my great hometown of Youngstown. Ernest fought strong and brave in Korea with the U.S. Army on behalf of the people of Ohio. After his service Ernest returned to Youngstown to begin a career with the Board of Health Department as a food and meat inspector. After a long and dedicated tenure he was appointed milk inspector in the dairy department in 1983. There he worked to ensure the quality and safety of milk for thousands upon thousands in his community.

Now after a career of hard, dedicated work Ernest is leaving to enjoy a long-deserved retirement with his wife, Donna, his children, Beth Ann and Ernest, and with his friends.

Mr. Speaker, today I rise to pay tribute to the unheralded service long work that Ernest has performed with the Youngstown Board of Health Department. Too many times workers like Ernest, who make up the backbone of America, are ignored and so it is my great pleasure to honor Ernest as he embarks on his well-earned retirement.

DELIVERY OF THE 49TH ISLAND CLASS PATROL BOAT

HON. W.J. (BILLY) TAUZIN

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. TAUZIN. Mr. Speaker, I rise today to commemorate the delivery of the U.S. Coast Guard Cutter *Galveston Island*. The *Galveston Island* is the 49th and final island class patrol boat currently scheduled to be delivered by Bollinger Machine & Shipyard of Lockport, LA.

The 110-foot island class patrol boat has been a true success story. The hard-working men and women of Bollinger Shipyard can be proud of their contribution to saving lives at sea, protecting the environment, securing our national defense, and fighting the war on drugs. I would like to share with the House a March 10, 1992, message honoring the island class patrol boats sent by Adm. W.P. Leahy, Chief of the Office of Law Enforcement and Defense Operations, to every command in the Coast Guard:

> With the delivery of the USCGC *Galveston Island* (WPB 1349) we have closed the latest chapter in the modernization of the Coast Guard cutter fleet. I would like to take this opportunity to thank all concerned.
>
> In the seven years since the commissioning of USCGC *Farallon* (WPB 1301) these state-of-the-art 110′ Island Class WPB's and their crews continue to establish new standards in service to the American public. These cutters now serve in varied locations from Alaska to Guam and from Maine to Puerto Rico in climates that run the gamut from subarctic to tropical. They have operated as far away as Panama.
>
> During underway operations, amounting to over 280,000 hours (equivalent of over 32 years) these cutters have prosecuted over 2,070 search and rescue cases in which 1,219 lives were saved, 7,591 persons assisted, $67 million worth of property saved and $321 million worth of property assisted. As an integral part of our Nation's narcotics interdiction operations, they have been responsible for keeping over 209.9K tons of marijuana, 29.1 K tons of cocaine and 5.5 K tons of other illegal narcotics with a total value of over $3.2 billion off our streets. Over 370 arrests were made in conjunction with these seizures.
>
> Recently, these cutters have received tasking from another quarter and are meeting the challenge of the human tragedy currently being played out in the Caribbean. As part of our ongoing alien migrant interdiction operations they are providing humanitarian relief and saving the lives of countless people who would in all likelihood have otherwise perished at sea.
>
> Again to all involved in the inception, planning, building, and manning of these cutters, and the training of their crews, well done.

Well said, Admiral Leahy.

TRIBUTE TO DR. WARMOTH T. GIBBS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. TOWNS. Mr. Speaker, every once in a while the human race is gifted with a unique individual who is multitalented and leaves an indelible impression upon everyone with whom they come in contact. Dr. Warmoth T. Gibbs is that type of person. Today, it is my very special pleasure to acknowledge the 100th birthday of Dr. Warmoth T. Gibbs on April 5, and to highlight the achievements and contributions of this outstanding individual.

Dr. Gibbs is an institution in the State of North Carolina and at North Carolina A&T University where he served as president from 1955 to1960. He is known for being a man of independent thought and action, qualities which he attempted to instill in the university student body. Dr. Gibbs is best known during his tenure as president for getting the university accredited by the Southern Association, and for his response to student demonstrators during the 1960 lunch counter sit-ins. During that period when there were efforts to get President Gibbs to disband the demonstration activities by the students, he is reported to have said, "We teach our student how to think, not what to think." His defense of the students' rights to protest was one of the many pivotal efforts to dismantle segregation in Greensboro, NC.

Dr. Gibbs has resided in Greensboro for 66 years. He moved to North Carolina from Louisiana. During his years at A&T he served as president, dean of men, instructor of military science, professor of history and government, and dean of the School of Education and General Studies.

Former President Gibbs received liberal arts and honorary doctorate degrees from Wiley College in Marshall, TX. and a master's degree from Harvard University in Boston, MA, where he met his late wife Marece Jones Gibbs.

Since his retirement, Dr. Gibbs has lived with his daughter, Elizabeth Gibbs Moore. He has one son, Dr. Chandler Gibbs, a retired physician in Poughkeepsie, NY. Dr. Gibbs is loved by many and respected by everyone. The world, and the State of North Carolina have benefited immeasurably from his long life. Happy birthday, Dr. Gibbs, and may you continue to reap the sweet fruits of long life.

TRIBUTE TO FLOYD McCREE

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. KILDEE. Mr. Speaker, it is with pleasure and great pride that I rise today to pay tribute to Mr. Floyd Joel McCree, who was honored on February 16, 1992, in my hometown of Flint, MI where he served as an outstanding public official for over 40 years. Sadly, Floyd passed away in 1988, but he will long be remembered for his years of dedicated service and the significant contributions he made on behalf of the citizens of Flint.

Although much of Floyd's public work was accomplished while living in Flint, he was born in Webster, MO. It was there that Floyd began distinguishing himself at an early age. An all-state baseball player in high school, Floyd also participated on the track and tennis teams and won numerous awards as an orator on the debate team. He later played basketball at Lincoln University in Jefferson City.

Floyd was still very young when he got his first exposure to politics. It was through his father, who was a precinct captain in his hometown, that Floyd attended political meetings and helped in various campaigns. In 1943, his political career was put on hold when he was drafted into wartime service. Not surprisingly, while serving in the South Pacific as a platoon sergeant for 2 years, he received numerous awards for his leadership and training.

In 1946, Floyd arrived in Flint and began to work at the Chevrolet plant. Later, Floyd transferred to Buick, where he worked in the foundry and resumed his political career when he was elected a committeeman. Over the years, he served on various union committees at the UAW Local 599. In addition to these duties, Floyd also became active in numerous community groups including the NAACP and the Flint Urban League. It was during this period that he married Leeberta Townsend with whom he had four children, Anita, Byron, Marsha, and Melvin. With his family, Floyd worshipped at Metropolitan Baptist Church.

In 1956, Floyd was appointed to the board of county supervisors. Two years later, he became the first black person elected to the Flint City Council. In 1966, Floyd was appointed mayor, making him the first black mayor in Michigan and the first black mayor of a city over 100,000 in the United States.

Possibly his most notable accomplishment in public service is the drive he spearheaded in 1968 that resulted in Flint becoming the first city in the Nation to pass an open housing referendum. When the city council initially refused to pass the ordinance, Floyd threatened to resign. This resulted in a rally and a sleep-in, which eventually persuaded the city council to reverse its position. In 1971, Floyd was appointed Genesee county register of deeds and was later elected and re-elected to that office, where he served until his death in 1988.

Mr. Speaker, it is a pleasure to honor someone who has done so much to improve the quality of life for the residents of the Flint community. Floyd McCree had an enormously successful career and upheld the highest tradition of public service. While we miss his physical presence, we celebrate the life and legacy of the man we knew to be courageous, kind, and gentle. Mr. Speaker, it is indeed a privilege to pay tribute to this highly regarded individual.

BRIAN FUJIMOTO, GREG KIMBALL, AND DARRON YOUNG EARN RANK OF EAGLE SCOUT

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. MATSUI. Mr. Speaker, on May 31, 1992, an Eagle Award ceremony will be held at the Oneonta Congregational Church for Brian Fujimoto, Greg Kimball, and Darron Young. This group of young men has shown outstanding dedication to their troop, their families, their school, and their community which has helped them achieve the rank of Eagle Scout, the highest rank possible in Scouting. I rise today to ask that you join with me in recognizing these truly remarkable individuals.

It is important that we take a moment to recognize the true significance of their accomplishment. In recent years, discussions of American youth have tended to focus on their involvement in the problems facing the United States; drug and alcohol abuse, violent crime, and a declining commitment to education and career. Theirs is an example of what the youth in America are capable of and an example of the kind of leadership this country will need if we are to effectively address the problems that face the Nation and the world.

These young men not only have completed a list of required tasks to achieve this honor, they have enriched the lives of all those who have had the pleasure of knowing them. It is reassuring to know that there continues to exist individuals like Brian, Greg, and Darron who place value in service to others. While the rank of Eagle Scout is the ultimate in Scouting, I trust it is only the beginning of their achievements.

Mr. Speaker, I ask that my colleagues join me in saluting these inspirational young men.

AN AMENDMENT TO THE HIGHER EDUCATION ACT

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. DICKS. Mr. Speaker, when the House considers the Higher Education Act Amendments of 1992 this week, I will offer an amendment to title I, part D, the Articulation Agreement section of that bill.

My amendment would allow the members of an articulation partnership created under title I, part D, to develop procedures to ensure that vocational courses meet core academic course standards for purposes of college admissions requirements. The articulation partnership is an agreement between 2- and 4-year institutions that seeks to ease the transition between secondary and postsecondary schools.

Two- and four-year institutions that are members of a consortium under this part of this act would be able to enter into an agreement with a local education agency to develop equivalency approval procedures for vocational courses. Once these procedures are established, vocational courses meeting such core academic standards would then be considered as equivalent for the purposes of satisfying entrance requirements to college.

This amendment is an important educational reform effort, being led all across the country through the restructuring of vocational-technical education. My amendment will increase the coordinated effort to integrate academic and vocational instruction by providing for equivalency between vocational and academic curricula. If vocational courses can be structured to meet core academic requirements which are used as the basis for college admissions, then more vocational students would have the option of entering college and continuing their education.

It is important to note that my amendment requires no additional authorization of funds. It creates an allowable use of funds from within the $50 million authorization for part D of title I.

Recently in my home State of Washington, legislation was passed to begin this project at the local level. I want to thank State representative Randy Dorn, who championed this legislation along with Tom and Kathleen Lopp of the Washington Vocational Association and the American Vocational Association. Since the impetus for this restructuring must come from the higher education community, a new atmosphere of cooperation between the secondary and postsecondary systems should evolve—and that is exactly what is now happening in Washington State. This legislation allows another path to higher education for students while meeting all entrance requirements. The result will be more students seeking advancement through higher education.

A NEW DAY FOR SOUTH AFRICA

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. SWETT. Mr. Speaker, last week the voice of freedom and democracy was heard in South Africa. In this historic vote, South Africa's white minority gave President F.W. de Klerk an overwhelming vote of confidence to continue his power-sharing negotiations with the nation's black majority. Furthermore, 85 percent of registered voters cast ballots, a turnout figure that we can only dream of in this country.

I join with the rest of the world in praising South Africa's white population for their political wisdom and maturity in understanding that they must close the door on their country's past racial divisions. This victory is long overdue.

The system known as apartheid was first established more than 40 years ago. The policy of dictating where blacks could live, work, go to school, and even whom they were allowed to marry caused untold suffering before the walls of apartheid began to crumble. We should not forget that Nelson Mandela was imprisoned for 27 years before he was released in February 1990. Now he is engaged in negotiations with President de Klerk for a new constitution.

However, this is not the time to dwell on the injustices of South Africa's past, but rather to encourage its peoples to continue their progress toward a more promising future. Above all, we should take heart in the humanity of the people of South Africa and their ability to rise above a lifetime of bitterness and division to support the goals of justice and freedom for all.

HONORING JAMES M. PATRONITE ON THE OCCASION OF HIS RETIREMENT FROM THE PICO RIVERA CITY COUNCIL

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. TORRES. Mr. Speaker, I rise today to recognize my good friend, the Honorable James M. Patronite, councilman for the city of Pico Rivera. Jim is retiring from the city council after 18 years of dedicated service and will be honored at a special ceremony on April 3, 1992.

Born and educated in Cleveland, OH, Jim moved to California in 1945. He attended classes at California State University and the University of Southern California, where he majored in accounting. He is a veteran of World War II, having served most of his tour of duty in North Africa, as a chief cryptographer for the U.S. Air Force. In 1948, Jim married his lovely wife and partner, Jane Hallinan. After getting married, they moved to Pico Rivera. They have four children and three grandchildren.

Jim began his tenure serving the people of Pico Rivera in 1956 as chairman of the Incorporation Committee. In 1958, he was elected to the first Pico Rivera City Council. From April 1971 to October 1974, Jim was a member of the Planning Commission. He was appointed again to serve on the city council in 1974 to fill an unexpired term. He was then elected to the city council in March 1976 and he has been reelected every 4 years since. Jim has served as mayor for the terms 1976–77, 1979–80, 1983–84, and 1988–89.

While maintaining an active role in civic service, Jim also has been a member of the Pico Rivera Rotary Club, Society of California Accountants, Veterans of Foreign Wars Post 7734, American Legion Post 411, Pico Rivera History and Heritage Society, and the Rio Hondo Symphony. In 1986, he was named Scout of the Year, by the Rio Hondo Boy Scout Area Council and in 1987 was appointed to the Presbyterian Intercommunity Hospital Foundation Board, where he currently serves as vice chairman.

Mr. Speaker, it is with pride that I rise to recognize my friend, adviser, and one of Pico Rivera's esteemed residents, James M. Patronite, on the occasion of his retirement from the Pico Rivera City Council and I ask my colleagues to join me in saluting him for his outstanding record of service to the residents and community of Pico Rivera.

CONGRATULATIONS TO THE LACKAWANNA JUNIOR COLLEGE WOMEN'S BASKETBALL TEAM

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. McDADE. Mr. Speaker, I rise today to congratulate the Lady Falcons of Lackawanna Junior College in my district in Scranton, who have captured the region 10 National Junior College Athletic Association basketball championship.

The success of the Lady Falcons is an inspiring example for their fellow students and the community. These young women play for the pure love of athletic competition, and sacrifice individual desires in order to contribute to the success of the team. They exemplify the true spirit of collegiate athletics, making a commitment to succeeding in the classroom as well as on the court. They have earned the respect of rival teams through their ability and their duty to fair play.

The Lady Falcons of Lackawanna Junior College have achieved a record of 25 wins and only 2 losses this season, and won the region 10 championship for the fifth time in the past 9 years. The attributes displayed by these athletes—discipline, teamwork, dedication, and the desire to be the best they can be—are attributes which will carry them far after their playing days are over. Coach Tim Dempsey and his assistant Jim Dempsey are teachers not only of basketball skills and strategy, but also of lessons that will remain with the players for the rest of their lives.

I join Lackawanna Junior College and the entire community in saluting the Lady Falcons for their significant achievements, and in wishing them continued success in the upcoming national tournament in Bismarck, ND. I hope my colleagues will join me in commending the determination and spirit of the Lady Falcons, who are: Jen Ambrose, Nicole Bridgeforth, Erin Fitzsimmons, Kammy Gaston, Lisa Gumble, Jill Korman, Sue Littman, Beth McGowan, Krissy Refice, Stephanie Wilson, Karen Woronko, and Candida Zielinski.

HONORING RABBI MENACHEM SCHNEERSON

HON. DICK ZIMMER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. ZIMMER. Mr. Speaker, on April 14, 1992, the Lubavitcher Rebbe, Rabbi Menachem Mendel Schneerson will reach the 90th year of an extraordinary life that has been devoted to educating world Jewry and society in general as to the importance of the moral and ethical values contained in the Seven Noanide Laws given to Moses on Mt. Sinai.

Since assuming his position of leadership in 1950, Rabbi Schneerson has been the inspiration and the motivating force behind the unprecedented growth of the Lubavitcher movement worldwide. The movement has had great success in unifying the disparate communities within Judaism by encouraging knowledge of the Torah and all its precepts. From advising heads of state to facilitating ethical instruction in the public classroom, the Rabbi has had an impact on the awareness by the world at large of the importance of humankind living by a divinely inspired system of values.

Rabbi Schneerson has led the Lubavitcher organization in an outreach of love, kindness, and compassion. His work to improve the lives of the persecuted, the homeless, the innocent, the addicted, the imprisoned, and the elderly has affected millions of people. His unique vision, together with encyclopedic knowledge and wisdom, have brought him the respect and admiration he so richly deserves.

Mr. Speaker, I ask my colleagues to join me and the many whose lives have been touched by Rabbi Menachem Mendel Schneerson in saluting him for his contribution to the betterment of the world.

GIVING FAMILY BUSINESSES A BREAK

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. ATKINS. Mr. Speaker, today I am introducing legislation to overturn an Internal Revenue Service policy which detrimentally affects small and family-owned businesses. The current IRS policy, I believe, will have the effect of preventing many small businesses from providing health insurance to their employees. At a time when Congress should be creating incentives for employers to provide health insurance, and at a time when 35 million of our fellow citizens lack access to health insurance, the current IRS policy should be overturned by Congress immediately.

Last year, in a little-noticed revenue ruling, the Internal Revenue Service took the position that if a partnership provides health insurance to its employee-partners, or if a subchapter S corporation provides health insurance to its employee-owners, the cost of that insurance must be included in the partner's or shareholder's income. This is true even though every other employee in America is able to exclude the value of employer-provided health insurance from their income.

Mr. Speaker, for many small and family-owned businesses, this is not a major bureaucratic issue. A constituent in Dracut, MA is just one who has been detrimentally impacted by this IRS ruling. His business, a family-run dairy farm, has been providing health insurance for his four full-time employees for a number of years. But because of this IRS ruling, he is now unable to provide insurance coverage for himself and his father, who is also a partner in the business.

Although the IRS ruling was a liberalization of prior law the policy still puts small businesses in an unfair position. There is no question that if a large corporation provides health insurance to its corporate officers, the value of that insurance is excludible from income. The IRS policy discriminates against small business owners. Even worse, it could lead some small business-owners to stop providing health insurance to their employees. That's exactly the opposite of what we should be doing.

Mr. Speaker, I urge the Committee on Ways and Means to act expeditiously on this legislation. I am told that the committee plans to consider health insurance legislation later this year, and I hope that my legislation will be considered in that debate.

TRIBUTE TO JUDGE JOAN O'DWYER

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 24, 1992

Mr. MANTON. Mr. Speaker, I rise today to honor Judge Joan O'Dwyer for her outstanding service and contribution to Queens County. On Tuesday, March 31, 1992, the Queens Borough Lodge will pay special tribute to Judge O'Dwyer for her dedication to the judiciary system of Queens County.

Judge Joan O'Dwyer was born in Bronx County. She attended Beaver College and Columbia Law School. After obtaining her law degree she became an associate in the firm of O'Dwyer and Bernstein. Judge O'Dwyer remained there for 10 years until she was appointed to the magistrate's court in 1959 by Mayor Robert Wagner. She was reappointed to the criminal court by Mayor John Lindsay and Mayor Edward Koch. In 1985 Judge O'Dwyer was appointed to the court of claims by Gov. Mario Cuomo and was re-appointed in 1991. Judge O'Dwyer is married to the Hon. Anthony P. Savarese, a retired acting Supreme Court Justice. They have three children, Shane, Liam and Kelly O'Neill.

Mr. Speaker, Judge O'Dwyer deserves this special recognition for her allegiance to the judiciary system of New York. I know my colleagues join me in saluting Judge Joan O'Dwyer for her outstanding achievements.

SENATE—*Wednesday, March 25, 1992*

The Senate met at 10 a.m. and was called to order by the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

I exhort therefore, that, first of all, supplications, prayers, intercessions, and giving of thanks, be made for all men; For kings, and for all that are in authority; that we may lead a quiet and peaceable life in all godliness and honesty. For this is good and acceptable in the sight of God our Saviour. * * *—I Timothy 2:1-3.

Gracious Father, help the people of God to take seriously this exhortation of the apostle Paul to a young pastor. Help them to accept their responsibility to pray for leadership in the confidence that such labor in prayer will assure a desirable social environment: quiet, peaceable, Godly, and honest. Give them to understand that to be prayerless is to accept an undesirable social and cultural order. When they are angry with their leaders, when they decide to write an angry letter, restrain them from an impetuous act and lead them to pray for those of whom they are critical. Help them realize that leaders are human beings like themselves, that they are not infallible, that they are vulnerable to the same temptations which challenge all of us.

Forgiving Father, remind the people that they are as responsible as their leaders for good government. We pray in the name of Jesus, Lord of history and the nations. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 25, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRIS WOFFORD, a Senator from the State of Pennsylvania, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. WOFFORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, am I correct in my understanding that the Journal of proceedings has been approved to date and the time for the two leaders is reserved for their use later in the day?

The ACTING PRESIDENT pro tempore. The majority leader is correct.

SCHEDULE

Mr. MITCHELL. Mr. President, this morning the period for morning business will extend until 11:30 a.m. During that time, Senators will be permitted to speak for up to 5 minutes each, unless otherwise specified. A number of Senators have been specified and will be recognized to address the Senate for additional and stated time periods.

At 11:30 this morning, when the period for morning business closes, it is my intention to move to proceed to Calendar Item No. 428, S. 2399, legislation to revise the budget walls.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, with Senators permitted to speak therein.

The Senator from Rhode Island is recognized to speak for up to 15 minutes.

TWENTY YEARS OF ENVIRONMENTAL PROGRESS

Mr. CHAFEE. Mr. President, several years ago, it was common to hear the pundits suggest that the environmentalism of the early 1970's and 1980's was just a passing fad. It is interesting to note that we do not hear that anymore. Today we have politicians at all levels of government, including Presidents and Prime Ministers, highlighting their environmental accomplishments. We have Madison Avenue executives and major American manufacturers and corporate CEO's begging us to buy their products because these products pollute less, are more recycled, are more green than their competitors.

Oddly enough, Mr. President, just as more and more people are recognizing the importance of protecting the environment, there is at the same time an increasing tendency among some people to berate, belittle, and ridicule those who are urging actions to preserve our limited natural resources.

Hardly a week goes by, Mr. President, without someone taking the floor of this Congress, in the House or in the Senate, or to take to the op-ed pages of one of our newspapers to blame environmentalists and environmental laws for our economic woes. The argument is that there are too many burdens that have been placed upon our society for little or, in some cases, modest benefits. Unfortunately, as our economy continues to struggle, this phenomenon appears to be gaining strength. I believe this trend is not only unjustified, it is literally unhealthy.

So, Mr. President, let us consider all of the evidence, rather than just a few anecdotes.

We must avoid the temptation to use environmentalism as a whipping boy.

What has happened since the explosion of environmental consciousness in the 1960's and the first Earth Day in 1970? The question we might legitimately ask ourselves is are we making any progress or are we just treading water? The answer is simple. The United States has made tremendous strides in protecting the health of its citizens and in restoring the quality of the Nation's environment over the past 20 years.

Let me cite three major accomplishments. First, the promotion of a Federal environmental ethic through the creation and use of what is known as NEPA, the National Environmental Policy Act. Second is the steps that have been taken to prevent the pollution of air and water. And third, the conservation of wildlife and wildlife habitat.

I will briefly touch on each. The National Environmental Policy Act: I believe, Mr. President, when historians look back to the years 1969 and 1970, they will say those were watershed years in terms of the U.S. environmental movement. Congress, concerned that the environment needed greater

---

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

protection, took the lead and enacted major environmental statutes.

In those 2 years alone we saw Congress approve and the President sign NEPA, the National Environmental Policy Act and the Clean Air Act. In addition, new Federal agencies were created that paralled the new statutes including the Environmental Protection Agency and the National Oceanic and Atmospheric Administration.

Of all these and other significant actions that took place in those 2 years, few can rival in importance the creation of the National Environmental Policy Act. Signed into law by President Nixon on January 1, 1970, it is a short and simple law with dramatic purpose.

> To declare a national policy which will encourage productive and enjoyable harmony between man and his environment.

How I like those words, "enjoyable harmony."

NEPA was designed to instill a new environmental ethic in all Federal agencies by requiring the preparation of environmental impact statements, EIS's and the consideration of all reasonably foreseeable environmental impacts of Government actions before any decisions are made.

Now, what does it mean? It means that every dam, the issuance of permits to cut trees, the construction of irrigation canals, must have an environmental impact statement. No agency is exempt, even branches of the military must prepare an EIS. And if they do not, members of the public can—and indeed, members of the public do—sue. The courts have consistently held that no further governmental action can take place until an environmental impact statement is done and done correctly.

Some agencies complain and gripe and say this is a hassle, but no one can deny that NEPA has been a tremendous success and has changed forever the way our Government makes decisions affecting the environment.

Let us look at prevention of pollution. If there ever was a case where an ounce of prevention is worth a pound of cure, it is in these areas. In 1970, we passed the Clean Air Act. Has it been a success? It has been a tremendous success. Listen to these statistics, Mr. President. In the past 22 years, automobile emissions of the two most troublesome pollutants, hydrocarbons and carbon monoxide, have been cut by 90 percent. Nine-tenths of the pollution from hydrocarbons and carbon monoxide has been eliminated.

Under the recently enacted Clean Air Amendments of 1990, we are going to see even greater reductions. Over the next 4 to 12 years, these emissions will be cut to levels that are between 95 and 98 percent below 1970 levels.

Another example in our battle for clean air is found in the data on emissions of lead. Between 1970 and 1990, total annual emissions of lead nationwide have declined by 96 percent—96 percent—nearly entirely due to the phaseout of leaded gasoline required by the Clean Air Act of 1970.

An interesting feature of the early 1970's environmental awareness was a focus on the effects of pollutants wherever they may be. Let us take lead for an example. Concerns about the accute effects of lead poisoning among children led Congress in 1970 to approve the Lead-Based Paint Poisoning Prevention Act, which created a program to fund lead paint abatement programs and screening and treatment programs for children. As a result of these efforts, we have new paints coming on the market without lead content.

Since the original Clean Air Act was enacted 22 years ago, new challenges have arisen. The best examples of these are acid rain and the destruction of the ozone layer. After long and bitter disputes over the dangers of acid rain and of chlorofluorocarbons, CFC's, Congress, in the 1990 amendments to the Clean Air Act, dealt with both culprits in an effective manner.

What is more, using the authority provided in the Clean Air Act of 1990, President Bush recently announced that chlorofluorocarbon production, which of course is the major cause of ozone depletion, will be discontinued in the United States no later than December 31, 1995. And HCFC's, hydrochlorofluorocarbons, will be gradually phased out in the early part of the next century. I believe, Mr. President, we are going to see an even faster schedule come along in the years ahead.

United States production of CFC's is now 42 percent below 1986 levels, and we should be proud of that. Let us not forget the Clean Water Act. The Federal Water Pollution Control Act of 1972 marked the beginning of the environmental era for our Nation's water resources. The law set some ambitious goals—the elimination of all discharges to surface waters by 1985. We have not attained zero pollution yet, but think of the progress that has been made as a result of the act. In the late sixties, the Cuyahoga River in Cleveland caught fire—a river caught fire—it was so contaminated. Today, some of our most polluted waters, like Lake Erie and the Potomac River, have been transformed. More than 80 percent of our lakes and rivers now meet the interim goal of the Clean Water Act. They are fishable and swimmable to a considerable extent due in part to the Clean Water Act.

Our coastal waters and oceans have benefited likewise. In the 1970's, municipal sewage and industrial contaminants were the principal sources of pollution. Pollution was literally flowing into our open waters untreated. In the Clean Water Act, Congress tackled these problems head-on and created the Construction Grants Program. Over the past 20 years, the Federal Government, through the Clean Water Act, has provided more than $50 billion to State and local governments for the construction of waste water treatment plants. It has been one of our most successful environmental programs.

Let me turn to the conservation of wildlife and wildlife habitat. Once again, some astonishing successes. In 1973 Congress enacted the Endangered Species Act and, because of it, we have been able to rescue a number of important species from the brink of extinction. We ought to be proud of this. The bald eagle, the peregrine falcon, brown pelican, American alligator, whooping crane, all have been saved because of what we did in the Congress, and what the U.S. citizens requested we do and demanded that we do.

We have recognized that habitat is absolutely critical to the preservation of wildlife. So we have protected, at home and likewise abroad, Mr. President, through debt swaps and other mechanisms, millions of acres of forests and open spaces.

Listen to these statistics. In the 20 years from 1970 to 1989, the National Wildlife Refuge System in the United States grew from 29 million acres to 90 million acres; tripled. Our National Park System nearly tripled, from 30 million to 80 million acres. The National Wilderness System increased from 10 million acres to 91 million acres. The National Wild and Scenic River System grew from 868 miles to 9,281 river miles. Admittedly, a sizable chunk of this was in Alaska, but we made significant strides in the lower 48 States as well.

Mr. President, all of us should note yesterday's transmittal of the 22d annual report of the Council on Environmental Quality together with the President's message on environmental quality to the Congress. The report and message detail current environmental conditions and trends. In addition, the documents reflect on the Federal Government's efforts to protect the environment in 1991 and the President's environmental priorities for 1992 and beyond. In a very real sense, the Council, established under NEPA in 1969, symbolizes how far this country has come in terms of environmental consciousness. Environmentalism is not a passing fad. What is the conclusion of all this? What can we draw from the last 20 years? Have we made any progress? We certainly have. We ought to be proud of it.

The challenges in the future are going to be different. We have been wrestling with making our air, our water, our lakes and streams, our wetlands, our forests clean and preserved, and we have done a wonderful job. But now we have to move into the international world, Mr. President. For example, this June, June 1 to 14, in Rio de Janeiro, there is going to be a mammoth Earth summit. It will bring together the heads of state from some 80 different nations, and represented will be over 100 nations. There we are going to discuss global climate protection, biological diversity, and the need to protect and preserve our oceans.

This conference can be a wonderful step forward, but it is important that the United States continue to build on the environmental successes achieved over the past 20 years and step out and lead the rest of the world. We have achieved great things since the National Environmental Policy Act was enacted in 1969. Now we have to recognize that there are new challenges on an international scale, and I am confident we can do it.

But with all we do, Mr. President, we ought to take pride in what we have achieved. Let us not knock the environment and those who attempt to make this a better world and a better country for future generations.

I thank the Chair.

Mr. JEFFORDS addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Vermont.

Mr. JEFFORDS. Mr. President, certainly I want to commend my leader for his most eloquent statement on the situation with respect to the environment. I would like to amplify and perhaps repeat, to some extent, what he said.

NOT A BLEAK ENVIRONMENT

Mr. JEFFORDS. Mr. President, does anyone in this body remember Cassandra? She was the mythological figure who could foretell the future and who in modern usage has come to represent people who constantly predict misfortune and disaster. Well, I think that many of our colleagues and certainly some in the environmental movement could be described as Cassandra's. The future is bleak, they say, the planet will soon be dead.

I would like to join my colleagues in saying things are not as bad as some would have us believe. Yes, there are still major environmental problems to be solved, but let us not forget the steps we have taken. The environmental movement to date has been a success, not a failure, and we should take note of our successes.

In the last 20 years, we have passed legislation to clean up our Nation's lands, waters, and air. We have addressed solid waste and safe drinking water. We have eliminated the use of many toxic chemicals and pesticides, like DDT. We have begun to cut our emissions of toxic substances. We have recognized the dangers of CFC's and have acted to phase out their use. As an environmentalist, I think it is important that we stand up and be heard: Our efforts have paid off.

I think it is safe to say that few, if any, of my colleagues will consider me a particular partisan Member of this body. I am proud to carry on the nonpartisan tradition established by my Vermont predecessors. What concerns me is that in the coming months, the environment may become a partisan issue. One side may try to paint the other as an enemy of the environment. Political debate is not bad, but it would be wrong to try to paint our current situation as bleak and representative of failed policies. I do not believe it right to focus only on where we have yet to go, without remembering how far we have come.

Most Americans consider themselves environmentalists. Could we have said this 100 years ago, or even 25 years ago? A century ago, the Sierra Club was founded. Would anyone in 1892 have believed how the Sierra Club has prospered and become a part of American life. This is cause for optimism, not pessimism.

We, as a people are becoming more in tune with our planet, which I believe is quite an accomplishment. Think about it. Man is the only animal that has never entirely adapted to the environment. Instead of adapting, we have tried to change our environment. But for the first time in our evolution as a society, we are trying to come to grips with our effect on the planet. We are trying to adapt to the planet; we are not trying to adapt the planet to us.

When my children were growing up, for example, white bread was the norm. We took what nature gave us, wheat, and took out 30 percent of the bran to make white bread. In taking out the bran, we removed over half of the calcium, phosphorus, magnesium, potassium, sodium, and the trace metals like iron, and the B and E vitamins. Then, we put some of these materials back in artificial form and called the bread enriched. This may seem like a silly example at first, but it really is symbolic of how out-of-touch with nature we had gotten. But that has changed. We are beginning to realize that natural is better. There are now even grocery stores which sell only organically grown, pesticide-free food. Could we have imagined this 20 years ago?

It was not too many years ago that rivers caught fire, and you could not eat the fish from many of our country's waters. That has changed. It was not too many years ago that we took all of our trash to the dump. That is changing. It was not too many years ago that hazardous wastes were dumped in farmer's fields. That has changed.

One hundred years ago, we nearly hunted the bison to extinction. Now we have laws to protect the animals on this earth. Many endangered species have even started making a comeback. The cessation of drift net fishing and bans on ivory are two more ways we have acted to protect the environment in just the last few years.

Wetlands preservation. Now there is a controversial subject on both sides of the aisle. But lest some think we are totally destroying every undeveloped acre in this country, I would ask that they reflect on these facts. National parkland has nearly tripled since 1970. Acreage in national wildlife refuges has increased from 29.2 to 88.5 million acres in the past 20 years. National wilderness areas have increased in size from 10.4 to 95 million acres in 20 years. The number of wild and scenic rivers has increased 10-fold in this timeframe. Last, there are over 4.4 million acres in national estuaries. This is some accomplishment for the past 20 years.

We have begun to phase out the CFC's which threaten the ozone layer, and recently, we passed significant new clean air legislation to help correct our other air pollution problems. Particulate levels have been cut in half since 1974. Sulfur oxide emissions have been cut by a third since the early 1970's. We are making progress. This is good news. The American people should be reading about this in their papers.

Major industries have announced programs to cut back on the release of toxics. This would have been unheard of years ago. VOC emissions have been cut by a third in recent years. Again, this is good news. Yet, some would cast this as bad news.

Years ago, industrial pollution threatened our country's waters; now nonpoint pollution is the biggest threat. In a relatively few years, we have reversed the course of pollution set in motion by the industrial revolution. This is truly amazing. Industry is now a distant sixth place in sources of pollution to our waters. We should commend all those industries that have done their part to clean up our country's waters. Yet, instead some would make it seem like our waters are no better today. Is it not time we thanked business for their efforts to clean up our planet instead of acting as though business is beneath contempt in terms of the environment?

Pollutant loadings to the Great Lakes have been reduced a third or more since 1976. Pesticide residues in bird eggs have also decreased. Many major companies have undertaken voluntary internal compliance programs. This is good news for the environment. Yet, some focus only on the failures of industry. Again, the silver lining is obscured by a cloud.

Lead poisoning; this is an issue with which we have made tremendous progress. Lead emissions to the environment have been reduced from 203,800 metric tons per year to 7,000 metric tons per year in 20 years. Regulations have recently been proposed to further lower lead in drinking water. More good news for the environment and for our country's children. Yet some would make it appear as if nothing has been or is being accomplished. Yes, more does need to be done to help protect our children from lead. That is why I cosponsored Senator Reid's lead bill and have continued to do what I could to help move this bill along. We do not control the legislative agenda, however, thus the fate of this bill is not in our hands.

In the area of energy, great advances have been made in the area of renewable energy sources. We are starting to come to grips with the detriments of hydropower. Technology breakthroughs have occurred in photovoltaics, in wind power, in renewable fuels. Even fossil fuels for motor vehicles have started on that way out. This is progress toward a cleaner planet.

On the energy front, some progress is still needed with respect to nuclear energy policy. But, who is to blame for our shortcomings? Some would point to the administration. Well, Americans are tired of finger pointing.

There is an old saying that when you point one finger at someone else, there are three fingers pointing back at you. This is clearly true as the Senate recently approved these pronuclear policies. So let us not blame the administration for having the same position many of us apparently do as well.

My point is, a lot of good things have happened toward protecting the environment of the planet in the past 20 years as well as in the past 3 years. They should not be swept away in gloom and doom election year propaganda. It is wrong to tell the American people nothing has happened. No wonder many of them have developed the feeling that environmental protection has gone too far. Some in Washington are telling them nothing has happened while at the same time taking their money? Tell me, Mr. President, is this good for the environment?

Now, I am not a Cassandra, but neither am I a Pollyanna. While we have made progress in some areas, in others we have not. Allow me to give a simple example, the soft drink bottle. When I was growing up, we took our bottles back. In third world countries today, people still take their bottles back. We used to do it, and many people still do it. Have we become so rich that we cannot afford to recycle? Sometimes I wonder. Try to find a diet soft drink in these same Third World countries that recycle their bottles.

Try to explain to an impoverished resident of this country that you want to spend money on a drink that has absolutely no nutritional value. We waste millions and millions of dollars each year on throwing away precious resources and on consuming food with no calories. That should say something about our values.

Thus, there is still work to be done. We must address population growth. We must address biodiversity. We must address global warming. It is interesting to me that some point the finger at the administration as not being interested in global warming. Again, three fingers point back here. We all know that there are Members on both sides of the aisle that would resist efforts to address global warming. Clearly, one side alone is not to blame.

I believe President Bush does care about the environment. I have heard no one complain about his appointment of Bill Reilly as EPA Administrator. Think back 10 years and tell me we have not made progress.

Without his support, there would have been no Clean Air Act. Indeed, I believe you could easily make a case that most environmental legislation has been signed by a Republican president. The Rivers and Harbors Act, for example, was signed by Republican William McKinley in 1899. Teddy Roosevelt added 150 million acres to our national forests and created 51 Federal bird reservations and 5 game preserves. EPA was created by a Republican President.

But, environmental protection is not about who is better, or who has done more. It is about people working together to protect the planet. Progress toward a cleaner environment has occurred under President Bush and for this I congratulate the President. I say this sincerely for I think my colleagues know that I am not one to speak merely in support of a party line. Partisan politics should have no place in environmental protection.

Endangered species do not care if it is a Republican or a Democrat that protects them, and I suspect the American people do not care either. I certainly do not. Let us take pride in the fact that by working together, we have an Endangered Species Act.

We have a Clean Water Act, a Clean Air Act, a Safe Drinking Water Act, and a Resource Conservation and Recovery Act, to name a few.

We have come a long long way in a very short time. We are beginning to turn around hundreds of years of culture. Let us congratulate ourselves and the President for how far we have come. Then, let us work together to set new goals for the future.

I urge all of my colleagues when they read the new CEQ report on the environment to reflect on where we were not too many years ago. We have cause to be proud. We have made our country a little cleaner.

Now, Mr. President, allow me to reflect a little on the present and on the future. We have to change the way we do business here in terms of protecting the environment. There is one table in the new CEQ report that is truly frightening. That is table 14 called risks and cost effectiveness of selected regulations, by cost per premature death averted. The trend in this table is toward vastly increasing costs for little gain. In 1967, according to this table, the Government promulgated a rule related to automotive safety that cost $100,000 per premature death avoided. That seems more than reasonable to me. In 1984, regulations related to seatbelts became effective, again for a cost of about $100,000 per death avoided.

Costs have gone through the roof since then. The average cost per premature death avoided for four EPA rules in 1990 was $1.425 trillion. That is right, trillion dollars. Now I would not be surprised to learn that the regulations cited in this table were carefully selected. But even so, one rule was cited as having a cost of $5.7 trillion per premature death avoided. Even without this regulation, the baseline risk of premature death was less than 1 in a million.

Are we out of our minds? Is it really necessary to spend the equivalent $5.7 trillion to avoid one premature death when the odds of anyone dying without the rule are already less than 1 in a million. A 1 in a million risk is equivalent to getting lung cancer or heart disease from smoking 1.4 cigarettes or cirrhosis of the liver from drinking a half a liter of wine.

How many people could be receiving prenatal care and counseling for this same amount of money? How many babies could be saved? How many mothers could we keep off of crack? How many scholarships could we fund to help disadvantaged students? How many AIDS cases could we prevent? How many cures for cancer could we find? Where are our priorities?

Earlier this month, my colleague from New York expressed concern in a hearing that New York was losing its ability to operate as a port because we cannot discard salt water sediments in the ocean? Does this make sense?

There is even currently a debate raging about whether or not the Safe Drinking Water Act allows EPA to even consider costs in its rulemakings. Clearly, we cannot afford a policy of protection at any cost. No wonder many Americans wonder about our fiscal responsibility.

Before long, the Senate is likely to consider a bill that basically is targeted at the Vice President's Council on Competitiveness. Many are upset that the executive branch is changing congressional mandates, myself included. But it seems to me, we are somewhat to blame for this situation. Congress and the executive branch have been on a course toward the present situation for some time. We write laws, the administration interprets them. We do not like the interpretation so we write more prescriptive laws. More prescriptive laws are more likely to be unworkable. The administration tries to make them workable, like the recent lead in drinking water rule. Some do not like it so we write even more prescriptive legislation, some of it even looking like regulations. They say for every action, there is an equal and opposite reaction. Perhaps we should view the Vice President's council in these terms. What is it that we have done, Republicans and Democrats, that requires such a council?

It is almost, Mr. President, like we have a civil war going on between Congress and the executive branch. And like the civil war of 130 years ago, it is devastating our country.

I believe both the President and Congress want environmental protection. Our job is not to write unbalanced environmental legislation so that we can look pure while trying to make the administration look bad. This pure as the driven snow posturing is not what Americans want. Now are we best suited, regardless of which party is in the White House, to writing regulations. Our job is to set goals. Somehow, I think both branches of government have lost sight of their roles. I think the American people know this. Maybe if we had collectively spent more time thinking about the macro issues and not micromanaging, we would not be grappling with many of the problems our country faces.

It has to stop. We do not need countdown calendars, nor do we need legislation that basically is political fodder. Can anyone name one American who benefited from all the time we spent on the recent tax bill? I doubt it. I can think of about 536 Americans, however, that were hurt by this waste of time.

This civil war needs to stop. A house divided truly cannot stand.

It is time to move forward and make responsible progress so that in 20 more years from now, future Americans can be as proud of the progress we have made in environmental protection as we should be today.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is recognized for up to 20 minutes.

ENVIRONMENTAL PROBLEMS

Mr. DURENBERGER. Mr. President, I thank my colleagues for their statements, and I am glad to have had the opportunity to be present here to listen to them both. If I might simply continue on the wave length of both my colleague from Rhode Island and my colleague from Vermont and comment on the fact that it is a reality that there are three Republicans speaking on this subject. It is a reality that in the time I have been here the Republican Presidents have signed a lot more environmental legislation than Democratic predecessors. It is also a reality we have had more Republican Presidents in the last 20 or 30 years than Democratic Presidents.

I will also comment on the realities of the civil war. One of our more clever Republican colleagues, the Senator from Indiana, DAN COATS, the other day talked about some of the nasty things that are happening around here, he said: "It is 90 percent giving the rest of us a bad name." And that accurately characterized the way this process works too much of the time.

The battle between executive and legislative for credit for things and also the prescriptive nature of what we do is certainly at the heart of some of our problems. One of the serious problems with that is that if we battle with the administration over the micromanagement of policy you cannot tell when the administration is being honest with us and when they are not. And one example of this occurred just last week in the regulations relating to onboard canisters to capture benzene and other vapors. The canisters which are supposed to go on board automobiles are not going to get taken off the automobiles for the umpteenth time and put in filling stations.

This happens to be not one of the micromanagement battles but one of those battles that has existed largely between the automobile industry and the environmental community, if you will, and the decision was batted back and forth in the regulatory process and the automobile companies kept winning on the administrative side until we went to the Clean Air Act and in the middle of the Clean Air Act the automobile industry won a bunch of things and one of the things they lost was the canister issue. Last week the President decided he was going to come down on the side of the automobile industry one more time which simply complicates that problem.

I agree with what our colleague from Vermont said about the fact that we ought to be sticking with the larger policy issues; we can rely on the administration to deal with the rest of them.

I would like to talk this morning principally about one of those issues. My colleagues have talked in the larger context of environmental policies. I would like to take one of those and dwell on it just to show you that it is possible for this body and in cooperation with the administration to do something right.

I look at my colleague from Rhode Island because he principally has been in the middle of this particular effort to make a Federal policy work at the State and local level. I begin with yesterday.

STATE REVOLVING LOAN FUNDS FOR WATER POLLUTION CONTROL

Mr. DURENBERGER. Mr. President, yesterday the Environment and Public Works Committee held its annual hearing on the budget request of the EPA, the Environmental Protection Agency, which we hope to become a Cabinet department one of these days when it frees itself from the maze of riders that we keep putting on the bill. It is a fact that each year the Administrator of the EPA and all of the assistant administrators appear before the Environment and Public Works Committee to discuss the President's proposed budget for the coming year.

Yesterday, Bill Reilly, the current EPA Administrator, had a very impressive story to relate. EPA is finally getting the resources that it needs to do the job that Congress has mandated. The EPA budget is up substantially from where it was in 1989 when President Bush came to office. In 1993, EPA will employ 17,000 people. It will spend $7.2 billion improving the quality of our natural environment and protecting the public health.

One of the highlights in the President's budget is his request for assistance to local governments to build sewage treatment facilities. He has asked for $2.5 billion in 1993 in combined grants and loans to aid States and local governments in the task of building and replacing wastewater treatment facilities.

This request deserves special attention. It is the largest amount requested for this purpose since 1981. It is $100 million more than the Congress appropriated last year. And it is more than double the amount that the Congress has authorized for 1933. The authorized amount is $1.2 billion. The President's request for assistance to build wastewater treatment facilities is $2.5 billion.

The President's budget request for wastewater construction assistance is a fundamental departure from past policies. Republican President's since President Eisenhower have been trying to terminate this Federal grant program. The Congress has three times reauthorized these grants over Presidential vetoes. It was a veto by President Nixon of a bill authorizing wastewater treatment construction grants that gave birth to the budget process here in the Congress. In recent years, under tight budget constraints, even the Congress has appropriated less than the authorized amount for this program.

So, I suggest, it is news that a Republican President is asking that the appropriation for this program be increased to an amount that is more than double the authorized level. The reason for this request is obvious to me. The program works. It is a great success. It has improved the quality of the Nation's waters. It has made a basic public utility affordable in many communities that could not otherwise have built these facilities. It has been efficiently administered by EPA and the States.

Mr. President, Federal aid to build wastewater collection and treatment systems began in 1956 with enactment of the Federal Water Pollution Control Act. For most of its history it was a direct Federal grant to local governments. Cities and towns used the money to lay sewer pipes, to build sewage treatment plants, and to replace sewage facilities that had worn out.

In the first years the grants were relatively small, $20 million to $50 million per year. But in 1972, the program was dramatically expanded. That was the year that Congress completely rewrote the Federal Water Pollution Control Act to address the water pollution problems that had become a national scandal. It was about 20 years ago that rivers caught fire, the Great Lakes were dying, urban rivers like the Potomac were so polluted they were no longer suitable for recreation. And the American people demanded that our lakes and rivers and streams be cleaned up.

Although it was not officially called the Clean Water Act until 1977, it was the amendments of 1972 that signaled the big change. Authorizations for the wastewater treatment construction grants program were increased to nearly $5 billion per year. The matching rate was increased to 75 percent Federal money. States were instructed to prepare priority lists of projects for Federal funds. A massive construction program was begun.

That level of effort was continued through much of the 1970's. At the end of that decade, the Federal Government was providing about $5 billion per year in aid to local governments to build sewage treatment and collection facilities. More than $26 billion had been invested at that point.

In 1981, when President Reagan came to office, he appointed David Stockman as the Director of the Office of Management and Budget. Mr. Stockman was very critical of the construction grants program. He felt that many of the communities that received Federal assistance could well afford to build their own wastewater treatment facilities.

He also argued, and with some justification, that the very low contribution made by local governments to the cost of these plants encouraged overbuilding. Cities designed plants with capacity well beyond their current needs because the cities contributed on average only 5 percent of the construction costs.

As it happened, the construction grants program was up for reauthorization in 1981 and President Reagan made it clear that he would request no funds for 1982 unless significant reforms in the program were made.

And the Congress responded with reforms. The Federal matching rate was cut from 75 percent to 55 percent requiring local governments to shoulder a larger share of the burden. Projects that were growth related were no longer eligible. Priority was given to construction that would bring cities into compliance with Federal water quality standards. And it was agreed that the program would be extended for another 10 years at $2.4 billion per year. But at the end of the 10-year period, the Federal role in wastewater treatment was to be terminated.

There was some logic to the commitment of $2.4 billion per year for 10 years. Those of us in the Federal Government often hear complaints from our colleagues who serve in State and local governments that the Congress imposes mandates without paying for them. In fact, the New York Times carried a major story on this subject yesterday.

The Advisory Commission on Intergovernment Relations, on which I am pleased to represent this body, along with DANNY AKAKA, had a very, very thorough report on this subject at its meeting last week.

The laws that Congress enacts can have major cost impacts for State and local government. Since they are governments that must get their tax dollars from the same people that the Congress taxes, they argue, rightfully in my view, that Congress has an obligation to consider the impacts of its action on State and local spending and taxes.

Well, that is one thing we have always done in the Clean Water Act. The purpose of the construction grants program was to help pay for a Federal mandate. Publicly owned treatment works, the sewage treatment plants owned by towns and cities and counties, must meet a level of pollution control set forth in the Clean Water Act. It is called secondary treatment. It requires that about 85 percent of the pollutants in the wastewater be removed before the water is discharged to a river or lake. In 1981, when the Congress and the administration agreed to provide another $2.4 billion per year for 10 years for construction grants, it was expected that this amount of money would roughly pay for the cost of complying with that Federal mandate.

When these grants came up for reauthorization again in 1985, further and very significant reforms were made. At that time we were looking at the end of the Federal role. Under the very able leadership of the now ranking Republican member of the Environment and Public Works Committee, Senator JOHN CHAFEE, and with the help of the States, the construction grants program was converted into a permanent infrastructure investment program.

Rather than make outright grants to local governments for construction, the 1987 Water Quality Act authorizes grants to the States. Each State places its grant in a revolving loan fund. It matches the Federal grant with some of its own funds. The money in the fund is then loaned to local governments for wastewater treatment construction projects. Local governments pay the money back over 20 years at interest rates less than the market would charge and money is then reloaned to build new sewage treatment facilities in other towns and communities in the State.

These State loan programs are called State revolving funds or SRF's. The first SRF's were established in 1989 and 1990. Today every 1 of the 50 States and Puerto Rico has established a revolving loan fund. They have all received grants from the Federal Government to capitalize their funds. And as of last fall, loans have been extended to over 400 local governments through State funds.

The States have done a truly extraordinary job in setting up these funds. States are required to match the Federal dollars with some funds of their own. Many States have gone well beyond the required match. And a dozen States have leveraged their funds. They have used the Federal grant to back up bonds issued by the State the revenues from which are deposited in the fund and are also used to make loans.

Let me give you an example. The State of New York has leveraged its Federal grant and State match at a 3-to-1 rate. For every dollar of Federal grants it receives it is able to loan out more than $3 to local governments. This means that Federal dollars in States using the leverage of SRF's can reach much farther than they would as a direct Federal-local grant.

The advent of the SRF has brought about another significant reform. Because local communities are required to pay back the loans, the planning and design of the wastewater facilities that are built is likely to be much more in tune with the actual needs of the community. Cities and towns will seek efficiencies and technologies that can save costs and save on water consumption, because ultimately they will have to pay the sewerage charges that finance the facility.

But there is still a substantial benefit for local governments. The State of New York estimates that local government saves $250,000 in interest costs for each $1,000,000 borrowed from an SRF as opposed to the bond market. And in some States, like my State of Minnesota, no interest loans—that is, loans without interest—are offered to communities that cannot afford even the 2- to 5-percent rate that is typically charged for an SRF loan.

So, what we have here is a great success story. Since 1956, the Federal Government has invested more than $58 billion in local sewage treatment and collection. It is an example of the Congress financing a mandate that it has imposed. Today, there are 16,000 functioning sewage treatment plants owned and operated by local governments across the country.

Plants serving more than 144 million Americans meet secondary treatment, the Federal standard for clean water.

That is up from 85 million in 1972. And the quality of the Nation's rivers, lakes, and streams have improved dramatically as a result.

State revolving funds have magnified the impact of Federal dollars. The money will be available in perpetuity as local governments repay their loans. Many States have leveraged the Federal dollars to extend the reach of the SRF's. And the dollars are applied more efficiently as the discipline of repayment is applied to the design and construction of these facilities.

But there is work yet to be done. The 1987 Water Quality Act established the State revolving funds, but it also legislated an end to the Federal role. The total amount authorized for the SRF grants was only $8.4 billion, including $1.2 billion in 1993 and $600 million in 1994. After 1994 there is no authorization for Federal assistance.

The need, however, remains large. EPA's most recent estimate of the dollar amount necessary to build the sewage collection and treatment facilities now planned by local governments is approximately $80 billion through the year 2010. And there are other substantial needs not included in the EPA estimate. The current authorization for SRF grants is nowhere near enough to meet those needs.

Recently, Senator CHAFEE recommended that the Federal grants to State revolving loan funds be continued through the year 2000 at $2.5 billion per year. That is a suggestion we should all support. I do. It reflects the success that has been experienced in the construction grants and revolving loan fund programs. There is no better way for us to invest Federal dollars in clean water than this program.

I take the President's 1993 budget request for these programs as a sign that this administration agrees and recognizes the value and the success of this important environmental effort.

Mr. President, this year marks the 20th anniversary of the 1972 amendments to the Federal Water Pollution Control Act—that point in time when our National Government became truly dedicated to protecting the quality of our Nation's waters. It would be fitting if we could recognize the 20th anniversary by extending a program that works—the State revolving funds—through at least the end of this century. I believe that the President's 1993 budget request for this program points us in the right direction.

I urge that we act on that request as quickly as possible.

Thank you, Mr. President. I yield the floor.

Mr. BENTSEN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized for up to 15 minutes.

TAX RELIEF FOR MIDDLE-INCOME AMERICANS

Mr. BENTSEN. Mr. President, there is an axiom in politics that every officeholder in Texas from the courthouse to the statehouse knows by heart, and President Bush certainly knew it when he was a Member of Congress from Texas, but he seems to have forgotten it. And that axiom is that, "You cannot beat something with nothing." That is especially true when we are talking about tax relief to middle-income Americans.

All sides agree, Mr. President, on the need for tax relief for middle-income Americans, whether we are talking about Democrats or Republicans, whether we are speaking about the President or the Congress. Over the last decade there is no question that middle-income Americans have been the ones that have been hardest hit. They are the ones that have seen their taxes go up while their incomes went down.

Congress last week finished its tax bill with a substantial cut for middle-income Americans, and they finished it within the deadline set by the President of the United States and sent it to the White House. The President had not even read it when he issued a statement that he was going to veto it. He had his veto message all ready.

Mr. President, I think it was good legislation. It said to middle-income Americans that had a family of four—two children—making $35,000 a year, that we are going to give you a 25-percent cut in your income tax.

That is meaningful. But President Bush did not agree. He vetoed the bill and spent a good deal of time since then denouncing it, inaccurately labeling it as a $100 billion tax increase. He knows better. That is a gross misrepresentation of that bill.

People say, Why don't you answer that; why do you leave that kind of a misrepresentation hanging out there, getting repeated over and over again? We do answer it. It is answered here on the floor of the Senate, and it is answered by a number of Senators and House Members. But I tell you, it is a tough competition with a bully pulpit; tough competition to get the word out to the elections.

I will give another example of the advantage the White House has. Let's talk about the Sunday network shows. Say half the networks called and asked a Democrat to be on the program with a Cabinet official representing the Republican Party. And then we have the Cabinet official saying: "Well, if I cannot have it just to myself, if I have to have someone on the other side presenting their point of view, then I am not available." The network is trying to get their viewership up and understands that if they have a Cabinet official, that person is better known and that person is going to attract an audience. So we see the network, in many instances, saying: Well, OK, the show is yours; we will not have a Democrat on that program to represent the contrary point of view.

A good example of this problem is when the President talks about a tax increase, and does not say that there is an equivalent tax cut. For every tax increase, there is a tax cut. He does not say that the President's bill, over those 6 years, would have added $32 billion to the deficit. When he says he turned his back on the 1990 budget agreement, and he is sorry he was ever a part of it, that exemplifies it. That is the only serious discipline we have around here on this Congress and on the administration to try to cut this deficit. And it has enabled us to began to make some headway in cutting back on the deficit.

The congressional bill cut that deficit by $13 billion over those 6 years, while the President's bill added $32 billion to it over that period of time.

The President should know that you cannot beat something with nothing. He told us over and over again that he would not accept our middle-income tax cut. But where is his? Does he still support the smaller tax cut he originally proposed and then pulled back on? We know what he is against. But when it comes to cutting taxes for hard-pressed, middle-income families, what is he for? And perhaps more important in this age of $400 billion deficits in that budget, how would he pay for whatever he proposes?

No wonder the American people are turned off by what they see going on in Washington. No wonder they are sending ominous signals to candidates up for reelection this year that they want less rhetoric and more effective action. No wonder the same poll, which shows Americans overwhelmingly for legislation to cut taxes to hard-pressed middle Americans, also shows they do not believe such legislation will ever become law.

We will never pass a middle-income tax cut until we move beyond what we do not want and start talking about what we do want; what we are willing to support and how we are willing to pay for it. The legislation that the President commented on is not, as he says, a $100 billion tax increase. It is a tax cut for 77 million middle-income Americans. And in the interest of fairness and holding the line on the deficit, we did it by raising the taxes on approximately a million people at the very top of the income scale. They are the ones who, in the last decade, have seen their taxes go down while their incomes went up; just the opposite of middle-income Americans.

And when we talk about the tax increase, we were talking about that fourth tier, raising it by 5 percent, from 31 to 36 percent. In addition, the bill imposed a 10-percent surtax on those making over $1 million a year.

We talked about raising it from 31 percent to 36 percent. All you have to do is remember back to 1986, when President Reagan, a Republican, was talking about raising it to 35 percent on anyone making over $70,000 a year. We are talking about 36 percent on families making over $140,000 a year.

Tax fairness and the ability to pay are still an important criterion in sharing the responsibilities of paying the cost of government. And for those who might think that 36 percent, or the surtax on people making over $1 million a year is high, let us take a look around the world and look at the top marginal rate imposed by our biggest and toughest competitors: Now 36 percent; not a 10-percent surtax on people making over $1 million—substantially more. If you are talking about Germany, if you are talking about Japan, countries that are our toughest economic competitors today, they have a 50-percent and a 53-percent top personal income tax rate.

I listened to one statement that was made by the President and was made repeatedly on this floor, claiming that 80 percent of the highest taxes in our bill would be paid by small businesses. I said, How can that be? I was a small businessman once myself. Small business often is with two or three employees. How could it be that they are making over $140,000 net?

I went to look at how they arrived at this conclusion. I looked at the 1985 Treasury study that I understand was used to arrive at these figures. The vast bulk of those taxpayers weren't small businesses at all. They were doctors, lawyers, bankers—people that invested that year in limited partnership tax shelters. These individuals had losses because they were sheltering their income. They took those people who had lost money in those ventures and said those are small business people. It did not make any difference if their principal income was as a lawyer or doctor or banker, they considered them small business people. The study is irrelevant today, of course, since most of those tax shelters were done away with in President Reagan's tax reform initiative of 1986. In essence, his statement was a total misrepresentation of the facts.

President Bush, of course, was well within his constitutional rights and his responsibilities to veto that tax bill. But now that he has done it, and he spent several days attacking it, where do we go from here, as far as middle-income folks are concerned? What can we do to change this from an exercise in blame-placing to a serious effort to cut taxes?

I challenge the President today to send to the Congress his proposal. Send us your proposal, Mr. President, for cutting middle-income taxes. Show us what you would do. Perhaps he could do it simply by telling us how he thinks we should change our legislation so it meets his objections. Maybe he prefers to take a totally new approach.

Both Democrats and Republicans, Congress and the President, have told the American people they strongly support middle-income tax relief. Americans have indicated they like that idea, too. Given that kind of broad agreement, people have every right to ask, "why don't you give us some relief? Why all the arguing, and the bickering, and the gamesmanship?"

If the President will send us his middle-income tax plan, then I pledge—and I am confident that I speak for the great majority of my colleagues on both sides of the aisle—I pledge to work with him in a spirit of mutual cooperation. We did a good deal of that in the tax bill we proposed. We took six of the seven growth incentives that he had in his bill and put them in our legislation.

This is an election year, and we all know the special hazards and difficulties of dealing with tax legislation in an election year. The other side of that coin, though, is that we are also familiar with the risks of failing to perform at a time when the people are preparing to pass judgment on who lived up to their commitments and who did not.

Mr. President, you just cannot beat something with nothing, and when it comes to middle-income tax relief, I challenge the President to stop talking about what he does not like and tell us what he wants to do and how he will pay for it.

Mr. President, I yield back the remainder of my time.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Senator from Rhode Island [Mr. CHAFEE].

Mr. CHAFEE. Mr. President, I listened with careful attention to the presentation made by the distinguished chairman of the Finance Committee and I will say this, Mr. President, that I do not think the argument is over tax relief for the middle class. I think the argument is over how best we use new revenue, should we choose to raise new revenue. The total revenue raised under the bill that came to the floor from the majority party was about $52 billion, and of that $52 billion, $32 billion of it went for this so-called middle-class tax relief.

Mr. President, there is not a consistent view on this side as how to proceed, but speaking for myself, I am not opposed to raising new moneys through taxes. I do not mind taxing the rich whether it is a surtax or increasing the brackets to 36 percent. But the question is what to do with the money when you raise it, and the overwhelming view on this side and, indeed, I should say the overwhelming view in Congress as a whole is, do not squander it on a very, very modest tax break for the middle class. If you are going to raise this money, use it to reduce the deficit.

The deficit is what is going to haunt this country in the days and years ahead. We felt that a very, very modest relief, and you can argue over whether 83 cents a day per child 15 or younger is any significant relief for the so-called middle class and it is a very limited group in the middle class. And indeed, Mr. President, when that bill came back from conference, it had exactly what we on this side were saying: That it did not cover that middle class.

And so when it came back, the tax applied not to those married families starting at $175,000, but it came down to married couples, I believe, at $140,000. It came down. The tax was applied—not that the tax came down—but the tax applied to those in lower brackets than originally estimated, and we are absolutely confident that if we are going to continue with that so-called tax break for the middle class, those higher taxes, the 36 percent rate, would have to even go down to lower and lower brackets.

Mr. President, no one ever accused the New York Times of being a pro-Republican newspaper. What does the New York Times say about that bill? This is what it said on March 21, last Saturday, "Tax Bill Veto Is No Loss." I might just quote from it:

> Congress worked feverishly and successfully to pass an economic recovery plan before yesterday's deadline set by President Bush in his State of the Union address. It need not have bothered. The bill provided paltry relief for middle-class families, no relief from the recession and virtually nothing to spur long-term growth. Worse yet, it reinstated a bevy of tax shelters of the type that were demolished by the glorious 1986 tax reform.

Mr. President, it did not agree for the reasons that President Bush vetoed it, but it agreed with the result, and so do we on this side, Mr. President.

So where do we go from here? I hope that the majority party, working with the Republicans and the administration, can get together on a tax program that will do something to help the economy out of this recession; that we could take care of some of the problems that have arisen in connection with, for example, the real estate quandary we are now in. I think the passive loss changes that were recommended were good.

There were other provisions that were good, I believe. I am sorry when they came back from conference they left out one of the provisions that would be most successful in reviving the real estate situation; namely, the $5,000 tax credit. I hope they do something about the very, very onerous so-called luxury tax which has been a total disaster in raising revenue, a disaster in creating unemployment in the industries affected.

So I think there is hope, Mr. President. I would say the ball lies in the majority party's court and certainly those of us on this side would cooperate to achieve a good result, but I do not think raising taxes very substantially and spending the money on 83 cents a day per child under 15 is going to get us very far.

Mr. BENTSEN. Mr. President, I have the greatest respect for the Senator from Rhode Island, and we often have worked together in a bipartisan way and accomplished things we thought were important for the country. But as I listened to him talking about how committed everyone was to deficit reduction, I could not help but think what the President's bill did in that regard.

He did not refer to that at all. Over 6 years, the President's bill would add $32 billion to the deficit. The President is the one who said he was sorry he ever entered into the 1990 budget agreement that is designed to restrain how much is spent by the administration and Congress. And he sure showed that as he presented his legislation and did not pay for it.

Our legislation reduced the deficit by $13 billion. It is not enough, but it is a dramatic change from what the President had proposed; not enough for middle income, more than $42 billion. I have been here long enough to know that is still a lot of money.

The tax bill would have provided meaningful relief to 77 million taxpayers in each of the first 2 years. Beginning in the third year and thereafter families would be eligible for a $300 tax credit for each child. This would be a 25-percent income tax cut for a family of four making $35,000 a year. I know there are people inside the beltway who think that is peanuts, but that's real money to most Americans.

The bill would provide meaningful tax relief to a family that sits down and reads the supermarket ads and looks for the coupons trying to decide what to buy and where to shop. It's meaningful to the family that has a child that gets sick and the parents while trying to decide whether to go to the emergency room or to a doctor knowing that it is both a medical decision and a financial decision for them. It's meaningful to the family that is trying to send their kids to college and is forced to look first for what the student aid is before they look at the curriculum.

It is also meaningful to the family trying to figure out how to pay the orthodontist for braces for the child. If that family were to put that $300 for a newborn child into an IRA until the child was ready to go to college, they could accumulate $15,000—that is meaningful.

Those are the things that we put in this piece of legislation. So do not tell us what you are against; tell us what you are for. Mr. President, tell us what you will support and then tell us how you will pay for it. We would be delighted to see if we cannot work this thing out together.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the President pro tempore [Mr. BYRD].

Mr. BYRD. I thank the Chair.

(The remarks of Mr. BYRD pertaining to the introduction of S. 2402, S. 2403, and S. 2404 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico [Mr. DOMENICI].

ORDER OF PROCEDURE

Mr. DOMENICI. Mr. President, I understand that morning business is about to expire. The Senator from New Mexico is on the floor because I await the majority leader or his designee for purposes of moving that we consider the bill that would remove the defense wall.

Might I say, so that my friend, the majority leader will know, I am not in a hurry. The problem I have is that I must be off the floor at 12 o'clock for a short while. I would not want to interrupt him or cause a delay with respect to his making the motion to proceed. Some other Senators will take my place at that point.

So we will not be asking that the process be in any way restrained. On the other hand, if we could move ahead with it, it would be helpful.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOMENICI. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $3,863,647,979,260.75, as of the close of business on Monday, March 23, 1992.

As anybody familiar with the U.S. Constitution knows, no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

A TRIBUTE TO BERTHOLD GASTER

Mr. LIEBERMAN. Mr. President, I rise today to pay tribute to a fine journalist and a wonderful friend, Berthold Gaster.

Bert Gaster, who passed away yesterday, was editor of the Connecticut Jewish Ledger, which is circulated every week to more than 25,000 families in my State. Under Bert's able direction over the past 30 years, the Ledger has become a real fixture in our homes, bringing us news as personal as the charitable work of our friends across Connecticut, and as profound as analyses of the Arab-Israeli peace dialog. Whether the subject was anti-Semitism in our own backyard, remembrances of the Holocaust, or current events in the Jewish community, Bert Gaster keep us informed and enlightened.

As a journalist and a public-spirited citizen, Bert Gaster won many awards, including a citation from the Freedom Foundation for an essay about the American dream. Bert Gaster's life was a fulfillment of that dream. He came to America from Vienna in 1939, where Nazis had begun to persecute the Jewish population. He had lived through the infamous Kristallnacht, watching Nazi gangs terrorize the community. His father survived the concentration camps. Those memories inspired him to lead the greater Hartford area's yearly Holocaust memorial observance, many of which I was honored to participate in.

Once in this country, liberated from fascist domination, Bert Gaster flourished in freedom, receiving bachelor's and master's degrees and embarking on his career in journalism. I believe he saw in journalism an antidote to the repression of Nazism: he knew the free and unfettered expression of ideas was the best way to combat ideologies that seek to stifle the human spirit. For more than three decades, Bert Gaster embraced the first amendment of his adopted country and used it to advance the public interest and the cause of freedom.

I am proud to have known Bert Gaster not only as a journalist, but also as a very good friend. I always enjoyed his company, his advice and his warm, easygoing manner. On this sad occasion, when memories of many happy times with Bert are recalled, I wish to offer my condolences to Adele Gaster, a wonderful woman to whom Bert was married for 40 years. Adele worked right alongside Bert at the Ledger, handling the whole range of tasks involved in producing a weekly newspaper. I also wish to express my sympathy to his son and daughter, Jeffrey and Emeline, his sister, Rose, and to other members of Bert's family. Given his significant role in our lives, Bert's family can easily be said to include everyone who receives the Jewish Ledger each week and benefits from its insights into the Jewish community in our State and around the world.

From the darkness of the Holocaust to the bright and open skies of freedom, Bert Gaster's journey of life is a cause for celebration. As Emile Zola said at the trial of Alfred Dreyfus, "The light, the whole light—this was my sole, my passionate desire!" Bert Gaster, through the conduct of his life and career, shared that desire, to shine the light of truth over the land so that we might see our way to a better world. Those of us who knew Bert Gaster would best honor his memory by doing our part to keep that desire alive within ourselves.

FREEDOM OF EXPRESSION

Mr. LEAHY. Mr. President, more than 3 years ago, the Ayatollah Khomeini declared Salman Rushdie a blasphemer and condemned him to death. Rushdie's crime was not murder or treason, but a thought, a word, a novel called "The Satanic Verses." Since then, Rushdie has been a prisoner, a man isolated from the rest of humanity by hatred and intolerance. And he has not been the only victim: The book's Italian translator was brutally attacked and its Japanese translator murdered.

Last night, under cover of darkness, Salman Rushdie appeared at a conference sponsored by the Freedom Forum and the American University. And earlier today, Senator MOYNIHAN and I met with Rushdie here in the Capitol. His story is compelling. In one sense, Rushdie's journey from a storyteller to a target of state-sponsored terrorism is a complex tale of personal hardship and international intrigue. In another, it is frightfully simple: Salman Rushdie has been sentenced to death for the crime of writing a book.

Rushdie's plight is an example of fanatic censorship—what he calls terrorism by remote control. It is ideological extremism and political expediency taken to new heights. But while this censorship is different in scope, its threat is the same as government censorship throughout the world.

INTERNATIONAL CENSORSHIP

Article 19 of the U.N. Universal Declaration of Human Rights states:

> Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Notwithstanding that declaration, censorship is an unfortunate reality in many parts of the world. An article in the recent edition of the Freedom Review indicates that of 162 countries examined, only 42 percent have a free press—a 3-percent increase over 1990, but still far from acceptable.

The most significant increase in press freedom came in the former Soviet Union and parts of Africa. An organization named after article 19 of the U.N. Declaration, reported last year that South Africa ended the emergency rule that restricted reports of unrest in black townships. In the Baltic States of Estonia, Latvia, and Lithuania as well as in Poland and Czechoslovakia, glasnost has paved the way to a fledgling free press throughout the former Soviet bloc.

The first real evidence that something was new under the Red Star in Moscow was not the destruction of statues or the celebrations in Red Square.

The Communist Party was officially dead when newspapers began to publish accounts of suppression under the Communist regime and television newscasts started beaming criticism of the old order to the new world.

Unfortunately, China did not share in this expanding freedom of the press. In the wake of the crackdown following the prodemocracy demonstrations in Tiananmen Square, Chinese reporters have been repressed and foreign journalists denied access.

In a particularly egregious example of artistic suppression last year, the Chinese Government urged the United States Academy of Motion Picture Arts and Sciences to disqualify the Chinese film "Ju Dou" from Academy Awards consideration for best foreign language film.

The press suffered at the hand of the governments in Cuba and Haiti, as well. Iraq, which strictly controls information about the nation's persecution of the Kurds, executed reporter Farzad Bazoft, an Iranian-born reporter for the London Observer, as a spy.

The year 1991 saw many threats to the personal safety of journalists. The Freedom Review reported that 62 journalists were killed last year, up from 45 the year before. Twenty journalists were kidnapped or disappeared. Thirty-six were wounded and 48 were beaten. Fifty-one journalists received death threats and 298 were arrested or detained. In Colombia, alone, six journalists died at the hands of drug traffickers.

And lest we think the United States is free from this kind of terrorism, three journalists have been killed in this country in the last 15 months. On March 11, Manuel de Dios, Cuban editor-in-chief of New York's leading Spanish-language newspaper was shot dead in a restaurant in New York City. Last year, two Haitian radio talk show hosts were killed in Miami.

Democracy and freedom of expression move in tandem, one fueling the other. Neither survives alone. As one country after another moves toward freer, more open societies, the rights of the press and the public to speak their minds will increase. America leads the way in that process, but even in this country, we face threats to freedom of expression.

UNITED STATES

In the United States, freedom of expression includes freedom of speech, of association, of religion. In theory, we celebrate free expression and pledge our allegiance to the democratic form of government that guarantees it. In reality, the principle of free expression sometimes clashes with speech or art that we find offensive. That clash forces us to give more than lipservice to the first amendment.

John Frohnmayer, Chairman of the National Endowment for the Arts who was fired earlier this year by President Bush, spoke this week about the danger of censorship in this country. He warned of fear, of ignorance, of lack of resolve in protecting all voices, including the voices from the edge.

Frohnmayer's comments remind us that notwithstanding the first amendment, we are not free from censorship in this country. In just the last few years, we have seen:

Restrictions on the access of the press to the gulf war;

Repeated efforts to tie the hands of the National Endowment for the Arts;

Threats to defund the Corporation for Public Broadcasting;

Zealous prosecution of rap singers in Florida;

Attempts to ban library books in public schools;

Regulations aimed at preventing poor women from getting information about abortion; and

Resistance to public access to government information under the Freedom of Information Act.

The arguments for suppressing expression in these various cases are disturbingly familiar—that the art, or the lyrics, or the book, or the actions are offensive to someone and thus should be banned for everyone. It is an improper application of the principle of majority rule to issues of free speech. It is precisely what the first amendment is intended to proscribe.

Our Constitution established a democratic framework premised on self-government. It reflects the Founders' confidence in a government by and of the people, a government that welcomes rather than fears dissenting views. That promise is carved on the walls of the Jefferson Memorial:

> I have sworn upon the altar of God, eternal hostility against every form of tyranny over the mind of men.

At times in our history, we have seen examples of inexcusable attacks on free speech. From the Alien and Sedition Act to the McCarthy era, events have challenged our complacency about the guarantee of free expression. The lesson is clear: If we do not remain vigilant—even in protecting speech we do not like—we risk losing our right to all speech.

In response to an Islamic opponent who claimed that free speech is a non-starter, Salman Rushdie responded:

> No, sir, it is not. Free speech is the whole thing, the whole ball game. Free speech is life itself.

We should heed those words from one who has lost his physical freedom in the exercise of his freedom of expression.

TRIBUTE TO ALEXANDER M. SANDERS, JR.

Mr. THURMOND. Mr. President, I rise to pay tribute to the new president-elect of the College of Charleston, Judge Alexander M. Sanders, Jr. Judge Sanders is an outstanding individual in every way, and I am confident that he will be a strong and innovative leader for this fine institution.

Judge Sanders has served our State in a variety of capacities: As a member of the house of representatives and the senate; as an attorney and professor of law; and most recently as chief judge of the court of appeals. He has distinguished himself in each of these positions by his keen intellect, commitment to excellence and devotion to hard work.

I am sure he will meet the challenges of this new position with the same energy, good humor, and dedication which have been his hallmarks.

Mr. President, I ask that the text of an editorial from the Charles Post and Courier on Judge Sanders be included in the RECORD following my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Charleston Post and Courier, Mar. 25, 1992]

COLLEGE'S NEW HEAD PROVEN WINNER

Few public officials in South Carolina have a more loyal following than the new president-elect of the College of Charleston, Alexander M. Sanders Jr., who is known for his keen mind and winning personality. We expect him to make his mark at the college as he has in every post he has filled since he entered public life 25 years ago.

First as a member of the House of Representatives and then as state senator from Richland County, Alex Sanders became known as both a thinker and a spellbinding storyteller. He was out front on environmental issues before most of his colleagues and got their attention with his engaging manner and way with words.

Judge Sanders' opinions as chief judge of the Court of Appeals for nearly 10 years reflect his wit as well as his intellect. He has the ability to make even the most complex legal issue interesting and has become a draw around the country as a speaker who not only entertains but enlightens.

In view of the esteem in which he is held in the legal community, there was some surprise that he would even consider leaving the bench. But another respected legal mind and friend, Harry M. Lightsey, former dean of the University of South Carolina Law School, had found happiness as president of the college. When he was nominated to replace Dr. Lightsey, who will step down later this year, Judge Sanders didn't say no.

Because he is so politically well-connected, there have been charges that none of the other 219 applicants ever really had a chance. An attempt by one faculty member to obtain the names of the applicants was rejected by the chairman of the board of trustees, Joe Berry, who maintained that the applicants were promised confidentiality. The critics' fire was fueled.

That never should have happened. One of South Carolina's best-known media attorneys, Jay Bender of Columbia, contends that there is nothing in the Freedom of Information Act that justifies keeping from public scrutiny applications for public employment, be they for police chief, school superintendent or college president. "It is the fact that everyone has the opportunity to see what goes on that gives credibility to the process," he said. That's particularly important to the winner.

To his credit, Judge Sanders reportedly not only won over students who interviewed him last week but withstood well the grilling of some hostile faculty members. Clearly, he impressed the board, which gave him its unanimous vote Saturday after interviewing the other two finalists.

While he has taught law at USC for 20 years, as well as a stint at Harvard, Judge Sanders' one admitted weakness in terms of the new job is his lack of administrative experience. But Dr. Gordan B. Stine, a board member and former president of the college's Alumni Association, pointed to the judge's skill in working with people and his known ability to make hard decisions. Dr. Stine, who made the motion for Judge Sanders, noted that after his session with the faculty, a number of letters were received in praise of the judge, including one from a professor who noted that "anyone can look good when times are good. But it takes skill to perform well when times are tough."

Those who know him predict that before long, the critics will be singing the praises of the judge, whose fans include such establishment types as the current and former governors and such establishment critics as author Pat Conroy.

He will bring to the college a lively intellect and great good humor and he will charm while he's leading. His presence will be a stimulant not only to the campus, but the community.

DEATH OF BERTHOLD GASTER

Mr. DODD. Mr. President, I rise today to express my sadness at the news of the death of a sincere and longtime friend, Berthold Gaster. Bert was my father's good friend and trusted adviser, so his connection to my family goes back a long way. But Bert's deeper connection to the darkest moment of the 20th century, the Holocaust—from whose impending scourge and ruin his family fled in 1939—served to remind us of what we stand to lose when we sacrifice our thoughts and conscience to the tyranny of a seductive despot.

By surviving this abomination of civilization, Berthold Gaster understood better than anyone the essential sovereignty of every human being. Having borne witness to depraved unchecked madness under the guise of government, Bert possessed a raw sensitivity to the perils of power undisciplined by diversity and dissent. He never lost an opportunity to support the underdog, or spared a moment of his time or energy championing the civil liberties and human rights of others.

Bert's vocation as a journalist suited his keen insight and compassion. The power of his pen was mighty indeed. He never tired of stressing the importance of remaining vigilant against any erosion of human freedom. Memories of marauding Nazis' pillaging the quiet Jewish neighborhoods of Vienna—during what has come to be known as Kristallnacht—were forever emblazoned in his heart and mind. These images of chaos stood in stark contrast to the rights and liberties that most Americans take for granted. Bert always continued to remind us that moral laxity and complacency can foreshadow any nation's downfall.

Mr. President, I hope never to forget the lesson of Berthold Gaster's tenacious love of freedom, boundless compassion and ultimate faith in humanity which rose, phoenix-like, from first-hand experiences of human savagery. Knowing Bert personally was my own good fortune. But the stroke of fortune that blessed all of us was the act of a nameless Nazi official, who some half a century ago—softened by the pleas of Bert's mother—allowed them safe passage to the distant and more promising shores of America.

TRIBUTE TO THE LATE P. BRADLEY MORRAH, JR.

Mr. THURMOND. Mr. President, I rise today to pay tribute to a fine man and outstanding South Carolinian, former State Senator P. Bradley Morrah, Jr., who passed away last month. Senator Morrah was a man of character, courage and compassion and an outstanding public servant, and he will be greatly missed.

As a State legislator and attorney, Bradley Morrah devoted his life to serving others, and he did a splendid job of representing his constituents and clients in Greenville County. He started out as a member of the State House of Representatives in 1941. A position from which he resigned to serve in the military. His military career was distinguished by the same outstanding qualities he brought to all his endeavors, and he earned a Bronze Star and seven battle stars.

From 1953 to 1966, Senator Morrah represented Greenville County in the South Carolina Senate. He was a capable, dedicated and conscientious lawmaker, and his courteous demeanor and warm personality endeared him to his colleagues.

He practiced law in the Greenville area for many years, and was active in many civic organizations. He served on the U.S. Constitution Bicentennial Commission of South Carolina; the board of trustees of the Greenville city school system; the board of visitors of The Citadel, and the Archives Commission among others.

Senator Morrah ran against me for the U.S. Senate in 1966, and I found him to be a worthy and honorable opponent. I had a great deal of respect for him and was saddened to hear of his death. His passing represents a great loss to many; but he will live on in the memories of those who know him and through the many contributions he made to Greenville Country and our State.

I would like to take this opportunity to extend my deepest condolences to Senator Morrah's daughter, Irene Morrah Ingold; son, P. Bradley Morrah III; sisters, Mrs. Hugh Z. Graham and Mrs. Joe. T. Rice; and the rest of his fine family.

Mr. President, I ask that the text of an article and an editorial from the Greenville News be included in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Greenville (SC) News, Feb. 18, 1992]

FORMER LAWMAKER MORRAH DIES

Former state Sen. P. Bradley Morrah Jr., whose stamp remains on Greenville County roads, libraries and government, died Monday. He was 76.

Morrah had a long career in Greenville County politics and also gave his time to a number of civic organizations.

Local leaders such as Greenville Mayor Bill Workman said they were inspired by Morrah's style, and colleagues such as former state Rep. B.O. "Tommy" Thomason said he was responsible for helping bring the Church Street overpass and other key road projects to Greenville.

Former Gov. Dick Riley credited Morrah's influence with getting things done in Greenville, even though he served in the Senate when each county had only one senator.

Democratic Sen. Ernest Hollings called Morrah "an articulate, skilled legislator," and Republican Sen. Strom Thurmond, who Morrah ran against in 1966, said the Greenville lawyer's passing a great loss to the state.

Morrah first served as a member of the House of Representatives for Greenville County in 1941, resigning to enter the military service. He rose to the rank of major and was awarded the Bronze Star and seven battle stars.

Between 1953 and 1966, he served the longest term of any former single county Senator. He served as chairman of the House Ways and Means Committee and on the Judiciary Committee of the Senate.

In 1966, he was defeated by Thurmond for the U.S. Senate and also lost his state Senate seat to write-in candidate Thomas A. Wofford.

Born June 13, 1915, in Lancaster, he was the son of the late Patrick Bradley and Hessie Thomson Morrah. He graduated from Greenville County schools and was a 1936 graduate of the Citadel, where he lettered in basketball and track. He graduated from Duke University Law School in 1939.

He served as chairman of the South Carolina American Revolution Bicentennial Committee and the U.S. Constitution Bicentennial Commission of South Carolina. In addition, Morrah was a former member of the Board of Visitors at The Citadel, and was a member of the Clarks Hill-Russell Authority of South Carolina. He was former president of the Greenville Little Theatre, a former member of the Board of Trustees of the Greenville City School System, was a member of the Council of 13 Colonies and a former member of the state Parks, Recreation and Tourism Commission. He also received the National Daughters of the American Revolution Medal of Honor.

He also was a former member of the Archives Commission, the Palmetto and Summit clubs in Columbia, the Greenville Country Club and Cotillion Club.

He was a member of First Baptist Church.

Surviving are a daughter, Irene Morrah Ingold of Greenville; a son, P. Bradley Morrah III of Greenville; two sisters, Mrs. Hugh Z. Graham of Greenville and Mrs. Joel T. Rice of Belton; and two grandchildren.

Funeral services will be conducted Wednesday at 3 p.m. at First Baptist Church. Burial will be in Woodland Memorial Park, Section O.

The family is at the home at 206 Overbrook Road.

[From the Greenville (SC) News, Feb. 27, 1992]

BRADLEY MORRAH, JR.

Greenville attorney P. Bradley Morrah, Jr., who died last week at age 76, might well have become a South Carolina institution, except for circumstances that cut short his political career more than two decades ago.

Morrah's good qualities and potential were dealt with uncharitably by fate, it being his experience that's still referred to in political warnings against running as an incumbent for one office while also seeking election to a higher place. He lost a 1966 challenge against U.S. Sen. Strom Thurmond, and, surprisingly, he was also narrowly defeated by a Thurmond supporter who ran as a write-in candidate against him for his supposedly safe state Senate seat.

The political emotions and crosscurrents of the time punished Morrah's high standing that had discouraged ordinarily opposition, positioning him to be caricatured as inappropriately ambitious.

His place as exceptional community leader and South Carolina lawmaker, while he was still in his early 50s, provided the substance for his obituary last week. As noted, he combined admired qualities of civility, decency and leadership at a time when state senators wielded great power over their own countries as well as substantial control of state government.

Morrah had come to maturity when the temper of the times did not always favor good qualities, a point that came to light during the infamous Willie Earle lynching trial of 1947. He was a young defense attorney. And Rebecca West, the novelist and magazine writer who recorded that event most memorably, pictured him as a good man"stranded in the wrong century," admist prevailing incivility.

Throughout the past two decades, this good man remained active in community affairs, but at a lower profile not noticed by many newcomers to the area.

VICTORS IN ALBANIAN ELECTIONS SHOULD COMMAND UNITED STATES ATTENTION AND SUPPORT

Mr. PELL. Mr. President, this past weekend, Albania took another step in breaking with its Communist, isolationist past. In parliamentary elections, the Democratic Party won a resounding 62 percent of the vote, enabling it to control Albania's new parliament. Apparently, the turnout was heavy, and the vote took place without incident. In both form and substance, the elections indicate that Albania is serious about reform.

Last year, I visited Albania during its first parliamentary elections, and during that trip, I met Dr. Sali Berisha, the talented medical doctor who heads Albania's Democratic Party. I was much impressed by this man's commitment to his fellow citizens, particularly in helping them rebuild a country devastated by years of Stalinist repression and deprivation. He will need our support in that great undertaking.

Dr. Berisha subsequently visited the United States, and I know that many of my colleagues met with him and were equally impressed by his leadership and vision. Today, I am sending Dr. Berisha a telegram to congratulate him and his Democratic Party on their victory, and to offer my support for the difficult days ahead. I ask unanimous consent that the text of my message be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, March 25, 1992.

Dr. SALI BERISHA,
Chairman, Democratic Party, Tirana, Albania.

DEAR DR. BERISHA: I wish to congratulate you on the Democratic Party's overwhelming victory in Albania's parliamentary elections. In both process and results, the elections are truly an indication of the Albanian people's desire to make a final break from their isolationist, Communist past.

Now that the people of Albania have demonstrated their commitment to reform, I believe that there should be greater opportunities for Albanian-U.S. cooperation, particularly in terms of economic development. In this regard, I believe that the U.S. Administration should move to grant Most Favored Nation trade status to Albania. You may be sure that I will do what I can to encourage such a step.

As one who observed Albania's first free elections one year ago, I am particularly gratified by the most recent election results, and I wish to extend to you my personal congratulations and best wishes.

With every good wish.

Ever sincerely,

CLAIBORNE PELL.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The period for morning business is now closed.

APPROPRIATIONS CATEGORY REFORM ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate proceed to consideration of Calendar Order No. 428, S. 2399.

Mr. DOMENICI. I object.

The PRESIDING OFFICER. Objection is heard.

MOTION TO PROCEED

Mr. MITCHELL. Mr. President, I move to proceed to Calendar Order No. 428, S. 2399.

The PRESIDING OFFICER. The motion is debatable. Who seeks recognition?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, might I ask the majority leader, is it acceptable that I proceed first or would he like for me to wait for the chairman of the Budget Committee to discuss the other side?

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I rise in opposition to the motion to proceed to Senate bill 2399.

In the course of today and days to come, the Senator from New Mexico and others will discuss not only with the Senate but hopefully with the American people what is at issue here.

Frankly, I generally do not feel very confident in opposing a motion to proceed, albeit this bill was moved in a rather extraordinary manner. But in this case I feel very comfortable with this because I do not believe that the Senate should be considering Senate bill 2399 for a number of reasons that have very little to do with the substance which will follow shortly.

First of all, the Budget Committee of the U.S. Senate—I see the occupant of the chair, and I remember when he was a member of the Budget Committee. He used to wonder when we would have an opportunity to do something. In this case interestingly enough that committee, the Budget Committee, is supposed to consider bills that change the Budget Act or any amendments to that Budget Act. We are currently operating under the 5-year agreement and the Budget Enforcement Act.

This bill which would take the cap on defense and get rid of it in 1993, literally just get rid of it, tear down that wall, clearly should have been considered by the Budget Committee.

Since it has not been considered by the Budget Committee, it comes to the floor in a rather extraordinary manner.

First, last night, a rather extraordinary process was used to determine and declare we were in 2 days of legislative session in the same day so that it would be ripe for a motion to proceed today.

And, second, this bill, if we ever get to it, would be subject to a 60-vote point of order for the very reason that it has been appropriately considered by the committee of jurisdiction.

You see, that Budget Committee should consider and vote on a number of questions. What does this bill mean, simple as it may sound, for budget discipline? What might it mean to the deficit, and deficit reduction efforts? What might it mean to the defense of our country when we want to build down the defense in an orderly manner? What will taking that cap away do to that orderliness when this defense budget is put in total competition, in a big pool of money in the Appropriations Committee, to determine how much for defense and how much for all the rest?

In essence, believe it or not, if this bill is adopted, one committee will be determining the fate of our defense builddown, not the Senate, not the President, and not the Congress with the President. One committee, the Appropriations Committee, which is torn apart inside because there are many subcommittees spending money on domestic programs. It will be very easy in this builddown era to annually devastate defense—a billion here, a billion there—as the competition for programs in every area of domestic spending overwhelms it.

We finally arrived at a point in history, after the 5-year agreement that economic summit produced, that we took that competition between domestic spending and defense and said that is not good, it is not good for fiscal policy, and it is not good for defense. We said, let us set up a cap on defense and a cap on domestic, and you cannot use defense money or defense savings for higher domestic spending.

And, yes, we even put one in for international affairs, albeit a smaller portion, and we said if you do not want to spend it on international affairs, it goes to the deficit, but it cannot be used or intermingled for other things, including defense or domestic.

So, today, we are without hearings on that very serious budget enforcement provision. Today, we are going to, if the Senate were to agree, take that cap away and say, if the Congress wants to spend less on defense, all the savings go into a domestic pool to be spent on domestic if the Congress sees fit, and the savings resulting from deeper defense cuts do not go to the deficit.

Somebody may get up and say, oh, they can go to the deficit, because we do not have to spend it all. I see the occupant of the chair, and that brought a grin to his face. Will anyone really believe that when we do that, that every single penny will not be spent on 1 of the 2,600-plus domestic programs, some of which are not much good, many of which have taken on a halo and are immortal, because we cannot even talk about getting rid of them? So why will we not use all that extra defense money to spend for those?

There are some running around asking us to tear down this wall so the money can be spent on programs they want. There are constituent groups that come to our offices saying it is going to be spent on education; tear down the wall. It is going to be spent on infrastructure; tear down the wall.

Well, there is no provision in this bill or in the procedures of this institution that say where it is going to go. Where it is going to go is a big pool of money to be spent wherever the appropriators recommend, unless changed by the Congress. I think everybody knows what that means.

Having said that, let me tell the Senate a couple of things that I think are very, very wrong with this. I have discussed what is going to happen to an orderly defense builddown, and in the course of this debate, we will have experts on defense talk about how much we have already cut it.

We will introduce today, rather quickly, the letter from the Armed Services Committee chairman and ranking member. They essentially say the President's defense budget number for 1993 is right. So there is not any use to tear down this wall. Just do the President's defense number, and what you save, devote to deficit reduction and go about your business. We do not need to tear the wall down.

So I see it this way, in its simplest terms: A deal is a deal. We worked hard putting together this budget restraint package that set limits on spending. Frankly, less than 2 years have passed, and we want to renege on the deal. Nobody should think that that 1990 budget agreement mandates a high level of defense spending. The cap merely says you cannot mix the funds. For those who want to cut defense more, have at it. If you win, the savings go to the deficit. That is very simple to understand.

Second, I cannot understand how we can expect the American people to believe that we are serious about Federal spending being out of control when, 5 days ago, we put a big tax on a certain part of America—78 billion dollars' worth—and we did not apply that to the deficit. Now we are going to tear down the defense wall, so we will not put any of the defense savings on the deficit. I ask, even if we had not used the phrase in the past "tax and spend," what is it, if it is not tax and spend?

I alluded to that in arguing against the tax increase bill. But I did not have exact living proof that the spend part was all spending because most of the tax increase was used for tax credits, special interest provisions, and other revenue losses. Some call these tax expenditures. So I called it tax and spend.

Today much is being said about change, about America's new kinds of needs, about fiscal restraint and the deficits, and the need to save something for our children. Yet, we see the culmination of tax—$78 billion in new taxes, and spend—take down the only thing that protects defense spending, and spend the savings instead of apply the savings to the deficit.

So we can spend a lot longer debating this issue.

I ask unanimous consent that the letters of the chairman and ranking member of the authorizing committee for defense be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, March 24, 1992.

Hon. JIM SASSER,
Chairman,
Hon. PETE V. DOMENICI,
Ranking Minority Member,
Committee on the Budget, U.S. Senate, Washington, DC.

DEAR JIM AND PETE: In accordance with the provisions of Section 301(d) of the Congressional Budget Act, I am forwarding my recommendations for the National Defense function for FY1993. I appreciate the additional time you permitted me, based on your schedule, to present my views. I cannot recommend significant reductions in the President's FY1993 budget level. I do believe, however, that significant savings can be made in the following years of the future-years defense plan.

As you know, President Bush has requested $281.0 billion in budget authority and $291.4 billion in outlays for the National Defense function for FY1993. The President's request is $7.5 billion in budget authority and $4.9 billion outlays below the level for defense permitted in the Budget Enforcement Act. As the Director of the Congressional Budget Office testified to the Armed Services Committee in February, even before the additional defense reductions proposed by the President in this year's budget, defense spending for fiscal years 1993–1997 would be $350 billion below the 1990 level used as the Budget Summit baseline.

In order to make the reductions in defense already included in the President's FY1993 budget, by 1996 one million jobs will be lost in the Defense Department, and an additional one million jobs in the defense industry. This is the case even if no additional reductions are made to the President's proposals. By 1995 we will have reduced the Army by 10 divisions, the Navy by 95 ships, and the Air Force by 10 fighter wings. In addition, dozens of major weapons systems have been canceled and many others slowed down.

The Committee has received a great deal of testimony about the turmoil and concern among the military members, Defense Department civilians, and defense industry employees that make up the defense establishment. The senior leaders of the military services, for example, have pointed out that the pace of personnel reductions currently underway cannot be accelerated without significant hardships to military members and their families. Over the next eight months, the Army alone will release 85,000 people from active duty.

I hope that members of Congress will keep in mind one fundamental difference between this drawdown and previous ones. After most of our wars, those being released were draftees who wanted to get out. In today's military the men and women who serve are volunteers, many of whom were counting on a military career. If we are serious about maintaining a top quality volunteer force this distinction must be kept in mind. This is why I do not believe it is possible or desirable to reduce the military or civilian personnel levels in the Defense Department at a faster rate than that proposed in the Administration's FY1993 budget.

We have many pressing needs in this country that must be addressed over the next five years. In particular, we need to invest more in the skills and training of our people. A strong defense conversion and economic adjustment program is essential if we are going to take advantage of the skills and talents of the dedicated people being forced to leave the defense sector. This will help us avoid causing additional hardship to these people and worsening the unemployment situation in the short term, while at the same time paving the way for higher economic growth in the long term.

I anticipate that there will be initiatives in other areas that have traditionally been of concern to Congress, such as the industrial base and the National Guard and Reserve. These initiatives are not part of the President's budget. Unless the Congress decides it will no longer address these concerns, our Committee will have to make reductions from the President's budget to fund these initiatives.

The defense outlay level in the Budget Resolution must also take into consideration the $7.7 billion in rescissions of previously appropriated funds proposed by the President. If the Congress does not approve all of these rescissions, many of which involve programs strongly supported by the Congress, then additional cuts must be made just to get back to the FY1993 outlay level proposed by the Administration.

There is no doubt that some reductions can be made in the President's request. I know that some members of your Committee have identified potential reductions of $8–10 billion in the President's amended FY1993 defense budget request. But in my view these proposals do not take into account Congressional increases to the President's programs. I want to emphasize that if we do not approve the level of rescissions proposed by the Administration, and if we want to enact a package of economic conversion and transition initiatives for communities and individuals affected by base closings and defense industry drawdowns, it will require substantial reductions to the President's proposed program just to stay within the Administration's level.

Given the practical limits on the pace of personnel reductions, the extensive defense program reductions already underway, the need to assist military, civilian and industry personnel leaving the defense sector, growing environmental cleanup requirements, and the uncertainty over whether Congress will accept the President's rescission proposals, I do not believe that significant reductions below the aggregate funding level proposed by the President can be made in defense in FY1993. The Committee will continue to look for savings and efficiencies in DoD programs, but I believe savings identified in FY1993 will be offset by the above and other considerations.

I do however believe if present world trends continue it will be possible to achieve savings beyond those proposed by the Administration in the outyears of the President's FY1993 budget. For example, we must take a fresh look at the proposed Base Force. There is redundancy and duplication among the military services in roles and missions. By eliminating these redundancies and streamlining the support and overhead structure of the Defense Department, it will be possible to maintain the combat capability of the Base Force at lower budget levels.

I also believe that we can maintain our forward presence on land and at sea at more realistic levels. The level of U.S. troops stationed in Europe can be reduced well below the 150,000 proposed by the Administration, although these additional reductions will have to be achieved in the years after FY1993. The old Cold War operating tempos of our forward deployed forces can also be reduced, saving operating costs and extending the life of weapons systems.

At this time, it is my judgment that the defense budget can be reduced by $80–85 billion, including the FY1992 rescissions, below the Budget Summit Baseline over the next five years, or $30–$35 billion below the Administration's FY1993 request for the next five years.

I believe our nation has many great needs. One of the most important of these needs is deficit reduction. I believe it is essential that the Congress demonstrate a willingness to make cuts in federal spending and apply them to deficit reduction. Without question, defense has been the most significant source of deficit reduction in the Budget Summit Agreement, and will continue to provide significant savings throughout the 1990s.

I look forward to working with you on the Budget Resolution in the weeks ahead.

Sincerely,

SAM NUNN,
Chairman.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
Washington, DC, March 24, 1992.

Hon. JIM SASSER,
Chairman,
Hon. PETE V. DOMENICI,
Ranking Minority Member,
Committee on the Budget, U.S. Senate, Washington, DC.

DEAR JIM AND PETE: It is my understanding that today Chairman Nunn submitted to you his recommendations for the National Defense budget function for FY 1993. Until today, we were endeavoring to reach agreement on a joint letter, but the revised outyear reductions recommended by Senator Nunn preclude my concurrence. I, too, cannot recommend any substantial reduction in the level of defense spending proposed by the President for Fiscal Year 1993.

I generally concur in Senator Nunn's comments regarding the very significant reductions already made in defense spending under the budget summit agreement, as well as his assessment of the issues Congress must address during the debate on the defense budget this year. In particular, I fully endorse his cautionary statement that, if Congress fails to approve the President's rescission proposals and at the same time wishes to add to this year's defense budget a package of economic conversion and transition assistance initiatives for communities and individuals affected by base closings and defense industry drawdowns, then significant and perhaps unwise cuts to the President's FY 1993 defense program would be required. This would be the case even if Congress were to approve the President's requested level of defense spending.

However, I cannot join in the view that $30–35 billion in defense cuts beyond those recommended by the President can be made in the next five years. In my view, the appropriate funding level for defense for FY 1994 and beyond will be a top priority for the President and the new Congress following the November elections, and our recommendations today will have little standing in that debate.

In view of the continuing rapid pace of change in the world and the growing uncertainty about the course of future events, particularly in the former Soviet Union, I must reserve judgment at this time on the level of defense spending which is necessary to ensure our national security in the future. A precipitous decline in defense spending would irreparably degrade the superb capabilities of our Armed Forces today, and we must ensure that any reductions permit an orderly build-down of our military forces. In the words of General Colin Powell, Chairman of the Joint Chiefs of Staff, ". . . we are reducing as fast as we can, we cannot go any faster or we will break the force."

Over the next several months, the Committee will conduct a complete and careful review of the President's recommendations, including an overall assessment of service roles and missions, alternative plans for both domestic and overseas basing, and operating tempos and training requirements. We will study the complex questions associated with the issue of defense industrial base policy and the economic effects of reducing defense spending. And we will continue to work closely with the Administration to reduce the nuclear threat which still exists in the Commonwealth of Independent States.

Should events in the world continue to unfold in a positive direction, this review may identify additional areas where reductions can be made in future years. However, I do not believe that Congress should at this time take action to promise the American people specific additional peace dividends in the future when we are not sure we can safely deliver on that promise. In this connection, I believe that Congress should adhere to its commitments under the Budget Enforcement Act and devote any reductions in defense spending to deficit reduction.

In any case, the Armed Services Committee will continue to work to ensure a level of defense spending and military capability which is adequate to ensure the future security of our nation.

Sincerely,

JOHN W. WARNER,
Ranking Minority Member.

Mr. DOMENICI. Mr. President, even though some of the media accounts say that they are recommending deeper cuts than the President's, I think it is fair to read it the way I suggest, and that is, for 1993, they do not recommend anything different than the President in terms of the cap or dollars to be saved or dollars to be spent for defense. They might, in the third or fourth year out, say that we could cut more. We can take that up another day.

But, essentially, the committee that knows the most about what is going to happen says we should not take down the wall, unless we make sure that we spend at least what the President has recommended. That will not happen if the wall gets torn down and nothing is put in its place.

So I think Senators can understand that when a motion to proceed is objected to, more than in the usual debate, this is an appropriate place to raise the issue whether we should be considering taking down the defense cap and wall for 1993 at all. We do not need to change it, because if we want to save money by cutting defense more, we all have a blueprint for that.

Cut it if you want; put the savings where they belong under the agreement we made—that is on the deficit. We should leave the wall alone to protect defense from an inordinate competition created by domestic programs that want to divert defense savings from the deficit and devote them to additional domestic spending.

So with this, I might indicate that a number of Senators want to be heard on how much we have already reduced defense spending, what the 5-year program means that we put in almost 2 years ago, and the President's proposed additional defense cuts. And many want to talk about the need to restrain expenditure growth rather than the need to spend defense savings on other domestic programs.

Frankly, Mr. President, I will use some of the debate to discuss the issues I just described, and then I will begin to talk with the Senate seriously about the other part of the budget deficit, which are the entitlement or mandatory programs. I have a proposal that I will make in general terms during this debate that I hope Senators might support. This proposal would make a permanent change in the Budget Act, which obviously would have to go to hearings. The proposal would cap the growth in mandatory expenditures, and do it in an orderly way so that the authorizing committees that oversee this myriad of entitlement mandatory programs, except Social Security, would have time to look and see what has to be changed so that the expenditures would be somewhat restrained and yet live up to our commitments in those particular programs. And that can be done.

With that, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Tennessee [Mr. SASSER].

Mr. SASSER. Mr. President, I rise to ask for consideration of the Appropriations Category Reform Act of 1992. I first introduced this measure on February 25 as S. 2250.

We now have 49 Members of the U.S. Senate who have stepped forward to become original cosponsors.

Mr. President, I ask unanimous consent to add today the Senator from Tennessee [Mr. GORE] as an original cosponsor to this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I will call to the attention of my colleagues that the distinguished chairman of the Senate Committee on Intelligence, Senator BOREN of Oklahoma, became a cosponsor of this legislation yesterday.

There is a lot of interest in this bill that has a very technical name, the Appropriations Category Reform Act of 1992.

Some of my colleagues might consider the fact that there are 49 original sponsors or cosponsors as unusual for a proposal that is essentially a technical budget matter.

But I think every Senator who has signed his or her name to this bill knows its effect on the future and the prosperity of this country. At a time when we are struggling to emerge from the longest recession since the Great Depression, they know that the influence of this bill will be anything but technical on the economy and the lives of the people of this country. It is a fundamental measure that is a condition precedent to allow us to begin investing in America once again.

As the distinguished occupant of the chair knows, it was his deceased father-in-law who, as President of the United States, Lyndon Johnson, embarked this country on a period of great investment, investment in infrastructure, investment in the human needs of our people. That was almost a quarter of a century ago.

Since that time and since the time of Lyndon Baines Johnson, we have allowed our country to fall into neglect, not because we wished to, but because we had conflicting pressures on us. One of those pressures was the great economic burden of carrying the weight of the world on our shoulders. Essentially it was the weight of the free world on our shoulders in defending our way of life in the cold war and our way of life against a corrupt and totalitarian regime. That battle is won.

It is time, I think, now to go back to the policy of investing in America, in investing in our own people, of scaling back military expenditures. And, yes, some of those military expenditures ought to go to deficit reduction, but certainly a substantial proportion of them ought to go to meet the long neglected needs of the people of this country.

Just look around us and see. Look at what is happening to the infrastructure of this country. Go to New York City, the great proud city that has been the intellectual leader of this world and this country in many ways, a city that has produced great things in the past. It is sad to go there now. It looks like a city in the old Soviet Union, or perhaps even a city in the Third World, as you see potholes everywhere and you see bridges rusting and decaying. You see graffiti everywhere and people afraid to walk the streets in certain areas. And this is duplicated in city after city after city after city across this great land of ours.

As we look at the educational scores that come in from around the world and how our students in this country compare with the students in other countries, we find that we are falling short. So the needs are great. The neglect has been long. But now the day of meeting these needs is coming.

What we are offering today is simply the opportunity for our colleagues here in this body to make a judgment, to make a judgment about whether they wish to use some of the cuts in military spending to meet long neglected domestic needs. We are not saying that is going to happen. What we are saying is simply allow this legislative body, the U.S. Senate, 100 individuals who represent the more than 260 million people in this country, to make a judgment, to reflect the views of their constituents.

It will simply change the budget agreement to allow transfers between defense spending and domestic spending. That is all it does.

Mr. President, there is no disguising the fact that this bill is principally at odds with the approach of the administration. The administration cannot seem to fully comprehend that the cold war is over, that the evil empire is dead, that it is no longer something that we have to confront. The President told the American people that the peace dividend is simply that, only peace.

Well, of course, that is a large part of the dividend—peace. But what he is also saying is there is no tangible proof for the toll and the struggle of the last half century, and no real restitution for the sacrifice that the American people have made.

This legislation takes the clear and necessary step. It poses a single fundamental question: Are we going to move decisively to invest a portion of the peace dividend in our domestic needs? Or are we going to maintain cold war policy and cold war sacrifices after the cold war is over?

Essentially what the legislation does is to allow our colleagues here in this body to make that choice. We are not saying what choice they should make. If the Members of this body wish to reduce domestic spending and increase defense spending under this proposal that we are advancing today, they are free to do that. We are simply saying, let us take down the wall that separates domestic spending from defense spending. Let us keep the overall cap so that we will keep the discipline of the Budget Enforcement Act. But let us make some judgments here, as we are elected to do, about what is to be done about the future of the country and certainly what is to be done about defense spending versus domestic spending.

The truth is that the measure I have introduced, along with 49 of our colleagues, allows for both investment and deficit reduction. We need both. We must have both.

I think it is useful that we have a fresh sense now of what this bill does and what it does not do. The bill that is before the Senate today does not unravel or rewrite our budget agreement, as some would have us believe. It merely accelerates by 1 year the possibility of transferring funds from defense to domestic accounts if the U.S. Senate votes by a majority to do that.

Now, if having a wall between defense and domestic is such a fine idea, why do we not just extend it out into perpetuity? Why do we not just say the U.S. Senate cannot be trusted to make the decision as to whether or not the tax dollars of the American people ought to be spent for defense or for domestic spending, for military hardware or for roads and bridges, and education and hospitals? The U.S. Senate cannot be trusted to make that decision, so let us just take this wall between defense and domestic spending and extend it out into perpetuity. In essence, that is the argument that is being made by the opponents of this legislation today.

All we are saying is, let us accelerate by 1 year the taking down of the walls between domestic and discretionary spending. That is not a change in the architecture of the original budget agreement. We are not remaking the agreement. We are not reneging on the agreement. We are not allowing in any way for deficit increases.

Mr. President, why would we come before the Senate at this particular time and talk about changing the agreement to some extent, or altering, modifying it even slightly? The reason for the change is self-evident. It will allow us to marshal the resources we need to fight a recession that is longer than any of us anticipated back in 1990 when this budget summit agreement was signed.

Remember, this summit agreement became law back in the fall of 1990. That is over a year and a half ago. At that time, we were just on the verge of a recession, just sliding into the recession. We did not know it. The administration did not know it. The participants in the budget summit agreement did not know it. Those who voted here for the budget summit agreement or those who voted against it, they did not know that we were on the edge of a recession. But we were. And we now know it is the longest, as I said earlier, the longest recession that this country has had since the Great Depression of the 1930's. This recession has gone on for 19 months.

So we are talking here about the ability to make the judgment about whether we ought to use some of these military expenditures, ought to curtail these military expenditures, and make some investments in our economy to sustain economic growth. And some of these investments that could be made will not be made unless these walls can come down.

I am talking about investments in infrastructure, investments in health, education, job training, and in research and development, and in technology. There are many Members of this body who have a great interest in a superconducting super collider. It is going to be extraordinarily difficult to finance that project unless the walls come down. No question about it.

There are many Members of this body who have an interest in seeing the United States put a space station in space. Just yesterday, the chairperson of the appropriations subcommittee that has the responsibility for funding NASA said here on the floor of the U.S. Senate—it is in the CONGRESSIONAL RECORD—that unless these walls come down, there probably will not be any space station funding. That is the way I understood what she had to say.

We can make these investments now. We can make them because the cold war is over. And these are the kinds of investments that we must make in technology, research and development, education, job training, infrastructure. These are the kinds of investments that this country must make if we are to compete with Japan and Germany and the other rapidly developing industrial powers of the world.

That is the driving logic behind the change. By original design, our budget agreement will deliver this opportunity to us in 12 months' time. In 12 months, the wall comes down between defense and domestic. We are simply saying it would be foolish not to seize this opportunity as it now arises.

Some say, "Well, you know, you made that agreement over there to keep these walls up for 3 years." That was not part of the agreement that I favored, but I went along with the total agreement. "Why do you come now and want to take them down?"

Well, circumstances have changed. Let us talk about an imponderable as large as a defense budget that approaches $300 billion.

(Mr. SHELBY assumed the chair.)

Mr. SASSER. When you are looking at a military budget that approaches $300 billion, there is a tendency to try to put it in perspective by comparing it to something else; to make it have a sense relative to the economy as a whole or to compare it in the context of other Federal programs.

Those who scamper to find relative merit in a military budget approaching $300 billion miss the only point, I think, that really matters, and that is whether the American people need that level of defense spending for their protection from external threats. Ultimately you have to measure any expenditure against the need for it and what the expenditure contributes to the Nation's economic well-being. Everything else is an illusion.

We have all seen the fun house mirrors at the amusement park that distort the object in view. At the right angle, these mirrors can make a sumo wrestler look like Slim Pickens, and I suggest to my colleagues that our defense debate at the moment is trapped in a house of mirrors.

The purveyors of the perspective, and they have appeared before the Senate Budget Committee, put on chart shows that last 3 or 4 hours in an effort, I suppose, to wear out Senators so they will not be able to propound relevant questions. They will not have time to do that. But the purveyors of perspective justify a cold war budget by telling us that military spending is declining as a percentage of gross national product. And they also tell us that defense spending is declining relative to other areas in the budget. Those who make this case over a period of time can be quite persuasive, and by the time they get through they have us believing that an elephant is really a mouse.

The fact is, if you want to put the defense budget next to the entirety of the gross national product, of course it looks small. But if you want to place it next to what we spend for domestic programs to meet the needs of the people of this country—to build roads and bridges and hospitals, to educate our people, to run the general government, to conduct research and development—we find that the defense budget looks very large indeed.

It is really a question of perspective. Congress is charged with doing more than simply making comparisons within our budget. We are here in this body to make choices about priorities and we have to try to assess the relative merit of what the expenditures of taxpayers' money contribute to the national good. Military spending has only one purpose and that is to defend the United States of America from external threats. That is all it is for. It is not a jobs program, it is not a WPA project, it is not an educational effort. Military spending purely and simply is to defend this country from external threats.

Domestic investments, on the other hand, investments in our domestic economy, are there to promote durable economic growth and to improve the standard of living of the American people. Those are the terms that we must consider if we are going to bring military spending out of the fun house, if we are going to clearly see what we are buying with our military budget and clearly see what we are not.

Let us make some of the very comparisons that those who minimize our military spending are apt to make. Let us consider those results relative to the military spending of our economic competitors and, most importantly, relative to the security threats that this country now faces.

I might say these threats are determined by our Nation's top military and intelligence officers. I am going to quote them here. First, let us consider military spending as a share of Federal outlays. It is true that we are experiencing a modest decline. At the peak of the military buildup during the Reagan years—which was unprecedented in the peacetime history of the United States of America, a military buildup that exceeded the military buildup that occurred during the war in Vietnam—in 1986, military outlays comprised 27 percent of all Federal outlays. Under the President's 1993 budget, military spending would still consume 18 percent of all Federal outlays.

Let us look at the budgets of the world's industrial democracies that we compete against. It is quickly apparent that military spending as a percentage of their total outlays is dramatically less, on average about one-half of the outlays of ours, one-half to one-third of our spending levels.

In 1988, at the height of the cold war, France was spending 8.8 percent of its budget on defense. And West Germany, which was on the front lines—just across in East Germany there were almost a half a million Soviet troops, perhaps more—West Germany, which would have been the battleground and had the most to lose if the cold war exploded into a hot one, West Germany was spending only slightly over 9 percent of its budget on military expenditures.

Compare that with the 18 percent that the Bush administration wants to continue to have the American people fork over after the cold war is over and the evil empire has collapsed.

What about Italy, what were they spending at the height of the cold war? When we were spending 27 percent, in 1986, they were spending slightly over 4 percent; Japan, 6 percent; Norway, 6.9 percent; Netherlands, 5.4 percent.

Again, by comparison, we will be spending 18 percent of our budget outlays in 1993 in the absence of any cold war threat.

Another argument that the proponents of military spending like to make is they say military spending is not a large percent of gross national product. Defense spending measured 6.3 percent of our gross domestic product in 1985. True, it is coming down some. The President is sloping it down to 4.5 percent of gross domestic product in 1993. But, again, that far exceeds the ratio of defense spending to gross domestic product in other industrial democracies.

In 1991, defense spending measured 3.5 percent of France's gross domestic product; 3 percent of Norway's 2.7 percent of the Netherland's; and 1 percent of Japan's gross domestic product. So in terms of the very comparisons often made by those who point to our declining defense expenditures, in terms of total budget outlays of gross domestic product, yes, we have seen some modest decline, but we are still spending at many times the levels of our economic competitors.

The simple question is why? Why are we doing this? Why do we continue to do it? What threat is there on the face of this Earth that would cause us to spend $1.4 trillion over the next 5 years when those who are charged with ferreting out the threats cannot seem to find them.

The Director of the Central Intelligence Agency, Robert Gates, a veteran of the cold war, recently told the Senate, "The world of the 1990's * * * is an arena in which promise will often outweigh menace, and in which opportunities for constructive action will outnumber the threats to our security." So says the Director of the Central Intelligence Agency. But the administration presents us with a proposal in the face of that to spend $1.4 trillion on the military over the next 5 years.

Mr. President, recall that the foundation of our current military plan, a so-called base-force concept of 1.6 million active duty personnel by 1997, that base-force concept was developed in 1990. Let us contrast for a moment the world as it was in 1990 and the world as it is now in March 1992.

When the Pentagon gave the base force 18 Army divisions, the former Soviet Union fielded 190 ground bases. Today, the Central Intelligence Agency predicts that the Commonwealth, the successor to the old Soviet Union, will field no more than 50 to 60 divisions by the end of the decade. And frankly, most analysts would be surprised to find a force even close to that level.

In 1990, when this budget agreement was entered into, the Pentagon plan at that time included 12 carrier battle groups and 448 combatant ships for the so-called base force. The Soviet Navy was arguably at that time the world's largest. Quality was questionable, but they were arguably the world's largest. In 1990, the Soviet Navy has 240 surface warships operating daily in every international body of water, not to mention nearly 1,400 combat craft in reserve.

Where is the Navy of the old Soviet Union today compared to 1990? The old Soviet Navy is in port or it is in dry dock. There is no fuel. There is no morale. They do not know who owns the ships. Ukraine and Russia are fighting over the Black Sea fleet. Each of them is trying to get the captains and the admirals to pledge loyalty to them. The Navy of the old Soviet Union has ceased to exist. In the words of a senior Pentagon official who tracks the former Soviet Navy, he said, "There are no surface combatants deployed anywhere in the world. None, zero." So the Soviet Navy has ceased to exist for all practical purposes.

And finally, when the Pentagon came up with this current base force structure in 1990, the same time that we negotiated this budget agreement, Soviet missile factories were running full bore. I well remember some of our colleagues on the other side of the aisle getting up at that time and saying we cannot reduce defense spending because they are continuing to build strategically, they are continuing to broaden and increase their strategic nuclear offensive force, and the Soviet missile factories were running full bore. They were turning out the largest, most destructive missiles in the world, missiles like the SS-18.

What is happening at the old SS-18 missile factory in the Ukraine today? It is making machines that make sausage. It is hammering rocket booster shells into trolley buses. Now that is the state of our former enemy, the old Soviet Union.

Those are the changes that have occurred since this budget summit agreement was negotiated in the fall of 1990. Yet, the unreconstructed old cold warriors strap on their rusty armor, come over here on the floor and tell us, no, we cannot reduce this military spending; no, we cannot reduce that; we do not have a problem domestically; we do not have a problem with out economy, we do not have a problem with our education system; and even if we do, we do not want to use this military spending to deal with that.

What does the Director of the Defense Intelligence Agency say about the state of the threat? Gen. James Clapper, the Director of the Defense Intelligence Agency, said in recent testimony, "I would sum up the residual military posture of the former Soviet Union as follows: It will have no capability to directly threaten the United States and NATO with large-scale conventional military operations."

That is what the man charged with directing the intelligence of the Defense Intelligence Agency said in recent testimony. Yet, despite the assessment from our Nation's highest intelligence officers, the administration stakes out a defense number that is really still at cold war levels and the President appears before a joint session of the Congress and says, "This deep and no deeper."

Meanwhile, across the Potomac in the Pentagon, the planners search the globe for plausible threats, and they come up with a list that would stretch the imagination by any calculations. The risk includes an Iraqi invasion of both Saudi Arabia and of Kuwait; a North Korean invasion of South Korea; or get this, a Russian attack on Lithuania coming through Poland; and then, of course, a coup in Panama and one in the Philippines.

Even if all of this required a U.S. military response unilaterally with no help from anyone, and that is a broad, long leap, the most demanding of these would require only a fraction of the 1.6 million personnel base force.

Mr. President, I think we should recognize the consequences of going to any length to justify an inflexible military budget.

If indeed we have gone as low as we can go, as the President seemed to tell the American people when he appeared before a joint session of Congress, then we are putting a very low ceiling on the kind of investment that we can make here in America.

If the peace dividend is really as negligible as that suggests, what the administration is telling us is that we are not going to have the kind of new roads and new schools that we need in this country to compete in the competition of the decade of the nineties; that we are not going to be able to repair and rebuild the infrastructure; that we are not going to realize the things that peace promises.

We have a historic opportunity to convert peace to domestic gain. It will be a loss of historic provisions if we miss it.

I think the Director of the Central Intelligence Agency, Mr. Gates, sounded an appropriately ominous note. He was speaking of our former adversary, the old Soviet Union, and he told the Senate this and I quote, "they"—talking about the old Soviet Union—"cannot continue with the programs at anything like the levels they had before and make any headway at all on their economic reform."

And he continued by saying, "I think that creates the conditions in which further reductions in the numbers of these weapons become very possible."

That is what the Director of the Central Intelligence Agency said. He said that if our old adversary, the old Soviet Union continues to spend for the military at the levels that they were spending, they could not make any headway at all on developing their economy or economic reform.

We ought to look at that ourselves and take a lesson from the Director of the Central Intelligence Agency for our own domestic purposes. He went ahead to say that their situation allowed us to cut back on the number of weapons that we were buying, producing, and reducing military spending.

But what does this legislation we have before the Senate today do? It will allow a transfer from defense spending to domestic spending if the Senate wants to do that. It is not going to expand the size of the appropriated spending in the budget. It is not going to create more spending. The legislation simply opens a pathway between defense and domestic spending, defense and domestic categories, and in doing so will allow this body to have a debate. We will have a debate and vote on how to invest our scarce fiscal resources. We will talk about it, debate it here on the floor and vote on it: Do we want to put more money into B-2's? Or some will say, no, we want to put more money in schools and health care, in education. Then we will vote on it, and we will be bound by the majority vote. That is the way we do things in a democracy.

It does not mean that automatically military money is going to be spent for domestic purposes. The money can flow both ways if the body wishes to do it. We do not have to spend it at all. All of the defense reductions can be allocated to reducing the deficit if we wish to do so. We are simply opening a pathway of taking it out fairly.

Second, this proposal does not alter defense spending at all. It merely allows us to maximize the use of defense savings—whether we are talking about $5 billion that the President himself proposes to slice off of military spending or the $10 billion that the House has proposed or a level that we in the Senate would deem appropriate for military spending. The measure is not a substitute for a military spending debate in this body. It carries with it no specific policy requirements for our military budget.

Mr. President, I note that the distinguished Senator from Illinois [Mr. SIMON], has arrived on the floor. The Senator from Illinois has been a leader in this whole effort to try to take down the arbitrary barrier that segregates military spending from domestic discretionary spending. He, as I recall, was the first to rise on this floor to state that this arbitrary barrier should be taken down. I should like to pay tribute at this time to his efforts in this endeavor in times past and to yield the floor to him if he would wish to speak at this particular time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I thank the distinguished chairman of the Budget Committee for his generous words, and I applaud his leadership in this debate.

I applaud the leadership of Senator SASSER not only on this but on other matters. At one point back some months ago, when I was on a radio program and they asked me who might be the candidates for President on the Democratic side, I said if Senator GORE did not become a candidate, someone who would make a superb President of the United States is Senator SASSER of Tennessee. I believe that to this day. That is not likely to happen in the year 1992, but I have great respect for him.

Mr. President, this is not a new thing, and I am amazed that there is opposition to the proposal of the Senator from Tennessee. The night of the budget agreement—the Presiding Officer probably was here, along with a majority of Members. It was about

11:30 or midnight. I offered an amendment to do away with the 60-percent wall, and I remember Senator BRADLEY and Senator BIDEN said they wanted to join as cosponsors. By voice vote this body unanimously said we should not have a 60-percent wall. Then in conference we got the message from the White House that if the elimination of the 60-percent wall stayed, the President was going to veto the proposal, and it went out.

I hope my colleagues will not reverse themselves now and say we have to have a firewall.

What does it mean in practical terms to not have this firewall? First of all, does it add anything to the deficit? It adds not one penny to the deficit if we adopt the Sasser proposal, not one penny. What does it do? It permits us to deal with a little greater flexibility with the problems we face.

Mr. President, when we are talking about the problems we face, let me point out that the President has called for a $50 billion cut in defense spending. Now, a $50 billion cut ordinarily to most of us means you spend less money. What does it mean? This is the proposal by the administration for budget authority for defense in fiscal year 1993, $281 billion. Five years later, when we are at the end of this $50 billion cut, what is the spending? $291 billion.

To me, that sounds like a $10 billion increase, not a $50 billion cut. In outlays, $286 billion, fiscal year 1993; fiscal year 1997, $289 billion in outlays. That is not a cut. That is an increase.

What the President does is he assumes the inflation rate and cuts back from what would be the inflation rate. We are playing games with the public.

The reality is we could have a substantial cut in defense spending and not impair the defense of this country one iota.

Bill Colby, who headed the CIA under Richard Nixon and Gerald Ford—and my recollection is they were not Democrats—said we could cut defense spending a real 50 percent in the next 5 years and still have the strongest defense of any country on the face of the Earth.

I want a strong defense. I served overseas in the Army. I am proud to have served overseas in the Army. But we have to use a little common sense. We are spending this year, depending on whose figures you use, somewhere between $120 billion and $160 billion to protect Western Europe from an invasion by the Soviet Union. There is only one problem. There is not a Soviet Union anymore.

We have to use a little common sense. We have a million Americans overseas right now, either in the Armed Forces or their dependents, or 60,000 civilian employees and their dependents. What great threat would it be to the United States if we were to cut that in half, even if we kept everyone in the Armed Forces or working for the Government and their dependents, and they spent this money in the United States rather than in Japan or in Germany? We add to the employment. We would help the economy of this country.

Right now in Eastern Europe there are some dramatic things happening. We ought to be responding more. And the administration, apparently, is finally inching in the right direction, thanks to the courage of Senator SAM NUNN, our colleague, who has stood up, and has been joined by a few others who were just over there recently. And thanks also to the statement by former President Richard Nixon. I do not agree with Richard Nixon on quite a few things. But he said we cannot simply stand by and let Eastern Europe just disintegrate and pretend it does not affect the economy of this country.

We have needs at home. We know that the Head Start Program does great things for young people. Only 40 percent of the young people who are eligible for Head Start are getting help by Head Start. What if, instead of following the President's recommendation and getting four more B-1 bombers, for example, we were to shift that over to Head Start? Would the United States be richer or poorer as a Nation? I think the answer is clearly we would be richer.

This next year, the budget calls for spending half a billion dollars, $500 million, for testing nuclear warheads. There is not another nation on the face of the Earth testing nuclear warheads. Why do we have to have more powerful, more accurate, nuclear warheads, when other nations are not moving in this direction?

What if we took that $500 million and reduced half of that and used that to apply to the deficit, and used the other half to help American Indians on reservations where the schools are so miserable? Would be a better Nation or a poorer Nation? We know the answer.

We ought to be meeting needs in this country and abroad and stop playing these military games.

Germany: Here is what is happening in Germany today. We have a large number of American troops stationed there. Why? To protect the western part of Germany and the rest of Western Europe from the Soviet Union. In what was eastern Germany, Germany is now paying the Russian governments for having Russian troops there. We are paying to have our troops there to protect them, to protect Western Europe, from those Russian troops.

If anybody can make any sense out of that, you know, you have a great imagination. This budget calls for a 30-percent increase in star wars. Take a look at Newsweek magazine—I think it was last week—and it shows how there is just a massive waste of money on this. Can we not take a little bit of that money and apply it to education needs, health needs, housing needs in this country that will make this country a better place?

We ought to be reducing the deficit. I am joining the distinguished Presiding Officer, Senator SHELBY, in favoring a constitutional amendment requiring a balanced budget unless there is a 60-percent vote of Congress to the contrary. I am pleased to tell you, Mr. President, we are going to vote on that sometime between now and the middle of June, and I believe we have for the first time the votes to pass that. It is going to be a great influence for this country.

We can start getting interest rates down. The fastest growing item in the budget by far is interest. The gross interest expenditure in this country has grown from $74 billion in fiscal year 1980 to, in the next fiscal year, according to the President's figures, $316 billion. This next year, for the first time in the Nation's history, interest will be the No. 1 expenditure of the Federal Government. Nobody can tell me that makes any sense.

We should not be devoting our resources to paying interest; not to buying weapons that are not needed anymore; not to keeping people overseas who are not needed against a Soviet threat when there is not a Soviet threat anymore; but to doing constructive things.

We have these pages down here who are going to be going to college pretty soon. If they were going to college under the old GI bill that the Presiding Officer and I can still remember, if you were to add the inflation factor of that GI bill, do you know what it would mean today? It would mean $8,100, on an average. Today, under the Pell grant, if you are poor enough—and the GI bill was there for anyone, no matter what your income was—but if you are impoverished enough, you may be able to get $2,400. Can we do better? Of course we can. We have to invest in our people. And that is what we are not doing.

And the Sasser amendment would say if you have a majority in the House and the Senate, and it is not easy to get a majority in the House and the Senate, then you can shift from some of these things that just do not make sense at all anymore in today's world—we are stuck in a rut on our defense spending—shift it over, using some of it to reduce the deficit which we have to do, and using some of it to invest in our human resources. That just makes sense.

I am pleased to be a cosponsor of the Sasser legislation. I hope when it comes to a cloture vote, I think it is ridiculous that we have to have a cloture vote on it. But I hope when it comes to a cloture vote, we will have the votes for it.

Let me just remind my colleagues again that on the night when we passed the budget agreement this body unanimously voted for my amendment to get rid of that 60-percent wall. I cannot tell you whether the Senator from Mississippi was here on the floor when that happened. I do not know whether the Senator from Iowa was here when it happened. But let me tell you, the large majority of people on both sides of the aisle voted for that, and I hope we do not reverse ourselves. I hope we use common sense and vote for its counterpart now, the Sasser legislation.

Mr. President, I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I want to speak on this bill, S. 2399, as introduced last night by Senator MITCHELL. I understand it is identical to S. 2250, which was introduced by Senator SASSER on February 25.

Mr. President, what we have here is very interesting. It seems to me, that while perhaps the rules allow this, this is a subversion of the rules of procedure, of the committee process, of the budget agreement, and of the way we ought to conduct business around here.

A couple of years ago, I was pleased to become a member of the Budget Committee. Now I think that the best thing we could do, perhaps, is to abolish the Budget Committee. The Budget Committee has not been meeting. Yet, we have this budget issue pending before the full Senate. It is very interesting to me how this whole thing has been worked. I have been expecting each week that the committee will meet and we will talk about the budget for the next year and about this firewalls issue. However, there have been no meetings. No meetings this week, last week, or the week before that. Why? I can tell you why. Because the distinguished chairman could not get the votes. So, if you do not have the votes in the committee, you just go around the committee. You just make a U-turn and come at it another way.

So now, not only has the Budget Committee been avoided or run over; the rules of the Senate have been used in such a way that we had, yesterday, 2 legislative days. I still do not understand how you have 2 legislative days in 1 day. Maybe it is a Senate procedural technicality. If you want to go home and explain that to your constituents, go right ahead.

And now we bring up here a proposal to knock down the firewalls between defense and domestic discretionary spending and avoid the budget agreement. In order to get to this debate, first, we had to just ignore the Budget Committee. Second, we had to have 2 legislative days in 1. So, the committee process has been ignored, the rules are being abused, and the budget agreement is going to be abrogated.

I want to say right up front that I thought the budget agreement of 1990 was a bad idea. I said it in the committee and here on the floor. I spoke against it, because it cut too much in defense, raised too many taxes, and allowed the deficit to continue to go right up. I never figured out how you do that. You get more money by reducing defense, get more money by raising taxes on the working people, and yet the deficit still goes up. That was a beautiful agreement.

Actually, I thought it was a sorry agreement. But since it became law—without my vote—I have tried to honor it. I have not liked it. I am sure at times the President would have liked to change the priorities between the different categories, but he has submitted budgets within the walls that were agreed to.

I admit publicly now that, without that agreement, the deficit would probably be much higher. The Congress—the House and the Senate—all of us would have found a way to spend even more. We could have, perhaps, come up with a budget agreement this year that would have been, instead of $400 billion in the red, maybe $500 or $600 billion in the red. So, these firewalls are a little, bitty deterrent on the insatiable appetite of the Congress to spend more money.

Now I want to go back to the Budget Committee a moment before I actually get to what is being attempted here. Why do we have committees if we are not going to use them? I expect to see members of the Budget Committee, Democrats and Republicans, rise on the floor to trash this process, because the Members clearly would not have agreed to this. I think it is a terrible subversion. I would not vote for this on the procedural question alone, let alone the substance. If there has ever been an indication or proof that we need to reform the way the Senate runs, and also the Budget Act, this is the best one I have seen in a long time.

As to what is being suggested here, this is another effort to use defense as a piggy bank to pay for all of our other spending programs. Even the distinguished Senator who is chairman of the Armed Services Committee, the Senator from Georgia [Mr. NUNN], in a letter to the chairman of the Budget Committee, said that while perhaps we could cut defense as much as $85 billion over 5 years, we should not cut it further this year. Basically, we ought to go with the plan as it now exists. If we cut defense more this year, it is going to affect National Guard armories, Reserve numbers, the numbers of troops we have, building programs, and the economy. So the very respected chairman of the Armed Services Committee warned against doing just what this would allow to happen: Dipping into the piggy bank.

I keep hearing that we do not need defense anymore. Utopia is here. It does not matter that the Soviets still have their very dangerous long-range missile warheads aimed at us. These warheads have not been taken down. If you do not think there are other dangerous characters around the world, you better check it out.

This bill disrupts a very well-thought-out plan that the President submitted on the recommendations of the Secretary of Defense, Dick Cheney, and the Chairman of the Joint Chiefs, Gen. Colin Powell. General Powell came before the Armed Services Committee last week, and he said emphatically: "Don't cut it any more. It will affect our end strength. It will affect the ability that we need to preserve peace." He also warned about the human damage we are doing, the tech sergeants we are kicking out. I tell you, we should not go launching off into drastic defense cuts for budgetary reasons without considering what we are doing to the national security, the economy, and our men and women who have committed their lives to serving in the military.

I have a chart here that I think points out exactly what we are launching off into. After every major conflict we have had this century, Congress has gone crazy and devastated defense. See the drop in defense spending after World War II? Then what happens? Then we have this dramatic, sharp increase to try to fix the mess we have made, and it costs us even more in real dollars. Then it comes down and kind of levels out. And then again, after Vietnam, we cut it down, and to fix it in the 1980's, we had to build up to a peak. And now, look what is happening again. This dark line is the actual line of spending, and the dotted line is the President's budget request. The President's budget request is a planned, cautious, but systematic coming down of our defense spending.

We are going to get defense spending down to the level we had in 1979. It was one of the major issues in 1979. It was one of the two major issues, in my opinion, that elected Ronald Reagan President of the United States. We tend to forget that the American people felt we had disarmed, we were at risk. Yet, here we go again, cutting defense. Will we ever learn from history?

We want to have more money to spend on our domestic discretionary problems. We all like them. I admit it, I am guilty. We all have projects in our State, whether it is Ohio, Tennessee, Alabama, Mississippi, Wyoming—all of us. But there has to be some restraint. As bad as it was, the budget agreement was an agreement. It is a restraint to more spending on the domestic discretionary side and more cuts on the defense side.

I want to make another point. Talking about sleight of hand and cute actions in the Senate—we went through it last week. In the previous 2 weeks, everybody knew there would be no tax increase bill that would get through the process. Yet, we went through the motions. The House went through the motions; the President vetoed it, and it is going to be sustained, and then what? Everybody has gone on about their merry way.

What are we going to do now? We are going to do one of these acts again. The distinguished chairman of the Budget Committee and the majority leader may get the votes here in the Senate.

Maybe they can find the way to force the votes. Maybe they can get 51 votes or 60. They may have to have 60. Maybe that would have an impact on the House and maybe they would pass it. Then what? Do you think the President is going to buy this deal? No; he is going to veto it and we are going to sustain the veto. This bill will not be passed. This is just not going to happen.

If I have my way, we are never going to get a vote on the actual bill because this is such a subversion of the process. We ought to be ashamed that we are even doing this without going through the normal process and through the committee.

Some may think this is good politics. Let me tell them, it is bad politics. I will tell them why. First of all, the American people are smarter than we are. They have it figured out. Every time we raise taxes or cut defense, that money disappears in the deep dark hole of Federal spending never to be seen or heard from again. They have got that figured out.

Also, they are frustrated and mad with all of us. They know what we are doing here, just fun and games. This is not going to happen. So why are we doing it? Boy, I hope my mother is not watching this. She would be saying, "What is it with you guys? You mean this is not going to happen, this is not going to become law? There is no way this is going to become law? No? Then why are you doing it? You are the Senate, the world's greatest deliberative body," I say that with my tongue in cheek, let me tell you.

We are going through this exercise, all this chitchat and all the votes, and there is no way it can happen. Meanwhile crime is running rampant in this country, education needs help, and some of the same people advocating we go through this charade are saying we better do something about health care. Why are we not debating those issues and doing something more constructive instead of this? This is garbage. It is an embarrassment to the institution.

Let me also take this opportunity to say that at some point this year I am going to offer another effort to make this budget process work with the Budget Process Reform Act which I recently introduced. The budget process does not work. The Budget Committee does not work. And, unfortunately, the Senate is not working because we are playing games.

We had the original Budget Impoundment Act in 1974. I voted for it because I thought there should be some discipline. Then we had the Gramm-Rudman-Hollings Act in 1985. It helped a little bit, and provided some discipline, but that is falling apart. Our budget process is a musclebound, toothless giant. I say fix it or abolish it, because it is an embarrassing joke.

How should we fix it? We have a number of Senators that have joined with me in cosponsoring these budget reform proposals. There are, I believe, 122 House Members that have joined in cosponsoring this bill. I would like to encourage my colleagues in the Senate on both sides of the aisle to seriously consider this bill. This is not intended to be partisan. This is not fun and games. This is an honest effort to find a way to make the budget process really work.

Here is how it would work. First of all, we would budget first, and then spend second. No authorizations or appropriations would be considered until the budget is in place. But, the Budget Committee would have to act within a timeframe that would allow the authorization and the Appropriations Committee to go forward. That was the original intent, I thought.

But what do we do when we miss deadlines? We just waive them, dismiss them, forget about them and go on about our business.

Second, it would implement very direct one page, 19 function budget resolution. It would be joint rather than concurrent, and it would bring the President into the process before the last minute. We would deal with the macronumbers and not get into the line-item process.

I think the President ought to be brought into the process earlier.

Look, if we are going to embarrass ourselves and sink into the swamp, we ought to take the President with us, do not you agree, Republican and Democrat?

However, I would hope that by bringing the President into the process earlier, maybe we could avoid going through the charade of a President sending up a budget resolution, which we similarly kick out in the street, kick it around a little bit more, and walk off and leave it. Then we come up with a budget resolution, usually late, that is quite often ignored by the appropriations process. We need to fix this, and we need to get the President working with us sooner.

Third, it would give the President enhanced rescission authority—which would give him the authority to send rescissions to the Congress, if the approved spending caps were exceeded. We need to give the President more authority to cut out unnecessary, unjustified spending projects, through enhanced rescission, through normal rescission, or through a line-item veto.

I heard the distinguished chairman of the Appropriations Committee talking about how the Congress has passed some rescissions. However, I remember that over the years most of the time when Presidents sent rescissions to the Congress, they were just ignored.

I also think that we should have pay-as-you-go supplementals. We go through this every year. Presidents make mistakes, then they come up here and say gee whiz, we have underfunded FEMA, CCC, food stamps; we need supplemental. Congress says what do we need? We need a train to pull the other stuff through. We come up with a supplemental that adds more money to any justifiable program then you can possibly think of. And then we get a few other goodies on the train, and then next thing you know it is a multicar train. At the very least we ought to have to pay for those supplementals by cutting unnecessary spending elsewhere.

So again, I would urge my colleagues to take a good look at this budget process reform proposal. Maybe you have other ideas that we could include. Let's make it work; put real teeth in the process. What we are seeing here today is clear evidence that the budget process does not work. We ought to fix it.

We should also ignore this proposal that is pending before us now. We should not take down the fire walls. You can say the world has changed now, so we can cut defense a lot more, but as a member of the Armed Services Committee I am here to tell you that it is not so.

I am also worried about where that money would go. If we cut more out of defense, the real freedom dividend belongs to the people—not to our spending programs. We ought to use it to cut the deficit. Leave that money in the people's pockets, and they will figure out how to spend it wisely and a lot better than us. We should not take it and spend it somewhere else when the people will probably never see the results.

I thank you, Mr. President, and I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). Who yields time?

The Senator from Tennessee.

Mr. SASSER. Mr. President, what we are seeking to do here, as I said earlier, is simply, in view of changed circumstances over the past 18 months, to allow the Senate of the United States to exercise its own judgment as to the allocation of resources, as to the allocation of various appropriations. Let the Senate of the United States, through its various committees and through debate here on the floor and through a majority vote, determine whether or not we wished to take military funds, reduce military spending and use those funds for domestic purposes.

Do we wish to reject the construction of additional B-2 bombers and use those funds to build roads or highways? Do we want to reject the construction of another aircraft carrier? We are the only power in the world that has a significant and meaningful aircraft carrier force. Do we want to reject the construction of a new aircraft carrier and say that 12 or 14 aircraft carriers are enough, and use the funds, the billions of dollars that will go into the construction of that aircraft carrier to provide for additional funding for education, perhaps additional funding for cancer research, perhaps additional funding for health care, perhaps additional funding for child immunization?

That is the only question that we are asking.

Or perhaps we want to use the funds that are going to be used to build a new D-5 missile, a nuclear warhead missile with hard kill capability that can hit within just a very few feet of a target thousands of miles away. Do we want to take the money that would be spent for that missile, when we already have a missile of almost identical capability constructed? Do we want to take the money for the D-5 and perhaps use that for mass transit in some area?

Those are the questions to be asked. Or do we take the funds from the D-5 missile and use it for deficit reduction? I mean those are simply the options that we allow the U.S. Senate to exercise under the bill that I have advanced today.

We are not saying that military spending is going to automatically be used for domestic spending. If the U.S. Senate wishes to do it, if my bill passes today, and some on the other side wish to do so, and if they have the votes to do it, and if they are convincing in debate with their colleagues, why they can take money away from domestic discretionary. They can take money out of the Women, Infants, and Children's Feeding Program if they want to and buy another D-5 missile under the legislation that I am advancing today. We simply take the wall down. That is all.

Why, they can take money out of domestic discretionary spending. They can probably find they can cut education enough, they could cut health research enough, they could cut the highway program, and they could use those funds to build another aircraft carrier if they want to. If they do not think 12 or 14 aircraft carriers are enough, if they have the eloquence to convince the majority of our colleagues in debate that we ought to reduce domestic spending and build another aircraft carrier, under the legislation I am advancing today, they can do it.

I am simply saying, let the U.S. Senate exercise the judgment in this particular area and alter the agreement, a minor modification, take down the wall between defense and domestic spending 1 day in advance, or 1 year in advance, so that we can exercise our discretion here. That is all I am saying.

I am not saying that we are going to increase domestic discretionary spending. I am not saying we are going to reduce military spending. I am just saying take down the wall and let us make a decision. Let the elected representatives of the U.S. citizens here in the U.S. Senate make the decision about what is to be done with funds that fall in the so-called discretionary accounts that go to military spending and to domestic discretionary spending.

Mr. President, I see the distinguished Senator from Ohio [Mr. METZENBAUM] on the floor. I know he has long been a proponent of taking down these arbitrary walls, and has long been a proponent of trying to meet some of the long neglected needs of our citizens that have accrued during the long years of the cold war. I would like to take this opportunity to yield the floor to him now, Mr. President, and see what he might add to this debate, which I suspect will be considerable.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I thank my good friend and colleague from Tennessee, not only for his kind comments but for his distinguished leadership in this effort to bring down the wall so that more money can be made available for needed programs here in this country.

I had an interesting experience before I came over to the Senate floor. I had lunch with a long-time friend of mine. This friend of mine does not have a college education but he has given much of himself in the area of education. He has been president of the Cleveland School Board over a long period of years, a very difficult, challenging responsibility. Subsequently, he was chairman of the board of regents for the State of Ohio for a number of years and I believe still is the vice chairman of that body. He has been on the board of trustees of Brandeis University. He looked across the luncheon table at me and said, "Why can't you do something about education in this country? Why can't you use more of the dollars that are available for our children? Because we are falling behind."

And that brought back to my mind the TV program that I saw early this morning indicating that in math and science, in one we are 14th among 15 countries throughout the world, and in the other one we are 13th. We are not doing the job. And he wanted to know why we cannot do the job.

I am a Member of the U.S. Senate. Why can I not do something about it? And when you try to explain to him: Well, there is a wall, a wall that was put up and we cannot get into those defense funds, notwithstanding the fact that the military risks in the world are totaly changed since the Soviet Union is no longer the Soviet Union.

Senator SASSER's bill to modify the 1990 budget agreement to permit the shifting of defense savings to domestic programs is a must.

And I must say to you that I am so disturbed that apparently in a political vote I am advised that the overwhelming majority of Members on the other side of the aisle are going to vote no. Why? Why? Politics? Some allegiance to the President? They do not believe that we can cut back on our defense spending to help needed programs in this country; that we can shift some of our resources? They are not aware of what is happening out there in the country, when people cannot find jobs, when people do not know where to look, when people who have been employed over a period of a lifetime cannot find a job now, where people cannot get adequate health care and do not know what to do in order to pay the medical bill; people cannot send their children to programs that are available to some but not available to all?

It is time that we recognize the need, the necessity, the obligation to shift some of these funds that we have been spending around the world for defense programs to the needs of this country.

There is an understandable reason that the people of this country do not think much of their Congress, and maybe even a little bit less of their President, although I am not sure which one stands in lower esteem. They wonder what we are doing down here.

We are playing games arguing whether to take down the wall. What are you worrying about the wall for? Why do you not provide more money for education? Why do you not provide more money for health care? Why do you not do something about the homeless of this country? Why do you not do something about the many other needed problems of this country? Oh, because there is a wall. And because some people on the other side of the aisle somehow think that this is a political issue, or maybe it is for the President, maybe this is something about the thousand points of darkness which the President called his thousand points of light.

This bill is the first step in addressing the new world environment. The world has changed dramatically since we enacted the 1990 budget agreement. The cold war has ended and the Soviet Union is no longer and never will be a military threat.

The United States now stands alone as the world's military superpower and we do not have to spend $300 billion a year to defend our country. We can spend substantially less and do the job totally.

What we need to do is restructure and revitalize our economy. While we stand strong as a military power, we are standing weaker and weaker as a domestic force.

We must turn our attention to the needs of our citizens at home. We must bring this country out of the ongoing recession, get America back on the road toward long-term economic growth, spend some of those dollars to rebuild the infrastructure of this country that has been permitted to deteriorate.

Oh, I know there has been a slight upturn in the economy—very slight. It is mild. And new jobs are not being created, and more and more people are becoming unemployed.

The President has not done a thing to pull this country out of the recession. The President has no economic blueprint for this country. The President's 1993 budget is full of the same tired, old ideas that Congress has rejected year after year, and rightfully so.

The President's proposed defense cuts are but a trickle. They do not go far enough. The President proposes to cut defense spending an additional $6 billion out of a $300 billion expenditure—$6 billion in 1992, and only $44 billion over the following 5 years, from 1993 to 1997.

Mr. President, there is a new world we are living in. Mr. President, there is a new America that is suffering.

Numerous Members of Congress and defense experts have called for cuts of $100 to $150 billion over the next several years. Senator NUNN, chairman of the Senate Armed Services Committee, has recommended defense cuts of $85 billion. Congressman ASPIN, chairman of the House Committee on Armed Services, has recommended defense cuts of $100 billion to $120 billion, more than double the amount the President proposed. And two defense experts with whom I side and identify, Bill Colby, former Director of the Central Intelligence Agency under President Nixon, and Paul Warnke, former head of the Arms Control and Disarmament Agency, as part of a report for the Coalition for Democratic Values recommended that we cut our defense budget by half, meaning down to $150 billion in the fifth year, to bring it down so that by the fifth year the defense budget would be half the present amount. I support that position.

It is clear we must adopt broader defense cuts than those proposed by the President. We need across-the-board cuts. The President has not gone far enough to cut the total number of our troops. The President's budget relies primarily on cuts in procurement and construction and barely touches personnel levels.

But we still have 1,886,000 active troops which the President only proposes to cut to 1,650,000 by 1995—hardly scratching the surface, a couple of hundred thousand out of the total of almost 1,900,000. And we still have another 2,138,000 reserves and civilian personnel. And let us not underestimate the costs associated with those Reserves and civilian personnel.

I doff my hat to those men and women who have served and are serving in our military forces and our Reserve forces. But their service is not the issue. The issue is whether or not we need as many men and women in the services as we have at the present time.

We can and must reduce these numbers substantially. Reducing our troop strength by 100,000 a year will save $140 billion over 5 years.

We still have 280,000 troops defending Europe.

Mr. SASSER. Will the distinguished Senator from Ohio yield for a moment?

Mr. METZENBAUM. I certainly do.

The PRESIDING OFFICER. The Senator yields.

Mr. SASSER. I notice the distinguished Senator from Ohio is indicating that at the present time we still are maintaining somewhere in the neighborhood of 280,000 U.S. troops in Europe.

Mr. METZENBAUM. That is my understanding.

Mr. SASSER. I wonder if the distinguished Senator from Ohio was aware of the fact that the Canadian Government is withdrawing all of their military forces from the Continent of Europe? Our friends to the north, the Canadians, have said, in view of the vastly changed world circumstances that have occurred with the collapse of the old Soviet Union and the evaporation of the old Soviet threat, they are going to withdraw all of their military forces from the NATO organization, bring them home from Europe, and bring them back to Canada. I was not sure my friend from Ohio was aware of that fact.

Mr. METZENBAUM. I thank the Senator from Tennessee, my good friend, for pointing that out to me. Indeed, I was not aware of that. But it only strengthens the reason for this country to bring back more and more troops, whether or not we go down to zero, whether we leave a token force there. With the means of transporting troops and material in these times, we certainly do not need to maintain anywhere near the force levels that we have there, and there is no secret about it.

Not alone do we expend dollars from our Treasury when we do that, but also those dollars then go into the hands of the military, and their paychecks are expended in the European economy where they could much better be expended in the American economy.

Mr. SASSER. If the Senator will yield for just another moment, let me just say the Senator from Ohio is quite right about that. These United States tax dollars that are spent in Germany and in the United Kingdom, for example, are being used to purchase items from foreigners in those countries. These tax dollars could be spent right here in the United States to help lift our own people out of a recession.

With regard to the case that the distinguished Senator from Ohio makes about the expense of maintaining U.S. forces abroad, I might just add one of the concerns that I hear is that perhaps a reduction in the military budget would endanger local National Guard operations, for example. As the distinguished Senator from Ohio has, I think obliquely, pointed out about the expense of maintaining these troops abroad, if you brought them home and demobilized them, you could reduce the defense budget and still maintain the National Guard units at a very robust level.

So actually you are helping the National Guard and Reserve units when you bring the Active Forces home from abroad and the cost of maintaining them is cheaper and some of those funds can be then funneled to the local Reserve and Guard units, as the Senator from Ohio was touching upon a moment ago.

Mr. METZENBAUM. While the author of the bill is on the floor, I wonder if he would be good enough to inform the Senator from Ohio, if he knows, what we expend in order to protect Korea each year? And what we spend in order to protect Southeast Asia?

Mr. SASSER. I cannot provide those precise numbers off the top of my head. But, as the distinguished Senator from Ohio knows, we were expending well over—in the neighborhood of over $100 billion to equip and sustain our military forces in Europe. At one time I think we were spending as much as $170 billion out of our overall defense budget to maintain and equip our forces in Europe.

As my friend from Ohio knows, we still have 40,000 United States troops in Korea, at a time when South Korea has a gross national product that is many, many times that of North Korea, the threat to them to the north, and at a time when the South Korean population is considerably larger than that of North Korea.

I do not understand why the substantial burden of defending South Korea is carried by the taxpayers of the United States. Why can it not be carried by the taxpayers and citizens of the Republic of South Korea?

But I will shortly have the numbers and the answer to the question of the distinguished Senator from Ohio.

Mr. METZENBAUM. I very much appreciate the response of my friend from Tennessee.

It helps to make the point that there are two aspects of this military spending that we must address ourselves to, neither of which help the American people.

We do not need to spend as much as we do on the military. That can be cut substantially. But the reality also is, in the second part of the equation, that too many of those dollars are being spent in Europe, in Korea, and in Japan defending Southeast Asia.

If we did no cut the military budget $1, which no one would suggest and certainly I would not, but if we did not cut it $1 and we expended the funds, used the same number of dollars and they were paid to American military personnel and they were in this country, it would be an unbelievable boom to the American economy because you would be taking—I think the number is somewhere around $40 billion in Korea and $50 billion in Japan, but I am not certain to the number, but whatever the number and as the distinguished Senator from Tennessee said, something like $170 billion in Europe, whatever the number—if those same dollars were spent in the American economy, think how many more loaves of bread, think how many more of everything—would be sold and those dollars would be turned over and over again in the American economy.

How anybody, regardless of political point of view, can disagree with the obligation to concern ourselves with the American economy at the present time, and there is something that can be done not 6 months from now, not 6 years from now, not in some long plane, bringing the troops home from Southeast Asia and from Europe, whether we leave a token force in both places or not, but what a boom it would do for the American economy.

If we cut the total amount of spending, it certainly would make more money available, once the wall is down, in order to do so many needed things in America. I see my distinguished colleague from Tennessee on the floor.

Mr. SASSER. Mr. President, I know of the longstanding interest and concern of the Senator from Ohio in the area of health care in this country and his concern about the cost of health care and the need to deliver quality, affordable health care to every citizen in this country.

The figure of $170 billion to maintain the American military establishment in Europe is a ballpark figure. It is coming down some now. But if we had just half of that money, if we had $100 billion to be spent to provide health care on a yearly basis for the people of this country, I say to my friend from Ohio that the American people, each and every one of them, would have the quality health care that I know he is so concerned about.

I say that as a means of putting in perspective the cost of these military establishments. Just the cost of maintaining the military establishment in Europe in all likelihood would pay for well over half of the cost of a health care system for the people of this country. We are dealing with extraordinary sums of money, and I simply wanted to make that illustration because I knew of my friend's long-term interest in the health care needs of this Nation.

Mr. METZENBAUM. I very much appreciate the comments of my good friend from Tennessee. We are talking about megabucks. We are talking about truly doing something about the economy. We are talking about doing something to make this Nation the kind of Nation it used to be. We have the power to do it, but for some political reason that I do not quite understand, we are having a battle as to whether we can even get this resolution to the floor for a vote. That is what this whole debate is about: Should we bring debate to a close so a majority of the Senate can express its will?

Last year, the Congress did pass a sense-of-the-Senate resolution urging the President to get the number of troops down to 100,000 by 1995. That did not go far enough. That was not nearly enough. But the President only plans to reduce our troop strength in Europe to 150,000 by 1995. Is it not understandable that the American people cannot comprehend their own Government? Is it not understandable that the American people think they ought to throw the President and the Congress out as well?

There just is no need to spend $150 billion a year defending Europe. We spend over half our defense budget on our forces in Europe while the European Community is girding itself together, to become stronger and stronger and stronger so that they can take on the American domestic economy in confrontation. What an absurdity, and we are spending a far greater percentage of our national expenditures, that is our expenditures at the Government level, for defense spending and for defending Europe than are the European countries expending themselves.

Why do we not spend those funds here? What understandable argument can be made to leave so many men and women in the military in Europe and in Southeast Asia and in Korea? How can we possibly justify it? How can we explain it to our children? Every dollar we spend overseas is a dollar less than we have to spend on America, and if ever there were a time when this economy needs a good push, a good extra jump, a jump-start, this is the way do it. Instead, the President would cut a lot of programs that are needed by the American people.

We must use defense cuts to invest in America, in American jobs, in American children, in American families. We must start with the basics. We have an obligation to our children and to our grandchildren to invest in education. We must make sure that our children can read and write, and we must improve their math and science skills.

The President's budget just does not pass muster in this area. The President proposes minimal increases in a few education programs and major reductions in dozens of programs. The President proposes to cut vocational education, adult education, and student loans, work study, and library assistance programs. Education programs are an investment in our future. We should be increasing education, not cutting it.

We must also provide adequate job training and jobs to our workers. The President's budget provides almost no additional funds to retain displaced workers.

In 1990, Congress appropriated $150 million to retain displaced defense workers and $50 million to help communities affected by defense cuts.

Listen to this. Of the $150 million and the $50 million so far, the administration has only spent $10 million of that money. Does not the President and the administration recognize the problem of displaced defense workers and the communities affected by shutdowns in defense industries? Why does the President not use the funds to help Americans who have lost their jobs?

The President's budget also falls short in the area of job creation and job training. The President proposes a minuscule 2.6-percent increase in job training programs. That is almost as if it is nothing, 2.6 percent. At the same time, the President eliminates job training block grants and funds for summer youth employment. You cannot turn the TV on without hearing about the problems of our young people in the cities of this country, and does somebody think at the White House that that problem is going to be ameliorated, helped in some way by eliminating funds for summer youth employment? Will not it be counterproductive? The President cuts the highly effective Job Corps by $50 million and the older workers employment program by another $50 million.

The President is moving us in exactly the wrong direction, and there are those on the opposite side of the aisle who are going to refuse to make it possible to bring this entire debate to a close so that we can vote on whether or not we want to take down this wall between defense spending and domestic spending.

We need so much in the domestic area. We need job training. We need to create jobs by rebuilding our roads and bridges. We need to clean up our environment. We need to restructure our health care system. We need to build affordable housing. We must keep our streets safe.

There is no shortage of things that we need in our country. But as long as we are spending as much as we are in the defense area, it is not going to be possible. As long as that arbitrary wall is there being protected by the President and my colleagues on the other side of the aisle so that we cannot bring this issue to a vote, we are not going to be able to do the job we are obligated to do.

The task before us is clear. We must use this unique moment in history to restructure our country. Our economy is in trouble, deep trouble. We had negative economic growth in 1991. Unemployment remains unacceptably high at 7 percent. American workers are earning less now than a decade ago. Families are working harder but earning less. We need long-term investments to get America back on track. We need more of those defense dollars being spent in the American economy. If we can lead the world in missile production, we can lead the world in economic production.

I strongly support the Sasser bill. I strongly urge my colleagues on the other side of the aisle to join with us in cutting off debate so that we can vote up or down on the Sasser bill. That is the only way we can modify the 1990 budget agreement to reflect the changed world environment. This bill enables us to redirect our spending. I hope that we will not be precluded from bringing debate to a close so that 51 Members of this body may vote to bring down the wall.

Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, a moment ago our distinguished colleague, the Senator from Ohio [Mr. METZENBAUM] asked me a question as to the cost of maintaining the United States troop level in South Korea and also questions about the costs of projecting naval power in the Pacific region, and we have some preliminary figures. They are not conclusive, but this is what we concluded on fairly brief research.

According to the publication of the Brookings Institution entitled "Decisions for Defense 1991," for the defense of South Korea, to maintain our troop level and some air cover capability, we were expending $19 billion a year. Interesting that we would be spending almost $20 billion a year to defend South Korea when South Korean shipyards have literally driven United States shipbuilding out of business and when we are competing vigorously across the world with Korea for various international markets and at a time when South Korea's economy is booming, South Korea's economy is expanding by almost a geometric ratio. It is a country with a population considerably larger than that of North Korea, its principal adversary; yet somehow the taxpayers of this country are still called upon to spend $19 billion a year to defend the people of South Korea.

I sometimes wonder how it would be if the shoe were on the other foot. If our neighbors to the north or the south, the Canadians or the Mexicans, were threatening us, I wonder if we could call upon the South Koreans to expand $19 billion in defense of the security interests of the United States. An interesting question. I do not know the answer.

In addition, we expend, according to the same Brookings publication, $15 billion a year to keep open the Pacific sealanes to South Korea, to supply our troops in that area, and generally to project American naval power into the Pacific area and specifically into the country of Korea. So we are spending about 34 billion in 1991 dollars of the United States taxpayers to maintain a military establishment in Korea, and to maintain a naval presence that will keep the sealanes open to Korea.

Mr. President, I think the bill that is before the Senate today is vital if we are to pursue a rational, well-conceived economic conversion program. There is no question that there are going to be some communities hard hit by the closure of military bases and by military cutbacks. The Office of Technology Assessment has done a very thorough and, I might say, very authoritative study of what will occur across this country as we move into an era of decreased military spending, what effect this will have on local communities.

We find, in reading the report of the Office of Technology Assessment, that approximately 3 percent of the counties in the United States are to some extent significantly dependent on military spending, and this 3 percent of the counties will suffer some economic dislocation and economic distress.

In view of that, I think it is absolutely essential that we engage in some mode of converting, in productive way, these facilities for military production into peaceful and productive economic strength. I think we need to have funds to finance ways to ease that transition.

One of the ways some of these military funds could be used, if the wall between military spending and domestic spending were taken down, is that we could use some of these funds for the very difficult process of conversion from military spending to economic civil production.

For example, the funds could be used for assistance in economic development in those areas where military bases are closing or where a military weapons facility is being phased out or phased down. The funds could be used to convert people by way of job training, to be used for veterans benefits for those who are being discharged from the military, could be used to aid schools and for educational purposes, particularly in those areas that would be hardest hit.

But with this wall up separating military spending and domestic spending, there is going to be little or no Federal funds available to cushion the impact of these military cuts as they come crashing down on the 3 percent of the counties in the country that would be most adversely affected.

Finally, as I mentioned earlier, dismantling the wall between military spending and domestic spending 12 months ahead of schedule—bear in mind that is all we are asking here—within 12 months this wall comes down by operation of law because the budget enforcement agreement said the walls between military and domestic spending expired at the end of 3 years. But by taking down that wall 12 months earlier, we will free resources that I think are badly needed as we are fighting this recession. We are struggling mightily to come out of the worst and longest recession—I will not say the worst, I think that would be a mistake, but the longest recession—in duration that we have seen since the 1930's. It has stretched out to now 19 months.

Bear in mind that this long 19-month recession was preceded by 12 months of virtually flat economic growth, no significant economic growth now for almost 3 years in this economy, and it is stretching on out.

Well, if the wall comes down some of these resources that are now going into military spending could be used to combat the recession right here at home.

Let me just offer an example of the kind of job creation we could expect when the wall comes down that seals off and safeguards the military spending. Whether you are talking about the President's number for military spending that he advanced, the proposal advanced in the House budget, or some level in between the House number, which I think cut outlays at about $10 billion, and that advanced by the President, which cuts outlays for fiscal year 1993 at about a level of $5.5 billion, but the funds, if you take the wall down, can be used whether it is the $5 billion or the $10 billion, or anti-recessionary investments if the U.S. Senate chooses to do that.

Let us say that the Senate chose to use the funds out of military spending to keep all of the programs in the domestic spending category fully funded at the 1992 current services level. That will take $6.4 billion to bring the 1993 domestic discretionary spending up to the 1992 level.

Why is that the case? Because the act of inflation, just as Social Security beneficiaries get a cost-of-living adjustment every year so that their purchasing power will remain stable, if these domestic programs are increased to what the budgeteers call baseline, if they are not given a cost-of-living increase, they will lose $6.4 billion in real purchasing power.

Let us say we took the military spending and just keep the programs level at purchasing power. What would that do? According to the Congressional Budget Office, this carries the potential to create 400,000 more jobs than the President's budget would produce. Specifically, 100,000 more jobs could be created through additional highway spending, 100,000 more people could be put to work in the highway program, and that money would diffuse out throughout almost every community in this country.

The distinguished Presiding Officer, who was a very able and effective Governor of the State of Florida—I think that is widely noted and has been noted in many journals of the period when he was presiding over the executive branch as the Governor of Florida—has called to my attention the ability of highway spending to increase jobs. And, more specifically, he called my attention to the fact that rebuilding and repairing highway infrastructure generally creates more jobs than new capital investment, something that I was not aware of. But we could put these funds back to State highway maintenance, rebuilding of the roads and bridges, and create literally tens of thousands of jobs.

Twenty-four thousand five hundred more jobs would result if we kept mass transit spending at current services level. How could that be? The mass transit systems could be purchasing more buses, more vehicles to move people, and that creates more jobs in those areas. They would not have to lay off bus drivers and motormen and that sort of thing which, undoubtedly, is going to occur if there is a reduction in the purchasing power of the mass transit systems all across the country.

Six thousand more jobs could be created with airport improvements if funding for airports were kept at a current services level. I do not need to tell air travelers of the necessity of at least keeping airport funding at a current services level. Airports are congested now. They are overworked, overutilized, overcrowded and people need to be working in the rehabilitation, in the maintenance of those airports, and also in assisting that they be used in a more efficient and expeditious way.

In the field of low-income HUD housing, if there is not a need there, I do not know where in the world we will find it. You cannot go into a major city in this country without being confronted by the homeless all around you.

Mr. President, every evening when I drive home, I pass by the State Department building. And right across the street from the State Department in a little city park, there are about 10 to 12 homeless men who have made this their home. You see them there through winter and summer. They have been living there so long that they have tramped down the grass in the park.

It is just a little dusty area; some of the little ornamental shrubs that have been planted there are dying out. If you go by there late at night in the winter, you see homeless men huddled in blankets, here in the Nation's capital, right across from the State Department, right across from the building to which ambassadors of other nations arrive to present their credentials as ambassadors from their nation to the United States; right across from the building where foreign ministers of other nations come to visit; right across from the State Department building where foreign dignitaries from all across the world come. What must they think about the priorities of the United States of America when they see just before pulling in to the State Department, this public area, filled with desperate, homeless men?

Well, we could create 86,000 more jobs in the area of low-income housing, in rural housing, in community development block grants, if we just kept the funding in these particular budget areas at current services level, just safeguarding their purchasing power. That could be done by simply taking some of the cuts the President himself makes in military spending and transferring it over to domestic discretionary spending, if this body chose to do that.

In short, taking down this wall means more jobs. It means more jobs in this recessionary economy.

(Mr. SANFORD assumed the chair.)

Mr. SASSER. We hear a lot of talk from the President, the administration, and even some of my good friends from the other side of the aisle—jobs, jobs, jobs. The President said his trip to Japan was all about jobs, creating jobs for the American people. Well, I do not know of any jobs that were created from that trip, but he can create jobs now by assisting us in hiring in our effort to lower these walls to take down this barrier between defense spending, military spending, and domestic spending.

Taking down this wall would mean sustaining other critical investments, most notably in the area of health care. Here are some of the possible effects of allowing transfer from military spending in order to maintain a 1992 current services level in the health care area. Bear in mind that I am not saying if we take down these walls, these funds will be transferred.

If this body chooses to do so, all of the funds can be allocated to deficit reduction. If this body chooses to do so, and if they choose to take a cut in military spending similar to what the House of Representatives has advocated, we could fund all of these domestic discretionary programs at the current services level and still use 4 or 5 billion dollars and allocate that to deficit reduction.

But if we fund it, the health care areas, just at current services levels, just to keep them level with inflation, we find that 850,000 more low-income women can receive primary and prenatal care. The statistics tell us, and the experts in the field tell us, that for every dollar spent in primary and prenatal care, it comes back a hundredfold in medical care that must be advanced, if you have a premature baby, or a malnourished child that is born with defective intelligence.

If these programs were funded at current services levels in the veterans health care area, more than 110,000 inpatient hospital stays could be facilitated and handled; 2.4 million more outpatient visits could be facilitated by the veterans hospitals, if they were just funded at current services level.

What about women and infants and children? I see my distinguished friend from South Carolina on the floor, and I know that the Senators from South Carolina are concerned about the WIC Program. If we could just fund the WIC Program at current services levels, we would not have to cut 200,000 recipients off of the WIC Program, which I am told will occur if that program sustains a cut below current services.

What about health research, cancer research, diabetes research? That is something I am very concerned about. I have a little niece, 9 years old, who was diagnosed as a diabetic, and that beautiful little girl, every morning, has to get up and give herself a shot. What about diabetes research? We are on the verge of curing that.

What about AIDS research? If we could fund the National Institutes of Health biomedical research just at current services level, $391 million dollars would be made available for these programs. Perhaps with 5, or 10, or 20 million dollars more in diabetes research—we are right on the edge of finding a cure or a way to deal with that—that cure could be found in the next year or two.

We are a society plagued by drug abuse, alcohol abuse, a society that has a serious problem with the mental health administration. If we could fund the mental health administration at a current services level, $166 million dollars more would be available for the treatment of drug abuse and for alcohol abuse among our citizenry.

In other areas, 37,000 additional Head Start slots—who among us does not think Head Start is a worthwhile program—where we take these children from disadvantaged areas, get them into a kindergarten or an educational system a year or two early. Who among us does not believe that is a worthwhile program? And 37,000 additional Head Start slots could be created, if Head Start could be funded just at a current services level.

And $459 million more could be provided for law enforcement, for criminal justice, for judicial activities; $250 million more for the National Science Foundation programs; $417 million more for energy programs.

I know of the concern of the distinguished Senator from Louisiana and his interest in energy production, energy conservation, in developing a meaningful energy program for the United States of America, and I applaud his efforts in that regard. But the distinguished chairman of the Energy Committee, if we could simply fund the energy function at current services levels, it would have a significant amount more to deal with the energy problems of this country; $417 million is serious money, even by Washington standards.

Yes, if we adhere to the caps of the budget summit agreement, the Budget Enforcement Act, we will have a shortfall of $6.7 billion in the funding for the domestic priorities of the American people in 1993.

That single budgetary fact above all others should make it clear to every Member of this body under the present arrangement, the $6.7 billion shortfall ought to be addressed.

It could be made up partially through cuts or savings in military spending. We could even use the modest $5 billion in military savings that the President himself proposes just to fund these badly needed domestic programs in a time of great economic distress as we try to pull ourselves up by our bootstraps out of this recession.

Mr. President, the distinguished Senator from Louisiana is on the floor. My friend from Louisiana has many responsibilities in this body. He is one of the senior Senators by way of service and by way of experience and knowledge in this body.

The distinguished Senator from Louisiana is a chairman of a very important Senate Committee on Energy, a committee that has responsibility for developing the energy resources of this country, that has the responsibility of trying to fashion a program to make the United States energy independent while at the same time using its energy in an environmentally safe way.

But equally as important, he is the chairman of the Appropriations Subcommittee on Energy and Water and many very important and critical projects fall within the purview of that Appropriations Subcommittee for funding.

So I would like now to yield to my friend from Louisiana, Senator JOHNSTON, for any comments he might wish to make about this effort to eliminate this arbitrary wall between military spending and domestic discretionary spending.

Mr. JOHNSTON. Mr. President, I thank my distinguished colleague from Tennessee, the chairman of the Budget Committee. I especially thank him for his kind comments.

Mr. President, I wonder if Senators really understand what this tearing down the firewall legislation is. If they understand it, they will be for it, at least in overwhelming numbers, I am convinced of that. I think really it is misunderstood, and the reason I say it is misunderstood is that I heard the arguments, pro and con, in the Democratic caucus yesterday and I think they did not understand what we are facing.

What we are facing, Mr. President, is a budget agreement put together a couple years ago when the cold war was still going on, when dollars were scarce, and we were still meeting the challenge of a military arrayed against the Warsaw Pact where the danger of an attack from the Soviet Union, the Warsaw Pact was still very real indeed.

At that time, Mr. President, the part of the budget called discretionary domestic spending, that is, that discretionary part into which the life of America is put—everything from food for children to, indeed, energy programs, to historic preservation, to highways, to education, to all of those fundamental things are in this pot called domestic discretionary, called domestic discretionary because the Congress can, in fact, control them.

But because of scarce dollars, Mr. President, the first year domestic discretionary was taken care of, but in the 2 outyears, the spending on domestic discretionary went down so that in the coming budget year we face not a standstill, not a freeze, but a cut back of some $6.7 billion from today's spending levels in real dollars, an actual cutback, a retrenchment in those budgets which we now have.

Mr. President, I have a steady stream, as other Senators do, of visiting firemen who come into my office. Yesterday, there was a group from New Orleans that were pointing out the importance of historical preservation and pointing out that they wanted it increased. I said "Don't you understand? Nobody can be increased unless we get the firewalls taken down because everybody has to be decreased." The present budget agreement calls for a decrease, some $6.7 billion, or if you use the President's budget, the President would cut some $8.4 billion in budget authority.

Mr. Speaker, we are talking about a decrease of from $6.7 billion using the CBO figures or $8.4 billion using the President's figures.

That is the central point of this debate, that the domestic discretionary pot, that pot of spending to which all Senators rally at budget time, you know help this program, help that. Will you not help us get flood control in the case of my Energy Committee on energy and water? Will you not help us get the superconducting super collider?

And I am for that, and my Texas friends are especially strong for the superconducting super collider.

But, Mr. President, if we are going to have a budget cut, how do you fund anything? You do not.

What Senator SASSER and what I and the other coauthors of breaking down the firewalls are trying to do is not increase domestic spending but at least bring it up to where it is now, at least put it where it is now, Mr. President. We are not talking about some new educational initiative. We are not talking about some new highway proposal or some new set of nutrition programs for kids or for nursing mothers. We are talking about not cutting back on those programs. It is just as simple as that Mr. President.

Now, Mr. President, since that budget agreement was put together, the Soviet Union is no more, the Warsaw Pact is no more. I was in East Germany in December and the former East German soldiers who were one of the mainstays of the Warsaw Pact have now joined the bundesstaat and their general tells me they are some of the best soldiers in the old German tradition—they saluted and for their country. You know our country is dead. God save our country even though it has changed and they are good solid members of the West now. They want to join NATO. I have been to Czechoslovakia recently and Hungary and these other Eastern bloc countries which were the Warsaw Pact.

Mr. President, they are on our side now. Boris Yeltsin in the United Nations referred to the United States as our allies, and yet this budget agreement which is so sacred that nobody wants to break was put together when the Soviet Union was the Soviet Union plus the Warsaw Pact arrayed against us, and we had to have 10 divisions in 10 days to be able to fight them.

To say that circumstances have changed is to put it mildly. There has never been a period in history of a shorter time in which things have changed so fundamentally, so diametrically, so overwhelmingly with just breathtaking speed.

Mr. SASSER. Mr. President, will the Senator from Louisiana yield for a question?

Mr. JOHNSTON. I will, indeed.

Mr. SASSER. Mr. President, I find the Senator from Louisiana's logic as always very persuasive and he was stating a moment ago quite accurately that this budget agreement was put together at a time when the Soviet military capability was intact and at a time when the Soviet Union did represent—although a diminished threat—they had considerable military capability which has now evaporated.

I, for one, was not aware that the soldiers of the old East German army, part of the Warsaw Pact, are now joining the army of the old West Germany. These soldiers are now being integrated into NATO and want to fight with us.

But my question is this: I wonder if my friend from Louisiana was aware of the fact that this budget summit agreement was negotiated in the fall of

1990 when the United States of America was deploying very large forces in the Middle East, in Saudi Arabia, in preparation for doing battle and going to war with a nation which at that time had one of the largest and was thought to have one of the most competent and effective military establishments in the world?

If memory serves me correctly, they had at that time the world's fourth largest Army and Air Force. I was just wondering if my friend from Louisiana was aware of the fact that that also was an element in setting out the numbers for military spending in this budget summit agreement.

Mr. JOHNSTON. I am aware. That is another point. It is history that has taken place with such breathtaking speed. The question is no longer whether we should cut defense. The question is whether we should cut defense as much as the President says, which as I recall is about $5 billion this year, or whether we should cut a greater amount.

But, Mr. President, if we could just take the President's cut in defense and keep that from eroding domestic spending, domestic discretionary—in other words, keep domestic discretionary level—then we would be much closer to serve the needs of the people of this country.

Mr. President, on Sunday, on "This Week" with David Brinkley, I heard one of the best discourses on the economy I have heard in a long time by Felix Rohatyn, the distinguished financier. He had three or four points; the other three or four I could go into, but they are not particularly relevant at this point.

But he said, point No. 1, what he thought this country ought to do is to have $1 trillion committed to restoring the infrastructure in this country over the next 10 years—$1 trillion. This is $100 billion a year. Now, what the break-the-firewall legislation says is do not spend $1 trillion dollars, but let us not take away this year $6 to $8 billion of what we have.

I mean, here we are, Mr. President, in a recession, a deep recession, and yet we would be taking away from those job-creating activities of Government like highways or like building navigation or flood control projects—I come back to navigation and flood control because they happen to be in my subcommittee—or great science projects like the superconducting super collider, or everything from the WIC Program, nutrition programs, to education initiatives; all of these things, Mr. President, which are central.

And here we are; we have a recession, and the economists say if you are going to spend for a recession, then try to do it for something nonrecurring. In other words, do not pout some tax program on that is going to be a permanent drag on the economy if what you want is an immediate flush for the economy. They say do something that will give you a permanent good that comes from that spending. That fits the kind of spending we are talking about to maintain domestic discretionary programs. But if we do not breach the firewalls, we are going to have to fire people on existing domestic discretionary programs.

If we can just get that point across to Senators. I wonder if my friend from South Carolina understands that. Does the Senator from South Carolina understand that if we do not breach the firewalls, that we are going to have a fire people and cut existing programs? Will my friend from South Carolina agree with me on that?

Mr. THURMOND. Mr. President, there is no question, I think there probably will have to be some discharged. The Government is too big and some should be discharged.

Right now, we plan to cut defense, but I think we have to do it orderly. And I think the chairman of the Senate Armed Services Committee, Senator NUNN, takes the same position I do, which is we ought to carry out the plan and start next year with cutting defense according to the plans agreed on by the Armed Services Committee.

Mr. JOHNSTON. Mr. President, I wonder if my friend from South Carolina would have any objection if we accepted the recommendation of the President, which I think is a $5-billion cut in defense.

Mr. SASSER. I say to my friend from Louisiana, I think it is $5.5 billion, the President's cuts, using OMB calculations.

Mr. JOHNSTON. If we say we took that $5.5 billion and used it just to keep domestic discretionary programs at their present levels, I wonder if my friend from South Carolina would have any objection.

Mr. THURMOND. Mr. President, I could not agree with that. I think the plan that is worked out by the Budget Committee and has been agreed to should be adhered to, and I think we make a great mistake in changing that. And you are going to turn a lot of men and women in uniform out on the streets.

This thing has got to be done gradually and properly, and that is the way the Armed Services Committee is trying to work it.

Mr. JOHNSTON. Mr. President, I tell my friend from South Carolina, the firewall legislation is not about cutting defense more; rather, it is whether you can take that spending for defense and move it to anything else, or whether those cuts, in the case of the President's recommendation, $5.5 billion, whether you have to use that to either cut taxes or to reduce the deficit. That is really what this is about.

That resolution says that that $5.5 billion in the case of the President's recommendation, or a greater amount, whatever the will is of the Senate—and the Senate is going to work its will on cuts in defense without respect to firewalls. I mean, if we cannot breach the firewalls, Senators are not going to vote willy-nilly for additional defense expenditures just because the agreement is there. The agreement we are trying to breach the firewall of does not require us to spend anything on defense. It simply puts a limit on defense and says we cannot use any of that savings, whatever it may be, for any other purpose.

Now, that is what this is about, Mr. President. We are trying to save jobs and we are trying to save programs—existing jobs and existing programs—by preventing what would be a reduction in those programs under the present budget agreement. Now, that is the fundamental fact which Senators do not seem to understand.

I wonder if my friend from South Carolina understands that this budget resolution requires a cut in domestic spending.

I see my friend, the distinguished former chairman and ranking minority member of the Budget Committee. Am I correct on that?

Mr. DOMENICI. Well, Mr. President, I really do not want to take much time because my friend from South Carolina has been trying to get the floor, and I want him to speak. But let me suggest to my good friend—and I serve with him on Appropriations—that in the first 2 years of this agreement domestic discretionary spending went up, and I will give you the percentages; very, very, big increases, in percentage terms.

Mr. JOHNSTON. In real dollars?

Mr. DOMENICI. They just floated away into who knows where.

Mr. JOHNSTON. In real dollars?

Mr. DOMENICI. In real dollars, percentage increases, year over year; very large increases. In fact, that was the price to pay for getting agreement, I say to my friend from Louisiana. The discretionary appropriations in 1991 and 1992 had to go up, and go up substantially.

Now, the real issue today has to do with whether or not, about a year and a half after you make an agreement, that you all of a sudden have this new giant need for domestic spending. It is not that defense had anything to do with this agreement. This agreement was made on all the discretionary accounts with full knowledge of what each account was going to get in order to get some real savings and real discipline into the budget. There was the new line for domestic discretionary spending.

Some say we should use defense cuts to fund domestic spending. That argument has nothing to do with what happened in the Soviet Union. It so happens that we might be able to cut defense more than we thought. The agreement says you can cut all you want from defense. If you all want to cut much more than the President, cut it. But the agreement says you have already agreed on domestic spending. You agreed a year and a half ago on that. And that new savings should go in defense. New savings should go to the deficit. That is really the issue.

Mr. JOHNSTON. Mr. President, of course, we agreed 2 years ago, when circumstances were different, we agreed 2 years ago to cut domestic spending in real terms by $6 to $8 billion.

Mr. DOMENICI. When?

Mr. JOHNSTON. As part of this budget agreement.

Mr. DOMENICI. Over what years?

Mr. JOHNSTON. From last year to this year.

Mr. DOMENICI. Does the Senator want to forget the previous 2 years in terms of how much we increased it?

Mr. JOHNSTON. Let us talk about the previous 10 years, Mr. President.

I wonder if my colleagues can see this chart, which shows that, in the previous 10 years, entitlements went up some $776 billion; defense went up some $624 billion in real terms, whereas domestic discretionary went down $395 billion. That is the real trend. I cannot give you the chapter and verse on the first year of this budget agreement.

I wonder if my friend from Tennessee has that figure handy, in real terms?

Mr. SASSER. I do not have that figure handy, but I would like to ask my friend from Louisiana if he would yield for just one question.

Mr. JOHNSTON. Yes, of course.

Mr. SASSER. Of course, as I indicated earlier, the Senator from Louisiana is the chairman of the Energy Committee and chairman of the Energy-Water Appropriations Subcommittee, which has the responsibility for funding a whole host of different projects, including, as I understand it, the superconducting super collider. Is that correct?

Mr. JOHNSTON. The Senator is correct.

Mr. SASSER. I ask my friend from Louisiana this question: The President's budget for fiscal year 1993 includes $650 million in budget authority for the superconducting super collider. That is a 34-percent increase compared to last year.

I just ask my friend from Louisiana, is there any way of funding this superconducting super collider that has a 34-percent increase in the President's budget at the President's levels if his subcommittee is going to sustain a cut in the funding coming to them in real terms?

Mr. JOHNSTON. Mr. President, I am a strong supporter, as I stated earlier, of the superconducting super collider. I think it is the most important science project in America. And I think it is a very good illustration of why we need at least to maintain our current levels.

But, yes, for the superconducting super collider, the President's budget asks for that big increase. If we are going to build it, we have to have a substantial increase in the superconducting super collider. But I am frank to say right now I do not know where the money is coming from. I can tell my friend from Tennessee I hope he and I can find some accounts in the Energy and Water Appropriations Subcommittee from which we can find the money. I hope the Senator from New Mexico will help me find that money. I do not know whether any of those national labs in New Mexico can sustain a little bit of a cut so we can build the superconducting super collider.

Mr. SASSER. Just on that point, if the Senator will yield, I note the President's request for the Department of Energy's high energy and nuclear physics programs will increase by 1 percent in budget authority from 1992 to 1993; that is 1 percent in real terms.

Given the fact that the superconducting super collider is going to increase, according to the President's budget, about 34 percent in real terms and the physics and nuclear physics programs are going to increase by 1 percent, how in the world is the distinguished Senator from Louisiana, as chairman of the Energy-Water Appropriations Subcommittee, going to fund both of those areas?

In other words, am I going to have to take a cut at the Oak Ridge National Laboratories? Or is my friend in New Mexico going to have to take a cut at Los Alamos to fund the superconducting super collider? Or can you make cuts large enough there to go ahead and fund the superconducting super collider? I do not see how we are going to do it, and I will be frank to say I do not want to take those cuts at Oak Ridge. We need to be funding these national labs at a higher level because that is where some of the best basic research in this country is done. If we are going to be competitive in this international environment, I want to be giving those national laboratories the resources they need for research and development to develop the high tech to make this country once again number one.

So, how can we fund them and fund the superconducting super collider?

Mr. JOHNSTON. Mr. President, I can tell you it is a terrible challenge.

This political year is so replete with polemic politics that sometimes the truth hardly lurks on this floor, at least in unadulterated unexpurgated form. It is hard to find sometimes, and that is probably true on both sides of the aisle. Everybody is trying to make a political advantage. I understand that. I probably participated in it myself.

But, Mr. President, we are not kidding on this firewall business. We are just not kidding. These are not idle threats. I can tell you, we are engaged, my staff and I, right now in trying to figure out where we are going to fund those things that are highest priority.

Mr. DOMENICI. Will the Senator yield?

Mr. JOHNSTON. Yes.

Mr. DOMENICI. First, I want to ask again, if the Senator will indulge me, could we in the not too distant future permit the Senator from South Carolina to speak? I asked him to come down here to help me out, and he has been waiting.

But let me suggest to my friend before he answers that, these are the numbers: Discretionary appropriations went up, from 1990 to 1991, 12.3 percent in budget authority, 8.4 percent in outlays.

Mr. JOHNSTON. That is in nominal terms?

Mr. DOMENICI. That is nominal.

Mr. JOHNSTON. What did that amount to in real terms?

Mr. DOMENICI. I do not have the real terms. Take about 3.5 percent off, so you have real terms, it is over 9 percent.

Mr. JOHNSTON. 8.4 percent, you take off 3 percent, it does not equal 9.

Mr. DOMENICI. What governs expenditures is budget authority, and it is 12.3 percent. That is what it went up in budget authority, and it went up 10.8 percent in budget authority in 1991 over 1992.

Let me just suggest to the Senator that he is giving us the best example, as I understand it. I agree with him on most items of discretionary expenditure, and I agree with him that increases in discretionary appropriations do not come anywhere close to entitlement increases for the devastation we are causing to our next generation because of the ensuing deficits. The spending superstars are found in the mandatory programs, the entitlements.

Mr. JOHNSTON. That is right.

Mr. DOMENICI. But, "but" if we do not have a cap on defense, and a wall that says you cannot spend any savings below this cap on anything but defense, then what will happen is the very arguments being made here about the laboratories and about the superconducting super collider. Think with me and with others in the Appropriations Committee about how defense is going to be ravaged. The war is over. The Soviets have given up. How about another billion for—forget the labs—how about another billion into Health and Human Services programs where everybody is saying we do not have enough? We never have enough.

Essentially, without a wall during this builddown period, this Congress has to answer a question about the appropriations process. I serve on the Appropriations Committee with the Senator and I truly believe it does one of the best jobs around and that is probably because we have to produce spending bills every year. The question is, are we satisfied to throw the entire appropriations process into one pool and play grab bag for domestic appropriations and what is left over will be the defense number? I do not believe so. I think we ought to set the defense number through acts of Congress with the President. And that is what the defense cap is.

If you suggest another cap that is firm, then maybe we can start talking, when this bill has been defeated, about how should we set the caps. But do not tear it down and let us play, literally, "How much can we get out of defense in the appropriation process?" It will not work and it is not fair.

Mr. JOHNSTON. Mr. President, I wonder if it would be possible to tear down the caps in a certain amount, let us say—what does the President propose as his cut? Just take that much and tear down the wall for that much. Could that be agreed to?

Mr. DOMENICI. Why do we not dispose of this bill, which, as I understand it, is just an arbitrary removal of the discretionary categorizes and their associated caps, and leave it there, and let us let the principals in this place talk about reaffirming the caps at some level and maybe—maybe—adjusting to some of the problems you see and maybe setting another defense cap next year that is realistic with the downfall of the Soviet Union? But not now.

Mr. JOHNSTON. Is my friend from New Mexico saying we could readjust the cap for this year or wait until next year to do it?

Mr. DOMENICI. I said right now we ought to defeat a bill that arbitrarily pulls it down and sets no defense level whatsoever leaving it exclusively to the inner workings of the appropriations process. I say, forget about that kind of bill. But when that is done, maybe we could start talking, with the President, about what the wall might be and what they should be for 1993 and what they might be for 1994. That might be the subject matter of discussion.

Mr. JOHNSTON. Mr. President, I am glad at least that my friend from New Mexico, who is a serious budgeteer and I must say, if I may have the attention of my friend from New Mexico—Mr. President, I was getting ready to make a compliment of the Senator from New Mexico. He does not often get compliments, so gracious is that which I was going to give. I was going to say he is really a serious budgeteer who tries to do the right thing within limits. There are partisan limits with all of us.

I think what I am hearing is he recognizes this problem I have talked about this year which means if we do not take down or change the firewalls this year, we have to cut back on existing levels of spending this year and that if we do not adjust those firewalls, either by doing what this bill says, which is removing them, or at least changing those limits, we are going to have to cut back from last year's real appropriated levels.

The Senator does not agree with that.

Mr. DOMENICI. Let me say to my friend from Louisiana, first I thank him for the compliment. I truly appreciate it. I thought he was going to say within limits and then say limits that are his, but he did not. He said political limits.

Mr. JOHNSTON. That is a very extravagant compliment from me. My friend from New Mexico occupies the highest level in the Senate, in my estimation.

Mr. DOMENICI. Let me thank him for that. Last year when we were debating the appropriations bills as they relate to this increase—1991 to 1992, 10.8 percent in budget authority, nominal, and 7.3 percent outlays for labor, health, and human services—I asked why are we providing a huge sum of money for the last day of the year? It was done anyway, right?

Mr. JOHNSTON. I opposed that along with the Senator from New Mexico.

Mr. DOMENICI. The point the Senator is making is now he has allowed an increase under his domestic cap of 4.7 percent in outlays, but see, there is not very much money really available because it has been used up by that late funding that got by up here and predetermined the disposition of the appropriations assets, to wit, the allocable money. That happened and some people think it was great that it happened. Two of those who wanted it are here and they are gleeful about it because they received their education money in advance. It is not going to be available twice. So they are going to get it because it is appropriated, unless we choose to cut something in that subcommittee, which might be a surprise. You can do that if you would like, just say you already received your money, so you do not get the full load. That could be done and it would give you some additional money in your subcommittee.

So I so not think I want to agree that things would be terrible if we had to live up to the agreement. I do not think I agree yet. But I do say you surely should not arbitrarily throw away the agreed-upon cap for defense under the circumstances encapsulated in this bill, which is the subject of the motion.

Mr. JOHNSTON. Mr. President, I appreciate that history which goes into a lot of those numbers, and I suspect as we talk about some of that history on the floor, it will pass by many Members of the Senate who are not experts on these arcane rules of budgeting and the Appropriations Committee.

On that particular instance, I happen to agree with the Senator from New Mexico about that last day funding phenomenon. However, Mr. President, the essential point, and I come back to it, is that under this agreement, we are going to have to cut in real terms from last year by about $7 billion at a time when there is a demand for huge increases for things like the superconducting super collider, which I am for.

We can talk about all this history. We can talk about all the things that have been wrong in the past, and I will agree with some and I will disagree with some, but mark my words, if we do not bring down these firewalls, there will not be any increases in domestic discretionary spending; there will be decreases. There will be no room for these initiatives that we want to take, and I believe a majority of Senators are going to be disappointed and surprised at the result.

Let me repeat that simple little phenomenon, which is we are going to have to cut domestic discretionary in the midst of this recession by about $7 billion unless we breach the firewalls. If we breach the firewalls, then we can get together because the President can veto any spending bill, Mr. President. If it is too big a cut, he can veto it, and I do not believe there is a single spending bill under the George Bush Presidency which does not bear his signature. I ask my friend from Tennessee; is that correct?

Mr. SASSER. I am not aware of one. I do recall the vetoes of the two unemployment insurance extensions. I do not know if that would qualify as a spending bill or not. These are the only two vetoes of spending bills I recall.

Mr. JOHNSTON. The point is I believe every single spending bill under this President, and he vetoed a number, has been sustained.

Mr. SASSER. That is correct.

Mr. JOHNSTON. He has the atom bomb. If we do not agree with him, we can take down firewalls——

Mr. SASSER. I misunderstood the Senator's question. Congress has not overridden this President's veto on any item since he has been President of the United States. He is batting a thousand.

Mr. JOHNSTON. That is right. The Congress is not going to force anything on the President in this political year which he must take and cannot veto. But all I am saying is we have to take down these firewalls if we are just going to maintain the status quo. I hope my friends will let us do that.

Mr. President, I would like to apologize to my distinguished friend from South Carolina who has listened to too many of these comments. I know he is anxious to make his speech, and I will yield to him at this point.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I rise in opposition to the motion to proceed to S. 2399, the so-called firewalls legislation. I do so for the following reasons:

Legislation similar to this is currently bogged down in the Budget Committee, and this legislation represents an attempt to bypass the committee process.

Removing the firewalls would give free reign to those who want to decimate the Nation's defense programs and further fuel deficit spending.

Mr. President, just yesterday, the distinguished chairman of the Armed Services Committee, Senator NUNN, wrote to the chairman of the Budget Committee that he could not recommend significant reductions in the President's fiscal year 1993 budget levels. This sentiment was echoed by the distinguished ranking member of the committee, Senator WARNER. S. 2399, which was not considered by the Budget Committee and is not supported by a majority of that committee, completely ignores the advice of the leadership of the Armed Services Committee. Of equal importance is the fact that removing the firewalls will devastate the orderly drawdown of the Nation's defense structure that the Congress and the administration worked out just 2 years ago.

Last Friday, General Powell testified before the Armed Services Committee that the Department of Defense is bringing down the force as quickly as is practical. Additional cuts to the defense budget would "tear the heart out of the force." This legislation would permit further cuts and force additional men and women out on the street. It would mean that Congress not only is breaking the budget agreement, but is also breaking faith with the men and women in uniform who have served this Nation so well, and who have committed themselves to a career in the service of their country.

Mr. President, this legislation will not be a quick fix for the Nation's economic problems. It will not reduce the deficit, in fact it will increase the deficit. If we are going to reduce defense, which in the out years may be possible, the savings should be used to reduce the deficit which will benefit the Nation in the long term.

Mr. President, the goal of those who advocate this legislation is to cut defense and therefore accelerate the draw down of our forces. In my judgment, that is a grave mistake—a mistake that is best described in the words of General Powell—and for the record, of course, General Powell is the Chairman of the Joint Chiefs of Staff. These are his words. I quote:

> It takes a long time to build a force of the quality that we have today, unmatched in our nation's history—one that we can be proud of and depend on to answer any challenge we throw at it. To develop strong leaders, produce the best equipment, and train the forces to the peak of readiness takes decades—but the force can be broken overnight. That is one of my greatest concerns today. If you go too fast, if you stray too far from the carefully crafted plan we have put together to draw down the force, you will break it. And if you break the force, we may not be able to fix it in time, the next time it is needed.

Mr. President, if the Senate approved S. 2399 we may break the force. I urge my colleagues to vote against the motion to proceed.

I thank the Chair. I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I rise in very strong support of the motion to proceed to consider this legislation, S. 2399, that is before us.

If there is any arbitrariness present in the situation, it is the arbitrariness of trying to hold to a defense figure that was agreed upon 18 months ago when the international situation was entirely different from the international situation with which we find ourselves confronted today.

I am pleased to join the very able chairman of the Budget Committee as a sponsor of this legislation. It does one simple thing. It takes down what is now an arbitrary wall between defense spending and domestic spending, making it possible, to shift money from the defense budget into the domestic arena.

Taking down this arbitrary wall of separation will not guarantee that result. Far from it. That is an action which will have to be considered and debated within the committees and within the body.

But the current situation arbitrarily precludes what I think is a desperately needed debate on national priorities. Are we going to stay stuck with the same figures indefinitely into the future as circumstances change all around us?

When this budget agreement was reached, it was not then clear that the economy was in a recession, although later it was shown that the recession began in the summer of 1990. But at that point, no one had any appreciation that we would be facing the longest recession in the post-World War II period, and that we would be confronting a very serious situation in which the budget deficit is being added to significantly by the downturn in the economy. The recessionary downturn in the economy has itself contributed markedly to the increase in the budget deficit which we are now confronting.

Mr. SASSER. Will the Senator yield for a question?

Mr. SARBANES. I yield for a question.

Mr. SASSER. I know that the distinguished Senator from Maryland is the chairman of the Joint Economic Committee in Congress, which has the responsibility for studying the economy and making various predictions and also prescribing various remedies to the Congress for problems in the economy, but is the Senator aware that because of the decline in economic growth and the attendant loss of revenue coming into the Federal Government as a result of that, this in and of itself has increased the deficit by some calculations as much as anywhere from $70 to $100 billion?

Mr. SARBANES. That is my understanding. As much as $100 billion can be attributed to the economic downturn.

Mr. SASSER. So when we talk about a $350 to $400 billion deficit, we attribute as much as $100 billion of that to the recession that we are presently in?

Mr. SARBANES. That is correct. And you can attribute another large portion of it to the savings and loan problem.

Mr. SASSER. Does the distinguished Senator have a ballpark figure as to the amount of the deficit, the degree to which the deficit has been increased by the savings and loan problem this year?

Mr. SARBANES. I know it is in excess of $100 billion, and I know that of the deficit we are confronting, more than half of it is the consequence of the savings and loan situation and the downturn in the economy.

Mr. SASSER. Let me ask the distinguished Senator this as a result of his work in the Joint Economic Committee and also taking notice of the fact that the Senator from Maryland is an economist in his own right prior to coming to the Senate.

Mr. SARBANES. I am not going to plead guilty to that.

Mr. SASSER. I am going to assign that achievement to the Senator from Maryland because I think it is accurate. He is an economist of some note.

But historically, in a time of economic recession—and we have now been in a recession for some 20 months—preceded by a period of flat economic growth, no economic growth, so we have either been in a period of no growth or recession now for almost 3 years—historically, what has been the fiscal or legislative policy of prior administrations in trying to deal with these economic turndowns, and what has been the recommendation or reputable economists with regard to increasing or decreasing domestic spending during these periods?

Mr. SARBANES. What we have done consistently in an economic downturn is use some Federal fiscal stimulus to move the economy upward to get out of the recession, recognizing that if we stay in a downturn the deficit is automatically going to grow. We have been constrained in trying to follow that policy in the recession because the deficit had been enlarged to very high figures in the 1980's.

What happened to the 1980's is you had a very large increase in defense spending. You made erosions in the revenue base, you ran a deficit, and then you ran a debt to finance that deficit, which then in turn becomes a charge on the Federal budget.

So that we are now committing a large share of the budget to cover the cost of this debt which resulted from running these deficits through the 1980's. We ran large deficits. They added to the debt. You then had to service the debt, and that became a component in each succeeding budget.

We have had some economists who have recommended that despite the existing deficit, we use some stimulus in order to try to move out of this economic situation. Others have counseled against it on the theory, that the economy is going to come out of this situation in any event. They are worried that the Fed will tighten its monetary policy. Although I must observe that only with a cut last December did the Fed's monetary policy in this recession even begin to compare with the easing of monetary policy in previous recessions, and those were recessions in which fiscal policy had been stimulative, which it has not been in this downturn.

The President himself in his proposals added to the deficit. The President's proposal on the withholding provisions added $16 billion to the deficit. So even the administration recognizes this problem and is trying to search for some ways to provide some stimulus to the economy.

It has been suggested that if you take down the wall, you are going to add to the deficit. That is not the case. This proposal does not affect the overall figures.

(Mr. LIEBERMAN assumed the chair.)

Mr. SARBANES. All this proposal says is that if the wall comes down, you can then consider shifting some of the defense money into the domestic programs. There is not going to be an increase in total spending. That still is going to be constrained.

I will ask the chairman of the committee: Is it not correct that under this proposal, if adopted, we are still constrained by the overall limitations of the budget agreement? Is that not correct?

Mr. SASSER. Yes; the Senator from Maryland is quite correct. If you take down this wall between military spending and domestic discretionary spending, you will still have a cap at which overall spending cannot go beyond.

If I might give an illustration, let us say that you have a container filled with water. And in the center of that container you have a divider, and the water is at one level on one side of the divider and at another level on the other side of the divider. If you take the divider out of the container and the water seeks the same level, you have not increased the total amount of water. You simply have adjusted the levels between the two small bodies of water there.

That is essentially what we are doing here. We take down the wall. Then, if the Congress or if the U.S. Senate through the operation of the committees, if after debate on the floor, if after a majority vote is cast as we do in all other other legislative matters, and if the U.S. Senate arrives at a judgment after all of this that they wish to decrease military spending and/or use that military spending for domestic discretionary purposes, or it is conservable——

Mr. SARBANES. Will the Senator yield? Is it not possible that under this proposal you could take the wall down and the Senate could reach the decision that they did not want to shift any money from the military to the domestic side? Is that not correct?

Mr. SASSER. That is quite correct.

Mr. SARBANES. The fact of the wall coming down does not in and of itself lead to any substantive decision. That is another decision that has to be made. At that point we could decide we want to shift some, we might decide we do not want to shift any or we might decide we will shift some to domestic investment, shift some to domestic and leave the balance in the military budget. Is that not correct?

Mr. SASSER. Conversely, this is highly unlikely. But if the wall comes down, it could be possible to take some of the funding from domestic investment, for example, take some funding from the highway program, or take some money from education, or take some money from health services and use those funds to build another aircraft carrier if somebody wanted to do that once this wall is down.

Those are all decisions that will have to be made in the future in using due process that we use here in the Senate. We are simply saying that the wall ought to come down 12 months earlier than it would come down anyway as a condition precedent to allowing the Senate to exercise its judgment and its discretion on these particular matters.

Mr. SARBANES. In effect, what the Senator's proposal would do is allow us to have what I would regard as a proper debate on what our national priorities ought to be. It is my view, that we have shortchanged important investments in our Nation's infrastructure which is affecting our productivity. It compares very badly with the investment made by our international economic competitors.

Japan and Germany are investing a significant higher amount of gross product in domestic infrastructure, in physical infrastructure, in education, and in training—than is the United States.

It is my contention that our performance with respect to productivity is affected by this shortage of investment that is taking place in this country. Clearly, our national priorities have shifted dramatically.

Does anyone seriously contend when they analyze our security situation and our defense requirements that they can make the same case today for a defense spending level that could be made 18 months ago before the implosion of the Soviet Union?

Mr. SASSER. Will the Senator yield for a question?

Mr. SARBANES. Certainly.

Mr. SASSER. The able Senator from Maryland just a few moments ago referred to the difference between the infrastructure investment in the United States and infrastructure investment in Japan. As we all know, infrastructure investment is investment in roads, bridges, highways, airports, waterlines, sewerlines, wastewater treatment plants, airports, the whole constellation of things that allow a large industrial country to grow and expand and produce wealth.

Is the Senator aware of the fact that in the 1980's Japan invested nearly 6 percent of its gross domestic product in infrastructure; Germany invested 4 percent of its gross domestic product in infrastructure while at the same time the United State of America invested three-tenths of 1 percent of our gross domestic product in our infrastructure? In other words, the Japanese invested a 19 times larger share of their national income over the decade of the 1980's in improving their country by way of infrastructure. Is the Senator from Maryland aware of that?

Mr. SARBANES. Yes; the consequences of that is the shortfall in our productivity performance compared with Japan and with Germany. Productivity is closely tied to public and private investment.

There is a tendency on the part of some to think of investment only as private investment. It is very important to recognize that investment in the public sector upon which the private sector relies and depends in order to carry out its economic performance is also significant.

If you run a trucking company and your truck sits in a traffic jam for 4 hours because of an inadequate highway system, that comes directly out of your productivity and out of the efficiency of your enterprise.

So there is an interconnection between the performance of the private sector and the environment in those aspects of the public sector that constitute the infrastructure both in physical and human capital on which the private sector depends.

Let us not kid ourselves. These other countries recognize that there is an interconnection between these two things, and they have been making much more significant investments in their public infrastructure. They are performing much better in terms of their productivity because they are getting a steady improvement in the skills of their work force and the physical infrastructure with which they work.

Mr. SASSER. Will the Senator yield for just a question here?

The Senator from Maryland makes a point that there is a direct relationship between infrastructure investment and worker productivity.

I have two questions to frame for my friend from Maryland.

One, is it not true that Japanese and German workers, for that matter, are increasing their rate of productivity faster than American workers? That is No. 1. No. 2: Is not productivity the crucial factor in increasing standards of living and enhancing the quality of life of the workers themselves? Is it not all attendant to the rate of increase of productivity and the creation of wealth?

Mr. SARBANES. Mr. President, the path to a higher standard of living is through an improved performance in productivity. The Senator is absolutely correct, and our productivity performance, compared with Japan and Europe, has lagged over the last decade and a half. Their productivity performance has been better than ours.

One of the reasons for it is that they have recognized the necessity to make these investments in their domestic infrastructure and the necessity to make the investments in education and in worker training and retraining. Some of those countries have very highly advanced worker training and retraining programs, which enable them to adjust to the changes in economic circumstances.

You have to adjust to changing circumstances. The dinosaur eventually went extinct because it was unable to adjust to changing circumstances. What we are being told today is that judgments that were made 18 months ago about what the defense budget should be are still valid, even though the Soviet Union has imploded in the meantime.

It is one thing to face the defense requirements at a time when you were still facing a Soviet Union and all of the threats that were attendant thereto. We had arguments even then about whether the level of spending was not enough, adequate, or too much. But those were all debates that took place up at a high range of defense spending.

Then you get the collapse of the Soviet Union. You get a fundamental alteration in the threat that we confront internationally. It is not eliminated; I am not asserting that for a moment. There are still important security concerns that we have to address. But I do not think anybody can reasonably argue that the security threat has not been markedly changed in a direction that is favorable to us.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. SARBANES. Yes.

Mr. DOMENICI. Does the Senator mean to suggest that if the Congress of the United States wants to cut defense substantially below what was agreed upon a year and a half ago, 18 months ago, that Congress is prohibited from doing that unless this amendment is passed? Does the Senator mean that?

Mr. SARBANES. No. The Congress can cut it to any level it wants. The question is what use will be made of the resources.

Mr. DOMENICI. Precisely.

Mr. SARBANES. We are now in a recession. If you cut the defense budget and do not have an economic strategy for trying to redirect that economic effort, you will contribute to the economic downturn. The consequence of that will be to make the deficit larger in the guise of reducing the deficit.

Mr. DOMENICI. Is the Senator suggesting we have such a plan?

Mr. SARBANES. We have a defense budget that was set in a different time to different circumstances.

Mr. DOMENICI. I was not asking about that.

Mr. SARBANES. Mr. President, I would assert that we do not need that high a figure for defense spending anymore. People can challenge that, and I gather some do in the Defense Department. In fact, they are busily developing different scenarios of what the threat might be which would warrant or justify this budget.

Does the Senator from New Mexico recall the scenario where Russia would invade Lithuania through Poland, and Iraq would invade Saudi Arabia and Kuwait, and there would be a coup in Panama, and a coup in the Philippines, and there would be an invasion by North Korea of South Korea? Then they laid out some other possibilities as well.

Mr. SASSER. Would all this occur simultaneously?

Mr. SARBANES. That is an interesting point. As I understand the way they did the exercise, they posited that at least one of these would occur, and maybe two could occur at the same time. I am not quite sure why they were so cautious, because if you had posited that all of them occurred at the same time, you might even have been able to construct a case for a larger defense budget than existed at the time when we faced the threat of the Soviet Union.

I do not mean to be light with this issue or with this question. Obviously, it is a serious matter, and you need to think through carefully what your defense requirements are under changed circumstances. But, very clearly, there have been changed circumstances.

The question then becomes what can you do, and how can you address this defense budget. If you take that budget down at a time when we are in a recession and do not have an alternative economic strategy for the use of the resources, you are going to help to drive the economy deeper into a depression.

Many of us feel that if you had a choice as to the use of some of this money, what you ought to do with this peace dividend is to try to address two very basic needs of the economy. One is an investment strategy, a domestic investment strategy, in order to enhance American productivity. The other is a deficit reducing component. You could do both of these things as a way of trying to get at some of the fundamental problems associated with the economy.

In fact, we are running three deficits that need to be addressed. We are running a budget deficit, a trade deficit, which has made us a debtor country on the international scene; and we are running an investment deficit. At some point, we have to face this shortfall in investment.

Mr. SASSER. Will the Senator yield for a question?

Mr. SARBANES. Certainly.

Mr. SASSER. On the overall question of investment, we do know that an extraordinary amount of the most talented scientists and engineers in this country have been involved now for over 40 years in the production of weapons. That is one reason that American weaponry is the best in the world.

We saw American weapons perform in the Persian Gulf, and they performed extraordinarily well, better than anyone else's. Other products made in the United States do not stack up as well against products made in other countries, because we do not devote the same proportion of our engineering and scientific capability to producing many consumer products and other products as we do to military weapons.

The Office of Technology Assessment, as my friend from Maryland, I am sure, is aware, issued a very excellent report on the consequences of a defense or military builddown and what impact that would have on the civilian economic community. That report indicated that well over a quarter of a million engineers alone are involved in the direct design or production of weapons.

As we phase down these various weapons production facilities and these weapons research facilities, the question comes what is to become of these clusters of excellence that, in decades past, have produced this state-of-the-art technology and weaponry. Under the straitjacket of this budget legislation that we now labor under, as I understand it, we would be prohibited from using military savings to devise programs to convert these scientists and engineers who are now engaged in the design and manufacture of weaponry. We would be prohibited from using funds out of the military side to devise programs to bring them into the civilian economic mainstream, and the distinguished Senator is talking about an investment deficit. Would this not contribute to the investment deficit in our civilian economy productivity?

Mr. SARBANES. Absolutely. What happened is as we approached the end of World War II, the Nation had an economic conversion program. It consciously formulated an economic conversion program. The most important parts of that were reconversion of industry to civilian production. The renewal of the physical infrastructure of the Nation and the development of people's personal capacities, the clearest example of which was the Servicemen's Readjustment Act of 1944, what we know as the GI bill of rights. On the basis of this act millions of people got an education, they elevated their skills and talents, and then were able to contribute to the rapid expansion of the American economy that took place in the post-World War II period. We did not do either of these things after the Korean war and the Vietnam war, and in both of these latter instances, the cutbacks in defense were accompanied by recessions far more serious than the brief downturn which did take place in 1945 but was very brief and very shallow.

Mr. SASSER. Conversely, if I may say to my friend from Maryland, because there were no conversion programs following the Korean war and the war in Vietnam, there were recessions as we cut back on defense spending.

Mr. SARBANES. That is exactly correct.

Mr. SASSER. I had the great good fortune as a boy to grow to young manhood in the years following the Second World War, in the 1950's. I recall the explosion in productivity that took place in this country and the enhancement of the quality of life of our citizenry. People in the past who lived in a house with one bathroom moved into a house with two bathrooms. People in the past who struggled to buy one new car every 10 years, suddenly were a two-car family. We remember that from the decade of the 1950's and 1960's. I say this to my friend.

Could a measure of that prosperity and expansion of prosperity be attributable to the wise leaders of that time, such as President Truman and others, who put into place an economic conversion program to take young men and women out of the military, educate them, and put them into civilian life where they could produce and to move industries that had been producing weaponry into the mainstream of civilian economic activity?

Mr. SARBANES. Absolutely. There has to be an economic strategy plan in order to accomplish this conversion.

Here is the question: Is there anyone who asserts that we should continue to spend money in the defense sector that does not need to be spent? I hope we can get agreement on that. We may argue about what the level of defense should be, and we have had those arguments frequently here on the floor of the Senate. But anyone who insists on holding to the defense figure that was reached 18 months ago has to take the position that all of these developments and change in circumstances which have occurred internationally in the intervening period of time have not sufficiently altered the nature of the threat that we confront and that we cannot make adjustments in the defense budget. It seems clear that the nature of the threat has been sufficiently reduced and that we can make adjustments in the military budget.

The question then becomes: What do you do with those resources that are freed up? There are a number of possibilities. The budget agreement would require that all of them be used to reduce the deficit. In a recession, following that line of approach will only make the recession worse because you have people no longer producing and not provided with an alternative way to produce.

One way to address that question is to have an investment strategy for America. We need that strategy. Three years ago, before the collapse of the Soviet Union, over 300 economists issued an open letter to the President and Congress calling for a renewed commitment to public investment. That letter was sent before the collapse of the Soviet Union and the historic transformation of the international security environment. Even then, these distinguished economic experts believed there was a considerable potential shift of funds from military needs to domestic investment. Clearly, the potential for such a shift is even greater today. And let me quote just briefly from that letter:

> In addition to our trade and fiscal deficits, America faces a third deficit, the deficiency of public investment in our people and our economic infrastructure. This deficit will have a crippling effect on America's future competitiveness. Just as business must continually reinvest in order to prosper, so must the Nation. Higher productivity, the key to higher living standards, is a function of public as well as private investment.

Higher productivity is a function of public as well as private investment. If America is to succeed in an increasingly competitive world, we must expand efforts to equip our children with better education and our workers with more advanced skills. We must fix our bridges and expand our airports. We must accelerate the diffusion of technology to small- and medium-sized business.

Yet, these needs have been neglected throughout the past decade. In real dollar terms, Federal spending in the 1980's on science and civilian technology has been significantly below the levels of 1960's and 1970's. We actually are spending a smaller percentage of our gross national product on civilian research and development than either Japan or Germany by a significant amount.

I want to emphasize that. This is civilian research and development, the very thing that goes into developing high-technology performance in the civilian sector, and the United States is spending a smaller percentage of its gross national product on civilian research and development than either Germany or Japan. We invest 1.9 percent of our gross domestic product in civilian research. Germany invests 2.8 percent, and Japan invests 3 percent.

Taking down this artificial wall would then lead to another debate on these very issues. You would then be debating if you should shift some money, and if so what should you use it for? But that is what setting priorities is all about. We are in an artificial situation, on an automatic pilot that was set 18 months ago. Two very fundamental things have changed since that agreement was reached.

We have been in this recession now for 21 months. That is one fundamental change. The other fundamental change is what has transpired on the international scene which has eroded the rationale for the defense figure that was set in the fall of 1990.

Now are we going to be absolutely blind to these developments? What kind of policymaking is that? I am prepared to have the debate on the priorities. I understand that others have a different set of priorities. Either they would not shift any defense money, they would want to hold to the old figure, or if that money became available, they would use it in other ways, either entirely or in some combination.

That is what the debate should be about here on the floor of the Senate. We ought to pass this legislation and then move on to the critical national debate which is now called for in terms of what our national priorities should be. But we ought not to adhere to an artificial wall which is clearly no longer pertinent and relevant to the situation in which we find ourselves.

Mr. SASSER. Will the Senator yield just a moment?

Mr. SARBANES. Yes.

Mr. SASSER. The Senator was speaking just a moment ago about investment in the country and the need for investment and the investment deficit. Now clearly one of the investment deficits, as I understood the Senator from Maryland, one of the deficits surrounded education. We simply had a deficit in investment in education.

I would like to bring to the attention of my friend from Maryland and to the attention of all of my colleagues, the almost universal support that this bill has from the education community. Yesterday, every Senator received a huge variety of letters from a variety of education groups, all of them urging passage of this legislation to take down the wall between military spending and domestic spending. And did my friend from Maryland know, for example, that these individuals support this legislation:

Robin Vink, representing the New York State Education Department; Becky H. Timmons from the American Council on Education; Alfred D. Sumberg, American Association of University Professors; Gerald Morris, American Federation of Teachers; Ken McInerney, National Association of Student Financial Aid Administrators; Marcia Knutson, American Educational Research Association; Carnie C. Hayes of the Council of Chief State School Officers; Patricia M. Hawkins, National Association of College Admission Counselors; John B. Forkenbrock, National Association of Federally Impacted Schools; Edward M. Elmendorf of the American Association of State Colleges and Universities; Mary R. Costabile, American Library Association; Edward Kealy, National School Boards Association; David Baime, National Association of Independent Colleges and Universities; Moses Holmes, CEF treasurer, National Education Association; Richard A. Kruse, CEF vice president, National Association of Secondary School Principals; and Arnold L. Mitchem, CEF president, National Council of Educational Opportunity Associations.

So I say to my friend that leaders in education have recognized that there is an investment deficit in education and they realize that the removal of this arbitrary wall between domestic spending and military spending is necessary if we are to start meeting some of the needs in the investment deficit in education. Was my friend aware that all these various groups of distinguished educators had formed together as a coalition to try to urge the lifting of this wall between military spending and domestic spending?

Mr. SARBANES. I say to my colleague, I think what that reflects is an understanding that if we are to realize a peace dividend and then confront the question of what to do with the peace dividend, it seems to me that there are two fundamental objectives we need to work at in terms of strengthening our national economy in the use of the peace dividend.

One objective is to reduce the deficit. I accept that as an important objective in strengthening the American economy, although I point out that in a time of recession you are restrained on how much you can address that objective because you run the risk of contributing to the economic downturn.

The other is an investment strategy. There are lots of candidates for an investment strategy, and education is obviously one of them, but there are others as well. You need an economic strategy plan and you need to relate it to the reductions that are taking place on the defense side.

The distinguished chairman of the Budget Committee is absolutely correct. You have enormously talented and gifted people who have been working in the defense industries and have been serving in the Armed Forces.

We ought to regard this change internationally as an opportunity. It is being treated as though it is a negative development. It is a positive development. It opens up opportunities.

The question then becomes, what opportunities? Let me give you an example. Virtually every airport in America needs an upgraded air traffic control system. We are behind. We are paying for it in public safety. We are paying for it in airport delays. You circle and circle and circle and circle. The people working on the ground say we need an upgrade.

Some very sophisticated technology has come along. We have some very able people who have been working in those technologies on the military side. What is going to happen to these people? Why does it not make sense that there should be a program that would begin to address the deficit that exists in air traffic control systems and that some of the people who have been working on the military side of that technology are going to move over into the civilian side of that technology?

That is just one example of what may contribute an economic strategy plan. We developed such a plan at the end of World War II and It worked exceedingly well. We had unprecedented growth in the post-World War II period. We cannot get to these kinds of questions as long as we are arbitrarily constrained by this artificial budget wall.

This is not touching the larger question of the overall limits. That is accepted by this legislation.

It is incorrect to say that if the wall comes down and you shift from defense spending to domestic spending you will increase the deficit. That is just not correct. The spending is now committed on the defense side. If you take the wall down and shift it, the defense spending will be less, the domestic spending will be more. The deficit will not be increased.

We have pressing needs, not only in human terms, but also in social terms as they affect the American economy's ability to be productive and therefore to compete.

I want to have that debate on the floor of the Senate. I want colleagues who deny that necessity to make their case, if they have one.

I am talking about the kinds of investments that go to the future strength of the economy. There are a whole range of domestic programs, and I am not talking about the ones that represent current consumption. I am talking about the ones that represent investment in the future.

In fact, we do not have an investment budget at the national level. That is one of the problems. We do not have a budget that separates out the investments in the future strength of the economy.

I am talking about the kind of investments that our international competitors are making. Is it only coincidence that Europe and Japan have a better productivity record than we do, and have a better investment record than we do? I do not think so.

I think we have to face the fact that we need an investment strategy that encompasses both the public and the private sector. But we have neglected investment in the public sector over these last 10 years. Unless we start making that investment we are not going to be able to strengthen the sinews of our economy in such a way that we will have a vital, effective, competitive economy in the future. We ought to have that debate. The way we get that debate is to eliminate the artificial wall and then have a discussion about what our priorities ought to be.

I am prepared to have that debate. I may win or I may lose. I do not know where I will come out on the specifics of the issue. But we clearly ought to have the debate and not be frozen in a set of priorities that was set 18 months ago when we did not recognize how deeply we were into a recession, and we did not have the developments on the international scene, and in particular the collapse of the Soviet Union, that have fundamentally altered the international security position and therefore fundamentally changed the necessity or the requirements imposed upon us in the defense field.

So, Mr. President, I very strongly urge the adoption of S. 2399, and I very strongly commend the chairman of the committee for coming forward with it, and for the very strong leadership which he has exercised on the issue.

Mr. SASSER. Will the Senator yield on this issue?

Mr. SARBANES. Surely.

Mr. SASSER. Mr. President, I want to be clear here, as I direct this question to the Senator from Maryland. What we are debating, now, is just the question of can we proceed to debate the bill to take down the walls between military spending and domestic discretionary spending. In other words, there are those on the other side who do not even want to debate this issue. They refuse to give agreement to let us go forward and take up the bill and debate it. That is what we are talking about here today.

We are simply asking to move forward to take up the bill and debate it and let it be voted up or down.

The Senator from Maryland, as I understand it, says he is willing to abide by majority rule here. But he thinks it is an issue, as I understand him—and I hope he will correct me if I am wrong about what he is saying is—he thinks it is an issue of sufficient magnitude to the country that it ought to be debated here on the floor of the U.S. Senate. And the procedural problem that we find ourselves confronted with at the present time is that some of our colleagues on the other side of the aisle refuse to agree to go forward and debate the bill on its merits. I ask my friend from Maryland, is that not the parliamentary situation we find ourselves in at the present time?

Mr. SARBANES. The Senator is correct. We are dealing with an issue of prime importance, in terms of setting our national priorities. We cannot even get to the bill to debate the question of taking down the wall.

Even if the wall comes down we still face the debate of what the priorities ought to be. But at least we open up the opportunity to have a proper discussion of what our national priorities are.

Mr. SASSER. Mr. President, let me ask this question of the distinguished Senator from Maryland, who I think has on the floor of the Senate this afternoon, with his customarily eloquent and perceptive address, discussed some of the issues that face this country as we go through the decade of the 1990's and approach the year 2000; crucial issues which must be addressed. I welcome the observations of the Senator from Maryland and his views as we move along the road and try to address these issues.

But, as I understand it—and I ask the Senator from Maryland this question—we have to cross two bridges before any of the military money could be used for domestic purposes. The first bridge that has to be crossed is to debate and pass the bill to take down the wall that separates military spending and domestic spending. Am I correct in that?

Mr. SARBANES. That is correct. Otherwise the military figure is frozen on the basis of a decision that was made 18 months ago when the military threat we were confronting was entirely different from the military threat which we confront today. I cannot understand how anyone can rationally argue that we ought to stay with that set of priorities given the developments that have occurred internationally. So that is the first hurdle.

If you take down the wall you still have the debate over what should be done, and maybe some Members would assert at that point, that we ought to keep the military figure right where it is. I do not agree with that, obviously. But they may take that position. They may prevail, although I would rather doubt it.

The question then becomes, if you take down the military figure what do you do? But that is the very debate that ought to be taking place on the floor of the Senate. What should our priorities be in the light of the developments internationally and in the light of an economy that has gone soft.

Mr. SASSER. So my friend from Maryland, if I understand him, is telling us the first thing we have to do is pass the bill to take down the walls, and then the second hurdle that has to be crossed is to have the debate and the vote on whether or not any of the military money will be used for domestic spending.

Mr. SARBANES. Yes; the second bridge is a very complicated one. The second bridge involves how much of the money can be shifted, and how should the money be used.

Mr. SASSER. I thank the Senator from Maryland and, in view of what he said here today, it is simply incomprehensible to this Senator why we cannot, by unanimous consent, move forward to debate the question of whether or not the walls between military spending and domestic spending should come down.

Because once those walls are down, if we should prevail by a majority vote on that and I do not know whether we would or not, but once those walls have come down, then you have to move forward and make a determination about what is to be done: Are we going to use military spending to enhance domestic spending; are we going to use domestic spending to perhaps enhance military spending; or are we going to make a judgment we are going to keep military spending where it is and domestic spending where it is?

All of those are judgments that have to be made in the future, but before we can get to those judgments and we can exercise our discretion in view of these changed circumstances, we need to move forward and have permission to debate this so-called walls legislation and see whether or not the walls, indeed, can be changed by a majority vote in this body.

Mr. SARBANES. Actually, the questions we face at that point are even more complex because you would also have to ask yourself, is the condition of the economy with respect to the recession such that some portion of this military spending could be used for deficit reduction or if you did that would you put a downward push on a soft or weak economy which would make the recession even worse? If you make the recession even worse, you increase the deficit automatically.

It is my view that the programs that ought to have a priority are the investment programs that build the strength of the economy for the future. This is an area where we have been badly lagging and where we have a real problem in terms of our ability to compete with our international competitors.

I thank the Senator.

Mr. SASSER. I thank the Senator from Maryland.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. CONRAD). The Chair recognizes the Senator from Texas.

Mr. GRAMM. Mr. President, I waited 2 hours to get an opportunity to speak, and I will begin by saying I would like to clear up the confusion. I do not think people are confused after listening to that debate. They may be befuddled, they may be bored, but they are not confused.

Let me begin by going back to 1990 and the agreement we entered into that set out priorities and a procedure, the agreement that the Democrats are trying to renege on today. Underneath all this rhetoric, underneath all this repetition, the bottom line is that the U.S. Senate and the U.S. House entered into an agreement to control spending, and on the floor of the U.S. Senate today, there is an effort to renege on that agreement.

Let me remind my colleagues about the genesis of that agreement. The President entered into summit budget negotiations with Congress with the objective to lower the deficit by controlling spending. The Democrats entered into the agreement with the objective of cutting defense and raising taxes.

The Democrats got what they wanted out of the budget agreement. They have a majority in both Houses of Congress, and the President had the choice between allowing the budget process to be destroyed or to negotiate and compromise. He negotiated and he compromised, and the Democrats got both $160 billion of new taxes and $170 billion of defense cuts. Those cuts were locked into the budget. So the Democrats got their part of the package up front: $160 billion of taxes and $170 billion of cuts in defense. Neither of those things did the President want to do.

What did the President get out of the process? What the President got out of the process was 5 years where we cap spending and 3 years where we set out individual caps on discretionary spending in defense, international affairs, and domestic spending. For 3 years we have spending caps in each area followed by 2 years where we have an overall cap. The President wanted caps for 5 years. We could not get it.

So basically the budget summit agreement consisted of three parts: Raising taxes by $160 billion which the Democrats got; cutting defense by $170 billion, which the Democrats got; and caps on spending which the President got. We are here on the floor of the U.S. Senate today trying to renege on that part of the deal that capped spending.

Mr. President, I am opposed to taking the caps off. I am opposed to allowing spending to skyrocket. I am opposed to raiding defense beyond what we have done. Even in a world where the lion and the lamb are about to lie down together, it is imperative that the United States of America be the lion, and if we let these budget caps be taken off, that will not be the case.

Mr. President, we heard our dear colleague from Louisiana get up and talk about how in the world are we going to fund all these programs under this budget cap? Let me remind my colleagues that under this onerous budget cap we are talking about, defense is cut by $12.5 billion. Nobody here is talking about raising the amount to defense.

We have a limit that international expenditures can grow by only $800 million under this spending cap. Nobody is talking about raising that amount. Domestic spending under this agreement can grow by $10.2 billion. That is a 4.7-percent increase in domestic spending. To say that that is somehow a cut, that a 4.7-percent increase in domestic spending somehow is cruel and unusual punishment to impose on the Federal Government is outrageous. There are a lot of American families today that wish they had the problem of spending only 4.7 percent more than they spent last year.

The idea that with only $10.2 billion of additional spending we are absolutely incapable of running the Nation's business and making the tough decisions is really insulting, I think, to the people who do the work and pay the taxes and pull the wagon in this country.

We had discussions about how we are going to fund science; how we are going to fund the superconducting super collider. Let me remind my colleagues that the President sent to the Congress the strongest science budget in the history of the country under these spending caps. Our colleagues talk about how we invest in the future. Every year for the last 10 years, Congress has cut the President's science budget. Every year for the last 10 years, the President has sent proposals to invest in science and technology and the future and space, and every year the Democrats have cut those programs to fund social programs to buy votes.

We are not talking about investing in the future. We are talking about investing in a partisan future, and that partisan future is basically to create programs that have beneficiaries.

While I am on the subject, for us to stand here and bemoan the fact that expenditure on infrastructure is declining, let me remind my colleagues—and I have a little chart that tells a story—Government has not been on a great diet. This chart plots defense spending since 1968 and its growth; family income since 1968 and its growth; and nondefense spending since 1968 and its growth.

In real terms, the growth rate of defense since 1968 is down 36 percent. Family income has stagnated at about a 3-percent growth rate, and what has happened is that family income has grown by about 3 percent, but what has happened to nondefense spending? It is up by 97 percent.

If we have not spent on infrastructure, whose fault is it? Whose fault is it? I can tell you whose fault it is. It is the fault of the Congress because Congress has been so busy buying votes with giveaway programs that we have not invested in infrastructure. The facts are that in 1965, we were spending 4.7 percent of the Federal budget on infrastructure but today we are spending just 2 percent.

Why is that so? Not only is Congress running big deficits and spending lots of money, but Congress is spending the money on everything but infrastructure, highways, bridges, sewer systems, water systems, and airports. Instead Congress is taking money out of the pockets of working people, and giving it to people who are not working. Congress is taking money from people who are out pulling the wagon and giving the money to people who are riding in the wagon. It is not surprising to me that there are literally thousands of different groups that have all converged on Washington and said: Take those spending caps off; give us more money.

My point, Mr. President, is this: If we took the spending caps off, the money would not be spent on infrastructure. We have not spent the money on infrastructure in the past. We have cut the percentage of the budget going into infrastructure by 50 percent since 1965, and we have done it because Congress is interested in spending and not in investing.

And as for the subject of America's productivity, as if somehow we can promote productivity by more government, surely the world laughs in our face. We stand here on the floor of the Senate, knowing that the whole world has rejected government as an allocator of resources and a producer of wealth, and argue that we can make America wealthier by having a bigger Government that spends more and more money.

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. GRAMM. I will not yield at this point.

If more government was the solution to economic problems, we would have torn the Berlin Wall down to get into Eastern Europe. That did not happen, I am sorry to tell my Democratic colleagues, because I know it concerns them and breaks their hearts, but it did not happen. The Berlin Wall was torn down by people on the other side wanting to get out. They wanted to escape government as the solution to all economic problems.

The idea that somehow we are going to make America richer by making government bigger flies in the face of everything we know about what is going on in the world.

What is happening in the world is that there is a tidal wave of freedom and there is a rejection of government as an economic problem solver. Only in two places on the face of the Earth is there strong argument on behalf of more government as a solution to every problem. One of them is in Havana, Cuba, and it is not going to last very much longer. The other one is right here in the Congress. Why that is the case, I do not know, Mr. President, but it clearly is.

Now, Mr. President, let me talk about a peace dividend. Our colleagues have talked about a peace dividend, and they have talked about what they would do with it. They would spend it on housing, and they would spend it on nutrition, and they would spend it on education. I agree with all those priorities. I think we need more spending on all those things and more. But the debate today is not about whether there ought to be more spending on those things. The debate is about who ought to do the spending.

The President says that the peace dividend ought to go back to American families by taking the first $50 billion of defense savings and by raising the personal exemption for children by $500 so that families can make the investment.

Mr. SASSER. Will the Senator yield for a question on that particular point?

Mr. GRAMM. I do not yield.

The President has proposed that a $500 increase in personal exemption go to every American child as a way of giving the peace dividend back to the long-suffering American taxpayers who won the cold war by being willing to let us use their money. Now that the cold war is over, the President says give it back to families. Our colleagues say no, let Government spend it; let Government spend it.

Mr. President, I know Congress, and I know the American family, and I know the difference. I do not believe the American people are confused. I know what Congress will do with that money. It will squander it the way it has squandered other money in the past.

I know families. I know what they will do with it. I want to give money back to American families to let the economy grow. I want to have a nutrition program; not more food stamps, but a better nutrition program; a strong economy where people can get a job, go to work, earn a paycheck, take the paycheck to the grocery store, buy groceries, and put the groceries on the kitchen table. That is the nutrition program in which I want the peace dividend invested.

I want it invested in a housing program, not more Government housing. I want it invested in good jobs, economic growth, so people can save their money and can build and buy their own homes. No Government housing project is a substitute for that.

In terms of education, I want people to have good jobs, to save their money to send their children to Texas A&M University, and other colleges and universities all over America.

There is a fundamental disagreement. We are going to debate the peace dividend for the remainder of this century, and we are going to debate it for the remainder of this century for a simple reason. There is a fundamental difference in the Congress; there is a fundamental difference between the two parties. One party believes that Government is the answer. One party believes that more Government spending is going to solve our problem. The other party, of which I am proud to call myself a member, believes that freedom is the answer.

I believe that letting people keep more of what they earn to invest is what made us, and is going to keep us the dominant economic force on Earth.

The idea that somehow we can promote economic growth by having more Government spending is laughable, but unfortunately it gets few chuckles when we cast votes in the Senate.

So, Mr. President, let me just tick off a few points, and then I will let other people have the floor.

First of all, we had an agreement. Those who voted for this agreement voted to raise taxes by $160 billion, to cut defense by $170 billion, and to set out caps on spending. That was the deal.

All the President got out of this whole agreement was the caps, and now our colleagues want to repeal the caps. I say no. The President says no. I think when the votes are counted, the Senate is going to say no.

Second, the idea that we cannot invest in science and technology, that we cannot build scientific projects that are important to the future with only $10.2 billion of additional spending is, I think, ridiculous. The President sent us a budget that met the spending cap. He proposed increased Head Start funding so that it is 127 percent above the 1989 level. He funded the SSC. He proposed increased math and science education by 69 percent; Pell grants by 48 percent; WIC by 47 percent; community health centers by 42 percent; infant mortality reduction by 65 percent; energy R&D by 130 percent; NSF basic research by 57 percent; Federal aid to highways by 42 percent; aviation modernization by 95 percent.

Our colleague from Maryland talks about needing to spend more money on aviation. As my memory serves me, every year for the last half dozen years the President has proposed more funding for FAA out of the airport trust fund than Congress has provided. We did not provide the money, because we were reducing the deficit. We did not provide the money, because we were spending it on other things.

So my bottom-line point is this: A deal is a deal. When it got down to the final deal, I thought it was a bad deal and I voted against it. But people voted for it. It became the law of the land. Now the time has come to live up to the spending part of it. There was great rejoicing in the $160 million in new taxes that Congress spent. There was great rejoicing in Congress cutting $170 billion in defense, most of which has now been spent.

But now the time has come that the purse strings are beginning to tighten on domestic spending. One of the reasons they are tightening, as our colleague from New Mexico pointed out, is we have been cheating. We have been starting all these new programs on the last day of the fiscal year, or the last week of the fiscal year, so we could run out and tell some special interest group we had given them something. They all sent out letters congratulating us, thanking us, and now the bill collector is at the door.

My view is this 4.7-percent increase in domestic spending, which is what this cap limits us to, is not cruel and unusual punishment. It represents the kind of budget constraint that working Americans all over the country live with every single day. I want to tell you how we could live with that very easily.

We ought to apply the Dicky Flatt test, and for those of you who are not from Mexia, TX, let me share it with you. In 1981, when we passed the Reagan program in the House, I was walking down the steps, and a lady with a New York newspaper came running up to me and said, "Congressman Gramm, in a 1,350-page budget, how did you decide what programs ought to be cut and what programs ought to grow?" as if somehow it was arbitrary or we had a computer.

I thought a minute, and I said: "Well, I used the Dicky Flatt test." Not being from Mexia, she did not know the Dicky Flatt test. So I explained it to her. I said, "I tried to understand these programs, look at them, and see what they were doing. Then I tried to think of some hard-working person in my district."

I often thought of a printer from Mexia, TX, sitting in my old congressional district, named Dicky Flatt. I thought about Dicky Flatt because he works hard for a living. His printshop is open till 7 or 8 o'clock every weeknight, open to 6 on Saturday. He is in business with his mama, was in business with his daddy. His daddy since passed away. He is in business with his mama and his wife and his brother and his brother's wife. They all just worked hard.

Whether you see Dicky Flatt at the PTA or whether you see him at the Boy Scouts or whether you see him at the Presbyterian Church, he never gets that blue ink off the end of his fingers, never, try as he may.

So I said, "The Dicky Flatt test is as follows: You take the program, you look at it, then you think of people like Dicky Flatt and you ask a simple question. Will the benefits to be derived by spending money on this program be worth taking the money away from Dicky Flatt and pay for it?"

Let me tell you something. If we applied the Dicky Flatt test this year, we not only could live within the 4.7-percent growth in domestic spending that this terrible cap has imposed on us, but we could live within it and give 10 or 15 percent back starting with our own budget right here in the U.S. Congress. We could just start right here and start cutting back on the money we spend on ourselves and go from there. I think it would be remarkable what we could do.

So, do I think it is some terrible, inhumane thing that, after having pocketed this tax money, after having spent these defense cuts, that the time has now come for Congress to live up to the commitment to limit domestic spending to 4.7 percent growth? Despite all the screams, squeals, and hollers, I do not think it is cruel and inhumane. I am ready to see us live up to it and set priorities by applying the Dicky Flatt test. I think when we do, we will find it is not so hard.

Finally, before I yield the floor and go back to work, I want to congratulate our colleague from New Mexico. PETE DOMENICI is one of the people around here that is serious about fiscal responsibility. Balancing the budget is like going to heaven. Everybody wants to do it; they just do not want to do what you have to do to make the trip. They want the credit for it, but they do not want to do it.

PETE DOMENICI is one of the people around here that is a leader in doing it, in making the hard choices. I congratulate him for fighting this effort.

Last week our Democratic colleagues tried to raise taxes. The President vetoed their bill. This week they are trying to break the budget caps so they can increase domestic spending. I predict the President will not have to veto this bill. I do not believe our colleagues have the votes to pass it. And they do not have the votes to pass it because, one, when you say you are going to do something, people expect you to do it. That is an unusual standard here in Congress, but it is a standard applied in the country all the time, with good purpose and good result.

I think we ought to hold Congress' feet to the fire and, if we want to reduce defense, not spend up to the cap. I have my own priority as to what I want done with the money. I do not want it spent by Congress because I do not trust Congress.

I have every faith in the American family. I am willing to let them have the peace dividend, and bet the future of America on them. I am not willing to bet the future of America on the U.S. Congress.

Mr. DOMENICI. Will the Senator yield for a question?

Mr. GRAMM. Yes.

Mr. DOMENICI. Does the Senator from Texas have an opinion? I have heard it said this afternoon that there are a number of groups in America that are urging us to tear down the wall, get rid of this cap.

In fact, one of my friends on the other side of the aisle listed all of these names of these so-called influential people that wanted to get rid of the cap. Do you have an opinion as to whether that was something that was a matter of principle, or do you have a suspicion it might be something else?

Mr. GRAMM. Well, my suspicion is that there are a lot of groups who want a bigger spot at the public trough. I think our problem is basically this: Everybody who wants something for nothing from the Federal Government is looking over our left shoulder. When we vote this afternoon or tomorrow or whenever our colleagues finish talking, all these people are going to send out a letter and say, "PETE DOMENICI voted against us. We wanted this money and PETE DOMENICI denied it to us."

That is their right. That is how our system works. The tragedy is that nobody is looking over the right shoulder sending out letters saying, "PETE DOMENICI cared about the working people of this country and cared about the future."

And one of the reasons we are going to get so many people who are going to respond to all of these hordes of people knocking on our door saying, "Give us somebody else's money," is because we do not have people as vigilant as they ought to be in going back, looking at the facts and telling the story.

Mr. DOMENICI. I have one additional question, I say to my friend from Texas. First, let me say to him I appreciate the kind remarks. Frankly, he knows that I have great admiration and respect for him when it comes to fiscal policy and what we ought to do with economic policy. I am very pleased to say to him that I think he adds measurably to our efforts to do a better job for America here in the Senate.

Having said that, I wonder if he might permit me to give him a fact pattern and see what he thinks the consequences and the result might be.

All over America it is being said that the Soviet Union has changed dramatically, there is not even a Soviet Union left. There are some nuclear weapons around—a lot of them—and people are wondering what is going to happen over there in the former Soviet Union. Everybody is also saying, "Let's cut defense." I want to cut defense. You want to reduce defense. But we have been told that every time America has decided it is time to build down, we have done it wrong. We have been told that we build down without any order, without any common sense, and within a few years we are looking at what we did and we are having to build it back up because we have done it wrong, disorderly precipitously. I ask the Senator, does he think, under those circumstances, the circumstances we have now—are we all trying to find out how do we rationally build down our defenses?

If I were to list the entire array of domestic discretionary programs the Senator has enumerated that he would like to see increased, some of them that the President wanted to increase, I say to my friend, if I heard the list right, it is only a few ten's. There are 2,600 programs. More programs that he did not mention, little ones and big ones, many that Americans never heard of.

We have only gotten rid of three programs in 12 years. The American people do not know that. They think we have been ravaging domestic programs. Right? Three in 12 years because many of them have eternal life. They have the halo. They are supposed to go on forever.

Does the Senator think, under the circumstances I have described, if you take the wall down, you count the President out on defense spending, on how much we should spend and you put all discretionary appropriations in the same pool, competing? How does the Senator think, knowing the way we do things here, the defense of our country is apt to come out under those circumstances?

Mr. GRAMM. Mr. President, there is no doubt about the fact that, if we take the caps off, domestic spending is going to skyrocket because that is where the votes are. If we take the caps off, defense, which has already been cut by $170 billion over 5 years, is going to be absolutely decimated.

Mr. DOMENICI. Plus $50 billion more that is in the President's recommendation.

Mr. GRAMM. That is right. So basically what we are talking about here is that we already have established orderly builddown in defense. The distinguished Republican ranking member of the Budget Committee has said that he is willing to sit down and talk to people about some long-term agreement that would extend beyond this year to continue orderly process in defense.

But my fear basically is this: We are not at the end of history. There will be more tyrants. Despite the best of diplomacy, reason will fail. And when reason fails, we have to have an army, a navy, and an air force that do not fail. We have been down this road many times where we have disarmed America, destroyed our investment, and we have come back in a few years and deeply regretted it.

I think it is very important that we not allow it to happen this time around, and we can prevent it from happening by having an orderly process to plan it. Quite frankly, even without the concern about national security in the future, to go in now and just have dramatic reductions in defense, with no long-term plan, is going to put a very great hardship on the people that have dedicated their lives to keeping Ivan back from the gate. Whether they wear the uniform of the country or whether they work in the defense industry, they are going to have their lives disrupted and great hardship imposed on them.

We are already in a situation where tens of thousands of them are out of work. We need an orderly process where we can look 5 years into the future and see what we are going to do. That is what the whole budget cap process was about. The President did not want to raise taxes. The President did not want to slash defense, but what the President got in return for the bargain was an agreement that we would control domestic spending, and that we would have an orderly builddown in defense. And what we have here today is to renege on the only part of the budget agreement that the President was for.

Mr. DOMENICI. Mr. President, I know there are others who desire to speak. I want to say to some on my side of the aisle that I am most appreciative of their support in this regard. Many Senators on my side, and some on the other side, are concerned about the issue that is being discussed here. They do not take it very lightly that we take this cap down, and that there be some kind of an oral commitment that obviously we will not take money away from defense that they need. We do not know what that means; or we will set a new limit, a new cap, just leave it up to us; or we will give you some promise that we will have a new cap that the Defense Department can live with; just give us the extra money to spend.

Well, Mr. President, frankly, it seems to this Senator that there is no just cause at this point to take savings from defense and spend it. There is only one just cause, and that is to reduce defense to the levels that this Congress wants and that the President wants, and it can be lower than the caps. The caps only say you cannot spend the money somewhere else. We ought to take that overage and, from my standpoint, we ought to put it to deficit reduction.

I have heard other proposals. I have heard the one made by my friend from Texas, and I am not even sure I support that at this point. I think we ought to make sure that we understand and care about the future of our children. Some educators have petitioned us to break this wall. They have been told by some that if we break it somebody will give them some more money. That is what they have been told. But they do that saying they are for children.

Well, Mr. President, if we want to save our children, or save the economy for our children, or save jobs for our children, or save prosperity for our children, then we better start worrying about the deficit. If there is a peace dividend beyond the $170 billion, which we already spent in the 5-year agreement, we better live up to the deal that says if you cut defense more than these caps, put it on the deficit.

Having said that, I do not want to leave false impressions on the discretionary appropriation. That is what we are talking about here today, the annual part of that budget that you vote on up or down here in 13 bills, including defense, foreign assistance, and a series of domestic appropriation bills. I do not stand here and say that this is what is breaking the budget and putting us into this severe deficit posture. However, I do say that the economic summit was fair on domestic programs—I cited the numbers before—in order to get agreement. Some on our side of the aisle are complaining that too much was given to domestic discretionary. It went up more than 10 percent one year and more than 12 percent another year in budget authority. That was the concession to get the caps. That was the concession.

We went there thinking we would freeze everything. That was the concession to get an agreement. And now the agreement is to be broken, and some relationship is sought between the changes in the Soviet Union and breaking this cap.

Mr. President, what happened in the Soviet Union has nothing to do with this. This agreement had to do with how much we agreed to allocate to domestic spending. We are going to live up to that. Nobody has taken any of that away. The agreement said what you do not spend in defense, put it on the deficit. That was the deal.

For those who are wondering about this bill, S. 2399, there is another interesting part to it. The occupant of the chair will remember that we have discretionary spending in this 5-year agreement divided into foreign assistance, defense, and domestic spending caps. Well, it is interesting that the cap on foreign assistance is not sought to be changed. The bill leaves it in effect. So we are saying we are going to treat foreign aid better than we treat defense in S. 2399.

I do not think that is fair. If they are going to take the walls down, take them all down, and put all of the programs in that pool of money to compete.

Frankly, I do not want that to happen. I am one who does not think either defense or foreign affairs, foreign assistance, gets a fair shake in that pool of resources to be used. It is pretty obvious, without repeating what I said a while ago, why. It is because there is never an end to what is needed in domestic spending, even if we have not looked at the program's value in 15 years. There is just no end to its magnetic pull on any resources that are around.

Mr. SARBANES. Will the Senator yield on that point?

Mr. DOMENICI. Let me conclude by saying to those who are wondering about debating this measure, we are debating this measure right now. We will vote tomorrow evening or the next day. I am hopeful that we will make it quick and decide that we are not going to close off debate, which will just be a signal that we ought to get the bill off of the floor and start talking about something realistic, something which will impose some meaningful caps and add a couple more years to a realistic set of caps.

Those who come here and say we ought to vote on this bill—when it has never had a hearing, never been to a committee—are those on the side of wanting to pit defense spending up against the array of domestic programs in difficult defense times.

My last observation has to do with what was said by someone on the floor that has to do with economic incentives and stimulations and stimulating the economy. I do not believe there is a chance that Congress will come up with a conversion bill to use military expenditures in the civilian side of the American economy to do some stimulating and job creation. I do not believe we can come up with anything that will do the amount of good necessary to relieve the damage caused by dramatically cutting defense will cause.

I believe we have no way of figuring out how to help our military men and women get jobs and we want to cancel their contracts early. We want to close defense industries quicker because somebody is going to invent a proposal, put it in effect, that says use that money for economic prosperity. It will not happen. It will be sent right into a pool of money that will be competed for by the existing domestic programs, 2,600 or 2,700 in nature that all get a little bit of it.

I frankly do not believe it will have a thing to do with jobs and prosperity but the defense cuts will be on the negative side.

So, as I see it, the time is not now to pass this bill. The time is to sit down and talk with real understanding about some defense caps that we are going to need in 1993, 1994, and 1995, and clearly some adjustments should be made. That is what we ought to be talking about both for our domestic programs and for our military, and for those who have given their lives to the military, and those who have sacrificed and are part of that U.S. Defense Department.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, the distinguished Senator from New Mexico has the credentials to speak on the question of the budget summit agreement. And I want to say in behalf of the distinguished ranking member from New Mexico, he is consistent. He has been steadfast in his support of the summit agreement that was worked out about 18 months ago.

So, he comes to this debate, I must say, with clean hands. There is an old saying in equity, that he who comes into equity must come there with clean hands.

The same cannot be said for others who have entered into this debate. We heard the distinguished junior Senator from Texas a moment ago deliver his characteristic ideologic partisan message. Many of us have heard this so many times that we can almost quote the refrain about Havana, Cuba, et cetera. Of course, this is not a debate about Havana, or Bucharest, or East Berlin. This is a debate about the United States of America and what is to be done about it and what we do to meet and solve our problems.

Just let me make this point: Our friend from Texas a moment ago was saying a deal is a deal is a deal. I will say for the Senator from New Mexico he went out there and he negotiated on that budget summit agreement. He did not like everything in it and neither did I. But he came back here and he voted for it, and he supported it, and he stuck up for it all down the line, and it has cost him something along the way. I happen to know that and I respect him for what he did.

But just a few days ago an amendment was offered here on the floor by the Senior Senator from Wisconsin [Mr. KASTEN] to cut taxes and to pay for that tax cut by a cut in domestic discretionary spending, a clear violation of a most important part of that budget summit agreement, the pay-as-you-go mechanism. That is the heart of it. If you rip that out you rip the guts of it out. You can come in here and cut taxes. You do not have to pay for it; just put it on the deficit. Raise an entitlement program. You do not have to pay for it; put it on the deficit.

Thirty-five Senators on the other side of the aisle, including our friend from Texas who stood on this floor a moment ago saying a deal is a deal is a deal and you should not renege on it, voted to rip the guts out of a pay-as-you-go section of this budget agreement.

If they had had their way, if he had had his way, you would simply come in here and offer an amendment. We are going to cut taxes by $30 billion, and, oh, by the way we do not have to pay for it, just put it on the tab, put it on the deficit. Let somebody else's grandkids pay for it.

So much for a deal is a deal is a deal.

Then much was made about: Let us give it to the American family. That is what I am for. I am for the American family. I am for the family, and I am for apple pie, and I am for the American flag.

Well, who is not? Some of us grow weary of hearing that pedestrian approach to problems of this country.

If you are for the family, you had an opportunity to vote for them just the other day. The distinguished senior Senator from Texas brought a tax bill to this floor and it provided for a tax cut for middle-income Americans who have been paying the bills and pulling the wagon, as some like to say, for the past 10 or 12 years.

I know some dismissed that tax cut as inconsequential. But the facts are that for the median-income American family for a family of four, husband and wife and 2 children, making $32,000 a year, that was a $600 tax reduction, a 20-percent reduction in that family of four's tax liability. That is $600, and a 20-percent reduction for a man and a wife struggling to make it with 2 children on $32,000 a year. That $600 may not seem like much here in Washington, DC., but I will tell you it is quite a bit in Gallitin, TN, and I bet it is quite a bit in some of the small towns and areas in the State of Texas.

Let me tell you what else the distinguished senior Senator from Texas, the chairman of the Senate Finance Committee, did. He brought in that middle-class tax cut, and he paid for every dime of it. He did not increase that deficit by a penny. And how did he do it? He did it by raising the revenues from the richest people in this country, with the surtax on millionaires. Those are the ones who benefited from the policies of the last 12 years. We know who got wealthy over the past 12 years. And the American people know it. And the hard-pressed middle-income wage earner knows it.

Mr. SARBANES. Mr. President, will the Senator yield for a question?

Mr. SASSER. I yield for a question.

Mr. SARBANES. Our colleagues on the other side like to refer to the measure that was before us that the President vetoed as the tax increase bill. They have been spreading that kind of description. Is it not correct that the only taxes increased in that bill were taxes on people in top 1 percent in this country, the very richest people in the country?

Mr. SASSER. The distinguished Senator from Maryland is right.

Mr. SARBANES. Mr. President, I want to make it very clear that I recognize that there was a tax increase on people whose incomes are in the top 1 percent of the population. But that was in order to obtain the revenues with which to give a tax break to middle-income people, to fund investment tax incentives, and to reduce the deficit. That is what that bill was all about. So, what has happened for some reason, which I do not understand, is our colleagues are desperate to protect the top 1 percent of the income scale from paying a little additional taxes so they carry more of their fair share. They are the ones who have gotten these enormous breaks over the last decade, and have had incredible escalation in their income.

Mr. SASSER. Well, the Senator is quite correct.

I see our friend from Colorado on the floor, and I want to yield to him in just a moment.

But at the same time that we are hearing these discussions about concern over the deficit—oh, something must be done about the deficit. If we let these walls come down, they will just simply increase the deficit with their spending. The same individuals who are making that argument just a few days ago voted for a tax package offered by the administration, offered by the President, that would have increased the deficit by $30 billion over 5 years—$30 billion over 5 years. And almost every individual on the other side of the aisle voted for it, including the junior Senator from Texas, who has expressed such great concern about the deficit on the floor of this Chamber just a few minutes ago.

With regard to my friend from New Mexico who has departed the floor now, I respect his statements about the budget. I respect his statements about concern for the deficit. But when you come into a court of equity, you must come in with clean hands to discuss these matters. And it is questionable as to whether some of these allegations that have been made on the floor here this afternoon should really be taken seriously in view of that old maxim of equity.

Well, I see our distinguished colleague from Colorado on the floor, Mr. WIRTH, a very valuable member of the Senate Budget Committee. I say to the Presiding Officer, and also a member of the Armed Services Committee, and very knowledgeable in his own right not just about budgetary matters but also about military spending and military budgets.

I like to yield to my friend from Colorado.

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. WIRTH. Thank you, Mr. President.

I thank the distinguished chairman of the Budget Committee for his kind comments.

I might just add a footnote to the earlier discussion about the equity in the previous tax bill that was vetoed by the President. It is my understanding—I say to the chairman of the Budget Committee, if I might ask him a question—and it was reported at extensive length in the national news media, that personal income over the country in the last decade went up some $850 billion and about 77 percent of that, I understand, went to people in the top 1 percent of wage earners. We had income growth in the country over the last decade, but it was skewed way at the top of the income scale. And one casualty of this was the notion of equity.

Is that the Senator's understanding?

Mr. SASSER. Well, that was my understanding. The tax bill that was advanced by the distinguished senior Senator from Texas, [Mr. BENTSEN] was a tax bill to try to redress some of the inequities in the Tax Code that had occurred during the decade of the 1980's, in which the middle class saw their taxes actually increase in real terms, and those in the upper brackets saw their taxes decrease by 18 percent; while at the same time the top 1 percent in wealth in this country during the decade of the 1980's was capturing 60 to 70 percent of the economic growth, and the remaining 80 percent, down in the middle, were left to scramble for 6 percent growth that was leftover.

Mr. WIRTH. I thank the chairman. I thought that was correct. It is a fundamental issue of fairness.

Mr. SYMMS. Will the Senator yield for a question?

Mr. WIRTH. I am happy to yield.

Mr. SYMMS. Mr. President, I have been listening to this debate in my office and here on the floor. I would just like to ask either the Senator from Colorado or the distinguished chairman of the committee, if this tax bill that they talk about it so wonderful, why is it that in the other body, the veto to override that took place today, 215 voted "no" and 211 voted "yes"? It seems the Democrats in the House do not share the same point of view that the distinguished chairman has.

Do you have any explanation for that?

Mr. WIRTH. Mr. President, I cannot speak for what the motivations of people in the other body are. I thought that we had a basic commitment to fairness in the United States, and that is one of the fundamental themes that I believe most Americans are committed to and that we ought to continue to advocate no matter what the rhetoric is surrounding that at the other end of Pennsylvania Avenue or from the other side of the aisle.

But what we are talking about today, Mr. President, is not about taxes. Some of it is about fairness, but not as blatantly. What we are talking about here is a budget. What we are talking about here are the values. We are talking about values.

What I am going to talk about mostly this afternoon, Mr. President, is one basic idea—who is for kids and who is just kidding. Who is going to make a commitment to future generations in this country or who is just going to talk about it.

Today, a Russian cosmonaut is returning to Earth after spending 10 months in space. But the Earth he is returning to is not the same one that he left behind.

When he left, he left behind the Soviet Union, a Communist country. The existence of that country and the threat it implied has determined our entire military strategy and posture since World War II. Every decision on the size, structure, and armament of our armed services has been made with an eye toward the Kremlin and the leadership and agenda it housed.

For all of our adult lifetime, every Member of this body and every voting American practically has had his or her values, goals, sense of America, sense of our shared values outlined by the confrontation with the Soviet Union.

But today, Mr. President, that dominating, defining phenomenon is over. The cosmonaut is not returning to the Soviet Union. He is not returning to his hometown of Leningrad. The Soviet Union is gone, Leningrad is now once again St. Petersburg and the Soviet Communists have been replaced with reform-minded leaders determined to guide the new Commonwealth of Independent States into a new era of democracy and a free-market commerce.

The world has changed. Defense goals, therefore, must changed, and we must change. We must change. But we are hearing enormous resistance—some people are acting as if the world is still as it was in 1980's. We know that generals still fight the least war. It sees to me, we are seeing a lot of the Congress trying to fight the last war, as well.

At the end of 1990, in the closing days of 101st Congress, we passed a Budget Enforcement Act. I voted against it. While I supported some of the new discipline called for in that law, I could not rationale the need to protect defense spending at a time when the Soviet Union was undergoing such profound changes. What we said in that act is we are going to stick, no matter what happens to the threat, we are going to stick with a designated pot of money, and build walls around it and then be able to spend it. Clearly, it seemed to me—and I think distinguished occupant of the chair was in agreement with that—we needed to maintain our flexibility in responding to the rapidly shifting international conditions. Today, that is more so than ever before. The Soviet Union is gone but we are still locked in the spending pattern set up when it existed.

Let me point this out in chart form, if I might, Mr. President.

What is illustrated here, Mr. President, is the pattern of national defense spending since the Second World War. We can see here how defense spending went up during Korea, defense spending went up during Vietnam, and defense spending ramped up with the Reagan buildup in 1980's. By peacetime norm, when we were not at war but during the cold war, we were spending $233 billion a year.

We increased spending for the conflict in Korea, we increased for Vietnam, and we increased with the Reagan buildup. The peacetime cold war average—and these are numbers from the Congressional Budget Office; there is no disagreement with these numbers—the peacetime cold war average defense spending was $233 billion in constant 1993 dollars. These are constant dollars, all put into 1993 dollars; $233 billion during the cold war, which we had at that point to defend against a unified and militarized Soviet Union, Warsaw Pact, Red China, and countless other threats, including North Korea, Cuba, the Middle East, and so on.

President Bush calls for defense spending in fiscal year 1993 of $281 billion. He calls for a gradual downsizing of defense to $252 billion by 1997. The cold war is over, but the Bush administration response is a 3-percent annual cut in defense spending.

Under the Bush plan, the United States will still be spending $19 billion more in 1997 on defense than the cold war peacetime average. After their so-called builddown, at the end of 1997, they are going to be spending $252 billion, and the cold war norm, the cold war average, peacetime average, is $233 billion. To do what? What are we going to defend America against, spending more than we were at the height of the cold war? I'll tell you what—General Powell told us last year, "I am down to Castro and Kim Il Song.

Let us look at this in another way with this other chart, if I might, Mr. President. Here we have different budget paths right here. We have, if you look at this, the peacetime average—this line that goes straight across here—in 1993 dollars. This is what we spent during the peacetime of the cold war.

Remember, this was a spike-up in Korea, a spike-up in Vietnam, a ramp-up for the Reagan defense buildup. But during the height of the cold war, without those hostilities, we were spending $233 billion a year.

Can we trim some more? Let us look at what happens here. President Bush is the top line coming down here. He does not even get down to the peacetime cold war average in 5 years. This is out to 1997, from the President's budget. The cold war is over, and we have not even gotten down to where we were at the height of the cold war.

Mr. SASSER. Will the Senator yield for a question on that?

Mr. WIRTH. I will be happy to yield.

Mr. SASSER. As I understand the Senator's chart, what we are seeing here is the Senator took an average of all of the military spending during the cold war period?

Mr. WIRTH. One correction; I did not do this. It is the General Accounting Office and Congressional Budget Office who did this. We asked them to do it.

Mr. SASSER. I see. But now that the cold war is over and the old Soviet Union is no more and has collapsed, we find ourselves, on the administration's military spending pattern in 1997, still at a higher level in military spending than the peacetime cold war average, even though the Soviet Union is no more?

Mr. WIRTH. Yes. The cold war is over. And we will still be spending nearly $20 billion a year more than we were at the height of the cold war, in 1997.

Will the Senator tell me how to explain that to the American public who are proud of the sacrifice that was made for 50 years during the cold war. We invested trillions of dollars of scarce national treasure to defend the West, our democratic institutions and free markets, against the Warsaw Pact, the Soviet Union, the cold war, the Berlin Wall—today all gone. But we are still going to be spending more under the administration plan than we were at height of the cold war.

Let me tell you a story. In 1961, I was a private in the Army. The Berlin Wall went up and we thought we were going to war. We thought we were going to be in a land war in Europe. We were mobilizing and getting ready to go in the fall of 1961. It was a searing experience for all of us in the military at that time.

Thirty years later, to show you how the world has changed generationally and in thought patterns, my kids were sitting on top of that same Berlin Wall at a Pink Floyd concert with kids from Eastern Europe, Western Europe, the United States, the old Soviet Union, all there, hundreds of thousands gathered in this rejoicing of the collapse of the Berlin Wall. What a shift in 30 years. They know that. All those young people know that. And they all look at us and say: What are you all doing?

And that is a good question. What are we doing to their future by continuing at this level?

Let me point out one other item. If, in fact, we did just a little more rational budgeting—let us look at the proposal offered by our good friend, the Senator from Nebraska, Senator EXON. Senator EXON is also a valued member of the Budget Committee; sits next to Senator NUNN, as the ranking Democrat on the Armed Services Committee. And he has been very tough in standing for a strong defense. He has held the line, really pushed it very hard, and today has said what we ought to do.

What did Senator EXON, from my neighboring State of Nebraska, suggest? What has he suggested leads us to this blue line coming right down here. Senator EXON has proposed a cut to $272 billion for fiscal year 1993. We drew his line to 1997. Why do we not at least, by 1997, get back to the cold war average? Starting from his number we still do not even go below the cold war average, which incidentally I think we ought to do. Senator EXON, an expert in defense, points out there is ample room to cut. There is no question about it.

He says let us return to the same defense spending level as under Presidents Nixon and Ford. What might one do to get there? Is this a radical change?

One, do we need to keep 150,000 troops in Europe? Do we need to do that? I do not think so, any more than the Europeans need to be stationing troops in the United States. It does not make any sense. Threats are coming down. We are spending nearly $1.3 billion a year—Senator PRYOR has pointed this out over and over and over again—$1.3 billion a year recruiting new soldiers when, at the same time, we are reducing our forces. Does that make a lot of sense?

The General Accounting Office estimates we could supply inventory purchases by up to $5 billion, and we all saw the "60 Minutes" program on those huge warehouses full of materiel. Senator BYRD from West Virginia spoke about this on any number of occasions. B-2 bombers and advanced tactical fighters yield billions of dollars in savings.

We are no longer in the nuclear arms business, but the administration wants $500 million more for nuclear testing. We ought to be going the other way and having a moratorium on testing, if we are interested in nonproliferation, if we are interested in making sure that the world becomes a safer place. Let us have a moratorium on nuclear testing, not an expansion of it.

Senator EXON has outlined a very responsible and reasonable proposal. In my opinion, it is a de minimis proposal to cut defense spending in fiscal year 1993.

Mr. President, I ask unanimous consent to have printed in the RECORD at the end of my remarks a little more detail on Senator EXON's proposal.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WIRTH. Mr. President, Senator EXON is also aware of proposals the Senator from Ohio [Mr. GLENN] and I are putting together on defense conversion. We have a lot of work to do, which I think is only going on up here on the Hill taking on the responsibility for examining the impact on the Defense Department of these international changes that are going to occur—the impact on communities and work forces and businesses, and so on. We have a responsibility, there is room for that, also, in Senator EXON's numbers.

Let us be honest and thoughtful and careful about this very significant conversion activity. At a lot of these plants, like the Rocky Flats plant in Colorado, which is going to close down, we have people who have committed their whole lives to defense. They ought to be treated like veterans. We ought to be sure that transition for them is there. We have tremendous conversion problems.

Defense is an insurance policy. The risk is vastly reduced. And now it is time to cut the premium.

America must remain strong and secure. But assuming the role of globocop is unnecessary and unaffordable. We cannot be strong abroad and weak at home. That is what this debate is all about. How we are going to maintain a much better balance of America as policeman around the world, as very strong around the globe, with what everybody understands is significant weakness at home.

Economists from all across the board have said the investments that had to be made in our economy in the past, that made our economy strong, are lacking today. For the last decade, we have, as symptom of disinvestment here at home, shortchanged our children's education while saddling them with debt accumulated by a decade of huge deficits.

We must invest in education, in child health and nutrition, in research and development, and infrastructure. Our failure to do so carries a terrible, terrible price. Not only are we not adding value to that pair of American hands and moving, if we do not do that, right into economic disaster internationally, but if a pair of American hands is competing hand on hand with a pair of hands in Mexico or a pair of hands in Taiwan or a pair of hands in Hong Kong or a pair of hands in Bangladesh, we lose. That is a direct invitation to the decline in America's standard of living and our economic power base. We have to add value to those hands. And the way in which we add value to those hands is through education.

The key place in the budget where these programs are so important are in the section of the budget called domestic discretionary. Let me show another chart, if I might, Mr. President. This chart talks about where the budget has gone in the last 10 years, a quite remarkable figure. It is a pie chart representing the Federal budget for fiscal year 1981, and a pie chart 10 years later for fiscal year 1991.

Let us look at the difference. In 1981, we know the proportion of the budget dedicated to defense has declined from 22 to 20.6 percent, but our economy has grown significantly. We know the amount of defense expenditures pointed out in the earlier chart in real terms have gone up significantly in real dollars. As far as Social Security and Medicare, people say we have had this huge explosion of entitlements, from 25 to 26 percent. That size of the pie remains about the same. The other entitlements programs—retirement programs, Government service and so on—have in fact gone down from 19 to 17 percent.

Where we have seen huge changes are in three areas, Mr. President, and that is what this debate is all about, priorities and values. First, we have seen growing net interest, going up from 9 to 13 percent. It has increased about 50 percent. We have seen the so-called Reaganomics program where we dramatically cut taxes, dramatically increase spending and say we can balance the budget at the same time. Wrong. The debt has gone from $1 to $4 trillion in 12 short years.

What do we have to do with that? We have to pay interest on the debt, and as Ross Perot said so clearly, you only have to pay interest on that debt, those notes are coming due in the next 4, 5 years, and 60 percent of that debt has to be redone. You have 60 percent increase of interest on the debt.

What else is in here, Mr. President? Let me show you another item that is in here that is starkly surprising. If you look up at 1981, there is nothing here that says deposit insurance. We did not have any failed financial institutions; banks were not going down the chute, S&L's were not going down the chute. But one of the glories of Reaganomics was deregulation of the savings and loan institutions, and as we look at fiscal year 1991, deposit insurance is taking up 7.1 percent of Federal spending.

No wonder the budget is being squeezed. Eleven percent plus of this budget is going for nothing. It is going to pay interest on the debt which does not build a school; it does not build a hospital; it does not pave a highway; it does not research fiber optics or invest in plant and equipment. Interest on the debt is probably, more than anything else, a massive income transfer in the United States. And then there is deposit insurance, which is another massive income transfer in the United States in which the average taxpayer is bailing out people who were engaged in these institutions and did very well for themselves. And I think that there are some very significant equity questions in there.

We not only have that "fairness" issue of who benefits from these huge investments that never happened before, but also let us look at the issue of values again, domestic discretionary, what everybody wants: schools, hospitals, training, housing, highways. Domestic discretionary has gone down from 23 percent of the budget to 15 percent of the budget.

The program that we need for the future strength and growth of this country, for our ability to compete around the world have gone down by 8 percent.

What has happened to us, Mr. President, and why are we in such trouble? There is effectively at least a 20-percent gap in our budget. We are paying 4 percent of the budget more for interest on the debt because of this Reaganomics business; we are paying more than 8 percent on deposit insurance. That is nearly 12 percent right out of there doing nothing, and we have an 8-percent drop in domestic discretionary. No wonder we are in trouble. Our priorities are all wrong. It shows what has happened and what has happened in particular, Mr. President, in education. The support for education has gone from 2.5 percent of the budget in 1981 to 1.8 percent and it is dropping; 2.5 percent to 1.8. It is cut by a factor of almost a third.

Discretionary programs and as a part of those, education are the most important programs for us all.

On the final chart, Mr. President, let me illustrate in greater detail what is happening in the support of education. In the area of education, if we were just to keep funding at the 1981 Federal level, we would have gone from $14.4 billion to $33 billion over this period of time, if education had maintained its share of the budget from 1981 when we were making significant investments in our country's future before passing Gramm-Latta in 1981, before all of the so-called wonderful Reaganomics budget cuts, where we cut into the sinew of our investment programs. No new widgets, no new social engineering, as it is called, whatever it may be; just make that commitment. We would be up here at $33 billion.

What has happened? Reality is in struggling to keep this support alive, seen in the square boxes. We are down by $9 billion in what the Congress has done, and under this line, is the President's budget request, which was significantly lower than the congressional spending levels. Presidents Reagan and Bush wanted to invest significantly less, and requested significantly less from the Congress. This is where we would be with constant spending, and this is what we managed to maintain in the Congress; this is what these administrations wanted to do.

Mr. SYMMS. Mr. President, will the Senator yield for a question?

Mr. WIRTH. Let me finish and then I will be happy to yield to the distinguished Senator from Idaho.

For example, what kinds of things have gone on? Despite 25 years of proven success, not even 30 percent of Head Start eligible kids are enrolled in Head Start. We know after 25 years of work that this program succeeds. Kids who have been through Head Start have much better life chances. Their opportunities to graduate from high school and get and keep a job are significantly better. And yet we talk about Head Start, the President talks about Head Start, probably every Member of this body and the other one has talked about Head Start. So you think Head Start is funded? Is it? Wrong.

Only one child in four who is eligible for Head Start goes through a Head Start program. One child in four, Mr. President. The argument is made that we do not have the money to put all these kids in Head Start. Let us think about how much it would cost. If you enrolled three out of those other four children in Head Start, it would cost a little less than $2.2 billion a year. That is a lot of money. We can enroll every Head Start child 3-, 4-, and 5-year-old in Head Start for $2.2 billion a year, all of them. We know that is a good investment.

What kind of tradeoffs are we talking about in a real way? Let me give some examples. The increase requested last year by the President for star wars was $2.5 billion. Many of us believe that we ought to do a research program there, but not a massive deployment program. The cost, Mr. President, of the advanced tactical fighter, which is designed to take on advanced stealthy technology fighters from the old Soviet Union, would cost about $2.2 billion.

What kinds of priorities do we want? What does the American public want us to be investing in? Head Start is just one example.

For a modest amount of money in teacher training, Mr. President, we can have an enormous amount of leverage through the whole system.

Everybody on this floor as well has talked about the need to change our schools, to reform our institutions. One of the places where you start is, one, helping teachers to cope with these vast new demands that are made upon them; helping teachers to retool for the 21st century to teach kids for the 21st century and, Mr. President, helping kids to feel good about themselves.

What we used to do was provide teachers the opportunity to go to summer retraining programs. In the 1960's and 1970's, we did an enormous amount under the aegis of the National Defense Education Act and others. We gave teachers the opportunity to go through summer programs. It was a very small investment and a very big return. Almost all of that has been wiped out. Those are the kinds of things that we ought to be doing, Mr. President, and we are not doing.

That is what this debate is all about. This debate is all about if we are going to be serious about the problems of the country and make investments in the future of the country or, as we have done in the past, are we going to continue to starve it?

Mr. President, it would be my fervent hope that we are going to be able to break down these walls and be able to increase the investments in the future of the country. That is what this debate is all about. Some of that is, yes, fairness. But more important, it is a question of values and judgment. Are we going to make these kinds of investments in our own future, in our economic health and our own ability to compete around the world, or are we going to continue this kind of very post-cold war, nonthinking about defense?

We have to break down these walls. We have to exercise our judgment and change a deal that we made in 1990, at a time when the cold war was still on, the Soviet Union was still there, that cosmonaut was about to go up, coming from old Leningrad, going up into the air and representing the Soviet Union. He is now down; he has come back; the Soviet Union is no more; his hometown of Leningrad is now St. Petersburg. He comes home to change. In the United States of America, it is time for us to come home, Mr. President, and recognize that we ought to be making these investments right here in our own backyard.

Mr. President, I promised the Senator from Idaho I would yield to him.

Mr. SYMMS. Mr. President, I thank the Senator for yielding, and I appreciate his point of view and comments. But the question continues to occur to this Senator, as I see him make his pitch for more money for education, will the Senator not agree with me that one of the best Government school systems that has ever been established in the history of the universe is that of the U.S. military? The military has provided training for aviation mechanics, truck drivers, engineers, computer operators, and many other fields.

The military is an incredible educational tool to put productive citizens back into our society. With what does he suggest we replace it?

Mr. WIRTH. We are not talking about dismantling the military. I hope the Senator from Idaho is not suggesting for a minute we are going to dismantle the military. It is going to be downsized. The Senator from Idaho knows that, so do I, so does most of the American public. The question is how much are we going to downsize it?

It is a training exercise. It is a training function. The military has done that. It has also provided a lot of jobs. But the primary purpose of the military, Mr. President, is not jobs. If we want to have a jobs program, let us launch and fund a jobs program. The function of the military has spilled out and there has been some productive education. But if we want to have an education program, let us fund an education program.

There are some spinoffs that have been very valuable from the military, no question about it. And some of those are going to remain. I believe the single most important thing for us to do is to fund education and fund education in all its diversity and all its richness in the United States of America.

Mr. President, I thank the Chair for recognizing me earlier, and I yield the floor.

EXHIBIT 1

U.S. SENATE,
Washington, DC, March 18, 1992.

Hon. SAM NUNN,
Chairman, Senate Armed Services Committee, U.S. Senate, Washington, DC.

DEAR SAM: I am writing you to express my thoughts about the upcoming debate on the level of defense spending for Fiscal Year 1993. I believe it is important that the Senate Armed Services Committee provide to the Senate Budget Committee its opinion as to the appropriate level of spending. As you have noted on many occasions, a number of budget cut proposals have been made in both the Senate and the House—by Democrats and Republicans alike—targeting savings greater than the President's proposed cuts through Fiscal Year 1997.

Many of these suggested budget cut plans, however, are short on specifics or fail to tie the reductions in our military forces to its ability to meet the security threat, the nature of which is changing for the better, but which has not as of yet clarified. With this in mind, I believe it is presumptuous to address defense spending levels beyond the upcoming year. Our challenge is to come up with a responsible Pentagon budget for Fiscal Year 1993 given the state of world events as we know them. The last three years should teach us that extended planning, though essential to our force planning, is a crude tool when it comes to defense budgeting. We can project some outyears for spending to meet budget requirements but they should be clearly identified as "guesstimates" only to be formalized later after our committee completes in 1992 an in-depth study for the outyears.

My analysis of the President's 1993 defense budget convinces me that greater savings can be realized without harming our military's ability to meet our security needs. Below I outline with specificity where sizeable savings can be obtained without cutting into the muscle of our forces. If my 1993 defense spending plan is open to criticism, it would be that it is too cautious, too conservative. I propose that we can responsibly cut the budget by $8.8 billion in Budget Authority and $4.2 billion in Outlays through modest reductions. These are cuts even somewhat more than the House recommendations. Generally, as you will see in more detail later, I've been cautious so as to provide a comfort factor when considering these spending cuts. But as you know, many of the proposals that will be offered in the Budget Committee will be in excess of my suggested cuts. I believe that unless the approximate level of cuts I am suggesting is endorsed by you and Senator Warner, then our committee recommendation will quickly become irrelevant. My plan, I believe, stands a good chance of receiving support in the Budget Committee as a workable compromise after the President's plan and much higher cut numbers are voted down.

PROPOSED AND SUGGESTED SPENDING LEVELS

	Bush—1993		Aspin/House—1993		Exon—1993	
	Budget Authority	Outlays	Budget authority	Outlays	Budget authority	Outlays
DOD	267.6	272.8			259.2	269.0
DOE	13.3	13.1			12.9	12.7
Total	280.9	285.9	274.9	282.1	272.1	281.7

COMPARISON OF CUT LEVELS

	Budget authority	Cut	Below Bush	Outlays	Cut	Below Bush
Bush	280.9	8.0		285.9	5.2	
Aspin/House	274.9	14.0	6.0	282.1	9.0	3.8
Exon	272.1	16.8	8.8	281.7	9.4	4.2

ACCOUNT COMPARISON OF BUSH AND EXON PLANS

Account	Bush budget authority	Proposed cuts	Exon budget authority
Military personnel	77.1	0.8	76.3
Operations/maintenance	84.5	.9	83.6
Procurement	54.4	4.4	50.0
RDT&E	38.8	2.1	36.7
Military construction	6.2	.1	6.1
Family housing	4.0	.1	3.9
Revolving funds transfer	2.0		2.0
All other	.6		.6
DOD total	267.6	8.4	259.2
DOE total	13.3	.4	12.9
National defense total	280.9	8.8	272.1

THE EXON PLAN: WHAT IT DOES AND DOESN'T CUT

No cuts are taken in any of the services' top ten most expensive programs (totalling about $28 billion), which are shown below with their 1993 budgets:

Services' top 10 fiscal year 1993 programs[1]

[Cost in millions of then-year dollars]

Army:	
RAH-66	$443.0
UH-60	428.3
ASM	367.2
FHTV	315.7
FMTV	291.1
Longbow engine	281.8
HMMWV	229.5
Sincgars	223.2
MLRS launchers	217.2
ATACMS	188.3
Total	2,985.3
Navy	
DDG-51	3,369.6
F/A-18	1,808.6
F/A-18E/F	1,079.7
Trident II	986.8
Carrier	832.2
E/A-6B	530.0
CH/MH-53E	513.1
Tomahawk	404.2
Fltsatcom	326.0
T-45	303.5
Total	10,153.7
Air Force	
B-2	4,028.0
C-17	3,142.0
ATF (F-22)	2,224.0
Milstar	1,552.0
F-16	901.0
Amraam	773.0
Jstars	744.0
Titan IV	525.0
Navstar GPS	509.0
DSP	413.0
Total	14,811.0

[1] Includes procurement and R&D programs.

Some modernization and replacement is delayed. A review of the hundreds of programs and line items contained in the Procurement account reveals that many of these line items (i.e. approximately 150) have major increases over the last year's budget ranging from 20-30 percent to over 800 percent. The $4.4 billion cut in Procurement doesn't require every item in the budget to hold to last year's levels (note the above increases); rather, it shows how much can be cut from smaller dollar amount programs which have huge increases in their budgets. This is a modest proposal, one that could be enlarged if the big-dollar weapons programs were pared to some degree.

SDI is cut by $1 billion from $5.312B down to $4.312B, higher still than last year's $4.116B. Much more can be—and likely, will be—cut here. Once again, this is a conservative reduction.

Other R&D accounts are cut: reduce ASAT by $24.7 million down to $0; reduce NASP by $100 million down to $100 million, generous given the weak justification for the program; hold the Air Force RDT&E budget, which is proposed to increase by 6.9 percent to last year's level (this saves $941 million); and hold the Director of Test and Evaluation to 1992 spending levels, thus saving $71 million.

All the other major DOD accounts—Military Personnel, Operations and Maintenance, Military Construction, Family Housing—are reduced across the board by approximately 1 percent below the proposed amount. If these cuts resulted in significant involuntary active duty separations and other politically difficult actions, such as a pay raise reduction or freeze, the total cut of $1.9B in these accounts can be realized, with less return in Outlay savings, by revisiting some of the larger weapons programs excluded from the cutting knife.

The DOE cut of $400 million would hold the line at this year's (1992) spending level. Though it is true that the DOE Environmental Restoration and Waste Management funding should increase, savings can be found in the Weapons Complex account to counterbalance these plus-ups.

In summary, this plan is more than an illustrative way of cutting our defense spending; it represents a specific, balanced approach to realizing savings that the public, in light of both domestic and world events, will insist that we find. It's easy to get caught up in the marquee programs like the B-2, SDI, C-17 and forget that significant reductions can be realized by mining smaller line items of the budget and ask that many accounts live with a freeze in spending. A careful review shows we are "nickled and dimed" to fiscal oblivion by a hundred "small programs."

In light of an over $4 trillion debt, a $400 billion deficit this year, and growing, near-crisis resentment among Americans over their financial predicament, I believe the cuts that I propose—as a starting point—are quite reasonable. We can do more but need an in-depth study in our committee before we allow a magnificent "peace dividend" to be locked in place to serve other needs without concern for realistic national defense requirements.

Sincerely,

JIM EXON,
U.S. Senator.

NO ECONOMIC GROWTH STIMULUS

Mr. BOND. Mr. President, there has been some discussion today of the tax increase bill which the President vetoed on Friday. For those who wondered about its strength, I am advised that the veto override in the House failed, a "yes" vote of 211 and a "no" vote of 215. It was not even given a simple majority when sent back. I believe it is because it was a tax increase bill and not an economic growth stimulus.

Another point I want to make, there has been discussion about how various income levels fared in taxation over the last decade. According to a chart published by the CBO in the 1990 Ways and Means "Green Book," in 1980, the top 1 percent of income earners paid 18.2 percent; by 1990, they paid 25.4 percent of all income taxes paid.

That means that the percentage paid by the top 1 percent went up 40 percent; the percentage paid by the top 5 percent went up 23 percent; the percentage paid by the top 10 percent went up 15 percent. At the other end, the bottom 60 percent, which paid 13.8 percent of all income taxes paid in 1980, went down to 11 percent in 1990, a drop of 20 percent. But most remarkably, the bottom 20 percent of income tax filers saw their tax liability fall 150 percent, meaning they were actually receiving net returns from the income tax system.

CORRECTING THE SURFACE TRANSPORTATION ACT

Mr. BOND. Mr. President, on behalf of many Senators—and I know Governors from all across the United States—I want to express sincere appreciation to the majority leader and the Republican leader for passing last night a measure to correct the Surface Transportation Act to remove the earmarked funds for the Brooklyn courthouse which had caused the 5- to 6-percent reduction in highway funds available this year.

We have had some interesting discussions over that matter in the last several weeks here, and when it became clear that some $1.2 billion was going to be lost, this body acted quickly. I commend Senator MOYNIHAN, whose bill passed. I commend Senator DOMENICI, who had brought this matter to the attention of all of us. It was a great relief to see this measure move so quickly.

I had been contacted by the Governor of Wisconsin, who is the chairman of the National Governor's Conference Committee on Transportation, to emphasize how important this measure is. This is the season where in most parts of the country highway construction must be planned and must begin for the summer and fall months. And if the other body will move as quickly as this body did this past week, we have an opportunity to correct this mistake which crept into the Surface Transportation Act last fall, in time to use the funds this year.

Again I express the thanks of many people across this country to the leadership and to the people who made that possible.

APPROPRIATIONS CATEGORY REFORM ACT

MOTION TO PROCEED

Mr. BOND. Mr. President, I rise today to join my colleague from New Mexico, the senior Senator, in opposing this bill. The bill before us is a bad idea. I think it will further worsen the budget deficit and we ought to reject it. We ought to reject it, as Senator DOMENICI has said, so we can go back and work on an honest budget package on which we can move forward.

The 1990 budget agreement was far from perfect. That may be the understatement of the day. I am sure that every Member of this body can list many of the flaws in it. I certainly could point out a few that are real clunkers in my view. The one thing that no one can argue with, however, is that it got us on the road toward some fiscal responsibility and it has forced a small amount of fiscal responsibility in the budget process.

As one who comes from State government, where we did not have the ability to print money, where the legislative and the executive had to live within the disciplines of the constitutional requirements and within the availability of funds coming into the State each year, I can tell you that some type of discipline is absolutely essential to come up with responsible budgets each year.

Under the budget agreement, defense spending was cut significantly. Since the budget summit, of course, as we have heard already today, the world has changed, and changed dramatically, and the defense budget has changed right along with it. In fact since the original summit agreement, an additional $350 billion is projected to be cut from the defense budget through 1997—$350 billion. Those are real, those are dramatic cuts.

The President and the Pentagon have offered realistic proposals in response to the changes we have seen in Eastern Europe and to the disintegration of the Soviet Union. The cuts they have proposed in troops and weapons are unprecedented in our Nation's history. I think it is worthwhile to review just a few of the major programs that the administration has agreed can be scaled back or eliminated.

They have said do away with the *Sea Wolf* submarine, limit the B-2 bomber, cut back on the Comanche helicopter, the block 3 tank, the Losat antitank vehicle, the mobile small ICBM or Midgetman, the Peacekeeper or MX missile, the F-14D fighter, the F-16 fighter, the advanced cruise missile, the Adats air defense system, the Apache helicopter. The list goes on and on.

No one can argue that these are not significant actions or that the administration has not reacted in a major way to the dissolution of the Warsaw Pact and the disappearance of the Soviet Union. They have acted and they have acted quickly. The administration's cuts are not just limited to procurement programs.

The President is taking advantage of the world situation to scale back on U.S. troops both at home and overseas. His cuts have included deactivation of several divisions both in the United States and in Europe. In addition, we are seeing the deactivation of several air wings and the mothballing of dozens of Navy ships. I will not argue that the President's cuts, significant as they are, are the final world on how to scale back our national security commitments. To the contrary, I proposed a plan that would cut at least $60 billion from defense spending through 1997. And I know that many of my colleagues, including the chairman of the Armed Services Committee, obviously, whose cuts have a great deal of credibility in this Chamber, have proposed cuts with similar numbers. Reasonable people can and will disagree on the exact number, and I have no doubt that when we recess this fall, we will have had a very thorough and extensive debate on exactly what that number should be.

However, regardless however of whether we decide to cut an additional $50 billion over 5 years, or $60 billion, or even $75 billion, we must use the savings to reduce the burgeoning budget deficit. To do otherwise would be to miss a once in a lifetime opportunity, and would once again squander our children's future to pay our bills today.

I would like to comment briefly on what defense spending ought to be. There is no question that we now face a unique opportunity to scale back on our national security force commitments around the world. The cold war is over, and we have won. Although Russia and the other members of the CIS retain the capability to destroy our Nation with nuclear weapons, or to attack our allies with conventional weapons, we have little reason to believe they will try to do so any time soon. That means we can greatly reduce our presence in Europe for the first time since World War II. It means we can scale back on our forces around the world. And it presents a great opportunity to scale back our nuclear arsenal as other countries do the same.

What the recent changes in the world do not mean however, is that the world is a safe place and that we can pack up our military and go home. Those both in Congress and in various think tanks around this city who want to slash our military and withdraw our presence from the world simply are not being realistic. Yes, the United States has emerged as the world's only superpower. And, yes, we should listen to our commitments overseas, and focus on our domestic needs. But we must not ignore the fact that we will have to defend our interests around the world, and the best way to ensure that we do not have to fight is by maintaining a credible deterrent.

The chances of having to fight another regional conflict like we fought in Desert Storm will greatly increase with the dissolution of the Warsaw Pact and the disintegration of the U.S.S.R. They are not less. What we seek to do is to provide a military which is capable of deterring aggressive action.

We followed the course of dismantling our military after World War I.

The sad fact is that we had neither the will nor the manpower and the weaponry to stop Hitler on his march of the thirties that led to the millions of deaths and the tragedies of World War II.

We have to maintain a credible deterrent. At another time and another place we will debate exactly what that deterrent force needs to be.

Another point that has been raised is the possibility of using all of these funds that we take out of the military for economic growth. What are we going to do to provide jobs? Well, that struck a chord in my memory. I went back.

I just read in the last day or so an article by Alan Reynolds in Forbes magazine pointing out something very interesting: Why we are having a slowdown, why we are still having a recession. He argues it is because of the significant cutback, the reduction in defense spending of over 15 percent in the past year. He says that if defense and other Government purchases are excluded, private real GNP rose at a 3.1-percent rate in the third quarter and 2.3 percent in the fourth. Since last April, he argues the only recession has been in Government and then mainly in defense.

Defense does provide a component to our economic engine. That is not the reason to keep defense spending high. But those who would take our military down below what is needed as a responsible deterrent as protection for this country cannot do so credibly and say that we need to do it so that we can create more jobs and provide more opportunities.

As my colleague from Idaho has pointed out, our military not only has the finest weaponry but it has the finest training programs for the outstanding men and women who go into the service these days.

But, Mr. President, let me get back to what this debate should be about, and that is the question of when are we going to get serious about the budget deficit?

If you talk to anyone in my State of Missouri, they will tell you that Congress has been ignoring the deficit far too long. And then in the next breath they will tell you that this program or that program might need a little additional funding.

Well, that debate is today's debate in a microcosm. Which way is Congress going to go? Are we going to follow those whose basic instincts are to promise the additional funds to somebody, or are we going to prove my very wise friend, WARREN RUDMAN, wrong, and actually come forward and say that we need to reduce the deficit first and foremost?

Since I have been in this body—since 1987—I have seen budget after budget come and go. Each promises deficit reduction, but usually delivers only increased spending and higher deficits. That has gotten us to the point today where our deficit is projected to be some $367 billion for this fiscal year. It has also put us on a course whereby the status quo means Congress will manage to increase the Federal debt by 50 percent over the next 5 years while running deficits in the $300 billion range for as far as the eye can see.

We have had discussions today about our children. I count myself as one very concerned about the world we leave our children and our children's children. What are we doing to the future of this country, our children? Well if we do nothing on the deficit, Congress will be adding nearly $2 trillion to our debt during the period of the next 5 years, saddling our children, our grandchildren and their grandchildren with a burden which is almost indescribable.

Mr. President, we already have a Federal debt of nearly $4 trillion, meaning that for every man, woman, and child in the United States today there is a $14,000 debt to be repaid. Doing nothing means that by fiscal year 1997, this debt will have grown to over $21,000 per person. That is not a legacy I want to be part of.

Today's debate clearly shows the difference in this Chamber on how we should address this compelling issue. Incredibly, facing the prospects of a $400 billion deficit with interest payments on the debt rapidly becoming not only the fastest growing but the largest Federal expenditure, there are those who want to take potential savings and spend them. They are not taking savings out of revenue that is coming in. They are taking so-called savings that really are savings on borrowing we would otherwise incur and then spending them. So what happens? We simply have to borrow more.

Let me repeat. There are some who would take whatever defense reductions can be achieved and spend them so that we keep the debt high. Is that leadership? I think not.

My friend, WARREN RUDMAN, is right. And we are sorely going to miss his ability to stand up and say what is right. What is right is that somebody has to step forward and say the Emperor has no clothes. We are running up this huge debt solely on the credit card of this country.

Congress must own up to the fact that what we should be debating are the deficit-reduction proposals which will get us on the right path, rather than trying to figure out a way where we can transfer defense spending, which was already spending of borrowed dollars, and turn it over to other spending so Congress can keep its spending up and can keep the level of increase growing in our debt.

Mr. President, do I believe Congress can do the right thing? I do not know. Looking at the reaction to the President's rescission list which has come up does not give me a great deal of hope.

What did we see when the rescissions came up? Handwringers dashing about worrying about who is on the list. Some called the first round of cuts unfair, "targeted at Democrats." Other dismissed them saying the proposal did not really amount to anything, as what is $3.6 billion when the deficit is $367 billion. Talk about missing the point. How can we ever attack $367 billion in deficit if Congress does not even have the guts to take the first step?

How could people take talk of deficit reduction seriously if Congress reaction is "not me," or to say cuts are "just symbolism," as if any of those who called the cuts too small would support a bigger cut?

Mr. President, if it appears that I am frustrated, I am.

Being on the floor discussing a piece of legislation designed to do nothing more than keep the deficit as high as possible seems just the place to discuss these concerns. Members can disagree over the size of the defense budget. That will be a healthy debate. I look forward to that. But there should be no disagreement that whatever the savings, whatever we can reduce it by, should go toward reducing the deficit.

As a member of both the Budget and Appropriations Committees, I understand full well the enormity of the problems we re facing and the tough choices we must make. Unfortunately, the legislation we are debating today says, let us put off those choices. Let us wait. We do not need to face the deficit today. The credit card is still hot, still working, let us spend the money. No wonder the public has a minimum amount of high enthusiasm for Congress.

Mr. President, every Member of this Chamber could find ways to spend the peace dividend. We have heard some wonderful creative, innovative, exciting proposals laid out today. Some of the ideas would be excellent ones, ones I could support. I might be willing to make some shifts in existing spending programs to fund them, but that misses the point.

If we cannot make the relatively easy decision to use defense savings to reduce the deficit, how in the world are we going to make more difficult decisions to cut programs to reduce the deficit? If Congress cannot discipline itself when the choice is simple, why should anyone ever believe that Congress will agree to cut spending anywhere at any time?

Mr. President, today, we are spending about $215 billion on domestic discretionary programs. These are very important programs. They include everything from education and child care to highways, mass transit, and soil conservation. But at the same time we are also spending $201 billion paying the interest on our Federal debt.

That money is not buying us anything. We are not providing any services; we are not providing research; we are not constructing anything with that money. It is simply lost paying for the borrowings of the past. Congress is doing what millions of American households are trying to avoid doing, and that is paying only the minimum on our credit card while we watch our unpaid balances getting larger and larger.

The difference is that Uncle Sam has no credit card limit. So the debt just keeps piling up. If we keep up at our current pace, CBO projects we will be spending more on interest than domestic discretionary as soon as next year, if not 1995.

That means for every dollar spent on education, or highways or child care, a dollar will be going to pay for spending decisions of the past. We should be looking to the future, not spending our precious resources paying for the past. CBO states in its report to Congress on economic and budget outlook for fiscal years 1993 through 1997:

> One of the major problems affecting the long-term outlook for growth and productivity and living standards in the United States is the size of the Federal deficit.

I could not have said it better myself.

Mr. President, let me conclude by saying that it is time for Congress to get serious about the deficit, and spending the peace dividend, whether it be $50 billion, $60 billion, $85 billion, or $150 billion, is exactly the wrong way to go.

We have an opportunity to begin to reduce the deficit and to thus begin the work on turning around our buildup of debt.

I will be offering with my colleagues in the near future measures that go beyond this to make significant reductions in that deficit so that we can look forward in the reasonable future to a time when that line of spending will cross from deficit into surplus, so that we can stop building up the tremendous interest payment each year. Then we will have money to spend on vital programs, domestic discretionary, and others.

Let me repeat: The legislation we are debating today simply says let us put off dealing with the deficit. Let us wait. We do not need to face the deficit today. Let us keep spending the money as fast as we can.

I urge my colleagues to reject that worn out thinking. I urge my colleagues to get serious about the deficit and not to go forward with this legislation.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I rise as a cosponsor of this important legislation to revise the budget agreement to allow shifts of funds from defense programs to domestic initiatives.

First, I went to commend and thank the distinguished, hardworking, energetic and committed chairman of the Budget Committee, Senator SASSER, for his leadership in this area, as well as in so many others. This is a vitally important piece of legislation. And Chairman SASSER has worked on it with determination and persistence.

Mr. President, listening to some of the arguments against this legislation has made me chuckle. But it's also made me sad. Because what I hear is sanctimonious hyprocrisy. I do not hear the truth. I hear cries to reduce the deficit and cut out the spending, and the credit card is no good, and we use it here willy-nilly. Lots of rhetoric.

But, Mr. President, I am chairman of the Appropriations Subcommittee on Transportation; everybody here knows that. I have a budget of about $31 billion a year. I have yet to see any volunteers come into my office and say, "Frank, I want to help reduce this deficit. And so I'm going to sacrifice my State's need for roads, bridges, tunnels, airports, and economic development."

No, I have not heard anybody do that. I would like to hear it. I would like to hear it from those who are screaming about the deficit and its effect on the economic future of this country.

My friends, one approach we could take would be to put up a list and ask for volunteers. We can get the staff to take the names of senders who are willing to step forward. They can say cancel me out for highway money or for transit money, cancel out that bridge or airport, because I want to do my share. And my constituents are going to follow me, they are going to want me to declare that I am willing to have less money for education in my State and less money for the elderly and less money for AIDS research.

Yes, they can say, we are going to volunteer, because we are going to show the American way—voluntarism.

There will be plenty of opportunities for volunteers to turn back their budget requests, Mr. President. I get requests for transportation support from every State in this country, bar none.

I also heard an argument that says "a deal is a deal is a deal." Well, "a deal," to put it crudely, "ain't always a deal," or shouldn't we say, for example, that you have a fence between your house and your neighbor's and an understanding to stay off each other's property. That is a type of deal. But if the neighbor's house is on fire, or someone is attacking one of her children, I would hope you would hop over the fence and say this deal is no deal.

To take another example, if someone falls behind on a mortgage because they cannot afford to keep it up, we wouldn't want every banker to simply say "A deal is a deal, get out."

Mr. President, this budget deal, which protects outmoded levels of defense spending, should not be sacrosanct either. It's just not enough to say "A deal's a deal" when conditions have changed so dramatically.

Mr. President, we have heard lots of reasons why we should not move ahead. I would like to talk about some of the reasons why we should.

Mr. SASSER. Mr. President, can I pose a question to my friend from New Jersey?

Mr. LAUTENBERG. I am happy to yield to the chairman for a question.

Mr. SASSER. First, the distinguished chairman of the Transportation Subcommittee has enormous responsibility, as we all know, those of us who serve on the Appropriations Committee, because he has the responsibility of assigning priorities and funding very vital and crucial and critical projects in the transportation sector of this Government, including highways, as I understand it, airports, a whole host of infrastructure construction, and agencies that affect transportation.

My friend said that we should have volunteers from those who were so concerned about the deficit. We have heard a lot of concerns expressed about that today.

I will ask my friend from New Jersey, in his position as chairman of the Transportation Appropriations Subcommittee, has he heard any of these Senators who have expressed such concern about the deficit today, have any of them ever requested of him that he cancel a project in their State and apply the funds to deficit reduction?

Mr. LAUTENBERG. Mr. President, I have yet to hear it. I await that moment anxiously, because it may give me latitude to take care of more urgent needs. I would point out, for example, that our subcommittee is responsible for funding the Coast Guard. We send them out in the high seas to interdict drugs, to watch for pollution, to rescue tankers off the coast so they do not spill toxic cargo in the sea.

We have need for a lot more funding. So, for Members who want to help reduce the deficit, we can leave a list they can sign to sacrifice the projects that they now beg for so arduously because of what they say is the real need. Instead, they can come in and say this: my town is so congested people cannot get back and forth to work. We lose work time: we lose productivity; we violate the Clean Air Act. But listen; I am going to do my part as a good American. I am going to stand up for that deficit, and my State is the first one to volunteer.

Mr. President, it would be so nice.

Mr. SASSER. Another question, if I may propound it to my friend from New Jersey, the distinguished chairman of the Transportation Appropriations Subcommittee.

During the Senator's years of service as chairman of the Transportation Appropriations Subcommittee, I assume he received numerous communications and letters from various of our colleagues asking that projects be funded in their State.

Is that correct?

Mr. LAUTENBERG. Yes, and I remind the chairman of the Budget Committee, who also is a colleague of mine on the Appropriations Committee and who serves as the chairman of the Military Construction Subcommittee on Appropriations. We both sit on several subcommittees on the Appropriations Committee. And I'm sure we both hear from people who not only want help with matters related to the subcommittees we chair, but from people who call about items in our other subcommittees, to see if we can talk to the chairs of those subcommittees to help out their State. We sit on the Subcommittee on Commerce, Justice, State, and the Judiciary, for example, which is responsible for funding the FBI and other crime-fighting initiatives among other things. I have never had anybody send me a slip saying: Here is $8 million we do not need in our State; use it for something else.

Mr. SASSER. I will ask my friend from New Jersey. Our friends on the floor today have been so concerned about the deficit, and we all are concerned.

Mr. LAUTENBERG. Absolutely.

Mr. SASSER. Mr. President, it is a matter of grave concern to all of us. But as to those who expressed this acute concern over it, has my friend received any communication from them with regard to transportation projects in their State that they wish to have funded at levels perhaps higher than the administration had proposed, or perhaps funding projects that the administration had opposed in times past, and that sort of thing?

Mr. LAUTENBERG. Mr. President, the chairman know very well that when the Budget Committee considers the budget resolution or other matters there are always people who will say no, we have to stop increasing this budget deficit; and no, we are not going to go along with it.

In the next breath, they see me wearing the other hat, the transportation hat, and they say: Listen, that bridge that runs across the river may not look so important; it is only a small river. But I have jobs out there we desperately need. We have companies that want to invest. If we only had that transportation access, Mr. Chairman, we could get people to work.

But in the public forum, when there are opportunities to express views that people can read or hear, they will say: Oh, no, the budget deficit, Mr. Chairman, no one has worked harder than you to reduce the budget deficit, and I have supported you in those efforts. I voted against the budget agreement, just like I voted against Gramm-Rudman. I knew it wouldn't work to reduce the deficit. And I knew it would lead to endless fights over a shrinking domestic pie instead of ensuring the peace dividend that we are all waiting so anxiously to see arrive in our mail boxes. So far, that peace dividend has not come. And it is not the Post Office's fault.

Mr. SASSER. One final question to my friend from New Jersey, Mr. President. I know this is an arduous task, assigning priorities for spending and for projects, badly needed transportation projects in the Transportation Appropriations Subcommittee, and in essence that is what we do in the Appropriations Committee is sort of assign priorities and fund this and do not fund that, and do it on the basis of what we calculate is in the best interest of the country.

But in the event, I ask my friend from New Jersey, that we are held to the caps in the Transportation Appropriations Subcommittee, and a cut below the so-called current policy or baseline comes in your committee, if you are forced to suffer a decrease in real spending power as a result of the ax of inflation, what effect is this going to have on your ability to fund some of these badly needed transportation projects and infrastructure projects?

Mr. LAUTENBERG. It is going to impede our efforts severely.

Mr. President, I also want to respond to something that was said on the floor a while ago, suggesting that President Bush has just loaded these programs with more money for this and more money for that. Supposedly, there is more money for everything.

Well, the President signed the surface transportation bill, known as ISTEA with fanfare and flourish and photos back in December. At the time, he saluted the bill not only for promoting essential investment in America's infrastructure, but he called the legislation a jobs bill to get people back to work.

Within 4 weeks, however, the President submitted a budget request that was $1.6 billion less than he proposed when he signed that bill with such fanfare. The fellow in the hard hat standing next to him was thinking about his job and how good it would be to get back to work. Immediately, when you deduct $1.6 billion off the top, you are saying, A, it is not so important; and B, those jobs, too bad; find jobs other places. Except there are not enough to go around.

So what we see, Mr. President, is that when there are cuts in programs, we cannot satisfy the requests. I tell you that in my bill, the transportation bill, I get several hundred requests a year, and there is not a State—not a State—that does not have its request. And also, accompanying the request, is a very nice message. That is when I get the "Dear Franks." Otherwise, the name may be different, or the greeting may be different.

But it is: "Dear Frank," and, "You know how important it is, the bridge across the River Y. Why? Because I need those votes back home, and I want those people to vote for me. I want to show them that Senator X is out there standing at Bridge Y, to show we are giving our constituents the kind of service they want."

All right. But then here on the Senate floor, the table is theatrical, the abstract. We talk about the need to bring down that budget deficit. That is the overriding thing, and we cannot tear down the wall. A deal is a deal. The world has changed, but a deal is a deal.

So, Mr. President, what we see at times is some utter foolishness, and the fools are among ourselves because we are taking a message to the public the public does not believe.

Mr. SASSER. If I may propound one more question to the chairman. Is he aware that at least one of the Senators who was emphatic, saying a deal is a deal, did not even vote for the budget summit agreement?

Mr. LAUTENBERG. That is my recollection.

Mr. SASSER. Is the chairman aware that this same Senator voted for an amendment on the floor just a few weeks ago that would have taken domestic discretionary money and used it for a tax cut, tearing down the wall to do that, and in clear violation of the pay-as-you-go provision, which is the very heart of the budget agreement itself, which he said is a deal is a deal is a deal is a deal? And this same Senator, who expressed such chagrin over the magnitude of the deficit and the increase of it, voted for the President's tax package, which would have increased the deficit by $30 billion over the next 5 years, just in the past few days. Was the chairman aware of that?

Mr. LAUTENBERG. Yes.

And I would respond, if I may, to the manager of this bill with a question. As chairman of the Budget Committee, does the Senator from Tennessee recall when, within the last few years, the President has sent up a balanced budget for our consideration?

Mr. SASSER. Well, I have served in this body, I say to my friend from New Jersey, now for almost 17 years. During that period of time, no President has ever sent up a balanced budget.

Mr. LAUTENBERG. Is the Senator sure about that?

Mr. SASSER. Positive; as far as I can recall.

Mr. LAUTENBERG. My goodness.

Mr. SASSER. And the budgets that were most grostequely out of balance were the ones that we received from President Reagan, you will remember. That is when the deficits began to explode on us.

Mr. LAUTENBERG. Has President Bush been sending us balanced budgets?

Mr. SASSER. No, he has not been sending balanced budgets, I say to my friend from New Jersey.

My friend from New Jersey might be interested in knowing there is a new concept developing. It is called funnel spending and it originates in the White House. It is administered by the Chief of Staff, Mr. Samuel Skinner, and his deputy, Mr. Dennis Moore. Funnel spending always occurs in States on the eve of their Presidential primaries.

Now, a very distinguished journalist, Mr. Robert Pear, in a New York Times article dated March 10, and another equally distinguished journalist, Mr. John Yang, of the Washington Post, in an article dated March 14, described this program, I say to my friend from New Jersey, in some detail. For example, just before the Florida primary, the White House released $514 million for completion of a major water project affecting the Kissimmee River. That would not be a pork-barrel project that they are working on.

Mr. LAUTENBERG. Sounds like funnel spending to me.

Mr. SASSER. And, in a campaign swing to southern California, the President announced some $800 million, I say to the chairman of the Transportation Appropriations Subcommittee, $800 million in road improvements and sewer and water and other public works projects to be put in place along the Mexican border. And I will wager that those projects had to come through the Appropriations Subcommittee of the distinguished Senator from New Jersey, at least the roads.

And then, finally, perhaps the best example of what has been described as funnel spending occurred in that most favored of States, the one with the first Presidential primary, New Hampshire.

Throughout all the years of the Reagan and Bush administrations, they have consistently opposed the Small Business Administration. They tried to abolish it. They tried to terminate the direct lending programs. They tried to emasculate the guarantee programs through fee increases and other measures. But, lo and behold, this year's budget proposes—and this year's budget, by the way, proposes to cut SBA programs by a total of $347 million. But, I say to the Chair, lo and behold, the administration took a new liking to the Small Business Administration shortly before the New Hampshire primary. They initiated a new small business lending program for economically troubled businesses in New England. All told, some $900 million will flow to the troubled businesses in the region. And guess what? The pilot program for the region began in New Hampshire just before the New Hampshire primary.

Mr. LAUTENBERG. What a coincidence.

Mr. SASSER. I thought my friend would find that interesting.

Mr. LAUTENBERG. That is very interesting information.

Will the chairman of the Budget Committee help refresh my memory? What was the budget deficit that the President proposed for 1993?

Mr. SASSER. Well, the budget deficit for fiscal year 1993 is approaching $400 billion. This will be the largest peacetime budget deficit in the history of the country; indeed, perhaps the largest budget deficit in the history of the country. And it is, once again, inching up as the percentage of gross national product to the point that we may set a new record.

Mr. LAUTENBERG. Well, does the chairman of the Budget Committee think that perhaps some of our friends on the other side of the aisle may misinterpret what the President has requested, because they say they want to balance the budget? I do not think that the President, in his budget message to us, which says, "Here is what I am proposing," is delivering the same message. Perhaps there has been a miscommunication.

Mr. SASSER. Well, there must be a miscommunication, I say to my friend from New Jersey.

Mr. LAUTENBERG. Because, you say, the President has proposed this year—I think the budget deficit that was suggested in the President's budget was something in the area of $400 billion.

Mr. SASSER. Well, it was somewhere in the high—we are looking at it now.

Mr. LAUTENBERG. I think it was close to $400 billion.

Mr. SASSER. The projected budget deficit will be close to $380 billion.

Mr. LAUTENBERG. So there is obviously, again, a lack of direct communication between the White House and those colleagues in the Senate from the other side because they talk about reducing the deficit. The President does not seem to agree with that message.

Mr. President, I want to continue and talk about the shift we have seen in the environment. I am not talking about the traditional use of the word "environment." I am talking about the total environment, the political, economic, financial environment.

The world was a different place in 1990 when the budget agreement was enacted. While dramatic change was already well underway in the Soviet Union, many in the United States still feared that country and still thought in cold war terms. Now, however, conditions have changed. The cold war is in our past.

And yet, Mr. President, while the world around us has changed so dramatically, our budget priorities remain in a time warp. We are still spending close to $300 billion each year on defense. We still spend billions defending our European allies from a threat that most believe no longer exists. And we are still committed to a range of weapons programs that serve no useful purpose. Meanwhile, Mr. President, our needs here at home are greater than ever.

Our economy is in the longest recession since the Great Depression. Unemployment is over 7 percent. And ordinary, hardworking, middle-class Americans are finding it tougher and tougher to pay their bills, to plan their kids' college education, and to keep their heads above water.

We created many of today's economic problems by our past underinvesting in the future. While our competitors have invested substantial sums in their infrastructure, and in the education and training of their people, we have not. And we are going to pay a price for that neglect in the decades to come.

I am chairman of the Subcommittee on Transportation Appropriations, responsible for most of the infrastructure spending. I also sit on the VA, Hud, and independent agencies which are responsible for a significant part of our infrastructure spending, such as construction grants. I see the difference between our total investment in infrastructure, and the investment in other countries.

Just take a look at the big competitor, Japan.

Between 1973 and 1985, Japan invested 5.1 percent of its GNP in public physical infrastructure. That number deserves to be repeated—5.1 percent. The equivalent figure in America was 0.3 percent. In other words they have spent 17 times what we have on their public physical infrastructure with respect to their transportation infrastructure, they spent 25 times more than we did, on roads, bridges, airports, and railroads.

We are 55th in per-capita expenditures on infrastructure. That is the level of a Third World country; America the beautiful, America the great.

Weak investment in our physical infrastructure leads directly to poor productivity, to lost hours spent in traffic and getting back and fourth from home to work; wasted energy. We are energy dependent on foreign sources and our dependence grows every day because we failed to plan for the future in years past. We ought to do that now.

Endless traffic jams foul the environment and lend to violation of the laws we have written to protect the air for current and future generations.

And there's a tremendous economic impact according to testimony before the Appropriations Committee, for example, deteriorating highways alone are estimated to cost our economy $35 billion, because of delayed interstate commerce. That is unacceptable.

Just as we have underinvested in our physical infrastructure, we have devoted inadequate resources to our social infrastructure, to education and training. For example, we know that a dollar invested in Head Start yields several dollars in future savings in public assistance, in special education, in costs of crime. We also know that smaller classes substantially increase reading and math scores and improve learning generally. Yet we continue to underfund Head Start.

Many experts believe that if we involve ourselves at an earlier stage, when a child is 2, when he or she needs some external structure if the family is not there to support them, we get benefits galore. Our economic competitors continue to invest more than we do in the education of children.

We have also underinvested in our cities. Funds to States and localities have been slashed substantially while businesses and middle-class residents have moved to the suburbs. Left with fewer resources and without a solid tax base, and facing mounting economic and social problems, many urban areas have descended into virtual chaos.

We can continue to ignore that problem and continue to write off millions of young Americans who grow up in these war zones. But these are the people who have to carry our Nation into the future, and we ignore them at our peril.

Mr. President, the litany of needs that require greater domestic investment is long. It goes from health care to day care; from housing to environmental protection; from research and development to the fight against violent crime.

We have been ignoring many of these needs for the last 12 years. Unfortunately, it shows.

None of these needs can be met if we continue to spend billions of dollars on outdated weapons systems and on the security of our economic competitors.

Mr. President, we need a little perspective on the defense budget. The administration wants to spend about $290 billion for the Pentagon next year. In real terms, that is about $50 billion more than the average peacetime level in the middle of the cold war.

If we were not used to such astronomical defense budgets, it would seem preposterous. Unfortunately we are becoming inured to defense budgets of such size.

I am reminded of the cosmonaut, Sergei Krikalev, who today returned to Earth after spending 10 months in outer space. He went into space on May 13 of last year and he has come back to a world that has turned upside-down.

While he was away, his country, the Soviet Union, dissolved; his hometown, Leningrad, changed its name back do St. Petersburg. His Nation is struggling to make a new economic system work.

When he returned to Earth he saw these new realities, changes he could not have imagined when he went into orbit.

The cosmonaut saw these changes, but President Bush has not.

President Bush, come back to Earth and let us have a serious discussion about what this country needs.

Things have changed. Now is the time to recognize that change and to revise this outmoded budget agreement. Not only is the administration's proposed defense budget enormous when viewed in historical context, but it compounds a distortion of budget priorities that has afflicted our country for the past decade.

Between 1981 and 1991, we increased the defense budget by $624 billion over baseline levels. At the same time, domestic discretionary spending has been cut by $395 billion.

It is time for a change. It is time to focus on America's needs and America's future. But we cannot do so as long as our hands are tied behind our backs by this outdated budget agreement. So long as the budget agreement is allowed to stand, we are going to see continued excesses and waste in the Pentagon budget and continued underinvestment in the economic foundation of our country.

A chairman of the Transportation Appropriations Subcommittee, I get to see many of the Nation's needs firsthand. I get requests, as I said earlier, from virtually every State and every Senator in this body. Every year the Senators from all the regions of the country ask me for help in addressing their State's transportation problems, desperately needed: Fix the roads, fix the bridges, get us another airport, continue our air service, help us, we want to work, our people need jobs.

We want to get investment but you cannot get investment in places you cannot get to or that employees cannot find. Some want help for a new highway. Others want support for airport expansion. And still others, like I, coming from States with urban areas, want more help for their transit systems.

I will not stand here and name the names. I do not have to. If you just pick up a list of Senators, you will find out who has requested help on the transportation budget. But many of the Members who fight so hard to retain the budget wall, preserve the deal and to strangle domestic programs, are the same ones who come to me year after year after year with numerous requests for funds. I do not think it is going to be any different this coming year, despite the message we have heard here.

Mr. President, we want the message to be clearly understood. You cannot have it both ways. If we cannot break down the budget wall, I am going to have to say no to many of my colleagues. The requests may be worthy but the money just will not be there. There are going to be a lot of unhappy Senators whose States will suffer, and a lot of serious unmet transportation needs throughout this country.

It is interesting, we heard the distinguished Senator from Colorado a few minutes ago. He talked about his service in the military and the Berlin Wall. The wall stood for some 30 years. It did not take long to tear it down, and the reason it came down so quickly is because this division between democratic society and virtual imprisonment was not sustainable. The wall could not stand because it was out of date, it was antiquated. It could not even be protected by totalitarianism.

But our budget wall stands even though it is outdated, it is not necessary, and it is impairing our ability to get our society back to work.

In conclusion, Mr. President, if America is going to get back on track and give our children a better future, we are going to have to make some dramatic changes. Breaking down the wall between defense and discretionary domestic programs is an important and necessary first step.

I, once again, say thank you to Senator SASSER for his leadership. And I hope that my colleagues will think seriously about the messages that they give on this floor about the sanctity of an agreement, about the essentiality of reducing the budget deficit, and consider whether or not they want to be the early volunteers to the Lautenberg program for surrender of projects requested in their States. That is real leadership. That is what we would like to see. Enough of the debate; enough of the dialog. Come on in and volunteer to surrender your projects and maybe we can get a serious cut in the budget deficit.

Mr. SASSER. Will the Senator yield 1 second?

Mr. LAUTENBERG. Yes.

Mr. SASSER. Mr. President, I want to pay tribute to the exemplary work done by the distinguished Senator from New Jersey [Mr. LAUTENBERG]. He is a stalwart member of the Budget Committee. He is very helpful in the deliberations of that committee. But perhaps most important, he is an excellent chairman of the Transportation Appropriations Subcommittee. That subcommittee has enormous responsibility, and Senator LAUTENBERG discharges it not only well, but with considerable grace under considerable pressure on occasion.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Idaho is recognized.

Mr. SYMMS. Mr. President, I appreciate hearing the remarks of my good friend from New Jersey. I must say I have worked with him on many transportation issues. He has one of the most successful personal business records in his private life of any Member of this Senate. And I would say, Mr. President, that in running his business, I think that he would take a look at where all the money is in the budget if he was going to make some savings.

If we want to build some bridges, I think we should listen to what Willie Sutton said when he was asked, why do you rob the banks? He said, that is where all the money is. We are looking at the wrong place if we think we can build all the bridges and roads in this country out of the defense budget, or if we can educate every child in the Head Start Program out of the defense budget.

I must say, and this is of some interest to me, that the Sasser bill, which I oppose, does not do anything about raiding the foreign aid funding, which does somewhat surprise me. If we are so concerned about saving money for domestic programs, why are we not looking at foreign aid and why are we looking only at the defense budget?

Mr. President, I want to say, here we go again. The majority party now has come in with a proposition to break down the firewalls, and I stood right here at this desk as a Senator in the fall of 1990 and criticized the 1990 budget agreement all the way through. I complement my friend from New Jersey because he voted against it.

I said on this floor that the 1990 Budget Act would create chaos, unemployment, disrupt the boat building industry, disrupt the fur industry, disrupt the jewelry industry, disrupt the aviation industry, disrupt many industries and cause a lot of unemployment. But one of the things I did vote for in that budget was the caps and the firewalls so that there would be some discipline under the budget.

I was just visiting with the distinguished chairman of the Armed Services Appropriations Subcommittee, Senator INOUYE, and he reminded me that this is not a new event, not a new struggle. When General Washington became President Washington, he did all he could to talk the First Continental Congress out of dismantling the Continental Army.

The Congress did not take the advice of President Washington. They dismantled the Army down to 80 people. They had 55 people at West Point and the other 25 at Philadelphia. The British took notice of this after a few years and said, "Those stupid Americans. We will teach them a lesson." So they came over and burned down the White House and tried to burn the Capitol.

We have gone through this time and time again. We were ill-prepared for World War I. We dismantled after World War I. We were not prepared for World War II. We trained soldiers with wooden rifles. The first armored battalion in some part was paid for out of the private funds of a very wealthy general, George Patton, who bought the parts from Sears and Roebuck to get the first tank battalion operating because the tanks would not run because we had not maintained them.

The same thing happened again after World War II. We dismantled completely and ended up with a conflict in Korea where we suffered 10,000 casualties—many military experts afterward said at least half those casualties would not have lost their lives had we been prepared. We were not prepared. We were sending untrained, underarmed, ill-prepared troops into combat who were not prepared for what they were going up against.

I want to say in looking at the budget, look at where the money is. I invite any Senator who has not seen the briefing General Powell and Secretary Cheney give, as a U.S. Senator, to take it upon themselves to go to a committee that gets that briefing and watch the briefing or get your staff to get a copy of it from C-SPAN and look at it so you can see how much thought has gone into what has happened with respect to our defense budget.

We simply cannot allow the defense of our country to be taken so lightly.

The big money is in mandatory spending. I will show this chart which makes a better picture of it. Here is revenues and here is mandatory spending, mandatory spending is programs such as Social Security, Medicare, Medicaid and other entitlement programs. That is where all the spending goes.

I will just say, Mr. President, this is my 12th year on the Budget Committee. In 1981, we instituted the Budget Committee. The distinguished junior Senator from South Carolina, a very senior Senator here, but he will be the junior Senator as long as he comes from South Carolina, in the foreseeable future, in the next 50 years. Senator HOLLINGS had a proposition that he offered to then the Republican majority that I supported. We could never convince the Republican administration to support it. But what he offered was 85 percent of the CPI or the wage index to replace the cost-of-living adjustments. That was voted down. We voted on it in the Budget Committee, and I voted for it. We voted on it on the Senate floor, and I voted for it.

And, this Senator offered budget proposals in the next year in the Budget Committee and the year after and the year after that would have brought us to a balanced budget. It included attacking entitlement spending. When we did the Social Security Reform Act, how well I remember offering on this Senate floor three amendments which would have revised the way we spent out the money. One of those amendments was to raise the retirement age of Social Security benefit recipients by adding 1 month every year starting in 1984 for the next 36 years. It would save billions upon billions of dollars in budget outlays. It would have encouraged more people to work, to produce, to be productive members of our society for one extra month and would have had a huge budget impact.

It is very interesting that all of those ideas, although they were agreed to in the Senate debate, were voted down by the Senate. The Senate put it in the proposal, but they did not want to put it in 1984. They put the change in the Social Security Reform Act of the year 2004, hoping no one would be there who would have to face the voters in that year.

How well I remember the next year, 1985. Senator DOLE, Senator DOMENICI, still in the majority, worked through a budget that would have brought us to a balanced budget by the third year. It was quickly scuttled after it passed this Senate by one vote with Republicans in the majority voting for it, the Democrats in the minority voting against it and then it was torpedoed by the White House and the House of Representatives within 2 days. We never got that budget passed.

So there have been many efforts and attempts to try to bring abut a balanced budget.

I hear my colleagues being critical of the White House for not offering a balanced budget. I say to my colleagues if the White House and the President chose not to send a budget over to the Congress, they do not have to. There is no law they have to send a budget resolution. It is our responsibility. Any time the Members in the Congress decide they want to balance the budget they could.

But I say again, if we are ever going to balance the budget, we better look where all the spending is—$849 billion in 1995 for Social Security, Medicare, farm supports, other entitlements and so forth—entitlement programs and interest. Sixty-five percent of the total budget is entitlement programs and interest on the debt, Mr. President—65 percent of the budget.

Now, who is kidding whom? Sure, we can raid the defense budget, and leave America in a weak condition. We do not know what is going to happen to the world or where the former Soviet Union is going to be. Who knows what will happen? Who knows what is going to happen with respect to the Persian Gulf? The menace of Saddam is still there. The Iranians are now rebuilding their military. They may be hooking up with Islamic Republics from the former Soviet Union to create another threat for us. We just do not know what is going to happen.

But there is just not that much money available, and I think for us to take anything more than the $50 billion that has been taken out by the recommendation of the administration is penny-wise, pound-foolish. This is very risky and very dangerous for our security.

There are many needs in this country that must be addressed. I do not argue with that. I agree in large part with my friend from New Jersey in his comments about roads, transportation, transportation improvements, and efficiencies in transportation. These improvements create an environment where you can have a better business climate get more jobs. But there is not enough money in the defense budget to make a significant difference with respect to roads and bridges with only defense savings. My friends who want to remove the firewalls are blinded by the dollar signs. They see this as a way to advance their own agenda.

We should be looking for ways, Mr. President, in which Government intrusion and regulation are decreased or eliminated. Freedom, including freedom from Government intervention will be the engine that will drive America toward prosperity, recovery and ultimately get us out of the current economic mess.

As bad as that budget agreement was, it made it very clear that any defense savings should go to deficit reduction.

I hear my colleagues from the other side being critical of some votes that have been cast by Republicans to give the defense savings money back to the taxpayers. It is obvious to this Senator, if there is going to be a peace dividend, the people who deserve the peace dividend are the people who made it possible for us to win the cold war. The people who paid the taxes, provided the enthusiasm and moral should get the money back—not having a bunch of vote buying schemes by Members of Congress to do other things they think are more important.

Some say the cold war is over so the budget agreement should be pruned down. In my view, we do not know what the world holds for us. But all we have to do is look back at history and know there may be a problem ahead.

It is interesting to this Senator that we fought the biggest military operation 1 year ago today. We had 500,000 troops in the Persian Gulf. We have not had that many troops focused on one battlefield, on one objective since World War II. The evil empire, the former Soviet Union, was not a factor in that battle. It was Saddam Hussein, with the fourth largest military in the world. If we allow the firewalls to come down and the majority party to have their way, they will do to the world's best military what Saddam Hussein could not do to it—they will do it here in this budget process—destroy it.

I know that a lot of my colleagues do not agree that we have squeezed the defense budget. But from the 1987 peak, defense levels will decline by nearly 1 million people by 1995. This means 51,000 active duty personnel, 245,000 reservists, 193,000 civilians. By 1995, we will have reduced our military by 10 army divisions, 3 aircraft carriers, 2 carrier air wings, 100 battle force ships, 10 tactical fighter wings, and 88 strategic bombers.

Mr. President, I do not know how much more we should be talking about cutting, but I can tell you, the distinguished senior Senator from Virginia and the distinguished senior Senator from Georgia, the two people who are charged with the responsibility of this Senate to stay on top of these matters, as well as Senator STEVENS from Alaska and Senator INOUYE from Hawaii on the appropriations side, those Senators all think it is a folly to cut the defense budget any more than we are cutting it right now—all four of them, Republican and Democrat alike.

Since 1990, Mr. President, the Department of Defense has proposed the termination of 118 weapons systems and made adjustments to 10 other major programs under the new acquisition approach. The President's numbers for 1993 are as low as this country can afford to go.

As I said, Senator WARNER, Senator NUNN, Senator STEVENS, and Senator INOUYE all disagree with this proposition: How much lower can we go without seriously harming our national security? In this Senator's opinion, we can go no lower than what the President has asked.

When Senators talk about the need to use defense savings to improve our social structure, I would like to remind my colleagues that education and job training is one of the spinoffs that we have enjoyed. The military provides one of the best school systems ever run by Government. I am not a great fan of Government school systems, Mr. President, but I will tell you that the U.S. military, the Army, the Navy, the Marine Corps, the Air Force, the Coast Guard, they have done one of the best jobs of educating, producing, and helping put good citizens in the work force of this country for the last 40 years.

We have trained people to do everything from driving trucks, to being engineers, to running computers, to working on airplanes, to flying airplanes—all kinds of skills and trades and occupations. In a sense a discipline, a purpose has been taught through our military.

We are not going to be able to have that kind of spinoff if we dismantle our military as was done after World War I, after World War II, and now we are attempting to do today. It is a big mistake. The military has been a very good educational opportunity for people. It has made a very good career choice.

When we start talking about spending cuts, I have said time and time again the only way to get the budget and deficit under control is to cut spending. It appears the only place Congress will cut spending is the defense of the country. We have been reducing defense spending every single year since 1985. There is just not anymore to take without jeopardizing the security of the country.

Last year, Mr. President, it took the U.S. military 43 days to decimate the fourth strongest military in the world. If we allow those firewalls to be taken down, it will take Congress about the same length of time to decimate the military service of the United States.

If Senators think that they can make these impersonal, tough slashes to defense and not have those fine young men and women in the military know it, they are mistaken. These young people in our military are very keenly aware. They are making career choices as we are debating this issue.

If this vote happened today and the chairman of the Budget Committee, who is my friend, would be successful on this proposal, those young men and women in the military will start making their decisions: They'll begin to say: "I am getting out of this place before the roof caves in."

We must remember it is the people that make our military so successful.

Of course, our equipment is important—and the technology, the training, the management, and the leadership. But it is essentially a people business running the military organization. When we cut the defense budget people will lose their jobs in the direct defense-related, private-sector employment. It could decline by as much as 500,000. No matter how great capitalism is, no matter how wonderful the market system is, there is a limit to how much it can adjust and absorb these cuts overnight—these dramatic draconian cuts, if you will.

By 1997, under the current defense budget plan, defense-related employment could be down almost a million people lower than it was in 1990. That is under the current plan. That is not talking about taking down the firewall and ripping out another $50 billion or $75 billion.

Tomorrow, you just cannot simply tell the men and women both in uniform and out of uniform in the defense-related industry: We no longer need you. Go find a new job; find a new career.

If Congress does that and makes the same mistake that past Congresses made, we will find when we are in trouble, in time of need, we will be ill-prepared. And if we start the program with the volunteer military again—these are people that have made this commitment; they volunteered. We sign a contract. They are making a commitment for a 20-year service hitch in the military. People are going to know. In the next generation, if we do something now to go back on them, kick them out, RIF them out, which is happening already at a very rapid rate, they will simply not be there the next time, and we will be back to the old days of the draft, where we were before.

Mr. President, I do not know if the American people or we here in Congress understand the importance of this debate today. I just cannot tell you how important I believe this is. If we allow the defense budget to be cut to shreds at the whims of Congress, where will we be when Saddam Hussein gets himself back together again, gets his military organization back together, or another Saddam Hussein in another country somewhere else on this globe?

As much as we would like to believe that the world is at peace, there are still a lot of threats out there. There are still thousands of nuclear warheads targeted on the United States. We do not know what is going to happen in the Commonwealth of Independent States. But I think we do know that if these firewalls come down and we lose this vote, and if the majority has their way on this issue, that we will do a great deal to jeopardize the security of this country.

The answer to our budget problem does not lie in tearing down the firewalls. Congress must control spending, not only in the defense budget, but in all other areas, including mandatory spending. I think a good place to start would be right here in this body. Maybe we ought to cut the budget for Congress by about 25 percent, Mr. President; put the Congress on the same diet that we are proposing to put the military on. It might be a good place to start.

Mr. President, I find it fascinating that we are having this debate here on this floor. I picked up the Washington Post today, and I saw that a great Nobel laureate, Friedrich Hayek, at age 92, had died. I happen to have had the privilege of personally knowing Friedrich Hayek. I hosted a lunch for him when I was in the other body, where we had many, many people in attendance.

I met him through another late and dear friend of mine, Leonard Reid, from the Foundation of Economic Education, and a group of people that have still kept the Foundation of Economic Education together at Irvington on the Hudson—Bob Anderson, and Ed Ovelts, from Grove City College. Those people made it possible for me to have had an acquaintance with Friedrich von Hayek. I guess he dropped the "von" from his name.

He was 92 years old. He was an Austrian-born British free-market economist whose work inspired political leaders on both sides of the Atlantic. He won the Nobel Prize, and was really the first free-market economist to win the Nobel Prize and gain some status with his great book, "The Road to Serfdom" that was so widely read, and is now being read throughout the world; and throughout the Iron Curtain countries.

But what fascinates me, Mr. President, about Von "Hayek's Victory"—and the Wall Street Journal today editorialized that—Von Hayek lived to see, as he bashed the Keynesian liberal socialist economics for 45 or 50 years, that he was proven right and they were proven wrong. He lived long enough to see that his ideas were vindicated by history, and he was honored by not only his friends and supporters, but also he was honored by his opponents.

But somehow, here in the U.S. Congress, we have not gotten the message that the rest of the world loves America. They love freedom. They want private ownership. they do not want oppressive government.

Here what we are talking about doing is dismantling our ability to defend peace and freedom throughout the world, and then taking the money and building a welfare state, which is exactly what those people in the other parts of the world behind the Iron Curtain, which is now coming down, are trying to escape.

It begs to reason. It just begs for common sense.

Mr. President, I will just say in closing that I oppose this taking down of the firewall. I oppose this lack of discipline. The little bit of discipline that we might get in our budget process, I do not think is enough. I think we ought to look at entitlement programs. I think we ought to examine all parts of the Government.

We should not hesitate to cut the budget of the Congress, of the executive branch, of all of the agencies, and put caps on all of the entitlement programs and try to fix the budget so that those people who have slipped through the cracks and need the safety net can be protected and taken care of, but we should reduce the price of the subsidies that go to very well-off people through many of these entitlement programs. We should stop all of those things.

But if this bill passed, it would be a mistake that would simply send exactly the opposite signal to the American people.

So in closing, Mr. President, I ask unanimous consent that the obituary from the Washington Post of Friedrich Hayek, at age 92, the Nobel Prize winning economist, be printed in the RECORD: and that the editorial "Hayek's Victory," from the Wall Street Journal of today be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Mar. 25, 1992]

FRIEDRICH HAYEK, 92, DIES; NOBEL-WINNING ECONOMIST

(By Richard Pearson)

Friedrich Hayek, 92, the Austrian-born British free-market economist whose work inspired conservative political leaders on both sides of the Atlantic and won a Nobel Prize, died March 23 at his home in Freiburg, Germany. He had a heart ailment.

He was a champion of free markets and political liberty, opponent of the welfare state and most government economic intervention, and a leading foe since the early 1930s of the economic school of thought led by John Maynard Keynes.

Dr. Hayek, who always placed top priority on money supply as the key to economic growth, has been called the "father of monetarism." He used his work in economics, including notable work on business cycles and price theory, as a springboard to research and comment on history, philosophy, psychology and political science.

His work has been hailed not only by other economists, such as the University of Chicago's Milton Friedman, but by leading conservative politicians in this country and abroad.

Dr. Hayek shared the 1974 Nobel Prize for economics with Gunnar Myrdal of Sweden. Representatives of different economic camps, they were cited "for pioneering work in the theory of money and economic fluctuations and for their penetrating analysis of the interdependence of economic, social and institutional phenomena."

Dr. Hayek's best-known book probably is his landmark "The Road to Serfdom," which was published in 1944 by the University of Chicago Press and printed in 12 languages.

The book was a reasoned and unrelenting attack on socialism. Its premises included the thesis that economic security is not as important as freedom and that socialized planning leads to totalitarianism. He also wrote that central planning was dangerous because it was unwieldy compared with the free market. Competition, he added, was "the only method which does not require coercive or arbitrary intervention of authority."

In short, central planning favored by socialists not only was evil, but inefficient. He also maintained that a free market, the best and most efficient economic system, could only function in free societies and could never exist in a totalitarian one.

Until 1944, his books, such as "Monetary Theory and the Trade Cycle" and "The Pure Theory of Capital," were contributions to theoretical economics and were written largely for other economists. But "The Road to Serfdom" became a best-seller and raised a storm of controversy in Britain and the United States.

In this country, the book was made into a radio serial, published for the Book-of-the-Month Club and appeared in a condensed edition published by Reader's Digest. It also was syndicated in 10 parts by the King Features news syndicate.

Dr. Hayek was attacked by a great many economists, some of whom wrote books to answer his. In the House of Commons, Labor leader Clement Atlee scorned Prime Minister Winston Churchill's 1945 parliamentary campaign speeches as "a secondhand version of the academic views" of Dr. Hayek.

For the next 30 years, Dr. Hayek continued his attack on Keynesian economics, continuing to churn out research while teaching. He wrote more than 50 books and nearly 200 technical papers. But, despite a Nobel Prize, most believed he was getting the worst of the battle for the minds of his fellow economists.

But his theories seemed by some to receive vindication in the 1980s. Communist states of Europe, with their totalitarian governments and "planned" economies, were falling. And conservative politicians such as Ronald Reagan and Margaret Thatcher, who employed economists and policies favored by Dr. Hayek, seemed invincible at the polls.

Thatcher often cited him as an intellectual mentor and told fellow MP's, voters, foreign leaders and reporters to study the work of Dr. Hayek for the answer to economic questions. After becoming prime minister in 1979, Thatcher followed his advice on curtailing the power of labor unions.

Last year, President Bush presented him with the Medal of Freedom, calling him "one of the great thinkers of our age who explored the promise and contours of liberty" and saying he "revolutionized the world's intellectual and political life."

He was born Friedrich August von Hayek (he dropped the "von") on May 8, 1899, in Vienna. He served as an artillery officer on the Italian front during World War I. After the war, he entered the University of Vienna, from which he received doctorates in law and political science. He received a third doctorate, in economics from the University of London.

He worked for the Austrian civil service and taught at the University of Vienna until moving to Britain and becoming an economics professor at the London School of Economics, where he taught from 1931 to 1950. For the next 12 years, he taught at the University of Chicago, then at the University of Freiburg, from 1962 to 1968, then the University of Salzburg until 1977.

Dr. Hayek's major later works included the three-volume "Law, Legislation, and Liberty," published between 1973 and 1979.

His first marriage, to the former Helen von Fritsch, ended in divorce.

Survivors include his wife, the former Helene Bitterlich, of Freiburg, and two children by his first marriage.

[From the Wall Street Journal, Mar. 25, 1992]

HAYEK'S VICTORY

That fortune favors the brave was surely true for Friedrich A. Hayek, economist, political philosopher and friend of freedom. He lived to see his ideas vindicated by history and honored by his opponents.

For the last 45 years of his life, Hayek dedicated himself to the proposition that capitalism is morally superior to socialism; this is so, he argued, because economic and political liberty are inseparable.

That Hayek was right is no longer in doubt. But while his free-market ideas still come in for derision from intellectuals and journalists in Europe and the United States, they are pursued ardently by those who have actually traveled the road to serfdom. "If the ideologists of socialism would single out the one book that ought to be * * * strictly forbidden," says Czechoslovakia's minister of privatization, Tomas Jezek, "they would surely point to 'The Road to Serfdom.'"

In Hungary and Poland, there are Hayek reading groups to share copies of his books; in Russia, economist Vitaly Naishul boasted in December, "We've moved from an economic system that only a Leninist could love to one that Hayek should approve of."

Hayek's insight now bears the mark of conventional wisdom among the entrepreneurial classes, but that was certainly not the case in 1944, when he published "The Road to Serfdom." Here he argued, at a time when "Uncle Joe" Stalin was widely admired and many intellectuals thought socialism the wave of the future, that command economies were doomed to fail. Worse, they would kill freedom as well as prosperity.

Such forthright views embarrassed colleagues who were certain that a world defined by economists would be egalitarian, prosperous, clever, orderly and probably favored with better weather. In ironic deference to them, he dedicated the "The Road to Serfdom" to "The Socialists of All Parties."

Hayek's vision won the day because it was essentially humane; he believed in the central value of individual liberty against the power of the state. Many of his counterparts saw socialism as a kind of vanguard economics leading the ignorant masses toward the promised land of equality. Keynes wrote to Hayek that central planning could work as long as "those carrying it out are rightly orientated in their own minds and hearts to the moral issue." Alas.

Hayek believed, as time has proved, that the average Tomas, Dinh and Hari preferred liberty to an egalitarian poverty. Where the left sees shantytowns outside Mexico City as proof of the need for a population-control program, Hayek saw families making a responsible economic decision based on profound local knowledge. In the city, the migrants "learn to adapt, often very quickly, and improve their lot. Not that they have an easy time of it," he wrote in The Wall Street Journal in 1988. But "ambition does better than charity could ever do."

It's a far cry from Keynes's aristocracy of planners, and even further from the socialist kleptocracy that beggared Eastern Europe. We suspect that the planners, however benign in their modern incarnations, will always be with us. At least one candidate now running for the U.S. presidency is saying that the country suffers for want of a national economic policy, a national energy policy and a national education policy. The good news is that the writings which Friedrich Hayek left behind make it impossible for an informed electorate to claim ignorance of the perils.

Mr. SYMMS. Mr. President, I hope my colleagues will read "Hayek's Victory," the editorial, and think a little bit about what it is we are doing here—when here was a man who was born in Austria, believed in freedom, did enormous research, published 500 works, was demonstrated and proven to be correct, was read by people all over the world, and was the basis of what happened in Great Britain and the United States in the revival of our economic strength.

I hear my colleagues from the other side of the aisle bashing what happened during the eighties. They always forget to mention the fact that when we had the Democrats in charge of both the White House and in charge of the Congress, we had double-digit inflation, double-digit interest rates, and massive problems of unemployment. We had chaos.

By just doing a little bit to recognize what freedom, capitalism and a free market system will do, by giving a little bit of incentives to people—what happened was a we built 20 million new jobs during the eighties. We had the longest period of sustained growth. We did more for poor people, than in any other time in our history.

What really appalls me is to hear Senator after Senator come to the floor and talk about how all of the tax breaks went to the rich. Today, the top 20 percent of the income earners in the United States pay 75 percent of all Federal income taxes. That is way up from what it was when President Carter was in office and the Democrats controlled both the House and the Senate, and the White House.

So I do not know why we are so afraid of success and so afraid of encouraging people to work, save, and invest, when it is proven that it works. Von Hayek talked about it, and he proved it. It was demonstrably proven by the people of the world with decisions they made to throw out the Communist command-and-control economy and replace it with democratic capitalism.

Mr. President, I think it would be a tragic mistake for Congress to adopt this bill. As a matter of fact, Mr. President, as a member of the Budget Committee, and a member who has been on that committee for 12 years, I think that this bill which the distinguished chairman brings to the floor is one of the best arguments to do away with the Budget Committee I have seen. We have not had a hearing on this bill. We have not discussed it or brought the budget up in committee. No one has had a chance in the Budget Committee to talk about these things. We have a bill, and we bring it to the floor—bypassing the committees—and we are going to break down the firewalls?

Where is the budget? I hear everybody criticizing President Bush. Where is the budget from the Senate Budget Committee? I say it is not here. We are not talking about it. And my view of this is, Mr. President: If they had the votes, we would have already voted on this. This bill is not going anywhere, nor should it.

Mr. President, I thank my colleagues for the time.

I yield the floor.

Mr. WOFFORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. WOFFORD. Mr. President, I am glad that I agree with the Senator from Idaho on at least three issues. One, that we should reread Von Hayek's Road to Serfdom, which instructed and challenged me 45 years ago. Second, that this is a debate of something vital to the future of our country. Third, that we probably should cut the budget of Congress and the administrative budgets of all Federal agencies.

But this is not a debate about budget cuts in particular agencies or in military savings. It is about whether there should be a wall that prevents us from making the right choices about how to use whatever those savings are. And I want to say that there is a wall standing over there behind the Senator from Idaho. It is a wall between our past and our future.

I rise, as a cosponsor of this bill, to salute the Senator from Tennessee for his leadership in bringing about this action to try, to the best of our ability, to bring down that wall that prevents us from investing military savings in the domestic needs of this country.

"Something there is that does not like a wall." That is Robert Frost. I recall that other line: "Before I built a wall, I asked to know what I was walling in and walling out."

Well, let me say a few things about what we are walling in and walling out. This budget wall walls us in with our cold war past and walls us out from the new opportunities that are opening before us.

Since that budget wall was erected in 1990, the world turned upside down. The Soviet Union has unraveled. The adversary against which we poured trillions of dollars and maintained one of the largest standing military forces in the history of the world is no more. No other such threat to our survival is on the horizon. So, as the world is turned upside down, we have an historic opportunity to turn our national priorities right side up. But we cannot even turn this administration around to look at the new realities of this new world.

Since that budget agreement, we have been given this opportunity now to turn our resources and our energy toward building our economic strength and human capacities. Then we will build the kind of America which can carry out our responsibilities in this postwar world.

John Kennedy said, 30 years ago, that we cannot be strong abroad if we are weak at home. President Kennedy understood, as George Bush does not understand, that our citizens will find it difficult to support the extension of American ideals, the extension of a helping hand to the lands of the former Soviet Union, the extension of democracy to others across the globe if they feel cheated out of the American dream themselves here at home. To be strong at home, we need now to invest in our schools and our workers, in our health care and in our transportation systems, in building the kind of American economy that allows us to be strong both at home and abroad.

Last week, I was with the former Director of the CIA, William Colby, a man who has devoted his whole life to the security of this country. I heard him define our national security in terms of these new realities of a world in which the Soviet Union is no longer the central threat. National security, he said, is now, above all, the security that comes from a strong economy, from safe streets, from good schools, from our health and productivity as a Nation. Security now comes not so much from military might as from economic strength, not just making missiles with smart bombs, but training workers with smart minds.

Of course, it is true that there is still danger and instability in the world. We will certainly need an efficient, mobile, flexible armed force that is equal to any test. But we must also recognize, as the President does, that large savings in military spending are now possible. We may disagree on how large those savings can safely be, but that is not the question today. The question today is whether we let that wall stand, this wall that prevents the investment of any of these savings in the conversion from a military to a peacetime economy, in job training, education, transportation, health care, housing, and the other pressing needs of American communities.

This is the kind of public investment in which we have been falling so far behind our competitors. It is the kind of public investment that is essential for private enterprise to prosper. And I think Friedrich von Hayek would understand that.

But, unfortunately, this administration does no understand. It has already signalled its unwillingness to seize the day and respond to a new and very different world. The President's call of the week was "do nothing."

Mr. President, I urge my colleagues on both sides of the aisle to reject this administration's policy of doing nothing to invest in America again. We can do something to get America moving again. We can declare our new priorities in this new world. We can bring homeward, as Lincoln put it, "the better angels of our nature." We can respond to the challenges of America and its future with the same energy and commitment, the same will and resources we are so willing to apply to the challenges we faced in the last 40 years of the cold war.

The people of Berlin tore down their wall to mark the end of the era of Soviet oppression. Bringing down this budgetary wall is an American way of marking the new era and taking a step forward toward a better future for every American.

Thank you, Mr. President.

Mr. DURENBERGER. Mr. President, it took more than 4 months back in 1990 to hammer out a bipartisan consensus on a 5-year budget agreement. I must say I have heard nothing in the last 4 hours that convinces me that while it was not the most enjoyable thing to watch it probably was one of the wiser things that bipartisanship produced. One of the pillars of that agreement was that spending reductions in one category such as national defense could not be transferred to another category such as domestic discretionary spending.

Why did we create these fire walls in spending categories? There are probably a variety of reasons, but the one that seems to have the greatest amount of consensus, if we realized savings in one category would be achieved we had to make a commitment to each other and to the American people to use those savings to reduce the deficit.

Now, less than 2 years later, we are confronted with a variety of our colleagues who want to abandon that effort, reduce the deficit and instead propose allowing a transfer of the so-called peace dividend into domestic spending.

Mr. President, I rise to say the obvious, and that is we are bankrupting our Nation, literally bankrupting our children and grandchildren with our never-ending appetite to spend and spend money that just isn't there. The reality is, and we all know it, that if we eliminated—and I repeat eliminated—all spending on all national defense in the next fiscal year, we would not save a single penny of additional revenue available for domestic spending. Not a single penny.

Figures do not lie. These are the figures. In fiscal year 1993, the President plans to spend $291 billion on all national defense. If we eliminate all the personnel in the Army, Navy, all aircraft, nuclear weapons and everything else that make up the defense budget, Federal spending would in theory be reduced by $291 billion, but the Federal Government would still be in the debt.

Next year's projected deficit is $352 billion. Even if eliminated national defense, something nobody would suggest, we would still need to borrow $63 billion to cover the deficit. So where is the additional money for domestic spending going to come from? From more debt. That means from our children and from our grandchildren.

Mr. President, I have listened to the debate this afternoon and I am reminded that during the course of the debate I have listened to all the discussion about all the money that would be available for education and for health care and for infrastructure building and a variety of these purposes, if only we could break down part of the firewall and transfer the money to these needs. And it reminds me of the debate that is taking place on national health policy and taking place in my own home State of Minnesota right now in terms of trying to get the universal coverage, of insurance coverage for everybody in this country so everyone might have equal financial access to health care.

When the proponents of comprehensive plans for universal coverage are asked how they are going to pay for it, they say they are going to discipline the system with cost containment and have a budgeted approach to this, only spend $800 billion, something like that on health care. We ask them how they are going to restrain an engine increasing by $100 billion a year.

They come up with relatively easy answers that you can do it by getting rid of unnecessary procedures, or you can do it by cleaning up the administrative overhead. And they have all kinds of presumptions about what is wrong with the system and all kinds of ways in which to find some saving that somehow or other will satisfy the need to hold the deficit in check, holding the spending in check, but at the same time satisfy all these needs. I was reminded of that as I listened to the debate.

The logic is we have got only so much money we are going to spend, let us spend some of that in some other category, and we literally will not increase the deficit in any way.

I must say Mr. President, I am just having a great deal of difficulty with the logic because I have been here since 1978, I have watched the debt grow from $900 billion or $800 billion the year I got here to $4 trillion today.

Mr. President, like you and others, I have watched during the past week all education folks come from my home State, the people who have really tough jobs, and schools dealing with 4-year-olds, 5-year-olds, 6-year-olds, 8-year-olds who are not even ready for school in the morning, to say nothing of the beginning of the year.

I have listened to them and I share their concern and I have a great deal of sympathy for them. But I remind them of the fact that this year alone we are going to spend 10 times as much on interest on the national debt as we spend in all of the educational accounts at the Federal level. Ten times as much, just on interest on that $4 trillion debt.

So, Mr. President, I cannot commit myself to another $408 billion. I cannot commit myself to another $362 billion. I was here in 1981 when the defense buildup began. No President, President Reagan, no President, President Bush, no Secretary of Defense, Secretary Weinberger, came to us and asked us to increase the taxes so we could finance that. We financed the whole thing on debt. We financed the whole thing on our children and grandchildren, and that is the notion of national security is to preserve our posterity.

Well, to the degree that our needs change, I am not going to see that. I am going to see, and I intend to see with my vote, that their needs are met by deficit reduction.

So, Mr. President, this is not a debate about transferring defense saving to domestic saving. It is a debate about transferring money from children from the future, to pay for today's consumption. At least with this minimal fiscal discipline in place, we know any reduction in defense spending will be used to control the cancer that is eating away at national health. The world changed. The Soviet Union no longer exists. The Berlin Wall no longer exists except in little chunks in peoples' libraries. Our defense needs, our force structure, our weapons priorities have all shifted. Yes we should reduce defense spending further. The Senator from Pennsylvania is right, our greatest national security in the future is our economic security.

There is no question in mind of this Senator that that means our priorities are to reduce the national debt.

The deficit is $400 billion, 6.8 percent of GNP or gross domestic product. And you add all the interest related to the trust fund surplus, that debt service this year alone accounts for more than $316 billion. That is more money than we ever spent on defense in a single year during the height of the buildup. That is more than spent to run the entire U.S. Government in 1984.

So, Mr. President, I hear a great deal about investing for the future, investing in jobs, health and education, and everyone has an excellent idea. Put another way, what is being proposed here today is not about investing in the future, it is simply borrowing for the future. The first responsibility of leadership is to define reality in 1992 to this. It is that we need to lower the deficit, raise people's confidence that somebody is taking responsibility for their future.

Lifting the firewall guarantees a raid on our kid's pocketbook, so let us get serious once and for all. Let us make a commitment to wipe out the $4 trillion debt before the end of the century.

Mr. President, we built a firewall to prevent destruction from spreading from one area of our life to another. Take down the wall, and our lack of courage and responsibility destroys our children's future.

So I urge my colleagues to vote against the motion to proceed.

The PRESIDING OFFICER. The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the cloture vote scheduled to occur tomorrow 2 hours after resuming consideration of the motion to proceed to S. 1696, the Montana Wilderness bill, be vitiated; that the Senate proceed to the consideration of the bill at 11:30 a.m.; that there be 1 hour of debate on the bill, equally divided and controlled between Senators JOHNSTON and LEAHY; that no amendments, other than the committee-reported substitute be in order; that at the conclusion or yielding back of time, the Senate proceed to vote on the substitute amendment to be followed immediately by a third reading and final passage of the bill, with each of the above steps occurring without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that it be in order to request the yeas and nays on final passage of the bill at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues for their cooperation.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

APPROPRIATIONS CATEGORY REFORM ACT

MOTION TO PROCEED

The Senate continued with the consideration of the motion.

Mr. CHAFEE. Mr. President, first of all, I wish to commend my distinguished colleague from Minnesota for a very, very thoughtful speech on this subject.

I must say, Mr. President, I find it really sad that we are even debating this measure. Indeed, I find it incomprehensible.

What we are talking about here, Mr. President, is not about cutting defense. That does not have anything to do with the subject before us. There are going to be cuts in defense. The question is, what do we do with the cuts that are made in defense?

There is some suggestion and the term is tossed around here that this is a peace dividend, as though somehow we saved money and now it is available for us to spend elsewhere. The truth of the matter, Mr. President, is that all this money is borrowed. Every single nickel that we spend on defense is borrowed, and then some. As has been pointed out, you can wipe out the entire defense budget, get rid of every soldier, sailor, marine, airman, ship, aircraft, tank, rifle, and spend not a nickel, and this Government would still be borrowing money. To put it in other terms, Mr. President, the Government of the United States, for every dollar we are now spending, is borrowing 25 cents.

And so the question is: When we have a chance to reduce expenditures, what do we do with that money? The Senator from Tennessee is saying take that money and put it over and spend it. Whereas those on this side are——

Mr. SASSER. Will the Senator yield on that point?

Mr. CHAFEE. Not at this time.

Mr. SASSER. The Senator referred to the Senator from Tennessee, and I want to ask the Senator from Rhode Island if he will yield for a point of clarification.

Mr. CHAFEE. I am glad to yield, if it is not too long.

Mr. SASSER. Mr. President, is the Senator from Rhode Island aware that what this legislation does is take down the wall between defense spending and discretionary spending? The decision will be made later as to whether or not transfers will be made from domestic spending to defense spending or, conversely, whether transfers might be made from defense spending to domestic spending. The Senator from Tennessee is not advocating with this legislation that transfers be made. That is a decision that will be made by the appropriate committees of the U.S. Senate and by the body as a whole after proper debate at a later date.

(Mr. BRYAN assumed the chair.)

Mr. CHAFEE. Will the Senator from Tennessee, since he is on his feet, respond to a question? Will the Senator from Tennessee acknowledge that, absent this measure which he is fostering, those reductions in defense spending would go to reduce the national deficit? Is that correct or wrong?

Mr. SASSER. I think that, yes, that under the present agreement, the present Budget Enforcement Act, reductions in defense spending will return to the Treasury. But as a matter of fact, and as a matter of pragmatic authority, what has been my experience with the appropriate committees dealing with defense matters here, whatever the cap is, is there a tendency, a strong tendency, to spend to that level.

Let me give the Senator from Rhode Island an example. I sat in the defense appropriations subcommittee about, I guess it was, 3 or 4 years ago, when we had the first budget agreement with the then new Bush administration. So we apportioned out all the money. And then somebody said: "Well, wait a minute, we have about 2 billion dollars' worth of budget authority here. What are you going to do with that?" So there was sort of a silence. And then someone said: "Well, let us build a new aircraft carrier and name it after Senator Stennis." And that, I say to my distinguished friend from Rhode Island, is how we embarked on the program of building a new aircraft carrier, because the money just happened to be in the till.

So the Senator is right. And I want to say the Senator from Rhode Island is correct, that reductions in defense spending particularly ought to go to deficit reductions under the present Budget Endorsement Act.

Mr. CHAFEE. And would the Senator from Tennessee furthermore confirm the point that was made several times on this floor this evening, that if we eliminated every nickel that was spent on defense and made the total appropriation for defense zero—zero—that the U.S. Government would still be borrowing money to balance its budget?

Mr. SASSER. Well, no question, if by some wave of the wand you could reduce the defense appropriations bill to zero and you applied all that money to the deficit, we would still have a substantial deficit. In fact, if you reduce the defense appropriation bill to zero, you might find that you would worsen the deficit considerably because of decreased economic activity and probably end up pushing ourselves off into a very severe recession or depression.

Mr. CHAFEE. Well, the point I am making is that this country is spending $400 billion that it does not have, that it is borrowing, in order to fund not only defense, which is say $300 billion, but other programs as well. In other words, the point I am making is that we have a long way to go before we are even close to balancing this budget. And to term, as some do, any savings we make in defense as a peace dividend is violating the Truth in Labeling Act. Because the facts are, it is no dividend. It is just reducing the amount we are borrowing from our children.

Mr. President, we really have a tragedy here, in my judgment. I have looked over the list of those who are sponsoring this legislation, and on this list I find many for whom I have a great deal of respect.

But what they are saying, in effect, is, no, no, do not take those savings in defense and allocate them to reducing the deficit but instead put them up for grabs before the appropriate committee; namely, the Appropriations Committee. Now, I do not think anybody in this Chamber believes that any of that money is going to survive. Indeed, the distinguished chairman of the committee has said publicly that he believes these sums should go toward infrastructure improvements, welfare programs, education, and hundreds of things that we all believe this country needs desperately.

But the question, Mr. President, is, are we going to continue on this reckless course, a course that if we keep it up is going go reduce this Nation to a Third World country? The alarm has been sounded, and I wish more of those on the other side would respond to the alarm and do something about these deficits.

Here is a chance. Do not break down this wall.

I heard a very fine speech from the distinguished Senator from Pennsylvania talking about the Berlin Wall came down, now bring this wall down. Mr. President, I think it is the last thing we ought to do is to bring this wall down. If we want to cut defense, fine. Let us go ahead and cut defense. But every nickel that we cut defense, let us have it go toward reducing this horrible deficit.

Mr. President, there is talk about caring about the future of our country, doing something about the things that are going to make this a stronger Nation. The best thing we can do for this country—and I feel this very deeply—the best thing we can do for this country on the domestic side is to reduce these horrible deficits.

We are on a wild careening path—$400 billion. Mr. President, I am no octogenarian but I can remember when the budget of the United States first went through the $100 billion total expenditures—$100 billion. And now we have a deficit of $400 billion.

Now who is going to pay this? Well, blithely, we say run up the deficit, don't have this defense money go that direction, and just let our children pay for it. And the result of this reckless path we are on, Mr. President, is that the interest portion of our budget is now the highest single item, $300 billion a year. And not a nickel of that for principal. That is solely for interest.

So, I do hope my colleagues will respond to the urgent pleas that have been made on this side. Do not tear down this wall. Let us assure everybody, and particularly our children and grandchildren, that we are doing what we can to see that these deficits are reduced. If we cut defense—whatever the amount is, and we will debate that, whether it is $50 billion or $90 billion, whatever the sum—let us have it all go to reduce this horrible deficit which is going to so dog our children and grandchildren in the future.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Arkansas [Mr. BUMPERS] is recognized.

Mr. BUMPERS. Mr. President, before the Senator from Rhode Island leaves and before I make a very short statement on this issue, I wonder if the Senator from Rhode Island, who has been most eloquent about the deficit, would share with me how he voted on my amendment to eliminate the space station last year, an amendment which would have saved between 113 and 200 billion dollars over the next 23 years?

Mr. CHAFEE. I am not sure how I did vote in that. From the fact that he has asked the question, I suppose my colleague knows how I voted.

Mr. BUMPERS. I do not know. I think I got three Republican votes.

Mr. CHAFEE. One of them might have been mine. I think the Senator from Arkansas will testify that, on this side of the aisle, I have been one of the biggest budget cutters there is. I think I joined with the Senator from Arkansas time and time again in voting, for example, about the SDI program and, indeed, we have made progress. The Senator from Arkansas and I were the prime leaders about one of the most ridiculous spending items that came before this body as he well knows, the recommissioning of 30-year-old battleships, a fight in which we went after battleship No. 1 and lost; went after battleship No. 2 and lost. I do not think we got more than 35 votes at our high watermark.

Mr. BUMPERS. The Senator hit it right on the nose.

Mr. CHAFEE. If I do recall, the distinguished Senator from Arkansas will corroborate this, they recommissioned these foolish battleships at a tremendous cost and soon thereafter decomissioned them.

Mr. BUMPERS. They are either all in mothballs or about to be in mothballs, which again shows the vision and the wisdom of the Senator from Rhode Island and the Senator from Arkansas.

Mr. CHAFEE. That is a sentiment I will heartily agree with.

Mr. BUMPERS. I would say the question was not asked pejoratively. But I want to say to the Senator from Rhode Island and the other Senators on the floor, they are going to get a chance to revisit every one of those things this year—the space station, the superconducting super collider, SDI, the intelligence program. "We are spending $30 billion a year," so the New York Times says, "on intelligence," the lion's share of which is going to spy on Russia, which has applied for admission to NATO. You think about that one for awhile.

When it comes to the deficit and doing something about it, I believe in really doing something about it.

I think the most defining moment I ever had in the Senate was in 1981 when I was 1 of 11 Senators who voted against that tax cut. That was the genesis of where we are right now. But I do not want to revisit all of that. I want to assure everybody that when they come over here and wail about the deficit, they are going to have opportunity after opportunity to do something about it, because this Senator is going to give them that opportunity.

Mr. President, one other thing before the Senator from Rhode Island leaves the floor. He asked the Senator from Tennessee, "If we eliminated all defense spending, would we still have a deficit?" The obvious answer to that is yes, because defense spending is $285 billion and the deficit is $400 billion.

If you could wave a magic wand and do that, Mr. President, obviously, we would still have a $115 billion deficit, but that certainly is a lot better than $400 billion. But nobody is going to suggest that.

What we have to do is come up with a realistic long-term plan to reduce the deficit without throwing the economy into a further tailspin at the same time. It is not easily done. But the point I want to make is this: You can take seven programs—listen carefully to this—here they are: Defense, Social Security, Medicare, Medicaid, interest on the debt, veterans' pensions, and Civil Service pensions. Just take those seven programs. There are roughly about 500 spending programs in the Federal Government, as I recall. Just take those seven and totally wipe out all the other 493 spending programs. And you will still have a deficit. That is how bad it is.

People sit around the coffee shop and say why do you not cut welfare? Or why do you not cut Medicaid? Nobody on the Senate floor ever proposes cutting or eliminating a single one of the seven things. Are you going to vote to cut Civil Service pensions? Are you going to vote to cut Medicare and Social Security? The obvious answer is no. But if you just fund those seven programs—and that is all—you would still have a deficit.

Mr. CHAFEE. Could I make one point with the Senator?

Mr. BUMPERS. Yes, of course.

Mr. CHAFEE. I just want to say the Senator from Arkansas has put his finger right on the very, very politically sensitive programs that are there. Sometimes they are called entitlements. And the fact of the matter is that unless people from this side and people from that side get together with the administration and say somehow we are going to wrestle with these programs and get them under control, this country is never going to straighten itself out. And we will get in worse and worse condition.

I personally believe—and I would be interested if the Senator from Arkansas confirms this—that one of the reasons this recession is so difficult and that we are not coming out of it like we have in past recessions is because of the overhang of the Federal debt; not only the deficit which we are running every year, but the debt that is overhanging this Nation. I believe that has changed the equation from past situations.

The point is that unless we get control of this situation, it is going to get worse and worse in the future. The Senator from Arkansas has just pointed out, he discussed seven programs.

Mr. BUMPERS. Seven programs.

Mr. CHAFEE. He is absolutely right.

Mr. BUMPERS. Incidentally, I say to my colleague, up until this year, defense was one of those sacred cows. Anybody who talked about cutting defense could face those 30-second spots when he ran for reelection about how he was soft on defense. This is the first time you can talk sensibly about defense without being threatened with the loss of your seat.

Mr. CHAFEE. I say this, also: This is politically risky territory as every single one of us knows. But the question is, are we going to be able to do it? I certainly hope we can. I have previously thought the most nagging domestic problem in the balance of this decade was health care. But now I have come to believe it is these deficits.

Mr. BUMPERS. Mr. President, has my colleague noticed how people around here talk about how they are for national health insurance but when you ask them how they are going to pay for it, they fall strangely silent? It is because everybody would like to have national health care but nobody wants to tell the people of this country that it is very expensive and it is going to cost some money.

Mr. President, I thank the Senator from Rhode Island for staying for this short colloquy. I thought it was interesting and edifying.

I might say one other thing in his presence. I strongly believe—I am not asking the Senator to comment on this—the President vetoed the bill we passed here last week and he vetoed it because there was a tax increase in it. I do not think anybody would argue with that. He vetoed the bill because there was a $12 billion annual tax increase to be paid by the wealthiest 1 percent of the people in this country.

Somebody said, well, that is class warfare. In a sense, it is class warfare because for the past 10 years, the top 20 percent, especially the top 1 percent, have done very, very well. The middle 67 million people have done very, very badly.

Here is my point. I think we ought to pass the same bill again and send it to the President and say, Mr. President, you did not favor that middle-income tax cut for the 67 million people in the middle. You did not favor that. We are sending you one where the entire $12 billion goes on the deficit.

I do not mind telling you I was not very enthusiastic about that middle-income tax cut. I made no bones about that. I voted for it in the interests of fairness. I just did not see how I could not vote for it because that middle class has lost ground in the last 12 years. But I think we ought to send it to the President and say put every dime of it on deficit reduction. He may veto it. But I would also up the ante on that one.

I would say to him, Mr. President, if you will sign this bill to cut the deficit by $12 billion, we will match you, dollar for dollar in spending cuts on the deficit. Do not cut the deficit $12 billion, cut it $25 billion.

That is when I will be coming with my amendments to cut funding for the space station and Super Collider and all the rest of it. I promise my colleague, he and I together in 2 hours time can find $12 to $20 billion dollars in spending cuts in that budget.

Somebody said, big deal, $400 billion deficit and you are going to cut it by $2 billion? One of the reasons we have a $400 billion deficit is because we have that kind of mentality.

I will tell you an interesting story. I have not told this story, have not issued a press release on it, but it just goes to something I was pleased about.

Two weeks ago, a good friend of mine who is a roofer called and said "Dale, GSA wants to put a new roof on the Ozark National Forest Headquarters in Russellville, AR." He said, "I went up there and was going to bid on it." "It was going to cost $250,000 to $300,000. I looked at it and there was a beautiful tile roof. I looked it over and concluded that 100 new tiles would make that roof like new." So I called the GSA in Dallas or Fort Worth, wherever they are. I said, "Why do you want to tear this beautiful tile roof off, tear the deck off and put shingles on it?"

"Well, a tile fell off last week and almost hit a woman on the head. So we decided we don't want a lawsuit and so will put a new roof on it." I said, "You can put tile catchers on a roof like that for little or nothing." He said, "Why don't you call this architect up in Fort Smith."

I called the guy who is the maintenance building grounds supervisor at Arkansas Tech University. They have three tile roofs out there. I did all of that. And they both confirmed what he had just said. The fellow who was the maintenance building grounds supervisor at Arkansas Tech University said he disagreed, it might take 200 tiles. He said, "Since you called me, I called and the tile is still being made out in Indiana. You can buy 100 of them for $12.50 or you can buy 500 of them for $8 each."

He said, "You can repair that roof for something under $10,000." So I wrote the GSA a letter, a long letter. I spent all day at this. You know sometimes our constituents wonder what we do. I spent all day at this. I wrote the GSA and I said this is the silliest thing I have ever heard of, and I am sending a copy of this letter to the chairman of the Governmental Affairs Committee and Senator HOLLINGS who is chairman of the appropriate appropriations subcommittee, and so on. Do you know what? Within a week that was all scrapped and they are going to repair the roof.

The reason I took the time to do that is because I do not want to fall into the mentality of saying $250,000 saved does not amount to anything, but the reason we have a $400 billion deficit is because people have the idea around here that if you cannot cut it all at one time, it is not worth messing with.

Mr. President, I intend to support the pending bill by the distinguished Senator from Tennessee to take down the walls. I want most of the cuts in defense spending to go on the deficit. Senator NUNN says that the $50 billion cut in defense spending is not enough. He says it ought to be $85 billion. Chairman ASPIN, chairman of the Armed Services Committee in the House of Representatives, says we ought to cut $100 billion over the next 5 years.

I do not know who is right, but it is going to be more than the $50 billion the President is proposing. It is probably going to be closer to Senator NUNN's proposal of $85 billion over the next 5 years.

If you want to put every dime of it on the deficit, that is fine with me. But when you consider the fact that 20 percent of the children in this country are in poverty, when you consider that there are 10 million people out of work waiting for Congress to pass a program that will stimulate the economy and put them back to work it just may be that some of the additional 5 to 10 billion dollars that will be taken out of defense next year should go to vital domestic programs. I would like to see most of it go on the deficit because that is the thing that threatens the economic viability of this country—but there is not any point in leaving that wall up as the budgeters did back in 1990.

I will tell you something, Mr. President, that is not meant to denigrate any of my colleagues on either side of the aisle. I believe there is a feeling that if we leave the walls up knowing that any defense cuts must necessarily go on the deficit and cannot be transferred to any domestic use, whether it is education, health care, Head Start, you name it, I think there is a feeling that everybody will lose interest on this side of the aisle. If we cannot take that money and squander it on some domestic program, we just do not care whether we cut defense or not.

I am not just hot to cut defense. I want it cut selectively. I want us to eliminate weapons systems we no longer need, man power we do not any longer need. But it does not make any sense to leave those so-called firewalls up. My votes on defense are going to be the same whether this bill passes or does not pass. If it does not pass, I know every dime of it will go on the deficit. If it does pass, and we see a need, and Lord knows there are plenty of needs in this economy, then we can take at least part of it and put it over on getting this economy rolling again.

Mr. President, do you know how to eliminate the deficit? A vibrant economy. We will never make a dent in the economy as long as we have 10 million people unemployed and growing at 1 percent or less. The key to deficit reduction is to have people working and paying taxes into the U.S. Treasury and corporate profits. Look at the Wall Street Journal; look at where corporate profits are. Take General Motors. The automobile industry alone lost $7 billion last year. Think of it. They are not going to be paying taxes for a long time because they are going to be writing off that loss.

So, Mr. President, this is not something that I am just obsessed with, taking the so-called firewall down so you transfer funds from one area to another, so far as I am concerned every dime of it can go in the deficit. It would be a good place to challenge the President on the tax bill. Say, "Mr. President, if you will sign this bill, that will cut the deficit $12 billion and we will find spending cuts of $12 billion to match it." That is a good challenge to the President. He ought to jump on it like a chicken after a June bug. Mr. President, because we are not going to vote tonight, I have nothing further to say. I see the Senator from Iowa apparently waiting to speak. I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa [Mr. GRASSLEY] is recognized.

Mr. GRASSLEY. Mr. President, I want to add my voice to those who have spoken already against the motion to proceed to the consideration of S. 2399. I also want to use this opportunity to voice my disappointment at seeing the majority party resorting to a roundabout approach in the way that this bill was brought to the floor because obviously it circumvents the Budget Committee. I am a member of that committee, and I would like to have the deliberation of that committee involved in the process before legislation comes to the floor.

I think it is fair to ask, Mr. President, what has become of the budget process? Here we are late at night and yet the Senate Budget Committee has not cast a single vote and has not even begun to consider a budget resolution.

With each passing day, we on that committee move 1 day closer to being discharged of our responsibility for developing a budget resolution and, quite frankly, I am finding it increasingly difficult to convince my constituents and even sometimes myself that the Budget Committee serves a useful purpose.

Of course, I cannot speak for the Members of the majority party on the Budget Committee, but I do not think I am overstepping my bounds in saying that my colleagues and I on the minority are ready to get down to work, have the Budget Committee meet, have us deliberate and by a majority vote get a budget resolution out of that committee for consideration on the floor of the Senate.

More than one Member of the majority party has stood on this floor today to complain that we in the minority are somehow obstructing the process by not allowing this bill to proceed. We are willing to look at this or any other budget-related proposal, but we have a clearly defined procedure by which that is to be accomplished, and that is the work through the Budget Committee.

If the distinguished chairman of the Budget Committee would truly like his measure fairly considered, I respectfully suggest that he dispense with the parliamentary gymnastics and abandon this effort that has been going on today to subvert the committee process. It is totally uncharacteristic of the chairman of the committee. I have worked on that committee with him for 12 years and have found him very cooperative, have found him willing, until now, to have the process work. So I am a little surprised.

We have been all through this winter hearing lots of talk about tough choices which would be waiting for us when Congress returned to work in 1992, and we have been hearing that, to some extent, since we have convened this year.

Unfortunately today, as we face the first and, arguably, the easiest of those choices, we find the majority already caving in to the pressures of the process clearly unprepared, clearly unwilling to deal with those choices, preferring instead to abandon the process that normally we go through in the Budget Committee.

It is no secret that I opposed the adoption of the 1990 Budget Enforcement Act. I did so on the basis of the tax increases which were a part of that package. Still, the Budget Enforcement Act was adopted, and its budget rules then became the law of land. So it is about time that we start playing by the rules that the majority of this body adopted back there in October 1990 rather than rushing out to change those rules each time they do not suit our spending fancy.

It is also no secret that I have long been a watchdog of the Pentagon, seeking to curb wasteful military spending, seeking to achieve greater management efficiency, seeking to reform the acquisition procedures, and generally to ensure that the United States gets the most bang for its military buck.

But as far as I am concerned—and it is one of the major points of this debate—Pentagon spending is not what this debate is all about. At the heart of this debate is just one underlying question: Are we in Congress ever going to get serious about balancing the Federal budget?

I look around, and I sure do not see many signs of a serious approach to deficit reduction from the other side of the aisle of this body. We have heard lots of elaborate numbers quoted on the floor today, and we have heard and read about them through the various media of our country, all people trying to make a case that this program has grown faster than that program or as a percentage of some other abstract measure.

We can use all this mumbo jumbo, but the American people are not buying our statistical doubletalk, for they know and I know the simple truth is that our annual deficits are achieving record levels and our national debt total has become incomprehensible. That is what the people understand, and that is what they expect us to deal with. The simple truth is that our accumulated debt is so great that in the most recently completed fiscal year of 1991, outlays for interest on the public debt exceeded outlays for defense expenditures and accounted for the single largest component of our Federal budget.

Now, just one more time to get that straight. For the first time, in fiscal year 1991, the interest on the national debt became the largest component in the Federal budget. No longer is it defense expenditures. No longer is it Social Security.

It has been suggested to us that somehow, if we will just break down these firewalls, it will have absolutely no impact on our deficit in fiscal year 1993, that we will just be somehow shifting funds from one category to another category, and in this instance it is obviously going to be from defense to a myriad of domestic programs.

But it is not that simple, and this just is not so. What we are going to be doing, if that happens, is piling up annual deficits in the neighborhood of $400 billion so that every dollar that we refuse to save and refuse to apply to deficit reduction does, in fact, increase that deficit.

The majority party has been portraying the budget caps as some sort of divine right to spend. If by some stroke of budgetary restraint Congress spent right up to the caps in each discretionary category and not a dollar beyond, some in this Chamber would contend that we have done nothing to increase the deficit. But that just is not so. For the truth is that current revenue levels, coupled with spending at the discretionary cap levels, will yield hundreds of millions of dollars of new deficit spending and, consequently, new debt. By suggesting that we take down the firewalls, the majority party, I believe, has admitted that it cannot satisfy its desire to spend by simply exhausting every last dollar permitted under the domestic discretionary cap, which, I think, if you look at that budget agreement of 1990, you would find in those caps increases from the previous year for inflation and increases in addition to inflation for new programs, or net increases.

By suggesting that we take down the firewalls, the majority party is admitting that it just does not have the stomach to see a few dollars go unspent, to see reductions in defense expenditures actually reducing that deficit. And those are real reductions in deficit because, when major leaders of both parties of the Congress, both Houses of the Congress agree that we ought to reduce at least by $50 billion—and many agree much more than that—in conjunction with the White House already reaching a conclusion for at least a $50 billion reduction in expenditures for defense, it is going to happen. We are going to spend $50 billion less in defense, and, if we do nothing, that is $50 billion less in the deficit over the next few years. But if these firewalls are down, it is going to be spent and I will bet all of it will be spent over here on the domestic side of that ledger.

In response to the rhetorical question proposed by the Senator from Tennessee, the chairman of the committee—he said this earlier today—I say "No." I guess I do not believe the Senate can be trusted to act wisely this year without the discipline provided by the Budget Enforcement Act. I believe if these firewalls go down, we spend those dollars. If those firewalls stay up, $50 billion less of defense expenditures, $50 billion less of deficit and debt.

I think it is time we stop referring to this proposal as a firewall bill and that we start referring to it by a more appropriate name, the "floodgate" bill because the floodgates will be down and more spending will result. This bill seeks, then, to open the floodgates on a sea of more and newer red ink. Budgets written in red ink have always been the wrong formula for America, and it is the wrong formula this year as well. We should stick by the formula of 1990. Imperfect as it might be, it is still better than the lack of restraint that is going to result from the passage of this proposed legislation.

I yield the floor.

Mr. SASSER. Mr. President, the distinguished Senator from Iowa, Mr. GRASSLEY, has indeed been a stalwart on the Budget Committee and in the U.S. Senate in seeking to impose some type of rational control over defense spending.

He has been a watchdog of the military budget during the years that he served on the Budget Committee and has developed a particular interest, I think, and expertise in trying to bring a more cost efficient means or method to the Pentagon in the way they have managed their business, and in the way they make their purchases.

I want to pay tribute to the Senator from Iowa, this evening on the floor, for his stalwart efforts in that regard.

I might say to my friend that the reason we have chosen to bring this bill to the floor in this manner and not bring it first before the Senate Budget Committee is because to take this, in effect, an amendment to the Budget Enforcement Act to the Budget Committee for direct action would require, after our favorable action on the so-called walls bill, their referring the bill to the Governmental Affairs Committee where it would reside for a period of no less than 30 days where that committee could work its will on it, and amend it in any way that it sought, in any way that it felt was necessary and wise; and then bring the bill to the floor thereafter.

Time being of the essence, it was my view that we ought to resolve this dilemma one way or the other, resolve this dispute one way or the other as quickly as possible so we would know where we were going then when we took up the marking up of the budget resolution in the Budget Committee in a timely fashion.

Frankly, we have delayed for a couple of weeks here waiting for the House of Representatives to act. It is my view that perhaps the House would act. If the House acted unfavorably on amending the Budget Enforcement Act of 1990, there is no reason for the Senate to take it up. If they acted favorably, then of course we would want to move to take it up.

But the House has not acted and they have simply been in limbo there for 2 weeks. It is my view that we ought to go forward here on the floor and let the Senate work its will on this particular piece of legislation so that when we return to the budget resolution we, in the Budget Committee, would know one of two things:

We would know, in domestic discretionary, if we simply mark to the caps, and this would mean a reduction of $6.7 billion below the baseline; we would know that is what we would be required to do if the walls are not taken down. Our only real task then before the Budget Committee would be to determine the magnitude of the reduction in defense spending that we would want to have under the cap; the magnitude of the defense reduction that the committee would vote out in its resolution.

I am hopeful that in the Budget Committee, and when we do get to a resolution the Senate, the Senator from Iowa will act in his characteristic fashion of taking a very hard look at military spending, and working with the chairman and others of a like mind on the committee to try to reduce this spending; and, if the walls are not taken down, allocate these savings purely and solely to deficit reduction.

But we simply are not in the position to know where we go in the Budget Committee until we know how the body feels about whether or not the walls should be taken down a year earlier.

So that is the reason that I brought this bill to the floor to get it acted on expeditiously rather than delaying for another 30 days or 6 weeks as it went through the budget process, then through the Governmental Affairs Committee, then bringing it to the floor where there would be extended debate, time running all the time, which meant our budget resolution would be delayed and we would certainly miss all of our deadlines.

I make that explanation to my friend from Iowa because he is a very conscientious and valuable member of the Budget Committee, and I would not want him to leave this Chamber thinking that the chairman had acted in a duplicitous way to try to avoid bringing this measure before the full Budget Committee.

Mr. GRASSLEY. Mr. President, I thank the chairman of the committee and the manager of this bill for his explanation. I hope I did not infer any bad motives in the process. I question it as a basis of procedure and policy as I did in my remarks.

I want to take this opportunity to thank him for his statements about me.

In addition, I want to say to the chairman that I do expect to be in that group that would be working to cut defense, at least the $50 billion and perhaps more, an amount in my mind uncertain at this point. But I want to say at least that a generally agreed upon figure I will be working to have, but I also will be working to have it be used for deficit reduction.

I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana [Mr. BURNS].

Mr. BURNS. Mr. President, as we draw the debate to a close, I will have more to say on this subject tomorrow. But as I listen to the debate tonight on this issue and the thing about walls, it reminds me of some negotiations we were going through the other day in the business of allocating water. They kept using a figure, a certain figure that was about 2-million-acre feet which was more—actually called wet water—than was flowing down the canal.

We had a hard time in getting the negotiators together and to admit that we had only say 4 million feet rather than 6.

When we get back to reality, and I think that is what this Government has to come back to, is the reality that we only have so many dollars and how we spend those dollars, that is when the ruckus breaks out.

So I will address this tomorrow. I suggest to my colleagues that we look at real figures instead of guessing, that one day we abandon baseline budgeting, and get back into the real world and tell the American people this is how much we have, and this is what we will have to spend and quit borrowing against the future.

So I will have more to say on that tomorrow.

Mr. President, seeing no other Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. AKAKA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

GREEK INDEPENDENCE DAY

Mr. SARBANES. Mr. President, on this day 171 years ago, the Greek people began their arduous struggle to reestablish their independence after nearly four centuries of Turkish Ottoman rule. In the following 8 difficult years, determined Greek patriots fought against tremendous odds to rid themselves of nearly four centuries of tyrannical rule. After nearly a decade of armed struggle, liberty for the Greek homeland was secured and with it came the reaffirmation of individual freedoms which are the heart of Greek tradition and culture.

The struggle for independence captured the imagination of a young republic on the other side of the Atlantic—the United States of America. In 1823, President James Monroe observed:

> The whole civilized world took a deep interest in the heroic struggle of the Greeks which brought to mind both exalted sentiments and the best of feelings.

The struggle for Greek independence provoked sympathy and enthusiasm from Americans of all walks of life. Many volunteers from various localities in America sailed to Greece to join the struggle. State legislatures and town meetings across the Nation passed resolutions in support of the Greek struggle. In the House of Representatives, Congressman Daniel Webster put the Greek case to his colleagues in the 18th Congress when he declared in a floor speech:

> They look to us as the great Republic of the Earth and they ask us by our common faith, whether we can forget that they are now struggling for what we can so ably enjoy.

In many respects, this was a natural reaction to a momentous struggle occurring in the Old World. First, sympathy for the Greek uprising was rooted in our young Nation's own experience in overthrowing foreign domination and establishing a democratic republic. Second, and just as importantly, it was from ancient Greece, the birthplace of democracy, that our forefathers drew the form and substance for our new experience in governance.

Just as the founders of the American Republic had earlier drawn inspiration from the democratic ideals of the ancient Greeks, the Greek patriots drew inspiration as well from the American Revolution. Henry Steele Commager, the noted American historian, has discussed the extent to which the architects of the Revolution and the authors of the Declaration of Independence, the Constitution, and the Bill of Rights were familiar with Plutarch and Thucydides, and with ancient Greek ideas of civil liberty and citizenship. There is, he wrote, a "continuous rain of references" in the debates of the Founding Fathers to the experience of the ancient world, and in the Federalist papers to ancient history.

As Thomas Jefferson observed of himself and his colleagues, "to the ancient Greeks * * * we are all indebted for the light which led ourselves out of Gothic darkness."

Surely our Founding Fathers marveled, as we do today, over the words of Pericles 2,000 years ago, when the Athenian statesman observed that:

> Our Constitution is called a democracy because power is in the hands not of a minority but of the whole people. When it is a question of settling private disputes, everyone is equal before the law; when it is a question of putting one person before another in positions of public responsibility, what counts is not membership of a particular class, but the actual ability which the man possesses.

The ties which binds the two nations and the two peoples were forged through mutual inspiration in the early days of both our republics. For more than 170 years these ties have been reinforced in countless ways. As nations and peoples in World War I, Americans and Greeks were steadfast allies. During the darkest days of World War II, when it seemed inevitable that Hitler and Mussolini's forces would overrun Europe with little resistance, the courageous Greek people defeated Mussolini's army, thus giving the free world its first victory over the Axis powers and effectively delaying their occupation of Greece. Nowhere was the Nazi occupation more brutal than in Greece; and nowhere was the resistance more determined or heroic than in Greece. More than 600,000 Greeks, 9 percent of the entire population of that land, died fighting on the side of the Allies in World War II.

In the postwar period, the commitment of President Harry Truman and the American people helped the people of Greece to turn back a Communist insurgency and to rebuild their country. During Greece's post-World War struggle against communism, President Truman said:

> The valor of Greece * * * convinces me that the Greek people are equal to the task.

Greece continues to be a reliable ally and friends. During Operation Desert Storm, the Greek Government responded in impressive fashion in contributing to the successful efforts of the United States-led coalition forces to reverse Saddam Hussein's invasion and occupation of Kuwait.

Today, Greece stands as the only bulwark of democracy and stability in the Balkans where the dissolution of post-World War II Yugoslavia has led to renewed ethnic and religious turmoil in that region of the world.

President James Monroe, in his 1822 message to the 17th Congress, observed that:

> The mention of Greece fills the mind with the most exalted sentiments and arouses in our bosom the best feelings of which our nature is susceptible.

That sentiment was an expression of admiration for the ancient Greeks who gave to us the concept of governance which our Founding Fathers drew upon so heavily in creating our representative democracy. In celebrating Greek Independence Day we are reaffirming our appreciation for this unique gift given us by the ancient Greeks.

The global community is caught in the midst of impressive change where totalitarian and authoritarian ideologies are being swept aside. Yet, the one enduring idea which has stood the test of time and continues to capture the imagination of people around the world is the democratic ideal. It has stood the test of time because, as Pericles stated more than two millennia ago, democracy confers power on the whole people, not a minority.

APPOINTMENT BY THE REPUBLICAN LEADER

The PRESIDING OFFICER. The Chair has an announcement to make.

The chair, on behalf of the Republican leader, pursuant to Public Law 102-240, appoints Mr. Ralph Stanley, of Virginia, as a member of the Commission to Promote Investment in America's Infrastructure.

ESTABLISHING THE JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES

Mr. AKAKA. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 102, a concurrent resolution establishing the Joint Congressional Committee on Inaugural Ceremonies, submitted earlier today by Senators FORD and STEVENS.

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

The assistant legislative clerk read as follows:

> A concurrent resolution (S. Con. Res. 102) to provide for a Joint Congressional Committee on Inaugural Ceremonies.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FORD. Mr. President, today I am submitting for myself and Mr. STEVENS a concurrent resolution authorizing the rotunda of the U.S. Capitol to be used on January 20, 1993, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States.

The concurrent resolution is identical to the one approved by the Congress in 1988 and is essential in the event circumstances require that the inaugural ceremony be moved indoors. As you will recall, this was the case in 1985 when bitterly cold weather necessitated a last-minute change from the west front inside to the rotunda.

This concurrent resolution will assure that the Joint Congressional Committee on Inaugural Ceremonies has the necessary authority to take similar action in 1983 in the event it is required.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 102) was agreed to, as follows:

S. CON. RES. 102

Resolved by the Senate (the House of Representatives concurring), That a Joint Congressional Committee on Inaugural Ceremonies of three Senators and three Representatives, to be appointed by the President of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President-elect and Vice President-elect of the United States on the 20th day of January 1993.

Mr. AKAKA. Mr. President, I move to reconsider the vote.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING USE OF THE CAPITOL ROTUNDA FOR INAUGURAL ACTIVITIES

Mr. AKAKA. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Concurrent Resolution 103, a concurrent resolution authorizing the use of the Capitol rotunda for inaugural activities, submitted earlier today by Senators FORD and STEVENS.

The PRESIDING OFFICER. The clerk will state the concurrent resolution by title.

The assistant legislative clerk read as follows:

> A concurrent resolution (S. Con. Res. 103) authorizing the rotunda of the United States Capitol to be used on January 20, 1993, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FORD. Mr. President, Senate Concurrent Resolution 102 provides for a Joint Congressional Committee on Inaugural Ceremonies, consisting of three Senators appointed by the President of the Senate, and three Representatives appointed by the Speaker of the House. The joint committee will make the arrangements for the inauguration of the President and Vice President on January 20, 1993. this is the same resolution adopted by the Congress in 1984 and 1988. Senator STEVENS and I are pleased to cosponsor this concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 103) was agreed to; as follows:

S. CON. RES. 103

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the United States Capitol is hereby authorized to be used on January 20, 1993, by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States. Such Committee is authorized to utilize appropriate equipment and the services of appropriate personnel of departments and agencies of the Federal Government, under arrangements between such Committee and the heads of such departments and agencies, in connection with such proceedings and ceremonies.

Mr. AKAKA. Mr. President, I move to reconsider the vote.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PUBLIC HEALTH SERVICE ACT AMENDMENTS

Mr. AKAKA. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1306.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Mr. AKAKA. Mr. President, I move that the Senate disagree with the amendments to the House, agree to the request for a conference, and that the Chair be authorized to appoint conferees on behalf of the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Hawaii.

The motion was agreed to, and the Chair appointed Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. DODD, Mr. HARKIN, Mr. ADAMS, Mr. HATCH, Mr. COATS, Mr. THURMOND, and Mr. DURENBERGER conferees on behalf of the Senate.

The PRESIDING OFFICER. The majority leader is recognized.

APPROPRIATIONS CATEGORY REFORM ACT

MOTION TO PROCEED

CLOTURE MOTION

Mr. MITCHELL. Mr. President, I send a cloture motion to the desk, and I ask unanimous consent that the vote on this cloture motion occur tomorrow, Thursday, at a time to be determined by the majority leader, after consultation with the Republican leader, with the mandatory live quorum being waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the cloture motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to S. 2399, a bill to allow rational choice between defense and domestic discretionary spending:

George Mitchell, Harris Wofford, Paul Sarbanes, Paul Simon, Jim Sasser, Howard Metzenbaum, Bob Graham, John Glenn, Terry Sanford, Timothy E. Wirth, Frank R. Lautenberg, Wendell Ford, Mark Hatfield, Patrick Leahy, Kent Conrad, Jeff Bingaman, Richard H. Bryan.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2834. A communication from the Deputy Assistant Secretary of Defense (Communications, Computers & Logistics), transmitting, pursuant to law, a report about converting the Custodial Services function at USAF Academy, Colorado to performance by contract; to the Committee on Armed Services.

EC-2835. A communication from the Comptroller of the Department of Defense, transmitting, pursuant to law, a report on the Department's Future Years Defense Program (FYDP) and associated Procurement and RDT&E Annexes for the FY 1993 President's Budget; to the Committee on Armed Services.

EC-2836. A communication from the Adminstrator of the Environmental Protection Agency, transmitting, pursuant to law, the National Water Quality Inventory Report for calendar year 1990; to the Committee on Environment and Public Works.

EC-2837. A communication from the President and Chief Executive Officer of the Overseas Private Investment Corporation, transmitting, a draft of proposed legislation to amend the Foreign Assistance Act of 1961 with respect to the activities of the Overseas Private Investment Corporation; to the Committee on Foreign Relations.

EC-2838. A communication from the Director of the United States Information Agency, transmitting, a draft of proposed legislation to amend Section 235 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246) and to amend Section 701 of the United States Information and Educational Exchange Act of 1948, as amended (Public Law 80-402); to the Committee on Foreign Relations.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2055. A bill to amend the Job Training Partnership Act to strengthen the program of employment and training assistance under the Act, and for other purposes (Rept. No. 102-264).

By Mr. RIEGLE, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. 2482. A bill to provide funding for the Resolution Trust Corporation, and for other purposes.

Mr. RIEGLE. Mr. President, yesterday, the Senate Committee on Banking, Housing and Urban Affairs approved additional funding for the Resolution Trust Corporation. Below is a brief summary of the action that was taken by the committee, together with a copy of the bill.

SUMMARY

BACKGROUND

In the 1989 FIRREA legislation, Congress created the Resolution Trust Corporation ("RTC") to protect depositors at failed savings and loans that are taken over by the Government between January 1, 1989, and August 9, 1992 (since amended to September 30, 1993) and to sell the assets that the RTC acquires from failed thrifts.

Congress has authorized RTC funding on 3 prior occasions: $50 billion in August 1989; $30 billion in March 1991; and $25 billion in November 1991.

Originally, the Administration requested Congress provide $50 billion to the RTC to close failed savings and loans. In 1990, it became apparent that the $50 billion would be exhausted long before the RTC completed the program. In March of 1991, Congress authorized an interim $30 billion for the RTC to continue to close failed savings and loans while it studied means of restructuring the RTC to make it more efficient. On November 27, 1991, Congress enacted legislation to eliminate the RTC's dual board structure, establish a presidentially appointed full-time Chief Executive Officer, and provide the RTC with $25 billion to close failed savings and loans. Based on the representations on how long the money would last, the Congress provided that the money was only available until April 1, 1992.

It is now imperative that Congress approve additional funds for the RTC. The RTC has stated that it has stopped marketing its inventory of failed thrifts because it is not sure when after April 1, 1992 it will have the funding necessary to sell or close failed thrifts.

The Administration's official estimate is that, in addition to the $105 billion previously authorized, the RTC will need an additional $55 billion to finish closing thrifts through September 1993. Thus, when it is finished, the total cost of the RTC program may be $160 billion.

The RTC has used these funds to protect 19.3 million accounts in 585 thrifts in 44 states. RTC funding is necessary to fulfill the obligation to protect thrift depositors' savings with the full faith and credit of the United States.

TITLE I

Section 101. Funding.

The funding section has two elements: it lifts the statutory deadline on previously authorized funds; and it provides additional funds.

The RTC has not completed enough transactions and will not be able to spend all of the previously authorized $25 billion before the April 1, 1992 deadline imposed by Congress. To date, the RTC estimates it will use approximately $8 billion of the $25 billion by the April 1, 1992 deadline. This section will lift the April 1, 1992 deadline contained in that legislation and allow the RTC to spend the remainder of the previously authorized funds.

Additionally, this section will provide the RTC with $25 billion in new money that can be used until April 1, 1993. Although the RTC Oversight Board estimates that the RTC will need an additional $55 billion during the life of its program, the RTC CEO testified before the Banking Committee that if the April 1, 1992 funding deadline were lifted and the agency were to receive an additional $25 billion in loss funds, that would be sufficient for the RTC to continue its operations until April 1, 1993. The General Accounting Office has testified before the Banking Committee that the Congress should provide sufficient funding for the RTC until the spring of 1993, and that withholding authorization of part of the final funding provides the Congress with an effective means of retaining oversight of the RTC's operations.

The amount of funding provided by this section is the same level of funding that was approved by the House Banking Committee.

TITLE II

Sections 201-208. Technical corrections.

These sections reflect technical corrections to each of the titles of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991. These changes are noncontroversial and do not make any substantive changes. Instead, these provisions are intended to eliminate errors and correct inconsistencies from the 1991 Act. These sections incorporate all of the changes suggested by the RTC, the Thrift Depositor Protection Oversight Board and the Office of Thrift Supervision.

TITLE III

Section 301. Repeal of Capital Forbearance Provision

The Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 included a provision, section 618, mandating lower capital standards for residential construction loans and for certain types of apartment loans. Section 618 required that loans to a company for the purpose of constructing certain types of residential housing and loans secured by certain types of multi-family housing should be included in the 50% risk weight category for purposes of the risk-based capital standard. All other business loans are in the 100% risk weight category for the purposes of the risk-based capital standard. In lowering the capital standard for these loans, the provision increased the possibility of risk of loss to the deposit insurance funds and violated the international accord on capital standards adopted by the central banks of the major industrial nations (the BASLE accord).

For the record, Office of Thrift Supervision (OTS) Director Ryan specifically requested that the repeal of section 618 be included in the RTC funding measure. The other bank regulators, including the Federal Reserve and the FDIC, have also written letters endorsing the repeal of section 618.

OTS has confirmed that, in general, construction loans to developers building homes were 15 times as risky as regular home mortgage loans. Loans for apartments and condominiums had even higher loss rates. However, repealing section 618 would not prevent the regulators from drafting their own plan to adjust capital standards. For example, the OTS has proposed a regulation that lowers the capital standard on construction loans for certain pre-sold homes that meet defined safety and soundness criteria. Indeed, section 313 of the bill encourages the regulators to review their current risk-basked standards.

The Senate has previously adopted a repeal of section 618.

Section 302. Definition of property sold by United States agency.

This provision clarifies that a special Alaskan corporation established by the Secretary of the Treasury would have the legal authority to purchase intangible assets from the RTC and the FDIC in addition to its legal authority to purchase real property from the RTC or the FDIC.

This provision was passed as a floor amendment offered by Senator Murkowski in connection with the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991. This provision was passed at that time as a package with what now stands as section 301 of this bill. The House has not acted on either element of that legislative package or on the combination. Inclusion of these provisions in the bill is intended to bring closure on these issues.

Section 303. Continuation of health plan coverage.

This section clarifies the requirement enacted by Congress last year that the FDIC and the RTC provide for the continuation of health plan coverage for employees of failed banks and thrifts. Notwithstanding that last year's requirement was intended to require the RTC and the FDIC to assure such continued coverage, the RTC interpreted the provision as not applying to the agency and the FDIC raised serious concerns about its ability to comply with the requirement.

Section 303 clarifies that the RTC and the FDIC must comply with the requirement under present law to provide for the continuation of health care coverage for employees of failed thrifts and banks. Additionally, section 303 provides a method so that both agencies are capable of complying with the requirement. The RTC and the FDIC do not oppose the implementation of this provision.

An amendment accepted by the Committee and reflected in this section of the bill clarifies that the continuation of health plan coverage by the RTC is made subject to appropriations.

Section 304. Judgment collection information.

This section requires the Attorney General to collect detailed information and report annually to Congress on fines and restitution orders and the money actually collected arising from fraud and other criminal activity involving failed thrifts and their insiders. This will enable the Congress to know exactly how much money is actually being collected by the federal government in connection with its prosecutions involving failed thrifts. At a February 6, 1992 hearing held by the Consumer Subcommittee of the Banking Committee, the GAO testified that the federal government has collected only $365,000 out of $84 million in court-ordered fines and repayments in 55 major savings and loan criminal convictions. GAO testified that "not even a penny for every dollar [in fines and restitution ordered] has been collected."

Additionally, this section would complement and supplement existing reporting requirements on the judgments and convictions obtained by the Justice Department and the financial services regulators. Information on uncollected judgments and agreements arising from civil enforcement efforts as well as the money actually received by the United States arising from prosecutions of financial institution crimes would need to be reported.

Section 305. Temporary vacancies in the office of chief executive officer.

Under present law, the RTC CEO has the sole authority to manage and direct the operations of the RTC and he is vested with all the powers of the RTC. Present law, however, does not provide a mechanism to allow the RTC to continue to operate if a temporary vacancy arises in the RTC CEO office. Section 305, which was included in the Committee bill at the behest of the RTC, is a technical amendment to address the problem of temporary vacancies in the RTC CEO office. This provision would permit the designation of an agency or other government official to act as RTC CEO on a temporary basis in the event of death, illness, incapacity or other similar circumstances with respect to the RTC CEO.

Section 306. Modifying separate capitalization rule for savings associations' subsidiaries engaged in activities not permissible for a national bank.

Under section 5(t)(5) of the Home Owners' Loan Act, if a federally insured savings association engages through a subsidiary in activities not permissible for a national bank, the savings association cannot count its investments in and extensions of credit to the subsidiary as part of its own capital. Congress adopted this rule in 1989 because of the record of significant losses by the thrifts making direct investments through subsidiaries. Principally, these nonconforming subsidiaries were engaged in real estate development.

Section 5(t)(5) includes a transition rule permitting a savings association to include in its capital until July 1, 1992, 75 percent of its investments in and extensions of credit to a non-conforming subsidiary. That percentage will decline to 60 percent on July 1, 1992, 40 percent on July 1, 1993, and 0 percent on July 1, 1994. It should be noted that the deduction of capital for purposes of this transition rule is in addition to the obligation of the institution to establish all appropriate reserves pursuant to Generally Accepted Accounting Principles to fully reflect any losses incurred at the subsidiary.

Because of the nationwide drop in the commercial real estate values, the Director of the Office of Thrift Supervision has requested that thrifts be allowed some additional time to divest their real estate or otherwise comply with section 5(t)(5).

Section 306 delays the effective date of the 60 percent rule from July 1, 1992, until October 1, 1992, to give the Director time to review requests for relief (as described below).

Section 306 then gives the Director case-by-case discretion to extend the phase-out schedule by two years. The Director could allow a particular savings association to include in its capital, until July 1, 1994, up to 75 percent of its investments in and extensions of credit to a subsidiary. That percentage declines to 60 percent on July 1, 1994, 40 percent on July 1, 1995, and 0 percent on July 1, 1996.

To be eligible for such relief, a savings association must satisfy a five-part test. First, the savings association must be either (1) adequately capitalized or (2) in compliance with an approved capital restoration plan meeting the requirements of section 38 of the Federal Deposit Insurance Act. Such a plan must, (a) specify the steps the savings association will take to become adequately capitalized; (b) specify the levels of capital to be attained during each year in which the plan will be in effect; (c) specify how the savings association will comply with the restrictions or requirements of section 38; (d) specify the types and levels of activities in which the savings association will engage; (e) be based on realistic assumptions, and be likely to succeed in restoring the savings associations' capital; (f) not appreciably increase the risk to which the savings association is exposed; and (g) be guaranteed by any company controlling the savings association. To satisfy this requirement, a savings association with a plan approved under section 5(t) of the Home Owners' Loan Act need not necessarily submit a new plan, much less wait until section 38 becomes effective: to the extent that the prior plan satisfies the requirements of section 38, it suffices for purposes of this requirement.

Second, the savings association's current composite MACRO rating must be 1, 2, or 3.

Third, the savings association must be an "eligible savings association" as defined in section 5(t)(3)(B) of the Home Owners' Loan Act. Thus (1) the savings association's management must be competent; (2) the savings association must be in substantial compliance with all applicable statutes, regulations, orders, and supervisory agreements and directives; and (3) the savings association's management must not have engaged in insider dealing, speculative practices, or any other activities that have jeopardized the institution's safety and soundness or contributed to impairing the institution's capital.

Fourth, the capital-deduction rule of section 5(t)(5)(A) must apply to the subsidiary only because of the subsidiary's real-estate investments or other real-estate activities. This section affords no relief in the case of subsidiaries that are subject to the capital deduction rule because of junk-bond investments or other non-real-estate activities.

Fifth, the Director of the OTS must determine that granting the relief in question to the particular savings association would not increase the risk to the affected deposit insurance fund.

Section 307. Extension of statute of limitations.

In FIRREA, a federal statute of limitations was created that would give the RTC or FDIC at least 3 years after a savings and loan or bank failed to file tort claims. This is a minimum period, if a state has a longer period, then state law would govern. Recent reports indicate that the RTC is facing a tough burden trying to meet the 3 year deadline for hundreds of thrifts that failed in 1989. The bill reported by the Committee extends the minimum statute of limitations for tort actions by the RTC from 3 years to 5 years.

RTC has 318 failed thrifts that face the limit this year. In comparison, the RTC filed a total of 26 civil lawsuits in 1991. On March 16, 1992, the time limit for 47 thrifts expired. And in April of this year, the time will expire for another 43 thrifts. Any tort claims not brought by such a date might later be barred. With such a crush of cases in such a short time, there is a good chance that some claims will not be discovered in time.

The purpose of this section is to further enable the RTC to recover monies on behalf of the taxpayers by extending the statute of limitations on certain claims arising out of the failure of federally insured thrifts and reviving other claims with respect to which the statute of limitations has already run.

On March 11, 1992, RTC's Chief Financial Officer testified that extending the statute of limitations would help the RTC. On March 23, 1992, the Chief Executive Officer of the RTC endorsed a two year extension of the statute of limitations on tort actions.

Section 308. Directors not liable for acquiescing in conservatorship, receivership, or supervisory acquisition or combination.

Under section 308, an insured depository institution's shareholders or creditors cannot hold the institution's directors liable for acquiescing in or consenting in good faith to (1) the appointment of the RTC or FDIC as conservator or receiver for the institution, or (2) the acquisition of the institution by a depository institution holding company or the combination of the institution with another insured depository institution. The exemption for an acquisition or combination applies if the appropriate Federal banking agency has (a) requested the institution, in writing, to be acquired or to combine, and (b) notified the institution that one or more grounds exist for appointing a conservator or receiver for the institution.

Section 308 generally parallels section 11(c)(12) of the Federal Deposit Insurance Act (12 U.S.C. §1821(c)(12)), which was added by section 133(e) of the Federal Deposit Insurance Corporation Improvement Act of 1991, and becomes effective December 19, 1992. Section 308 will apply from the date of enactment of this Act until December 19, 1992, when section 11(c)(12) will supersede it.

Section 309. Real Estate Appraisal Requirements.

In 1989, Congress found that inflated and fraudulent real estate appraisals significantly contributed to the losses associated with failed savings and loans. To improve the quality of appraisals, FIRREA established professional standards for appraisers on transactions regulated by the federal financial institutions regulatory agencies—including sales, purchases, and mortgages of real property.

FIRREA intended to give discretion to the regulators to determine which transactions should be subject to the appraisal requirements. The regulators initially determined that appraisers working on transactions over $50,000 in value must be State certified or licensed. The Federal Reserve and the FDIC have since decided that a $100,000 threshold was more appropriate and so changed their *de minimus* thresholds from $50,000 to $100,000.

In pending litigation, some parties are arguing that FIRREA did not give regulators any discretion to set a monetary *de minimus* threshold for transactions requiring the services of a State licensed or certified appraiser. They argue that FIRREA requires the services of a State licensed or certified appraiser on all Federally-related real estate transactions. This amends FIRREA to state clearly that the regulators may establish threshold monetary levels for real estate transactions, below which the services of a State licensed or certified appraiser is not required.

Section 310. Funds for early resolution of thrifts.

This section earmarks $1.85 billion of funds for the early resolution of weak but profitable savings and loans. The Director of the OTS has requested that this approach be implemented because he asserts that it will save money in the long run by reducing the cost of failures. Although this provision earmarks $1.85 billion for the early resolution program, it does not compel the regulators to use this money. It is in the discretion of the regulators whether or not to spend the funds.

Section 311. Addition of Florida to list of distressed areas.

In FIRREA, Congress provided a mechanism for the RTC to avoid dumping real estate in communities and states with depressed real estate markets. In these distressed areas, the RTC is generally not to sell properties for less than 95% of market value, unless it determines that the specific transaction is in the best interests of the RTC.

FIRREA designated the states of Arkansas, Colorado, Louisiana, New Mexico, Oklahoma and Texas as distressed areas. Although the RTC has the authority to add or subtract states to the list of distressed areas, the RTC has never changed the list of distressed areas since enactment of FIRREA in 1989.

This section would add the state of Florida to the RTC list of distressed areas. Accordingly, under the RTC property disposition rules, the RTC could not sell properties for less than 95% of market value without documenting that doing so was consistent with the statutory goals of the RTC.

Section 312. Loan guarantees for RTC asset sales.

This provision specifically authorizes the RTC to establish a program to guarantee part of a loan to finance the sale of RTC real property. The RTC is directed to establish rules for a program that would allow financial institutions to apply to the RTC for a guarantee of a loan to a 3rd party purchasing property from the RTC. Under the terms of this program, the purchaser would have to invest at least 15% in a cash down payment, and the lender would also have to retain the risk of loss on 15% of its loan to finance the sale of the property. Thus, the RTC's guarantee would retain a risk of loss no more than 72.25% of the purchase price of the property. The RTC shall establish the safeguards in its implementing regulations necessary to provide adequate underwriting criteria for the terms of the loan and the qualification of the borrower.

Section 313. Sense of the Congress on risk based capital.

This provision concerns the risk-based capital standards.

In part, it is related to the repeal of the mandatory forbearance provision, section 618, of H.R. 3435 (see section 301). This clarifies that the regulators retain the flexibility to set appropriate risk-based standards for loans for the construction of certain pre-sold homes and especially encourages them to review their standards with respect to loans to facilitate low and moderate income housing.

In addition, the provision encourages the regulator to accelerate the implementation of an interest-rate risk component in the risk-based standard. An interest-rate risk component was first proposed by the Federal Home Loan Bank Board in 1988. The current lack of an interest rate risk component may cause some banks and savings and loans to buy securities instead of making loans. This has the potential to be harmful for two reasons. First, it chokes off credit that the economy needs, especially now. Second, it encourages banks and thrifts to speculate on interest rates in the same way savings and loans did in the 1970s by holding long term assets that are funded with short term liabilities. Federally insured banks and thrifts should not be speculating on interest rates by investing in long term securities that are mismatched to their liabilities; they should be making loans to sound borrowers.

Section 314. Sense of the Congress regarding termination of the Resolution Trust Corporation.

The RTC is scheduled to terminate on December 31, 1996. It has the authority to resolve failed thrifts until September 30, 1993. Section 314 expresses the sense of the Congress that the life of the RTC should not be extended beyond its current statutory termination date, nor that the RTC should receive any additional failed savings and loans after September 30, 1993 when its legal authority to do so expires.

TITLE IV

Sections 401 to 408. Disclosure provisions.

The purpose of this Title is to enable the taxpayer to determine how his or her money has been spent on the savings and loan problem and how his or her money is exposed to loss with the Bank Insurance Fund (BIF). So far, the Administration estimates that it will spend $160 billion in losses on thrifts at the RTC and another $69 billion will be spent on transactions for failed thrifts being administered by the FSLIC Resolution Fund (the so-called 1988 deals). Last year, the BIF began borrowing funds from the taxpayer through the Federal Financing Bank (FFB). This disclosure provision applies to all failed insured savings associations in the RTC's jurisdiction and insured savings associations that failed and were resolved with assistance funded through the FSLIC Resolution Fund. Because the BIF began borrowing funds from the FFB in 1991, the disclosure provision applies to BIF member banks that failed in that year, and will continue to apply to BIF member banks and insured savings associations so long as the applicable federal deposit insurance fund relies directly or indirectly on taxpayer dollars to fund its activities.

The public disclosure legislation has two principal parts. First, the legislation requires regulators to make available prior examination reports of a failed insured depository institution. Second, the legislation prohibits the FDIC and RTC from entering into secret agreements to settle lawsuits arising from the failure of an institution.

If a financial institution goes out of business, but it does not involve taxpayer funds, the requirements of this legislation do not apply. The requirements also do not apply to open healthy institutions.

As a practical matter, in most cases, examination reports do not contain large quantities of information on individual customers. However, the legislation includes several exceptions in order to protect the privacy of third parties. Regulators are directed to remove from an examination report the names and other identifying information of customers not affiliated (non-insiders) with the institution. Any information about institution-affiliated parties (insiders) will be removed from examination reports if it is not relevant to the relationship between the insider and the institution.

Regulators will also remove from examination reports the names of examiners and of any whistleblowers who provide information to federal banking agencies.

In most cases, examination reports will not include a complete accounting of bad loans or losses. However, the FDIC and RTC will become aware of insider-caused losses as they dispose of assets acquired through financial institution failures. The legislation would require the FDIC and RTC to identify insider borrowers who have defaulted on loans made by a failed institution.

Regulators will also compile a list of all pending and settled lawsuits brought against parties that caused a material loss to the insurance funds or to a failed financial institution.

Regulators can delay release of an examination report in order to protect the health of open insured institutions. Law enforcement officials and regulators can delay release of portions of reports for up to five years to avoid hindering an ongoing criminal investigation, and for up to two years to avoid interference with a civil or administrative proceeding.

GAO has documented that the federal bank regulators, "have wide discretion in choosing among enforcement actions . . . [and] share a common philosophy of trying to work informally with banks to promote cooperations with those having difficulties. This combination of wide discretion and a cooperative philosophy often did not resolve the problems regulators had identified in GAO's sampled cases." (Bank Supervision: Prompt and Forceful Regulatory Actions Needed, April 1991, p.3). Other government studies have confirmed that the lack of formal regulatory action contributed to the problems caused by the management of the failed savings and loans. The Congressional Budget Office has determined that the regulators' policy choice of forbearing from closing failed thrifts, which began in the early 1980s, increased the cost of the savings and loan crisis by $66 billion (CBO; the Cost of Forbearance During the Thrift Crisis, June 1991).

Disclosure of formal enforcement actions by bank regulators was first mandated by Congress in FIRREA in 1989. In the Crime Control Act of 1990, Congress extended the disclosure requirement to any type of order or enforceable agreement used by bank regulators. On both occasions, the bank regulatory agencies opposed the disclosure provisions claiming that disclosure of enforcement actions would weaken the banking system by causing runs at banks or thrifts that disclosed enforcement actions. There is no evidence suggesting that disclosure of enforcement actions during the past two years has caused any of the widespread problems the bank regulators suggested might occur when this issue was first raised in 1989.

CONCLUSION

The Congress must act to provide the RTC with the authority to spend funds to protect depositors at failing thrifts. Any delay past April 1, 1992 only increases the ultimate cost of the failure by the amount of the additional losses of the failed but unresolved savings and loans.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, DC, January 3, 1992.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am pleased to respond to your request for my views on the provisions of Section 618 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (H.R. 3435). Section 618 directs the federal banking agencies to amend their risk-based capital guidelines and regulations to assign a 50 percent risk weight to presold one- to four-family residential construction loans and multifamily housing loans that meet specified criteria. I strongly support the removal of Section 618.

As a general matter, I believe that it is inadvisable to set down in a statute specifications for the internationally established risk-based capital standards. These standards, commonly referred to as the Basle Accord, were developed after lengthy consultations among the banking supervisors of the G-10 countries. It is far preferable that any changes or modifications to these standards be left to the discretion of the federal banking agencies in order to ensure that they are coordinated with other parties to the agreement and are consistent with the spirit of the Basle Accord. To make unilateral changes could prompt other countries to take similar actions, which, when compounded, could result not only in the weakening of the international capital standards, but also in the promotion of international competitive inequity among banks.

In addition, I would like to point out that mandating risk weights for specific assets by statute poses the obvious danger of assigning risk weights that are more reflective of the preferences of specific interest groups than of the relative risks of the assets. Where such assets represent loans to the private sector, such statutorily mandated risk weights would also raise industry credit allocation concerns.

With respect to the provisions of Section 618 that pertain to certain presold one- to four-family residential construction loans, the federal banking agencies have been considering for some time a proposal to lower the risk weight on such loans. After careful review, the agencies may well be inclined to put in place a lower risk for these types of loans that meet terms and conditions similar to those set down in Section 618.

The provisions of Section 618 that deal with multifamily housing loans, however, raise more complex questions. Our supervisory experience has indicated that such loans are considerably more risky than loans for one- to four-family houses. Assigning a 50 percent risk weight to mortgages on multifamily residences with a loan to value ratios (LTVs) as high as 80 percent—as mandated in Section 618—could well be viewed internationally as inconsistent with the spirit of the Basle Accord. The Accord states that the 50 percent risk weight may not be applied to speculative residential real estate loans and further indicates that valuation rules should ensure a substantial margin of additional security over the amount of the loan. The delinquency and charge-off rates on multifamily housing loans are far higher than on single family mortgages. Since the available performance data does not break down multifamily mortgage loans by LTVs, we do not know what the specific performance of such loans with an 80 percent LTV has been. However, given the performance of multifamily mortgage loans overall, we question whether an 80 percent LTV would provide an adequate margin of safety.

Furthermore, very few of the countries that are party to the Basle Accord give a preferential risk weight to multifamily housing loans. Those that do generally require that any mortgage assigned to the 50 percent risk category, whether for individual or multifamily housing, have an LTV that is relatively low compared to U.S. standards. Germany, for example, assigns residential mortgage loans a 50 percent risk weight only if the LTV does not exceed 60 percent. Assigning a 50 percent risk weight to loans on multifamily residences with LTVs much in excess of 60 percent could be viewed by other countries as contrary to the spirit of the Basle Accord. Moreover, such an action could prompt questions internationally with regard to the relatively liberal LTVs permitted in the U.S. for mortgages on one- to four-family residences included in 50 percent risk category.

In light of the above, I recommend the deletion of Section 618. Thank you again for giving me the opportunity to express my views on this matter. Please let me know if we can provide you with further information on the issues involved.

Sincerely,

ALAN GREENSPAN.

FEDERAL DEPOSIT
INSURANCE CORPORATION,
Washington, DC, December 11, 1991.

Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express concern over Section 618 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (H.R. 3435). Section 618 would assign, for purposes of the banking and thrift regulators' risk-based capital standards, a fifty percent risk weight to one-to-four family residential construction loans and multifamily housing loans that meet certain criteria.

Statutorily mandating different risk weights for various types of loans to the private sector raises industry credit allocation concerns. The financial regulators should be permitted to retain their current discretion in regulating capital. In fact, the regulators currently are giving serious consideration to a lowered risk weight for certain pre-sold one-to-four family residential construction loans.

We appreciate your support of the adoption of S. Con. Res. 84 which deletes Section 618.

We will urge adoption of this Resolution by the House of Representatives early next year.

Sincerely,

WILLIAM TAYLOR,
Chairman.

OFFICE OF THRIFT SUPERVISION,
DEPARTMENT OF THE TREASURY,
Washington, DC, December 27, 1991.
Hon. DONALD W. RIEGLE, Jr.,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to express my concern about the mandatory risk-weighting provisions included in the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991. Section 618 of this legislation requires that, for purposes of their risk-based capital regulations, the banking regulators assign certain one-to-four family residential construction loans and certain multifamily housing loans to the 50% risk-weighting category.

First, I believe this section is unnecessary. The Office of Thrift Supervision (OTS) has already acted to address the specific issues covered by section 618. OTS's risk-based capital regulation currently places certain conservatively underwritten and seasoned multifamily mortgage loans in the 50% risk-weighting category. See 12 C.F.R. §567.1(v) (1991) (OTS risk-based capital rules). In addition, OTS has proposed a rule, a copy of which is enclosed, that would reduce to the 50% category certain loans for "pre-sold" single-family homes.

Second, as the initiatives I have just described make clear, assignment of assets to risk-weighting categories for purposes of the capital rules should, be left to the regulators. It is essential that the regulators have the flexibility to use the risk-based capital regime for the very purpose for which it was designed, that is, to adjust the capital "charge" for assets depending on the degree of risk they pose. The level of risk may change over time, and the regulators should not be foreclosed by statute from adjusting the capital standards accordingly.

Finally, I note that the risk-based capital requirements that all of the banking regulators currently have in place reflect a lengthy international negotiation in which regulators from the United States participated. Assigning risk weights by statutory fiat is inconsistent with the process underlying the Basle Accord and runs counter to the goal of uniform, internationally agreed upon capital standards that apply worldwide.

For these reasons, I would urge modification of the RTC refunding bill to eliminate section 618.

Sincerely,

TIMOTHY RYAN,
Director.

S. 2482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Resolution Trust Corporation Funding Act of 1992".

(b) TABLE OF CONTENTS.—

TITLE I—RESOLUTION TRUST CORPORATION FUNDING
Sec. 101. Funding.
TITLE II—RESOLUTION TRUST CORPORATION TECHNICAL AMENDMENTS
Sec. 201. Technical corrections relating to title I of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.
Sec. 202. Technical corrections relating to title II of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.
Sec. 203. Technical corrections relating to title III of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.
Sec. 204. Technical corrections relating to title IV of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.
Sec. 205. Technical corrections relating to title V of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.
Sec. 206. Technical corrections relating to title VI of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.
Sec. 207. Repeal of title VII consisting of amendments duplicated in the Federal Deposit Insurance Corporation Improvement Act of 1991.
Sec. 208. Effective date.
TITLE III—OTHER RESOLUTION TRUST CORPORATION-RELATED AMENDMENTS
Sec. 301. Repeal of risk weighted capital requirement.
Sec. 302. Definition of property sold by United States agency.
Sec. 303. Continuation of health plan coverage.
Sec. 304. Judgment collection information.
Sec. 305. Temporary vacancies in the office of chief executive officer.
Sec. 306. Modifying separate capitalization rule for savings associations' subsidiaries engaged in activities not permissible for national banks.
Sec. 307. Extension of civil statute of limitations.
Sec. 308. Directors not liable for acquiescing in conservatorship, receivership, or supervisory acquisition or combination.
Sec. 309. Real estate appraisal amendment.
Sec. 310. Set-aside of funds for assistance.
Sec. 311. Addition of Florida to list of distressed areas.
Sec. 312. Guarantee of loans to purchase RTC property.
Sec. 313. Sense of the Congress relating to standards on risk-based capital.
Sec. 314. Sense of the Congress regarding termination of the Resolution Trust Corporation.
TITLE IV—BANK AND THRIFT DISCLOSURE ACT
Sec. 401. Short title.
Sec. 402. Public availability of examination information.
Sec. 403. Prohibition of confidential settlements.
Sec. 404. Applicability.
Sec. 405. Removal of customer information from examination reports.
Sec. 406. Definitions.
Sec. 407. Additional disclosures by FDIC, NCUA, and RTC.
Sec. 408. GAO audits.

TITLE I—RESOLUTION TRUST CORPORATION FUNDING

SEC. 101. FUNDING.

Section 21A(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)) is amended—

(1) in paragraph (3)—

(A) by striking "until April 1, 1992"; and

(B) by inserting ", out of any money in the Treasury not otherwise appropriated," after "provide"; and

(2) by adding at the end the following new paragraph:

"(4) ADDITIONAL FUNDING.—In addition to amounts provided under paragraphs (2) and (3), the Secretary of the Treasury shall provide to the Corporation, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary, not to exceed $25,000,000,000, to carry out the purposes of this section until April 1, 1993.".

TITLE II—RESOLUTION TRUST CORPORATION TECHNICAL AMENDMENTS

SEC. 201. TECHNICAL CORRECTIONS RELATING TO TITLE I OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) AMENDMENT RELATING TO SECTION 101.—Section 21A(i)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)(3)) (as added by section 101 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by inserting a comma after "necessary" and after "billion".

(b) AMENDMENTS RELATING TO SECTION 102.—

(1) Section 11(c)(6)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(6)(B)) (as amended by section 102 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is further amended by striking "section 5(d)(2)(C)" and inserting "subparagraph (C) or (F) of section 5(d)(2)".

(2) Section 102 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102-233, 105 Stat. 1761) is amended—

(A) by striking "Section 11(c)(6)(B)" and inserting "(a) IN GENERAL.—Section 11(c)(6)(B)"; and

(B) by adding at the end the following new subsection:

"(b) CONFORMING EFFECTIVE DATE.—Effective on December 19, 1992, section 11(c)(6)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(6)(B)) (as amended by subsection (a)) is amended by striking 'subparagraph (C) or (F) of section 5(d)(2)' and inserting 'subparagraph (A) or (C) of section 5(d)(2)'.".

(c) AMENDMENT RELATING TO SECTION 103.—Section 103(a) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102-233, 105 Stat. 1761) is amended by striking "(12 U.S.C. 1441a(b)(3)(A)(ii)(II))" and inserting "(12 U.S.C. 1441a(b)(3)(A)(ii))".

(d) AMENDMENT RELATING TO SECTION 104.—Section 21(e)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441(e)(2)) (as amended by section 104 of the Resolution Trust Corporation Refinancing, Restructuring and Improvement Act of 1991) is amended by striking "Thrift Depositor Protection Refinance" and inserting "Refinancing, Restructuring, and Improvement".

(e) AMENDMENTS RELATING TO SECTION 106.—

(1) Section 21A(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(7)) (as amended by section 106(a) of the Resolution

Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "quarter ending on the last day of the month ending before the month in which such report is require to be submitted" and inserting "preceding calendar quarter".

(2) Section 21A(k)(11)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(11)(B)) (as added by section 106(d) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(A) by striking "an employee" and inserting "employees"; and

(B) by striking "Government" and inserting "General".

(3) Section 106(e)(2) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "annual reports" and inserting "supplemental unaudited financial statements".

SEC. 202. TECHNICAL CORRECTIONS RELATING TO TITLE II OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

Section 21A(b)(9)(B)(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)(B)(i)) (as amended by section 201 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "Thrift Depositor Protection Refinance" each place such term appears and inserting "Refinancing, Restructuring, and Improvement".

SEC. 203. TECHNICAL CORRECTIONS RELATING TO TITLE III OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO SECTION 302.—

(1) Section 302 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (12 U.S.C. 1441a note) is amended—

(A) in subsection (b), by striking "Except as provided in subsection (c), the" and inserting "The"; and

(B) by striking subsection (c).

(2) Section 21A(k)(6)(A)(vii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(6)(A)(vii)) is amended by inserting "Thrift Depositor Protection" before "Oversight Board's".

(3) The heading for section 21A(a)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)) is amended by striking "OVERSIGHT" and inserting "THRIFT DEPOSITOR PROTECTION OVERSIGHT".

(4) The heading for section 21A(n)(8) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(n)(8)) is amended by inserting "THRIFT DEPOSITOR PROTECTION" before "OVERSIGHT".

(5) The heading for section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting "**THRIFT DEPOSITOR PROTECTION**" before "**OVERSIGHT BOARD**".

(6) The headings for sections 21B(c)(8) and 21B(j)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(c)(8) and 1441B(j)(2)) are each amended by inserting "THRIFT DEPOSITOR PROTECTION" before "OVERSIGHT".

(7) The heading for section 21B(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(k)(7)) is amended by striking "OVERSIGHT" and inserting "THRIFT DEPOSITOR PROTECTION OVERSIGHT".

(b) AMENDMENTS RELATING TO SECTION 305.—

(1) Section 21A(a)(6)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)(C)) is amended by striking "paragraph (8) of this subsection" and all that follows through the period at the end and inserting "paragraph (8).".

(2) Section 21A(a) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)) is amended by redesignating paragraph (15) as paragraph (16) and inserting after paragraph (14) the following new paragraph:

"(15) REPORTS ON ANY MODIFICATION TO ANY STRATEGY, POLICY, OR GOAL.—If, pursuant to paragraph (6)(A), the Thrift Depositor Protection Oversight Board requires the Corporation to modify any overall strategy, policy, or goal, such Board shall submit, before the end of the 30-day period beginning on the date on which the Board first notifies the Corporation of such requirement, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives an explanation of the grounds that the Board determined justified the review and the reasons why the modification is necessary to satisfy such grounds.".

(c) AMENDMENTS RELATING TO SECTION 307.—

(1) Section 21A(a)(10) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(10)) is amended—

(A) by striking "4" and inserting "6";

(B) by adding at the end the following new sentence: "The Thrift Depositor Protection Oversight Board shall maintain a transcript of the Board's open meetings."; and

(C) in the heading, by striking "QUARTERLY" and inserting "OPEN".

(2) Section 21A(c)(10) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(10)) is amended by striking the last sentence (as added by section 307(2) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991).

(d) AMENDMENT RELATING TO SECTION 311.—Section 21A(b)(8)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)(A)) (as amended by section 311 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "IN GENERAL.—" and all that follows through the 1st comma and inserting "IN GENERAL.—Except for the chief executive officer of the Corporation,".

(e) AMENDMENT RELATING TO SECTION 314.—Section 21A(o)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(o)(2)) (as amended by section 314(5) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "includes" and all that follows through "any officer or employee of the Federal Deposit" and inserting "includes any officer or employee of the Federal Deposit".

(f) AMENDMENT RELATING TO SECTION 316.—Section 21A(*l*)(3)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(*l*)(3)(B)) (as amended by section 316 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "for that party of the filing" and inserting "for that party or the filing".

(g) ADDITIONAL TECHNICAL CORRECTIONS.—

(1) Paragraph (9) of section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) (as redesignated by section 310 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(A) in subparagraph (G) (as redesignated by section 314(2)(B)(i) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991), by striking "(11)(A)(iv)" and inserting "(10)(A)(iv)"; and

(B) in subparagraph (I) (as redesignated by section 314(2)(B)(i) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991), by striking "through its Board of Directors".

(2) Paragraph (10) of section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) (as redesignated by section 310 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(A) in subparagraph (A), by striking "(10)" and inserting "(9)"; and

(B) in subparagraph (A)(i), by striking "(12)" and inserting "(11)".

(3) Paragraph (11)(E)(i) of section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) (as redesignated by section 310 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "its" and inserting "the chief executive officer's".

(4) Section 21A(c)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(7)) is amended by striking "(b)(11)(A)" and inserting "(b)(10)(A)".

(5) Section 21A(d)(1)(B)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(d)(1)(B)(ii)) is amended by striking "paragraph (2)" and inserting "paragraph (3)".

(6) Section 21A(k)(3)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(3)(B)) is amended by striking "subsection (b)(11)(B) of this section" and inserting "subsection (b)(10)(B)".

SEC. 204. TECHNICAL CORRECTIONS RELATING TO TITLE IV OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO INCORRECT DESIGNATIONS OF NEW SUBSECTIONS AND PARAGRAPHS.—

(1) Section 401 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "after subsection (s) (Public Law 102–233, 105 Stat. 1773) (as added by section 227 of this Act)" and inserting "after subsection (p) (as redesignated by section 314(3) of this Act)".

(2) Section 402(a) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102–233, 105 Stat. 1774) is amended by striking "301" and inserting "401".

(3) Section 403 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102–233, 105 Stat. 1776) is amended by striking "section 302" and inserting "section 402".

(4) Section 404 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102–233, 105 Stat. 1776) is amended by striking "section 303" and inserting "section 403".

(5) Section 471 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102–242, 105 Stat. 2385) is amended by striking "Home Owners' Loan Act" and inserting "Federal Home Loan Bank Act", effective as of December 19, 1991.

(6) Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended—

(A) by redesignating subsection (t) (as added by section 401 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (q);

(B) by redesignating subsection (u) (as added by section 402(a)) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (r);

(C) by redesignating subsection (v) (as added by section 403 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (s);

(D) by redesignating subsection (w) (as added by section 404 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (t);

(E) by redesignating subsection (q) (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991) as subsection (u); and

(F) by redesignating subsection (q) (as added by section 471 of the Federal Deposit Insurance Corporation Improvement Act of 1991) as subsection (v).

(7) Section 405 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102–233, 105 Stat. 1777) is amended—

(A) by striking "Section 21A(b)(14)" and inserting "Section 21A(b)(13)" ; and

(B) by striking "1441a(b)(14))" and inserting "1441a(b)(13)) (as redesignated by section 310)".

(8) Section 21A(b)(13) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(13)) (as amended by section 405 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "(14) GOAL FOR PARTICIPATION OF SMALL BUSINESS CONCERNS.—" and inserting "(13) GOAL FOR PARTICIPATION OF SMALL BUSINESS CONCERNS.—".

(b) OTHER TECHNICAL CORRECTIONS RELATING TO AMENDMENTS MADE BY TITLE IV.—

(1) Section 21A(t)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(t)(1)) (as added by section 403 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and redesignated by subsection (a)(6) of this section) is amended by striking "minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a)" and inserting "Interim Statement of Policy Regarding Resolutions of Minority-Owned Depository Institutions, adopted by the Corporation on January 30, 1990,".

(2) Section 21A(u)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(u)(1)) (as added by section 404 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and redesignated by subsection (a)(6) of this section) is amended by striking "minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a)" and inserting "Interim Statement of Policy Regarding Resolutions of Minority-Owned Depository Institutions, adopted by the Corporation on January 30, 1990,".

(3) Subsections (t)(3)(B) and (u)(5)(B) of section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) (as added by sections 403 and 404, respectively, of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and redesignated by subsection (a)(6) of this section) are each amended by striking "section 13(c)(8)" and inserting "section 13(f)(8)(B)".

SEC. 205. TECHNICAL CORRECTIONS RELATING TO TITLE V OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO SECTION 501.—

(1) Section 501(a)(1) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102–233, 105 Stat. 1777) is amended by striking "Section 21A(b)(10)(K) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(10)(K))" and inserting "Section 21A(b)(9)(J) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)(J)) (as redesignated by sections 310 and 314(2)(B)(i) of this Act)".

(2) Section 21A(b)(9)(J) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)(J)) (as amended by section 501(a)(1) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "(K) To make loans and," and inserting "(J) To make loans and,".

(3) Section 21A(c)(8)(B)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)(B)(ii)) (as added by section 501(a)(2)(B) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "subchapter A" and inserting "subchapter B".

(b) AMENDMENT TO SECTION HEADING.—The heading for section 501 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended to read as follows:

"SEC. 501. CREDIT ENHANCEMENT.".

SEC. 206. TECHNICAL CORRECTIONS RELATING TO TITLE VI OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO SECTION 607.—Section 21A(c)(3)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)(E)) (as amended by section 607 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(1) in clause (i)(I), by striking "building property structure in which the units are located: *Provided*, That" and inserting "property in which the units are located; and";

(2) in clause (i)(II)—

(A) by striking "shall be made available for occupancy" the 1st time such term appears;

(B) by inserting "(including very low-income families taken into account for purposes of subclause (I))" after "very low-income families"; and

(C) by striking "building or structure" and inserting "property"; and

(3) in clause (ii)(II)—

(A) by striking "building property structure" each place such term appears and inserting "property"; and

(B) by inserting "(including very low-income families taken into account for purposes of subdivision (a) of this subclause)" after "very low-income families" where such term appears in subdivision (b) of such clause.

(b) REPEAL OF DUPLICATE PROVISION.—The Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102–233, 105 Stat. 1761) is amended by striking section 611 and redesignating sections 612 through 619 as sections 611 through 618, respectively.

SEC. 207. REPEAL OF TITLE VII CONSISTING OF AMENDMENTS DUPLICATED IN THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) IN GENERAL.—Title VII of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102–233, 105 Stat. 1761) is hereby repealed.

(b) EFFECT OF REPEAL.—No amendments made by title VII of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 shall be deemed to have taken effect before the date of the enactment of this Act and the provisions of law amended by title VII shall continue in effect as if no such amendments had been made by such title.

SEC. 208. EFFECTIVE DATE.

The amendments made by this title to the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and the Federal Home Loan Bank Act shall take effect as if such amendments had been included in the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 as of the date of the enactment of that Act.

TITLE III—OTHER RESOLUTION TRUST CORPORATION-RELATED AMENDMENTS

SEC. 301. REPEAL OF RISK WEIGHTED CAPITAL REQUIREMENT.

The Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102–233, 105 Stat. 1761) is amended—

(1) by striking section 617 (as redesignated by section 206(b)); and

(2) by redesignating section 618 (as redesignated by section 206(b)) as section 617.

SEC. 302. DEFINITION OF PROPERTY SOLD BY UNITED STATES AGENCY.

(a) SALES OF PROPERTY BY UNITED STATES AGENCIES.—Section 9102(e) of the Department of Defense Appropriations Act, 1990 (Public Law 101–165, 103 Stat. 1151) is amended by striking "real, personal," and inserting "real, personal (including financial instruments, notes, loans, bonds, licenses, and other intangible assets),".

(b) COOK INLET REGION.—Section 12(b)(7)(vii) of the Act of January 2, 1976 (Public Law 94–204, 89 Stat. 1145) is amended by striking "real, personal," and inserting "real, personal (including financial instruments, notes, loans, bonds, licenses, and other intangible assets),".

SEC. 303. CONTINUATION OF HEALTH PLAN COVERAGE.

(a) IN GENERAL.—Section 451 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1821 note) is amended to read as follows:

"SEC. 451. CONTINUATION OF HEALTH PLAN COVERAGE IN CASES OF FAILED FINANCIAL INSTITUTIONS.

"(a) IN GENERAL.—The Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall, in their respective capacities as conservator or receiver for a failed depository institution, offer continuation coverage to eligible individuals under a health plan which provides medical care (as defined in section 213(d) of the Internal Revenue Code of 1986) effective as of the date of failure of the depository institution. Such continuation coverage shall not contain any exclusion with respect to any preexisting condition of an eligible individual.

"(b) DEFINITIONS.—For purposes of this section—

"(1) health insurance coverage is 'continuation coverage' if—

"(A) the premium to be paid for such coverage by an eligible individual reasonably reflects the average costs of providing such coverage, including a reasonable allowance for administrative costs, to eligible individuals;

"(B) the coverage extends for a period beginning on the date of the failure of the depository institution and ending not earlier than the earliest of—

"(i) 18 months after the date of the failure of the depository institution, except that this date shall be extended in the same manner as coverage is extended under clauses (ii) and (v) of section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (hereafter referred to as 'ERISA') for a qualifying event occurring after the date of failure of the depository institution;

"(ii) the date on which coverage ceases by reason of a failure to make timely payment of any required premium, as determined under regulations of the Federal Deposit Insurance Corporation and the Resolution Trust Corporation;

"(iii) the date on which the eligible individual becomes covered under any group health plan which does not contain any exclusion or limitation with respect to any preexisting condition of such eligible individual;

"(iv) the date on which the eligible individual becomes eligible for benefits under title XVIII of the Social Security Act; or

"(v) if an eligible individual was receiving health care continuation coverage under section 602 of ERISA, the date on which such coverage would otherwise terminate under that section;

"(C) written notice describing such coverage is provided to the eligible individual not later than 60 days after the failure of the depository institution; and

"(D) eligible individuals may elect to receive such coverage by paying the initial monthly premium not later than 60 days after receiving written notice of such coverage, and thereafter paying the premiums on a monthly basis;

"(2) the term 'controlled employer' means any employer which is owned, in whole or in part, whether directly or indirectly, by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, in its capacity as conservator or receiver for a failed depository institution, and who together with the failed depository institution, is treated as a single employer under section 414(t) of the Internal Revenue Code of 1986;

"(3) the term 'eligible individual' means any employee or former employee of the failed depository institution and qualified beneficiaries of such employees (as defined in section 607(3) of ERISA) who were covered by a group health plan sponsored by the failed depository institution on the date of the failure of the depository institution;

"(4) the term 'failed depository institution' means an insured depository institution for which a conservator or receiver has been appointed;

"(5) the term 'group health plan' has the same meaning as in section 607(1) of ERISA;

"(6) the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act; and

"(7) the term 'qualifying event' has the same meaning as in paragraph (1), (3), (4), or (5) of section 603 of ERISA.

"(c) PROVISION OF CONTINUATION COVERAGE.—The Federal Deposit Insurance Corporation and the Resolution Trust Corporation may enter into any 1 or more agreements with any insurer which is licensed under the laws of any State or any organization which is authorized under State law to provide medical care (as defined in section 213(d) of the Internal Revenue Code of 1986) if it determines that such action is appropriate to comply with the requirements of this section.

"(d) EXPENSES AND CLAIMS.—

"(1) IN GENERAL.—The Federal Deposit Insurance Corporation and the Resolution Trust Corporation may pay—

"(A) the expenses of the administration of any health plan established pursuant to subsection (a); and

"(B) the claims of eligible individuals in excess of the amounts of premiums paid by such individuals.

"(2) ADMINISTRATIVE EXPENSES.—Any payment by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation under paragraph (1) made with respect to the expenses of administration of a health plan under subsection (a) shall be an administrative expense of all affected conservatorships and receiverships, shared in proportion to the number of eligible individuals associated with each such conservatorship or receivership. Any such payment under paragraph (1) made with respect to a claim submitted by an eligible individual shall be treated as an administrative expense of the affected conservatorship or receivership.".

(b) CONSTRUCTION.—The provision of continuation coverage pursuant to the enactment of section 451 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (prior to the enactment of the amendment made by subsection (a)) shall not be construed to have created any obligation under any other provision of Federal law for the Federal Deposit Insurance Corporation or the Resolution Trust Corporation that did not otherwise exist prior to the date of enactment of section 451 of the Federal Deposit Insurance Corporation Improvement Act of 1991.

(c) RULEMAKING.—The Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall promulgate appropriate regulations to carry out the amendment made by subsection (a). For purposes of section 451(b)(1)(B)(ii) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (as amended by subsection (a)), such regulations shall be substantially similar to section 602(2)(C) of the Employee Retirement Income Security Act of 1974.

(d) TRANSITION RULE.—The Federal Deposit Insurance Corporation and the Resolution Trust Corporation may provide continuation coverage under section 451 of the Federal Deposit Insurance Corporation Improvement Act of 1991, as amended by subsection (a), in lieu of any continuation coverage required to be provided under section 451 of the Federal Deposit Insurance Corporation Improvement Act of 1991 as that section was originally enacted.

(e) AUTHORITY.—Continuation coverage shall only be made available from the Resolution Trust Corporation in accordance with the amendment made by subsection (a) to the extent or in such amounts as provided in appropriations Acts.

(f) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to any failed depository institution for which the Resolution Trust Corporation (if the requirement of subsection (e) is first met) or the Federal Deposit Insurance Corporation is appointed as conservator or receiver on or after the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991.

SEC. 304. JUDGMENT COLLECTION INFORMATION.

(a) PURPOSE.—The purpose of this section is to ensure that the greatest practicable amount of money due to the United States and the Resolution Trust Corporation (hereafter referred to as the "Corporation") as a result of fines imposed and restitution ordered in connection with criminal proceedings involving insured savings associations and institution-affiliated parties is actually received by the United States.

(b) INFORMATION COLLECTION REQUIRED.—The Attorney General of the United States (hereafter referred to as the "Attorney General") shall collect and maintain information on—

(1) fines imposed for the conviction of any insured savings association or any institution-affiliated party of an insured savings association for any offense involving fraud or other criminal activity related to the failure of an insured savings association;

(2) orders to make restitution to the Corporation which have been issued in connection with any conviction referred to in paragraph (1); and

(3) the extent to which fines referred to in paragraph (1) have been collected by the United States and restitution referred to in paragraph (2) has been received by the Corporation.

(c) COOPERATION OF OTHER AGENCIES.—The Secretary of the Treasury, the Director of the Administrative Office of the United States Courts, the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, the Chairman of the Securities Exchange Commission, and the chief executive officer of the Corporation shall cooperate with the Attorney General to develop accurate and efficient means for providing the information described in subsection (a) to the Attorney General.

(d) SUMMARIES OF INFORMATION COLLECTED.—

(1) TRANSMITTAL TO CONGRESS.—The Attorney General shall transmit summaries of the information collected pursuant to this section, prepared in accordance with paragraph (2), to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(2) IDENTIFICATION OF MONEY JUDGMENTS.—With respect to every civil or criminal proceeding initiated by an instrumentality of the United States that has resulted in an order, agreement, or award requiring the defendant in the proceeding to pay money to the United States Government, each summary transmitted under this subsection shall—

(A) identify the proceeding by name, jurisdiction, docket number, defendant, and the savings association in connection with which the events giving rise to the proceeding occurred;

(B) describe the result of the proceeding and state the amount of money required to be paid by the defendant;

(C) state the amount of money actually received from the defendant by any instrumentality of the United States as a result of the proceeding; and

(D) include such other information as the Attorney General may deem appropriate.

(3) ADDITIONAL INFORMATION.—In addition to the information required by paragraph (2), each summary transmitted under this section shall include a summary of the total number and aggregate amount of fines and restitutions that are—

(A) at least 30 (but not more than 90) days past due;

(B) at least 90 (but not more than 180) days past due;

(C) at least 180 (but not more than 365) days past due; and

(D) 365 days or more past due.

(4) SIGNATURES REQUIRED.—Each summary transmitted pursuant to this section shall be signed by the Attorney General and the head of each instrumentality of the United States providing information to the Attorney General for inclusion in the summary.

(5) DATES OF SUBMISSION.—The Attorney General shall transmit such summaries an-

nually, not later than April 1 of each calendar year. The summary submitted in calendar year 1993, shall cover the period from August 9, 1989, to the date of enactment of this Act. Summaries submitted in subsequent years shall cover the calendar year preceding the year in which the summary is submitted.

(6) DEFINITION.—For purposes of this subsection, the term "instrumentality of the United States" includes any department or agency of the United States and any trust, receivership, or conservatorship established by a department or agency of the United States.

(e) INFORMATION TO BE INCLUDED IN AGENCY REPORTS.—Section 918(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833(a)) is amended—

(1) by redesignating paragraph (3) through (6) as paragraphs (4) through (7), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) The number of individuals and institutions against whom civil judgments for damages or restitution were awarded in proceedings initiated by such agency during such 12-month period, or who, during the same period, formally agreed to pay money to the United States to fully or partially conclude or avoid such proceedings, the amount of each such judgment or agreement to pay, the total amount of all such judgments and agreements to pay, and data on uncollected judgments and agreements to pay for such period and prior years."; and

(3) in paragraph (6), as redesignated, by inserting before the period ", including the amount of money actually received by the United States as a result of such prosecutions and civil actions".

SEC. 305. TEMPORARY VACANCIES IN THE OFFICE OF CHIEF EXECUTIVE OFFICER.

Section 21A(b)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(1)) is amended by adding at the end the following new subparagraph:

"(D) TEMPORARY VACANCIES IN THE OFFICE OF C.E.O.—

"(i) DESIGNATION OF ACTING C.E.O.—The chief executive officer of the Corporation shall designate 1 officer of the Corporation to act as the chief executive officer in the event of a temporary vacancy in such office.

"(ii) TEMPORARY VACANCIES.—In the event that the chief executive officer of the Corporation is separated from service or is unable to carry out the duties of that office due to death, illness, incapacity, or other similar circumstances, the officer designated to serve as acting chief executive officer under clause (i) shall perform the duties of the chief executive officer.

"(iii) PRESIDENTIAL DESIGNATION.—Notwithstanding clauses (i) and (ii), the President may designate any officer of the Government appointed by and with the advice and consent of the Senate to perform the duties of the chief executive officer of the Corporation in the event of a temporary vacancy in that office due to circumstances described in clause (ii).

"(iv) DURATION.—An acting chief executive officer designated under this subparagraph shall perform the duties of that office for a reasonable period of time, until a successor has been appointed or until the circumstances resulting in the temporary vacancy in the office have been rectified.".

SEC. 306. MODIFYING SEPARATE CAPITALIZATION RULE FOR SAVINGS ASSOCIATIONS' SUBSIDIARIES ENGAGED IN ACTIVITIES NOT PERMISSIBLE FOR NATIONAL BANKS.

Section 5(t)(5)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(5)(D)) is amended—

(1) by amending clause (i) to read as follows:

"(i) INCLUSION IN CAPITAL.—Notwithstanding subparagraph (A), if a savings association's subsidiary was, as of April 12, 1989, engaged in activities not permissible for a national bank, the savings association may include in calculating capital either—

"(I) the applicable percentage, set forth in clause (ii), of the eligible amount of the savings association's investments in and extensions of credit to the subsidiary; or

"(II) with the approval of the Director under clause (iii), such percentage of the eligible amount as the Director may permit under that clause, but not exceeding the limit in clause (iv).";

(2) in clause (ii)—

(A) by striking "June 30, 1992" and inserting "September 30, 1992"; and

(B) by striking "July 1, 1992" and inserting "October 1, 1992";

(3) by redesignating clause (iii) as clause (vii); and

(4) by inserting after clause (ii) the following new clauses:

"(iii) DIRECTOR'S DISCRETION.—The Director may permit the savings association to include in calculating capital a percentage of the eligible amount of the savings association's investments in and extensions of credit to the subsidiary, not exceeding the limit in clause (iv), if—

"(I) either—

"(aa) the savings association is adequately capitalized, as defined in section 38 of the Federal Deposit Insurance Act; or

"(bb) the savings association is in compliance with an approved capital restoration plan meeting the requirements of section 38 of the Federal Deposit Insurance Act and is not critically undercapitalized as defined in that section;

"(II) the savings association's current composite MACRO rating is 1, 2, or 3;

"(III) the savings association is an eligible savings association as defined in paragraph (3)(B);

"(IV) subparagraph (A) applies with respect to the subsidiary only because of the subsidiary's real estate investments or other real estate activities; and

"(V) the Director determines that the inclusion would not increase the risk to the affected deposit insurance fund.

"(iv) LIMIT.—The percentage allowed by the Director under clause (iii) shall not exceed the following limits:

"For the following period:	The limit is:
Prior to July 1, 1994	75 percent
July 1, 1994 through June 30, 1995	60 percent
July 1, 1995 through June 30, 1996	40 percent
Thereafter	0 percent

"(v) COMMUNITY CREDIT NEEDS.—In applying clause (iii), the Director shall consider the savings association's record of meeting community credit needs.

"(vi) ELIGIBLE AMOUNT DEFINED.—For purposes of this subparagraph, the 'eligible amount' of a savings association's investments in and extensions of credit to a subsidiary is the sum of—

"(I) the savings association's investments in and extensions of credit that were made to the subsidiary on or before April 12, 1989; and

"(II) the savings association's investments in and extensions of credit to the subsidiary expended after April 12, 1989, that were necessary to complete projects initiated before April 12, 1989.".

SEC. 307. EXTENSION OF CIVIL STATUTE OF LIMITATIONS.

(a) RESOLUTION TRUST CORPORATION.—Section 11(d)(14) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)) is amended—

(1) in subparagraph (A)(ii), by inserting "except as provided in subparagraph (B)," before "in the case of";

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) TORT ACTIONS BROUGHT BY THE RESOLUTION TRUST CORPORATION.—The applicable statute of limitations with regard to any action in tort brought by the Resolution Trust Corporation in its capacity as conservator or receiver of a failed savings association shall be the longer of—

"(i) the 5-year period beginning on the date the claim accrues; or

"(ii) the period applicable under State law."; and

(4) in subparagraph (C), as redesignated—

(A) by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)"; and

(B) by striking "such subparagraph" and inserting "such subparagraphs".

(b) EFFECTIVE DATE; TERMINATION; FDIC AS SUCCESSOR.—

(1) EFFECTIVE DATE.—The amendments made by subsection (a) shall be construed to have the same effective date as section 212 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(2) TERMINATION.—The amendments made by subsection (a) shall remain in effect only until the termination of the Resolution Trust Corporation.

(3) FDIC AS SUCCESSOR TO THE RTC.—The Federal Deposit Insurance Corporation, as successor to the Resolution Trust Corporation, shall have the right to pursue any tort action that was properly brought by the Resolution Trust Corporation prior to the termination of the Resolution Trust Corporation.

SEC. 308. DIRECTORS NOT LIABLE FOR ACQUIESCING IN CONSERVATORSHIP, RECEIVERSHIP, OR SUPERVISORY ACQUISITION OR COMBINATION.

(a) LIABILITY.—During the period beginning on the date of enactment of this Act and ending on December 19, 1992, the members of the board of directors of an insured depository institution shall not be liable to the institution's shareholders or creditors for acquiescing in or consenting in good faith to—

(1) the appointment of the Resolution Trust Corporation or the Federal Deposit Insurance Corporation as conservator or receiver for that institution; or

(2) the acquisition of the institution by a depository institution holding company, or the combination of the institution with another insured depository institution if the appropriate Federal banking agency has—

(A) requested the institution, in writing, to be acquired or to combine; and

(B) notified the institution that 1 or more grounds exist for appointing a conservator or receiver for the institution.

(b) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency", "depository institution holding company", and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 309. REAL ESTATE APPRAISAL AMENDMENT.

Section 1112 of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3341) is amended—

(1) by inserting "(a) In General.—" before "Each Federal"; and

(2) by adding at the end the following new subsection:

"(b) Threshold Level.—Notwithstanding sections 1113 and 1114, each Federal financial institutions regulatory agency and the Resolution Trust Corporation may establish a level below which a certified or licensed appraiser is not required to perform appraisals in connection with federally related transactions, if such agency determines that such level is in the public interest.".

SEC. 310. SET-ASIDE OF FUNDS FOR ASSISTANCE.

(a) In General.—Before transferring an insured depository institution to the Resolution Trust Corporation, the Director of the Office of Thrift Supervision shall consider whether providing assistance to the institution under section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) or under section 13(k)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1823(k)(5)) would be a more cost-effective manner of resolving the institution than transferring the institution to the Resolution Trust Corporation.

(b) Set Aside To Provide Assistance.—Of the total amount appropriated by this Act, $1,850,000,000 shall be set aside to provide assistance under sections 13(c) and 13(k)(5) of the Federal Deposit Insurance Act to carry out the purposes of this section with respect to insured savings associations.

SEC. 311. ADDITION OF FLORIDA TO LIST OF DISTRESSED AREAS.

Section 21A(b)(11)(E)(iii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(11)(E)(iii)) is amended by inserting "Florida," immediately after "Colorado,".

SEC. 312. GUARANTEE OF LOANS TO PURCHASE RTC PROPERTY.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(w) Loan Guarantees To Purchase RTC Property.—

"(1) Purposes.—The purposes of this subsection are—

"(A) to help sell property held by the Resolution Trust Corporation at prices that prevail for similar property in local markets;

"(B) to help relieve the depressive effect of sales of property held by the Resolution Trust Corporation on prices of real estate in such markets;

"(C) to make financing for the sale of property held by the Resolution Trust Corporation more available to buyers;

"(D) to decrease the cost to the taxpayer of maintaining Resolution Trust Corporation properties; and

"(E) to provide an avenue for safe investment of surplus bank capital.

"(2) Definition of 'qualified lender'.—As used in this subsection, the term "qualified lender" means—

"(A) a bank or savings association the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation; or

"(B) any person engaged in the business of making commercial loans.

"(3) Guarantee authority.—

"(A) In general.—In addition to any other authority provided by law, the Corporation is authorized to guarantee, and make commitments to guarantee, the timely payment of principal and interest on loans made by qualified lenders to finance the purchase of commercial and residential property held by the Corporation.

"(B) Amount of guarantee.—The aggregate obligation of the Corporation or the United States under any guarantee under this subsection may not exceed 85 percent of the outstanding undivided principal amount of the loan.

"(4) Eligibility.—A loan may be guaranteed under paragraph (3) only if—

"(A) the chief executive officer of the Corporation determines—

"(i) that there is reasonable assurance of repayment of the loan;

"(ii) that the qualified lender is responsible; and

"(iii) that adequate provision is made for servicing the loan on reasonable terms;

"(B) the amount of the loan does not exceed 85 percent of the fair market value of the property at the time of the application for the guarantee;

"(C) the borrower has made a down payment, in cash or its equivalent, of not less than 15 percent of the fair market value of the property;

"(D) the qualified lender has entered into agreement to assume the initial 15 percent of any loss incurred in connection with the loan; and

"(E) the chief executive officer of the Corporation—

"(i) establishes criteria to determine if the guarantee of a loan under this subsection is the most efficient way to meet the Corporation's objectives on a borrower-by-borrower basis;

"(ii) promulgates regulations that provide for the complete amortization of each guaranteed loan, not to exceed the useful life of the property purchased with the loan; and

"(iii) prescribes explicit standards to periodically assess the credit risk of new and existing guaranteed loans.

"(5) Full faith and credit.—The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid pursuant to a guarantee under this subsection in accordance with subsection (j)(3).

"(6) Subrogation.—The holder of a guarantee under this subsection shall notify the Corporation of any default in the payment of any loan guaranteed under this subsection. Upon receipt of such notice, the Corporation shall—

"(A) pay to such holder the amount of the guarantee not in excess of the pro rata portion of the amount originally guaranteed; and

"(B) be subrogated to the rights of the holder of the guarantee to the extent of the amount of the guarantee.

"(7) Regulations; fees.—

"(A) Regulations.—Upon the appropriation provided for in paragraph (8), the Corporation shall prescribe such regulations as are necessary to carry out this subsection in compliance with applicable Office of Management and Budget and the Department of the Treasury executive orders and circulars.

"(B) Fees.—The Corporation is authorized to prescribe and collect a fee to cover the administrative costs it incurs in providing guarantees under this subsection in compliance with appropriate Office of Management and Budget and Department of the Treasury executive orders and circulars.

"(8) Authorization of appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection.".

SEC. 313. SENSE OF THE CONGRESS RELATING TO STANDARDS ON RISK-BASED CAPITAL.

(a) Findings.—The Congress finds that—

(1) there were fewer housing starts in the United States in 1991 than in any of the previous 40 years;

(2) it is in the interest of the United States that good quality, affordable housing be available to all Americans;

(3) risk-based capital standards create an incentive for banks and thrifts to make lower-risk loans;

(4) Federal regulators of depository institutions have limited the favorable treatment of housing loans to loans for single-family residences; and

(5) Federal banking regulators have not adopted an interest rate risk component to the risk-based standards and have thereby encouraged banks to purchase Government-backed securities instead of making loans.

(b) Sense of the Congress.—It is the sense of the Congress that regulators of depository institutions should consider making changes in risk-based capital standards by accelerating their implementation of an interest rate risk component and by reviewing the standards that apply to loans for the purchase or construction of housing, especially for loans that finance low- and moderate-income housing.

SEC. 314. SENSE OF THE CONGRESS REGARDING TERMINATION OF THE RESOLUTION TRUST CORPORATION.

It is the sense of the Congress that—

(1) the life of the Resolution Trust Corporation shall not be extended beyond the termination date of December 31, 1996, as established under section 21A of the Federal Home Loan Bank Act; and

(2) the Resolution Trust Corporation shall not receive any additional failed savings and loans after September 30, 1993, in accordance with the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.

TITLE IV—BANK AND THRIFT DISCLOSURE ACT

SEC. 401. SHORT TITLE.

This title may be cited as the "Bank and Thrift Disclosure Act of 1992".

SEC. 402. PUBLIC AVAILABILITY OF EXAMINATION INFORMATION.

(a) In General.—Each appropriate banking agency shall make available to the public copies of reports of all examinations of each failed depository institution that received funds, as defined in section 406, or of a holding company of such institution, that was performed by that banking agency or its predecessor, during the 5-year period preceding the transfer, failure, or receipt of funds. Each appropriate banking agency other than the National Credit Union Administration Board shall consult with the Federal Deposit Insurance Corporation or the Resolution Trust Corporation prior to making such reports available to the public.

(b) Delay of Publication.—

(1) Threats to safety or soundness of institution.—If the appropriate banking agency makes a determination in writing that release of an examination report would seriously threaten the safety or soundness of an insured depository institution, such agency may initially delay release of the examination report for a reasonable period of time, not to exceed 12 months from the date of the transfer, failure, or receipt of funds described in section 406. Such determination may be renewed on an annual basis.

(2) Ongoing investigations.—If the appropriate banking agency or the Resolution

Trust Corporation determines in writing that release of a portion of an examination report would hinder an ongoing investigation of alleged negligence, or of other activity that would give rise to either administrative or civil proceedings, the portion of the examination report directly pertaining to the alleged negligence or other activity, may be withheld from release during the investigation, until a notice of charges is issued, a complaint is filed, or for a period not to exceed 24 months from the date of the transfer, failure, or receipt of funds described in section 406, whichever is earlier.

(3) DELAY PENDING CRIMINAL INVESTIGATION.—If the appropriate banking agency and the Attorney General of the United States or the attorney general of a State, in the case of a State-chartered depository institution, jointly determine that release of a portion of an examination report would hinder an ongoing investigation of alleged criminal activity, the portion of the examination report directly pertaining to the alleged crime may be withheld from release until the termination of such investigation, the issuance of an indictment, or for a period of not to exceed 5 years from the date of the transfer, failure or receipt of funds described in section 406, whichever is earlier. The Attorney General of the United States or the Attorney General of a State shall provide the Comptroller General of the United States with access to information regarding any such criminal investigation, and shall identify any law enforcement agencies or resources assigned to the investigation.

(c) EXCLUSION OF OPEN INSTITUTIONS.—

(1) OPEN INSTITUTIONS.—This section shall not apply to any open insured depository institution and shall not be construed to require disclosure to the public of any report of examination of any open insured depository institution.

(2) AFFILIATED SOLVENT INSTITUTIONS.—In connection with the release of an examination report of a holding company of a failed institution, nothing in this section shall be construed as requiring the release of any examination report information regarding any solvent depository institution that is also a subsidiary of such holding company.

SEC. 403. PROHIBITION OF CONFIDENTIAL SETTLEMENTS.

Notwithstanding any other provision of law or any rule, regulation, or order issued thereunder, all agreements or settlements of claims between the Resolution Trust Corporation or the Federal Deposit Insurance Corporation and any other party, where such agreement or claim relates to an institution described in section 406 shall be made available to the public.

SEC. 404. APPLICABILITY.

The requirements of section 402 shall apply—

(1) to any insured depository institution that has had its assets or liabilities, or any part thereof, transferred to the FSLIC Resolution Fund or the Resolution Trust Corporation;

(2) to any member of the Bank Insurance Fund that has failed and received funds, if during either the fiscal year in which the institution failed or the fiscal year in which the institution received funds, as defined in section 406, the Bank Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve bank; or

(B) had a negative fund balance;

(3) to any member of the Savings Association Insurance Fund that has failed and received funds, if during either the fiscal year in which the institution failed or the fiscal year in which the institution received funds, as defined in section 406, the Savings Association Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve bank; or

(B) had a negative fund balance; and

(4) to any insured credit union that has failed and received funds, if during either the fiscal year in which the credit union failed or the fiscal year in which the credit union received funds, as defined in section 406, the National Credit Union Share Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) had a negative fund balance.

SEC. 405. REMOVAL OF CUSTOMER INFORMATION FROM EXAMINATION REPORTS.

In making available reports of examinations under section 402, each appropriate Federal banking agency shall excise the following information:

(1) NONINSTITUTION-AFFILIATED PARTIES.—The names and all other identifying information for all persons who are not institution-affiliated parties of an insured depository institution.

(2) INSTITUTION-AFFILIATED PARTIES.—The names and any information related to an institution-affiliated party that is not relevant to the relationship between the insured depository institution and the institution-affiliated party.

(3) OPEN INSTITUTIONS.—The names and all other identifying information pertaining to open insured depository institutions.

(4) EXAMINERS.—Any reference to the examiners and other banking agency employees involved in the examination of the insured depository institution.

(5) WHISTLEBLOWERS.—All references to persons or entities that have provided information in confidence to a banking agency which may be utilized to pursue a civil or criminal action.

SEC. 406. DEFINITIONS.

For purposes of this section—

(1) an insured depository institution has "failed" if the Federal Deposit Insurance Corporation, Resolution Trust Corporation, or National Credit Union Administration Board—

(A) has been appointed as receiver or liquidator for such institution; or

(B) has exercised the power to provide assistance under section 13(c)(2) of the Federal Deposit Insurance Act or the analogous powers under section 21A of the Federal Home Loan Bank Act.

(2) an insured depository institution has "received funds" if the institution, its holding company, or an acquiring institution receives cash or other valuable consideration from the National Credit Union Administration Board, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or any Federal Reserve bank that lends for more than 30 days while the insured depository institution is critically undercapitalized within the 1-year period prior to the failure of the insured depository institution whether in the form of a loan, a payment to depositors or other creditors, the assumption of liabilities, or otherwise;

(3) the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act, except that such term includes an insured credit union, as defined in section 101 of the Federal Credit Union Act; and

(4) the term "appropriate banking agency" means the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Office of Thrift Supervision, or the National Credit Union Administration Board, and, in the case of a State-chartered depository institution, the appropriate State depository institution regulatory agency.

SEC. 407. ADDITIONAL DISCLOSURES BY FDIC, NCUA, AND RTC.

(a) BORROWERS.—Not later than 6 months after being appointed receiver or liquidator for any failed institution that received funds, as defined in section 406, the Federal Deposit Insurance Corporation, National Credit Union Administration, or the Resolution Trust Corporation, as appropriate, shall make available to the public the name and loan balance of any borrower who—

(1) was an executive officer, director, or principal shareholder of the institution, or a related interest of any such person, as such terms are defined in section 22(h) of the Federal Reserve Act; and

(2) at the time that the receiver was appointed, was more than 90 days delinquent on a loan.

(b) TRANSACTIONS.—Not later than 12 months after being appointed receiver or liquidator for any failed institution that received funds, as defined in section 406, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, or the Resolution Trust Corporation shall make available, and update periodically thereafter, a list of pending and settled lawsuits brought by such agency involving transactions (other than those listed in subsection (a)) that caused a material loss to such institution or to the deposit insurance fund.

SEC. 408. GAO AUDITS.

The Comptroller General shall selectively audit examination reports made available to the public by the appropriate Federal banking agencies under section 402, and disclosures made by the Federal Deposit Insurance Corporation, National Credit Union Administration, and Resolution Trust Corporation under section 407, to assess compliance with the requirements of those sections. The Comptroller General shall determine the nature, scope, terms, and conditions of audits conducted under this section.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BYRD:

S. 2402. A bill to rescind certain budget authority proposed to be rescinded in a special message transmitted to the Congress by the President on March 10, 1992, in accordance with Title X of the Congressional Budget and Impoundment Control Act of 1974, as amended; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2403. A bill to rescind certain budget authority proposed to be rescinded in special messages transmitted to the Congress by the

President on March 20, 1992, in accordance with Title X of the Congressional Budget and Impoundment Control Act of 1974, as amended; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2404. A bill to rescind certain budget authority proposed to be rescinded in special messages transmitted to the Congress by the President on March 10, 1992, and on March 20, 1992, in accordance with Title X of the Congressional Budget and Impoundment Control Act of 1974, as amended; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

By Mr. LIEBERMAN:

S. 2405. A bill to extend the temporary suspension of duty on ciprofloxacin hydrochloride, ciprofloxacin, and nimodipine; to the Committee on Finance.

S. 2406. A bill to suspend temporarily the duty on nimodipine granulated blend and tablets, and acarbose; to the Committee on Finance.

By Mr. SEYMOUR:

S. 2407. A bill to amend the Board for International Broadcasting Act of 1973 to establish a program for radio broadcasting to the peoples of Asia; to the Committee on Foreign Relations.

By Mr. DeCONCINI:

S. 2408. A bill to limit plea agreements and cooperative agreements that promise reduced sentences or other benefits in exchange for cooperation by drug kingpins and others charged with extremely serious offenses; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself and Mr. KASTEN):

S. 2409. A bill to amend the provisions of the Omnibus Trade and Competitiveness Act of 1988 with respect to the enforcement of machine tool import arrangements; to the Committee on Finance.

By Mr. GARN:

S. 2410. A bill to authorize and request the President to advance Major Ronald Tiffany on the retired list of the United States Army Reserve; to the Committee on Armed Services.

By Mr. McCAIN (for himself, Mr. SMITH, Mr. BROWN, and Mr. MACK):

S. 2411. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

By Mr. McCAIN:

S. 2412. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2413. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2414. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2415. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2416. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2417. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2418. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2419. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2420. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2421. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2422. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2423. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2424. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2425. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2426. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2427. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2428. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2429. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2430. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2431. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2432. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2433. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2434. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2435. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its view to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2436. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its view to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2437. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its view to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2438. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its view to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2439. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its view to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2440. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its view to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2441. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its view to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2442. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its view to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2443. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its view to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2444. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its view to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2445. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its view to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2446. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its view to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2447. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2448. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2449. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2450. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2451. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2452. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2453. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2454. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2455. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2456. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2457. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2458. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2459. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2460. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2461. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2462. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2463. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2464. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2465. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2466. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2467. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2468. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2469. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2470. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2471. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2472. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2473. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2474. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2475. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1936, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2476. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2477. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2478. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2479. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

S. 2480. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; to the Committee on the Budget and the Committee on Appropriations, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, with instructions that the Budget Committee be authorized to report its views to the Appropriations Committee, and that the latter alone be authorized to report the bill.

By Mr. INOUYE (for himself, Mr. McCain, Mr. Daschle, Mr. Domenici, Mr. Burdick, Mr. Murkowski, Mr. Simon, Mr. Cochran, Mr. Stevens, Mr. Akaka, Mr. DeConcini, Mr. Conrad, Mrs. Kassebaum, Mr. Wellstone, and Mr. Reid):

S. 2481. A bill to amend the Indian Health Care Improvement Act to authorize appropriations for Indian health programs, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. RIEGLE:

S. 2482. A bill to provide funding for the Resolution Trust Corporation, and for other purposes; from the Committee on Banking, Housing, and Urban Affairs; placed on the calendar.

By Mr. BROWN:

S. 2483. A bill to provide assistance to Department of Energy management and operating contract employees at defense nuclear facilities who are significantly and adversely affected as a result of a significant reduction or modification in Department programs and to provide assistance to communities significantly affected by those reductions or modifications, and for other purposes; to the Committee on Armed Services.

By Mr. BIDEN:

S.J. Res. 279. A joint resolution designating April 14, 1992, as "Education and Sharing Day, U.S.A.; to the Committee on the Judiciary.

By Mr. BRADLEY (for himself, Mr. Adams, Mr. Akaka, Mr. Biden, Mr. Bingaman, Mr. Bumpers, Mr. Burdick, Mr. Conrad, Mr. Cranston, Mr. Daschle, Mr. Dixon, Mr. Dodd, Mr. Exon, Mr. Fowler, Mr. Glenn, Mr. Gore, Mr. Inouye, Mr. Kerrey, Mr. Kerry, Mr. Lautenberg, Mr. Levin, Mr. Lieberman, Mr. Metzenbaum, Ms. Mikulski, Mr. Moynihan, Mr. Pell, Mr. Reid, Mr. Sanford, Mr. Shelby, Mr. Simon, Mr. Brown, Mr. Burns, Mr. Coats, Mr. Cochran, Mr. Craig, Mr. D'Amato, Mr. Domenici, Mr. Durenberger, Mr. Grassley, Mr. Hatch, Mr. Hatfield, Mr. Jeffords, Mr. Kasten, Mr. Lugar, Mr. McCain, Mr. Murkowski, Mr. Packwood, Mr. Roth, Mr. Specter, Mr. Stevens, and Mr. Warner):

S.J. Res. 280. A joint resolution to authorize the President to proclaim the last Friday of April, 1992, as "National Arbor Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FORD (for himself and Mr. Stevens):

S. Con. Res. 102. A concurrent resolution to provide for a Joint Congressional Committee on Inaugural Ceremonies; considered and agreed to.

S. Con. Res. 103. A concurrent resolution authorizing the rotunda of the United States Capitol to be used on January 20, 1993, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BYRD:

S. 2402. A bill to rescind certain budget authority proposed to be rescinded in a special message transmitted to the Congress by the President on March 10, 1992, in accordance with title X of the Congressional Budget and Impoundment Control Act of 1974 as amended; pursuant to the order of January 30, 1975, as modified on April 11, 1975; referred jointly to the Committee on Appropriations, and the Committee on the Budget.

S. 2403. A bill to rescind certain budget authority proposed to be rescinded in special messages transmitted to the Congress by the President on March 20, 1992, in accordance with title X of the Congressional Budget and Impoundment Control Act of 1974 as amended; pursuant to the order of January 30, 1975, as modified on April 11, 1986; referred jointly to the Committee on Appropriations, and the Committee on the Budget.

S. 2404. A bill to rescind certain budget authority proposed to be rescinded in special messages transmitted to the Congress by the President on March 10, 1992, and on March 20, 1992, in accordance with title X of the Congressional Budget and Impoundment Control Act of 1974 as amended; pursuant to the order of January 30, 1975, as modified on April 11, 1986; referred jointly to the Committee on Appropriations, and the Committee on the Budget.

RESCISSION OF CERTAIN BUDGET AUTHORITY

Mr. BYRD. Mr. President, last Friday, the President announced that he was sending to Congress a series of additional measures to cut Federal spending. The President stated that the line-item rescissions identified so far in his package totaled about $4 billion in unnecessary spending.

We received this package of rescissions on March 20. There are 68 rescissions in this package totaling $3,588,973,100 in budget authority. Of that amount, $2.8 billion is a rescission of funding for the Seawolf submarine. Another $189 million is for what is called other Navy procurement. The remaining 66 items are domestic discretionary rescissions totaling $633,673,100, and of that amount a $547.7 million rescission is requested from the appropriations for new construction of public housing. the remaining 65 items total $86,014,000.

Mr. President, the press has treated these rescissions as something new, something that has been little used. The fact is, Mr. President, rescission authority has been in place since the enactment of the Congressional Budget and Impoundment Control Act of 1974.

In fact, on March 10 of this year, Congress received a package of rescissions totaling $2,073,855,000 from the President. Most of these items were for rescissions of defense funding; however, there were five rescissions of domestic discretionary funds totaling $87,185,000.

Despite statements to the contrary, in the press and here on the floor and elsewhere, rescission requests by Presidents since 1974 have been given careful scrutiny by Congress, and a substantial number of those Presidential rescission requests have been enacted. That is nothing new. We have had Presidential rescission requests before, in almost every year, including and since 1974.

In addition, during the period from 1974 to March 20, 1992, Congress has, on its own, initiated and enacted a large number of rescissions that were not requested by Presidents.

Now, this will come as news to a good many in the fourth estate and may come as news to a good many Members in this body. We have had these rescission requests from Presidents all the way from, and including, 1974, as I said.

I have here a table of all rescissions requested by Presidents from 1974 to March 20, 1992, as well as those initiated by Congress. When I complete my remarks, I shall ask unanimous consent to have inserted in the Record this table.

This table shows that over this period, 1974 to March 20, 1992, Presidents have requested 947 rescissions totaling $63,482,829,000. And of that total, Congress enacted 324 rescissions requested by Presidents totaling $19,557,337,366.

And in addition, and this is often overlooked—and I am sure my good friend from the State of New Mexico, Senator Domenici, is well aware of this, he having been the chairman of the Budget Committee in the Senate in the past, and being the ranking member still, being also a very influential member on the Senate Committee on Appropriations—over the same period of time, 1974 to March 20, 1992, Congress initiated and enacted 351 additional rescissions totaling $36,210,728,246.

Now, where has the press been? Where have our other Members been who are obviously not aware that we have been receiving and disposing of Presidential rescissions, and making rescissions of our own in addition thereto, for a good many years?

Therefore, if we combine rescissions enacted by Congress which were requested by Presidents, $19,557,337,366, and rescissions enacted and initiated by Congress, $36,210,728,246, we get a total of $55,768,065,612 in rescissions over the period 1974 to March 20, 1992.

So, Mr. President, contrary to the conventional wisdom which is so often wrong in this city, Congress has a good record on rescissions. And, Mr. President, we will take the latest Presidential rescission requests very seriously.

Today, I am introducing rescission bills that include all of the President's March 10 and March 20 rescissions. These bills will be referred to the Appropriations Committee, to the Budget

Committee, and to authorizing committees when and if contract and borrowing authority is involved.

The Appropriations Committee, which I chair, will carefully examine each of these items and, where appropriate, we will agree with the President.

In addition, as has been the case in other years, the Appropriations Committee will likely make its own recommendations as to other rescissions which have not been requested by the President.

I am sure that there are items in the executive branch budget which are unnecessary and wasteful. Frankly, the word "pork" gets bandied around far too much in this town. It is a buzzword used normally to tar the Congress by the columnists, the editors, the commentators, the media—bandied around a great deal, in almost all cases when it is used to tar the Congress. It is a label that is pinned on almost all congressional projects. If it is a project that is added by Congress, it is called "pork." If it is a project that is added by the House, it is "pork." If it is added by the Senate, it is "pork." There is plenty of "pork", however, at the other end of Pennsylvania Avenue.

Let me assure you, Mr. President, let me assure my colleagues, that each appropriations subcommittee will take these Presidential requests very seriously. There are some items among the President's rescission requests that undoubtedly can be justified and that ought to be agreed to.

The appropriations subcommittees will scrutinize all 1992 appropriations for all departments and agencies of the Government. Then the full committee will markup a rescissions bill or bills that will incorporate not only those rescissions requested by the President—certainly we will include some of them—and on which the committee can agree, but as I have said the committee will also include its own rescission amendments as well.

Mr. President, I ask unanimous consent to include the table to which I earlier referred—a table that was provided by the General Accounting Office—at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

	Number of rescissions proposed by President	Total amount proposed by President for rescission	Number of proposals accepted by Congress	Total amount of proposals enacted by Congress	Number of rescissions initiated by Congress	Total amount of rescissions initiated by Congress
Fiscal year:						
1992	[1] 31	2,090,555,000	0	0	25	1,382,377,000
1991	30	4,859,251,000	0	0	22	1,332,955,000
1990	11	554,258,000	[2] 8	513,302,000	68	2,322,145,000
1989	6	143,100,000	1	2,053,000	9	212,313,000
1988	0	0	0	0	61	3,860,653,067
1987	73	5,835,800,000	2	36,000,000	50	5,699,509,675
1986	83	10,126,900,000	4	143,210,000	5	6,668,450,000
1985	244	1,854,800,000	98	173,699,000	11	5,451,074,000
1984	9	636,400,000	3	55,375,000	8	2,181,515,000
1983	21	1,569,000,000	0	0	10	280,605,100
1982	32	7,907,400,000	5	4,365,486,000	3	16,927,000
1981	166	15,361,900,000	101	10,899,935,550	43	3,678,590,600
1980	59	1,618,100,000	34	777,696,446	30	3,003,950,100
1979	11	908,700,000	9	723,609,000	1	47,500,000
1978	12	1,290,100,000	3	55,255,000	2	61,964,000
1977	20	1,926,930,000	11	1,277,090,000	2	5,200,000
1976	50	3,582,000,000	7	148,331,000	0	0
1975	87	2,722,000,000	38	386,295,370	1	4,999,704
1974	2	495,635,000	0	0	0	0
Grand total 1974–1992	947	63,482,829,000	324	19,557,337,366	351	36,210,728,246

[1] As of Mar. 20, 1992.

[2] The Military Construction Appropriations Act, fiscal year 1991, approved most of the rescissions proposed by the President 41 days after the funds were released for obligation under the Impoundment Control Act. The following individual projects were not approved for rescission: Central District Center, Phase III, Red River, Texas $39,000,000 in proposed rescission R90–4; Addition to flight simulator, Luke Air Force Base, Arizona $1,900,000 in proposed rescission R90–5; Installation of Fireplaces in SOQ, WPAFB, Ohio $56,000 in proposed rescission R90–10.

Mr. BYRD. Mr. President, I introduce and send to the desk three bills to which I have already alluded.

The PRESIDING OFFICER. The bills will be received and appropriately referred.

Mr. BYRD. Mr. President, I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2402

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following rescissions of budget authority are made, namely:

DEPARTMENT OF COMMERCE

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 102–140, R92–2, $21,425,000 are rescinded.

DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–3, $92,850,000 are rescinded; of which $4,000,000 was made available for a grant to the Airborne and Special Operations Museum Foundation; $4,000,000 was made available for the National D-Day Museum Foundation; $2,000,000 was made available for the procurement of intermediate cold-wet weather boots; $22,000,000 was made available for the grant to the Silver Valley Unified School District, Yermo, California; $10,000,000 was made available for the grant to the Cumberland County School Board, Fayetteville, North Carolina; $6,800,000 was made available for the refurbishment and modernization at existing railyard facilities at Fort Riley, Kansas; and $250,000 was made available for the conduct of a study on the need for and feasibility of a joint military and civilian airport at Manhattan, Kansas.

OPERATION AND MAINTENANCE, NAVY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–4, $104,650,000 are rescinded; of which $1,600,000 was made available for the Museum of Science and Industry; and $78,000,000 was made available for shipyard modernization projects. The following proviso under this heading in Public Law 102–172 is repealed: "That funds appropriated or made available in this Act shall be obligated and expended to restore and maintain the facilities, activities and personnel levels, including specifically the medical facilities, activities and personnel levels, at the Memphis Naval Complex, Millington, Tennessee, to the fiscal year 1984 levels:".

OPERATION AND MAINTENANCE, MARINE CORPS

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–5, $22,000,000 are rescinded.

OPERATION AND MAINTENANCE, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–6, $4,500,000 are rescinded.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–7, $20,200,000 are rescinded; of which $15,000,000 was made available for the continued implementation of the Legacy Resource Management Program and only for use in implementing cooperative agreements to identify, document, and maintain biological diversity on military installations; $600,000 was made available for two Post-Traumatic Stress Disorder Treatment Centers, one to be located in the State of Hawaii, and one to be located in Greensburg, Pennsylvania, for the purpose of treating military personnel, dependents, and other personnel in post-traumatic stress disorders; and $750,000 was the amount made available for the conduct and preparation of an inventory of all the real property in the State of Hawaii that is owned or controlled by the United States Department of Defense and its components.

PROCUREMENT

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–9, $110,000,000 are rescinded.

PROCUREMENT OF AMMUNITION, ARMY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–10, $1,000,000 are rescinded.

AIRCRAFT PROCUREMENT, NAVY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–11, $262,000,000 are rescinded.

WEAPONS PROCUREMENT, NAVY

(RESCISSION)

Of the funds made available under this heading in subdivision "Other Missile Programs" in Public Law 102–172, R92–12, $13,200,000 are rescinded.

SHIPBUILDING AND CONVERSION, NAVY

(RESCISSION)

Of the funds made available under this heading in subdivision "LCAC landing craft air cushion program" in Public Law 102–172, R92–13, $238,100,000 are rescinded.

OTHER PROCUREMENT, NAVY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–14, $41,300,000 are rescinded.

PROCUREMENT, MARINE CORPS

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–15, $40,200,000 are rescinded.

PROCUREMENT, DEFENSE AGENCIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–16, $154,800,000 are rescinded.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–18, $102,200,000 are rescinded; of which not less than $6,300,000 was made available for the Vectored Thrust Combat Agility Demonstrator flight test program and not less than $10,000,000 was made available as a grant to the Louisiana State University for the Neuroscience Center of Excellence.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–19, $140,600,000 are rescinded, of which $10,000,000 was made available for the Submarine Laser Communications project.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–20, $127,100,000 are rescinded, of which $10,000,000 was made available as a grant to Marywood College, Pennsylvania, for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense; $10,000,000 was made available for the modernization and upgrade of the Poker Flat Rocket Range and $19,500,000 was made available to establish an image information processing center, co-located with the Air Force Maui Optical Station and the Maui Optical Tracking Facility; and $30,000,000 was made available for the National Center for Manufacturing Sciences.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–21, $375,900,000 are rescinded; of which $6,000,000 was made available for a grant to the University of Texas at Austin; $6,000,000 was made available for a grant to the Northeastern University; $5,000,000 was made available for a grant to the Texas Regional Institute for Environmental Studies; $7,700,000 was made available as a grant to the Kansas State University; $1,600,000 was made available for a grant to the University of Wisconsin; $29,000,000 was made available for a grant to the Boston University; $250,000 was made available for a grant to the Medical College of Ohio; $500,000 was made available for a grant to the University of South Carolina; $750,000 was made available for a grant to the George Mason University; $2,300,000 was made available as a grant to the Monmouth College; $10,000,000 was made available as a grant to the University of Minnesota; $500,000 was made available as a grant to the University of Saint Thomas in Saint Paul, Minnesota; $2,000,000 was made available as a grant to the Brandeis University; $3,000,000 was made available as a grant to the New Mexico State University; not less than $10,000,000 of the funds was made available for the Experimental Program to Stimulate Competitive Research (ESPCOR); and $12,500,000 was made available for the development of superconducting multi-chip modules: *Provided*, That section 8125 of Public Law 102–172 is repealed: *Provided further*, That section 253, the amendments made by section 825 to 10 U.S.C. 2196 and 2197, and section 827 of Public Law 102–190 are repealed.

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, ARMY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–136, R92–22, $9,050,000 are rescinded.

MILITARY CONSTRUCTION, NAVY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–136, R92–23, $17,400,000 are rescinded.

MILITARY CONSTRUCTION, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–136, R92–24, $6,000,000 are rescinded.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–136, R92–25, $48,000,000 are rescinded.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

(RESCISSION)

Of the funds made available under this heading in Public Law 102–136, R92–26, $16,565,000 are rescinded.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

(RESCISSION)

Of the funds made available under this heading in Public Law 102–136, R92–27, $306,000 are rescinded.

MILITARY CONSTRUCTION, ARMY RESERVE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–136, R92–28, $2,749,000 are rescinded.

MILITARY CONSTRUCTION, NAVAL RESERVE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–136, R92–29, $36,000,000 are rescinded.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–170, R92–30, $25,000,000 are rescinded.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

FLEXIBLE SUBSIDY FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 102–139, R92–31, $25,000,000 are rescinded.

DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 102–154, R92–32, $5,880,000 are rescinded.

DEPARTMENT OF TRANSPORTATION

FEDERAL RAILROAD ADMINISTRATION

LOCAL RAIL FREIGHT ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–143, R92–33, $9,880,000 are rescinded.

S. 2403

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following rescissions of budget authority are made, namely:

DEPARTMENT OF AGRICULTURE

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–142, R92–35, $100,000 is rescinded.

COOPERATIVE STATE RESEARCH SERVICE

BUILDINGS AND FACILITIES

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102–142, R92–36, $250,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–37, $500,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–38, $500,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–39, $2,710,000 is rescinded.

Of the funds made available under this heading in Public Law 102-142, R92-40, $375,000 is rescinded.

Of the funds made available under this heading in Public Law 102-142, R92-41, $3,050,000 is rescinded.

Of the funds made available under this heading in Public Law 102-142, R92-42, $225,000 is rescinded.

Cooperative State Research Service

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102-142, R92-43, $225,000 is rescinded.

Of the funds made available under this heading in Public Law 102-142, R92-44, $750,000 is rescinded.

Of the funds made available under this heading in Public Law 102-142, R92-45, $94,000 is rescinded.

Of the funds made available under this heading in Public Law 102-142, R92-46, $39,000 is rescinded.

Of the funds made available under this heading in Public Law 102-142, R92-47, $387,000 is rescinded.

Of the funds made available under this heading in Public Law 102-142, R92-48, $85,000 is rescinded.

Of the funds made available under this heading in Public Law 102-142, R92-49, $49,000 is rescinded.

Of the funds made available under this heading in Public Law 102-142, R92-50, $125,000 is rescinded.

Of the funds made available under this heading in Public Law 102-142, R92-51, $185,000 is rescinded.

Of the funds made available under this heading in Public Law 102-142, R92-52, $120,000 is rescinded.

Of the funds made available under this heading in Public Law 102-142, R92-53, $134,000 is rescinded.

Of the funds made available under this heading in Public Law 102-142, R92-54, $100,000 is rescinded.

Of the funds made available under this heading in Public Law 102-142, R92-55, $46,000 is rescinded.

Of the funds made available under this heading in Public Law 102-142, R92-56, $200,000 is rescinded.

Of the funds made available under this heading in Public Law 102-142, R92-57, $250,000 is rescinded.

Of the funds made available under this heading in Public Law 102-142, R92-58, $50,000 is rescinded.

Of the funds made available under this heading in Public Law 102-142, R92-59, $187,000 is rescinded.

Of the funds made available under this heading in Public Law 102-142, R92-60, $140,000 is rescinded.

Of the funds made available under this heading in Public Law 102-142, R92-61, $76,000 is rescinded.

Extension Service

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102-142, R92-62, $647,000 is rescinded.

Of the funds made available under this heading in Public Law 102-142, R92-63, $150,000 is rescinded.

National Agriculture Library

BUILDINGS AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102-142, R92-64, $500,000 is rescinded.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Annual Contributions for Assisted Housing

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102-139, R92-65, $547,659,100 are rescinded: *Provided*, That in the second proviso, the amount $573,883,000 for the development or acquisition cost of public housing shall be reduced by $547,659,100.

Of the funds made available under this heading in Public Law 102-139, R92-66, $1,500,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $1,500,000: *Provided further*, That none of these funds for such grants are available for the Alliance of Residence Theatres of New York, New York, for acquisition and renovation of theater space.

Of the funds made available under this heading in Public Law 102-139, R92-67, $1,000,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $1,000,000: *Provided further*, That none of these funds for such grants are available for the Atlantic Economic Development Corp. for the Sweet Auburn Curb Market project.

Of the funds made available under this heading in Public Law 102-139, R92-68, $2,000,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $2,000,000: *Provided further*, That none of these funds for such grants are available for economic development in the downtown areas of Davenport, Iowa.

Of the funds made available under this heading in Public Law 102-139, R92-69, $150,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $150,000: *Provided further*, That none of these funds for such grants are available for a new government center in Warren, Rhode Island.

Of the funds made available under this heading in Public Law 102-139, R92-70, $100,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $100,000: *Provided further*, That none of these funds for such grants are available for improvements to the West Side Community Center in Asbury Park, New Jersey.

Of the funds made available under this heading in Public Law 102-139, R92-71, $1,200,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $1,200,000: *Provided further*, That none of these funds for such grants are available for infrastructure development of Hawaiian home lands.

Of the funds made available under this heading in Public Law 102-139, R92-72, $1,000,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $1,000,000: *Provided further*, That none of these funds for such grants are available for infrastructure improvements for the Town of Clinton, Tennessee.

Of the funds made available under this heading in Public Law 102-139, R92-73, $1,300,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $1,300,000: *Provided further*, That none of these funds for such grants are available for job retention of agricultural workers at two sugarcane mills on Hawaii's Hilo-Hamakua coast.

Of the funds made available under this heading in Public Law 102-139, R92-74, $3,900,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $3,900,000: *Provided further*, That none of these funds for such grants are available for land acquisition, construction, public improvements, and other purposes in Bay City, Michigan.

Of the funds made available under this heading in Public Law 102-139, R92-75, $2,500,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $2,500,000: *Provided further*, That none of these funds for such grants are available for the North Miami Center for Contemporary Art, Florida.

Of the funds made available under this heading in Public Law 102-139, R92-76, $1,500,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $1,500,000: *Provided further*, That none of these funds for such grants are available for a municipal center in Bloomfield, New Mexico.

Of the funds made available under this heading in Public Law 102-139, R92-77, $500,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $500,000: *Provided further*, That none of these funds for such grants are available for the North Dakota Business Marketing Alliance for a revolving fund for rural, home-based micro businesses.

Of the funds made available under this heading in Public Law 102-139, R92-78, $1,000,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $1,000,000: *Provided further*, That none of these funds for such grants are available for the Oxbow Corporation for construction of the Oxbow project in Castlewood and Saint Paul, Virginia.

Of the funds made available under this heading in Public Law 102-139, R92-79, $1,000,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $1,000,000: *Provided further*, That none of these funds for such grants are available for a parking garage in Ashland, Kentucky.

Of the funds made available under this heading in Public Law 102-139, R92-80, $505,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $505,000: *Provided further*, That none of these funds for such grants are available for the North Miami Beach, Florida, Performing Arts Cultural Center.

Of the funds made available under this heading in Public Law 102-139, R92-81, $65,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $65,000: *Provided further*, That none of these funds for such grants are available for improvement of recreational facilities in Biscayne Park, Florida.

Of the funds made available under this heading in Public Law 102-139, R92-82, $101,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purposes grants shall be reduced by $101,000: *Provided further*, That none of these funds for such grants are available to improve recreational facilities in the Borough of Myersdale, Pennsylvania.

Of the funds made available under this heading in Public Law 102–139, R92–83, $1,500,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $1,500,000: *Provided further*, That none of these funds for such grants are available to improve the community recreational facilities in three communities, Portage Borough, Portage Township, and the City of Greensburg, Pennsylvania.

Of the funds made available under this heading in Public Law 102–139, R92–84, $700,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $700,000: *Provided further*, That none of these funds for such grants are available to refurbish the Cresson Street tressel in Manayunk, Pennsylvania.

Of the funds made available under this heading in Public Law 102–139, R92–85, $1,000,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $1,000,000: *Provided further*, That none of these funds for such grants are available to rehabilitate the Pease Auditorium, a historic building in Ypsilanti, Michigan.

Of the funds made available under this heading in Public Law 102–139, R92–86, $800,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $800,000: *Provided further*, That none of these funds for such grants are available for the development of a waste supply system for the City of Crawford, Nebraska.

RESEARCH AND TECHNOLOGY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–139, R92–87, $400,000 are rescinded: *Provided*, That none of these funds are available for the State of Hawaii Real Estate Commission for a nationwide study to be conducted by the Hawaii Real Estate Research and Educational Center to evaluate the advantages and disadvantages of reforming the Internal Code to qualify residential ground lease financing for deductions or tax credits.

DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 102–154, R92–88, $8,593,000 are rescinded.

NATIONAL PARK SERVICE

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 102–154, R92–89, $7,700,000 are rescinded.

OPERATION OF THE NATIONAL PARK SERVICE

(RESCISSION)

Of the funds available under this heading in Public Law 102–154, R92–90, $1,975,000 are rescinded.

DEPARTMENT OF THE ARMY

ARMY CORPS OF ENGINEERS—CIVIL

CONSTRUCTION, GENERAL

(RESCISSION)

Of the funds made available under this heading in title I of Public Law 102–104, R92–91, $3,000,000 are rescinded: *Provided*, That the language of title I of Public Law 102–104 directing the Secretary of the Army, acting through the Chief of Engineers, to undertake in fiscal year 1992, the Red River Basin Chloride Control, Texas and Oklahoma, $3,000,000 is repealed.

OPERATION AND MAINTENANCE, GENERAL

(RESCISSION)

Of the funds made available under this heading in title I of Public Law 102–104, R92–92, $1,350,000 are rescinded: *Provided*, That the language of title I of Public Law 102–104 directing the Secretary of the Army, acting through the Chief of Engineers, with $1,500,000 to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River below Fort Peck Dam is repealed.

ENVIRONMENTAL PROTECTION AGENCY

ABATEMENT, CONTROL, AND COMPLIANCE

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102–139, R92–93, $1,250,000 are rescinded.

Of the funds made available under this heading in Public Law 102–139, R92–94, $390,000 are rescinded.

Of the funds made available under this heading in Public Law 102–139, R92–95, $70,000 are rescinded.

Of the funds made available under this heading in Public Law 102–139, R92–96, $1,450,000 are rescinded.

Of the funds made available under this heading in Public Law 102–139, R92–97, $20,000,000 are rescinded.

RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 102–139, R92–98, $116,000 are rescinded.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

CONSTRUCTION OF FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–139, R92–99, $3,400,000 are rescinded: *Provided*, That all of the funds made available for the Consortium for International Earth Science Information Networks (CIESIN) are rescinded.

RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 102–139, R92–100, $750,000 are rescinded.

DEPARTMENT OF DEFENSE—MILITARY

PROCUREMENT

SHIPBUILDING AND CONVERSION, NAVY

(RESCISSION)

Of the funds provided under this heading in the subdivision "SSN–21 attack submarine program" in Public Law 101–511, $1,075,700,000 are rescinded; and of the funds provided under this heading in the subdivision "SSN–21 attack submarine program" in Public Law 102–172, $1,690,200,000 are rescinded.

OTHER PROCUREMENT, NAVY

(RESCISSION)

Of the funds provided under this heading in Public Law 102–172, R92–102, $189,400,000 are rescinded.

S. 2404

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following rescissions of budget authority are made, namely:

DEPARTMENT OF COMMERCE

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 102–140, R92–2, $21,425,000 are rescinded.

DEPARTMENT OF DEFENSE

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–3, $92,850,000 are rescinded; of which $4,000,000 was made available for a grant to the Airborne and Special Operations Museum Foundation; $4,000,000 was made available for the National D-Day Museum Foundation; $2,000,000 was made available for the procurement of intermediate cold-wet weather boots; $22,000,000 was made available for the grant to the Silver Valley Unified School District, Yermo, California; $10,000,000 was made available for the grant to the Cumberland County School Board, Fayetteville, North Carolina; $6,800,000 was made available for the refurbishment and modernization at existing railyard facilities at Fort Riley, Kansas; and $250,000 was made available for the conduct of a study on the need for and feasibility of a joint military and civilian airport at Manhattan, Kansas.

OPERATION AND MAINTENANCE, NAVY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–4, $104,650,000 are rescinded; of which $1,600,000 was made available for the Museum of Science and Industry; and $78,000,000 was made available for shipyard modernization projects. The following proviso under this heading in Public Law 102–172 is repealed: "That funds appropriated or made available in this Act shall be obligated and expended to restore and maintain the facilities, activities and personnel levels, including specifically the medical facilities, activities and personnel levels, at the Memphis Naval Complex, Millington, Tennessee, to the fiscal year 1984 levels:".

OPERATION AND MAINTENANCE, MARINE CORPS

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–5, $22,000,000 are rescinded.

OPERATION AND MAINTENANCE, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–6, $4,500,000 are rescinded.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–7, $20,200,000 are rescinded; of which $15,000,000 was made available for the continued implementation of the Legacy Resource Management Program and only for use in implementing cooperative agreements to identify, document, and maintain biological diversity on military installations; $600,000 was made available for two Post-Traumatic Stress Disorder Treatment Centers, one to be located in the State of Hawaii, and one to be located in Greensburg, Pennsylvania, for the purpose of treating military personnel, dependents, and other personnel in post-traumatic stress disorders; and $750,000 was the amount made available for the conduct and preparation of an inventory of all the real property in the State of Hawaii that is owned or controlled by the United States Department of Defense and its components.

Procurement

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–9, $110,000,000 are rescinded.

PROCUREMENT OF AMMUNITION, ARMY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–10, $1,000,000 are rescinded.

AIRCRAFT PROCUREMENT, NAVY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–11, $262,000,000 are rescinded.

WEAPONS PROCUREMENT, NAVY

(RESCISSION)

Of the funds made available under this heading in subdivision "Other Missile Programs" in Public Law 102–172, R92–12, $13,200,000 are rescinded.

SHIPBUILDING AND CONVERSION, NAVY

(RESCISSION)

Of the funds made available under this heading in subdivision "LCAC landing craft air cushion program" in Public Law 102–172, R92–13, $238,100,000 are rescinded.

OTHER PROCUREMENT, NAVY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–14, $41,300,000 are rescinded.

PROCUREMENT, MARINE CORPS

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–15, $40,200,000 are rescinded.

PROCUREMENT, DEFENSE AGENCIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–16, $154,800,000 are rescinded.

Research, Development, Test, and Evaluation

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–18, $102,200,000 are rescinded; of which not less than $6,300,000 was made available for the Vectored Thrust Combat Agility Demonstrator flight test program and not less than $10,000,000 was made available as a grant to the Louisiana State University for the Neuroscience Center of Excellence.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–19, $140,600,000 are rescinded, of which $10,000,000 was made available for the Submarine Laser Communications project.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–20, $127,100,000 are rescinded, of which $10,000,000 was made available as a grant to Marywood College, Pennsylvania, for laboratory and other efforts associated with research, development and other programs of major importance to the Department of Defense; $10,000,000 was made available for the modernization and upgrade of the Poker Flat Rocket Range and $19,500,000 was made available to establish an image information processing center, co-located with the Air Force Maui Optical Station and the Maui Optical Tracking Facility; and $30,000,000 was made available for the National Center for Manufacturing Sciences.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–172, R92–21, $375,900,000 are rescinded; of which $6,000,000 was made available for a grant to the University of Texas at Austin; $6,000,000 was made available for a grant to the Northeastern University; $5,000,000 was made available for a grant to the Texas Regional Institute for Environmental Studies; $7,700,000 was made available as a grant to the Kansas State University; $1,600,000 was made available for a grant to the University of Wisconsin; $29,000,000 was made available for a grant to the Boston University; $250,000 was made available for a grant to the Medical College of Ohio; $500,000 was made available for a grant to the University of South Carolina; $750,000 was made available for a grant to the George Mason University; $2,300,000 was made available as a grant to the Monmouth College; $10,000,000 was made available as a grant to the University of Minnesota; $500,000 was made available as a grant to the University of Saint Thomas in Saint Paul, Minnesota; $2,000,000 was made available as a grant to the Brandeis University; $3,000,000 was made available as a grant to the New Mexico State University; not less than $10,000,000 of the funds was made available for the Experimental Program to Stimulate Competitive Research (ESPCOR); and $12,500,000 was made available for the development of superconducting multi-chip modules: *Provided*, That section 8125 of Public Law 102–172 is repealed: *Provided further*, That section 253, the amendments made by section 825 to 10 U.S.C. 2196 and 2197, and section 827 of Public Law 102–190 are repealed.

MILITARY CONSTRUCTION

Military Construction, Army

(RESCISSION)

Of the funds made available under this heading in Public Law 102–136, R92–22, $9,050,000 are rescinded.

Military Construction, Navy

(RESCISSION)

Of the funds made available under this heading in Public Law 102–136, R92–23, $17,400,000 are rescinded.

Military Construction, Air Force

(RESCISSION)

Of the funds made available under this heading in Public Law 102–136, R92–24, $6,000,000 are rescinded.

Military Construction, Defense Agencies

(RESCISSION)

Of the funds made available under this heading in Public Law 102–136, R92–25, $48,000,000 are rescinded.

Military Construction, Army National Guard

(RESCISSION)

Of the funds made available under this heading in Public Law 102–136, R92–26, $16,565,000 are rescinded.

Military Construction, Air National Guard

(RESCISSION)

Of the funds made available under this heading in Public Law 102–136, R92–27, $306,000 are rescinded.

Military Construction, Army Reserve

(RESCISSION)

Of the funds made available under this heading in Public Law 102–136, R92–28, $2,749,000 are rescinded.

Military Construction, Naval Reserve

(RESCISSION)

Of the funds made available under this heading in Public Law 102–136, R92–29, $36,000,000 are rescinded.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

HEALTH RESOURCES AND SERVICES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–170, R92–30, $25,000,000 are rescinded.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Programs

FLEXIBLE SUBSIDY FUND

(RESCISSION)

Of the funds made available under this heading in Public Law 102–139, R92–31, $25,000,000 are rescinded.

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

OPERATION OF INDIAN PROGRAMS

(RESCISSION)

Of the funds made available under this heading in Public Law 102–154, R92–32, $5,880,000 are rescinded.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

LOCAL RAIL FREIGHT ASSISTANCE

(RESCISSION)

Of the funds made available under this heading in Public Law 102–143, R92–33, $9,880,000 are rescinded.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

(RESCISSION)

Of the funds made available under this heading in Public Law 102–142, R92–35, $100,000 is rescinded.

Cooperative State Research Service

BUILDINGS AND FACILITIES

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102–142, R92–36, $250,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–37, $500,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–38, $500,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–39, $2,710,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–40, $375,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–41, $3,050,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–42, $225,000 is rescinded.

COOPERATIVE STATE RESEARCH SERVICE

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102–142, R92–43, $225,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–44, $750,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–45, $94,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–46, $39,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–47, $387,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–48, $85,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–49, $49,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–50, $125,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–51, $185,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–52, $120,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–53, $134,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–54, $100,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–55, $46,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–56, $200,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–57, $250,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–58, $50,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–59, $187,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–60, $140,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–61, $76,000 is rescinded.

EXTENSION SERVICE

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102–142, R92–62, $647,000 is rescinded.

Of the funds made available under this heading in Public Law 102–142, R92–63, $150,000 is rescinded.

NATIONAL AGRICULTURE LIBRARY

BUILDINGS AND FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–142, R92–64, $500,000 is rescinded.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102–139, R92–65, $547,659,100 are rescinded: *Provided*, That in the second proviso, the amount $573,883,000 for the development or acquisition cost of public housing shall be reduced by $547,659,100.

Of the funds made available under this heading in Public Law 102–139, R92–66, $1,500,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $1,500,000: *Provided further*, That none of these funds for such grants are available for the Alliance of Residence Theatres of New York, New York, for acquisition and renovation of theater space.

Of the funds made available under this heading in Public Law 102–139, R92–67, $1,000,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $1,000,000: *Provided further*, That none of these funds for such grants are available for the Atlantic Economic Development Corp. for the Sweet Auburn Curb Market project.

Of the funds made available under this heading in Public Law 102–139, R92–68, $2,000,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $2,000,000: *Provided further*, That none of these funds for such grants are available for economic development in the downtown areas of Davenport, Iowa.

Of the funds made available under this heading in Public Law 102–139, R92–69, $150,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $150,000: *Provided further*, That none of these funds for such grants are available for a new government center in Warren, Rhode Island.

Of the funds made available under this heading in Public Law 102–139, R92–70, $100,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $100,000: *Provided further*, That none of these funds for such grants are available for improvements to the West Side Community Center in Asbury Park, New Jersey.

Of the funds made available under this heading in Public Law 102–139, R92–71, $1,200,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $1,200,000: *Provided further*, That none of these funds for such grants are available for infrastructure development of Hawaiian home lands.

Of the funds made available under this heading in Public Law 102–139, R92–72, $1,000,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $1,000,000: *Provided further*, That none of these funds for such grants are available for infrastructure improvements for the Town of Clinton, Tennessee.

Of the funds made available under this heading in Public Law 102–139, R92–73, $1,300,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $1,300,000: *Provided further*, That none of these funds for such grants are available for job retention of agricultural workers at two sugarcane mills on Hawaii's Hilo-Hamakua coast.

Of the funds made available under this heading in Public Law 102–139, R92–74, $3,900,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $3,900,000: *Provided further*, That none of these funds for such grants are available for land acquisition, construction, public improvements, and other purposes in Bay City, Michigan.

Of the funds made available under this heading in Public Law 102–139, R92–75, $2,500,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $2,500,000: *Provided further*, That none of these funds for such grants are available for the North Miami Center for Contemporary Art, Florida.

Of the funds made available under this heading in Public Law 102–139, R92–76, $1,500,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $1,500,000: *Provided further*, That none of these funds for such grants are available for a municipal center in Bloomfield, New Mexico.

Of the funds made available under this heading in Public Law 102–139, R92–77, $500,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $500,000: *Provided further*, That none of these funds for such grants are available for the North Dakota Business Marketing Alliance for a revolving fund for rural, home-based micro businesses.

Of the funds made available under this heading in Public Law 102–139, R92–78, $1,000,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $1,000,000: *Provided further*, That none of these funds for such grants are available for the Oxbow Corporation for construction of the Oxbow project in Castlewood and Saint Paul, Virginia.

Of the funds made available under this heading in Public Law 102–139, R92–79, $1,000,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $1,000,000: *Provided further*, That none of these funds for such grants are available for a parking garage in Ashland, Kentucky.

Of the funds made available under this heading in Public Law 102–139, R92–80, $505,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $505,000: *Provided further*, That none of these funds for such grants are available for the North Miami Beach, Florida, Performing Arts Cultural Center.

Of the funds made available under this heading in Public Law 102–139, R92–81, $65,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $65,000: *Provided further*, That none of these funds for such grants are available for improvement of recreational facilities in Biscayne Park, Florida.

Of the funds made available under this heading in Public Law 102–139 R92–82, $101,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purposes grants shall be reduced by $101,000: *Provided further*, That none of these funds for such grants are available to improve recreational facilities in the Borough of Myersdale, Pennsylvania.

Of the funds made available under this heading in Public Law 102–139, R92–83, $1,500,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $1,500,000: *Provided further*, That none of these funds for such grants are available to improve the community recreational facilities in three communities, Portage Borough, Portage Township, and the City of Greensburg, Pennsylvania.

Of the funds made available under this heading in Public Law 102–139, R92–84, $700,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $700,000: *Provided further*, That none of these funds for such grants are available to refurbish the Cresson Street tressel in Manayunk, Pennsylvania.

Of the funds made available under this heading in Public Law 102–139, R92–85, $1,000,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $1,000,000: *Provided further*, That none of these funds for such grants are available to rehabilitate the Pease Auditorium, a historic building in Ypsilanti, Michigan.

Of the funds made available under this heading in Public Law 102–139, R92–86, $800,000 are rescinded: *Provided*, That in the fourteenth proviso, the amount $150,000,000 for special purpose grants shall be reduced by $800,000: *Provided further*, That none of these funds for such grants are available for the development of a waste supply system for the City of Crawford, Nebraska.

RESEARCH AND TECHNOLOGY

(RESCISSION)

Of the funds made available under this heading in Public Law 102–139, R92–87, $400,000 are rescinded: *Provided*, That none of these funds are available for the State of Hawaii Real Estate Commission for a nationwide study to be conducted by the Hawaii Real Estate Research and Educational Center to evaluate the advantages and disadvantages of reforming the Internal Code to qualify residential ground lease financing for deductions or tax credits.

DEPARTMENT OF THE INTERIOR

BUREAU OF INDIAN AFFAIRS

CONSTRUCTION

(RESCISSION)

Of the funds made available under this heading in Public Law 102–154, R92–88, $8,593,000 are rescinded.

NATIONAL PARK SERVICE

CONSTRUCTION

(RESCISSION)

Of the funds available under this heading in Public Law 102–154, R92–89, $7,700,000 are rescinded.

OPERATION OF THE NATIONAL PARK SERVICE

(RESCISSION)

Of the funds available under this heading in Public Law 102–154, R92–90, $1,975,000 are rescinded.

DEPARTMENT OF THE ARMY

ARMY CORPS OF ENGINEERS—CIVIL

CONSTRUCTION, GENERAL

(RESCISSION)

Of the funds made available under this heading in title I of Public Law 102–104, R92–91, $3,000,000 are rescinded: *Provided*, That the language of title I of Public Law 102–104 directing the Secretary of the Army, acting through the Chief of Engineers, to undertake in fiscal year 1992, the Red River Basin Chloride Control, Texas and Oklahoma, $3,000,000 is repealed.

OPERATION AND MAINTENANCE, GENERAL

(RESCISSION)

Of the funds made available under this heading in title I of Public Law 102–104, R92–92, $1,350,000 are rescinded: *Provided*, That the language of title I of Public Law 102–104 directing the Secretary of the Army, acting through the Chief of Engineers, with $1,500,000 to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River below Fort Peck Dam is repealed.

ENVIRONMENTAL PROTECTION AGENCY

ABATEMENT, CONTROL, AND COMPLIANCE

(RESCISSIONS)

Of the funds made available under this heading in Public Law 102–139, R92–93, $1,250,000 are rescinded.

Of the funds made available under this heading in Public Law 102–139, R92–94, $390,000 are rescinded.

Of the funds made available under this heading in Public Law 102–139, R92–95, $70,000 are rescinded.

Of the funds made available under this heading in Public Law 102–139, R92–96, $1,450,000 are rescinded.

Of the funds made available under this heading in Public Law 102–139, R92–97, $20,000,000 are rescinded.

RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 102–139, R92–98, $116,000 are rescinded.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

CONSTRUCTION OF FACILITIES

(RESCISSION)

Of the funds made available under this heading in Public Law 102–139, R92–99, $3,400,000 are rescinded: *Provided*, That all of the funds made available for the Consortium for International Earth Science Information Networks (CIESIN) are rescinded.

RESEARCH AND DEVELOPMENT

(RESCISSION)

Of the funds made available under this heading in Public Law 102–139, R92–100, $750,000 are rescinded.

DEPARTMENT OF DEFENSE—MILITARY

PROCUREMENT

SHIPBUILDING AND CONVERSION, NAVY

(RESCISSION)

Of the funds provided under this heading in the subdivision "SSN–21 attack submarine program" in Public Law 101–511, $1,075,700,000 are rescinded; and of the funds provided under this heading in the subdivision "SSN–21 attack submarine program" in Public Law 102–172, $1,690,200,000 are rescinded.

OTHER PROCUREMENT, NAVY

(RESCISSION)

Of the funds provided under this heading in Public Law 102–172, R92–102, $189,400,000 are rescinded.

By Mr. SEYMOUR:

S. 2407. A bill to amend the Board for International Broadcasting Act of 1973 to establish a program for radio broadcasting to the peoples of Asia; to the Committee on Foreign Relations.

RADIO FREE ASIA ACT

• Mr. SEYMOUR. Mr. President, I rise this morning to introduce the Radio Free Asia Act of 1992 to begin the process of establishing a comprehensive surrogate broadcast system for the 80 million people who still live under Communist rule in Southeast Asia.

My legislation would authorize the U.S. Board for International Broadcasting to divert $10 million in existing funds from the Radio Free Europe and Liberty programs for the purpose of starting this critically needed service.

I am pleased to note that Congresswoman HELEN BENTLEY of Maryland has already introduced a companion bill to this effect in the House of Representatives.

Almost every hero of the struggle against imperial communism, Mr. President, has testified to the effectiveness of Radio Free Europe in moving the citizens of the Soviet block to break the chains of tyranny that had gripped their nations for more than 40 years.

The crackling airwaves of Budapest, Warsaw, and Prague carried information that demolished the economic lies of socialism and exposed its moral sins against the people of Eastern Europe.

In almost every one of these countries, Radio Free Europe flooded the airwaves as the only alternative to the government-controlled media as a source of news about developments behind the Iron Curtain.

The requirement for this type of broadcast service in Southeast Asia has never been more evident. Vietnam, for example, still has a constitution guaranteeing the permanent rule of the Communist Party. It still has slave labor or reeducation camps in each of its 40 provinces. It still has a government that preaches the eternal nature of Marxism-Leninism.

And most tragically, Mr. President, it still has a population that tries to escape from the country even at the risk of death.

Yet despite the evident need for a Radio Free Asia, the United States continues to misdirect its international broadcasting resources.

The voice of America currently broadcasts into Vietnam only 17 hours a week. But as late as 2 years ago—after the toppling of the Berlin Wall—we maintained cold war levels of broadcasting into Poland at the rate of 137 hours a week and into Hungary at the rate of 126 hours per week.

It should come as no surprise, therefore, that the U.S. Advisory Commission on Public Diplomacy has urged the State Department to reduce significantly its radio programs for Eastern Europe.

We can further understand the value of Radio Free Asia by distinguishing its purpose from the existing mission of the Voice of America. The VOA concentrates on informing the citizens of other nations about developments in the United States. Yet Radio Free Asia, like Radio Free Europe, would devote itself to providing accurate news about events intrinsic to the country of the listening audience.

To their credit, VOA officials have publicly acknowledged this broadcasting shortfall and have openly lamented the lack of an extended airwave service for the people of China and Southeast Asia.

If we begin with the humble investment authorized by this bill, Mr. President, the long-term dividend paid by our cultivation of motivated and democratically active citizens throughout the tormented lands of Asia would be high. International military tensions would go down. Trade and investment opportunities for American businesses would go up. And we would have the moral satisfaction of hastening the birth of new societies characterized by freedom and prosperity.

As a result, I urge my colleagues to cosponsor and support the passage of the Radio Free Asia Act of 1992.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2407

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Radio Free Asia Act of 1992".

SEC. 2. RADIO BROADCASTING TO ASIA.

(a) ESTABLISHMENT.—The Board for International Broadcasting Act of 1973 (22 U.S.C. 2871, et seq.) is amended by adding at the end thereof the following new section:

"RADIO BROADCASTING TO ASIA

"SEC. 15. Funds made available to RFE/RL, Incorporated, under this Act may be used for radio broadcasting to the peoples of Asia, particularly the people of Cambodia, Laos, and Vietnam. Such broadcasts shall be designated 'Radio Free Asia'.".

(b) CONFORMING AMENDMENT.—Section 2(5) of such Act (22 U.S.C. 2871(5)) is amended by inserting "Asia," after "Eastern Europe,".

SEC. 3. MEMBERSHIP OF BOARD FOR INTERNATIONAL BROADCASTING.

(a) COMPOSITION OF BOARD.—Section 3(b)(1) of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2872(b)(1)) is amended—

(1) in the first sentence, by striking "ten" and inserting "twelve";

(2) in the second sentence, by striking "nine" and inserting "eleven"; and

(3) in the third sentence, by striking "five" and inserting "six".

(b) TERM OF OFFICE OF PRESIDENTIALLY APPOINTED MEMBERS.—Section 3(b)(3) of such Act (22 U.S.C. 2872(b)(3)) is amended by adding at the end thereof the following new sentence: "The term of office of the individuals initially appointed as the two additional voting members of the Board who are provided for by the amendments made by section 3(a) of the Radio Free Asia Act of 1992 shall be two or three years (as designated by the President at the time of their appointment).".

SEC. 4. ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.

Section 8 of the Board for International Broadcasting Act of 1973 (22 U.S.C. 2877) is amended by adding at the end thereof the following new subsection:

"(d) In addition to such amounts as are authorized to be appropriated by subsection (a), there are authorized to be appropriated $10,000,000 to carry out section 15 of this Act for fiscal year 1993.".

SEC. 5. REPORTS TO CONGRESS.

(a) REPORT REGARDING GEOGRAPHIC EXPANSION OF BROADCASTS.—Not later than 180 days after the effective date of this Act, the Board for International Broadcasting shall prepare and submit to the Congress a report concerning the desirability of the geographic expansion of broadcasts funded through the Board, particularly to the peoples of Africa, the Middle East, and North Korea.

(b) REPORT REGARDING BROADCASTING TO ASIA.—(1) Not later than 180 days after the effective date of this Act, the Board for International Broadcasting shall prepare and submit to the Congress a comprehensive report concerning implementation of section 15 of the Board for International Broadcasting Act of 1973 (relating to radio broadcasting to Asia).

(2) In preparing such report, the Board for International Broadcasting—

(A) shall consider the feasibility of constructing a Radio Free Asia transmitting facility in any State, territory, or possession of the United States, or state in free association with the United States, located in the Pacific Ocean;

(B) shall take into account the environmental impact of such potential site; and

(C) shall include a discussion of the considerations under subparagraphs (A) and (B) in such report.

SEC. 6. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect on October 1, 1992.●

By Mr. DECONCINI:

S. 2408. A bill to limit plea agreements and cooperative agreements that promise reduced sentences or other benefits in exchange for cooperation by drug kingpins and others charged with extremely serious offenses; to the Committee on the Judiciary.

LIMITATION OF PLEA AND COOPERATIVE AGREEMENTS WITH RESPECT TO DRUG KINGPINS AND OTHERS

● Mr. DECONCINI. Mr. President, due to a technical error in the plea bargaining legislation that I introduced earlier this month, I rise today to introduce a new bill incorporating the corrections.

Mr. President, I rise today to introduce legislation which hopefully will put an end to this administration's misguided policy in prosecuting drug kingpins. Simply put, this bill precludes Federal prosecutors from giving sweetheart deals to drug kingpins for information to prosecute an individual charged with a lesser offense.

Recently, in the criminal trial of Gen. Manuel Noriega, the Bush administration cut deals with some of the most notorious drug kingpins ever apprehended or convicted in this country. Its fear of losing this trial led the administration to breach its own prior announced policy of prosecuting drug traffickers to the fullest extent under the law. This reckless and misguided policy must stop.

Specifically, this bill prohibits the Government from entering into any agreement with criminals charged with or convicted of the following crimes subject to life sentences:

Crimes using guns in the act of manufacturing, distributing or selling drugs;

Crimes of murder or attempted murder of drug enforcement agents or other Federal agents;

Crimes of kidnaping drug enforcement agents or other Federal agents; and

Crimes involving a continuing criminal enterprise, an essential statute in prosecuting drug kingpins.

This legislation is very limited in its scope but very broad in its message. The message to this administration is that bargaining with drug kingpins will not be tolerated. And in those instances where plea agreements are entered, the Justice Department will be accountable to the American people.

This legislation will not tie the hands of Federal prosecutors in entering plea agreements. In fact, my bill would not prohibit the Justice Department from entering into an agreement with a major drug kingpin for information against another drug kingpin being charged with the same offense. The Justice Department should have the flexibility to make that policy decision. Yet, because of the enormous policy ramifications of giving a break to a major drug kingpin, this legislation would require the Attorney General to personally approve such an agreement. My hope is that this is the current policy at Justice. However, in view of the confusion and delays surrounding my requests for information regarding the plea agreements entered into during the Noriega trial, I believe it is imperative that the Attorney General be required to account personally for such an important policy decision.

Mr. President, it has been the stated policy of this administration to prosecute drug traffickers to the fullest extent under the law. Unfortunately, the actions of this administration during the Noriega trial contravene that prior policy.

As a former prosecutor, I recognize the importance of and flexibility that plea agreements provide the criminal justice system. However, entering a plea agreement with the likes of a notorious drug kingpin such as Carlos Lehder has tremendous ramifications beyond the benefit it would provide to another criminal prosecution. such actions undermine the credibility of our Government, justice system, and commitment to the war on drugs around the world.

In its own national drug strategy released in January 1992, the administration declared that one of its principal objectives in the war on drugs would be to continue to urge the Andean Nations such as Colombia, to strengthen their laws and increase their prosecution against major drug traffickers. In addition, this administration has continued to press Colombia, Peru, and Bolivia to extradite its drug kingpins for prosecution in the United States.

How can we expect any cooperation from these countries when we are so willing to breach our own commitment?

Congress has a right to be notified when the administration is entering a plea agreement with tremendous policy ramifications. Under my legislation, before the administration enters a plea agreement like those dealt out in the Noriega trial, the Attorney General is required to personally approve such an agreement and must notify Congress 10 days before the agreement is finalized.

At a time when Congress is providing the administration with the prosecutorial tools to convict drug traffickers, the administration has chosen a more lenient path. Indeed, it is a rather disturbing that at the same time the administration is cutting sweetheart deals with the likes of Carlos Lehder, President Bush is threatening to veto a crime bill under which Mr. Lehder would receive the death penalty.

Mr. President, I ask unanimous consent that the text of the legislation be printed at this point in the RECORD as well as a copy of the floor statement that I gave 2 weeks ago on the administration's plea agreement policy for drug kingpins.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2408

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIMITATION ON PLEA AGREEMENTS AND COOPERATIVE AGREEMENTS WITH DRUG KINGPINS AND OTHERS CHARGED WITH EXTREMELY SERIOUS OFFENSES.

Section 3582 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(e) LIMITATION ON PLEA AGREEMENTS AND COOPERATIVE AGREEMENTS WITH DRUG KINGPINS AND OTHERS CHARGED WITH EXTREMELY SERIOUS OFFENSES.—

"(1) IN GENERAL.—In the case of an offender who is charged with, could be charged with, could have been charged with, or has been convicted of an offense described in paragraph (2), the court shall not approve a plea agreement, cooperative agreement, or other form of agreement between the Government and the offender under which—

"(A) the Government agrees to, or agrees not to contest, a request for a sentence of any particular length or for a reduction in sentence; or

"(B) any other benefit is to be made available to the offender,

in exchange for the cooperation of the offender in providing information or evidence that may lead to the conviction of another person of an offense other than an offense described in paragraph (2).

"(2) OFFENSES.—An offense is described in this paragraph if it is punishable by a term of life imprisonment under—

"(A) section 924(c) or (e), 1114, 1117 (in a case involving a conspiracy to violate section 1114), 1201(a)(5), or 1201(c) (in a case involving a conspiracy to violate section 1201(a)(5)) of this title; or

"(B) section 406 (in a case involving a conspiracy to violate section 408) or 408 of the Controlled Substances Act (21 U.S.C. 846 and 848).

"(3) APPROVAL OF THE ATTORNEY GENERAL; NOTICE TO CONGRESS.—The Attorney General shall—

"(A) personally review and approve any agreement described in paragraph (1) with an offender under an offense described in paragraph (2) in exchange for the cooperation of the offender in providing information or evidence that may lead to the conviction of another person of an offense described in paragraph (2); and

"(B) not later than 10 days before any such agreement is entered into, provide to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives notice of the proposed agreement, which notice shall include the name of the offender with whom the agreement is to be made.".

Mr. DECONCINI. Mr. President, today President Bush and Drug Czar Martinez are in San Antonio for a 2-day drug summit with the leaders of six Latin American nations. The White House claims that this summit will highlight the progress in the drug war.

I came to the Senate floor today to denounce in the strongest terms possible a misguided policy of the Bush administration, which I am willing to bet will not be highlighted by President Bush at this summit.

In its effort to convict Gen. Manuel Noriega, the Bush administration adopted a policy of handing out a cascade of plea agreements to a host of notorious convicted drug kingpins.

Convicted drug traffickers and their lawyers anxiously awaited—and sometimes sought out—an invitation from the Justice Department to testify against Noriega. As the poster here illustrates, and these are but a few examples, what drug kingpin would not jump at the opportunity to testify in this trial?

The group the prosecution assembled in the Noriega trial reads like a list of "who's who of drug kingpins" in the Federal prison system.

Let me tell you about Col. Del Cid. The former Noriega bagman faced 70 years in jail on four counts of drug trafficking and racketeering. Noriega prosecutors dropped three counts and recommended a maximum of 19 years on his remaining count. They have also promised not to deport him when he is released.

If you think this is bad it only gets worse. This is what Daniel Miranda's lawyer said when he went in to cut a deal with prosecutors for his client's testimony against Noriega.

> We made them a list of demands and they basically agreed to all of them.

Miranda flew cocaine shipments for Colombian drug lords. The prosecutors have also agreed to ask INS to give Miranda legal entry into the United States and for the FAA to restore his commercial license. This sweetheart deal is for a witness who had never even met Noriega.

Ricardo Bilonick had been hunted for years by U.S. law enforcement officials for a 2,100-pound shipment of cocaine seized in 1984. Bilonick should have served 60 years in prison. Yet, with parole, he will be out in 7 years and maybe less. And shockingly, our Government has promised to urge other countries not to prosecute this drug kingpin.

Nevertheless, the biggest travesty of all is the sweetheart deal handed to Carlos Lehder by the Bush administration. Lehder, one of the founding members of the Colombian drug cartel and an admirer of Adolf Hitler, is the most notorious cocaine trafficker ever apprehended.

More than any individual, Carlos Lehder was responsible for the development, growth, and supplying of the cocaine market in the United States. At one time Lehder was responsible for 80 percent of the cocaine that entered the United States.

He is a vicious criminal who is responsible for thousands of deaths in Colombia. The tens of thousands of pounds of cocaine that he smuggled into this country has caused unprecedented violence and murder on the streets of America. It has created millions of drug addicts and crack babies.

In what was considered the most important drug trafficking trial in history, Lehder was convicted in 1988 to a sentence of life plus 135 years.

So how did this narcoterrorist end up testifying for the Government? Lehder, himself, was lobbying for a spot in the Noriega trial less than a month after Noriega's arrest. He sent out letters and sought interviews after more than 1 year of silence.

Did he do it out of his love for the United States? I don't think so. His disdain for America is reknowned. The prosecutor in his trial stated that Lehder was motivated by his hatred of the United States. He considered cocaine a "revolutionary weapon against North America imperialism." At the Noriega trial, Lehder, himself, stated that he was testifying in the hopes of winning a reduced sentence that would allow him to return to Colombia.

I still don't know the extent of the Lehder plea agreement. I wrote a letter last December to Attorney General Barr requesting a detailed explanation of it. However, it took 2 months for a response that was as vague as I have ever received.

I do know that in return for testifying against Noriega, Lehder was transferred out of our country's highest security prison—the Federal prison in Marion, IL. The Justice Department claims that he was moved for his own personal safety.

How can moving him out of the most secure prison in the United States improve the safety of this convicted drug kingpin?

We also know that the administration went along with Mr. Lehder's wishes and brought eight members of Lehder's family to the United States to live under Federal protection. I wonder how much of this cost is being footed by the American taxpayer?

The Justice Department claims that Lehder is paying for this himself. My question is with what? Lehder can only be paying for these services with his drug profits.

Lehder, who was fined a paltry $350,000 when he was convicted, has acknowledged that he still has $8 million in property and assets throughout the world. These assets are from drug profits that he continues to earn interest on which his family can benefit from.

This is disturbing in light of the fact that Lehder owes $98 million to the United States in taxes on his drug profits. And he has paid none of it.

At one time the motto of Colombian drug lords was "we prefer a grave in Columbia to a jail in the United States. With the new Bush policy on plea agreements, Colombian drug traffickers are requesting deals that will land them in the United States.

Colombian drug lord Pablo Escobar, who surrendered to the Colombian Government in June, is now sitting in his private, luxurious prison outside his home town. He continues to run his cocaine empire from prison and orders assassinations of his enemies.

In late December Escobar proposed his own deal to the U.S. Government. Escobar wants to provide evidence against Noriega in exchange for handing over all evidence we have against Escobar.

It was once the stated policy of this administration to prosecute drug kingpins to the fullest extent possible. Clearly, that policy has been replaced by a misguided policy that caters to the most notorious drug traffickers in the world. And this week, while the President will be attempting to extract demands from Andean nations to fight the war on drugs, the U.S. Government must defend its get soft policy on drug kingpins.

Mr. President, this policy, plain and simple, is wrong. It is indefensible. And it is detrimental to our relationships with our allies in the war on drugs.

We are sending the wrong message when we bargain with the likes of Carlos Lehder. Last November, we listened to President Bush threaten to veto a comprehensive crime bill that emerged from a House-Senate conference. Yet, under that bill there would be no opportunity to bargain with the likes of Carlos Lehder and Pablo Escobar. Instead, they would receive the death penalty. That is the message we should be sending our allies.

Mr. President, I plan to introduce legislation that will put an end to this plea agreement practice for drug kingpins. In the meantime, I call on the President to renounce this misguided policy this week at the drug summit.•

By Mr. D'AMATO (for himself and Mr. KASTEN):

S. 2409. A bill to amend the provisions of the Omnibus Trade and Competitiveness Act of 1988 with respect to the enforcement of machine tool import arrangements; to the Committee on Finance.

MACHINE TOOL IMPORT ARRANGEMENTS

• Mr. D'AMATO. Mr. President, I rise today to introduce legislation with my colleague, Senator KASTEN. Our legislation expands executive branch authority where foreign imports threaten our national security. It allows the Secretary of Commerce and the Secretary of the Treasury to ensure the attainment of the objectives of the President's decision of December 27, 1991, which limited, for national security reasons, the import of foreign machine tools for the next 2 years.

I have been a leader, along with Senator KASTEN, Senator GRASSLEY, and others, in supporting the extension of a voluntary restraint arrangement for our domestic machine tool industry. Last year, over 190 Members of the Senate and the House supported 5-year extension in order to continue to protect national security and ensure industrial competitiveness.

This industry represents a skilled work force of 70,000 people nationwide. New York-based Strippit, Inc., and Hardinge Bros., Inc., represent close to 1,500 of these jobs. Strippit, Hardinge, and the rest of the U.S. machine tool producers played a vital role in the success of our military operation in Desert Storm. U.S. machine tool technology made possible such sophisticated U.S. weapon systems as the Patriot missile system, stealth fighter, and the Bradley fighting vehicle.

While we were delighted when the President agreed to extend the machine tool voluntary restraint arrangement we had hoped for more than a 2-year extension. Due to the short timeframe of the extension, our commitment to the American machine tool industry is more important than ever. It is a core industry and its health and viability are not only critical to our national security but to retaining and creating new jobs nationwide.

Under the President's December 27, 1991, order, extension of the voluntary restraint arrangements were to have been completed by January 31, 1992. It is our hope that these negotiations conclude shortly and with a positive outcome. In the meantime, it is absolutely essential that the administration, in the absence of an agreement, have the authority to guard against unrestrained imports that could jeopardize the national security of our Nation.

I ask my colleagues to join me as a cosponsor of this legislation and ward off potential intransigence during the negotiating process.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2409

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MACHINE TOOL IMPORT ARRANGEMENTS.

Section 1501(c) of the Omnibus Trade and Competitiveness Act of 1988 is amended—

(1) by striking "The Secretary of Commerce is authorized to request the Secretary of the Treasury to" in the first sentence of paragraph (1) and inserting "The Secretary of the Treasury shall, at the request of the Secretary of Commerce,";

(2) by inserting after the first sentence in paragraph (1) the following new sentence: "Notwithstanding any other provision of law, until bilateral agreements are negotiated with Japan and Taiwan pursuant to the President's December 27, 1991, decision, the Secretary of the Treasury shall enforce the quantitative limitations and other provisions of bilateral arrangements negotiated with Japan and Taiwan in effect on December 31, 1991, pursuant to the President's machine tool decision of May 20, 1986."; and

(3) by inserting ", and December 27, 1991" after "May 20, 1986" each place it appears.•

• Mr. KASTEN. Mr. President, the legislation that Senator D'AMATO and I are introducing today will, in very simple terms, protect jobs, jobs, jobs.

On December 27, 1991, President Bush directed the U.S. Trade Representative to negotiate a limited extension of the voluntary restraint agreements [VRA's] with Japan and Taiwan on machine tools. These VRA's were negotiated in 1986 for national security reasons, and were scheduled to expire on December 31, 1991.

The President directed that import restrictions on machining centers, computer controlled lathes, computer controlled punching and shearing machine tools and computer controlled milling machine tools will be removed over a 2-year period, beginning in January 1992.

I am disappointed to inform my colleagues that the President's directives have not been met. It is, therefore, imperative that the administration have legislative authority to guard against unrestrained imports that could jeopardize the national security of our Nation and American jobs. That is why the legislation that Senator D'AMATO and I are introducing today is so important.

Machine tools have been described as "the semiconductors of the manufacturing world." They are high-tech machines that are used to manufacture everything from medical equipment to missile components. Every weapon used in the gulf war was made on a machine tool.

The single largest machine tool manufacturer in America is Giddings & Lewis in Fond du Lac, WI. This legislation could save some 3,000 jobs in Wisconsin alone.

Our economic future depends on the survival and success of the machine tool industry. I hope my colleagues will join us in cosponsoring this legislation.•

By Mr. GARN:

S. 2410. A bill to authorize and request the President to advance Maj. Ronald Tiffany on the retired list of the U.S. Army Reserve; to the Committee on Armed Services.

RETIREMENT OF MAJ. RONALD TIFFANY

• Mr. GARN. Mr. President, today I am introducing a bill for the relief of Maj. Ronald R. Tiffany, U.S. Army Reserve, retired.

Maj. Ronald R. Tiffany served in the Army on active duty for over 20 years. In the fall of 1977 the major submitted his records to the promotion board for consideration to be advanced to the rank of lieutenant colonel. He was not on the promotion list when it was published. As a result, since he had previously been informed that unless he had a service obligation due to promotion he would be released from active duty in 1978, he initiated voluntary retirement processing.

When Major Tiffany checked into the reasons he was not selected for promotion he discovered that the board had never received his file and therefore had never considered him for promotion. It took the intervention of the base inspector general to locate the file and forward it to the next promotion board for review. In late February 1978 as Major Tiffany was outprocessing he was informed he was on the lieutenant colonel's promotion list. However, in order to receive this promotion he needed to remain in the Reserve until August 1978 without benefits for his family. At this point, Ron had already made arrangements to move his family, had found another job which had the insurance benefits he needed to protect his family and had made commitments he did not feel he could break. He felt he had no choice but to continue with his retirement.

Major Tiffany has appealed twice to the Army Board for Correction of Military Records to promote him and correct a mistake made by the Army. Each time, while the board acknowledges the facts in the case his request has been denied. In his second appeal Major Tiffany requested the promotion without any financial remuneration. This, too, was denied.

The bill I introduce today provides no additional benefits for the major. It does, however, allow him to use the title—lieutenant colonel, retired—which he earned through years of dedicated service with an exemplary record.•

By Mr. McCAIN (for himself, Mr. SMITH, Mr. BROWN, and Mr. MACK):

S. 2411. A bill to approve the President's rescission proposals submitted to the Congress on March 20, 1992; pursuant to the order of January 30, 1975, as modified on April 11, 1986; referred jointly to the Committee on Appropriations, and to the Committee on the Budget.

APPROVAL OF THE RESCISSION OF CERTAIN BUDGET AUTHORITY

Mr. McCAIN. Mr. President, I am pleased to introduce legislation today that will approve the President's rescission proposals submitted to the Congress on March 20, 1992. It is time for the Congress to eliminate wasteful spending.

I would prefer that the President exercise his authority to line item veto these items, and let the Supreme Court decide the constitutional question that divides many legal scholars. At the very least, the constitutional challenge will focus public attention on the real problem in Washington, the big spenders in Congress.

While I would have preferred that the President had used his line item veto authority, under current law, the only other process available to reduce wasteful spending is the rescission process. That is why I am introducing this legislation today.

Mr. President, today we begin the process to rescind the wasteful spending included in the President's 67 special messages. The process of reducing the deficit should have begun years ago by the Congress. But, Congress has been infatuated with budget summits that raise taxes, increase spending, and balloon the deficit to new and obscene levels.

This is a first small step for fiscal sanity, but a giant step toward focusing the debate on deficit reduction—not tax increases. With the deficit projected to surpass $400 billion this year and the public debt approaching $4 trillion, we must try small steps first. If we are unable to take small steps, I fear for the future of our children—suffocating under mountains of debt.

When will the deficits end? I hope soon. Though this legislation clearly will not balance the budget, enactment will provide the Congress with a precedent for cutting spending—a rate event in Washington.

Mr. President, we are at a fiscal crossroad in our history. With our public debt expected to surpass our annual output in the next decade, we have the opportunity now to take small steps in the right direction. If we are unable to take small steps, we will not be able to take the big steps necessary to close a $400 billion annual deficit nor eliminate $4 trillion of accumulated debt.

The legislation I am introducing is a modest step in the direction of fiscal sanity. We cannot tax and spend our way to prosperity. We must begin making the tough decisions to eliminate wasteful spending.

Mr. President, I encourage all Senators to give serious consideration to this legislation. If we cannot cut the port, we will never address the real issue of runaway spending. I hope all Members vote in favor of deficit reduction, and support this legislation when it comes before the Senate for a vote.

By Mr. INOUYE (for himself, Mr. McCAIN, Mr. DASCHLE, Mr. DOMENICI, Mr. BURDICK, Mr. MURKOWSKI, Mr. SIMON, Mr. COCHRAN, Mr. STEVENS, Mr. AKAKA, Mr. DECONCINI, Mr. CONRAD, Mrs. KASSEBAUM, Mr. WELLSTONE, and Mr. REID):

S. 2481. A bill to amend the Indian Health Care Improvement Act to authorize appropriations for Indian health programs, and for other purposes; to the Select Committee on Indian Affairs.

INDIAN HEALTH CARE AMENDMENTS ACT OF 1992

• Mr. INOUYE. Mr. President, I rise today to introduce a bill that is perhaps the most important legislation for the native people of this Nation, the reauthorization of the Indian Health Care Improvement Act.

This bill was crafted with bipartisan support in the Senate Select Committee on Indian Affairs, and in conjunction with the House Interior and Insular Affairs Committee and the House Subcommittee on Health and Environment of the Committee on Energy and Commerce.

Perhaps more than any other legislative initiative, this bill seeks to define in terms of authorizations, the commitment this Government makes to the health of the native American people.

The statistics regarding the status of the health of native people are appalling. Native people continue to rank at the bottom of almost every health indicator. Just this week, a report entitled "The State of Native American Youth Health," drawn from a survey of 14,000 Indian youth, reported that suicide has emerged as a way for native youth to deal with the emotional distress and hopelessness that persists throughout many of their lives.

The report further found that regular use of tobacco and heavy use of substances, particularly, alcohol and marijuana, is linked to every single risk behavior found in the survey. In addition, the survey found that 20 percent of the youth felt their health is only fair to poor. Clearly, these dismal conditions must change.

Great strides have been realized largely because of the Indian Health Care Improvement Act and the Comprehensive Health Care Program it authorizes. Yet all acknowledge that much remains to be done.

Diabetes, heart disease, hypertension, infant mortality, alcohol, drug abuse, high rates of premature deaths and suicide continue to increase in proportions which far outpace the incidence of those problems in the general population, while funding for Indian health care is wrapped up in domestic spending cuts that mask the damage that is being done, every day, to the potentially healthy lives that native American people could enjoy.

As members of a government that made solemn commitments to this country's native people—commitments that envisioned a long and productive future for the Nation's first Americans—we cannot allow this deterioration in the health of Indian people to continue.

They deserve more—we have promised them more. I introduce this bill today to assure that our promises will be kept.

The bill I introduce today is similar to a bill introduced by Representative MILLER, chairman of the House Interior and Insular Affairs Committee, which has broad bipartisan support in Congress, as well the support of the native community.

I ask my colleagues to join me in expediting Senate action on this important legislation. The honor of this Nation's word to its native people is at stake. But more importantly, the literal survival of native Americans must be assured by our action.•

• Mr. STEVENS. Mr. President, I rise today to support this bipartisan effort to improve the health status of native Americans—American Indians, Alaska Natives, and native Hawaiians. The Alaska Natives I represent have expressed concern that some measures of health statistics in Alaska are comparable to those found in Third World countries.

For many of us, it is difficult to comprehend the magnitude of the problems that take their toll on Alaska Natives—alcoholism, drug abuse, suicide, teen pregnancy, sexually transmitted disease, domestic violence, child neglect, sexual abuse, injuries, cancer, heart disease, and diabetes. The Alaska Native Health Board, in recent Appropriations Committee testimony, has advocated a number of health promotion/disease prevention strategies which they believe would be effective in combatting these problems.

I look forward to working with Senator INOUYE and the Select Committee on Indian Affairs on these issues, and will work closely with the senior Senator from Hawaii as we receive comments from the Alaska Native Health Board, the State of Alaska, and our villages and others during this process.•

By Mr. BROWN:

S. 2483. A bill to provide assistance to Department of Energy management and operating contract employees at defense nuclear facilities who are significantly and adversely affected as a result of a significant reduction of modification in Department programs and to provide assistance to communities significantly affected by those reductions or modifications, and for other purposes; to the Committee on Armed Services.

DEPARTMENT OF ENERGY DEFENSE NUCLEAR FACILITIES ADJUSTMENT ASSISTANT ACT

• Mr. BROWN. Mr. President, today I rise to introduce a bill which will reduce the impact of the transition of our Nation's nuclear weapons facilities on neighboring communities. Such facilities are converting from defense production to cleanup activities.

I, like many of my colleagues, have a nuclear weapons facility in my home State of Colorado. The Rocky Flats plant, located 16 miles northwest of Denver, became operational in 1952. At the time the facility was built, it was located in a deserted area on the plains. Today, the nearby suburban towns completely surround it. The close proximity of the residential communities coupled with the deterioration of the facility have led the Department of Energy [DOE] to slate the functions of the plant for relocation under the recently released complex reconfiguration study.

While I share the Department's feeling that it is inappropriate to continue the production of nuclear weapons components so close to a major metropolitan area, I remain concerned about the impacts of the closure of the plant on the workers, the neighboring communities and the economy of the State.

Since I know many of my colleagues share similar concerns about their own communities, I have introduced a bill which I believe will ease the effects of the transition process on our work force and economies. My bill would require environmental contractors at DOE defense nuclear facilities to—

Offer to retrain affected employees;

Give qualified affected employees hiring preference; and

Provide the hired affected employees compensation, benefits, and pensions comparable to the management and operating contractors.

In addition, DOE would be required, at least 60 days before a significant reduction or modification in DOE programs takes effect at a DOE defense nuclear facility, to develop and make public a transition plan that minimizes layoffs and aids: First, affected employees; and second, directly and significantly affected communities.

By requiring DOE to develop a transition plan before a reduction or modification in the mission of a facility takes place, we can minimize or avoid large layoffs and ease the economic burden on our communities.

The bill also includes assistance for communities affected by plant closures or modifications and intimately involves local officials in the development of transition plans.

In Colorado, the Jefferson County Board of Commissioners has formed the Rocky Flats impacts initiative which has worked to define the impacts of the change in mission at Rocky Flats. To address problems associated with this change, the group will meet to formulate mitigation measures such as worker retraining, worker health insurance, economic assistance for local businesses, tax relief for local governments, development of technology transfer, and future use of the site. This group has been working with DOE to ensure a smooth transition in mission at Rocky Flats. I am pleased to announce today that DOE has agreed to provide the impacts initiative with $240,000—$140,000 plus $100,000 in in-kind services—to begin to formulate a transition plan.

The Rocky Flats impact initiative is an excellent example of how our local communities can work successfully with DOE to address the severe impact the closure of a nuclear weapons facility can have on our communities. It is my hope, Mr. President, that the DOE Defense Facilities Adjustment Act will further mitigate the impact of the reconfiguration of our nuclear weapons complex on our States.•

By Mr. BIDEN:

S.J. Res. 279. Joint resolution designating April 14, 1992, as "Education and Sharing Day, U.S.A."; to the Committee on the Judiciary.

EDUCATION AND SHARING DAY, U.S.A.

• Mr. BIDEN. Mr. President, I rise today to introduce a joint resolution requesting the President to designate April 14, 1992, as "Education and Sharing Day, U.S.A." This joint resolution is a companion measure to House Joint Resolution 410, introduced in the House of Representatives by Majority Leader GEPHARDT and Representative LEWIS of California and supported by over 200 Members of the House.

Mr. President, our Nation was built on, and is committed to, the principles of education and strong ethical values. This resolution will mark the importance of education to the whole Nation.

This joint resolution is supported by the Lubavtich movement which actively promotes education programs throughout the country. In addition, April 14, will be the 90th birthday of the renowned leader of the movement, Rabbi Menachem Mendel Schneerson.

Mr. President, education is a cornerstone of our Nation and I hope that my colleagues will join me in supporting this measure.•

By Mr. BRADLEY (for himself, Mr. ADAMS, Mr. AKAKA, Mr. BIDEN, Mr. BINGAMAN, Mr. BUMPERS, Mr. BURDICK, Mr. CONRAD, Mr. CRANSTON, Mr.

DASCHLE, Mr. DIXON, Mr. DODD, Mr. EXON, Mr. FOWLER, Mr. GLENN, Mr. GORE, Mr. INOUYE, Mr. KERREY, Mr. KERRY, Mr. LAUTENBERG, Mr. LEVIN, Mr. LIEBERMAN, Mr. METZENBAUM, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. PELL, Mr. REID, Mr. SANFORD, Mr. SHELBY, Mr. SIMON, Mr. BROWN, Mr. BURNS, Mr. COATS, Mr. COCHRAN, Mr. CRAIG, Mr. D'AMATO, Mr. DOMENICI, Mr. DURENBERGER, Mr. GRASSLEY, Mr. HATCH, Mr. HATFIELD, Mr. JEFFORDS, Mr. KASTEN, Mr. LUGAR, Mr. MCCAIN, Mr. MURKOWSKI, Mr. PACKWOOD, Mr. ROTH, Mr. SPECTER, Mr. STEVENS, and Mr. WARNER):

S.J. Res. 280. A joint resolution to authorize the President to proclaim the last Friday of April 1992 as "National Arbor Day;" to the Committee on the Judiciary.

NATIONAL ARBOR DAY

• Mr. BRADLEY. Mr. President, many times in the past, Congress has legislated and the President has proclaimed the last Friday in April as National Arbor Day. For the past 5 years, the Senate has passed legislation commemorating National Arbor Day, with more than 51 Senators cosponsoring the legislation. Today, I am introducing legislation which will once again recognize this important day. I'm pleased to announce that 50 of my colleagues have joined me today in sponsoring this legislation.

Mr. President, trees are one of our Nation's most important and beautiful natural resources. They not only provide the raw materials for some of our basic industries, they cleanse our environment and add natural grace and beauty to our lives. The establishment of a National Arbor Day acts as a modest reminder to all our citizens to appreciate and protect this vitally important natural resource.

We cannot take our trees and forests for granted. Scientists have observed declines, serious damage, and death of a number of species of trees in large areas of Europe and the United States. Damage to forests has ranged from decline in growth of several species of pine in southern New Jersey to widespread damage to the ponderosa pine in southern California. A number of other coniferous species have experienced growth decline in an 11-State region extending from Maine to Alabama. Last Congress, we passed a Clean Air Act to help reverse these sad trends.

Because we are concerned about our forests and trees, we annually designate National Arbor Day to take special note of the importance of trees in our lives. I urge the Senate again to pass this important resolution. I ask unanimous consent to have the joint resolution printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 280

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the last Friday of April 1992 as "National Arbor Day" and calling upon the people of the United States to observe such a day with appropriate ceremonies and activities.•

ADDITIONAL COSPONSORS

S. 567

At the request of Mr. SANFORD, the name of the Senator from Florida [Mr. GRAHAM] was added as a cosponsor of S. 567, a bill to amend title II of the Social Security Act to provide for a gradual period of transition (under a new alternative formula with respect to such transition) to the changes in benefit computation rules enacted in the Social Security Amendments of 1977 as such changes apply to workers born in years after 1916 and before 1927 (and related beneficiaries) and to provide for increases in such workers' benefits accordingly, and for other purposes.

S. 866

At the request of Mr. BREAUX, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 866, a bill to amend the Internal Revenue Code of 1986 to clarify that certain activities of a charitable organization in operating an amateur athletic event do not constitute unrelated trade or business activities.

S. 1087

At the request of Mr. HARKIN, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of S. 1087, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 100th anniversary of the Pledge of Allegiance to the Flag.

S. 1245

At the request of Mr. DASCHLE, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1245, a bill to amend the Internal Revenue Code of 1986 to clarify that customer base, market share, and other similar intangible items are amortizable.

S. 1357

At the request of Mr. BREAUX, the names of the Senator from Mississippi [Mr. LOTT], the Senator from North Carolina [Mr. SANFORD], and the Senator from California [Mr. SEYMOUR] were added as cosponsors of S. 1357, a bill to amend the Internal Revenue Code of 1986 to permanently extend the treatment of certain qualified small issue bonds.

S. 1574

At the request of Mr. RIEGLE, the names of the Senator from Illinois [Mr. SIMON] and the Senator from California [Mr. CRANSTON] were added as cosponsors of S. 1574, a bill to ensure proper and full implementation by the Department of Health and Human Services of medicaid coverage for certain low-income medicare beneficiaries.

S. 1887

At the request of Mr. HARKIN, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 1887, a bill to amend the Public Health Service Act to establish the National Center for Nursing Research as a National Institute, and for other purposes.

S. 1996

At the request of Mr. ROCKEFELLER, the names of the Senator from Hawaii [Mr. AKAKA] and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of S. 1996, a bill to amend title XVIII of the Social Security Act to provide for uniform coverage of anticancer drugs under the Medicare Program, and for other purposes.

S. 2100

At the request of Mr. DASCHLE, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Montana [Mr. BURNS], and the Senator from Vermont [Mr. JEFFORDS] were added as cosponsors of S. 2100, a bill to amend the Internal Revenue Code of 1986 to encourage the development of renewable energy and the conservation of energy, and for other purposes.

S. 2117

At the request of Mr. SASSER, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 2117, a bill to ensure proper service to the public by the Social Security Administration by providing for proper budgetary treatment of Social Security administrative expenses.

S. 2204

At the request of Mr. DURENBERGER, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 2204, a bill to amend title 23, United States Code, to repeal the provisions relating to penalties with respect to grants to States for safety belt and motorcycle helmet traffic safety programs.

S. 2232

At the request of Ms. MIKULSKI, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of S. 2232, a bill to make available to consumers certain information regarding automobiles.

S. 2327

At the request of Mr. HATFIELD, the names of the Senator from Louisiana [Mr. JOHNSTON], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Wisconsin [Mr. KASTEN] were added as cosponsors of S. 2327, a bill to suspend certain compliance and accountability measures under the National School Lunch Act.

S. 2367

At the request of Mr. RIEGLE, the names of the Senator from North Dakota [Mr. BURDICK] and the Senator from Nebraska [Mr. EXON] were added as cosponsors of S. 2367, a bill to amend the Agricultural Act of 1949 to remove the requirement that the Secretary of Agriculture charge a loan origination for a crop of oilseeds, and for other purposes.

S. 2394

At the request of Mr. HARKIN, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 2394, a bill to amend title XVIII of the Social Security Act and title III of the Public Health Service Act to protect and improve the availability and quality of health care in rural areas.

S. 2399

At the request of Mr. GORE, his name was added as a cosponsor of S. 2399, a bill to allow rational choice between defense and domestic discretionary spending.

SENATE JOINT RESOLUTION 166

At the request of Mr. SPECTER, his name was added as a cosponsor of Senate Joint Resolution 166, a joint resolution designating the week of October 6 through 12, 1991, as "National Customer Service Week."

SENATE JOINT RESOLUTION 230

At the request of Mr. REID, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of Senate Joint Resolution 230, a joint resolution providing for the issuance of a stamp to commemorate the Women's Army Corps.

SENATE JOINT RESOLUTION 248

At the request of Mr. CONRAD, the name of the Senator from Utah [Mr. GARN] was added as a cosponsor of Senate Joint Resolution 248, a joint resolution designating August 7, 1992, as "Battle of Guadalcanal Remembrance Day."

SENATE CONCURRENT RESOLUTION 17

At the request of Mr. HATCH, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of Senate Concurrent Resolution 17, a concurrent resolution expressing the sense of Congress with respect to certain regulations of the Occupational Safety and Health Administration.

SENATE CONCURRENT RESOLUTION 91

At the request of Mr. PRESSLER, the names of the Senator from Kansas [Mr. DOLE], the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Missouri [Mr. BOND] were added as cosponsors of Senate Concurrent Resolution 91, a concurrent resolution expressing the Sense of Congress that the Commission on Broadcasting to the People's Republic of China should be appointed expeditiously, and make its recommendations and propose a plan to the Administration and Congress no later than 365 days after enactment of the Foreign Relations Authorization Act for fiscal years 1992 and 1993 (P.L. 102–138).

SENATE RESOLUTION 270

At the request of Mr. DECONCINI, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of Senate Resolution 270, a resolution concerning the conflict of Nagorno-Karabakh in the territory of Azerbaijan.

SENATE CONCURRENT RESOLUTION 102—RELATIVE TO A JOINT COMMITTEE ON INAUGURAL CEREMONIES

Mr. FORD (for himself and Mr. STEVENS) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 102

Resolved by the Senate (the House of Representatives concurring), That a Joint Congressional Committee on Inaugural Ceremonies consisting of three Senators and three Representatives, to be appointed by the President of the Senate and the Speaker of the House of Representatives, respectively, is authorized to make the necessary arrangements for the inauguration of the President-elect and Vice President-elect of the United States on the 20th day of January 1993.

SENATE CONCURRENT RESOLUTION 103—AUTHORIZING USE OF THE CAPITOL ROTUNDA

Mr. FORD (for himself and Mr. STEVENS) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 103

Resolved by the Senate (the House of Representatives concurring), That the rotunda of the United States Capitol is hereby authorized to be used on January 20, 1993, by the Joint Congressional Committee on Inaugural Ceremonies in connection with the proceedings and ceremonies conducted for the inauguration of the President-elect and the Vice President-elect of the United States. Such Committee is authorized to utilize appropriate equipment and the services of appropriate personnel of departments and agencies of the Federal Government, under arrangements between such Committee and the heads of such departments and agencies, in connection with such proceedings and ceremonies.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. AKAKA. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, March 25, 1992, at 10 a.m. for a hearing on OSHA Regulatory Policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TOXIC SUBSTANCES, ENVIRONMENTAL OVERSIGHT, RESEARCH AND DEVELOPMENT

Mr. AKAKA. Mr. President, I ask unanimous consent that the Subcommittee on Toxic Substances, Environmental Oversight, Research and Development, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, March 25, beginning at 10 a.m., to conduct a hearing to consider issues relating to the Toxic Substances Control Act [TSCA].

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. AKAKA. Mr. President, I ask unanimous consent that the Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, March 25, 1992, at 9:30 a.m., on procurement irregularities associated with the Department of Defense's Airborne-Self-Protection Jammer Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. AKAKA. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, March 25, 1992, at 10 a.m., to conduct a roundtable hearing on distressed public housing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON MANPOWER AND PERSONNEL

Mr. AKAKA. Mr. President, I ask unanimous consent that the Subcommittee on Manpower and Personnel of the Committee on Armed Services be authorized to meet on Wednesday, March 25, 1992, at 9 a.m., in open session, to receive testimony on the personnel programs of the military services associated with the amended defense authorization request for fiscal year 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. AKAKA. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation/National Ocean Policy Study, be authorized to meet during the session of the Senate on March 25, 1992, at 9:30 a.m. on the reauthorization of the Marine Sanctuaries Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. AKAKA. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on March 25, 1992, beginning at 9:30 a.m., in 485 Russell Senate Office Building, to consider for report to the Senate S. 1607, the Northern Cheyenne reserved water rights; and, recommendations to the Appropriations Committee on the funding of Indian programs for fiscal year 1993.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. AKAKA. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Wednesday, March 25, 1992, at 9:30 a.m., in SR-332, to hold a hearing on oversight of the Market Promotion Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ELECTION MONITORING IN ROMANIAN PRESIDENTIAL ELECTIONS

• Mr. DECONCINI. Mr. President, it has just come to my attention that the Government of Romania is proposing a draft election law which would prevent domestic nongovernmental organizations from monitoring the national elections expected to be held in May.

This is extremely disturbing and surprising in light of the cooperation the Romanian Government gave to election observers during the local elections in February. Chairman HOYER and I sent a Helsinki Commission staffer to Romania for these elections who reported to us that the Government was very cooperative.

If this draft law passes it will signal how seriously out of step Romania is with the other emerging democracies of the region. From Albania to Tartarstan, election observing has become a standard practice. Its importance is recognized in the CSCE Copenhagen document.

I urge the Romanian Government to fully embrace the democratic process of free elections and accountability to an electorate. To disallow election observing will only invite suspicion about the integrity of the Government's intentions during the upcoming elections.

The Congress is currently considering whether or not to grant MFN status to Romania—a status which was withheld because of human rights violations under the old Communist regime. It is important that the current Government demonstrate its determination to break completely with the past and uphold all of its Helsinki commitments.

The International Human Rights Law Group has recently written Romanian Prime Minister Stolojan expressing concern about this draft law. I ask that their letter be placed in the RECORD at this time.

The letter follows:

INTERNATIONAL HUMAN RIGHTS
LAW GROUP,
Washington, DC, March 23, 1992.

His Excellency THEODOR STOLOJAN,
Prime Minister of Romania, Victory Palace, Bucharest, Romania.

YOUR EXCELLENCY: The International Human Rights Law Group, a nongovernmental organization in consultative status with the United Nations, is concerned about the lack of adequate safeguards in the national election law now being debated in the Romanian Parliament. In particular, the Law Group respectfully notes that the draft law effectively prevents domestic nongovernmental organizations from monitoring the national elections. The Law Group commends the Romanian Government for cooperating with domestic observers monitoring the local elections in February. The effect of the currently debated law, if passed, would represent a serious step backward in Romania's commitment to human rights, democracy and the rule of law.

As you are aware, President Ion Iliescu signed the Charter of Paris for a New Europe in 1990, making clear the link between human rights, democracy and the rule of law. The Charter of Paris provides: "Democracy, with its representative and pluralist character, entails accountability to the electorate." In addition, Romania has signed the Copenhagen Document of the CSCE which recognizes, in Article 8, the importance of domestic election observers and invites appropriate private institutions to observe the elections of participating States.

The Law Group considers the presence of domestic observers from Romanian human rights groups to have been essential to ensuring the fairness of the local elections. Domestic observers were especially useful in aiding election officials to better understand and interpret the procedural requirements for conducting the elections. Further, the participation of domestic observers ensured public confidence in the fairness of the elections.

For the foregoing reasons, the Law Group respectfully urges your government, consistent with international standards, to allow observers from domestic, nonpartisan, nongovernmental organizations to monitor the national elections. We would very much appreciate receiving your response to the concerns we have raised.

Sincerely,

ROBERTA COHEN,
Acting Executive Director.•

TRIBUTE TO C.M. SGT. ROY L. ADAMS

• Mr. MCCONNELL. Mr. President, I rise today to recognize the accomplishments of an American patriot and an inspirational Kentuckian, C.M. Sgt. Roy L. Adams.

Roy Adams has proudly served over 40 years in the Kentucky Air National Guard. Through efficient communication and high-level performance, his exemplary career is marked by his dedication to the timely accomplishment of mission assignments. Chief Adams serves as an outstanding model for all military personnel and duly receives the respect and support of his peers.

Mr. President, Roy's impeccable service is further highlighted by his role as the U.S. Kentucky Air National Guard senior enlisted advisor to the adjutant general of Kentucky during Operations Desert Shield and Storm. His enthusiasm and attention to detail inspired the 123d Tactical Airlift Wing to achieve over 90 percent ratings for personnel retention and reenlistment, and over 100 percent for manning. In addition, the Chief Inspector for the Headquarters Military Airlift Command stated that the 123d was "the best seen to date."

During Operation Desert Storm, Chief Adams recognized the physical and emotional hardship faced by the families of our service men and women. In response to this great need, he assisted in the establishment of a family support program which allowed deployed members of the Kentucky Air National Guard to correspond with their loved ones here at home.

Communication and positive self-image are the primary tenets of Chief Adams' personnel management philosophy. Through his direct efforts, substantial improvements have been made in many service award programs, the physical fitness and weight management program, the military communication systems administered by the Kentucky Air National Guard, NCO and the airman advisory panel, and the outstanding Kentucky Guardsman of the Year program.

C.M. Sgt. Roy L. Adams has given his country the fullest benefit of his talents and innovative mind. His firm belief in high-quality service and comprehensive perspective represents the can-do spirit that define the American traditions of patriotism and national pride.

I am certain my colleagues join me in extending a hearty thanks to Roy Adams for his service to America.•

U.S.S. "PITTSBURGH"

• Mr. MACK. Mr. President, this year marks the 50th anniversary of the involvement of the United States in World War II. The history of this war is replete with untold acts of individual heroism as well as the equally heroic acts of whole units and ships. Indeed, both DOD and Navy established unit and ship citations during World War II. In 1955, it was determined that such recommendations be submitted within 3 years and the award made within 5 years. I am told that there have been no exceptions to this policy since its establishment. Notwithstanding this long accepted rule, there are certain feats which deserve to be officially recognized. Accordingly, I am pleased to submit for the RECORD the unprecedented action of the U.S.S. *Pittsburgh* as told by Hon. H. Lawrence Garrett III, Secretary of the Navy:

> *Pittsburgh* was called into action in February 1945 and quickly set sail to help the United States Fleet fight the battle in the

Pacific. This proud ship was first tasked to support operations for the occupation of Iwo Jima. Then, in an unselfish and outstanding feat of seamanship, *Pittsburgh* dashed to the rescue of the wounded carrier *Franklin*, took her under tow, and successfully fought off the enemy air attacks determined to finish the carrier. When her bow was torn off by a raging typhoon, the masterful seamanship of the *Pittsburgh* then saved this ship. Still fighting the storm and maneuvering to avoid being rammed by her own drifting bow structure, "The Mighty Bull of the Pacific" was held quarters-on to the seas by engine manipulations while the forward bulkhead was shored. Backing into friendly port on her own power, *Pittsburgh* was repaired to later see action in the Korean Conflict.

The crew of the *Pittsburgh* brought great distinction upon themselves and their ship. They served their country proudly, and dared to challenge the unknown in their unprecedented feat of towing another capital ship. Though the time limit for recognizing this act with a citation has long since passed, this in no way diminishes the magnitude of their action. And so, with the acknowledgement of the Navy, I recognize *Pittsburgh*'s achievement and commend her crew for their heroic action while under fire.●

TRIBUTE TO LEXMARK, INC.

● Mr. McCONNELL. Mr. President, I rise today to recognize an outstanding company which is the largest private employer in Lexington, KY. International Business Machines became Lexmark International, Inc., last year, and since then, the company has only gotten better.

The Lexington factory has been producing IBM typewriters for more than 35 years. The typewriters are still being made at Lexmark, but several things did change with the name. The company now boasts new and revamped products, aggressive marketing strategies, expanded distribution, improved financial performance, better customer service, and a collection of industry awards. Lexmark recently celebrated its first anniversary and a very successful first year.

Lexmark officials are now looking to meet the challenges facing what is essentially a new company. A top priority for Lexmark will be making the company as identifiable as its predecessor, IBM. Company executives hope to not only do that, but to also maintain an even better reputation at Lexmark for the quality of products. With those priorities in mind, Lexmark has built a worldwide marketing operation and has launched an advertising campaign to get the company name out. Lexmark has also expanded the number of dealers and wholesalers, increasing product availability.

Lexmark also enjoyed a profitable first year. Although CEO Marvin Mann won't discuss specifics, he alludes to a lucrative 1991. Mr. Mann says the company exceeded profit plans, came in under expense plans, paid less interest than expected and ended up in less debt than planned. The future also looks very bright. Lexmark's plans include a continued emphasis on developing new products and creating marketing plans to support them. Those efforts will add 120 new employees to the Lexington plant, which already provides jobs for some 3,000 Kentuckians.

Mr. President, I am very pleased to have a company as successful and innovative as Lexmark International, Inc. located in my home State of Kentucky. Please enter the following article from the Lexington Herald-Leader into the RECORD.

The article follows:

[From the Lexington (KY) Herald-Leader, Mar. 22, 1992]

LEXMARK'S GOAL: RECOGNITION

(By Liz Caras Petros)

Much is the same since the factory at 740 New Circle Road started pumping out IBM typewriters more than 35 years ago.

The typewriters are still being made. And the company remains Lexington's largest private employer.

But more than the name changed when the International Business Machines division became Lexmark International Inc. last year.

There are new and revamped products, industry awards, aggressive marketing strategies, expanded distribution, improved financial performance and better customer service. Company officials say those achievements make Lexmark's first anniversary Friday truly a cause for celebration.

"We have done a lot of things right," Marvin L. Mann, chairman and chief executive officer, said in a telephone interview from the company's headquarters in Greenwich, Conn.

When it comes to some of those things, Mann acknowledges that performance has been "better than we would have anticipated."

For others, however, such as making inroads against laser printer giant Hewlett-Packard Co., Lexmark will have to wait.

A LEXMARK GENERATION

Mann said the biggest challenge Lexmark has faced in the last year continues: making Lexmark as identifiable as its predecessor, with an even better reputation for the products it makes.

Gaining that reputation among users is "by far their hardest task," said Rob Auster, group director of electronic printing with BIS Strategic Decisions Inc., a research and consulting firm in Norwell, Mass.

What Lexmark needs, Auster said, is a marketing strategy like the one that catapulted Pepsi-Cola into a name brand alongside Coca-Cola, which dominated the industry for years.

"They've got to create a Lexmark generation somehow," Auster said.

Toward that end, Lexmark has "built almost from the ground up a worldwide marketing operation," Mann said.

The company has launched an advertising campaign designed to get the name out.

And it has expanded the number of dealers and wholesalers, making its products available through a network of authorized resellers, its own sales force and through IBM's direct sales force.

The tactic is working, albeit slowly. "The momentum of our product volumes is building month by month," Mann said.

For now, however, the generation is dedicated to Hewlett-Packard, which has a majority market share in most categories.

"If there's anybody in the market that can turn this thing around—HP's dominance—it's Lexmark," said Auster, citing the company's technical prowess and emphasis on marketing.

Even Japanese companies cannot compete, Auster said, because they cannot get their products to the American marketplace as fast or as inexpensively as U.S. companies that own their factories, such as Lexmark.

Auster said Lexmark has even more flexibility than its predecessor to "move on the dime and change" because in a smaller company there is less bureaucracy between the time an idea is born and the time it is put into effect.

PRINTER PRODUCTION

When the IBM sign was out front, the focus was on larger-ticket items such as mainframe computers. Since breaking from IBM, Lexmark has gotten what some industry analysts say it needed most: attention.

Much of that attention has resulted in new products.

During the last year, Lexmark has expanded its family of straight paper path IBM printers and introduced new dot matrix printers, four new models of the IBM LaserPrinter 4029 Series and the new IBM PTS-386SX integrated typing work station.

"Under Lexmark, printers have been promoted from singers in the IBM chorus to stars of their own musical," PCToday said in a February article.

Other industry publications have had similar reactions.

This year, PC Magazine gave its 1991 technical excellence award to the IBM LaserPrinter, and editor's choice awards to three of its printers and the IBM Enhanced 101 Key Keyboard.

PC User, a London-based magazine, named Lexmark one of 10 companies to watch in 1992.

Experts say that in most categories of printers, Lexmark's offerings are equal to or better than Hewlett-Packard's.

"Basically HP doesn't do anything a whole lot better," said Bill Howard, executive editor of PC Magazine. "They just got there first and got lucky."

CATEGORICAL SUCCESS

Aside from its technical achievements, Lexmark has had other successes during the last year.

Mann declined to release specific financial information, but painted a rosy balance sheet for 1991.

"We exceeded our profit plans, came in well under our expense plans, paid less interest than planned and had less debt than we planned," he said. "We did well in every category."

In its second year and beyond, Lexmark plans to continue its emphasis on developing new products and creating marketing plans to support them, said Mann.

Those efforts will mean 120 new employees in Lexington this year, about as many as were hired in 1991, he said.

Bill Gott, program director in printer industry research at InfoCorp, said he expects Lexmark to introduce new printers for the midrange market, more products that can be used with Apple MacIntosh products, and color printers.●

SUPPORT NAMIBIA ON ITS SECOND ANNIVERSARY OF INDEPENDENCE

● Mr. DECONCINI. Mr. President, I rise today to offer my support and encouragement to the Government of Namibia and its people on the second anniversary of their independence from South Africa. This is a significant milestone, not only for Namibians and their neighbors, but for all African people and leaders now debating the future in the new world order. Namibia represents a model of hope across the continent to those who want democratic systems with human rights, but who also face serious economic and political obstacles.

The settlement that allowed Namibia to achieve independence on March 21, 1990 was a very significant one for Africa. During a visit last year to seven African nations including Namibia, I saw excerpts of the Namibian Constitution hung on the walls of human rights organizations in Kenya and Nigeria. Namibia is being closely watched as democratic movements are transforming countries across the continent.

Namibia's transition, from apartheid and 23 years of guerrilla war to an independent and relatively stable democracy has been difficult, yet substantial progress has been made. Gross domestic product for 1991 almost doubled the 1990 output. And with each passing month, democratic institutions are becoming more entrenched and accepted. Presently, a multiethnic, multiparty government openly debates national policies. Human rights organizations, such as the Civil Liberties Organization, function openly—monitoring actions of the Government, protesting, providing human rights training to security forces and teaching Namibians about their constitutional rights.

With Namibia's notable successes, however, have come increasingly serious problems which threaten to undermine the foundations of democracy. Endemic poverty, inflation and falling mining exports have brought refugees and crime to the capital, Windhoek. And while the Government may be democratic, the Namibian bureaucracy is still often less than efficient. In the wake of the changes in the former Soviet Union and Eastern Europe, Western and other potential donor nations are paying even less attention to Africa, and foreign investment in Namibia has been minimal.

Mr. President, given Namibia's importance as a model of democratic development and its delicate first steps down the path of democracy, I urge this Congress not to forget the Namibian people. And as our Government sets its new foreign policy agenda, we must not fail to support Africans struggling to establish democratic systems. Such struggles are underway in more than a dozen nations including South Africa, Zaire, Kenya and Mali. The peoples of Africa have much to contribute to the brightening global horizons of the 21st century. We must offer our friendship and support to help ensure their integration into the community of democratic nations.●

TRIBUTE TO MOREHEAD

● Mr. McCONNELL. Mr. President, I rise today to recognize the town of Morehead situated in the foothills of the Appalachian Mountains.

Morehead is a growing and thriving community. The townspeople describe it as being the most progressive town in eastern Kentucky. Interstate 64 runs through northern Morehead, in Rowan County, where all types of businesses cater to I-64 travelers. A primary employer in Morehead is Morehead State University, employing over 1,000 people. Morehead is also the largest producer and exporter of veneer wood in the State, and the fourth largest in the Nation.

Cave Run Lake is the primary tourist attraction in Morehead, and the fifth largest lake in the State. An economic development team is in the process of revitalizing the area surrounding Cave Run Lake to include a large lodge and an 18-hole golf course.

Morehead was named after former Kentucky Governor James T. Morehead. Rowan County, formed in 1856 from parts of Fleming and Morgan County, was named for John Rowan, a former U.S. Senator.

Morehead has a robust economy that will continue to prosper for many years. The citizens are determined to bring new industry to their region. They are proud of their community and enthusiastic to see it grow.

Mr. President, I would like to submit the following article from the Louisville Courier-Journal into the CONGRESSIONAL RECORD.

The article follows:

[From the Louisville Courier-Journal Feb. 3, 1992]

MOREHEAD: A TOWN SHAPED BY HILLS, HISTORY, AND A SCHOOL

(By Jay Blanton)

When Claire Louise Caudill graduated from medical school in 1946, she could have begun her career in many places with better medical facilities than her native Morehead.

But Caudill belonged at home. "Just look at the hills," she said recently.

Morehead is surrounded by the beauty of the Appalachian foothills. On a snowy day, the mountainous ridges appear to be nothing more than a distant, luminous dream.

They are more than dreams in the life of Morehead, however. In nearly every respect, they are the reality of what Morehead is, and what this bustling Rowan County seat hopes to be.

The hills dictate the ebb and flow of life in Morehead. The rough terrain determines what businesses locate here, and more often than not, what businesses choose not to come.

But people like Caudill, now 79 and still practicing medicine, have chosen to stay here, and in the process have made Morehead special. Many people point to two institutions—the St. Claire Medical Center and Morehead State University—as pivotal to the emergence of Morehead as a regional hub for education, health and retail business. And Caudill, in a way, personifies the relationship between the two institutions.

It was Caudill's efforts in the early 1960s that resulted in the building of the medical center named for her. St. Claire is now a regional medical center, with about 800 employees and a number of medical specialists who offer the region's residents medical attention close to home, so they don't have to drive to Huntington, Ashland or Lexington.

And it was a fierce Rowan County feud between distant relatives of Caudill's, the Tolliver family, and another family, the Martins, that in no small way resulted in the founding of the teachers' college that has become Morehead State University. The feud—dubbed the "Rowan County War"—received national attention and prompted many residents to leave the area.

Today, Morehead residents are proud of their town and eager to talk about the changes that have occurred here.

"We are probably the most progressive town in Eastern Kentucky in the way of growth and what we have going for us," said Morehead Mayor Larry Breeze.

It was that progress that prompted Cornell University professor James McConkey to write a book about Morehead and Rowan County. "Rowan's Progress," published by Pantheon Books, traces the community's evolution from violence to vibrance.

"I came back after many years," said McConkey, who taught English at Morehead State in the 1950s. "I was just really astounded by what had happened there."

Much of the change was prompted by construction in the 1960s of Interstate 64, which crosses the county just north of Morehead. The interstate has made the city's outskirts a natural place for fast-food restaurants and shopping centers.

But Main Street suffers chronic congestion, too. Cars never go more than few miles an hour, and they are bumper-to-bumper during rush hour. Stopping somewhere to shop can be an exercise in creativity.

"Right now if you were driving through Morehead and wanted to stop at one of the local businesses, you're afraid to get out of traffic, afraid you can't get back in," said car dealer Larry Fannin, president of the Morehead-Rowan County Chamber of Commerce.

Much of that congestion should be eased by the building of a three-lane, 1.6-mile bypass.

Part of the traffic, however, is undoubtedly due to the university—the town's "No. 1 industry," said C. Roger Lewis, who owns one of the community's largest real-estate agencies.

"It's the main blood. . . . That's the reason that this town's not up and down as much as some of the other places around," he said.

Morehead State has developed into a vibrant educational institution, known for much more than as the place where New York Giants quarterback Phil Simms played football. Enrollment dropped during much of the 1980s, when the school was immersed in a controversy that prompted two presidents to depart. But in the last six years under President C. Nelson Grote, enrollment grew to nearly 9,000 students.

The school, employs nearly 1,000 faculty and staff, making it the county's largest employer. The students also have an economic impact, and in turn draw other people—parents and friends—to town.

"They come here and go shopping," Grote said. They go out to Wal-Mart and they go to the Holiday Inn or to Shoney's or to Ponderosa . . . and have a meal and they like that. They're treated well and they come back."

The establishment of the St. Claire Medical Center in 1963 gave Morehead another vital institution lacked by other communities in the region.

After returning to Morehead in the late 1940s. Caudill built a clinic to serve the area, but it was obvious that more was needed. Caudill convinced community leaders and the Sisters of Notre Dame to build a hospital. Today St. Claire is sprawing medical clinic with 159 beds, and there are plans for a $20 million expansion.

Morehead is somewhat protected from recessions by the stable employment offered by the university and medical center, other state offices and the lack of large industry, community leaders say. Yet many say that other businesses need to be encouraged, in particular, wood products.

Morehead is the biggest producer and exporter of veneer wood in the state, and the fourth largest in the nation, said Tom Calvert, executive director of the Morehead-Rowan County Economic Development Council.

"If nothing else, you've got to look at that and say 'Wow, that's big time,'" Calvert said. But more must be done to encourage the local production of finished wood products such as furniture, he said.

Late last year, area leaders formed the council to try to attract more industry. Morehead leaders also hope the region can capitalize on nearby Cave Run Lake, the state's fifth largest, to promote tourism. Tentative plans exist for a large lodge and golf course.

Calvert noted that Cincinnati "has the fifth highest boater registration in the nation, and they don't have a lake to put it on." People from Ohio, he said, are down at the lake every weekend. The key is to make the lake a vacation spot, rather than just a place to spend the weekend.

For most people in Morehead, the city is the only place they would ever want to be. You can drive through town and note the number of businesses that have been handed down from father to son, some for more than two generations.

Alpha Hutchinson, chairman and chief operating officer of Morehead's Citizens Bank, has traveled extensively throughout the nation and Europe, but he says he wouldn't live anywhere else.

"I like to travel abroad—Europe, Africa, Hawaii, England, Scotland, Wales, Ireland, all over Europe," Hutchinson said. But when "I get back to the hills, I'm anxious to get my cornbread, my soup beans. . . . I get back down to normal."

In all likelihood, it is the dream-like but unyielding hills that have fostered the resiliency and devotion in Morehead's residents. It has made them endure, and in many instances, prosper.

It was a dream that brought McConkey, the Cornell professor, back to Morehead. A few years ago, he said, he dreamed about the time his young son cut his lip badly while playing with the family puppy. Caudill prepared to stitch the cut, but she was exhausted after returning from the hills, where she had been caring for patients and going days without sleep.

Caudill asked McConkey's wife to hold her hand so it wouldn't shake.

Recalling that episode, McConkey said, made him realize after the dream how much Caudill had given of herself to the people and the region.

"It just struck me (that) we spend so much of our time bewailing the limitations of what people can do and wondering if there is such a thing as good in the world," he said.

Around Morehead, Caudill is known as the "baby doctor," or simply "Dr. Louise." She is something of a household name, having delivered an estimated 8,000 babies in her more than 40 years in the area.

Although Caudill's modesty during an interview does little to drive home the point, few residents have played such an integral role in the community's development.

Early in his book, McConkey recounts a conversation with Caudill as he departed Morehead for Cornell, the Ivy League school in Ithaca, NY.

Caudill said: "I always figured you'd leave."

"Why did you think that?" McConkey asked.

"Because you're too good for this place," she said, with a sweep of her arm large enough to include everything—the surrounding hills as well as the town itself.

Years later, McConkey said, "If I truly were good, Louise, I'd stay here, as you do,"•

THE 171ST ANNIVERSARY OF GREEK INDEPENDENCE

• Mr. DODD. Mr. President, 171 years ago today, on March 25, 1821, the Greek people took up arms against four centuries of Ottoman rule, setting off the Greek War of Independence. They did so in order to achieve freedom from foreign domination. It is that brave and valiant struggle for human dignity and self-determination that we recognize each year on this date.

Greek Independence Day has special significance for all freedom loving Americans. It was the Ancient Greeks who formulated the concept of democracy that our Founding Fathers came to draw on so heavily when crafting our American system of government. A major reason we celebrate today is to reaffirm that common democratic heritage.

The concept of democracy is but one of the many contributions that Greeks have made to the development of Western civilization. Through this important anniversary, we not only have the opportunity to commemorate the historic friendship between the American and Greek peoples, but to salute our own Greek-American community for their contributions to our great Nation. Greek immigrants in coming to America have further solidified that friendship between our countries and have added immeasurably to our Nation's rich diversity.

The remarkable unfolding of events of the last 3 years, during which we have witnessed the toppling of dictatorships and the transformation of the countries of Eastern Europe and the Soviet Union, once again illustrate the enduring power of the democratic ideals that first bore fruit in ancient Greece.

So Mr. President, on this day it is particularly fitting that all Americans look back and remember the tremendous contributions to freedom and human dignity that the people of Greece and those of Greek ancestry have made to our Nation and to the world.•

TRIBUTE TO JOHNNY WEBB

• Mr. McCONNELL. Mr. President, I would like to take a moment to congratulate Johnny Webb, the newly elected mayor of Bowling Green, KY. Mr. Webb, a salesman, says that he would love the opportunity to sell Bowling Green. In my opinion, Mr. Webb is the best man for the job; he is dedicated and highly motivated.

There are other higher paying jobs that he would easily be qualified for, but Mr. Webb is dedicated to his town. He has chosen one of the most demanding jobs with a paycheck that is far less than what is deserved. It is not the money, nor the political stature that Johnny Webb is seeking; he just wants the best for his town.

Mr. Webb does not have a highly industrial vision of Bowling Green. Instead, he sees a town without power lines and roadside signs. He sees a town with rehabilitated buildings and strict zoning ordinances. He envisions a town which combines the best knowledge of the future along with the beauty of the past.

He knows that his task will not be effortless. Throughout his term as mayor, Johnny Webb will be seeking to bring some midsized, if not Fortune 500, companies to Bowling Green. He realizes this venture will not be simple, as businesses will not come to Bowling Green on their own. Yet, he is determined to be the driving force behind the forward movement of the city.

Mr. Webb says he would not be opposed to the city spending money, to make community improvements but prefers to see individual property owners take the lead. I have no doubt that Mr. Webb will be the primary source of leadership and motivation for this project, and Bowling Green is fortunate to have a man of such quality.

Although Mr. Webb will have to spend the first few months of his term learning the financial condition of the city, it will not be long before he begins to implement his plan for Bowling Green. Not only will he be a guiding force behind city improvements, he will also play a strong role in the fundraising.

Johnny Webb is a professional, exactly what Bowling Green needs to move with the pace of a growing city on a day to day basis. Mr. President, Johnny Webb is an asset to Bowling Green and to all of Kentucky. I congratulate him on his election and wish him the best for a successful future.

Mr. President, please enter the following article from the Bowling Green Daily News into the CONGRESSIONAL RECORD.

The article follows:

MAYOR-ELECT WEBB SAYS HE'S READY AND WILLING TO BRING VISION TO FRUITION

(By Robyn L. Minor)

One of the top priorities of Bowling Green's mayor-elect will be to recruit business and industry for the city.

"I'm a salesman and I'd love the opportunity to sell Bowling Green," said Johnny Webb, who won a landslide victory in Tuesday's election. "There are very few jobs you'd say are bad jobs, but If you had a choice you would probably pick the ones with more higher paying jobs—possibly headquarter type.

"It's not beyond the realm of possibility that we can convince headquarters to come here—maybe not the Fortune 500 companies, but some mid-size," Webb said. "I'm a member of a (Bowling Green-Warren County) Chamber of Commerce committee that's working on this right now."

But no business will come here without hard work by the city's leaders, he said.

Promoting Bowling Green could mean trips overseas and making use of the city's new relationship with its sister city, Kawanishi, Japan.

"I met with the mayor when he was here," Webb said. "He asked me to write him if I was elected and invited me over there. It would be a fun trip personally and could be good for Bowling Green."

Bowling Green will need to clean up its act before some of these headquarters would be willing to take the venture, Webb said.

"That means rehabilitating buildings and putting utilities underground," he said. "I realize I'm saying a mouthful when I talk about utilities because we are talking about a lot of money.

"It's possible if we plan for it, though," he said.

"I have a vision for Bowling Green. I see it being a little different than it is now," Webb said. "It's hard for me to paint a picture of it. But I don't see any power lines or tacky signs along the road. I see a lot of green space and plants and flowers.

"There has got to be more strict zoning ordinances regarding what kind of buildings can be constructed," Webb said.

The highway entrances to Bowling Green also need to look better, he said.

Webb said he wouldn't be opposed to the city spending money on the effort, but he'd prefer that individual property owners take the lead.

"I'd like to be involved in the Beautification Commission," Webb said. "The chamber wants to do something similar, and we need to coordinate these efforts."

The Landmark Association, which is facing severe financial problems, has contributed greatly to improving the look of downtown, Webb said.

"It's a worthy organization, and I'd like to see it continue," Webb said. "But I just don't know if the money is there. It may have to operate on a small scale. It could possibly be manned with all volunteers.

"There are a lot of agencies that are going to have to do a better job of raising funds on their own," he said.

The first few months of Webb's four-year term will be spent learning more about the city's financial condition and working, throughout his term, to give voters reason to believe they made the right decision.

If more revenues are needed to continue services, Webb said raising taxes will be a last option.

Major capital improvements such as building a police station are nearly out of the question.

"I don't know where the money would come from to start that type of project," Webb said. "We usually think about getting help from Washington, but I think we are running out of that help."

A new police station is on the agenda, but not nearly as high up as maintaining a qualified group of officers.

A report has suggested 22 more officers are needed for the police department to function properly.

"I'd like to have the case made to me," Webb said."Protective services do have to have priority over some other departments."

Webb has already set up meetings with current leaders to learn more about the job he will take over Jan. 1.

"I've set up meetings with (Mayor) Patsy Sloan and City Manager Charles Coates," Webb said. "The commission also will be spending time with department heads."

Webb said he will be as involved in city affairs as he can be but is glad the job is not full-time.

"I think it's necessary that a city this size have a professional to run it on a day-to-day basis," Webb said. "That doesn't mean that I'll simply rubber stamp every recommendation that Coates makes. The people who elected us thought we had good judgment and want us to use it."•

DEPARTMENT OF DEFENSE OFFICE OF INSPECTOR GENERAL'S REPORT

• Mr. D'AMATO. Mr. President, yesterday I introduced into the RECORD the sanitized version of Department of Defense Office of Inspector General's report: "Audit of Contractor Accounting Practice Changes for C–17 Engineering Costs." Today I want to focus on press reports dealing with that report.

Stories in the Los Angeles Times, "United States Had Plan for McDonnell Bailout"; the Orange County Register, "Douglas Payments Criticized"; and Defense Week, "Pentagon Policy to Buttress McDonnell Douglas?" clearly indicate that a bailout was actively pursued by the Air Force. It is also clear that McDonnell Douglas was not the innocent beneficiary of a financial windfall, but had, in fact, played hardball with the Pentagon in an effort to stave off ruin. I will ask that these articles be inserted in the RECORD at the end of my remarks.

Having successfully twisted the arm of the Air Force, one can't help but wonder if similar pressure tactics were applied to the Navy. The Navy is currently negotiating with McDonnell Douglas and General Dynamics over the recovery of $1.35 billion in progress payments associated with the A–12 that were provided for work either not undertaken or not completed. Here again, progress payments inappropriately made are at the center of a program plagued by cost overruns and schedule delays. No one has blinked at similar cost overruns hounding the T–45, overruns all the more remarkable when one considers that the program is a simple modification of an inservice aircraft. A more ambitious upgrade program, the F/A–18E/F, also has been dogged by skyrocketing cost increases, and the aircraft hasn't even left the drawing board. The distinct outline of a pattern emerges.

Surprisingly, the usually diligent bean counters at the Pentagon have been strangely silent regarding these programs. Isn't it odd that an organization that can begrudge $0.4 million in meals ready to eat for the Navy has nothing to say about billions poured into the sinkhole in St. Louis. Friends, a political decision appears to have been made by people who face no electorate: McDonnell Douglas is too big too fail. The same bureaucrats who cavalierly put the tank and submarine industrial bases to the sword have proven a knight in shining armor to the maiden on the Mississippi. Why?

I find this outrageous. Show me a defense contractor, any defense contractor, who would not benefit from the largesse shown McDonnell Douglas. The unique treatment this company has received, particularly when so many others are being shoved through death's door, deserves greater congressional scrutiny. As much as it is in my power to do so, it will get that scrutiny.

I ask that the material referred to earlier be printed in the RECORD.

The material follows:

[From the Los Angeles Times, Mar. 23, 1992]

UNITED STATES HAD PLAN FOR MCDONNELL BAILOUT

(By Ralph Vartabedian)

In what amounted to a plan to bail out the nation's largest defense contractor, the Pentagon had a secret program to "fix" McDonnell Douglas Corp.'s severe financial problems late in 1990, according to a confidential audit by the Defense Department's inspector general.

Auditors found that the plan—which would have been undertaken with public funding but without any public debate—included six options, many of which were "pursued in some form" to increase the amount of Pentagon cash paid to the St. Louis-based aerospace firm at a time when its business was in crisis.

McDonnell received two questionable payments in late 1990—one for $148 million and another for $72 million, according to the audit. But the report does not give a full accounting of what other actions may have benefited the company.

The payments and the overall plan "involved significant noncompliance with requirements" of federal defense procurement law, according to the audit. The report was issued last month, but findings about the bailout were deleted. The Times obtained the confidential sections about the bailout.

Although McDonnell recovered from its immediate cash problems by mid-1991, a government debate is continuing about the firm's financial condition and its need for a $2-billion foreign investment into its commercial aircraft business.

A company spokesman declined to comment Sunday. Senior defense officials have stated in congressional hearings that there was no bailout of the firm. Other defense officials who asked not be quoted by name also denied in interviews that a bailout was intended. Clearly, not all of the Pentagon's actions have benefited McDonnell.

The findings of the audit raise important public policy questions about how the Defense Department will deal with troubled contractors as the industry shrinks in the aftermath of the Cold War.

The audit does not address whether the secret fix-it plan was legal. Past government bailouts of major corporations—including those of Lockheed Corp. in 1971 and Chrysler Corp. in 1979—were debated and approved by Congress.

Rep. John Conyers Jr. (D-Mich.) asked the Pentagon's inspector general in a recent letter to investigate the alleged bailout plan, including a complete accounting of how much was funneled to McDonnell and who authorized the plan. Those questions were not addressed in the recent audit, which focuses mainly on the two payments and refers to the bailout plan in a few passages.

The House Government Operations Committee, which Conyers chairs, is conducting an investigation of all of McDonnell's programs to determine if the military services have provided other types of relief to the company since 1990. A hearing is scheduled for next month.

The Pentagon's alleged actions in 1990 to help McDonnell came against a backdrop in which the government was virtually backed into a corner by the contractor's problems. The company was suffering from huge cost overruns on many of its major military programs and losing money on its commercial aircraft business.

During an extraordinary teleconference involving the Pentagon's highest civilian and military procurement officials in October, 1990, McDonnell Douglas Chairman John McDonnell threatened to stop the C–17 cargo jet program if he were not provided with about $500 million in special payments, according to a participant in the teleconference and congressional investigators probing the plan.

The teleconference involved John Betti, then the Pentagon's undersecretary for acquisition; John Welch, assistant Air Force secretary; then-Brig. Gen. Michael Butchko, at the time the Air Force's program manager for the C–17, and John McDonnell, among others. At one point, the Navy's representative walked out of the meeting because he wanted no part in the plan, according to two sources knowledgeable about the meeting.

At least one of the senior officials at the teleconference told McDonnell that the best he could do in terms of providing financial assistance was $250 million to $300 million by speeding up contract payments on the C–17, according to key sources.

The audit does not directly cite that meeting, but it does refer to a "Finance Condition Review Team" that included representatives from all of the military services, the Defense Department and McDonnell—many of the same players involved in the teleconference.

According to the audit, the bailout plan was "documented" in a briefing provided to the review team in September and October of 1990. It encompassed three options that would not require approval outside the Defense Department and three options that would require outside approval.

The internal options were to allow some shifting of costs in the firm's contracts, to make unusual contract payments and to direct advances on contracts. The external options included transferring funds to increase the size of McDonnell's contracts and "extraordinary financial relief" under public law.

The audit found that McDonnell received a $148-million payment on the C–17 cargo jet program in 1990 because the Air Force allowed the firm to shift development costs to its aircraft production contract, which had the effect of accelerating payments to the firm. That assertion about the C–17, which McDonnell builds in Long Beach, was previously made by Pentagon auditors in congressional hearings last year.

In addition, the public portions of the audit released last month found that in October of 1990, another payment to McDonnell was made that appeared improper because the firm's progress on the C–17 was not adequate to justify the money.

But a memorandum by a Defense Department contracting officer stressed the importance of approving the payment based on an "urgent and pressing financial need of McDonnell Douglas and potential adverse impact to the C–17 program," the audit said. That $81-million payment was $72 million more than the firm deserved, the public report states.

Other Pentagon actions involving McDonnell are coming under scrutiny.

Congressional sources said they were examining the Navy's termination of the A–12 Stealth attack jet program in early 1991, to determine whether that was part of the bailout plan. The Pentagon deferred its demand for a repayment of $1.35 billion by McDonnell and its partner, General Dynamics.

The Navy's current plan to update its F–18 jet fighter at a development cost of about $4 billion is prompting some in Congress to question why an update should be so expensive when the entire A–12 development contract only cost $4.7 billion, a staffer said.

He also called into question why the auditor's assertions about a documented plan were not made public earlier. The public audit deletes passages about the plan, saying in a footnote that they contain "contractor confidential or proprietary data." But the congressional staffer said it appeared to him that the finding was "just embarrassing."

[From the Orange County Register, Feb. 14, 1992]

DOUGLAS PAYMENTS CRITICIZED

(By David J. Lynch)

Douglas Aircraft Co. received $148 million in Pentagon payments on the C–17 program several months early after Air Force officials bent the rules to help the company through a cash crunch, according to a new report by the Defense Department inspector general.

"Douglas did not properly charge development and production costs. . . . At least $148 million was disbursed that would not have otherwise been available," the report said.

The report noted that Douglas received no money to which it was not entitled. But the company did receive substantial accelerated payments in late 1990 and 1991 thanks to an accounting change in the way it billed the government, the audit concluded.

The company's relief of accelerated payments was acknowledged by the Air Force in congressional testimony last November. Some lawmakers have said the payments amounted to an unpublicized Pentagon bailout of cash-strapped McDonnell Douglas Corp., the nation's No. 1 weapons maker.

The amount of the payments is greater than officials indicated at that hearing, according to the report, which provides new details on events surrounding the controversy.

A copy of the unreleased inspector general's report dated Feb. 13 was obtained by The Orange County Register.

At issue is an Oct. 11, 1990, request by Douglas for a change in the accounting rules that governed payments for its C–17 work. The company is developing and building the first six cargo jets under a $6.6 billion contract, which includes separate funding for development and production expenses.

By July 1990, Douglas had exhausted all the development funding available for that fiscal year. Unless it were allowed to shift some development expenses to the contract's production account, Douglas would have been forced to eat tens of millions of dollars in unpaid bills, the report said.

At the same time, corporate parent McDonnell Douglas also faced severe financial pressures. Saddled with a $2.97 billion aerospace debt, McDonnell was viewed by government analysts as financially weak.

Air Force officials approved the company's proposal Nov. 1, shifting $172 million in development costs to the production account. Of that amount, Douglas ultimately was paid $148 million several months early.

Douglas already had been receiving special treatment, according to the report. The Long Beach aircraft maker was being paid 99 percent of its submitted costs rather than the industry standard of 80 percent.

The audit led to a reduction in the payment rate to 97 percent beginning in November 1991, the report said.

The Pentagon's top auditor criticized Douglas for maintaining an unreasonably low estimate of the C–17 contract cost by "artificially" capping some labor costs and failing to submit the documentation required to support the accounting change.

Douglas spokesman Jim Ramsey referred inquiries to the Air Force.

But the report's strongest language was reserved for the Air Force officials overseeing the program, the Defense Contract Audit Agency, and the military's representative at Douglas. The report said they failed to coordinate their policies and did not determine how the change would affect the government.

"The Air Force doesn't believe we did anything wrong regarding progress payments," said Maj. Bob Perry, an Air Force spokesman in Washington.

Col. Kenneth Tollefson, the military representative at Douglas, declined comment, saying he had not seen the report.

[From Defense Week, Feb. 24, 1992]

PENTAGON POLICY TO BUTTRESS MCDONNELL DOUGLAS?

(By Eric Rosenberg and Tony Capaccio)

Pentagon officials organized a plan "to provide additional funding," possibly millions of dollars, to a cash-starved and debt-ridden Douglas Aircraft Co. in late 1990, according to censored sections of a recent Inspector General report on the C–17 transport.

While a sanitized, publicly-released report assesses the acceleration of $148 million in progress payments to the Long Beach, Calif., firm, it makes no mention of what appears to be a Pentagon-wide policy to improve the firms's financial health at a time when its parent was staggering under record-breaking debt and massive projected overruns on a Navy attack jet and training aircraft.

But according to the previously withheld sections made available to Defense Week, the actions surrounding the accelerated progress payments "were part of a common effort to improve the cash flow position of Douglas." The sections were deleted from the publicly released IG report because they were marked "contractor confidential."

Both versions state that, though the payments were accelerated in an inappropriate fashion, the firm was entitled to the money, albeit at a slower pace.

The sanitized version claims Douglas received Pentagon payments for the transport several months early after the Air Force bent the rules. "Douglas did not properly charge development and production costs . . . At least $148 million was disbursed that would not have otherwise been available," the report said.

But the "business sensitive" version states the reason behind the accelerated payments lay in "an overall plan to provide additional funding to McDonnell Douglas. The plan was documented in a briefing on the results of a review of McDonnell Douglas contract performance, problems, financial condition, etc."

Jim Ramsey, a spokesman for Douglas said: "It doesn't sound to me like there's anything new. Douglas received no special treatment on the C-17 in any way. In fact, the progress payments were reduced in the beginning of 1991 and reduced again at the beginning of this year."

Air Force spokesman Capt. George Sillia steered inquiries to the Defense Contract Management Command, saying senior service officials are not involved in issuing payments to contractors.•

KENTUCKY ROLL CALL—CAMPAIGN FINANCE REFORM

• Mr. McCONNELL. Mr. President, my home State benefits from the insightful and comprehensive coverage of government and politics by Kentucky Roll Call, a respected newsletter. Amidst a heated debate over campaign finance reform in the general assembly, Kentucky Roll Call recently published an article by editor Lowell Reese, which was highly critical of taxpayer financing and spending limits, the principal elements of the reform bill under consideration.

Taxpayer financing and spending limits are also the main components of the Democrats' campaign finance reform proposals passed in the Senate and House last year. I will not go into the myriad reasons those provisions would lock in incumbents and corrupt the political process. The Kentucky Roll Call article I am about to insert into the RECORD will cover those subjects.

Mr. President, last week the majority leader appointed conferees to try and salvage something from the campaign bills the Senate and House passed last year. As we begin that process I urge my colleagues to review this article from Kentucky Roll Call. It explains why taxpayer financing and spending limits are not reform. In fact, they are roadblocks to reform.

Taxpayer financing and spending limits have been a $500 million disaster in the Presidential system—more if you figure in all the accountants and lawyers that system has required. They are a formula for failure—in Kentucky and in congressional elections.

If my colleagues across the aisle like the status quo in campaign finance, then insistence on taxpayer financing and spending limits is the ticket. Because so long as those provisions are in the final bill there will be no campaign finance reform.

Mr. President, I ask that an article from Kentucky Roll Call be inserted in the CONGRESSIONAL RECORD at this point.

The article follows:

[From the Kentucky Roll Call, Mar. 6, 1992]

SHOULD ALL TAXPAYERS FUND GUBERNATORIAL CAMPAIGNS?

Who should pay for gubernatorial candidates to get elected? The rich, the middle class or even minimum wage employees? All of them would, if a bill passed by the state Senate yesterday to provide public financing of gubernatorial campaigns were adopted.

SB 221 would provide partial public financing for candidates for governor and lieutenant governor, and require them to run as a team . . . slated together like the president and vice president on the national ticket. If a slate voluntarily agreed to limit spending . . . to $1.8 million per election, it would receive government money to the tune of $1.2 million. The threshold to qualify is $600,000. It's $2 for $1 matching.

That is, if a slate raises $600,000 from private donors . . . the government would pitch in twice that amount—thus, the $1.8 million limit. This could be repeated in the fall. So the limit for a campaign would be $3.6 million . . . which is about what Congressman Larry Hopkins raised last year during his unsuccessful race for governor.

There is a runoff provision in the Senate bill, meaning if no slate in the primary received at least 40 percent of the vote . . . a runoff election would be held between the top two slates. And each slate would get $300,000 in government money, specifically for the runoff (there would be no private funds involved).

Proponents of public financing say it's an "incentive" to encourage candidates for governor to voluntarily accept spending limits. They say this would make campaigns for governor less expensive, diminish dependency on private donations and take the "for sale" sign off the Capitol. But opponents say it won't work that way. While they generally acknowledge that campaigns are too expensive and invite corruption . . . the remedy offered by public financing will only make matters worse.

Secretary of State Bob Babbage, who plans to run for governor in 95, favors public financing. He told a legislative committee last week that "the middle class need not apply" as candidates for governor, unless public financing passes suggesting that the current system heavily favors the rich, and public financing would give anyone a competitive chance to be governor.

But some observers point out another view. Instead of public financing expanding the pool of candidates, it may have the opposite affect . . . and make it easier, for insiders such as Babbage and Lt. Gov. Paul Patton, to get elected. A limit on spending would significantly reduce paid TV ads, and therefore, handicap a newcomer's ability to build name recognition.

In contrast, it would aid the professional politicians who have spent eight to 12 years positioning themselves to be governor. It would make the lesser constitutional offices greater stepping stones than they have been in the past.

And if basketball celebrity Dan Issel (secretary of the Tourism Cabinet) decides to run for governor in '95, this is a dream bill. He has name recognition . . . that spending limits would make very difficult for a fresh face in politics to match. This would be a built-in advantage for all future celebrities who might aspire to be governor.

The public financing bill does provide an option. Candidates wouldn't be forced to accept the government money. They could run their campaigns on private donations. But the bill would cap contributions at $100 for states refusing public money—making it nearly impossible to compete, for anyone except the rich. (States that accept government money could accept contributions up to $500. This part of the bill, and other provisions that penalize those who don't accept government money is considered by some to be unconstitutional and is almost sure to be tested in court.)

Kentucky has not seen "independent expenditure" campaigns before. But get ready for them if this bill passes. They will become a major feature of all future campaigns for governor. And there are no limits on what special interest groups, single issue groups and rich relatives can spend to support (or attack) a candidate . . . all legal, as long the candidate is not in any way a knowing participant.

One of the best examples of this was in the 1988 presidential race . . . George Bush's campaign never paid to put Willie Horton's face on TV; that was all done by an independent expenditure group. If public financing passes in Kentucky, independent expenditure activities will proliferate like mushrooms in a wet meadow.

Public financing is a slap in the face to the American private enterprise system. Candidates should be given the chance to prove their worth . . . and contributions will follow accordingly just as the dollar always chases value. The way to reduce corruption in gubernatorial politics is not through giving the candidates government money. It's by limiting contributions to some reasonable amount and reducing the influence that a governor has over contributors.

Public financing, among all of its other ills, will increase the amount of cash floating around on election day in the streets of Louisville and hollows of Eastern Kentucky underground currency will be east in a more important role than ever before.•

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator AKAKA be recognized to address the Senate, and that upon the completion of his remarks, the Senate stand adjourned, as under the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Pursuant to the order, the Senator from Hawaii [Mr. AKAKA] is recognized.

IN MEMORY OF MORRNAH NALAMAKU SIMEONA

Mr. AKAKA. Mr. President, it is an honor and a privilege for me to take the floor of the Senate to speak in memory of Morrnah Nalamaku Simeona who passed away on February 11, 1992, and for whom commemorative services will be held in Hawaii on April 5. I do so with a heavy heart and deep sense of loss.

I join her daughter, Karen Piilani Simeona, and other members of her family and friends, to mourn the untimely passing of her mother. We shall all miss her quiet but strong presence and leadership, her friendship, and most of all her understanding and compassion. We take solace though that she has departed from this world and is going home to life eternal.

Morrnah was deeply committed to ho'oponopono which she taught and practiced to bring about a spiritual relationship between self and the divinity, the way to self-identity. In this way, Morrnah brought understanding, peace of mind and happiness to the many, many people she touched over the years. Her good works continue through the Foundation of "I," Freedom of the Cosmos, which she founded.

Morrnah gave freely of her spirituality to others throughout her life, and for this she received many unsolicited honors. She has been recognized as a living treasure by the Hawaii State Legislature and the Honpa Hongwanji Mission. Among the other high honors that were bestowed on her was recognition by the United States Jaycees and the International Register of Profiles in Cambridge, England, for her contributions to society.

She left Hawaii in 1980 in a peripatetic mission to share her gift with the world. She conducted seminars in nearly a dozen States and many countries as well. She went to New York, California, Washington, Pennsylvania, North Carolina, Virginia, Arizona, Maryland, New Mexico, Florida, and Washington, DC. She went to Denmark, Sweden, Italy, Germany, Belgium, Holland, Switzerland, France, Yugoslavia, Russia, and Greece. Her updated process of ho'oponopono has been translated into Danish, Flemish, French, German, Greek, Italian, Polish, Russian, and Spanish. I cite this litany of States and countries, and translations, only to impress on one and all that Morrnah was indeed a universal authority on "ho'oponopono."

And when she visited Washington, DC, and learned that the original model of the Statue of Freedom from which the mold of the statue which stands on top of our Capitol dome was made lay in ignominious storage, she was inspired to refurbish and restore the statue for display in a place of honor. She shared her intentions with me, and as a Member of the U.S. House of Representatives, I amended the Legislative Committee on Appropriations bill to permit the Architect of the U.S. Capitol to receive private funds for this purpose. Morrnah then raised $25,000 which she donated to the Architect of the U.S. Capitol. The U.S. Capitol Preservation Commission accepted the gift and approved the proposal to display the statue in the Russell Rotunda. This will be done by the end of this year. The model of the Statue of Freedom in the Russell Rotunda will serve as an eternal remembrance of Morrnah Nalamaku Simeona.

Mr. President, my wife, Millie, and I join all the people of Hawaii, our Nation and the world to bid Morrnah Nalamaku Simeona, aloha and a peaceful journey home. We are the better today for having known her, and the world a better place for her having passed through.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9 a.m., Thursday, March 26; that on Thursday, following the prayer, the Journal of Proceedings be deemed to have been approved to date; that the call of the calendar be waived; and no motions or resolutions come over under the rule; and that the morning hour be deemed to have expired; that the time for the two leaders be reserved for their use later in the day; that there then be a period for morning business, not to extend beyond 11:30 a.m., with Senators permitted to speak therein for up to 5 minutes each; with Senator BRADLEY recognized for up to 40 minutes; that there be 30 minutes under the control of Senator CRANSTON or his designee; and that Senators KASTEN, WALLOP, KASSEBAUM and SMITH be recognized for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate will stand in adjournment until the hour of 9 a.m., Thursday, March 26.

Thereupon, the Senate, at 8:10 p.m., adjourned until Thursday, March 26, 1992, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, March 25, 1992*

The House met at 2 p.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray for guidance, O God, for we wish to know the way; we pray for wisdom, O God, for we wish to know the truth; we pray for enlightenment, O God, because we wish to experience the fullness of life. With all the pressures of duty and responsibility, we offer this our prayer that our very hearts, souls, and minds will be open to the presence of Your spirit, a spirit that points to the way, the truth, and the life. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Iowa [Mr. NAGLE] come forward and lead the House in the Pledge of Allegiance.

Mr. NAGLE led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

> S. 2398. An act to clarify the provisions relating to the construction of additional court space in Brooklyn, New York, and to make a technical correction.

CONGRESS SUPPORTS MIDDLE CLASS, PRESIDENT PROTECTS THE WEALTHY

(Mr. FROST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, later today we will have an opportunity to vote on whether or not to override the President's veto of the recently passed tax bill.

This is not a complicated issue. Congress voted to provide needed tax relief for the middle class. The President vetoed the bill because it raises taxes on the rich. Congress is for the middle class. The President wants to protect the wealthiest in our society.

When I entered Congress in 1979, the top rate was 70 percent. Since that time, the wealthiest Americans have had their tax rate cut in half. Let me say that again: The top rate for our richest citizens is half of what it was 13 years ago.

And yet our President wants to man the barricades and prevent the wealthy from paying even 1 or 2 percent more in taxes.

It is hard to believe that the President of the United States is so out of touch with the country. Last time someone sent the people a message of "let them eat cake" she lost her head. This President will not lose his head, but he should lose his job.

TRIM THE LEGISLATIVE BUDGET

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, we are getting to that time of year when we begin to look at the legislative budget and what we are going to spend to run this place around here. I think the first bill that comes before us will be the budget for the research staff. I understand that the committee is recommending that we do something over 4 percent on that budget.

I think we need to be reminded that since 1947, the number of people working in different sections of the Federal Government has gone up by the following amounts: Civilian employees: 45 percent; Executive Office of the President: 59 percent; Representatives' personal staffs: 526 percent; Senators' personal staff: 650 percent; House committee staffs: 1,189 percent; Senate committee staffs: 437 percent.

Since 1947, the amount of money needed to run the legislative branch of government has risen at a pace six times faster than the increases in the Consumer Price Index.

Mr. Speaker, people do not want business as usual. They are not going to put up with us continually raising the cost of running the Congress of the United States.

WITH VETO, PRESIDENT HAS ABANDONED MIDDLE CLASS

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker, with his veto of the tax cut bill, the President abandoned the middle-class family.

He would rather do nothing than to give middle-class families a tax cut, $600 to $800 over a period of 2 years.

He would rather do nothing than give middle-class families an IRA.

He would rather do nothing than get us out of this Republican recession that is now almost 2 years old.

His motto is: "Don't do something, just stand there."

The President is at his old tricks again. He just wants to protect his wealthy friends. He needs to forget about the country club and start thinking about the country.

CAMPUS SEXUAL ASSAULT VICTIMS

(Mr. RAMSTAD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAMSTAD. Mr. Speaker, later today the House is expected to begin consideration of H.R. 3553, the Higher Education Amendments of 1992. I want to alert my colleagues to an important amendment Ms. MOLINARI and I will introduce to protect campus sexual assault victims.

This amendment would require colleges and universities to adopt meaningful sexual assault policies.

A recent study showed that one out of four college women in America is the victim of either attempted rape or rape during her 4-year college career.

Mr. Speaker, too many college administrators are slow in realizing that date rape is rape. Victims and parents throughout the country are angry that less than 1 percent of campus rapists are ever prosecuted.

Worse yet, too many campus rape victims are traumatized a second time when their rape allegations are mishandled by campus officials.

With less than 40 percent of campus rapes resulting in any institutional penalty whatsoever, is it any wonder that many college women across the country have taken to posting the names of their attackers on bathroom stalls in order to protect their classmates from future attacks?

Mr. Speaker, the Ramstad-Molinari amendment would require colleges and universities to adopt meaningful sexual assault policies. Say "no" to campus rape by voting "yes" on the Ramstad-Molinari amendment.

REAUTHORIZATION OF THE HIGHER EDUCATION ACT: THE ROAD TO SUCCESS

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker, I rise today to express my support for H.R. 4471, a bill to reauthorize the Higher Education Act of 1965. This is a very important piece of legislation, for it is through the Higher Education Act that the dream of access and opportunity for a college education becomes a reality.

With the end of the cold war, the national strength and status of the United States as a great power now depends on our ability to compete economically. The productivity of our citizens is linked to our willingness to invest in their education and training. Unfortunately, working and middle-class families, the traditional source of productive workers, are seeing the dreams of higher education for their children slip away as our standard of living declines and as our support for Federal education programs decline.

In the last decade those with incomes below the top 20 percent saw their incomes either stagnate or decline when adjusted for inflation. Meanwhile costs at public and private colleges have increased two to three times faster than the growth in median family income. Many working families can no longer afford to finance their children's education. For example, an 18- to 24-year-old from a family with an income between $15,000 and $30,000 is less than half likely to be in college as an 18- to 24-year-old from a family with an income above $50,000.

Working class families can also no longer call on their traditional financial reserve, sending mom to work, to meet the cost of a college education for their children. Mom has already gone to work for the families fortunate enough to have two wage earners. These dual incomes are now becoming barely sufficient to maintain their current standard of living.

Since the Federal Government provides 75 percent of total financial aid available to students, the reauthorization of the Higher Education Act is an opportunity to improve our current structure in order to give more students the chance to pursue a college education and achieve their full potential.

The Higher Education Amendments of 1992, provides this response. For hard-pressed middle income families, H.R. 4471 brings Federal aid once again within their reach.

One million new borrowers would be eligible for guaranteed student loans, with 900,000 of the new borrowers from middle income families.

In the first year, an estimated 5 million students would be eligible for an increased grant or would be newly eligible to receive a Pell grant; 1 million of these newly eligible Pell grant recipients would be from middle income families.

Provides a simplified need analysis to determine eligibility for all Federal financial aid. By removing the consideration of farm and home equity for families with incomes of less than $50,000, middle income families will once again have access to Pell grants, guaranteed loans, and campus-based aid.

In Nebraska, nearly 22,000 high school graduates attend the University of Nebraska in Lincoln, our largest education institution. For the 1990 school year, resident tuition room and board averaged $4,800 per student. Of a total of 24,453 students attending the university, almost 50 percent rely on financial aid in some form. I want to ensure that not one of these students is denied the opportunity to attend the university.

One of the hallmarks of the American dream is that education is the door to opportunity. Not only does education bring opportunity, it is a good investment for our Nation. For every dollar that students receive in student aid, they return about $4.30 to the Federal Government in taxes. Our true economic wealth depends on the development of the skills and insights of our citizens. H.R. 4471 goes a long way in assuring that the education needs of our citizens is met.

THE BRUTAL REGIME OF FIDEL CASTRO

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, every month there is another report from a reputable human rights organization citing Fidel Castro's horrid record on freedom and liberty. Here is the report of the Department of State, of Amnesty International, of the America Watch, Freedom House, and there are many others which clearly point out that Castro fails miserably in every aspect examined, in respect for human rights or political rights or workers' rights, in fair and public trials, in noninterference with the privacy of family life or correspondence, in freedom of speech and of the press, in freedom of peaceful assembly or movement, in freedom of religion, and the list goes on and on.

These reports accurately depict the ongoing nightmare that is a reality for the Cuban people.

How many reports such as these must be reported out of international groups before the entire world wakes up to the fact and realizes that Castro's reign must end and that freedom and democracy must be restored to my native homeland. I am optimistic that by strengthening the economic embargo, the United States will send a real and meaningful message to Castro that his brutal regime is in its last days.

□ 1410

HOUSE CONSIDERS VETO OVERRIDE OF MIDDLE-CLASS RELIEF AND ECONOMIC GROWTH BILL

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, today the House takes up the veto of the economic growth bill. I am dumbstruck that the President vetoed a bill which contains numerous items he requested in his State of the Union Message.

This bill stimulates our economy by putting money in the hands of middle-class consumers. It allows penalty-free withdrawals from IRA's for the unemployed, first-time home buyers and others; it would restore deductibility of IRA's for all and create a special IRA.

It extends the health insurance deduction for the self-employed. It eliminates capital gains taxes for people in the 15-percent bracket, and cuts them in half for those in the 28-percent bracket.

It provides strong incentives to businesses, including an investment tax allowance, increased expensing, enterprise zones and passive loss relief. It also simplifies the code and strengthens the taxpayer's bill of rights.

The President vetoed the bill before he even saw it, claiming it's a tax increase. For a few he is right; it raises taxes on the richest 1 million Americans, who did very well in the 1980's, to pay for tax relief for the 78 million middle-class families who are still waiting for trickle down to reach them.

Unlike the President's proposal, which would add to the red ink, this bill will reduce the deficit over 6 years.

Mr. Speaker, the President now says he wants us to do nothing. Doing nothing may be OK with the country club crowd, but it is not OK with millions of Americans who fear their slice of the pie will keep shrinking and maybe even disappear. Let us override this veto and get our economy moving again. It is the right thing to do.

THE AMERICAN PEOPLE WANT JOBS, NOT HERSHEY BARS

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, my colleague, the gentleman from South Carolina [Mr. DERRICK] just said he was dumbfounded because he could not understand why the President vetoed that—that tax increase. Well, I will tell you why the President vetoed it. It is a $93 billion tax increase on the backs of the American people that is going to hurt the economy.

Mr. Speaker, we are already in a recession. Why? Because 2 years ago the Democrats forced through a $181 billion tax increase.

So what are they going to do now? They are coming back with a $93 billion tax increase which is supposed to solve the economic problems of this country.

What are they giving in exchange for it? They say they are going to help the middle class. Mr. Speaker, this Hershey bar costs 50 cents. The tax rebate they are going to give to the American middle class is 41 cents a day. You cannot even buy a Hershey bar for that.

What are they going to do? Raise the taxes $93 billion and give you less than a Hershey bar if you are a middle-class taxpayer.

That is going to solve the economic problems? Give me a break, give me a break. The American people want this economy to start moving again. They want jobs. They do not want a Hershey bar, they want jobs and not a tax increase.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. McNulty). Our guests in the gallery are reminded that we are delighted to have them with us but they are not to respond, positively or negatively, to any statements made on the floor.

CURTAIL CAMPAIGN BUNDLING

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, when we talk today about bundling, we are not referring to the quaint colonial custom wherein unmarried couples would lie fully clothed in bed, divided by a wooden partition, and court. We are talking today about a system in which an intermediary collects, or bundles, campaign checks and then forward them en masse to a particular candidate.

About the only relation between the two is that in each case one person is trying to impress another person.

But certainly campaign bundling is not a good practice. It is severely limited in both of the bills which are pending in the conference committee dealing with campaign election reform.

Mr. Speaker, I can think of no single thing that would help this Congress more quickly regain some portion of the esteem and faith and the honor of the American people than to pass solid, strict campaign reform legislation which includes limiting or restricting campaign bundling.

ENACT THE CONGRESSIONAL PERQUISITE REFORM ACT OF 1992

(Mr. WYLIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYLIE. Mr. Speaker, we are all aware that the image of Congress has been severely damaged by controversy surrounding the House bank. My perception of the public's concern is not so much with the overdrafts, but that the bank offered services to Members of Congress that were not otherwise available to the average citizen. In other words, the bank was a congressional perk that was a hotbutton setting off alarms in our constituents' minds that Congress feels it deserves special treatment.

Clearly Congress needs to take measures to regain its credibility with the American people. The leadership has raised the fees of the Members-only House gymnasium, eliminated the free drug prescription service, and voted to close the House bank, but in my opinion these actions did not go far enough. So I am introducing the Congressional Perquisite Reform Act of 1992. My bill is designed to make sure that Members of Congress do not receive privileges that are not otherwise justified by the requirements of our job. Specifically, my proposal calls upon the GAO to review the administrative benefits now available to Congress to determine the fair market value of these benefits and provide us with a report immediately so we can take it up in 102d Congress, how taxpayers dollars can be most effective used to run our in-house operations.

It is my intention that the GAO would look into, but not limit itself to, such services now available to Members as free health care, the House gymnasium, parking, fixing parking tickets, the in-house barber shop and hair salon, and limousines.

I hope that the leadership will take up my bill without delay to restore not only the dignity of this once august institution but also the faith of the American people in its representatives.

JAPAN GETS SPONGE—AMERICAN WORKERS GET SQUEEZE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, in 1990 the Pentagon said only type A titanium sponge would be bought for the national defense stockpile. Type A sponge meant that no American companies and no American sponge would qualify, which meant, that is right, that all of the titanium sponge bought for the defense stockpile was bought from Japan, Japanese companies, who 2 years before that were convicted of dumping titanium in the American marketplace below the production costs, thus destroying the American domestic titanium industry.

Now think about it: Japan gets the sponge, American workers get the squeeze; Japan gets the money, American workers get the boot; American taxpayers and workers pay the bills so they could buy titanium for the stockpile, the Pentagon buys it from Japan.

Mr. Speaker, I say this is un-American and unconstitutional, and the people who are handling trade in America should be sent to Taiwan, the EPA should be sent to Korea, and maybe our country will get back on its feet.

DALLAS AND EIGHT OTHER U.S. CITIES PICKED AS SITES OF WORLD CUP GAMES

(Mr. JOHNSON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHNSON of Texas. Mr. Speaker, I want to congratulate the people of Dallas, TX—and eight other U.S. cities—for their role in this week's site selections for the 1994 World Cup Games.

For the first time in history, the United States will be hosting the championship soccer match—and for 1 month, more than 1.5 billion people from around the world will be watching these American cities.

This will give our country an unprecedented opportunity to spread good will and American hospitality—not to mention, the economic boost the event will bring to local communities.

So, congratulations again to the people of Dallas, our ex-colleague, Mayor Steve Bartlett, and all Americans who worked—and will continue to work—to make the 1994 World Cup Games a great success, and put America first in the eyes of the world.

CONGRESS SHOULD NOT RESCIND FUNDS FOR THE RED RIVER POLLUTION ABATEMENT PROJECT

(Mr. SARPALIUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SARPALIUS. Mr. Speaker, in order to be an effective Member of this body you must have a vision, you must be able to dream.

In order to be an effective President you must have a vision for the future to try to make this country a better place for our children than what we see today.

Mr. Speaker, there is no question that with the tremendous deficit spending that we are now having today, we are giving the future generations not much hope. But the President has given us a rescission package, a list of things in the budget that he thinks we ought to cut.

One of those items in that package, it is clear that the President has lost his vision; and that is the project for the funding of the Red River chloride project which cleans up the water in the Red River for the States of Texas, Oklahoma, Louisiana, Mississippi, and Arkansas, to clean up the pollution that we have in that water.

Mr. Speaker, I have in my district the cities of Vernon, Crowell, and Quanah, which will run out of water in 12 years. No drinking water for those communities.

The President feels like that is an area we ought to cut. Here on the one hand he asks me to vote to forgive a debt that the country of Egypt owes us, at $6.7 billion; and on the other hand he asks me to vote to eliminate the future for those communities.

Mr. Speaker, I encourage my colleagues to look closely at that rescission list.

□ 1420

IS HONDA AN ALL-AMERICAN CAR?

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, we all know about real estate rollups; now we are learning about rollups in the automobile industry.

Hondas assembled in Canada lacked the minimum 50 percent North American content necessary for them to enter the United States duty free. To analogize from Kafka's metamorphosis, Japanese components went to bed in a Canadian plant, dreamt of being an American car and lo and behold came to life singing "Born Free" as a duty-free American car.

According to Business Week, Under Secretary of Commerce, J. Michael Farren called the efforts of Japanese auto companies to use American-owned suppliers a sham. The article quoted another American official concerned about the double standard of buying parts from Japanese suppliers as "a strategic exercise for Japan to totally dominate the worldwide car market."

Rollups is certainly the right name for this practice by Honda. We allow transplants in the United States, and their rolled-up foreign parts have rolled right past American jobs in the automobile industry. It is time for us to get wise and roll down the economic wall to these illegal imports.

DON'T BARGAIN WITH THE LUXURY TAX

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, a large, energetic crowd gathered on the Capitol steps yesterday to oppose the so-called luxury tax. I did not see any millionaires in the protest crowd, just hundreds of boat workers who are worried about their future and the future of their families. Their message: "Stop using the luxury tax as a political bargaining chip, and repeal the tax."

This message has been echoing ever since the 1990 budget agreement when Congress took its big swing at the rich, and only managed to punch out thousands of middle-class jobs. Still, Congress has not heard, or worse, has not bothered to listen.

Instead of a serious attempt at repeal, the luxury tax is being held hostage in the war over tax policy by those legislators more interested in trading political shots than helping the economy. It is time that the leadership inside these thick walls finally got the message that is coming in so clearly from outside. Let us stop worrying about political points and get down to the long overdue business of repeal and getting our boat builders back to work. They want the jobs—they need the jobs.

OVERRIDE THE PRESIDENT'S VETO

(Ms. DELAURO asked and given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, the President gave Congress until March 20 to deliver an economic budget package that would put America back to work.

We did our part.

He didn't do his.

The President vetoed our bill the same day we sent it to him. He showed us what he thought of working middle-class families. Once again, he protected the wealthy at the expense of the middle class. Our bill provided tax relief to working families and incentives to businesses to help get our economy moving.

It included: Up to $300 in tax credits for all working families in 1992 and 1993; a permanent $300 tax credit per child for middle-income families beginning in 1994; a decrease in the capital gains tax based on income; an allowance for all taxpayers to make deductible contributions to IRA's; new tax rules to encourage investments in small business; and it also would have made permanent the low-income housing tax credit.

It has now been 6 days since the President rejected our package. He never even read it. But we have yet to see his economic plan. His answer is: Do nothing. Last week he tried to strike at Congress by rejecting our bill, but he missed his target because he ended up striking at the American people.

I urge my colleagues to vote to override the President's veto today.

THE IMPACT OF WETLANDS REGULATION ON AMERICA'S PRIVATE PROPERTY

(Mr. YOUNG of Alaska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, by now we are all aware of the important action announced by our President in his State of the Union Address putting a 90-day moratorium on new Federal regulations. This action is critical to lowering the almost $4,000 per year that every American family pays for Federal regulation.

But this Nation has much more fundamental liberty at stake if we do not check the excesses of a bureaucracy out of control. I speak quite simply of our cherished right of private property. If you need an example of a bureaucracy trampling on people's property rights you need only look at our wetlands system under section 404 of the Clean Water Act.

At a time when the former Soviet Union is desperately trying to have private land our Federal bureaucracy is trying to use section 404 to take land from private property owners for a public purpose. What is even more outrageous is that they aren't willing to pay for what they are taking.

The current wetlands system is totally the creation of the bureaucracy. The only statutory basis refers to placement of fill in the waters of the United States. We now have a system where we have cactus growing in the waters of the United States.

If the regulation did not have such a dire impact on the property owners who happen to own 75 percent of the wetlands in this country, the current system would be funny. Unfortunately, it destroys people's property values and prevents them from achieving their dreams.

Mr. Speaker, the 90-day regulatory moratorium is too late to prevent the abuses of the current wetlands regime but hopefully it will prevent further abuse.

THE UNITED STATES MUST ACCEPT POLLUTION LIMITS

(Mr. BLACKWELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLACKWELL. Mr. Speaker, as I rode the train this morning from Philadelphia to Washington, I could hardly believe the headline on the front page that read "U.S. Rejects Limits on Pollution." It seems that the administration has rejected the idea of establishing targets and timetables for carbon dioxide reduction efforts, is inadequate.

Mr. Speaker, as U.N. negotiators from nearly 150 countries have been attempting to draft a worldwide treaty to set specific limits on the emission of carbon dioxide, the President's position should be viewed as most troubling, especially to those, like myself and my constituents who are concerned about facing a future of increased and all too rapid global warming.

I do not need to stand here and recite to my colleagues the fact that carbon dioxide pollutants account for more than half of all of the greenhouse gas emissions, that threaten the fragile ecology of our planet more and more each year. I know full well that our President is aware of these facts as well, but for the time being, it seems that this vital information has been disregarded.

I recognize, Mr. Speaker, as do many of my colleagues, the fragile link that exists between environmental protection, and the concerns of industry in respect to our ailing economy. We cannot use this link however, as a means to reject a worldwide, concentrated effort aimed at curbing the outrageous amounts of carbon dioxide being emitted into our skies every day.

I am embarrassed to report, Mr. Speaker, that the United States stands alone on this issue. At a time when we have the opportunity to once again stand out as an example for the world to follow, we have descended into a pitfall, where the world can scoff at our callous actions.

Mr. Speaker, I urge the administration to rethink our Nation's environmental strategy, and realign our priorities so we can secure a clean, healthy environment for our children.

I further urge President Bush to find the time to attend the World Environmental Conference in Brazil this June. The time has come for us to handle this matter with the seriousness it deserves.

CBS SHOULD REEXAMINE ITS COMMITMENT TO FAIRNESS

(Mr. LEWIS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of California. Mr. Speaker, last Sunday the television show "60 Minutes" ran a story about an organization that recruits and supports Democratic women candidates for elective office. The story lasted several minutes and included interviews with the organization's leaders and several candidates. It was a good story about a timely topic. There was just one problem, the fact that the Republicans have a similar organization to recruit women candidates which received a one-sentence message, no interviews, no picture, just a one-sentence mention.

Mr. Speaker, if this were an isolated incident, I would not raise it, but at CBS it is not an isolated incident. Last week on the "CBS Evening News", Dan Rather reported that the White House was considering an election year attack on Iraq. Why did Mr. Rather feel it necessary to mention that it was an election year? What did that have to do with the story? When we were engaged in Operation Desert Storm, Mr. Rather did not say that it was a nonelection year attack.

Mr. Speaker, I believe strongly in freedom of the news media. I believe just as strongly that the media have an obligation to be fair and impartial. I would encourage CBS News to reexamine its commitment to fairness and interview the organization called The Wish List which supports Republican women candidates for higher office.

□ 1430

NUCLEAR WEAPONS TESTING MUST COME TO A STOP

(Mr. KOPETSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOPETSKI. Mr. Speaker, today at 8 a.m. Pacific standard time, the Department of Energy is scheduled to detonate another nuclear bomb in Nevada. The United States has tested 730 nuclear weapons in Nevada. Thirty of these tests released radioactive fallout into the atmosphere.

Why are we testing nuclear bombs today when we are asking other countries such as India, North Korea, Iran, and other countries to get out of the nuclear business? At a time when we are spending American taxpayer dollars to dismantle nuclear weapons in what was the Soviet Union, it is time for a new direction and new leadership in this country on this issue.

Let us not test our nuclear weapons as long as nobody else is testing theirs. There is legislation in the Congress, H.R. 3636, which imposes this kind of moratorium. It saves the taxpayers billions of dollars. It brings back sanity to the world.

Mr. Speaker, let us make today's test the last test ever of nuclear bombs in this world.

JAPANESE COMPANIES AVOID BILLIONS OF DOLLARS IN TAXES THROUGH TRANSFER PRICING

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, almost 2 years ago, the Oversight Subcommittee of the Ways and Means Committee documented that foreign corporations operating in America were avoiding paying taxes to the U.S. Government. Has anything really changed since our discovery? Probably not.

According to a March 22 article in the Sunday Times of London, the practice of using a technique called transfer pricing is also robbing the British treasury of billions. The Times reports that Japanese corporations, including Sony, Hitachi, and Toshiba, are paying little or no tax to the British Government, despite record sales.

Former Sony executives have disclosed that Sony is intentionally avoiding paying British tax. Our oversight subcommittee documented this same practice in the United States last year. While Sony paid tax at a rate of 1.4 percent of total sales in Britain, United States-based Kodak paid at a rate of 5.3 percent.

Mr. Speaker, despite having almost 2 years to eliminate transfer pricing in America and save U.S. taxpayers almost $30 billion per year, Congress has again ignored abuse under its jurisdiction. The American taxpayers deserve better. A border adjustable uniform business tax is the solution.

SUPPORT URGED FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING FOR COLLEGES AND UNIVERSITIES

(Mr. ERDREICH asked and was given permission to address the House for 1 minute.)

Mr. ERDREICH. Mr. Speaker, I have introduced legislation to make partnerships between local governments and institutions of higher education eligible for community development block grant funding. Colleges and universities represent a great resource of information, talent, and energy and can play a great role in the development of our communities.

My bill will encourage more involvement by our colleges and universities in our cities and our communities to help expand jobs, improve our neighborhoods, and spur more community development. My bill will tap the existing resources of our colleges and universities as added partners for improvements in our cities.

Mr. Speaker, I urge my colleagues to support this legislation.

OPPOSITION EXPRESSED TO PROPOSAL FOR NAMING OF HOUSE ADMINISTRATOR

(Mr. RIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIDGE. Mr. Speaker, it is absolutely inconceivable and unthinkable to me that any single Member of the House of Representatives, be he or she a Republican or a Democrat, would support the initiative that is being publicly discussed regarding the appointment of a House administrator, somehow a new office to oversee the administration of the nonpolitical institutions that are very much a part of this great institution of Congress.

The House administrator is nothing but a political fig leaf. It is superficial. It brings to this institution no real reform.

There is an enormous erosion of confidence and credibility, not only among individual Members but within the country as it looks to the Congress of the United States, and unless we are very serious about true fundamental, bipartisan reform going to the very core of how this institution operates, then that very first important step of true bipartisan reform that will bring back and restore some of the credibility that this institution and its Members deserve will fail. A House administrator will not do it.

An inspector general, with an independent auditing and investigative function, is part of the solution, and I would encourage my colleagues on both sides of the aisle to look for true bipartisan reform, including an independent agency or entity that has independent auditing and investigative function—the inspector general.

HELPING MIDDLE INCOME AMERICANS

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. America's students no longer compete with just their fellow classmates for jobs after graduation. The world has become a global stage and students from every country now are the players. What can we do to assist our future scientists, educators, doctors, philosophers, and business men and women? The answer is not what they can do for us in years to come, but more appropriately what we can do for them now.

Mr. Speaker, I rise today in support of reauthorizing the Higher Education Act because this bill reaffirms and improves the Federal Government's commitment to the support of postsecondary education. In this bill 97 percent of the fiscal year 1992 appropriations is for student financial aid programs. This legislation expands student aid to serve students from working and middle-income families.

The bill provides: that students from middle-class families of four will be eligible for the minimum Pell grant; that home, farm, and small business equity will not be considered in determining eligibility for financial assistance; and provides greater access to guaranteed student loans by middle-class Americans regardless of family income.

Mr. Speaker, it use to be that all students regardless of their financial means could go to college. There was always a way, if there was the will. That is not the case today. However, this bill brings the dream of attending college more attainable.

I urge all of my colleagues to vote for this legislation. It is the very least we can do for our young people.

CONGRESS MAY MISS DEADLINE ON EDUCATIONAL REFORM BILL

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, exactly one week from today this Congress is about to miss another deadline. This is a deadline not set by the President but a deadline set by the Congress upon itself, for last year, when we passed the 1992 appropriations bill for health and education programs, we said that if the Congress had not passed an educational reform act by April 1, we would lose $100 million committed to begin funding from the Federal perspective educational reform in this country.

Many people are well aware that the President and the Nation's Governors in a bipartisan effort developed a set of national goals for educational reform. We in this Congress last year funded year one of that Federal commitment to educational reform. Unfortunately, the Senate has passed its educational reform bill. The Committee on Education and Labor of the House moved it out of committee weeks ago, and yet that bill has not been scheduled by the Democratic leadership here on the House floor. I say to the leadership, you have one week to do so. I encourage you to get your work done.

THE AMERICAN DEMOCRACY SURVIVING POLITICAL ONSLAUGHTS

(Mr. APPLEGATE asked and was given permission to address the House for 1 minute.)

Mr. APPLEGATE. Mr. Speaker, I have heard over the past few weeks a number of our Members who have come to the microphone and who threaten to tear this great country of ours down, tear its institutions down to serve their own political purposes, using checks and perks as the reasons.

This Nation has survived the onslaughts of people like this for over 200 years, but like the Energizer Rabbit, it just keeps going and going and going. So to those who try to impregnate the minds of the people with hate and with new concepts of government, I say there is nothing wrong with our system which has been defended by millions and millions of our veterans.

□ 1440

America's great architects drew well when they devised our plan, and American democracy will continue to live if it is allowed.

But remember this, that it is the people, not the politicians, that will make that decision, and God help us if we fail to recognize the difference.

CALVIN COLLEGE KNIGHTS: 1992 NCAA DIVISION III NATIONAL MEN'S BASKETBALL CHAMPIONS

(Mr. HENRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HENRY. Mr. Speaker, on March 21, 1992, the Calvin College Knights completed their journey to the top by capturing the NCAA Division III men's basketball title, the first in the school's rich history. Supported by a large and loyal following, the Calvin Knights put on an awesome display of teamwork and coordination defeating the 1990 national champions to win the 1992 title. This phenomenal display of teamwork put the cap on a near perfect season and was a dream come true for the players and coaches alike.

According to their coach, appearing in the final four was the year's ultimate challenge and the Knights' intention has been to not only pursue but to capture the championship. Calvin College is an outstanding institution of higher learning and takes great pride in its well established and nationally recognized tradition of academic excellence. The players responsible for this excellent season and the capture of this national title pursue scholastic achievement as actively as they pursue athletic victories. Calvin College enjoys widespread support from the community as well as a proud and loyal alumni, and I continue to be proud of my association with this fine institution.

Mr. Speaker, each and every member of the team contributed in his own special way to successes enjoyed over the 1991–92 basketball season. It gives me great pleasure to honor each of the following players, fine coaching staff, and team managers; Matt Harrison, Mike LeFebre and Brian Westra, graduating seniors, Mark Lodewyk, Matt Rottman, player-manager, Mike Langeland, Steve Honderd, Mark Hofman, Ryan Stevens, Steve Scholler, Rob Orange, Chris Knoester, Brad Capel, Jon Vander Hill, Todd Dokter; coach: Ed Douma; assistant coaches: Gregg Afman and Jim Timmer.

Winning the championship takes hard work, determination, spirit and ability but most importantly a cooperative team effort. Putting forth their highest level of effort, the Calvin Knights succeeded in reaching the pinnacle. To quote Coach Douma "It takes lots of desire, lots of heart and outstanding players. This team is special. They had courage, desire and they knew when to rise to the occasion."

Mr. Speaker and colleagues, please join with me in expressing heartiest congratulations to the 1992 NCAA Division III National Champions—the Calvin College Knights.

CONGRATULATIONS TO THE UNIVERSITY OF MASSACHUSETTS BASKETBALL TEAM

(Mr. OLVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OLVER. Mr. Speaker, I rise to congratulate the University of Massachusetts basketball team. Even before their success in the NCAA regionals last week, this team has had a very exciting and successful year.

As a former teacher at the University of Massachusetts, I am very proud of our basketball team and the national recognition that this university deserves. The New York Times described the University of Massachusetts style as an "intelligent and unselfish brand of basketball." Well said.

The University of Massachusetts system has been under severe financial pressures, facing State funding cuts and dramatic increase in tuition. While the University of Massachusetts is often overshadowed by the State's world renowned universities like Harvard and MIT, they have earned their moment in the national spotlight.

The University of Massachusetts Minutemen have been a source of great pride and joy in western Massachusetts. While we in New England have experienced some difficult economic times, this past weekend, I witnessed the strength and spirit of our community. First we had University of Massachusetts' victory over Fordham and the overtime thriller against Syracuse, then we had thousands of families participating in the great city of Holyoke's St. Patrick's Day parade. Our communities have shown tremendous resilience.

Tomorrow, our Minutemen meet the University of Massachusetts alumnus Rick Pitino's Kentucky team in the Sweet 16. While we wish success to all our alumni, we are very confident that Coach Cal's Minutemen will be up to the task. "Go!, Go U!, Go UMASS."

INVESTIGATE THE SAVINGS AND LOAN SCANDAL IN WASHINGTON

(Mr. OWENS of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of New York. Mr. Speaker, I think we should stop the juvenile nonsense focusing on perks. I think this Congress should refuse to cooperate with the trivializing of Congress. I think there is a banking scandal in Washington, and the American people should be focused on the real banking scandal.

Mr. Speaker, $25 billion more has been proposed for the S&L bailout, $25 billion more, on top of what has already been appropriated. The most conservative estimate says that the American taxpayers will have to cough up $500 billion to pay for the savings and loan bailout before it is over.

This is the scandal we should focus on. Mr. Speaker, you should appoint immediately a select committee to investigate the administration of the Resolution Trust Corporation and to investigate the Justice Department's lack of prosecution of those who are guilty of conspiracy and theft of S&L association funds.

Mr. Speaker, this is the real scandal. This is what the American taxpayers have to pay for. No matter whose son is involved, the investigation should go forward.

We have failed to do our duty, and therefore we have become the defendants. The real crooks are free. Congress never let the voters see what true justice should be. Let us investigate the real banking scandal here in Washington.

OVERRIDE PRESIDENT'S VETO ON H.R. 4210

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, the President has vetoed H.R. 4210, the Middle Income Tax Relief and Economic Growth Incentive Act. By vetoing H.R. 4210, the President has vetoed liberalized rules for equipment depreciation that will help businesses modernize and give a boost to our manufacturing industry;

The President has vetoed a more progressive capital gains system that will promote long term, steady investment and investment in new small businesses;

The President has vetoed restoration of the passive loss deduction for real estate professionals, which would have given a shot in the arm to our sagging real estate industry;

The President has vetoed low-income housing credits which would have provided people with better housing and help spur a new construction boom;

The President has vetoed deductions on student loan interest and tax free employer provided continuing education;

The President has vetoed relief from the high cost of health insurance for millions of self-employed Americans; and,

The President has vetoed employer provided mass transit subsidies which would have made our highways less crowded and our air cleaner.

In short, the President has vetoed the very measures we need to invest in our people and our infrastructure, and to get this economy moving again.

The President said he vetoed this bill because it included a tax increase. Frankly, I see nothing wrong with making the ultrarich, people with incomes in excess of $1 million or assets in excess of $15 million, pay their fare share. After all, they were ones who benefited the most during the Reagan-Bush years.

The Congressional Budget Office found that the richest seven-tenths of 1 percent of all families enjoyed 75 percent of the growth which occurred in the 1980's.

The 1980's were a decade of tax cuts, but whose taxes were cut? The tax burden for those earning $1 million a year fell by almost 50 percent, while the burden rose for the middle 60 percent of all taxpayers.

H.R. 4210 is an economic growth package for all Americans, and if it has to be paid for with a slight increase on the ultrawealthy, so be it. I urge my colleagues to support the override of the President's veto.

HEALTH CARE COVERAGE SHOULD BE EXTENDED TO ALL FEDERAL EMPLOYEES

(Mrs. MINK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MINK. Mr. Speaker, the country is gripped with anxieties over the high cost of health care for their families and their loved ones. Congress has embarked on aggressive studies of the situation.

Many of us held town hall meetings in our districts to try to bring our constituencies to understand the enormity of this problem. In the course of reviewing the problem and understanding the scope of 37 million Americans not being covered by any insurance whatsoever, I have encountered an imminent problem that this Congress and this Federal Government could solve immediately, and that is to provide adequate coverage for our Federal employees.

I am told by the Office of Personnel Services that there are probably over one-quarter million Americans who now work for the Federal Government who, because of the nature of their services or the length of their services, do not meet the requirement of continuous service for 1 year.

Mr. Speaker, this is an anomaly. I have investigated this in my own district. I find that some of my Park Service employees are dropped off one day each year just to avoid coverage by their medical plan.

So if the Federal Government is really serious about doing something about more coverage or extending coverage of health care to citizens in this country, we ought to take care of our own. The people who work for the Federal Government are entitled to this coverage.

Mr. Speaker, I have introduced a bill asking for the committees to review this and find a way in which coverage can be extended to everyone who works for the Federal Government.

□ 1450

GAG RULE GUIDELINES ARE NO CHANGE

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, Members should know that the gag rule—a regulation that utilizes information control and imposes censorship on the medical profession—is essentially unchanged from its prior form and will become final in 60 days. Friday's announcement starts the clock running toward total cutoff of funding for family planning clinics to the detriment of maternal and child health all across America and particularly in areas of poverty where it is needed most.

Under this gag rule, trained medical personnel will not be able to discuss options with patients who ask. In rural areas where the nearest doctor is hundreds of miles away this means no information will be provided. Under the gag rule, patients will still be given a weighted list of providers who won't tell the woman about abortion—this means that even if they know their options they won't be referred to anyone who can help them with this decision. Indeed, under this gag rule, even doctors can't fully discuss options with women.

The approach of the gag rule is simply un-American—it destroys the bond of faith between the governed and the Government that must exist in a democracy. Congress must legislate an end to this travesty.

NO MORE CHAUFFEUR-DRIVEN LIMOUSINES

(Mr. TAYLOR of Mississippi asked and was given permission to address the House for 1 minute.)

Mr. TAYLOR of Mississippi. Mr. Speaker, in this city of excesses, I think the citizens should note that there is one thing that we do not have an excessive amount of, and that is police protection.

Washington, DC, is one of the most violent cities in America, 3 murders a day, 10 shootings a day.

My colleagues can imagine my surprise when, because of a lack of policemen on the streets, we have so much crime, that up to two policemen from the Capitol Hill Police Force have been assigned the job of driving the whips around for the past 10 years at a time when there are not enough people on the street to protect the citizens, the people who pay our salaries.

Mr. Speaker, my colleagues can imagine my further surprise when I found out that the driver for one of the whips, the minority whip, made $60,000 last year, which is more than the statewide elected officials in my home State of Mississippi make.

That is an excess. That has got to change. Mr. Speaker, at a time when we are tightening our belts, when we have to live within our means, when we are unfortunately getting budgets from the President that are $400 billion in the red, it is time to start right here.

I commend the Speaker for what he has done on making the House gym pay for itself, on making the Members pay for their prescription drugs. Let us take it a step further. Let us end the 10-year-old practice of the whips being provided chauffeur-driven limousines.

AN ISSUE OF ACCOUNTABILITY

(Mr. RIGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIGGS. Mr. Speaker, to those who have taken the floor today during 1 minute who want to act as apologists and defenders of the status quo, to those who apparently still do not get it why the American people are up in arms over the flagrant abuse of privilege at the House bank and outraged at the spoils system operated by the patronage employees of the House Democratic leadership, let me simply say, this is an issue of accountability.

Without accountability, without the trust of our constituents, we have nothing. We lack the popular mandate necessary to govern and to deal with the very difficult and seemingly intractable issues confronting us as a country and as a legislative body.

Mr. Speaker, I am heartened by the news today that the winds of change are blowing, that reform efforts, bipartisan reform efforts are now under way that will embrace the concept of an outside independent oversight authority for Congress with auditing and investigative powers.

I am also heartened to hear the news that the Speaker today apparently has announced that he does want to move forward with a bipartisan task force, a work group to look at various congressional reform proposals floating around.

This is a good step, a very positive step, a healthy sign, the first one here in a couple of weeks time that we are serious about restoring public confidence and trust in this body.

TAX FAIRNESS AND ECONOMIC GROWTH ACCELERATION ACT OF 1992—VETO MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. MCNULTY). The unfinished business is the further consideration of the veto message of the President of the United States on the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families.

The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

The gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 1 hour.

Mr. ROSTENKOWSKI. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Texas [Mr. ARCHER], and I ask unanimous consent that he be permitted to yield time to other Members.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinios?

There was no objection.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the pending veto message.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to express the frustration of the American taxpayer that we are here today trying to override the President's veto of a middle-class tax relief bill—the result of which we can all predict.

But I want to emphasize that Congress did the job we were asked to do in legislating a comprehensive, fair, and fiscally responsible package to stimulate the economy.

On January 28, the President challenged the Congress in his State of the Union Address, to send him an economic growth package in only 52 days, a great challenge in a very short time frame. Through much hard work, long hours, and compromise, Congress met the challenge—and sent him the bill in record time—not only on time, but on target.

Unfortunately, Mr. Speaker, the President chose to veto the bill and attack the Congress for not producing an economic growth package exactly as he proposed it.

The President called for an economic growth package that contained seven items—the Congress gave him six, including his long-time passion, a reduction in the capital gains tax. But meeting the President more than half way was not good enough. He vetoed the bill anyway—a bill that would have cut taxes for 78 million families and paid for that by raising tax rates on the richest 1 percent of our citizens—about 1 million of the most fortunate among us, including 60,000 millionaires.

What's the real problem here? Is it that the President didn't get everything he wanted? Or is it that we gave him too much? Congress is not a parliament—it is a coequal branch of government—with every right to modify proposals of the President. No—the problem here is that the President and his Republican supporters did not expect us to make it—with their silly, macho deadlines. But the real problem is that the President and his Republican supporters do not want to pay for their bill, except with accounting gimmicks, and blue smoke and mirrors. That is what this veto is really all about.

Why did the President propose postponing the middle-class tax cut to a "second tax bill, later this year?" Simply because he did not want to pay for it. And we wonder why the American people are cynical about their Government and angry with incumbents.

I have just completed a tough, but successful primary myself, where I heard loudly and clearly from my constituents that they are sick and tired of political gamesmanship in Washington. They are tired of being used as political pawns.

Ask the American people whether they want Congress to write revenue-losing legislation against an empty Treasury the way the President proposes. The President's call for an economic program but his refusal to pay for it is the height of cynicism and political opportunism.

The President accuses the Democrats of class warfare. In fact, the Republicans won the class war that was waged for the past dozen years—and the middle class lost. The Democrats are now fighting back effectively, so the President and the Republicans want a truce.

Mr. Speaker, ask the millions of struggling working Americans who are trying to pay their bills and make ends meet in the midst of the current recession whether they think the President should have protected the rich through this callous veto. Ask the millions of middle-class American families, who bear the greatest burden of funding this Government, whether the President was politically correct by vetoing their tax cut.

The President says he is vetoing this bill because it contains tax increases and it does. But so does his own budget; it contains $27 billion in tax increases—increased taxes on millions of firemen, policemen, teachers, Government workers, annuitants, and credit unions. The President should read his own budget before criticizing the Congress for raising taxes.

The President says he wants to get the Government off people's backs. Yet his budget calls for new reporting requirements for millions of people who donate to charities.

The President says he wants to freeze Federal regulations—but who has been writing those regulations for the last 12 years if not the Reagan and Bush administrations?

The President criticizes the Democrats for being too modest on the revenue-losing side. He does not think we have cut capital gains enough. We did not provide a home buyer's credit. We have a 10-percent investment allowance rather than the 15 percent he recommended. In short, he wants us to spend more and tax less. He apparently wants us to forget about the record budget deficits confronting the Nation—$400 billion by his own estimates—and just let the good times roll. But that is not an option. We are not about to abandon fiscal responsibility. We are not going to continue the borrow and spend policies of successive Republican administrations over the last 12 years. But that is not even the core of our disagreement. The real issue is tax fairness.

In a political war, truth is often the first casualty. The President's shrill attack against Democrats last week was nothing less than a declaration of political war against the Congress. His veto demonstrates a gross unwillingness to govern.

Will there be a second tax bill after this veto is sustained? That will be up to the President and the congressional leadership. But it is not going to be easy. While there is much similarity between the revenue-losing provisions proposed by the President and by Congress—such things as the extenders, passive loss rules, and tax simplification—there is not enough revenue on the table to finance even this limited agenda.

There is only $2.5 billion in revenue common to the President's budget and this vetoed bill—$2.5 billion, raised generally by the antidouble-dipping rules for savings and loans and mark-to-market rules for security dealers.

The President has rejected our $78 billion conference report, and we have rejected his $27 billion of new taxes on firemen, policemen, and teachers. There is only $2.5 billion left that's common between us, and that will not go very far to finance a second tax bill.

In conclusion, Mr. Speaker, I have little doubt that this veto will be sustained. I am saddened that the White House has refused to carry through on its own challenge to this Congress. But I am more saddened by our inability to govern in the country's best interest.

Until we dedicate ourselves more to governing and less to politics, the frustration—both within Congress and throughout America—will continue to grow.

Voters and their representatives share a sense that something is fundamentally wrong in the country today. We feel guilty about leaving a future for our children that is mortgaged to foreign investors and that will restrict the next generation's horizons. But that is the result of actions already taken—irresponsibly allowing the deficit to balloon to $400 billion—and actions already avoided—allowing our competitiveness to deteriorate in international markets.

Our political failings in Washington—at both ends of Pennsylvania Avenue—are failures of candor and courage. We need more straight talk—and we need a few national priorities and commitments to replace the thousand points of light designed to minimize our problems by bathing them in the soft glow of voluntarism.

Mr. Speaker, we know what the problems are that confront the country, and we know what needs to be done. The question is whether we have the courage to level with our constituents and tell them the truth.

History teaches us that the American people can accept the truth and will endure sacrifice if they are convinced it will yield a broad positive result for the country.

We are approaching gridlock and a political dead end. Honesty is the only way out. It is time to bring the curtain down on the high political theater and begin to govern in our people's best interest.

□ 1500

Mr. Speaker, I reserve the balance of my time.

Mr. ARCHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let us frame this issue today in very simple terms. A vote to override the President's veto is a vote to cut Medicare benefits by $5.2 billion in 1994. That is the official estimate of the Congressional Budget Office.

CBO says that H.R. 4210 would increase the Federal deficit by $6.3 billion in 1994. That means a sequester under the budget laws—and the law is very specific on where those cuts are made; $5.2 billion would be cut from benefits of sick elderly people.

Another $1.1 billion would be cut from other programs such as veterans education and housing programs, rehabilitation and research for the handicapped, AFDC work programs, block grants for child care, and other programs Democrats claim to support.

Senior citizens, and all those who benefit from the programs I've just mentioned ought to thank President Bush for vetoing this bill.

Those who would vote to override should think twice before walking the plank for the Democrat leadership still once again.

Democrats claim to care about middle income Americans and try to demonstrate that care by providing some families with an 81 cents a day tax cut. All in the name of fairness. But millions of middle income families won't receive any tax cut at all. Many families will receive tax increases instead.

None of the benefit goes to senior citizens who are living on their Social Security benefits and savings—the same senior citizens whose health care benefits the Democrat leadership wants to cut.

Members who vote to override the veto ought to try that concept of fairness out on the residents of nursing homes in their districts.

They get no tax relief under the Democrats' bill, and Democrats would cut their health care benefits to finance token election year tax reductions for other families. I am glad I am not going to have to explain that vote to the elderly in my district. Truth in legislation should require an explanation from the Democrats.

In addition to cutting Medicare, H.R. 4210 raises taxes on some American families by $78 billion—again under the guise of fairness—to spend money on token election year tax cuts for some other families.

Tax and spend. Tax and spend. It is a broken record that speaks volumes about the inability of Democrats to deal with the Federal deficit and the economy.

But Democrats are not hitting the wealthy with their tax and spend policies. They're also hitting people who are already down and who don't need more bad news from Washington.

A laid-off worker who is living on his unemployment benefits—which are taxable—gets no tax relief.

What he does get is a kick in the teeth when he looks for work. The Democrat bill would more than double the number of miles he has to move to find a new job before he can deduct his family's moving expenses. That is fairness? No, it is a tax increase on the unemployed.

The truth of the matter is that fairness is just a bogus argument Democrat leaders are using to justify class warfare and the politics of envy.

It's pretty pathetic to see how the Democrat leadership has forced their members of the Ways and Means Committee to in effect repudiate what they used to view as their crowning achievement—the Tax Reform Act of 1986.

Taking 6 million Americans off the tax rolls, forcing taxpayers to realize more taxable income by eliminating tax shelters and reducing deductions, requiring upper income families to pay a larger share of the tax burden.

Those were all part of the Democrats' grand scheme to shift the tax burden in 1986—changes for which they were eager to take credit. Did they fail? No; of course not.

They claimed tax reform was a magnificent success—so much so that they changed the name of the Internal Revenue Code itself to mark their achievement.

Income redistribution is what Democrats set out to accomplish in the 1986 act—and it worked just as they intended it to.

That's as clear as a spring morning in Texas if you'll look at what's happened since 1986. but the Democrat leadership doesn't want to do that. It doesn't suit their current political needs. Instead, they reach all the way back to Carter administration statistics to create a phony justification for more tax and spend initiatives.

The Democrat leaders in Congress are scrambling around for an election year issue—and that apparently means trashing the 1986 Tax Reform Act their members used to claim credit for.

It's ironic. Those of us who led the opposition to the 1986 act would now likely find ourselves in the majority if a vote were taken on it again today.

Maybe it's time that our colleagues on the other side of the aisle started to question the direction their leadership is taking them. Saying "no" by voting against this override attempt is a good place to start. We all know the override is going to fail.

The Democrat leadership's effort to create class warfare is going to be repudiated. Their bill's callous disregard for senior citizens' health care benefits is going to haunt those who vote against the President's veto. I say to my Democrat colleagues: Don't listen to your leadership. Do the right and the smart thing. Vote "no" on this override.

□ 1510

Mr. Speaker, I yield 3½ minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Speaker, in order to provide some context to today's debate, I would like to start with a quote from an obviously partisan source:

> The Democratic Party deplores the increasing concentration of economic power in fewer and fewer hands * * *. The last ten years have seen a massive shift in the tax burden from the rich to the working people of America * * *. The cost of government must be distributed more fairly among income classes. We reaffirm the long-established principle of progressive taxation—allocating the burden according to ability to pay—which is all but a dead letter in the present tax code.

No, Mr. Speaker, this quote did not come from the current Speaker of the House or even the majority leader. It came from the Democrat National Platform adopted in Miami, FL, on July 11, 1972.

What is most interesting about this quote is that it shows how little the Democrat Party has changed in the past 20 years. The Democrats were railing against the unfair tax cuts for the rich even when the top rate was 70 percent.

Ironically, the Wall Street Journal reported last week that the British Labor Party is also seeking an increase in the top income tax rate. In Britain the current top rate is 40 percent, the Labor Party wants to raise it to 50 percent.

The fact that the liberal party on both sides of the Atlantic are calling for a redistribution of income doesn't represent a consistent economic policy, but rather a blind commitment to a bankrupt ideology.

As syndicated columnist Joseph Sobran has observed:

> Conservatives have adopted various economic and pragmatic strategies for coping with redistributionism. One of the most publicized has been the "supply-side" approach. But supply-siders made the mistake of thinking they were dealing with economists rather than ideologues. They were arguing that the goose, given a little more latitude, would lay more golden eggs. But the liberals didn't want the golden eggs, they wanted the goose.

Only an ideolog would argue that the rich aren't paying their fair share regardless of whether the tax rate is 31, or 40 percent, or 70 percent.

The two tax bills recently passed by the Democrats in the House and Senate are designed to reverse the supply-side policies of the 1980's. As one member of the Democratic leadership likes to say, Americans are tired of waiting for the trickle down, they need some bubble up economics. He suggest that by cutting taxes on the middle class, they will spend the money and it will bubble up through the economy creating jobs and economic growth. However, by raising taxes on the rich, these Democrats will actually do more harm than good.

About 60 percent of adjusted gross income in excess of $200,000 is investment income; and income in excess of $1 million is almost all investment income. Raising taxes on the rich, means raising taxes on investment. Higher taxes on investment means less investment and less economic growth. Despite what the Democrats would like everyone to believe, the wages of working Americans are closely tied to the amount of capital in the economy. In fact, 98 percent of the variation in wages can be explained by the capital-to-labor ratio. For every 10-percent increase in the average amount of capital per worker, the real wage rate increases by 2 percent.

Mr. Speaker, we must sustain the President's veto of this bankrupt economic policy.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina [Mr. DERRICK].

Mr. DERRICK. Mr. Speaker, after 20 months of recession our economy is still ailing, and this bill is just what the doctor ordered. It fortifies our economy by strengthening its very fiber, the middle class, in a variety of ways. Our people need the tax credits for workers and children, expanded access to IRA's, and targeted capital gains tax cuts this bill offers them.

This bill also treats the symptoms of the business community with an investment tax allowance, enterprise zones and passive-loss relief, an extension of the health-insurance deduction for the self-employed and other job-creating tax provisions, and a healthy dose of tax simplification as well.

The President claims this bill is not good medicine, that it is just a tax increase and the doctor should skip the house call. He is right about the tax increase, but only if you happen to be rich. If you are among 78 million middle-class families still waiting for trickle down to reach you, it is not a tax increase; it's a good shot of fairness and a long-term cure for your economic ills.

Mr. Speaker, let us start the program for economic recovery right now. Let us override this veto unanimously.

Mr. ARCHER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, for the first time in 8 years I will not vote to override a Presidential veto. It is not because I think the President is right on the issue. I believe the Democrat Party is not right on the issue.

American workers are disgusted. My district has lost more jobs than anybody else's. And the bottom line is simply this: An 80-cent token election day tax cut is not what the American workers want.

□ 1520

They want an opportunity for a job and a paycheck at the end of that 5-day workweek, and it is not there, because I say our trade and tax policies are un-American.

Tell me, how can an American family enjoy life, liberty, and the pursuit of happiness if they have to move to Mexico to get a damn job?

I say our policies, including the Democrat side of the aisle, will do nothing more than to ship jobs overseas. No one is dealing with these issues.

So I am not here today to sustain the President's veto simply because I support the President, but I was not sent down here to agitate the President and to play election day politics either, and I do not see our Democrat plan being good for this country, period, and I am not going to vote to override that veto and to put in place another law that we seem to have every year that continues to send jobs overseas.

So I appreciate the time, and I hope that Members of this Congress will stand up and look for an incentivized Tax Code that will keep jobs in America, keep some Americans working.

Mr. ROSTENKOWSKI. Mr. Speaker I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I rise today in support of overriding the veto of H.R. 4210, the Middle Income Tax Relief and Economic Growth Incentives Act of 1992. I deeply regret that the Congress and the administration have not been able to reach agreement on this important tax legislation. I believe that this is an acceptable bill. It contains many important provisions which the administration and members of both parties have agreed ought to be adopted. For example, the taxpayer bill of rights ought to move forward so that we can give some protection and relief to thousands of honest taxpayers all across the country. The research and development tax credit needs to be extended, as do several other expiring tax provisions, including the low- and moderate-income housing credits. The super IRA provisions will help millions of American families if we can get them enacted. The bill contains capital gains tax provisions that will encourage savings and investment which we need to get the economy going again. And, the passive-loss relief in the bill would provide some measure of equity for people in the real estate business.

These are all things that the country needs, but which are caught up in the legislative gridlock that is paralyzing our Federal Government. We cannot continue in this manner. We need to reach some agreement on how to accomplish these important tasks.

Fundamentally, we must agree on how to pay for the Government that the public demands and deserves. The administration must do more than veto this bill, it should propose a way that it would pay for the things we all recognize must be done, either through tax increases, spending cuts, or a combination of the two. We in Congress have offered our proposal. If the administration doesn't support this approval, it should suggest an alternative.

It seems to me, that the administration is taking the position that there can be no new revenue from the income tax system. However, if we are ever going to enact the many important provisions in this tax bill, we will need new revenues. If we cannot reach agreement on how to get these revenues, then the American public will never receive the benefit of these important provisions. This is disturbing. I am afraid that the administration is going to force the country to turn to some other type of broad-based tax. This will, in my opinion, make the adoption of a value added tax inevitable. This is just another glorified national sales tax. For those who support a progressive tax system, in which all Americans pay their fair share, such a result is deeply troubling. I would hope that before we go any further down this road, we can find a way for all parties to work together constructively to solve these difficult problems.

Mr. ARCHER. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. SCHULZE].

Mr. SCHULZE. Mr. Speaker, I thank the gentleman for yielding me this time.

I might say to my colleague, the gentleman from Texas, if he believes all these flatter taxes lack progressivity, I would be happy to sit down with the gentleman, because there are methods of keeping a degree of progressivity and yet simplifying our Tax Code, and we should go in that direction.

Mr. Speaker, I rise in strong opposition to the veto override attempt.

In his State of the Union Address, President Bush called on the Congress to send him a bill he could sign that would stimulate economic growth. Instead, you Democrats chose to send him a bill you knew he would not sign. As one former great leader of the free world once said "there you go again."

There you go again playing politics instead of working with the President to put Americans back to work.

There you Democrats go again, pitting the rich against the poor and playing on the heartstrings of the press rather than doing your job.

There you go again, tax and spend, spend and tax.

Well, let me tell you something. Mr. Speaker, your $70 billion tax increase is not playing in Peoria. It is not playing in Pittsburgh—you know you are in trouble because it is not even playing inside the beltway.

As you know, Mr. Speaker, I have announced my retirement, and seven other members of the Ways and Means Committee will not be returning in the 103d Congress. After 16 years of trying to rein in Federal spending and to reduce the tax burden on American taxpayers, Congress is back to square one.

The President has called for tax reductions to be financed through spending reductions. You Democrats insist on resorting to tax increases.

There you go again, Mr. Speaker. Will you ever learn? Vote "no."

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR. Mr. Speaker, there is an old Abbott and Costello routine, some of you may have seen it, where Bud Abbott says to Lou Costello, "Lou, if you had 50 bucks in one pocket and $75 in the other, what would you have?"

And Costello says, "Somebody else's pants."

That is what has been going on for 12 years. Money has been going into the pockets of the wealthy and out of the pockets of middle-class families.

Mr. Speaker, with his veto of the tax cut bill the President has abandoned the middle-class families, and it was not the first time. He has used that veto 25 times.

Unemployment benefits. Veto.

Family and medical leave. Veto.

Mr. Speaker, 25 times. He would rather do nothing than give middle-class families a tax break, paid for by the wealthy. We are not talking about average people here. We are talking about a surtax on millionaires. We are talking about couples who make $140,000 a year or more to share in the burden of getting this country moving again.

The President would rather do nothing than give middle-class families an IRA.

He would rather do nothing than pass a growth package that could get out of this Republican recession that has been going on for 2 years.

His motto is: "Don't do something, stand there."

Yesterday, a Republican Member of the other body called the middle-class tax bill trash.

Well, $600 is not trash. Helping kids pay their tuition is not trash. Paying the mortgage is not trash.

Mr. Speaker, the President is out of touch. They do not get it at the White House.

We know we are not going to override today, and perhaps the President and his party will try to delude themselves for a moment that they have won this great big victory.

After all, in our system of government all you need is one-third, plus one, a third of that side of the aisle in this body or the other body, plus one, and they can shut it down. A third of this House, one-third of the Senate, that is all you need to block, all you need to do is to do nothing.

But Mr. Speaker, the country has lost. And they still want to know, where is the President's plan, for jobs, for fairness?

The President is up to his old tricks. He is up to trickle-down theories where you give a lot at the top and somehow it is going to filter its way down. He wants to protect his wealthy friends.

He needs to forget about the country club crowd, and start thinking about the country.

Vote to override.

□ 1530

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to our respected leader, the gentleman from Illinois [Mr. MICHEL].

Mr. MICHEL. Mr. Speaker, I apologize to both the chairman of the committee and the ranking member for my tardy entrance to the Hall here, but I have a few other issues that are pending, hopefully to be taken up later, maybe today or tomorrow.

Obviously, Mr. Speaker, I rise in support of sustaining the President's veto. We have heard all the usual arguments. So just let me tell you why this particular debate had to take place here today.

America is a victim of divided government. Very simply, the Democratic Party controls the legislative branch and the Republicans control the executive branch. We are divided not only by party but by opposing divisions of the functions, the limits and the dangers of big government.

Our friends on the other side of the aisle, are guided by a 60-year-old vision of the Federal Government as the benevolent big daddy of the American economy. That vision, quite frankly, is reflected in this bill, with its silly argument that a few hundred dollars tax cut for some Americans is worth the price of a gigantic tax increase.

Even if that argument were theoretically true, it has rather become irrelevant. The big-daddy Democrat tax increase plan is a case of too much, too late.

Furthermore, to my friends on the Democratic side, you do not pay for this tax bill on a year-by-year basis. According to the Congressional Budget Office, this tax bill would cause a $5.2 billion sequester in the Medicare Program in 1994.

Believe me, the American people are wise to big-daddy economics. As a matter of fact, a poll taken by Time magazine and CNN shows that 77 percent of those polled believe a tax cut like this one is an election year gimmick. A CNN/New York Times poll reports that 83 percent say a tax cut like this will make no difference or have "small effect" in ending the recession.

The President and the Republican Party, on the other hand, are guided by a vision of the free market as the main source of job building in our country. and, yes, Republicans are willing to use Government to nudge the economy in the right direction at certain times, but we do so with proper caution, with respect for the power of freedom and of economic choice.

The Democratic majority dismisses our view by saying Republicans lack fairness in not wanting to have a tax increase.

After all, they tell us, our present Tax Code is just awful for families; it needs some drastic changes.

But whose Tax Code is it, anyway, that we are talking about here? My distinguished friend, the gentleman from Illinois [Mr. ROSTENKOWSKI], chairman of the Committee on Ways and Means, told us on September 25, 1986, that H.R. 3838, the Tax Reform Act of 1986, was "remarkable, the broadest tax bill ever written." He spoke glowingly of his tax bill's "promise of fairness to working families." Those are direct quotes.

Now we are told it is all Ronald Reagan's fault. But what were all of these Democrats doing when tax laws were being rewritten in 1986? Hibernating?

You controlled the Committee on Ways and Means back in 1986. As a matter of fact, let us go back 30 years; you controlled it in 1956 and every year in between. The very same people who are now telling us that this tax raise is good for all Americans were telling us that they had written a utopian tax bill for families just 6 years ago.

Now they are telling us to forget what they said then.

Mr. Speaker, that is not governing, that is just big-daddy economics, selective amnesia combined with defective tax policy.

Mr. Speaker, I would ask my colleagues on both sides of the aisle to support the President's veto of this measure by voting to sustain the President's position.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 1 minute to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. I thank the gentleman for yielding.

Mr. Speaker, let us quickly analyze what it is that the President vetoed. For the majority of Americans, a tax cut; for the majority of Americans, a tax cut.

To pay for it? The 1-percent wealthiest in this country got a tax increase. Did the President say he vetoed a tax cut? He said: "No, I vetoed a tax increase."

So, the 99 percent of America who benefited, they got cut out of the debate. For the 1 percent who would have had to pay a little bit more during the 1980's, they paid not their fair share but got a real free ride, the President protected them instead of the 99 percent. A family of four earning $35,000 a year would have seen a 25-percent cut in their personal income tax if he had not vetoed this bill.

We would have seen the President take this first steps toward relieving this Republican recession we are now in if he had not vetoed this bill. The deficit would have been reduced by $13 billion in the next 5 years if he had not vetoed this bill.

His bill, the one he talked about here, right here on this platform during the State of the Union, would have increased the deficit by $30 billion.

And finally, all during the time that he is standing here telling us how much fairness he wants, he is building a nine-hole golf course in Kennebunkport with public funds. If that is what you think is what the President's fairness is, then I think, Mr. Speaker, the people on the other side have another thing coming.

Mr. ARCHER. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio [Mr. MCEWEN].

Mr. MCEWEN. I thank the gentleman from Texas for yielding.

Mr. Speaker, I had not planned to speak, but I heard an earlier speaker shedding crocodile tears about the individual retirement accounts, the IRA's. I voted for the IRA's in 1981, in July when we passed that legislation, and every Democrat on this side of the aisle and every Democratic member of the Committee on Ways and Means opposed it.

They were opposed to it then, and have been opposed to it ever since.

We instituted the individual retirement accounts for working Americans; savings began to prosper and people began to put things away for their retirement years.

Democrats have whittled that away time after time until, as we stand here now 10 years later, only 1 person in 5—I had 2 people in my office yesterday who explained to me that they could not participate in an IRA because their wife, who worked part time, had a small, very, very small retirement association at her work. Since she had that, they have written the regulations and the law such that IRA's do not apply. Individual retirement accounts are not available to four out of five Americans.

So, when they stand up here and talk about individual retirement accounts, it was a Republican idea that was instituted under Ronald Reagan, which has been stolen in recent years by the Committee on Ways and Means.

The conversation today has been about fairness. I asked, when the bill came before our Committee on Rules, as to what was fair? They always talked about fairness for the rich, fairness, carrying their fair share.

I asked them what is their fair share? Let us hear about fairness, what is it? After five attempts, the record will show, there was no response.

Let us talk about the facts: In 1981, the top 1 percent of earning Americans paid 18 percent of all of the income taxes in America. The top 1 percent paid 18.

Why did they not pay more than that? Because taxes were so high that if you risked your income and you lost it, then you were just out of luck. But if you won, Uncle Sam would immediately take 70 cents out of every dollar, local and State taxes would take 12 cents, and conceivably, possibly, maybe you would have 9 cents to 12 left.

So, people did not risk.

As we lowered the rates, people began to risk once again; the stock market that was at 700 began to jump to 1,000, to 2,000, to 3,000. As capital came back into the financial markets and people began to risk again, until now today as we stand here the top 1 percent pays not the 18 percent of the burden that they did 10 years ago, their fair share; they do not pay 18 percent of the burden anymore, they pay 28 percent of all the income taxes paid in America. Why? Not because the rates are no longer confiscatory, that they are willing to risk, because if they hit, they get to keep half of it and as a result they are doing it and creating jobs and bearing a greater percentage of the burden.

Now, when they talk about fair share, their fair share is this: They want the top 1 percent to pay less again. They were paying 18, they went up to 20, to 22, to 24, to 26, and now they are paying 28 percent now. They want to increase the rates on the rich. Why? For demagogic purposes, for socialistic purposes, not to have them pay more, because with the higher tax rate they will pay less and that burden will go back on the poor and on the middle class and thus they are willing to absorb that in order to have the political rhetoric of saying, "We increased taxes on the productive because it is that they have not paid their fair share."

I close as I began: Will someone please identify for me what is their fair share? If 18 percent was fair, when we cut rates, they are now paying 28 and you want to increase rates again and that will drive down their fair share from 28 percent of all the burden of carrying, they will go back to 25, 24, 22, and to 20.

□ 1540

Why? I ask my colleagues why.

For political, demagogic, socialistic, left-wing, ideological campaign purposes.

Mr. ARCHER. Mr. Speaker, I yield such time as he may consume to the gentleman from California [Mr. LAGOMARSINO].

Mr. LAGOMARSINO. Mr. Speaker, I voted against raising taxes last month, I voted against raising taxes last week, and I will vote against raising taxes today.

Americans do not need a few extra cents a day; they need jobs. Two-thirds of those needed jobs will come from small businesses, but only if those businesses are able to compete and grow in a healthy economy.

The Democratic bill raises taxes on the over 90 percent of small businesses who file individual returns. Higher taxes will stifle growth in these businesses and kill job creation.

I want Congress to pass economic growth incentives. I want to pass legislation that cuts the capital gains tax and stimulates investment. I want to pass legislation that helps first-time home buyers, including my own legislation to allow for penalty-free IRA withdrawals for first-time home buyers.

However, I will not support tax increases, and I will not vote for this antijob, antigrowth tax package.

I urge my colleagues to oppose the attempt to override President Bush's veto of the Democratic tax package.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, there seems to be a loss of memory here in the Chamber with Members that I know were here in 1986. If I remember the structure of the tax bill as it was sent to the Senate, President Reagan had requested a top rate of 35 percent. However, the House-passed bill as sent to the Senate contained a top rate of 38 percent. And, as I remember it, the House bill also would have continued to allow a deduction for passive losses, it kept a capital gains rate differential, and continued IRA benefits that President Reagan was very much in favor of, as was the chairman of the Committee on Ways and Means. It was only when that bill reached the Senate and when deliberations took place there that these provisions were changed. As I remember, Mr. PACKWOOD, a representative from Oregon, a Republican, was chairman of the Finance Committee at that time, and, as I remember, Mr. DOLE was then the leader of the Senate.

What I am confused about here is the criticism of a bill that was, under at least the auspices of the prior administration, agreed to until it got to the Senate. There the rates went from the suggested rate of 35, that President Reagan wanted, to 28 percent, and it was at that time that the IRA's went out, passive losses went out, capital gains went out, all because the rates of the very wealthy would come down to 28 percent.

Now talk about fairness. I think it is only fair, after we have seen what the consequences of that legislation are, that if the middle class is losing while the wealthy are gaining, that we redistribute a little bit of the burden on the wealthy and let some fairness reach the middle class.

Mr. Speaker, I have one more request for time, and then I am concluded.

Mr. ARCHER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, to conclude the debate I yield the balance of our time to the majority leader, the distinguished gentleman from Missouri [Mr. GEPHARDT].

Mr. GEPHARDT. Mr. Speaker, I think the veto by the President is simply an indication of his not listening to what the American people want in this tax recovery package. I think it shows an isolation from the experiences of average American families, and I think the veto of the middle-income tax cut is the ultimate emblem of this isolation. In dollar terms, in dollar terms, this legislation provides more middle-income tax relief than the Kemp-Roth tax bill provided over a decade ago. Equally important, it is self-financing.

All weekend the President, Chief of Staff Skinner, said, "This is a tax increase bill." What they failed to say was that it is a tax increase on families who earn $140,000 a year and above to pay for tax relief for middle-income, hard-pressed middle-income, American families. I understand the principle here: Try to get people to believe it is a tax increase on everybody. But it is not. It is a tax increase on the very wealthy in order to do things for the middle-income people, things for business, things for individuals to invest in the future of this economy.

Mr. Speaker, we simply believe that people who have done well in the last 10 to 15 years should pay their fair share of the burden. They should pay some more taxes in order that we can get this economy to move in the right direction.

Let us remember the things that were in the bill, Mr. Speaker. When the President vetoed the bill, he vetoed individual retirement accounts. When he vetoed the bill, he vetoed capital gains, which the President has preached for and talked for for 4 years now; and people like me who do not think that is the best idea for our country right now, I voted for the bill because it was capital gains for middle-income families. The President vetoed the cut in capital gains. He vetoed an investment allowance for business, and especially for small business, the ideas that he had in his own tax bill. He vetoed research and development credits for American companies to be competitive with foreign companies. He vetoed a student loan deduction for the parents of students in college.

For the life of me I do not understand why this is not the right thing to do. It is paid for. It is paid for by people who can afford to pay for it. It helps people who need help and who have needed help in their daily lives, and it gives business—American business, especially small business—the ability to create jobs for the future. The President did not even read the bill before he vetoed.

So, Mr. Speaker, I stand here to say that the President must have made a political calculation that will not only damage the country, but, I think, will damage his own political prospects. He has decided to fight with the Congress, rather than work with us, to accentuate the differences, rather than lay down the groundwork for progress. Every major issue important to the reconstruction of this country could be held hostage to such a determination.

I finally believe the President underestimates this country's willingness for change, this country's appetite for changing things so that we can have the kind of economy that we want and need in this country.

So, I will proudly cast my vote to override this veto because I am casting my lot with the people who really should be benefiting from the enactment of this legislation, the average, hard-working, hard-pressed American families who contribute so much to this country and ask for so little, and I ask Members on both sides of the aisle to join with me in overriding this veto, in helping our economy move in the right direction and in helping middle-income families who have made this country great.

Mr. MOODY. Mr. Speaker, last week, President Bush and the Republicans showed the American people exactly where their priorities lay, with the richest people against the interests of average, middle class Americans.

All they talk about is the 1 million Americans that would pay more taxes as a result of this fairness and growth legislation. What about the 78 million families that would get a tax cut? They say nothing about those middle class families that this bill targets for much-needed tax relief. The Republicans choose to ignore them, as they have in all their economic policies over the last decade.

If we override this veto, about 24,000 of the richest Wisconsinites will pay more in taxes, more of their fair share. However, over 1.7 million Wisconsin families will get a tax cut. In other words, for every 1 family that will pay more in taxes, 100 families will pay less. I call that a tax cut bill, a tax fairness bill.

Some Washington insiders scoff at the amount of the tax credit in this bill. But I've heard from many hardworking Wisconsin families who tell me that the credit is equal to a mortgage payment. To my way of thinking, this is nothing to scoff at.

It is no longer enough to pay lipservice to the needs of the middle class. They have been squeezed by higher prices and stagnant wages. Now, we must act. Support this tax cut bill, vote to override the President's veto.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield back the balance of my time, and I move the previous question.

The previous question was ordered.

The SPEAKER. The question is, Will the House, on reconsideration, pass the bill, the objections of the President to the contrary notwithstanding?

Under the Constitution, this vote must be determined by the yeas and nays.

The vote was taken by electronic device, and there were—yeas 211, nays 215, not voting 9, as follows:

[Roll No. 55]

YEAS—211

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Bennett
Berman
Bevill
Bilbray
Blackwell
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Campbell (CO)
Cardin
Chapman
Clay
Clement
Coleman (TX)
Collins (IL)
Collins (MI)
Conyers
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Dorgan (ND)
Downey
Durbin
Dymally
Eckart
Edwards (CA)
Edwards (TX)
Engel
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Foley
Ford (MI)
Frank (MA)
Frost
Gaydos
Gejdenson
Gephardt
Gibbons
Glickman
Gonzalez
Gordon
Guarini
Hall (OH)
Harris
Hatcher
Hayes (IL)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Hoyer
Hubbard
Huckaby
Jacobs
Jefferson
Jenkins
Johnson (SD)
Johnston
Jones (NC)
Jontz
Kanjorski
Kaptur
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kopetski
Kostmayer
LaFalce
Lantos
LaRocco
Laughlin
Lehman (FL)
Levin (MI)
Lewis (GA)
Lipinski
Lowey (NY)
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McDermott
McHugh
McNulty
Mfume
Miller (CA)
Mineta
Mink
Moakley
Mollohan
Moody
Moran
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Owens (NY)
Panetta
Pastor
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Pickle
Poshard
Price
Rahall
Rangel
Reed
Richardson
Rose
Rostenkowski
Rowland
Roybal
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Sikorski
Skaggs
Slaughter
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
Staggers
Stokes
Studds
Swift
Synar
Tallon
Tanner
Thornton
Torres
Torricelli
Towns
Traxler
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Washington
Waters
Waxman
Wheat
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NAYS—215

Allard
Allen
Andrews (NJ)
Archer
Armey
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boehner
Broomfield
Bunning
Burton
Byron
Callahan
Camp
Campbell (CA)
Carper
Carr
Chandler
Clinger
Coble
Coleman (MO)
Combest
Condit
Cooper
Coughlin
Cox (CA)
Crane
Cunningham
Davis
DeLay
Dickinson
Doolittle
Dornan (CA)
Dreier
Duncan
Dwyer
Early
Edwards (OK)
Emerson
English
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gingrich
Goodling
Goss
Gradison
Grandy
Green
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hayes (LA)
Hefley
Henry
Herger
Hobson
Holloway
Hopkins
Horton
Houghton
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (CT)
Johnson (TX)
Jones (GA)
Kasich
Klug
Kolbe
Kyl
Lagomarsino
Lancaster
Leach
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Long
Lowery (CA)
Luken
Machtley
Marlenee
Martin
McCandless
McCollum
McCrery
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Michel
Miller (OH)
Molinari
Montgomery
Moorhead
Morella
Morrison
Mrazek
Myers
Nichols
Nussle
Olin
Orton
Owens (UT)
Oxley
Packard
Pallone
Parker
Patterson
Paxon
Penny
Peterson (MN)
Petri
Pickett
Porter
Pursell
Quillen
Ramstad
Ravenel
Ray
Regula
Rhodes
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Russo
Santorum
Sarpalius
Saxton
Schaefer
Schiff
Schulze
Sensenbrenner
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slattery
Smith (NJ)
Smith (OR)
Smith (TX)
Solomon
Spence
Stallings
Stark
Stearns
Stenholm
Stump
Sundquist
Swett
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Traficant
Upton
Vander Jagt
Vucanovich
Walker
Walsh
Weber
Weldon
Wolf
Wylie
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—9

AuCoin
Costello
Dannemeyer
Ford (TN)
Levine (CA)
Miller (WA)
Peterson (FL)
Weiss
Whitten

□ 1610

The Clerk announced the following pair:

On this vote:

Mr. Peterson of Florida and Mr. Weiss for, with Mr. Miller of Washington against.

Mrs. BYRON changed her vote from "yea" to "nay."

So, two-thirds not having voted in favor thereof, the veto of the President was sustained and the bill was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The message and the bill are referred to the Committee on Ways and Means.

The Clerk will notify the Senate of the action of the House.

PERSONAL EXPLANATION

Mr. COSTELLO. Mr. Speaker, due to a family emergency I was unable to cast my vote on overriding the President's veto of the conference report to H.R. 4210, the Middle Income Family Tax Relief Act of 1992. Had I been present, I would have voted in favor of the override effort.

PERSONAL EXPLANATION

Mr. DANNEMEYER. Mr. Speaker, I was unavoidably absent for rollcall vote 55. Had I been present during this vote, I would have voted "nay" on rollcall 55.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I take this time for the purpose of inquiring of the distinguished majority leader how the program will develop for the balance of the day.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will yield, I know Members want to be able to plan the rest of the day.

The intention is to bring up the request to go to conference on the campaign finance legislation. There could be a vote or two on that.

Following that, we will bring up the rule on the higher education legislation. There will probably be a vote on that rule, and then we will go into general debate and to an amendment, but we will not have a vote on an amendment.

So once the vote on the rule for higher education is finished, Members could be assured that there would not be additional votes tonight.

I would, to give an estimate, I would say all that business could probably be transacted in the next 3 hours, maybe less.

Mr. MICHEL. Mr. Speaker, I thank the distinguished gentleman.

Mr. SOLOMON. Mr. Speaker, if the gentleman will yield, perhaps we could get some kind of a clarification. There was a rumor going around saying that there is a possibility that a request could be made to go back to the Committee on Rules to change the rule on the higher education bill in some way for the remainder of the amendment process. We would just like some kind of assurance, if we are going to begin debating the bill, that that is not going to happen. This is the rule, and this is the bill we will be debating.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will continue to yield, it is our intention to go into the bill and not to go back to the Committee on Rules but to use the rule we have, to try to pass that rule, and then consider the legislation.

Mr. SOLOMON. Mr. Speaker, that puts these rumors to bed and I certainly appreciate that.

Mr. GEPHARDT. Mr. Speaker, I cannot believe there are any rumors around here about things like that.

Mr. SOLOMON. It is nice to have one of them put to bed anyway.

APPOINTMENT OF CONFEREES ON S. 3, SENATE ELECTION ETHICS ACT OF 1991

Mr. GEJDENSON. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 3) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits for Senate election campaigns, and for other purposes, with House amendments thereto, insist on the House amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Connecticut?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. THOMAS OF CALIFORNIA

Mr. THOMAS of California. Mr. Speaker, I offer a motion to instruct.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

> Mr. THOMAS of California moves that the managers on the part of the House at the conference on the disagreeing votes of the two houses on the amendment of the House to the bill (S. 3) be instructed:
>
> To include provisions in the conference report that would limit the total cost of the bill to the total savings to be derived from the recommended offsets in the Senate bill and House Amendment and specify the account given such costs and offsets under the terms of Section 301, Requirement of Budget Neutrality.
>
> And to include in the conference report provisions containing the requirement that no taxpayer dollars may be used to finance congressional campaigns, such financing to include (1) any payments to reimburse the postal service for postage discounts provided to congressional campaigns (2) any payments to congressional campaigns (3) any other expenditure or obligation to offset revenue losses created by tax credits or other subsidies for the purpose of financing congressional campaigns.

□ 1620

POINT OF ORDER

Mr. GEJDENSON. Mr. Speaker, I make a point of order that the directions of the gentleman from California [Mr. THOMAS] are beyond the scope.

The SPEAKER. Does the gentleman from California [Mr. THOMAS] desire to be heard on the point of order?

Mr. THOMAS of California. Yes, Mr. Speaker, I do.

It is my understanding that when the amendment to H.R. 3750 was presented to the House, the gentleman from North Carolina, the author of the amendment, indicated in an explanation of the measure that "the requirement that no taxpayer dollars may be used to finance congressional campaigns" was a portion of a substitute amendment.

In addition, on the floor during debate in the CONGRESSIONAL RECORD, page 34667 (11/25/91) the gentlewoman from Ohio [Ms. OAKAR] said, "No taxpayers' dollars are involved."

During the same debate on page 34702 (11/25/91) the gentleman from Connecticut said, "We do not have public financing in this bill."

The gentleman from North Carolina [Mr. ROSE] on page 34704 (11/25/91) said:

> Taxpayers are used to making tax contributions to pay for elections in this country, but they did not want their tax dollars at this time going to candidates for Congress.

What this motion to instruct says is that no taxpayer dollars should be used to finance congressional campaigns. There are three examples of areas that financing should not be allowed, based upon the provisions that were in the bill.

For example, first, no payments to reimburse the Postal Service for postage discounts; second, no payments to congressional campaigns, either in a matching fund or some other way, they should not go directly to congressional campaigns; or third, that there should not be any other expenditure or obligation to offset revenue losses created by, for example, tax credits in any conference agreement.

Therefore, Mr. Speaker, based upon all the allegations that were presented during the presentation of this bill, it seems to me that the scope of the conference certainly would find acceptable an explanation which simply delineates more specifically where no taxpayer dollars are to be allowed.

The SPEAKER. The Chair is prepared to rule, if there are no further arguments.

Neither the House nor the Senate version contains the provision which the second part of the instruction directs the House conferees to include in their report.

The gentleman from California [Mr. THOMAS] is quoting statements on the floor made by Members supporting the bill, but neither the House nor the Senate version contains such provisions.

For this reason, the motion exceeds the scope of the matters formally committed to conference and the Chair sustains the point of order.

Does the gentleman from California [Mr. THOMAS] have an additional motion?

MOTION TO INSTRUCT OFFERED BY MR. THOMAS OF CALIFORNIA

Mr. THOMAS of California. Mr. Speaker, I offer a motion to instruct conferees.

The SPEAKER. The Clerk will report the motion to instruct.

The Clerk read as follows:

Mr. THOMAS of California moves that the managers on the part of the House at the conference on the disagreeing votes of the two houses on the amendment of the House to the bill (S. 3) be instructed:

To include provisions in the conference report that would limit the total cost of the bill to the total savings to be derived from the recommended offsets in the Senate bill and House amendment and specify the account given such costs and offsets under the terms of Section 301, Requirement of Budget Neutrality.

The SPEAKER. The gentleman from California [Mr. THOMAS] will be recognized for 30 minutes, and the gentleman from Connecticut [Mr. GEJDENSON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. THOMAS].

Mr. THOMAS of California. Mr. Speaker, is my understanding correct that this motion to instruct is in order?

The SPEAKER pro tempore (Mr. DERRICK). No point of order was made against it.

Mr. THOMAS of California. Mr. Speaker, I yield myself such time as I may consume.

I thank the Speaker for that clarification. No point of order was made against it.

Mr. Speaker, my understanding is that since that language is part of the motion that the Chair just ruled out of order, minus those provisions which go into specifics in the bill, including the language which was used by Members on the floor, what now have is an inability to write a motion to instruct which carries out the specific rationale that was offered by the Members who were in support of the bill. In other words, although the gentlewoman from Ohio [Ms. OAKAR] said that no taxpayer dollars are involved in the bill, and the gentleman from Connecticut said we do not have public financing in this bill, it is out of order, apparently, to use the phrase that the gentleman from North Carolina used in his description of his amendment. That description was that the bill contained the requirement that no taxpayer dollars may be used to finance congressional campaigns.

That phrase was included in the last paragraph, to wit, "and to include in the conference report provisions containing the requirement that no taxpayers' dollars may be used to finance congressional campaigns"; this phrase in fact has been ruled out of order. That motion is ruled out of order.

What I have in front of the Members is another motion to instruct since we are not able to say that no taxpayers' dollars can be used in congressional campaigns, the exact point that the Members on the other side of the aisle tried to argue was contained in their bill, but which is not acceptable as a motion to instruct. What we have contained in this motion to instruct is the requirement that the cost of the bill can only come from the savings and the recommended offsets that are in the bill.

It seems to me, Mr. Speaker, that if in fact we cannot say that no dollars can be expended for campaign-related activities, in other words that it is out of order to say that, it seems entirely appropriate, then, that given the way the bill is written, no money can be spent under the bill that is not provided for in the bill.

That is what this motion to instruct does. It says that we can spend for the various functions under this campaign finance bill only those moneys that are raised under this bill, and that requirement, it seems to me, is entirely appropriate.

Mr. Speaker, I reserve the balance of my time.

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just would like to say that it always astounds me that the objections of the President's party to public funding is their basic philosophical objection to campaign finance reform, which includes so many important things, including spending limits and other positive reforms that I think the voters and those involved in campaign finance reform for years have wanted on soft money and other issues that are in these two bills.

But what particularly stuns me is that the President of the United States himself, by the end of this campaign, by all estimates, will have taken $180 million in public financing. At the same time, this President threatens to veto bills that might have spending limits and other things in them. The logic absolutely floors me that the administration, and one of the clouds that hangs over this bill is opposition by the administration, we ought to put it on the table, it floors me that public financing issues, which are really not central to the debate, are at the heart of the concern of the party whose President, as I have said just a moment ago, will by the end of this campaign have taken $180 million in taxpayers' money.

That is not what the debate is on this bill. The debate will be, and hopefully we will have a rapid conference, on whether we want spending limits, whether we want reform on soft money, and other issues of that nature. That is the real heart of the issue.

Are we going to have the courage to take a step forward in limiting spending in campaign races around the country so candidates and incumbents can properly utilize their time in the debate of the issues and not simply the race for the dollars in campaigns?

□ 1630

It seems to me sad that we continuously try to divert the public's attention from that critical issue. So I would hope that we would accept the gentleman's amendment so we can move rapidly and get this into conference, and pass the kind of campaign finance reform bill that will make us proud of ourselves, that will give our constituents an opportunity to see that indeed we are moving forward with the process of reform.

What they want is a limit on spending, a limit on spending for the House and Senate candidates. That is in the bill.

I just want to take one moment to thank the chairman of the full committee, the gentleman from North Carolina [Mr. ROSE], for all of the assistance he has given us during the entire time of the hearings, as well as all the members of my subcommittee, and Bill Gray, who of course retired in the midst of this term, and all of the other members of the subcommittee, but particularly the gentleman from Wisconsin [Mr. KLECZKA], who has put so much time into working on this legislation. Of course I also want to thank the gentleman from Oklahoma [Mr. SYNAR], who is not on the committee, but has been one of the leaders in campaign finance reform on our side of the aisle.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I find it absolutely ironic in terms of timing that the gentleman from Connecticut gets up and makes this kind of an impassioned speech about the content of a Democrat package which was put together for the sole purpose of political campaigning. I find it ironic because it follows immediately upon a vote of this House on a tax package which was put together by the Democrats for nothing but campaign advantage. The President said if you send me a tax package which is nothing but a thinly veiled campaign position for the Democrats, I will veto it.

Interestingly enough, the vote was stay with the President, 215, stay with the campaign package, 211. Even your own Democrats could not stay with you. And what you are making now is an impassioned plea to move a campaign package to conference which the President has already said he will veto. And you will bring it back in hopes of creating additional embarrassment, and I am quite sure the only people you are going to embarrass are more people on your side of the aisle.

In fact, if this were a serious effort, to try to engage in a reasonable campaign finance reform, if it were a serious issue, we would be working together to present to the President a bill that he could sign. This was not a serious engagement. You have played games from the very beginning in terms of the way in which you are operating. As a matter of fact, you just did it in your speech. You made an impassioned plea for taxpayers' money to be spent in campaigns when your own bill does not even contain a provision to have taxpayer spending, because your Members could not stand the heat of tying the two together. Member after Member in the debate, as I just read, came to the floor and said there is no taxpayer financing in this bill. And then you stand up and plead that we ought to support it because it has taxpayer financing.

Either you ought to read your own material or understand that campaign rhetoric is not the kind of discussion that ought to be carried on today.

What I have asked for in this motion to instruct is to make sure that any money spent on campaign financing, which we know this bill will do, will be financed only out of the provisions that are in the bill itself. And if, in fact, there is no money in the bill, then no money can be spent for it.

Let me say that had the gentleman from Connecticut been serious in terms of trying to work out an agreement, there were a number of areas which we could have come together on. Republicans offered a position which I think is a fundamentally new one. Republicans presented a position which was not given any serious consideration, and which I think would fundamentally reform the structure that we now have.

More importantly, the American people also support it by enormously positive numbers, as they do not do in terms of public campaign financing. When asked of the American people, is it a good idea or a bad idea, 80 percent of the American people said it was a good idea to require the bulk of campaign funds to come from the district or the State. Our position was that if candidates are going all over the United States raising money, and that is the wrong thing to do because it takes up too much time, or because influence groups are giving them money and they are gaining control over the decisionmaking of the incumbent, that perhaps who we ought to tie them to, the people that they should be tied to, the people that they were sent here to represent. And the position that we offered was that a majority of campaign finance money come from people who vote in the election. Local control of campaign finance would fundamentally realign the forces in this system, not just in terms of money but in terms of power brokering.

We still believe that within the scope of both the Democrat bill and the Republican offerings we can achieve a bill which the President would sign. I am anxious to deal with a number of secondary areas that would reform the political process and that could be agreed to by both sides, once they decided that a campaign package designed to embarrass the President and designed to embarrass Republicans would not go forward. Apparently they did not learn the lesson of the vote just cast. Apparently they are continuing to put together jury-rigged operations which they will send to the President, and which he most assuredly will veto, and which he most assuredly will be sustained. Then perhaps we can get on to the very serious business of not posturing for campaigns, but attempting to rewrite some of the fundamental laws by which Members are elected so that the American electorate can have more confidence in the body than they do now.

Mr. Speaker, I reserve the balance of my time.

Mr. GEJDENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not want to hold this up any longer. But I have to say to the gentleman that he is well aware that I offered an opportunity to develop a bipartisan bill. It was rejected by the gentleman from California. And if we had taken the Republican measure in this instance, an individual running for the House of Representatives could have gotten $4 million in PAC money. That is reform?

I would hope that my colleagues watch what we do in the conference. We are coming back with a bill of real reform, and when we listen to our friends on the other side of the aisle, time and time again what they want to do is protect the wealthy in America.

We could have gotten a tax bill if we protected the billionaires that the President wants to protect. We could probably get a campaign finance agreement from the President if we protect the rich there.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is amazing to me that the gentleman has just said that in a government that has divided leadership it is unacceptable to them to sit down and work out a package in which the President, elected by the American people, and a Congress, elected by the American people can agree, that that is unacceptable to him as a process for American Government to go forward. I thought American Government was based upon accommodation and compromise. Apparently the way in which you folks are now writing legislation is exactly the same way you have been running the House. There is no belief in accommodation and compromise, that since you own the House you will rule the House that way and all of the instruments in it.

I am really saddened by the statement from my friend, the gentleman from Connecticut, that had they put in some provisions which the President felt were necessary that we could have gotten a bill signed. That is an admission that they had no interest in getting a bill signed. They had more interest in a campaign document in terms of the tax bill. What we have in front of us is another attempt to get a campaign document in terms of public financing.

I think sooner or later some of the members of the majority need to understand that the American people are a little tired of the failure to accommodate and compromise to make the kinds of decisions that are necessary to govern and to move forward so that we can actually change the current relationships. The American people do not like the current relationships.

I am willing to sit down anytime, anyplace, and attempt to negotiate an agreement. What the gentleman from Connecticut failed to mention when he said he offered me a compromise bill was that he had one little tag on it and that was, "By the way, taxpayer financing is nonnegotiable." That is exactly the kind of arrogance that has brought this House to this point, and that is exactly the kind of arrogance that has brought this Government to this point.

□ 1640

I simply refer the gentleman to the last vote. It was his party and his Members, 54 of the Democrats, who did not go along with his leadership's plan. So apparently the failure to accommodate and compromise within his own party is part of the arrogance of the leadership on his side of the aisle.

He can rant and rave all he wants to about what this bill does or does not do, but I can assure him one thing: it will never become law. All of the time and energy spent to craft a clever campaign package is just that: time and energy wasted, time lost for the American people to have a more efficient, a better, a more responsible campaign finance system.

I am sure that he will continue to rant and rave about the fact that "the President will not give in to us and will not agree to what we want."

I think the appropriate approach in the American governmental system is accommodation and compromise, and after this failed effort goes forward and the President has vetoed it and it does not become law, I am more than willing to sit down and continue to work for the American people to try to put together a campaign finance package that is not just a useful diatribe on the campaign trail but actually a fundamentally reform in the way in which we elect people in this system so that we can change it, so that the American people can take a little pride in this institution, a little pride in this Government, that we are moving forward and we are actually agreeing to pass laws that change relationships, that fundamentally need to be changed.

Mr. Speaker, I reserve the balance of my time.

Mr. GEJDENSON. Mr. Speaker, I yield back the balance of my time.

Mr. THOMAS of California. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DERRICK). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from California [Mr. THOMAS].

The motion to instruct was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. The Speaker will appoint the conferees upon his return to the chair.

HIGHER EDUCATION AMENDMENTS OF 1992

Mr. GORDON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 403 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 403

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3553) to amend and extend the Higher Education Act of 1965, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendment now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of H.R. 4471, as modified by the amendment printed in the report of the Committee on Rules accompanying this resolution, as an original bill for the purpose of amendment under the five-minute rule. Said substitute, as modified, shall be considered for amendment by title and each title shall be considered as having been read, and all points of order against said substitute, as modified, are hereby waived. No amendment to said substitute, as modified, shall be in order except: (1) pro forma amendments for purposes of debate and (2) those amendments printed in the "Amendments" portion of the Congressional Record prior to the consideration of the bill. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After passage of H.R. 3553, it shall be in order to take from the Speaker's table the bill S. 1150 and consider said bill in the House. It shall then be in order to move to strike out all after the enacting clause of said Senate bill and to insert in lieu thereof the provisions of H.R. 3553 as passed by the House. All points of order against the motion are hereby waived. It shall then be in order to move to insist on the House amendment to S. 1150 and request a conference with the Senate.

The SPEAKER pro tempore. The gentleman from Tennessee [Mr. GORDON] is recognized for 1 hour.

Mr. GORDON. Mr. Speaker, during consideration of this resolution, all time yielded is for the purposes of debate only. I yield the customary 30 minutes, for the purposes of debate only, to the gentleman from Tennessee [Mr. QUILLEN], and pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 403 is an open rule which provides 2 hours of general debate to be equally divided between the chairman and ranking minority member of the Education and Labor Committee.

The rule waives all points of order against consideration of the bill.

House Resolution 403 makes in order a substitute consisting of the text of H.R. 4471, as modified by the amendment printed in the report accompanying the rule, as an original bill for purposes of amendment.

The substitute will be considered by title with each title considered as read. All points of order against the substitute as modified are waived.

The rule makes in order only those amendments printed in the CONGRESSIONAL RECORD prior to consideration of the bill and pro forma amendments for purposes of debate.

The rule also provides one motion to recommit with or without instructions.

Finally, the rule provides for a hookup to the Senate companion bill, S. 1150. The rule makes it in order—after passage of H.R. 3553—to consider S. 1150 in the House, to move to strike all after the enacting clause and insert the provisions of H.R. 3553 as passed by the House, and to insist on the House amendments and request a conference. All points of order against the motion to strike and insert are waived.

Mr. Speaker, I think it is only fair that we begin the debate on the reauthorization of the Higher Education Act by giving credit where credit is due.

We are about to consider a 5-year, $100 billion piece of reauthorization legislation. Putting this bill together, listening to and responding to the concerns of a wide variety of interested and affected parties, and charting a responsible course for the future of higher education in America is no easy task.

The Education and Labor Committee under the leadership of Chairman BILL FORD brings to the floor the product of over 44 hearings. And I know from my own experience that the chairman and his staff have been willing to work with those of us who have special concerns about the reauthorization.

While I do believe that this bill can be fine-tuned, most importantly in terms of program integrity, I do want to congratulate Chairman FORD, ranking full committee member BILL GOODLING, and ranking subcommittee member TOM COLEMAN for working long and hard on some of the most tedious and complex issues that come before this body. I think I speak for every Member of the House when I express my appreciation for the committee's good work.

They have crafted a bill that is a major step forward for higher education and the future of the Nation.

I believe the debate over the reauthorization of the Higher Education Act is one of the most important issues of this session.

I believe that for two reasons. First, because education is the key to a productive, creative, and competitive work force. Education is the key to our future, and higher education is the key to our economy's place in the world.

Second, this debate is important because the way we handle the issues before us will let the American people know whether we are ready to make the tough choices, whether we are ready to say "no" to a well-organized special interest lobby and say "yes" to protecting the rights of underprivileged and middle-class families who need well-run Federal education programs.

The American people know some of the programs we will consider in the reauthorization of the Higher Education Act have literally spun out of control.

Mr. Speaker, here are the facts:

Student loan default expenses have risen from just under $300 million in 1982 to more than $3.5 billion last year.

In 1983, loan defaults consumed 10 percent of the net program costs—the amount the program costs the taxpayers. Last year, defaults wasted 54 percent of program costs.

At the current rate, default expenses could total $9.5 billion—79 percent of program costs—by 1997.

For-profit trade schools educate about 10 percent of our Nation's students in post-secondary education, but account for about 50 percent of the defaults.

The number of for-profit trade schools have increased 210 percent from

2,000 in 1980—the year before schools could participate in the Pell Grant Program—to more than 6,200 in 1990.

The default rate at for-profit trade schools is about 32 percent, twice the rate for public community colleges and technical schools and almost four times the rate for 4-year public colleges.

Mr. Speaker, today's New York Times lays out what this debate is all about. On one side, we have—and I quote—"a Washington power play." A lobbying campaign "even some trade school officials regard as too slick * * * a million-dollar-a-year lobbying campaign."

And on the other side are people pushing for serious, commonsense program integrity. The same New York Times story hits the nail right on the head. Again I quote, we are playing on "a field that includes virtually no organized lobbyists on the other side."

All we have—and all we need—on the side of program integrity is the good sense of the American people and the Members of this body.

We are our own lobby. We are the lobby for the people who sent us here to stand up and represent them. We are the lobby for the middle-class families in MARGE ROUKEMA's district and the underprivileged youth in MAXINE WATERS' district. We are the lobby for America's students and the taxpayers. I hope that it is our lobby and not the lobby described in the New York Times which wins today and tomorrow.

Once again, Mr. Speaker, I would like to commend the chairman and ranking minority member of the Education and Labor Committee for a job well done.

□ 1650

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, it is no coincidence that two Tennesseans are handling this rule today. We have a former Governor of Tennessee dedicated to education, now as Secretary of Education, and the gentleman from Tennessee [Mr. GORDON] and I are also committed to better education.

Mr. Speaker, although I disagree with the preprinting requirement for amendments in the CONGRESSIONAL RECORD prior to floor consideration, I do rise today in support of this modified open rule.

This legislation reauthorizes the Higher Education Act of 1965 for 5 years, providing support to all major Federal postsecondary education programs. Mr. Speaker, we all know the importance of reauthorizing our Nation's higher education programs. In drafting this legislation, compromises were made by both parties. As originally reported, the bill made Pell grants an entitlement program and proposed substituting a direct Federal loan program for all existing student loan programs. The compromise version made in order by this rule removes the Pell grant entitlement provision and scales down the Direct Loan Program to a $500 million demonstration project.

Mr. Speaker, eliminating the Pell grant entitlement title and keeping the bill in accordance with pay-as-you-go show how committed this Congress is to improving and expanding education programs in this country. President Bush highlighted education as one of his administration's top priorities, and I'm proud that we are able to demonstrate our willingness to follow suit.

While most of the major problems with the bill have been ironed out, there will still be some important amendments offered during consideration. Most important, perhaps, will be the amendment offered by the ranking Republican of the Subcommittee on Postsecondary Education, TOM COLEMAN, to cap the direct loan demonstration project at $500 million per year. As the bill now stands, the Education Secretary must pick a group of schools with a combined loan volume of $500 million under the current system. The students at those schools would have a contractual right to receive direct loans—thereby creating an open-ended entitlement for those schools. If adopted, this amendment would generate support from the minority and the administration on final passage of the bill.

Mr. Speaker, I would also like to note that there are several other amendments which would cut waste, fraud, and abuse in higher education programs. Some of the amendments would eliminate Pell grant eligibility at high default schools, strengthen triggers for State oversight, permit loan assignment for increased collections, and strengthen requirements for accreditation agencies.

In closing, Mr. Speaker, I would like to thank Representative GOODLING and Representative COLEMAN for their leadership and congratulate them on a job well done. I urge all my colleagues to support this rule so that we can begin consideration of this vital legislation.

Mr. Speaker, I have no requests for time, and I reserve the balance of my time.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the gentleman from Michigan [Mr. FORD], chairman of the Committee on Education and Labor, who has put so many hours into bringing this bill before us.

Mr. FORD of Michigan. Mr. Speaker, I thank the gentleman for yielding this time to me, and I also thank him for his very generous remarks about the work of the committee, and in particular the work that we have done together, as one of the foremost advocates of tightening the requirements for so-called trade schools or profit-making businesses that are in the education profession. We have worked closely with the gentleman from Tennessee [Mr. GORDON]. I trust that we have been able to respond to most, if not all, his concerns.

Mr. Speaker, I am rising to support this rule because someplace a rumor started that I was up to something and I wanted to defeat this rule so that we could go back to the Committee on Rules and get a closed rule to prevent people from offering amendments. That is not true.

I assume by coming up here to speak for the rule, I can put that to rest. I do not know who concocted that kind of scheme. Even I am not sneaky enough to try anything that dumb; but nevertheless, I am here to tell you that I want you to vote "yes" on adopting this rule.

Is the rule written the way I would have written it? No; it is not. They very seldom are.

Is the rule written the way I asked to have it written? No; it is not; but as I said, I do not always get my own way at the Rules Committee, but it is the best we can do under the circumstances. The rule clears up a possible point of order against consideration of the bill and will let us go forward with this legislation.

For that reason, Mr. Speaker, I support the rule and ask all Members to vote for it.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Speaker, I thank the gentleman for yielding this time to me.

I wish to express my appreciation to the chairman, the gentleman from Michigan [Mr. FORD] and to the ranking member, the gentleman from Missouri [Mr. COLEMAN] for the work they have done, and to the Rules Committee for the work they have done.

I rise in support of the rule and the bill; however, I am disappointed.

Today, we had a real opportunity to make a long-term investment in our economy, an opportunity to begin to shift our Nation's priorities—from investing in weapons systems to investing in our human strength. Instead, we have chosen to maintain the status quo.

There are signs all around us that people are calling for change. Election results have stunned the pundits and insiders. People want us to shift our priorities. And yet we are slow in responding.

People throughout the country have known for some time that we are in economic decline. But by the time we discovered this economic free-fall, we acted as though we didn't know what to do. We had a whirlwind of hearings, we listened to experts, we talked about middle-class tax cuts and capital gains tax cuts and investment tax credits and other ways to stimulate the economy. But after the President's veto, we are left with the same old Government paralysis.

People throughout America can tell you how to stimulate the economy—invest in education. People know that if their kids have a chance to continue their education, they will be better off in the future. I believe we can use that same logic here in Congress.

But rather than breaking the mold and developing legislation that would stimulate our economy by greatly increasing our investment in higher education, we have chosen to tinker around the edges of an existing program.

After World War II, when we faced a similar crossroads in our economy, our predecessors courageously enacted the GI bill—a real investment in our future. Forty-eight years later, we are still reaping the rewards of that legislation. Judging from the increase in the Nation's total output of goods and services produced by GI bill beneficiaries, for every $1 we spent on GI's, we got $5 to $12.50 back later in benefits. It's hard to find a better investment—public or private.

I believe Americans are self-reliant. They do not want handouts. But they do want us to give them the resources they need to better themselves and ensure their future. Federal financial aid for higher education is a major building block.

We hear a lot of talk lately about welfare reform. Angela Slaughter, a single mother on welfare in my congressional district, is going to college so she and her daughter can take care of themselves. You'd think we'd embrace Angela and give her whatever help she needs to get through this short-term struggle. But instead, she can describe one obstacle after another that the Government stuck in front of her. She is making it—with Federal aid—but we could do more so that people who do not have as much determination as Angela can work their way off welfare as well.

We also hear a lot about retooling our economy—retraining our workers for a changing work force. Larry Lynch, an unemployed logger in my district who decided to go back to school to study nursing, can tell you how all the odds were stacked against him. He is also making it—with Federal aid—but we could do more to encourage people like him who are willing to make a heart-wrenching change.

While I wish we could do more, I fully support the measure we have before us today.

This bill simplifies the application process so that we do not bury potential students in a mountain of complicated paperwork.

It also extends loans to middle-income families who make too much to qualify under the current program but not enough to cover their kids' tuition costs. And it adds incentives that reward parents for saving for their kids' education rather than penalizing them.

The bill also makes a number of changes to ease the way for nontraditional students like Angela Slaughter and Larry Lynch. It increases child care allowances, removes home equity from the needs analysis, makes aid available to those attending school on a part-time basis, and simplifies the application process for independent students.

Finally, the bill includes almost 100 provisions to strengthen the integrity of our Federal financial aid programs. By eliminating fraud and abuse in the system, more students will be able to benefit from these programs.

Mr. Speaker, I support the rule and I support the higher education bill.

My only regret is that we did not take this opportunity to say that now is the time to shift our Nation's priorities and make a commitment to economic development that will last forever: a commitment to our children and their education.

Mr. Speaker, I encourage my colleagues in this Congress and the people of this Nation to keep holding the vision before us.

□ 1700

Mr. QUILLEN. Mr. Speaker, I yield 6 minutes to the gentlewoman from New Jersey [Mrs. ROUKEMA].

Mrs. ROUKEMA. Mr. Speaker, I rise today in support of the rule on this bill. During my years in Congress I have been a strong proponent of higher education. Indeed, higher education is an historic commitment of the Federal Government. Arguably, this bill is one of the most significant pieces of legislation this Congress will be called upon to pass. My constituents think so, too, I can tell you that, and probably yours do, too.

I know that no eyes glaze over when I rise to talk about student loans or access to higher education. There is always spontaneous applause whenever I speak about expanding access to loan programs.

So, Mr. Speaker, I support a great many of the provisions in the bill before us. The bill has changed from its inception, and the chairman of the Committee on Education and Labor, the gentleman from Michigan [Mr. FORD] the ranking Republican member on the full committee, and the ranking Republican on the Subcommittee on Postsecondary Education, the gentleman from Pennsylvania [Mr. GOODLING], and the gentleman from Missouri [Mr. COLEMAN] have worked very hard and worked together to bring forth this improved bill. I commend each of them for their efforts on behalf of our Nation's students.

Mr. Speaker, I know the gentleman from Michigan [Mr. FORD], the gentleman from Missouri [Mr. COLEMAN], and the gentleman from Pennsylvania [Mr. GOODLING] do not view this bill as a perfect bill. Many of us will offer amendments, some of which will be agreed to and some will not. Nevertheless, it is important to note that this new bill represents a far more fiscally responsible approach to the needs of our Nation's students and their families.

This measure is said by its sponsors to be responsive to the needs of students from middle-income families. I wholeheartedly agree with that assessment. We must assist such families in financing the high costs of higher education.

By eliminating consideration of home, the farm and small-business equity from the needs analysis for student aid programs, this bill will insure that many, many more deserving students will have access to Federal student aid. I proposed this change, and I can assure you that many of the families across this Nation and specifically in high real estate areas such as New Jersey and the Northeast, and other areas where farm values are high, those people who are house-rich or farm-rich but cash-poor, will be helped by this proposal. In fact, it may be the single most significant middle-income provision in the bill before us.

But there is a major deficiency in this bill with respect to the vast middle class number of students for which GSL's were created and designed. It is indeed unfortunate that this bill stops short of helping students from middle-income families access the financial assistance that they need to finance tuitions in the 1990's.

The bill, in contrast to the one that came out of the committee, this bill under consideration does not—repeat, does not—increase the maximum loan eligibility for GSL's. Loan limits under the largest and most popular student loan program, the Stafford program, have not been increased since 1987. Under this bill, there will be no increase in limits until 1996.

During that time, tuition has increased at a rate far in excess of inflation. During the past decade, for example, the cost of attendance at public institutions has increased 85 percent, and they have increased more than 107 percent at private institutions.

Very recently we have seen tremendous increases in the tuitions at a number of public institutions whose revenues have eroded due to the States' budgetary shortfalls.

In fact, tuitions charged by many public institutions now rival those charged by many private institutions.

Mr. Speaker, again I repeat this is the most serious deficiency in this bill. Even the administration acknowledges this deficiency and supports an amendment for program improvement to expand loan limits and eligibility.

I will be offering later tomorrow an amendment to deal with this deficiency. I hope that amendment, Mr. Speaker, will be supported by the majority of our colleagues.

Mr. Speaker, the new reauthorization bill arguably weakens the program integrity provisions that were approved by the committee last October. I would suggest that amendment offered by Representatives GORDON and WATERS and myself will be moved tomorrow to strengthen the integrity provisions and to curb the waste and fraud. We have gone far in the bill to do this, but not far enough. I think it will be a great enhancement and a perfection of the bill.

Mr. GORDON. Mr. Speaker, I want to compliment the gentlewoman from New Jersey [Mrs. ROUKEMA]. We have spent time together working on this, trying to bring about this amendment that I think is going to make a good bill even better. The gentlewoman has been very diligent.

Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I rise in support of the rule, and I thank the gentleman, my classmate, for the time. I want to compliment the committee and its chairman, who has always lobbied on behalf of education and an opportunity for education for all Americans.

But, you know, we have 700,000 high school graduates who cannot read. In a February 1992 Washington Post story, students fared less than most major industrialized nations in their proficiency in mathematics and science, all of which takes me to a part of my presentation because in Public Law 101-589, signed November 16, 1990, I had included in the Excellence in Education Act my National Academy of Science, Space, and Technology, which was supported by the Committee on Science, Space, and Technology of this House.

The Science, Space, and Technology Academy would provide scholarships for bright young students from each congressional district to attend a college that is, in fact, accepted by the new advisory board to be created by the law. It was signed into law, but appropriations were never made. It has to be reauthorized.

That is the essence of the amendment that I bring now, to reauthorize into law the National Academy of Science, Space, and Technology, with several changes that are made at the request of certain House leaders and which make sense.

Rather than have the Members nominate and have the academy select, as they do with the others, the new amendment language to be offered on the floor will call for the academy to have competitive examinations and the two top students in each district would thus be afforded that scholarship. After the completion of that 4-year scholarship, they would have to give the 4 years back to Uncle Sam in some related field.

More than 60 percent of the House chairmen supported this legislation. I was glad that in 1990 the Congress had seen fit to incorporate it into law. It was signed into law, and I am very pleased to see that the chairman of the committee and the minority side also will support the amendment with these new improvements.

□ 1710

So, Mr. Speaker, I would like to say this to the Congress: We are going to have to get our brightest and our best, recruit them into public service, have them work for our Government and instill a sense of competency as we move to the future.

In addition, this bill will help to attack those problems where the 700,000 high school students graduate and cannot read. That is an indictment on our educational system that must be reversed.

I think Congress will take those steps, Mr. Speaker, by implementing and passing this bill, and I thank the gentleman from Tennessee [Mr. GORDON] for having yielded this time to me.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I rise in strong support of the rule, House Resolution 403, presented today regarding two bills designed to reauthorize the Higher Education Act of 1965, H.R. 3553 and H.R. 4471, the Higher Education Amendments of 1992. I am pleased that the Higher Education Act reauthorization has finally made its way to the House floor.

The rule provides for consideration of all amendments that have been printed in the CONGRESSIONAL RECORD. Although I do believe in completely open rules, I recognize that Members have been placed on notice since last week that the bill would be considered in such a manner. I am also pleased that the rule automatically makes the text of H.R. 4471 considered as the original bill and that the rule brings the bill into budget compliance by amending the text of H.R. 4471 so as to eliminate the offending spending provisions. Furthermore, the rule does not waive points of order against individual amendments; hence, most of these amendments will be subject to these points of order.

I am pleased to witness the effect of the Budget Act in ensuring no amendments that violate pay-go or the budget resolution will be considered. I must confess, however, that there were amendments that I would have otherwise supported.

As to the text of H.R. 4471, I must admit that while this bill makes tremendous changes over the committee-reported bill, H.R. 3553, we still need to make additional changes to H.R. 4471 in order to craft a bill which all Members should be eager to support. The rule corrects the severe problem dealing with pay-go and hence makes it a bill that merits our support.

Again, Mr. Speaker, I rise in support of the rule considered today.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK. Mr. Speaker, I take this time to rise in opposition to the rule, and what I want to do—as a consequence—is to call attention to a very egregious process which permitted the introduction of an amendment to the bill which was introduced that consisted of a compromise worked out very carefully by the minority ranking member of our Committee on Education and Labor and by the chairman of our committee. The difficulty with the consideration of the higher education bill was that in reviewing the budget authority, which places a restriction on the entitlements in the bill, it was found that it was in excess by $1.25 billion over a course of 5 years. The current fiscal year, there was no objection, but in carrying forward these projections it was found by CBO that it would, in fact, have exceeded by $1.25 billion. Therefore, in order to avoid the difficulty of bringing such a bill to the floor and relying upon waivers and all of that discussion, it was decided by the leadership that the only way this bill could come forward is to tack on in the Committee on Rules an amendment which would add a provision which restores the origination fee which students are being called upon to pay.

The committee, I believe, led by the chairman, the gentleman from Michigan [Mr. FORD], has done an outstanding job in putting together a bill which I believe merits the support of this body, and I was extremely proud to be associated with that bill and to be an original cosponsor of the second bill which was introduced. What I am objecting to today is the introduction of all element that has not been approved by the committee and which actually goes against the policies that the committee had adopted, and that was to phase out this origination fee, which is an abomination added in the 1981-86 Budget Reconciliation Acts.

What this origination fee does is to say to a student who goes in to get a loan—for example, $2,000—that they must pay a 5-percent fee for that $2,000 loan, making the cost of the note that they must sign to the Government and to the bank or the lender for $2,100. They receive $2,000 to pay their educational expenses, and yet the note that they commit to is $2,100, and on top of that, not receiving the principal amount of the note, they must continue to pay interest on the $2,100. At a time when this Congress and this Nation is focusing its attention on the importance of education, and particularly the importance of higher education, it seems to me critical that we eliminate this kind of excess, an unnecessary burden on students.

I stand here today in opposition of the rule, in full support of the work of the Committee on Education and Labor, and I commend the chairman and the minority ranking member of that committee in bringing this measure. What I object to is the process which would allow the bill to eliminate some of the salutary provisions in the process of its being considered in the Committee on Rules. I find that highly objectionable, highly contrary to the work product of the Committee on Education and Labor. So, I would hope that this body would vote down the rule and make it possible for the Committee on Rules to give a waiver in this instance so that the higher education bill can come forward, and in this particular instance, in the entitlements, accept the fact that the cost of the entitlements meets the current fiscal year's requirements under the Budget Authority Act. I find that, without any other possibility of raising this issue before the House, this was the only recourse, to rise in opposition to the rule, because there is no possibility that I could raise this matter even with an open rule. The Parliamentarian tells me that there would be a point of order, and I could not make a motion to eliminate this origination fee or to restore it back to the way that the higher education bill had presented it to this body. So, I am left with no recourse. There would be a point of order made against my amendment.

So, Mr. Speaker, I urge this body to consider what we have done in the rule is to amend the bill that was presented to us by higher education. I urge that the rule be defeated.

Mr. QUILLEN. Mr. Speaker, I urge the adoption of the rule so we can get down to discussing the bill itself, and its provisions, as well as the amendments, and I yield such time as he may consume to the gentleman from Ohio [Mr. McEWEN].

Mr. McEWEN. Mr. Speaker, I rise in support of the amendment offered by me and my colleague, the gentleman from New York [Mr. TOWNS]. This amendment, which would preserve limited eligibility for Pell grants by prison inmates, strikes an important balance between fiscal restraint and open access to higher education services.

As you know, the United States is responding to cries to get tough on crime by imprisoning an increasing number of persons each year. In my State of Ohio alone, nine new prisons have been completed and construction for an additional four more has been budgeted. With approximately 1.1 million Americans currently in Federal, State, or local prisons, taxpayers pay about $20.3 billion a year in maintenance costs alone. However, we cannot overlook the role of education in reducing the revolving door of our prisons.

While I support preserving unrestricted access to higher education services for incarcerated students, I believe our amendment responds to the justifiable concerns that many schools are taking advantage of loopholes in the Pell Grant Program.

Among other aims, our amendment specifically would limit the percentage of incarcerated students in an institution to 30 percent of that body, and deny a Pell grant to any incarcerated student who is serving a sentence of death or life without parole; not eligible for parole within 5 years; or is classified as a "habitual criminal".

Mr. Speaker, there are many significant reasons to support continued Pell grants for inmates, among them:

Offenders are drawn from the same indigent population that Pell funding is designed to serve.

Less than 2 percent of current Pell grants go to incarcerated students.

Offender use of Pell funding yields crucial social benefits, including cost-effective enhancement of prison security, increased employment levels among at-risk minority youth, and substantially lower recidivism rates—as much as 60 percent lower after 1 year.

In a study of 317 paroled offenders performed by the Correctional Education Department of Wilmington College in Wilmington, OH, 27 percent of the parolees were reincarcerated within 1 year—106 persons. These 27 percent had less than a high school education. However, only 11 percent—95 persons—were reincarcerated who had the benefit of some form of college education.

Mr. Speaker, I believe that these facts speak for themselves. We simply cannot afford to cut off this valuable resource for offender education. This amendment seeks to assure the taxpayer that Pell moneys will not be abused, and will go only to those prisoners with the greatest chance of success.

I thank the gentleman from New York for his efforts and for the opportunity to work with him in addressing this essential issue. I urge my colleagues to adopt this compromise amendment.

Mr. GORDON. Mr. Speaker, for purposes of debate only, I yield 7 minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, I would first like to thank the gentleman from Michigan [Mr. FORD], the chairman of the Committee on Education and Labor, for the leadership that he has given in bringing this bill to the floor.

□ 1720

I would like to thank him for the long hours and the hard work in dealing with a very complex subject matter.

I would also like to thank the gentleman from Tennessee [Mr. GORDON] and the gentlewoman from New Jersey [Mrs. ROUKEMA] for the work they have done, working with me and others, to include some emphasis on the trade schools, the vocational schools, the private postsecondary schools.

I am delighted to be here today for that particular purpose. Poor people around the country are being conned and cheated by proprietary vocational schools at enormous personal cost to the students and huge financial costs to the taxpayers.

Some people refer to these schools as trade schools or vocational schools, but the fact of the matter is, these proprietary schools are supposed to be providing opportunities, but really we have an enormous unconscionable ripoff to disadvantaged people that is going on in this country.

Many of these schools, far too many, are preying on the very vulnerable in our society.

My interest in protecting students from dishonest proprietary vocational schools began while I was in the State assembly in California. I was able to pass some laws there to get at this problem.

I know about this problem. The representatives of these so-called trade schools stand in unemployment lines, in welfare lines. They are in housing projects throughout America. They are even in the churches. They lure people into these schools promising them that they are going to train them, that they will be able to connect them with jobs and work opportunities. And, let me tell you, these fly-by-night, Joe Blow schools of computer learning that have no computers, are ripping off students, many of whom have decided to go back to school for the first time after having dropped out, after not being able to find a job.

We should not fight for the right of our constituents to be saddled with a debt they cannot repay, or an education they did not receive, when the best they can hope for is sham training, or maybe, just maybe, a job paying $5 to $6 an hour. It does not make good sense.

We are told there is no money for creative education for minorities and the poor because of the budget deficit. We cannot pay for creative programs. We do not have money for capital improvements. We cannot build new buildings. We cannot pay teachers adequate salaries. But we can stand by and watch the unconscionable ripoff of billions of taxpayer dollars going into these private postsecondary schools that are not training anybody.

I do not want the owners and the lobbyists of these schools pointing to my community and my people telling me how they are providing opportunity, when in fact they are ripping them off.

How many victims must there be before we say enough is enough and stop protecting these schools?

Mr. Speaker, let me give you some examples of how bad it really is. They are not just ripping off the Pell grants.

They are not just ripping off the Stafford loans. But they have gone further. They are now into the supplemental loans, the student programs that were intended for higher education.

We now have people who are being trained for security guards, something called medical assistants, and other kinds of jobs that are not real jobs, and we are paying thousands of dollars using all of these three granting programs to do it. Programs costing as high as $7,000, $8,000, and $9,000, that lead to nothing.

Mr. Speaker, you know who they are. You see the ads on television. They are all over television, promising to train folks, promising to get jobs. They are in your offices. They have a well-oiled, well-heeled lobbying program around here, and all of the Members know it.

Well, I am telling you: I am tired of my community being ripped off, and communities like mine all over this country.

I am here to support the open rule because I, the gentleman from Tennessee [Mr. GORDON] and the gentlewoman from New Jersey [Mrs. ROUKEMA] would like to stop this ripoff. We would like to get some amendments in. We have a package that is supported by the administration, supported by the department, the integrity package that we are going to put on this floor, and we fully expect for it to be supported. In addition to that, the gentlewoman from New Jersey [Mrs. ROUKEMA] has some more amendments, and I have even more amendments. Because I intend to be before this Congress on this issue year-in and year-out until I stop the hemorrhaging of taxpayer dollars in these ripoff schools that are doing nothing for anybody.

Mr. Speaker, I am delighted to be here today to begin to raise this question in new ways, to begin to point my finger directly at those who are doing the ripoff, and to challenge my colleagues to do something about it.

This scandal can emerge as big and as serious as the S&L scandal has emerged in this country. We are going to put the amendments on the floor at the appropriate time, and the open rule allows us to do that.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Speaker, I agree wholeheartedly with a lot of things the gentlewoman from California [Ms. WATERS] has said, but I certainly want to make very sure, as I have said on many occasions, that we do not throw the baby out with the bathwater. Many of the good institutions that are proprietary schools, as a matter of fact, are going to be needed more than ever to train and retrain.

Mr. Speaker, the gentlewoman from California [Ms. WATERS] has had a terrible experience. In my district, fortunately, I have had a good experience. I have three proprietary schools who have default rates under 5 percent who have placement rates that are up in the 80 and 90 percent brackets. One is commercial art, one is a Yorktown business institute, and one is a drafting and electronics institute.

Mr. Speaker, much of what the gentlewoman said was true, particularly before we made tremendous changes in the last 2 years in reconciliation. Those changes have put 500 of those fly by nights out of business, and I think the legislation probably is crafted to put more of them out of business.

But, again I want to reemphasize, we do not want to throw the baby out with the bathwater, because there are an awful lot of good proprietary schools that we are going to need as we train and retrain the retrain again.

Mr. GORDON. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker, let me just say that when you find an industry where an overwhelming majority of that industry is involved in ripoff activities, something is desperately wrong.

I wish that I could agree that something has taken place in the last 5 years or so to change it, but it has not. According to a study done by the General Accounting Office, about $2 billion in SLS money given to first-year students during academic years 1987–89, 88 percent of the total, or $1.7 billion, went to students in vocational proprietary schools. In fact, vocational students account for 52 percent of all SLS.

Mr. Speaker, this is the money above and beyond the Pell grants and the Stafford loans.

Over the same 3 year period, proprietary vocational school students accounted for 80 percent of all SLS default dollars. The price tag: $248.4 million, with 74 percent of those default dollars in the hands of first-year students.

Mr. Speaker, I too would not like to throw the baby out with the bathwater. But let me tell you, it is not just my district, and I do not want anyone to think it is one little congressional district in the United States. Most of the congressional districts in the United States are being ripped off. If you are lucky enough to have the majority of your schools with less than a 30-percent default rate, then you are indeed lucky, and you are an aberration and not what is going on in most of the districts.

Mr. QUILLEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I might say to my friend, the gentleman from Pennsylvania [Mr. GOODLING], that the question before us is not whether or not proprietary schools are good or bad. I think there are many good proprietary schools, and I want to protect those good proprietary schools.

There are also many good S&L's and I am sorry we did not get in sooner and get rid of the bad apples so that they would not all be spoiled. And that is what we are trying to do with the proprietary schools in this country, is take care of the bad apples.

Mr. Speaker, let me point out that 10 percent of the students in this country go to proprietary schools, yet they account for 35 percent of all the loans and 55 percent of all the defaults.

□ 1730

Something has got to be done. We are not going to throw the baby out with the bathwater by simply saying that there is a 35 or 30 or even 25 percent default rate threshold.

Clearly, that is enough room for these schools to operate. All we are saying is that if one has got a 25- or 30- or 65-percent default rate, they are not doing the kind of job they need for their community. If they are not responsible in handling student loans, how in goodness sake can they be responsible in handling grants?

Clearly, if they are not eligible for student loans because of mishandling and a poor job, they ought not to be allowed to have grants.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to House Resolution 403 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3553.

□ 1731

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3553) to amend and extend the Higher Education Act of 1965, with Mr. PEASE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Michigan [Mr. FORD] will be recognized for 1 hour, and the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 1 hour.

The Chair recognizes the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I am very pleased to rise in support of this bill, H.R. 3553, the Higher Education Amendments of

1992. While this bill represents a step forward, I had really hoped to come to the floor with a bill that would give us a giant leap forward because I really believe that unless we get our priorities in order and begin to invest in the future of this country, all of the other things we do, worrying about the national debt and the future economic and other strengths of this society, are going to be wasted.

We know we fall woefully behind in competitiveness with the rest of the world and yet, when it comes time to really try to do something about it, we begin to snivel and cringe and back away from doing anything decisive.

It is well-known that I tried to make this bill considerably more expensive. Indeed, I had hoped to structure here on the floor an opportunity for the Members of Congress to vote on a waiver of the infamous budget agreement, which would be clear and understandable to all Americans, waive it for the purpose of investing in our young people, their future and our future through them.

I was not permitted, under the rules and the Budget Act, to do that. So I confess woefully that we are here with a small step forward, but at least it is forward.

I want to thank the gentleman from Missouri [Mr. COLEMAN], the gentleman from Pennsylvania [Mr. GOODLING], and the other Republicans on the committee for their cooperation and all of the members of the committee on both sides for the contributions they made. No bill that I have ever been involved with on this floor had as many days and hours of hearings, listening to people all across this country tell us in advance of writing this bill what they thought education policy ought to be for the next 5 years.

I want to thank the members of the committee who traveled to places around the country to accommodate members' requests for opportunities in all parts of the country to participate in the initial drafting of the bill.

I would like to pay particular recognition to the new members of the committee who jumped into this very early and participated with us all along the way, a course of conduct that has made them all players in this legislation.

I trust that we will be able to hold to a minimum the serious disagreements between the members who have been working the longest and hardest on this legislation and, even as we proceed this evening, the gentleman from Missouri [Mr. COLEMAN] and I will continue to negotiate on items that may make it possible for us to avoid any more floor fights than we find absolutely necessary.

Of course, he sometimes can be stubborn, unlike me, who is known never to be stubborn. And that could get in the way, but I think we will work things out.

I look forward to writing a piece of legislation that every Member in this House will be proud to go home and talk about.

I would like to finish by saying this: There is a lot of talk about what we ought to do about jobs for the future in this country. This piece of legislation will be the biggest piece of legislation to equip Americans for meaningful employment that will come before this Congress. And this is our one big opportunity to get on board if we have been promising folks at home we are going to do something about jobs for the future.

Mr. Chairman, I am very pleased to rise in support of H.R. 3553, the Higher Education Amendments of 1992, which reauthorizes the programs contained in the Higher Education Act as well as expanding and improving those programs. Action on this bill is necessary because the Higher Education Act expires at the end of fiscal year 1992, this September 30.

While this bill certainly represents a step forward, I had hoped that it would be a stride or a leap forward. However, given the shackles of the budget agreement, that we seem currently unable to break, our ambition has been substantially constrained. We had hoped to make Pell grants an entitlement with a significant increase in the maximum award so that low-income and working families could have had an assurance about the availability of future help to send their children to college. We are left with a higher maximum award but it will be subject to the annual vagaries of the appropriations process. The administration continues to oppose even these changes arguing that any increases should be concentrated on students from families with incomes below $10,000 and that these increases should be paid for by eliminating more than 400,000 current recipients from the program.

Looking at where we are in historical perspective, the end of the cold war and the collapse of the Soviet Empire mean that the national strength and status of the United States as a great power now depends on our ability to compete economically rather than militarily. The productivity and performance of our economy are inextricably linked to our investment in our human capital. Education and training are central to developing the Nation's human capital.

It is clear that the structural changes in the American economy will make it necessary that there be more people with education and training beyond high school for the workforce of the future. The Second Industrial Revolution—the revolution in technology—leaves little place for those without skills in reading comprehensive, mathematics and problem solving, without the habits and attitudes that make them reliable employees and without specific skills related to available jobs.

While 40 percent of today's jobs are in low skills occupations, only 27 percent will fall into that category in the year 2000. At the same time, jobs in high skill occupations will rise from 24 percent to 41 percent of the work force.

Looking at new jobs, more than half of the new jobs created between now and the year 2000 will require some education beyond high school. The median years of education required by the new jobs will be 13.5 years, 1½ years beyond high school graduation. In the 1990's, it is estimated that jobs requiring college degrees will grow 1.5 percent per year while those requiring only high school diplomas will grow 0.6 percent per year, less than half as much. Thus, some academic/technical education beyond high school, if not a 4-year undergraduate education, is essential for the workers of the future, particularly in the high wage, high skill jobs at the cutting edge of economic growth and productivity.

The job market provides an increasing college wage premium. The average pay of entry-level workers with a 4-year or advanced college degree rose one-third more than the pay of workers with only a high school diploma in 1975 to 80 percent more in 1988. A recent study estimates that the value of the increased tax revenue to the Federal Government for each dollar of student aid is $4.30. Estimates for the return in increased Federal taxes for each dollar provided by the post-World War II GI bill range from $5 to $12.50.

It is clear that those in the education pipeline are increasingly from disadvantaged, low-income, minority and limited-English speaking backgrounds. In the 1990's, the white non-Hispanic college-age population will decrease by 18 percent while the minority college-age population increases by 11 percent. The fastest growing groups in the education pipeline are those from backgrounds where they are least likely to pursue the education beyond high school which they need to fill the jobs of tomorrow and which the Nation needs in order for them to be the foundation of the Nation's wealth.

In addition, working and middle income families, the traditional source of reliable and productive workers, are seeing the dream of higher education for their children slip away. In the last decade those with incomes below the top 20 percent saw their incomes either stagnate or decline in inflation-adjusted dollars. Meanwhile costs at public and private colleges have increased from two to three times faster than the growth in median family income.

Middle income families can also no longer call on their traditional financial reserve, sending mom to work, to meet the costs of higher education for their children. Mom has already gone to work and for families fortunate enough to have two wage earners, these dual incomes are barely sufficient to maintain their current standard of living.

A recent Gallup poll found that 93 percent of the American public believes that having a college degree is important in order to get a job or to advance in one's career. At the same time, 87 percent of the American public agrees with the statement: "College costs are rising at a rate which will put college out of reach of most people." And, 74 percent of the public agrees with the statement: "I would be able to afford college costs at this time, only with low interest loans or grants." It is, therefore, not surprising that 90 percent of the public supports grants to low income students and 93 percent support low-interest loans to middle income students.

Since the Federal Government provides 75 percent of the student financial aid from all sources, we must look to changes in the Federal student aid programs authorized by the Higher Education Act to respond to the need for increased grants and low-interest loans to students.

It is important to note that the financial aid programs authorized by the Higher Education Act do not only serve students in traditional higher education programs. Of the approximately $18 billion made available to students through the financial aid programs about one-third or $6 billion goes to students in postsecondary occupational and vocational programs. This makes the Higher Education Act the largest source of Federal support for job training. In addition, the student financial aid programs make a vital contribution to employee retraining since over half of those receiving Federal student aid are working part-time or are over the age of 24.

H.R. 3553, the Higher Education Amendments of 1992, is the vehicle for expanding the Federal commitment to postsecondary education and training to create the work force of the future. It would lower the financial barriers to higher education for students from working and middle income families and open the doors of educational opportunity for millions of students.

When President Johnson signed the Higher Education Act in 1965, he said that this law "means that a high school senior anywhere in this land of ours can apply to any college or any university in any of the 50 States and not be turned away because his family is poor." When President Nixon sent his proposal to Congress for reauthorizing the Higher Education Act in 1970, he said, "No qualified student who wants to go to college should be barred by lack of money. That has long been a great American goal: I propose that we achieve it now." With this bill we propose to continue to pursue the goal and the dream of equal educational opportunity for all Americans.

In specific, enacting H.R. 3553 would ensure that:

All students regardless of income will be able to borrow up to the maximum Stafford loan, with eligibility for the in-school interest subsidy based on financial need. As a result, in the first year, 3.1 million students would either be newly eligible to borrow or would be eligible to borrow an increased amount; 1.7 million of these borrowers would be from middle income families—incomes above $30,000.

Through changes in need analysis, eligibility for the in-school interest subsidy will be expanded. For example, a student from a family with an income of $78,500 attending the average-priced college will be able to receive the in-school subsidy.

All parents regardless of income with no adverse credit history will be able to borrow up to the total college cost minus other financial aid through the PLUS Program. The interest rate in this program would also be capped at 10 percent. Approximately 6 million families of students would be able to borrow increased amounts. Well over half of these families would be middle income.

A family's home, farm and small business equity will not be considered in determining a student's eligibility for financial assistance.

The maximum Pell grant award will be increased to $4,500 and a student from a family of four with an income of $49,000 will be eligible for the minimum Pell grant. At full funding in the first year, 5 million students would either be newly eligible to receive a Pell grant or would be eligible for an increased grant. About 1.1 million of these Pell grant recipients would be from middle income families.

H.R. 3553 also improves the effectiveness of student aid in other important ways. Nearly 100 provisions in the bill strengthen controls on schools and colleges to end waste and abuse and to minimize loan defaults. These provisions include prohibiting the use of commissioned salesmen and recruiters, requiring pro rata tuition refunds and strengthening the ability of the Department of Education, the States and accrediting bodies to terminate the eligibility of schools which abuse the programs. H.R. 3553 ensures that an increased investment in student aid will be well spent.

Many students and their families are denied access to student aid because they cannot navigate through the bewildering complexity of the current student aid forms and delivery system. H.R. 3553 provides for dramatic simplification including a single free Federal form for applying for Federal student aid and a single need analysis and allows students to update their application from the prior year rather than filing a complete new application each year.

Nontraditional students—those who are older, independent of their parents, working or attending school part time—are now the majority in postsecondary education. H.R. 3553 revises the programs to serve these students more effectively by increasing support for child care expenses and extending eligibility for Pell grants to less than half time students.

Students and their families are frequently not well informed about the availability of financial assistance, the range of postsecondary educational options and the appropriate high school programs that lead to postsecondary education. H.R. 3553 improves early outreach and intervention efforts by strengthening the TRIO programs, creating a new Federal-State partnership to provide tutoring and advising, providing support for training high school counselors and establishing a national computer network of financial aid information.

H.R. 3553 also extends and improves the programs to support historically black colleges and universities, teacher training, college libraries, international education, the fund for the improvement of postsecondary education and community service.

H.R. 3553 was written on the basis of recommendations received from the administration and more than 100 national organizations interested in higher education. In addition, the bill draws extensively from bills introduced by Members of the House. Provisions from 58 bills that were referred to the Subcommittee on Postsecondary Education have been incorporated into H.R. 3553. Following my statement I am including in the RECORD a list of the bills and their sponsors which were drawn upon for contributions to H.R. 3553. These recommendations and bills were scrutinized in 44 days of hearings, including 19 days of hearings outside of Washington. A total of 447 witnesses were heard and a hearing record of over 7,000 pages was developed in the 134 hours of hearings.

I urge my colleagues to support H.R. 3553.

BILLS INCORPORATED IN H.R. 3553

Andrews, Robert—H.R. 3211 establishing a direct loan program incorporated as a demonstration program in Part D of Title IV.

Ballenger, Cass—H.R. 2943 requiring an evaluation by the Secretary of Education of programs which offer guarantees of assistance to elementary and secondary school students included in Title XIV.

Barrett, Bill—H.R. 3411 to preclude the consideration of nonliquid assets in the determination of need for Federal student financial assistance included in Title IV.

Clay, Bill—H.R. 1503 to provide financing for capital facilities at Historically Black Colleges and Universities included in Title VII.

Cunningham, Duke—H.R. 3957, "The Higher Education Access Act," to provide assistance to needy students to cover the cost of fees associated with taking Advanced Placement examinations included in Title IV.

Frank, Barney—H.R. 2171 to require notice to borrower by both seller and new holder when a loan is sold included in Title IV.

Gaydos, Joseph—H.R. 3129 to clarify the difference between study by telecommunications and correspondence incorporated in section 484.

Goodling, William—H.R. 2495, "The Teacher Leadership Act of 1991," contributed to the development of Title V particularly with respect to the Mini-Corps, job banks and business partnership; H.R. 2637 (by request), Administration's Higher Education Act reauthorization proposal, contributed a variety of proposals particularly with respect to program integrity and Title III; H.R. 2716, "Integrity in Higher Education Act of 1991," substantially included as Part H of Title IV, "Program Integrity"; H.R. 2852 to encourage articulation between two- and four-year postsecondary education programs included in Title I.

Gordon, Bart—H.R. 3239 to improve the integrity of the student aid programs. Most of the provisions of this comprehensive integrity legislation are included in H.R. 3553; H.R. 3372 to create a comprehensive student aid data system included in Title IV.

Gunderson, Steve—H.R. 3241, "Nontraditional Student Opportunity Act," substantially incorporated into Title IV; H.R. 3426 to improve access to postsecondary education for students with disabilities substantially incorporated into Title IV and other programs.

Hayes, Charles—H.R. 3362 to establish a program for minority international service professional development included in Title VI.

Henry, Paul—H.R. 2433, "The National College Athletics Accountability Act," to require institutional reporting of expenditures for college athletics included in Title IV.

Horton, Frank—H.R. 3437 to require a study of the use of Pell Grants by prisoners included in Title XIV.

Jefferson, William—H.R. 3032 revises Title III, provides for increases in the Pell Grant maximum and a Pell Grant entitlement, modifies the Perkins program, need analysis and general provisions, and includes revisions to Titles II, V, VI and IX substantially incorporated into Titles II, III, IV, V, VI and IX; H.R. 3244 revises Title III included in Title III.

Kildee, Dale—H.R. 3179 amends the cooperative education programs substantially included in Title VIII; H.R. 3181 amends the college library programs included in Title II; H.R. 3455, "Tribal Development Student Assistance Act," and H.R. 3456 included in Title XIII.

Klug, Scott—H.R. 2952, provides Perkins loan forgiveness for providers of services to individuals with disabilities included in Title IV; H.R. 3182 amends Title VII included in Title VII.

Lipinski, William—H.R. 3136 to provide for evaluation of the TRIO programs included in Title IV.

Lowey, Nita—H.R. 2065 requires institutions of higher education to disclose foreign gifts included in Title XII; H.R. 2142 expands focus of programs under the Higher Education Act to promote access to the sciences for women and minorities included in part in H.R. 3553; H.R. 2350, "National Liberty Scholarship and Partnership Act of 1991," incorporated in Subpart 4 of Part A of Title IV.

Machtley, Ronald—H.R. 1141, "Education Partnerships Act," to permit students to use College Work Study funds for mentoring activities included in Title IV.

Miller, George—H.R. 907 allows the use of state assessment system in the determination of eligibility for Title IV of ability-to-benefit students incorporated in Title IV.

Mink, Patsy—H.R. 2300 provides for cancellation of Perkins loans for borrowers entering nursing included in Title IV; H.R. 2331 provides Pell Grant eligibility for less-than-half-time students substantially incorporated in Title IV.

Molinari, Susan—H.R. 3261 authorizes pre-freshman summer outreach programs for at-risk youth incorporated in Subpart 4 of Part A of Title IV.

Owens, Major—H.R. 3189 provides for support for minority students and faculty members to complete doctoral studies included as Part G of Title IX.

Panetta, Leon—H.R. 1154, "Global Education Opportunities Act," to facilitate the participation of students in programs of study abroad included in Title IV.

Payne, Donald—H.R. 3364 revises several programs to expand postsecondary opportunities for low-income and minority students substantially included in H.R. 3553.

Perkins, Carl—H.R. 3632, "Work Colleges Act," to provide increased College Work Study support for work colleges included in Title IV.

Reed, Jack—H.R. 3078 removes home equity from the determination of expected family contribution included in Title IV; H.R. 3274 and H.R. 3275 alternative approaches for excluding from need analysis assets in accounts which have been frozen included in Title IV; H.R. 3329 amends the TRIO programs to encourage more efficient and effective administration and to strengthen early intervention services for disadvantaged youth included in Subpart 4 of Part A of Title IV.

Richardson, Bill—H.R. 2009, "Higher Education Tribal Grant Authorization Act," and H.R. 2821, "Critical Needs for Tribal Development Act," to improve the postsecondary educational opportunities of Native Americans incorporated in Title XIII.

Roe, Robert—H.R. 190 to remove home equity from the calculation of expected family contribution included in Title IV.

Roemer, Tim—H.R. 3279 increases Pell Grant maximum and allowance for child care in need analysis included in Title IV; H.R. 3396 amends the Fund for the Improvement of Postsecondary Education included in Title X.

Roukema, Marge—H.R. 1117, "Student Financial Aid Improvement Act of 1991," revises independent student definition, prevents double counting of student income, excludes home, family farm and small business assets from need analysis, provides for overaward tolerance in College Work Study, restricts eligibility for Title IV assistance of parents of a dependent student and reduces amount of dependent student's contribution from income incorporated in Title IV; H.R. 1118, "Student Loan Default Prevention Act of 1991," includes provisions for exchange of information between guaranty agencies and State licensing boards, increased information from borrowers, improved exit interviews, restrictions on commissioned recruiters, academic year definition and application of tuition refunds to repayment of federal funds included in Title IV.

Sawyer, Tom—H.R. 1524, "Student Counseling and Assistance Network Act of 1991," incorporated in Subpart 4 of Part A of Title IV; H.R. 2531 provides for Urban Community Service and Urban College, University, and School Partnerships programs included in Title I.

Serrano, Jose—H.R. 2938 establishes a Teacher Opportunity Corps to enable paraprofessionals working in schools to become teachers incorporated in Title V.

Solomon, Gerald—H.R. 933 to prevent the double counting of student income and assets included in Title IV.

Weiss, Ted—H.R. 3334, "Perkins Loan Improvement Act," to allow cancellation for teachers who teach in any Chapter 1 school included in Title IV.

Williams, Pat—H.R. 2561, "Middle Income Student Assistance Act of 1991," expands eligibility for student loans, provides for an assurance of Pell Grant funding and excludes home and family farm equity from consideration in need analysis included in Title IV; H.R. 2597, authorizes support for the National Board for Professional Teaching Standards included in Title V; H.R. 2912 authorizes support to institutions of higher education for programs to recruit and retain students preparing to become teachers largely incorporated in Title V.

Wise, Robert—H.R. 4260 increases maximum Pell funding, excludes home, farm and small business equity and establishes single need analysis system included in Title IV.

Mr. GOODLING. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. COLEMAN], the right hand man of the gentleman from Michigan [Mr. FORD].

Mr. COLEMAN of Missouri. Mr. Chairman, I am pleased that we are finally considering the bill to reauthorize the Higher Education Act.

When we started this process over a year ago, it was my hope that we could continue one of the proudest traditions on the Education and Labor Committee: Full bipartisanship on the reauthorization of the Higher Education Act.

Unfortunately, in this election year, this was not to be the case. I, a strong supporter of Federal support to higher education, found myself in the regrettable position of having to vote against H.R. 3553, the reauthorization bill that was reported out of the committee.

I am pleased to stand before you today to tell you that we have come a long way from that point. H.R. 4471, the substitute amendment we are considering today, reflects many hours of hard work and compromise by Republicans and Democrats on the Education and Labor Committee.

H.R. 4471 reauthorizes the Higher Education Act for 5 years. It makes a number of significant and fundamental changes in the scheme of Federal support of higher education.

The bill improves student aid opportunities for hard pressed middle-income families by:

Eliminating consideration of home, farm, and small business equity from the calculation of a student's eligibility for student grant or loan assistance.

Revising the Pell grant program so that a family of four with an income of up to $49,000 will be eligible to receive a Pell grant award. Under this bill, an additional 1.2 million students will become eligible to receive Pell grant awards in the first year of the authorization.

Expanding eligibility for guaranteed student loans to an additional 350,000 students from middle-income families.

Adding an additional education savings protection allowance so that families who have saved for their children's education have an incentive for doing so. This allowance is equal to the amount of the family's expected family contribution.

Creating a new, unsubsidized loan program which will ensure that educational loans are available to all students regardless of their family income.

Students and their families are frequently not well informed about the availability of Federal student aid, the range of postsecondary education options, and the appropriate high school programs that lead to postsecondary education. The bill improves outreach and early intervention by:

Strengthening the existing TRIO programs.

Creating a new Federal-State partnership to provide tutoring and student advisement.

Developing a national computer network of financial aid information.

Many students and their families are denied access to student aid because they cannot navigate through the bewildering complexity of student aid forms and delivery systems. The bill seeks to address these problems by:

Providing for a single, free Federal student application form.

Allowing students to update their application from the prior award rather than file a completely new form each year.

Developing a single system of needs analysis for assessing a student's financial need.

Providing for a straightforward system of student loan deferments.

Perhaps most important, the bill goes beyond trying to correct the problems with our student aid programs which have already occurred and emphasizes preventing problems in the future. The bill includes nearly 100 provisions to strengthen controls over schools to insure an end to waste and abuse and minimize loan defaults. Many of these provisions are a direct outgrowth of recommendations made by the Department of Education's inspector general. For example, it:

Spells out minimum standards for State licensing. Although State licensure has long been a requirement for title IV eligibility, there have never been any clear expectations of what State licensure should entail. These new standards will ensure that the State licensure will really mean something.

Under the bill, the Secretary of Education must review all institutions wishing to participate in the Federal student aid programs against criteria such as default rates, compliance with Department of Education title IV requirements, and student complaints. Through his review, the Secretary identifies institutions who meet this criteria and refers them to the State for an indepth review with the State postsecondary review agency to conduct such a review. Under this State review, instituions are required to meet published State standards which include: The quality and content of the school's programs and financial and administrative capability; success with regard to student completion; student withdrawal and student placement. Schools that do not meet these State standards will be terminated from eligibility for continued participation in student aid programs.

Strengthens the Department of Education's hand in its review of institutions seeking eligibility for participation in title IV funds. Under this bill, every institution seeking participation in student aid programs must be recertified by the Department of Education and regularly re-reviewed. The bill also requires that eligibility is contingent upon meeting strong administrative and financial capability tests.

Requires standards by which accreditation agencies are to be judged by the Secretary. Like State licensure, the Department of Education has often overrelied on accreditation in the review of institutions. Setting out a clear articulation of standards for accreditation will enhance their role as a title IV gatekeeper.

Strengthens criminal penalties for program fraud.

Prohibits the use of commissioned salesmen and recruiters.

Requires institutions to provide pro rata tuition refunds.

Throughout the reauthorization process, I have recommended that a harder look be taken at the problems with the current GSL program.

In looking at the problem of student loan defaults, I have found that rarely, if ever, is the loan delivery mechanism the cause of defaults. Rather, in virtually every case, it is a failure of institutional accreditation of Department of Education certification of eligibility of institutions that has led to loans being made to students virtually certain to later default on them. This is a problem that I believe is intensively addressed in H.R. 4471.

The changes that the gentleman from Michigan and I have worked out to promote institutional integrity and rid the student aid programs of the bad actor schools, will in my opinion, further reduce defaults and the flow of red ink created by bad loans.

While H.R. 4471 makes great strides to guard against program abuses, I still believe more could be done to enhance the integrity of our student aid programs. I understand that several amendments will be offered to title IV in this regard and I will speak on those which I support as they come up.

Much has been said over the last several months on the supposed savings to be derived under direct loans, with savings estimates of up to $1 billion a year being suggested by some. I question these savings claims. In January 1992 the Congressional Budget Office issued a report that indicated that claims that direct loans save money over guaranteed loans are overstated since direct loan programs have administrative costs which are unaccounted for under credit reform. At least one big six accounting firm, who has thoroughly reviewed the direct loan proposal has suggested that there are no savings at all once the transitional costs and increased costs to educational institutions are taken into account.

The fact that direct loans appear to be less costly under the Credit Reform Act than the current program should not blind us to the fact that, under credit reform, administrative costs and transitional costs are simply not taken into account.

We need to get past simplistic notions that Federal funds will be less costly than private sector funds, and start focusing on the fact that the Government is likely to be a dramatically less efficient manager of the student loan program than the current guaranty-agency-based program.

Finally, and most troubling to me personally, is the complete absence of accountability in the direct loan demonstration program. Under direct loans, the Federal Government provides 100 percent of the money to make the loans through Federal borrowing and pays 100 percent of every default claim.

However, despite all my reservations about direct lending, I reluctantly agreed that, given the level of interest and concern regarding direct lending, the bill ought to authorize a demonstration program to put to rest the question of whether the Government should run the student loan program.

The committee amendment contains a provision for a direct loan demonstration project of $500 million. I have yet to be convinced that movement toward direct Federal funding of student loans is a step in the right direction.

I feel very strongly that any demonstration project must be limited in scope. The demonstration program in H.R. 4471 is far too large and open-ended to test whether or not this program will work and I will offer an amendment to limit this demonstration to the loan volume to $500 million a year.

In closing, I want to thank all concerned on the Education and Labor Committee for the work they have done to bring us to the point we are at today. I hope before H.R. 4471 passes this House that we be able to amend it and make it an even stronger piece of legislation.

□ 1750

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GAYDOS], the ranking Democratic member of the committee.

Mr. GAYDOS. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise to support this bill reauthorizing the Higher Education Act of 1965 for two primary reasons. First, it recognizes that students from families considered to be in the middle-income category—typically $30,000 to $50,000 a year—need assistance if they are to pursue higher education.

And, second, it recognizes that many Americans who are interested in non-academic programs and especially those men and women with families to support who have recently lost their jobs need access to quality schools that offer specific skill training in order to get into the job market as quickly as possible.

Both of these groups need to be served and the bill before us today makes that commitment because we know the value of higher education—regardless of the type of educational program or the size or the type of institution attended.

It is easy to see the personal financial benefit education provides because men and women who continue their educations past the high school level consistently earn more money on average each year than people who do not. In 1990, for example, the average income for high school graduates was almost $18,000, compared to incomes of about $24,000 for those with 1 to 3 years of postsecondary study and $31,000 for college graduates, according to the most recent statistics from the Census Bureau.

One simple fact that is all too often overlooked is that the United States, as a whole, also benefits when Americans are provided with the necessary assistance to pursue higher education.

Look at the experiences of our World War II veterans. Through the GI bill the Government invested $14 billion in education and job training benefits for 7.8 million men and women. For every dollar the Government spent in education under the GI bill, the Nation got back no less than $5 and as much as $12.50 by most estimates.

We can even look at a more recent group of students, the high school class of 1972, and see similar results according to a 1990 study. For every dollar we invested in these students under the financial assistance programs, we get a return of $4.30 just in tax revenue to the Government.

And even the return of $4.30 in tax dollars alone is an extremely conservative estimate according to the economist and the professor who conducted the study. They also conclude that the failure to invest appropriate levels of Federal funds in student financial aid has serious consequences.

One of the major consequences cited in the study is that access to higher education could be limited since students who are able to attend would fail to do so because of a lack of finances.

We have already seen students delaying postsecondary education for a year or two and sometimes even indefinitely simply because they don't have the money to go straight from high school to college. If this continues much longer, it probably won't be too long before we see financially strapped young Americans forgoing college altogether.

We should take this even farther because it is common knowledge that insufficient financial resources not only affects access, but also affects choice.

Unfortunately, many students are choosing the schools they will attend based on what the institutions charge for tuition and other items, and, far too many students have already been forced to forget about attending their first, second, and even third choices simply because the costs are too high.

What is more, the students who seem to be hurt most are those from middle-income families. This is why I wholeheartedly support the provisions in this bill which would help bring these students back into eligibility for the student assistance programs—and particularly the Pell Grant Program.

Over the past several years, due to Federal budget constraints, inflation, and skyrocketing costs of higher education, the purchasing power of the Pell grant has steadily declined.

This has had disastrous consequences for all students and their families. Even while the grants have continued to be available to the very neediest of needy students, many of these low-income students still have had to rely on loans to fund most of their educational expenses.

But, middle-income students, who very rarely qualify for even a minimum Pell grant of $200, have been forced to rely almost exclusively on loans if they decide to further their educations.

After 4 years of school and no guarantee of finding a job, some of these graduates face $30,000 to $40,000 of debt—an overwhelming and unmanageable burden. And, if a middle-income student goes on to medical or law school, the accumulated debt burden is often more than $100,000.

One provision in this bill raises the maximum amount of a Pell grant from $3,100 to $4,500. This will enable a student from a family of four with an income of about $49,000 to be eligible for a minimum grant of $400. That may not seem like much, but, believe me, every bit of assistance helps.

Unfortunately, this could end up being an empty promise if not enough money is appropriated to fully fund the program.

While many of us would like to see Pell grants become an entitlement program, this will not become a reality under the current Republican administration because the President has threatened to veto any reauthorization bill—no matter how beneficial it would be for students, parents, and this country—if it has anything even remotely resembling an entitlement for Pell grants.

Nonetheless, by raising the maximum grant amount and through other changes to the current law, we are taking a step in the right direction by trying to provide as much assistance to students as possible.

This does not mean, however, that I support everything in the bill. I believe some of the provisions in this bill are an overreaction to a perception that too many of America's higher education institutions, particularly the for-profit career training schools, are in business just to rip off their students.

Frankly, nothing could be further from the truth. In recent years some people were so insistent that the student loan default rate should be used as a gauge to determine the quality of educational programs that two very basic facts about the default rate have been consistently overlooked.

First, study after study has proven that the No. 1 reason students default on their loans is they don't have the money to pay them back—not because they did not benefit from the education and not because they were dissatisfied with the program.

Some studies have looked at students to try to determine what conditions, or risk factors, prevail when students are unable to repay their loans. These studies have concluded that students are at a higher risk of defaulting if they come from low-income families, have little financial and moral support, and take out smaller loans. It has also been found that many loan defaulters are single parents.

Knowing this, it is not surprising that more of these students choose a career training school so they can learn needed skills and get a job quickly instead of devoting 4 years to an academic program that may or may not teach them marketable skills. It is also not surprising to find that student loan default rates are higher in the career training sector than in the 4-year college sector of the educational community.

And, second, the student loan default rate does not accurately reflect how many students actually default.

Default rates indicate the percentage of students who ever entered default. Once a student defaults on his or her loan, that student is always counted as a default—even if the loan has been fully repaid.

One study conducted for the Department of Education found that between 40 and 45 percent of defaulted loans enter repayment within a period of 36 months, and that 30 percent of these enter repayment within 20 months with the majority entering within the first few months of default.

The default rate is clearly not an accurate measure of how many student loans are in default. It is also absurd to think this erroneous figure could or should be used to judge where abuses in the student assistance programs are occurring.

I think we are all well aware that there have been abuses and that these abuses were coupled with a severe lack of oversight. In recent years, the situation had gotten so serious that very understandable and very necessary integrity questions have been raised regarding the stability and purpose of the programs, as well as the structure of the delivery system and the effectiveness of the entities responsible for conducting oversight.

This bill tries to answer those questions and put in place reforms that will hopefully eliminate current abusive practices and decimate any opportunity for future forms of abuse to be implemented.

Not everyone is happy with some of these reforms. The attitude surrounding most of the discussions about these provisions seemed to be, "yes, there is abuse but not in my backyard. You should devote all of your attention to the other guys and leave us alone to go about our business."

I have heard this from all of the groups who have a hand in the assistance programs—including the banks, secondary markets, and servicing agencies, as well as the schools.

One thing that has aggravated me for years is that even though we know full well that there has been abuse practiced by all of the players in this program and throughout every sector of the higher education system—from 2- and 4-year universities to community colleges and career training schools—

the favorite scapegoat for both real and perceived abuses in the programs consistently has been the for-profit career training schools.

Year after year, students in short-term programs that provide job skills have been a major target in the budget reconciliation process. Actions were taken that reduced the amount of financial assistance available to these students under the guise of saving money by reducing loan defaults and ending abusive practices which were somehow perceived to occur only in this sector.

I am encouraged to see that this reauthorization legislation appears to treat these students and the schools which serve them more fairly than in the past, and I applaud the effort that has been made along these lines.

It is true that some of the program integrity provisions will be difficult for many schools in all sectors of the higher education community to comply with, but, hopefully, they will be implemented and enforced in a fair and unbiased manner.

If they are, I am confident that the good schools from all of the sectors will be able to comply with the provisions and continue to provide their students with high-quality education.

We need good schools now more than ever—particularly quality career training schools.

Career training schools have been, and continue to be, a vital and necessary component of our higher education system almost from the very beginning of formal education in this country. They provide students with the avenue to acquire needed skills allowing them to enter the labor market quickly or to upgrade or build upon existing skills enabling them to get a better job.

These are not the students we want to eliminate from the assistance programs—especially now, when so many men and women are unemployed because their jobs have been eliminated and desperately need retraining if they are to get jobs in new lines of work.

We must ensure that these students as well as students wishing to attend 2- and 4-year institutions have access to the education they need and want. We cannot afford to do anything less.

At no time in recent memory has the necessity of providing hundreds of thousands of displaced workers with the skill training needed to reenter the work force, upgrading the skills of American workers so we can compete with other countries, and improving the quality of life for all Americans been as pressing as it is today.

We know that investing in education can accomplish all of these objectives. It is an investment that we must make and one we will never be sorry for having made.

I urge all of my colleagues to vote for H.R. 4471.

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 3553, the Higher Education Amendments of 1992. I want to congratulate the chairman, the gentleman from Michigan [Mr. FORD] and the ranking member on the subcommittee, the gentleman from Missouri [Mr. COLEMAN]. I doubt whether there is any piece of legislation that has come to the floor of this House recently that had probably as much scrutiny, as many hearings, as much writing, rewriting, et cetera, as this piece of legislation. I think we now have a very excellent opportunity to present the American public with the finest higher education bill that we have ever had, and they have always been good because the chairman has written them all. So how could they have been anything other than that?

The programs authorized by the Higher Education Act are enormously important to the lives of American students and their families. These programs have provided billions of dollars in the form of grants and loans for postsecondary educational opportunities. Last year, these programs provided over $5.2 billion in grants and over $12 billion in loans leveraged by the Federal guaranty. I am especially supportive of the changes made under to the loan program in determining a student's financial need and, hence, the student's eligibility for Federal student aid. Under this bill, we have eliminated the family home, family farm, and family small business in the calculation of need under need analysis. This bill truly takes enormous steps to increase access for American students to a postsecondary education.

I am pleased that the bill includes provisions from three bills that I introduced: First, changes in title V, educator recruitment, retention, and development which are programs for teacher education and recruitment through, State and local programs and programs conducted by institutions of higher education; second, additions to title I, articulation agreements between 2-year colleges and 4-year colleges in order to assure that academic credit earned by a student at a 2-year institution will be transferable to a 4-year institution; and third, changes to title IV, part H, dealing with program integrity and State oversight in order to curb defaults and ensure quality programs are receiving Federal aid. As you know, the student aid programs have been under severe need of increased accountability and oversight. Last year, the program reached an all time high of $3.6 billion in default costs. Of the $52 billion loaned to students under this program, $17 billion is currently in default. We must ensure that the law requires accountability and oversight.

That is one of the reasons, having just said that, that I have some real concerns about a direct loan, simply because I feel that we have to really show the American public that we can clean up the present act. Second, we have no research, nothing to turn to to indicate that the fact that the American taxpayer will guarantee 100 percent, not the institutions who would be direct loaning, means that we could be in serious trouble. It is an unknown. I do not know how anyone can credit savings in this particular area, although CBO did, because, as I said, it is an unknown and it could be just the opposite. There could be tremendous risk.

I too, like the gentleman from Missouri [Mr. COLEMAN] would like to limit the pilot program. I would like to make sure that no one is forced into it that does not want to be in it. There is no question in my mind that institutions who have all sorts of money coming to them from different sources are familiar with this and can handle this. But that is a small percentage of colleges and universities that are out there.

The second concern I have deals with the 600 clock hours. I notice that a staffer was quoted as saying Republicans tend to see these institutions as businesses and say, therefore, we ought not to be too harsh on someone who is trying to make a buck, where Democrats tend to see them as points of access for training for some lower income students. I do not know where he did his survey. I never heard anyone, any Republican on this committee ever tell me that that was their purpose for wanting to try to make sure that the good proprietary schools and the good courses that may be short courses continue. I always thought that they were telling me, and I am sure that is what they were, as well as every other Republican that came to me and made it very clear to me that their concern was what do we do about the 50 percent, 51 percent or more of students who never go on to a 4-year institution, but who must be trained and retrained many times.

I just visited a heavy equipment operating school. I never met graduates of a school that were so enthused about the training that they received and were so pleased that they were out there with a job that was very, very beneficial to the community, but also paid quite well.

One of the gentlemen, after 17 years working for a company, all of a sudden found himself without a job because the company closed its doors. He was a father of three small children. He had no idea what in the world he was going to do. He did not know how he was going to support his family. He did not know how he was going to be able to get any help to go about getting some training and retraining that was necessary.

□ 1800

Fortunately, there was help, not only the help that we have provided here but some other help that he could get in order to get that training, and now he is a very successful operator, but he is also a great provider for his family, and he is not on any public assistance.

So again, I would hope that we would be very careful, as I said before, when we point out how terrible some of these institutions are, and there is no question that there have been an awful lot of fly-by-night organizations that got away with public money. We made a lot of corrections to that. We have done a lot of good.

I think we can do some more, but at the same time we want to be very, very sure that the people who need this training have an opportunity to get it, and if they do not have any money, they will need help somewhere, or they will continue through life drawing public assistance, et cetera, and not being a productive citizen in our society. So I think if we can make a couple of changes, we will have the best.

As I said before, they have all been good, but this will be the best higher education bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SAWYER. Mr. Chairman, I yield 2 minutes to my friend, the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Chairman, I thank the gentleman for yielding me this time and for this opportunity to call upon our Members to support and quickly pass this comprehensive reauthorization of the Higher Education Act.

There is no piece of legislation more critical to the future of this country than this measure. I know that the Committee on Education and Labor members and staff have worked long and hard to craft a reasonable and balanced bill, and I commend them for their work.

There is another component, however haunting, to today's debate. We must call upon the President to lay aside politics of the current campaign and work with us, not against us, in the interests of America's young people.

In only a few short years the United States will enter the 21st century. At present we are witnessing a remarkable change in the makeup of the world's superpowers.

We cannot remain the strongest power in the world on the sheer fact of our military prowess. We cannot expect to remain the leading symbol of political and economic success with the rest of the world if we fail to properly support and educate our young people.

This debate is not about who wins or loses this November's election. It is how many of our children will go on to school.

We can no longer rely upon our elementary and high schools to properly educate and prepare our young Americans to go out and conquer the world and succeed ahead of others with just that education. A college education or a proper technical training should be available to every qualified young American. I cannot emphasize that enough.

I wish that we would have this as a matter of right for every young person. Hopefully, this measure which consumes 97 percent of its total assets in educating America's young people of tomorrow will be a step in the right direction.

I urge all of our Members, after the lengthy debate on amendments tomorrow, to support its passage.

Mr. GOODLING. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, let me join with those who have come before me from the Committee on Education and Labor in commending the chairman, the gentleman from Michigan [Mr. FORD] and all of the staff and his colleagues on the Democratic side, and certainly the gentleman from Pennsylvania [Mr. GOODLING], the gentleman from Missouri [Mr. COLEMAN], and all the staff on our side of the aisle for all the work that they have put into this reauthorization.

Mr. Chairman, if you are interested in restoring America's competitiveness in the world economy, if you are interested in preparing America's workers for the 21st century, if you are interested in making sure that Americans have the opportunity for upward mobility, not downward mobility, in the years in front of us, it is this bill which will be the most important piece of legislation that Congress will consider during this session.

We on the Committee on Education and Labor, as we began this process some time ago, really faced six major challenges before us. We recognized that we literally could not keep up with the challenges families and students faced as they tried to continue their education and training in the high-technology world that demanded that. The reality is that schools across this country, for many reasons, some legitimate, some not so legitimate, have continued to increase their tuition charges at least twice the rate of inflation. We on the committee have increased funding for student financial aid since the beginning of this last reauthorization between 1986 and 1990 by 16 percent, almost $2 billion, and yet we find that fewer families are able to obtain the financial resources they need.

In particular, we began this process recognizing that middle-income families were more and more finding themselves ineligible for student financial assistance and, therefore, an opportunity for postsecondary education.

We recognized that the demographics of our student body were changing dramatically when now a majority of students attending postsecondary education were adult nontraditional and, in most cases, part-time students. We recognized that last year this Congress passed the Americans with Disabilities Act to deal with the handicapped in the workplace of America. We recognized that earlier, in handicapped education, we had dealt with handicapped students in the elementary and secondary grade levels. We recognized, however, that gap that higher education had still not opened its doors for full opportunity for the handicapped population.

Fifth, we recognized real challenges faced us in the area of graduate education. Almost 50 percent of the graduate-education degrees in American colleges and universities today unfortunately go to foreign students. In the area of math and science, something like 57 percent of the graduate degrees go to foreign students. We are happy to provide this industry for them. We are challenged by the fact that we need more and more American students to participate in those programs.

As those before me have mentioned, we recognize the challenges in the area of program integrity, especially in the area of guaranteed student loan defaults.

Perhaps it was put best as we tried to meet these challenges for us to look back at the 1965 committee report in the first Higher Education Act of that time, and I would like to quote from that act where it said,

> The committee has not set age limitations with respect to recipients, nor is a preference accorded to any specific academic discipline or year of study.

Well, as I mentioned earlier, one of the great challenges we faced in this particular reauthorization is the market change in the composition of that student body. Today more than 5 million students, over 40 percent of those attending postgraduate secondary education, are older than 24 years of age, and the average age of a student attending community colleges in our Nation is 29 years of age. Two-thirds of those students attending our postsecondary institutions in this country, Mr. Chairman, attend on a less than full-time basis.

Recognizing these changes, I personally am pleased to report to the full Congress that a number of provisions deal with these particular problems. In the area of the nontraditional student, we now include changes in removing the farm, the home, and the small business from calculating that student's eligibility for financial aid. That helps middle-income people. That is essential to that single parent head of household who seeks financial assistance as they return to college.

Second, we have formally defined what a nontraditional student is.

Third, we have opened up the Pell grant eligibility for less than half-time students, and I would call to the attention of my colleagues tomorrow, as we consider the amendments, an amendment I will offer strongly supported by the administration that will expand eligibility both for Pell grants and for the guaranteed student loan to those students all the way down to a one-course enrollment.

Many, many of our adult single-parent heads of households are taking one three-credit course per semester. If they qualify for financial aid, they should be eligible for it even if they are going part time at that level. This becomes essential in making sure that we truly are a nation of students.

Fourth, we are directing our colleges and universities to expand their human resource departments of operations to deal in evenings and weekends with those nontraditional students.

□ 1810

We have asked the Department to begin doing the kind of study necessary to get the accurate statistics we need to assess exactly what kind of service we are or are not providing to the nontraditional students. Unfortunately, none of that data is eligible today.

Finally, we are making sure that for those students who go to school part time because they are disabled that they will be considered in terms of eligibility for financial aid. They will not be biased by their handicap or by the costs associated uniquely with their handicap or disability.

Finally, in the area of disability, we also move to establish a national clearinghouse for postsecondary education materials for students with disabilities, a major problem we have discovered across this country, thanks to a blind student by the name of Paul Frank at Viterbo College in my district, and we have called for the formation of partnerships between higher education institutions and secondary schools serving students with disabilities.

Mr. Chairman, we bring you a good bill from the Committee on Education and Labor. At a time of polarized partisanship, we also bring you a bipartisan bill. This is a commitment, an investment in the future of our Nation. We ask you to join with us in supporting it and moving it to enactment.

Mr. SAWYER. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, I rise in full support of H.R. 4471, because I think it is a good bill.

Mr. Chairman, I rise today to express my support for H.R. 4471, the Higher Education Amendment Act of 1992, and want to commend my chairman, Mr. FORD, for his tireless efforts in bringing this important measure to the floor. It has always been my belief that education is the most effective means of expanding economic and social opportunity. It often serves as the cornerstone of personal achievement, and is essential to winning the battle against many of this Nation's greatest social ills such as crime, drug abuse, unemployment, and poverty. For nearly every challenge that we face, education can be a principle factor in the solution.

Mr. Chairman, these are the reasons why I serve on the Education and Labor Committee, and why I am committed to improving educational opportunities in this country. It is more than appropriate that the largest domestic measure to be considered by the 102d Congress thus far is today's education bill. Providing access to education is clearly an economic stimulus—a concrete answer to the Bush depression under which this country continues to suffer.

As you know, the higher education amendments of 1992, authorizes the major Federal programs supporting postsecondary education. After over 400 hearings and many days of drafting, I believe that our committee has developed a measure that makes positive improvements in postsecondary education.

H.R. 4471 specifically:

Boosts the Pell grant maximum award from $2,400 to $4,500;

Raises the income level for Pell grant eligibility from $30 to $50,000;

Expands Pell eligibility to less-than-half-time students;

Allows all students, regardless of family income, to obtain loans;

Expands the TRIO Program to assist first generation and disadvantaged students prepare for college;

Increases support for child care expenses;

Forgives students' loans in cases of school closings; and

Simplifies the student aid application.

While this reauthorization moves this Nation in a very positive direction, I am disturbed by key provisions that have been eliminated. At the outset of this process, I was a strong advocate for the Pell grant entitlement provision. My position has not changed. It is my belief that the entitlement provision directly addressed the issue of the loan grant imbalance and the default rate issue. It is ultimately in our best interest to continue in our efforts to make the Pell grant an entitlement. It is not only an issue of fairness, but is also drastically needed by this Nation's students. The idea is very basic, if the student is eligible for a $4,500 award, he or she should receive that amount.

In addition to the entitlement provision, I also strongly oppose the imposition of the new origination fees on SLS and PLUS loans, and the reinstatement of such fees on the Stafford loan. Placing these burdens on students and their parents severely undermines the intent of this reauthorization. Taxing students who are already needy merely creates additional access problems, and will serve as an obvious disincentive to a higher education. Moreover, as has been pointed out by my dear colleague from Hawaii, PATSY MINK, this issue was never considered by the Education Committee and was drafted by the Rules Committee. I find this approach to be plain and simply wrong.

Finally, Mr. Chairman, I would like to briefly highlight three provisions which I have authored as part of this reauthorization measure. First, H.R. 4471 establishes an institute for international public policy which will develop programs and curriculum with the hope of increasing the number of African-Americans and other minorities in the U.S. Foreign Service, as well as other international services. Second, in an effort to increase the number of women and minorities in the field of science and engineering, the bill creates a new Women and Minorities Science and Engineering Outreach Demonstration Program. Finally, this measure provides training dollars for school-based decisionmakers for school districts in the process of systemic restructuring and reform.

Mr. Chairman, I strongly encourage my colleagues' support for this measure, because in my assessment H.R. 4471 is the first true economic growth package we have considered in this Congress.

Mr. SAWYER. Mr. Chairman, it is my privilege at this point to yield 2 minutes to the gentleman from Rhode Island [Mr. REED].

Mr. REED. Mr. Chairman, I am delighted to be here to support the reauthorization of the higher education bill, and to commend particularly Chairman FORD for his outstanding leadership, and all my colleagues on the Committee on Education and Labor, and also the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Missouri [Mr. COLEMAN] for their efforts in this great undertaking.

When I came to the Congress last January, I wanted to serve on the Committee on Education and Labor, because I truly believed that education is the engine that pulls this country forward. Individually, it is the mechanism by which people rise to seize all the opportunities that this country offers. Collectively, it is the force that has always made us the leader in the world.

Today we have an opportunity to renew our commitment to education through this legislation.

I am an example of someone who benefited from education. I grew up in a working class family. My father was a custodian and my mother worked in a factory. They wanted me to go to school, and with their hard work and my effort and with the assistance of our Government, I was able to go to school, first attending West Point and later going on to law school, and my brother and sister were able to go to school because they could get Pell grants and loans.

We have to commit ourselves to continuing this investment in the people of America through education. It is very, very difficult these days. The cost of education is accelerating. This legislation will give working Americans a chance.

I am particularly struck by the testimony we heard at a field hearing in Providence, in which a mother described the fact that her young daughter graduated from school thousands of dollars in debt, the family itself having borrowed money. This young lady was not able to go directly to the field she wanted because she had to get a job to pay her debts.

What was more unsettling and disturbing is the fact that there was another child in that family, and that child had reached a point where the parents could not make the same effort for her.

I do not want us to return to a situation in which the favorite child gets to go to school. We have to commit ourselves to making education available for all our citizens with the ability and determination to seize it.

Our Nation cannot afford anything less. We are moving away from a world of military confrontation to a world of economic competition. The key to success in that battle is good strong education.

Mr. Chairman, I urge passage of this important measure.

Mr. GOODLING. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Speaker, my thanks to the gentleman from Pennsylvania [Mr. GOODLING], and my congratulations, as others have said, to the gentleman from Missouri [Mr. COLEMAN] and to Chairman FORD and also to the gentleman from Ohio [Mr. SAWYER] for their work in putting the higher education bill together.

This is obviously not a perfect bill. It has been a bill that at times has had a number of contentious points that we have argued about. The gentleman from Missouri [Mr. COLEMAN] indicated earlier some of the concerns that many of us share on this side of the aisle with the direct loan program, and also the Pell grant entitlements; but I think we have come to a point now where we have reached a number of key compromises.

In particular, I want to thank both the gentleman from Pennsylvania [Mr. GOODLING] and the gentleman from Ohio [Mr. SAWYER] for earlier this fall taking time out of their busy schedules to travel to the University of Wisconsin in my home town of Madison to listen to concerns of people at the University of Wisconsin, as well as a number of students and people involved in the vocational technical areas as well.

I think what became clear in that hearing was that this bill will address one fundamental need in our Nation's college community at this point, and that involves financial aid, both loans and grants to the middle class.

At the present time, more than 70 percent of the financial aid in this country goes to people and to families who make less than $20,000 a year.

Now, we have been able to substantially change that by taking the family home or the family farm out of the calculation. We think that the changes in the bill will now allow families with incomes of $40,000 or maybe even $50,000 a year, middle-class standards certainly by today's dollars, to get some help so that they do not have to literally sell their farms or put their homes in hock in order to send their sons or daughters to go on to college.

The bill also has two key provisions of which I am particularly proud. Earlier the gentleman from Wisconsin [Mr. GUNDERSON], my colleague, talked about foreign students in this country. There has been a lot of writing over the last couple years about the entire subject of competitive advantage. Professor Porter at Harvard talked about the fact that some companies manage to succeed, while others fail, and later on made the argument that some nations managed to succeed while others fail because each nation or each company enjoys a number of strategic advantages.

At the present time, more than 450,000 foreign students are studying in the United States. Many of those students from China, India, Korea, Taiwan, and Japan, are studying at my home institution at the University of Wisconsin. Many of them come here to study economics, science, and math. It has been an area in which the United States has excelled. In fact, if you look nationwide at international surveys, consistently 7, 8, 9 of the top 10 science programs in the world are right here in the United States; but if you look at the infrastructure on our Nation's campuses, the buildings where scientific research is done and where graduate students in science do their research at biology and physics buildings, for instance, at the University of Wisconsin, you find that many of them were built with sputnik money in the late 1950's and they are beginning to crumble around us.

In title VII of the higher education bill, I am delighted to tell my constituents at the University of Wisconsin and to the higher education community around the country that we have dramatically increased the amount of money available for States who are willing to put up competitive money raised from either private foundations or from their own taxpayers to help rebuild our Nation's scientific infrastructure on those university campuses. It was an idea that I brought back with me from Madison, an idea that I am delighted to say most of my colleagues quickly embraced.

On the other side of the issue, we are now in the second year of a 5-year program to dramatically assess the problems of children in our Nation from birth to three who are saddled with a number of disabilities, learning disabilities in particular. Under the Perkins Loan Forgiveness Program, we have managed to extend forgiveness programs to teachers who now look at ages from birth to 2, and as we begin to implement this program, as I said, we are in the second year of planning in a 5-year program, and it is obvious that we do not have the teachers to assess children at this point. I think this provision of the higher education bill will help provide more teachers to help accomplish those tasks in that measure.

On the Direct Loan Program, I am delighted to see a compromise that will take us away from a full-pledged program across the country instead to a pilot program, because before we eliminate banks and other financial institutions, I think it is crucial that we discover if a direct loan program will work and to see if the Department of Education really has the resources and has the ability and the willingness to collect the money.

Finally in closing, if I can tell you how delighted I have been as a freshman to be able to participate in putting together what I think is one of the most important pieces of legislation this House will pass this year, one of the more important pieces of legislation any Congress can act on and for the more than 40,000 students at the University of Wisconsin in Madison and the faculty and staff, they and I hope, with fingers crossed, that all this hard work of the last year can be put behind us and that we will be able to see a bill passed out of this House sometime tomorrow.

Mr. SAWYER. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. MARTINEZ].

Mr. MARTINEZ. Mr. Chairman, I rise in support of the bill, for various reasons: No. 1, I think actually it created a hundred ways to curtail the abuse and the default in student loans, and because I know it goes a long way to provide access and opportunity to many young people who hitherto have not had it.

Mr. Chairman, once upon a time high school was considered a luxury—today it is mandatory. Even low-technology jobs—such as auto repair and security—have gone high technology. Today's car has more computer power than the first lunar lander. America now faces a choice of high skills or low wages.

America has chosen to invest in people. From Jefferson's northwest ordinance schools to Lincoln's land grant colleges to Truman's G.I. education bill to Johnson's student aid, our Nation has widened access to education for all Americans with the ability to benefit from education opportunities. That is American wisdom.

This legislation builds accountability and opportunity. It includes over 100 provisions to eliminate student aid abuses and defaults. It cracks down hard on the fly-by-night operations and rip-and-skip folks. This legislation reinforces accountability.

Opportunity is the other part of the American agenda. The swelling cost of college tuition has put college out of reach for all too many Americans.

Education remains our best investment in a better future. After World War II America invested in the G.I. bill for education. The G.I. bill not only paid for itself—bringing in between $5 and $12.50 for every dollar invested in it—it also built the foundations for our modern economy.

In the last decade, Republican Federal student aid focused on putting low-income students in debt, and squeezing middle-income students out of eligibility for student aid.

The consequences are clear—high default rates among low-income students trying to begin careers, keep a roof over their heads, start good families, and repay Federal loans. Meanwhile, middle-income families found themselves squeezed out of eligibility for many aid programs. The results show up in many ways—including the declining proportion of blacks and Hispanics enrolling in college. This is truly something that American cannot afford.

Today is the time to set clear priorities. Like the G.I. bill, this legislation invests in America—to help provide real access to all students—increasing Pell grants so that they can once again help pay for real education, and restoring middle class access. This legislation helps bring college back into reach for all Americans.

Our high-technology economy requires high skills. Access, accountability, and investment in a better future—that is what this legislation is about. We need smart students, not just smart bombs. I urge my colleagues to join in supporting this vital legislation.

□ 1820

Mr. SAWYER. Mr. Chairman, I yield 1 minute to my friend, the distinguished gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I rise today to express my strong support for the reauthorization of the Higher Education Act, and I commend my colleague, Mr. FORD, for his diligence and timeliness in bringing this important legislation to the floor.

H.R. 4771 improves existing student assistance programs and provides greater access to higher education for all students, especially students of middle-income families, by increasing financial aid funding, simplifying our financial aid system, and improving early intervention and outreach programs.

I am also pleased the legislation includes two provisions I sponsored on Indian higher education. The first provision will simplify the administration of the scholarship program operated for Indian students through the BIA and will free up additional funds for Indian college students. The second provision will encourage Indian students to pursue studies in areas most needed by their tribes. A one-to-one service payback to the tribe would then be required of students participating in the new program.

I am delighted these provisions have been included in this bill as they benefit both Indian students and Indian tribes by furthering the education of an Indian student who might not otherwise be able to attend a college or a university and provides tribes with a knowledgeable and much-needed work force.

I had originally intended to offer an amendment later today that would have provided funding to Hispanic colleges and universities with a Hispanic student enrollment of at least 25 percent. After assuring me that this issue will be protected in conference, I will withdraw my amendment. In order to qualify for these funds, institutions would have to comply with current part A regulations requiring that they serve significant population of low-income or needy students and also have a minimum 25 percent Hispanic student enrollment. These institutions could use the funding to strengthen and enhance their capacity to increase Hispanic educational achievements by upgrading their current curriculum and facilities and to establish and expand new programs and support services.

The need for this provision has been clearly demonstrated by numerous studies emphasizing the low number of Hispanic students served by colleges and universities. Hispanic college enrollment is lower than almost any other major population group. Hispanics, between the ages of 18–24, have had the lowest college participation rates of any ethnic group and achieve degrees at much lower rates than white students. In 1989, only 16.1 percent of Hispanics between the ages of 18–24 were enrolled in college compared to 23.5 percent of all African-Americans and 31.8 percent of whites. Furthermore, Hispanics make up only 3.6 percent of all students in 4-year higher education institutions.

Hispanics are one of our fastest growing populations and, as such, make up a large part of our work force. As a nation, if we are to remain competitive, we must do what we can to ensure that Hispanic-Americans are as well trained and educated as possible for the 21st century.

Mr. Chairman, while I will not be offering this amendment, I firmly believe that colleges and universities that serve a significant number of Hispanic students need the resources to design and implement programs that would support and expand the number of Hispanics attending college and the number of Hispanics graduating from college.

A similar provision was offered by my colleague from New Mexico, Senator JEFF BINGAMAN, and incorporated into the Senate higher education reauthorization bill. I hope that this important provision will be given serious consideration during the House/Senate conference committee as the benefits it would provide to Hispanic students and the Hispanic community are vitally needed.

Mr. GOODLING. Mr. Chairman, I reserve the balance of my time.

Mr. SAWYER. Mr. Chairman, I yield 2 minutes to a distinguished educator, the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Chairman, today I rise in support of H.R. 3553, the Higher Education Amendments of 1992. I'd like to congratulate Chairman FORD for his leadership on this important legislation. It was his perseverance and determination that helped bring this legislation to the floor today.

It has become increasingly difficult for American families to provide their children with higher education. Costs at public and private colleges have grown two to three times faster than the average family's income, and we can't expect parents to handle this extra cost at a time when most working, middle-class families are struggling just to make ends meet.

Higher education fuels the engine of our economic train. We as a nation must invest in our country. America's work force must move toward high-skill occupations in order to improve the Nation's economic outlook. In fact, more than half of the new jobs created between now and the year 2000 will require education beyond high school. Our country's long-term economic security depends on our ability to bring higher education within the reach of all Americans.

This bill is clearly a step in the direction of aiding middle-class families. A key component of the bill addresses the increasing costs of higher education by increasing the maximum Pell grant from $2,400 to $4,500. In my State alone over 50,000 students received an average Pell grant of $1,344 in 1989. We must do better.

One of the great tragedies of the 1980's is that this country and this Government has overspent and overspent on misplaced priorities. Now is the time to change our priorities and begin reinvesting in our children, our future. Instead of fixing other countries' problems and excessive defense spending, we must spend those funds here.

Many Members worked to make Pell grants an entitlement and therefore ensure full funding for all students who are eligible. While falling short of an ideal bill, this measure is a first step in putting our priorities back in place.

I urge my colleagues to pass this bill and strongly encourage the appropriations committee to fully fund this authorization.

Today, Congress has a perfect opportunity to achieve this goal. H.R. 3553, the Higher Education Amendments of 1992, reaffirms the Federal commitment to the support of postsecondary education.

H.R. 3553 will ensure that middle-class families will be able to send their children to college. It extends support to middle-class families by offering Pell grants to families with an income of up to $49,000.

All students regardless of family income will be able to borrow up to the maximum Stafford loan, and eligibility for the in-school interest subsidy will extend to students from families with incomes of $78,000. All parents will be able to borrow up to the total college cost through the Parent Loans to Undergraduate Students Program.

H.R. 3553 also simplifies and improves the application process. Financial aid forms are notorious for their bewildering complexity, and this has surely discouraged some students from applying for aid. Now there will be a single Federal form for all Federal student aid, and a single needs analysis. Students will be able to update their application from the prior year rather than filing an entire new application each year. Plus, family businesses, farms, and homes will no longer be considered in determining eligibility for financial assistance. Hard-working families will no longer have to face the choice of giving up their homes or being unable to send their children to school.

Nontraditional students—those who are older, independent of their parents, working, or attending school part-time—are now in the majority in postsecondary education. Adult students, often with children and financial responsibilities, are among the most dedicated members of the student population, although they are unable to attend school full-time. H.R. 3553 recognizes this fact by revising the student aid programs to more effectively serve the needs of nontraditional students. The bill will increase support for child care expenses and extend eligibility for Pell grants to less-than-half-time students. Also, H.R. 3553 ensures that a reasonable amount of Federal supplemental educational opportunity grants, which target students with the greatest financial need, will be allocated to nontraditional students.

None of these crucial changes in the Higher Education Act will have their full impact unless we make certain that students and their families are well informed about their educational options. Therefore, the bill establishes eight new programs to improve early outreach and intervention efforts. It strengthens the successful TRIO Programs, creates a new Federal-State partnership to provide tutoring and advising, provides supports for training high school counselors, and improves and expands honors awards programs. It also provides incentives for States to establish student savings programs and establishes a national computer network of financial aid information.

America has long made its goal equal educational opportunity, but it has yet to achieve that goal. Recently, even middle-income families have had to struggle and make sacrifices to send their children to school, and many feel that college is simply out of reach. The Higher Education Amendments Act is desperately needed to keep America on the path toward equal educational opportunity, and offers relief to students and their families trying to pay for higher education. I am an original cosponsor on this bill, and I will fight for its passage, and pursue every opportunity to support higher education.

Mr. GOODLING. Mr. Chairman, I yield 7 minutes to the last of the big three from Wisconsin, the gentleman from Wisconsin [Mr. PETRI].

Mr. PETRI. I thank the distinguished colleague from Pennsylvania for yielding this time to me.

Mr. Chairman, reauthorization of my Higher Education Act has been called by some the most important social legislation to come before the 102d Congress. I share this opinion. In the United States, we have the preeminent system of higher education in the world. Our job during this reauthorization is to keep it that way, and to make certain that all Americans have access to the system.

Everyone agrees that a well-educated citizenry benefits the Nation. Education is not only good in itself, contributing to a higher quality of life; and not only important to the smoother functioning of democracy; it is also investment in human capital that increases individual productivity, and therefore income. However, in the case of postsecondary education people have a problem paying for those investments.

College and trade school tuitions keep rising and the middle class, in particular, is increasingly hard pressed to foot these bills, despite the fact that the education should pay off economically for most students. There is an array of Federal programs to help out, but they are focused on lower income families and are too expensive, wasteful, cumbersome, and even regressive.

The largest component of Federal student aid, the Stafford Student Loan Program, costs the taxpayers 28 cents for every $1 loaned out, but most of that cost does not benefit average students. Instead, it subsidizes banks, administrators, defaulters, and high-income graduates. The program will experience $3.6 billion of gross defaults this year. Moreover, since no interest is charged while the student remains in school, those who go to school longest, and therefore have the highest later incomes, receive the biggest subsidies, while dropouts and students in short programs such as vocational programs receive no subsidies at all.

Common sense suggests there ought to be a better way, and there is. Along with Representative GEJDENSON and 82 other cosponsors, I introduced the Income-Dependent Education Assistance Act, or the IDEA Act for short.

IDEA would set up a supplementary direct student loan program, in which repayment would be based on the borrower's income after school, and be collected as personal income tax by the IRS. It is a natural extension of the principle that education represents, at least in part, an investment. Under IDEA, students pay for that investment out of its profits. And, under IDEA, the government backs such investments and spreads the risks across the entire student population, for which the investments yield handsome returns on average.

IDEA offers enormous advantages. First, it provides access to higher education financing to all students regardless of their parents' incomes. Second, it provides a better deal for most students, while providing complete flexibility of repayment that accommodates life changes like unemployment, periods of child rearing, divorce or death of a spouse, low earnings right after school, or periods of low wage public service employment. Third, it sweeps away the whole question of deferments and forgiveness provisions that, under the current system, constitute an arbitrary, unfair, complex mess.

In addition to these advantages, IDEA would save immense amounts of money, possibly in the billions of dollars per year. IDEA virtually eliminates defaults, targets subsidies precisely, simplifies administration, and enjoys a lower cost of capital.

If we want to spend more money on Pell grants or other parts of the Higher Education Act, we've got to find savings somewhere, and IDEA is a perfect source because it would save these tremendous amounts while still providing a much better loan program than the ones we have got now.

I understand that the administration has opposed the direct lending aspect of IDEA. I urge you not to be distracted. The difference between a guaranteed bank loan and a direct Federal loan is only bookkeeping. The effect on the economy is the same. IDEA has too many advantages to let a knee-jerk opposition to Federal borrowing stand in the way. We should apply the same principles that any private business would. We should be willing to borrow when we can make money doing it.

There will be several floor amendments to this bill that will advance the concept of IDEA. First, there will be a Ford-Coleman amendment requiring income-contingent loans to be offered in 20 percent of the institutions participating in the bill's $500 million per year direct loan pilot program.

In addition, I will offer two amendments supported by the American Council of Education, its major constituent organizations, and the administration. The first amendment would authorize the Secretary of Education to purchase the loans of borrowers likely to go into default and offer those borrowers income-contingent repayment so they can avoid default and repay their obligations as they can afford it. The second would provide mandatory conversion of already-defaulted loans into income-contingent repayment, pursuant to an agreement in the promissory notes of all new borrowers in the existing major loan programs. Both of these provisions would result in far greater collections on problem loans. They would establish the income dependent repayment principle for those who need it the most. Neither provision would go into effect unless the Secretary determined there was an effective collection mechanism in place and the provisions would save the Government money. Finally, I am prepared to offer the full IDEA proposal, which would substitute income dependent loans for the current Supplementary Loans for Students Program.

All of these amendments have been drafted without reference to either the Treasury or Internal Revenue Service. Instead, they authorize the Secretary of Education to enter into agreements with private firms or other agencies of the Government as necessary to collect payments based on income. But, frankly, these amendments do contemplate using IRS collection, and that cannot happen without the consent of the Ways and Means Committee. At the very least, Ways and Means could amend another tax bill to prohibit IRS collection of student loan payments. Therefore, although passage of any of these amendments will show important House support for the IDEA concept, further support from Ways and Means will be needed for actual implementation of these provisions.

In short, IDEA creates a loan program which increases access, reduces defaults, and makes repayment more manageable.

To the extent that subsidies are involved, they are progressive. And the money goes where it should go—to students who need it—rather than to bankers, defaulters, administrators, and the richest graduates.

In the process, IDEA frees up a great deal of Federal money which can be used for education grants or for deficit reduction. This is the kind of bold reform we should be looking at to lead American higher education into the next century.

□ 1830

Mr. SAWYER. Mr. Chairman, I yield 2 minutes to the gentleman from Montana [Mr. WILLIAMS], the distinguished author of the Middle Income Assistance Act, an important element in this bill.

Mr. WILLIAMS. Mr. Chairman, I thank the gentleman from Ohio [Mr. SAWYER] for yielding this time to me.

Mr. Chairman, there are a number of provisions in this bill which would make this legislation deserving of support, matter's to promote college libraries, teacher education, cooperative education programs, foreign language students, peace studies, but in my own judgment I believe that the heart and soul of this bill is what it does for middle-income working families and their sons and daughters who want to off to higher education. Those families are the bedrock of our Federal tax system, and they, as we all know, are finding it increasingly difficult to finance their sons' or daughters' college education.

Middle-income working families are seeing college tuition rise four times as fast as their disposable income. Total college costs have risen three times as fast as have families' income over this past decade or so. Those families, middle-income families, have now gotten to the point where they can no longer provide their children with better opportunities than their parents provided for them.

We are losing the covenant which has inspired this country whereby each new generation of Americans would have more opportunities, and better chances and bigger hopes than the generation that went before them. That was the American dream, and for middle-income working folks that dream is quickly disappearing because they find they can no longer afford to send their sons and daughters to colleges and universities. This act helps correct that by making middle-income families and their sons and daughters eligible for college loans and grants.

Mr. Chairman, I have a lengthy statement here, but I know that other Members are waiting to speak about this bill and perhaps about the importance of the middle-income assistance portion of it. I have worked on this with the gentleman from Missouri [Mr. GEPHARDT], the gentleman from Missouri [Mr. COLEMAN], and others for more than a year now, and so I want to yield back the balance of my time so that others may have additional time to speak on this and other important matters in this bill.

Mr. Chairman, my formal statement follows:

I rise in strong support of this legislation.

The bill before us is entitled the Higher Education Amendments of 1992. I think it would be more appropriate to call it the Middle-Income Student Assistance Act of 1992. For that is what it is. This bill opens up the Federal student aid programs to students from middle-income, working families.

This is an important bill for every Member of Congress who wants to do something that will actually help middle-income, working families. Earlier this Congress, I introduced with DICK GEPHARDT and STENY HOYER a bill that expanded Federal student aid programs to middle-income families. That legislation is cosponsored by 71 Members of this body. The legislation before us today incorporates the major provisions of my bill. And I thank the chairman of the committee, Congressman FORD, for that.

There are a number of provisions in this bill that would make this legislation deserving of support if they were all that it contained. The bill provides much needed help to our Nation's college libraries. It makes improvements in teacher education programs, providing incentives to encourage the best and the brightest of our young people to become classroom teachers, especially in undeserved areas like our Nation's major cities and rural communities. It provides support for cooperative education programs—programs that blend school and work. And it gives some assistance to foreign language studies, something that is desperately needed if we are to compete successfully in a rapidly changing world.

But make no mistake about it, the heart and soul of this bill is what it does for middle-income, working families. These families, the bedrock of our Federal tax system, are finding it increasingly difficult to finance their children's college education.

Mr. Chairman, we are all aware of recent reports that have chronicled what actually happened economically to families during the past decade. We know that the rich got richer, and the poor poorer. What our constituents have been telling us, and what we have heard if we listened, is that middle-income, working folks have also been caught in the income squeeze. And the facts support that. For middle-income families, actual after-tax income has not improved one iota over the past decade. And when you account for the fact that the cost of everything else has gone up significantly during that period, you can see why middle-income, working families are hurting. When you adjust their income for inflation, these families have lost more than 20 percent of their purchasing power during the Reagan-Bush years.

And nowhere is this more apparent than when it comes time to pay for their kids college education. Middle-income, working families have seen college tuition rise four times as fast as their disposable income, and total college costs three times as fast. These families have now gotten to the point where they can no longer provide their children with better opportunities than their parents provided for them. We are losing the covenant that has inspired this country, whereby, each new generation of Americans would have more opportunities and better chances and bigger hopes than previous ones. That was the American dream and for middle-income, working folks, that dream is quickly disappearing.

And what does the Bush administration say about all this? They say the same thing that they have been saying since the Reagan-Bush bunch came into office. Too bad. Tough luck. Last week they sent to every Member's office an analysis of their positions on this legislation. Buried back on page 9 of that analysis was their opposition to the provisions of this bill that would open up student aid programs to middle-income families. Let me quote from that document, so that there is no mistake about where they stand:

> The Administration strongly opposes the following provisions * * * needs analysis liberalizations * * * such as lowering the assessment rate of student income and elimination of consideration of all home, farm and business equity are unacceptable.

This is a lengthy way of saying that they oppose expanding these programs to help middle-income families.

To oppose this middle-income bill is beyond belief. Let me comment briefly on one of the objections the Bush team has to a provision in this bill that would help families in my State. I live in a State that has a lot of folks who live in rural areas and on farms. These families have suffered quite a bit through the 1980's. These families are good, hard working folks, and they want to send their kids to college. But they find that the current student aid system makes them ineligible for student aid. The system assumes that they can mortgage their home or the family farm to raise money to pay for college. I don't think a family should have to make that choice—to choose whether they will mortgage their home, or their farm, or not send their kid to college. Working families don't think this is a realistic choice. Neither do I. And every farmer I have talked to in Montana tells me that the cost of operating a farm has become far greater than the return most farmers are receiving on their products, so that even if they wanted to mortgage their farm to pay for college, they would find few lenders willing to lend them the money. We have got to change this, so that the value of a family's home or farm will not be counted as an asset available to be used to pay for college. This bill makes that change, yet the Bush administration opposes it. I think we should say no to the Bush administration and yes to working folks and farm families.

Mr. Chairman, this bill gives us a clear choice. We can vote against it, and maintain the status quo. That status quo shuts out middle-income families from the student aid system. Or we can vote for this bill and open up our current system of student aid to the children of middle-income, working families. I think the choice is a clear one. I urge my colleagues to support this legislation. It is a real middle-income, working folks bill providing real benefits.

Mr. GOODLING. Mr. Chairman, I reserve the balance of my time.

Mr. SAWYER. Mr. Chairman, I yield 2 minutes to the distinguished and patient gentleman from New Jersey [Mr. ANDREWS].

Mr. ANDREWS of New Jersey. Mr. Chairman, I thank the gentleman from Ohio [Mr. SAWYER] for yielding this time to me.

Mr. Chairman, I want to thank and commend the chairman of the Committee on Education and Labor, the gentleman from Michigan [Mr. FORD], the ranking Republican member, the gentleman from Pennsylvania [Mr. GOODLING], and all the Members and capable staffs on either side of the aisle because they have worked to give us more than a bill. They have given us the answer to some questions that we very often hear when we are at home in our districts.

They have given us an answer to the question of the person who has just graduated from high school who wants to go to a career school and learn a trade that will get that person a better job who says, "How can I pay for my education?" This bill has given us an answer to the schoolteacher who wants to further her education in a master's or Ph.D. program who asks, "How can I pay for graduate study?" Certainly this bill has given us an answer, not a perfect answer, but given us an answer to the middle-class family that works hard all day or all week and is frustrated by the fact that, under present conditions, middle-class people pay for Federal financial aid but do not receive it, do not participate in it for themselves or their children.

This legislation that has been the product of so many hours of good hard work and good input from citizens and education leaders from around our country in hearings around our country, this legislation begins to give us an answer, begins to give us an opportunity, Mr. Chairman, to go home to our districts across the country and say finally, after a long, long time, finally this Federal Government and this Congress is responding to those questions and saying, "We will help you earn your education, we will help our country compete, and we will help restore the idea that in this country people can go as far and as high as their ability and desire will take them."

Mr. Chairman, this legislation that we will debate this evening and tomorrow is a great step forward in that direction. I commend all those involved. It was a privilege for me to be personally involved.

Mr. SAWYER. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Chairman, I came to the U.S. Congress for three reasons: To see that we get fundamental changes and reforms in legislation, to see that we connect at home, places like South Bend, IN, and Goshen, IN, with legislation that we adopt in Washington, DC, and, third, to keep the dream of America alive for all Americans that they can get access to education. Mr. Chairman, this bill achieves all three of those objectives.

I am very proud to be part of this bill, and I commend the people that put this bill together, the gentleman from Michigan [Mr. FORD], and I commend the minority leaders, the gentleman from Pennsylvania [Mr. GOODLING], the gentleman from Missouri [Mr. COLEMAN], the gentleman from Ohio [Mr. SAWYER] on the Democrat side, the fine staff that has worked on both sides to put this legislation together, and I also commend the willingness of this committee to listen to what is going on across America.

Father Hesburgh, who testified at a field hearing when I brought the committee back to Indiana, said, "As education goes, so goes America." This bill helps propel education forward, helps train people to compete with the Japanese and the Germans, helps us be competitive in a new century.

Diane Height, a parent and constituent, said in South Bend, IN:

> This process is too complicated. Most Americans cannot even fill out the forms to get access to higher education. This bill simplifies those forms.

□ 1840

Joe Russo said not enough middle-class families that own homes or have farms have access to higher education. This bill addresses those concerns.

Cleo Washington said not enough working Americans, black and Hispanic, have access. This helps TRIO programs.

Mr. Chairman, we either invest now in education or later in prisons. This bill invests right now in our children and in students.

Mr. Chairman, I rise in strong support of H.R. 3553, the higher education amendments of 1992. This legislation reauthorizes the financial aid programs that enable students from low- and middle-income families to pursue the American dream of a college education.

Access and opportunity for postsecondary education will enable the students to today to compete in a global economy as the Nation's work force of tomorrow. More than ever before, our economic competitiveness depends on an educated, trained work force. Higher education provides the key to American competitiveness in world markets.

Just a year ago, the Subcommittee on Postsecondary Education commenced a series of 44 days of hearings on the reauthorization of the Higher Education Act of 1965. Through this hearing process, including one day in the Third District of Indiana, we were able to address a number of crucial education issues which confront students and their families. Before I address some of those issues, however, I would like to take this opportunity to commend Chairman BILL FORD for his leadership in this effort, and for accommodating more than 440 witnesses who sought the opportunity to present their views and recommendations to the subcommittee.

The witnesses who testified before the subcommittee were comprised of a broad cross section of experts, including college presidents, financial aid administrators, CEO's, students, and parents. Many of the recommendations of these witnesses are encompassed in the bill which is before us today.

Chairman FORD has had a particularly long and distinguished career in reauthorizing higher education programs, having chaired the Subcommittee on Postsecondary Education in 1979 and 1980, in 1985 and 1986, and again in 1991–92. Many of the changes which the chairman sought and promoted in this reauthorization will improve and strengthen the current act. I was pleased to be involved in this comprehensive reauthorization process on one of the most important pieces of social legislation in the 102d Congress.

Although the Higher Education Act of 1965 contains a multitude of programs, the cornerstone of the legislation is Title IV, Student Financial Assistance, which provides approximately $19 billion annually to half of the Nation's students enrolled in postsecondary education. Without Federal aid, the opportunity for higher education in America would not exist.

The main objective of the reauthorization focused on restoring the Federal commitment to all students and their families by improving access to quality higher education opportunities. For the past decade, families, particularly hard-working middle-income families, have been squeezed out of Federal student aid programs. Moreover, loans have replaced grants as the major source of Federal student aid.

Over the past 10 years, families have also seen the cost of a college education increase much faster than their incomes. For many Americans, the dream of achieving a college education for their children has become an impossible dream because of the financial cost involved.

H.R. 3553 increases access to higher education by authorizing a much needed, long overdue raise in the maximum award for the Pell grant program. I am pleased that the bill which I introduced to raise the maximum Pell grant award from $3,100 to $4,500 is included in this reauthorization package. Although the Pell grant program is viewed as the true foundation of Federal student assistance, the purchasing power of the Pell grant has dramatically eroded over the past decade. In 1980, the maximum Pell grant paid for 50 percent of the average cost of attending college. Today, the maximum Pell grant pays for 25 percent of the cost of attending postsecondary education. If the Pell grant had kept pace with inflation, it would be funded at $4,500 for the 1993–94 academic year. With a $4,500 maximum, eligibility will be restored for students from working-class and middle-income families whose incomes fall below $49,000.

The bill also enhances access for middle-class families by eliminating the consideration of home, family farm, and small business equity from the calculation of student need. In the past, the inclusion of the value of a family home, farm, or small business in the needs analysis has meant that many hard-working middle-income families have been unable to qualify for student aid. This bill enables these families to borrow money at a low interest rate rather than mortgage their homes or farms in order to send their children to college.

The legislation also increases access to higher education through simplification of the student aid application process. The complexity of this process has become a barrier to educational opportunity for low-income families. In fact, one of my constituents testified that, because the process was extremely complex, it discouraged students and families from applying for aid.

The bill also addresses program integrity issues. The student aid programs have been tarnished by reports of growing default rates and incidents of fraud and abuse. Unfortunately, we have seen a rise in the number of schools which are integrated in making a profit and not in educating their students. H.R. 3553 restores public confidence in student loan programs by strengthening the integrity provisions which are designed to prevent fraud and abuse in the title IV programs.

The legislation also significantly expands early intervention efforts. The TRIO programs, which provide special programs for students from disadvantaged backgrounds, have been effective in identifying eligible students and providing the necessary support services which promote access to college. Many of these youths are from low-income families and first-generation college students. Early outreach and intervention efforts at the middle and high school levels are particularly crucial tools to help recruit and retain disadvantaged students who want to pursue a college education.

Mr. Chairman, the opportunity for a higher education should not be available just for the wealthy of this Nation. It should be available for every American who has the desire and the dream for a college education. I believe that the bill under consideration today will make Federal financial assistance available to more students and help make college more affordable for the American family. I commend Chairman FORD for his diligence and dedication to America's youth in bringing this bill to the House floor, and I strongly urge my colleagues to support H.R. 3553.

Mr. GOODLING. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am pleased to be an original cosponsor of H.R. 4471, the higher education amendments of 1992. This bill truly represents a bipartisan effort after what began as a rather acrimonious bill, H.R. 3553, left the Education and Labor Committee because of namely two provisions which in H.R. 4471 have been eliminated or will be scaled back.

Gone is the fiscally unwise Pell grant entitlement provision which would've cost at the front end nearly $12 billion a year with no apparent ceiling.

Gone as well is the $360 billion full-blown direct loan program. Instead, a sizable demonstration program is in place to test out this bureaucratic, nightmarish Federal program.

For my rural colleagues, I suggest you talk to your rural colleges and universities to see if they could handle a direct loan program. For me, at least, whenever I've mentioned the idea of direct loan to the college administrators in my district, they gave me a look of horror at the idea of this program. They simply don't have the resources there to manage the program.

I believe the Subcommittee on Postsecondary Education received important insight into the needs of many middle-income families when it held a field hearing in my district last year.

What the subcommittee heard were basically two things. First, students, even those attending small rural colleges, were graduating with a large debt. For example, students entering the teaching profession who are graduating from the University of Nebraska at Kearney, start with an average salary of $17,000. On average, these students also have a $12,000 student loan debt.

H.R. 4471 will allow students who may be financially hard pressed to seek a 3-year economic hardship deferment instead of the current 2-year deferment. I'm hopeful that this extra year will allow these students, who may be strapped for cash, a little more time.

The other issue we heard was that students were having a hard time obtaining financial aid. I'm hopeful that H.R. 4471 will allow more middle-income students to have access to these programs, like guaranteed student loans and Pell grants because it includes provisions from my bill, H.R. 3411, that provides for farm, home, and small businesses equity to be eliminated from the financial need calculations used to determine whether the student needs a helping hand from the Federal Government.

Students and their families have told me agonizing stories of being, in essence, penalized for providing a good home or having worked hard to have a successful small business or farm.

I hope that deleting what are the biggest investments a family may make from financial need calculations will help restore 1.1 million families and students to the roster of those eligible for Federal student loans.

I'm pleased as well that this draft addresses a concern I raised in the report accompanying H.R. 3553 dealing with accreditation.

H.R. 3553 had a regulatory blanket approach to controlling abuses in the Federal Student Aid Program. Covered by this blanket would've been the 24 colleges and universities in my district, which have an average default rate of around 11 percent, to be lumped into increased Federal and State oversight. All this because some schools in other districts have been abusing the program.

Instead, H.R. 4471 will allow these outstanding schools an opportunity to operate as they have in the past, and will subject abusers to closer State and Federal scrutiny.

And restoring the requirement that a school is accredited by a private accreditation council will help ensure that the Federal Government has an independent measure of academic soundness.

While much attention has been brought to the fact that it's costing taxpayers $300 million a month to pay off defaulted student loans, the people who are really suffering are those who are being denied the opportunity to receive loans because of defaulters.

Just think of how many more students could be served by student loans if $300 million more a month was available?

I've been thinking of it because, 40 years ago, I was an admissions officer at a small liberal arts college in Nebraska.

What I saw was families that often didn't have the financial ability to pay for, or borrow money to send their kids to college.

And then just a couple of years ago my wife and one of my daughters started going to a small State college in Nebraska, and they told me of the problems many of their classmates had in paying tuition because they couldn't qualify for financial aid.

I'm hopeful that H.R. 4471 will bring us ever closer to helping those kids and older students who have started school again, after having raised a family or looking for a fulfilling job.

To close, Mr. Chairman, I'd like to thank the ranking member of the subcommittee, Mr. COLEMAN, and the ranking member of the full committee, Mr. GOODLING, for their hard work and patience throughout this reauthorization process.

I'd also like to acknowledge the hard work and weekend hours the minority staff, Rose DiNapoli and Jo Marie St. Martin, have spent on this bill. They've helped this Member get educated on the higher education act.

I yield back the balance of my time.

Mr. SAWYER. Mr. Chairman, it is a privilege to yield such time as he may consume to the gentleman from New York [Mr. SERRANO], a member of the Committee on Education and Labor.

Mr. SERRANO. Mr. Chairman, the strength of this bill is the fact that this bill speaks to access to higher education for all people in this country. It is really a great bill because it allows people who in the past have had a difficult time receiving a higher education to do it now through this bill. That is one of the reasons why I support the bill.

Mr. Chairman, also the bill speaks very strongly about nontraditional students. That is, in a changing world we now find ourselves with a lot of parents and younger people who are attending school parttime, who are attending school while working, who are attending school after having raised children, or been married, or returned from the military service. The bill speaks to that also.

Mr. Chairman, the bill also includes the proposal submitted by the Hispanic caucus which deals with the alarming dropout rate amongst Hispanics throughout the country, which has reached 44 percent.

The bill speaks about reaching out at an early stage in life and trying to prepare those youngsters for that opportunity which is provided in the bill to get a higher education.

Mr. Chairman, I also call attention to the fact that there is a provision of the bill which I was able to author which is a Teacher Opportunity Corps. It would allow paraprofessionals the opportunity to become certified teachers in the future, an opportunity I think that if fully carried out, will bring to us a whole new core of teachers, teachers that are very close to the community.

Mr. Chairman, lastly I would like to thank the chairman of the committee and the staff, but especially the chairman for allowing something to happen which sometimes does not happen, and that is to allow the junior members of the committee full participation in drafting this legislation.

Mr. Chairman, when you read this legislation, you find that many of the amendments in this bill are in fact the product of the work of the junior members of the committee. For that we are very thankful to the chairman.

Mr. Chairman, I would ask that all my colleagues support this bill, which indeed speaks to a better future in our country.

Mr. Chairman, I rise in support of the Higher Education Act Amendments of 1992, H.R. 3553. I am proud to have been involved in the crafting of this important piece of legislation that will determine how we will prepare our youth for the future.

My colleagues, to me the persistent theme of this reauthorization has been access. That is, greater access for all Americans to a quality education; albeit to low-income, part-time, nontraditional students who are pursuing their studies while also working and caring for a family, as well as access to middle-income students. Increased quality and effectiveness of our educational system is an achievable national goal.

The Higher Education Act of 1992 makes an attempt to meet the grave needs and demands of the diverse student population across the Nation. This bill is particularly sensitive to nontraditional students in that it includes measures to ensure equitable financial aid, special services such as child care and special hours for nontraditional students.

Mr. Chairman, I fully support the ability to benefit provisions that would allow nonhigh school graduates to participate in the financial aid programs. Many of my constituents apply to institutions without the benefit of either an earned high school diploma or a GED. This is the only avenue available for them to escape from the cycle of poverty in the Bronx. Such students need opportunities to gain the education and confidence that will prepare them to assume meaningful positions in the workplace.

Very often students face obstacles before they even apply to colleges because they are not well informed about the availability of financial assistance, the range of postsecondary educational options and the appropriate high school programs that can facilitate their transition to postsecondary education. H.R. 3553 improves early outreach and intervention efforts by strengthening the TRIO programs, increasing coordination with other programs, and providing for a single integrated early outreach program supported by grants from the Secretary.

The congressional Hispanic caucus also has incorporated into this bill its first legislative measure. Its provisions focus on the state of crises faced by our Hispanic youth who, as of today, are dropping out of high school at an alarming rate of 44 percent. Our students must be reached during the early years of elementary school to develop the long-term goals of completing high school and college. Counseling and mentoring programs must be sensitized to nurture and inform minority students of the greater opportunities that are available upon the completion of a baccalaureate.

Mr. Chairman, also incorporated is a provision that would expand the Pell Grant Program to accommodate the growing number of college students unable to complete their courses for a B.A. in the traditional 4 academic years. Additionally, this bill would assist low-income Pell recipients in their often-interrupted education due to periods of unemployment, by extending the period of eligibility by 1 academic year. The Pell Grant Program would for the first time, extend eligibility to less-than-half-time students. The bill would also establish a super-Pell scholarship for minorities who participate in early outreach and intervention programs.

Mr. Chairman, when students enroll in college or university they should be focused on their studies and not distracted by concerns of whether their high-interest loan or grant will cover all of their educational expenses. By establishing the Pell Grant Program as an entitlement, students would have been assured of a fixed amount of assistance not subject to the whims of policymakers. While I am dismayed that this provision was not retained, the bill does provide for an increased level of maximum Pell Grant awards from $2,400 to $4,500. I personally believe that students who are capable, willing, and desire an education should be provided with the necessary financial aid, regardless of their background, that will allow them to pursue a college education.

H.R. 3553 provides increased funding to institutions that target and expand graduate and teacher recruitment, training and retention programs for minorities. Another proposal I authorized, the Teacher Opportunity Corps, would award financial aid to paraprofessionals or teacher's aides that would enable them to become certified through part-time and summer study.

Education is power, and until every American is able to realize that fact and exploit all the available opportunities, our strength as a nation will continue to decline. There is simply no other more important task before us as a country. Resources previously invested in the maintenance of an international balance are now available for investment in our youth. We cannot let this opportunity pass. I urge my colleagues to support this bill.

Mr. SAWYER. Mr. Chairman, it is my privilege to yield 2 minutes to the distinguished gentleman from New York [Mr. SCHEUER].

Mr. GOODLING. Mr. Chairman, I yield 1 minute to the gentleman from New York.

The CHAIRMAN. The gentleman from New York [Mr. SCHEUER] is recognized for 3 minutes.

Mr. SCHEUER. Mr. Chairman, I thank the gentlemen for yielding.

Mr. Chairman, the American people should set as their ultimate goal an educational system in which at no level—high school, college, graduate school, or professional school—will a qualified individual in any part of the country encounter an insuperable economic barrier to the attainment of the kind of education suited to his aptitudes and interests.

Mr. Chairman, this sentence was taken from the 1947 report on higher education issued by President Harry Truman.

Think of that. Forty-five years ago President Truman in this report went on to recommend that we extend 2 years of postsecondary education as an entitlement. That we go beyond K-12 and go to K-14 as an entitlement for every American.

Perhaps President Truman did that motivated by the extraordinary success of the GI bill of rights, in which I was a proud participant. The GI bill of rights educated about 14 million Americans and gave them their free ticket to as much postsecondary education as they could absorb. It has not only paid for itself several times over from the additional taxes that those young men and women paid during their earning lifetimes, but it made a spectacular contribution to American industry and American economic well-being. It provided the manpower that projected us as a leader in the postindustrial world. We never could have done it if we did not have the scientists, mathematicians, engineers, and administrators that the GI bill of rights produced.

Mr. Chairman, we need a GI bill of rights today. The average GI produced goods and services over what the non-GI's, without the benefit of postsecondary education, produced of about $1,000 in 1947.

By the 1980's, that discrepancy, that additional output of goods and services by each GI who had benefited from the GI bill of rights, grew to $19,000 extra production of goods and services for the benefit of our country, the benefit of our society, and the benefit of our economy.

We have to stop undereducating our population. This is a fine bill, and I congratulate the gentleman from Michigan [Mr. FORD] and the gentleman from Pennsylvania [Mr. GOODLING] and all others who have worked on this. But it does not go far enough. Our reach should exceed that, and we ought to provide unlimited postsecondary education to kids who cannot afford it.

Mr. Chairman, the economy will benefit enormously. The cost-benefit calculations of each person in the GI bill was for every $1 the Government spent, they got back between $5 up to $12.50. That is an investment in our youth that we cannot afford not to make.

□ 1850

Mr. SAWYER. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. PAYNE].

Mr. PAYNE of New Jersey. Mr. Chairman, I rise to show my support for H.R. 4471, H.R. 3553, which was previously reported by the Education and Labor Committee to reauthorize the Higher Education Act.

Last year at the beginning of the reauthorization process, before the 44 hearings that were conducted, many people were saying that the reauthorization of the Higher Education Act is one of the most important pieces of social legislation of the 102d Congress. I wholeheartedly believe that this measure is of vital importance to our entire society.

As we approach the year 2000, everyone must be prepared for a society that is becoming increasingly dependent on advanced technology. This means that access to a quality education for every citizen of this country is imperative.

Therefore we had to address the needs of as many different types of students as possible. This measure ambitiously seeks to expand Federal financial aid to students from middle-class families and redresses the current imbalance between reliance on loans and grants, improves integrity of Federal financial aid programs, contains provisions to minimize waste and abuse and loan defaults and to serve nontraditional students more effectively, simplifies student aid programs, and improves early intervention and outreach programs.

The bill also contains provisions intended to improve programs that serve historically black colleges and universities, and to improve teacher training, recruitment, and retention.

However, I must say that I was disappointed that we were not able to make Pell grants an entitlement. Many of us worked hard to see that this bill went as far as possible to provide educational opportunities for all of our citizens. Yet, I know this was a compromise we had to endure in order to bring the bill to the floor in a timely manner.

Thousands of students from all over the world come to the United States to take advantage of our excellent system of postsecondary education. Through the efforts of this bill to increase access to postsecondary education, we can now encourage and help our own students take advantage of some of these opportunities, especially as the competition in the global marketplace increases.

Also, I would like to commend Chairman BILL FORD for his leadership and all of his hard work during this reauthorization process.

Mr. Chairman, I certainly support this measure and it deserves to pass the House without any major changes.

Mr. FORD of Michigan. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Chairman, I thank the gentleman for yielding time to me so that I might speak on this important issue.

Mr. Chairman, slightly over 26 years ago Congress recognized, through passage of Public Law 89-329, the Higher Education Act of 1965, that it had a commitment to assist low- and moderate-income students attain a postsecondary education. Congress recognized that not all of America's college students could afford to fund their education expenses and deemed it an obligation of the Federal Government to provide those students with equal access to higher education. However, recent budget cuts and program changes to the Higher Education Act have made it increasingly difficult for middle-income families to finance an education for their children, and nearly impossible for low-income students to attend college.

Mr. Chairman, this is not what the Higher Education Act is or ought to be about. Undoubtedly, Chairman FORD and ranking minority member GOODLING, along with the remaining members of the House Committee on Education and Labor, are cognizant of this fact. The legislation they have reported to reauthorize the Higher Education Act gets back to the sentiments President Johnson so eloquently expressed when he first proposed the Higher Education Act back in 1965:

> Nothing matters more to the future of our country. Not our military preparedness, for armed might is worthless if we lack the brain power to build a world of peace; not our productive economy, for we cannot sustain growth without trained manpower; not our democratic system of government, for freedom is fragile if citizens are ignorant.

Mr. Chairman, by significantly simplifying the student aid application process and increasing disadvantaged and middle-income families' access to student aid, the House Committee on Education and Labor has once again breathed life into President Johnson's statement. I urge the rest of my colleagues to stand by the Federal government's commitment to provide access to higher education to our low- and middle-income students. Please join me in supporting passage of H.R. 3553.

Mr. FORD of Michigan. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. OWENS], a member of the committee.

Mr. OWENS of New York. Mr. Chairman, I rise in strong support of H.R. 4471 and would like also to congratulate the chairman of the Subcommittee on Postsecondary Education and the chairman of the Committee on Education and Labor.

This bill is probably one of the finest pieces of work that will be brought before the House this year. Every reauthorization of the Higher Education Assistance Act gets a thorough review by all parties concerned. A maximum amount of opportunities are provided for input for all people concerned. It is a labor of great love of the chairman, and his thorough knowledge of the situation, his thorough knowledge of higher education assistance, plus the passion that he brings to it guarantees that it is a very fine-tuned piece of legislation.

We especially appreciate the sensitivities shown toward historically black colleges and universities, recognizing that although these are only

114 in a constellation of about 3,000 colleges and universities, they do play a significant role in this country. They probably play a much more significant role in the new world order of tomorrow, where Third World countries yearning for technical assistance and support will be able to draw on some of the kinds of people who are trained in these institutions.

I regret very much that we did not go further and create the Pell entitlement. I think that it is a debate that certainly had to cut off after this point, but we ought to renew it very soon and move as rapidly as possible to guarantee Pell entitlements, guarantee as much opportunity for higher education to as many people as possible.

In the new world order, our primary weapon, our primary strength will lie in the kinds of people, educated people we have to go forward.

We have a situation where America 2000, the administration's grand strategy for improving education in America, leaves out any major discussion of higher education.

Higher education is the one thing that works in America with respect to education. it is the one thing that already is a world class enterprise. The whole world looks at higher education in America and tries to emulate it. So why not invest more in that portion of our educational system that works?

It works now. It certainly can use fine tuning as this bill provides. It certainly can get rid of some of the waste, but higher education works. We should go forward. We should have Pell entitlements, and we should try to guarantee as much higher education to as many people as possible.

We should show to the rest of the world what we intend to do with the higher education system and the graduates that we produce. We need education for productivity. We need education for leadership. We need education in order to help people live together in our society in a better state of law and order.

All of these aims, all of this mission is accomplished by higher education institutions. I hope that very soon, not 5 years from now when we come up for another reauthorization, but very soon we can reopen the debate on the Pell entitlement.

I think that we have the funds. We have the opportunity in that the peace dividend is very real, as we say, for military expenditures. We will save in the next 8 years between now and the year 2000 at least a trillion dollars from those expenditures.

We could put some part of that into taking care of the deficit. We can put some part of it into a number of other enterprises. But a large part should go into increases for education. The increases in education ought to come first in the area that works, increases in higher education, in order for the rest of the education system to operate.

We need better graduates coming out of our institutions of higher learning, and we need more of them. That is the first step toward improving America's schools.

I hope that we will understand the wisdom that was displayed when this bill passed out of committee and we will have Pell entitlements within the next 2 or 3 years and not wait for the next reauthorization.

Mr. FORD of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am including in the RECORD an exchange of letters between me and the chairman of the Committee on Science, Space, and Technology involving the committee jurisdictions in parts of the bill affecting legislation from the Committee on Science, Space, and Technology, where we have agreement that they will not ask for sequential referral.

The letters follow:

COMMITTEE ON EDUCATION AND LABOR,
Washington, DC, February 26, 1992.
Hon. GEORGE E. BROWN, Jr.,
Chairman, Committee on Science, Space, and Technology, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of February 26, 1992, concerning your jurisdictional interest in certain provisions in H.R. 3553, the Higher Education Amendments of 1992, as ordered reported by the Committee on Education and Labor.

I appreciate your offer to waive your request that the bill be sequentially referred to the Committee on Science and Technology. I agree that the provisions cited in your letter are no longer necessary and will take steps to see that they are deleted prior to, or during, floor consideration of the bill.

Thank you for your cooperation. I look forward to continuing to work with you on matters of joint interest to our committees.

With kind regards,
Sincerely,
WILLIAM D. FORD,
Chairman.

COMMITTEE ON SCIENCE,
SPACE, AND TECHNOLOGY,
Washington, DC, February 26, 1992.
Hon. WILLIAM D. FORD,
Chairman, Committee on Education and Labor, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: As you know, the Committee on Science, Space, and Technology has requested a sequential referral of H.R. 3553, the Higher Education Amendments of 1992, based on provisions in the reported bill which were within this Committee's jurisdiction over science scholarships, the National Science Foundation, and aspects of math, science, and engineering education. In particular, Title I, Part E, "Manufacturing Engineering Education" (sections 161–165) are within the jurisdiction of this Committee. The sections would establish a Manufacturing Engineering Education Grant Program to be administered by the Secretary of Education in consultation with the Director of the National Science Foundation. A bill containing the identical provisions, H.R. 3044, was referred jointly to the Committee on Science, Space, and Technology and the Committee on Education and Labor earlier in this Congress. In addition, conferees from the Committee on Science, Space, and Technology were appointed on nearly identical provisions contained in section 805 of S. 1507, the National Defense Authorization Act for Fiscal Years 1992 and 1993, which was signed into law (P.L. 102–190). (The only difference in the two bills is that the duties given to the Secretary of Education in H.R. 3553 are given to the Secretary of Defense in S. 1507).

Recognizing the importance of the Higher Education Amendments Act and the need to expedite floor consideration, however, the Committee is willing to waive its request for a sequential referral with the understanding that the provisions cited above on Manufacturing Engineering Education be deleted by the Committee on Education and Labor before or during floor consideration of the bill, and that copies of this correspondence be included in the record of that debate to protect this Committee's jurisdictional interests. Since nearly identical provisions have already been enacted into law, deleting these provisions would not appear to significantly affect the bill.

I hope that this proposed resolution, which is offered in the spirit of continuing cooperation between our two Committees, meets with your approval, and I look forward to your written response.

Sincerely,
GEORGE E. BROWN, Jr.,
Chairman.

□ 1900

Mr. FORD of Michigan. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. SAWYER], the acting chairman of the committee here today, who did such a wonderful job.

Mr. SAWYER. Mr. Chairman, I would take just a moment to thank the chairman of the full committee and the ranking member for the quality of effort and the intensity of the effort with which we approached this 25th anniversary of the Higher Education Act.

The gentleman from Pennsylvania said it earlier, and I would repeat it again. The quality of the work that was done on this bill surpasses even the extraordinary quality of those that preceded it. The kind and number of hearings that were conducted across the country is reflected in the comments and statements on both sides of the aisle that refer to this point, and it has just been a real privilege to take part in the crafting of H.R. 4471. It is, quite simply, a very good bill.

It does more, though, than just expand the eligibility for student financial aid to middle-class families. It does so while preserving the American commitment to help students from less well-off families pay for higher education. That is what nation building is all about.

The bill goes further than that, however, than just providing funds for students who need financial aid. It authorizes programs to make sure students and their families know that financial aid is available and that higher education can genuinely be part of their future.

A recent GAO study found very few high school sophomores or their families had any clear idea about the kind of financial aid programs that are available to them. If students are not aware that they can pay for college, if they do not think it is affordable, they simply do not prepare for college. They do not make those decisions early in their secondary school career that are crucial to whether or not the doors to higher education are open to them in the first place.

It has been said, and I think it is probably true, that a child's future may be more determined by the decision about whether to take algebra 1 or general math than any other subsequent decision they may make in the course of their lifetime.

School counselors have to be trained to know about financial aid programs and to share that knowledge with students and their parents if real access to higher education is going to take place.

The second item I want to mention this evening is that I am proud of what we have accomplished in title I of the bill. This provision, university and school partnerships, was created by the chairman of this committee a decade ago in 1980. It was based on a model that came to us a century ago that recognized that postsecondary institutions are a powerful tool that can be instrumental in raising the overall productive capacity of the Nation.

The Moral Acts of 1862 through 1896 really went a long way to democratize what had been the formerly elite system of postsecondary education in this country and put it to work in the task of nation building. It unleashed the creative energies of an incredible cross-section of Americans. The new title I of this bill could become the same powerful catalyst for economic change that the Moral Acts were 100 years ago, at a similar time of profound change in this Nation.

This new provision will encourage urban universities to act as natural pools of knowledge and research, teaching, talent, practical experience, in building partnerships with other institutions in communities, institutions that could include in those university partnerships hospitals and schools and businesses, community-based organizations, and, as in the case when I was a mayor of a medium-sized American city, local governments in the real business of day-to-day problem solving.

Their collective mandate would be to find solutions to the worst problems of their communities and to request funds as part of consortia. This not only avoids unnecessary competition but encourages communities to act as communities in consort with the real engines of economic growth in our Nation: the schools, the colleges, and the universities of our Nation.

Mr. Chairman, I could go on at some substantial length about the kind of asset that that kind of partnership has been for the last decade in Ohio, and the kind of asset it was to the cities like Akron and Cleveland and Youngstown and others as we seek to make the transition from one age to another.

Under this proposal communities will be able to act in consort with higher education to solve their most severe problems, to agree on a set of goals, to analyze and target their resources, and then to apply solutions.

Federal policy in that sense will only act as a guidepost in helping local communities and their universities work together. In these and many other ways, H.R. 4471 will make education more available to more Americans and make that education more useful to all Americans as we seek to make our communities and the Nation stronger. Every American will benefit from that.

Mr. FORD of Michigan. Mr. Chairman, I yield 3 minutes to the gentlewoman from Connecticut [Ms. DELAURO].

Ms. DELAURO. Mr. Chairman, I rise today to really passionately support Federal leadership in higher education and, in particular, in the Higher Education Reauthorization Act.

This bill will make a college education a reality for millions of Americans who could not otherwise afford to attend school. Mr. Chairman, we know what has happened in the last decade. The working middle-class family has taken it on the chin. Working families have been battered by increased taxes and soaring health care costs and college tuitions which have gone through the roof and out of the reach of many families.

During the last 10 years the cost of college tuition has risen at twice the rate of inflation, nearly doubling since 1980. At the same time, Federal support for education has withered away. Fewer and fewer middle-class families were eligible for grants or for loans, and those who did qualify for aid were burdened with mountains of debt.

Universal access to education is a foundation of our democratic system. If education is available only to the rich or to the very poor, our democracy and our country are compromised.

Mr. Chairman, I come from a working middle-class family. My dad came to this country as an immigrant and could not speak the language. As a matter of fact, he left school in the seventh grade because his teachers and his classmates laughed at him because he could not speak the language.

My mother worked in the sweatshops in New Haven, CT, and their focus and their attention was to make sure that I had an education. I would go to visit my mother at those sweatshops every day after school, and I would complain bitterly about the noise and about how dirty it was. What she would say to me is, "Take advantage of an education so that you will not have to do this."

My folks worked hard to see that I had that advantage and that I could be able, today, to be in the House of Representatives. It was their hard work and it was the help of the student loan program and the Pell grants and the Stafford grants that allowed me to be able to expand my opportunities and my horizons.

Today we have a chance to tell the middle class that we understand and we know how hard it is for them to get their kids to college. This bill will help working middle-class families regain access to the higher education unavailable to them during the 1980's.

I urge my colleagues to stand up for education, to stand up for the middle class, and to support the higher education reauthorization bill.

Mr. FORD of Michigan. Mr. Chairman, I yield 5 minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise in strong support of the higher education reauthorization, and I want to commend Chairman FORD for the extraordinary work he has done with this bill under very trying circumstances.

A lot of talk in recent days has centered around the fact that this bill has been scaled back, and it is true that the bill does not go as far as the committee had initially sought.

I share the chairman's frustration that a Pell entitlement is not going to be enacted—or even voted on—this year, because the administration and many Members of Congress from both parties did not fully recognize the importance of that initiative to our Nation's future.

And I pledge now to join the chairman in doing battle again on this issue in the future.

However, we should not be left with the impression that this bill endorses the status quo.

Far from it. The bill before us today makes dramatic strides that will breathe new life into higher education and expand opportunities for all American citizens.

Where there is now only ignorance and defeatism, the bill offers early outreach and intervention.

Where there is now only confusion and complexity, the bill calls for simplicity.

Where there are now programs aimed primarily at traditional students, the bill recognizes the nontraditional student.

Where there is now insufficient emphasis on teacher recruitment and development, the bill offers a comprehensive new support system for the educators of the future.

Where there is now a vexing problem with student loan defaults, the bill demands accountability, cracks down hard on waste, fraud and abuse, and saves tax dollars.

And where cost now poses an obstacle to college attendance for the poor and the middle class, this bill offers a major expansion of student aid for all American students.

It sends this message loud and clear: If you work hard and persevere, you can receive a higher education at the school of your choice, you can succeed in college and beyond, you can be a part of the American dream.

I would also like to take this occasion to mention several specific proposals which I have advocated and consider to be of crucial importance.

First, I am extremely pleased that the bill includes the provisions of my bill, H.R. 2350, the Liberty Scholarship and Partnership Act, which creates a State-level matching grant program for expanded early intervention services and comprehensive grant aid.

This program is based on New York State's Liberty Partnership and Scholarship Program, crafted by Gov. Mario Cuomo. I want to thank the Governor for his assistance in drafting and pressing for this important new Federal program, which has the potential to achieve a dramatic turnaround in college completion rates among disadvantaged youth.

I would also like to thank Mr. Eugene Lang of New York, whose innovative and highly successful I Have a Dream Early Intervention Program was the original inspiration for early intervention legislation in New York and elsewhere. Many of his suggestions for improvements in early intervention programs are important and should be given careful attention by Members of Congress.

Second, I was pleased to work extensively with Mr. GOODLING on our proposal, H.R. 2761, the Integrity in Higher Education Act, to significantly expand the State role in oversight and approval of postsecondary education institutions.

While the bill before us does not go quite as far as we would have liked in ensuring a strong State role in oversight, the compromise that we have reached gets tough on institutions which have violated the public trust.

At the same time, it does not impose an undue burden on high quality institutions which have been conscientious in administering title IV programs. The result will be increased accountability, reduced default costs, and a growing confidence that title IV aid is serving those it was intended to serve: our Nation's students.

In addition, it is important to note that State approval is only one leg of the triad of institutional eligibility and oversight which exists under the Higher Education Act. The other two legs, Department of Education certification and accreditation, are also considerably strengthened by this bill, and the bill incorporates key suggestions which I made with respect to increased minimum standards for accrediting agencies.

Third, I am pleased that my bill to expand opportunities for women and minorities in science and mathematics, H.R. 2142, has been incorporated into the reauthorization measure. Women and minorities will make up more than 80 percent of new entrants into the work force during the next decade. Yet they are drastically underrepresented in science courses and careers. These provisions will help women and minorities succeed in these crucial fields, and help our Nation become more competitive.

Finally, I am pleased that the reauthorization measure incorporates my bill, H.R. 2065, the Higher Education Disclosure Act, to reinstate a provision of law which required institutions to disclose large gifts from foreign entities, as well as any conditions which are attached to them. This important "sunshine" provision was "sunset" without reason and deserves to be restored to the act.

The bill before us today has the potential to transform higher learning in America. It will expand individual opportunity and national prosperity, and it will create a better future for all Americans.

We all know that our Nation is facing an economic crisis as we head into the 21st century.

At the individual level, American families are hard pressed to make ends meet, let along afford the high and rising costs of postsecondary education.

And at the national level, we face a shortage of skilled workers who are urgently needed if we hope to remain competitive in the global marketplace.

This bill responds to these pressing concerns.

To our Nation's young people and their families, it offers hope that their dreams of a college education and a brighter future will become a reality.

And to our Nation, it offers the prospect of a revitalized economy, spurred forward by a surge in the number of highly trained college graduates entering the work force.

These are not only worthy goals, they are among the most important goals we can set as a nation. And I hope that the entire Congress will embrace them as wholeheartedly as I do.

☐ 1910

Mr. GOODLING. Mr. Chairman, I yield what time he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I rise today in support of H.R. 4471, which will reauthorize funding for the Higher Education Act of 1965. I would like to commend the chairman of the Education and Labor Committee, the distinguished gentleman from Michigan [Mr. FORD], and the ranking minority member, the distinguished gentleman from Pennsylvania [Mr. GOODLING], for bringing this important legislation to the floor.

This measure would raise the maximum annual grant available to students under the Pell Grant Program from $3,100 to $4,500 and the minimum from $200 to $400. The cost of college tuition has skyrocketed in recent years, outpacing consumer inflation by a wide margin over the last decade. Tuition at many private institutions has increased steadily by more than 10 percent every year since the late 1970's, and budget crises in numerous States have caused tuition at some State universities to more than double in the last 3 years.

In the face of the explosion of educational costs during a time of economic hardship, a number of our colleges, beginning last year with Amherst College in Massachusetts, have been forced to drop their policies of need-blind admissions. If we allow this trend to continue, higher education will once again become just a dream for millions of lower and middle income students. By raising the award ceiling for the more than 3.4 million students who currently depend upon the Pell Grant Program, we are merely trying to regain a fraction of the ground that Federal funding has lost relative to the cost of higher education.

H.R. 4471 also raises the maximum income level to qualify a student for a Pell Grant from $30,000 to $50,000 for a family of four. In doing this, we recognize that a family earning under $50,000 a year cannot afford to pay tuitions that now run, in many private institutions, in excess of $20,000 a year without ample assistance. According to the college board, over the last 15 years, grants have dropped from 76 to 29 percent of Federal aid, increasing students' reliance on loans; this bill helps to alleviate this.

Mr. Chairman, this measure would also authorize a new loan guarantee program for middle-income students who need to borrow money for higher education but do not qualify for subsidized Stafford loans. For students who have little credit history this can be the difference in financing a college education, yet the majority of these guarantees will never cost the Federal Government any money. For fiscal year 1992, total budget outlays for the Guaranteed Student Loan [GSL] Program will exceed appropriated funds by over $2 billion; H.R. 4471 attempts to meet this demand. This measure also helps control cost overruns by means of a 5-percent loan origination fee on Stafford loans, supplemental loans for students [SLS] and parent loans for undergraduate students [PLUS]. In addition, the bill attempts to prevent the fraud and abuse at every level that has plagued the GSL Program by means of a pilot program to test the effect of an aggressive collection program on defaults, a program to encourage employer assistance in repayment of loans, and tougher standards on the availability of federally subsidized loans to schools with abnormally high default rates.

Another feature of H.R. 4471 is the direct Student Loan Program. Funded as a demonstration project, this program will examine the cost effectiveness of eliminating all the middlemen involved in the Stafford Program and bringing aid directly to students who need it.

H.R. 4471 provides numerous other benefits for our higher education system. It liberalizes the need analysis, providing a single determination for expected family contribution and encouraging home and business ownership by removing a family's home, farm, and small business equity from consideration as part of expected contribution. It provides grants or matching funds for new programs in teacher recruitment, merit-based scholarships for students eligible for Pell grants, early intervention for at-risk students, and the study of manufacturing engineering.

Mr. Chairman, some have suggested that this measure goes too far, or not far enough, and that we should hold out for a better higher education bill. Time, however, is running short on the Higher Education Act of 1965, and opportunities missed for next year's class of students can never be recovered. If we are to put recession behind us and remain competitive in the world economy, we must invest in making higher education available to every American who deserves it, and become once again the best educated people on Earth.

The President's fiscal year 1993 budget calls for an increase of almost 10 percent in educational funding, including an additional $1.2 billion for Pell grants alone. It is our responsibility to pass a bill that meets this goal. Accordingly, I support H.R. 4471 and urge my colleagues to keep the door of educational opportunity open for lower and middle income students by voting in favor of it.

Mr. PERKINS. Mr. Chairman, I rise today to voice my support for this historic piece of legislation. I feel that with this action we are attempting to straighten the path of higher education and enable the community to provide a more effective service to all students.

We are here today because of Chairman FORD's relentless dedication to pursuing what is right and fair for the students of our Nation. I know that the chairman has been forced to alter the priorities of the legislation as he moved toward the floor for today's consideration but I feel that H.R. 4471 is a bill this House can be proud of and support.

Of course I know that the majority on the committee regret the removal of the Pell grant entitlement language more than any change that had to be made. Had this provision been allowed to remain we would have initiated the reversal of an imbalance in the loan versus grant ratio. The policymakers of this country have given this issue lipservice for many years and now when given the opportunity to make a difference the committee is forced to change the bill and exclude this provision. I applaud Chairman FORD for pushing the issue as far as he was able and I hope the committee returns to address it again but with better results.

A theme that runs throughout the legislation is the tightening of the rules that govern the schools that choose to participate in the programs offered. We have seen the community tarred for too long based on the acts of a few bad apples. The changes that are included in this legislation combined with the work that has gone on before with this issue I feel we will have removed this accusation from the debate.

I support this effort and feel that access must be to a quality learning environment. I think the community as a whole agrees with this and will support the changes incorporated in H.R. 4471.

On behalf of the unique work colleges I want to thank the chairman and the committee for including in the legislation my provision that allows for a separate line item of funding for these institutions. Work colleges, of which there are five presently so categorized, require 100 percent of their student population to participate in work on and around campus. It is the ultimate in providing the opportunity to work one's way through college.

At this time there are five schools that have embraced this curriculum requirement but the legislation leaves the door open to any and all that would like to join these schools and I hope more do pursue this option. I know that this kind of educational environment is not for everyone but it has proven extremely successful in my State of Kentucky. This program provides an avenue of access that in many situations would not be available otherwise. Because of the school's unique set up the tuitions are drastically reduced, or there is no additional tuition at some institutions, but the work requirement provides the alternative means of payment.

H.R. 4471 addresses the issue of access in many other ways as well and that is a primary reason for my support for the legislation. By expanding the access to Stafford loans to more of the students who are categorized as falling into the middle class we will be renewing our commitment to the middle class and stating that we do believe in their access to higher education. Every Member in this House has heard the complaints about how the middle class student falls between the cracks and is not poor enough to qualify for assistance but not able to afford to pay for all of the costs just out of their own pocket. This provision will set up an unsubsidized loan that, though not as fair as other traditional programs, does serve to provide a needed line of financial empowerment to these students.

Once again we have the renewal of the Perkins loans that provide financial assistance to the more economically disadvantaged students and has a lower interest rate so to reduce the burden of the debt load the students have to carry upon leaving school. This program has been with us for a number of years now but is still able to lead the way in the area of fairness and efficiency.

The direct loan program that Mr. ANDREWS and Mr. FORD proposed and is a demonstration in the bill is a direct descendant of the Perkins loan model and I feel underscores the value of the low cost loans. The Perkins Loan Program is the direction of the future because of simplifying overhead and the efficiency of effort on the part of the institution. The Federal dollar goes farther because we remove the middle man from the process and use the schools to administer the campus based program. I look forward to the results of the demonstration program but encourage the committee to continue on with the Perkins loans because of the access they provide and the reduction of the interest rates.

There is one issue that I am not in full agreement with as we consider H.R. 4471 and that is the issues surrounding the short-term programs. As I stated earlier I am in 100 percent agreement on the tightening up of the programs to prevent the abuse that has been widely reported on. Unfortunately though we sometimes cross over the line and toss out the good with the bad. By placing the 50-percent limit on tuition coverage and requiring a cosigner we are effectively shutting off access for most, if not all, that would look to these short-term programs as a means of skill improvement.

As chairman of the Employment Opportunities Subcommittee I know that we are facing a massive dislocated worker problem as a result of the military conversion, base closings, GM plant closings, IBM downsizing, and the list goes on. Millions of Americans will be looking for training and education to equip them for the job market. Some would have been served by the short-term programs that will no longer be in business as a result of the changes directed at them in this legislation.

Once again I underscore the fact that if a school is unable to show a substantial success rate in graduations and placements of students then they do not belong in the Federal program. But if they can show their quality then as a part of the overall national training effort we owe it to our dislocated workers to provide them with the maximum number of alternatives. I am hopeful that this issue can be revisited in the conference so that a fair and thoughtful treatment is provided.

I want to once again congratulate Chairman FORD for his unyielding commitment to improving the quality of higher education in our country and improving the quality of life for all Americans. The staff of the Postsecondary Subcommittee has once again provided an exceptional level of service and work in putting together this massive bill. I want to personally thank them for all that they have done in assisting me with the issues that I have particular interest in.

In conclusion I would like to underscore the need for this legislation and request that the House support this bill and allow the Nation's efforts in higher education to move forward.

Mr. ENGEL. Mr. Chairman I rise today to offer an amendment to H.R. 3553, the Higher Education Amendments Act of 1992. My amendment addresses a grave injustice that currently exists within the higher education bill. An injustice that if left untouched, would have a dire impact on the entire medical profession.

The current version of H.R. 3553 would eliminate the 2-year deferment period on repayment of educational loans presently extended to persons participating in residency training programs. My amendment would restore this much needed program.

Serving a medical residency is one of the final components in a physician's formal training and the duration of the residency program varies between 3 and 7 years. These are several years that consist of extremely hard work and long hours. Unfortunately, if my amendment is not adopted, it may also be years of unnecessary and overwhelming economic hardship for thousands of medical residents.

Today, the costs of a medical education are rising at an alarming rate. Currently, annual tuition costs range from $5,000 to almost $28,000. Without Federal financial assistance, many excellent doctors would be denied the opportunity to pursue a career in medicine. In 1990 for instance, 79 percent of medical school graduates assumed educational debt owing an average amount of $46,224. In addition, 12 percent of these 1990 graduates incurred debt in excess of $75,000. Minority and low-income students, especially, are dependent on borrowed money to complete their medical education. In 1990 minority students incurred an average debt of $51,000, and 21 percent of them had debts of over $75,000.

This economic problem is compounded for many doctors who complete their residency within an area of high living costs, such as New York City. This creates a disheartening situation, since large metropolitan areas like New York, have some of the greatest needs for qualified doctors.

As a Representative of Bronx, New York, I speak for the hundreds of medical students currently enrolled at the Albert Einstein School of Medicine. I also represent the thousands of doctors that teach and work at the Albert Einstein College of Medicine and those who serve at the North Central Bronx, Montefiore, and Bronx-Lebanon Hospitals, as well as those physicians in private practice. I have received hundreds of letters form medical students, frantically asking me to do something.

Dr. Dawnielle Kerner writes,

> As a resident at Bronx-Lebanon Hospital Center I take home $1,800 a month. If the rules change my loan payments will be almost $1,200 a month. That would leave $600 a month to cover rent, food, and all other living expenses. My apartment is rent subsidized and I still pay $500 a month. In New York City $100 does not go far.

Dr. Mark Kerner, a resident NT in orthopedic surgery at Montefiore Hospital writes,

> I come from a middle class family, and though I have been able to pay for part of my education through work/study and scholarships, my indebtedness at this time exceeds $100,000. My current monthly take-home income is $1,600. My payments on these loans would exceed this amount. It would be impossible for me to even purchase books.

And Dawn Gangi, a second-year student at Albert Einstein College of Medicine writes,

> Not only am I concerned for myself and my ability to repay these loans, but I fear for the future of health care in this Nation. As the incentives to go into medicine become fewer and fewer, and the prospects of struggling for years after school become greater and greater, I can only wonder what caliber of people will go into the field.

I could go on. I have hundreds more letters from physicians and medical students expressing these same feelings of concern and anxiety. Not only are they troubled by the economic hardships they and their colleagues will face, they are also concerned for the future quality of American health care.

If left untouched, the provision in H.R. 3553 would create numerous problems for the medical field and the American public. First, hospitals would be forced to pay their residents higher wages in order for the physicians to meet higher monthly loan repayments. Even after wage increases and loan payments, residents would be unable to meet minimum living costs. Second, the medical profession will become a field where lower and middle class students will become locked out of the system, unable to meet living costs and towering loan payments. Finally, the provision increases the pressures on medical students to specialize only in lucrative medical fields as opposed to primary care areas where there is great need.

Mr. Chairman, I urge my colleagues to support this amendment. The future of the entire medical profession and the economic security for thousands of medical students, residents, and their dependents rely on its passage.

Mr. FRANKS of Connecticut. Mr. Chairman, today we are debating a bill which is an investment in the future of this country. An investment which may help a future President of the United States, or an investment which could assist our Nation's future astronauts, and an investment which will train our work force to compete in the global marketplace. For many, this legislation will benefit our children and our children's children. Mr. Chairman, there is no better investment in our country's future than investing in education.

The legislation we have before us today will reauthorize the Higher Education Act of 1965. The act originally set out to assist low- to middle-income students in attaining a postsecondary education. However, postsecondary education has changed significantly since the passage of this act. Now it is time for reforms to be put in place to address these changes.

Many citizens in this country are experiencing problems with personal debt. Numerous college graduates face this debt problem because the first thing they face out of college is repayment of student loans. College costs have risen significantly in the past decade and students are unable to adequately meet these rising costs.

College costs have been increasing at an annual rate of between 5 and 8 percent over the last few years. According to the Congressional Research Service, the college board estimates that the annual cost of attendance for a full-time student during academic year 1990–91 was an average of $5,013 at a 4-year public school and $12,320 at a private 4-year institution. This compares to $3,756 at a public 4-year school and $8,260 at a private 4-year school in the 1981–82 academic year.

What does all this add up to? Reduced access to higher education for a majority of high school graduates, many of whom fall in the middle class and have been squeezed out of the opportunity to attend college due to the cost.

Mr. Chairman, I am happy to see that changes were made to the bill H.R. 3553. The substitute, H.R. 4471, which we have before us today, is a good bill, one which will benefit many students and one which addresses the problems the student aid system has encountered over the years. I believe there are several positive aspects of this bill which will address these problems and improve our higher education system.

One such area which has been improved revolves around the needs analysis system. By reforming the needs analysis system, this bill goes a long way to expand the access of student financial aid to the middle class. Under this legislation, home, farm, and small business equity is excluded from determining a student's eligibility for financial assistance. Thus, a student from a family of four with an income of $49,000 will be eligible for the minimum Pell grant. It also creates an educational savings protection allowance to protect those assets in special targeted savings accounts. This allows families to save during the college years.

The trend in financial aid has changed in the last 10 years. The original intent of the 1965 act was that grants would be the main source of Federal aid, while loans would act as a supplement. However, now two-thirds of student financial aid is in the form of loans. This legislation addresses this problem by increasing the maximum award for Pell grants and improving access.

Another important aspect of this bill deals with simplifying the student aid process. I often hear from students who are dismayed and discouraged at the tedious application process related to financial aid. The current methodology requires students to fill out two complicated forms, one for Pell grants and one for Stafford loans. This legislation has addressed this problem by mandating a free Federal application form and establishing a single system needs analysis process to determine eligibility for all student aid programs under title IV.

This bill also emphasizes improving program integrity. One of the biggest problems that has faced the student loan system in recent years is the ever-increasing student loan default rate. The costs associated with these defaults are at an alltime high. In this economic climate it is essential that our Federal dollars are not wasted because of fraud or abuse in the system. This legislation addresses these problems by enhancing program integrity through a number of provisions which will strengthen and restructure the oversight process of schools that participate in the programs.

I am also pleased with the efforts to promote programs to assist disadvantaged students through Federal early outreach and student services programs. This includes programs such as TRIO, Upward Bound, and educational opportunity centers. I just recently met with students from the Fifth Congressional District in Connecticut who showed me just how important these programs are in helping disadvantaged students attain a college degree and in helping them to realize the importance of a college education.

A provision which I fought hard for in the defense authorization bill is also included in this legislation. The provision provides for new grants to encourage development and expansion of undergraduate and graduate programs in manufacturing engineering. Many companies have recently complained that there is a lack of technically trained college graduates entering the work force. Engineers and managers, trained in the most up-to-date skills in both fields, would enhance the quality of the work force and foster growth in the manufacturing industry.

Mr. Chairman, while we will debate many amendments today which will enhance this bill further, I am concerned with a few provisions and some amendments which might hurt the quality of this bill.

One area of concern focuses on the direct lending provision of this bill. I was extremely pleased to see that the substitute bill deletes the phasein of a direct lending program with the phaseout of the loan program and instead establishes a pilot program for a Federal direct lending program. However, I am still concerned that this program will have the potential for uncontrolled spending. Therefore, I am supportive of capping the authorized funding at the proposed $500 million level.

While I believe this bill goes a long way to achieve the goal of increasing access to higher education, there is a proposal called the Idea Act which has merit but will not be considered in this debate. The Idea Act establishes a supplementary student loan program, open to all students regardless of parental income, in which the repayment is based on the borrower's postgraduate income, and collected by the IRS. The basic principle behind the Idea Act is that education represents an investment. Students are investing in human capital and expect a high rate of return in the form of a higher future income.

The bottom line is that the Idea Act allows complete flexibility in loan repayment. Each individual pays according to his/her financial situation after graduation. This proposal would accommodate such life changes as unemployment, death of a spouse, marital breakup, sickness, or anything that may affect the individual's financial situation. The Idea Act would allow many individuals to get started with their future plans right out of school and not be bogged down by the pressure to pay off loans which might not fall within their personal budget.

Mr. Chairman, access to education is one of the most important issues facing our country today. I, for one, am grateful for the opportunity to have attended one of the finest institutions in the country. But, unfortunately, with the high cost of an education, many individuals are not able to have such an opportunity. I believe this legislation opens up many doors for deserving students across this country, doors which give them access to a higher education, and doors which will open the future for our own children.

Ms. NORTON. Mr. Chairman, my support for the reauthorization of the Higher Education Act is deepened by a provision I introduced that is designed to increase the participation of minorities in the Foreign Service. The Foreign Service is an area of Federal service that minorities have found most difficult to penetrate. The most recent statistics show that the total percentage of African-Americans, Hispanics, Asian-American, and American Indians employed in career positions is a mere 12.7 percent, while collectively these groups are about 25 percent of the population.

My amendment would increase participation by people of color in the Foreign Service by establishing a program for minority Foreign Service professional development. This program would be developed through an undergraduate consortium of universities based at Howard University, here in the District of Columbia. The majority of universities in the consortium have student bodies composed predominantly of minorities.

Features of my amendment include a junior-year abroad program, a Ralph Bunche Fellowship Program providing $15,000 fellowships for study at the master's degree level, a cooperative program to prepare graduates for the foreign service examination, and the creation of an Institute for International Public Policy at Howard University to concentrate on producing minority international/foreign policy analysts.

Considering the role of our country as a world power, the Foreign Service needs our best and brightest. Unfortunately, many minorities have not had the opportunity to prove that this is exactly who they are. Our provision is intended to remedy this problem. I strongly urge support of reauthorization of the Higher Education Act of which my amendment is a part.

Mr. GOODLING. Mr. Chairman, I yield back the balance of my time.

Mr. FORD of Michigan. Mr. Chairman, I yield back the balance of my time.

□ 1920

Mr. Chairman, I move the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mrs. LOWEY of New York] having assumed the chair, Mr. PEASE, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3553) to amend and extend the Higher Education Act of 1965, had come to no resolution thereon.

GENERAL LEAVE

Mr. FORD of Michigan. Madam Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on H.R. 3553, the bill just considered.

The SPEAKER pro tempore (Mrs. LOWEY of New York). Is there objection to the request of the gentleman from Michigan?

There was no objection.

GONZALEZ IRAQ EXPOSÉ

(Mr. FRANK of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FRANK of Massachusetts. Mr. Speaker, I want to call to the attention of the House the extraordinary discussion which the chairman of the House Committee on Banking, Finance and Urban Affairs, the gentleman from Texas [Mr. GONZALEZ], has been having about the incredible pattern of misbehavior and coverup with regard to Iraq that has been perpetrated by this administration.

Just to quote briefly from the Washington Post article on last Sunday:

> Almost every Monday for the past couple of months, Representative Henry B. Gonzalez has been setting the Bush administration's teeth on edge with fiery exposes about its courtship of Iraq before the invasion of Kuwait in August 1990. Gonzalez's special orders are full of excruciating detail that could haunt the White House before this election year is over.

The article in its entirety is as follows:

[From the Washington Post, Mar. 22, 1992]

GONZALEZ'S IRAQ EXPOSÉ—HILL CHAIRMAN DETAILS UNITED STATES PREWAR COURTSHIP

(By George Lardner, Jr.)

Almost every Monday for the past couple of months, Rep. Henry B. Gonzalez (D-Tex.), the feisty chairman of the House Banking Committee, has been setting the Bush administration's teeth on edge with fiery exposes about its courtship of Iraq before the invasion of Kuwait in August 1990.

So far, hardly anyone has been listening. Gonzalez's "special orders"—as such uninterrupted speeches are called—are delivered to a virtually empty House floor. But they are full of excruciating detail—much of it classified "secret" and "confidential"—that could haunt the White House before this election year is over.

Gonzalez's charges are simple and direct: Senior Bush administration officials went to great lengths to continue supporting Iraqi President Saddam Hussein and his unreliable regime long after it was prudent to do so.

U.S. officials insisted in 1989, for instance, on playing down the importance of a scandal involving an Atlanta-based bank and more than $5 billion in unauthorized loans to Iraq, including $900 million guaranteed by the U.S. government. They even intervened in the case to prevent indictment of the Central Bank of Iraq while the Persian Gulf War was raging.

Despite stiff opposition from some officials inside the administration, senior policymakers pushed ahead with $1 billion in fresh agricultural credits for Iraq under a Commodity Credit Corp. program. They also pressed for continued Export-Import Bank financing despite congressional sanctions and kept sharing intelligence information with Baghdad until a few weeks before Iraq's invasion of Kuwait.

Then, in the wake of the gulf war when Congress began demanding more information about the prewar conduct of U.S. policy toward Iraq, administration officials tried to hide their embarrassment under a cloak of national security and created what Gonzalez has called a "coverup mechanism" to keep investigators at bay.

Administration officials strenuously contest the accusations of impropriety and illegality, but they plainly would rather not talk about them at all. So far, they have sent only muted complaints to Capitol Hill about Gonzalez, by way of the House Republican minority, even though, House aides say, the Texas congressman has plunked more classified documents into the Congressional Record than anyone since the Vietnam War.

"We have received no formal communication from the administration on the issue," said a spokesman for House Speaker Thomas S. Foley (D-Wash.).

The centerpiece of the controversy is the scandal involving the Italian government-owned Banca Nazionale del Lavoro (BNL). It broke open on Aug. 4, 1989, when FBI agents and Federal Reserve officials, tipped off by two bank executives, raided BNL's Atlanta branch and confiscated thousands of documents. The branch had become Iraq's principal source of credit in the United States between 1984 and 1989, a period in which Iraq's eight-year-long war with Iran had turned Saddam's regime into a cash-starved and unreliable debtor.

According to interviews with knowledgeable officials, records made public by Gonzalez and documents obtained from other sources, it was soon apparent that Iraq was involved in a massive fraud to pump billions of dollars in illegal loans and credits out of BNL-Atlanta, far above the amounts reported to the Federal Reserve.

About half of the money allegedly went to finance the purchase of U.S. farm products, including $900 million guaranteed by the Agriculture Department's Commodity Credit Corp., but investigators said much of the rest had helped fuel Iraq's military buildup.

U.S. Customs Service reports dated Sept. 21, 1989, and Oct. 20, 1989, pointed out that BNL was suspected of financing shipments of industrial machinery, military-type technology and various controlled chemicals to Iraq and providing loans "to various U.S. firms for the illegal export to Iraq of missile-related technology."

Federal prosecutors in Atlanta anticipated quick indictments. In Washington, records show, Agriculture Department officials learned in early October 1989 that the evidence indicated their $1 billion-a-year CCC program for Iraq was riddled with corruption, including kickbacks and bribes demanded by Iraqi government agencies and questionable consulting fees for Iraqi front companies in the United States.

There were also allegations, still unresolved, that food shipments destined for Iraq under the loan program never got there and may have been diverted to other countries in exchange for cash or goods. Investigators say they now believe some food may have been traded for weapons or Soviet bloc military assistance.

MORE CREDITS URGED

Despite that, Agriculture officials recommended an "interim" $400 million in additional food credits be granted Iraq under the CCC program, and this was approved by an interagency council Oct. 4, 1989, over the opposition of the Federal Reserve and Treasury representatives. A confidential State Department memo minimized the objections of the two agencies, saying they were made "at the behest" of the Office of Management and Budget, which State suggested was taking its role as "watchdog against scandal" too seriously.

But Iraq rejected the $400 million as insultingly low—Baghdad had received $1.1 billion the year before—and said such a relatively small amount would be "widely viewed as a U.S. vote of no confidence in Iraq debt policy." On Oct. 6, according to a secret cable, Secretary of State James A. Baker III assured complaining Iraqi Foreign Minister Tariq Aziz at a meeting here that he would "look into the matter immediately."

BNL officials in Rome, faced with parliamentary demands for an investigation there, were also getting worried. On Oct. 19, 1989, according to a State Department cable, BNL's chairman and its director-general called on U.S. Ambassador Peter F. Secchia and "suggested that the matter should be raised to a political level." They said they wanted to cooperate fully with U.S. authorities "while at the same time making it fairly clear they want to achieve some kind of damage control."

Sometime that same month, President Bush stepped into the fray, issuing National Security Directive 26 (NSD-26). Gonzalez said the order has been withheld from his committee on grounds of executive privilege, but other documents show that it ordered "pursuit of improved economic and political ties with Iraq." A report to Baker, dated Oct. 26, 1989, cited the directive in recommending approval "on foreign policy grounds" of a $1 billion CCC program for Iraq, to be paid in two installments in light of the BNL investigation.

The report warned that the bank fraud "may also involve several high Iraqi officials," but emphasized; "Iraq is now our ninth largest customer for agricultural commodities. . . . Our ability to influence Iraqi policies in areas important to us, from Lebanon to the Middle East peace process, will be heavily influenced by the outcome of the CCC negotiations."

BAKER CALLED YEUTTER

Baker called then-Secretary of Agriculture Clayton Yeutter and urged him to go forward with the $1 billion program. Deputy Secretary of State Lawrence S. Eagleburger made similar appeals to Treasury and OMB, explaining in one note that "the CCC program is important to our efforts to improve and expand our relationship with Iraq, as ordered by the President in NSD-26."

The full $1 billion was approved at a high-level interagency council meeting on Nov. 8, 1989. According to a confidential memo, Treasury, the Federal Reserve and OMB still felt that "allegations of Iraqi wrongdoing in the BNL case, though not backed by evidence at this time, could eventually embarrass the administration." But once again, the State Department representative invoked NSD-26 and said that "to abruptly terminate the [CCC] program would . . . clearly run counter to the president's intention."

Alarmed by Baghdad's human rights abuses such as the gassing of Kurdish villages in northern Iraq, Congress later that month enacted limited sanctions against Iraq, prohibiting Export-Import Bank financing without a presidential waiver. The State Department quickly drafted one and Bush signed it Jan. 17, 1990, declaring that a prohibition on Ex-Im loan guarantees for Iraq—essentially a $200 million revolving credit line—would not be "in the national interest of the United States."

Around that time, other documents show, prosecutors in Atlanta were planning to bring an indictment in February and wanted to arrange interviews abroad of some "essential witnesses," especially in Turkey. The interviews never came about, for reasons that are not yet clear. Justice Department officials in Washington say they stepped into the case in February 1990 in view of its international implications. Not until a year later—on Feb. 28, 1991, the day after Bush ordered a cease-fire in the gulf war—were charges formally brought.

"It was a very complex case," said Gerrilyn Brill, first assistant U.S. attorney in Atlanta. "There is no connection between any failure to meet our expected dates in the indictment and foreign policy considerations."

Brill is in charge of the case because the U.S. attorney in Atlanta, Joe D. Whitley, appointed in the summer of 1990, disqualified himself. He came from a firm that represented Matrix-Churchill of Ohio, an Iraqi front company and machine tool manufacturer named in the indictment as one of the recipients of BNL loan money.

"It's just a matter of happenstance," Laurence A. Urgenson, acting deputy assistant attorney general, said of Whitley's Matrix-Churchill connection. Urgenson, who worked closely on the case as chief of the Justice Department's criminal fraud section, said "people keep linking things together that don't link. You have no idea how unrelated the war was to what we were doing. We indicted the day we were finished."

CREDITS FINALLY CUT

The Agriculture Department finally halted the CCC loan program in May 1990 as relations with Saddam were deteriorating, but by then, half the $1 billion in credits had already been used.

Documents indicate the cutoff came after a May 29 meeting of the National Security Council deputies committee. A secret State Department options paper prepared for the session listed other actions that could be taken against Iraq and noted that U.S. intelligence was still providing Baghdad "with limited information on Iranian military activity that would be missed."

It is not clear when that intelligence-sharing relationship was terminated. A knowledgeable official said intelligence sharing was not discussed at the NSC meeting.

Months later, with the BNL indictment imminent, prosecutors wanted to name the Central Bank of Iraq as a defendant, a step they said would allow them to freeze $1.5 billion in Iraqi assets. Top lawyers from the State Department, the Federal Reserve and other agencies successfully opposed the move as a dangerous precedent that could invite similar action by other countries against the Fed.

In a separate memo, the State Department, apparently anticipating Saddam's downfall, expressed additional reservations, saying the Iraqi central bank "will be an important element in any reconstruction regime." The memo also noted with apparent satisfaction that "contrary to press reports," Saddam's son-in-law, Hussein Kamal, was not on the list of those to be indicted. He has been named, instead, as an unindicted co-conspirator.

The 347-count indictment accused three officers of BNL-Atlanta, two of whom pleaded guilty last Friday, of conspiring with four Iraqi officials in what amounted to a rogue operation to defraud BNL of more than $5 billion without the knowledge or approval of higher-ups in the Italian bank. According to one Justice Department memo, the main defendant in the case, Christopher Drogoul, who ran BNL-Atlanta, has accused higher-ups in Rome of complicity, but prosecutors rejected his claims as "spurious." The trial is set for June 1.

Simply stated, Mr. Speaker, this article shows a pattern of this administration courting Saddam Hussein, of overruling efforts within the administration to cut off aid to him and, in fact, helping to create the monster that caused us so much difficulty a year and a half ago.

REQUIRING ULTRACLEAN VEHICLES BY THE YEAR 2003

(Mr. OWENS of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS of Utah. Mr. Speaker, I am introducing a bill today which is admittedly ambitious, but also, I believe, an accurate prediction of what the future must hold in store for us just 10 years from now. This would require ultraclean vehicle emissions, equivalent to those which will likely be achievable in dedicated natural gas vehicles, by the year 2003.

The age of gasoline as we know it is slowly drawing to a close. We can't afford its environmental cost much longer, especially in Utah. The Congress is pushing a transition to cleaner fuels with requirements in the Clean Air Act Amendments of 1990 to produce 150,000 clean vehicles for sale each year in southern California by 1996 and 300,000 by 1999 for each year thereafter. My bill is the natural outgrowth, and next step, of that visionary program.

Two years ago, Congressman WAXMAN led many of us in an effort to include cleaner national emission standards in the Clean Air Act amendments by the year 2003. The final bill ultimately included only a study of such emission standards by the EPA, with the possibility of adopting them.

This winter in Utah a long, dangerous air inversion afflicted my district and Utah County of the South. The skies have cleared to some degree now, as they usually do in the spring, but the pall that hung over our valleys for weeks at a time was not only a serious health threat, but also a constant, nagging reminder that we need to take bold steps to clean our air. The bill I am introducing today will tighten the standards for NO_x [NOX], CO [carbon monoxide], PM [particulate matter], and NMOG [non-methane organic gas] emissions by the year 2003. These standards are even more stringent than those proposed by Congressman WAXMAN. They will stretch the limits of technology, but, after discussions with the natural gas and petrochemical industries and others, I believe they are attainable and a reasonable target. Hearings can give us a clearer picture of whether those stretching goals are the appropriate ones. Any alternative fuel which could achieve these standards, including reformulated gasoline, would be equally acceptable if it could deliver this nearly nonpolluting standard. Natural gas is the likely choice. We have enough natural gas in North America to last for many decades. We do not have to remain dependent on uncertain overseas oil supplies forever. Dedicated vehicles—those manufactured strictly as natural gas vehicles—will be even cleaner than the vehicles we have converted to natural gas today.

Utah experienced at least one significant violation of the ozone standard last summer and probably more. We had numerous violations of the carbon monoxide standard in our Wasatch Front communities. In addition to creating ozone precursors and carbon monoxide, gasoline emissions, NO_x in particular, are also a precursor of PM–10—arguably our most serious air quality problem—and are responsible for about 20 to 30 percent of our PM–10 problem in Utah. Given the serious inversion problems in our high valleys, and given that the number of vehicles on the road will nearly double in Utah in the next 20 years, it is already past time to take additional steps to prevent a filthy and unhealthy future.

Other fuels will eventually and inevitably take the place of gasoline as it is currently formulated. No one disputes that, not even in the petrochemical industry. I believe 10 years is a sufficient lead-time, given the progress that is already mandated by law, to prepare gradually for a switch to essentially nonpolluting fuels for our vehicles. Congress can push that process even further along by acting on this measure I am introducing. We need to take a visionary stand and force a cleaner future.

A recent editorial in the Salt Lake Tribune read:

> The Wasatch Front needs nothing less than a change in the habit of relying exclusively on the internal-combustion engine. Not abandoning the automobile, because technology can help by introducing cars that feasibly burn cleaner fuels or are electric or solar-powered. Such ideas can no longer be dismissed as futuristic visions. Rather, they are the ideas that can save Wasatch Front residents from their own air-befouling products. In fact, no solution can be viewed as too futuristic because the air pollution problem is here, now, and getting worse. It needs to be taken as seriously as any health hazard that has been judged "life-threatening."

I will submit the entire Salt Lake Tribune editorial to be printed in full:

"LIFE-THREATENING" AIR POLLUTION BECOMES EVERYBODY'S PROBLEM

During the past week, The Salt Lake Tribune and KUTV-Channel 2 joined to examine air conditions along the Wasatch Front and share findings with the largest possible, directly affected audience. A particularly ugly and coincidental temperature inversion helped illustrate the central point, which is: Air pollution isn't merely an esthetic inconvenience, it's a serious health threat.

Tribune/KUTV investigations determined that parts of this region contain some of the nation's worst measurements for participate and carbon monoxide pollution; that particulate pollution is causing illness and death to people susceptible to this pulmonary assault; that local air pollution can get progressively worse in 20 more years.

Encouraging, however, were answers to a Tribune/KUTV poll. Thirty-eight percent of those asked said the dirty air is "life-threatening" and another 50 percent found the situation "serious."

This legitimate concern should be translated into necessary action. For instance, state senators should be urged to support eight bills comprising the Governor's Clean Air Commission legislative package, already ushered through the House of Representatives.

More than that, citizens should demand that legislators get more aggressive on air pollution. As essential as it is, this year's legislative effort can hardly be called ambitious.

The bills include tax incentives for buyers of clean-burning stoves and mandated inspections for vehicles owned by college students from outside Wasatch Front counties—not exactly giant-slayers.

State legislators should consider this year's air quality improvement work as just a beginning. It's a springboard to bolder action and certainly away from HB57, enacted with flaws in 1987. That law unfortunately prevents Utah from imposing regulations more stringent than those outlined in the federal Clean Air Act.

The state requires a flexibility that the Legislature waived five years ago. National standards don't meet all local needs.

Indeed, the Wasatch Front's air pollution is unique, the result of indigenous geography and meteorology. The resulting health risks, especially caused by particulates, are distinct from those of, say, Cleveland, and require controls not justifiable for Cleveland.

Looking ahead, Salt Lake County voters should begin considering the light rail referendum scheduled for November's ballot. By designating a fraction of their sales tax to the Utah Transit Authority's proposed light rail system between Sandy and Salt Lake, coincident with doubling the bus fleet, they would help neutralize an air pollution buildup that could literally choke the valley by the year 2010.

When the public starts thinking about approving and using a light rail system, it will take a critical psychological step: Embracing an alternative to driving cars. And that's what the Wasatch Front needs—nothing less than a change in the habit of relying exclusively on the internal-combustion automobile.

Not abandoning the automobile, because technology can help by introducing cars that feasibly burn cleaner fuels or are electric- or solar-powered. Such possibilities can no longer be dismissed as futuristic visions. Rather, they are the ideas that can save Wasatch Front residents from their own air-befouling waste products.

In fact, no solution can be viewed as too futuristic because the air pollution problem is here, now, and getting worse. It needs to be taken as seriously as any health hazard that has been judged "life-threatening."

CONGRESSIONAL RECORD PRINTED ON 100 PERCENT RECYCLED NEWSPRINT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina [Mr. ROSE] is recognized for 5 minutes.

Mr. ROSE. Madam Speaker, I am pleased to report to the Congress that a portion of the March 24 issue of the CONGRESSIONAL RECORD has been printed on newsprint containing 100 percent postconsumer-recovered materials. We anticipate that the CONGRESSIONAL RECORD will be printed in its entirety on 100 percent recycled materials around May 1.

As chairman of the Joint Committee on Printing, on behalf of its membership and with the support of the House Subcommittee on

Legislative Branch Appropriations, I am proud to say that the Congress is taking the lead in promoting efforts to increase the use of recycled materials in Federal Government printed products. By taking this initiative and expanding beyond the current EPA guidelines, we are showing the paper industry and environmentalists that we are committed to confronting and reducing this Nation's growing solid-waste disposal problems.

The Joint Committee on Printing has directed the Government Printing Office to use postconsumer-waste-content paper for the Government's printing whenever possible and the paper industry is responding enthusiastically to our request.

While even more stringent efforts must be made to reduce the amounts of solid waste placed in our landfills, this announcement, Madam Speaker, is one significant step worthy of our recognition for congressional actions taken to solve one of our most pressing environmental problems.

GENERAL LEAVE

Mr. BILIRAKIS. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my special order of today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

IN CELEBRATION OF GREEK INDEPENDENCE DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. BILIRAKIS] is recognized for 60 minutes.

Mr. BILIRAKIS. Madam Speaker, I rise this evening here in the Halls of American democracy to honor the spirit of freedom that lies at the heart of our political system.

It is the idea of democratic government brought forth by the ancient Greeks and which today sweeps the modern world.

Madam Speaker, I yield to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Madam Speaker, I thank the gentleman for yielding.

Madam Speaker, I rise to express my strong support for Greek Independence day, and I would like to commend the gentleman from Florida [Mr. BILIRAKIS] for organizing today's special order.

On March 25, 1821, the Greek people took arms against four centuries of Ottoman rule, fighting bravely and valiantly to achieve freedom from Turkish domination.

Greek Independence Day has special significance to all Americans. It is the ancient Greeks who formulated the concept of democracy which is the keystone of the American political system. Democracy is but one of the many contributions of the Greek people to the development of civilization. Art, philosophy, science, and law are but a few of the disciplines in which the Greek people have enriched our culture.

The contributions of Greek-Americans to the development of our great Nation are much too numerous to mention. Our distinguished congressional colleagues, the gentleman from Pennsylvania, [Mr. YATRON], the gentlewoman from Maine, [Ms. SNOWE], the gentleman from Florida, [Mr. BILIRAKIS], the gentleman from Pennsylvania, [Mr. GEKAS], and the gentleman from Maryland, [Mr. SARBANES] are just a few of the current examples of Greek-Americans who have excelled and contributed to our Government.

Through the commemoration of Greek independence, we have the opportunity not only to salute our own Greek-American community for their contributions, but to commemorate the independence of the Greek people.

Madam Speaker, in closing, it is with a hope and a prayer that we may soon see unity and peace on the island of Cyprus.

I thank the gentleman for yielding.

Mr. BILIRAKIS. Madam Speaker, I thank the gentleman from New York [Mr. GILMAN], whom I have known now for almost 10 years, and this is my 10th year in this august body, who has always been a wonderful friend who all humanity, all people around the world, all Americans, and a particularly strong and faithful philhellene. I thank the gentleman for those wonderful remarks.

It is, indeed, fitting that we celebrate this magnificent concept today because this is the date that people of Greek heritage and the Greek Orthodox faith—as well as freedom-loving individuals everywhere—celebrate the symbolic rebirth of democracy: Greek Independence Day.

March 25, 1992, is the 171st anniversary of the beginning of Greece's struggle for independence from more than 400 years of foreign domination. It was on this historic day that the Greek people began a series of uprisings against their Turkish oppressors, uprisings that soon turned into a revolution attracting wide international support. The Greeks long and arduous struggle against the Ottoman Empire is a perfect example of the ability of mankind to overcome all obstacles if the will to persevere is strong enough and the goal—in this case the dream of freedom—is bright enough.

America, the United States of America, is surely the truest expression of this dream today. It remains an imperfect dream, yes, but still the shining example that oppressed people throughout the world have looked to for generations; have gained strength from in their struggle to overcome their oppressors. This dream of democracy—born so long ago in Greece—and its greatest tangible expression in our great democratic republic, Madam Speaker, forms the common bond between our two nations. Furthermore, it is a bond that has stretched throughout history, from ancient times to the present day.

In ancient mythology, fire was brought down from Mount Olympus and offered to the Greeks as a gift, a gift that transformed their lives. Similarly, the gift of democracy was offered to the world by the ancient Greeks and it too was a transforming gift; in fact, it continues to transform the world with stories of heroes and remarkable events. The history of the Greek War for Independence also is filled with heroes and heroism, remarkable events by many peoples in a common cause. It is partly the story of the Klephtes, who descended upon the invaders from their mountain strongholds. It is also the story of the Hydriotes, seafarers from the island of Hydra who broke the Ottoman naval blockage; and it is the story of the Philhellenes, who took these tales of courage to Europe where their significance was not overlooked.

These stories woven together formed the fabric of a free and independent Greece, of democracy returned to the cradle where it was born, and defended by the defiant cries of the Greek patriots: "Eleftheria i Thanatos"—liberty or death. It is happening again. Today—over and over the story is repeated—redrafting the world map faster than cartographers can redraw the lines. Germany is whole again, the Soviet Union is no more, the Baltic Nations of Lithuania, Latvia, and Estonia, long captive Republics, are free. Each and every one of the former Soviet Socialist Republics now are members of the commission on security and cooperation in Europe. Just this past weekend, in Albania, once one of the most repressive regimes in the Balkans, democrats won a landslide victory with 62 percent of the vote. Once dark, the Balkans are lighting up again.

However, democracy, which places the hands of the common man on the wheel of destiny, brings with it dangers, as well. Freedom often brings with it old antagonisms, nationalist disputes that must be reconciled, and the old truism that warfare is only an extension of diplomacy is not better demonstrated than in the Balkans. Yugoslavia—cobbled together out of many competing ethnic factions and for years held together by the force of communism—is fragmenting, often explosively. Fighting continues over Croatian and Slovenian independence and in Yugoslavia's southern region an old dispute threatens the cradle of democracy, Greece itself.

The Greek Government protested when, in 1945, Yugoslavia's Communist dictator, Tito, usurped the name Macedonia for a province carved out of southern Yugoslavia to diminish the power of Serbia. This served only to inflame competing interests in a region stretching well beyond the borders of Yugoslavia and unstable since the days of Alexander the Great. While this province now understandably seeks its freedom, the concept of Macedonia must in no way be restricted within the borders of this tiny land. To recognize this province as an independent nation under the name Macendonia would, I fear, unleash antagonisms already bubbling at the boiling point. European leaders, among them Greek President Constantine Karamanlis, himself a Macedonian, are voicing frantic concerns to the European Community over the Republic's request for recognition as an independent state. As recounted in the New York Times, constitutional language regarding a future union of the wider lands of ancient Macedonia, which reach into Bulgaria, Albania, and Greece, spark resentments and suspicion. Promises to protect the cultural, economic, and social rights of Macedonians in surrounding countries are equally ominous.

More blatant still are maps circulating in the region and bearing the seal of the Macedonian national liberation army; maps that depict the envisioned nation of Macedonia with borders reaching into eastern Albania, southwestern Bulgaria and a full quarter of mainland Greece. Frequent radio broadcasts from Yugoslavia's Mecedonian province call for the unification of Macedonia and for the freeing of millions of oppressed Macedonians in Greece.

In short, Madam Speaker, there is much more at stake here than a name. Rushing in with official recognition could add another Serbo-Croat-type conflict to a region already suffering from widespread violence. As Greek and other European officials recognize, freedom is indeed a magnificent thing, a precious gift, but unless existing differences are peacefully reconciled now, very dark days could lie ahead. Democracy is a goal worth the effort in ensuring its peaceful attainment. Indeed, in these very special times for democracy and freedom, with the elimination of the Berlin Wall and the lifting of the Iron Curtain, we should reflect on the democratic principles offered by ancient Greece.

The ancient Greeks forged the very notion of democracy, placing the ultimate power to govern in the hands of the people themselves. The dream of self-rule was made reality as our founding fathers drew heavily on the political and philosophical experience of ancient Greece in forming our government. For that contribution alone we owe a great debt to the Greeks. In the American colonial period, during the formative years of what would be our great republic, no feature was more prominent than the extent to which Greek and Roman sources were cited by the Framers of the Constitution. The very basis of our Constitution derives from Aristotle and was put into practice in ancient Rome, in 18th century England and in the early State constitutions, before it was given its national embodiment by the convention of 1787.

The overriding appreciation was for Aristotle's sense of balance, since the delegates viewed the tyrant and the mob as equally dangerous. Indeed, both James Madison and John Adams emphasized what Aristotle had written in "The Politics," that "the more perfect the mixture of the political elements, the more lasting will be the state." Through the recognition of the idea of a separation of powers, a system of checks and balances was instituted in American Government. Thus, as another of the ancient Greeks, Polybius, foresaw and wrote, "when one part, having grown out of proportion to the others, aims at supremacy and tends to become too dominant * * * none of the three is absolute * * *."

Our Founding Fathers were eager to relate the American experiment to the efforts of the ancient Greeks to establish a balance of powers. Such a relationship, it was hoped by the Framers, would allow America to escape the disintegration of government that had proven inevitably fatal to other political systems throughout history. It is the example of the ancient Greeks that we celebrate each March 25, that and the return of democracy to Greece on this day of glory for the Greek people. The spirit of democracy and of this day lives on in the defense of the principles for which so many of the free world's citizens have given their lives.

Madam Speaker, today we celebrate together with Greece in order to reaffirm the democratic heritage that our two nations share so closely. These principles are not uniquely Greek or American, but they are our promise to the world, and they form a legacy that we cherish and have a responsibility to protect and defend. "Democracy," in the words of the American clergyman Harry Emerson Fosdick, "is based upon the conviction that there are extraordinary possibilities in ordinary people." It calls upon each and every one of us to rise above ourselves, to understand that freedom requires sacrifices both large and small and to recognize that the common man is capable of magnificently uncommon actions.

Mr. HALL of Ohio. Madam Speaker, I join my colleagues in honoring today, March 25, as Greek Independence Day. This day celebrates the centuries old ideals of democracy and justice, founded in ancient Greece.

More than 2,000 years ago the early Greeks formed the first democratic republic, where power was placed in the hands of the people. The Greeks believed that man was capable of bringing good government and justice to a people and a nation. This was born of a trust in human excellence and man's unique ability to think and act rationally.

The ingenuity of the ancient Greeks has made a lasting impression upon the history of the Western World, and has paved the road to modern democracy. For this contribution alone, people across the globe are indebted to the Greeks.

America is one of the most fortunate beneficiaries of this democratic legacy. Thomas Jefferson, the architect of our Declaration of Independence, noted that Americans "are indebted to Greece for the light which originally led ourselves out of Gothic darkness." And as the great poet Percy Bysshe Shelley wrote: "We are all Greeks! Our laws, our literature, our religion, our art, have their roots in Greece."

Like the Greeks, Americans recognize and cherish the virtues of democracy. Democracy provides an environment for high human achievement and active and responsible participation in one's own government. We enjoy the fruit of democracy because we continue the hard work and perseverance necessary to preserve it.

Today marks the 171th anniversary of the signing of the Greek Declaration of Independence; when Greeks broke free from the Ottoman Empire to reclaim their democratic heritage. In celebration of this day, we acknowledge the triumphant history of democracy and look forward to continued friendly relations with Greece and her people.

Mr. TAYLOR of North Carolina. Madam Speaker, as a cosponsor of House Joint Resolution 390, I am happy to join my colleagues today in honoring Greek Independence Day: A national day of celebration of Greek and American democracy. The Greek people 171 years ago, rose with the love of honor—Greek philotimo—to fight and win freedom for its people from 400 years of oppressive Ottoman rule.

During the past decade, we have seen a great resurgence of democracy in Asia, Eastern Europe, South and Central America, and in the former Soviet Union. It is unquestionably one of the most significant events of our time.

For 2000 years Greeks have played a key role in changing the global attitude toward self government; and their philosophy is as influential today. In Nicholas Gages' novel, "Eleni," he depicts the story of this mother's execution by Greek Communists for her efforts to reunite her family in America. President Reagan stated, and I quote, that Eleni's final simple words—"My children"—inspired him to seek an arms agreement "for all the children of the world." Today more than 36 percent of the world is governed by freely elected leaders.

America's mutual admiration and respect for democracy dates back to the late 18th century when our Founding Fathers looked to ancient Greece as a model in creating our own Declaration of Independence. Benjamin Franklin and Thomas Jefferson persuaded a noted Greek scholar, John Paradise, to come to the United States for consultation on the political philosophy of democracy.

On March 25, 1821, Alexander Ypsilanti proclaimed Greece's independence inciting the 8-year battle for freedom. His people in turn imported and translated our Declaration of Independence and studied the American experience of our own revolution to guide their nation through its pursuit of self rule. Poorly equipped and disorganized, their courage and dedication to an ancient idea of freedom, justice, and liberty for all inspired three notable American philhellenes—Lt. Gen. George Jarvis, Col. Jonathan P. Miller, and Dr. Samuel Gridley Howe—to join Lord Byron to fight with the Greek insurgents. In support of Greece, President James Monroe declared "a strong hope is entertained that these people will recover their independence and resume their equal station among the nations of the world."

The Greek people continued their struggle against the threat of nondemocratic regimes into the 20th century. At the height of World War II, when Nazi forces appeared to soon overrun Europe, the Greek people fought courageously on behalf of freedom at a cost of a half a million lives. Prime Minister Winston Churchill declared: "in ancient days it was said that Greeks fight like heroes, now we must say that heroes fight like Greeks."

For the past four decades, Greece has withstood many trials. Recognizing Greece's commitment to the resistance of communism, President Harry Truman included Greece in his economic and military assistance program—the Truman doctrine. In 1952, Greece joined the North Atlantic Treaty Organization. In 1960, Greece's commitment to freedom and democracy was again tested when Russia threatened to pulverize the Acropolis unless Greece abandon the NATO alliance. Greece stood firm.

When Kuwait endured a hostile takeover of its peaceful nation, and the United States sought assistance from our allies to oust Saddam Hussein from Kuwait, Greece firmly enforced the United Nations embargo against Iraq and sent troops.

Today is the sixth year we reaffirm our alliance with Greece and our dedication to our common democratic principles by celebrating Greek Independence Day. It is also a day to honor Greek-Americans who have made such invaluable contributions to our national strength and pride. Over 700,000 Greeks have crossed these shores seeking a better life. Two out of three have made America their permanent home. They brought with them their descendants and heritage—the beginnings of Western civilization—and tempered by the strife of a new world, placed themselves among the most highly successful and educated ethnic groups in America.

Their achievements have been numerous and diverse. To name just a few: In politics, Luca Miltiades Miller, the first Greek-American congressman; in theatre and entertainment, Elia Kazan and Maria Callas; in journalism, Ike Pappas; in medicine, George Papanicoulou; and in business, a few of my own constituents, including George, Demo, and Gus and Chris Zourzoukis, and Nick Dimetrios and Victoria Angelis who have been responsible for bringing this year the 48th Annual Greek Convention to Asheville. I'm privileged to be hosting this event.

Madam Speaker, today we salute Greek-Americans for their contributions to the United States, and especially to Eleni Chamis, another Greek-American from North Carolina, who at age 14 developed the idea for the enactment of this most worthy commemoration.

Mr. EDWARDS of California. Madam Speaker, I would like to thank our colleague, Mr. BILIRAKIS, for calling us together today to commemorate the anniversary of the struggle for Greek independence. Without our country's historic relationship with Greece, American society would be greatly diminished.

More than two centuries ago, those who sought to create a new nation of the American colonies, free and democratic, studied ancient Greece. There, more than two millennia earlier, the first theories of and experiments in democracy flourished.

The nascent Americans built an independent nation guided by the principles of reason and fairness learned from the Greeks. Jefferson and Mason championed one of the first human rights documents in history, The Bill of Rights; Madison and Hamilton, the Federal structure of our Government. All of these men were students of the ancient Athenian democracy of Pericles.

Greece, inspired by the United States Declaration of Independence from Great Britain only 45 years earlier, began its 11-year struggle for independence from the Ottoman Empire on this date in 1821. The struggle for Greek national liberation drew many of the great artistic and intellectual minds of the 19th century who admired the small nation fighting to secede from a mighty empire.

Freedom was achieved at great cost and has always been difficult to preserve. Nearly 100,000 Greeks were slaughtered by the Ottomans at Chios, an event memorialized by Delacroix's romantic masterpiece. During World War II, occupied by hostile Nazi forces, over 600,000 Greeks lost their lives along side American and other Allied troops in the fight for the preservation of democracy.

As the then chairman of the U.S. Committee for Democracy in Greece, I was overjoyed when democratic government superseded dictatorial rule in the 1970's. However, seeing the birthplace of democracy ruled by dictators reinforced my own conviction that democracy is not an accomplishment, but a process which must be guarded constantly by the people.

The mutually constructive relationship enjoyed by the United States and Greece is evident not only in our shared histories, but in the role Greek-Americans play in our society. Prominent scientists, athletes, entertainers and civic leaders of Greek descent are readily visible role models for Americans.

Modern history is still being written. Let us continue to support those new states struggling for freedom who would guarantee the inalienable rights of their citizens. They too draw inspiration from Greece and the United States.

Mrs. BENTLEY. Madam Speaker, I would like to commend my esteemed colleague from Florida for organizing this special order, as he has on so many years, in order to commemorate Greek Independence Day.

This day celebrates the return of democracy, 171 years ago today, to the land that gave the world the concept of democracy so long ago. I might add, Madam Speaker, that Mr. BILIRAKIS is one of the prides of the Greek-American community, and carries on in a Greek tradition of democracy that is more than 2,500 years old.

It was on March 25, 1821, that the Greek people, under the banner and leadership of the Bishop of Patras, rose in insurrection against the Ottoman Turks who held the Greek people in both physical and cultural slavery for nearly 400 years.

This day of revolution was not chosen at random, Madam Speaker. In the Orthodox Christian faith, March 25 is the Feast of the Annunciation. This feast marks the beginning of the plan of salvation that we celebrate during the Lenten season, culminating in the Feast of Easter in 3 weeks.

Greek independence today, however, has a special meaning, and with potentially ominous overtones. I speak, Madam Speaker, of the breakup of Yugoslavia, and once again the rise of the Macedonian question.

No one would contest that the people of Yugoslavian Macedonia, in the tradition of democracy established in Greece so long ago, have the right to independence and self-government.

However, their insistence in retaining the name Macedonia, a 20th century phenomenon, based on a kingdom that existed more than 2,000 years ago, is of great concern to the country of Greece, and peoples of Greek descent throughout the world.

The Kingdom of Macedonia encompassed areas of modern day Greece, Bulgaria, and Yugoslavia. The country of Greece is justifiably concerned with the possible expansionist aims of an independent Yugoslavian Macedonia, with no direct relation with the ancient kingdom, which would be in violation of international law on the integrity of international borders.

The history of the Macedonian question would indicate that the United States, and the international community, should be very careful in dealing with the independence wishes of Yugoslavian Macedonia, and should go to great lengths to guarantee that any expansionist aims by Yugoslavian Macedonia be nipped in the bud. This should start with the changing of Yugoslavian Macedonia's name, which the European Community already has indicated should be the first step in the recognition process.

But let this not detract from today's celebration. I thank the distinguished Member from Florida for arranging this special order today, and it gives me great pleasure to join with our own Greek-American community in this country, and with people of Greek descent around the world, in celebration of the return of freedom and democracy to the Greek people.

Mr. BONIOR. Madam Speaker, March 25, 1992, marks the 171st anniversary of Greek Independence Day. On this day in 1821, the Greek people declared their independence from the Ottoman Empire after 400 years of foreign domination.

As I look back upon the great unfurling of history, I am especially struck by the endurance of the ideas that sprang forth from Greece. Over 2,500 years ago, the ancient Greeks conceived the democratic principles that form the basis of our Declaration of Independence, Constitution, and Bill of Rights. As Thomas Jefferson said, "to the ancient Greek * * * we are all indebted for the light which led ourselves, America, out of Gothic darkness."

In turn, the United States became the role model for the Greeks as they valiantly fought for independence during the 1820's. The Declaration of Independence was translated and used by the Greeks as their own. Greek commander in chief, Petros Mavomichalis appealing to the United States stated,

> Having formed the resolution to live or die for freedom we are drawn toward you by a just sympathy since it is in your land that liberty has fixed her abode. * * * Hence, honoring her name, we invoke yours at the same time, trusting that in imitating you, we shall imitate our ancestors and be thought worthy of them if we succeed in resembling you * * * it is for you, citizens of America to crown this glory.

Since then, the two nations have stood side by side as beacons of freedom in the modern era. In World War II America and Greece worked together to defeat Hitler and the rise of fascism. Over 600,000 Greeks—9 percent of the population—died fighting on the side of the allies.

During the past few yeas, the ideals of ancient Greece once again demonstrated their transforming power as millions of people demanded their freedom in Eastern Europe and the Soviet Union. Today, both America and Greece can rejoice in the triumph of freedom and democracy.

But the Greeks have not only given us their ideas, they have also made major contributions here in America. From medicine, to entertainment, to public service, Greek-Americans have helped shape the social fabric of the United States.

In Detroit, Greektown is a vital section of the city that attracts a multitude of visitors every year who enjoy the fine food and entertainment available there. In the 12th District of Michigan, there are a number of Greek churches that perform a tremendous amount of community service and contribute to the rich diversity of the area.

Madam Speaker, I join the people of Greece and those of Greek ancestry around the world in celebrating Greek Independence Day. I salute all of them for the contributions to freedom and human society.

Mr. LEWIS of Florida. Madam Speaker, I rise today to commemorate the 171st anniversary of Greek independence. I also want to commend my Florida colleague, Mr. BILIRAKIS, for holding this special order.

Over 2,500 years ago, Greece began an experiment called democracy. This noble experiment, founded on the principles which Americans now take for granted, has wound its way in history with destiny and purpose.

We are fortunate to live in an age where, for the first time, democracy has taken on worldwide proportions. The crumbling of the Soviet Union and the fall of the Berlin Wall were not remote events unrelated to other trends.

They were, in fact, preordained by those courageous Greeks thousands of years ago. Now these newly free nations are using the Greek example, just as the United States did 200 years ago.

While many Americans know the pivotal role Greece played in the formation of democracy, many are unaware of exactly how deeply this vein runs in our society.

It is not just the thought of individuals governing themselves that has been passed on, but the nature of the institutions themselves.

In their papers, writings, and speeches, such great American founders as Thomas Jefferson and James Madison clearly credit the Greeks for being the basis of many of the founding principles of our American form of democracy.

Ancient Greeks strived for a sense of balance in their government, and sought to include elements of kingliness, aristocracy and the people. This later became the basis for the U.S. President, Senate, and the House of Representatives.

Another form of this balance has resulted in one of the major tenets of American Government—the separation of powers. Ancient Greeks clearly foresaw that one branch of government could become dominant, and usurp power from the people.

To preclude this possibility, our founders instituted a system of checks and balances between our executive, legislative, and judicial branches that maintains the balance Greeks knew to be so important.

As I mentioned earlier, democracy has, unfortunately, not been one common thread through history, but a pattern of fits and starts that serve to remind us of how fragile our democratic institutions really are.

The Greek people are all too aware of this by their experience, as they remained under the control of the Ottoman Empire from 1453 to 1821. However, once again, the Greek nation rose from tyranny to govern themselves.

Ironically, as the Greek people searched for examples for democracy in a modern world, they looked to the United States. In fact, their Declaration of Independence was a direct translation from the U.S. Declaration of Independence.

Given Greece's commitment to democracy, it can truly be said in this case that imitation is the sincerest form of flattery.

Since their independence, Greece has shown time and time again her commitment to democracy around the world, along with her friendship with the United States.

In peace, Greece has shown a true desire to further the cause of freedom and democracy. In war, Greece was willing to sacrifice 600,000 individuals in World War II to end the threat of fascism. She was then determined not to allow Communists to pervert her democratic ideals in the years following the War.

Following the Communist rebellion, President Eisenhower said "Greece asked no favor except the opportunity to stand for those rights in which it believed, and it gave to the world an example of battle * * * a battle that thrilled the hearts of free men and women everywhere." A finer compliment could not be given to any Greek.

My Florida colleague, Mr. BILIRAKIS, exemplifies this Greek and American ideal. His decision to devote a portion of his life toward his work in Congress helps to carry on this long tradition of a commitment to democracy. I congratulate him for his work on designating today as Greek Independence Day.

Madam Speaker, it is clear that the destinies of Greek and American democracy are forever intertwined. I am pleased to rise in this descendant of the Greek ideals, the U.S. House of Representatives, in celebration of Greek Independence Day.

Mr. ATKINS. Madam Speaker, I rise today to commemorate Greek Independence Day and to pay tribute to the important role Greek-Americans have played in our democracy.

Massachusetts' Fifth District, which I represent, is especially proud of its Greek community. The past glories of Lowell, the largest city in the fifth district, have been restored as a result of the Lowell plan, which was formulated by Paul Tsongas on the back of a place mat at a Greek restaurant. This reconstruction is consistent with the proud immigrant heritage of Lowell which continues today. This morning, I joined the Greek community in celebrating this heritage as the flag of Greece was raised in front of Lowell's city hall.

The wisdom of the Greeks have had a significant impact on modern society. This year we celebrate the Olympic Games, born in Greece. The Olympics have not only provided a competitive arena for sportsmanship amongst the world's great athletes, they have also given us the opportunity of ensuring a peaceful international forum of goodwill between nations. The very concept of a democracy, Madam Speaker, is the greatest gift that the Greeks have provided modern society.

Greek Independence Day, March 25, marks the anniversary of the beginning of the revolution which freed the Greeks from the Ottoman Empire. Greece lived under the yoke of the Ottoman Empire from 1453 until the Declaration of Independence in 1821. Just as Americans spoke out against that oppression, so must we continue to speak out against Turkey's illegal occupation of the northern half of the island nation of Cyprus.

Today I join my colleagues, just as I joined the Green-American community in Lowell this morning, in celebrating this freedom and the heritage that Greece has provided the world and that Greek-Americans, in particular, have shared with all of us.

Mr. GUARINI. Madam Speaker, today, people of Greek heritage all over the world are celebrating Greek Independence Day. On this day in 1821, the Greek nation began its brave and arduous struggle in pursuit of independence from foreign rule. March 25 also marks the celebration of the Enunciation of the Blessed Mother, a day of feasting and celebration for members of the Greek Orthodox religion. Many of my distinguished colleagues have spoken about the political and religious significance of this day to Greek people, however, I wish to point out that March 25 also offers a wonderful opportunity for all Americans to celebrate the important role that persons of Greek origin play in our country.

There are approximately 3 million Americans of Greek origin living in America today. Approximately 245,000 of the 12 million immigrants who passed through Ellis Island during its 62 years of operation were from Greece. Many settled in the New York Metropolitan Area, drawn by the hope of cultural acceptance and financial success. This pattern continues today, as over 4,000 Greeks, many of them newly arrived, populate the Jersey City area in my district. As Father Karloutsos, of the Greek Orthodox Archdiocese in New York put it, "wherever you find the marketplace, you will find Greeks."

In fact, Greek immigrants to the United States have always embraced the American dream. Most major American cities boast a thriving Greek community, active in economic, political, and cultural areas. Individually, Greeks rank higher in number of years spent in school than any other ethnic group. Not surprisingly, many prominent Americans are of Greek origin.

Today, in my district, members of the Evangelismos Greek Orthodox Church and the St. Demetrios Greek Orthodox Church will meet at the old courthouse building in Jersey City. They will be joined by officials of the local and State governments of New Jersey, the Ambassadors of Greece and Cyprus, and members of AHEPA, [the American Hellenic Educational and Progressive Association]. The group will celebrate Greek Independence Day with a flag-raising ceremony at 12 noon, followed this evening by an ethnic festival with traditional Greek food, music, dancing, and poetry recital.

On a sad note, Father Paul Koutoukas of the Evangelismos Greek Orthodox Church and a respected leader in Hudson County, is recovering from surgery and will not be able to attend this year's Greek Independence Day celebration. I would like to join with the many others in the Hudson community in wishing Father Koutoukas a speedy recovery.

Madam Speaker, March 25 is a day when Greeks and Greek-Americans celebrate their culture, their religion, and their heritage. Let us join them in celebration, for Greek Independence Day is an opportunity for all Americans, not only those of Greek origin to rejoice.

Mr. FAZIO. Madam Speaker, I am pleased to support today's special order in recognition of Greek Independence Day.

Democracy eluded Greece and its people for nearly 400 years—from the fall of Constantinople in 1453, until Greece declared its independence in 1821, and finally gained its freedom from the Ottoman Empire nearly 10 years later.

Yet, it was in Greece that the concept of democracy—the people's government—was born. As the poet, Percy Bysshe Shelley declared, "We are all Greeks! Our laws, our literature, our religion, our art, have their roots in Greece." And as Thomas Jefferson noted, "* * * to the ancient Greek * * * we are all indebted for the light which led ourselves out of Gothic darkness."

Greek Independence Day acknowledges this contribution. Moreover, it is a celebration of that day in 1821, when Greece launched its struggle for emancipation. Greek Independence Day is a tribute to the courage, determination and perseverance of the Greek people, and to their love of and commitment to freedom and democracy. It is a symbol of the mutual respect and shared values between our two countries.

Again, I am honored to participate in this special order. I commend the distinguished gentleman from Florida [Mr. BILIRAKIS] for calling the order, and I thank my colleagues for their involvement.

Ms. PELOSI. Madam Speaker, I would like to thank my colleague from Florida, Mr. BILIRAKIS, for calling this special order to commemorate Greek Independence Day. As in past years, I rise today with my colleagues to pay tribute to the anniversary of the beginning of Greece's struggle for independence from more than 400 years of foreign domination.

Today marks the 171st anniversary of the beginning of the revolution which ultimately resulted in independence for the Greek people. During the 400-year period of foreign domination, the Greek people were subjected to every hardship. Deprived of their civil rights, their schools and churches were closed, and their children were sometimes kidnaped and raised as Moslems to serve the sultan. In 1822, the Greeks mounted an offensive to finally free themselves from years and years of foreign tyranny. Their brave actions resulted in a liberal Republican constitution, and brought them international support, including volunteers from the United States who sailed to Greece to participate in the struggle for freedom.

This 171st anniversary follows a year of international events which precipitated new freedoms and democratic ideals in government for peoples of many countries. The collapse of the Soviet Union was a tremendous victory of the will of the people over the physical and economic tyranny of hard line Communist rule. The struggle for freedom is alive today all over the world. The Greek revolution that began 171 years ago continues to instill in us a sense of pride, and gives us hope for present and future fighters of tyranny and oppression.

San Francisco, with its proud, ethnic diversity, has a vibrant Greek community which greatly contributes to the unique fabric of the city. Over 3 million Greek immigrants have come to the United States, and have made significant contributions to all aspects of American life since their first migrations to this country. Our country, and all of Western civilization, is deeply rooted in the principles of Greek civilization. As Shelley wrote, "We are all Greeks! Our laws, our literature, our religion, our art, have their roots in Greece."

Again, I thank my colleague for calling this special order to recognize March 25 as Greek Independence Day.

Mr. PORTER. Madam Speaker, I join with my colleagues in celebrating Greek Independence Day. This day has been billed as a national day of celebration of Greek and American democracy and it truly is a celebration of the bond between the two nations.

The Founding Fathers of the United States had a strong grounding in the classics and were very familiar with the tenets of Athenian democracy and Greek history. The founders read from Demosthenes, Aristotle, and Polybius and writers of political tracts at the time often took the pseudonyms of ancient Greeks. In works opposing the highly popular postwar practice of persecuting loyalists, Alexander Hamilton used the name of Phocion, after the Athenian general who was celebrated for his magnanimity toward defeated enemies and his efforts to protect prisoners of war. These types of literary allusions to Greek democracy were not lost on the American colonists. Thomas Jefferson said, ". . . to the ancient Greeks we are all indebted for the light which led ourselves out of Gothic darkness."

Here in Washington, DC, we have concrete proof—of the link between our form of government and ancient Greek ideals. You need simply look around Washington, DC, to see the strong Greek influences in the Government buildings that were constructed in the early days of the Republic, including the very building in which we stand. Coincidentally, when the Greeks were fighting for their independence in the 1820's, they used the United States revolution of 1776 as inspiration and translations of the United States Declaration of Independence were circulated among the Greek freedom fighters.

Greece remained under the control of the Ottoman Empire from the fall of Constantinople in 1453 until the declaration of Greek independence in 1821. It is that event, 171 years ago, that we celebrate today.

Let me take a moment to speak more generally about political freedom. The past 3 years have seen the greatest expansion of freedom in history. Over one-third of the nations on Earth, encompassing nearly 30 percent of the world's population, have consciously decided to alter their political systems in favor of more open and democratic forms of government. Freedom House, a New York-based human rights monitoring group, now counts an alltime high number of nations it designates as free: 75. Freedom House counts 89 democracies and 32 other nations in democratic transition, for a total of 121 of the world's 171 nations. There were 44 democracies in 1972 and 56 in 1980. The ideals of democracy developed in Greece 2,000 years ago and the example of United States democracy that exists today are directly responsible for this transformation of so many nations to freedom.

This is a historic time. All of the effort the United States has expended during the cold war is paying off and democracy is marching across the world. We cannot now lose our vision and let our commitment to democracy lose out to the political atmosphere created during an election year. We must not shirk our responsibility and our historical obligation to further democracy at this crucial time. I urge the President to resist the demagog who would have the United States draw back and allow the seed of democracy to wither in many nations overseas.

Madam Speaker, I thank the gentleman from Florida [Mr. BILIRAKIS] for calling this special order and I am pleased to be included in this celebration of Greek Independence Day. I urge all Members to take this opportunity to reflect on the history of democracy and to also reflect on the future of democracy and America's obligation to promote government by the people the world over.

Mr. LAGOMARSINO. Mr. Speaker, I am pleased to rise in strong support for House Joint Resolution 58 to commemorate Greek Independence Day. This special day marks the anniversary of the beginning of the Greek struggle for independence in 1821.

The United States owes much of our democratic heritage to the ancient Greeks. Our Founding Fathers drew heavily upon Greek philosophy and democracy in crafting our own Government. The foundations of our own democratic system, such as the supremacy of the individual as the basis for state power, the equality of all citizens and the strong belief in the rule of law, where born in the land of Aristotle and Pericles. These basic principles miraculously survived in Greece under centuries of foreign domination. The new Greek state even adopted the American Declaration of Independence as their own. It is certainly fitting to celebrate this day together with Greece in order to reaffirm the democratic heritage that the United States and Greece share.

I also would like to commend the countless contributions of the many Greek emigrants and their descendants to our great society. Their accomplishments have blessed us all and certainly have made them one of the most successful ethnic groups in the United States.

I am proud to be able to state that my lineage includes Greek ancestors.

It is my hope that the current fighters for democracy and basic human rights throughout the world find inspiration in both the independence struggle of Greece in the 1820's and that of the ancient Greeks to establish the very first democratic system against the autocratic rulers of that time. Hopefully all the world's peoples will soon be able to share in those basic principles of Greek democracy that we take for granted today.

Mrs. MEYERS of Kansas. Madam Speaker, I thank the gentleman for yielding. I rise today in honor of Greek Independence Day. On March 25, 171 years ago, the birthplace of democracy and Western culture rose to free itself from the bonds of Ottoman despotism. Those who loved freedom flocked from around the world to support Greece's struggle in its 7 year war of independence against the Ottoman Empire. The English poet, Lord Byron, was one of those. In 1821, he wrote:

The mountains look on Marathon,
And Marathon looks on the sea;
And musing there an hour alone,
I dreamed that Greece might still be free.

He died in 1824, fighting for Greece.

The very word for politics comes from the Greek word "polis", meaning city-state. And it was in the Greek city-states, especially Athens, that the foundation of our form of government was laid. In Greece, was invented the concept of democracy—the idea that all citizens should have a voice in determining governmental policy.

Just as our Founding Fathers were inspired by ancient Greek philosophy and political ideals, the Greeks were inspired by America's war for independence against Britain. The Greeks translated our Declaration of Independence and used it as their own.

The other contributions of Greek culture to Western civilization are too numerous to mention. They include mathematics—the invention of our system of geometry, architecture—including the design of our Capitol building, and law. It is impossible to go through a day without using a legacy of ancient Greece.

I am proud to be a cosponsor of the gentleman from Florida's legislation recognizing Greek Independence Day. It is more than appropriate that March 25 is known as a celebration of Greek and American democracy. For the experiences of Greece and America are so intertwined that they cannot be separated.

Mr. FASCELL. Madam Speaker, as in the past, it is an honor for me to join with my colleagues in commemorating Greek Independence Day. This recognition is especially important today, considering the collapse of the Soviet empire and the nascent growth of democratic institution building that is occurring within the former Soviet Union and Eastern Europe. It is equally important considering the indelible ties of democracy that permanently link Greece with the United States.

If future historians note that the 20th century ended with the demise of the ideological division of the world and rise of democratic movements worldwide, they will also make reference to the fact that the origins of such movements arose in Greece long before the rise and fall of the Berlin Wall. We as Americans know this to be true because as Americans we recognize that our country's most cherished heritage—a free and open political form of Government—would not have been possible without the historical contributions that Greece has made toward the development of such a form of government and its inherent institutions.

Those contributions have contributed to the permanent fabric of United States-Greek relations. It is equally clear, that those contributions bind United States foreign policy interests to those of Greece in seeking to achieve greater stability and security in the Eastern Mediterranean. These ties have been assembled through mutually beneficial security cooperation efforts that were evidenced throughout the ordeal of not only the cold war but most recently that of Operations Desert Shield and Desert Storm where Greece permitted United States aircraft to fly through Greek airspace, granted United States and allied ships the right of passage through Greek waters, allowed for the restationing of United States aircraft at the Souda naval base on Crete and allowed the West German and Belgium Governments to station naval ships at Greek naval facilities on Crete. Clearly, each and every one of these steps was an indication of the Greek Government's commitment to the integrity of internationally accepted norms of state relations, as well as to maintaining friendly and strong relations with the United States.

In light of these facts, the United States remains thankful for Greek cooperation not only in the second gulf war, but aware of the many contributions Greece made during the ordeal of the cold war. In this regard, Greece has been, is and will remain a valuable friend and reliable ally as we face continued security questions and challenges in the future.

In my view, the current foundation of United States-Greek relations remains on firm ground. Clearly, our relations will change and evolve as we move ahead in the post-cold-war world. Nevertheless, the underpinnings of this foundation remain sound and will serve to ensure that United States-Greek relations will continue to flourish and grow with the same richness that our nations have grown accustomed. These foundations rest upon our common commitment to strengthening democratic principles and institutions worldwide, our shared willingness and responsibility to take steps to defend those principles and institutions, and the deep cultural ties that have been forged between our peoples by Greeks, Americans and people of Greco-American extraction. Taken together, these elements will continue to contribute to the excellent state of relations that persist between the United States and Greece as we congratulate the Greek people upon the anniversary of their Independence Day.

Mr. DWYER of New Jersey. Madam Speaker, I would like to thank Mr. BILIRAKIS for reserving time today so that we can commemorate Greek Independence Day, a national day of celebration of Greek and American democracy.

All of us participating in today's special order are aware that March 25th marks the anniversary of the beginning of Greece's struggle for independence from the Ottoman Empire from more than 400 years of foreign domination.

We in the United States and around the world owe a great deal to the ancient Greeks who first developed our democratic principles over 2,500 years ago. The ancient Greek concepts directed our founding fathers as they formulated the guidelines which have become central to our democracy as we know it today. Now, many of the freedoms that we Americans possess provide inspiration for the millions of people who have fought for their rights all over the world.

I believe it is particularly pertinent and valuable to celebrate democracy in this way, at a time when the democratic goal is appreciated and upheld as never before. World events in recent times have demonstrated the force of the political sweeping changes that have occurred in such diverse areas as Eastern Europe, Central America, and South Africa. But the overriding common theme of all of these upheavals has been the continual struggle for the basic political rights and human freedoms which are central to democracy and a tradition passed down from the Greek people.

Although democracy has proven to be an invaluable contribution to our world today, it is only one of the numerous contributions the Greek people have made toward the development of civilization. Art, science, philosophy, and law are even just a few of the areas in which the Greek people have enriched our culture.

Madam Speaker, I join the people of Greece and those people of Greek descent around the world celebrating Greek Independence Day. I honor them for the tremendous contributions to freedom and human dignity that they have made.

Mr. BROOMFIELD. Madam Speaker, it is with great pleasure and pride that I cosponsor House Joint Resolution 390, designating March 25 as Greek Independence Day.

As democracy triumphs around the globe and the forces of totalitarianism abandon their failed political philosophies, the contributions of the ancient Greeks become all the more laudable. The early Greeks fought and died to gain the blessings of freedom and democracy. This date marks the 171st anniversary of their revolution against the Ottoman Empire. They paid dearly for the final victory; their lasting gift is democracy, a system of government that gives the ultimate power to govern to the people. Perhaps the United States' greatest contribution to humanity will be our leadership in promoting the democratic system among the nations of the world.

The Greeks of old also gave Western civilization art and literature, architecture, science, and philosophy. We need only look at the lovely buildings in this great city to see the legacy of the architects of ancient Greece whose genius still stands in the modern world. For these contributions, we are greatly indebted to the Greeks.

Greek-Americans have also given much to this Nation. They value learning and are one of the most highly educated ethnic groups in this country. Sons and daughters of Greece have proudly served the United States in Government, the military, the arts, and the private sector and have distinguished themselves in their adopted land.

The common heritage we share has forged a close bond between Greece and the United States and between our peoples, for we are all children of the ancient Greeks. I urge my colleagues to support this resolution that pays tribute to the contributions of the Greeks, both past and present, which have greatly enriched American life.

Mr. FRANK of Massachusetts. Madam Speaker, this day marks the 171st anniversary of the declaration of the independence of the Greek nation on the occasion of the Feast of the Annunciation in 1821. This began the 7-year struggle which resulted in the independence of the Greek state.

The efforts of the Greek revolutionaries captured the attention of the world, and their commitment to freedom inspired many people from the United States and Europe to leave their respective homes to join the revolution. Even now we are inspired by the spirit and vibrancy of the Greek-American community and its many and varied contributions to the social and political life of our country.

This historic day will be celebrated across the country by people of Greek descent. At the State House in Boston, as well as at the White House, ceremonies will be held to commemorate Greek independence and the historic relationship between Greece and the United States. In my congressional district, Greek churches and schools will host events which will celebrate Greek culture and heritage. This Sunday, St. Demetrios Church in Fall River, MA, will have a special program following regular Sunday services, where children will recite poems and sing Greek songs as well as perform traditional dances. Father James Kyriakakis of St. Demetrios, a leader of the Greek community in Fall River, has been steadfast in his commitment to the celebration and preservation of Greek culture and heritage, and I know that during Sunday's services he will be making special mention of this important date.

Madam Speaker, we owe the Greek people a great debt of gratitude, both for their role as the founders of the very first democracies, and for the contributions of all Greek-Americans to our society. Let us then join in the recognition of this day which is celebrated by Greek-Americans with joy and reverence.

Mr. YATRON. Madam Speaker, I commend the gentleman from Florida, Congressman BILIRAKIS, for initiating this very special order on Greek Independence Day. On March 25, 1821, after four centuries of Ottoman rule, Greeks rose up in arms, fought valiantly, and finally achieved a dream centuries old—freedom from Turkish denomination.

The ancient Greeks created the very notion of democracy, in which the ultimate power to govern was vested in the people. As Aristotle said:

> If liberty and equality, as is thought by some, are chiefly to be found in democracy, they will be attained when all persons alike share in the government to the utmost.

It was this concept that the Founding Fathers of the United States of America drew heavily upon in forming our representative government.

Constitutional democracy has made the American way of life possible. For that contribution alone, we owe a heavy debt to the Greek people. But the contribution of democracy was not the only contribution made by Greek patriots to American society. The ancient Greeks contributed a great deal, both to our cultural heritage, as well as to European culture, in the areas of art, philosophy, science, and law. In the preface to his poem "Hellas" Shelly wrote: "our laws, our literature, our religion, our arts have their roots in Greece."

Greek-Americans have followed the rich tradition of their ancestors. They have made their mark in many professions including medicine, science, law, and business, among others. The welfare and progress of the Greek community, both here and abroad, is of great importance to all of us.

Madam Speaker, Greek Independence Day was a model for a new nation, and continues to be an inspiration for all those living in the darkness of oppression.

Mr. PALLONE. Madam Speaker, I rise today to commemorate Greek Independence Day.

On this day many years ago, the Greek people rose up and began the struggle to throw off the yoke of more than 400 years of Turkish oppression. The uprising we commemorate today developed into a full-fledged revolution, garnering international support, and eventually leading to independence for the Greek people.

As I commemorate Greek Independence Day, I am reminded of the many traditions which the Greek and the American people share. Both nations fought revolutions to oust a foreign ruler and secure their own independence. We both continue in the proud tradition of democracy first established in ancient Athens more than 2,000 years ago. These shared values have lead to many years of friendship between the Greek and the American peoples.

Together with many Americans, Madam Speaker, I wish all the very best to the people of Greece as they celebrate their independence.

Mr. ANNUNZIO. Madam Speaker, March 25 marks the 171st anniversary of Greek Independence Day. I believe this date is a milestone that deserves recognition from the House of Representatives.

We in the United States share a great tradition of democracy and independence with the nation of Greece. Our Founding Fathers, including George Washington, Thomas Jefferson, Benjamin Franklin, and James Madison, drew upon the democratic tradition of ancient Greece when they established the United States of America.

By the early 19th century, the people of Greece had suffered for nearly 400 years at the hands of the Ottoman Empire. In organizing their independence movement, the Greeks looked to popular revolutions in France and America for their inspiration.

On March 25, 1821, Greek freedom fighters initiated an uprising against the Ottoman Empire. In confronting the numerically superior Turkish forces, the Greeks fortified themselves with a deep longing for freedom and justice. After innumerable sacrifices of blood and toil, the Greeks regained their independence from the Turks in 1829 following the signing of the Treaty of Andrianople.

Madam Speaker, the struggle for freedom revealed a love of liberty and self-rule that our Greek friends share with the people of the United States. It is no accident that our two countries have this common bond. The United States owes a great debt to the ancient Greeks who established the foundations of our modern philosophy, architecture, mathematics, drama, physics, literature, and other disciplines. More importantly, we own homage to the Greeks of ancient Athens who developed a working democracy in the sixth century B.C.

Madam Speaker, as a cosponsor of House Joint Resolution 390, which designates March 25 as Greek Independence Day, I am pleased to join my colleagues in marking this special anniversary, and as we approach the 21st century, it is reassuring to note that these strong foundations of the past will help to resolve the economic and social challenges of the future.

Ms. SNOWE. Madam Speaker, it gives me great pride as a Greek-American to join with my colleagues in commemorating March 25 as the 171st anniversary of the Greek people's war of independence from the Ottoman Empire that had ruled Greece for nearly 400 years.

From the fall of Constantinople in 1453 to the revolt of 1821, the Greek people withstood the oppressive and difficult Turkish rule, passing from generation to generation the yearning for independence. On March 25, 1821 Archbishop Germonos and a small but determined group of Hellenes raised their banner in rebellion and initiated a decade of struggle for freedom.

The bold and daring struggle lasted 8 long, hard years. The struggle captured the imagination and soul of foreign peoples, statesmen, and intellectuals. Support for the revolutionaries was offered from Russia, Britain, France, and the United States.

We should not forget that the Founding Fathers of our own country were inspired by the ancient Greeks who laid the cornerstone of Western democracy with their early cultural and political ideals of equality, freedom, and democracy.

The Greeks fought bravely, and on September 14, 1829, the Ottomans were forced to recognize Greece's demand for sovereignty, freedom, and unification.

The Greek struggle and consequent victory for national pride and independence is an excellent example to all governments, both democratic and those striving to be. Moreover, March 25 is a day of celebration not only for the Greek community, but for the global community as people all over the world strive relentlessly to preserve and expand the principles of freedom first established in Greece.

For Americans, Greek independence symbolizes the historical beginning of a unique, symbiotic relationship between the world's first democracy, Greece, and the world's greatest democracy, the United States of America. The intricate bonds between the two countries continues to flourish, as do the ideals of democracy brought forth by the ancient Greeks, fought for by the rebellious Greeks of 1821, and cherished by all committed to freedom and equality. Therefore, not only do we congratulate the Greek nation on their national holiday of independence, we thank them for creating the foundation that all existing democracies are based upon.

Mr. PICKETT. Madam Speaker, I am very pleased to join my friend and distinguished colleague from Florida, Mr. BILIRAKIS, in participating in this special order to commemorate Greek Independence Day.

Greeks and Greek Americans will observe with pride this important occasion that marks the 171st anniversary of the revolution which freed Greece from the Ottoman Empire. History records the oppression and deprivations of human liberty to which the Greeks were subjected during the period prior to the revolution. But hey were able to emerge from this period of their history and quickly reestablish their national identity and continue intact their cultural and religious institutions. It is a tribute to the spirit and determination of the Greek people that they prevailed in their struggle for liberty after such a long period.

Greek Independence Day is not, however, just a Greek holiday. It is a time to observe and reflect on the meaning of the word democracy itself. It was the Greeks who introduced the notion of democracy into the political theories of the day. The ancient Greeks were the first to advance the principles that people should be equal before the law, that majorities should respect the rights to minorities, that men can govern their own affairs, and that merit should determine a person's place in society.

Much of our own constitution is based upon the ideas and theories recorded years ago by Pericles, Plato, Aristotle, and other philosophers of ancient Greece.

In more modern times, the Greeks have continued to cherish their liberty and democratic institutions. More than 600,000 Greeks lost their lives fighting on the side of the Allies in World War II. Greece continues to this day its fundamental commitment to freedom and individual liberty.

In our own country, Greek-Americans have forged their own niche in our culture and society, making notable achievements in government, the arts, commerce, science, medicine, and other pursuits too numerous to mention.

So on this anniversary of Greek Independence Day, I join with people of goodwill everywhere in recognizing the successful struggle by the Greek people to gain their independence, and in what their successful struggle means to freedom loving people throughout the world.

Mr. COBLE. Madam Speaker, I am pleased to report that I cosponsored the resolution (H.J. Res. 390) to designate March 25, 1992, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy." I welcome this chance to extend best wishes to my constituents of Greek heritage, Greek Americans around the Nation, and all freedom-loving Americans.

As we all know, Greek Independence Day commemorates March 25, 1821, the day the Greeks began their long struggle for independence from the Ottoman Empire, which had ruled Greece for almost 400 years. Greek freedom from the subjugation of the Ottoman Turks had been the hope of many generations before Alexander Ypsilanti (1792–1828) proclaimed Greece's independence in 1821, thus beginning the wars which lasted almost a decade before freedom was at last obtained.

The interrelationship of our democracies is well shown in the words of the Greek commander in chief of the Revolutionary War in 1821. He described the new democracy they were forming by saying, "In imitating you [America], we shall imitate our ancestors and be thought worthy of them if we succeed in resembling you."

For 7 years Congress has marked this occasion by adopting a commemorative resolution in recognition of Greek Independence Day. In Greek-American communities, this occasion has been celebrated for decades. But I believe every American should take time to reflect on the importance of this date to the historic and future ties between the United States and Greece.

Mr. FEIGHAN. Madam Speaker, I am pleased to be an original cosponsor of the resolution commemorating Greek Independence Day and I want to commend the bill's sponsor, the gentleman from Florida [Mr. BILIRAKIS], for sponsoring this special order.

Greek Independence Day is not just a celebration for the people of Greece or for only Greek-Americans. It is really a celebration for all Americans, because throughout our society we see daily examples of the Greek influence on American culture. For those of us in Congress, our lives are spent in the workplace of democracy, a form of government invented by the Greeks. It was the Greek example that our Founding Fathers looked to in developing our own plan for constitutional government.

Today, our two countries enjoy close political, economic, cultural, and even family ties. Thousands of Americans visit Greece every year and many Americans trace their roots to this beautiful country.

As one who follows the United States-Greek relationship very closely, I was very enthusiastic about the growing cooperation between our two countries over the past few years following the turbulent period we witnessed during the 1980's. Prime Minister Mitsotakis made good relations with the United States a high priority in Greek foreign policy and the Bush administration has been very responsive. I applauded the President's visit to Athens, the first by a United States President since the 1950's, and the helpful statements he made regarding the Cyprus issue.

My concern today however is over the fast-changing events in Yugoslavia. The push for independence of the former Yugoslavian Republics is one that merits our support. However, that support must be tempered by the history of this volatile region. The Government of Greece is deeply concerned over recent moves in the direction of recognizing the Republic of Macedonia. For Greeks, Yugoslav-Macedonia is a creation of Marshal Tito, an amalgam of differing peoples including Serbs, Albanians, Turks, and Vlachs. Tito sought to frustrate Bulgarian claims to the land as well as lay the groundwork for a possible opening to the Aegean Sea—through the northern third of the Greek Mainland.

For those who perished in the Greek civil war, the fight over Macedonia is not ancient history. Propaganda now appears in Skopje asserting claims to Salonika, Greece's second largest city—one telling example is a leaflet depicting Yugoslav-Macedonia's future currency with a picture of the 15th century White Tower of Salonika. These concerns are not just over the name of the Republic, but over threats to the sovereignty and territorial integrity of Greece.

I am told that administration now considers possible recognition of Yugoslav-Macedonia on a separate track from other Yugoslav Republics. I believe that this is a very wise step, for the United States has a tremendous amount of influence in these matters, but we often do not have to live with the immediate consequences of such a decision. The nation of Greece—our ally and good friend—faces this issue today and will have to face the consequences of whatever action is taken by the international community. We should respect those views and work with Greece to find a solution that accommodates their concerns and those of her neighbors.

As we celebrate Greek Independence Day today, we celebrate the closeness of our two peoples and our two nations. I am confident that the ties that run so deep between our two countries will serve to guide and sustain us through the years ahead. I once again want to salute my friend, Mr. BILIRAKIS, for his leadership on this resolution and the special order and I look forward to continuing our work together on these important issues.

Mr. MANTON. Madam Speaker, I rise today to commemorate Greek Independence Day. As a cosponsor of House Joint Resolution 390, legislation to designate March 25, 1992, as Greek Independence Day, it is an honor to join my colleagues, Mr. BILIRAKIS, in this special order. I am proud to be a cosponsor of legislation to designate this special day honoring our national friendship with Greece.

Madam Speaker, on Wednesday, March 25, the people of Greece will celebrate the 171st anniversary of the beginning of the resolution which freed the Greek nation from the Ottoman Empire of tyranny and oppression. It is appropriate for Americans to celebrate Greek Independence Day because of the important role the nation of Greece has played in fostering freedom and democracy throughout the world. The concept of democracy was first conceived by the ancient Athenians 2,500 years ago. All of the free nations in the world are indebted to the Greeks for this important tradition.

The relationship between Greece and the United States is one based on mutual respect and admiration. When our Founding Fathers gathered to frame a constitution for the new America, they looked to the ancient Greeks for their inspiration and guidance. The democratic principles by which we remain committed to today were born in ancient Greece. It was thus fitting in the 1920's, when the young nation of Greece began its fight for independence, that the Greek people turned to the United States as a role model. When Greece needed their own declaration of independence, Greek intellectuals translated the United States Declaration of Independence into Greek and utilized it as their own.

Madam Speaker, the friendship between Greece and the United States has remained strong through peace and wartime. In World

War II, the people of the United States and Greece fought side by side to defeat the Axis Powers. More then 600,000 Greek soldiers died during this war, about 9 percent of the entire population of the nation. After the war, Greece faced another challenge when Communist rebels threatened Greece's democracy. Fortunately, democracy prevailed and Greece emerged strong and victorious.

Madam Speaker, as the Representative of the Ninth Congressional District of New York, which has perhaps the largest Greek-American population in the United States, I am pleased to join my constituents in marking Greek Independence Day. On this special day, I urge my colleagues to join me in paying tribute to the wisdom of the ancient Greeks, the friendship of modern Greece and the important contributions Greek-Americans have made in the United States.

Mr. MAVROULES. Mr. Speaker, 171 years ago the banner of rebellion was raised over Greece as Archbishop Germanos led his nation in revolt against the tyrannical hold of the Ottoman Empire. This banner, a blue cross, represented the aspirations of generations of Greeks who had suffered under Turkish occupation. In victory Greece recaptured her democratic legacy and rich Hellenic Tradition. It is a great honor for America that the nation that gave birth to democracy translated and used the Declaration of Independence in her fight for freedom.

She also appealed to the minds and hearts of Americans when a Greek commander said "Having formed the resolution to live or die for freedom, we are drawn to you by a just sympathy since it is in your land that liberty has fixed her abode, and by you that she is as prized as by our fathers. Hence, honoring her name, we invoke yours at the same time, trusting that in imitating you, we shall imitate our ancestors and be worthy of them if we succeed in resembling you * * * it is for you, citizens of America, to crown this glory * * *"

And the entreaty did not pass unheeded: Americans, still celebrating their recent independence, made the lengthy journey to fight for Greek independence in a war that would last 7 years.

President James Monroe himself spoke in support of Greek independence, stating that "A strong hope is entertained that these people will recover their independence, and resume their equal station among the nation on Earth."

Thus, it is with great pride that I rise today to celebrate the anniversary of Greek independence, and to honor the spirit of freedom that marks the Greek nation. The Greek heritage is rooted deep in the ideals of freedom and democracy. It was in Greece that democracy first arose: Given life by the reforms of cleisthenes during the 6th century B.C. It was this spirit that led to the independence of both Greece and the United States, and has led today to the freedom of nations around the globe, from Nicaragua to Lithuania.

It is with a heavy heart that I must also note that one region of Hellenic tradition remains occupied and divided even today. Cyprus continues to suffer under subjugation, denied her democratic tradition. It is my fervent hope that peace talks during this coming year will lead to an equitable and peaceful solution of the crisis before it marks its 20th anniversary of turmoil. Mr. Speaker, we must call on all sides to make a sincere effort to bring peace to this troubled island.

□ 1950

Mr. BATEMAN. Mr. Speaker, I am pleased to be able to join the Greek people in the celebration of the 171st anniversary of their independence.

On March 25, 1829, Greek patriots began their struggle for freedom and independence from the Ottoman Empire. Though the intervening years have been filled with trials and tribulations, the ultimate success of democracy in Greece is a testament to the courage and fortitude of her people.

For more than three millennium, Greece has led the world in cultural innovation, intellectual pursuits and scientific inquiry. From the Homeric tradition to Alexander, through the birth of the Socratic method, Aristotelian logic and countless artistic and architectural endeavors, the Greek people have left an indelible impression on civilization.

Of all the positive contributions Greeks have toward the betterment of mankind, their most enduring achievement is democracy. It is fitting that we, the United States of America, should have found the wellspring of our Nation's laws and ideals in the democratic traditions of Athens and the other Greek city states. Likewise, it is also appropriate that our own American Revolution should have inspired the Founding Fathers of contemporary Greece to dedicate their lives to the noble ideals of their ancestors.

I am proud to be able to congratulate the Greek people on their achievement. They have withstood all that the horrors of the 20th century could bring. Fascism, communism and rightwing totalitarianism have all been washed away by the persistent tide of democracy. The love of freedom and devotion to democracy shown by the Greeks is an excellent example to the peoples of Eastern Europe and the former Soviet Union. In this time of renewed commitment to democracy throughout the world, may their example be a lasting inspiration to all of us.

CONGRESSIONAL REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. NICHOLS] is recognized for 60 minutes.

Mr. NICHOLS. Madam Speaker, I'm DICK NICHOLS.

I'm a freshman Member of Congress. I have been here for 15 months.

I left my job as a bank president in McPherson, KS. My family made that sacrifice with me. But I did it because there were things wrong in Washington that I believed I could help fix.

During the campaign I emphasized three issues:

First, balance the budget.

Second, limit congressional office terms.

Third, reduce the national debt.

After I won I was concerned about comments from people who said "What can one man do? What can any one person do?" But I thought, one person can ultimately be a majority if you're so invested with the proper principles and the judgment and enthusiasm of the people around you.

As I began to get settled, Connie and I went through the adjustment to Washington, DC. I had that sense of excitement about working in this most recognized of all buildings—the U.S. Capitol.

Late one night, I walked along East Capitol Street in the mist with Connie. We stopped, marveling at the Capitol at night looking up at that gleaming alabaster dome—in the dark, with the intense spotlights on it. And I felt the greatness of America, and of the challenge facing me, and the privilege to serve my country, and I was choked with emotion.

After being in Congress 15 months. I'm still choked with emotion, but, for a different reason. The abuses of power, the arrogance of Members, and the disgrace of Congress give us all reason to choke with emotion. Somehow, the idealism and the struggle and the desire to make this country great has bogged down in the muck and the mud of politics. Somehow, Congress has lost touch.

I get no pleasure out of finding fault with things. I'm an incurable optimist. I do not know whether to attribute that attitude to a good, solid middle-America upbringing here on the Kansas prairie or maybe it's genetic. Frankly, I think most people are optimistic. Most people want to believe things can get better.

As a freshman Member of Congress. I'm an incurable optimist. I've devoted my energy to doing the best job possible. I wanted to make a difference. When I first came to Congress, I was so filled with idealism one newspaper headline read, "Is Dick Nichols Jimmy Stewart in Disguise?"

I remember when I was young watching the movie, "Mr. Smith Goes to Washington," portraying then the abuses in Congress. I know it was just a movie, but it has a ring of truth today.

Like Mr. Smith, I came to Congress hoping to find a body of people dedicated to good government, sacrificing their own good for the sake of the country. I did find some of those people, but not nearly enough. My impression of Congress as a whole is not good. I find the Congress of the United States to be arrogant, power hungry, morally and ethically corrupt, and so politically driven that the welfare of the country is routinely sacrificed for political expediency.

I understand the seriousness of my charges and I stand by them. If what I have said scares you, it should. It scares me.

I think Americans have been getting a pretty clear picture of what Congress is truly like the past couple of weeks with the check bouncing scandal. Like you, I've watched Members of Congress admit they haven't told the truth. They've tried to cover it up in what is called the Ethics Committee.

But, some of us—and the plain fact is they were mostly new Members of Congress like me—wouldn't buy it. The cover up failed. Now those who said "No, no, no, we didn't have any checks bounced," are saying, "Yes, yes, yes". Or what was 1 check became 3 or 4 or 30 or 40 or a 100 or more. Only when the check bouncers were caught did they 'fess up.

What is especially disheartening about the check scandal is that only after the threat of full disclosure did most Members of Congress scramble furiously to acknowledge their abuses and admit their wrongdoing. Those Members of Congress didn't need to open that House bank account in the first place.

I was encouraged to open a bank account when I came to Congress. In fact, I was encouraged very strongly to open a bank account. When they explained the bank situation to me I didn't like the way it was set up. Over their objections, I asked them to send my payroll check to my hometown and stated I did not need an account. I said, "no."

But, look what I have here.

They even sent me preprinted personalized checks hoping I would write one and thereby they would open the account. I know why they wanted to do that; they wanted my money. Could they have needed it to help cover other Members' bouncing checks?

But you know what? I said, "no." Other Members likewise could have had their deposits sent to New York or California or South Dakota or Alabama or wherever they are from. They did not need this House bank. They could have said, "no."

No. Two letters: N-O. And these are two letters that many Members of Congress seem unable to say about a whole lot of things. About their personal accounts and about flagrant wasteful spending.

The thing that you should be angriest about is that some of these Members show no remorse for what they have done. One Member from New York who wrote 972 bad checks, claims it wasn't even his fault. He says he was misled, bilked, and betrayed by slipshod accounting practices, and then thrown to the wolves by the House Ethics Committee. He took absolutely no blame. Whatsoever.

I am skeptical when some Members of Congress say they weren't warned about the practice. I have a copy of a letter, right here, dated January 3, 1978, warning Members not to overdraw their accounts. The last sentence of the letter reads "This will help us with our workload and save any embarrassment for you." Too bad that warning wasn't heeded.

These check bouncers are the people who were especially elected to guide and formulate the destiny of this country. How can we ever balance the budget if our Members of Congress cannot balance their own checkbooks?

What compounds the problem is that the House bank scandal is not the only scandal. We now have the problem of the House post office. An audit shows gross mismanagement and criminal conduct by some staff members including embezzlement by postal clerks and possible cocaine trafficking. Now they're discovering a few Members of Congress were cashing checks at the post office and making illegal loans to their own campaigns.

Add to these, scandals involving unpaid restaurant bills, and the allegation that the Speaker's wife was involved in covering up an investigation of the House post office. All serve to increase public outrage and deservedly so.

A few weeks ago Congress began voting on four different budget proposals. The most costly would have run up a 1-year deficit of $393 billion. The least costly still would have run up a 1-year deficit of $338 billion. The others ranged somewhere in between. Add that to the $4 trillion debt we already have.

I voted against all four of these proposals. I said, "no." "No-no-no-no." Sometimes you have to say, "no" over and over to make a point. This Government is too big and spends too much.

As I said earlier, I am by nature a positive person. And while there are many negative aspects about Congress, there is hope we can and must move forward to correct these faults. I believe in the institution of Congress.

First, we must balance the Federal budget. On two separate occasions I have introduced legislation that allows no money to be appropriated for specific projects until we have a balanced budget. We can no longer spend what we can't afford.

Second, we must give the President a line-item veto. This would give him the authority to strike any spending item he feels we can't afford. Forty-three Governors already have this power. A recent GAO study revealed that if the President had line-item veto authority for 6 years, and used that authority wisely, he could have saved the taxpayers of this country $70 billion.

Third, we must limit the terms of Congress. We must return to the type of citizen legislators our forefathers envisioned.

Think for a moment about the First Congress. It organized itself, set up the entire Government, department by department, passed laws on exports, patents, copyrights, the census, and yes, Government salaries. And they chose the location for the Capitol.

It is significant to note the First Congress paid themselves far less than the salaries they set for Cabinet officers and Supreme Court Justices.

What that clearly shows is that they really did think of themselves as part time or citizen legislators, entitled to some compensation for their services but not engaged in legislating as a career. There is one other remarkable thing about that First Congress. They managed all their accomplishments and noble deeds without the benefit of a single incumbent.

They still regarded themselves as citizen legislators, as making a sacrifice to serve their country for a limited period of time.

I, too, view myself as a citizen legislator. I have promised not to serve longer than 12 years in the House of Representatives and I will keep that promise. Why do we need lifetime professional politicians?

I have introduced legislation setting a 12-year limit on the House of Representatives and also on its staff members. Unlike other legislation to limit terms, my legislation means Members who have been in office for 12 years, must leave office at the end of that term when this bill becomes effective.

Fourth, pay raise reform. I am a cosponsor of legislation requiring increases in Representatives' salaries to be considered separately from any other appropriations bill and must be voted on by a recorded vote. If a pay raise is agreed to, it can take effect only after the next election.

In 1989 when Congress last passed a pay raise they gave themselves a pay raise of nearly 40 percent and fixed it in such a way that every year they get an automatic raise. This year Congress got a $4,400 pay raise under the guise of a cost-of-living adjustment—a COLA. They say as inflation goes up we'll get a cost-of-living adjustment. Who is responsible for inflation? Congress is rewarding itself for not balancing the Federal budget.

Well friends, I am not taking that cost-of-living pay raise. I'm giving it back to the U.S. Treasury and I am earmarking it to help reduce the national debt. I am only one person, but if all the Members of Congress followed my example we would cut almost $3 million from the deficit.

Additional savings can be reached through cutting the office allowances of all Members of Congress and committee staffs. This past year our office turned back to the Federal Government over $200,000 in office expense allowances we did not spend. Even though one would think this would go to the U.S. Treasury, it was instead returned to the majority party in Congress to be reallocated for special projects of their choosing. And what did the majority party in Congress do with that money? Could it have been used to lay marble floors in congressional elevators? What a disgraceful waste of your money.

Let me give you a couple of other ways I have tried to reduce runaway spending. Recently, the House voted on creating a national monument at the Mansanar National Historic Site in California. That is 1 of the 10 relocation sites where Japanese-Americans were held during World War II. The bill would have established a 500-acre national park on the site at a cost of approximately $4 million over the next 5 years and then $300,000 per year after that.

I have nothing against such monuments, but I voted against it, because the Federal Government has no business spending money on such projects until the budget is balanced. I voted against it. Only 12 of my colleagues joined me; 400 voted for it.

Let me give you another example. Undoubtedly one of my most difficult votes I had to deal with was the Flint Hills Prairie National Monument. This would have established a national park in the Flint Hills in my district at a cost of some $6 to $8 million. Again I voted "no" and called for private initiative to get this done.

I have repeatedly made fiscal conservative votes, based on Kansas common sense and my commitment to reducing the deficit. The Council for Citizens Against Government Waste named me a Taxpayer Hero—their highest award. I have also been recognized as the most conservative member of the Kansas delegation because of my tough stand on fiscal spending.

I am taking steps to bring about change.

A balanced budget amendment.

Term limitations for Congress.

Term limits for staff members.

Line-item veto for the President.

Pay raise reform.

Office allowance cuts for congressional offices.

Office allowance cuts for committees.

Tough choices on spending priorities.

Last year one of the most difficult tasks I had was to attend and speak at the funeral of Desert Storm victim Marty Davis of Salina. Marty had graduated only the year before from Salina Central High School.

As I sat there in the high school auditorium, looking at his fellow students, his track uniform with the spiked shoes, his mother, I wondered if I could utter the proper words about this 19-year-old boy who believed in America.

After the funeral I talked with his mother. His life, she knew, was given to preserve the freedom our democracy provides. He was proud to serve his country.

As we grapple with the problems of Congress in Washington now, somehow we must rekindle that spirit with the same dedication and resolve that our troops had in Desert Storm. They were proud of their country. They had a job—a tough job to do. And they did it. Surely, we are capable of carrying out reform measures to bring us back to the standards of our Founding Fathers.

There is much to be done.

As my wife Connie and I travel throughout Kansas, we admire many things. The small towns, the farms, the openess and friendliness of the people and the sweep of the land. And often we have spotted that distinctive bird of our area, atop the highest tree, perched on a fence post, or soaring majestically. The Kansas hawk.

What do we need in Congress?

Like the Kansas hawk, we need vision. Vision to solve problems, vision to chart a course. Like the Kansas hawk, we need wings.

Wings to fly higher and accomplish more than ever before.

And like the Kansas hawk, we need strength. Strength to soar into a future, bright as a Kansas sunrise, beautiful as a Kansas sunset and promising as a Kansas spring.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted:

Mr. COSTELLO (at the request of Mr. GEPHARDT) for today, on account of emergency in family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BILIRAKIS) to revise and extend their remarks and include extraneous material:)

Mr. ALLEN, for 5 minutes, on April 1.

Mr. RHODES, for 60 minutes, on April 1.

Mr. BURTON of Indiana, for 60 minutes each day, on May 4, 5, 6, 7, 8, 11, 12, 13, 14, and 15.

Mr. DREIER of California, for 5 minutes, today.

Mr. LEACH, for 60 minutes today, and for 5 minutes on March 26.

(The following Members (at the request of Mr. PEASE to revise and extend their remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes today, and on March 26 and 27.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ROSE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BILIRAKIS) and to include extraneous matter:)

Mr. TAYLOR of North Carolina.

Mr. BROOMFIELD.

Mr. WELDON.

Mr. ARCHER.

Mr. GILMAN.

Mr. EMERSON in two instances.

Mr. DICKINSON.

Mr. LAGOMARSINO.

Mr. BAKER in two instances.

Mrs. VUCANOVICH.

Mr. SUNDQUIST.

Mr. ALLEN.

Mr. DREIER of California.

Mr. BARTON of Texas.

Mr. JOHNSON of Texas.

Mr. YOUNG of Florida.

Mr. EWING.

(The following Members (at the request of Mr. PEASE) and to include extraneous matter:)

Mr. MILLER of California.

Mrs. MINK.

Mr. FOGLIETTA.

Mr. PALLONE in two instances.

Mr. STARK in four instances.

Mr. LEHMAN of Florida.

Mr. SWETT.

Mr. LANTOS.

Mr. MONTGOMERY.

Mr. NEAL of Massachusetts in two instances.

Mr. HALL of Ohio in two instances.

Mr. APPLEGATE.

Mr. FEIGHAN.

Mr. CARR.

Mr. SERRANO.

Mr. EDWARDS of California.

Mr. ERDREICH.

Mr. MARKEY in two instances.

Mr. MAZZOLI.

Mr. YATRON.

Mr. EVANS.

Mr. LEVINE of California.

Mr. ANDREWS of New Jersey.

Mr. ATKINS in two instances.

Mr. ANDREWS of Texas.

Mr. WHEAT.

Mrs. COLLINS of Illinois.

ADJOURNMENT

Mr. NICHOLS. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 2 minutes p.m.) the House adjourned until tomorrow, Thursday, March 26, 1992, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3160. A letter from the Vice President, Export-Import Bank of the United States, transmitting a report involving United States exports to the People's Republic of China, pursuant to 12 U.S.C. 635(b)(3)(i); to the Committee on Banking, Finance and Urban Affairs.

3161. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-170, "Bail Reform Amendment Act of 1992," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3162. A letter from the Secretary of the Interior, transmitting the annual report on the Youth Conservation Corps Program in the Department for fiscal year 1991, pursuant to 16 U.S.C. 1705; to the Committee on Education and Labor.

3163. A letter from the Secretary, Interstate Commerce Commission, transmitting notification that the Commission has extended the time period for issuing a final decision in Docket No. 40365, National Srtach and Chemical Corp. versus the Atchison, Topeka & Santa Fe Railway Co., et al., by 45 days to May 21, 1992, pursuant to 49 U.S.C. 11345(e); to the Committee on Energy and Commerce.

3164. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Thomas R. Pickering, of New Jersey, to be Ambassador to India, and members of his family, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3165. A letter from the Comptroller General, General Accounting Office, transmitting the list of all reports issued or released in February 1992, pursuant to 31 U.S.C. 719(h); to the Committee on Government Operations.

3166. A letter from the Chairman, Farm Credit Administration, transmitting a copy of the annual report in compliance with the Government in the Sunshine Act during the calendar year 1991, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

3167. A letter from the Executive Director, Federal Financial Institutions Examination Council, transmitting notice of a proposed new Federal records systems, pursuant to 5 U.S.C. 552a(r); to the Committee on Government Operations.

3168. A letter from the Comptroller General, General Accounting Office, transmitting the report and recommendation concerning the claim of Mr. Terrill W. Ramsey for reimbursed relocation expenses, pursuant to 31 U.S.C. 3702(d); to the Committee on the Judiciary.

3169. A letter from the Girl Scouts of the United States of America, transmitting the Girl Scouts of the United States of America 1991 annual report, pursuant to 36 U.S.C. 37; 36 U.S.C. 1101; to the Committee on the Judiciary.

3170. Communication from the President of the United States, transmitting the annual report on international activities in science and technology for fiscal year 1991, pursuant to 22 U.S.C. 2656c; jointly, to the Committees on Foreign Affairs and Science, Space, and Technology.

3171. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend subtitle IV of title 49, United States Code, to reduce regulation of motor carriers and interstate water carriers, to sunset the Interstate Commerce Commission, and for other purposes; jointly, to the Committees on Public Works and Transportation, Energy and Commerce, and the Judiciary.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BROWN (for himself, Mr. Scheuer, and Mrs. Lloyd):

H.R. 4559. A bill to enhance U.S. energy security, provide for environmental improvement, and encourage U.S. industrial competitiveness, through enhanced research and development, and for other purposes; jointly, to the Committees on Science, Space, and Technology, Interior and Insular Affairs, and Energy and Commerce.

By Mr. ALEXANDER (for himself and Mr. Gilman):

H.R. 4560. A bill to create the office of Delegate for U.S. Citizens Abroad; to the Committee on House Administration.

H.R. 4561. A bill to amend the Immigration and Nationality Act for children born to U.S. citizens abroad; to the Committee on the Judiciary.

H.R. 4562. A bill to amend the Internal Revenue Code of 1986 to expand the types of foreign source income which may be excluded from gross income by individual citizens and residents of the United States living abroad; to the Committee on Ways and Means.

By Mr. BERMAN:

H.R. 4563. A bill to amend the False Claims Act to provide certain limitations on Federal employees filing qui tam actions, and for other purposes; to the Committee on the Judiciary.

By Mr. CAMPBELL of Colorado:

H.R. 4564. A bill to prohibit the provision to Members and employees of Congress, at Government expense, of services and other benefits that are not typical benefits of employment or are not otherwise necessary to the performance of their office; jointly, to the Committees on House Administration and Rules.

By Mr. DREIER of California (for himself, Mr. Boehner, Mr. Johnson of Texas, Mr. Lent, Mr. Dornan of California, and Mr. Gallegly):

H.R. 4565. A bill to repeal the tax increases contained in the Omnibus Budget Reconciliation Act of 1990; to the Committee on Ways and Means.

By Mr. CAMPBELL of Colorado:

H.R. 4566. A bill to prohibit the provision to elected and appointed officials and employees of the Federal Government and others, at Government expense, of services and other benefits that are not typical benefits of employment or are not otherwise necessary to the performance of their office, or of benefit to the Government; jointly, to the Committees on Post Office and Civil Service, the Judiciary, and Rules.

By Mrs. COLLINS of Illinois:

H.R. 4567. A bill to amend title 17, United States Code, to implement a royalty payment system and a serial copy management system for digital audio recording, to prohibit certain copyright infringement actions, and for other purposes; jointly, to the Committees on the Judiciary, Energy and Commerce, and Ways and Means.

By Mr. ERDREICH:

H.R. 4568. A bill to amend the Housing and Community Development Act of 1974 to provide grants under the community development block grant program for partnerships between States or units of local government and institutions of higher education; to the Committee on Banking, Finance and Urban Affairs.

By Mr. FAZIO:

H.R. 4569. A bill to require that presidential campaign contributions be used only with respect to the election and the candidate for which such contributions are made; to the committee on House Administration.

By Mr. GEKAS (by request):

H.R. 4570. A bill to amend the Civil Liberties Act of 1988, and for other purposes; to the Committee on the Judiciary.

By Mr. GEPHARDT (for himself, Mr. Richardson, Mr. Markey, and Mr. Towns):

H.R. 4571. A bill to amend the Solid Waste Disposal Act to ensure that resident and community interests are fully considered during corrective action at hazardous waste sites, to assist affected residents in better understanding health risks posed by hazardous waste sites, to add additional requirements and authority to the Agency for Toxic Substances and Disease Registry, and for other purposes; to the Committee on Energy and Commerce.

By Mr. HALL of Ohio (for himself, Mr. Hobson, Ms. Oakar, Mr. Oxley, Mr. Luken, Mr. Traficant, Mr. McEwen, and Mr. Eckart):

H.R. 4572. A bill to direct the Secretary of Health and Human Services to waive certain requirements under the Medicaid Program during 1992 and 1993 for health maintenance organizations operated by the Dayton Area Health Plan in Dayton, OH; to the Committee on Energy and Commerce.

By Mr. HOCHBRUECKNER (for himself, Mr. Downey, Mr. Mrazek, Mr. McGrath, Mr. Scheuer, and Mr. Lent):

H.R. 4573. A bill to provide that a conveyance of certain lands located on Long Island, NY, that are part of the National Wildlife Refuge System shall not be valid unless the deed of conveyance prohibits the commercial development of the lands; to the Committee on Merchant Marine and Fisheries.

By Mr. HOLLOWAY:

H.R. 4574. A bill to suspend until January 1, 1995, the duty on a-Isopropyl-a (N-methyl-N-homoveratyl)-g-aminopropyl)-3,4-Dimethoxyphenal lacetonitril-Hydrochloride; to the Committee on Ways and Means.

H.R. 4575. A bill to suspend until January 1, 1995, the duty on 2-Hydroxy-4-Methoxy Benzophenone Sulfonic Acid; to the Committee on Ways and Means.

By Mr. HOUGHTON:

H.R. 4576. A bill to provide improved access to health care, and for other purposes; jointly, to the Committees on Ways and Means, Energy and Commerce, and the Judiciary.

By Mr. MCEWEN:

H.R. 4577. A bill to amend the Internal Revenue Code of 1986 to exempt from tax any gain on the sale or exchange of property acquired from the Resolution Trust Corporation; to the Committee on Ways and Means.

H.R. 4578. A bill to provide for the provision of United States agricultural commodities to the former republics of the Soviet Union in exchange for petroleum products provided by such republics; jointly, to the Committees on Agriculture, Energy and Commerce, and Foreign Affairs.

By Mr. OWENS of Utah:

H.R. 4579. A bill to amend the Clean Air Act to strengthen automobile emission standards; to the Committee on Energy and Commerce.

By Mr. PACKARD:

H.R. 4580. A bill to amend the Internal Revenue Code of 1986 to restore the deduction for retirement savings for individuals who are active participants in other retirement plans; to the Committee on Ways and Means.

By Mr. RINALDO:

H.R. 4581. A bill to amend the International Financial Institutions Act to advocate and promote policies to encourage developing countries to reduce military and military-related expenditures and to dedicate an equitable allocation of resources for health and education, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ROBERTS:

H.R. 4582. A bill to provide for comprehensive health care access expansion and cost control through standardization of private health care insurance and other means; jointly, to the Committees on Energy and Commerce, Ways and Means, the Judiciary, and Rules.

By Mr. ROE (for himself, Mr. OBERSTAR, Mr. HAMMERSCHMIDT, and Mr. CLINGER) (all by request):

H.R. 4583. A bill to provide for the continued improvement and expansion of the Nation's airports and airways, and for other purposes; jointly, to the Committees on Public Works and Transportation and Science, Space, and Technology.

By Mr. SARPALIUS:

H.R. 4584. A bill to permit adequately capitalized savings associations to branch interstate to the extent expressly authorized by State law, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. SCHROEDER (for herself, Mr. EDWARDS of California, Mr. CRAMER, Mr. JAMES, Mr. KOPETSKI, and Mr. RAMSTAD):

H.R. 4585. A bill to establish procedures for national criminal background checks for child care providers; to the Committee on the Judiciary.

By Mr. SOLOMON:

H.R. 4586. A bill to prohibit the importation of goods from any country that does not adhere to certain standards with respect to the employment of minorities, older individuals, and individuals with disabilities; to the Committee on Ways and Means.

By Mrs. VUCANOVICH (for herself, Mr. HANSEN, Mr. OWENS of Utah, and Mr. ORTON):

H.R. 4587. A bill to establish a right-of-way corridor for electric power transmission lines in the Sunrise Mountain in the State of Nevada, and for other purposes; to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 87: Mr. HAYES of Illinois and Mr. RUSSO.

H.R. 88: Mr. BORSKI, Mr. HAYES of Illinois, and Mr. RUSSO.

H.R. 117: Mr. STUMP and Mr. BATEMAN.

H.R. 246: Mr. CAMPBELL of Colorado and Mr. POSHARD.

H.R. 299: Mr. LIVINGSTON.

H.R. 434: Mr. GONZALEZ, Mr. TOWNS, Mr. PANETTA, Mrs. BOXER, and Mr. KLECZKA.

H.R. 441: Mr. TORRES, Mr. KOPETSKI, and Mrs. UNSOELD.

H.R. 608: Ms. PELOSI, Mr. FOGLIETTA, and Mr. FRANKS of Connecticut.

H.R. 609: Mr. SWETT, Mr. ACKERMAN, Mr. GOODLING, and Mr. PACKARD.

H.R. 784: Mr. MYERS of Indiana, Mr. HANCOCK, Mr. JOHNSON of Texas, Mr. HOBSON, and Mr. COLEMAN of Missouri.

H.R. 1007: Mr. AUCOIN.

H.R. 1048: Mr. NEAL of North Carolina.

H.R. 1168: Mr. CAMPBELL of California.

H.R. 1322: Mr. JONES of Georgia, Mr. FAZIO, Mr. MARTINEZ, Ms. PELOSI, and Mr. TOWNS.

H.R. 1406: Mr. ALLEN and Mr. MCCOLLUM.

H.R. 1445: Mr. MCDADE.

H.R. 1472: Mr. HYDE, Mr. VALENTINE, Mr. PASTOR, Mr. CARPER, and Mr. BARTON of Texas.

H.R. 1536: Mrs. MINK and Mr. SANDERS.

H.R. 1566: Mr. QUILLEN, Mr. SISISKY, Mr. STUMP, Mrs. LLOYD, Mr. CONYERS, and Mr. LIVINGSTON.

H.R. 1860: Mr. COLEMAN of Missouri, Mr. YOUNG of Alaska, Mr. STUMP, Mr. BARNARD, and Mr. HANSEN.

H.R. 1930: Mr. PICKLE.

H.R. 2083: Mr. HORTON.

H.R. 2106: Mr. BATEMAN, Mr. DOWNEY, Mr. FORD of Tennessee, Mr. GILMAN, Mr. JEFFERSON, Mr. KOPETSKI, Mr. MCGRATH, Mr. NOWAK, Mr. OWENS of Utah, Mr. RINALDO, Mr. TAYLOR of North Carolina, and Ms. SNOWE.

H.R. 2272: Mr. DORNAN of California.

H.R. 2363: Mr. AUCOIN and Mr. FAZIO.

H.R. 2452: Ms. ROS-LEHTINEN.

H.R. 2726: Mr. OWENS of New York.

H.R. 2755: Mr. GILCHREST.

H.R. 2782: Mr. YOUNG of Alaska, Mr. FORD of Michigan, Mr. DWYER of New Jersey, Mrs. COLLINS of Michigan, Mr. KOSTMAYER, Mr. AUCOIN, and Mr. DOWNEY.

H.R. 2808: Mr. JEFFERSON.

H.R. 2872: Mr. RHODES.

H.R. 2966: Mr. JONES of Georgia.

H.R. 3082:: Mr. WOLPE, Mrs. LOWEY of New York, and Mr. SYNAR.

H.R. 3146: Mr. PACKARD.

H.R. 3164: Mr. SARPALIUS, Mr. BUSTAMANTE, Mr. HARRIS, and Mr. THOMAS of Wyoming.

H.R. 3253: Mr. LEWIS of Georgia.

H.R. 3281: Mr. MARTINEZ.

H.R. 3299: Mr. BORSKI, Mr. HOCHBRUECKNER, and Mr. SERRANO.

H.R. 3380: Mr. HALL of Texas, Mr. BUNNING, and Mr. RAMSTAD.

H.R. 3395: Mr. DELAY.

H.R. 3473: Mr. VALENTINE, Mr. RANGEL, and Mr. DOWNEY.

H.R. 3491: Mr. FISH.

H.R. 3517: Mr. JEFFERSON.

H.R. 3570: Mr. SANDERS.

H.R. 3598: Mr. PACKARD, Mr. NEAL of North Carolina, Ms. MOLINARI, and Mr. MARTINEZ.

H.R. 3725: Mr. PENNY, Mr. SANDERS, Mr. BEREUTER, Mr. MAZZOLI, Mr. GALLO, Mr. RIGGS, Mr. OLIN, Mr. ABERCROMBIE, Mr. VALENTINE, Mr. OLVER, Mr. LUKEN, Mr. KOSTMAYER, Mrs. BYRON, Mrs. PATTERSON, Mr. STARK, Mr. BEILENSON, and Mr. POSHARD.

H.R. 3803: Mr. TRAXLER.

H.R. 3809: Mr. ANDREWS of New Jersey.

H.R. 3826: Mr. COLEMAN of Texas, Mr. DWYER of New Jersey, Mr. HORTON, Mr. JONTZ, Mr. KILDEE, Mr. KOPETSKI, Mr. MORAN, Mr. OBERSTAR, Mr. ROE, Ms. SLAUGHTER, Mr. SMITH of Florida, Mr. MARKEY, and Mr. LANCASTER.

H.R. 3838: Mr. ZELIFF and Mr. DICKINSON.

H.R. 3908: Mr. SANDERS.

H.R. 3953: Mr. PALLONE, Mr. RITTER, Mr. JOHNSON of South Dakota, Mr. HAMILTON, Mr. VOLKMER, Mr. RIDGE, Mr. EMERSON, and Mr. VALENTINE.

H.R. 3956: Mr. GREEN of New York, Mr. TALLON, Mr. VENTO, Mr. KLECZKA, Mrs. MORELLA, Mr. MFUME, Mr. STUDDS, Mr. KOSTMAYER, Mr. YATES, Mr. DWYER of New Jersey, Mr. BROWN, and Mr. HUGHES.

H.R. 3961: Mr. WEISS, Mr. RANGEL, and Mr. SANDERS.

H.R. 4034: Mr. LEVINE of California, Mr. WEISS, and Mr. KENNEDY.

H.R. 4051: Mr. ORTON.

H.R. 4057: Mr. SHAYS.

H.R. 4100: Mr. TAYLOR of Mississippi, Mr. MORAN, Mr. STALLINGS, Mr. BRUCE, and Mr. SERRANO.

H.R. 4104: Mr. AUCOIN, Mr. SKAGGS, and Mr. RITTER.

H.R. 4176: Mr. CHAPMAN, Mr. WILSON, Mr. FIELDS, and Mr. GEREN of Texas.

H.R. 4206: Mr. MCMILLEN of Maryland, Ms. SLAUGHTER, and Mrs. LOWEY of New York.

H.R. 4212: Mr. GUNDERSON, Mr. VALENTINE, and Mr. LANCASTER.

H.R. 4222: Mr. KOSTMAYER, Mr. HUGHES, Mr. MURPHY, Mr. DELLUMS, Mr. ZELIFF, Mr. FORD of Michigan, Mr. STARK, and Mr. SPENCE.

H.R. 4234: Mr. FRANKS of Connecticut.

H.R. 4303: Mr. SOLOMON and Mr. SLATTERY.

H.R. 4312: Mr. HORTON, Mr. AUCOIN, Mr. GREEN of New York, Mr. BERMAN, Mr. COLORADO, Mr. FRANK of Massachusetts, Mr. SCHIFF, and Mr. VISCLOSKY.

H.R. 4319: Mr. ATKINS.

H.R. 4343: Mr. WASHINGTON, Mr. BERMAN, and Mr. EVANS.

H.R. 4354: Mr. BORSKI, Mr. MCCLOSKEY, and Mr. CAMPBELL of California.

H.R. 4377: Mr. STAGGERS.

H.R. 4381: Mr. MCCLOSKEY.

H.R. 4405: Ms. PELOSI, Mr. BORSKI, Mr. SERRANO, Mr. ZELIFF, Mr. MOODY, Mr. KILDEE, Mr. ABERCROMBIE, Mr. KOLTER, and Mrs. COLLINS of Illinois.

H.R. 4406: Mr. HASTERT, Mr. PETRI, Mr. INHOFE, Mr. EMERSON, Mr. COX of California, Mr. RIGGS, Mr. HANCOCK, Mr. ZELIFF, Mr. GILLMOR, Mr. BARNARD, Mr. DORNAN of California, Mr. DANNEMEYER, Mr. LOWERY of California, Mr. DREIER of California, Mr. DELAY, Mr. ARMEY, Mr. HUNTER, Mr. HERGER, and Mr. CUNNINGHAM.

H.R. 4430: Mr. POSHARD.

H.R. 4434: Mr. BERMAN, Mr. WALSH, Mr. BLACKWELL, Mr. BEILENSON, Mr. MARKEY, Mr. WEISS, Mr. YATES, Mr. SANDERS, and Mr. POSHARD.

H.R. 4471: Mr. SCHIFF.

H.R. 4491: Mr. HORTON, Mr. PAYNE of Virginia, Mr. STAGGERS, and Mr. BEREUTER.

H.J. Res. 5: Mr. ALLEN, Mr. DUNCAN, Mr. WALSH, Mr. GILCHREST, and Mr. GILLMOR.

H.J. Res. 351: Mr. ENGEL.

H.J. Res. 378: Ms. KAPTUR and Mr. MARTINEZ.

H.J. Res. 380: Mr. HEFNER, Mr. PRICE, Mr. SIKORSKI, Mr. TAYLOR of North Carolina, Mr. VALENTINE, and Mr. WAXMAN.

H.J. Res. 388: Mr. SCHEUER, Mr. QUILLEN, Mrs. VUCANOVICH, Mr. COX of Illinois, Mrs. MINK, Mr. JONTZ, Mr. BARNARD, Mr. LAGOMARSINO, and Mr. HERTEL.

H.J. Res. 399: Mr. CLEMENT, Mr. MCMILLEN of Maryland, and Mr. HARRIS.

H.J. Res. 411: Mrs. PATTERSON, Mr. MCDERMOTT, and Mr. ANDREWS of Maine.

H.J. Res. 421: Mr. ANTHONY, Mr. ASPIN, Mr. BROWN, Mr. CARPER, Mr. COLEMAN of Texas, Mr. DOWNEY, Mr. GORDON, Mr. HENRY, Mr. HOCHBRUECKNER, Mr. JACOBS, Mr. JOHNSON of South Dakota, Mr. JONES of Georgia, Ms. KAPTUR, Mr. KLECZKA, Mr. LAGOMARSINO, Mrs. LOWEY of New York, Mr. MCCLOSKEY, Mr. MATSUI, Mr. MILLER of California, Mrs. MINK, Mr. MORAN, Mr. MRAZEK, Mr. PETERSON of Minnesota, Mr. RINALDO, Mr. ROE, Mr. SAXTON, Mr. SCHEUER, Ms. SLAUGHTER, Mr. THOMAS of Georgia, Mr. VENTO, Mr. BACCHUS, and Mr. SPENCE.

H.J. Res. 423: Mr. KILDEE, Mr. MARTINEZ, and Mr. WAXMAN.

H.J. Res. 431: Mr. WEISS, Mr. LAFALCE, Mr. TOWNS, Mr. HORTON, Mr. GUARINI, Mr. DEFAZIO, Mr. MCMILLEN of Maryland, Mr. KOLTER, Mr. ERDREICH, Mr. MARTINEZ, and Mr. FALEOMAVAEGA.

H.J. Res. 433: Mr. MRAZEK, Mr. ATKINS, Ms. PELOSI, Mr. VENTO, Mr. MORAN, Mr. WASHINGTON, Mr. ROE, Mr. WYDEN, Mr. KOPETSKI, Mr. MOAKLEY, Mr. ANNUNZIO, Mr. YATES, Mrs. MINK, Mr. UPTON, Mr. JONTZ, Ms. LONG, Mr. HAYES of Illinois, Mr. SANDERS, Mr. WAXMAN, Mr. ALEXANDER, Mr. ESPY, Mr. KLECZKA, Mr. MONTGOMERY, Mr. TRAXLER, Mr. GORDON, Mr. MCHUGH, Mr. SISISKY, Mr. LUKEN, Mr. RIGGS, Mr. JONES of North Carolina, Mr. Studds, Mr. Levin of Michigan, Mr. Beilenson, Mr. Sawyer, Mr. Gonzalez, Mr. Rinaldo, Mr. Lent, Mr. Poshard, and Mr. Sangmeister.

H.J. Res 439: Ms. Horn, Mr. Walsh, Mr. Roe, Mr. Johnson of South Dakota, Mr. Waxman, Mr. McDermott, Mr. Poshard, and Mr. Hastert.

H. Con. Res. 192: Mr. Gillmor, Mr. Lewis of California, Mr. Crane, Mr. Ewing, Mr. Davis, Mr. Carper, Mr. Solarz, Mr. Wylie, Mr. Archer, Mr. Kostmayer, Mr. Reed, and Mr. Alexander.

H. Con. Res. 223: Mr. Cardin, Mr. Hochbrueckner, Mr. Hubbard, Mr. Jefferson, Mr. Johnson of South Dakota, Mr. Kyl, Mr. LaFalce, Mr. Lantos, Mr. McGrath, Mr. Martinez, Mr. Owens of New York, Mr. Porter, Mr. Sarpalius, and Mr. Swett.

H. Con. Res. 256: Mr. Tallon, Mr. Engel, and Mr. Weldon.

H. Con. Res. 271: Mr. Sanders.

H. Con. Res. 278: Mr. Ackerman, Mr. Anderson, Mr. Annunzio, Mr. Borski, Mr. Conyers, Mr. Coyne, Ms. DeLauro, Mr. Dellums, Mr. Flake, Mr. Gilman, Mr. Guarini, Mr. Hochbrueckner, Mr. Horton, Mr. Hyde, Mr. Kostmayer, Mr. LaFalce, Mr. Lent, Mrs. Lowey of New York, Mr. McGrath, Mr. McNulty, Mr. Manton, Mr. Markey, Mr. Matsui, Mr. Mavroules, Mr. Mfume, Mr. Mrazek, Mr. Pallone, Mr. Payne of New Jersey, Mr. Reed, Mr. Schumer, Ms. Slaughter, Mr. Torricelli, Mr. Towns, and Mr. Walsh.

H. Con. Res. 281: Mr. Green of New York and Mr. Engel.

H. Con. Res. 297: Mr. Shays, Mrs. Schroeder, Mr. Solarz, Mr. Yates, Mr. Feighan, Mr. Andrews of New Jersey, Mr. Owens of New York, Mr. Engel, Mr. Green of New York, Mr. Lewis of Florida, Mr. Beilenson, Mr. Lagomarsino, and Mr. Berman.

H. Res. 244: Mr. Ritter.

H. Res. 347: Mr. Sanders.

H. Res. 359: Mr. Valentine.

H. Res. 372: Mrs. Boxer, Mr. Lent, Mr. Bateman, Mrs. Morella, Mr. Lagomarsino, Mr. Zeliff, Mr. Evans, Mr. Smith of Florida, Mr. Levine of California, Mr. Kyl, Mr. Levin of Michigan, Mr. Atkins, Mr. Waxman, Mr. Berman, Mr. Engel, and Mr. Roe.

EXTENSIONS OF REMARKS

POTENTIAL FOR UNITED STATES PRIVATE SECTOR ACTIVITY IN ANGOLA

HON. SAM GEJDENSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. GEJDENSON. Mr. Speaker, I would like to call my colleagues attention to the following testimony that was submitted to the Foreign Affairs Subcommittees on Africa, and International Economic Policy and Trade at our March 3, 1992, hearing on the "Potential for United States Private Sector Activity in Angola."

The testimony was prepared by Equator Bank Ltd., which operates Equator Management Services in my State of Connecticut. The Equator Bank has 13 years of experience in Angola.

POTENTIAL FOR U.S. PRIVATE SECTOR ACTIVITY IN ANGOLA

(Statement of Franklin H. Kennedy, president and chief executive officer, Equator Bank Limited)

Good afternoon Mr. Chairman and Members of the Committee. My name is Franklin Kennedy. I am Chief Executive Officer of Equator Bank Limited. I thank you for the opportunity to share, from our thirteen years of business experience in Angola, our views on trade and investment prospects for U.S. private sector companies in that country.

EQUATOR

As Equator Bank is not a household name in the banking industry in the United States, permit me first to provide you with brief background information on our organization. Along with two sister operating companies, Equator Trade Services Limited and Equator Advisory Services Limited, Equator Bank Limited is a wholly owned subsidiary of Equator Holdings Limited which, in turn, is 83% owned by Wardley Holdings Limited, the 100% owned merchant banking arm of the Hongkong and Shanghai Banking Corporation Limited. The other shareholder is a Connecticut based partnership comprised of individual members of Senior Management of the Company, known as Equator Management Services, Incorporated in Nassau, Bahamas, the Equator Group of companies has offices in the United Kingdom and the United States as well as in Angola, Kenya, Nigeria and Zambia. Equator operates as a merchant bank and is responsible for the development of the HongkongBank Group's business in Sub-Sahara Africa. The HongkongBank Group ranks among the 30 largest banking groups in the world with a staff of over 54,000 and a network of over 1,300 offices world-wide. The published capital of the Group is in excess of USD 10 billion.

Established in 1975, Equator in its seventeen plus years of operations has provided aggregate financing on the order of USD 3 billion to support merchant banking and trading services in some 30 African countries through specialized products such as trade finance, project investment, correspondent banking, cash management and debt management services. In many instances, Equator has worked with various official export credit agencies and political risk insurance organizations both in the United States and other OECD countries. Equator manages, on behalf of the Overseas Private Investment Corporation (OPIC) and five U.S. Corporate Shareholders, the Africa Growth Fund, the first private sector venture capital fund for the Sub-Sahara African region.

EQUATOR AND ANGOLA

Equator first visited Angola in 1976, and completed its first deal there in 1979. Equator has been there ever since and has provided, through our prime client relationship with Banco Nacional de Angola, financing in excess of USD 700 million to support a wide range of trade transactions. Of this amount, some USD 150 million was in support of goods and services sourced from over fifteen U.S. Companies including Boeing, Caterpillar, Motorola, Continental Can, Redicon, St. Augustine Shipyards, Beech Aircraft, Mack Truck and others.

Prior to 1985/86 when coverage for Angola was suspended, Equator had arranged the financing of many of these transactions with the support of Eximbank. Lucky to have been incorporated in the Bahamas, Equator has been able to continue to do business in Angola since the U.S. suspension.

ANGOLA GENERAL

Mr. Chairman, Angola has come a long way since my first visit in 1983, and I have witnessed a great deal of change over the forty visits I have made to Luanda over the past nine years. We have seen the emergence of a market oriented economy from the virtually barter system which prevailed in the 1980's. More recently, Angola has introduced wide ranging economic reform measures including devaluation of the local currency, the Kwanza. Given conditions of permanent peace, only well managed investment in infrastructure is required for rapid recovery of the economy, well endowed with a wealth of natural resources. Already, businesspersons from several regions in the world are beginning to assess and take advantage of this enormous economic potential.

SPECIFIC ISSUES

And now Mr. Chairman, I would like to address a number of specific questions raised in your letter of February 21, 1992.

(1) Is Equator financing commercial transactions in Angola? If so, for which countries and in which sectors is the bank financing commercial transactions?

Since 1979, Equator has been and continues to finance commercial transactions in Angola.

Beneficiaries of Equator financing/letters of credit opened on behalf of Banco National de Angola over the years have been domiciled in Belgium, Brazil, Canada, Denmark, France, Great Britain, Hong Kong, Italy, Japan, Mozambique, the Netherlands, Portugal, Spain, Sweden, the United States and Zambia.

Transactions financed by Equator have covered a wide cross section of the economy including fishing, agro-industrial, industrial, transportation including aviation (helicopters and light aircraft for the petroleum services sector as well as passenger and cargo jet aircraft for the National Airline), road transportation, vehicle rehabilitation, banking, education, forestry, commerce, insurance, electricity, ports, ship repair and telecommunications. Given the extent of the financing over the years, almost all sectors of the economy were covered with the exception of military armaments for which EQUATOR has a policy of non involvement.

(2) Are there significant business opportunities in Angola for the U.S. private sector? If so, for which sectors?

There are enormous business opportunities in Angola for the U.S. private sector. Angola is rich in oil, diamonds, fish/seafood. It has been a major producers of coffee and cotton. It has vast quantities of land for cattle and general agricultural produce. It possesses an exciting tourism potential. Moreover, Angola's war-torn environment with virtually no investment in basic infrastructure over the past 16 years represents a great potential in projects of physical reconstruction. In addition, in a geographical context, Angola's potential is enhanced by regional cooperation in terms of trade, investment and tourism in a new and developing Southern Africa.

(3) Does it make more commercial sense for U.S. businesspersons to wait until after the September elections to initiate business contacts in Angola? Why or why not?

The race to do business in Angola is a long term race—a marathon—26 miles, and only those who prepare early will be able to compete with those who already have a 6 mile head start. Good business prospects take time to develop and to prepare for implementation. The U.S. private sector is very competitive and should not be disadvantaged by processes which in fact amount to holding the runners back at the starting line.

(4) Which countries would be our greatest competitors in Angola and what are they doing to further trade relations with Angola?

There are probably three countries already well ahead in doing business in Angola:—

Portugal with strong colonial and linguistic ties, and with the added advantage of being an EEC member and the broker of the peace accord in Angola. Angola has already taken steps to invite Portuguese businesses and families to take back property and business interests previously nationalized or abandoned at the time of independence.

Then there is Japan, using its good positioning from production bases in South Africa to capitalize on opportunities in large construction and rehabilitation projects and in fishing, and in general trading of vehicles, heavy equipment and the like. While to date, it appears that Eximbank of Japan has provided little in the way of medium term financing, MITI insurance cover has been available from time to time for supplier credits.

There is also South Africa itself. According to a recent survey by the South African Foreign Trade Organization (SAFTO), 74% of the largest South African exporters classified Angola as the key African market for future opportunities. South African banks have already opened lines of credit to Banco Nacional de Angola. Their export credit agency, CGIC, is providing some export insurance cover. South Africa has exchanged commercial representation with Angola and they are planning reciprocal airline flight arrangements. South African businesses have participated in the emergency supply program to "get a foot in the door". Angolans and South Africans are busy forming joint venture relationships with private sector partners to take advantage of technical assistance contracts and other future commercial opportunities.

Other countries which continue to strengthen their commercial positions as a result of uninterrupted trading over the past ten years include Brazil, Belgium, Great Britain, France, Italy and the Netherlands.

(5) Is there a need for a stabilization program for the Kwanza?

I believe this question has been addressed when describing the economic environment currently existing in Angola. My personal views are that, given the unique conditions existing in Angola over the past ten years, a timely and well managed structural adjustment program will bring the value of Kwanza in line with free market forces more rapidly than in many other African and/or Eastern European economies which have distortions of the same magnitude.

SUMMARY

Mr. Chairman, in closing I would like to mention a comment I heard which was made by a member of the foreign diplomatic community in Luanda when I was there two weeks ago. CNN is now aired in Luanda and following a business report which focused on the current Japan—U.S. trade issues, this gentleman commented to me, and I quote: "no wonder there is an overall trade crisis in the U.S. if what they are doing in Angola is representative of their foreign trade policies".

It is the considered view of all of us who do and have continued to do business in Angola that U.S. private sector business interests are not being encouraged in Angola. They are being discouraged. This discouragement serves only the competitors of U.S. businesses and does little to broaden the prospects for the Angolan economy and the benefits to the Angolan people.

IT'S TIME TO CLOSE THE HEALTH-AND-RACKET CLUBS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. STARK. Mr. Speaker, for anyone who thinks we can't cut health costs in this country without cutting health, I commend the following article by Dr. William R. Phillips from the February 3, 1992 issue of Medical Economics entitled "It's Time To Close the Health-and-Racket Clubs."

With this kind of health care, no wonder health is consuming 13 percent of our GNP—about 50 percent more than the next closest industrialized nation.

IT'S TIME TO CLOSE THE HEALTH-AND-RACKET CLUBS

(By William R. Phillips, M.D.)

We have a "sports-medicine center" in our community, as I'm sure you have in yours. The one I know talks of big-time professional athletes while it treats high-school heroes and wounded weekend warriors.

No bump or bruise is too small for the full-court press: physical therapy, nutrition counseling, Cybex rehab, plus pre- and post-treatment underwater weighing. Video gait analysis usually documents the need for an expensive pair of orthotics for every pair of shoes the patient owns. The patient improves, but not as quickly as the clinic's bottom line.

I usually steer my patients away from this muscle mill, but one workingman with a simple back strain pleaded to go to the "sports specialist" he'd seen advertised so much. With unspoken reservations, I assented, and the patient was subsequently, as they say, "lost to follow-up." Although my letter of referral went unanswered, I presumed that a few weeks of conservative care had cured his complaint. Almost a year later, I ran into the patient in a convenience store and inquired how he was doing.

"Not so good, Doc," he replied. "I haven't been back to work since I saw you last."

"Didn't you go to the sports center?" I asked the man with some concern.

"Sure, I've been there three times a week for over 10 months now," he told me.

"Really? That must be expensive," I said.

The patient agreed: "I'll say! I'm lucky the state Department of Labor & Industries is paying 100 percent. The bill runs well over 28 now."

I was surprised at the figure. "Over $2,800?"

"No, $28,000."

Another example: We have a large allergy clinic that specializes in insured children. Good doctors; great businessmen. They do a fine job with kids with severe asthma. But the waiting room is usually filled with snotty kids and their worried parents.

The clinic's gilded-lily approach to patient care is so standardized that their progress notes are all on one printed form with the blanks filled in by the nurse. For every patient, every problem: sinus X-ray series, PFTs (pre- and post-bronchodilator), nasal smear, blood tests, audiogram, tympanogram, and a double-barreled battery of skin tests. Some tests are repeated at every visit. For complicated cases, like hives, they may add a treadmill exercise test, chest X-ray, and histamine challenge test. All this on a 6-year-old with hay fever!

Occasionally the expensive testing contributes something to the patient's management. Usually, however, the diagnosis and therapy aren't exotic: rhinitis and Dimetapp. Parents go home with printed instructions on vacuuming drapes and wrapping mattresses. Of course, the insurance claim form carries a long list of diagnoses to balance the list of procedures performed. In this clinic, CPT stands for Conspicuously Profitable Testing. The clinic staff told the parents of one patient I referred that their policy was to bill insurers directly but never to release a copy of the bill to the parents. Wise policy, that. I recently learned that this clinic's average bill for a patient visit is more than $370.

Glitzy new services seem to call irresistibly to medical profiteers. Colposcopy, for instance, is a valuable (if overpriced) technique that many OBGs and FPs have incorporated into their practices.

Now there's a male equivalent. Last year, I got a promotional mailing from a urologist who was soliciting referrals for his new service of "comprehensive androscopy." That's right: He was hot to scope out the male member at 20X in search of the wily wart. But that's not all. His letter declared that 40 percent of all sexually active men in my practice needed his services.

But wait! That's still not all. He offered this new service to our community at the "low introductory price" of $180. For the poor fellow who was HPB-positive but insurgance-negative, the doctor offered a sliding scale. Maybe he proposed to charge them by the inch.

Sleep clinics are becoming popular cash cows. Hospitals and their chosen consultants are turning ZZZs into $$$ at an alarming rate. Move over, eating-disorder centers and substance-abuse programs. After they perform all the billable tests while the patient is awake, they repeat them while the patient is asleep. That's even more lucrative, since the monitoring goes on all night. Then they add a few high-tech patient evaluations, such as Polaroids of the slumbering patient's nocturnal erections. REM now means Revenue Enhancing Medicine. Novel treatment recommendations usually follow, such as "lose weight" or "breathe oxygen."

Another tried-and-true road to riches is the executive physical. One large multi-specialty clinic in our city has been pushing this profitable line for years. Many local white-collar hopefuls consider an invitation to "take a physical" a sign of ascent up the corporate ladder, like a key to the executive washroom.

In palmier days, the executive physical required a two-day hospital stay. In these leaner times, the patient stays next to the clinic in a European-style hotel. The drill is always the same: H&P by the internists, rectal exam by the urologist, endoscopy by the gastroenterologist, treadmill by the cardiologist, bloodletting by the lab, and X-rays of this and ultrasound of that by the radiologist. (The endoscopy chosen seems to alternate between upper GI and colonoscopy—perhaps depending upon whichever scope is clean and ready to go). Then there are the PFT, ECG, CBC, etc. Occasionally they throw in a CT or MRI for the good of the corporate image.

Never mind that no physician sits down with the patient at the end of this gauntlet to explain the findings or provide counseling. The executive is mailed a full report, fresh from the word processor and complete with designer letterhead and a personalized binder.

These specialists are skilled diagnosticians, aided by a sophisticated computer billing program that generates a diagnosis to justify each examination. In that system, ICD stands for Insurance Compatible Diagnosis.

It's not simply the expense that riles me. Patients confuse these physicals with genuine medical care and often take home the wrong messages. One of my middle-aged male patients came in recently with acute bronchitis. I began urging him to quit smoking when he interrupted, "I just had my executive physical at the clinic, and they did everything—chest X-ray, breathing tests, everything—and they said my lungs are in fine shape; no sign of any damage from smoking."

Other doctors in our city are exploiting the current diagnoses of choice: PMS, EBV, CFS, TMJ. Perhaps insurers should limit coverage for the diagnosis and treatment of abbreviations. Many physicians are hassling with preferred provider organizations while their greedy colleagues are in hot pursuit of preferred patient payment groups. Some cosmetic surgeons specialize in deformities of the rich. Occupational-medicine programs serve the doubly insured worker. Weightloss centers cater to fat cats.

We used to joke about certain doctors and their favorite lucrative tests, or "wallet biopsies." Now many entrepreneurial physicians save time by dealing only with patients known to be piopsy-positive. The next step, of course, is radical removal of the entire organ.

The phenomenon is fueled by many patients' unreasonable expectations and the cure-at-any cost approach. As Osler observed in an earlier age, man is distinguished from the animals chiefly by his desire to take medicine. That desire has turned into a demand for immediate, expensive, high-tech solutions for all human problems.

One 48-year-old patient recently demanded that I refer him to a new orthopedic surgeon for his fifth repair of a torn anterior cruciate ligament from an old-sky-diving injury. "Life would be unthinkable if I had to bear any limits on my extremely active life-style," whined this never-say-die workoutaholic. Modern medicine has no cure for narcissism, but patients sure enjoy the treatment.

The other day, my partner told me another tale of marketplace medicine gone mad. The details don't matter. You hear the same stories every day. "Unbelievable," he concluded.

"No," I countered. "The problem is that it's all too believable."

"I guess we're just in the wrong racket," he observed.

"No," I said. "We're not in a racket. We're family physicians."

How can we help stop these medical misadventurers? It won't be easy in these days of antitrust paranoia and brash marketeering, but we must. We primary-care doctors must stop talking among ourselves and start talking to our colleagues, our patients, and our politicians.

Our health-care system is about to collapse under the growing burdens of paperwork, price, and profits. We're already rationing medical care, in fact if not in name. Every day we have to do without for some patients while we bestow luxurious care on others. The government and insurers limit the care physicians can provide and then make it look like the doctor's fault. We must make it clear to our patients and our politicians that good care costs money, money is limited, and together we must learn to "just say No." Our appetites must be curbed to fit our budget, and care must be served in appropriate portions.

We should support the initiatives to develop clinical guidelines against which we can evaluate doctors' patient management. We must continue the push for the original intent of RBRVS, to increase payment for cognitive services relative to tests and procedures.

I believe we should encourage the question, "How much is a doctor's time worth?" The bureaucrats are already asking that question, and they will tell the bean counters to answer it by balancing last year's budget. As the new payment system takes hold, I would like to see physicians getting paid for their work rather than subsidizing their incomes by ordering excessive tests and treatments.

Every patient should have a primary-care physician who sees him or her first for almost every problem. The best way to avoid inappropriate specialist care is to avoid specialists when using them is inappropriate. We primary-care doctors should encourage good consultants to do honest work for fair fees, and then reward them with referrals. We should artfully tell our patients that we are not comfortable sending them to the medical mill at the mall. Our patients trust us; most will get the message and heed the warning.

Let's tell those physicians who seem to have lost their chosen path on the way to the bank that our patients, our system, and our consciences simply cannot tolerate their wasteful ways. Perhaps we can save a few of our colleagues from their own avarice. At least we can save some of our patients from inappropriate care and excessive fees. We must get greedy doctors out of our health-care system before they give all of us a bad name.

A TRIBUTE TO NIKKI BOUDREAUX AND HER INSPIRED POEM "STALLIONS"

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. BAKER. Mr. Speaker, Nikki Boudreaux, daughter of Ronald and Lynn Boudreaux, submitted her winning poem, "Stallions," while an eighth-grade student at St. Thomas Moore. Miss Boudreaux was 1 of 100 student winners in the seventh annual Young Writer's Contest. More than 18,000 poems, essays, and short stories were submitted to the Young Writer's Contest by students from all 50 States and the U.S. territories and Department of Defense and American community schools abroad. Her entry was published in the anthology "Rainbow Collection: Stories by Young People." The book will be distributed to Ronald McDonald Houses. Ronald McDonald Children's Charities and Falcon Press donated $250 to St. Thomas Moore in Miss Boudreaux's name.

STALLIONS

The beasts rest in silence at the oasis.
Stallions! So calm, so solemn, so content.
Their heads bowing in the breeze—
Stallions! So magnificent, God's beasts, heaven-sent.
No other creature was there over told,
To be so mysterious, so picturesque, so bold!

The beasts gallop briskly across the barren desert.
Stallions! So graceful, so poised, so free.
Their manes flowing in the wind—
Stallions! So exquisite, so beautiful, so holy.
O, how I love these creatures of the wild.
Their temper flaring, never mild!

THREE RIVERS COMMUNITY COLLEGE BASKETBALL CHAMPIONS

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. EMERSON. Mr. Speaker, I rise today to salute the national junior college basketball champions who are from my congressional district—the Three Rivers Community College Raiders from Poplar Bluff, MO.

On Saturday night, Coach Gene Bess led his troops into a victorious battle—a shootout that wasn't decided until the final play of the game. Allow me to re-create the scene.

The Three Rivers Raiders are taking on Butler County Community College of El Dorado, KS. A packed house of 7,000 fans are on hand to witness this championship game at the Hutchinson, KS, Sports Arena. Of the multitudes anxiously awaiting tip-off in the stands are at least 500 supporters who made the 8-hour journey from Poplar Bluff.

The game itself is a nailbiter—both teams deserve plenty of credit. This is the pinnacle of college basketball at the junior college level and anyone watching and cheering could easily see that none of the players want to let themselves or their fans down. School pride, community pride, and a national title are all on the line.

Mr. Speaker, according to Poplar Bluff's local newspaper—the Daily American Republic—"two of the heroes in the end were players who until the final 30 seconds were having off nights."

The first was a small guard from Bernie, MO, which is also in my Eighth Congressional District. Five-foot, ten-inch Anthony Beane drilled a 3-point bomb with 21 ticks left on the clock to put the Raiders ahead 78–77. Still, Butler County had plenty of time to get down the court and pump in a couple of points. However, with just a couple of seconds left, the second hero emerged—6-foot, 7-inch freshman Justin Wimmer, who had just entered the game off the bench. Off of an inbound pass, a Grizzlies' player pump-faked and got Wimmer in the air, but the Three Rivers' freshman recovered to block that final shot as the buzzer sounded.

They call this time of year March madness because of all the basketball tournaments at all levels of play. Mr. Speaker, I stand here today expressing my pride and respect—as well as that of the rest of the folks in Missouri's Eighth Congressional District—to everyone involved with the Three Rivers Community College Raiders. A season record of 35–3 is indeed an accomplishment in itself; a national championship banner and trophy are icing on the cake. As I promised them, I would make sure that my colleagues in this Chamber and the rest of America would know who the No. 1 junior college is both on and off the court.

Congratulations to Coach Bess who now has a second national championship in his trophy case, as well as that of being named this year's Coach of the National Junior College Tournament. Coach Bess' 23 years with Three Rivers—22 as head coach—are unmatched and much appreciated. Just ask the fans who pack the Bess Center year in and year out. Other personal accomplishments that led to the team's effort include sophomore Shon Peck-Love who was named the tournament's most valuable player and sophomore Anthony Beane who was named outstanding small player of the tourney.

Mr. Speaker, as I close, again hats off to the Three Rivers Community College Raiders of Poplar Bluff, MO. After months of training, practicing, and playing, the Raiders can lay claim as the best junior college basketball team in the land. Furthermore, Coach Bess and his players did it as scripted, the old-fashioned way—as a team. They set their goal at the beginning of the season and are reaping the benefits now after accomplishing it. They are truly demonstrating part of the success stories emerging from Three Rivers Community College and Poplar Bluff.

Go Raiders.

COMMUNITY AND RESIDENTS EDUCATION AT HAZARDOUS WASTE SITES OF 1992

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. GEPHARDT. Mr. Speaker, today I am introducing the Community and Residents Education at Hazardous Waste Sites Act of 1992 [CARE] to provide high quality health assessments to citizens living near hazardous waste sites and to support the development of alternative treatment technologies to clean up contaminated sites. I am pleased that Congressmen RICHARDSON, MARKEY, and TOWNS have joined me in this effort.

Thousands of hazardous waste sites in the United States pose threats to human health and the environment, through contamination of groundwater, air and soil. Over 40 million Americans live within 4 miles of a Superfund site. Superfund sites, which number approximately 1,200, are just the tip of the iceberg. As many as 5,000 active hazardous waste sites are regulated under the Resource Conservation and Recovery Act [RCRA]. Many of these sites are leaking, causing contamination and potential treats to human health.

In spite of the potential danger that these sites pose to public health, health studies generally are not performed at RCRA sites. Congress created the Agency for Toxic Substances and Disease Registry [ATSDR] to evaluate the risks of hazardous waste sites to human health. While ATSDR performs health assessments at Superfund sites, ATSDR has limited authority to review health threats at RCRA sites. ATSDR has performed studies at only 28 such sites.

In recent years the administration has had a reputation for producing studies that fail to respond to community concerns. The initial attempt by the administration to meet Superfund deadlines produced over 950 studies of mostly poor quality. While there has been some improvement, a recent GAO study of Federal health assessments found that the majority of our health assessments continue to have deficiencies. GAO reported that Federal studies were often abbreviated reviews that left questions about health risks unanswered.

Many citizens have found that ATSDR has not made sufficient efforts to respond to the concerns of affected communities or to adequately explain the health threats facing residents living near hazardous waste sites. For example, an assessment at one site noted that six wells a little over 1 mile from the site had been closed, but failed to explain EPA's order to close the wells. The citizens were left in the dark about the site's potential health risks.

The public has a right to accurate, objective analysis of the health risks posed by RCRA hazardous waste sites.

To address this concern, the CARE at Hazardous Waste Sites Act of 1992 authorizes ATSDR to review RCRA sites whenever ATSDR suspects a public health risk may exist. The bill requires ATSDR to perform studies at 25 hazardous waste sites by mid 1993. It requires ATSDR to report to Congress about the health threats posed by these sites and the Agency's progress in responding to community concerns. The legislation requires this report prior to our consideration of the Superfund reauthorization legislation.

The central focus of the legislation is to foster increased responsiveness to community concerns. The bill stresses the need to provide more opportunity for citizen input in health studies. For example, the bill requires ATSDR to hold a public meeting to explain the proposed study before initiating it. The bill encourages ATSDR to explain the results of its studies at public meetings and requires comment periods prior to adoption of studies.

CARE takes other steps to increase the Government's accountability to citizens. The CARE bill establishes a citizen review board to review ATSDR's efforts to increase public involvement. This board would make recommendations to the Agency and Congress. The legislation also establishes health education grants to enable communities to hire experts to explain complex health issues. Modeled on the Superfund technical assistance grant [TAG], this assistance can help citizens better understand potential health risks.

I believe with proper accountability to citizens, ATSDR can be a strong, effective guardian of public health.

Finally, the CARE bill takes steps to improve future cleanups of hazardous waste sites. Last year, citizens concerned about dioxin incineration at Times Beach, MO, requested an independent review of dioxin treatment technologies. The Office of Technology Assessment performed a study, which confirmed that some destruction alternatives are very promising and worth further attention. The CARE bill supports the development of new and better hazardous waste treatment technologies. CARE provides grants for the field demonstration of promising, nonincineration technologies capable of treating dioxin and other contaminants. The grants will ensure that these promising alternative technologies get the attention they deserve.

Community education—and empowerment—are vital to our Nation's hazardous waste cleanup effort. This bill will help the administration produce high quality health studies that better serve the public. I urge my colleagues to support it.

COMMUNITY AND RESIDENTS EDUCATION AT HAZARDOUS WASTE SITES ACT OF 1992

Purpose. To amend the Solid Waste Disposal Act (RCRA) to ensure that resident and community interests are fully considered during corrective action at hazardous waste sites, to assist affected residents in better understanding health risks posed by hazardous waste sites, and to add additional requirements and authority to the Agency for Toxic Substances and Disease Registry.

SECTION 1: TITLE—COMMUNITY AND RESIDENTS EDUCATION (C.A.R.E.) AT HAZARDOUS WASTE SITES ACT OF 1992.

SECTION 2: ADDITIONAL REQUIREMENTS AND AUTHORITY FOR AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY.

Additional authority to conduct health studies at sites regulated under RCRA. Authorizes Administrator of ATSDR to conduct appropriate health studies at any site regulated under RCRA. If a health study finds that there is a release or substantial threat of a release into the environment of any pollutant that may present a potential risk to human health, the Administrator of ATSDR shall notify the Administrator of EPA and the State. The Administrator of EPA (or the State) shall order the facility to eliminate or substantially mitigate these threats.

Enhanced public involvement and review. To ensure that the health studies address community health concerns, this section requires ATSDR to obtain citizen input before conducting health studies:

Requires ATSDR to notify local populations before health studies are started in order to explain the nature of the wastes present, the purpose of the study and how the public can comment on or otherwise review the conduct of the study.

Requires ATSDR to hold a public meeting before commencing its study to discuss scope, methodology and nature of studies with members of the public, to consider public comments in the formulation of those studies, and to respond to the concerns of the public and local health officials.

Requires ATSDR to provide opportunity for 30-day public comment on proposed design and protocols of all health studies before such studies are begun, and to provide a copy of those protocols to the Peer Review and Citizen Review Boards.

Requires ATSDR to notify the public about the availability of the study and to provide copies to interested individuals of the public.

Requires a 30-day public comment on the study before it is adopted.

Allows modification of the public comment periods if necessary to protect public health.

Petitioned health studies: additional requirements. Citizens may petition ATSDR to perform health studies at any RCRA site. ATSDR must respond within 120 days. If ATSDR does not perform such health study, it shall explain in writing the reason for not pursuing a study. Copies of all responses to citizen requests shall be provided to the Citizen Review Board.

Enhanced public protection at sites presenting health risks. If ATSDR determines that a site presents potential risks to public health, the Administrator shall notify the Administrator of EPA, the State and affected citizens of actions needed to eliminate or substantially mitigate health risks. The ATSDR also shall notify the Citizens Review Board and publish its recommendations in the Federal Register.

Data collection. Authorizes ATSDR to collect public health data necessary for the completion of health studies at sites or to request EPA to collect environmental data. Expands ATSDR's authority to contract with universities or the private sector in order to collect or analyze data necessary for health studies. ATSDR shall not release data that can be used to identify a particular individual without that individual's permission.

Definition of health studies. Defines health studies to include research programs, health assessments, pilot studies, epidemiological studies or other appropriate health studies.

Authorization. Authorizes an additional $5,000,000 in fiscal years 1993 through 1998 for RCRA health studies.

Additional health studies at RCRA sites and review of performance prior to reauthorization of Superfund legislation. Requires ATSDR to perform health assessments at 25 RCRA sites the Administrator believes pose the highest risk to human health by July 31,

1993. ATSDR shall report to Congress by July 31, 1993 on the danger posed by these sites to human health, the actions taken to reduce those risks, and the agency's efforts to improve its responsiveness to community concerns.

By September 30, 1993, the Peer Review Board shall submit to Congress a report on the overall scientific quality of ATSDR's studies.

By the same date, the Citizen Review Board shall submit to Congress a report on ATSDR's responsiveness to community concerns.

SECTION 3: PEER REVIEW BOARD

Peer Review Board: This board would review ATSDR studies to review the quality of the science and judge their scientific quality and usefulness to public health officials.

Membership: Director of ATSDR shall appoint 3 Members from health professionals and other experts, representatives of the academic community, public health officials. In addition, the heads of NIEHS and the National Academy of Sciences will each appoint 2 Members.

SECTION 4: CITIZEN REVIEW BOARD

Citizens Review Board: Establishes a Citizen Review Board whose duties shall be to review ATSDR's performance and recommend to ATSDR and the Congress ways to improve ATSDR's communication with citizens and ensure that its work is responsive to the concerns of citizens.

EPA and ATSDR shall make available to the Board all relevant materials requested by the Board including, but not limited to, copies of health education grant applications, all studies, petitions for health studies and Agency responses.

Membership: Membership shall consist of six individuals who live adjacent or nearby hazardous waste sites and/or who have been actively and substantially involved in community efforts to respond to hazardous waste problems. Provides for compensation, hiring of staff, child care expenses, etc. Two Members appointed by Speaker and Senate Majority Leader, one by each Minority Leader.

SECTION 5: HEALTH EDUCATION GRANTS

Authorizes ATSDR to make available grants of up to $50,000 to enable groups of citizens who may be affected by a release or threatened release at a facility where ATSDR is performing a health study, to obtain advice and assistance from epidemiologists, toxicologists, or other health professionals. Grants may be used to obtain information about potential and actual health threats arising from the site and clean-ups, interpret ATSDR and other health studies, prepare public comments and property design community health surveillance. Local grant recipients would be required to contribute 10% of the total costs. This cost-share requirement would be waived for communities that have already received Superfund TAGs or whose income is lower than the average per capita income. The cost-share requirement also could be waived or reduced by the Administrator.

The Agency is directed to use the least burdensome application requirements practicable (e.g. the small purchase method) so as to allow citizens to take full advantage of the program.

SECTION 6: ALTERNATIVE TREATMENT TECHNOLOGY GRANTS

Authorizes the Administrator of the Environmental Protection Agency to make available $500,000 in FY 1993 for demonstration of technologies capable on a commercial scale of destroying dioxin through the use of non-incineration technologies identified as promising by the Office of Technology Assessment in its study Dioxin Treatment Technologies. Authorizes an additional $1,000,000 in FYs 1994–1998, for demonstration of alternative treatment technologies for the cleanup of hazardous wastes.

WHAT THE ADMINISTRATION'S GAG RULE LANGUAGE REALLY MEANS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. EDWARDS of California. Mr. Speaker, on Friday, March 20, 1992, the Bush administration released its guidance directing compliance with the title X family planning gag rule regulations. The administration said that it would modify the gag rule to allow limited advice by doctors. However, under these regulations, doctors cannot refer women to abortion clinics, and other health care professionals cannot counsel or provide information about abortion or its availability. This editorial from the New York Times accurately comments on what the guidance on the gag rule really means and what the implications are. Once again, it is primarily poor women who will be the victims of the politics of this issue. I strongly urge my colleagues to read this editorial.

[From the New York Times, Mar. 22, 1992]

CLOSING THE DOOR TO ABORTION

Last fall a 23-year-old West Virginia woman named Mary Jiveden had a date. The man's sexual advances were unwelcome—"it was kind of like date rape," she says. Several months later, during a routine medical checkup, a doctor told her she was pregnant.

What happened next, as reported by The Times's Tamar Lewin, seems incredible in a country where women have had the right to end a pregnancy since Roe v. Wade in 1973.

Ms. Jiveden, who is divorced, out of work and the mother of a 2-year-old, called the local health department and several hospitals for a medical referral, but was refused. The main reason she got nowhere was the "gag rule," a regulation that forbids family-planning programs which receive Federal funding to discuss abortion or refer patients to clinics that perform them.

On Friday, the Bush Administration said it would modify the gag rule to allow limited advice by doctors. But Federal officials said doctors could not refer women to abortion clinics, and nurses and other personnel still could not discuss abortion. The modifications are so narrow that they will make little difference to women like Ms. Jiveden.

After countless calls, Ms. Jiveden was told by a doctor's receptionist to look for abortion clinic ads in a big-city newspaper. But by the time she located a clinic in Charleston, four hours away, she was told she was just over the clinic's 16-week time limit. Referred to a Cincinnati clinic that had an 18½-week limit, she was told she was 21 weeks pregnant and sent to Dayton. To pay the Dayton clinic's $1,675 fee, she refinanced her car and borrowed the rest.

At that point, the Dayton clinic described her as high-risk for the procedure and referred her to Wichita. Unable to afford the flight and the Wichita clinic's $2,500 fee, Ms. Jiveden had no choice but to continue the pregnancy—not knowing how she'll make a life for herself and the kids.

That thousands of such women can't get abortions that are their legal right evokes the days of coat-hanger surgery and surreptitious trips out of town. Making abortion safe, accessible and affordable would seem a vital part of health care in the United States. But not the Federal Government, nor to an increasing number of physicians.

In South Dakota, only one doctor will perform abortions, and then only in a bulletproof office. At Johns Hopkins School of Medicine, fully half the fourth-year students reported they wouldn't perform the procedure. Only 13 percent of the residency programs in obstetrics and gynecology require training in first-trimester abortions.

Some physicians, of course, have moral and ethical reservations about abortion. Others are too young to have seen the vaginal lacerations, infections and deaths that were commonplace before Roe v. Wade. Many fear losing patients who will not patronize a doctor who performs abortions.

One might assume that a civilized government would compensate for medicine's refusal to provide a basic service. Not the U.S. Government, which is doing its best to turn a legal right into a dirty, seemingly illicit act.

Far too many Americans, doctors among them, have remained silent while two Administrations bargained women's reproductive rights for votes. If that vicious trade is ever to be ended, they must speak out. Calling Friday's changes in the gag rule what they really are—an effort to kick sand in the public's eye—is a fine place to start.

WARREN I. CIKINS; BRINGING THE THREE BRANCHES OF GOVERNMENT TOGETHER

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. HUGHES. Mr. Speaker, I would like to bring to the attention of our colleagues the following article in the February, 1992 issue of the Third Branch, a newsletter of the Federal court system. The article is a colloquy with Warren Cikins of the Brookings Institution who for the past 15 years has been instrumental in inspiring a meaningful communication between the various branches of government concerned with the administration of justice in this country. I applaud Mr. Cikins' continuing efforts and believe that the cooperative efforts outlined in the article symbolize just the kind of positive attitudes that this country needs in this era of negatives.

WARREN I. CIKINS: BRINGING THE THREE BRANCHES OF GOVERNMENT TOGETHER

(Warren I. Cikins has been a senior staff member of the Brookings Institution for more than 15 years. He enjoyed a long career in public service, during which he worked for three members of Congress and two presidents, and also as a consultant to the Supreme Court and the Federal Judicial Center. Among the areas he has concentrated on at Brookings are criminal justice, corrections, prison industries, and the administration of justice. Cikins has held annual seminars for the three branches since January of 1978.)

Question. How do you view relations between the three branches on administration of justice matters at this time?

Answer. I feel quite comfortable about the present situation, but fearful that serious stresses might develop unless we employ eternal vigilance. We've come a long way since we began the Brookings administration of justice seminars in 1978, when the conditions between the branches might have been characterized as reflecting compartmentalism, bickering, inertia, and drift. Under former Chief Justice Burger's initiative, several persons, such as then Assistant Attorney General Dan Meador, then Administrative Assistant to the Chief Justice Mark Cannon, then Chief Counsel of the House Judiciary Committee Alan Parker, and myself, came together to structure an effort to build bridges between the three branches.

Tribute also should go to my great hero and former employer, the late Congressman Brooks Hays of Arkansas. While the general prevailing wisdom was that the Judiciary should be separated from the other branches by a wall, Congressman Hays said it was latticework, and you should reach through it.

While we held the first seminars with a feeling of considerable trepidation that we might be breaching that crucial wall of separation, we gradually gained confidence that we were performing an invaluable and constitutional function. The creation of a climate of goodwill and reciprocal forbearance has led to the resolution of many potential conflicts between the branches.

Question. Why is communication between the branches of government so important?

Answer. Judges must realize that they have a greater obligation than to simply sit in the court and make decisions. They also have an obligation to make the system work, to help other branches understand their problems, and to understand each branch's role. How can you possibly function unless you have a sense of how the entire process works? There is some aura of separation of powers that must be maintained. It's a kind of twilight zone. Certainly there is a fine line, a sense of understanding the rules of the game, and of what is required in terms of how far you can go before you're making an excessive intrusion into the legislative process. The work of the Judicial Conference reflects this sensitivity. It has become more successful in educating Congress in a somewhat more activist role in recent years.

Question. What has been the role of Chief Justices Burger and Rehnquist in this area?

Answer. It has been a great pleasure to have worked under the direction of these two chief justices. Chief Justice Burger put his full prestige behind the implementation of this bridging concept, even though at the beginning there were those who felt that any outreach was improper. He was convinced that nothing but good could come from an informal exchange of views between members of the House and Senate Judiciary Committees, senior Justice Department officials, and members of the federal Judiciary.

Chief Justice Rehnquist has given continued support to these meetings, and has reshaped them in a manner that appears to maximize their importance. The seminar at the beginning of each Congress is now the gathering for the principals involved, with the next year being the gathering primarily for senior staff. To enable all to participate fully in the deliberations, Rehnquist has urged the utilization of discussion groups on each topic considered. He has indicated his satisfaction with the willingness of Congress to address the problems identified by the Judiciary and has gone on the emphasize that communications between the branches are open, free-flowing, and abundant.

Question. Have the Brookings programs been of value to Congress and the Department of Justice?

Answer. Support has been expressed by many members of Congress and attorneys general. Former House Judiciary Committee Chairman Rodino was present at creation and attended as many meetings as possible before his retirement. Ranking Republican Senate Judiciary Committee member Thurmond has not missed a single meeting (where principals were involved) and has praised Brookings for providing an informal setting for gaining greater knowledge of the needs of the Judiciary and the proper role of Congress. Four attorneys general have attended regularly, with one stating that the Founding Fathers would have greatly approved of this effort. I think these statements indicate that participants from the executive and legislative branches recognize the value of this interchange.

Question. Are there still problems of communication among the branches?

Answer. Despite obvious evidence that the three branches have established valuable channels of communication, there are those who still attempt to find evidence of alienation. While the Judiciary has clearly experienced difficulties through the enactment of certain legislation, there is also evidence of great legislative improvements in the work of the Judiciary accomplished by respected members of Congress. One great example is former Congressman Robert Kastenmeier, who was acclaimed by AO Director Ralph Mecham as one who listened, understood and acted.

Congressman William Hughes, who has succeeded Congressman Kastenmeier as chairman of what is now the Judiciary Subcommittee on Intellectual Property and Judicial Administration, has attended many Brookings seminars and has stated that, "They have done more to foster interbranch cooperation than any initiative that I am aware of." All members of Congress do not need to have the level of comprehension of a Bill Hughes to follow his respected leadership in continuing the improved interbranch cooperation.

Question. Are there current examples of the importance of interbranch communication?

Answer. Evidence that there is still work to be done in improving Congressional understanding of judicial difficulties is presented in Chief Justice Rehnquist's 1991 year-end report on the federal Judiciary. As the chief Justice put it, "Modest curtailment of federal jurisdiction is important; equally important is self-restraint in adding new federal causes of action. New additions should not be made unless critical to meeting important national interest . . ." By speaking out as the Chief Justice has done, he has heightened congressional awareness of his concerns. While Congress has yet to fully respond to these warnings, it is reassuring to know that the channels of communication are open, and that there is reason to believe that there will be some appropriate response. Several pieces of pending legislation could be modified, including provisions that provide for federal prosecution of virtually any case in which a firearm is used to commit a murder.

Question. How do you see the future of three-branch relations, and what role do you see the Brookings Institution playing?

Answer. One can only be optimistic about the future of interbranch relations. While Congress may exercise its right to enact legislation that overturns court decisions, these actions do not seem to be adversely affecting the cooperative relationship that has been established in the field of administration of justice. The creation by the Judicial Conference of a Committee on Long Range Planning bodes well for the improvement of congressional understanding.

The development of carefully reasoned analyses of the appropriate roles of the federal Judiciary can only serve to assist all branches to cooperate more effectively to achieve common objectives. It is obviously to the advantage of all Americans that the federal court system is able to operate effectively. Chief Justice Rehnquist has reminded us that the federal court system is a resource that is both precious and exhaustible. While there may be disagreement on all the appropriate steps needed to prevent such an exhaustion, the forums exist to reconcile the differences.

Much of what the Brookings seminars were designed to accomplish has already been achieved. The key principals and senior staff personnel seem much more relaxed about in formal interactions, and the novelty of such exchanges has worn off. But there are always new issues.

For example, the agenda for the March 1992 meeting includes the following: implementation of the 1990 Civil Justice Reform Act; the work of the new judicial discipline commission; the status of crime legislation; the work of the long range planning committee; and the status of bankruptcy legislation.

Sharing knowledge of these issues should be of great advantage to all branches. The continued turnover of relevant personnel enables these seminars to still serve as a vehicle for building bridges. As one of those who launched this effort in 1978, I am pleased with its accomplishments. The better relations between the branches should be cherished. There are those who moan that the congressional and judicial cup is half empty, but I exult that it is half full and rising.

CTB CRITICAL TO STEMMING NUCLEAR PROLIFERATION

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. STARK. Mr. Speaker, a comprehensive test ban [CTB] has always been good arms control and environmental policy. Today, it is also critical for achieving U.S. nonproliferation objectives.

With the cold war over, and the Soviet Union disbanded, nuclear proliferation is now the leading threat to United States national security.

The United States has overwhelming conventional military superiority over any other country—nuclear weapons add little to our strategic position. In contrast, a small conventional power, like Iraq or North Korea, becomes a much larger threat if it acquires the bomb.

The Nuclear Non-Proliferation Treaty is up for extension in 1995. In order to successfully extend and strengthen the treaty, the United States will have to give something in return. U.S. acceptance of a CTB would help get other countries to adopt stricter export controls and tighter safeguards and inspections—measures that would slow proliferation. A CTB could also help bring countries like India and Pakistan into the treaty.

The technology exists to verify a CTB down to a very low threshold. Leading U.S. scientists have demonstrated that testing is not necessary for warhead maintenance. And, with the end of the cold war, we certainly don't need to further modernize our nuclear arsenal.

Let's not delay any longer. A CTB is in our national interest.

HEROISM DURING THE HOLOCAUST

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. GILMAN. Mr. Speaker, all too often acts of heroism and courage go unnoticed. Though there were too few of these to save 6 million Jews who perished in Hitler's Holocaust, many courageous acts still took place. One of these, which took place in Berlin almost 50 years ago, is described in a recent issue of "The Week in Germany," a publication of the German Information Center.

The article details what took place on one day at one location, recognizing that passive resistance and the commitment to speak out in the face of almost certain death can succeed. Accordingly, Mr. Speaker, I would like to insert the article at this point in the CONGRESSIONAL RECORD for my colleagues' review:

[From The Week in Germany, Mar. 13, 1992]

WOMEN'S RESISTANCE TO GESTAPO TO BE COMMEMORATED IN STONE

Fifty years after its occurrence, a memorial is to be placed at the site of one of the most astonishing events of the Second World War: Rosenstrasse 2-4, where, on February 28, 1943 and for several days thereafter, a group of unarmed, non-violent women took on the Gestapo—and won.

The Rosenstrasse is a dead-end street in what was once, and is now again, the middle of Berlin. The building at number 2-4 was once a welfare agency for the Jewish community, then a Nazi office for "Jewish questions," then a Gestapo deportation center and finally a heap of rubble. Today, only an empty space remains.

On February 27, 1943, Joseph Goebbels had given the order to rid Berlin of all remaining Jews; in response, 5,000 Jews were arrested. About 2,500 were sent to the Rosenstrasse. These were so-called "privileged Jews," men and some women with non-Jewish spouses, and their children. One day later, a large group of women (estimates by witnesses vary from 600 to 6,000) gathered before the building. Unarmed and described by survivors as "unpolitical," they called "Give us back our husbands, our fathers, our children." As journalist Ruth Andreas Friedrich noted in her journal at the time, "they stood hour after hour, night and day, like a wall."

Efforts by SS men brandishing machine guns to break up the women's protest were unsuccessful. According to a participant, "at this point, we didn't care what happened to us. We yelled 'Murderers!'—And then the totally unexpected happened: the machine guns were removed. Silence engulfed the crowd in front of the building, only isolated sobbing could be heard." Stymied by the resistance of the women, Goebbels gave the order to release the husbands of "Aryan" women, which entailed recalling 25 men who had already been sent to Auschwitz. Goebbels noted in his diary: "There have been unpleasant scenes . . . in which the population actually took the part of the Jews. I will tell the security forces not to continue the evacuation of the Jews at this critical juncture."

The women's resistance in the Rosenstrasse has been largely ignored, but this is to change. For four years, 77-year-old sculptor Ingeborg Hunzinger has been working on a memorial for the Rosenstrasse women. The project was conceived of before the demise of the German Democratic Republic and was planned to have been completed by the 50th anniversary of the action in 1993. Due to difficulties in obtaining materials, however, completion will probably be delayed. Two porphyry blocks are finished; one is a frieze of male figures, the other of women. They bear the inscription: "The strength of civil disobedience and the strength of love defeat the violence of the dictatorship."

BREASTFEEDING PROMOTION ACT OF 1992

HON. BILL EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. EMERSON. Mr. Speaker, Ms. MOLINARI, the gentlewoman from New York, and I are introducing legislation that will direct the Secretary of Agriculture to establish a program to promote breastfeeding as the best method of infant nutrition. This bill is intended to foster wider public acceptance of breastfeeding in the United States. The bill will permit the Secretary of Agriculture to provide funds to public and private entities for the purpose of breastfeeding education and to assist such organizations in the distribution of breastpumps and similar equipment to breastfeeding women.

During infancy, breastfeeding provides the best nutrition to the baby. According to the National Center for Health Statistics, in the United States, approximately 37 percent of all women breastfed their infants at 1 month of age. However, only 26 percent of all low-income women were still breastfeeding at 1 month of age. By supporting promotional and educational programs reaching all economic levels this legislation is intended to improve these statistics.

For the past several years USDA has carried out many significant efforts to promote breastfeeding in the WIC Program. USDA has established various regulatory provisions to encourage WIC mothers to breastfeed; developed breastfeeding education materials to help local agency staff teach WIC participants about breastfeeding; participated in cooperative efforts with other Federal agencies and organizations, such as Healthy Mothers and the Healthy Babies Coalition; and have fostered the creation of State breastfeeding promotion coordinators throughout the Nation. Mr. Speaker, this is a good bill for the women and children of this Nation and I encourage my colleagues to support it.

UNIVERSITY PARTNERSHIPS—ADDED SPUR FOR COMMUNITY DEVELOPMENT

HON. BEN ERDREICH

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. ERDREICH. Mr. Speaker, today I am introducing a bill to make partnerships between State or local governments and institutions of higher education eligible for Community Development Block Grant funding. Colleges and universities represent a great resource of information, talent and energy, and can play great roles in the development of communities. The CDBG program is our most successful community development program, and this modification will provide a new catalyst for improving our communities, involving institutions of higher education. I want to encourage more involvement by our colleges and universities in our communities, to help expand jobs, improve our neighborhoods, and spur more community development.

My bill would do two things. First, it makes clear that States and entitlement communities may use their CDBG allocations to work with a college or university to engage in CDBG eligible activities. These would include providing technical assistance to local governments and communities, undertaking neighborhood revitalization projects, creating jobs for low-income individuals, and rehabilitating housing for low-income families.

Secondly, it would earmark a small amount of CDBG funds for the next 2 fiscal years, just as we already do for other important activities, to allow the Secretary of the Department of Housing and Urban Development to encourage the development of these community-university partnerships.

Last October, I took my Policy Research Subcommittee to Birmingham to hold a hearing on the role of universities in economic and community development. We heard from my own University of Alabama at Birmingham, from Marquette University in Milwaukee and Virginia Commonwealth University in Richmond, and from those representing colleges and universities nationwide who have the resources, ability, and desire to contribute to their local communities.

Many urban universities are already playing positive roles in community and economic development, and localities recognize the great potential of these institutions. To cite some examples, in addition to the Center for Urban Affairs at the University of Alabama at Birmingham, there is the Detroit City-University Consortium at Wayne State, the Ohio Urban University Program headquartered at Cleveland State, the Florida Center for Urban Design and Research and the Center for Urban Transportation Research at the University of South Florida, the Research and Technology Park of the University of New Orleans, the National Center for University-School Collaboration at the University of Houston, and the Urban Field Center at the University of Rhode Island.

My bill would also tap into the great resources of traditional land grant colleges and universities, like my alma mater at the University of Alabama at Tuscaloosa.

I am including for the RECORD an article from the Reader's Digest, entitled "The University that Saved a Factory," about the pivotal role played by the University of Alabama at Tuscaloosa in saving over 200 jobs at a General Motors plant in Tuscaloosa and the related infusion of $7 million annually into the local economy. As an Alabamian, I was proud of the University of Alabama for coming to the aid of that factory, the people who worked there and their families, and, of course, the community that depended on the economic role of the plant.

I am also including an article from the August 1991 New York Times, entitled "Universities Become Full Partners to Cities in South", describing the work of my own University of Alabama at Birmingham in the Birmingham community. This too is an example of what can happen today if community-university partnerships are given the encouragement they deserve. Finally, I am including for the RECORD the testimony received by my Policy Research Subcommittee from Dr. William A. Sibley, Vice President for Academic Affairs for the University of Alabama at Birmingham.

Mr. Speaker, I urge my colleagues to support this bill.

THE UNIVERSITY THAT SAVED A FACTORY

(By Joseph P. Blank)

The recession had hit the Tuscaloosa, Ala., plant of General Motors' Rochester Products Division, and no one seemed to know what to do.

Opened in 1978, the plant employed workers who assembled replacement carburetors, emission-control components and carburetor-service kits. When demand for the products plummeted in 1980, nearly one-third of the United Automobile Workers (UAW) employees were laid off, but the plant still needed to cut costs by $2 million a year to remain competitive. In the spring of 1982 GM sent in teams of experts to study the problem.

The difficulty did not lie with the unionized workers. In fact, the divisional general manager considered the Tuscaloosa team "one of the best employee groups in GM." The workers pitched in with management to improve productivity and reduce costs. Workers even criticized one another for not being productive enough. Together management and employees found dozens of ways to save money, but still came up with an annual $470,000 shortfall. On August 17, 1982, GM reluctantly announced that it was phasing out the plant.

With unemployment already about 17 percent, Tuscaloosa (pop. 73,000) could ill afford the loss of some 200 GM jobs and the almost $7 million a year that the plant, at its peak, had been spending on wages and local purchase of supplies. Despite its announcement, GM wanted to avoid the closing. It sent in two more of its management experts to explore last, desperate measures. No option seemed feasible.

On the advice of local businessmen, the GM experts decided to approach the University of Alabama. Somebody there might have useful ideas. The university—Tuscaloosa's largest employer—also was having financial problems with reduced appropriations and layoffs. But its president, Joab Thomas, believed a state university should become involved in the state's economy.

By the first week in January 1983, local industrial-development boards had agreed to give the university a grant of $75,000 to seed research. But a lot of university money would be involved. When Prof. J. Barry Mason, chairman of the university's management and marketing department, was asked to lead the university team, he wondered if President Thomas had something of the riverboat gambler in him. How could professors and students solve problems that stopped GM, with all its expertise? Failure would play havoc with the university's reputation.

Mason assembled a half-dozen colleagues—specialists in management, engineering and energy. He asked them to review the plant's operations and systems, and to tell him if the university could cut operating costs by the $470,000 a year needed to save the plant.

Their answer: "We can do it."

The assurance contained some bravado. "I found it a little scary," recalls Joseph Millichamp, professor of management science, who had agreed to look into the plant's inventory.

Representatives of the university, GM and the UAW hammered out a three-year contract. The university agreed to pay GM $470,000 a year for the opportunity to use the plant as an applied-research facility. That took care of GM's shortfall. Additional savings instituted through the university would be deducted from the $470,000. One-shot saving didn't count; economy measures had to result in a permanent annual reduction in the plant's operating costs.

GM agreed to give the university *and* the union access to the plant's books. It also pledged $250,000 a year in fellowships and scholarships for the university, regardless of the outcome. Plant employees accepted a payroll deduction of $55.20 a week to be used, if necessary, by the university to finance research. GM agreed to return this money to the employees eventually, whether or not the project succeeded.

A task force, soon dubbed The Gang of Twelve, was set up, with four members from the union, four from the university, four from GM. Its unanimous approval was required for each cost-saving proposal.

Enthusiasm for the project wasn't universal. After the January 1983 press conference at which the GM-university contract was announced, a UAW employee approached Barry Mason, who had been introduced as the leader of the university team, and said, "Okay, hotshot, you've had your moment in the sun. Now we'll see what you can *do!*" But newly appointed plant manager Tom Gilligan was hopeful something would emerge from the university's fresh point of view combined with GM's experience. He showed his confidence by having the plant's interior repainted.

Meanwhile, the university team—undergraduate and graduate students as well as faculty members—began exploring the plant and listening to ideas. Mason questioned a longstanding contract for shipping parts from Rochester, NY., to Tuscaloosa. A faculty member studying the contract saw ways to reclassify the auto parts for better interstate-shipping rates. Then the company submitted the new structure to various truck companies for competitive bids. The result: savings of $88,000 a year.

Collaboration between the university team and company specialists produced lighter, less expensive containers for shipping parts and products. This saved more than $60,000 a year.

Some office employees wondered if the company was losing money by leasing equipment such as teleprinters and photocopiers. The team found that buying the equipment could save $23,000 a year.

Every aspect of energy use was scrutinized under the guidance of Lee Richey, campus energy manager. Some workers complained that the gust of air from huge blowers in the production area was too strong. On Richey's advice, a change of pulleys reduced the flow of air by half, also reducing the power used by the fans. The pulleys cost $440.

The savings: $13,000 a year.

The air-conditioning system in the cavernous warehouse area was replaced with a system of fans. "It made sense to us," said Grady Cook, the UAW shop chairman. "Fans could keep our people comfortable enough, so why throw away money on chilled air?" Installation of the ventilation system cost about $20,000. The savings: $30,000 a year.

Geology expert Prof. C. Everett Brett knew that the Tuscaloosa region had beneath it an aquifer—sand, gravel, and porous rock—that held tremendous amounts of water, and tests showed a 60-foot-thick mass only 20 feet below the plant. He proposed a series of wells, with cool water pumped out during the winter and run through a cooling tower. The chilled water would then be stored in a second set of wells and used to cool the plant in hot months. That process would raise the temperature of the water, but still return it to the storage wells at a lower-than-normal temperature, thus requiring less energy to cool it the second time. The system will cost some $300,000, and the saving in energy expenses is estimated at over $80,000 a year.

Professor Mellichamp computerized the inventory-control system, programming it to make five-year forecasts of needs in order to clean out the dead inventory and avoid premature disposal of saleable products. The system cost about $165,000 but promised an immediate one-time saving of $414,000 which, under the terms of the contract, did not count against the $470,000 deficit. But the Mellichamp system's continuing savings of at least $135,000 a year did count.

Each time The Gang of Twelve approved a verifiable cost-saving project an announcement was posted in the plant's conference room. Employers cheered each new notice. And they worked. No department—production or clerical—had an efficiency rating of less than 100 percent.

The task force achieved the goal of $470,000 in savings in just eight months. For its efforts, the university was guaranteed a minimum of $750,000 in scholarships over the life of the contract, which is still in effect. In addition, it could reasonably assure GM of at least another $500,000 in annual savings to come. It did not use a penny of the money put into trust by the employees. Each was returned $1600 well before Christmas 1983.

University president Joab Thomas, who had staked his professional reputation on the contract, says. "We have shown business and industry the practicality of using the talents and resources of a university." At GM's Tuscaloosa plant, shop chairman Grady Cook exults, "We worked together as a team and we turned this plant around. The university people weren't outsiders. They were here with us, working to make things better." And GM's Tom Gilligan adds, "The success was the result of a concept that nobody else had ever tried. I believe what happened here will open a new way of thinking about doing business and being competitive."

[From the New York Times Tuesday, August 13, 1991]

UNIVERSITIES BECOME FULL PARTNERS TO CITIES IN SOUTH

(By Karen De Witt)

BIRMINGHAM, ALA.—When the University of Alabama in Tuscaloosa opened an extension here in 1936, it was designed to be just that—a small offshoot in the city, offering courses to students who could not attend the main campus.

But today, it is the University of Alabama at Birmingham, not its parent institution, that is the state's hotbed of ideas and progress.

U.A.B. is now the largest employer in the state. It runs the state's most comprehensive hospital, which recently opened a $104 million clinic designed by I. M. Pei and it counts its economic impact on the region at about $1 billion a year.

The story here has been repeated across the South, as urban universities have become the economic generators in their cities. As their economic importance has grown, these universities—in New Orleans, Charlotte, Atlanta and other cities—have also increased their roles as community leaders, attacking social problems, preserving cultural institutions or generally filling a leadership role once played by business leaders.

And they have played an equally important role in changing the character of the population around them, not only by providing employment but also by making a college education more accessible to poor inner-city residents.

TRANSFORMING CITIES

"U.A.B. just simply took Birmingham into the First World economically," said H. Brandt Ayers, editor and publisher of the Anniston Star, in Anniston, about 70 miles to the east.

Educators and sociologists say this is part of a broad trend, apparent for some years in the Northeast and now reaching its full impact in the Middle West and especially in the Sun Belt.

As textile, shipping and manufacturing industries that fueled cities like Birmingham and New Orleans began to shrink or die over the last 20 years, the public urban universities increasingly replaced them as major employers and shapers of the new urban landscape.

"Urban universities are doing for the cities in the 1990's what the land-grant colleges did for the rural areas in the 1800's," said Greg O'Brien, president of the University of New Orleans, which is part of the Louisiana State University system.

TAKING IT TO THE PEOPLE

Land-grant colleges and universities were developed to bring public higher education to the country, with a mandate to focus on agriculture and mechanical arts. Now urban universities, created for the most part less than 40 years ago, have also changed the socio-economic profile of people who get college educations.

The classic pattern in the South and Middle West, where the big state universities were in small towns, was that only those urban youngsters with solid family incomes were likely to go off to college for four years. The urban universities have brought the classrooms to the population centers, eliminating travel and boarding from the cost of a college education.

It seems a simple truth, but the concept that education dollars ought to be spent where people live seemed hard to grasp for Southern legislators, who were attuned to spending their higher educations budgets mainly in towns like Tuscaloosa, Oxford, Miss., and Athens, Ga.

When money and students began to flow into the new urban universities, it changed not only local economies but also the educational pecking order within many state university systems.

HOUSING, RACE RELATIONS AND MORE

"We are in the midst of a transfer in our economy from an industrial economy to sophisticated service industry," said Marguerite Barnett, president of the University of Houston, which has established an institute to help revitalize Texas school districts. "With most of our people living in cities, a diverse new population, it is the urban university that is on the cutting edge of change."

Ivory-tower isolation and the traditional town-gown divisions common to small university towns have begun to change, too. Although most university administrators insist they are nonpolitical, many have used the weight of their payrolls to push local governments for improvements in public services and race relations.

Otherwise, the educators argue, they cannot attract the faculty members they need to sustain their reputations and lure the hundreds of millions of dollars in Federal contracts and grants that enrich the local economy.

For example, the University of North Carolina at Charlotte chose a site north of Charlotte and created a new town, University City, which has attracted numerous corporations and improved the region's economy. Georgia State University in Atlanta has a partnership with the local school system to train teachers and administrators, and is working with a mayoral task force to develop residential housing downtown.

PARTNER TO THE CITY

As the profiles of urban universities have risen so has their ability to attract the kind of star talent that only the more prestigious regional universities, like Vanderbilt in Nashville and Emory in Atlanta, had lured for years. After persuading the Coca-Cola Company to endow a jazz chair at its institution, the University of New Orleans got Ellis Marsalis, a highly regarded teacher who is the father of the jazz musicians Wynton and Branford Marsalis, to be the first to hold it.

The university also helped resuscitate the New Orleans Symphony after it was closed for nearly a year, a typical example of the community-university links that have developed.

"Very few public urban research institutions will simply be located in their cities in the 21st century." Dr. Barnett said. "They will have to be a partner in their cities if they're going to continue to thrive."

One theme at these universities in the Deep South is that the painful passage through the civil rights struggles of the 60's gave some communities a more open attitude toward diagnosing and treating other community problems.

"History and truth are so close to the surface here that we live with a great sense of reality in the South," said Tennant S. McWilliams, vice president of academic affairs at the University of Alabama at Birmingham. "We've got problems, but the only way to get out from under them is to confront them."

OPENING DOORS FOR BLACKS

U.A.B. reaches deep into the public life of Birmingham, providing assistance to 90 public schools, research to a burgeoning number of small businesses and design for a model school in a new industrial research park.

To tighten the political bond between the university and the city, U.A.B. gave leave to one of its faculty members to work on the staff of the city's first black Mayor, Richard Arrington Jr.

"It sits right in the middle of the black community, and in its scope, sensitivity and comprehensive commitment to urban life, I doubt there is another university that can match it," Mayor Arrington said.

Because Birmingham once represented segregation at its most monolithic, U.A.B.'s impact is sometimes most easily measured in its impact on educational opportunity for blacks.

TIGHT-FISTED LEGISLATURE

Twenty-five years ago, the city had no accredited public college that admitted blacks. Today one-fifth of U.A.B.'s 16,500 undergraduates are black, the highest percentage of black students at any predominantly white institution in the state.

Twenty-five years ago, blacks were barred from what was then the state's only medical school, and they could not get nursing or paramedical training in Birmingham. Today 14 of the 165 first-year students at U.A.B.'s medical school are black, and four of them ranked in the top 10 percent of their undergraduate classes.

The university is also deeply involved in the effort to build a civil rights museum here.

Such activities can create strains between urban universities and their state legislatures. The Alabama Legislature, historically hostile to Birmingham, is one of the nation's most tight-fisted with education spending. While most state universities draw half of their operating budgets from their legislatures, U.A.B. received only 25 percent, or $162 million of a $633 million budget for the 1990-91 school year.

Thus, though Birmingham reaps enormous benefit from U.A.B., it is Federal tax dollars in the form of grants and contracts, scholarships and fees from its hospital services that sustain the university.

CULTIVATING ITS GARDEN

That local business leaders recognize the benefits of the university is evident, however, in a recent capital fund-raising drive. Some of the city's top corporate executives led it and helped raise $67 million, a noteworthy development in a city whose business executives have seldom exerted the kind of leadership exhibited by counterparts in Atlanta, Charlotte, Houston and other Sun Belt cities.

The struggle to raise money is mirrored in a kind of bootstrap approach to academics that flies in the face of political efforts to end affirmative action and may be unique to U.A.B.

When the university here decided to boost its number of minority faculty members, for example, it eschewed raiding other universities in favor of a long-term effort to develop its own pool of talent. It has a 10-year, multilevel program that provides support for high school students through post-doctoral candidates. Short-term needs are supplied through visiting professorships. The program costs $850,000 a year.

"That's hard state money, and we take it right off the top," said Charles A. McCallum Jr., the university's president. Largely because of the program, U.A.B. has 44 black doctoral students in mathematics and science.

In some states, legislatures have recognized the enlarged role of urban universities in sustaining cities. An urban college consortium in Ohio got its Legislature to reinstate $30 million in state financing for its programs after initial cuts, by showing the economic advantages the colleges bring the state.

At the Federal level, Congress may finance the Urban Grant University Program of the Higher Education Act for the first time since it was enacted in 1980. The program would provide financing for just the kind of city-university partnerships that have been growing across the country.

"Urban universities form a very special function in education, and that role can be expanded as one city after another undergoes transition," said Representative Thomas Sawyer, Democrat of Ohio, who along with Senator Mark O. Hatfield, Republican of Oregon, has proposed $10 million in financing for the program. "That same engine that drove the economy of this nation during the shift from agriculture to urban industrial dominance has the same potential in an urban setting."

REMARKS OF DR. WILLIAM A. SIBLEY

It, indeed, is my pleasure to welcome you, Congressman Erdreich, and the members of your staff, to The University of Alabama at Birmingham. I bring special greetings from President Charles McCallum. He deeply regrets that a previous commitment prevents him from attending. I know that I speak for UAB, the people of Birmingham and many others when I say that this focus upon the issues of city life and urban education represents a critical development for our country. It is my hope that this Hearing is indicative of a new wave of interest within the United States Congress, a wave of interest which will result in urban issues having an appropriately high priority as American society moves into the post-cold war era. As the Congress knows well, Land Grant Universities have been and will continue to be a great boon to our society. Now we need an urban university emphasis.

A key contextual point for these hearings comes from history. Cities and universities emerged as complimentary institutions some 700 years ago. The University of Paris and the University of Heidelberg are but two examples. Today the relationship between urban development and higher education is even more important. Times have changed. People live predominantly in cities. Our population swells daily. Our economy is tied inextricably to others in the world. All people in our society have a right to political and economic opportunity and access to education.

These changes in society make for both a complicated and exciting future in education. One positive way we are responding to this complexity is through cooperation and the pooling of private and public educational resources through urban universities. In attempting to achieve better housing, education, transportation, economic planning and environmental solutions, the urban setting can focus a myriad of people to use available talents on a problem. The advent of high technology for manufacturing, transportation, communication and education helps make this pooling an even more effective experience.

Let me give you an example. The UAB community has been asked by the community of Titusville, which is on the outskirts of Birmingham, to assist with the schools. One might think this would just involve our School of Education helping teachers to be better equipped for the teaching process, assisting with special reading programs and so forth. That is a part of the approach, but we are undertaking a more holistic procedure for helping the Titusville schools. A broad part of our UAB family is involved in working with the Titusville community. Our Optometry School has gone in to do vision checks. They have found that 20% of the children had difficulty seeing the blackboard. Our Dental School has become involved by helping with dental checkups, a procedure most of the children had never had. Study is currently underway to see how we can help with prenatal care, and thought is being given to classes on parenting. Special counseling help is available for children expressing anger and hostility and having a tendency for violence. As you can see, our help crosses a broad spectrum of disciplines at the university. I must point out that the community must invite us to help, we then work together to find solutions to the problem. It is an exciting program. This is one prime example of education and the community working together. Another is the Civitan International Research Center with its emphasis on learning disabilities. UAB is a major research university with research expenditures that place us in the top 35 universities nationally. Yet you find here a group of caring scholar who can help people because of our combined talents and our urban setting.

The city and the university represent a critical mass of educational uplift for the economic development of all people. In this critical mass one finds the modern strategy of combining and collaborating. Our society must adopt this approach for the twenty-fifth century.

Certainly we believe that The University of Alabama at Birmingham exemplifies this way of the future. We are delighted to have joining us in testimony representatives from Virginia Commonwealth University, Marquette University and others who likewise are in a position to delineate what urban universities can accomplish for society with appropriate congressional attention.

No domestic priority is greater than the cities, for in the urban existence one finds the pressing of the twenty-first century. All urban universities must be ready for the future. We are delighted to have you back in your home town to discuss these vital developments.

Given these general remarks, Congressman Erdreich, I will be happy to answer questions and then refer you to my colleagues and others who are present for discussion of this important topic.

TRIBUTE TO DEVON LYN CROXTON

HON. BARBARA F. VUCANOVICH

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mrs. VUCANOVICH. Mr. Speaker, I rise today to recognize Miss Devon Lyn Croxton, a high school senior in Sparks, NV. Miss Croxton recently won a script writing contest sponsored by the Veterans of Foreign Wars on the topic of "Meeting America's Challenge". In her eloquent and intelligent statement, Devon accurately delineated the challenges that face us every day as we strive to become better Americans and to uphold the ideals that have made this country an example to the rest of the world. Devon is herself an embodiment of those virtues and I feel that with young people such as Devon ready to help guide America into the future, I have no doubt that America will be able to meet its challenges. Once again, I would like to congratulate Devon Croxton on her achievements and the example she provides.

MEETING AMERICA'S CHALLENGE

(By Devon L. Croxton, Nevada winner, 1991/92 VFW Voice of Democracy Scholarship Program)

The challenge America presents to us as citizens of the United States, is the same today as it was over two hundred years ago when this nation was being born. Being a nation, is in itself, a challenge. One that cannot be defined by one aspect of a population, but, one that incorporates all aspects of the population.

America is the land of the free, and the land of opportunity. A place so diverse, with so many different cultures and lifestyles, that it seems amazing that a people with so many differences can come together as a nation to help each other and also help other nations. But we do. But not without the help of all Americans. Everyone, no matter what their business or trade contributes to the intricate framework that holds this nation together. Whether they are bankers or social workers, gas station attendants or store clerks, secretaries or our service men and women.

The challenge is presented to everyone, everyday. But in different ways. Raising a family and teaching are two things that seem to be getting harder and harder to do. Trying to raise responsible, trustworthy children, and educate them to contribute to our nation is no small task. Yet it is one that is met head-on by many Americans, without whom our nation could not survive.

Legislation and finance are also vital in keeping America intact. Without some kind of order and an economy this nation would not be stable enough to stay intact.

Another way this challenge has been met is through battle by those men and women who believe in and are willing to fight for our way of life. They met that challenge in World War II, Korea, Vietnam and just last year in the Middle East. The absence and loss of so many of our citizens is a strain on all of America. Whether they are directly involved or not, every American is affected. Those at home have just as tough of a time during war as those fighting it do. Our country pulls together at these times of need to help each other and to ensure that our service men and women will have a place to come home to.

Meeting America's challenge is no easy task. It has taken hard work. And it has taken the belief and sacrifice of so many people. The belief and appreciation of our freedoms and individual liberties which are established by our government and protected by those who serve in our armed forces. It is this appreciation of what America stands for, that makes America what it is today: A place where a child can dream and make that dream come true. A place where people are free to decide what makes them happy and what they believe in. And, it is a place where a person can express their feelings and opinions freely.

There are some of the reasons that I am proud to say that I am an American, and I am contributing to "Meeting America's Challenge" today.

A TRIBUTE TO DETECTIVE MICHAEL W. MORRIS FOR HIS OUTSTANDING SERVICE

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. BAKER. Mr. Speaker, Detective Michael W. Morris has been selected to receive the annual Outstanding Police Detective Award for the year 1991. The award is presented in memory of Sgt. Joe Sanchez who was killed in the line of duty June 6, 1986.

The award was presented to Detective Morris for outstanding ability, leadership, and dedication to duty as well as initiative and investigative work while serving as an officer with the police department of the city of Baton Rouge.

Between January and November of 1991, Detective Morris made 65 felony arrest while working in the armed robbery and burglary unit and thereby cleared 54 armed robberies and 33 other miscellaneous cases pending and outstanding in the files of the Baton Rouge Police Department.

Detective Morris is hereby commended for his excellent work and the exceptional ability that he has shown and will continue to show as a police investigator. Detective Morris upholds the finest traditions of police service and demonstrates that he is truly deserving of the award as Detective of the Year.

NATIVE AMERICAN TEENAGERS

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, through Public Law 102–188 (S.J. Res 217, H.J. Res. 342), Congress and the President designated 1992 as the Year of the American Indian. This law pays tribute to the people who first inhabited the land now known as the continental United States. Although only symbolic, this gesture is important because it shows there is sympathy in the eyes of a majority of both Houses of the Congress for those Indian issues which we as a Congress have been struggling with for over 200 years. In support of the Year of the American Indian, and as part of my ongoing series this year, I am providing for the consideration of my colleagues an article from today's Washington Post reporting yet another study indicating the poor condition of this country's American Indians. This study, comparing American Indian teenagers to other minorities and the overall teenage population is consistent in many respects with other similar studies. Mr. Speaker, if one out of five Indian girls and one out of eight American Indian boys have attempted suicide as reported in this study, this Nation's current system of addressing the problems of American Indians is not working and must be changed.

[From the Washington Post, Mar. 25, 1992]

SURVEY PRESENTS BLEAK CIRCUMSTANCES OF NATIVE AMERICAN TEENAGERS

(By David Brown)

Thousands of Native American teenagers inhabit a world so filled with alcoholism, violent death and personal despair that by the end of high school 1 out of 5 girls and 1 out of 8 boys have attempted suicide.

Those were among the bleakest statistics of a generally bleak survey of more than 13,000 Indian and Alaska Native teenagers published yesterday in the Journal of the American Medical Association.

"This is the most devastated group of adolescents in the United States," Michael D. Resnick, an epidemiologist and one of the authors of the survey, said at a news conference yesterday.

Though certain risky behaviors—sexual activity and drinking in the late high school years, for example—are no more common among Native Americans than among some other racial groups, the total constellation of stresses on Native American teenagers seems to be greater, the survey suggested.

"For every risk factor with the exception of homicide, the Native kids are in far worse shape than African-American kids," said Robert W. Blum, a pediatrician and coauthor of the study, citing a population of adolescents thought to be under severe stress.

Other studies have shown that Native American teenagers have approximately twice the death rate of teenagers in any other racial group. In 1986, the rate for Indians and Alaska Natives between 15 and 19 years old was 190 deaths per 100,000 population, compared to 81 per 100,000 among all U.S. teenagers.

In the new study, University of Minnesota researchers gave a 162-item questionnaire to Indian and Alaska Native youngsters in 7th through 12th grades. All the respondents lived on reservations or in predominantly Native American communities in dozens of states. Urban populations were not surveyed, nor were high school dropouts.

The researchers compared some of their results with those from a similar survey of white, rural teenagers in Minnesota. Among the findings:

Eleven percent of Native American teenagers reported that one or both of their parents were dead, compared to 5 percent of the Minnesota teenagers.

About 46 percent reported living in dual-parent homes, compared to 87 percent of the Minnesota sample.

About 22 percent of 12th grade girls reported having been victims of sexual abuse. About 19 percent of similar girls in the Minnesota sample reported sexual abuse.

About 27 percent of 12th grade youths reported drinking weekly or more frequently. This is not significantly different from the Minnesota sample. However, among Native Americans, drinking begins at a younger age, with 9 percent of the 8th graders drinking at least weekly, compared to 5 percent of their Minnesota counterparts.

About 31 percent of teenagers in the 7th through 9th grades reported using marijuana, with usage rising to 50 percent in the 10th through 12th grades. A national survey of teenagers last year showed that 42 percent of all 12th-graders has used marijuana at least once.

About 22 percent of the female Native American respondents, and 12 percent of the males, reported attempting suicide. Thirty percent of teenagers whose families had a suicide history had attempted suicide. Among U.S. teenagers as a whole in 1990, 10.3 percent of girls and 6.2 percent of boys had attempted suicide at least once.

Eleven percent of the Native American sample reported knowing someone who had committed suicide

Almost one-fifth of the students said that they had been knocked unconscious by another person at least once.

The survey was answered anonymously. The researchers did not attempt to verify any of the answers, though certain statistical maneuvers were performed to eliminate clearly bogus responses.

Resnick acknowledged that many of the teenagers who said they had attempted suicide may not have actually performed a life-threatening act, but that the message from the survey was nevertheless clear.

"It is the teenagers' definition of the situation that is really critical. Young people who view themselves as having attempted suicide are a far more distressed group of kids," the researcher said. "Whether or not an adult could question the veracity of the attempt misses the point. It is a warning signal."

The rate of death by suicide among Native American youth is 26.3 per 100,000 compared to 12.4 per 100,000 for the teenage population as a whole.

ANNIVERSARY OF BYELARUSIAN INDEPENDENCE

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. PALLONE. Mr. Speaker, I rise today to join Byelarusian-Americans and lovers of freedom of all nationalities to commemorate an important anniversary

Seventy-four years ago on March 29, the Byelarusian people declared their independence and the creation of the Byelarusian Democratic Republic. This Republic was founded on principles of democracy and freedom which all of us here in the United States hold very dear. Two years later, however, the Bolsheviks rode into Byelarus and dashed cherished hopes for an independent, democratic state.

Seventy-four years later, the people of Byelarusia once again have the opportunity to realize their hopes for democracy and independence. The oppressive Soviet system has finally fallen, but the legacy of repression and economic disarray left by decades of Soviet domination are still felt in Byelarusia.

Byelarusia faces many challenges in the near future. This small nation stands at a historic crossroads. It is my hope and my belief that Byelarusia will meet with success. I wish the Byelarusian people all the best on the anniversary of their proclamation of independence.

TRIBUTE TO MARCUS HOOK, PA

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. WELDON. Mr. Speaker, I rise today to pay tribute to my hometown, Marcus Hook, on the occasion of its centennial. This year marks the 100th anniversary of the incorporation of the borough of Marcus Hook and I am honored to have the opportunity to take part in the celebration.

The borough has scheduled a banquet on Saturday, March 28, 1992, at 7 p.m. at the Marcus Hook Fire Company Hall to begin the year-long centennial celebration. As one who was born and raised in Marcus Hook, March 28 will be a proud day for me.

Marcus Hook has enjoyed a long and storied history. The borough's roots can be traced back to the 1640's when Swedish settlers developed the town as a trading outpost and colonization site.

In December 1891, 51 residents of the town of Marcus Hook petitioned the Delaware County Court for incorporated status. In March 1892, the court ruled in favor of the petitioners and the town of Marcus Hook was designated as the incorporated borough of Marcus Hook. The borough's subsequent growth is attributed to the people and industry they developed which placed Marcus Hook on the map as an important link to regional industry.

The riverfront area attracted attention across the region as an ideal location for ship construction and fishing business. In the early 1900's the area prospered with the construction of oil refineries and the opening of several oil companies including Sun Company, BP Oil, and Union Petroleum Co.

Marcus Hook is a proud community. This small borough has produced famous sporting greats like legendary baseball batting champ Mickey Vernon and former football all-pro Billy "White Shoes" Johnson. Retired marine, Gen. Bob Haebel, a decorated military hero and war veteran, also hails from Marcus Hook.

As a former mayor of Marcus Hook, I look forward to this week's celebrations with great anticipation. I remember my years at Marcus Hook Elementary School, where I made friends I have kept for all my life. I begun my firefighting career with the Viscose Fire Company in Marcus Hook, and I formed bonds with my fellow friends and neighbors that will last a lifetime. I look back fondly on my years as mayor of Marcus Hook, when I got my start in public life, when an entire borough came together in a shared effort of community renewal.

Marcus Hook is a close-knit community of families and friends. It is a borough rich in volunteer spirit and the American work ethic. I am proud of Marcus Hook. For me, it will always be home.

DAYTON AREA HEALTH PLAN

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. HALL of Ohio. Mr. Speaker, today I am introducing legislation, along with many of my colleagues from Ohio, to allow the Dayton Area Health Plan [DAHP] to continue to serve over 43,000 low-income individuals. This innovative health plan was started in Dayton, OH, in my district, in 1989 to bring high quality, preventive health care to Medicaid recipients in a cost-effective and efficient way.

Mr. Speaker, in its short life, the DAHP has improved the delivery of health care to thousands of low-income individuals, and their children, in Dayton. By emphasizing prevention, the plan has been successful in bringing down emergency room use. By offering choice, the plan has successfully involved the poor in their health care decisions.

The Dayton Area Health Plan is immunizing children at record rates, and has had a 63 percent increase in the number of primary care physicians since its inception. It has established liaisons to Head Start and community development leaders, and worked with the local Dayton Board of Education to meet the vision and hearing needs of kindergarten students.

Unfortunately, because of a technical requirement involving the enrollment mixes of the three health maintenance organizations [HMO]s that participate in the plan, the future of DAHP is in jeopardy. The plan has received Federal waivers of these requirements from the Health Care Financing Administration for 3 years, the maximum allowed under Federal law. In order for the plan to survive, the law must be changed.

Mr. Speaker, our bill provides for a temporary waiver of current law to allow the plan to continue operating while Congress considers a permanent solution. In addition, our bill directs the State of Ohio to institute strong quality assurances and enforcement provisions. These will assure that the level of health care to the poor remains of a high quality.

Mr. Speaker, access to quality health care is top on our agenda this year. Let us not leave the poor behind. I am proud to have an example of an innovative plan, in my district, that is working. It is supported by community leaders, physicians, hospitals and social service workers. I urge my colleagues to support this bill to provide the necessary relief to the Dayton Area Health Plan to enable it to survive.

Recently, my local newspaper, the Dayton Daily News, took a strong stand in support of continuing the plan. I would like to insert this editorial in the RECORD for the benefit of my colleagues.

AREA HEALTH-CARE PLAN GETS EXCELLENT REVIEWS

It has not happened overnight, but the Dayton Area Health Plan is a success.

That's important to the low-income in Montgomery County who depend on the health plan for medical care. But it's also relevant to taxpayers, who are getting a break, and to doctors who serve the poor.

Five years ago Montgomery County set out to encourage Medicaid clients to hook up with a primary physician. The goal was to get the poor to stop using expensive emergency rooms for routine health care and see a doctor regularly who could try to keep them well.

If Medicaid clients could be persuaded to buy into these ideas, tax money would be saved. Emergency room visits are costly. Moreover, if a person is treated by a physician before he or she is really sick, that cuts down on hospital stays.

What evolved was the Dayton Area Health Plan. It has been operating for a little more than a year. Reviews so far are excellent.

The head of the county welfare department says he's amazed at how smoothly things are running and how few complaints Medicaid clients have. (The director until recently was on the health plan board, so it's arguable that he can't be totally objective. He still, however, is in a position to know if the almost 40,000 women (mostly) receiving Aid to Families With Dependent Children are satisfied their medical care.)

The health plan is an improvement for ADC moms mainly because they have more choice. They can join one of two health maintenance organizations, or choose from a long list of doctors and specialists for their care and their children's.

Historically, the list of doctors who are willing to take Medicaid patients has been short. A lot of physicians don't like dealing with the state or its paperwork. The list of physicians who will deal with the locally-run health plan, however, is extensive and growing.

Doctors also like the fact that the health plan—which gets its money from Montgomery County and the state—reimburses at five percent higher than the standard under Medicaid rules. There's money for this because hospitalizations and emergency room visits have decreased.

The hard part of this experiment was that Ohio wouldn't give Montgomery County as much as other counties get from the Medicaid pie. The state said it was all for the idea of improving health care for the needy, but it wasn't going to pay more to do that, and, in fact, it wanted to pay less.

It's impressive that the health plan has been able to meet that goal and please Medicaid patients at the same time.

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TREATMENT OF 75-25 RULE FOR DAYTON AREA HEALTH PLAN.

(a) IN GENERAL.—Subject to subsection (b), in the case of the Dayton Area Health Plan during quarters in calendar years 1992 and 1993, the Secretary of Health and Human Services—

(1) with respect to the Health Plan Network operated by the Plan, shall waive the requirement described in section 1903(m)(2)(A)(ii) of the Social Security Act for quarters in a calendar year; and

(2) with respect to the Day-Med HMP and Health Power programs operated by the Plan, shall not treat any individuals enrolled in the Healthy Start program carried out by the Director of the Ohio Department of Human Services as individuals insured for benefits under part B of title XVIII of the Social Security Act or for benefits under both parts A and B of such title, or eligible to receive benefits under title XIX of such Act, for purposes of determining the compliance of the programs with the requirement described in section 1903(m)(2)(A)(ii) of the Social Security Act during quarters in a calendar year.

(b) QUALITY ASSURANCE AND ENFORCEMENT REQUIREMENTS FOR PLAN.—Subsection (a) shall not apply with respect to quarters in any calendar year unless the Secretary finds that, during the year, the State of Ohio has adopted and is enforcing enhanced quality assurance standards with respect to services provided by the Dayton Area Health Plan, including standards relating to—

(1) the timing and frequency and content of obstetric, gynecological, pre-natal, and well-child care;

(2) the provision of timely referrals to appropriate specialists for high-risk individuals receiving such care;

(3) methods to assure that individuals enrolled with the Plan have timely access to such care and receive any necessary care to which they are entitled;

(4) the provision of effective parenting and health education programs for women of child-bearing age and parents;

(5) the monitoring of services provided by the Plan to ensure the compliance of the Plan with quality assurance standards; and

(6) the enforcement of such standards against the Plan, including the application of appropriate sanctions for violation of the standards.

VA MEDICAL RESEARCH DESERVES INCREASED SUPPORT

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. MONTGOMERY. Mr. Speaker, the Veterans' Affairs Committee, which I have the privilege of chairing, has long supported a vigorous medical and prosthetic research program within the Department of Veterans Affairs [VA]. Unfortunately, funding for this effort has not kept pace during the past 10 years or so. For instance, while the National Institutes of Health has enjoyed a research funding increase of more than 110 percent during this period, VA's research budget has increased only about 51 percent. We must do something about that.

For those who fail to understand and fully appreciate the outstanding research that is conducted in the VA year after year, let me cite a few of its results. VA researchers played key roles in eradicating tuberculosis, developing the pacemaker and the CT scan, and improving artificial limbs for amputees. VA is a world leader in the care and treatment of the elderly and is deeply involved in studies of the aging process, including Alzheimer's disease. And the VA is aggressively pursuing information about the AIDS virus, attempting to unlock the doors which could arrest and even cure this deadly disease. Other high priority VA research subjects include drug addiction, alcoholism, schizophrenia, and spinal-cord injury. Two Nobel Prize recipients have come from the ranks of VA researchers.

Mr. Speaker, the great success of the VA research program can be attributed to its people, the highly trained, talented, and dedicated professionals who, at this very moment, are addressing some of the most difficult challenges of medical science.

Recently, an impressive researcher with the San Francisco VA Medical Center, Dr. Michael Weiner, met with the committee staff and followed up with a letter to me in which he related his experiences as a VA staff physician.

I offer excerpts from Dr. Weiner's letter as confirmation of the exceptional caliber of medical investigators and other VA health care professionals who are working diligently to make life better not just for veterans, but for everyone.

UNIVERSITY OF CALIFORNIA,
SAN FRANCISCO,
San Francisco, CA, March 4, 1992.

Hon. G.V. "SONNY" MONTGOMERY,
Chairman, Committee on Veterans' Affairs, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN MONTGOMERY: My first exposure to the DVA was as a medical student at SUNY Upstate Medical Center; about half of my training was at the VA, Syracuse, N.Y. As a medical resident and fellow in metabolism at Yale University, the bulk of my time was spent at the West Haven VA Medical Center. Subsequently I moved to the University of Wisconsin in Madison for advanced training at the Institute for Enzyme Research. In 1991, I was offered an Assistant Professorship in the Department of Medicine with a choice between the glamorous University Hospital or the Madison VA Medical Center where I was awarded a Research Education Fellowship, with research funds, space, and equipment. Therefore, I chose the VA and became Chief of Metabolism. After four highly productive and enjoyable years in Madison, I applied for a VA Clinical Investigator Award. After I received the Clinical Investigator Award, I moved to the Palo Alto VA Medical Center with an appointment on the faculty of Stanford University. I was Assistant Chief of the Dialysis Unit and performed research on kidney metabolism, supported by VA Merit Review funds and NIH grants. During that time, I became aware of magnetic resonance spectroscopy (MRS) and performed the first MRS studies of kidney metabolism in the rat.

In 1980, I became the Chief of Dialysis at the VA Medical Center in San Francisco, and I continued my MRS studies, supported by VA Merit Review funds. In 1983 Dr. Ralph Goldsmith, our Chief of Staff, and I visited Dr. Carl Hughes at VACO with a proposal to establish a pilot MRS center at the VA Medical Center in San Francisco. This was funded and was used to obtain an $8 million gift from Philips Medical Systems to establish the first clinical MRS center. We have been devolving new MR techniques and diagnosing various diseases in our veteran patients.

During the past 21 years, I've developed a great deal of loyalty to our veteran patients and the DVA medical care system. Our American servicemen and women, many of them indigent and seriously ill, deserve the best medical care that we can provide. As I make my medical rounds, I gain great satisfaction for helping these men and women who served when they were called. The DVA health care system has been very good to me. Although I've not chosen the high incomes of my friends and colleagues in private practice, I've had the stimulation of a research and teaching environment. Furthermore, my work with MRS is helping to develop new diagnostic techniques which I use in patient care and which will ultimately be used in many MRI systems in the VA and around the world. Most importantly, I'm part of an outstanding team devoted to providing excellent care to a group of needy and deserving individuals. Now that I'm past fifty, it's time for me to help pay the system back. Because of my good fortune and some academic successes, some have suggested that I enter the administrative arena. Although I recognize the importance of administration, I believe that my greatest impact will be to develop MRS as a clinical tool for the care of veteran and other patients.

The DVA medical care system often suffers from a poor image, which negatively affects the morale of the staff and our veteran patients. In my own way, I hope that our work in San Francisco can help provide the DVA with a positive image. DVA Medical Center, San Francisco has worked out an excellent relationship with the University of California, San Francisco press office. An experienced public relations science writer is based full time at our hospital. Various aspects of our work with AIDS, schizophrenia, substance abuse, and heart disease have been featured on the Today Show, Good Morning America, and the CBS Evening News. Complimentary articles about our work have appeared in the New York Times, Discover Magazine, and on the various wire services, resulting in articles printed around the world. In every instance, I have insisted that the DVA be prominently cited as the source of this work. Further positive publicity about outstanding work done at our and other DVA medical centers will help improve the image of the VA * * *

Sincerely,
MICHAEL W. WEINER, M.D.,
Professor of Medicine and Radiology.

HOUSE MUST BE REFORMED TO REGAIN CONFIDENCE OF THE PEOPLE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. MAZZOLI. Mr. Speaker, it brings me no pleasure to place the following two letters into the RECORD, both of which indicate that I did not write any checks on my House bank account against insufficient funds.

The entire House bank debacle is an institutional and human tragedy, the full dimensions of which have not yet emerged. The one positive aspect of this sad situation is that it has spurred fundamental reform in the way the House and the institution of Congress function.

Without detailing all reforms here, they range from the establishment of a House administrator to oversee the operations of the House, to the stem-to-stern reform of the campaign finance laws.

Suffice it to say that people across the Nation have lost their sense of esteem and respect for Congress and the House. If ever we hope to regain that esteem, respect, and honor, our task is clear. We must reform this place and how it does its work. And, we must do it now.

The letters follow:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE SERGEANT AT ARMS,
Washington, DC, September 23, 1991.

Hon. ROMANO L. MAZZOLI,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN MAZZOLI: After an extensive search of the Sergeant At Arms Daily Settlement Statements, I am pleased to confirm your understanding that you have never placed this office in a position that would require us to obtain additional funding to your account.

If I can be of further assistance to you, please do not hesitate to contact me.

Sincerely,
JACK RUSS,
Sergeant at Arms.

HOUSE OF REPRESENTATIVES, COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC, March 24, 1992.
Hon. ROMANO L. MAZZOLI,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR COLLEAGUE: The following information is provided in response to your letter of March 23, 1992.

The records available to the Committee indicate that between July 1, 1988, and October 3, 1991, the 39 month period covered by House Resolution 236, all checks written on your House Bank account were covered by sufficient funds in the account.

Sincerely,
JAMES V. HANSEN,
Ranking Republican Member.
MATTHEW F. MCHUGH,
Acting Chairman.

RABBI ABRAHAM COOPER IS AWARDED THE AMERICA-ISRAEL FRIENDSHIP MEDIA AWARD

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. LEVINE of California. Mr. Speaker, I rise today to honor and congratulate Rabbi Abraham Cooper, who, on March 29, 1992, will receive the Bnai Zion America-Israel Friendship Media Award for 1992. Rabbi Cooper's years of work as co-founder and associate dean of the Simon Wiesenthal Center, and on behalf of Israel and the Jewish cause make this honor well deserved and long overdue.

In 1977, Rabbi Cooper helped to found the Simon Wiesenthal Center of Los Angeles for the preservation of the memory of the Holocaust through education and awareness, as well as the Los Angeles branch of Yeshiva University. Rabbi Cooper is himself a graduate of and was ordained by Yeshiva University and has long been active in the movement for Soviet Jews' rights and emigration.

Rabbi Cooper is an articulately powerful and renowned spokesperson in the media on behalf of the Jewish cause and Israel through his writings, radio and television news broadcasts, and personal appearances. He has authored articles in major newspapers both here in the United States and abroad, including the Los Angeles Times, the New York Times, Le Monde, and Japan Times. He has edited two major works on Raoul Wallenberg, and his work "Portraits of Infamy: A Study of Soviet Anti-semitism and its Roots," published in 1986, served as the basis for the Wiesenthal Center's traveling exhibit of the same title. Rabbi Cooper has also served as consultant to the NBC miniseries on Raoul Wallenberg, as well as for the ABC miniseries based on Herman Wouk's epic, "War and Remembrance."

In view of Rabbi Abraham Cooper's years of excellent work on behalf of the worldwide Jewish community, it is my honor to ask my colleagues in the House of Representatives to stand and join me in extending my heartiest congratulations and best wishes to Rabbi Cooper on this joyous occasion.

CARMEN DELGADO VOTAW ELECTED TO MARYLAND WOMEN'S HALL OF FAME

HON. ANTONIO J. COLORADO

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. COLORADO. Mr. Speaker, as you know, I was sworn in on March 4 as the new Resident Commissioner from the Commonwealth of Puerto Rico, replacing Jaime B. Fuster, who is now an associate justice of the Puerto Rico Supreme Court. During most of Mr. Fuster's 7-year tenure as the only Congressman from Puerto Rico, representing some 3.6 million American citizens on the island, he had an administrative assistant on his staff who has just been honored as one of 5 persons inducted into the 1992 Maryland Women's Hall of Fame.

She is Carmen Delgado Votaw, and I am sure many of my colleagues—especially on the Foreign Affairs and Interior Committees—remember her as a hard-working administrative assistant who labored diligently in Washington on behalf of Puerto Rico. A year ago she left the Office of Resident Commissioner to become Washington representative of the Girl Scouts of the U.S.A., of which she was long been associated.

Mr. Speaker, Carmen Delgado Votaw has a lengthy record of public service and has been an enthusiastic leader in working for civil rights, especially in equal opportunities for Hispanics and women. She was involved for many years in the Overseas Education Fund of the League of Women Voters. In the early 1970's she was elected president of the National Conference of Puerto Rican Women. In the mid-1970s she was appointed to the Commission on the Observance of International Women's Year.

Then, Mr. Speaker, Mrs. Votaw received two Presidential appointments—first, to the International Women's Year Commission, and second, as a co-chair of the National Advisory Committee for Women. Subsequently, she was appointed as the U.S. delegate to the Inter-America Commission of Women and was later president of the Commission in 1978. She is also an elected member of the Council on Foreign Relations.

Carmen Delgado Votaw was born in Puerto Rico, and is the first Hispanic woman to be inducted in the Maryland Women's Hall of Fame. This is a signal honor not only for Carmen Delgado Votaw but also for all Puerto Ricans, men and women. Thus, Mr. Speaker, I am sure my colleagues will join me in saluting Carmen Delgado Votaw for her recognition by the Maryland Women's Hall of Fame.

WILLIAM BRIAN NEWSOME WINS VETERANS OF FOREIGN WARS' ESSAY CONTEST

HON. DOUG BARNARD, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. BARNARD. Mr. Speaker, it is my distinct honor and privilege to rise today to extend congratulations to William Brian Newsome, a young man from my home town of Augusta, GA.

Brian was the winner from the State of Georgia in the annual Veterans of Foreign Wars', essay contest. As the winner from Georgia, he competed with 53 other winners from each of our 50 States, District of Columbia, Pacific Areas, Panama Canal, and Europe. This year's contest theme was "Meeting America's Challenge."

Mr. Speaker, I would like to take this opportunity to enter Mr. Newsome's essay into the RECORD, as it offers an insightful and inspirational look at education today from one who has firsthand knowledge:

MEETING AMERICA'S CHALLENGE

(By William Brian Newsome)

America must meet its educational challenge, for without improving the U.S. system of learning, this great country may soon fall behind the other industrialized nations of the world. America is one of the most intelligent and productive countries in all of history, and this great nation must meet the challenge of stimulating the minds of its young people to really think for themselves and to achieve bigger and better things. Quality education is a must.

In many of America's metropolitan areas, pupils attend high schools with as many as 2,000 other students. A great deal of the instructors teach classes of at least 30 students, a number too exorbitant to allow teachers to relate to students on an individual level. First, America's schools need smaller classroom settings where teachers can better know their pupils. This is not only for the senior high schools but for the elementary and middle schools, as well. A teacher must have the opportunity to interact with each person in his or her schoolroom!

Secondly, our nations' school systems must present a challenging curriculum in the classroom. We have become a nation of matching, multiple choice, and memorization. These 3 M's are too much a part of the learning system. A great deal of today's students simply memorize material for multiple choice and matching tests. A day or two later, the pupil has forgotten nearly everything that was on the test. America's students must be challenged to learn, not memorize, important information; and they need to know how to think independently, as well. In courses such as history and English, this can be accomplished through essay writing. A student has to know the subject matter and must be able to express his or her own ideas in order to write an essay. In math and science courses, pupils need to be confronted with tough problems that they must solve. Only in this way can they learn the problem-solving skills that must be used in the real world. Our students need to be taught how to think, not what to think.

Thirdly, our educational forum must learn to better handle taxpayers' money. Many of America's school systems spend more money on football stadiums and athletic equipment than they do on basic educational needs such as books and paper. The United States is historically a nation of thrift and frugality, but many school systems use money in frivolous and wasteful manners. America must take proper charge of its educational finances!

We hear the expression—"Our children are America's future." If this is true, then America must be whatever its people are. Therefore, in order for America to remain the great nation that it is, we must properly educate our people! Our country has always been one to meet its problems head on; and this is exactly what must be done with the educational dilemma. This challenge can be met, and it must be met if America is to maintain its role as a world leader!

TRIBUTE TO THE READING DEMOLAY CHAPTER

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. YATRON. Mr. Speaker, on the occasion of International DeMolay Month, I rise today to pay tribute to a distinguished group of young men from Reading, PA. I speak of the Reading Chapter of the International DeMolay. For 62 years, the chapter has prepared its young men to become outstanding people, providing the city of Reading with exemplary citizens. Indeed, I am proud to come here before the House and tell you about this unique organization.

Now, in its 73d year, the International DeMolay is the largest fraternal youth organization in the world. It is an organization that builds character in young men who seek to prepare themselves to become better citizens and leaders for tomorrow. By encouraging participation in community events, charitable projects, and social activities, the DeMolay organization successfully prepares its members to be adult leaders.

The Reading DeMolay Chapter is the largest DeMolay chapter in Pennsylvania and is active 12 months a year. It promotes civic, fundraising, and personal growth activities among its members. DeMolays have participated in Pennsylvania's Adopt-A-Highway Program and volunteered at the Annual Rajah Shrine Circus in Reading. The chapter also excels in its programs of athletic competition, winning first place in the statewide DeMolay basketball tournament.

Mr. Speaker, I believe that my colleagues will agree that the Reading Chapter of the International DeMolay deserves our commendation on the floor of the House for its diligent service to the Reading community. As the Reading DeMolays celebrate International DeMolay Month, I would like to extend my appreciation for all they have done, and wish them the best in their future endeavors.

GETTING MORE HELP IN DEALING WITH PAIN

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, March 25, 1992

Mr. STARK. Mr. Speaker, patients are often getting the short- and painful-end of the stick when it comes to dealing with pain. A new Federal agency that many of us in Congress helped set up has just issued a report showing that many American doctors and hospitals underprescribe painkillers when treating patients sustaining serious wounds, illness, or recovering from surgery. The report shows that due to an unjustified fear of causing addiction to painkillers, many patients have been adequately treated when suffering prolonged, severe pain. Such pain, contrary to common belief, is unhealthy and can cause delayed healing and prolonged hospital stays.

The Agency for Health Care Policy and Research, set up in 1989 to help figure out the best way to treat various illnesses, has developed new Federal guidelines to protect patients and help doctors by giving them proper and accepted procedures in the administration of drugs. These guidelines are a welcome antidote to the patients who have, until now, had to endure excessive pain due to underprescription. In short, if you're in pain following surgery or because of an illness, it's good for you to ask for help.

I've proposed legislation to help identify areas of the country and doctors who may be dangerously underprescribing painkillers. As the Los Angeles Daily News editorialized, "It would also be helpful if Federal and State lawmakers make sure that no legislation impedes the use of painkillers in necessary situations. In that sense, they could follow the example set by Representative PETE STARK * * * in seeking to control the improper dispensing of prescription medication without depriving the patients of the help they need."

I commend the Agency for Health Care Policy and Research guidelines.

TRIBUTE TO ROSEMARY HOWEY

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. CARR. Mr. Speaker, when someone makes an outstanding contribution to the community I represent, it is a great privilege for me to recognize his or her achievements. Rosemary Howey of Independence Township is one of those outstanding people.

Rosemary is retiring on March 26, after 20 years of service to the citizens of Independence Township. Her job has not been easy. Civil service is often a thankless profession; there are many hardships and little glamor. But her role has been crucial to this community.

She was hired as an elections clerk in 1972. Then, as the area grew, her involvement grew as well. This week, 20 years later, Rosemary Howey will retire from her post as director of elections.

Rosemary has shown an unsurpassed commitment to voting, knowing that in local elections, one vote can make all the difference. In addition to her official capacity with elections, she also was a member of many local organizations such as the Oakland County Treasurers Association, the Oakland County Clerks Association, and the Waterford/Clarkston Business and Professional Women's Association. Both friends and colleagues recognize that her role in Oakland County should not be overlooked.

In her years of elections work, Rosemary Howey has certainly shown her commitment to the township of Independence. But she had another important commitment as well—her family. Her 20 years working for Independence Township were balanced by 20 years she spent focused on her family. She has three children, Lynn, Mike, and Lon, and three grandchildren; in May, she and her husband Bob Howey will celebrate their 49th year of marriage.

Mr. Speaker, it gives me great pleasure and extreme pride to join with Rosemary's family, friends, and all of Independence Township in thanking her for her steadfast and devoted years of public service. I wish her the best of life and health in her retirement.

CARNEGIE COMMISSION HONORS JACKSONVILLE HERO

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. BENNETT. Mr. Speaker, the Florida Times-Union of March 16 carried the following account of Michael Stewart and his heroic deed on Amelia Island September 15, 1990. Knowing that all of Congress and certainly I feel gratitude to this fine young man for what he did to save the life of another under very dangerous circumstances to himself. He deserves our warm congratulations and it is my honor to put the following account of these events in the CONGRESSIONAL RECORD as they were originally carried in the Florida Times-Union article.

CARNEGIE COMMISSION HONORS JACKSONVILLE HERO—RESCUER OF DROWNING MAN RECOGNIZED

(By Seth Feldman)

Michael Stewart of Jacksonville says he doesn't understand all the fuss. He did what he had to do to save a drowning man.

"From my perspective, it's not something you should be rewarded for," said Steward, who rescued Samuel Tyson off the coast of Fernandina Beach on Sept. 15, 1990. "I never really looked at it as a heroic event."

The man whom Stewart saved respectfully disagrees. So does the Carnegie Hero Fund Commission, which honored Stewart with a medal and a $2,500 reward last week.

"I can't thank Mike enough, nor do I think he can be recognized enough for the great deed he did," said Tyson, who was pulled from shore by a strong current. "He gave me the gift of life."

Consider it a birthday gift for both men. Stewart, who was celebrating his birthday that day, made sure Tyson would be around to celebrate his the next day.

Stewart, 42, is one of 17 heroes in the United States and Canada recognized last week for risking their own lives to save somebody else's. Since 1904, 7,621 people have received the award from the commission, set up in 1904 by industrial magnate Andrew Carnegie to honor civilians who performed heroic deeds and to provide financial assistance to deserving people.

It never occurred to Stewart that he was about to do something heroic when a party he was hosting was interrupted by screams that someone was drowning.

He stripped to his underwear and followed another friend into the water. The friend turned back, but Stewart kept going.

"It's amazing how quickly it happened," he said. "One minute I was standing there, and the next thing I knew, I looked back and saw how far out from shore we were. Then I realized this is serious stuff.

"If I would have thought about it for a while, he [Tyson] might have been in trouble."

"I was totally exhausted and hyperventilating," said Tyson, 53, of Atlanta. "I just laid back and started drifting farther out."

When Stewart caught up to Tyson, he used the skills he learned as an Eagle Scout to carry Tyson back to shore.

Since then, Stewart has been lauded by his employers at Southern Bell, the Boy Scouts and the Carnegie commission.

"All the attention is kind of embarrassing," the Northside man said. "I happened to be there, and I happened to have the skills. It was something you don't think about—you just do it."

SOJOURNER TRUTH CHURCH: 20 YEARS OF SERVICE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. MILLER of California. Mr. Speaker, I rise today to invite my colleagues to join me in celebrating the 20th anniversary of Sojourner Truth Presbyterian Church of Richmond, CA.

The pride and clearness of focus exhibited by this predominantly African-American congregation fully lives up to the ideals of its namesake, Sojourner Truth. Born in 1797, and freed from slavery in 1828, Sojourner Truth dedicated her life to the liberation of the black people from the inhumanities inflicted upon them in the name of slavery. Today, Sojourner Truth Church carries on in this tradition.

As leaders in their community, the members of Sojourner Truth Church, under the direction of Rev. Eugene Farlough, actively work toward the betterment of the entire community. Their participation and support of any number of community service programs has had a direct impact on the lives of countless individuals, and their guidance has helped many stay on a safe and progressive course.

I feel fortunate to have the opportunity to work with Sojourner Truth Church, and look forward to continuing this special relationship for many years to come.

THE AUDIO HOME RECORDING ACT OF 1992

HON. CARDISS COLLINS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mrs. COLLINS of Illinois. Mr. Speaker, today I am introducing legislation entitled the "Audio Home Recording Act of 1992." The bill provides for the incorporation of the serial copy management system in all digital audio recorders and interface devices, prohibits on certain copyright infringement actions, and establishes a royalty payment system.

Digital audio technology has been around for several years. Compact discs are examples of digital technology. In the mideighties, consumer electronics companies decided to market a new wave of digital audio technology to American consumers—the digital audio recorder. Unlike the familiar analog audio recorder, the digital audio recorder is capable of making virtually perfect copies of source music. With analog recorders, as one continues to make copies from copies, the sound quality deteriorates. With digital audio recorders, on the other hand, multigenerational copies—from the 1st generation to the 15th generation—maintain virtually perfect sound quality.

Due to the precision of digital audio recording technology, the recording companies, music publishers, artists, musicians and others in the recording industry have been afraid that the digital audio recorders will increase copying by consumers and illegal bootleg companies, thereby reduce sales and royalties. For this reason, the recording industry threatened lawsuits against manufacturers that considered making digital audio recorders available to American consumers. The music publishers and songwriters eventually did sue a manufacturer. This has had a chilling effect on the manufacturers, who to this date have not made digital audio recording technology widely available to American consumers.

The Audio Home Recording Act of 1992, breaks the deadlock. It will make this innovative technology widely available to American consumers. This significant legislation has three principal provisions.

First, the Audio Home Recording Act of 1992 requires consumer electronics manufacturers, importers, and distributors to incorporate the serial copy management system into all digital audio recorders and interface devices. The serial copy management system allows consumers to make unlimited copies of original source music, yet it prohibits multigenerational copying of copyrighted music.

Second, the legislation prohibits certain infringement actions. A copyright holder cannot sue for infringement based on the manufacture, importation, or distribution of digital or analog audio recorders or media. In addition, consumers are protected from infringement suits based on the use of these items.

Third, manufacturers and importers must pay a small royalty fee on each digital audio recorder and medium ultimately made available to consumers. The money paid into the royalty fund will be distributed to interested copyright parties to compensate for any loss of royalties due to home copying by consumers. There will continue to be no royalties on analog tape recorders or tapes used by these recorders. The fees are very modest—2 percent of the transfer price for recorders and 3 percent of the transfer price for media—and will have little impact upon consumer prices.

Mr. Speaker, the Audio Home Recording Act of 1992 is a model compromise, agreed to through difficult negotiation by the recording industry, electronic industry, and the copyright coalition of songwriters and music publishers.

It will ensure that American consumers have access to the newest and best technology.

It will provide an incentive for consumer electronics manufacturers to continue to produce innovative technology and for recording companies to develop prerecorded music to support that technology.

It will once and for all resolve a multitude of lawsuits surrounding the recording of copyrighted materials, and will clearly establish the right of consumers to make copies for their own use and noncommercial use.

It should have a beneficial effect on trade relations by allowing American artists to receive reciprocity royalties from foreign countries that already have royalty protection from home taping. Currently, many countries have such systems in place, but will not allow American artists to get their share of royalties, because the United States does not have a royalty system in place from which the foreign artists could benefit.

Finally, Mr. Speaker, the Audio Home Recording Act of 1992, will make sure that copyright holders are compensated for the use of their work.

Mr. Speaker, the Audio Home Recording Act of 1992 is legislation that is long overdue.

HONORING THE PRINCEMEN'S CHORUS

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. MARKEY. Mr. Speaker, I rise today to highly commend the Lt. Norman Prince Senior Drum and Bugle Corps of the Veterans of Foreign Wars post in Melrose, MA for their outstanding service to the Commonwealth of Massachusetts and the United States. The members of the Princemen's Chorus have contributed greatly to our Nation through bravery in war and community service at home. I salute them.

The Princemen of the Veteran of Foreign Wars Post No. 1506 in Melrose, MA takes its name from Lt. Norman Prince of Massachusetts who exemplified the spirit of heroism and courage during World War I—in fact, this tradition is also being carried out by many of the Princemen sons who served our country in the recent Persian Gulf crisis.

Originally founded as the Sacred Hearts Crusaders from Sacred Hearts Church in Malden, MA almost 50 years ago, the Princemen's Chorus has preserved the spirit of Lt. Norman Prince though military service in World War II, Korea, and Vietnam and civic service in the community. The Princemen's Chorus represents unity in the truest form—they grew up together in Massachusetts, fought as comrades in arms, raised their families together, and worked to build their community together.

The Princemen's Chorus are National World Champions recognized in the Allentown, PA Hall of Fame. The chorus' performances bring hope, patriotism and entertainment to the veterans, elderly and other groups in Massachusetts and I am extremely honored to recognize them for their continuing service to America. I personally thank them for the outstanding service to the United States and especially Massachusetts.

HAITIAN REFUGEES

HON. ALAN WHEAT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. WHEAT. Mr. Speaker, despite reports of torture, of shootings, of beatings, of harassment, even of murder, our Government has forcibly repatriated thousands of Haitians fleeing the political chaos that envelops their beleagered island nation.

And despite the mandate of the House of Representatives, the Bush administration continues to advocate a policy which sends those fleeing the turmoil and bloodshed back to an uncertain, and perhaps catastrophic, fate.

Mr. Speaker, this refusal to recognize repression and to support its victims is not in the great tradition of American compassion as noted in a recent letter to the editor of one of my local newspapers. F. Russell Millin of Kansas City adapts the classic poem of Emma Lazarus to read:

> Give me your tired, your poor, your
> Huddled masses yearning to breathe free,
> The wretched refuse of your teeming shore.
> Send these, the homeless, tempest-tost to me.
> But not the Haitian or the dark-skinned refugees
> 'Tis not for them I lift the lamp beside the golden door.

This update of a quintessentially American poem was made necessary by recent actions of the executive and judicial branches of government.

NATIONAL DIABETES AWARENESS DAY

HON. THOMAS W. EWING

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. EWING. Mr. Speaker, I wish to recognize National Diabetes Awareness Day, March 24, 1992. Millions of Americans are afflicted with diabetes, and this national day of recognition can help raise awareness of this major health issue. In central Illinois alone, which includes my congressional district, there are about 200,000 diabetes sufferers.

I want to commend the fine work of those who serve diabetes victims, including the nurses, physicians, nonphysician practitioners and health professionals, researchers, educators, and families. They are working diligently to help diabetes victims cope with their affliction, and play a crucial role in battling diabetes. I applaud their efforts.

I urge my colleagues and the American people to recognize the victims of diabetes and those who serve them on Diabetes Awareness Day, and throughout the year.

SUPPORT A REAL NATIONAL ENERGY STRATEGY: COSPONSOR HR. 4488, NUCLEAR REACTOR LICENSING ACT OF 1992

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. BARTON of Texas. Mr. Speaker, I would like to call my colleagues' attention to H.R. 4488, the Nuclear Reactor Licensing Act of 1992, a bill introduced last week by Mr. CLEMENT and myself to reform procedures and remove burdensome barriers in current law that are unnecessarily prohibiting any nuclear power plants from coming on line. The legislation is identical to language in S. 2166, the Senate national energy strategy [NES] bill, which passed the other body 94–4.

H.R. 4488 represents an integral pillar of President Bush's NES. Nuclear power currently makes up 20 percent of our Nation's electricity mix, second only to coal. All of the studies point to the fact that the United States will experience a tremendous increase for electricity capacity as we approach the 21st century. The type of electricity that will be needed is base load capacity—or power that is available for continuous distribution. After the capital costs are absorbed, nuclear power is the cheapest, environmentally safest, and most reliable form of energy available.

During last summer's record heat wave, officials at the Pennsylvania-New Jersey-Maryland power pool [PJM], which delivers electricity to almost 10 percent of the Nation, admitted that the power they got from the nuclear plants in their power pool was the most reliable and cheapest source of energy. This was when the system was experiencing unprecedented demand for power. Without the current supply of nuclear energy, there would have most likely been several disruptions of service.

However, despite America's leadership in safely and efficiently generating large scale nuclear power, the NES states that orders for over 100 nuclear power plants have been abandoned or indefinitely delayed since the early 1970's. Unless the Nation's existing plants are allowed expedited license renewal, a large source of the U.S. energy supply will be eliminated. Because of unfounded concerns over the safety of nuclear power, no commercial nuclear power plants have been ordered since 1978.

It is my goal to revitalize the nuclear option. In order to do this, the Nuclear Regulatory Commission licensing process needs to be reformed. Currently, the process involved in getting a nuclear plant from blueprint to generation allows opponents of nuclear power to indefinitely delay and virtually prevent any new construction of nuclear power plants. Under this regulatory system, utilities are not willing to take the risk of investing their stockholders' capital in a venture that will assuredly be drawn out and eventually canceled.

The legislation Mr. CLEMENT and I have introduced will establish an equitable and constructive licensing process where concerns of all parties are addressed. Under H.R. 4488, the public will be given three opportunities to discuss and debate safety issues before construction on the plant begins. The bill will allow license applicants to receive a combined license to operate and construct a nuclear plant if they can prove it will be operated safely and meet the testing and safety requirements under the Atomic Energy Act of 1954. During the process, the NRC's decision to issue a combined license is subject to judicial review.

Most importantly, H.R. 4488 would allow the continued construction of nuclear power plants if a post-construction hearing was granted. As elsewhere in the bill, the NRC would only allow for continued construction if it could be done safely. Of course, the whole process described is subject to judicial review.

I am very determined, as is Mr. CLEMENT, to reform the nuclear regulatory process that has prevented even one nuclear plant from being ordered in the last 14 years. Enacting comprehensive energy strategy without the consideration of making nuclear power a viable option would be irresponsible. A little over 1½ years ago, Congress passed the Clean Air Act Amendments of 1990. If we learned anything out of that process, it should be that nuclear power must maintain and increase its role in our Nation's energy policy.

I urge my colleagues to cosponsor H.R. 4488, and bring Congress closer to implementing a real national energy strategy.

I AM ANGRY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. STARK. Mr. Speaker, we need a national health insurance ensuring health care for everyone, regardless of employer or employment status.

The following letter from a woman from Virginia describes, in better words than I can, what is wrong with the current system.

She says she is angry. She should be—she lives in a nation where the President keeps talking about how wonderful the health care system is, but in truth it is the only industrialized nation that does not guarantee health care for all its citizens. She should be more than angry—she should be furious.

The letter follows:

I am writing to you to express my concern over the deterioration of access to health care and my support for federal government leadership in implementation of major reform of the health care delivery system in the United States.

I am sharing my story with you only as evidence of the erosion of the ability of an average American to receive medical care. The details may be unique to me but my situation is becoming increasingly common.

I recently had to change jobs because my former employer was in financial trouble, and involved in a merger. I was in a race to find a job before I was let go. Adding to the stress of the situation was the concern over my ability to continue to receive medical insurance coverage. I had to have neurosurgery in November 1990 to remove a cranial tumor and have to be monitored because it is likely to recur.

I was very fortunate to find another job, but my fear of losing medical insurance coverage came true. My new employer's insurance carrier will give me only limited coverage, excluding permanent treatment for any condition arising from or related to the tumor that was removed and the procedure that was performed. For good measure I was even excluded from treatment for accidental injury to that part of my head.

With no choice because I need major follow-up tests to be sure that everything's healed properly, I have had to COBRA with my former employer's insurance carrier at my expense. This is a severe financial hardship but without the COBRA coverage I can't afford either the tests or follow-up surgery if needed.

At the end of the eighteen-month COBRA period I am left with no access to medical care for my condition. Sure I can apply for coverage to my old COBRA carrier, but realistically what are the chances of being accepted for full coverage at a rate that I can pay? And on my own I can't pay the astronomical costs for tests or surgery. I am an Administrative Assistant not a high-salaried executive.

I am angry. Working Americans have no health care support system outside of the private medical insurance our employers are willing or able to provide and the coverage these private insurance carriers are willing to give. If I were unemployed I could at least get the coverage I need from Medicaid. Since I have a job and am actually paying taxes to support the Medicaid system, I'm ineligible to use it.

If I become unable to work because I can't get care for a treatable health condition, I become a drag on the economy. A productive asset will be lost. The multiplier effects of my income will be lost. My tax revenue will be lost and I will become a drain on the decreased tax revenue base. Multiply that times the growth number of Americans shut out of the health care system because the safety net for working Americans is unraveling and consider the economic impact.

America has the best medical care in the world, with procedures that are state of the art and bordering on the miraculous. But the process of delivering that care is antiquated and inefficient.

Today medical costs are increasing almost exponentially, with doctors, hospitals, insurance companies, and lawyers all assigning blame to each other while more and more Americans are cut off from something as basic as food, shelter and health care. It's obvious that those inside the health care system are unable or unwilling to provide services at reasonable costs and because of that the private sector is unable or unwilling to continue supporting a needed social good. The time has past when the problem can be ignored or left to some wishful free-market solution. We need action at the national level.

SALUTE TO TIMOTHY HENRICK

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. ATKINS. Mr. Speaker, I rise today to pay tribute to Timothy Henrick, a police officer from Methuen, MA who had lost more than two-thirds of his blood after being shot during a scuffle with a burglar last Christmas. I am proud to report, Mr. Speaker, that this week Timothy Henrick will be leaving the Northeast Rehabilitation Hospital in Salem, NH on his own two feet.

Mr. Henrick is a brave public servant and an inspiration to us all. Three months ago, his right femoral artery was served by a bullet during the course of duty. Doctors have called his recovery "miraculous." And, given the fact that he suffered from at least 10 different afflictions which could have killed him, his swift recovery is indeed nothing short of a miracle.

Mr. Speaker, I want to also take this moment to salute Mr. Henrick's family, whose faith and love must have had something to do with his recovery. His mother prayed daily on the rosary. His brother, Brian, vowed to give Timothy his baseball card collection if he recovered. And his father spoke to Timothy daily even when he was in a coma. While we are bombarded daily with negative information about the demise of family values, the Henrick family is truly an inspiration.

I salute Timothy Henrick and his family and wish them all well as he continues his miraculous recovery.

NUCLEAR TESTING

HON. LANE EVANS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. EVANS. Mr. Speaker, it is my understanding that today the United States conducted a nuclear weapons test at the Nevada Test Site. The test, code named Junction, is the first one of the new year. It is also one too many.

We have known for years that our nuclear testing program no longer serves any meaningful national security objectives. Both the Reagan and Bush administrations have consistently warned us that nuclear testing must be continued if we are to insure the safety and reliability of our warheads and develop new weapon designs. These arguments never quite held up to scrutiny. Operational concerns about nuclear weapons, such as those regarding safety and reliability, can be clearly addressed through non-nuclear testing. And new weapons development should not even be a consideration. With the arms race now in complete reverse it is clear that there is no place in this world for new weapons with such exotic titles as earth penetrators and microwave weapons. What is obvious is that there is no reason to continue testing period.

At this moment in history, when we are working to prevent nuclear proliferation in the Commonwealth of Independent States, in the Middle East and in Asia, it is simply reckless and irresponsible that we continue a testing program that is being used to develop new and more sophisticated nuclear weapons. I urge my colleagues to support efforts to reduce the nuclear testing budget and consider a total moratorium on nuclear tests.

HONORING THE HUTCHINSON RIVER BOYS & GIRLS CLUB

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. ENGEL. Mr. Speaker, it has become increasingly difficult for our Nation's youth to avoid temptations and reach for their true potential, especially in many of our urban areas. It often takes the encouragement and support of the community to ensure that our young people are given outlets where they can grow and prosper. In my district, the youth activities committee of the Hutchinson River Boys & Girls Club provides this valuable service to the community.

For 16 years, YAC has developed a series of impressive programs that keep our children off the streets and focused on the future. From the evening teen lounge to the job readiness program to the stop the violence teen club, YAC continues to add to the variety and quality of its programs. What is most amazing about YAC is that all the programs are run by a small part-time staff supplemented by volunteers from the community. Executive director Gloria Wise does a masterful job of channeling this positive spirit into a well-organized group.

On behalf of the more than 700 children served by YAC, and for the entire community which benefits from the program, I offer congratulations and thanks to all those who make the Hutchinson River Boys & Girls Club work.

TRIBUTE TO LUCILE POWELL SINGLETON

HON. WILLIAM L. DICKINSON

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. DICKINSON. Mr. Speaker, I was recently made aware of the untimely passing of one of America's radio pioneers, Miss Lucile Powell Singleton of Union Springs, AL.

On January 8, Miss Singleton passed away of influenza at the age of 98 in Roanoke, VA. She was buried in Oak Hill Cemetery, Union Springs on January 25.

Miss Singleton was hired by the newly formed Columbia Broadcasting System in 1929, and over the 30 years that made her career became an influential executive in the radio network's music department.

A CBS press release dating back to 1937 says Miss Singleton graduated with a B.A. from Randolph Macon College in Lynchburg, VA and went on to receive her M.A. in music from Wesleyan College in Macon, GA.

Upon graduation, Miss Singleton traveled to Washington, DC where she worked under a Harvard professor who was given government charge of closing down the Railroad Administration after the end of World War I. In 1923, she was employed by Harvard University to assist the professor in the field of railroad statistics.

The 1937 release notes that Miss Singleton traveled to New York a few years later to study voice, theory, harmony, and piano. It was during her musical studies that she came into contact with CBS Radio's program department. It so happens the network was in need of someone who possessed her unique mixture of business sense and musical training. She was hired.

As radio quickly advanced into what we now call its "Golden Age," Miss Singleton played a key role in managing CBS musical talent. She began her broadcast career auditioning singers and arranging their contracts, and later expanded into managing the network's cast of singers, determining which artists should appear on a particular program.

According to a recent Birmingham Post-Herald story, Miss Singleton introduced a variety of stars to network broadcasting, including legends Arthur Godfrey, opera singer Ilene Farrell, Perry Como, and Bert Parks.

The news story also noted that Miss Singleton gained national prominence in the late 1930's when she placed the first black performers on national radio. Reportedly, she insisted to CBS president William Paley that Tuskegee University's Jubilee Gospel Singers be allowed to perform. Paley consented, and the rest is history.

The Singleton family notes that Lucile was a very modest individual who shunned recognition and fanfare. Her life was a true testament to the dedication to excellence and traditional values that made this country great. For Alabamians, Miss Singleton was a legend in her own right.

A BILL TO IMPROVE THE HEALTH CARE COVERAGE OF FEDERAL WORKERS

HON. PATSY T. MINK

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mrs. MINK. Mr. Speaker, over the last several months this Congress and the American public have been involved in an intense debate about the health care situation in this country. With 37 million Americans without health insurance and 60 million more who are underinsured, no one argues that the state of health care in America has reached a crisis level.

While we debate the best solution to this problem, whether its single payer, pay-or-play, expanded Medicare or whatever the ultimate solution, we must not overlook some of the loopholes in current law that have allowed employers, including the Federal Government to deny health care coverage to its employees.

Unfortunately, Mr. Speaker, some of those 37 million Americans who are uninsured are Federal workers. Under current law the Federal employees who are categorized as temporary or seasonal workers qualify for health insurance only after they have worked for 1 consecutive year. After a temporary employee has worked at the same job for 1 consecutive year they become eligible for health insurance, however they must pay the employer contribution as well as the employee contribution.

Although this seems to be reasonable, many agencies within our own Government have abused this provision in order to save a few dollars. Agencies hire temporary personnel, lay them off a few days short of their 1-year tenure, then rehire them several days later. All of this just to avoid having to provide health insurance and other employee benefits. This kind of abuse cannot be allowed to exist.

I have Federal workers in my district who have worked for the Federal Government for 15 years on a temporary basis. I fail to see how the Government can consider a 15-year job a temporary job. This is absurd. These people work the same hours as full-time employees, have the same responsibilities as full-time employees, and yet they are denied health care coverage to save the Government a few bucks.

The bill I have introduced today would close this loophole and require Federal employees categorized as "temporary" or "seasonal" receive the health benefits of a full-time employee if they have worked in the same agency and same job for a total of 1 year. Unlike current law, this service would not have to be consecutive, which has allowed Federal employers to lay these individuals off just before a full year's employment and escape medical coverage requirements. Also, my bill would only require temporary and seasonal workers to pay the employee portion of the health premium.

Under this legislation, if a temporary employee is rehired by the same agency to fulfill the same job, his/her previous Federal service at that job within the preceding 2 years will be used to determine eligibility for medical coverage. If an employee had 11 months of previous service they would only need to complete 1 more month of Federal service in order to qualify for health coverage.

We must take this first step in providing for the workers of our Nation. As we continue to search for a solution to the health care crisis, how can we mandate that employers provide coverage or that States provide coverage if we do not provide health insurance for our own workers?

Unfortunately, this type of abuse and sidestepping of responsibility to workers is pervasive not only in the Federal Government but permeates the State and local level as well. Although my bill does not cover these workers, I believe that it is the responsibility of this Congress to see that all employees, full-time, temporary, contract workers are offered some kind of health care coverage.

Mr. Speaker, I urge all of my colleague to join me in taking the first step toward universal health care coverage in our Nation. Let's take care of our Federal workers and support this legislation.

PRESIDENT BUSH IS ON A COLLISION COURSE WITH THE AMERICAN PEOPLE

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. SYNAR. Mr. Speaker, President Bush is on a collision course with the American people. And I believe he's going to find out that Oklahomans, like Americans across the country, will know the difference between false promises and real action.

In one direction, there's the President, protector of privilege, defender of the status quo. In the other, the Democrats, the party of change and champion of the working people of this country.

Insensitive to the crushing realities of this current recession, the President voiced his veto of the middle-class tax cut even before the bill was voted on in Congress.

This country, the working men and women struggling to make ends meet, needs a middle-class tax cut. Those who say we don't are simply out of touch with the harsh realities of this Republican-driven recession. Anyone in Oklahoma trying to stretch a budget to pay for groceries, meet medical expenses, and make rent or mortgage payments on a home knows the true value of an extra week's take-home pay.

The Democratic tax cut does just that. While not increasing the Federal budget deficit, the middle-class tax cut will spur the economy, help create jobs, and boost consumer confidence.

The people want action. Congress responded. The President set deadlines, and Congress met them. The ball is now in the President's court. The American people are tired of excuses, tired of blaming others.

Actions speak louder than words. If the President is truly serious about helping the forgotten middle class, he must demonstrate leadership and the conviction to stand up for what we all know is right.

TRIBUTE TO LEONARD ABESS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. LEHMAN of Florida. Mr. Speaker, Saturday, March 28, 1992, marks the 88th birthday anniversary of an amazing man. Miami has a first citizen and that person is Leonard Abess.

The economic viability of south Florida is in great part due to Leonard Abess' efforts. Starting from scratch in the depth of the 1920's Depression he worked to recreate a revitalized Miami. Though he has accumulated substantial wealth his greatest effort has been to help the less fortunate. Long before there was United Way, there was a Community Chest. When Community Chest was short of funds, Leonard Abess went to the bank and signed personally for the money Community Chest needed.

When Jewish doctors on Miami Beach had trouble with permission to use hospitals there, Leonard, with some of this friends, created Mount Sinai Medical, a leading hospital in medical care, research, and teaching.

Leonard is a former president of Mount Sinai, and now his son, Leonard, Jr., is the president. Likewise, as Leonard was the City National Bank of Miami's longtime president, Leonard, Jr. is now its president.

He is still very active, playing golf and enjoying his family, including his grandchildren.

Mr. Speaker, Leonard has already created a great legacy and he's not done yet; 88 years and still going strong. We in Miami love Leonard Abess, and he deserves every bit of it.

TRIBUTE TO PERCELLUS JONES

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Mr. Percellus Jones, Jr., as he retires from 26 years of dedication to the East Side House Settlement in the South Bronx. Mr. Jones has devoted nearly four decades of his life to community service, committing himself whole-heartedly to serving our people and responding to their needs.

A native New Yorker, Mr. Jones P.S. 5, Frederick Douglass Junior High School 139 and DeWitt Clinton High School. He obtained his BA degree from the City College of New York, working in the garment industry during the day and attending classes at night. Mr. Jones then joined the Children's Village in Dobbs Ferry, NY, as head counselor for emotionally disturbed youth. Two years later, in 1957, Mr. Jones began his career with the social and community services division of the New York City Housing Authority as a housing community activities coordinator at the Bronx River Neighborhood Center. Then, while pursuing a graduate degree in social work, Mr. Jones carried out field work at the Patterson Center Y.W.C.A.

After receiving his masters degree in social work from the Hunter College School of Social Work, Mr. Jones joined the Manhattanville Community Center as program supervisor. Two years later, in 1965, Mr. Jones began his association with the East Side House Settlement, working first as center director of the Patterson Community Center, then as program director of the settlement and finally as associate director, the position from which he is now retiring.

And Mr. Jones' involvement with the community has not been limited to his work with the East Side House Settlement. He has been actively involved with the Bronx Board of the New York Urban League; the South Bronx Overall Economic Development Corporation Board of Directors; the Melrose-Mott Haven Senior Citizen Centers; and the social service study group of New Directions—the Bronx Borough President's Regional Planning Committee. He has also been a contract supervisor for the Protestant Council of New York; a field work instructor at the Hunter School of Social Work; a training instructor for the Institute for Mediation and Conflict Resolution; and a member of various United Neighborhood Houses committees.

Throughout his life, Mr. Jones has demonstrated an exemplary commitment to his fellow people and his dedication has not gone unrecognized. In 1990, Mr. Jones received a papal blessing from His Holiness Pope Paul II for his work with the homeless. That same year he was also honored as "Man of the Year" by St. Benedict the Moor Service Center for his work with the center. Last year Mr. Jones was awarded the Centennial Distinguished Service Award by the East Side House Settlement Board for his invaluable years of service. Today, on behalf of the entire south Bronx community, I would like to express to Mr. Jones our deep gratitude for his invaluable contributions to our community and wish him good health, long life, and all the best in the years ahead.

COMMEMORATING THE RETIREMENT OF REV. PERRY EVANS

HON. LUCIEN E. BLACKWELL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. BLACKWELL. Mr. Speaker, I rise today to celebrate the retirement of a truly remarkable man. A man whose dedication and love have pushed him to achieve lofty goals in his personal life and in the community. A man who has given of himself freely to those who ask for his assistance. Today, I have the pleasure to speak to my distinguished colleagues of the House about Rev. Perry E. Evans who, after 55 years, is retiring from the Faith Baptist Church.

Pastor Evans is a unique individual who has shown leadership in the community and in the church. He has served in various leadership positions in local, State, and national levels in the Baptist organizations, among them the former treasurer of the foreign mission board of the National Baptist Convention. Pastor Evans has dedicated his life to helping others and spreading the word of God throughout our great Nation and the world. His dedication can truly be seen in his term of service at Faith Baptist Church, a period of 55 years. In light of this fact, it can be seen that Pastor Evans is a man with strong convictions and the desire to see them through. It was not uncommon for Reverend Evans to be working 7 days a week at all hours of the day and night. This dedication is an example to all of us as we strive to achieve our best.

In June of this year, Reverend Evans will turn 96 years old. He has been married for 75 years to Mary Julia Evans. His commitment to God and his teachings can be seen in the blessing he has received from God. Reverend Evans has been rewarded for his good honest work with a long, memorable life and a lovely and caring wife, should we all be so lucky.

Reverend Evans is a testament to all of us and an example of what hard work, dedication and faith can accomplish. It is my honor to bring Reverend Evans to the attention of this institution so that all will know of this final human being and of his accomplishments.

SALUTE TO CHARLES F. WAGNER

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to a man who has spent 39 years of his life in public service, the last 31 of those in Santa Barbara County. My constituent, Mr. Charles F. Wagner, will retire on March 27 from his post as administrative officer of Santa Barbara County.

Chuck started his career in Santa Barbara in 1961 as a civil engineer with the county road commissioner, and in 1976, he was appointed public works director. His appointment in 1989 to be county administrative officer capped a long career of public service. His professional demeanor and personal style have always been appreciated and will be missed by all.

Chuck's life in Santa Barbara has always been more than just professional. He has taken a keen interest in many aspects of community and family development. Chuck has devoted much of his time to coaching sports for local organizations, including the Goleta Boys Club, the Goleta Valley Girls Club, and the Youth Football League. He is also the recipient of numerous community awards, including the United Way Campaigner of the Year, Santa Barbara County Management Association's Executive of the Year, the County Supervisor's Circle of Service Award, and the Honorary Service Award from the Goleta Council of PTA's.

I ask my colleagues to join me in saluting Santa Barbara County Administrative Officer Chuck Wagner on the completion of a 39-year career in public service. I wish him and his wife of 38 years, Jean, a wonderful retirement and all the best.

TRIBUTE TO NEW HAMPSHIRE'S SALEM HIGH SCHOOL

HON. DICK SWETT

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. SWETT. Mr. Speaker, I rise today to pay tribute to an outstanding school in my home State—Salem High School. In recognition of the achievements of its students, this school was recently selected by the national magazine Red Book as the best high school in New Hampshire.

At a time when the shortcomings and failures which plague our Nation's educational system are all too evident, it is particularly encouraging to learn of the tremendous success of this school.

Located in a southern New Hampshire community of approximately 26,000, Salem High's growing academic accomplishments are truly remarkable. In 1986 its percentage of college-bound graduates was only 48 percent. Today that number is up to 72 percent, with an impressive 99 percent graduation rate.

Mr. Speaker, the students of Salem High shine, not just in academics, but also in community service, athletics, and artistic achievement. They were leaders in organizing the Eighteenth Annual Model United Nations which is taking place this week in New Hampshire. Every year the students organize this event, doing everything from designing and printing programs to arranging for the participation of other high schools from surrounding communities.

Salem High's students are also active in their community. When my office recently received a letter from a local food pantry in need of assistance, the students of Salem High and Woodbury Junior High eagerly responded by organizing food drives.

Whether it is organizing events, caring for the needy, or striving for the academic gold, the students of Salem High are truly a success story.

Mr. Speaker, I ask my colleagues to join with me in saluting these fine young students and the dedicated faculty and staff of this outstanding school.

A TRIBUTE TO ADEM DEMACI, PATRIOT OF KOSOVA

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. LANTOS. Mr. Speaker, Adem Demaci, the peaceful patriot of Kosova who spent 28 years of his life behind bars in Communist Yugoslavia because of his political beliefs, is an inspiring symbol of democracy's victory over communism. A free man today, Mr. Demaci is visiting the United States for the first time. Today he will be meeting Members of Congress and human rights leaders in Washington. On the occasion of his visit, I ask my colleagues to join me in welcoming him to our Nation's capital and in paying tribute to him today.

Mr. Demaci was born in 1936 to a family in Prishtina, Kosova. As a young man, he went to Belgrade as a student of literature and began to write on the many social evils confronting his society. He achieved a reputation as an extremely promising writer, and in 1958 wrote his first novel "The Serpents of Blood," a compelling indictment of the vendetta custom. A celebrated work, his novel made him famous overnight.

Addressing social issues such as poverty disease, illiteracy, and discrimination, Mr. Demaci became politicized. He was a young man of ideas, and his writings on social injustice and discrimination, particularly against ethnic Albanians, were explosive. As an intellectual force behind the movement for self-determination for Kosova, he was seen by the Communists in Yugoslavia as a threat to the regime. For this he paid a dear price.

He was arrested in 1958 and accused of "agitation and propaganda against the State". After serving 3 years in a Belgrade prison, he was rearrested in 1964 for "irredentism" and he spent 10 more years behind bars. He was released in 1974. After only a few months of freedom, he was arrested again and charged with calling for a popular referendum in Kosova in which the people of Kosova would vote on self-determination. He was tried and sentenced to 15 years imprisonment.

During his incarceration, Mr. Demaci was adopted as a prisoner of conscience by Amnesty International, and supported by many international organizations as a person who had not used, nor advocated, the use of violence.

Adem Demaci was released from prison in 1990, and today he is free of Communist tyranny. Aged and wise, he is not a bitter man. To the contrary, he strives for reconciliation and friendship between peoples.

As a missionary of good will, he received the European Parliament's prestigious Andrea Sakharov Prize. He is also the chairman of the Council for the Defense of Human Rights and Freedoms of the People of Kosova.

Mr. Speaker, Adem Demaci stood in proud and just defiance against the illegitimate Communist government of Yugoslavia. Indeed, his courage is inspiring. He has paid a great price for his ideas, having spent half of his life in prison for them. But he and his ideas have truly prevailed. On the occasion of his first visit to the Land of the Free, I extend my best wishes to this great champion of democracy and I invite my colleagues to join me in honoring him today.

PROPOSED DUTY RECLASSIFICATION FOR 1,6-HEXAMETHYLENE DIISOCYANATE [HDI]

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. ARCHER. Mr. Speaker, recently, Mr. DELAY and I introduced a miscellaneous tariff bill, H.R. 4232, on behalf of Rhone Poulenc, Inc. [RPI]. RPI manufactures polyisocyanate resins at a facility in Freeport, TX, for use by the U.S. paint manufacturing industry in the production of polyurethane coatings. These laminates are complex chemical structures which demonstrate extraordinary durability. Due to their exceptional strength and stability, they have become the coating of choice among manufacturers of various types of military equipment, as well as among automobile manufacturers. In connection with its formulation of such advanced resins, RPI imports a key raw material known as 1,6-hexamethylene diisocyanate, or HDI.

Effective January 1, 1989, the United States converted its system of commodity classification for tariff purposes to the Harmonized Tariff System, developed pursuant to the Tokyo round of GATT negotiations, which is widely used throughout the world today. At the time of conversion, the administrative reclassification of HDI caused its duty to increase more than 100 percent, from 7.9 percent ad valorem to 16.2 percent ad valorem plus $.029 per kilogram. This increase resulted entirely from the technical process by which conversion to HTS was implemented and did not reflect any affirmative determination that a higher duty on HDI was either warranted or appropriate.

The Customs and Trade Act of 1990 provided a temporary duty reduction on HDI to the level predating U.S. conversion to HTS. That reduction, imposed for a 4-year period beginning January 1, 1989, remains in effect until 1993. This legislative tariff reduction substantiates the legislative intent underlying the conversion to HTS that conversion should be revenue neutral with respect to reclassified commodities. Inasmuch as that rationale shall maintain after the scheduled expiration of the existing duty reduction applicable to HDI, RPI now seeks to have HDI reclassified in a manner that will impose a 7.9-percent duty rate on a permanent basis.

Such action will assure that RPI remains a reliable source of polyurethane resins for its downstream customers in the automotive and aerospace industries. Moreover, the establishment of a 7.9-percent ad valorem duty will preclude the need to increase prices in order to absorb the presently scheduled duty increase and will eliminate the attraction of implementing a strategy of exporting manufactured resins in order to obtain duty drawbacks, both actions which will be harmful to U.S. consumers. Finally, in light of past market conditions, such action should not be expected to harm any domestic manufacturer of HDI because supplies of domestically produced HDI have been consumed entirely in-house. That market condition, combined with the fact that such domestic manufacturers compete directly with RPI in downstream product lines, suggests that domestic producers of HDI could not be considered a reliable source of RPI. On this basis, the reclassification of HDI represents sound economic policy as well as sound trade policy.

IN HONOR OF DR. LORETTA E. SCUDERI

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. FOGLIETTA. Mr. Speaker, today I would like to honor an extraordinary educator and civic leader from Philadelphia, Dr. Loretta E. Scuderi, and congratulate her on her recent retirement.

Dr. Scuderi has served the Philadelphia public school system for over 34 years as a teacher, a principal, and, for the past 18 years, a district superintendent. She has devoted her life to the education of Philadelphia's youth, and she knows the educational process inside and out.

She began her career as a teacher at an elementary school in Philadelphia in 1958, and within just a few years' time she had moved on to lead a school as principal. Dr. Scuderi later went on to head, with dedication and distinction, three school districts in Philadelphia as superintendent. During this period, she somehow found the time to earn her doctorate in education from the University of Pennsylvania, which she received in 1977.

Dr. Scuderi has authored education texts, produced and taught an educational television series, lectured at the University of Pennsylvania's Graduate School of Education, and represented the district superintendents on several planning and policy committees in Philadelphia.

Her achievements in education are matched by her involvement in the community. She is a member of countless civic and professional organizations. Dr. Scuderi served as president of the education alumni association at the University of Pennsylvania and vice president of the Philadelphia Council of Administrative Women in Education.

Dr. Scuderi has received numerous honors and awards, including Woman of the Year from the Order Sons of Italy in America in 1975, the Legion of Honor from the Chapel of Four Chaplains, and a distinguished service award from the Black Educational Forum, just to name a few.

I have know Dr. Scuderi and her husband, Judge Peter Scuderi, for many years. They both love the city of Philadelphia, and their contributions to our community are invaluable. If her past record in any indication, Dr. Scuderi will be an active and essential part of Philadelphia for a long time to come. I wish her the best in her retirement.

INTRODUCTION OF THE NATIONAL CHILD PROTECTION ACT OF 1992

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mrs. SCHROEDER. Mr. Speaker, today I am pleased to join with my colleagues, Representatives DON EDWARDS, BUD CRAMER, MICHAEL KOPETSKI, and JIM RAMSTAD, in introducing the National Child Protection Act of 1992. This bill will help prevent children from being abused and victimized when they receive care outside their homes.

I want to thank the cosponsors of this legislation, especially Congressman EDWARDS and his staff, for their hard work in putting this legislation together.

Past and ongoing investigations of child abuse conducted by the Select Committee on Children, Youth, and Families have found that abuse of children in child care settings requires serious attention. In 1990, there were more than 2.5 million reports of child abuse and neglect, which represents a 100 percent jump since 1980. While most abuse occurs in the child's home or by someone well known to the child, an alarming number of abusive situations occur while children are in care outside of their homes or participating in organized youth activities.

As a Nation, we must take every precaution that we can to protect our children from this inexcusable harm. This measure will provide needed safeguards to ensure that children are not unnecessarily exposed to potentially harmful situations.

Our bill will establish a national repository of Federal and State child abuse criminal records for States to access to do criminal background checks on potential and current child care providers and volunteers with youth service organizations. This act will help build the State and national systems necessary to prevent convicted criminals from being hired in these settings. It will provide $20 million in direct Federal assistance to help States to improve their criminal justice records. The legislation includes specific timetables so that accurate, up-to-date information on child abuse convictions will be available on a national basis within 3 years. The bill includes safeguards to ensure that information provided is accurate and up-to-date, and includes only convictions of abuse.

The National Child Protection Act of 1992 will enable States to respond to requests from employers and youth service organizations who want criminal background checks conducted on any current or prospective employee or volunteer who will be working with children.

The impetus for this legislation comes from the well-known child activist and television personality Ms. Oprah Winfrey. A few months ago, several of my colleagues and I met with Ms. Winfrey. She expressed her genuine concern for the countless children who are needlessly victimized in this country and sought to enlist our support in introducing this legislation to protect them.

This legislation represents a first step to extend a measure of protection to children and their families. I ask my colleagues to join with us in cosponsoring this important legislation and to work with us as we try to develop other measures to ensure that our children are safe from abusive situations, be they in their own homes, in child care, or participating in recreational activities. Surely we owe our children this much.

IN HONOR OF PEARLE LANE

HON. RICHARD E. NEAL

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. NEAL of Massachusetts. Mr. Speaker, it is an honor for me to be able to recognize this year's East Longmeadow Lions Club 1992 Distinguished Citizen of the Year, Fearle Lane.

Mrs. Lane has lived in East Longmeadow, MA, for 32 years with her husband Paul. Since moving there, Mrs. Lane has been involved with numerous town organizations and activities. For example, during the past 26 years she has been an active member in the Women's Community Club of East Longmeadow. She has displayed her dedication not only by being involved as a member, but by also taking the initiative to become an officer. Presently, she is the secretary, but from 1975–77 she served as president, during which time she was a key player in the organizing of the town's bicentennial celebration.

She is also actively involved in the Garden Club, an organization which she presently serves as publicity chairman. With all of her projects, her most visible contribution is the assistance of local businesses to support the club's effort. Currently, and for the past 3 years, Mrs. Lane has been serving on the town's centennial committee, helping to plan the events for the town's 100th birthday in 1994.

Not only has Mrs. Lane contributed to the town, she has also contributed to the education of our Nation's children. She was a former teacher at the Talmadge School in Springfield, MA and presently she is a tutor for the blind in East Longmeadow as well as a substitute teacher in the public school system. She has also served as a Sunday School teacher for 13 years at the First Congregational Church in East Longmeadow.

Her dedication to children extends beyond the realm of the classroom. Mrs. Lane has also been a girl's basketball coach in the town's recreational league and a Girl Scout leader. In an unique effort, Mrs. Lane has been able to create ties with the elderly of the town through her involvement with children.

In her Sunday School classes and when she substitute teaches, Mrs. Lane encourages her students to make cards and pictures for the elderly in the local nursing home, but only when they are done with their lessons. Also, she used to take her Girl Scout troop to visit the elderly and sing songs that she taught the girls from "the good old days" with the elderly.

In addition to these numerous town activities, Mrs. Lane still finds time to volunteer at the local PBS station, Channel 57 and also in Mercy Hospital in Springfield in the holding area for patients awaiting surgery.

Mrs. Lane's dedication to the town and to people of all ages is extraordinary. I especially applaud her dedication to teaching, for I was once a teacher myself and I understand how much effort it takes to teach a regular class, let alone specialized students. Congratulations on being chosen the East Longmeadow Lion's Club Distinguished Citizen of the Year 1992.

READ ME DAY

HON. DON SUNDQUIST

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. SUNDQUIST. Mr. Speaker, a constituent of mine, Mrs. Frankie DeWees, sent the following statement to me about "Read Me Day." I agree with the emphasis these concerned citizens have placed on the value of reading, and I would like to enter their statement into the RECORD:

READ ME DAY

Reading is important! Reading is fun! Reading is everywhere! This is the emphasis for a special reading celebration which culminates a month of reading activities at East Hickman School in Lyles, Tennessee.

Read Me day began in 1986 after classroom teacher Frankie DeWees saw an article in "Early Years Magazine" telling about teacher Suzanne Lampert of New Jersey and how her class wore printed shirts to school emphasizing that reading is everywhere.

Over the next 6 years the idea blossomed into a month long celebration of reading where community, businesses, celebrities and children all worked toward a common theme promoting the fun of reading.

Each year a theme is chosen that involves all 900 students grades K–8. Last year's theme was "Color Our World With Reading."

The month began last year with a special assembly. The guest speaker was singer, song-writer, storyteller and author, Mr. Tom T. Hall. Mr. Hall shared an original story that he had written called "A Human Being Visits Class." The story had a wonderful message for the children. The message was that regardless of class, creed, color, clothing or circumstance, that each person should ask of himself or herself each day: is there anybody in there? He was teaching the children to develop selfworth. He sang two songs he had written, "I Love Baby Ducks" and "Sneaky Snake."

Grades 3, 4 and 5 participated in a Create-a-Story contest where imaginations were allowed the freedom of fantasy.

All grades were involved in a poster contest where each student depicted a scene from his/her favorite book using any art medium.

Read-alerts were announced during the month for 5 minutes of uninterrupted reading.

In the library were two containers of M&M's—a large one for the upper grades and a smaller one for the primary grades—with the legend "Reading Melts in your Mind." As children checked out books, they were given an opportunity to guess the number of M&M's in the appropriate container.

As books were turned in, the child was given an opportunity to add to the growing graphic running throughout the hallways of the school. Last year it was different colored books. In the past we have formed the world's longest worm, a train with hundreds of cars, trails of tennis shoes and rows of racing cars that went all the around the school.

This school year plans are being made to develop a graphic to go along with the theme "Explore and Discover Reading."

"Color Our World With Reading" proved to be a very exciting theme in 1991. Many classes read and studied about different countries. The halls of the school were filled with works of art and educational materials from the countries. There were guests who visited in classrooms throughout the month. They shared their knowledge and experiences about life in different countries with the children.

Individual teachers developed activities to promote reading within their classrooms. Many classrooms wrote letters to local and well known celebrities inviting them to come read with them on Read Me Day. Two special celebrities that the children have written to each year for the past 3 years are President and Mrs. George Bush. Although most celebrities could not come, many responded with letters and pictures. Other classrooms developed projects that resulted in each child's creating his/her own shirt to wear on Read Me Day. Three years ago the children in first grade created a special shirt for Mrs. Bush to wear on Read Me Day. The shirt is still at East Hickman and the children are in the third grade, but they are hoping that one day they will get to present it to Mrs. Bush. A few classrooms developed plays, readings and recitations to share with guests and other classes.

On Read Me Day, all faculty, students, and staff wore shirts with school appropriate messages on them. Parent participation was evident by the large number of personalized shirts that they had helped their children make. Even Superintendent Wayne Qualls got into the spirit of the day with his shirt declaring "The Boss."

Many classrooms had a guest who shared a favorite story, poem or essay. Many of the guests were from the community. Celebrities from the Grand Ole Opry, TV, radio, sports, and the press have been part of the classroom celebrations since the month long celebration began in 1987.

The reading of a proclamation from Governor McWherter officially declaring the last Friday in April as Read Me Day in the State of Tennessee was the first order of business during a school wide assembly culminating Read Me Day activities. Our guest reader for the 1991 Read Me Day assembly was Superintendent of Hickman County Schools, Mr. Wayne Qualls. He read "Pierre," a cautionary tale about a boy who didn't care.

"Book 'Em," a group in Nashville, Tennessee with a goal to promote reading, has adopted Read Me Day as a culminating activity. Book 'Em is spreading the idea of Read Me Day with the hopes that it will someday be a national celebration.

April 24, 1992, has already been declared Read Me Day in several mid-State systems.

School systems across the United States are encouraged to join with us in celebration of reading. Wear something with a "school appropriate" message on it and allow someone to read to you! Reading is fun! Reading is important! Reading is everywhere!

INTRODUCTION OF LEGISLATION TO REPEAL TAX INCREASES

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. DREIER of California. Mr. Speaker, President Bush recently acknowledged that the tax increase provisions of the 1990 budget agreement were a mistake. The engineer of that controversial budget deal, Dick Darman, made a similar statement on Sunday.

Given the overwhelming consensus that those tax increases were indeed a mistake, I am today introducing, along with many of my colleagues, H.R. 4565. This legislation repeals $154 billion of the income tax and excise tax increases enacted as part of the 1990 budget agreement.

Specifically, H.R. 4565 repeals the increase in the top tax rate to 31 percent; the increase in the alternative minimum tax; limits on itemized deductions; the phaseout of the personal exemption; excise tax increases; increases in highway, aviation, and gasoline taxes; new taxes on luxury items; new life insurance taxes; corporate tax increases; and Medicare, Social Security and unemployment payroll tax increases.

Mr. Speaker, the 1990 tax increases have seriously hampered our efforts to get the economy moving and people back to work. Studies show that we lost 400,000 jobs as a result of these tax increases, and most of the deficit reduction projected in the 1990 budget summit agreement has vanished as a result of the adverse impact of those new taxes on our economy.

Furthermore, Mr. Speaker, the House is scheduled to consider the Budget Process Reform Act, which would repeal the fiscal year 1993 discretionary spending caps. This would enable Congress to use defense savings to pay for increases in domestic spending rather than for deficit reduction.

Last year, House Democrats voted to break the budget agreement when it comes to scorekeeping. The only major provision that would remain is the largest tax increase in American history. It's only fair, then, that we should repeal the tax increases as well. If we're not going to use future defense savings to reduce the deficit, then the taxpayer, not special interest groups, should reap the benefits.

In light of the President's veto of the class warfare manifesto enacted by Congress last week, and the desire of many of my colleagues and I to continue pursuing a tax relief and economic growth package, I can think of no better medicine than to repeal the 1990 tax increases and require across-the-board spending cuts. In addition to stimulating the economy, H.R. 4565 will accomplish the original objectives of that budget agreement, which were to control the growth of Government spending, reduce the Federal deficit, and preempt a recession.

Mr. Speaker, H.R. 4565 is consistent with the President's position. I urge the rest of my colleagues to join us in support of this legislation to repeal the misguided and counterproductive 1990 tax increases.

STUDENTS OF ADVANCED TRAINING INSTITUTE OF AMERICA TRAVEL TO MOSCOW

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. JOHNSON of Texas. Mr. Speaker, I am rising today to present before this assembly the following young people studying in the Advanced Training Institute of America. They were invited by the Government of the Republic of Russia to travel to Moscow last November and initiate a restructuring of the Moscow education system around character and Biblical principles.

These young people traveled to Moscow November 7–21 on an airliner chartered by the Soviet General Department of International Air Services specifically for them. During their time in the Russian capital, the students visited schools, churches, orphanages, and homes. The American youth were also involved in special meetings with business professionals, church leaders, and high level government officials of the Kremlin, the federation building, and the Moscow City Supreme Soviet.

Among those leaders with whom they met were four officials in education who flew to America January 18–26, 1992, in order to discuss further the implementation of a character training program in the Moscow school system. These officials include the deputy minister of education in Russia—also the head of the Moscow Public Education Department—the chairman of the Moscow City Council Education Committee of the Moscow City Parliament, the senior superintendent of Moscow schools, and the superintendent of the southwestern district of Moscow.

The following young people represent those of whom one of these officials said, "In fifteen years, Russia will be a different country, and I believe my people will remember these young people as the ones responsible for that change."

Shannon Afentul (OK), Stephen Alexander (CA), Danielle Allison (PA), Jonathan Allison (PA), Sean Allison (PA), Tiffany Allen (TX), Carolynn Andersen (MN), Lee Ann Andersen (MN), Laura Armitage (IL), Christina Armstrong (WA), Jonathan Arn (FL), Matthew Austin (IA), Melissa Austin (IA), Bambi Baer (KY), Samuel Baer (KY).

Trevor Balman (IL), Wendy Balman (IL), Kristine Banker (GA), Brock Banks (IA), Kimberly Barber (GA), Jeff Barnett (ID), Timothy Barringer (TN), Michael Behmer (AL), Angela Bender (OK), Shawna Bethune (IL), Robert Blair (FL), Kyler Boudreau (IL), Dawn Bovey (MO), Jonathan Boyd (TX), Candace Boyle (CT), Thomas Boyle (CT).

Brandi Brace (KS), Holly Brace (KS), Angela Brandel (ID), Melissa Brown (TX), Dixie Brown (TX), Pamela Brown (TX), Kitri Bultman (MI), Bert Bunn (VA), Adrian Burwell (TX), Holly Cannon (OK), Laura Caproni (WA), Lisa Cave (TX), Tracey Ann Collins (OH), Joel Conwell (KS), Corin Copper (WA).

Kristi Copper (WA), Shawna Corley (TX), Yolanda Cowley (ID), David Cummings (WA), Jeff Cummings (WA), Grace Damen (OR), Karee Daniel (CA), Ashley Davis (GA), Matthew Davis (GA), Heiko Deiter (BC), Kirsten Deiter (BC), Teresa de la Garza (NC), Kevin Dennis (TX), Mandy Dennis (TX), Janna DePuc (SC), John Derr (OR).

Patricia Derr (OR), Ethan DeSota (MI), Todd Dixon (CA), Scott Domont (MI), Tiffany Donaldson (MT), Tracy Donaldson (MT), Kevin Douglass (NY), Katy Downhour (OH), Stephen Drake (OH), Tiffany Drake (CA), Susanna Dressier (IN), Annie DúBreuil (IL), Brian Duysings (WA), Philip Elie (MI), Timothy Elie (MI), Terri Ellison (TX).

Loren Elms (MI), Nils Engen (WA), David Evans (OK), Andrew Falk (IN), James Ferguson (OR), Michael Fessendoen (MO), Ashley Fitzgerald (GA), Christopher Fleming (GA), Todd Fluegge (MD), Quinn Ford (IN), Stephanie Flynn (IL), Lincoin Frakes (TX), David Frederick (OK), Jennifer Freeman (CA), Ruth Fritsch (WA).

Chad Fryer (GA), Ryan Fryman (OH), April Futhey (KS), Christian Gawin (WI), Craig Gendron (WI), Neil Gertner (CA), Mark Getz (IL), Stephanie Goranson (MN), Rebekah Greenlaw (TX), David Guy (TX), Shari Hallett (WI), Sharla Hallett (WI), Darren Hansen (BC), Laila Hansen (BC), Stephanie Hardwick (OH), Ellen Harmon (MI).

Nathan Hawkins (OR), Steven Hayes (OK), Titus Heard (OK), David Hill (OK), Karen Hill (OK), Tamara Hoaglund (IL), Clifford Holifleld (MS), Matthew Hoopes (CA), Julie Hovey (TX), Rod Hovey (TX), Hope Howell (KS), Clay Hunt (TX), Craig Hunt (TX), Paul Hurt (WA), Beth Hurley (GA), Mark Ingham (CO), Prem Jacob (IL), Danielle Jensen (IL).

Rochelle Jensen (CA), Kristen Johansson (CA), Daniel Johnson (AL), David Johnson (IL), Edward Johnson (CA), Thomas Johnson (CA), Jeffrey Jones (TX), Julie Jones (TX), Timothy Jones (IL), Trinnica Jones (OK), Angela Keilen (MI), Laura Killingsworth (GA), Anique Kinchen (TX), Nicole Kinchen (TX), Kirsten Kinzer (MN), Stacy Kirk (FL), Shellie Klein (OK), Michelle Krabill (OR), Kirstine Kristensen (ID), Jennifer Kuney (OK), David Lambert (IL), Jennifer Lamp (KS).

Wendy Lamp (KS), Nicholas Lancette (MT), Stacy Lawhorne (GA), Kathy Lawrence (CA), Karen Leddy (VA), Michael LeFebvre (OH), Deena Lent (GA), Erin Lester (KY), James Linn (TX), Timothy Love (WA), Dawn Marshall (MI), Joel Mattix (ID), Chad Max (MN), April May (TX), Jeremy McAllister (OR).

Leah McCann (TX), Nathan McCann (TX), Janie McFadin (TX), Sarah McFee (OR), Alan McKeen (MN), Nancy Ann McMillan (MS), Craig McNair (NZ), Mark McNair (NZ), Kristyn Meade (TX), Matthew Mears (IL), David Meeks (FL), Bruce Merrick (TX), Matthew Mitchell (MO), Laura Morgan (DE), Steven Nabors (GA), Ingrid Norman (NZ), Shelley Norman (NZ), Nathaniel O'Bryon (WI), Patrick Oja (MI), Robin Oja (MI).

Rebecca Olsen (VA), Kara Lee Olson (VA), Shannon O'Rourke (TN), Alexa Parmer (GA), Erica Panipinto (NY), Marc Perry (WA), Melissa Perry (WA), Karna Pickard (OK), Tamara Pierce (AL), Christina Pinkston (GA), Julie Popp (FL), Brian Pound (OR), Rebecca Pound (OR), Gregory Prescott (GA), Anthony Purkey (OR), Christiane Quick (NC), Kelly Quick (NC), Joshua Ramey (CA), Adam Randell (FL), Donna Reed (OH).

Sharon Reeder (TX), Joel Robbins (CA), Robert Robbins (CA), Kristin Roberson (IN), Candice Robinson (TX), Troy Robinson (MS), Dan Rosenquist (IL), Greg Rosenquist (IL), Stephen Ross (MI), Kieth Rumley (MI), Scott Rumley (MI), Cindy Sammons (TX), Scott Sammons (TX), Sandra Schmidt (IL), Phillip Schwind (CA), Michelle Sein (CO), Elizabeth Sharp (GA), Andy Shepherd (OK), Guy Sheperd (OK), Christy Shepley (NC), Michelle Shubin (OR).

Christopher Smith (NC), Joel Smythe (NY), Michelle Sommerfeld (MN), Rosalind Sommerfeld (MN), James Sorenson (WA), Monica Stahl (MI), Stephen Stahl (MI), Mark Stanley (MN), William Starks (FL), Joel Steege (OR), David Stockton (WA), Susan Stockton (TX), Michael Stolzfus (OH), Cherie Stubblefield (MO), Christie Stubblefield (MO), Tirikatene Sullivan (NZ), Brett Swank (MI), Jarrett Swank (MI), Brian Tenney (ID).

Tillery Timmons (TX), Raymond Tishenko (BC), Misty-Dawn Treadwell (CA), Eric True (CA), Heather True (CA), Pamela Tucker (TX), Jeffrey Ullrey (CO), Jerusha Umholz (FL), Susan Vaughn (TX), Victoria Vause (TX), Jeremy Von Ruden (OR), Kathleen Voyer (CA), Cynthia Voyer (CA), Amy Wall (GA), Bethany Wall (GA), Winston Walls (TX), Jennifer Walton (PA), Jill Walton (PA).

Jamie Ward (OK), Leah Watson (TX), Lucy Welch (AL), Robert Welch (AL), Deleese Weldon (TX), Julie Wilhite (CA), Christopher Wilkerson (MO), Lori Wilkerson (MO), Bret Williams (CA), David Winfrey (GA), Kelly Winfrey (GA), Crystal Winge (FL), Dawn Winge (FL), Page Winge (FL), Christina Yearden (WA), Steven Yoder (MN), Jason Young (MO), Lisa Youngberg (KS), Susan Youngberg (KS).

THE CRISIS IN UNITED STATES—ISRAEL RELATIONS

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. FEIGHAN. Mr. Speaker, today like no other time in recent memory, the United States-Israel relationship is in crisis. At a time when the close of the cold war presents the United States with an unparalleled opportunity to lead the world to a new era of peace and prosperity, the Bush administration has squandered its best chance to secure a comprehensive peace agreement in the Middle East.

It has done so both carelessly and needlessly.

How did we get to this point? The crisis we witness today is the direct result of the failure of the Bush administration to understand the region and its politics. It is a failure to differentiate between a peace process and real peace. And finally, the crisis results from the failure of both President Bush and Secretary Baker to appreciate the unique quality of the United States-Israel relationship which will be the foundation of any lasting peace agreement reached in this troubled region.

For me, it goes back to the March 1990 statements made by the President equating Israeli housing developments in Jerusalem to West Bank settlements. Jerusalem is the capital of Israel. Israelis don't settle there. They live there. On the eve of a crucial cabinet meeting in Israel, the President's remark had the effect of putting Jerusalem on the negotiating table right from the start. While the Israeli body politic was deeply divided over how to achieve a peace settlement, they were entirely unified in their feelings about Jerusalem—it is and shall remain the capital of Israel.

From that point on, we have seen a President obsessed with every aspect of Israeli settlement policy. That policy is a controversial one. It is controversial in Israel. But it should not be the issue that determines whether or not the United States-Israel relationship flourishes or founders.

For Israel, the stakes for its existence have never been higher than over the course of the last year. If we look back at the Gulf War, we have an unprecedented example of a nation being asked to leave itself open to ballistic missile attacks. For Israel, restraint wasn't a tactical compromise. It was an unprecedented detour from Israel's strategic doctrine—namely that no attack against Israel can go unpunished. In order to prevent Arab defections from the anti-Iraq coalition, President Bush, in effect, asked Israel not to be Israel. Israel, against its instinct and its military doctrine, complied.

That same theme applies to recent debate over the loan guarantees. Since its creation, Israel's mission has been to provide a place for the in-gathering of Jews from around the world. Whether it was Soviet refugees or the Ethiopian Jews, the State of Israel provided not just housing and assistance, but a home in a new society. For five decades, the United States has assisted in that effort, providing bilateral assistance as well as important advocacy work on behalf of Soviet refuseniks who were literally held hostage by the capricious and inhumane immigration practices of the former Soviet Union.

It was the collapse of the Soviet Union and the opening of gates that has brought Israel to the brink of fulfilling its historic mission. The trickle of Soviet Jews coming to Israel in the early 1980s has turned into a flood, with nearly 1 million Soviet Jews expected to arrive over the next 5 years.

The task of absorbing these refugees falls to Israel. The magnitude of the job is stunning. To understand it better, we must imagine a country the size of the United States absorbing an entire nation the size of France. Naturally, Israel is looking to the United States for help. Not a free lunch. Not cash. Not even loans. Israel is asking the United States for loan guarantees which will allow them to borrow the money that otherwise would not be available. Given Israel's perfect repayment record on its current United States obligations, the risk to the United States is miniscule. The cost to the United States is zero since Israel has even agreed to pay for the United States costs of administering the program. At the same time, Israel will call on its own citizens as well as Jews from around the world to assist in the absorption process.

President Bush refuses to lend his support to this effort. During the gulf war last year, the administration asked that Israel suspend its loan guarantee request until the fall. In the fall, the President asked for and got a 120-day pause for peace so as not to jeopardize the emerging round of peace talks. Now, when it comes time to sit down and talk about the loan guarantees, the President demands a settlement freeze as a condition of receiving the U.S. guarantees.

Once again, the President seems determined to insert himself into Israel's domestic political debate. The Likud-led government is committed to the settlements. The call for a freeze simply boxes Israel in, asking it to choose between the settlements and the loan guarantees needed to fulfill its mission. Many people believe the President is trying to bring down the Shamir government in the hopes that a Labor Government will show more flexibility. That is a high stakes strategy. For even if Prime Minister Shamir loses the election, President Bush will find Labor leader Yitzhak Rabin just as committed to Jerusalem and to those settlements—the majority of them—which are deemed necessary for Israel's security. Rabin would most likely suspend what he considers political or ideological settlements, but neither he nor Shamir will compromise Israel's security no matter how heavy-handed the pressure from Washington.

If the President's strategy is wrong, his tactics are worse. Last fall, he stunned Jewish leaders and pro-Israel lawmakers by his attack on a planned lobbying trip made by Jewish activists from around the country. The President's notion of claiming to be one lonely guy fighting against powerful political forces seemed a loose code for the canard of a Zionist conspiracy trying to control the government.

While the President quickly followed with an apology, damage was done to the President's already sinking credibility on Middle East issues. That credibility took an additional hit—an incredible one—in the form of a leaked slur reportedly uttered by his Secretary of State and campaign guru, James A. Baker. In a private meeting, when the discussion turned to how the loan guarantee issue would hurt the Presidential campaign among Jewish voters, Baker is alleged to have uttered an obscenity in dismissing American Jews and their voters.

I hope this story is false. If true, the slur calls into question the commitment of the Bush administration to leave behind the bigotry and racism that stains our society. At the very least, it would be a return to the Bush/Baker formula of government of the polls, by the polls and for the polls.

That's not a strategy for a credible foreign policy and it is certainly not a program for a lasting peace in the Middle East. Instead of baiting America's best friend and ally in the Middle East, the President and his Secretary of State should return to a path guided by some bedrock principles about the United States and Israel:

That we are both democracies. By definition, Israel is harder to work with than either Saudi Arabia or Syria—or China—because the Israeli leadership is ultimately responsible to the people for the decisions they make.

That Israel is our strongest and most reliable ally in the region and that a strong United States-Israeli relationship is also in our best interests. Our commitment is to the State and people of Israel and not to a particular government in power.

That Israel deeply wants peace. But peace will only come when it feels its security can be guaranteed. Surrounded by hostile neighbors, Israel does not have the luxury to make a single mistake when it comes to questions of national security.

If the administration is concerned about the peace process, it must understand that the cornerstone of that peace hinges on the strength, the depth and the breadth of the United States-Israeli relationship. That relationship is in crisis. Our job now is to restore confidence, to help give Israel the strength it needs to make peace. Not by assenting to every policy of the Government of Israel, but by understanding that a strong United States-Israel relationship is in our own best interests.

The United States is stronger because we have a strong, reliable ally in an area of strategic importance in the world. America's interests are advanced by supporting another vibrant democracy in a region where democracy is still not the order of the day. And United States policy is strengthened when we carry out the moral commitment we have as a Nation to the security of the Jewish state.

While the negotiations over loan guarantees have ended for the time being, both Israel and the United States face a choice over the future of the relationship. For Israel, all decisions seem to be on hold until the June elections. For the United States, the Bush administration would be well-advised to cease its verbal hostilities with Israel. Instead, our leaders should remember that every past episode of successful American diplomacy in the Middle East has been the outgrowth of our bedrock support of and close cooperation with the State of Israel.

If the Bush administration wants to move forward, it must first bring our policy back to these basics.

ELEMENTARY SCHOOL COUNSELORS PROVIDE THE FIRST LINE OF SUPPORT FOR MANY AMERICAN CHILDREN

HON. C.W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. YOUNG of Florida. Mr. Speaker, we are all aware of the increasing pressure our children are under as they grow and learn.

Society's problems of drugs, alcohol abuse, and pregnancy once were reserved for students in high school. It wasn't long before they found their way into our middle and junior high schools. Today, these problems, and many others, burden our elementary school students as they begin their school careers.

Wilma Norton of the St. Petersburg Times, my hometown newspaper, spent a day with Jan Johnston, a guidance counselor at the Rio Vista Elementary School in St. Petersburg, FL as she worked her way through a day full of helping our youngest students with their problems while providing encouragement and support for many others. Following my remarks, I will include the full text of this story so that my colleagues can better understand the important role elementary school guidance counselors play in helping our children through the many problems that arise in their young lives, most of which are not even related to academic performance.

Wilma Norton, in her story, writes of the counselor's traditional roles of teaching classes on careers and values and getting students whatever help they may need. She writes, though, that,

> Increasingly, their most important role is simply listening to children—few others have the time these days.

She reports that Jan Johnston regularly is confronted with situations where children,

> Threaten suicide before they learn to ride a bike; who raise their hands in class to announce their parents aren't splitting up after all; who tell the teacher their crying makes Daddy stop hitting Mommy; who get no sleep because an older sibling threatens to burn the house down during the night; who are so desperately behind the other kids their age because they were exposed to crack in the womb and uttered no sounds until after age 2.

Legislation I have cosponsored, H.R. 840, the Elementary School Counseling Demonstration Act, recognizes the increasingly important role elementary school guidance counselors play in helping our children deal with the pressures society has placed upon them. I commend my colleague from Michigan, CARL PURSELL, who sponsored this legislation which would enhance the availability and quality of counseling services for elementary school children by providing competitive grants of up to $200,000 per year to local educational agencies to establish effective and innovative elementary school counseling programs that will serve as national models.

Linda Lee Schwartzkopf, a constituent and guidance counselor at the Pinellas Central Elementary School in Pinellas Park, Florida, first called to my attention the overwhelming need for support of these innovative types of services. The stories Linda, Jan, and other elementary school guidance counselors tell us about the problems facing our children at such an early age are disconcerting and emphasize the need to find innovative ways to provide support to these students. Elementary students are at the critical formative age and their future success in school is in most cases determined by their first few years in school.

Finding ways in which to help students adjust to problems at home and in school will better enable them to focus on their studies and prepare them for their advance to middle, junior, and senior high school.

[From the St. Petersburg Times, Feb. 2, 1992]

COUNSELOR'S DAY SWINGS FROM FUN TIMES TO CRISES

(By Wilma Morton)

ST. PETERSBURG.—The party is in full swing. Fifty children, all with December birthdays, are slurping down vanilla ice cream with colored sprinkles and chocolate sauce.

Guidance counselor Jan Johnston is the eye of this hurricane. She's patting each child on the head and is wishing them happy birthday as they walk in. She's moving between the tables, over-seeing the presentation of a small gift to each—a pencil, a tiny cellophane parachute, a superball, a glow-in-the-dark worm, a sparkly bracelet. She's leading the games.

This is fun.

The party winds down, and she sends the kiddos back to class. Four more minutes and another day at Rio Vista Elementary School will be over.

But there's one more item of business.

She reaches into her pocket. There is a penciled note on crumpled white paper, written by a second-grader.

No one likes me, the child writes. I don't like myself.

The child, the note says, wants to die tonight at 8.

Not every day is so dramatic for an elementary school guidance counselor like Johnston, swinging from pure fun to near panic. But enough of them are.

Elementary school should be about ice cream sprinkles, learning to read and hugs. And it still is.

Increasingly, though, it also is about children who threaten suicide before they learn to ride a bike; who raise their hands in class to announce their parents aren't splitting up after all; who tell the teacher their crying makes Daddy stop hitting Mommy; who get no sleep because an older sibling threatens to burn the house down during the night; who are so desperately behind the other kids their age because they were exposed to crack in the womb and uttered no sounds until after age 2.

"These kids come to school with so much more stuff," Johnston says, "Divorce, death in the family, a move, a big parental fight, their lights turned off, a parent going to jail. You can't expect them to do math and science and social studies with all that on their minds.

"Young children are so self-centered, they think everything that happens is somehow a reflection of them," she says. "A lot of kids have real self-esteem problems. They don't feel good. They don't know why. It's just an overall depressed kind of esteem."

The idea of a guidance counselor for children still nearly a decade from college may seem strange to some. Elementary guidance isn't new, by any means. Pinellas County, for example, began adding counselors to elementaries in the late '70s.

Every state has guidance counselors in at least some of its elementary schools; they are mandatory in 12 states, although Florida isn't one of them.

Elementary guidance counselors teach classes on careers and on values, and they help children get whatever other help they need. But increasingly, their most important role is simply listening to children—few others have the time these days.

"They don't often have somebody to talk to," Johnston says. "The classroom teacher is the ideal person, but with the growing numbers (of students) they have, they don't have 30 minutes to sit down and talk to a child that's hurting."

Moreover, by middle school and high school, even guidance counselors don't have the time. They're academic advisers, spending most of their time devising class schedules, helping coordinate plans for post-high school education and keeping track of mountains of paperwork.

"The higher in education you go, the more impersonal it gets," says Jim Montgomery, who oversees counseling in Pinellas schools. "If you don't identify problems very early on, at the elementary age, by the time they get to middle and high school, it's too late."

Those problems are becoming more complex. Across the country, child advocate groups are pushing the idea of guidance counselors in elementary school. The Children's Defense Fund cites these statistics as a primary reason:

Every day, 2,989 American children see their parents divorced.

Every 26 seconds, a child runs away from home.

Every 47 seconds, a child is abused or neglected.

Every day, 100,000 children are homeless.

Every school day, 135,000 children bring guns to school.

Every eight seconds of the school day, a child drops out.

And those are just the crisis situations, the report says. Without comprehensive elementary counseling, at a recommended ratio of one counselor for every 300 students, the report says too many children's problems will go undetected.

"Those who don't cause trouble, who pass tests but don't excel, may be at risk of not reaching their potential and may be suffering inside," the report says.

In Pinellas, most elementary schools have one counselor, although some of the small schools share a counselor. Each counselor may have from 460 to 1,000 children, depending on the size of the school, but the average is 1:697. Across the state, the average ratio of elementary counselors to children is difficult to pin down, but it appears to be in the neighborhood of 1:735.

For Johnston, a former P.E. teacher and 11-year veteran of elementary counseling, the job involves interspersing the crises with activities to head off disaster, with teaching and with fun.

She has regular group discussions with children whose parents are divorcing, who have had a death in the family, who have a poor opinion of themselves, who have trouble controling their emotions.

She also talks with children individually about personal problems. She acts as the coordinator of all sorts of testing, social work and psychological evaluations.

In the time that's left, she throws birthday parties, puts on a weekly "Happy Room" for children designated by their teachers as deserving of praise and teaches classes about careers and positive self-esteem.

With the children, she is calm, loving and shows them she can be a real person, someone who likes to play football for fun. Between sessions with kids, she's in a perpetual state of near breathlessness, trying to keep up with all the things she has made mental and written notes to do.

Sometimes, she even sticks Post-It notes to her sleeves so she won't forget anything.

Her day is one of non-stop motion. Up and down stairs, room to room. "I don't wear tennis shoes, but sometimes I think I should," she says.

A TYPICAL DAY

A day with Jan Johnston shows how scary the world has become for children, even for children like those at Rio Vista Elementary, most of whom live in comfortable northeast St. Petersburg neighborhoods with an average household income that is near or above the county average and where two-thirds of the residents own their own homes.

A day with Jan Johnston also shows the truly amazing resilience of children and the adults who try to help them.

This morning begins at 7:30, only 24 minutes after sunrise on a cold, gray December morning, one of those Florida mornings that makes 55 degrees feel like 25. Johnston is shivering beside Macoma Drive, taking her turn at helping children cross the street safely. She has an umbrella tucked under her arm; she clutches to her chest a book of self-esteem programs for children, open to the page titled "The Emotional Value of Positive Action."

Once she leaves this corner 30 minutes later, Johnston won't stop for several hours.

She oversees a skit broadcast during morning announcements, one that talks about the real value of money and possessions. She helps run interference between a teacher and a child who has pushed that teacher to her limit. She meets with the school social worker about a group of children who may be in physical danger at home and with the school psychologist to talk about what tests, treatments and therapy four children may need.

And she heads into the classroom to teach a group of fourth-graders about kindness, fairness, honesty, respect, courtesy and patience. Or as much about those subjects as she can in 15 minutes.

Sometimes it is in these classes that she sees the warning signs of a child who needs her help. Not long ago, while talking about conflict, she asked some children why they cry.

One boy who raised his hand said he cries, "so my Mom and Daddy will stop fighting. When I do, he doesn't hit her any more." The fighting is worse, the boy said, when they drink.

"In the back of my mind, I'm making a note to check on him later, while I'm trying to move on," she says.

On this day, as she leaves the class, she makes another mental note.

She wants to have a chat with one of the girls, "a perfect kid," who started crying uncontrollably a day or so ago after she was reprimanded by the teacher.

"Usually, when something like that happens, something is going on at home," Johnston says.

She moves on to four second-grade boys, who all have trouble controlling their anger. Johnston gathers them in a circle on the floor of her office, a small, closet-like room decorated with funny posters, pictures of her own three children and games that involve Velcro-covered balls and darts without sharp points.

For the next six weeks, she explains, this group is going to get together once a week to talk. "We don't put people down here," she says. "We don't crack on each other."

Johnston lays a sheet of red paper in the center of the circle. She asks them to tell her things you can do when you're angry. She writes down their answers:

Body slam. Throw things. Punch. Shove. Stab. Shoot.

She turns over the paper and asks them to try again, this time with positive things: Play basketball. Exercise. Walk away. Tell the person that they are saying hurtful things.

By the end of the six weeks, she hopes some of these things will help the children cope.

"In this office, it's one small step at a time, and you often don't get to see the end of the story."

If you stop long enough to think about this stuff, Johnston says, it will make you crazy.

To cope, you try to keep your emotions out of it, even though that's hard when the children seem like such babies. You try to leave it at school, even though a suicidal second-grader keeps you awake at night. You try to stay within the legal and ethical boundaries set by the system, even though the solution may fall outside the rules.

Some of her salvation comes from going home to her own family, her husband and three sons, Zachary, 12, Colby, 9, and Tyler, 4. "You give your all all day, and then you go home, put on a smile and face your own children."

Her husband, William, is in sales, not education, which holds down the "shop talk" at home.

And, she says, the fevered pace she keeps all day helps, too. "I'm a very hyper person. I tend to use a lot of energy. I guess I burn it off as I go."

KEEP AN EYE ON THIS

As the morning wears on, it's time for a series of individual conferences with children having family problems.

If she meets with a child only once or twice, she doesn't necessarily call the parent. But if it's an ongoing communication, she lets the parents know. Rarely is that a problem; most are appreciative.

Still, there are those times when a parent tells Johnston to mind her own business. That can put her in a difficult position: Ethically, she is bound to honor the parent's wishes. Morally, she worries that something horrible can happen that she might have been able to prevent.

"All you can do is talk to the teacher and say, 'Keep an eye on this,'" she says. "Your gut instinct, at times, conflicts with the boundaries.".

She takes time for a quick sandwich before she gathers a group of five little girls who have self-esteem problems, leading them down the hall to her office for one of those sessions on the floor. "I think this is how a mother duck feels with all the little ducks behind her," she says.

Then, it's time for a career lesson on mass production for a group of third-graders. In about 20 minutes, the class sets up an assembly line, produces a product (a construction paper bracelet with the word HOLIDAYS stamped on it), sells and distributes the bracelets. Some children are assigned to be bosses, others custodians, food service workers and accountants.

One more hour, and the day is done.

So, it's party time.

A volunteer mother is in the kitchen, scooping vanilla ice cream into 50 little bowls. Other volunteer teachers are setting up the ice cream, garnishing it with sprinkles and chocolate sauce.

Some people may think this birthday party stuff and the weekly Happy Room are just excuses for organized fun, but Johnston says she sees a deeper need, a need to make children feel good.

"In effect, you have 50 kids who are very special that day. Many of them may not spend much of their school life feeling good about themselves."

Which brings us to the note in her pocket, the one from the small child who wants to die.

When Johnston pulls the note from her pocket, just moments before the bell rings, she hurries to the child's classroom and calls the child outside. The two walk slowly down the hall to Johnston's office, the counselor's arm protectively around the child's shoulders. For the three minutes or so left in the day, Johnston and the child huddle inside the office door, talking quietly.

The child leaves smiling.

Johnston takes a deep breath and heads back out for safety duty on the corner, exactly six hours after she left it this morning. As she stands in the street and motions cars to a halt, she's still thinking about the child who wrote the note.

She thinks tonight will pass uneventfully. But tomorrow night and the night after? She just doesn't know.

DEDUCTIBILITY OF ADVERTISING

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. ANDREWS of Texas. Mr. Speaker, advertising is, of course, the economic engine that provides the resources necessary for the media to supply the information the public needs and wants. Without advertising, media would become a State-run enterprise with all the constraints and burdens that entails.

Advertising is, however, constantly under attack by one force we all know too well: the tax collector. There have been repeated attempts at both the legislative and executive branch levels to limit the deductibility of advertising. These attempts have all failed so far, but it is important to be vigilant in monitoring legislative and administrative efforts to cut back this deduction.

There are three ways in which this deduction has been under attack. First, legislation has been introduced that would limit the amount of the deduction. Second, a recent Supreme Court decision has opened the door for the Internal Revenue Service to require capitalization of some advertising expenses. Third, recent legislation creating a 14-year amortization of intangible assets will focus the spotlight on created intangibles in the future, thus raising the question of whether advertising expenses may be forced to be amortized.

Revenue raising has been the single biggest reason that legislation has been introduced to restrict the deductibility of advertising. For example, in 1983 the deduction for advertising cost $72 billion in lost Federal revenues. The number has probably increased since then.

The debate over limits on the deduction of advertising costs began formally in the spring of 1986 when the Senate Finance Committee was searching for new sources of revenue to pay for the rate reduction in the 1986 Tax Reform Act. A list of 25 revenue-raising proposals sent by the Treasury Department to then-Finance Committee Chairman BOB PACKWOOD included a proposal to disallow, as a deduction, 20 percent of all advertising costs. The proposal was never formally taken up by the committee.

It has been argued that the advertising deduction should be examined in relation to how competitive the deduction makes us in relation to the research and development tax credit or a targeted investment tax credit. This is a dangerous argument in that it ignores the important role that the media play in making our economy competitive. The United States enjoys a trade surplus in many forms of media, and reducing the deductibility of advertising could hinder the ability of U.S. media to compete in the world marketplace.

In 1987, the Joint Committee on Taxation and the Committee on Ways and Means staffs issued a publication referred to as the "Options Book" that identified limits on the deduction of advertising costs as a prospective source of revenue. This book outlined four specific options, including a requirement for a 4-year amortization of 20 percent of advertising costs, denying the deduction for 20 percent of corporate advertising costs, and amortizing the remainder over 2 years for firms over $5 million of gross receipts, and denying the advertising deduction and promotion expense deduction for tobacco products and alcohol products.

So far, legislative attempts to restrict the deductibility of advertising have been unsuccessful. However, there is activity at the executive branch level regarding the deductibility of advertising.

The Supreme Court decision in Indopco versus Commissioner of Internal Revenue, handed down on February 26 of this year, let stand an IRS decision to deny deductions for corporate takeover costs. Although this unanimous decision does not directly apply to advertising, it does create a broad precedent that would allow the IRS to require capitalization of advertising expenses in some circumstances.

A recent article in the Wall Street Journal reported that the decision "could embolden the IRS to deny deductions for expenditures on such things as factory repairs, employee training, environmental cleanups, and advertising."

The third issue concerning the deduction springs from the recent tax legislation passed by the Congress and vetoed by President Bush allowing a 14-year amortization of intangible assets, including goodwill. Committee on Ways and Means Chairman DAN ROSTENKOWSKI introduced this legislation to end the disputes between taxpayer and the IRS over the amortization of intangible assets acquired as part of the purchase of a trade or business.

The bill specifically exempts from 14-year amortization any costs that may create intangible assets, such as advertising. While Chairman ROSTENKOWSKI specifically stated at the first day of hearings on the bill that advertising is off the table, staff of the Joint Committee on Taxation have noted that the adoption of this legislation will focus the spotlight on created intangibles in the future.

Along this line, the General Accounting Office in August 1991 released a study that recommends that a broad range of intangible assets be permitted to be amortized for tax purposes when acquired as part of the purchase of a trade or business. While the GAO report did not directly address created intangibles, it suggests that because the cost of creating goodwill with advertising results in less favorable treatment of purchased goodwill than of other purchased assets, the costs of creating goodwill are treated more favorably under tax law than creation costs of other assets. This opens the door to additional future threats to the deductibility of advertising.

In the previous two Congresses, Senator BILL BRADLEY and Congressman PETE STARK have introduced legislation to eliminate the tax deduction for tobacco advertising. I have supported this legislation, but it has not been reintroduced in the 102d Congress.

Smoking is the No. 1 preventable cause of death in this country. The habit starts early in life. Fifty percent of all smokers start by sixth grade. Ninety percent start by age 19.

Everyone here has seen the Old Joe Camel cartoon advertising. Children have, too. Six-year-olds now recognize Old Joe as readily as the Mickey Mouse logo used by the Disney channel.

Before the Old Joe advertising campaign began, less than 1 percent of Camel smokers were under age 18. Today, one-third of Camel smokers are under age 18.

The tobacco industry spends $3 billion a year for advertising because they have to replace the 1,000 people who die from smoking each day and the 2,000 people who quit smoking each day.

An alternative approach to curbing tobacco advertising is a counter advertising program like California has. The California approach has been to increase tobacco taxes and run anti-tobacco ads. This approach has caused teenage cigarette sales to fall by 12 percent.

I have in the past introduced legislation to increase the tobacco tax and pay for counter-advertising, and I plan to do so in the future.

Our current tax policy is sound. The tax treatment of advertising costs is governed by the same general principles applicable to all other business expenses. The recurring nature of an expense in roughly the same amounts each year suggests that the benefits of the expense do not last beyond that year.

Restricting the deductibility of advertising would put an unfair, uneconomic burden on the media and would be unwise tax policy.

CLAYMONT MUSTANGS' WRESTLING TEAM

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, March 25, 1992

Mr. APPLEGATE. Mr. Speaker, I rise today to pay tribute to one of the most outstanding wrestling teams in my eastern Ohio district. On March 14, 1992, the Claymont Mustangs took home the Division II State Championship title for the first time. Coach Eric Toukonen, who has been a wrestling coach at Claymont for the past 13 years and head coach for the past 9 years, was named Division II Ohio High School Coach of the Year. This is the first time any school in Tuscarawas County has ever won a wrestling championship and the first time Claymont has ever won a boys' championship in any sport.

Senior Ryin McDaniels won the State championship for his weight class division (140 lbs). Senior Scott McDaniels won second place for the 112-pound division, and Craig Shaw won second place for the 119-pound division. Qualifiers are senior Kirk Henry, and juniors Scott Shaw and Jeff Abel. Varsity letter winners for the team are as follows: Kurtt Peters, Jason Shaw, Tim Zurcher, John Heavilin, Marc Vermillion, Demi Carrothers, Jason Johnson, Todd Johnson, Troy Beckley, Deric Vanderpool, Jason Freeman, Chad Mehok, and Eric Seibert.

Eric Toukonen, along with his assistant coach, Mel Peters, and his reserve coach, Bob Johnson, has much to be proud of. The hard work and dedication of the coaches, varsity, and reserve teams made this impressive victory possible.

Mr. Speaker, it is my distinct privilege and honor to ask my colleagues to join with me in acclamation of the Claymont Mustangs' wrestling team for their championship title and well-deserved victory.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, March 26, 1992, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

MARCH 27

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Animal and Plant Inspection Service, the Food Safety and Inspection Service, and the Agricultural Marketing Service.

SD-138

Armed Services

Strategic Forces and Nuclear Deterrence Subcommittee

To hold hearings on proposed legislation authorizing funds for fiscal year 1993 for the Department of Defense, focusing on nuclear weapons issues and activities of the Department of Energy Defense Laboratories, and to review recommendations made by the Defense Nuclear Facilities Safety Board.

SR-222

10:15 a.m.

Governmental Affairs

To hold hearings to examine health risks associated with lead in ceramic tableware and leaded crystal.

SD-342

MARCH 30

10:00 a.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for energy and water development programs.

SD-192

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1993 for energy and water development programs.

SD-192

MARCH 31

9:00 a.m.

Small Business

Innovation, Technology and Productivity Subcommittee

To hold hearings on proposed legislation authorizing funds for the Small Business Innovation Research program of the Small Business Innovation Development Act.

SR-428A

9:30 a.m.

Energy and Natural Resources

To hold oversight hearings on the implementation of the Department of Energy's civilian nuclear waste program mandated by the Nuclear Waste Policy Act.

SD-366

10:00 a.m.

Foreign Relations

To hold hearings to examine U.S.-Indochina policy.

SD-419

APRIL 1

9:30 a.m.

Select on Indian Affairs

To hold hearings on proposed legislation to authorize funds for programs of the Indian Health Care Improvement Act.

SR-485

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Commerce.

S-146, Capitol

Appropriations

Treasury, Postal Service, General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Office of National Drug Control Policy.

SD-192

2:00 p.m.

Appropriations

Energy and Water Development Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for energy and water development programs.

SD-192

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1174, to establish the Cache La Poudre River National Water Heritage Area in Colorado, S. 1537, to designate the American Discovery Trail for study to determine the feasibility and desirability of its designation as a national trail, and S. 1704, to improve the administration and management of public lands, National Forests, units of the National Park System, and related areas by improving the availability of adequate, appropriate, affordable, and cost effective housing for employees needed to effectively manage the public lands.

SD-366

APRIL 2

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Deposit Insurance Corporation, and the Resolution Trust Corporation.

SD–116

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on S. 664, to require that health warnings be included in alcoholic beverage advertisements.

SR–253

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Defense, focusing on manpower, personnel, and health programs.

SD–192

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Transportation Safety Board.

SD–138

APRIL 3

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Agricultural Stabilization and Conservation Service, the Foreign Agricultural Service, the General Sales Manager, and the Soil Conservation Service.

SD–138

APRIL 6

10:00 a.m.

Judiciary

Patents, Copyrights and Trademarks Subcommittee

To hold hearings on cable compulsory licenses.

SD–628

APRIL 7

10:00 a.m.

Appropriations

Agriculture and Related Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Agriculture, focusing on the Commodity Futures Trading Commission, the Food and Drug Administration, the Farm Credit Administration, and the Farm Credit System Assistance Board.

SD–138

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Bureau of Investigation, and the Drug Enforcement Administration, Department of Justice.

S–146, Capitol

2:00 p.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Forest Service, Department of Agriculture.

S–128, Capitol

2:30 p.m.

Select on Indian Affairs

To hold hearings on S. 1752, to provide for the development, enhancement, and recognition of Indian tribal courts.

SR–485

APRIL 8

9:30 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to review the legislative recommendations of the AMVETs, American Ex-POWs, Jewish War Veterans, Non- Commissioned Officers Association, National Association for Uniformed Services, and Society of Military Widows.

SD–106

10:00 a.m.

Agriculture, Nutrition, and Forestry

To hold oversight hearings on the Department of Agriculture's field structure.

SR–332

Appropriations

Treasury, Postal Service, General Government Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Office of Management and Budget, and the Executive Residence.

SD–116

Commerce, Science, and Transportation

To hold hearings in conjunction with the National Ocean Policy Study on proposed legislation authorizing funds for fiscal year 1993 for the U.S. Coast Guard.

SR–253

2:00 p.m.

Appropriations

Labor, Health and Human Services, Education Subcommittee

To hold hearings on childhood vaccine research and development issues.

SD–192

Armed Services

Defense Industry and Technology Subcommittee

To hold hearings on national and defense technology policies and initiatives.

SR–222

Foreign Relations

European Affairs Subcommittee

To resume hearings to examine U.S. assistance to the new independent states of the former Soviet Union.

SD–419

APRIL 9

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Defense, focusing on strategic programs.

SD–192

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Oceanic and Atmospheric Administration, and the Small Business Administration.

S–146, Capitol

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for Amtrak, and the Federal Railroad Administration, Department of Transportation.

SD–138

Veterans' Affairs

To hold oversight hearings on proposed legislation on homeless veterans.

SR–418

APRIL 19

10:00 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Defense.

SD–192

APRIL 28

9:00 a.m.

Office of Technology Assessment Board meeting, to consider pending business.

Room to be announced

10:00 a.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Smithsonian Institution.

SD–116

Veterans' Affairs

To hold hearings on proposed legislation relating to the education and employment of veterans.

SR–418

APRIL 29

10:00 a.m.

Appropriations

Commerce, Justice, State, and Judiciary Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the U.S. Information Agency, and the Board for International Broadcasting.

S–146, Capitol

APRIL 30

9:30 a.m.

Appropriations

VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Housing and Urban Development.

SD–G50

10:00 a.m.

Appropriations

Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Transit Agency, and the Washington Metropolitan Area Transit Authority.

SD–138

MAY 5

2:00 p.m.

Appropriations

Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Park Service, Department of the Interior.

S–128, Capitol

MAY 6

9:30 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee

To hold hearings on S. 2297, to enable the United States to maintain its leadership in land remote sensing by providing data continuity for the Landsat program, by establishing a new national land remote sensing policy.

SR-253

Rules and Administration

To hold hearings on S.J. Res. 221, providing for the appointment of Hanna Holborn Gray, of Illinois, as a citizen regent of the Smithsonian Institution, and on other regent appointments.

SR-301

Select on Indian Affairs

To resume oversight hearings on the implementation of the Indian Gaming Regulatory Act (IGRA).

SR-485

10:00 a.m.

Rules and Administration

To hold oversight hearings on the Smithsonian Institution.

SR-301

MAY 7

9:30 a.m.

Appropriations
VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Veterans Affairs, and the Court of Veterans Affairs.

SD-124

10:00 a.m.

Appropriations
Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the U.S. Coast Guard, Department of Transportation.

SD-138

MAY 12

9:30 a.m.

Appropriations
Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Energy.

SD-116

MAY 13

9:30 a.m.

Rules and Administration

Business meeting, to consider pending calendar and administrative business.

SR-301

MAY 14

9:30 a.m.

Appropriations
VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Emergency Management Agency.

SD-124

10:00 a.m.

Appropriations
Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Federal Aviation Administration, Department of Transportation.

SD-138

MAY 19

10:00 a.m.

Appropriations
Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Bureau of Indian Affairs, Department of the Interior.

SD-116

MAY 20

2:00 p.m.

Appropriations
Interior Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the U.S. Fish and Wildlife Service, Department of the Interior.

S-128, Capitol

MAY 21

9:30 a.m.

Appropriations
VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the National Community Service, and the Points of Light Foundation.

SD-116

10:00 a.m.

Appropriations
Transportation Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the General Accounting Office.

SD-138

MAY 22

9:30 a.m.

Appropriations
VA, HUD, and Independent Agencies Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1993 for the Department of Housing and Urban Development and certain related agencies.

SD-138

JUNE 9

10:00 a.m.

Appropriations
Interior Subcommittee

To hold hearings on proposed budget estimates for the Department of the Interior.

S-128, Capitol

2:30 p.m.

Appropriations
Interior Subcommittee

To continue hearings on proposed budget estimates for fiscal year 1993 for the Department of the Interior.

S-128, Capitol

SENATE—*Thursday, March 26, 1992*

The Senate met at 9 a.m. and was called to order by the Honorable HERB KOHL, a Senator from the State of Wisconsin.

The PRESIDING OFFICER. Today's prayer will be offered by our guest chaplain, the Reverend Richard D. Schieber, of the Zion Evangelical Lutheran Church, Sandusky, OH.

PRAYER

Rev. Richard D. Schieber offered the following prayer:

Let us unite in prayer.

Gracious and holy God, You enter into all occasions of our lives. Keep us faithful in acknowledging Your presence in the midst of our daily service.

Be present in this place of discussion, dissent, and decisions, of creative ideas, old and new. Fifty States—of mind, geographical distinctness, political, social, and personal needs are equally represented here. Let interchanges be vibrant, let all persons and natural resources be respected, and the communities of our Nation and world be responsibly served for the common good.

In mutual service, may leaders and constituents have vision for mission to serve You and one another, be wise in counsel, unwavering in duty, upholding the honor of our Nation, affirming our world community, and setting forward every righteous cause. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, March 26, 1992.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HERB KOHL, a Senator from the State of Wisconsin, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. KOHL thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADERSHIP TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11:30 a.m., with Senators permitted to speak therein for a period of time. The Senator from New Jersey [Mr. BRADLEY] is recognized to speak for up to 40 minutes.

RACE AND THE AMERICAN CITY

Mr. BRADLEY. Mr. President, a campaign season should be a time for candid truth as well as a time for partisan charges, and nowhere is this more needed than in the consideration of the issue of race and the American city. I come to the floor today to offer some thoughts on that subject.

Mr. President, slavery was our original sin, just as race remains our unresolved dilemma. The future of American cities is inextricably bound to the issue of race and ethnicity. By the year 2000, only 57 percent of the people entering the work force in America will be native-born whites. That means the economic future of the children of white Americans will increasingly depend on the talents of nonwhite Americans. If we allow them to fail because of our pennypinching or timidity about straight talk, America will become a second rate power. If they succeed, America and all Americans will be enriched. As a nation, we will find common ground together and move ahead together or each of us will be diminished.

Mr. President, I grew up in a small town located on the banks of the Mississippi River, a multiracial, multiethnic factory town in which most of the people were Democrats. My father was a local banker and a nominal Republican. The town had 1 stop light and there were 96 in my high school graduating class. The big city, St. Louis, MO, was something we were not.

I left that small Midwestern town and went to college in New Jersey in another small town, spending most of my time in an even smaller town, the campus, except to travel to places like Philadelphia, New York, or Providence to play basketball. I graduated and spent 2 years in England at a slightly larger college town and then went to New York where for the first time I lived in a big city.

The city for me was always about race as much as it was about class or power or fashion. Maybe that was because I was a professional basketball player in New York and was working in a kind of black world. This was before I had any real knowledge about the welfare system, the courts and prisons, the nature of an urban economy, or the sociology of neighborhoods. But if I paid attention, I saw the city through the eyes of my black teammates, as well as through my own.

Above all, the city, to me, was never just what I heard my white liberal friends say it was. In their world, people of color were all victims. But while my teammates had been victimized, their experience and their perception of the experience of black Americans could not be reducible to victimization. To many, what the label victimization implied was an insult to their dignity, discipline, strength, and potential.

Life in cities was full of more complexity and more hope than the media or the politicians would admit, and part of getting beyond color was not only attacking the sources of inequity, but also refusing to make race an excuse for failing to pass judgment about self-destructive behavior.

Without a community, there could be no commonly held standards, and without some commonly held standards, there could be no community.

The question is whether in our cities we can build a set of commonly accepted rules that enhances individuality and life chances but also provides the glue and tolerance to prevent us from going for each other's throats.

But remember, urban America is not only divided by a line between blacks on one side and whites on another. Increasingly, it is a mixture of races, languages, and religions as new immigrants arrive in search of economic promise and freedom from state control. Just think, over 4.5 million Latinos and nearly 5 million Asian-Pacifics have arrived in America since 1970.

In New Jersey, schoolchildren come from families that speak 120 different languages at home. In Atlanta, managers of some low-income apartment complexes that were virtually once all black now need to speak fluent Spanish. Detroit is a city that has absorbed over 200,000 people from Middle Eastern descent. And in San Jose, CA, you see in the phone book residents with the Vietnamese surname Nguyen outnumber the Joneses by nearly 50 percent. And in Houston, one Korean immigrant restaurant owner oversees Hispanic immigrant employees who prepare Chinese-style food for predominantly black clientele.

So, Mr. President, even though our American future depends on finding common ground, many white Americans resist relinquishing the sense of entitlement skin color has given them throughout our national history. They lack an understanding of the emerging dynamics of one world, even in the United States, because to them nonwhites have always been the other.

On top of that, people of different races often do not listen to each other on the subject of race. It is as if we are all experts locked into our narrow views and preferring to be wrong rather than risk changing those views.

Black Americans ask of Asian-Americans, what is the problem? You are doing well economically. Black Americans believe that Latinos often fail to find common ground with their historic struggle and some Latino-Americans agree, questioning whether the black civil rights model is the only path to progress. White Americans continue to harbor absurd stereotypes about all people of color, and black Americans take white criticism of individual acts as an attempt to stigmatize all black Americans. We seem to be more interested in defending our racial territory than recognizing we could be enriched by another race's perspective.

In politics for the last 25 years, silence or distortion has shaped the issue of race and urban America. Both political parties have contributed to the problem. Republicans have played the race card in a divisive way to get votes. Remember Willie Horton? And Democrats have suffocated discussion of self-destructive behavior among the minority population in a cloak of silence and denial.

The result is that yet another generation has been lost. We cannot afford to wait longer. It is time for candor, time for truth, and time for action.

Mr. President, America's cities are poorer, sicker, less educated, and more violent than at any time in my lifetime. The physical problems are obvious—old housing stock, deteriorated schools, aging infrastructure, diminished manufacturing base, a health-care system short of doctors that fails to immunize against measles, much less educate about AIDS. The jobs have disappeared, the neighborhoods have been gutted. A genuine depression has hit cities, with unemployment in some areas at the levels of the 1930's.

Yet, just as Americans found solidarity then in the midst of trauma and just as imaginative leadership moved us through the darkest days of the Depression, so today the physical conditions of our cities can be altered. What it takes is collective will, greater accountability, and sufficient resources.

What is less obvious in urban America is the crisis of meaning. Without meaning, there can be no hope. Without hope, there can be no struggle. Without struggle, there can be no personal betterment. Absence of meaning derived from overt and subtle attacks from racist quarters over many years and furthered by an increasing pessimism about the possibility of justice offers a context for chaos and irresponsibility.

Development of meaning starts from the very beginning of life. Yet, over 40 percent of all births in the 20 largest cities of America are to women living alone. Among black women, out-of-wedlock births are over 65 percent.

While many single women do heroic jobs of raising kids, there are millions of others who get caught in a life undertow that drowns both them and their children. Many of these children live in a world without love and without a father or any other male supportive figure besides the drug dealer, the pimp, or the gang leader. They are thrown out on the street without any frame of reference except survival. They have no historical awareness of the civil rights movement, much less the power of American democracy.

I remember a substitute teacher in New York who once told me that he was assigned "The Autobiography of Malcolm X" when he learned to read and write. In hopes that they would get that same excitement, he remembers assigning "The Autobiography of Malcolm X" to his students, and they wanted to know why the teacher assigned them a book about Malcolm Ten.

Mr. President, to say to kids who have no connection to religious faith, no family outside a gang, no sense of place outside the territory, no imagination beyond the cadence of rap or the violence of TV, that government is on their side rings hollow. Their contact with government has not empowered them but diminished them. To them, government at best is incompetent—look at the schools, the streets, the welfare department—and at worst, corrupt—the cops and building inspectors on the take, the white color criminal who gets nothing but a suspended sentence, the local politician with gross personal behavior. And replacing a corrupt white mayor with a corrupt black mayor will not make the difference.

In such a world, calls to "just say no" to drugs, or to study hard for 16 years so you can get an $18,000 a year job are laughable. Instead of desires rooted in the values of commitment and service to community as expressed through black churches and mosques, desires, like commodities, become rooted in the immediate gratification of the moment. TV bombards these kids with messages of conspicuous consumption, and they want it now. They become trapped in the quicksands of American materialism. The market sells images of sex, violence, and drugs, regardless of their corrosive effects on hard work and caring—values formerly handed down from an older generation. With no awareness of how to change their world through political action and no reservoirs of real self-knowledge, they are buffeted by the winds of violence and narcissism.

The physical conditions of American cities and the absence of meaning in more and more lives come together at the barrel of a gun. If you were to select the one thing that has changed in cities since the 1960's, it would be fear. Fear covers the streets like a sheet of ice. Every day, the newspaper tells of another murder. Both the number of murders and violent crimes has doubled in the 20 largest cities since 1968. Ninety percent of all violence is committed by males, and they are its predominant victims. Indeed, murder is the highest cause of death among young black males. In 1968, there were 394,000 security guards in America. Today, it is a growth industry with nearly 700,000 guards.

For African-Americans in cities, the violence is not new. You do not have to see "Boyz in the Hood" to confirm it. Just visit a public housing project where mothers send their kids to school dodging bullets; talk with young girls whose rapes go uninvestigated; listen to elderly residents express their constant fear of violation; and remember the story of the former drug dealer who once told me that he quit only after he found his partner shot, with his brains oozing onto the pavement.

Mr. President, what is new is the fear of random violence among whites. No place in the city seems safe. Walking the streets seems to be a form of Russian roulette. At the core, it is a fear of young black men. The movie "Grand Canyon" captures the feeling. It sends the message that if you are a white and you get off the main road into the wrong territory, you are a target because you are white. And you are a target for death, not just robbery. And if you stay on the main road, you still might be shot for no apparent reason. Guns in the hands of the unstable, the angry, the resentful, are used. As the kid in "Grand Canyon" says: "You respect me only because I have a gun."

Never mind that in a society insufficiently color blind, all black men have to answer for the white fear of violence from a few black men. Never mind that Asian-Americans fear both black and white Americans, or that in Miami and Los Angeles, some of the most feared gangs are Latinos and Chinese. And never mind that the ultimate racism was whites ignoring the violence when it was not in their neighborhoods, or that black Americans have always feared certain white neighborhoods. Never mind all that.

There are two phenomena here. There is white fear and there is the appearance of black emboldenment. Today, many whites, responding to a more violent reality heightened by sensational news stories, see young black men traveling in groups, cruising the city, looking for trouble, and they are frightened. Many white Americans, whether fairly or unfairly, seem to be saying of some young black males:

> You litter the street and deface the subway, and no one, black or white, says stop.

> You cut school, threaten the teacher, dis' the social worker, and no one, white or black, says, "Stop." You snatch a purse, you crash a concert, break a telephone box, and no one, white or back, says, "Stop." You rob a store, rape a jogger, shoot a tourist, and when they catch you, if they catch you, you cry "racism," and nobody, white or black, says, "Stop."

It makes no difference whether this white rap is the exact and total reality in our cities; it is what millions of white Americans feel is true. In a kind of ironic flip of fate, the fear of brutal white repression felt for decades in the black community and the seething anger it generated now appear to be mirrored in the fear whites have of random attacks from blacks and the growing anger it fuels. The white disdain grows when a frightened white politician convenes a commission to investigate the charges of racism, and the anger swells when well-known black spokespersons fill the evening news with threats and bombast.

Mr. President, what most politicians want to avoid is the need to confront the reality that causes the fear. They do not want to put themselves at risk by speaking candidly about violence to blacks and whites and saying the same thing to both groups. Essentially, they are indifferent to the black self-destruction, and violence only hardens that indifference, not only to the perpetrator, but to all African-Americans.

Physically, more white Americans leave the city. From 1970 to 1990, over 4 million white Americans moved out of our big cities. Psychologically, white Americans put walls up to the increasing desperate plight of those, both black and white, who cannot leave, those Americans who are stuck trying to raise kids in a war zone, holding jobs in a Third World economy, establishing a sense of community in a desert where there is no water of hope and where everyone is out for themselves.

It is not that there is not racism, you understand; it is alive and well. It is not that the police brutality does not exist; it does. It is not that police departments give residents a feeling of security; few do. But when politicians do not talk about the reality that everyone knows exists, they cannot lead us out of our current crisis. Institutions are no better than the people who run them, and because very few people of different races make real contact or have real conversations with each other—when was the last time you had a conversation about race with someone of a different race—the white vigilante groups and the black TV spokespersons educate the uneducated about race. The result is that the division among races in our cities deepens with white Americans more and more unwilling to spend the money to ameliorate the physical conditions or to see why the absence of meaning in the lives of many urban children threatens the future of their own children.

Yet, even in this atmosphere of disintegration, the power of the human spirit comes through. Heroic families do overcome the odds, sometimes working four jobs to send their kids to college. Churches are peopled by the faithful who do practice the power of love. Local neighborhood leaders have turned around the local school, organized the health clinics, or rehabilitated blocks of housing. These islands of courage and dedication still offer the possibility of local renewal, just as our system of Government offers and makes possible national rebirth.

So, Mr. President, the future of urban America will take one of three paths: abandonment, encirclement, or conversion.

Abandonment means recognizing that with the billions of investment in the national highway system which led to suburbia, corporate parks, and the malling of America, and with communications technology advancing so fast that the economic advantages of urban proximity are being replaced by computer screens, in those circumstances, the city has outlived its usefulness. Like the small town whose industry leaves, the city will wither and disappear. Like empires of ancient days, the self-destruction has reached a point of no return and will crumble from within, giving way to new and different forms of social arrangement. "Massive investment in urban America would be throwing money away," the argument goes, "and to try to prevent the decline will be futile."

Encirclement means that people in cities will live in enclaves. The racial and ethnic walls will go higher, the class lines will be manned by ever increasing security forces, and communal life will disappear. What will replace it are deeper divisions, with politics amounting to splitting up a shrinking economic pie into ever smaller ethnic, racial, and religious slices. It will be a kind of clockwork orange society in which the rich will pay for their society, the middle class will continue to flee as they confront violence, and the poor will be preyed upon at will, or will join the army of violent predators. What will be lost for everyone will be freedom, civility, and the chance to build a common future.

Conversion means winning over all segments of urban life to new politics of change, empowerment, and common effort. Conversion is as different from the politics of dependency as it is from the politics of greed. Its optimism relates to the belief that every person can realize his or her potential in an atmosphere of nurturing liberty. Its morality is grounded in the conviction that each of us has an obligation to another human being, simply because that person is a human being.

There will not be a charismatic leader here but many leaders of awareness who champion integrity and humility over self-promotion and command performances. Answers will not come from an elite who has determined in advance what the new society will look like. Instead, the future will be shaped by the voices from inside the turmoil of urban America, as well as by those who claim to see a bigger picture.

Conversion requires listening to the disaffected as well as the powerful. Empowerment requires seizing the moment. The core of conversion begins with a recognition that all of us will advance together, or each of us will be diminished; that American diversity is not our weakness but our strength, and that we will never be able to lead the world by the power of our example until we have come to terms with each other and overcome the blight of racial division on our history.

The first concrete step is to bring an end to violence, intervene early in a child's life, reduce child abuse, establish some rules, remain unintimidated, and involve the community in its own salvation. As a young man in dredlocks said at one of my recent town meetings, "What we need is for people to care enough about themselves, so that they won't hurt anyone else." That is the essence of community policing—getting a community to respect itself enough to cooperate and support the police so that together security is assured. And our schools can no longer allow the 5 percent of kids who don't want to learn to destroy the possibility of learning for the 95 percent who do want to learn. In addition, we need gun control, draconian punishment for drug kingpins, mandatory sentences for crimes committed with guns, and reinvestment of some defense budget savings into city police departments, schools, and hospitals.

The second step is to bolster families in urban America. That effort begins with the recognition that the most important year in a child's life is the first. Fifteen-month houses must be established for women 7 months pregnant who want to live the first year of their life as a mother in a residential setting. Young fathers would be encouraged to participate, too. Fifteen-month houses would reduce parental neglect or violence by teaching teenage mothers how to parent. Fifteen-month houses, by offering a program of cognitive stimulation, would prepare a child for a lifetime of learning. These 15-month houses need to be combined with full funding for WIC and Head Start, more generous tax treatment of children, 1-year parental leave, tough child support enforcement, and welfare reform that encourages marriage, work, and assumption of responsibility, instead of more children you cannot afford.

But there is also a hard truth here. No institution can replace the nurturing of a loving family. The most important example in a child's life is the parent, not celebrities, however virtuous or talented they might be. You might want to play golf like Nancy Lopez or play basketball like Michael Jordan or skate like Kristi Yamaguchi or display the wit of Bill Cosby, but you should want to be like your father or mother. And in a world with few involved fathers, mom has a big burden. There are no shortcuts here, only life led daily.

The third step is to create jobs for those who can work—jobs that will last in an economy that is growing. It is only through individual empowerment that we can guarantee long-term economic growth. Without growth, scapegoats will be sought and racial tensions will heighten. Without growth, hopes will languish. How do we get growth? Enterprise zones, full funding of jobs corps, more investment in low-income housing. Yes. Helping to finance small businesses and providing technical assistance in management. Yes. Investment in urban infrastructure such as ports, roads, and mass transit will become a source of jobs and training for urban residents at the same time it builds part of the foundation for private investment. Yes. Allowing pension funds to make some investments in real estate and assessing a very low capital gains tax on the sale of assets that have generated 500 urban jobs for 10 years will attract more investment. Yes.

But no targeted program can overcome the drag of a sluggish national economy. Reducing the deficit, consuming more wisely, increasing public investment in health and education, and avoiding protectionism are essential for long-term growth. Combined with assuring economic opportunity for all, long-term growth can save American cities while taking all Americans to a higher economic ground.

Finally, the political process holds the ultimate key. It has failed to address our urban prospect because politicians feel accountable mainly to those who vote. Urban America has voted in declining numbers. So politicians have ignored them. Voter registration and active participation remain the critical empowerment link. The history of American democracy is a history of broadening the vote: when the Constitution was adopted, the only Americans who had the vote were white males with property. Then, in the 1830's, it was extended to white males without property, in the 1860's to black males, not until the 1920's to women, and finally to young people age 18–21 in the 1970's. That is the history. Yet today, if one-third of the voting-age population in America woke up on election day and wanted to vote, they would not be allowed to vote because they are not registered. Again what is needed is not so much charismatic leadership but day-to-day leadership, truthful leadership, dedicated to real and lasting change. Leadership that has the power within the community by virtue of the community knowing the life of the spokesperson. That is leadership that can get things done, and in the end, for change to come, decisions have to be made, work has to get done, and some group of individuals has to accept collective responsibility for making change happen.

Stephen Vincent Benet once said about American diversity: "All of these you are," all of these racial ethnic religious groups you are, and each one of them, "and each is partly you," and none, not any of them, "and none is false, and none is wholly true."

Another way of saying out of many, one. He was describing America. Whether the metaphor is the melting pot or a tossed salad, when you become an American citizen you profess a creed. You forswear allegiance to a foreign power; you embark on a journey of development in liberty. For those who came generations ago there is a need to reaffirm principles—liberty, equality, democracy—principles that have always eluded complete fulfillment. The American city is where all these ideas and cultures have always clashed—sometimes violently. But all, even those brought here in chattel slavery and subsequently freed, are not African or Italian or Polish or Japanese. They are Americans.

What we lose when racial or ethnic self-consciousness dominates are tolerance, curiosity, civility—precisely the qualities we need to allow us to live side by side in mutual respect. The fundamental challenge is to understand the suffering of others as well as to share in their joy. To sacrifice that sensitivity on the altar of racial chauvinism is to lose our future. And we will lose it unless urgency informs our action, passing the buck stops, scapegoating fails and excuses disappear. The American city needs physical rejuvenation, economic opportunity, and moral direction, but above all what it needs is the same thing every small town needs: The willingness to treat another person of any race with the respect you show for a brother or sister with the belief that together you'll build a better world than you would have done alone; a better world in which all Americans stand on common ground.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from California [Mr. CRANSTON].

GAG RULE IS NOT DEAD

Mr. CRANSTON. Mr. President, last Friday afternoon, sometime after 4 p.m., the Bush administration announced the implementation on the gag rule regulations which had first been promulgated by the Reagan administration in 1988. These regulations prohibit health care workers in federally funded family planning programs from answering any questions that a patient might pose relating to the subject of abortion. The Federal Family Planning Program has, from its inception, prohibited the use of Federal funds to provide abortions, but family planning providers were always free under previous regulations to answer questions regarding abortion and to refer patients who requested referrals to facilities which provided abortion services.

The Reagan administration regulations were immediately declared unconstitutional by Federal district courts around the country and their enforcement was enjoined. Most constitutional scholars had expected the Supreme Court to uphold the lower court rulings. The Reagan-Bush Supreme Court, however, in its infamous Rust versus Sullivan decision, found no constitutional problem and gave President Bush the green light to implement his plan to stop family planning providers in federally funded clinics from answering the questions from low-income women regarding abortion.

When it became clear last year that there was deep and widespread opposition from Members of Congress and the general public to this type of Government censorship over the kind of information that health care professionals can provide their patients, President Bush began what was very obviously a damage control campaign. After the House and Senate had voted overwhelmingly to repeal the gag rule—on both a free-standing bill, S. 323, which passed the Senate last year and on the annual labor/HHS appropriation bill—President Bush began back-pedaling. Last fall, President Bush issued a statement declaring that doctors, but not other health care professionals working in family planning clinics, can mention the word abortion, but they cannot tell a woman where she can get an abortion or give her any advice on the option of abortion.

Last Friday's announcement was nothing more than a rerun of the Bush statement of last fall. The timing of the announcement contributed to some confusion about what the Bush administration was doing. Some early media reports stated that the administration had "lifted the gag rule." That was clearly incorrect.

The gag rule remains in place.

Medical care provided by federally funded family planning programs continues to be determined by the antichoice policies of this administration, not by the needs of the women who depend upon federally funded clinics for their health care.

The antiabortion groups clearly understand what has taken place. They have expressed their pleasure with last Friday's announcement. Family planning programs that refuse to comply with the gag rule will lose their Federal funds.

President Bush has demonstrated, once again, that he is more than willing to push the antichoice agenda of the rightwing.

With a Supreme Court hand-picked to carry out the Republican antichoice platform and a President who supports a policy of preventing women from even getting information about their right to have an abortion, Congress is the court of last resort for those concerned with protecting the right of freedom of choice. We should complete action on the legislation which passed the Senate last year to repeal the gag rule and override President Bush's veto.

We also better get ready to pass the Freedom of Choice Act and override that veto as well, for the gag rule is just one more step toward denying women in this country freedom of choice in matters relating to abortion. Once the Supreme Court strikes another blow at the Roe versus Wade decision in the pending Pennsylvania case, matters are certain to get a lot worse for freedom of choice in this country. Enactment of the Freedom of Choice Act will bring a halt to the steady erosion of these fundamental rights.

Mr. President, I yield the floor.

Mr. WIRTH addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Colorado [Mr. WIRTH].

THE GAG RULE

Mr. WIRTH. Mr. President, late last Friday afternoon when a great deal of national attention was being paid to the economic recovery package that Congress had presented to the President, the administration tried to slip in new so-called gag rule regulations unnoticed.

That is the classic time when, if you are embarrassed about what you are doing, you prevent information to the public, hoping that nobody will notice it on a Friday afternoon. That is what the administration did in putting out the new gag rule guideline, which are not guidelines at all; they are misguided.

I am surprised that the President, who so often governs by national poll, is so dramatically missing the boat on this one.

The public overwhelmingly opposes the gag rule, and we should. The public overwhelmingly supports more and better family planning services, and we should. The public overwhelmingly believes that health care professionals should be able to talk freely to their clients about their needs and options, use their professional judgment and not be gagged by this White House. The public overwhelmingly disagrees with President Bush on his position, and the public is right. The President is flat wrong.

President Bush is touting these regulations as new. A few words may have been shuffled around but when one actually reads the guidelines issued by the Department of Health and Human Services, you will find that the agency charged with protecting and caring for the public health is endangering women instead.

This is not a public health measure. This is an endangerment measure. The reality of these regulations is that women who depend on family planning clinics will still be denied critical medical information and counseling about the full range of reproductive health care options. Bush's so-called new proposal allows only doctors—not the nurses and nurse practitioners who do most crisis pregnancy counseling—to discuss all options available to women. What kind of public health service is that?

The guidance requires that title X staff must refer the pregnant patient for prenatal care, even if the woman states that she wishes to terminate the unwanted pregnancy. The Government is limiting the information about what kind of health care a woman can receive. What kind of public health is that? Title X staff may not answer a patient's questions concerning abortion. Staff may not answer a patient's questions concerning abortion. Staff may not answer a patient's questions concerning abortion, such as: "Is it safe?", and "Where is it available?" What kind of misguided public health is that?

In Colorado there is the equivalent of one full-time doctor in the 60 clinics that receive title X funds and provide family planning services to almost 50,000 women. Several different doctors from around the State are hired to work less than part time to analyze and counsel regarding abnormal pap smears. They come to care for patients that are suspected to have cancer, and they charge about $60 an hour. They do not provide pregnancy counseling and the clinics simply cannot afford to have them to do so.

What these guidelines are saying is because these clinics do not have a full-time doctor, because the almost 50,000 women who depend upon these clinics do not have access to that doctor at $60 an hour, they cannot receive public health information important to them and to their family.

What kind of a public health service is that, Mr. President? It is a disservice.

Before the gag rule was promulgated some time ago, when a pregnant women requested information about her health care options, clinics were required to give nondirective counseling and referral. Counselors discussed all options—prenatal care, adoption, foster care, and pregnancy termination. This was responsible public health policy.

But now we are left with President Bush, alone, trying to gag the public's outrage about this policy, not only doing a gag rule but trying to slip it in in the middle of the night, late Friday afternoon, hoping nobody would notice; yet doing absolutely nothing to meet the medical needs of hundreds of thousands—of millions—of women in the United States of America.

Last fall I received a letter from 7½-year-old, Sally from Fort Collins, CO, who wrote about what she called the gag-me rule. Although President Bush says the regulation has changed, it has not. And Sally is still right. It is the gag-me rule.

Our battle on this is far from over, Mr. President. We will continue to push for its overturn this year. Members of this institution and the public, are outraged that for political, not ideological reasons, we have the gag rule in this country. Public health policy was made by putting the finger to the wind to find out what was going to win elections, but that policy has created an enormous threat once more to hundreds of thousands of women in this country. That kind of bad judgment has made the winds change—the public will not stand for it. I wish he'd put his finger up once again and retreat from this misguided policy.

Why can't women receive public health services related to them, their bodies, their families? Why does this administration continue to get in the way of proper health counseling for hundreds of thousands of women in this country? There is no logical answer—the policy is wrong. It is so fundamentally, wrong, Mr. President, and it ought to be overturned.

Women's lives are in danger, and the public is demanding that we correct it. And we should not only be raising this policy over and over and over again, but be trying to shame this administration by pointing out what it is they are doing, and overturning that regulation.

We will be back to try to do this legislatively. Notice is out. The line is drawn. We will do everything we can on behalf of hundreds of thousands of women who are being treated very shabbily by this administration.

Mr. President, I yield the floor.

Mr. CRANSTON addressed the Chair.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from California [Mr. CRANSTON].

Mr. CRANSTON. Mr. President, American children face an incredible environmental health problem—lead poisoning—which faces children all over our country in poor homes, in middle-class homes, in the homes of the well-to-do.

The Centers for Disease Control now considers over 3 million American children to have unsafe levels of lead in their blood. That is 17 percent of all children under the age of 6. A shocking statistic. In some inner-city communities, the percentage of poisoned children exceeds 75 percent. Virtually an entire generation has been affected by this debilitating disease.

Even low levels of lead poisoning can permanently damage the physical, emotional and mental development of a child. A victim can suffer irreversible learning and reading disabilities, reduced IQ's, shortened attention spans, hyperactivity and hearing loss. The cumulative effects on our society and our future are very sobering: low educational achievement, high dropout rates, diminished economic competitiveness.

Lead poisoning is caused primarily by children breathing and ingesting lead dust—generated through home renovation and through common wear and tear of household paint. The simple act of a child wiping his hand on a windowsill and placing it in his mouth is a major conduit for ingesting lead dust.

Lead-based paint was used pervasively in America's housing stock before 1978—the year such paint was banned. Three quarters of all America's housing—57 million homes—contain lead-based paint. It is as common in the homes of the rich as the poor.

The hazards of lead-based paint are not evenly distributed, however. HUD estimates that 3.8 million homes and apartments are priority risks. That is where young children are exposed to peeling paint, excessive amounts of lead dust, or both. Victims of lead poisoning are disproportionately low income, minority children. But children of any race or income strata are at risk when lead-based paint is disturbed during renovation of their homes.

We are at a watershed in the national response to childhood lead poisoning. We have learned much about how to reduce lead hazards, and are learning more all the time. We have the technology to assess the presence of lead hazards. We know how to remove or seal in household lead without harm to workers or future occupants. We know the risks of do-it-yourself home renovation work, and how these risks can be avoided.

Yet the Federal Government still lacks a comprehensive, coherent, cost-effective strategy to reduce the hazards of lead-based paint.

Contaminated federally owned and insured homes still are being sold to unsuspecting buyers. Developers use Federal subsidies to rehabilitate older housing, thus increasing the risk of exposure to lead hazards. State and local governments neglect lead concerns.

Reliable, easy to understand information for homeowners, landlords and renters is unavailable in many areas. And the infrastructure for carrying out assessment and reduction activities—certified laboratories and contractors, trained workers, available financing and insurance—remains in an infant stage.

Mr. President, I will speak on another day soon about what families who are concerned about this possible health threat, health hazard, to their children can do. I will offer some advice on where to turn until we are able to do more at the Federal level to help.

And I trust that will be soon, Mr. President, because pending is the Residential Lead-Based Paint Hazard Reduction Act of 1992 which I have introduced as chairman of the Housing Subcommittee. I trust it will get the Nation moving quickly on the most dangerous lead-based paint hazards.

My bill has five primary components.

First, it would establish a $500 million matching grant program to make the Federal Government an active partner in assessing and reducing lead-based paint hazards in non-Federal housing;

Second, it would make the assessment and reduction of lead-based paint hazards an integral part of federally assisted housing programs and State and local housing strategies;

Third, it would require that all properties sold by the Federal Government be lead safe;

Fourth, it would incorporate far-reaching notification and assessment provisions for private real estate transactions; and

Fifth, the bill would launch an aggressive campaign of education and technical assistance.

Mr. President, 3 million American children—3 million—are crying out for us to end the crying shame of lead poisoning in their home. It is long past time that we acted. I will do my best to see that we do so very soon.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HEALTH AND HUMAN SERVICES ACTION ON THE TITLE X GAG RULE

Mr. PACKWOOD. Mr. President, last Friday, March 20, the Department of Health and Human Services issued a memorandum to its regional offices regarding enforcement of the pregnancy counseling regulations for title X funded clinics which have come to be known as the gag rule. When I read the memorandum it was clear to me that the gag rule is still alive and well, and that the rights of medical personnel and their women patients remain in serious jeopardy.

After HHS released the memo last Friday, many sources reported that the gag rule was being partially lifted. My first thought was that we must be reading a different memo. Lest there be any misunderstanding, let me quote from the document released by HHS last Friday:

First, regarding abortion counseling:

> Title X projects may not counsel, refer or steer clients to abortion. The regulation does not, however, forbid Title X projects from mentioning the word "abortion." In general, Title X staff should state that abortion counseling and abortion referral are not services provided by Title X projects.

This is the gag rule as we have known it, since its promulgation in 1988. It proscribes free speech between medical practitioner and patient, and literally mandates a script which must be used in conversations with patients regarding abortion. The fact that the word "abortion" may be mentioned does not mitigate the impact of the restriction. No meaningful communication about abortion may take place.

Second, regarding abortion referrals, the memo reads:

> Title X staff will make it clear that they can refer a client to the prenatal and social services necessary to promote her own health and that of her unborn child. Referrals may be made by Title X projects to full-service health care providers that perform abortions, but not to providers whose principal activity is providing abortion services.

This rule applies, even where a woman has indicated that she has decided to have an abortion and asks for information on abortion providers. Referrals may be made only to full service providers, not to clinics or doctors whose medical specialty is the performance of abortion, and who are best equipped and qualified to perform abortions. This is no modification of the gag rule, but a continuing restriction on the ability of medical personnel to make the most appropriate referral for a patient, and her right to receive the best referral.

Third, Doctors in title X: the memo reads:

> Nothing in these regulations is to prevent a woman from receiving complete medical information about her condition from a physician. This statement is intended to apply to medical information provided only by a physician directly to his or her patient, in a clinic visit or subsequent telephone conversation directly with the physician.

The memorandum then repeats the language restricting referrals to full service providers only. This is the part of the recent HHS memorandum which has caused the most confusion. HHS statements indicate that now doctors "can say anything." But several things are wrong with that interpretation:

It is clear that doctors, like other title X personnel, still may not refer a patient to the provider they feel is most appropriate, but must refer to providers of prenatal care.

The language of the memo is not clear. If I were a doctor reading this rule, I would not be sure whether I could discuss abortion as an option only where it is medically necessary, or only if the woman asks, or give complete abortion information in all cases. HHS has failed to make its intent clear.

Even if doctors are allowed to counsel patients on abortion, the fact is that title X funded clinics rely heavily on nurse practioners, medical assistants, nurses, professional counselors, et cetera, to provide services in their clinics. It is very clear that these nondoctors cannot counsel or refer for abortion, and that any counseling by doctors must be done one on one between doctor and patient. So in their day-to-day functioning, clinics are hamstrung by the gag rule, just as they have been since 1988.

Mr. President, the gag rule is still with us. And worse, the HHS memorandum instructs the regional offices to begin enforcing it within 60 days. The impact will be devastating. Our Oregon clinics tell me they do not think they can ask their medical personnel to live with a rule so contrary to their ethical obligations. The loss of title X funding will mean loss of family planning services to low income women, more unplanned pregnancies, and, ironically, more abortion, to which the proponents of the gag rule are so opposed.

I wish it were not so, but there now seems to be no hope of an administrative solution. It is back to the drawing board. Congress must pass legislation to overturn the gag rule once and for all. The House of Representatives should move quickly to pass H.R. 3090, the title X reauthorization bill, by a veto-proof margin. And when it comes to the Senate, I will do everything in my power to see that we do the same, and ask for my colleagues' support.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WOFFORD). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. SMITH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Hampshire.

THE PRESIDENT'S RESCISSION PACKAGE

Mr. SMITH. Mr. President, yesterday the distinguished Senator from West Virginia [Mr. BYRD], chairman of the Appropriations Committee, took the floor of the Senate to discuss the President's rescission package.

The Senator indicated that the Appropriations Committee would carefully review each proposal, improve some of the rescissions and reject others and may even add some of their own.

It was also stated that pork comes from both ends of Pennsylvania Avenue and that the executive branch could stand to have their spending habits reviewed as well. I want to take this opportunity to commend the Senator from West Virginia and to say that I agree with him 100 percent unequivocally.

A bidding war to cut spending, a bidding war between the President and the Congress or a bidding war between Democrats and Republicans has only winners, Mr. President, and those winners are the taxpayers of the United States of America.

So I do not believe this is a partisan issue. Last year, I outlined a long list of criteria that could be used to objectively determine if a project received proper scrutiny before it was approved and before the project was put on line. Some of those criteria included whether or not spending was authorized which, in most cases, with pork it is not; whether or not the project was added in the conference committee; or whether or not a project was competitively awarded. Those were the major criteria that I used.

My goal was to create an objective litmus test that could be used to identify projects, not necessarily bad projects, because that is basically a very arbitrary decision as to what is bad and what is good, but projects that circumvented the process. That is really what we are trying to get at; projects that circumvented the process because they were not authorized or were added in a conference committee by some powerful Senator or they were not competitively bid.

Is there Republican pork? Sure, there is. You bet. Democratic pork? Sure, sure there is. Does that make it right? No, it does not. Mr. President, the statement that everybody else does it is basically the child's excuse for getting his hand caught in the cookie jar. It is not the way to make multibillion dollar spending decisions.

Contrary to what others in this Chamber may believe, the current appropriations process is simply not fair. Pure and simple, it is not fair. If you approve a project in Newark, NJ, to provide money for a library for poor children in the ghetto and it is not competitively bid, it is not authorized, what about a library in a ghetto of Los Angeles or Dallas or Trenton or any other city in the United States of America? Who determines that it has to go in Newark, NJ? Usually the person who determines it is the person who has the most power on the committee. That is not what the Constitution and the Founding Fathers meant, and it is not what the American people want.

Sure, one can find a project in every State. I am sure you can find one that is worthwhile in every State, but overwhelmingly, the States that benefit the most from back-room deals are the States represented by Senators and Congressmen who cut those deals. Is that right? Is that fair? I do not believe that it is. I do not think the American people believe that it is, and it hurts the taxpayers because they are the ones who pay.

Our national debt is more than $3.8 trillion, with a T. Taxpayers cannot afford anymore deals like this. They are bad deals. Children, my children, your children, the children of the future cannot afford any more of these deals.

We all know that rescissions, in this President's package or any other rescissions, are not going to balance the Federal budget. There is not enough money in those rescissions to do that, but if we cannot make an easy decision, like eliminating swine research or eliminating $150,000 to fund a project on the Hatfield-McCoy feud or eliminating approximately a million dollars to refurbish the home of the mother of William McKinley's wife, in Ohio, if we cannot cut out that kind of money, how in the world are we going to balance a budget that is $400 billion out of balance or resolve a $3.8 trillion national debt? We have to walk before we run. We have to take the first step, and the first step, Mr. President, is to put our house in order to do it right.

So let us cut every unworthy project no matter how small, no matter how large. Let us have the courage to stand up here and cut it, Republican, Democrat, New Hampshire, Kansas, West Virginia, wherever it is. Let us have the debate in this Chamber about which party can cut spending more, about whether the President can cut more than the Congress or whether the Congress can cut more than the President, because as long as we are having that debate, there are going to be winners and the winners are going to be the taxpayers of the United States of America.

I welcome it. I hope to participate in it, and I look forward to the debate. It has been a longtime coming. Thank you, Mr. President. I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

BREAKING DOWN THE FIREWALLS

Mr. BURNS. Mr. President, as we get into the debate on what has commonly been known as the walls, as the debate went on yesterday and as we have business to do later on today that affects our State of Montana, I would just like to take a moment this morning and talk about tearing down the walls or tearing down an agreement that was made by the budgeteers. So, I would like to express my opposition to S. 2399 this morning, legislation that would break down those firewalls.

We have had a lot of mail and a lot of folks in our office who are advocating tearing down these walls. But every now and again, we get into a situation where that may not be what is best for America. There are times when we can be provincial and see what is best for our State. There are times when we have to look and see what is best for America. I find it ironic that I was here last week rejecting a tax increase proposed by a Democratic Congress based on bad experiences we have had as a result of tax increases in the 1990 budget agreement. I was here reveling in the fact that I voted against the 1990 deal also because I believe tax increases would have been bad for the economy. As it turned out, they were.

Now I am here defending the only aspect of the 1990 agreement that I did like, and that was the Budget Enforcement Act and the spending caps it imposed on three categories of discretionary spending in order to control the growth of Government spending. I do not think the caps are perfect by any means, but I support them because they are the only mechanism that we have to control the growth in Government spending.

I am extremely concerned about the message that this legislation sends to the American people. The American people at this time are looking for leadership. Their desire for change is evident in the way that they are voting in the primaries. We are getting mixed signals, but I think one signal is loud: We must rein in our spending ways. They realize that times are tough. They realize that the solutions may be even tougher. They just want the politicians to level with them and to tell them the truth.

To me, this legislation just offers them more untruths and false hopes. This legislation makes empty promises. It makes the removal of the firewalls between defense and domestic spending the cure-all. I would love to know how many times over savings made possible by peace and the end of the cold war have been spent, sometimes for political expediency.

We are telling the people that if we break down the firewall we can fund all of education, we can fund all of transportation including highways, railroads, airways, and waterways; we can fund the drug war, law enforcement, health care, historic preservation, water projects, land and water conservation, and the list goes on and on.

The other day we were in negotiations on how to allocate water, and we in the West, who have great water resources, have great demands on water. We kept dealing with a number that was 2 million feet above what was actually coming down the creek. So the term come up, "wet water." We want to know how much wet water there is out there, not a figure that is put on the wall. We want to know what we have to deal with—some 2 million-acre-feet less.

So what I think we are trying to do is bring about some reality, that we only have so many dollars. When the debate really starts it is how we allocate those dollars. There are a lot of empty promises. Even the deepest of defense cuts cannot meet the needs of all the areas that Congress creates, and that sometimes creates an unrealistic expectation.

We are not advocating not funding education or transportation or health care. I believe we can fund the needs of each of these areas, but it is a matter of priorities. The speaker previous to me alluded to that.

There are some things that we fund which do not need funding. I happen to place a high priority on education. It seems funny to me that we can hire helicopters to look at all of the endangered species like wolves and black-footed ferrets and grizzly bears, we can fly those helicopters to see how these endangered species are going to make it, but we cannot buy one more school bus to get one more child to school. Somewhere there has to be a meeting of the minds of what is really needed in human life.

The current budget process caps Government spending and forces us to set those priorities. It forces us to make hard choices. The American people understand this. A family makes those hard choices every day, every week: If we want to do such and such next week, can we afford to go out to dinner or can we afford to go to a movie on Friday night. The American people understand that. They have priorities. They know the Federal Government cannot pay for everything.

They know that the deficit is a problem, and I think many of them would prefer that we address the deficit rather than make empty promises about every domestic program in existence. It is time to inventory those programs; those that are working, those that are not working, and those that are sitting on a back burner just eating up Government dollars that can be used somewhere else.

Proponents of this legislation claim it does nothing to increase the deficit. However, it certainly does not do anything to reduce it. That is what I am concerned about. I would be willing to bet that it will end up increasing the deficit because we always spend more than we tell the American people. We are not going to be able to fulfill the promises made surrounding this proposal, but they will continue to bust the budget just in trying to do so.

So I have problems with this proposal. I think it sends the wrong message to the American people. If you have ever dealt with a county budget—I was an old county commissioner, mostly old—I know how it is because we had to set our priorities. A lot of people wanted to go into reserves. As you know, counties have reserves. Let us go into the reserves because real estate value is going down. People need more money. Let us go into the reserves and spend them. You cannot levy taxes back to put in the reserves. Once they are gone, they are gone forever.

We did not choose to do that, so we ended up with our county being one of the most sound in the State of Montana. I am proud of that. We did not raise taxes. We did it. You can do it. It takes a little bit of imagination and improvising to get it done, but you can do it. So let us not create any false expectations about what this legislation does.

Defense savings of $35 million, $85 million or $100 million over 5 years is nothing compared to the problems that we have with the budget. The elimination of the Federal deficit is just the first step.

Let us take a look and see what we have to do. Let us get away from baseline budgeting. Let us go to the American people with a real budget based on real figures and say if you want to do this, it is going to take an extra tax. Let us tell them up front. Sometimes they will respond. American people do respond to needs if they can see the need and see how it benefits our society.

I happen to think if you start ripping and tearing at this Defense Department—those are families, too. They are going to be dumped on the job market, 250,000 to 300,000 people. Their families are torn up. They have to do something else, and you know what kind of people they are. They are highly motivated, educated, dedicated to high-technology areas because it is a different kind of service people now. These people know how to operate very sophisticated equipment. They are going to be very competitive in the job market. They are going to be competition to some folks out there trying to find a job right now.

So let us not get away from good old American common horse sense. Tell the American people we do not have enough money to fund everything we think sounds good. Let us not rent votes. Let us go to the American people and say OK, we have a problem. Let us adopt a 4-percent solution. I tried that last year; nobody wanted that. What that does basically is to say that the Federal budget can increase by 4 percent a year in every category. It can go up only 4 percent, and then we would not be moving money around all the time or changing our policies so small business can live.

Small business will pull us out of this recession, and it is doing it now but it is going to be the small employers, 10 to 15 employees. It is not going to be the big companies. They are laying off people. It is going to be the mom and pop shops, good old free enterprise. Somebody has an idea that will sell, they will employ people; they will create jobs.

The President has outlined a responsible approach in my opinion. It is an approach that deserves proper debate and consideration between the Defense Department, the expert committees in Congress and the Congress as a whole. It is not something to be decided here today under the guise of false promises.

I am concerned that many people are ignoring the fact that the defense build down has an effect on our domestic economy. If you look at the areas that are hurting most in this country, they are the two coasts where defense cuts have already hit hard causing contractors to lay off workers.

As we all know, these layoffs create unemployment which leads to additional social problems as families and communities try to deal with the hard times. All of this ends up costing the Federal Government more money. I am not advocating that we use our defense budget as a jobs program. I am just pointing out to many of my colleagues that even defense cuts do not come without domestic pain.

As we continue to cut the defense budget over the next 5 years, we will also be getting into sizable direct force cuts. We will be handing highly trained soldiers, sailors, and marines their pink slips. These people have to be absorbed into an already weak economy.

Hopefully, the economy will turn around soon and there will be plenty of jobs for them, but there are no guarantees. Some have suggested, and I tend to agree, that we will have to plow part of the defense savings back into job retraining for our military people. Again, this costs the Federal Government money.

I just hope that my colleagues will consider some of these issues when they vote on this legislation. I think we need to reassess the message we are sending. Let us be honest with the American people. Let us pay more attention to reducing the deficit. Let us go slow as we reorient ourselves to a radically different global situation. Let us vote against S. 2399.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized.

Mr. KASTEN. I thank the Chair.

(The remarks of Mr. KASTEN pertaining to the introduction of S. 2484 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

FEDERAL MANDATES WITHOUT FEDERAL FUNDING IS UNFAIR TO STATE AND LOCAL GOVERNMENTS AND AMERICA'S TAXPAYERS

Mr. KASTEN. Mr. President, I rise today to speak out on the unfairness that we in the U.S. Congress inflict upon our constituents and the local and State governments that we represent. This unfairness is delivered to our State and local governments in the form of Federal mandates—requirements placed upon our cities, counties and States, but lacking any Federal funding to go along with our supposedly good ideas.

The PRESIDING OFFICER. Without objection, it is so ordered.

During a visit with the Wisconsin Counties Association recently, their primary complaint was that the Federal Government is causing havoc at the local level with the imposition of unfunded mandates. The counties contend that their ability to meet local needs and problems is hampered when local plans are supplanted by required Federal programs.

An excellent article on this situation ran in the New York Times yesterday and I ask unanimous consent that it be reprinted in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KASTEN. Mr. President, the article by Michael deCourcy Hinds points out that in 1990 alone, the Federal Government passed 20 bills requiring various programs that the National Conference of State Legislatures estimates will cost our State and local governments billions of dollars.

It is not to say that the programs, which will cost more than $71 billion this year, are not well-intentioned. The problem is that we all have to recognize that the fiscal crunch that we are experiencing at the Federal level is just as severe—and in some cases worse—at the other levels of government.

As in the budget debate, there is enough blame to go all around. In the New York Times article, Gov. John Engler of Michigan is quoted as blaming Congress for wrecking State budgets, while others blame the President. Well, we all share the blame and it is time that we do something about it.

President Bush said in his State of the Union Address that if Congress passes a mandate, then we should be forced to pay for it and balance the cost with savings elsewhere. This echos what I hear from Wisconsin's cities and counties, and the State government. Various Presidential candidates have made the mandates issue a matter of public debate.

Mr. President, in this pay-as-you-go environment, paying our way will require some tough choices, but that is what we are here for. Thank you, Mr. President, and I yield the floor.

EXHIBIT 1

[From the New York Times, Mar. 24, 1992]

U.S. ADDS PROGRAMS WITH LITTLE REVIEW OF LOCAL BURDENS

(By Michael deCourcy Hinds)

Against the background of a stubborn recession and mounting fiscal distress in the country, the Federal Government continues to create or expand domestic spending programs with little or no review of the financial burdens they will place on state and local governments, public policy analysts say.

In 1990 alone, the year the recession began, President Bush signed 20 bills into law, ordering programs that the National Conference of State Legislatures says will cost state and local governments billions of extra dollars, primarily for health care, the environment and Social Security payments for public employees.

Some mandates, like the Americans With Disabilities Act, were enacted without any reliable estimates of the cost to state and local governments. The legislation, which requires businesses and state and local governments to provide the disabled with equal access to services, employment, buildings and transportation systems, is now expected to cost them millions of dollars annually to comply.

HEALTH AND ENVIRONMENT

The most expensive regulations for any state involve Medicaid, the Federally subsidized health-care program for low-income people that will cost $38.3 billion for the states to finance this year. The next most expensive mandates involve environmental laws, primarily water purification, which will cost state and local governments $32 billion a year by 1995.

And three new studies show that despite the publicized efforts of President Ronald Reagan and President Bush to decentralize government, both contributed to a proliferation of regulations that meant enormous costs to states and cities in the 1980's.

No one can reliably estimate the cost of complying with many such programs, and Congress is required to make only preliminary estimates on some of the bills it considers. But analysts say no Federal law provides for complete reimbursement of any mandated program, and some legislative analysts estimate the burden to local governments of such spending at scores of billions of dollars a year.

"ROCK AND A HARD PLACE"

"We are between a rock and a hard place," said Gov. Robert P. Casey of Pennsylvania, a Democrat.

As part of a plan to pay for newly mandated Federal health benefits for children, pregnant women and the elderly, Governor Casey has proposed eliminating some medical benefits for disabled men who currently receive state welfare grants. The state raised taxes by a record $3.3 billion this fiscal year and still must reduce spending by $800 million to balance a $14.2 billion budget.

Pessimism is widespread. Three-quarters of the states and more than a third of the nation's cities report worsening fiscal problems this year, and many governors and mayors are saying the problems will linger or worsen over several years even if the economy recovers quickly.

"I think we're headed for a showdown," Gov. John Engler of Michigan, a Republican, said in a recent interview in which he blamed Congress for "wrecking" state budgets. But analysts and other governors blame Mr. Bush. Last month, when the President met with the National Governors Association, their meeting turned into an arguing match.

At that meeting, on Feb. 3 in Washington, two Democratic governors, Roy Romer of Colorado and George Sinner of North Dakota, attacked the President, asserting that too much money was going to the military and too little to the states. "What bases do you want to close?" Mr. Bush asked testily.

Only a month earlier, Mr. Bush seemed to be more sympathetic to the plight of the state and local governments. In January, in Mr. Bush's State of the Union Message, he sought to lay responsibility for mandates on Congress and advocated curbs on spending.

BUSH ON MANDATES

"We must put an end to unfinanced Federal Government mandates," Mr. Bush said. "These are the requirements Congress puts on our cities, counties and states without supplying the money. And if Congress passes a mandate, it should be forced to pay for it and balance the cost with savings elsewhere."

In an earlier effort to give the states more flexibility in administering Federal mandatory programs, Mr. Bush last year proposed to consolidate $15 billion in financing for block grants and to leave the decision on how to spend the money up to the states. But many cities opposed the legislation and it died in Congress. Mr. Bush said last week that he planned to revive the proposal.

Nevertheless, analysts say the President has done little to curb the flow of Federal mandates. Nor, they assert, has he acted to provide more financing for those bills he has signed into law.

"ZERO LEADERSHIP"

"President Bush has provided zero leadership in this area of nation-state relationships," said Joseph F. Zimmerman, professor of political science at the State University of New York in Albany and the author of two new studies on the relationship between the states and the Federal Government.

"You can't point to a single bill where he took leadership to give states more freedom of action, or for that matter, where he sought to impose mandates on states," he said. "In a sense, it is as though President Bush has just been oblivious to this whole area until he mentioned it in the State of the Union Message."

Last January Mr. Bush ordered a 90-day moratorium on new regulations by Federal agencies and a review of existing rules to identify those that appear to do more economic harm than good. That proposal, modeled after a strategy that he carried out as Vice President in the Reagan Administration, was aimed mainly at lightening the burden for businesses.

But a new study says that whatever the impact on businesses, the deregulatory effort was "largely ineffective." It said the Government ultimately passed on more significant regulatory burdens to state and local governments during the 1980's than in almost any other decade, adding to their financial responsibilities.

The study, "Federal Regulation of State and Local Governments," is being prepared for publication later this year by the United States Advisory Commission on Intergovernmental Relations, a Federally chartered research organization in Washington.

NO CHANGE IN SIGHT

"Congress was the more active regulator than either the Reagan or Bush Administration, but none of the laws with mandates were enacted over Presidential veto," said Timothy J. Conlan, a professor of government and politics at George Mason University. Prof. Conlan and two colleagues, David R. Beam and Cynthia Colella, wrote the study.

Prof. Conlan and his colleagues said they foresee no lightening of this burden for state and local governments.

The candidates in the contests for the Republican and Democratic Presidential nominations have made Federally mandated programs an issue in their campaigns.

President Bush's challenger for the Republican nomination, Patrick J. Buchanan, has advocated a two-year moratorium on new mandates and a reappraisal of existing ones.

The Democratic front-runner, Gov. Bill Clinton of Arkansas, says the Government is creating too many inflexible and costly programs that reduce the states' ability to cope with social and financial problems they consider more pressing.

Of the 125 mandate-laden bills that have been introduced in Congress this session, more than half deal with health care and criminal justice, which are the two fastest growing segments of state budgets, said Martha A. Fabricius, a policy analyst with the National Association of State Budget Officers who has been monitoring this legislation. She said that more than 20 of the most expensive bills had been introduced by the Democratic leadership.

If enacted, the bills would force most states to raise taxes or reduce existing services, analysts said.

Under some of the bills, the states would be directed to pay all or some of the cost of new programs like insuring savings and loan associations, planting trees on state-owned land, operating mobile units to assist the mentally ill among the homeless and increasing prison terms for several categories of violent crimes.

The states would also be ordered to eliminate at least one revenue-producing program, a tax on certain retirement income, forcing them to find other ways to finance government.

While the Government has expanded Federally mandated programs and whittled away at state and local tax revenues, it simultaneously has reduced aid to the states.

In the 1980's, for example, overall Federal aid declined 10 percent, when adjusted for inflation, and grants that were not related to health care declined 23.6 percent, according to Government figures. There are no estimates on the loss in tax revenue to the states.

HISTORICAL SHIFT

The expansion of Federal authority over state affairs represents an historic shift in American Government since the 1960's, according to Prof. Zimmerman.

"Congress, with the acquiescence of the Supreme Court, is slowly usurping the sovereign powers of states and turning them into administrators of national policy," he said, summarizing a central conclusion in two studies he wrote for the Advisory Commission on Intergovernmental Relations. The studies, scheduled for publication this year, are entitled "Federal Pre-emption of State and Local Authority" and "Federally Induced State and Local Governmental Costs."

In all, there are estimated to be tens of thousands of Federal mandates and they touch nearly every aspect of government. There are mandates that instruct states or local governments on landfills, welfare benefits, speed limits, other traffic regulations and prison construction, among other things.

NEW YORK STORIES

Federally required health-care programs consumed 14 percent of all state budgets in 1990 and, with the cost of expansions in mandated programs and inflation in medical expenses, the Federal programs will devour 28 percent of the states' budgets by 1995, the National Governors Association estimates.

Examples of the costs that can result from these mandates are best seen in populous states like New York. Ever stricter standards for drinking water may cost the city billions; a $600 million water filtration plant is already under construction in the Bronx. School districts in New York and surrounding counties have spent tens of millions of dollars removing asbestos from school buildings. Congress, in passing the measure in 1986, never considered its cost to state and local governments; it is now projected at $3.1 billion over 30 years.

Members of Congress who develop mandatory programs readily acknowledge that the programs can be a crushing financial burden for state and local governments. The legislators say there will be no alternative to this piecemeal approach until the President and Congress can agree on national solutions to national problems including taxes, health care, welfare and environmental issues.

FEDERAL FINANCING

"It's incumbent on us to realize that the states can't continue to pay for Medicaid, which is a complicated, second-class health-care system for less than half of the poor people in the country," said Representative Henry A. Waxman, a California Democrat who is chairman of the House Subcommittee on Health and the Environment and the author of a number of Medicaid mandates.

"We need to have major reform in either Medicaid or in the whole system, but we simply can't let pregnant women, infants and children go without health care," said Mr. Waxman, who has said the Federal Government should be responsible for financing Medicaid.

Mario M. Cuomo of New York was the nation's only governor who supported the Medicaid mandates for new programs for poor children and pregnant women in the last two years.

Brad C. Johnson, Governor Cuomo's counsel in Washington, said that providing the additional medical care to women and children cost New York $3.8 million last year, while the state had to spend $828 million to put 100,000 newly eligible people into nursing homes.

"GOOD INVESTMENT"

"He didn't go along with the other 49 governors because he said the mandates for women and children were a good investment," Mr. Johnson said.

Good investment or not, the state is now trying to decide how to cut $1 billion out of its Medicaid and welfare programs because of budget problems.

The number of federal laws that pre-empt state authority each decade. Nearly every one of the post-1960 laws contains mandates or restrictions that are expensive to state and local governments; earlier pre-emptions established such things as national standards for weights and measures, copyrighting, patents, and railroad safety, and did not directly cost states much money.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

SENATOR PAUL DOUGLAS

Mr. SIMON. Mr. President, I wanted to take just a few minutes to pay tribute to a person who has sometimes been described as my political mentor, certainly my political hero, Senator Paul Douglas, who was born 100 years ago today.

He was a great economist. His work on the theory of wages is still used by all students of economics. He was a great teacher. He taught at the University of Chicago for 28 years, as well as at Reed College in Oregon, and the University of Illinois very briefly.

He was a great legislator. That is how we think of him primarily.

He was also a fighter. He enlisted in the U.S. Marines at the age of 50, was seriously wounded, and ended up with a useless left arm. He did that despite his Quaker origins and his very close ties to the Friends. He believed that there are times when waiting was not adequate in our world, and where force had to be used.

His mother died of tuberculosis when he was 4 years old. His father was an alcoholic. His father had the marvelous good judgment of marrying a woman who must have been a superb woman in every respect in terms of her character and her ability, by the name of Florence Young. Paul Douglas' stepmother, in the same way as Abraham Lincoln's stepmother, was an inspiration for him.

In 1973 our family spent a weekend in Maine where Paul Douglas spent his early years. He went to the little settlement of Onawa, ME, where he spent 8 years. We drove up—I do not remember the name of the community—and went on a gravel road for about 5 miles.

Then there was a little sign that said "Onawa," and we drove into the woods for about 3 miles and then stopped and took a foot trail up to this little settlement of abut a dozen houses along the Canadian Pacific railroad and saw a little, tiny, one-room schoolhouse where Paul Douglas' stepmother taught him as well as the other people in the community. He was a genuine leader.

And if we need inspiration, Mr. President, Paul Douglas did not hold his finger to the wind and say, "What do the latest polls have to say?" He was out on the forefront on issue after issue, whether it was Medicare or something else. He was the leader in the U.S. Senate for civil rights for many, many years.

When, in 1964, Lyndon Johnson signed the Civil Rights Act, he handed the pen to Paul Douglas. It is somewhat ironic, because when he was in the Senate, Lyndon Johnson fought Paul Douglas on civil rights. But when he became President of the United States, Lyndon Johnson, to his credit, became a bigger man in terms of what he was able to do.

As a young economist, Paul Douglas helped to draft the Social Security legislation and the truth-in-lending legislation, and we now assume we are going to find out from banks or savings and loans, or from a credit agency that sells us a car, what interest we pay. Prior to Paul Douglas leading the fight on that, people did not know frequently what they paid in the area of interest.

In the field of ethics, he was just way ahead of his time. Every once in a while, someone asks why I disclose far beyond what the law requires. I had a mentor—Paul Douglas—who did that. He believed in being fiscally prudent. He would be shocked today to see a $400 billion deficit.

Paul Douglas, the great economist, in his retirement years, told me, "I think I made a mistake in fighting the balanced budget amendment." He once said, "I think our society needs it." That was in the days when we had very tiny deficits compared to today.

Paul Douglas was a remarkable leader, no matter how you engage it. He was one of the giants in the U.S. Senate, and it is appropriate that we take at least a few minutes today to pay tribute to a real giant—a giant in civil rights and in standing up for the powerless in our society, a giant in saying that we have to have Government that is not responding to the whims and wishes of the wealthy and the powerful but to the average citizen. He would be here today fighting for campaign finance reform and the other things that we so desperately need.

None of us, frankly, today is a Paul Douglas. But if we can see people like that who contributed so much, and we can strive at least in a small way to follow in their footsteps, this country will be a better place, and civilization will be a better place.

Mr. President, I do not see anyone else asking for the floor, so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I ask unanimous consent that I might proceed for 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FAMILY PLANNING

Mr. CHAFEE. Mr. President, last Friday, the Department of Health and Human Services [HHS] issued a memorandum intended to guide title X funded family planning clinics in adhering to the so-called gag rule.

As most of those who work in this area know, the gag rule refers to regulations promulgated by HHS in 1988 which forbid federally funded family planning clinics from providing any information to pregnant women about abortion. Many of us in this body have tried repeatedly to repeal these regulations, but unfortunately our efforts have not been successful. So, we are stuck with these unfair and discriminatory rules governing the only federally funded family planning program in our Nation.

Despite the fact that these regulations were promulgated in 1988, up until this point, they had not been enforced. They were the subject of several lawsuits by family planning clinics throughout the country, and eventually went before the Supreme Court. In May 1991, the Supreme Court rules that the regulations were in fact constitutional. But the regulations still were not enforced because they were the subject of legislative battles both in the House and the Senate.

Legislation I sponsored to repeal these regulations passed the Senate twice, once in the form of an amendment to a family planning bill and once as a free-standing bill. The family planning bill never went anywhere and my free-standing bill, S. 323, has been waiting for action in the House since last July. Last year's Labor-HHS appropriations bill contained a 1-year moratorium on these regulations. That passed overwhelmingly in both Houses. The President vetoed it and the veto was sustained.

That was back in December of last year, and the regulations still were not enforced because HHS had not come up with the guidelines which were required before the rules could be implemented. I must say, Mr. President, I and many of my colleagues in this body were very hopeful that HHS would go easy on the clinics. Indeed, we hoped that the rules would never be enforced, but unfortunately these new guidelines show that HHS means business.

There has been a lot of discussion and misunderstanding since their release that the guidelines have ended the problem of the gag rule, that doctors will be able to talk freely with their patients and that there is, in fact, no interference in the doctor-patient relationship. This is simply not true.

Mr. President, I ask unanimous consent to print the guidelines in the RECORD and I shall go through the questions that have been raised about them one by one.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH &
HUMAN SERVICES,
Washington, DC, March 20, 1992.

MEMORANDUM

From: William R. Archer III, M.D., F.A.C.O.G. Deputy Assistant Secretary for Population Affairs.

Subject: Implementation of Title X Abortion Regulation.

To: Regional Health Administrators; Regions I–X.

This guidance on the Title X regulation is for use by Regional Office staff in implementing the February 2, 1988, regulation construing the statutory prohibition on abortion as a method of family planning in Title X projects, salient provisions of which are found at 42 CFR sections 59.7 through 59.10.

This guidance supplements the previous guidance provided by the memorandum dated May 30, 1991, regarding implementation of the February 1988, regulation and is designed to clarify certain operational questions which have arisen concerning the implementation and scope of the regulation.

GUIDANCE ON COMPLIANCE WITH 42 CFR 59.7

Under 42 CFR 59.7, as promulgated on February 2, 1988, an applicant for or recipient of a Title X grant is required to provide: "assurance satisfactory to the Secretary that it does not include abortion as a method of family planning. Such assurance must include, as a minimum, representations (supported by such documentation as the Secretary may request) as to compliance with each of the requirements in Sect. 59.8 through Sect. 59.10."

In the following paragraphs, the conditions of compliance that are stated for applicants also pertain to current grantees.

The assurance

The applicant or grantee must provide to the appropriate Regional Health Administrator (RHA) the following assurance within 30 days from the date of notification from the RHA: "The applicant [or grantee] hereby assures that it will not include abortion as a method of family planning in its Title X project and the project will comply with the requirements of 42 CFR 59.8 through 59.10, as promulgated on February 2, 1988. The applicant [or grantee] further agrees to submit to the Secretary promptly any further documentation concerning its arrangements to comply with this assurance that the Secretary may request."

The regulation seeks to ensure project integrity and defines the "Title X project" as the identified program which is approved by the Secretary for support under Section 1001 of the Public Health Service Act. Applicants and grantees should note that the regulatory requirements apply to all Title X project funds, that is, Title X grant funds, non-Federal funds, and grant-related income generated by the Title X project. The regulatory requirements do not apply to grantee activities which are not a part of the Title X project.

Initial documentation

In addition to the assurance, the RHA may request documentary evidence from an applicant or grantee on a case-by-case basis in situations where such information is deemed necessary. Such information may include:

(1) Copies of protocols to be used by the Title X project in counseling and referring pregnant clients.

(2) Copies of referral lists to be used by the Title X project in referring pregnant clients under 42 CFR 59.8(a).

(3) Copies of timetables for revision of existing protocols or referral lists to bring them into compliance with the regulation.

(4) The plan of the applicant or grantee for training Title X project staff about the regulatory requirements.

(5) The plan of the applicant or grantee for monitoring compliance with the regulation at the clinic or other service delivery level, including the type and frequency of monitoring activities to be undertaken.

(6) The plan of the applicant or grantee for resolving any issue of compliance with the physical and financial separation requirements of 42 CFR 59.9, including identification of any components of the Title X project in which action needs to be taken to come into compliance, a description of the steps to be taken, and timetable for resolving the compliance issues.

Timetable for implementation

To provide consistent implementation of the regulation, written notification to the grantee from the RHA should occur within two weeks after receiving this guidance. RHAs will notify the Office of Population Affairs (OPA) of the date that official notice went out in their regions.

Grantee must provide an assurance to the RHA within 30 days of the date of official notification. Following receipt of the required assurance by the RHA, grantees have an additional 30 days to come into compliance.

If a grantee believes that it cannot meet the compliance deadline, it must submit a request for an extension of the deadline in writing to the appropriate RHA within 30 days of original notification, along with an explanation or documentation of the need for the extension. The RHA will give timely notification to the grantee of its decision on a requested extension. The compliance deadline may also be extended when it is determined that such extension is needed to promote the orderly and effective implementation of the regulation.

CLARIFICATION OF TITLE X ISSUES

The purpose of this program is to provide pre-pregnancy family planning services, not to provide services to pregnant women. Accordingly, this memorandum applies only to the services provided to the small percentage of clients who are found to be pregnant.

Speech about abortion

Title X projects may not counsel, refer or steer clients to abortion. The regulation does not, however, forbid Title X projects from mentioning the word "abortion." In general, Title X staff should state that abortion counseling and abortion referral are not services provided by Title X projects. Title X staff will make it clear that they can refer a client to the prenatal and social services necessary to promote her own health and that of her unborn child. Referrals may be made by Title X projects to full-service health care providers that perform abortions, but not to providers whose principal activity is providing abortion services.

Referral to specialized medical care for medical conditions which may complicate pregnancy still must be made, even if the ultimate result may be the termination of her pregnancy. This referral seeks to provide a pregnant woman with the best medical management of her pregnancy and to ensure both her health and the health of her unborn child. This kind of referral must be distinguished from referrals which are made specifically for the purpose of obtaining abortions. This latter kind of referral is considered to be inconsistent with the statutory intention of Title X.

Physicians in title X

The February 2, 1988, Title X regulation will be implemented in accordance with the November 5, 1991, memorandum of the President and the November 19, 1991, memorandum of the Secretary to the Assistant Secretary for Health. The first numbered paragraph in both the President's and the Secretary's memoranda provides: "Nothing in these regulations is to prevent a woman from receiving complete medical information about her condition from a physician."

This statement is intended to apply to medical information provided only by a physician directly to his or her patient, in a clinic visit or a subsequent telephone conversation directly with the physician.

Title X staff must provide women diagnosed as pregnant with a list of appropriate prenatal and/or social services as outlined in 59.8(a)(2). Referrals may be made by Title X programs to full-service health care providers that perform abortions, but not to providers whose principal activity is providing abortion services. Section 59.5(b)(1) of the regulation requires a physician to refer a pregnant woman with a health problem to medical care appropriate to her particular health problem, even if that referral ultimately results in an abortion.

Continuity of care

The regulation governs only the operation of programs funded by Title X. Cases in which Title X programs are operated in conjunction with programs supported by other funds have raised questions about the extent of separation required by the regulation.

When a Title X client is found to be pregnant she must be provided the list of prenatal and social service providers as outlined in 59.8(a)(2). A Title X provider which is also funded by another source to provide prenatal services or a co-located provider of services may qualify, through provision of the required services, to be on the list as a referral source for the pregnant client. The client must have the opportunity to freely choose which source of care she prefers. If the client chooses and clinic time permits, provision of continuing prenatal care may follow immediately upon the determination of pregnancy and the provision of the list.

Physical and financial separation requirements

Section 59.9 of the regulation requires that Title X programs be organized so that they are physically and financially separate from other activities which are prohibited from inclusion in the Title X program. This requirement is to ensure program integrity.

Although the proposed July 1987 regulation would have provided per se exclusion of any abortion-related activities from co-location with a Title X program, the final regulation of February, 1988, adopts a more flexible "facts and circumstances" approach that provides the Department with greater ability to make individual determinations for the many complex circumstances that will be presented. Actual provision of abortion in a clinic in which a Title X project is co-located will be weighed most heavily in the balancing test.

OPA OVERSIGHT

In order to ensure consistency in implementing the regulation nationwide, OPA will monitor the program to ensure that Regional Offices:

(1) receive assurances from grantees and any accompanying documentation of plans to achieve compliance;

(2) conduct site visits, program reviews, or investigations of specific inquiries initiated in response to complaints;

(3) review requests made by grantees to extend the compliance deadline.

Please forward any questions not answered in this guidance or any previous guidance relating to interpretation or implementation of the regulation to OPA before giving guidance. This will enable OPA to consult with the Office of General Counsel, and ensure consistent implementation.

If the information upon which the determination of compliance is to be based is insufficient, the Regional Office will obtain additional information. If a determination is adverse to the grantee, standard grants management procedures will be followed by the Department in seeking a remedy.

Mr. CHAFEE. I will go through the questions which have been raised by these guidelines one by one.

First, we get into the questions of counseling. Will health care professionals who are not physicians—and we have to distinguish here, Mr. President, between those who are physicians and those who are not. Will those who are not physicians in title X clinics be allowed to tell women, upon request, that abortion is one of several options?

A woman comes into the clinic. She sees a health care professional who is not a physician—a nurse, a physician's assistant or a counselor. She discovers she is pregnant and asks "What are my options?" And the question is: Can that health care professional tell the woman she has three options—she can carry the child to term, she can put the child up for adoption, or she can have her pregnancy terminated. Those are the three options. Can the professional tell the woman that?

The answer is no. The guidelines state explicitly: "Title X projects may not counsel, refer, or steer clients to abortion. In general, title X staff should state that abortion counseling and abortion referral are not services provided by title X projects."

In other words, they are not allowed to give an answer to her question. So there is no misunderstanding here, Mr. President. The guidelines state that a pregnant woman is to be referred for "prenatal and social services necessary to promote her own health and that of her unborn child."

Some have asked, "Is there an exception from this rule for doctors?" If the woman is fortunate enough to find a doctor in the title X clinic who is there available to answer her questions, she poses the same question: "Doctor, what are my options?" What answer does the doctor give? Well, it is unclear what answer the doctor will give. The guidelines state that "Nothing in these regulations is to prevent a woman from receiving complete medical information about her condition from a physician."

Now, note, if you would, that first it has to be a physican. OK, we are agreed upon that. Second, she asks the question, and the regulations say that "nothing is to prevent her from receiving complete medical information about her condition." Does that cover the situation where she says to the doctor, "What are my options?" I think we can say that the situation is ambiguous at best. According to HHS officials, medical information does not include the discussion of options.

So the woman comes in and she says, "What are my options?" And even though it is a physician, he can give her medical information, but, we are told, that medical information does not include the discussion of these options. It means that a woman can get information from a physician about conditions affecting her pregnancy. For example, diabetes—What do I do?—high blood pressure, AIDS. These are medical questions, and she can get answers to those medical questions.

The reality is that, even if doctors were allowed to counsel women freely, it would not make much of a difference. In other words, the suggestion is that we have taken care of these gag rule problems. Let us say we interpret these rules in the most free fashion—that a doctor can tell the woman anything that he so chooses and that solves the problem of the woman who wants information.

The answer is no, it does not solve it at all. Because all too often, in 9 cases out of 10, when a woman goes into a federally funded family planning clinic, she does not see a doctor. There is always a doctor who oversees the clinic, but it is simply not practical, not affordable for doctors to see all patients in these family planning clinics. So, instead, who does she see? She sees a nurse or she sees a physician's assistant, most of whom are women, who are prohibited from discussing abortion.

The second issue, Mr. President, is referral. Will doctors and other health care professionals be allowed to refer women, upon their request, to providers of abortion services? Typical situation: She discovers she is pregnant. She fathoms somehow that one of her options is to have an abortion. So she says to the health care professional, "Where might I go?" Very reasonable question. Most of these women are somewhat confused at the time, certainly in a state of concern, discomfort, alarm, and so they are seeking help. And so they have made the decision that they desire an abortion. So they say to the doctor or nurse, "Where might I go?" Can that doctor or nurse tell them where to go? The answer is no. Referrals are to be made for prenatal care and it must be to a full-service health care provider.

Now, what is a full-service health care provider? HHS has tried to say that, in fact, abortion referrals are allowed under these guidelines because some of these full-service health care providers will also provide abortions. Well, that is right. But the fact is, there are not these full-service health care providers in every community by a long shot. And if there is, they usually are at a distance.

Let me give you an example. In my home State of Rhode Island, the only full service health care provider that also provides abortions——

The PRESIDING OFFICER (Mr. AKAKA). The Senator's time has expired.

Mr. CHAFEE. I ask unanimous consent that I might proceed for 5 more minutes, Mr. President,

The PRESIDING OFFICER. Without objection, the Senator may proceed for 5 more minutes.

Mr. CHAFEE. In my State, the only full-services health care provider that also provides abortion is Women and Infants Hospital in Providence. But the hospital only provides abortions in cases where there is a severe medical problem. These are not places where you go to get a first-trimester, elective abortion. So a poor woman would go to Planned Parenthood in Providence, which is a title X recipient, discover she is pregnant, and ask where she can get an abortion. Even though Planned Parenthood provides abortion services, they would not be allowed to tell the woman that.

So they would send her, under the terms as previously set forth, to Women and Infants Hospital, at some distance. So she goes and she gets there. She says, "Can I get an abortion?" They say, "No. What are you doing here? We only provide abortions under very rare circumstances where there is a very serious medical problem." So she has been sent off on this cruel and unnecessary wild goose chase, and she is no better off than when she started.

So, in fact, Mr. President, the regulations have remained unchanged. The gag rule is still intact and it will now be enforced. And, I am afraid, Mr. President, we will see many clinics foregoing their Federal funds because they simply cannot, in good conscience, abide by these restrictions. They will say, "If that is our choice to have this modest funding from the Federal Government and be subject to these regulations or forego it and take the cuts," they will forego the funds.

Now, there are many reasons to oppose these regulations. They violate the concept of free speech. They interfere in the relationship between a woman and her health care professional. They create a two-tiered system of health care—one for the well enough off and one for the poor. They force clinics to choose between providing lesser quality care to their patients and giving up much-needed Federal money. These are all compelling issues.

But the most important reason to oppose these regulations, Mr. President, is that they will mean that 4 million low-income patients who rely on title X programs will have less access to quality family planning than they would have had otherwise. We should be doing everything possible to foster family planning services and especially to reduce the incidence of teen pregnancies. Frequently, these funds are used for valuable education programs to discourage teen pregnancy. An example: Planned Parenthood in my State is located in South Providence, which has the highest incidence of teen pregnancy in our State.

Planned Parenthood receives $50,000 a year in the title X program. What do they do with that $50,000? They use the money to pay for a program to educate young men in South Providence about safe sex and condom use.

Planned Parenthood of Rhode Island has announced they will give this money up because of the restrictions that are now going to be imposed with it. There will no longer be this education program for young men. As Barbara Baldwin, director of the clinic has pointed out, is this not ironic? It is the very program that would reduce the incidence of unwanted pregnancy and need for abortion, yet it is being abandoned.

Last week I received a new report on the status of the Nation's children from the Center for the Study of Social Policy. I am delighted the distinguished senior Senator from New York is here because nobody has worked more in this area than he has. So these statistics, I am sure, will be no surprise to him.

This study shows that in 1980, 270,000 babies were born to single teenagers in our country. In 1989 that number increased from 270,000 to 350,000. This represents a 14-percent increase in the percent of all births to teens over the last 10 years.

What happens to these children and their families? Children born out of wedlock comprise the largest subgroup of the welfare population. This is no news to the distinguished Senator from New York. Fifty-three percent of children receiving assistance under Aid to Families with Dependent Children were born to unmarried parents. Three-quarters of unmarried teen mothers will receive AFDC assistance within 4 years of giving birth. These AFDC mothers who give birth out of wedlock are the group at highest risk of becoming long-term AFDC recipients.

Listen to these statistics, Mr. President. Forty percent of young, never-married mothers who enter the AFDC program spend 10 or more years on AFDC—40 percent of these young, never-married mothers. So there is no surer prescription for poverty than to be an unmarried teenage mother. Forty-six percent of single mothers with children live below the poverty level. For married couples with children this figure is only 7 percent.

Scholars and demographers call this trend, this fact that 46 percent of single mothers with children live below the poverty line, they call this the "feminization of poverty." I call it a national tragedy.

We hear these statistics so often that sometimes they become hollow. But the fact is there is something we can do to prevent all this. One major step we can take is to increase access to family planning so men and women can put off having children, should they so desire, until they are in a situation where they can support that child emotionally and financially.

The title X program is the only federally supported program which supports family planning. One would think with such alarming statistics on teen pregnancy and poverty we would be doing all we could to support this title X program. Instead, the money for these programs is diminishing.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. CHAFEE. Yes.

Mr. MOYNIHAN. Is the distinguished Senator from Rhode Island aware that 3 weeks ago, the President himself spoke to the League of Cities here in Washington and made many of the points that the Senator has made? Additionally, the global fact that we have reached the point where one out of every four children born in the country today is born out of wedlock—extramaritally. We have approximately 4 million births a year; 1 million of those children are born in single parent families. We have never had such experience in our history as a people.

Mr. CHAFEE. It is very, very discouraging. And of those million who are born out of wedlock, a substantial percentage of them are born to teenagers. Then it follows, as night follows day, that those families will live in poverty. As shown by the statistics I have pointed out, they will not just be temporarily in poverty. When they go on AFDC, they stay there for 10 or more years.

This is a tragedy in every respect. It is a tragedy for them. No one living on AFDC is living high on the hog. It is marginal living at best. And it is a tragedy because of the expenditures for our Nation.

Yesterday we had pointed out it is the entitlement programs that are forcing this Nation's debt constantly upward. AFDC is an entitlement program. The reason that is going up is because of these very statistics.

So the tragedy is, as teen pregnancy is going up, access to family planning is going down. And that is the real tragedy of the gag rule, Mr. President.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Is the Senator from New York waiting to seek recognition? I have time ordered in morning business.

The PRESIDING OFFICER. The Senator from New York is recognized.

THE FLAT TAX

Mr. MOYNIHAN. Mr. President, there has been much discussion in recent days of Gov. Jerry Brown's position paper, "The Case for a Flat Rate Tax, a Silver-Bullet Solution for the Economy." This was issued in February, February 10, this year. I have not, however, seen any comment on the single most important and devastating feature of this proposal which is, "it would eliminate the Social Security tax," which is to say, it would eliminate the most important and successful social program enacted in the 20th century. It would put a silver bullet through the heart of Social Security.

If you eliminate the Social Security payroll tax and treat Social Security as part of general revenue, you pull out the cornerstone of the Social Security system. From the very first, Frances Perkins and Franklin D. Roosevelt understood and made absolutely clear that Social Security was to be a contributory pension plan. Contributions would go to a Social Security trust fund.

In time there were several of these: The old-age survivors and disability insurance trust funds, OASDI, as we see them referred to. Every nickel in the trust fund has someone's name on it. Your name, your spouse's name, your sons' and daughters' names. It is yours as a legal and moral right. President Roosevelt made this exact point and used these exact words in 1941. It happens that we have the record. In the summer of that year, Columbia University Prof. Luther Gulick called on the President and suggested that it might be time to give up the separate payroll tax that financed Social Security then as now. Professor Gulick, as a good academic, recorded President Roosevelt's response. And FDR replied:

> Luther, I guess you are right on the economics. Those taxes were never a problem of economics. We put those payroll contributions there so as to give the contributors a legal, moral and political right to collect their pension and their unemployment benefits. With those taxes in there, no damn politician can ever scrap my Social Security program.

Those are the words of Franklin D. Roosevelt who brought it to this floor. If the payroll contribution is eliminated—it is not properly a tax—then that right is eliminated. The first principle of social insurance retirement benefits is that they are provided as a matter of right, earned through contributions. Take away payroll contributions and Social Security becomes welfare. Take away payroll contributions and Social Security becomes welfare.

The call to place a means test on retirement benefits is already heard in Washington. It will be enacted, if ever this flat tax is adopted. Those who want to cut benefits—and there are many—will seize that opportunity. It is bad enough that the present administration is using the trust funds as if they were general revenue.

Two years ago in January I appeared on the "Today Show" with our beloved former colleague, John Heinz. I referred, in passing, to an editorial in the Rochester Democrat & Chronicle, which described what was going on as "thievery." Asked by Deborah Norville if he agreed, Senator Heinz said, "Well, Deborah, I would use a slightly different word than Pat. He uses thievery. I would call it embezzlement."

Embezzlement is bad enough. Abolition would be unconscionable. Surely the Democratic Party will not forsake its proudest social program of the 20th century; not put a silver bullet through the heart of Social Security.

I thank the Senator from Kansas for her courtesy and I yield the floor.

EXTENSION OF MORNING BUSINESS

The PRESIDING OFFICER. The Senator from Kansas is recognized. Under the previous order she has 10 minutes. I remind the Senator that morning business closes at 11:30.

Mr. MOYNIHAN. Mr. President, may I ask unanimous consent that morning business be extended for a full 10 minutes, in order that the Senator from Kansas might have the time allowed her?

The PRESIDING OFFICER. Without objection, it is so ordered.

COMPREHENSIVE HEALTH CARE REFORM

Mrs. KASSEBAUM. Mr. President, I thank the Senator from New York. I may not use all that time but I very much appreciate the opportunity.

Yesterday, in the House of Representatives, Congressman PAT ROBERTS from Kansas, a Republican, introduced the same legislation, my basic care, comprehensive health-care reform legislation. Today, Congressman DAN GLICKMAN, a Democrat, is introducing the basic health-care reform legislation with some minor modifications.

I am really very pleased that the Kansas delegation, in a bipartisan fashion, is working in what I happen to believe is a very comprehensive, constructive way to address the problems in our health-care system. I think that in many ways, Mr. President, there is more common ground on health-care reform than the current debate might suggest.

A big part of that common ground is the recognition that our present health-care system is in need of major repair. With 37 million Americans uninsured and soaring medical costs for those who are covered, there is no question that we need to act.

Right now, most Americans believe that Congress is incapable of dealing effectively with any issue. Perhaps that despair is justified. I think not. But I for one am prepared to join any good-faith effort to shape comprehensive health care reform this year. I do not see any reason, Mr. President, to put it off and put it on the back burner until next year. The debate can move forward and we can have a thoughtful discussion.

To that end, I recently introduced S. 2346, which addresses universal access to health care coverage, strong and effective cost containment, and honest up-front financing for health care reform. I believe this legislation is a solid start toward a goal that every American family wants us to reach.

This legislation will not be perfect for everyone, and it certainly includes many tough provisions involving major policy decisions. S. 2346 does not rely on play-or-pay mandates on employers nor does it call for a Government-run, single-payer system, nor is it an incremental bill that skirts the need for comprehensive access expansion and tough control of rising costs.

Integral to any serious health care reform proposal is the issue of cost containment, and my legislation contains what I believe is a strong and innovative approach in this critical area.

S. 2346 would control rising health care costs by placing firm annual limits on the rate of increases in BasiCare premiums. Unlike many of the other health care cost containment proposals now under consideration, my approach does not seek to micromanage health care delivery through extensive Government-sponsored rate or fee-setting mechanisms. Rather, under my plan, the role of Government will be simply to set firm global budget parameters within which the health care system must operate.

In practice, what this bill means is that the national limits on premium growth will force insurers to manage the risk of rising costs by negotiating with doctors and hospitals for the establishment of efficient, organized networks of health care delivery. The cap on BasiCare cost growth will create a market situation I believe in which both insurers and providers will find that they have no choice but to come together to negotiate ways to lower costs and to deliver care as efficiently and attractively as possible.

These changes will likely mean an expanded number of so-called managed care systems such as preferred-provider organizations or HMO's. Importantly, however, this move to greater use of managed care will be a natural market response to overall cost constraints rather than a result of prescriptive Government requirements.

The S. 2346 approach to cost containment is superior I believe, Mr. President, to the more cumbersome regulatory all-payer proposals for setting and controlling specific provider charges. It is a clean, straightforward way to control cost growth in our health care system but without resorting to undue Government rulemaking and bureaucratic control.

I urge my colleagues to take a close look at S. 2346, and in particular at its tough provisions for restraining rising health care costs. As we all know, rising costs are the driving engine behind the current crisis in health care, and any reform plan that does not squarely confront this reality is really no plan at all.

Mr. President, I believe we owe it to the American people to come together on a comprehensive answer to this crisis, and I believe we should try to do so this year. I am eager to join with Members of both parties in working toward this goal.

Mr. President, I yield the floor.

SENATE CONCURRENT RESOLUTION 102, TO PROVIDE FOR A JOINT CONGRESSIONAL COMMITTEE ON INAUGURAL CEREMONIES

S. CON. RES. 102

Authorizing the rotunda of the United States Capital to be used on January 20, 1993, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice President-elect of the United States.

IOWA YOUTH SPEAKS

Mr. GRASSLEY. Mr. President, I recently had the privilege of speaking to a group of students from Winterset High School. Winterset, a small southwest Iowa town, is the birthplace of legendary heroes like John, the Duke, Wayne. It is also the home of young heroes like Shelly Hollingsworth, Jessica McDonald, Jennifer Mescher, and Jerrad Kemp.

Carol Liechty, a 7th-grade language arts teacher, walked up to me during my visit and handed me a packet. Her students had been working on speeches to express their feelings about important social issues.

Their remarks are a nutshell of the youthful idealism that brought many of us to play a role in the political arena. Their belief that we can change the world if we each do our part is the same conviction that caused many of us to pursue our current positions.

These young people raise their dreams as a challenge to us as adults and say, "you are currently in positions of power. What are you doing to make the world better?"

Their challenge should be our waking thought as we begin each day and our last reflection as we close each night.

Mr. President, these students are the essence of our work here. Every decision we make should be with our children and grandchildren in mind. I stop today to reflect on their remarks and receive their challenge. I would like to have the essays of these young and promising heroes placed in the RECORD so each Member will have the opportunity to do the same.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WINTERSET MIDDLE SCHOOL,
Winterset, IA, January 7, 1992.

DEAR SENATOR GRASSLEY: This morning one of my students mentioned that you were going to be in the high school building giving a talk. Another student asked if she could send you a copy of an essay she is writing. Many of my students are writing to famous world leaders about their ideas on peace, freedom, racism and other important issues and some of them asked me to send you copies of their letters. All of my students are giving speeches next week on the beliefs they have, in honor of Martin Luther King, Jr.

and his willingness to take a stand and speak out about these same issues. I hope you enjoy the letters and essays enclosed. My students wanted a chance to "speak out" and make a difference in the world and thought you might be able to help them work for their "dreams". Thank you!

Sincerely,

CAROL LIECHTY,
7th-grade language arts teacher.

PEACE

Have you ever thought of Peace more than just a word? Peace makes a statement by saying something, renewing something, demanding something, or assuring something.

We need Peace in this world. Think of all the wars, walls falling down, racism, fighting, uniting of countries, and religions. Our world has gone through all of these. Each one of these we've fought about a time or two, maybe given up our lives for.

Peace can renew you by the end of a war. Peace can make you feel fresh and excited about life. Peace can demand. An example would be when the people wanted freedom from the Berlin Wall, they tore the wall down.

But Peace can also assure. Freedom is a good example. People feel safe when they know what they're doing is okay and people don't scoff at what they do.

There are all kinds of Peace. Each Peace means something, means a lot. "Peace is a liberty in tranquility." This quote was once said by Cicero and people remembered it. You should remember any conflict deserves Peace no matter how small or big the dispute. We should all be concerned. Any Peace can be accomplished. We only wish our Peace wasn't measured!

SHELLY HOLLINGSWORTH,
7th grade, Winterset Middle School.

DEAR SENATOR GRASSELY: Here is my speech I hope you read it and give it a lot of thought.

Sincerely,

JESSICA MCDONALD.

HOMELESSNESS

(By Jessica McDonald)

Homelessness is a problem I think is overlooked. It should be on the top of our list to try to help. I think homelessness is not the persons fault, but maybe it's ours.

If we can't help homeless people when they have problems then why do we complain. We have all been in problems before and all we needed was a little help from our friends and we were back on our feet again. Maybe all they need is a little help from us. Then they'll be back on their feet.

If there were more shelters for the homeless people it would do a worlds of wonder. If they had a good night sleep and a three course meal it will make them look and feel better. This should give them better luck in an interview for a job.

If we don't start funds for homeless people there will not be any money to build shelters. We should start funds and have at least one shelter in each county. Funds also should be for blankets, food, and money for the homeless.

Most importantly if we don't care about homeless people they won't try. We all have had experiences where we try because someone encouraged us to. Well maybe all they need is a little love and encouragement also.

So if you're a take charge person maybe you should organize funds, if you have extra blankets take them to a near shelter, and of course just care. You'll be surprised how good this will make you both feel.

Winterset, IA.

DEAR SENATOR GRASSLEY: My name is Jennifer Mescher. I am giving you a copy of an essay that I wrote for language class. I just wanted you to know my feelings about some of the problems in America. When you have some free time could you please read my essay and maybe send me a response back. Thank you, I will write the address below:

Sincerely,

JENNIFER MESCHER
7th grade, Winterset Middle School.

AMERICA, FREE FOREVER?

I can't even write about all of the problems in America: Freedom being abused; pollution; education; unemployment; hunger; homelessness; and those are just a few of them.

How can we stop these problems? Can we stop these problems? They have got to be stopped immediately!

One of the problems that really irritates me is Black's vs. White's, or freedom being abused. Don't get me wrong, the other problems are just as important and need to be stopped just as badly. But like I mentioned before, freedom being abused really bugs me. Crossburnings in peoples' front yards, bricks through windows? Get serious and wake up!

We've got to stop these things. Black people are the same as us. They may be different on the outside, but we are all the same on the inside. We get our freedom and then we abuse it. Our freedom is being taken away from us. Help me stop things from happening.

These innocent and suffering people have got to be helped. What should we do to stop them? Should we sing a song of love, peace, friendship, and hope to these suffering people? Maybe we should speak our feelings out to all of the public and get their help? Freedom is being abused and it has got to be stopped!

What can we do to stop all of these horrible and insane problems from happening to our beautiful and free America? Are we going to remain that beautiful and free America forever? Is America going to ring the beautiful sound of freedom forever?—JENNIFER MESCHER, 1992.

WINTERSET, IA.

DEAR SENATOR GRASSLEY: My name is Jerrad Kemp I am 13 years old I live in Winterset Iowa, for a class at the Winterset Middle we had to write an essay on something we relly belive in and would say to the world if we could. Well here's my essay that I wrote my topic was peace because I belive that its the answer to the worlds problems. Here it is my essay.

Is peace good or bad? It's good! Is peace the answer to the world? You bet it is, in fact I'm willing to bet any one who thinks different a million dollars and I will even give you some examples that I'm right, so keep reading my friend.

Example Number 1. Is peace the answer to racism? Yes it is, I mean if everyone accepted people for who they are and not what they look like then their would be no racism in the world. There's one example. One more to go. Do you still want to bet me?

Example Number 2. Peace is the answer to war to. If two or four or even ten countries cared more about each other then two miles of land or about whos got more money. If people cared more about each other then we would have peace. Well it looks like those who bet me owe me a million dollars, but I'd settle if you just try to make peace whether it be at home at work or any where it be just give it a chance.

Peace is for every body no matter what color or race or religion. No matter what circumstances practice peace, for give people for what they have done. So go for peace and help don't hurt. The world needs you now. If you get one thing from this make it be this Peace answers everything, it is the key to the lock of love.

A concerned citizen,

JERRAD KEMP.

IN MEMORY OF GEN. CHARLES D. FRANKLIN

Mr. WARNER. Mr. President, I rise today to remember Lt. Gen. Charles D. Franklin, a man whose work greatly benefited the Congress and the Nation. For 3 years, Chuck Franklin served as the Chief of Legislative Liaison for the Army, during which time many of our colleagues in both chambers came to appreciate and respect this fine man.

Last week, friends, family and colleagues paid their last respects to General Franklin. At the service in the Old Chapel at Fort Myer, former Secretary of the Army, John Marsh delivered a eulogy that paid fitting tribute to the many facets of a man who led an exemplary life. In expressing my sincere condolences to General Franklin's family, and as a tribute here in the chamber of the Senate, a body indebted to General Franklin and his work, I respectfully request that the text of Secretary Marsh's eulogy be included in the permanent RECORD of the proceedings of the Congress.

There being no objection, the eulogy was ordered to be printed in the RECORD, as follows:

EULOGY TO LT. GEN. (RET.) CHARLES D. FRANKLIN

I am honored to be here to give the eulogy to an old friend. However, I would point out that the greatest eulogy to General Chuck Franklin is his service to our nation and his devotion to his family.

Among his friends assembled here are his Congressman, Ike Skelton; John Shannon, the Under Secretary of the Army; and General Chuck Dominy, the Director of the Army Staff who also had Chuck's assignment with Congress.

This is a day of mourning. It is a time of sorrow, of anguish, of heartache, as we cope with the shock of a great loss. To you, his family, I would say that all of us who gather here hope our presence, our thoughts and our prayers will in some way ease the heaviness of your hearts.

We are here to honor a soldier whose roots were in the farmlands of Missouri.

Chuck was a man of spirit and commitment. He was committed to his faith and the things in which he believed. He was committed to his Country—a commitment which found expression through his service in the Army. Finally, he was deeply committed to his family.

The Army is often described as a family, and therefore it was natural the Franklins would become a fine example to the Army of an Army family. They were also a good example to our Country. So, to Pat, whose first affection for Chuck began when they entered grammer school together, and cause her to say she'd really been married to Chuck all her life, and to his son Chuck, who is following in his father's footsteps, his daughters, Debbie and Susan, his Mother and Father, who are here, and to the grandchildren who were the apple of his eye, we know what a loss this must be for each of you.

We are also here to pay tribute to a soldier. The ribbons he wore, and the badges he displayed on his uniform are symbols of his service, his achievements, and, very importantly, his valor.

Aviation wings—the Silver Star—the Distinguished Flying Cross—they speak volumes of risks and hardships, and the agonies of many battlefields where they were won in a war now more than twenty years ago.

Although America never gave him, or those others who served in Vietnam, the honor they deserved, those years of combat experience would build a magnificent American Army of the 80's and the 90's. For this alone we are in his debt.

Many of us worked with Chuck on Capitol Hill. It was my good fortune to serve with him for most of my tenure as Secretary. He was a person of unusual talent and natural ability. His assignment as Director of Congressional Relations was a perfect match for his talents. He had an extraordinary ability in relating to the Congress and its members. He explained the Army to Congress, and what was, I'm sure, more difficult, he explained the Congress to the Army. He was always totally reliable in what he did and enormously successful.

During the period he performed in this important post, many of the major weapons systems of the Army had to be justified, as they should be, before the Congress. He was responsible for leading our effort on Capitol Hill, and, together with others, he had the task to ensure the Congress gave us the support for these vital systems. I remember well the Patriot was nearly canceled by the Congress, but through the efforts of Chuck and his team on the Hill, and others in the Army, we were able to save it and bring it into the Army inventory.

The real beneficiaries of his efforts in the early 80's are all those Americans who wore our nation's uniform in the Persian Gulf in the early 90's.

I never knew what Chuck's political persuasion was, but because of the way he related to the political process, I often told him that if he had not gone into the Army, but rather had gone into politics, that whatever party he was a member of, I was sure he would be the State Chairman, and his party would be running Missouri.

He never changed. As he rose to high ranks, he was the same person. And he was living proof of that wonderful old adage, "you can take the boy out of the country, but you can't take the country out of the boy."

Quiet, friendly, easy-going, he wore his stars with a certain grace, and did his duty in a way that earned the respect of those who served with him.

Today is a day to mourn. And although it's a time of sorrow and of sadness, it is also a time for reflection and for remembrance. It is a time for honor and to be grateful for what he was, and what he did.

We honor his memory, but it is also important we renew our commitment to his values of faith, Country and family. James Lowell wrote that, "Life is but a leaf of paper white whereon each of us may write a word or two, then comes the night."

"Greatly begin, though thou have time but for a line; be that sublime; not failure, but low aim, is crime."

Chuck Franklin aimed high, and through his life he wrote more than a word, or a line. Rather, he wrote line upon line, and chapter upon chapter, so that his life became a book of service to the nation, and a testament to the values in which he so deeply believed.

He was a man of great spirit, and as we leave here today to meet the tasks that confront us all—something he would want us to do—let us recall an ancient verse from the Book of Proverbs—"The spirit of man is a candle of the Lord."

GLOBAL ENVIRONMENTAL POLICY

Mr. WALLOP. Mr. President, on Tuesday, our colleague from New Hampshire, Mr. RUDMAN, announced he was retiring at the end of his current term. His decision was prompted in part by our disastrous policies for financing the Federal Government. In particular, his frustrations focused on our unwillingness to control Federal spending, and the growing Federal debt. Our Federal debt now exceeds $4 trillion—which is two-thirds of our total gross domestic product. If the Federal debt continues to grow unabated, our Federal debt will equal our gross domestic product. As the Senator from New Hampshire has stated, that is the description of a Third World economy. We will be dependent on foreign largess to finance our deficit.

Whenever the Senate debates budget issues, such as yesterday's discussion on repudiating the 1990 budget agreement, the fallacious argument is recycled that all our budget woes have been caused by too much defense spending and too few taxes over the past decade. One of the few correct decisions by President Carter at the end of his term was to recognize that our defense capability had been seriously depleted. We needed to rebuild our Armed Forces. This program was vigorously pursued by President Reagan. The result was that we had the forces to defeat Iraq with minimal losses, and to win the cold war.

What critics ignore is that our defense buildup was over in 1985. Defense appropriations since then have declined in inflated dollar and, now, in real dollar amounts. Defense spending now accounts for only 24 percent of the Federal budget. Over the next few years, that portion will decline even further. At the same time, every 2 years since 1981, Congress enacted new tax legislation. When enacted, each proposal represented the largest tax increase in our history. This milestone was last achieved in 1990, when Congress enacted $137 billion in new taxes. Overall, during the Reagan administration, tax revenues were $140 billion higher than revenues would have been if the tax burden had been at the historic postwar average. Obviously, it was not defense spending nor lack of tax revenues that created the deficit.

The deficit culprit is mandated Federal spending. Two areas of the budget require automatic spending. One is interest payments on the national debt. Interest payments account for 15 percent of the Federal budget. The administration's successful battle against inflation has meant that these payments have decreased as interest rates have declined.

The second area of mandated expenditures is entitlement spending. Entitlements have grown to absorb 45 percent of the Federal budget. By the end of this decade, nearly three-fifths of the Federal budget will involve entitlements, which are nothing more than transferring money from taxpayers to whoever qualifies for the entitlement. And, 80 percent of the entitlements are not means-tested. Entitlement spending has gotten so out of control, that nearly one-half of our population qualifies for at least 1 of the 150 Federal entitlements.

For the past 2 days, we have been diverted by an absurd debate on breaking the firewalls between discretionary defense and domestic spending. What we should be discussing are policies to reduce entitlement spending. That is the only route to a responsible Federal budget.

The fascination with entitlements reflects the increasingly discredited argument that Government is the source of economic improvement. This fundamental belief of the socialist creed has been thoroughly repudiated by the former Communist states in Eastern Europe. However, it still lingers on in much of the Third World. The most recent manifestation has arisen as one of the auxiliary negotiations for the Earth summit which will be held in Rio de Janeiro in June. This summit is organized by the U.N. Conference on Environment and Development.

The Earth summit actually has three elements. There are two negotiations underway to develop building international agreements on global climate change and on biodiversity. And, there is a third negotiation on a set of principles on international environmental issues. This latter negotiation was to be completed by now. However, the approximately 150 member nations of the United Nations have been unable to reach agreement on just the nonbinding principles. So, the June conference which was to ratify all completed documents appears to be in a state of chaos at the moment.

There are several troublesome aspects to the two binding agreements under negotiation. I would like to mention several involving the global climate change convention. One element of this negotiation involves the demand for a new, international entitlement program. This is a scheme propagated by the Third World bloc which controls the General Assembly on the United Nations. They fall back on the discredited socialist argument that the productive, the developed, members of the international community should be taxed to fund transfer payments to countries which are not economically developed. As with other welfare programs, this is a formula for dependency, and not economic development.

The proposal from the so-called Group of 77 would require the OECD nations to make a mandatory contribution of a specified percent of each's GDP to an entitlement fund. The fund would be controlled by the Group of 77, with no accountability on how it would be spent. This is an irresponsible hoax.

This proposal would require our Government to either increase deficit financing or raise new taxes. Would the funds be used to improve our infrastructure, maintain our security, or improve our social programs? No—the funds would be transfer payments to nations who insist that there be no accountability on how the money is spent. Though there are some in Congress who are sympathetic to this proposal, it is not something that the American people would ever accept. The refunding request for the World Bank is in doubt because of public opposition. No one can seriously believe that this G–77 fund would ever be approved by Congress. That is the message I carried to the United Nations last week when I visited with some of the negotiators.

Perhaps the most distressing aspect of the negotiations on global climate change is the assumption that the so-called greenhouse effect is a scientifically verified phenomenon which will devastate the earth over the next hundred years. Many scientists have questioned the hysteria being generated by some organizations about global warming. Many may recall that alarms were sounded back in the late seventies about the new ice age which would result from carbon dioxide buildup in the atmosphere. That theory was quickly discredited, so now we have the global warming alarm which is also based on incomplete evidence. The Senate Energy Committee will conduct one of our periodic hearings on this issue, and a thorough discussion of the science behind global climate change will occur at that hearing.

In the meantime, we are being pushed into confirming that which is in dispute through the Global Climate Change Convention. Both the Group of 77 and some OECD nations are pushing for mandatory caps on carbon dioxide emissions. Since carbon dioxide is part of the natural life cycle, there are a limited number of targets for restriction emissions. The negotiations have focused on industrial and transportation restrictions in the developed nations. This is a not very subtle attempt to allow an international body, controlled by the Group of 77, to dictate to the United States our future economic growth. If our economic growth is curtailed, where will we generate the revenues to fund the G–77 environmental fund?

While the United States would be subject to mandatory restrictions on our carbon dioxide emissions, the Group of 77 also insist that they be allowed to continue to expand their emissions. I would ask that a chart showing greenhouse gas emissions over the next 60 years be printed in the RECORD at this point.

If one were to agree that global warming is occurring, it makes no sense to restrict carbon dioxide emissions in the countries with a slow or even static rate of growth, but allow a massive increase elsewhere. This is illogical

The United States negotiators are under much pressure, not just from the Group of 77, not just from the European Community and the Japanese, but also from Members of Congress, to capitulate to these two demands for a mandatory fund and mandatory caps. Our negotiators have taken a much more sensible and workable position. First, environmental development funds should be provided through existing multilateral financial organizations, such as the GEF, and be based on voluntary contributions. Second, to reduce carbon dioxide emissions, we need real measures that actually work, rather than artificial, mandated caps. For instance, the enactment of the National Energy Security Act, S. 2166, will reduce U.S. carbon dioxide emissions. We do not need a cap that will be selectively enforced by the Group of 77.

There are other problems and opportunities involving the Earth summit negotiations. As a member of the Senate Observers Group, I will make additional comments on the progress and pitfalls of the conference as we near the June gathering in Rio.

CONTRIBUTION TO ANNUAL GLOBAL GREENHOUSE GAS EMISSIONS

Any unilateral action by the United States would have little, if any, impact on total greenhouse gas emissions over the next few decades.

Major increases in greenhouse gas emissions will come from the developing world and Eastern Europe over the next 50 years.

The U.S. percentage of greenhouse gas emissions has decreased dramatically over the past 40 years, when compared to other economics.

CONTRIBUTION TO GREENHOUSE GAS EMISSIONS

[In percent]

	1985	2000	2015	2050
United States	21	19	16	12
Western Europe	22	19	16	12
CIS	22	22	19	18
China	10	13	16	21
Developing world	25	28	32	37

COMMENDING JAMES L. MOODY, JR.

Mr. COHEN. Mr. President, I would like to call the attention of my colleagues to the distinguished career of James L. Moody, Jr., of Scarborough in my home State of Maine.

After 33 years of dedicated service—19 of those years as chief executive—Jim Moody will retire in May from the helm of the Hannaford Bros. Co. supermarket chain. He will remain with the company as its chairman for the next 5 years.

Jim Moody's achievements are phenomenal in their own right. He is an innovative businessman who nurtured a small grocery-store chain through its expansion to the $2 billion empire of Shop'n Save stores that it is today.

Jim Moody's leadership style outwardly reflects his belief and willingness to invest in people. From the consideration he shows his employees to the community recycling efforts he has launched through his stores, Jim Moody has earned a solid reputation as a man of high standards and as a kind, thoughtful, and fair leader.

In closing, I would like to share with you a tribute to Jim Moody that appeared in the Portland Press Herald last week, and I ask that the full text of it be printed in the RECORD. I hope you, Mr. President, and my colleagues will join me in commending Jim Moody for making a difference in Maine. He is a credit to the good name of American entrepreneurship.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Portland (ME) Press Herald, Mar. 18, 1992]

RETIRING CEO: HANNAFORD CHIEF'S WORK SETS A STANDARD FOR CORPORATIONS

Chief Executive James L. Moody Jr. will step aside at Hannaford Bros. Co. this May after years of outstanding service to his company and the state of Maine.

We should all be proud of Moody. A product of Gorham High School and Bates College, he has worked for Scarborough-based Hannaford since 1959, and as its chief executive since 1973.

Moody took a small Maine grocery chain and made it into a $2 billion regional supermarket powerhouse. Along the way he built Hannaford's reputation as a company that treats its employees well, thinks in the long term and gives back to its community.

Talk to Hannaford executives and you will find a surprising number of them started with the company bagging groceries. Look at Hannaford's record of expansion, and you will see that the company isn't afraid to lose a little money in the start-run. Walk in to one of Hannaford's Shop 'n Save stores and you will see a company committed to recycling.

Moody, who is 60, will still be around as chairman until 1997.

He will turn over the duties of chief executive to Hugh G. Farrington. Since 1984 Farrington has served as Hannaford's president, an alter-ego for Moody. All indications are that Hannaford will lose little in this transition.

Perhaps no other type of institution reflects the personality of its leadership more than a modern corporation. In Moody's case, the image is quite flattering.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

MONTANA NATIONAL FOREST MANAGEMENT ACT OF 1991

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 1696, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1696) to designate certain National Forest lands in the State of Montana as wilderness, to release other National Forest lands in the State of Montana for multiple use management, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Montana National Forest Management Act of 1991".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) Many areas of undeveloped National Forest System lands in the State of Montana possess outstanding natural characteristics which give them high value as wilderness and will, if properly preserved, contribute as an enduring resource of wild land for the benefit of the American people.

(2) The existing Department of Agriculture Land and Resource Management Plans for Forest System lands in the State of Montana have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System.

(3) The existing Department of Agriculture Land and Resource Management Plans for National Forest System lands in the State of Montana and the related congressional review of such lands have also identified areas that do not possess outstanding wilderness attributes or possess outstanding energy, mineral, timber, grazing, dispersed recreation, or other values. Such areas should not be designated as components of the National Wilderness Preservation System but should be available for non-wilderness multiple uses under the land management planning process and other applicable law.

(b) PURPOSES.—The purposes of this Act are to—

(1) designate certain National Forest System lands in the State of Montana as components of the National Wilderness Preservation System, in furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), in order to preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, and physical and mental challenge; and

(2) ensure that certain other National Forest System lands in the State of Montana be available for nonwilderness uses.

SEC. 3. WILDERNESS DESIGNATIONS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act of 1964, the following lands in the State of Montana are designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Beaverhead, Bitterroot, and Deerlodge National Forests, which comprise approximately twenty-nine thousand one hundred acres, as generally depicted on a map entitled "Anaconda-Pintler Wilderness Additions—Proposed" (North Big Hole, Storm Lake, Upper East Fork), dated September 1991, and which are hereby incorporated in and shall be deemed to be a part of the Anaconda-Pintler Wilderness.

(2) Certain lands in the Beaverhead National Forest, which comprise approximately twenty-five thousand acres, as generally depicted on a map entitled "Italian Peaks Wilderness—Proposed", dated September 1991, and which shall be known as the Italian Peaks Wilderness.

(3) Certain lands in the Beaverhead National Forest, which comprise approximately seventy-nine thousand five hundred acres, as generally depicted on a map entitled "East Pioneer Wilderness—Proposed", dated September 1991, and which shall be known as the East Pioneer Wilderness.

(4) Certain lands in the Beaverhead National Forest, Montana, comprising approximately seventy-six thousand six hundred acres, as generally depicted on a map entitled "West Big Hole Wilderness—Proposed", dated September 1991, and which shall be known as the West Big Hole Wilderness.

(5) Certain lands in the Bitterroot, Deerlodge, and Lolo National Forests, which comprise approximately sixty-four thousand eight hundred acres, as generally depicted on a map entitled "Stony Mountain Wilderness—Proposed", dated November 1991, and which shall be known as the Stony Mountain Wilderness.

(6) Certain lands in the Bitterroot and Lolo National Forests, which comprise approximately fifty-five thousand six hundred acres, as generally depicted on maps entitled "Selway-Bitterroot Wilderness Additions—Proposed", dated September 1991, and which are hereby incorporated in and shall be deemed to be a part of the Selway-Bitterroot Wilderness. The use of motorized equipment shall be prohibited on those lands surrounding High Lake which are excluded from the area designated as wilderness by this paragraph, except for such equipment (including access by helicopter) as the Secretary determines to be necessary to allow for the operation and maintenance of the impoundment located on High Lake.

(7) Certain lands in the Custer National Forest, which comprise approximately five thousand eight hundred acres, as generally depicted on a map entitled "Lost Water Canyon Wilderness—Proposed", dated September 1991, and which shall be known as the Lost Water Canyon Wilderness.

(8) Certain lands in the Custer National Forest, which comprise approximately six thousand acres, as generally depicted on a map entitled "Absaroka Beartooth Wilderness Additions—Proposed" (Burnt Mountain, Timberline Creek, Stateline and Mystic Lake), dated November 1991, and which are hereby incorporated in and shall be deemed to be a part of the Absaroka Beartooth Wilderness.

(9) Certain lands in the Deerlodge and Helena National Forests, which comprise approximately nineteen thousand acres, as generally depicted on a map entitled "Blackfoot Meadow-Electric Peak Wilderness—Proposed", dated September 1991, and which shall be known as the Blackfoot Meadow Wilderness.

(10) Certain lands in the Deerlodge and Bitterroot National Forests, which comprise approximately fifty-six thousand acres, as generally depicted on a map entitled "Sapphires Wilderness—Proposed", dated November 1991, and which shall be known as the Sapphires Wilderness.

(11) Certain lands in the Flathead National Forest, which comprise approximately thirty thousand acres, as generally depicted on a map entitled "North Fork Wilderness—Proposed (Tuchuck and Mount Hefty)", dated November 1991, and which shall be known as the North Fork Wilderness.

(12) Certain lands in the Flathead, Helena, Lolo, and Lewis and Clark National Forests, which comprise approximately two hundred fifteen thousand seven hundred acres, as generally depicted on maps entitled "Arnold Bolle Additions to the Bob Marshall Wilderness—Proposed" (Silver King-Falls Creek, Renshaw, Clearwater-Monture, Deep Creek, Teton High Peak, Volcano Reef, Slippery Bill, Limestone Cave, and Crown Mountain), dated November 1991, which shall be known as the Arnold Bolle-Bob Marshall Wilderness Additions and are incorporated in and shall be deemed to be a part of the Bob Marshall Wilderness.

(13) Certain lands in the Flathead National Forest, which comprise approximately nine hundred and sixty acres, as generally depicted on a map entitled "North Mission Mountain Wilderness Additions—Proposed", dated September 1991, and which are hereby incorporated in and shall be deemed to be a part of the North Mission Mountain Wilderness.

(14) Certain lands in the Flathead and Lolo National Forests, comprising approximately one hundred and fifty-nine thousand five hundred acres, as generally depicted on maps entitled "Jewel Basin/Swan Wilderness—Proposed", dated November 1991. Those lands contiguous to the west slope of the Bob Marshall Wilderness referred to in this paragraph are hereby incorporated in and shall be deemed to be a part of the Bob Marshall Wilderness, while the remaining lands shall be known as the Swan Crest Wilderness.

(15) Certain lands in the Gallatin National Forest, which comprise approximately five thousand five hundred acres, as generally depicted on a map entitled "North Absaroka Wilderness Additions—Proposed" (Republic Mountain and Dexter Point), dated November 1991, and which are hereby incorporated in and shall be deemed to be a part of the North Absaroka Wilderness.

(16) Certain lands in the Gallatin National Forest, which comprise approximately thirteen thousand seven hundred acres, as generally depicted on a map entitled "Lee Metcalf Cowboys Heaven Addition—Proposed", dated September 1991, and which are hereby incorporated in and shall be deemed to be a part of the Lee Metcalf Wilderness.

(17) Certain lands in the Gallatin National Forest, which comprise approximately twenty-two thousand acres, as generally depicted on a map entitled "Earthquake Wilderness—Proposed", dated September 1991, and which shall be known as the Earthquake Wilderness.

(18) Certain lands in the Helena National Forest, which comprise approximately twenty-six thousand acres, as generally depicted on a map entitled "Camas Creek Wilderness—Proposed", dated September 1991, and which shall be known as the Camas Creek Wilderness.

(19) Certain lands in the Helena National Forest, which comprise approximately fifteen thousand acres, as generally depicted on a map entitled "Mount Baldy Wilderness—Proposed", dated September 1991, and which shall be known as the Mount Baldy Wilderness.

(20) Certain lands in the Helena National Forest, Montana, which comprise approximately ten thousand five hundred acres, as generally depicted on a map entitled "Gates of the Mountain Wilderness Additions—Proposed" (Big Log), dated September 1991, and which are hereby incorporated in and shall be deemed to be part of the Gates of the Mountain Wilderness.

(21) Certain lands in the Helena National Forest, which comprise approximately eight thousand five hundred acres, as generally depicted

on a map entitled "Black Mountain Wilderness—Proposed", dated September 1991, and which shall be known as the Black Mountain Wilderness. The Secretary of Agriculture, using existing statutory authority, shall give special attention to the acquisition of non-federally owned lands within the Black Mountain Wilderness.

(22) Certain lands in the Kootenai National Forest, which comprise approximately thirty-one thousand acres, as generally depicted on a map entitled "Cabinet Mountains Wilderness Additions—Proposed", dated November 1991, and which are hereby incorporated in and shall be deemed to be a part of the Cabinet Mountains Wilderness.

(23) Certain lands in the Kootenai National Forest, which comprise approximately fifty thousand acres, as generally depicted on a map entitled, "Scotchman Peaks Wilderness—Proposed", dated September 1991, which shall be known as the Scotchman Peaks Wilderness.

(24) Certain lands in the Kootenai and Lolo National Forests, which comprise approximately seventeen thousand nine hundred acres, as generally depicted on a map entitled "Cateract Peak Wilderness—Proposed", dated September 1991, which shall be known as the Cateract Creek Wilderness.

(25) Certain lands in the Lolo and Kootenai National Forests, which comprise approximately seventeen thousand nine hundred acres, as generally depicted on a map entitled "Cube Iron/Mount Silcox Wilderness—Proposed", dated November 1991, which shall be known as the Cube Iron/Mount Silcox Wilderness.

(26) Certain lands in the Lolo National Forest, which comprises approximately ninety-four thousand seven hundred acres, as generally depicted on a map entitled the "Great Burn Wilderness—Proposed", dated September 1991, which shall be known as the Great Burn Wilderness.

(27) Certain lands in the Lolo National Forest, which comprise approximately sixty thousand one hundred acres, as generally depicted on a map entitled "Quigg Peak Wilderness—Proposed", dated September 1991, which shall be known as the Quigg Peak Wilderness.

(b) MAPS AND LEGAL DESCRIPTIONS.—(1) The Secretary of Agriculture (hereinafter referred to as the "Secretary") shall file the maps referred to in this section and legal descriptions of each wilderness area designated by this section with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act.

(2) The Secretary may correct clerical and typographical errors in the maps and the legal descriptions submitted pursuant to this section.

(3) Each map and legal description referred to in this section shall be on file and available for public inspection in the office of the Chief of the Forest Service, Washington D.C. and at the office of the Region 1 Forester, Missoula, Montana.

(c) ADMINISTRATION.—Subject to valid existing rights, each wilderness area designated by this section shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964, except that, with respect to any area designated in this section, any reference to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(d) WILDERNESS AREA PERIMETERS.—Congress does no intend that the designation of wilderness areas in this section will lead to the creation of protective perimeters or buffer zones around such areas. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(e) GRAZING.—The grazing of livestock, where established prior to the date of enactment of this Act, in wilderness areas designated in this section shall be administered in accordance with section 4(d)(4) of the Wilderness Act of 1964 and section 108 of an Act entitled "An Act to designate certain National Forest System Lands in the States of Colorado, South Dakota, Missouri, South Carolina, and Louisiana for inclusion in the National Wilderness Preservation System, and for other purposes" (94 Stat. 3271; 16 U.S.C. 1133 note).

(f) STATE FISH AND GAME AUTHORITY.—In accordance with section 4(d)(7) of the Wilderness Act of 1964, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Montana with respect to wildlife and fish in the national forests of Montana.

(g) HUNTING.—Subject to applicable law, Congress recognizes hunting as a legitimate and beneficial activity within wilderness areas designated in this section. Nothing in this Act or the Wilderness Act of 1964 shall be construed to prohibit hunting in such areas.

(h) COLLECTION DEVICES.—(1) Within the wilderness areas designated in this section, neither the Wilderness Act of 1964 or this Act shall be construed to prevent the installation and maintenance of hydrological, meteorological, or climatological collection devices and ancillary facilities subject to such conditions as the Secretary deems desirable, where such facilities or access are essential to flood warning, flood control, and water reservoir operation purposes.

(2) Access to the devices and facilities described in paragraph (1) shall be by the means historically used, if that method is the least intrusive practicable means available.

SEC. 4. WATER RIGHTS.

(a) FINDING.—The Congress finds that the waters within the wilderness areas designated by section 3 of this Act are headwaters, and accordingly, this Act has no effect on the appropriation or adjudication of waters within the State of Montana under applicable law.

(b) RULES OF CONSTRUCTION.—Nothing in this Act is intended or shall be construed:

(1) to affect the downstream appropriation or adjudication of water;

(2) to affect existing water rights as provided under Montana state law;

(3) to affect the determination of express or implied reserved water rights as determined under other laws;

(4) as establishing a precedent with regard to any future wilderness designations or any interpretation of any other Act or wilderness designation.

SEC. 5. RELEASE TO NON-WILDERNESS MULTIPLE USE.

(a) FINDINGS.—The Congress finds that—

(1) the Department of Agriculture has adequately met the wilderness study requirements of Public Law 94-557;

(2) the Land and Resource Management Plans and associated Environmental Impact Statements (hereinafter referred to as "Land and Resource Management Plans") for all the National Forests in the State of Montana have been completed as required by section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976;

(3) the Department of Agriculture, with substantial public input, has reviewed the wilderness potential of these and other areas; and

(4) the Congress has made its own examination of National Forest System roadless areas in the State of Montana and of the environmental and economic impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress determines and direct that—

(1) without otherwise passing on the question of the legal and factual sufficiency of the Land and Resource Management Plans and their associated environmental impact statements for National Forest System lands in the State of Montana completed prior to the enactment of this Act, prior to the revision of such Plans, decisions to allocate roadless areas to wilderness or nonwilderness categories, and the environmental analyses directly related to such allocations shall not be subject to judicial review:

(A) Provided, however, That, except for decisions allocating lands to wilderness and nonwilderness categories, nothing in this section shall preclude judicial review of Department of Agriculture decisions implementing such Plans or decisions made concerning the management of National Forest lands subsequent to their allocation to wilderness and nonwilderness categories:

(B) Provided further, That, except for decisions allocating lands to wilderness and nonwilderness categories, nothing in this section shall preclude judicial review of Forest Service regional guides and other departmental policies of general applicability, nor prevent a court from invalidating forest planning decisions which fail to comply with applicable law;

(2) except as specifically provided in sections 3, 6, 7, 8, and 9 of this Act and in Public Law 95-150, with respect to the National Forest System lands in the State of Montana which were reviewed by the Department of Agriculture under Public Law 94-557, the unit plans that were in effect prior to completion of RARE II, the 1978 Forest Plan for the Beaverhead National Forest, and the Land and Resource Management Plans, that such reviews shall be deemed an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System, and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the Land and Resource Management Plans, but shall review the wilderness option when such plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless prior to that time the Secretary finds that conditions in a unit have significantly changed;

(3) those National Forest System lands in the State of Montana referred to in paragraph (2) of this subsection which were not designated as wilderness, special management, national recreation or wilderness study areas by this Act shall be managed for multiple use in accordance with land and resource management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act, and those areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial Land and Resource Management Plans;

(4) if revised Land and Resources Management Plans for the National Forest System lands in the State of Montana are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct

any further statewide roadless area review and evaluation of National Forest System lands in the State of Montana for purposes of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act, the term "revision" shall not include an amendment to a land and resource management plan.

(d) Except as where specifically provided elsewhere in this Act, the provisions of this section shall also apply to those National Forest System roadless lands in the State of Montana which are less then five thousand acres in size.

(e) Notwithstanding the provisions of paragraph (b)(2) of this section, the requirements of Public Law 95-150 are deemed to be satisfied with respect to the Sapphire and Middle Fork of the Judith Wilderness study areas.

SEC. 6. SPECIAL MANAGEMENT AREAS.

(a) For the purposes of conserving, protecting and enhancing the exceptional scenic, fish and wildlife, biological, educational and recreational values of certain National Forest System lands in the State of Montana, the following designations are made:

(1) The Mount Helena National Education and Recreation Area located in the Helena National Forest, comprising approximately three thousand nine hundred acres, as generally depicted on a map entitled "Mount Helena National Education and Recreation Area—Proposed", dated September 1991.

(2) The Hyalite National Education and Recreation Area located in the Gallatin National Forest, comprising approximately eighteen thousand nine hundred acres, as generally depicted on a map entitled "Hyalite National Recreation and Education Area—Proposed", dated September 1991.

(3) The Northwest Peak National Recreation and Scenic Area located in the Kootenai National Forest, comprising approximately sixteen thousand seven hundred acres, as generally depicted on a map entitled "Northwest Peak National Recreation and Scenic Area—Proposed", dated September 1991.

(4) The Buckhorn Ridge National Recreation Area located in the Kootenai National Forest, comprising approximately twenty thousand acres, as generally depicted on a map entitled "Buckhorn Ridge National Recreation Area—Proposed", dated September 1991.

(5) The Tenderfoot/Deep Creek National Recreation Area located in the Lewis and Clark National Forest, comprising approximately fifty thousand acres, as generally depicted on a map entitled "Tenderfoot/Deep Creek National Recreation Area—Proposed", dated November 1991.

(b) The Secretary shall file the maps referred to in this section with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, United States House of Representatives, and each such map shall have the same force and effect as if included in this Act: Provided, That correction of clerical and typographical errors in such maps may be made. Each such map shall be on file and available for public inspection in the office of the Chief of the Forest Service and the office of the Region I Forester.

(c)(1) Except as otherwise may be provided in this subsection, the Secretary shall administer the areas designated in subsection (a) so as to achieve the purposes of their designation as national recreation areas in accordance with the laws and regulations applicable to the National Forest System.

(2)(A) Except as provided in subparagraph (B), all federally owned lands within the areas designated in subsection (a) are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(B) The Secretary, under such reasonable regulations as he deems appropriate, may permit the removal of the nonleasable minerals from lands or interests in lands within the areas designated in subsection (a) in the manner described by section 10 of the Act of August 4, 1939, as amended (43 U.S.C. 387), and he may permit the removal of leasable minerals from lands or interests in lands within the recreation areas in accordance with the mineral leasing laws, if he finds that such disposition would not have significant adverse effects on the administration of the recreation areas.

(C) Nothing in this subsection shall affect valid existing rights within the areas designated in subsection (a).

(3) Management activities may be permitted by the Secretary if compatible with the purposes for which the areas are designated: Provided, That nothing in this Act shall preclude such measures which the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease.

(4) Where the Secretary determines that such use is compatible with the purposes for which an area is designated, the use of motorized equipment shall be permitted in the areas subject to applicable law and applicable land and resource management plans.

(5) The grazing of livestock, where established prior to the date of enactment of this Act shall be permitted to continue subject to applicable law and regulations of the Secretary.

(d) The Secretary shall manage the Mount Helena and Hyalite National Education and Recreation Areas with a focus on education. All management activities shall be conducted in a manner that provides the public with an opportunity to become better informed about natural resource protection and management.

(e) Those areas established pursuant to subsection (a) shall be administered as components of the national forests wherein they are located. Land and resource management plans for the affected national forests prepared in accordance with the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act, shall emphasize achieving the purposes for which the areas are designated.

SEC. 7. ELKHORNS NATIONAL RECREATION AND WILDLIFE AREA.

(a)(1) The Area of the Helena and Deerlodge National Forests comprising approximately one hundred seventy-five thousand seven hundred acres, as generally depicted on a map entitled "Elkhorns National Recreation and Wildlife Area—Proposed", dated September 1991, is hereby designated as a national recreation and wildlife area and shall hereafter be managed as a national recreation area that emphasizes enhancement of big game habitat. Except as otherwise provided in this section, the Secretary shall administer the area so as to achieve the purposes of its designation as a national recreation and wildlife area. Where compatible with such emphasis, and consistent with applicable law and applicable land and resource management plans, management also shall provide for recreational opportunities (including, but not limited to, opportunities for motorized recreation) and the maintenance and enhancement of habitat for non-game species. Hunting shall be permitted within the area subject to applicable State and Federal law.

(2) Those lands within the Elkhorns National Recreation and Wildlife Area designated as "Elkhorns-2" on the map referenced in paragraph (1) shall, notwithstanding any other provision of this section, remain roadless. Motorized equipment may be used by the Secretary, or other public agencies with the approval of the Secretary, after public notice and opportunity for comment and a finding by the Secretary that such use is required for habitat improvement for fish and wildlife. Any area disturbed by such motorized equipment shall be restored to contour and revegetated with appropriate native plant species as expeditiously as possible.

(b) The Secretary shall file the map referred to in this section with the Committee on Energy and Natural Resources of the United States Senate, and the Committee on Interior and Insular Affairs of the United States House of Representatives, and the map shall have the same force and effect as if included in this Act: Provided, That correction of clerical and typographical errors in the map may be made. The map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) Subject to valid existing rights, all federally owned lands within the area designated as "Elkhorns-2" are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(d) Management activities may be permitted by the Secretary if compatible with the purposes for which the Elkhorns National Recreation and Wildlife Area is designated: Provided, That nothing in this section shall preclude such measures which the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease.

(e) The Elkhorns National Recreation and Wildlife Area established pursuant to this section shall be administered a component of the Helena and Deerlodge National Forests. Land and resource management plans for these National Forests prepared in accordance with the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act, shall emphasize achieving the purposes for which the area is designated.

SEC. 8. WILDERNESS STUDY AREAS.

(a) DESIGNATION.—The following areas are hereby designated as wilderness study areas and shall be managed in accordance with the provisions of this section:

(1) Certain lands in the Custer National Forest, comprising approximately seventeen thousand acres, as generally depicted on a map entitled "Line Creek Plateau Wilderness Study Area—Proposed", dated September 1991.

(2) Certain lands on the Gallatin National Forest, comprising approximately twenty-one thousand five hundred acres, as generally depicted on a map entitled "Sawtooth Mountain Wilderness Study Area—Proposed", dated September 1991.

(3) Certain lands in the Lolo National Forest which comprise approximately twenty-two thousand acres, as generally depicted on a map entitled "Sheep Mountain Wilderness Study Area—Proposed", dated November 1991.

(4) Certain lands in the Flathead National Forest which comprise approximately thirty-eight thousand acres, as generally depicted on a map entitled "Thompson-Seton Wilderness Study Area—Proposed", dated November 1991.

(b) Not later than five years after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives containing recommendations as to whether the areas designated in subsection (a) should be added as components of the National Wilderness Preservation System.

(c)(1) Subject to valid existing rights and except as provided in paragraph (2), the wilder-

ness study areas designated in subsection (a) shall be managed to protect their suitability for inclusion in the National Wilderness Preservation System for a period of seven years from the date of enactment of this Act. At the end of such seven-year period, the areas shall be managed, subject to valid existing rights, in accordance with the applicable land and resource management plans.

(2) Subject to valid existing rights, the Thompson-Seton Wilderness study area shall be managed to protect its suitability for inclusion in the National Wilderness Preservation System until Congress determines otherwise.

(d) The Secretary shall file the maps referred to in this section with the Committee on Interior and Insular Affairs, United States House of Representatives, and the Committee on Energy and Natural Resources, United States Senate, and each such map shall have the same force and effect as if included in this Act: Provided, That correction of clerical and typographical errors in these maps may be made. Each map shall be on file and available for public inspection in the Office of the Chief of the Forest Service and the Region I Forester.

SEC. 9. BADGER-TWO MEDICINE AREA.

(a)(1) Subject to valid existing rights, all federally owned lands as depicted on a map entitled "Badger-Two Medicine Area", dated September 1991, comprising approximately one hundred sixteen thousand six hundred acres, are withdrawn from all forms of entry, appropriation, and disposal under the mining and public land laws and from disposition under the geothermal and mineral leasing laws. Until otherwise directed by Congress, the Secretary shall manage this area so as to protect its currently existing wilderness qualities.

(2) Nothing in this section shall preclude the gathering of timber by the Blackfeet Tribe (the "Tribe") in exercise of valid treaty rights within the Badger-Two Medicine Area.

(3)(A) With respect to oil and gas leases on Federal lands within the Badger-Two Medicine Area, no surface disturbance shall be permitted pursuant to such leases until Congress determines otherwise.

(B) Notwithstanding any other law, the term of any oil and gas lease subject to the limitations imposed by this section shall be extended for a period of time equal to the term that such limitation remains in effect.

(b) The Secretary shall conduct a review of this area in accordance with the Wilderness Act of 1964 and the following provisions. Not later than five years after the date of enactment of this Act, the Secretary shall report his findings to Congress. In conducting this review:

(1) The Secretary shall establish a committee composed of representatives of the Blackfeet Tribal Business Council, the Blackfeet Tribal traditionalists, the National Park Service, and representatives of the user public including environmental groups and representatives of user industry groups (the "committee"). The committee shall regularly advise the Secretary during the preparation of the report required in subsection (b) and submit its findings to Congress concurrently with those of the Secretary.

(2) Special consideration shall be given to the religious, wilderness and wildlife uses of the area, taking into account any treaties the United States has entered into with the Blackfeet Nation.

(3) In consultation with the committee, the Secretary shall establish a process to provide information to the Tribe and interested public about options for future designation of the Badger-Two Medicine Area.

SEC. 10. PLUM CREEK LAND EXCHANGE—PORCUPINE AREA.

(a) IN GENERAL.—The Secretary shall, notwithstanding any other law, exchange lands and interests in lands with Plum Creek Timber, L.P. (referred to in this section as the "company") in accordance with this section.

(b) DESCRIPTION OF LANDS.—(1) If the company offers to the United States the fee title to approximately eight thousand one hundred thirty and sixty-seven one-hundredths acres of land owned by the company which is available for exchange to the United States as depicted on a map entitled "Plum Creek Timber and Forest Service Proposed Porcupine Land Exchange", dated May 20, 1988, the Secretary of the Interior shall accept a warranty deed to such land and, in exchange therefor, and subject to valid existing rights, convey by patent the fee title to approximately nine thousand one hundred eighty-one and seventy-four one-hundredths acres of National Forest System lands available for exchange to the company as depicted on such map, subject to—

(A) the reservation of ditches and canals as required by the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes", approved August 30, 1890 (26 Stat. 391; 43 U.S.C. 945);

(B) the reservation of rights under Federal oil and gas lease numbers 49432, 32843 and 55325; and

(C) such other terms, conditions, reservations and exceptions as may be agreed upon by the Secretary and the company.

(2) Upon termination or relinquishment of the leases referred to in paragraph (1)(B), all the rights and interests in land granted therein shall immediately vest in the company, its successors and assigns, and the Secretary shall give notice of that event by a document suitable for recording in the county wherein the leased lands are situated.

(c) EASEMENTS.—At closing on the conveyances authorized by this section:

(1) In consideration of the easements conveyed by the company as provided in paragraph (2) of this subsection, the Secretary of Agriculture shall execute and deliver to the company easements over federally owned lands for such existing or future roads as are needed to provide the company, its successors and assigns, access to company-owned lands.

(2) In consideration of the easements conveyed by the United States as provided in paragraph (1), the company shall execute and deliver to the United States easements over company-owned lands for such existing or future roads as are needed to provide the United States, and its assigns, access to federally owned lands.

(3) Road easements conveyed pursuant to this subsection shall be in the form customarily used by the Forest Service and cooperators for cost-shared roads in Road Right-of-Way Construction and Use Agreements.

(d) REVOCATION OF ORDER OF WITHDRAWAL.—The order of withdrawal contained in Executive Order No. 30—Montana 7-Phosphate Reserve, dated October 9, 1917 (960 acres, more or less), insofar as it applies to the lands conveyed by the United States in the transactions authorized by this section, is revoked.

(e) MAPS.—The maps referred to in subsection (b) shall be subject to such minor corrections as may be agreed to by the Secretary and the company. The Secretary of Agriculture shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives of any correction made pursuant to this subsection.

(f) TIMING OF TRANSACTION.—It is the intent of Congress that the conveyances authorized by this section be completed not later than ninety days after the date of the enactment of this Act.

(g) FOREST LANDS.—All lands conveyed to the United States pursuant to this section shall become national forest system lands to be administered by the Secretary in accordance with applicable law.

SEC. 11. PLUM CREEK LAND EXCHANGE—GALLATIN AREA.

(a) IN GENERAL.—The Secretary shall, notwithstanding any other law, acquire by exchange and cash equalization in the amount of $3,400,000, certain lands and interests in land of the Plum Creek Timber, L.P. (referred to in this section as the "company") in and adjacent to the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area, the Scapegoat Wilderness Area, and other land in the Gallatin National Forest in accordance with this section.

(b)(1) DESCRIPTION OF LANDS.—If the company offers to the United States the fee title to approximately thirty-seven thousand seven hundred fifty-two and fifteen one-hundredths acres of land owned by the company which is available for exchange to the United States as depicted on a map entitled "Plum Creek Timber and Forest Service Proposed Gallatin Land Exchange", dated May 20, 1988, the Secretary of the Interior shall accept a warranty deed to such land and, in exchange therefor, and subject to valid existing rights, convey by patent the fee title to approximately twelve thousand four hundred-fourteen and six one-hundredths acres of National Forest System lands available for exchange to the company as depicted on such map, subject to—

(A) the reservation of ditches and canals required by the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes", approved August 30, 1890 (26 Stat. 391; 43 U.S.C. 945);

(B) the reservation of rights under Federal Oil and Gas Lease numbers 49739, 55610, 23290, 29230, 40389, 53670, 40215, 38678, 33385, 53736, and 38684; and

(C) such other terms, conditions, reservations and exceptions as may be agreed upon by the Secretary of Agriculture and the company.

(2) On termination or relinquishment of the leases referred to in paragraph (1), all the rights and interests in land granted therein shall immediately vest in the company, its successors and assigns, and the Secretary shall give notice of that event by a document suitable for recording in the county wherein the leased lands are situated.

(c) EASEMENTS.—At closing on the conveyances authorized by this section:

(1) In consideration of the easements conveyed by the company as provided in paragraph (2), the Secretary shall execute and deliver to the company easements for such existing or future roads as are needed to provide the company, its successors and assigns, access to company-owned lands.

(2) In consideration of the easements conveyed by the United States as provided in paragraph (1), the company shall executive and deliver to the United States easements over company-owned lands for such existing or future rights-of-way as are needed to provide the United States, and its assigns, access to federally owned lands.

(3) Road easements conveyed pursuant to this subsection shall be in the form customarily used by the Forest Service and cooperators for cost-shared roads in Right-of-Way Construction and Use Agreements.

(d) MAPS.—The maps referred to in subsection (b) are subject to such minor corrections as may be agreed upon by the Secretary and the company. The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives of any corrections made pursuant to the subsection.

(e) TIMING OF TRANSACTION.—It is the intent of Congress that the conveyances authorized by this section be completed within ninety days after the date of enactment of an Act making the appropriations authorized by subsection (g).

(f) FOREST LANDS.—All lands conveyed to the United States pursuant to this section shall become national forest system lands to be administered by the Secretary in accordance with applicable law.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section the sum of $3,400,000, which amount the Secretary shall, when appropriated, pay to the company to equalize the value of the exchange of land authorized by this section.

SEC. 12. SEVERED MINERALS EXCHANGE.

(a) FINDINGS.—The Congress finds that—

(1) underlying certain areas in Montana described in subsection (b) are mineral rights owned by subsidiaries of Burlington Resources, Incorporated (referred to in this section as the "company");

(2) there are federally owned minerals underlying lands of the company lying outside those areas;

(3) the company has agreed in principle with the Department of Agriculture to an exchange of mineral rights to consolidate surface and subsurface ownerships and to avoid potential conflicts with the surface management of such areas; and

(4) it is desirable that an exchange be completed within two years after the date of enactment of this Act.

(b) DESCRIPTION OF MINERAL INTERESTS.—(1) Pursuant to an exchange agreement between the Secretary and the company, the Secretary may acquire mineral interests owned by the company or an affiliate of the company thereof underlying surface lands owned by the United States located in the areas depicted on the maps entitled "Severed Minerals Exchange, Clearwater-Monture Area", dated September 1988 and "Severed Minerals Exchanges, Gallatin Area", dated September 1988, or in fractional sections adjacent to those areas.

(2) In exchange for the mineral interests conveyed to the Secretary pursuant to paragraph (1), the Secretary of the Interior shall convey, subject to valid existing rights, such federally owned mineral interests as the Secretary and the company may agree upon.

(c) EQUAL VALUE.—(1) The value of mineral interests exchanged pursuant to this section shall be approximately equal based on available information.

(2) To ensure that the wilderness or other natural values of the areas are not affected, a formal appraisal based upon drilling or other surface disturbing activities shall not be required for any mineral interest proposed for exchange, but the Secretary and the company shall fully share all available information on the quality and quantity of mineral interests proposed for exchange.

(3) In the absence of adequate information regarding values of minerals proposed for exchange, the Secretary and the company may agree to an exchange on the basis of mineral interests of similar development potential, geologic character, and similar factors.

(d) IDENTIFICATION OF FEDERALLY OWNED MINERAL INTERESTS.—(1) Subject to paragraph (2), mineral interests conveyed by the United States pursuant to this section shall underlie lands the surface of which are owned by the company.

(2) If there are not sufficient federally owned mineral interests of approximately equal value underlying company lands, the Secretary and the Secretary of the Interior may identify for exchange any other federally owned mineral interest in land in the State of Montana of which the surface estate is in private ownership.

(e) CONSULTATION WITH THE DEPARTMENT OF THE INTERIOR.—(1) The Secretary shall consult with the Secretary of the Interior in the negotiation of the exchange agreement authorized by subsection (b), particularly with respect to the inclusion in such an agreement of a provision calling for the exchange of federally owned mineral interests lying outside the boundaries of units of the National Forest System.

(2) Notwithstanding any other law, the Secretary of the Interior shall convey the federally owned mineral interests identified in a final exchange agreement between the Secretary of Agriculture and the company and its affiliates.

(f) DEFINITION.—For purposes of this section, the term "mineral interests" includes all locatable and leasable minerals, including oil and gas, geothermal resources, and all other subsurface rights.

(g) ENVIRONMENTAL LAW.—The execution and performance of an exchange agreement and the taking of other actions pursuant to this section shall not be deemed a major Federal action significantly affecting the quality of the environment within the meaning of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), nor shall they require the preparation of an environmental assessment under this Act.

SEC. 13. LANDS ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT.

(a) FINDING.—The Congress has reviewed the suitability of the Bitter Creek Wilderness Study Area (MT-064-356, BLM Wilderness Study Number) and approximately two thousand five hundred acres of the Axolotl Lakes Wilderness Study Area (MT-076-069, BLM Wilderness Study Number) as generally depicted on a map entitled "Axolotl Lakes WSA", dated March 1990, for wilderness designation and finds that those lands have been sufficiently studied for wilderness pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

(b) DIRECTION.—The areas described in subsection (a) shall no longer be subject to the requirement of section 603(c) of the Federal Land Policy and Management Act of 1976 pertaining to management in a manner that does not impair suitability for preservation as wilderness.

(c) Administrative jurisdiction over those lands designated as wilderness pursuant to paragraphs (3) and (26) of section 3(a) of this Act, and which, as of the date of enactment of this Act, are administered by the Bureau of Land Management, is hereby transferred to the Forest Service.

SEC. 14. MISCELLANEOUS PROVISIONS.

(a) Those lands comprising the Rattlesnake National Recreation Area and Wilderness, as designated in Public Law 96-476 are hereby redesignated as the "Rattlesnake National Education and Recreation Area and Wilderness".

(b) Those lands comprising approximately twenty four thousand acres, as generally depicted on a map entitled "Gibson Reservoir Withdrawal Area—Proposed", dated November 1991, are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(c) All acreages cited in this Act are approximate and in the event of discrepancies between cited acreage and the lands depicted on referenced maps, the maps shall control.

(d) It is the policy of Congress that the Forest Service acquire and maintain reasonable public access to National Forest System lands in the State of Montana.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) such sums as are necessary for the development of a wilderness education and ranger training complex at the Ninemile Ranger Station, Lolo National Forest, Montana; and

(2) such sums as are necessary to carry out this Act.

The PRESIDING OFFICER. Under the previous order, there is 1 hour of debate on the bill equally divided and controlled between the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Vermont [Mr. LEAHY].

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I rise in support of S. 1696, the Montana wilderness bill.

Mr. President, this bill would set aside 1.2 million acres as wilderness and provide additional protection for some 500,000 acres of forestlands by placing them in special management or wilderness study status.

Mr. President, I have been on the Energy Committee now and its predecessor, the Interior Committee, for almost 20 years. This issue of Montana wilderness has been around for each of those 20 years. Indeed, we have considered it, I think, as legislation in our committee for every year since 1980. It has been one of the most difficult, one of the most contentious issues that I have ever seen, one of those issues that has evaded solution.

Mr. President, finally, we have gotten together on Montana wilderness. The committee voted out this bill by a vote of 20 to nothing.

This was made possible, Mr. President, because two outstanding Senators—the two Senators from Montana—recognized that the time for political advantage in a contentious issue like this had passed; that it was time for Senators—and the Senate in general and the Congress in general—to sit down and put the public good over any partisan advantage.

I have seen Senator BAUCUS and Senator BURNS resolve very difficult issues in a fair way, in a way that invoked the admiration of all Senators certainly on our committee, and all of those who know anything about how they handle this issue.

It is a risky thing, Mr. President, to come to an agreement on an issue that is as contentious and as controversial as this because those who favor development say there is not nearly enough for development; that this bill is going to cost jobs in Montana. And those on the other side of the issue say there is not enough set aside for wilderness, and they always can look at some little bit of language in which they can discover some hidden ambiguity which is not available to the practiced eye of our great staff, but they can always find some reason to object.

Mr. President, not one Member on either side of the aisle in the Energy Committee objects to this Montana wilderness bill, and the reason is it is a good bill.

It is clear to me that the only wilderness suitability review contained in the forest plans and nothing else is insulated from judicial review. Like the RARE II release language which preceded it, this limitation on judicial review is drawn very narrowly. It is necessary to conform this narrow limitation in the forest plans because these plans, not the RARE II environmental statement, are now the operative documents for making management decisions on the national forests in Montana.

Mr. President, it is long past time to resolve this issue of Montana wilderness. We should tip our hats to Senator BAUCUS from Montana and to Senator BURNS from Montana, who have done yeomen work in this issue.

I hope that the Senate will pass this bill without amendment. This bill has been flyspecked, believe me, by both Senators from the affected States by excellent staff on both sides. And I hope we will pass this bill in the form it is and I hope we will pass it overwhelmingly—I would like to say 100 to nothing, but at least overwhelmingly.

Mr. President, I see the distinguished Senator from Montana [Mr. BAUCUS] on the floor at this time. So, Mr. President, I would designate him to handle the time on our side of this issue.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I yield myself as much time as I might consumer, and I ask the Chair to advise me when I have consumed 10 minutes.

Mr. President, I hope today marks the beginning of the end of a difficult chapter in Montana's history. Senate passage of this bill will bring us one giant step closer to a resolution of the Montana wilderness issue, an issue that has divided my home State for over a decade.

As with most things worth having agreement on, a wilderness bill did not come easily. For both Senator BURNS and myself, this bill represents a series of hard fought and sometimes painful compromises.

In the face of considerable criticism from various Montana and national interest groups, we put partisanship aside and came together on an agreement that we believe is in the best interests of Montana's land and Montana's people.

The vast majority of Montanans are demanding that Congress act immediately to resolve this issue. According to a poll conducted in conjunction with the University of Montana, 67 percent of Montanans want a compromise wilderness bill passed now.

Yet, despite this overwhelming sentiment, I realize there are many on both sides of this issue who remain unhappy with this resolution. Some claim it fails to protect enough wilderness. Others claim it locks up too much timber and too many minerals in wilderness. And still others claim it takes away some of their favorite snowmobile or motorbike runs. I understand and I respect all of these concerns. And I wish I could accommodate each of them.

But this is an issue with many legitimate and often mutually exclusive interests, an issue where reasonable people can reach different conclusions.

Given all of this, Senator BURNS and I walked the extra mile and sat the extra hours behind the bargaining table to reach a balance that truly reflects Montana. While this bill may not be perfect, I believe it is good; it is very good. believe it is fundamentally fair, and I believe that it will make Montana an even better place to live and to work and to play.

Almost a century ago the noted conservationist Gifford Pinchot made an observation that bears repeating today:

> There are many great interests on the National Forests which sometimes conflict. * * * It is often necessary for one interest to give way a little here, another a little there. But by giving away a little at the present, they both profit by it a great deal in the end.

At times over the past decade, we Montanans may have lost sight of this. More than any issue I have encountered in my 17 years of congressional service, wilderness has pitted neighbor against neighbor, Montanan against Montanan in our own civil war.

The wounds run deep. Both sides have been quick to call names, to point an accusing finger, to forget that there are two sides to every story.

Passage of this legislation will heal old wounds and bring about a new beginning for Montana, a chance for our State to move ahead and face the economic and environmental challenges of the 21st century.

Like any compromise, this bill does not designate every roadless acre in Montana as wilderness. However, it does add 1.2 million acres to Montana's existing 3.4 million acres of formally designated wilderness. It also protects 210,000 acres as new wilderness study areas and 285,000 acres of new national recreation areas. Moreover, roughly half-a-million acres of lands set aside in the late Senator Lee Metcalf's Montana Wilderness Study Act of 1977 would remain protected in their status quo.

In short, S. 1696 provides solid protection for approximately 2.2 million acres of currently roadless Forest Service land. And this involves much more than rock and ice. Some of the protected areas—like the Rocky Mountain Front, the Badger-Two Medicine, and Line Creek Plateau—face imminent threats from development. This bill would prevent that.

DEBUNKING THE MYTHS

I would now like to turn to a more specific discussion of S. 1696. By now, I am sure most Senate offices have been visited by representatives of the Sierra Club, the Wilderness Society, or other environmental groups.

Some of these groups paint a grim picture of this legislation. They call it a clearcut bill or a deforestation bill or an antiwilderness bill. They make it sound as though the bulldozers are poised at the edge of every roadless area just waiting for this bill to pass.

I have worked with these groups before on other environmental issues. But I am very disappointed with their approach to this bill.

Frankly, these arguments are nonsense. As much as any Member of this body, I have devoted my time and energy toward finding workable solutions to the many environmental problems facing this Nation. And my reverence for the environment begins at home in Montana. It is with good reason that we Montanans believe we live in "the last, best place"—and we intend to keep it that way.

In dealing with this issue for over a decade, I have come to know many of the lands involved in this legislation. I have hiked and camped in a number of these areas—the Bob Marshall Additions on the Rocky Mountain Front, the aptly named Jewel Basin on the Flathead, the Gallatin Range near Yellowstone, and the Gates of the Mountains near my family ranch in the Helena Valley are just a few examples.

I know the value of wilderness and wildlife. And if I believed for a moment that there was merit in any of the charges being made against this bill, I would be the Senator leading the charge to stop it.

Let me now address some of these specific charges—let's call them myths—being made about this bill:

Myth No. 1: S. 1696 would mandate the development—or clearcutting—of 4 million acres of pristine wild land.

It is important to realize that, according to the forest plans, the vast majority of these lands will remain roadless. For instance, during the remainder of this forest planning cycle, the Forest Service plans to enter less than 100,000 acres of inventoried roadless land. And I stress that any such development is subject to every environmental law on the books—including forest plan restrictions on clearcutting.

Myth No. 2: The release language in S. 1696 would preempt all legal challenges to Forest Service development actions and planning decisions.

Nothing could be further from the truth. In fact, the express language of the bill preserves the right to judicial review on all but one narrow legal ground: the wilderness/nonwilderness question. And this is a limited exception that the Senator from Vermont and I have agreed upon in principle, if not exact wording.

The legal effect of the release language in S. 1696 would be identical—nothing more and nothing less—to that contained in the more than 30 statewide wilderness bills enacted by Congress. Moreover, like the previous bills passed for other western, public lands States, S. 1696 designates much more wilderness than the Forest Service recommended through the planning process.

Once the decision on the wilderness/nonwilderness question is made, however, this bill would require the Forest Service to comply with every tough environmental law Congress has enacted. As the chart behind me shows, lawsuits based upon: the National Forest Management Act; the Endangered Species Act, the Clean Water Act; the Clean Air Act, NEPA; the Multiple Use-Sustained Yield Act; the ban on the export of raw logs taken from Federal lands; the Antiquities Act; and the individual forest plan standards and guidelines, including limits on clearcutting, would all remain subject to judicial review—fair game for any citizen wanting to take the Forest Service to court.

If there is any doubt among any of my colleagues, I urge them to read the plain language of the statute and the accompanying report from the Energy Committee.

And finally, there is myth No. 3: The water rights language in S. 1696 will lead to the dewatering of wilderness areas.

This bill contains water rights language virtually identical to that passed by this body in 1988. It recognizes that all of the streams in newly designated wilderness areas are headwaters—there is no upstream use that might threaten their integrity by potentially diverting water before it reached the wilderness. The terms of the 1964 Wilderness Act would obviously prevent the construction of any sort of water development or diversion in a wilderness area.

CONGRESS MUST ACT

Let me close these remarks with one important thought: It is no secret that this institution is under attack. We all hear the public's frustration with Congress whenever we go home. Americans are simply fed up with the inability of Congress to turn its back on special interests and deal with tough issues. There is hardly a better example, small though it may seem, than Montana wilderness.

Senator BURNS and I have worked hard to forge this compromise. In the process, we have made some people angry—many of them our respective supporters. But we have both continued to take the heat because we believe passage of this bill is in the best interest of our State.

There is a place for special interest groups in the legislative process. We should hear them out. But we should not let them control the process—we should not give them a veto over any piece of legislation they do not like.

In closing, I urge my colleagues to stand behind this legislation. It represents an extraordinarily delicate compromise; an extraordinarily delicate balance. Your support will mean a great deal to me personally and to the people I represent.

I yield to the Senator from Montana, my colleague, 5 minutes.

Mr. BURNS. Mr. President, 2 years ago this month I introduced a Montana wilderness bill. You might say that was my initiation into the wilderness debate. I had been actively discussing wilderness with my colleague, Senator BAUCUS, since joining the Senate the year before. However, it was not until I introduced my bill in 1990 that I began to realize the magnitude of the difficulty I would encounter in trying to resolve the roadless land debate in Montana. The difficulty has become even more apparent over the past few weeks.

You see Mr. President, Montanans have been arguing over wilderness for well over 14 years. It is no wonder that my proposal 2 years ago met with such strong reaction. The battle lines were drawn years earlier, and no one was ready to compromise. Today, the people in our State have come to the realization that it is time to lay their differences aside and resolve this conflict.

Last September Senator BAUCUS introduced S. 1696, and he deserves a tremendous amount of credit for pursing relentlessly for its passage. Last November he and I entered into negotiations that lasted a solid week, and ran from early in the morning until well after midnight. Everything else was put aside. The bill before us today is a product of those negotiations. There are still people at home that do not like this bill. There are some parts of the bill that I do not like, and I am sure the same is true for Senator BAUCUS. But we both worked diligently to craft a compromise that delicately balances the needs of competing interests. We both made compromises to reach this agreement. Senator BAUCUS and I finally had a deal, and we shook on it.

This bill addresses a very fundamental question that has always faced our Nation. That is how should our land and natural resources be managed to best provide for the needs of the people of this country. Two hundred years ago, individual States would have been given control over the land within its borders. As time went on, the Federal Government began keeping control of an increasing amount of land.

Today, 30 percent of the land in Montana is controlled by the Federal Government. Unlike States that have very little Federal land, Montanans are not allowed to decide for themselves how all the land in the State should be managed. They must share this with people from all across the Nation. Perhaps, this is correct since they are Federal lands.

Montanans took part in the forest planning process for these Federal lands, as provided for by Congress in the National Forest Management Act. Montanans, as well as people from throughout the country, participated in the process. Those plans are now complete and being implemented. Even though the public was involved in the development of those plans, we still allow them to challenge not only plans—but the individual actions designed to implement those plans.

Mr. President, I am explaining this because opponents to S. 1696 have been spreading a great deal of misinformation about what is in this bill and what it does or doesn't do. I would like to correct that misinformation, one piece at a time.

This bill recognizes the 1.2 million acres of land which exhibit the greatest wilderness attributes and gives the land protection afforded by such designation.

The bill also designates 285,000 acres of special management areas. These are predominantly national recreation areas. We found it necessary to designate these national recreation areas as a compromise to fiercely competing interests. Although some people very strongly advocated wilderness, we recognized the vast amount of motorized recreation that is occurring within these areas. It is our intent that motorized recreation will continue to be one of the primary uses in these areas. The Forest Service must determine the timing of use and apply management policies that will protect all resources—including wildlife. But, under no circumstances do we intend that the use of motorized vehicles be stopped in any of the national recreation areas.

This bill also places 215,000 acres in five areas in further study status. As much as Senator BAUCUS and I tried, we still could not reach a resolution on these areas. Rather than leave these in an interminable study, three of the study areas will sunset after 7 years if no further congressional action is taken. The remaining two areas will still require congressional authority for management.

In 1977, Congress passed S. 393, the Montana Wilderness Study Act. The act placed approximately 1 million acres in 10 areas in a special wilderness study category. Although S. 1696 resolves some of the S. 393 land, 500,000 acres still remain to be resolved at a later date. Some of these have resource conflicts that preclude resolution at this time. Some are just so contentious that no agreement could be reached. It is my hope that we will be able to find a reasonable solution to these remaining study lands in the not too distant future.

Mr. President, S. 1696 also authorizes two land exchanges. These exchanges are necessary to block up the lands on the national forest and provide for improved management. Currently, the lands in this trade are all intermingled. This has made it difficult for both the Forest Service and the private landowner to effectively manage its respective lands. This land exchange is the product of years of negotiations between the two parties and has been included in eight separate Montana wilderness bills introduced since 1984.

Some opponents of this bill claim that this bill will cause 6 million acres in Montana to be clearcut. This is simply not true. The entire roadless debate in Montana revolves around 6 million acres and this bill will protect, in one form or another, more than 2 million acres. Of the 4 million acres that are not designated wilderness or placed into some sort of special management, the forest plans would allow timber harvesting, road building, or any other type of development on less than 1 million acres.

Some opponents claim that the language in this bill will preclude anyone from challenging an action under a forest plan. Again this is incorrect. The bill is very direct on this point. It says that the roadless area evaluations contained in the forest plans are sufficient, and that the decision to allocate land to a wilderness or nonwilderness category is insulated from judicial review only on the basis of whether it should be considered for wilderness. Individual management actions on any of the nonwilderness lands can still be challenged on any number of other bases including the threat of noxious weeds, degradation of water quality, or destruction of critical habitat for endangered species, to name just a few.

The final major piece of misinformation that is being spread by opponents is that the release language contained in section 5 was drafted by a lobbyist for the timber industry. The truth is the release language in S. 1696 was developed 2 years ago by a group of individuals with widely divergent beliefs in how Federal lands should be managed. The parties involved included majority and minority staff for the Energy Committee, personal staff representing Senator BAUCUS and myself, committee staff representing the Chairman of the Agriculture Committee, as well as representatives of the Wilderness Society, the timber industry and the U.S. Forest Service. As with any group effort to draft language, the final chore of putting everything into the proper place had to fall to one individual. The individual unanimously chosen by the group to do this was the counsel for the majority on the Energy Committee when Scoop Jackson chaired the committee. Although he is currently in private practice, his credentials for the task assigned him were excellent. Once drafted, the language was reviewed and modified by staff from the Agriculture and Energy Committees to bring it to its current form.

The language in this bill may not be perfect, but it has received a great deal of acceptability. The Secretary of Agriculture has indicated his support for this bill in its current form, including the release language.

Mr. President, it has long been my belief that Senators from individual States best understand the implications of the management of the lands within their State. I believe this is the case with Montana wilderness. We understand the needs of the people who live in our State. Our people need jobs to help provide for the needs of their families. They enjoy and appreciate the wide open spaces for recreational purposes, and Montanans respect the environment.

Senator BAUCUS and I worked long and hard to balance all of the competing interests in this debate. I believe we have reached an appropriate balance. This balance includes both compromises on acreage as well as language. Every part of the current compromise is important to maintaining the balance.

Even with passage of S. 1696 by the Senate, yet another hurdle remains—passage by the House of Representatives. This issue has historically been as divisive for Montana's Congressmen as it has been for the Senators. I hope both of Montana's Congressmen will take up the challenge, just as Senator BAUCUS and I did, and pass this bill quickly. Passage of S. 1696 is clearly in the best interest of the State of Montana.

I believe in multiple use of our public lands. While the wilderness debate continues, though, Montanans are being deprived of many uses of these lands. We have to move forward and put this issue behind us. Continuing to fight this battle for another 10 years will only hurt the people of Montana. At least we can now resolve most of the roadless debate and allow the Forest Service to get on with managing most of the land for multiple use. I urge all of my colleagues to support this bill and help us finally bring some resolution to land management in Montana.

Mr. President, I offer my thanks to Senator BAUCUS. When he introduced this bill, we had lengthy negotiations. One day, it was up to 10 hours. We were trying to find an area where we could compromise to get some piece of legislation that would be good for our State of Montana, and also address the issues of many, many special interest groups.

We were helped out on that process by the chairman of the Energy Committee, Senator JOHNSTON, and also Senator BUMPERS, who is chairman of the Public Lands Subcommittee, as they offered some of their resources to help us find that area. And with the dedication that Senator BAUCUS had in resolving this issue, we went forward.

So the bill you see before you today is that consensus, that compromise. No, I did not get everything I wanted in the bill, nor everything the constituency that I represent wanted. But we got most of the things that I think address some of the concerns of the groups.

We have groups that say: Does all of America not have an interest in public lands? Yes, I say they do, and they come from people such as those who want to build a house in Des Moines, IA. We have to manage for timber, and keeping in mind that it is a renewable resource. It grows back every year; we have lots of evidence of that.

Yes, America has interests in the public lands because there is mining demand for palladium. Palladium is an essential trace element when you start making catalytic converters for the environment of our country, and there is only one palladium mine in the whole of the United States of America, and that is in the State of Montana. It is very essential.

Yes, they want recreation, motorized recreation. All of America does have an interest in multiple use of our public lands. And that is the key. We must not forget that.

So, with that, I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LEAHY. How much time does the Senator from Vermont have under his control?

The PRESIDING OFFICER. The Senator from Vermont has 30 minutes, and the Senator from Montana [Mr. BAUCUS], who has been designated the manager, has 9 minutes and 30 seconds.

Mr. LEAHY. I thank the Chair.

Mr. President, I see the Senator from Washington State here. How much time does he want?

Mr. ADAMS. Four minutes.

Mr. LEAHY. I yield 4 minutes to the Senator from Washington State.

The PRESIDING OFFICER. The Senator is recognized for 4 minutes.

Mr. ADAMS. Mr. President, I believe my very good friend, Senator BAUCUS, and the others who have worked on this have brought an extremely contentious and difficult issue very close to a final resolution.

We in the Pacific Northwest have been struggling, I think, for several years to resolve similar national forest management issues, and I hope we are nearing resolution, but these things take a long time and an enormous amount of work. I know the enormous amount of time and work that Senator BAUCUS and members of the Energy and Natural Resources Committee have dedicated to drafting this bill, so it is with great reluctance that I rise in opposition to the passage of S. 1696 in its current form.

Mr. President, I am concerned about certain ambiguities in that bill that I believe should be redrafted before it is passed out of this body. These ambiguities raise the distinct possibility that the Forest Service land management planning decisions would be insulated from judicial review.

Based on what we have learned about the ability of the Forest Service to make accurate decisions and the willingness of the administration to push for decisions outside the existing forest management laws, this is not the time to be giving the agency insulation from judicial review.

We know there are serious problems with the existing forest plans throughout Montana and throughout the entire Pacific Northwest. We have heard over and over again about the major flaws in the Forest Service data and in models used to analyze those data. We have serious doubts about the resulting decisions. We should not, therefore, today insulate those decisions in Montana from the scrutiny by our court system.

This would be a highly extraordinary remedy and a very dangerous precedent for all the rest of us who are struggling with this problem throughout the entire Pacific Northwest. We have repeatedly refused to adopt such extreme and extraordinary remedies in the U.S. Senate.

There is no reason to reach so far. Let us first eliminate the ambiguities in this bill. That is the only way for the citizens of Montana and the United States who care about the national forests to have certainty that the forest management decisions are legal and balanced.

Therefore, it is with great reluctance and with deep affection for my friend, Senator BAUCUS, that I am forced by these concerns to vote against the bill until it is corrected.

I thank the Senator for yielding.

The PRESIDING OFFICER. Who yields time?

The Senator from Vermont [Mr. LEAHY] is recognized.

Mr. LEAHY. Mr. President, I yield myself such time as I shall need.

Mr. President, article III of the Constitution vests the judicial power of the United States in a separate branch of government and states that the "judicial power shall extend to all Cases * * * arising under * * * the Laws of the United States. * * *"

The separation of powers embodied in the Constitution, and the right of citizens to bring their grievances before the courts of the United States is a fundamental protection enjoyed by our citizens against wrongful actions of the Government.

Thus, whenever I see restrictions on the right of judicial review in legislation I am disturbed, whether they relate to constitutional issues or not. I am disturbed because I believe that when the Government of the United States has acted wrongly, citizens should have the right to go to court to protect their rights.

Today, the ability of citizens with environmental views to fight arbitrary government power is at stake. Tomorrow, it may be the right of a farmer to protest the taking of his property without due process that is at stake.

My concern, is far from historical or theoretical. In recent years, the courts have found time and again that the administration has violated forestry and related laws.

In the last 3 years four different courts in the circuit in which Montana is located have found that this administration has violated forestry and related environmental laws. These opinions are especially interesting because three of the four district court judges who found that the administration had violated the law are appointees of President Reagan and President Bush. On appeal two of the three appeal judges upholding the district courts decision were appointed by President Nixon and Bush.

These issues involving forestry and the environment are inevitably extremely complex. As Senators, serving on three or more committees, as well as performing our many other duties, it is very difficult for us to explore these issues in depth.

But independent Federal judges who have listened to the issues argued for hours, who have read the sworn affidavits of parties, who have been able to give these decisions far more time than we can as Senators, have found that this administration has violated the law in administering forestry and forestry related legislation.

What is the proper response to this administration's refusal to obey forestry environmental laws? Is it to protect more decisions from judicial review, to say the court cannot go in and ask if you violated the law? Certainly not, not with this track record, not with a track record of disobeying and ignoring the law. We should not say in response to that, "We will insulate you from ever asking if you ever did obey the law." I would not give this power to an administration that has demonstrated time and again it will not uphold the laws of this country.

As David R. Brink, the president of the American Bar Association recently stated:

> Sometimes in the press of current problems we forget the origin of our system of government and the source of our liberties. We must never forget the wellsprings of our heritage and our progress. But the Constitution is not self-executing. To make its grand policies a reality, it needs interpretation and enforcement by the courts and wise implementation and extension by the legislative and executive branches. It needs the coordination of all three branches of government.

One of those grand policies that I believe we must protect is the right of citizens to seek redress of their grievances against the Government in the courts.

That is the fundamental problem with this legislation.

And, Mr. President, that is why I rise today in opposition to the Montana National Forest Management Act—more commonly known as the Montana wilderness bill.

Normally, every Senator and especially this Senator, defers to the Senators from a State or a region in matters related to that State. But there are provisions of the Montana National Forest Management Act of national significance.

In fact, the bill's title is indicative of my problem. Wilderness bills of the past focused only on designating pristine, roadless forest areas to wilderness within the National Wilderness Preservation System. So many were simply titled the "Vermont wilderness bill" or the "Oregon wilderness bill."

And as we have discussed this bill in recent days, it is routinely referred to as the "Montana wilderness bill," even though that is not its name.

And that is what is most troublesome about this bill. The Montana National Forest Management Act could mistakenly be read to move beyond the precedents contained in previous wilderness bills. I believe that such a reading is mistaken.

But if it were mistakenly read in such a way the Montana bill could really be seen as a forest management mandate with national implications for future forest management legislation.

Preclusion of judicial review is an exceedingly complex issue—so let me articulate my specific concerns about the preclusion language in the Montana bill.

The key language at issue is the following from lines 17-20 on page 57 of the bill. I quote:

> * * * decisions to allocate roadless areas to wilderness or nonwilderness categories, and the environmental analyses directly related to such allocations shall not be subject to judicial review * * *.

There are two problems with this language:

First, it is incorrect. The Forest Service does not allocate wilderness. It recommends wilderness designation to Congress. I have reviewed a number of the Montana forest plans and I will place a memorandum in the RECORD at the end of my remarks which makes it clear that the record of decisions, recommend that certain roadless areas be designated as roadless areas and that certain areas not be recommended for wilderness designation. The language in the bill needs to be corrected.

Second, the language could mistakenly be read to preclude judicial review of any decisions about the management of nonwilderness areas.

This problem with the language can be seen from asking the question:

> What is the object of the verb "allocate?" Is it a compound object? "wilderness or nonwilderness categories."
>
> Or is it 2 independent objects?
>
> 1. "wilderness category."
>
> 2. "nonwilderness category."

In other words, will a court always read the object of the verb "allocate" to be "wilderness versus nonwilderness categories" or will it mistakenly decide that a "nonwilderness allocation," separate from a "wilderness allocation", is protected from judicial review?

Because forest plans make prescriptions to many different land management categories, and the language refers to specific forest plans, a court might mistakenly read this language to mean that nonwilderness allocations in forest plans are not subject to judicial review.

For example, because of the incorrectness and the ambiguity of this language, a court might mistakenly read this language as precluding a legal challenge to a timber sale proposed to take place in a released roadless area designated in the plan as a timber production zone.

Unfortunately, my concern that a court might misinterpret this language is not theoretical or hypothetical. Provisions limiting citizens' access to the courts appeared in several appropriation bills in the 1980's. First one timber sale was insulated from judicial review, then two fire sales were insulated. In 1989 Congress insulated all Oregon and Washington timber sales.

I thought then as a member of the Interior Subcommittee of the Appropriations Committee, that the preclusion language was narrowly and carefully crafted. We thought then that this preclusion provision—section 314 of the fiscal year 1989 Interior and Related Agencies Appropriations Act—only precluded judicial review of forest plan challenges on the basis that the plans did not take into consideration the most current available information.

We expressly stated in section 314 that challenges to specific actions by either the Forest Service or the Bureau of Land Management were subject to judicial review. However, the Ninth Circuit Court of Appeals in Oregon Natural Resources Council versus Mohla, and Portland Audubon Society versus Lujan, interpreted section 314 in a way we never imagined.

The plaintiffs in both suits sought to enjoin specific proposed timber sales on Forest Service and Bureau of Land Management lands, which were to occur in old growth forests in Oregon. The plaintiffs argued that new information on the value of old growth forests should be considered for these sales. The information was also applicable to other sales across the region, and, thus arguably to the plan as a whole.

While acknowledging that the plaintiffs were challenging a specific sale—which section 314 did not preclude—the court reasoned that because the challenge would also affect other proposed sales, the plaintiff's challenge was effectively a challenge to the plan, which section 314 did preclude. The court felt it must interpret section 314 as applied to the facts of those specific cases as precluding judicial review of the challenges to the specific timber sales. The court dismissed both lawsuits on this basis.

I do not think anybody ever thought that section 314 would be interpreted in such a way.

The best way to deal with this problem is to refrain from attempting to craft any language providing for preclusion of judicial review, and allow the courts to apply common law precedent to the facts of a given case.

Over the past two weeks, I have tried on a number of occasions to work with other Senators in redrafting this language. We agreed that if any exemption from judicial review were acceptable, it would have to be limited to the wilderness-nonwilderness decision.

It seems very easy, in principle, to accomplish that result. But every compromise that I offered was rejected. In part, I am sure that this is because this is a very complex and difficult area in which to legislate. In part, I am sure that this is because the feelings run so high on these issues that it is difficult for both sides to recognize acceptable language even when it exists.

But more important than anything, I think, is the fact that once language is agreed to by Senators in such a complex controversial area it is almost impossible to change it without one side or another thinking that their position has been diminished.

And that is why the Senate must vote on this issue here today. For the reasons I have just stated, the language cannot be corrected in this body. I am confident that the value of having a bicameral legislative system will be reaffirmed when this language goes to the other body where the language has no father or mother, in that body, it can be corrected to state what all the Senators I have spoken to about it agree it should mean.

CONCLUSION

In summary, let me say that the ambiguous language used in the release section of this bill should be corrected.

I fear that language such as "allocate * * * to wilderness or nonwilderness categories" is overly imprecise and vague. Hence, it is subject to mistaken interpretations that we do not intend.

I fear that by employing language not used in forest plans, we are making it unnecessarily difficult for the courts to interpret our statutory command and intent.

I fear that this language could mistakenly be interpreted to preclude judicial review of the environmental impact statements in the forest plans for the 10 Montana national forests.

We would do better not to attempt to limit judicial review at all. But if we must, let us be unerringly cautious and deliberate in how we structure and phrase such a provision.

I must oppose this bill because its vague language is susceptible to multiple interpretations which neither Senators BAUCUS, BURNS, or myself intend. It would be preferable if this bill, and future forest legislation, not attempt to limit judicial review at all.

Mr. President, I ask unanimous consent that other material on this subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MEMO

Re Language in forest plans designating wilderness.

To: Chairman Leahy.

From: Jim Cubie, Chief Counsel.

Date: March 12, 1992.

Three of the Montana forest plans were chosen at random to determine how the plans describe the decisions that the Forest Service makes with regard to wilderness. The three plans were the Flathead, the Lolo and the Beaverhead.

It is clear from reviewing the Record of Decisions issued for these forests that the Regional Forester referred to the decision that he made in this planning document as "recommending" for or against wilderness designation.

The following are relevant quotations from the three documents:

FLATHEAD

Which roadless areas or parts of roadless areas should be recommended for wilderness (p. 4)?

The Draft Environmental Impact Statement incorporated the decision made in the RARE II (Roadless Area Review and Evaluation) decision, which recommended no Flathead National Forest roadless areas for wilderness. Analysis of all 16 alternatives resulted in identification of a new Preferred Alternative (Alternative 11) that recommended additional wilderness. (p. 5).

Alternative 17.

Wilderness designation is recommended for 98,080 acres with high wilderness values (p. 8).

Which roadless areas or parts of roadless areas should be recommended for wilderness (p. 9)?

My recommendations pertain only to those roadless areas on the Flathead National Forest. My recommendations for the primary roadless areas receiving public support and consideration for wilderness recommendation follow:

Swan Front

I am recommending a total of 54,815 acres of the Swan Front, from Holland Lake to Bunker Creek, be designated by Congress as an addition to the Bob Marshall Wilderness (p. 9).

I am not recommending wilderness classification for any of the Swan Front roadless area from Bunker Creek to Six Mile Mountain (p. 9).

I am recommending the 5,187 acre Limestone Caves area for wilderness because it contributes to the Bob Marshall Wilderness and is well suited for primitive recreation and wilderness use (p. 10).

I am recommending 6,295 acres near Slippery Bill Mountain for wilderness (p. 10).

I am recommending the 15,368 acre Jewel Basin Hiking Area, plus 16,415 acres of adjacent lands, for wilderness (p. 19).

Wilderness	98,080
Dispersed Recreation/Amenity	188,054
Wildlife	88,411
Timber	188,735

Other	2,150
Total	495,430

LOLO

Wilderness designation is recommended for 223,600 acres with high wilderness values, including the Great Burn, the Bob Marshall Addition, the Selway-Bitterroot Addition, and Sliderrock. These values will be maintained pending legislative action. The existing and recommended wilderness, along with the managed roadless acreage, amounts to approximately 26 percent of the Forest (p. 8).

We received mixed comments about Wilderness recommendations on the Lolo (p. 10).

I am recommending a total of 89,530 acres of the Hoodoo, including the Cache Creek/Irish Basin portion of the area, be designated as an addition to the Wilderness system (p. 10).

However, I feel the designation of this area is needed to resolve the wilderness issue (p. 10).

Bob Marshall Addition (Bear-Marshall-Scapegoat-Swan Roadless Area, 01485—I am recommending a total of 69,250 acres of the area be designated as Wilderness (p. 11).

However, I feel that my decision recognizes an area of extremely high wilderness value and that designation of the area is needed to resolve the wilderness issue (p. 11).

Cube Iron—Silcox (01784)—I am not recommending wilderness designation for the Lolo National Forest's 37,700 acres of the Cube Iron-Silcox roadless area. While we did receive considerable public support for wilderness designation for the area, it currently receives heavy recreation use by local citizens who prefer it be managed as nonwilderness (p. 11).

Selway-Bitterroot Addition (Lolo Creek, 01805) I am recommending 3,990 acres of the Lolo Creek roadless area be designated as an addition to the Wilderness system . . . (p. 11).

Sliderock (Quigg, 01807)—I am recommending 60,830 acres of the Quigg roadless Area for wilderness (p. 12).

Stony Mountain (01808)—I am not recommending wilderness designation for the Stony Mountain area (p. 12).

Overall, the roadless areas will be managed to emphasize the following:

	Percent
Wilderness	29
Dispersed Recreation/Amenity	28
Wildlife	15
Timber	20
Other	8

(p. 12)

BEAVERHEAD

Public Issues and Management concerns: What inventoried roadless areas should be recommended for wilderness? Are there portions of these areas that should be excluded from recommendation because of conflicting uses or new information? Of the roadless areas not recommended for wilderness, should these areas be managed (p. 4)?

Alternatives considered:

Alternative C: This alternative provides both a significant acreage of roadless areas recommended for wilderness and a significant production level of commodity resources (p. 4).

Alternative D: This alternative emphasizes recreation opportunities and protection of elk habitat by restricting timber harvest to areas that already have road access. A large portion of the roadless acres are recommended for wilderness classification (p. 4).

Alternative H (Ha): The West Pioneers are retained in a "custodial status." Alternative Ha assumes that Congress has accepted the Forest Service nonwilderness recommendations for the West Pioneers and management activities are scheduled for the area (p. 5).

Alternative I: This alternative recommends all inventoried roadless areas for wilderness while maximizing opportunity to produce commodity resources in a cost efficient manner on the rest of the Forest (p. 5).

Alternative W: This alternative emphasizes the wildlife habitat improvements while providing a relatively high level of timber harvesting activity, similar to Alternative F. In addition, wilderness classification is recommended for those areas where wilderness designation is advocated by environmental groups (p. 5).

Alternative S (Sa) (Proposed Action): Alternative Sa assumes that Congress has accepted the Forest Service nonwilderness recommendations for the West Pioneers and management activities are scheduled for the area (p. 5).

The decision—An overview

I have decided to approve implementation of Alternative S (Alternative Sa) * * * (p. 7).

I believe the forest can contribute additional diversity to the wilderness system through wilderness classification of 169,000 of the 1.2 million acres of inventoried roadless lands on Beaverhead National Forest. Recommendations encompass Torrey Mountain (East Pioneers) (79,555 acres), Italian Peaks (25,664 acres contiguous to 40,000 acres recommended for classification and managed by the Targhee National Forest), Hellroaring Creek (6,571 acres of addition to the Anaconda Pintler Forest), Storm Lake (another 1,729 acres added to the Anaconda Pintler Wilderness contiguous to 4,000 acres recommended for classification and managed by the Deerlodge National Forest), and West Big Hole (55,087 acres). These recommendations will add to the existing 173,500 acres of wilderness within the Beaverhead National Forest's portions of the Anaconda-Pintler Wilderness and the Lee Metcalf Wilderness. The high wilderness values of these areas will be maintained pending congressional action (p. 7).

Through the next ten to fifteen years on the Beaverhead more than one million acres (almost half) will remain as they are today, essentially roadless. They are not being recommended for wilderness classification (p. 7).

Wilderness

The five areas I recommend for wilderness classification have diverse wilderness attributes of high quality. I recognize, however, that these wilderness recommendations are not without opposition (p. 11).

Discussion of the five areas and my rationale for recommending classification is presented below. Three of the areas (Italian Peaks, Storm Lake, and West Big Hole) extend into other Forests and have been evaluated in their entirety (see Appendix C of the Environmental Impact Statement) (p. 12).

Torrey Mountain (East Pioneers): My recommendation of this area for wilderness classification is based on a high level of public support for that designation, relatively few adverse impacts to Forest users, and high quality wilderness values (p. 12).

Italian Peaks: The Italian Peaks area recommend for wilderness classification on the Beaverhead encompasses 25,000 acres . . . (p. 12).

Addition to the Anaconda Pintler Wilderness: I am recommending wilderness classification for two areas that will become part of the Anaconda Pintler Wilderness: Storm Lake (roadless area 1-427) and the Hellroaring drainage (roadless area B1-0001) (p. 12).

West Big Hole: The area I recommend for wilderness classification encompasses roadless area I1-943 totaling 55,000 acres (p. 13).

Three areas have received significant public support for wilderness classification that I do not recommend in this decision for wilderness classification (p. 13).

Mr. LEAHY. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. SHELBY). Who yields time?

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Montana has 9 minutes and 36 seconds remaining, and the Senator from Vermont has 11 minutes and 44 seconds.

Mr. BAUCUS. I thank the Chair.

The PRESIDING OFFICER. Who yields time? If no Senator chooses to yield time, time will be deducted equally from each of the Senators remaining lot.

The Senator from Vermont controls time.

Mr. LEAHY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 11 minutes, 44 seconds.

Mr. LEAHY. I yield such time as the Senator from Tennessee may use.

Mr. GORE. I thank my colleague.

Mr. President, I rise to share the concerns Senator LEAHY has expressed about the implications and effect of the Montana National Forest Management Act. Before discussing the inhibiting of judicial review of Forest Service decisions, however, I wish to share a concern about the larger issue which I believe underlies the current debate. I am well aware of the Senate's tradition to defer to each State's delegation in so-called wilderness bills, bills that set the balance between which lands will be treated as wilderness and which lands will not. Each State makes that determination based on its balancing of the value of its land as wilderness, versus its value to the economy of the State if it is open to other uses.

I have the greatest respect for my colleagues from Montana, and I deeply appreciate the difficulty of these decisions and the diversity of interests that must be heard and, when possible, accommodated. My comments this morning are not directed at the quality of their efforts but at the quality of our thinking here in the Senate, about how these decisions should be made.

May I add that I have special regard where issues of the environment are concerned, for the judgment and accomplishments of the senior Senator from Montana. I have the deepest respect for both of my colleagues but I have had the good fortune of working on those particular issues with the senior Senator from Montana. And there are few Senators in the history of the body who have done as much as the senior Senator from Montana to protect the environment.

So it is with all of that in mind that I nevertheless come to speak here today in opposition to this bill. I do so because I propose that the time has come for us as a body to consider whether we should continue making decisions like this one based on artificial, political boundaries that require automatic deference to the two Senators who represent the particular State involved and do not necessarily respect or account for natural boundaries and ecosystems. Our responsibility to future generations requires stewardship policies that recognize the integrity of ecosystems as well as the integrity of State borders.

In that respect I wish to compliment my colleague, the senior Senator from Vermont, for having the courage to step forward and, in a sense, break tradition by raising these questions on the Senate floor. Our Nation is at the negotiating table right now, seeking to persuade other countries around the world to modify and halt practices which are resulting in the loss of 1.5 acres of forest land every second in the world today. Our moral authority to provide leadership to the world community, as the world attempts to reach historic agreements on the protection of the Earth's forests, is compromised if we in the U.S. Senate look the other way at decisions which might not be in the best interests of the ecological system that it is our responsibility to exercise stewardship over.

Make no mistake about it, there are enormous pressures here in the United States to go into National Forest Service land and log it even when it should not be logged. And those pressures are very similar to the kinds of pressures that are leading to unsustainable destruction of forest land in other countries.

Now, with that as background let me come to the issues which I believe are at stake here in this legislation. This bill opens to extractive development an amount of land twice the size of the Yellowstone National Park. Future development could fragment the habitats of, and threaten the viability in this area of, bighorn sheep, caribou, moose, the gray wolf and others.

While I understand the basis of the Senate's tradition in these matters, as I have said, I believe we should now reconsider that tradition in light of the potential impact we are having on our national and global environment and not just the impact within our own manmade State boundaries.

While I have concerns about the impact of the underlying decisions regarding wilderness designations, my opposition to this bill follows the reasoning laid out by Senator LEAHY. This bill can be construed to preclude citizens from seeking judicial review of numerous Forest Service decisions on the use of land not designated as wilderness. I understand and fully appreciate that the sponsors of the bill do not think that this is so. However, the fate in the courts of other similar legislation and the ease with which this bill could be corrected to avoid this problem, lead me to the conclusion that this bill would in fact set a terrible precedent for future similar bills and greatly reduce the rights of citizens in our society.

The bill can be misconstrued by the courts in two ways. First of all, it clearly precludes judicial review of Forest Service "decisions to allocate roadless areas to wilderness or nonwilderness categories and the environmental analyses directly related to such allocations."

The sponsors say this means only that the courts cannot review the decision to designate land as wilderness or nonwilderness under the current plan. That is what they say in the legislative language accompanying the statutory language that we are considering here. But this language can also mean that there will be no judicial review of the Forest Service decision to place land in a nonwilderness category of use such as timber operations, as compared to recreation or habitat.

Mr. President, this is not just my reading of the bill. This is also the reading of the Congressional Research Service, an objective, nonpartisan group—it is serving the Congress—which assigned this bill to an analyst who produced a report dated March 3, 1992, succinctly describing the problems with the release language in this bill and setting forth a very simple solution, a solution which for some reason has not and is not being considered.

Mr. President, I ask unanimous consent to have this CRS report printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GORE. Why do I believe the courts could construe this bill this way? Well, as the CRS points out, the bill uses ill-defined, imprecise language that in my opinion invites the courts to construe it as they see fit; and under recent precedents the courts see fit to limit judicial review of the Forest Service decisions as much as possible.

Mr. President, this is not some hypothetical judge who might be looking at this language. We know which court this goes to. It goes to the Ninth Circuit Court of Appeals.

The ninth circuit has already ruled, in decisions known as the section 314 cases, that they are going to ignore the legislative intent language of the sponsors of the bill and they are going to liberally interpret the statutory language to prevent judicial review of decisions by the Forest Service to put nonwilderness land into the timber category as opposed to the recreation category or the habitat category.

So, we have the precedent. The court has already looked at a previous case where the language was subject to ambiguity and the sponsors of the bill put their interpretation on it and this same group of judges said, no, the language precludes judicial review of Forest Service decisions on the allocation of nonwilderness lands into timber use, or recreation use, or whatever.

Now there is a dispute between the U.S. Senate and the ninth circuit. It seems to me it calls out for us to clarify exactly what we mean, not by repeating the same mistake that was made before by having vague and ambiguous statutory language and trying to gloss it over with legislative intent language and speeches here. Why not correct the language of the proposed law? The situation cries out for us to make it clear to the court exactly what we mean when we pass this law.

But in the effort to fashion a compromise between different interests in the State and between the two Senators most intimately involved here, there is ambiguity—and ambiguity always serves compromise, always. But in the service of compromise, we are inviting the Ninth Circuit, the same judges, to do exactly what they did last time.

The bill refers to the Forest Service allocation of land into wilderness or nonwilderness categories. But the Forest Service does not allocate land, and there is no such thing as a nonwilderness category in the law. Congress, based on the Forest Service recommendation, designates land as wilderness or nonwilderness.

For lands designated as nonwilderness, the Forest Service may choose many different types of management emphasis—from timber operation to recreation to administrative wilderness, a category of use that allows the Forest Service to treat nonwilderness land as if it were wilderness for administrative and management purposes.

Without clarification of the language of the proposed statute itself, courts could disallow as they have done before and as they will do again—it is imminently predictable—any challenge to a decision on how to use lands designated as nonwilderness because the individual challenge taken as a whole could threaten the total plan that is insulated from review.

This language is different, yes. It makes it even easier for the Ninth Circuit to reach the decision that I fear they will reach here.

The second problem with the language of the bill is that it could be read to abandon the grand compromise that was reached by this body in 1984 and which led to the greatest addition of wilderness land in our history. Under that compromise on the so-called release language, the Forest Service retained the right to treat nonwilderness land as wilderness if it chose to do so administratively. This is referred to as administrative wilderness.

The current bill could place that compromise in jeopardy by referring in the findings and purposes and in the body of the bill to nonwilderness multiple uses—a phrase that in this context could be construed to mean all multiple uses except administrative wilderness are allowed. Ironically, the standard compromise language allowing administrative wilderness as an option for management appears in one place in the bill as well.

Which is it? If the Forest Service may use nonwilderness land for administrative wilderness purposes, why does the bill seem to preclude that option in two places?

If the Forest Service is stripped of its power to use administrative wilderness, why is the standard language in the bill at all? I believe it is because it is the intent to manage these areas as wilderness.

I do not understand why at this time—after language was reached in a painstaking compromise in 1984—we would risk the possibility that that compromise will be jeopardized.

I oppose the bill because the courts may interpret its imprecise and confusing language to ban citizen challenge of Forest Service decisions on uses of nonwilderness lands and because it seems to prohibit the Forest Service from exercising its administrative wilderness option contrary to the compromise Congress reached long ago.

I do not doubt the sincerity of the sponsors' contention that they do not mean the bill to do these things. However, courts today are notorious for ignoring sincerity and focusing on ambiguity. The problems are there. They can be easily fixed. If I am too worrisome and we clarify the law beyond what some think is necessary, where is the harm? If I am right and we do not clarify the language, then we recklessly remove the citizenry's rights to challenge decisions that could gravely and irreparably alter the Earth's largest intact temperate forest ecosystem.

Mr. President, I oppose the bill. I encourage my colleagues to vote against the bill.

I thank the Chair.

EXHIBIT 1

CONGRESSIONAL RESEARCH SERVICE,
Washington, DC, March 3, 1992.

From: American Law Division.
Subject: Analysis of "Release" and Judicial Review Provisions in S. 1696.

You have asked us to analyze the "release" and judicial review provisions of S. 1696, a bill to designate certain federal lands in Montana for inclusion in the National Wilderness Preservation System (National System), pursuant to the Wilderness Act of 1964.[1]

It is useful to put S. 1696 in context—to review why release and judicial review language was used in the past. It appears from a review of the history of such language that you may wish to consider eliminating rather than updating similar provisions, since they may not be necessary. However, if review and release provisions are retained in S. 1696, we note some problems with the language as currently drafted.

BACKGROUND

As you know, the Wilderness Act required the Forest Service to review the suitability of its administratively designated primitive areas for possible inclusion in the National System. The Forest Service undertook an extensive national study of the suitability for wilderness management of all roadless areas managed by that agency. The first effort, the Roadless Area Review and Evaluation or "RARE" study, was abandoned. When the adequacy of some of the California recommendations in the second study, "RARE II", was challenged successfully in court on NEPA grounds,[2] the possibility of having to redo the study was apparent.

At the same time, the forest plans required under the laws governing the management of the national forests were being developed. The relevant laws, the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA),[3] amended significantly by the National Forest Management Act of 1976 (NFMA),[4] and the Multiple Use-Sustained Yield Act of 1960 (MUSYA)[5] require a review of the lands in each forest and the classification in forest plans of different areas as available for various specified uses. The plans, in turn, are to guide the particular activities that will be conducted in the forest. Therefore, the specter of a wilderness suitability review for planning purposes in addition to a RARE III was possible.

It is vital to note too that administrative wilderness management is expressly recognized by MUSYA as a management option. Administrative wilderness management of forest lands is separate and distinct from management of wilderness areas designated by Congress for inclusion in the National System. As to administrative wilderness management, section 2 of MUSYA (16 U.S.C. §529) states: "[T]he establishment and maintenance of areas of wilderness are consistent with the purposes and provisions of this Act."

In considering wilderness bills during the early 1980's, Congress debated how to avoid additional comprehensive wilderness studies, and also debated whether the wilderness reviews that had been completed under RARE II should suffice for all time—whether the option of administrative wilderness management should remain available for lands not included in the National System.

To address the first problem, limits on judicial review were developed to insulate from further challenge the RARE II wilderness suitability study that had already been completed. Congress also expressly precluded further statewide suitability studies. It was generally felt that these limitations were acceptable because Congress itself had reviewed the studies together with all available data to decide which areas would be included in the National System, and further statewide studies were not considered necessary.

At the same time, Congress considered whether to "release" lands not included in the National System back to multiple use management under current law, or to modify multiple use management to exclude all administrative wilderness management. The release issue caused considerable controversy that blocked wilderness legislation for several years, until the issue was finally resolved in 1984 with the development of standard release language. Many wilderness bills then became law.[6] Under the standard release language, lands 1) not included in the National System or 2) designated for further study were simply "released" to multiple use under applicable laws. The standard language further stated that roadless areas "need not" be managed to preserve their wilderness suitability. This language left the agency free to consider all of the management options available under current law, including administrative wilderness management, but compelled no particular management alternative. Because the compromise release language reiterated applicable current law, release language has always been somewhat redundant. Once Congress decided to reject limiting the management of nondesignated lands to nonwilderness multiple use, release language served only to clarify that intent.

CONTINUING USE OF RELEASE LANGUAGE

One can question whether language similar to that used in the past is still necessary. The wilderness suitability studies—RARE and RARE II—that gave rise to release language were a unique occurrence. Those studies reviewed all lands managed by the Forest Service to evaluate and classify the lands as 1) suitable for designation by Congress for inclusion in the National System, 2) not suitable for wilderness designation, or 3) for further study. Once these classifications and recommendations were considered by the Congress, and state-by-state wilderness bills were enacted, Congress directed that wilderness suitability would be studied again only as part of the normal forest planning process. That forest planning process also was to include evaluating the suitability of the lands in each forest for a variety of uses, only one of which was a reconsideration of their suitability for inclusion in the National System. This last point is important to note.

Now that the first batch of forest plans are in effect, arguably there is no need to insulate from review the wilderness suitability classifications made in plans. The argument can be made that these classifications are no different from decisions to allocate lands for any other uses. Arguably too, there is no need to expressly release lands back to usual forest management, the lands are subject to the applicable forest management laws now, forest plans are in place, and wilderness suitability is simply one of the many management alternatives routinely reviewed as part of the planning process.

However, there is no point at which the relationship of the forest planning process to Congressional consideration of wilderness designations could be clarified. Now that the era of the RARE studies has passed and wilderness suitability is reviewed only as part of the planning process, there is no express statutory vehicle by which wilderness recommendations by the Forest Service arising from the planning process are to be presented to Congress. Perhaps if one wished to clarify how the forest planning process and the consideration of natural areas for possible inclusion in the National System under the Wilderness Act are to relate, a generic amendment to NFMA could be developed, requiring that when the Forest Service pro-

---

Footnotes at end of article.

poses a plan revision, the Forest Service will present recommendations to Congress for areas to be included in the National System, together with notice of the areas proposed to be allocated in the plan for administrative wilderness management and the environmental analysis accompanying those decisions.

If desired, additional language could be added to provide that areas not designated by Congress for inclusion in the National System would be managed under forest plans developed in accordance with applicable law (as opposed to referencing any particular plan). This language is probably unnecessary, but might serve to clarify the status quo on release through an express provision in the nationwide management statutes. It also would preserve the current full review of the agency's planning decisions.

To attempt to "update" the old RARE II/release language in state-by-state bills can present difficulties. It was easy enough as a drafting matter to insulate the RARE II studies from judicial review because the purpose of the studies was solely assessment of wilderness suitability. The forest plans, however, consider the suitability of forest lands for many purposes, and classify or allocate the lands for various multiple use purposes and management emphasis. Language to preclude judicial review only of the wilderness suitability determinations of the forest plans must be very precise to avoid insulating from review any other classifications and management emphasis decisions made in the plans. (Although Congress could, of course, choose to so insulate plans as a whole.)

S. 1696

S. 1696 appears to attempt to retain the standard RARE II/release structure, substituting the current forest plans for the RARE II study, but the language is ambiguous in several respects.

First, we note that one can refer to forest plans in the generic sense as the land and resource management plans required by applicable law, notably the NFMA. Or, one can refer to the particular land and resource management plans currently in place in Montana. The difference can be important when one is insulating some aspect of plans from judicial review.

Section 5 of the bill addresses the particular plans completed for all the national forests in Montana and states that "decisions to allocate roadless areas to wilderness or nonwilderness *categories*, and the environmental analyses directly related to *such allocations* shall not be subject to judicial review.* * * (Emphasis added.)

The use of the term "categories" is ambiguous in that it is not a word that has a clear meaning in the context of forest planning, and the term could give rise to the interpretation that all of the land classifications in the forest plans—e.g. to management emphasizing wildlife, commercial timber production, public recreation, administrative use, etc.—are insulated from judicial review.

Other parts of section 5 that might serve to clarify the intended interpretation of this key sentence do not clearly do so for several reasons. First, other references simply repeat the same wording "wilderness and nonwilderness categories". Second, the lead-in phrase "without otherwise passing on the question of the legal and factual sufficiency of the Land and Resource Management Plans" (the definitions indicate that when "Plans" are referred to with capital letters in the bill, the particular Plans now in place are meant) is not dispositive of the issue because Congress could have intended by that language simply to preserve challenges to the public participation, adoption procedures, or other aspects of the Plans other than the classifications or categories. Third, allowing challenges to decisions implementing the Plans (p.57, line 21) also does not alleviate the ambiguity surrounding what land "categories" decisions in the Plans themselves are insulated.[7] Furthermore, the fact that this section refers to the particular Plans in effect in Montana (rather than to plans required by NFMA), bolsters the interpretation that the specific decisions and particular categories set out in those Plans are removed from judicial review. Fifth, the proviso on p. 58, line 4 that permits "review of forest planning decisions which fail to comply with applicable law" is circular if review of the land allocation aspects of the Plans were effectively insulated from review on p. 57; that insulation would be a part of the "applicable law".

Of course, legislative history could be devised to clarify whether Congress meant to insulate only the wilderness suitability decisions made in the Plan, but it is always more risky to rely on legislative history rather than clarifying the language itself. In this instance, if the intent is to insulate only the wilderness suitability decision, that intent could be more clearly carried out in the statutory language, perhaps by amending p. 57, line 17 by striking after "decisions to" the words "allocate roadless areas to wilderness or nonwilderness categories, and the environmental analyses directly related to such allocations" and inserting instead [decisions to] "classify certain roadless areas as wilderness or nonwilderness, and the portions of the environmental analyses directly related to the wilderness/nonwilderness decision . . . shall not be subject to judicial review." Similar adjustments could be made in the other instances where the "categories" language is used.[8]

To be certain that judicial review only of the wilderness decision itself is precluded, the proviso that begins in line 21 of p. 57 could also be changed to read: "Provided, however, That, except for decisions *classifying lands as wilderness or nonwilderness*, nothing in this section shall preclude judicial review *of the Plans* or of decisions implementing the Plans . . . etc."

S. 1696 also departs from the standard release language in ways that appear contradictory. The bill as reported from Committee at p. 43, line 25, states that areas identified as not having outstanding wilderness attributes and which should not be designated as components of the National System "should be available for *non-wilderness multiple uses* under the land management planning process and other applicable law." (Emphasis added.) This approach is repeated on p. 56, line 11, the title to section 5 of the bill: "Release to *Nonwilderness* Multiple Use." (Emphasis added.)

As discussed above, limiting the management of lands not included in the National System to only nonwilderness management was a concept that was considered and rejected in the past because managing some roadless areas *administratively* as wilderness (as opposed to statutory wilderness management of areas in the National Wilderness Preservation System under the Wilderness Act of 1964) is an expressly recognized management option under the MUSYA.

The provisions of S. 1696 cited above support an interpretation that Congress intends the released lands to be managed only for nonwilderness options, thereby arguably resulting in a modification of the MUSYA for management of lands in Montana. However, p. 59, lines 7 through 19, of S. 1696 use the standard release language—that lands not designated as wilderness, special management, national recreation or wilderness study areas by the Act shall be managed for multiple use in accordance with forest plans and need not be managed to protect their suitability for wilderness designation before revision of the forest plans that recently were finalized. Perhaps the references on pp. 43 and 56 are inadvertent and could be amended to be consistent with the language on p. 59, or the other way around. Depending on what is intended—either 1) multiple use under MUSYA, which may include administrative wilderness, or 2) multiple use excluding administrative wilderness, and hence a modification of MUSYA)—you may wish to consider adjusting the language of the bill so that all the release management provisions are consistent.

We hope this information is helpful to you.

PAMELA BALDWIN,
Legislative Attorney.

FOOTNOTES

[1] Act of September 3, 1964, Pub. L. No. 88-577, 78 Stat. 890, codified at 16 U.S.C. §§1131 *et seq.*

[2] California v. Bergland, 483 F. Supp. 465 (E.D.Cal. 1980), *aff'd. in part, rev'd in part*, 690 F. 2d 753 (9th Cir. 1982).

[3] Act of August 17, 1974, Pub. L. No. 93-378, 88 Stat. 476.

[4] Act of October 22, 1976, Pub. L. No. 94-588, 90 Stat. 2949, codified at 16 U.S.C. §§1600 *et seq.*

[5] Act of June 12, 1960, 74 Stat. 215, codified in part at 16 U.S.C. §§528-531.

[6] *See*, CRS Report for Congress 87-559 ENR, *History of Release Language in Wilderness Legislation, 1979-1984*, by Ross W. Gorte, June 12, 1987.

[7] The provision permitting challenges to decisions implementing the plans may result in the kinds of difficulties in separating challenges to the plans themselves from decisions implementing plans that were addressed in Portland Audubon Society v. Lujan, 884 F.2d 1233 (9th Cir. 1989); and Oregon Natural Resources Council v. Mohla, *aff'd* 895 F.2d 627 (9th Cir. 1990).

[8] This languages limiting judicial review and the release/management language of S. 1696 is very different from that used in S. 1029, the Colorado Wilderness bill, which does not limit judicial review of plan categories and uses standard release language.

Mr. BUMPERS. Mr. President, I rise in support of S. 1696, the Montana wilderness bill. Passage of this by the Senate will help resolve a contentious issue that has been before the Congress and the citizens of Montana for years. It represents a very significant compromise reached by the Senators from Montana and I congratulate them on their efforts.

I am aware Senator LEAHY has concerns about the release language in this bill. If I thought there were a problem with the release language in this bill, I might join with him in an effort to change it, but I don't see a problem. The language in the bill is, in my view, unambiguous and there is no need for an amendment.

The release language in S. 1696, like the release language in every other wilderness bill, is intended to insulate from judicial review one decision and one decision alone: the Forest Service's decision to allocate lands in its plans to wilderness or nonwilderness categories. With respect to this decision, and this decision only, the language precludes judicial review. It does not preclude judicial review with respect to decisions about specific management area prescriptions in the plans or any other element of the plans. The language merely updates the so-called standard release language by referencing the current operative land allocation documents—the first generation of forest plans and the related environmental analyses, rather than the RARE II EIS.

Even the Sierra Club has recognized the clarity of the language's intent. In a recent letter to committee members, it summarized the release language in S. 1696 as "insulat[ing] the wilderness study portion of each forest plan from judicial review." That is exactly what the language is intended to do. Clearly, it is the initial dichotomy of wilderness or nonwilderness that is the target of the release language. In my view, the language in S. 1696 accomplishes that objective. I urge my colleagues to join with me in supporting this bill and sending it to the House.

Mr. KASTEN. Mr. President, today I am voting against the Montana wilderness bill.

While coming to the Senate I have adhered to the principle that wilderness decisions should be made by the Senate delegation from that State. I am breaking from that position solely because of the release language contained in this bill.

I believe that it is proper that the elected officials from a State should determine the acreage to be designated as wilderness in that State. In the regard, I believe it is up to the people of Montana to determine what should be designated as wilderness in their State.

However, this legislation does contain one provision that has national implications, that is the release language. The language in this bill establishes a new precedent that potentially restricts management options. Had the provisions in S. 1696 been replaced with the release language that has been used elsewhere I would not have taken this position.

Resolving this very issue was the major impediment to reaching wilderness decisions in Wisconsin. We broke that impasse in 1984 with the development of standard release language that allows consideration of all management options for lands not designated by wilderness legislation.

For this reason, I am voting against this bill today.

The PRESIDING OFFICER. The Senator from Montana has 8 minutes and 52 seconds remaining.

Mr. BAUCUS. Mr. President, I thank the Chair.

Mr. President, I find the statements curious. I am kind of surprised how exercised Senators seem to be.

The Senator from Vermont quoted from the Constitution which provides for judicial review. He failed to mention another phrase in the Constitution which says that Congress shall make such exceptions as it deems appropriate.

I might point out, too, that in the State of every Senator who has spoken in opposition to this bill, Congress did in fact make an exception to preclude judicial review in Vermont, in Washington, in Tennessee of this very issue, that is, limit judicial review of the wilderness-nonwilderness designation. That is all we are doing here. It is the same thing.

I must also point out that speakers who spoke are all lawyers.

The Senator from Vermont is. I guess the Senator from Tennessee is not. He is a reporter. That is his background. Anybody can come up with a different interpretation of any language if he or she tries hard enough. It is simple.

I can tell you, Mr. President, that the CRS report is written by another lawyer, and I have a copy of the CRS report referred to by the previous speaker. And very simply, it essentially says on page 5 of the report "use of the term 'categories' is ambiguous in that it is not a word that has clear meaning and the term could give rise to a different interpretation." Could. Anything could happen. Lawyers are going to find potential ambiguity in language depending upon the result that they want to achieve.

How are we going to resolve this, then? I simply suggest that anybody who is concerned about this issue look at the exact language.

The previous speakers have spoken about court cases. There is no court case that has addressed the question of release language. They refer to court cases that addressed different issues, different subjects, not the question "can release".

I do not know how this reference to other court cases can in any way be relevant to the issue at hand. I ask Senators or anybody else who is interested to read the language. The language is clear. The language says that except for this decision as to what is wilderness and nonwilderness, which was the case in Tennessee, in Vermont, in Washington, that subject to that decision, nothing in this section shall preclude judicial review of Department of Agriculture decisions, and so forth. Every single environmental statute still applies. Nothing is insulated from judicial review, nothing, except the one minor point which the Senators agree should be exempted from judicial review. They have all said that. They all agree on that. So it is very clear.

I also ask Senators who have still any potential doubts to read the report language that accompanies this bill, which basically says the same thing. It precludes review of just the decision to allocate, but then it goes on to say it allows reviews of wildnerness allocation decisions made on a forest-by-forest basis and subsequent plans, and so forth.

It says like the original release language the update is drawn very narrowly and affects only that decision, that is, the wilderness-nonwilderness, and all other elements and aspects of the plans would be subject to judicial review. That is clear.

If anybody has any doubt, let me state it here today. That is the congressional intent. The chairman of the committee made that point. I am sure the statement of the subcommittee's chairman made that point. Any judge can read the legislative history, read the report language, read the statute. It is clear.

One other point, Mr. President. I would like to now display a chart that shows how much of Montana is going to be potentially developed. I have heard all kinds of charges here; 4 million acres is going to be clear cut. This chart shows how much acreage in Montana might be subject to forestation.

I hear the Senator from Tennessee alluding to global warming, how this is going to denude our Nation's forests—100,000 acres only—just this narrow black section out of the total 6 million acres under consideration. There are 93 million acres in the whole State of Montana—or one ten-thousandths of 1 percent of the State of Montana might be logged and, if logged, subject to every single environmental statute that now exists and should exist.

So I must say, Mr. President, I am perplexed by these words of opposition that this is going to somehow open up Montana logging. It is a minor sliver that might be logged under all existing statutes.

I am also perplexed by these arguments that judicial review somehow is precluded.

I again ask Senators to read the bill. Read the language. It is possible that some judge may totally ignore the language. We cannot control judges. All we in the Congress can do is expressly provide the language, say what we want in report language, on the floor say what we mean. We must do the very best we can to explain what we mean.

We have a three-branch form of government. A judge can do what he wants. But we will do our best here. If a judge makes a wrong ruling—this has never been litigated before—we come back in the Congress and correct it. I submit that this is a good, balanced bill. Montanans want this legislation passed. Let us get it behind us.

Mr. President, I now yield such time as the Senator from Montana may consume.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I thank my colleague from Montana.

Let us use some good old American horse sense. I would have to agree with my colleague from Tennessee; I am concerned about the rain forests, too, and the loss of those forests and the danger it may have on our environment. But in all those areas there are no programs for reforestation, regeneration, management of the land. That is what we mean when we talk about our management of the land. When you put it in wilderness, there is no stewardship, folks. You just leave it there to let happen what happens. If you want to come to Montana, after 1988, when they let the wildfires burn, then I will show you some real consequences and the impact it has had on the State.

That is not management. That is not stewardship. That is not conservation.

Let us not redefine conservation there, because conservation is the wise use of a renewable resource. That is what we do every day on our farms and ranches. We harvest a renewable resource, and that is what we are talking about here. If our programs for reforestation, regeneration are on track, we can manage these lands.

Mr. President, I ask unanimous consent that a letter from the Secretary of Agriculture in support of this bill be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF AGRICULTURE,
Washington, DC., March 24, 1992.
Hon. J. BENNETT JOHNSTON,
Chairman, Committee on Energy and Natural Resources, Washington, DC.

DEAR CHAIRMAN JOHNSTON: We have been advised that questions have arisen regarding the Department of Agriculture's position on S. 1696, the Montana National Forest Management Act. We support passage of the bill as reported by the Committee.

Sincerely,
EDWARD MADIGAN.

Mr. BURNS. Mr. President, I ask that Senators look at the bill and the crafting of the language. Some things here are just not true. We have not closed the doors of the courts to anyone to appeal any part of management of our public lands, nor do we want to.

I express my appreciation to Senator BAUCUS and the committee for helping on this bill because had it not been for their true dedication to solving this issue, it would not now be before us.

I yield the floor.

Mr. BAUCUS. Mr. President, I have one very brief comment to make here on the question of whether a judge could possibly interpret this language contrary to its plain wording and contrary to the wishes of Congress.

I would like to quote a memo from the National Wildlife Federation on this issue. It says, "A court would have to ignore every maxim of statutory interpretation," in order to arrive at the same conclusion as the Senators from Vermont and Tennessee. That is the National Wildlife Federation's interpretation of this issue.

Mr. KOHL. Mr. President, I rise to express my opposition to the Montana National Forest Management Act, S. 1696, commonly known as the Montana wilderness bill. My opposition is based on my concerns about the quantity and quality of roadless land released to multiple-use management by the U.S. Forest Service, the failure of the bill to reserve a Federal water right for the wilderness areas, and the dangerous release language limiting citizens from challenging certain activities, such as timber sales, on the nonwilderness lands covered by this bill. My comments today, however, will focus specifically on judicial review limitations included in the release language of this legislation.

Historically, the purpose of release language in wilderness legislation has been to specify the terms under which roadless lands not to be included in the national wilderness system would be released to multiple use management, including timber harvest.

Although the drafters of the Montana wilderness bill claim that the release language in the bill does not go beyond what is considered to be standard release language with respect to judicial review, many environmental groups, legal scholars, and wilderness experts have expressed concern. Their concern is that the current release language included in the bill could be interpreted by the courts to restrict the ability of the public to challenge specific actions, such as timber sales, on areas not designated as wilderness. I share their concern.

The current release language in the Montana wilderness bill would seem, on face value, to address these concerns. There is language included that attempts to clarify that legal challenges on specific timber sales would be allowed based on environmental grounds. However, similar language in other legislation has been misinterpreted by courts in a manner that would severely limit the ability of the public to challenge certain activities on Federal forestlands. Based on past ninth circuit court rulings in Portland Audubon Society versus Lujan and in Oregon Natural Resources Council versus Mohla with regard to the ability of the public to challenge U.S. Forest Service and Bureau of Land Management actions, there is a precedent for the misinterpretation of release language by Federal courts. The ninth circuit, which decided those cases, also happens to be the court with jurisdiction over Montana. It would therefore be irresponsible to pass this legislation, until we take steps to prevent a further erosion of the right of citizens to assure that development actions within their State do not conflict with accepted environmental law.

Mr. President, the advocates of the Montana wilderness bill have stated that they have no intention to limit judicial review on the nonwilderness Montana lands addressed by this bill. Yet they have refused to clarify the intent of the language, stating that the intent is already clear in its current version. However, there are many who would disagree with that assessment. Included among those who are concerned about the possible misinterpretation of the current language is the Congressional Research Service, not commonly considered a bastion of environmental extremism. A March 3, 1992, memorandum from the American Law Division of CRS referred to the release language of S. 1696 as ambiguous in several respects.

CRS's concerns are as follows:

First, we note that one can refer to forest plans in the generic sense as the land and resource management plans required by applicable law, notably the National Forest Management Act. Or, one can refer to the particular land and resource management plans currently in place in Montana. The difference can be important when one is insulating some aspect of plans from judicial review.

Section 5 of the bill addresses the particular plans completed for all the national forests in Montana and states that:

"decisions to allocate roadless areas to wilderness or nonwilderness categories, and the environmental analyses directly related to such allocations shall not be subject to judicial review. * * *"

The use of the term "categories" is ambiguous in that it is not a word that has a clear meaning in the context of forest planning, and term could give rise to the interpretation that all of the land classifications in the forest plans—e.g. to management emphasizing wildlife, commercial timber production, public recreation, administrative use, etc.—are insulated from judicial review.

Other parts of section 5 that might serve to clarify the intended interpretation of this key sentence do not clearly do so for several reasons.

The CRS memo goes on to list in detail 5 instances in which section 5 of the bill is ambiguous, and fails to clarify the intent with regard to judicial review. CRS further points out several areas where S. 1696 departs from the standard release language in ways that appear contradictory. But the bottom line of the CRS argument is that the current release language is ambiguous, and could lead to different interpretations by the courts. While legislative history could clarify whether Congress meant to insulate only the wilderness suitability decision made in the forest management plan, it is preferable to assure that the intent is clearly expressed in the statutory language itself.

Mr. President, the judicial review limitations in this bill would set a dangerous precedent by denying citizens of Montana and the Nation as a whole, the right to challenge development actions on our dwindling pristine lands. The ambiguity in the language of the bill jeopardizes not only the valuable resources of Montana, but could also have larger ramifications for other legislation of more national scope addressing development activities on Federal forestlands.

For these reasons, Mr. President, even though I believe Senator BAUCUS has labored long and hard on this issue—with dedication and good will—I must oppose this legislation.

Mr. WELLSTONE. Mr. President, I join the Senator from Vermont in opposing this legislation.

The future of some of the most spectacular lands in the United States will be decided by this legislation. Six million acres of roadless lands in Montana—lands with immeasurable value for elk, grizzly bear, grey wolf, and other wildlife—lands of startling beauty and wildness stretching from Glacier National Park on the north to Yellowstone National Park on the south.

Most of the lands affected by this bill are not being placed in wilderness. Instead, they are being released to be managed by the U.S. Forest Service under general forest management laws—but are they? A very reputable and objective organization—The Congressional Research Service's American Law Division—has raised some serious questions about that assumption.

When CRS examined the release language of this bill they concluded that it might not be interpreted as being so even-handed. To begin with, CRS says its confusing and unnecessary. But, they go further. They warn that it could be interpreted in a very broad fashion—the release language of this bill could be used to keep citizens from exercising their rights to challenge future forest management decisions about these released lands.

Given the large number of conservatives that have been appointed to the judiciary in recent years, I do not think such an outcome is so farfetched. As a result of Federal court decisions, we are seeing an increasing erosion of citizen rights including our citizens' rights to seek judicial review of Government agency decisions.

Thus, the ambiguous language of this bill could be interpreted in a manner that violates basic principles regarding public participation and citizen rights.

I also have substantive concerns about this bill. The decisions it contains about which lands should or should not be added to wilderness concern me, but not as much as how the lands released by this bill will be managed. These lands constitute some of the most important wildlife habitat in the lower 48 States. In particular, these large expanses of wild lands are essential for the continued survival of several endangered species, including the grizzly bear and grey wolf. These species require large, connected expanses of wild lands for their survival.

Arguments have been made that this legislation will result in the fragmentation of the critical habitat necessary for these species. While I do not believe that it is essential to declare land as wilderness to protect the grizzly bears, I do agree that under current management conditions the release of these lands could very possibly jeopardize the remaining populations of these animals.

This problem is compounded by the release language I discussed earlier. Areas proposed for release include lands which are also critical habitat for the grizzly bear, for example the Swan Crest area. Clear cutting of these lands could affect their viability as grizzly bear habitat.

Yet, under the release language proposed by this bill, citizens could be precluded from challenging such timber sales on the grounds that the Congress had decided that Forest Service management decisions—such as holding a timber sale—have been shielded from judicial review.

Together, these aspects of this legislation make it an unacceptable proposal. They make it one I cannot support.

I fully respect the work of the Senators from Montana, particularly the senior Senator from Montana, in seeking to resolve this issue for the people of his State. I believe that they have brought forth this proposal in good faith as a compromise between the different interests within their State.

However, I feel that what they have proposed violates basic tenets of public participation. Further, I believe that this bill could lead to fragmenting habitat management of important wildlife species, which could accelerate their extinction. For these reasons, I intend to vote against final passage of this bill.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Illinois [Mr. DIXON], the Senator from Iowa [Mr. HARKIN], and the Senator from Rhode Island [Mr. PELL] are necessarily absent.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 75, nays 22, as follows:

[Rollcall Vote No. 55 Leg.]

YEAS—75

Baucus
Bentsen
Biden
Bond
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Burns
Byrd
Chafee
Coats
Cochran
Cohen
Conrad
Craig
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dole
Domenici
Durenberger
Exon
Ford
Fowler
Garn
Gorton
Graham
Gramm
Grassley
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Lautenberg
Levin
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pressler
Pryor
Reid
Rockefeller
Rudman
Sanford
Seymour
Shelby
Simon
Simpson
Smith
Specter
Stevens
Symms
Thurmond
Wallop
Warner
Wofford

NAYS—22

Adams
Akaka
Bingaman
Boren
Dodd
Glenn
Gore
Kasten
Kennedy
Kerrey
Kerry
Kohl
Leahy
Lieberman
Metzenbaum
Riegle
Robb
Roth
Sarbanes
Sasser
Wellstone
Wirth

NOT VOTING—3

Dixon
Harkin
Pell

So the bill (S. 1696), as amended, was passed, as follows:

S. 1696

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Montana National Forest Management Act of 1992".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) Many areas of undeveloped National Forest System lands in the State of Montana possess outstanding natural characteristics which give them high value as wilderness and will, if properly preserved, contribute as an enduring resource of wild land for the benefit of the American people.

(2) The existing Department of Agriculture Land and Resource Management Plans for Forest System lands in the State of Montana have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System.

(3) The existing Department of Agriculture Land and Resource Management Plans for National Forest System lands in the State of Montana and the related congressional review of such lands have also identified areas that do not possess outstanding wilderness attributes or possess outstanding energy, mineral, timber, grazing, dispersed recreation, or other values. Such areas should not be designated as components of the National Wilderness Preservation System but should be available for non-wilderness multiple uses under the land management planning process and other applicable law.

(b) PURPOSES.—The purposes of this Act are to—

(1) designate certain National Forest System lands in the State of Montana as components of the National Wilderness Preservation System, in furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), in order to preserve the wilderness character of the land and to protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, and physical and mental challenge; and

(2) ensure that certain other National Forest System lands in the State of Montana be available for nonwilderness uses.

SEC. 3. WILDERNESS DESIGNATIONS.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act of 1964, the following lands in the State of Montana are designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Beaverhead, Bitterroot, and Deerlodge National Forests, which comprise approximately twenty-nine thousand one hundred acres, as generally depicted on a map entitled "Anaconda-Pintler Wilderness Additions—Proposed" (North Big Hole, Storm Lake, Upper East Fork), dated September 1991, and which are hereby incorporated in and shall be deemed to be a part of the Anaconda-Pintler Wilderness.

(2) Certain lands in the Beaverhead National Forest, which comprise approximately twenty-five thousand acres, as generally depicted on a map entitled "Italian Peaks Wilderness—Proposed", dated September 1991, and which shall be known as the Italian Peaks Wilderness.

(3) Certain lands in the Beaverhead National Forest, which comprise approximately seventy-nine thousand five hundred acres, as generally depicted on a map entitled "East Pioneer Wilderness—Proposed", dated September 1991, and which shall be known as the East Pioneer Wilderness.

(4) Certain lands in the Beaverhead National Forest, Montana, comprising approximately seventy-six thousand six hundred acres, as generally depicted on a map entitled "West Big Hole Wilderness—Proposed", dated September 1991, and which shall be known as the West Big Hole Wilderness.

(5) Certain lands in the Bitterroot, Deerlodge, and Lolo National Forests, which comprise approximately sixty-four thousand eight hundred acres, as generally depicted on a map entitled "Stony Mountain Wilderness—Proposed", dated November 1991, and which shall be known as the Stony Mountain Wilderness.

(6) Certain lands in the Bitterroot and Lolo National Forests, which comprise approximately fifty-five thousand six hundred acres, as generally depicted on maps entitled "Selway-Bitterroot Wilderness Additions—Proposed", dated September 1991, and which are hereby incorporated in and shall be deemed to be a part of the Selway-Bitterroot Wilderness. The use of motorized equipment shall be prohibited on those lands surrounding High Lake which are excluded from the area designated as wilderness by this paragraph, except for such equipment (including access by helicopter) as the Secretary determines to be necessary to allow for the operation and maintenance of the impoundment located on High Lake.

(7) Certain lands in the Custer National Forest, which comprise approximately five thousand eight hundred acres, as generally depicted on a map entitled "Lost Water Canyon Wilderness—Proposed", dated September 1991, and which shall be known as the Lost Water Canyon Wilderness.

(8) Certain lands in the Custer National Forest, which comprise approximately six thousand acres, as generally depicted on a map entitled "Absaroka Beartooth Wilderness Additions—Proposed" (Burnt Mountain, Timberline Creek, Stateline and Mystic Lake), dated November 1991, and which are hereby incorporated in and shall be deemed to be a part of the Absaroka Beartooth Wilderness.

(9) Certain lands in the Deerlodge and Helena National Forests, which comprise approximately nineteen thousand acres, as generally depicted on a map entitled "Blackfoot Meadow-Electric Peak Wilderness—Proposed", dated September 1991, and which shall be known as the Blackfoot Meadow Wilderness.

(10) Certain lands in the Deerlodge and Bitterroot National Forests, which comprise approximately fifty-six thousand acres, as generally depicted on a map entitled "Sapphires Wilderness—Proposed", dated November 1991, and which shall be known as the Sapphires Wilderness.

(11) Certain lands in the Flathead National Forest, which comprise approximately thirty thousand acres, as generally depicted on a map entitled "North Fork Wilderness—Proposed (Tuchuck and Mount Hefty)", dated November 1991, and which shall be known as the North Fork Wilderness.

(12) Certain lands in the Flathead, Helena, Lolo, and Lewis and Clark National Forests, which comprise approximately two hundred fifteen thousand seven hundred acres, as generally depicted on maps entitled "Arnold Bolle Additions to the Bob Marshall Wilderness—Proposed" (Silver King-Falls Creek, Renshaw, Clearwater-Monture, Deep Creek, Teton High Peak, Volcano Reef, Slippery Bill, Limestone Cave, and Crown Mountain), dated November 1991, which shall be known as the Arnold Bolle-Bob Marshall Wilderness Additions and are incorporated in and shall be deemed to be a part of the Bob Marshall Wilderness.

(13) Certain lands in the Flathead National Forest, which comprise approximately nine hundred and sixty acres, as generally depicted on a map entitled "North Mission Mountain Wilderness Additions—Proposed", dated September 1991, and which are hereby incorporated in and shall be deemed to be a part of the North Mission Mountain Wilderness.

(14) Certain lands in the Flathead and Lolo National Forests, comprising approximately one hundred and fifty-nine thousand five hundred acres, as generally depicted on maps entitled "Jewel Basin/Swan Wilderness—Proposed", dated November 1991. Those lands contiguous to the west slope of the Bob Marshall Wilderness referred to in this paragraph are hereby incorporated in and shall be deemed to be a part of the Bob Marshall Wilderness, while the remaining lands shall be known as the Swan Crest Wilderness.

(15) Certain lands in the Gallatin National Forest, which comprise approximately five thousand five hundred acres, as generally depicted on a map entitled "North Absaroka Wilderness Additions—Proposed" Republic Mountain and Dexter Point), dated November 1991, and which are hereby incorporated in and shall be deemed to be a part of the North Absaroka Wilderness.

(16) Certain lands in the Gallatin National Forest, which comprise approximately thirteen thousand seven hundred acres, as generally depicted on a map entitled "Lee Metcalf Cowboys Heaven Addition—Proposed", dated September 1991, and which are hereby incorporated in and shall be deemed to be a part of the Lee Metcalf Wilderness.

(17) Certain lands in the Gallatin National Forest, which comprise approximately twenty-two thousand acres, as generally depicted on a map entitled "Earthquake Wilderness—Proposed", dated September 1991, and which shall be known as the Earthquake Wilderness.

(18) Certain lands in the Helena National Forest, which comprise approximately twenty-six thousand acres, as generally depicted on a map entitled "Camas Creek Wilderness—Proposed", dated September 1991, and which shall be known as the Camas Creek Wilderness.

(19) Certain lands in the Helena National Forest, which comprise approximately fifteen thousand acres, as generally depicted on a map entitled "Mount Baldy Wilderness—Proposed", dated September 1991, and which shall be known as the Mount Baldy Wilderness.

(20) Certain lands in the Helena National Forest, Montana, which comprise approximately ten thousand five hundred acres, as generally depicted on a map entitled "Gates of the Mountain Wilderness Additions—Proposed" (Big Log), dated September 1991, and which are hereby incorporated in and shall be deemed to be part of the Gates of the Mountain Wilderness.

(21) Certain lands in the Helena National Forest, which comprise approximately eight thousand five hundred acres, as generally depicted on a map entitled "Black Mountain Wilderness—Proposed", dated September 1991, and which shall be known as the Black Mountain Wilderness. The Secretary of Agriculture, using existing statutory authority, shall give special attention to the acquisition of non-federally owned lands within the Black Mountain Wilderness.

(22) Certain lands in the Kootenai National Forest, which comprise approximately thirty-one thousand acres, as generally depicted on a map entitled "Cabinet Mountains Wilderness Additions—Proposed", dated November 1991, and which are hereby incorporated in and shall be deemed to be part of the Cabinet Mountains Wilderness.

(23) Certain lands in the Kootenai National Forest, which comprise approximately fifty thousand acres, as generally depicted on a map entitled "Scotchman Peaks Wilderness—Proposed", dated September 1991, which shall be known as the Scotchman Peaks Wilderness.

(24) Certain lands in the Kootenai and Lolo National Forests, which comprise approximately seventeen thousand nine hundred acres, as generally depicted on a map entitled "Cateract Peak Wilderness—Proposed", dated September 1991, which shall be known as the Cateract Peak Wilderness.

(25) Certain lands in the Lolo and Kootenai National Forests, which comprise approximately seventeen thousand nine hundred acres, as generally depicted on a map entitled "Cube Iron/Mount Silcox Wilderness—Proposed", dated November 1991, which shall be known as the Cube Iron/Mount Silcox Wilderness.

(26) Certain lands in the Lolo National Forest, which comprise approximately ninety-four thousand seven hundred acres, as generally depicted on a map entitled "Great Burn Wilderness—Proposed", dated September 1991, which shall be known as the Great Burn Wilderness.

(27) Certain lands in the Lolo National Forest, which comprise approximately sixty thousand one hundred acres, as generally depicted on a map entitled "Quigg Peak Wilderness—Proposed", dated September 1991, which shall be known as the Quigg Peak Wilderness.

(b) MAPS AND LEGAL DESCRIPTIONS.—(1) The Secretary of Agriculture (hereinafter referred to as the "Secretary") shall file the maps referred to in this section and legal descriptions of each wilderness area designated by this section with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act.

(2) The Secretary may correct clerical and typographical errors in the maps and the legal descriptions submitted pursuant to this section.

(3) Each map and legal description referred to in this section shall be on file and available for public inspection in the office of the Chief of the Forest Service, Washington, D.C. and at the office of the Region I Forester, Missoula, Montana.

(c) ADMINISTRATION.—Subject to valid existing rights, each wilderness area designated by this section shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964, except that, with respect to any area designated in this section, any reference to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(d) WILDERNESS AREA PERIMETERS.—Congress does not intend that the designation of wilderness areas in this section will lead to the creation of protective perimeters or buffer zones around such areas. The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(e) GRAZING.—The grazing of livestock, where established prior to the date of enactment of this Act, in wilderness areas designated in this section shall be administered in accordance with section 4(d)(4) of the Wilderness Act of 1964 and section 108 of an Act entitled "An Act to designate certain National Forest System Lands in the States of Colorado, South Dakota, Missouri, South Carolina, and Louisiana for inclusion in the National Wilderness Preservation System, and for other purposes" (94 Stat. 3271; 16 U.S.C. 1133 note).

(f) STATE FISH AND GAME AUTHORITY.—In accordance with section 4(d)(7) of the Wilderness Act of 1964, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Montana with respect to wildlife and fish in the national forests of Montana.

(g) HUNTING.—Subject to applicable law, Congress recognizes hunting as a legitimate and beneficial activity within wilderness areas designated in this section. Nothing in this Act or the Wilderness Act of 1964 shall be construed to prohibit hunting in such areas.

(h) COLLECTION DEVICES.—(1) Within the wilderness areas designated in this section, neither the Wilderness Act of 1964 or this Act shall be construed to prevent the installation and maintenance of hydrological, meteorological, or climatological collection devices and ancillary facilities subject to such conditions as the Secretary deems desirable, where such facilities or access are essential to flood warning, flood control, and water reservoir operation purposes.

(2) Access to the devices and facilities described in paragraph (1) shall be by the means historically used, if that method is the least intrusive practicable means available.

SEC. 4. WATER RIGHTS.

(a) FINDING.—The Congress finds that the waters within the wilderness areas designated by section 3 of this Act are headwaters, and accordingly, this Act has no effect on the appropriation or adjudication of waters within the State of Montana under applicable law.

(b) RULES OF CONSTRUCTION.—Nothing in this Act is intended or shall be construed:

(1) to affect the downstream appropriation or adjudication of water;

(2) to affect existing water rights as provided under Montana state law;

(3) to affect the determination of express or implied reserved water rights as determined under other laws;

(4) as establishing a precedent with regard to any future wilderness designations or any interpretation of any other Act or wilderness designation.

SEC. 5. RELEASE TO NONWILDERNESS MULTIPLE USE.

(a) FINDINGS.—The Congress finds that—

(1) the Department of Agriculture has adequately met the wilderness study requirements of Public Law 94-557;

(2) the Land and Resource Management Plans and associated Environmental Impact Statements (hereinafter referred to as "Land and Resource Management Plans") for all the National Forests in the State of Montana have been completed as required by section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976;

(3) the Department of Agriculture, with substantial public input, has reviewed the wilderness potential of these and other areas; and

(4) the Congress has made its own examination of National Forest System roadless areas in the State of Montana and of the environmental and economic impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress determines and directs that—

(1) without otherwise passing on the question of the legal and factual sufficiency of the Land and Resource Management Plans and their associated environmental impact statements for National Forest System lands in the State of Montana completed prior to the enactment of this Act, prior to the revision of such Plans, decisions to allocate roadless areas to wilderness or nonwilderness categories, and the environmental analyses directly related to such allocations shall not be subject to judicial review:

(A) *Provided, however*, That, except for decisions allocating lands to wilderness and nonwilderness categories, nothing in this section shall preclude judicial review of Department of Agriculture decisions implementing such Plans or decisions made concerning the management of National Forest lands subsequent to their allocation to wilderness and nonwilderness categories:

(B) *Provided further*, That, except for decisions allocating lands to wilderness and nonwilderness categories, nothing in this section shall preclude judicial review of Forest Service regional guides and other departmental policies of general applicability, nor prevent a court from invalidating forest planning decisions which fail to comply with applicable law;

(2) except as specifically provided in sections 3, 6, 7, 8, and 9 of this Act and in Public Law 95-150, with respect to the National Forest System lands in the State of Montana which were reviewed by the Department of Agriculture under Public Law 94-557, the unit plans that were in effect prior to completion of RARE II, the 1978 Forest Plan for the Beaverhead National Forest, and the Land and Resource Management Plans, that such reviews shall be deemed an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System, and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the Land and Resource Management Plans, but shall review the wilderness option when such plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless prior to that time the Secretary finds that conditions in a unit have significantly changed;

(3) those National Forest System lands in the State of Montana referred to in paragraph (2) of this subsection which were not designated as wilderness, special management, national recreation or wilderness study areas by this Act shall be managed for multiple use in accordance with land and resource management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act, and those areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial Land and Resource Management Plans;

(4) if revised Land and Resource Management Plans for the National Forest System lands in the State of Montana are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Montana for purposes of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Foreign Management Act, the term "revision" shall not include an amendment to a land and resource management plan.

(d) Except as where specifically provided elsewhere in this Act, the provisions of this section shall also apply to those National Forest System roadless lands in the State of Montana which are less than five thousand acres in size.

(e) Notwithstanding the provisions of paragraph (b)(2) of this section, the requirements of Public Law 95-150 are deemed to be satisfied with respect to the Sapphire and Middle Fork of the Judith Wilderness study areas.

SEC. 6. SPECIAL MANAGEMENT AREAS.

(a) For the purposes of conserving, protecting and enhancing the exceptional scenic, fish and wildlife, biological, educational and recreational values of certain National Forest System lands in the State of Montana, the following designations are made:

(1) The Mount Helena National Education and Recreation Area located in the Helena National Forest, comprising approximately three thousand nine hundred acres, as generally depicted on a map entitled "Mount Helena National Education and Recreation Area—Proposed", dated September 1991.

(2) The Hyalite National Education and Recreation Area located in the Gallatin Na-

tional Forest, comprising approximately eighteen thousand nine hundred acres, as generally depicted on a map entitled "Hyalite National Recreation and Education Area—Proposed", dated September 1991.

(3) The Northwest Peak National Recreation and Scenic area located in the Kootenai National Forest, comprising approximately sixteen thousand seven hundred acres, as generally depicted on a map entitled "Northwest Peak National Recreation and Scenic Area—Proposed", dated September 1991.

(4) The Buckhorn Ridge National Recreation Area located in the Kootenai National Forest, comprising approximately twenty thousand acres, as generally depicted on a map entitled "Buckhorn Ridge National Recreation Area—Proposed", dated September 1991.

(5) The Tenderfoot/Deep Creek National Recreation Area located in the Lewis and Clark National Forest, comprising approximately fifty thousand acres, as generally depicted on a map entitled "Tenderfoot/Deep Creek National Recreation Area—Proposed", dated November 1991.

(b) The Secretary shall file the maps referred to in this section with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, United States House of Representatives, and each such map shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in such maps may be made. Each such map shall be on file and available for public inspection in the office of the Chief of the Forest Service and the office of the Region I Forester.

(c)(1) Except as otherwise may be provided in this subsection, the Secretary shall administer the areas designated in subsection (a) so as to achieve the purposes of their designation as national recreation areas in accordance with the laws and regulations applicable to the National Forest System.

(2)(A) Except as provided in subparagraph (B), all federally owned lands within the areas designated in subsection (a) are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(B) The Secretary, under such reasonable regulations as he deems appropriate, may permit the removal of the nonleasable minerals from lands or interests in lands within the areas designated in subsection (a) in the manner described by section 10 of the Act of August 4, 1939, as amended (43 U.S.C. 387), and he may permit the removal of leasable minerals from lands or interests in lands within the recreation areas in accordance with the mineral leasing laws, if he finds that such disposition would not have significant adverse effects on the administration of the recreation areas.

(C) Nothing in this subsection shall affect valid existing rights within the areas designated in subsection (a).

(3) Management activities may be permitted by the Secretary if compatible with the purposes for which the areas are designated: *Provided*, That nothing in this Act shall preclude such measures which the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease.

(4) Where the Secretary determines that such use is compatible with the purposes for which an area is designated, the use of motorized equipment shall be permitted in the areas subject to applicable law and applicable land and resource management plans.

(5) The grazing of livestock, where established prior to the date of enactment of this Act shall be permitted to continue subject to applicable law and regulations of the Secretary.

(d) The Secretary shall manage the Mount Helena and Hyalite National Education and Recreation Areas with a focus on education. All management activities shall be conducted in a manner that provides the public with an opportunity to become better informed about natural resource protection and management.

(e) Those areas established pursuant to subsection (a) shall be administered as components of the national forests wherein they are located. Land and resource management plans for the affected national forests prepared in accordance with the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act, shall emphasize achieving the purposes for which the areas are designated.

SEC. 7. ELKHORNS NATIONAL RECREATION AND WILDLIFE AREA.

(a)(1) The area of the Helena and Deerlodge National Forests comprising approximately one hundred seventy-five thousand seven hundred acres, as generally depicted on a map entitled "Elkhorns National Recreation and Wildlife Area—Proposed", dated September 1991, is hereby designated as a national recreation and wildlife area and shall hereafter be managed as a national recreation area that emphasizes enhancement of big game habitat. Except as otherwise provided in this section, the Secretary shall administer the area so as to achieve the purposes of its designation as a national recreation and wildlife area. Where compatible with such emphasis, and consistent with applicable law and applicable land and resource management plans, management also shall provide for recreational opportunities (including, but not limited to, opportunities for motorized recreation) and the maintenance and enhancement of habitat for nongame species. Hunting shall be permitted within the area subject to applicable State and Federal law.

(2) Those lands within the Elkhorns National Recreation and Wildlife Area designated as "Elkhorns-2" on the map referenced in paragraph (1) shall, notwithstanding any other provision of this section, remain roadless. Motorized equipment may be used by the Secretary, or other public agencies with the approval of the Secretary, after public notice and opportunity for comment and a finding by the Secretary that such use is required for habitat improvement for fish and wildlife. Any area disturbed by such motorized equipment shall be restored to contour and revegetated with appropriate native plant species as expeditiously as possible.

(b) The Secretary shall file the map referred to in this section with the Committee on Energy and Natural Resources of the United States Senate, and the Committee on Interior and Insular Affairs of the United States House of Representatives, and the map shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in the map may be made. The map shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) Subject to valid existing rights, all federally owned lands within the area designed as "Elkhorns-2" are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(d) Management activities may be permitted by the Secretary if compatible with the purposes for which the Elkhorns National Recreation and Wildlife Area is designated: *Provided*, That nothing in this section shall preclude such measures which the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease.

(e) The Elkhorns National Recreation and Wildlife Area established pursuant to this section shall be administered as a component of the Helena and Deerlodge National Forests. Land and resource management plans for these National Forests prepared in accordance with the Forest and Rangeland Renewable Resources Planning Act, as amended by the National Forest Management Act, shall emphasize achieving the purposes for which the area is designated.

SEC. 8. WILDERNESS STUDY AREAS.

(A) DESIGNATION.—The following areas are hereby designated as wilderness study areas and shall be managed in accordance with the provisions of this section:

(1) Certain lands in the Custer National Forest, comprising approximately seventeen thousand acres, as generally depicted on a map entitled "Line Creek Plateau Wilderness Study Area—Proposed", dated September 1991.

(2) Certain lands on the Gallatin National Forest, comprising approximately twenty-one thousand five hundred acres, as generally depicted on a map entitled "Sawtooth Mountain Wilderness Study Area—Proposed", dated September 1991.

(3) Certain lands in the Lolo National Forest which comprise approximately twenty-two thousand acres, as generally depicted on a map entitled "Sheep Mountain Wilderness Study Area—Proposed", dated November 1991.

(4) Certain lands in the Flathead National Forest which comprise approximately thirty eight thousand acres, as generally depicted on a map entitled "Thompson-Seton Wilderness Study Area—Proposed", dated November 1991.

(b) Not later than five years after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives containing recommendations as to whether the areas designated in subsection (a) should be added as components of the National Wilderness Preservation System.

(c)(1) Subject to valid existing rights and except as provided in paragraph (2), the wilderness study areas designated in subsection (a) shall be managed to protect their suitability for inclusion in the National Wilderness Preservation System for a period of seven years from the date of enactment of this Act. At the end of such seven-year period, the areas shall be managed, subject to valid existing rights, in accordance with the applicable land and resource management plans.

(2) Subject to valid existing rights, the Thompson-Seton Wilderness study area shall be managed to protect its suitability for inclusion in the National Wilderness Preservation System until Congress determines otherwise.

(d) The Secretary shall file the maps referred to in this section with the Committee on Interior and Insular Affairs, United States House of Representatives, and the

Committee on Energy and Natural Resources, United States Senate, and each such map shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographical errors in these maps may be made. Each map shall be on file and available for public inspection in the office of the Chief of the Forest Service and the Region I Forester.

SEC. 9. BADGER-TWO MEDICINE AREA.

(a)(1) Subject to valid existing rights, all federally owned lands as depicted on a map entitled "Badger-Two Medicine Area", dated September 1991, comprising approximately one hundred sixteen thousand six hundred acres, are withdrawn from all forms of entry, appropriation, and disposal under the mining and public land laws and from disposition under the geothermal and mineral leasing laws. Until otherwise directed by Congress, the Secretary shall manage this area so as to protect its currently existing wilderness qualities.

(2) Nothing in this section shall preclude the gathering of timber by the Blackfeet Tribe (the "Tribe") in exercise of valid treaty rights within the Badger-Two Medicine Area.

(3)(A) With respect to oil and gas leases on Federal lands within the Badger-Two Medicine Area, no surface disturbance shall be permitted pursuant to such leases until Congress determines otherwise.

(B) Notwithstanding any other law, the term of any oil and gas lease subject to the limitations imposed by this section shall be extended for a period of time equal to the term that such limitation remains in effect.

(b) The Secretary shall conduct a review of this area in accordance with the Wilderness Act of 1964 and the following provisions. Not later than five years after the date of enactment of this Act, the Secretary shall report his findings to Congress. In conducting this review:

(1) The Secretary shall establish a committee composed of representatives of the Blackfeet Tribal Business Council, the Blackfeet Tribal traditionalists, the National Park Service, and representatives of the user public including environmental groups and representatives of user industry groups (the "committee"). The committee shall regularly advise the Secretary during the preparation of the report required in subsection (b) and submit its findings to Congress concurrently with those of the Secretary.

(2) Special consideration shall be given to the religious, wilderness and wildlife uses of the area, taking into account any treaties the United States has entered into with the Blackfeet Nation.

(3) In consultation with the committee, the Secretary shall establish a process to provide information to the Tribe and interested public about options for future designation of the Badger-Two Medicine Area.

SEC. 10. PLUM CREEK LAND EXCHANGE—PORCUPINE AREA.

(a) IN GENERAL.—The Secretary shall, notwithstanding any other law, exchange lands and interests in lands with Plum Creek Timber, L.P. (referred to in this section as the "company") in accordance with this section.

(b) DESCRIPTION OF LANDS.—(1) If the company offers to the United States the fee title to approximately eight thousand one hundred thirty and sixty-seven one-hundredths acres of land owned by the company which is available for exchange to the United States as depicted on a map entitled "Plum Creek Timber and Forest Service Proposed Porcupine Land Exchange", dated May 20, 1988, the Secretary of the Interior shall accept a warranty deed to such land and, in exchange therefor, and subject to valid existing rights, convey by patent the fee title to approximately nine thousand one hundred eighty-one and seventy-four one-hundredths acres of National Forest System lands available for exchange to the company as depicted on such map, subject to—

(A) the reservation of ditches and canals as required by the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes", approved August 30, 1980 (26 Stat. 391; 43 U.S.C. 945);

(B) the reservation of rights under Federal oil and gas lease numbers 49432, 32843 and 55325; and

(C) such other terms, conditions, reservations and exceptions as may be agreed upon by the Secretary and the company.

(2) Upon termination or relinquishment of the leases referred to in paragraph (1)(B), all the rights and interests in land granted therein shall immediately vest in the company, its successors and assigns, and the Secretary shall give notice of that event by a document suitable for recording in the county wherein the leased lands are situated.

(c) EASEMENTS.—At closing on the conveyances authorized by this section:

(1) In consideration of the easements conveyed by the company as provided in paragraph (2) of this subsection, the Secretary of Agriculture shall execute and deliver to the company easements over federally owned lands for such existing or future roads as are needed to provide the company, its successors and assigns, access to company-owned lands.

(2) In consideration of the easements conveyed by the United States as provided in paragraph (1), the company shall execute and deliver to the United States easements over company-owned lands for such existing or future roads as are needed to provide the United States, and its assigns, access to federally owned lands.

(3) Road easements conveyed pursuant to this subsection shall be in the form customarily used by the Forest Service and cooperators for cost-shared roads in Road Right-of-Way Construction and Use Agreements.

(d) REVOCATION OF ORDER OF WITHDRAWAL.—The order of withdrawal contained in Executive Order No. 30-Montana 7-Phosphate Reserve, dated October 9, 1917 (960 acres, more or less), insofar as it applies to the lands conveyed by the United States in the transactions authorized by this section, is revoked.

(e) MAPS.—The maps referred to in subsection (b) shall be subject to such minor corrections as may be agreed to by the Secretary and the company. The Secretary of Agriculture shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives of any correction made pursuant to this subsection.

(f) TIMING OF TRANSACTION.—It is the intent of Congress that the conveyances authorized by this section be completed not later than ninety days after the date of the enactment of this Act.

(g) FOREST LANDS.—All lands conveyed to the United States pursuant to this section shall become national forest system lands to be administered by the Secretary in accordance with applicable law.

SEC. 11. PLUM CREEK LAND EXCHANGE—GALLATIN AREA.

(a) IN GENERAL.—The Secretary shall, notwithstanding any other law, acquire by exchange and cash equalization in the amount of $3,400,000, certain lands and interests in land of the Plum Creek Timber, L.P. (referred to in this section as the "company") in and adjacent to the Hyalite-Porcupine-Buffalo Horn Wilderness Study Area, the Scapegoat Wilderness Area, and other land in the Gallatin National Forest in accordance with this section.

(b)(1) DESCRIPTION OF LANDS.—If the company offers to the United States the fee title to approximately thirty-seven thousand seven hundred fifty-two and fifteen one-hundredths acres of land owned by the company which is available for exchange to the United States as depicted on a map entitled "Plum Creek Timber and Forest Service Proposed Gallatin Land Exchange", dated May 20, 1988, the Secretary of the Interior shall accept a warranty deed to such land and, in exchange therefor, and subject to valid existing rights, convey by patent the fee title to approximately twelve thousand four hundred-fourteen and six one-hundredths acres of National Forest System lands available for exchange to the company as depicted on such map, subject to—

(A) the reservation of ditches and canals required by the Act entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for other purposes", approved August 30, 1890 (26 Stat. 391; 43 U.S.C. 945);

(B) the reservation of rights under Federal Oil and Gas Lease numbers 49739, 55610, 23290, 29230, 40389, 53670, 40215, 38678, 33385, 53736, and 38684; and

(C) such other terms, conditions, reservations and exceptions as may be agreed upon by the Secretary of Agriculture and the company.

(2) On termination or relinquishment of the leases referred to in paragraph (1), all the rights and interests in land granted therein shall immediately vest in the company, its successors and assigns, and the Secretary shall give notice of that event by a document suitable for recording in the country wherein the leased lands are situated.

(c) EASEMENTS.—At closing on the conveyances authorized by this section:

"(1) In consideration of the easements conveyed by the company as provided in paragraph (2), the Secretary shall execute and deliver to the company easements for such existing or future roads as are needed to provide the company, its successors and assigns, access to company-owned lands.

(2) In consideration of the easements conveyed by the United States as provided in paragraph (1), the company shall execute and deliver to the United States easements over company-owned lands for such existing or future rights-of-way as are needed to provide the United States, and its assigns, access to federally owned lands.

(3) Road easements conveyed pursuant to this subsection shall be in the form customarily used by the Forest Service and cooperators for cost-shared roads in Road Right-of-Way Construction and Use Agreements.

(d) MAPS.—The maps referred to in subsection (b) are subject to such minor corrections as may be agreed upon by the Secretary and the company. The Secretary shall notify the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives of any corrections made pursuant to the subsection.

(e) Timing of Transaction.—It is the intent of Congress that the conveyances authorized by this section be completed within ninety days after the date of enactment of an Act making the appropriation authorized by subsection (g).

(f) Forest Lands.—All lands conveyed to the United States pursuant to this section shall become national forest system lands to be administered by the Secretary in accordance with applicable law.

(g) Authorization of Appropriations.—There is authorized to be appropriated to carry out this section the sum of $3,400,000, which amount the Secretary shall, when appropriated, pay to the company to equalize the value of the exchange of land authorized by this section.

SEC. 12. SEVERED MINERALS EXCHANGE.

(a) Findings.—The Congress finds that—

(1) underlying certain areas in Montana described in subsection (b) are mineral rights owned by subsidiaries of Burlington Resources, Incorporated (referred to in this section as the "company");

(2) there are federally owned minerals underlying lands of the company lying outside those areas;

(3) the company has agreed in principle with the Department of Agriculture to an exchange of mineral rights to consolidate surface and subsurface ownerships and to avoid potential conflicts with the surface management of such areas; and

(4) it is desirable that an exchange be completed within two years after the date of enactment of this Act.

(b) Description of Mineral Interests.—(1) Pursuant to an exchange agreement between the Secretary and the company, the Secretary may acquire mineral interests owned by the company or an affiliate of the company thereof underlying surface lands owned by the United States located in the areas depicted on the maps entitled "Severed Minerals Exchange, Clearwater-Monture Area", dated September 1988 and "Severed Minerals Exchanges, Gallatin Area", dated September 1988, or in fractional sections adjacent to those areas.

(2) In exchange for the mineral interests conveyed to the Secretary pursuant to paragraph (1), the Secretary of the Interior shall convey, subject to valid existing rights, such federally owned mineral interests as the Secretary and the company may agree upon.

(c) Equal Value.—(1) The value of mineral interests exchanged pursuant to this section shall be approximately equal based on available information.

(2) To ensure that the wilderness or other natural values of the areas are not affected, a formal appraisal based upon drilling or other surface disturbing activities shall not be required for any mineral interest proposed for exchange, but the Secretary and the company shall fully share all available information on the quality and quantity of mineral interests proposed for exchange.

(3) In the absence of adequate information regarding values of minerals proposed for exchange, the Secretary and the company may agree to an exchange on the basis of mineral interests of similar development potential, geologic character, and similar factors.

(d) Identification of Federally Owned Mineral Interests.—(1) Subject to paragraph (2), mineral interests conveyed by the United States pursuant to this section shall underlie lands the surface of which are owned by the company.

(2) If there are not sufficient federally owned mineral interests of approximately equal value underlying company lands, the Secretary and the Secretary of the Interior may identify for exchange any other federally owned mineral interest in land in the State of Montana of which the surface estate is in private ownership.

(e) Consultation with the Department of the Interior.—(1) The Secretary shall consult with the Secretary of the Interior in the negotiation of the exchange agreement authorized by subsection (b), particularly with respect to the inclusion in such an agreement of a provision calling for the exchange of federally owned mineral interests lying outside the boundaries of units of the National Forest System.

(2) Notwithstanding any other law, the Secretary of the Interior shall convey the federally owned mineral interests identified in a final exchange agreement between the Secretary of Agriculture and the company and its affiliates.

(f) Definition.—For purposes of this section, the term "mineral interests" includes all locatable and leasable minerals, including oil and gas, geothermal resources, and all other subsurface rights.

(g) Environmental Law.—The execution and performance of an exchange agreement and the taking of other actions pursuant to this section shall not be deemed a major Federal action significantly affecting the quality of the environment within the meaning of section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332), nor shall they require the preparation of an environmental assessment under this Act.

SEC. 13. LANDS ADMINISTERED BY BUREAU OF LAND MANAGEMENT.

(a) Finding.—The Congress has reviewed the suitability of the Bitter Creek Wilderness Study Area (MT-064-356, BLM Wilderness Study Number) and approximately two thousand five hundred acres of the Axolotl Lakes Wilderness Study Area (MT-076-069, BLM Wilderness Study Number) as generally depicted on a map entitled "Axolotl Lakes WSA", dated March 1990, for wilderness designation and finds that those lands have been sufficiently studied for wilderness pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

(b) Direction.—The areas described in subsection (a) shall no longer be subject to the requirement of section 603(c) of the Federal Land Policy and Management Act of 1976 pertaining to management in a manner that does not impair suitability for preservation as wilderness.

(c) Administrative jurisdiction over those lands designated as wilderness pursuant to paragraphs (3) and (26) of section 3(a) of this Act, and which, as of the date of enactment of this Act, are administered by the Bureau of Land Management, is hereby transferred to the Forest Service.

SEC. 14. MISCELLANEOUS PROVISIONS.

(a) Those lands comprising the Rattlesnake National Recreation Area and Wilderness, as designated in Public Law 96-476 are hereby redesignated as the "Rattlesnake National Education and Recreation Area and Wilderness".

(b) Those lands comprising approximately twenty four thousand acres, as generally depicted on a map entitled "Gibson Reservoir Withdrawal Area—Proposed", dated November 1991, are hereby withdrawn from all forms of entry, appropriation and disposal under the mining and public land laws, and disposition under the geothermal and mineral leasing laws.

(c) All acreages cited in this Act are approximate and in the event of discrepancies between cited acreage and the lands depicted on referenced maps, the maps shall control.

(d) It is the policy of Congress that the Forest Service acquire and maintain reasonable public access to National Forest System lands in the State of Montana.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) such sums as are necessary for the development of a wilderness education and ranger training complex at the Ninemile Ranger Station, Lolo National Forest, Montana; and

(2) such sums as are necessary to carry out this Act.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. BURNS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seek recognition?

The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank various people who worked very hard to get this compromise bill passed.

I very much thank my colleague, Senator Burns from Montana, who worked hard and diligently to help craft this compromise. All of in Montana owe a deep debt of gratitude to Senator Burns.

I also very much thank Senator Johnston, chairman of the committee, and Senator Bumpers, chairman of the subcommittee, who have put up with all us in Montana to try to get this bill finally passed and through the Senate.

Particularly my thanks to Tom Williams and Erica Rosenberg of the majority staff, who worked as hard if not harder than even Senator Burns and myself. They have gone through all this for many years. I thank them.

I also particularly thank, and I know Senator Burns will, Gary Ellsworth and Jim O'Toole of the minority staff, as well as Dorothy Makris of Montana who is also with Senator Burns.

Also at this point, I express deep gratitude to Mark Smith. Mark Smith is sitting next to me at the moment. Mark is from my State of Montana. The two of us worked long and hard, and I tell you, Mr. President, we would not be here today if it were not for the efforts of Mark Smith as well as my legislative director, Tom Sliter and everyone else in my office.

And I also thank the people of Montana who, together with Senators Burns and myself and staffs, worked to achieve this solution.

Mr. President, I yield the floor.

Mr. BURNS. Mr. President, I want to associate my remarks with those of Senator Baucus and to especially thank him for his dedication to bring some resolution to this issue. Also a great thanks to those Members of this Senate who, we realize, under intense lobbying efforts in the last couple of days, did have to face a lot of pressures from outside the State of Montana to resolve an issue that basically was a "down home" kind of an issue.

I just want to thank Mark Simonich on our staff, and of course the majority and minority staff in the Energy Committee, and especially a big thanks to the chairman of the Energy and Natural Resources Committee, and the chairman of the Subcommittee on Public Lands, Senator BUMPERS. All of those folks played an integral part in crafting this legislation and getting it through this body.

I have a special thank to Mark Simonich on my staff and the folks of Montana who had a lot of input in crafting this legislation.

With that, I see no other Senators on the floor seeking recognition. I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair for recognizing me.

This is my daily report.

IRRESPONSIBLE CONGRESS? HERE IS TODAY'S BOXSCORE

Mr. HELMS. Mr. President, the Federal debt run up by the U.S. Congress stood at $3,865,073,186,100.25, as of the close of business on Tuesday, March 24, 1992.

As anybody familiar with the U.S. Constitution knows, no President can spend a dime that has not first been authorized and appropriated by the Congress of the United States.

During the past fiscal year, it cost the American taxpayers $286,022,000,000 just to pay the interest on spending approved by Congress—over and above what the Federal Government collected in taxes and other income. Averaged out, this amounts to $5.5 billion every week, or $785 million every day just to pay the interest on the Federal debt run up by the Congress of the United States.

What would America be like today if there had been a Congress that had the courage and the integrity to operate on a balanced budget?

I thank the chair and I yield the floor.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER (Mr. GORE). The Senator from Delaware.

Mr. ROTH. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCERNING A NEW PROPOSAL FOR HEALTH CARE REFORM

Mr. ROTH. Mr. President, I rise today to bring to my colleagues' attention a proposal I am working on that would bring high level, quality health care within reach of millions of Americans who right now lack affordable health care coverage. My proposal would also maintain high quality health care for Federal employees and retirees, and significantly control the costs of their health coverage, which are currently outstripping their ability to pay.

What makes my proposal unique when compared to other health care proposals is that it provides a realistic means to achieve cost control and improves access for those currently uninsured. It has the potential to make a significant contribution to national health care reform. By significant, I mean affordable health care to millions of the working uninsured and their families. All this, Mr. President, could be accomplished without placing mandates on business, without instituting price controls on providers or establishing a single national health insurance program, and without costing any new money to the taxpayer.

Mr. President, our national health care crisis of excessive and rising costs, and limited and uncertain access, is well known and documented. Most compelling is that more than 13 percent of all Americans are without health insurance. But equally agonizing is that those who have insurance are paying increasingly prohibitive costs for it. Consequently, many are losing coverage altogether as increasing costs outstrip their ability to pay.

It is also a compelling fact that Americans spend more than every other nation on health care. This clearly suggests that our health care crisis is not caused by a lack of spending but rather by the way we spend our health care dollars.

For most people, health care is provided through their place of employment as a benefit. This practice started around World War II as large companies sought to attract scarce workers. Today there is growing evidence that because of the high costs of medical care many businesses can no longer afford to provide health coverage. This is particularly true for small- and medium-sized business. According to the Congressional Budget Office, of the 33.4 million Americans without insurance, about 26.7 million are employed or are members of a family where a member is employed.

Many of these working uninsured could afford health insurance if they were a part of a large group insurance plan. But without the benefit of a large pool of workers where risk is spread, the price of health care coverage is too high and they are left uncovered. This condition suggests that part of the solution to the health care problem is to get these people into large group insurance plans that provide affordable quality care.

Simply being in a large group can carry significant advantages. I recently received a letter from a Delaware couple indicating how their health insurance costs have increased 223 percent in the last 4 years and are now up to some $7,540 per year. The man of the House is self employed and has diabetes. If he were a Federal employee on the standard option plan with Blue Cross/Blue Shield, the annual premium for him and his wife would be $4,141. The $3,399 in savings would result simply because he would be a member of a larger group. If he obtained self-only coverage, his annual premium would fall to $1,971.

Access to health care is, of course, more than whether or not you are part of a large group. The second problem with our health care system is that it contains little incentive to control costs.

Studies have shown that billions of dollars in medical services are provided in our current health care system that are medically not needed. Studies have also shown that administrative costs in our health care system are far too high.

The task we face is to capture the resources now being eaten-up by unnecessary medical procedures and high administrative costs and reduce the price of health care, bringing it more within reach of those who now cannot afford it.

While large group health care plans offer lower premiums, they are not immune to large annual increases in cost. The cost growth is affecting access to health care by eroding the ability of lower-income members of the group to afford the premiums. In testimony before the House Post Office and Civil Service Committee on March 11, John Sturdivant, National President of the American Federation of Government Employees, testified that some 349,000 that is 18.6 percent—of Federal employees who are eligible to participate in the Federal Employee Health Benefit Program [FEHBP] do not join. He reported that of those who did not join, about 146,000—42 percent of the group—gave cost as the reason.

Without effective action by us, Mr. President, the situation is not likely to improve. This is born out in Congressional Budget Office [CBO] out-year estimates for the FEHB Program.

Currently the CBO projects cost growth of more than 15 percent per year in the FEHB Program. At this rate of increase the program would double in cost in 5 years.

If these cost estimates prove accurate—and generally they have so far—then there is every reason to believe that more and more Federal employees will simply not be able to afford health care even though they are part of the largest employer group health plan in the country.

Clearly, access to health care is inversely related to cost. As costs go down, access goes up. But access is also directly related to being in a large group where risk can be spread. The fundamental health care challenge before us, then, is to make both of these things happen.

The way to do this, I believe, is to make the price of health care more competitive and to expand the opportunities for people to join large groups while preventing adverse risk selection.

This can be realized if we redirect the way care is delivered, the way it is purchased, and if we rethink our notion of how group coverage can be connected with work.

The health care reform plan I am working on is centered around three keys ideas. Two of them—managed care and competition—focus on improving access by reducing costs.

The third improves access by providing a new and real opportunity for those not now part of a large group plan to join one. Let me touch briefly on each of these ideas.

Managed care is an important, increasingly popular, health care delivery concept with a proven track record in controlling costs. Perhaps the best example of how managed care works is at the Mayo Clinic in Rochester, MN.

At the Mayo Clinic, managed care has proven to be an effective means in delivering health care while maintaining high quality care.

The Mayo Clinic has successfully implemented a system of health care where medical treatment is well coordinated between primary care physicians acting as guides to patients throughout their treatment.

There is minimal duplication of services and unneeded medical services are greatly reduced.

The second of the two cost controlling concepts in my proposal is competition.

Competition takes advantage of the collective purchasing power of the enrollees to get the best price for quality care.

There are four basic principles that underlie managed competition: First, maintaining high health care quality and service standards; second, pooling enrollees into large groups to balance risk, ensure economies of scale, and provide a powerful purchasing bloc for health care; third, using professional private sector health care purchasing agents to negotiate for services with health care providers on behalf of blocs of enrollees; and fourth, the reliance on competition among providers and purchasing agents to ensure quality care and service at the lowest price.

At the onset, risk assessment of the enrollee population will be performed to develop a means to protect purchasing agents from unforseen risk.

By combining managed care with competition, medical costs can be controlled thus making quality health care more affordable to those in the group.

The third idea in my plan is to make participation in a large group a reality for many more Americans.

There already exists in place now a Government sponsored, private-sector operated, nationwide health care delivery system serving some 9 million Federal employees, retirees, and their dependents.

If that system were properly reformed with managed care and competition, it could serve as an excellent vehicle for providing health care to those in our country who need it but cannot afford it because they are not part of a large group.

Specifically, I propose the Congress reform the Federal Employee Health Benefit Program [FEHBP] in four significant ways:

First, make managed care the primary component of the FEHB Program in addition to a fee-for-service plan and the employee organization plans;

Second, introduce competition so that the Government can use its power as a major purchaser of health care to drive down the costs of care for Federal enrollees while maintaining high quality care and service;

Third, keep the Federal percentage share of the premium the same, and allow choice among fee-for-service and employee organization plans, but set the subsidy level at the cost rate of the managed care component; and

Fourth, carefully and systematically open the managed care component to the working uninsured across our country who would be allowed to but-in at the actuarial cost of their participation.

Such reforms would improve the operation of the FEHB Program and reduce its costs for both the employee and the Federal Government. Quality standards would be maintained. The percentage share of Government reimbursement would be maintained for those in managed care networks. And employees would still have the choice of plans. Using managed care and competition to reduce costs would do a lot to improve access to those 146,600 Federal employees who right now do not participate in FEHB because it is too expensive.

Based on preliminary estimates, opening the program up to the working uninsured would bring health care within reach of some 9.6 million working uninsured and their dependents if we consider 10 percent of income or less and affordable range.

This estimate—prepared by an outside expert—is encouraging and suggests the significant nature of this proposal for reaching the working uninsured. The estimate does not take into account the fact that many businesses will help pay for their employees' premiums which will make the plan more affordable to even larger numbers of the uninsured and substantially increase enrollment in the plan.

If businesses were on average to pick up one-fourth of the cost of the premium then care would be affordable to 12.6 million working uninsured and their dependents. That is almost half of the 26.7 working uninsured.

I understand that there will be concerns of adverse selection when the working uninsured are allowed to buy into the plan. These concerns can be dealt with through the use of reinsurance fees, a careful phase-in of new enrollees, the introduction of larger employer groups first, a blending of previously insured groups with the currently uninsured groups, and the requirement that for any business applying a minimum percentage of employees enroll. These ideas along with others that might be developed could keep the problem of adverse selection under control.

I also understand the concerns of Federal retirees who are currently enrolled in the program and may be uncomfortable with the notion of change. The intent of my plan is to provide high quality care while increasing its affordability. Medicare eligible retirees currently use the FEHBP as Medicare supplemental coverage. Any changes which effect retirees will not alter this fundamental relationship.

Before I close, let me say a word about costs.

Since the health care benefits to be provided to Federal employees and retirees are the same value as what is provided now; and since any new entrants must pay for the cost of the benefit they receive, my proposal would not entail spending any new money.

In conclusion, let me state clearly that this proposal is still in its beginning stage and a lot of work remains to be done. But, based on the criteria being used to evaluate health care proposals, I believe mine is a significant contribution. It absolutely will control costs, and at the same time it will provide greater access for those who are currently uninsured. Most important, this is accomplished, as I said earlier, without placing mandates on business, without instituting price controls or establishing a single national health insurance program, and most important, without costing any new money to the taxpayer.

I believe, Mr. President, these ideas merit substantive discussion and will make every effort to consult with individuals and groups affected by this proposal as I continue to formalize it. I urge my colleagues to join me in focusing on these ideas, and I would of course, welcome any comments they might have.

My plan, Mr. President, will not only improve the operation of the current Federal program, and provide health coverage for a substantial number of the working uninsured, but it will also benefit those who currently have insurance. By injecting competition into our Nation's health care delivery system through a program the size of FEHB, a lot can be done to reduce costs for everyone. Other groups seeking health insurance will be able to point to the rates provided the Federal program through the competitive process as a basis for their rates.

Finally, those people with insurance have a financial interest that those without insurance get coverage. For when the uninsured get sick and go to the hospital they usually do not or cannot pay their bills. The hospitals treat these patients and then must pass those costs on to their bill-paying customers through higher rates.

Mr. President, by using managed care and competition to systematically ratchet down the costs of the FEHB system, by maintaining quality standards, and by extending the program to cover the employed uninsured, a substantial amount of our country's health-care problem can be addressed without increasing the amount of money we spend on health care or sacrificing quality.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPROPRIATIONS CATEGORY REFORM ACT

MOTION TO PROCEED

Mr. MITCHELL. Mr. President, I move to proceed to Calendar Order No. 428, S. 2399.

The PRESIDING OFFICER. The motion is on the table.

The Senate resumed consideration of the motion to proceed.

Mr. SASSER. Mr. President, later on this evening, we are going to have a procedural vote on a proposal in the Senate, and I want to emphasize to my colleagues that we are not voting on the merits of the issue. The issue that ultimately we hope to bring before the Senate is the question of whether or not the dividing line of the so-called firewall between military spending and domestic spending should be taken down.

My colleagues will recall that under the terms of the Budget Enforcement Act of 1990, discretionary funds were placed under certain spending ceilings in order that the savings realized in that legislation could be affected.

What we seek to do with this legislation is simply, as I said earlier, to take down the so-called firewall and let the military spending or military appropriations and domestic appropriations or domestic funds become fungible, transferable back and forth between the two discretionary accounts in the Appropriations Committee.

What we are really debating now is not the merits of this issue. What we are engaged in now is an extended debate occasioned by the refusal of the minority to allow the majority leader to move to proceed to the underlying bill on its merits. And we shall vote later this evening purely on a procedural matter, on the procedural question of whether or not to involve cloture to end debate at a time certain in order that the majority leader may then call up and move to, and the Senate may begin debate on, the underlying legislation; that is the bill to take down the walls between military and domestic spending.

The larger issue, in the event the Senate moves to this particular bill, will be the question of reinvestment in peacetime priorities. We indicated in earlier debate that since the budget agreement was fashioned and adopted in the fall of 1990, there had been a number of very dramatic changes. Perhaps one of the most dramatic on the homefront, in the United States, was that we fell off into a recession, a recession that had begun technically before the budget summit agreement itself was adopted but had not been detected by the economic indicators or by the economists at that time.

It developed that this was the longest recession in duration since the Second World War. Indeed, Mr. President, the longest recession in duration since the Great Depression of the 1930's. I do not mean to imply, of course, that this recession is as severe as the depression years of the 1930's. It obviously has not been, but this has been a very extended recession lasting some 19 months. If you couple the recession with the year of flat growth or relatively no growth prior to the recession, you have about 3 years of either recession or no economic growth.

So many who are urging that this wall be taken down are saying that some of the funds that were allocated to military spending in the fall of 1990 might now be better utilized in view of this recession for domestic initiatives, all in an effort to stimulate the economy and to bring the recession to an end.

We are talking really about divisive or decisive, I must say, reinvestment in peacetime priorities, in jobs, in economy growth, health, in the infrastructure of the country, which many say has been long neglected, and in education.

Other changes have occurred, Mr. President, since the budget summit agreement was consummated in the fall of 1990. You will recall the atmosphere under which that summit agreement was negotiated. The Nation at that time was on the verge of going to war in the Middle East. We were in the process of transporting hundreds of thousands of men and women, military personnel, to the Middle East in preparation for a military engagement under the auspices of the United Nations against the aggressive acts of the nation of Iraq.

We also at that time were still faced with a heavily armed superpower on the other side of the world. The Soviet Union was intact. The navy of the Soviet Union at that time was, in size at least, equal to our own. They fielded an army that was larger than ours in quantity and an air force perhaps larger in quantity, although I must say none of their forces were equal to ours in quality.

We also were facing a Soviet Union which had literally thousands of nuclear weapons, intercontinental ballistic missiles with independently targeted multiple warheads on them, submarine-launched nuclear missiles. All of these were aimed at the United States of America.

Since this budget agreement was consummated, the war in the Middle East has come to a conclusion. Saddam Hussein still is in power in Iraq, but at least he is not a direct threat now to his neighbors in the Middle East, Iraqi forces are out of Kuwait, and United States forces have been largely withdrawn from the Middle East.

Importantly, however, the old Soviet Union, our old nemesis, the other superpower in the world, has simply ceased to exist. In a very brief period of time, in what was an absolute historic and almost breathtaking rush of events, the Soviet Union, which had been the primary threat to the so-called free world for a term of well over half a century, indeed, almost a century, just simply collapsed with such startling speed that no one was really prepared for it.

The army of the old Soviet Union is now demoralized, unfunded, being split apart in loyalties to the various former Republics of the old Soviet Union. The navy of the old Soviet Union no longer takes to the sealanes. It is in port, out of fuel. Morale of the sailors is very low, we are advised, and nobody knows who really owns the old Soviet navy anymore. The same can be said of the old Soviet air force. And we find that the intercontinental ballistic missiles are being pulled down, taken down, destroyed. The nuclear weapons are being gathered up, transported back to the old Russia—back to the new state of Russia, I suppose—and being destroyed there.

So times have changed dramatically, both in the United States, with the recession, and with the collapse of the old Soviet Union and the end of the war in the Middle East since the budget summit agreement was signed.

So that is the reason, Mr. President, we bring before the body today this legislation to take down the walls between defense and domestic discretionary spending and to give the Senate, if it wishes, after due deliberation here on the floor of the Senate, after debate, after deliberation and action of the various committees of the Senate, if a majority of the Senators should decide that there should be some transfer of funds from domestic discretionary to military or from military spending to domestic discretionary, they would have the option of doing it.

The Senate may decide that any military savings would be relegated primarily or almost exclusively to deficit reduction. But it is my view the Senate ought to have the option to do that, and for that reason and because of dramatically changed circumstances in the world and here at home, I think it in order that we accelerate the taking down of the walls by 12 months. After all, the walls would come down in 12 months anyway simply by operation of law or by operation of the Enforcement Act itself.

With regard to domestic spending, we are laboring under limits that were established in the budget agreement. These limits would force a $6.8 billion shortfall in funding for domestic priorities in 1993 if they are left intact and if the Senate chooses to go by the guideline of the old cap or spending limit. I want to make that budgetary fact crystal clear to every Member of this body. If the walls remain intact, domestic discretionary spending, investment spending, is going to be reduced by $6.8 billion.

If the walls remain intact, no Member of this body should be surprised if items of benefit to his or her constituents in the various appropriations bills are reduced or eliminated. It is clear that some of the principal targets of reduction will have to be made in large capital spending programs such as was outlined the other day by Senator MIKULSKI, the distinguished chairman of the HUD and Independent Agencies Appropriations Subcommittee. Senator MIKULSKI's subcommittee has responsibility for the NASA budget, and, as I understood her statement, if her committee is forced to take their fair share of the $6.7 billion reduction, it would mean they would be unable to fund the space station. In fact, quoting from Senator MIKULSKI's statement in the CONGRESSIONAL RECORD, the distinguished junior Senator from Maryland said: "I will tell you if the firewalls do not come down, we might have to shrink or even cancel the space station." So that would be one of the large capital-intensive new programs or projects that would be at the very top of the endangered species list.

The space station, as I recall, requires an outlay of Federal funds in fiscal year 1993 of $1 billion. To put that space station up, $1 billion would have to be provided in 1993. If we are going to be reducing domestic allocations by $6.7 billion, obviously that is one program which would be at the very top of the list.

Another large project that I know many of my colleagues are interested in is the so-called superconducting super collider. This is an enormously expensive new scientific initiative that has been championed by the administration. It has been questioned by many in the scientific community as to whether or not it is worth the enormous outlay of funds that would be required overall to construct it. But the initial data indicates that it would require about $12 billion overall to construct the superconducting super collider.

I do know that it costs $15 billion. I do know that it required an outlay of $500 million to continue to construct this project in fiscal year 1993.

We were hopeful, the Government of the United States was hopeful, initially that the Government of Japan would help subsidize the extraordinary expense of this scientific endeavor. But unfortunately, the President, even prior to his trip to Japan or perhaps during that trip, word leaked out that the Japanese were not interested in underwriting any of the expense of constructing the superconducting super collider.

I might say that the cost of building this scientific instrument has been escalating rapidly over the past few months since it was first ordered and the proposal was put forth.

So I come around to saying this: That if domestic discretionary spending is reduced by $6.7 billion the superconducting super collider would be one of the other items that would be at the very top of the list that would be cut.

The distinguished chairman of the Energy Committee who also serves as chairman of the Energy and Water Appropriations Subcommittee advised the Senate of that yesterday in his speech here on the Senate floor. He indicated it would be extraordinarily difficult to continue to fund this initiative if the limitation or caps on domestic spending remained in place.

And perhaps these things should be cut. I must say to you, frankly, that I am not a strong supporter of either one of them. It would be nice to do both of those if the country could afford it; if we did not have serious problems in our infrastructure; if the education of our young people was not deteriorating or suffering; if we did not have serious problems with criminality here in the United States. If we did not have all sorts of problems here at home and with other sectors of the economy, it would be nice to have a space station and nice to have a superconducting super collider.

But I am not sure that we can afford it even if we raise the domestic caps, and if the domestic caps are not raised then I think it is a foregone conclusion that both of these initiatives will be things of the past.

We should all understand, Mr. President, that without a transfer to our domestic accounts, deep program cuts are going to result. Deep program cuts are going to result even after the space station is abandoned. Deep program cuts are going to occur even after the superconducting super collider project is abandoned.

Without transfer to domestic accounts, cuts in programs that could help drive economic recovery and pull us out of this recession, and cuts in sensitive programs that we have not been willing to make in the past from Head Start to the National Institutes of Health, to highways, to the Federal Aviation Administration—all of these will be subjected to fairly substantial cuts and reductions.

Frankly, I do not want to reduce the Head Start Program because I think it is one of the most effective things that the Federal Government funds, giving young children, children of tender age from deprived environments, an additional year or two of education at the very formative years of their lives so that they have a better opportunity to grow up and be productive, responsible members of our society.

I would not want to see that Head Start Program cut so that literally tens of thousands of children would not have access to that program.

I do not want to see funding for the National Institutes of Health reduced. We are on the verge, I think largely through the work of the National Institutes of Health and the various research projects that it funds, of curing certain diseases that have been the scourge of mankind for many years.

Diabetes is one. I understand we are about to make some very significant achievements in treating that disease.

Of course, cancer: The National Institutes of Health has primary responsibility for cancer research. They have made extraordinary progress on certain forms of cancer, lymphoma for one, and other forms of cancer. They still have a long way to go, but substantial progress has been made.

I do not want to see cuts in the highway programs. The highways and bridges across the country have been deteriorating over a period of time. The Nation needs to be expending more funds, particularly in this time of a recession when we need to put people back to work on upgrading the maintenance of our highways and bridges. Of course, it would be dangerous in this time of very heavy air travel to have the Federal Aviation Administration be subjected to other cuts, to more cuts and further reductions in personnel.

The air traffic congestion continues to increase every year and the responsibilities of the Federal Aviation Administration continue to increase as a result of that.

Let us make it clear to our colleagues here this afternoon that no Senator, no State, and no region of the country is going to be immune from these cuts. Let no Senator come down here this evening and vote and say, well, I can vote not to even take up this walls bill; I can do that and that might look like a good vote for me; and, these spending reductions are not going to affect my State. They are wrong.

If domestic discretionary accounts are reduced by $6.7 billion because we are unable to further reduce military spending, or to just take the military spending reductions that have already been made and transfer a portion of those spending reductions to the domestic accounts, then every Senator here and every State of the 50 States is going to suffer to some extent.

We are not out here talking about rewriting the budget proposal. We are, as I said earlier, this measure merely accelerates by 1 year the possibility of transferring funds from defense to domestic accounts.

It would provide the resources to counteract a recession that is longer than any of us anticipated back in 1990. According to the Congressional Budget Office, sustaining domestic funding at the 1992 current services level carries the potential to create 400,000 more jobs than the budget the President produced. That can be achieved under a single cap for domestic spending and military spending.

It does not increase, by 1 red cent the overall spending under those two caps, or spending limits, which were agreed to in 1990. Permitting a transfer from the military accounts to the domestic accounts will not compromise budget discipline one bit. It will not expand the size of appropriated spending in the budget. It will not increase the deficit by even 1 red cent.

This legislation merely opens a pathway between military and domestic spending categories. In doing so, it will allow this body to conduct a legitimate debate over how to invest our limited fiscal resources, how to invest our limited fiscal resources in the absence of a cold war adversary. We are the only remaining military superpower in the world. The other military superpower bankrupted itself buying weapons and maintaining an overly large military establishment. Are we not to learn from that?

Well, I am going far afield here. What we are seeking to do is not to prejudge the debate on how or why the spending should be made here or there. What we are seeking to do is simply to take down the dividing line between military spending and domestic spending. And if the Senate, in its wisdom, chooses to say we do not want to buy a new D–5 missile at the cost of hundreds of millions of dollars to put in our Trident submarines, when the missile already there has multiple nuclear warheads, already has hard-kill capabilities, already are the most accurate submarine launch ballistic missiles in the world, let us not buy the D–5 missile. Let us take that money and put it into the Head Start Program so we can educate more of our children.

Perhaps the Senate would say: We do not want to build another aircraft carrier, as is in the President's budget. We already have almost all of the aircraft carriers in the world. We do not want to build another aircraft carrier; 14 or 15 aircraft carriers are enough. But we want to take the billions that it takes to build that aircraft carrier, and why do we not put them over here in the Student Loan Program, or Pell grants, so that young people who want to go to college, who want to get an education, who want to make a success of their lives, to allow them the chance.

That is what this country is all about, is it not? It's to give people a chance to have a decent life, to have a better standard of living than perhaps their parents had. That has been the dream of the United States since its inception. And that is the reason literally tens of millions of immigrants from all over this world, over the 200-year history of this country, have come here seeking a chance and a better way of life.

All we are saying is, let us take down this arbitrary wall 12 months earlier, and let the elected representatives of the people—the U.S. Senators—decide by a majority vote whether they want to build an aircraft carrier or put additional funds into giving young people the opportunity to get a college education. That is all we are saying. Just let us have a chance to decide those issues.

I will tell you this, Mr. President: When we build that aircraft carrier, in 15 or 20 years that thing is going to be wornout. Over its life span, it is going to consume additional hundreds of millions of dollars to keep it operating, to crew it, to keep it maintained, to keep the maintenance up; but at the end of that 15 or 20 year period, it is gone. But those young people who went to college, with the funds that were going to build that aircraft carrier, are going to be out there, and they are going to be doctors, professors, lawyers, and they are going to be successful business people. Some of them might even end up here in this body. And they are going to be contributing to this country. They are going to be enhancing the economic growth of the United States, as well as enhancing their own quality of life and that of their children.

We ought to have the opportunity to make those decisions. Can we say no to an aircraft carrier and yes to the young people who need the college education? That is all we are asking with this legislation. Let us choose.

I am willing to do whatever the majority of this body wants to do. I may disagree with the majority, but I will go along with what the majority says.

We essentially have two choices. We can leave standing this arbitrary wall between the military and domestic accounts and accept very deep program cuts to stay within the limits on the domestic accounts, cuts that would bring domestic spending below a budget authority freeze at last year's levels. Or we can move under the proposal that is before the body today to allow us to move forward to take down the walls, and to use some of the military savings to sustain very vital programs, vital to the people of this country.

I think it is time that we started investing in our own people. I think it is time we started investing in the United States of America. I am tried of seeing our hard-earned tax dollars go to other places. I am weary of seeing over $100 billion a year go to maintain a military establishment in Europe which, when I last looked, amounted to 280,000 U.S. troops, supported by tens of thousands of civilian employees.

Why should they still be there defending Western Europe? The threat is gone.

We ought to start talking about bringing them home in great quantities and investing the money that we spend in Europe here on our own people and, frankly, I am weary and my constituents are weary of paying the tab to maintain 40,000 American troops in South Korea to defend the South Koreans from the Koreans. When the South Koreans have a larger population and an economy 10 to 20 times larger than North Korea, why are we spending $20 billion a year to maintain 40,000 troops in South Korea at a time here in the Nation's Capital when you cannot walk the streets in safety three blocks from this Capitol?

It is not right. The American people have borne the burden for half a century. We spend more of our gross national product year in and year out, twice as much as any other country in the free world for military, a military to provide a shield for Germany, for Japan, and we were glad to do that during the long, dark days of the cold war.

But the cold war is over now. We bore the burden. We paid the price. We won, but we see the price all around us. We see it in deteriorating cities—money that could have gone to reburbish cities, to keep the streets clean, to enlarge the police forces, to put funds in the schools, to raise the teachers' pay, to provide for a decent quality health care system for all of our people. These funds were flowing out of this country to protect our allies, to protect what we perceived to be our interests as a freedom-loving Nation, and we paid the price. The American people willingly paid the price.

But now that is over. And the time has come to invest in ourselves for a change, invest in our own country. And that is all we are asking today when we say let us remove this arbitrary barrier between military spending that safeguards and holds military spending sacrosanct. Let us remove this artificial barrier so that if the Senate in its wisdom by a majority vote decides to make some investments in our own people, taking some of the military spending to do it, military savings allow us to do it.

Mr. President, I see the distinguished Senator from Minnesota on the floor. I know that he has long had an interest in this project, and I also see the distinguished assistant minority leader on the floor, and so I will yield the floor at this juncture.

Mr. SIMPSON. Mr. President, I know my colleague from Minnesota was standing and, of course, we recognize those who have risen to speak. I have about three pages' worth and if that is acceptable I will go forward. I think it will not be over 10 minutes.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. SIMPSON. Mr. President, I thank Senator WELLSTONE. He is a very courteous person and I am getting to enjoy him very much as I get to know him in my work in the Senate.

We have heard a very ringing endorsement of getting rid of the firewall. I want to vigorously oppose that—tearing down this "dreaded" firewall between defense and nondefense spending.

I think that all of us would admit that in these last days, the firewall has become one big buzzword. Every single lobbying group looking for money—and that, so far as I am able to discern, is everybody—every single lobbying group looking for money is now coming through our doors wearing buttons that say, "Tear down the firewall." And they are from everywhere—municipal people, educators, you name it, that is the button. The hot idea now is "Get rid of the firewall, because the firewall is what is keeping us from addressing urgent national needs." That is what we are told.

I have heard my colleagues on the other side of the aisle come down here in these last days and deliver some stirring testimony about our overgrown defense budget, and say that it is out of step with the post-cold war reality. We will certainly debate that at length this year, no question, and we should.

Secretary Cheney, General Powell, and President Bush have warned us all about cutting the defense budget below the levels suggested by the administration. Senator SAM NUNN will be in that debate as will Senator WARNER. We will listen to them carefully, as we should. It will be a good one regardless of what happens with this bill today.

But let us concede, for the purpose of argument, let us suppose that the defense spending levels ought to be lower than those suggested by the President. I would ask my colleagues, is there some provision in the Budget Act that prevents larger cuts from being made? To my knowledge, there is not. The budget agreement says you cannot go above the caps; it does not say you cannot spend less.

So there is nothing in the budget deal that says you cannot do better than the deficit targets we outlined, and these remarks here on the floor concerning overgrown defense budgets are simply irrelevant, totally irrelevant, to the discussion today. We do not need this bill to cut defense spending. We can do that right now under current law—have a go at it. You do not need this.

What this does is something different. Because of the dreaded firewall—any time you make cuts beyond those mandated by the budget agreement—the deficit goes down. Horror of horrors. That is a truly terrifying thought. The idea that the savings from the defense budget might not be spent by the U.S. Congress—instead those savings might just reduce the burden we are sticking to our descendants, our grandkids. Somebody run up the flag around here—SOS! That is, "Save our survivors."

Let me tell you, we all know what we ought to be doing. What we ought to be doing is dealing with the entitlement programs of the United States. Until we do, this is a feckless enterprise, all of it.

We hear—if we would only tear down the firewall. Only then will we have flexibility. Only then can we spend money on urgent needs. Only then will we have investment in America. Or, if we choose, we can still apply it to reducing the deficit.

Take a good look at the $10 billion in additional defense savings proposed by the President. Under current law that $10 billion could not be spent. We would just have a deficit $10 billion smaller. If you tear down the firewall, the total level of defense and nondefense spending would be capped at the combined amount of the current, separate caps. Do we believe any deficit reduction is going to come out of keeping the total cap at the same level?

That is not the reality of this place. If we have a spending cap, we manage to hit that level of spending precisely, exactly. We are not going to spend less than that amount and then apply the rest to deficit reduction. That does not happen. We would chuckle and fall on our heads on that one.

Congress would sooner reinstate the House bank than spend $10 billion less than a spending cap required it to. So this talk that we will still apply defense saving toward deficit reduction simply does not match any reality that we as legislators know.

I urge my colleagues to oppose this measure and leave the firewall intact. My colleagues who wish to further cut the defense budget will still have the full opportunity to do that. They just cannot spend the money on something else. The savings will reduce the deficit.

We all know what is going on around here. Let us keep our eye on the rabbit. This is an attempt to get Congress' hands on the savings from defense, nothing more. If we get it, we will spend it. It is not about investment in America; it is about investment in reelection, an investment in getting back here. There is plenty of unnecessary spending going on that could be used to meet the urgent needs that my colleagues have spoken about today.

Do you know why the people are hostile and frustrated and angry? Because they have been sending people to Washington for 30 or 40 years of both parties, Democrat and Republican, to get them everything they wanted out of the Federal Treasury. And now, in a time of constrained resources, it is not there.

So if you really want to do something for your country, let us kind of cut the level of babble going on here, and let us do something with the entitlements programs and the growth in the programs that grow regardless of one's net worth or one's income. So let us step up to the plate, all these hardy souls, and vote to cut the cost-of-living adjustment in Social Security for those who have ample financial resources they need not be included in a COLA.

Let us deal with the veterans. There are 27 million of us. I always like to hear the nonveterans doing most of the debate when we are talking about veterans benefits, because you just run for the doors when the veterans start banging on them. Now, we ought to do something with the $34 billion budget for veterans.

Every time I go to the hearings, all they do is beat Congress' brains in; 27 million of them—of us. I served 2 years overseas; I never had a shell fired at me. We should take care of the combat veteran; the victim of the training accident. Those others who served 6 months and never left the USA should not receive the same benefits as a combat veteran, and you all know that.

And those people who get a COLA on Social Security when a third of them are comfortable and have put in $6,000 in their whole lives and have already drawn out $16,000 or $26,000; you know that is not right.

And people gimmicking the health care system—810 billion bucks; and the reason we do not change it is the people who live off of the chaos. They are hanging around here all day long, and they live on that; 810 billion bucks' worth of honey will attract 810 billion bees. Now, that is where we are.

And when WARREN RUDMAN left the Chamber the other day, he talked about what we ought to do. That is, you do something with the entitlement programs of the United States. And if you do not, then let us not hear the stuff about our children, because unless we get a handle on it, in the year 2030, this country will be in dramatic drawdown, and the Social Security system will be headed for the bowwows. And that is real life.

And that is why people are irritated and mad and ugly, because they have heard all this stuff before, just into the vapors: We are going to do this for the old and the veterans and the young, and on and on and on, and nobody is paying attention to what is left in the United States in the year 2030. That ought to make everybody embarrassed. That is where we are.

So now we are going to look at a rescission list, and I am sure that we will all blanch when we see that. One man's junk is another man's treasure around here. We will review that. And that is the destiny of this money if we tear down the firewall. We are going to spend it. You bet we are going to spend it. We will blow it as fast as we get our hands on it. Congressional spending and investment in America ought not to be so easily equated when we are spending our money on some of the remarkable things that we all do with it.

So if you want to make an investment in America, cut out this line of malarkey and figure out what to do with the entitlement programs of the United States. Because while we dabble with $2 billion or $3 billion or $4 billion, that thing is eating our lunch on a curve that you cannot even stop. And we have to, as thoughtful Republicans and Democrats, stand here and watch the American people swallow a situation as in October 1990, where health care, Medicare, was going to go up 11 percent, and we said: Let us let it go up only 9 percent. And that was described to the American public as a cut.

And when a 9-percent increase is described to the American people as a cut and they swallow it, they deserve everything they are going to get in the year 2030.

Thank you very much.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. WELLSTONE). The Senator from Washington is recognized.

Mr. ADAMS. Mr. President, I am proud to be an original cosponsor of this legislation to bring down the budget wall between defense and domestic spending. And as one of the first chairmen of the Budget Committee, I want to recognize that we are maintaining a cap on overall discretionary spending and are preserving the intent of the 1990 budget agreement.

Our greatest need right now is to get this economy moving, to put Americans back to work, and to convert from a defense economy to a peacetime economy. We now have a recession that is structural, cyclical, and involves a conversion from war to peace.

Rebuilding America requires a long-overdue investment in our infrastructure. Perhaps as much as $1 trillion of both private and public funds.

But we cannot even take the first step toward these goals under the current budget agreement. Only this legislation can help us take this step.

The arms race is over. It is time to concentrate on the human race. For 50 years we have been the defenders of democracy through military strength.

Today, our security depends on our economic strength. Other nations were on their knees 50 years ago, and we made them into economic giants.

It is time to rebuild America again into an economic giant.

That is our challenge. To restore our quality of life. To create jobs.

We need to shift military research and development into industries that produce good jobs that pay $16 an hour, not $6 an hour.

Our Federal research dollars should be shifted from bombs and bullets to biotech and basic research.

We are struggling under the weight of a huge budget deficit. But underinvestment in our children's education, our health care system, our infrastructure is far more dangerous to our well-being.

A simple dollars and cents perspective of indebtedness is simply not an accurate picture.

Seen from this view, the United States is far more indebted than our budget deficit indicates.

This legislation is not a budget buster. It does not lift the overall ceilings on discretionary spending. It will not increase the deficit beyond current predictions.

True, it does not reduce the deficit, but that was not the goal of the 1990 budget agreement.

This legislation simply allows funds to be shifted between defense and domestic spending in fiscal year 1993 rather than in fiscal year 1994. We are really dealing with a 1-year change to try to get this country moving faster during this terrible period of recession.

The Conference of Mayors has indicated that our cities have scores of important public investment programs that are ready to go if some Federal funding can be made available.

Construction and repair of sewer and water systems, schools, parks, libraries, and public housing.

These deferred infrastructure programs mean jobs for our citizens. That is the short-term benefit. But they also mean investment in our future.

That is the long-term benefit: restoring our quality of life and economic position.

Mr. President, the cold war is over. We are now struggling to rebuild America and to keep pace in a global economic race.

We can do both if we redirect our enormous energies and our enormous resources to some basic reforms here at home. There should be no shame at America's turning inward. It would be a shame if we let pass this great opportunity to rebuild America.

I urge my colleagues to support this necessary first step in what will be a long and often painful process of adjustment for this Nation. But this Nation will meet that challenge. This Nation will use its resources, not for destruction but for rebuilding. And this Nation will become the great leader of the world that it has been and will be in the future, with its great economic strength. I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

Mr. WALLOP. Mr. President, in President Nixon's speech, which was much admired last week, one of the statements which came out was that America cannot live in peace with a world at war. America cannot prosper if America is not also a strong Nation.

Mr. President, I rise today to address the controversy over U.S. defense spending and the so-called peace dividend. With the Senate considering legislation to bring down the firewalls separating defense and domestic spending and about to consider a budget resolution, it is critical that the Defense budget be considered in its proper context.

To date, the debate in Congress has been vacuous, shortsighted and devoid of historical insight. The arguments have been almost exclusively budget driven, focusing on the bottom line with little if any regard for consequences. We are told that pressing domestic needs and an escalating budget deficit demand that we slash defense spending. A convincing case has yet to be made, however, that such cuts will actually redress these problems; nor have proponents of further defense reductions adequately considered how these cuts will affect U.S. national security and global interests. The American people have simply been told that the level of defense spending needed to ensure our security is less—much less—than during the cold war.

Of the various defense reduction proposals clattering around Capitol Hill, most have been pulled out of thin air. While others have actually based their proposals on national force structures, none of the congressional plans for reducing the defense budget below the administration's request adequately supports a coherent concept of American global interests and a realistic assessment of what it will take to protect and project these interests in the years ahead.

The Department of Defense's fiscal year 1993 budget request and fiscal years 1992–97 future years defense plan is the only proposal that adequately links force structure to strategy in some kind of a meaningful way. DOD's base force and regional strategy have been carefully constructed to provide a coherent statement of military ends and means.

Unfortunately, despite the logic and elegance of this concept it suffers from the fact that the administration has not adequately articulated U.S. foreign and security policy. What is missing is an overarching concept of America's interests, purpose, and goals in the post-cold-war world. Stated simply, we need a replacement for the policy of containment, presented directly to the American people by the President himself. Without this guiding policy framework, DOD's strategy and the base force will be treated as nothing more than one among several defense spending proposals.

The policy of containment, codified in 1950 in the historical document NSC-68, "guided U.S. strategy and military policy for 40 years." Although U.S. defense spending and military strategy were far from constant during these four decades, the framework of American policy remained intact. This policy structure has now been abandoned as the cold war moves into the pages of history but its replacement has yet to emerge. In fact, it is difficult to avoid the conclusion that the administration feels no need for such a new doctrine. In practical terms, however, until the American people recognize and accept containment's successor, there can be no agreement on strategy, force sizing, and defense spending. Strategy in a policy vacuum cannot provide the unifying force that we now so desperately need.

This is not to say that debate is inappropriate. But if this debate focuses solely on budget bottom lines, as it has to date, then we are destined to make monumental decisions this year with our eyes firmly shut. Before we can make informed decisions on the defense budget, we must first answer two fundamental questions: Should America remain a superpower? And second: Can America afford to remain a superpower?

SHOULD AMERICA REMAIN A SUPERPOWER?

The end of the cold war and the collapse of the Soviet Union leaves the United States as the sole remaining superpower. Although the existence of this situation is beyond dispute, there is less consensus as to the desirability of maintaining this status.

Before answers can be found, we must first consider what options are available to the United States. Three general alternatives are reading evident. The United Sates can seek to preserve its superpower status, it can attempt to foster a multipolar situation in which we are but one among several relatively equal power centers, or it can, as both the right and left suggest, lapse into isolationism and relative decline in the global balance of power.

Although few Americans openly endorse a policy of military inferiority for the United States, many of the isolationist arguments for slashing the defense budget, if implemented, could very well produce this outcome. Those who argue that U.S. foreign policy should focus exclusively on trade and other economic endeavors, fail to grasp even the most basic tenets of geopolitics and international relations. Trade and foreign policy without the backing of military strength is nothing more than an extended hand begging for fair treatment. Without a global military presence and the ability to project power, America's maritime lifeline cannot be guaranteed and our ability to influence global events will disappear.

Because of the increasingly interdependent nature of the world economy and the global reach of communications and military technology, the global presence of U.S. military power has become more important than ever. To those who assert that there is no threat to U.S. national security interests, I respond that with the world having become a smaller place it has also become a more dangerous place—dangerous in a different perspective. In this world even third-rate military powers will be able to threaten American cities with sudden and massive destruction, Terrorism by strategic weaponry is a real possibility. With America's economic vitality increasingly dependent upon things and events external to our borders, we cannot afford to turn our backs on the world. History is replete with examples—ancient and modern—where nations took for granted the peace for which they had struggled long and hard. Without exception, the price for such complacency has been high—too high.

If it can be agreed that isolationism and military inferiority are not in the American interest, we must still decide whether to remain a superpower or reduce our global commitment to some level of military parity. If the latter course is chosen, the obvious question remains, equal to what, Russia, the European Community, Argentina? To whom?

Recent leaks of classified DoD planning documents have fueled the public debate. According to newspaper accounts, a draft of the defense planning guidance makes the case for preserving America's unilateral superpower status as a means of deterring aggression and discouraging the emergence of new power centers capable of threatening global stability in the future. Predictably, those who advocate slashing defense spending were increased at the notion of maintaining American military preeminence.

For decades we have struggled merely to maintain a semblance of parity with the Soviet Union, and even this effort was decried by some as provocative. These same voices are now insisting that we abandon the military superiority that we have gained through winning the cold war. Let us be honest—those who ridicule the defense planning guidance as an attempt to create a Pax Americana are merely displaying their traditional discomfort with American military status. After all, the Pentagon plan does not advocate an increase in American military capability. It seeks only to preserve the advantages Americans have paid for. In fact, it actually calls for a sizable reduction in American military capabilities—more than a 25-percent reduction in force structure and defense spending by 1997.

But those who seek to preserve U.S. military superiority must still answer this question: Why not equal? To put this question in perspective, we must acknowledge that those who advocate military parity for the United States are themselves the ones recommending a change in the U.S. posture. To reach equality will require that we step down from a position we now hold. Even if American withdrawal from the world scene were only partial, it does not require much imagination to see that a vacuum would be left. As in the rest of nature, in the realm of politico-military affairs, vacuums are inevitably filled.

Why not simply rely on the United Nations or some other form of collective security to fill this vacuum? The answer is simple, without U.S. military and political leadership collective security is nothing but a dream.

We could not have achieved, Mr. President, the collective security to go to Iraq without the fact that we were, in the first place, strong enough to do it on our own had that been necessary.

The critics of the defense planning guidance are wrong in asserting that this document abandons or is somehow incompatible with collective security. Harold Brown, Jimmy Carter's Secretary of Defense, stated it succinctly to the Washington Post when he said that the gulf war "was clearly a collective security arrangement but it clearly wouldn't have happened if the United States had not taken the lion's share, by which I mean almost all, of the military burden." If America slashes its defense capabilities below the level requested by the administration, we will not only give up the means of making collective security work but also the leadership that is required to make collective security a concept.

Preserving American military strength and global reach is essential if we as a nation are going to continue to attract allies. I believe most Americans do not want their Government to go begging for friends and partners, which is precisely what a state of military inferiority or equality would require. America's superpower status is a stabilizing magnet holding together our alliances and the ad hoc collective security arrangements that we will undoubtedly need in the future. Without this guiding and unifying force, international power will once again fracture, generating competition and conflict.

Mr. President, this vacuum, like any other in nature, will be filled.

The United States must also retain the capability and will to act unilaterally to protect and project our vital national interests and our values. Again, our global presence and ability to project power is essential. Although safeguarding global security and stability is not a task the United States seeks to perform unilaterally—the argument that we are trying to become the world's policeman is a genuine and red herring—we must retain the capability to act alone. Charles Krauthammer's review of the defense planning guidance hit the nail on the head, "What other country having finally achieved the kind of strategic security that we now have would rush to reduce its autonomy and defensive self-reliance for such a will-o'-the-wisp as 'collective internationalism?'" Krauthammer asks the rhetorical question that most Americans do not even need to think about except perhaps Congress—"To whom shall we entrust the security of our children? Boutros Boutros-Ghali? The chancelleries of Bonn and Tokyo? The correct answer is: The President of the United States." Unfortunately, many in Congress have not reached to the same conclusion.

If the United States does not remain engaged in Europe, in Asia and throughout the world, we will simply be inviting the kind of balance of power struggles that plagued Europe for centuries. History has not come to an end and the sources of conflict have not been eliminated.

There are seven wars currently engaged in on the European and mid-Asian continent today.

Even in Europe, the guns that went silent in 1945 can once again be heard. Economic integration and the spread of democracy provide a stabilizing force in the world, but nationalism, militarism, and jealousies of every dimension remains. The reemergence of an expansionist power driven by a hostile ideology cannot be dismissed. As Charles De Gaulle said, "The future lasts a long time."

So for these and many other reasons, the United States must remain engaged in the world. Our presence in Europe and Asia, our ability to project land, air and naval forces, are critical both to protect and project American interests and to act as a stabilizing force. The world recognizes U.S. military power as a force of freedom and stability. In fact the United States is the one power in the world whose superpower status would not be viewed with mistrust. We seek no territory or domination; our power is benign and stabilizing and is recognized as such. Only aggressive and expansionist power need fear American leadership and military strength.

And I will tell you this, only aggressive and expansionist powers will seek to fill the vacuum created by unilateral American withdrawal from the world's stage.

CAN AMERICA AFFORD TO REMAIN A SUPERPOWER?

Mr. President, as we assess the cost of remaining a superpower and the pressures for further defense cuts, there are both near-term and long-term impacts to be considered.

Yes, a souring Federal deficit, an economy lingering in recession and numerous domestic ills are not matters to be taken lightly. But slashing defense will not solve these problems and may actually exacerbate them in the near term by adding to unemployment, by undermining a weak economic recovery and by reducing American technological competitiveness, to say nothing of the impact on American national security.

The Congressional Budget Office—not exactly a bastion of prodefense sentiment—reported in February of this year that defense cuts below the President's request would not spur the economy or create jobs. Only by applying defense savings to deficit reduction would we see a positive result, and then only over the next 5 to 10 years. Further defense reductions, no matter how they are spent, will produce real decreases in employment and real decreases in the GNP in the near term.

These conclusions are readily apparent when one looks at the near-term impact of DOD budget cuts on defense-related employment.

I note the occupant of the chair would have great and specific familiarity with what these consequences are.

Even under the administration's current plan some 2 million jobs—Mr. President, not the 74,000 that created the anxiety when General Motors announced that over 3 years they might be having to let go that many—both in DOD and in the private sector—will be lost by 1996. If the defense budget is cut by another $100 billion, as some of my colleagues have proposed, as many as 3.3 million jobs could be lost according to their projections.

It is thus clear that defense cuts cannot be rationalized as a means of solving near-term domestic problems. With domestic entitlements growing at about the same rate as the decline in defense spending, it is simply not possible either to balance the budget or to solve domestic problems by cutting defense. It is already being reduced at a dramatic rate. In fact, the defense budget has been declining in real terms since 1985. According to the administration's budget plan, by fiscal year 1997 defense outlays will fall to 3.4 percent of GNP and about 16 percent of Federal outlays, a cumulative decline in outlays of 26 percent since fiscal year 1985. During this same peirod, domestic entitlements will grow by about 33 percent and domestic discretionary outlays will increase by about 8 percent.

By 1997, the level of defense expenditure will have declined to a level reminiscent of the 1930's, a time when the United States was not even a superpower. And as history reveals, our retreat from international responsibilities during the 1930's contributed to the emergence of militaristic states in Europe and the Pacific seeking to fill the power vacuums they encountered. Measured if by no other means than American blood, this retreat cost us over a million causalties.

None of this is to argue that defense spending cannot be reduced in response to the end of the cold war. But the simple fact of the matter is that the Department of Defense has responded with massive reductions. Last year the Pentagon announced a plan to reduce the American Military by 25 percent over 5 years. The DOD has been eliminating personnel, canceling programs, and closing bases at a rate that causes more concern than comfort. And this year, on top of the 25 percent reduction, the administration has recommended an additional $50 billion in defense reductions over 5 years. Those who seek to slash the defense budget have seized upon this $50 billion figure as if it were the first reduction in years. In fact, the defense budget project estimates that between fiscal year 1989 and fiscal year 1992, the defense outlay peace dividend totaled almost $100 billion.

Mr. President, I was recently asked how we can maintain our superpower status while burdened with a huge Federal debt. At 3.4 percent of GNP and less than 18 percent of all Federal spending, defense is neither beyond our means nor the source of our debt. With over 60 percent of the Federal budget allocated to mandatory domestic spending it is clear that defense is not a leading spending problem. In fact, defense spending is one of the few parts of the Federal budget that we have adequately under control.

In my view the real question is: Can we afford not to remain a superpower? The choice is ours. For all the reasons I outlined earlier, I must agree with Charles Krauthammer that protecting American global reach and leadership for 3.4 percent of GNP is "the bargain of the century," especially compared to the price of retreat.

The price of retreat, Mr. President, is not firewalls, and it is not peace dividends, but it is hugely expensive in the refire of a military engine. But worse than that, the price of retreat, Mr. President, is paid in blood, in American blood, and it is easily shucked out of sight in a debate like this and at a moment like this.

But ask any American whether he wants to see our country a beggar on the world stage for security, ask any American if he wishes to see us dependent on somebody else for our access to the seas, for the support of our allies, for the support of our communications, for our access to space, and that American will tell the Senator "no."

THE BASE FORCE AND AMERICA'S SUPERPOWER STATUS

As I mentioned at the beginning of my statement, the Pentagon's base force and supporting budget request is the only proposal that adequately links force structure to strategy in a dynamic and coherent way. There are other proposals that attempt to deal with force structure in a static way but none of these is an adequate substitute.

The base force provides the global presence I believe is essential to maintaining our superpower status. A corps in Europe makes military sense, political sense and is hardly beyond our means. As General Galvin, commander in chief of the European command, told the Armed Services Committee earlier this month, the cost differential of maintaining United States forces in Europe as opposed to the continental United States is only 10 percent. In other words, it costs us only 10 cents on the dollar to keep them in Europe. In return we remain engaged in European military, political and economic affairs, retain critical forward bases that are essential for global reach, and act as a stabilizing force in a region where too often Americans have fought and died.

Despite its many strengths, I am concerned that the base force may not adequately protect all necessary aspects of our superpower status. Let me mention two areas that cause particular concern.

First, although we have a coherent rational strategy and force structure for our conventional forces, our strategic nuclear forces seem to be languishing. The President's September 1991 and January 1992 nuclear reduction proposals appear to be more the product of political and budgetary pressures than a fundamental reevaluation of our interests and needs. The decision to terminate the B-2 bomber, the advanced Cruise missile, the small ICBM, and the W-88 warhead for the Trident D-5 missile essentially ended all strategic modernization programs, thereby putting in question the very concept of deterrent forces. Will any Member state that no defense is, or will ever be, necessary? Last week, General Powell told the Armed Services Committee that our total nuclear stockpile—strategic and tactical—would be reduced to 6,300 warheads from a 1990 level of 21,000, reinforcing the impression that our nuclear forces are in free fall.

If deterrence is to remain viable at any level, we must begin by ensuring it at the highest level. Without survivable and capable strategic forces, weaknesses at all other levels are magnified. Strategic nuclear capability is the backbone of our superpower status. Just as we should insist on maintaining this status, we should insist on maintaining a strong nuclear force. The wisdom and need to reduce our nuclear forces merely to maintain equality with Russia is questionable at best. There is no logical reason why we should measure American force posture, including our nuclear force posture, solely against the former Soviet Union. These forces serve an enduring purpose, and should not be sized according to the pressures of the day. Does or will no other leader need defending? The notion is preposterous.

The administration clearly needs a guiding strategic rationale for our nuclear forces. In this regard, it would be worth the effort to review the study prepared by former Secretary of the Air Force, Thomas Reed, which was originally conducted for the Strategic Air Command. The Reed report recommends that U.S. strategic nuclear forces remain equivalent to the combined total of the world's remaining nuclear forces. This approach is consistent with the maintenance of our superpower status and the need to ensure the strength and durability of our deterrent posture.

The second aspect of the base force with which I am concerned is the concept of reconstitution, which is a major supporting pillar of the new strategy. In the past our force planning has always assumed the need for some degree of mobilization in responding to any significant aggression. Reconstitution, however, is far more ambitious, since it assumes that we can eliminate or mothball a significant portion of our force structure and industrial base pending adequate warning.

I cannot avoid the feeling that once these forces are eliminated it will be difficult if not impossible to bring them back. Any such action, even in the face of significant threats, will be decried as "provocative."

Even more problematic is the Pentagon's new acquisition strategy, which assumes that taking defense technology through the prototype stage will be adequate to maintain the defense industrial base. We would be better served by identifying our requirements and pursuing efficient development and procurement strategies. This is not to say that basic research, development and prototyping will not be sufficient for some systems, but extending this approach to most weapons programs will be truly debilitating.

There is absolutely no way to sustain our defense industrial base through R&D and prototyping. This is not to say that we should maintain redundant or unnecessary industrial capacity. But we must ensure that what is needed is adequately supported. We must also be sure that adequate numbers of new weapons systems actually reach the force before the shooting starts. It will otherwise be impossible to adequately train with the new systems or to develop new doctrine where needed. The bottom line is this: If we need new systems we should build enough of them at an efficient rate to fill the requirement of deployment and training

Unfortunately, I am afraid that both our precipitous strategic reductions and the concept of reconstruction are as much budget driven as anything else.

While I appreciate the pressures on the Department of Defense and the administration, I am concerned that we actually have cut too much. We did not even give ourselves a chance to implement last year's 25-percent cut before again cutting the Defense budget. The president's proposal to cut an additional $50 billion over 5 years, in my view, is premature and potentially quite damaging. I am aware of the political pressures to cut more but I do not think it is the right thing to do. To date, we have thought too little and cut too much.

FROM CONTAINMENT TO ENGAGEMENT

Mr. President, we must now find a suitable replacement for the policy of containment, a guiding doctrine to give context, meaning and durability to the base force and the regional strategy. Unfortunately, the Pentagon's new strategy and force posture are caught in a policy vacuum. Without an overarching statement of American purpose, interests and needs this vacuum fosters only budget debates and the defense of home town economies. So far, there has been no serious debate in Congress over America's defense goals and requirements. Only the President can change this focus. More importantly, until the President conveys to the American people the essence of a post-cold war foreign and security policy, there will be no consensus on defense spending, strategy or force structure, in Congress or in America.

The policy I have in mind is based on American values and interests, and it is consistent with the direction I see the administration trying to take. If I were to select a single central concept to define this new policy—the name of a new U.S. security doctrine, if you will—it would be engagement. It is not a new concept; in fact, it is a term used frequently by Secretary Cheney, General Powell and others who have presented the base force concept. But the time has now come—indeed is long overdue—for the President to offer a defining concept and develop it into a coherent, fully articulated policy that the American people can embrace.

The American people believe in a strong America, an engaged America, an America that can protect and project our values and interests around the World. They are willing to pay the price for keeping America strong and engaged, but only if they understand and endorse the President's goals.

Mr. President, I yield the floor and thank the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I thank the Chair.

Let me first say to the Senator from Wyoming, I appreciate his remarks. I know they were delivered with a great deal of conviction, but I do not really think the debate in the last couple of days on the Sasser bill is about whether or not we should have a strong national defense or whether or not we should be a great country. It is around how we define national greatness, it is around how we define national security.

A vote for the Sasser bill is why I am so proud I am for it. I am not going to speak against anything. I am going to speak for something on the floor of the Senate. I think a vote for the Sasser bill to waive the budget agreement is a vote for a more competitive economy. It is a vote for economic performance. It is a vote for an increasing standard of living for ourselves and more importantly for our children and our grandchildren.

Let me be crystal clear. We will not do well as a Nation, we will not do well in terms of national security—I do not need to tell you this, Mr. President—until we invest in the health and skills and intellect and character of our young people.

I heard Senator SIMPSON from Wyoming speaking earlier today about the deficit, as he well should. He said, Let us talk about our children in the future.

Let us talk about our children for a moment. If one out of every four children in this country is poor, and we are going on that—one out of five now—and 1 our of every two children of color is poor, and if many kids cannot get a decent education, if we cannot invest in education, we cannot invest in job training, we cannot invest in our own young people, we cannot invest in human capital, and we cannot invest in people, which is the very key resource for this Nation, then I do not see how we are going to do well economically.

I thought that what people were saying to us around the country is: Listen, Senators and Representatives, please invest in our economy. Make sure that we can produce high value products with high value labor. Invest in human capital. Invest in our children. Invest in us. Invest in physical infrastructure, our roads—we have had a rotting infrastructure in this country—our bridges, our airports. Clean up the environment; housing, rural electrification, small businesses.

My gosh, I do not think we are going to do well as a Nation until we finally redefine national security. I think the redefinition goes as follows: Of course, we are going to have a strong defense but maybe, maybe in a new world. This was my father's country, what we used to call the Soviet Union. He would just be amazed at what happened.

It might not need to be a $291 billion military budget, and just maybe what we need is to begin to get serious about investment-led economic growth.

I want to suggest here today—and I want to be held accountable for these words—if we do not invest in our own human capital, and we do not invest in physical infrastructure, and we do not invest in cleaning up the environment—we cannot do it all at once but we need to take steps in that direction—decline will beget decline, and that is the direction in which we are going.

I think the redefinition of national security is not yet more bombs and missiles. It is not close to a $300 billion military budget, albeit we have to have a strong defense. The redefinition of national security is the security of our local communities where people have jobs they can count on, jobs at decent wages with decent fringe benefits, where there is housing and people are not homeless, where there is an investment in transportation, where people can afford child care, and where there is a commitment one more time to an education second to none, so that every young person in this country can grow up dreaming to be President of the United States. Is that too idealistic? Is that too much of a dream? I thought that was what this country was about.

I was on this floor 2 months ago with Senator WIRTH from Colorado, and we introduced a sense-of-the-Senate amendment to waive the budget agreement because we felt so strongly about this need to invest in education and young people. I know Senator BYRD is going to talk at considerable length and with a tremendous amount of knowledge about the need to invest in physical infrastructure.

I support this bill and I support Senator SASSER because I do not think we are going to be able to power lift ourselves out of this recession, although it depends upon how you define recovery. I certainly do not think we are going to see long-term economic growth. We are not going to see high levels of productivity, and we are not going to see high levels of economic performance unless we invest in our economy. And we cannot do it unless we waive the budget agreement.

I have heard Senators on this floor for the past year that I have been here talk about children. I have heard Senators talk about health care. I have heard Senators talking about doing something for State and local government officials. I have heard Senators talking about transportation, you name it.

But the one thing I have not heard from Senators is, where is the revenue going to come from for the investment? Are we going to increase its deficit? I have not heard anybody talk about that on the floor, and I do not think any of us want to do it.

Are we going to raise taxes? Personally, this Senator from Minnesota would like to see taxes raised for the top 1 percent of the wealthy. I think we should have more fairness in the tax system. Or are we going to get the resources from somewhere else?

I want to suggest that we are not going to make the step forward unless we begin to redefine our national security—keep a strong defense but at least let us not be in this straitjacket. We have not even had a guns versus butter debate. It has been how to divide up a stick of butter. At the very minimum, we have to talk about how to invest in the economy.

Second point. I support the Sasser bill because not only do I want us to move forward, economically, in this way, but I really worry about what President Bush proposed.

Let us look at the alternative if we do not waive the budget agreement. We are talking about—what is it, $7 billion or thereabouts in discretionary domestic programs?

Mr. SASSER. The Senator is correct. To be precise, it would be 6.9 billion dollars' worth of cuts in domestic spending. Spending for investment right here at home would be reduced by $6.9 billion.

Mr. WELLSTONE. If the caps are observed, if the Senator will answer another question, and we do not waive the budget agreement, have any capacity to transfer any resources, we are going to see cuts close to $7 billion. Is that correct?

Mr. SASSER. That is correct.

Mr. WELLSTONE. Let me just say on the floor of the Senate, I know sometimes words seem like words. I certainly hope this is not one of those cases, that we really are talking about people.

So what will we say, if I could just simply ask the Senator from Tennessee this question—and maybe I will try to answer it as I ask the question—what are we going to say to homeless people? Are we going to cut transitional homeless housing by 30 percent? Is that the answer?

Mr. SASSER. Many of these programs, as the Senator from Minnesota knows, will be cut. I might say that in the rescissions that the President sent up here, if memory serves me correctly, he has about 400 million dollars' worth of cuts in low-income HUD housing. That is precisely the kind of housing that we have assisted people with in times past that has kept them off the streets and kept them from remaining homeless.

Mr. WELLSTONE. I have here a list of the President's cuts. I think it is just worth having this as part of the record if we do not waive the budget agreement, if we do not support the Sasser bill, and if we work to move in the direction the President so desires for this country—27-percent cuts in emergency food and shelter grants; 27-percent cut.

There are about 12 million hungry children in this country. So our answer to hungry children—everybody in the Senate loves children, at least that is what they say in their speeches—is we are going to cut emergency food and shelter grants by 27 percent.

Elderly congregate housing: I just want to point this out to the Senator from Tennessee. As I look at the proposed cuts, a 64-percent cut in elderly congregate housing. As I remember that program from my experience with my own parents in Northfield, MN which is a small town, this was a way in which they were not able physically to prepare their own meals; they could at the community action center in town, go and have a meal, or meals could be delivered to them. That is the congregate dining proposal.

Sixty-four percent cut in elderly congregate housing? Is that the direction that the President of the United States wants to lead us? Transitional homeless housing cuts of 30 percent.

Now, I want to mention this to the Senator from Tennessee again. I do not know. Maybe this is my weakness. I think the President has probably done more than anybody else in this Senate to be an advocate for children.

But I hear everybody talking about children—a 26-percent cut in child care block grants in the President's cuts in his proposal, his budget proposals—a 26-percent cut in child care block grants; a 67-percent cut in community services.

Am I correct? Let me ask the Senator from Tennessee. Is the community services program the major program that serves low- and moderate-income people in this country where you have a variety of different programs that are administered through the Community Services Administration?

Mr. SASSER. The Senator from Minnesota is correct. That is precisely the function that the community services program does perform.

Mr. WELLSTONE. Finally, low-income energy assistance—65-percent cut.

Let me just say to the Senator from Tennessee. I know this is an issue in Tennessee. But if you think it is an issue in Tennessee, in Minnesota, which is a cold weather State, at the other end of the pipeline, you could not believe how many calls—or maybe you could—I received last year from people who were just terrified about the cuts in low-income energy assistance. Is that the direction that we are going in?

Mr. SASSER. Let me say to my friend from Minnesota, the assistance for low-income energy assistance is reduced by $435 million in the President's budget.

Let me say, if I were an elderly person in the State of Minnesota trying to live on Social Security, trying to buy my medication at these outrageous prices that the pharmaceutical manufacturers charge for drugs, trying to buy my groceries, and trying to stay warm on a Social Security check, I would be scared also.

Let me relate an incident to my friend from Minnesota. Years ago, right after I came to the U.S. Senate, there was a great Senator from Minnesota, a great American, a man I admired enormously—Hubert Humphrey. When Senator Humphrey passed away, we went to Minnesota to his funeral in Minneapolis. I am from Tennessee. We went to Minneapolis in the dead of winter.

I say to my friend from Minnesota that I have never felt so cold in my life. I remember standing out in the cemetery—and the Senator from South Carolina is smiling. I bet he will remember it also. I will bet he was there. As the sun went down, the snow all around us, and we stood there for I do not know, it seemed like an hour, hour and a half, because of the problem with the crowd, I literally thought I was going to freeze to death. I could feel parts of my body becoming numb.

If I lived in Minnesota, and was subjected to that kind of cold and could not pay my heat bill, I would be frightened.

Mr. WELLSTONE. Let me just say to the Senator from Tennessee that I think as people follow this debate in our country they should be aware of what the stakes are. I know in the discussions that I have been in where I have heard the Senator from Tennessee speak that his primary emphasis has been on, look, we need to keep a strong defense but we have to redefine part of strong defense and greatness in terms of the ability of our country to compete economically.

I know that Senator SASSER has put a tremendous amount of emphasis once again on beginning to invest in our own human capital, our own physical infrastructure, our own economy, our own people that we have to take a step in that direction.

Let me emphasize one other point on the floor of the Senate today that I think people should understand. When he talks about his visit to Minnesota, and he talks about how cold it was, he said Senator HOLLINGS was there, and he can appreciate how terrified someone would be—one with a very low income—who would not even have any energy assistance and literally have the fear that he or she or the children would freeze, maybe freeze to death. Those people are not here.

The people on the bottom, low-income citizens, they do not have the lobbyists, and all too often they are not seen and they are not heard.

I just want to make it crystal clear that this debate is very real, and if we do not waive this budget agreement, we are going to have these cuts. And by the way the President is proposing it, it is going to be cuts of the nutritionally deprived, the medically deprived, older Americans, the very young, the poorest of the poor people, the weakest, politically weakest that is, and the most vulnerable citizens, in my opinion. I think I am giving the people in this country a lot of credit. People have seen enough meanness. And they do not want to see more of those cuts, which is the difference in being able to survive and not survive.

My final point about why I am supporting the Sasser bill, and I want to say this as clearly as I can: I am supporting this legislation, because when I go back to the State of Minnesota, I try really hard, as every Senator here does, to just meet with people.

The campaign I ran was a cafe campaign. I just go into cafes, and I sit down and I talk. I try and listen carefully, and maybe, just maybe, I am meeting different people than what other Senators are dealing with. But this is what happens to me in Minnesota. I would love to compare notes with other Senators on the floor.

This is what I hear:

Senator Wellstone, I have lost my job. I am going to be foreclosed on.

Senator Wellstone, I am 45 years old. I work for the university as a telephone operator. I have lost my job, and I am going to have to go to a shelter. Can you tell me what is going to happen in a shelter? I am scared. Can you help me?

Senator Wellstone, my small business is closing. I cannot make it.

Senator Wellstone, we cannot afford to send our kids to college or vo-tech school.

Senator Wellstone, I am a student, and I sell plasma at the beginning of the semester so that I can buy textbooks.

Senator Wellstone, I am a community college teacher, and I want to tell you, since you were a teacher, that all too often, my students are so exhausted because they are working two and three minimum-wage jobs—three jobs, while they are going to school—that they cannot learn.

Senator Wellstone, my parents told me that the college years would be the best years of my life. But I can barely make it. I cannot afford school, and I am absolutely exhausted.

Senator Wellstone, we cannot afford a doctor bill. Our medical bill is putting us under.

Senator Wellstone, we live in a small town. We cannot even find a doctor.

Senator Wellstone, for the last 10 years plus, we find it so difficult to represent people on the city council, or county commissioners, because we get more and more responsibility without the resources.

Senator Wellstone, we are not investing in our own infrastructure in our own communities. When is the Federal

Government going to provide some assistance?

Senator Wellstone, I am a single parent. I am one of those welfare mothers people talk about on the floor of the Senate, and I want to work and I want to support myself. I want to be self sufficient, but I cannot afford child care.

Senator Wellstone, when will you in the Senate and the House pass the kind of legislation that will make a difference in our lives?

My final point, Mr. President, is that if we want to try to understand the anger in our country, at least part of it has to be the disconnect where people do not see any relationship between their problems, the concrete issues that affect their lives, and what we are doing. And what I cannot understand about this—I wish there were people to debate on the other side—is that we are not even debating the issue.

This is a filibuster on a motion to proceed; am I correct?

Mr. SASSER. The Senator is correct. What we are seeking to do here is simply take up a bill to determine whether or not the wall will be taken down between defense spending and domestic spending. If this bill is voted upon favorably by the U.S. Senate and becomes law, then at a later time, the Senate will determine whether or not to transfer funds from military accounts to the domestic accounts, which have been too deprived, as the Senator has so eloquently stated here today.

We find ourselves in a position where those on the other side of the aisle will not even allow the majority leader of the U.S. Senate to move to call up the bill, or move to bring the bill to debate so that we can debate it. We are now in a procedural situation where the motion to proceed to take up the bill is being filibustered by the other side of the aisle. They do not even want to debate the bill. So that is the parliamentary situation we find ourselves in.

I am delighted that the Senator from Minnesota brought up this question, because I want to make it crystal clear to all of my colleagues that we are going to have a cloture vote later this evening. That is not a vote on the merits of the bill, as they should all understand. We are simply voting on whether or not the Senate will limit debate in order that we then may later take up the bill to debate it.

I thank the Senator for raising that question.

Mr. WELLSTONE. Mr. President, as a freshman Senator, I guess I have a lot of learning to do yet, but I cannot understand why there is such fear of going forward with a substantive debate about what we need to do by way of investment in our economy so that we can do much better in the years to come, much less what we need to do for all the people that we say on the floor of the Senate we care so much about.

I want to just say to the Senator from Tennessee—and maybe he has heard this in Tennessee, maybe not—there is an old Yiddish proverb I have used: You cannot dance at two weddings at the same time. Perhaps the President has heard that.

I do not think for too much longer certain Senators—or some Senators—will be able to say, "We want to do something for children; we are committed to education; we are committed to investment in physical infrastructure; we are committed to getting some resources back to local government; we are committed to the environment and to health care," and when it comes to the issue of where the resources come from, the silence is deafening.

This bill is a small step in that direction, and that is why I am so proud to support it.

I yield the floor.

Mr. HOLLINGS. Mr. President, first, let me comment with respect to comments that have been made relative to defense. I have been observing our Pentagon, observing as they have lost, day by day, their credibility. I watched as they started transferring the minecraft warfare base from Charleston, SC to Ingleside, TX. It has been in Charleston 40-some years.

We have a particular interest in it; we have had a fighting interest in it. And the minecraft arm of our national defense, particularly in the Navy, has been subject to neglect. They have been developing a mine-detection technology that we call Magic Lantern, and the rest of the Navy said: No, that thing is too efficient to find mines; it can find submarines. And they drag their feet.

We had to fight, and only in February 1991 during Desert Storm were we able to get Magic Lantern to our troops out there. But it did not get there in time, and that is a major reason why the Marines did not go ashore in Kuwait, because mines could have caused way too many casualties. We just could not clean the mines out. We felt that very keenly.

I had visited in the gulf with the minecraft forces before Desert Shield, in August 1990. So I am intimate with this particular problem. And I find out that a Senator from Texas has gone over to the White House—and probably the President never heard about it—and the White House aide calls up the Pentagon, and they are now moving the Mine Warfare Center to Texas at a cost of millions. And I will come to the distinguished Senator's Subcommittee on Military Construction and see if we cannot hold that up. We are supposed to be cutting back on defense and reaping the peace dividend, but here they are enlarging defense expenditures by a move that is opposed by their own Navy forces. That's No. 1.

No. 2, I see that they are about to enlarge the Pentagon building. Here we are trying to get a peace dividend, but they are going to expand the Pentagon.

I cannot help but remember my friend Pete Quesada, the lieutenant general who commanded the Air Force in World War II. But General Quesada landed at National Airport and had never seen the Pentagon, the largest office building in the entire world. Riding by this magnificent new building in a taxi, he turned to the taxi driver and he asked, "my heaven's, how many people work in a building like that?" And without batting an eye, the taxi driver said, "About half."

Anybody who has served in the Army or military knows not to get caught up in the Pentagon. You can get lost over there with the secretaries, the admirals, the aides, the cars, the drivers. The first thing in war, as General Schwarzkopf will tell you, is get the devil out of the Pentagon and get into the field so you can win.

About the biggest obstacle you have is that Pentagon in time of war. Now they are proving it in time of peace. They announced this morning their plan to cut out 100,000 from the National Guard and Reserve, in a country founded on a citizen soldier. Here, again, we are supposed to save money. But I can get four Guardsmen for the cost of every regular Army soldier, and I can show time and again they are just as proficient as the regulars.

I heard General Vessey, the four-star general, former Chairman of the Joint Chiefs. We know his magnificent record. He said the Guard ought to be enlarged, not sealed back. I was in Fort Bragg a few months ago. A brigadier general, West Point graduate—a South Carolina Guard unit, the 178th Field Artillery was there—and in an aside I asked, "General, just give it to me straight. Are these troops ready?" He said: "Look, if I had to go to war tomorrow morning, I would want this outfit with me."

So do not let us get sidetracked with claims that the Guard is not up to snuff. They are trained. The South Carolina Air Guard beat the regular Air Force out there on the west coast last year in the contest, and they served in Desert Storm. So we have the most proficient Guard. We can get four guardsmen for the price of every one in the regulars.

But more than that, the Guard is the source of so much of the popular support and the support in this U.S. Congress for defense generally. Probably only a dozen or so in this body have seen combat. If it had not been for the DANNY INOUYE's leading the way for our defense budget we would not have the superb Armed Forces we have today. And before long, we are not going to have anybody with knowledge and credibility and experience to really talk authoritatively about the defense needs of this country. But when you go back home and that local National Guard armory is there and that visibility is there, the civic community supports them, the business community supports that guardsman, the Governor depends upon them. That is the grassroots underpinning of defense. It is not necessarily the professional soldier who accounts for that popular support and concern.

So, when you talk about building down defense, we are going to study it very closely because seemingly the Guard and Reserve have become the scapegoats rather than Saddam. This administration is hell-bent to cut the Guard and Reserve so they can hold all the general and admiral positions.

In World War II we had 12 million in uniform and now we have a little less than 2 million, yet they have four times the admirals and four times the generals. So let us see what is happening. We are fed up with the generals' protected program, which is not the same as the defense of this Nation or its national security.

Now, what really happens here is the distinguished Senator from Minnesota talks of all our domestic needs, and Senator WELLSTONE goes down that litany, and it is very comprehensive, and I understand it. But the problem is he could have gone through that same litany 10 years ago. The very same needs existed then.

Our problem is that as Senators and Representatives and Presidents, we have not been doing anything. And in that light the challenge today is to try to figure out what we can do as a concurrent majority, as a compromise, as a consensus. The middle-class tax cut idea is a nonstarter because it is paired with tax increases. But we pushed ahead and said, "Oh, we are going to get it and we are going to make them sign it and we are going the make them veto it." And now, even the majority of the House of Representatives have voted against it. Equity. That is fine for another day. If there is inequity, let us address it.

But the immediate problem is not inequity. The problem is stimulation. We are trying to stimulate our economy and the challenge is to find the money, the wherewithal, without increasing the deficit and without increasing taxes. And if that can be done, we will have done a pretty good job this year. We have one school of thought over in the House, very strongly advocated, that every dime of the peace dividend should go to deficit reduction. Egads, this Senator has been talking about deficit reduction so long and single-mindedly that nobody even talks to me anymore. I have gotten to be Johnny One Note on that.

But that, at the moment, is not really the priority, although I will support any kind of deficit reduction. At best, if you take $10 billion out of defense and use it for deficit reduction, you have reduced the deficit only from $404 billion down to $394 billion.

I think just holding the line on the deficit—freezing spending—is nearly as good because the deficit has been increasing in increments of $100 billion annually. President Bush came to town and he said he was going to cut the deficit down to $100 billion. He got it to $200 billion the next year under Gramm-Rudman-Hollings, and now our good friend Senator RUDMAN is leaving in despair. They were supposed to get the deficit to $64 billion in 1991. Instead, they had the 1990 budget summit. Beware of summits.

All the time I hear from people back home, why cannot you and the Congress and President get together? But that is exactly the problem; Republicans and Democrats have been getting together. And they got together in 1990, and instead of reducing the deficit from $200 down to $64 billion as required by Gramm-Rudman-Hollings, they rescinded Gramm-Rudman-Hollings.

Then when we were supposed to have a balanced budget under Gramm-Rudman-Hollings—1993—instead the deficit exploded to almost $400 billion, and now it is headed to $500 billion. In February of 1991, the President of the United States came categorically and said, "We are headed in the right direction." He told that to the joint session of Congress. It is in his speech. "We are reducing the deficit $500 billion in 5 years." Absolutely false, and they knew it at the time. We told them so.

No genius there; just use the CBO figures, use all the other reasonable figures, the consensus of blue-chip forecasters. They knew the President was wrong.

The truth is we are headed in the wrong direction, in 1 year increasing the deficit at least $400 billion and maybe $500 billion. Therein comes the doubt, the suspicion, and the distrust, because that is a factor in resistance to this cloture motion.

We are saying, wait a minute before we take down that wall. Let us look and see what is on the other side. We hear we are going to do these fine things for education, infrastructure, and so on. Well, then, why not first sit down around the table and decide what we are going to do.

If there is one good thing we learned out of the Pentagon experience, it is fly before you buy. That is what we tell them over in the Pentagon. We are tired of buying these things with all of these beautiful descriptions that don't perform up to promise.

Now, politically, we have reached the same point on the floor of the Congress and that is what is involved in this particular motion. There are those who want to take down the wall, as I say, over on the House side to allocate it all to the deficit. There is another group on the other side of this aisle here that wants to take down the wall and do something about entitlements, which they know and I know is not doable in the election year.

I listened to the Director of the Budget, Mr. Dick Darman, and he argued, referring to a big pile of papers and a big bunch of charts, how terrible things were and how we are going to have to do something.

I said fine business, but in an election year, the reality is that it is not going to happen. It is certainly not going to happen unless the President of the United States comes out categorically and says it has got to be done. But the President of the United States does not say that. So those who have plans—and I understand there are some plans to cut from entitlements over a 5-year period 92 billion bucks. We had greater cuts under Gramm-Rudman-Hollings, but they did not adhere to them because of that election year 1988.

So now we are amidst the election year 1992. In 1990 they rescinded Gramm-Rudman-Hollings. And I can tell you, if you had something now on the books that required deep cuts, the debate would be how quick can we rescind that provision to make sure we did not have to do it. There is no education in the second kick of a mule. I have already been through that one. And while I commend those who are concerned about entitlements, the reality is that we have been trying for years now, at least 10 years or more, to do those kinds of things, that is not going to happen this year, so there is no use beating each other up about it.

There are others, of course, who want to take down the wall right now under this particular motion so that they can spend.

We do not want to be accused of tax and spend. When they passed the middle-income tax cut last week, the charge was that we were increasing taxes. If you took down the wall this afternoon or later tonight, I can tell you, "The Discipline Is Gone," will be the headlines; "They Dismantled the Wall." In a political sense, the Democrats would be blamed. They are going to blame this Democrat.

I am having a hard time reaffirming my own record, which I am proud of. I do not yield 1 minute. But generally speaking, some of us seem to be on the kamikaze course here on this side of the aisle, making sure in an election year that we plead guilty to the charge we want to increase taxes. And now, a week later, we seem to want to plead guilty that we want to increase spending.

Why can we not debate this out of the Budget Committee? Not necessarily that your going to agree to my budget or the Republican budget or any budget, but we could have gotten Senators of good will around a table and begin discussing as the law requires.

All the committees were supposed to have submitted by the middle of March, a week before last, their particular requirements, and were supposed to have reported out a budget here by next Wednesday, April 1, and pass that budget resolution by April 15.

I wish the President would come on the TV tonight and say, I will give you until April 15 under your own law. Because it is the hope of this Senator that we can all, as legislators, Republicans and Democrats, attack this deficit and budget cancer and get on to the meaningful things that the Senator from Minnesota and other Senators here are talking about, addressing the needs in the country.

I heard at lunchtime a presentation by the distinguished Senator from Oklahoma [Mr. BOREN] on workfare instead of welfare. We thought we had accomplished that in 1988.

I turned to the Senator from Oklahoma and said, I can find the money for workfare. I can easily take $2 billion out of intelligence. I have been on that committee for 8 years. I served in intelligence in 1954, 1955. I can easily find the money to get that done.

Mr. SASSER. Will the distinguished Senator yield for a question on just that point?

Mr. HOLLINGS. Yes.

Mr. SASSER. The distinguished Senator from South Carolina has served for a number of years on the Intelligence Committee and he is very knowledgeable in this area. I think all of his colleagues are aware of that. I understand that we are under a compulsion not to tell the exact size of the intelligence budget.

Mr. HOLLINGS. Right.

Mr. SASSER. But from reading in the popular press I would say to my friend from South Carolina, the popular press reports it is somewhere in the neighborhood of $30 billion.

I would ask my friend from South Carolina, based upon his knowledge of the intelligence community and the intelligence apparatus in this country, with the collapse of the old Soviet Union, is there any justification for spending in the neighborhood of $30 billion to gather and analyze intelligence? What are we spending that money for now? That is the question I have.

Mr. HOLLINGS. No justification whatsover.

Mr. President, in response to my distinguished chairman, what happens is that, realizing that reductions are inevitable, the Intelligence Committee has held public hearings. We heard from General Odom, the past Director of our National Security Agency. We heard from Jim Schlesinger, the past Director of Central Intelligence in public session.

We have far too many analysts over in the agency itself. We have over 800 people paid over $100,000, we have over 800 senior people running around bumping into each other. And I find that particularly annoying because in the early 1950's you could get a report from the field and if it was on target, you would get that report.

Now, the report you get from the field, its edges are so rounded, the content is so watered down, it is so masticated, it is mush. Ask General Schwarzkopf, he will tell you that. He had to depend on his own field intelligence. This did not come up just this year, but we have been having internal discussions of how to economize in this particular field, and there are things that can be done.

Yes, a good bit of that economic stimulus bill that we passed last week is right on target. After all, the idea is to stimulate, and if we can get investment tax credits, if we can get accelerated depreciation on equipment, if we can get capital gains, the repeal of limits on passive investments in real estate, IRA's, go right on down that list that they had in the Finance Committee, that would have been a good thing. Likewise, the distinguished Senator BYRD, chairman of the Appropriations Committee, is right in trying to rebuild our public infrastructure.

But we cannot do it all this year. We are going to be quite limited if we are not going to increase the deficit and not increase taxes. That is why I have been pursuing my alternative plan in a low-key manner.

My colleagues, the Senator from Nebraska [Mr. EXON]; the distinguished Senator from New York [Mr. D'AMATO]; the distinguished Senator from Alabama [Mr. HEFLIN]; the distinguished Senator from Missouri [Mr. BOND]; all of us have been working trying to fashion an alternative plan that you could characterize as an offer that cannot be refused. Let us put it that way, because it will be immediately understood.

The President and all of us have said we want to cut the bureaucracy. We did that under President Reagan. We rightfully exempted the IRS agents and law enforcement, but otherwise a 10-percent reduction of the civilian work force, including our staffs, over a 3-year period done by attrition is well in order. I also provide for a freeze of domestic discretionary and international spending. Incidentally, that is one of the objections I hear on the floor. Why are we now trying to take down the wall surrounding defense to spend on domestic? Why not take down the wall protecting international and spend on domestic? I can tell you we can put up an amendment and we can cut foreign aid $2 billion to get workfare instead of welfare.

As I said, in some of the discussions I have had with colleagues, if we can find $16 billion for foreign aid, then I can find $4 billion for local aid, for revenue sharing. Historically, now, over a 12-year period we have offloaded everything on to the local community, the State. We mandate that they get rid of solid wastes. And then we took away the funding needed to get the job done.

Having done that, they have gotten up to their keisters in taxes, property taxes, and otherwise. So there is a cheerleading section out there against you and me.

You talk to a mayor or city councilman, they say the problem is that crowd in Washington. You talk to Governors, they say the problem is that crowd in Washington. Washington does not seem to understand this. I do not know why they think we should be popular? Collectively, we have not done anything, and we seem intent on not doing anything but finger point and parliamentary maneuvering.

Now is the time to sit down and fly-before-buy on this matter of the walls. Let us find out what they intend to do once the walls are dismantled. Let us see where we can get a concurrent majority here from both sides. We put these things down because when we say freeze, we say take the same international affairs budget we have this very minute, fiscal year 1992, and carry it over for 1993.

We say with respect to the domestic discretionary, take the very same budgets we passed here in November—three readings in the House, three readings in the Senate—they were signed by the President, mostly in December, not over 3 months ago. Let us take that same budget for 1992, and extend it for 1993. Exempt, of course, the means-tested programs, Social Security and all the Federal retirement programs and COLA's, as well as Medicare and Medicaid and all other entitlements. We must exempt those things.

There is no use to get into those kinds of political arguments here this year. Entitlement reform is not going to happen. That is where I think the colleagues on the other side, working with Mr. Darman, are just totally unreal and they know it. I do not see why they are going to try to get headlines on it when we ought to be getting together and getting on to things meaningful and possible. But we freeze that discretionary budget. That is what the President said to do in his talk. Likewise he said cut the civilian force.

I have taken the President's defense cut in outlays. Look at part 1, page 239 of the President's budget. He says cut $9.9 billion in outlays. So I cut that $10 billion, and I take another $2 billion from intelligence. All totalled, the freeze and cuts save $24 billion.

That is not in concrete. We might have to give up parts of it. But get something constructive going here rather than waiting for a midnight continuing resolution that does absolutely nothing but get us all in trouble and prove all year long we are incompetent.

We can provide for public investment and encourage private investment, and take care of all the good ideas on all sides: The President's, the Republican initiatives, the Democrat initiatives. For once let us get together, somehow here right shortly at the beginning of the year, and move on to what we can really do in the national Government. For starters, let us move to workfare instead of welfare.

Get out our far-reaching visionary Elementary and Secondary Education Act. Rather than just talk about goals, let us provide. The goals are there. They have been there. You do not have to meet in Washington or in the ivory tower down in Charlottesville with Governors to find out what is needed in education reform. The communities are telling you and crying out for it. What they need is money. We all know it.

We can provide for those things. We can provide for the nutrition programs that save money. For every dollar we spend on WIC we save $3. In education, for every dollar we spend on Head Start we save $3.50.

There is my leader, the former distinguished chairman of the Budget Committee, the distinguished Governor of Florida, Lawton Chiles. He understands. To him, this speech is a broken record. He has been gone for 4 years and, egads, it is the same thing; deja vu.

With that, Mr. President, I hope we would not just play parliamentary games with these walls. Let us sit down through the budget committees. I would prefer the Budget Committee rather than the political caucuses or summits. I think summits are the problem.

They have been going into the political caucus on the other side, and whatever the White House and Darman say, they say aye. We go into caucus on our side and whatever we say about building and infrastructure, we say aye. And we are not getting anywhere.

Mr. President, I welcome the former Senator from the State of Florida to the floor. He did an outstanding job and I hope we can do better here and get us together so we can get out of this blooming place.

I thank the distinguished chairman of our Budget Committee and yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee [Mr. SASSER].

Mr. SASSER. Mr. President, it is a distinct pleasure for me to see the former chairman of the Senate Budget Committee here this afternoon, now the distinguished Governor of the State of Florida, our old friend Lawton Chiles. He did an outstanding job here in this body as chairman of the Senate Budget Committee and as senior Senator from the State of Florida, and now is doing an equally outstanding job as Governor of that great Sunshine State.

I indicated to him, Mr. President, that any time he wanted to come back and take over the role as chairman of the Budget Committee I would be more than pleased to relinquish it to him, and indicated to him that the problems of dealing with the budget of the U.S. Government have not changed since he left here. We still have the problem of too many demands and not enough money. I do not see that changing any time in the near future.

Mr. President, the distinguished President pro tempore of the Senate, Senator ROBERT BYRD of West Virginia, was on the floor earlier. I am positive he wishes to address the body on the issue that is the pending business. I understand he is, perhaps, on his way here at this moment.

So in anticipation of his arrival, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SASSER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Mr. President, I am advised that the distinguished President pro tempore is on his way and will be here shortly. If I could just make one or two observations here in anticipation of his arrival?

I thought the distinguished Senator from South Carolina shed some new light on what happens is an old subject. We have been having a lot of discussions in this Chamber over the last 2 days relative to whether or not we should take down these walls that separate domestic spending from military spending, either to transfer funds from the military to domestic or transfer partially military savings from the military side to domestic and allocate some of the rest of it to deficit reduction.

But the Senator from South Carolina touched on something different today and something I think all of our colleagues ought to be aware of.

A very substantial portion of the money that is allocated under the so-called defense budget does not go for military spending. Mr. President, it goes to fund the various intelligence agencies of the U.S. Government. It goes to fund the Central Intelligence Agency. It goes to fund the various intelligence agencies of the Defense Department. It goes to fund a whole series of intelligence-gathering, intelligence-analyzing functions of the U.S. Government.

Bear in mind that the Central Intelligence Agency itself did not come into existence until after the Second World War. It came into existence, if memory serves me correctly, and the distinguished Senator from South Carolina may know precisely, but if memory serves me correctly, it came into existence in 1947. It was created in 1947 under the administration of President Harry Truman as an effort to foster a large superagency to gather and analyze intelligence for the U.S. Government as we entered into the days of the long cold war. It was aimed primarily, as I understand it, at gathering intelligence about the activities and the plans of the Soviet Union and their worldwide efforts to subvert free governments all around the globe at that time.

The old Soviet Union no longer exists. The cold war is over. If you want to know anything about Russia or the Ukraine or the old Republic of Georgia, all you have to do is go over there and ask them. If you want to know what the old KGB was up to, all you have to do is go over there and get in their files and read the files. Nothing is secret there anymore. The old Soviet Union has become one of the most open societies, with regard to its old secrets, on the face of the Earth. With regard to the old secrets of the old Soviet Union, they are simply there for the asking. All of their other activities now are pretty much on the surface and are disorganized and appear to be, on occasion, somewhat disoriented.

The Senator from South Carolina posed the question why could we not reduce the intelligence budget by $2 billion? We cannot say precisely what that intelligence budget is, and I do not know because I have not served on the Intelligence Committee. The able Senator from South Carolina has and he knows precisely, but because of security reasons, he cannot say. But we do know that a very substantial portion of that was dedicated to intelligence-gathering activities directed at the old Soviet Union, at their Warsaw pact allies—East Germany, which no longer exists; the People's Republic of East Germany is defunct, it does not exist anymore. The People's Republic of Poland is gone, a thing of the past. The People's Republic of Czechoslovakia, no more. The People's Republic of Romania does not exist anymore. The People's Republic of Albania does not exist anymore.

Now the question comes, are we going to continue to spend $30 billion to gather and analyze intelligence as we have in the past against these governments that no longer exist?

So I want to compliment the able Senator from South Carolina. He put his finger on something today that I think none of us had really fully thought through or thought about, and that is that there are significant savings that can be made out of the so-called intelligence agencies. I want to pledge my efforts to join with the Senator from South Carolina and follow his leadership in trying to make some significant savings in this so-called intelligence budget so that it can be used for other activities. for deficit reduction or for whatever will stimulate this economy. But I see no reason to continue to fund these superintelligence agencies to spy on governments that no longer exist.

Mr. HOLLINGS. Mr. President, if the Senator will yield on that particular point, what we found is that when Gorbachev was down in his little dacha down on the Black Sea, he turned on CNN to find out what was going on. We turn on CNN, we read the New York Times, Los Angeles Times, Wall Street Journal—the free press is in there like beavers in all of these places, and we are getting way better intelligence than from accepted, in a sense, intelligence agencies. All of this work 80 percent of it now, is going to be taken over by the free media.

Mr. SASSER. I think the Senator from South Carolina raises an excellent point. I was interested to learn that at the height of the so-called Gulf war that many of the leaders of the governments involved were getting their information off CNN.

Mr. HOLLINGS. Right.

Mr. SASSER. So the free media, I think, has in large measure supplanted some of the so-called activities of the intelligence-gathering agencies.

Mr. President, the distinguished President pro tempore has been on the floor for most of the afternoon awaiting his chance to speak. I had put in a quorum call awaiting his return. I see he has arrived. I will be pleased to yield to him.

Mr. EXON. Mr. President, reserving the right to object, and I shall not object, I simply ask the chairman of the Budget Committee if other Members may be so considered? As the Senator knows, 3 hours ago this Senator was on the floor and going to make a speech. At that time, the distinguished chairman of the Budget Committee made a rather lengthy talk, which is his right. I have no objection to yielding to my friend and dear colleague, the President pro tempore. Do we have, though, a list of other people? I know my friend from Virginia is here. I do not think he is on the list.

I will be glad to yield and not interrupt the request for the distinguished President pro tempore to talk. I would simply like to consult with the managers of the bill to see if there are other people with other lists who will be recognized when their turn might appropriately come?

Mr. BYRD. Mr. President, will the Senator yield?

Mr. EXON. Certainly, I yield the floor.

Mr. BYRD. Mr. President, the Senate rules do not provide for a list, anyone having a list of Senators to be recognized. Under the rules, the first Senator who stands and gets recognized or seeks recognition from the Chair shall be recognized. It is sometimes a little difficult for the Chair to determine who is the first to request recognition, if there are more than one seeking recognition.

Mr. President, I ask unanimous consent that I may be recognized following the remarks of the distinguished Senator from Nebraska [Mr. EXON].

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair recognizes the Senator from Nebraska [Mr. EXON].

Mr. EXON. I thank the Chair. I thank the chairman of the committee and I thank my distinguished friend and colleague from West Virginia.

I ask unanimous consent at this time, without losing my right to the floor, that I might yield to my friend and associate from the State of Virginia.

The PRESIDING OFFICER. Is there objection?

Mr. SASSER. Reserving the right to object, and I do not intend to object, let me say to my friend from Nebraska, I might ask for what purpose he wishes to yield to the Senator from Virginia and how much time will be consumed?

Let me say that I make this request for a reason. The distinguished President pro tempore has sought the floor for 2 days to address this body on a very important matter. Now, I was unaware that my friend from Nebraska had been here earlier seeking the floor. There is no list. And the President pro tempore is correct; it would be improper and invalid under the rule of the Senate to keep a list.

But I did tell the distinguished President pro tempore, when he left the floor just a short time ago to refresh himself, that I would do my best to see that he got the floor when he returned and as soon as Senator HOLLINGS ceased speaking.

I just inquire of my friend from Nebraska, is this going to be a lengthy——

Mr. EXON. I asked for 1 minute. That is not very lengthy.

Mr. WARNER. Mr. President, I thank my colleague.

Mr. SASSER. I do not object.

Mr. WARNER. I simply make a unanimous-consent request that the Senator from Virginia place into the RECORD today a more extended dissertation on this very subject.

I feel that there are two firewalls out there; not only the fiscal firewall but the people firewall.

As we received testimony before the Armed Services Committee, we are up against that people firewall. To the extent we try to continue to discharge—in some cases involuntarily—people, men and women in the Armed Forces, we are impacting great harm on their families, as well as themselves. I will amplify that in my remarks.

I thank particularly my colleague on the committee, the Senator from Nebraska [Mr. EXON].

The PRESIDING OFFICER (Mr. LIEBERMAN). The Chair recognizes the Senator from Nebraska.

Mr. EXON. Mr. President, I listened with great interest to the discussion of the defense numbers, correctly stated by the Senator from South Carolina and the distinguished chairman of the Budget Committee from the State of Tennessee. I think they make a good point. There have been several of us working exactly on that proposition. I can tell the Senate—it has already been in the newspaper—that the two chairmen of the Committee on Intelligence, both on the House and Senate side, are working to make some rather dramatic reductions in the amount of money that we are spending on intelligence. I happen to know something about it because the budget for that is under the jurisdiction of the subcommittee that I chair in Armed Services. So it is a good point. It should be a clear understanding that we can make some reductions in that area that have not been out in the public. For obvious reasons, it is best not I think for us to be talking about specific numbers on that particular entry in the budget of the United States of America, in particular the Armed Service Committee.

Mr. President, I rise to register my opposition to proceed to consider waiving the budget act to pass legislation to remove the so-called walls between defense and domestic discretionary spending. At best such action is premature.

I oppose the motion, not because I support the budget summit agreement which, in fact I strongly opposed, voted, and spoke against, but because this is a matter which should have been addressed first in the Senate Budget Committee and after fundamental issues about the defense budget have been aired.

Simply put, Mr. President, the walls bills put the horse before the cart. First, the Budget Committee should come to grips with the level of defense spending needed to protect the national security. Then, if that level yields significant savings, a subsequent decision based on that number should be made on how it will be used. The walls approach, to spend the peace dividend before one is declared, in my view is not wise.

I expressed in recent hearings in the Senate Armed Services Committee, the belief that significant reductions can be made in the defense budget. I will be making a detailed proposal, carefully thought out, including specifics in this matter. I hope that proposal will be recognized as an honest, centrist position. It will be devoid of the protectiveness features and scare tactics of some of the sideshow antics of recent days to circle the wagons in defense of the Pentagon. It will be a detailed presentation as to the necessary level of defense spending. It is my conviction that the defense budget including 1993 numbers could be reduced below the President's number with no adverse affect on the national security.

My recommendation would be to use most of the peace dividend for deficit reduction.

At this moment, however, there is no budget, no defense estimate and in a real sense no peace dividend. If the motion to waive the budget act is successful, it will not be long before there are amendments to bring down the walls between defense spending and tax cuts and defense spending and foreign aid programs. Rather than a budget for defense spending decided by legitimate threats which continue to face our Nation and a thoughtful plan to wind down defense spending it will become the checking account for every election year, vote-getting, proposal. What was a ceiling for total spending will become a floor and once again any concern about the deficit will be thrown to the wind.

My other reason for opposing the motion to waive is that it represents an abdication and usurpation of responsibility by and from the Senate Budget Committee to the all powerful Appropriations Committee. The Budget Committee exists for a reason. It is that committee which should act first. I have served on the Senate Budget Committee for more than 13 years. There was a time when the committee carefully considered spending priorities and made decisions. There was a time when a budget committee majority was formed on a bipartisan basis out of the ideological middle of the committee. There was a time when debate lacked its partisan rancor. It is long past time to return to that approach. Begone with the march to blend the Budget Committee into oblivion with the Appropriations Committee. Begone with the custom to delegate clear responsibilities with the Budget and Appropriation Committees to a superconclave known as a summit. These summits are proven failures except for glossing over the problems for political purposes.

Over the last half dozen years or so, there has been a fear by the Budget Committee, the Congress and the executive branch to face the explosion of debt during the Reagan and Bush Presidencies. The Nation is more than $4 trillion in debt. Over a dozen years, a short dozen years, the accumulated debt quadrupled.

First there were promises that President Reagan could balance the budget by 1983. When he was elected there was denial and OMB Director David Stockman offered the magic asterisk. Then there was the deceit when growing deficits were used as a trojan horse to destroy many of the domestic operations of the Government. Then there were the Rube Goldberg gimmicks of Gramm-Rudman I and its son Gramm-Rudman II. Then there were a series of budget summit agreements. All were designed to avoid the hard choices and all failed, as they were destined to fail from the beginning.

Over those years Senator HOLLINGS and I along with a dedicated bipartisan group of about 20 to 35 Senators offered alternative budgets based on the freeze concept. A philosophy that holding the line on spending was the best and most fair way to approach the deficit crisis. We were opposed by two Republican Presidents and the majority of Congress.

With the deficit nearing $400 billion in one single year, it gives us no pleasure to say "We told you so." but we did try to work out something reasonable. My vote against the motion to waive or my support for not waiving the matter before us is like I think a straw, another straw, which is going to break the back of the Senate Budget Committee. Maybe it is a camel's nose under the tent. But if this motion is successful, the Budget Committee will be a camel unable to walk an inch let alone a mile.

Under other conditions, I might support the legislation offered by the chairman of the Senate Budget Committee. My message with this vote is simply that it is past time that the Senate put first things first and do it right.

Before the full Senate votes to spend the peace dividend, I think it would be wise to let the Budget Committee meet and determine whether this a peace dividend, and if so, how much. The Budget Committee should determine what is needed to protect the national security; then let the Budget Committee recommend how much of a dividend there is, and where that dividend should go.

Mr. President, I make this statement not in criticism of my talented friend and colleague from Tennessee, the chairman of the Budget Committee.

Interestingly enough, just a few moments ago, the former chairman of the Budget Committee, now the distinguished Governor of the State of Florida, was with us on the floor. We were joking about how much more difficult this job of being chairman of the Budget Committee is each and every year.

I simply say that the chairman of the Budget Committee has a very difficult and a very thankless job.

My point is that, notwithstanding the intricacies and the trappings of rules under which we operate and under which the chairman of the Budget Committee is hamstrung, the Budget Committee must continue to act, and I hope and I think that the chairman will understand where I am coming from with my remarks today. It is time I suggest that we take wise action and not unwise, hasty action.

Mr. President, I thank the Chair. I yield the floor.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the distinguished President pro tempore of the Senate.

Mr. BYRD. Mr. President, I thank the Chair.

Mr. President, in many ways the chairmanship of the Budget Committee is a thankless task. There are no trophies that the chairman of the Budget Committee can take back home as a result of the work on his committee. He cannot announce new projects, new programs to his home State newspapers that have resulted from the work in his committee. It requires a strong sense of dedication and many, many hours of hard work in wrestling with intractable problems.

Faced with massive budget deficits during his years as chairman, Senator SASSER has displayed remarkable leadership in putting together his yearly recommendations, and each year he has attempted to stretch scarce resources as far as he can to adequately meet the growing needs of our Nation. I am painfully aware of these needs.

Between 1981 and 1991, domestic discretionary spending suffered $395 billion in cumulative cuts below inflation. Over that same period, defense spending rose $624 billion over inflation, and entitlements rose cumulatively by a total of $776 billion over inflation. And we all know that. And I have heard a good many Senators today indicate their concerns, and on yesterday as well, with the growth in entitlements and mandatory programs.

It is true that entitlements and mandatories are swallowing us whole. They are going to swallow us like the whale swallowed Jonah. But unhappily we will not be able to emerge from that mammoth fish as well as did Jonah. It is going to take a long, long time for this country to emerge from the octopus that is inhaling and devouring us, little by little at first but surely in the final analysis.

Some have pointed to that massive growth in entitlements and mandatory spending as being the major source of concern. However, I detected from what some have said that they apparently did not feel that defense spending was much responsible for the deficit and debt situation that we find ourselves in today.

But, Mr. President, it has been both defense and entitlements and mandatories. Defense spending from 1947 to 1991 has amounted to about $4.850 trillion.

On top of that, the massive 1981 Reagan tax cut has siphoned off from the Treasury over $2 trillion, over $2 trillion, during the years 1981 through 1991.

So we can see what has caused the massive deficits. And on top of that, we might add the savings and loan bailout, and then the recession as well—all of these things have conspired together and have come together at the confluence to create the massive deficits and the massive public debt.

We have heard talk in this Chamber of "reneging" on this budget agreement. I am not, and I do not believe Chairman SASSER is "reneging" on any agreement.

I was present at the so-called and much lamented, highly excoriated, and greatly deplored "summit" as was Senator SASSER, Senator DOMENICI, Senator HATFIELD, Senator PACKWOOD, and Senator BENTSEN, and other Senators and the leaders in this body and leaders in the other body; and our counterparts in the other body.

We worked conscientiously for a good many days and came out with an agreement. Nobody ever said that that agreement would abolish the deficits. I said that we would continue to have deficits and that the debt would continue to grow. But the effort was to reduce by $500 billion what would otherwise have been a larger debt without that agreement.

A poet says:

Of all sad words of tongue or pen,
The saddest are these,
It might have been.

Well, the budget deficits are $404 billion for fiscal year 1992; fiscal year 1993, $391 billion. But the deficits would have been higher, had it not been for that agreement. That is all the discipline we have. We do not seem to want to exercise self discipline to the extent that it is necessary, but the budget agreement provided some discipline. If it is not discipline, then why do those who deplore the summit agreement object to the taking down of the wall? If it does not amount to some degree of effective discipline, then what objection is there to taking down the wall?

So even those who deplore the summit, even those who object to taking down the walls today, implicitly admit that the walls that were erected at the summit do amount to an effective discipline.

We heard talk yesterday that the Democrats who support this bill want to renege on the agreement. Well, I think I have stood about as tall and about as straight, and about as determinedly over the past 18 months as has any other Senator in the effort to defend and uphold the agreement.

Mr. DOMENICI. Will the distinguished Senator yield?

Mr. BYRD. Yes.

Mr. DOMENICI. I want to say that I am one from this side of the aisle, and we would not have any budget agreement without Senator BYRD from that side of the aisle. There would not be any 5-year agreement. I guarantee you that there was no way we could have done that.

That does not mean he did not win sometime. He won some; we won some. The President won some. But it did not come from this Senator that that Senator is trying to defeat this agreement, because he wants to renege and he has not stood tall for it. He sees things differently than I do at this point, and it is his privilege to offer—in fact he offers it against a very difficult set of rules which he helped establish; is that not right?

Mr. BYRD. Yes.

Mr. DOMENICI. If you only needed 51 votes, the Senator would take the wall down now. He helped with the rules saying we need 60. It seems we are here talking about something very profound in terms of the fiscal policy of this Nation and our national defense. I do not want to treat it lightly, and I do not believe that it is just a political issue. It is an issue on which some of the Members on that side happen to agree with the Senator from New Mexico at this point. I do not know how many. If we vote tonight, we will see whether the six are there or not. But it seems there are a few. I thank the Senator for yielding.

Mr. BYRD. I thank the distinguished Senator for his observations. He worked diligently at the summit with Senator SASSER and with me and others to develop the agreement, and I appreciate very much his comment and his observations.

It was charged yesterday that Democrats are reneging on this agreement by our support of this bill.

Mr. SASSER. Will the distinguished President pro tempore yield for a question?

Mr. BYRD. Yes.

Mr. SASSER. The distinguished President pro tempore raises a very interesting and persuasive point. He points out that those who have denounced the budget agreement the loudest, those who refuse to vote for it and point with great pride to the fact that I did not support that budget agreement, they are the same Senators coming on this floor saying we cannot take down these walls, or we lose the discipline of the budget agreement.

Is that not ironic? I say to my friend from West Virginia, he puts his finger on, I think—I will not say the problem—but he certainly makes a very interesting and informative observation. I might say, in defense of this budget agreement, which really has few defenders these days—I see my great friend from New Mexico, the ranking member of the Budget Committee who was also instrumental in fashioning this agreement. I asked the Director of the Office of Management and Budget, I say to my friend from West Virginia, when he appeared before the Senate Budget Committee, "Have we kept this budget agreement?" The answer was, "Yes." I said, "How much has keeping this budget agreement added to the deficit; how much additional spending by the Congress has added to this deficit?" He said, "None, not a dollar."

The Congressional Budget Office disagrees with the Director of the OMB, but only slightly. I think they would calculate that maybe $2 billion or $3 billion had been added. But the explosion in the deficit, which those who denounced the budget agreement, those who did not vote for it, now point to, was caused by the recession, the failure of revenues coming into the Government as a result of the longest recession since the Second World War, and as a result of the savings and loan problem, part of which is also attributable to the poor economic conditions.

Yet, those same Senators who denounced the budget agreement say it did not stabilize the deficit at all, that the deficit got larger because of it, and invoke the restrictions or limitations of the walls in the budget agreement as a discipline that ought to be kept. I thank the Senator from West Virginia for pointing that out, because that had escaped my attention until his very perceptive and sharp mind ferreted out that particular flaw in the argument.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Mr. DOMENICI. Mr. President, will the Senator yield to me for another observation?

Mr. SASSER. Yes.

Mr. DOMENICI. I just cannot resist. I am not one who has denounced this agreement.

Mr. BYRD. Yes.

Mr. DOMENICI. Frankly, I think there is one issue remaining to be discussed for a moment that is attributed to it. It has been given the blame for everything. I mean if we had gone to war they would have said this agreement caused it. We did go to war in the middle of it. At least they did not blame the agreement for it, even though some were saying it caused the recession. Has the Senator heard that?

Mr. SASSER. Yes.

Mr. DOMENICI. Caused the recession. I am wondering how? I guess it is because of the cigarette tax, or gasoline tax, whatever those things were they caused the recession.

I will tell you what caused the recession. What caused the recession is that we have never had a budget policy in place that controlled the spending of the United States. Because it controls a piece of it and leaves most of it out and that part that is out let me tell you is not even at issue here today and that is those entitlements that are growing so fast that we will be up to $600 billion deficit in about 8 or 9 years unless we do something about it. It does not have anything to do with discretionary spending.

I am so pleased to report to the distinguished chairman of the Appropriations Committee that there are now a number of Senators on our side who are beginning to say it really is not the discretionary accounts, all of them, that are causing the problem with the deficit. A few years ago even some of those thought that was the case. Now they are beginning to look at the real picture and saying that is not the case.

I thank the Senator for giving me the time, and I will not interrupt him again.

Mr. BYRD. I am glad to have the Senator interrupt. He always has worthwhile observations and excellent and wise comments.

I respect him as one of the bright young Senators in this body.

But, Mr. President, if we want to put the matter in that light, if we want to use the word "renege" in that light, let us look at Part One–12 of the budget for fiscal year 1993. These are the words that I shall focus on at this point:

> The President's strong and responsible agenda for growth can be fully enacted without abandoning the budget discipline of the Budget Enforcement Act.
>
> It is clear, however, that some in Congress do not wish to stay within the Budget Enforcement Act. Some wish to abandon its discipline entirely. Others wish to amend the act in order to re-allocate defense savings for other purposes.
>
> With these congressional interests in view, the President's proposed defense savings are displayed at Table 2–2. The defense outlay savings are roughly sufficient to offset the President's proposed $500 per child increase in the personal exemption. Such an offset is not now possible under the Budget Enforcement Act; nor is it necessary under the President's program. But if the Congress were unwilling to accept fully the President's proposed pay-as-you-go financing of tax initiatives, the President would be prepared to consider—

This may sound like the President was reneging on the agreement to which he was a party—

> modifying the Budget Enforcement Act to allow the projected defense outlay savings to offset the proposed increase in the personal exemption.

I would suggest we be careful as to how carelessly we throw the charge of "reneging" around the Chamber. We should remember when we point the finger, that we have one finger pointed in that direction and three pointed back at ourselves.

But if we want to look at the matter in that light, then who first recommended reneging on the agreement? Not the Democrats. The President in the budget message, or someone speaking for the President, said that if the Congress were unwilling to accept fully the President's proposed pay-as-you-go financing of tax initiatives, the President would be prepared to consider modifying the Budget Enforcement Act to allow the projected outlay savings to offset his proposed increase in the proposed personal exemption.

I have never been in favor of taking down the walls and using defense savings to finance a tax cut. As a matter of fact, I did not favor the tax cut bill that we had up in the Senate a few days ago. I do not expect everybody else to see things the way I see them. I did not favor it.

But it had a coal miner's amendment in it, and I voted for it only because of that coal miner's amendment. I voted for that bill. But I would never have supported the use of defense savings to pay for that tax cut.

But Mr. Darman speaking for the President, said the President might consider breaking down the wall to pay for the President's proposed tax cut. So there was the first suggestion of reneging on the agreement, if we are going to refer, in that manner, to breaking down the wall.

We are all politicians in this body, but we ought to be careful about how we throw words around because they do have a way of returning to haunt us. Nikita Khrushchev said, "Politicians are the same all over. They promise to build a bridge even where there is no river."

Senator SASSER is not proposing that we abandon the summit agreement. The bill only makes one change and that is to allow defense savings to be used for important public investments. Under the Budget Enforcement Act, there are no separate caps for fiscal years 1994 and 1995. So come next year there is no wall. What is proposed here is simply to allow a transfer of funds 1 year early.

Enactment of this measure will not increase the deficit. It will merely allow defense savings to be used to prevent further neglect of important domestic programs which can shore up our sagging economy and which can help to put to work those individuals who will lose their jobs in defense industries as a result of the gearing down of defense expenditures.

Ours is an economy suffering the most prolonged recession since the great depression. It is an economy entering its 21st month of recession.

Unemployment stands at a 6-year high of 7.3 percent. Counting discouraged workers and underemployed workers, the unemployment rate is 13.3 percent.

Economist after economist has testified before the Congress. There has been one, nearly unanimous message. This message was summed up well by Dr. Charles Schultze, former Chairman of the President's Council of Economic Advisors under President Carter.

Dr. Schultze said:

> America faces not just a recession but a long-term problem that is far more serious and much more stubborn—a stagnant growth in productivity, incomes, and living standards accompanied by an increasing maldistribution of the growth that does occur.

We seem to be the only major industrialized nation in the world that does not comprehend the connection between public investment and productivity growth. Our international competitors certainly understand that connection. While we have been ignoring our public investment needs, our competitors have been making substantial investments in their infrastructures.

As a result, other nations have been enjoying higher rates of productivity growth.

Some of the resources for this public investment program can come from savings in defense spending. In hearings I recently conducted in the Appropriations Committee, a much respected former director of the CIA, William Colby, testified that we could still play a responsible role in the world and retain the world's greatest and most sophisticated military force with roughly half the annual Pentagon budget by 1997.

Such a proposal, which was endorsed by other respected defense analysts, could free up at least $150 billion in needed funds for our economy by 1997.

The measure before us will allow us to take such defense savings and make investments in our own domestic economy, and in our people, without increasing the deficit. The measure would simply allow this to happen 1 year earlier than it will happen under the present agreement. Surely, the demise of the Soviet Union, a long recession, and a slipping competitive posture are reasons enough to accelerate this action by 1 year.

This nation must adjust to the post-cold war environment. The size of our military establishment will shrink. No one disputes the need for an orderly drawdown, both in terms of force structure, strategic and conventional systems, and personnel.

The impact of this drawdown on active duty servicemen and women, DoD civilian personnel, and the civilian workforce employed by defense industries is of great concern to all of us.

But the Pentagon was not created as a jobs program and it is ill-suited to fill the role of an employment agency. It was not established to employ people. And I hope that we are not going to continue to fund the military just to employ people. Its purpose is to defend the nation, and that purpose may well be damaged if we saddle it with other concerns.

Nevertheless there is legitimate concern over how to transition people, industries, and communities into civilian roles and functions that strengthen our economic base.

There exists an excellent study—to which Senator SASSER and others have alluded—the first of two parts, by the Congressional Office of Technology Assessment.

This just issued report, entitled "After the Cold War, Living with Lower Defense Spending," should be read by all who are concerned with transition issues.

The key point made in this fine analysis is that, with careful planning and understanding, transition problems, can be managed effectively to strengthen our national economy.

Dire consequences need not ensue. This historic change is manageable.

My memory goes back quite a while. I can remember when Calvin Coolidge's work was considered over by noon. I can remember when Herbert Hoover put a telephone on his desk and created quite a stir. And he employed five secretaries, where his predecessors had only employed one. I can remember the end of World War I when 11 million men laid down their guns and came home. And so what I am saying is that the change that will occur after this builddown is manageable. It has been managed before, in my lifetime, in World War I, World War II, Korea, and Vietnam.

The OTA study concludes that the "current cutbacks in defense spending do not loom very large." Those are not my words. I am quoting from the OTA study. "The current cutbacks in defense spending do not loom very large."

The distinguished chairman of the Armed Services Committee has indicated that the defense savings from the President's proposal will mean a loss of 1 million jobs in the Defense Department and another 1 million in the defense industry by 1996.

The OTA study states that over the next decade overall jobs in the defense establishment might drop from the current 6 million in 1991 to some 3.5 million in 2001—an average of some 250,000 per year. While this is a substantial number, it represents only about 0.2 percent of the 119 million jobs in the U.S. economy in 1991.

Mr. SASSER. Will the Senator yield?

Mr. BYRD. I yield to the Senator.

Mr. SASSER. The distinguished Senator touches on the very excellent study done by the Office of Technology Assessment. The Senator will correct me if I am in error, but as I recall, that study took all of the counties of the United States.

Mr. BYRD. 3,137.

Mr. SASSER. I was confident the distinguished President pro tempore would remember the number precisely. I knew it was somewhere in the neighborhood of 3,000, but I could not be sure. But I knew he would remember it precisely—3,127 counties——

Mr. BYRD. 3,137.

Mr. SASSER. 3,137 counties, only 3 percent of them——

Mr. BYRD. 138.

Mr. SASSER. It would be 138—would be adversely impacted in a significant way by the reduction in defense spending that is expected to occur over the next 5 or 6 years. Is that an accurate statement?

Mr. BYRD. That is right. I believe, though, by my calculations—and they may be wrong—it would amount to about 4.4 percent. But I may be wrong.

Mr. SASSER. As a point of personal privilege, I am going to look that up, I say to my friend from West Virginia. I have a hunch that he is correct at 4 percent, but I am going to look and see. Because I may just be right at 3 percent.

Mr. BYRD. But even at that percent, even at 4.4 percent, the point of the Senator is well made.

Mr. SASSER. So, what we are saying is that this builddown, according to the Office of Technology Assessment, is not a significant problem when laid against other defense builddowns. As I recall the statistics that the distinguished President pro tempore was using there, we are talking about losing 250,000 jobs per year. I assume that includes, also, military personnel.

This comes in an economy which, at the present time, you have to lose 1,100,000 jobs just to tick up the unemployment rate 1 percent. So it is a significant factor to those who might be losing their jobs. But in the overall context, it is not going to have that adverse an impact on the economy. I think that is the point.

Is that not the thrust of the study?

Mr. BYRD. It is, as I understand it. It is the thrust of the study. That is not the whole thrust, but the study brings that out very, very clearly.

As I indicated a little earlier, the adjustment that we currently face is not as large as that which we experienced after the Vietnam war.

The study finds that there is room for optimism, and that there exist choices for Government policies that could both ease the ajustment and build a stronger foundation for an expanding economy and rising incomes.

According to the OTA report:

> There are possibilities for new public investments in areas ranging from environmental protection to advanced transportation and communications systems that could spur new technologies, support new business, and create new jobs.

Additionally, a large part of the reduction in manpower can be attained through normal attrition. The study finds that by 1995, the U.S. active-duty military forces will be 23 percent smaller than in 1990, and—

> because of the high rate of turnover, especially in the enlisted ranks, most of the reduction in manpower is likely to be accomplished through normal attrition—

Through normal attrition—

> combined with reduced levels of accession. Involuntary separations—

Said the study—

> Involuntary separations are not expected to exceed 100,000 or about 20 percent of total reductions.

Mr. SASSER. On that particular point, if the distinguished Senator will yield for just a moment, I understand that the report from the Office of Technology Assessment says that the planned reduction can be largely carried through by attrition.

Mr. BYRD. That is true.

Mr. SASSER. Yet, in the face of that, the distinguished Senator from Arkansas [Mr. PRYOR] indicated just the other day, I think, here on the floor of the Senate, that the military services were spending over $1 billion a year in advertising—in advertising—to entice new recruits to come into the military.

Now, I ask the Senator from West Virginia, does that appear to be necessary, to advertise to draw in new recruits, when you are complaining about having to put people out involuntarily; when the statistics show that you can meet the end-strength numbers just by attrition alone, letting those who normally do not want to renew their enlistments go?

What is the justification, then, for advertising to bring in additional recruits? I do not see the rationale for that.

Mr. BYRD. Neither do I. That is an anomaly. It is a juxtaposition of incongruous concepts. It does not make sense.

The larger problem is really with workers losing jobs in defense industries.

The loss in defense industry jobs could be as much as 1.1 million in the 4-year period 1991–95. But compare that to unrelated worker displacement in the recent 5-year period 1985–89. During that period, I say to my friend from Tennessee, some 9.2 million workers lost their jobs because of plant closings and relocations or for other reasons. Thus, the normal displacement rates in this recent period accounted for considerably more job loss than can be expected from the defense cutbacks that are coming, according to the report.

As for the effect on communities, while the national impact of defense industry closings is not particularly disruptive, the effect on some particular communities and some regions can be a cause for concern. We need to target these communities and allocate more transition assistance to those affected communities and to the conversion of defense industries to civilian uses.

That is why we need to transfer the money from the defense sales. How are we going to put these people to work if we do not have money with which to do it?

I know what it is for a community to be hit, as some will be expected, some 138 counties out of the 3,137 in the United States. I have been through that. And there are communities in Tennessee that have gone through it, also.

When I came to Congress 40 years ago, there were 125,000 to 130,000 coal miners in West Virginia. My dad was one of them. Today, there are less than 30,000. Still, they mine just as much coal, and more. But we have seen the hard times hit our communities. We have seen the windows be nailed up, boarded up. And we have seen the young people leave West Virginia, leaving behind the aged and the infirm, leaving behind those who feel that they cannot go elsewhere.

It was not too long ago we had 2,005,000 people in West Virginia. We have seen over 200,000 leave our borders.

Who shed tears then in this Senate, when I had my coal miners amendment up here and was talking about the loss of jobs that would come to States like West Virginia and other States in the Midwest as a result of the so-called clean air legislation? I stood on this floor and fought for that amendment, went from door to door to the offices of Senators here, urging them to vote to help the coal miners on that amendment. Some helped; but from some we got a deaf ear.

I did not hear any weeping and wailing when West Virginians were torn from their communities because of recessions; because of the coming of machinery. That was progress which could not be held back.

But when we talk about men and women losing jobs, I know something about that. You are looking at someone who comes from the hill country, where there are strong people, God-fearing people, law-abiding people, patriotic people. We still hold onto the old family values. And we have seen our people have to leave the State because they lost their jobs—forever.

Nobody shed any tears for us. But now our hearts do go out to those defense workers who will lose some jobs, and to the military personnel who will come home. Perhaps for some of them there will not be jobs for awhile. That is why we need to transfer some of the defense savings to domestic discretionary initiatives—so that those people can be put to work.

We need to begin to address these problems now. The programs for retraining and assistance that are in place need broadening and a more robust funding. How else do we expect to deal with those who lose their jobs? Are we going to close our eyes to funding the programs that will help them?

We must devise a roadmap for transition that will give our defense workers and our returning military personnel hope and help in planning for the future. The military industrial complex, to which President Eisenhower referred in his farewell address, has attracted some of the brightest of our people and developed some of our best technology. We cannot allow those precious resources to go to waste. They are vitally needed to breathe new life and vigor into our civilian economy.

One thing is clear. We have to plan now if we are to turn the corner on this transition and have a healthy economic future for our Nation. The longer we wait to fund the programs that will ease the transition and make it flow, the harder that transition will be on our Nation and its people.

I am distressed by the implications of this debate, couched in terms of "walls" and "caps". It is really a debate about whether or not the leadership of this country can come to grips with change. Can we open our eyes and face reality or will we just stick our heads in the sand and ignore events and make charges that Democrats "reneged" on the agreement?

I thought the Senator from Tennessee had a good rejoinder to that charge yesterday when he pointed out how certain votes were cast on the Kasten amendment. As I recall, that amendment proposed that the money—perhaps the Senator from Tennessee can best refresh my memory.

Mr. SASSER. I would be pleased to refresh the distinguished President pro tempore's memory. It is uncommon and rare that his memory needs to be refreshed.

Mr. BYRD. I saw the Senator rising to his feet, so I thought he could do it better than I.

Mr. SASSER. Just a moment ago, I walked away from the floor to determine whether the Senator from West Virginia was correct in the percentage of areas that would be adversely impacted by defense spending cuts or whether I was. The Senator from West Virginia was correct. It is 4 percent, and I was in error as to 3 percent.

But relative to the Kasten amendment, the Kasten amendment would have taken domestic discretionary spending, taken funds from the domestic discretionary accounts and used those to finance a tax cut. Now this would have been entirely contrary——

Mr. BYRD. That would have been breaking down the walls.

Mr. SASSER. It would have been breaking down the walls between taxes and revenues on the one side and domestic or discretionary spending on the other side, but even worse than that, I say to my friend from West Virginia, it would have destroyed the so-called pay-as-you-go mechanism in the budget agreement whereby we agreed if you are going to cut taxes or cut revenues, you have to find a way to pay for it on the revenue side.

So that was a destruction of the agreement, and if we wanted to use the term reneging, a term that I find offensive, quite frankly, if we wanted to use that term—and I would not accuse any Member of this body of reneging on the agreement—but certainly that term would be more appropriate in describing an amendment that would take funds from discretionary spending and use it for a tax cut in terms of the budget agreement. It would be a clear violation of it.

Mr. BYRD. I thought it a bit ironic that a Senator who voted to take down the walls in that case and remove the increase in taxes proposed for the very wealthy and use that to pay for——

Mr. SASSER. Actually, the Senator was, as I understand it, using funds that would be taken from the domestic discretionary spending.

Mr. BYRD. That is right.

Mr. SASSER. To provide for a tax cut. It may have been—I am not entirely certain—my memory needs to be refreshed as to precisely what the tax cut was.

Mr. BYRD. I think the domestic discretionary would have been frozen and the savings therefrom would have paid for the tax cut for the middle class and there would have been no increase in taxes on the wealthy. Perhaps that was the way it was. Anyhow, it would have resulted in breaking down the walls in that respect.

As the Senator from Tennessee has indicated, it would also have broken down the pay-as-you-go wall. I thought it was a bit ironic, as the Senator from Tennessee pointed out, for the Senator who so recently had voted to take down the wall, on the one hand, only yesterday was preaching the gospel of keeping up the wall.

Mr. SASSER. And I might say to my friend from West Virginia, this same Senator was one who voted against the budget agreement, could not bring himself to vote for it, but now extols the virtues and the discipline of the walls or limitation or caps in the budget agreement and does not think they should be violated. Is that not ironic?

Mr. BYRD. It is ironic and a bit funny. It reminds me of a Congressman who responded to the constituent who wrote to ask: "Mr. Congressman, what is your stand on whiskey? The Congressman wrote back and his letter went something like this:

> "DEAR FRIEND: I had no intention to discuss this controversial subject at this particular time. However, I want you to know that I do not shun a controversy. On the contrary, I will take a stand on any issue at any time, regardless of how fraught with controversy it may be. You have asked how I feel about whiskey. Here is how I stand on the question.
>
> "If, when you say whiskey, you mean the Devil's brew, the demonic scourge, the bloody monster that defiles innocence, dethrones reason, destroys homes, and creates misery and penury and poverty and takes the crust of bread from the mouths of little children; if you mean the evil drink that topples Christian men and women from the pinnacles of righteous, gracious living and casts them down to the bottomless pit of degradation and despair, shame and helplessness and hopelessness, then I want you to know I am certainly against whiskey with all of my power.
>
> "But if, when you say whiskey, you mean the oil of conversation, the philosophic wine, the ale that is consumed when good fellas get together; that puts a song in their hearts and laughter on their lips and the warm glow of contentment in their eyes; if you mean Christmas cheer; if you mean the stimulating drink that puts the spring in the old gentleman's step on a frosty morning; if you mean the drink that enables a man to magnify his joy and his happiness and to forget, if only for a little while, life's great tragedies, and the heartbreaks and sorrows; if you mean that drink, the sale of which pours into our treasuries untold millions of dollars, which are used to provide tender care for our little crippled children, our blind, our deaf, our dumb, our pitiful aged and infirm, to build hospitals and highways and schools, then certainly I am in favor of it."

So that purports to be the reply of a Congressman to a constituent who had written the Congressman to ask, "Where do you stand on whiskey?" As one can see, he stood for it and he stood against it.

It is amusing, therefore, to note how Senators will sometimes go back and forth on these things as they come up from time to time in this body. One will vote one day one way, and the next way the next day, and yet be able to explain it with all of the righteous feeling and passion in the world as to the correctness of his position on both occasions.

Mr. President, back to the pending motion, changing our course to reflect the new realities will not be painless, but a course correction is necessary and inevitable. I believe that the talent exists in this country to manage this change in a way that minimizes the impact on our veterans and on defense industry workers and allows for transition to the civilian economy in a way that benefits the Nation. It would be tragic to fail the Nation at this time. It would be tragic to admit that we, as leaders, do not have the vision to reorder our priorities.

Everyone in this body knows too well the national needs that are not being addressed. This is not some esoteric discussion about changing a procedure and breaking down walls. This is a vote about coming to grips with reality and making a simple change that will benefit the Nation's economy and its people. This is a vote which acknowledges that our major adversary in this world no longer exists. This is a vote that says now is the time to take defense savings and build up our economy and help our people.

Opposition to this measure may finally confirm the American peoples' strong suspicion that all common sense has left the Nation's capital. They have heard the same old song from Members who oppose this bill, the same old claim that all spending is wasteful unless it is essential, that there is too much Government, too much spending. Well, defense spending is spending, isn't it?

These are 30-second spot devices that got Ronald Reagan and a lot of other people around here elected. But Ronald Reagan is gone, gone home, and time has moved on. Meanwhile, the American people are waiting for leadership to help reverse the Nation's competitive slide.

They must be watching us with some dismay. They are watching the slow decline of their living standard, the erosion of the skills of the work force, the failure of the schools to prepare their children for the jobs of the future, the deterioration of public facilities and roads and bridges, the lack of adequate health care for both young and old, the loss of basic industries to other nations, the rise in crime, the loss of the dream of home ownership, and on and on and on.

Meanwhile, we dither here in the Chamber over "walls" and "caps" and "process." The spending caps have been useful and the process has been constructive in cutting from the deficits. But we need not totally destroy the caps and the process to make a course correction. We need only make a small change. We need only to allow some of the savings we can find in defense to go toward investments in this Nation.

I have no problem with also using some defense savings for deficit reduction if enough can be found. As far as I am concerned, we can cut $10 billion more out of defense and put it all in deficit reduction, but give us at least what we need out of that which has been proposed to be cut, to shore up our domestic discretionary initiatives so that we can provide the necessary investment in our Nation, the necessary investment in our people, part of whom would be those who would be losing their jobs from the defense establishment and from defense industries.

I have no problem, as I said, with that. I believe that if one is looking for pork to cut, then ample amounts of fat can be found in the defense budget. We have fattened the sacred cow of defense for over a decade, and I have voted to help fatten it at every opportunity. I supported the MX, the Stealth bomber, SDI, the Trident submarine, the Trident missile, the Midgetman, you name it. I have supported about all of the weapons systems and was practically the last man to get out of Vietnam.

I got a call from President Nixon yesterday. He was President of the United States when I was the majority whip. I offered an amendment on one occasion when my own leader, Mike Mansfield, was very, very much opposed to the war in Vietnam and spoke, I am sure, every week, at least once or twice, to express his opposition. On one occasion, when Nixon ordered the bombing of the Vietcong enclaves over the border in Cambodia, there was a great hue and cry that went up here from my side of the aisle, and I offered an amendment, as I recall, a motion or some kind of resolution, I cannot remember exactly what, but the thrust of it was that the Commander in Chief had a responsibility to do everything within his power to bring our American boys home alive—at such time as they came home—bring them home safe and not in body bags, and if it meant bombing the enclaves of the Vietcong across the Vietnamese border in Cambodia, so be it.

Well, my proposal lost. I was running upstream against my own majority leader, of course, and I lost. President Nixon called me that afternoon from Camp David and thanked me. He said, I thought that was a good thing you did. You lost, but you did what you thought was right. And so I got a call from him yesterday. He calls me from time to time.

He is my favorite Republican President in my lifetime—I did not say my favorite President—I said my favorite Republican President in my lifetime.

So I have voted to help fatten the sacred cow of defense, and I do not make any bones about it. But the world is changing. The map is changed. I cannot find the U.S.S.R. on the map anymore, and the cartographers have been as busy as the proverbial one-armed paperhanger with the itch, making new globes, new maps; and putting those aside and making new globes and new maps, as country after country has fallen off the map of the sprawling Soviet empire and become republics in their own right. The U.S.S.R. is no more.

Alaric was the king of the Visigoths, and in the year 410 A.D, he captured Rome. It was sacked and pillaged for 6 days. Alaric died that same year with disease. His army forced its captive slaves to divert the course of a small river; and they placed his sepulcher in the river bed and filled it with the spoils and trophies of Rome. Then they mercilessly massacred the slaves who had dug the grave on the spot. They rediverted the river so that it would run in its original channel, and to this day no one knows the secret as to where Alaric is buried. Mr. President, Alaric is gone.

Attila, the Hun, the "scourge of God," was defeated in 451 A.D. by Aetius, the last great Roman general, and Theodoric, the then king of the Visigoths. Theodoric was killed in the battle, crushed to death by the feet of the horses. The Battle of Chalons stopped the tide of Attila, the Hun.

The next year 452, he invaded Italy. And St. Leo went out to meet him, to talk with him. Attila was impressed by this saintly, godly man, and he turned his back on Rome and went away.

The next year, 453, he died. He had married the beautiful Ildico, the Hungarian, called Hilda in English, and after a great banquet he retired to his nuptial bed and he died that night.

The next day, the guards broke into the apartment and found the beautiful Ildico on her knees weeping by the bedside, horrified, and terrified as well. He was buried by his minions, buried in three coffins—inside a gold coffin, inside a silver coffin, and inside an outer iron coffin. He, too, is gone, Attila, the Hun.

Today, like Alaric and Attila the Hun, the Soviet Union is gone, disintegrated, and yet the President and the Pentagon say we cannot cut more than $43 billion over a 5-year period, $50 billion including the $6.6 billion in the fiscal year 1992 rescissions, making a total of $50 billion. Fifty billion dollars over the period 1992–97. Is that all we can cut?

But the President says we can cut domestic discretionary $122 billion over that same period in budget authority and $106 billion in outlays. Yet, domestic discretionary has already been cut, as I have said many times on this floor; has already been cut; cut to the bone, to the tune of $395 billion under inflation while defense in those same years, 1981–91, went up $624 billion over inflation and entitlements and mandatory went up $776 billion.

Mr. President, we have to take a hard look at that defense budget because resources are scarce, the economy is in trouble, and we are losing in the international economic olympics. Fortunately for us, our long-time major world adversary has collapsed. We have been given a reprieve, but the stand pat, status quo crowd is afraid to look ahead and seize the moment.

We cannot take an honest look at what our own country needs because there are some in this body and downtown who want to pretend that nothing is amiss in America and we can go on as we have; just go on and nothing is changed.

Mr. DOMENICI. Mr. President, I was going to ask the distinguished President pro tempore if he might have some idea, some of our Senators have been asked to go downtown—I wondered if he might give us some impression of how long he might be?

Mr. BYRD. I thank the distinguished Senator.

I have held the floor too long already. I will try to finish within 10 minutes.

Mr. DOMENICI. I was not trying to make the Senator rush. I wanted to give them an idea of where things were.

Mr. BYRD. I understand.

It is a sobering thing to contemplate how much we have become like our former adversary. The Soviet Union became a mighty military giant that siphoned all of its resources to feed the Goliath. It could not deal with change. It could not compete economically. It collapsed because of a huge inflexible military bureaucracy that, in the end, was not sustainable economically.

We are headed down the same road. If we cannot even agree to alter the budget agreement to reflect the earthshaking change which has taken place internationally with the collapse of the Soviet Union, so that a genuine debate can be had about this Nation's new domestic and national security needs, how can we claim to be leaders at all?

Why won't the administration admit the change that has taken place? For 40 years they have been living in a cold war, and they cannot face the prospect of living without it.

Epimenides was sent by his father out into the field to find a lost sheep. He turned off of the road and went into a certain cave and lay down and went to sleep. He slept there 57 years.

When he awoke, he thought he had just awakened from a short nap, and he went on looking for the sheep. Diogenes says that Epimenides came home to find his younger brother an old man.

Sometimes I think that those who cannot turn loose of the cold war, who cannot accept new conditions and new circumstances and a new world map, are a great deal like Epimenides. They think they have just awakened from a short nap, and are still in the cold war.

If all we can do in this body is recite campaign slogans about Government spending, how can we seriously claim to be addressing the needs of this Nation?

Yesterday, I heard one Senator claim that some Government spending was an attempt by Democrats to buy votes. The American people know a bribe when they hear one, and I don't believe they view education funding or health care as a bribe.

This measure will probably fail here in the Senate. But that will not be the end of the debate. We will likely put off this vital course change, but it cannot be put off indefinitely. For, if this transition is delayed much longer, we will be on the road to permanent national decline.

Fundamental change has occurred. We cannot hold back the tide. We must have the leadership and the vision to plan now. Tackling this challenge means diverting some of our scarce resources into investing in our domestic economy so that we can absorb the shock and help workers from defense-related industries and veterans become productive members of a strong civilian economy.

The age of military might as a determinant of world leadership has passed. The new age of economic might is upon us. Let us not pass up our opportunity to turn this corner because we are shackled to a process put in place before the world changed. We cannot afford to stand pat and hope that somehow the world will change back—the old age will dawn again, and we will not have to make these tough choices.

It is time for leadership. It is time to face our problems squarely. It is time to get going on rebuilding this country. We cannot do that if we remain imprisoned by the policies of the past. The first step is to make it possible to reorder our priorities by allowing a transfer of funds to the programs which can help our country grow. To fail to do that is to remain transfixed by the image in the rear view mirror.

The 20th century has been a century of military warfare among the great powers. The 21st century will be a century of economic warfare among the great powers and we are already losing. Now is the time to put the needs of the economy first.

Mr. President, I will hurry on to a close. I have kept my friend from Missouri waiting. Perhaps he will forgive me and appreciate this story.

Lev Nikolayevich Tolstoi wrote the story, "How much land does a man need." Tolstoi told the story of a man whose name was Pahom, a man who had land hunger, who added land to land and farm to farm, but could never get enough. One day, Pahom was told by a stranger about the Bashkirs who lived to the eastward in the Russian steppes. The stranger said the Bashkirs would sell the land at very low prices, and that he, himself, had just bought 13,000 acres of land for a thousand rubles.

Pahom sold his little farm, left his family in the care of a neighbor, and went east to find the Bashkirs. He traveled about 300 miles. When he came to the Bashkirs, a nomadic tribe which did not plant gardens, but which grazed their mares and their cattle and lived off of mare's milk and wild game and cheese, he talked to the chief of the tribe about buying land.

The chief told Pahom that he could have all of the land that he could cover in a day. Pahom asked, "How much is it per acre? What will you charge?"

The Chief said, "A thousand rubles a day."

Pahom said, "What kind of measure is that? You sell land at the rate of a thousand rubles a day?"

The chief answered saying, "It means that you can have all of the land that you can cover in a day for a thousand rubles. There is only one condition. You have to be back at the point from which you started before the sun goes down."

So Pahom thought, well, this is my chance. He went to bed that night, and could not sleep for thinking about all of this rich land that he was about to become the owner of. He lay awake all night.

When it was almost time for the sun to rise, Pahom went to sleep, and he dreamed in that short sleep that he saw the old chief sitting there in front of the tent holding his sides and rolling laughter. Then the old chief became the Devil himself with hoofs and horns and sitting there chuckling.

Pahom awakened and said, "Well, it is just a dream. I have to be on my way. The sun is coming up."

They went out together, the old chief and Pahom. The old chief put his fur cap down on the spot and said "Now you can start from here." Pahom put his thousand rubles down on top of the fur cap and started out at last to get enough land.

He had never seen land like this before. He carried with him a spade so that, from time to time, he could dig a little hole and put the turf back up. And then the old chief was to come along on a later day and plow straight furrows from hole to hole, and all of the land would be deeded to Pahon.

Pahon walked 3 miles, and his eyes glistened. The land was so level, it was as flat as the palm of his hand. It was as black as a poppy seed. It was virgin soil. He decided to walk 3 more miles before turning on the second side. By then he had thrown off his coat and only had his undercoat on. He had tied a flask of water to his girdle, so he took a drink from the water flask and went ahead and walked 3 more miles and then he turned sharply to the left.

The Sun became hotter and hotter as it neared the meridian. Pahon completed the second side and decided he would sit down briefly and rest. He drank more water and ate a piece of bread. He was tired and wanted to sleep, but he did not lie down for fear he might fall asleep. After sitting a little while, he went on again.

During the long afternoon, the Sun became still hotter. His throat was parched; his body ached. His feet were bleeding from the briars and stones, because the land had become more hilly, less level.

Then he saw the Sun halfway down to the horizon. Yet, he lacked 2 miles on the third side, and 6 miles on the fourth side of the square. Now and then he would lay down a marker by digging a hole.

As the Sun was sinking low, Pahon ran, leaning forward so that his legs could hardly move fast enough to keep from falling. He saw the Sun sinking lower and lower, and then down to the horizon. Then he saw the Sun half obscured by the horizon, and Pahom was running, gasping for breath.

He reached the foot of the hill from which he had started. He could barely see the chief and the Bashkir tribesmen standing there. They were yelling and waving, trying to cheer him on. And he was thinking: "Oh, my God; have I taken on too much? Am I going to die and lose it all?" It suddenly grew dark. But he remembered that at the top of the hill, they could still see the Sun. So he took a deep breath and ran up the hill. Just as the Sun went down, he reached forward and put his hand on the fur cap. Before it set the chief laughing and holding his side. Pahom remembered his dream, and he uttered a cry and fell to the ground. Pahom was dead.

His servant dug a grave for him with the spade that Pahom had carried as he went around the land.

The chief said, "I have kept my pledge. I promised him all the land that he could cover." The servant buried Pahom. Six feet from his head to his heels was all the land that he needed.

Tolstoi told the story of every life in which the love of material things and the greed for gain shrivels the soul and leaves the life a miserable failure at last.

I have used Tolstoi's story, "How Much Land Does a Man Need?" Simply to ask: How much money does the Pentagon need? Surely there can be more taken from defense spending and given to domestic discretionary. Let us invest in our country.

That is all we are asking here, that we begin now to use some of the spending for defense, and put it on our people—education, health services, job training; put it in our infrastructure, our highways, water and sewerage systems, bridges; create jobs for those who are going to lose jobs as a result of the end of the cold war; create jobs, increase productivity, improve our standard of living, and reduce the deficit because more people will be working and paying taxes.

Mr. President, I congratulate again the Senator from Tennessee. I do not think he will be successful in his effort today. But I do not think his work is in vain. He felt that the effort had to be made. And sometimes we have to march to a different drummer because we hear different music. When we hear different music, let us march to a different drummer. The Senator from Tennessee marches to his own drummer. Perhaps that will be the wave of the future.

I thank all Senators for their patience.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator from Missouri.

Mr. DANFORTH. Mr. President, I appreciate the eloquent speech of the President pro tempore, and the wonderful and informative and very interesting stories, particularly the Tolstoi story.

Mr. President, there really is not any doubt that we are going to be reducing defense spending below the levels agreed to in 1990. We will end up debating how much we will reduce defense spending, but there is no doubt that we are going to reduce it.

The President suggests that over a period of 5 years, defense spending will be reduced by $50 billion. Senator NUNN suggests that it might be $80-or-so billion. Congressman ASPIN speaks of $90 billion. Some of the people who were campaigning for President were saying maybe $100 billion spread over a 5-year period of time.

It is debatable how much we will reduce defense spending. But there is no real debate that we will be reducing defense spending.

The question is, What do we do with what is saved? What do we do with the amount by which defense spending is reduced?

There are three alternatives that have been offered. One option, and the option that is presented by the legislation that is now before the Senate, is that we spend it. This is money which, according to this reasoning, is going to be sloshing around somewhere in the Treasury of the United States, and we should take the money, whether it is $50 billion or $80 billion or $100 billion over a 5-year period of time, and we should spend that money. There are things we want to spend it on.

Another proposal that is made, particularly by people on my side of the aisle, is that no, we should take this money—$50 billion, $80 billion, $100 billion—and we should cut taxes by that amount; we should cut people's taxes. That is a proposal.

And then the third option is that whatever the peace dividend is, we should not spend it and we should not use it as a tax cut. We should use it to reduce the deficit in the Federal budget.

Mr. President, that would be the alternative favored by this Senator. I have no illusions that that will be the alternative least favored by the U.S. Senate.

I do not think that there is any possibility of exaggerating our ability to deliver good news to the American people, particularly in an election year. And the good news that we can deliver to the American people is that we have something, a little cache of dough, and that we are going to give it to them. We are going to give it to them either in the form of more spending, the proposal in this legislation or, in the proposal that some Republicans have advanced, we are going to give it to them in the form of a tax cut.

Those are two very attractive alternatives in an election year: "People of America, Washington has something new to give you. We have more spending for you for your favorite program or we have lower taxes for you. Isn't that good? And if you agree that it is good that we will spend more on you or that we will reduce your taxes, will you not please return the favor by voting us back in office?"

So we talk about the peace dividend, $50 billion, $80 billion, $100 billion over 5 years, a peace dividend that we are going to give out.

And with respect to increased spending, various groups have fanned out around the Capitol asking for their share of the peace dividend. The Governors, the mayors, educators, transportation specialists, these groups and others have been walking the corridors of the office buildings here surrounding the Capitol, pressing upon each one of us their needs—"We want the peace dividend spent on us."

Mr. President, I would only say, what peace dividend? Where is the peace dividend?

The distinguished Senator from West Virginia, now occupying the Chair, knows that between 1990 and 1995, the Federal Government's share of the health care bill in the United States is going to go up $100 billion. And we are talking about $50 billion to $100 billion over 5 years in a peace dividend. Where is the peace dividend? Where is the money that is burning a hole in our pocket? And that is what the advocates of either the tax cut or the spending increases are suggesting—burning the money. What money is there to burn? How do we burn a vacuum?

It is said, "Well, we have to improve the country, we have to improve the economy by spending more."

Mr. President, I do not believe that the problem of America is that we in

Washington are not spending enough, and I do not believe that the problems of America are going to be solved if only we spend a little more on everybody's favorite program. I believe that the problem of America is the deficit in the Federal budget. I cannot imagine how we can discuss talking about spending more or cutting taxes when the national debt is advancing toward $4 trillion and when the deficit in the budget is $400 billion this year. How can we talk about an election year gift to the American people when we are broke?

A couple of days ago, one of the best Members of our body, Senator RUDMAN, announced that he was not going to seek reelection. He used his announcement as an opportunity to talk about the problem of the budget and our incapacity in dealing with it.

Senator DOMENICI mentioned some time ago that a number of us on this side of the aisle are talking about what to do about entitlement programs and is there some mechanism that we can put in place to rein in the growth of entitlement programs. It is pointed out that entitlement programs are the lion's share of the Federal budget and that they truly are uncontrollable, they are out of control, and we have no mechanism for dealing with entitlement programs. So, thanks to Senator DOMENICI, especially, we are beginning to talk about some sort of method of controlling programs.

But no sooner is that suggestion put forward than people are saying, "Wait a second. Not now. No. Wait until next year. Let us not talk about controlling the entitlement programs because this is an election year and we do not want to offend anybody by talking about the entitlements. That is too risky politically. We want to get through the election. Wait until next year."

So I am sure we will wait until next year to deal with the entitlements. I am sure we will wait until next year to deal with a tax system which now rewards consumption and penalizes savings and investment. I am sure that we will wait until next year because it is too unpopular politically to deal with the entitlements, to deal with the problems of the tax system, to deal with health care cost control this year. We will wait until next year. And next year people will say, "Well, wait a second. Let us not do it yet because an election is coming."

An election is never more than 2 years away in Congress. I have never seen more discontent in the minds and the voices of my colleagues in the Senate than I have seen in recent days. I have never seen more Senators express discontent with their jobs.

I have been thinking about the reason for this. Why is it that so many of our colleagues in the Senate are expressing unhappiness about serving here?

I think there are a couple of reasons for it. The less significant reason is that nobody likes to be criticized and nobody likes to be tarred with the brush of check bouncing and whatnot. Nobody likes the pundits and the press to just heap criticism on him all the time. No one likes that. We are human. We get upset. Undoubtedly the relentless criticism and various scandals and various complaints on the part of the public get under our skin. Maybe that is a part of the cause of discontent. But I do not think it is the major cause of discontent.

I think the major cause is that deep down in our hearts we believe that we have been accomplices to doing something terrible and unforgivable to this wonderful country. Deep down in our hearts we know that we have bankrupted America and that we have given our children a legacy of bankruptcy.

We have been so intent on getting ourselves elected that year after year we have put off the hard issues and year after year we have told people that they get their choice between more benefits and lower taxes.

We have done even more than that. We have gone to people and said, you know the great issue is fairness. You have been treated unfairly; you, the American people, are treated unfairly. You are asked to do too much. The burden is too heavy on you. We do not listen to you. If we listened to you we would not treat you so unfairly.

Do you know what is unfair? Your taxes are too high. Your benefits are too low. You are asked to shoulder too much of the burden. That is the basic message we have given to the American people. You should feel sorry for yourselves. You are Americans. Is that not pitiful? Your burden is too heavy.

This is the first generation in the history of this country that has wanted to take more out of it than it is given. We can continue this. I do not have any doubt about it. We can continue to do this. We can continue on this course. We can continue to say, get us through the 1992 election, it is a Presidential year, and what is more, Senator So-and-So is up for reelection this year. Get us through, no hard choices this year; then 1994, 1996. We can go on, I am confident, for the rest of the terms of everybody now serving in the Senate at least one more time, because we have found some other person, some other group of people to hold the bag: Our children. Let them worry about it.

That is the reason for the discontent in the Senate. It is not that we have been criticized. It is not that we have been tarred by somebody else's brush. It is not that we have to pay money to get in the Senate gym, or whatever the reforms are supposed to be. What trivial little things those are. Who cares a hoot about them?

The problem is that we have hurt America—quite intentionally we have hurt America, for the purpose of getting ourselves elected.

We have told Americans that they should feel sorry for themselves. We have told them we can give them something for nothing. We have told them we can reduce taxes and we can increase benefits, and the numbers do not add up, and people want to believe that this is not a real problem.

If only corrupt people were not around, this problem would go away. If only incompetent people were not around, that problem would go away. If only we did not pay Members of Congress so much, that would free up the money and we could have everything. If only we did not have foreign aid, then we could spend the money. If only we could reduce defense spending, then we could spend the money. If only we did one thing after another we would be able to spend more on us and pay less taxes.

It is a fraud. It is a fraud. We have defrauded the country to get ourselves elected. This is a terrible bill on the floor of the Senate. This is a giveaway, nothing bill. The tax bill was a terrible bill.

I compliment my friend from New Mexico for his willingness to address the problem of the entitlements. I hope there will be a few of us who will be willing to tell the truth and to make some hard votes, even if we lose. If we cannot get reelected on such a basis, what is the point of serving?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I know the distinguished majority leader, or Chairman SASSER, want to discuss how much longer we need. I am more than willing to do that. I would like, while we arrange that, and I assume that is being done, to just take a couple of minutes to talk about two things.

First I want to thank the distinguished Senator from Missouri [Mr. DANFORTH] for his splendid remarks. Frankly I do not deserve the gratitude but I will tell him that I do intend to take up his admonition. I do not want to leave the U.S. Senate, whether it be a 4½ years from now or 5 when this term is up or whether I am elected again to serve another 6 years, God willing—I do not want to leave this place with the legacy that is upon our children, the legacy not only of the past debt, the deficit that is the debt, but we are about to enter into another decade of even bigger deficits and a bigger debt.

Mr. President, if we do not solve the problem of the mandatory expenditures, the so-called entitlement programs, save and except Social Security which is now being paid for and is only going up by inflation—if we do not solve the other ones, there is, indeed, a real probability that the annual deficit, I say to my friend from Missouri, could reach $1 trillion shortly after the turn of the century; the annual deficit, not the accumulated deficit, which was only $800 billion. Twelve years ago, for all of our history, it was $800 billion. We are going to be accumulating $1 trillion a year because the current $450 billion in entitlements is going up that fast.

I have to say in all honesty—the Senate has to know it, the public has to know it—it is lead by health care costs. We are kidding ourselves if we think we can continue the health care programs in our country that we have had in the past and just put some more on to take care of some more people. Medicaid alone, covering a small portion of America's poor, went up 30 percent in 1 year in the U.S. budget. And there does not seem to be very much diminution in that.

The one point I want to make is that we are going to find a way, I will find a way to suggest getting entitlements under control. I hope it becomes a real commitment to save our children. We hear a lot of slogans about saving our children. I literally believe the Senator from Missouri is right. The real saving of our children is to save them from bankruptcy of the greatest country on Earth and a life without opportunity because it will be stagnant because we already will have taken all the life out of it because we have to pay the debt that we incur.

I am hopeful the American people are going to understand when we say it cannot be like it is. Some things have to change. There will be some who say it does not because they will think we can do it with defense savings or they will think we can do it by raising taxes. Before we are through, I am hopeful we will convince everyone in this Senate that we cannot pay for the future cost of entitlements by defense savings or raising taxes on Americans because there are not enough defense savings to do the job and there are not enough taxes around without telling the current Americans to quit working because we would have to raise the taxes so much that there would be nothing left for people to work for. That is point No. 1.

Point No. 2, my good friend and able chairman, Senator BYRD, discussed some of the current shortcomings in the American lifestyle and the marketplace of America day by day for her people in terms of jobs, productivity, and standard of living. He listed them all and said all of them are on the down side in America and suggested we ought to fix them. But I do not want to leave the RECORD or anybody listening to the Senate today with the idea that Senator DOMENICI is not for improving those or fixing them. Believe you me, I am. In fact, the only reason I continue to serve is because there is a faint ray of hope that we might do something constructive about that. But I submit, any inference or any statement direct in nature that says we will fix those if we spend defense money on the current list of domestic programs has to be, to borrow from my friend, a fraud.

Mr. President, we are spending money on all those domestic programs right now. We are spending 16 percent more this year on those programs than we did the year before. The 2 years are a growth of 16 percent, and all of those things that the distinguished chairman spoke of continue to come down. One must conclude spending money on that litany of American domestic programs is not the answer to America's productivity, to our standard of living.

To sit here and say if we take it out of defense and put it there, we will do all these wonderful things for America—let me just say as one Republican, I have not seen any plan from that side of the aisle as to where they would use the defense money that I truly believe would be constructive for America's rehabilitation on the economic side. Not one. It is just more of the same, none of which has worked.

So I close by saying that this provision before us is not an issue about how much we should cut defense. Have at it, Senate. Have at it, House; cut defense all you want. This firewall does not have anything to do with that; this cap has nothing to say about that. Cut it all you want, and maybe the President will sign the bill.

All this cap says is if you save money, you do not spend it. That is all it says. What you save in defense you do not spend—that is all it says—it goes to the deficit. If you want to work on a long-term solution, let us talk. Let us get the President in on it. Let us talk about the next 2 or 3 years of defense. Let us set some new caps, and let us even talk about maybe splitting some of the savings here or there or with domestic in order to get this problem of defense versus domestic solved.

I am not prepared, and I have to tell those who want something like tearing down this wall, the Senator from New Mexico is not prepared to put the defense of the United States in the same pool competing with all of the domestic programs in an era when we are hell bent to cut defense. Defense will not survive. It will literally be annihilated year by year as we grab-bag it for every program around.

I know that does not sound very good as a description of American domestic programs, but I assure my colleagues there are many that do not deserve the mantal of immortality that we vest them because we never get rid of any of them. They all grow. We think they are working, and we know they are not.

So with that, this issue is one of fiscal responsibility. It is not one of how much we should cut defense because you can cut it all you can get by with legislatively, and this cap has nothing to do with that.

I note that the Senator from Georgia is on the floor. Perhaps it is time to enter into an agreement as to how much more time we will talk. And with that I will be cooperative. I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I certainly have no objection to some kind of time agreement if the chairman and ranking Member would like to do that or interrupt me at any time. I will be glad to yield for that purpose.

Mr. President, the Senator from New Mexico is absolutely correct in his wrap-up statement that you can cut the defense budget all you want under the present law. You do not have to remove the caps in order to cut the defense budget. This bill is about what you are going to do with the money from the defense cuts once you make those cuts, whatever they are, whether they are $1 billion in fiscal 1993 or whether they are zero in fiscal 1993 or whether they are $5 or $10 billion. Under the present law, those cuts, whatever they are, would go to reduce the deficit. The object of this bill is to shift that money to domestic expenditures.

Mr. President, I oppose the legislation to eliminate the so-called firewalls between defense and domestic spending contained in the Budget Enforcement Act. These walls were designed to help us control spending and help us reduce the deficit. Right now any savings in defense spending below the cap goes to deficit reduction.

Mr. President, as the Senator from New Mexico just said, perhaps we should have a negotiated agreement about some portion of defense cuts going to certain domestic programs that would be chosen by the entire body. Perhaps we should have that discussion. If there are certain high priority domestic programs that could boost our economy while it is in recession, then I say, fine; fine, but at the same time, we ought to recognize that if this becomes a habit, what we are doing, in effect, is using the defense budget to avoid the tough decisions on the other parts of the budget.

If this bill were coupled with a proposal to do something about the entitlement programs, even if there was a delayed trigger on that for 2 years or 3 years or 4 years or 5 years, then it would be a different kind of proposal.

If this proposal were coupled with some domestic expenditure cuts, programs that are not high priority and then the savings from the defense plus those savings were going to a combination of deficit reduction and increased expenditures for things like infrastructure that will boost the economy and productivity, this would be a different bill.

That is not what this bill does. This bill simply takes the cap off defense and says we are going to put this over into the domestic accounts and we will tell you later what we are going to do with it. We will come up with the expenditures and we will let all of you know later what they are going to be.

Mr. President, if we take down these walls tonight or tomorrow or whenever we vote, without strict limits and without further agreements, every penny in savings from defense reductions will be consumed by increases in domestic spending, and that is not only likely to happen in fiscal year 1993, that is likely to happen next year and the year after and the year after and the year after. We will wake up in about 4 years, and we will not have done one thing about the programs that are really growing, and those are the entitlement programs.

Mr. President, what we have here is pitting defense against domestic and that is a false contest. Both defense and domestic discretionary are being restrained—defense coming down, domestic discretionary growing certainly in the last 2 years by a very large amount. But over the last 10 or 15 years it is true that that account has not grown appreciably.

Mr. President, I think it would be a serious mistake to pass this bill. I think it would set a bad precedent. The 5-year deficit is now projected to be, as I understand it, about $1 trillion higher than called for under the budget summit agreement just 18 months ago. Maybe that is not the right figure, but it is astounding how big it is. If we take the walls down without addressing the underlying fiscal problems, particularly entitlement programs, we will be making a bad mistake.

Mr. President, if we pass this amendment tonight, the defense budget will become the equivalent of the House bank, and I am afraid it will not be for 1 year, I am afraid it will be for a long time to come.

We have heard a great deal about the need to cut defense spending during this debate. I want to remind my colleagues one more time that we can reduce the defense budget as much as we want to this year, and I will have something to say about that later and certainly I will be part of that debate.

We can do that without changing the Budget Enforcement Act in any way. The President has already done that in his proposed 1993 budget. He has proposed we reduce defense spending by $7.5 billion in budget authority and $4.9 billion in outlays below the caps. We should and must debate the proper level of defense spending but we should not pretend that defense reduction will not occur unless we pass this bill. That is not true.

Mr. President, our No. 1 priority in the long term—I am not talking about the short term with a recession going on—but in the long term, our No. 1 economic priority should be to increase the savings and investment and productivity of our country—and they all go together. But the way you have to start that is by reducing the Federal deficit, not for 1 year or 2 years but for 7, 8, 10 years.

We have to increase savings. But unfortunately the savings of our Nation are being consumed by the deficit of our Nation. The Federal deficit is sucking up about two-thirds of the savings of our Nation now.

What that is doing, to put it in terms that the average person out there can identify with, is reducing the investment our Nation is making in plants and equipment and tooling to make our workers more productive, and what that is doing is reducing the productivity of American workers, and what that is doing is making our goods less competitive abroad, and what that is doing is not only costing jobs, it is also costing real income increases. Incomes are being held down, and really have been held down for years, now with every little increase in the average person's wage.

Mr. President, it all ties back to the deficit. That is not the only problem in our economy. There are many other problems. We certainly are not going to solve them all by reducing the deficit, but if we do not do something about the deficit, then the other solutions are being somewhat illusory.

Mr. President, since 1980, the Federal debt has tripled. Our annual Federal deficits now consume about two-thirds of total amount that individuals and firms in this country save every year. And even those savings rates are much too low. This flood of Federal borrowing competes with every American business that would like to borrow and modernize and expand, raising interest rates for both business and Government.

The deficit is also crippling the Government's ability to react to crisis and opportunities at home and abroad. It has severely limited the possibility of using fiscal policy to combat the recession we are now in. It is difficult to find the new funds for national needs that are high priority needs, whether it is better education for our youth, whether it is skilled training for our young people who do not go to college, or whether it is better health care for 37 million Americans presently without insurance, or whether it is helping nations that are now struggling towards democracy and market systems in Eastern Europe and the former Soviet Union. If these nations do not make it in their struggle for democracy and their struggle for human rights, we will be spending hundreds of billions of dollars in the future to defend against the result of that kind of development.

That is the subject of another day's debate.

Mr. President, the history of budget agreements tells us there is only one guaranteed result of a change in the budget deal, and that is to increase the deficit. Ever since the Gramm-Rudman-Hollings law was enacted in 1985, every revision that I know anything about, every new budget deal, has eased up on the short-term deficit targets without doing anything about the long-term deficit and kicked the date for eliminating the deficit down the road.

Mr. President, in this economy, with this recession, I could even go for an increase in the deficit in the short term if we were doing something at the same time in the same bill, in the same law, about the long-term deficit. But we are not. And that is the problem with this proposal.

Mr. President, in 1985, the original Gramm-Rudman Act was supposed to guarantee a balanced budget by fiscal year 1991. The actual 1991 deficit was $268 billion. In 1987, the second version of Gramm-Rudman proposed to eliminate the deficit in fiscal year 1993 instead of in fiscal year 1991. The projected deficit in fiscal year 1993, is now $350 billion.

In 1990, it became clear that no matter how phony the economic assumptions were, OMB's assumptions or anyone else's assumptions, the 1991 deficit target could not possibly be reached without a massive sequester under the Gramm-Rudman-Hollings procedure.

That is what gave rise to the budget summit between the administration and Congress, and then new targets were set under that kind of pressure. Needless to say, once again we are nowhere near meeting the targets beyond the first year of the agreement.

Seven years after the enactment of the original Gramm-Rudman-Hollings legislation, we are spending over $1 billion a day more than we are taking in at the Federal level. Of course, the recession has played a role, it has played a major role since the enactment of the budget legislation. But the underlying problem is structural, and the underlying problem will remain even when this recession is over, hopefully, in the not too distant future.

Mr. President, I think we all know that the major cause of our deficit problem is what we call mandatory or uncontrollable spending—entitlements and interest on the debt.

I do not have charts here today, but I will be displaying those during that budget debate and I am going to make it absolutely clear during that budget debate what has happened not only in the last 2 or 3 years, the last 12 years, but what has happened in the last 25 years.

According to a recent study by the Congressional Research Service, over the past 25 years spending on social welfare programs, the entitlement programs, Medicare, Medicaid, AFDC, has increased by an average of 6 percent per year or $21 billion annually in constant 1991 dollars. Spending for interest on our growing national debt has increased by 6.7 percent a year, an increase of $6 billion per year in constant dollars.

These are the so-called uncontrollable parts of the budget. But we had better redefine that term. If we do not control them, they are going to continue to control us.

The nondefense discretionary programs—transportation, energy, science, foreign aid, and so on—have increased by 2.2 percent annually for the last 25 years, an increase of $3 billion per year in constant dollars.

And according to this CRS study, the smallest increases over the past 25 years have been in defense, with an annual average increase of only 0.6 percent, an increase of only $2 billion per year in constant dollars.

In testimony before the Governmental Affairs Committee recently, Mr. Bowsher, the Comptroller General, gave a graphic example of runaway entitlement costs. He pointed out the Federal outlays for health care have increased by a whopping 185 percent in real terms since 1980, far outstripping any other category of outlays from the general fund.

During the same period of time, where health care went up 185 percent, defense spending went up 29 percent. That includes the buildup in the Reagan years, which was very large in the first 5 years of the Reagan administration.

Mr. President, this explosive growth in health care costs is also pinching the private sector. Earlier this week, I met with a group of small businessmen from my State of Georgia. One of them explained that the average salary of his workers is about $25,000 a year, and that they are currently having to pay, counting what the employer and employee pays together, $3,700 a year for their group health insurance.

He has calculated that his employees' wages have been growing at about 4 percent a year in the recent past, but that the cost of health insurance to his employees has been going up at the rate of 22 to 26 percent a year. Based on these growth rates, he calculated that his average worker in 2003—that is 11 years from now, in 2003—his average employee would be making $38,485, but would have to spend, based on the growth rates, $39,429 for his health insurance. In other words, the cost of health insurance would exceed the employee's total income.

Mr. President, unless changes are made in this growth of our medical costs in America—including but not limited to the Federal budget; and also including the State budgets—not only will the State and Federal Governments be broke, but so will the average-income American family.

Finally, as entitlements increase our national debt, the cost of interest on this debt also increases. Interest on the debt has grown by 146 percent since 1981 alone in constant dollars. Within another year or two, interest on the debt will exceed the whole defense budget, just as it already has grown in the last decade to exceed the total amount of the discretionary domestic spending.

CONTRIBUTION OF DEFENSE TO DEFICIT REDUCTION

Defense cuts represent about 40 percent of the savings in the budget agreement, when their fair share of the interest savings is included. In fact, without the $180 billion in defense cuts, the budget summit agreement would not have been possible. These defense savings are the only savings in the budget summit agreement that are actually being delivered. The revenue increases and entitlement cuts have been swallowed up by the recession, by technical changes to revenue estimates, and by the usual higher than projected costs of the entitlements.

DEFENSE BUDGET REDUCTIONS PLANNED AND UNDERWAY

Mr. President, this debate is not about what the proper level of defense spending should be. But if people want to debate the defense budget today, I am prepared to make some comments on that subject too.

There is a widespread perception in the Congress and among the American people that the defense budget has not been reduced in response to the changes that have taken place in the world. I want to set the record straight on this point.

The reality is that the defense budget has actually been reduced in real terms every year since fiscal year 1985, the peak year of the Reagan buildup. From fiscal year 1985 through the end of the current fiscal year, defense spending will decline by 25 percent in real terms. By fiscal year 1997, the cumulative real decline in defense budget authority will total 37 percent—a reduction of more than one-third in real terms.

THE PEOPLE OF THE DEFENSE ESTABLISHMENT

Earlier this year, Gen. Colin Powell testified before the Armed Services Committee that "A million people, civilian and military, will be released from the rolls of the Defense Department by 1996." That is 1 million jobs lost, just in the Department of Defense.

The Armed Services Committee has received a great deal of testimony about the turmoil and concern among the military members, Defense Department civilians, and defense industry employees that make up the Defense Establishment. There was a great deal of concern recently when General Motors announced the layoff of 74,000 people over the next 3 years, and this concern was very appropriate. During the current fiscal year, the Army alone will release a total of 154,000 people from active duty, and draw down their total strength by 70,000.

The employment picture in the U.S. defense industry is also bleak. A study by the Defense Budget Project last August predicted that private sector defense industry employment would decline by over 800,000 jobs by 1986 as a result of the defense spending reductions in the budget summit agreement. With the additional program terminations in the amended fiscal year 1993 budget request, the total loss of defense industry jobs will top 1 million. Added to the loss of Defense Department jobs this represents 2 million fewer jobs in the next several years.

FORCE STRUCTURE REDUCTIONS

What do the personnel reductions in the Department of Defense mean in terms of our military capability?

Today we have fewer troops on active duty than at any time since the Korean war, and the military services are going to get a lot smaller over the next several years.

U.S. forces are coming home from overseas. During the 5 years covered by the budget agreement, 1990 to 1995, overseas troop strength in Europe and the Pacific will be reduced by 200,000 under the administration's plan—a reduction of 40 percent.

The administration's long-range plans call for leaving 150,000 U.S. troops stationed in Europe. In my view, this level is excessive and can be reduced. But in the near term, I don't think it is physically possible to withdraw our forces from Europe any faster than we are doing in fiscal years 1992 and 1993. However, that doesn't mean that we have to stop at the level of 150,000 that the administration wants in 1994 and 1995, and I don't think we should or will, assuming current world trends continue.

Mr. President, right now we are on a glide path to reduce the size of our military services to historically low levels undreamed of just 2 or 3 years ago. These reductions are an appropriate response to the demise of the Warsaw Pact and the disintegration of the Soviet Union. But we must bear in mind that the current pace of these reductions is taxing the services almost to the breaking point over the next several years.

PROGRAM TERMINATIONS

Deep reduction are also being made in Defense procurement programs. Dozens of major weapons programs have been terminated in the last 2 years. The procurement request in the fiscal year 1993 defense budget is 40 percent lower in real terms than the fiscal year 1990 level.

Many of these program terminations are justified by the changes that have taken place in the world. We simply don't need to produce as many weapons as we did when we confronted a formidable adversary on the other side of the Iron Curtain. But the impact of these reductions in Defense procurement is already being felt on production lines across the country, and this impact is going to get significantly worse in the next 2 to 3 years.

BASE CLOSINGS

Another painful indicator of the downsizing of our defense establishment is base closures. The first base closure round in 1988 closed 16 major bases and closed or realigned activities at 84 other sites. The base closure package approved by the Congress last year closed 34 major bases and realigned 48 others. There will almost certainly be additional base closures in 1993 and 1995 under the base closure process set up by Congress 2 years ago.

So Mr. President, to those people who say we haven't reduced the defense budget or we aren't reducing the defense budget fast enough, I say: go ask the men and women serving in uniform today whether the defense budget is coming down; go ask the workers on defense production lines facing the prospect of losing their jobs how they feel about the peace dividend; go ask communities losing military bases whether we should speed up the reduction in defense spending; go ask the National Guard and reserve units in your local communities how they feel about defense cuts. I think all of these groups will tell you that there are real and substantial changes taking place in the Defense Department, and that the process of restructuring our defense establishment in light of the changes in the world is already underway.

THE FISCAL YEAR 1993 DEFENSE BUDGET

Earlier this week I sent a letter to the chairman and ranking minority member of the Budget Committee with my recommendation for defense spending levels for fiscal year 1993 and the next 5 years.

Based on my review of the defense budget reductions currently underway, I concluded that we should not make significant reductions to the overall level of defense spending requested by the administration for fiscal year 1993. I also concluded that the defense budget can be reduced by $80-$85 billion, including the fiscal year 1992 rescissions, below the budget summit baseline over the next 5 years, or $30-$35 billion below the administration's fiscal year 1993 request for the next 5 years.

Let me finally say, Mr. President, we are not going to solve the medical problem here tonight. These are complicated, complex, important popular programs, Medicare and Medicaid. But if we do not start doing something about them, it does not matter what we do in defense spending, and it will not matter what we do on domestic discretionary. This Government cannot continue to function in a sound fiscal way—or cannot function in a sound fiscal way. I would strike the word continue, because we have not done that in a long, long time.

Mr. President, let me conclude by saying that while I believe the level of defense spending recommended by the President for fiscal year 1993 cannot be significantly reduced, the debate today is not about the size of the defense budget. The defense budget, and the changes in the Soviet Union, are a side issue being used as a diversion from the real issues.

We have not heard much about the real issues. I have not heard how the proponents of this legislation discuss reductions they propose to make in any other part of the budget. I have only heard about reductions in the defense budget.

Deficit reduction is the real issue and restraint in the growth of entitlements is the key to deficit reduction. This bill will not help us reduce the deficit. It will have just the opposite effect, in my opinion, and for that reason I oppose it.

UNANIMOUS-CONSENT AGREEMENT

Mr. MITCHELL. Mr. President, I would like to propose to the managers that the vote occur at 6:40, and that the remaining 20 minutes be equally divided between the distinguished chairman of the Budget Committee and the ranking member of the Budget Committee. I am going to propound that now as a unanimous-consent request.

Mr. President, I ask unanimous consent that the vote occur at 6:40, and that the time between now and then be equally divided under the control of Senator SASSER and Senator DOMENICI.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. I thank my colleagues.

Mr. DOMENICI. I thank the majority leader.

Mr. SASSER. Mr. President, I think we ought to indicate one more time, so that everyone will understand what this legislation is all about. It does not increase the deficit by one penny. It does not allow one additional dime of deficit spending. All of these deficit statistics are irrelevant to the relatively simple proposition that we are seeking here, simply to give the U.S. Senate, if it wishes to, the option to shift funds from defense to vital domestic needs.

The truth is that the defenders of this military spending know it cannot survive in this world of reality unless you surround it by a fence. They do not want the democratically elected representatives of the people of this country to have anything to say about it, because they know they will represent the wishes of their constituents. And their constituents say it is time to cut out all of this military spending, apply some of it to the deficit, and yes, use some of it for long neglected investment in our own country.

That is what it is all about. There is no question about it. There is a lot of talk about the deficit: Oh, the deficit is exploding; oh, we have got to control health care costs; it is all the fault of entitlements. Sure, entitlements are going up. But make no mistake about it, Mr. President, entitlements are a cover word for Medicare and Medicaid and Social Security.

The distinguished Senator from Georgia at least was frank enough and honest enough to say what we are talking about when they talk about entitlements. They are talking about Medicare and Medicaid, and there has been an explosion of growth in those, in the public sector and in the private sector. Some of the same people who point a finger at the growth in those programs are the same ones that vote against hospital cost control and vote against things to try to control hospital and medical costs.

The solution to this is long and is complex, and time is limited. So I am not going to get into it this evening. We will debate that at another time. But those who are committed to continuing to keep military spending at an unrealistically high level are now seeking to divert the attention away from that excessive spending and trying to send those who want to meet the long neglected domestic needs in this country, chase them down the rabbit track of trying to get the money from so-called entitlements.

Yes, entitlements have to be dealt with. But let us reduce some of this excessive military spending.

During the past few days, Senators have commented that it is really just special interests that support this measure to bring down the firewalls between military spending and domestic spending. I find those comments interesting.

Are they suggesting that a teacher who wants to have more funds invested in education somehow is wrong; that that is a special interest that we ought to ignore? If you are a health professional, and you want to see more resources going to health research, is that a special interest? Somehow is that wrong if you want to put more resources into finding a cure for cancer, Alzheimer's disease, or something like that?

Is that a special interest? If you are concerned, as the Senator from Minnesota so eloquently stated here this afternoon, about providing low-income home heating assistance for people who are living on the edge of poverty in States like Maine or Minnesota where it is much, much colder than my State of Tennessee, are you representing a special interest when you represent those people? How about the mayors and Governors who have called in here in support of this bill and written in; are they representing a special interest? I think not. I think they are representing American citizens who have a right to have their views expressed.

The mayor of the city of Atlanta testified before the Senate Budget Committee in favor of this principle, saying that something has to be done about the cuts that the cities have taken over the past 12 years under the Reagan-Bush administration, that the cities are falling down around our ears, criminality is rampant, the jails are full, and they cannot build enough of them.

What do the mayors say? Here is a letter from the mayor of Portland, OR. He wrote it himself. His name is Bud Clark. I do not know him. I think he is a pretty good mayor. He wrote a letter saying:

> DEAR SENATOR SASSER: I strongly support your proposed legislation to permit cuts in military spending to be used for badly needed domestic infrastructure programs.

He says:

> Congressional paralysis, partisan bickering, and procedural deadlocks only serve to bolster deepening voter feelings of resentment and frustration.
>
> One of the most significant things you and your colleagues can do now is to begin to repair the dangerous rift between the Congress and the American people, and you need to act now, bring this issue to a vote, and eliminate the outdated budget walls that prevent you from investing in communities like mine. I applaud your leadership.

So says Bud Clark, the mayor of the city of Portland, OR.

Another letter from Joe Riley, mayor of Charlestown, SC. Mayor Riley says: "I am writing in support of this badly needed legislation." And then he details some of the problems in the city of Charleston, SC, and how they need help there.

The mayor of Huntsville, AL, Steve Hettinger says: "I am writing in support for the legislation you have offered to allow for the sharing of any military savings with domestic programs." Then he goes along to catalog the needs of that community.

The mayor of the city of Philadelphia, PA, and I do not know this distinguished gentleman, but I do not think he is a special-interest fellow. He represents the people of Philadelphia. He says: "Dear Senator Sasser: I am writing to let you know of my support for your legislation." It goes on and on.

We have a sheaf of letters that thick. Are these mayors special interest? Are these Governors that have called me about this legislation special interest Governors? Of course not. They are not special interest. They represent the people of this country, and the people are telling us that enough is enough, the world has changed, reduce some of that excessive military spending, and give us some relief, and help us here at home.

I know the defense budget or military budget will not solve all of our problems. We have a long way to go. But I do know that just a small slice of that $290 billion military budget, $6.7 billion of it, would keep us from having to cut and reduce countless domestic programs all across this country.

Mr. President, I ask unanimous consent that numerous letters of support of this legislation, along with other supporting material be printed in the RECORD at this point.

There be no objection, the material was ordered to be printed in the RECORD, as follows:

CITY OF HUNTSVILLE,
Huntsville, AL, March 26, 1992.

Hon. JIM SASSAR,
U.S. Senate, Washington, DC.

DEAR SENATOR SASSER: I am writing to let you know of my support for the legislation you have offered to allow for the sharing of any military savings with domestic programs.

As you know, many cities have suffered serious program cuts from the federal government during the 1980's. Both Congress and the President have allowed our investment in domestic priorities to decline. According to the United States Conference of Mayors, key urban programs overall have been reduced by nearly two-thirds since 1980.

The legislation which you have offered and which is currently pending on the Senate floor is but a crucial first step towards addressing needs of urban America. We must now work towards restoring America's competitiveness by investing in our people and our cities.

At the winter meeting of the Mayors in January, a policy resolution was adopted unanimously, in bipartisan fashion, which supports tearing down the artificial and obsolete budget "walls" that currently prevent an ordering of priorities which conform to the new global realities.

I am aware that you are currently prevented from even addressing this issue due to a procedural deadlock. At the very least, the American people are entitled to consideration of this matter.

I am prepared to do whatever I can to help you succeed in your efforts to accomplish a prudent reordering of federal priorities which abides by the deficit targets called for in the 1990 Budget Enforcement Agreement.

Sincerely,

STEVE HETTINGER,
Mayor.

CITY OF CHARLESTON,
March 26, 1992.

Hon. JIM SASSER,
Senate Russell Office Building, Washington, DC.

DEAR SENATOR SASSER: I am writing to support the legislation you have offered to allow for the transfer of military savings into domestic investment.

Cities like Charleston have suffered serious program cuts from the federal government during the 1980's. Our investment in domestic priorities has declined. According to the United States Conference of Mayors, key urban programs overall have been reduced by nearly two-thirds since 1980.

The legislation which you have offered and which is currently pending on the Senate floor is but a crucial first step toward redressing the neglect of urban America. We must now work toward restoring America's competitiveness by investing in our people and our cities.

At the winter meeting of the Mayors in January, a policy resolution was adopted unanimously, in bipartisan fashion, which supports tearing down the artificial and obsolete budget "walls" that currently prevent a more sensible reordering of priorities which conform to the new global realities.

I am aware that you are currently prevented from even addressing this issue due to a procedural deadlock. At the very least the American people are entitled to consideration of this matter.

I am prepared to do whatever I can to help you succeed in your efforts to accomplish a prudent reordering of federal priorities which abides by the deficit targets called for in the 1990 Budget Enforcement Agreement.

Most Sincerely yours,

JOSEPH P. RILEY, JR.,
Mayor.

CITY OF PHILADELPHIA,
Philadelphia, PA, March 26, 1992.

Hon. JIM SASSER,
Russell Building,
Washington, DC

DEAR SENATOR SASSER: I am writing to let you know of my support for the legislation you have offered to allow for the transfer of military savings into domestic investment.

As you know, cities like my own have suffered serious program cuts from the federal government during the 1980's. Both Congress and the President have allowed our investment in domestic priorities to decline. According to the United States Conference of Mayors, key urban programs overall have been reduced by nearly two-thirds since 1980.

The legislation which you have offered and which is currently pending on the Senate floor is but a crucial first step towards redressing the neglect of urban America. We must now work towards restoring America's competitiveness by investing in our people and our cities.

At the winter meeting of the Mayors in January, a policy resolution was adopted unanimously, in bipartisan fashion, which supports tearing down the artificial and obsolete budget "walls" that currently prevent a more sensible reordering of priorities which conform to the new global realities.

I am aware that you are currently prevented from even addressing this issue due to a procedural deadlock. At the very least, the American people are entitled to consideration of this matter.

I am prepared to do whatever I can to help you succeed in your efforts to accomplish a prudent reordering of federal priorities which abides by the deficit targets called for in the 1990 Budget Enforcement Agreement.

Sincerely,

EDWARD G. RENDELL.

THE UNITED STATES
CONFERENCE OF MAYORS,
Washington, DC, March 24, 1992.

DEAR SENATOR: As President of The U.S. Conference of Mayors, representing cities with population of 30,000 and greater, I am asking that you support legislation which would remove the so-called budget "walls" and to allow for a greater domestic investment.

This legislation, S. 2250, would simply allow for the transfer of expected military savings into domestic spending accounts. As you know, cities have been under enormous fiscal stress over the past decade or so. In fact, federal funding for key urban programs has been reduced by nearly two-thirds.

The legislation which will soon be before you is but a first step towards bringing America, American workers, and America's cities into the competitive economic arena of the 1990s.

It is important to note that this legislation does not reduce defense spending. This legislation does not increase the deficit. It merely allows for a reordering of federal fiscal priorities. This reordering is long overdue.

The U.S. Conference of Mayors, a bi-partisan organization, views this vote as one of the most important votes of the 102nd Congress.

Sincerely,

RAYMOND L. FLYNN,
President, Mayor of Boston.

ORGANIZATIONS ENDORSING "WE MUST INVEST IN AMERICA" STATEMENT OF PRINCIPLES

U.S. Conference of Mayors
American Federation of State, County and Municipal Employees (AFSCME)
AIDS Action Council
American-Arab Anti-Discrimination Committee
American Association of Homes for the Aging
American Association of University Affiliated Programs for Persons with Developmental Disabilities
American Association of University Women
American Association of Mental Retardation
American Baptist Churches
American Federation of Teachers
American Home Economics Association
American Nurses Association
American Planning Association
American Public Association
American Social Health Association
Americans for Democratic Action
Association for Persons in Supported Employment
The Association for Persons with Severe handicaps
Association of Child Advocates
Association of Farmworker Opportunity Programs (AFOP)
Association of Flight Attendants
Association of Schools of Public Health
The ARC (formerly the Association for Retarded Citizens of the U.S.)
Bread for the World
Catholic Charities, USA
Catholics for a Free Choice
Center for Budget & Policy Priorities
Center for Community Change
Center for Development of International Law
Center for Law & Social Policy
Center for Population Options
The Center for Public Dialogue
Center for Resource Economics
Center for Science in the Public Interest
Center for Women Policy Studies
Child Welfare League of America
Children's Defense Fund
Cities Advocating Emergency AIDS Relief (CAEAR Coalition)
City of Atlanta
City of New York
The Coalition on Human Needs
Commission on Social Action of Reform Judaism
Committee for Children
Consumer Federation of America
Council for a Livable World
Council of Large Public Housing Authorities
Council of State Administrators of Vocational Rehabilitation
Economic Policy Institute
The Enterprise Foundation
Epilepsy Foundation of America
Families, U.S.A.
Food Research and Action Council (FRAC)
Friends of the Earth
Fund for Human Dignity
Generations United
Human Rights Campaign Fund
International Ladies' Garment Workers' Union, AFL-CIO (ILGWU)
Legal Action Center
LISC (Local Initiatives Support Corp.)
Lutheran Office for Governmental Affairs, Evangelical Lutheran Church of America
Maryland United for Peace and Justice
Medical Therapies for Multiple Sclerosis
Michigan Citizens for America's Children
National Association of Commissions for Women
National Association of Community Action Agencies
National Association of Community Health Centers, Inc.
National Association of Counties (NACo)
National Association of County Health Officials
National Association of Housing & Redevelopment Officials
National Association of Latino Elected and Appointed Officials
National Association of People With AIDS (NAPWA)
National Association of Protection & Advocacy Systems
National Association of Social Workers
National Coalition for the Homeless
National Community AIDS Partnership
National Community Development Association
National Congress for Community Economic Development
National Council of Catholic Women
National Council of Community Mental Health Centers
National Council of Rehabilitation Educators
National Council of Senior Citizens
National Council of Family Relations
National Displaced Homemakers Network
National Education Association
National Gray Panthers
National Jobs with Justice Campaign
National Low Income Housing Coalition
National Minority AIDS Council
National Neighborhood Coalition
National Network of Runaway and Youth Services
National PTA
National Rehabilitation Association
National Rural Housing Coalition
National Women's Law Center
National Urban League
Nuclear Information and Resource Serve
OMB Watch
Parent Action
The Partnership for the Homeless
Physicians for Social Responsibility
Professional's Coalition For Nuclear Arms Control
Public Employee Dept. AFL-CIO
Public Housing Authorities Directors Association
SANE/FREEZE
Service Employees International Union
Spina Bifida Association of America
20/20 Vision National Project
United Food & Commercial Workers International Union
The United Methodist Church, General Board of Church & Society
United Mine Workers
U.S. Conference of Local Health Officers
U.S. Peace Council
United Steelworkers of America
Women for Racial and Economic Equality
Women Strike for Peace
Women's Action for Nuclear Disarmament (WAND)
Women's International League for Peace and Freedom
Women's International Public Health Network
Women's Legal Defense Fund
Women's National Democratic Club
YWCA of the U.S.A.

THE U.S. CONFERENCE OF MAYORS' 1992 EMERGENCY JOBS AND ANTI-RECESSIONARY INITIATIVES

SEVEN ACTION ITEMS

1. Targeted fiscal assistance, $15 billion

An anti-recessionary stimulus initiative of direct aid to cities based on factors of fiscal distress and local unemployment. The funds should be targeted to the areas of public safety, public works, infrastructure, housing, education and/or social services.

2. Public works, $5 billion

For urban and suburban projects that are "ready to go."

3. Community Development Block Grant (CDBG)

Cities could effectively utilize at least $6 billion (200,000 estimated jobs). Certain regulations should be waived to facilitate quick use of the funds.

4. Transportation, $4 billion

Exempt the non-federal share for fiscal year 1992 transportation projects and waive federal mandates requiring environmental and wetlands review for fiscal 1992 to accelerate implementation of the new transportation bill.

5. Job Training Partnership Act, $2.8 billion

$300 million would go for summer youth jobs to restore cuts and provide summer employment to inner-city youth. $1 billion would be used to provide employment and training services to income-eligible, unemployed young people and adults. $1.5 billion would provide training and retraining services to dislocated workers and short-term employment, with one-half of the additional funds earmarked for work experience.

6. Low-interest small business loans, $2 billion

For low-interest loans to small businesses locating in urban areas.

7. Extend home funding match

Extend the fiscal year 1992 waiver of the HOME Investment Partnership (HOME) state and local match through fiscal year 1993.

BUDGET ENFORCEMENT ACT CHANGES

Any successful economic stimulus package must confront the critical component of the 1990 budget agreement, namely, the so-called "firewalls" which prevent the transfer of defense savings into domestic investment. The Conference has spearheaded an effort over the past several months which has resulted in a legislative effort to have the following investment principles incorporated into a stimulus program. This effort has currently attracted the support of over 108 national organizations. The principles are:

Congress and the Administration should reduce defense expenditures in FY 1993 significantly below the levels projected in the President's FY 1992 five-year plan. These savings should be used for needed public investment that can redress unmet domestic needs, build human capital and promotes long-term economic growth.

Congress and the Administration should allow for the transfer of funds from defense to domestic discretionary spending programs in FY 1993, while maintaining the overall deficit reduction goals set forth in the budget agreement.

Congress and the Administration should not use defense savings or other discretionary funds for tax cut purposes. Instead the Congress and the Administration should finance any personal income tax relief package by shifting the tax burden to upper-income taxpayers.

INVEST IN AMERICA
BUDGET WORKING GROUP,
March 25, 1992.

DEAR SENATOR: On behalf of the undersigned organizations, we strongly urge you to support S. 2250, the Appropriations Category Reform Act of 1992, to take down the walls between defense and domestic discretionary spending in Fiscal Year (FY) 1993.

Last fall an extraordinary coalition of over 125 groups came together to urge the Congress and the Administration to reorder the nation's fiscal priorities by reinvesting in America. One of the issues that united us was to allow the transfer of funds from defense to domestic discretionary spending programs in FY 1993 to allow for needed public investment.

The end of the Cold War has presented us with a unique opportunity. We can now reorder our fiscal priorities and use the savings from the military budget to meet critical domestic needs. However, to do so we must modify the Budget Enforcement Act, which was negotiated before the end of the Cold War and the collapse of the Soviet Union.

Deficit reduction called for in the original agreement will be achieved regardless of whether the "firewalls" are removed. According to the Congressional Budget Office, the deficit will still be four percent of the GNP by the year 2002. If we are forced to wait until we first eliminate the federal deficit before expanding investment, we will be condemned to another decade of disinvestment. The result will be further erosion in living standards and competitiveness.

We believe this vote may well be the most important vote you cast this year and we hope you will help us by voting to give the peace dividend back to the American people.

Sincerely,

GERALD W. MCENTEE,
AFSCME.
KEITH GEIGER,
NEA.
RAYMOND FLYNN,
Conference of Mayors.

CITY OF PORTLAND,
Portland, ME, March 26, 1992.

DEAR SENATOR SASSER: I am writing to let you know of my support for the legislation you have offered to allow for the transfer of military savings into domestic investment.

As you know, cities like my own have suffered serious program cuts from the federal government during the 1980's. Both Congress and the President have allowed our investment in domestic priorities to decline. According to the United States Conference of Mayors, key urban programs overall have been reduced by nearly two-thirds since 1980.

The legislation which you have offered and which is currently pending on the Senate floor is but a crucial first step towards redressing the neglect of urban America. We must now work towards restoring America's competitiveness by investing in our people and our cities.

At the winter meeting of the Mayors in January, a policy resolution was adopted unanimously, in bipartisan fashion, which supports tearing down the artificial and obsolete budget "walls" that currently prevent a more sensible reordering of priorities which conform to the new global realities.

I am aware that you are currently prevented from even addressing this issue due to a procedural deadlock. At the very least, the American people are entitled to consideration of this matter.

As a member of the Advisory Committee to the Senate Task Force on Urban Revitalization, I want to help you succeed in your efforts to accomplish a prudent reordering of federal priorities which abides the deficit targets called for in the 1990 Budget Enforcement Agreement.

Sincerely,

THOMAS H. ALLEN, *Mayor.*

METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY,
Nashville, TN, March 4, 1992.

Hon. JAMES R. SASSER,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR SASSER: I strongly urge you to consider supporting S. 2250 which will make possible the transfer of military savings into domestic programs. As you know, Nashville along with other cities throughout Tennessee and the nation has been hit hard by federal budget cuts and unfunded mandates. Your support for this legislation would work toward bridging that gap.

Warmest regards,

PHILIP BREDESEN, *Mayor.*

THE CITY OF YORK,
York, PA, March 26, 1992.

DEAR SENATOR SASSER: I am writing to let you know of my support for the legislation you have offered to allow for the transfer of military savings into domestic investment.

As you know, cities like my own have suffered serious program cuts from the federal government during the 1980's. Both Congress and the President have allowed our investment in domestic priorities to decline. According to the United States Conference of Mayors, key urban programs overall have been reduced by nearly two-thirds since 1980.

The legislation which you have offered and which is currently pending on the Senate floor is but a crucial first step towards redressing the neglect of urban America. We must now work towards restoring America's competitiveness by investing in our people and our cities.

At the winter meeting of the Mayors in January, a policy resolution was adopted unanimously, in bipartisan fashion, which supports tearing down the artificial and obsolete budget "walls" that currently prevent a more sensible reordering of priorities which conform to the new global realities.

I am aware that you are currently prevented from even addressing this issue due to a procedural deadlock. At the very least, the American people are entitled to consideration of this matter.

I am prepared to do whatever I can to help you succeed in your efforts to accomplish a prudent reordering of federal priorities which abides by the deficit targets called for in the 1990 Budget Enforcement Agreement.

Sincerely,

WILLIAM J. ALTHAUS,
Mayor.

CITY OF ALLENTOWN,
Allentown, PA, March 26, 1992.

Senator JAMES SASSER,
U.S. Senate, Washington, DC.

DEAR SENATOR SASSER: As Mayor, I am writing to let you know of the City of Allentown's strong support for the legislation you have offered to allow for the transfer of military savings into domestic investment.

As you know, cities like Allentown have suffered serious program cuts from the federal government during the 1980's. Both Congress and the President have allowed our investment in domestic priorities to decline. According to the United States Conference of Mayors, key urban programs overall have been reduced by nearly two-thirds since 1980.

The legislation you offered and which is currently pending on the Senate floor is but a crucial first step towards redressing the neglect of urban America. We must now work towards restoring America's competitiveness by investing in our people and our cities.

At the winter meeting of the Mayors in January, a policy resolution was adopted unanimously, in bipartisan fashion, which supports tearing down the artificial and obsolete budget "walls" that currently prevent a more sensible reordering of priorities which conform to the new global realities.

I am aware that you are currently prevented from even addressing this issue due to a procedural deadlock. At the very least, the American people are entitled to consideration of this matter.

On behalf of the City of Allentown, I am prepared to do whatever is needed to help you succeed in efforts to accomplish a prudent reordering of federal priorities which abides by the deficit targets called for in the 1990 Budget Enforcement Agreement.

Sincerely,

JOSEPH S. DADDONA, *Mayor.*

OFFICE OF THE MAYOR,
CITY OF MADISON,
Madison, WI, March 26, 1992.

Hon. JIM SASSER,
Senator, State of Tennessee, Russell Building, Washington, DC.

DEAR SENATOR SASSER: I am writing to let you know of my support for the legislation you have offered to allow for the transfer of military savings into domestic investment.

As you know, cities like my own have suffered serious program cuts from the federal government during the 1980's. Both Congress and the President have allowed our investment in domestic priorities to decline. According to the United States Conference of Mayors, key urban programs overall have been reduced by nearly two-thirds since 1980.

The legislation which you have offered and which is currently pending on the Senate floor is but a crucial first step towards redressing the neglect of urban America. We must now work towards restoring America's competitiveness by investing in our people and our cities.

At the winter meeting of the Mayors in January, a policy resolution was adopted unanimously, in bipartisan fashion, which supports tearing down the artificial and obsolete budget "walls" that currently prevent a more sensible reordering of priorities which conform to the new global realities.

I am aware that you are currently prevented from even addressing this issue due to a procedural deadlock. At the very least, the American people are entitled to consideration of this matter.

I am prepared to do whatever I can to help you succeed in your efforts to accomplish a prudent recording of federal priorities which abides by the deficit targets called for in the 1990 Budget Enforcement Agreement.

Sincerely,

PAUL R. SOGLIN,
Mayor.

Mr. SASSER. Mr. President, I would like to bring to the attention of my colleagues several more letters that I have received supporting this bill. I am holding letters from Southeastern Vermont Community Action, the Food Research Action Center, and the Community Renewal Team of Hartford, CT, and the Pennsylvania Weatherization Task Force. All support S. 2399.

Southeastern Vermont Community Action, the Hartford Community Renewal Team, and the Pennsylvania Weatherization Task Force point out how important S. 2399 is for the Low-Income Home Energy Assistance Program. LIHEAP, I should add would be threatened with a cut of $483 million in the President's budget.

The Vermont letter states, and I quote:

> Many low-income households pay up to 40 percent of their incomes for heat, electricity, and water. This leaves very little in their budgets for food and clothing.* * * Weatherization programs are essential for their survival.

The letter from Pennsylvania points out, and I quote:

> About 40 percent of LIHEAP cash recipients are elderly and nearly 40 percent have annual incomes under $5,000.* * * The poor in Pennsylvania are being forced to make critical choices between home heating and other household necessities.

And the president of the Community Renewal Team in Hartford, CT, makes our point here today very eloquently. He writes:

> As a director of a Community Action Agency in a defense driven State, I certainly understand the dilemma presented us. On the one hand, many of our clients are newly unemployed from layoffs from Pratt & Whitney or other defense related industries, most of whom have never applied for assistance before. On the other hand, we're seeing programs intended for those in need being slashed to bits by Federal and State Government * * *.
>
> What should not be lost in the process, are the life and family sustaining measures, such as energy assistance, rental assistance, food assistance, child care support and the myriad of programs which try to maintain the dignity and survival of most important resources—our people * * *.

Finally Mr. President, I quote the Food Research Action Center letter, which points out that WIC, the Emergency Food Assistance Program, and the Community Food Nutrition Program are threatened. The FRAC letter states: "Funding for each of these critical programs will be seriously jeopardized if S. 2399 is not passed." Mr. President, I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SOUTHEASTERN VERMONT
COMMUNITY ACTION, INC.,
Bellows Falls, VT, March 26, 1992.

Hon. JAMES SASSER,
U.S. Senate, Chairman, Senate Budget Committee, Washington, DC.

DEAR SENATOR SASSER: Southeastern Vermont Community Action (SEVCA) strongly supports S-2399. SEVCA board and staff understand the critical need for a Peace Dividend to aid our work with low-income people in Winham and Windsor Counties in Vermont. A Peace Dividend has been sorely needed for at least the past twelve years, as we witnessed human and social needs taking a low priority in our government's scheme of values.

In 1984, over one hundred and ninety towns in Vermont passed resolutions in their Town Meetings calling for a Freeze on the escalating nuclear arms race and a shift in priorities toward funding human needs. As the recession continues and the economic climate in the Northeast worsens, our client base increases dramatically. Last year, nearly 15% of the people in our two county area sought SEVCA's help. With the end of the Cold War, we must shift some of the money previously committed to military spending to essential programs of healthcare, education, shelter, childcare and child protection, family support, fuel, rental, and food assistance.

We are particularly concerned with the rising energy costs and its effects upon low-income people. Many of our new clients are only recently unemployed for the first time in their lives. They are facing the humiliating prospects of seeking public assistance, many for the first time. As they face an uncertain future without the stability afforded by a regular and adequate income, they need the Low-Income Home Energy Assistance Program (LIHEAP) to meet their energy costs. Many low-income Vermonters pay over 50% of their incomes just to pay for housing which is often unsafe, substandard, and not weatherized. Many low-income households pay up to 40% of their incomes for heat, electricity, and water. This leaves very little in their budgets for food and clothing. Energy assistance, rental assistance, food assistance, and weatherization programs are essential to their survival.

We deeply appreciate your efforts in reshaping the budget to reflect the rising tide of human misery in our declining economy. We are pleased that someone of your stature and commitment on the Budget Committee is seeking to make a Peace Dividend available to the people of this nation.

Sincerely,

JUDITH SUTPHEN,
Executive Director.

PENNSYLVANIA WEATHERIZATION
TASK FORCE,
Wilkes Barre, PA, March 26, 1992.

Senator JIM SASSER,
Chairman, Senate Budget Committee, Washington, DC.

DEAR SENATOR SASSER: On behalf of the Pennsylvania Weatherization Providers Task Force, I am writing to emphasize the critical need for additional funds for the Low-Income Home Energy Assistance Program (LIHEAP) in helping low-income Pennsylvanians as they struggle to meet their energy costs. The LIHEAProgram with its integrated components, cash assistance, crisis, and weatherization, is a sound, preventive, life and cost saving program. Citizens in need must be given basic support for food, health, and heat so that they can maintain their lives and their homes.

Every sector of Pennsylvania's low-income population, rural, urban, the unemployed, those receiving minimum wage, the elderly and households with children, even before this current recession during periods many of us considered to be economically stable, have been overwhelmed by their energy burdens. Many low-income households pay up to 40% of their annual income for heat, electricity, and water. About 40% of LIHEAP cash recipients are elderly and nearly 40% have annual incomes under $5,000. A study by the National Consumer Law Center in 1989 provides graphic proof that the poor in Pennsylvania are being forced to make critical choices between home heating and other household necessities.

Since 1985 there has been a progressive erosion of the funds to support LIHEAP. We have been struggling under a 40% cut since 1984. It is evident that this erosion cannot continue and we must do everything we can to restore the LIHEAProgram to an effective funding level. The only way to accomplish this is by enabling the savings in defense to be used for domestic programs like LIHEAP.

Sincerely,

GENE BRADY,
Chairman.

COMMUNITY RENEWAL TEAM
OF GREATER HARTFORD, INC.,
Hartford, CT, March 26, 1992.

Hon. JAMES SASSER,
U.S. Senate, Chairman, Senate Budget Committee, Washington, DC.

DEAR SENATOR SASSER: I would like to take this opportunity to express my appreciation and gratitude to you on your efforts in reshaping the budget as a result of the unbelievable events which have occurred over the past two years. With the end of the Cold War and the beginning of a hopeful worldwide peace agreement among East and West Countries, the challenges and opportunities are, indeed, mind boggling. We are very pleased that we have someone of your stature and commitment on the Budget Committee to lead the fight (somehow an inappropriate word) on Peace Dividend issues.

As the President of the Community Renewal Team of Greater Hartford, I deal with the problems of poverty, seniors in need, Head Start and Day Care children and parents, troubled youth and those incarcerated every day. Hartford is ranked the fourth poorest city in the United States and the first as far as the disparity between the city and its suburbs. Connecticut also has the distinction of having four cities ranked among the top twenty in poverty statistics. Needless to say, we desperately need attention and if the savings incurred from the reduction in defense spending can help us with serving low income residents, we applaud all efforts in this regard.

As the recession continues and the economic climate in the Northeast worsens, our client base increases. For example, in our Energy program, we saw the number served grow 1,000 last year and are processing a 2,000 increase in clients this year. An increase from 14,000 to 17,000 in only two years. This is truly upsetting. The only reason we did not face many dire situations this winter with our elderly and our young was due to the fact that this has been the mildest winter in recorded history.

As a Director of a Community Action Agency in a defense driven state, I certainly understand the dilemma presented us. On the one hand, many of our clients are newly unemployed from layoffs from Pratt & Whitney or other defense related industries, most of whom have never applied for assistance before. On the other hand, we are seeing programs intended for those in need being slashed to bits by federal and state government.

We are in a quandary and try to do our best, however, we do need assistance in addressing the problems we face daily. The Community Renewal Team of Greater Hartford absolutely supports all economic conversion measures from defense to peace proposals. What should not be lost in the process, are the life and family sustaining measures, such as energy assistance, rental assistance, food assistance, child care support and the myriad of programs which try to maintain the dignity and survival of our most important resources—our people, our constituents, our children—the future of our great country.

I am writing in support of Senate Bill 2399. Thank you so much for your efforts in this very important debate. If I can be of further assistance please do not hesitate to contact me.

Sincerely,

PAUL C. PUZZO,
President/CEO.

FOOD RESEARCH & ACTION CENTER,
March 25, 1992.

DEAR SENATOR: The Food Research and Action Center (FRAC) strongly supports S. 2399, the Sasser Bill to eliminate the budget firewalls. Senate passage of this legislation is an essential first step to create a peace dividend benefiting the nutritional status of the Nation's children.

S. 2399 would allow defense savings to be used for investing in domestic priorities such as the Supplemental Food Program for Women, Infants and Children (WIC), The Emergency Food Assistance Program (TEFAP), and the Community Food and Nutrition Program (CFNP). The WIC Program is well-documented as a cost-effective preventative program, serving nutritionally at-risk, low-income infants, children, and pregnant women. TEFAP helps to meet the emergency food needs of many low-income households by providing funds for organizations to purchase and distribute commodities. Funding through CFNP enables state and local programs to provide nutrition assistance to low-income Americans through public education, planning and direct delivery services.

Funding for each of these critical programs will be seriously jeopardized if S. 2399 is not passed.

We urge you to take this first step to invest in America's children. Please vote for S. 2399 to eliminate the budget firewalls.

Sincerely yours,

EDWARD M. COONEY,
Deputy Director.

Mr. SASSER. Mr. President, here is a letter from the National Association of Government Guaranteed Lenders, supporting S. 2399. It points out how important this legislation is for the programs administered by the Small Business Administration. SBA is currently playing an important role in alleviating the effects of the credit crunch on small businesses, but funding shortfalls will prevent SBA from carrying out important new initiatives like the New England recovery project. Mr. President, I ask unanimous consent to have this letter printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE NATIONAL ASSOCIATION OF GOVERNMENT GUARANTEED LENDERS, INC.,
Stillwater, OK, March 26, 1992.

Hon. JAMES SASSER,
Chairman, Senate Budget Committee, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Small business continues to face a critical credit crunch which is starving the job creating sector of our economy of the capital necessary to grow. Without this growth, and with expected reductions in the defense industrial base, unemployment will remain high and economic stagnation will persist.

The federal deficit must be reduced but so too the firewalls between defense spending and domestic spending must come down. The only credit lifelines for small business today are the Small Business Administration's (SBA) 7(a) and 504 guaranteed loan programs. Banks are just not making loans without an SBA guarantee attached to the loan. Demand for these SBA programs far outstrips current federal dollars allocated to them. But with leverage, a little money in these programs goes a long way to meeting small business' credit demands.

If Congress wants to alleviate the credit crunch crisis, and if Congress wants to fund the New England Recovery project which will alleviate small business' credit problems with the FDIC and provide needed credit relief in Connecticut, Massachusetts, New Hampshire and Maine, then the firewalls must come down.

Just as importantly, SBA's loan program must be funded to meet demand.

Thank you for your consideration of our views.

Sincerely,

ANTHONY R. WILKINSON.

Mr. SASSER. Mr. President, I would like to bring to the attention of my colleagues the widespread support S. 2399 enjoys among housing and community development organizations.

Mayor Raymond Flynn has sent a letter of support on behalf of the U.S. Conference of Mayors which states, "The Conference of Mayors, a bipartisan organization, views this vote as one of the most important votes of the 102d Congress."

Stressing the enormous fiscal stress that cities are facing, the National League of Cities has also expressed their support.

The National Community Action Foundation has also sent a letter calling for a renewed commitment to investing in America's needs.

Many other organizations devoted to affordable housing and community development have expressed their support and I ask that each of these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE UNITED STATES CONFERENCE OF MAYORS,
Washington, DC, March 26, 1992.

Hon. JIM SASSER,
U.S. Senate, Senate Russell Office Building, Washington, DC.

DEAR SENATOR SASSER: As President of The U.S. Conference of Mayors, I am requesting that you support legislation which would remove the so-called budget "walls" and to allow for a greater domestic investment.

Without the passage of S. 2399, which will allow for the transfer of expected military savings into domestic spending accounts, federal funding for urban programs will be cut. This will only exacerbate the enormous fiscal stress that cities have had for more than a decade now.

Consider, for example, what the "walls down" will mean for housing and community development programs. Some 25,000 more HUD low-income housing units would be funded. The Community Development Block Grant (CDBG) program would receive $419 million more in budget authority. And at a time when our nation needs jobs, 86,000 more jobs would be created by funding HUD low-income housing, rural housing, CDBG and the Economic Development Administration (EDA).

Over the last decade or more, housing and community development programs have sustained large and unconscionable cuts. CDBG, for example, at the FY81 inflation adjusted level should now be funded at $6.3 billion; but the program is funded at only $3.4 billion this fiscal year. Without the "walls down", CDBG as well as other housing programs could be cut even further.

The U.S. Conference of Mayors, a bi-partisan organization, views this vote as one of the most important votes of the 102d Congress.

Sincerely,

RAYMOND L. FLYNN,
President, Mayor of Boston.

NATIONAL LEAGUE OF CITIES,
Washington, DC, March 25, 1992.

Hon. JIM SASSER,
Chairman, Senate Budget Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing on behalf of the elected officials of the nation's cities and towns in support of your legislation, S. 2399, and in support of passage by the Senate.

This is a vote to determine whether the federal government will disinvest or reinvest in America's communities next year. A vote against will either force cuts in local public services or higher local taxes. It will determine whether more of our taxes are used for foreign aid than direct assistance to this nation's cities and towns.

Our highest priority in this Congress—a priority that unites Republicans, Independents, and Democrats elected to public office at the local level in communities of all sizes and in every part of the country—is to change the 1990 budget agreement to permit reinvestment in America's economic security. We must use the savings from defense spending to reduce the national debt and invest in public and human infrastructure.

The world as we know it only a year ago has changed beyond recognition. The foreign military threats which have shaped American policy for the last half century are fundamentally altered. Now the threats to our security are economic. Our future will be shaped more by how we address economic and social issues at home than abroad. We have to cut military spending now and create an emergency domestic agenda to put the people in our communities back to work.

After 50 years of borrowing and spending to fight the Cold War and defend our national security, it is now time for all Americans to join together in shaping a national agenda to restructure the economic foundation of the nation.

We will be reporting back to every community in America. We hope to report your commitment to the communities you represent.

Sincerely,

GLENDA E. HOOD,
President,
Mayor Pro-Tem, Orlando.

National Community
Action Foundation,
Washington, DC, March 26, 1992.

Senator Jim Sasser,
Chairman, Senate Budget Committee, Washington, DC.

Dear Mr. Chairman: Please add the National Community Action Foundation to the growing list of organizations endorsing S. 2399.

As an organization concerned with alleviating the causes and consequences of poverty, the National Community Action Foundation applauds your efforts to renew our government's commitment to investing in America's needs.

For much of the past twelve years, this country's domestic needs, particularly those of the low and middle income, were of secondary importance to the challenge of keeping the country itself secure.

Now, however, after a doubling of defense spending in the 1980's, America has won the cold war. The Soviet Union collapsed not from external aggression but from unmet domestic needs.

We too have a long list of social needs. Education, health, the infrastructure, as well as the doubling of poverty, are issues that must soon be addressed.

S. 2399 represents the best and perhaps last chance at allowing America's creative energies to begin to address these unmet needs.

I wish you success. Your leadership comes at a critical time in this nation's history.

Sincerely yours,

David Bradley.

National Association of
Development Organizations,
Washington, DC, March 25, 1992.

Senator Jim Sasser,
Chairman, Committee on the Budget, U.S. Senate, Russell Senate Office Building, Washington, DC.

Dear Mr. Chairman: On behalf of the members of the National Association of Development Organizations (NADO), I am writing in support of breaking down the firewalls established under the 1990 budget agreement.

The recession has highlighted the nation's woes, but it was our limited public investment which helped create the cracks in our economic strength. Our member organizations, public-private partnerships working to improve the economic opportunities and quality of life in America's small cities and rural areas, firmly believe that public investment is essential to spur private investment and economic growth.

Unfortunately, since 1980 the federal investment in rural development has been slashed by 70 percent. During this same period, our deficit boomed. Throughout the decade, defense spending soaked up domestic resources. The 1980s military buildup was funded at rural America's expense. Today's world is far different than the 1980s—and far different from when Congress approved the 1990 budget agreement.

The firewalls were created before the Soviet Union disbanded and before the United States became mired in a recession. Because the world has changed and because our economy has changed, we must respond. NADO urges you to break down the firewalls and use some of the defense savings to invest in our nation's infrastructure and save our economy.

We applaud your leadership on the firewalls issue. If we can be of any service, please contact us.

Sincerely yours,

Howard Grossman,
President.

National Community
Development Association,
Washington DC, March 26, 1992.

Hon. Jim Sasser,
Chairman, Senate Committee on the Budget, Senate Dirksen Office Building, Washington, DC.

Dear Mr. Chairman: On behalf of the National Community Development Association (NCDA), I am writing to express strong support for passage of S. 2399, the Appropriations Category Reform Act of 1992 which will modify the Budget Enforcement Act and allow transfers from defense into domestic programs in Fiscal Year 1993 and beyond.

NCDA is a membership organization comprised of more than 500 local governments that administer federally-supported community development, housing and human service programs. Earlier this year, the Association joined the U.S. Conference of Mayors, the American Federation of State, County and Municipal Employees, and more than 100 other national organizations in signing a joint statement of principles which called on Congress and the Administration to reduce defense spending significantly below current levels and to remove the artificial "firewalls" in the Budget Enforcement Act of 1990 which currently prohibit savings in one budget category from being used in another.

During the past year, state and local governments have been battered and stunned by severe recession, growing unemployment, crumbling infrastructure and a lack of affordable housing. When localities and states have most needed help, cut-backs in federal programs have left American communities to do more and more with less and less.

We applaud your efforts through S. 2399 to make possible a much needed infusion of additional funding at the state and local levels nationwide—funding to address unmet needs and promote long-term economic recovery and growth.

NCDA recently conducted a survey of its members to obtain some sense of the kinds of community projects currently on hold for lack of funding which would have a chance of going forward with passage of your legislation. Several are highlighted below:

In Rockford, Illinois, there are over $20 million of need for street and bridge repairs, sanitary sewer trunk lines, homeless facilities and public parks in varying stages of design development with no designated funding sources.

In Garland, Texas, projects ready to go include bridge repair, physical improvements to a branch library.

Newton, Massachusetts needs wheelchair curb-cut ramps at street intersections.

Dayton, Ohio has been exploring the possibility of making funds available to promote long-term job creation efforts, and several communities identified a need for funds to comply with the newly-mandated requirements of the American Disabilities Act.

Mr. Chairman, we understand that without a revision in the Budget Enforcement Act of 1900, funding for all domestic discretionary programs faces certain cuts next year. Although there may be considerable uncertainty as to the precise way to proceed in addressing the crippling effects of the current recession, passage of S. 2399 will, at least, open the door for consideration of some increase on the domestic front.

Sincerely,

Reginald N. Todd,
Chief Executive Officer.

March 26, 1992.

Hon. Jim Sasser,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Dear Senator Sasser: The undersigned organizations have been actively involved in our national effort to provide decent and affordable housing for the low and moderate income families of this nation. As you consider the FY 1993 budget resolution and legislation to amend the Budget Enforcement Act of 1990, we urge you to remember the dire needs of our domestic investment priorities, particularly housing.

The Department of Housing and Urban Development (HUD) estimates that 5.1 million renter households with incomes below 50 percent of area median either more than one-half their income for rent or lived in substandard housing. Homeownership eludes more young families than at any time since 1945. This housing crisis affects people of all races, and in all regions, including families, seniors, persons with disabilities, and single adults, many of whom are homeless or face the threat of homelessness. America currently spends only 1.4 percent of all federal outlays on housing assistance, although the means to solve this crisis is well within our reach.

We urge you to support legislation, S. 2399, that would remove the firewalls' between defense and domestic discretionary spending so that a portion of defense savings could be channeled to urgent domestic needs, including housing. Likewise, we ask that you support a budget resolution which would provide for such a shift.

Because the domestic spending cap for FY 1993 is $1.44 billion below that of the previous year. HUD's budget is slated to be cut by over 3 percent for FY 1993. The cuts in rural housing programs are even more severe. At a time when real estate is expected to lead the county out of recession, we can hardly afford to decrease the federal government role in producing affordable housing.

Thank you for your consideration of our concerns.

The Campaign for Housing and
Community Development Funding.

The Campaign for Housing and Community
Development Funding

Association of Community Organizations for Reform Now (ACORN).

Association of Local Housing Finance Agencies.

AFL–CIO Housing Investment Trust.

American Association of Homes for the Aging.

American Federation of State, County and Municipal Employees.

American Planning Association.

The Arc: Formerly the Association of Retarded Citizens of the U.S.

B'Nai B'Rith International.

Church Women United.

Council of State Community Development Agencies.

Council of Large Public Housing Authorities.

Evangelical Lutheran Church of America Housing Assistance Council.

Housing Opportunities for Women.

Jesuit Social Ministries.

Local Initiatives Support Corporation.

McAuley Institute.

National Assisted Housing Management Association.

National Association of Housing and Redevelopment Officials.

National Alliance to End Homelessness.

National Association of Counties.

National Coalition for the Homeless.

National Community Development Association.

National Consumers League.

National Corporation for Housing Partnerships.

National Council of La Raza.

National Council of Senior Citizens.

National Council of State Housing Agencies.

National Housing Conference.

National League of Cities.

National Leased Housing Association.

National Low Income Housing Coalition.

National Multi Housing Council.

National Neighborhood Coalition.

National Puerto Rican Coalition.

National Rural Housing Coalition.

National Urban League.

National Congress for Community Economic Development.

NETWORK: A National Catholic Social Justice Lobby.

Public Housing Authorities Directors Association.

The Enterprise Foundation.

U.S. Conference of Mayors.

Union of American Hebrew Congregations.

Unitarian Universalist Association of Congregations.

United Church of Christ.

United Way of America.

Mr. SASSER. Mr. President, how much time do I have left?

The PRESIDING OFFICER. Seven seconds.

Mr. SASSER. I will reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico has 5 minutes, 11 seconds left.

Mr. DOMENICI. I reserve 11 seconds and yield the rest to the Republican leader.

The PRESIDING OFFICER. The Republican leader is recognized.

MIDDLE-CLASS TAX CUT IS "SLAM-DUNKED"

Mr. DOLE. Mr. President, the American people may have missed it in their morning newspapers, given the microscopic coverage it received, but the Democrats' self-proclaimed middle-class tax cut got slam-dunked yesterday in the House of Representatives. Let me emphasize that point—it didn't just lose. It was flat-out embarrassed, slam-dunked, rejected, and by an historic vote, too.

The Democrats—who enjoy a 102 vote margin in the House—could not even muster a simple majority for their own election-year economic gimmick—the socalled middle-class tax cut; the so-called fairness package; the so-called soak-the-rich plan.

Well, yesterday, 52 Democrats in the House apparently figured out what a lot of us have been saying since day one of this phony class warfare offensive—that the so-called middle-class tax cut was nothing but a massive tax increase; a big, big tax hike on working and earning America; another Democrat-inspired tax bite right out of the hide of small business.

The vote was 215 to 211 against the much-ballyhooed middle-class tax cut bill.

The vote yesterday was also a big setback for the media which has been treating the so-called middle-class tax cut as something that came down from the mountaintop: the tax plan was a soak-the-rich plan, the media could not stop telling us the President was protecting the rich, and the Democrats were the good guys out to save the middle class. In the headlines, on the TV and radio, and in Capitol Hill hallways, the media parroted the Democrats election year rhetoric about the rich, and the "Middle class," and boomed the good news about the Democrats good fight to KO. the wealthy. That's all we heard about for weeks and weeks and weeks—the wealthy, the rich; the wealthy, the rich; the wealthy, the rich.

Oh, there were a few brave reporters who managed to see through all the Democrat hype, and managed to tell folks about the big taxes on small business, and the utter futility of a dollar-a-day tax cut to stimulate the economy, or create one job.

But these brave few were in the minority.

So guess what? After yesterday's humiliating defeat for the so-called middle class tax relief package, you needed a magnifying glass, or a clipping service to find the coverage. After weeks and weeks and weeks of banner headlines and talking heads, what do we see today. Stories buried on page A-20, A-7, and missing in action on the evening news shows, with the exception of ABC.

So let me repeat—the middle class tax cut has been exposed. It's a loser. It is a bomb, a fact the House underscored yesterday by a 215-to-211 vote.

The truth is, by working with the President instead of against him, Congress could have developed a responsible plan that would have stimulated the economy, helped produce jobs, and would have kept America moving ahead. Unfortunately, Congress wasted valuable time on politics. After all the hype, 52 democrats in the House apparently realized the political game was over, and there was no more reason to vote for their leadership's election year package, on the merits.

So here we are 6 days past the President's deadline to pass his carefully targeted, seven-point package of economic stimulants. The Democrat majority said no, and that was it. But look at yesterday's vote in the House and you will see the reality of the class warfare offensive, a war which everyone loses, especially the American people. Let us face it, they have every right to give this Congress another big fat zero.

It seems to me there is still an opportunity. We ought to grab it and I hope the press gives it more coverage than they gave this resounding defeat yesterday, page A20 and page A7. And you had to look hard to find them even then. It seems to me we scored another big fat zero.

Mr. President, I ask unanimous consent to have printed in the Record the newspaper articles to which I made reference.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Washington Post, Mar. 26, 1992]

House Fails To Get Majority To Override Veto of Tax Bill

(By Eric Pianin)

The House yesterday fell well short of the two-thirds majority needed to override President Bush's veto last Friday of major $77.5 billion tax relief and economic growth legislation.

So short, in fact, that it could not muster even a simple majority in support of a motion to override.

A motion to override failed by a vote of 215 to 211, as 52 Democrats joined with 163 Republicans. With the outcome a foregone conclusion, House Democratic leaders did not bother lobbying their members, and Democrats abandoned ship in droves.

Bush, who opposed the bill because it would raise taxes on the wealthy, denounced the bill during a White House speech last Friday as an example of what he calls the Democrats' tax-and-spend approach to government. House Minority Leader Robert H. Michel (R-Ill.) said yesterday that the Democrats' "Big Daddy tax increase plan is a case of too much too late."

However, Democrats contend that the veto will work to the benefit of Democratic candidates this fall in arguing that the Republicans were more concerned about protecting the interests of upper-income Americans than in providing the middle class with tax relief.

"The president just wants to protect his wealthy friends," said House Majority Whip David E. Bonior (D-Mich.). "He needs to forget the country club crowd, and start thinking about the country."

Rep. Charles W. Stenholm (D-Tex.) said he voted with the president yesterday to protest the House leadership's decision to put off for the third time a vote on a bill to alter the budget agreement that would permit the shifting of defense savings to domestic programs.

Stenholm, who is leading the opposition to the bill, said that the leadership has broken a promise to deal with the issue promptly. House Speaker Thomas S. Foley (D-Wash.) has repeatedly delayed action on the bill because he lacks the votes to adopt it.

[From the New York Times, Mar. 26, 1992]

House Sustains Bush's Veto of Tax Cut For Middle-Income Families

Washington.—The House today sustained President Bush's veto of a Democratic-sponsored middle-income tax cut financed by higher taxes on the well-to-do.

Democratic leaders could not muster even a majority toward an override. The vote was 215 to 211 against overturning the veto, far short of the two-thirds needed to defeat the veto. The compromise bill was passed on Friday, 211 to 189.

Calling the veto "a declaration of political war against the Congress," Representative Dan Rostenkowski, an Illinois Democrat who was a chief author of the bill, said "the real issue is tax fairness" for the middle class.

The House Republican leader, Robert H. Michel of Illinois, criticized Democrats for making "a silly argument that a few hundred dollar tax cut is worth the price of a giant tax increase."

The tax cut, chiefly a permanent $300-per-child credit for middle-income families, would have gone to about 78 million families. The tax increase, including a maximum tax rate of 36 percent and a surtax on millionaires, would have affected about a million couples and individuals.

Mr. Bush vetoed the bill on Friday because of the tax increases, even though it contained a version of six of seven proposals he had advanced for stimulating the economy.

The bill would have reduced capital-gains taxes, but chiefly for middle-income families; rewarded businesses for buying equipment this year; granted special tax relief for real estate developers; made tax-deductible Individual Retirement Accounts available to virtually all wage earners, regardless of income, and restored a deduction for interest on student loans.

The vetoed bill would have reduced taxes by about $77.5 billion in 1992 through 1996 and increased other taxes by about the same amount.

Mr. DOLE. Mr. President, I reserve the remainder of my time.

APPROPRIATIONS CATEGORY REFORM ACT

MOTION TO PROCEED

The Senate continued with the consideration of the motion to proceed.

Mr. JEFFORDS. Mr. President, we all despair, privately and publicly, about the trivialization of politics. People seem to care more about subsidies for hair cuts than health care, and more about the House bank than the national banking crisis.

We tend to blame the press, 30-second ads, and all manner of ills. But I suspect we must bear the lion's share of the blame.

We have a $4 trillion debt, and a $400 billion deficit. Those numbers are anything but trivial. But oddly enough, they do not seem to be the subject of our debate on the budget. One would think that these numbers would be central to that debate. Instead they have been shunted aside while we debated where $6 or $7 billion should be spent—on deficit reduction or domestic spending.

Are you for guns or butter? That's how this debate will be framed by the bill's proponents. But the real question, which should be asked of the candidates as well as Congress, is how will you eliminate the Federal deficit? That question is asked seldom, and answered less.

I do not pretend to have all the answers. But I do not see how the job can be done without a fundamental reconfiguration of Federal spending, which must include substantial cuts in defense, and at least a halt in growth in domestic and entitlement spending. We must look at the countless programs we have propagated to see if they are working, and worth the investment.

I think some have clearly proven their worth, and that we should increase spending on them. Programs such as WIC and Head Start and Pell grants should not be limited to some fraction of the needy population, they should be available to all. But we must pay for them out of budget savings elsewhere or taxes.

We are not helping our children if we saddle them with ever more debt. This year we sent the dubious record of a $400 billion addition to that debt. Now, and every year, we have saddled taxpayers with another $30 billion or so in debt service. $30 billion, five times the so-called peace dividend we are debating. It is not hard to see which issue is more important for our children.

The only plan we collectively have, and it is a pretty weak one, is that outlined in 1990. Everybody dislikes it for one reason or another. But I do not think we should scrap it until something better comes along.

I happen to agree that we can probably find savings in defense beyond those that President Bush has outlined. I think we should find those savings.

But I think we are only delaying the day of reckoning if we shift such savings to domestic spending. I do not see how we can close a $400 billion deficit while maintaining current services spending in any area of the budget—defense, domestic, or entitlements. I think we have to stop playing the Washington Monument game and start making some choices. Do we want money for space stations or immunizations? For Head Start or super colliders?

I have my views, others have theirs. We will have to thrash out our differences, and my constituents and I will be on the losing end of a lot of decisions. But that is better than not making any decisions. That is what the budget process is supposed to entail, and that is what Congress is charged to do.

I have tried to stick by the budget process. I have opposed provisions to cut taxes without finding offsets, and have opposed new spending that was not paid for.

It is no secret that I differ with the Bush administration in many of its spending priorities. But the administration is absolutely correct that we should direct defense savings to deficit reduction.

For the first time in a century, and perhaps our entire history, we are not faced with a military threat from Europe. The temptation is understandable to breathe a sigh of relief and slash military spending.

But rather than grab this money for our favorite program or two, what we should be undertaking is a fundamental reassessment of our problems and priorities.

For example, one result of reducing our military is that 100,000 fewer young men and women will enter military service each year. The military has been a very important bridge to economic opportunity for many, many disadvantaged Americans. How will we replace it? What can be done to improve upon it? And what can be done to obviate the need?

To place matters in perspective, the Job Training Partnership Act only serves about six or seven per cent of the need for training economically disadvantaged citizens.

Yet the cry in this body and throughout the States is for workfare. In general, I favor it. But where is the training, the child care, the transportation—to say nothing of the jobs? We have a lot of needs but no defined programs that will come close to meeting these needs.

You would have to be without senses not to be moved by the poverty and despair of this city and every one like it across the country. And those of us from rural areas know that poverty, while dispersed, is every bit as severe in our own States.

One key to helping ease this suffering is education. Everyone agrees we need to revamp our system. The need to revamp and improve upon our vocational education programs is critical. Postsecondary education is becoming unaffordable. We have at least a $60 billion need to improve our postsecondary facilities, particularly in science.

We still do not have a health plan, yet health costs are jumping $100 billion a year. We have no real energy plan to stop sucking oil out of the Middle East and jobs out of the United States. And, of course, we have no workable plan to bring the deficit under control.

These are the problems we need to be addressing, but are not. This is what the budget debate should be about, but is not. No plan presently exists to meet these needs.

This bill will not become law, indeed it is not clear at this point that it even commands a majority of both Houses, let alone veto strength. This bill will be a news story for a few days and then will fade away.

But the problems we are not debating will remain. The best thing we can do is to put this bill aside and move on to the real issues.

We must seize the opportunity during our military downsizing to examine these huge, macro problems. We must reevaluate our present programs. We must reorder priorities to face our future demands.

We must at the same time get this deficit, which reduces our opportunities through higher interest costs, under control. In this regard I believe we are at the point of no return. If we do not act now it may be impossible to act later.

Mr. CONRAD. Mr. President, the greatest threat to our national security is our economic vulnerability and our economy is in trouble. I believe we need a comprehensive budget plan that reduces the Federal budget deficit and shifts our investment into growth-oriented programs including investing in people and skills, and in our technology and infrastructure. We can only do that if we adopt this bill to take down the walls between defense and domestic programs.

In the 1980's we experienced huge budget deficits and ran up a massive national debt. The annual deficit ballooned from an average of $57 billion during President Carter's tenure in office to a projected average of over $250 billion under President Bush—nearly a fivefold increase. These towering deficits mean that our national debt climbed from $909 billion in 1980 to over $4 trillion by the end of this year. Interest payments on our national debt became the fastest growing budget item and now represent the largest portion of our Federal budget. Not only did these deficits and debt do nothing directly to promote our economic future, they indirectly crippled it.

The Budget Enforcement Act establishes a ceiling of spending on each of the three categories of discretionary spending—defense, international, and domestic. Under current law, we have the ability to reduce spending in any category and use the funds for deficit reduction. That is vitally important and must be our first priority.

However, when the Budget Enforcement Act was negotiated our Nation was on the brink of war with Iraq and the Soviet Union was still a considerable force to be concerned with. I believed at that time that we were spending excessively on defense. I have maintained that we could defend ourselves well with fewer, but better directed, resources. I believed that during the peak of defense spending in 1985 and when the spending caps were set in 1990. I am certain of it now. The war in Iraq is over and the Soviet Union no longer exists.

In his State of the Union speech to the Nation, President Bush stated:

> We gather tonight at a dramatic and deeply promising time in our history, and in the history of man on earth.
>
> For in the past twelve months the world has known changes of almost biblical proportions. And even now, months after the failed coup that doomed a failed system. I am not sure we have absorbed the full impact, the full import of what happened. But communism died this year.
>
> But the biggest thing that has happened in the world in my life—in our lives—is this: By the grace of God, America won the Cold War.

I agree that we have witnessed momentous changes in our world in the last year. We must respond to these momentous changes as the President has not. Last year, on the heels of the gulf war, the President proposed a 3-percent per year cut in defense spending. This year, having declared the cold war over, he is only willing to cut 1 percent from last year's plan—or 4 percent per year—leaving us $15 billion over the cold war defense spending average when his plan is fully implemented in 1997.

However, the Defense Intelligence Agency tells us that the Soviet Union has no capability to threaten the United States or NATO with large scale conventional operations, which is why our troops are stationed in Europe. Germany is paying the Russians to stay in Germany, while we are spending $100 billion a year to protect them from the Russians. That makes no sense—we cannot continue such an irrational policy.

With the collapse of the Warsaw Pact and the economic resurgence of Europe and Japan, it is time for a change. We must tell our allies that we can no longer afford to pay their bills when we cannot pay our own. We must go beyond burden sharing and move to burden shedding.

During the buildup of the defense budget in the 1980's, health care became more unaffordable to our citizens. We now have 34 million citizens without any type of health insurance and many who do have it are not sure how they will make the next payment or are afraid to change jobs for fear they will lose coverage. Our infrastructure has crumbled and the education and training of our young people has suffered.

It is time to reorient our priorities—to reduce the Federal budget deficit, and to invest in people, infrastructure, and technology. A 1991 study by Employment Research Associates concluded that every $1 billion shifted from military spending to civilian investment generated a net gain of 6,800 jobs and net GNP growth of $17.6 billion per year.

I firmly believe that we must reduce the Federal budget deficit to boost savings and investments. Huge Government debts lower private investment by raising the cost of capital relative to our competitors' costs. To maintain investment in our economy in the long run we must reduce our budget deficits and reorder our spending priorities toward investment. We can and should cut defense spending significantly over 5 years—aiming for the cold war average at a minimum.

We should implement a tax compliance program similar to the fair share program I administered as tax commissioner of North Dakota. Before we ask honest taxpayers to continue paying for our urgent needs, we must make a serious effort to collect the taxes owed by those who are cheating. The Federal tax gap is currently about $100 billion annually. If we restored audit rates to 1970's levels, we could collect an additional $47 billion per year.

We must invest in our people and their skills. Our standard of living is directly tied to how much workers produce, so making Americans healthier, better trained and better educated will ensure higher living standards in the future.

We must reform our health care system, challenge our young people and invest in early intervention programs such as Head Start, nutrition programs, and immunization programs. Training, including more vocational education, school-to-work transitions, and incentives for more on-the-job training of frontline workers must be a priority. A more highly skilled work force will encourage businesses to invest in modern production technologies and raise workers' incomes so that they have more to spend and save.

We must invest in technology and infrastructure. Increasing our rates of productivity and GNP growth in the future depends on investing in technology and our infrastructure today. Our underinvestment shows up in our productivity growth. From 1973 to 1985, the United States provided 0.3 percent of GDP to nondefense investment and our productivity grew at an annual rate of 0.6 percent. At the same time, our competitors have reaped the benefits of investing 5 to 17 times as much. Our roads, bridges, and airports are crumbling and costing our economy tens of billions of dollars per year in productivity.

The outstanding needs in America are many. Our world is changing around us and we have not responded to these changes. This legislation breaking down the walls between defense and domestic programs is the first step. With that in place, we can proceed to reduce the deficit and invest in our Nation.

Mr. ROBB. Mr. President, during my tenure in the U.S. Senate, with few exceptions, I have supported motions to proceed because I believe that it is the business of the Senate to consider legislation, and vote, up or down. With very few exceptions, I believe the Senate should make decisions on the merits. However, because the only vote on S. 2399, the Appropriations Category Reform Act of 1992, will be on the motion to proceed, and, because I am opposed to the substance of this legislation, I will vote against the motion to proceed.

I respect the honorable intentions of those who support taking down the firewall between defense and domestic spending in order to fund good and worthwhile programs and projects but the firewalls are the only budgetary discipline the Congress and the President have to force us to address the budget deficit, which now exceeds $400 billion, this fiscal year; and the national debt, which will soon exceed $4 trillion.

Now, I recognize that working within the domestic, defense, and international discretionary spending caps will be difficult. Clearly, domestic discretionary spending will have to be reduced by at least $6.7 billion below the current services level.

But in good conscience, I cannot condone setting our military priorities based on what isn't taken for domestic spending and I cannot let this chance pass to begin to accept our responsibility to pay our own bills and not pass most of them on to succeeding generations. The people of this country expect the President and the Congress to act more responsibly than we have in recent years—and this will start us in that direction.

Mr. KOHL. Mr. President, in the 2 years since we created the current budget procedure and erected the walls which assure that money initially budgeted for defense can not be transferred to domestic accounts, the world has changed a great deal.

I supported the walls in 1990. I oppose them in 1992.

But that does not mean that I support using all of the peace dividend to fund domestic spending. In fact, I don't. In my judgment, on a year to year basis, we may decide that some percentage of the defense savings should be used for other purposes, like deficit reduction or tax relief for middle-income Americans.

Taking down the walls gives us the ability, the flexibility, to decide how we can best use the peace dividend. Keeping the walls up will lock us into a strategy which may not be the most appropriate response to changing conditions and emerging priorities.

But Mr. President, while I know that this has become an important issue, I must confess that I don't understand why we have decided to make it a political issue. After all, in the 1990 budget agreement, we explicitly "tore down the walls" in fiscal year 1994. We did that, I assume, because we wanted the flexibility to respond to changing conditions. Well, the conditions changed a little ahead of schedule. We won the cold war a few years earlier than we thought we would. That should be a cause for celebration, not an excuse to engage in a partisan conflict.

Does anyone really believe that the President is driven by some ideological motive to insist that the $5 billion or $10 billion we can cut from defense outlays be used to reduce the deficit? The same President whose budget was $400 billion in the red, the same President whose economic recovery program would have increased the deficit?

If he really wanted to reduce the deficit, he would have insisted on a whole lot of things in addition to retaining the walls.

But he hasn't.

Instead he has found the one thing he really wanted and the one thing the American public does not need: another political issue.

So, Mr. President, I will vote to tear down the walls. But I do not do so in order to spend the money. I do so in order to give us the freedom to decide what to do with the money—invest it in deficit reduction, use it to meet immediate human needs, support long-term programs in education and infrastructure to make us more competitive. Those are the sort of choices we were elected to make. Those are the kind of choices the walls prevent us from making. And that is why I support efforts to tear the walls down—so that we are free to debate decisions rather than have them dictated to us by some arbitrary and temporary artificial constraints.

Mr. KASTEN. I rise today to urge my colleagues to oppose the Appropriations Category Reform Act of 1992, the so-called firewall legislation. I strongly believe that savings from the peace dividend should be used for deficit reduction and progrowth tax relief. Peace dividend savings should not be used to finance a new government spending spree that will eventually run up this Nation's Federal debt.

Much of the debate on this proposal has centered on the budget summit agreement of 1990 and what specific changes should be made to that act. I would therefore like to take this opportunity to review the impact of that 1990 agreement a year and a half after its enactment.

I opposed the 1990 Budget Summit Act. I believed at the time of its enactment that it was disastrous economic policy, and the facts show that I have been proven correct. I also want to commend President Bush for repudiating the budget summit agreement—and renewing his opposition to tax increases that would harm economic growth.

On October 27, 1990, before the vote on the budget summit agreement I said on the floor of the Senate that the agreement would "kill the economic expansion of the 1980's, . . . it will not reduce the budget deficit." I stated that based on fraudulent economic assumptions "we have reared up an equally fraudulent economic skyscraper—a huge white elephant that will raise taxes on America without producing the promised deficit savings of $40 billion next year, 1991 and $500 billion over the next 5 years."

I then went on to state that:

> [W]e ought to take these estimated spending cuts and tax increases and frame them on the wall. And I would invite my colleagues to join me here 1 year from today, and look at that frame again. The tax increases will be there. The spending cuts will not. And we'll be talking about even more tax increases to dig us out of the deeper hole that we are digging right now.

The results of the 1990 budget agreement are now in. This agreement has been an unmitigated disaster. While the agreement was supposed to reduce the budget deficit, the deficit has in fact exploded. When the agreement was enacted 16 months ago the deficit for 1992 was supposed to be $229 billion, it will in fact be $400 billion, nearly double. Similarly, the 1993 deficit forecast has grown by $223 billion.

In fact, the deficit forecast under the 5 years of the agreement, 1991 through 1995, was off by nearly $1 trillion. After declining from 6.5 percent of GDP to 3 percent during the low-tax, high-growth period of 1983–89, the deficit is not projected to reach almost 7 percent of GDP in 1992.

The cornerstone of the budget agreement was the $165 billion tax increase—one of the largest tax increases on the American people in history. This was what the Democrats wanted out of the budget agreement. However, this agreement has in fact brought a tremendous drop in tax receipts. The reason is obvious. The dramatic tax increase in the early months of a recession guaranteed that that recession would be far more severe than it would have been with not tax increase. Instead of revenue increases, tax revenues will in fact be $500 billion lower over the 1991–95 period than were forecast before the agreement.

The Government has lost about $3 of tax revenue for every dollar the budget summit was suppose to raise. Let me repeat: we've lost $3 in revenue for every dollar the budget summit was supposed to raise.

The budget summit was supposed to impose restraints on domestic spending. This was what the President got out of the deal in exchange for the Democrats' tax increase. However, this too has failed because the agreement abandoned the strong budget caps of the Gramm-Rudman-Hollings Act and replaced those caps with flexible caps which provided little, if any, protection from Congress' appetite for spending.

The only category of spending that has produced budget savings is defense. In the first year of the summit agreement domestic discretionary spending grew nearly 10 percent, entitlement spending grew over 12 percent. Spending in both categories continues to grow at levels well above inflation. Outlays over the 5-year period covered by the summit agreement are now projected to be $102 billion above the presummit baseline.

This explosion of Government spending under the agreement builds on the trend since 1989. In just 3 years, from 1989 to 1992, Federal spending has climbed an astounding $330 billion, or 29 percent. In fact, the average annual increase in domestic spending in the 1989–92 period was $43.35 billion, about 39 times greater than the $1.08 billion per year increase in the 1985–89 period.

I ask unanimous consent that a table prepared by economist Dan Mitchell of the Heritage Foundation be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—AVERAGE ANNUAL DOMESTIC SPENDING INCREASES[1]

[In billions of 1987 dollars]

	Total domestic	Domestic entitlements	Domestic discretionary
Carter years, 1977–81	15.31	13.07	2.24
Miller, 1985–89	1.08	.55	.53
Darman, 1989–92	43.35	36.21	7.24

[1] Excludes deposit insurance and net interest.

Source: "Historical Tables, Budget of the U.S. Government, fiscal year 1993," Office of Management and Budget.

AVERAGE ANNUAL PERCENTAGE GROWTH OF DOMESTIC SPENDING[1]

[Adjusted for inflation]

	Total domestic	Domestic entitlements	Domestic discretionary
Carter years, 1977–81	2.95	3.72	1.41
Miller, 1985–89	.20	.14	.38
Darman, 1989–92	6.95	7.84	4.45

[1] Excludes deposit insurance and net interest.

Source: "Historical tables, budget of the U.S. Government, fiscal year 1993," Office of Management and Budget.

Mr. KASTEN. Despite this tremendous increase in Government spending, many of our Democratic colleagues want spending to grow even faster. Instead of using defense savings for deficit reduction they want to tear down the firewalls, gut defense, and go on a domestic spending spree at a time when the Government is running a $400 billion deficit and a $4 trillion national debt.

An explosion of Federal spending, a shortfall in revenues from a recession that is the direct result of high taxes and reregulation, and the 1990 budget agreement have given us the largest deficits in the history of our Nation.

I am not surprised that my forecast of a year and a half ago was correct. I knew then what I know now, tax increases will not balance the budget. Tax increases seriously impede economic growth and lead to more Federal spending. Anyone who doubts this has completely ignored the results of the summit agreement. I am now more convinced than ever that my vote against the 1990 budget agreement was one of the most important votes I have cast while in Congress.

Instead of budget summits that increase taxes, increase spending and increase deficits, Congress should get serious about attacking the deficit through spending restraint and progrowth tax policies.

The first step is a balanced budget amendment to the U.S. Constitution. On July 24, 1991, I introduced Senate Joint Resolution 182, the balanced budget/tax limitation amendment to the U.S. Constitution. This amendment would require a three-fifths supermajority vote of Congress to approve deficit spending. But it would also require a three-fifths supermajority vote to approve tax increases in excess of the level of economic growth. Fifteen Senators have now joined me as cosponsors.

This amendment recognizes that the cause of the deficit is excessive Government spending. In 1992, the level of spending is forecast to increase nearly 12 percent over 1991 levels. Skyrocketing Federal spending in the last decade has far outstripped reasonable levels of growth and has forced a growing deficit and tax burden on working Americans. While Federal tax revenues jumped 72 percent in the 1980's Federal spending jumped 85 percent. Higher taxes are not the solution. History shows clearly that higher taxes only lead to higher levels of spending. The American people have had enough. In 1991, "Tax Freedom Day," the date the average American has earned enough to pay his/her annual Federal, State and local taxes, was May 8, the latest ever.

Since a balanced budget/tax limitation amendment will take time to enact, a number of additional steps must be immediately taken. I support and recently voted in favor of legislation to grant the President line-item veto authority. A recent General Accounting Office study found that if Ronald Reagan and George Bush had had the line-item veto from 1984 to 1989, about $70 billion in wasteful spending would have been reduced or eliminated.

A balanced budget requires immediate restraints on Federal spending. Savings from reductions in defense spending and from an across-the-board budget freeze on domestic and international discretionary spending should be used to fund a reduction in the deficit and pro-growth tax relief. I proposed this as an amendment to the recent Democratic tax increase bill.

My amendment paid for the tax reductions in the Democratic bill with real spending restraint—not tax rate increases on small businesses. It called for prudent reductions in the U.S. defense budget and an across-the-board freeze on domestic and international discretionary spending. These spending limits would have generated $82 billion in budget savings over the next 5 years, more than enough to finance the tax cuts and produce $15 billion in net deficit reduction. I ask that the following table on the budget savings that would have resulted from the Kasten amendment be entered into the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 2.—BUDGET SAVINGS FROM KASTEN AMENDMENT

[In billions of dollars]

	1993	1994	1995	1996
Kasten amendment:				
Defense:				
Budget authority	281.6	282.3	285.0	286.3
Outlays	292.0	284.0	283.8	286.9
International:				
Budget authority	21.3	21.3	21.3	21.3
Outlays	20.1	20.1	20.1	20.1
Domestic:				
Budget authority	189.0	189.0	189.0	189.0
Outlays	216.2	216.2	216.2	216.2
Total discretionary:				
Budget authority	491.9	492.6	495.3	496.6
Outlays	528.3	520.3	520.1	523.2
President's fiscal year 1993 budget (as estimated by OMB):				
Total discretionary:				
Budget authority	506.8	507.6	509.1	510.7
Outlays	537.3	534.7	537.3	545.2
CBO February 1992 baseline:				
Total discretionary:				
Budget authority	518.1	511.3	517.1	534.7
Outlays	542.9	536.5	538.2	556.5
Kasten amendment outlay savings:				
Difference from President's budget:				
Budget authority	−14.9	−15.0	−13.9	−14.1
Outlays[1]	−9.0	−14.4	−17.2	−22.0
Difference from CBO February baseline:				
Budget authority	−26.2	−18.8	−21.9	−38.1
Outlays	−14.6	−16.2	−18.1	−33.3

[1] Total outlay difference 1993–96, $−62.6.

[2] Total outlay difference 1993–96, $−82.1.

Source: Preliminary estimates by CBO.

Mr. KASTEN. Unfortunately, the free spenders in the Senate defeated my deficit reduction amendment on a vote of 61 to 36. I wanted to make the point to the American people that Congress can cut taxes, freeze spending, and reduce the deficit if it can summon the political will to do so.

Instead of resorting to tax increases first, Congress should be able to find the necessary savings from the Federal Government's $1.4 trillion budget to fund both deficit reduction and progrowth tax relief.

Restraining Federal spending is critical, but the deficit will only be eliminated when aggressive progrowth economic policies are restored. The leading cause of the growth in the deficit in 1991 and 1992 is the recession. Without a growing economy and a vigorous job-creating private sector the necessary tax revenues will not materialize. The 1990 Federal tax hike, re-regulation of the economy, and out of control spending have all increased the length and severity of an economic downturn that has now lasted nearly 2 years. Consequently Federal tax revenues have fallen off dramatically.

In order to turn the economy around and restore long-term economic growth I have proposed a comprehensive tax incentive and job creation plan. This coupled with a moratorium on new Federal regulations for small business, and controls on Federal spending will revive our economy and increase tax revenues. According to the Congressional Budget Office rules of thumb a 1 percentage point increase in real economic growth will reduce the deficit by $255 billion over 5 years.

I can only hope that the lessons of the 1990 budget agreement will not be lost on Congress. The American people are tired of the status quo policies of tax and spend in Washington. The budget deficit has become an unacceptable burden on our children and on our economy. Together we must work to control the growth in Government and get this economy moving and creating jobs with progrowth incentives.

• Mr. HARKIN. Mr. President, I rise in strong support of the legislation offered by the Senator from Tennessee. Senator SASSER's bill makes a far more important contribution to economic growth than the tax fairness bill passed last week. I believe the issue before us today is the defining question of the 102d Congress: That is, with the cold war over; will we have the courage to come in from the cold and make the changes necessary to compete economically and lead the global markets of the next decade?

This is the question. Six months ago, I stood here and offered an amendment that asked the very same question. That amendment would have shifted one-tenth of 1 percent of our defense budget over to domestic discretionary spending—to things like education and health care and biomedical research. Then, as now, it was a question of priorities. It was not about spending one dime more, it was about spending our money differently. It was about doing the things necessary to increase our long-term productivity growth, the engine which drives both our competitiveness and prosperity.

That amendment did not succeed. But the world has changed and so too have the views of many in this body since last September. I know the American people have. The people I have been privileged to meet the past 10 months are more worried about the pink slip than the red menace, and it is time our budget priorities reflect those concerns.

1992 is truly a transition year for our Nation. 1991 ended with a Russian red, white, and blue flag flying over the Kremlin. And come January 1993, the European Community will integrate and for the first time since WWII, the United States will officially become the second largest economic power in the world. This is a year of big decisions, none of which is larger than the legislation before us today. This bill is about a lot more than the budget walls of 1992. It is about making decisions that will have an effect on long-term economic growth.

Mr. President, for the last 40 years, two generations of Americans gave their blood, their lives and spent $12 trillion to fight the cold war and defend the world from communism.

But now the cold war is over. And we won. Europe and Japan are rebuilt. We helped rebuild them. The Soviet Union is dead. We helped kill it. The cold war is over, and continuing military spending at cold war levels is senseless.

Certainly military threats still exist, but now they are more likely to come from terrorist states, drug traffickers, and from the residue of our cold war victory; the spread of nuclear weapons. And the massive military forces built up over the past four decades can not help us solve the crises of the next decade. Massive military force sitting on what use to be the West German border will not stop the killing between Serbs and Croats. Massive nuclear arsenals will not put bread in the shops for the angry crowds in the CIS. Wasteful military expenditures will not help us sustain a new decade of economic recovery and growth in the face of European integration and Japanese economic growth.

Aside from the President and some aggressive Pentagon planners, most Americans recognize that the United States has no major military rivals, and by all accounts it would take more than a decade for one to arise.

What is the President's response? A defense plan that anticipates a world only marginally less threatening than at the height of the cold war, and a military budget only slightly smaller. He has called for only 19 percent fewer strategic nuclear weapons in 1996 than in 1991, and for only a 15-percent reduction in military spending over the next 5 years.

Mr. President, America needs leadership with the ability and long-term vision, as President Lincoln once put it: To "think and act anew," leadership with the ability to forge a new set of priorities and the will to achieve them.

This President clearly does not have that vision. Mr. Bush is a son of the cold war and has given no indications that he is capable of coming in from it. No, it is up to the Congress to develop new priorities to deal with this new era.

And the first step we can take is to eliminate the budget firewalls, created before the fall of the Soviet Union to maintain a defense to deal with cold war threats. Those firewalls now prevent us from directing our resources to meet the economic challenges of the 1990's.

Mr. President, America's strength in this new world—its position as a leader among nations—now depends less upon brute force and more on economic strength. That is the conclusion of the bipartisan Competitiveness Policy Council, which found that:

> To an extent far greater than ever before, foreign policy and national security in the 1990's and beyond will begin at home. The United States will have neither the resources nor the moral authority to be a world leader unless we meet the challenge of improving our competitive position dramatically.

Mr. President, the reason this legislation is so important is that it frees up the resources so we can make the investments to keep us competitive. The domestic discretionary portion of the budget is the very thing that funds America's investment in itself and its economic future. But for the past 11 years, that portion of our budget has been steadily shrinking, as resources have been diverted to fight the cold war.

Since 1981, defense had real increases totalling $624 billion. At the same time, domestic discretionary spending suffered real cuts totalling $395 billion. According to Chairman BYRD, under this present agreement, if we pursue this administration's requests through fiscal year 1995, domestic discretionary funding will drop another $46 billion.

This is not a strategy for long-term economic growth. It is a path to becoming a second-rate economic power.

The problem is compounded when you look at what our competitors are doing. We seem to be the only major industrialized nation in the world that does not understand the connection between public investment and productivity growth. As a result, they are growing while we have nearly stagnated.

The Japanese, the Taiwanese, and Germans have been investing in high-wage, high-skill work forces, modern transportation and communication systems, and new ways for organizing the workplace.

Chairman BYRD compared our nondefense public investment and our productivity increase versus the productivity of other major industrialized nations from 1973 to 1985. Over this twelve-year period, Japan invested 5.1 percent in domestic programs and increased its productivity by 3 percent. Italy invested 2.7 percent and increased its productivity by 1.8 percent. The Federal Republic of Germany invested 2.5 percent and increased its productivity 2.4 percent. France invested 2 percent and increased its productivity 2.3 percent. The United Kingdom invested 1.8 percent and increased its productivity 1.8 percent. Canada invested 1.5 percent and increased its productivity 1.3 percent. And finally, the United States invested a paltry three-tenths of 1 percent and had a paltry growth of only six-tenths of 1 percent.

Here is how we compare to the other industrialized nations in other areas. Education: We rank 14 out of 16 industrial countries in Federal investments in K through 12. Investments in training: Last. Wages: Our workers make less than most of the developed countries in Europe and earn 44 percent less than the Germans.

And we wonder why we are in the mess we are in today. Our long-term decay did not happen by accident. It is the direct result of a policy that disinvested in America. But we can fix it. We do not have to spend more to reverse this trend, but we do have to spend differently. We need to change spending priorities.

As Business Week magazine recently pointed out, "we need to inject billions of new investment into the economy * * * and both private and public investment need help."

> Higher productivity growth requires two kinds of public investment. The first is physical investment in revamping the nation's

> crumbling infrastructure. * * * The second is investment in human capital. We know that some kinds of education expenditures, ranging from the Head Start program for preschool children to apprenticeship programs for high school graduates, are effective. We should not be afraid to fund them generously.

Again, that is Business Week. Noted Princeton economist Alan Blinder calls this resource-based economics. It is based on some commonsense principles. That we need an economy that invests in its physical infrastructure to make business more efficient and in its people to make them the healthiest, smartest, most productive work force in the world. It is the course we must take for the economy in the short term and our Nation in the long term. But we will not be able to pursue this course until we bring down this budget Berlin Wall.

Let me address a few of these areas. Consider infrastructure.

Last year, the Bank for International Settlements found that "regions investing more in infrastructure tend to have higher output, productivity, and employment growth. And guess what two countries they cited as examples: Germany, which spends 15 times more than we do as a percentage of output, and Japan, which spends 23 times as a percentage of output.

In cities and towns all over this country, there are plans on the shelves to put people back to work rebuilding this Nation's infrastructure—rebuilding roads and bridges, sewers and mass transit systems, school renovation, housing development, reopening training centers, and building the technologies of the future. Nationally, the Conference of Mayors found that over 300 major cities have thousands of construction projects on the shelf, ready to go. By investing $8 billion, the mayor's report that 280,500 jobs would be created this year alone.

The administration claims it does not have the money. Yet it can find $8 billion to spend on the B-2 Bomber and SDI, two outdated cold war weapons that will do nothing for our long-term growth and security. Investing in infrastructure will create jobs and give us a better infrastructure that allows the private sector to be more efficient and more productive. If we take down the budget walls, we can do that. It is a question of priorities.

Look at research and development. Our total R&D spending as a percentage of GNP is roughly the same as Germany and Japan's. The difference is, they emphasize civilian research, and we emphasize military. While we develop missiles that can hit a postage stamp from 1,000 miles away, Japan has taken the VCR, which we invented, and developed it into a worldwide industry. And now, there are no VCR's made in America anymore.

We can continue high-dollar cold war research, or we can begin the process of conversion, taking the veterans of the cold war—our scientists, engineers, sheet metal workers, and machinists—and putting them to work building commercial ships, and the next generation of aircraft, and high-speed rails, renewable energy systems, and new technologies that will make us more productive and competitive for the future. We can make the Government a partner with private industry and universities to promote research and development. If we take down the budget walls, we can do that. Again, it is a question of priorities.

Finally, look at our human resources—education, job training, and health care. I have a special interest in this area because my Labor HHS Subcommittee funds these programs.

We are responsible for the part of the domestic discretionary budget that funds Head Start, chapter I, the Eisenhower Science and Math Program, Pell grants, student loans, elementary education, JTPA, OSHA, child care, childhood immunizations, to name a few. All programs that affect our work force in one way or another.

In the global economy today one truth is very clear: In a world where machines and capital can move around the world with the touch of a button, business will go and stay where the smartest, healthiest, most productive workers are. Period.

Let me give you an example. As MIT economist Lester Thurow points out, to make 64 million bit semiconductor chips, which the world is gearing up to do, you have to do statistical quality control. To do that, every single production worker has to learn operations research. To learn operations research, you need a pretty sophisticated mathematics base.

Last summer, Motorola announced it would build its plant for making 64 million bit chips in Kuchu, Japan—Not Silicon Valley, not Route 128—But Japan. Why? Not because Japanese work for less. But because their production workers have higher skills, and are easier to train.

In America, the size of our work force is levelling off. In the coming years, we are coming to increasingly rely on the lower fifth of our population to fill the job ranks. That is the group most harmed by the past 11 years of disinvestment of the Reagan and Bush administration. If we want to have the best trained and best educated workers of tommorrow, we need to invest in the children of today.

Yet, our ability to do that is being limited under current law. If Labor HHS receives the same force of domestic discretionary funding it did in 1992, we would be forced to cut actual BA levels by 3.6 percent—about $2.2 billion—to stay within the fiscal year 1993 allocation.

So instead of teaching the bottom fifth, we would be forced to eliminate 766,000 children from chapter I funding and 22,000 from Head Start. Instead of increasing college availability, we would have to cut 138,000 students from Pell grant funding. Despite layoffs and increased competition, 49,000 participants will be cut from job training programs.

At a time when health care is vital to a productive work force, our efforts to prevent disease and disability will be affected: 4,000 biomedical researchers would be eliminated, 5,100,744 fewer doses of polio vaccine will be available to vaccinate children, and health centers will serve 147,000 fewer people. Not to mention a cut in AIDS funding at a time when caseloads are expected to rise by 200,000.

In the workplace, we would see 5,400 fewer OSHA inspections at a time when worker safety is getting worse, and 11,140 fewer day care opportunities for an increasingly single-parent population.

Finally, LIHEAP decreases would force 207,000 households to choose between heating and eating, and proposed cuts to the Social Security Administration would lead to disability claims taking more than a year to process.

All because we cannot afford $2.2 billion to improve our work force. Yet, this year, we are spending $17 billion to defend Germany from Russia. Germany is growing three times faster than we are, they have wages 144 percent of ours, have national health insurance, parental leave, child care, 1 month paid vacation, and we are spending $17 billion of taxpayer dollars to defend them?

It makes no sense. If we take down the budget walls, we can invest in our people and create the healthiest, smartest, most productive workers in the world. If not, we must settle for second best. It is a question of priorities.

Again, we are not talking about spending more money. We are talking about spending our money differently. Mr. President, the budget firewalls are just as outdated as the Berlin Wall. And we will not be able to plan for the new world until we remove that straitjacket that locks our budget priorities into the old one.●

Mr. AKAKA. Mr. President, I rise today to join with a number of my colleagues in cosponsoring S. 2399, a bill that responds to the urgent needs of the American people, who have faced 19 months of recession.

S. 2399 would tear down the walls erected by OBRA, the Omnibus Budget Reconciliation Act of 1990, that created three categories of discretionary spending—defense, international, and domestic. Passage of S. 2399 would enable us to meet America's pressing domestic needs, which have been exacerbated by the longest recession since the Great Depression.

President Kennedy once said, "To govern is to choose." Nowhere do his words have greater meaning than in the decision we face today. The budget debate of today will profoundly impact the America of tomorrow. Before us lies a choice, and that choice will determine whether our children and grandchildren have the tools to compete in the global economy of the 21st century.

Since the end of World War II, the taxpayers of the United States have sacrificed to bring peace to the world community. With the end of the cold war, the creation of a united Germany and the spread of democracy through Eastern Europe, the time has come for Americans to reap the benefits of their sacrifices.

The people of Hawaii have joined with other Americans to demand responsible action on this issue from their leadership in Washington. We cannot expect our citizens to regain confidence in our ability to legislate unless we effectively tackle the economic problems at hand. Let us choose a path that will ease the suffering of our fellow Americans and reduce the Federal deficit so that our children will have an opportunity to prosper.

Mr. President, we must stick to the budget agreement of 1990 if we are to bring about the end of the longest recession since the Great Depression and reduce the deficit. The bill we debate today does not weaken the budget agreement nor place our economic recovery at risk. Rather, by using the savings from cuts in defense spending to pay for vital domestic programs such as education, breast cancer screening, job training, infrastructure, R&D, and housing assistance, we are making a substantial investment in our future.

We can no longer afford the deep cuts in domestic programs inflicted over the past 10 years. Too many of these essential programs are seriously underfunded and continue to be so under the President's fiscal 1993 budget proposal.

At the same time we must also ensure that our national defense remains strong. As a Senator from Hawaii, I clearly recognize the key role my State and the Pacific play in our current and future defense strategy. I recognize the importance of the Pearl Harbor as a homeport for the U.S. Navy in the Pacific and of its future role when our bases in the Philippines are shut down. The men and women of Hawaii, many of whom are civilian or military personnel employed by the Department of Defense, deserve the support of our Federal Government.

Even though our military focus is shifting, America should maintain a strong defense. We can, nonetheless, achieve common security in the world by reducing reliance on the military through decreased weapons production. In so doing, we will be able to redirect resources toward revitalizing our economic infrastructure and educational systems, as well as meeting our citizens' basic needs.

Any debate on moving defense savings to domestic programs should include consideration of the needs of the Nation's 27 million veterans and their families. Just as they were among the most adversely affected by the budget agreement that extracted $3.5 billion in savings by cutting various veterans entitlements, our country's veterans should be among the first to benefit from any defense windfall applied to domestic programs.

The needs of our citizenry are no less compelling than the need to maintain a strong national defense. S. 2399 neither creates more spending nor increases the deficit. What it does, however, is to allow us to invest the peace dividend realized by the end of the cold war in our children.

I would like to note that I have voted to waive the budget agreement on only a few occasions in order to enact programs such as the extension of unemployment benefits for millions of jobless Americans. I have also sought to shift excess defense spending to domestic programs—a move that parallels the bill we introduce today. My resolve to stay within the 1990 budget agreement is firm, as is my commitment to invest in the health, education and welfare of those Americans most in need.

Mr. President, America is at a watershed. Behind us lies the embers of the cold war. Let us stoke the ashes to ignite a new era of peace and prosperity throughout our Nation.

Mr. KENNEDY. Mr. President, today we have a chance to catch up with recent history, and bring our budget policies in line with current reality. I urge my colleagues to support this effort to bring down the walls between defense and other spending categories, so that we can sensibly align our budget priorities for the future.

When we passed the budget agreement in 1990, the recession had only just started, and the experts and the administration said it would be short and shallow. The Berlin Wall had come down, but the Soviet Union was still the dominant military threat to world peace. The budget agreement was enacted against that backdrop.

But both of those circumstances are now radically changed. Instead of returning to economic growth, we remain mired in a prolonged recession, the longest since World War II. A recovery may or may not have begun. The President's own economic forecasters predict continued stagnation, with higher unemployment in 1992 than the Nation suffered in 1991.

The collapse of the Soviet Union has removed the military threat that dominated our defense planning for over 40 years. The cold war is over, and no one disputes that defense spending will be significantly lower than outlined in the 1990 budget agreement.

My own position has already been expressed on these subjects. I continue to believe that we should be doing more to combat the recession and stagnation that plague the Nation's economy. We should earmark savings from defense to provide short-term economic stimulus, and long-term investment in critical domestic priorities like education, health care, research and development, and job training.

Our Republican colleagues say that we should not adjust to reality, but remain in the outdated budgetary straitjacket mandated by the 1990 law. They argue that changing the budget agreement will cause the deficit to rise. They say they are defending the budget against increases in the deficit.

What a difference a week makes! In last week's debate on the tax bill, Democrats put forward a plan to create needed economic and investment incentives, including six of the seven incentives that the President himself requested. The bill also would have provided tax fairness for the middle class, paid for by slightly higher taxes on the wealthiest 1 percent of the population. But because of the President's need to combat opposition in the Republican primaries, he vetoed that legislation. In doing so, he protected the wealthiest 1 percent of Americans and refused to aid the other 99 percent.

In contrast, the Republicans endorsed a plan that would have raised the Federal budget deficit by over $20 billion, partly to finance capital gains tax reductions for the wealthiest Americans.

So do not be fooled by this week's new-found Republican concern over the budget deficit. Last week, in order to benefit the wealthiest 1 percent, they were ready to abandon all budget discipline and raise the deficit. This week, they appear as the solemn defenders of fiscal discipline.

In January's State of the Union Address, the President said he wanted a comprehensive tax bill, including middle class tax relief. Two weeks later, the President said he wanted a different bill, without any help for the middle class and with even more generous capital gains cuts for the wealthy. Administration aides then sent a series of confusing signals about what they might or might not accept in terms of taxes, spending priorities, and defense spending reductions.

The American people are tired of this lack of coherent policy. Instead of sound bites, they want sound policies.

Everyone knows that the economy is in trouble, and that we should be doing more to end the recession and guarantee a strong recovery. Next Monday, a group of economists, including several Nobel laureates, will issue a statement calling for immediate targeted Federal assistance to State and local governments, in order to fight the recession, maintain essential services, and relieve the crushing tax burden on State and local taxpayers.

Several Senators, including myself and the distinguished chairmen of the Budget and Joint Economic Committees, have advocated such a strategy for months. Senators have also advocated long-term deficit reduction, and we all share that goal.

The only real question about reducing the deficit is timing. Most economists will tell you that it makes no sense to reduce fiscal stimulus in a period of recession and fragile economic growth. As growth becomes more vigorous and sustained, reducing the deficit will become an increasingly important priority.

But the 1990 budget agreement is a straitjacket that requires the peace dividend to be used only to reduce the deficit, regardless of the condition of the economy, and not use those savings to stimulate the economy or hasten the recovery. If the budget walls do not come down, we may well be embarking on a course that will make the recession worse.

That is what is at stake today—being able to move to the essential debate over the best uses of the peace dividend, and reordering our national priorities on domestic investment and deficit reduction. Blocking this measure blocks us from that essential debate. I urge all of my colleagues to support this legislation, so that we can bring the budget agreement into line with reality, and proceed with the debate over the Nation's real needs and real priorities.

Mr. CRAIG. Mr. President, I have never been a fan of the 1990 budget agreement that this bill would bust, and the apparent ease with which some of my colleagues would begin dismantling that agreement remind me why I opposed it in the first place.

Under the 1990 budget agreement, the Federal Government will spend record amounts, tax record amounts, and borrow record amounts.

What little discipline there was in the 1990 act, in the spending caps, we are now talking about wiping out.

When the caps were set in the budget agreement, we all realized domestic spending would be less than the current services baseline.

Proponents cite the current domestic discretionary cap as being $7 billion less than current services.

This is no surprise and it is not a domestic shortfall, as the Budget Committee chairman's "Dear Colleague" suggests. It is an agreed-upon commitment to live with some small amount of fiscal discipline.

And what happens if we take down the firewall this year? With one unified cap for all discretionary spending for fiscal 1993, we will have to really hold spending way below baseline when we write the 1994 and 1995 and future budgets every year at this time.

If we think it will be tough holding 1993 spending a little below current services, wait until this bill raises that current services baseline for 1994.

With this bill, we either set ourselves up for a budget pill more bitter next year than we seem willing to swallow this year, or begin putting pressure on ourselves to bust the spending cap altogether next year.

Proponents say that this bill represents Federal fiscal stimulus during a downturn?

This bill is not a one-time shot in the arm, it is one more clump of cancerous debt; this bill will raise the domestic discretionary baseline permanently; and $400 billion in deficit spending is not already enough stimulus? How much is enough?

We do not really have an extra $7 billion to spend as a result of saving something. This bill says that we should borrow $7 billion that we have the opportunity to save. It is true, that this bill will not add to the deficit, but the deficit is already going to be $400 billion.

Does this mean we are supposed to congratulate ourselves if we do not do anything worse that fail completely to reduce that deficit? In calling for us to shift this $7 billion from deficit reduction to investment in domestic programs some of my colleagues are forgetting one of the first equations you learn in introductory economics: S=I, Savings=Investment. Where are the savings that we have to invest?

My colleagues are talking about borrowing to invest, but investment usually involves foregoing current consumption—that is, savings. We have got $400 billion in dissavings in next year's budget already in the baseline; we've got these truly modest savings on the defense side we could apply against that deficit, and some of my colleagues want us to borrow up to our limit, instead?

Supporters of this bill are saying, if we have a limit, borrow up to it. Do not set priorities, do not show restraint, do not take one, small opportunity to save—borrow it and spend it.

Some of the debate today has made it sound like an additional $7 billion in domestic spending is going to fuel a robust economic recovery. Really? An amount equal to less than 2 percent of all our current deficit spending; less than one-half of 1 percent of all Federal spending; barely one-ninth of 1 percent of GDP?

This is economic stimulus? No; it is like treating a hemorrhage by adding a couple of leeches to bleed the patient a little more.

The current recession was not caused by the Federal Government spending too little; and it will not be cured by the Federal Government spending too much.

The recession has been caused, in part, by the immense buildup of debt that the Federal Government has led; it will not be cured by racking up more debt.

SASSER FIREWALL BILL

Mr. HATFIELD. Mr. President, as this Nation slumbers in what we hope is the end of a long recession, the leaders of our country face uniquely difficult decisions. We are challenged by a complex world economy and threatened by intimidating deficits. We are looking for direction and are offered a rare opportunity to respond in bold fashion. I believe that the health of our economy and therefore our people is inextricably linked with our national security. The strength of our educational system, health care programs, infrastructure, and development of technology can offer order in the surrounding chaos. We should take this opportunity to tear down the walls which hinder us from making the decisions that will give some small amount of optimism to the many who could benefit from our actions.

While I remain very concerned about the size of the Nation's budget deficit, this deficit will not be reduced unless we take the proper steps to keep our economy healthy. It is time that we amend the budget agreement and use available funds to ensure long-term growth and stability.

When the distinguished chairman of the Budget Committee introduced the bill to amend the budget summit agreement to tear down the firewalls between defense and nondefense domestic discretionary spending, I was the only Member from this side of the aisle to join as a cosponsor. But, despite some of the arguments we have heard today, I do not believe that this is an inherently partisan issue.

We are not talking about raising spending here. The level of spending will not rise if we pass this bill. We will not be adding one penny to the deficit. More importantly, we will still be able to use any savings on deficit reduction if that is the consensus.

What we are offering is responsible allocation. We are talking about giving ourselves the flexibility to use money not spent on defense for more immediate concerns. With two-thirds of our spending set aside for mandatory programs, it is critical that we direct discretionary resources to their best use. For many years I have advocated the necessity for entitlement cost containment, reductions in defense spending, and for increases in nondefense programs that benefit the people of this country. The proposal under consideration does not even touch the level of defense spending. It merely allows the flexibility to use crucial funds where they are needed, be it for devastated domestic programs or deficit reduction. This is not a partisan idea.

Mr. President, I participated in the summit negotiations in 1990. I remember the lengthy meetings an discussions of defense and domestic priorities. But, the world has changed greatly since the fall of 1990. In the past year and a half we have seen some enormous changes in the world order and in our domestic economy.

Nevertheless, the 1990 agreement remains the current tool that we are using to address our national budget crisis. And, the proposal to break down the firewalls does not weaken the Budget Enforcement Act's overall deficit reduction. What it does is allow us to shed the somewhat arbitrary constraint on use of much needed resources that was agreed upon at that time. This bill allows us to use the benefit of our experience over the past year and a half to make the changes that are now needed.

As we spend time debating a motion that will determine whether we can even consider this legislation, numerous areas such as education and housing are in desperate need of additional funding.

There are some demanding needs in our Nation, and our weak economy has crippled the ability of States and localities to effectively provide much needed services.

President Dwight D. Eisenhower said:

> This world in arms is not spending money alone. It is spending the sweat of its laborers, the genius of its scientist, the hopes of its children. * * *

Every $1 billion we spend on military procurement creates roughly 28,000 jobs. That same $1 billion spent on public transportation would create 32,000 jobs—on education, 35,662 jobs.

Earlier my colleague from Tennessee made what I believe is a very cogent point. Senator SASSER has compared the percentage of spending the United States allocates for defense versus the percentage spent by our allies. While our country remained intent upon spending nearly $300 billion on defense, our allies were improving their economies through domestic spending. Surely this has taken a toll.

This bill is common sense. It is not a rash reaction to the crumbling of the Soviet Union. The new world order demands that we do no less than allow a budget discussion that considers all options, be it deficit reduction, or additional spending on our domestic programs. This bill itself makes no immediate decisions on spending. This bill simply says that we are going to take advantage of this unique opportunity by breaking down spending limits which may hamper our ability to allocate the budget in a way which reflects our true, long-term interests.

Surely, our long-term interests are not reflected in the current budget proposal for the military. When we sat down to hammer out the budget agreement we were dealing with a completely different world. Our security needs were not the same as they are now. The downsizing of our military is now a fact of life. The President has recognized it, the chairman of the Armed Services has recognized it, most of us have accepted this as fact. Of course there will be more discussion about how much is enough for defense—I think that we can go much lower than the President's figure—and we ought to utilize the money saved in ways which complement our long-term security needs.

Mr. President, a good deal of attention has been focused upon our economic competitiveness. Our concern about the trade deficit is a near obsession, and yet we have not made the significant investments which will guarantee that our Nation will continue to be the economic giant of the world. We have little money for early education programs like Head Start, we find ourselves constantly scraping for dollars for all kinds of research programs, from medical research to computer components. And as our own domestic discretionary program funds shrink, so does the amount available from the budgets of the 50 States.

The Nation is hurting from those cuts and we have in this legislation a tremendous opportunity to ease the economic pain. Deficit reduction is an important part of the economic recovery program. But what will we have accomplished if we wipe away the deficit while at the same time our infrastructure has crumbled? Again, President Eisenhower put it best when he said:

> The program of defense, is how far you can go without destroying from within what you are trying to protect from without.

When we developed the budget agreement 1½ years ago we placed limits on spending because we had no other choice. We did not have the money. Now, there is an opportunity to have a peace dividend. We have the money. The Pentagon doesn't need more money for the strategic defense initiative, for the B-2 bomber, and certainly not for a new generation of nuclear weapons.

Some of the opponents of this amendment have argued that money transferred from defense to domestic programs is money sent into economic oblivion—that it will be wasteful spending. I must ask, which is more important: protecting the Defense Department's ability to waste billions of dollars more on warmed-over cold war military programs or allowing those dollars to be spent on student loans and Alzheimer's research?

Each of us here today knows that the Pentagon has no claim on thrift. But some domestic programs enjoy incredible returns and ought to be expanded. The Sasser bill gives us that option.

To argue that the Sasser proposal is a bad idea because it breaks some kind of rule or normal budget process is to argue that the Congress is a static body which has no authority to adapt to the current environment. Our budget process is constantly evolving because our Nation's needs are evolving. It is our duty to respond to those needs and the Sasser bill is the first step in creating a new, post-cold-war budget.

Mr. WARNER. Mr. President, I object to the parliamentary maneuver which was used to put this issue before the Senate today. We are being asked to consider a bill, S. 2399, without the benefit of the expert advice of the members of the Senate Budget Committee which has jurisdiction over such matters. An identical bill was introduced over 1 month ago and was referred to the Budget Committee, where no hearings have been held on the measure and where it has failed to garner the support of a majority of the members of that committee. If the Senate agrees to proceed to this measure, we will be abandoning our own long-standing review process.

We will also be abandoning a budget agreement which has been in force for only 1½ years. The bipartisan budget summit sought to apply some measure of discipline to the congressional budget process by limiting discretionary spending in three categories. Savings in any spending category were to be used to reduce the Federal deficit—the primary purpose of the budget agreement and an essential step in the process of restoring the health of and confidence in our national economy. S. 2399 would strike at the very heart of the budget agreement by allowing these savings to be spent for other Federal programs, rather than using them to reduce the burden of our national debt. The bill would unwisely abandon deficit reduction in favor of increased Federal spending.

Mr. President, let me also make it very clear that I oppose S. 2399. This bill would allow those favoring defense cuts to win support for arbitrary defense cuts by offering increases in popular domestic programs. Under the budget agreement as it stands, those who want to cut defense must argue their case purely on national security grounds, since savings in defense spending cannot be transferred to other domestic programs. Since ensuring the security of our Nation is the only reason for maintaining military forces, the debate over the level of defense spending should properly focus only on these issues. Domestic spending needs are not the determining factor of an adequate level of defense spending. S. 2399 would blur this distinction by pitting domestic political considerations against the security of the United States.

Today, I would like to address one important aspect of the debate over defense spending—people. Mr. President, I believe there is a real firewall in the defense budget itself. This firewall is made up of the military and civilian personnel of the Department of Defense, as well as the many citizens of this country who work in defense-related industries. These people are the real heart of our military establishment; without them, our forces are just systems and equipment that cannot function. And there is a point—a firewall—below which defense cannot be cut in any particular fiscal year without irreparably harming the morale, spirit, training, and expertise of the remaining military and civilian personnel of our defense establishment.

Mr. President, since the budget summit agreement, planned defense spending has been cut over $500 million. Because of these funding reductions, and because of the very encouraging changes in the world which began over 2 years ago, DOD initiated a 25 percent reduction in military force structure which will be completed by 1995. Already today, the United States has fewer people in uniform than at any time since the Korean war.

By 1995, nearly 1 million DOD military and civilian personnel will lose their jobs. Over 500,000 active duty military personnel will be released, voluntarily or involuntarily, from the service. Over 200,000 civilian employees of the DOD will lose their jobs, over 85,000 DOD civilian jobs have already been eliminated. And as part of this overall reduction in force structure, DOD has proposed reducing National Guard and Reserve forces by nearly 250,000 personnel. If, as some predict, Congress does not allow these cuts to occur, the cost of keeping these Guard and Reserve personnel could be as much as $12 billion over the next 5 years—which means that cuts will have to be made in other vital defense programs just to meet the existing budget targets.

Mr. President, Secretary Cheney announced today that approximately 140,000 personnel in the reserve components of our Armed Forces will be released from their units by the end of fiscal year 1993. These personnel are assigned to 830 individual National Guard and Reserve units that are being reduced in size or inactivated due to the changes in the threats we face. I would like to include for the RECORD a list of reductions in the National Guard and Reserve by State for fiscal year 1992 and fiscal year 1993.

There being no objection, the tabulation was ordered to be printed in the RECORD, as follows:

RESERVE COMPONENT FORCE STRUCTURE REDUCTIONS

	Fiscal year 1992					Fiscal year 1993					Total
	USAR	ARNG	USNR	USMCR	USAFR	USAR	ARNG	USNR	USMCR	USAFR	
State:											
Alabama		553				925	1,430	11			2,919
Alaska		328									328
Arizona		469				336					805
Arkansas						64	735	40			839
California		2,905	1,915	320		3,221	3,614	249		551	12,775
Colorado			87			4	150	106			347
Connecticut		909				123	1,764	40			2,836
Delaware						351	172				523
Florida			584			676	1,126	220			2,606
Georgia		687	94			1,263	537	40			2,621
Hawaii								7			7
Idaho		99				138					237
Illinois		1,195	263			3,519	489	413			5,879
Indiana			80			1,013	28	39			1,160
Iowa		488				960	138	37			1,623
Kansas		814	44			740	2,026				3,624
Kentucky		162				667	522				1,351
Louisiana		814	217			1,137	236	22			2,426
Maine			385				758				1,143
Maryland			39			1,051	425	40			1,555
Massachusetts		1,856		122		1,164	5,030	301			8,473
Michigan		705	91		191	1,783	3,857	585			7,212
Minnesota		2,155	54			1,595	84				3,888
Mississippi						639	680	74			1,393
Missouri			327			1,334	1,941	104			3,706
Montana		450	66				16				532
Nebraska							1,385				1,385
Nevada		118					4				122
New Hampshire		463				767	560				1,790
New Jersey						3,028	1,657	40			4,725
New Mexico						239	117				356
New York		1,754				2,502	5,426	183			9,865
North Carolina			34			334	1,562	137			2,067
North Dakota			30				794				824
Ohio		1,255	220			2,437	4,083	46			8,041
Oklahoma		529				480	3,399	32			4,440
Oregon		741				105	68	39			953
Pennsylvania			39			4,005	238	365			4,647
Rhode Island			1,105			206	325	60			1,696
South Carolina		212	166				810	19			1,207
South Dakota							154				154
Tennessee		288	72	76		486	259	365			1,546
Texas		2,383	33			1,240	28	40			3,724
Utah						334	304				638
Vermont		68				522	677				1,267
Virginia		578	389			173	200				1,340
Washington		58	69			638	801	181	170		1,917
West Virginia		134				222	917				1,273
Wisconsin		570	181			1,277	4,518				6,546
Wyoming		225									225
Puerto Rico		688				261	274				1,223
Guam											0
District of Columbia			156				16				172
Virgin Islands											0
Germany						96					96
United States		[1]667				[1]1,898	[1]735		[2]1,986		5,286
Korea						1,155					1,155
Total	0	25,320	6,740	518	191	45,108	55,069	3,835	2,156	551	139,488

[1] Units programmed for activation, but cancelled.

[2] Spaces to be deactivated, locations not yet specified.

Notes.—No reductions are planned in the Air National Guard for fiscal year 1992 and 1993.

Mr. WARNER. I should emphasize, however, that these types of cuts are required if we fully fund the President's budget request as submitted. Should Congress reduce defense spending further in fiscal year 1993, then more personnel—both active and reserve component—will have to be removed from the Armed Forces. In fact, Secretary Cheney has indicated that should Congress authorize defense spending at the levels recommended by Congressman ASPEN and the House Budget Committee, then DOD will have to force an additional 300,000 personnel out of military service during the next fiscal year.

Mr. President, even at the overall funding level recommended by the President, the reductions in defense spending will have a serious impact on jobs in defense industry. By one estimate, we are looking at a reduction of 1 million in the number of people employed directly in the defense industry by 1997. If the budget is reduced below the administration plan, we are looking at 15 direct jobs and 35 indirect jobs lost for each $1 million in additional cuts. That is 50 American jobs eliminated for every additional $1 million cut from the defense budget.

We clearly should not maintain a higher level of defense spending merely to preserve jobs and capabilities in an industry we may not need. However, if further defense cuts are mandated by Congress, we would accelerate the breakup of our defense industrial base. In the short run, unemployment in communities around the country would grow, and in the long run we risk losing vital capabilities through the pressures caused by hasty reductions.

Mr. President, the world is an unpredictable place, and we can never know when a crisis might arise which could challenge the security interests of our Nation. The past few years have seen unprecedented change and a lessening of the perceived threats to the United States. But these same changes have resulted in greater uncertainty about potential future threats and the intentions of other nations, including the successor States of the former Soviet Union.

Senator NUNN and I have both advised the Senate Budget Committee that we cannot support further cuts in the fiscal year 1993 defense budget request. We recognize, however, that greater defense cuts may be possible in the future if developments in the former Soviet Union and the rest of the world continue to move toward a more peaceful world.

President Bush and our country's senior military advisers have stated repeatedly that further cuts beyond those proposed by the President could have serious consequences for our military forces and our national security. President Bush said, in his State of the Union Message, that defense could be cut "This deep and no deeper." He went on to say, "To do less would be insensible to progress, but to do more would be ignorant of history."

In testimony to the Senate Armed Services Committee last week, Gen. Colin Powell, Chairman of the Joint Chiefs of Staff, said that "we are reducing as fast as we can, we cannot go any faster or we will break the force." Greater cuts in defense would mean more manpower reductions. Greater cuts in manpower would mean the destruction of the all-volunteer force. Military personnel would have to be separated involuntarily from service, breaking faith with the people who have made a commitment to a career of service. It is important to protect the interests and morale of the men and women in uniform, because they are the force who will be called upon to defend our Nation in times of crisis.

The defense budget proposed by the administration is designed to implement an orderly drawdown of our military forces commensurate with the reduction in threats to the United States. By the end of this decade, our military forces will be very different than they are today. General Powell described the 1999 force as "more agile, smaller in structure and with fewer platforms * * * capable of dealing with the challenges of an uncertain world."

But this force requires a commitment to adequate funding and the time to implement changes and reductions in the most rational and least disruptive way. The President's long-term budget plan contains the funding and sets out the path toward achieving the force described by General Powell.

A year and a half ago, a deal was made within the Congress and with the President. Defense spending has been substantially cut in real terms under that deal. Domestic spending has not been cut. Now some in Congress want to change that deal. Once again, Congress is seeking to break its promises to the American people. It is not wise to abandon an agreement which has resulted in some measure of control on Federal spending and the deficit. It is particularly unwise to abandon the deal simply to arbitrarily cut defense in order to fund popular domestic programs. Let the deal stand.

Mr. President, I urge my colleagues to vote against invoking cloture on the motion to proceed to S. 2399.

Mr. MITCHELL. Mr. President, regulations that do not meet contemporary conditions fail the test of common sense. Statutes that address the problems of the past have to be revised when they become a roadblock to the future.

And, like it or not, budget agreements reached in a set of circumstances that no longer hold true do not meet the test of responsible fiscal management.

Today we are seeking a modification in the Budget Enforcement Act of 1990—not to raise the budget limits agreed in 1990, not to bust the budget agreement—but to manage our resources better in the conditions facing us today.

In 1990, when the budget agreement was reached, the world abroad and the world at home were very different places.

The Soviet Union remained in place, not yet democratic, and still in control of the world's second greatest nuclear arsenal.

We faced the threat of war in the Persian Gulf—a threat that was fulfilled less than 3 months later.

And in 1990, the economy had not been in recession for almost 2 years. The jobless rate did not reflect more than 9 million unemployed Americans and another 6 or 7 million who want full-time jobs and cannot find them. In 1990, the Nation had not set a new record in food stamp applications by American workers and their families.

Today, all those circumstances have changed. We are in the longest economic recession since the Great Depression of the 1930's. We have record high numbers of Americans dependent on food stamp assistance. We have a jobless rate that stays stubbornly high and millions of middle-class workers who have been unable to replace a well-paid job with another at the same salary level.

Overseas, the Soviet Union is no more. Western Europe no longer faces a menacing Warsaw Pact army in East Germany. East Germany itself is no more. The Germans are paying the costs of keeping the former Soviet army on German soil until Germany can build housing for them in the new Commonwealth States.

It is self-evident that the world has changed dramatically. Our need for defense forces has gone down. Our need for jobs creation has gone up dramatically.

Yet, in the face of these self-evident facts, we are being told that change is premature. We are being told that we cannot change an agreement reached in different circumstances to responsibly meet the circumstances of today.

There is universal agreement that defense spending must come down. Our troop strength in Western Europe is being reduced. Where once there were 320,000 Americans stationed in the NATO countries, the Pentagon intends to reduce that number to 250,000 in fiscal year 1993.

The President himself has agreed that $7 billion can be cut from the forthcoming defense budget without any risk to national security at all.

At the same time, the administration's fiscal 1993 budget was forced to terminate 246 programs across the board just in order to stay within the spending caps for domestic discretionary programs.

Whether those particular spending cuts or others are contemplated, domestic discretionary spending under the old budget agreement will not keep pace with inflation.

In fact, domestic discretionary programs, the programs which have already taken the greatest proportionate reductions over the past 10 years, will be cut by nearly $7 billion in real terms next year. That means housing funds, highway funds, all the infrastructure investments that our Nation so desperately needs.

Yet, there is resistance to change. The claim is that we must take changes, but not yet. But that makes no sense at all. The budget agreement itself will eliminate these distinctions between defense and domestic needs next year. There is nothing sacrosanct about them. Defense needs have changed, and not even the most ardent advocate of defense spending today thinks defense spending has to be protected against any and all reductions.

This is stand-pat thinking masquerading as budgetary caution. The proposal before us doesn't increase the budget by a single cent. It does not hike spending beyond the agreed upon limits.

It will permit both the Congress and the administration to seek rescissions of past spending agreements without limit.

The proposal simply permits the common sense adjustment to move funds from defense spending that is no longer needed to job creation that is desperately needed.

Our colleagues in the House of Representatives have considered a budget resolution and have concluded that if the walls between defense and domestic spending remain in place, as many as 100,000 jobs in highway spending alone will not be created. Other construction jobs would not be created.

Last year, the effort to produce an effective Surface Transportation Act took a lot of work and time by all parties. We reached a successful conclusion to that work, and we told Americans that the bill would create thousands of new jobs and revitalize communities and neighborhoods around the country.

Yet today's budget caps will make a mockery of that work. Instead of creating jobs to meet the need of American families to earn an income and pay their bills, we risk creating empty promises instead.

The people of this country deserve better.

Americans expect their Government to display common sense.

They are saying that with the end of communism and the reduction of the Soviet threat, a goal for which literally trillions of American dollars were spent over the past 40 years, it is time to take some of that money and spend it on America, to bring our Nation to the peak of competitiveness that our allies achieved behind our military shield.

Americans are right. They are not asking us to reject our responsibilities in the world. They are saying let us meet our responsibilities at home.

Our national security demands a strong military. We have spent billions to assure that security with strong defense forces.

But our national security depends just as much on preserving the competitive economy that allows us to build a strong military force.

The responsibility to manage national resources carries with it an obligation to recognize where resources are needed and to direct them appropriately.

There are sound arguments that more resources are needed for investment in our people and our economic infrastructure to preserve the economy which secures our national security.

Standing pat for the sake of standing pat is not what Americans expect. They are asking for change. This measure proposes modest, reasoned and common sense change. It deserves to be approved.

Mr. SPECTER. Mr. President, I am voting in favor of cloture on the motion to proceed because I believe that we should at least debate the pending legislation to break the firewall.

Included in the budget agreement of 1990, formally called the Omnibus Budget Reconciliation Act of 1990, Public Law 101-508, were significant budget process reforms. The legislation created three separate categories of discretionary spending—domestic discretionary, defense, and foreign aid—and set spending caps for each of the categories for fiscal years 1991-93. Should total spending in any of the categories exceed the caps set by the legislation, a sequester would occur within that account. Should total spending in any of the categories fall short of the caps set by the legislation, the remainder of the funds would count toward deficit reduction.

Since exceeding any of the spending caps in a fiscal year would trigger a sequester, the law prohibits the shifting of funds from one of the three accounts to any other, hence the so-called firewall. Therefore, any savings from further reductions in the defense budget would not be available for domestic programs.

The legislation before us, S. 2399, would, in effect, allow Congress to choose to shift defense savings to domestic programs, while keeping intact the deficit reduction targets set by the 1990 law. It may be that most, if not all, of the defense savings should be applied to the deficit, or, it may be that there should be some allocation for programs such as increased funding for Pell grants.

The Senate recently passed legislation extending the cap on Pell grants to $3,600 per year and that bill provides that there may be earnings of $42,000 a year instead of $30,000 a year, with the students to qualify. Funding is inadequate to cover such increased authorizations in the absence of breaking the firewall.

Such issues should, at least, be open for consideration.

Accordingly, I believe that there should be cloture on the motion to proceed so that we can at least debate these important substantive issues regardless of what our ultimate decisions will be.

Mr. ROCKEFELLER. Mr. President, today, I want to add my voice to those of my colleagues who are calling for Congress to tear down the budget walls.

These walls were established by the 1990 budget agreement. They were intended to impose strict fiscal discipline. But now these walls only serve as rigid barriers preventing our country from making necessary investments and choices. We can and should retain our commitment to reducing the deficit, but without the unnecessary constraints of the budget walls.

Since the original budget agreement, our world has changed dramatically. The Soviet Union no longer exists. Replacing this single communistic superpower are new Republics striving, under much stress and strain, to establish democracies and free markets.

It's a new world, one that no one imagined just a few years ago.

Our country and our policies need to recognize this. We need the flexibility to respond to the new world, and the needs of our country. We need to tear down the budget walls.

I believe changes in the world should result in changes in basic definitions of strength and security. Previously, this was primarily based on military strength. But today, we need to focus also on the role that economic strength and competitiveness play in world leadership and our Nation's security.

The United States cannot continue to prosper if our students cannot read. Our country will be left behind, if we do not invest in the health and welfare of our children and families. We will not compete if our workers are not adequately trained.

Education, health, family income security, investments in traditional infrastructure and human capital—these are terms for security and strength. Achieving such goals will require new priorities and tough choices. It will require us to take a long-term view and make long-term investments.

In my view, the first step must be tearing down the budget walls, and making the necessary investments in our people. We should not kid ourselves that removing the budget walls will remove all of the tough choices. It will not. Our country must come to grips with the $400 billion deficit which is strangling our economy.

But we should not allow our concern about the budget deficit to obscure our vision for the long-term future of our country. Investments in our children and families are urgent. We cannot sit back and allow a generation of children to grow up unhealthy, undereducated, and unprepared.

Children denied Head Start this year because of lack of funding, could be high school dropouts in the year 2008. Or we can make the needed investments in children now—Head Start, health care, and quality education—so they will be ready to work and to lead our country in the 21st century.

Unemployed workers who don't get retraining, unwillingly become a drag on our economy. But when we invest in retraining and job placement, workers learn new skills, get jobs and contribute to our country's growth and economic security.

We have to make choices. Investments in our future won't be easy, but they are necessary. The first step is to tear down the budget walls. The next step will be to face the tough choices of long-term investments and fiscal responsibility.

I have proposed legislation to make such investments in our people. Our Democratic comprehensive health care package—HealthAmerica—is one important example. My Family Income Security Act is necessary, and our bipartisan commission outlined a number of ways in our report to finance investments in children. It outlines the tough choices that must be made, and I am sponsoring a series of legislative measures to enhance our country's competitiveness.

We should not allow ourselves to stay locked into a budget agreement designed on the way our world used to be. It no longer serves our country's needs and goals. It's time to revise the agreement, tear down the walls, and make the investments required to secure our country's future.

Mr. SANFORD. Mr. President, when the budget summit agreement was negotiated in 1990, there was a Soviet Union. Today there is no Soviet Union in the world. No one voting on the summit agreement several years ago would have thought then that we would no longer have the Soviet Union as a real military threat now, but that is the case.

Because of this, Congress can assume greater savings in the defense portion of the budget than was negotiated with the White House during the summit. Congress can use part of this unanticipated peace dividend to reduce the deficit, and part of this unanticipated peace dividend to reduce future costs of unmet needs now going neglected.

With or without the firewall, the budget resolution for fiscal year 1993 will assume a greater savings in defense than the budget agreement called for several years ago. The firewall will not change that. Removing the firewall will allow Congress to shift some of that defense savings to reduce the deficit and some to help meet the pressing domestic needs in this country that have gone neglected. These unmet needs will grow into larger and larger problems, becoming more expensive to meet in the future, if this neglect continues.

This is about priorities. It is about shifting more funds away from defense into needed domestic investment and deficit reduction. It is not a matter of increasing overall spending.

If we cut funding for AIDS education and treatment, and allow this problem to continue getting larger, do we save money? If we cut funding for disease-preventing vaccine programs and allow more sickness, do we save money? If we cut funds for education and job training will our future be better? If we impede research that prevents or postpones cures and new treatment for cancer, Alzheimer's, and so many other dreaded diseases do we save on health care costs? Can we continue to ignore the unmet needs in this country that are now beginning to make us less competitive as a nation?

We need a balanced approach to the very serious fiscal problems that have developed over the past 12 or so years. Eliminating this firewall will allow the flexibility, I think, to do this.

Mr. ROTH. Mr. President, I rise today to express my opposition to this legislation which would remove the separate spending caps on defense and domestic discretionary spending and allow savings in defense to be transferred to domestic spending.

These spending caps were established as part of the 1990 budget agreement. In the first year of the agreement, domestic discretionary outlays increased from $182 billion to $195 billion, an increase of 7 percent. In the current fiscal year, domestic discretionary programs will grow to more than $216 billion, an increase of more than 10 percent. Over the 2-year period, 1990–92, domestic discretionary spending has increased 18.4 percent. I voted against the budget agreement because it failed to restrain spending while levying a tremendous tax increase. At a time when the Federal deficit is expected to exceed $400 billion during the current fiscal year, we cannot afford spending growth rates at these levels.

Proponents of this measure suggest that this legislation has no impact on the deficit because it represents funds that will be spent on defense. I view it differently, Mr. President. I am voting against this legislation because the Congress must do more to control the growth of Federal spending. If Congress is not going to fund defense spending up to the level of the cap, and I do not believe that we should, the savings should be used for tax reductions to spur economic growth and not for greater domestic spending.

I do not support full funding for defense to the level of the cap. My proposal for economic recovery—JOG America—for jobs, opportunity, and growth, makes explicitly clear that defense savings should be used to improve our economic competitiveness through expanded individual retirement accounts, personal tax rate reductions, and other means to spur long-term economic growth. I have long advocated that any savings from defense should be used to provide stimulus for the economy through tax changes.

Mr. President, clearly there are domestic needs. The caps allow for growth in domestic discretionary funding, but the caps also require that the Congress begin to make choices. The President recently sent to the Congress 68 items for rescission, many of which involved domestic programs which were not requested or are not necessary. Given the tremendous amount of money that Congress appropriates each year, it must be done more responsibly. If proponents want more funds to spend for domestic programs, lets enact those rescissions and begin to make real choices.

Mr. DODD. Mr. President, there is no truer statement of our Nation's vision of the future than the Federal budget.

In it, we balance our Nation's many competing priorities. We address our shortcomings. We demonstrate our willingness to meet the challenges we face together as a country.

This year, that debate is more important than ever. The world has changed in ways that could not have been anticipated 2—let alone 50—years ago.

We must not take our responsibilities lightly this year. We must debate our priorities. This year more than ever, need should drive numbers, and not the other way around, as so often happens during budget debates. This year, more than ever, Mr. President we need a plan.

We have domestic needs that have been completely ignored over the past 12 years thanks to the combined efforts of Presidents Reagan and Bush. We need a plan to make up for lost time.

We need a plan, for example, to address our Nation's crumbling cities. The unlimited potential of millions of Americans continues to be held hostage by the poverty, violence, and despair found throughout our Nation's urban areas. It is ludicrous to think we can compete internationally when the talents of these Americans go untapped.

We need a plan to rebuild our system of education. We will certainly not be able to compete so long as high school graduates can't read a newspaper, write a grammatically correct sentence, or solve a basic algebra problem.

We need a plan to help our Nation's children. One in five lives in poverty today in America, and that is completely unacceptable. We must give all children the opportunity to unlock their potential, unconstrained by economic deprivation.

We need a plan to ensure that the American dream is attainable. If Americans can no longer afford to buy a home or send their kids to college, we are at risk of losing something that is unique about America. But just dealing with the domestic side of the ledger is not enough.

We also need a plan to meet our national security needs in the new world. We should not kid ourselves into thinking that everyone suddenly loves America now that the Soviet Union has fallen apart. With regional instability throughout the globe, and the continuing proliferation of nuclear weapons, the world is still a dangerous place.

We need a plan to preserve our industrial base. After past conflicts, we've all too often followed a feast-or-famine approach to our defense industrial base. In the future, it will continue to be our advantages in technology that give us the military advantage, so shutting down critical industries would be unilateral disarmament of the worst sort.

We need a plan to reduce defense spending gradually. Particularly while we're in the throes of a recession, it makes little sense to add to the problem by throwing thousands of defense workers and GIs onto the unemployment rolls.

We need a plan for easing the transition for defense industries and their employees who will lose work as we scale back the military effort. We need a plan for all of these things, Mr. President, but it is not a plan we are debating today. Today's debate is over an arcane budgetary issue which has been miscast into a litmus test choice between guns and butter.

Nowhere in the few lines of this bill, Mr. President, is there any indication as to how the butter will be spread around, or which guns will be cut, for that matter.

Mr. President, I am for breaking down these arbitrary budget walls. But only if we have a plan detailing from whence the money will come, and where it will go. Absent that, Mr. President, I feel like I'm voting on a series of blank checks. I will not do that. I will oppose the legislation before us today.

Mr. President, some may accuse me of being a friend of the administration because of my vote here today, but no one should labor under any such misconception.

The President has offered a proposal with respect to defense cuts, but it is misguided. It seeks to repeat past mistakes by dismantling key elements of our defense industrial base.

It also fails to put America first. The president is proposing to cut military spending on the home front before he closes unneeded military bases overseas.

And on the domestic side, the president's only plan appears to be his willingness to use his veto pen. He vetoed the tax bill, which included almost all of what he wanted. He would have vetoed the anticrime bill, which was a tough law and order bill. Instead of leading by negotiating compromises that move our Nation forward, he chooses to nyet and nay-say and contribute to the stalemate in Washington.

In the recent past Mr. President, I have offered my plan for beginning to address the problems of our Nation's cities. I have supported legislation to improve elementary and secondary education. I have offered proposals for improving the well-being of our Nation's children. In the next few days, I will offer my plans for restructuring our military and promoting diversification of defense-dependent industries and regions.

We should not be talking in high-flying generalities here today. We should be delving into the nitty-gritty and the details. We should not be talking in outlines and sketches; we should be setting out a comprehensive blueprint for the future.

We should be setting out a plan for addressing our Nation's pressing domestic needs. We should be setting out a plan to ensure our future national security. We should be making the tough choices that are required of us, but we are not doing that today. We are being asked to approve a blank check. I cannot in good conscience do that, and for that reason I will oppose this budget walls bill.

The PRESIDING OFFICER. The Senator from New Mexico has 55 seconds remaining.

Mr. DOMENICI. Mr. President, I yield back my time.

Mr. SASSER. I yield back the remainder of my time, Mr. President.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to S. 2399, a bill to allow rational choice between defense and domestic discretionary spending:

George Mitchell, Harris Wofford, Paul Sarbanes, Paul Simon, Jim Sasser, Howard Metzenbaum, Bob Graham, John Glenn, Terry Sanford, Timothy E. Wirth, Frank R. Lautenberg, Wendell Ford, Mark Hatfield, Patrick Leahy, Kent Conrad, Jeff Bingaman, Richard H. Bryan.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 2399, a bill to allow rational choice between defense and domestic discretionary spending, shall be brought to a close. The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk read as follows:

Mr. FORD. I announce that the Senator from Illinois [Mr. DIXON] and the Senator from Iowa [Mr. HARKIN] are necessarily absent.

I further announce that, if present and voting, the Senator from Iowa [Mr. HARKIN] would vote "aye."

The PRESIDING OFFICER (Mr. BRYAN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 50, nays 48, as follows:

[Rollcall Vote No. 56 Leg.]

YEAS—50

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick
Byrd
Conrad
Cranston
Daschle
DeConcini
Ford
Fowler
Glenn
Gore
Graham
Hatfield
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Metzenbaum
Mikulski
Mitchell
Moynihan
Packwood
Pell
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Simon
Specter
Wellstone
Wirth
Wofford

NAYS—48

Bond
Brown
Burns
Chafee
Coats
Cochran
Cohen
Craig
D'Amato
Danforth
Dodd
Dole
Domenici
Durenberger
Exon
Garn
Gorton
Gramm
Grassley
Hatch
Heflin
Helms
Hollings
Jeffords
Kassebaum
Kasten
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Pressler
Robb
Roth
Rudman
Seymour
Shelby
Simpson
Smith
Stevens
Symms
Thurmond
Wallop
Warner

NOT VOTING—2

Dixon
Harkin

The PRESIDING OFFICER. If there are no other Senators who wish to vote, on this vote, the yeas are 50, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. LEAHY. Could we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

The majority leader is recognized.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, and Members of the Senate, as I indicated last week and again this week, there are two matters which require action prior to next Tuesday at midnight. They are the continuing resolution on the foreign operations and the RTC reauthorization bill. We have to await House action on the continuing resolution. We do not have that yet, so we cannot take that up, and we likely will not get that until early next week.

It is imperative, then, that we begin now on the RTC reauthorization bill and attempt to complete action on that as promptly as possible. The managers are here ready to proceed. I will consult shortly with them and with the distinguished Republican leader, but Senators should be aware that we will proceed to that matter this evening. It is my hope that it will be under an agreement that will permit prompt disposition of the matter. But whether it is or it is not subject to agreement, we have to begin on it this evening and hope to complete action on it as soon as possible to leave us time to act on the CR early next week.

Mr. DOLE. Will the majority leader yield?

Mr. MITCHELL. Yes.

Mr. DOLE. If we do not complete action on it tonight, then we will complete the bill tomorrow, is that right?

Mr. MITCHELL. Yes.

Mr. LEAHY. Will the leader yield?

Mr. MITCHELL. Yes.

Mr. LEAHY. I wish to advise the leader that I am advised the other body would not move on the CR on foreign operations prior to the weekend. That raises a number of questions which I will discuss later on with the leader and the distinguished chairman of the Appropriations Committee. I would advise the leader that it would not be possible to act on any foreign operations matters before the weekend. The leader is absolutely right, speaking of March 31 as being the time that runs out.

I would advise Senators there are a number of issues of great importance—refugee care and a number of other things, Peace Corps and so on—that cannot be left in limbo. But that is a matter that will be coming up.

I know there are other matters that have to be taken care of first. At some point we will have to bring that other up.

The leader is absolutely correct, we will not see that this week.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, just to repeat the situation so Senators will understand it, we have to act on two unrelated measures by midnight Tuesday. One of them will not come over from the House until early next week, probably not until Tuesday itself. Therefore, we cannot act on that now, but we will be required to act on that on Tuesday.

The other we can act on. That is the RTC reauthorization bill. So logic compels that we proceed to that now, attempt to complete that prior to the time when we receive the CR on foreign operations, and then act on the other, since we have to complete action on both by midnight Tuesday.

So we will proceed this evening on the RTC reauthorization bill, following a brief meeting which I expect to have right now with the distinguished managers and the Republican leader.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESOLUTION TRUST CORPORATION FUNDING ACT

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. 2482, the RTC reauthorization bill.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> A bill (S. 2482) to provide funding for the Resolution Trust Corporation, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The Senator from Michigan [Mr. RIEGLE] is recognized.

Mr. RIEGLE. Mr. President, we brought I think a good bill to the floor today. I hope after we have had a debate and Members have had a chance to comment upon it and raise questions or make whatever points they wish to make, that tonight before we adjourn we settle this issue and report it out.

This is legislation that has to be enacted no later than next Wednesday. That is due to the fact that last November, Congress provided the RTC with $25 billion in funding only through April 1, 1992, in order to continue its important task of closing failed thrifts and protecting depositors at those institutions. That date is nearly upon us. Without additional funds the cost to the taxpayer of the thrift cleanup will increase sharply.

On that score, Mr. Albert Casey, the CEO of the RTC, has informed the committee that a 3-month delay in RTC funding would result in unrecoverable costs of approximately $200 million to $250 million. Another way of putting those figures in context is that for each day that the RTC is not funded, it is estimated to cost the American taxpayers an additional $2.2 million to $2.8 million a day in unrecoverable costs.

On Tuesday of this week, the Banking Committee marked up and reported a bill to provide the RTC with additional funding. First, the bill deletes the April 1 deadline from the funds provided last November. Since the RTC has used approximately $8 billion of the money previously provided, this in effect will provide the agency with an additional $17 billion. Second, the legislation authorizes in addition to freeing up that money for obligation and use, a further $25 billion until April 1, 1993, for a total of $42 billion in this bill. This is the same amount of funding as provided in the bill passed by the House Banking Committee.

I want to remind Members why it is that we are providing funding in an incremental fashion, rather than by just writing a blank check under the heading of "such sums as may be necessary." In 1989, FIRREA provided the RTC initially with $50 billion, which at the time was intended to provide it all the money that was thought to be necessary for the RTC to complete its job. In fact, at that time, OMB Director Darman testified that if the $50 billion provided in early 1989 proved insufficient, "something will have gone wrong enough so that we really ought to have some rather serious review. It ought to come back to the legislative process." Unfortunately, $50 billion proved not nearly enough to get the job done and Congress has had to authorize additional funding. And that brings us back to this evening.

This, in fact, is the fourth time Congress has provided funding for the RTC, as the number of failed thrifts have grown. Authorizing RTC funds is the price that we have to pay to fulfill and stand behind the full faith and credit of the U.S. obligation that protects individual thrift depositor accounts. However, each time we provided RTC funding, we have included legislative steps designed to ensure that the job is done as fairly and as efficiently as possible, and we do the same again today.

So we were adding some provisions directly germane to the operation and conduct of the RTC.

OPERATION OF RTC

First, the bill contains some noncontroversial technical corrections to the RTC funding bill passed last November. These changes incorporate all of the suggestions of the RTC, the OTS, and the Thrift Depositor Protection Oversight Board. The bill also provides a mechanism for filling temporary vacancies in the office of RTC chief executive officer that Congress created last November. Additionally, the bill expresses the sense of the Congress that the RTC should not receive any additional failed savings and loans after September 30, 1993, and should terminate all of its operations as scheduled on December 31, 1996.

STABILIZE REAL ESTATE VALUES

Real property and mortgages constitute the bulk of the RTC's assets. A healthy real estate market, therefore helps insure that the RTC can dispose of assets quickly and with a reasonable return. This bill, accordingly, includes some provisions that should act to counter the decline in real estate values occurring in so many markets.

First, the bill extends the time period established in FIRREA for thrifts to phase out their investments in real estate subsidiaries from inclusions in their capital. Congress adopted this rule because of the significant losses amassed by thrifts participating in direct real estate investments. FIRREA phased out these investments from capital by 1994. The Director of OTS has requested, as a result of the decline in real estate values, that thrifts be given additional time to divest their subsidiaries or otherwise comply with the law. Accordingly, this bill gives the director case-by-case discretion to extend the phaseout schedule by 2 years, to 1996. In addition, the bill adds Florida to the list of distressed areas established in FIRREA.

Next, the bill includes a provision authorizing the RTC to guarantee a portion of loans to finance the sale of RTC real property. In order to qualify, a purchaser would have to make a cash down payment of at least 15 percent of the purchase price. Further, the lender would have to be at risk on the initial 15 percent of any loss on the loan. This is intended to allow the RTC to command greater prices for its properties and so stabilize real estate values.

To combat inflated and fraudulent real estate appraisals, FIRREA established professional standards for appraisers on federally-related transactions, including sales, purchases, and mortgages of real property. The bill was intended to give discretion to the regulators to determine which transactions should be subject to the appraisal requirements. This bill amends FIRREA to state clearly that regulators may establish threshold monetary levels for real estate transactions, below which the services of State licensed or certified appraisers are not necessary. This should reduce transaction costs for many purchasers and sellers of residential property.

Finally, the bill repeals section 618 of the November 1991 RTC funding bill, which mandated that certain residential construction and multifamily housing loans be included in the 50-percent risk weight category for purposes of the risk-based capital standards. The intent of section 618 was to ensure that residential construction was not inappropriately discouraged through the risk-based capital standards. However, OTS Director Ryan, Federal Reserve Chairman Greenspan, and FDIC Chairman Taylor have requested that this section be repealed. The regulators unanimously suggest that risk-based capital standards not be set through statute. We agree with that.

The bill also expresses the sense of the Congress that the regulators review their standards to facilitate construction of low- and moderate-income housing. It further encourages regulators to implement interest-rate risk standards, to ensure that financial institutions do not speculate on interest rates and invest too heavily in long-term securities such as U.S. treasuries.

SAVINGS AND LOAN CLEANUP

Finally, the bill addresses the specifics of the savings and loan cleanup in several ways.

First, the bill clarifies the requirement enacted by Congress last year that the FDIC and RTC continue the health insurance coverage of employees of failed banks and thrifts. The agencies expressed concern that that legislation did not give them sufficient flexibility to comply with its requirements. There is no need to compound the pain of the savings and loan debacle by depriving innocent people of health insurance.

Next, the bill requires the Attorney General to collect detailed information and report annually on the money actually collected from fines assessed as a result of determinations of fraud on the part of savings and loans and their insiders. This will enable Congress to know the success of the Government's efforts to recover as much as possible of the cost of protecting depositors at failed thrifts from those responsible for the problems.

On a similar point, the bill extends the statute of limitations established in FIRREA. In that bill was created a 3-year statute of limitations for the FDIC and the RTC to file civil lawsuits for tort actions against parties responsible for failures of banks and thrifts. Recent reports indicate the RTC is having difficulty assessing and filing the potential lawsuits stemming from the avalanche of thrift failures in 1989. To give the RTC an additional time period to sort through this enormous backlog, the bill extends the statute of limitations for RTC tort actions from a minimum of 3 years to a minimum of 5 years. This extension of the statute of limitations will no longer be effective once the RTC terminates.

The bill further provides that an institution's directors cannot be held liable for consenting in good faith to the appointment of the RTC as conservator or receiver for the institution. This should allow for a timely appointment of a receiver, holding down the cost of resolutions.

The bill also includes disclosure provisions negotiated by Senator WIRTH and Senator GARN. The legislation requires regulators to make available prior examination reports of failed institutions, while carefully providing that names and other information about individual bank customers are deleted. This will enable taxpayers to better understand how the enormous losses in the insured depository institutions mounted. The disclosure provisions apply only to failed institutions.

Last, the bill includes a provision that sets aside $1.85 billion out of the funds provided in the bill for the early resolution of weak but profitable thrifts. OTS Director Ryan has suggested that in certain instances an early resolution program of investing in institutions can save money by preventing failures. The bill gives the regulators discretion to use the funds in early resolution actions but it does not require them to do so.

Taken as a whole, the legislation is of the utmost urgency. Without additional funding, the RTC cannot continue its mission of protecting insured depositors. Furthermore, the other provisions I have just described should improve the agency's operation and reduce its costs. I trust that all Senators recognize the special urgency of passing this legislation, for the fact is it has to be enacted into law by April 1 under the circumstances that we find ourselves. A failure to meet this deadline will only increase the ultimate cost of the cleanup to the taxpayers.

I want to say to my colleague from Utah about his expressed interest on the floor a minute ago that we stay with this legislation this evening as late as may be necessary to finish it, I certainly share that view. I think it is very important we get this legislation done, that we be in a position to go to conference with the House, and so I urge the Senate to act on this matter and resolve it this evening.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah [Mr. GARN].

Mr. GARN. Mr. President, unless Congress completes final action on the legislation now before the Senate in less than 1 week before next Wednesday—and when I say complete, that means going to conference with the House and coming back with a conference report. That is why I feel so strongly and agree with the chairman that we ought to stay as long as necessary tonight so that we can start having staff work on the conference. But if we do not finish and complete it by next Wednesday, funding for the Resolution Trust Corporation will cease, and that is an action forced on us by the House of Representatives.

The Senate last fall did not want this April 1 deadline. I, frankly, did not understand politically why the House of Representatives on a vote that is obviously difficult for many people, even though the bill has been run up and must be paid, and if we do not pay it the cost goes up, wanted to vote again on it in the middle of an election year. Nevertheless, they insisted that we have the April 1 deadline.

Now we are less than a week away from that deadline, and it will start costing a considerable amount of money. The last delay cost upward of $450 million. Some say that is an overly high estimate. Fine. Cut it in half. Cut it some more. I do not think the taxpayers are happy with $200 million extras added to the cost of the S&L problem because of congressional delay. And even if the estimate is not $2 million a day, let us cut that one in half. I do not think they are going to be very happy with those who might delay this and cost them $1 million a day because of absolutely nothing except congressional delay.

Allowing that to happen would be the height of irresponsibility.

We have all known since last fall that additional funding would be necessary before April 1. We have no choice but to provide that funding if we are to meet the Government's commitment to insured depositors.

Now that we are so close to the April 1 deadline without acting, it is abundantly clear that loading up the legislation with amendments important to individual Senators would only increase the likelihood that Congress will once again fail to meet a critical deadline.

Our delay until the 11th hour already is imposing needless and avoidable costs on taxpayers, for in mid-March, without knowing whether Congress would act before the April 1 deadline, the RTC was forced to begin curtailing its operations. Such a slowing of the process keeps institutions in conservatorship unnecessarily long. As a result, the ultimate cost of resolution rises as high-cost deposits push the institutions deeper into the red, as franchise values decline further, and as sick institutions continue to drag down competitors.

Mr. President, the urgency of acting expeditiously means that the Senate must show self-restraint in the amendment process.

I regret that the bill reported by the Banking Committee already contains many provisions not directly related to funding.

I offered an amendment to have a clean bill. Unfortunately, I lost 11 to 10 in the Banking Committee. I would have much preferred just the funding with no amendments, even though I agree with some of the amendments from a substantive standpoint that were added to the bill. There are many that I would like to have added. I would like to have lender liability on this bill. That would save the taxpayers a lot of money in this bailout. It would help with the credit crunch. But I did not offer it because of the urgency of providing this money. So I would be perfectly happy if we had no amendments at all, but certainly I do not believe we should be adding additional burdens to this bill.

Now we must act quickly. We must resist amendments and thereby limit the number of issues that will have to be resolved in conference with the House of Representatives. The cost to taxpayers of not completing final action before next Wednesday is estimated, as I have mentioned, at $2 million per day. Simply put, there is no ways to justify imposing such an unnecessary and avoidable burden on the taxpayers. That is why I say, Mr. President, although I would prefer to have a clean bill. Senators have their right under the rules to offer amendments. I certainly respect that right. All I ask is that we stay and deal with whatever amendments are offered and let the Senate work its will. We spend a lot of late nights around this Senate for nothing when we really do not need to. But we have a deadline. It makes no difference to me if we are here at 3 o'clock in the morning. We ought to stay. We ought to stay until we pass this bill with whatever amendments are offered. If they are accepted, fine. If they win, fine. If they are defeated, fine. But we should stay until final passage.

I suggest that the House banking scandal is nothing compared to the irresponsibility of Congress in the way it has acted over the last 3 or 4 years with respect to the S&L crisis in not meeting these deadlines. So I appeal to my colleagues who want to offer amendments, fine, offer them. Let us debate them; let the Senate work its will; and let us send this bill over to the House before this night is over.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. GARN. Mr. President, I ask unanimous consent that Joel Miller and Steve Primrose be given permission to be on the floor during the pendency of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio [Mr. METZENBAUM].

Mr. METZENBAUM. Mr. President, I rise first to address myself to the general subject of the RTC, its lending practices, and its conduct in spending the dollars of the people of this country. We have provided billions of dollars and before we are through we are going to be providing billions more. Tonight we are here because the Bush administration is coming back to the Congress looking for more money for the savings and loans bailout. This time they want $55 billion. That would bring the total cost to $160 billion. The Banking Committee in this legislation urges us to give them $25 billion.

Mr. President, I confess to a tremendous sense of frustration. I have been on the floor of this Senate on two previous occasions in which I have addressed myself to the obligation of those who are handling the savings and loan dollars to do something about protecting the people's interests. At an earlier point I talked about a deal they made with a man by the name of Jim Fail, a multibillion-dollar deal, and offered amendments, which were accepted both to a banking bill and to another bill that was before this body being handled by the Senator from Maryland [Ms. MIKULSKI] giving the RTC the necessary authority to protect the American taxpayer.

No. You cannot get them to move. And I am of the opinion that the RTC is spending the money we give them recklessly, wasting billions of scarce taxpayers' dollars.

We are here this evening to talk about $25 billion. Just last month the RTC negotiated an agreement that literally rained cash on one of America's richest billionaires. It did it in a hasty and unprepared manner, and then papered over the deal with an after-the-fact justification.

The example involves the RTC's renegotiation of the Government's agreement with the First Gibraltar Bank of Texas. I do not know what kind of relationship Mr. Perelman of First Gibraltar has with this administration. I do not know who he knows or how he knows them or what this relationship is. I accept the fact that he is a supporter, strong supporter of the President. But I do not make that as a particular tie-in. All I know is that in 1988 the Federal Government gave First Gibraltar to Ron Perelman, who has been described as the 18th richest man in America, according to Forbes magazine, a savings and loan with a magnificent deal.

In February 1992, just a month ago, the RTC renegotiated that deal. With negotiators like the RTC we do not need to worry about charity and who is going to give away the store. The RTC gave away the store to Mr. Perelman. They gave Mr. Perelman $3.2 billion in cash. And if that were not enough, the Government had the right to own 20 percent more in warrants. The Government owned 20 percent warrants which meant that for, I think, a total of $2, they could own 20 percent of the stock of First Gibraltar.

But do you know what? They not only gave him the $3.2 billion, but they gave up the warrants. How stupid can you be? How unbelievably irresponsible can you be?

Let me explain why I think this is such a rotten deal for the American taxpayer. In 1988, the Federal Government agreed to pay Mr. Perelman $9.8 billion in subsidies, cash, and tax breaks over 10 years if he would be good enough to assume ownership of First Gibraltar.

Three billion two-hundred million dollars of that was in the form of two notes carrying variable interest rates. At the end of 1991, the rates averaged roughly 7 percent. To make this deal, Mr. Perelman gave the Government, as I previously stated, 20 percent of the stock of the thrift and its profits. As I previously said, last month the Government renegotiated the agreement, paid off the notes with $3.2 billion in cash, and gave up the Government's 20-percent interest in first Gibraltar for which it got nothing—nothing.

I have looked at the decision memo used by the RTC Board in approving this renegotiated agreement. There are several major problems with what the RTC did.

First, Mr. Perelman's $3.2 billion cash in hand is obviously worth a lot more to him than he provided in return to the Government. Three billion two-hundred million dollars in cash in this day and age is one heck of a lot of money. The RTC paid Perelman that $3.2 billion in cash to pay off the two notes it had issued to him in 1988. This allowed the Government to replace the higher interest rates in the 1988 notes with the slightly lower interest rates on the $3.2 billion in Treasury borrowing this year.

But the relatively small amount the Federal Government saves in interest payments is not the right measure of whether this was a good deal. Ron Perelman wanted the $3.2 billion in cash because he can earn a lot more than the 7-percent average he was earning tax free on the Government notes. Cash is the ultimate asset.

Ron Perelman should have paid the RTC a handsome cash premium in order to get his hands on $3.2 billion in cash. According to the RTC's memo, the RTC assumed that Perelman would only earn what the retired notes would have paid. You can bet that Mr. Perelman will put the cash to work at better than a tax-free 7-percent return. His First Gibraltar is already paying an 18-percent return. This means that the RTC settled for significantly less than it could have gotten from Perelman.

The second problem that concerns me with the renegotiation are the circumstances surrounding the Government giving up its right to that 20 percent interest I previously mentioned in Perelman's First Gibraltar Bank. That interest was in the form of warrants and 20 percent of First Gibraltar's stock.

In the renegotiation the RTC gave the warrants back to First Gibraltar claiming that they were worth only $35 million, collecting nothing—collecting nothing—in cash for them when they had no idea what they were worth.

There were some setoffs back and forth but when they were finished the Government did not even get the $35 million.

Once again, the RTC underestimated the strength of its position.

In the 3 years that Mr. Perelman has run it, First Gibraltar's profits have been $280 million. In the first year its rate of return on investment was one of the highest of any thrift in the country, a staggering 46 percent.

Who is kidding whom? The Government's right to a fifth of these earnings is worth a lot more than $35 million. As a matter of fact, the earnings were $280 million in 3 years, and a fifth of that, according to my mathematics amounts to $56 million.

If the RTC had held the warrants it could have easily collected more in cash dividend than the paltry $35 million that it claims it got from the renegotiation. As I previously mentioned, as a matter of fact, the RTC never even received the $35 million. It was offset by some other figures that the RTC cranked into the mix.

Incidentally, I should say that I looked at the figures that they cranked into the mix. I spent a good deal of time before I came to the U.S. Senate in the business world. I have never seen credits and offsets and the various other items that were used in those negotiations or in the consideration that the RTC gave them making this deal. They are just totally off the wall.

The importance of the warrants cannot be underestimated. The RTC's top negotiator told my staff that Mr. Perelman refused to negotiate unless the RTC gave up the warrants. Do not underestimate Mr. Perelman as a negotiator. Why did he do that?

Because Mr. Perelman is a smart businessman and he did not want to share his First Gibraltar profits and powers with the taxpayers who set him up in the savings and loan business.

How could the RTC have given up the 20-percent interest for so little? I guess it may be either because they were willing to make this kind of foolish deal or because they did not know the value of what they were negotiating. I am more inclined to think the former rather than the latter.

The RTC consultant's report valuing the warrants was not delivered until after the deal was struck. I want to repeat that. They brought in a consultant, but the consultant's report valuing the warrants was not delivered to the RTC until after the deal was struck. And I know that to be the case because we have in our files a copy of the report.

The RTC's action amounts to more than a dereliction of duty for a public agency. It is gross negligence.

The RTC's own financial consultant, the Mid-America Institute, warned—18 months ago—in a written report to the RTC that the warrants could play the key role in negotiations. The report emphasized that accurate warrant valuation is crucial if the Government is to obtain full value in trade. I repeat, the RTC's own consultants warned that accurate warrant valuation is crucial, if the Government is to obtain full value in trade.

After a warning by its own consultants that it should learn what the warrants were worth before negotiating, the RTC gave back the warrants before it knew their value.

Mr. President, this sorry story only gets worse. The RTC consultants who eventually valued the warrants, Donaldson, Lufkin & Jenrette, a responsible firm, advised the RTC that they could only come up with a relatively simple approach to valuing the warrants. Why? Because First Gibraltar Bank refused to let them see the books. Believe it or not, Mr. Perelman would not open his books to the consultant hired by the company. Donaldson, Lufkin's report states that a more sophisticated analysis of the warrants' value would require a set of financial projections for First Gibraltar Bank, but it declined to provide us with a business plan or forecast.

Why did the RTC not just refuse to negotiate until Mr. Perelman provided the information? Why did the RTC let itself get pushed around? Did the RTC not get the message that Mr. Perelman was hiding something? Why reward him with $3.2 billion in taxpayer dollars—solid cash—for withholding information? What does this man have on the Government that he can originally make a $9.8 billion deal where the Government is giving him the money, and then come back and get $3.2 billion in cash when it was not over a period of 7 years?

The RTC should have gotten tough, but it did not. When Mr. Perelman held out on the facts, the Government, instead of slamming down on the table and walking away from the negotiations, caved in. That is the same Government here tonight telling us we need $25 billion. If you do not give us $25 billion, the world is going to come to an end.

But the world is not going to come to an end. We should not be giving them the $25 billion, although I have no doubt about it, by the time we get done, we will cave in, and we will give them the $25 billion, but not with this Senator's vote.

The story I have told so far is not the end of this sorry tale. It appears that there was something to hide. For 2 years prior to the renegotiation, the RTC and the Office of Thrift Supervision allowed Mr. Perelman to operate a second Texas savings and loan as an affiliate of his First Gibraltar Bank. According to the Donaldson, Lufkin report, this allowed Mr. Perelman to operate the other savings and loan so that the bulk of aggregate profits are earned outside of First Gibraltar Bank.

The Donaldson, Lufkin report correctly points out that the second savings and loan could be used to avoid sharing dividends on the warrants with the RTC and the taxpayers.

This also meant that Mr. Perelman was able to artificially lower the value of the Government's 20-percent interest in First Gibraltar, and it might even be illegal as well. Any first-year law student knows that a majority shareholder, such as Mr. Perelman, cannot shift profits to other companies he controls if it deprives minority shareholders of their share.

There is evidence to indicate that profits indeed were shifted. During this period, Perelman's other Texas thrift suddenly became the second-most profitable savings and loan in the United

States, producing a 43-percent—43-percent—rate of return on investment. At the same time, First Gibraltar's rate of return dropped substantially.

The last problem with the renegotiation is what the RTC calls its negotiated settlement amount. According to the RTC, in order to make the renegotiation work, the RTC gave Mr. Perelman—listen to this—$45 million on top of the $3.2 billion, and the 20-percent ownership interest. Get it? The Government did not owe him this money for a period of 7 years, so they gave him all the money in cash, they gave him 20 percent of the company for nothing, and they gave him $45 million in addition. Santa Claus came early this year.

You probably think that this deal is more complicated than that, but it is not. We gave Ron Perelman $45 million and the right to 20 percent of the stock in his company in order to get him to accept the Government's $3.2 billion.

Tonight we are here being asked for $25 billion for this great public agency that is doing such a magnificent job on behalf of the American people. People worked hard to pay their taxes in this country. People come to their Government looking for assistance for vocational education—some ladies were in to see me today to talk about that—and for food programs, health programs, for the kinds of programs that are so meaningful to the lives of the average American day in and day out. But our Government gives away $3.2 billion, gives away as a premium 20 percent of the stock in the company, and then gives them an extra cash bonus of $45 million. In return, this wonderfully generous businessman agreed to the deal.

Somehow, some way that I do not understand, our negotiators think we needed to entice Mr. Perelman to accept the Government's $3.2 billion. In fact, the opposite is true. On December 11, 1991, the same Mr. Perelman lost a key dispute with the RTC that had gone to binding arbitration. As a result, one of the notes was reduced by $250 million, and First Gibraltar was ordered to pay back $50 million in interest to the Government. As a consequence, Mr. Perelman was facing the horrible prospect of his having to invest some more of his own money in the thrift. His new money, had it been paid in, would have gone to work for the Government as well because of the Government's 20-percent interest. Faced with this peril of having to come up with $50 million, Mr. Perelman then began negotiating. Instead of taking advantage of his predicament, the RTC gave him $45 million, as previously mentioned, to get him to conclude the negotiations. It is just unbelievable.

And you do not have to be a scientist, and you do not have to be a great banker, and you do not even have to be the world's greatest business person in order to understand that the Government has been had, but the Government is all of us.

It is people of this country, and when we talk this afternoon about trying to move some money from the defense side of the budget to programs needed for people in this country, $3.2 billion would have been a very, very meaningful amount. Twenty percent of Gibraltar corporation is worth a considerable amount. Forty-five million dollars in cash is a substantial amount.

Let us summarize this ridiculous situation. The RTC gave Mr. Perelman $3.2 billion in cash; the RTC gave up the Government's 20-percent interest in First Gibraltar; and the RTC dropped in $45 million in cash as a sweetener. What did we get in return? The RTC told the public that the Government saved between $175 million and $615 million over the old agreement.

I read their figures, I studied their figures, I looked at it up upside down, backward and forward. If I thought there was truly a savings of $175 to $615 million, I would not be standing here on the floor today.

The RTC's figures are specious, they are speculative, and they are wrong. They remind me of the kind of figures when the 1980 deals were originally negotiated in the closing hours of 1988.

I challenge the validity of the RTC's minimum savings estimate of $175 million, and it is clear from the RTC's own documents that its maximum saving estimate of $615 million is purely and wholly speculative, out of pure cloth, pure figure, imaginative.

Every dollar over their estimated $175 million is based on the RTC's assumption that Ron Perelman will have to pay taxes on the income he gets from investing the $3.2 billion in cash we gave him.

The RTC is forgetting that First Gibraltar Bank is part of a privately owned holding company. We have no idea whether it has other tax shelters available to shield the income from the $3.2 billion. But we do know that First Gibraltar Bank has them. The RTC knew it too. Donaldson, Lufkin & Jenrette, the RTC consultant, informed the RTC that First Gibraltar Bank had "substantial * * * net operating loss carryforwards available to shelter income at First Gibraltar Bank and its parent and affiliates."

For the savings to be $615 million, Ron Perelman would have to pay at the maximum corporate tax rate of 34 percent and have no tax shelters to shield income. The RTC's own consultant told it that First Gibraltar Bank has substantial tax shelters available.

I view the RTC's savings estimates as deceptive, bordering on misrepresentation. The RTC is, once again, covering its backside because it made an absolutely terrible deal for the American taxpayer.

The RTC did not determine what it could get from Perelman based on the long-term value of the deal to him. The RTC's only focus was something that has significantly less value—what the RTC thought the Government could save by paying off the $3.2 billion. The deal is worth a lot more to Perelman than what he gave up.

The only thing that Perelman gave up was the right to get roughly 7 percent interest, tax free, on $3.2 billion over the next 7 years, but he got $3.2 billion in cash to invest. In this economy, cash in hand has far more value than some minimal interest payments.

Perelman also got 20 percent of his S&L back. He eliminated the Government as an owner. So for every dollar he has in First Gibraltar, he gets 100 percent of the profit instead of 80 percent.

And as I previously stated, he also has not much, a little extra, a little gift, $45 million as a sweetener for making the deal. At the best, giving the Government the best of its argument, we saved a fraction of what we could have gotten. We had the advantage, but didn't use it. Once again, the RTC has shown that it has little respect for American taxpayers' hard earned dollars.

There is one thing I know for sure, Mr. President. If the negotiators at the RTC had been negotiating with their own money, they would have bargained harder, made a better deal and the American taxpayer would have been a great deal richer. Instead, because they were working with the taxpayers money they did, in the language of the street, a lousy job. They threw away a golden opportunity to finally save the taxpayer's some money.

Mr. President, the bottom line is that we are being asked to put $25 billion into an agency that just gave up $3.2 billion in a deal that it did not have to make, should not have made, and was foolish to make.

I urge the Senate to reject this bill.

I am a realist enough to understand that it will probably pass. That does not make it right. Too often we come here and we are told we have to do something. If we do not do this, the whole world will come to an end, the Government will shut down, something else will shutdown. They say we have to do it.

We ought to send a pledge to the RTC that we are not pushovers here. I am told that the House with a majority of Republicans standing pat and refusing to vote for the $25 billion, I believe that we here in the Senate should be taking the same position.

I do not believe we will. I do not think we have that kind of backbone to stand up to the RTC. But I say that we should. And at a very minimum, we ought to slash the $25 billion to some much lesser amount.

But this is the third or fourth time we have come to the floor of the Senate to be told we have to do this. I do not think we have to do it. And in addition to doing it, there are some provisions in the bill to which I will address myself subsequently that are additional giveaways that we should not be doing. That is going too far.

I want to give credit where credit is due. I want to say to my good friend, Senator RIEGLE, he has worked hard on this bill, and there are some provisions in this bill that are excellent provisions, and I support them.

The Wirth amendment is a very good amendment. There are some other provisions in the bill that make it good. And I commend him for his leadership and his effort to try to create a bill that is in the interest of the taxpayer. I do not blame him at all for being here tonight advocating this passage of this piece of legislation. It is part of his responsibility as chairman of the Banking Committee, although I do believe that the amount could be cut down substantially.

But I believe there are some provisions in the bill that, at a minimum, ought to be taken out, provisions making it possible for the Government to provide further investment in real estate so that there will be long-term involvement and obligation on the part of the Government with respect to certain of those obligations.

I believe that there are provisions in the bill that have to do with putting new capital into thrifts that should not be deserving of the Federal largesse. I will address myself further to those provisions as the evening wears along. But my view is that we are not serving the taxpayers' best interest.

I yield the floor.

Mr. RIEGLE. Mr. President, will the Senator yield to me before he yields the floor?

Mr. METZENBAUM. Sure.

Mr. RIEGLE. Let me thank him for his kind personal comment which I appreciate and I also appreciate the areas that he has raised where he has expressed concern and where he has made it clear that his own view is to the contrary in terms of either items that have been included in this bill or other aspects of this problem.

Let me also say that I am keenly interested in the information that the Senator brought to the floor tonight with respect to the renegotiation on this Gibraltar case involving Mr. Perelman, and I am very disturbed personally as to what the Senator asserted here with respect to what appeared to be the facts in this case. And I think it needs a very thorough review and I think it needs to be reviewed by impartial experts investigators and I am prepared—speaking for myself now as one Senator—to join with the Senator from Ohio if he is of a mind to do so to make a formal request to the GAO that they examine this and go in and go through this thing with a fine tooth comb and see if there was a justification for what was done here, and, if not, to so indicate and to give us definitive answers with respect to exactly what the situation is.

The notion of turning back warrants that would have value is one question that I think we need an answer to. But I think other points that the Senator has made are important points. I want the answers just as much as the Senator has expressed a desire to have them himself. I feel strongly enough about it that I will be prepared to cosign a formal request like that so that we can get to the bottom of it.

(Mr. SANFORD assumed the chair.)

Mr. METZENBAUM. I thank the Senator from Michigan, the chairman of the committee, and I will join with him in such a request to GAO. I want to make it clear that I am not sure they will find—and I doubt that they will find—any actual impropriety. I think they will find extremely poor judgment. Whether or not the GAO will come to state that as a conclusion, I do not know. But I certainly think it will be worthwhile doing.

Mr. RIEGLE. Mr. President, let me just say, if the Senator will yield further, we asked the GAO with respect to another matter having to do with the Bank of New England, in terms of the actions that were taken there. And they came back with a very strong finding that the actions that were taken in that case by the regulators were not timely, and they so stated. And it ended up having, I think, a significant bearing on other decisions that were to follow that.

So I think we have at least one instance where we have asked them to go back in and do a reconstruction in a major financial institution, and they have come forward with, I thought, very significant adverse findings.

So I am quite prepared to ask them to take a look at this, and I think they should.

Mr. METZENBAUM. Unfortunately, is it not a fact, I say to the Senator, although they came in indicating that it should not have occurred as it did in the New England matter, that nothing was done to undo the damage it cost the American taxpayer.

Mr. RIEGLE. Mr. President, I might just say, in part due to that finding, the Comptroller of the Currency was not given a second term. And that was clearly part of the bill of particulars with respect to the operation of that office. So I would consider that a significant outcome.

So I think we need the facts in this case, and I am as eager to get them as the Senator. I look forward to joining with him in such a request.

Mr. METZENBAUM. I thank the Senator.

I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I intend to vote against providing $25 billion of additional funding for the savings and loan bailout.

The administration has requested $160 billion in total funding for the Resolution Trust Corporation, which is in addition to the $70 billion spent on the so-called Southwest plan to bail out thrifts that failed prior to the passage of the Financial Institutions Reform, Recovery, and Enforcement Act [FIRREA] in 1989.

On top of these amounts, the taxpayers are also expected to pay hundreds of dollars of billions more in interest costs that will accrue in disposing of the assets of the failed thrifts and in assisting or closing banks that have failed or are expected to fail.

The bill before us today provides funding authority in two ways. First, it eliminates the termination date of April 1, 1992, on the $25 billion of funding that was provided to the RTC back in November. Very little of that funding has been used to date. Second, it provides the RTC with $25 billion of additional, new funding authority that would bring to $130 billion the total of funding authority approved for the losses on the S&L's taken over by the RTC.

GOVERNMENT FAILURES RESULTED IN S&L MESS

From top to bottom, the handling of the S&L mess is the worst debacle of the American government during this century.

The American public is angry and expects some answers. Too often, we have been told that the huge expenditures on the bailout have been made necessary by a weak economy; that there simply were too many institutions to survive under keen competition.

While that may be partly true, it is also true that a majority of the failures have involved criminal activity. According to material prepared last year by the General Accounting Office, 58 percent of the failures have involved criminal activity. However, many more failures have apparently involved cases of negligence.

The depositors, and now the taxpayers, were being ripped off while the administration slept.

We should not approve another dime for the bailout until the American public has received a full report from the President on the extent of criminal activity and negligence in the failed institutions, an explanation of the reasons for inadequate government oversight of the savings and loans, and proof-positive that the administration is capable of pursuing restitution from those that caused the failures and is capable of efficiently administering the funds it has requested.

Mr. President, everywhere I go in this country, I am told of another S&L fiasco by the RTC. We have seen them in my State. We have seen them in State after State. The newspapers are full of reports of mishandling of the bailout, mishandling that is running up the tab on the taxpayers of this country.

Mr. President, we should not approve one more dime until this administration demonstrates that it is prepared to provide the oversight to reduce the cost on the American taxpayer.

The new $25 billion of funding authority is not needed immediately. But we do need some answers about why the S&L's failed in the first place, and a detailed examination of the administrative failures of this administration in handling this bailout.

Everywhere you turn, there has been error after error after error by the Government.

This administration had a free and loose attitude toward regulating the savings and loan industry originally. Long after it was clear that abuses were taking place, the administration chose to look the other way and ignore the problems.

Then the attitude was to bailout all of these institutions regardless of the cost and regardless of the cause of the failure.

But the management of the disposal of the assets of the failed institutions has been a tragedy of errors, with on-again off-again sales, questions of favoritism and sweetheart deals, and poor contractor oversight.

And now there is strong and clear evidence that where the administration is taking credit for cleaning up the mess—through Justice Department criminal prosecutions—there is no money coming in the door. The collections process is going completely unmanaged or perhaps mismanaged.

ADMINISTRATION IGNORING CURRENT PROBLEMS

Again this week, this administration has attempted to put a happy face on the entire mess. The new chief of the Resolution Trust Corporation, Albert Casey, earlier this week pronounced, "The vast majority of thrift institutions to be resolved is behind us and the backlog of assets to be sold is declining."

Unfortunately, his agency's own report reveal that that statement simply is not true. The newly released March 1992 RTC Review reports that institutions accounting for just 50 percent of the requested $160 billion bailout cost have been resolved. That is right, just one-half of the expected dollar volume of resolutions has occurred as of this time.

But the other job that is just starting is the collection of the restitutions from those that were responsible for the S&L mess in the first place.

Recently, the General Accounting Office testified before the Banking Committee that the administration simply is not getting the money in the door. In 55 major criminal conviction cases reviewed, GAO found that just $365,000 out of $84 million court-ordered fines and repayments has been collected.

Let me repeat that for the benefit of my colleagues and those watching.

In 55 major criminal conviction cases reviewed by the GAO, $365,000 was collected out of $84 million of court-ordered fines and repayments. What a sad, miserable performance this is by this administration.

This is a very small portion of the work that has to be done to put this matter behind us.

WEAKNESSES REMAIN IN RTC'S CORE MANAGEMENT SYSTEMS

There is also continuing evidence that the Resolution Trust Corporation simply has never gotten its systems in order to effectively and efficiently dispose of the assets the Government has taken over.

Some may say: Well, so what; so what if the systems are not in order? The "so what," Mr. President, is this is increasing the cost to the American taxpayers by hundreds of millions of dollars; indeed, perhaps billions of dollars, because of a fundamental failure of this administration to manage the dollars that have been given to it by this Congress.

I am sure every Member of this body continues to receive the same kind of complaints about RTC's performance that I am continuing to receive. In one recent case, I received several complaints about the sale of a property by RTC. One party was upset because they thought the RTC had made a commitment to sell the property to them while other parties were upset because the RTC had announced, on two separate occasions, scheduled auctions for the property, only to have the auctions canceled at the last moment.

I was on an airplane just recently and I sat next to a man who was here from a foreign country. He was going to come to this country under the provisions that we passed that would allow people of means to come here if they would provide jobs. This man came to the country with millions of dollars of assets, ready to buy RTC properties. Do you know what he told me? He had given up. He had given up. He called the RTC repeatedly about properties that were supposedly for sale, properties that were in inventory, properties that were gathering dust, properties that were costing taxpayers tens of thousands of dollars a week to maintain. And he could not get an answer.

I have heard that story repeated to me over and over and over: People calling the RTC, trying to find out if they could buy a property, trying to find out if a property was available for sale, trying to find out what the terms and conditions of sale were, and they could not even get an answer. This is a shameful, sad performance. It is a debacle, and we should not give one more penny until this administration comes clean on how it is going to improve the administration of the billions of dollars that have been turned over to them—billions of dollars.

Now they have the audacity to come before us tonight and ask for another $25 billion. Mr. President, we should not allow it.

These complaints seem to go on and on. What I am hearing in my State and as I travel across the country and what other Senators are hearing in their States is just the tip of the iceberg.

Here is what the General Accounting Office is saying in newly released reviews of RTC's systems and procedures:

> RTC continues to have delays in implementing the Asset Manager System (AMS) because of unsound system development practices, including inadequate RTC project management * * * Delays in implementing AMS directly affect RTC's plans to use the system to evaluate contractor performance * * * Until these capabilities are available, RTC managers do not have adequate corporatewide contractor performance information to evaluate the effectiveness of RTC policies regarding contractors.
>
> RTC's systems development efforts continue to be disappointing. RTC has not adequately defined its business strategies for managing and selling assets; matched information needs to these strategies; and developed systems to provide timely, accurate, and complete information to manage asset disposal programs and oversee contractors hired to carry out asset management and other functions. Although RTC has partially deployed REOMS (Real Estate Owned Management System), LOAIS (Loans and Other Assets Inventory System), and AMS (Asset Manager System), none of these systems provides the corporatewide benefits intended * * * Problems with the systems included unclear or changing requirements, inaccurate and incomplete data, poor response times, and difficulty of use. Collectively, these problems have delayed full deployment of the systems and cast doubt on whether, without effective action by top management, they will adequately support the management and sale of failed thrift assets by RTC and its contractors. Until these problems are resolved, RTC will be hampered in its ability to dispose of assets because it will not be able to accurately identify assets and target them for specific sales programs, and provide information on the results of these programs.
>
> RTC continues to operate without a corporatewide loan system because it (1) has not clearly defined its corporate business strategy to manage and sell loans.

Can you imagine, Mr. President, billions of dollars have been given to them and they still have not defined what the strategy is for managing the loans? Billions of dollars, and now they are in here asking for another $25 billion, and they do not even have a strategy, they do not have a plan. What kind of a boondoggle is this?

> Without improvements in RTC's processes for selecting contractors, it cannot be ensured that the best contractors will be hired to assist in the disposal of failed thrifts' assets.

How true that is, Mr. President. How true that is. Everywhere I go people are reporting to me, bankers, lawyers, who have been part of these deals, one fiasco after another and the cost to the taxpayers increased by millions of dollars a deal because of simple administrative failure. What is it going to take for us to send the RTC a message to clean up its act; to send this administration a message that they should clean up their act? This President is in charge. He is responsible, and he ought to be held accountable.

I compliment the chairman of the Banking Committee, Senator RIEGLE, for seeking these reviews by the GAO. We would not know of these failures if it were not for the oversight of the chairman of the Senate Banking Committee. I want to publicly commend him for his vigorous oversight of this mess. This is not at his door. This is at the door of the administrators, the people who are failing to run the RTC in a way that reduces the cost to America's taxpayers. And I want to again thank him for the reports that he has asked for from the GAO, and that he has obtained, that outline clearly the administration's failures.

The committee has also had help to shed light on the mismanagement that has occurred in RTC's Operation Western Storm. It sounds like we are back to Desert Storm. Unfortunately the result is somewhat different. I compliment the committee for holding hearings on this case in which RTC's Denver office bypassed regulations to hire outside accountants after it lost track of $7 billion of assets of failed institutions.

Can you believe it? These people, we are giving them billions of dollars. They have lost track of $7 billion of assets. Can you believe it? They lost track of them. They do not know where they are—$7 billion of taxpayers' money and they cannot find them. They do not know where they are. This is a Mack Sennett comedy. This is a Rube Goldberg approach to a disaster of enormous proportion.

Can you imagine, they lost track of $7 billion of assets and they are in here asking for another $25 billion? We should not give them another penny until they have demonstrated conclusively that they are minimizing the cost to the taxpayer. They lost track of $7 billion of assets. Instead of clearing up the mess, this sweetheart deal ended up making the mess even worse.

But even sadder is the following statement by the Inspector General to the committee:

> Problems we uncovered in the Western Region's project are representative of the overall problems in RTC's contracting efforts. We believe that RTC's contracting problems consist primarily of deficiencies in four major areas: 1) planning for major projects before awarding contracts, 2) ensuring fair and open competition, 3) seeking approval from the proper levels within the organization, and 4) adequately monitoring and overseeing the contractor. The problems we identified during this audit are not unique to the Western Region or the project; we have identified similar problems with other contracts and/or offices and have reported on them * * * The fact that all four major problems occurred throughout this project and proved to have such detrimental and costly consequences underscores the urgent need to fix these problems.

Mr. President, I just say to my colleagues, why the rush to judgment tonight? Why the rush to judgment? Why do we not send the RTC a message that maybe they will pay attention to? Why do we not just slow down; say to the RTC: Not one more dime until you clear up your act.

Say to this administration, say to the President, not one more dime until you demonstrate that you are on top of this problem.

I would just like to underscore that these are not the only weaknesses that have been found. There have been other recent cases of mismanagement identified in reports by the RTC Inspector General. In other reports since the beginning of this year, the Inspector General has found inadequate RTC oversight of conservatorships, weaknesses in the delegation of authority for the sale of assets, unequal treatment of bidders in RTC's first bulk sale.

I will not go into the details tonight, but that is another fiasco, absolute fiasco. The details are appalling: Sweetheart deals, favoritism, selling assets for less than outstanding bids they had from other parties. I could go on and on. Significant weaknesses in background checks when hiring new employees. All of these problem areas.

Mr. President, the last RTC funding bill came before this body in November. I stated I would vote no because the free and loose attitude that led to the S&L mess still existed and was making the mess worse. I entered into the RECORD a lengthy statement citing numerous examples where this administration had engaged in a process of throwing bad money after bad money. I repeated warnings for the need of tighter controls over this entire process.

However, in the months that have passed, it appears very little has changed. This administration still appears to be throwing bad money after bad money. There are still reports of sweetheart deals and conflicts of interests. The administration is still failing to assemble the very basic management systems that are necessary to manage the disposal of assets and collect the restitutions.

Yet, the public's anger grows. It has never received an explanation from the President about what went wrong and about how many abuses are involved. All the public has gotten is the bill, a bill for cleaning up the mess.

Mr. President, the public deserves more than that. They deserve more than the bill. They deserve a clear explanation of what has happened, why it has happened, and what this administration is doing to reduce the cost to the taxpayers of this country.

I urge my colleagues to vote no on this legislation to send a clear message to the RTC.

Mr. President, I yield the floor.

Mr. KERREY. Mr. President, I want to express my strong opposition to passage of S. 2482, legislation to provide the Resolution Trust Corporation an additional $25 billion.

Since August 1989, the administration has requested, and the Congress has provided, funding on three prior occasions: $50 billion in August 1989, $30 billion in March 1991, and $25 billion in November 1991. I have opposed funding on each occasion because we have little accountability over the spending of these taxpayer dollars.

I am pleased that the Banking Committee accepted Senator WIRTH's Bank and Thrift Disclosure Act. Senator WIRTH and I unsuccessfully sought to have this measure approved as an amendment last year. This provision will provide greater sunshine into the actions of banks and savings and loan associations by requiring that examination reports be made public for institutions that are closed by Federal officials. Further, it will require regulators to make public the terms of settlements they reach with bank officials sued for fraud or negligence.

However, until the RTC has an accountable structure that allows the public and Congress to understand how taxpayer dollars are being spent and to ensure that the RTC is operating in an efficient and fair manner, I cannot support funding.

Mr. ROTH. Mr. President, while I support the main purpose of S. 2482, providing additional funding for the Resolution Trust Corporation, I must express serious reservations about certain amendments. It was only 4 months ago that we reorganized the RTC. Now we should provide them sufficient funding to allow them to do their job.

We have an obligation to the American depositor. In every thrift across the land there is a seal displayed in the window that states that "deposits are federally insured to $100,000" and that the insurance is "backed by the full faith and credit of the U.S. Government."

That obligation is real and compelling. We should acquit ourselves of our responsibility by passing a clean bill to do just that. Unfortunately, the temptation is just too strong for some to do the right thing without exacting a price.

A couple of provisions particularly concern me. Section 310 of the bill provides $1.85 billion for a new program of open thrift assistance. Congress has, in the budget process, made special concessions for our Federal deposit insurance guarantee commitment for reasons made clear on that seal I just described. RTC funding is treated separately because, it was argued, the money goes to depositors to whom the

Government is obligated to make good on its promise.

But, Mr. President, the $1.85 billion designated in section 310 does not go to depositors to make good on any promise; instead, it goes to investors. Yes, section 310 authorizes the Federal Government to pick and choose some investors to provide them a windfall. Overnight their $10 shares may be worth $20 because of the benevolence of the Federal Government.

The way I see it, Mr. President, section 310 is not part of the deposit insurance guarantee commitment as we know it before today. It is different. The money goes to investors, to whom the Government has no obligation, rather than to depositors. This is not deposit insurance. Nor is it truth in budgeting.

The proponents of section 310 argue that it relates to deposit insurance because the open thrift assistance provided will save the deposit insurance fund money. Assuming the accuracy of this argument for the moment, I am not persuaded. Abolishing of capital gains taxation, granting incentives for real estate investment, reducing burdensome Government regulations would all have the equivalent effect of a capital infusion into the thrift industry. There are many ways to prevent losses in the industry. Whatever their merits, they are not synonymous with deposit insurance. None of these loss-prevention programs should be financed out of our deposit insurance guarantee commitment.

Moreover, Mr. President, I have my doubts about section 310, no matter how it is financed. I know the measure is well-intended. I do not doubt that. The argument is that if the Federal Government would give a sick thrift a small dose of capital, then it would not die, and the Government would save the costs of burial. It sounds great. No one more than I would like to save the taxpayer money.

But the discretion given to the regulators is as great as that taken by them in making the infamous 1988 deals. Yes, if the regulators are clairvoyant and pick out only those thrifts that will survive with Government money and not pick any of those who would survive anyway and not pick any of those who will fail even with Government money, then section 310 will be a good program. But who in this Chamber will bet that the regulators will be so lucky? I would think very few. This section is the creation of the next scandal. The Government does not do well as a player in the marketplace.

Even if the Government could achieve more good than bad under this section, I am concerned about the inequity of the Government picking out some competitors but not others for capital assistance. The end result will be that the people will view their Government as playing favorites. Resolving failed thrifts is not an effort well understood or well supported by the public even though the effort is designed to make their failed deposits whole. To garner support for the Government to pay off its obligations, we have repeatedly argued that we are not bailing out the investors in, and the managers of, thrifts. Now, section 310 makes that distinction a lie. I am concerned that section 310, in time, could make it politically impossible to honor our commitment.

Mr. President, a second concern of mine is section 303. That section would allow the Government to pick a portion of the health care premium costs of laid-off thrift employees. As with section 310, I have concerns about the merits of the underlying provision as well as how the cost is budgeted.

On the merits, I do not see why the committee decided to treat this group of private-sector employees in a manner different from every other group. While we all desire that every American receive adequate health care, even when unemployed, we have not found the resources to provide the unemployed with such benefits over and above their unemployment insurance. The laid-off thrift employees are not the only ones laid off because their employer has become insolvent. There are scores of bankruptcies that replicate the same needs. What makes this different, Mr. President?

I fear that what makes this different is that RTC funding is not subject to the pay-as-you-go provisions or the caps on spending found in the budget agreement. That's why this amendment was offered, as an end run on the budget process. Senator DOMENICI sought to block this maneuver by requiring that section 303 be subject to an appropriation. I hope that, as a result of the Domenici amendment, the section is now subject to the discretionary spending caps of the budget agreement.

But that is not a certainty, I fear. I am concerned that the appropriation can be made out of the RTC's money. that would make the special treatment of RTC funding a sham. Under that arrangement, the funds would go to laid-off thrift employees and not to insured depositors yet be treated for budget purposes as if it where the latter.

I wish to bring this possibility to the attention of the Senate so that the burdens of vigilance might be more widely shared. If the provision was originally offered to circumvent the internal discipline of the budget process, that hope may still be alive. I am concerned.

Thank you, Mr. President.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I will shortly be sending an amendment to the desk. I want to say to my colleagues that I understand exactly what the situation is. I am comfortable but, nevertheless, determined that this is an amendment that ought to be dealt with. This is an issue which has come to the floor on several different occasions. Again and again, we kind of find this crunch that seems to put us in a predicament where we avoid certain realities. I just personally believe strongly that we cannot continue to do that, Mr. President.

Last Friday, in the East Room of the White House, President Bush delivered a speech on economic recovery and he complained bitterly about uncontrollable spending that is damaging our economy through causing the Federal budget deficit and warning that Congress' willingness to spend money it does not have is irresponsible and dangerous to our future. I agree with that. I think most of us agree with that.

The question is, do we do anything about it? Just yesterday for hours on the Senate floor, Senator after Senator rose to warn against the Senate continuing to spend money it does not have, calling up images of the damage we are doing to our children and our grandchildren by spending money we do not have.

Let me just share with you a couple of examples. Senator DOMENICI, the ranking member of the Budget Committee: "If we want to save our children or save the economy for our children or save jobs for our children or save prosperity for our children, then we better start worrying about the deficit."

Senator BOND: "Congress has been ignoring the deficit far too long. We are spending $201 billion to pay the interest on our Federal debt. That money is not buying us anything. We are not providing any services. We are not providing research. We are not constructing anything with that money. It is simply lost paying for the borrowings of the past. Congress is doing what millions of American households are trying to avoid doing and that is paying only the minimum on our credit card while we watch the unpaid balances getting larger and larger."

Senator GRASSLEY: "The simple truth is that our annual deficits are reaching record levels and our national debt total has become incomprehensible. That is what the people understand and that is what they expect us to deal with."

Mr. President, he is right. That is what they expect us to deal with.

I recognize that at this point we do not have a choice as to whether or not we are going to provide funds to insure depositors. We are going to do that. That is not the debate. The question is how are we going to do it?

The President is saying I am not even asking you to pay the money back in the long-run. We are just going to borrow the money. We are going to add

$25 billion to the Federal deficit, despite his magnificent speech in the East Room, despite all the rhetoric about the walls coming down to shift money from defense into domestic spending. Yes, here we are 1 day later, in the case of those speeches, and a few days later, in the case of the President's speech, and we are being asked to simply add $25 billion in one fell swoop to the deficit of this country.

We have already added $100 billion to the deficit for the S&L's without any means of paying for it, and we will spend another $100 billion this year borrowing every penny. And we will repay it and repay it and repay it forever, with interest, because of the failure to pay for it responsibly now.

I have supported in the past and I would support tomorrow temporary borrowing that might stimulate the economy, put people to work tomorrow, create jobs, do some of the things that Senator DOMENICI talked about—investing in construction and research and development and so forth.

But what we have here is not a temporary cyclical Keynesian economic stimulation program. What we have is fresh Government borrowing for sins of the past, for expenditures already made and that does not have that stimulative effect.

So long as we simply borrow the money, then we are adding to the interest payments of this country and to the structural problem that we face, and we are doing the very thing that Senator DOMENICI said we should not do, which is burden our children and burden our grandchildren.

Mr. President, there is a certain departure from reality in this process. We are engaged in a dangerous game where on a weekly, monthly, daily basis in committee and on the floor of the Senate, throughout the Congress, we are engaged in zero sum game politics in budgeting. When it comes to helping people who are out of work, when it comes to dealing with long-term economic recovery or even short-term economic growth, the administration has said with one voice unanimously: We cannot afford the money. We have a $400 billion deficit.

So that deficit means we cannot afford to feed our hungry children, we cannot afford to fully fund Head Start, we cannot afford to put more money into local law enforcement, we cannot afford to train people, to make the streets safe. But when it comes to the savings and loan industry, does the administration worry about the Federal deficit? Nope. It is the Government gold credit card all the way, the very credit card that Senator BOND referred to.

That is stripping us of our ability to respond in ways that we think we ought to for the American people. At the current rates, we are going to increase the Federal debt of this Nation to $5 trillion by the year 1995. According to the Congressional Budget Office, we will have increased from about $6,000 of debt to $20,000 of debt for every man, woman and child in the United States of America.

Over 25 percent of all the assets that are held by American citizens, corporations, and interests borrowed by the Government, debt we must somehow repay.

It is obviously too late for us to do better about the squandering of resources that took place in the S&L disaster. But we could do something about how we decide to pay for it and how we deal with the deficit problem that we decry on a daily basis. As of now, S&L interest on the money that we have borrowed to pay for the S&L bailout amounts to over $20 million in lost Government funds every single day that is eventually going to have to be repaid by the taxpayers. That is the equivalent of $8 billion a year today that we are paying because of the borrowing already for the S&L's.

It is very ironic that the administration that claims that Congress is going to cost the taxpayers an additional $1 million a day if the RTC funding is delayed is already charging us $20 million a day because of its insistence on funding the S&L bailout without regard to the national debt.

So there is the difference. They say because of the delay in bailing out the S&L you are going to hurt the American taxpayer for $1 million a day and the program that they give us as the alternative is to hurt the American taxpayer to the tune of $20 million a day by adding to the debt.

President Bush has complained that we are "facing Government by gridlock in Washington with spending skyrocketing out of control and a budget deficit looming over our children's children and Americans are fed up." He charges that Congress is spending money it does not have, and he says, "I think now, given the magnitude of this problem, enough is enough." Here is our chance. Here is a chance for the President to support a sensible program.

If enough is enough, and we mean what we say, and words have connection to the concerns of the American people, and if we are going to be holding ourselves to the standard we apply for programs for kids or education loans or anything else, then we ought to do that here. We ought to say we will pay for it as we go, or over a reasonable period of time, so that we are not assuming $20 million a day or $8 billion a year simply in interest.

There is not one Member of the Senate who has not talked about this, ranging from the majority leader, Senator DOLE, who was talking about the dangers of the deficit the other day, to the distinguished Senator from Texas, Senator GRAMM, one of the authors of Gramm-Rudman who voted against the budget agreement because he believes it does not reduce the budget deficit. Senator GRAMM has talked very eloquently about the dangerous drug of deficit spending which we have taken and how nobody wants to do what is necessary to deal with it. I think that is precisely the choice we face here.

Mr. President, I voted against the budget agreement 2 years ago, because at that time I felt it was not reducing the deficit; it was cooking the books.

Let me say very bluntly what is going on here. We are being asked to fund the President's political strategy. The President is running around the country now regretting that he raised taxes, regretting that he had a moment of responsibility where he faced up to the budget needs of this Nation. And because Pat Buchanan is out there clipping on his heels he has retrenched and said: Boy, that will never happen again. I am not going to raise taxes.

And so here we are being asked to bail out his ability to run around the country and not raise the taxes. How do we do it? We do it by pretending that the S&L borrowing does not exist and by just letting them borrow it outside the budget process. So by borrowing it he avoids responsibility for raising money or for putting a real choice to the Congress and we wind up being stuck with the blame for spending money we do not have.

That is the most reckless, craven, irresponsible policy that any President of the United States could put before the people of this Nation. That is what it is.

We vote for $25 billion here, or $80 billion there on a voice vote, or whatever without any plan to pay for it, and the President gets to say: Boy, am I tough. I did not raise taxes.

But you know what he did, he charged us $20 million a day of interest that we would not have to pay if we were responsible and applied the same standard that we apply to all the other choices we are making in the Congress.

I am not going to belabor this, Mr. President, because there is not a Senator who does not know the reality of what has happened in the Congress on debt in the last years—a $909 million debt when President Carter left office, approaching $5 trillion by the year 1995.

You want to talk about what that is doing to small business in this country? Interest rates are higher because the bond market is betting against future inflation and because those interest rates have to stay up in order to attract people to come in and buy Treasury bonds in order to pay our debt. And so it gets worse and worse. We bind ourselves into this corner, and Senator after Senator knows it, and we are unwilling to face the moment of confrontation in order to do something about it. We cannot go on that way. We just cannot go on that way.

That is the confrontation that we face in this country. So I ask my colleagues to understand why it is I feel so strongly we need to face up to this reality.

Mr. CHAFEE. I wonder if I could ask a question of the distinguished Senator?

Mr. KERRY. I would be happy to yield.

Mr. CHAFEE. I heard that impassioned speech. I just wanted to ask how the Senator voted on keeping the firewall so that when we cut defense it would go to paying off the deficit? Did the Senator vote to keep the firewall?

Mr. KERRY. If the Senator had been here for the most moving and eloquent portion of my comments, he would have heard me say that I believe there are a list of needs in this country on which we must spend money, and that I am even willing to borrow it, to spend money to stimulate and pull us out of a hole, to get us back to the point that we can have a tax base in this country which is growing sufficiently that we can pay off the deficit.

At the moment, given the loss of manufacturing jobs, given the decline in research and development, given the terrible disparity between Japanese filed patents on new products versus ours, given the decline in our production of engineers versus the Japanese, given our gap in the transfer of technology from research to marketplace, we have some things we need to spend on, I say to the Senator. So I am willing to do that.

I am not willing to add to the deficit to pay for a past mistake where there so clearly is no stimulative result to the economy. The great mistake we made in this Nation was not recouping some of the gain during the Reagan years when the economy was growing and we could have dealt with it. But instead we practiced our profligacy with respect to the budget in total, and we lost.

So the answer is I voted consciously, and I think correctly, to allow us to have the option of transferring money from defense to job training or even to conversion programs for those defense transitions that are necessary. I am willing to deal with stimulative programs. I am not willing to accept the notion that savings and loans fit into any similar category, and I believe that this addition to the deficit is dangerous.

I might add, for the Senator's sake, I was one of the first Democrats who joined with Senator HOLLINGS in negotiating out Gramm-Rudman-Hollings when I first came here in 1985, and believed in very strongly and in fact for 2 years we had legitimate reduction. I voted for it. We had two of the most responsible budgets in the entire period I have been here. But after that the numbers began to be cooked. We began to steal from the Social Security trust fund, steal from the highway trust fund, steal from the airport construction trust fund, deny ourselves all the kinds of legitimate investments that would create a growing tax base from which this country could deal with its deficit problems. And to me, if we are not creating jobs, we are not creating a future. That is why I think this is so dangerous.

Mr. President, I call up my amendment which is at the desk, and I ask unanimous consent that Senator GRAHAM be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1742

(Purpose: To require that amounts appropriated for the RTC be treated as direct spending for purposes of budget enforcement)

Mr. KERRY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY], (for himself, and Mr. GRAHAM), proposes an amendment numbered 1742.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . BUDGET NEUTRALITY REQUIREMENT.

(a) Notwithstanding the provisions of section 252(b)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, all funds appropriated under this Act shall be included as direct spending for purposes of determining any net deficit increase under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) Notwithstanding any other provision of law or any other provision of this Act, no grant or loan may be made to the Savings Association Insurance Fund, or the Resolution Trust Corporation to provide working capital to, or to cover losses of, the Savings Association Insurance Fund, or the Resolution Trust Corporation, and no funds may be appropriated to pay interest on obligations of the Savings Association Insurance Fund, and the Resolution Trust Corporation, unless the legislation authorizing the grant or loan, or containing the appropriation, provides for means sufficient to offset fully the total amount of the loan or appropriation over the 3-year period commencing on the date of enactment of the legislation containing the authority for the loan or appropriation.

Mr. KERRY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. RIEGLE. Mr. President, at an appropriate time, I will move to table the amendment after we have had a chance for reasonable discussion here.

Let me say I have great respect for the Senator from Massachusetts. I understand the point he is making. This is an issue he has made before, and I am respectful of his position on it.

I think it is fair to say that should this amendment be adopted, the point of order would be in order because of the violation of the budget agreement. It would take 60 votes to deal with that.

Leaving that issue aside, which is an important issue, I think that we have started down this path and really there is no answer to how on a pay-as-you-go basis this would be paid for.

I realize the Senator would defer that decision to the Budget Committee or to the Finance Committee. but the fact of the matter is, we are in a serious recession now. The unemployment level is at 7.3 percent, the highest it has been at any point during this recession. I expect it to go higher.

It has been documented before that we have all kinds of difficulties in the manufacturing sector and other parts of the economy. I am not sure this is the time to be raising taxes, net $25 billion, or cutting other critical programs or working ourselves into a sequester which could also happen here.

So I understand the point he is making. I do not think this is a practical answer at this time. That does not mean that I or anybody else likes the circumstances that we find ourselves in. But I think those are practical considerations that have to be taken into account here.

It is one thing to want to do this. It is another thing to have to consider what the practical effect would be in terms of just the impact on the economy at the present time, and in the context of the budget discipline that we have.

So let me yield the floor.

Mr. KERRY. Mr. President, if I could just respond—I do not want to take a lot of time—quickly.

First of all, the amendment suggests a 3-year period. so this is not a 1-year, $25 billion dislocation to the economy. You are talking about 3 years. And as the Senator from North Dakota pointed out earlier, this money is not drawn down at such a rate that there are not many different ways, providing that revenue at an adequate rate. That is just not accurate.

You are talking about $7 billion a year, $3 billion-something that you could replenish, looking at it over the long haul—$100 billion. It may be over the next year. There are ways to deal with that. It could be spent over a period of time. I do not think Americans would mind if we said we cannot quite do it in 3 years, let us do it in 5 years, or 6 years. What they do mind is the just the addition to the process without the backend close off.

Second, the only reason I do not suggest a method for doing this is the Senate constitutionally cannot be the position of initiating any kind of tax.

That has to happen, if that is the choice, in the House. but that may not be the choice.

What I am asking is for the President of the United States who keeps saying give me a line-item veto, give me a balanced budget, when he has never once sent a balanced budget to the Congress, to exercise his leadership responsibility of telling us how he would like to pay for it rather than talking about the deficit, the deficit, the deficit, irresponsible Congress, and then just borrowing his way out of it. Somewhere along the line, I am just saying there ought to be some responsible leadership in this process.

We can find ways of doing this. The President just vetoed a surtax or a tax on the upper 1 percent of Americans. No one can convince me that the disparity of the income shift of the last 10 years between middle-income Americans and those at the upper levels of America is not sufficient to say let those who have the kinds of hundred thousand dollar deposits that we are bailing out be the ones who are going to carry the burden of this. And on a 1 percent of Americans being taxed to pay for this, at the upper level, more than $200,000 of income, you would more than cover the amount of money that we are borrowing.

But, again, we do not make that kind of choice because we lost the willingness to debate fairness. That is part of what is at stake here.

Mr. CONRAD. Will the Senator yield for a question?

Mr. KERRY. I yield the floor.

Mr. CONRAD. Mr. President, I was just going to ask the Senator if the President has not sent us in his 5-year budget plan a very clear indication of what he intends to do, because in the President's 5-year budget plan he says add to the national debt $1.8 trillion on top of the $4 trillion we are going to have at the end of this year.

So I just say to the Senator, and perhaps ask him if the President has not told us very clearly what his intention is—just put it on the tab.

We have going on in the other Chamber a scandal that involves bad checks. It seems to me what we ought to be talking about in this country is $400 billion worth of bad collection. The President sends us a plan, "Put on another $1.8 trillion.

So I just say to the Senator, I think the President send us a pretty clear indication on how he intends to deal with this—just put it on the tab.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. GARN. Mr. President, in an ideal world, pay as you go is something that some of us have proposed on all spending for the entire time that we have been here. That would be very nice. If that had been done by the Congress over the last 30 or 40 years, we would not have a $400 billion deficit. We would not have $310 billion of interest on the national debt. We would not have a $4½ trillion national debt that we are carrying.

I wish that were the case. I wish we could have a balanced budget, a line-item veto, and a lot of other things. But the point of it is this is a bill that has already been incurred, and it is fun to blame it all on this President when I could spend hours, which I certainly will not do, talking about Congresses' role the last 15 years in the S&L crisis. There certainly is enough blame to go around.

The point is we are here once again dealing with the deadline, and we are costing the taxpayers additional money that is not necessary to have to be spent simply because we once again will not do our responsibilities on time.

As nice as this amendment might be in an ideal and a different world, it violates the bipartisan budget agreement that leaders of both parties and the administration agreed to in the fall of 1990, which this Senator did not vote for.

But, nevertheless, I have been here long enough to know that it does not make any difference what this Senator thinks. A majority of the House and the Senate passed that bill in 1990. It was agreed that depositor insurance commitments are mandatory spending and, therefore, would not be subjected to offsetting revenues or spending cuts. They certainly are mandatory despite the fact we demagog this at least two or three times a year in both Houses, and certainly on a bipartisan basis we demagog it.

The bill is there. It has to be paid. And it is not a bailout of S&L's. We all use that term. It is the payment of a committee to the depositors of this country who were told over and over again by sense-of-the-Senate and House resolutions, sense of the Congress, that not only the FDIC and FSLIC would be there, but the full faith and credit of the U.S. Government would be there to make sure that their deposits were safe.

Most of the people are those that have small deposits—$3,000, $4,000, $5,000, $6,000—not the big ones.

And that is an obligation that this Senator feels very strongly about. That did not happen in the 1930's when my grandparents and parents lost all of the money that had in the bank accounts and had no recourse to anyone. That is why deposit insurance was created, and that is why the full faith and credit of the Government was placed behind it.

So as tragic as this $160 billion is, it is being incurred to take care of the depositors who were told by their Government that every dime of their money, up to $100,000, would be safe. That is what the fundamental issue is here tonight. So that bill has been run up, and we have to pay it. We have no choice. It is mandatory spending.

So if we are going to have pay-as-you-go, let us put it on all of the entitlements, all the mandatory spending, which is now two-thirds of the entire Federal Government. Can you imagine the kind of a tax increase that would require, or cuts in other areas?

So the Kerry amendment effectively holds depositor savings hostage to the enactment of new taxes or spending cuts. I do not think it is required or appropriate to require Federal protection of federally insured depositor accounts to be dependent upon congressional action unrelated to deposit insurance commitments.

Congress has voted time and time again that deposit accounts in federally insured depository institutions should be protected and backed by the Government's full faith and credit, as I mentioned, up to their insured levels. Unless Congress' pledge of full faith and credit is an empty promise, it means the Government will borrow, if necessary, to make our constituents whole up to the insured levels of their deposit accounts.

The Kerry amendment would cause chaos in RTC's ability to complete the task of closing failed thrifts, increasing—not reducing—the cost to the taxpayer every day. A vote for this amendment is a vote to increase taxes or to cut expenditures to cover the cost of the cleanup.

In concept, I agree with the Senator, absolutely. But from a practical standpoint, and past actions of the Congress, I do not think that it is possible at this time.

I would raise the 306 point of order under the Budget Act——

Mr. KERRY. Will the Senator yield for a minute, before doing that?

Mr. GARN. I am happy to yield to my friend from Massachusetts.

Mr. KERRY. I will not take long.

I just want to say a couple of quick things, if I may, Mr. President.

No. 1, there is no issue of full faith and credit here whatsoever; none whatsoever. That is not the issue. The full faith and credit ought to be backed up. I am in favor of that. The only question is how we do it.

If you accept the logic of the Senator from Utah, then there is nothing we can do about the deficit; then we are somehow locked into this problem because, as he says, it would require either finding some money or cutting something. That is the point. That is the whole point. We are essentially locked into permanent irresponsibility, or we are not.

We can find a way to get out of this. If we decide we are going to pay for it, we can find the mechanism, and they can draw down. There will not be any delay. So what is at stake here is whether or not Congress is irretrievably bottled up, totally incapable of making choices on the deficit or not.

That is really it. We can do what we want. We are the lawmakers, and we can make the decision.

I yield back to my colleague.

Mr. GARN. Mr. President, I raise a 306 point of order under the Budget Act.

Mr. KERRY. Mr. President, I move to waive section 306 of the Budget Act for the consideration of the pending amendment as offered.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion to waive section 306 of the Budget Act.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from California [Mr. CRANSTON], the Senator from Illinois [Mr. DIXON], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Michigan [Mr. LEVIN] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Mississippi [Mr. COCHRAN], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

The PRESIDING OFFICER (Mr. ROBB). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 45, nays 48, as follows:

[Rollcall Vote No. 57 Leg.]

YEAS—45

Adams
Akaka
Baucus
Biden
Boren
Bradley
Breaux
Brown
Bryan
Bumpers
Burdick
Byrd
Conrad
Daschle
DeConcini
Dodd
Exon
Fowler
Graham
Harkin
Heflin
Hollings
Inouye
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Lieberman
Metzenbaum
Mikulski
Moynihan
Nickles
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sanford
Simon
Smith
Wellstone
Wirth
Wofford

NAYS—48

Bentsen
Bingaman
Bond
Burns
Chafee
Coats
Cohen
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Ford
Garn
Glenn
Gore
Gorton
Gramm
Grassley
Hatch
Hatfield
Helms
Jeffords
Johnston
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Mitchell
Murkowski
Packwood
Pressler
Riegle
Roth
Sarbanes
Sasser
Seymour
Shelby
Simpson
Specter
Stevens
Thurmond
Wallop
Warner

NOT VOTING—7

Cochran
Cranston
Dixon
Kennedy
Levin
Rudman
Symms

The PRESIDING OFFICER. On this vote, the yeas are 45, the nays are 48. The amendment of the Senator from Massachusetts would alter the budgetary evaluation of the programs contained in the bill, notwithstanding section 252(b)(1)A) of the Balanced Budget and Emergency Deficit Control Act of 1985. Since this is a matter within the jurisdiction of the Budget Committee, and this bill was not reported by that committee, the amendment violates section 306 of the Budget Act. The point of order is sustained. The amendment falls.

Mr. GARN. Mr. President, I move to reconsider the vote by which the motion was rejected and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1743

Mr. METZENBAUM. Mr. President, I send an amendment to the desk on behalf of myself and Senator GRAHAM and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. METZENBAUM], for himself and Mr. Graham, proposes an amendment numbered 1743.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Page 45, line 21, strike "85" and insert "75".

Page 45, line 17, insert the following after Corporation. "The quantities issued by the Corporation shall not exceed $7.5 billion.".

Page 46, line 18, strike "15," and insert "25".

Mr. METZENBAUM. Mr. President, under the pending matter, the RTC is authorized, by reason of an amendment offered by Senator GRAHAM in the Banking Committee, to provide certain loan guarantees that will be used to guarantee a bank loan made to an individual for the purchase of property from the RTC.

It is my thought that the number of dollars to be used for such guarantees should be limited. Senator GRAHAM and I have agreed on a maximum of $7.5 billion. It is also my feeling that there ought to be additional exposure, for a bank that makes a loan to such an individual. Under the amendment, the bank will now have an exposure of approximately 21 percent, and then the RTC would be in a fallback position of approximately 64 percent.

I think that is much better than the original figures which would have provided the Government a fallback position of about 72.25 percent. I think this is an improvement that protects the Government that much more.

I am pleased we have been able to work it out with the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida [Mr. GRAHAM] is recognized.

Mr. GRAHAM. Mr. President, I concur in the amendment that has been offered by the Senator from Ohio. I think that it allows us to move in an important area with the additional protections that he has provided.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment offered by the Senator from Ohio.

The amendment (No. 1743) was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1744

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 1744.

Mr. GRAMM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 4, line 1, strike all through the end of the bill.

Mr. GRAMM. Mr. President, there are a lot of problems with this bill. We all know the time is short. We have 6 days to adopt the bill if we are going to provide the funds needed for resolution before current funding expires. I am not going to spend our time tonight, because it is late, going through all of the problems with the bill in terms of the add-ons that were made in committee.

We have a provision in the bill to allow the RTC to guarantee loans up to 75 percent, committing us to future contingent liability. We have a provision in the bill that is going to give the RTC, I believe, an unfair advantage in competing with everyone else in America in selling real estate.

We also have in the bill a provision that is going to extend the statute of limitations for 2 additional years for things other than fraud or other serious wrongdoing. I think everybody agrees with extending the statute of limitations for fraud. But extending the statute of limitations where some doctor or person running a hardware store who also served on the board of directors of a savings and loan, who might have attended four meetings, never approved a loan, is reaching very far. Under this bill, such persons are potentially liable to be sued for 2 additional years, making it impossible for them to go out and borrow money to expand their hardware business, making it impossible for them to conduct business. I believe that in such cases we need a higher standard than we have set out in this bill, a standard that extends the statute of limitations for fraud or gross negligence, but not for bad judgment or inadvertent errors.

There are numerous other problems with the bill, but the bottom line is the House is going to adopt a clean bill. We have an opportunity to pass the $25 billion that we all know has to be adopted. I think passing a clean bill with no amendments represents our best hope of getting the job done. I think that this is ultimately what is going to happen. I think we can short cut the whole process. What I have done is to send an amendment to the desk, an amendment that was offered by Senator GARN in committee, an amendment that strips everything out of the bill except the funding. I urge my colleagues to support this amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

The Chair does not observe a sufficient second.

The yeas and nays are requested.

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, I think the Senator from Maryland may also wish to speak. This takes everything down and this is not an answer.

If everything which has been put into this bill comes out of the bill, we are going to have to start building the bill up again. It means we are going to be here a long time after this vote because things in here are necessary. They are in here for a reason. I can appreciate the fact that one Senator or another may not like what is in there. It did not get in there by accident. It got in there by debate and majority votes, and that is what this bill constitutes.

It is essential that these items be in there. To strip the bill at this point and just provide the money would be about the worst thing we could do. I do not know that it will be necessary to go ahead and vote on all these items that are in here one by one, but if that is what it takes, we can do it whether it is tonight, tomorrow, or some other time.

I feel very strongly about an effort to try to strip out the substance of the bill here that is designed to protect the way this money is spent and, where there is something that has gone wrong, to hold those to account that are responsible for it. After all, this is taxpayer money we are talking about.

So I may have more to say in a moment.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maryland [Mr. SARBANES].

Mr. SARBANES. Mr. President, I think it is very important that every Member of the Senate understand what this amendment does. This amendment would then leave the bill in the posture of providing in effect an additional $42 billion for the RTC; $25 billion was provided until April 1. Of that, I think—is it $7 billion that has been used? If I could have the chairman's attention, of the $25 billion that was provided until April 1, is it $7 billion that has been used?

Mr. RIEGLE. It is $8 billion.

Mr. SARBANES. Eight billion dollars. So that leaves another $17 billion that is going to be made available by this legislation, plus $25 billion. Now, a number of amendments have been added, virtually all of them designed to add some safeguards to the use of this money—examination of reports, extension of the statute of limitations. In fact, many of these items were requested by the RTC. They asked us for these items in order to improve their ability to do the public's business, and we have a letter from Mr. Casey making such a request.

To strip out all of these amendments, some 15 of them, I guess, that were put in in the committee consideration, is really to remove a number of safeguards, important safety features that have been added to this legislation.

I very much hope that my colleagues will turn down this amendment and let us go ahead to vote on the bill in the posture in which it now finds itself.

Mr. WIRTH addressed the Chair.

The PRESIDING OFFICER. Who seeks recognition? The Chair recognizes the Senator from Colorado [Mr. WIRTH].

Mr. WIRTH. I thank the Chair. I would just like to point out to my colleagues in the Senate, particularly those on this side, that included in the amendment offered by the Senator from Texas is the striking of the disclosure amendment. This is an amendment which we have all talked about for the last 2 years, the disclosure amendment, which we passed in this body last year. It is an amendment agreed upon by Senator GARN and I. We worked out this language very carefully. It requires the bank examiners, examiners of the S&L's, of the failed S&L's to tell the public why these S&L's went down, and make these exam reports available to the public.

Second, it requires the Federal Government to tell the public what kinds of settlements were reached between the Federal Government and the insiders or directors of institutions. We are spending to date $216 billion—not millions of dollars, $216 billion—to clean up this S&L mess. None of us wants to spend that money; none of us wants to do it. It is an enormous waste of money. But we have to do it. We are required by law to do it. And at least we have an obligation to the American public to have the American public know why many of these institutions failed, who got the money, and what kind of settlements were reached.

If the amendment of the Senator from Texas to strike all is passed, the American public will once more be in the dark while $216 billion is spent. I urge my colleagues on the basis of disclosure alone to vote down this amendment.

Finally, there is in the package here which would be stricken by the Senator from Texas, an extension of the statute of limitations from 3 to 5 years. The RTC supports the extension of the statute of limitations from 3 to 5 years. Why is that? Because the RTC in the last year has had to rush through more then 350 different cases, not having the time to do it. They have told us they have 160 which are about to expire. They do not even have a chance to go out and figure out what kind of taxpayer money can and should be recovered.

This is a letter from Mr. Casey, the new head of the RTC. We are lucky to have him down there. He is the former head of American Airlines, a really fine individual. He says this statute of limitations makes sense. If we do not do it, the chance of recovering this money from hundreds of failed S&L's is zero. We will get nothing out of it.

So we must turn down the amendment offered by the Senator from Texas and maintain disclosure so the taxpayer knows what is going on and maintain the ability to go out and figure out what has happened in a lot of these other failed institutions so we can recover some money for the taxpayer.

Mr. President, I yield the floor.

Mr. GARN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah [Mr. GARN].

Mr. GARN. Mr. President, there are some amendments among these that I favor, some that I do not. But for several weeks, as this deadline has been approaching, I have stated over and over and over again that I thought the most expeditious and best procedural way to handle this was just to appropriate the money and not start adding a lot of amendments.

The House of Representatives, which I have stood on this floor for several years and criticized vociferously over their role in the S&L crisis, has finally done what I think is responsible. They at least in the committee reported out a clean bill with no amendments on it whatsoever, so that we did not start losing additional money due to shutting down the pipeline for the RTC.

I practiced what I preached in the committee. There is one amendment I would love to have adopted, however. That is my lender liability that for 2½ years I have tried to push. Mr. Casey, Mr. Seidman, Mr. Taylor, all of them have said if we really want to do something about the credit crunch, that is one amendment we ought to pass. If we really want to increase the value of the properties that they hold and cut down the cost dramatically to the taxpayers, make them more able to sell that property, we would pass lender liability.

This is a nice vehicle to put it on, but I chose not to. So I have practiced what I preached. I offered the amendment in the committee. The committee spoke 11 to 10 not to strip the amendments. I recognize that that is a loss, no matter how close.

But while some of these amendments I do support, others I do not. Procedurally, I think we would be better off, and therefore I will support the amendment of the Senator from Texas.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Michigan [Mr. RIEGLE].

Mr. RIEGLE. Mr. President, it is essential that this amendment by the Senator from Texas be tabled, and I will move to table in just a moment. Bear in mind on the statute of limitations question, you have the head of the RTC, who has made a request to us to extend the statute of limitations for 2 additional years so they can go out and make recoveries of money that ought to be paid into the Government so that the taxpayers do not have to cover those losses.

If the amendment of the Senator from Texas were to pass right now, that extension of the statute of limitations will not take place, and literally tens of millions, probably hundreds of millions of dollars will be lost. There is absolutely no justification for that.

I move to table.

Mr. SARBANES. I ask for the yeas and nays on the motion to table.

The PRESIDING OFFICER. Is there a sufficient second on the request for the yeas and nays?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. GRAMM. Will the Senator withhold? I would like to speak in concluding the debate on my amendment.

Mr. RIEGLE. How much time does the Senator wish to take?

Mr. GRAMM. I am just going to speak for a few moments. I can offer the amendment again, if the Senator would like me to do it.

Mr. RIEGLE. I understand. Will the Senator give me an indication how much time he wants?

Mr. GRAMM. I would guess 3 or 4 minutes.

Mr. RIEGLE. The Senator wants 3 or 4 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. RIEGLE. I do not object to him having 3 or 4 minutes. Is there anybody on this side who also did not get time who wants time? I am not going to protect one person and not another.

Mr. METZENBAUM. Not knowing what the Senator from Texas is going to say, I would like to ask to reserve 4 minutes.

Mr. RIEGLE. I have no objection; 4 minutes a side. I have no objection to that.

The PRESIDING OFFICER. Is there objection? The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, in committee we had a vote on this amendment. The amendment was defeated 11 to 10. The House Banking Committee has reported a clean bill and has stated the intention of not considering amendments, seeking to pass a clean bill, and to do it quickly under the 6-day time limit.

This bill would add to the funding a lot of new provisions that are not well understood and that I think represent a real peril to our ability to pass this bill. The bill has new loan guarantees for the RTC. It gets the RTC in the business of using taxpayer funding to build up capital in institutions where the stockholder maintains control of the institution and the profits that flow from it. That may be a good idea; it may be a bad idea, but we never held a hearing on it in committee.

We hear discussion about examination disclosure, yet every regulator opposes the Wirth amendment.

On that issue, I ask unanimous consent that a letter by Alan Greenspan be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, DC, November 15, 1991.

Hon. JAKE GARN,
Ranking Minority Member, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR: I am writing to express my continuing concern about proposals that would require the public release of failed bank examination reports. Such a step would strike at the very heart of the supervisory process by weakening examinations as a key tool of the regulatory agencies.

Public release of examination reports would convert the examination process into an adversarial procedure that would greatly detract from the usefulness of examinations as a procedure for identifying and correcting potential problems of insured depository institutions. Concern that current examination reports might be publicly released at some time in the future would undoubtedly lead depository institutions to focus undue attention on the characterization of problems in the examination report and reduce the willingness of institutions to admit to potential problems in the report and correct those problems. Instead, depository institutions would focus on denying identified problems and attempting to justify past actions. This would greatly reduce the effectiveness of the examination process.

In short, public release of examination reports would be counter to one of our primary purposes of enhancing the supervision of insured institutions and would ultimately cause a greater risk to the insurance funds and the taxpayer.

Sincerely,

ALAN GREENSPAN,
Chairman.

Mr. GRAMM. Mr. President, I intend to vote against the bill if this amendment is defeated. I think we need to act with a clean bill. Now is not the time to be bringing up all of these new provisions. We have a crisis. We need the money.

I urge my colleagues to adopt the amendment and reject the motion to table.

Mr. SARBANES. Mr. President, the President and CEO of the RTC, who was, in effect, drafted into a very tough job—we have the impression that he is an able and dedicated person undertaking this tough job—has sent us a letter asking for a number of the amendments that are going to be stripped out of the bill by this amendment that is now before us to take all of the amendments out.

He asks for the amendment in here that extends the statute of limitations by 2 years. Let me tell you what the problem is. Every dollar the RTC collects when it brings these suits from insiders reduces the taxpayers' burden. But the RTC has this overload of failed thrifts.

We put in FIRREA a 3-year statute of limitations.

The RTC is telling us that there is not enough time to work through these cases in order to determine whether to bring suit. Why is it not enough time? Because the system has been overloaded by the number of failures. I mean, the statute of limitations involves protecting the public interest as well. The public interest is that these suits in those instances in which people have abused their trust ought to be brought.

They have 318 failed thrifts that face the limit this year. On March 16 alone, the time limit for 47 thrifts expired. In April, the 3-year time limit for another 43 thrifts will expire.

This extension applies only to the actions brought by the Government. The RTC has asked for it. It is a one-time extension. It has been limited just to the RTC. Originally, it was going to be the RTC and the FDIC.

If you really are serious about trying to recover some moneys for the public that ought to be recovered, we need this extension of the statute of limitations. It does not change the substantive standard that judges people's conduct. It only provides an additional 2 years within which these suits can be brought.

I urge Members not to support this amendment.

Mr. METZENBAUM. Mr. President, I find myself in an unusual position. I am not going to vote for this bill on the final vote, but I expect it to pass.

But I can say this: There is no merit, no merit to this bill, unless you keep it as is.

The bill now does provide for disclosure of settlement, the Wirth amendment, and that is a major step forward.

The bill now does provide for the extension of the statute of limitations. That is a worthwhile amendment. The bill now does provide for health care for employees who work for the failed financial institutions. That is a worthwhile amendment.

There are some other provisions that have merit. But if you drop all of those, as the Senator from Texas would have you do, then all you have left is giving away $25 billion to bail out the savings and loans.

So, whether you are for the bill or against the bill, I cannot see any basis on which anybody can support the Gramm amendment. It would make, in my opinion, a bad bill a heck of a lot worse than it is at the present time.

The PRESIDING OFFICER. Is there further debate on the amendment. If not, the question is on agreeing to the motion of the Senator from Michigan to lay on the table the amendment of the Senator from Texas. On this motion, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Illinois [Mr. DIXON], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Michigan [Mr. LEVIN] are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Mississippi [Mr. COCHRAN], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

The PRESIDING OFFICER (Mr. DASCHLE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 58, nays 36, as follows:

[Rollcall Vote No. 58 Leg.]

YEAS—58

Adams
Akaka
Baucus
Bentsen
Biden
Bingaman
Boren
Bradley
Breaux
Bryan
Bumpers
Burdick
Byrd
Chafee
Conrad
Cranston
Daschle
DeConcini
Dodd
Exon
Ford
Fowler
Glenn
Gore
Graham
Grassley
Harkin
Heflin
Hollings
Inouye
Johnston
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Lieberman
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Packwood
Pell
Pryor
Reid
Riegle
Robb
Rockefeller
Sanford
Sarbanes
Sasser
Seymour
Simon
Specter
Wellstone
Wirth
Wofford

NAYS—36

Bond
Brown
Burns
Coats
Cohen
Craig
D'Amato
Danforth
Dole
Domenici
Durenberger
Garn
Gorton
Gramm
Hatch
Hatfield
Helms
Jeffords
Kassebaum
Kasten
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Shelby
Simpson
Smith
Stevens
Thurmond
Wallop
Warner

NOT VOTING—6

Cochran
Dixon
Kennedy
Levin
Rudman
Symms

So the motion to lay on the table (Amendment No. 1744) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RIEGLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I have an amendment that I will not offer pursuant to an agreement with the manager of the bill but I would like to discuss it just briefly.

Mr. President, the amendment that I have provides a sense of the Congress regarding the need for competitive bidding for the purchase of outside legal services and points out that last year we spent $625 million in legal fees and expenses—$625 million—without the benefit of competitive bidding for the purchase of those services. I understand the manager will have an amendment that will address that.

The second part of my amendment provides for disclosure of conflict of interest waivers.

Mr. President, very briefly, if I might indicate the reason that I drafted this amendment is to address a problem that we have discovered with waivers being given to law firms when they have a conflict of interest.

I just draw my colleagues attention to a situation that involved a firm in Maryland, reported on Monday, February 4, 1992, in the Washington Post, "RTC Issued Contract with Law Firm with Ties to Failed Annapolis S&L.

The Federal Resolution Trust Corporation waived its conflict of interest rules in 1990 to continue to use a prominent Annapolis law firm whose principal partners are figures in the investigation of failed First Federal Savings Bank of Annapolis.

Mr. President, why in God's name would we be hiring a law firm that is involved with the S&L that has failed? Here is the explanation of the RTC. This, I think, is the most interesting explanation I have seen yet.

It is more cost effective to use counsel that is familiar with the litigation than to go through the contractor selection process.

Now, Mr. President, we have come to an interesting turn of events when we hire firms, law firms, that were involved with the failed S&L to clean up the S&L because they are familiar with the mess they created. I guess they would be more familiar with it because they were in on it.

Mr. President, it seems to me those kinds of waivers ought to be disclosed. We have tried to find out where are the conflicts of interest? Do you know what, Mr. President? You cannot find out. There is no list.

So, Mr. President, I have an amendment to address that. I understand that the manager of the bill would join with me in requesting the GAO to examine this question so that we can ascertain how widespread this is, and, if needed, that we offer an amendment at a later point. I would just defer to the manager for his response with respect to that question.

Mr. RIEGLE. Let me just say to the Senator, I appreciate the point he is making. I have said that I will join with him in a request of the GAO, as a Senator joining with him, to have them examine this very question because it is very troubling and we should find instances of this kind such as he has cited. And if that is not satisfactory, in terms of what we are able to learn and the response we can get, then I am prepared to consider other action beyond that.

Mr. CONRAD. I thank the Senator.

Mr. REIGLE. I thank the Senator.

AMENDMENT NO. 1745

(Purpose: To amend the Federal Reserve Act and the International Banking Act of 1978 concerning foreign deposits, and for other purposes)

Mr. RIEGLE. Mr. President, I send a manager's amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. RIEGLE], for himself, and Mr. GARN, proposes an amendment numbered 1745.

Mr. RIEGLE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 50, between lines 13 and 14, insert the following new sections:

SEC. 315. LIMITING LIABILITY FOR FOREIGN DEPOSITS.

(a) AMENDMENT TO THE FEDERAL RESERVE ACT.—Section 25 of the Federal Reserve Act (12 U.S.C. 601 et seq.) is amended by adding at the end the following:

"11. Limitations on liability.

"A member bank shall not be required to repay any deposit made at a foreign branch of the bank if the branch cannot repay the deposit due to—

"(i) an act of war, insurrection, or civil strife, or

"(ii) an action by a foreign government or instrumentality (whether de jure or de facto) in the country in which the branch is located,

unless the member bank has expressly agreed in writing to repay the deposit under those circumstances. The Board is authorized to prescribe such regulations as it deems necessary to implement this paragraph.".

(b) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) SOVEREIGN RISK.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended—

(A) by redesignating subsection (o) (as added by section 305(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102-242, 105 Stat. 2354)) as subsection (p); and

(B) by adding at the end the following:

"(q) SOVEREIGN RISK.—Section 25(11) of the Federal Reserve Act shall apply to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.".

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 3(*l*)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(*l*)(5)) is amended to read as follows:

"(A) any obligation of a depository institution which is carried on the books and records of an office of such bank or savings association located outside of any State unless—

"(i) such obligation would be a deposit if it were carried on the books and records of the depository institution, and payable at, an office located in any State; and

"(ii) the contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of the depository institution located in any State; and".

(c) EXISTING CLAIMS NOT AFFECTED.—The amendments made by this section shall not be construed to affect any claim arising from events (described in section 25(11) of the Federal Reserve Act, as added by subsection (a)) that occurred before the date of enactment of this Act.

SEC. 316. AMENDMENT TO INTERNATIONAL BANKING ACT OF 1978.

Section 6(c)(1) of the International Banking Act of 1978 (12 U.S.C. 3104(c)(1)) is amended—

(1) in paragraph (1)—

(A) by inserting "domestic retail" before "deposit accounts"; and

(B) by inserting "and requiring deposit insurance protection," after "$100,000,"; and

(2) in paragraph (2)—

(A) by striking "Deposit" and inserting "Domestic retail deposit"; and

(B) by inserting "that require deposit insurance protection" after "$100,000".

SEC. 317. CLARIFICATION OF COMPENSATION STANDARDS.

Section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831s) is amended—

(1) in subsection (d), by adding at the end the following: "An appropriate Federal banking agency may not prescribe standards or regulations under subsection (a), (b), or (c) that set a specific level or range of compensation for officers, directors, or employees of insured depository institutions."; and

(2) in subsection (e)(1)(A), by striking "(a), (b), or (c)" and inserting "(a) or (b)".

On page 55, line 15, and page 59, line 6, strike "Federal".

On page 56, line 13, strike "section" and insert "title".

SEC. 315. SENSE OF THE CONGRESS REGARDING THE NEED FOR COMPETITIVE BIDDING FOR THE PURCHASE OF OUTSIDE LEGAL SERVICES.

(a) FINDINGS.—The Congress finds that—

(1) the Federal Deposit Insurance Corporation (hereafter referred to as the "FDIC") and the Resolution Trust Corporation (hereafter referred to as the "RTC") should protect insured depositors of banks and savings and loans at the least possible cost to the American taxpayer;

(2) the FDIC and the RTC paid more than $625,000,000 in legal fees and expenses to private legal counsel during 1991;

(3) the Office of Inspector General of the FDIC has completed more than 20 audits of contracts with private legal counsel and found repeated examples of overcharges, double-billings, and other excess costs; and

(4) a study by a major private accounting firm on behalf of the Office of Inspector General of the FDIC was released in late 1991, and concluded that—

(A) private legal counsel are generally not selected on a competitive basis;

(B) the selection of the matters to be turned over to private law firms is not done on a basis which would encourage competition among the firms;

(C) many law firms do not have formal agreements or contracts with the agency;

(D) the agency generally pays hourly rates rather than arranging less costly fixed rate contracts;

(E) routine work, defined as collections, bankruptcies, and foreclosures, accounts for more than two-thirds of active litigation matters; and

(F) private attorneys spend a significant amount of time performing tasks which do not require the skills of an attorney.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the FDIC and the RTC should take immediate steps to ensure that private legal counsel are selected competitively on the basis of their ability to perform required tasks at the lowest possible cost to the taxpayer; and

(2) the FDIC and the RTC should adopt policies which clearly define the dollar amount and types of legal services to be purchased under such competitive bidding procedures.

SEC. 316. FINANCIAL INSTITUTION FRAUD PROSECUTIONS.

(a) FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.—Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended in paragraph (2)(A)(i)(I)—

(1) by striking "or 1956"; and

(2) by inserting "1517, 1956, or 1957".

(b) FEDERAL CREDIT UNION ACT AMENDMENTS.—Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

Section 304 of the bill is amended by adding at the end the following new subsection:

(f) CRIME CONTROL ACT AMENDMENT.—Section 2546 of the Crime Control Act of 1990 (Public Law 101-647, 104 Stat. 4885) is amended by adding at the end the following:

"(c) FRAUD TASK FORCES REPORT.—In addition to the reports required under subsection (a), the Attorney General is encouraged to submit a report to the Congress containing the findings of the financial institutions fraud task forces established under section 2539 as they relate to the collapse of private deposit insurance corporations, together with recommendations for any regulatory or legislative changes necessary to prevent such collapses in the future.".

Mr. RIEGLE. Mr. President, the managers' amendment that Senator GARN and I have agreed should be added to this bill deals with certain noncontroversial matters. The first part of the amendment, which passed the Senate last year, limits the liability of U.S. banks and our bank insurance fund for deposits that are taken in their foreign branches. If the government of a country where U.S. bank branches are operating prevents the branches from paying off depositors, this amendment frees the headquarters bank in the United States from being liable to pay them. The provision, which was requested by the Federal Reserve Board, does not prohibit a U.S. bank from assuming responsibility to make payments if it wishes to do so. It also applies only prospectively and does not affect any claims arising before its enactment. I am inserting into the RECORD a letter Chairman Greenspan sent to the Banking Committee on this matter, along with a fuller explanation of the provision.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, DC, July 30, 1991.

Hon. JAKE GARN,
Ranking Member, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR: You have asked for my views on legislative proposals to protect U.S.

banks and the Bank Insurance Fund from liability for unilateral action by foreign governments, or other events involving acts of war or civil strife, that result in impairing or preventing U.S. banks from repaying deposits in foreign branches.

It has long been the Federal Reserve's understanding, as expressed in regulations and other interpretations of law, that the head office of a U.S. bank is not responsible for foreign sovereign risk affecting deposits in foreign branches unless the bank expressly agrees to be liable in those circumstances. This understanding has also been shared by the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency and expressed in legal briefs filed in U.S. courts as amicus curiae, in which the Departments of State, Treasury, and Justice have joined. The courts have been inconsistent in their responses to this issue and have created uncertainty as to when U.S. banks will be liable for deposits frozen or expropriated by a foreign government. In view of a recent particularly troubling decision by a U.S. court, it is important to have a resolution of this question as soon as possible. I support legislative efforts to achieve that goal.

Thank you for asking for my views on this important question.

Sincerely,

ALAN GREENSPAN.

EXPLANATION OF MANAGER'S AMENDMENT

Section 315 of the Manager's Amendment entitled "Limiting Liability for Foreign Deposits" passed the Senate last year as Section 1123 of S. 543, the Comprehensive Deposit Insurance Reform and Taxpayer Protection Act of 1991. The provision, which amends Section 25 of the Federal Reserve Act (12 U.S.C. 601 et. seq.), would protect U.S. banks and the taxpayer backed Bank Insurance Fund from liability for unilateral actions by foreign governments, or other events including acts of war or civil strife, that result in impairing or preventing U.S. banks from repaying deposits taken in foreign branches. The provision, endorsed by Alan Greenspan Chairman of the Board of Governors of the Federal Reserve System, clarifies that the head office of a U.S. bank is not responsible for foreign sovereign risk affecting deposits in foreign branches unless the bank expressly agrees to be liable in those circumstances. Subsection (c) of this provision provides that it is prospective in application only and shall not be construed to affect any claims that occurred before the date of its enactment.

Mr. RIEGLE. The second provision of the Managers' Amendment makes a technical correction to section 214(a)(3) of last year's banking bill. That provision added a new subsection (c) to the International Banking Act of 1978 which requires foreign banks to take insured deposits in subsidiary banks incorporated in this country rather than in direct branches of the foreign bank. I pushed for enactment of that provision in order to better safeguard the bank insurance fund and the American taxpayers who back it from losses that might be suffered by U.S. branches of foreign banks whose full operations U.S. bank regulators do not oversee or control.

Concerns have been expressed by the Federal Reserve Board, other regulators, and some State officials that section 214(a)(3) could be interpreted to prevent branches and agencies of foreign banks from accepting certain types of nonretail, uninsured deposits of less than $100,000 in their wholesale branches. It was not my intention in sponsoring section 214(a) to void regulations promulgated by the FDIC and OCC that permit them to do so. This technical amendment will clarify that matter. It will not, however, remove the discretion of the responsible agencies to revise their regulations governing nonretail deposit accounts under $100,000 if such revision is deemed appropriate. In fact I expect the regulators to review those regulations to determine if all provisions of them are warranted.

I ask unanimous consent to insert a short explanation of the provision.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

Section 316 of the Manager's Amendment entitled "Amendment to International Banking Act of 1978" makes a technical correction to Section 214(a)(3) of the Federal Deposit Insurance Corporation Improvement Act of 1991, which added Section 6(c) to the International Banking Act. That Section requires foreign banks to take deposits of less than $100,000 that require deposit insurance in subsidiary banks incorporated in this country rather than in direct branches of the foreign bank. This technical amendment recommended by the Board of Governors of the Federal Reserve System clarifies that Section 6(c) applies only to domestic retail deposits. Therefore its enactment does not moot regulations promulgated by the OCC and FDIC that permit foreign banks to take certain types of non-retail deposits of less than $100,000 that are not insured in their wholesale branches. See 12 CFR 28.8 and 12 CFR 346.6. The amendment does not remove the discretion of responsible agencies to revise current regulations governing non-retail deposit accounts under $100,000 if such revision were deemed appropriate.

Mr. RIEGLE. The third provision of the managers' amendment clarifies that provisions of current law relating to compensation standards for officers, directors, and employees of depository institutions neither authorize nor require regulators to set specific levels or ranges of compensation.

Another provides a sense of the Congress regarding the need for competitive bidding for the purchase of outside legal services.

And the final provision prevents individuals convicted of financial crimes from working at federally insured credit unions.

Mr. GARN. Mr. President, I strongly support the provisions in the proposed manager's amendment to this bill. The two international banking provisions in the amendment were both recommended by the Board of Governors of the Federal Reserve. The first provision would amend the Federal Reserve Act and the Federal Deposit Insurance Act to protect U.S. banks from liability arising from foreign deposits in cases where access to the funds is blocked by acts of war, insurrection, civil strife, or actions of foreign governments. Problems in this area date to the period of the Vietnam war. While past cases would not be affected by this provision, banks would be protected from future liability arising from acts or events beyond their control.

The second provision provides a partial remedy for problems created by section 214(a) of the Federal Deposit Insurance Corporation Act of 1991 which requires foreign banks wishing to accept retail deposits to establish a separately capitalized U.S. subsidiary rather than an insured branch of the foreign bank. While I believe that section causes serious problems in our policy toward market access by foreign banks, the greatest concern with the provision is a serious drafting problem that this provision would remedy.

Under a very literal reading, the language could force wholesale branch and agency activities of foreign banks to be rolled up into subsidiaries. I believe the provision was always intended to establish a policy only with respect to domestic retail deposit taking. It was never the intent of the FDICIA conferees to disrupt other activities. This amendment would ensure that all current foreign bank activities are held harmless.

The third provision makes it clear that section 39(c) of the Federal Deposit Insurance Act requires regulatory agencies to prohibit compensation abuses at all depository institutions, both healthy and unhealthy, but does not authorize them to issue standards or regulations setting specific pay levels or pay scales for these institutions as a whole. The standards and regulations required by section 39(c) should provide general prohibitions against compensatory arrangements which are excessive or could lead to a material financial loss to a federally insured institution, while retaining flexibility for regulators to evaluate particular compensatory arrangements at individual institutions. Agencies should apply section 39(c) standards and regulations to individual institutions on a case-by-case basis and, if a compensation abuse is found, use supervisory agreements, cease-and-desist orders, or other enforcement tools to halt the abusive practice at that institution.

The purpose of this provision is to stop any abuses in compensation at insured depository institutions. It is not intended to require such institutions to demonstrate affirmatively that their compensation levels or policies are appropriate—for example, through a peer group analysis. For example, it would be normal practice for examiners to check for abuses of top management, and this provision would provide the regulators with clear authority to stop any abuses found. However, it is clearly not the intention of Congress to have examiners second guess compensation policies on an ongoing basis.

Mr. CHAFEE. Mr. President, I want to thank the managers for accepting my amendment to the Resolution Trust Corporation [RTC] refunding legislation that is under consideration this evening.

This identical amendment was approved by the Senate last July as part of the crime bill; it was approved by the conference committee and is part of the conference report awaiting Senate action. Moreover, my amendment has been reviewed and endorsed by the National Credit Union Administration [NCUA], the Federal Deposit Insurance Corporation [FDIC].

My amendment, the financial institutions fraud prosecution amendment would strengthen penalties against individuals convicted of certain crimes, and prevent those individuals from securing employment at federally insured depository institutions.

Mr. President, it should come as no surprise that criminal activity is a problem in the financial services community. But the degree of wrongdoing at banks and credit unions is truly alarming. The Justice Department estimates that at least 50-percent of the Nation's insolvent S&L's were victimized by fraud. Fifty percent!

In my home State of Rhode Island, 45 State-chartered banks and credit unions were closed on January 1, 1991 due to the collapse of a scandalously mismanaged private deposit insurance company. Hearings are underway in Rhode Island at this very moment, but it is clear that criminal activity contributed significantly to the State's worst financial crisis since the Great Depression.

The shameful truth is that too many of the directors, managers, and employees at our financial institutions have engaged in unlawful activity for their own personal enrichment. Certainly, that has been the case in my home State at institutions that were insured by the now defunct Rhode Island Share and Deposit Indemnity Corporation. And their illicit gain results in a loss for depositors and taxpayers alike.

We have all heard about corrupt financial executives leading jet-set lifestyles—complete with yachts, fancy jewelry, and $100,000 imported sports cars. In Rhode Island, one prominent credit union official apparently fled with $13 million stolen from depositor accounts.

In my view, the financial industry has enough competitive challenges without the added worry that criminal activity will further undermine the stability of our banks and credit unions.

Let me briefly explain my amendment; it has three major components.

First, individuals convicted of certain crimes—fraud, dishonesty, breach of trust, money laundering, obstruction of a Federal examiner—will be barred from any employment at a federally insured credit union for a period of 10 years.

Let us take the Rhode Island situation as an example. If the director of a closed credit union is convicted of fraud, he or she would be barred from securing employment at any NCUA-insured credit union—anywhere in the country—for 10 years. Federal legislation approved in 1990 would also prevent that person from employment at an FDIC-insured bank.

Second, the 1990 crime bill established that obstructing or attempting to obstruct a financial examination by a Federal regulator is an offense punishable by up to 5 years in prison. My amendment builds upon that provision, and stipulates that any individual convicted of such an offense is also barred from employment at a federally insured financial institution for 10 years.

Third, the final portion of this section requests the Justice Department to expand its interagency task force to gauge the impact upon the Federal Government of the collapse of private deposit insurers.

Some might be wondering why the need for a study on the problems associated with private deposit insurers. After the experiences in Maryland, Ohio, and most recently in Rhode Island, some may be under the impression that private deposit insurers are virtually extinct.

Unfortunately, private deposit insurers continue to operate in more than 20 States. There are costs associated with these failures, and the Federal Government needs to quantify these expenses. Last year, the President signed into law a provision that requires private deposit insurers to notify depositors in writing that their funds are not federally insured. That was a good first step, but the Federal Government must do more to limit the financial and human cost of private deposit insurer collapses.

Mr. President this is a modest, but important amendment. It builds upon existing law, and would protect depositors across the Nation by ensuring that those convicted of certain offenses will not have the opportunity to return to a career in banking for a very long time. I thank the managers for their support, and look forward to the enactment of this legislation.

The PRESIDING OFFICER. Is there further debate?

If there is no further debate, the question is on agreeing to the amendment offered by the Senator from Michigan.

The amendment (No. 1745) was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DODD. Mr. President, I rise in reluctant support of S. 2482, the Resolution Trust Corporation Fund Act of 1992.

I say reluctant because I am painfully aware of the far better uses to which this $25 billion and the rest of the estimated $160 billion to clean up the S&L mess could have been put. It would have been far better spent on our crying domestic needs—from providing affordable housing for the millions who lack it, including the homeless, to rebuilding our cities and the Nation's infrastructure and combatting the drug epidemic. The list is endless.

Unfortunately, we have no choice. We must fulfill the solemn commitment of federal deposit insurance to pay off people who put their money in failed S&L's. This is not discretionary legislation; we must pass it.

As hard as this vote is—both because of the frustration of seeing the waste of so much money and because of the understandable anger of our constituents about its loss—the one thing that would be worse than voting for this bill would be voting against it. Since we have no choice, it is far better to do what needs to be done and not foster further public cynicism about the political process by posturing with a vote against the bill.

Let me hasten to add that while I voted for the first two RTC funding bills, I did vote against last year's bill. I did so for several reasons. First, we had neither a chance to consider the bill in the Banking Committee not to even read it before the vote on the Senate floor. That is not the way to consider important legislation. I had other concerns as well about how the RTC was functioning. However, let me hasten to add that the agency was not out of money at the time; it still had enough funds for several more months.

That is not the case today. Last year's legislation provided that all funds would expire on April 1. That means that the failure to provide more funds would result in one of two things. Either depositors would lose money—an unconscionable result—or the RTC would leave some failed thrifts in operation. Such action would add millions of dollars each day to the total cost of the S&L mess.

Let me state clearly what this money is not going for. It is not going to crooked S&L operators and their shareholders. The thrift managers who brought us this debacle have been dismissed—and prosecuted in many cases. The stockholders have been wiped out. Again—it is going to pay off the depositors of S&L's to whom we have made a solemn commitment through federal deposit insurance.

Moreover, Mr. President, this bill contains several other worthy provisions. It will extend the civil statue of limitations for lawsuits against S&L miscreants so that the enormous workload of the RTC does not result in letting off the hook the people who were responsible for the S&L fiasco. In addition, it will require the Attorney General to collect information on fines and restitution orders against S&L crooks so that we will have a public accounting of just how much money is being collected from the guilty parties.

The bill also contains a provision to provide for public disclosure of examination reports at failed depository institutions. Such information should be valuable in assessing just how we got into this mess, although I must add that getting the national commission on S&L's up and running—a commission Senator BOND and I sponsored almost 2 years ago—would be even more valuable.

Finally, I am very pleased that the bill contains a provision to set aside $1.85 billion for open thrift assistance. This is an idea that goes all the way back to the Reconstruction Finance Corporation of the 1930's, whereby the Government decides to put a little capital into a troubled—but not insolvent—institution. By choosing carefully, the RFC actually made a profit of roughly $100 million on an investment of approximately $3.3 billion. Similar efforts over the years have been successful—when the Government has put real money into such institutions, substantially diluted the shareholders' equity and thrown out bad management.

I firmly believe that such a strategy here could save the Government billions of dollars. The bill would not require the office of thrift supervision to use such a strategy, but it would give OTS the money needed to fund such a program if OTS determined that open thrift assistance would be the least costly solution in specific situations. I believe it is well worth trying and I am pleased that the bill encourages this option. Let me say that I believe this provision is so important to the success of this effort that I reserve the right to change my vote if it is not included in the final legislation.

Mr. President, I urge adoption of S. 2482.

Mr. BRADLEY. Mr. President, I oppose the latest attempt at refunding for the RTC, and I urge my colleagues to do the same.

Back in 1989, when this body gave the RTC $50 billion, I was one of eight Senators to vote against that bill. At the time, I said that while I recognized the serious time constraints that the Banking Committee was under in drafting the legislation, I could not vote for a bill that left so many questions unanswered. Some of those questions include: What will the role of the S&Ls be in the future? How will the RTC bureaucracy behave and impact the economy? Do regulators have sufficient powers and capacity to deal with future problems?

In 1989, I also cautioned that we have not heard the last request for funding to deal with the savings and loan crisis. In making that statement, I echoed the opinions of many banking experts who told me that the magnitude of the S&L problems was far greater than anything the Administration was willing to acknowledge.

To make matters worse, Mr. President, the legislation which created the RTC also allowed it to be partially funded through bonds issued by an off-budget authority. By using this scheme as opposed to pure Treasury funding, we increased the interest expense of this bailout significantly.

Thus far, $105 billion, excluding interest, has been spent to cover losses in failed thrifts. In addition, the RTC has borrowed $163 billion to finance working capital. Although working capital expenditures are supposed to be paid back once assets are sold, we can only guess about how much of that money will be recouped. The GAO has estimated that the over all cost of the S&L debacle, including interest, will actually be as high as $500 billion. The American people are disgusted by this figure and demand some accountability.

Mr. President, this is the fourth request for funding in the 2½ years that the RTC has been in existence. Unfortunately, this will probably not be the last. Although the RTC has recently announced that it is curtailing its operations, only one-half of the estimated 1,100 thrifts that qualify for resolution have been completely resolved. The RTC still must dispose of about $128 billion in hard-to-sell assets in an economic atmosphere that does not bode well for massive selling. Holding onto these assets requires expenditures for working capital. The harder these assets are to sell, the more expensive the RTC's working capital costs will be. As the RTC's working capital expenses increase, they will hamper the RTC's ability to pay depositors of failed thrifts, precipitating other requests for additional funding. Each new crisis in funding brings with it a slowdown in the operations of the RTC which increases the over all price paid by the taxpayers for the S&L bailout.

In the past, the RTC's unloading of real estate in some areas has had a devastating effect on local real estate values. Other assets, including securities, have often had to be severely discounted, regardless of their payment history, order to be sold.

The GAO has found that the RTC continues to experience delays in implementing its management systems, has not sufficiently defined its asset marketing strategy, and has not developed a way to insure that the best qualified contractors are being hired to dispose of its assets.

The picture these facts paint is of an organization that was not equipped to handle the responsibility given it in 1989 and an organization which remains unrealistic about the constraints it faces in the future. Had this body and the administration answered some of the larger questions asked in 1989, we may have avoided this waste of the taxpayers' money.

Mr. SEYMOUR. Mr. President, I rise to speak on a provision which will have a positive impact on the economy. I want to commend the chairman of the Banking Committee, the ranking member, and Senator DOMENICI for including an amendment that will help the economy. Congress must help the Nation come out of the credit crunch, not prolong it.

This amendment provides a 2-year freeze on capital requirements for healthy thrifts that have real estate development subsidiaries. Based on legislation produced by the Republican real estate task force, which was created by Senator DOLE and chaired by Senator DOMENICI to seek solutions to the Nation's real estate problems, this provision does not permanently change the safety and soundness capital standards, it merely adjusts the capital requirements to reflect today's economic climate.

Without this amendment, thrifts would be required by July 1 to increase capital against real estate development subsidiaries from 25 to 40 percent.

Meeting this capital requirement in the midst of a recession with sluggish real estate markets distorts lending decisions and results in thrifts providing fewer loans to build capital.

It is estimated that nearly $900 million in capital will be pulled out of the economy for thrifts to keep real estate subsidiaries as they attempt to meet the new standards. In California, present law would cause a credit retraction that could go toward the financing of 100,000 homes over the next years. And, as you've heard me say many times, history shows once you get construction and homebuilding on track an economic upswing is not far behind.

Out of the 346 thrifts that have real estate development subsidiaries, all meet the current capital requirement of 25 percent. It is going the next step of increasing capital reserves incrementally, eventually to 100 percent, that is causing thrifts to sell off real estate in already depressed markets. Over 40 thrifts in California would be adversely affected by this law.

This provision allows the Director of OTS case-by-case discretion to extend the phaseout schedule by 2 years. This provision would not permit the capital standard to go below 25 percent. Freezing the capital allows thrifts to put money back into the economy through lending rather than setting aside capital to meet regulatory requirements.

Mr. WIRTH. Mr. President, once again, we find ourselves considering legislation to provide the Resolution Trust Corporation [RTC] with additional resources. This is the fourth installment, with at least one more likely before the Corporation completes its job of closing insolvent thrifts. The legislation provides the RTC with $25 billion in new funding and extends spending authority for an additional $25 billion that was previously provided, much of which remains unspent in the RTC's coffers.

That's not small change. In fact, if it wasn't for RTC spending and interest on the national debt, we wouldn't have had a budget deficit last year. The same would probably be true for this year if the recession were not driving up the deficit. with the estimated cost of resolving the S&L crisis now placing such a heavy burden on the taxpayer, we owe it the public to make sure that the RTC is operating efficiently.

It's important that we act on this matter before the end of the month when the RTC's current spending authority expires. Delay will only increase the eventual costs of resolving S&L failures and I believe the chairman and ranking member have acted responsibly in moving quickly with this legislation.

In addition to RTC funding, the legislation includes a number of other important provisions that deserve our attention and support. For example, the legislation includes two proposals I introduced earlier this year as freestanding legislation, S. 2290 and S. 2334.

S. 2290, the Bank and Thrift Disclosure Act of 1992, has 23 cosponsors and is identical to legislation that the Senate passed last year as part of the bank reform package. It is designed to provide the public with access to more information about bank and thrift failures. The public disclosure legislation has two principal parts. First, the legislation requires regulators to make available prior examination reports of a failed insured depository institution if taxpayer funds are used to cover the institution's losses. Second, the legislation prohibits the FDIC and RTC from entering into secret agreements to settle lawsuits arising from the failure of an institution if the deposit insurance system requires public funds.

Settlements of lawsuits filed by the Government against individuals and businesses involved in an institution's failure and the examination reports of financial institutions can provide valuable insight into why an institution failed and why tax dollars were needed to cover the institution's losses.

Unfortunately, under current law, this important information is often not available to the public. The legislation would correct that and shed some light on how the S&L crisis developed. With the cost of resolving the S&L crisis now more than $200 billion plus interest, the public should have access to that information.

The disclosure legislation does include several exceptions in order to protect privacy, the health of open insured institutions, an ongoing criminal investigation, and any civil or administrative proceeding. Finally, because examination reports will not include a complete accounting of bad loans or losses, the legislation would require the FDIC and RTC to identify insider borrowers who have defaulted on loans made by a failed institution.

The disclosure provisions will help taxpayers understand why RTC expenditures became necessary. With the cost of resolving the S&L crisis now more than $230 billion plus interest, the public should have access to that type of information and I am pleased that the RTC package includes the disclosure provisions.

Regulators can recover a portion of the funds lost at failed institutions through civil liability suits against directors and officers, accountants, lawyers, and other professionals who neglect their professional responsibilities and contribute to a failure. FIRREA gives regulators 3 years to file these suits, except where State law provides a longer statute of limitations. The FDIC estimates that liability claims can be filed in relation to a quarter to a third of all failures and has recovered $1.1 billion through these claims since 1985.

Unfortunately, the RTC's heavy workload—the deadline for 318 failures expires this year and the clock has already expired for 165 of those—makes it difficult for the RTC to give these cases the attention they deserve. Regulators are filing many suits at the last minute. If the RTC is provided additional time, the Corporation will be able to better prepare suits and recover funds. The RTC package would give the RTC that time by extending the statute of limitations to 5 years. I introduced similar provisions as S. 2334 earlier this month and am pleased the committee included them in the legislation.

Mr. President, I want to note that both the disclosure and statute of limitations provisions are retroactive. Disclosure is required for institutions that are resolved at taxpayer expense regardless of when they are resolved. Taxpayers have as much right to know what happened in an institution resolved 2 or 3 years ago as in an institution that fails tomorrow. The parties involved in a lawsuit should not be able to use any agreement, including a court order, to continue to keep the terms and conditions of a settlement or judgment secret from the public. The purpose of the provision is to help taxpayers better understand the S&L crisis. Since the RTC is more than halfway through the process of resolving thrift failures, it would be irresponsible of us to mandate disclosure only prospectively. Taxpayers, quite rightly, would ask "What are they trying to hide?"

The statute of limitations extension would allow the RTC to file further claims against the 165 institutions whose statute of limitations expired earlier this year. This will give the RTC time to more closely examine those institutions for potential claims without the excessive time pressure that the Corporation has faced while investigating these failures.

Although I am pleased by the inclusion of these provisions, I continue to have serious concerns about the structure and operations of the RTC. The S&L debacle is arguably the largest financial crisis since the Great Depression. We have to provide the resources needed to resolve thrift failures and clean up this problem. But we have a responsibility to clean it up at the lowest possible cost to the American taxpayer. The RTC will do much of the job. If it doesn't operate efficiently the costs of the S&L rescue could climb higher.

I introduced legislation to revamp the RTC's structure during the 101st Congress and again last year. Last year, Congress made some reforms to the RTC's structure. While the proposal eliminated the dual board structure, as a practical matter, I think it will do little to improve the RTC's operations. I'm skeptical that it will prove meaningful and effective.

Unfortunately, I don't think the RTC is operating as efficiently as possible. The recent revelations about Western Storm—a project conducted by the RTC's Western Regional Office in Denver to resolve a $7 billion discrepancy in the Corporation's records—and the concerns that project raises about the RTC's contracting procedures has only deepened my doubts about the Corporation's efficiency and effectiveness.

Finally, I am concerned that the RTC will use some of the additional funds for early resolution assisted mergers, the so-called ERAM Program. In fact, the legislation earmarks, $1.85 billion of the new funds for that purpose. I have strong reservations about this program and any other effort that is similar to the forbearance that raised the cost of resolving the S&L crisis by $66 billion. I do recognize that the new approach could, in theory, be a lower cost method of resolving some failures. In practice, however, I am not convinced that the ERAM plan is workable

I am very hesitant about providing the RTC with additional resources if we do not know how they will be used. Unfortunately, it now appears that we will not know the RTC's plans with respect to ERAM before we need to provide additional funds. The oversight board held a hearing on the proposal yesterday. I think we need to have a better sense of the RTC's plans for

ERAM before we take final action on the legislation.

Despite these continued reservations, I think the legislation has several positive elements. First and foremost of these is disclosure. Increased disclosure ought to accompany any additional RTC funding; we owe at least that to the taxpayers who are footing the bill. I hope we will send sound package to the President that includes the disclosure provisions before the RTC's current spending authority expires on April 1.

Mr. SANFORD. Mr. President, I have been a leading critic of the RTC, concerned from the very beginning about the waste of taxpayer money and the impact RTC operations were having on the entire economy. It seems to me that way too much money has been spent and local economies have been disrupted more than we'll ever be able to measure.

After the passage of FIRREA which created the RTC only 2½ years ago, the enormity of the problem has ballooned to proportions four or five times larger than originally represented to us by the Bush administration. Since then, I have made a number of suggestions for improvement. I have proposed creating multiple investor funds to widen the universe of potential buyers of RTC assets. More buyers raise prices. And I am glad to see that the RTC is now following that path, although I think larger strides in this area are needed. I also proposed a wholesale reorganization of the agency's management which was passed by the Congress last November. This bill eliminated the cumbersome management structure the administration had put together as part of FIRREA and created a true chief executive officer to run the RTC. The Senate has since confirmed Al Casey, a long-time business leader, to fill that role and it appears to me that Al Casey is making a spirited effort to reorganize the RTC's operations, to increase accountability, to be forthright with Congress, and to work his way through the many problems and complaints that we have all heard. In addition, Senator DODD and I worked hard last year on a sense-of-the-Senate resolution to authorize the Government to invest in viable, but marginally capitalized financial institutions.

Yesterday, the RTC Oversight Board held hearings on this early resolution concept, and though there were some critics, I believe that it is fair to say that the prevailing view was that early resolution offered substantial opportunities both to save money and to reduce the disruption of local economies. So, I am very pleased that Senator RIEGLE and many of the colleagues agreed to include in this legislation an amendment which I authored setting aside $1.85 billion for early resolution assistance.

The Bush administration requested that Congress provide an additional $72 billion for thrift cleanup. The Senate Banking Committee determined that a better approach would be to provide the funds the RTC says it needs to operate through April of next year. The Congress can then assess again whether the RTC needs further funding. My own view would be that if the administration would adopt a bold approach to resolving institutions before they fail, then no further funding would be necessary and even the full $42 billion provided in this bill might not be required.

As I looked at the numbers behind the administration's request for this $42 billion, I was surprised at what I learned. The RTC only needs $10 billion for the 59 institutions it already has under its jurisdiction. The remaining $32 billion provided in this bill is requested for the resolution of more thrifts that the RTC expects to receive from the OTS this year. Yet, when we look at those thrifts, we find 372 thrifts in group III of which 69 percent are operating profitably, and 65 thrifts in group IV, 35 percent of which are operating profitably.

What is even more incredible is that if we were to provide the funds necessary to bring all 337 of those institutions up to full capital compliance, it would cost only $2.7 billion, nowhere close to the $72 billion requested by President Bush. The total assets of group IV thrifts is less than $49 billion. Apparently there are some group III thrifts targeted not only for group IV but targeted for the RTC. In other words, the Bush administration is betting on failure. That's just bad policy. While certainly not all troubled institutions can or should be resolved through early resolutions strategies, I think the numbers point out very clearly that investing a small amount of money today could save us a great deal of money down the road.

We are literally wasting taxpayer money on an overly expensive strategy. I am aware of cases involving institutions operating profitably with capital shortages of $10 to $40 million which will cost the taxpayer hundreds of millions if chosen for liquidation. Some troubled thrifts only need time, others need money. Yet, we seem to be racing toward an artificial deadline to complete the cleanup, regardless of cost.

As I listen to the criticism of this early resolution strategy—that the Government must choose winners and losers, that assistance will benefit shareholders or management, that there is no guarantee it will work—I am struck by the fact that none of these refute the basic premise that placing institutions into liquidation is the most expensive approach we can take.

With respect to the use of the funds set aside for early resolution, existing legislation lays out a number of criteria to be followed in selecting institutions for assistance. Most experts suggest that if substantial private investment is a condition for Government assistance, the market, not the Government, will pick the winners and losers. The market will determine which institutions have franchise value and long-term viability. As far as the argument that shareholders will be beneficiaries, existing legislation requires that they be no better off than they would have been in a liquidation.

Similar resolution strategies were utilized by the Reconstruction Finance Corporation in the 1930's. Ultimately, the RFC invested approximately $11 billion into numerous financial institutions, which was repaid to the Treasury along with a $500 million profit after covering interest and the RFC's expenses. The RFC's long-time director, Jesse Jones, concluded;

> A few billion dollars boldly but judiciously lent and invested by such a Government agency as the RFC in 1931 and 1932 would have prevented the failure of thousands of banks and averted the complete breakdown in business, agriculture, and industry—and in private charity. It would have made unnecessary a large part of the Government lending and spending for relief that we had to do in later years.

I suppose if I had only one message for the administration, it would be to heed Jesse Jones' advice: Lend a few billion dollars boldly but judiciously now so that the FDIC and the RTC are not forced to come back to Congress again and again for larger and larger sums to pay for closed institutions. We have a moral obligation to the taxpayer to explore alternatives to the most cost strategy we have been following. Every American knows what the acquirers of failed institutions know. You go to a going out of business sale, a fire sale, a bankruptcy liquidation, or whatever you want to call it to pick up bargains. Only here, the taxpayer has to cover the difference.

We should not shrink from the opportunity to save the taxpayer tens of billions of dollars, if not hundreds of billions including the interest costs. It is not reasonable to anticipate that every assisted institution will succeed or even be a model of success. No one ever makes the right choice 100 percent of the time. Some deals are not going to work, and we must be ready for that. However, it is reasonable to expect that most assisted institutions, if the appropriate criteria are followed, should succeed, will repay their indebtedness to the Government, and will eliminate any taxpayer cost.

Mr. President, there is an additional element of the thrift cleanup which has been largely ignored. I do not believe we have examined the entire impact on local economies. Appraisers work for multiple financial institutions, so when the property from a closed institution is sold at liquidation, it becomes the so-called comparable for the healthy institution next door. Local governments receive more than 70 percent of their revenues from real estate taxes. So when values fall, their tax revenues and their ability to deliver local government services fall. For most Americans, their largest investment is their home, so when values fall, their security evaporates. Failed institutions have created a new homeless class: healthy businesses relying upon loans and lines of credit which are suddenly cut off. The ripple effect of a failed financial institution is enormous and should be a primary concern to us as policymakers. Jobs have been thrown away by the thousands. There is no way to measure those costs.

Thus, Mr. President, I believe the amendment I promoted takes an important step in turning around what I believe has been an overly expensive, and therefore unsupportable, approach to addressing the thrift crisis. I hope the administration will change its approach. I hope the setting aside of $1.85 billion for a new strategy demonstrates the crucial need to adopt new approaches. This is a saving feature. However, I remain concerned about the administration's commitment to this strategy. As such, I must reserve my right to vote against the bill when the conference report is returned. This bill provides $42 billion for the RTC. Only $10 billion of that is for current cases. The remaining $32 billion will be used to liquidate institutions, many of which, in my view, ought not to be liquidated. We need to stop this folly now. It is my hope that the administration will take some bold steps and make some strong commitments to such early resolution strategies. Unless they do so, unless the money for the new strategy remains in the bill, I will vote against authorizing such huge sums of money to be spent on such an expensive strategy.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. RIEGLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I believe we are ready to move on the bill.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. WELLSTONE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Illinois [Mr. DIXON], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Michigan [Mr. LEVIN], are necessarily absent.

Mr. SIMPSON. I announce that the Senator from Mississippi [Mr. COCHRAN], the Senator from New Hampshire [Mr. RUDMAN], and the Senator from Idaho [Mr. SYMMS] are necessarily absent.

The result was announced, yeas 52, nays 42, as follows:

[Rollcall Vote No. 59 Leg.]

YEAS—52

Bentsen
Biden
Bingaman
Bond
Boren
Breaux
Bryan
Bumpers
Burdick
Chafee
Cranston
D'Amato
Danforth
Dodd
Dole
Domenici
Durenberger
Ford
Fowler
Garn
Glenn
Gore
Gorton
Graham
Hatch
Hatfield
Inouye
Jeffords
Johnston
Kassebaum
Lieberman
Lott
Lugar
Mitchell
Moynihan
Murkowski
Pell
Reid
Riegle
Robb
Roth
Sanford
Sarbanes
Sasser
Seymour
Simpson
Stevens
Thurmond
Wallop
Warner
Wellstone
Wirth

NAYS—42

Adams
Akaka
Baucus
Bradley
Brown
Burns
Byrd
Coats
Cohen
Conrad
Craig
Daschle
DeConcini
Exon
Gramm
Grassley
Harkin
Heflin
Helms
Hollings
Kasten
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Mack
McCain
McConnell
Metzenbaum
Mikulski
Nickles
Nunn
Packwood
Pressler
Pryor
Rockefeller
Shelby
Simon
Smith
Specter
Wofford

NOT VOTING—6

Cochran
Dixon
Kennedy
Levin
Rudman
Symms

So the bill (S. 2482), as amended, was passed as follows:

S. 2482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Resolution Trust Corporation Funding Act of 1992".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—RESOLUTION TRUST CORPORATION FUNDING

Sec. 101. Funding.

TITLE II—RESOLUTION TRUST CORPORATION TECHNICAL AMENDMENTS

Sec. 201. Technical corrections relating to title I of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.
Sec. 202. Technical corrections relating to title II of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.
Sec. 203. Technical corrections relating to title III of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.
Sec. 204. Technical corrections relating to title IV of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.
Sec. 205. Technical corrections relating to title V of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.
Sec. 206. Technical corrections relating to title VI of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.
Sec. 207. Repeal of title VII consisting of amendments duplicated in the Federal Deposit Insurance Corporation Improvement Act of 1991.
Sec. 208. Effective date.

TITLE III—OTHER RESOLUTION TRUST CORPORATION-RELATED AMENDMENTS

Sec. 301. Repeal of risk weighted capital requirement.
Sec. 302. Definition of property sold by United States agency.
Sec. 303. Continuation of health plan coverage.
Sec. 304. Judgment collection information.
Sec. 305. Temporary vacancies in the office of chief executive officer.
Sec. 306. Modifying separate capitalization rule for savings associations' subsidiaries engaged in activities not permissible for national banks.
Sec. 307. Extension of civil statute of limitations.
Sec. 308. Directors not liable for acquiescing in conservatorship, receivership, or supervisory acquisition or combination.
Sec. 309. Real estate appraisal amendment.
Sec. 310. Set-aside of funds for assistance.
Sec. 311. Addition of Florida to list of distressed areas.
Sec. 312. Guarantee of loans to purchase RTC property.
Sec. 313. Sense of the Congress relating to standards on risk-based capital.
Sec. 314. Sense of the Congress regarding termination of the Resolution Trust Corporation.
Sec. 315. Limiting liability for foreign deposits.
Sec. 316. Amendment to International Banking Act of 1978.
Sec. 317. Clarification of compensation standards.
Sec. 318. Sense of the Congress regarding the need for competitive bidding for the purchase of outside legal services.
Sec. 319. Financial institution fraud prosecutions.

TITLE IV—BANK AND THRIFT DISCLOSURE ACT

Sec. 401. Short title.
Sec. 402. Public availability of examination information.
Sec. 403. Prohibition of confidential settlements.

Sec. 404. Applicability.
Sec. 405. Removal of customer information from examination reports.
Sec. 406. Definitions.
Sec. 407. Additional disclosures by FDIC, NCUA, and RTC.
Sec. 408. GAO audits.

TITLE I—RESOLUTION TRUST CORPORATION FUNDING

SEC. 101. FUNDING.

Section 21A(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)) is amended—

(1) in paragraph (3)—

(A) by striking "until April 1, 1992"; and

(B) by inserting ", out of any money in the Treasury not otherwise appropriated," after "provide"; and

(2) by adding at the end the following new paragraph:

"(4) ADDITIONAL FUNDING.—In addition to amounts provided under paragraphs (2) and (3), the Secretary of the Treasury shall provide to the Corporation, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary, not to exceed $25,000,000,000, to carry out the purposes of this section until April 1, 1993.".

TITLE II—RESOLUTION TRUST CORPORATION TECHNICAL AMENDMENTS

SEC. 201. TECHNICAL CORRECTIONS RELATING TO TITLE I OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) AMENDMENT RELATING TO SECTION 101.—Section 21A(i)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(i)(3)) (as added by section 101 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by inserting a comma after "necessary" and after "billion".

(b) AMENDMENTS RELATING TO SECTION 102.—

(1) Section 11(c)(6)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(6)(B)) (as amended by section 102 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is further amended by striking "section 5(d)(2)(C)" and inserting "subparagraph (C) or (F) of section 5(d)(2)".

(2) Section 102 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102-233, 105 Stat. 1761) is amended—

(A) by striking "Section 11(c)(6)(B)" and inserting "(a) IN GENERAL.—Section 11(c)(6)(B)"; and

(B) by adding at the end the following new subsection:

"(b) CONFORMING EFFECTIVE DATE.—Effective on December 19, 1992, section 11(c)(6)(B) of the Federal Deposit Insurance Act (12 U.S.C. 1821(c)(6)(B)) (as amended by subsection (a)) is amended by striking 'subparagraph (C) or (F) of section 5(d)(2)' and inserting 'subparagraph (A) or (C) of section 5(d)(2)'.".

(c) AMENDMENT RELATING TO SECTION 103.—Section 103(a) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102-233, 105 Stat. 1761) is amended by striking "(12 U.S.C. 1441a(b)(3)(A)(ii)(II))" and inserting "(12 U.S.C. 1441a(b)(3)(A)(ii))".

(d) AMENDMENT RELATING TO SECTION 104.—Section 21(e)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441(e)(2)) (as amended by section 104 of the Resolution Trust Corporation Refinancing, Restructuring and Improvement Act of 1991) is amended by striking "Thrift Depositor Protection Refinance" and inserting "Refinancing, Restructuring, and Improvement".

(e) AMENDMENTS RELATING TO SECTION 106.—

(1) Section 21A(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(7)) (as amended by section 106(a) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "quarter ending on the last day of the month ending before the month in which such report is required to be submitted" and inserting "preceding calendar quarter".

(2) Section 21A(k)(11)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(11)(B)) (as added by section 106(d) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(A) by striking "an employee" and inserting "employees"; and

(B) by striking "Government" and inserting "General".

(3) Section 106(e)(2) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "annual reports" and inserting "supplemental unaudited financial statements".

SEC. 202. TECHNICAL CORRECTIONS RELATING TO TITLE II OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

Section 21A(b)(9)(B)(i) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)(B)(i)) (as amended by section 201 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "Thrift Depositor Protection Refinance" each place such term appears and inserting "Refinancing, Restructuring, and Improvement".

SEC. 203. TECHNICAL CORRECTIONS RELATING TO TITLE III OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) AMENDMENTS RELATING TO SECTION 302.—

(1) Section 302 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (12 U.S.C. 1441a note) is amended—

(A) in subsection (b), by striking "Except as provided in subsection (c), the" and inserting "The"; and

(B) by striking subsection (c).

(2) Section 21A(k)(6)(A)(vii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(6)(A)(vii)) is amended by inserting "Thrift Depositor Protection" before "Oversight Board's".

(3) The heading for section 21A(a)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)) is amended by striking "OVERSIGHT" and inserting "THRIFT DEPOSITOR PROTECTION OVERSIGHT".

(4) The heading for section 21A(n)(8) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(n)(8)) is amended by inserting "THRIFT DEPOSITOR PROTECTION" before OVERSIGHT" ".

(5) The heading for section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by inserting "thrift depositor protection" before "oversight board".

(6) The headings for sections 21B(c)(8) and 21B(j)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(c)(8) and 1441B(j)(2)) are each amended by inserting THRIFT DEPOSITOR PROTECTION" before "OVERSIGHT".

(7) The heading for section 21B(k)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441b(k)(7)) is amended by striking "OVERSIGHT" and inserting "THRIFT DEPOSITOR PROTECTION OVERSIGHT".

(b) AMENDMENTS RELATING TO SECTION 305.—

(1) Section 21A(a)(6)(C) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(6)(C)) is amended by striking "paragraph (8) of this subsection" and all that follows through the period at the end and inserting "paragraph (8).".

(2) Section 21A(a) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)) is amended by redesignating paragraph (15) as paragraph (16) and inserting after paragraph (14) the following new paragraph:

"(15) REPORTS ON ANY MODIFICATION TO ANY STRATEGY, POLICY, OR GOAL.—If, pursuant to paragraph (6)(A), the Thrift Depositor Protection Oversight Board requires the Corporation to modify any overall strategy, policy, or goal, such Board shall submit, before the end of the 30-day period beginning on the date on which the Board first notifies the Corporation of such requirement, to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives an explanation of the grounds that the Board determined justified the review and the reasons why the modification is necessary to satisfy such grounds.".

(c) AMENDMENTS RELATING TO SECTION 307.—

(1) Section 21A(a)(10) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(a)(10)) is amended—

(A) by striking "4" and inserting "6";

(B) by adding at the end the following new sentence: "The Thrift Depositor Protection Oversight Board shall maintain a transcript of the Board's open meetings."; and

(C) in the heading, by striking "QUARTERLY" and inserting "OPEN".

(2) Section 21A(c)(10) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(10)) is amended by striking the last sentence (as added by section 307(2) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991).

(d) AMENDMENT RELATING TO SECTION 311.—Section 21A(b)(8)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)(A)) (as amended by section 311 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "IN GENERAL.—" and all that follows through the 1st comma and inserting "IN GENERAL.—Except for the chief executive officer of the Corporation,".

(e) AMENDMENT RELATING TO SECTION 314.—Section 21A(o)(2) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(o)(2)) (as amended by section 314(5) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "includes" and all that follows through "any officer or employee of the Federal Deposit" and inserting "includes any officer or employee of the Federal Deposit".

(f) AMENDMENT RELATING TO SECTION 316.—Section 21A(*l*)(3)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(*l*)(3)(B)) (as amended by section 316 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "for that party of the filing" and inserting "for that party or the filing".

(g) ADDITIONAL TECHNICAL CORRECTIONS.—

(1) Paragraph (9) of section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) (as redesignated by section 310 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(A) in subparagraph (G) (as redesignated by section 314(2)(B)(i) of the Resolution Trust

Corporation Refinancing, Restructuring, and Improvement Act of 1991), by striking "(11)(A)(iv)" and inserting "(10)(A)(iv)"; and

(B) in subparagraph (I) (as redesignated by section 314(2)(B)(i) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991), by striking "through its Board of Directors".

(2) Paragraph (10) of section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) (as redesignated by section 310 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(A) in subparagraph (A), by striking "(10)" and inserting "(9)"; and

(B) in subparagraph (A)(i), by striking "(12)" and inserting "(11)".

(3) Paragraph (11)(E)(i) of section 21A(b) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)) (as redesignated by section 310 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "its" and inserting "the chief executive officer's".

(4) Section 21A(c)(7) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(7)) is amended by striking "(b)(11)(A)" and inserting "(b)(10)(A)".

(5) Section 21A(d)(1)(B)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(d)(1)(B)(ii)) is amended by striking "paragraph (2)" and inserting "paragraph (3)".

(6) Section 21A(k)(3)(B) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(k)(3)(B)) is amended by striking "subsection (b)(11)(B) of this section" and inserting "subsection (b)(10)(B)".

SEC. 204. TECHNICAL CORRECTIONS RELATING TO TITLE IV OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) Amendments Relating to Incorrect Designations of New Subsections and Paragraphs.—

(1) Section 401 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended by striking "after subsection (s) (Public Law 102–233, 105 Stat. 1773) (as added by section 227 of this Act)" and inserting "after subsection (p) (as redesignated by section 314(3) of this Act)".

(2) Section 402(a) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102–233, 105 Stat. 1774) is amended by striking "301" and inserting "401".

(3) Section 403 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102–233, 105 Stat. 1776) is amended by striking "section 302" and inserting "section 402".

(4) Section 404 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102–233, 105 Stat. 1776) is amended by striking "section 303" and inserting "section 403".

(5) Section 471 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102–242, 105 Stat. 2385) is amended by striking "Home Owners' Loan Act" and inserting "Federal Home Loan Bank Act", effective as of December 19, 1991.

(6) Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended—

(A) by redesignating subsection (t) (as added by section 401 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (q);

(B) by redesignating subsection (u) (as added by section 402(a)) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (r);

(C) by redesignating subsection (v) (as added by section 403 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (s);

(D) by redesignating subsection (w) (as added by section 404 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) as subsection (t);

(E) by redesignating subsection (q) (as added by section 251(c) of the Federal Deposit Insurance Corporation Improvement Act of 1991) as subsection (u); and

(F) by redesignating subsection (q) (as added by section 471 of the Federal Deposit Insurance Corporation Improvement Act of 1991) as subsection (v).

(7) Section 405 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102–233, 105 Stat. 1777) is amended—

(A) by striking "Section 21A(b)(14)" and inserting "Section 21A(b)(13)" ; and

(B) by striking "1441a(b)(14))" and inserting "1441a(b)(13)) (as redesignated by section 310)".

(8) Section 21A(b)(13) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(13)) (as amended by section 405 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "(14) Goal for participation of small business concerns.—" and inserting "(13) Goal for participation of small business concerns.—".

(b) Other Technical Corrections Relating to Amendments Made by Title IV.—

(1) Section 21A(t)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(t)(1)) (as added by section 403 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and redesignated by subsection (a)(6) of this section) is amended by striking "minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a)" and inserting "Interim Statement of Policy Regarding Resolutions of Minority-Owned Depository Institutions, adopted by the Corporation on January 30, 1990,".

(2) Section 21A(u)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(u)(1)) (as added by section 404 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and redesignated by subsection (a)(6) of this section) is amended by striking "minority interim capital assistance program established by the Oversight Board by regulation pursuant to the strategic plan under subsection (a)" and inserting "Interim Statement of Policy Regarding Resolutions of Minority-Owned Depository Institutions, adopted by the Corporation on January 30, 1990,".

(3) Subsections (t)(3)(B) and (u)(5)(B) of section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) (as added by sections 403 and 404, respectively, of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and redesignated by subsection (a)(6) of this section) are each amended by striking "section 13(c)(8)" and inserting "section 13(f)(8)(B)".

SEC. 205. TECHNICAL CORRECTIONS RELATING TO TITLE V OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) Amendments Relating to Section 501.—

(1) Section 501(a)(1) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102–233, 105 Stat. 1777) is amended by striking "Section 21A(b)(10)(K) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(10)(K))" and inserting "Section 21A(b)(9)(J) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)(J)) (as redesignated by sections 310 and 314(2)(B)(i) of this Act)".

(2) Section 21A(b)(9)(J) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(9)(J)) (as amended by section 501(a)(1) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "(K) To make loans and," and inserting "(J) To make loans and,".

(3) Section 21A(c)(8)(B)(ii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(8)(B)(ii)) (as added by section 501(a)(2)(B) of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended by striking "subchapter A" and inserting "subchapter B".

(b) Amendment to Section Heading.—The heading for section 501 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 is amended to read as follows:

"SEC. 501. CREDIT ENHANCEMENT.".

SEC. 206. TECHNICAL CORRECTIONS RELATING TO TITLE VI OF THE RESOLUTION TRUST CORPORATION REFINANCING, RESTRUCTURING, AND IMPROVEMENT ACT OF 1991.

(a) Amendments Relating to Section 607.—Section 21A(c)(3)(E) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)(E)) (as amended by section 607 of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991) is amended—

(1) in clause (i)(I), by striking "building property structure in which the units are located: *Provided*, That" and inserting "property in which the units are located; and";

(2) in clause (i)(II)—

(A) by striking "shall be made available for occupancy" the 1st time such term appears;

(B) by inserting "(including very low-income families taken into account for purposes of subclause (I))" after "very low-income families"; and

(C) by striking "building or structure" and inserting "property"; and

(3) in clause (ii)(II)—

(A) by striking "building property structure" each place such term appears and inserting "property"; and

(B) by inserting "(including very low-income families taken into account for purposes of subdivision (a) of this subclause)" after "very low-income families" where such term appears in subdivision (b) of such clause.

(b) Repeal of Duplicate Provision.—The Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102–233, 105 Stat. 1761) is amended by striking section 611 and redesignating sections 612 through 619 as sections 611 through 618, respectively.

SEC. 207. REPEAL OF TITLE VII CONSISTING OF AMENDMENTS DUPLICATED IN THE FEDERAL DEPOSIT INSURANCE CORPORATION IMPROVEMENT ACT OF 1991.

(a) In General.—Title VII of the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102–233, 105 Stat. 1761) is hereby repealed.

(b) Effect of Repeal.—No amendments made by title VII of the Resolution Trust Corporation Refinancing, Restructuring, and

Improvement Act of 1991 shall be deemed to have taken effect before the date of the enactment of this Act and the provisions of law amended by title VII shall continue in effect as if no such amendments had been made by such title.

SEC. 208. EFFECTIVE DATE.

The amendments made by this title to the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 and the Federal Home Loan Bank Act shall take effect as if such amendments had been included in the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 as of the date of the enactment of that Act.

TITLE III—OTHER RESOLUTION TRUST CORPORATION-RELATED AMENDMENTS

SEC. 301. REPEAL OF RISK WEIGHTED CAPITAL REQUIREMENT.

The Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 (Public Law 102-233, 105 Stat. 1761) is amended—

(1) by striking section 617 (as redesignated by section 206(b)); and

(2) by redesignating section 618 (as redesignated by section 206(b)) as section 617.

SEC. 302. DEFINITION OF PROPERTY SOLD BY UNITED STATES AGENCY.

(a) SALES OF PROPERTY BY UNITED STATES AGENCIES.—Section 9102(e) of the Department of Defense Appropriations Act, 1990 (Public Law 101-165, 103 Stat. 1151) is amended by striking "real, personal," and inserting "real, personal (including financial instruments, notes, loans, bonds, licenses, and other intangible assets),".

(b) COOK INLET REGION.—Section 12(b)(7)(vii) of the Act of January 2, 1976 (Public Law 94-204, 89 Stat. 1145) is amended by striking "real, personal," and inserting "real, personal (including financial instruments, notes, loans, bonds, licenses, and other intangible assets),".

SEC. 303. CONTINUATION OF HEALTH PLAN COVERAGE.

(a) IN GENERAL.—Section 451 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (12 U.S.C. 1821 note) is amended to read as follows:

"SEC. 451. CONTINUATION OF HEALTH PLAN COVERAGE IN CASES OF FAILED FINANCIAL INSTITUTIONS.

"(a) IN GENERAL.—The Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall, in their respective capacities as conservator or receiver for a failed depository institution, offer continuation coverage to eligible individuals under a health plan which provides medical care (as defined in section 213(d) of the Internal Revenue Code of 1986) effective as of the date of failure of the depository institution. Such continuation coverage shall not contain any exclusion with respect to any preexisting condition of an eligible individual.

"(b) DEFINITIONS.—For purposes of this section—

"(1) health insurance coverage is 'continuation coverage' if—

"(A) the premium to be paid for such coverage by an eligible individual reasonably reflects the average costs of providing such coverage, including a reasonable allowance for administrative costs, to eligible individuals;

"(B) the coverage extends for a period beginning on the date of the failure of the depository institution and ending not earlier than the earliest of—

"(i) 18 months after the date of the failure of the depository institution, except that this date shall be extended in the same manner as coverage is extended under clauses (ii) and (v) of section 602(2)(A) of the Employee Retirement Income Security Act of 1974 (hereafter referred to as 'ERISA') for a qualifying event occurring after the date of failure of the depository institution;

"(ii) the date on which coverage ceases by reason of a failure to make timely payment of any required premium, as determined under regulations of the Federal Deposit Insurance Corporation and the Resolution Trust Corporation;

"(iii) the date on which the eligible individual becomes covered under any group health plan which does not contain any exclusion or limitation with respect to any preexisting condition of such eligible individual;

"(iv) the date on which the eligible individual becomes eligible for benefits under title XVIII of the Social Security Act; or

"(v) if an eligible individual was receiving health care continuation coverage under section 602 of ERISA, the date on which such coverage would otherwise terminate under that section;

"(C) written notice describing such coverage is provided to the eligible individual not later than 60 days after the failure of the depository institution; and

"(D) eligible individuals may elect to receive such coverage by paying the initial monthly premium not later than 60 days after receiving written notice of such coverage, and thereafter paying the premiums on a monthly basis;

"(2) the term 'controlled employer' means any employer which is owned, in whole or in part, whether directly or indirectly, by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, in its capacity as conservator or receiver for a failed depository institution, and who together with the failed depository institution, is treated as a single employer under section 414(t) of the Internal Revenue Code of 1986;

"(3) the term 'eligible individual' means any employee or former employee of the failed depository institution and qualified beneficiaries of such employees (as defined in section 607(3 of ERISA) who were covered by a group health plan sponsored by the failed depository institution on the date of the failure of the depository institution;

"(4) the term 'failed depository institution' means an insured depository institution for which a conservator or receiver has been appointed;

"(5) the term 'group health plan' has the same meaning as in section 607(1) of ERISA;

"(6) the term 'insured depository institution' has the same meaning as in section 3 of the Federal Deposit Insurance Act; and

"(7) the term 'qualifying event' has the same meaning as in paragraph (1), (3), (4), or (5) of section 603 of ERISA.

"(c) PROVISION OF CONTINUATION COVERAGE.—The Federal Deposit Insurance Corporation and the Resolution Trust Corporation may enter into any 1 or more agreements with any insurer which is licensed under the laws of any State or any organization which is authorized under State law to provide medical care (as defined in section 213(d) of the Internal Revenue Code of 1986) if it determines that such action is appropriate to comply with the requirements of this section.

"(d) EXPENSES AND CLAIMS.—

"(1) IN GENERAL.—The Federal Deposit Insurance Corporation and the Resolution Trust Corporation may pay—

"(A) the expenses of the administration of any health plan established pursuant to subsection (a); and

"(B) the claims of eligible individuals in excess of the amounts of premiums paid by such individuals.

"(2) ADMINISTRATIVE EXPENSES.—Any payment by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation under paragraph (1) made with respect to the expenses of administration of a health plan under subsection (a) shall be an administrative expense of all affected conservatorships and receiverships, shared in proportion to the number of eligible individuals associated with each such conservatorship or receivership. Any such payment under paragraph (1) made with respect to a claim submitted by an eligible individual shall be treated as an administrative expense of the affected conservatorship or receivership.".

(b) CONSTRUCTION.—The provision of continuation coverage pursuant to the enactment of section 451 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (prior to the enactment of the amendment made by subsection (a)) shall not be construed to have created any obligation under any other provision of Federal law for the Federal Deposit Insurance Corporation or the Resolution Trust Corporation that did not otherwise exist prior to the date of enactment of section 451 of the Federal Deposit Insurance Corporation Improvement Act of 1991.

(c) RULEMAKING.—The Federal Deposit Insurance Corporation and the Resolution Trust Corporation shall promulgate appropriate regulations to carry out the amendment made by subsection (a). For purposes of section 451(b)(1)(B)(ii) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (as amended by subsection (a)), such regulations shall be substantially similar to section 602(2)(C) of the Employee Retirement Income Security Act of 1974.

(d) TRANSITION RULE.—The Federal Deposit Insurance Corporation and the Resolution Trust Corporation may provide continuation coverage under section 451 of the Federal Deposit Insurance Corporation Improvement Act of 1991, as amended by subsection (a), in lieu of any continuation coverage required to be provided under section 451 of the Federal Deposit Insurance Corporation Improvement Act of 1991 as that section was originally enacted.

(e) AUTHORITY.—Continuation coverage shall only be made available from the Resolution Trust Corporation in accordance with the amendment made by subsection (a) to the extent or in such amounts as provided in appropriations Acts.

(f) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to any failed depository institution for which the Resolution Trust Corporation (if the requirement of subsection (e) is first met) or the Federal Deposit Insurance Corporation is appointed as conservator or receiver on or after the date of enactment of the Federal Deposit Insurance Corporation Improvement Act of 1991.

SEC. 304. JUDGMENT COLLECTION INFORMATION.

(a) PURPOSE.—The purpose of this section is to ensure that the greatest practicable amount of money due to the United States and the Resolution Trust Corporation (hereafter referred to as the "Corporation") as a result of fines imposed and restitution ordered in connection with criminal proceedings involving insured savings associations and institution-affiliated parties is actually received by the United States.

(b) INFORMATION COLLECTION REQUIRED.—The Attorney General of the United States (hereafter referred to as the "Attorney General") shall collect and maintain information on—

(1) fines imposed for the conviction of any insured savings association or any institution-affiliated party of an insured savings association for any offense involving fraud or other criminal activity related to the failure of an insured savings association;

(2) orders to make restitution to the Corporation which have been issued in connection with any conviction referred to in paragraph (1); and

(3) the extent to which fines referred to in paragraph (1) have been collected by the United States and restitution referred to in paragraph (2) has been received by the Corporation.

(c) COOPERATION OF OTHER AGENCIES.—The Secretary of the Treasury, the Director of the Administrative Office of the United States Courts, the Director of the Office of Thrift Supervision, the Chairperson of the Federal Deposit Insurance Corporation, the Chairman of the Securities Exchange Commission, and the chief executive officer of the Corporation shall cooperate with the Attorney General to develop accurate and efficient means for providing the information described in subsection (a) to the Attorney General.

(d) SUMMARIES OF INFORMATION COLLECTED.—

(1) TRANSMITTAL TO CONGRESS.—The Attorney General shall transmit summaries of the information collected pursuant to this section, prepared in accordance with paragraph (2), to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(2) IDENTIFICATION OF MONEY JUDGMENTS.—With respect to every civil or criminal proceeding initiated by an instrumentality of the United States that has resulted in an order, agreement, or award requiring the defendant in the proceeding to pay money to the United States Government, each summary transmitted under this subsection shall—

(A) identify the proceeding by name, jurisdiction, docket number, defendant, and the savings association in connection with which the events giving rise to the proceeding occurred;

(B) describe the result of the proceeding and state the amount of money required to be paid by the defendant;

(C) state the amount of money actually received from the defendant by any instrumentality of the United States as a result of the proceeding; and

(D) include such other information as the Attorney General may deem appropriate.

(3) ADDITIONAL INFORMATION.—In addition to the information required by paragraph (2), each summary transmitted under this section shall include a summary of the total number and aggregate amount of fines and restitutions that are—

(A) at least 30 (but not more than 90) days past due;

(B) at least 90 (but not more than 180) days past due;

(C) at least 180 (but not more than 365) days past due; and

(D) 365 days or more past due.

(4) SIGNATURES REQUIRED.—Each summary transmitted pursuant to this section shall be signed by the Attorney General and the head of each instrumentality of the United States providing information to the Attorney General for inclusion in the summary.

(5) DATES OF SUBMISSION.—The Attorney General shall transmit such summaries annually, not later than April 1 of each calendar year. The summary submitted in calendar year 1993, shall cover the period from August 9, 1989, to the date of enactment of this Act. Summaries submitted in subsequent years shall cover the calendar year preceding the year in which the summary is submitted.

(6) DEFINITION.—For purposes of this subsection, the term "instrumentality of the United States" includes any department or agency of the United States and any trust, receivership, or conservatorship established by a department or agency of the United States.

(e) INFORMATION TO BE INCLUDED IN AGENCY REPORTS.—Section 918(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833(a)) is amended—

(1) by redesignating paragraph (3) through (6) as paragraphs (4) through (7), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) The number of individuals and institutions against whom civil judgments for damages or restitution were awarded in proceedings initiated by such agency during such 12-month period, or who, during the same period, formally agreed to pay money to the United States to fully or partially conclude or avoid such proceedings, the amount of each such judgment or agreement to pay, the total amount of all such judgments and agreements to pay, and data on uncollected judgments and agreements to pay for such period and prior years."; and

(3) in paragraph (6), as redesignated, by inserting before the period ", including the amount of money actually received by the United States as a result of such prosecutions and civil actions".

(f) CRIME CONTROL ACT AMENDMENT.—Section 2546 of the Crime Control Act of 1990 (Public Law 101-647, 104 Stat. 4885) is amended by adding at the end the following:

"(c) FRAUD TASK FORCES REPORT.—In addition to the reports required under subsection (a), the Attorney General is encouraged to submit a report to the Congress containing the findings of the financial institutions fraud task forces established under section 2539 as they relate to the collapse of private deposit insurance corporations, together with recommendations for any regulatory or legislative changes necessary to prevent such collapses in the future.".

SEC. 305. TEMPORARY VACANCIES IN THE OFFICE OF CHIEF EXECUTIVE OFFICER.

Section 21A(b)(1) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(1)) is amended by adding at the end the following new subparagraph:

"(D) TEMPORARY VACANCIES IN THE OFFICE OF C.E.O.—

"(i) DESIGNATION OF ACTING C.E.O.—The chief executive officer of the Corporation shall designate 1 officer of the Corporation to act as the chief executive officer in the event of a temporary vacancy in such office.

"(ii) TEMPORARY VACANCIES.—In the event that the chief executive officer of the Corporation is separated from service or is unable to carry out the duties of that office due to death, illness, incapacity, or other similar circumstances, the officer designated to serve as acting chief executive officer under clause (i) shall perform the duties of the chief executive officer.

"(iii) PRESIDENTIAL DESIGNATION.—Notwithstanding clauses (i) and (ii), the President may designate any officer of the Government appointed by and with the advice and consent of the Senate to perform the duties of the chief executive officer of the Corporation in the event of a temporary vacancy in that office due to circumstances described in clause (ii).

"(iv) DURATION.—An acting chief executive officer designated under this subparagraph shall perform the duties of that office for a reasonable period of time, until a successor has been appointed or until the circumstances resulting in the temporary vacancy in the office have been rectified.".

SEC. 306. MODIFYING SEPARATE CAPITALIZATION RULE FOR SAVINGS ASSOCIATIONS' SUBSIDIARIES ENGAGED IN ACTIVITIES NOT PERMISSIBLE FOR NATIONAL BANKS.

Section 5(t)(5)(D) of the Home Owners' Loan Act (12 U.S.C. 1464(t)(5)(D)) is amended—

(1) by amending clause (i) to read as follows:

"(i) INCLUSION IN CAPITAL.—Notwithstanding subparagraph (A), if a savings association's subsidiary was, as of April 12, 1989, engaged in activities not permissible for a national bank, the savings association may include in calculating capital either—

"(I) the applicable percentage, set forth in clause (ii), of the eligible amount of the savings association's investments in and extensions of credit to the subsidiary; or

"(II) with the approval of the Director under clause (iii), such percentage of the eligible amount as the Director may permit under that clause, but not exceeding the limit in clause (iv).";

(2) in clause (ii)—

(A) by striking "June 30, 1992" and inserting "September 30, 1992"; and

(B) by striking "July 1, 1992" and inserting "October 1, 1992";

(3) by redesignating clause (iii) as clause (vii); and

(4) by inserting after clause (ii) the following new clauses:

"(iii) DIRECTOR'S DISCRETION.—The Director may permit the savings association to include in calculating capital a percentage of the eligible amount of the savings association's investments in and extensions of credit to the subsidiary, not exceeding the limit in clause (iv), if—

"(I) either—

"(aa) the savings association is adequately capitalized, as defined in section 38 of the Federal Deposit Insurance Act; or

"(bb) the savings association is in compliance with an approved capital restoration plan meeting the requirements of section 38 of the Federal Deposit Insurance Act and is not critically undercapitalized as defined in that section;

"(II) the savings association's current composite MACRO rating is 1, 2, or 3;

"(III) the savings association is an eligible savings association as defined in paragraph (3)(B);

"(IV) subparagraph (A) applies with respect to the subsidiary only because of the subsidiary's real estate investments or other real estate activities; and

"(V) the Director determines that the inclusion would not increase the risk to the affected deposit insurance fund.

"(iv) LIMIT.—The percentage allowed by the Director under clause (iii) shall not exceed the following limits:

"For the following period:	The limit is:
Prior to July 1, 1994	75 percent
July 1, 1994 through June 30, 1995	60 percent
July 1, 1995 through June 30, 1996	40 percent
Thereafter	0 percent

"(v) COMMUNITY CREDIT NEEDS.—In applying clause (iii), the Director shall consider the savings association's record of meeting community credit needs.

"(vi) ELIGIBLE AMOUNT DEFINED.—For purposes of this subparagraph, the 'eligible amount' of a savings association's investments in and extensions of credit to a subsidiary is the sum of—

"(I) the savings association's investments in and extensions of credit that were made to the subsidiary on or before April 12, 1989; and

"(II) the savings association's investments in and extensions of credit to the subsidiary expended after April 12, 1989, that were necessary to complete projects initiated before April 12, 1989.".

SEC. 307. EXTENSION OF CIVIL STATUTE OF LIMITATIONS.

(a) RESOLUTION TRUST CORPORATION.—Section 11(d)(14) of the Federal Deposit Insurance Act (12 U.S.C. 1821(d)(14)) is amended—

(1) in subparagraph (A)(ii), by inserting "except as provided in subparagraph (B)," before "in the case of";

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following new subparagraph:

"(B) TORT ACTIONS BROUGHT BY THE RESOLUTION TRUST CORPORATION.—The applicable statute of limitations with regard to any action in tort brought by the Resolution Trust Corporation in its capacity as conservator or receiver of a failed savings association shall be the longer of—

"(i) the 5-year period beginning on the date the claim accrues; or

"(ii) the period applicable under State law."; and

(4) in subparagraph (C), as redesignated—

(A) by striking "subparagraph (A)" and inserting "subparagraphs (A) and (B)"; and

(B) by striking "such subparagraph" and inserting "such subparagraphs".

(b) EFFECTIVE DATE; TERMINATION; FDIC AS SUCCESSOR.—

(1) EFFECTIVE DATE.—The amendments made by subsection (a) shall be construed to have the same effective date as section 212 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(2) TERMINATION.—The amendments made by subsection (a) shall remain in effect only until the termination of the Resolution Trust Corporation.

(3) FDIC AS SUCCESSOR TO THE RTC.—The Federal Deposit Insurance Corporation, as successor to the Resolution Trust Corporation, shall have the right to pursue any tort action that was properly brought by the Resolution Trust Corporation prior to the termination of the Resolution Trust Corporation.

SEC. 308. DIRECTORS NOT LIABLE FOR ACQUIESCING IN CONSERVATORSHIP, RECEIVERSHIP, OR SUPERVISORY ACQUISITION OR COMBINATION.

(a) LIABILITY.—During the period beginning on the date of enactment of this Act and ending on December 19, 1992, the members of the board of directors of an insured depository institution shall not be liable to the institution's shareholders or creditors for acquiescing in or consenting in good faith to—

(1) the appointment of the Resolution Trust Corporation or the Federal Deposit Insurance Corporation as conservator or receiver for that institution; or

(2) the acquisition of the institution by a depository institution holding company, or the combination of the institution with another insured depository institution if the appropriate Federal banking agency has—

(A) requested the institution, in writing, to be acquired or to combine; and

(B) notified the institution that 1 or more grounds exist for appointing a conservator or receiver for the institution.

(b) DEFINITIONS.—For purposes of this section, the terms "appropriate Federal banking agency", "depository institution holding company", and "insured depository institution" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

SEC. 309. REAL ESTATE APPRAISAL AMENDMENT.

Section 1112 of the Financial Institution Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3341) is amended—

(1) by inserting "(a) IN GENERAL.—" before "Each Federal"; and

(2) by adding at the end the following new subsection:

"(b) THRESHOLD LEVEL.—Notwithstanding sections 1113 and 1114, each Federal financial institutions regulatory agency and the Resolution Trust Corporation may establish a level below which a certified or licensed appraiser is not required to perform appraisals in connection with federally related transactions, if such agency determines that such level is in the public interest.".

SEC. 310. SET-ASIDE OF FUNDS FOR ASSISTANCE.

(a) IN GENERAL.—Before transferring an insured depository institution to the Resolution Trust Corporation, the Director of the Office of Thrift Supervision shall consider whether providing assistance to the institution under section 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)) or under section 13(k)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1823(k)(5)) would be a more cost-effective manner of resolving the institution than transferring the institution to the Resolution Trust Corporation.

(b) SET ASIDE TO PROVIDE ASSISTANCE.—Of the total amount appropriated by this Act, $1,850,000,000 shall be set aside to provide assistance under sections 13(c) and 13(k)(5) of the Federal Deposit Insurance Act to carry out the purposes of this section with respect to insured savings associations.

SEC. 311. ADDITION OF FLORIDA TO LIST OF DISTRESSED AREAS.

Section 21A(b)(11)(E)(iii) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(11)(E)(iii)) is amended by inserting "Florida," immediately after "Colorado,".

SEC. 312. GUARANTEE OF LOANS TO PURCHASE RTC PROPERTY.

Section 21A of the Federal Home Loan Bank Act (12 U.S.C. 1441a) is amended by adding at the end the following new subsection:

"(w) LOAN GUARANTEES TO PURCHASE RTC PROPERTY.—

"(1) PURPOSES.—The purposes of this subsection are—

"(A) to help sell property held by the Resolution Trust Corporation at prices that prevail for similar property in local markets;

"(B) to help relieve the depressive effect of sales of property held by the Resolution Trust Corporation on prices of real estate in such markets;

"(C) to make financing for the sale of property held by the Resolution Trust Corporation more available to buyers;

"(D) to decrease the cost to the taxpayer of maintaining Resolution Trust Corporation properties; and

"(E) to provide an avenue for safe investment of surplus bank capital.

"(2) DEFINITION OF 'QUALIFIED LENDER'.—As used in this subsection, the term "qualified lender" means—

"(A) a bank or savings association the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation; or

"(B) any person engaged in the business of making commercial loans.

"(3) GUARANTEE AUTHORITY.—

"(A) IN GENERAL.—In addition to any other authority provided by law, the Corporation is authorized to guarantee, and make commitments to guarantee, the timely payment of principal and interest on loans made by qualified lenders to finance the purchase of commercial and residential property held by the Corporation. The guarantees issued by the Corporation shall not exceed 7,500,000,000.

"(B) AMOUNT OF GUARANTEE.—The aggregate obligation of the Corporation or the United States under any guarantee under this subsection may not exceed 75 percent of the outstanding undivided principal amount of the loan.

"(4) ELIGIBILITY.—A loan may be guaranteed under paragraph (3) only if—

"(A) the chief executive officer of the Corporation determines—

"(i) that there is reasonable assurance of repayment of the loan;

"(ii) that the qualified lender is responsible; and

"(iii) that adequate provision is made for servicing the loan on reasonable terms;

"(B) the amount of the loan does not exceed 85 percent of the fair market value of the property at the time of the application for the guarantee;

"(C) the borrower has made a down payment, in cash or its equivalent, of not less than 15 percent of the fair market value of the property;

"(D) the qualified lender has entered into agreement to assume the initial 25 percent of any loss incurred in connection with the loan; and

"(E) the chief executive officer of the Corporation—

"(i) establishes criteria to determine if the guarantee of a loan under this subsection is the most efficient way to meet the Corporation's objectives on a borrower-by-borrower basis;

"(ii) promulgates regulations that provide for the complete amortization of each guaranteed loan, not to exceed the useful life of the property purchased with the loan; and

"(iii) prescribes explicit standards to periodically assess the credit risk of new and existing guaranteed loans.

"(5) FULL FAITH AND CREDIT.—The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid pursuant to a guarantee under this subsection in accordance with subsection (j)(3).

"(6) SUBROGATION.—The holder of a guarantee under this subsection shall notify the Corporation of any default in the payment of any loan guaranteed under this subsection. Upon receipt of such notice, the Corporation shall—

"(A) pay to such holder the amount of the guarantee not in excess of the pro rata portion of the amount originally guaranteed; and

"(B) be subrogated to the rights of the holder of the guarantee to the extent of the amount of the guarantee.

"(7) REGULATIONS; FEES.—

"(A) REGULATIONS.—Upon the appropriation provided for in paragraph (8), the Corporation shall prescribe such regulations as are necessary to carry out this subsection in compliance with applicable Office of Management and Budget and the Department of the Treasury executive orders and circulars.

"(B) FEES.—The Corporation is authorized to prescribe and collect a fee to cover the administrative costs it incurs in providing guarantees under this subsection in compliance with appropriate Office of Management and Budget and Department of the Treasury executive orders and circulars.

"(8) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subsection.".

SEC. 313. SENSE OF THE CONGRESS RELATING TO STANDARDS ON RISK-BASED CAPITAL.

(a) FINDINGS.—The Congress finds that—

(1) there were fewer housing starts in the United States in 1991 than in any of the previous 40 years;

(2) it is in the interest of the United States that good quality, affordable housing be available to all Americans;

(3) risk-based capital standards create an incentive for banks and thrifts to make lower-risk loans;

(4) Federal regulators of depository institutions have limited the favorable treatment of housing loans to loans for single-family residences; and

(5) Federal banking regulators have not adopted an interest rate risk component to the risk-based standards and have thereby encouraged banks to purchase Government-backed securities instead of making loans.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that regulators of depository institutions should consider making changes in risk-based capital standards by accelerating their implementation of an interest rate risk component and by reviewing the standards that apply to loans for the purchase or construction of housing, especially for loans that finance low- and moderate-income housing.

SEC. 314. SENSE OF THE CONGRESS REGARDING TERMINATION OF THE RESOLUTION TRUST CORPORATION.

It is the sense of the Congress that—

(1) the life of the Resolution Trust Corporation shall not be extended beyond the termination date of December 31, 1996, as established under section 21A of the Federal Home Loan Bank Act; and

(2) the Resolution Trust Corporation shall not receive any additional failed savings and loans after September 30, 1993, in accordance with the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991.

SEC. 315. LIMITING LIABILITY FOR FOREIGN DEPOSITS.

(a) AMENDMENT TO THE FEDERAL RESERVE ACT.—Section 25 of the Federal Reserve Act (12 U.S.C. 601 et seq.) is amended by adding at the end the following:

"11. Limitations on liability.

"A member bank shall not be required to repay any deposit made at a foreign branch of the bank if the branch cannot repay the deposit due to—

"(i) an act of war, insurrection, or civil strife, or

"(ii) an action by a foreign government or instrumentality (whether de jure or de facto) in the country in which the branch is located,

unless the member bank has expressly agreed in writing to repay the deposit under those circumstances. The Board is authorized to prescribe such regulations as it deems necessary to implement this paragraph.".

(b) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) SOVEREIGN RISK.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended—

(A) by redesignating subsection (o) (as added by section 305(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102-242, 105 Stat. 2354)) as subsection (p); and

(B) by adding at the end the following:

"(q) SOVEREIGN RISK.—Section 25(11) of the Federal Reserve Act shall apply to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.".

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 3(*l*)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(*l*)(5)) is amended to read as follows:

"(A) any obligation of a depository institution which is carried on the books and records of an office of such bank or savings association located outside of any State unless—

"(i) such obligation would be a deposit if it were carried on the books and records of the depository institution, and payable at, an office located in any State; and

"(ii) the contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of the depository institution located in any State; and".

(c) EXISTING CLAIMS NOT AFFECTED.—The amendments made by this section shall not be construed to affect any claim arising from events (described in section 25(11) of the Federal Reserve Act, as added by subsection (a)) that occurred before the date of enactment of this Act.

SEC. 316. AMENDMENT TO INTERNATIONAL BANKING ACT OF 1978.

Section 6(c)(1) of the International Banking Act of 1978 (12 U.S.C. 3104(c)(1)) is amended—

(1) in paragraph (1)—

(A) by inserting "domestic retail" before "deposit accounts"; and

(B) by inserting "and requiring deposit insurance protection," after "$100,000,"; and

(2) in paragraph (2)—

(A) by striking "Deposit" and inserting "Domestic retail deposit"; and

(B) by inserting "that require deposit insurance protection" after "$100,000".

SEC. 317. CLARIFICATION OF COMPENSATION STANDARDS.

Section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831s) is amended—

(1) in subsection (d), by adding at the end the following: "An appropriate Federal banking agency may not prescribe standards or regulations under subsection (a), (b), or (c) that set a specific level or range of compensation for officers, directors, or employees of insured depository institutions."; and

(2) in subsection (e)(1)(A), by striking "(a), (b), or (c)" and inserting "(a) or (b)".

SEC. 318. SENSE OF THE CONGRESS REGARDING THE NEED FOR COMPETITIVE BIDDING FOR THE PURCHASE OF OUTSIDE LEGAL SERVICES.

(a) FINDINGS.—The Congress finds that—

(1) the Federal Deposit Insurance Corporation (hereafter referred to as the "FDIC") and the Resolution Trust Corporation (hereafter referred to as the "RTC") should protect insured depositors of banks and savings and loans at the least possible cost to the American taxpayer;

(2) the FDIC and the RTC paid more than $625,000,000 in legal fees and expenses to private legal counsel during 1991;

(3) the Office of Inspector General of the FDIC has completed more than 20 audits of contracts with private legal counsel and found repeated examples of overcharges, double-billings, and other excess costs; and

(4) a study by a major private accounting firm on behalf of the Office of Inspector General of the FDIC was released in late 1991, and concluded that—

(A) private legal counsel are generally not selected on a competitive basis;

(B) the selection of the matters to be turned over to private law firms is not done on a basis which would encourage competition among the firms;

(C) many law firms do not have formal agreements or contracts with the agency;

(D) the agency generally pays hourly rates rather than arranging less costly fixed rate contracts;

(E) routine work, defined as collections, bankruptcies, and foreclosures, accounts for more than two-thirds of active litigation matters; and

(F) private attorneys spend a significant amount of time performing tasks which do not require the skills of an attorney.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the FDIC and the RTC should take immediate steps to ensure that private legal counsel are selected competitively on the basis of their ability to perform required tasks at the lowest possible cost to the taxpayer; and

(2) the FDIC and the RTC should adopt policies which clearly define the dollar amount and types of legal services to be purchased under such competitive bidding procedures.

SEC. 319. FINANCIAL INSTITUTION FRAUD PROSECUTIONS.

(a) FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.—Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended in paragraph (2)(A)(i)(I)—

(1) by striking "or 1956"; and

(2) by inserting "1517, 1956, or 1957".

(b) FEDERAL CREDIT UNION ACT AMENDMENTS.—Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or "(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

TITLE IV—BANK AND THRIFT DISCLOSURE ACT

SEC. 401. SHORT TITLE.

This title may be cited as the "Bank and Thrift Disclosure Act of 1992".

SEC. 402. PUBLIC AVAILABILITY OF EXAMINATION INFORMATION.

(a) IN GENERAL.—Each appropriate banking agency shall make available to the public copies of reports of all examinations of each failed depository institution that received funds, as defined in section 406, or of a holding company of such institution, that was performed by that banking agency or its predecessor, during the 5-year period preceding the transfer, failure, or receipt of funds. Each appropriate banking agency other than the National Credit Union Administration Board shall consult with the Federal Deposit Insurance Corporation or the Resolution Trust Corporation prior to making such reports available to the public.

(b) DELAY OF PUBLICATION.—

(1) THREATS TO SAFETY OR SOUNDNESS OF INSTITUTION.—If the appropriate banking agency makes a determination in writing that release of an examination report would seriously threaten the safety or soundness of an insured depository institution, such agency may initially delay release of the examination report for a reasonable period of time, not to exceed 12 months from the date of the transfer, failure, or receipt of funds described in section 406. Such determination may be renewed on an annual basis.

(2) ONGOING INVESTIGATIONS.—If the appropriate banking agency or the Resolution Trust Corporation determines in writing that release of a portion of an examination report would hinder an ongoing investigation of alleged negligence, or of other activity that would give rise to either administrative or civil proceedings, the portion of the examination report directly pertaining to the alleged negligence or other activity, may be withheld from release during the investigation, until a notice of charges is issued, a complaint is filed, or for a period not to exceed 24 months from the date of the transfer, failure, or receipt of funds described in section 406, whichever is earlier.

(3) DELAY PENDING CRIMINAL INVESTIGATION.—If the appropriate banking agency and the Attorney General of the United States or the attorney general of a State, in the case of a State-chartered depository institution, jointly determine that release of a portion of an examination report would hinder an ongoing investigation of alleged criminal activity, the portion of the examination report directly pertaining to the alleged crime may be withheld from release until the termination of such investigation, the issuance of an indictment, or for a period of not to exceed 5 years from the date of the transfer, failure or receipt of funds described in section 406, whichever is earlier. The Attorney General of the United States or the Attorney General of a State shall provide the Comptroller General of the United States with access to information regarding any such criminal investigation, and shall identify any law enforcement agencies or resources assigned to the investigation.

(c) EXCLUSION OF OPEN INSTITUTIONS.—

(1) OPEN INSTITUTIONS.—This section shall not apply to any open insured depository institution and shall not be construed to require disclosure to the public of any report of examination of any open insured depository institution.

(2) AFFILIATED SOLVENT INSTITUTIONS.—In connection with the release of an examination report of a holding company of a failed institution, nothing in this section shall be construed as requiring the release of any examination report information regarding any solvent depository institution that is also a subsidiary of such holding company.

SEC. 403. PROHIBITION OF CONFIDENTIAL SETTLEMENTS.

Notwithstanding any other provision of law or any rule, regulation, or order issued thereunder, all agreements or settlements of claims between the Resolution Trust Corporation or the Federal Deposit Insurance Corporation and any other party, where such agreement or claim relates to an institution described in section 406 shall be made available to the public.

SEC. 404. APPLICABILITY.

The requirements of section 402 shall apply—

(1) to any insured depository institution that has had its assets or liabilities, or any part thereof, transferred to the FSLIC Resolution Fund or the Resolution Trust Corporation;

(2) to any member of the Bank Insurance Fund that has failed and received funds, if during either the fiscal year in which the institution failed or the fiscal year in which the institution received funds, as defined in section 406, the Bank Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve bank; or

(B) had a negative fund balance;

(3) to any member of the Savings Association Insurance Fund that has failed and received funds, if during either the fiscal year in which the institution failed or the fiscal year in which the institution received funds, as defined in section 406, the Savings Association Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve bank; or

(B) had a negative fund balance; and

(4) to any insured credit union that has failed and received funds, if during either the fiscal year in which the credit union failed or the fiscal year in which the credit union received funds, as defined in section 406, the National Credit Union Share Insurance Fund—

(A) had outstanding loans, or had otherwise received funds, from the Department of the Treasury, the Federal Financing Bank, or any Federal Reserve Bank; or

(B) had a negative fund balance.

SEC. 405. REMOVAL OF CUSTOMER INFORMATION FROM EXAMINATION REPORTS.

In making available reports of examinations under section 402, each appropriate banking agency shall excise the following information:

(1) NONINSTITUTION-AFFILIATED PARTIES.—The names and all other identifying information for all persons who are not institution-affiliated parties of an insured depository institution.

(2) INSTITUTION-AFFILIATED PARTIES.—The names and any information related to an institution-affiliated party that is not relevant to the relationship between the insured depository institution and the institution-affiliated party.

(3) OPEN INSTITUTIONS.—The names and all other identifying information pertaining to open insured depository institutions.

(4) EXAMINERS.—Any reference to the examiners and other banking agency employees involved in the examination of the insured depository institution.

(5) WHISTLEBLOWERS.—All references to persons or entities that have provided information in confidence to a banking agency which may be utilized to pursue a civil or criminal action.

SEC. 406. DEFINITIONS.

For purposes of this title—

(1) an insured depository institution has "failed" if the Federal Deposit Insurance Corporation, Resolution Trust Corporation, or National Credit Union Administration Board—

(A) has been appointed as receiver or liquidator for such institution; or

(B) has exercised the power to provide assistance under section 13(c)(2) of the Federal Deposit Insurance Act or the analogous powers under section 21A of the Federal Home Loan Bank Act.

(2) an insured depository institution has "received funds" if the institution, its holding company, or an acquiring institution receives cash or other valuable consideration from the National Credit Union Administration Board, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or any Federal Reserve bank that lends for more than 30 days while the insured depository institution is critically undercapitalized within the 1-year period prior to the failure of the insured depository institution whether in the form of a loan, a payment to depositors or other creditors, the assumption of liabilities, or otherwise;

(3) the term "insured depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act, except that such term includes an insured credit union, as defined in section 101 of the Federal Credit Union Act; and

(4) the term "appropriate banking agency" means the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Office of Thrift Supervision, or the National Credit Union Administration Board, and, in the case of a State-chartered depository institution, the appropriate State depository institution regulatory agency.

SEC. 407. ADDITIONAL DISCLOSURES BY FDIC, NCUA, AND RTC.

(a) BORROWERS.—Not later than 6 months after being appointed receiver or liquidator for any failed institution that received funds, as defined in section 406, the Federal Deposit Insurance Corporation, National Credit Union Administration, or the Resolution Trust Corporation, as appropriate, shall make available to the public the name and loan balance of any borrower who—

(1) was an executive officer, director, or principal shareholder of the institution, or a related interest of any such person, as such terms are defined in section 22(h) of the Federal Reserve Act; and

(2) at the time that the receiver was appointed, was more than 90 days delinquent on a loan.

(b) TRANSACTIONS.—Not later than 12 months after being appointed receiver or liquidator for any failed institution that received funds, as defined in section 406, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, or the Resolution Trust Corporation shall make available, and update periodically thereafter, a list of pending and settled lawsuits brought by such agency involving transactions (other than those listed in subsection (a)) that caused a material loss to such institution or to the deposit insurance fund.

SEC. 408. GAO AUDITS.

The Comptroller General shall selectively audit examination reports made available to the public by the appropriate banking agencies under section 402, and disclosures made by the Federal Deposit Insurance Corporation, National Credit Union Administration, and Resolution Trust Corporation under section 407, to assess compliance with the requirements of those sections. The Comptroller General shall determine the nature, scope, terms, and conditions of audits conducted under this section.

Mr. GARN. I move to reconsider the vote.

Mr. RIEGLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, there will be no further rollcall votes this evening. The Senate will be in session pro forma tomorrow, no session on Monday, and no votes prior to the noon caucus on Tuesday. I thank my colleagues. I thank the manager of the bill.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FORD. Mr. President, I ask that we now go into morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT ON THE NATIONAL MINORITY AIDS COUNCIL

Mr. KENNEDY. Mr. President, I want to take this opportunity to commend the National Minority AIDS Council and its 300 community-based member organizations for their excellent report entitled "The Impact of HIV on Communities of Color: A Blueprint for the Nineties."

The report is a clear statement of the challenges presented by the HIV epidemic and the effective strategies developed by those on the frontlines. With limited resources and tireless dedication, these community-based organizations have waged the battle against AIDS with too little help from Washington.

As we move into the second decade of living with HIV, communities of color are increasingly devastated by this epidemic. We have made substantial progress, but much more needs to be done. Above all, we must enlist all sectors of society, and all communities, in this struggle.

America has much to learn from people living with HIV disease and the communities of color who have been affected by this illness. And the lessons we are learning can ultimately move our Nation forward, to a more humane and equitable health care system and society.

I urge my colleagues to consider this report, and to join me in supporting the National Minority AIDS Council and communities of color across the country in developing a compassionate and effective response to this crisis. I ask unanimous consent that the report may be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

[From the National Minority AIDS Council]

THE IMPACT OF HIV ON COMMUNITIES OF COLOR: A BLUEPRINT FOR THE NINETIES

EXECUTIVE SUMMARY

For the first time in the history of HIV disease, one document reveals how communities of color are coping with issues related to HIV infection. The Impact of HIV on Communities of Color: A Blueprint for the Nineties, financed and published by the National Minority AIDS Council, is the first collection of concerns and solutions offered by communities of color.

To find ways to identify and address HIV-specific needs in communities of color, the Centers for Disease Control (CDC) held eleven meetings with more than 250 representatives of communities of color throughout 1990 and 1991. In early 1992, the National Minority AIDS Council (NMAC) revisited many participants to consolidate the knowledge and expertise that emerged from this unprecedented caucus of divergent communities. NMAC independently published this singular, timely document for members of Congress, federal, state and local governments, community based organizations, AIDS organizations, religious organizations, educational organizations, businesses, unions and individuals—a blueprint on HIV-related issues in communities of color.

Participant communities documented in this *Blueprint* include African-American, American Indian and Alaska Native, Asian, Caribbean, Latina/o, Pacific Islander, Puerto Rican and U.S. Virgin Islander.

The findings from these meetings are organized into two main categories in *Blueprint for the Nineties*. Problems and barriers are described first, followed by suggestions and solutions from communities of color. It is crucial to note that although common threads can be recognized throughout the *Blueprint*, communities of color are not monolithic. Rather, they are made up of people who are diverse in ethnicity, language, culture and behavior trends.

The problems and solutions described in the *Blueprint* tend to focus on HIV-related prevention needs rather than services and care. This is due to the fact that some of the meetings were held prior to funding of the Ryan White CARE Act and were convened by the Centers for Disease Control—the agency with primary responsibility for the federal government's HIV-prevention agenda.

PRIORITY ISSUES

BARRIERS TO COOPERATIVE EFFORTS WITH THE U.S. GOVERNMENT

The legacy of discrimination against communities of color obstructs cooperative efforts with government bodies. Lack of demonstrated commitment to secure access to health care for communities historically burdened with poverty, addiction, infant mortality and premature morbidity exacerbates that distrust.

In the specific context of HIV, examples include:

1. previous efforts to identify nationality as a risk factor for HIV transmission, as was the case with the Haitian population;
2. inadequately addressed deficiencies in data collection;
3. discriminatory immigration policies; and
4. overall discriminatory practices and policies against gays and lesbians.

Further, early targeting of prevention education messages to classified risk groups, rather than to individuals engaging in high risk behavior, left those that did not identify themselves as belonging to a "risk group" uninformed about their vulnerability to contract the virus. The belated emphasis on "risk behaviors" continues to hamper education efforts.

SOLUTIONS

In order to help establish an atmosphere of trust, the U.S. Government must demonstrate a commitment to accessible health care for historically underserved communities. It must include full participation by communities of color at all policy and decision-making levels. As the most visible messenger to the American public, government carries the greatest responsibility for building cooperative relationships. Adequate coordination between government agencies with jurisdiction over aspects of HIV programs is critical.

FUNDING MECHANISM PROBLEMS

Targeted communities receive an inadequate fraction of HIV-related funds channeled through state and local health departments because of (1) general neglect of minority community based organizations, (2) inappropriate mechanisms for determining need, (3) an unwillingness to expand the service delivery system to include disenfranchised people, and (4) absorption through government administrative costs.

The use of available seroprevalence data is not an appropriate measure to apportion prevention education dollars. Allocating prevention funding based solely on the number of reported AIDS cases chases the epidemic rather than supports pro-active measures within communities with demonstrated high risk activity.

An example of a funding decision made to "chase the epidemic" is the under-counting of women infected with HIV. The results are an inadequate flow of prevention dollars targeted towards women at risk, contributing to a dramatic rise in new HIV cases among women and children.

SOLUTIONS

A commitment to build partnerships must be made between government and community based organizations. Only by working together can we resolve the challenges HIV brings to our communities.

Rather than allocating prevention dollars solely on the basis of diagnosed AIDS cases, particularly considering the level of undercounting, funding levels should be based on well documented indicators such as sexually transmitted disease rates and teen pregnancies.

It is also essential to adequately fund prevention education, counseling, testing and treatment programs for gay and bisexual men of color. These programs must also be supported within the communities they serve.

Declining support for prevention education efforts is extremely premature. The dramatic impact of the growing numbers of AIDS cases in communities of color indicates that funding allocations for prevention should increase rather than decrease. Further, in order to ensure that community based organizations are provided maximum support, state/local government intermediaries should be bypassed, streamlined or capped.

SURVEILLANCE/RESEARCH PROBLEMS

Current racial/ethnic reporting categories do not recognize diversity within communities. Both surveillance and research are compromised when they fail to acknowledge differences in language, culture and behavior trends among different ethnic and racial groups identified under one reporting category (i.e., dramatic differences in HIV infection levels between Filipinos and Koreans; yet both communities are reported under the classification of Asian/Pacific Islander).

The discredit of anecdotal observations provided by those offering direct service to communities of color has seriously damaged cooperation with established research institutions and further hampers accurate research and/or surveillance.

Substantial gaps in knowledge exist about risk-related behaviors for women, men who have sex with men, adolescents, and substance users. Such targeted research is pivotal to communities of color that make up the majority of women, children, adolescents and substance users at risk for HIV infection.

Immigration, migration, fear of discrimination, homophobia and lack of confidentiality in small communities and urban centers continue to be obstacles to case-finding and reporting.

SOLUTIONS

In order to create effective mechanisms for surveillance and research, there must be an in-depth analysis of the socioeconomic and cultural factors affecting risk behavior. This can only be achieved by acknowledging a separation of communities by race, ethnicity and geography.

In addition, program evaluation should be enhanced and linked to surveillance. Specific transmission studies should be conducted and communities should be empowered and funded to conduct their own research, which may be supported by anecdotal observations.

STRUCTURAL BARRIERS

Community based organizations (CBOs), as well as some local government entities, lack the infrastructure to meet government requirements for funding. More funding is needed to provide technical assistance to such organizations.

In addition, geography poses enormous obstacles in many dispersed communities. Those outside of large urban centers are plagued by lack of travel resources.

SOLUTIONS

Newly formed CBOs lack knowledge and training in grant writing, leadership development, coalition building and evaluation. Resources must be appropriated for organizations to provide the necessary technical assistance.

The needs of rural and other dispersed communities must be considered as services are developed. Special consideration must be given for travel resources for service providers and people seeking services outside of urban centers.

PROGRAM PROBLEMS

Basic HIV prevention education is still needed, particularly for new immigrant populations. Certain groups remain unrecognized and are inadequately targeted.

Some prevention education programs perpetuate existing barriers to effect behavior change among women, adolescents and gay/bisexual men. Programs that address abstinence and exclude condom negotiation and relapse from safer sex practices do not speak to the realities about the spread of HIV.

SOLUTIONS

Targeted populations must be supported and empowered to design and implement community-specific education/prevention programming. The program models must include support for integrated and holistic approaches to prevention. The special needs of recent immigrants must also be incorporated into program design.

Materials that are culturally and linguistically appropriate need to be developed and distributed. Services that address family issues must be integrated into programs.

A cultural perception among underserved communities is that hospital facilities and governmental agencies are not places where education is received. Coordinated efforts between health departments and CBOs is essential to provide effective HIV-related services. Counseling and testing programs should be removed from local health departments and CBOs should be funded to provide these services. Mobile vans are recommended as one mechanism to serve both transient and established communities. In addition, the availability of anonymous testing must be increased, as should staff training in confidentiality protection.

In the case of overall program operations, there must be increased representation of racial and ethnic minorities in management and policy making positions.

This document offers an original prospectus to address HIV within communities of color. We recognize its limitations in representing all perspectives. We also understand the fundamental strength that people of color bring to the fight against AIDS. Most importantly, *Blueprint for the Nineties* encourages a union between service providers, health educators and policy makers as a vital response to this pandemic.

CONCLUSION

Beyond the specific concerns of people of color and proposed solutions is the vital question posed by *The Impact of HIV on Communities of Color: A Blueprint for the Nineties*—"Where do we go from here?"

The National Minority AIDS Council views this document as a tool for change. A coordinated response by communities of color, advocates, and elected and government officials is the only manner in which large-scale change can occur.

This document has discussed the difficult issues surrounding HIV disease in people of color communities. Among the findings and recommendations are the following:

1. Barriers to full participation by people of color in the process of determining their own health needs must be eliminated by actively including people of color in any and all discussions, policy development and actions about HIV issues.
2. Advocates and policy makers must be concerted in their support of funding mechanisms aimed at underserved communities of color.
3. Public officials must commit to accessible health care for those communities historically underserved.
4. Researchers and community organizers must design and evaluate surveillance mechanisms to accurately represent needs within specific communities.
5. Federal, state and local governments must support and strengthen community programs through technical assistance in management infrastructure.

It is our hope that the concerns and suggestion addressed in *The Impact of HIV on Communities of Color: A Blueprint for the Nineties* are the first steps toward a continued dialogue in the fight against AIDS. The time is now. Please join the National Minority AIDS Council. Together, we *can* make a difference!

PARTICIPANTS

African-American Community

Arrandondo, John, Department of Health, Houston, Texas
Bean, Carl, Bishop, Minority AIDS Project, Los Angeles, California
Bellinger, George, Jr., Black C.A.R.E., Los Angeles, California; Minority Task Force on AIDS, New York, New York
Bowers, Mary L., Region VI, U.S. Public Health Service
Brown, Lawrence, Addiction Research Treatment Corp., Brooklyn, New York
Gerald, Gilberto, Los Angeles, California
Harris, Craig J., (deceased) Gay Men's Health Crisis, New York, New York
Hassan, Rashidah, Blacks Educating Blacks About Sexual Health Issues (BEBASHI), Philadelphia, Pennsylvania
Hill, Ann, National Urban League, New York, New York
Jackson, Rudolph, Morehouse School of Medicine, Atlanta, Georgia
Lowery, Evelyn, Southern Christian Leadership Conference (SCLC), Atlanta, Georgia
McCoy, Renee, Rev., Detroit, Michigan
McDonald, Sandra, Outreach, Inc., Atlanta, Georgia
Medina, Venus, Boston, Massachusetts
Mitchell, Janet, Harlem Hospital OB/GYM, New York, New York
Nickens, Norm, Human Rights Commission, San Francisco, California
Porter, Karne, National Commission on AIDS, Washington, DC
Sadler, Jackie, District of Columbia Public Schools, Washington, DC
Setlow, Valerie, National AIDS Program Office, Washington, DC
Tuckson, Dr. Reed, Charles Drew University, Los Angeles, California (previously, March of Dimes, New York, New York)
Williams, Reggie, National Task Force on AIDS Prevention, San Francisco, California

American Indian and Alaska Native Communities

Archamabault, Avis, Phoenix Indian Center, Inc., Phoenix, Arizona

Bellymule, Gloria, Central Oklahoma American Indian Health Council

Bettelyoun, Willie, AIDS Resource Team, Norris, South Dakota

Black-Costantinou, Janet, Southern Indian Health Council, Alpine, California

Asetoyer, Charon, Native American Women's Health Education Resource Center, Lake Andres, South Dakota

Burns, Randy, Gay American Indians, San Francisco, California

Dameron, Teresa, Native American Community Development Center Inc., Omaha, Nebraska

Foster, Larry, Social Hygiene Program, Gallup Medical Center, Gallup, New Mexico

Harris, Curtis, American Indian Community House, New York, New York

Kimble, Gary, Association of American Indian Affairs., New York, New York

Lamb, Jillene, Northwest Portland Area Health Board, Portland, Oregon

Lopez, Theresa, Comanche Tribe, Lawton, Oklahoma

McKay-Lohnes, Ila Rae, Devil's Lake Sioux Tribe, Ft. Totten, North Dakota

Mitchell, Violet, Inter-Tribal Council of Arizona, Inc., Phoenix, Arizona

Murillo, Nancy, Shoshone-Bannock Tribes, Tribal Health and Human Services, Fort Hall, Idaho

Osburn, Vonda, North Idaho Service Unit, Nez Percé Tribe, Lapwai, Idaho

Pavel, Michael, Tempe, Arizona

Porter, Ron, Indian Community Health Service, Phoenix, Arizona

Ridling, Dana, National Native American AIDS Prevention Center, Salem, Oregon

Rowell, Ron, National Native American AIDS Prevention Center, Oakland, California

Sam, David, Alaska Native Health Board, Anchorage, Alaska

Tatsey, Deborah, Native American Service Agency, Misoula, Montana

Thomas, Rebecca, Native American Service Agency, Misoula, Montana

Tingley, Phil, American Indian AIDS Institute, San Francisco, California

TSO, Darlene, Shiprock Community Health, Shiprock, New Mexico

Uqualla, James, Jr., Supai, Arizona

Woodring, David (deceased), NAPWA/NNAAPC, Albuquerque, New Mexico

Asian/Pacific Islander Community

Alcober, Joyce M., New York, New York

Aoki, Bart, Asian Youth Substance Abuse Project, San Francisco, California

Bau, Ignatius, San Francisco Lawyers, Committee for Urban Affairs, San Francisco, California

Bond, Kate, Indochinese Community Center, Washington, DC

Buenaflor, Manuelita, Philadelphia Refugee Service Center, Philadelphia, Pennsylvania

Chaleunrath, Vilay, Indochinese Community Center, Washington, DC

Ching, Kiki, Psychiatric Social Workers, San Francisco, California

Cobb, Sonsiere, Centers for Disease Control, Atlanta, Georgia

Davis, Edith M., Gouverneur Hospital, New York, New York

Davis, Lisa Kim, Washington, DC

Derr, Cleste Ann, Association for Drug Abuse Prevention and Treatment, Inc., New York, New York

Fong, Kevin, Asian Health Services, Oakland, California

Fujimura-Mitchell, Patrick, Los Angeles, California

Fung, Kee, New York City Department of Health AIDS Education and Outreach, New York, New York

Geaga, Jaime, Filipino Task Force on AIDS, San Francisco, California

Gock, Terry S., Asian Pacific Planning Council, Alhambra, California

Goishi, Dean, Asian Pacific AIDS Education, Los Angeles, California

Gomez, John, Office of Civil Rights Department of Health and Human Services, New York, New York

Gonzalez, Pavin A., St. Rita's Asian Center, Bronx, New York

Herrell, Ileana C., Centers for Disease Control, Atlanta, Georgia

Hidalgo, Evelyn M. Philadelphia Refuge Service Center, Philadelphia, Pennsylvania

Hiraga, Martin, Indochinese Community Center, Washington, DC

Izutsu, Glen T., Asian and Pacific Islander Coalition on HIV/AIDS, New York, New York

Kawata, Paul A., National Minority AIDS Council, Washington, DC

Khanlou, Parvin, Ph.D., Office of Minority Health, New Jersey Health Department, Trenton, New Jersey

Kim, Bong Hwan, Korean Youth Center, Los Angeles, California

Lai, Margaret, Lower East Side Service Center, New York, New York

Lee, Lori, Asian Pacific AIDS Coalition, San Francisco, California

Manzon, John, New York, New York

Mo, Bertie, Division of Mental Health, Substance Abuse and Forensic Services, San Francisco, California

Nakajima, Gene, M.D., Bellevue Hospital, Department of Psychiatry, New York, New York

Nguyen, Sihn, People of Color Against AIDS Network, Seattle, Washington

Okura, K. Patrick, National Asian Pacific American Families Against Substance Abuse, Bethesda, Maryland

Omi, Joanna, Mayor's Office on Health Policy, New York, New York

Pisig, Antonio, Indochinese Community Center, Washington, DC

Ports, Suki T., Family Health Project, Inc. New York, New York

Seangsuwan, Mani, Asian Association of Utah, Salt Lake City, Utah

Toleran, Daniel, Filipinos for Affirmative Action, Oakland, California

Toribio, Helen, Coalition for Immigrant and Refugee Rights and Services, San Francisco, California

Tsai, Cindy Shin Yu, Chicago Women's AIDS Project, Chicago, Illinois

Tyson, Sunchita F., Public Health Service, New York, New York

Warren, Barbara, Lesbian and Gay Community Services Center, New York, New York

Yamaguchi, Keith, Department of Public Health, Denver, Colorado

Yaranon, Douglas, AIDS Intervention Training Center, San Francisco, California

Yip, Beverly, C., Union of Pan Asian Communities, San Diego, California

Caribbean Community

Baker, Keith, University of Massachusetts, Medical Center, Worcester, Massachusetts

Baptiste, Emile Jean, Haitian Foundation on Biomedical Research, Cornell University Hospital, Ithaca, New York

Compas, Jean-Claude, Brooklyn, New York

Desgranges, Jean Claude, Haitian Coalition on Health, Miami, Florida

Eusebe, Jacques, Haitian American Public Health Initiative, Inc., Mattapan, Massachusetts

Eustacé, Jean-Louis, Haitian AIDS Project

Graham, Yvonne, Caribbean Women's Health Association, Brooklyn, New York

Jacques, Colette, Los Angeles, California

Lawrence, Reginald, Sociedad Panameña de Atlanta, Atlanta, Georgia

Mathieu, Alix, International Alliance for Haiti, Cincinnati, Ohio

Prudent, Nicole, Haitian American Public Health Initiative, Inc., Mattapan, Massachusetts

Reid, Gloria, Sociedad Panameña de Atlanta, Atlanta, Georgia

Rosemond, Yvonne, Haitian Coalition on AIDS, Brooklyn, New York

Shakelton, Bernie, Haitian American Public Health Initiative, Inc., Mattapan, Massachusetts

St. CYR-DELPE, Marie, New York Commission on Human Rights, New York, New York

Hispanic Community: COSSMHO

Acuña, M. Alejandra, Northeast Valley Health Corporation, San Fernando, California

Alvarado, Elena M., Avance Human Services, Inc., Los Angeles, California

Aponte, Rosemary, Hispanic Health Alliance, Chicago, Illinois

Cardona, Hilda, National Institutes of Health, Beltsville, Maryland

Caro, Irene Gómez, Food and Drug Administration, Los Angeles, California

Castro, Felipe, San Diego State University, San Diego, California

Colón, Roberto, AIDS Action Committee, Boston, Massachusetts

Cowan, Margo, La Frontera, Tucson, Arizona

Davis, Marisa, Mission Neighborhood Health Center, San Francisco, California

DeLeón, Catherine A., Hispanic Mental Health AIDS Outreach, San Jose, California

Duarte, Pete, La Fe Clinic, Sweetwater, Texas

Fermell, Patricia, Healthy Futures, Oklahoma City, Oklahoma

Figueroa, Margarita, AIDS Clinical Trials Information Service, Rockville, Maryland

García, Tanis, Hispanic Health Network, Inc., Boston, Massachusetts

Gonzáles, Dorothy, Department of Mental Health, Lansing, Michigan

Guevara, Mónica, Mayor's Office on Latino Affairs, Washington, DC

Guillén, Teresa, Department of Social Services, San Francisco, California

Hoenig, Marc K., Institute of Human Resource Development, Salt Lake City, Utah

Kim, Charles, AIDS/HIV Nightline, San Francisco, California

López, Mirta N., Department of Social Services, San Francisco, California

Mata, Adolfo, Mission Neighborhood Health Center, San Francisco, California

Murillo, Robert, Aliviane, El Paso, Texas

Nodora, Jesse, Department of Alcohol and Drug Programs, Sacramento, California

Orozco, Concha, COSSMHO, Washington, DC

Peña, William, Mobile AIDS Research Team, Boston, Massachusetts

Quintero, Juanita, Instituto Familiar De La Raza, San Francisco, California

Ramírez, Steve, Fresno County Health Department, Fresno, California

Rodríguez, Justo, Dimmock Community Health Center, Boston, Massachusetts

Ruscanage, Donna, National AIDS Information Clearinghouse, Rockville, Maryland

Samaniego Lupe, Logan Heights Family Health Center, San Diego, California

Sotelo, George, Mission Neighborhood Health Center, San Francisco, California

Talavera, Greg, Chula Vista Family Clinic, San Diego, California

Toro-Alfonso, José, Fundación SIDA, San Juan, Puerto Rico

Ugarte, Carlos, COSSMHO, Washington, DC

Valdez, Elizabeth, Consultant, Phoenix, Arizona
Vega-Matos, Carlos, El Centro, Los Angeles, California
Whithorse, Lorraine, Vista Community Clinic, Vista, California
Yaranon, Douglas, AIDS Intervention Training Center, San Francisco, California

Latina/o Community: La Raza

Adkisson, Susan L., Mexican-American Commission, Lincoln, Nebraska
Babb, Donald E., Fundación SIDA, San Juan, Puerto Rico
Bracho, América, LaCasa, Detroit, Michigan
Brechenridge, Carmen, Ohio State University, Columbus, Ohio
Cavanaugh, Dave, National Association of Community Health Centers, Washington, DC
Dávila, Patricia L., Nebraska Association of Farm Workers, Omaha, Nebraska
Eason, Trevino, Department of Health, Toledo, Ohio
Giachello, Aida, Midwest Hispanic AIDS Coalition, Chicago, Illinois
González, Gloria, Gulf Coast Council of La Raza, Corpus Christi, Texas
Guía, Rosa, Nebraska Association of Farm Workers, Omaha, Nebraska
Hinojosa, Margaret, Gulf Coast Council of La Raza, Corpus Christi, Texas
Jones, Barbara, Nebraska Association of Farm Workers, Omaha, Nebraska
Laureano-Vega, Manuel, Liga Contra SIDA, Inc., Miami, Florida
Limón, María S., Austin Latino Lesbian and Gay Organization, Austin, Texas
López, Lydia, Gulf Coast Council of La Raza, San Antonio, Texas
Mora, Juan E., Nevada Association of Latin Americans, Inc., Las Vegas, Nevada
Pappas, Patricia, Nebraska Association of Farm Workers, Omaha, Nebraska
Patermaster, Mara, U.S. Conference of Mayors, Washington, DC
Poza, Paquita, National AIDS Hotline, SIDA Hotline, Research Triangle Park, North Carolina
Rivera, Osvaldo, La Casa Family Services, Detroit, Michigan
Rodríguez, Domingo, Chicanos Por La Causa, Phoenix, Arizona
Rosenwasser, Laurie A., Harvest America Corporation, Kansas City, Kansas
Sacco, Frederick, Del Marva Rural Ministries, Dover, Delaware
Sánchez, Jesús M., HACER, San Antonio, Texas
Stucky, Stacy L., Western Kansas Foundation, Garden City, Kansas
Talamante, Martín A., Harvest America Corporation, Kansas City, Kansas
Lona, Mary Goméz, Richard Cabot Clinic, Kansas City, Missouri
Ugarte, Carlos A., COSSMHO, Washington, DC
Valdez, Elizabeth, Concilio Latino de Salud, Phoenix, Arizona
Valverde, Tom, El Centro, Kansas City, Kansas
Vásquez, Guillermo, Gay Men's Health Crisis, New York, New York

Latina/o Community; Puerto Rico

Aguirre, Luis, San Juan, Puerto Rico
Alicea, Víctor, Florida, Puerto Rico
Aponte Santos, Cynthia E., San Juan, Puerto Rico
Babb, Donald E., San Juan, Puerto Rico
Bravo, Ángel, San Juan, Puerto Rico
Cajigas, Osvaldo, Loíza, Puerto Rico
Chimeles, Luis, Ponce, Puerto Rico
Christian, Cora, St. Croix, Virgin Islands
Colón Rondón, Idalia, San Juan, Puerto Rico
Córdova, Steven, San Juan, Puerto Rico
Delgado, María I., San Juan, Puerto Rico
Díaz, Eunice, Cerritos, California
Feliciano, Carmen, Río Piedres, Puerto Rico
Figueroa, Violeta, Santure, Puerto Rico
Firpo, Adolfo, Washington, DC
González, Awilda, San Juan, Puerto Rico
Malavé, Claritsa, M.D., Loíza, Puerto Rico
Maldonado, Miguelina, New York, New York
Meléndez, Carmen D., Ponce, Puerto Rico
Muñiz, Luz S., Ponce, Puerto Rico
Pérez Cortés, Zoraida, Ponce, Puerto Rico
Reyes, Zayra M., Río Piedras, Puerto Rico
Rivera, Osvaldo, Detroit, Michigan
Rodríguez, Gloria, Paterson, New Jersey
Segarra, María, Washington, DC
Smith, Wanda I., San Juan, Puerto Rico
Soto-Torres, Lydia E., Rockville, Maryland
Suárez, Alba N., San Juan, Puerto Rico
Toro-Alfonso, José, San Juan, Puerto Rico
Vélez, Carlos, Washington, DC
Ventero, Urbano, Newark, New Jersey

Pacific Islander Community

Alana, Kathy, Drug Addiction Services of Hawaii, Honolulu, Hawaii
Antkowiak, Wayne, Department of Public Health, Agana, Guam
Bender, Janet, State Department of Health, STD/AIDS Prevention Branch, Honolulu, Hawaii
Chong, Rev. Frank, Waikiki Health Center, Honolulu, Hawaii
Dancil, Roch J., Department of Human Concerns, Honolulu, Hawaii
Faris, Carlene, Drug Addiction Services of Hawaii, Honolulu, Hawaii
Feeney, Helen Yang, University of Hawaii, School of Public Health, Honolulu, Hawaii
Fiaui, Loia, Department of Health, STD/AIDS Prevention Branch, Honolulu, Hawaii
Horiuchi, Ann, Department of Education, Office of Instructional Services, Honolulu, Hawaii
Iinuma, Gen, Department of Health, Wailuku, Maui, Hawaii
Kaopua, Lana, University of Hawaii, School of Medicine, Honolulu, Hawaii
Kitano, Kerrily J., University of Hawaii, Student Health Services, Honolulu, Hawaii
Lapilio, Denise, Waranae Coast Comprehensive Health Center, Waranae, Hawaii
Nakata, JoAnna, Department of Health, STD/AIDS Prevention Branch, Honolulu, Hawaii
O'Brien, Joyce, Waranae Coast Comprehensive Health Center, Waranae, Hawaii
Ohye, Roy, Department of Health, STD/AIDS Prevention Branch, Honolulu, Hawaii
Scanlan, Kolone, CHOW Project, Honolulu, Hawaii
Shigematsu, Ken, University of Hawaii, Honolulu, Hawaii
Soaries, Michael, Salvation Army, Alcohol Treatment Facilities, Honolulu, Hawaii
Sogi, Sarah M., Asian-Pacific Islanders Coalition, Honolulu, Hawaii
Topa-Apera, Frances, Ministry of Health, Cook Islands
Wells, Jesse, Department of Health, STD/AIDS Prevention Branch, Honolulu, Hawaii
Yamanaka, Lynn, Kalihi-Palama Immigrant Center, Honolulu, Hawaii

U.S. Virgin Islander Community

Abramson, John J., Department of Health, St. Croix, Virgin Islands
Barry, Joan C., Department of Health, St. Thomas, Virgin Islands
Callwood, Elena, St. Thomas, Virgin Islands
Callwood, Gloria B., Nurses Association, St. Thomas, Virgin Islands
Carpenter, Millicent, Caribbean Support Network, St. Thomas, Virgin Islands
Chatham, Annette D.E., St. Thomas, Virgin Islands
Cornell, Neville, Department of Health, St. Thomas, Virgin Islands
Friday, Jennifer, CDC, CPS, STD/HIV, Atlanta, Georgia
Gibson, Alexia, St. Thomas Hospital, St. Thomas, Virgin Islands
Greenaway, Dora, Department of Health, St. Thomas, Virgin Islands
Greene, Valerie, Department of Health, St. Thomas, Virgin Islands
Guereux, Jean-Pierre, Caribbean Support Network, St. Thomas, Virgin Islands
Herrell, Iléana, Centers for Disease Control, Atlanta, Georgia
Hodge, Roger, Veterans Affairs, St. Thomas, Virgin Islands
Hodge, Louceta A., Department of Health, St. Thomas, Virgin Islands
Hyland, Yvonne, Cldren's Howard Complex, St. Croix, Virgin Islands
James, Corine, St. Thomas, Virgin Islands
Joseph, Jutta E., St. Thomas, Virgin Islands
Lloyd, Gail L., Department of Health, St. Thomas, Virgin Islands
Martinex-Pérez, Isaida, Department of Health, St. Croix, Virgin Islands
Mathias, Ina, Department of Health, St. Thomas, Virgin Islands
McCoy, Kathleen, Hotline L.S.S., St. Croix, Virgin islands
Moses, Guy, St. Thomas, Virgin Islands
Muhammed, T. Jameel, Department of Health, St. Croix, Virgin Islands
Pankey, Julia, Children's Howard Complex, St. Croix, Virgin Islands
Phillip, Veronica, Department of Health, St. Croix, Virgin Islands
Philpott, Urpella, St. Thomas Hospital, St. Thomas, Virgin Islands
Ruiz, Patricia, Department of Health, St. Croix, Virgin Islands
Santiago, Inocencia, Children's Howard Complex, St. Croix, Virgin Islands
Schau, Andreas G., Department of Health, St. Croix, Virgin Islands
Siegert, George, Caribbean Support Network, St. Thomas, Virgin Islands
Spencer, Ena C., St. Thomas Hospital, St. Thomas, Virgin Islands
Taylor, Maureen, Positive Vibes Lutheran Social Services, St. Croix, Virgin Islands
Tye, Susan, Department of Education, St. Croix, Virgin Islands
Vanterpool, Mel, Veterans Affairs
Warner, Darryl J., Caribbean Support Network, St. Thomas, Virgin Islands

GREEK INDEPENDENCE DAY

Mr. RIEGLE. Mr. President, I rise today to commemorate the 171st anniversary of the struggle which freed the Greek people from over 400 years of rule by the Ottoman Empire. As in previous years, it is a great honor to be a cosponsor of the resolution which designated yesterday, March 25, "Greek Independence Day: A National Day of Celebration of Greek and American Democracy."

The Greek revolt against four long centuries of Turkish subjugation began well before 1821. Greek people staged numerous rebellions against their Turkish rulers throughout the 400 years of captivity. Although none of the earlier battles deposed the Ottomans, the commitment of the Greek people to the restoration of democracy never ceased.

When the war for Greek independence began in 1821, Greeks were faced with overwhelming odds against their victory. Turks outnumbered them in battle 10 to 1 and had access to natural resources not available to the valiant Greeks. Yet, despite these overwhelming statistics, the commitment of the Greek people to the principles of democracy did not falter. On October 20, 1827, the Greeks resoundingly defeated the Turkish militia, restoring Greece's freedom and independence.

As Americans, much of our heritage is deeply rooted in ancient Greek culture. The Greek contribution to our way of life is seen in our art, philosophy, law, and architecture. Many communities across the United States honor the Greek contribution to America's principles of democracy. In fact, Ypsilanti, MI, founded in 1823, was named in honor of Demetrios Ypsilanti, a Greek who courageously fought in the struggle for freedom from Turkish oppression.

The Greek influence is perhaps nowhere as prevalent as it is in the foundations of our government. We credit the ancient Greeks with laying the foundations for the principles of democracy upon which the U.S. Constitution is based. Our Founding Fathers drew heavily upon the political and philosophical teachings of Greek society to create a Nation devoted to the ideals of freedom and government by and for the people.

Not only has the Greek contribution to democracy linked the United States and Greece throughout the years. Our two great nations have enjoyed close relations throughout two world wars and more recently during the war in the Persian Gulf.

I salute the Greek community and the legacy it has imparted to American society and the world. In particular, I am proud to acknowledge the profound contribution of Greek-Americans to my home State of Michigan.

Today, the principles of democracy are stronger than ever before. This modern tribute to 3,000 years of Greek civilization serves as an inspiration to those who continue to battle against great odds in the name of freedom and liberty. Now, as we celebrate "Greek Independence Day," the words of the English poet Percy Bysshe Shelley ring true: "We are all Greeks" and believe in "the final triumph of the Greek cause."

MOTION WITHDRAWN

Mr. FORD. Mr. President, I withdraw the motion to proceed to S. 2399.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOWER MERCED WILD AND SCENIC RIVERS ACT

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 355, S. 549, designating a segment of the Lower Merced River as a component of the National Wild and Scenic Rivers System; that the committee amendments be to agreed to; that the bill, as amended, be deemed read three times, and passed; that the motion to reconsider be laid upon the table; further, that any statements appear at the appropriate place in the RECORD.

PASSAGE OF S. 549, A BILL TO DESIGNATE THE LOWER MERCED RIVER AS A COMPONENT OF THE WILD AND SCENIC RIVERS SYSTEM

Mr. CRANSTON. Mr. President, I rise in support of S. 549, a bill I introduced to add 8 miles of the Lower Merced River in California to the National Wild and Scenic Rivers System.

Late last year, the Senate passed similar legislation to designate 8 miles of the Lower Merced River as a component of the Wild and Scenic Rivers System. Like the earlier bill, this bill classifies 4 miles of the river as recreational and 4 miles as a wild river. It also withdraws the entire length of the main stem of the Merced River and portions of the South Fork from mineral entry, subject to valid existing rights. This withdrawal is essential to protect the river's recreational use and prevent cumulative impacts of dredging in the riverbed.

S. 549 also includes language directing the Secretary of Interior to approve the Saxon Creek project consistent with the Wild and Scenic Rivers Act and other applicable Federal law. This project, which is necessary to ensure an adequate supply of water for Mariposa County, would pump a maximum of 5,000 acre feet of water a year from the Merced River near its confluence with Saxon Creek without adversely impacting the river's suitability for inclusion in the National Wild and Scenic Rivers System.

Additionally, the bill designates the North Fork of the Merced River as a wild and scenic study river. This river segment is approximately 15 miles in length.

Finally, the bill includes language to respond to the concerns of the Merced Irrigation District about the effect of the designation on its New Exchequer Dam project which forms Lake McClure Reservoir. The language ensures that the designation does not interfere with continued operation and maintenance of the New Exchequer project, including flood control operations, or with the potential relicensing of the project as presently configured when the current license expires in the year 2014.

Mr. President, I urge approval of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 549) was deemed read a third time, and passed; as follows:

S. 549

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF THE LOWER MERCED RIVER FOR INCLUSION IN THE WILD AND SCENIC RIVERS SYSTEM.

Section 3(a)(62) of the Wild and Scenic Rivers Act (16 U.S.C. 127(a)(62)) is hereby amended—

(1) by striking "The main stem" and inserting in lieu thereof, "(A) the main stem";

(2) by striking "paragraph" whenever it appears and inserting in lieu thereof "subparagraph"; and

(3) by adding the following new subparagraph at the end thereof:

"(B)(i) The main stem from a point 300 feet upstream of the confluence with Bear Creek downstream to the normal maximum operating pool water surface level of Lake McClure (elevation 867 feet mean sea level) consisting of approximately 8 miles, as generally depicted on the map entitled 'Merced Wild and Scenic River', dated April, 1990. The Secretary of the Interior shall administer the segment as recreational, from a point 300 feet upstream of the confluence with Bear Creek downstream to a point 300 feet west of the boundary of the Mountain King Mine, and as wild, from a point 300 feet west of the boundary of the Mountain King Mine to the normal maximum operating pool water surface level of Lake McClure. The requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the Sierra Management Framework Plan for the Sierra Planning Area of the Folsom Resource Area, Bakersfield District, Bureau of Land Management. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this subparagraph.

"(ii) To the extent permitted by, and in a manner consistent with section 7 of this Act (16 U.S.C. 1278), and in accordance with other applicable law, the Secretary of the Interior shall permit the construction and operation of such pumping facilities and associated pipelines as identified in the Bureau of Land Management right-of-way application CACA 26084, filed by the Mariposa County Water Agency on November 7, 1989, and known as the 'Saxon Creek Project', to assure an adequate supply of water from the Merced River to Mariposa County.

"(C) With respect to the segments of the main stem of the Merced River and the South Fork Merced River designated as recreational or scenic pursuant to this paragraph or by the appropriate agency pursuant to subsection (b), the minerals to Federal lands which constitute the bed or bank or are situated within one-quarter mile of the bank are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including, in both cases, amendments thereto.".

SEC. 2. STUDY OF THE NORTH FORK OF THE MERCED RIVER.

Section 5(a) of the Wild and Scenic Rivers Act, as amended, (16 U.S.C. 1276(a)), is further amended by adding the following new paragraph at the end thereof:

"( ) NORTH FORK MERCED, CALIFORNIA.—The segment from its headwaters to its confluence with the Merced River, by the Secretary of Agriculture and the Secretary of the Interior.".

SEC. 3. NEW EXCHEQUER PROJECT.

The designation of the river segments referred to in section 1 of this Act as components of the Wild and Scenic Rivers System shall not affect the continued operation and maintenance of the New Exchequer Project (Project No. 2179) as licensed by the Federal Energy Regulatory Commission (including flood control operations) or the Commission's authority to relicense such project within the project boundaries set forth in the license on the date of enactment of this Act: *Provided*, That if the Commission relicenses such project, the normal maximum operating pool water surface level authorized in the project's license shall not exceed elevation 867.0 feet mean sea level.

NATIONAL ARBOR DAY

Mr. FORD. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 280, designating "National Arbor Day," and that the Senate then proceed to its immediate consideration; that the joint resolution be deemed read three times, passed and the motion to reconsider laid upon the table; that the preamble be agreed to and that any statements regarding the joint resolution be placed in the RECORD at an appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (S.J. Res. 280) with its preamble, reads as follows:

S.J. RES. 280

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the last Friday of April, 1992, as "National Arbor Day" and calling upon the people of the United States to observe such a day with appropriate ceremonies and activities.

PERMISSION FOR COMMITTEE TO REPORT

Mr. FORD. Mr. President, I ask unanimous consent that on Friday, March 27 from 12 noon to 3 p.m., the Senate Committee on Energy and Natural Resources be permitted to file a committee report on H.R. 429, the Omnibus Reclamation Projects Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDING THE REAL ESTATE SETTLEMENT PROCEDURES ACT AND THE TRUTH IN LENDING ACT

Mr. SIMPSON. Mr. President, I ask unanimous consent that the Banking Committee be discharged from further consideration of S. 2148 regarding refinancing of mortgages, and I ask for its immediate consideration.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2148) to extend to the refinancing of mortgage loans certain protections of the Real Estate Settlement Procedures Act and the Truth in Lending Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 1746

(Purpose: An amendment to extend to the refinancing of mortgage loans certain protections of the Real Estate Settlement Procedures Act)

Mr. SIMPSON. Mr. President, I send an amendment to the desk on behalf of Senator ROTH.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming [Mr. SIMPSON], for Mr. ROTH, proposes an amendment numbered 1746.

Mr. SIMPSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after line 8 and insert, in lieu thereof, the following:

SEC. 2. The Real Estate Settlement Procedures Act (12 USC 2601 et. seq.) is amended as follows:

Delete from Section 5(d) (12 USC 2604), "Such booklet shall be provided at the time of receipt or preparation of such application."

Insert at the end of Section 5(d) (12 USC 2604), "Such booklet shall be provided by delivering it or placing it in the mail not later than three business days after the application is received except if the lender denies the application for credit before the end of the three business days, then no booklet need be provided."

Mr. ROTH. Mr. President, recent actions by the Federal Reserve Board have led to reductions in home mortgage interest rates to levels which have not been seen in 18 years. The Mortgage Bankers Association which has been publishing a weekly index of refinancing activity since the beginning of 1990 estimates that last year 1.4 million households refinanced their mortgages and this year 3 million will do so. It has been estimated that the aggregate windfall from the lower interest rates for mortgage borrowers may be between $6 to $12 billion, money that would otherwise be used to pay monthly mortgages.

While this may be good news for homeowners, the surge in refinancing of existing mortgages may also trap unsuspecting consumers with unexpected closing fees not adequately disclosed during negotiations. As I understand it, neither the Truth-in-Lending Act nor the Real Estate Settlement Practices Act require disclosure for the refinancing of residential mortgages as is required for mortgage originations.

When I introduced legislation earlier this year to correct this loophole in the law, I pointed out that the lack of disclosure—which is required for all other types of credit transactions—often comes as a shock to applicants at the time of settlement, at which time it may be too late to back out. Ken Harney of the Washington Post reported in an article that appeared earlier this year that "the practical effect of—the lack of disclosure—according to consumer experts and some mortgage industry executives, is to allow unscrupulous lenders or brokers to lure refinancers to their application windows with low rate quotes and verbal estimates of credit fees at application only to disclose higher fees in the truth-in-lending form at the settlement table." In fact one executive at a major national mortgage firm requesting anonymity was reported as saying that he had seen the harm the refinancing loophole cause consumers firsthand. In that instance a mortgage banker gave a verbal estimate of loan fees of about $1,500. Later at settlement the borrower was faced with loan fees, including previously undisclosed items such as processing, warehousing, underwriting, tax service, and flood checks totaling $2,800.

To what extent such abuses are occurring is not clear. It is likely that such situations of nondisclosure are still in the pipeline. It may be at least many more months before we discover the full extent of the abuses that are occurring in the rush by consumers to refinance their mortgages.

On the other hand, these abuses may not be frequent, and, as one mortgage banker mentioned, most lenders voluntarily provide the kind of disclosures that allow an applicant to make a reasonable decision. After all, almost all other credit transactions statutorily require such disclosures. The fact of the matter is that there is a loophole in the law which allows transactions involving refinancing of residential mortgages to escape the disclosure requirements under truth-in-lending and RESPA. Requiring such disclosures in the refinancing area should not be a significant regulatory burden on financial institutions as a system of disclosure already exists.

Since introduction of the legislation, I have discovered that my legislation, by redefining the definition of "federally related residential mortgages" in the Truth-in-Lending Act, may have inadvertently foreclosed the right of rescission that would otherwise be available for most types of credit transactions, including refinancing. The right of rescission, the right to think over a transaction for 3 days after settlement, is, in my opinion a significant right. I have, therefore, modified my original bill to insure the retention of the right of rescission.

However, regulations promulgated under RESPA specifically exempts disclosure of closing fees for "a loan to refinance." Therefore, my amendment simply modifies the definition of covered credit transactions in RESPA to include the refinancing of loans.

My amendment also modifies a disclosure requirement in RESPA which I believe is redundant. Under current law, all applicants for a loan—except for refinancing of residential mortgages—must be provided a booklet explaining in general terms the real estate settlement costs as well as a good faith estimate by the prospective lender of what the settlement costs would be on a particular transaction. Since the statute provided no time frame in which such a good-faith estimate was to be prepared and presented to the applicant, HUD, in its regulation, provided that the lender shall have 3 days in which to prepare the good-faith estimate and mail it to the applicant.

Since the passage of RESPA and the development of the rules, the real estate loan application process in many areas has been computerized by many lenders allowing a rapid determination of whether or not a borrower qualified for the loan. Many lenders are able to determine that they will not make the loan to the applicant within a day or two, yet on the next day, they must still mail the booklet and a good-faith estimate of charges which the lender will never charge because it has already determined that the applicant will be denied the loan. Therefore, it is my opinion that RESPA should be amended to provide that where the lender can determine that it will not make the loan within a period of 3 days from the application, then the lender is not required to provide either the booklet or the good-faith estimate. This modification does not harm the applicant who is denied the loan. Moreover, it relieves a lender of an unnecessary obligation in those instances where a potential borrower is determined to be ineligible for a loan within the 3-day period.

I would like to add that this particular change was part of the FDIC Improvements Act of 1991 as passed by the Senate largely through the efforts of Senator MACK. However, this provision was dropped in the conference at this time, I would like to acknowledge Senator MACK's efforts regarding this provision.

I am pleased that Senator RIEGLE and the other members of the Banking Committee have given their concurrence to move this legislation forward quickly and that the full Senate will pass the measure. I hope the House will see fit to move the legislation forward quickly as well, in order that we can secure enactment of the law to close this unintended oversight for an important consumer protection in refinancing's.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1746) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2148

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Real Estate Settlement Procedures Act (Public Law 93-533, 12 U.S.C. 2602), as amended, be further amended by inserting in subsection (1) after "any loan" a comma and the phrase "including the refinancing of such loan,".

SEC. 2. The Real Estate Settlement Procedures Act (12 U.S.C. 2601 et. seq.) is amended as follows:

(1) Delete from section 5(d) (12 U.S.C. 2604), "Such booklet shall be provided at the time of receipt or preparation of such application.".

(2) Insert at the end of section 5(d) (12 U.S.C. 2604), "Such booklet shall be provided by delivering it or placing it in the mail not later than three business days after the application is received except if the lender denies the application for credit before the end of the three business days, then no booklet need be provided.".

Mr. SIMPSON. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLIC HEALTH SERVICE ACT AMENDMENTS

Mr. FORD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 2507, the NIH authorization bill.

Mr. SIMPSON. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

MOTION TO PROCEED

CLOTURE MOTION

Mr. FORD. Mr. President, on behalf of the majority leader, I now move to proceed to H.R. 2507, and I send to the desk a cloture motion to proceed.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to H.R. 2507, an act to amend the Public Health Service Act to revise and extend the programs of the National Institutes of Health and for other purposes:

Joseph Lieberman, Jim Sasser, Frank R. Lautenberg, Paul Wellstone, Edward M. Kennedy, Howard Metzenbaum, John D. Rockefeller, Paul Simon, Al Gore, Bill Bradley, Alan Cranston, John F. Kerry, Don Riegle, Claiborne Pell, Pat Leahy, Timothy E. Wirth.

UNANIMOUS-CONSENT AGREEMENT

Mr. FORD. Mr. President, on behalf of the majority leader, I ask unanimous consent that the vote on the motion to invoke cloture on the motion to proceed to H.R. 2507 occur at 2:30 p.m., on Tuesday, March 31, with the mandatory live quorum waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11:55 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its enrolling clerks, announced that the House having proceeded to reconsider the bill (H.R. 4210) to amend the Internal Revenue Code of 1986 to provide incentives for increased economic growth and to provide tax relief for families, returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was resolved, that the said bill do not pass, two-thirds of the House of Representatives not agreeing to pass the same.

The message also announced that the House has passed the following bills, each with an amendment, in which it requests the concurrence of the Senate:

S. 870. An act to authorize inclusion of a tract of land in the Golden Gate National Recreation Area, California"; and

S. 1254. An act to increase the authorized acreage limit for the Assateague Island National Seashore on the Maryland mainland, and for other purposes.

The message further announced that the House passed the following bills in which it requests the concurrence of the Senate:

H.R. 2926. An act to amend the Act of May 17, 1954, relating to the Jefferson National Expansion Memorial to authorize increased funding for the East Saint Louis portion of the Memorial, and for other purposes; and

H.R. 3011. An act to amend the National Trails System Act to designate the American Discovery Trail for study to determine the feasibility and desirability of its designation as a national trail.

MEASURES REFERRED

The following bills were read the first and second times, and referred as indicated:

H.R. 2926. An act to amend the Act of May 17, 1954, relating to the Jefferson National expansion Memorial to authorize increased funding for the East Saint Louis portion of the Memorial, and for other purposes; to the Committee on Energy and Natural Resources; and

H.R. 3011. An act to amend the National Trails System Act to designate the American Discovery Trail for study to determine the feasibility and desirability of its designation as a national trail; to the Committee on Energy and Natural Resources.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. KASTEN (for himself and Mr. JOHNSTON):

S. 2484. A bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes; to the Committee on the Judiciary.

By Mr. DOLE:

S. 2485. A bill to amend the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and title 11, United States Code; to improve pension plan funding; to limit growth in insurance exposure; to protect the single-employer plan termination insurance program by clarifying the status of claims of the Pension Benefit Guaranty Corporation and the treatment of pension plans in bankruptcy proceedings, and for other purposes; to the Committee on Finance.

By Mr. LIEBERMAN:

S. 2486. A bill to make Soviet military threat reduction funds available for programs to deter nuclear proliferation as a result of the disintegration of the Soviet Union; to the Committee on Foreign Relations.

By Mr. INOUYE:

S. 2487. A bill to provide for the regulation of imports of fresh cut flowers by measures in addition to existing duties; to the Committee on Finance.

By Mr. PELL (by request):

S. 2488. A bill to amend Section 235 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246), and to amend Section 701 of the United States Information and Educational Exchange Act of 1948, as amended (Public Law 80-402); to the Committee on Foreign Relations.

By Mr. DOMENICI (for himself, Mr. NUNN, Mr. DURENBERGER, Mr. RIEGLE, and Mr. CONRAD):

S. 2489. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to establish the National Quality Commitment Award with the objective of encouraging American universities to teach total quality management, to emphasize the importance of process manufacturing, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. GRASSLEY:

S.J. Res. 281. A joint resolution designating the week of September 14 through September 20, 1992, as "National Small Independent Telephone Company Week"; to the Committee on the Judiciary.

By Mr. BOREN (for himself, Mr. MITCHELL, Mr. SPECTER, Mr. MURKOWSKI, Mr. BRADLEY, Mr. DECONCINI, Mr. GLENN, Mr. METZENBAUM, Mr. WOFFORD, and Mr. COHEN):

S.J. Res. 282. A joint resolution to provide for the expeditious disclosure of records relevant to the assassination of President John F. Kennedy; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KASTEN (for himself and Mr. JOHNSTON):

S. 2484. A bill to establish research, development, and dissemination programs to assist State and local agencies in preventing crime against the elderly, and for other purposes; to the Committee on the Judiciary.

NATIONAL TRIAD PROGRAM ACT

Mr. KASTEN. Mr. President, I rise today to introduce a bill that would establish programs to assist State and local law enforcement agencies in preventing crime against the elderly.

Nationally, older Americans are the most rapidly growing segment of our society. Currently, the elderly comprise 15 percent of our population, and predictions are that, by the turn of the century, they will constitute 18 percent of our Nation's population.

According to the latest figures from the 1990 U.S. census for the State of Wisconsin, people age 65 and older accounted for nearly half of the State's population growth of 186,000 since 1980. This represents a 15-percent increase for people age 65 and above, and for those 85 and older, the increase is 34 percent. This makes the elderly the fastest-growing age group in Wisconsin next to the baby boom generation now in its late twenties, thirties, and early forties.

Our senior citizens are too frequently the victims of elder-abuse and neglect, violent crime, property crime, consumer fraud, medical quackery, and confidence games.

Last November I sent a crime survey out to the Wisconsin law enforcement community. One of the questions on that survey dealt with the respondents' support for the "enhanced penalties for crimes against the elderly" provisions, of my secure crime bill. This provision was subsequently passed in the Senate version of the crime bill last July. An overwhelming 89 percent of respondents felt, as I do, that the need to protect this Nation's senior citizens is of the highest priority.

A few weeks ago in my office, I met with representatives of the National Sheriffs' Association, the International Association of Chiefs of Police, and the American Association for Retired Persons, to work on drafting legislation to protect our Nation's elderly. We came out of that meeting unified, with the sole purpose of promoting a nationwide triad program.

The triad concept, which was first conceived in the fall of 1987, is a commitment among chiefs of police, sheriffs, and seniors to work together to reduce both criminal victimization and the unwarranted fear of crime which often plagues this undeserved population. Eight States have signed triad agreements, and some 30 to 40 local triad's are in operation.

A good example of the triad concept in action is in Georgia, where State sheriffs, chiefs, and Georgia AARP chapters have joined together to establish triad programs statewide.

The triad in Georgia has set up local committees of 12 to 15 seniors and law enforcement personnel known as SALTS, which stands for Seniors and Lawmen Together. The committees foster a closer working relationship between the agencies and the senior citizens they serve.

The triad sponsors training opportunities for law enforcement agency staff on dealing effectively with the elderly, the demographics of aging, myths and facts relating to aging, and the enhancement of communication between the agencies and senior citizens.

The program helps law enforcement officials meet the needs of the elderly while opening the door for seniors to volunteer with their local police or sheriffs departments.

Volunteers do not take the place of patrol officers, but they do assist law enforcement officers by working as crime stoppers and helping law enforcement establish operational neighborhood watch programs. Beyond a doubt, seniors' involvement in these areas would make a tremendous impact on behalf of their communities.

My State of Wisconsin has recently been introduced to the concept of the Triad Program. Chief Mike Lien of Two

Rivers' Police Department, Sheriff Tom Kocourek of Manitowoc County's Sheriff's Department, along with members of their seniors community are in the planning stages of establishing a Triad Program in Two Rivers and other areas of Manitowoc County.

Due to the ever-increasing elderly population in Wisconsin, I believe our State offers the perfect proving ground for this program.

My legislation would direct the National Institute of Justice [NIJ] to conduct a national assessment of the nature and extent of crimes against the elderly. The NIJ will also make awards to coalitions of local law enforcement agencies, victim service providers, and organizations representing the elderly to fund up to 20 Triad-style Programs.

Triad activities typically are no-cost or low-cost, and it is anticipated that community sponsors will defray some expenses.

This bill would authorize $6 million to carry out the following programs; $2 million would be authorized to set up 20 pilot programs; $1 million would be available for national training and technical assistance; $1 million for developing public service announcements; and the remaining $2 million would be authorized for the national assessment, and evaluation of pilot programs that will serve as models for future Triad developments.

Our concern for the Nation's elderly is neither radical nor new. However, the idea of chiefs and sheriffs combining their efforts with local or State AARP or seniors group volunteers, in the interest of seniors, is an innovation.

Less than one-third of all crimes are reported to the authorities. It is programs like: McGruff, D.A.R.E., Neighborhood Watch, Operation I.D., and now Triad that work in concert to battle crime.

To stop the violence, everyone—young and old—should start reporting crime. As long as criminals remain free to victimize innocent citizens, we will remain a nation behind bars.

I feel that the Triad Program, and those like it, are a major step in the right direction to curb crime, and help the elderly feel secure in their communities.

Mr. President, at this time I ask unanimous consent to include in the RECORD following my statement the letters of support for this legislation from the National Sheriffs' Association and the International Association of Chiefs of Police. I would further ask that a copy of the bill be printed in the RECORD.

Mr. President, I ask unanimous consent that Senator JOHNSTON be added as an original cosponsor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, March 24, 1992.

Hon. ROBERT W. KASTEN,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR KASTEN: We at the National Sheriffs' Association share your concern about our nations' rapidly growing elderly population—the criminal victimization and fear of crime which virtually destroy positive quality of life for a large number of older persons. We are grateful that your accurate perception of the problems of crime against the elderly and elder abuse prompted you to prepare and submit a bill in the Senate of the United States.

The National Sheriffs' Association, representing and working with our nation's 3,095 sheriffs, has become increasingly aware of the crime-related problems of our older citizens. We are working closely with the American Association of Retired Persons and the International Association of Chiefs of Police to increase law enforcement's awareness and ability to respond to the crime-related needs of the elderly, and to expand crime prevention efforts. We believe it is urgent that we appreciate funds and bring to bear the resources to alleviate unwarranted fear and equip our communities to assist more effectively older victims of crime and abuse.

Senator Kasten, thank you for your interest and concern and for taking action to make a difference for millions of older Americans.

With profound thanks to you and your staff, I am

Sincerely,

CHARLES B. MEEKS,
Executive Director.

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE,
Arlington, VA, March 25, 1992.

Senator ROBERT W. KASTEN,
Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR KASTEN: The International Association of Chiefs of Police (IACP) appreciates the opportunity you've given us to review legislation you intend to introduce to assist state and local government in preventing crime against the elderly.

The key place that the legislation gives to the TRIAD concept is a major reason the IACP can support the intent of your bill. The IACP has strongly supported the TRIAD concept since it joined with the National Sheriffs' Association (NSA) and the American Association of Retired Persons (AARP) to found the concept in 1987. Any assistance the federal government can lend to further develop and disseminate this idea is a benefit which will be felt by elderly persons across the country.

It is important to also say that crime, no matter what form it takes, is something the association believes should be fought with as many resources as possible. In this sense, the IACP supports the current language of our legislation as an element of the total crime fighting picture. We appreciate your initiative thus far in this area and urge you to also explore additional legislative means of reducing criminal victimization of the elderly, as well as other sectors of society suffering from high victimization levels.

Thank you for your consideration.

Sincerely,

CHIEF C. ROLAND VAUGHN III,
Conyers, Georgia Department of Public Safety, President, IACP.

S. 2484

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Triad Program Act".

SEC. 2. FINDINGS.

The Congress finds that—

(1) older Americans are among the most rapidly growing segments of our society;

(2) currently, the elderly comprise 15 percent of our society, and predictions are that by the turn of the century they will constitute 18 percent of our Nation's population;

(3) older Americans find themselves uniquely situated in our society, environmentally and physically;

(4) many elderly Americans are experiencing increased social isolation due to fragmented and distant familial relations, scattered associations, limited access to transportation, and other insulating factors;

(5) physical conditions such as hearing loss, poor eyesight, lessened agility, and chronic and debilitating illnesses often contribute to an older person's susceptibility to criminal victimization;

(6) our elders are too frequently the victims of abuse and neglect, violent crime, property crime, consumer fraud, medical quackery, and confidence games;

(7) studies have found that elderly victims of violent crime are more likely to be injured and require medical attention than are younger victims;

(8) victimization data on crimes against the elderly are incomplete and out of date, and data sources are partial, scattered, and not easily obtained;

(9) although a few studies have attempted to define and estimate the extent of elder abuse and neglect, both in their homes and in institutional settings, many experts believe that this crime is substantially underreported and undetected;

(10) similarly, while some evidence suggests that the elderly may be targeted in a range of fraudulent schemes, neither the Uniform Crime Report nor the National Crime Survey collects data on individual- or household-level fraud;

(11) law enforcement officers and social service providers come from different disciplines and frequently bring different perspectives to the problem of crimes against the elderly;

(12) these differences, in turn, can contribute to inconsistent approaches to the problem and inhibit a genuinely effective response;

(13) there are, however, a few efforts currently under way that seek to forge partnerships to coordinate criminal justice and social service approaches to victimization of the elderly;

(14) the Triad program, sponsored by the National Sheriffs' Association (NSA), the International Association of Chiefs of Police (IACP), and the American Association of Retired Persons (AARP), is one such effort;

(15) recognizing that older Americans have the same fundamental desire as other members of our society to live freely, without fear or restriction due to the criminal element, the Federal Government seeks to expand efforts to reduce crime against this growing and uniquely vulnerable segment of our population; and

(16) our goal is to support a coordinated effort among law enforcement and social service agencies to stem the tide of transgenerational violence against the elderly and to support media and nonmedia strat-

egies aimed at increasing both public understanding of the problem and the elderly person's skills in preventing crime against themselves and their property.

SEC. 3. PURPOSE.

The purpose of this Act is to address the problem of crime against the elderly in a systematic and effective manner with a program of practical and focused research, development, and dissemination designed to assist States and units of local government in implementing specific programs of crime prevention, victim assistance, citizen involvement, and public education that offer a high probability of improving the coordinated effectiveness of law enforcement and social service efforts. The efforts of local coalitions, such as the Triad model being piloted in a number of areas by National Sheriffs' Association, International Association of the Chiefs of Police, and American Association of Retired Persons, are of particular interest.

SEC. 4. NATIONAL ASSESSMENT AND DISSEMINATION.

(a) In General.—The Director of the National Institute of Justice (referred to as the "Director") shall conduct a national assessment of—

(1) the nature and extent of crimes against the elderly;

(2) the needs of law enforcement, health, and social service organizations in working to prevent, identify, investigate, and provide assistance to victims of those crimes; and

(3) promising strategies to respond effectively to those challenges.

(b) Matters to be Addressed.—The national assessment made pursuant to subsection (a) shall address—

(1) the analysis and synthesis of data from a range of sources in order to develop accurate information on the nature and extent of crimes against the elderly, including identifying and conducting such surveys and other data collection efforts as are needed and designing a strategy to keep such information current over time;

(2) the problem of the most vulnerable and hard-to-reach elderly who are in poor health, are living alone or without family nearby, or are living in high crime areas;

(3) the problem of elderly who are abused and neglected, sometimes in the home and sometimes in health care facilities, sometimes subjected to physical abuse and at other times to verbal aggression and neglect;

(4) the problem of fear of victimization, which inhibits the freedom of the elderly and can make them prisoners in their homes;

(5) the identification of strategies and techniques that have been shown to be effective, or appear to hold promise of being effective, in responding to the problems described in this subsection and in preventing, reducing, and ameliorating the impact of crime against the elderly;

(6) the analysis of the factors that enhance or inhibit development of a coordinated response by law enforcement, health care, and social service providers to crimes against the elderly and the treatment of elderly victims; and

(7) the research agenda needed to develop a comprehensive understanding of the problems of crimes against the elderly, including the changes anticipated in the crimes themselves and appropriate responses as our society increasingly ages, and the identification and evaluation of effective and fiscally feasible approaches to prevent and reduce victimization of our Nation's elderly citizens.

(c) Dissemination.—Based on the results of the national assessment and analysis of successful or promising strategies in dealing with the problems described in subsection (b) and other problems, including coalition efforts such as the Triad programs referred to in sections 2 and 3, the Director shall disseminate the results through reports, publications, clearinghouse services, public service announcements, and programs of evaluation, demonstration, training, and technical assistance.

SEC. 5. PILOT PROGRAMS.

(a) Awards.—The Director may make awards to coalitions of local law enforcement agencies, victim service providers, and organizations representing the elderly for pilot programs and field tests of particularly promising strategies and models for forging partnerships for crime prevention and service provision based on the concepts of the Triad model, which can then be evaluated and serve as the basis for further demonstration and education programs.

(b) Eligibility.—Pilot programs funded under this section may include existing general service coalitions of law enforcement, victim service, and elder advocate organizations that wish to use additional funds to work at a particular problem in their community, such as fraud, burglary, or abuse and neglect, or to target a particular geographic area in need of intensive services.

SEC. 6. EVALUATION AND DISSEMINATION AWARDS.

In conjunction with the national assessment under section 4 and the pilot programs under section 5, the Director may make awards to—

(1) coalitions of national law enforcement, victim service, and elder advocate organizations, for the purposes of providing training and technical assistance in implementing pilot programs, including programs based on the concepts of the Triad;

(2) research organizations, for the purposes of—

(A) investigating the types of elder victimization shown by the national assessment to present particularly critical problems or to be emerging crimes about which little is known;

(B) evaluating the effectiveness of selected pilot programs; and

(C) conducting the research and development identified through the national assessment as being critical; and

(3) public service advertising coalitions, for the purposes of mounting a program of public service advertisements to increase public awareness and understanding of the issues surrounding crimes against the elderly and promoting ideas or programs to prevent them.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $6,000,000 to carry out this Act, of which—

(1) up to $2,000,000 may be used to fund up to 20 pilot programs;

(2) up to $1,000,000 may be used to fund a national training and technical assistance effort;

(3) up to $1,000,000 may be used to develop public service announcements; and

(4) up to $2,000,000 may be used for the national assessment, the evaluation of pilot programs, and the carrying out of the research agenda.

Mr. JOHNSTON. Mr. President, I am pleased to join Senator KASTEN today in introducing legislation which will help prevent or alleviate crime-related problems facing some very important people: our older citizens, many of whom have either been the victim of some type of crime, or live in fear of becoming victims.

This bill will authorize funding for the National Institute of Justice [NIJ] to expand and promote the Triad Program, an exciting new initiative which was created through a partnership between the National Sheriffs' Association [NSA], the International Association of Chiefs of Police [IACP], and the American Association of Retired Persons [AARP] to address this issue.

Very briefly, the Triad Program was established to reduce criminal victimization of our seniors and to enhance the delivery of law enforcement services to this segment of the population. I am very proud that the very first local and State Triad—and one that has been most successful—was set up in my home State of Louisiana in St. Martin Parish by Sheriff Charles Fuselier.

Sheriff Fuselier heard about the Triad Program, knew it would help seniors in St. Martin Parish and began a Triad Program within weeks of having heard about it. Upon learning about the success of this program I was so impressed, I requested that the Senate Special Committee on Aging hold a field hearing at the University of Southwestern Louisiana in Lafayette to examine the issue of crime and the elderly and take a closer look at the Triad Program. We held this hearing last August. Over 500 seniors from throughout Louisiana attended, including participants in the Triad Program. We heard from Sheriff Fuselier as well as representatives from AARP and IACP how to establish a Triad Program and the important role it plays in prevention efforts and assistance to elderly crime victims. More importantly, we learned from some very courageous individuals who experience crime first hand about the assistance they received from the ongoing Triad programs established in south Louisiana.

Starting a Triad Program is not a difficult proposition and there are many opportunities to initiate Triads in local communities throughout the United States. The more than 55 million Americans age 50 or older are eligible to join AARP and currently 33 million of those people are already members of AARP. On the law enforcement side, there are more than 14,000 police chief and nearly 3,100 sheriffs who have the job of protecting and serving all of us in our country. Just think of what can happen if a good number of these individuals are willing to work together to establish Triads to expand crime prevention dramatically and give much better services to those older Americans who are victims of crime.

Mr. President, to be effective these programs must be implemented at the local level throughout the Nation. The legislation we are introducing is a first step in helping seniors and law enforcement officials obtain the necessary resources to establish Triads nationwide to protect some of our Nation's most vulnerable individuals, our senior citizens.

Mr. President, I ask unanimous consent that letters of support for this proposal be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

LOUISIANA SHERIFFS' ASSOCIATION,
Baton Rouge, LA, July 30, 1991.

Re: "Triad" Concept, Victimization of the Elderly.

Hon. J. BENNETT JOHNSTON, Jr.,
U.S. Senate, Washington, DC.

DEAR SENATOR JOHNSTON: It is with full confidence that the Louisiana Sheriffs' Association supports, endorses, and encourages implementation of the "Triad" concept in which law enforcement officials and members of the elderly community form partnerships to enhance the delivery of law enforcement and social services to the elderly.

The pooling of community resources is what makes the "Triad" concept so appealing and one of the most effective means to reduce victimization of the elderly. However, the concept needs to be taken one step further by establishing a clearinghouse which provides technical assistance and information regarding development of programs.

Please keep us apprised of your committee's work toward this very important project.

With kind regards, we are

Sincerely,

L.R. HATAWAY,
Sheriff, President, L.S.A.
R.B. "BUCKY" RIVERS, Jr.,
Executive Director.

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, August 23, 1991.

Hon. J. BENNETT JOHNSTON,
Special Committee on Aging, U.S. Senate, Washington, DC.

DEAR SENATOR JOHNSTON: The problem of the criminal victimization of senior citizens is of deep concern to the 3,096 sheriffs of our nation and the more than 14,000 police chiefs who protect and serve an ever increasing number of elderly persons in their respective jurisdictions. At the National Sheriffs' Association we are grateful to the spotlight you are focusing on the crime-related problems of the elderly, and on the Triad approach to assisting these persons.

We believe that the Triad concept is one of the very best means of reducing criminal victimization—and involving older persons in the solution. The Triad offers a logical integrated approach, as sheriffs, police chiefs, and older persons work cooperatively on the national, state and local level.

Advertising the Triad concept to law enforcement officials is a critical need—as well as technical assistance as fledgling Triads begin their work. It is important to involve senior citizens in an advisory council which assists the local sheriff's and police departments. It is important to give our sheriffs and chiefs the knowledge and tools they need to better protect and serve their elderly populations.

NSA stands wholeheartedly behind the Triad concept—a solution for the 1990's and beyond. Thank you for your concern—and your assistance in our quest for grant assistance from the Bureau of Justice Assistance or other federal funding sources.

Sincerely,

CHARLES B. MEEKS,
Executive Director.

NATIONAL DISTRICT ATTORNEYS ASSOCIATION,
Alexandria, VA, August 6, 1991.

Senator J. BENNETT JOHNSTON,
U.S. Senate, Washington, DC.

DEAR SENATOR JOHNSTON: Thank you for the opportunity to comment on the Triad Program for the elderly.

Law enforcement officials like myself are struggling to combat crime at every level, but few things are more vexing than the continued victimization of the nation's elderly. Older adults are at a crucial time in their lives. they have a right to expect these to be the good years, a time to relax and enjoy their families and the fruits of a lifetime of hard work. Instead they are being routinely swindled and assaulted.

The Triad Program is an important means of helping to fight these kinds of crime. It is important because we in the criminal justice system cannot fight the battle alone. We need a cooperative, multidisciplinary approach through which both seniors and law enforcement officials gain a greater appreciation of the problems and what can be done about them. Triad provides the support older citizens need to come out of hiding and talk to law enforcement officials about their fears and concerns. It also equips the elderly with the information they need to prevent crime and to deal with it when it does occur.

The two year program has also helped make law enforcement officials more responsive to the community. Triad contributes new perspectives to officials, alerting them to senior citizens' concerns and fears. There is also evidence that the program encourages seniors to report crimes and has led to arrests. In St. Martin Parish here in Louisiana, the Triad Program sponsored a nurse to speak to officers about how to work with the elderly and their particular infirmities.

Programs like Triad are especially necessary in these times of shrinking government resources. While largely community-based and inexpensive, the program requires some national support, primarily to provide a clearinghouse of information about educational programs and organizational matters. I hope that you and your colleagues will nurture the Triad Program and through your support, encourage even greater community action.

Yours very truly,

RICHARD P. IEYOUB.

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE,
Arlington, VA, August 5, 1991.

Hon. J. BENNETT JOHNSTON,
Senate Special Committee on Aging, U.S. Senate, Washington, DC.

DEAR SENATOR JOHNSTON: On behalf of the International Association of Chiefs of Police (IACP) and its 13,000 members, I want to commend you for calling a field hearing of the Special Committee on Aging to discuss the TRIAD approach for lessening criminal victimization of the elderly. The Lafayette hearing helps draw attention to the success of the TRIAD programs already implemented and gives impetus for broading the scope of TRIAD.

TRIAD, a partnership officially started in the late 1980s by the IACP, the National Sheriffs' Association (NSA), and the American Association of Retired Persons (AARP), seeks to foster partnerships between the elderly and the law enforcement community to effectively combat crime against older persons and the damaging effects of that crime. With its many different forms of outreach, a TRIAD program is well equipped to deal with financial, physical, and psychological damage to elderly persons because of crimes committed against them. This broad approach to addressing victimization has demonstrated itself to be highly successful, especially in locations like your own state of Louisiana.

While there are many kinds of under-reported crimes, those against the elderly are surely higher than most. With TRIAD's ability to reach out to elderly in the ways they need to be reached, this form of crime will begin to be reported with greater frequency. Chiefs of police can use this increased information to better prevent these crimes from ever happening.

The testimony which will be provided for this hearing by police chief Steve Davis, an IACP member, touches on the detailed way in which TRIAD programs can serve a community. His testimony describes the progress being made in his jurisdiction of New Iberia, Louisiana, because of TRIAD work.

The IACP looks forward to continuing its important role in TRIAD and urges you to work with us to develop the TRIAD program on a national scale. Congressional support for TRIAD would certainly be a substantial step to help prevent victimization of the elderly.

Thank you again for your efforts to date.

Sincerely,

LEE P. BROWN,
President.

COLUMBUS POLICE DEPARTMENT,
Columbus, GA, August 7, 1991.

Hon. J. BENNETT JOHNSTON,
Special Committee on Aging,
U.S. Senate, Washington, DC.

DEAR SENATOR JOHNSTON: In reference to the correspondence received from your office dated July 24, 1991, the following information is being submitted for your committee record on the issue of Crime and the Elderly.

On June 13, 1991 the Columbus Police Department, the Muscogee County Sheriff's Department and the local American Association of Retired Persons entered into agreement and signed a resolution in support of adoption of the TRIAD concept in Columbus, Georgia. At the present time, we are in the process of identifying members of the community to function on the S.A.L.T. Advisory Council. Members of the council will consist of representatives from public and private organizations that will be valuable in assisting in formulating goals and objectives to address crime-related issues which impact the elderly in Muscogee County.

The long range expected results of the TRIAD will be to reduce criminal victimization of older persons and to enhance the delivery of law enforcement services to the elderly. With involvement of the S.A.L.T. Council, hopefully this will improve the overall quality of life for older residents of our community.

Respectfully,

W.J. WETHERINGTON
Chief of Police.
W.L. DOZIER,
Major, Bureau of Administrative Services.

By Mr. DOLE:

S. 2485. A bill to amend the Employee Retirement Income Security Act of 1974, the Internal Revenue Code of 1986, and title 11, United States Code; to improve pension plan funding; to limit growth in insurance exposure; to protect the single-employer plan termination insurance program by clarifying the status of claims of the Pension Benefit Guaranty Corporation and the treatment of pension plans in bankruptcy proceedings; and for other purposes; to the Committee on Finance.

PENSION SECURITY ACT OF 1992

Mr. DOLE. Mr. President, I am pleased to introduce the Pension Security Act of 1992. These reforms, urged by the administration and contained in the President's budget, are an important step to help strengthen single-employer pension plans and the insurance program that stands behind the benefits of workers and retirees covered by those plans.

WARNING SIGNS

While defined benefit pensions are generally healthy with more than $1.3 trillion in assets backing $900 billion in liabilities, some pensions are underfunded posing risk to plan participants and to the pension insurance system as a whole. There is an estimated $40 billion in underfunded pensions, an increase of 25 percent from a year ago.

For 1991, PBGC's single-employer program, which insures 32 million participants, showed a deficit of $2.5 billion—a 66-percent increase over the prior 12-month period. Long-range forecasts are even more discouraging with agency losses projected to grow rapidly to almost $20 billion within the decade. Even in terms of the savings and loan fiasco, these deficit figures are staggering.

In addition, Mr. President, 1991 witnessed the two largest claims in the history of the agency when the pension plans of Pan American World Airways—underfunded by $900 million, and Eastern Air Lines, underfunded by $700 million, were taken over. The bleeding has continued where last month alone the PBGC assumed another $300 million in pension liabilities.

With these serious warning signs, workers across America are rightfully asking if their pensions will be there when they retire—and those already retired are asking if their retirement income is safe. When pensions are underfunded, without sufficient assets to pay all that has been promised, retirees are at risk as not all of their benefits are guaranteed by the PBGC. An estimated 5 million people are covered by pensions that are underfunded.

We need to act now or the PBGC's financial condition will continue to worsen. Congress bit the bullet in 1987 and enacted the Pension Protection Act, but these changes must be affirmed and strengthened.

This bill will protect pensions and the PBGC in three important ways.

IMPROVING FUNDING AND STRENGTHENING THE PBGC

First, the bill strengthens the current minimum funding rules for underfunded plans. The law has proved inadequate and, if left unchanged, will not substantially improve pension plan funding.

The bill also contains transition rules which must be carefully reviewed and considered to ensure that plan sponsors are afforded adequate time to plan for increased pension contributions. The point is to provide for full funding over the long term—not to put employers out of business or at risk by rapidly escalating contribution levels.

Second, to provide additional incentives to fund pension promises and limit the PBGC's long-term liability, the bill limits the PBGC's guarantee of future benefit increases if a plan is underfunded.

Under the bill, future increases in benefits would not be guaranteed unless and until a plan is fully funded. While I believe that there may be some room for modification on this provision, the PBGC and hence the taxpayer, should not be stuck with the tab where benefits only move upward and funding is stagnant or retreats in the opposite direction.

The bill also provides that future increases in shutdown benefits, which have cost PBGC's premium payers over half a billion dollars to date, would not be guaranteed at all.

Third, this legislation clarifies and improves the priority of PBGC's bankruptcy claims. A court decision in the LTV case, if allowed to stand, would effectively erase PBGC's priority claims under current law and drastically reduce recoveries for PBGC and plan participants. With this bill, companies and their creditors will have to treat pension plan underfunding as real debt, creating a market-based incentive for better plan funding.

One previously proposed reform not contained in this legislation is the switch in accounting treatment from the cash to the accrual method.

It is my understanding that while the administration still strongly advocates changing the accounting method for the PBGC's bookkeeping, it has decided not to include the somewhat controversial proposal within this proposal. I am also of the opinion that this type of change should receive careful attention and study before it is implemented.

Finally, Mr. President, I want to make note of the fact that the Office of Management and Budget has said that this bill will result in a loss of receipts of approximately $2.1 billion over 5 years. As we all know, legislation must be paid for and I am hopeful that we will be able to agree on reasonable offsets for this important legislation.

DO NOT DELAY ACTION

Mr. President, if there is one thing Congress learned from the thrift crisis, it is that early action is necessary to stop the problem in its tracks and stem the exposure of the American taxpayer.

If, on the other hand, the hemorrhaging is ignored, the patient only gets sicker and the treatment gets astronomically expensive. Just ask each of us when we again have to legislate billions of dollars for the RTC to help it do its job.

For the PBGC, we have seen the warning signs. While not everyone will agree that this legislation is exactly what the doctor ordered—and while I suspect that some technical and some not-so-technical changes will need to be worked out, these reforms provide an important and essential grid for protecting the retirement income security of 32 million Americans.

Mr. President, I ask unanimous consent that the complete text of the Pension Security Act of 1992, a section-by-section analysis, an explanatory statement, and a letter of transmittal from Secretary of Labor Lynn Martin be included in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE—This Act may be cited as the "Pension Security Act of 1992".

(b) TABLE OF CONTENTS.—

TITLE I—AMENDMENTS TO PENSION PLAN FUNDING REQUIREMENTS

Subtitle A—Amendments to the Internal Revenue Code of 1986

Sec. 101. Revision of additional funding requirements for plans that are not multiemployer plans.
Sec. 102. Correction to ERISA citation.
Sec. 103. Effective dates.

Subtitle B—Amendments to the Employee Retirement Income Security Act of 1974.

Sec. 121. Revision of additional funding requirements for plans that are not multiemployer plans.
Sec. 122. Effective dates.

TITLE II—AMENDMENTS TO TITLE IV OF ERISA

Sec. 201. Limitation on benefits guaranteed.
Sec. 202. Enforcement of minimum funding requirements.
Sec. 203. Definition of contributing sponsor.
Sec. 204. Recovery ratio payable under Corporation's guaranty.
Sec. 205. Elimination of the seventh revolving fund.
Sec. 206. Distress termination criteria for banking institutions.
Sec. 207. Variable rate premium exemption.

TITLE III—EMPLOYER LIABILITY, LIEN AND PRIORITY

Subtitle A—Amendments to the Employee Retirement Income Security Act of 1974

Sec. 301. Employer liability lien and priority amount.
Sec. 302. Liability upon liquidation of contributing sponsor where plan remains ongoing.

Subtitle B—Amendments to Title 11, United States Code

Sec. 321. Pension Benefit Guaranty Corporation permitted to be a member of an unsecured creditors' committee.

Sec. 322. Clarification of priorities in conformity with the Employee Retirement Income Security Act of 1974.

Sec. 323. Notice required where federally-insured pension plan is administered by the debtor or its affiliate.

TITLE I—AMENDMENTS TO PENSION PLAN FUNDING REQUIREMENTS

Subtitle A—Amendments to the Internal Revenue Code of 1986

SEC. 101. REVISION OF ADDITIONAL FUNDING REQUIREMENTS FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.

(a) Section 412(a) of the Internal Revenue Code of 1986 [26 U.S.C. 412(a)] is amended by striking "the excess of the total charges to the funding standard account" through the end of that sentence, and inserting "the largest of—

"(1) the lesser of—

"(A) the excess of the total charges to the funding standard account for all plan years (beginning with the first plan year to which this section applies) over the total credits to such account for such years; or,

"(B) the excess of the total charges to the alternative minimum funding standard account for such plan years over the total credits to such accounts for such years; or,

"(2) if applicable, the underfunding reduction requirement under subsection (l);

"(3) if applicable, the solvency maintenance requirement under subsection (o)."

(b) Section 412(l) is revised to read as follows:

"(l) UNDERFUNDING REDUCTION REQUIREMENT FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.—

"(1) UNDERFUNDING REDUCTION REQUIREMENT.—In the case of a defined benefit plan (other than a multiemployer plan) that has an initial funding ratio of less than 100 percent for any plan year, the underfunding reduction requirement for such plan year is the sum of:

"(A) an amount equal to the product of—

"(i) the initial unfunded liability of the plan multiplied by

"(ii) 30 percent, reduced by the product of—

"(I) .25 multiplied by

"(II) the excess (if any) of the initial funding ratio of the plan over 35 percent;

"(B) the charges to the funding standard account for normal cost under subparagraph (b)(2)(A) and for the amounts necessary to amortize any waived funding deficiencies under subparagraph (b)(2)(C);

"(C) the excess (if any) of—

"(i) the sum of charges to the funding standard account for plans years beginning after December 31, 1993 for net experience losses under clause (b)(2)(B)(iv) and net losses resulting from changes in actuarial assumptions under clause (b)(2)(B)(v) over—

"(ii) the sum of credits to the funding standard account for plan years beginning after December 31, 1993—

"(I) for net experience gains under clause (b)(3)(B)(ii) and net gains resulting from changes in actuarial assumptions under clause (b)(3)(B)(iii); and

"(II) for amounts considered contributed by the employer under subparagraph (b)(3)(A) (to the extent they are necessary to avoid an accumulated funding deficiency under section 412(b)); and

"(D) the net of—

"(i) charges to the funding standard account for plan years beginning on or before December 31, 1993 for net experience losses under clause (b)(2)(B)(iv) and net losses resulting from changes in actuarial assumptions under clause (b)(2)(B)(v); and

"(ii) the sum of credits to the funding standard account for plan years beginning or before December 31, 1993—

"(I) for net experience gains under clause (b)(3)(B)(ii) and net gains resulting from changes in actuarial assumptions under clause (b)(3)(B)(iii); and

"(II) for amounts considered contributed by the employer under subparagraph (b)(3)(A) (to the extent they are necessary to avoid an accumulated funding deficiency under section 412(b)).

"(2) DEFINITIONS.—For definitions pertaining to this subsection, see subsection (o)(3).

"(3) APPLICATION TO SMALL PLANS.—For the application of this subsection to small plans, see subsection (o)(4)."

"(c) Section 412 is further amended by adding at the end thereof the following new subsection (o):

"(o) SOLVENCY MAINTENANCE REQUIREMENT FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.—

"(1) SOLVENCY MAINTENANCE REQUIREMENT.—In the case of a defined benefit plan (other than a multiemployer plan) that has an initial funding ratio of less than 100 percent for any plan year, the solvency maintenance requirement for such plan year is the sum of—

"(A) the sum of:

"(i) all disbursements from the plan for the plan year, and

"(ii) an amount equal to the initial unfunded liability of the plan multiplied by the interest rate used by such plan (determined under subparagraph (b)(5)(A));

"(B) the charges described in section 412(l)(1)(B);

"(C) the amount described in section 412(l)(1)(C); and

"(D) the amount described in section 412(l)(1)(D).

"(2) LIMITATION ON SOLVENCY MAINTENANCE REQUIREMENT.—For plans years commencing after December 31, 1993, the amount required under paragraph (1) shall not exceed the sum of—

"(A) the amount required under 412(l); and

"(B) the product of—

"(i) the excess (if any) of—

"(I) the amount required under paragraph (1) over

"(II) the amount required under subsection (l); multiplied by—

"(ii) the applicable percentage.

"(iii) For purposes of subparagraph (ii), the applicable percentage is:

"For plan years commencing after:	The applicable percentage is:
December 31, 1993	20
December 31, 1994	40
December 31, 1995	60
December 31, 1996	80
December 31, 1997	100

"(3) DEFINITIONS.—For purposes of this subsection and subsection (l)—

"(A) INITIAL UNFUNDED LIABILITY.—The term 'initial unfunded liability' means the excess (if any) of the amount necessary to satisfy the initial termination liability of the plan over the initial value of assets of the plan.

"(B) INITIAL FUNDING RATIO.—The term 'initial funding ratio' means the ratio of (i) the initial value of assets of the plan to (ii) the amount necessary to satisfy the initial termination liability of the plan.

"(C) INITIAL TERMINATION LIABILITY.—The term 'initial termination liability' means all liabilities with respect to employees and their beneficiaries under the plan in the meaning of section 401(a)(2) as of the first day of the plan year.

"(D) INITIAL VALUE OF ASSETS.—The term 'initial value of assets' means the value of the assets of the plan determined under section 412(c)(2) as of the first day of the plan year.

"(E) DISBURSEMENTS FROM THE PLAN.—

"(i) IN GENERAL.—The term 'disbursements from the plan' means benefit payments, including purchases of annuities or payment of lump sums in satisfaction of liabilities, administrative expenditures or any other disbursements from the plan or its trust.

"(ii) SPECIAL RULE FOR PURCHASES OF ANNUITIES AND PAYMENT OF LUMP SUMS.—In determining the applicable amounts attributable to purchases of annuities or the payment of lump sums under clause (i), the actual purchase or lump sum amounts paid by the plan or trust shall be multiplied by the excess (if any) of one over the initial funding ratio of the plan.

"(4) SPECIAL RULES FOR SMALL PLANS.—

"(A) PLANS WITH 100 OR FEWER PARTICIPANTS.—This subsection and subsection 412(l) shall not apply to any plan for any plan year if on each day during the preceding plan year such plan had no more than 100 participants.

"(B) PLANS WITH MORE THAN 100 BUT NOT MORE THAN 150 PARTICIPANTS.—In the case of a plan to which subparagraph (A) does not apply and which on each day during the preceding year had no more than 150 participants, the additional amounts required by the underfunding reduction requirement under subsection (l) or the solvency maintenance requirement under this subsection shall be equal to the product to—

"(i) the excess of such requirements (determined without regard to this subparagraph) over the funding deficiency (if any) under subsection 412(b), multiplied by—

"(ii) 2 percent for the highest number of participants in excess of 100 on any such day.

"(C) AGGREGATION OF PLANS.—For purposes of this paragraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account."

(d) CONFORMING AMENDMENTS.—

(1) Section 412(b) is amended—

(A) by striking the last sentence of paragraph (2); and

(B) by striking "and for purposes of determining a plan's required contribution under section 412(l)" in subparagraph (5)(B) and inserting "under section 412(c)(7)(B)".

(2) Section 412(c) is amended by striking "has the meaning given such term by section 412(l)(7) (without regard to subparagraph (D) thereof)" in subparagraph (7)(B) and inserting "means all liabilities with respect to employees and their beneficiaries under the plan within the meaning of section 401(a)(2) (within such limitations as the Secretary may prescribe by regulation) determined by using the interest rate under section 412(b)(5)(B)".

(3) Section 412(m)(B) is amended by striking "section 412" in subparagraph (i) and inserting "section 412(b) or (l), whichever is greater.".

(4) Section 401(a)(29) is amended—

(A) by striking "current liability" and "funded current liability percentage" and "unfunded current liability" and "412(l)" each time they appear and inserting instead, respectively, the terms "initial termination liability" and "initial funding ratio" and "initial unfunded liability" and "412(o)".

(B) By striking everything after the word "except" in subparagraph (E) and inserting "that in computing initial unfunded liability there shall not be taken into account an amount equal to the initial unfunded liability of the plan as of the beginning of the first plan year beginning after December 31, 1987 (determined without regard to any plan amendment increasing liabilities adopted after October 16, 1987), reduced by an amount equal to the product of the amount necessary to amortize such pre-1988 initial unfunded liability in equal annual installments over a period of 18 plan years (beginning with the first plan year beginning after December 31, 1988) multiplied by the number of years (but not more than 18) beginning since December 31, 1988.".

(5) Section 404(a)(1)(D) is amended by striking "the unfunded liability determined under section 412(l)." at the end of the first sentence and inserting instead "the amount necessary to assure that the plan can satisfy all liabilities with respect to employees and their beneficiaries within the meaning of section 412(c)(7)(B) determined by using the interest rate under section 412(b)(5)(B)."

SEC. 102. CORRECTION TO ERISA CITATION.

(a) Section 404(g)(4) is amended by striking "enactment" and all that follows through the end of the paragraph and inserting "the transaction involved.".

SEC. 103. EFFECTIVE DATES.

The amendments made by section 101 shall be effective for plan years beginning after December 31, 1993. The amendment made by section 102 shall be effective upon enactment.

Subtitle B. Amendments to the Employee Retirement Income Security Act of 1974

SEC. 121. REVISION OF ADDITIONAL FUNDING REQUIREMENTS FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.

(a) Section 302(a)(2) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1082(a)(2)] is amended by striking "the excess of the total charges to the funding standard account" through the end of that sentence, and inserting "the largest of—

"(A) the lesser of—

"(i) the excess of the total charges to the funding standard account for all plan years (beginning with the first plan year to which this section applies) over the total credits to such account for such years; or,

"(ii) the excess of the total charges to the alternative minimum funding standard account for such plan years over the total credits to such account for such years; or,

"(B) if applicable, the underfunding reduction requirement under subsection (d); or,

"(C) if applicable, the solvency maintenance requirement under subsection (g)."

(b) Section 302(d) is revised to read as follows:

"(d) Underfunding reduction requirement for plans that are not multiemployer plans.—

"(1) Underfunding reduction requirement. In the case of a defined benefit plan (other than a multiemployer plan) that has an initial funding ratio of less than 100 percent for any plan year, the underfunding reduction requirement for such plan year is the sum of:

"(A) an amount equal to the product of—

"(i) the initial unfunded liability of the plan multiplied by

"(ii) 30 percent, reduced by the product of—

"(I) .25 multiplied by

"(II) the excess (if any) of the initial funding ratio of the plan over 35 percent;

"(B) the charges to the funding standard account for normal cost under subparagraph (b)(2)(A) and for the amounts necessary to amortize any waived funding deficiencies under subparagraph (b)(2)(C);

"(C) the excess (if any) of—

"(i) the sum of charges to the funding standard account for plans years beginning after December 31, 1993 for net experience losses under clause (b)(2)(B)(iv) and net losses resulting from changes in actuarial assumptions under clause (b)(2)(B)(v) over—

"(ii) the sum of credits to the funding standard account for plan years beginning after December 31, 1993—

"(I) for net experience gains under clause (b)(3)(B)(ii) and net gains resulting from changes in actuarial assumptions under clause (b)(3)(B)(iii); and

"(II) for amounts considered contributed by the employer under subparagraph (b)(3)(A) (to the extent they are necessary to avoid an accumulated funding deficiency under section 302(b)); and

"(D) the net of—

"(i) charges to the funding standard account for plan years beginning on or before December 31, 1993 for net experience losses under clause (b)(2)(B)(iv) and net losses resulting from changes in actuarial assumptions under clause (b)(2)(B)(v); and

"(ii) the sum of credits to the funding standard account for plan years beginning on or before December 31, 1993—

"(I) for net experience gains under clause (b)(3)(B)(ii) and net gains resulting from changes in actuarial assumptions under clause (b)(3)(B)(iii); and

"(II) amounts considered contributed by the employer under subparagraph (b)(3)(A) (to the extent they are necessary to avoid an accumulated funding deficiency under section 302(b)).

"(2) DEFINITIONS.—For definitions pertaining to this subsection, see subsection (g)(3).

"(3) APPLICATION TO SMALL PLANS.—For the application of this subsection to small plans, see subsection (g)(4)."

(c) Section 302 is further amended by—

(1) redesignating subsection (g) as (h); and

(2) inserting after subsection (f) the following:

"(g) SOLVENCY MAINTENANCE REQUIREMENT FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.—

"(1) SOLVENCY MAINTENANCE REQUIREMENT.—In the case of a defined benefit plan (other than a multiemployer plan) that has an initial funding ratio of less than 100 percent for any plan year, the solvency maintenance requirement for such plan year is the sum of—

"(A) the sum of:

"(i) all disbursements from the plan for the plan year, and

"(ii) an amount equal to the initial unfunded liability of the plan multiplied by the interest rate used by such plan (determined under subparagraph (b)(5)(A));

"(B) the charges described in section 302(b)(1)(B);

"(C) the amount described in section 302(d)(1)(C); and

"(D) the amount described in section 302(d)(1)(D).

"(2) LIMITATION ON SOLVENCY MAINTENANCE REQUIREMENT.—For plan years commencing after December 31, 1993, the amount required under paragraph (1) shall not exceed the sum of—

"(A) the amount required under section 302(d); and

"(B) the product of—

"(i) the excess (if any) of—

"(I) the amount required under paragraph (1) over

"(II) the amount required under section 302(d); multiplied by—

"(ii) the applicable percentage.

"(iii) For purposes of subparagraph (ii), the applicable percentage is:

"For plan years commencing after:	The applicable percentage is:
December 31, 1993	20
December 31, 1994	40
December 31, 1995	60
December 31, 1996	80
December 31, 1997	100

"(3) DEFINITIONS.—For purposes of this subsection and subsection (d)—

"(A) INITIAL UNFUNDED LIABILITY.—The term "initial unfunded liability" means the excess (if any) of the amount necessary to satisfy the initial termination liability of the plan over the initial value of assets of the plans.

"(B) INITIAL FUNDING RATIO.—The term "initial funding ratio" means the ratio of (i) the initial value of assets of the plan to (ii) the amount necessary to satisfy the initial termination liability of the plan.

"(C) INITIAL TERMINATION LIABILITY.—The term "initial termination liability" means all liabilities with respect to employees and their beneficiaries under the plan in the meaning of section 401(a)(2) of the Internal Revenue Code of 1986 as of the first day of the plan year.

"(D) INITIAL VALUE OF ASSETS.—The term "initial value of assets" means the value of the assets of the plan determined under section 302(c)(2) as of the first day of the plan year.

"(E) DISBURSEMENTS FROM THE PLAN.—

"(i) IN GENERAL.—The term "disbursements from the plan" means benefit payments, including purchases of annuities or payment of lump sums in satisfaction of liabilities, administrative expenditures or any other disbursements from the plan or its trust.

"(ii) SPECIAL RULE FOR PURCHASES OF ANNUITIES AND PAYMENT OF LUMP SUMS.—In determining the applicable amounts attributable to purchases of annuities or the payment of lump sums under clause (i) the actual purchase or lump sum amounts paid by the plan or trust shall be multiplied by the excess (if any) of one over the initial funding ratio of the plan.

"(4) SPECIAL RULES FOR SMALL PLANS.—

"(A) PLANS WITH 100 OR FEWER PARTICIPANTS.—This subsection and subsection (d) shall not apply to any plan for any plan year if on each day during the preceding plan year such plan had no more than 100 participants.

"(B) PLANS WITH MORE THAN 100 BUT NOT MORE THAN 150 PARTICIPANTS.—In the case of a plan to which subparagraph (A) does not apply and which on each day during the preceding year had no more than 150 participants, the additional amounts required by the underfunding reduction requirement under subsection (d) or the solvency maintenance requirement under this subsection shall be equal to the product of—

"(i) the excess of such requirements (determined without regard to this subparagraph) over the funding deficiency (if any) under subsection 302(b), multiplied by—

"(ii) 2 percent for the highest number of participants in excess of 100 on any such day."

"(C) AGGREGATION OF PLANS.—For purposes of this paragraph, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or members shall be taken into account."

(d) CONFORMING AMENDMENTS.

(1) SECTION 302(B) IS AMENDED—

(A) by striking "and for purposes of determining a plan's required contribution under section 302(d)" subparagraph (5)(B) and inserting "under section 302(c)(7)(B)".

(2) Section 302(c) is amended by striking "has the meaning given such term by subsection 302(d)(7) (without regard to subparagraph (D) thereof)" in subparagraph (7)(B) and inserting "means all liabilities with respect to employees and their beneficiaries under the plan within the meaning of section 401(a)(2) of the Internal Revenue Code of 1986 (within such limitations as the Secretary of the Treasury may prescribe by regulation) determined by using the interest rate under section 302(b)(5)(B)".

(3) Section 302(e)(4)(B) is amended by striking "section 412 of the Internal Revenue Code of 1986" in subparagraph (i) and inserting "section 412(b) or (l) of the Internal Revenue Code of 1986, whichever is greater".

(4) Section 307 is amended—

(A) by striking "current liability" and "funded current liability percentage" and "unfunded current liability" and "302(d)" each time they appear and inserting instead, respectively, the terms "initial termination liability" and "initial funding ratio" and "initial unfunded liability" and "302(g)".

(B) By striking everything after the word "except" in subsection (f) and inserting "that in computing initial unfunded liability there shall not be taken into account an amount equal to the initial unfunded liability of the plan as of the beginning of the first plan year beginning after December 31, 1987 (determined without regard to any plan amendment increasing liabilities adopted after October 16, 1987), reduced by an amount equal to the product of the among necessary to amortize such pre-1988 initial unfunded liability in equal annual installments over a period of 18 plan years (beginning with the first plan year beginning after December 31, 1988) multiplied by the number of years (but not more than 18) beginning since December 31, 1988.".

SEC. 122. EFFECTIVE DATES.

The amendments made by this subtitle shall be effective for plan years beginning after December 31, 1993.

TITLE II—AMENDMENTS TO TITLE IV OF ERISA

SEC. 201. LIMITATION ON BENEFITS GUARANTEED.

(a) Subsection (b)(1) of section 4022 of ERISA is amended by adding after "(7)" ", (8) and (9)".

(b) Subsection (b)(7) of section 4022 of erisa is amended by—

(1) striking the period at the end and inserting in its place a semicolon; and

(2) by adding after paragraph (7) a new paragraph (8):

"(8)(A) Benefits under a new plan or any increase in benefits under a plan resulting from a plan amendment, which new plan or amendment was adopted or became effective after December 31, 1991, shall be disregarded unless:

"(i) The plan was fully funded for vested benefits for the plan year that the new plan or amendment was adopted or became effective, whichever is later, or became fully funded for vested benefits in a subsequent plan year; and

"(ii) The new plan or amendment was adopted or effective, whichever is later, at least one year prior to the date of plan termination.

"(B) For purposes of this section, a plan is "fully funded for vested benefits" for any plan year if such plan has not unfunded vested benefits within the meaning of section 4006(a)(3)(E)(iii) as of the last day of such plan year.

"(C)(i) Except as provided in clause (ii), paragraph (7) and paragraphs (5)(B) and (5)(C) shall not apply to benefits described in subparagraph (A) of this paragraph.

"(ii) This paragraph shall not apply, and paragraph (7) and paragraphs (5)(B) and (5)(C) shall apply, to any new plan or plan amendment resulting from a collective bargaining agreement or amendment thereto entered and ratified on or prior to December 31, 1991."

"(c) Subsection (b) of section 4022 of ERISA (as amended by subsection (b) of this section) is further amended by adding a new paragraph (9):

"(9)(A) Notwithstanding paragraph (8), any plan provision or amendment adopted or effective after December 31, 1991, that creates or increases unpredictable contingent event benefits shall not be guaranteed.

"(B) For purposes of this section, an "unpredictable contingent event benefit" means any benefit contingent on an event other than—

"(i) age, service, compensation, death or disability, or

"(ii) an event which is reasonably and reliably predictable (as determined under regulations prescribed by the corporation)."

(d) Effective Date.—The amendments made by this section shall be effective on December 31, 1991.

SEC. 202. ENFORCEMENT OF MINIMUM FUNDING REQUIREMENTS.

(a) In General.—Paragraph (1) of section 4003(e) of Employee Retirement Income Security Act of 1974 (29 U.S.C. 1303(e)(1)) is amended by inserting after "title" the following: "and, in the case of a plan to which this title applies under section 4021, section 302 of this Act or section 412 of the Internal Revenue Code of 1986".

(b) Effective Date.—The amendments made by this section shall be effective for installments and other payments required under section 302 of the Employee Retirement Income Security Act of 1974 or section 412 of the Internal Revenue Code of 1986 due on or after the date of the enactment of this Act.

SEC. 203. DEFINITION OF CONTRIBUTING SPONSOR.

(a) In General.—Paragraph (13) of section 4001(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301 (a)(13)) is amended to read as follows:

"(13) 'contributing sponsor' means, with respect to a single-employer plan, a person entitled to receive a deduction under section 404(a)(1) of the Internal Revenue Code of 1986 for contributions required to be made to the plan under section 302 of this Act or section 412 of such Code."

(b) Effective Date.—The amendment made by subsection (a) shall be effective as if included in section 9305 of the Pension Protection Act (Public Law 100–203; 101 Stat. 1330–351).

SEC. 204. RECOVERY RATIO PAYABLE UNDER CORPORATION'S GUARANTY.

(a) In General.—Section 4022(c0(3)(B) of the employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(c)(3)(B)) is amended—

(1) by redesignating clauses (i) and (ii) as clauses (ii) and (iii) respectively; and

(2) by inserting before clause (ii) (as so redesignated) the following new clause:

"(i) the outstanding amount of benefit liabilities does not exceed $20,000,000,".

(b) Terminations.—Clause (iii) of section 4022(c)(3)(B) of such Act (29 U.S.C. 1322 (c)(3)(B)), as redesignated by subsection (a), is amended—

(1) by inserting ", or proceedings were instituted under section 4042," after "provided"; and

(2) by striking "in which occurs the date of the notice of intent to terminate with respect to the plan termination".

(c) Conforming Amendments.—Clause (i) of section 9312(b)(3)(B) of the Pension Protection Act is amended by—

(1) inserting ", or proceedings were instituted under section 4042," after "provided"; and

(2) striking "1990" and inserting "1994".

(d) Effective Date.—The amendments made by this section shall take effect as if included in section 9312(b)(3) of the Pension Protection Act (Public Law 100–203; 101 Stat. 1330–362).

SEC. 205. ELIMINATION OF THE SEVENTH REVOLVING FUND.

(a) Transfer.—Effective September 30, 1992, all assets and liabilities of the fund described in section 4005(f)(1) of the Employee Retirement Income Security Act of 1974 (as in effect before the amendments made by this section) shall be transferred to the fund established pursuant to section 4005(a) of such Act with respect to basic benefits guaranteed under section 4022 of such Act.

(b) Repeal.—Section 4005 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1305) is amended—

(1) by striking subsection (f); and

(2) by redesignating subsections (g) and (h) as subsections (f) and (g), respectively.

(c) Effective Date.—The amendments made by this section shall apply with respect to fiscal years beginning after September 30, 1992.

SEC. 206. DISTRESS TERMINATION CRITERIA FOR BANKING INSTITUTIONS.

(a) In General.—Subclause (I) of section 4041(c)(2)(B)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)(2)(B)(i)(I)) is amended by inserting "Federal law or" before "law of a State".

(b) Effective Date.—The amendment made by this section shall apply to plan terminations under section 4041 of the Employee Retirement Income Security Act of 1974 with respect to which notices of intent to terminate under section 4041(a)(2) of such Act are provided on or after the date of the enactment of this Act.

SEC. 207. VARIABLE RATE PREMIUM EXEMPTION.

(A) In General.—Clause (v) of section 4006(a)(3)(E) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by striking all that follows "not less than" and inserting "the maximum amount that may be contributed without incurring an excise tax under section 4972 of the Internal Revenue Code of 1986".

(B) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 1992.

TITLE III—EMPLOYER LIABILITY, LIEN AND PRIORITY

Subtitle A—Amendments to Title IV of the Employee Retirement Income Security Act of 1974

SEC. 301. EMPLOYER LIABILITY LIEN AND PRIORITY AMOUNT.

(a) Revised Limitations on Lien and Tax Priority Amount.—Section 4068(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1368(a)) is amended—

(1) by striking "If any person liable to the corporation" and inserting "(1) Subject to paragraphs (2) and (3), if any person liable to the corporation";

(2) by striking "section 4062" and inserting "section 4062(a)(1)";

(3) by striking the comma after "belonging to such person" and inserting a period;

(4) by striking "except that such lien" and inserting the following:

"(2) In the case of plan terminations under section 4041 with respect to which notices of intent to terminate under section 4041(a)(2) are provided before January 1, 1992, and plan terminations with respect to which proceedings are instituted by the corporation before January 1, 1992, the lien established under paragraph (1)"; and

(5) by adding at the end the following new paragraph:

"(3)(A) In the case of plan terminations under section 4041 with respect to which notices of intent to terminate under section 4041(a)(2) are provided on or after January 1, 1992, and plan terminations with respect to which proceedings are instituted by the corporation on or after January 1, 1992, the lien established under paragraph (1) may not be in an amount in excess of the sum of—

"(i) the amount of benefits attributable to the occurrence of unpredictable contingent events valued as of the date of plan termination arising at any time during the 3 years preceding the date of plan termination (to the extent not funded prior to plan termination), plus

"(ii) the greater of—

"(I) 30 percent of the collective net worth of all persons described in section 4062(a), or

"(II) the currently applicable percentage of the excess of the amount of unfunded benefit liabilities under the plan as of the date plan termination over the amount described in clause (i).

"(B) For purposes of this paragraph—

"(i) the term 'currently applicable percentage' means—

"(I) with respect to plan terminations initiated in calendar year 1992, 10 percent,

"(II) with respect to plan terminations initiated in any calendar year after 1992 and before 2012, the percentage determined under this clause with respect to plan terminations initiated in the preceding calendar year, plus 2 percent, and

"(III) with respect to plan terminations initiated in calendar years after 2011, 50 percent.

"(ii) The term 'amount of benefits attributable to the occurrence of unpredictable contingent events' means, with respect to any plan, the present value of unpredictable contingent event benefits (within the meaning of section 302(d)(7)(B)(ii)), determined as of the termination date on the basis of assumptions prescribed by the corporation for purposes of section 4044.

"(C) In applying subparagraph (A), the corporation may disregard subclause (I) of clause (ii) thereof if the corporation determines, in its sole discretion, that disregarding such subclause (I) is cost-effective.".

(b) Conforming and Clarifying Amendments Relating to Amount Entitled to Priority Treatment in Insolvency and Bankruptcy Cases.—Section 4068(c)(2) of such Act (29 U.S.C. 1368(c)(2)) is amended by inserting "(A)" after "(2)" and by adding at the end the following new subparagraph:

"(B) Subparagraph (a) shall apply—

"(i) in the case of terminations described in paragraph (2) of subsection (a), only with respect to so much of the liability as does not exceed the amount determined under such paragraph (2), and

"(ii) in the case of terminations described in paragraph (3) of subsection (a), only with respect to so much of the liability as does not exceed the amount determined under such paragraph (3).".

(c) Clarification of Bankruptcy and Insolvency Claim.—Section 9312(b)(2)(B) of the Pension Protection Act (Public Law 100-203, 101 Stat. 1330-361) is amended by adding at the end thereof the following new clause:

"(iii) Section 4068 (c)(2) of ERISA (29 U.S.C. 1368(c)(2)) is amended—

"(I) by striking 'the lien imposed under subsection (a)' and inserting 'the liability to the corporation under section 4062(a)(1), 4063, or 4064'; and "(II) by inserting 'which is' after 'tax', and by inserting 'and assigned priority' after 'United States'.".

(d) Effective Dates.—

(1) Section 4068(a)(2) of the Employee Retirement Income Security Act of 1974 (as amended by subsection (a)) and section 4068(c)(2)(B)(i) of such Act (as amended by subsection (b)) shall be effective with respect to plan terminations under section 4041 of such Act with respect to which notices of intent to terminate under section 4041(a)(2) of such Act are provided before January 1, 1992, and plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 4042 of such Act before January 1, 1992.

(2) Section 4068(a)(3) of the Employee Retirement Income Security Act of 1974 (as amended by subsection (a)) and section 4068(c)(2)(B)(ii) of such Act (as amended by subsection (b)) shall be effective with respect to plan terminations under section 4041 of such Act with respect to which notices of intent to terminate under section 4041(a)(2) of such Act are provided on or after January 1, 1992, and plan terminations with respect to which proceedings are instituted by the Pension Benefit Guaranty Corporation under section 4042 of such Act on or after January 1, 1992.

(3) The amendment made by subsection (a)(2) shall be effective as if included in the enactment of section 11011(a) of the Single-Employer Pension Plan Amendments Act of 1986 (Public Law 99-272; 100 Stat. 253).

(4) The amendment made by subsection (c) shall be effective as it included in the enactment of section 9312(b)(2)(B) of the Pension Protection Act (Public Law 100-203, 101 Stat. 1330-361).

SEC. 302. LIABILITY UPON LIQUIDATION OF CONTRIBUTING SPONSOR WHERE PLAN REMAINS ONGOING.

(a) In General.—Section 4062 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1362) is amended by adding at the end the following new subsection:

"(f) Liability on Liquidation of Contributing Sponsor.—

"(1) In General.—In any case in which all or substantially all of the assets of a person who is a contributing sponsor of a single-employer plan are liquidated in a case under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision of a State, and in the course of such liquidation another member of such person's controlled group remains a contributing sponsor of the plan or is liable for payment of contributions or installments under section 302(c)(11) of this Act or section 412(c)(11) of the Internal Revenue Code of 1986, such person shall be deemed liable under subsection (b) as if such plan had terminated under section 4041(c) in the course of such liquidation and as if the termination date were the date determined by the corporation as the date on which the liquidation was initiated.

"(2) Applicability of Other Provisions.—Any provision of this Act or any other provision of law that applies to liability under this section upon termination of a plan shall apply in the same manner and to the same extent to the liability established under this subsection. For purposes of this paragraph, the date referred to in paragraph (1) shall be deemed the date of plan termination.

"(3) Transfer of Liability Payments to the Ongoing Plan.—The corporation shall pay to the plan amounts collected by the corporation in satisfaction of any liability established under this subsection in connection with such plan.

"(4) Regulations.—The corporation may prescribe regulations under this subsection. Such regulations may—

"(A) prescribe rules governing—

"(i) the basis upon which the plan will continue as an ongoing plan maintained by other members of the controlled group,

"(ii) the determination of whether a liquidation referred to in this subsection has occurred, and

"(iii) the assignment of the corporation's claim to liability payments under this subsection to other members of the controlled group as a means of collecting such payments, subject to the transfer of such payments to the plan, and

"(B) provide alternative arrangements for making liability payments under this subsection.".

(b) Conforming Amendment.—Section 4062(a)(1) of such Act (29 U.S.C. 1362(a)(1)) is amended by striking "subsection (b) and inserting "subsections (b) and (f)".

(c) Effective Date.—The amendments made by this section shall be effective for liquidations initiated on or after the date of the enactment of this Act.

Subtitle B.—Amendments to Title 11, United States Code

SEC. 321. PENSION BENEFIT GUARANTY CORPORATION PERMITTED TO BE A MEMBER OF AN UNSECURED CREDITORS' COMMITTEE.

(a) Definition.—Section 101(41) of title 11 of the United States Code is amended by inserting "that guarantees pension benefits of the debtor or an affiliate of the debtor, or" after "governmental unit" the second time it appears.

(b) Effective Date.—The amendment made by subsection (a) shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

SEC. 322. CLARIFICATION OF PRIORITIES IN CONFORMITY WITH THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) Priority as Expenses Arising Before Commencement of Case.—Paragraph (7) of section 507(a) of title 11 of the United States Code is amended—

(1) in subparagraph (F), by striking "or" at the end;

(2) in subparagraph (G), by striking the period at the end and inserting a semicolon; and

(3) by adding after subparagraph (G) the following:

"(H) unpaid contributions (including interest) to pension plans for plan years beginning after December 31, 1987, which are attributable to the period prior to the date of the filing of the petition and treated as taxes owing to the United States under section 412(n)(4)(C) of the Internal Revenue Code of 1986; or

"(I) liability (including interest) arising under section 4062(a)(1), 4063, or 4064 of the Employee Retirement Income Security Act of 1974 to the extent it is treated as a tax under section 4068(c)(2) of such Act, if the date of pension plan termination is on or prior to the date of the filing of the petition.

"For purposes of subparagraph (I), the date of plan termination, the amount of the liability, and the extent to which the liability is treated as a tax shall be determined in accordance with the provisions of the Employee Retirement Income Security Act of 1974 and the regulations promulgated thereunder.".

(b) PRIORITY AS ADMINISTRATIVE EXPENSES ARISING AFTER COMMENCEMENT OF CASE.—Section 503(b) of such title 11 is amended—

(1) in paragraph (5), by striking "and" at the end;

(2) in paragraph (6), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(7)(A) unpaid contributions (including interest) to pension plans for plan years beginning after December 31, 1987, which are attributable to the period beginning on the date of the filing of the petition and treated as taxes owing to the United States under section 412(n)(4)(C) of the Internal Revenue Code of 1986; and

"(B) liability (including interest) arising under section 4062(a)(1), 4063, or 4064 of the Employee Retirement Income Security Act of 1974 to the extent it is treated as a tax under section 4068(c)(2) of such Act, if the date of pension plan termination is after the date of the filing of the petition.

"For purposes of paragraph (7)(B), the date of plan termination, the amount of the liability, and the extent to which the liability is treated as a tax shall be determined in accordance with the provisions of the Employee Retirement Income Security Act of 1974 and the regulations promulgated thereunder.".

(c) EFFECTIVE DATE.—Sections 507(a)(7)(H) and 503(b)(7)(A) of title 11 of the United States Code (as amended by this section) shall be effective as if included in section 9304(e) of the Pension Protection Act (Public Law 100-203; 101 Stat. 1330-348). Sections 507(a)(7)(I) and 503(b)(7)(B) of such title (as amended by this section) shall be effective with respect to cases under such title which commence on or after the date of the enactment of this Act or cases under such title which are pending on the date of the enactment of this Act and in which claims for liability have not been resolved as of such date.

SEC. 323. NOTICE REQUIRED WHERE FEDERALLY INSURED PENSION PLAN IS ADMINISTERED BY THE DEBTOR OR ITS AFFILIATE.

(a) IN GENERAL.—Rule 2002(j) of the Bankruptcy Rules (11 U.S.C. Appendix) is amended by inserting before the period at the end of the following:"; (5) to the Pension Benefit Guaranty Corporation in any case in which the debtor or an affiliate of the debtor maintains a pension plan to which title IV of the Employee Retirement Income Security Act of 1974 applies.".

(b) EFFECTIVE DATE.—The amendment made by this section shall be effective on the date of the enactment of this Act.

PENSION SECURITY ACT OF 1992—SECTION-BY-SECTION ANALYSIS

(All references to "Code" are references to the Internal Revenue Code of 1986, as amended. All references to "ERISA" are references to the Employee Retirement Income Security Act of 1974, as amended.)

TITLE I. AMENDMENTS TO PENSION PLAN FUNDING REQUIREMENTS

Subtitle A. Amendments to the Internal Revenue Code of 1986

Sec. 101. Revision of additional funding requirements for plans that are not multiemployer plans.

Section 101 of the bill revises the additional funding requirements for plans that are not multiemployer plans by replacing the deficit reduction contribution with a similar "underfunding reduction requirement" and adding a new "solvency maintenance requirement". The new requirements apply to underfunded plans with more than 100 participants.

Subsection (a) of section 101 of the bill amends section 412(a) of the Code to redefine the term "accumulated funding deficiency" as the largest of: (1) the contribution required under the funding standard account or alternative minimum funding standards account, whichever is less, (2) the underfunding reduction requirement, if applicable, or (3) the solvency maintenance requirement, if applicable.

Subsection (b) amends section 412(l) of the Code to eliminate the deficit reduction contribution and replace it with a definition of the new underfunding reduction requirement. The underfunding reduction requirement is the sum of:

(1) a percentage of underfunding calculated according to a formula that is the same as the one in current section 412(l) that applies to "new current liability"—that is, 30 percent of underfunding for plans with a funding ratio of 35 percent or less, which underfunding percentage is reduced by .25 multiplied by the excess (if any) of the initial funding ratio over 35 percent;

(2) the charges for normal cost and any waived funding deficiencies under section 412(b) of the Code;

(3) the sum of charges after December 31, 1993, for net experience losses and losses due to changes in actuarial assumptions to the extent that they exceed the sum of credits after December 31, 1993 for net experience gains, changes in actuarial assumptions, and contributions in excess of section 412(b) requirements; and

(4) the sum of charges and credits before December 31, 1993 for net experience losses and gains, and losses and gains from changes in actuarial assumptions, and contributions in excess of section 412(b) requirements.

Subsection (c) adds a new section 412(o) to the Code defining the new solvency maintenance requirement. The solvency maintenance requirement is the sum of:

(1) disbursements in the plan year and interest on the plan's initial unfunded liability (liabilities under section 401(a)(2) of the Code that are not funded as of the first day of the plan year);

(2) the charges for normal cost and any waived funding deficiencies under section 412(b);

(3) the sum of charges after December 31, 1993, for net experience losses and changes in actuarial assumptions losses to the extent that they exceed the sum of credits after December 31, 1993 for net experience gains, changes in actuarial assumptions, and contributions in excess of section 412(b) requirements; and

(4) the sum of charges and credits before December 31, 1993 for net experience losses and gains, and losses and gains from changes in actuarial assumptions, and contributions in excess of section 412(b) requirements.

The amount of the solvency maintenance requirement exceeding the section 412(l) requirement is phased-in at 20 percent per year.

Subsection (c) also defines various terms for purposes of the solvency maintenance requirement and the underfunding reduction requirement. It also exempts plans with 100 or fewer participants from both requirements and applies the requirements on a phased-in basis for plans with 101 to 150 participants.

Subsection (d) of section 101 makes conforming changes to sections 412, 401(a)(29) and 404(a)(1)(D) of the Code.

The amendments made by section 101 are effective for plan years beginning after December 31, 1993.

Sec. 102. Correction to ERISA citation.

This section corrects section 404(g)(4) of the Code to provide that the applicable version of ERISA for purposes of determining deductibility of contributions under section 404 is the version in effect on the date of the transaction.

The amendment made by this section shall be effective on the date of enactment.

Sec. 103. Effective dates.

The effective dates to the amendments made by Subtitle A are described along with the section to which they relate.

Subtitle B. Amendments to the Employee Retirement Income Security Act of 1974

Sec. 121. Revision of additional funding requirements for plans that are not multiemployer plans.

Section 121 amends section 302 of ERISA to conform to the changes made by section 101 of this bill to section 412 of the Code.

Sec. 122. Effective date.

This section conforms the effective date provision for the corresponding ERISA amendments.

TITLE II. AMENDMENTS TO TITLE IV OF ERISA

Sec. 201. Limitation on benefits guaranteed.

This section amends section 4022(b) of ERISA to eliminate the guarantee for new benefits or benefit increases due to plan amendments made after December 31, 1991 for plans that are not fully funded for vested benefits at the end of the plan year in which the amendment is made. If the plan is or subsequently becomes fully funded for vested benefits, any such benefit or benefit increase would be guaranteed in full provided the amendment was made at least one year prior to plan termination. This new rule does not apply to certain post-December 31, 1991 amendments resulting from collective bargaining agreements in existence on that date.

Section 201 also provides that any plan provision or amendment adopted or effective after December 31, 1991 that creates or increases unpredictable contingent event benefits would not be guaranteed by the PBHC. Benefits adopted and effective on or before that date would not be affected by this rule.

The amendments made by this section shall be effective on December 31, 1991.

Sec. 202. Enforcement of minimum funding requirements.

Section 202 of the bill gives the PBGC the power to bring a civil action to enforce minimum funding standards, including the enforcement of liens, in plans covered by the PBGC's guarantee under section 4021 of ERISA. (The enforcement authority of the Department of Labor would not be changed.)

The amendment made by this section is effective for installments and other required payments due on or after the date of enactment.

Sec. 203. Definition of contributing sponsor.

Section 203 of the bill makes a clarifying change in the definition of contributing sponsor of a single-employer plan to clarify that the contributing sponsor is the person entitled to receive a tax deduction under section 404(a)(1) of the Internal Revenue Code for contributions required to be made to the plan under section 302 of the Act or 412 of the Code.

The amendment made by this section is effective as if included in the Pension Protection Act.

Sec. 204. Recovery ratio payable under Corporation's guaranty.

Section 204 of the bill clarifies that the average recovery ratio that PBGC applies to outstanding benefit liabilities to determine the portion of nonguaranteed benefits that will be paid to participants in small plans terminated in distress or involuntary terminations is calculated using the PBGC's recovery experience for distress and involuntary terminations of small plans only. The section also extends from three to seven years the transitional rule under which the recovery ratio in small plans is based on the recovery in the plan rather than the average recovery ratio.

The amendments made by this section are effective as if included in the provision of the Pension Protection Act to which such amendments relate.

Sec. 205. Seventh revolving fund.

The Pension Protection Act created a seventh revolving fund to receive premiums for plan years beginning on or after January 1, 1988, and to pay benefits in plans terminating on or after October 1, 1988, or before that date if other funds are no longer available. This section discontinues the seventh fund and merges its assets and liabilities with the assets and liabilities of the first revolving fund (the single-employer basic benefits guaranty fund).

The elimination of the seventh fund is effective as of September 30, 1992.

Sec. 206. Distress termination criteria for banking institutions.

A contributing sponsor or controlled group member can qualify for a distress termination under the first distress test of ERISA section 4041(c)(2)(B) if the sponsor or member is liquidating under Title 11, United States Code, or under any similar law of a State or political subdivision of a State. Section 206 of the bill extends the first distress test to proceedings under other Federal laws that are similar to Title 11 proceedings.

The amendment made by this section is effective for terminations initiated on or after the date of enactment.

Sec. 207. Variable rate premium exemption.

A single-employer plan that is at the full funding limitation under section 412(c)(7) of the Internal Revenue Code for the preceding plan year is exempt from the variable-rate PBGC premium charge for unfunded vested benefits. Section 207 of the bill amends section 4006(a)(3)(E)(v) of ERISA to allow an exemption from the variable-rate charge when contributions to the plan for the preceding plan year are not less than the maximum amount that may be contributed without incurring an excise tax under section 4972 of the Code.

The amendments made by this section are effective for plan years beginning after December 31, 1992.

TITLE III—EMPLOYER LIABILITY, LIEN AND PRIORITY.

Subtitle A. Amendments to the Employee Retirement Income Security Act of 1974

Sec. 301. Employer liability lien and priority amount.

Subsection (a) of section 301 of the bill amends section 4068(a) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") to provide that for terminations initiated on or after January 1, 1992, the PBGC's lien for employer liability shall not exceed the sum of:

(1) the amount of benefits attributable to the occurrence of unpredictable contingent events within the three years before plan termination, plus

(2) the greater of—

(a) 30 percent of the collective net worth of liable persons, or

(b) the currently applicable percentage of the excess of the amount of unfunded benefit liabilities over the amount of unpredictable contingent event benefits in (1) above. The applicable percentage is 10 percent for terminations initiated in 1992 and increases by two percentage points a year up to 50 percent, where it remains.

The term "amount of benefits attributable to the occurrence of unpredictable contingent event" means the present value of unpredictable contingent event benefits (within the meaning of section 302(d)(7)B)(ii) of ERISA) determined as of the termination date on the basis of assumptions prescribed by the PBGC for purposes of section 4044 of ERISA.

The PBGC may, where cost effective, compute the amount of the lien without regard to the 30 percent of net worth amount described in (2)(a) above.

Subsections (b) and (c) amend section 4068(c)(2) of ERISA to clarify that liability to the PBGC under sections 4062, 4063 and 4064 of ERISA has the priority of a tax due and owing the United States in bankruptcy and insolvency proceedings and conforms the limit on the amount of this liability to the revisions to the limit made by section 301(a) of the bill.

The amendments made by subsections (a) and (b) of this section and the conforming amendments thereto made by subsection (c) are effective for terminations initiated on or after January 1, 1992. The clarification set out in subsection (c) is effective as if included in the Pension Protection Act.

Sec. 302. Liability upon liquidation of contributing sponsor where plan remains ongoing.

Section 302 of the bill adds a new subsection (f) to section 4062 of ERISA that provides that in the event all or substantially all of the assets of a contributing sponsor of an ongoing plan are being liquidated in a bankruptcy proceeding and, therefore, the sponsor's controlled group members become responsible for maintaining the plan by operation of law, such sponsor is liable as though the plan had terminated in a distress termination as of a date determined by the PBGC as the date liquidation was initiated. The PBGC shall collect the liability and pay amounts it collects to the plan; however, it may assign this right to controlled group members. The PBGC may, by regulation, issue rules to implement this subsection.

The amendment made by this section is effective for liquidations initiated on or after the date of enactment.

Subtitle B. Amendments to Title 11, United States Code

Sec. 321. Pension Benefit Guaranty Corporation permitted to be a member of an unsecured creditors' committee.

This section amends section 101(a)(35) of the Bankruptcy Code to permit the PBGC to be a member of an unsecured creditors' committee.

The amendment made by this section is effective for cases initiated on or after the date of enactment.

Sec. 322. Clarification of priorities in conformity with ERISA.

Subsection (a) of section 322 of the bill adds two new subparagraphs to section 507(a)(7) of the Bankruptcy Code to clarify that seventh priority claims include:

(1) unpaid pension contributions that are attributable to the pre-petition period and treated as taxes owing the United States under section 412(n)(4)(C) of the Internal Revenue Code and

(2) employer liability that arises under sections 4062, 4063, and 4064 of ERISA, to the extent the employer liability is treated as a tax under section 4068(c)(2) of ERISA, where termination occurs on or prior to the petition date.

Subsection (b) adds a new paragraph (7) to section 503(b) to clarify that unpaid contributions for plan years beginning after December 31, 1987 that are attributable to the post-petition period, and that employer liability arising after bankruptcy exist in the amounts specified in section 412(n)(4)(C) of the Internal Revenue Code and in Title IV of ERISA.

The clarifications set out in this section with respect to unpaid contributions are effective as if included in the Pension Protection Act. The clarifications with respect to employer liability are effective for cases commenced on or after the date of enactment or cases pending on the date of enactment in which claims for liability have not been resolved as of such date.

Sec. 323. Notice required where federally insured pension plan is administered by the debtor or its affiliate.

Section 323 of the bill amends the Bankruptcy Rules to provide that the bankruptcy court shall give the PBGC notice of a petition filed and all other notices required to be served upon creditors and interested parties, in any case under Title 11 in which the debtor or an affiliate maintains a pension plan covered under Title IV of ERISA.

This section is effective on the date of enactment.

PENSION SECURITY ACT OF 1992—EXPLANATORY STATEMENT

BACKGROUND

Pension Benefit Guaranty Corporation

The Pension Benefit Guaranty Corporation (PBGC), established under Title IV of the Employee Retirement Income Security Act of 1974 (ERISA), insures workers and retirees against the loss of their private sector, defined benefit pensions. Currently, PBGC protects the pensions of nearly 40 million Americans in about 85,000 defined benefit plans. These pension plans provide a specified monthly benefit at retirement, often based on salary and years of work.

PBGC is a government-owned corporation. A three-member Board of Directors, comprised of the Secretaries of Labor, the Treasury, and Commerce, oversees major issues of corporate policy. The Board is chaired by the Secretary of Labor.

PBGC insurance programs

PBGC administers two insurance programs. Participation in the programs is mandatory for covered plans.

The multiemployer program covers nearly 9 million workers and retirees in about 2,100 collectively bargained plans with more than one employer. This program extends financial assistance loans to plans that are unable to pay current benefits at guaranteed levels.

The single-employer program covers about 32 million workers and retirees in about 83,000 plans. In this program PBGC guarantees most vested benefits in underfunded plans terminated because of financial distress of companies maintaining these plans or because PBGC is forced to terminate the plans in order to assure continued payment of benefits or to avoid larger future losses for PBGC.

PBGC funding and relationship to Federal budget

PBGC is funded by premiums paid by covered plans or their sponsors and recoveries from those sponsors and their affiliates (controlled group members). Funds of one insurance program cannot be used to pay obligations of the other.

Currently, the PBGC receives no general fund revenues. The premiums paid by covered plans and income on these funds are, however, Federal revenues. Currently, PBGC's outlays for benefit payments and administrative expenses paid from its revolving funds are treated as Federal outlays. The Administration will be proposing changes in the Federal Budget treatment of all Federal insurance programs. Under that proposal, PBGC outlay costs will reflect not only its accrued liability for already terminated plans but also its accruing liabilities with respect to expected losses in the future. In that context, the program's liabilities could be covered both by premiums and by appropriated budgetary resources to cover any deficiency.

PBGC financial condition and prospects for the single-employer program

At the end of FY 1991, the smaller, multiemployer program had a surplus of $187 million and the larger, single-employer program had a deficit of $2.5 billion.

The financial future of the single-employer program is very uncertain. In the absence of legislative changes to the program, PBGC's deficit will grow. On an accrual basis, the single-employer program already has a $2.5 billion deficit, reflecting serious recent claims in the airline industry and the consequences of continuing litigation with the LTV corporation. This accrual amount will grow steadily under accrual accounting in a manner that reflects the program's expected losses in the future. Even under current cash accounting, PBGC's outlays for benefit payments will begin to exceed premium revenue within the decade.

Although overall, the pensions insured by PBGC are well funded, with over $1 trillion in assets to back up some $800–$900 billion in liabilities, there is an estimated $30–$40 billion in underfunded plans, concentrated in a relatively few, typically unionized firms, primarily in the steel, auto and airlines industries.

About half of these plans are associated with financially troubled companies and constitute a "reasonably possible" near-term loss of approximately $13 billion to the insurance fund. Looking over the longer run, the present value of expected losses to the insurance program are estimated as some $30 to $45 billion.

Earlier legislative reforms

PBGC's single-employer program has had a loss in almost every year of its 17-year existence, and the size of losses has generally been growing.

Prior to 1986, Congress responded to PBGC's growing losses in the single-employer program only by increasing premiums. However, major losses in the Allis-Chalmers, Wheeling-Pittsburgh and LTV cases spurred Congress to enact structural reforms in 1986 and 1987. The reforms generally followed those proposed by the Administration. The changes included: (1) reducing PBGC's exposure by requiring an increased minimum funding contribution for seriously underfunded plans and authorizing a lien for unpaid contributions; (2) instituting and tightening the distress tests for companies seeking to terminate underfunded plans; (3) increasing the amount (but not the bankruptcy priority) of PBGC's claims against a sponsoring firm and its affiliates (controlled group); and (4) increasing the base premium and adding a variable rate premium based on the amount of plan underfunding.

The immediate need for legislation

The Administration believes that the degree to which the $13 billion of PBGC's "reasonably possible" exposure will constitute claims on the insurance program over the next decade depends on whether legislation will be enacted that affirms and enhances the reforms that occurred in the 1980's. Looking to the longer run, the expected losses of some $30 to $45 billion can only be contained with substantial reform.

Reforms are all the more imperative in light of the premium increases that have occurred over the last decade. PBGC cannot expect to be able to increase premiums forever without damaging the defined benefit pension system; healthy companies will likely decide such plans are not worth the costs.

This bill contains provisions to carry out the Administration's recommendations contained in Chapter 13 of the FY 1993 Budget and Budget Appendix to tighten the requirements for contributions for underfunded plans, to limit growth in the program's guarantee for chronically underfunded plans, and to clarify and improve the status of PBGC claims in bankruptcy, including the treatment of shutdown benefits in bankruptcy, and to give PBGC the option of becoming a member of creditors' committees.

SUMMARY OF BILL PROVISIONS

1. Pension Plan Funding Requirements (Title I, section 101 and section 121)

Current law

Since 1974, the tax code and ERISA have required sponsors of defined benefit plans to fund their ongoing obligations by maintaining a balanced funding standard account (section 412(b) of the Internal Revenue Code of 1986, as amended ("Code")). Balance is maintained when credits to the account, including contributions, equal or exceed a variety of annual charges. The primary charge is "normal cost": the portion of the total value of benefits assigned to a particular year, usually the value of benefits accruing during the year. Other charges are for unfunded past service liability, experience losses (e.g., when actual investment experience is less than projections) and losses for changes in actuarial assumptions. The major effect of the 1974 requirements was to require that some portion of existing new underfunding be paid off. The amortization period for past service liability, however, extends as long as 30 years (40 years for pre-1974 amounts). Subject to some ceilings, sponsors may contribute amounts in excess of the minimum required to keep the funding standard account in balance.

In general, the 1974 rules, along with substantial increases in the value of stocks and other assets, have helped to reduce the funding gap that the PBGC insures. Subject to certain limits, this funding gap is the difference between termination liability (the benefits owed by the plan in the event of its cessation) and assets. In so-called final pay plans (about 75 percent of the universe), the funding gap is minimal. This is because those plans compute their obligations in a way that anticipates the worker's final pay. Accordingly, final pay plans are usually overfunded on a termination basis—that is, what they owe workers today based on today's salary level. They constitute only minimal exposure to the PBGC, at least in the near-term. Typically, these plans are 140 percent funded on a termination basis.

In so-called flat benefit or flat dollar plans (about 25 percent of the universe), the funding gap can be considerable. This is because the ongoing funding rules do not require or permit these plans to anticipate future benefit increases. They are funded as if the current level of benefits will exist in perpetuity. Most flat benefit plans are the product of collective bargaining. For most of the major industrial unions, the benefit levels are increased in each round according to an industry pattern. Many of these plans are in constant catch-up; each new bargaining cycle creates new layers of unfunded liability. Typically, these plans are only about 70 percent funded. Moreover, PBGC's experience is that the funding ratios of terminated flat benefit plans have declined to well below 70 percent prior to plan termination.

As long as bankruptcies in major industries were infrequent, the exposure of the PBGC to flat benefit plans was latent. By the early 80s, the environment changed. Bankruptcies (e.g., Wheeling-Pitt, LTV) became more frequent, and it became evident that the 1974 funding rules were not stringent enough.

To address the ripening exposure that the PBGC faced from increased bankruptcies and persistent underfunding, the Pension Protection Act, enacted as part of the Omnibus Budget Reconciliation Act of 1987, added a new minimum contribution requirement ("deficit reduction contribution") for underfunded plans (section 412(l) of the Internal Revenue Code). The deficit reduction contribution is the sum of: (1) the unfunded "old" liability amount, which generally requires that pre-1987 unfunded liabilities be amortized over 18 (rather than up to 30) years, (2) the unfunded "new" liability amount, which is determined by formula, with higher payments required for the more seriously underfunded plans, to a maximum of 30 percent of the post-1987 unfunded liabilities for plans with funding ratios of 35 percent or less, and (3) a portion of unfunded liabilities attributable to "unpredictable contingent event benefits". From this calculation are subtracted some of the charges and credits to the funding standard account. Any remaining amount is then added to the funding standard account as an additional charge.

Problems

While helpful, the deficit reduction contribution does not adequately address the problem of plans with a heavy concentration of retirees, high amounts of benefit payments, and a declining number of participants. In these plans, typically flat benefit plans sponsored by firms in heavy industry, it is possible to be in full compliance with existing minimum funding rules even when annual benefit payments exceed contributions to the plan.

In addition, the structure of the deficit reduction contribution and the way it interacts with the funding standard account allow underfunded plans, even when their underfunding is increasing, to avoid having to make any extra contribution on account of section 412(l). Because the deficit reduction contribution piggybacks onto the regular funding standard account, the need for a deficit reduction contribution can be eliminated whenever there are sufficient credits, e.g., from experience gains or changes in plan assumptions, in that account. The 18-

year amortization of "old" liability under section 412(l) erodes the potential for improvement in the funding status of plans that were severely underfunded in 1987. Also, the assumptions concerning the interest rate, mortality and expected retirement ages can limit the value assigned to the new liability component of the deficit reduction contribution.

Finally, because section 412(l) uses concepts that depart from those used in the funding standard account, many in the pension community have expressed concerns about the extra layer of regulatory burden that section 412(l) has brought with it.

Explanation of provision

The bill would replace the current deficit reduction contribution with two new rules: the "underfunding reduction requirement" and the "solvency maintenance requirement". The required minimum funding contribution would be the greatest of: (a) the amount of any funding deficiency according to the regular funding standard account, (b) the amount required by the underfunding reduction rule, or (c) the amount required by the solvency maintenance rule. The two new rules would only apply to underfunded pension plans with more than 100 participants, and would only have a limited effect on plans with more than 100, but no more than 150 participants.

The underfunding reduction contribution (revised section 412(l)) applies the formula for the unfunded new liability amount from the deficit reduction contribution to the entire underfunding, thereby eliminating the grandfathering of pre-1987 liabilities over an 18-year period. As before, the rule requires higher contributions from the worst funded plans. To this amount are added normal cost, the repayment of waived contributions, and changes for experience losses and losses from changes in actuarial assumptions. Credit for experience gains, gains from changes in actuarial assumptions and greater than required minimum contributions (per 412(b)) would be allowed as offsets, but only to the extent of the extent of the charges for experience losses and the losses from changes in actuarial assumptions.

The solvency maintenance requirement (new section 412(o) of the Internal Revenue Code) has two main components: (1) disbursements from the plan (i.e., benefit payments, including annuity purchases, administrative expenses and other disbursements) and (2) the plan's initial unfunded liability multiplied by the interest rate used for purposes of the funding standard account under Code section 412(b). Normal cost and other charges are added to this amount, and credits are allowed, in the same manner as under the underfunding reduction requirement.

To protect firms against possibly large increases in their required contributions on account of this rule, the solvency maintenance requirement is phased-in over a five-year transition period. In addition, with respect to both requirements, any positive credit balances that antedate 1992 would be allowed as full offsets under both the new requirements.

To minimize additional regulatory burden, the new rules would use concepts from the funding standard account. For purposes of minimum funding, the concept of "current liability" now contained in current law section 412(l) would cease to exist. In addition, discipline in actuarial assumptions is maintained by use of the funding standard account concepts of experience losses and losses in changes in actuarial assumptions. Limiting credit for experience gains, gains from changes in actuarial assumptions and for greater-than-required minimum contributions in past years butresses that discipline and assures that underfunded pension plans always make a contribution in each year that they are underfunded.

2. ERISA Citation in Deduction Rules (Title I, section 102)

Current law

The Single-Employer Pension Plan Amendments Act of 1986 ("SEPPAA") added section 404(g) to the Internal Revenue Code. Section 404(g) provides that amounts paid by an employer or a member of its controlled group under section 4041(b), 4062, 4063 or 4064 or under Part I of subtitle E of ERISA are treated as contributions subject to the deduction rules of the Code. Section 404(g)(4) specifies that a reference to ERISA for purposes of section 404 is a reference to ERISA on the date of enactment of SEPPAA. The Pension Protection Act of 1987 increased the amounts payable under sections 4041(b), 4062, 4063 and 4064 of ERISA.

Problem

Because Code section 404(g)(4) still cites the 1986 version of ERISA to identify ERISA-required payments that are deductible, the additional amounts payable under sections 4041(b), 4062, 4063 and 4064 of ERISA as amended by the Pension Protection Act of 1987, are not deductible.

Explanation of provision

The bill would amend Code section 404(g) to reference the version of ERISA in effect on the date of the transaction rather than a specific version of ERISA. The change assures that the deduction rules will be applied to the payments under the applicable version of ERISA.

3. Limits on Guarantee of Benefit Increases (Title II, section 201, subsection (b))

Current law

Subject to statutory limits, the PBGC guarantees benefits that are nonforfeitable under the terms of a terminating defined benefit plan covered by title IV of ERISA. Section 4022(b)(7) of ERISA phases in the guarantee of new benefits or benefit increases attributable to plan amendments in effect fewer than five years before plan termination at the greater of 20% of the benefit or $20 per month, per year.

Problem

Potential exposure from underfunded plans continues to grow. PBGC's most recent analyses estimate reasonably possible losses of about $13 billion, compared to last year's $8 billion. Under current law, underfunded plans can increase the value of the PBGC's guarantee by amending the plan to increase benefits. After five years (sooner or an increase of less than $100 per month), the benefit increase is generally guaranteed in full, even though the minimum funding rules generally allow funding over a much longer period and do not require existing increases to be fully funded before new ones are added. As a result, underfunding often builds up as benefit increases are added, often every three to five years as part of each new bargaining agreement.

Explanation of provision

Except for certain amendments resulting from existing collective bargaining agreements, the current phase-in rules would be eliminated for plan amendments that are adopted or become effective (whichever is later) after December 31, 1991. PBGC would not guarantee new benefits or benefit increases due to plan amendments made after December 31, 1991 for plans that are not fully funded for vested benefits (taking into account the liability attributable to the amendment) at the end of the plan year in which the amendment is made. If the plan is or subsequently becomes fully funded for vested benefits, any such benefit or benefit increase would be guaranteed in full provided that the amendment was adopted or effective (whichever is later) for at least one year prior to the plan termination date.

4. Unpredictable Contingent Event Benefits (Title II, section 201, subsection (c))

Current law

Under current law, a pension benefit that is contingent on an unpredictable event, such as a plant shutdown, is generally guaranteed in the same manner as a benefit dependent on a condition such as age, service or disability.

Problem

Unpredictable contingent event benefits are generally not pre-funded. The Pension Protection Act of 1987 requires accelerated funding of these benefits once the event occurs that triggers payment of the benefits. At that point, the benefits must be amortized over seven years, or a specified percentage of the current year's payment of such benefits must be funded, whichever results in a larger payment to the plan. When these benefits are triggered shortly before plan termination—as happens frequently when a troubled company is downsizing, the costs to the PBGC can be substantial. Shutdown benefits have cost the PBGC about half a billion dollars to date.

Explanation of provision

Any plan provision or amendment adopted or effective after December 31, 1991 that creates or increases unpredictable contingent event benefits would not be guaranteed. Benefits adopted and effective on or before December 31, 1991 would not be affected by this rule.

5. Enforcement of Minimum Funding Requirements (Title II, section 202)

Current law

Upon request by a participant or the Secretary of the Treasury, the Secretary of Labor may file an action pursuant to section 502(b) of ERISA against a contributing sponsor and controlled group members for failure to comply with the minimum funding standards. In addition, the IRS can levy an excise tax under section 4971 of the Code to attempt to force compliance with minimum funding.

Problem

Despite these enforcement tools, a plan sponsor can force an involuntary termination of its pension plan by simply ceasing to make contributions until the plan runs out of assets.

Explanation of provision

The bill would amend section 4003 of ERISA to give PBGC concurrent authority to bring a civil action to enforce minimum funding standards in PBGC-covered plans, including the enforcement of liens. (The Department of Labor would also retain authority to bring such action, and jurisdiction over granting waivers and extensions of the amortization periods would remain with the Secretary of the Treasury.)

6. Definition of Contributing Sponsor (Title II, section 203)

Current law

The contributing sponsor of a single-employer plan is defined as the person who is responsible, in connection with such plan, for meeting the funding requirements under section 302 of ERISA or section 412 of the Code.

Problem

The current law definition, enacted under the Single-Employer Pension Plan Amendments Act of 1986, was intended to identify the person maintaining the pension plan. The definition no longer does this, however, because the Pension Protection Act (PPA), enacted in 1987, made the entire controlled group liable for the minimum funding of the controlled group's plans.

Explanation of provision

The bill would define contributing sponsor to mean the person entitled to claim a tax deduction for contributions made to the plan. The effect of this amendment would be to include—as originally intended—only the person maintaining the plan as a contributing sponsor.

7. Recovery Ratio under 4022(c) of ERISA

A. Plans Included in the Average Recovery Ratio (Title II, section 204, subsection (a))

Current law

Section 4022(c) of ERISA requires that the PBGC pay participants in plans terminated in distress or involuntary terminations a portion of their nonguaranteed benefits based on a "recovery ratio". For a large plan (*i.e.*, a plan with outstanding benefit liabilities of more than $20 million) the payment is based on the value of the *actual* recovery. For small plans, the payment is based on an *average* recovery. Both small and large plans are included in the ratio; distress terminations are included, but involuntary terminations are not.

Problem

The average recovery ratio should reflect the PBGC's recovery experience with plans for which this ratio affects payment of nonguaranteed benefits.

Explanation of provisions

The bill would clarify that the average recovery ratio applicable to small plans excludes experience for large plans, and includes experience for both distress and involuntary terminations of small plans.

B. Transitional Rule (Title II, section 204, subsection (b))

Current law

PPA included a transitional rule under which the actual recovery ration for a small plan, rather than an average recovery ratio, would apply for the first three years following enactment.

Problem

Because there have been very few terminations in the 3-year period following enactment of PPA for which the PBGC has valued its employer liability recovery, more experience is needed to develop a meaningful average recovery ratio.

Explanation of provision

The bill would extend the transitional rule from three to seven years.

8. Seventh Revolving Fund (Title II, section 205)

Current law

PPA created a seventh revolving fund to receive premiums for plan years beginning on or after January 1, 1988, and to pay benefits in plans terminating on or after October 1, 1988, or before that date if other funds are no longer available.

Problem

The seventh revolving fund adds much complexity to various PBGC functions with no offsetting benefits. The seventh fund complicates, for example, (1) accounting for both premium and benefit payments, (2) allocation of assets for investment purposes, and (3) budget presentation and financial statements.

Explanation of provision

The bill would discontinue the seventh fund and merge its assets and liabilities with the assets and liabilities of the first revolving fund (the single-employer basic benefits guaranty fund).

9. Distress Termination Criteria for Banking Institutions (Title II, section 206)

Current law

A contributing sponsor or controlled group member can qualify for a distress termination under the first distress test of ERISA section 4041(c)(2)(B) if the sponsor or member is liquidating under Title II, United States Code, or under any similar law of a State or political subdivision of a State.

Problem

The first distress test would not cover liquidating sponsors or controlled group members in certain industries for which liquidations are conducted in accordance with a Federal law other than Title 11. For example, a liquidating financial institution whose deposits are insured by the FDIC could not qualify under the first distress test.

Explanation of provision

The bill would extend the first distress test involving Title 11 proceedings to similar proceedings under other Federal laws.

10. Variable Rate Premium Exemption (Title II, section 207)

Current law

Single-employer plans covered under Title IV of ERISA pay a premium that consists of a flat-rate charge of $19 per participant, plus a variable-rate charge of $9 per $1,000 of unfunded vested benefits, up to a maximum combined premium of $72 per participant. The interest rate used in calculating underfunding for the variable rate charge is 80% of a one-month snapshot of the 30-year Treasury rate. Current law provides that a covered plan at the full funding limitation under section 412(c)(7) of the Internal Revenue Code for the proceeding plan year is exempt from the variable-rate charge; the exemption applies if the plan has hit either the 150 percent of current liability limit or its accrued liability limit. The interest rate used in calculating current liability is 90 to 110 percent of a four-year moving average of 30-year Treasury rates.

Problem

The exemption from the variable rate premium was enacted in 1989 primarily to prevent a company from having to pay a variable rate premium (calculated with the 80% spot interest rate) when it was constrained by the 150 percent of current liability full funding limit (calculated with a different four-year average interest rate). By its terms, the exemption also applies when a company has hit its accrued liability full funding limit, using overly optimistic actuarial assumptions, even though it could make further contributions under section 404(a)(1)(D) of the Internal Revenue Code. In addition, because of the combined limit on deductions at section 404(a)(7) of the Code, some companies may have to pay a variable rate premium on underfunding they could not have eliminated without incurring an excise tax on nondeductible contributions.

Explanation of provision

The bill would allow an exemption from the variable-rate charge only when a plan contributes the maximum amount that does not incur an excise tax for nondeductible contributions under section 4972 of the Code.

11. Employer Liability, Lien and Priority (Title III, sections 301 and 322)

Current law

PBGC has two major bankruptcy claims: as successor trustee for unpaid contributions, and statutory claims for plan underfunding ("employer liability"). Generally, these claims are unsecured. Some of these claims have priority status, while the rest usually are filed as general unsecured claims.

Problems

LTV ruling and other challenges to status of PBGC's claims and PBGC's authority to determine amount of claims—

Debtors and creditors have challenged PBGC's assertion that contributions to an ongoing plan that accrue during a bankruptcy proceeding are administrative expense claims. They have also challenged PBGC's assertion that its statutory priority claim for employer liability up to 30 percent of employer net worth has the status of a tax lien and priority claim. Until recently, PBGC prevailed in these disputes. However, the bankruptcy court and district court in the LTV case ruled against PBGC on both (1) its assertion of priority claims for both unpaid contributions and employer liability and (2) its authority to determine the amount of its claims in bankruptcy.

Inadequacy and Uncertainty of the 30 Percent of Net Worth Limitation on Priority Claims—

The maximum amount of PBGC's priority claim for employer liability—30 percent of employer net worth—generally results in low recoveries, even when the priority is not disputed. This is because plan underfunding is often very large in relationship to the net worth of a company in bankruptcy. According priority to a greater portion of the PBGC's claim is appropriate because PBGC is an involuntary creditor that, unlike most other creditors, is not free to establish the terms of its credit or to limit the amount of its credit. Establishing net worth in large cases also has been contentious and has led to long delays in achieving plans of reorganization.

Plant shutdown benefits—

Plan underfunding can increase dramatically before plan termination because of plant shutdown and permanent layoffs. These events often trigger subsidized and supplemental benefits, but because of their unpredictable nature, no contributions are made until the benefit becomes payable. These benefits greatly increase PBGC's potential losses.

Explanation of provision

1. Employer Liability Lien and Priority Amount:

The bill would amend section 4068 of ERISA to clarify that a portion of PBGC's claims for employer liability has priority. In addition, the bill prospectively would revise the amount of PBGC's priority employer liability claim to be the sum of:

(a) unfunded benefits liabilities attributable to the occurrence of unpredictable contingent events arising during the three years preceding termination, plus

(b) the greater of:

(1) 30 percent of employer net worth; or

(2) the currently applicable percentage of the remaining unfunded benefit liabilities. The percentage begins at 10 percent and increases 2 percentage points a year until it reaches 50 percent in 2012.

The bill authorizes the PBGC to disregard the 30 percent of net worth calculation where cost-effective to do so.

2. Pre-petition Contributions and Employer Liability:

The bill would amend section 507(a)(7) of the Bankruptcy Code to include contributions attributable to the pre-petition period and pre-petition priority employer liability claims (that is, employer liability for termination before a bankruptcy petition has been filed) in the list of pre-petition taxes that are accorded priority under that paragraph of the Bankruptcy Code. The change would reference relevant tax code and ERISA Title IV provisions and the regulations thereunder.

3. Post-petition Contributions and Employer Liability:

The bill would amend section 503(b)(1)(B) of the Bankruptcy Code to include contributions attributable to the post-petition period and post-petition priority employer liability claims (that is, employer liability for termination after a bankruptcy petition has been filed) among the post-petition taxes that are treated as allowable administrative expenses of a bankrupt company and are accorded priority under section 507(a)(1) of the Bankruptcy Code. The change would reference relevant tax code and ERISA Title IV provisions and the regulations thereunder.

12. Liability on Liquidation of Contributing Sponsor (Title III, section 302)

Current law

Under current law, when a contributing sponsor that is a member of a controlled group liquidates in order to pay creditors, but does not terminate its plan because a member of its controlled group does not qualify for a distress termination of the plan, the controlled group members become responsible under section 4041 (a)(1) and (c) of ERISA for maintaining the plan. Neither the plan nor these controlled group members have a statutory claim against the liquidating sponsor for the amount of plan underfunding.

Problem

Current law allows a liquidating sponsor in a controlled group to shift its entire funding obligation to its controlled group members, and, potentially, the PBGC if the controlled group members themselves subsequently become bankrupt.

Explanation of provision

The bill would make a sponsor that liquidates all or substantially all of its assets to pay creditors liable for plan underfunding as if the plan were terminating. The liability would be payable to the plan. The PBGC would be authorized to issue regulations enabling plans to assign this claim to controlled group members as successor plan administrator and to agree to alternative arrangements for satisfaction of the liability.

13. Access to Bankruptcy Information (Title III, sections 321 and 323)

Current law

Under ERISA the plan administrator is required to notify PBGC if the plan sponsor enters bankruptcy. However, bankruptcy courts are not required to notify PBGC of the filing of a petition by or against a company that maintains a PBGC-covered plan or that is a member of such a company's controlled group.

The PBGC is not expressly mentioned in the Bankruptcy Code as a government unit entitled to membership on creditors' committees.

Problems

Because bankruptcy courts are not required to notify PBGC of a proceeding in which it has a financial interest, that interest may be jeopardized.

Because PBGC is not expressly granted membership on creditors' committees, PBGC is sometimes denied membership and access to information critical to pursuing its claims, even though it may be the largest creditor in the proceeding. This can result in reduced recoveries for the PBGC and plan participants.

Explanation of provision

The bill would give PBGC a statutory right to be a member of creditors' committee and would amend the Bankruptcy Rules to require the court to give PBGC notice of a proceeding and all other notices required to be given to creditors in any case where the debtor or an affiliate of the debtor maintains a PBGC-covered plan.

U.S. DEPARTMENT OF LABOR,
SECRETARY OF LABOR,
Washington, DC, March 13, 1992.

Hon. DAN QUAYLE,
President, U.S. Senate, Washington, DC.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is draft legislation entitled the "Pension Security Act of 1992."

This is one of the Administration's legislative proposals to implement the President's program. Office of Management and Budget Director Darman enclosed an advance copy of this bill in his January 29, 1992, letter to you. The only changes from that version are the title and corrections of minor drafting errors.

The Pension Benefit Guaranty Corporation (PBGC), which was created under the Employee Retirement Income Security Act of 1974 (ERISA), provides pension protection to about 40 million Americans in private defined benefit pension plans. About 32 million of these workers and retirees are in single-employer plans covered by the PBGC's single-employer program.

At the end of fiscal year 1991, this program had a $2.5 billion accumulated deficit. PBGC forecasts show that this amount could grow rapidly to almost $20 billion within the decade.

Fiscal year 1991 saw the two largest claims in PBGC's history: Pan American World Airways (underfunded by $900 million) and Eastern Air Lines (underfunded by $700 million). There is another $13 billion in underfunded pensions that presents a near-term, serious risk to the PBGC. The Congress addressed the deteriorating financial condition of the single-employer insurance program by enacting the Pension Protection Act of 1987. We believe Congress should act to affirm and build on those reforms by strengthening the underlying insurance principles supporting the PBGC. The Administration's bill proposes changes in three key areas.

First, the bill will strengthen the current minimum funding requirements for underfunded plans with more than 100 participants. We believe that the current rules have proven inadequate in a number of respects and, if left unchanged, will not significantly reduce pension underfunding. The bill contains transition rules to allow plan sponsors time to adjust to the new requirements.

Second, to further improve funding incentives and limit the PBGC's exposure from chronically underfunded plans, the bill restricts the PBGC's guarantee for future increases in benefits in underfunded plans. Under current law, benefit increases are generally guaranteed in full years before the increases are funded. Under the proposals, future increases in benefits would not be guaranteed unless and until a plan is fully funded. Future increases in unpredictable contingent event benefits (*e.g.*, shutdown benefits)—which have cost PBGC's premium payors over half a billion dollars to date—would not be guaranteed at all.

Third, the Administration is seeking clarification of, and improvements in, the priority of PBGC's claims against bankrupt companies with terminated underfunded pension plans. This will reduce PBGC's losses through higher recoveries and fewer terminations. Moreover, if PBGC has a higher bankruptcy priority, plan sponsors and their creditors will have to treat pension plan underfunding as real debt, creating a market-based incentive for better plan funding.

The Administration also is proposing separate legislation to change the Federal Budget treatment of all Federal insurance programs, including the PBGC, from a cash basis to an accrual basis. Under accrual accounting, the PBGC's outlay costs will reflect both its accrued liability for already terminated plans and its accruing liabilities with respect to expected future losses.

I urge the Congress to give the Administration's proposal prompt and favorable consideration.

The effect of this draft bill on the deficit is:

Fiscal years

[In millions of dollars]

Receipts (cash basis):	
1992	0
1993	0
1994	−304
1995	−424
1996	−575
1997	−788
1992–97	−2,091

The Omnibus Budget Reconciliation Act (OBRA) requires that all revenue and direct spending legislation meet a pay-as-you-go requirement. That is, no such bill should result in an increase in the deficit; and if it does, it will trigger a sequester if not fully offset. Since the "Pension Security Act of 1992" would decrease receipts, it must be offset.

The President's FY 1993 Budget includes several proposals that are subject to the pay-as-you-go requirement. Considered individually, the proposals that increase direct spending or decrease receipts would fail to meet the OBRA requirement. However, the sum of all of the spending and revenue proposals in the President's Budget would reduce the deficit. Therefore, this proposal should be considered in conjunction with the other proposals in the FY 1993 Budget that together meet the OBRA pay-as-you-go requirement.

As noted above, the President's Budget also proposes to utilize the principles of accrual accounting for the PBGC in conjunction with the reforms in this proposal. Enacting accrual accounting for the PGBC prior to passage of the above reforms would mean the "Pension Security Act of 1992" would result in savings.

Fiscal years

[IN MILLIONS OF DOLLARS]

Outlays (accrual basis, net of revenue loss):	
1992	8,700
1993	2,500
1994	2,400
1995	1,300
1996	2,700
1997	2,100
1992–97	19,700

The Office of Management and Budget advises that there is no objection to the submission of this proposal and that its enactment would be in accord with the program of the President.

Sincerely,

LYNN MARTIN.

By Mr. LIEBERMAN:

S. 2486. A bill to make Soviet military threat reduction funds available for programs to deter nuclear proliferation as a result of the disintegration of the Soviet Union; to the Committee on Foreign Relations.

SOVIET MILITARY THREAT REDUCTION FUNDS

Mr. LIEBERMAN. Mr. President, it is a truism that there are no final victories in international affairs. The solution to one set of problems usually ushers in new challenges.

For decades, we feared a Soviet Union that was too strong; now we fear that its successor states and citizens will be too weak to maintain a minimum of social cohesion. Their economies are collapsing and long-dormant ethnic conflicts have erupted. In the midst of this, there are nearly 30,000 nuclear warheads, thousands of nuclear scientists and technicians, and tens of thousands of poorly paid members of the armed forces, who are responsible for the security of the nuclear weapons complex.

The dimensions of the former Soviet nuclear weapons complex and the proliferation threat that it represents is illustrated by their stock of nuclear materials. There are approximately 500 metric tons of enriched uranium and 100 metric tons of plutonium in the former Soviet nuclear weapons complex. Yet it takes less than 5 kilograms of plutonium and less than 10 kilograms of enriched uranium to build a nuclear weapon. Already there are reports of clandestine deals between former Soviet officials and radical Middle Eastern states involving these materials.

Despite this somber picture, it is heartening that the former republics are interested in U.S. assistance in dealing with their nuclear weapons complex. Senators NUNN and LUGAR and Congressman ASPIN have wisely taken advantage of this opportunity and provided excellent leadership on this issue.

I am today hoping to complement their efforts by introducing legislation that would authorize a series of additional steps to stem proliferation. The bill is aimed at preventing the diffusion of nuclear knowledge, nuclear weapons materials and components, tactical nuclear weapons, and of assisting in the dismantling of nuclear warheads. All of these challenges are interconnected, and all must be solved if we are to construct a more secure world. This bill does not require new funding; rather it is intended to supply a detailed checklist of steps we can take to help control nuclear proliferation, using resources already in place.

I also note that the Congressional Research Service is releasing a detailed report today at my request entitled "Nuclear Proliferation from Russia: Means of Limiting its Spread." Both the report and my bill deal with the following issues.

THE BRAIN-DRAIN THREAT

Some 2,000 commonwealth scientists and engineers possess critical skills or knowledge that might help another nation establish or accelerate a nuclear weapons program. Because salaries and living conditions for those in the nuclear weapons complex are dismal, and could get worse if the nuclear weapons program grinds to a halt, these people may be tempted to emigrate with their knowledge.

Documents containing detailed design and production information could also be transferred from nuclear weapons facilities in commonwealth states to other nations. Some documents might contain information that could help countries design or construct critical nuclear facilities and equipment or even warheads. While the Soviet Union probably controlled these documents tightly, disarray in the control systems raises the possibility that some may seep out.

The United States has made a good start by encouraging Soviet weapons scientists to work on projects of joint interest with the United States, such as weapons dismantlement and nuclear fusion. We should also provide technical support to enable the commonwealth to set up a directory of commonwealth scientists with key nuclear weapons expertise and to inventory and destroy sensitive documents pertaining to the design and production of nuclear weapons, materials, and components.

THE SPREAD OF NUCLEAR WEAPONS MATERIALS AND COMPONENTS

The possible sale of materials and components from the Soviet nuclear weapons complex for hard currency also represents a serious danger. The nuclear weapons complex of the former Soviet Union is composed of dozens of facilities that develop and test nuclear weapons and that produce nuclear weapons materials, nuclear weapons components, and assembled weapons. Most of these facilities are in Russia, but uranium mining and processing facilities are located in the central Asian Republics near the uranium mines. Individuals with access to nuclear materials and components may be tempted to sell them.

The United States should provide assistance to strengthen security at nuclear weapons complex facilities, inventory nuclear weapons materials and components, and monitor their whereabouts on an ongoing basis. We should assist in the monitoring of the uranium mines and processing equipment in the central Asian Republics. We should also encourage legislatures in the new states to move promptly to enact legislation pertaining to the export of nuclear weapons-related technology and criminalizing the sale of classified information and the participation by individuals in foreign nuclear weapons programs.

THE INVENTORY OF TACTICAL NUCLEAR WEAPONS

The transportation of Soviet tactical weapons to Russia appears to be on schedule, although the recent statements by President Kravchuk about suspending Ukraine's missile transfers are cause for concern. Yet, because these warheads are relatively small, weighing tens or hundreds of pounds, groups or individuals could overcome military forces and security systems and remove a few weapons. The United States should, therefore, provide assistance to construct long-term storage facilities for tactical warheads and for tags and seals on nuclear warheads to monitor the locations of warheads and to provide warning of efforts to tamper with those in storage.

DISMANTLING OF NUCLEAR WARHEADS

The continuing turmoil in the commonwealth raises questions about the long-term viability of the system designed to safeguard and control Soviet nuclear weapons. The United States could attempt to strengthen this system, but the surest way to guarantee that warheads do not fall into the wrong hands is to dismantle them. If warheads, and particularly their components, are dismantled, it would be hard for any government to rebuild them.

Russia reportedly has two dismantlement facilities which may be able to dismantle 1,500 warheads a year. Other commonwealth states do not have similar facilities. We do not know, however, how difficult it would be to dismantle Soviet warheads or how such a process would occur. For that matter, we do not know if the Soviet Union has ever dismantled any warheads. In any case, warhead dismantlement creates waste, some of which may be radioactive.

To deal with this challenge, the United States could take several initiatives:

Encourage an exchange of data on warhead dismantlement to facilitate the process and to identify where further assistance might be needed.

Provide assistance to design or construct facilities for storing warheads prior to dismantlement and for storing special nuclear materials following warhead dismantlement.

Offer to dismantle Soviet warheads at facilities in the United States, if necessary.

RECIPROCITY

Some of these initiatives would require that United States officials and technicians enter Soviet nuclear weapons production, storage, and elimination facilities so that the United States could evaluate the processes and weapons in those facilities. Officials in some of the commonwealth states might want to limit U.S. access to their nuclear weapons and facilities because they remain highly classified. Officers from the Soviet military may be particularly resistant to United States initiatives that could reveal nuclear weapons design features.

On the other hand, these officials may be more willing to allow the United States to participate in the transportation, storage, and elimination of their nuclear weapons if the United States were similarly willing to let officials from the commonwealth participate in these activities in the United States, following agreed-on security procedures for both sides. The possible need for reciprocity in the secure transportation, storage, and elimination of nuclear warheads suggests a number of studies and programs that the United States might pursue at this time:

An exchange of data, within acceptable security boundaries, on the locations of nuclear weapons storage and elimination facilities.

A study—from the U.S. Department of Energy—that reviews U.S. warhead dismantlement procedures, assesses whether monitoring of all or part of the dismantlement process would reveal nuclear weapons design and production information, and identifies parts of the process that might be monitored by officials from the Commonwealth of Independent States.

An interagency study on the technologies that might be used to tag and seal nuclear warheads.

A study by the Departments of Energy and Defense to assess the risks associated with onsite monitoring by Commonwealth officials at different nuclear weapons facilities.

CONCLUSION

The collapse of the Soviet Union offers the United States a unique opportunity to reduce the dangers of nuclear war, but only if we work to mitigate the danger of proliferation. Reducing the former Soviet arsenal will also enable us to lower defense spending in the future. And if the United States and the Republics can work together in dismantling warheads on both sides, other arms control initiatives, such as lower and more stable strategic levels, will be easier to achieve.

We should seize the opportunity for a sustained cooperative effort to avoid a diffusion of know-how and hardware throughout the Third World. The former Soviet Republics are ready to work with us. It is time to pursue a vigorous program to ensure that the collapse of the Soviet Union is truly the beginning of a more secure era.

By Mr. INOUYE:

S. 2487. A bill to provide for the regulation of imports of fresh cut flowers by measures in addition to existing duties; to the Committee on Finance.

FRESH CUT FLOWER IMPORT REGULATION ACT OF 1992

Mr. INOUYE. Mr. President, I rise to introduce a bill to create a level playing field of fairness for U.S. fresh cut flower growers. There is clearly room for domestic growth in this sector of our economy, through the expansion of domestic and foreign markets. In domestic markets, it is quite apparent that consumers have not yet reached the level of consumption experienced in other countries with comparable standards of living. In foreign markets, domestic fresh cut flowers offer varieties and quality levels that have considerable appeal.

There are numerous trade inequities that place many of our domestic producers and marketers in disadvantageous and uncompetitive positions. My bill would restore economic equity, and enables our Nation's flower suppliers to take full advantage of, and to meaningfully participate in the future growth of this market.

Based on investigations by the International Trade Commission [ITC], imports account for an increasingly larger share of the domestic fresh cut flower market. In large part, this increase in market share has been the result of unfair import trade practices which allow imports to be sold on consignment. Thus, they enter the United States without an established price. With importers assuming very little risk in the transaction, prices are generally lower than if importers assumed ownership of the imported fresh cut flowers. Similarly, the ITC reported that U.S. producers exporting fresh cut flowers often compete with foreign producers that benefit from government-sponsored programs which often impede domestically grown fresh cut flowers in foreign markets.

The Hawaii fresh cut flower industry has been seriously disadvantaged by the practices ongoing in the global fresh cut flower market. Hawaii has led in the development of the domestic cut tropical flower market. In part through the tourism industry, Hawaii has promoted the beauty and uniqueness of tropical ornamentals. Through tourism and other promotional activities, Hawaii has exposed the American consumer to fresh cut tropical flowers. Foreign competitors have penetrated this market through lower prices often made possible by production and transportation subsidies from their government.

My measure does not seek special treatment for Hawaii flower growers. I am confident that Hawaii producers are fully capable of competing with foreign growers, provided that unfair trade practices and foreign government subsidies are minimized. My bill will allow domestic flower growers to compete with their foreign counterparts on a more equal footing. A need for economic equity and fair trade is fully justified. Hawaii growers conceived and nurtured the domestic tropical flower market and deserve the opportunity to compete fairly for a share of this market.

My bill regulates, in an equitable manner, foreign commerce in anthuriums, dendrobiums, proteas, and other fresh cut flowers. Import limitations are based on recent market shares of domestic and foreign suppliers. Additionally, the Secretary of Commerce is required to monitor the selling prices of imported fresh cut flowers and to self-initiate antidumping actions against unfairly traded fresh cut flowers.

Finally, my measure contains provisions requiring clear and distinct marking of the country of origin of imported fresh cut flowers. I believe that U.S. consumers should know where the flowers they purchase are grown. They should know that the delicate lavender dendrobiums, deep red anthuriums, and exotic proteas, are in fact being grown in Thailand, Holland, and Australia, respectively, and then marketed as "tropical flowers reminiscent of Hawaii." This is unfair. Hawaii is known throughout this Nation, and the world over, for its beautiful tropical flowers. Fresh cut tropical flowers grown in Hawaii have a well deserved reputation for long shelf lives and bountiful blossoms per stem. Consumers should know whether the Maui pink anthurium or the winter season white dendrobiums are really grown in Hawaii. With adequate information on the country of origin, I am confident that domestic consumers will buy "American" and support products "grown in America" and in so doing be assured of the high quality characteristic of Hawaii-grown flowers.

The intent of my bill is to minimize unfair import trading practices that seriously disadvantage domestic suppliers of fresh cut flowers. The fresh cut flower segment of our economy has a considerable and significant growth potential. I believe it is in the best interest of the United States to take steps to allow our growers to compete fairly with foreign suppliers.

It is a simple matter of fair trade and economic equity. I urge my colleagues to support this measure.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2487

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Fresh Cut Flower Import Regulation Act of 1992".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Findings and purposes.
Sec. 3. Authorization of allocation of import duty collections on fresh cut flowers to fund departmental costs of administration.

TITLE I—QUANTITATIVE LIMITATION OF IMPORTS OF FRESH CUT FLOWERS

Sec. 101. Definitions.
Sec. 102. Determination by the Secretary of Agriculture.
Sec. 103. Publication and effective date of the Secretary's determination.
Sec. 104. Revisions of the Secretary's determination.
Sec. 105. Publication and effective date of revisions of the Secretary's determination.
Sec. 106. Enforcement of quantitative limitations on imports.
Sec. 107. Action by the president to proclaim the quantitative limitations established by the Secretary of Agriculture effective by embodying them in appropriate provisions of the Harmonized Tariff Schedules of the United States.

TITLE II—REALLOCATION OF UNUSED COUNTRY QUOTAS

Sec. 201. Reallocation of unused quotas.
Sec. 202. Publication and effective date of the Secretary's reallocation determination.

TITLE III—COUNTRY OF ORIGIN IDENTIFICATION OF IMPORTED FRESH CUT FLOWERS

Sec. 301. Amendment of section 304 of the Tariff Act of 1930 to provide for marketing to inform flower retailers and ultimate consumers of fresh cut flowers of the country of origin of imported flowers.
Sec. 302. Amendment of section 5A of the Federal Trade Commission Act to specify that failure to disclose the country of origin to flower retailers and ultimate consumers of imported fresh cut flowers is an unfair act or practice in commerce.

TITLE IV—PRICE MONITORING OF IMPORTED FRESH CUT FLOWERS

Sec. 401. Price monitoring by the Secretary of Commerce of the prices at which imported fresh cut flowers are sold in the United States.
Sec. 402. Monitoring by the Secretary of Commerce of the fair market value of imported fresh cut flowers sold in the United States.
Sec. 403. Requirement that the Secretary of Commerce self-initiate antidumping duty investigations of imports of fresh cut flowers determined by him to be sold in the United States at less than fair value.
Sec. 404. Publication by the Secretary of Commerce of his determinations.
Sec. 405. Disclosure to interested parties by the Secretary of Commerce under administrative protective order of the prices determined pursuant to sections 401 and 402.
Sec. 406. NOTICE TO INTERESTED PARTIES AND OPPORTUNITY FOR THEM TO PRESENT INFORMATION AND VIEWS TO THE SECRETARY PERTINENT TO HIS OBLIGATIONS UNDER SECTIONS 401, 402, AND 403.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that:

(1) Pursuant to a request of the Congress in section 4509 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418; 102 Stat. 1107), the International Trade Commission conducted an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) of the competitive factors affecting the domestic rose-growing industry, including competition from imports, and the extent to which unfair trade practices and foreign barriers to trade are impeding the marketing abroad of domestically produced roses. By its publication 2178 of April 1989, the Commission reported to Congress that the United States fresh cut rose industry has steadily lost market share to imported roses over the last decade, and that by 1988, imports had increased their share of the United States market by over 40 percent since 1985, accounting for 37.9 percent of apparent consumption. The Commission reported that the financial performance of the United States rose-growing industry had declined to a low of 3.5 percent in 1988, with almost 38 percent of the growers reporting losses in that year. The Commission found that domestic growers must compete with foreign growers primarily on the basis of price, and that imported roses enter the United States market without an established price, because sold on consignment, and that the United States importer accordingly assumes very little risk in the transaction, resulting in lower prices than if the importer assumed ownership of the imported product. At the same time, the Commission reported that United States producers interested in exporting roses may face competition from foreign producers that benefit from government-sponsored programs which could impede the trade of United States-produced roses in foreign markets. Since 1988, domestic production of roses has essentially stagnated, while imports of roses have burgeoned, increasing by 33.1 percent by volume, boosting their share of the United States market to 41.2 percent by 1990.

(2) The domestic market for other fresh cut flowers has also been captured to an even more massive degree by imports. Since 1987, through the year 1990, there has been a decline of 18 percent of the number of growers, of 22.4 percent in the number of plants in production, of 14.4 percent in the area in production, of 18.1 percent in the volume of shipments, and of 14.9 percent in the sales value of domestic shipments. Between 1988 and 1990, the domestic market has been overwhelmed by imports; the imports to domestic shipments ratio increased to 218.1 percent by volume and 161.3 percent by value, with Colombia and GSP-eligible countries accounting for all but the ratio of 1 percent by volume and 2.4 percent by value of total imports. The share of the market captured by the principal categories of fresh cut flowers other than roses by 1990 is 52.6 percent for miniature and 75.1 percent for standard carnations; 62.5 percent for pompons and 62.6 percent for standard chrysanthemums, 11.1 percent for anthuriums; 73.5 percent for dendrobium and other orchids; and for a basket of other fresh cut flowers including gypsophila, gerberas, alstromeria, and statice (all varieties), 47.0 percent.

(3) The United States balance of trade in all fresh cut flowers, including roses, was a deficit of $365,600,000 in 1988, worsening to a deficit of $405,600,000 in 1990.

(4) Efforts by the domestic fresh cut flower industry to achieve a level playing field in the United States market for competition against imports have been persistent but unavailing as existing remedies have proved to be ineffective as applied to unfairly traded fresh cut flower imports. Notwithstanding the determinations of the Department of Commerce and of the International Trade Commission resulting in the promulgation of countervailing duty and/or antidumping duty orders on certain fresh cut flowers from Colombia, Chile, Costa Rica, Ecuador, Kenya, Mexico, Peru, the Netherlands, and Canada, and on roses from Israel, and a countervailing duty suspension agreement on roses from Colombia, the massive volume and sharply rising tide of imports has not abated. During the first 4 months of 1991, imports of carnations increased by nearly 20,000,000 stems over the same period in 1990, while by mid-July, rose imports had increased by 49,000,000 stems over the like period of 1990.

(5) Based upon a representative sampling of domestic growers, the profitability of fresh cut flower growers, including rose growers, declined sharply to a bare 0.4 percent return on sales in 1989 and a loss of 9.5 percent of sales in 1990.

(6) Notwithstanding the direction of the Congress in section 4509(c) of the Omnibus Trade and Competitiveness Act of 1988 that the United States Trade Representative, the Secretary of Commerce, and the Secretary of Agriculture should use all available remedies within their respective jurisdictions to assist the domestic rose-growing industry to enhance its ability to compete in the domestic and world markets against foreign-grown roses, no relief has been forthcoming for the domestic rose industry. The domestic commercial greenhouses growing roses and the other fresh cut flowers are threatened with destruction by the uncontrolled and mounting flood of imports which are unfairly sold via the consignment method of prices which undercut the domestic flowers in all markets and in all seasons. Time is now of the essence for the granting of relief to prevent this traditional and creative small business, essentially second or third generation family-owned business segment of the agribusiness industry from destruction.

(b) PURPOSES.—The purposes of this Act are to—

(1) regulate foreign commerce in roses and other fresh cut flowers in an equitable manner to prevent the destruction of the investment and jobs in the domestic commercial flower growing segment of the agribusiness industry, while allowing stable participation for both domestic and imported flowers in the future growth of domestic consumption;

(2) to require the Secretary of Commerce to monitor the selling prices of imported flowers and to self-initiate antidumping duty actions against unfairly traded flowers;

(3) to amend the Tariff Act of 1930 so as to assure that retailers and ultimate consumers are advised by clear and distinct marking of the country of origin of imported fresh cut flowers; and

(4) to declare it an unfair and deceptive act and practice in commerce within the meaning of section 5A of the Federal Trade Commission Act for importers, wholesalers, and retailers to sell imported flowers without disclosing the fact that such flowers are imported and the country of origin of the flowers.

SEC. 3. AUTHORIZATION OF ALLOCATION OF IMPORT DUTY COLLECTIONS ON FRESH CUT FLOWERS TO FUND DEPARTMENTAL COSTS OF ADMINISTRATION.

(a) FRESH CUT FLOWER IMPORT REGULATION TRUST FUND.—There is hereby established within the Treasury of the United States a trust fund to be known as the Fresh Cut Flower Import Regulation Trust Fund (hereafter in this section referred to as the "Trust Fund"), consisting of such amounts as may be transferred or credited to the Trust Fund as provided in this section.

(b) TRANSFER OF AMOUNTS TO TRUST FUND.—

(1) IN GENERAL.—The Secretary of the Treasury shall transfer to the Trust Fund out of the general fund of the Treasury of the United States amounts determined by the Secretary of the Treasury to be equivalent to the amounts received into such general fund after January 1, 1992 that are attributable to the duty imposed under heading 0603.10 of the Harmonized Tariff Schedule of the United States.

(2) QUARTERLY TRANSFER.—The amounts which are required to be transferred under paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury of the United States to the Trust Fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than, the amounts required to be transferred.

(c) TRUST FUND.—

(1) TRUSTEE AND REPORT.—The Secretary of the Treasury shall be the trustee of the Trust Fund, and shall submit an annual report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on—

(A) the financial condition and the results of the operations of the Trust Fund during the fiscal year preceding the fiscal year in which such report is submitted; and

(B) on the expected condition and operations of the Trust Fund during the fiscal year in which such report is submitted.

(2) INVESTMENT.—The Secretary of the Treasury shall invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. Any obligation acquired by the Trust Fund may be sold by the Secretary of the Treasury at the market price. The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

(d) USE OF FUNDS.—

(1) IN GENERAL.—Amounts in the Trust Fund shall be available as provided in appropriation Acts for expenditures by the Secretary of Commerce and the Secretary of Agriculture that are required to carry out the provisions of titles I, II, and IV of this Act. The Secretary of Commerce and the Secretary of Agriculture shall consult with the Secretary of the Treasury concerning their projected requirements to carry out such provisions of this Act.

(2) ADMINISTRATIVE EXPENSES.—Amounts in the Trust Fund shall be available as provided in appropriations Acts for the payment of administrative expenses incurred by the Secretary of Commerce and the Secretary of Agriculture in carrying out the provisions of this Act.

(3) ADVANCES.—There are authorized to be appropriated to the Trust Fund, as repayable advances, such sums as may from time to time be necessary to make the expenditures described in paragraph (1).

TITLE I—QUANTITATIVE LIMITATION OF IMPORTS OF FRESH CUT FLOWERS

SEC. 101. DEFINITIONS.

For purposes of this Act:

(1) The term "fresh cut flowers" means those flowers provided for under Heading 0603.10 of the Harmonized Tariff Schedule of the United States.

(2) The term "flower retailers" means commercial establishments which sell fresh cut flowers directly to the ultimate consumer.

(3) The term "ultimate consumer" means persons, firms, organizations, or other associations or entities which purchase fresh cut flowers for their own use and not for resale.

(4) The term "domestic consumption of fresh cut flowers" means the quantity of fresh cut flowers determined by the Secretary of Agriculture to constitute the new supply of fresh cut flowers to the United States domestic market. The Secretary's determination shall include imports and commercial shipments of domestically grown fresh cut flowers, exclusive of exports.

(5) The term "designated categories of fresh cut flowers" means sweetheart roses; other roses; miniature carnations; standard carnations; standard chrysanthemums; pompon chrysanthemums; anthuriums; dendrobium and other orchids, daisies, gerberas, alstroemeria, statice (all varieties), gypsophila, and other fresh cut flowers.

SEC. 102. DETERMINATION BY THE SECRETARY OF AGRICULTURE.

(a) IN GENERAL.—The Secretary of Agriculture (hereafter in this section referred to as the "Secretary") shall annually determine for each of the designated categories of fresh cut flowers the domestic consumption in quantity of stems for the most recent 12-month period for which domestic shipment and import data are available and the respective shares of consumption accounted for by domestic shipments and by total imports.

(b) ESTIMATION OF DOMESTIC CONSUMPTION.—Based on the econometric data available to the Secretary with respect to anticipated demand for floricultural products, including consideration of established trends in domestic shipments and imports of fresh cut flowers, the Secretary shall estimate the expected domestic consumption of the designated categories of fresh cut flowers for the 12-month period beginning 30 calendar days following publication in the Federal Register of the expected domestic consumption in such 12-month period and the respective shares expected to be supplied by domestic shipments and by imports.

(c) SHARES OF EXPECTED CONSUMPTION.—If the expected share of designated categories of fresh cut flowers to be supplied by imports as determined by the Secretary exceeds the allowable percentage of expected consumption, the share of consumption allocated by the Secretary to total imports shall not exceed the following: roses, 37.9 percent; miniature carnations, 52.6 percent; standard carnations, 75.1 percent; pompon chrysanthemums, 62.5 percent; standard chrysanthemums, 62.6 percent, anthuriums, 11.1 percent; dendrobium and other orchids, 73.5 percent; gypsophila, daisies, gerberas, alstroemeria, statice (all varieties), and other fresh cut flowers, 47.0 percent.

(d) ALLOCATION AMONG SUPPLYING COUNTRIES.—

(1) IN GENERAL.—The Secretary shall allocate 95 percent of the allowable percentage of expected domestic consumption among supplying countries based on the amounts imported from such countries during the most recent 12-month period for which date is available. The remaining 5 percent shall be reserved for new supplying countries on a first-come first-served basis.

SEC. 103. PUBLICATION AND EFFECTIVE DATE OF THE SECRETARY'S DETERMINATION.

(a) PUBLICATION OF ANNUAL DETERMINATION.—The Secretary's annual determinations specified in section 102 shall be published in the Federal Register not later than December 1 of each year. The supplying country allowable percentages of expected domestic consumption allocated to its imports for each of the designated categories of fresh cut flowers specified in section 102 shall be effective as quantitative limitations of such imports entered or withdrawn from warehouse for consumption for the ensuing year.

(b) QUARTERLY DETERMINATION AND PUBLICATION.—The Secretary shall determine an allocation of the annual country/product quotas among the calendar quarters of the year based on the historical fluctuation in consumption from quarter to quarter, and publish the quarterly allocations as part of the determinations specified in subsection (a).

SEC. 104. REVISIONS OF THE SECRETARY'S DETERMINATION.

(a) IN GENERAL.—Whenever the Secretary of Agriculture determines that there will be in the succeeding calendar quarter or quarters either a significant shortfall in domestic shipments of a designated category of fresh cut flowers or a significant decline in domestic consumption of a designated category upon which the current import quotas are based, the Secretary shall adjust the import quotas for such designated category for the succeeding calendar quarter or quarters by increasing or decreasing such quotas, as the case may be, equal to the expected shortfall of domestic shipments or anticipated decline in domestic consumption with respect to such designated category. In making such determination, the Secretary shall take into consideration the information and views of domestic growers, wholesalers, trade associations and the information supplied by the field marketing services of the Department of Agriculture.

(b) ALLOCATION OF INCREASE OR DECREASE IN QUOTA.—The Secretary shall allocate the increase or decrease, as the case may be, in the import quota for the designated category or categories of fresh cut flowers among supplying countries in proportion to their respective shares of domestic consumption as determined under section 102.

SEC. 105. PUBLICATION AND EFFECTIVE DATE OF REVISIONS OF THE SECRETARY'S DETERMINATION.

The Secretary of Agriculture's adjustment of import quotas for a designated category of fresh cut flowers among supplying countries shall be effective as provided for in the notice the Secretary publishes in the Federal Register.

SEC. 106. ENFORCEMENT OF QUANTITATIVE LIMITATIONS ON IMPORTS.

(a) IN GENERAL.—The Secretary of the Treasury shall enforce the quantitative limitations on imports of fresh cut flowers in accordance with the determinations of the Secretary of Agriculture under sections 102, 103, and 202.

(b) REGULATIONS.—The Secretary of Agriculture and the Secretary of the Treasury are authorized to promulgate such regulations as are necessary and appropriate to carry out the quantitative limitations on imports imposed by this Act.

SEC. 107. ACTION BY THE PRESIDENT TO PROCLAIM THE QUANTITATIVE LIMITATIONS ESTABLISHED BY THE SECRETARY OF AGRICULTURE EFFECTIVE BY EMBODYING THEM IN APPROPRIATE PROVISIONS OF THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES.

The President shall embody in the Harmonized Tariff Schedule of the United States the substance of the relevant provisions of titles I and II of this Act, and the determinations of the Secretary of Agriculture thereunder, including the determination of, allocation, revision, and reallocation of import quotas by the Secretary.

TITLE II—REALLOCATION OF UNUSED COUNTRY QUOTAS

SEC. 201. REALLOCATION OF UNUSED QUOTAS.

Prior to the end of the 3rd calendar quarter of each year, the Secretary of Agriculture (hereafter in this section referred to as the Secretary) shall review the volume of imports of each designated category of fresh cut flowers received from each supplying country. If the Secretary determines that any country has not filled its quota of a particular category of fresh cut flowers by an amount equal to 50 percent or more of its quota, the Secretary shall reallocate the unused portion of the prior calendar quarter quotas among other supplying countries in proportion to their respective shares of domestic consumption.

SEC. 202. PUBLICATION AND EFFECTIVE DATE OF THE SECRETARY'S REALLOCATION DETERMINATION.

The Secretary of Agriculture's determination of a reallocation of unused portions of a country's quota for a particular fresh cut flower shall be effective as specified in his notice within thirty days of its publication in the Federal Register.

TITLE III—COUNTRY OF ORIGIN IDENTIFICATION OF IMPORTED FRESH CUT FLOWERS

SEC. 301. AMENDMENT OF SECTION 304 OF THE TARIFF ACT OF 1930 TO PROVIDE FOR MARKING TO INFORM FLOWER RETAILERS AND ULTIMATE CONSUMERS OF FRESH CUT FLOWERS OF THE COUNTRY OF ORIGIN OF IMPORTED FLOWERS.

Section 304 of the Tariff Act of 1930 (19 U.S.C. 1304), is amended by redesignating subsections (f) and (g) as subsections (g) and (h), respectively, and by inserting after subsection (e) the following new subsection:

"(f) MARKING OF FRESH CUT FLOWERS.—No exception may be made under subsection (a)(3) of this section with respect to fresh cut flowers, as provided for under Heading 0603.10 of the Harmonized Tariff Schedule of the United States. Such flowers shall be individually marked on the stem, or on the packaging in which the flowers are sold to flower retailers and to ultimate consumers of fresh cut flowers, so as to indicate conspicuously, legibly, and continuously until the flower reaches the ultimate consumer in the United States the English name of the country of origin of the flower.".

SEC. 302. AMENDMENT OF SECTION 5A OF THE FEDERAL TRADE COMMISSION ACT TO SPECIFY THAT FAILURE TO DISCLOSE THE COUNTRY OF ORIGIN TO FLOWER RETAILERS AND ULTIMATE CONSUMERS OF IMPORTED FRESH CUT FLOWERS IS AN UNFAIR ACT OR PRACTICE IN COMMERCE.

Section 5A(a) of the Federal Trade Commission Act (15 U.S.C. 45) is amended by adding at the end the following new paragraph:

"(4) It shall be an unfair act or practice in commerce for anyone in the chain of distribution to sell in the United States imported fresh cut flowers, as provided for in Heading 0603.10 of the Harmonized Tariff Schedule of the United States, without indicating to the ultimate consumer of such flowers conspicuously, legibly, and continuously the English name of the country of origin thereof by means of individual marking on the stem or on the packaging in which the flowers are sold.".

TITLE IV—PRICE MONITORING OF IMPORTED FRESH CUT FLOWERS

SEC. 401. PRICE MONITORING BY THE SECRETARY OF COMMERCE.

The Secretary of Commerce (hereafter in this title referred to as the "Secretary") shall continuously monitor the prices at which imported fresh cut flowers, as provided for in Heading 0603.10 of the Harmonized Tariff Schedule of the United States, are sold in the United States. In doing so, he may enlist the assistance of the Secretary of Agriculture, the Secretary of the Treasury, and the United States International Trade Commission as he may determine useful and appropriate. Not less often than quarterly the Secretary shall make a determination of the range and average selling prices of each designated category of fresh cut flowers from supplying countries which account for 5 percent or more of total imports of such category. The Secretary shall consider the United States prices of imported flowers on the basis of the net back price remitted to the foreign growers by the importers who receive the flowers on consignment, and sell at prices which the International Trade Commission found in its section 332 investigation of roses, to be "below that which would be charged if the importer assumed ownership of the product," which the Congress considers to be prima facie unfair because below the fair value of such flowers.

SEC. 402. MONITORING BY THE SECRETARY OF COMMERCE OF THE FAIR MARKET VALUE OF IMPORTED FRESH CUT FLOWERS SOLD IN THE UNITED STATES.

(a) IN GENERAL.—The Secretary shall continuously monitor the prices at which imported fresh cut flowers are sold in the principal export markets other than the United States in order to determine the probable fair market value of the imported flowers. Not less often than quarterly the Secretary shall make a determination of the range and average export to principal third country selling prices of each designated category of fresh cut flowers from supplying countries accounting for 5 percent or more of the total United States imports of such category. The Secretary shall consider that export sales to third countries of flowers that are consigned to the importers in such countries for sale by them on a commission basis at prices to be determined by them, result in inherently unfair net back prices which are prima facie below fair market value. The Secretary should not utilize the resale, commission-applicable prices, nor the net back prices to the foreign growers supplying the flowers, of such third country transactions as the basis of fair market value. Instead, the Secretary should base the fair market value determination in accordance with subsection (b).

(b) ESTIMATES OF COSTS OF PRODUCTION IN CASE OF ABNORMALLY LOW PRICES.—Where the Secretary has reason to believe that the third country export prices are so low as to indicate the probability that the flowers are being sold below the cost of production, the Secretary shall enlist the assistance of commercial counselor representatives in the United States Embassies in the originating countries to secure best available estimates of the cost of production of the flowers. Not less often than quarterly the Secretary shall make a determination of the range and average cost of production of each designated category of fresh cut flowers from supplying countries accounting for 5 percent or more of total United States imports of such category where the Secretary has reason to believe that third country export prices are so low as to indicate the probability that the flowers are being sold below their cost of production.

(c) DETERMINATION OF PROBABLE FAIR MARKET VALUE.—The Secretary shall base his determination of the probable fair market value of the imported flowers on third country export prices or on constructed value as he may deem appropriate. Not less frequently than quarterly the Secretary shall make a determination of the range and average cost of production of each designated category of fresh cut flowers from supplying countries accounting for 5 percent or more of total United States imports of such categories where the Secretary has reason to believe that third country export prices are so low as to indicate the probability that the flowers are being sold below their cost of production.

SEC. 403. REQUIREMENT THAT THE SECRETARY OF COMMERCE SELF-INITIATE ANTIDUMPING DUTY INVESTIGATIONS OF IMPORTS OF FRESH CUT FLOWERS DETERMINED BY HIM TO BE SOLD IN THE UNITED STATES AT LESS THAN FAIR VALUE.

The Secretary shall commence an antidumping duty investigation pursuant to section 732(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1673a(a)(1)), whenever the Secretary determines from the selling price in the United States and an estimate of fair market value as ascertained by the Secretary pursuant to sections 401 and 402 of this Act that a designated category of fresh cut flowers from one or more supplying countries appear to be sold at less than their fair market value.

SEC. 404. PUBLICATION BY THE SECRETARY OF COMMERCE OF HIS DETERMINATIONS.

The Secretary shall publish in the Federal Register not less frequently than quarterly the Secretary's determinations pursuant to sections 401 and 402 of the United States selling prices and of the fair market value of sweetheart roses; other roses; miniature carnations; standard carnations; standard chrysanthemums; pompon chrysanthemums; anthuriums; dendrobium and other orchids; daisies; gerberas; alstroemeria; statice (all varieties); gypsophila and other fresh cut flowers from supplying countries individually accounting for 5 percent or more by volume of total imports of such flowers.

SEC. 405. DISCLOSURE TO INTERESTED PARTIES BY THE SECRETARY OF COMMERCE UNDER ADMINISTRATIVE PROTECTIVE ORDER OF THE PRICES DETERMINED PURSUANT TO SECTIONS 401 AND 402.

Pursuant to section 777(c)(1)(A) and (B) of the Tariff Act of 1930 (19 U.S.C. 1677f(c)(1)(A) and (B)), the Secretary shall make available to interested parties under administrative protective order such proprietary information pertaining to prices and cost of production as he acquires in the course of the performance of the duties specified in sections 401 and 402 of this Act. Under regulations promulgated by the Secretary, interested parties to whom information is so disclosed may retain the information for use in accordance with the terms of the administrative protective order in connection with their submission of views pursuant to section 406 of this Act.

SEC. 406. NOTICE TO INTERESTED PARTIES AND OPPORTUNITY FOR THEM TO PRESENT INFORMATION AND VIEWS TO THE SECRETARY PERTINENT TO HIS OBLIGATIONS UNDER SECTIONS 401, 402, AND 403.

(a) IN GENERAL.—Prior to the Secretary's undertaking to collect price and fair market value information for use in making his quarterly determinations under sections 401 and 402 of this Act, the Secretary shall publish in the Federal Register notice of his intention to receive and consider information pertinent to such determinations, with an indication of the opportunity for interested parties to submit information pertinent to his consideration. The notice shall afford interested parties not less than 30 days from the publication of the notice in the Federal Register within which to submit written information. The notice shall specify the address to which communications from interested parties shall be submitted and the name and telephone number of the staff person responsible for receipt and evaluation of the submitted information.

(b) NOTICE.—Not less than 30 days prior to his publication of a Notice to Initiate An Antidumping Duty Proceeding on a specified category or categories of fresh cut flowers from one or more supplying countries, pursuant to section 404 of this Act, the Secretary shall publish in the Federal Register a notice of his intention to so initiate such an antidumping duty proceeding, and shall provide interested parties opportunity to submit written comments within a period of 15 days from the publication date of the notice in the Federal Register. The Secretary shall take such views into consideration in determining whether to proceed with his intended initiation of an antidumping duty proceeding.

By Mr. PELL (by request):

S. 2488. A bill to amend section 235 of the Foreign Relations Authorization Act, fiscal years 1990 and 1991 (Public Law 101-246), and to amend section 701 of the U.S. Information and Educational Exchange Act of 1948, as amended (Public Law 80-402); to the Committee on Foreign Relations.

CHANGES IN ADMINISTRATIVE AUTHORITIES

• Mr. PELL. Mr. President, by request, I introduce for appropriate reference a bill to amend section 235 of the Foreign Relations Authorization Act, fiscal years 1990 and 1991 (Public Law 101-246), and to amend section 701 of the U.S. Information and Educational Exchange Act of 1948, as amended (Public Law 80-402).

This proposed legislation has been requested by the U.S. Information Agency, and I am introducing it in order that there may be a specific bill to which Members of the Senate and the public may direct their attention and comments.

I reserve my right to support or oppose this bill, as well as any suggested amendments to it, when the matter is considered by the Committee on Foreign Relations.

I ask unanimous consent that the bill be printed in the RECORD together with the section-by-section analysis and the letter from the Director of the U.S. Information Agency, which was received on March 10, 1992.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2488

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHANGES IN ADMINISTRATIVE AUTHORITIES

SECTION 101. Section 235 of Public Law 101-246 is amended to read as follows:

(1) by amending the title of section 235 to read as follows: CONTINUING CONTRACT AUTHORITY FOR SELECTED VOICE OF AMERICA RADIO FACILITIES; and

(2) by inserting a comma and the words "Sri Lanka, Sao Tome and Kuwait" after the word "Thailand" in section 235.

SEC. 102. Section 701 of Public Law 80-402, as amended, is amended by adding the following new subsection (f):

"(f)(1) Subject to paragraphs (2) and (3), funds authorized to be appropriated for any account of the United States Information Agency in the Department of State and Related Agencies Appropriations Act, for the second fiscal year of any two-year authorization cycle may be appropriated for such second fiscal year for any other account of the United States Information Agency.

(2) Amounts appropriated for the 'Salaries and Expenses' and 'Educational and Cultural Exchange Programs' accounts may not exceed by more than 5 percent the amount specifically authorized to be appropriated for each such account for a fiscal year. No other appropriations account may exceed by more than 10 percent the amount specifically authorized to be appropriated for such account for a fiscal year.

(3) The requirements and limitations of section 701 shall not apply to the appropriations of funds pursuant to this subsection.

SECTION-BY-SECTION ANALYSIS

SECTION 101—AMEND SECTION 235 OF PUBLIC LAW 101-246

Multi-year contracting authority was granted to VOA for use on the Thailand Relay Station Facility construction contract by Section 235 of the Foreign Relations Authorization Act, for FY 90-91 (P.L. 101-246), and has proved to be very beneficial. If the multi-year contracting authority had not been granted, it is estimated that the completion of the Thailand Relay Station would have been delayed by 12 to 18 months, and the cost of the project would have increased by $4 to $6 million.

The multi-year contracting authority permitted VOA, through the Corps of Engineers, to award the Thailand facility construction contract in FY 90 by funding the contract payments for that year alone, rather than for both years. Consequently, USIA was able to obligate the balance of VOA's new obligational authority (NOA) for the award of the Antenna Subsystem base contract. This allowed the construction of Thailand facilities and the work on the Antenna Subsystem contract to proceed simultaneously. Without the multi-year authority, VOA would have been forced to postpone the award of the construction contract, as the approved FY 90 NOA was not sufficient to cover the total cost of the contract.

Traditionally, VOA has been required to accumulate large sums in obligational authority before awarding contracts. This, in turn, has led to large carry-over balances. If VOA is granted additional multi-year contracting authority, it can and will be used to smooth out the future refurbishment and upgrade project schedules, reducing both cost and time.

Multi-year contracting authority will also allow VOA to implement its accelerated construction plans for the Sao Tome, Sri Lanka and Kuwait projects. The accelerated construction plans will require only one contract for the design, construction, and purchase of equipment for each of these projects. Use of a single contract for each project will allow greater flexibility and more efficient project management.

In order to meet the accelerated schedule award dates for these projects, multi-year contracting authority must be obtained by December 1992. If it is not granted in this time period, the start of these projects will be delayed, thus increasing the project costs.

SECTION 102—AMEND SECTION 701 OF PUBLIC LAW 80-402

An authorization covering two fiscal years provides planning and programming stability. It works to the interest of the Executive Branch agencies involved and the Congress, especially considering the tight legislative schedule of the second year, an election year.

In establishing the authorization levels for the second year, certain assumptions have to be made concerning projected economic conditions and program priorities. As the detailed appropriations requests are formulated to that year, changes in inflation, exchange rates, the world political scene and program priorities generate resource requirements that may differ from those established in the authorization.

As a result, some flexibility is highly desirable in applying authorization levels to the appropriations request for the second year. The Congress recognized the need for such flexibility in enacting Section 117 of P.L. 102-138, the Foreign Relations Authorization Act, Fiscal years 1992 and 1993. That section permits Department of State appropriations requests for Fiscal Year 1993 to exceed corresponding authorization levels by 5% or 10% depending on the account.

The United States Information Agency requests similar authority that would permit the amounts appropriated in the second year (e.g., FY 1993) to the Agency's "Salaries and Expenses" and "Educational and Cultural Exchange Programs" accounts to exceed by up to 5 percent the amount specifically authorized for each of those accounts. Other USIA appropriations accounts would be able to exceed by 10 percent the respective authorized amounts.

U.S. INFORMATION AGENCY,
Washington, DC, March 10, 1992.
Hon. DAN QUAYLE,
President of the Senate.

DEAR MR. PRESIDENT: I am submitting the enclosed proposed legislation that would amend the United States Information and Educational Exchange Act of 1948 and Section 235 of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101-246).

The amendment to the U.S. Information and Educational Exchange Act of 1948 would provide USIA the same authority the Congress gave to the Department of State which permits appropriations to exceed, within limits, amounts authorized for a given purpose in the second year of a two year authorization. The second proposal would provide continuing contract authority for selected Voice of America modernization projects.

The Office of Management and Budget advises that there is no objection to the submission of this proposed legislation to Congress and that its enactment would be in accord with the program of the President.

Sincerely,

HENRY E. CATTO,
Director.●

By Mr. DOMENICI (for himself, Mr. NUNN, Mr. DURENBERGER, Mr. RIEGLE, and Mr. CONRAD):

S. 2489. A bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to establish the National Quality Commitment Award with the objective of encouraging American universities to teach total quality management, to emphasize the importance of process manufacturing, and for other purposes; to the Committee on Commerce, Science, and Technology.

NATIONAL QUALITY COMMITMENT ACT OF 1992

Mr. DOMENICI. Mr. President, you won't find it on a balance sheet, and it's not listed in a 10-K or a proxy. If you ask the wizards on Wall Street exactly how it figures into a company's net worth, be prepared for some mighty blank stares. However, more and more companies are beginning to realize the value of quality.

THE IMPORTANCE OF QUALITY

The success of industrial competitiveness is not simply a reflection of price, rather it is the ability to manufacture products that people want to buy. The makers of American products, our manufacturing sector, accounts for one-fifth of the United States gross national product.

However, productivity slowdown in the manufacturing sector is acute. More and more, America is losing ground to higher quality products produced by foreign competitors. Some estimate that 70 percent of U.S. manufacturing output now faces direct foreign competition.

In fact, in Albuquerque, NM, 600 workers in the manufacturing sector lost their jobs in 1991. In Roswell, NM, 1,000 workers were laid off at a bus manufacturing plant. I am very concerned.

Quality is a learned value. The Massachusetts Institute of Technology [MIT] reports, however, "America is not producing as well as the industries of some other nations have learned to produce."

THE AMERICAN STORY

In the old days, the United States led the world in science, new technologies, and innovative discoveries. Consequently, jobs, opportunity, and the customers that made them possible were plentiful. However, the American success story, once as familiar to young children as Mother Goose, is now prefaced too frequently by "once upon a time."

Some might classify the American story a tragedy. Consider that in 1950 an American statistician, W. Edwards Deming, whose ideas about quality were unpopular at home, traveled to Japan where he found an eager audience. He preached that quality would reap lasting benefits in market share and profitability. What Mr. Deming called his strategic advantage was pursued relentlessly by the Japanese, and the rest, as they say, is history.

The decline in America's productivity advantage has taken its toll on our Nation's balance-of-trade deficit, as well. There is only one way to improve the trade balance while simultaneously maintaining a high and rising standard of living domestically. We must improve the productive performance of the American economy.

This can all be summed up in one word: competitiveness. However, the United States window of plenty is closing and international observers cite a flawed manufacturing philosophy as the reason why.

THE MALCOLM BALDRIGE AWARD

In response, in 1987 the Congress created the Malcolm Baldrige Award, to encourage American industry to achieve higher quality standards. The award has not only produced new, unanticipated successes, but has become the American standard for excellence.

As a result of the Malcolm Baldrige Award, America's manufacturing fable is being examined, revealing deeply embedded social, educational, organizational, and infrastructure problems intrinsic to our industrial philosophy.

Our manufacturers are beginning to recognize and hail the irreplaceable, albeit unaccountable, value of commitment, vision, quality, and excellence.

MIT writes, in Made in America, "American companies evidently find it difficult to design simple, reliable, mass-producible products; * * * they take reactive rather than a proactive approach to problem solving * * *."

However, building quality in the design stage is significantly more effective and efficient than applying quality controls retroactively, as is often the case in the United States.

A car dealer in New Mexico, Sheilah Garcia, was recently named Time magazine's Quality Dealer of the Year. The award honors simple enduring principles, like quality, management, service, and product.

These are fundamental values—the kind we would all choose to believe are fostered in Americans at an early age, but the balance sheet tells a different story.

Unfortunately, the quality value is not easily or effectively learned through an employer training manual. Rather, in order to produce quality, a worker must know quality, and America must teach quality.

Tell this to any Malcolm Baldrige Award recipient, or the industry advocates of quality, and they'll say you're preaching to the choir. In fact, industry leaders in quality have begun to implement their own educational programs to instill this value in tomorrow's workers.

TOTAL QUALITY MANAGEMENT

Total quality management theory teaches that every business, every function, every individual has an important role to play in satisfying customers and making defect-free products.

Manufacturers that wish to provide a quality product are demanding quality workers. In fact, Proctor & Gamble, Motorola, Xerox, IBM, and American Express have sponsored the Total Quality Education University Challenge, a program to educate university faculty and administrators in total quality management.

Total quality management is taking the world by storm. In Europe, following an avalanche of concern regarding declining quality in a world of increasing competition, the presidents of 14 top companies formed the European Foundation for Quality Management to promote total quality management techniques.

50 European universities incorporate total quality theory in their general-management curriculum. European companies expect the practice of total quality management to boost their gross earning margins by 17 percent, and for their variable costs to fall by 35 percent.

A manufacturing consulting firm testifying before the Committee on Science, Space and Technology Subcommittee on Technology and Competitiveness writes, "If the United States ever expects to receive the full economic benefits of the 'Quality Revolution,' we need to develop a national quality implementation strategy that addresses the fundamental roadblocks to quality improvement." One strategy the firm promotes is to make Total Quality Management training a prerequisite in management and engineering degree programs.

COLLEGES AND UNIVERSITIES COMMITMENT TO QUALITY AWARD

The legislation I'm introducing today provides three annual awards to selected universities and colleges that excel in: First, teaching total quality management and process manufacturing engineering to its business and engineering students; second, which practice total quality management in their internal management; and third, which employ total quality management in their business relationships with industry.

This legislation provides for specialized awards of up to $500,000 to be awarded to colleges' and universities' engineering or business schools.

The proceeds of the award must be used to further enhance the total quality management or process manufacturing engineering curriculum at the institution of higher education.

The award to colleges and universities envisioned in this legislation is modeled after this prestigious, and highly motivational Malcolm

Baldridge National Quality Improvement Award.

I believe this legislation goes straight to the heart of the matter, because the leaders that will insure our Nation's standard of living tomorrow are being trained in the classrooms of today. America simply can't afford business as usual.

THE IMPORTANCE OF MANUFACTURING

Process manufacturing engineering is the field specializing in efficient, error free, product design and production. It deals with the process of manufacturing and focuses on the production line.

Although, many agree that the United States is not only failing, but falling behind, in math and science education, few are willing to act to encourage students to pursue manufacturing sciences. While universities in Japan and Germany are producing 20 and 37 percent engineering graduates, respectively, in the United States, only 6 percent of baccalaureates graduate in engineering.

A profound statement that I recently found printed on a key chain plainly illustrates the American educational paradigm in terms of manufacturing. It goes something like this, "By the time I had learned all the answers, they had changed all of the questions."

Likewise, I believe tomorrow's global marketplace will demand even higher standard products. America's workers should be equipped with the understanding of the markets' needs, so that they may supply the world with superior quality products.

The quality of our products increasingly determines our nation's ability to compete.

Large and small manufacturers alike are beginning to recognize the value of quality, and while these businesses are doing all they can to instill quality management values in their workers, it is our Nation's college and universities that do most of the preparatory training.

TRAINING TOMORROW'S MANAGERS

Of even greater importance, our Nation's colleges and universities train tomorrow's managers. Companies find that even when workers want to produce quality products, they are forced into mediocrity by managers that fail to reinvest in management practices like total quality management.

Managers with tunnel vision create frustrated and disillusioned employees with a strong desire to do a quality job, but denied the tools they need to excel. When hiring managers, an understanding of the value of total quality management is one cost that American manufacturers should not have to incur.

The Federal Government has made a commitment to educate America to compete in a changing world. In fact, comprehensively, more is spent in this country on education than on defense, and that's the way it ought to be.

However, if we neglect to teach quality, all of the dollars in the world won't be able to buy back reduced market share and a tainted reputation for producing substandard products.

CONCLUSION

Statistics illustrate the chipping away at the integrity of the "Made in the U.S.A." label. Reports confirm that the failure rates for U.S. produced air conditioners were 500 to 1,000 times greater than those made by the Japanese; American robots could only place a part within 25 micrometers of where it belonged compared to the best Japanese accuracy of 5 micrometers. Studies show that imported cars surpass domestic ones when stated by various quality factors.

I drive an American car, and what I have phrased it's "auto-mobility" has served me well for many years. However, reports reveal decreasing customer satisfaction of American cars, and we have fallen from leading the world in the production of automobiles to third place standing.

In a world where national security will increasingly be defined in economic rather than military terms, and the United States faces unprecedented challenges in the global market place, we find ourselves without the benefit of past superiority in industry and technology.

The U.S. down trend in manufacturing and quality will not be remedied by simply trying harder to do the same things that are currently failing to work. The international business environment has changed irrevocably, and we must adapt our practices to this new world.

This college and universities award emphasizes the value that some businesses already have recognized of the importance of total quality management as a means to becoming stronger international competitors.

I encourage my colleagues to add their names as cosponsors, and ask unanimous consent that a copy of the bill and a summary of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2489

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

The Act may be cited as the National Quality Commitment Award Act of 1992.

SEC. 2. PURPOSE.

It is the purpose of this Act to provide for the establishment and conduct of a national commitment to quality award program under which awards are given to institutions of higher education that—

(1) teach effective total quality management;

(2) reorient their education programs to emphasize the value and prestige of pursuing careers in process manufacturing engineering;

(3) apply total quality management to the operations of their institution of higher education; and

(4) apply total quality management in their joint research and development contracts with private industry.

SEC. 3. AWARD PROGRAM.

The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended by adding at the end the following new section:

"SEC. 22. NATIONAL COMMITMENT TO QUALITY AWARD PROGRAM.

"(a) PROGRAM ESTABLISHED.—

"(1) IN GENERAL.—The Secretary shall carry out an award program to be known as the National Commitment to Quality Award Program.

"(2) CONTENTS.—In carrying out the award program described in paragraph (1), the Secretary—

"(A) shall conduct a competition and make monetary awards in accordance with subsection (b)(1);

"(B) may make special awards in accordance with subsection (b)(2); and

"(C) shall provide each recipient of such a monetary or special award with a medal described in paragraph (3).

"(3) MEDAL.—Each recipient of an award under this section shall receive a medal bearing the inscriptions 'National Commitment to Quality Award' and 'The Quest for Excellence'. The medal shall be of such design and materials and bear such additional inscriptions as the Secretary may prescribe.

"(4) DESIGNATION.—Awards under this section shall be known as National Commitment to Quality Awards.

"(b) AWARDS.—

"(1) COMPETITION FOR MONETARY AWARDS.—(A) From amounts appropriated pursuant to the authority of subsection (j), the Secretary shall periodically conduct a competition and make at least 3 monetary awards to institutions of higher education in accordance with the provisions of this section.

"(B) The monetary awards described in subparagraph (A) shall be in an amount equal to—

"(i) $3,000,000 for the institution of higher education receiving first place in the competition described in subparagraph (A);

"(ii) $2,000,000 for the institution receiving second place in such competition;

"(iii) $1,000,000 for the institution receiving third place in such competition; and

"(iv) not more than $1,000,000 for any other such institution receiving an award pursuant to such competition.

"(2) SPECIALIZED AWARDS.—(A) From amounts appropriated pursuant to the authority of subsection (j), the Secretary may award to any institution of higher education that excels in teaching or practicing either total quality management or process manufacturing engineering services productivity improvement a specialized award.

"(B) The specialized award described in subparagraph (A) shall be in an amount which is not more than $500,000.

"(3) APPLICATION FEE PROHIBITED.—The Secretary shall not charge an institution of higher education a fee in order to apply for or receive an award under this section.

"(c) MAKING AND PRESENTATION OF AWARDS.—

"(1) IN GENERAL.—The President (on the basis of recommendations received from the Secretary), or the Secretary, shall periodically make awards to institutions of higher education which in the judgment of the President or the Secretary have substantially benefited the economic and social well being of the United States through activities that—

"(A) teach effective total quality management techniques and approaches;

"(B) demonstrate continuous improvement in the institution's total quality management curriculum;

"(C) emphasize the value and prestige of pursuing careers in process manufacturing engineering;

"(D) demonstrate continuous improvement in the institution's education program through application of total quality management principles within the institution; and

"(E) demonstrate commitment and application of total quality management principles in joint research relationships that the institution maintains with private industry.

"(2) PRESENTATION CEREMONY.—The presentation of the awards under this section shall be made by the President or the Secretary with such ceremonies as the President or the Secretary may deem proper.

"(3) PUBLICATION AND INELIGIBILITY.—An institution of higher education to which an award is made under this section, and which agrees to help other institutions of higher education improve their total quality management curriculum may publicize its receipt of such award, but such institution shall be ineligible to receive another such award for a period of 5 years.

"(4) USE OF AWARD.—An institution of higher education receiving an award under this section shall use the proceeds of such award to further improve the total quality management and process manufacturing engineering curriculum of such institution.

"(d) AWARD CRITERIA.—

"(1) IN GENERAL.—Awards under this section shall be made to qualifying institutions of higher education that place an emphasis on—

"(A) total quality management, including—

"(i) leadership in teaching how to create a quality culture;

"(ii) leadership in teaching information and analysis such as statistical process contracts for quality improvement;

"(ii) the effectiveness of the institution's quality improvement program to teach integration of quality requirements into businesses' plans;

"(iv) the success of the institution's efforts to teach students how to realize the full potential of the work force for quality;

"(v) teaching quality awareness;

"(vi) emphasis on customer satisfaction;

"(vii) leadership in teaching how to integrate the total quality management philosophy; and

"(viii) demonstrated success in teaching students how to instill the full potential total quality management philosophy in the work force;

"(B) the importance of process manufacturing, including—

"(i) leadership in teaching a better understanding of market forces and industry needs, industrial processes, and manufacturing and quality practices that are driven by market pull, not science push;

"(ii) leadership in developing and teaching a more accelerated approach to research, development, and manufacturing in order to teach students how to move products more quickly from the basic research phase to the commercialization phase with an emphasis on teamwork;

"(iii) leadership in teaching better integration of design and production, including teaching students how to design with manufacturability in mind, and to focus on cost-effectiveness, quality reliability, simplicity, flexibility, and modularity; and

"(iv) leadership in teaching students to give greater consideration to potential commercial applications in the planning and conduct of research and development through input from potential users, and closer working relationship between the national research laboratories, industry, and universities.

"(e) CRITERIA FOR QUALIFICATION.—

"(1) IN GENERAL.—(A) An institution of higher education may qualify for an award under this section only if such institution—

"(i) applies to the Secretary in writing, for the award;

"(ii) permits a rigorous evaluation in accordance with subparagraphs (B) and (C) of the success of the institution's curriculum for total quality management and process manufacturing engineering; and

"(iii) meets such requirements and specifications as the Secretary, after receiving recommendations from the board of overseers, determines to be appropriate to achieve the purposes of this section.

"(B) In carrying out the provisions of clause (ii) of subparagraph (A), the Secretary shall develop evaluation criteria and procedures.

"(C) In applying the provisions of clause (iii) of subparagraph (A) with respect to any institution of higher education, the Secretary shall rely upon intensive evaluation by the board of overseers which shall—

"(i) review the information submitted by the institution of higher education, and through a site visit, verify the achievements of—

"(I) the total quality management curriculum and process manufacturing engineering programs of such institution; and

"(II) such institution in practicing total quality management;

"(ii) encompass all aspects of the institution of higher education's total quality management and process manufacturing engineering program, as well as such institution's future goals for its total quality management and process manufacturing engineering curriculum; and

"(iii) include an analysis of whether the institution of higher education is practicing or applying total quality management to its relationships with industry and in its day-to-day administration of the institution.

"(2) CONTRACTUAL ARRANGEMENTS.—The Secretary may, under appropriate contractual arrangements, carry out the Secretary's responsibilities under subparagraphs (A) and (B) of paragraph (1) through one or more broadbased nonprofit entities which are leaders in the field of quality improvement programs and which have a history of service to society.

"(3) RESPONSIBILITIES OF THE BOARD OF OVERSEERS.—The board of overseers shall meet annually to review the work of the Secretary or the contractor and make such suggestions for the improvement of the award process as such board deems necessary. The board of overseers shall report the results of the award activities to the Secretary each fiscal year, along with its recommendations for improvement of the award process.

"(f) INFORMATION AND EVALUATION.—The Secretary shall ensure that each applicant for an award under this section receives the complete results of the evaluation of such institution conducted pursuant to subsection (e)(1)(ii) as well as detailed explanations of all suggestions for improvements. The Secretary shall also provide information about the awards and successful total quality management and process manufacturing engineering curriculum of the award-winning institutions of higher education to each applicant for an award under this section and other appropriate groups.

"(g) FUNDING.—The Secretary is authorized to seek and accept gifts and donations of property or services from public and private sources to carry out the award program assisted under this section.

"(h) REPORT.—The Secretary shall prepare and submit to the President and the Congress, within 3 years after the date of the enactment of this section, a report on the progress, findings, and conclusions of activities conducted pursuant to this section along with a recommendation for possible modifications thereof.

"(i) DEFINITIONS.—For the purpose of this section—

"(1) the term 'board of overseers' means the board of overseers established pursuant to section 17(d)(2)(B) of this Act for the year in which the determination is made;

"(2) the term 'manufacturing process technology' means engineering training which specializes in understanding and implementing a manufacturing process under which a high quality product is produced in a timely fashion, including simulative engineering and the skills necessary for rapid representative prototyping;

"(3) the term 'Secretary' means the Secretary of Commerce; and

"(4) the term "total quality management' means a management approach which includes—

"(A) systems thinking; and

"(B) statistical process control, theories of human behavior, leadership, and planning that is quality-driven, customer-oriented, and committed to teamwork.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for each fiscal year to carry out this section.".

COLLEGES AND UNIVERSITIES COMMITMENT TO QUALITY AWARD ACT

"To live well, a nation must produce well. In recent years many observers have charged that American industry is not producing as well as it ought to produce, or as well as it used to produce, or as well as the industries of some other nations have learned to produce," according to a recent MIT study, Made in America, Regaining the Productive Edge.

In response to this quality crisis, Congress enacted the Malcolm Baldrige National Quality Improvement Act which encourages American business to practice total quality management.

Firms that have implemented total quality management and have applied for the Baldrige award have become stronger competitors and more profitable.

Since the business leaders of tomorrow are being trained today, it is imperative that institutions of higher education offer a comprehensive curriculum on total quality management. In addition, it is important that universities encourage its best and brightest to pursue careers in process manufacturing.

The award to colleges and universities envisioned in this legislation is modeled after this prestigious, and highly motivational Malcolm Baldrige National Quality Improvement Award.

The legislation provides three annual awards to selected universities and colleges that excel in (1) teaching total quality management and process manufacturing engineering to its business and engineering students and (2) which practice TQM in their internal management and (3) which employ TQM in their business relationships with industry.

First place award is $3 million; second place is $2 million; third place is $1 million.

Provides for specialized awards of up to $500,000 to colleges and universities' engineering or business schools.

Proceeds of the award must be used to further enhance the total quality management or process manufacturing engineering curriculum at the institution of higher education.

Total quality management recognizes that every business, every function, every individual has an important role to play in satisfying customers and making defect-free products.

These colleges and universities awards emphasizes the value that some businesses already have recognized the importance of total quality management as a means to becoming stronger international competitors.

Total quality management is a system developed by Dr. W. Edwards Deming, an American statistician who was brought to Japan by General MacArthur in 1950.

Process manufacturing engineering is the field specializing in efficient, error free, product design and production. It deals with the process of manufacturing and focuses on the production line.

Procter & Gamble, Motorola, Xerox, IBM, American Express, and other companies with a dedication to total quality sponsor annual conferences that brings together the presidents, deans, and faculties of leading business and engineering schools. They meet with the best practitioners of quality management and customer satisfaction in American business.

By Mr. GRASSLEY:

S.J. Res. 281. Joint resolution designating the week of September 14 through September 20, 1992, as "National Small Independent Telephone Company Week"; to the Committee on the Judiciary.

NATIONAL SMALL INDEPENDENT TELEPHONE COMPANY WEEK

Mr. GRASSLEY. Mr. President, I am introducing today, along with my colleague from Iowa, Congressman FRED GRANDY, a commemorative resolution honoring America's small independent telephone companies by designating the week of September 14 through September 20, 1992, as "National Small Independent Telephone Company Week."

I invite all my Senate colleagues to cosponsor this resolution which provides well-deserved recognition and praise to the more than 1,300 small independent telephone companies providing basic local telephone service to nearly 10 million subscribers in 46 States.

Mr. President, for over 100 years, small independent telephone companies have been serving Americans. Most of these independents are either family owned businesses or subscriber-owned cooperatives. As such, they have proven to be a vital link in the progress and economic growth of small communities and rural areas throughout our Nation.

This may surprise some of my colleagues, but there are over 150 telephone companies in my State of Iowa. I know first hand through my close work with the people who own and operate these telephone companies just how critical their role has been, and I must add, will be, as we face the challenges of the future.

Technological advances in telecommunications have come at breakneck speed. Rural Americans have faced the dilemma of either getting on board, or being left in the dust. The people behind Iowa's independent telephone companies care about their communities and the future of their children. They have faced the many challenges of advancing technology, in addition to the unique obstacles of difficult terrain and sparse population, to provide rural subscribers state-of-the-art telecommunications service.

Last year, the Office of Technology Assessment [OTA], upon whose congressional board I serve, completed a study which I requested entitled "Rural America at the Crossroads: Networking for the Future." OTA made several suggestions to help policymakers assure that rural economic development is encouraged, not discouraged, by advances in telecommunications.

One portion of the OTA study made me very proud of the Iowans behind our independent telephone companies. OTA showcased the successful effort of 128 of Iowa's independent telephone companies to create what we call the Iowa Network Services as an example for other telephone companies to follow. By joining forces, the Iowa Network Services has been able to provide an independent fiber optic network as well as signaling system seven [SS7] which allows telephone company computers to communicate directly with each other.

In fact, the Iowa Networks Services initiative served as an example of one of OTA's primary recommendations, and that is for local telecommunication providers to ban together in a Rural Area Network to leverage market power to gain access to advanced telecommunications services and technology.

The OTA study made us fully appreciate the tremendous foresight and leadership of the people behind Iowa's independent telephone companies.

Mr. President, my colleagues know that we have leaders throughout the Nation equally dedicated to bringing the best in telecommunications and rural economic development to their communities. As Senators, we need to recognize the efforts of these local leaders, and we need to make certain that our actions in Washington assist, and not deter, the hard work of these community leaders.

But we should also take time out to provide special recognition and offer a special thanks to the accomplishments and community contributions of the leaders of America's small independent telephone companies. That is why I am introducing, and inviting my colleagues to cosponsor, this resolution establishing "National Small Independent Telephone Company Week" and authorizing and requesting the President to issue a proclamation calling upon the people of the United States to observe the week of September 14, 1992, with appropriate programs and activities.

Mr. President, I want to take a moment to extend my thanks as well, to the leadership of the Organization for the Protection and Advancement of Small Telephone Companies [OPASTCO], for its efforts in behalf of this resolution as well as for its broader efforts to increase the Nation's awareness of the vital importance of small independent telephone companies. I want to also express a special thanks for the hard work of OPASTCO's president, Robert Halford of Iowa's Clear Lake Independent Telephone Co. His efforts and those of OPASTCO make our jobs of representing the grassroots communities in Congress a lot easier.

By Mr. BOREN (for himself, Mr. MITCHELL, Mr. SPECTER, Mr. MURKOWSKI, Mr. BRADLEY, Mr. DECONCINI, Mr. GLENN, Mr. METZENBAUM, Mr. WOFFORD, and Mr. COHEN):

S.J. Res. 282. Joint resolution to provide for the expeditious disclosure of records relevant to the assassination of President John F. Kennedy; to the Committee on Governmental Affairs.

DISCLOSURE OF JOHN F. KENNEDY ASSASSINATION RECORDS

Mr. BOREN. Mr. President, today I introduce a Senate joint resolution entitled the "Assassination Materials Disclosure Act of 1992." The purpose of this legislation is to provide for a comprehensive process ultimately leading to the release of all materials held by the U.S. Government regarding the assassination of President John F. Kennedy. Congressman LOUIS STOKES, the distinguished former chairman of the House Assassinations Committee, is today introducing identical legislation in the House of Representatives.

We have, of course, had at least three substantial investigations into the Kennedy assassination: The first conducted by the Warren Commission appointed by President Johnson in the mid-1960's; the second, by the Church Committee in 1975 as part of its investigation of CIA assassination plots against foreign leaders; and finally, the third was the extensive investigation of the House Assassinations Committee in the late 1970's.

Each of these investigations, particularly the Warren Commission and House Assassinations Committee investigation, produced long, detailed public reports concerning the Kennedy assassination. Literally hundreds of books and articles have been written on the subject.

Yet still, almost 30 years later, the questions remain.

The recent release of the controversial film "JFK" has raised them anew, suggesting that answers may well lie in the assassination records and other materials that remain sealed by our Government. Even prior to the release of "JFK," in fact, there were diligent efforts made by researchers as well as concerned legislators to open these files for public review.

Mr. President, I do not know what all of these files contain. Specifically, I do not know whether they contain information that would change the findings of the previous investigations or not.

But it seems to me the time has come to open these files to the public and let them speak for themselves. Let historians and journalists and the people read them, and draw the appropriate conclusions. As a general principle, the intelligence community should make available its records after the passage of a reasonable amount of time when current sources and methods would no longer be compromised. The American people have a right to assure themselves to the greatest degree possible of the accuracy of the historical record of our Government. The timely release of all documents of historic value and importance helps to assure that even the most secret programs of our government will be operated in accordance with basic American values. Current intelligence operations will be even more carefully conducted when it is recognized that they will be scrutinized by the public during the lifetime of many of those who administered the programs.

This is not to say, however, that these files can prudently be released without careful review. There are important governmental interests to take account of, as well as individual privacy interests at stake.

What this resolution proposes is a comprehensive, government-wide review of the Kennedy assassination records conducted under the auspices of an impartial, independent board.

It may be useful to state precisely what these records consist of. First, they would encompass all of the records of the FBI, the CIA, Secret Service, military intelligence, and other executive branch agencies which may pertain to the Kennedy assassination. They include the records of the Warren Commission and the Church committee. Finally, they would include records of the House Select Committee on Assassinations. Many of these records are now stored under seal at the National Archives, while many others remain in agency files.

While much material has previously been released by the Archives and as a result of Freedom of Information Act litigation, a great deal remains shielded from public view. Approximately 20 boxes of the internal files generated by the Warren Commission are still sealed. Experts estimate that a much greater volume of FBI and CIA files remain sealed. Many pages of documents that have been released have been so extensively redacted that their informational value is minimal. The extensive files of the House Assassinations Committee, some 848 boxes of materials on both Kennedy and King assassinations, currently are sealed until the year 2029.

To date, these records have been withheld from the public due to a variety of concerns: The fear of damaging foreign relations, the concern for disclosing the identities of confidential sources of informants, and the desire to protect the privacy of individuals. While these concerns may yet retain some validity in a very few isolated cases, it seems to me that with the passage of time, there should remain very few objections to full disclosure. I believe it is time to review these records, not in terms of the old assumptions, but rather in light of the need for openness and to encourage confidence in the Government. We need to ensure ourselves of the facts, that there is not information lurking somewhere in the Government that would shed new light on what remains perhaps the most heinous and enigmatic crime of this century.

The joint resolution would make it much harder to justify the continued shielding of a document from public view. It would also create a process by which many records could be promptly released. Any arguments made for withholding any document or portions of it must be weighed against the strong public interest in disclosure. The resolution establishes this kind of balancing test with a strong presumption in favor of disclosure.

In addition, to address the problem of heavily redacted and therefore meaningless documents, the joint resolution borrows a page from the Classified Information Procedures Act, the law that covers the handling of secret information in criminal trials. Under that law, judges have discretion to permit introduction in evidence of summaries or substitutes in place of classified information. The joint resolution provides for creation of such summaries or substitutes, so that the public can learn essential facts about the Kennedy assassination from a document even where references to private matters or crucial national security secrets would render the document itself mostly unreleasable.

In all cases, the joint resolution requires that the presumption is in favor of release. All records will be released unless there is clear and convincing evidence that postponing release is essential to a vital interest.

Now let me briefly explain the process established by the joint resolution for applying these disclosure standards.

The joint resolution creates a five-member panel called the Assassination Material Review Board. The members of this Review Board would be distinguished private citizens outside of government who have had no prior involvement with previous inquiries into the Kennedy assassination. This Review Board, aided by an executive director and staff, would play the central role in the release of the assassination materials. The Board would be required to complete its work within 2 years of its first meeting, although it is certainly expected that it could be completed much more quickly. The point is to proceed expeditiously, while still doing a careful job.

We faced a difficult choice in deciding who should appoint the Review Board. Given the unique circumstances involved, allowing the President or Congress to appoint the Board did not seem appropriate. We settled instead on the special three-judge Federal court division that appoints independent counsels for criminal investigations. Some may contend that this choice raises constitutional problems, despite the decision of the Supreme Court in *Morrison* v. *Olson*, 487 U.S. 654 (1988), which upheld the power of that division to appoint independent counsels. Some may feel that a judicial panel is ill-suited to make appointments for this task. The judges themselves, who have small staffs and other concerns, might well prefer to avoid this assignment. Still, we have found no better solution.

Under the joint resolution, the first step would be to make available to the Executive Director appointed by the Review Board all Government assassination materials. Where the Executive Director suspects that the agencies have failed to submit some of the relevant records, he or she has authority to question the agencies and to use the subpoena power of the Review Board to obtain these records.

The Executive Director, assisted by employees of Review Board and, if deemed necessary, detailed from elsewhere in the Government, would undertake the initial screening of these records. If the Executive Director concluded that a particular record was appropriate for release, the record would automatically be released, unless the record implicated personal privacy or the executive agency or congressional committee with responsibility for that record filed an appeal with the Review Board.

If the Executive Director determined that a particular record was not appropriate for release under present circumstances or that the record implicated personal privacy concerns, he or she would automatically be required to refer that decision to the Review Board.

The Executive Director would also be permitted to refer particularly difficult decisions, or decisions requiring further investigation, to the Review Board.

In deciding on appeals and referrals from the Executive Director, the Review Board would have authority to conduct hearings and subpoena records and witnesses.

The Review Board would have final say as to the release or nonrelease of all materials, except that in the case of executive branch materials, the President would have the authority to supersede the board's determination and postpone release. But each time the President did so, he would be required to explain his reasons, both in a notice to the public and to the Congress. Decisions by the Review Board itself to postpone release of records would also have to be explained to the public and Congress.

Finally, under the joint resolution, no item would remain permanently sealed. The Review Board, before finishing its work, would designate to every item still withheld, a specified time or a specified occurrence, following which the item could be released. The files would then be transferred to the archives, where the Archivist would have a continuing duty to reconsider them for release under the standards set by the joint resolution.

Materials released by the Archivist or the Review Board would be available in the Archives for public review and copying.

Our joint resolution also makes clear that an executive branch agency or congressional committee retains its existing powers under the law to release a particular record even if the joint resolution does not require it to do so, and that the members of the public can continue to use the Freedom of Information Act to request from the agencies documents related to the assassination.

Mr. President, this resolution may appear complicated, but the matter of disclosure is itself complicated. It cannot be accomplished arbitrarily or summarily. The process established by the resolution, in my view, is logical and takes account of all the interests and equities in the disclosure of these documents. In the end, I think it will result in all of the pertinent information pertaining to the assassination of President Kennedy being made public in an orderly way, and, in doing so, will help restore confidence among the public in our Government.

I know of no reason why this should not be done, and done now. I have talked with a variety of people both inside and outside the Government about this resolution, and I have yet to hear anyone object to such a review. Judge William Webster, the only person to have served as both Director of the FBI and Director of Central Intelligence, has publicly stated that he knows of no national security reason for keeping the JFK assassination materials secret. Robert Gates, the present Director of Central Intelligence, has pledged his cooperation with any such review that may be undertaken. The Dallas City Council recently made public the assassination materials gathered by the Dallas Police Department. The files of the Federal Government must be opened as well to complete the picture.

It is my hope that the Senate and House will expeditiously consider this resolution, and send it to the President. The work of the Review Board must begin. We have waited long enough. The time is ripe.

I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 282

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Joint Resolution may be cited as the "Assassination Materials Disclosure Act of 1992".

SEC. 2. FINDINGS, DECLARATIONS, AND PURPOSE.

(a) FINDINGS AND DECLARATIONS.—The Congress finds and declares that—

(1) the legitimacy of any government in a free society depends on the consent of the people;

(2) the ability of a government in a free society to obtain the consent of the people is undermined to the degree that the people do not trust their government;

(3) the disclosure of records in the possession of the Government relevant to the assassination of President John F. Kennedy will contribute to the trust of the people in their government;

(4) the disclosure of records in the possession of the Government relevant to the assassination of President John F. Kennedy should proceed as expeditiously as practicable; and

(5) all records in the possession of the Government relevant to the assassination of President John F. Kennedy should be released to the public at the earliest opportunity, except where clear and convincing justification exists for postponing the disclosure of such records to a specified time or following a specified occurrence in the future.

(b) PURPOSE.—The purpose of this Joint Resolution is to secure the expeditious disclosure of records relevant to the assassination of President John F. Kennedy as soon as practicable consistent with the public interest.

SEC. 3. DEFINITIONS.

In This Joint Resolution:

(1) "Archivist" means the Archivist of the United States.

(2) "Assassination material" means a record that relates in any manner or degree to the assassination of President John F. Kennedy, that was created or obtained by the House Committee, the Senate Committee, the Warren Commission, or an executive agency or any other entity within the Executive branch of the Government, and that is in the custody of the House of Representatives, the Senate, the National Archives, or any other Executive agency, but does not include (A) material to the extent that it pertains to personnel matters or other administrative affairs of a congressional committee, the Warren Commission, or any entity within the Executive branch of the Government; or (B) the autopsy materials donated by the Kennedy family to the National Archives pursuant to a deed of gift regulating access to those materials, which are addressed in subsection 10(b) of this Joint Resolution.

(3) "Committee" means the House Committee or Senate Committee.

(4) "Executive agency" means an Executive agency as defined in subsection 552(f) of title 5, United States Code.

(5) "House Committee" means the Select Committee on Assassinations of the House of Representatives and the Permanent Select Committee on Intelligence of the House of Representatives acting under this Joint Resolution with respect to assassination materials in the custody of the House of Representatives.

(6) "National Archives" means the National Archives and Records Administration.

(7) "Originating body" means the Executive agency, commission, or congressional committee that created the particular record or obtained the particular record from a source other than another entity of the Government, or the custodian of records of that agency, commission, or committee for purposes of this Joint Resolution. For purposes of this Joint Resolution, (A) the custodian of records of the Select Committee on Assassinations of the House of Representatives is the Permanent Select Committee on Intelligence of the House of Representatives; (B) the custodian of records of the Select Committee to Study Governmental Operations With Respect to Intelligence of the Senate is the Select Committee on Intelligence of the Senate; and (C) the custodian of records of the Warren Commission is the Archivist of the United States.

(8) "Record" includes a book, paper, map, photograph, machine readable material, computerized, digitized, or electronic information, regardless of the medium on which it is stored, or other documentary material, regardless of its physical form or characteristics.

(9) "Review Board" means the Assassination Materials Review Board established under section 5.

(10) "Senate Committee" means the Select Committee to Study Governmental Operations With Respect to Intelligence of the Senate and the Select Committee on Intelligence of the Senate acting under this Joint Resolution with respect to assassination materials in the custody of the Senate.

(11) "Warren Commission" means the President's Commission on the Assassination of President John F. Kennedy.

SEC. 4. PUBLIC DISCLOSURE OF MATERIALS BY CONGRESS AND THE EXECUTIVE BRANCH.

(a) IN GENERAL.—Except for assassination material or particular information in assassination material the disclosure of which is postponed under section 8, all assassination materials shall be transferred to the National Archives and made available for inspection and copying by the general public as soon as practicable.

(b) FEES FOR COPYING.—The Archivist shall charge fees for copying and grant waivers of such fees pursuant to the standards established by section 552 of Title 5, United States Code.

(c) PRINTING AND DISSEMINATION OF ASSASSINATION MATERIALS.—(1) The Archivist may provide copies of assassination materials of broad public interest to the Government Printing Office, which shall print copies for sale to the public.

(2) Assassination materials printed by the Government Printing Office pursuant to this subsection shall be placed in libraries throughout the United States that are Government depositories in accordance with the provisions of Chapter 19 of Title 44, United States Code.

SEC. 5. ASSASSINATION MATERIALS REVIEW BOARD.

(a) ESTABLISHMENT.—There is established as an independent agency a board to be known as the Assassination Materials Review Board.

(b) APPOINTMENT.—(1) The division of the United States Court of Appeals for the District of Columbia Circuit established under section 49 of title 28, United States Code, shall, within 90 calendar days of the date of enactment of this Joint Resolution, appoint, without regard to political affiliation, 5 distinguished and impartial private citizens, none of whom are presently employees of any branch of the Government and none of whom shall have had any previous involvement with any investigation or inquiry relating to the assassination of President John F. Kennedy, to serve as members of the Review Board.

(2) A vacancy on the Review Board shall be filled in the same manner as the original appointment was made under paragraph (1).

(3) The members of the Review Board shall be deemed to be inferior officers of the United States within the meaning of section 2 of article II of the Constitution.

(c) CHAIR.—The members of the Review Board shall elect 1 of its members as chair at its initial meeting.

(d) COMPENSATION OF MEMBERS.—(1) A member of the Review Board shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Review Board.

(2) A member of the Review Board shall be allowed reasonable travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the member's home or regular place of business in the performance of services for the Review Board.

(e) STAFF.—(1) The Review Board may, without regard to the civil service laws and regulations, appoint and terminate an Executive Director and such other additional personnel as are necessary to enable the Review Board to perform its duties. The individual appointed Executive Director shall be a person of integrity and impartiality who is not a present employee of any branch of the Government and has had no previous involvement with any investigation or inquiry relating to the assassination of President John F. Kennedy.

(2) The Review Board may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of that title.

(3) At the request of the Executive Director, Executive agencies, including the National Archives and other originating bodies within the Executive Branch, shall detail to the Review Board such employees as may be necessary and appropriate to carry out the review required by this Joint Resolution. Any employee detailed to the Review Board for this purpose shall be without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(4) The Review Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of that title.

(f) INAPPLICABILITY OF CERTAIN LAWS.—The following laws shall not apply to the Review Board:

(1) Subchapter II of chapter 5 of title 5, United States Code.

(2) Chapter 7 of title 5, United States Code.

(3) Section 3105 and 3344 of title 5, United States Code.

(g) DUTIES.—The Review Board shall consider and render decisions on referrals by the Executive Director and appeals as provided in section 7 for a determination—

(1) whether a record constitutes assassination material subject to this Joint Resolution; and

(2) whether a record or particular information in a record qualifies for postponement of disclosure under this Joint Resolution.

(h) REMOVAL.—(1) A member of the Review Board may be removed from office, other than by impeachment and conviction, only by the action of the President or the Attorney General acting on behalf of the President, and only for inefficiency, neglect of duty, malfeasance in office, physical disability, mental incapacity, or any other condition that substantially impairs the performance of the member's duties.

(2)(A) If a member of the Review Board is removed from office, the Attorney General shall promptly submit to the division of the court that appointed the members of the Review Board, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives a report specifying the facts found and the ultimate grounds for the removal.

(B) The division of the court, the Committee on the Judiciary of the Senate, and the Committee on the Judiciary of the House of Representatives shall make available to the public a report submitted under subparagraph (A), except that the division of the court or either judiciary committee may, if necessary to protect the rights of a person named in the report or to prevent undue interference with any pending prosecution, postpone or refrain from publishing any or all of the report.

(3)(A) A member of the Review Board removed from office may obtain judicial review of the removal in a civil action commenced in the United States District Court, for the District of Columbia.

(B) A member of the division of the court that appointed the members of the Review Board my not hear or determine a civil action or an appeal of a decision in a civil action brought under subparagraph (A).

(C) The member may be reinstated or granted other appropriate relief by order of the court.

(i) OVERSIGHT.—(1) The appropriate committee of the House of Representatives and the Select Committee on Intelligence of the Senate shall have continuing oversight jurisdiction with respect to the official conduct of the Review Board, to include access to any records held or created by the Review Board, and the Review Board shall have the duty to cooperate with the exercise of such oversight jurisdiction.

(2) The Review Board shall submit to the Congress such statements or reports on the activities of the Review Board as the Review Board considers to be appropriate in addition to the notifications required by subsection 8(g).

(j) SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide administrative services for the Review Board on a reimbursable basis. The Archivist shall provide support services for the Review Board to include, as necessary, office space, clerical support, and personnel support, on a reimbursable basis.

(k) INTERPRETIVE REGULATIONS.—The Review Board may issue interpretive regulations.

(l) TERMINATION.—(1) The Review Board and the terms of its members shall terminate within two years of the date upon which the Board is formally constituted pursuant to this Joint Resolution and begins operations. Provided that, if the Review Board has not completed its work pursuant to this Joint Resolution within such two-year period, it may, by majority vote, extend its term for an additional one-year period for such purpose. Any additional extension of the Review Board and the terms of its members shall be authorized by the Congress.

(2) At least 30 calendar days prior to the completion of its work, the Review Board shall provide written notice to the President and the Congress of its intention to terminate its operations at a specified date.

SEC. 6. GROUNDS FOR POSTPONEMENT OF DISCLOSURE.

Disclosure to the general public of assassination material or particular information in assassination material may be postponed if its release would—

(1) reveal—

(A) an intelligence agent;

(B) an intelligence source or method which is currently utilized, or reasonably expected to be utilized, by the United States Government; or

(C) any other matter currently relating to the military defense, intelligence operations or conduct of foreign relations of the United States;

and the threat to the military defense, intelligence operations or conduct of foreign relations of the United States posed by its disclosure is of such gravity that it outweighs any public interest in its disclosure;

(2) constitute an invasion of privacy of a living person, whether that person is identified in the material or not, and that invasion of privacy is so substantial that it outweighs any public interest in its disclosure;

(3) constitute a substantial and unjustified violation of an understanding of confidentiality between a Government agent and a witness or a foreign government; or

(4) disclose a security or protective procedure currently utilized, or reasonably expected to be utilized, by the Secret Service or other Government agency responsible for protecting Government officials, and that disclosure is so harmful that it outweighs any public interest in its disclosure.

SEC 7. REVIEW OF MATERIALS BY THE EXECUTIVE DIRECTOR.

(a) RELEASE OF ALL ASSASSINATION MATERIALS TO THE EXECUTIVE DIRECTOR.—Each

Executive agency, including the National Archives, shall make available to the Executive Director all assassination materials, as defined in section 3, in its possession, including but not limited to, in the case of the National Archives, the records of the Warren Commission, the House Committee, and the Senate Committee. Where the agency is uncertain if a record is assassination material, it shall make that record available to the Executive Director. The Executive Director shall have the authority and responsibility, where circumstances warrant, to inquire of any Executive agency as to the existence of further records that may be assassination materials beyond those made available by that agency, to obtain access to such records, and to recommend that the Review Board subpoena such records in the event of denial of such access.

(b) EXECUTIVE DIRECTOR RESPONSIBILITY.—The Executive Director shall have responsibility for reviewing all records that are made available by Executive agencies, including the National Archives, pursuant to subsection 7 (a).

(c) CONSULTATION BY EXECUTIVE DIRECTOR.—The Executive Director may consult with the originating body for advice and information in reaching a decision with respect to the disclosure or nondisclosure of assassination materials.

(d) PRESUMPTION FOR RELEASE.—In the absence of clear and convincing evidence that an assassination material or particular information within an assassination material falls within the exemptions established in section 6 of this Joint Resolution, the Executive Director shall direct that the assassination material or particular information be released pursuant to subsection 7(e)(1).

(e) EXECUTIVE DIRECTOR DECISION.—After review of each record, the Executive Director shall, as soon as practicable after the date of enactment of this Joint Resolution, either—

(1) notify the originating body or bodies that the record is assassination material that is appropriate for release in its entirety pursuant to the standards established in this Joint Resolution. In such event, the Executive Director shall transmit the record to the Archivist and the Archivist shall make the record available for inspection and appropriate copying by the public, unless within 30 calendar days of notification an originating body files a notice of appeal with the Review Board: *Provided*, That any record that, in the judgment of the Executive Director, arguably falls within subsection 6(2), shall automatically be referred to the Review Board pursuant to subsection 7(e)(2)(D); or

(2) refer the record to the Review Board, accompanied by a written determination, indicating one of the following:

(A) that, in the Executive Director's judgment, the record is not assassination material;

(B) that, in the Executive Director's judgment, the record is assassination material that qualifies for postponement of disclosure under Section 6 or contains particular information that qualifies for postponement of disclosure under Section 6;

(C) that full Review Board investigation and/or review Board judgment appears appropriate for a determination as to whether the record or particular information in the record qualifies for postponement of disclosure under Sec. 6 and thus that this determination shall be vested in the Review Board rather than the Executive Director; or

(D) that, in the Executive Director's judgment, the record arguably falls within section 6(2) and thus that the determination as to whether the record qualifies for postponement of disclosure shall be vested in the Review Board rather than the Executive Director.

SEC. 8. DETERMINATIONS BY THE REVIEW BOARD.

(a) APPEAL AND REFERRALS.—The Review Board shall review and apply the standards for release set forth in this Joint Resolution to—

(1) all records that are the subject of appeals pursuant to Sec. 7(e)(1); and

(2) all records referred to the Review Board by the Executive Director pursuant to Sec. 7(e)(2).

(b) PRESUMPTION FOR RELEASE.—In the absence of clear and convincing evidence that an assassination material or particular information within an assassination material falls within the exemptions established in section 6 of this Joint Resolution, the Board shall direct that the assassination material or particular information be released pursuant to subsection 8(h).

(c) POWERS.—The Review Board shall have authority to hold hearings, administer oaths, and subpoena witnesses and documents, and its subpoenas may be enforced in any appropriate Federal court by the Department of Justice acting pursuant to a lawful request of the Review Board.

(d) ADDITIONAL MATERIALS.—The Review Board shall have the authority and responsibility, where circumstances warrant, to inquire of any Executive agency as to the existence of further records that may be assassination materials beyond those made available by that agency, to obtain access to such records, and to use its subpoena power in sport of this authority.

(e) WITNESS IMMUNITY.—The Review Board shall be considered an agency of the United States for purposes of section 6001 of title 18, United States Code.

(f) REVIEW BOARD DETERMINATION.—After review of each record, the Review Board shall determine whether such record is assassination material, and, if so, whether such assassination material, or particular information in the assassination material, qualifies for postponement of disclosure pursuant to section 6. Any reasonably segregable particular information in an assassination material shall be considered for release after deletion of information in that assassination material that qualifies for postponement of disclosure. Where an entire assassination material qualifies for postponement of disclosure pursuant to section 6, the Board may, after consultation with the originating body and if consistent with and to the extent consistent with section 6, create and prepare for release a summary of the assassination material in order to provide for the fullest disclosure feasible. Where particular information in an assassination material qualifies for postponement of disclosure pursuant to section 6, the Board may, after consultation with the originating body and if consistent with and to the extent consistent with section 6, create and prepare for release appropriate substitutions for that information in order to provide for the fullest disclosure feasible.

(g) DECISIONS TO POSTPONE.—Where the Board determines that a record is not assassination material, or that a record, or particular information in the record, qualifies for postponement of disclosure pursuant to section 6, the Board shall transmit to the originating body written notice of such determination, together with a copy of the record at issue, and, if the originating body is an Executive agency, a copy of such notice and of the record shall be transmitted to the appropriate committee of the House of Representatives and the Select Committee on Intelligence of the Senate. Such notice shall contain a statement of the reason or reasons for the Board's decision. Any decision of the Board that a record is not assassination material, or that disclosure of a record or particular information in a record should be postponed pursuant to section 6, shall not be subject to judicial review.

(h) DECISIONS TO RELEASE—

(1) NON-EXECUTIVE AGENCY MATERIAL.—In the case of records for which the originating body is the Warren Commission, the House Committee, or the Senate Committee, where the Review Board determines that a record is assassination material, and that a record, particular information in a record, a summary of a record, or a substitution for particular information in a record is appropriate for release pursuant to this Joint Resolution, the Review Board shall transmit the record, particular information, summary, or substitution to the Archivist, and the Archivist shall make such record, particular information, summary, or substitution available for inspection and copying by the public. The Review Board's decision to release shall not be subject to review by the President or any other entity of the Government and shall not be subject to judicial review.

(2) EXECUTIVE AGENCY MATERIAL.—In the case of records for which the originating body is an Executive agency, excluding the Warren Commission, where the Review Board determines that a record, particular information in a record, a summary of a record, or a substitution for particular information in a record is appropriate for release pursuant to this Joint Resolution, the Review Board shall transmit to the originating body written notice of its determination. In such event, the Review Board shall transmit the record, particular information, summary, or substitute to the Archivist, and the Archivist shall make such material available for inspection and appropriate copying by the public, unless, within 60 calendar days of the date on which the Board has notified the originating body, the President has certified to the Review Board and the Archivist that the material qualifies for postponement of disclosure pursuant to section 6, in which case release of the material shall be postponed, and this decision shall not be subject to judicial review. The President shall not delegate this authority to any other official or entity.

(i) PRESIDENTIAL NOTICE TO CONGRESSIONAL COMMITTEES.—Whenever the President makes a certification pursuant to subsection 8(h)(2), the President shall submit to the appropriate committee of the House of Representatives and the Select Committee on Intelligence of the Senate a written statement setting forth the reason or reasons for superseding the Board's determination and a complete copy of the material at issue.

(j) BOARD NOTICE TO PUBLIC.—Every 60 calendar days, beginning 60 calendar days after the date on which the Review Board first postpones release of any assassination material pursuant to section 8(g), the Board shall make available for public inspection and copying a notice of all such postponements determined over the 60-day period, including a description of the size and nature of each assassination material concerned and the ground or grounds for postponement.

(k) PRESIDENTIAL NOTICE TO PUBLIC.—In any case in which a determination of the Board to release assassination material is superseded by the President pursuant to this subsection, the President shall within 10 calendar days publish in the Federal Register notice of such action, including a description of the size and nature of the assassination material concerned and the ground or grounds for postponement.

(l) IMMUNITY FROM SUIT.—No person shall have a cause of action against members, employees or detailees of the Review Board arising out of any action or failure to act with regard to assassination material under this Joint Resolution.

(m) RULES OF THE HOUSE OF REPRESENTATIVES AND SENATE.—That portion of subsection 8(h)(1) that permits the Review Board to release materials for which the originating body is the House Committee or the Senate Committee without the concurrence or approval of any congressional body is enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

SEC. 9—MARKING AND REVIEW OF MATERIALS THE DISCLOSURE OF WHICH IS POSTPONED—

(a) MARKING—With respect to each assassination material or particular information in assassination material the disclosure of which is postponed pursuant to section 8, or for which only substitutions or summaries have been released to the public pursuant to subsection 8(h), the Review Board shall append to the material (1) all records of proceedings conducted pursuant to this Joint Resolution and relating to the material and (2) a statement of the Review Board designating, based on a review of the proceedings and in conformity with the decisions reflected therein, a specified time at which or a specified occurrence following which the material may appropriately be reconsidered for release pursuant to the standards established in this Joint Resolution. The Review Board shall then transfer the material and appendices to the Archivist for placement in the Archives under seal.

(b) REVIEW—The sealed assassination materials transferred by the Review Board pursuant to this section shall remain subject to the standards for release established by this Joint Resolution. It shall be the continuing duty of the Archivist to review the sealed assassination materials and the documents appended thereto pursuant to this section and to resubmit assassination materials to the Review Board, if it is still in existence, or to the originating body, if the Review Board has been abolished, whenever it appears to the Archivist that review may be appropriate.

SEC. 10 DISCLOSURE OF OTHER MATERIALS AND ADDITIONAL STUDY.

(a) MATERIALS UNDER SEAL OF COURT.—(1) The Review Board may request the Department of Justice to petition, or through its own counsel petition, any court in the United States or abroad to release any information relevant to the assassination of President John F. Kennedy that is held under seal of the court.

(2)(A) The Review Board may request the Attorney General to petition, or through its own counsel petition, any court in the United States to release any information relevant to the assassination of President John F. Kennedy that is held under the injunction of secrecy of a grand jury.

(B) A request for disclosure of assassination materials under this Joint Resolution shall be deemed to constitute a showing of particularized need under Rule 6 of the Federal Rules of Criminal Procedure.

(b) AUTOPSY MATERIALS.—The Review Board shall, pursuant to the terms of the applicable deed of gift, seek access to the autopsy photographs and x-rays donated to the National Archives by the Kennedy family under the deed of gift. The Review Board shall, as soon as practicable, submit to the appropriate committee of the House and the Select Committee on Intelligence of the Senate a report on the status of these materials and on access to these materials by individuals consistent with the deed of gift.

(c) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) The Attorney General should assist the Review Board in good faith to unseal any records that the Review Board determines to be relevant and held under seal by a court or under the injunction of secrecy of a grand jury;

(2) The Secretary of State should contact the Government of the Republic of Russia and seek the disclosure of all records of the government of the former Soviet Union, including the records of the Komitet Gosudarstvennoy Bezopasnosti (KGB) and the Glavnoye Razvedyvatelnoye Upravleniye (GRU), relevant to the assassination of President Kennedy, and contact any other foreign government that may hold information relevant to the assassination of President Kennedy and seek disclosure of such information; and

(3) all Executive agencies should cooperate in full with the Review Board to seek the disclosure of all information relevant to the assassination of President John F. Kennedy consistent with the public interest.

SEC. 11. RULES OF CONSTRUCTION.

(a) PRECEDENCE OVER OTHER LAW.—(1) Where this Joint Resolution requires release of a record, it shall take precedence over any other law, judicial decision construing such law, or common law doctrine that would otherwise prohibit such release.

(b) FREEDOM OF INFORMATION ACT.—Nothing in this Joint Resolution shall be construed to eliminate or limit any right to file requests with any Executive agency other than the Review Board or seek judicial review of the decisions of such agencies pursuant to section 552 of title 5, United States Code.

(c) EXISTING AUTHORITY.—Nothing in this Joint Resolution revokes or limits the existing authority of the President, any Executive agency, the Senate, or the House of Representatives, or any other entity of the Government to release records in its possession.

SEC. 12. TERMINATION OF EFFECT OF JOINT RESOLUTION.

The provisions of this Joint Resolution which pertain to the appointment and operation of the Review Board shall cease to be effective when the Review Board and the terms of its members have terminated pursuant to subsection 5(1). The remaining provisions of this Joint Resolution shall continue in effect until such time as the Archivist certifies to the President and the Congress that all assassination materials have been made available to the public in accordance with this Joint Resolution.

SEC. 13. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this Joint Resolution, to remain available until expended.

(b) INTERIM FUNDING.—Until such time as funds are appropriated pursuant to subsection (a), the President may use such sums as are available for discretionary use to carry out this Joint Resolution.

SEC. 14. SEVERABILITY.

If any provision of this Joint Resolution or the application thereof to any person or circumstance is held invalid, the remainder of this Joint Resolution and the application of that provision to other persons not similarly situated or to other circumstances shall not be affected by the invalidation.

Mr. SPECTER. Mr. President, this joint resolution, which has been prepared in collaboration with Congressman LOUIS STOKES, who served as chairman of the House Select Committee on Assassinations, and Senator DAVID L. BOREN, chairman of the Senate Intelligence Committee, will serve to expedite disclosure of materials relevant to the assassination of President John F. Kennedy.

The Warren Commission published an extensive report of 888 pages on the assassination together with 26 volumes, containing 17,816 pages of testimony, evidence, and exhibits. At one point in the Commission's work, there was a question as to whether to publish the 26 volumes because of the expense involved and the decision was made to publish all of them.

To the best of my knowledge, all of the relevant materials on the work which I did as Assistant Counsel covering the trajectory of the bullets and wounds of President Kennedy and Governor Connally have been made public with the exception of the photographs and x rays of President Kennedy.

While the work of the Commission was in progress, I urged that the photographs and x rays be examined by the Commission, but they were not made available to the Commission and staff because of concern they would become public.

This resolution will facilitate the maximum appropriate disclosure of any additional materials which may have been withheld by the FBI, CIA, Secret Service, or any other Federal agency.

The House committee decided to withhold certain materials for 50 years following the publication of its report in 1979, or until the year 2029. This will facilitate the maximum appropriate disclosure of any of these materials which may have been withheld by the House committee.

There probably never has been an event in history which has been more thoroughly investigated or more extensively written about than the assassination of President Kennedy in the intervening 28 years. When I have been asked about the assassination of President Kennedy, I have found relatively few people have read the Warren Commission's report which documents the solid evidentiary basis for the single bullet theory. Many independent studies, including the House committee, have confirmed the single bullet theory. The House committee reached a different conclusion on the conspiracy issue which was based on acoustical studies which I believe were flawed.

In my judgment, Lee Harvey Oswald acted alone. It is, of course, impossible to prove a negative—that there was no conspiracy. The Warren Commission examined all the available data and found no evidence of a conspiracy. In my opinion, no credible evidence has since been found to support a finding of a conspiracy. Had there been such evidence, it would have come to light long ago considering the scrutiny given to the assassination and the impossibility/improbability of keeping such information secret.

When Chief Justice Warren first addressed the staff of the Commission, he emphasized that the truth was our only client. When the Commission's report was released in 1964, I believed that the Commission had done a good job and had reached sound conclusions and I adhere to that view today. If there is any evidence which contradicts those conclusions, I am confident that all the men and women who were associated with the Commission would want those facts disclosed. This resolution should bolster public confidence on our efforts to achieve full or at least maximum disclosure to let the chips fall where they may.

ADDITIONAL COSPONSORS

S. 21

At the request of Mr. CRANSTON, the name of the Senator from West Virginia [Mr. ROCKEFELLER] was added as a cosponsor of S. 21, a bill to provide for the protection of the public lands in the California desert.

S. 267

At the request of Mr. REID, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 267, a bill to prohibit a State from imposing an income tax on the pension or retirement income of individuals who are not residents or domiciliaries of that State.

S. 972

At the request of Mr. WOFFORD, his name was added as a cosponsor of S. 972, a bill to amend the Social Security Act to add a new title under such Act to provide assistance to States in providing services to support informal caregivers of individuals with functional limitations.

S. 1156

At the request of Mr. PACKWOOD, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1156, a bill to provide for the protection and management of certain areas on public domain lands managed by the Bureau of Land Management and lands withdrawn from the public domain managed by the Forest Service in the States of California, Oregon, and Washington; to ensure proper conservation of the natural resources of such lands, including enhancement of habitat; to provide assistance to communities and individuals affected by management decisions on such lands; to facilitate the implementation of land management plans for such public domain lands and Federal lands elsewhere; and for other purposes.

S. 1257

At the request of Mr. BOREN, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1257, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain real estate activities under the limitations on losses from passive activities.

S. 1522

At the request of Mr. BOREN, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 1522, a bill to amend the Internal Revenue Code of 1986 with respect to the treatment by cooperatives of gains or losses from sale of certain assets.

S. 1874

At the request of Mr. KOHL, the name of the Senator from Wisconsin [Mr. KASTEN] was added as a cosponsor of S. 1874, a bill to establish a Federal Facilities Energy Efficiency Bank to improve energy efficiency in federally owned and leased facilities, and for other purposes.

S. 1902

At the request of Mr. ADAMS, the names of the Senator from New Jersey [Mr. LAUTENBERG] and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of S. 1902, a bill to amend title IV of the Public Health Service Act to require certain review and recommendations concerning applications for assistance to perform research and to permit certain research concerning the transplantation of human fetal tissue for therapeutic purposes, and for other purposes.

S. 2064

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 2064, a bill to impose a 1-year moratorium on the performance of nuclear weapons tests by the United States unless the Soviet Union conducts a nuclear weapons test during that period.

S. 2201

At the request of Mr. BROWN, the name of the Senator from Idaho [Mr. CRAIG] was added as a cosponsor of S. 2201, a bill to authorize the admission to the United States of certain scientists of the Commonwealth of Independent States as employment-based immigrants under the Immigration and Nationality Act, and for other purposes.

S. 2204

At the request of Mr. DURENBERGER, the name of the Senator from Indiana [Mr. COATS] was added as a cosponsor of S. 2204, a bill to amend title 23, United States Code, to repeal the provisions relating to penalties with respect to grants to States for safety belt and motorcycle helmet traffic safety programs.

S. 2348

At the request of Mr. MACK, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from California [Mr. SEYMOUR] were added as cosponsors of S. 2348, a bill to reduce the growing costs imposed on State and local governments by unfunded Federal mandates.

S. 2349

At the request of Mr. MACK, the names of the Senator from North Carolina [Mr. HELMS] and the Senator from California [Mr. SEYMOUR] were added as cosponsors of S. 2349, a bill to amend the Congressional Budget Act of 1974 to minimize the impact on State and local governments of unexpected provisions of legislation proposing the imposition of large unfunded costs on such governments.

S. 2372

At the request of Mr. CRANSTON, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 2372, a bill to amend 1718 of title 38, United States Code, to provide that the compensation of veterans under certain rehabilitative services programs in State homes not be considered to be compensation for the purposes of calculating the pensions of such veterans.

S. 2384

At the request of Mr. COATS, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 2384, a bill to amend the Solid Waste Disposal Act to require the owner or operator of a solid waste disposal facility to obtain authorization from the affected local government before accepting waste generated outside of the State, and for other purposes.

S. 2387

At the request of Mr. LEAHY, the name of the Senator from Washington [Mr. ADAMS] was added as a cosponsor of S. 2387, a bill to make appropriations to begin a phase-in toward full funding of the special supplemental food program for women, infants, and children [WIC] and of Head Start programs, to expand the Job Corps program, and for other purposes.

SENATE JOINT RESOLUTION 35

At the request of Mr. HOLLINGS, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of Senate Joint Resolution 35, a joint resolution proposing an amendment to the Constitution of the United States relative to contributions and expenditures intended to affect Congressional and Presidential elections.

SENATE JOINT RESOLUTION 166

At the request of Mr. DOLE, the name of the Senator from California [Mr.

CRANSTON] was added as a cosponsor of Senate Joint Resolution 166, a joint resolution designating the week of October 6 through 12, 1991, as "National Customer Service Week."

SENATE JOINT RESOLUTION 231

At the request of Mr. THURMOND, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of Senate Joint Resolution 231, a joint resolution to designate the month of May 1992, as "National Foster Care Month."

SENATE JOINT RESOLUTION 248

At the request of Mr. CONRAD, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of Senate Joint Resolution 248, a joint resolution designating August 7, 1992, as "Battle of Guadalcanal Remembrance Day."

SENATE JOINT RESOLUTION 252

At the request of Mr. DIXON, the names of the Senator from North Dakota [Mr. CONRAD], the Senator from Nevada [Mr. BRYAN], the Senator from Michigan [Mr. LEVIN], the Senator from North Dakota [Mr. BURDICK], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of Senate Joint Resolution 252, a joint resolution designating the week of April 19–25, 1992, as "National Credit Education Week."

SENATE JOINT RESOLUTION 262

At the request of Mr. KASTEN, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of Senate Joint Resolution 262, a joint resolution designating July 4, 1992, as "Buy American Day."

SENATE JOINT RESOLUTION 266

At the request of Mr. THURMOND, the names of the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Mississippi [Mr. COCHRAN], the Senator from Virginia [Mr. WARNER], the Senator from Kansas [Mr. DOLE], the Senator from Wyoming [Mr. SIMPSON], the Senator from Utah [Mr. HATCH], and the Senator from Ohio [Mr. METZENBAUM] were added as cosponsors of Senate Joint Resolution 266, a joint resolution designating the week of April 26–May 2, 1992, as "National Crime Victims' Rights Week."

SENATE JOINT RESOLUTION 279

At the request of Mr. BIDEN, the names of the Senator from New Jersey [Mr. BRADLEY], the Senator from North Dakota [Mr. BURDICK], the Senator from Michigan [Mr. LEVIN], the Senator from Connecticut [Mr. LIEBERMAN], and the Senator from Alaska [Mr. MURKOWSKI] were added as cosponsors of Senate Joint Resolution 279, a joint resolution designating April 14, 1992, as "Education and Sharing Day, U.S.A."

SENATE CONCURRENT RESOLUTION 57

At the request of Mr. BOREN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of Senate Concurrent Resolution 57, a concurrent resolution to establish a Joint Committee on the Organization of Congress.

At the request of Mr. ROTH, his name was added as a cosponsor of Senate Concurrent Resolution 57, supra.

SENATE RESOLUTION 166

At the request of Mr. COATS, the name of the Senator from North Dakota [Mr. CONRAD] was added as a cosponsor of Senate Resolution 166, a resolution expressing the sense of the Senate that, in light of current economic conditions, the Federal excise taxes on gasoline and diesel fuel should not be increased.

SENATE RESOLUTION 270

At the request of Mr. DECONCINI, the name of the Senator from Pennsylvania [Mr. WOFFORD] was added as a cosponsor of Senate Resolution 270, a resolution concerning the conflict of Nagorno-Karabakh in the territory of Azerbaijan.

AMENDMENTS SUBMITTED

RESOLUTION TRUST CORPORATION FUNDING ACT OF 1992

KERRY (AND GRAHAM) AMENDMENT NO. 1742

Mr. KERRY (for himself and Mr. GRAHAM) proposed an amendment to the bill (S. 2482) to provide funding for the Resolution Trust Corporation, and for other purposes, as follows:

At the appropriate place, insert the following:

SEC. . BUDGET NEUTRALITY REQUIREMENT.

(a) Notwithstanding the provisions of section 252(b)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, all funds appropriated under this Act shall be included as directed spending for purposes of determining any net deficit increase under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) Notwithstanding any other provision of law or any other provision of this Act, no grant or loan may be made to the Savings Association Insurance Fund, or the Resolution Trust Corporation to provide working capital to, or to cover losses of, the Savings Association Insurance Fund, or the Resolution Trust Corporation, and no funds may be appropriated to pay interest on obligations of the Savings Association Insurance Fund, and the Resolution Trust Corporation, unless the legislation authorizing the grant or loan, or containing the appropriation, provides for means sufficient to offset fully the total amount of the loan or appropriation over the 3-year period commencing on the date of enactment of the legislation containing the authority for the loan or appropriation.

METZENBAUM (AND GRAHAM) AMENDMENT NO. 1743

Mr. METZENBAUM (for himself and Mr. GRAHAM) proposed an amendment to the bill S. 2482, supra, as follows:

Page 45, line 21, strike "85" and insert "75".

Page 45, line 17, insert the following after corporation: "The guaranties issued by the corporation shall not exceed $7.5 billion."

Page 46, line 18, strike "15", and insert "25".

GRAMM AMENDMENT NO. 1744

Mr. GRAMM proposed an amendment to the bill S. 2482, supra, as follows:

Beginning on page 4, line 1, strike all through the end of the bill.

RIEGLE (AND OTHERS) AMENDMENT NO. 1745

Mr. RIEGLE proposed an amendment to the bill S. 2482, supra, as follows:

On page 50, between lines 13 and 14, insert the following new sections:

SEC. 315. LIMITING LIABILITY FOR FOREIGN DEPOSITS.

(a) AMENDMENT TO THE FEDERAL RESERVE ACT.—Section 25 of the Federal Reserve Act (12 U.S.C. 601 et seq.) is amended by adding at the end the following:

"11. Limitations on liability.

"A member bank shall not be required to repay any deposit made at a foreign branch of the bank if the branch cannot repay the deposit due to—

"(i) an act of war, insurrection, or civil strife, or

"(ii) an action by a foreign government or instrumentality (whether de jure or de facto) in the country in which the branch is located,

unless the member bank has expressly agreed in writing to repay the deposit under those circumstances. The Board is authorized to prescribe such regulations as it deems necessary to implement this paragraph.".

(b) AMENDMENTS TO THE FEDERAL DEPOSIT INSURANCE ACT.—

(1) SOVEREIGN RISK.—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended—

(A) by redesignating subsection (o) (as added by section 305(a) of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Public Law 102–242, 105 Stat. 2354)) as subsection (p); and

(B) by adding at the end the following:

"(q) SOVEREIGN RISK.—Section 25(11) of the Federal Reserve Act shall apply to every nonmember insured bank in the same manner and to the same extent as if the nonmember insured bank were a member bank.".

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 3(*l*)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(*l*)(5)) is amended to read as follows:

"(A) any obligation of a depository institution which is carried on the books and records of an office of such bank or savings association located outside of any State unless—

"(i) such obligation would be a deposit if it were carried on the books and records of the depository institution, and payable at, an office located in any State; and

"(ii) the contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of the depository institution located in any State; and".

(c) EXISTING CLAIMS NOT AFFECTED.—The amendments made by this section shall not be construed to affect any claim arising from events (described in section 25(11) of the Federal Reserve Act, as added by subsection (a)) that occurred before the date of enactment of this Act.

SEC. 316. AMENDMENT TO INTERNATIONAL BANKING ACT OF 1978.

Section 6(c)(1) of the International Banking Act of 1978 (12 U.S.C. 3104(c)(1)) is amended—

(1) in paragraph (1)—

(A) by inserting "domestic retail" before "deposit accounts"; and

(B) by inserting "and requiring deposit insurance protection," after "$100,000,"; and

(2) in paragraph (2)—

(A) by striking "Deposit" and inserting "Domestic retail deposit"; and

(B) by inserting "that require deposit insurance protection" after "$100,000".

SEC. 317. CLARIFICATION OF COMPENSATION STANDARDS.

Section 39 of the Federal Deposit Insurance Act (12 U.S.C. 1831s) is amended—

(1) in subsection (d), by adding at the end the following: "An appropriate Federal banking agency may not prescribe standards or regulations under subsection (a), (b), or (c) that set a specific level or range of compensation for officers, directors, or employees of insured depository institutions."; and

(2) in subsection (e)(1)(A), by striking "(a), (b), or (c)" and inserting "(a) or (b)".

On page 55, line 15, and page 59, line 6, strike "Federal".

On page 56, line 13, strike "section" and insert "title".

SEC. 315. SENSE OF THE CONGRESS REGARDING THE NEED FOR COMPETITIVE BIDDING FOR THE PURCHASE OF OUTSIDE LEGAL SERVICES.

(a) FINDINGS.—The Congress finds that—

(1) the Federal Deposit Insurance Corporation (hereafter referred to as the "FDIC") and the Resolution Trust Corporation (hereafter referred to as the "RTC") should protect insured depositors of banks and savings and loans at the least possible cost to the American taxpayer;

(2) the FDIC and the RTC paid more than $625,000,000 in legal fees and expenses to private legal counsel during 1991;

(3) the Office of Inspector General of the FDIC has completed more than 20 audits of contracts with private legal counsel and found repeated examples of overcharges, double-billings, and other excess costs; and

(4) a study by a major private accounting firm on behalf of the Office of Inspector General of the FDIC was released in late 1991, and concluded that—

(A) private legal counsel are generally not selected on a competitive basis;

(B) the selection of the matters to be turned over to private law firms is not done on a basis which would encourage competition among the firms;

(C) many law firms do not have formal agreements or contracts with the agency;

(D) the agency generally pays hourly rates rather than arranging less costly fixed rate contracts;

(E) routine work, defined as collections, bankruptcies, and foreclosures, accounts for more than two-thirds of active litigation matters; and

(F) private attorneys spend a significant amount of time performing tasks which do not require the skills of an attorney.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the FDIC and the RTC should take immediate steps to ensure that private legal counsel are selected competitively on the basis of their ability to perform required tasks at the lowest possible cost to the taxpayer; and

(2) the FDIC and the RTC should adopt policies which clearly define the dollar amount and types of legal services to be purchased under such competitive bidding procedures.

SEC. 316. FINANCIAL INSTITUTION FRAUD PROSECUTIONS.

(a) FEDERAL DEPOSIT INSURANCE ACT AMENDMENT.—Section 19(a) of the Federal Deposit Insurance Act (12 U.S.C. 1829(a)) is amended in paragraph (2)(A)(i)(I)—

(1) by striking "or 1956"; and

(2) by inserting "1517, 1956, or 1957".

(b) FEDERAL CREDIT UNION ACT AMENDMENTS.—Section 205(d) of the Federal Credit Union Act (12 U.S.C. 1785(d)) is amended to read as follows:

"(d) PROHIBITION.—

"(1) IN GENERAL.—Except with prior written consent of the Board—

"(A) any person who has been convicted of any criminal offense involving dishonesty or a breach of trust, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not—

"(i) become, or continue as, an institution-affiliated party with respect to any insured credit union; or

"(ii) otherwise participate, directly or indirectly, in the conduct of the affairs of any insured credit union; and

"(B) any insured credit union may not permit any person referred to in subparagraph (A) to engage in any conduct or continue any relationship prohibited under such subparagraph.

"(2) MINIMUM 10-YEAR PROHIBITION PERIOD FOR CERTAIN OFFENSES.—

"(A) IN GENERAL.—If the offense referred to in paragraph (1)(A) in connection with any person referred to in such paragraph is—

"(i) an offense under—

"(I) section 215, 656, 657, 1005, 1006, 1007, 1008, 1014, 1032, 1344, 1517, 1956, or 1957 of title 18, United States Code; or

"(II) section 1341 or 1343 of such title which affects any financial institution (as defined in section 20 of such title); or

"(ii) the offense of conspiring to commit any such offense,

the Board may not consent to any exception to the application of paragraph (1) to such person during the 10-year period beginning on the date the conviction or the agreement of the person becomes final.

"(B) EXCEPTION BY ORDER OF SENTENCING COURT.—

"(i) IN GENERAL.—On motion of the Board, the court in which the conviction or the agreement of a person referred to in subparagraph (A) has been entered may grant an exception to the application of paragraph (1) to such person if granting the exception is in the interest of justice.

"(ii) PERIOD FOR FILING.—A motion may be filed under clause (i) at any time during the 10-year period described in subparagraph (A) with regard to the person on whose behalf such motion is made.

"(3) PENALTY.—Whoever knowingly violates paragraph (1) or (2) shall be fined not more than $1,000,000 for each day such prohibition is violated or imprisoned for not more than 5 years, or both.".

Section 304 of the bill is amended by adding at the end the following new subsection:

(f) CRIME CONTROL ACT AMENDMENT.—Section 2546 of the Crime Control Act of 1990 (Public Law 101-647, 104 Stat. 4885) is amended by adding at the end the following:

"(c) FRAUD TASK FORCES REPORT.—In addition to the reports required under subsection (a), the Attorney General is encouraged to submit a report to the Congress containing the findings of the financial institutions fraud task forces established under section 2539 as they relate to the collapse of private deposit insurance corporations, together with recommendations for any regulatory or legislative changes necessary to prevent such collapses in the future.".

REFINANCING OF MORTGAGE LOANS

ROTH AMENDMENT NO. 1746

Mr. SIMPSON (for Mr. ROTH) proposed an amendment to the bill (S. 2148) to extend to the refinancing of mortgage loans certain protections of the Real Estate Settlement Procedures Act and the Truth in Lending Act, as follows:

Strike all after line 8 and insert, in lieu thereof, the following:

SEC. 2. The Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) is amended as follows: Delete from section 5(d) (12 U.S.C. 2604), "Such booklet shall be provided at the time of receipt or preparation of such application."

Insert at the end of section 5(d) (12 U.S.C. 2604), "Such booklet shall be provided by delivering it or placing it in the mail not later than three business days after the application is received except if the lender denies the application for credit before the end of the three business days, then no booklet need be provided."

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON SECURITIES

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate, Thursday, March 26, 1992, at 9:30 a.m. to conduct a hearing on the Small Business Incentive Act of 1992.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Thursday, March 26, 1992, at 2 p.m., in open session, to receive testimony on Department of Defense's operational support for counterdrug activities.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT

Mr. FORD. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Thursday, March 26, 1992, at 9:30 a.m., to hold a hearing on S. 2279, the Lobbying Disclosure Act of 1992.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. FORD. Mr. President, I ask unanimous consent that the Committee on

Commerce, Science, and Transportation be authorized to meet during the session of the Senate on March 26, 1992, at 10 a.m. on national technology policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

CHEMICAL PROSPECTING EARTH'S BIOLOGICAL DIVERSITY

• Mr. WIRTH. Mr. President, in recent years we have heard much from our scientists and other experts about the dire need to protect biodiversity, and about the chilling rate of species extinction now underway—1,000 times the normal rate. I, and several of our colleagues have come to this floor to discuss why we should not only care about this loss, but act to stem the hemorrhaging. And that is my purpose today.

There are, of course, several valid reasons to protect the diversity of God's creation, some of them ethical, some aesthetic, and some financial. Because we often hear the misguided cry that we cannot afford environmental protection, it is the economic potential inherent in the protection of biodiversity that I would like to address. As it turns out, there is money to be made in the chemical prospecting of Mother Nature's rich diversity of plant and animal life.

Simply put, chemical prospecting is the search for new chemical compounds that can become life-saving drugs and other products that benefit humankind. Animal and plant life is a rich storehouse of such chemicals. The happy marriage between recent advances in biotechnology, which allow efficient testing of thousands of natural substances, and the tremendous biodiversity found but imperiled on this planet has already yielded tens of billions of dollars to our economy. Sophisticated drugs whose origin is found in the great biologic library are already relieving human suffering around the world. It took millions of years of evolution to create this genetic encyclopedia and it is just beginning to be explored. It is also threatened as never before.

This situation presents both urgency and opportunity. Many of the world's most endangered species and ecosystems are found in the poorest nations, whose thrust for economic advancement drives unsustainable development practices. Huge areas of rainforest containing the highest species concentrations found anywhere are slashed and burned in pursuit of income. In these areas, economic development and environmental protection clash in a mutually destructive cycle of resource exploitation. In the end, both local economies and nature's bounty are impoverished.

What is needed then, is a harmonization of development and environmental stewardship. Chemical prospecting offers an exciting link between conservation and economic advancement by vesting the caretakers of the world's genetic resources with an interest in its sustainable development. Chemical prospecting provides a path toward the peaceful coexistence between the needs of humankind and the ecological balance on which we depend.

Mr. President, I ask unanimous consent to include in the RECORD three articles that further explore this issue and the potential chemical prospecting offers. Earlier this week, we received the President's message on environmental quality and I was struck by his discussion of the need to merge economic and environmental goals. This is a necessity. I am pleased to share with my colleagues this morning one example of how economic and environmental goals can lead to a brighter future for peoples around the world.

The articles follow:

[From the New York Times, Mar. 5, 1992]

DRUG INDUSTRY GOING BACK TO NATURE

(By Andrew Pollack)

Skin of frog, venom of spider and saliva of leech. Ingredients for the witch's brew at the beginning of "Macbeth"? No, they are potential sources of drugs.

The pharmaceutical industry is going back to nature, scouring the oceans for algae, the soil for fungi and the jungles for plants, insects and beasts that might provide chemicals to fight cancer, AIDS and other diseases. Such chemical prospecting could also provide an economic incentive for preserving rain forests and endangered species, conservationists and drug company officials say.

The resurgence of interest in such natural sources is surprising because biotechnology was supposed to have ushered in the age of "rational drug design," in which drugs would be formulated using scientific principles, doing away with the needs to rely on Mother Nature.

Instead, biotechnology has produced techniques that allow drug companies to screen tens of thousands of substances a year in an attempt to find just one that will fight disease.

"The testing procedures have become like factories," said Dr. John H. Fried, vice chairman of the Syntex Corporation and president of its research division. "You can run a lot of products through."

Syntex signed an agreement last year under which science academies in China will supply it with up to 10,000 plant extracts a year for testing. SmithKline Beecham has hired Biotics Ltd., a young British company, to supply it with hundreds of plant extracts each year from the jungles of Ghana and Costa Rica.

The National Cancer Institute, which dropped its natural-drug screening program in the early 1980's, resurrected it a few years ago. It collects nearly 4,000 plant samples each year from around the world, plus thousands more samples of marine organisms and microorganisms.

Biotechnology companies are also working with natural-drug sources. Natural Product Sciences Inc. of Salt Lake City and Cambridge Neuroscience Inc. of Cambridge, Mass., hope that spider venom, which can paralyze the spider's prey, will yield drugs for human brain and nervous-system disorders.

Xenova Ltd., a new British company, has assembled a library of more than 20,000 fungi and microorganisms that it screens and allows other drug companies to use.

Some promising drugs isolated from natural sources are already in development. Cor Therapeutics, a South San Francisco biotechnology company is testing a drug to prevent unwanted blood clots. It found the drug by screening the venom of 70 species of snakes. Other companies, including Biogen and Ciba-Geigy, are developing anti-clotting compounds modeled on agents used by leeches, which are known for their blood-sucking ability.

Magainin Pharmaceuticals of Plymouth Meeting, Pa., is developing anti-infection agents modeled after naturally occurring molecules found in the skin of frogs.

Drugs can come from seemingly contradictory places. A tree in China known as the tree of joy yields the same anti-cancer drug, now being tested by SmithKline Beecham, as another three in India called the stinking tree.

Not all natural drugs come from exotic jungles. Merck & Company derived the avermectins, which are used to treat river blindness and other infectious diseases, from a microorganism found in the soil of a Japanese golf course.

Drug experts say rational drug design is still the wave of the future, but it has so far proved difficult to design drugs completely from scratch. Millions of years of evolution, meanwhile, have led to the development of many chemical structures that mankind has not even thought of.

AID FROM BIOTECHNOLOGY

Biotechnology techniques, like growing cells in test tubes, have actually spurred the return to natural-product testing by allowing for the design of highly efficient and highly automated tests.

The National Cancer Institute, for instance, previously tested potential anti-cancer drugs in mice that had leukemia, a cumbersome process. Now it grows 60 different types of cancer cells in cultures and can test drug candidates on all 60 types, performing 20,000 such tests a year. Affymax Research institute, a company in Palo Alto, Calif., that is owned by Affymax N.V. of the Netherlands, developed a technique that could make it possible to test thousands of compounds in a day.

Genetic engineering has also allowed scientists to clone receptors, which are parts of a cell to which proteins bind, setting off some metabolic process. Drugs often work by binding to a receptor or by blocking something else from binding. So scientists can test thousands of substances to see which bind to receptors associated with a particular disease.

"We can set up very specific screens we couldn't do before," said Randall Johnson, director of biomolecular discovery at SmithKline Beecham.

USE OF ROBOTS IN TESTING

Ligand Pharmaceuticals, a biotechnology company in San Diego, has synthesized or licensed receptors for several types of hormones. Using robots and technicians, Ligand has already gone through half of the 110,000 compounds in the library of Pfizer Inc., a drug company with which it has an agreement, searching for chemicals that bind to the receptors. The company also tests natural marine substances obtained through a scientist at the Scripps Institute of Oceanography nearby.

Screening for drugs this way is like looking for a needle in a haystack, only worse, because finding a usable substance is only the first step in producing a drug.

"You are not expecting to find something you can put into a bottle and sell to a pharmacist," said William A. Scott, senior vice president for exploratory and drug discovery research at Bristol-Myers Squibb.

A plant extract, for instance, might contain thousands of compounds, which then have to be laboriously separated to see which is responsible for making the extract noticeable in the screening test. In addition, the natural substance often has to be modified to make it safer or more effective, or to make it capable of being manufactured.

The search for natural drugs does not automatically mean riches for those involved. The collection end, in particular, involves lots of work for low pay.

Take the case of Spider Pharm in Black Canyon City, Ariz., a mom-and-pop business run by Charles and Anita Kristensen that collects spiders and sells their venom to drug companies. When interviewed in January, the Kristensens had 40,000 to 50,000 spiders on hand, representing more than 20 species, most of them stashed in little plastic cups in their garage.

MILKING A SPIDER

Milking is laborious work. The spider is anesthetized with gas and a tube is stuck beneath its fangs. Then the spider is given an electric shock, which prompts the release of venom. All the while, the spider's mouth is suctioned clean to prevent vomit from contaminating the venom.

Each milking might produce as little as a millionth of a liter. Not surprisingly then, venom is expensive. The venom of black widow spiders can run $15,000 a milliliter.

Despite the high prices, however, Spider Pharm has run up huge debts, Mr. Kristensen said. Indeed, as be spoke, he was preparing to pack his arachnids and move to Pennsylvania to take a job helping the American Cyanamid Company develop insecticides from natural sources. He and Mrs. Kristensen plan to maintain the spider farm, however.

A POSSIBLE ROUTE TO PROFIT

A better route to profit might be to make natural products in large quantities. Foraging for jungle plants or milking spiders might be fine for obtaining small samples for testing, but it will usually be impractical as a way of producing large volumes needed when a drug reaches the market.

Calbiomarine Technologies Inc., a tiny company in Carlsbad, Calif., hopes to use aquaculture to grow marine organisms and harvest drugs from them. An initial candidate is an anti-cancer compound in clinical trials that comes from tiny marine invertebrates.

Aquaculture, says the company's president, Janice Thompson, is bound to be more economical than the current method of collection—sending divers to scrape the animals off rocks or the undersides of ships.

EARTH'S LIVING LIBRARY: CHECK IT OUT

(By Thomas E. Lovejoy)

It's flu season. You tried to keep your distance from that jerk wheezing and coughing in the meeting, but that funny little tickle in your throat signals some microorganism is taking up residence with a vengeance. You drag yourself to the doctor for the obligatory throat swab. Expecting to wait a couple of days for the culture results to inform you whether it's the nasty strep throat or something else, you instead get the diagnosis and prescription in hours. Another advance in modern medicine.

Behind this story of convenience lies a laboratory miracle that is a relatively new biochemical reaction. It in turn was possible only because of the storehouse of biological properties provided by the wealth of wild species (collectively referred to as biological diversity) with which we share this planet. The ability to reach into those resources at the level of the molecule is creating a significant new source of wealth where biotechnology and biology diversity intersect.

The particular reaction is used in forensic as well as diagnostic medicine and indeed underlies a tremendous amount of biochemistry research and industry. The amount of gross national product generated by this reaction has never been estimated, but is easily in the tens of billions of dollars. Similar examples of significant benefit can be cited from agriculture, environmental cleanup and the many other human enterprises that depend on biological resources.

Previously it was necessary to grow the invading bacterium in culture to get enough material for identification and hence the cure. The new technique multiplies the genetic material to yield the necessary minimum amount in a very short time. The reaction involves heat and an enzyme that induces replication. The problem used to be that the ordinary replicating enzyme was destroyed by heat, so this technique was tedious, time-consuming and expensive.

But perhaps, scientists speculated, somewhere among the diversity of life on Earth there existed an organism with a heat-resistant enzyme? Why not see, for instance, what kinds of enzymes occur in the microorganisms that live in the slime of Yellowstone hot springs? That is what was done, and why important bucks, better health care and a healthier work force are based on some lucky ooze that mothers would attack with Ajax if given half the chance.

It is embarrassing that we have arrived at this point with such superficial exploration of the variety of life on Earth. While the distance between the Earth and the moon is known with great precision, biological science is unable to state within a factor of 10 how many species of other organisms there are on Earth. Even so it is clear to knowledgeable biologists that species are being lost at something like 1,000 times the normal rate. Many are lost before their potential practical value has ever been examined or their existence even known.

This adds up to a scientific and practical imperative to get on with the fundamental job of an inventory of life on Earth. At bare minimum, the nations negotiating a biological diversity convention, which will gather at the U.N. Conference on Environment and Development in Rio de Janeiro in June, should agree on such an undertaking. Surely this is nothing more than sensible planetary housekeeping: How can one possibly take care of these basic resources, let alone realize their benefits, without knowing what there is and where it is?

The solution also lies in making these genetic resources of greater value to the nations concerned. At the moment they are accorded such low value that it makes local sense to mine them unsustainably for timber, or in all too many cases to simply clear and burn them to get them out of the way. All too often the history of genetic resources has been that the industrialized nations make all the money, not the tropical nation of origin.

(By Katy Kelly)

The point here is not to criticize the past. We are all better off, at least potentially, because products such as drugs are available from nature's pharmacopeia. Rather the point is that the game has usually been played up to now in a way that leaves little vested interest within tropical nations for protecting the biological diversity from which all humanity can benefit.

Nations such as the United States have the biotechnology to capitalize on these resources, but that is of limited value without access to the major tropical store of genetic capital. Surely there must be a way to joint venture? Recently a tangible first step was taken by Merck and Co. and Costa Rica's National Institute for Biological Inventory, INBIO. Merck is making an initial investment of $1 million to aid in biological inventory. If the biochemical prospecting, as Cornell's Thomas Eisner terms it, leads to useful products, then there are arrangements for sharing the return so all the different kinds of capital, including the genetic, are recognized.

These, then, are the issues being negotiated for a biological diversity convention. Each nation and society in general has a serious stake in biological diversity. Yet this is being played out at a time when even many of the better educated have little understanding of what it is all about. Not long ago I was asked by a major university president what useful purpose was served by conserving biological diversity. I asked him how he felt about books and libraries. The look of bafflement indicated he had never thought of the storehouse of information about living systems each species represents.

Each species is a unique set of solutions to a set of biological problems that is equivalent not to a single book but rather a couple of shelves full. As a consequence the variety of plant and animal life on Earth represents a library beyond compare upon which the life sciences—so very important to us—can be built. The connections can be wild in more than one sense. The preferred prescription drug for high blood pressure, capoten, derives from knowledge about the way the venom of a rain forest viper works. People, Squibb and GNP benefit tremendously ($1.3 billion annually) from this jungle connection.

It is both odd and unfortunate that today people put such high value on books, data banks and museums of various inanimate objects and such little value on the diversity of life on Earth.

CHEMICAL PROSPECTING

(By Thomas Eisner, Schurman professor of biology)

WHAT IS CHEMICAL PROSPECTING?

Simply put, it is the search for new medicinals, agrochemicals, and other substances of use from animal, plant, and microbial sources. Humanity depends heavily on chemicals from nature. Therapeutic agents alone stem in large measure from organic sources. Although hundreds of species have been investigated chemically, the vast majority remain to be examined. There is worldwide agreement among scientists that only the smallest fraction of natural products has so far been characterized.

Natural products generate substantial revenue. Prescription drugs alone bring upward of $100 billion annually in worldwide sales.

Commercialization of natural products is now being undertaken primarily by the industrial nations. The funds engendered revert in only small measure to developing countries. This is ironic since it is mostly the natural holdings of developing nations, and in particular tropical rainforests, that harbor species from which new chemicals are derived. Tropical habitats, in fact, contain the vast majority of species that remain to be studied chemically, yet it is these very habitats that are disappearing. Local economies simply lack the funds and incentives for conservation. Efforts that are now being pioneered and that will need to be intensified in the coming decade, address this paradox.

GOAL

In essence, what is needed are links—financial links, multinational in scope—between chemical prospecting and conservation. Partnerships need to be brokered between developing nations and pharmaceutical industries, partnerships committed to joint exploration for natural products, with an eye toward profit sharing and return of revenue to conservation programs.

THE COSTA RICAN INITIATIVE

Costa Rica has set aside a quarter of its land holdings, some 12,000 km^2, for conservation. The area is one of biotic richness, estimated to contain over 500,000 species. To inventory this biodiversity, Costa Rica has set up a private non-profit corporation, the Instituto de Biodiversidad (INBio), an organization in which professional and semi-professional scientists, mostly biologists, collaborate to determine what organisms Costa Rica harbors, how these organisms are associated and distributed in nature, and how they behave, interact, and survive. This body of information, aside from intrinsic scientific value, has value to industry. To have access to a giant natural "greenhouse", neatly indexed, containing species that are reliably labelled and available for sampling, is of worth to a pharmaceutical company intent on prospecting for chemicals. In an effort to capitalize on this worth, Costa Rica has recently entered into an agreement with Merck, Sharp and Dohme (Merck & Co.). In exchange for limited non-exclusive rights to explore the Costa Rican biodiversity for new medicinals, Merck & Co. will provide INBio with a substantial royalty from products developed over time, and in addition—and this is a key feature of the agreement—with $1 million "up front" for the mere right to undertake the exploration. Such payment of a "prospecting fee" is precedent-setting, in that it represents acknowledgement on the part of industry that it is to its advantage to help preserve biodiversity. Royalty returns are insufficient in such agreements, given that it takes 1 to 3 decades for a product to be marketed from a natural source. Developing nations need funds for conservation now. The $1 million offered INBio by Merck & Co. is slated for investment in Costa Rica's conservation programs.

THE BROADER PERSPECTIVE

The Merck & Co./INBio partnership represents a first instance of implementation of the following feedback loop: Conservation to Biodiversity to Chemical Prospecting, to Dollars.

The agreement provides a model applicable worldwide to partnership between industries and developing nations. To draw industries into such partnerships, developing nations will need to set aside land for conservation as did Costa Rica, and to establish institutes comparable to INBio, dedicated to the indexing of biodiversity. The mission of such institutes could be broadened to encompass chemical indexing as well. Organism could be screened locally for antitumor, antifungal, antibacterial, and antiparasitic activity, and assigned ratings in accord with their "chemical promise". There are intrinsic advantages to having organisms screened near their source, where they are fresh, and industry would benefit as well, from being able to access a database of species ranked by chemical worth.

Many economic imperatives conspire currently to prevent developing nations from implementing conservation programs. Chemical prospecting by these nations, undertaken in partnership with industry, could provide an assured return of funds for conservation. As a first step in the initiation of the prospecting venture, developing nations will need to establish Institutes of Biodiversity. Industries themselves, as beneficiaries of chemical prospecting, may wish to help in the creation of these Institutes (small versions of Institutes could be set up as company branches), but they cannot alone be expected to bear the cost. Funding will also be needed from governments worldwide, from the international banking community, and from other monetary sources. As a start, one could imagine the "debt-for-nature" mechanism being invoked to free funds in developing nations for the specific purpose of establishing Institutes of Biodiversity. Few measures would be as cost effective in promoting conservation in the Third World, and in the long term, the discoveries from chemical prospecting would benefit us all.●

TRIBUTE TO DR. DONALD BARTON

● Mr. McCONNELL. Mr. President, I rise today to recognize an outstanding Kentucky doctor, Dr. Donald Barton, for his commitment to the medical community. Dr. Barton is a leader in his field and an example for all to follow. These elements of dedication are the foundation of his successful and dedicated career in Corbin, KY.

The Kentucky Academy of Family Physicians [KAFP] recently named Dr. Barton the 1991 Citizen Doctor of the Year. This award is one of the academy's highest awards and is given to physicians by their peers. "He was head and tails above the rest," said Dr. Rick Miles, chairman of the nominating committee as he spoke of the many doctors nominated for the award.

Dr. Barton has held multiple offices in the Kentucky Medical Association and KAFP. However, he does not limit himself solely to the medical field, as he has been a member of numerous other civic and community organizations. His involvement includes Corbin Jaycees, Corbin Industrial Commission, Whitley County Medical Society, Masons, and Shriners. He also served as chief of staff at Southeastern Kentucky Baptist Regional Medical Center, as well as holding several offices there.

In a time when the number of medical students studying to become family physicians is giving way to specialty physicians, Dr. Barton should be especially accredited for his dedication to families. He, along with other family physicians encourage all medical students to go into family practice, as it is one of the largest groups of specialty physicians, and according to Dr. Barton, the most rewarding.

I congratulate Dr. Barton on this esteemed award. He has, throughout his years of service, truly exemplified the idea of a dedicated doctor.

Mr. President, I would like to have the following article from the Corbin, KY, Times-Tribune submitted into the CONGRESSIONAL RECORD.

The article follows:

CORBIN DOCTOR GETS TOP AWARD FROM HIS PEERS

(By Cheryl Meadows and Deborah Campbell)

LOUISVILLE.—A Corbin doctor has been named 1991 Citizen Doctor of the Year by the Kentucky Academy of Family Physicians.

Dr. Donald Barton received one of the Academy's highest awards at a banquet held Friday at the Galt House in Louisville—an award for which Barton didn't even know he was nominated, according to one Academy spokeswoman.

"It's a real honor," said Dr. Rick Miles, a family physician and chairman of the nominating committee for the award. He said to his knowledge, Barton is the first Corbin doctor to receive this award in the nearly 20 years the organization has been in existence.

The Citizen Doctor of the Year award is given by physicians to one of their peers. It is given to those working in the medical field who are active in the medical society as well as providing a service to their community and country, according to Miles.

Nominations are taken from the members of the academy, and the nominating committee then makes its choice, according to Cheryl Myers CAE, Executive Vice-President.

Qualifications for the award include being active in the Kentucky Medical Association and the KAFP as well as other civic and community organizations, according to Miles.

"Dr. Barton has held multiple offices in each of these," he said.

Some of the organizations in which Barton has been a member or held offices include Corbin Jaycees, Corbin Industrial Commission, Whitley County Medical Society, Masons and Shriners. He also served as chief of staff at Southeastern Kentucky Baptist Hospital, chief of staff at Baptist Regional Medical Center, and has held several offices at Baptist Regional Medical Center as well as various other organizations around the state and community.

The awards committee is composed of three people, as well as the chairman, who nominate doctors from around the state. The committee then reviews qualifications and the winner is named.

"He was head and tails above the rest," Miles said of Barton. "He's an amazing man."

One other Kentucky doctor was honored—Dr. Ray Cave of Grayson County.

The Kentucky Academy is the largest specialty group for family physicians in the state. Family practice has been a specialty since 1970, according to Mrs. Myers. The national academy has approximately 70,000 members.

Although the number of family physicians was dropping at one point, statistics are on the way up. And the organization is working to encourage more medical students to go into family practice, said Mrs. Myers.

"We will be—and probably are—the largest group of specialty physicians in the world," she said.●

RECENT CHANGES TO THE GAG RULE

● Ms. MIKULSKI. Mr. President, I rise today to voice my objection to the "Friday Night Special" unloaded by the Department of Health and Human Resources on March 20. Issuing its long-awaited guidance document that keeps title X family planning clinics from encouraging abortions, HHS pulled a fast one. Instead of providing guidance, the document provides the Bush administration with new opportunities to interfere with free speech and with women's reproductive freedom of choice.

The only real change they have made in the gag rule is to allow doctors to discuss abortion. However, they are not allowed to refer a patient to skilled abortion services. All other title X staffers remain gagged; no one else working in the clinic is permitted to counsel or provide information, if asked, about abortion or its availability.

There has been no change for the better for the women and Federal clinics involved. First, a woman cannot get a good referral if she does decide to obtain an abortion. This restriction interferes with the doctor-patient relationship. It does not allow the two to "talk about absolutely anything they want," as President Bush argued they should be able to do in his November statement.

Second, most of these women never see a doctor when they visit a clinic, so many will never even receive counseling about all of the possible options. Title X staff are not permitted to answer a woman's questions about the availability and safety of abortion. In Maryland, there are 70 family planning clinics and only 12 full-time doctors staffing the program. Women's health is at issue here. How can a woman make an informed decision if she is denied the facts of all the legal medical options available to her?

The Senate has now passed bills two times overturning the gag rule. The House must move full-steam ahead and pass legislation that reinstates the full and complete nondirective counseling and referrals. We must give back to women the chance to make truly informed reproductive decisions.●

AMERICAN MILITARY BANKING FACILITIES

● Mr. COATS. Mr. President, so often we fail to consider the essential role that U.S. service industries play at overseas military installations. Our soldiers, airmen, sailors, and marines depend on the quality and stability of the various services provided such as banking.

I would like to submit the following letter I received from Sgt. Maj. Julius Gates in which he describes the importance of American banking to our men and women in uniform and their families.

The letter follows:

WASHINGTON, DC,
November 25, 1991.

Hon. DAN COATS,
U.S. Senate, Washington, DC.

DEAR SENATOR COATS: On behalf of your soldiers, sailors, airmen, and marines, we thank you for your continued support and concern.

My family and I used the American Military Banking Facilities exclusively during our twelve years overseas. It was comforting to know that my wife had access to a nearby community bank during extended field operations. My wife appreciated the on-post bank because of the reaction time, personalized services, convenience, and because the bank was American.

The overseas military banking programs are critical to the morale, family and community activities, and the overseas installation infrastructure. Programs such as scouting, school activities, non-appropriated fund activities, and family activities, all depend on the services provided by the military banking program.

If the military banking programs were eliminated it would affect our citizens stationed overseas more seriously than the closing of the one and only bank in Hometown, USA. The community non-appropriated fund activities would be required to use the local economy banking services, and the community commander would lose a critical asset that provides continuity and stability to the American community. More importantly, the young men, women, and their family members would lose an American bank that they have grown to trust.

The availability of an American-style bank at our overseas-installations affects troop morale as much as the serving of American food items in our dining facilities. If our troops were required to use foreign banking facilities they would be faced with language, customs, and service barriers. These barriers would add to the difficulties and frustration that our troops and families often experience serving in a foreign country. It would be extremely difficult for our young citizens to learn a foreign banking system.

Our short-notice troop deployment from Europe to the Middle East left behind thousands of families, many who were living on the local economy. The installation military banking facilities played an integral role in the deployment by providing an immediate, continued service for our families and our support activities. Many of our deploying soldiers initiated the check to bank pay option as a sure way of providing funds for their family members. Because of the accommodating local overseas American Banking Services, the families in Europe did not experience the number of financial problems when compared to the families of our soldiers who were deployed from the United States.

I believe the critical supporting role of our overseas American Banking facilities can be validated with the following statement made by a young soldier during one of our visits to the Middle East: "I don't have to worry about my wife and our two sons, they will be all right, because my pay is going to the on-post bank back in Germany, I don't have to worry about the rent being paid and food for my family."

The American Military Banking Facilities are providing a needed service for our citizens who are stationed overseas. The right thing to do is to continue this critical service.

Again, thank you, for this opportunity. I hope this response will be of value.

Respectfully,
JULIUS W. GATES,
Sergeant Major of the Army, Retired.●

TRIBUTE TO SISTER M. TRINITA FLOOD

● Mr. GRAHAM. Mr. President, I rise today to offer a message to all Americans about a special Floridian, humanitarian, and educator, Sister M. Trinita Flood, O.P. Sister Trinita is being honored by the Holocaust Documentation Education Center, Inc., as its founding president, and for her roll as a community leader.

Sister Trinita began her commitment to education after working in the legal field and then entering the Adrian Dominican Convent.

Upon completion of her formal studies, she came to Florida and began her long association with Barry College, first as a researcher, then as dean, and in 1974, as president. She remained in this capacity for 7 years and currently serves as academic dean of St. John Vianney Seminary in Miami.

Sister Trinita has been involved with the Holocaust Documentation and Education Center since its inception.

It was Sister Trinita who called together the presidents of south Florida colleges and universities to initiate the creation of an educational center dedicated to preserving the memory of the Holocaust.

As founding president of the center, she paved the way for a special curriculum designed to help teach the Holocaust history using the testimonials of survivors, rescuers, and liberators.

This unique curriculum was commissioned by the Florida State Department of Education, and is now in use throughout our State, as well as elsewhere across the country. Its objective is the elimination of prejudice through the integration of disciplines to achieve a more peaceful and understanding world.

To Sister Trinita, I extend congratulations for the personal accomplishments achieved through her work with the Holocaust Documentation & Education Center, Inc.

There is no finer way to pay tribute to our fellow men and women than to bring to the attention of our Nation an individual whose efforts have made a profound impact upon others.

Her outstanding leadership has served as an inspiration to our community, and her actions will encourage future generations to remember the past and have faith in the future.●

A TRIBUTE TO SAM MORGAN

● Mr. DURENBERGER. Mr. President, on March 19, 1992, the Saint Paul Pioneer Press and Dispatch published an article titled "Minnesota's Forests Making a Comeback." This article highlights the continued efforts in my State to preserve natural resources. Importantly, Mr. President, this article also pays tribute to Samuel Morgan, an unsung hero in the struggle to protect Minnesota's diminishing forest and park lands.

A lawyer by profession, Sam Morgan has utilized his talents to force Minnesota's legislators to recognize the importance of preserving forest lands. In the 1950's Sam lobbied the Minnesota State Legislature to maintain a Fort Snelling State Park. Today, as a result of his efforts, one of the most beautiful urban parks exists at this historic site.

Never one to rest on his laurels, Sam Morgan went on to fight for the preservation of the lands surrounding the beautiful St. Croix River. Unsatisfied that the State of Minnesota would act quickly enough to save these scenic lands, Sam purchased these properties and worked to save them himself. A year later, when my State Legislature was prepared to take action, Sam sold the land to the State for his original purchase price.

Today, also thanks to Sam Morgan, the majestic Afton State Park overlooks the scenic St. Croix River at the Minnesota and Wisconsin border. Sam has continued his efforts to preserve the forest lands along the St. Croix River, even going so far as to purchase a 200 acre farm and plant trees there himself.

Mr. President, Samuel Morgan is truly a model for those devoted to environmental protection. State legislators that have worked closely with him note how devoted and selfless he is to this cause. He never has an axe to grind, nor has he used these endeavors for personal gain. Sam has consistently relied on his persuasion and persistence to get things done.

Mr. President, it is with pride that today I recognize the efforts of Sam Morgan on behalf of all the people of Minnesota, and I ask unanimous consent that the article to which I referred be printed in the RECORD at the end of my remarks.

MINNESOTA'S FORESTS MAKING A COMEBACK

(By Charles Laszewski)

St. Paul lawyer Samuel Morgan bought 200 acres of farm land in Marine-on-St. Croix 30 years ago, but had no interest in keeping a dairy herd there or in growing wheat, corn or oats.

Instead, Morgan planted trees—a lot of them. Today, his property on the north side of Nason Hill Road is a beautiful, dense and mature pine forest. On the south side of the road, where he mostly let nature take its course, a path leads from the barn to the pasture, which ends rather abruptly in a hardwood forest of aspen, birch and oak.

Four-foot tall aspen shoots, looking like advance scouts for the forest, are sprouting up several yards farther into what is left of the pasture, ahead of the more mature trees.

Morgan's land is no oddity in Washington County. Between 1977 and 1990, the county's forest land more than doubled. Alan Ek, head of the Department of Forest Resources at the University of Minnesota, said half the counties in Minnesota showed a slight increase in forest land in that time.

"The misconception is that trees grow slowly," Ek said. "Land can go from open to woodlot in 30 years."

But Ek admits he is nervous about the prospects of maintaining the comeback of Minnesota's forests, because cutting trees and replacing them with houses, shops, farms and highways can happen very fast.

Ek, along with Antony Cheng, used data from the U.S. Forest Service's forest inventories in 1936, 1957, 1962, 1977 and 1990, as well as agriculture census data dating to 1910 to discover what happened to Minnesota's forests.

What they found was that half of Minnesota was covered by forest at the turn of the century, but that has dropped to less than 30 percent today. While many people are aware of the massive logging that cleared much of the woods in the central and northern part of the state in the late 1800s through about 1910, large amounts of forest continued to disappear after the loggers moved west.

Between 1930 and 1950, much of the forest land was lost to agriculture, as machines made it easier to cut and clear the land and drain the wetlands that protected the woods, Ek said. As the pressure to put in more crops grew, the back 40 that was a woodlot was gradually shrunk to a back 30, a back 20 and finally was planted from fence row to fence row, he said.

More recently, the forests have been cleared away by housing developments, as is the case in Ramsey and Dakota Counties, and lake cabins, Ek said. Brainerd, for instance, has 10,000 vacation homes, which have fragmented the forests there.

"It has taken place over such a long time horizon, that most people miss it," Ek said of the changes. "There are no real villains. It's all of us."

Still, he is encouraged by the recent growth in forest land, a trend he thinks needs to be nurtured. He points to the New England experience as a model. When the Pilgrims landed, 90 percent of New England was forest, he said; 200 years later, that had dropped to 15 percent. Today, thanks mainly to natural recovery, but also conservation efforts, it is close to 90 percent forest again.

Much of the recovery that has occurred in Minnesota has been due to the decline of farming, Ek said.

Morgan's experience is somewhat typical. He bought the farm as a vacation property for his family.

"I didn't think I was taking good land out of production," Morgan said. "It was hilly. Much of the subsoil had washed away to gravel. It was good for pine, but not crops. It was basically a field. You can see what basically 20 years of planting and tree growth can do."

Ek wants state, federal and local agencies to work together and design a cooperative plan to bring back the forests. It would probably have to include property tax breaks for people who grow trees on their land and perhaps restrictions on land development, especially in the metro area, he said.

The benefits, beyond the beauty, would be flood control and soil protection in western Minnesota, more and different types of wildlife and even energy conservation as the shade lessens the heat inland effect in the city, Ek said.●

WHO FED THIS CAESAR?

● Mr. SIMON. Mr. President, I read the column by Anthony Lewis on the involvement of the United States in Saddam Hussein's dictatorial regime when we should not have been involved.

It is an astounding column.

I had picked up bits and pieces of it here and there, but seeing it all put together in this column, it is devastating.

The propensity of this administration and its predecessor to cozy up to dictators who may temporarily favor something we want is short-sighted and self-defeating.

Another good example right now is Zaire, and our failure to stand up to Mobutu. The people of Zaire cannot understand why the United States continues to side with this corrupt dictator. Both Senator NANCY KASSEBAUM and I have urged this administration to make clear that Mobutu should leave. He is telling his people that he is backed by the Bush administration.

When I called a key person in the White House to urge action, I was told that Mobutu was our friend when we needed a friend during the cold war.

My response was that if someone helped the Bush Presidential campaign, then was put on the White House staff at least partially out of gratitude and then that person embezzled funds, you would get rid of him. We should feel the same way about dictators.

The Iraq situation is compounded by one other fact that I have not seen published anywhere, though I have mentioned in the Foreign Relations Committee meetings. The groups that have formed an umbrella organization for a government in Iraq in exile want the President of the United States to say firmly and clearly that we want a democracy in Iraq. Prime Minister Major of Great Britain has said it, President Mitterand of France has said it, but we cannot get the President of the United States to say that. That is an astounding fact. The reason given privately is that it may be a military coup that pushes out Saddam Hussein and a military dictatorship that emerges. That seems to me to be a thin reed to lean on for not standing up for democracy.

A second reason is used. That second reason is that you cannot expect to have democracy in an Arab country. What a put-down of an ethnic group. They used to say the same thing about governments in Latin America, yet in South America today, there is not a single dictatorship left. It was not long ago when they were saying the same thing about Africans, and yet the tide of democracy is sweeping Africa, with some unfortunate exceptions.

We ought to be standing up firmly and clearly for the cause of democracy.

Mr. President, I ask that the Tony Lewis column "Who Fed This Caesar?" be placed in the RECORD at this point.

The article follows:

[From the New York Times, Mar. 15, 1992]

WHO FED THIS CAESAR?

(By Anthony Lewis)

BOSTON.—A year after the Persian Gulf war Saddam Hussein remains a menace, evading United Nations orders to destroy his nuclear and missile manufacturing plants. President Bush has hinted at renewed military action if the evasion goes on. There could be a June Surprise.

With all that was and still is at stake in Iraq, Congress has been surprisingly slow to look into past American policy. What was the United States doing while the Iraqi dictator was growing into such a menace?

In the absence of serious Congressional inquiry, the answer to that question has begun to emerge in the press. It is a shocking answer: The United States was feeding Saddam Hussein's war machine and his ambition.

That is the consistent theme of reports in The Washington Post, in The New York Times in a January piece by Seymour Hersh, and in a series by Murray Waas and Douglas Frantz in The Los Angeles Times over the last month. These were some of the important U.S. policy decisions they found:

In 1982 the Reagan Administration, wanting to prevent Saddam Hussein's defeat in the war with Iran, decided to provide him with secret intelligence. The intelligence helped Iraq learn the disposition of Iranian forces.

The Administration also allowed Iraq's regional allies, which at the time included Saudi Arabia, Kuwait and Jordan, to send Baghdad American-made arms. Among the weapons supplied were thousands of TOW anti-tank missiles, Huey helicopters, small arms and mortars.

In the same year the State Department removed Iraq from the official list of terrorist countries, thereby making it eligible for U.S. aid. In fact, Saddam Hussein continued to harbor terrorists, and we knew it.

The United States immediately began giving Iraq guarantees for credit to buy American farm products. Farm and other credits for Iraq eventually came to $3 billion—no doubt freeing Saddam Hussein to spend money on arms.

The Los Angeles Times stories described George Bush as playing a leading part in pressing U.S. support for Iraq over the next years, acting first as Vice President.

In June 1984 Vice President Bush telephoned the president of the Export-Import Bank to urge approval of a $500 million loan guarantee for Iraq to build an oil pipeline. Ex-Im, which had been reluctant, approved.

In February 1987 Vice President Bush telephoned the Ex-Im president to press for $200 million in loan guarantees. Economists warned the bank that Iraq could not repay the loans, but the bank approved the guarantees.

In March 1987 the Commerce Department approved export licenses for shipment to Iraq a dual-use technology, useful for scientific or military purposes. Over the next few years exports of this kind totaled $600 million, and much of the equipment may have gone into aerial spying and other military uses.

In August 1988 a cease-fire ended the Iran-Iraq war. But the American tilt toward Iraq continued. Some intelligence was being provided as late as May 1990.

In 1989 Mr. Bush, now President, signed a national security order directing Government agencies to improve ties with Iraq.

In October 1989 Secretary of State James Baker telephoned Clayton Yeutter, then Secretary of Agriculture, and urged him to approve $1 billion in new loan guarantees to Iraq despite fears that the credits were being misused. In November Mr. Yeutter approved the guarantees.

In January 1990 President Bush signed an executive order finding that it would not be "in the national interest" for the Ex-Im Bank to stop loan guarantees to Iraq.

In April and again in June 1990 the Commerce Department proposed restrictions on high-technology exports to Iraq. An interagency group chaired by Robert M. Gates, then deputy national security adviser to President Bush, rejected the proposals.

In July 1990 the Senate voted overwhelmingly to cut off loan guarantees to Iraq because of Saddam Hussein's human rights violations, including the gassing of a Kurdish village. The Administration condemned the vote.

On July 31, 1990, with 100,000 Iraqi troops massed at the Kuwait border, Assistant Secretary of State John Kelly went to Capitol Hill and testified against ending loan guarantees to Iraq.

On Aug. 2, 1990, Iraq invaded Kuwait.●

TRIBUTE TO MIDDLESBORO

● Mr. McCONNELL. Mr. President, I rise today to recognize Middlesboro, a town situated in southeastern Kentucky.

Middlesboro lies in a valley that legend believes was probably formed by an ancient meteor impact. It is surrounded on all sides by low mountains and is 2 miles north of the Cumberland Gap, the famous pioneer gateway to the West. Middlesboro, located in Bell County, is frequently traveled by tourists seeking to find tranquility in the Cumberland Gap.

The major employers in Middlesboro are Cowden Manufacturing, Cumberland Gap Provision Co., and Denim Finishers. U.S. 25E, which runs through Cumberland Gap National Park, is expected to undergo massive reconstruction and be completed in 1995. Townspeople anticipate a boost to their local economy from the increase in tourism this improvement is expected to bring.

In 1887, Middlesboro was founded by Alexander Arthur. Arthur had a vision for Middlesboro, named after an iron ore center in England, to become a profitable and an industrialized city. Instead, Middlesboro has become a viable community in tourism. The beautiful countryside the Cumberland Gap creates allows for breathtaking views for tourists.

Middlesboro is a wonderful place. It should be heralded as one of Kentucky's finest small towns.

Mr. President, I ask that the following article from the Louisville Courier Journal be submitted into the CONGRESSIONAL RECORD.

The article follows:

MIDDLESBORO—IT'S SEEN BOOM AND BUST, SIN AND SALVATION; NEW ROADS MAY LET IT SEE TOURISTS

(By Kirsten Haukebo)

When explorers crossed the Cumberland Gap in the late 1700s, the first thing they would have seen was the future site of Middlesboro.

Back then, it was just an unusual-looking bowl of land, which geologists now believe was crated by a meteor impact. Surrounded by modest, wooded mountains on all sides, the valley is "like being in the palm of God's hand," says one resident, Romell Johnson.

The explorers kept going west. It wasn't until 1890 that Middlesboro's history began. And what history: In just 102 years, the city has been everything from industrial boomtown to ghost town, from "Little Reno" to a pulpit for hellfire preachers determined to banish liquor and save every soul.

Today, Middlesboro is officially dry and fairly sedate compared to the post-Prohibition days when there were dozens of sallons each with slot machines, and the occasional gunfight. Many of the gracious old houses remain, but the dance pavilions and honkytonks were torn down years ago.

The only legal gambling is the Kentucky Lottery, and the fight on the corner is likely to be just a friendly argument over which team to root for, the University of Kentucky or the University of Tennessee. (The town, which sits just north of the Tennessee border, is divided. "There's some who just like to go with a winner," explains Bette Emmett. "They support UT football and UK basketball.")

Scottish-Canadian entrepreneur Alexander Arthur had grand dreams when he began building a town in the Yellow Creek Valley in 1887.

Arthur and a group of English capitalists formed a company called the American Association and set aside 5,500 acres for "Middlesborough," named after the great English coal and iron center. The investors imagined their new town swelling to 150,000, becoming the Pittsburgh of the South—based on timber, coal and iron ore.

By the time the city was incorporated in March 1890, its wide streets teemed with banks, shops, sawmills, taverns and sprawling hotels. The L&N and Southern Railway ran lines from north and south. An estimated $20 million was spent on local enterprises. It seemed nothing could stop Middlesboro's growth, not even three damaging fires in its first year.

But the boom came to an abrupt end in late 1890 with the collapse of an English bank that helped finance the American Association. The Panic of 1893 hit next; Middlesboro's population plunged; and, according to one account, those who remained had to barter for goods.

The town was rebuilt, but it never lived up to Arthur's expectations. In any case, he was wrong about the quality and quantity of iron ore in the area.

But he was right about the coal.

Like so many towns in Southeastern Kentucky, Middlesboro's fortunes have always been tied to mining. Standing in silent testimony is the Ball County Chamber of Commerce building, which is made mostly from chunks of coal.

The town's glory days were the coal booms of World War II and the early 1970s, says Lou DeRosett, who has written a history of Middlesboro. Since the 1980 census, the population has fallen by nearly 1,000 to 11,328, mainly because of job losses in the coal industry.

More than other towns in the coalfields, Middlesboro has always been a retail and trading center. Three states meet at the Cumberland Gap, making Middlesboro a good base in the early days for traveling salesmen. The town still attracts shoppers from Virginia and Tennessee, as license plates attest, but vacant lots and empty buildings fill downtown. Many businesses never rebuilt after a 1988 tornado that damaged much of the city's center.

There's a photograph in DeRosett's book that illustrates how times have changed. The picture shows several blocks of Middlesboro's downtown in the early 1960s. The sidewalks are packed with shoppers; cars cruise up and down the streets; and there's not a single available parking space.

And that was after the FBI took away the slot machines.

When people talk about how notorious Middlesboro was in the 1930s and '40s, they always mention the Balls, two brothers who controlled everything from card games to politics.

"People will tell you the Balls didn't count their money. They measured it—literally," said Ann Matheny, who has researched Middlesboro history extensively.

"Floyd Ball was Mr. Nice Guy; Alvie was Mr. Bad Guy," said Middlesboro native Wes Blondell. "If they didn't like what someone was doing, why, that person would meet Alvie, and Alvie would bury them. Floyd was the one in the suit out front, part of city hall, giving stuff away to charity, Alvie carried the gun." Floyd was even elected state representative.

Businesses thrived under their iron grip. "People from Knoxville, Tennessee, that's where they came to on a Saturday night—Middlesboro," recalls mayor Troy "Frog" Welch.

The Balls made a colorful pair, handing out dollar bills to the poor at the same time they were shaking down local businessmen. The brothers were so close that when Alvie died in 1956, Floyd preserved the body so the brothers could be buried together. Alvie didn't have to wait long; Floyd died a few months later.

During their lifetimes, the Balls were frequent targets of local preachers such as W.B. Bingham II, now the senior pastor at Binghamtown Baptist, Middlesboro's largest church, with a congregation of 2,500. The charismatic Bingham helped lead the "great revivals of the 1950s," in which many souls were saved, including those of Floyd Ball and the entire police force.

There always were factions in Middlesboro that tried to stem the flow of liquor. One 1940s group dubbed themselves "the Mop and Broom," Bingham recalls. It took the creation of a new judicial district—and the appointment of a reform-minded circuit judge—to set the mops in motion.

Within three years, 176 people were indicted on liquor and gambling charges. A 1950 Newsweek article, headlined "Corruption in Middlesboro," noted that the number included "the entire police force of 17 men."

In 1952, the FBI confiscated 108 slot machines, and in 1954, Middlesboro voted to outlaw liquor. The Balls' lawyer fought the election results in court for a year. When Middlesboro finally went dry Nov. 21, 1955, 62 businesses closed that day.

Once again, Middlesboro rebuilt, but it is smaller today than in 1950, when the population was 14,300.

When Middlesboro makes statewide news these days, its usually because of the city's Byzantine political infighting, notably between the mayor and the city council, and the mayor and the police chief.

"I think it's the water," said Matheny, the historian. "These sorts of things have been going on for years."

Pollution of Yellow Creek also has brought Middlesboro statewide attention. According to a 1984 lawsuit filed by the U.S. Justice Department, the city allowed the discharge of raw sewage and untreated tannery waste into the creek, which some residents said contributed to the area's higher-than-average cancer rates. The lawsuit was settled, but the city and tannery were later fined for further violations.

In 1959, creation of the Cumberland Gap National Historical Park created opportunities for tourism, which may get another boost from the expected completion of straighter, safer roads in 1995 and the restoration of a walking-path through the Gap.

The massive road project—one of the biggest in the history of the Federal Highway Administration—"Involves rerouting traffic from a winding road over the Gap to twin tunnels through Cumberland Mountain. Native grasses as well as oaks, beeches and 13 other varieties of trees and shrubs will be planted where U.S. 25E now runs. But it will be at least 2030 before the Wilderness Trail looks similar to the way it did to early explorers.

A more immediate benefit will come from another project. Work will begin this spring on the Bell County campus of Southeast Community College and Kentucky Tech, one of the first such co-operative ventures in the state.

Southeast, based in Cumberland, has outgrown its branch in downtown Middlesboro. The new campus eventually will serve 1,500 to 1,750 students and will offer such programs as nursing and office administration with the tech school.

Some residents try to downplay Middlesboro's vibrant history in favor of such promising developments as the college and a planned industrial park. DeRosett contends that, while the city had a reputation of being "pretty wild," it was never more so than any other small town in the region.

Mayor Welch disputes the idea that Middlesboro had a particularly violent past. "No more than Louisville or Lexington or Corbin," he said.

"What I'm trying to say is, let's don't say all this just goes on in Middlesboro. 'They're all ignorant or they're all crazy.' What I'm being is protective of my city where I'm the mayor. These are lovely people, good Christian people."

But for others, the town's history is clearly a matter of pride. After all, if Middlesboro can survive boom and bust, fires and tornadoes, gambling, gunfights, and the wrath of reformers, who would ever dare to stand in its way over the next 102 years?●

BUDGET SCOREKEEPING REPORT

● **Mr. SASSER.** Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) of the Congressional Budget Act of 1974, as amended. This report serves as the scorekeeping report for the purposes of section 605(b) and section 311 of the Budget Act.

This report shows that current level spending exceeds the budget resolution by $6.4 billion in budget authority and by $6 billion in outlays. Current level is $4.9 billion above the revenue floor in 1992 and $3.6 billion above the revenue floor over the 5 years, 1992-96. This report includes the effect of H.R. 4210 on budget authority, outlays, and revenues pending congressional action on the President's veto message.

The current estimate of the deficit for purposes of calculating the maximum deficit amount is $352.3 billion, $1.1 billion above the maximum deficit amount for 1992 of $351.2 billion.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 24, 1992.

Hon. JIM SASSER,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report shows the effects of Congressional action on the budget for fiscal year 1992 and is current through March 20, 1992. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the Concurrent Resolution on the Budget (H. Con. Res. 121). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated March 17, 1992, the Congress cleared and the President vetoed H.R. 4210, the Tax Fairness and Economic Growth Act. This report includes the effect of H.R. 4210 on budget authority, outlays and revenues pending Congressional action on the President's veto message. This report also includes revised budget resolution aggregates for budget authority, outlays and revenues submitted March 20, 1992, by the Senate Budget Committee under Section 9 of the Concurrent Resolution on the Budget. These revisions are also attributable to H.R. 4210 due to that bill including provisions that would increase funding to make continuing improvements in on-going health care programs.

Sincerely,
ROBERT D. REISCHAUER,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 2D SESS. AS OF MAR. 20, 1992

[In billions of dollars]

	Budget resolution (H. Con. Res. 121)	Current level[1]	Current level +/− resolution
On-budget:			
Budget authority	1,270.7	1,277.1	+6.4
Outlays	1,201.7	1,207.7	+6.0
Revenues:			
1991	850.5	855.4	+4.9
1992–96	4,836.2	4,839.8	+3.6
Maximum deficit amount	351.2	352.3	+1.1
Debt subject to limit	3,982.2	3,763.8	−218.4
Off-budget:			
Social Security outlays:			
1992	246.8	246.8	
1992–96	1,331.5	1,331.5	
Social Security revenues:			
1992	318.8	318.8	
1992–96	1,830.3	1,830.3	

[1] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

Note.—Detail may not add due to rounding.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 102D CONG., 2D SESS., SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1992 AS OF CLOSE OF BUSINESS MAR. 20, 1992

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			853,364
Permanents and other spending legislation	807,567	727,184	
Appropriation legislation	686,331	703,643	
Continuing resolution authority	13,992	5,454	
Mandatory adjustments [1]	(1,041)	1,105	
Offsetting receipts	(232,542)	(232,542)	
Total previously enacted	1,274,306	1,204,844	853,364
ENACTED THIS SESSION			
Emergency unemployment compensation extension (Public Law 102–244)	2,706	2,706	
American Technology Preeminence Act (Public Law 102–245)			(2)
PENDING SIGNATURE			
Technical Correction to the Food Stamp Act (S. 2324)	(2)	(2)	(2)
VETOED-PENDING OVERRIDE			
Tax Fairness and Economic Growth Act (H.R. 4210)	101	101	2,084
Total current level	1,277,113	1,207,651	855,448
Total budget resolution [3]	1,270,713	1,201,701	850,501
Amount remaining:			
Over budget resolution	6,400	5,950	4,947
Under budget resolution			

[1] Adjustments required to conform with current law estimates for entitlements and other mandatory programs in the concurrent resolution on the Budget (H. Con. Res. 121).

[2] Less than $500,000.

[3] Includes revision under section 9 of the concurrent resolution on the budget (see p. S4055 of "Congressional Record" dated Mar. 20, 1992).

Note.—Detail may not add due to rounding.•

VISION 21, THE NASA STRATEGIC PLAN

• Mr. GARN. Mr. President, I rise today to bring attention to a very important document which outlines the direction of our Nation's Civil Space Program into the 21st century. Vision 21, NASA's strategic plan, is a roadmap to the future. It is NASA's plan for ensuring U.S. leadership in space exploration and aeronautics research.

Since its inception in 1958, NASA has been faced with many challenges. NASA has been extremely successful in meeting those challenges and has captured the imagination and attention of the world. From Mercury to the space shuttle, from landing man on the Moon to reaching outward to other planets through Galileo and Magellan, NASA has extended our horizons and enhanced our understanding of the universe. We have also seen our home, the planet Earth, form a different perspective than before. All of these experiences have greatly expanded our knowledge and have improved our quality of life.

President Bush has said, "A fundamental objective guiding United States space activities has been and continues to be, space leadership." The men who have lead NASA in the past, and the current leadership of Vice Admiral Truly, have propelled us to a position of world preeminence in space exploration and technology. In Vision 21, the people who lead NASA into the future will have a well thought out and achievable set of goals from which to guide our future space activities.

In the words of Robert Goddard, "It is difficult to say what is impossible, for the dream of yesterday is the hope of today and the reality of tomorrow." Vision 21 is the hope of today and the promise of tomorrow.

Mr. President, I ask unanimous consent that the entire text of Vision 21, the NASA strategic plan, be included in the RECORD at this point.

The text follows:

VISION 21: THE NASA STRATEGIC PLAN, JANUARY 1992

MESSAGE FROM THE ADMINISTRATOR TO THE NASA TEAM

As we lay the foundation for the civil space program of the twenty-first century, I believe it is essential for all members of the NASA Team to fully understand our vision in this decade and beyond. For the past few years, the National Space Council, under the leadership of Vice President Quayle, has addressed the principal issues facing the civil space program, and NASA has been a key participant in this assessment. Vision 21, the NASA Strategic Plan, is our roadmap to the future, the NASA plan for ensuring United States leadership in space exploration and aeronautics research. Vision 21 is fully consistent with National Space Policy, the recommendations of the Advisory Committee on the Future of the U.S. Space Program, as well as National Space Council and Congressional guidance and directives.

Vision 21 is based on my conviction that NASA exists to make the United States the world leader in space exploration and aeronautics research and, through our achievements, to inspire and better the lives of all Americans. Vision 21 foresees a series of programs and accomplishments that the people of the United States can esteem, admire and treasure—programs that look outward to the stars and planets and inward toward the planet Earth. It also envisions the type of agency we will be—how we will manage ourselves and our resources. In that regard, I believe there is an overarching management responsibility to actively support and nurture mathematics, science, and technology education. NASA is uniquely positioned to further this critical national goal, and we must take the initiative.

The NASA Strategic Plan, Vision 21, is a leadership plan. To implement the ambitious plan outlined in Vision 21, it will take the hard work, dedication, innovation, and commitment of the entire NASA Team—the same ingredients that have made the United States the world leader in space exploration and aeronautics research for the last 30 years. As we pursue our goals, we will adhere to a set of strong values and principles.

I believe the decade of the nineties offers NASA new opportunities and challenges. However, to be assured of opportunities in the future, we must be successful today. With your continued support and commitment, we will fulfill the goals that are outlined in Vision 21 and we will chart new frontiers in space. As President Bush so eloquently said, "In decades ahead . . . we will travel to neighboring stars, to new worlds, to discover the unknown. It will not happen in my lifetime . . . but a dream to be realized by future generations must begin with this generation."

NASA'S VALUES AND PRINCIPLES

These are the values and principles shared by all the men and women of the NASA Team . . .

Public Trust: Earning and keeping the trust and confidence of our ultimate customer—the American taxpayer.

Integrity: Holding ourselves fully accountable for our actions and being honest and ethical in all our dealings.

Achievement of Goals: Attaining success in the face of risk and the great unknowns of space exploration.

Continuous Improvement: Committing ourselves to the ongoing pursuit of excellence and quality in all efforts.

Respect for the Individual: Encouraging teamwork through mutual respect and open communications.

Work Force Diversity: Emphasizing cultural, racial, ethnic, and gender diversity among our highly skilled team.

Safety and Reliability: Advancing safety and reliability, while recognizing the risks inherent in many of our pursuits.

Respect for the Environment: Conducting our daily business with high regard for the health and future of our home planet.

INTRODUCTION

In 1958, the National Aeronautics and Space Administration was established by Congress to "plan, direct and conduct aeronautical and space activities" devoted to "peaceful purposes for the benefit of all mankind," activities that were recognized to be in the interest of the nation's security and general welfare.

For over 30 years, the NASA Team has responded to this challenge and has captured the imagination of the world. Projects such as Mercury, Gemini, Saturn V, Apollo, Mariner, Viking, Skylab, Apollo-Soyuz, Voyager, Explorer, Magellan, Galileo, Space Shuttle, Spacelab and the Great Observatories have expanded our understanding of the universe, have improved our quality of life, and have helped humankind slip the bonds of Earth.

This NASA Strategic Plan, Vision 21, is a living roadmap to the future to guide the men and women of the NASA Team as they ensure United States leadership in space exploration and aeronautics research. This multiyear plan consists of a set of programs and activities that will retain our leadership in space science and the exploration of the solar system; help rebuild our nation's technology base and strengthen our leadership in aviation and other key industries, encourage commercial applications of space technology; use the unique perspective of space to better understand our home planet; provide the U.S. and its partners with a permanent space-based research facility; expand on the legacy of Apollo and initiate precursor activities to establish a lunar base; and allow us to journey into tomorrow . . . journey to another planet—Mars—and beyond.

Whereas in the past, the space program primarily looked outward, today's space program looks inward as well in order to better understand our fragile planet. Whereas in the past, the space program was a symbol of the superpower race for technological dominance, today's space program represents common pursuits by all nations of the world to improve the quality of life for all humankind. And finally, whereas the space program of the past was the responsibility of governments, the space program of today and tomorrow represents the combined efforts of the government and the private sector to fulfill the fundamental goals of the civil space program and to capture new markets and economic opportunities.

Much has changed since the advent of NASA and the civil space program in 1958, but three things have not: (1) leadership in space is still a critical element of the nation's security, scientific, technical, economic, education and foreign policy goals; (2) the men and women of the NASA Team remain committed to excellence and innovation in implementing a balanced and diversified civil space program; and (3) the United States has, without question, the best space program in the world.

In this environment, NASA has formulated Vision 21, the strategy for implementation of the objectives outlined in the National Space Policy endorsed by the President, the Vice President, and the National Space Council, as well as the objectives enunciated in the agency's authorization and appropriations acts.

VISION AND GOALS

NASA's Vision 21 envisions an aeronautics and space program that inspires and betters the lives of all Americans, young and old, through our achievements as the world leader in space exploration and aeronautics research. The sight of our nation's best and brightest pushing back the vast unknowns of space will be a source of inspiration and pride for the American people. The peaceful exploration of space will demonstrate American leadership, technical excellence, and the national commitment to innovation. The successful transfer and insertion of technology breakthroughs into the private sector by NASA will enhance American competitiveness and improve the quality of life. Data from space will help us understand how to protect the Earth's fragile environment. Space exploration will capture the imagination of America's youth and stimulate their interest in math and science. And a rush of new discoveries will enable a many-fold expansion of human knowledge, a true measure of a great society.

NASA will be regarded as a pacesetter among government institutions and industry alike, the standard for project management and execution. The agency will lead the way in management innovations and in productive relationships with academia and the private sector. The NASA work force will be culturally diverse, recognized for its expertise, the symbol of teamwork and accomplishment. The agency's forward-looking programs will define the cutting edge of technology, and the NASA Team will be the hallmark of safety, quality and reliability.

The NASA of the future will not rest on its laurels, nor will it shrink from attempting the dangerous and difficult. Its torch will be kept burning by its most precious asset—the young men and women drawn to NASA by its bold and shining vision.

To fulfill its vision, NASA will pursue the following goals:

To advance scientific knowledge of the planet Earth, the sun, the solar system, the universe and fundamental physical and biological processes;

To expand human activity beyond Earth orbit into the solar system;

To strengthen the competitive posture of the United States in the fields of space and aeronautics; and

To attract young people to the wonders of mathematics, science and technology and ensure a more technically literate society equipped for the world of tomorrow.

To achieve these goals, NASA depends on broad public and political support, and the agency will strive to earn this support. NASA also will demonstrate the value and relationship of the space program to our economic, political and educational systems. The agency will conduct its affairs with honesty and openness; emphasize our vision, goals, and missions; and use a wide range of communications tools and technology to inform the American public about our accomplishments and the important benefits they provide our nation.

Vision 21 is a strategic plan that carefully balances the goals of the civil space program. It is a plan that will ensure United States leadership in space exploration and aeronautics research and will add to the roster of accomplishments and benefits ascribed to NASA.

MISSIONS AND ENABLING CAPABILITIES

To implement its goals, NASA has identified its primary missions and critical enabling capabilities. This framework is consistent with the findings and recommendations of United States National Space Policy, Congressional directives and guidelines, and the 1990 Report of the Advisory Committee on the Future of the U.S. Space Program. At the outset, it should be noted that an important portion of the current and planned NASA budget is devoted to providing these enabling capabilities since they are the foundation upon which mission success lies.

The primary missions of NASA are:

Space Science—the pursuit of basic discovery and understanding;

Mission to Planet Earth—the use of the unique perspective of space to understand our home planet and the phenomena of global change;

Mission from Planet Earth—the exploration of space and the expansion of human presence and activity beyond Earth orbit into the solar system; and

Aeronautics Research—vehicular technology and disciplinary research to sustain United States leadership in the increasingly competitive field of aviation.

The linchpins enabling the success of these missions are the NASA enabling capabilities:

Human Resources—NASA's well-educated, highly skilled, experienced, culturally diverse, extremely motivated men and women in the civil service, aerospace industry and university work force—our most important resource.

Physical Resources—NASA's cutting-edge test facilities, launch pads, wind tunnels, computational centers, aircraft, research laboratories, management systems and equipment.

Space Technology—the development and transfer of advanced technology, bridging the gap between concept and application in manned and robotic missions, and the active transfer of these technologies to industrial and commercial applications.

Space Station Freedom—the development of a permanently manned outpost in space where we will learn to live and work productively, build and operate large systems, and conduct advanced research to benefit all mankind.

Space Transportation and Communications—the provision of high-confidence, reasonable-risk, manned and unmanned launch services, plus an effective and efficient command, control, and communication infrastructure.

MISSION—SPACE SCIENCE

The NASA Space Science Mission will use the unique aspects of space to advance the scientific study of the universe, to solve practical problems on Earth, and to provide the scientific foundation for expanding human presence in space.

During the next decade, NASA will conduct an unparalleled program in space science. Spacecraft will examine the planet Venus, observe the wonders of Mars, probe the mysteries of Jupiter and Saturn, and provide us with our first-ever glimpse at the polar regions and interior of the sun. NASA also will develop an innovative series of small and intermediate-scale planetary spacecraft and continue its plans to conduct a balanced program of solar system exploration. NASA's robotic missions will provide the scientific and technological foundation for the ultimate planetary mission—a manned mission to Mars. Included in the approved planned planetary program are "flagship" missions such as Galileo and Cassini, and intermediate missions such as the Mars Observer. Other missions such as the Mars Environmental Survey and small spacecraft in the Discovery program are being assessed for inclusion in future budgets. (The term "flagship" missions denotes more capable long-duration missions that should push back scientific frontiers, serve the broadest possible scientific community, and secure scientific leadership.)

Meanwhile, NASA's Great Observatories, Hubble Space Telescope and Compton Observatory, will continue to explore the fundamental mysteries of the near and distant universe. These spacecraft will be joined later in the decade by the Advanced X-ray Astrophysics Facility (AXAF) and, if feasible, by the Space Infrared Telescope Facility (SIRTF). Plans are being formulated for these "flagship" astrophysics missions to be complemented by potential flights of Explorer spacecraft and new small and intermediate-scale missions in space physics and space astronomy. A broad array of Spacelab missions also is planned and will expand our understanding of the universe and provide the scientific foundation for basic and applied life sciences and microgravity research activities on Space Station Freedom. The decade of the nineties will be an era marked by major scientific progress and continued United States leadership in space science research.

NASA's space science program will continue to pursue answers to the most fundamental questions about the origins and future of the universe. The key elements of the space science program include:

Completing the development of the "Great Observatories," which will allow us to observe the universe with unparalleled sensitivity and resolution across the electromagnetic spectrum;

Completing our survey and detailed characterization of the solar system, including the terrestrial planets, asteroids and comets, and the planets of the outer solar system;

Enhancing our understanding of the complex physical behavior and variability of the sun, and its effect on the Earth and other solar system bodies; and

Using the unique attributes of Spacelab and Space Station Freedom to accomplish our goals in microagravity research and life sciences by facilitating fundamental advances in materials science, fluid physics, biotechnology, gravitational biology, biomedical research and long duration human space flight.

As was noted by the Advisory Committee on the Future of the U.S. Space Program, NASA's space science activity is the fulcrum of the entire civil space effort:

"It is this endeavor in science that enables basic discovery and understanding, that uncovers the fundamental knowledge of our planet to improve the quality of life for all people on Earth, and that stimulates the education of the scientists needed for the future. Science gives vision, imagination and direction to the space program. . ."

In conducting its space science programs, NASA is committed to taking the lead in fostering mutually beneficial cooperative missions with the spacefaring and nonspacefaring nations of the world. This is consistent with National Space Policy; it enhances NASA programs; and allows us to share worldwide the benefits of space science and applications research. This research is conducted pursuant to a strategic plan formulated by NASA with important inputs from the science community.

The strategy for space science seeks to preserve highest priority for completion of the program now under way and approved by the President and Congress, and then to provide new resources for the initiation (in priority order) of (1) small missions to ensure frequent access to space; (2) intermediate missions to provide disciplinary balance and continuity; (3) flagship missions to secure scientific leadership; and (4) enhancements to the research and technology base to improve current and future program vitality.

The principal programmatic elements of the NASA space science program over the next decade are depicted in Figure 1.

[Graphs not reproducible in the RECORD.]

MISSION TO PLANET EARTH

NASA's Mission to Planet Earth is a Presidential initiative and represents the agency's contribution to the U.S. Global Change Research Program and to related international efforts to better understand our planet Earth and how humans may be affecting it. Mission to Planet Earth builds on earlier missions to study the Earth's global ozone changes, atmospheric dynamics and ocean circulation. The recently restructured program reflects the recommendations of the Earth Observing System Engineering Review Panel and the Payload Advisory Panel, as well as the guidance of the Appropriations Committees. It consists of instruments and spacecraft to be launched during the 1990s and beyond, and a vigorous science and analysis program, including a state-of-the-art data and information system. The mission is coordinated with space-based and ground-based research conducted by other federal agencies, as well as the space-based and ground-based research being conducted by other nations.

The strategy for Mission to Planet Earth consists of several interrelated elements, each of which builds on or complements the others:

"First, near term focused and monitoring missions which are part of NASA's ongoing science program. These include spacecraft missions, such as the Upper Atmosphere Research Satellite (UARS), Shuttle Spacelabs (such as the ATLAS series), Landsat, the Explorer-class Earth Probes series (ozone, ocean winds, tropical rainfall, gravity, topography, etc.), as well as support for aircraft and in situ research, and cooperative missions with our international partners and other federal agencies.

"Second, a research base for scientific analysis, including development of the Earth Observing System Data and Information System (EOSDIS). EOSDIS will offer researchers unprecedented access to Earth science data, as well as archive the data and control the EOS spacecraft. NASA will also seek agreements on data exchange and access to make global change data from all nations available to the broad scientific community.

"The prototype EOSDIS will be on-line in 1994 for near term science operations. This system will evolve to match technological progress and advances in flight systems. NASA is supporting teams of disciplinary and interdisciplinary scientists who will evaluate data from all elements of the Mission to Planet Earth efforts and design global climate models needed to understand and predict the Earth's behavior.

"Third, a core Earth Observing System (EOS) designed to gather a 15-year data set on the Earth's coupled systems. These observations will be made by several series of EOS spacecraft, each designed to examine a different aspect of the Earth.

"Fourth, a group of follow-on EOS missions designed to continue existing measurements and provide new perspectives on the global environment. These will include follow-on Earth probes and development of the EOS Synthetic Aperture Radar (EOS SAR) and geostationary platforms."

Mission to Planet Earth programs are expected to double the community of researchers dedicated to understanding global change. Already, the Global Change Fellowship Program is providing a unique educational opportunity for graduate students in Earth system science research, and more opportunities will surface.

NASA's Mission to Planet Earth will substantially increase, with all due speed, our knowledge of the Earth's atmosphere, ocean, land, and life and how these vital components are interrelated. Mission to Planet Earth also will permit us to better discern what role humans play in affecting global change. Such knowledge is critical if we are to make sound policy decisions regarding the future of our fragile planet and protect the quality of life for our children and grandchildren.

Figure 2 depicts the key program elements of Mission to Planet Earth for the next decade and beyond.

MISSION FROM PLANET EARTH

On July 20, 1989, the 20th anniversary of the Apollo lunar landing, President George Bush gave NASA and the nation the ultimate set of challenges:

"First, for the coming decade, for the 1990s, Space Station Freedom, our critical next step in all our space endeavors;

"And next, for the new century, back to the moon, back to the future and, this time, back to stay;

"And then, a journey into tomorrow, a journey to another planet—a manned mission to Mars."

In response to the President's directive and pursuant to the guidelines and recommendations of the Advisory Committee on the Future of the U.S. Space Program and the Report of the Synthesis Group on America's Space Exploration Initiative, NASA is formulating and will lead a Mission from Planet Earth. It consists of an integrated set of research, science, and technology activities within NASA and at the Departments of Energy and Defense. Building on the Apollo program and experiences in Earth orbit, this national effort will employ complementary robotic and human exploration missions, minimizing cost and risk, while meeting the President's challenge.

By virtue of the mission's duration, nearly 30 years, these activities will be undertaken in increments. In addition, the Mission from Planet Earth will place special emphasis on developing special programs that maximize potential contributions to broader national goals, such as economic strength and educational excellence. Furthermore, international participation in the program will be sought.

The first major initiative in this program, as directed by the President, is the development and deployment of Space Station Freedom starting with the first element launch in 1995, man-tended capability in 1997, and permanently manned capability in fiscal year 2000. Space Station Freedom enables continued progress in the human exploration of space through the prerequisite studies into human adaptation and testing of life support systems over an extended period of time. The Space Station Freedom program also will give us the base of knowledge needed to build, operate and maintain large systems in space, experience that can be gained nowhere else. Freedom is indeed a critical first step of the Mission from Planet Earth and a visible symbol of America's commitment to leadership and cooperation in the peaceful exploration of space. With the establishment of a permanent human presence in space, the United States and its international partners will have, for the first time, a permanent outpost in space for performing fundamental research that will pave the way for eventual human exploration of the solar system.

During the coming decade, NASA will extend the duration of manned Space Shuttle flights in order to prepare for future long-duration space flights and the advent of Space Station Freedom. Concurrently, NASA is planning to initiate a series of robotic lunar orbiter missions designed to collect essential geodetic, resource, and terrain information, as a prelude to establishing a manned lunar outpost. These activities will commence with the Lunar Terrain and Lunar Resource Mapper. The agency also is assessing the development in the mid-1990s of a common lunar lander, capable of delivering science, engineering, and other payloads to the Moon's surface. In the longer term, other potential unmanned precursors will address communications and navigational requirements. All these exploration missions will be designed and executed with an emphasis on the efficient and innovative use of our national space resources, including those of other federal government agencies, the private sector, and academia. Other unmanned precursor missions will add further to our body of scientific knowledge, such as the already planned Mars Observer to be launched in 1992 under the Space Science Mission.

During this period, NASA will also be pursuing the definition, advanced systems development, flight demonstration, and mission extension capability activities required to meet the challenges of Mars exploration. Lunar activities, both unmanned and manned, will also serve as valuable test-beds for validating exploration technologies and approaches. Early in the next century, robotic rover and sampling missions to Mars will begin to set the stage for subsequent piloted missions.

The key programmatic elements of the Mission from Planet Earth for the next decade and beyond are depicted in Figure 3.

MISSION-AERONAUTICS RESEARCH

Aeronautics has long held a unique position in its contribution to the nation's balance of trade, worldwide competitive posture, transportation infrastructure and defense. The aeronautical research and technology programs of NASA and its predecessor, the National Advisory Committee for Aeronautics (NACA), have played a key role in this story since 1915. It has been perhaps the most successful example of a government-industry partnership in this country. The NASA-NACA experience has earned this agency the reputation as the nation's leader for aeronautical research and technology. However, as successful as these efforts have been, the challenges of the 1990s, including the emergence of formidable foreign competition and increased congestion in our air transportation system, mean that NASA must strengthen its capabilities and take a more assertive role in coordinating and facilitating long-term United States research efforts.

NASA will advance and preserve the United States role as a leader in aerospace technology and its application in the coming decade by:

"Developing, in cooperation with U.S. industry, selected high-leverage technologies and exploring new means to ensure the competitiveness of U.S. subsonic aircraft;

"Developing, in cooperation with U.S. industry and the Federal Aviation Administration, technologies that enhance the safety and productivity of the National Airspace System;

"Resolving the critical environmental issues and establishing, in cooperation with U.S. industry, the technology foundation for economical high-speed air transportation;

"Providing a proven technology base to enable unprecedented levels of maneuverability and agility in future high-performance aircraft for national defense security purposes;

"Readying the technology options for new capabilities in future rotary-wing aircraft; and

"Developing, demonstrating in flight, the technologies required for transatmospheric/single-stage-to-orbit vehicles with airbreathing primary propulsion and horizontal takeoff and landing capability."

Aeronautics base research and technology will continue to maintain national leadership by:

"Pioneering the development of innovative concepts, providing the physical understanding and the theoretical, experimental and computational tools required for the efficient design and operation of advanced aerospace systems; and

"Accelerating the development and application of high-performance computing technologies to meet NASA and other broad national needs."

The primary approach to achieving transatmospheric flight is the joint NASA/DOD National Aero-Space Plane program. The technology work is currently focused on unprecedented advances in propulsion, high-temperature materials and structures, and computational fluid dynamics. The near term objective is to bring this technology to an appropriate state of readiness for a major decision in late 1993 to design, build, and flight test two X-30 experimental vehicles. With a favorable decision, flight testing will begin by the end of the decade.

To quote the *National Aeronautical R&D Goals—Agenda for Achievement* report, "The changing environment requires a new commitment and philosophy and a more cooperative relationship among government, industry, and the university community. NASA alone cannot guarantee success." But in conjunction with the aerospace industry and research community, the program NASA has formulated for the next decade is a must if America is to retain its competitive edge in the twenty-first century in aeronautics.

The key elements of the aeronautics program for the next decade and beyond are depicted in Figure 4.

ENABLING CAPABILITY—HUMAN RESOURCES

The nation's civil space and aeronautics efforts depend on the people who will carry them out—including those in academia who train our future leaders and conduct a large segment of our research, those in the private sector with whom we contract a major share of our development work and, of course, those in NASA. This is especially true as NASA scientists expand the frontier of knowledge and our engineers push the state-of-the-art in cutting-edge technologies to implement NASA's missions. And NASA's mission cannot be achieved without other skilled team members in such areas as management, procurement, finance, and personnel. Therefore, NASA must effectively use all its educational, personnel and training resources to field the strongest possible team. As the Advisory Committee on the Future of the U.S. Space Program noted, NASA must pursue a comprehensive program to attract, develop and maintain a world-class work force in support of Vision 21.

The first of the three vital components of the NASA human resources effort is its education programs. If NASA is to continue to attract and retain the "best and brightest"—while at the same time helping to ensure a more technically literate society in the future—our educational outreach program must target the entire educational pipeline through a well-coordinated strategy. This active outreach effort must capture student interest in science, mathematics and technology at an early age; channel more students into science, engineering and technology career paths; and enhance the knowledge, skills and experiences of precollege teachers, college and university faculty, and other educators. Central to this implementation strategy will be an evaluation of all the agencywide programs' contributions. This will help ensure the wise application of funds.

Once talented scientists, engineers, and other highly skilled workers are recruited, sophisticated personnel management systems become the second component of the human resource program. The benchmarks for such systems are challenging work, organized in a manner that optimizes efficiency and productivity; adequate compensation and recognition; and an environment that fosters creativity and well-being. NASA will provide such an atmosphere through the application of sound, forward-looking management techniques and the innovative use of its personnel authorities.

The third component of the human resources program is the training and development of the work force to ensure enhancement of technical capabilities and personal growth. One of the earliest initiatives that NASA will pursue is a comprehensive career development program. This program will have reached maturity when each employee, together with his/her supervisor, has a fully described set of possible career paths for that employee's skills and interests. This effort will start with an analysis of the best practices across the agency for later synthesis into an agencywide program. Also included in the career development program will be a series of educational, training and broadening opportunities which the employee, bolstered by active supervisor participation, can select to assure successful progression along whichever career path that employee chooses.

Vision 21 calls upon the agency to inspire the American people through exemplary performance of its missions. Exemplary performance, which is characterized by a recognized world leadership role, conversely can be achieved only through the inspired support of the American people. NASA can best inspire if it is composed of a work force that reflects the cultural diversity of America's talented population so that everyone can see themselves reflected in this world-class team.

The key challenges for the NASA human resources and education component for the next decade are depicted in Figure 5.

HUMAN RESOURCES STRATEGY

Education

Capture Student Interest at Early Age.

Channel Students into Science and Engineering Careers.

Enhance Experiences & Skills of Teachers.

Personnel management

Improve Workforce Planning & Allocation Framework.

Refine Executive Succession Planning.

Acquire Workforce Reflecting Population Diversity.

Enhance Compensation & Recognition Programs.

Foster Work Environment for Health & Well-Being.

Use Personnel Authorities Imaginatively.

Training & development

Refine Employee Career Development Program.

Enhance Executive, Management & Supervisory Development.

Improve Technical Skill Maintenance Opportunities.

Formulate New Project Management Training Methods.

Facilitate Organizational & Team Development.

ENABLING CAPABILITY—PHYSICAL RESOURCES

To implement a diversified civil space and aeronautics program, NASA must maintain existing world-class facilities as well as provide for future requirements. Currently, NASA has an agencywide initiative in place to restore, maintain and construct world-class facilities, in that order. Significant progress has been made and will continue on a five-year wind tunnel revitalization program and on upgrading data storage facilities.

Major efforts are under way to maintain NASA facilities and launch pads and to ensure compliance with environmental laws and regulations. NASA will work to increase the fraction of funding allocated for facilities maintenance and will place increased emphasis on the management and maintenance and will place increased emphasis on the management and maintenance of these vital assets during the next decade.

There also are major facility expansion activities under way across NASA to construct the facilities required to develop, assemble, test, operate and maintain Space Station Freedom and Mission to Planet Earth, and to sustain ongoing programs such as the Space Shuttle and the Tracking and Data Relay Satellite system. Space Station Freedom, for example, requires new processing, avionics and space systems facilities, automated integration and assembly facilities, additions to mission control and the simulator/tracking facilities, and a new orbital debris radar facility. The Mission to Planet Earth project will require a facility to house one of the most capable data management systems ever built or operated, the Earth Observing System Data Information System (EOSDIS) facility. Based on preliminary estimates, the operations in the EOSDIS facility, initiated in 1991, will handle 10 terabytes of data every day—roughly the equivalent of 10 warehouses of magnetic tapes. New facilities are also required for the development, fabrication and testing of the space science instruments of tomorrow. In addition, the state-of-the-art Numerical Aerodynamic Simulation System has been constructed and fully equipped with cutting-edge supercomputers to help maintain the aerospace industry's edge in the world market.

Besides the physical plant, NASA must also maintain, upgrade and replace equipment, everything from computers and rocket engine test stands, to research and mission aircraft and life sciences research equipment. As with facilities, NASA is committed to maintaining its existing capabilities. However, to push the edge of technology and to implement NASA's complex technical and engineering programs, NASA will be required to procure state-of-the-art equipment on a continuous basis.

Finally, to ensure mission success, efficient program management, and the proper use of facilities and equipment, NASA, during the next decade, will strengthen its business and technical management systems and use state-of-the-art information technology to improve systems and processes. NASA is a highly diversified agency that must manage research, technology and operational programs.

To ensure the best and most efficient utilization of its resources, NASA must procure advanced management and information technology.

The key elements of the NASA physical resources strategy are depicted in Figure 6.

PHYSICAL RESOURCES STRATEGY

Facilities

Restore Mission Infrastructure.

Construct New Facilities.

Maintain Physical Plant.

Ensure Full Environmental Compliance.

Equipment

Maintain, Upgrade and Replace:

Mission and Research Aircraft.

Multiprogram Equipment.

Provide Programmatic & Administrative Computing Resources.

Management systems

Strengthen Business and Technical Processes.

Improve Systems and Processes by the Use of Information Technology.

ENABLING CAPABILITY-SPACE TECHNOLOGY

NASA's technology programs that enable the achievement of United States civil space goals also support U.S. technological competitiveness. This is done by the establishment of a clear and coherent strategy for civil space research and technology development for the coming decades.

The importance of this enabling capability has been a consistent theme of internal and external advisory groups for the past several years. Our investment in space technology today will reduce the cost of future space systems as the United States aggressively pursues its civil space goals.

During 1991, NASA responded to the findings of the Advisory Committee on the Future of the U.S. Space Program by developing an Integrated Technology Plan for the civil space program. This plan is designed to serve both as a strategic plan for the NASA space research and technology (R&T) program and as a strategic planning framework for national space R&T participants in conducting engineering research that supports future U.S. civil space missions. The plan is founded on a long-range forecast of U.S. civil space activities and advanced technology needs, which has been developed based on inputs from NASA's own program offices, other government agencies and the private sector, and recent external reports including the Synthesis Group on America's Space Exploration Initiative.

The Integrated Technology Plan categorizes space R&T into five focused program thrusts that address the needs of future civil space missions: space science, planetary surface technology, transportation, space platforms, and operations technology. Key technology program objectives include: advanced propulsion, materials and avionics for both the next manned launch system and future space transportation vehicles; sensors, platform technologies and information systems for space science missions; power, life support and surface system technologies for robotic and human exploration missions; and advanced technology for commercial Earth-to-orbit transportation and telecommunications satellite applications.

Continuing investment is also needed in NASA's research base, which provides support for both fundamental research disciplines and innovative new concepts. The program is comprised of a continuum of space R&T activities, ranging from initial research through technology development to technology validation to ensure successful transfer to users. Planned efforts include activities at the NASA Centers by university researchers supported by NASA-funded grants and contracts and by industrial aerospace organizations under contract to NASA.

Timely transfer of selected new technologies is a key ingredient of NASA's space R&T programs. NASA's principal goal is to achieve successful technology transfer within the aerospace community largely through direct interactions between researchers and project engineers. In addition, technology is widely recognized as a vital ingredient in the continuing economic competitiveness of the nation. NASA will, therefore, also continue to emphasize the dissemination of technological information to the broader economy, through such innovative mechanisms as the Technology Utilization Program, Centers for the Commercial Development of Space, and government/industry partnerships.

University involvement in NASA technology efforts has been increased recently with the advent of university-based Space Engineering Research Centers for Historically Black Colleges and Universities Research Centers. This involvement will further expand.

As was noted in the Report of the Advisory Committee on the Future of the U.S. Space Program:

"Unlike research which seeks new knowledge, technology is concerned with the application of that knowledge to useful purposes. The development of advanced technology is thus crucial to the success of the exploration and exploitation of space—whether human or robotic."

The key elements of the NASA technology program for the next decade and beyond are depicted in Figure 7.

ENABLING CAPABILITY—SPACE STATION FREEDOM

Space Station Freedom is the critical next step for advancing the human exploration of space. It is a multipurpose, continuously habitable facility in low Earth orbit that will:

"Serve as a permanent outpost where we will learn to live and work productively in space;

"Provide an advanced research laboratory to explore space, employ its resources for the benefit of humanity, and conduct life sciences and microgravity research; and

"Provide the opportunity to learn to build, operate and maintain systems in space."

Freedom will be a permanently manned capability in space, one that will continue to support the development of new technologies and procedures for our manned space program, and capitalize on the unique microgravity environment of low-Earth orbit for advancement of science and technology with broad applications for mankind. The program provides for major participation by Canada, Japan and 10 members of the European Space Agency, demonstrating the value of international cooperation in large space ventures.

Freedom's capabilities will support the Mission from Planet Earth with basic research on the effects of prolonged low gravity on human physiology; engineering research and development of life support systems; design and construction of large space systems; and testing and evaluation of space operations concepts. Freedom's capabilities will promote the development of technologies of national importance in areas such as advanced materials and robotics and commercial applications of pharmaceuticals, semiconductors, and superconductors. Space science research will be supported in the areas of fundamental investigations in fluid physics, materials science, biotechnology, gravitational biology, and biomedical research.

As a result of the program restructuring that took place in 1990 pursuant to the guidance and direction of the Appropriations Committees, Space Station Freedom will be developed in discrete phases to provide early, significant results within available funding. This approach allows the program to proceed at a pace consistent with Presidential and Congressional direction, user demand, and launch constraints. Three phases are defined for Freedom: the Initial Phase, which will provide Man-Tended Capability (MTC) during assembly and culminate in a Permanently Manned Capability (PMC) for a crew of four; the Follow-on Phase, which will complete assembly to support a crew of eight; and the Growth Phase, which will provide enhancements based on operational experience and advances in technology. Only the Initial Phase is presently provided for in the NASA budget.

The two major milestones of the Initial Phase are the achievement of MTC and PMC. Significant research capabilities are available at MTC with the delivery of the U.S. pressurized laboratory. Initial crew stay times of 13 days and longer, supported by the Extended Duration Orbiter, will enable interactive experimentation in life sciences and microgravity sciences—areas of research which were identified by the Advisory Committee on the Future of the U.S. Space Program as the two primary missions of Space Station Freedom. Mini-Pressurized Logistic Modules provided by Italy will enable flexible logistics operations beginning with MTC. Experimental facilities and power will expand during this phase as assembly for PMC is completed.

Between Shuttle visits, long-duration exposure to the microgravity environment will be available for remotely controlled life sciences and materials science experiments. The Canadian-supplied Mobile Servicing Center will contribute to assembly and servicing, and the Japanese Experiment Module and the Attached Pressurized Module provided by the European Space Agency will triple the available volume to experimenters over that available at MTC. The PMC configuration ushers in the era of continuous operations, features a permanent crew of four, and provides levels of power never before available for research in a manned orbiting facility.

Expert systems technology will be employed to automate and improve the monitoring and maintenance of Freedom's systems health. Provisions have been made in the Station design to enable growth and upgrades to the Follow-on and Growth Phases. In the Follow-on Phase, enhancements will be added to Freedom in a prioritized manner, contingent upon user demand and funding availability. The first enhancements will raise Freedom resource levels to those consistent with international agreements, which include a fourth photovoltaic array to achieve 75 kW of power and a crew capability of eight.

Freedom will evolve in response to future user demands and advances in technology. Although future user requirements are not fully defined, Freedom is designed for flexibility to allow a wide range of choices in evolving to specific configurations.

The key components of the Space Station Freedom program are depicted in Figure 8.

ENABLING CAPABILITY—SPACE TRANSPORTATION AND COMMUNICATIONS

The National Space Launch Strategy signed by President Bush in 1991 is focused on meeting the U.S. Government civil space launch needs while developing the new launch systems and capabilities necessary to meet future requirements.

NASA is committed to use of a mixed fleet of the Space Shuttle and expendable launch vehicles—the latter to be obtained whenever possible from U.S. commercial launch service providers. The civil launch needs through this decade include science payloads, Earth observation payloads, Spacelab missions, and assembly and utilization of Space Station Freedom.

The Space Shuttle uniquely enables the nation's space activities that require the involvement of astronauts and payload specialists. The Space Shuttle carries people, equipment, and payloads into space and later returns them safely to Earth. When combined with the Spacelab or other carriers, such as the commercially developed Spacehab, the Shuttle becomes a space laboratory where crewmembers can interact with experiments. Spacelab, in particular, will play a key role in an evolutionary approach to developing the scientific and technological foundation for research programs to be conducted on Space Station Freedom.

Key elements of NASA's Shuttle strategy are: to maintain and improve Shuttle systems and supporting facilities; to extend on-orbit stay time; to extend Shuttle life through critical subsystem upgrades; to maintain the capability to manufacture an additional orbiter should the need arise; and to limit use of the Shuttle primarily to those missions requiring the presence of humans or other Shuttle-unique capabilities. As the nation moves towards the development of a new space launch system, the National Launch System, the production of additional Space Shuttle is not planned. The production of spare parts should continue in the near term to support the existing Shuttle fleet, and to preserve an option to acquire a replacement orbiter in the event of an orbiter loss or other demonstrable need.

NASA is studying and implementing various improvements in the Shuttle program to achieve a 15-percent reduction in operations cost by 1996 and to improve the avionics, propulsion, and engine components.

NASA acquires and will continue to acquire small, medium and intermediate expendable launch services through commercial launch service agreements and large expendable vehicles (Titan IV) through the Department of Defense (DOD). The agency also funds limited improvements to satisfy NASA mission requirements and provides access to NASA property and services on a noninterference, cost-reimbursable basis.

NASA and DOD have jointly proposed development of a new national launch system, pursuant to the recommendation of the Advisory Committee on the Future of the U.S. Space Program, "that the Administration promptly establish and fund a firm program for development of an evolutionary, unmanned but man-ratable, heavy-lift launch vehicle." Emphasis currently is being placed on developing a new engine for this system. The National Launch System (NLS) will strengthen our launch assurance posture in support of scientific, national security, commercial, and Space Station Freedom payloads; and, through evolution, the NLS will support the larger, heavier payloads to support Mission from Planet Earth.

The National Launch System would reduce launch system operating costs and provide for improvements in reliability, responsiveness, and mission performance. It would lead to the development of a family of vehicles and would strengthen the technical base for improvements in commercial launch vehicles. The first launch of the new system in planned for 2002.

Transportation study efforts under way or planned include: definition of a crew return capability to support Space Station Freedom permanently manned requirements; definition of NLS growth options; comprehensive studies to assess long-range manned transportation strategies; and analysis of longer Shuttle orbit stay times beyond the current 16-day target of the Extended Duration Orbiter program.

The capability to command, control and communicate with—and receive, process and distribute data from—space vehicles and aircraft also is a vital enabling element in NASA's structure.

The Space Network is a highly sophisticated communications system that includes the Tracking and Data Relay Satellites (TDRS) in geostationary orbit and two ground stations. During the remainder of this century and the first decade of the next, its capabilities will be sustained by the TDRS II follow-on spacecraft. To meet the dramatic cumulative increase in requirements of the Hubble Space Telescope, Compton Observatory, UARS, Space Station Freedom, EOS AXAF and other missions being planned, NASA is planning to increase the current three-spacecraft TDRS constellation by the end of the decade.

The Ground Networks program provides the Earth-based tracking and data acquisition required primarily by vehicles in deep space such as Magellan, Galileo, Ulysses, and Mars Observer. In the mid-to-late 1990s, substantial additional aperture is required to meet these mission needs.

The Communications and Data Systems effort must meet the quantum jump in data rates from spacecraft that incorporate the many advances made in communications and computing technology. Plans also must be made for the efficient use of the radio spectrum currently available for space activities along with the new spectrum allocations that are being requested.

No technology arena is changing faster than those involving communications and information processing. In this environment, all sectors of NASA's communications activities face a major challenge: simultaneously maintaining current operating capabilities while integrating new technologies into the existing infrastructures—and doing so in a cost-effective manner. As NASA prepares for the exploration of the Moon and Mars, first with complex robotic missions and then by humans, there will be an even greater demand for an efficient, integrated communications system. The foundation for these activities must be thoroughly planned and developed over the next decade.

The key capabilities and enhancements required during the decade of the 1990s by NASA's space transportation and communications programs are outlined in Figure 9.

MANAGEMENT INITIATIVES

To implement the programs and provide the capabilities called for in Vision 21, a series of management initiatives must be successfully implemented during the first half of the decade of the nineties. The focus of these initiatives are five activities that began in 1991, as a result of internal management assessments and the recommendations of the Advisory Committee on the Future of the U.S. Space Program: Human Resources Management, Program and Project Management, Procurement Management, Facilities Management, and Center of Excellence. Each of these initiatives will be reviewed annually, updated and/or completed. All five have expected completion times of less than five years and are part of a new "55" strategy—an ongoing management improvement process that will continually support five key initiatives with five-year targets for completion.

Each of these initiatives is an element of the larger NASA continuous improvement program. This program strives to instill in NASA the philosophy of continually making NASA a more excellent agency. Continuous improvement is a key ingredient in the successful implementation of the Vision 21 strategy and in the successful completion of the management initiatives outlined below.

Human Resources Management—NASA educational programs will be evaluated for cost effectiveness and the efficient allocation of resources to the fulfillment of NASA's educational vision. The position management system will be sharpened to improve the links among program efforts and work force requirements, staffing allocations, and skill mix. The optimum mix of inhouse versus outside work will be determined. An agencywide career development plan will be published which will cover every career area large enough to warrant a tailored plan. Finally, the Strategic Plan for Personnel will include a plan for achieving a work force which reflects the diversity of America's talented population.

Program and Project Management—During the last decade, NASA has emphasized performance/capability in managing its programs and projects. In today's severely constrained fiscal environment, schedule and cost are critical to program success and public support as, for example, spacecraft performance, NASA, therefore, will formulate program and project management techniques and training methods that better prepare NASA managers by heightening their awareness of issues related to technical readiness, requirements and resources. Initiatives are under way to provide such techniques and training, and this process will be continuously improved.

Procurement Management—To ensure that NASA receives the maximum value for each dollar invested in the civil space program, NASA has initiated a series of procurement management initiatives. Included in this set of initiatives will be an acquisition streamlining program including the development of a new mid-range procurement process, an assessment of award-fee contracts, improvements to the NASA grant process, and improvements to the contract management and contract performance assessment processes. These, and other procurement initiatives, will be implemented with the overall objective of establishing NASA as the standard of excellence and innovation for government procurement.

Facilities Management—NASA operates and maintains a diverse set of world-class research, development, and operational facilities. NASA has begun a variety of initiatives to improve maintenance of these facilities. These include the development and publication of agency policies in the form of a directive and a handbook which specify objectives, assign responsibilities, and promote commonality and excellence among Centers. Other initiatives will include the establishment of consistent maintenance standards for use by all Centers.

Consistently high maintenance standards, along with restoration and modernization and construction of facilities, are a high NASA priority and a critical element of the successful implementation of the agency's mission.

Centers of Excellence—NASA will sharpen the focus of its Centers of Excellence and eliminate redundancy and fragmented activities. Centers of Excellence will be established at the nine NASA Centers. These Centers will be limited to well-defined technologies and disciplines of importance to NASA's overall mission capabilities and the nation's critical technology requirements. NASA Headquarters will give each of these Centers the flexibility required to attain reputations for excellence in their designated fields. Centers of Excellence will enhance NASA's overall reputation and capability and help attract and retain world-class scientists, engineers, and technicians.

The combined effect of these five management initiatives should be a NASA better equipped to meet the challenges of the twenty-first century and to maintain United States leadership in space exploration and aeronautics research.

BUDGET

During the history of the civil space and aeronautics program, there have been severe peaks and depressions in the availability of resources based on national priorities and budget constraints. These can be seen in Figure 10. However, since the mid-eighties, NASA has earned the sustained support of the Congress and the White House and has experienced adequate annual levels of growth at a time when the overall federal budget was severely constrained. Clearly, NASA is seen as an important element of the nation's overall economic health and well-being and a symbol of sustained United States technological leadership—a key ingredient of success in the world marketplace.

Vision 21 is structured on the premise that the fiscal year 1993 budget will achieve 5-percent nominal growth and potential outyear funding—annual outyear budget increases—will be in the range of 5–8 percent nominal growth. The fiscal year 1993 assumption is consistent with the Congressional guidance obtained in the Fiscal Year 1992 VA, HUD Independent Agencies Appropriations Bill Conference Report. Within this funding profile, NASA will implement a balanced and diversified civil space program—a leadership program—and will emphasize the successful implementation of its ongoing programs, those things it "must do." The agency also will strike to make progress on the next generation of activities, those things it "should do." However, implementation of these potential activities may require additional resources above the Congressional budget guidelines or a reprioritizational of ongoing activities within the proposed budget runouts. The key to success for NASA during the next decade will be the combination of stable and predictable funding and maximum management flexibility.

While it is true that the nation faces severe fiscal and budgetary problems, it also is true that NASA and the civil space and aeronautics program today represent an investment in America's future and in our youth's future, much as they did 30 years ago when John F. Kennedy challenged this nation to "commit itself to achieving the goal, before this decade is out, of landing a man on the Moon and returning him safely to the Earth." While most of us remember this phrase, few of us remember that it was contained in a special Presidential message to the Congress on "Urgent National Needs."

As NASA prepares for the next century, as we venture into the world of tomorrow, the agency will go forward with resolve to maintain United States leadership in space exploration and aeronautics research. As President Kennedy said in that same address, "If we are to go only halfway, or reduce our sights in the face of difficulty, in my judgment, it would be better not to go at all."

The NASA Strategic Plan, Vision 21, is a leadership plan—it does not go halfway. Implementing this plan will require reasonable budget growth. It also will require fiscal discipline and the agencywide application of good management techniques. In times of resource shortages and budget austerity, it is necessary to get a higher rate of return on every dollar spent within NASA. Towards this end, NASA will initiate cost control measures, pursue efficiency gains, and reduce unnecessary administrative or management costs.

DECISION-MAKING GUIDELINES

NASA will reassess its strategic plan and the priority status of its programs on a regular basis. This will ensure:

1. A well-balanced space and aeronautics program;
2. Attainment of the agency's goals and missions;
3. Consistency with Presidential and Congressional directives; and
4. Sustained United States leadership in space exploration and aeronautics research.

In implementing this strategic plan, the agency will maintain a balanced space and aeronautics program, stress the successful execution of programs approved by the President and the Congress, develop the enabling capabilities required to support the agency's goals and missions, initiate new starts as fiscally feasible, and balance near term and long-term activities.

Strategic plans formulated by Headquarters offices and NASA Centers will be consistent with these decision-making guidelines and the overall agency strategic plan. Headquarters offices and NASA Centers will formulate implementation plans that set priorities and identify enabling capabilities.•

A GROWING COMMITMENT TO WILDLIFE PROTECTION

• Mr. McCONNELL. Mr. President, on behalf of all Kentuckians, I would like to express my appreciation for the continuing efforts of the Westvaco Corp. in expanding the Westvaco Wildlife Management Area in western Kentucky.

Since its creation last year, Westvaco, in cooperation with the citizens of Carlisle and Hickman Counties, has doubled the acreage of protected wildlife habitat. Westvaco plans to continue to add to the wildlife management area in the future.

Westvaco's dedication to wildlife protection illustrates something that we often forget about here in Washington: Government is not the beginning nor the end of environmental protection. The Westvaco Wildlife Management Area is a shining example of how private interests can make lasting and meaningful commitments to our Nation's environmental well-being.

While Westvaco's efforts are commendable, I continue to be dismayed about the fact that Kentucky is the only State in the United States that does not have a national wildlife refuge. The Federal Government must follow the lead of Westvaco and the citizens of Carlisle and Hickman Counties by setting aside land to provide habitat for the vast array of wildlife found in the Commonwealth of Kentucky.

Until then, the Westvaco Wildlife Management Area will continue to provide a haven for migrating waterfowl, as well as economic benefits to the surrounding community.

Mr. President, I would like to share with my colleagues a recent article in the Paducah Sun describing Westvaco's past efforts and future aspirations to preserve and protect wildlife habitat in western Kentucky.

The article follows:

[From the Paducah Sun, Mar. 21, 1992]

WESTVACO'S WILDLIFE REFUGE GROWING

(By Steve Vantreese)

Having more than doubled in size since its inception less than a year ago, the unique privately-owned Westvaco Wildlife Management Area is rolling right along.

Shouldering up to the Mississippi River and hunkered on the border of Carlisle and Hickman counties, the Westvaco WMA began as a dedication of 1,385 acres just last year. As of now, the paper-making corporation based locally in Wickliffe has purchased enough connecting properties to fatten the refuge to 3,021 acres.

Chuck Matheny, operations manager for Westvaco Central Woodlands, said, "We're continuing to work with individual landowners in the area" to pursue additional properties for the management area. "It's a continuing process."

Matheny said he expected more additions within a year, noting that the refuge possibly could balloon to as much as 8,000 acres in the future based on the ability of buying land from willing sellers.

"There seems to be a lot of interest, a lot of acceptance from the local people," he said.

Comparisons show the significance of the refuge. It already is a few hundred acres larger than the state's Swan Lake Wildlife Management Area. If it grows to the projected figure of 6,000 or so acres, it will be roughly three-fourths as large as Kentucky's most valuable wetland holding, the Ballard County Wildlife Management Area.

The Westvaco project is an oddity. It amounts to a sizable, industry-owned swath of property dedicated to wildlife, managed in cooperation with a state agency, the Kentucky Department of Fish and Wildlife Resources.

The new addition to the management area isn't officially part of the area co-managed by the state fish and wildlife agency because it hasn't been formally adopted by the state Fish and Wildlife Resources Commission, but that's a formality which is virtually certain.

It's property which the state agency would like to have had under wraps for the sheer wildlife value of it. Having Westvaco jump in and foot the bill to put the land in refuge status amounts to a gift of sheltered habitat for wildlife, for sportsmen and for anyone concerned about the well-being of the wilds.

The site of the Westvaco WMA is the neighborhood where federal officials were eyeing potentially for Kentucky's first national wildlife refuge. The importance of it lies in the fact that it's chiefly wetland smack in the heart of the Mississippi Flyway, a major waterfowl migrational route.

With Westvaco having assured the future of the land for wildlife usage, the U.S. Fish and Wildlife Department has been freed to look elsewhere in west Kentucky for wetlands which are worthy of preservation in the form of a federal refuge.

At present, the Westvaco WMA land supports a good deer herd, a fair and increasing flock of turkey, plus a sprinkling of local resident wood ducks, according to Matheny. With new management practices and increased protection, all these wild species and others can be expected to increase.

Later this spring, Westvaco plans to begin work to establish a well for a new water source and levies to enable seasonal flooding of portions of the refuge to accommodate waterfowl during the early migrational period each fall.

Food plots to serve wildlife are being planned and Westvaco now is putting in experimental plantings of various oaks (conspicuously rare in the area) to establish some hard mast food crops in future years.

A long-range management plan is in the works, one which will best serve wildlife with habitat improvements, while it also will produce some timber products for use by Westvaco.

Meanwhile, it will be an area which serves some public use. The management area, like state-owned WMA's, will be closed each years from October 15–March 15 to minimize disturbances to wintering waterfowl. However, it will be open to public hunting, like other Westvaco land, to those who purchase a hunter permit. Sportsmen, in fact, will have access to land which was closed to them when it was in previous private ownership.

Fishing likewise is permitted, and no special permit is required.

Meanwhile, with Westvaco retaining ownership, the property remains on county tax rolls, something that sits well with the fiscal courts of Carlisle and Hickman counties. It provides many of the benefits of public land without clipping the financial support strings of private land.

All considered, the continued growth of Westvaco WMA is good news for both wildlife and those who take pleasure from it.

Stay tuned.•

A TRIBUTE TO PERSONAL COMPUTER PRODUCTS, INC., FOR 10 YEARS OF EXCELLENT BUSINESS

• Mr. SEYMOUR. Mr. President, I am very pleased to stand before you today to pay special tribute to the founders and employees of Personal Computer Products, Inc., of San Diego, CA, as they prepare to celebrate their 10-year anniversary.

Personal Computer Products, Inc. [PCPI] was founded in San Diego in March 1982 by Dr. Edward W. Savarese, who currently serves as chairman, president, and chief executive officer of the corporation. Over the past decade, Dr. Saverese's company has grown and thrived, becoming an important contributor to the development of San Diego's high-technology industries. Today, PCPI and its subsidiaries, Laser Printer Accessories Corp. and Imagesoft, Inc., employ over 40 people.

PCPI's outstanding success is the direct result of brilliant product innovation, and assertive research and development practices. Initially, the company introduced highly innovative and technologically advanced microcomputer merchandise, paving the way for future breakthroughs in technology and design. In 1984, PCPI entered a new segment of the personal computer market, introducing a desktop laser printer with a unique new laser printer controller design. Since that time, PCPI has produced approximately 15 different laser printer controller designs and has been a key contributor in the birth and growth of desktop publishing through the development of software based products which expand the capabilities of laser printers. Today, much of PCPI's highly advanced hardware and software is licensed to major companies, such as the Xerox Corp.

I invite my Senate colleagues to join me in applauding the accomplishments of Personal Computer Products, Inc., as they celebrate 10 years of excellent business practice. I bid the corporation onward in its quest to promote the continued development of our Nation's high-technology industries.•

COMMENDING ELIZA TUDOR

• Mr. COATS. Mr. President, I rise today to recognize an outstanding student from my home State of Indiana, Eliza Tudor. Miss Tudor, a senior from Lapel High School in Madison County, IN, submitted the winning essay in the 1991–92 Indiana Veterans of Foreign Wars Voice of Democracy contest. The script was selected from among over 140 high school winners across the State. Miss Tudor represented Indiana earlier this month in the national competition in Washington, DC and she will also be honored by nomination to the American Academy of Achievement.

Eliza's winning entry shows a good understanding of the challenges our Nation faces. I want to congratulate her on winning this prestigious award, and I wish her continued success with her future academic endeavors.

I would also like to commend the Indiana Veterans of Foreign Wars who have made the academic dreams of many Hoosiers possible by providing scholarships to talented students. In addition, the VFW continues to set an excellent example for their selfless assistance of Americans who have served and bravely fought in the defense of freedom. I ask that the following essay be inserted into the CONGRESSIONAL RECORD.

The essay follows:

If we were to define America's challenge according to the headlines in our nation's newspapers and the topics that dominate the network news, we could easily conclude that the American way of life is quickly distingrating. A volatile and shaken economy, a lack of credibility in elected officials, a diminishing and downtrodden middle class, a disappointing educational system, conflicting and confusing moral and spiritual values, the threat of a deadly AIDS plague, and the waste and defacing of the planet, devalue the American way of life.

We are hearing news we can no longer ignore. We can only meet these challenges by identifying them, facing them, and rolling up our sleeves to find solutions.

Our nation has learned that we cannot legislate morality or even justice without putting it into practice, but because we are Americans, we can do better than this.

The places to begin to meet these challenges are in our personal lives, in our families, and in our communities.

We cannot expect a balanced economy nationally if we do not live within our means in our families. This may mean saying no to frills that we have come to accept as necessities, but what we spend our money for shows what we consider important. We are Americans and we can do better than that.

We cannot find fault in an educational system when we allow television and slick magazines to fill more time in our children's lives and our own than we spend learning and exploring together. Children find it difficult to become more than the example adults set for them.

In matters of morality, priorities, and discipline, we set the goals and because we are Americans, we can do better than this.

The warm wave of support and patriotism that drew the nation together during the first terrifying months of last year was due in no small part to a national guilt we felt when the men and women who fought in Vietnam returned unheralded and unnoticed. Because we are Americans, we knew we could do better than that and we did.

Our challenge is turn our nation, our communities, our families, and ourselves to what is true and right and good. Men and women have served and died for the freedom we have to correct our errors; for the freedom to vote incompetent government officials out of office, and worthy citizens to office; the freedom to say no, my family will not watch immoral, sensational, violent television nor use the products that sponsor such programs. The freedom to say we demand the finest American made goods and quality services for fair prices. The greatest freedom we have is the freedom to choose our attitudes.

I know that there's no better system in this world. I know we can do better than this, because I am an American and I'm not afraid of work, or sacrifice, or doing what I know is right. I'll not delude myself that there are no problems. But there are solutions and our system affords the means and the opportunity to find the solutions and because we are Americans, I know we can do better.•

HATE CRIMES

• Mr. SIMON. Mr. President, for the last 2 weeks I have made it a point to bring to the Senate's attention the nationwide increase in acts of violence based on race, religion, ethnic background, and sexual preference. These tragic incidents have the potential of dividing our great country and each of us should be aware of their growing occurrence.

Today, I wish to direct your attention to the rise in violence against gay men and lesbians throughout the Nation. According to a study released last week by the Gay and Lesbian Task Force, a total of 1,822 incidents including harassment, threats, physical assaults, vandalism, arson, police abuse and murder were reported to agencies in New York, Boston, Chicago, Minneapolis/St. Paul, and San Francisco. These incidents represent a 31-percent increase over 1990 in the same cities.

Statistics alone cannot convey the profound impact of antigay violence and other victimization. Highlighting some of these recent episodes sheds light on the human cost of antigay bigotry that is pervasive in our Nation. I also urge you to read the entire report entitled the "National Gay & Lesbian Task Force 1991 Anti-Violence Report" which discusses in detail these problems. I have included a copy of the summary of the report.

In Houston, TX, on July 4, a gay man was killed and another was injured when they were attacked by a group of 10 young men outside a gay bar. The assailants were armed with wooden clubs and knives. The victim died several hours later from a knife wound to the abdomen.

In San Diego, CA, on December 14, a 17-year-old youth was murdered and two other youths were attacked on the street by three skinheads who shouted antigay epithets. The perpetrators stabbed, beat, and kicked two of the three victims, one of whom died from a stab wound in the chest.

In Chicago, IL, two lesbians driving from a gay bar were followed by four men in another vehicle. When the women got out of their car at a convenience store, the men assaulted them, all the while saying that all they needed was "a good man." They hit one woman in the face and slammed the other woman's head into the pavement.

In Springfield, MO, members of the Klu Klux Klan harassed and threatened a gay male couple after one of them testified in support of a proposed local hate crimes ordinance. Robed Klan members regularly paraded outside their home, smashed the windows of their car, threw eggs and tomatoes at their house, and drove trucks through their yard, tearing up the lawn. The gay men finally were forced to move to another town.

We simply cannot tolerate these acts of bigotry and violence. Each of us must do our part to see this behavior end.

As most of you may remember, in 1990, I sponsored the Hate Crimes Statistics Act which requires the Justice Department to collect data on crimes that evidence prejudice based on race, religion, ethnicity, or sexual orientation. Until now, no Federal records of such crimes have been maintained, making it difficult to determine whether a particular crime is an isolated incident or one of a continuing series against a particular group. Data should be available this summer.

I am pleased to report that in a major nationwide effort to implement the Federal Hate Crimes Statistics Act, the Federal Bureau of Investigation held nine regional seminars aimed at training police to identify, track, and respond to hate crimes, including antigay crimes. Nearly 1,000 law enforcement officials from 300 cities participated in the training. At the request of the FBI, several civil rights groups including the National Gay and Lesbian Task Force assisted in the planning and delivery of the seminars.

These are important steps in our long fight to end violence and indifference motivated by race, religion, ethnic background, and sexual preference. Without a united effort to prevent hate crimes and increase understanding among the diverse individuals that make up this great country, these hate crimes create an environment of fear and intolerance that threatens to undermine the social fabric with which our Nation was founded; a melting pot of peoples coming together from a variety of cultures and backgrounds living and working together in a free society.

The summary follows:

SUMMARY

Anti-gay violence and victimization continued to plague the nation in 1991, with gay and lesbian victim assistance agencies in Boston, Chicago, Minneapolis/St. Paul, New York City, and San Francisco documenting record high levels of episodes. A total of 1,822 incidents—including harassment, threats, physical assault, vandalism, arson, police abuse, and murder—were reported to agencies serving the five metropolitan areas, an increase of 31% over 1990's total of 1,389.

The New York City area recorded the highest number of reported episodes (592), followed by San Francisco (473), Minneapolis/St. Paul (338), Chicago (210), and Boston (209). Because of underreporting by victims, it is estimated that these figures reflect only a fraction of the actual number of incidents that occurred in the five urban areas last year.

Compared to 1990, reported anti-gay incidents increased in 1991 by 6% in Chicago, 11% in San Francisco, 17% in New York City, 42% in Boston, and 202% in Minneapolis/St. Paul. Taken together, the number of anti-gay episodes recorded in the five metropolitan areas has increased 161% since 1988, the year that several of the victim assistance programs were established.

Among the most serious incidents to increase last year were physical assaults, which climbed 15% to 775. In addition, there was a surge in incidents involving police abuse (+29% to 146) and vandalism (+51% to 125). Acts of arson rose from 3 to 4, and anti-gay murders more than doubled, from 3 in 1990 to 8 in 1991.

Although only 362 anti-gay crimes were reported to local police in all five cities in 1991, this figure is 41% higher than the number documented in 1990. The number of crimes classified by police as anti-gay rose to 22 in Minneapolis/St. Paul (+144%), 28 in Chicago (+180%), and 193 in San Francisco (+99%). Meanwhile, the anti-gay crimes reported to police fell to 31 in Boston (−21%) and 88 in New York City (−14%).

The rise in anti-gay episodes reported to all five gay community agencies and most police departments reflects a variety of factors. These include greater outreach to victims by local agencies and greater levels of reporting by victims. It is likely, however, that rising numbers also indicate an increasingly prevalent problem in these five urban areas during the past year. Given that cities as geographically diverse as these are documenting consistent increases, it is likely that other U.S. urban areas, and perhaps surburban and rural communities as well, are experiencing a similar upswing.•

A TRIBUTE TO DORCAS T. HELFANT, 1992 PRESIDENT OF THE NATIONAL ASSOCIATION OF REALTORS

• Mr. WARNER. Mr. President, I rise today to pay tribute to a hard-working businesswoman from my State, Ms. Dorcas T. Helfant, who has recently been selected as the 1992 president of the National Association of Realtors. Ms. Helfant, a realtor from Virginia Beach, VA, holds the distinction of being the first woman called upon to serve in this prestigious position in the 84-year history of the association.

Dorcas Helfant is a strong leader who has consistently demonstrated an ability to get things done. Her commitment to promoting home ownership has been recognized throughout the years by her services to both the State and national realtors associations. She has served on the board of directors of the Virginia Beach Chamber of Commerce for 16 years and continues to participate in numerous other organizations in her community. Her civic contributions come on top of the responsibilities that come with the company she has owned since 1974.

Ms. Helfant has worked hard over the years to help those who seek to make the dream of home ownership a reality. One of America's founding principles is the right of private ownership. Indeed, 3 of the 10 articles in the Bill of Rights, that sacred document which recently celebrated its 200th anniversary, specifically guarantee the sanctity of an individual's home and the inviolable right to own property. Thomas Jefferson once said that homeowners are "the most precious portion of the state." For more than two centuries now, homeowners have lent stability to our society. And for the last two decades, Ms. Helfant has been a force in preserving those ideals for all Americans.

The National Association of Realtors has played an integral role in the areas of affordable housing, equitable tax policy, real estate financing programs, and numerous other programs that contribute to promoting the free transfer of real property and opening up home ownership opportunities for all. I am certain that this fine organization will continue to work toward these goals under the strong stewardship of Dorcas Helfant.

It is indeed a pleasure for this Senator to extend my warmest congratulations to Ms. Helfant for being selected as the 1992 president of the National Association of Realtors. I salute her for her dedication and commitment to the free enterprise system and the positive effects it has had in making this country what it is today. It is the efforts of people such as Ms. Helfant that make it possible for Americans to have not only a house, but a home.●

WATER MAY BE NEXT FLASHPOINT IN MIDEAST

● Mr. SIMON. Mr. President, one of the policy areas where we have paid far too little attention and where we're going to have to do much more is the area of water.

At the end of my remarks, I am going to insert into the RECORD an article by Tom Hundley of the Chicago Tribune that is titled "Water may be next flashpoint in Mideast."

Anyone who reflects on this at all knows that to be the case.

And one of the areas of hope is that the new Secretary General of the United Nations is very much aware of that.

I have had the privilege of corresponding with him on this matter, an interest he has had for many years.

I have legislation that I hope will emerge from the Environment and Public Works Committee shortly that will move us ahead in research on finding inexpensive ways of converting salt water to fresh water.

Frankly, this is an area that is of extreme importance for the future of the world.

Our population is growing, but our water supply is not.

And yet ironically, the areas of great water shortage, such as the Middle East and California, have an abundant supply of water at their doorstep, but it is water that is very expensive to use.

If we would devote 1 percent of the time and talent that we have used on the space program—and I am not suggesting the space program has not been a worthy objective—we would have found answers.

I hope we can move quickly and decisively on this matter of using more research dollars and talent on finding an inexpensive way of converting salt water to fresh water.

I ask that the Tom Hundley article be placed in the RECORD at this point and urge my colleagues and their staffs to read a significant article. We have vital interests at stake in the Middle East, and yet we are paying very little attention to this fundamental problem of water.

The article follows:

[From the Chicago Tribune, Feb. 2, 1992]

WATER MAY BE NEXT FLASHPOINT IN MIDEAST

(By Tom Hundley)

AL-AWJA, Israeli-occupied West Bank—The mountain spring that once nourished the banana and orange groves of this Arab village in the Jordan River Valley flows no more.

The life-giving stream began to falter five years ago, dwindling to a trickle during the dry months of the summer, returning to normal when the winter rains came.

But early last summer, it went completely dry and experts doubt that even this winter's record rainfalls will be able to regenerate it.

As a result, the fruit trees have withered and died, and the livelihood of dozens of farmers has been ruined.

Many farmers have been forced to take the jobs they most resent—construction work on new Jewish settlements.

"The people blame the Israelis for this disaster," said Ibrahim Naji, a 30-year-old former farmer.

It is not hard to understand why. The shallow aquifer that had been the source of the Al-Awja spring has been drained dry by a half-dozen deep wells dug by Israel water authorities. The wells' pumps churn day and night, drawing water for dozens of new settlements that have sprouted like desert flowers over the last few years and lowering the water table in the arid hills of the West Bank.

The struggle over scarce water resources is hardly unique to the Israeli-Palestinian conflict. Indeed, it is the recurring theme of several intra-regional conflicts that have helped make the Middle East a political minefield.

During the Persian Gulf crisis, Egypt's leaders became apoplectic when neighboring Sudan—at Iraq's behest—reportedly aimed its missiles at the Aswan Dam, which regulates the flow of the Nile, Egypt's sole source of water.

A year earlier, Syria and Iraq were muttering darkly against Turkey and its ambitious plans to construct a series of dams that would greatly reduce their share of the flow from the Tigris and Euphrates rivers.

The Turkish military now guards those dams like the gold in Ft. Knox.

In Jordan, King Hussein has said he can envision only one circumstance that would compel him to go to war with Israel—a dispute over the headwaters of the Jordan.

Egypt's late Anwar Sadat once said his country would not hesitate to go to war to defend the Nile. His threat was aimed not at Israel, with whom he made peace in 1979, but at Egypt's upstream neighbors, Ethiopia and Sudan.

The consensus among diplomats in the region is that water is the next crisis waiting to happen. The problem is simple enough: The arid Middle East does not have enough water to sustain the current rates of population growth and economic development.

Pollution, waste and mismanagement threaten the limited supplies that are available.

That's one reason why water was at the top of the list of topics discussed in Moscow at last week's multilateral Middle East talks.

"Water has become a strategic asset as well as an economic commodity," said Kamran Inan, the state minister in charge of Turkey's ambitious plans to harness the Tigris and Euphrates. "in 10 years, water will be more important than oil—if not more expensive."

Water already has assumed paramount importance in the bitter political struggle between Israel and the Arabs. With the exception of Lebanon, none of the principals—Israel, Jordan, Syria or the Palestinians in the occupied territories—has enough water to meet current needs.

Israel, however, holds the upper hand. Territory seized from Jordan and Syria in the 1967 war and from Lebanon in the 1982 invasion has given Israel full control of the region's main water resources—the Jordan and Kitani Rivers and the aquifers that lie beneath the West Bank.

According to one U.S. study, nearly half of Israel's water now comes from sources located outside its pre-1967 boundaries. This includes water that is drawn from the vital Yarkon-Taninim aquifer, which is replenished mainly by rains that fall on the slopes of the West Bank.

Not surprisingly, Israel's agriculture minister recently took out full-page newspaper ads warning that Israel's water needs precluded the possibility of relinquishing a single inch of territory taken from the Arabs.

He was not exaggerating. For years, Israel has been using up its water resources at 5 to 10 percent above the natural replenishment rate, a reckless practice that is lowering the water table and exposing the fragile underground aquifers to sea water.

Israeli per capital consumption is more than 300 cubic meters of water a year, low by standards of industrialized nations but triple the 100 cubic meter per capita consumption of West Bank Palestinians.

The reason for the discrepancy is simple. "Israel has full control over the water resources; even on our own land, we can do nothing without their permission," said Nader Khatib, a water engineer for the West Bank town of Bethlehem.

Palestinians in the occupied territories traditionally have drawn water from numerous shallow wells that skim the upper reaches of the underground aquifers. But Israeli authorities have sealed up some of these wells and imposed a strict ban on new Arab wells.

Meanwhile, Jewish settlers have been provided with deep wells—such as those near the spring at AlAwja—that give the false impression of an unlimited supply of water.

During this summer's drought, when many Arab villages had no water at all, residents of neighboring Jewish settlements were watering their lawns. The Israeli water authority gives residential customers a discount for watering shrubs and flowerbeds.

Palestinians complain that Israeli policies amount to outright theft of their resources. Some see it as part of a grand plot to destroy their agrarian society and force them into the low end of the Israeli economy.

Israelis counter that they have upgraded the overall water system in the occupied territories and that Palestinian per capita consumption has actually increased under Israeli rule.

While these issues provide tinder for the ongoing Arab-Israeli conflict, many in Israel are beginning to rethink the country's attitudes toward water usage.

Israel currently allocates about 70 percent of its total water resources to its heavily subsidized agricultural sector—part of the Zionist dream to "make the desert bloom." At the same time, Israel, with a population of 4.3 million, hopes to absorb up to 1 million immigrants from the former Soviet Union over the next five years. Simple arithmetic says it cannot do both.

Many authorities think it would be cheaper for Israel to import food rather than continue expensive agriculture subsidies.

"But agriculture is not just an economic issue—just ask the American farmer," said Hillel Shuval, a water expert at Jerusalem's Hebrew University.

"Agriculture is a very deep ideological issue in Zionism. It's a bond to the land, and anything that results in its weakening is not just a cost-benefit analysis for us," said Shuval.

Egypt is faced with a similar dilemma, but on a vastly larger scale. Egypt's population is 55 million, and it increases by 1 million every 10 months.

The agricultural sector uses up 82 percent of Egypt's water resources and employees 60 percent of its population, yet manages to meet only about half of the nation's food requirements.

"If we don't do something between now and 2005, we'll be in real trouble," said Mahmoud Abu Zaid, director of Egypt's water research authority.

For Egypt, water policy is a juggling act that must measure the thirst of unrestricted population growth against ambitious plans to reclaim desert land for agricultural uses.

Like Israel, Egypt is up against the limits of its water resources. It already uses all 55.5 billion cubic meters of its annual share of the Nile—and then some. The extra water—about 5.7 billion cubic meters—is water that is recycled two or three times before it drains into the Mediterranean.

Since 1968, when the Aswan High Dam was completed, Egypt has reclaimed more than 1 million acres of land for farming and has plans to reclaim a 1.6 million more by 2000—barely enough to keep pace with the expanding population.

The new lands are irrigated by water-saving drip and sprinkle technologies, but the vast majority of farmland in the Nile Valley and Delta is irrigated by inefficient canals that have been around since Pharaonic times.

"We do know quite a lot about water and conservation, but unfortunately we don't have enough money to put it into effect," said Magdy Sobhi Yosef, a water expert at Cairo's Center for Political and Strategic Studies.

What most worries Egypt, however, is that 100 percent of the Nile's flow originates outside its borders.

About half the Nile's waters originate in the highlands of Ethiopia; the rest comes from the equatorial rainforests of central Africa, and all of it must flow through the Sudan before reaching Egypt.

None of these places is noted for political tranquility. And while none has the technical wherewithal to completely cut off the Nile, several countries including Ethiopia and Sudan are starting to come up with strategies to exploit the Nile for their own economic development. Inevitably, this will eat into Egypt's share of the river.

Little wonder, then, that former Egyptian Foreign Minister Boutros Boutros-Ghali, now the new UN secretary general, framed Egypt's national security as "a question of water."

Nor is Egypt the only Arab state that is vulnerable.

"Ninety percent of the Arabic speaking people receive their water from non-Arabic regions," notes Kamran Inan, Turkey's water czar.

Turkey, one of the few Middle Eastern countries with an abundance of water, hopes to do with water what Saudi Arabia has done with oil and position itself as the region's water superpower.

The centerpiece of Turkey's strategy is the $22 billion Southeast Anatolia Project, which calls for the construction of 22 dams along the upper Euphrates and Tigris rivers.

The completed project is expected to generate 27 billion kilowatts of electricity annually, irrigate 42 million acres of farmland and provide more than 3 million jobs in what is now Turkey's most impoverished and backward region.

But already the ambitious scheme has Turkey's Arab neighbors in a state of high anxiety.

In early 1990, when the first phase of the massive Ataturk Dam was finished, Turkey shut off the Euphrates for a month to begin filling the reservoir. Downstream, Syria and Iraq protested vehemently.

At this point, the Ataturk Dam has cut the flow from the Euphrates by about a third, and neither Syria nor Iraq are soothed by Kamran Inan's assurances that "we never plan to use water as a weapon, as the Arabs have done with oil."

Indeed, Turkey is aggressively promoting its idea for a "peace pipeline"—another $20 billion scheme that would carry Turkey's water surplus to parched customers in Saudi Arabia and Kuwait, and perhaps Syria, Jordan and Israel.

But already Syria has threatened to block the pipeline, denouncing it as a Turkish plot to "steal" water from poor Arab countries—namely Syria—and sell to rich Arab countries.

More to the point are doubts about the economic feasibility of such a project.

Turkish officials claim that a pipeline could carry 6 million cubic meters a day at a cost of $.50 per meter compared to the $1.50 a meter it now costs countries like Saudi Arabia to desalinate seawater. But other experts say the costs would be about the same.

"Desalination is probably the best option politically, despite the cost, since third country cooperation would not be required," said Hebrew University's Shuval.

Either option is more feasible than some of the other far-out schemes that have been advanced—Saudi Arabia's plan to tow icebergs from the Arctic; Israel's idea to float huge plastic waterbags across the Mediterranean.

But clearly, the key to resolving the Middle East's chronic water problems lies in solid regional cooperation rather than the current political deadlock that Shuval accurately characterizes as "a zero sum game in which nobody starts out with enough."

At last week's multilateral talks in Moscow, delegates representing nearly 40 nations agreed to form a permanent working committee of experts to take up the regional water crisis. Headed by the U.S., the committee voted to meet again in spring to set up a formal agenda.

But a few key players are not cooperating. Syria, which last autumn forced the cancellation of a major international water conference in Istanbul, boycotted Moscow. The Palestinians came to Moscow, but declined to take part in the talks after the conference cosponsors refused to accredit some of the Palestinian delegates.

Still, Israel participated in the talks, as did Saudi Arabia, Jordan and a half-dozen other Arab states who previously had refused any nod to the existence of their Jewish neighbor.

The U.S. hopes the dialogue between the regional adversaries will be nudged along by the participation of Japanese and Western officials who can offer economic assistance for regional water projects.

Nobody expected immediate breakthroughs in Moscow—and none occurred. But the fact that longtime antagonists finally are sitting down to discuss regional issues is a significant achievement in itself.•

ALLEDGED HUMAN RIGHTS ABUSES MUST BE INVESTIGATED

• Mr. DECONCINI. Mr. President, I am deeply disturbed about reports from former members of UNITA alleging human rights abuses by the UNITA leadership. Any and all allegations of such abuses must be investigated immediately and thoroughly by impartial, outside observers such as Amnesty International or the Red Cross. This investigation should look into the allegations of human rights abuses by UNITA, and the alleged disappearance or death of Tito Chingunji and Wilson dos Santos. Additionally, it should investigate all reports of political prisoners and prisoners of war allegedly being held by Angolan Government forces as well as allegations that more than $100 million in Angolan oil revenues have been misappropriated by Angolan Government officials. The people of Angola deserve nothing less than the complete truth on all of these allegations.

My support for UNITA has been predicated on my belief that the people of Angola—as should the people of every nation throughout the world—have the right to freely choose their government through free and fair, democratic elections. UNITA has advocated that position and the Angolan Government has committed to fulfill its pledge to hold these elections in September of this year.

When I was in Angola in August of last year, I asked about the health and well-being of Tito. Dr. Jonas Savimbi assured me that Tito was well and would soon be moving to Luanda. I did not, however, see Tito at that time. Tito was an effective UNITA representative when he served here in Washington and I would like to get to the bottom of these allegations.

Ultimately, I believe that the election process should not be disrupted. The people of Angola want and deserve a freely elected government. They also want the elections to be held in September as agreed to in the accords signed in Lisbon last May. Angolans deserve a compete investigation of all allegations of abuses by all parties. I do not believe that these reports should in any way interfere with the political process now moving forward slowly in Angola. Once a full investigation is completed, it will be up to the Angolan people—at the polling place—to decide who will govern.

All parties now competing in these elections, however, should be aware that the United States will not tolerate abuses of human or civil rights by the next, freely elected government of Angola. Nor will the United States provide any foreign aid to any government—UNITA, MPLA, or some other party—if that government does not respect human rights and protect the fundamental freedoms of the people of Angola.•

NAGORNO-KARABAKH

• Mr. SIMON. Mr. President, I would like to call to your attention the situation in the Nagorno-Karabakh region of the former Soviet Union. This bloody conflict, which has raged for the past 4 years and is a reemergence of a bitter fight dating back centuries, may be a harbinger of widespread ethnic unrest in other areas of the former Soviet Union and elsewhere in the region.

The approach I have taken over the past couple of weeks, a direction I will continue through the rest of this Congress, has focused on the problems of anti-Semitism facing the Jewish people in the nations of the Commonwealth of Independent States. But we also have to be concerned about the abuse of minority rights facing other communities in the former U.S.S.R. Whether it is Jews in Georgia, Cossacks in Russia or Armenians in Azerbaijan, the rights of minority peoples must not be trampled on. Perhaps the worst such conflict underway today is in Nagorno-Karabakh.

While the history of Azeri/Armenian hostilities dates back well before this century, the roots of the present conflict are more the result of events beginning in the first quarter of this century. In the early 1920's, both Armenia and Azerbaijan were forcibly incorporated into the Soviet Union. The borders of each Republic were redrawn and Nagorno-Karabakh was integrated into Azerbaijan. Despite an Armenian majority in the enclave approaching 90 percent, Azerbaijan has continued to control the enclave until the present.

In the past few years, increasing violence against Armenians in the enclave has made living conditions there worse and worse. Azerbaijan has been blockading Armenia and the enclave, and this has made matters worse. They did not lift their blockade even after the devastating Armenian earthquake several years ago. In February 1988, in an attempt to ensure their future, the local Soviet in the enclave passed a resolution calling for the transfer of Nagorno-Karabakh from Azerbaijan to Armenia.

Armenians fled Azerbaijan in large numbers, with the exception of Nagorno-Karabakh, resulting in massive refugee problems and adding to the growing distrust between the two peoples. In December 1991, with 80 percent of the residents of the enclave voting—declaring Nagorno-Karabakh to be an autonomous Republic. Weeks later, Azeri President Multalibov annulled the autonomous status of Nagorno-Karabakh.

The violence has clearly escalated since December. With troops of the CIS withdrawing, I am concerned that the bloodshed will only get worse. If the military buildup continues, there may be no avoiding a large-scale war between the two countries. There now appears to be some prospect that the United Nations may step in as a mediating or peacekeeping force, and my hope is that they do it quickly. And if we get some meaningful economic assistance over there soon, both sides can concentrate on rebuilding their shattered economies and learning to cooperate, not on fighting one another.

Just 2 weeks ago John Lloyd, writing for the Financial Times, commented on the situation in Nagorno-Karabakh as it relates to nationalism and ethnic conflict in the States of the former Soviet Union:

> The area (NKAO) has already played a role far beyond its size: in stimulating the national movement in Armenia, Karabakh lit a torch round the former Soviet Union—one still flaring in Azerbaijan. Furthermore, it is one example of a host of similar cases. All over the former Soviet Union are autonomous regions of differing statuses—many within the Russian Republic itself, which is home to several different peoples. The groups of politicians in Baku who claim the right to destroy these autonomies in the name of equal rule of law are paralleled in other republican capitals—including Moscow and Kiev. They claim such regions are relics of Stalinism and so, in a sense, they are. But the fact is that the people in them cling to their autonomous status, or seek to become fully independent, through fear or a resurgent sense of nationalism. This will hardly go away without further—perhaps a great deal of—bloodshed, if no mechanism can be found to untangle these knots.

Mr. President, what is occurring in Nagorno-Karabakh may nor may not be the future for many areas of the former U.S.S.R. We ought to do everything within our power to work with others to ensure that the conflict in the trans-Caucasus does not repeat itself elsewhere in the new Commonwealth of Independent States. And we ought to speak out forcefully against the disease of ethnic hatred and intolerance, whether it is aimed at Jews, Armenians, or any other minority group anywhere in the world.•

JIMMY CARTER WORK PROJECT

• Mr. NUNN. Mr. President, the Jimmy Carter work project will be hosted by DC Habitat for Humanity the week of June 14. President and Mrs. Carter will be here to participate in the groundbreaking and a convocation of political, religious, and community leaders on Friday, March 27.

As they break ground for the 10 homes that will be built by volunteers this summer, they are helping to break up the patterns of hopelessness, dependence, and poverty that trap so many residents of our Nation's Capital. An additional 10 homes will be built in Baltimore by Carter project volunteers.

Habitat for Humanity is a joint effort of volunteers and low-income people around the world who need decent housing, working together to build homes and communities. Since it was founded in Americus, GA, in 1976, Habitat volunteers have built 6,000 housing units in the United States and 7,000 abroad. Habitat homeowners contribute hundreds of hours of sweat equity—working on their own houses or other Habitat homes in their communities. Since its founding in 1988, DC Habitat for Humanity has completed one home and three more are under construction.

Volunteer labor and donations make it possible for Habitat to hold down building costs and provide no-interest 20–30 year mortgages to make homeowners out of people who could not qualify for conventional financing. Payments of homeowners are then recycled to build more homes for others in need of decent, affordable housing.

Jimmy Carter work projects in New York, Chicago, Charlotte, Atlanta, Philadelphia, Milwaukee, Miami, and Tijuana-San Diego have built 190 housing units and a day care center, and renovated an additional 37 units. The Carter work project in Atlanta, brought together churches and corporations and people from all walks of life—lawyers and laborers, housewives and homebuilders, students and senior citizens—to build 20 homes within a week in 1988. As they sawed and hammered, they also helped to build a spirit of community that spread far beyond the neighborhood in which the homes were built.

The Carter projects have focused the Nation's attention on the ongoing crisis in housing, and demonstrated that caring people can make a difference if they are willing to lend a hand.

The need for affordable housing is huge in the Washington area, where housing costs are among the highest in the Nation.

I commend the work of President and Mrs. Carter, the 300 volunteers who will come to the District for the Carter project in June, and the hundreds of volunteers in the Washington area who are contributing time, materials, and services to make this year's Jimmy Carter work project a success. I urge my fellow Senators, and all Americans, to support the efforts of groups throughout our country such as Habitat for Humanity that are working together to build better lives by building better housing for those in need.●

COMMENDING PAUL HSU

● Mr. KASTEN. Mr. President, today I wish to recognize the achievement of Paul Hsu from Wausau, WI, who was recently named National Small Business Exporter of the Year by the U.S. Small Business Administration.

Paul is the president of Hsu's Ginseng Enterprises Inc. He is a perfect example of how small business owners across Wisconsin are turning to exporting and succeeding.

Paul Hsu started small in 1974—growing ginseng as a second job. This changed quickly. Paul was able to steer his company past the pitfalls that all small business owners have to face when they start out. He made the right decisions to help his company grow.

Today, Hsu's Ginseng Enterprises employs 83 full-time people and has annual sales of over $13 million. It is remarkable that $8 million of his sales come from exporting to markets in China, Taiwan, Hong Kong, Singapore, and Malaysia.

Small businesses like Hsu's Ginseng make up the economic backbone of our Nation, and have unique qualities which make them good exporters. Small businesses demonstrate the entrepreneurial spirit of America and provide good jobs for American workers.

I am very proud of Paul Hsu, and applaud his accomplishments. I believe that he is very deserving of the award of National Small Business Owner of the Year.●

ORDERS FOR FRIDAY, MARCH 27, 1992, AND TUESDAY, MARCH 31, 1992

Mr. FORD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m., Friday, March 27; that on Friday, the Senate meet in pro forma session only; further that at the close of the pro forma session, the Senate stand in recess until 11:30 a.m., Tuesday, March 31; that on Tuesday, following the time reserved for the two leaders, there be a period for morning business, not to extend beyond 12:30 p.m., with Senators permitted to speak for up to 5 minutes; with Senator HARKIN recognized for up to 20 minutes; and Senator BOND recognized for up to 30 minutes; that on Tuesday, the Senate stand in recess from 12:30 p.m. to 2:30 p.m., in order to accommodate the respective party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL TOMORROW AT 11 A.M.

Mr. FORD. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess until 11 a.m., Friday, March 27.

There being no objection, the Senate, at 11:12 p.m., recessed until Friday, March 27, 1992, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate March 26, 1992:

THE JUDICIARY

MANUEL H. QUINTANA, OF NEW YORK, TO BE U.S. DISTRICT JUDGE FOR THE SOUTHERN DISTRICT OF NEW YORK, VICE A NEW POSITION CREATED BY PUBLIC LAW 101-650, APPROVED DECEMBER 1, 1990.

NATIONAL SCIENCE FOUNDATION

RICHARD NEIL ZARE, OF CALIFORNIA, TO BE A MEMBER OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR THE REMAINDER OF THE TERM EXPIRING MAY 10, 1992, VICE MARY LOWE GOOD, RESIGNED.

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR TERMS EXPIRING MAY 10, 1998:

F. ALBERT COTTON, OF TEXAS. (REAPPOINTMENT.)

CHARLES EDWARD HESS, OF CALIFORNIA, VICE JOHN C. HANCOCK, TERM EXPIRING.

JOHN HOPCROFT, OF NEW YORK, VICE FREDERICK PHILLIPS BROOKS, JR., TERM EXPIRING.

JAMES L. POWELL, OF PENNSYLVANIA. (REAPPOINTMENT.)

FRANK H.T. RHODES, OF NEW YORK. (REAPPOINTMENT.)

RICHARD NEIL ZARE, OF CALIFORNIA. (REAPPOINTMENT.)

HOUSE OF REPRESENTATIVES—*Thursday, March 26, 1992*

The House met at 11 a.m.

The Reverend Gary Hill, Ebenezer Methodist Church, Knoxville, TN, offered the following prayer:

Heavenly Father, in whose kingdom no strength is greater than the strength of love, we honor You today as the king of all nations and humbly request that Your grace be so all encompassing that it gather Your children of every nation under the single banner of peace.

May an uncommon wisdom be bestowed upon those who labor for what is right and honorable and true and just. For as Your holy light shines through us, those dividing forces of anger, suspicion, hatred, and oppression will be forced aside as the waters of a troubled sea and there shall be established peace in Your church, peace among nations, peace in our homes, and peace in our hearts. It is in Your powerful and loving name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New Jersey [Mr. ZIMMER] lead the House in the Pledge of Allegiance.

Mr. ZIMMER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate disagrees to the amendments of the House to the bill (S. 1306) entitled "An act to amend title V of the Public Health Service Act to revise and extend certain programs, to restructure the Alcohol, Drug Abuse and Mental Health Administration, and for other purposes," and agrees to the conference asked by the House on the disagreeing votes of the two houses thereon, and appoints Mr. KENNEDY, Mr. PELL, Mr. METZENBAUM, Mr. DODD, Mr. HARKIN, Mr. ADAMS, Mr. HATCH, Mr. COATS, Mr. THURMOND, and Mr. DURENBERGER to be the conferees on the part of the Senate.

The message also announced that the Senate had passed concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. Con. Res. 102. Concurrent resolution to provide for a Joint Congressional Committee on Inaugural Ceremonies; and

S. Con. Res. 103. Concurrent resolution authorizing the rotunda of the United States Capitol to be used on January 20, 1993, in connection with the proceedings and ceremonies for the inauguration of the President-elect and the Vice-President-elect of the United States.

The message also announced, that pursuant to Public Law 102-240, the Chair, on behalf of the Republican Leader, appoints Mr. Ralph Stanley of Virginia, as a member of the Commission to Promote Investment in America's Infrastructure.

THE REVEREND GARY HILL

(Mr. CLEMENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLEMENT. Mr. Speaker, it is a pleasure to introduce this morning as our guest chaplain, the Reverend Gary Hill of Knoxville. Reverend Hill is the pastor of Ebenezer United Methodist Church.

Born in Oak Ridge, Reverend Hill grew up in Ooltewah, TN, a suburb of Chattanooga. In 1967 he joined the U.S. Navy, where he served for 4 years in the submarine service.

After the Navy, he attended the University of Tennessee, where he received a bachelor's degree. He then attended Duke University, where he earned the master of divinity degree in 1978.

After serving several years in the local parish of the United Methodist Church, Reverend Hill again entered the U.S. Navy, this time as a chaplain. He was stationed at Pearl Harbor, from which he made two deployments to the Indian Ocean.

Reverend Hill and his wife, Connie, have two children, Luke, age 12, and Justin, age 10. Reverend Hill now lives in Knoxville where, as I mentioned, he serves as pastor of Ebenezer United Methodist Church.

Reverend Hill also presided at the marriage of the former Miss Tennessee, Sonya Pleasant, who is a wonderful person, and who lives and resides here in Washington, DC, with her husband, David.

Mr. Speaker, I am pleased to welcome Reverend Hill, his family and his friends to the U.S. House of Representatives.

APPOINTMENT OF CONFEREES ON S. 3, SENATE ELECTION ETHICS ACT OF 1991

The SPEAKER. The Chair appoints the following conferees on S. 3 to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits for Senate election campaigns, and for other purposes, and without objection, additional conferees may be appointed by the Chair: Messrs. ROSE, GEJDENSON, GEPHARDT, SWIFT, PANETTA, SYNAR, KLECZKA, THOMAS of California, EDWARDS of Oklahoma, LIVINGSTON, and WALSH.

As additional conferees from the Committee on Energy and Commerce, for consideration of sections 103 and 202 of the Senate bill, and section 802 of the House amendment, and modifications committed to conference: Messrs. DINGELL, MARKEY, and LENT.

As additional conferees from the Committee on Post Office and Civil Service, for consideration of sections 104, 404, 409, and 411 of the Senate bill, and section 103 of the House amendment, modifications committed to conference: Messrs. CLAY, MCCLOSKEY, and GILMAN.

There was no objection.

INTRODUCTION OF LEGISLATION TO PROMOTE OPEN SPACE PRESERVATION

(Mr. ZIMMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZIMMER. Mr. Speaker, today I am introducing the second half of my legislative package to promote open space preservation.

Many owners of undeveloped land are willing to sell their property or their development rights to a government entity or a charitable organization at a price below its fair market value just to ensure its preservation.

However, for tax purposes, the owners are only allowed to subtract a fraction of the property's original cost from the selling price when calculating their gain in such a situation.

This effectively raises taxes on the sale and serves as a deterrent to open space preservation.

My bill would amend the Tax Code so that the gain from these bargain sales would be calculated using the full original cost of the land.

This would eliminate the disincentive for individuals to sell land at reduced prices for open space preserva-

☐This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

tion and would help protect America's heritage.

I urge my colleagues to join me in support of this legislation.

HIGHER EDUCATION REAUTHORIZATION

(Mr. DERRICK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERRICK. Mr. Speaker, today we are giving higher education the attention it deserves. In America, every child is given the opportunity for a free public education. Yet, when the low- or middle-income student reaches college age access to a postsecondary education is greatly eroded.

Individuals from upper income families are four times more likely to be enrolled in college than those from lower income families. That's why financial aid programs from Pell grants to guaranteed student loans are essential for most families. They make the difference between a college education and no college education for thousands of families.

Mr. Speaker, this Nation must have educated people, not just educated rich people. Education has the means to put all people on the road to equality. Let's continue on that road. It's a matter of fairness. We must not shut out needy and deserving students from hard-pressed low- and middle-income families.

I urge my colleagues to support the higher education reauthorization.

INTRODUCTION OF LEGISLATION TO PROHIBIT CAMPAIGN FUNDS CONVERSION

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, as you know, there exists in current law a gigantic loophole which permits Members of Congress who were elected before 1980 who if they retire before 1993 would be able to convert to their own personal use any and all moneys left over in their campaign funds. The American public will not stand for this outcome. Therefore, I am introducing legislation today that will prohibit any conversion to personal use of any campaign funds left over at the end of this current year, the last year for which those people are eligible to do so.

If there is any kind of campaign finance reform on which we can all agree, it is this.

There are many Members who fall in that category who have already declared that they will not use those left over campaign funds for their personal use, and that is fine. We accept that, but the law in this Congress ought to be reflective of the will of the American people that the practice should be prohibited under the law.

Mr. Speaker, I ask all Members to join in this effort.

OPENING THE DOORS OF OPPORTUNITY FOR HIGHER EDUCATION

Mr. PRICE. Mr. Speaker, there are few issues as important for out country as the one we are considering today—opening the doors of opportunity for higher education.

Over the last decade, college costs have risen much faster than either Federal student aid or middle-class family income. Middle-class families are being squeezed, forced to carry a heavy debt burden to send their kids to college.

Today, the House will vote to ease that burden by passing the Higher Education Act.

This bill revamps and streamlines Federal student aid programs, cracks down on fraud and abuse, and simplifies the student aid process.

And it opens up opportunities for middle-class families by making more middle-class students eligible for Pell grants and guaranteed student loans.

These programs were slashed to the bone in the Reagan years, and many middle-class families were cut out of the program.

The Higher Education Act will turn that around, making almost 2 million additional kids from middle-income working families eligible for Pell grants and guaranteed student loans next year.

This bill puts our priorities in the right place, and helps hard-working American families realize the dream of higher education for their children. I'm proud to support it.

FREEDOM-LOVING PEOPLE THROW OFF THE YOKE OF COMMUNISM

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Mr. Speaker, I was privileged to lead a privately funded mission to Yugoslavia and Albania last weekend, to observe the elections in Albania.

What a thrill it was to see these freedom loving people throw off the yoke of communism. We witnessed, first hand what would appear to be the final death blow to Communist repression in Eastern Europe. We witnessed the euphoric jubilation of the hundreds of thousands of Albanian citizens in Tirana Square.

When Sali Barisha, chairman of the anti-Communist Democratic Party spoke to his supporters following their tremendous victory in a free election. The over 60 percent of the vote that his party received means that Sali Barisha will in all likelihood be elected as President, when the new parliament convenes. We had a chance to tour the countryside, and see first hand the plight of the Albanians in Macedonia and Kosova as they struggle for freedom and basic human and civil rights.

Mr. Speaker, we ought to support these freedom loving people and their fledgling democracies by assembling a coalition of governments, private foundations, and the business community. We received the support of Lafayette and Kosciusko in our revolution. We should not turn our backs on the freedom seeking Albanians and other Eastern European groups who so desperately need our help now in order to survive.

THE PEOPLE WILL DECIDE

(Mr. DOOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOOLEY. Mr. Speaker, I have listened to the bombastic rhetoric of my Republican colleagues calling for a change in leadership of this House.

These Republicans think that voters have been fooled in the past, but that they won't be anymore.

That is bunk, Mr. Speaker. The American people know the score.

Every 2 years, the people of this country have the option of changing the majority party of this House.

Every 2 years they study the issues. They size up the opponents. They make informed choices. And in overwhelming majorities they continue to vote for Democrats.

They know who in this House offers hope for the unemployed. They know who seeks to make health care affordable to all Americans. And they know who is fighting for fairness on taxes.

It is always up to the people, Mr. Speaker. And they know that the Democratic Party is on their side.

TIME TO PRESERVE STATE AND LOCAL LEGISLATIVE RIGHTS

(Mr. THOMAS of Wyoming asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Wyoming. Mr. Speaker, I rise to introduce legislation that recognizes the primary legislative rights and prerogatives of State and local governments.

As a former State legislator, I have seen Federal intervention into State and local matters on many occasions. Sometimes it is warranted, sometimes it is not. But Congress has had to subsequently enact many bills and amendments to clarify what it is they've done to these Governments, and that has usually entailed many additional costs.

Our Constitution created a Federal system, but it did preserve for the States some rights to manage their own affairs. Congress has enacted laws that specifically preempt these rights. More times than not, they have passed laws so vague that the courts have had to step in to interpret the intent, usually to the detriment of State and local governments.

As I've stated in the bill, preemptive statutes provide little guidance for State and local governments. They create uncertainty and increase litigation. They sometimes create results contrary to congressional intent.

My legislation is very simple. It would require Congress to specifically state that it is the intent of a proposed bill to preempt State and local laws and regulations. It would also require the Congressional Research Service to compile and publish a report of all preemptions enacted into law during each Congress, as well as preemptions caused by judicial interpretation during that same time period.

My legislation will not stop preemption. There are some instances where the Federal Government must—and should—assume this task. The bill simply requires that when we take this step, we do it in a forthright, honest and public manner, and determine the costs of Congress' actions.

This legislation has already been introduced in the other Chamber by Senator LEVIN of Michigan and Senator DURENBERGER of Minnesota. It has received the support of the National Conference of State Legislatures. I ask my colleagues to cosponsor this needed legislation.

Widespread Federal preemption of State and local laws is a problem that needs to be addressed. It handcuffs State and local officials as they try to deal with the problems they face firsthand. It has increased the caseload of the Federal court system. Most importantly, it obscures the fundamental principle of a separate Federal and State Government created by the Constitution.

CAMPAIGN FINANCE REFORM

(Mr. MAZZOLI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAZZOLI. Mr. Speaker, daily for the past weeks I have spoken here in the well in behalf of passage of fundamental, comprehensive campaign finance reform legislation. I am very pleased today that you have, Mr. Speaker, appointed conferees on the part of the House to confer with the conferees on the part of the other body to produce legislation reforming the campaign laws.

Any worthy piece of legislation, which returns to this Chamber, should have very strict limits on campaign spending, should reduce the influence of political action committees and special interests on the campaign process, and certainly should eliminate the practices of bundling and the use of soft money, which the New York Times calls sewer money. It is only, by passing campaign finance reform, that we will be able to restore the confidence of the people in this system of government. Our conferees have the opportunity to halt the unending and, I am sorry to say, the unedifying quest for money which drives the political process, and return to the heart of that process the people of America.

I commend them to that worthy task.

POTENTIAL FOR EXPORTS IN SOUTHEAST ASIA

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, for my export 1-minute today, I would like to address a potential lost opportunity for United States business in Southeast Asia.

Yesterday, the Journal of Commerce reported that U.S. businesses are losing an important competition for exports to one of the world's fastest growing regions, Southeast Asia. While many experts believe the countries of Brunei, Indonesia, Malaysia, the Philippines, Singapore, and Thailand hold a vast potential for future United States exports, current figures reveal that European Community and Japanese business interests have been much more aggressive in pursuing these vast markets.

For example, in packaged food sales, United States industries hold a mere one-sixth of the market share that European Community food processors possess. Yet the problems are not limited to this important sector of trade between the United States and Southeast Asia. U.S. Ambassadors to the region are urging all U.S. businesses to increase their efforts in the six countries, and they pledged their help in aggressively pursuing the vast potential of these markets.

Mr. Speaker, an aggressive effort and exploration of markets is sorely needed in Southeast Asia. Several reports suggest that it is not the quality of U.S. products which account for small market shares; it is inadequate marketing, service, and selling initiatives which have hampered U.S. sales to the region.

Unfortunately, this trend cannot continue if U.S. business hopes to tap into one of the world's fastest growing regions. The U.S. economy is dependent upon exports and new markets. Therefore, this Member urges his fellow Members, U.S. Ambassadors and agencies in the region, and U.S. businesses to seize the export opportunities presented in Southeast Asia.

MA BELL MAY BECOME TACO BELL

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, as we speak, a free trade agreement with Mexico is being ironed out. But a Mexican spokesman said Mexico will have no banking regulations.

Now, we already know that Mexico has no safety regulations, no health regulations, no environmental regulations, no wage regulations. Tell me, Mr. Speaker, how can we have a free trade agreement with Mexico when they have no regulations and can pay their workers $1 per hour?

Mr. Speaker, it is free trade, all right—free and easy for Mexico and another shaft for the American workers.

Mr. Speaker, I predict with this agreement Ma Bell will become known as Taco Bell. But I say our tax and trade laws are unconstitutional.

I want to know how an American family can enjoy life, liberty, and the pursuit of happiness without a job.

OUT OF CONTROL

(Mr. JAMES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JAMES. Mr. Speaker, this House is out of control.

This morning, the Washington Post reported that the House counsel thinks the Capitol Hill Police are out of control.

The House bank was out of control, which was one reason for the rubber check scandal.

The House post office was so out of control that it became a center for cocaine dealing and embezzlement.

The ethics of this institution are out of control. The American people question whether the Members of Congress know the difference between right and wrong, or care about that difference.

We must take steps to restore order and control to the House. Speaker FOLEY has appointed his own Capitol Hill insider to be temporary Sergeant at Arms. Instead, this House should select a career law enforcement official, an outsider, to come in to supervise the cleanup. We need to restore the basic processes of ethics and law enforcement—now.

The voters in any city or county engulfed by a wave of corruption would demand an outsider be brought in to clean up. We should demand the same.

□ 1120

SENATOR RUDMAN'S WORDS MUST BE HEEDED

(Mr. SWETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWETT. Mr. Speaker, I rise today in tribute to a great statesman and public servant from my home State of New Hampshire—Senator WARREN RUDMAN, who has announced that he will not be seeking a third term in the U.S. Senate.

Senator RUDMAN is widely respected both here on the Hill and in his home State. His policy of putting the public interest above partisan politics has enabled him to pass landmark legislation as well as gain the favor of both sides of the isle.

Even as he ended the speculation of a third run, he spoke first to the state of the Nation, forcing the press and the public to acknowledge the growing financial disaster facing our country. All of us who witnessed his press conference were touched by his obvious love and concern for his country.

Mr. Speaker, let us heed the words of Senator RUDMAN. The growing budget crisis does put our country at risk. Borrowing without bounds does set the course for other nations to dictate our policies in the future. Let us honor our fellow colleague Senator RUDMAN by showing the courage and character to make the hard choices necessary for our country.

OUT-OF-STATE WASTE AND MAGOFFIN COUNTY

(Mr. ROGERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROGERS. Mr. Speaker, Magoffin County may be a small county in eastern Kentucky, but the people of Magoffin County are sending their elected leaders a big message: They will not accept out-of-State waste.

People are angry and they should be.

No region, no town, no county should be forced to accept the growing volumes of solid waste that flow from other regions.

The solid waste export business is booming for major corporations and shippers in the East. Yet States like Kentucky do not have a say in determining what goes into their own backyards.

Mr. Speaker, this is wrong. The people of Magoffin County and other communities need the legislative authority to say "no" to out-of-State waste.

That is why I am delighted that my colleagues on the Subcommittee on Transportation and Hazardous Waste were able to craft legislation that will give States and local communities the power to control and ban out-of-State waste if they choose.

This is the first step. The battle is not over. As the House begins work on crafting the Nation's solid waste statute, I will fight to keep this provision intact.

Give the people of Magoffin County the right to control what goes into their own backyards. Give them the power to just say "no" to out-of-State waste.

INTRODUCTION OF JOINT RESOLUTION PROVIDING FOR RELEASE OF KENNEDY ASSASSINATION MATERIALS

(Mr. STOKES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STOKES. Mr. Speaker, on January 28, 1992, I sent a "Dear Colleague" letter to my colleagues in the House expressing my concern for the letters and telephone calls that have recently been generated by media interest and concern over the records pertaining to the assassination of President John F. Kennedy. As the former chairman of the House Select Committee on Assassinations, I wanted my colleagues to know my position on this matter. Today, I rise to introduce, for myself and a number of our colleagues, a joint resolution to provide for the expeditious release of materials in the possession of the Government relevant to the assassination of President John F. Kennedy. I am joined in this effort by our colleague in the other body, the chairman of the Select Committee on Intelligence of the Senate, DAVID BOREN, who will introduce this measure in that body today.

Mr. Speaker, in the 2-month period since I first sent a "Dear Colleague" to my colleagues in the House indicating that I was in the process of drafting this resolution, I have had the benefit of the legal talent of Prof. Robert Blakey of Notre Dame University Law School, who has worked tirelessly in drafting the resolution which we introduce today. Professor Blakey was former counsel for the House Select Committee on Assassinations, and the House owes him a personal debt of gratitude for his pro bono services in this matter.

Additionally, I have had the cooperation of: Britt Snider and David Halperin of the Senate Select Committee on intelligence; Robert Hertling of the Senate Judiciary Committee; Julien Epstein, Donald Goldberg, and Robert Gellman, of the Committee on Government Operations; Bob Brink of the House Judiciary Committee; Charlie Howell and Jodie Jeremiah, of the Committee on House Administration; and the assistance of both my legislative director and my press secretary, Leslie Atkinson and Joyce Larkin. All of this involvement was for the purpose of arriving at a point of general agreement on a resolution that would satisfy all concerned with ensuring the enactment of this legislation.

Mr. Speaker, I am committed to the principle that Americans are entitled to know all of the facts and circumstances surrounding the assassination of President Kennedy and feel that Congress has the responsibility to see that all records pertaining to that event are put in the public domain.

It is my intention to seek original cosponsors of the joint resolution introduced today. I hope that all of my colleagues will provide me with the opportunity to have their support.

THE HIGHER EDUCATION ACT, AN INVESTMENT IN OUR FUTURE

(Mr. BLACKWELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLACKWELL. Mr. Speaker, today this institution has the unique opportunity to further consider one of the most essential pieces of legislation that will come before us this year. The Higher Education Act transcends all partisan politics and allows all the Members of this body to voice their support for an issue that will define the future of our great Nation.

The numbers speak for themselves, Mr. Speaker. When this legislation is reauthorized, an additional 1.1 million middle-income students will be eligible for Pell grants in the first year alone. Clearly, an increase of this magnitude will provide a great many people that might not have had the necessary funding to secure a college education a chance to realize their dreams.

I cannot tell you, Mr. Speaker, how many people in my district have had the direct opportunity to improve their lives through the use of the Higher Education Act in past years.

There is nothing more touching than to see a child who has worked so hard for so many years finally have the opportunity to attend college. In many cases, these children are often the first member of their family ever to achieve this tremendous goal, a goal that could never have been realized without the financial support provided through this vital legislation.

In addition, Mr. Speaker, this bill provides essential funding for the Women and Minorities Science and Engineering Outreach Program, as well as other key programs which seek to provide new and unprecedented opportunities for the best and brightest of America's future.

At a time, Mr. Speaker, when this institution has come under much scrutiny and harsh criticism, we now have an opportunity to act upon a piece of legislation that every single Member of this body can take great pride in—knowing that by passing this reauthorization we will truly be making a positive difference for our future.

□ 1130

FLAT TAX PROPOSAL TERMED A DREADFUL IDEA

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, I take no position at all so far on the Democratic primaries, but I must say that one candidate, Jerry Brown of California, has come up with truly a dreadful idea. I refer to his motion of scrapping the progressive income tax system and moving instead to a flat tax.

I suspect that a 13-percent flat tax would not be high enough to bring in the revenue needed for the Government, but even if it were, a flat tax means that most people in this country earning under $30,000 a year would pay more in taxes and most people earning over $30,000 would pay less in taxes. It is hard for me to see how anyone who is at all progressive can think in terms of a flat tax, which would raise taxes on poor people and middle-income people and lower taxes for those who are at the high end of the scale.

THE CONTINUED PROLIFERATION OF THE AIDS EPIDEMIC

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, this morning it was announced by Dr. Sullivan, the head of HHS, that we have a worse epidemic as far as AIDS is concerned than we had previously thought. Forty thousand people a year are dying from AIDS, he said, and 40,000 are contracting the disease or getting HIV. That is one out of every 250 Americans. Just look around this room. One out of every 250 Americans is carrying the virus, according to HHS, and we are not doing anything about it.

I believe the epidemic is worse than that. I believe that we have 4 to 6 million people infected, which means that one out of every 40 or 60 Americans has the disease, and they are going to die from it. Many of them will not know for as many as 10 years that they even have the disease, and during that entire time they can infect other Americans.

On our college campuses and in our high schools we know that 80 percent of the kids are sexually active, and many of them are going to die from AIDS because we are not doing something about it. We need a comprehensive program to deal with it, and the cornerstone of that program has to be routine testing. We do not even know who has it. We have to identify those people, we have to have compassion for them, we have to protect our jobs, we have to do scientific research and development, but we have got to know where the disease is, where it is spreading, how it is spreading, and who is spreading it.

Mr. Speaker, if we do not deal with this very quickly, we are going to lose 10, 20, or 30 million Americans. It is going to be devastating to our health system. We have to get on with the job. We cannot keep our heads in the sack forever around this place.

INTRODUCTION OF DRIVER'S LICENSE INFORMATION PROTECTION ACT

(Mr. MORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN. Mr. Speaker, today I am introducing legislation to close a dangerous loophole in current law and protect the privacy of individuals. This legislation, the Driver's License Information Protection Act will prohibit State motor vehicle departments from disseminating private information to individuals, including a person's name and address, based solely on their license plate number.

In 43 States across the country, an individual may access information about someone simply by submitting their license plate number and a small fee to the State department of motor vehicles [DMV]. Although most people are unaware of the easy availability of this information, it has not gone unnoticed by unscrupulous individuals who use the information to their own ends.

In California, in 1989, Rebecca Schaeffer, star of the hit TV series "My Sister Sam," was murdered when a crazy fan came to her home and shot her to death. Although the actress had an unlisted number for safety reasons, the fan had tracked her down through a Tucson detective agency that obtained her address through California DMV records. Since her death, Ms. Schaeffer's friends and family lobbied the California legislature to repeal this loophole in State law. Today, it is no longer possible to get such information from the California DMV.

In Minnesota, the Lambs of Christ, a radical antiabortion group, obtained the name and address of Dr. Susan Wicklund, an abortion provider, through Minnesota's DMV. Since this time, the Lambs have followed Dr. Wicklund in caravans to work, prevented her from leaving her home, broken into her home, and followed her daughter to school. Dr. Wicklund came forward with her story after the Lambs went so far as to disseminate leaflets to children at her daughter's school. These leaflets asked the children if they knew that their classmate's mother, Dr. Wicklund, was a baby killer. Although Dr. Wicklund's ordeal is more publicized and extreme, it is by no means unique. Since coming forward with her story, and appearing on the program "60 Minutes," Dr. Wicklund has been flooded with mail from people around the country who have similar stories of harassment.

In the antiabortion pamphlet, "99 Ways to Stop Abortion," Joe Scheidler specifically suggests that activists obtain information about individuals going to clinics through their license plate numbers. One extremist group even has issued a press release stating:

> We are starting to have our volunteers to take down the license number of anyone that they are not able to give literature to. We then trace their license number through legal means, and obtain their name and adress. We then mail literature to them the same day. Some of the vehicles are registered to parents or friends who can pass the information on to the appropriate person.

We all agree that those opposed to abortion have every right to freely express their view, but in these cases that right is being abused, and instead innocent people are being victimized. In each of these instances, the privacy of individuals is being eroded because the Government all too easily disseminates private information about individuals. With Government's increasing capacity to collect and disseminate data, legislation should be passed to protect basic privacy rights.

I would urge each of my colleagues to join me in supporting the Driver's License Information Protection Act, which protects those basic privacy rights and closes a dangerous loophole in current law.

INSPECTOR GENERAL OVERSIGHT SUGGESTED FOR HOUSE OF REPRESENTATIVES

(Mr. RITTER asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, it is time to change the way this House does business. The American people are crying out for such change.

We have heard a lot of talk about a House administrator. A House administrator, I submit, is more of the same. It is more of the same with the ruling party, which has been in charge around here for 5 decades, controlling this House administrator.

Yesterday I joined my colleague, the gentleman from Pennsylvania [Mr. RIDGE], in calling for an inspector general to help set this place straight. Sixty-one agencies of the Federal Government have an inspector general.

An inspector general would be independent, an inspector general would be bipartisan, and an inspector general would not be beholden to the inbred power structure that is running this place and that has created such a mess.

Mr. Speaker, we are not above the law. We need a housecleaning, a thorough housecleaning. An inspector general meets that need.

HIGHER EDUCATION AMENDMENTS OF 1992

The SPEAKER pro tempore (Mr. HOAGLAND). Pursuant to House Resolution 403 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3553.

☐ 1140

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3553) to amend and extend the Higher Education Act of 1965 with Mr. PEASE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, March 25, 1992, all time for general debate had expired.

Pursuant to the rule, the amendment in the nature of a substitute consisting of the text of H.R. 4471, as modified by the amendment printed in House Report 102–462, shall be considered by titles as an original bill for the purpose of amendment, and each title is considered as read.

No amendment to said substitute shall be in order except pro forma amendments for the purpose of debate and those amendments printed in the amendment portion of the CONGRESSIONAL RECORD prior to consideration.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Higher Education Amendments of 1992".

(b) REFERENCES.—References in this Act to "the Act" are references to the Higher Education Act of 1965.

(c) TABLE OF CONTENTS.—

TITLE I—PARTNERSHIPS FOR EDUCATIONAL EXCELLENCE

Sec. 101. Revision of Title I.

"TITLE I—PARTNERSHIPS FOR EDUCATIONAL EXCELLENCE

"Sec. 100. Authorization of appropriations.

"PART A—URBAN COMMUNITY SERVICE

"Sec. 101. Statement of purpose.
"Sec. 102. Application for urban community service grants.
"Sec. 103. Allowable activities.

"PART B—URBAN AND RURAL COLLEGE, UNIVERSITY, AND SCHOOL PARTNERSHIPS

"Sec. 121. Purpose.
"Sec. 122. Agreement.
"Sec. 123. Grants.
"Sec. 124. Grant application.

"PART C—ADMINISTRATIVE PROVISIONS FOR PARTS A AND B

"Sec. 131. Peer review.
"Sec. 132. Disbursement of funds.
"Sec. 133. National network.
"Sec. 134. Definitions.

"PART D—ARTICULATION AGREEMENTS

"Sec. 141. Findings.
"Sec. 142. Purpose.
"Sec. 143. Authorization of grants.
"Sec. 144. State application.
"Sec. 145. Local applications.
"Sec. 146. Articulation agreement.
"Sec. 147. State administration.
"Sec. 148. Priority.
"Sec. 149. Reports.

"PART E—ACCESS AND EQUITY TO EDUCATION FOR ALL AMERICANS THROUGH TELECOMMUNICATIONS

"Sec. 171. Establishment of program.

TITLE II—ACADEMIC LIBRARY AND INFORMATION TECHNOLOGY ENHANCEMENT

Sec. 201. Revision of title II.

"TITLE II—ACADEMIC LIBRARIES IN AN ELECTRONIC NETWORKED ENVIRONMENT

"Sec. 201. Purpose; authorization.
"Sec. 202. Notification of State agency.
"Sec. 203. Administration.

"PART A—COLLEGE LIBRARY TECHNOLOGY AND COOPERATION GRANTS

"Sec. 211. Grants for technology, networking, and other purposes.

"PART B—LIBRARY EDUCATION, RESEARCH, AND DEVELOPMENT

"Sec. 221. Grants authorized.
"Sec. 222. Library education and human resource development.
"Sec. 223. Research and demonstration.
"Sec. 224. Consultation requirements.

"PART C—IMPROVING ACCESS TO RESEARCH LIBRARY RESOURCES

"Sec. 231. Research library resources.
"Sec. 232. Geographical distribution of grants.

"PART D—STRENGTHENING LIBRARY AND INFORMATION SCIENCE PROGRAMS IN HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

"Sec. 241. Strengthening library and information science programs and libraries in Historically Black Colleges and Universities.

"PART E—FUNDING PROHIBITION

"Sec. 251. Funding prohibition.

TITLE III—INSTITUTIONAL AID

Sec. 301. Findings.
Sec. 302. Amendments to part A.
Sec. 303. Amendments to part B.
Sec. 304. Amendments to part C.
Sec. 305. Amendments to part D.

TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

SUBPART 1—FEDERAL PELL GRANTS

Sec. 411. Federal Pell Grant program.
Sec. 412. Unification of needs analysis systems.

SUBPART 2—FEDERAL SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

Sec. 413. Amendments to subpart 2 of part A.

SUBPART 3—STATE STUDENT INCENTIVE GRANTS

Sec. 415. Amendments to subpart 3 of part A.

SUBPART 4—FEDERAL EARLY OUTREACH AND STUDENT SERVICES PROGRAMS

Sec. 417. Establishment of new subpart.

"SUBPART 1—FEDERAL EARLY OUTREACH AND STUDENT SERVICES PROGRAMS

"Sec. 401. Findings.

"CHAPTER 1—TRIO PROGRAMS

"Sec. 401A. Program authority; authorization of appropriations.
"Sec. 401B. Talent search.
"Sec. 401C. Upward Bound.
"Sec. 401D. Student support services.
"Sec. 401E. Postbaccalaureate achievement program authority.
"Sec. 401F. Educational opportunity centers.
"Sec. 401G. Staff development activities.
"Sec. 401H. Outreach grants.
"Sec. 401I. Evaluation for project improvement.

"CHAPTER 2—NATIONAL LIBERTY SCHOLARSHIPS AND PARTNERSHIPS PROGRAMS

"Sec. 403A. Programs authorized.
"Sec. 403B. State eligibility; State plan.
"Sec. 403C. Financial aid program.
"Sec. 403D. Partnership program.
"Sec. 403E. Payment requirements.
"Sec. 403F. Allotment.
"Sec. 403G. Definitions.
"Sec. 403H. Appropriations.

"CHAPTER 3—MODEL PROGRAM COMMUNITY PARTNERSHIP COUNSELING GRANTS

"Sec. 404A. Model program grants.
"Sec. 404B. Diffusion network activities.
"Sec. 404C. Authorization of appropriations.

"CHAPTER 4—HONORS AWARDS

"Sec. 405A. Scholarships authorized.
"Sec. 405B. Eligibility of scholars.
"Sec. 405C. Eligible early intervention programs.
"Sec. 405D. Scholarship amount.
"Sec. 405E. Award procedures.

"CHAPTER 5—TECHNICAL ASSISTANCE FOR TEACHERS AND COUNSELORS

"Sec. 406A. Technical assistance grants.

"CHAPTER 6—NATIONAL STUDENT SAVINGS DEMONSTRATION PROGRAM

"Sec. 407A. National student savings demonstration program.

"CHAPTER 7—PUBLIC INFORMATION

"Sec. 408A. Database and information line.
"Sec. 408B. Public advertising.
"Sec. 408C. Database and information line.

"CHAPTER 8—CONGRESSIONAL ACHIEVEMENT SCHOLARSHIP PROGRAM

"Sec. 409A. Purpose; appropriations authorized.
"Sec. 409B. Scholarships authorized.
"Sec. 409C. Eligibility of scholars.
"Sec. 409D. Award procedures.
"Sec. 409E. Scholarship amount.

"CHAPTER 9—ADVANCED PLACEMENT FEE PAYMENT PROGRAM

"Sec. 410A. Advanced placement fee payment program.

SUBPART 5—AMENDMENTS TO SUBPARTS 5 THROUGH 8 OF PART A

Sec. 418. HEP/CAMP.
Sec. 419. Byrd Honors Scholarship Program.
Sec. 420. Repeal of assistance to institutions of higher education.
Sec. 420A. Child care services.

PART B—FEDERAL FAMILY EDUCATION LOANS

Sec. 421. Name of programs.
Sec. 422. Guarantee authority contingent on timely rulemaking.
Sec. 423. Guaranty agency funding.
Sec. 424. Graduated repayment.
Sec. 425. Study abroad.
Sec. 426. Applicable interest rates.
Sec. 427. Amendments to section 428.
Sec. 428. Supplemental loan program.
Sec. 429. Plus loans.
Sec. 430. Consolidation loans.

Sec. 431. Disbursement rules.
Sec. 432. Unsubsidized loans; extended collection demonstration program.
Sec. 433. Administrative provisions.
Sec. 434. Student loan information.
Sec. 435. Definitions.
Sec. 436. Repayments by Secretary.
Sec. 437. Special rule; elimination of discounting.
Sec. 438. Student Loan Marketing Association facility financing.
Sec. 439. Student Loan Marketing Association financial safety and soundness.

PART C—FEDERAL WORK-STUDY PROGRAMS

Sec. 441. Amendments to part C of title IV.

PART D—FEDERAL DIRECT LOANS

Sec. 451. Establishment of Federal direct loan program.

"PART D—FEDERAL DIRECT LOAN DEMONSTRATION PROGRAM

"Sec. 451. Program and payment authority.
"Sec. 452. Payment rules.
"Sec. 453. Selection by the Secretary.
"Sec. 454. Agreement required.
"Sec. 455. Withdrawal and termination procedures.
"Sec. 456. Terms and conditions.
"Sec. 457. Loan collection functions under competitive procurement contracts.
"Sec. 458. Reports.
"Sec. 459. Schedule of regulatory activities by the Secretary.
"Sec. 459A. Authorization of appropriations.".
Sec. 452. Administrative expenses.

PART E—FEDERAL PERKINS LOANS

Sec. 461. Amendments to part E of title IV.

PART F—NEED ANALYSIS

Sec. 471. Revision of part F.

"PART F—NEED ANALYSIS

"Sec. 471. Amount of need.
"Sec. 472. Cost of attendance.
"Sec. 473. Family contribution.
"Sec. 474. Data elements used in determining expected family contribution.
"Sec. 475. Family contribution for dependent students.
"Sec. 476. Family contribution for independent students without dependent children.
"Sec. 477. Family contribution for independent students with dependent children.
"Sec. 478. Regulations; updated tables.
"Sec. 479. Simplified needs test.
"Sec. 479A. Discretion of student financial aid administrators.
"Sec. 479B. Disregard of student aid in other Federal programs.
"Sec. 479C. Native American students.
"Sec. 480. Definitions.

PART G—GENERAL PROVISIONS

Sec. 481. Definitions.
Sec. 482. Master calendar.
Sec. 483. Forms and regulations.
Sec. 484. Student eligibility.
Sec. 485. Statute of limitations.
Sec. 486. Information.
Sec. 487. Student loan data system.
Sec. 488. Training in financial aid and student support services.
Sec. 489. Program participation agreements.
Sec. 490. Quality assurance; identification numbers.
Sec. 491. Inter-program transfers.
Sec. 492. Administrative expenses.
Sec. 493. Criminal penalties; extent of liability.
Sec. 494. Advisory Committee on Student Financial Assistance.
Sec. 495. Performance based regulatory relief.
Sec. 496. Regional meetings and negotiated rulemaking.

PART H—PROGRAM INTEGRITY

Sec. 497. Establishment of new part H.

"PART H—PROGRAM INTEGRITY

"Sec. 494. State postsecondary review agency program.
"Sec. 495. State postsecondary review agency agreements.
"Sec. 496. Federal reimbursement of State postsecondary review agency costs.
"Sec. 497. Functions of State review agencies.
Sec. 497A. Definitions.
Sec. 497B. Effective dates.

PART I—CONFORMING AMENDMENTS

Sec. 499. Conforming amendments.

TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

Sec. 501. Revision of title V.

"TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

"Sec. 501. Statement of findings and purpose.
"Sec. 502. Authorization of appropriations.

"PART A—STATE AND LOCAL PROGRAMS FOR TEACHER EXCELLENCE

"Sec. 511. Authority and allocation of funds.
"Sec. 512. State application.
"Sec. 513. Local application and use of funds.
"Sec. 514. State uses of funds.
"Sec. 515. Institutions of higher education uses of funds.
"Sec. 516. Federal funds to supplement, not supplant regular nonfederal funds.
"Sec. 517. Coordination with other programs.

"PART B—TEACHER SCHOLARSHIPS AND FELLOWSHIPS

"SUBPART 1—PAUL DOUGLAS TEACHER CORPS SCHOLARSHIPS

"Sec. 521. Purpose.
"Sec. 522. Allocation among States.
"Sec. 523. Grant applications.
"Sec. 524. Amount and duration of and relation to other assistance.
"Sec. 525. Selection of Paul Douglas Teacher Corps scholars.
"Sec. 526. Scholarship conditions.
"Sec. 527. Scholarship repayment provisions.
"Sec. 528. Exceptions to repayment provisions.
"Sec. 529. Federal administration of State programs; judicial review.
"Sec. 530. Designation of shortage areas.

"SUBPART 2—CHRISTA MCAULIFFE FELLOWSHIP PROGRAM

"Sec. 531. Declaration of purpose; designation.
"Sec. 532. Use of funds for fellowships and administration.
"Sec. 533. Christa McAuliffe fellowships.
"Sec. 534. Selection of Christa McAuliffe teacher fellowships.
"Sec. 535. Evaluation of applications.
"Sec. 536. Fellowship repayment provisions.
"Sec. 537. Information dissemination.

"PART C—NATIONAL PROGRAMS

"SUBPART 1—NATIONAL MINI CORPS PROGRAM

"Sec. 541. National Mini Corps.

"SUBPART 2—NATIONAL TEACHER BOARD

"Sec. 546. National Board for Professional Teaching Standards.

"SUBPART 3—PARTNERSHIPS FOR INNOVATIVE TEACHER EDUCATION

"Sec. 551. Findings.
"Sec. 552. Purpose.
"Sec. 553. Program authority.
"Sec. 554. Applications.
"Sec. 555. Uses of funds.
"Sec. 556. Reservation of funds; cost sharing.
"Sec. 557. Definitions.

"SUBPART 4—TEACHER OPPORTUNITY CORPS

"Sec. 561. Purpose.
"Sec. 562. Definitions.
"Sec. 563. Allocation among States.
"Sec. 564. Agreements.
"Sec. 565. State grant applications.
"Sec. 566. General criteria for State grants.

"SUBPART 5—NATIONAL JOB BANK FOR TEACHER RECRUITMENT

"Sec. 571. Study.
"Sec. 572. National Teacher Job Bank demonstration.
"Sec. 573. Use of funds.
"Sec. 574. Definition.

"SUBPART 6—MIDCAREER TEACHER TRAINING FOR NONTRADITIONAL STUDENTS

"Sec. 581. Statement of purpose.
"Sec. 582. Selection of procedures.
"Sec. 583. Applications.
"Sec. 584. Amount of grants.
"Sec. 585. Reports and information.

"SUBPART 7—ALTERNATIVE ROUTES TO TEACHER CERTIFICATION AND LICENSURE

"Sec. 586. Short title.
"Sec. 587. Findings.
"Sec. 588. Purpose.
"Sec. 589. Allotments.
"Sec. 590. State applications.
"Sec. 591. Use of funds.
"Sec. 592. Coordination requirement.
"Sec. 593. Definition.

"SUBPART 8—TRAINING FOR TEACHERS OF DRUG-EXPOSED CHILDREN

"Sec. 594. Program authorized.

"SUBPART 9—TEACHER RECRUITMENT AND PLACEMENT

"Sec. 594A. Program authorized.
"Sec. 594B. Use of funds.
"Sec. 594C. Application.
"Sec. 594D. Federal share.

"SUBPART 10—PARTNERSHIPS FOR ENCOURAGING MINORITY STUDENTS TO BECOME TEACHERS

"Sec. 595A. Program authorized.
"Sec. 595B. Partnership agreement.
"Sec. 595C. Application.

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

Sec. 601. Revision of title VI.

"TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

"PART A—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

"Sec. 601. Findings and purposes.
"Sec. 602. Graduate and undergraduate language and area centers.
"Sec. 603. Language resource centers.
"Sec. 604. Undergraduate international studies and foreign language programs.
"Sec. 605. Intensive summer language institutes.

"Sec. 606. Research; studies; annual report.
"Sec. 607. Periodicals and other research materials published outside the United States.
"Sec. 608. Selection of grant recipients.
"Sec. 609. Equitable distribution of funds.
"Sec. 610. Authorization of appropriations.

"PART B—BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS

"Sec. 611. Findings and purposes.
"Sec. 612. Centers for International Business Education.
"Sec. 613. Joint venturing agreements.
"Sec. 614. Education and training programs.
"Sec. 615. Authorization of appropriations.

"PART C—GENERAL PROVISIONS

"Sec. 631. Definitions.
"Sec. 632. Preservation of pre-1992 programs.

"PART D—INSTITUTE FOR INTERNATIONAL PUBLIC POLICY

"Sec. 641. Establishment.
"Sec. 642. Academic year abroad program.
"Sec. 643. Masters degree in international relations.
"Sec. 644. Internships.
"Sec. 645. Board of visitors.
"Sec. 646. Program requirements.
"Sec. 647. Gifts and donations.
"Sec. 648. Authorization.

TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

Sec. 701. Purposes.
Sec. 702. Authorization of appropriations.
Sec. 703. Revision of part A.

"PART A—GRANTS FOR THE CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF UNDERGRADUATE ACADEMIC FACILITIES

"Sec. 711. Grants.

Sec. 704. Consolidation of parts C and F and elimination of part G.

"PART C—LOANS FOR CONSTRUCTION, RECONSTRUCTION AND RENOVATION OF ACADEMIC, HOUSING, AND OTHER EDUCATIONAL FACILITIES

"Sec. 731. Federal assistance in the form of loans.
"Sec. 732. General provisions.
"Sec. 733. Apportionment.
"Sec. 734. Definitions.

Sec. 705. Amendment to part E.
Sec. 706. Historically Black College and University capital financing.

"PART F—HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING

"Sec. 761. Findings.
"Sec. 762. Definitions.
"Sec. 763. Federal insurance for bonds.
"Sec. 764. Limitations on Federal insurance for bonds issued by the designated bonding authority.
"Sec. 765. Authority of the Secretary.
"Sec. 766. HBCU Capital Financing Advisory Board.
"Sec. 767. Minority business enterprise utilization.

Sec. 707. Forgiveness of certain title VII loans.
Sec. 708. Repeal.

TITLE VIII—COOPERATIVE EDUCATION

Sec. 801. Authorization of appropriations; reservations.
Sec. 802. Grants for cooperative education.

TITLE IX—GRADUATE PROGRAMS

Sec. 901. Purpose; administrative provisions.
Sec. 902. Amendments to part A.
Sec. 903. Amendments to part B.

"PART B—POSTBACCALAUREATE OPPORTUNITY AND HARRIS FELLOWSHIP PROGRAMS

"SUBPART 1—POSTBACCALAUREATE OPPORTUNITY FELLOWSHIPS

"SUBPART 2—PATRICIA ROBERTS HARRIS GRADUATE FELLOWSHIP PROGRAM

"Sec. 926. Statement of purpose; designation of awards.
"Sec. 927. Program authorized.
"Sec. 928. Award of fellowships.

Sec. 904. Amendments to part C.
Sec. 905. Amendments to part D.
Sec. 906. Amendment to part E.
Sec. 907. Amendments to part F.
Sec. 908. Addition of new part; authorization of appropriations.

"PART G—GRANTS TO INSTITUTIONS TO ENCOURAGE MINORITIES TO ENTER THE HIGHER EDUCATION PROFESSORATE

"Sec. 971. Program authorized.
"Sec. 972. Designation of fellows.
"Sec. 973. Applications and awards.
"Sec. 974. Fellowships.
"Sec. 975. Teaching requirement.
"Sec. 976. Consequences of noncompliance.
"Sec. 977. Exceptions to repayment provisions.

"PART H—AUTHORIZATION OF APPROPRIATIONS

"Sec. 981. Authorization of appropriations.

TITLE X—POSTSECONDARY IMPROVEMENT PROGRAM

Sec. 1001. Amendments to part A.
Sec. 1002. Amendments to part B.
Sec. 1003. Amendment to part C.

"PART C—SPECIAL PROJECTS IN AREAS OF NATIONAL NEED

Sec. 1004. Women and Minorities Science and Engineering Outreach Demonstration Program.

"PART D—WOMEN AND MINORITIES SCIENCE AND ENGINEERING OUTREACH DEMONSTRATION PROGRAM

"Sec. 1071. Purpose.
"Sec. 1072. Program authorized.
"Sec. 1073. Eligible institutions.
"Sec. 1074. Amount, duration, and use of funds.
"Sec. 1075. Application.
"Sec. 1076. Evaluation.
"Sec. 1077. Federal share.
"Sec. 1078. Supplement/not supplant.
"Sec. 1079. Authorization of appropriations.

TITLE XI—STUDENT COMMUNITY SERVICE

Sec. 1101. Revision of title.

"PART A—HIGHER EDUCATION INNOVATIVE PROJECTS FOR COMMUNITY SERVICE

"Sec. 1101. Higher education innovative projects for community service.

"PART B—STUDENT LITERACY CORPS AND STUDENT MENTORING CORPS

"Sec. 1111. Purpose.
"Sec. 1112. Literacy corps program and mentoring corps program.
"Sec. 1113. Uses of funds.
"Sec. 1114. Applications.
"Sec. 1115. Technical assistance and coordination contract.
"Sec. 1116. Authorization of appropriations.
"Sec. 1117. Definition.

"PART C—INNOVATIVE PROJECTS FOR COMMUNITY SERVICES AND STUDENT FINANCIAL INDEPENDENCE

"Sec. 1121. Statement of purpose.
"Sec. 1122. Innovative projects for community services and student financial independence.
"Sec. 1123. Authorization of appropriations.

"PART D—COMMUNITY SERVICE-LEARNING

"Sec. 1131. Program authority.

"PART E—GRANTS FOR SEXUAL OFFENSES EDUCATION

"Sec. 1171. Grants for campus sexual offenses education.

"PART F—DWIGHT D. EISENHOWER LEADERSHIP PROGRAM

"Sec. 1181. Short title; establishment of program.

TITLE XII—GENERAL PROVISIONS

Sec. 1201. Definitions.
Sec. 1202. Antidiscrimination.
Sec. 1203. The National Advisory Committee on Accreditation and Institutional Eligibility.
Sec. 1204. Approval of accrediting agency or association.
Sec. 1205. Disclosure of foreign gifts and foreign ownership.
Sec. 1206. Admission of minority students.

TITLE XIII—INDIAN HIGHER EDUCATION PROGRAMS

PART A—TRIBALLY CONTROLLED COMMUNITY COLLEGES

Sec. 1301. Reauthorization of the Tribally Controlled Community Colleges Act.
"Sec. 403. Authorization of appropriations.

PART B—HIGHER EDUCATION TRIBAL GRANT AUTHORIZATION ACT

Sec. 1311. Short title.
Sec. 1312. Findings.
Sec. 1313. Program authority.
Sec. 1314. Qualification for grants to tribes.
Sec. 1315. Allocation of grant funds.
Sec. 1316. Limitations on use of funds.
Sec. 1317. Administrative provisions.

PART C—CRITICAL NEEDS FOR TRIBAL DEVELOPMENT ACT

Sec. 1321. Short title.
Sec. 1322. Definitions.
Sec. 1323. Service conditions permitted.
Sec. 1324. Critical area service agreements.
Sec. 1325. General provisions.

PART D—INSTITUTE OF AMERICAN INDIAN NATIVE CULTURE AND ARTS DEVELOPMENT

Sec. 1331. Institute of American Indian Native Culture and Arts development.
"Sec. 1519. Provision of facilities.

PART E—TRIBAL DEVELOPMENT STUDENT ASSISTANCE REVOLVING LOAN PROGRAM

Sec. 1341. Short title.
Sec. 1342. Findings; purposes.
Sec. 1343. Revolving fund.
Sec. 1344. Eligible recipients.
Sec. 1345. Terms of loans.
Sec. 1346. Service fulfillment and conditions; repayments; waivers.
Sec. 1347. Administration.
Sec. 1348. Authorization of appropriations.

TITLE XIV—MISCELLANEOUS

PART A—STUDIES

Sec. 1401. Data on nontraditional students.
Sec. 1402. Study of Federal benefit coordination.
Sec. 1403. National survey of factors associated with participation.

Sec. 1404. Evaluation of assistance guaranty programs.
Sec. 1405. Information on graduate education.
Sec. 1406. Study of the Center for International Education's staffing requirements.
Sec. 1407. Study of environmental hazards in institutions of higher education.
Sec. 1408. Study of civilian education training programs.
Sec. 1409. Amendments to General Education Provisions Act.
Sec. 1410. Training and technical assistance for school-based decisionmakers demonstration program.
Sec. 1411. Report on the use of Pell Grants by prisoners.

PART B—NATIONAL CLEARINGHOUSE FOR POSTSECONDARY EDUCATION MATERIALS

Sec. 1421. National Clearinghouse for Postsecondary Education Materials.

PART C—NATIONAL CENTER FOR THE WORKPLACE

Sec. 1421. Purpose; designation.
Sec. 1422. Establishment.
Sec. 1423. Use of funds.
Sec. 1424. Board of advisors.
Sec. 1425. Gifts and donations.
Sec. 1426. Authorization.

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. GENERAL EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect on October 1, 1992.

The CHAIRMAN. Are there any amendments to section 2?

If not, the Clerk will designate title I.

The text of title I is as follows:

TITLE I—PARTNERSHIPS FOR EDUCATIONAL EXCELLENCE

SEC. 101. REVISION OF TITLE I.

Title I of the Act is amended to read as follows:

"TITLE I—PARTNERSHIPS FOR EDUCATIONAL EXCELLENCE

"SEC. 100. AUTHORIZATION OF APPROPRIATIONS.

"(a) URBAN COMMUNITY SERVICE.—There are authorized to be appropriated to carry out part A of this title, $25,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

"(b) URBAN AND RURAL COLLEGE, UNIVERSITY, AND SCHOOL PARTNERSHIPS.—There are authorized to be appropriated to carry out part B of this title, $25,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

"(c) ARTICULATION AGREEMENTS.—There are authorized to be appropriated to carry out part D of this title, $50,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

"(d) ACCESS AND EQUITY TO EDUCATION FOR ALL AMERICANS THROUGH TELECOMMUNICATIONS.—There are authorized to be appropriated to carry out part E of this title, for fiscal year 1993 $10,000,000 and such sums as may be necessary for the 4 succeeding fiscal years.

"PART A—URBAN COMMUNITY SERVICE

"SEC. 101. STATEMENT OF PURPOSE.

"It is the purpose of this part to provide incentives to urban institutions (including academic, private, and civic bodies) to work together to devise and implement solutions to the most pressing and severe problems in their communities.

"SEC. 102. APPLICATION FOR URBAN COMMUNITY SERVICE GRANTS.

"(a) APPLICATION AND PLAN.—Any institution seeking assistance under this part shall submit to the Secretary an application at such time, in such form, and containing or accompanied by such information and assurances as the Secretary may require by regulation. Such application shall contain a plan agreed to by the members of a consortium that includes (1) a public or private 4 year institution (and, where possible and appropriate, a community college) in partnership with (2) an urban school system, a local government, a private business, or a nonprofit institution. The Secretary may waive this consortium requirement for those applicants who can demonstrate that they have devised an integrated and coordinated plan which meets the purpose of this part.

"(b) PRIORITY IN SELECTION OF APPLICATIONS.—The Secretary shall give priority to those applications that—

"(1) include plans agreed to by a consortium composed of several members from the categories described in subsection (a); and

"(2) propose to conduct joint projects supported by other local, State, and Federal programs.

"(c) SELECTION PROCEDURES.—The Secretary shall, by regulation, develop a formal procedure for the submission of applications and publish in the Federal Register an announcement with respect to that procedure and the availability of funds.

"SEC. 103. ALLOWABLE ACTIVITIES.

"(a) IN GENERAL.—Funds made available under this part shall be used to support planning, applied research, training, resource exchanges or technology transfers, the delivery of services, or other activities the purpose of which is to design and implement programs to assist urban communities to meet and address their most pressing problems.

"(b) AUTHORIZED ACTIVITIES.—Activities conducted with funds made available under this part may include research on resource exchanges, technology transfer, technical training, the delivery of services, and technical assistance in the following areas—

"(1) urban poverty and its alleviation;

"(2) health care, including its delivery and access;

"(3) under-performing school systems and students;

"(4) problems faced by the elderly in urban settings;

"(5) crime: prevention and alternative interventions;

"(6) urban housing;

"(7) urban infrastructure;

"(8) economic development; and

"(9) other problem areas which participants in the agreement required by section 102 agree are of high priority in the urban area covered by such agreement.

"PART B—URBAN AND RURAL COLLEGE, UNIVERSITY, AND SCHOOL PARTNERSHIPS

"SEC. 121. PURPOSE.

"It is the purpose of this part to encourage partnerships between urban or rural institutions of higher education or consortia of such institutions and secondary schools and school systems serving low-income and educationally disadvantaged urban or rural students to support programs that may assist in improving the retention and graduation rates of such secondary schools, improve the academic skills of their public and private nonprofit secondary school students, increase their opportunities to continue their education beyond the secondary level, and to improve their prospects for productive employment.

"SEC. 122. AGREEMENT.

"(a) AGREEMENT.—To be eligible for a grant under this part, an urban or rural institution of higher education or consortium must enter into a written partnership agreement with a local educational agency. Such partnership may include businesses, labor organizations, professional associations, community-based organizations or other public or private agencies or organizations.

"(b) CONTENTS OF AGREEMENT.—The agreement required under this section shall include—

"(1) a listing of all participants in the partnership;

"(2) a description of the responsibilities of each participant in the partnership; and

"(3) a listing of the resources to be contributed by each participant.

"SEC. 123. GRANTS.

"(a) IN GENERAL.—The Secretary may use funds appropriated for this part to make grants to university-school partnerships. The grants may be used to support partnership activities which are directly related to the purposes set forth in section 121.

"(b) AMOUNT AND USE OF GRANTS.—From such funds, the Secretary shall make grants of no less than $250,000 and no more than $1,000,000.

"(c) PREFERENCES.—In making grants under this part, the Secretary shall give a preference to—

"(1) programs which will serve predominantly low-income neighborhoods;

"(2) partnerships which will run programs during the regular school year and during the summer;

"(3) programs which will serve educationally disadvantaged students, potential dropouts, pregnant, adolescent and teen-aged parents or children whose parents or parent are migratory agriculture workers or migratory fishermen; and

"(4) programs designed to encourage women and minorities who are underrepresented in the fields of science and mathematics to pursue these fields.

"(d) MAINTENANCE OF EFFORT.—Any local educational agency or institution of higher education participating in an agreement under this part shall not reduce its combined fiscal effort per student or its aggregate expenditures on education.

"SEC. 124. GRANT APPLICATION.

"(a) APPLICATION REQUIRED.—A partnership desiring to receive a grant under this part shall submit an application to the Secretary, in such form and providing such information as the Secretary, by regulation, shall require.

"(b) CONTENTS OF APPLICATION.—The application shall include—

"(1) the partnership agreement described in section 122;

"(2) a listing of all the schools to be involved in the program;

"(3) a description of the programs to be developed and operated by the partnership; and

"(4) assurances to the Secretary—

"(A) that the partnership will establish a governing body including one representative from each participant in the partnership;

"(B) that Federal funds will provide no more than 70 percent of the cost of the project in the first year; 60 percent of such costs in the second year, and 50 percent of such costs in the third and any subsequent year;

"(C) that any local educational agency or institution of higher education participating in this partnership shall utilize any Federal funds it shall receive from a grant under this part to supplement, and, to the extent practicable, increase the resources that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of students described in this part; and

"(D) that in no case shall funds under such a grant be used to supplant non-Federal funds already available.

"PART C—ADMINISTRATIVE PROVISIONS FOR PARTS A AND B

"SEC. 131. PEER REVIEW.

"The Secretary shall designate a peer review panel to review applications submitted under parts A and B and make recommendations for funding to the Secretary. In selecting the peer review panel, the Secretary may consult with other appropriate Cabinet-level officials and with non-Federal organizations, to ensure that the panel will be geographically balanced and be composed of representatives from public and private institutions of higher education, labor, business, State and local government, who have expertise in urban community service.

"SEC. 132. DISBURSEMENT OF FUNDS.

"(a) MULTIYEAR AVAILABILITY.—Subject to the availability of appropriations, grants under part A may be made on a multiyear basis, except that no institution, individually or as a participant in a combination of such institutions, may receive a grant for more than 5 years.

"(b) DISTRIBUTION REQUIREMENT.—The Secretary shall award grants under parts A and B in such manner as to achieve widespread and equitable utilization of the grants in all parts of the nation.

"(c) MATCHING REQUIREMENT.—An applicant under part A of this title and the local governments associated with its application shall contribute to the conduct of the program supported by the grant an amount from non-Federal funds equal to at least one-fourth of the amount of the grant, which contribution may be in cash or in services, supplies or equipment.

"(d) WAIVER OF MATCHING REQUIREMENT.—The Secretary may waive the requirements of subsection (c) of this section with respect to an eligible institution that demonstrates a unique hardship that precludes its compliance with that requirement.

"SEC. 133. NATIONAL NETWORK.

"(a) PROGRAM AUTHORITY.—The Secretary may establish a national network among urban and rural grant institutions, so that the results of individual projects funded under parts A and B can be generalized, disseminated, replicated, and applied throughout the Nation.

"(b) FUNDING.—From any funds appropriated for carrying out parts A and B, the Secretary may set aside not to exceed 5 percent, or $500,000 in any fiscal year, whichever is less, for the purposes of carrying out subsection (a) of this section.

"SEC. 134. DEFINITIONS.

"(a) DEFINITIONS.—As used in parts A and B—

"(1) The term 'eligible institution' has the meaning given such term by the first sentence of section 1201(a) of this Act.

"(2) The term 'urban area' means a metropolitan statistical area having a population of not less than 400,000, or two contiguous metropolitan statistical areas having a population of not less than 400,000, or, in any State which does not have a metropolitan statistical area which has such a population, the entity of the State having an agreement under section 1203, or, if no such entity has an agreement, the Secretary, shall designate one urban area for the purposes of this part.

"(3) The term 'urban institution of higher education' means a nonprofit municipal university, established by the governing body of the city in which it is located, and operating as of the date of enactment of this part under that authority, or an institution of higher education, or a consortium of such institutions any one of which meets all of the requirements of this paragraph, which—

"(A) is located in an urban area,

"(B) draws a substantial portion of its undergraduate students from the urban area in which it is located, from the urban area in which it is located or contiguous areas,

"(C) carries out programs to make postsecondary educational opportunities more accessible to residents of such urban area, or contiguous areas,

"(D) has the present capacity to provide resources responsive to the needs and priorities of such urban area, or contiguous areas,

"(E) offers a range of professional, technical, or graduate programs sufficient to sustain its capacity to provide such resources, and

"(F) has demonstrated and sustained a sense of responsibility to such urban area and contiguous areas and its people.

"(b) PUBLICATION REQUIRED.—

"(1) The Secretary shall, not later than 6 months following the enactment of this title, publish in the Federal Register a preliminary list of all public and private nonprofit institutions of higher education which shall meet the qualifications prescribed in subparagraphs (A) through (E) of subsection (a)(3).

"(2) The Secretary shall, annually, provide an opportunity for any unlisted institution to apply to be added to this list, and shall publish such additions in the Federal Register.

"PART D—ARTICULATION AGREEMENTS

"SEC. 141. FINDINGS.

"The Congress finds that—

"(1) because more than one-half of all first-time first-year students attending postsecondary institutions attend community or junior colleges, and because almost one-half of minority students enrolled in higher education attend 2-year institutions, community and junior colleges represent a substantial and an important educational resource;

"(2) declining participation rates for low-income students and minorities at institutions of higher education is of growing concern to the higher education community and Congress; and

"(3) there is growing awareness of the need to assist low-income, minority and other nontraditional students in bridging the gap between 2-year to 4-year institutions, enabling them to reach their individual potential, as well as contribute to the larger society.

"SEC. 142. PURPOSE.

"The purpose of this part is to improve the educational opportunities of this Nation's postsecondary students by creating comprehensive articulation agreements and planning between partnerships of 2-year and 4-year institutions of higher education.

"SEC. 143. AUTHORIZATION OF GRANTS.

"(a) ASSISTANCE FOR ARTICULATION PARTNERSHIPS.—From amounts appropriated for this part, the Secretary shall make grants to States to enable States to make awards, either on a competitive basis or on the basis of a formula determined by the State, to articulation partnerships between—

"(1) a qualified 2-year institution; and

"(2) a qualified 4-year institution.

"(b) QUALIFIED INSTITUTIONS.—For purposes of subsection (a)—

"(1) a qualified 2-year institution is an institution of higher education (as determined under section 481(a)) that is an eligible institution under section 435(a) and that—

"(A) is a nonprofit institution that offers a 2-year associate degree or a 2-year certificate program; or

"(B) is a proprietary institution that offers a 2-year associate degree program; and

"(2) a qualified 4-year institution is an institution of higher education (as determined under section 481(a)) that is an eligible institution under section 435(a) and that offers a baccalaureate degree program.

"(c) ALLOCATION AND STATE GRANTS.—

"(1) FORMULA ALLOCATION.—In any fiscal year for which the amount made available under section 100 to carry out the provisions of this part equals or exceeds $50,000,000, the Secretary shall allot an amount that bears the same ratio to the amount appropriated under section 100(c) for such fiscal year as the total amount received under title IV by students attending institutions of higher education in that State for such fiscal year bears to the total amount received under title IV by all students for such fiscal year, based on the most recent year for which such data are available.

"(2) COMPETITIVE GRANTS.—In any fiscal year for which the amount made available under section 100 to carry out the provisions of this part do not equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this part, to make grants to States to carry out articulation agreements under sections 145 and 146.

"SEC. 144. STATE APPLICATION.

"Each State that desires to receive a grant under this part shall submit an application to the Secretary in such form and containing or accompanied by such information as the Secretary may require. Such application shall—

"(1) after consultation with the State agencies responsible for supervision of community colleges, technical institutes, or other 2-year postsecondary institutions, designate a sole State agency as the State agency responsible for the administration and supervision of activities carried out with assistance under this part;

"(2) describe how funds will be allocated in a manner consistent with section 145;

"(3) contain assurances that the State will comply with the requirements of this part;

"(4) provide for an annual submission of data concerning the use of funds and students served with assistance under this part; and

"(5) provide that the State will keep such records and provide such information to the Secretary as may be required for purposes of financial audits and program evaluation.

"SEC. 145. LOCAL APPLICATIONS.

"Any articulation partnership comprised of qualified institutions that desires to receive a grant from a State under this part shall submit an application to the State in such form and containing or accompanied by such information as the State may require and shall—

"(1) include in the articulation agreement—

"(A) assurances that academic credit earned at the qualified institution described in section 143(b)(1) will be transferable to the qualified institution or institutions as described in section 143(b)(2);

"(B) development of articulation agreement programs and services appropriate to the needs of the partnership participants;

"(C) activities that facilitate the development of programs and services appropriate to the needs of the students attending courses covered by the articulation agreement;

"(D) inservice training for faculty designed to implement effective articulation agreements;

"(E) counseling services; and

"(F) information concerning programs contained in the articulation agreement;

"(2) include assurances that the articulation partnership has the qualified personnel required—

"(A) to develop, administer, and implement the program required by this part, and

"(B) to provide special training necessary to prepare staff for the program; and

"(3) include a plan of operation for the program which includes—

"(A) a description of the program goals,

"(B) a description of the uses of funds as required by paragraph (2),

"(C) a description of the activities and services which will be provided under the program (including training and preparation of staff), and

"(D) a description of the subject areas to be included in the articulation agreement.

"SEC. 146. ARTICULATION AGREEMENT.

"(a) Length of Grant.—Each recipient of a grant from a State shall use the amounts provided under the grant to develop and operate articulation agreements for 6 years.

"(b) Use of Funds.—Funds provided to an articulation partnership under this part may be used—

"(1) to perform any activity or program required by section 145;

"(2) as part of the program's planning activities, to acquire technical assistance from Federal, State, or local entities that have successfully designed, established, and operated articulation programs;

"(3) to provide workshops with students and teachers, counseling for students to continue their education to a bachelors degree, orientation visits at institutions participating in the consortia; and

"(4) to provide outreach to potential students.

"SEC. 147. STATE ADMINISTRATION.

"A State may reserve not more than 3 percent of the amounts available under this title for any fiscal year for State administrative costs including monitoring and technical assistance.

"SEC. 148. PRIORITY.

"The State shall give priority to grant applications for programs which—

"(1) encourage teacher education,

"(2) have, as one of the partners participating in an articulation agreement, an entity that meets the requirements of section 344(b) of the Carl D. Perkins Vocational and Applied Technology Education Act,

"(3) contribute their own institutional resources,

"(4) are not subject to a default reduction agreement under section 428F,

"(5) encourage technology education, or

"(6) encourage articulation in subject areas of national importance as determined by the Secretary.

"SEC. 149. REPORTS.

"(a) State Reports.—Each State shall submit to the Secretary an annual report on the operation of the program under this part in such State during the preceding year. Such report shall include such information as the Secretary may require by regulation.

"(b) Evaluation and Dissemination.—The Secretary shall, on the basis of the reports submitted under subsection (a), evaluate all or a sample of the programs conducted under this part for the purposes of (1) determining the success or failure of such programs in increasing access and entry of students from 2-year institutions to 4-year institutions, and (2) identifying the most successful programs under this part and the causes for such success. The Secretary shall, not later than January 31, 1996, submit a report to the Congress on the results of such evaluation. The Secretary shall disseminate the findings made pursuant to clause (2) through appropriate agencies and organizations. The Secretary may reserve up to 3 percent of the amount appropriated under section 100 to carry out this subsection.

"PART E—ACCESS AND EQUITY TO EDUCATION FOR ALL AMERICANS THROUGH TELECOMMUNICATIONS

"SEC. 171. ESTABLISHMENT OF PROGRAM.

"(a) General Authority.—The Secretary is authorized in accordance with provisions of this part to make grants to eligible entities for the Federal share of the cost of telecommunications services to promote access and equity to education.

"(b) Eligible Applicants.—In order to be eligible for a grant under this part eligible applicants shall consist of a public broadcasting entity (or a consortium of such entities) and an institution of higher education (or a consortium of such entities) and may also include a State, a local unit of government, or a public or private nonprofit organization.

"(c) Application.—Each eligible applicant which desires to receive a grant under this part shall submit an application to the Secretary at such time, in such manner and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) describe education telecommunications services to be supported with the grant;

"(2) describe the administrative and management structure supporting the activities funded by the grant;

"(3) provide that the applicant shall match each dollar of funding received under this part on a one-to-one basis;

"(4) provide assurances that the financial interests of the United States in the telecommunications equipment, software and other facilities shall be protected for the use of the life of such facilities;

"(5) describe the manner in which nontraditional postsecondary education students will benefit in the services supported;

"(6) describe the manner in which special services including captioned films, television, descriptive video and education media for handicapped individuals shall be supported; and

"(7) provide evidence that each dollar received under this part shall be matched by funds from other, non-Federal sources.

"(d) Activities Supported.—Grants under this part shall support one or more of the following activities—

"(1) acquisition of site equipment to provide the technical ability to receive diverse education services at school, campus, and work site locations;

"(2) satellite, fiberoptic and other distribution systems and for local broadcast or other local distribution capability;

"(3) preservice or inservice education and training for K–12 teachers through interactive television conferencing;

"(4) preparation of telecommunications programs and software which support national, regional, or statewide efforts to provide teaching and learning materials not otherwise available for local use; and

"(5) a loan service of captioned films, descriptive video and educational media for the purpose of making such materials available, in accordance with regulations, in the United States for nonprofit purposes to individuals with disabilities, parents of individuals with disabilities, and other individuals directly involved in activities for the advancement of individuals with disabilities, including for the purpose of addressing problems of illiteracy among individuals with disabilities.

"(e) Approval of Applications.—(1) The Secretary shall, in approving applications under this part, give priority to applications which—

"(A) include support for services to make captioned films, descriptive video and educational media available to individuals with disabilities who otherwise lack access to such educational materials;

"(B) will provide, directly or indirectly, services to a significant number of postsecondary institutions;

"(C) improve access to creditworthy telecommunications coursework to individuals otherwise denied such opportunity;

"(D) will be available in the multistate area;

"(E) include evidence of significant business support; or

"(F) includes matching funds, exceeding the minimum amount required under this part.

"(2) In approving applications under this part the Secretary shall insure equitable geographic distribution of grant awards.

"(f) Definition.—The term 'Public Broadcasting Entity' has the same meaning given that term in section 397 of the Communications Act of 1934.

"(g) Report.—Each recipient of a grant under this part shall submit a report including a description of activities supported, a description of the population served, an assessment of the ability of private sector entities to continue the support of the activities in the absence of Federal funding and shall submit such reports to the Secretary no later than 30 days after the conclusion of the grant period. The Secretary shall select reports received under this subsection appropriate for dissemination to the education community and shall make such reports available through the National Diffusion Network."

The CHAIRMAN. Are there any amendments to title I?

AMENDMENT OFFERED BY MR. DICKS

Mr. DICKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Dicks: Page 31, line 13, strike "and" and after such line insert the following new paragraph (and redesignate the succeeding paragraph accordingly):

"(4) to develop agreements with local educational agencies for vocational course equivalency approval procedures for purposes of satisfying entrance requirements to qualified institutions; and

Mr. DICKS. Mr. Chairman, I rise today to offer an amendment to the articulation agreement section of H.R. 4471.

My amendment will allow the members of an articulation partnership created under title I, part D, to develop procedures to ensure that vocational courses meet core academic course standards for purposes of college admissions requirements. The articulation partnership is an agreement between 2-year and 4-year institutions that seem to ease the transition between secondary and postsecondary schools.

The 2-year and 4-year institutions that are members of a consortium under this part of this act would be able to enter into an agreement with a local education agency to develop equivalency approval procedures for vocational courses. Once these procedures are established, vocational courses meeting such core academic standards would then be considered as equivalent for the purposes of satisfying entrance requirements to college.

This amendment is an important educational reform effort, being led all across the country through the restructuring of vocational-technical education. My amendment will increase the coordinated effort to integrate academic and vocational instruction by providing for equivalency between vocational and academic curricula.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Michigan, chairman of the committee, and I appreciate very much his leadership in the whole area of education and higher education.

Mr. FORD of Michigan. Mr. Chairman, the majority has examined the gentleman's amendment, and we have worked with him and his staff. I compliment him on his persistence in following this up. It is a very good amendment.

It is consistent with what we would like to see done. And for the majority, we would accept the gentleman's amendment.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, since the gentleman is amending the articulation program in title I, which I authored, I find his amendment very acceptable and I think it adds to the articulation agreement.

Mr. DICKS. Mr. Chairman, I rise today to offer an amendment to the articulation agreement section of H.R. 4471.

My amendment will allow the members of an articulation partnership created under title I, part D, to develop procedures to ensure that vocational courses meet core academic course standards for purposes of college admissions requirements. The articulation partnership is an agreement between 2-year and 4-year institutions that seeks to ease the transition between secondary and post-secondary schools.

Two-year and four-year institutions that are members of a consortium under this part of this act would be able to enter into an agreement with a local education agency to develop equivalency approval procedures for vocational courses. Once these procedures are established, vocational courses meeting such core academic standards would then be considered as equivalent for the purposes of satisfying entrance requirements to college.

This amendment is an important educational reform effort, being led all across the country through the restructuring of vocational-technical education. My amendment will increase the coordinated effort to integrate academic and vocational instruction by providing for equivalency between vocational and academic curricula.

If vocational courses can be structured to meet core academic requirements which are used as the basis for college admissions, then more vocational students would have the option of entering college and continuing their education.

It is important to note that my amendment requires no additional authorization of funds. It creates an allowable use of funds from within the $50 million authorization for part D of title I.

Recently in my home State of Washington, legislation was passed to begin this project at the local level. I want to thank State Representative Randy Dorn, who sponsored this legislation along with Tom and Kathleen Lopp of the Washington Vocational Association and the American Vocational Association. I understand that Chairman FORD, Mr. COLEMAN, and Mr. GOODLING, the ranking committee member have agreed to accept this amendment, and I want to thank their staff, Diane Stark and Jo-Marie St. Martin for their work on this provision.

Since the impetus for this restructuring must come from the higher education community, a new atmosphere of cooperation between the secondary and postsecondary systems should evolve—and that is exactly what is now happening in Washington State. This legislation allows another path to higher education for students while meeting all entrance requirements. The result will be more students seeking advancement through higher education.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington [Mr. DICKS].

The amendment was agreed to.

The CHAIRMAN. Are there any further amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—ACADEMIC LIBRARY AND INFORMATION TECHNOLOGY ENHANCEMENT

SEC. 201. REVISION OF TITLE II.

Title II of the Act is amended to read as follows:

"TITLE II—ACADEMIC LIBRARIES IN AN ELECTRONIC NETWORKED ENVIRONMENT

"SEC. 201. PURPOSE; AUTHORIZATION.

"(a) PURPOSE.—The Secretary shall carry out a program to assist—

"(1) college and university libraries in acquiring technological equipment and in conducting research in information technology in accordance with part A;

"(2) in the education and training of persons in library and information science and to encourage research and development relating to improvement of libraries (including the promotion of economical and effective information delivery, cooperative efforts, and developmental projects) in accordance with part B;

"(3) the Nation's major research libraries, in maintaining and strengthening their collections, and in making information resources available to other libraries whose users have need for research materials in accordance with part C; and

"(4) historically black colleges and universities with programs in library and information sciences to train and educate African Americans and other underrepresented racial, national origin, and ethnic minorities in such programs in accordance with part D.

"(b) AUTHORIZATION.—(1) There are authorized to be appropriated to carry out part A $25,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(2) There are authorized to be appropriated to carry out part B $25,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(3) There are authorized to be appropriated to carry out part C $25,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(4) There are authorized to be appropriated to carry out part D $25,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"SEC. 202. NOTIFICATION OF STATE AGENCY.

"Each institution of higher education which receives a grant under this title shall annually inform the State agency designated pursuant to section 1203 of its activities under this title.

"SEC. 203. ADMINISTRATION.

"Programs under this title shall be administered in the Department by appropriate experts in library technology, library education, and related fields.

"PART A—COLLEGE LIBRARY TECHNOLOGY AND COOPERATION GRANTS

"SEC. 211. GRANTS FOR TECHNOLOGY, NETWORKING, AND OTHER PURPOSES.

"(a) AUTHORIZATION.—The Secretary is authorized to make grants for technological equipment, networking, and other special purposes to—

"(1) institutions of higher education which demonstrate a need for special assistance for the planning, development, acquisition, maintenance, or upgrading of technological equipment necessary to organize, access, or utilize materials in electronic formats and to participate in networks for the accessing and sharing of library and information resources;

"(2) combinations of higher education institutions which demonstrate a need for special assistance in establishing and strengthening joint-use library facilities, resources, or equipment for the accessing and sharing of library and information resources;

"(3) other public and private nonprofit organizations which provide library and information services to institutions of higher education on a formal, cooperative basis for the purpose of establishing, developing, or expanding programs or projects that improve their services to institutions of higher education; and

"(4) institutions of higher education conducting research or demonstration projects that improve information services to meet special national or regional needs by utilizing technology to enhance library or information services such as via the National Research and Education Network.

"(b) AWARDS REQUIREMENTS.—From funds appropriated for this part, the Secretary shall make competitive awards to institutions or combinations of institutions in each of the categories described in paragraphs (1) through (4) of subsection (a). The minimum award shall be $25,000 and may be expended over a 3-year period.

"(c) GRANTS AMOUNT.—For grants under section 211(a)(1) the maximum award per institution shall be $35,000. The Secretary shall give priority under section 211(a)(1) to projects which assist those developing institutions seeking to link one or more institutions to resource sharing networks.

"(d) GRANTS CRITERIA.—A grant under this section may be made only if the application (whether by an individual institution or a combination of institutions) is approved by the Secretary on the basis of criteria prescribed in regulations and provides satisfactory assurance that the applicant will expend during the 3-year period for which the grant is sought (from funds other than funds received under this title), for the same purpose as such grant, an amount from such other sources equal to not less than one-third of such grant.

"PART B—LIBRARY EDUCATION, RESEARCH, AND DEVELOPMENT

"SEC. 221. GRANTS AUTHORIZED.

"From the amounts appropriated for this part for any fiscal year, the Secretary shall make grants in accordance with sections 222 and 223. Of such amount, two-thirds shall be available for the purpose of section 222 and one-third shall be available for the purpose of section 223.

"SEC. 222. LIBRARY EDUCATION AND HUMAN RESOURCE DEVELOPMENT.

"(a) PURPOSE AND GRANT CRITERIA.—The Secretary is authorized to make grants to, and contract with, institutions of higher education and library organizations or agencies to assist them in educating and training persons in library and information science, particularly in areas of critical needs, such as recruitment and retention of minorities. Such grants or contracts may be used by such institutions, library organizations, or agencies—

"(1) to assist in covering the cost of courses of study or staff development (including short term or regular session institutes),

"(2) to establish and maintain fellowships or traineeships with stipends (including allowances for travel, subsistence, and other expenses) for fellows who demonstrate need and who are working toward a graduate degree and their dependents, not in excess of such maximum amounts as may be determined by the Secretary, and

"(3) to establish, develop, or expand programs of library and information science, including new techniques of information transfer and communication technology.

"(b) ADDITIONAL REQUIREMENTS.—Not less than 50 percent of the grants made under this section shall be for the purpose of establishing and maintaining fellowships or traineeships under subsection (a)(2).

"SEC. 223. RESEARCH AND DEMONSTRATION.

"The Secretary is authorized to make grants to, and contract with, institutions of higher education and other public and private agencies, institutions, and organizations for research and development projects related to the improvement of libraries, education in library and information science, the enhancement of library services through effective and efficient use of new technologies, and for the dissemination of information derived from such projects.

"SEC. 224. CONSULTATION REQUIREMENTS.

"The Secretary shall consult with the appropriate library and information science professional bodies in the determination of critical needs under section 222 and in the determination of priorities under section 223.

"PART C—IMPROVING ACCESS TO RESEARCH LIBRARY RESOURCES

"SEC. 231. RESEARCH LIBRARY RESOURCES.

"(a) PURPOSE AND DEFINITIONS.—(1) From the amount appropriated for this part, the Secretary shall make grants to institutions with major research libraries.

"(2) For the purposes of this part, the term 'major research library' means a public or private nonprofit institution (including the library resources of an institution of higher education), an independent research library, or a State or other public library, having a library collection which is available to qualified users and which—

"(A) makes a significant contribution to higher education and research;

"(B) is broadly based and is recognized as having national or international significance for scholarly research;

"(C) is of a unique nature, and contains material not widely available; and

"(D) is in substantial demand by researchers and scholars not connected with that institution.

"(b) ELIGIBILITY.—In determining eligibility for assistance under this part, the Secretary shall permit institutions that do not otherwise qualify to provide additional information or documents to demonstrate the national or international significance for scholarly research of the particular collection described in the grant proposal.

"SEC. 232. GEOGRAPHICAL DISTRIBUTION OF GRANTS.

"In making grants under this part, the Secretary shall endeavor to achieve broad and equitable geographical distribution throughout the Nation.

"PART D—STRENGTHENING LIBRARY AND INFORMATION SCIENCE PROGRAMS AND LIBRARIES IN HISTORICALLY BLACK COLLEGES AND UNIVERSITIES

"SEC. 241. STRENGTHENING LIBRARY AND INFORMATION SCIENCE PROGRAMS AND LIBRARIES IN HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.

"(a) IN GENERAL.—(1) The Secretary is authorized (A) to make grants to, and contract with, historically black colleges and universities to assist them in strengthening their library and information science programs and library resources, and (B) to make grants to, and contract with, historically black colleges and universities and library organizations or agencies which have nationally approved programs in library and information science to assist them in education and training of African Americans and other underrepresented racial, national origin, and ethnic minorities, particularly in areas of critical needs of library and information science.

"(2) Such grants or contracts may be used by such institutions, library organizations, or agencies—

"(A) to establish, develop, or strengthen libraries and library and information science programs, including new techniques of information transfer and communication technology,

"(B) to assist in covering the cost of courses of study or staff development (including short-term or regular session institutes), and

"(C) to establish and maintain fellowships or traineeships with stipends (including allowances for travel, subsistence, and other expenses) for fellows who demonstrate need and who are working toward a graduate degree and their dependents, not in excess of such maximum amounts as may be determined by the Secretary.

"(b) TRAINEESHIPS.—Not less than 50 percent of the grants made under this section shall be for the purpose of establishing and maintaining fellowships or traineeships under subsection (a)(2).

"PART E—FUNDING PROHIBITION

"SEC. 251. FUNDING PROHIBITION.

"Notwithstanding any other provision of law, amendments to this title establishing new programs or expanding existing programs, enacted pursuant to the Higher Education Amendments of 1992, shall not be funded in fiscal year 1993, or the 4 succeeding fiscal years, unless and until Congress enacts appropriations for programs under this title enacted prior to such amendments at a level no less than the level of funding in effect for such preexisting programs for fiscal year 1992.".

The CHAIRMAN. Are there amendments to title II?

If not, the Clerk will designate title III.

The text of title III follows:

TITLE III—INSTITUTIONAL AID

SEC. 301. FINDINGS.

Section 301(a)(1) of the Act is amended to read as follows:

"(1) there are a significant number of institutions of higher education serving high percentages of minority students and students from low-income backgrounds, that face problems that threaten their ability to survive;".

SEC. 302. AMENDMENTS TO PART A.

(a) GRANTS AWARDS.—Section 311(b) of the Act is amended to read as follows:

"(b) GRANTS AWARDED; ALLOWABLE ACTIVITIES.—From the sums available for this part under section 360(a)(1), the Secretary may award grants to any eligible institution with an application approved under section 351 in order to assist such an institution to plan, develop, or implement activities that promise to strengthen the institution, including—

"(1) faculty development;

"(2) funds and administrative management;

"(3) development and improvement of academic programs;

"(4) acquisition of equipment for use in strengthening funds management and academic programs;

"(5) joint use of facilities such as libraries and laboratories; and

"(6) student services.".

(b) ELIGIBLE INSTITUTIONS.—Section 312(b) of the Act is amended—

(1) in paragraph (1)—

(A) by inserting "and" after the semicolon at the end of subparagraph (D);

(B) by striking subparagraph (E);

(C) by redesignating subparagraph (F) as subparagraph (E); and

(D) by inserting "and" after the semicolon at the end of paragraph (1);

(2) by striking the semicolon at the end of paragraph (2) and inserting a period; and

(3) by striking paragraphs (3), (4), and (5).

(c) ENROLLMENT OF NEEDY STUDENTS.—Section 312(c)(2) of the Act is amended by striking "second preceding fiscal year" and inserting "second fiscal year preceding the fiscal year for which the determination is made".

(d) AWARD LIMITATIONS.—Subsections (a) and (b) of section 313 of the Act are amended to read as follows:

"(a) AWARD PERIOD.—The Secretary may award a grant to an eligible institution under this part for not to exceed 5 years.

"(b) PROHIBITION.—An eligible institution that is awarded a grant under subsection (a) shall not be eligible to receive a grant under this part during the 5 years immediately following the period that it received such a grant.".

(e) GOALS FOR FINANCIAL MANAGEMENT AND ACADEMIC PROGRAM.—Part A of title III of the Act is further amended by adding at the end the following new section:

"GOALS FOR FINANCIAL MANAGEMENT AND ACADEMIC PROGRAM

"SEC. 315. (a) GOALS.—Any application for a grant under this part shall describe measurable goals for the institution's financial management and academic programs, and include a plan of how the applicant intends to achieve those goals.

"(b) CONTINUATION REQUIREMENTS.—Any continuation application shall demonstrate the progress made toward achievement of the goals described pursuant to subsection (a).".

SEC. 303. AMENDMENTS TO PART B.

(a) USES OF FUNDS.—Section 323(a) of the Act is amended by adding at the end the following new paragraphs:

"(9) Establishing or improving a development office to strengthen or improve contributions from alumni and the private sector.

"(10) Establishing or enhancing a program of teacher education designed to qualify students to teach elementary or secondary education in public schools in the State, and which includes as part of such program, preparation for teacher certification.

"(11) Establishing community outreach programs which will encourage elementary and secondary students to develop the academic skills and the interest to pursue postsecondary education.".

(b) ALLOTMENT.—Section 324(c) of the Act is amended by inserting ", within 5 years of graduation with a baccalaureate degree," after "who are admitted to and in attendance at".

(c) MINIMUM ALLOTMENTS.—Section 324(d) of the Act is amended by striking "$350,000" and inserting "$500,000".

(d) GOALS FOR FINANCIAL MANAGEMENT AND ACADEMIC PROGRAMS.—Section 325 of the Act is amended by adding at the end the following new subsection:

"(c) GOALS FOR FINANCIAL MANAGEMENT AND ACADEMIC PROGRAMS.—Any application for a grant under this part shall describe measurable goals for the institution's financial management and academic programs, and include a plan of how the applicant intends to achieve those goals.".

(e) ELIGIBLE PROFESSIONAL AND GRADUATE INSTITUTIONS.—Section 326(e) of the Act is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(6) Xavier University School of Pharmacy;

"(7) Southern University School of Law;

"(8) Texas Southern University School of Law or School of Pharmacy;

"(9) Florida A & M University School of Pharmaceutical Sciences; and

"(10) North Carolina Central University School of Law.".

(f) FUNDING RULES FOR GRADUATE AND PROFESSIONAL INSTITUTIONS.—Section 326 of the Act is further amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e) FUNDING RULE.—(1) No grant may be made in any fiscal year beginning after September 30, 1991, for institutions described in paragraphs (6) through (10) of subsection (f) unless (A) funds appropriated and available for the institutions described in paragraphs (1) through (5) of subsection (f) exceeds the amount so appropriated and available for fiscal year 1991; and (B) an additional amount is appropriated and available for a grant of reasonable size to each of the institutions described in paragraphs (6) through (10) of subsection (f).

"(2) No grant may be made in any fiscal year beginning after September 30, 1991, for any institution described in paragraphs (1) through (5) of subsection (f) in excess of the amount the institution received in fiscal year 1991, unless an amount is appropriated and available for each of the institutions described in paragraphs (6) through (10) of subsection (f) which is sufficient to make a grant of $500,000 to each such institution.

"(3) In any fiscal year which the requirements of paragraphs (2) of this subsection are met and an additional amount is appropriated and available for this section, the grant attributable to such additional amount made to each institution described in paragraphs (1) through (10) of subsection (f) shall be equal, except that the requirement of this paragraph may be waived if any such institution cannot meet the matching requirement of subsection (a)(2) with respect to that institution, and the amount available by reason of this exception shall be distributed equally among the remaining institutions described in subsection (f).

"(4) In any fiscal year beginning after September 30, 1992, in which the amount appropriated for this section is less than the amount appropriated for the previous fiscal year, the amount which institutions described in subsection (f) receive in that fiscal year shall be ratably reduced. In case additional amounts become available for making grants under this section for the fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced, except that the Morehouse School of Medicine shall not receive less than $3,000,000 in that fiscal year.".

(g) PROHIBITION.—Section 326 is amended by adding a new subsection:

"(g) PROHIBITION.—A grant may be made in any fiscal year under this section to either but not both of the institutions described in subsection (e)(8) of this section.".

SEC. 304. AMENDMENTS TO PART C.

(a) PROGRAM CONSOLIDATION.—Part C of title III of the Act is amended—

(1) by amending the heading of such part to read as follows:

"PART C—ENDOWMENT CHALLENGE GRANTS FOR INSTITUTIONS ELIGIBLE FOR ASSISTANCE UNDER PART A OR PART B";

(2) by striking section 331; and

(3) by redesignating section 332 as section 331.

(b) ELIGIBLE INSTITUTION.—Section 331(a)(2) of the Act (as redesignated by subsection (a) of this section) is amended by adding at the end the following new subparagraph:

"(D) The term 'eligible institution' means an institution that is—

"(i) an eligible institution under part A or would be considered to be such an institution if section 312(b)(1)(C) referred to a postgraduate degree rather than a bachelor's degree;

"(ii) an institution under part B or would be considered to be such an institution if section 324 referred to a postgraduate degree rather than a baccalaureate degree; or

"(iii) an institution that makes a substantial contribution to postgraduate medical educational opportunities for minorities and the economically disadvantaged.

The Secretary may waive the requirements of clauses (i) and (ii) of this subparagraph with respect to a postgraduate degree in the case of any institution otherwise eligible under this subparagraph for an endowment challenge grant upon determining that the institution makes a substantial contribution to medical education opportunities for minorities and the economically disadvantaged.".

(c) ENDOWMENT CHALLENGE GRANTS.—Section 331(b) of the Act (as so redesignated) is amended—

(1) by inserting "endowment" before "challenge grants" in paragraph (1);

(2) by striking "$10,000,000" in paragraph (2)(B) and inserting "$20,000,000";

(3) by amending paragraph (2)(C) to read as follows:

"(C)(i) Except as provided in clause (ii), if the appropriation for this part in a fiscal year is $20,000,000 or less, an eligible institution of higher education that it awarded a grant under subsection (b)(2)(B) of this section shall not be eligible to reapply for a grant under subsection (b)(2)(B) of this section during the 10 years immediately following the period that it received such a grant.

"(ii) If the appropriation for this part in any fiscal year is greater than $20,000,000, an eligible institution of higher education that is awarded a grant under subsection (b)(2)(B) of this section shall not be eligible to reapply for a grant under subsection (b)(2)(B) of this section during the 5 years immediately following the period that it received such a grant. This provision shall apply for the fiscal year in which the appropriation is greater than $20,000,000 and subsequent fiscal years, regardless of the appropriation in those fiscal years.";

(4) by striking "section 331(a)(1)" in paragraph (4)(A) and inserting "subsection (a)(2)(D) of this section";

(5) by striking "a challenge grant under this section" in paragraph (4)(B) and inserting "an endowment challenge grant under this section";

(6) by striking "a challenge grant under this section to an eligible institution year" in paragraph (5) and inserting "an endowment challenge grant under this section to an eligible institution";

(7) by amending paragraph (5)(B) to read as follows:

"(B) not more than $500,000 for fiscal year 1992 or any succeeding fiscal year.".

(d) SELECTION CRITERIA.—Section 331(f)(1) of the Act (as so redesignated) is amended by inserting before the semicolon at the end the following: ", or to an applicant that has received a grant under part A or part B of this title within the 5 fiscal years prior to the fiscal year in which the applicant is applying for a grant under this section".

(e) APPLICATION.—Section 331(g) of the Act (as so redesignated) is amended by inserting before the period at the end of the first sentence the following: ", including a description of the long- and short-term plans for raising and using the funds under this part".

(f) SET-ASIDE.—Section 331 of the Act (as so redesignated) is amended by adding at the end the following new subsection:

"(i) SET-ASIDE FOR HISTORICALLY BLACK COLLEGES AND UNIVERSITIES.—In any fiscal year beginning after September 30, 1992, the Secretary shall set aside 30 percent of the amount appropriated for that fiscal year pursuant to section 360 for challenge grants to Historically Black Colleges and Universities unless there are an insufficient number of quality applications or an insufficient number of applications due to the provisions in subsection (b)(2)(C) or subsection (b)(4)(B).".

SEC. 305. AMENDMENTS TO PART D.

(a) CONTENTS OF APPLICATIONS.—Section 351(b)(7) of the Act is amended—

(1) by striking subparagraph (D); and

(2) by redesignating subparagraphs (E) and (F) as subparagraphs (D) and (E), respectively.

(b) REPEALS.—Part D of title III of the Act is further amended—

(1) by striking sections 355 and 359; and

(2) by redesignating sections 356, 357, 358, and 360 as sections 355, 356, 357, and 358, respectively.

(c) AUTHORIZATIONS.—Section 358(a) of the Act (as redesignated) is amended to read as follows:

"SEC. 358. (a) AUTHORIZATIONS.—(1) There are authorized to be appropriated to carry out part A, $150,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

"(2)(A) There are authorized to be appropriated to carry out part B (other than section 326), $150,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

"(B) There are authorized to be appropriated to carry out section 326, $20,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

"(3) There are authorized to be appropriated to carry out part C, $60,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.".

(d) ADDITIONAL AMENDMENTS TO SECTION 360.—Section 358(c) of the Act (as redesignated) is amended by striking "1986—" and paragraphs (1) and (2) and inserting the following: "1986, the Secretary shall, for such fiscal year—

"(1) allocate 25 percent of the excess (above the amount appropriated for part A for fiscal year 1986) among eligible institutions at which at least 60 percent of the students are Black Americans, Hispanic Americans, Native Americans, Asian Americans, Native Hawaiians, or Pacific Islanders, or any combination thereof; and

"(2) allocate 75 percent of such excess among other eligible institutions.".

The CHAIRMAN. Are there amendments to title III?

If not, the Clerk will designate title IV.

The text of title IV, as modified, is as follows:

TITLE IV—STUDENT ASSISTANCE

PART A—GRANTS TO STUDENTS IN ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION

Subpart 1—Federal Pell Grants

SEC. 411. FEDERAL PELL GRANT PROGRAM.

(a) AUTHORIZATION.—Section 411(a)(1) of the Act is amended—

(1) by striking "September 30, 1992," and inserting "September 30, 1998,"; and

(2) by striking "paragraph (2)" and inserting "subsection (b)".

(b) NAME OF PROGRAM.—Section 411(a)(3) of the Act is amended by striking "as 'Pell Grants' " and inserting "as 'Federal Pell Grants' ".

(c) PROPORTION OF COST.—Section 411(b)(1) of the Act is amended—

(1) by striking "(A) as determined" and all that follows through "and (B)";

(2) by striking "parental or independent student" and inserting "family and student"; and

(3) by striking "subparts 2 and 3" and inserting "subparts 3 and 4".

(d) GRANT AMOUNTS.—(1) Section 411(b)(2)(A) of the Act is amended—

(A) by inserting "maximum" before "basic"; and

(B) by striking out clause (i) and all that follows through "that year." and inserting the following:

"(i) $4,500 for academic year 1992–1993, and

"(ii) the amount determined under subparagraph (B) for academic year 1993–1994 and each academic year thereafter through academic year 1998–1999.".

(2) Section 411(b)(2) of the Act is amended—

(A) by redesignating subparagraph (B) as subparagraph (C); and

(B) by inserting after subparagraph (A) the following new subparagraph:

"(B)(i) The maximum amount to which a student is entitled under clause (ii) of subparagraph (A) for each academic year shall be the amount determined under subparagraph (A) for the academic year preceding the academic year for which the determination is made, increased by the percentage increase in the Consumer Price Index determined in accordance with clause (ii), rounded to the nearest $25.

"(ii) The Secretary of Labor shall publish in the Federal Register, not later than July 31 in each year (beginning with July, 1992) the percentage change in the Consumer Price Index published for the year ending June 30 of the year in which the publication is made. If the percentage in any year published under the preceding sentence indicates an increase in the Consumer Price Index, the Secretary shall publish in the Federal Register, not later than August 31 in each year the amount of the maximum grant, as specified in clause (ii) of subparagraph (A), for the academic year that begins in the succeeding calendar year. If the percentage so published does not indicate an increase in the Consumer Price Index, the amount of the maximum grant for the academic year for which the determination is made shall be the amount of the grant for the preceding academic year.

"(iii) For the purpose of this subparagraph, the term 'Consumer Price Index' means the Consumer Price Index for Wage Earners and Clerical Workers published by the Bureau of Labor Statistics.".

(3) Subparagraph (C) of section 411(b)(2) of the Act (as redesignated by paragraph (2) of this subsection) is amended by inserting before the period at the end of the first sentence the following: ", computed in accordance with this subpart".

(4) Section 411(b)(3) of the Act is amended to read as follows:

"(3)(A) The amount of a basic grant to which a student is entitled under this subpart for any academic year in which the maximum basic grant is established under paragraph (2)(A)(i) shall be determined by locating, on the following tables, the intersection between the student's tuition (as determined under subparagraph (D)) and the student's expected family contribution (as determined under part F of this title):

TABLE 1.—PELL GRANT PAYMENT SCHEDULE

Dependent Students, Independent Students with Dependents

If tuition is:	And expected family contribution is:				
	$0	$1–200	$201–400	$401–600	$601–800
	Then the award is:				
$0–$199	$2,750	$2,427	$2,347	$2,266	$2,185
200–399	2,825	2,502	2,422	2,341	2,260
400–599	2,875	2,552	2,472	2,391	2,310
600–799	2,925	2,602	2,522	2,441	2,360
800–999	2,975	2,652	2,572	2,491	2,410
1,000–1,199	3,025	2,702	2,622	2,541	2,460
1,200–1,399	3,075	2,752	2,672	2,591	2,510
1,400–1,599	3,125	2,802	2,722	2,641	2,560
1,600–1,799	3,175	2,852	2,772	2,691	2,610
1,800–1,999	3,225	2,902	2,822	2,741	2,660
2,000–2,199	3,275	2,952	2,872	2,791	2,710
2,200–2,399	3,325	3,002	2,922	2,841	2,760
2,400–2,599	3,375	3,052	2,972	2,891	2,810
2,600–2,799	3,425	3,102	3,022	2,941	2,860
2,800–2,999	3,475	3,152	3,072	2,991	2,910
3,000–3,199	3,525	3,202	3,122	3,041	2,960
3,200–3,399	3,575	3,252	3,172	3,091	3,010

TABLE 1.—PELL GRANT PAYMENT SCHEDULE—Continued

Dependent Students, Independent Students with Dependents

If tuition is:	And expected family contribution is:				
	$0	$1–200	$201–400	$401–600	$601–800
3,400–3,599	3,625	3,302	3,222	3,141	3,060
3,600–3,799	3,675	3,352	3,272	3,191	3,110
3,800–3,999	3,725	3,402	3,322	3,241	3,160
4,000–4,199	3,775	3,452	3,372	3,291	3,210
4,200–4,399	3,825	3,502	3,422	3,341	3,260
4,400–4,599	3,875	3,552	3,472	3,391	3,310
4,600–4,799	3,925	3,602	3,522	3,441	3,360
4,800–4,999	3,975	3,652	3,572	3,491	3,410
5,000–5,199	4,025	3,702	3,622	3,541	3,460
5,200–5,399	4,075	3,752	3,672	3,591	3,510
5,400–5,599	4,125	3,802	3,722	3,641	3,560
5,600–5,799	4,175	3,852	3,772	3,691	3,610
5,800–5,999	4,225	3,902	3,822	3,741	3,660
6,000–6,199	4,275	3,952	3,872	3,791	3,710
6,200–6,399	4,325	4,002	3,922	3,841	3,760
6,400–6,599	4,375	4,052	3,972	3,891	3,810
6,600–6,799	4,425	4,102	4,022	3,941	3,860
6,800–6,999	4,475	4,152	4,072	3,991	3,910
7,000+	4,500	4,177	4,097	4,016	3,935

TABLE 1.—PELL GRANT PAYMENT SCHEDULE—Continued

Dependent Students, Independent Students with Dependents

If tuition is:	And expected family contribution is:					
	$801–1,000	$1,001–1,200	$1,201–1,400	$1,401–1,600	$1,601–1,800	$1,801–2,000
	Then the award is:					
$0–$199	$2,105	$2,008	$1,877	$1,745	$1,614	$1,483
200–399	2,180	2,083	1,952	1,820	1,689	1,558
400–599	2,230	2,133	2,002	1,870	1,739	1,608
600–799	2,280	2,183	2,052	1,920	1,789	1,658
800–999	2,330	2,233	2,102	1,970	1,839	1,708
1,000–1,199	2,380	2,283	2,152	2,020	1,889	1,758
1,200–1,399	2,430	2,333	2,202	2,070	1,939	1,808
1,400–1,599	2,480	2,383	2,252	2,120	1,989	1,858
1,600–1,799	2,530	2,433	2,302	2,170	2,039	1,908
1,800–1,999	2,580	2,483	2,352	2,220	2,089	1,958
2,000–2,199	2,630	2,533	2,402	2,270	2,139	2,008
2,200–2,399	2,680	2,583	2,452	2,320	2,189	2,058
2,400–2,599	2,730	2,633	2,502	2,370	2,239	2,108
2,600–2,799	2,780	2,683	2,552	2,420	2,289	2,158
2,800–2,999	2,830	2,733	2,602	2,470	2,339	2,208
3,000–3,199	2,880	2,783	2,652	2,520	2,389	2,258
3,200–3,399	2,930	2,833	2,702	2,570	2,439	2,308
3,400–3,599	2,980	2,883	2,752	2,620	2,489	2,358
3,600–3,799	3,030	2,933	2,802	2,670	2,539	2,408
3,800–3,999	3,080	2,983	2,852	2,720	2,589	2,458
4,000–4,199	3,130	3,033	2,902	2,770	2,639	2,508
4,200–4,399	3,180	3,083	2,952	2,820	2,689	2,558
4,400–4,599	3,230	3,133	3,002	2,870	2,739	2,608
4,600–4,799	3,280	3,183	3,052	2,920	2,789	2,658
4,800–4,999	3,330	3,233	3,102	2,970	2,839	2,708
5,000–5,199	3,380	3,283	3,152	3,020	2,889	2,758
5,200–5,399	3,430	3,333	3,202	3,070	2,939	2,808
5,400–5,599	3,480	3,383	3,252	3,120	2,989	2,858
5,600–5,799	3,530	3,433	3,302	3,170	3,039	2,908
5,800–5,999	3,580	3,483	3,352	3,220	3,089	2,958
6,000–6,199	3,630	3,533	3,402	3,270	3,139	3,008
6,200–6,399	3,680	3,583	3,452	3,320	3,189	3,058
6,400–6,599	3,730	3,633	3,502	3,370	3,239	3,108
6,600–6,799	3,780	3,683	3,552	3,420	3,289	3,158
6,800–6,999	3,830	3,733	3,602	3,470	3,339	3,208
7,000 +	3,855	3,758	3,627	3,495	3,364	3,233

TABLE 1.—PELL GRANT PAYMENT SCHEDULE—Continued

Dependent Students, Independent Students with Dependents

If tuition is:	And expected family contribution is:						
	$2,001–2,200	$2,201–2,400	$2,401–2,600	$2,601–2,800	$2,801–3,000	$3,001–3,200	$3,201–3,400
Then the award is:							
$0–$199	$1,329	$1,143	$957	$780	$620	$459	$0
200–399	1,404	1,218	1,032	855	695	534	0
400–599	1,454	1,268	1,082	905	745	584	423
600–799	1,504	1,318	1,132	955	795	634	473
800–999	1,554	1,368	1,182	1,005	845	684	523
1,000–1,199	1,604	1,418	1,232	1,055	895	734	573
1,200–1,399	1,654	1,468	1,282	1,105	945	784	623
1,400–1,599	1,704	1,518	1,332	1,155	995	834	673
1,600–1,799	1,754	1,568	1,382	1,205	1,045	884	723
1,800–1,999	1,804	1,618	1,432	1,255	1,095	934	773
2,000–2,199	1,854	1,668	1,482	1,305	1,145	984	823
2,200–2,399	1,904	1,718	1,532	1,355	1,195	1,034	873
2,400–2,599	1,954	1,768	1,582	1,405	1,245	1,084	923
2,600–2,799	2,004	1,818	1,632	1,455	1,295	1,134	973
2,800–2,999	2,054	1,868	1,682	1,505	1,345	1,184	1,023
3,000–3199	2,104	1,918	1,732	1,555	1,395	1,234	1,073
3,200–3,399	2,154	1,968	1,782	1,605	1,445	1,284	1,123
3,400–3,599	2,204	2,018	1,832	1,655	1,495	1,334	1,173
3,600–3,799	2,254	2,068	1,882	1,705	1,545	1,384	1,223
3,800–3,999	2,304	2,118	1,932	1,755	1,595	1,434	1,273
4,000–4,199	2,354	2,168	1,982	1,805	1,645	1,484	1,323
4,200–4,399	2,404	2,218	2,032	1,855	1,695	1,534	1,373
4,400–4,599	2,454	2,268	2,082	1,905	1,745	1,584	1,423
4,600–4,799	2,504	2,318	2,132	1,955	1,795	1,634	1,473
4,800–4,999	2,554	2,368	2,182	2,005	1,845	1,684	1,523
5,000–5,199	2,604	2,418	2,232	2,055	1,895	1,734	1,573
5,200–5,399	2,654	2,468	2,282	2,105	1,945	1,784	1,623
5,400–5,599	2,704	2,518	2,332	2,155	1,995	1,834	1,673
5,600–5,799	2,754	2,568	2,382	2,205	2,045	1,884	1,723
5,800–5,999	2,804	2,618	2,432	2,255	2,095	1,934	1,773
6,000–6,199	2,854	2,668	2,482	2,305	2,145	1,984	1,823
6,200–6,399	2,904	2,718	2,532	2,355	2,195	2,034	1,873
6,400–6,599	2,954	2,768	2,582	2,405	2,245	2,084	1,923
6,600–6,799	3,004	2,818	2,632	2,455	2,295	2,134	1,973
6,800–6,999	3,054	2,868	2,682	2,505	2,345	2,184	2,023
7,000+	3,079	2,893	2,707	2,530	2,370	2,209	2,048

TABLE 1.—PELL GRANT PAYMENT SCHEDULE—Continued

Dependent Students, Independent Students with Dependents

If tuition is:	And expected family contribution is:						
	$3,401–3,600	$3,601–3,800	$3,801–4,000	$4,001–4,200	$4,201–4,400	$4,401–4,600	$4,601–4,800
Then the award is:							
$0–$199	0	0	0	0	0	0	0
200–399	0	0	0	0	0	0	0
400–599	0	0	0	0	0	0	0
600–799	0	0	0	0	0	0	0
800–999	0	0	0	0	0	0	0
1,000–1,199	$434	0	0	0	0	0	0
1,200–1,399	484	0	0	0	0	0	0
1,400–1,599	534	0	0	0	0	0	0
1,600–1,799	584	$447	0	0	0	0	0
1,800–1,999	634	497	0	0	0	0	0
2,000–2,199	684	547	$410	0	0	0	0
2,200–2,399	734	597	460	0	0	0	0
2,400–2,599	784	647	510	0	0	0	0
2,600–2,799	834	697	560	$423	0	0	0
2,800–2,999	884	747	610	473	0	0	0
3,000–3,199	934	797	660	523	$407	0	0
3,200–3,399	984	847	710	573	457	0	0
3,400–3,599	1,034	897	760	623	507	0	0
3,600–3,799	1,084	947	810	673	557	$440	0
3,800–3,999	1,134	997	860	723	607	490	0
4,000–4,199	1,184	1,047	910	773	657	540	$424
4,200–4,399	1,234	1,097	960	823	707	590	474
4,400–4,599	1,284	1,147	1,010	873	757	640	524

TABLE 1.—PELL GRANT PAYMENT SCHEDULE—Continued

Dependent Students, Independent Students with Dependents

If tuition is:	And expected family contribution is:						
	$3,401–3,600	$3,601–3,800	$3,801–4,000	$4,001–4,200	$4,201–4,400	$4,401–4,600	$4,601–4,800
4,600–4,799	1,334	1,197	1,060	923	807	690	574
4,800–4,999	1,384	1,247	1,110	973	857	740	624
5,000–5,199	1,434	1,297	1,160	1,023	907	790	674
5,200–5,399	1,484	1,347	1,210	1,073	957	840	724
5,400–5,599	1,534	1,397	1,260	1,123	1,007	890	774
5,600–5,799	1,584	1,447	1,310	1,173	1,057	940	824
5,800–5,999	1,634	1,497	1,360	1,223	1,107	990	874
6,000–6,199	1,684	1,547	1,410	1,273	1,157	1,040	924
6,200–6,399	1,734	1,597	1,460	1,323	1,207	1,090	974
6,400–6,599	1,784	1,647	1,510	1,373	1,257	1,140	1,024
6,600–6,799	1,834	1,697	1,560	1,423	1,307	1,190	1,074
6,800–6,999	1,884	1,747	1,610	1,473	1,357	1,240	1,124
7,000+	1,909	1,772	1,635	1,498	1,382	1,265	1,149

TABLE 1.—PELL GRANT PAYMENT SCHEDULE—Continued

Dependent Students, Independent Students with Dependents

If tuition is:	And expected family contribution is:						
	$4,801–5,000	$5,001–5,200	$5,201–5,400	$5,401–5,600	$5,601–5,800	$5,801–6,000	$6,001–6,200
Then the award is:							
$0–$199	0	0	0	0	0	0	0
200–399	0	0	0	0	0	0	0
400–599	0	0	0	0	0	0	0
600–799	0	0	0	0	0	0	0
800–999	0	0	0	0	0	0	0
1,000–1,199	0	0	0	0	0	0	0
1,200–1,399	0	0	0	0	0	0	0
1,400–1,599	0	0	0	0	0	0	0
1,600–1,799	0	0	0	0	0	0	0
1,800–1,999	0	0	0	0	0	0	0
2,000–2,199	0	0	0	0	0	0	0
2,200–2,399	0	0	0	0	0	0	0
2,400–2,599	0	0	0	0	0	0	0
2,600–2,799	0	0	0	0	0	0	0
2,800–2,999	0	0	0	0	0	0	0
3,000–3,199	0	0	0	0	0	0	0
3,200–3,300	0	0	0	0	0	0	0
3,400–3,599	0	0	0	0	0	0	0
3,600–3,799	0	0	0	0	0	0	0
3,800–3,999	0	0	0	0	0	0	0
4,000–4,199	0	0	0	0	0	0	0
4,200–4,399	0	0	0	0	0	0	0
4,400–4,599	$407	0	0	0	0	0	0
4,600–4,799	457	0	0	0	0	0	0
4,800–4,999	507	0	0	0	0	0	0
5,000–5,199	557	$444	0	0	0	0	0
5,200–5,399	607	494	0	0	0	0	0
5,400–5,599	657	544	$445	0	0	0	0
5,600–5,799	707	594	495	0	0	0	0
5,800–5,999	757	644	545	$446	0	0	0
6,000–6,199	807	694	595	496	0	0	0
6,200–6,399	857	744	645	546	$447	0	0
6,400–6,599	907	794	695	596	497	0	0
6,600–6,799	957	844	745	646	547	$448	0
6,800–6,999	1,007	894	795	696	597	498	0
7,000 +	1,032	919	820	721	622	523	$420

TABLE 2.—PELL GRANT PAYMENT SCHEDULE

Single Independent Students

If tuition is:	And expected family contribution is:				
	$0–2,000	$2,001–2,200	$2,201–2,400	$2,401–2,600	$2,601–2,800
Then the award is:					

TABLE 2.—PELL GRANT PAYMENT SCHEDULE—Continued

Single Independent Students

If tuition is:	And expected family contribution is:				
	$0–2,000	$2,001–2,200	$2,201–2,400	$2,401–2,600	$2,601–2,800
Then the award is:					
$0–$199	$2,750	$2,447	$2,137	$1,826	$1,515
200–399	2,825	2,522	2,212	1,901	1,590
400–599	2,875	2,572	2,262	1,951	1,640
600–799	2,925	2,622	2,312	2,001	1,690
800–999	2,975	2,672	2,362	2,051	1,740
1,000–1,199	3,025	2,722	2,412	2,101	1,790
1,200–1,399	3,075	2,772	2,462	2,151	1,840
1,400–1,599	3,125	2,822	2,512	2,201	1,890
1,600–1,799	3,175	2,872	2,562	2,251	1,940
1,800–1,999	3,225	2,922	2,612	2,301	1,990
2,000–2,199	3,275	2,972	2,662	2,351	2,040
2,200–2,399	3,325	3,022	2,712	2,401	2,090
2,400–2,599	3,375	3,072	2,762	2,451	2,140
2,600–2,799	3,425	3,122	2,812	2,501	2,190
2,800–2,999	3,475	3,172	2,862	2,551	2,240
3,000–3,199	3,525	3,222	2,912	2,601	2,290
3,200–3,399	3,575	3,272	2,962	2,651	2,340
3,400–3,599	3,625	3,322	3,012	2,701	2,390
3,600–3,799	3,675	3,372	3,062	2,751	2,440
3,800–3,999	3,725	3,422	3,112	2,801	2,490
4,000–4,199	3,775	3,472	3,162	2,851	2,540
4,200–4,399	3,825	3,522	3,212	2,901	2,590
4,400–4,599	3,875	3,572	3,262	2,951	2,640
4,600–4,799	3,925	3,622	3,312	3,001	2,690
4,800–4,999	3,975	3,672	3,362	3,051	2,740
5,000–5,199	4,025	3,722	3,412	3,101	2,790
5,200–5,399	4,075	3,772	3,462	3,151	2,840
5,400–5,599	4,125	3,822	3,512	3,201	2,890
5,600–5,799	4,175	3,872	3,562	3,251	2,940
5,800–5,999	4,225	3,922	3,612	3,301	2,990
6,000–6,199	4,275	3,972	3,662	3,351	3,040
6,200–6,399	4,325	4,022	3,712	3,401	3,090
6,400–6,599	4,375	4,072	3,762	3,451	3,140
6,600–6,799	4,425	4,122	3,812	3,501	3,190
6,800–6,999	4,475	4,172	3,862	3,551	3,240
7,000 +	4,500	4,197	3,887	3,576	3,265

TABLE 2.—PELL GRANT PAYMENT SCHEDULE—Continued

Single Independent Students

If tuition is:	And expected family contribution is:				
	$2,801–3,000	$3,001–3,200	$3,201–3,400	$3,401–3,600	$3,601–3,800
Then the award is:					
$0–$199	$1,205	$894	$584	0	0
200–399	1,280	969	659	0	0
400–599	1,330	1,019	709	0	0
600–799	1,380	1,069	759	$448	0
800–999	1,430	1,119	809	498	0
1,000–1,199	1,480	1,169	859	548	0
1,200–1,399	1,530	1,219	909	598	0
1,400–1,599	1,580	1,269	959	648	0
1,600–1,799	1,630	1,319	1,009	698	0
1,800–1,999	1,680	1,369	1,059	748	$437
2,000–2,199	1,730	1,419	1,109	798	487
2,200–2,399	1,780	1,469	1,159	848	537
2,400–2,599	1,830	1,519	1,209	898	587
2,600–2,799	1,880	1,569	1,259	948	637
2,800–2,999	1,930	1,619	1,309	998	687
3,000–3,199	1,980	1,669	1,359	1,048	737
3,200–3,399	2,030	1,719	1,409	1,098	787
3,400–3,599	2,080	1,769	1,459	1,148	837
3,600–3,799	2,130	1,819	1,509	1,198	887
3,800–3,999	2,180	1,869	1,559	1,248	937
4,000–4,199	2,230	1,919	1,609	1,298	987
4,200–4,399	2,280	1,969	1,659	1,348	1,037
4,400–4,599	2,330	2,019	1,709	1,398	1,087
4,600–4,799	2,380	2,069	1,759	1,448	1,137
4,800–4,999	2,430	2,119	1,809	1,498	1,187
5,000–5,199	2,480	2,169	1,859	1,548	1,237
5,200–5,399	2,530	2,219	1,909	1,598	1,287
5,400–5,599	2,580	2,269	1,959	1,648	1,337

TABLE 2.—PELL GRANT PAYMENT SCHEDULE—Continued

Single Independent Students

If tuition is:	And expected family contribution is:				
	$2,801–3,000	$3,001–3,200	$3,201–3,400	$3,401–3,600	$3,601–3,800
5,600–5,799	2,630	2,319	2,009	1,698	1,387
5,800–5,999	2,680	2,369	2,059	1,748	1,437
6,000–6,199	2,730	2,419	2,109	1,798	1,487
6,200–6,399	2,780	2,469	2,159	1,848	1,537
6,400–6,599	2,830	2,519	2,209	1,898	1,587
6,600–6,799	2,880	2,569	2,259	1,948	1,637
6,800–6,999	2,930	2,619	2,309	1,998	1,687
7,000+	2,955	2,644	2,334	2,023	1,712

TABLE 2—PELL GRANT PAYMENT SCHEDULE—Continued

Single Independent Students

If tuition is:	And expected family contribution is:			
	$3,801–4,000	$4,001–4,200	$4,201–4,400	$4,401–4,600
Then the award is:				
$0–$199	0	0	0	0
200–399	0	0	0	0
400–599	0	0	0	0
600–799	0	0	0	0
800–999	0	0	0	0
1,000–1,199	0	0	0	0
1,200–1,399	0	0	0	0
1,400–1,599	0	0	0	0
1,600–1,799	0	0	0	0
1,800–1,999	0	0	0	0
2,000–2,199	0	0	0	0
2,200–2,399	0	0	0	0
2,400–2,599	0	0	0	0
2,600–2,799	0	0	0	0
2,800–2,999	0	0	0	0
3,000–3,199	$427	0	0	0
3,200–3,399	477	0	0	0
3,400–3,599	527	0	0	0
3,600–3,799	577	0	0	0
3,800–3,999	627	0	0	0
4,000–4,199	677	0	0	0
4,200–4,399	727	$416	0	0
4,400–4,599	777	466	0	0
4,600–4,799	827	516	0	0
4,800–4,999	877	566	0	0
5,000–5,199	927	616	0	0
5,200–5,399	977	666	0	0
5,400–5,599	1,027	716	$405	0
5,600–5,799	1,077	766	455	0
5,800–5,999	1,127	816	505	0
6,000–6,199	1,177	866	555	0
6,200–6,399	1,227	916	605	0
6,400–6,599	1,277	966	655	0
6,600–6,799	1,327	1,016	705	0
6,800–6,999	1,377	1,066	755	$445
7,000+	1,402	1,091	780	470

"(B) Except as provided in paragraph (5), the amount of a basic grant to which a student is entitled under this subpart for any academic year in which the maximum basic grant is established under paragraph (2)(A)(ii) shall be determined by locating, on tables prescribed by the Secretary under this subparagraph, the intersection between the student's tuition (as determined under subparagraph (D)) and the student's expected family contribution (as determined under part F of this title). The Secretary shall prescribe such tables for any such academic year—

"(i) by subtracting $4,500 from the amount of the maximum grant established under paragraph (2)(A)(ii) for such academic year;

"(ii) by dividing the remainder determined under clause (i) by 2;

"(iii) by adding the quotient of that division to each of the cells specifying an award amount in the tables following clause (v);

"(iv)(I) by eliminating all rows following the first row in which such maximum grant amount appears;

"(II) by changing the tuition amounts in the last row (as determined pursuant to clause (I)) to indicate that such row applies to all higher tuition amounts; and

"(III) by reducing the award amount in any such row that exceeds such maximum grant to an amount equal to such maximum grant; and

"(v) by changing the amount in any such cell that is less than $200 to zero.

The tables which the Secretary shall use under this subparagraph are as follows:

TABLE 3.—PELL GRANT PAYMENT SCHEDULE

Dependent Students, Independent Students with Dependents

Tuition is:	And expected family contribution is:			
	0	$1–200	$201–400	$401–600
	Then the award is:			
$0–$199	$2,750	$2,427	$2,347	$2,266
200–399	2,825	2,502	2,422	2,341
400–599	2,875	2,552	2,472	2,391
600–799	2,925	2,602	2,522	2,441
800–999	2,975	2,652	2,572	2,491
1,000–1,199	3,025	2,702	2,622	2,541
1,200–1,399	3,075	2,752	2,672	2,591
1,400–1,599	3,125	2,802	2,722	2,641
1,600–1,799	3,175	2,852	2,772	2,691
1,800–1,999	3,225	2,902	2,822	2,741
2,000–2,199	3,275	2,952	2,872	2,791
2,200–2,399	3,325	3,002	2,922	2,841
2,400–2,599	3,375	3,052	2,972	2,891
2,600–2,799	3,425	3,102	3,022	2,941
2,800–2,999	3,475	3,152	3,072	2,991
3,000–3,199	3,525	3,202	3,122	3,041
3,200–3,399	3,575	3,252	3,172	3,091
3,400–3,599	3,625	3,302	3,222	3,141
3,600–3,799	3,675	3,352	3,272	3,191
3,800–3,999	3,725	3,402	3,322	3,241
4,000–4,199	3,775	3,452	3,372	3,291
4,200–4,399	3,825	3,502	3,422	3,341
4,400–4,599	3,875	3,552	3,472	3,391
4,600–4,799	3,925	3,602	3,522	3,441
4,800–4,999	3,975	3,652	3,572	3,491
5,000–5,199	4,025	3,702	3,622	3,541
5,200–5,399	4,075	3,752	3,672	3,591
5,400–5,599	4,125	3,802	3,722	3,641
5,600–5,799	4,175	3,852	3,772	3,691
5,800–5,999	4,225	3,902	3,822	3,741
6,000–6,199	4,275	3,952	3,872	3,791
6,200–6,399	4,325	4,002	3,922	3,841
6,400–6,599	4,375	4,052	3,972	3,891
6,600–6,799	4,425	4,102	4,022	3,941
6,800–6,999	4,475	4,152	4,072	3,991
7,000–7,199	4,525	4,202	4,122	4,041
7,200–7,399	4,575	4,252	4,172	4,091
7,400–7,599	4,625	4,302	4,222	4,141
7,600–7,799	4,675	4,352	4,272	4,191
7,800–7,999	4,725	4,402	4,322	4,241
8,000–8,199	4,775	4,452	4,372	4,291
8,200–8,399	4,825	4,502	4,422	4,341
8,400–8,599	4,875	4,552	4,472	4,391
8,600–8,799	4,925	4,602	4,522	4,441
8,800–8,999	4,975	4,652	4,572	4,491
9,000–9,199	5,025	4,702	4,622	4,541
9,200–9,399	5,075	4,752	4,672	4,591
9,400–9,599	5,125	4,802	4,722	4,641
9,600–9,799	5,175	4,852	4,772	4,691
9,800–9,999	5,225	4,902	4,822	4,741
10,000–10,199	5,275	4,952	4,872	4,791
10,200–10,399	5,325	5,002	4,922	4,841
10,400–10,599	5,375	5,052	4,972	4,891
10,600–10,799	5,425	5,102	5,022	4,941
10,800–10,999	5,475	5,152	5,072	4,991
11,000–11,199	5,525	5,202	5,122	5,041
11,200–11,399	5,575	5,252	5,172	5,091

TABLE 3.—PELL GRANT PAYMENT SCHEDULE—Continued

Dependent Students, Independent Students with Dependents

If tuition is:	And expected family contribution is:				
	$601–800	$801–1,000	$1,001–1,200	$1,201–1,400	$1,401–1,600
	Then the award is:				
$0–$199	$2,185	$2,105	$2,008	$1,887	$1,745
200–399	2,260	2,180	2,083	1,952	1,820
400–599	2,310	2,230	2,133	2,002	1,870
600–799	2,360	2,280	2,183	2,052	1,920

TABLE 3.—PELL GRANT PAYMENT SCHEDULE—Continued

Dependent Students, Independent Students with Dependents

If tuition is:	And expected family contribution is:				
	$601–800	$801–1,000	$1,001–1,200	$1,201–1,400	$1,401–1,600
800–999	2,410	2,330	2,233	2,102	1,970
1,000–1,199	2,460	2,380	2,283	2,152	2,020
1,200–1,399	2,510	2,430	2,333	2,202	2,070
1,400–1,599	2,560	2,480	2,383	2,252	2,120
1,600–1,799	2,610	2,530	2,433	2,302	2,170
1,800–1,999	2,660	2,580	2,483	2,352	2,220
2,000–2,199	2,710	2,630	2,533	2,402	2,270
2,200–2,399	2,760	2,680	2,583	2,452	2,320
2,400–2,599	2,810	2,730	2,633	2,502	2,370
2,600–2,799	2,860	2,780	2,683	2,552	2,420
2,800–2,999	2,910	2,830	2,733	2,602	2,470
3,000–3,199	2,960	2,880	2,783	2,652	2,520
3,200–3,399	3,010	2,930	2,833	2,702	2,570
3,400–3,599	3,060	2,980	2,883	2,752	2,620
3,600–3,799	3,110	3,030	2,933	2,802	2,670
3,800–3,999	3,160	3,080	2,983	2,852	2,720
4,000–4,199	3,210	3,130	3,033	2,902	2,770
4,200–4,399	3,260	3,180	3,083	2,952	2,820
4,400–4,599	3,310	3,230	3,133	3,002	2,870
4,600–4,799	3,360	3,280	3,183	3,052	2,920
4,800–4,999	3,410	3,330	3,233	3,102	2,970
5,000–5,199	3,460	3,380	3,283	3,152	3,020
5,200–5,399	3,510	3,430	3,333	3,202	3,070
5,400–5,599	3,560	3,480	3,383	3,252	3,120
5,600–5,799	3,610	3,530	3,433	3,302	3,170
5,800–5,999	3,660	3,580	3,483	3,352	3,220
6,000–6,199	3,710	3,630	3,533	3,402	3,270
6,200–6,399	3,760	3,680	3,583	3,452	3,320
6,400–6,599	3,810	3,730	3,633	3,502	3,370
6,600–6,799	3,860	3,780	3,683	3,552	3,420
6,800–6,999	3,910	3,830	3,733	3,602	3,470
7,000–7,199	3,960	3,880	3,783	3,652	3,520
7,200–7,399	4,010	3,930	3,833	3,702	3,570
7,400–7,599	4,060	3,980	3,883	3,752	3,620
7,600–7,799	4,110	4,030	3,933	3,802	3,670
7,800–7,999	4,160	4,080	3,983	3,852	3,720
8,000–8,199	4,210	4,130	4,033	3,902	3,770
8,200–8,399	4,260	4,180	4,083	3,952	3,820
8,400–8,599	4,310	4,230	4,133	4,002	3,870
8,600–8,799	4,360	4,280	4,183	4,052	3,920
8,800–8,999	4,410	4,330	4,233	4,102	3,970
9,000–9,199	4,460	4,380	4,283	4,152	4,020
9,200–9,399	4,510	4,430	4,333	4,202	4,070
9,400–9,599	4,560	4,480	4,383	4,252	4,120
9,600–9,799	4,610	4,530	4,433	4,302	4,170
9,800–9,999	4,660	4,580	4,483	4,352	4,220
10,000–10,199	4,710	4,630	4,533	4,402	4,270
10,200–10,399	4,760	4,680	4,583	4,452	4,320
10,400–10,599	4,810	4,730	4,633	4,502	4,370
10,600–10,799	4,860	4,780	4,683	4,552	4,420
10,800–10,999	4,910	4,830	4,733	4,602	4,470
11,000–11,199	4,960	4,880	4,783	4,652	4,520
11,200–11,399	5,010	4,930	4,833	4,702	4,570

TABLE 3.—PELL GRANT PAYMENT SCHEDULE—Continued

Dependent Students, Independent Students with Dependents

If tuition is:	And expected family contribution is:				
	$1,601–1,800	$1,801–2,000	$2,001–2,200	$2,201–2,400	$2,401–2,600
	Then the award is:				
$0–$199	$1,614	$1,483	$1,329	$1,143	$957
200–399	1,689	1,558	1,404	1,218	1,032
400–599	1,739	1,608	1,454	1,268	1,082
600–799	1,789	1,658	1,504	1,318	1,132
800–999	1,839	1,708	1,554	1,368	1,182
1,000–1,199	1,889	1,758	1,604	1,418	1,232
1,200–1,399	1,939	1,808	1,654	1,468	1,282
1,400–1,599	1,989	1,858	1,704	1,518	1,332
1,600–1,799	2,039	1,908	1,754	1,568	1,382
1,800–1,999	2,089	1,958	1,804	1,618	1,432

TABLE 3.—PELL GRANT PAYMENT SCHEDULE—Continued

Dependent Students, Independent Students with Dependents

If tuition is:	And expected family contribution is:				
	$1,601–1,800	$1,801–2,000	$2,001–2,200	$2,201–2,400	$2,401–2,600
2,000–2,199	2,139	2,008	1,854	1,668	1,482
2,200–2,399	2,189	2,058	1,904	1,718	1,532
2,400–2,599	2,239	2,108	1,954	1,768	1,582
2,600–2,799	2,289	2,158	2,004	1,818	1,632
2,800–2,999	2,339	2,208	2,054	1,868	1,682
3,000–3,199	2,389	2,258	2,104	1,918	1,732
3,200–3,399	2,439	2,308	2,154	1,968	1,782
3,400–3,599	2,489	2,358	2,204	2,018	1,832
3,600–3,799	2,539	2,408	2,254	2,068	1,882
3,800–3,999	2,589	2,458	2,304	2,118	1,932
4,000–4,199	2,639	2,508	2,354	2,168	1,982
4,200–4,399	2,689	2,558	2,404	2,218	2,032
4,400–4,599	2,739	2,608	2,454	2,268	2,082
4,600–4,799	2,789	2,658	2,504	2,318	2,132
4,800–4,999	2,839	2,708	2,554	2,368	2,182
5,000–5,199	2,889	2,758	2,604	2,418	2,232
5,200–5,399	2,939	2,808	2,654	2,468	2,282
5,400–5,599	2,989	2,858	2,704	2,518	2,332
5,600–5,799	3,039	2,908	2,754	2,568	2,382
5,800–5,999	3,089	2,958	2,804	2,618	2,432
6,000–6,199	3,139	3,008	2,854	2,668	2,482
6,200–6,399	3,189	3,058	2,904	2,718	2,532
6,400–6,599	3,239	3,108	2,954	2,768	2,582
6,600–6,799	3,289	3,158	3,004	2,818	2,632
6,800–6,999	3,339	3,208	3,054	2,868	2,682
7,000–7,199	3,389	3,258	3,104	2,918	2,732
7,200–7,399	3,439	3,308	3,154	2,968	2,782
7,400–7,599	3,489	3,358	3,204	3,018	2,832
7,600–7,799	3,539	3,408	3,254	3,068	2,882
7,800–7,999	3,589	3,458	3,304	3,118	2,932
8,000–8,199	3,639	3,508	3,354	3,168	2,982
8,200–8,399	3,689	3,558	3,404	3,218	3,032
8,400–8,599	3,739	3,608	3,454	3,268	3,082
8,600–8,799	3,789	3,658	3,504	3,318	3,132
8,800–8,999	3,839	3,708	3,554	3,368	3,182
9,000–9,199	3,889	3,758	3,604	3,418	3,232
9,200–9,399	3,939	3,808	3,654	3,468	3,282
9,400–9,599	3,989	3,858	3,704	3,518	3,332
9,600–9,799	4,039	3,908	3,754	3,568	3,382
9,800–9,999	4,089	3,958	3,804	3,618	3,432
10,000–10,199	4,139	4,008	3,854	3,668	3,482
10,200–10,399	4,189	4,058	3,904	3,718	3,532
10,400–10,599	4,239	4,108	3,954	3,768	3,582
10,600–10,799	4,289	4,158	4,004	3,818	3,632
10,800–10,999	4,339	4,208	4,054	3,868	3,682
11,000–11,199	4,389	4,258	4,104	3,918	3,732
11,200–11,399	4,439	4,308	4,154	3,968	3,782

TABLE 3.—PELL GRANT PAYMENT SCHEDULE—Continued

Dependent Students, Independent Students with Dependents

If tuition is:	And expected family contribution is:				
	$2,601–2,800	$2,801–3,000	$3,001–3,200	$3,201–3,400	$3,401–3,600
Then the award is:					
$0–$199	$780	$620	$459	$298	$159
200–399	855	695	534	373	234
400–599	905	745	584	423	284
600–799	955	795	634	473	334
800–999	1,005	845	684	523	384
1,000–1,199	1,055	895	734	573	434
1,200–1,399	1,105	945	784	623	484
1,400–1,599	1,155	995	834	673	534
1,600–1,799	1,205	1,045	884	723	584
1,800–1,999	1,255	1,095	934	773	634
2,000–2,199	1,305	1,145	984	823	684
2,200–2,399	1,355	1,195	1,034	873	734
2,400–2,599	1,405	1,245	1,084	923	784
2,600–2,799	1,455	1,295	1,134	973	834
2,800–2,999	1,505	1,345	1,184	1,023	884
3,000–3,199	1,555	1,395	1,234	1,073	934

TABLE 3.—PELL GRANT PAYMENT SCHEDULE—Continued

Dependent Students, Independent Students with Dependents

If tuition is:	And expected family contribution is:				
	$2,601–2,800	$2,801–3,000	$3,001–3,200	$3,201–3,400	$3,401–3,600
3,200–3,399	1,605	1,445	1,284	1,123	984
3,400–3,599	1,655	1,495	1,334	1,173	1,034
3,600–3,799	1,705	1,545	1,384	1,223	1,084
3,800–3,999	1,755	1,595	1,434	1,273	1,134
4,000–4,199	1,805	1,645	1,484	1,323	1,184
4,200–4,399	1,855	1,695	1,534	1,373	1,234
4,400–4,599	1,905	1,745	1,584	1,423	1,284
4,600–4,799	1,955	1,795	1,634	1,473	1,334
4,800–4,999	2,005	1,845	1,684	1,523	1,384
5,000–5,199	2,055	1,895	1,734	1,573	1,434
5,200–5,399	2,105	1,945	1,784	1,623	1,484
5,400–5,599	2,155	1,995	1,834	1,673	1,534
5,600–5,799	2,205	2,045	1,884	1,723	1,584
5,800–5,999	2,255	2,095	1,934	1,773	1,634
6,000–6,199	2,305	2,145	1,984	1,823	1,684
6,200–6,399	2,355	2,195	2,034	1,873	1,734
6,400–6,599	2,405	2,245	2,084	1,923	1,784
6,600–6,799	2,455	2,295	2,134	1,973	1,834
6,800–6,999	2,505	2,345	2,184	2,023	1,884
7,000–7,199	2,555	2,395	2,234	2,073	1,934
7,200–7,399	2,605	2,445	2,284	2,123	1,984
7,400–7,599	2,655	2,495	2,334	2,173	2,034
7,600–7,799	2,705	2,545	2,384	2,223	2,084
7,800–7,999	2,755	2,595	2,434	2,273	2,134
8,000–8,199	2,805	2,645	2,484	2,323	2,184
8,200–8,399	2,855	2,695	2,534	2,373	2,234
8,400–8,599	2,905	2,745	2,584	2,423	2,284
8,600–8,799	2,955	2,795	2,634	2,473	2,334
8,800–8,999	3,005	2,845	2,684	2,523	2,384
9,000–9,199	3,055	2,895	2,734	2,573	2,434
9,200–9,399	3,105	2,945	2,784	2,623	2,484
9,400–9,599	3,155	2,995	2,834	2,673	2,534
9,600–9,799	3,205	3,045	2,884	2,723	2,584
9,800–9,999	3,255	3,095	2,934	2,773	2,634
10,000–10,199	3,305	3,145	2,984	2,823	2,684
10,200–10,399	3,355	3,195	3,034	2,873	2,734
10,400–10,599	3,405	3,245	3,084	2,923	2,784
10,600–10,799	3,455	3,295	3,134	2,973	2,834
10,800–10,999	3,505	3,345	3,184	3,023	2,884
11,000–11,199	3,555	3,395	3,234	3,073	2,934
11,200–11,399	3,605	3,445	3,284	3,123	2,984

TABLE 3.—PELL GRANT PAYMENT SCHEDULE—Continued

Dependent Students, Independent Students with Dependents

If tuition is:	And expected family contribution is:				
	$3,601–$3,800	$3,801–$4,000	$4,001–$4,200	$4,201–$4,400	$4,401–$4,600
	Then the award is:				
$0–$199	$22	−$115	−$252	−$368	−$485
200–399	97	−40	−177	−293	−410
400–599	147	10	−127	−243	−360
600–799	197	60	−77	−193	−310
800–999	247	110	−27	−143	−260
1,000–1,199	297	160	23	−93	−210
1,200–1,399	347	210	73	−43	−160
1,400–1,599	397	260	123	7	−110
1,600–1,799	447	310	173	57	−60
1,800–1,999	497	360	223	107	−10
2,000–2,199	547	410	273	157	40
2,200–2,399	597	460	323	207	90
2,400–2,599	647	510	373	257	140
2,600–2,799	697	560	423	307	190
2,800–2,999	747	610	473	357	240
3,000–3,199	797	660	523	407	290
3,200–3,399	847	710	573	457	340
3,400–3,599	897	760	623	507	390
3,600–3,799	947	810	673	557	440
3,800–3,999	997	860	723	607	490
4,000–4,199	1,047	910	773	657	540
4,200–4,399	1,097	960	823	707	590

TABLE 3.—PELL GRANT PAYMENT SCHEDULE—Continued

Dependent Students, Independent Students with Dependents

If tuition is:	And expected family contribution is:				
	$3,601–$3,800	$3,801–$4,000	$4,001–$4,200	$4,201–$4,400	$4,401–$4,600
4,400–4,599	1,147	1,010	873	757	640
4,600–4,799	1,197	1,060	923	807	690
4,800–4,999	1,247	1,110	973	857	740
5,000–5,199	1,297	1,160	1,023	907	790
5,200–5,399	1,347	1,210	1,073	957	840
5,400–5,599	1,397	1,260	1,123	1,007	890
5,600–5,799	1,447	1,310	1,173	1,057	940
5,800–5,999	1,497	1,360	1,223	1,107	990
6,000–6,199	1,547	1,410	1,273	1,157	1,040
6,200–6,399	1,597	1,460	1,323	1,207	1,090
6,400–6,599	1,647	1,510	1,373	1,257	1,140
6,600–6,799	1,697	1,560	1,423	1,307	1,190
6,800–6,999	1,747	1,610	1,473	1,357	1,240
7,000–7,199	1,797	1,660	1,523	1,407	1,290
7,200–7,399	1,847	1,710	1,573	1,457	1,340
7,400–7,599	1,897	1,760	1,623	1,507	1,390
7,600–7,799	1,947	1,810	1,673	1,557	1,440
7,800–7,999	1,997	1,860	1,723	1,607	1,490
8,000–8,199	2,047	1,910	1,773	1,657	1,540
8,200–8,399	2,097	1,960	1,823	1,707	1,590
8,400–8,599	2,147	2,010	1,873	1,757	1,640
8,600–8,799	2,197	2,060	1,923	1,807	1,690
8,800–8,999	2,247	2,110	1,973	1,857	1,740
9,000–9,199	2,297	2,160	2,023	1,907	1,790
9,200–9,399	2,347	2,210	2,073	1,957	1,840
9,400–9,599	2,397	2,260	2,123	2,007	1,890
9,600–9,799	2,447	2,310	2,173	2,057	1,940
9,800–9,999	2,497	2,360	2,223	2,107	1,990
10,000–10,199	2,547	2,410	2,273	2,157	2,040
10,200–10,399	2,597	2,460	2,323	2,207	2,090
10,400–10,599	2,647	2,510	2,373	2,257	2,140
10,600–10,799	2,697	2,560	2,423	2,307	2,190
10,800–10,999	2,747	2,610	2,473	2,357	2,240
11,000–11,199	2,797	2,660	2,523	2,407	2,290
11,200–11,399	2,847	2,710	2,573	2,457	2,340

TABLE 3.—PELL GRANT PAYMENT SCHEDULE—Continued

Dependent Students, Independent Students with Dependents

If tuition is:	And expected family contribution is:				
	$4,601–4,800	$4,801–5,000	$5,001–5,200	$5,201–5,400	$5,401–5,600
	Then the award is:				
$0–$199	−$601	−$718	−$831	−$930	−$1,029
200–399	−526	−643	−756	−855	−954
400–599	−476	−593	−706	−805	−904
600–799	−426	−543	−656	−755	−854
800–999	−376	−493	−606	−705	−804
1,000–1,199	−326	−443	−556	−655	−754
1,200–1,399	−276	−393	−506	−605	−704
1,400–1,599	−226	−343	−456	−555	−654
1,600–1,799	−176	−293	−406	−505	−604
1,800–1,999	−126	−243	−356	−455	−554
2,000–2,199	−76	−193	−306	−405	−504
2,200–2,399	−26	−143	−256	−355	−454
2,400–2,599	24	−93	−206	−305	−404
2,600–2,799	74	−43	−156	−255	−354
2,800–2,999	124	7	−106	−205	−304
3,000–3,199	174	57	−56	−155	−254
3,200–3,399	224	107	−6	−105	−204
3,400–3,599	274	157	44	−55	−154
3,600–3,799	324	207	94	−5	−104
3,800–3,999	374	257	144	45	−54
4,000–4,199	424	307	194	95	−4
4,200–4,399	474	357	244	145	46
4,400–4,599	524	407	294	195	96
4,600–4,799	574	457	344	245	146
4,800–4,999	624	507	394	295	196
5,000–5,199	674	557	444	345	246
5,200–5,399	724	607	494	395	296
5,400–5,599	774	657	544	445	346

TABLE 3.—PELL GRANT PAYMENT SCHEDULE—Continued

Dependent Students, Independent Students with Dependents

If tuition is:	And expected family contribution is:				
	$4,601–4,800	$4,801–5,000	$5,001–5,200	$5,201–5,400	$5,401–5,600
5,600–5,799	824	707	594	495	396
5,800–5,999	874	757	644	545	446
6,000–6,199	924	807	694	595	496
6,200–6,399	974	857	744	645	546
6,400–6,599	1,024	907	794	695	596
6,600–6,799	1,074	957	844	745	646
6,800–6,999	1,124	1,007	894	795	696
7,000–7,199	1,174	1,057	944	845	746
7,200–7,399	1,224	1,107	994	895	796
7,400–7,599	1,274	1,157	1,044	945	846
7,600–7,799	1,324	1,207	1,094	995	896
7,800–7,999	1,374	1,257	1,144	1,045	946
8,000–8,199	1,424	1,307	1,194	1,095	996
8,200–8,399	1,474	1,357	1,244	1,145	1,046
8,400–8,599	1,524	1,407	1,294	1,195	1,096
8,600–8,799	1,574	1,457	1,344	1,245	1,146
8,800–8,999	1,624	1,507	1,394	1,295	1,196
9,000–9,199	1,674	1,557	1,444	1,345	1,246
9,200–9,399	1,724	1,607	1,494	1,395	1,296
9,400–9,599	1,774	1,657	1,544	1,445	1,346
9,600–9,799	1,824	1,707	1,594	1,495	1,396
9,800–9,999	1,874	1,757	1,644	1,545	1,446
10,000–10,199	1,924	1,807	1,694	1,595	1,496
10,200–10,399	1,974	1,857	1,744	1,645	1,546
10,400–10,599	2,024	1,907	1,794	1,695	1,596
10,600–10,799	2,074	1,957	1,844	1,745	1,646
10,800–10,999	2,124	2,007	1,894	1,795	1,696
11,000–11,199	2,174	2,057	1,944	1,845	1,746
11,200–11,399	2,224	2,107	1,994	1,895	1,796

TABLE 3.—PELL GRANT PAYMENT SCHEDULE—Continued

Dependent Students, Independent Students with Dependents

If tuition is:	And expected family contribution is:				
	$5,601–5,800	$5,801–6,000	$6,001–6,200	$6,201–6,400	$6,401–6,600
Then the award is:					
$0–$199	−$1,128	−$1,227	−$1,330	−$1,433	−$1,535
200–399	−1,053	−1,152	−1,255	−1,358	−1,460
400–599	−1,003	−1,102	−1,205	−1,308	−1,410
600–799	−953	−1,052	−1,155	−1,258	−1,360
800–999	−903	−1,002	−1,105	−1,208	−1,310
1,000–1,199	−853	−952	−1,055	−1,158	−1,260
1,200–1,399	−803	−902	−1,005	−1,108	−1,210
1,400–1,599	−753	−852	−955	−1,058	−1,160
1,600–1,799	−703	−802	−905	−1,008	−1,110
1,800–1,999	−653	−752	−855	−958	−1,060
2,000–2,199	−603	−702	−805	−908	−1,010
2,200–2,399	−553	−652	−755	−858	−960
2,400–2,599	−503	−602	−705	−808	−910
2,600–2,799	−453	−552	−655	−758	−860
2,800–2,999	−403	−502	−605	−708	−810
3,000–3,199	−353	−452	−555	−658	−760
3,200–3,399	−303	−402	−505	−608	−710
3,400–3,599	−253	−352	−455	−558	−660
3,600–3,799	−203	−302	−405	−508	−610
3,800–3,999	−153	−252	−355	−458	−560
4,000–4,199	−103	−202	−305	−408	−510
4,200–4,399	−53	−152	−255	−358	−460
4,400–4,599	−3	−102	−205	−308	−410
4,600–4,799	47	−52	−155	−258	−360
4,800–4,999	97	−2	−105	−208	−310
5,000–5,199	147	48	−55	−158	−260
5,200–5,399	197	98	−5	−108	−210
5,400–5,599	247	148	45	−58	−160
5,600–5,799	297	198	95	−8	−110
5,800–5,999	347	248	145	42	−60
6,000–6,199	397	298	195	92	−10
6,200–6,399	447	348	245	142	40
6,400–6,599	497	398	295	192	90
6,600–6,799	547	448	345	242	140

TABLE 3.—PELL GRANT PAYMENT SCHEDULE—Continued

Dependent Students, Independent Students with Dependents

If tuition is:	And expected family contribution is:				
	$5,601–5,800	$5,801–6,000	$6,001–6,200	$6,201–6,400	$6,401–6,600
6,800–6,999	597	498	395	292	190
7,000–7,199	647	548	445	342	240
7,200–7,399	697	598	495	392	290
7,400–7,599	747	648	545	442	340
7,600–7,799	797	698	595	492	390
7,800–7,999	847	748	645	542	440
8,000–8,199	897	798	695	592	490
8,200–8,399	947	848	745	642	540
8,400–8,599	997	898	795	692	590
8,600–8,799	1,047	948	845	742	640
8,800–8,999	1,097	998	895	792	690
9,000–9,199	1,147	1,048	945	842	740
9,200–9,399	1,197	1,098	995	892	790
9,400–9,599	1,247	1,148	1,045	942	840
9,600–9,799	1,297	1,198	1,095	992	890
9,800–9,999	1,347	1,248	1,145	1,042	940
10,000–10,199	1,397	1,298	1,195	1,092	990
10,200–10,399	1,447	1,348	1,245	1,142	1,040
10,400–10,599	1,497	1,398	1,295	1,192	1,090
10,600–10,799	1,547	1,448	1,345	1,242	1,140
10,800–10,999	1,597	1,498	1,395	1,292	1,190
11,000–11,199	1,647	1,548	1,445	1,342	1,240
11,200–11,399	1,697	1,598	1,495	1,392	1,290

TABLE 3.—PELL GRANT PAYMENT SCHEDULE—Continued

Dependent Students, Independent Students with Dependents

If tuition is:	And expected family contribution is:			
	$6,601–6,800	$6,801–7,000	$7,001–7,200	$7,201–7,400
Then the award is:				
$0–$199	–$1,638	–$1,740	–$1,843	–$1,945
200–399	–1,563	–1,665	–1,768	–1,870
400–599	–1,513	–1,615	–1,718	–1,820
600–799	–1,463	–1,565	–1,668	–1,770
800–999	–1,413	–1,515	–1,618	–1,720
1,000–1,199	–1,363	–1,465	–1,568	–1,670
1,200–1,399	–1,313	–1,415	–1,518	–1,620
1,400–1,599	–1,263	–1,365	–1,468	–1,570
1,600–1,799	–1,213	–1,315	–1,418	–1,520
1,800–1,999	–1,163	–1,265	–1,368	–1,470
2,000–2,199	–1,113	–1,215	–1,318	–1,420
2,200–2,399	–1,063	–1,165	–1,268	–1,370
2,400–2,599	–1,013	–1,115	–1,218	–1,320
2,600–2,799	–963	–1,065	–1,168	–1,270
2,800–2,999	–913	–1,015	–1,118	–1,220
3,000–3,199	–863	–965	–1,068	–1,170
3,200–3,399	–813	–915	–1,018	–1,120
3,400–3,599	–763	–865	–968	–1,070
3,600–3,799	–713	–815	–918	–1,020
3,800–3,999	–663	–765	–868	–970
4,000–4,199	–613	–715	–818	–920
4,200–4,399	–563	–665	–768	–870
4,400–4,599	–513	–615	–718	–820
4,600–4,799	–463	–565	–668	–770
4,800–4,999	–413	–515	–618	–720
5,000–5,199	–363	–465	–568	–670
5,200–5,399	–313	–415	–518	–620
5,400–5,599	–263	–365	–468	–570
5,600–5,799	–213	–315	–418	–520
5,800–5,999	–163	–265	–368	–470
6,000–6,199	–113	–215	–318	–420
6,200–6,399	–63	–165	–268	–370
6,400–6,599	–13	–115	–218	–320
6,600–6,799	37	–65	–168	–270
6,800–6,999	87	–15	–118	–220
7,000–7,199	137	35	–68	–170
7,200–7,399	187	85	–18	–120
7,400–7,599	237	135	32	–70
7,600–7,799	287	185	82	–20
7,800–7,999	337	235	132	30

TABLE 3.—PELL GRANT PAYMENT SCHEDULE—Continued

Dependent Students, Independent Students with Dependents

If tuition is:	And expected family contribution is:			
	$6,601–6,800	$6,801–7,000	$7,001–7,200	$7,201–7,400
Then the award is:				
8,000–8,199	387	285	182	80
8,200–8,399	437	335	232	130
8,400–8,599	487	385	282	180
8,600–8,799	537	435	332	230
8,800–8,999	587	485	382	280
9,000–9,199	637	535	432	330
9,200–9,399	687	585	482	380
9,400–9,599	737	635	532	430
9,600–9,799	787	685	582	480
9,800–9,999	837	735	632	530
10,000–10,199	887	785	682	580
10,200–10,399	937	835	732	630
10,400–10,599	987	885	782	680
10,600–10,799	1,037	935	832	730
10,800–10,999	1,087	985	882	780
11,000–11,199	1,137	1,035	932	830
11,200–11,399	1,187	1,085	982	880

TABLE 4.—PELL GRANT PAYMENT SCHEDULE

Single Independent Students

If tuition is:	And expected family contribution is:				
	$0–2,000	$2,001–2,200	$2,201–2,400	$2,401–2,600	$2,601–2,800
Then the award is:					
$0–$199	$2,750	$2,447	$2,137	$1,826	$1,515
200–399	2,825	2,522	2,212	1,901	1,590
400–599	2,875	2,572	2,262	1,951	1,640
600–799	2,925	2,622	2,312	2,001	1,690
800–999	2,975	2,672	2,362	2,051	1,740
1,000–1,199	3,025	2,722	2,412	2,101	1,790
1200–1,399	3,075	2,772	2,462	2,151	1,840
1400–1,599	3,125	2,822	2,512	2,201	1,890
1,600–1,799	3,175	2,872	2,562	2,251	1,940
1,800–1,999	3,225	2,922	2,612	2,301	1,990
2,000–2,199	3,275	2,972	2,662	2,351	2,040
2,200–2,399	3,325	3,022	2,712	2,401	2,090
2,400–2,599	3,375	3,072	2,762	2,451	2,140
2,600–2,799	3,425	3,122	2,812	2,501	2,190
2,800–2,999	3,475	3,172	2,862	2,551	2,240
3,000–3,199	3,525	3,222	2,912	2,601	2,290
3,200–3,399	3,575	3,272	2,962	2,651	2,340
3,400–3,599	3,625	3,322	3,012	2,701	2,390
3,600–3,799	3,675	3,372	3,062	2,751	2,440
3,800–3,999	3,725	3,422	3,112	2,801	2,490
4,000–4,199	3,775	3,472	3,162	2,851	2,540
4,200–4,399	3,825	3,522	3,212	2,901	2,590
4,400–4,599	3,875	3,572	3,262	2,951	2,640
4,600–4,799	3,925	3,622	3,312	3,001	2,690
4,800–4,999	3,975	3,672	3,362	3,051	2,740
5,000–5,199	4,025	3,722	3,412	3,101	2,790
5,200–5,399	4,075	3,772	3,462	3,151	2,840
5,400–5,599	4,125	3,822	3,512	3,201	2,890
5,600–5,799	4,175	3,872	3,562	3,251	2,940
5,800–5,999	4,225	3,922	3,612	3,301	2,990
6,000–6,199	4,275	3,972	3,662	3,351	3,040
6,200–6,399	4,325	4,022	3,712	3,401	3,090
6,400–6,599	4,375	4,072	3,762	3,451	3,140
6,600–6,799	4,425	4,122	3,812	3,501	3,190
6,800–6,999	4,475	4,172	3,862	3,551	3,240
7,000–7,199	4,525	4,222	3,912	3,601	3,290
7,200–7,399	4,575	4,272	3,962	3,651	3,340
7,400–7,599	4,625	4,322	4,012	3,701	3,390
7,600–7,799	4,675	4,372	4,062	3,751	3,440
7,800–7,999	4,725	4,422	4,112	3,801	3,490
8,000–8,199	4,775	4,472	4,162	3,851	3,540
8,200–8,399	4,825	4,522	4,212	3,901	3,590
8,400–8,599	4,875	4,572	4,262	3,951	3,640
8,600–8,799	4,925	4,622	4,312	4,001	3,690
8,800–8,999	4,975	4,672	4,362	4,051	3,740
9,000–9,199	5,025	4,722	4,412	4,101	3,790
9,200–9,399	5,075	4,772	4,462	4,151	3,840

TABLE 4.—PELL GRANT PAYMENT SCHEDULE—Continued

Single Independent Students

If tuition is:	And expected family contribution is:				
	$0–2,000	$2,001–2,200	$2,201–2,400	$2,401–2,600	$2,601–2,800
	Then the award is:				
9,400–9,599	5,125	4,822	4,512	4,201	3,890
9,600–9,799	5,175	4,872	4,562	4,251	3,940
9,800–9,999	5,225	4,922	4,612	4,301	3,990
10,000–10,199	5,275	4,972	4,662	4,351	4,040
10,200–10,399	5,325	5,022	4,712	4,401	4,090
10,400–10,599	5,375	5,072	4,762	4,451	4,140
10,600–10,799	5,425	5,122	4,812	4,501	4,190
10,800–10,999	5,475	5,172	4,862	4,551	4,240
11,000–11,199	5,525	5,222	4,912	4,601	4,290
11,200–11,399	5,575	5,272	4,962	4,651	4,340

TABLE 4.—PELL GRANT PAYMENT SCHEDULE—Continued

Single Independent Students

If tuition is:	And expected family contribution is:				
	$2,801–3,000	$3,001–3,200	$3,201–3,400	$3,401–3,600	$3,601–3,800
	Then the award is:				
$0–$199	$1,205	$894	$584	$273	−$38
200–399	1,280	969	659	348	37
400–599	1,330	1,019	709	398	87
600–799	1,380	1,069	759	448	137
800–999	1,430	1,119	809	498	187
1,000–1,199	1,480	1,169	859	548	237
1,200–1,399	1,530	1,219	909	598	287
1,400–1,599	1,580	1,269	959	648	337
1,600–1,799	1,630	1,319	1,009	698	387
1,800–1,999	1,680	1,369	1,059	748	437
2,000–2,199	1,730	1,419	1,109	798	487
2,200–2,399	1,780	1,469	1,159	848	537
2,400–2,599	1,830	1,519	1,209	898	587
2,600–2,799	1,880	1,569	1,259	948	637
2,800–2,999	1,930	1,619	1,309	998	687
3,000–3,199	1,980	1,669	1,359	1,048	737
3,200–3,399	2,030	1,719	1,409	1,098	787
3,400–3,599	2,080	1,769	1,459	1,148	837
3,600–3,799	2,130	1,819	1,509	1,198	887
3,800–3,999	2,180	1,869	1,559	1,248	937
4,000–4,199	2,230	1,919	1,609	1,298	987
4,200–4,399	2,280	1,969	1,659	1,348	1,037
4,400–4,599	2,330	2,019	1,709	1,398	1,087
4,600–4,799	2,380	2,069	1,759	1,448	1,137
4,800–4,999	2,430	2,119	1,809	1,498	1,187
5,000–5,199	2,480	2,169	1,859	1,548	1,237
5,200–5,399	2,530	2,219	1,909	1,598	1,287
5,400–5,599	2,580	2,269	1,959	1,648	1,337
5,600–5,799	2,630	2,319	2,009	1,698	1,387
5,800–5,999	2,680	2,369	2,059	1,748	1,437
6,000–6,199	2,730	2,419	2,109	1,798	1,487
6,200–6,399	2,780	2,469	2,159	1,848	1,537
6,400–6,599	2,830	2,519	2,209	1,898	1,587
6,600–6,799	2,880	2,569	2,259	1,948	1,637
6,800–6,999	2,930	2,619	2,309	1,998	1,687
7,000–7,199	2,980	2,669	2,359	2,048	1,737
7,200–7,399	3,030	2,719	2,409	2,098	1,787
7,400–7,599	3,080	2,769	2,459	2,148	1,837
7,600–7,799	3,130	2,819	2,509	2,198	1,887
7,800–7,999	3,180	2,869	2,559	2,248	1,937
8,000–8,199	3,230	2,919	2,609	2,298	1,987
8,200–8,399	3,280	2,969	2,659	2,348	2,037
8,400–8,599	3,330	3,019	2,709	2,398	2,087
8,600–8,799	3,380	3,069	2,759	2,448	2,137
8,800–8,999	3,430	3,119	2,809	2,498	2,187
9,000–9,199	3,480	3,169	2,859	2,548	2,237
9,200–9,399	3,530	3,219	2,909	2,598	2,287
9,400–9,599	3,580	3,269	2,959	2,648	2,337
9,600–9,799	3,630	3,319	3,009	2,698	2,387
9,800–9,999	3,680	3,369	3,059	2,748	2,437
10,000–10,199	3,730	3,419	3,109	2,798	2,487
10,200–10,399	3,780	3,469	3,159	2,848	2,537
10,400–10,599	3,830	3,519	3,209	2,898	2,587
10,600–10,799	3,880	3,569	3,259	2,948	2,637

TABLE 4.—PELL GRANT PAYMENT SCHEDULE—Continued

Single Independent Students

If tuition is:	And expected family contribution is:				
	$2,801–3,000	$3,001–3,200	$3,201–3,400	$3,401–3,600	$3,601–3,800
10,800–10,999	3,930	3,619	3,309	2,998	2,687
11,000–11,199	3,980	3,669	3,359	3,048	2,737
11,200–11,399	4,030	3,719	3,409	3,098	2,787

TABLE 4.—PELL GRANT PAYMENT SCHEDULE—Continued

Single Independent Students

If tuition is:	And expected family contribution is:			
	$3,801–4,000	$4,001–4,200	$4,201–4,400	$4,401–4,600
Then the award is:				
$0–$199	−$348	−$659	−$970	−$1,280
200–399	−273	−584	−895	−1,205
400–599	−223	−534	−845	−1,155
600–799	−173	−484	−795	−1,105
800–999	−123	−434	−745	−1,055
1,000–1,199	−73	−384	−695	−1,005
1,200–1,399	−23	−334	−645	−955
1,400–1,599	27	−284	−595	−905
1,600–1,799	77	−234	−545	−855
1,800–1,999	127	−184	−495	−805
2,000–2,199	177	−134	−445	−755
2,200–2,399	227	−84	−395	−705
2,400–2,599	277	−34	−345	−655
2,600–2,799	327	16	−295	−605
2,800–2,999	377	66	−245	−555
3,000–3,199	427	116	−195	−505
3,200–3,399	477	166	−145	−455
3,400–3,599	527	216	−95	−405
3,600–3,799	577	266	−45	−355
3,800–3,999	627	316	5	−305
4,000–4,199	677	366	55	−255
4,200–4,399	727	416	105	−205
4,400–4,599	777	466	155	−155
4,600–4,799	827	516	205	−105
4,800–4,999	877	566	255	−55
5,000–5,199	927	616	305	−5
5,200–5,399	977	666	355	45
5,400–5,599	1,027	716	405	95
5,600–5,799	1,077	766	455	145
5,800–5,999	1,127	816	505	195
6,000–6,199	1,177	866	555	245
6,200–6,399	1,227	916	605	295
6,400–6,599	1,277	966	655	345
6,600–6,799	1,327	1,016	705	395
6,800–6,999	1,377	1,066	755	445
7,000–7,199	1,427	1,116	805	495
7,200–7,399	1,477	1,166	855	545
7,400–7,599	1,527	1,216	905	595
7,600–7,799	1,577	1,266	955	645
7,800–7,999	1,627	1,316	1,005	695
8,000–8,199	1,677	1,366	1,055	745
8,200–8,399	1,727	1,416	1,105	795
8,400–8,599	1,777	1,466	1,155	845
8,600–8,799	1,827	1,516	1,205	895
8,800–8,999	1,877	1,566	1,255	945
9,000–9,199	1,927	1,616	1,305	995
9,200–9,399	1,977	1,666	1,355	1,045
9,400–9,599	2,027	1,716	1,405	1,095
9,600–9,799	2,077	1,766	1,455	1,145
9,800–9,999	2,127	1,816	1,505	1,195
10,000–10,199	2,177	1,866	1,555	1,245
10,200–10,399	2,227	1,916	1,605	1,295
10,400–10,599	2,277	1,966	1,655	1,345
10,600–10,799	2,327	2,016	1,705	1,395
10,800–10,999	2,377	2,066	1,755	1,445
11,000–11,199	2,427	2,116	1,805	1,495
11,200–11,399	2,477	2,166	1,855	1,545

TABLE 4.—PELL GRANT PAYMENT SCHEDULE—Continued

Single Independent Students

If tuition is:	And expected family contribution is:				
	$4,601–4,800	$4,801–5,000	$5,001–5,200	$5,201–5,400	$5,401–5,600
	Then the award is:				
$0–$199	−$1,591	−$2,017	−$2,332	−$2,647	−$2,962
200–399	−1,516	−1,942	−2,257	−2,572	−2,887
400–599	−1,466	−1,892	−2,207	−2,522	−2,837
600–799	−1,416	−1,842	−2,157	−2,472	−2,787
800–999	−1,366	−1,792	−2,107	−2,422	−2,737
1,000–1,199	−1,316	−1,742	−2,057	−2,372	−2,687
1,200–1,399	−1,266	−1,692	−2,007	−2,322	−2,637
1,400–1,599	−1,216	−1,642	−1,957	−2,272	−2,587
1,600–1,799	−1,166	−1,592	−1,907	−2,222	−2,537
1,800–1,999	−1,116	−1,542	−1,857	−2,172	−2,487
2,000–2,199	−1,066	−1,492	−1,807	−2,122	−2,437
2,200–2,399	−1,016	−1,442	−1,757	−2,072	−2,387
2,400–2,599	−966	−1,392	−1,707	−2,022	−2,337
2,600–2,799	−916	−1,342	−1,657	−1,972	−2,287
2,800–2,999	−866	−1,292	−1,607	−1,922	−2,237
3,000–3,199	−816	−1,242	−1,557	−1,872	−2,187
3,200–3,399	−766	−1,192	−1,507	−1,822	−2,137
3,400–3,599	−716	−1,142	−1,457	−1,772	−2,087
3,600–3,799	−666	−1,092	−1,407	−1,722	−2,037
3,800–3,999	−616	−1,042	−1,357	−1,672	−1,987
4,000–4,199	−566	−992	−1,307	−1,622	−1,937
4,200–4,399	−516	−942	−1,257	−1,572	−1,887
4,400–4,599	−466	−892	−1,207	−1,522	−1,837
4,600–4,799	−416	−842	−1,157	−1,472	−1,787
4,800–4,999	−366	−792	−1,107	−1,422	−1,737
5,000–5,199	−316	−742	−1,057	−1,372	−1,687
5,200–5,399	−266	−692	−1,007	−1,322	−1,637
5,400–5,599	−216	−642	−957	−1,272	−1,587
5,600–5,799	−166	−592	−907	−1,222	−1,537
5,800–5,999	−116	−542	−857	−1,172	−1,487
6,000–6,199	−66	−492	−807	−1,122	−1,437
6,200–6,399	−16	−442	−757	−1,072	−1,387
6,400–6,599	34	−392	−707	−1,022	−1,337
6,600–6,799	84	−342	−657	−972	−1,287
6,800–6,999	134	−292	−607	−922	−1,237
7,000–7,199	184	−242	−557	−872	−1,187
7,200–7,399	234	−192	−507	−822	−1,137
7,400–7,599	284	−142	−457	−772	−1,087
7,600–7,799	334	−92	−407	−722	−1,037
7,800–7,999	384	−42	−357	−672	−987
8,000–8,199	434	8	−307	−622	−937
8,200–8,399	484	58	−257	−572	−887
8,400–8,599	534	108	−207	−522	−837
8,600–8,799	584	158	−157	−472	−787
8,800–8,999	634	208	−107	−422	−737
9,000–9,199	684	258	−57	−372	−687
9,200–9,399	734	308	−7	−322	−637
9,400–9,599	784	358	43	−272	−587
9,600–9,799	834	408	93	−222	−537
9,800–9,999	884	458	143	−172	−487
10,000–10,199	934	508	193	−122	−437
10,200–10,399	984	558	243	−72	−387
10,400–10,599	1,034	608	293	−22	−337
10,600–10,799	1,084	658	343	28	−287
10,800–10,999	1,134	708	393	78	−237
11,000–11,199	1,184	758	443	128	−187
11,200–11,399	1,234	808	493	178	−137

TABLE 4.—PELL GRANT PAYMENT SCHEDULE—Continued

Single Independent Students

If tuition is:	And expected family contribution is:			
	$5,601–5,800	$5,801–6,000	$6,001–6,200	$6,201–6,400
	Then the award is:			
$0–$199	−$3,276	−$3,591	−$3,906	−$4,220
200–399	−3,201	−3,516	−3,831	−4,145
400–599	−3,151	−3,466	−3,781	−4,095

TABLE 4.—PELL GRANT PAYMENT SCHEDULE—Continued

Single Independent Students

If tuition is:	And expected family contribution is:			
	$5,601–5,800	$5,801–6,000	$6,001–6,200	$6,201–6,400
600–799	−3,101	−3,416	−3,731	−4,045
800–999	−3,051	−3,366	−3,681	−3,995
1,000–1,199	−3,001	−3,316	−3,631	−3,945
1,200–1,399	−2,951	−3,266	−3,581	−3,895
1,400–1,599	−2,901	−3,216	−3,531	−3,845
1,600–1,799	−2,851	−3,166	−3,481	−3,795
1,800–1,999	−2,801	−3,116	−3,431	−3,745
2,000–2,199	−2,751	−3,066	−3,381	−3,695
2,200–2,399	−2,701	−3,016	−3,331	−3,645
2,400–2,599	−2,651	−2,966	−3,281	−3,595
2,600–2,799	−2,601	−2,916	−3,231	−3,545
2,800–2,999	−2,551	−2,866	−3,181	−3,495
3,000–3,199	−2,501	−2,816	−3,131	−3,445
3,200–3,399	−2,451	−2,766	−3,081	−3,395
3,400–3,599	−2,401	−2,716	−3,031	−3,345
3,600–3,799	−2,351	−2,666	−2,981	−3,295
3,800–3,999	−2,301	−2,616	−2,931	−3,245
4,000–4,199	−2,251	−2,566	−2,881	−3,195
4,200–4,399	−2,201	−2,516	−2,831	−3,145
4,400–4,599	−2,151	−2,466	−2,781	−3,095
4,600–4,799	−2,101	−2,416	−2,731	−3,045
4,800–4,999	−2,051	−2,366	−2,681	−2,995
5,000–5,199	−2,001	−2,316	−2,631	−2,945
5,200–5,399	−1,951	−2,266	−2,581	−2,895
5,400–5,599	−1,901	−2,216	−2,531	−2,845
5,600–5,799	−1,851	−2,166	−2,481	−2,795
5,800–5,999	−1,801	−2,116	−2,431	−2,745
6,000–6,199	−1,751	−2,066	−2,381	−2,695
6,200–6,399	−1,701	−2,016	−2,331	−2,645
6,400–6,599	−1,651	−1,966	−2,281	−2,595
6,600–6,799	−1,601	−1,916	−2,231	−2,545
6,800–6,999	−1,551	−1,866	−2,181	−2,495
7,000–7,199	−1,501	−1,816	−2,131	−2,445
7,200–7,399	−1,451	−1,766	−2,081	−2,395
7,400–7,599	−1,401	−1,716	−2,031	−2,345
7,600–7,799	−1,351	−1,666	−1,981	−2,295
7,800–7,999	−1,301	−1,616	−1,931	−2,245
8,000–8,199	−1,251	−1,566	−1,881	−2,195
8,200–8,399	−1,201	−1,516	−1,831	−2,145
8,400–8,599	−1,151	−1,466	−1,781	−2,095
8,600–8,799	−1,101	−1,416	−1,731	−2,045
8,800–8,999	−1,051	−1,366	−1,681	−1,995
9,000–9,199	−1,001	−1,316	−1,631	−1,945
9,200–9,399	−951	−1,266	−1,581	−1,895
9,400–9,599	−901	−1,216	−1,531	−1,845
9,600–9,799	−851	−1,166	−1,481	−1,795
9,800–9,999	−801	−1,116	−1,431	−1,745
10,000–10,199	−751	−1,066	−1,381	−1,695
10,200–10,399	−701	−1,016	−1,331	−1,645
10,400–10,599	−651	−966	−1,281	−1,595
10,600–10,799	−601	−916	−1,231	−1,545
10,800–10,999	−551	−866	−1,181	−1,495
11,000–11,199	−501	−816	−1,131	−1,445
11,200–11,399	−451	−766	−1,081	−1,395

"(C) The Secretary shall publish the tables required by subparagraph (B) not later than the date on which the Secretary publishes the maximum grant amount under subparagraph (B)(ii). Such tables shall apply to Pell Grant determinations for the academic year that begins in the succeeding calendar year.

"(D) For the purpose of this paragraph, the term 'tuition' means the tuition and fees specified in subsection (l) of such section 472.".

(5) Section 411(b)(4) of the Act is amended by striking "411F" and inserting "472".

(6) Section 411(b)(5) of the Act is amended by striking "$200" and inserting "$400, except that, for a student attending on a less-than-half-time basis, no basic grant shall be awarded if the amount so determined is less than $200".

(e) ELIGIBILITY OF LESS-THAN-HALF-TIME STUDENTS.—Section 411(b) of the Act is further amended by striking paragraphs (6) and (7) and inserting the following:

"(6) No student may be awarded a basic grant for more than two and one-half academic years while attending on a less than half-time basis.".

(f) PERIOD OF ELIGIBILITY.—Section 411(c)(1) is amended by striking everything following "except that" and inserting "any period during which the student is enrolled in a noncredit or remedial course of study as defined in paragraph (2) shall not be counted for the purpose of this paragraph.".

(g) ELIGIBILITY FOR STUDY ABROAD.—Section 411(c)(2) of the Act is amended by adding at the end thereof the following new sentence: "Nothing in this section shall exclude from eligibility programs of study abroad that are approved for credit by the institution.".

(h) ELIGIBILITY INDEX.—Section 411(f) of the Act is amended by striking "an estimate of" and inserting "as a part of its regular output document".

(i) TREATMENT OF RECIPIENTS.—Section 411(i) of the Act is amended—

(1) by striking "NONCONTRACTOR STATUS OF INSTITUTIONS" and inserting "TREATMENT OF INSTITUTIONS AND STUDENTS UNDER OTHER LAWS"; and

(2) by adding at the end the following new sentence: "Recipients of Pell Grants shall not be considered to be individual grantees for purposes of part D of title V of Public Law 100-690.".

SEC. 412. UNIFICATION OF NEEDS ANALYSIS SYSTEMS.

Subpart 1 of part A of title IV of the Act is amended by striking sections 411A through 411F.

Subpart 2—Federal Supplemental Educational Opportunity Grants

SEC. 413. AMENDMENTS TO SUBPART 2 OF PART A.

(a) Title of Program.—The heading of subpart 2 of part A of title IV of the Act is amended to read as follows:

"Subpart 2—Federal Supplemental Educational Opportunity Grants".

(b) Authorization of Appropriations.—Section 413A(b) of the Act is amended to read as follows:

"(b) Authorization of Appropriations.—(1) For the purpose of enabling the Secretary to make payments to institutions of higher education which have made agreements with the Secretary in accordance with section 413C(a), for use by such institutions for payments to undergraduate students of supplemental grants awarded to them under this subpart, there are authorized to be appropriated $700,000,000 for fiscal year 1993 and such sums as may be necessary for the 4 succeeding fiscal years.

"(2) Sums appropriated pursuant to this subsection for any fiscal year shall be available for payments to institutions until the end of the second fiscal year succeeding the fiscal year for which they were appropriated.".

(c) Eligibility for Study Abroad.—Section 413B(a)(1)(A) of the Act is amended by inserting "or in a program of study abroad that is approved for credit by the institution" after "at the institution".

(d) Federal Share.—Section 413C(a)(2) of the Act is amended to read as follows:

"(2) agrees that the Federal share of awards under this subpart will not exceed 75 percent, except that the Federal share may be exceeded if the Secretary determines, pursuant to regulations establishing objective criteria for such determinations, that a larger Federal share is required to further the purpose of this subpart; and".

(e) Targeting.—Section 413C(c)(2) is amended to read as follows:

"(2)(A) In carrying out paragraph (1) of this subsection, each institution of higher education shall, in the agreement made under section 487, assure that the selection procedures will be designed to award supplemental grants under this subpart, first, to students with exceptional need.

"(B) For the purpose of subparagraph (A), the term 'students with exceptional need' means students with the greatest financial need as determined under part F of this title.".

(f) Use of Funds to Nontraditional Students.—Section 413C(d) of the Act is amended to read as follows:

"(d) Use of Funds to Nontraditional Students.—If the institution's allocation under this subpart is directly or indirectly based in part on the financial need demonstrated by students who are (1) attending the institution less than full time, (2) age 24 or older, (3) single parents, or (4) independent students, a reasonable proportion of the institution's allocation shall be made available to such students.".

(g) Transfer of Funds.—Section 413C(e) of the Act is amended by striking ", and may transfer such funds in accordance with the provisions of section 488".

(h) Consequences of Failure To Award.—Section 413D(e) of the Act is amended—

(1) by inserting "(1)" after the subsection heading; and

(2) by adding at the end the following new paragraph:

"(2) If under paragraph (1) of this subsection an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing it would be contrary to the interest of the program.".

Subpart 3—State Student Incentive Grants

SEC. 415. AMENDMENTS TO SUBPART 3 OF PART A.

(a) Eligibility for Study Abroad.—Section 415A(a) of the Act is amended by—

(1) striking "providing grants" and inserting "providing grants (1)"; and

(2) striking "and grants" and inserting "or participating in programs of study abroad that are approved for credit by the institution of higher education; or (2)".

(b) Authorization of Appropriations.—Section 415A(b) of the Act is amended to read as follows:

"(b) Authorization of Appropriations; Availability.—(1) There are authorized to be appropriated $125,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

"(2) Sums appropriated pursuant to paragraph (1) for any fiscal year shall remain available for payments to States under this subpart until the end of the fiscal year succeeding the fiscal year for which such sums were appropriated.".

(c) Maximum Grant.—Section 415C(b)(2) of the Act is amended by striking "$2,500" and inserting "$5,000".

(d) Covering Tuition Increases.—Section 415C(b)(8) of the Act is amended by inserting before the semicolon the following: ", except that for years in which more than $75,000,000 is appropriated, States shall receive more than that amount designated in section 415B only if total State appropriations for all need-based grants exceed the prior 3 years' average of the State's appropriations for all need-based grants".

(e) Allocation Rule.—Section 415C(b)(7) of the Act is amended to read as follows:

"(7) provides that if the State's allocation under this subpart is based in part on the financial need demonstrated by students who are—

"(A) attending the institution less than full time,

"(B) age 24 or older,

"(C) single parents, or

"(D) independent students,

a reasonable proportion of the State's allocation shall be made available to such students;".

Subpart 4—Federal Early Outreach and Student Services Programs

SEC. 417. ESTABLISHMENT OF NEW SUBPART.

(a) Amendments.—Part A of title IV of the Act is amended—

(1) by repealing subpart 4;

(2) by redesignating subparts 1, 2, and 3, as subparts 2, 3, and 4, respectively;

(3) by redesignating section 401 as section 400; and

(4) by inserting after such section the following new subpart:

"Subpart 1—Federal Early Outreach and Student Services Programs

"SEC. 401. FINDINGS.

"The Congress finds that—

"(1) the demands for services to qualified individuals from disadvantaged backgrounds and students with disabilities far exceeds currently available services;

"(2) success in secondary schools is an important determinant of success of postsecondary education;

"(3) individuals must be served at younger ages to make them successful in secondary school and postsecondary education;

"(4) many elementary and secondary school students and their parents are not aware of college opportunities and the options for financing college early enough in their schooling to allow them to study and plan for their graduation from secondary school and to apply to colleges;

"(5) many potential college students do not complete secondary school or pursue college education due to financial barriers;

"(6) emerging demographic projections of children in prekindergarten through high school age groups point to a growing number who will likely experience such barriers;

"(7) new incentives must be found to promote school performance and reduce the number of students who drop out before completing secondary school by assuring that low-income students and students with disabilities who complete secondary school or the equivalent and are accepted into college will have the opportunity to receive a college education, and to inform students early in their education of such opportunities;

"(8) for the well-being of the United States and in order to develop the full potential of each citizen, all students, including students with disabilities, and their families must receive pertinent and thorough higher education counseling and information on the availability and extent of student financial assistance programs;

"(9) information on postsecondary education opportunities, with emphasis on precollege guidance and college admission counseling should be made readily available to school counselors, teachers (including vocational and special education teachers), and school administrative staff;

"(10) all schools and public libraries should have thorough and up-to-date information on financial assistance programs;

"(11) schools should have access to information on various types of precollege guidance counseling programs, including what programs have been successful in what environments, such as rural, suburban and urban, in order to fashion programs that are most beneficial to their community;

"(12) counselors, teachers, and principals in schools which have a low rate of students who continue on to higher education should receive extra training in precollege guidance and financial assistance opportunities, and especially in early intervention programs; and

"(13) counseling and motivating students to strive for postsecondary education opportunities will have the added benefit of retaining more students in high school to complete the work necessary to obtain their high school diplomas.

"CHAPTER 1—TRIO PROGRAMS

"SEC. 401A. PROGRAM AUTHORITY; AUTHORIZATION OF APPROPRIATIONS.

"(a) Grants and Contracts Authorized.—The Secretary shall, in accordance with the provisions of this chapter, carry out a program of making grants and contracts designed to identify qualified individuals from disadvantaged backgrounds, to prepare them for a program of postsecondary education, to provide support services for such students who are pursuing programs of postsecondary education, to motivate and prepare students for doctoral programs, and to train individuals serving or preparing for service in programs and projects so designed.

"(b) Eligible Grant and Contract Recipients.—For the purposes described in subsection (a), the Secretary is authorized, without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), to make grants to, and contracts with, institutions of higher education, public and private agencies and organizations, combinations of such institutions, agencies, and organizations, and, in exceptional circumstances, secondary schools for planning, developing, or carrying out one or more of the services assisted under this chapter.

"(c) AWARDING GRANTS AND CONTRACTS.—(1) In making grants and contracts under this chapter, the Secretary shall consider the prior experience of service delivery under the particular program for which funds are sought by each applicant. For fiscal years after 1985, the level of consideration given to prior experience shall not vary from the level of consideration given this factor for fiscal year 1985.

"(2) The Secretary shall fund applications received under this chapter in the order of the scores received in the peer review process required under section 1210 as adjusted for prior experience under section 401A(c)(1).

"(3) In any year in which appropriations permit, the Secretary shall provide inflationary increases to institutions continuing to sponsor projects under this chapter. Such inflation adjustment shall reflect the rate of increase in the Consumer Price Index.

"(4) After making the adjustment required in section 401A(c)(3), in any year in which the appropriations authorized under this chapter exceed the prior year appropriation as adjusted for inflation, the Secretary shall use 80 percent of the amount appropriated above the current services level to bring the award up to the minimum grant level or the amount requested by the institution or agency, whichever is less. The minimum grant level (A) for programs authorized under section 401D or 401G, shall not be less than $170,000 for fiscal year 1993; (B) for programs authorized under section 401B or 401F shall not be less than $180,000 for fiscal year 1994; and (C) for programs authorized under section 401C or 401E shall not be less than $190,000 for fiscal year 1995.

"(5) Grants or contracts made under this chapter should be for a period of five years, subject to continuing appropriations allowing for such awards.

"(6) For institutions, agencies, and organizations sponsoring projects authorized under this chapter, the Secretary shall inform the institution, agency, or organization regarding the status of their application for continued funding at least 10 months prior to the expiration of existing funding. For institutions, agencies, and organizations seeking funding for a project under this chapter not currently operated by the institution, organization or agency, the Secretary shall inform the institution, agency or organization regarding the status of their application at least ten months prior to the proposed start-up-date. The Secretary shall ensure that the start-up date for new grants authorized under this chapter immediately follows upon the termination of the preceding grant so that, for successful applicants, no break in funding occurs.

"(d) EARLY NOTIFICATION AND TECHNICAL TRAINING.—(1) The Secretary shall provide notification about deadlines for submission of applications to potential providers of programs and projects assisted under this chapter including institutions of higher education, community based organizations, local educational agencies, and public and private nonprofit organizations. The Secretary shall provide such information no later than 120 days prior to the deadline of submission for applications and shall consult national, State, and regional organizations about candidates for notification.

"(2) The Secretary shall provide technical training to applicants for projects and programs authorized under this chapter. Technical training activities shall include the provision of information on authorizing legislation, goals and objectives of the program, required activities, eligibility requirements, the application process and application deadlines, and assistance in the development of program proposals and the completion of program applications. Such training shall be furnished at conferences, seminars, and workshops to be conducted at no less than 10 sites throughout the country to ensure that all areas of the country with large concentrations of eligible participants are served.

"(e) APPLICATION REVIEW PROCESS.—(1) The Secretary shall assure that, to the extent practicable, members of groups underrepresented in higher education, including Blacks, Hispanics, Native Americans, Asian Americans, Native American Pacific Islanders (including Native Hawaiians), are represented as readers of applications submitted under this subpart in proportions which reflect their eligibility for the programs and projects assisted under this chapter. The Secretary shall also assure that persons from rural backgrounds are represented as readers.

"(2) The Secretary shall assure that each application submitted under this subpart is read by at least 3 outside readers.

"(f) APPLICATIONS FOR GRANTS AND CONTRACTS UNDER THIS CHAPTER.—The Secretary shall not limit the number of applications submitted by an institution, agency, or organization under any program authorized under this chapter.

"(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants and contracts under this chapter, there are authorized to be appropriated $750,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

"(h) DEFINITIONS.—For the purpose of this chapter:

"(1) The term 'first generation college student' means—

"(A) an individual both of whose parents did not complete a baccalaureate degree; or

"(B) in the case of any individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree.

"(2) The term 'low-income individual' means an individual from a family whose taxable income for the preceding year did not exceed 150 percent of an amount equal to the poverty level determined by using criteria of poverty established by the Bureau of the Census. For purposes of establishing eligibility for the services under sections 401B and 401F documentation that an individual is a low-income individual may only include the following: a signed statement from the parent or legal guardian, verification from another governmental source, a signed financial aid application, a signed Federal tax return, or for individuals over eighteen and for individuals defined as independent students under section 480, a signed statement from the individual. For purposes of establishing eligibility for services under section 401C documentation that an individual is a low-income individual may only include the following: a signed statement from a parent or legal guardian, verification from another governmental source, or a signed Federal income tax return. For purposes of establishing eligibility for services under sections 401D and 401E documentation that an individual is a low-income individual may only include a signed financial aid application.

"(3) No veteran shall be deemed ineligible to participate in any program under this chapter by reason of such individual's age who—

"(A) served on active duty for a period of more than 180 days, any part of which occurred after January 31, 1955, and was discharged or released therefrom under conditions other than dishonorable; or

"(B) served on active duty after January 31, 1955, and was discharged or released therefrom because of a service connected disability.

"(i) COORDINATION WITH OTHER PROGRAMS FOR DISADVANTAGED STUDENTS.—The Secretary shall encourage coordination of programs funded under this chapter with other programs for disadvantaged students operated by the sponsoring institution or agency, regardless of funding source. The Secretary shall publish no regulation which limits an institution, organization, or agency's ability to receive funding under this subpart by virtue of its sponsorship of similar programs regardless of funding source. The Secretary shall not require a separate director for a project funded under this chapter if the imposition of this requirement would hinder coordination among projects funded under this chapter or of similar projects funded under this chapter with projects funded through other sources.

"SEC. 401B. TALENT SEARCH.

"(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as talent search which shall be designed—

"(1) to identify qualified youths with potential for education at the postsecondary level and to encourage such youths to complete secondary school and to undertake a program of postsecondary education;

"(2) to publicize the availability of student financial assistance available to persons who pursue a program of postsecondary education; and

"(3) to encourage persons who have not completed programs of education at the secondary or postsecondary level, but who have the ability to complete such programs, to reenter such programs.

"(b) PERMISSIBLE SERVICES.—Any talent search project assisted under this chapter may provide services such as—

"(1) academic advice and assistance in high school and college course selection;

"(2) assistance in completing college admission and financial aid applications;

"(3) assistance in preparing for college entrance examinations;

"(4) guidance on high school reentry or entry to GED or other alternative education programs for high school dropouts;

"(5) personal and career counseling;

"(6) tutorial services;

"(7) exposure to college campuses as well as cultural events, academic programs and other sites or activities not usually available to disadvantaged youth;

"(8) workshops and counseling for parents of students served;

"(9) mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and

"(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency.

"(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for talent search projects under this chapter for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the individuals participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require that such participants be persons who either have completed 5 years of elementary education or are at least 11 years of age but not more than 27 years of age, unless the imposition of any such limitation with respect to any person would defeat the purposes of this section or the purposes of section 401F;

"(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 401F; and

"(4) require an assurance that the project will be located in a setting accessible to the persons proposed to be served by the project.

"SEC. 401C. UPWARD BOUND.

"(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as upward bound which shall be designed to generate skills and motivation necessary for success in education beyond high school.

"(b) PERMISSIBLE SERVICES.—Any upward bound project assisted under this chapter may provide services such as—

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

"(2) personal counseling;

"(3) academic advice and assistance in high school course selection;

"(4) tutorial services;

"(5) exposure to cultural events, academic programs, and other activities not usually available to disadvantaged youth;

"(6) activities designed to acquaint youths participating in the project with the range of career options available to them;

"(7) instruction designed to prepare youths participating in the project for careers in which persons from disadvantaged backgrounds are particularly underrepresented;

"(8) on-campus residential programs;

"(9) mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and

"(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency.

"(c) REQUIRED SERVICES.—Any upward bound project assisted under this chapter which has received funding for two or more years shall include mathematics through precalculus, a minimum of one laboratory science, and composition and literature as part of their core curriculum.

"(d) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for upward bound projects under this chapter for any fiscal year, the Secretary shall—

"(1) require an assurance that not less than two-thirds of the youths participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require an assurance that the remaining youths participating in the project proposed to be carried out under any application be either low-income individuals or first generation college students;

"(3) require that there be a determination by the institution, with respect to each participant in such project that the participant has a need for academic support in order to pursue successfully a program of education beyond high school; and

"(4) require that such participants be persons who have completed 8 years of elementary education and are at least 13 years of age but not more than 19 years of age, unless the imposition of any such limitation would defeat the purposes of this section.

"(e) MAXIMUM STIPENDS.—Youths participating in a project proposed to be carried out under any application may be paid stipends not in excess of $60 per month during June, July, and August, and not in excess of $40 per month during the remaining period of the year.

"SEC. 401D. STUDENT SUPPORT SERVICES.

"(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as student support services which shall be designed—

"(1) to increase college retention and graduation rates for eligible students;

"(2) to increase the transfer rates of eligible students from two year or four year institutions; and

"(3) to foster an institutional climate supportive of the success of low-income and first generation college students and individuals with disabilities.

"(b) PERMISSIBLE SERVICES.—A student support services project assisted under this chapter may provide services such as—

"(1) instruction in reading, writing, study skills, mathematics, and other subjects necessary for success beyond high school;

"(2) personal counseling;

"(3) academic advice and assistance in course selection;

"(4) tutorial services and counseling and peer counseling;

"(5) exposure to cultural events and academic programs not usually available to disadvantaged students;

"(6) activities designed to acquaint students participating in the project with the range of career options available to them;

"(7) activities designed to assist students participating in the project in securing admission and financial assistance for enrollment in graduate and professional programs;

"(8) activities designed to assist students currently enrolled in 2-year institutions in securing admission and financial assistance for enrollment in a four-year program of postsecondary education;

"(9) mentoring programs involving either elementary/secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and

"(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency.

"(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for student support services projects under this chapter for any fiscal year, the Secretary shall—

"(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application—

"(A) be individuals with disabilities, or

"(B) be low-income individuals who are first generation college students;

"(2) require an assurance that the remaining students participating in the project proposed to be carried out under any application either be low-income individuals, first generation college students, or individuals with disabilities;

"(3) require an assurance that not less than one-third of the individuals with disabilities participating in the project be low-income individuals;

"(4) require that there be a determination by the institution, with respect to each participant in such project, that the participant has a need for academic support in order to pursue successfully a program of education beyond high school;

"(5) require that such participants be enrolled or accepted for enrollment at the institution which is the recipient of the grant or contract; and

"(6) require an assurance from the institution which is the recipient of the grant or contract that each student enrolled in the project will be offered sufficient financial assistance to meet that student's full financial need.

"SEC. 401E. POSTBACCALAUREATE ACHIEVEMENT PROGRAM AUTHORITY.

"(a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to be known as the 'Ronald E. McNair Postbaccalaureate Achievement Program' that shall be designed to provide disadvantaged college students with effective preparation for doctoral study.

"(b) SERVICES.—A postbaccalaureate achievement project assisted under this section may provide services such as—

"(1) opportunities for research or other scholarly activities at the institution or at graduate centers designed to provide students with effective preparation for doctoral study;

"(2) summer internships;

"(3) seminars and other educational activities designed to prepare students for doctoral study;

"(4) tutoring;

"(5) academic counseling;

"(6) activities designed to assist students participating in the project in securing admission to and financial assistance for enrollment in graduate programs;

"(7) mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and

"(8) exposure to cultural events and academic programs not usually available to disadvantaged students.

"(c) REQUIREMENTS.—In approving applications for postbaccalaureate achievement projects assisted under this section for any fiscal year, the Secretary shall require—

"(1) an assurance that not less than two-thirds of the individuals participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) an assurance that the remaining persons participating in the project proposed to be carried out be from a group that is underrepresented in graduate education;

"(3) an assurance that participants be enrolled in a degree program at an eligible institution in accordance with the provisions of section 487; and

"(4) an assurance that participants in summer research internships have completed their sophomore year in postsecondary education.

"(d) AWARD CONSIDERATIONS.—In addition to such other selection criteria as may be prescribed by regulations, the Secretary shall consider in making awards to institutions under this section—

"(1) the quality of research and other scholarly activities in which students will be involved;

"(2) the level of faculty involvement in the project and the description of the research in which students will be involved; and

"(3) the institution's plan for identifying and recruiting participants including students enrolled in projects authorized under this section.

"(e) STIPENDS.—Students participating in research under a postbaccalaureate achievement project may receive stipends not to exceed $2,400 per annum. In addition, costs for summer room and board, summer tuition, and transportation to summer programs may be paid.

"SEC. 401F. EDUCATIONAL OPPORTUNITY CENTERS.

"(a) PROGRAM AUTHORITY; SERVICES PROVIDED.—The Secretary shall carry out a program to be known as educational opportunity centers which shall be designed—

"(1) to provide information with respect to financial and academic assistance available for individuals desiring to pursue a program of postsecondary education; and

"(2) to provide assistance to such persons in applying for admission to institutions at which a program of postsecondary education is offered, including preparing necessary applications for use by admissions and financial aid officers.

"(b) PERMISSIBLE SERVICES.—An educational opportunity center assisted under this chapter may provide services such as—

"(1) public information campaigns designed to inform the community regarding opportunities for postsecondary education and training;

"(2) academic advice and assistance in course selection;

"(3) assistance in completing college admission and financial aid applications;

"(4) assistance in preparing for college entrance examinations;

"(5) guidance on high school reentry or entry to GED or other alternative education programs for high school dropouts;

"(6) personal counseling;

"(7) tutorial services;

"(8) career workshops and counseling;

"(9) mentoring programs involving elementary or secondary school teachers, faculty members at institutions of higher education, students, or any combination of such persons; and

"(10) programs and activities as described in paragraphs (1) through (9) which are specially designed for students of limited English proficiency.

"(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for educational opportunity centers under this chapter for any fiscal year the Secretary shall—

"(1) require an assurance that not less than two-thirds of the persons participating in the project proposed to be carried out under any application be low-income individuals who are first generation college students;

"(2) require that such participants be persons who are at least nineteen years of age, unless the imposition of such limitation with respect to any person would defeat the purposes of this section or the purposes of section 401B; and

"(3) require an assurance that individuals participating in the project proposed in the application do not have access to services from another project funded under this section or under section 401B.

"SEC. 401G. STAFF DEVELOPMENT ACTIVITIES.

"For the purpose of improving the operation of the programs and projects authorized by this chapter, the Secretary is authorized to make grants to institutions of higher education and other public and private nonprofit institutions and organizations to provide training for staff and leadership personnel employed in, or preparing for employment in, such programs and projects. Such training shall include conferences, internships, seminars, workshops, and the publication of manuals designed to improve the operation of such programs and projects and shall be carried out in the various regions of the Nation in order to ensure that the training opportunities are appropriate to meet the needs in the local areas being served by such programs and projects. Such training shall be offered annually for new directors of projects funded under this chapter as well as annually on the following topics and other topics chosen by the Secretary: legislative and regulatory requirements for the operation of programs funded under this chapter, assisting students in receiving adequate financial aid from programs funded under this title and other programs, and the design and operation of model programs for projects funded under this chapter. Grants for the purposes of this section shall be made only after consultation with regional and State professional associations of persons having special knowledge with respect to the needs and problems of such programs and projects.

"SEC. 401H. OUTREACH GRANTS.

"For the purpose of better serving populations eligible for programs and projects authorized under this subpart, the Secretary is authorized to make grants to institutions of higher education, community-based organizations and other public and private nonprofit organizations to provide outreach to potential providers of programs and projects authorized under this subpart including institutions of higher education, community-based organizations, local educational agencies, and other public and private nonprofit organizations. Outreach activities shall seek to inform potential providers that could serve groups underrepresented in the program about authorizing legislation, goals and objectives of the program, required activities, eligibility requirements, the application process and deadlines for submission of applications, and suggestions for successful programs. Such activities shall include the publication of informational materials, information dissemination, and informational meetings.

"SEC. 401I. EVALUATION FOR PROJECT IMPROVEMENT.

"For the purpose of improving the operation of the programs and projects authorized by this chapter, the Secretary is authorized to make grants and contracts to institutions of higher education and other public and private institutions and organizations to evaluate the effectiveness of the various programs authorized under this chapter in meeting the purposes identified in the chapter. Such evaluations shall identify institutional, community and program practices particularly effective in increasing the access of low-income and first generation college students to postsecondary education, their preparation for postsecondary education, and their success in postsecondary education. In order to improve program effectiveness, the results of these on-going evaluations shall be disseminated to similar programs funded under this chapter as well as other individuals concerned with the postsecondary access and retention of low-income, first generation college students.

"CHAPTER 2—NATIONAL LIBERTY SCHOLARSHIPS AND PARTNERSHIPS PROGRAMS

"SEC. 403A. PROGRAMS AUTHORIZED.

"The Secretary is authorized, in accordance with the requirements of this chapter, to establish—

"(1) a program to encourage States to provide or maintain a guarantee to low-income students who obtain a high-school diploma (or its equivalent), of the financial assistance necessary to permit them to attend an institution of higher education; and

"(2) a program to provide incentives to States, in cooperation with local educational agencies, institutions of higher education, and community organizations, to provide additional counseling, outreach, and supportive services—

"(A) to elementary, middle, and secondary school students who are at risk of dropping out of school; and

"(B) to students and their parents regarding their college financing options.

"SEC. 403B. STATE ELIGIBILITY; STATE PLAN.

"(a) IN GENERAL.—In order for a State to qualify for a grant under this chapter, the State shall submit to the Secretary a plan for carrying out its programs under this chapter. Such plan shall be in such form, contain or be accompanied by such information or assurances, and be submitted at such time as the Secretary may require by regulation.

"(b) FINANCIAL AID REQUIREMENT.—The Secretary shall not approve a plan submitted under subsection (a) for payments under section 403E(a) unless such plan—

"(1) provides that the State will provide, from State, local, or private funds, not less than one-half the cost of the financial aid program required by section 403C;

"(2) specifies the methods by which such share of the costs will be paid;

"(3) designates as eligible for participation in the program all qualified students; and

"(4) provides that the State will provide first preference for payments of funds under subpart 3 of this part to those students eligible for grants under section 403C.

"(c) PARTNERSHIP REQUIREMENTS.—The Secretary shall not approve a plan submitted under subsection (a) for payments under section 403E(b) unless such plan—

"(1) provides that the State will match, from State, local, or private funds, the amount provided by section 403E(b) for the comprehensive mentoring, counseling, outreach, and support service programs required by section 403D;

"(2) specifies the methods by which such share of the costs will be paid;

"(3) includes provisions designed to assure that the State education agency or State higher education agency will administer the mentoring, counseling, outreach, and support services program authorized by this chapter in the State;

"(4) includes provisions designed to assure that the mentoring, counseling, outreach, and support services program is comprehensive and addresses personal and educational needs and financing options, each of which shall be designed to ensure high school completion and college enrollment of at-risk children; and

"(5) includes provisions designed to assure that funds provided under section 403B(c)(1) shall supplement and not supplant funds expended for existing State and local programs.

"(d) METHODS FOR COMPLYING WITH MATCHING REQUIREMENT.—A State may count toward the contribution required by subsection (b)(1) the sum of—

"(1) the amount of the grants paid to students from State, local, or private funds under section 403C; and

"(2) the amount of tuition, fees, room or board waived or reduced for recipients of grants funded by section 403C.

"SEC. 403C. FINANCIAL AID PROGRAM.

"(a) In General.—In order to receive payments under section 403E(a), a State shall establish or maintain a financial assistance program that awards grants to students in accordance with the requirements of this chapter.

"(b) Grant Amounts.—The maximum amount of the grant that a qualified student in any participating State shall be eligible to receive under this chapter shall be established by the State. The minimum amount of the grant shall not be less than 75 percent of the average cost of attendance for an in-State student, in a 4-year program of instruction, at public institutions of higher education in such State, as determined in accordance with regulations prescribed by the Secretary, except that the maximum grant shall be reduced by the total amount of other grant assistance for which the qualified student is eligible.

"(c) Grant Recipient Selection.—Selection of recipients of these grants will be on the basis of substantial financial need determined annually on the basis of criteria established by the State and approved by the Secretary, except that all recipients must satisfy the requirements of section 403G.

"SEC. 403D. PARTNERSHIP PROGRAM.

"(a) In General.—In order to receive payments under section 403E(b), a State shall demonstrate to the satisfaction of the Secretary that the State has increased the aggregate amount expended by the State to provide comprehensive mentoring, counseling, outreach, and supportive services.

"(b) Programs Qualifying for Credit.—

"(1) Criteria.—The Secretary shall, by regulation, establish criteria for determining whether comprehensive mentoring, counseling, outreach, and supportive services programs may be counted for purposes of subsection (a).

"(2) Permissible Activities.—Examples of acceptable activities include:

"(A) Activities designed to ensure high school completion and college enrollment of at-risk children, including identification of at-risk children, after school and summer tutoring, assistance in obtaining summer jobs, academic counseling, volunteer and parent involvement and former or current scholarship recipients as mentor or peer counselors, skills assessment, personal counseling, family counseling and home visits, and staff development, and programs and activities as described above which are specially designed for students of limited English proficiency; and

"(B) Prefreshman summer programs that—

"(i) are at institutions of higher education that also have programs of academic year supportive services for disadvantaged students through projects authorized under section 401D of this subpart or through comparable projects funded by the State or other sources;

"(ii) assure the participation of students who qualify as disadvantaged under the provisions of section 401D of this part or who are eligible for comparable programs funded by the State;

"(iii) (I) provide summer instruction in remedial, developmental or supportive courses; (II) provide such summer services as counseling, tutoring, or orientation; and (III) provide grant aid to students to cover prefreshman summer costs for books, supplies, living costs and personal expenses; and

"(iv) assure that participating students will receive financial aid during each academic year they are enrolled at the participating institution after the prefreshman summer.

Such criteria shall exclude administrative and overhead expenses.

"(c) Options for Participation in Partnerships.—In establishing a partnership program, a State may include participation of businesses, religious organizations, community groups, institutions of higher education, nonprofit and philanthropic organizations, and other organizations which the Secretary deems appropriate.

"SEC. 403E. PAYMENT REQUIREMENTS.

"(a) Financial Aid Payments.—Upon submission by a State of such documents as the Secretary may, by regulation, require for demonstrating the total amount of grants awarded in accordance with section 403C for a fiscal year, the Secretary shall, from such State's allotment under section 403F for such fiscal year, pay to such State an amount equal to not more than one-half of the total amount of such grants.

"(b) Payments for Partnerships.—

"(1) Upon submission by a State of such documents as the Secretary may, by regulation, require for demonstrating the total amount expended by the State in accordance with section 403D for a fiscal year, the Secretary shall, from such State's allotment under section 403F for such fiscal year, pay to such State an amount equal to not more than one-half of the total amount so expended.

"(2) In computing the total amount expended by a State in accordance with section 403D, the Secretary shall include documented, targeted, long-term mentoring and counseling provided by volunteers or paid staff of nonschool organizations, including businesses, religious organizations, community groups, postsecondary educational institutions, nonprofit and philanthropic organizations, and other organizations.

"SEC. 403F. ALLOTMENT.

"(a) Allotment Based on Title I ESEA Allocations.—From the sums appropriated pursuant to section 403H, the Secretary shall allot to each State an amount which bears the same ratio to such sums as—

"(1) the amount allocated under section 1005 of the Elementary and Secondary Education Act of 1965 to the local education agencies in the State,

bears to—

"(2) the total amount allocated under such section to all such agencies in all States.

"(b) 50 Percent Limit on Use for Section 403E.—No State may use less than 25 percent or more than 50 percent of its allotment for the comprehensive counseling, outreach, and support services program authorized by section 403D.

"(c) Reallotment.—The amount of any State's allotment under subsection (a) for any fiscal year which the Secretary determines will not be required for such fiscal year for the program of that State shall be available for reallotment from time to time, on such dates during such year as the Secretary may fix, to other States in proportion to the original allotments to such States for such year, but with such proportionate amount for any of such States being reduced to the extent it exceeds the sum the Secretary estimates such State needs and will be able to use for such year for carrying out such programs. The total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced.

"SEC. 403G. DEFINITIONS.

"As used in this chapter:

"(1) The term 'qualified student' means a student—

"(A) who is less than 22 years old at time of first grant award;

"(B) who (i) is receiving a Pell Grant for the academic year for which the award is being made under this chapter, or (ii) would be eligible to receive a Pell Grant for such academic year, but for the student's attendance on a less than half-time basis;

"(C) who receives a high school diploma or a certificate of high school equivalence on or after January 1, 1993; and

"(D) who is enrolled or accepted for enrollment in a program of instruction at an institution of higher education as defined in section 481 and is located within the State's boundaries; as a State option, States can offer grant program portability for recipients who attend eligible higher education institutions in States which participate in the program authorized by section 403C.

"SEC. 403H. APPROPRIATIONS.

"There is authorized an appropriation to make grants under this chapter $250,000,000 for fiscal year 1993 and such sums as may be necessary for each of the four succeeding fiscal years.

"CHAPTER 3—MODEL PROGRAM COMMUNITY PARTNERSHIP COUNSELING GRANTS

"SEC. 404A. MODEL PROGRAM GRANTS.

"(a) Program Authority.—From the amounts appropriated under section 404C(b), the Secretary shall award grants to develop model programs—

"(1) to counsel students, at an early age, about college opportunities, precollege requirements, the college admissions procedure, financial aid opportunities, and student support services that are specially designed or customized for use in specific geographic, social, and cultural environments; or

"(2) which stimulate community partnerships with schools by providing tutoring, mentoring, work experiences, and other services which support making postsecondary education a realistic goal for all students.

"(b) Priorities in Selection.—The Secretary shall give priority to those model programs which are directed at areas which have a high proportion of minority, limited English proficiency, economically disadvantaged, disabled, nontraditional, or at-risk students and those model programs which serve these students from rural or urban environments.

"(c) Proposal Requirements.—

"(1) Tailoring.—To receive a grant under subsection (a)(1), the proposal submitted to the Secretary shall demonstrate that the counseling on college opportunities, precollege requirements, the college admissions procedure, and financial aid opportunities (including early intervention counseling), is tailored to a specific geographic, social or cultural environment.

"(2) Community partnerships.—To receive a grant under subsection (a)(2), the proposal submitted to the Secretary shall demonstrate the active involvement of a local educational agency and at least one of the following:

"(A) local businesses,

"(B) labor organizations, or

"(C) community groups.

"(3) Goals and outcomes.—To receive a grant under this section, each proposal shall contain a statement of specific, measurable goals and methods for obtaining statistics on the number of participants who continue on to postsecondary education.

"SEC. 404B. DIFFUSION NETWORK ACTIVITIES.

"(a) COLLECTION OF INFORMATION.—The Secretary shall collect information concerning—

"(1) successful programs including those supported under section 404A which counsel students about college opportunities, precollege requirements, the college admissions procedure, and financial aid opportunities;

"(2) successful early intervention programs which set students on the path toward staying in school and pursuing a postsecondary education;

"(3) model programs which counsel students in specific environments, such as urban, rural, and suburban; and

"(4) model programs which develop school/community partnerships to provide mentoring, tutoring, work experiences and other services which support making postsecondary education a realistic goal for all students.

"(b) DISSEMINATION.—The Secretary shall insure that the information collected under subsection (a) be disseminated through the National Diffusion Network.

"SEC. 404C. AUTHORIZATION OF APPROPRIATIONS.

"(a) MODEL PROGRAM GRANTS.—There are authorized to be appropriated $70,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out section 404A.

"(b) DISSEMINATION ACTIVITIES.—There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out section 404B.

"CHAPTER 4—HONORS AWARDS

"SEC. 405A. SCHOLARSHIPS AUTHORIZED.

"(a) PROGRAM AUTHORITY.—The Secretary is authorized, in accordance with this chapter, to award Presidential Honors scholarships to students who are Pell Grant recipients, who have participated in a preparatory program for postsecondary education, and who demonstrate academic achievement.

"(b) PERIOD OF AWARDS.—A student who satisfies the requirements of section 405B may receive a Presidential Honors scholarship for each year that the student receives a Pell Grant.

"(c) PRESIDENTIAL HONORS SCHOLARS.—Students awarded scholarships under this chapter shall be known as 'Presidential Honors Scholars'.

"(d) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and each of the four succeeding fiscal years to carry out this chapter.

"SEC. 405B. ELIGIBILITY OF SCHOLARS.

"(a) REQUIREMENTS FOR STUDENTS IN FIRST YEAR OF POSTSECONDARY EDUCATION.—In order for a student who will be attending his or her first year of postsecondary education to be eligible to receive a scholarship under this chapter for that academic year, the student must—

"(1) have participated, for a minimum period of thirty-six months, in an early intervention program that meets the requirements of section 405C;

"(2) complete a program of secondary education including three years of mathematics, two years of science and four years of English;

"(3) earn a gradepoint average of 2.5 or higher, on a scale of 4.0, in the final two years of high school; and

"(4) receive a Pell Grant under subpart 2 for that academic year.

"(b) REQUIREMENTS FOR OTHER STUDENTS.—In order for a student who will be attending postsecondary education for a year other than his or her first year, to be eligible to receive a scholarship under this chapter for that academic year, the student must—

"(1) have received a Presidential Honors Award in a previous academic year;

"(2) maintain satisfactory academic progress as defined under section 484(c); and

"(3) receive a Pell Grant under subpart 2 for that academic year.

"SEC. 405C. ELIGIBLE EARLY INTERVENTION PROGRAMS.

"(a) PARTICIPATION IN TRIO PROGRAMS AND LIBERTY SCHOLARSHIP PROGRAMS.—Participation in a program authorized under section 401B, 401C, 403D, or 404A for a thirty-six month period shall meet the requirement of section 405B(a)(1).

"(b) OTHER ELIGIBLE EARLY INTERVENTION PROGRAMS.—Participation in another early intervention program regardless of sponsorship for a thirty-six month period, shall qualify students for Presidential Honors Awards if the program—

"(1) meets at least biweekly during the academic year for a period of at least two hours outside regular school hours;

"(2) meets any other requirements established by the Secretary; and

"(3) is certified by the Governor as an Honors Scholars Program.

"SEC. 405D. SCHOLARSHIP AMOUNT.

"(a) AMOUNT OF AWARD.—Except as provided in subsection (b), the amount of a scholarship awarded under this chapter for any academic year shall be equal to 25 percent of the Pell Grant that the recipient is awarded for that year.

"(b) RELATION TO COST OF ATTENDANCE AND OTHER ASSISTANCE.—Notwithstanding subsection (a), the amount of a scholarship awarded under this chapter shall be reduced by the postsecondary institution that the student is or will be attending, by the amount that the scholarship when combined with other Federal or non-Federal grant or scholarship assistance the student receives in any academic year, exceeds the student's cost of attendance as defined in section 472.

"SEC. 405E. AWARD PROCEDURES.

"(a) AWARD PROCEDURES.—By a date set by the Secretary, each Early Intervention Program identified in section 405C shall provide to the Secretary the names of all graduating seniors who meet the requirements of section 405B(a). The Secretary shall provide each contractor processing applications for awards under subpart 2 with these names and notify the Presidential Honors Scholars. Students who meet the requirements of section 405B shall also identify themselves on the application for Federal student aid.

"(b) PAYMENT OF SCHOLARSHIPS.—Payments of awards under this section shall be made in conjunction with payment of awards under the Pell Grant program provided under section 411 in accordance with regulations promulgated by the Secretary for such purpose. Each contractor processing applications for awards under section 411 shall in a timely manner furnish to the student financial aid administrator at each institution of higher education the names of students eligible for Presidential Honors Awards in attendance at that institution.

"(c) ADJUSTMENT FOR INSUFFICIENT APPROPRIATIONS.—If, after the Secretary determines the total number of eligible applicants for an academic year in accordance with section 405B, funds available in a fiscal year are insufficient to fully fund all awards for that academic year under this chapter, the amount paid to each student shall be reduced proportionately.

"(d) AWARDS CEREMONY.—Each year the Secretary shall conduct an awards ceremony honoring first-year recipients of Presidential Honors Awards.

"CHAPTER 5—TECHNICAL ASSISTANCE FOR TEACHERS AND COUNSELORS

"SEC. 406A. TECHNICAL ASSISTANCE GRANTS.

"(a) PROGRAM AUTHORITY.—From the amounts appropriated under subsection (f), the Secretary shall award grants to local educational agencies to use for the purpose of obtaining specialized training for guidance counselors, teachers, and principals to counsel students about college opportunities, precollege requirements, the college admissions procedure, and financial aid opportunities.

"(b) SELECTION OF GRANT RECIPIENTS.—

"(1) PRIORITY.—In making grants under this section, the Secretary shall give priority to those local educational agencies serving school districts (A) from which the proportion of students who continue on to higher education is significantly below the national average, and (B) in which the proportion of students who are educationally disadvantaged is significantly above the national average.

"(2) SELECTION PROCEDURES.—The Secretary shall develop a formal procedure for the submission of proposals and publish in the Federal Register an announcement with respect to that procedure and the availability of funds.

"(c) LOCAL PLAN.—To receive a grant under this section, a local educational agency shall submit to the Secretary a plan that—

"(1) specifies the methods to be used for outreach, implementation, and follow-up with those students most in need and at-risk for dropping out or failing to pursue postsecondary education,

"(2) demonstrates the methods by which the agency will target funds to those schools within the district that have the lowest rate of students who continue on to higher education;

"(3) utilizes early intervention programs for counseling minority, economically disadvantaged, disabled, and at-risk students about postsecondary education;

"(4) includes a strategy for keeping the guidance counselors, teachers (including elementary, secondary, vocational, and special education teachers), and principals who have been trained up-to-date on financial aid information;

"(5) contains a statement of specific goals and methods for obtaining statistics on the number of participants who continue on to postsecondary education; and

"(6) contains a description of the costs of the training and other activities to be undertaken.

"(d) DURATION OF GRANTS.—Grants under this section shall be available for 2 years.

"(e) EVALUATION.—

"(1) CONDUCT OF EVALUATIONS.—The Secretary shall reserve not more than 2 percent of any amount appropriated under subsection (f) for the purpose of carrying out an independent evaluation of the effectiveness of the training programs assisted under this section in—

"(A) increasing the number of personnel in a school who regularly counsel students regarding college opportunities, precollege requirements, the college admission procedure, and financial aid opportunities; and

"(B) increasing the number of students who continue on to postsecondary education from a school which has had personnel trained using monies from this section.

"(2) REPORT.—The Secretary shall submit to the appropriate committees of the Congress a report which contains the findings of the evaluation required by paragraph (1).

"(f) TECHNICAL ASSISTANCE GRANTS.—There are authorized to be appropriated $70,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

"CHAPTER 6—NATIONAL STUDENT SAVINGS DEMONSTRATION PROGRAM

"SEC. 407A. NATIONAL STUDENT SAVINGS DEMONSTRATION PROGRAM.

"(a) STATEMENT OF PURPOSE.—It is the purpose of this section to—

"(1) create a demonstration program to test the feasibility of establishing a national student savings program to encourage families to save for their children's college education and thereby reduce the loan indebtedness of college students; and

"(2) help determine the most effective means of achieving the activities described in paragraph (1).

"(b) DEMONSTRATION PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—The Secretary is authorized to award a demonstration grant to not more than 5 States to enable each such State to conduct a student savings program in accordance with this section.

"(2) AMOUNT OF GRANT.—The amount of each grant awarded pursuant to paragraph (1) shall be computed on the basis of—

"(A) a Federal match in an amount equal to the initial State deposit into each account established pursuant to subsection (c)(2)(B), except that such Federal match shall not exceed $50 per child; multiplied by

"(B) the number of children participating in the program assisted under this part.

"(3) PRIORITY.—In awarding grants under this section the Secretary shall give priority to States proposing programs that establish accounts for a child prior to the age of compulsory school attendance in the State in which such child resides.

"(4) SPECIAL CONSIDERATION.—In awarding grants under this section the Secretary shall give special consideration to States—

"(A) that permit employers to use pretax income in making contributions to a child's account; and

"(B) that provide assurances that interest earned in accounts shall be exempt from State taxes.

"(c) APPLICATION.—

"(1) IN GENERAL.—Each State desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(2) CONTENTS.—Each application submitted pursuant to paragraph (1) shall—

"(A) describe the student savings program to be established and the number of children to be served;

"(B) contain assurances that an account shall be established for each child participating in the program assisted under this section and set forth the initial amount to be deposited into each such account by the State;

"(C) contain assurances that deposits into such account shall be invested in a responsible manner that provides a reasonable rate of return;

"(D) contain assurances that funds in the account shall only be used to pay the cost of attendance (as such term is defined in section 472) at any eligible institution (as such term is defined in section 481);

"(E) describe the amount of the Federal contribution requested for starting each child's account, which shall not exceed $50 per child participating in the program;

"(F) describe the age at which children in the State may establish such accounts;

"(G) indicate whether the program will be open to all children, regardless of family income, or only to disadvantaged children;

"(H) describe how additional deposits into each account from the State or other resources will be earned by a child for performance of community service, academic performance, or other activities or achievements;

"(I) contain assurances that contributions in an account shall be refundable to the contributor without interest if the child is unable to attend college;

"(J) contain assurances that the State shall encourage individuals and organizations to make contributions to a child's account;

"(K) contain assurances that the State shall provide incentives to employers to make contributions to a child's account and participate in the program assisted under this section; and

"(L) contain assurances that if a child leaves the State in which such child has an account, then such child shall retain the right to make contributions to the account, except that the State shall not be required to make any additional deposits other than interest.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this section.

"CHAPTER 7—PUBLIC INFORMATION

"SEC. 408A. DATABASE AND INFORMATION LINE.

"From the funds available under section 408C, the Secretary of Education shall award a contract to establish and maintain—

"(1) a computerized database of all public and private financial assistance programs, to be accessible to schools and libraries through either modems or toll-free telephone lines; and

"(2) a toll-free information line, including access by telecommunications devices for the deaf ('TDD's'), to provide individualized financial assistance information to parents, students, and other individuals, including individuals with disabilities, and to refer students with disabilities and their families to the postsecondary clearinghouse that is authorized under section 633(c) of the Individuals with Disabilities Education Act.

"SEC. 408B. PUBLIC ADVERTISING.

"The Secretary shall encourage private nonprofit agencies and organizations to work with persons engaged in video production to develop and deliver public service announcements and paid advertising messages that encourage economically disadvantaged, minority, or at-risk individuals to seek higher education, and to seek higher education and financial assistance counseling at public schools and libraries. These announcements and messages may be specially designed for students of limited English proficiency. The Secretary shall keep the appropriate committees of the Congress informed with respect to the efforts made pursuant to this section and shall recommend any additional legislative authority that will serve the purposes of this section.

"SEC. 408C. DATABASE AND INFORMATION LINE.

"There are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this chapter.

"CHAPTER 8—CONGRESSIONAL ACHIEVEMENT SCHOLARSHIP PROGRAM

"SEC. 409A. PURPOSE; APPROPRIATIONS AUTHORIZED.

"(a) PURPOSE.—It is the purpose of this chapter to award scholarships to Pell Grant recipients who demonstrate high academic achievement, and thereby encourage financially needy students to excel in their elementary and secondary studies, enter postsecondary education, and continue to demonstrate high levels of academic achievement at the postsecondary level.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $170,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the purposes of this chapter. Funds shall remain available for expenditure until the end of the fiscal year immediately succeeding the fiscal year for which such funds were appropriated.

"SEC. 409B. SCHOLARSHIPS AUTHORIZED.

"(a) PROGRAM AUTHORITY.—The Secretary is authorized, in accordance with this chapter, to carry out a program of awarding scholarships to students who are Pell Grant recipients and demonstrate high levels of academic achievement.

"(b) PERIOD OF AWARDS.—(1) A student who satisfies the requirements of section 409C may receive a scholarship, for a period of one academic year, for full-time undergraduate study at an institution of higher education.

"(2) A student who satisfies the requirements of section 409C may receive up to four scholarships, each awarded for a period of 1 academic year, except that, in the case of a student who is enrolled in a full-time undergraduate course of study that requires attendance for 5 academic years, the student may receive up to 5 scholarships under this chapter.

"(c) CONGRESSIONAL ACHIEVEMENT SCHOLARSHIPS.—Students awarded scholarships under this chapter shall be known as 'Congressional Achievement Scholars'.

"SEC. 409C. ELIGIBILITY OF SCHOLARS.

"(a) REQUIREMENTS FOR STUDENTS IN FIRST YEAR OF POSTSECONDARY EDUCATION.—In order for a student who will be attending his or her first year of postsecondary education to be eligible to receive a scholarship under this subpart for that academic year, the student must—

"(1)(A) rank, or have ranked, in the top 10 percent, by grade point average, of his or her high school graduating class; or

"(B) achieve at least the minimum score, announced by the Secretary for this purpose by notice in the Federal Register, on 1 of the nationally administered, standardized tests identified by the Secretary; and

"(2) receive a Pell Grant under subpart 2 of this part for that academic year.

"(b) REQUIREMENTS FOR OTHER STUDENTS.—In order for a student who will be attending a year of postsecondary education, other than his or her first year, to be eligible to receive a scholarship under this chapter for that academic year, the student must—

"(1) be enrolled in a program of study of not less than 2 academic years in length that leads to a degree or certificate;

"(2) rank in the top 20 percent, by cumulative grade point average (or its equivalent, if the institution does not use a system of ranking its students by grade point averages), of his or her postsecondary education class as of the last academic year of study completed; and

"(3) receive a Pell Grant under subpart 2 of this part for that academic year.

"(c) PRIOR SCHOLARSHIPS.—Except in relation to the aggregate limits on the receipt of scholarships in section 409B(b)(2), a student's eligibility for a Congressional Achievement Scholarship for a given academic year is not dependent on whether the student received a Congressional Achievement Scholarship or a Pell Grant in the previous academic year.

"(d) FULL-TIME ATTENDANCE REQUIRED.—A student who is attending an institution of higher education on a less than full-time basis is not eligible to receive a Congressional Achievement Scholarship.

"SEC. 409D. AWARD PROCEDURES.

"(a) AWARD PROCEDURES.—(1) The Secretary shall establish the procedures through regulations by which Congressional Achievement Scholarships shall be awarded.

"(2) A participating institution of higher education shall provide such information as is required by the Secretary regarding a potential scholarship recipient's class rank or test score.

"(b) DEADLINES.—The Secretary shall specify, by notice in the Federal Register, the date after which no additional students may be considered for scholarships under this chapter for a given academic year. The Secretary shall then determine the total number of eligible applicants for that academic year, and, if necessary, apply the reduction procedures specified in section 409E(c).

"(c) DISBURSAL OF SCHOLARSHIP PROCEEDS.—Scholarship proceeds shall be disbursed on behalf of students who receive scholarships under this chapter to the institutions of higher education at which the students are enrolled. No scholarship proceeds shall be disbursed on behalf of a student until the student is enrolled at an institution of higher education.

"SEC. 409E. SCHOLARSHIP AMOUNT.

"(a) AMOUNT OF AWARD.—Except as provided in subsections (b) and (c), the amount of a scholarship awarded under this chapter for any academic year shall be $500.

"(b) RELATION TO COST OF ATTENDANCE AND OTHER ASSISTANCE.—Notwithstanding subsection (a), the amount of a scholarship awarded under this chapter shall be reduced, by the institution of higher education that the student is or will be attending, by the amount that the scholarship—

"(1) exceeds the student's cost of attendance, as defined in section 472; or

"(2) when combined with other Federal or non-Federal grant or scholarship assistance the student receives in any academic year, exceeds the student's cost of attendance, as defined in section 472.

"(c) ADJUSTMENTS FOR INSUFFICIENT APPROPRIATIONS.—If, after the Secretary determines the total number of eligible applicants for an academic year in accordance with section 409D(b), funds available in a fiscal year are insufficient to fully fund all awards for that academic year under this chapter, the amount paid to each student shall be reduced proportionately.

"CHAPTER 9—ADVANCED PLACEMENT FEE PAYMENT PROGRAM

"SEC. 410A. ADVANCED PLACEMENT FEE PAYMENT PROGRAM.

"(a) PROGRAM ESTABLISHED.—The Secretary shall carry out, by contract, a program which shall be designed to provide payments, to cover the cost of advance placement test fees, to low-income individuals who—

"(1) are enrolled in an advanced placement class; and

"(2) plan to take an advanced placement test.

"(b) INFORMATION DISSEMINATION.—The Secretary shall disseminate information on the availability of test fee payments under this section to eligible individuals through secondary school teachers and guidance counselors.

"(c) REQUIREMENTS FOR APPROVAL OF APPLICATIONS.—In approving applications for advance placement test fee payment under this section in any fiscal year, the contractor selected by the Secretary shall—

"(1) require that each such application contain a description of the advance placement test fees the Secretary is requested to pay;

"(2) require an assurance that any funds received under this section shall only be used to pay advanced placement test fees; and

"(3) contain such information as the contractor may require to demonstrate that the student is eligible for payments under this section.

"(d) SUPPLEMENTATION OF FUNDING.—Funds provided under this section shall be used to supplement and not supplant other Federal, State, and local funds available to assist low-income individuals in paying for advanced placement testing.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary to carry out this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,600,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this section.

"(g) DEFINITION.—As used in this section, the term 'advanced placement test' includes only an advanced placement test approved by the Secretary for the purposes of this section.".

(b) REFERENCE.—Reference in any provision of law (other than the Act) to subpart 1, 2, or 3 of part A of title IV of the Act shall, after the date of enactment of this Act, be deemed to refer to subpart 2, 3, or 4 of such part, respectively.

Subpart 5—Amendments to Subparts 5 Through 8 of Part A

SEC. 418. HEP/CAMP.

(a) ELIGIBLE PERSONS.—

(1) Section 418A(b)(1) of the Act is amended to read as follows:

"(1) recruitment services to reach persons who are 17 years of age and over who, themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork or who have participated in programs under subpart 1 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 or section 402 of the Job Training Partnership Act, and who lack a high school diploma or its equivalent;".

(2) Section 418A(c)(1) of the Act is amended to read as follows:

"(1) outreach and recruitment services to reach persons who themselves or whose parents have spent a minimum of 75 days during the past 24 months in migrant and seasonal farmwork or who have participated in programs under subpart 1 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 or section 402 of the Job Training Partnership Act, and who meet the minimum qualifications for attendance at a college or university;".

(b) GRANT CYCLES.—Section 418A(e) of the Act is amended—

(1) in the subsection heading, by striking "THREE-YEAR" and inserting "FIVE-YEAR"; and

(2) by striking "3-year period" and inserting "5-year period".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 418A(g) of the Act is amended to read as follows:

"(g) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated for the high school equivalency program $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(2) There are authorized to be appropriated for the college assistance migrant program $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

SEC. 419. BYRD HONORS SCHOLARSHIP PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 419K of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 419K. There are authorized to be appropriated for this subpart $10,000,000 for fiscal year 1993 and such sums as may be necessary for the 4 succeeding fiscal years.".

(b) DEFINITIONS.—Section 419B of the Act is repealed.

SEC. 420. REPEAL OF ASSISTANCE TO INSTITUTIONS OF HIGHER EDUCATION.

Subpart 7 of part A of title IV of the Act is repealed.

SEC. 420A. CHILD CARE SERVICES.

Section 420B(c) of the Act is amended by striking "fiscal year 1987" and inserting "fiscal year 1993".

PART B—FEDERAL FAMILY EDUCATION LOANS

SEC. 421. NAME OF PROGRAMS.

Part B of title IV of the Act is amended—

(1) by striking the heading of such part and inserting the following:

"PART B—FEDERAL FAMILY EDUCATION LOAN PROGRAM"; and

(2) by striking section 421(c) and inserting the following:

"(c) DESIGNATION.—The program established under this part shall be referred to as the 'Federal Stafford Student Loan Program'. Loans made pursuant to sections 427 and 428 shall be known as 'Federal Stafford Loans'.".

SEC. 422. GUARANTEE AUTHORITY CONTINGENT ON TIMELY RULEMAKING.

Section 421 of the Act is amended by inserting after subsection (c) the following new subsection:

"(d) LIMITATION ON AUTHORIZATION TO GUARANTEE NEW LOANS UNDER THIS PART.—Notwithstanding any other provision of this part, no new loan guarantees shall be issued after June 30, 1994, if the Secretary does not issue final regulations implementing the changes made to this part under the Higher Education Amendments of 1992 prior to that date. The authority to issue new loan guarantees shall resume upon the Secretary's issuance of such regulations.".

SEC. 423. GUARANTY AGENCY FUNDING.

Section 422 of the Act is amended by adding at the end the following new subsection:

"(e) CORRECTION FOR ERRORS UNDER REDUCTION OF EXCESS CASH RESERVES.—

"(1) CORRECTION FOR ERRORS.—The Secretary shall pay any guaranty agency the amount of reimbursement of claims under section 428(c)(1), filed between September

1988 and December 31, 1989, which were previously withheld or canceled in order to be applied to satisfy such agency's obligation to eliminate excess cash reserves held by such agency, based on the maximum cash reserve (as defined in section 422(e) as in effect on September 1, 1988) permitted at the end of 1986, if such maximum cash reserve was miscalculated because of erroneous financial information provided by such agency to the Secretary if (A) such erroneous information is verified by an audited financial statement of the reserve fund, signed by a certified public accountant and (B) such audited financial statement is provided to the Secretary prior to January 1, 1993.

"(2) AMOUNT OF REIMBURSEMENT.—The amount of reimbursement for claims shall be equal to the amount of reimbursement for claims withheld or canceled in order to be applied to such agency's obligation to eliminate excess cash reserves, which exceeds the amount of that which would have been withheld or canceled, if the maximum excess reserves had been accurately calculated.".

SEC. 424. GRADUATED REPAYMENT.

(a) FISL AMENDMENTS.—Section 427 of the Act is amended—

(1) in subsection (a)(2)—

(A) by striking "and" at the end of subparagraph (G);

(B) by redesignating subparagraph (H) as subparagraph (I); and

(C) by inserting after subparagraph (G) the following:

"(H) provides that, no more than 6 months prior to the date on which the borrower's first payment on a loan is due, the lender shall offer the borrower the option of repaying the loan in accordance with a graduated or income-sensitive repayment schedule established by the lender and approved by the Secretary; and"; and

(2) in subsection (c), by striking "MINIMUM REPAYMENT RATE.—The total of the payments" and inserting "SPECIAL REPAYMENT RULES.—Except as provided in subsection (a)(2)(H), the total of the payments".

(b) GSL AMENDMENTS.—Section 428(b)(1)(E) of the Act is amended to read as follows:

"(E) subject to subparagraphs (D) and (L), and except as provided by subparagraph (M), provides that—

"(i) not more than 6 months prior to the date on which the borrower's first payment is due, the lender shall offer the borrower of a loan made, insured or guaranteed under this section or section 428A, the option of repaying the loan in accordance with a graduated or income-sensitive repayment schedule established by the lender and approved by the Secretary;

"(ii) for the first 2 years of repayment, the borrower shall receive monthly statements that designate the principal and interest that has been repaid; and

"(iii) repayment of loans shall be in installments over a period of not less than 5 years (unless the student, during the 6 months immediately preceding the start of the repayment period, specifically requests that repayment be made over a shorter period) nor more than 10 years, beginning 6 months after the month in which the student ceases to carry at least one-half the normal full-time academic workload as determined by the institution;".

SEC. 425. STUDY ABROAD.

(a) DISBURSEMENT.—

(1) INSURED LOANS.—Section 427(a)(3) of the Act is amended to read as follows:

"(3) the funds borrowed by a student are disbursed to the institution by check or other means that is payable to and requires the endorsement or other certification by such student, except—

"(A) nothing in this title shall be interpreted—

"(i) to allow the Secretary to require checks to be made copayable to the institution and the borrower; or

"(ii) to prohibit the disbursement of loan proceeds by means other than by check; and

"(B) in the case of students who are studying outside the United States in a program of study abroad that is approved for credit by the institution, the funds shall be delivered directly to the student and the checks may be endorsed pursuant to an authorized power-of-attorney; and".

(2) GUARANTEED LOANS.—Section 428(b)(1)(N) of the Act is amended by striking "except in the case of attendance at an institution outside the United States, the funds shall be delivered directly to the student;" and inserting "except in the case of students who are studying outside the United States in a program of study abroad that is approved for credit by the institution, the funds shall be delivered directly to the student and the checks may be endorsed pursuant to an authorized power-of-attorney;".

(b) MULTIPLE DISBURSEMENT.—

(1) INSURED LOANS.—Section 427(b)(2) of the Act is amended by striking "or made to a student to cover the cost of attendance at an eligible institution outside the United States" and inserting before the period at the end thereof the following: "or in a program of study abroad approved for credit by an eligible institution".

(2) GUARANTEED LOANS.—Section 428G(e) of the Act is amended by striking "made to a student to cover the cost of attendance at an eligible institution outside the United States" and inserting "made to a student enrolled in a program of study abroad approved for credit by an eligible institution".

(c) LOAN AMOUNTS.—Section 428(b)(1)(A) of the Act is amended by inserting ", or in a program of study abroad approved for credit by the eligible institution" after "at an eligible institution".

SEC. 426. APPLICABLE INTEREST RATES.

(a) PLUS LOAN INTEREST RATE.—Section 427A(c)(4) of the Act is amended by adding at the end the following new subparagraph:

"(D) Notwithstanding subparagraphs (A) through (C), for any loan made pursuant to section 428B and disbursed on or after July 1, 1993, the interest rate shall not exceed 10 percent.".

(b) NEW BORROWER RATES.—Section 427A(d)(1) of the Act is amended by striking "on the date of the disbursement of the loan" and inserting "on the date on which the repayment period begins, pursuant to section 428(b)(1)(E)".

(c) EXCESS INTEREST PAYMENTS.—Section 427A(e) of the Act is amended—

(1) in paragraph (1)—

(A) by striking "IN GENERAL" and inserting "EXCESS INTEREST ON 10 PERCENT LOANS";

(B) by striking "paragraph (3)" and inserting "paragraph (5)";

(2) in paragraph (2), by inserting "FOR 10 PERCENT LOANS" after "(2) AMOUNT OF ADJUSTMENT";

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (5), (6), and (7), respectively;

(4) by inserting the following new paragraphs after paragraph (2):

"(3) EXCESS INTEREST ON 8 PERCENT LOANS.—If, with respect to a loan for which the applicable interest rate is 8 percent under subsection (d) of this section at the close of any calendar quarter, the sum of the average of the bond equivalent rates of 91-day Treasury bills auctioned for that quarter and 3.25 percent is less than 8 percent, then an adjustment shall be made to a borrower's account—

"(A) by calculating excess interest in the amount computed under paragraph (4) of this subsection; and

"(B) by crediting the excess interest to the reduction of principal to the extent provided for under paragraph (5) of this subsection.

"(4) AMOUNT OF ADJUSTMENT FOR 8 PERCENT LOANS.—The amount of any adjustment of interest on a loan to be made under this subsection for any quarter shall be equal to—

"(A) 8 percent minus the sum of (i) the average of the bond equivalent rates of 91-day Treasury bills auctioned for such calendar quarter, and (ii) 3.25 percent; multiplied by

"(B) the outstanding principal balance of the loan (not including unearned interest added to principal) at the end of such calendar quarter; divided by

"(C) four.";

(5) in paragraph (5), as redesignated—

(A) by striking "or by reducing the number of payments" and inserting "by reducing the number of payments"; and

(B) by striking the period at the end and inserting ", or by reducing the amount of the final payment of the loan. Nothing in this paragraph shall be construed to require the lender to make additional disclosures pursuant to section 433(b)."; and

(6) by striking paragraph (7), as redesignated.

SEC. 427. AMENDMENTS TO SECTION 428.

(a) LOANS THAT HAVE NOT BEEN CONSUMMATED.—Section 428(a) of the Act is amended by inserting after paragraph (6) the following new paragraph:

"(7) LOANS THAT HAVE NOT BEEN CONSUMMATED.—Lenders may not charge interest or receive interest subsidies for loans that have not been consummated (loans for which the disbursement checks have not been cashed).".

(b) PRORATION OF LOAN ELIGIBILITY TO COURSE LOAD.—

(1) AMENDMENT.—Section 428(b)(1)(A) of the Act is amended by striking clauses (i), (ii), and (iii) and inserting the following:

"(i) in the case of a student at an eligible institution who has not successfully completed the first and second year of a program of undergraduate education—

"(I) $2,625, if such student is enrolled in a program whose length is one academic year in length (as provided for in section 481(d));

"(II) $1,750, if student is enrolled in a program whose length is at least ⅔ of an academic year; and

"(III) $875, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of an academic year (as provided for in section 481(b));

"(ii) in the case of a student at an eligible institution who has successfully completed such first and second year but has not successfully completed the remainder of a program of undergraduate study—

"(I) $4,000, if such student is enrolled in a program whose length is one academic year in length (as provided for in section 481(d));

"(II) $2,675, if such student is enrolled in a program whose length is at least ⅔ of an academic year; and

"(III) $1,350, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of an academic year (as provided for in section 481(b)); and

"(iii) in the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, $7,500;".

(2) CONFORMING AMENDMENT.—Section 425(a)(1) of the Act is amended by striking clauses (i), (ii), and (iii) of subparagraph (A) and inserting the following:

"(i) in the case of a student at an eligible institution who has not successfully completed the first and second year of a program of undergraduate education—

"(I) $2,625, if such student is enrolled in a program whose length is one academic year in length (as provided for in section 481(d));

"(II) $1,750, if such student is enrolled in a program whose length is at least ⅔ of an academic year; and

"(III) $875, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of an academic year (as provided for in section 481(b));

"(ii) in the case of a student at an eligible institution who has successfully completed such first and second year but has not successfully completed the remainder of a program of undergraduate study—

"(I) $4,000, if such student is enrolled in a program whose length is one academic year in length (as provided for in section 481(d));

"(II) $2,675, if such student is enrolled in a program whose length is at least ⅔ of an academic year; and

"(III) $1,350, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of an academic year (as provided for in section 481(b)); and

"(iii) in the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, $7,500.".

(c) MINIMUM PAYMENT FOR MARRIED COUPLES; MINIMUM PAYMENT OF INTEREST.—

(1) GSL AMENDMENT.—Section 428(b)(1)(L)(i) of the Act is amended by striking ", except that, in the case of a husband and wife" and all that follows through "whichever is less" and inserting "(but in no instance less than the amount of interest due and payable)".

(2) FISL AMENDMENT.—Section 427(c) of the Act is further amended by striking ", except that in the case of a husband and wife" and all that follows through "whichever is less" and inserting "(but in no instance less than the amount of interest due and payable)".

(d) DEFERMENTS.—

(1) AMENDMENT.—Section 428(b)(1)(M) of the Act is amended—

(A) in the matter preceding clause (i), by inserting "by the Secretary" after "shall accrue and be paid";

(B) in clause (i), by striking "for which the student has obtained a loan under this part"; and

(C) by striking clauses (ii) through (xi) and inserting the following:

"(ii) not in excess of 24 months at the request of the borrower, during which the borrower is seeking and unable to find full-time employment; and

"(iii) not in excess of 36 months for any reason which the lender deems will cause economic hardship for the borrower, pursuant to regulation by the Secretary, who shall consider the borrower's income and debt-to-income ratio as primary factors in promulgating such regulations;

except that, for the purposes of clause (i), an eligible institution includes institutions ineligible for participation in programs under this part under section 435(a)(2);".

(2) CONFORMING AMENDMENT.—Section 427(a)(2)(C) of the Act is amended by striking clauses (ii) through (xi) and inserting the following:

"(ii) not in excess of 24 months at the request of the borrower, during which the borrower is seeking and unable to find full-time employment; and

"(iii) not in excess of 36 months for any reason which the lender deems will cause economic hardship for the borrower, pursuant to regulation by the Secretary, who shall consider the borrower's income and debt-to-income ratio as primary factors in promulgating such regulations;

except that, for the purposes of clause (i), an eligible institution includes institutions ineligible for participation in programs under this part under section 435(a)(2).".

(e) EXCLUSION OF FORBEARANCE FROM REPAYMENT PERIOD CALCULATION.—Subparagraphs (D) and (E) of section 428(b)(1) of the Act are amended to read as follows:

"(D) provides that (i) the student borrower shall be entitled to accelerate without penalty the whole or any part of an insured loan, (ii) the repayment period of any insured loan may not exceed 10 years, and (iii) the note, or other written evidence of any loan, may contain such reasonable provisions relating to repayment in the event of default by the borrower as may be authorized by regulations of the Secretary in effect at the time such note or written evidence was executed;

"(E) subject to subparagraph (D)(i), provides that repayment of loans shall be in installments over a period of not less than 5 years (unless the student, during the 6 months preceding the start of the repayment period, specifically requests that repayments be made over a shorter period) nor more than 10 years beginning 6 months after the month in which the student ceases to carry at least one-half the normal full-time academic workload as determined by the institution;".

(f) CONSEQUENCES OF LS&T ACTIONS.—Section 428(b)(1)(T) is amended to read as follows:

"(T) authorize (i) the limitation of the total number of loans or volume of loans, made under this part to students attending a particular eligible institution during any academic year; and (ii) the limitation, suspension, or termination of the eligibility of an eligible institution if—

"(I) such institution is ineligible under regulations for the emergency action, limitation, suspension, or termination of eligible institutions under regulations issued by the Secretary or is ineligible pursuant to criteria, rules, or regulations issued under the student loan insurance program which are substantially the same as regulations with respect to emergency action, limitation, suspension, or termination of such eligibility issued by the Secretary;

"(II) there is a State constitutional prohibition affecting the eligibility of such an institution;

"(III) such institution fails to make timely refunds to students as required by regulations issued by the Secretary or has not satisfied within 30 days of issuance a judgment obtained by a student;

"(IV) such institution or an owner, director, or officer of such institution is found guilty in any criminal, civil or administrative proceeding or such institution or an owner, director, or officer of such institution is found liable in any civil or administrative proceeding regarding the obtaining, maintenance, or disbursement of State or Federal grant, loan, or work assistance funds; or

"(V) such institution or an owner, director, or officer of such institution has unpaid financial liabilities involving the improper acquisition, expenditure, or refund of State or Federal financial aid funds;

except that, if a guaranty agency limits, suspends, or terminates the participation of an eligible institution, the Secretary shall apply that limitation, suspension, or termination to all institutions with the Department of Education institution identification code of such institution, unless the Secretary finds within 30 days of notification of the action by the guaranty agency that the guaranty agency's action did not comply with the requirements of this section;".

(g) AUDITS OF LENDERS.—Section 428(b)(1)(U) of the Act is amended—

(1) in clause (i), by striking out "and" at the end thereof;

(2) by inserting before the semicolon at the end thereof the following: ", and (iii) for (I) a compliance audit of a lender at least once a year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary, or (II) with regard to a lender that is audited under chapter 75 of title 31, United States Code, such audit shall be deemed to satisfy the requirements of subclause (I) for the period covered by such audit;".

(h) CREDIT CHECKS; CONFESSION OF JUDGMENT.—

(1) GSL PROGRAM.—Section 428(b)(1) of the Act is amended—

(A) by striking subparagraphs (W) and (X); and

(B) by redesignating subparagraph (Y) (as added by section 423(b)(3) of this Act) as subparagraph (W).

(2) FISL PROGRAM.—Section 427(a)(2)(A) of such Act is amended to read as follows:

"(A) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by the borrower would not, under the applicable law, create a binding obligation, endorsement may be required;".

(i) PARTICIPATION AGREEMENTS BETWEEN GUARANTY AGENCIES AND INSTITUTIONS.—Section 428(b)(1) is amended by adding at the end thereof the following new subparagraph:

"(X) provides for a participation agreement between the guaranty agency and each eligible institution within its designated service area.".

(j) AUDITS OF GUARANTY AGENCIES.—Section 428(b)(2)(D)(i) of the Act is amended by striking out "at least once every 2 years" and inserting in lieu thereof "on at least an annual basis".

(k) NOTICE TO BORROWER OF LOAN SALE.—Section 428(b)(2) of the Act is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

"(F) provide that if the sale, other transfer, or assignment of a loan made under this part to another holder will result in a change in the identity of the party to whom the borrower must send subsequent payments, the transferor and the transferee shall, no later than 45 days from the date the transferee acquires a legally enforceable right to receive payment from the borrower on such loan, each provide a separate notice to the borrower of—

"(i) the sale or other transfer;

"(ii) the identity of the transferee;

"(iii) the name and address of the party to whom subsequent payments must be sent; and

"(iv) the telephone numbers of both the transferor and the transferee; and

"(G) provide that, upon the request of the last institution attended by the borrower prior to the beginning of the repayment of any loan made under this part, the transferor and transferee shall provide such institution with a copy of the notices required by subparagraph (F).".

(l) Elimination of Teacher Deferment.—Section 428(b) of the Act is amended by striking paragraph (4) and redesignating paragraphs (5) and (6) as paragraph (4) and (5), respectively.

(m) Procedures for Deferments.—Section 428(b)(4) of the Act (as redesignated) is amended by adding at the end thereof the following new sentence: "Requests for deferment of repayment of loans under this part by students engaged in graduate or postgraduate fellowship-supported study (such as pursuant to a Fulbright grant) outside the United States may be approved until completion of the period of the fellowship.".

(n) Restrictions on Guaranty Agency Officers and Employees.—Section 428(b) of the Act is amended by adding at the end the following new paragraph:

"(6) Conflict-of-interest procedures.—Each guaranty agency shall, in accordance with regulations prescribed by the Secretary, establish procedures to—

"(A) require each policymaking or contracting officer or employee to make such financial disclosures as may be necessary to enable the guaranty agency to determine whether such officer or employee has a direct financial interest in, or serves as an officer or employee of, any eligible lender, secondary market maker, contractor, or service provider with which the guaranty agency does business;

"(B) conduct such investigations as may be necessary concerning any allegation of conduct described in subparagraph (A);

"(C) determine whether such conduct poses an actual conflict of interest which could harm the operations of such agency: *Provided*, That compliance with applicable State law and regulation is not deemed in and of itself a conflict of interest;

"(D) impose such remedies as be necessary to prevent such harm;

"(E) report the results of such investigations and determinations, and identify the remedies imposed, in reports to the Secretary; and

"(F) take such corrective actions as the Secretary may require after review of such reports, including payments of such civil penalties as the Secretary may impose upon the guaranty agency for a substantial failure to correct.".

(o) Information From State Licensing Boards.—Section 428(b) of the Act is further amended by adding at the end the following new paragraphs:

"(7) State guaranty agency information request of state licensing boards.—Each guaranty agency is authorized to enter into agreements with each appropriate State licensing board under which the State licensing board, upon request, will furnish the guaranty agency with the address of a student borrower in any case in which the location of the student borrower is unknown or unavailable to the guaranty agency.

"(8) Repayment period.—(A) In the case of a loan made under section 427 or 428, the repayment period shall begin on the day immediately following the expiration of the period of time, specified in section 428(b)(1)(E), after the student ceases to carry the required academic workload, unless the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier point in time, and shall exclude any period of authorized deferment or forbearance.

"(B) In the case of a loan made under section 428A, the repayment period shall begin on the day the loan is disbursed, or, if the loan is disbursed in multiple installments, on the day of the last such disbursement, and shall exclude any period of authorized deferment or forbearance.

"(C) In the case of a loan made under section 428B or 428C, the repayment period shall begin on the day the loan is disbursed, and shall exclude any period of authorized deferment or forbearance.".

(p) Guaranty Agency Agreements.—Section 428(c)(1)(A) of the Act is amended by striking out the period at the end thereof and inserting in lieu thereof a comma and "or later than 45 days after the guaranty agency discharges its insurance obligation on the loan.".

(q) Additional Review of Exceptional Performance Prohibited.—Section 428(c)(1) is amended by adding at the end the following new subparagraph:

"(D) Reimbursements of losses made by the Secretary on loans submitted for claim by an eligible lender, or guaranty agency designated for exceptional performance under paragraph (10) of this subsection shall not be subject to additional review by the Secretary or repurchase by the guaranty agency for any reason other than a determination by the Secretary that the eligible lender, or guaranty agency engaged in fraud or other purposeful misconduct in obtaining designation for exceptional performance.".

(r) Borrower Location.—Section 428(c)(2) of the Act is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by redesignating subparagraph (G) as subparagraph (H): and

(3) by inserting after subparagraph (F) the following new subparagraph:

"(G) set forth assurances that the guaranty agency has established and implemented procedures providing for the submission to institutions of higher education of lists of borrowers on which the guaranty agency has received default claims for the purpose of providing the institution that the borrower has indicated as having last attended with an opportunity to comment on the accuracy of the list prior to claims for reinsurance being filed with the Secretary; and".

(s) Forbearance.—(1) Section 428(b)(1)(V) of the Act is amended—

(A) by striking out "and" at the end of clause (i);

(B) by striking the period at the end of clause (ii) and inserting a semicolon; and

(C) by inserting after clause (ii) the following new clauses:

"(iii) provides that, upon written request, a lender shall grant a borrower forbearance of principal and interest (or principal only at the option of the borrower) and renewable at 12-month intervals for a period not to exceed 3 years, on such terms as are otherwise consistent with the regulations of the Secretary set forth in writing by the parties to the loan, if the borrower's debt burden under this title equals or exceeds 20 percent of gross income; and

"(iv) provides that the form of forbearance granted by the lender for purposes of this subparagraph shall be the temporary cessation of payments, unless the borrower selects forbearance in the form of an extension of time for making payments, or smaller payments than were previously scheduled.".

(2) Section 428(c)(3) of the Act is amended to read as follows:

"(3) Forbearance.—A guaranty agreement under this subsection—

"(A) shall contain provisions providing for forbearance in accordance with subsection (b)(1)(V) for the benefit of the student borrower serving in a medical or dental internship or residency program;

"(B) shall contain provisions which require forbearance for the benefit of the borrower when such a borrower has indicated his or her willingness to pay in accordance with the terms of the loan, but has demonstrated his or her present inability to do so; and

"(C) shall contain provisions that specify that the form of forbearance granted by the lender for purposes of this paragraph shall be the temporary cessation of payments, unless the borrower selects forbearance in the form of an extension of time for making payments, or smaller payments than were previously scheduled.

Guaranty agencies shall not be precluded from permitting the parties to such a loan from entering into a forbearance agreement solely because the loan is in default. The Secretary shall permit lenders to exercise administrative forbearances, not requiring the agreement of the borrower, under conditions authorized by the Secretary, which shall include, but not be limited to, forbearances for borrowers who are delinquent at the time of the granting of an authorized period of deferment under section 428(b)(1)(M) or 427(a)(2)(C) and forbearances for borrowers on loans which are sold or transferred, if the borrower is less than 60 days delinquent on such loans at the time of sale or transfer.".

(t) Third Party Servicer.—Section 428(c)(6)(C)(iii) of the Act is amended by striking out "servicer" each place it appears and inserting in lieu thereof "third party servicer".

(u) Subrogation.—Section 428(c)(8) of the Act is amended to read as follows:

"(8) Assignment to protect the federal fiscal interest.—If the Secretary determines that the protection of the Federal fiscal interest so requires, a guaranty agency shall assign to the Secretary any loan of which it is the holder 36 months after the Secretary has made a payment pursuant to paragraph (1) of this subsection unless a judgment against the defaulted borrower has been obtained or a payment from all sources of at least $300 has been received in the preceding 12 months, or a payment from all sources of at least $90 has been received in the preceding 3 months.".

(v) Special Rules for Exceptional Performance in Loans Collection by Eligible Lenders, and Guaranty Agencies.—Section 428(c) of the Act is amended by adding at the end thereof the following new paragraph:

"(10) Special insurance rules for certain eligible lenders; special reinsurance rules for guaranty agencies.—(A) Whenever the Secretary determines that an eligible lender or guaranty agency has a compliance performance rating with respect to due diligence in the collection of loans insured under this part for each year for which the determination is made which equals, or exceeds, 95 percent of all due diligence requirements with respect to such loans serviced during the period by the eligible lender, or on which loan collection was attempted by the guaranty agency, the Secretary shall designate the eligible lender or guaranty agency, as the case may be, for exceptional performance. The Secretary shall notify each appropriate guaranty agency of the eligible lenders designated under this paragraph.

"(B)(i) Each guaranty agency shall pay each eligible lender designated under subparagraph (A) 100 percent of the unpaid principal and interest of all loans for which claims are submitted for payment by that eligible lender for the one-year period following the receipt by the guaranty agency of the notification of designation under this paragraph.

"(ii) The Secretary shall pay to each guaranty agency designated under subparagraph (A) the appropriate percentage under paragraph (1)(B) of this subsection for the one-year period following the receipt by the guaranty agency of the notification of designation under this paragraph.

"(C)(i) Each eligible lender desiring a designation under subparagraph (A) shall have a financial and compliance audit of the loan portfolio of such eligible lender conducted annually by a qualified independent organization or person in accordance with standards established by the Comptroller General and the Secretary. The standards shall include a defined statistical sampling technique designed to measure the performance rating of the eligible lender for the purpose of this paragraph. Each eligible lender shall submit the audit required by this paragraph to the Secretary and to each appropriate guaranty agency.

"(ii) Each appropriate guaranty agency shall provide the Secretary with such other information in its possession regarding an eligible lender desiring designation as may relate to the Secretary's determination under subparagraph (A).

"(iii) The Secretary shall make the determination under subparagraph (A) based upon the audits submitted under this paragraph and such other information as the appropriate guaranty agency provides under clause (ii). If the results of the audit are not persuasively rebutted by such other information, the Secretary shall inform the eligible lender and the appropriate guaranty agency that its application for designation as an exceptional eligible lender has been approved.

"(iv) Each eligible lender shall pay for all of the costs of the audits required by this subparagraph.

"(v) Designation as an exceptional eligible lender may be revoked at any time by the Secretary upon 60 days notice and an opportunity for a hearing before the Secretary if the Secretary determines that the eligible lender has failed to maintain an overall level of regulatory compliance consistent with the audit submitted by the eligible lender under this paragraph.

"(D)(i) Each guaranty agency desiring a designation under subparagraph (A) shall have a financial and compliance audit of the defaulted loan portfolio of such agency conducted annually by a qualified independent organization or person in accordance with standards established by the Comptroller General and the Secretary. The standards shall include defined statistical sampling techniques designed to measure the performance rating of the guaranty agency for the purpose of this paragraph. Each guaranty agency shall submit the audit required by this subparagraph to the Secretary.

"(ii) The Secretary shall make the determination under subparagraph (A) based upon the audits submitted under this subparagraph and other information in his possession. If the results of the audit are not persuasively rebutted by such other information, the Secretary shall inform the guaranty agency that its application for designation as an exceptional guaranty agency has been approved.

"(iii) Each guaranty agency shall pay for all of the costs of the audits required by this paragraph.

"(iv) Designation as an exceptional guaranty agency may be revoked by the Secretary upon 60 days notice and an opportunity for a hearing before the Secretary upon a finding by the Secretary that the guaranty agency has failed to maintain an overall level of regulatory compliance by the guaranty agency under this paragraph.

"(E) For purposes of this paragraph, the term 'due diligence requirements' means the activities required to be performed by lenders on delinquent loans under regulations establishing requirements for due diligence by lenders in the collection of guaranty agency loans and the activities required to be performed by guaranty agencies on collection of defaulted loans under fiscal administrative and enforcement requirements issued by the Secretary and any related or successor regulations.

"(F) Nothing in this paragraph shall be construed (i) to affect the processing of claims on student loans of eligible lenders not subject to this paragraph, or (ii) to limit the authority of the Secretary to approve more than one standard of due diligence in the collection of loans insured under this part.".

(w) COST OF LENDER PARTICIPATION PROMOTION.—Section 428(f)(1)(A)(i) of the Act is amended by striking "commercial lender" and inserting "eligible lender".

SEC. 428. SUPPLEMENTAL LOAN PROGRAM.

(a) NAME OF THE PROGRAM.—Section 428A of the Act is amended by striking the heading of such section and inserting the following:

"FEDERAL SUPPLEMENTAL LOANS FOR STUDENTS".

(b) COORDINATION OF STAFFORD AND SLS REPAYMENT.—Section 428A(c)(1) of the Act is amended by adding at the end the following new sentence: "In the case of a borrower under this section who is also a borrower under a program of student loan insurance covered by an agreement under sections 427 or 428(b), the repayment period shall commence six months after the student ceases to carry at an eligible institution at least one-half the normal full-time academic workload, as determined by the institution, except that interest shall begin to accrue, and shall be paid in accordance with paragraph (2), notwithstanding such delay in the commencement of the repayment period.".

(c) CAPITALIZATION OF INTEREST.—Section 428A(c)(2) of the Act is amended to read as follows:

"(2) CAPITALIZATION OF INTEREST.—Interest on loans made under this section which are disbursed in installments, for which payments of principal are deferred under sections 427(a)(2)(C)(i) and 428(b)(1)(M)(i), or for which the commencement of the repayment period is delayed in accordance with paragraph (1) to coincide with the commencement of the repayment period of a loan made under section 427 or 428, shall, if agreed upon by the borrower and the lender (A) be paid monthly or quarterly, or (B) be added to the principal amount of the loan no more frequently than quarterly by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.".

SEC. 429. PLUS LOANS.

(a) NAME OF THE PROGRAM.—Section 428B of the Act is amended by striking the heading of such section and inserting the following:

"FEDERAL PLUS LOANS".

(b) CHECKS COPAYABLE.—Section 428B of the Act is amended—

(1) in subsection (a)—

(A) by striking "subsections (c) and (d)" and inserting "subsections (c), (d), and (e)"; and

(B) by inserting after "Parents of a dependent student" the following: ", who have no adverse credit history determined pursuant to regulations of the Secretary,"; and

(2) in subsection (b)—

(A) by striking the subsection designation and heading and paragraphs (1) and (2); and

(B) by redesignating paragraph (3) as subsection (b);

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(4) by inserting after subsection (b) the following new subsection:

"(c) PLUS LOAN DISBURSEMENT.—All loans made under this section shall be disbursed by—

"(1) an electronic transfer of funds from the lender to the eligible institution; or

"(2) making the loan copayable to the eligible institution and the parent borrower.".

(c) LIMITATION OF DEFERRAL.—Section 428B(d)(1) of the Act (as redesignated) is amended to read as follows:

"(1) COMMENCEMENT OF REPAYMENT.—Repayment of principal on loans made under this section shall commence not later than 60 days after the date such loan is disbursed by the lender, subject to deferral during any period during which the parent meets the conditions required for a deferral under section 427(a)(2)(C) or 428(b)(1)(M).".

(d) CAPITALIZATION OF INTEREST.—Section 428B(d)(2) of the Act (as redesignated) is amended to read as follows:

"(2) CAPITALIZATION OF INTEREST.—Interest on loans made under this section for which payments of principal are deferred pursuant to paragraph (1) of this subsection shall, if agreed upon by the borrower and the lender (A) be paid monthly or quarterly, or (B) be added to the principal amount of the loan no more frequently than quarterly by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.".

SEC. 430. CONSOLIDATION LOANS.

(a) NAME OF THE PROGRAM.—Section 428C of the Act is amended by striking the heading of such section and inserting the following:

"FEDERAL CONSOLIDATION LOANS".

(b) USE OF CONSOLIDATION TO AVOID DEFAULT.—

(1) ELIGIBLE BORROWER.—(A) Section 428C(a)(3)(A)(i) is amended by striking "$5,000" and inserting in lieu thereof "$10,000".

(B) Section 428C(a)(3)(A)(ii) is amended to read as follows:

"(ii) is in repayment status, or in a grace period preceding repayment, or is a delinquent or defaulted borrower who will reenter repayment through loan consolidation.".

(2) ELIGIBLE LOANS.—Section 428C(a)(4)(A) of the Act is amended to read as follows:

"(A) made, insured, or guaranteed under this part, including loans on which the borrower has defaulted (but has made arrangements to repay the obligation on the defaulted loans satisfactory to the Secretary or guaranty agency, whichever insured the loans), except for loans made to parent borrowers under section 428B as in effect prior to the enactment of the Higher Education Amendments of 1986;".

(c) Extension of Consolidation Eligibility Period.—Section 428C(a)(3)(B) is amended by striking the first sentence and inserting the following: "An individual's status as an eligible borrower under this section terminates upon receipt of a consolidation loan under this section except (i) that loans received prior to the date of the consolidation loan may be added to the consolidation loan during the 180-day period following the making of the consolidation loan; and (ii) with respect to eligible student loans received after the date of receipt of the consolidation loan.".

(d) Consolidation of Loans of Married Borrowers.—Section 428C(a)(3) of the Act is amended by adding at the end the following new subparagraph:

"(C)(i) A married couple, each of whom has eligible student loans, may be treated as if they were an individual borrowing under subparagraphs (A) and (B) if they agree to be held jointly and severally liable for the repayment of a consolidation loan, without regard to the amounts of their respective loan obligations that are to be consolidated, and without regard to any subsequent change that may occur in their marital status.

"(ii) Only one spouse in a married couple applying for a consolidation loan under this subparagraph need meet any of the requirements of subparagraph (A) of this section, except that each spouse shall (I) individually make the initial certification that no other application is pending provided for in subsection (b)(1)(A), and (II) agree to notify the holder concerning any change of address as provided for in subsection (b)(4).".

(e) Interest During Deferral.—Section 428C(b)(4)(C) of the Act is amended to read as follows:

"(C) provides that periodic installments of principal need not be paid, but interest shall accrue and be paid by the Secretary, during any period for which the borrower would be eligible for a deferral under section 428(b)(1)(M);".

(f) Repayment Schedules.—Section 428C(c)(2) of the Act is amended by—

(1) striking "may" in the first sentence and inserting "shall"; and

(2) by striking the second sentence and inserting the following: "Such repayment terms shall require that if the sum of the consolidation loan and the amount outstanding on other student loans to the individual—

"(i) is equal to or greater than $10,000 but less than $20,000, then such consolidation loan shall be repaid in not more than 15 years;

"(ii) is equal to or greater than $20,000 but less than $40,000, then such consolidation loan shall be repaid in not more than 20 years;

"(iii) is equal to or greater than $40,000 but less than $60,000, then such consolidation loan shall be repaid in not more than 25 years; or

"(iv) is equal to or greater than $60,000, then such consolidation loan shall be repaid in not more than 30 years.".

SEC. 431. DISBURSEMENT RULES.

(a) Monthly or Weekly Disbursement.—Section 428G(c) of the Act is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(3) Notwithstanding subsection (a)(2), may, with the permission of the borrower, be disbursed on a weekly or monthly basis, provided that the proceeds of the loan are disbursed in substantially equal weekly or monthly installments, as the case may be, over the period of enrollment for which the loan is made.".

(b) Overaward Adjustments.—Section 428G(d)(2) of the Act is amended by inserting before the period at the end of the first sentence the following: ", except that overawards permitted pursuant to section 443(b)(4) of the Act shall not be construed to be overawards for purposes of this paragraph".

SEC. 432. UNSUBSIDIZED LOANS; EXTENDED COLLECTION DEMONSTRATION PROGRAM.

Part B of title IV of the Act is amended by inserting after section 428G the following new sections:

"UNSUBSIDIZED STAFFORD LOANS FOR MIDDLE-INCOME BORROWERS

"Sec. 428H. (a) In General.—It is the purpose of this section to authorize insured loans under this part for borrowers who do not qualify for Federal interest subsidy payments under section 428 of this Act. Except as provided in this section, all terms and conditions for Federal Stafford loans established under section 428 shall apply to loans made pursuant to this section.

"(b) Eligible Borrowers.—Any student meeting the definition of student eligibility under section 484 shall be entitled to borrow an unsubsidized Stafford loan. Such student shall provide to the lender a statement from the eligible institution at which the student has been accepted for enrollment, or at which the student is in attendance, which—

"(1) sets forth such student's estimated cost of attendance (as determined under section 472);

"(2) sets forth such student's estimated financial assistance, including a loan which qualifies for subsidy payments under section 428 (as defined in section 428(a)(2)(C)(i)); and

"(3) certifies the eligibility of the student to receive a loan under this section and the amount of the loan for which such student is eligible, in accordance with subsection (c).

"(c) Determination of Amount of Loan.—The determination of the amount of a loan by an eligible institution under subsection (b) shall be calculated by subtracting from the estimated cost of attendance at the eligible institution any estimated financial assistance reasonably available to such student. An eligible institution may not, in carrying out the provisions of subsection (b) of this section, provide a statement which certifies the eligibility of any student to receive any loan under this section in excess of the maximum amount applicable to such loan.

"(d) Loan Limits.—The annual and aggregate limits for loans under this section shall be the same as those established under section 428(b)(1), less any amount received by such student pursuant to the subsidized Stafford Loan Program established under section 428.

"(e) Payment of Principal and Interest.—

"(1) Commencement of repayment.—Repayment of principal on loans made under this section shall commence 6 months after the month in which the student ceases to carry at least one-half the normal full-time workload as determined by the institution.

"(2) Capitalization of interest.—Interest on loans made under this section for which payments of principal are not required during the in-school and grace periods or are deferred under sections 427(a)(2)(C) and 428(b)(1)(M) shall, if agreed upon by the borrower and the lender (A) be paid at least quarterly or (B) be added to the principal amount of the loan on a quarterly basis by the lender. Such capitalization of interest shall not be deemed to exceed the annual insurable limit on account of the student.

"(3) Subsidies prohibited.—No payments to reduce interest costs shall be paid pursuant to section 428(a) of this part on loans made pursuant to this section.

"(4) Applicable rates of interest.—Interest on loans made pursuant to this section shall be at the applicable rate of interest provided in section 427A(d).

"(f) Insurance Premium.—

"(1) Amount of insurance premium.—No origination fee shall be collected on a loan made pursuant to this section. However, the lender shall charge the borrower an insurance premium in an amount of 3 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payment to the borrower.

"(2) Relation to applicable interest.—Such insurance premium shall not be taken into account for purposes of determining compliance with section 427A.

"(3) Disclosure required.—The lender shall disclose to the borrower the amount and method of calculating the insurance premium.

"(4) Use of insurance premium to offset default costs.—Each lender making loans under this section shall transmit all insurance premiums authorized to be collected from borrowers to the Secretary, who shall use such premiums to pay the Federal costs of default claims paid for loans under this section and to reduce the cost of special allowances paid thereon, if any, under section 438(b).

"(g) Single Application Form.—Where practicable, a guaranty agency shall use a single application form for subsidized Stafford loans made pursuant to section 428 and for unsubsidized Stafford loans made pursuant to this section.

"EXTENDED COLLECTION DEMONSTRATION PROGRAM

"Sec. 428I. (a) Agreements for Demonstration Program.—The Secretary shall, in accordance with the provisions of this section, enter into agreements with guaranty agencies for the establishment of not to exceed 9 demonstration programs designed to reduce defaults under this part through extended efforts on delinquent student loans originally guaranteed by such agencies.

"(b) Selection of Participants.—

"(1) Submission of applications.—Each guaranty agency desiring to participate in the program authorized by this section shall submit an application to the Secretary at such time and in such manner as the Secretary may prescribe.

"(2) Selection of participants.—The Secretary shall select participants to establish extended collection programs under this section on the basis of—

"(A) the applicant's experience and success in working with borrowers and eligible lenders to prevent default, including the use of forbearance;

"(B) the applicant's experience and success in the use of preclaims assistance and supplemental preclaims assistance to reduce defaults;

"(C) evidence that the applicant will use the program authorized by this section for borrowers who attend all types of institutions of higher education, in a manner which substantially reflects the overall loans guaranteed by the applicant which are delinquent;

"(D) the novel and innovative approaches that the applicant proposes to use in the extended collection demonstration program; and

"(E) the commitment of the applicant to the program, as documented in the application.

"(3) Application Requirements.—Each such application shall include—

"(A) the modified lender agreement the guaranty agency has adopted by use by eligible lenders participating in the program;

"(B) a description of the novel and innovative approaches that the applicant will use in the extended collection demonstration program; and

"(C) such additional information as the Secretary may reasonably require to evaluate applications.

"(4) Priorities.—In selecting participants under this section, the Secretary shall give priority to applications submitted by guaranty agencies having extensive experience in the administration and collection of student loans, either directly or through use of contract loan services.

"(c) Program Agreement.—Each agreement entered into under this section shall include—

"(1) the provision of individualized or flexible repayment plans, including plans designed to meet the needs of borrowers participating in the program who face financial difficulty in repaying their loan;

"(2) the performance of aggressive and concentrated due diligence efforts by the holder; and

"(3) a requirement that eligible lenders furnish to the guaranty agency records of collection efforts and techniques, as specified by the guaranty agency or the Secretary, or both.

"(d) Eligibility.—

"(1) Eligibility.—Loans made under this part shall be eligible for extended collection pursuant to this section if—

"(A) the location of the borrower is known;

"(B) the borrower has made no payments or has missed at least two consecutive payments;

"(C) the loans are at least 120 days but less than 180 days delinquent, and all due diligence required has been performed;

"(D) the loan entered repayment if fiscal year 1990 or later;

"(E) the participating guaranty agency has provided preclaims assistance pursuant to a request by the eligible lender at 60 to 90 days of delinquency; and

"(F) the eligible lender providing extended collection efforts is not in possession of information that the loan may be uncollectible.

"(2) Lender Eligibility to Participate.—An eligible lender may participate in the program authorized by this section if—

"(A) the eligible lender has an agreement with the guaranty agency with which the application is being filed for the guaranty of consolidation loans under section 428C;

"(B) the eligible lender is not subject to a limitation, suspension, or termination agreement or Default Management Plan under this part; and

"(C) the eligible lender meets such other criteria as the guaranty agency and the Secretary may reasonably require.

"(e) Extended Collection Period.—Notwithstanding any other provision of law, loans held pursuant to this part and included in the program authorized by this section may be held by the eligible lender for—

"(1) 540 days after the loan becomes delinquent with respect to any installment;

"(2) not more than 30 days after the eligible lender participating under this section determines in accordance with guidelines promulgated by the guaranty agency, that no further collection effort on the loan is likely to result in repayment by the borrower; or

"(3) a period that is within 30 days after notification from the guaranty agency, but no earlier than the 270th day of delinquency, whichever comes first.

"(f) Reports to the Secretary and to the Congress.—

"(1) Annual reports.—Each participant with an agreement with the Secretary to offer an extended collection program shall submit a report once a year to the Secretary describing—

"(A) the effectiveness of the program, including statistics on the number of accounts brought into repayment between the 180th day and the submission of the claim;

"(B) a statistical summary of the basis for cures of delinquent loans brought current through the program, including specific summaries of the numbers of loans brought into repayment through forbearances, payments, and loan consolidation;

"(C) information on strategies used by eligible lenders in the program to effectuate the initiation of repayment; and

"(D) evidence of efforts to use the program authorized by this section for borrowers who attended traditional 4-year institutions, community colleges, and vocational and technical schools, which substantially reflect the overall portfolio of the eligible lenders.

"(2) Report by the secretary.—The Secretary shall, not later than September 30, 1993, prepare and submit an interim report and not later than September 30, 1995, prepare and submit a final report on the demonstration project authorized by this section. The reports shall evaluate the results of the demonstration conducted under this section, assess the costs and benefits of this demonstration and include such recommendations as the Secretary may deem appropriate, including expansion of the demonstration program.

"(g) Regulations.—The Secretary shall prescribe regulations for the administration of this section within 240 days of the enactment of this Act.

"(h) Applicability of Other Terms, Conditions, and Benefits.—A loan subject to the provisions of this section shall be subject to the same terms and conditions and qualify for the same benefits and privileges as other loans made under this part, except as otherwise specifically provided for in this section.

"(i) Termination.—The demonstration program shall terminate on September 30, 1995.".

SEC. 433. ADMINISTRATIVE PROVISIONS.

(a) Authority To Regulate Servicers.—Section 432(a)(1) is amended by inserting before the semicolon the following: ", including regulations with respect to third party servicers (including but not limited to regulations concerning financial responsibility standards for, and the assessment of liabilities for program violations against, such servicers) to ensure sound management and accountability of programs under this part".

(b) Limitation, Suspension, and Termination.—Section 432 of the Act is amended—

(1) in subsection (a)(3), by striking out "on the record," and inserting a comma;

(2) in subsection (g)(1), by striking out "on the record," and inserting a comma;

(3) in subsection (h)(2)(A)—

(A) by striking out "shall, in accordance with sections 556 and 557 of title 5, United States Code," in the first sentence and inserting "shall"; and

(B) by striking out "The Secretary" and all that follows through "disqualification—" in the second sentence and inserting the following: "The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanction—";

(4) in subsection (h)(2)(B), by striking out "disqualification" each place it appears and inserting "sanction"; and

(5) by redesignating subparagraph (B) of subsection (h)(2) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) The Secretary's review under this paragraph of the limitation, suspension, or termination imposed by a guaranty agency pursuant to section 428 (b)(1)(U) shall be limited to—

"(i) a review of the written record of the proceedings in which the guaranty agency imposed such sanctions; and

"(ii) a determination as to whether the guaranty agency complied with section 428(b)(1)(U) and any notice and hearing requirements specified in regulations prescribed under this part."; and

(6) in subsection (h)(3)(A)—

(A) by striking out "shall, in accordance with sections 556 and 557 of title 5, United States Code," in the first sentence and inserting "shall"; and

(B) by striking out "The Secretary" and all that follows through "disqualification—" in the second sentence and inserting the following: "The Secretary shall uphold the imposition of such limitation, suspension, or termination in the student loan insurance program of each of the guaranty agencies under this part, and shall notify such guaranty agencies of such sanctions—";

(7) in subsection (h)(3)(B), by striking out "disqualification" each place it appears and inserting "sanction"; and

(8) by redesignating subparagraph (B) of subsection (h)(3) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

"(B) The Secretary's review under this paragraph of the limitation, suspension, or termination imposed by a guaranty agency pursuant to section 428(b)(1)(T) shall be limited to—

"(i) a review of the written record of the proceedings in which the guaranty agency imposed such sanctions; and

"(ii) a determination as to whether the guaranty agency complied with section 428(b)(1)(T) and any notice and hearing requirements specified in regulations prescribed under this part.".

(c) Standardization of Forms, Procedures, and Data Reporting.—Section 432 of the Act is amended by adding at the end the following new subsections:

"(k) Regulations on Standardization and Simplification of Forms and Procedures.—

"(1) Community recommendations.—Within 240 days following the enactment of this Act, guaranty agencies, lenders, institutions of higher education, third party servicers and other organizations involved in providing loans under this part shall make recommendations to the Secretary, which the Secretary shall promulgate as regulations to simplify administration of the loan programs authorized under this part and to eliminate differences between forms, procedures and standards between guaranty agencies. Such regulations shall be designed to—

"(A) simplify all aspects of the student loan process to simplify the application, disbursement and origination processes, communications with lenders and guarantors, and to enhance understanding of the loan obligation on the part of borrowers;

"(B) simplify fulfillment of institutional responsibilities under this part by institutions of higher education;

"(C) improve the administration and oversight of the program by the United States Department of Education.

"(2) SIMPLIFICATION REQUIREMENTS.—Such regulations shall include—

"(A) standardization of computer formats, forms design and guaranty agency procedures relating to the origination, servicing and collection of loans made under this part;

"(B) authorization of alternate means of documents retention, including the use of microfilm, microfiche, laser disc, compact disc, and other methods allowing the production of a facsimile of the original documents;

"(C) authorization of the use of computer or similar electronic methods of maintaining records relating to the performance of servicing, collection and other regulatory requirements under this Act; and

"(D) authorization and implementation of electronic data linkages for the exchange of information to and from lenders, guarantors, institutions of higher education, third party servicers, and the Department for student status confirmation reports, claim filing, interest and special allowance billing, deferment processing, and all other administrative steps relating to loans made pursuant to this part where using electronic data linkage is feasible.

"(3) REGULATIONS BY THE SECRETARY.—If guaranty agencies, lenders, institutions of higher education, and other organizations involved in providing loans under this part are unable to agree upon recommendations to standardize and simplify forms and procedures within 240 days of enactment of the Higher Education Amendments of 1992, the Secretary is authorized to issue such regulations meeting the requirements of this subsection as he shall deem appropriate.

"(4) ADDITIONAL RECOMMENDATIONS.—The Secretary shall seek additional recommendations from guaranty agencies, lenders, institutions of higher education, third party servicers and other organizations involved in providing loans under this part, no less frequently than annually, for additional methods of simplifying and standardizing the administration of the programs authorized by this part.

"(l) STANDARDIZATION OF DATA REPORTING.—

"(1) COMMON REPORTING FORMATS.—The Secretary shall promulgate standards including necessary rules, regulations (including the definitions of all relevant terms) and procedures so as to require all lenders and guaranty agencies to report information on all aspects of loans made under this part in uniform formats, so as to permit the direct comparison of data submitted by individual lenders, servicers or guaranty agencies.

"(2) ESTABLISHMENT OF STANDARDS.—For the purpose of establishing standards under this section, the Secretary shall—

"(A) adopt the recommendation of guaranty agencies, lenders, institutions of higher education, and organizations representing these groups, if submitted to the Secretary within 240 days of the date of the enactment of the Higher Education Amendments of 1992;

"(B) develop standards designed to be implemented by all guaranty agencies and lenders with minimum modifications to existing data processing hardware and software;

"(C) publish the specifications selected to be used, so as to encourage the automation of exchanges of information between all parties involved in loans under this part.".

(d) REPAYMENT BY EMPLOYERS.—Section 432 is further amended by adding at the end the following new subsection:

"(m) PROGRAM TO ENCOURAGE EMPLOYER REPAYMENT.—The Secretary shall undertake a program to encourage corporations and other private and public employers, including the Federal Government, to assist borrowers in repaying loans received under this title, including providing employers with options for payroll deduction of loan payments and for offering loan repayment matching provisions as part of employee benefit packages. The Secretary shall publicize models for providing such repayment assistance and each year select entities that deserve recognition, through means devised by the Secretary, for their development of innovative plans for providing such assistance to their employees. Within one year after the date of enactment of this Act, the Secretary shall recommend to the appropriate committees in the House and Senate changes to statutes that could be made in order to further encourage such efforts.".

(e) DEFAULT REDUCTION.—Section 432 of the Act is amended by adding at the end the following new subsection:

"(n) DEFAULT REDUCTION MANAGEMENT.—

"(1) AUTHORIZATION.—There are authorized to be appropriated $25,000,000 for fiscal year 1993 and each of the four succeeding fiscal years for the Secretary to expend for default reduction management activities. Such funds shall be in addition to, and not in lieu of, other appropriations made for such purposes.

"(2) ALLOWABLE ACTIVITIES.—Allowable activities for which such funds shall be expended by the Secretary shall include (but not be limited to) the following: (A) program reviews; (B) audits; (C) debt management programs; (D) training activities; and (E) such other management improvement activities approved by the Secretary.

"(3) PLAN FOR USE REQUIRED.—The Secretary shall submit a plan, for inclusion in the materials accompanying the President's budget each fiscal year, detailing the expenditure of funds authorized by this section. At the conclusion of each fiscal year, the Secretary shall report his findings and activities concerning the expenditure of funds authorized by this section to the Appropriations Committees of the House of Representatives and the Senate and to the Committee on Education and Labor of the House and the Committee on Labor and Human Resources of the Senate.

"(4) TRAINING ACTIVITIES.—Not less than ⅛ of the amount made available under paragraph (1) for fiscal year 1993 and each of the four succeeding fiscal years shall be used to carry out section 486 of this Act.".

(f) CONSEQUENCES OF GUARANTY AGENCY INSOLVENCY.—Section 432 of the Act is further amended by adding at the end the following new subsections:

"(o) CONSEQUENCES OF GUARANTY AGENCY INSOLVENCY.—In the event that the Secretary has determined that a guaranty agency is unable to meet its insurance obligations under this part, the holder of loans insured by the guaranty agency may submit insurance claims directly to the Secretary and the Secretary shall pay to the holder the full insurance obligation of the guaranty agency, in accordance with insurance requirements no more stringent than those of the guaranty agency. Such arrangements shall continue until the Secretary is satisfied that the loans have been transferred to another guarantor who can meet the insurance obligations or a successor will assume the outstanding insurance obligations.

"(p) INSOLVENCY OF A GUARANTY AGENCY.—

"(1) INFORMATION COLLECTION; STANDARDS.—Each guaranty agency shall provide, on at least an annual basis as determined by the Secretary, financial information (including at a minimum the amount of current reserves, cash disbursements, and accounts payable and receivable) requested by the Secretary to use in an evaluation of the financial solvency of the agency. The Secretary, based on the information provided under this paragraph, shall establish a standard for use in determining which guaranty agencies shall be subject to guaranty agency management plans under paragraph (2).

"(2) MANAGEMENT PLANS.—Any guaranty agency determined by the Secretary, under the standards established pursuant to paragraph (1), as in need of corrective measures shall be subject to a guaranty agency management plan. The plan shall be drafted by the guaranty agency and shall identify management, investment, operational, and policy changes designed to improve the financial viability of the agency. The plan shall be submitted to the Secretary under a schedule and in a form established by the Secretary, and shall be subject to approval by the Secretary.

"(3) AGENCY FAILURE TO SUBMIT ACCEPTABLE PLAN OR TO IMPROVE UNDER PLAN.—If a guaranty agency fails to submit a guaranty agency management plan acceptable to the Secretary on a timely basis, the Secretary determines that the guaranty agency has failed to improve substantially its administrative and financial condition in accordance with its management plan under this subsection, or the guaranty agency is otherwise determined by the Secretary not to be financially viable, the Secretary shall take one or more of the following steps—

"(A) provide the guaranty agency with additional advance funds in accordance with section 422(c)(7) in order to meet immediate cash needs of the guaranty agency and ensure the uninterrupted payment of claims, with such restrictions on the use of such funds as determined appropriate by the Secretary;

"(B) require the transfer of guarantees to another guaranty agency, subject to such terms and conditions as the receiving agency and the Secretary may mutually agree to;

"(C) terminate the reinsurance agreement of the guaranty at a specified date, or require the merger or consolidation of the guaranty agency with another agency or other agencies, subject to such terms and conditions as the receiving agency or agencies and the Secretary may mutually agree to;

"(D) transfer guarantees to the Department for the purpose of servicing and collection of the loans guaranteed by such agency, and, after notice to the affected lenders, the payment of claims thereon, and process such claims using the claims standards of the guaranty agency, if such standards are determined by the Secretary to be in compliance with the Act; or

"(E) take any other action deemed necessary by the Secretary to ensure the proper servicing and collection of such loans and the payment of default claims to lenders, and avoid disruption to the student loan program.

"(4) CONGRESSIONAL REPORTS.—The Secretary within 3 months after the end of each fiscal year, shall submit to the House Committee on Education and Labor and the Senate Committee on Labor and Human Resources a report specifying the Secretary's assessment of the fiscal soundness of the guaranty agency system, together with recommendations for legislative changes, if necessary, for the maintenance of a strong guaranty agency system.

"(5) CONFIDENTIAL TREATMENT OF INFORMATION.—Notwithstanding any other provision of law, the information transmitted to the Secretary pursuant to this subsection shall be confidential and exempt from disclosure under section 552a of title 5, United State Code, relating to freedom of information, or any other Federal law.".

(g) CONFORMING AMENDMENTS.—(1) Section 422(c) of the Act is amended—

(A) by striking "Advances pursuant to this subsection" in paragraph (5) and inserting "Except as provided in paragraph (7), advances pursuant to this subsection"; and

(B) by inserting, after paragraph (6), the following new paragraph:

"(7) EMERGENCY ADVANCES.—The Secretary is authorized to make advances, on terms and conditions satisfactory to the Secretary, to a guaranty agency in accordance with section 432(o) in order to assist the agency in meeting its immediate cash needs and ensure the uninterrupted payment of default claims by lenders.".

(2) Section 428(b)(1) of the Act is amended—

(A) by striking out the period at the end of subparagraph (X) and inserting "; and"; and

(B) by adding at the end the following new subparagraph:

"(Y) provides information to the Secretary in accordance with section 432(o) and maintains reserve funds determined by the Secretary to be sufficient in relation to such agency's guarantee obligations.".

SEC. 434. STUDENT LOAN INFORMATION.

Section 433(a) of the Act is amended—

(1) in paragraph (3), by inserting "interest rates," before "origination fee";

(2) by striking paragraphs (4), (5), (7), (9), (10), (12), and (13);

(3) by redesignating paragraph (6) as paragraph (4);

(4) by redesignating paragraph (8) as paragraph (5);

(5) by redesignating paragraph (11) as paragraph (6) and inserting "and" after the semicolon at the end thereof; and

(6) by adding at the end the following:

"(7) a statement that—

"(A) the borrower's loan repayment obligation is separate and distinct from the institution's obligation to the borrower and that, except in the case of a loan originated by the institution, a failure by the institution to comply with any Federal, State, or local law cannot excuse any portion of the borrower's obligation to repay the loan;

"(B) prominently and clearly states that the borrower is receiving a loan which must be repaid.

For purposes of paragraph (7), an institution shall be deemed to have 'originated' a loan if a special relationship exists between the institution and lender with respect to the loan—

"(i) under which the lender delegates to the institution substantial loan-making functions normally performed by lenders in making loans under this part; and

"(ii) which is evidenced by (i) a written agreement between the institution and the lender providing for such delegation; or (ii) in the case of an institution which, with the consent of the lender, completes the lender's section of the loan application on behalf of the lender and signs such application as agent for the lender."

SEC. 435. DEFINITIONS.

(a) ELIGIBLE INSTITUTION.—Section 435(a) of the Act is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'eligible institution' means an institution of higher education, as defined in section 481."; and

(2) by redesignating paragraph (3) as paragraph (2).

(b) REPEAL OF SEPARATE DEFINITION OF INSTITUTION OF HIGHER EDUCATION.—

(1) AMENDMENT.—Subsection (b) of section 435 of the Act is repealed.

(2) REFERENCE.—With respect to reference in any other provision of law to the definition of institution of higher education contained in section 435(b) of the Act, such provision shall be deemed to refer to section 481(a) of the Act.

(c) REPEAL OF DEFINITION OF VOCATIONAL SCHOOL.—Subsection (c) of section 435 of the Act is repealed.

(d) ELIGIBLE LENDER.—Section 435(d) of the Act is amended—

(1) in paragraph (1)(A)—

(A) by striking "a trust company,"; and

(B) in clause (ii)—

(i) by inserting "or" at the end of subclause (I); and

(ii) by striking ", or (III)" and all that follows through "January 1, 1981;" and inserting the following:

"(III) in the case of Union Bank and Trust Company of Lincoln, Nebraska, that institution's portfolio of loans held under this part does not exceed 96.09 percent nor fall below 50 percent of its total consumer credit portfolio, the volume of loans it makes under this part in any calendar year does not exceed $143,800,000, and its holdings of loans under this part do not exceed $397,200,000;";

(2) in paragraph (2)—

(A) by striking "institutions; and" at the end of subparagraph (C) and inserting "institution;";

(B) by inserting "and" after the semicolon at the end of subparagraph (D); and

(C) by inserting after subparagraph (D) the following new subparagraphs:

"(E) shall not have a cohort default rate above 15 percent as defined in section 435(m); and

"(F) shall use the proceeds from special allowance payments and interest payments from borrowers for need-based grant programs, except for reasonable reimbursement for direct administrative expenses;"; and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) LOANS THAT HAVE NOT BEEN CONSUMMATED.—Loans that have not been consummated (loans for which the disbursement checks have not been cashed) may not be purchased from the original lender.".

(e) REPEAL OF ADDITIONAL DEFINITIONS.—Section 435 of the Act is further amended by striking subsections (g), (h), and (n).

(f) DEFINITION OF COHORT DEFAULT RATE.—Section 435(m) of the Act is amended by striking out the third sentence and inserting "For any fiscal year in which less than 30 of the institution's current and former students enter repayment, the term 'cohort default rate' means the percentage of such current and former students who entered repayment on such loans in any of the three most recent fiscal years, who default before the end of the fiscal year immediately following the year in which they entered repayment.".

SEC. 436. REPAYMENTS BY SECRETARY.

Section 437 of the Act is amended to read as follows:

"REPAYMENT BY THE SECRETARY OF LOANS OF BANKRUPT, DECEASED, OR DISABLED BORROWERS; TREATMENT OF BORROWERS ATTENDING CLOSED SCHOOLS OR FALSELY CERTIFIED AS ELIGIBLE TO BORROW

"SEC. 437. (a) REPAYMENT IN FULL FOR DEATH AND DISABILITY.—If a student borrower who has received a loan described in subparagraph (A) or (B) of section 428(a)(1) dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), then the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan.

"(b) REPAYMENT OF AMOUNT SUBJECT TO BANKRUPTCY ACTION.—If the collection of a loan described in subparagraph (A) or (B) of section 428(a)(1) or sections 428A, 428B, 428C, or 428H is stayed in any action under the Bankruptcy Code, the Secretary shall repay the unpaid balance of principal and interest owed on the loan.

"(c) WRITE-OFF FOR BORROWERS AT CLOSED SCHOOLS AND FOR BORROWERS WHOSE ELIGIBILITY WAS FALSELY CERTIFIED.—

"(1) DISCHARGE OF BORROWER'S LIABILITY.—If a student borrower who received a loan described in subparagraph (A) or (B) of section 428(a)(1) is unable to complete a course of instruction during the loan period for which he borrowed, due to the closing of the eligible institution at which he was in attendance, or if his eligibility to borrow under this part was fraudulently certified by the eligible institution, the Secretary shall discharge the borrower's liability on the loan by repaying the amount owed on the loan and shall subsequently pursue any claim available to such borrower against the institution or settle the loan obligation pursuant to the bonding authority under section 487(c).

"(2) ASSIGNMENT OF RIGHT.—A borrower whose loan has been discharged pursuant to this subsection shall be deemed to have assigned to the United States the right to a loan refund up to the amount discharged against the institution, its affiliates, and principals.

"(3) ELIGIBILITY FOR ADDITIONAL ASSISTANCE.—(A) The period of a student's attendance at an institution at which the student was unable to complete a course of study due to the closing of the institution shall not be considered for purposes of calculating the student's period of eligibility for additional assistance under this title; and

"(B) a borrower whose loan has been discharged pursuant to this subsection shall not be precluded from receiving additional grants, loans, or work assistance under this title for which he would be otherwise eligible, except for defaulting on a loan which has been discharged.

"(4) REPORT TO CREDIT BUREAUS.—The Secretary shall report to credit bureaus with respect to loans which have been discharged pursuant to this subsection.

"(5) EFFECTIVE DATE.—This subsection shall apply to any unpaid balance of loans made to borrowers who were in attendance at an institution which ceased to provide instruction on or after January 1, 1986.".

SEC. 437. SPECIAL RULE; ELIMINATION OF DISCOUNTING.

(a) SPECIAL ALLOWANCE.—Section 438(b)(2) of the Act is amended—

(1) in subparagraph (A)(iii), by striking "3.25" and inserting "3.0, for periods after the beginning of the repayment period pursuant to section 428(b)(8), and 2.85 at all other times"; and

(2) in subparagraph (D)(i), by striking "3.25" and inserting "3.0, for periods after the beginning of the repayment period pursuant to section 428(b)(8), and 2.85 at all other times".

(b) SPECIAL ALLOWANCE PERMITTED ON UNSUBSIDIZED LOANS.—Section 438(b)(5)(A)(ii) of the Act is amended by inserting "428H," after "428C,".

(c) SPECIAL RULE.—Section 438(b)(5) is amended by adding at the end thereof the following flush sentence:

"As used in this section, the term 'eligible loan' includes all loans subject to section 428(c)(10).".

(d) ORIGINATION FEES.—Section 438(c) is amended—

(1) in paragraph (2), by striking "With" and inserting "Subject to paragraph (6) of this subsection, with"; and

(2) by adding at the end thereof the following new paragraph:

"(6) SLS AND PLUS LOANS.—With respect to any loans made under section 428A or 428B on or after October 1, 1992, each eligible lender under this part shall charge the borrower an origination fee of 5 percent of the principal amount of the loan, to be deducted proportionately from each installment payment of the proceeds of the loan prior to payments to the borrower.

"(7) DISTRIBUTION OF ORIGINATION FEES.—All origination fees collected pursuant to this section on loans authorized under section 428A or 428B shall be deposited in the fund authorized under section 431 of this part.".

(e) DISCOUNTING.—Section 438(d)(2)(C) of the Act is amended by striking "or discount".

SEC. 438. STUDENT LOAN MARKETING ASSOCIATION FACILITY FINANCING.

Section 439(d)(5) of the Act is amended by striking "third highest rating" and inserting "second highest rating".

SEC. 439. STUDENT LOAN MARKETING ASSOCIATION FINANCIAL SAFETY AND SOUNDNESS.

(a) CAPITAL STANDARDS AND REPORTING.—Section 439 of the Higher Education Act of 1965 is amended by adding the following new subsection:

"(r) SAFETY AND SOUNDNESS OF THE ASSOCIATION.—

"(1) REPORTS BY THE ASSOCIATION.—The Association shall promptly furnish to the Secretary and the Secretary of Education copies of all periodic financial reports publicly distributed by the Association and reports on the Association prepared by nationally recognized statistical rating organizations which are received by the Association.

"(2) AUDIT BY THE SECRETARY AND ACCESS TO RELEVANT INFORMATION.—(A) The Secretary is authorized at his discretion to appoint auditors to audit the Association from time to time to determine the condition of the Association for the purpose of assessing its financial safety and soundness. The Secretary is authorized to contract for services of such technical experts as the Secretary deems necessary and appropriate to provide technical assistance to any auditor appointed under this subsection. Each auditor appointed under this subsection shall make an audit of the Association to the extent requested by the Secretary and shall make a report to the Secretary of the results of such audit. A copy of such report shall be furnished to the Association at the same time it is delivered to the Secretary and the Secretary of Education.

"(B) The Association shall provide full and prompt access to the Secretary to its books and records and other information requested by the Secretary.

"(3) CAPITAL STANDARD.—If the capital ratio is less than 2 percent at the end of the Association's most recent calendar quarter the Association shall, within 60 days of such occurrence, submit to the Secretary a plan, in reasonable detail, which the Association believes is adequate to cause within 36 months the capital ratio to equal or exceed 2 percent.

"(4) CAPITAL PLAN.—

"(A) SUBMISSION, APPROVAL, AND IMPLEMENTATION.—(i) The Secretary and the Association shall consult with respect to any plan submitted pursuant to paragraph (3) and the Secretary shall approve such plan (or a modification thereof accepted by the Association) or disapprove such plan within 30 days after such plan is first submitted to the Secretary by the Association, unless the Association and Secretary mutually agree to a longer consideration period. If the Secretary approves a plan (including a modification of a plan accepted by the Association), the Association shall forthwith proceed with diligence to implement such plan to the best of its ability.

"(ii) If the Secretary does not approve a plan as provided herein, then not later than the earlier of the date the Secretary disapproves of such plan by written notice to the Association or the expiration of the 30-day consideration period referred to above (as such period may have been extended by mutual agreement), the Secretary shall submit the Association's plan, in the form most recently proposed to the Secretary by the Association, together with a report on his reasons for disapproval of such plan to the Chairman and ranking member of the Senate Committee on Labor and Human Resources and to the Chairman and ranking member of the House Committee on Education and Labor. A copy of such submission simultaneously shall be sent to the Association and the Secretary of Education by the Secretary. Upon receipt of the submission by the Association, it shall forthwith proceed with diligence to implement the most recently proposed plan of the Association. The Association, within 30 days after receipt from the Secretary of such submission, shall submit to such Chairman and ranking members a written response to such submission, setting out fully the nature and extent of its agreement or the disagreement with the Secretary with respect to the plan submitted to the Secretary and any findings of the Secretary.

"(B) MODIFIED PLAN.—(i) If the capital ratio does not exceed 1.5 percent, the Association shall submit to the Secretary a modified plan to increase promptly its capital ratio to equal or exceed 1.5 percent. The Secretary and the Association shall consult with respect to any modified plan submitted pursuant to this subparagraph. The Secretary shall approve such plan (or a modification thereof accepted by the Association) or disapprove such plan within 30 days after such plan is first submitted to the Secretary by the Association, unless the Association and Secretary mutually agree to a longer consideration period. If the Secretary approves a plan (including a modification of a plan accepted by the Association), the Association shall forthwith proceed with diligence to implement such plan to the best of its ability.

"(ii) If the Secretary disapproves a plan submitted pursuant to this subparagraph, then, not later than the earlier of the date the Secretary disapproves of such plan (by written notice to the Association) or the expiration of the 30-day consideration period described in clause (i) of this subparagraph (as such period may have been extended by mutual agreement), the Secretary shall prepare and submit a plan, together with a report on his reasons for disapproval of the Association's plan, to the Committee on Labor and Human Resources of the Senate and to the Committee on Education and Labor of the House of Representatives. A copy of such submission simultaneously shall be sent to the Association and the Secretary of Education by the Secretary. The Association, within 5 days after receipt from the Secretary of such submission, shall submit to such Committees a written response to such submission, setting out fully the nature and extent of its agreement or disagreement with the Secretary with respect to the disapproved plan and the plan of the Secretary and any findings of the Secretary. If, within 60 legislative days after the date of the Secretary's submission under this subparagraph, the Congress has not otherwise expressly provided by law, the Association shall forthwith proceed with diligence to implement the plan proposed by the Secretary under this subparagraph. For purposes of this subparagraph, the term 'legislative days' means only days on which either House of Congress is in session.

"(5) SUBSTANTIAL CAPITAL RATIO REDUCTION.—If the capital ratio of the Association does not equal or exceed 1.5 percent, the Secretary may, until the capital ratio equals or exceeds 1.5 percent, take any one or more of the following actions:

"(A) LIMIT INCREASE IN LIABILITIES.—Limit any increase in, or order the reduction of, any liabilities of the Association, except as necessary to fund student loan purchases and warehousing advances.

"(B) RESTRICT GROWTH.—Restrict or eliminate growth of the Association's assets, other than student loans purchases and warehousing advances.

"(C) RESTRICT DISTRIBUTIONS.—Restrict the Association from making any capital distribution.

"(D) REQUIRE ISSUANCE OF NEW CAPITAL.—Require the Association to issue new capital in any form and in any amount sufficient to restore at least a 1.5 percent capital ratio.

"(E) LIMIT EXECUTIVE COMPENSATION.—Prohibit the Association from increasing for any executive officer any compensation including bonuses at a rate exceeding that officer's average rate of compensation during the previous 12 calendar months and prohibiting the Board from adopting any new employment severance contracts.

"(6) CRITICAL CAPITAL STANDARD.—If the capital ratio is less than 1 percent at the end of the Association's most recent calendar quarter—

"(A) and the Association has already submitted a plan to the Secretary pursuant to paragraph (3), the Association shall forthwith proceed with diligence to implement the most recently proposed plan with such modifications as the Secretary determines are necessary to cause within 60 months the capital ratio to equal or exceed 2 percent; or

"(B) and the Association has not submitted a plan to the Secretary pursuant to paragraph (3), the Association shall—

"(i) within 14 days of such occurrence submit a plan to the Secretary which it believes is adequate to cause within 60 months the capital ratio to equal or exceed 2 percent; and

"(ii) forthwith proceed with diligence to implement such plan with such modifications as the Secretary determines are necessary to cause within 60 months the capital ratio to equal or exceed 2 percent;

the Secretary shall immediately submit the plan to be implemented to the Chairman and ranking member of the Senate Committee on Labor and Human Resources, to the Chairman and ranking member of the House Committee on Education and Labor, and to the Secretary of Education.

"(7) ADDITIONAL REPORTS TO COMMITTEES.—The Association shall submit a copy of its plan, modifications proposed to the Secretary, and proposed modifications received from the Secretary to the Congressional Budget Office and General Accounting Office upon their submission to the Secretary or receipt from the Secretary. Notwithstanding any other provision of law, the Congressional Budget Office and General Accounting Office shall maintain the confidentiality of information received pursuant to the previous sentence. In the event that the Secretary does not approve a plan as provided in paragraph (4), or in the event that a plan is modified by the Secretary pursuant to paragraph (6), the Congressional Budget Office and General Accounting Office shall each submit a report within 30 days of the Secretary's submission to the Chairmen and ranking members as required in paragraphs (4) and (6) to such Chairmen and ranking members—

"(A) analyzing the financial condition of the Association;

"(B) analyzing the plan and reasons for its disapproval contained in the Secretary's submission made pursuant to paragraph (4), or the plan proposed by the Association and the modifications made by the Secretary pursuant to paragraph (6);

"(C) analyzing the impact of the plan and reasons for its disapproval contained in the Secretary's submission made pursuant to paragraph (4), or the impact of the plan proposed by the Association and the modifications made by the Secretary pursuant to paragraph (6), and analyzing the impact of the recommendations made pursuant to subparagraph (D) of this paragraph, on—

"(i) the ability of the Association to fulfill its purpose and authorized activities as provided in this section; and

"(ii) the operation of the student loan programs; and

"(D) recommending steps which the Association should take to increase its capital ratio without impairing its ability to perform its purpose and authorized activities as provided in this section.

"(8) REVIEW BY SECRETARY OF EDUCATION.—The Secretary of Education shall review the Secretary's submission required pursuant to paragraph (4) or (6) and shall submit a report within 30 days to the Chairman and ranking member of the Senate Committee on Labor and Human Resources and to the Chairman and ranking member of the House Committee on Education and Labor—

"(A) describing any administrative or legislative provisions governing the student loan programs which contributed to the decline in the Association's capital ratio; and

"(B) recommending administrative and legislative changes in the student loan programs to maintain the orderly operation of such programs and to enable the Association to fulfill its purpose and authorized activities consistent with the capital ratio specified in paragraph (3).

"(9) SAFE HARBOR.—The Association shall be deemed in compliance with the capital ratios described in paragraphs (3) and (5) if—

"(A) the Association is rated in 1 of the 2 highest full rating categories (such categories to be determined without regard to designations within categories) by 2 nationally recognized statistical rating organizations determined without regard to the Association's status as a federally chartered corporation; or

"(B) the Association is rated in 1 of the 2 highest full rating categories (such categories to be determined without regard to designations within categories) by 1 nationally recognized statistical rating organization determined without regard to the Association's status as a federally chartered corporation and no other such rating organization is willing to provide a rating without regard to the Association status as a federally chartered corporation.

"(10) TREATMENT OF CONFIDENTIAL INFORMATION.—Notwithstanding any other provision of law, the Secretary, the Secretary of Education, the Congressional Budget Office, and the General Accounting Office shall not disclose any information treated as confidential by the Association and obtained pursuant to this subsection. Nothing in this paragraph shall authorize the Secretary, the Secretary of Education, the Congressional Budget Office, and the General Accounting Office to withhold information from Congress, or prevent the Secretary of Education, the Congressional Budget Office, and the General Accounting Office from complying with a request for information from any other Federal department or agency requesting the information for purposes within the scope of its jurisdiction, or complying with an order of a court of the United States in an action brought by the United States. For purposes of section 522 of title 5, United States Code, this paragraph shall be considered a statute described in subsection (b)(3) of such section 552.

"(11) DEFINITIONS.—As used in this subsection:

"(A) The term 'nationally recognized statistical rating organization' means any entity recognized as such by the Securities and Exchange Commission.

"(B) The term 'Secretary' means the Secretary of the Treasury.

"(C) The term 'capital ratio' means the ratio of total stockholders' equity, as shown on the Association's most recent quarterly consolidated balance sheet prepared in the ordinary course of its business, to the sum of—

"(i) the total assets of the Association, as shown on the balance sheet prepared in the ordinary course of its business; and

"(ii) 50 percent of the credit equivalent amount of the following off-balance sheet items of the Association as of the date of such balance sheet—

"(I) all financial standby letters of credit and other irrevocable guarantees of the repayment of financial obligations of others; and

"(II) all interest rate contracts and exchange rate contracts, including interest exchange agreements, floor, cap, and collar agreements and similar arrangements.

For purposes of this subparagraph, the calculation of the credit equivalent amount of the items set forth in clause (ii) of this subparagraph, the netting of such items and eliminations for the purpose of avoidance of double-counting of such items shall be made in accordance with the measures for computing credit conversion factors for off-balance sheet items for capital maintenance purposes established for commercial banks from time to time by the Federal Reserve Board, but without regard to any riskweighing provisions in such measures.".

(b) ENHANCED CORPORATE GOVERNANCE.—

(1) Section 439(f) of the Higher Education Act of 1965 is amended to read as follows:

"(f) STOCK OF THE ASSOCIATION.—

"(1) VOTING COMMON STOCK.—The Association shall have voting common stock having such par value as may be fixed by the Board from time to time. Each share of voting common stock shall be entitled to 1 vote with rights of cumulative voting at all elections of directors.

"(2) NUMBER OF SHARES; TRANSFERABILITY.—The maximum number of shares of voting common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board from time to time. Any voting common stock issue shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(3) DIVIDENDS.—To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on voting common stock by the Board. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of voting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call.

"(4) SINGLE CLASS OF VOTING COMMON STOCK.—As of the effective date of the Student Loan Marketing Association Financial Safety and Soundness Act of 1991, all of the previously authorized shares of voting common stock and nonvoting common stock of the Association shall be converted to shares of a single class of voting common stock on a share-for-share basis, without any further action on the part of the Association or any holder. Each outstanding certificate for voting or nonvoting common stock shall evidence ownership of the same number of shares of voting stock into which it is converted. All preexisting rights and obligations with respect to any class of common stock of the Association shall be deemed to be rights and obligations with respect to such converted shares.".

(2) Section 439(c) of the Higher Education Act of 1965 is amended to read as follows:

"(c) BOARD OF DIRECTORS.—

"(1) COMPOSITION OF BOARD; CHAIRMAN.—The Association shall have a Board of Directors which shall consist of 21 members, 7 of whom shall be appointed by the President of the United States and shall be representative of the general public. The remaining 14 directors shall be elected by the common stockholders of the Association entitled to vote pursuant to subsection (f). Commencing with the annual shareholders meeting to be held in 1992—

"(A) 7 of the elected directors shall be affiliated with an eligible institution, and

"(B) 7 of the elected directors shall be affiliated with an eligible lender.

The President shall designate 1 of the directors to serve as Chairman.

"(2) TERMS OF APPOINTED AND ELECTED MEMBERS.—The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

"(3) AFFILIATED MEMBERS.—For the purpose of this subsection, the references to a director 'affiliated with the eligible institution' or a director 'affiliated with an eligible lender' means an individual who is, or within 5 years of election to the Board has been, an employee, officer, director, or similar official of—

"(A) an eligible institution or an eligible lender;

"(B) an association whose members consist primarily of eligible institutions or eligible lenders; or

"(C) a State agency, authority, instrumentality, commission, or similar institution, the primary purpose of which relates to educational matters or banking matters.

"(4) MEETINGS AND FUNCTIONS OF THE BOARD.—The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such person shall be the officers of the Association and shall discharge all such functions, powers, and duties.".

PART C—FEDERAL WORK-STUDY PROGRAMS

SEC. 441. AMENDMENTS TO PART C OF TITLE IV.

(a) PROGRAM TITLE.—

(1) AMENDMENT.—The heading of part C of title IV of the Act is amended to read as follows:

"PART C—FEDERAL WORK-STUDY PROGRAMS".

(2) CONFORMING AMENDMENT.—The heading of section 443 is amended by inserting "FEDERAL" before "WORK-STUDY".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 441(b) of the Act is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this part, $900,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

(c) CONSEQUENCES OF FAILURE TO AWARD.—Section 442(e) of the Act is amended to read as follows:

"(e) REALLOCATION OF EXCESS ALLOCATIONS.—(1) If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year the Secretary shall reallot not to exceed 25 percent of such excess to eligible institutions to carry out the purposes of section 1131. The Secretary shall allocate the remainder of such excess in accordance with section 445(a)(2).

"(2) If under paragraph (1) of this subsection an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing it is contrary to the interest of the program.".

(d) MENTORING 447.—Section 443(b)(2) of the Act is amended by striking subparagraph (A) and inserting the following:

"(A) an institution may use funds provided under this part to pay eligible students to engage in activities as a mentor for the purpose of—

"(i) tutoring;

"(ii) supporting educational and recreational activities;

"(iii) counseling, including career counseling; and

"(iv) other appropriate activities; and".

(e) OVERAWARD INCOME LIMIT.—Section 443(b)(4) of the Act is amended to read as follows:

"(4) provide that for a student employed in a work-study program under this part, at the time income derived from any need-based employment is in excess of the determination of the amount of such student's need by more than $300, continued employment shall not be subsidized with funds appropriated under this part;".

(f) ALLOCATION.—Section 443(b)(3) of the Act is amended to read as follows:

"(3) provide that in the selection of students for employment under such work-study program, only students, who demonstrate financial need in accordance with part F of this title, and who meet the requirements of section 484 will be assisted, and provide that, if the institution's grant under this part is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution less than full time, (B) age 24 or older, (C) single parents, or (D) independent students, a reasonable proportion of the institution's grant shall be made available to such students;".

(g) FEDERAL SHARE.—Section 443(b)(5) of the Act is amended—

(1) by striking "; and" at the end of subparagraph (A) and inserting a period;

(2) by striking subparagraph (B); and

(3) by striking "except that—" and all that follows through "the Federal share may" and inserting "except that the Federal share may".

(h) STUDY ABROAD.—Section 443 of the Act is amended by adding at the end thereof the following new subsection:

"(d) ELIGIBILITY FOR STUDY ABROAD.—The agreements under this section shall allow an institution of higher education to devise suitable work opportunities for students studying abroad in a program of study abroad approved for credit by the institution, including work for foreign colleges, universities, and nonprofit or service organizations and shall permit the establishment of internship programs involving work for foreign or multinational organizations that are relevant to the student's course of study, including compensation for eligible students from funds under this part.".

(i) INDIVIDUALS WITH DISABILITIES.—Section 443(b) of the Act is amended—

(1) by redesignating paragraph (9) as paragraph (10);

(2) by striking "and" at the end of paragraph (8); and

(3) by inserting after paragraph (8) the following new paragraph:

"(9) provide assurances that employment made available from funds under this part may be used to support programs for supportive services to students with disabilities; and".

(j) CARRY-BACK AUTHORITY.—Section 445(b) of the Act is amended—

(1) by inserting "(1)" after the subsection heading; and

(2) by adding at the end the following new paragraph:

"(2) An eligible institution may make payments to students of wages earned after the end of the academic year, but prior to the beginning of the succeeding fiscal year, from such succeeding fiscal year's appropriations.".

(k) JOB LOCATION AND DEVELOPMENT.—Section 446 of the Act is amended to read as follows:

"JOB LOCATION AND DEVELOPMENT PROGRAMS

"SEC. 446. (a) AGREEMENTS REQUIRED.—(1) The Secretary is authorized to enter into agreements with eligible institutions under which such institution may use not more than 10 percent or $50,000 of its allotment under section 442, whichever is less, to establish or expand a program under which such institution, separately or in combination with other eligible institutions, locates and develops jobs for currently enrolled students.

"(2) Jobs located and developed under this section shall be jobs that are suitable to the scheduling and other needs of such students and that, to the maximum extent practicable, complement and reinforce the educational programs or vocational goals of such students.

"(b) CONTENTS OF AGREEMENTS.—Agreements under subsection (a) shall—

"(1) provide that the Federal share of the cost of any program under this section will not exceed 80 percent of such cost;

"(2) provide satisfactory assurance that funds available under this section will not be used to locate or develop jobs at an eligible institution;

"(3) provide satisfactory assurance that funds available under this section will not be used for the location or development of jobs for students to obtain upon graduation, but rather for the location and development of jobs available to students during and between periods of attendance at such institution;

"(4) provide satisfactory assurance that the location or development of jobs pursuant to programs assisted under this section will not result in the displacement of employed workers or impair existing contracts for services;

"(5) provide satisfactory assurance that Federal funds used for the purpose of this section can realistically be expected to help generate student wages exceeding, in the aggregate, the amount of such funds, and that if such funds are used to contract with another organization, appropriate performance standards are part of such contract; and

"(6) provide that the institution will submit to the Secretary an annual report on the uses made of funds provided under this section and an evaluation of the effectiveness of such program in benefiting the students of such institution.".

(l) WORK COLLEGES.—Section 447 of the Act is amended to read as follows:

"WORK COLLEGES

"SEC. 447. (a) PURPOSE.—The purpose of this section is to recognize, encourage, and promote the use of comprehensive work-learning programs as a valuable educational approach when it is an integral part of the institution's educational program and a part of a financial plan which decreases reliance on grants and loans.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(c) MATCH REQUIRED.—Funds shall be allocated to qualifying institutions in lieu of allocations pursuant to section 442 upon application, for eligible students as defined in section 484. An institution receiving an allocation under this section shall expend, from non-Federal sources, an amount for purposes of the program under this section equal to the amount of that allocation.

"(d) ACTIVITIES AUTHORIZED.—From the sums appropriated pursuant to subsection (b), eligible institutions may, following approval of an application under subsection (g) by the Secretary—

"(1) support the educational costs of qualified students through self-help payments or credits provided under the work-learning program of the institution within the limits of part F of this title;

"(2) promote the work-learning-service experience as a tool of postsecondary education, financial self-help and community service-learning opportunities; and

"(3) be used for the administration, development, and assessment of comprehensive college work-learning programs, including community based work-learning that expand opportunities for community service and career-related work; and the development of programs that develop sound citizenship and personal values, encourage student persistence, and make optimum use of college work-study dollars in title IV aid in education and student development.

"(e) FLEXIBLE USE OF FUNDS.—Funds allocated to the institution under subpart 2 of part A, part C, and part E of this title may be transferred for use under this section to provide flexibility in strengthening the self-help-through-work element in financial aid packaging.

"(f) ELIGIBLE INSTITUTIONS.—Postsecondary institutions eligible to participate in this section—

"(1) shall be public or private nonprofit institutions with stated commitments to service;

"(2) shall have a comprehensive work-learning-service program, for at least 2 years;

"(3) shall require service by all resident students through a comprehensive work-learning program as an integral part of the institution's educational program, and the provision of services and as part of the institution's educational philosophy; and

"(4) shall provide through the institutional work program an opportunity for the students to contribute to the overall educational program and to the welfare of the community as a whole.

"(g) APPLICATION.—Each eligible institution may submit an application for funds authorized by subsection (b) at such time and in such manner as the Secretary, by regulation, may reasonably require.

"(h) DEFINITIONS.—For purposes of this section, the term 'comprehensive student work-learning program' means a student work/service program that is an integral and stated part of the institution's educational philosophy and program; requires participation of all resident students for enrollment, participation, and graduation; includes learning objectives, evaluation and a record of work performance as part of the student's college record; provides programmatic leadership by college personnel at levels comparable to traditional academic programs; recognizes the educational role of work-learning supervisors; and includes consequences for nonperformance or failure in the work-learning program similar to the consequences for failure in the regular academic program.".

PART D—FEDERAL DIRECT LOANS

SEC. 451. ESTABLISHMENT OF FEDERAL DIRECT LOAN PROGRAM.

Part D of title IV of the Act is amended to read as follows:

"PART D—FEDERAL DIRECT LOAN DEMONSTRATION PROGRAM

"SEC. 451. PROGRAM AND PAYMENT AUTHORITY.

"(a) PROGRAM AUTHORITY.—The Secretary shall, in accordance with the provisions of this part, carry out a loan demonstration program for qualified students and parents at selected institutions of higher education to enable the students to pursue their courses of study at such institutions during the period beginning on July 1, 1994 and ending on June 30, 1998.

"(b) PAYMENT AUTHORITY.—

"(1) GENERAL AUTHORITY.—The Secretary shall, from funds made available under section 459, make payments under this part for any fiscal year to institutions of higher education having an agreement under section 454, on the basis of the estimated needs of students at each institution and parents for student or parent loans taking into consideration the demand and eligibility of such students and parents for loans under this part.

"(2) ENTITLEMENT PROVISION.—An institution of higher education which has an agreement with the Secretary under section 454 shall be deemed to have a contractual right against the United States to receive payments according to that agreement.

"SEC. 452. PAYMENT RULES.

"(a) IN GENERAL.—The Secretary shall make payments required by section 451 in such installments as the Secretary determines—

"(1) reflect accurately the disbursement of funds for student and parent loans by the institution of higher education, and

"(2) will best carry out the objectives of this part.

"(b) INITIAL PAYMENTS.—The initial payments for any academic year required by section 451 shall be made available to each institution of higher education not later than 10 days prior to the beginning of the academic year at such institution.

"SEC. 453. SELECTION BY THE SECRETARY.

"(a) ENTRY REQUIREMENT.—The Secretary shall enter into agreements with institutions of higher education, at which the total loan volume under the Federal Stafford Loan program, the Federal Supplemental Loans for Students program, and the Federal Plus loan program was $500,000,000 in the most recent year for which data is available, to participate in the loan demonstration program to make loans for the period beginning with the academic year beginning on July 1, 1994, and ending with loans made before June 30, 1998. Such agreements shall be concluded not later than January 1, 1994.

"(b) SELECTION CRITERIA.—The Secretary shall enter into agreements with institutions of higher education which represent a cross-section of all institutions of higher education participating in part B of this title in terms of control of the institution, length of academic program, highest degree offered, size of student enrollment, percentage of students borrowing under part B, geographic location, annual loan volume, default experience and composition of the student body.

"(c) PREFERENCE FOR APPLYING INSTITUTIONS.—In constituting the cross-section of institutions of higher education required by the previous subsection, the Secretary shall first enter into agreements, to the maximum extent possible consistent with the requirements of constituting the cross-section, with institutions of higher education which apply to participate in the loan demonstration program. Institutions of higher education desiring to participate in the demonstration shall submit an application containing such information as the Secretary may by regulation prescribe.

"(d) DESIGNATION OF ADDITIONAL INSTITUTIONS.—If an insufficient number of institutions of higher education apply to satisfy the conditions provided in subsections (a) and (b) of this section, the Secretary shall designate additional institutions of higher education from among those eligible to participate in part B to participate in the loan demonstration program in order to satisfy the conditions provided in subsections (a) and (b) of this section. An institution of higher education designated by the Secretary pursuant to this subsection may decline to participate in the loan demonstration program for good cause pursuant to regulations established by the Secretary.

"(e) LIMITATION.—The Secretary shall assure that the annual loan volume under the Federal Stafford Loan program, the Federal Supplemental Loans for Students program, and the Federal Plus loan program at the institutions of higher education with which the Secretary enters into agreements under this part represents, in the most recent fiscal year for which data are available, not more than 15 percent of the loan guarantees under these programs of any guaranty agency.

"SEC. 454. AGREEMENT REQUIRED.

"An agreement with any institution of higher education for participation in the loan demonstration program shall—

"(1) provide for the establishment and maintenance of a loan demonstration program at the institution of higher education under which—

"(A) the institution of higher education will identify eligible students at such institution, in accordance with section 484;

"(B) the institution of higher education will estimate the need of each such student as required by part F;

"(C) the institution of higher education will originate loans to such eligible students and eligible parents in accordance with this part, and will not charge any administrative fees to such students or parents for such origination activities;

"(D) the institution of higher education will provide timely information concerning the status of student and parent borrowers to the contractor or contractors responsible for loan collection pursuant to section 457; and

"(E) the institution of higher education will participate in the loan demonstration program for its duration, subject to procedures for withdrawal established by section 455;

"(2) provide assurances that the institution of higher education will comply with the provisions of section 463A, relating to student loan information, with respect to loans made under this part;

"(3) provide that the note or evidence of obligation on the loan shall be the property of the Secretary and that the institution of higher education will act as the agent of the Secretary for the purpose of making loans under the loan demonstration program;

"(4) provide that the institution of higher education will accept responsibility and liability stemming from its failure to perform its functions pursuant to the agreement;

"(5) provide that students at the institution of higher education and their parents will not be eligible to participate in the Federal Stafford Loan program, the Federal Supplemental Loans to Students program, or the Federal Plus loan program for the period during which such institution participates in the loan demonstration program; and

"(6) include such other provisions as may be necessary to protect the financial interest of the United States and to promote the purposes of this part.

"SEC. 455. WITHDRAWAL AND TERMINATION PROCEDURES.

"The Secretary shall establish by regulation procedures which enable institutions of higher education who have made agreements with the Secretary pursuant to section 454 to withdraw or to be terminated from the loan demonstration program.

"SEC. 456. TERMS AND CONDITIONS.

"Unless otherwise specified in this part, the loans made under this part shall have the same terms, conditions, and benefits as loans made under sections 428, 428A, and 428B of this title. Any loan made under this part shall be eligible for consolidation under section 428C of part B of this title.

"SEC. 457. LOAN COLLECTION FUNCTIONS UNDER COMPETITIVE PROCUREMENT CONTRACTS.

"The Secretary shall provide, through contracts awarded on a competitive basis, for—

"(1) the collection of principal and interest on loans made under this part by no less than 5 contracts;

"(2) the collection of defaulted loans made under this part;

"(3) the establishment and operation of a central data system for the maintenance of records on all loans made under this part;

"(4) programs for default prevention; and

"(5) such other programs as the Secretary determines are necessary to assure the success of the loan demonstration program.

"SEC. 458. REPORTS.

"(a) ANNUAL REPORTS.—The Secretary shall submit to the Congress not later than July 1, 1993, and each July 1 for the 5 succeeding years an annual report describing the progress and status of the loan demonstration program.

"(b) INTERIM FINAL REPORT.—The Comptroller General shall submit to the Congress not later than July 1, 1997, an interim final report evaluating the experience of the Department of Education, the participating institutions of higher education, students, and parents with respect to the loan demonstration program. The report shall include (but not be limited to)—

"(1) the administrative costs per loan incurred by participating institutions of higher education in administering the loan demonstration program;

"(2) the administrative costs per loan incurred by the Department of Education and its contractors in carrying out its responsibilities, including the costs of origination, data systems, servicing, and collection;

"(3) an evaluation of the effectiveness of the loan demonstration program in providing services to students, including loan application, loan origination, student financial aid packaging, tracking of student status, responsiveness to student inquiries and processing of deferments, forbearances, and repayments;

"(4) the frequency and cost of borrower delinquency and default under the loan demonstration program and losses incurred by institutions of higher education and servicers, including losses caused by improper origination or servicing of loans;

"(5) the timeliness of capital availability to institutions of higher education and of loans to students and the cost of loan capital;

"(6) a comparison of the experience of institutions of higher education, students, and parents participating in loan demonstration program with the experience of institutions and students in a control group with respect to the subjects indicated in paragraphs (1) through (5) of this subsection;

"(7) a comparison of the cost of loan capital for loans for the loan demonstration program with the cost of loan capital for the comparable programs in part B of this title; and

"(8) recommendations for modifications, continuation, suspension or termination of the loan demonstration program.

"(c) FINAL REPORT.—The Comptroller General shall submit to the Congress not later than May 1, 1998, a final report evaluating the experience of the Department of Education, the participating institutions of higher education, and students with respect to the loan demonstration program. The report shall include (but not be limited to) the same matters provided for in subsection (b) of this section.

"(d) CONTROL GROUP.—To assist the Comptroller General in preparing the reports required by subsections (b)(6) and (c) of this section, the Secretary shall select a control group of institutions of higher education, at which the total loan volume under the Federal Stafford Loan program, the Federal Supplemental Loans for Students program, and the Federal Plus loan program was $500,000,000 in the most recent year for which data is available, which represent a cross-section of all institutions of higher education participating in part B of this title and which is comparable to the cross-section of institutions of higher education selected for participation in the loan demonstration program pursuant to section 453(b).

"(e) TREATMENT OF COSTS.—In reporting with respect to costs in the reports required by subsections (b) and (c) of this section, the Comptroller General shall report separately the nonrecurrent costs such as start-up costs associated with the loan demonstration program, the administrative costs incurred by institutions of higher education in providing information to enable the Comptroller General to prepare the reports required by subsections (b) and (c) of this section and the normal costs of operating the loan demonstration program.

"SEC. 459. SCHEDULE OF REGULATORY ACTIVITIES BY THE SECRETARY.

"(a) PROPOSED REGULATIONS.—The Secretary shall publish in the Federal Register not later than April 1, 1993, all proposed regulations for carrying out the program established by this part, including (but not limited to) regulations with respect to—

"(1) payments to institutions of higher education;

"(2) the selection of institutions of higher education to participate in the loan demonstration program;

"(3) application by institutions of higher education to participate in the loan demonstration program;

"(4) agreements between the Secretary and institutions of higher education participating in the loan demonstration program;

"(5) procedures with respect to the withdrawal and termination of institutions of higher education from the loan demonstration program; and

"(6) procedures by which institutions designated by the Secretary pursuant to section 453(d) may decline to participate in the loan demonstration program.

"(b) FINAL REGULATIONS.—The Secretary shall publish in the Federal Register not later than July 1, 1993, all final regulations for carrying out the program established by this part, including (but not limited to) regulations with respect to the same matters provided for in subsection (a) of this section.

"(c) CLOSING DATE FOR APPLICATIONS FROM INSTITUTIONS.—The Secretary shall establish October 1, 1993, as the closing date for receiving applications from institutions of higher education desiring to participate in the loan demonstration program pursuant to section 453(c).

"(d) PUBLICATION OF LIST OF PARTICIPATING INSTITUTIONS AND CONTROL GROUP.—Not later than January 1, 1994, the Secretary shall publish in the Federal Register a list of the institutions of higher education selected to participate in the loan demonstration program pursuant to section 453 and a list of the institutions of higher education in the control group required by section 457.

"(e) PROCUREMENT CONTRACTS.—The Secretary shall award contracts pursuant to section 457 not later than February 1, 1994.

"SEC. 459A. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and the 5 succeeding fiscal years for administrative expenses necessary for carrying out this part.".

SEC. 452. ADMINISTRATIVE EXPENSES.

Part G of title IV of the Act is amended by adding at the end the following new section:

"AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATIVE EXPENSES

"SEC. 492. There are authorized to be appropriated such sums as may be necessary for fiscal year 1993 and for each succeeding fiscal year thereafter for administrative expenses necessary for carrying out this title, including expenses for staff personnel, program reviews, and compliance activities.".

PART E—FEDERAL PERKINS LOANS

SEC. 461. AMENDMENTS TO PART E OF TITLE IV.

(a) PROGRAM TITLE.—

(1) HEADING.—The heading of part E of title IV is amended to read as follows:

"PART E—FEDERAL PERKINS LOANS".

(2) NAME OF LOANS.—Section 461(a) of the Act is amended by striking "as 'Perkins Loans' " and inserting "as 'Federal Perkins Loans' ".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 461(b) of the Act is amended to read as follows:

"(b) AUTHORIZATION OF APPROPRIATIONS.—(1) For the purpose of enabling the Secretary to make contributions to student loan funds established under this part, there are authorized to be appropriated $300,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(2) In addition to the funds authorized under paragraph (1), there are hereby authorized to be appropriated such sums for fiscal year 1997 and each of the 5 succeeding fiscal years as may be necessary to enable students who have received loans for academic years ending prior to October 1, 1997, to continue or complete courses of study.".

(c) ELIGIBILITY FOR STUDY ABROAD.—Section 461(a) of the Act is amended by inserting "or while engaged in programs of study abroad approved for credit by such institutions" after "in such institutions".

(d) INSTITUTIONAL ALLOCATION.—Section 462(a)(1)(A) of the Act is amended by striking "such institution received" and inserting "allocated to such institution".

(e) DEFAULT REDUCTION AND DEFAULT PENALTIES.—Section 462(f) of the Act is amended to read as follows:

"(f) DEFAULT REDUCTION AND DEFAULT PENALTIES.—(1) For any fiscal year prior to fiscal year 1994, any institution which has a default rate which equals or exceeds 7.5 percent but does not exceed the maximum default rate applicable to the award year under subsection (g), the institution's default penalty is a percentage equal to the complement of such default rate. For any institution which has a default rate that does not exceed 7.5 percent, the institution's default penalty is equal to one.

"(2) For fiscal year 1994 and any succeeding fiscal year, any institution with a cohort default rate (as defined under subsection (h)) which—

"(A) equals or exceeds 15 percent, shall establish a default reduction plan pursuant to regulations issued by the Secretary;

"(B) equals or exceeds 20 percent, but is less than 25 percent, shall have a default penalty of 0.9;

"(C) equals or exceeds 25 percent, but is less than 30 percent, shall have a default penalty of 0.7; and

"(D) equals or exceeds 30 percent shall have a default penalty of zero.".

(f) APPLICABLE MAXIMUM DEFAULT RATE.—Section 462(g) of the Act is amended to read as follows:

"(g) APPLICABLE MAXIMUM DEFAULT RATE.—(1) For award years 1992 and 1993, the applicable maximum default rate is 15 percent.

"(2) For award year 1994 and subsequent years, the maximum cohort default rate is 30 percent.".

(g) DEFINITIONS OF DEFAULT RATE AND COHORT DEFAULT RATE.—Section 462(h) of the Act is amended—

(1) by striking the title of the subsection and inserting "DEFINITIONS OF DEFAULT RATE AND COHORT DEFAULT RATE.";

(2) in paragraph (1), by striking "For the purpose of this section," and inserting "For any award year prior to award year 1994, for the purpose of this section,";

(3) by redesignating paragraph (3) as paragraph (4); and

(4) by inserting after paragraph (2) the following new paragraph:

"(3) For award year 1994 and any succeeding year, the term 'cohort default rate' means, for any fiscal year in which 30 or more current and former students at the institution enter repayment on loans under this part (received for attendance at the institution), the percentage of those current and former students who enter repayment on such loans (received for attendance at that institution) in that fiscal year who default before the end of the following fiscal year. In determining the number of students who default before the end of such fiscal year, the Secretary shall, in calculating the cohort default rate, exclude any loans which, due to improper servicing or collection, would result in an inaccurate or incomplete calculation of the cohort default rate. For any fiscal year in which less than 30 of the institution's current and former students enter repayment, the term 'cohort default rate' means the percentage of such current and former students who entered repayment on such loans in any of the three most recent fiscal years and who default before the end of the fiscal year immediately following the year in which they entered repayment. A loan on which a payment is made by the institution of higher education, its owner, agency, contractor, employee, or any other entity or individual affiliated with such institution, in order to avoid default by the borrower, is considered as in default for the purposes of this subsection. The Secretary shall prescribe regulations designed to prevent an institution from evading the application to that institution of a default rate determination under this subsection through the use of such measures as branching, consolidation, change of ownership or control or other means as determined by the Secretary.".

(h) CONSEQUENCES OF FAILURE TO AWARD.—Section 462(j) of the Act is amended—

(1) by inserting "(1)" after the subsection heading; and

(2) by adding at the end the following new paragraph:

"(2) If under paragraph (1) of this subsection an institution returns more than 10 percent of its allocation, the institution's allocation for the next fiscal year shall be reduced by the amount returned. The Secretary may waive this paragraph for a specific institution if the Secretary finds that enforcing it is contrary to the interest of the program.".

(i) CAMPUS MATCH.—Section 463(a)(2)(B) of the Act is amended to read as follows:

"(B) a capital contribution—

"(i) by an institution that—

"(I) is granted permission by the Secretary to participate in an Expanded Lending Option under the program, and

"(II) has a default rate which does not exceed 7.5 percent,

in an amount not less than the amount of the Federal capital contributions described in subparagraph (A); or

"(ii) by any other institution, in an amount not less than one-third of the amount of the Federal capital contributions described in subparagraph (A);".

(j) CREDIT REPORTING REQUIREMENTS.—Section 463(c) of the Act is amended by adding at the end thereof the following new paragraph:

"(4) Each institution of higher education, after consultation with the Secretary, shall disclose to any credit bureau organization with which the Secretary has an agreement under paragraph (1)—

"(A) the date of each disbursement and the amount of any loan made under this part to any borrower by such institution; and

"(B) the type of information described in paragraphs (1), (2), and (3) of section 430A(a), as it pertains to such loan.".

(k) LOAN LIMITS.—Section 464(a)(2) of the Act is amended to read as follows:

"(2) The aggregate of the loans for all years made by institutions of higher education from loan funds established pursuant to agreements under this part may not exceed—

"(A) for institutions that have an agreement with the Secretary to participate in the Expanded Lending Option under section 463(a)(2)(B)(i)—

"(i) $32,000 in the case of any graduate or professional student (as defined by regulations of the Secretary, and including any loans from such funds made to such person before he became a graduate or professional student);

"(ii) $20,000 in the case of a student who has successfully completed 2 years of a program of education leading to a bachelor's degree but who has not completed the work necessary for such a degree (determined under regulations of the Secretary, and including any loans from such funds made to such person before he became such a student); and

"(iii) $8,000 in the case of any other student; or

"(B) for all other institutions—

"(i) $25,000 in the case of any graduate or professional student (as defined by regulations of the Secretary, and including any loans from such funds made to such person before he became a graduate or professional student);

"(ii) $15,000 in the case of a student who has successfully completed 2 years of a program of education leading to a bachelor's degree, but who has not completed the work necessary for such a degree (determined under regulations of the Secretary, and including any loans from such funds made to such person before he became such a student); and

"(iii) $6,000 in the case of any other student.".

(l) LOANS TO NONTRADITIONAL STUDENTS.—Section 464(b)(2) of the Act is amended to read as follows:

"(2) If the institution's capital contribution under section 462 is directly or indirectly based in part on the financial need demonstrated by students who are (A) attending the institution less than full time, (B) age 24 or older, (C) single parents, or (D) independent students, a reasonable proportion of the institution's loans shall be made available to such students.".

(m) MINIMUM MONTHLY PAYMENTS.—Section 464(c)(1)(C) of the Act is amended to read as follows:

"(C)(i) for loans made before July 1, 1993, may provide, at the option of the institution, in accordance with regulations of the Secretary, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to the student from a student loan fund assisted under this part shall be at a rate equal to not less than $30 per month, except that the institution may, subject to such regulations, permit a borrower to pay less than $30 per month for a period of not more than one year where necessary to avoid hardship to the borrower, but without extending the 10-year maximum repayment period provided for in subparagraph (A) of this paragraph;

"(ii) for loans made on or after July 1, 1993, may provide, at the option of the institution, in accordance with regulations of the Secretary, that during the repayment period of the loan, payments of principal and interest by the borrower with respect to all outstanding loans made to the student from a student loan fund assisted under this part shall be at a rate equal to not less than $50 per month, except that the institution may, subject to such regulations, permit a borrower to pay less than $50 per month for a period of not more than one year where necessary to avoid hardship to the borrower, but without extending the 10-year maximum repayment period provided for in subparagraph (A) of this paragraph; and

"(iii) may provide that the total payments by a borrower for a monthly or similar payment period with respect to the aggregate of all loans held by the institution may, when the amount of a monthly or other similar payment is not a multiple of $5, be rounded to the next highest whole dollar amount that is a multiple of $5;".

(n) OVERAWARD TOLERANCE.—Section 464(b) of the Act is amended by adding at the end the following new paragraph:

"(3) Notwithstanding paragraph (1) of this subsection, if the sum of a loan award for any student and the other financial aid obtained subsequently by such student exceeds the amount of assistance for which the student is eligible under this title by $300 or more, the institution such student is attending shall adjust the disbursement of such loan accordingly.".

(o) ELIMINATION OF DEFENSE INFANCY.—Section 464(c)(1)(E) of the Act is amended by striking "unless the borrower is a minor and the note or other evidence of obligation executed by him would not, under applicable law, create a binding obligation,".

(p) DEFERMENT FOR FAMILY SERVICE AGENCY EMPLOYEES.—Subparagraph (A) of section

464(c)(2) of the Higher Education Act of 1965 is amended—

(1) by striking "or" at the end of clause (viii);

(2) by striking the period at the end of clause (ix) and inserting a semicolon and "or"; and

(3) by inserting after clause (ix) the following new clause:

"(x) is employed full-time by a public or private nonprofit child or family service agency to provide, or supervise the provision of, services to high-risk children who are from low-income communities and the families of such children.".

(q) Repayment Period.—Section 464(c) of the Act is further amended—

(1) in paragraph (2), by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B);

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) The repayment period for a loan made under this part shall begin on the day immediately following the expiration of the period, specified in paragraph (1)(A), after the student ceases to carry the required academic workload, unless the borrower requests and is granted a repayment schedule that provides for repayment to commence at an earlier point in time, and shall exclude any period of authorized deferment, forbearance, or cancellation.".

(r) Deferments for Study Abroad.—Section 464(c) of the Act is amended by adding at the end thereof the following new paragraph:

"(6) Requests for deferment of repayment of loans under this part by students engaged in graduate or postgraduate fellowship-supported study (such as pursuant to a Fulbright grant) outside the United States may be approved until completion of the period of the fellowship.".

(s) Special Authority To Compromise Repayment.—Section 464 of the Act is amended by adding at the end the following new subsection:

"(e) Special Repayment Rule Authority.—(1) Subject to such restrictions as the Secretary may prescribe to protect the interest of the United States, in order to encourage repayment of loans made under this part which are in default, the Secretary may, in the agreement entered into under this part, authorize an institution of higher education to compromise on the repayment of such defaulted loans in accordance with paragraph (2). The Federal share of the compromise repayment shall bear the same relation to the institution's share of such compromise repayment as the Federal capital contribution to the institution's loan fund under this part bears to the institution's capital contribution to such fund.

"(2) No compromise repayment of a defaulted loan as authorized by paragraph (1) may be made unless the student borrower pays—

"(A) 90 percent of the loan under this part;

"(B) the interest due on such loan; and

"(C) any collection fees due on such loan; in a lump sum payment.".

(t) Cancellation for Service.—

(1) Amendment.—Section 465(a)(2) of the Act is amended—

(A) in subparagraph (A), by striking "and such determination shall not be made with respect to more than 50 percent of the total number of schools in the State receiving assistance under such chapter 1";

(B) by inserting before the semicolon at the end of subparagraph (A) the following: ", except that in the case of a borrower qualifying for cancellation under this subparagraph, cancellation shall be granted for one year following any year in which the qualifying elementary or secondary school loses its chapter 1 designation";

(C) by striking subparagraph (C) and inserting the following:

"(C) as a full-time teacher of infants, toddlers, children, or youth with disabilities in a public or other nonprofit elementary or secondary school system, or as a full-time qualified professional provider of early intervention services in a public or other nonprofit program under public supervision by the lead agency as authorized in section 676(b)(9) of the Individuals with Disabilities Education Act;".

(D) by striking "or" at the end of subparagraph (E);

(E) by striking the period at the end of subparagraph (F) and inserting a semicolon; and

(F) by adding at the end thereof the following new subparagraphs:

"(G) as a full-time nurse or medical technician providing health care services; or

"(H) as a full-time employee of a public or private nonprofit child or family service agency who is providing, or supervising the provision of, services to high-risk children who are from low-income communities and the families of such children.".

(2) Rate of Cancellation.—Section 465(a)(3)(A)(i) of such Act is amended by striking "(A), (C), or (F)" and inserting "(A), (C), (F), (G), or (H)".

(u) Excess Capital Rule.—Section 466(c) of the Act is amended—

(1) by striking out "Upon" and inserting "(1) Upon";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B); and

(3) by adding at the end thereof the following:

"(2) No finding, that the liquid assets of a student loan fund established under this part exceed the amount required, under paragraph (1) of this subsection may be made prior to a date which is 2 years after the institution of higher education received the funds from its allocation under section 462 with respect to such funds.".

(v) Recapture of Certain Loan Funds.—(1) Section 467 of the Act is amended by adding at the end thereof the following new subsection:

"(c) Perkins Loan Revolving Fund.—(1) There is established by the Perkins Loan Revolving Fund which shall be available without fiscal year limitation to the Secretary to make payments under this part, in accordance with paragraph (2) of this subsection. There shall be deposited in the Perkins Revolving Loan Fund—

"(A) all funds collected by the Secretary on any loan referred, transferred, or assigned under paragraph (5)(A), (5)(B)(i), or (6) of section 463(a);

"(B) all funds collected by the Secretary on any loan referred under paragraph (5)(B)(ii) of section 463(a);

"(C) all funds paid to the Secretary under section 466(c)(1)(A);

"(D) all funds from a student loan fund under this part received by the Secretary as the result of the closure of an institution of higher education;

"(E) all funds received by the Secretary as a result of an audit of a student loan fund established under this part; and

"(F) all funds which have been appropriated and which the Secretary determines are not necessary for carrying out section 465, relating to the cancellation of certain loans under this part for qualifying service.

"(2) Notwithstanding any other provision of law, the Secretary shall, from the Perkins Loan Revolving Fund established under paragraph (1), pay allocations of additional capital contributions to eligible institutions of higher education in accordance with section 462, except that funds described in subparagraph (B) of paragraph (1) shall be repaid to the institution of higher education which referred the loan, as specified in section 463(a)(5)(B)(ii). The Secretary shall make the payments required by this paragraph in a manner designed to maximize the availability of capital loan funds under this part.".

(2) The heading of section 467 of the Act is amended to read as follows:

"COLLECTION OF DEFAULTED LOANS: PERKINS LOAN REVOLVING FUND".

(w) Definitions; Limitations.—Part E of title IV is further amended by adding at the end the following new section:

"DEFINITIONS

"Sec. 469. (a) Low-Income Communities.—For the purpose of this part, the term 'low-income communities' means communities in which there is a high concentration of children eligible to be counted under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

"(b) High-Risk Children.—For the purposes of this part, the term 'high-risk children' means individuals under the age of 21 who are low-income or at risk of abuse or neglect, have been abused or neglected, have serious emotional, mental, or behavioral disturbances, reside in placements outside their homes, or are involved in the juvenile justice system.

"(c) Infants, Toddlers, Children, and Youth With Disabilities.—For purposes of this part, the term 'infants, toddlers, children, and youth with disabilities' means children with disabilities and infants and toddlers with disabilities as defined in sections 602(a)(1) and 672(1), respectively, of the Individuals with Disabilities Education Act, and the term 'qualified professional provider of early intervention services' has the meaning specified in section 672(2) of such Act.".

PART F—NEED ANALYSIS

SEC. 471. REVISION OF PART F.

Part F of title IV of the Act is amended to read as follows:

"PART F—NEED ANALYSIS

"SEC. 471. AMOUNT OF NEED.

"Except as otherwise provided therein, the amount of need of any student for financial assistance under this title (except subpart 4 of part A) is equal to—

"(1) the cost of attendance of such student, minus

"(2) the expected family contribution for such student, minus

"(3) estimated financial assistance not received under this title (as defined in section 480(j)).

"SEC. 472. COST OF ATTENDANCE.

"For the purpose of this title, the term 'cost of attendance' means—

"(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study;

"(2) an allowance for books, supplies, transportation, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution;

"(3) an allowance (as determined by the institution) for room and board costs incurred by the student which—

"(A) shall be an allowance of not less than $1,500 for a student without dependents residing at home with parents;

"(B) for students without dependents residing in institutionally owned or operated housing, shall be a standard allowance determined by the institution based on the amount normally assessed most of its residents for room and board; and

"(C) for all other students shall be an allowance based on the expenses reasonably incurred by such students for room and board, except that the amount may not be less than $2,500;

"(4) for less than half-time students (as determined by the institution) tuition and fees and an allowance for only books, supplies, and transportation (as determined by the institution) and dependent care expenses (in accordance with paragraph (7));

"(5) for incarcerated students only tuition and fees and, if required, books and supplies;

"(6) for a student enrolled in an academic program in a program of study abroad approved for credit by the student's home institution, reasonable costs associated with such study (as determined by the institution);

"(7) for a student with one or more dependents, an allowance based on the estimated expenses incurred for such dependent care, based on the number and age of such dependents. The period for which dependent care is required includes, but is not limited to, class-time, study-time, field work, internships, and commuting time;

"(8) for a student with a disability, an allowance (as determined by the institution) for those expenses related to his or her disability, including special services, transportation, equipment, and supplies that are reasonably incurred and not provided for by other assisting agencies;

"(9) for a student receiving all or part of his or her instruction by means of telecommunications technology, no distinction shall be made with respect to the mode of instruction in determining costs, but this paragraph shall not be construed to permit including the cost of rental or purchase of equipment;

"(10) for a student engaged in a program of study by correspondence, only tuition and fees and, if required, books and supplies, travel, and room and board costs incurred specifically in fulfilling a required period of residential training; and

"(11) for a student placed in a work experience under a cooperative education program, an allowance for reasonable costs associated with such employment (as determined by the institution).

"SEC. 473. FAMILY CONTRIBUTION.

"For the purpose of this title, except subpart 4 of part A, the term 'family contribution' with respect to any student means the amount which the student and his or her family may be reasonably expected to contribute toward his or her postsecondary education for the academic year for which the determination is made, as determined in accordance with this part.

"SEC. 474. DATA ELEMENTS USED IN DETERMINING EXPECTED FAMILY CONTRIBUTION.

"The following data elements are considered in determining the expected family contribution:

"(1) the available income of (A) the student and his or her spouse, or (B) the student and the student's parents, in the case of a dependent student;

"(2) the number of dependents in the family of the student;

"(3) the number of dependents in the family of the student (except parents) who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 487 and for whom the family may reasonably be expected to contribute to their postsecondary education;

"(4) the net assets of (A) the student and his or her spouse, and (B) the student and the student's parents, in the case of a dependent student;

"(5) the marital status of the student;

"(6) the age of the older parent, in the case of a dependent student, and the student;

"(7) the number of dependent children other than the student enrolled in a private elementary or secondary institution and the unreimbursed tuition paid (A) in the case of a dependent student, by the student's parents for such dependent children, or (B) in the case of an independent student with dependents, by the student or his or her spouse for such dependent children who are so enrolled; and

"(8) the additional expenses incurred (A) in the case of a dependent student, when both parents of the student are employed or when the family is headed by a single parent who is employed, or (B) in the case of an independent student, when the student is married and his or her spouse is employed, or when the employed student qualifies as a surviving spouse or as a head of a household under section 2 of the Internal Revenue Code of 1986.

"SEC. 475. FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS.

"(a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For each dependent student the expected family contribution is equal to the sum of—

"(1) the parents' contribution from adjusted available income (determined in accordance with subsection (b));

"(2) the student contribution from available income (determined in accordance with subsection (g)); and

"(3) the student contribution from assets (determined in accordance with subsection (h)).

"(b) PARENTS' CONTRIBUTION FROM ADJUSTED AVAILABLE INCOME.—The parents' contribution from adjusted available income is equal to the amount determined by—

"(1) computing adjusted available income by adding—

"(A) the parents' available income (determined in accordance with subsection (c)); and

"(B) the parents' contribution from assets (determined in accordance with subsection (d));

"(2) assessing such adjusted available income in accordance with the assessment schedule set forth in subsection (e); and

"(3) dividing the assessment resulting under paragraph (2) by the number of the dependent children of the parent (or parents) who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 487 during the award period for which assistance under this title is requested;

except that the amount determined under this subsection shall not be less than zero.

"(c) PARENTS' AVAILABLE INCOME.—

"(1) IN GENERAL.—The parents' available income is determined by deducting from total income (as defined in section 480)—

"(A) Federal income taxes;

"(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

"(C) an allowance for social security taxes, determined in accordance with paragraph (3);

"(D) an income protection allowance, determined in accordance with paragraph (4);

"(E) an employment expense allowance, determined in accordance with paragraph (5); and

"(F) an educational expense allowance, determined in accordance with paragraph (6).

"(2) ALLOWANCE FOR STATE AND OTHER TAXES.—The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 478):

"Percentages for Computation of State and Other Tax Allowance

If parents' State or territory of residence is—	And parents' total income is—	
	less than $15,000 or	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13
Other	9	8

"(3) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by each parent multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

"(4) INCOME PROTECTION ALLOWANCE.—The income protection allowance is determined by the following table (or a successor table prescribed by the Secretary under section 478):

"Income Protection Allowance

Family Size (including student)	Number in College 1	2	3	4	5	For each additional subtract:
2	$10,270	$8,560				
3	12,840	11,130	$9,420			
4	15,790	14,080	12,370	$10,660		
5	18,750	17,040	15,330	13,620	$11,910	
6	21,830	20,120	18,410	16,700	14,990	$1,710
For each additional add:	2,570	2,570	2,570	2,570	2,570	

"(5) EMPLOYMENT EXPENSE ALLOWANCE.—The employment expense allowance is determined as follows (or using a successor provision prescribed by the Secretary under section 478):

"(A) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, such allowance is equal to the lesser of $2,600 or 35 percent of the earned income of the student or spouse with the lesser earned income.

"(B) If a parent qualifies as a surviving spouse or as a head of household as defined in section 2 of the Internal Revenue Code, such allowance is equal to the lesser of $2,600 or 35 percent of his or her earned income.

"(6) EDUCATIONAL EXPENSE ALLOWANCE.—The educational expense allowance is equal to the unreimbursed tuition and fees paid by the student's parents for each dependent child, other than the student, enrolled in an elementary or secondary school, not to exceed for each such child the national average per pupil cost as published by the Center for Educational Statistics using the most recent available data.

"(d) PARENTS' CONTRIBUTION FROM ASSETS.—

"(1) IN GENERAL.—The parents' contribution from assets is equal to—

"(A) the parental net worth (determined in accordance with paragraph (2)); minus

"(B) the asset protection allowance (determined in accordance with paragraph (3)); minus

"(C) the educational savings protection allowance (determined in accordance with paragraph (4)); multiplied by

"(D) the asset conversion rate (determined in accordance with paragraph (5)), except that the result shall not be less than zero.

"(2) PARENTAL NET WORTH.—The parental net worth is calculated by adding—

"(A) the current balance of checking and savings accounts and cash on hand;

"(B) the net value of investments and real estate, excluding the net value of the principal place of residence; and

"(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter in this subsection referred to as 'NW'), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 478), except as provided under section 480(f):

"Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is:
Less than $1	$0
$1–$75,000	40 percent of NW
$75,001–$225,000	$30,000 plus 50 percent of NW over $75,000
$225,001–$370,000	$105,000 plus 60 percent of NW over $225,000
$370,001 or more	$192,000 plus 100 percent of NW over $370,000

"(3) ASSET PROTECTION ALLOWANCE.—The asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 478):

"Asset Protection Allowances for Families and Students

If the age of the oldest parent is—	And there are two parents	one parent
	then the asset protection allowance is—	
25 or less	0	0
26	$2,700	$1,900
27	5,300	3,800
28	8,000	5,600
29	10,600	7,500
30	13,300	9,400
31	15,900	11,300
32	18,600	13,200
33	21,200	15,000
34	23,900	16,900
35	26,500	18,800
36	29,200	20,700
37	31,800	22,600
38	34,500	24,400
39	37,100	26,300
40	39,800	28,200
41	40,800	28,900
42	41,900	29,400
43	42,600	30,200
44	43,800	30,700
45	44,900	31,500
46	46,000	32,300
47	47,200	32,900
48	48,800	33,700
49	50,000	34,500
50	51,300	35,300
51	52,900	36,200
52	54,300	37,000
53	56,000	37,900
54	57,700	39,100
55	59,200	40,000
56	61,000	40,900
57	62,900	42,100
58	65,200	43,100
59	67,200	44,400
60	69,300	45,700
61	71,700	47,000
62	74,300	48,300
63	76,500	49,700
64	79,200	51,100
65 or more	81,900	52,700

"(4) EDUCATIONAL SAVINGS PROTECTION ALLOWANCE.—The educational savings protection allowance is calculated if the parental net worth (determined in accordance with paragraph (2)) minus the asset protection allowance (determined in accordance with paragraph (3)) is greater than zero and the parents' available income is greater than zero. This allowance is determined according to the following table on the basis of the parents' available income (hereinafter in this paragraph referred to as 'AI') as determined under subsection (c), except that this allowance shall not be less than zero:

"Parents' Education Savings Protection Allowance

If AI is—	Then the savings protection allowance is—
Less than $9,300	22% of AI
$9,301 to $11,600	$2,046 25% of AI over $9,300
$11,601 to $14,000	$2,621+29% of AI over $11,600
$14,001 to $16,300	$3,317+34% of AI over $14,000
$16,301 to $18,700	$4,099+40% of AI over $16,300
$18,701 or more	$5,059+47% of AI over $18,700

"(5) ASSET CONVERSION RATE.—The asset conversion rate is 12 percent.

"(e) ASSESSMENT SCHEDULE.—The adjusted available income (as determined under subsection (b)(1) and hereafter in this subsection referred to as 'AAI') is assessed according to the following table (or a successor table prescribed by the Secretary under section 478):

"Parents' Assessment From Adjusted Available Income (AAI)

If AAI is—	Then the assessment is—
Less than −$3,409	−$750
−$3,409 to $9,300	22% of AAI
$9,301 to $11,600	$2,046 + 25% of AAI over $9,300
$11,601 to $14,000	$2,621 + 29% of AAI over $11,600
$14,001 to $16,300	$3,317 + 34% of AAI over $14,000
$16,301 to $18,700	$4,099 + 40% of AAI over $16,300
$18,701 or more	$5,059 + 47% of AAI over $18,700

"(f) COMPUTATIONS IN CASE OF SEPARATION, DIVORCE, REMARRIAGE, OR DEATH.—

"(1) DIVORCED OR SEPARATED PARENTS.—Parental income and assets for a student whose parents are divorced or separated is determined under the following procedures:

"(A) Include only the income and assets of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

"(B) If the preceding criterion does not apply, include only the income and assets of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

"(C) If neither of the preceding criteria apply, include only the income and assets of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

"(2) DEATH OF A PARENT.—Parental income and assets in the case of the death of any parent is determined as follows:

"(A) If either of the parents has died, the student shall include only the income and assets of the surviving parent.

"(B) If both parents have died, the student shall not report any parental income or assets.

"(3) REMARRIED PARENTS.—Income in the case of a parent whose income and assets are taken into account under paragraph (1) of this subsection, or a parent who is a widow or widower and whose income is taken into account under paragraph (2) of this subsection, has remarried, is determined as follows: The income (but not assets) of that parent's spouse shall be included in determining the parent's adjusted available income only if—

"(A) the student's parent and the stepparent are married as of the date of application for the award year concerned; and

"(B) the student is not an independent student.

"(g) STUDENT CONTRIBUTION FROM AVAILABLE INCOME.—

"(1) IN GENERAL.—The student contribution from available income is equal to—

"(A) the student's total income (determined in accordance with section 480); minus

"(B) the adjustment to student income (determined in accordance with paragraph (2)); multiplied by

"(C) the assessment rate as determined in paragraph (5).

"(2) ADJUSTMENT TO STUDENT INCOME.—The adjustment to student income is equal to the sum of—

"(A) actual Federal income taxes of the student;

"(B) an allowance for State and other income taxes (determined in accordance with paragraph (3)); and

"(C) an allowance for social security taxes determined in accordance with paragraph (4).

"(3) ALLOWANCE FOR STATE AND OTHER INCOME TAXES.—The allowance for State and other income taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 478):

"Percentages for Computation of State and Other Income Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8

"(4) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by the student multiplied by the social security withholding rate appropriate to the tax year of the earnings, up to the maximum statutory social security tax withholding amount for that same tax year.

"(5) The student's available income (determined in accordance with paragraph (1) of this subsection) is assessed at 50 percent.

"(h) STUDENT CONTRIBUTION FROM ASSETS.—The student contribution from assets is determined by calculating the net assets of the student (not including amounts reported for purposes of subsection (g)) and multiplying such amount by 35 percent, except that the result shall not be less than zero.

"(i) ADJUSTMENTS TO PARENTS' CONTRIBUTION FOR ENROLLMENT PERIODS OTHER THAN 9 MONTHS FOR PURPOSES OTHER THAN SUBPART 2 OF PART A OF THIS TITLE.—For periods of enrollment other than 9 months, the parents' contribution from adjusted available income (as determined under subsection (b)) is determined as follows for purposes other than subpart 2 of part A of this title:

"(1) For periods of enrollment less than 9 months, the parents' contribution from adjusted available income is divided by 9 and the result multiplied by the number of months enrolled.

"(2) For periods of enrollment greater than 9 months—

"(A) the parents' adjusted available income (determined in accordance with subsection (b)(1)) is increased by the difference between the income protection allowance (determined in accordance with subsection (c)(4)) for a family of four and a family of five, each with one child in college;

"(B) the resulting revised parents' adjusted available income is assessed according to subsection (e) and adjusted according to subsection (b)(3) to determine a revised parents' contribution from adjusted available income;

"(C) the original parents' contribution from adjusted available income is subtracted from the revised parents' contribution from adjusted available income, and the result is divided by 12 to determine the monthly adjustment amount; and

"(D) the original parents' contribution from adjusted available income is increased by the product of the monthly adjustment amount multiplied by the number of months greater than 9 for which the student will be enrolled.

"(j) ADJUSTMENTS FOR ENROLLMENT PERIODS OTHER THAN 9 MONTHS.—For periods of enrollment other than 9 months, the student's contribution (as determined under subsection (g)) is adjusted for purposes other than subpart 2 of part A of this title based on individual circumstances.

"SEC. 476. FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITHOUT DEPENDENT CHILDREN.

"(a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For each independent student without dependent children, the expected family contribution is determined by—

"(1) adding—

"(A) the family's contribution from available income (determined in accordance with subsection (b)); and

"(B) the family's contribution from assets (determined in accordance with subsection (c)); and

"(2) dividing the sum resulting under paragraph (1) by the number of students who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 487 during the award period for which assistance under this title is requested;

except that the amount determined under this subsection shall not be less than zero.

"(b) FAMILY'S CONTRIBUTION FROM AVAILABLE INCOME.—

"(1) IN GENERAL.—The family's contribution from income is determined by—

"(A) deducting from total income (as defined in section 480)—

"(i) an allowance for Federal income taxes;

"(ii) an allowance for State and other taxes, determined in accordance with paragraph (2);

"(iii) an allowance for social security taxes, determined in accordance with paragraph (3);

"(iv) an income protection allowance for periods of nonenrollment not to exceed (I) $1,200 per month for single students; and (II) $750 per person, per month for married students; and

"(v) in the case where a spouse is present, an employment expense allowance, as determined in accordance with paragraph (4); and

"(B) assessing such available income in accordance with paragraph (5).

"(2) ALLOWANCE FOR STATE AND OTHER TAXES.—The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 478):

"Percentages for Computation of State and Other Income Tax Allowance

If the students' State or territory of residence is—	The percentage is—
Alaska, American Samoa, Florida, Guam, Nevada, South Dakota, Tennessee, Texas, Trust Territory, Virgin Islands, Washington, Wyoming	0
Connecticut, Louisiana, Puerto Rico	1
Arizona, New Hampshire, New Mexico, North Dakota	2
Alabama, Colorado, Illinois, Indiana, Kansas, Mississippi, Missouri, Montana, Nebraska, New Jersey, Oklahoma	3
Arkansas, Georgia, Iowa, Kentucky, Maine, Pennsylvania, Utah, Vermont, Virginia, West Virginia, Canada, Mexico	4
California, Idaho, Massachusetts, North Carolina, Ohio, Rhode Island, South Carolina	5
Hawaii, Maryland, Michigan, Wisconsin	6
Delaware, District of Columbia, Minnesota, Oregon	7
New York	8
Other	4

"(3) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount earned by the student (and spouse, if appropriate), multiplied by the social security withholding rate appropriate to the tax year preceding the award year, up to the maximum statutory social security tax withholding amount for that same tax year.

"(4) EMPLOYMENT EXPENSES ALLOWANCE.—The employment expense allowance is determined as follows (or using a successor provision prescribed by the Secretary under section 478):

"(A) If the student is married and his or her spouse is employed in the year for which income is reported, such allowance is equal to the lesser of $2,600 or 35 percent of the earned income of the student or spouse with the lesser earned income.

"(B) If a student is not married, the employment expense allowance is zero.

"(5) ASSESSMENT OF AVAILABLE INCOME.—The family's available income (determined in accordance with paragraph (1)(A) of this subsection) is assessed at 50 percent.

"(c) FAMILY CONTRIBUTION FROM ASSETS.—

"(1) IN GENERAL.—The family's income supplemental amount from assets is equal to—

"(A) the family's net worth (determined in accordance with paragraph (2)); minus

"(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

"(C) the asset conversion rate (determined in accordance with paragraph (4));

except that the family's contribution from assets shall not be less than zero.

"(2) FAMILY'S NET WORTH.—The family's net worth is calculated by adding—

"(A) the current balance of checking and savings accounts and cash on hand;

"(B) the net value of investments and real estate, excluding the net value in the principal place of residence; and

"(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as 'NW'), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 478), except as provided under section 480(f):

"Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1–$75,000	40 percent of NW
$75,001–$225,000	$30,000 plus 50 percent of NW over $75,000
$225,001–$370,000	$105,000 plus 60 percent of NW over $225,000
$370,001 or more	$192,000 plus 100 percent of NW over $370,000

"(3) ASSET PROTECTION ALLOWANCE.—The asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 478):

"Asset Protection Allowances for Families and Students

If the age of the student is—	And the student is	
	married	single
then the asset protection	allowance is—	
25 or less	$0	$0
26	2,700	1,900
27	5,300	3,800
28	8,000	5,600
29	10,600	7,500
30	13,300	9,400
31	15,900	11,300
32	18,600	13,200
33	21,200	15,000
34	23,900	16,900
35	26,500	18,800
36	29,200	20,700
37	31,800	22,600
38	34,500	24,400
39	37,100	26,300
40	39,800	28,200
41	40,800	28,900
42	41,900	29,400
43	42,600	30,200
44	43,800	30,700
45	44,900	31,500
46	46,000	32,300
47	47,200	32,900
48	48,800	33,700
49	50,000	34,500
50	51,300	35,300
51	52,900	36,200
52	54,300	37,000
53	56,000	37,900
54	57,700	39,100
55	59,200	40,000
56	61,000	40,900
57	62,900	42,100
58	65,200	43,100
59	67,200	44,400
60	69,300	45,700
61	71,700	47,000
62	74,300	48,300
63	76,500	49,700
64	79,200	51,700
65 or more	81,900	52,700

"(4) ASSET CONVERSION RATE.—The asset conversion rate is 35 percent.

"SEC. 477. FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS WITH DEPENDENT CHILDREN.

"(a) COMPUTATION OF EXPECTED FAMILY CONTRIBUTION.—For each independent student with dependent children the expected family contribution is equal to the amount determined by—

"(1) computing adjusted available income by adding—

"(A) the family's available income (determined in accordance with subsection (b)); and

"(B) the family's contribution from assets (determined in accordance with subsection (c));

"(2) assessing such adjusted available income in accordance with an assessment schedule set forth in subsection (d); and

"(3) dividing the assessment resulting under paragraph (2) by the number of family members who are enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program leading to a recognized educational credential at an institution of higher education that is an eligible institution in accordance with the provisions of section 487 during the award period for which assistance under this title is requested;

except that the amount determined under this subsection shall not be less than zero.

"(b) FAMILY'S AVAILABLE INCOME.—

"(1) IN GENERAL.—The family's available income is determined by deducting from total income (as defined in section 480)—

"(A) an allowance for Federal income taxes;

"(B) an allowance for State and other taxes, determined in accordance with paragraph (2);

"(C) an allowance for social security taxes, determined in accordance with paragraph (3);

"(D) an income protection allowance, determined in accordance with paragraph (4);

"(E) an employment expense allowance, determined in accordance with paragraph (5); and

"(F) an educational expense allowance, determined in accordance with paragraph (6).

"(2) ALLOWANCE FOR STATE AND OTHER TAXES.—The allowance for State and other taxes is equal to an amount determined by multiplying total income (as defined in section 480) by a percentage determined according to the following table (or a successor table prescribed by the Secretary under section 478):

"Percentages for Computation of State and Other Tax Allowance

If student's State or territory of residence is—	And family's total income is—	
	less than $15,000	$15,000 or more
	then the percentage is—	
Alaska, Puerto Rico, Wyoming	3	2
American Samoa, Guam, Louisiana, Nevada, Texas, Trust Territory, Virgin Islands	4	3
Florida, South Dakota, Tennessee, New Mexico	5	4
North Dakota, Washington	6	5
Alabama, Arizona, Arkansas, Indiana, Mississippi, Missouri, Montana, New Hampshire, Oklahoma, West Virginia	7	6
Colorado, Connecticut, Georgia, Illinois, Kansas, Kentucky	8	7
California, Delaware, Idaho, Iowa, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Utah, Vermont, Virginia, Canada, Mexico	9	8
Maine, New Jersey	10	9
District of Columbia, Hawaii, Maryland, Massachusetts, Oregon, Rhode Island	11	10
Michigan, Minnesota	12	11
Wisconsin	13	12
New York	14	13
Other	9	8

"(3) ALLOWANCE FOR SOCIAL SECURITY TAXES.—The allowance for social security taxes is equal to the amount estimated to be earned by the student (and spouse, if appropriate) multiplied by the social security withholding rate appropriate to the tax year preceding the award year, up to the maximum statutory social security tax withholding amount for that same tax year.

"(4) INCOME PROTECTION ALLOWANCE.—The income protection allowance is determined by the following table (or a successor table prescribed by the Secretary under section 478):

"Income Protection Allowance

Family size	Number in college					
(including student)	1	2	3	4	5	For each additional subtract:
2	$10,270	$8,560				
3	12,840	11,130	$9,420			
4	15,790	14,080	12,370	$10,660		
5	18,750	17,040	15,330	13,620	$11,910	
6	21,830	20,120	18,410	16,700	14,990	$1,710
For each additional add:	2,570	2,570	2,570	2,570	2,570	

"(5) EMPLOYMENT EXPENSE ALLOWANCE.—The employment expense allowance is determined as follows (or a successor table prescribed by the Secretary under section 478):

"(A) If the student is married and his or her spouse is employed in the year for which their income is reported, such allowance is equal to the lesser of $2,600 or 35 percent of the earned income of the student or spouse with the lesser earned income.

"(B) If a student qualifies as a surviving spouse or as a head of household as defined in section 2 of the Internal Revenue Code, such allowance is equal to the lesser of $2,600 or 35 percent of his or her earned income.

"(6) EDUCATIONAL EXPENSE ALLOWANCE.—The educational expense allowance is equal to the unreimbursed tuition and fees paid by the student or the student's spouse, or both, for each dependent child, enrolled in elementary or secondary school, not to exceed for each such child the national average per pupil cost as published by the Center for Educational Statistics using the most recent available data.

"(c) FAMILY'S CONTRIBUTION FROM ASSETS.—

"(1) IN GENERAL.—The family's contribution from assets is equal to—

"(A) the family net worth (determined in accordance with paragraph (2)); minus

"(B) the asset protection allowance (determined in accordance with paragraph (3)); multiplied by

"(C) the asset conversion rate (determined in accordance with paragraph (4)), except that the result shall not be less than zero.

"(2) FAMILY NET WORTH.—The family net worth is calculated by adding—

"(A) the current balance of checking and savings accounts and cash on hand;

"(B) the net value of investments and real estate, excluding the net value in the principal place of residence; and

"(C) the adjusted net worth of a business or farm, computed on the basis of the net worth of such business or farm (hereafter referred to as 'NW'), determined in accordance with the following table (or a successor table prescribed by the Secretary under section 478), except as provided under section 480(f):

"Adjusted Net Worth of a Business or Farm

If the net worth of a business or farm is—	Then the adjusted net worth is—
Less than $1	$0
$1–$75,000	40 percent of NW
$75,001–$225,000	$30,000 plus 50 percent of NW over $75,000
$225,001–$370,000	$105,000 plus 60 percent of NW over $225,000
$370,001 or more	$192,000 plus 100 percent of NW over $370,000

"(3) ASSET PROTECTION ALLOWANCE.—The asset protection allowance is calculated according to the following table (or a successor table prescribed by the Secretary under section 478):

"Asset Protection Allowances for Families and Students

If the age of the student is—	And the student is	
	married	single
	then the asset protection allowance is—	
25 or less	$0	$0
26	2,700	1,900
27	5,300	3,800
28	8,000	5,600
29	10,600	7,500
30	13,300	9,400
31	15,900	11,300
32	18,600	13,200
33	21,200	15,000
34	23,900	16,900
35	26,500	18,800
36	29,200	20,700
37	31,800	22,600
38	34,500	24,400
39	37,100	26,300
40	39,800	28,200
41	40,800	28,900
42	41,900	29,400
43	42,600	30,200
44	43,800	30,700
45	44,900	31,500
46	46,000	32,300
47	47,200	32,900
48	48,800	33,700
49	50,000	34,500
50	51,300	35,300
51	52,900	36,200
52	54,300	37,000
53	56,000	37,900
54	57,700	39,100
55	59,200	40,000
56	61,000	40,900
57	62,900	42,100
58	65,200	43,100
59	67,200	44,400
60	69,300	45,700
61	71,700	47,000
62	74,300	48,300
63	76,500	49,700
64	79,200	51,100
65 or more	81,900	52,700

"(4) ASSET CONVERSION RATE.—The asset conversion rate is 12 percent.

"(d) ASSESSMENT SCHEDULE.—The adjusted available income (as determined under subsection (a)(1) and hereafter referred to as 'AAI') is assessed according to the following table (or a successor table prescribed by the Secretary under section 478):

"Assessment From Adjusted Available Income (AAI)

If AAI is—	Then the assessment is—
Less than −$3,409	−$750
−$3,409 to $9,300	22% of AAI
$9,301 to $11,600	$2,046 + 25% of AAI over $9,300
$11,601 to $14,000	$2,621 + 29% of AAI over $11,600
$14,001 to $16,300	$3,317 + 34% of AAI over $14,000
$16,301 to $18,700	$4,099 + 40% of AAI over $16,300
$18,701 or more	$5,059 + 47% of AAI over $18,700

"SEC. 478. REGULATIONS; UPDATED TABLES.

"(a) AUTHORITY TO PRESCRIBE REGULATIONS RESTRICTED.—(1) Notwithstanding any other provision of law, the Secretary shall not have the authority to prescribe regulations to carry out this part except—

"(A) to prescribe updated tables in accordance with subsections (b) through (e) of this section; or

"(B) to propose modifications in the need analysis methodology required by this part.

"(2) Any regulation proposed by the Secretary that (A) updates tables in a manner that does not comply with subsections (b) through (e) of this section, or (B) that proposes modifications under paragraph (1)(B) of this subsection, shall not be effective unless approved by joint resolution of the Congress by May 1 following the date such regulations are published in the Federal Register in accordance with section 482. If the Congress fails to approve such regulations by such May 1, the Secretary shall publish in the Federal Register in accordance with section 482 updated tables for the applicable award year that are prescribed in accordance with subsections (b) through (e) of this section.

"(b) INCOME PROTECTION ALLOWANCE.—(1) For each award year after award year 1992–1993, the Secretary shall publish in the Federal Register a revised table of income protection allowances for the purpose of sections 475(c)(4) and 477(b)(4). Such revised table shall be developed by using the most recent data from the Consumer Expenditure Survey Integrated Survey Data and multiplying it as necessary by the percentage change in the Consumer Price Index. The income protection allowance for a family of three with one in college is equal to the lower living standard less a percentage for sales taxes (determined in accordance with paragraph (2)), less an amount (determined in accordance with paragraph (3)) for education expenditures, and less a student-in-college allowance (determined in accordance with paragraph (4)). The result is multiplied by the percentage change in the Consumer Price Index. The income protection allowance for other families is determined by using the appropriate equivalency scale in paragraph (5).

"(2) From the mean total household expenditures (prevailing standard), a 5 percent allowance is subtracted for sales taxes. The result is multiplied by 75 percent to reach the median total household expenditures and again multiplied by 67 percent to arrive at the lower living standard.

"(3) Education expenditures are those associated with elementary, secondary, and postsecondary tuition as identified in the Consumer Expenditure Survey Integrated Survey Data. The result is multiplied by 75 percent to reach the median total expenditures in these categories and again multiplied by 67 percent to arrive at the lower living standard.

"(4) The student-in-college adjustment is equal to nine months of mean individual expenses for food, apparel, transportation, entertainment, and personal care, minus a 5 percent allowance for sales taxes. The result is multiplied by 75 percent to reach the median total individual expenditures in these categories and again multiplied by 67 percent to arrive at the lower living standard.

"(5) The following equivalency scales are based on an average family size of 3:

"Parents' Assessment From Adjusted Available Income (AAI)

Family Size	Equivalency
1	.64
2	.80
3	1.00
4	1.23
5	1.46
6	1.70

"(6) There is an additional adjustment necessary for families of seven or more. This adjustment is determined by applying the appropriate equivalency percentage to derive the income protection allowance amount for a family size of seven and establishing the difference between this figure and the income protection allowance for a family size of six as the standard adjustment.

"(7) There is an additional adjustment necessary for families with more than five students enrolled in postsecondary education. This adjustment is determined by multiplying the student-in-college adjustment (determined in accordance with paragraph (4)) as appropriate by the Consumer Price Index.

"(8) The monthly maintenance allowance for purposes of section 476(b)(1)(B)(iv)(I) is calculated by—

"(A) adding the student in college adjustment (determined in accordance with paragraph (4)) to the income protection allowance (determined in accordance with paragraph (1));

"(B) multiplying the result by 0.64 to derive the income protection allowance for a family size of 1;

"(C) dividing the result by 12 to obtain a monthly amount; and

"(D) multiplying the result by 1.5 and rounding upward to the nearest $50 to derive the prevailing level amount.

"(9) The monthly maintenance allowance for purposes of section 476(b)(1)(B)(iv)(II) is calculated by—

"(A) adding the student in college adjustment (determined in accordance with paragraph (4)) to the income protection allowance (determined in accordance with paragraph (1));

"(B) multiplying the result by 80 percent to derive the income protection allowance for a family size of 2;

"(C) dividing the result by 12 to obtain a monthly amount;

"(D) dividing the result by 2 to determine a per person amount; and

"(E) multiplying the result by 150 percent and rounding upward to the nearest $50 to derive the prevailing level amount.

"(c) ADJUSTED NET WORTH OF A BUSINESS.—For each award year after award year 1992–1993, the Secretary shall publish in the Federal Register a revised table of adjusted net worth of a business for purposes of sections 475(d)(2)(C), 476(c)(2)(C), and 477(c)(2)(C). Such revised table shall be developed—

"(1) by increasing each dollar amount that refers to net worth of a business by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between 1992 and the December next preceding the beginning of such award year, and rounding the result to the nearest $5,000; and

"(2) by adjusting the dollar amounts '$30,000', '$105,000', and '$192,000' to reflect the changes made pursuant to paragraph (1).

"(d) ASSET PROTECTION ALLOWANCE.—(1) For each award year after award year 1992–1993, the Secretary shall publish in the Federal Register a revised table of asset protection allowances for the purpose of sections 475(d)(3), 476(c)(3), and 477(c)(3). Such revised table shall be developed by using the most recent data from the Consumer Expenditure Survey Integrated Survey Data according to paragraph (2) of this subsection.

"(2) Such revised table shall be developed by determining the present value cost, rounded to the nearest $100 and based on annually determined average life expectancy, of an annuity that would provide, for each age cohort of 40 and above, a supplemental income at age 65 (adjusted for inflation) equal to the difference between the prevailing standard level of the Consumer Expenditure Survey (adjusted as appropriate by the Consumer Price Index), and the current average social security retirement benefits. For each age cohort below 40, the asset protection allowance shall be computed by decreasing the asset protection allowance for age 40, as updated, by one-fifteenth for each year of age below age 40 and rounding the result to the nearest $100. In making such determinations—

"(A) inflation shall be presumed to be 6 percent per year;

"(B) the rate of return of an annuity shall be presumed to be 8 percent; and

"(C) the sales commission on an annuity shall be presumed to be 6 percent.

"(e) Assessment Schedules and Rates.—For each award year after award year 1992–1993, the Secretary shall publish in the Federal Register a revised table of assessments from adjusted available income for the purpose of sections 475(e) and 477(d). Such revised table shall be developed—

"(1) by increasing each dollar amount that refers to adjusted available income by a percentage equal to the estimated percentage increase in the Consumer Price Index (as determined by the Secretary) between December 1992 and the December next preceding the beginning of such academic year, rounded to the nearest $100; and

"(2) by adjusting the other dollar amounts to reflect the changes made pursuant to paragraph (1).

"(f) Definition of Consumer Price Index.—As used in this section, the term 'Consumer Price Index' means the Consumer Price Index for All Urban Consumers published by the Department of Labor. Each annual update of tables to reflect changes in the Consumer Price Index shall be corrected for misestimation of actual changes in such Index in previous years.

"(g) State and Other Tax Allowance.—For each award year after award year 1992–1993, the Secretary shall publish in the Federal Register a revised table of State and other tax allowances for the purpose of sections 475(c)(2), 475(q)(3), 476(b)(2), and 477(b)(2). The Secretary shall develop such revised table after review of the Department of the Treasury's Statistics of Income file and determination of the percentage of income that each State's taxes represent.

"(h) Employment Expense Allowance.—For each award year after award year 1992–1993, the Secretary shall publish in the Federal Register a revised table of employment expense allowances for the purpose of sections 475(c)(5), 476(b)(4), and 477(b)(5). Such revised table shall be developed by using the most recent expense data from the Consumer Expenditure Survey Integrated Survey Data and updating it as appropriate by the Consumer Price Index. Such revised table shall be developed—

"(1) by determining according to the Consumer Price Expenditure Survey for each of the most recent three years, the difference between average expenditures for two-earner and one-earner families on meals away from home, clothing, transportation, and personal household services;

"(2) multiplying each resulting amount as appropriate by the Consumer Price Index;

"(3) multiplying each result by 70 percent;

"(4) determining a three-year average for such expenditures; and

"(5) rounding the result to the nearest $100.

"SEC. 479. SIMPLIFIED NEEDS TEST.

"(a) General Eligibility.—For purposes of this title and as provided in subsection (b), individuals who do not file an Internal Revenue Service form 1040 shall be considered to have a zero family contribution if—

"(1) for purposes of section 475 of this part, the sum of the adjusted gross income of the parents is less than or equal to the maximum amount of income (rounded annually to the nearest thousand dollars) that may be earned in order to claim the Federal earned income credit; or

"(2) for purposes of section 477 of this part, the sum of the adjusted gross income of the student and spouse (if appropriate) is less than or equal to the maximum amount of income (rounded annually to the nearest thousand dollars) that may be earned in order to claim the Federal earned income credit.

"(b) Special Rule.—To be eligible under this section, an individual is not required to qualify or file for the earned income credit.

"SEC. 479A. DISCRETION OF STUDENT FINANCIAL AID ADMINISTRATORS.

"Nothing in this title shall be interpreted as limiting the authority of the financial aid administrator, on the basis of adequate documentation, to make adjustments on a case-by-case basis to the cost of attendance or the data required to calculate the expected student or parent contribution (or both), or to allow for treatment of an individual eligible applicant with special circumstances. However, this authority shall not be construed to permit aid administrators to deviate from the contributions expected in the absence of special circumstances. Special circumstances shall be conditions that differentiate an individual student from a class of students rather than conditions that exist across a class of students. Adequate documentation for such adjustments shall substantiate such special circumstances of individual students. In addition, nothing in this title shall be interpreted as limiting the authority of the student financial aid administrator in such cases to request and use supplementary information about the financial status or personal circumstances of eligible applicants in selecting recipients and determining the amount of awards under this title. For the purposes of this section, special circumstances include excluding from family income any proceeds of a sale of farm or business assets of a family if such sale results from a voluntary or involuntary foreclosure, forfeiture, or bankruptcy or an involuntary liquidation.

"SEC. 479B. DISREGARD OF STUDENT AID IN OTHER FEDERAL PROGRAMS.

"Notwithstanding any other provision of law, student financial assistance received under this title, or under Bureau of Indian Affairs student assistance programs, shall not be taken into account in determining the need or eligibility of any person for benefits or assistance, or the amount of such benefits or assistance, under any Federal, State, or local program financed in whole or in part with Federal funds.

"SEC. 479C. NATIVE AMERICAN STUDENTS.

"In determining family contributions for Native American students, computations performed pursuant to this part shall exclude—

"(1) any income and assets of $2,000 or less per individual payment received by the student (and spouse) and student's parents under the Per Capita Act or the Distribution of Judgment Funds Act; and

"(2) any income received by the student (and spouse) and student's parents under the Alaskan Native Claims Settlement Act or the Maine Indian Claims Settlement Act.

"SEC. 480. DEFINITIONS.

"As used in this part:

"(a) Total Income.—(1) Except as provided in paragraph (2), for parents of dependent students and for dependent students, the term 'total income' is equal to adjusted gross income plus untaxed income and benefits for the preceding tax year minus excludable income (as defined in subsection (e)).

"(2) For the independent student and, if appropriate his or her spouse, the term 'total income' is equal to adjusted gross income plus untaxed income and benefits minus excludable income as defined in subsection (e) for the period of July 1 to June 30 of the award year.

"(3) No portion of any student financial assistance received from any program by an individual shall be included as income or assets in the computation of expected family contribution for any program funded in whole or in part under this Act.

"(b) Untaxed Income and Benefits.—The term 'untaxed income and benefits' means—

"(1) child support received;

"(2) welfare benefits, including aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act and aid to dependent children;

"(3) workman's compensation;

"(4) veterans' benefits, including death pension, dependency, indemnity compensation, and veterans' education benefits as defined in subsection (c);

"(5) interest on tax-free bonds;

"(6) housing, food, and other allowances (excluding rent subsidies for low-income housing) for military, clergy, and others (including cash payments and cash value of benefits);

"(7) cash support or any money paid on the student's behalf, except, for dependent students, funds provided by his or her parents;

"(8) the amount of earned income credit claimed for Federal income tax purposes;

"(9) untaxed portion of pensions;

"(10) credit for Federal tax on special fuels;

"(11) the amount of foreign income excluded for purposes of Federal income taxes;

"(12) untaxed social security benefits;

"(13) payments to individual retirement accounts and Keogh accounts excluded from income for Federal income tax purposes; and

"(14) any other untaxed income and benefits, such as Black Lung Benefits, Refugee Assistance, railroad retirement benefits, or Job Training Partnership Act noneducational benefits.

"(c) Veteran and Veterans' Benefits.—(1) The term 'veteran' means any individual who—

"(A) has engaged in the active duty in the United States Army, Navy, Air Force, Marines, or Coast Guard; and

"(B) was released under a condition other than dishonorable.

"(2) The term 'veterans' benefits' means veterans' benefits the student will receive during the award year, including but not limited to the following:

"(A) Title 10, chapter 2: Reserve Officer Training Corps scholarship.

"(B) Title 10, chapter 106: Selective Reserve.

"(C) Title 10, chapter 107: Selective Reserve Educational Assistance Program.

"(D) Title 37, chapter 2: Reserve Officer Training Corps Program.

"(E) Title 38, chapter 30: Montgomery GI Bill—active duty.

"(F) Title 38, chapter 31: vocational rehabilitation.

"(G) Title 38, chapter 32: Post-Vietnam Era Veterans' Educational Assistance Program.

"(H) Title 38, chapter 35: Dependents Educational Assistance Program.

"(I) Title 38, section 207: unnamed program for 1977–78 service academy attendees and 1978 ROTC graduates.

"(J) Public Law 97–376, section 156: Restored Entitlement Program for Survivors (or Quayle benefits).

"(K) Public Law 96–342, section 903: Educational Assistance Pilot Program.

"(d) INDEPENDENT STUDENT.—The term 'independent', when used with respect to a student, means any individual who—

"(1) is 24 years of age or older by December 31 of the award year;

"(2) is an orphan or ward of the court;

"(3) is a veteran of the Armed Forces of the United States (as defined in subsection (c)(1));

"(4) is a graduate or professional student;

"(5) is a married individual;

"(6) has legal dependents other than a spouse; or

"(7) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

"(e) EXCLUDABLE INCOME.—The term 'excludable income' means—

"(1) any student financial assistance awarded based on need as determined in accordance with the provisions of this part, including any income earned from work under part C of this title;

"(2) any living allowance received by a participant in a program established under the National and Community Service Act of 1990;

"(3) child support payments made by the student or parent; and

"(4) payments made and services provided under part E of title IV of the Social Security Act.

"(f) ASSETS.—(1) The term 'assets' means cash on hand, including the amount in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, tax shelters, and the net value of real estate, income producing property, and business and farm assets.

"(2) With respect to determinations of need under this title, other than for subpart 4 of part A, the term 'assets' shall not include the net value of—

"(A) the family's principal place of residence;

"(B) a family farm on which the family resides; or

"(C) a small business (as that term is defined in regulation prescribed by the Administrator of the Small Business Administration pursuant to the Small Business Act) substantially owned and managed by a member or members of the family.

"(g) NET ASSETS.—The term 'net assets' means the current market value at the time of application of the assets included in the definition of 'assets', minus the outstanding liabilities or indebtedness against the assets.

"(h) TREATMENT OF INCOME TAXES PAID TO OTHER JURISDICTIONS.—(1) The tax on income paid to the Governments of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions, or the comparable tax paid to the central government of a foreign country, shall be treated as Federal income taxes.

"(2) References in this part to the Internal Revenue Code of 1986, Federal income tax forms, and the Internal Revenue Service shall, for purposes of the tax described in paragraph (1), be treated as references to the corresponding laws, tax forms, and tax collection agencies of those jurisdictions, respectively, subject to such adjustments as the Secretary may prescribe by regulation.

"(i) CURRENT BALANCE.—The term 'current balance of checking and savings accounts' does not include any funds over which an individual is barred from exercising discretion and control because of the actions of any State in declaring a bank emergency due to the insolvency of a private deposit insurance fund.

"(j) OTHER FINANCIAL ASSSISTANCE; TUITION PREPAYMENT PLANS.—(1) For purposes of determining a student's eligibility for funds under this title, estimated financial assistance not received under this title shall include all scholarships, grants, loans, or other assistance known to the institution at the time the determination of the student's need is made.

"(2)(A) Except as provided in subparagraph (B), for purposes of determining a student's eligibility for funds under this title, tuition prepayment plans shall reduce the cost of attendance (as determined under section 472) by the amount of the prepayment, and shall not be considered estimated financial assistance.

"(B) If the institutional expense covered by the prepayment must be part of the student's cost of attendance for accounting purposes, the prepayment shall be considered estimated financial assistance, as defined in subsection 480(j).".

PART G—GENERAL PROVISIONS

SEC. 481. DEFINITIONS.

(a) INSTITUTION OF HIGHER EDUCATION.—(1) Section 481(a)(1) of the Act is amended—

(A) by striking "and part B";

(B) by adding "and" at the end of subparagraph (A);

(C) by striking the semicolon at the end of subparagraph (B) and inserting a period; and

(D) by striking subparagraphs (C) and (D).

(2) Section 481(a) of the Act is amended by striking paragraphs (2) and (3) and inserting the following:

"(2) Notwithstanding paragraph (1) of this subsection, an institution which enrolls 50 percent or more of its students in correspondence courses is not an 'institution of higher education' under this title.

"(3) An institution may not qualify as an institution of higher education if—

"(A) such institution has filed for bankruptcy; and

"(B) the institution, its owner, or its chief executive officer has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this title, or has been judicially determined to have committed fraud involving funds under this title.

"(4) The Secretary shall certify an institution's qualification as an institution of higher education in accordance with the requirements of subsections (e) and (f) of this subsection.".

(b) PROPRIETARY INSTITUTIONS OF HIGHER EDUCATION.—Section 481(b) is amended by—

(1) inserting "pursuant to section 1205" after "this purpose"; and

(2) by striking the last two sentences and inserting the following: "Notwithstanding clause (i) of this subsection, an institution which provides less than a 600 clock hour, but more than a 300 clock hour, program of training to prepare students for gainful employment in a recognized occupation may be eligible for loans under part B or part D if (i) the owner of the institution or a prospective employer cosigns the loan with the students, pursuant to regulations of the Secretary; and (ii) the loan amount is not more than half of the tuition and fees as defined in section 472(1).".

(c) AWARD YEAR.—Section 481(d) of the Act is amended to read as follows:

"(d) ACADEMIC AND AWARD YEAR.—(1) For the purpose of any program under this title, the term 'award year' shall be defined as the period beginning July 1 and ending June 30 of the following year.

"(2) For the purpose of any program under this title, the term 'academic year' shall require a minimum of 30 weeks of instructional time in which a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at an institution which measures program length in credit hours or at least 900 clock hours at an institution which measures program length in clock hours. For the purposes of any program under this title, program length for any course of instruction of less than two years which is occupational, vocational, trade, or technical in nature shall be measured in clock hours, except for a program where all of the hours are fully acceptable for credit in a two or four year program at the institution.".

(d) BRANCHES OF INSTITUTIONS; CHANGES OF OWNERSHIP; THIRD PARTY SERVICERS.—Section 481 of the Act is amended by striking subsection (e) and inserting the following new subsections:

"(e) TIME LIMITATIONS ON, AND RENEWAL OF, ELIGIBILITY.—(1) The eligibility for the purposes of any program authorized under this title of any institution that is participating in any such program on the date of enactment of the Higher Education Amendments of 1992 shall expire in accordance with the schedule prescribed by the Secretary in accordance with paragraphs (2) and (3), but not later than 5 years after such date of enactment.

"(2) The Secretary shall establish a schedule for the expiration of the eligibility for purposes of any such program of all institutions of higher education within the 5-year period specified in paragraph (1).

"(3) Such schedule shall place a priority for the expiration of the certification of institutions on those that meet the following criteria: (A) institutions with high default rates, (B) institutions where there is evidence of fraud and abuse, (C) institutions lacking financial responsibility, (D) institutions with a record of having violated or failed to carry out any provisions of this title, or (E) other institutions which the Secretary deems necessary.

"(4) After the expiration of the certification of any institution under the schedule prescribed under this subsection, or upon request for initial certification from an institution not previously certified, the Secretary may certify the eligibility for the purposes of any program authorized under this title of each such institution for a period not to exceed 4 years.

"(5) The personnel of the Department of Education shall conduct a site visit at each institution before certifying or recertifying its eligibility for purposes of any such program. The Secretary may charge reasonable fees to cover the expenses of certification and site visits and, to the extent permitted by appropriations Acts, may retain such fees to cover such expenses.

"(6) The Secretary shall not certify the eligibility of any institution for such purposes unless the Secretary determines that such institution complies with criteria prescribed by the Secretary, pursuant to section 487(a)(3), to ensure the proper and efficient administration of funds received from the Secretary or from students under this title.

"(f) Provisional Certification of Institutional Eligibility.—(1) Notwithstanding any other provision of law, the Secretary is authorized to provisionally certify an institution's eligibility to participate in programs under this title if—

"(A) the institution's administrative capability and financial responsibility is being determined for the first time;

"(B) there is a complete or partial transfer of ownership, as defined under section 481(h), of an eligible institution; or

"(C) the Secretary deems that an institution is, in the judgment of the Secretary, in an administrative or financial condition that may jeopardize its ability to perform its responsibilities under its program participation agreement.

"(2) The Secretary may provisionally certify an institution under this subsection for up to 3 complete award years.

"(3) If, prior to the end of a period of provisional certification under this subsection, the Secretary determines that the institution is unable to meet its responsibilities under its program participation agreement, the Secretary may terminate the institution's participation in programs under this title.

"(g) Branches.—For the purposes of this title, a branch of an eligible institution, as defined pursuant to the regulations of the Secretary, is a separate institution of higher education and therefore must separately meet all the requirements of this title.

"(h) Changes of Ownership.—For the purpose of this section (other than subsection (b)(5)), an eligible institution of higher education that has a change in ownership resulting in a change in control shall not be considered to be the same institution and shall be considered a new institution for the purpose of establishing eligibility. Such actions may include (but are not limited to)—

"(1) the sale of the institution or the majority of its assets;

"(2) the transfer of the controlling interest of stock of the institution or its parent corporation;

"(3) the merger of two or more eligible institutions;

"(4) the division of one or more institutions into two or more institutions;

"(5) the transfer of the controlling interest of stock of the institutions to its parent corporation; or

"(6) the transfer of the liabilities of the institution to its parent corporation.

"(i) Third Party Servicer.—For purposes of this title, the term 'third party servicer' means—

"(1) any State or private, profit or nonprofit organization or individual which enters into a contract with any eligible institution of higher education to administer, through either manual or automated processing, any aspect of such institution's student assistance programs under this title; or

"(2) any State or private, profit or nonprofit organization or individual which enters into a contract with any guaranty agency, or any eligible lender, to administer, through either manual or automated processing, any aspect of such guaranty agency's or lender's student loan programs under part B of this title, including but not limited to, originating, guaranteeing, monitoring, processing, servicing, or collecting loans.".

SEC. 482. MASTER CALENDAR.

(a) Amendment.—Section 482(c) of the Act is amended to read as follows:

"(c) Delay of Effective Date of Late Publications.—Any regulatory changes initiated by the Secretary affecting the programs pursuant to this title that have not been published in final form by December 1 prior to the start of the award year shall not become effective until the beginning of the second award year after such December 1 date.".

(b) Conforming Amendments.—

(1) Section 482(a)(1) of the Act is amended by striking "sections 411E and" each place it appears in subparagraphs (B) and (C) and inserting "section".

(2) Section 482(b) of the Act is amended by striking "subpart 2" and inserting "subpart 3".

SEC. 483. FORMS AND REGULATIONS.

(a) Forms and Processing.—Section 483(a) of the Act is amended—

(1) in paragraph (1)—

(A) by striking "subpart 3" in the first sentence and inserting "subpart 4"; and

(B) by striking out the third and fourth sentences and inserting the following sentences: "The common financial reporting form prescribed by the Secretary shall be produced, distributed, and processed by the Secretary and no parent or student shall be charged a fee for the collection, processing, or delivery of financial aid through the use of such form. If an institution requires or encourages a student to provide additional data through an approved contractor, the charge to the student must be reasonable and based upon the marginal cost of collecting, processing, and delivering such data, adjusted for any payment received by the contractor to produce, distribute, and process the common financial reporting form prescribed by the Secretary. The need and eligibility of a student for financial assistance under parts A, C, and E of this title (other than under subpart 4 of part A) and the need of a student for the purpose of parts B and D of this title, may only be determined by using the form developed by the Secretary pursuant to this section. No student may receive assistance under parts A, C, and E of this title (other than under subpart 4 of part A) or have his or her need established for the purpose of parts B and D of this title, except by use of the form developed by the Secretary pursuant to this section. Institutions and States may receive without charge the data collected by the Secretary using the form developed pursuant to this section for the purposes of determining need and eligibility for institutional and State financial aid awards. This application will satisfy the requirements of section 411(d) of this title.";

(2) in paragraph (2)—

(A) by striking ", to the extent practicable," in the first sentence;

(B) by striking "not less than 5" in the first sentence; and

(C) by striking the second sentence;

(3) by redesignating paragraph (5) as paragraph (6);

(4) by inserting after paragraph (4) the following new paragraph:

"(5) No approved contractor shall enter into exclusive arrangements with guarantors, lenders, secondary markets, or institutions for the purpose of reselling or sharing of data collected for the multiple data entry process. All data collected for the multiple data entry process is the exclusive property of the Secretary and may not be transferred to a third party by an approved contractor without the Secretary's expressed written approval."; and

(5) by adding at the end thereof the following:

"(7) Individuals determined to have a zero family contribution pursuant to section 479 shall not be required to provide any financial data, except that which is necessary to determine eligibility under that section.".

(b) Additional Amendments.—Section 483 is further amended—

(1) by striking subsections (d) and (f);

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(3) by inserting after subsection (a) the following new subsection:

"(b) Streamlined Reapplication Process.—(1) The Secretary shall, within 240 days after the date of enactment of the Higher Education Amendments of 1992, develop a streamlined process for those recipients who reapply for financial aid funds under this title in the next succeeding academic year subsequent to the initial year in which they apply.

"(2) The Secretary shall develop appropriate mechanisms to support reapplication.

"(3) The Secretary shall determine, in cooperation with institutions, agencies, and organizations involved in student financial assistance, the data elements that can be updated from the previous academic year's application.

"(4) Nothing in this title shall be interpreted as limiting the authority of the Secretary to reduce the number of data elements required of reapplicants."; and

(4) by amending subsection (e) to read as follows:

"(e) Toll-Free Information.—The Secretary shall contract for, or establish, and publicize a toll-free telephone number, including a telephone number accessible by telecommunication devices for the deaf (TDD's), to provide timely and accurate information to the general public and to refer students with disabilities and their families to the national clearinghouse on postsecondary education that is authorized under section 633(c) of the Individuals with Disabilities Education Act.".

SEC. 484. STUDENT ELIGIBILITY.

(a) In General.—Section 484 of the Act is amended—

(1) in subsection (a)(1), by inserting "(including a program of study abroad approved for credit by the eligible institution)" after "or other program"; and

(2) by striking paragraph (4) of subsection (a) and inserting the following:

"(4) file with the institution of higher education which the student intends to attend, or is attending (or in the case of a loan or loan guarantee with the lender), a document, which need not be notarized, but which shall include—

"(A) a statement of educational purpose stating that the money attributable to such grant, loan, or loan guarantee will be used solely for expenses related to attendance or continued attendance at such institution; and

"(B) such student's social security number;";

(3) by striking the period at the end of paragraph (5) and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(6) in the case of a student enrolled in an undergraduate program of study, not have previously received a baccalaureate degree.".

(b) Exceptions to Eligible Student Definition.—

(1) Amendments.—Section 484(b) of the Act is amended—

(A) by striking "subpart 1" each place it appears in paragraph (1) and inserting "subpart 2";

(B) in paragraph (4)—

(i) by striking "part B" and inserting "part B, D, or E"; and

(ii) by inserting before the period at the end the following: "or work-study assistance under part C of this title"; and

(C) by adding at the end the following new paragraph:

"(5) Notwithstanding any other provision of this subsection, no incarcerated student is eligible to receive a loan under this title.".

(2) Effective date.—The amendments made by paragraph (1)(B) of this subsection shall be effective on and after December 1, 1987.

(c) Ability To Benefit.—Section 484(d) of the Act is amended—

(1) by striking "subparts 1, 2, and 3" and inserting "subparts 2, 3, and 4";

(2) by striking "shall" and inserting "shall (1)"; and

(3) by striking the period at the end thereof and inserting the following: "; or (2) be determined as having the ability to benefit from the education or training in accordance with such process as the State or an agency of such State shall prescribe. Any such process described or approved by a State for the purposes of this section shall be effective only upon review and approval of the Secretary in accordance with standards duly promulgated by the Secretary, which standards shall take into account the effectiveness of such process in enabling students without high school diplomas or the equivalent thereof to benefit from the instruction offered by institutions utilizing such process, and shall also take into account the cultural diversity, economic circumstances, and educational preparation of the populations served by the institutions.".

(d) Verification.—Section 484(f) of the Act is amended by adding at the end the following new sentence: "Nothing in this subsection shall preclude the Secretary from verifying all applications for aid through the use of any means available, including through the exchange of information with any other Federal agency.".

(e) Loss of Eligibility.—Section 484(g) of the Act is amended—

(1) by inserting "(1)" before "No student";

(2) by inserting ", part D" after "part B" each place it appears;

(3) by inserting "fraudulently" before "borrowed" each place it appears; and

(4) by adding at the end the following new paragraph:

"(2) If the institution determines that the student inadvertently borrowed amounts in excess of such annual or aggregate maximum loan limits, such institution shall allow the student to repay any amount borrowed in excess of such limits prior to certifying the student's eligibility for further assistance under this title.".

(f) Additional Requirements.—

(1) Amendment.—Section 484 of the Act is amended by adding at the end thereof the following new subsections:

"(l) Verification of Social Security Number.—The Secretary of Education, in cooperation with the Commissioner of the Social Security Administration, shall verify any social security number provided by a student to an eligible institution under subsection (a)(4) and shall enforce the following conditions:

"(1) An institution shall not deny, reduce, delay, or terminate a student's eligibility for assistance under this part because social security number verification is pending.

"(2) If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, the institution shall deny or terminate the student's eligibility for any grant, loan, or work assistance under this title until such time as the student provides a correct social security number.

"(3) If there is a determination by the Secretary that the social security number provided to an eligible institution by a student is incorrect, and a correct social security number cannot be provided by such student, and a loan has been guaranteed for such student under part B of this title, the institution shall notify and instruct the lender and guaranty agency making and guaranteeing the loan to cease further payments under the loan, but such guaranty shall not be voided or otherwise nullified with respect to such payments made before the date that the lender and the guaranty agency receives such notice.

"(4) Nothing in this subsection shall permit the Secretary to take any compliance, disallowance, penalty, or other regulatory action against any institution of higher education with respect to any error in a social security number, unless such error was a result of fraud on the part of the institution or any action against any student with respect to any error in a social security number, unless such error was a result of fraud on the part of the student.

"(m) Data Base Matching.—To enforce the Selective Service registration provisions of section 1113 of Public Law 97-252, the Secretary shall conduct data base matches with the Selective Service, using common demographic data elements. Appropriate confirmation, through an application output document or through other means, of any person's registration shall fulfill the requirement to file a separate statement of compliance. Further, in the absence of a confirmation from such data matches, an institution may also use data or documents that support either the student's registration or the absence of a registration requirement for the student, to fulfill the requirement to file a separate statement of compliance. The mechanism for reporting the resolution of nonconfirmed matches shall be prescribed in regulations by the Secretary.

"(n) Study Abroad.—Nothing in this Act shall be construed to limit or otherwise prohibit access to approved study abroad programs. Students who are otherwise eligible who are engaged in a program of study abroad approved for academic credit by the student's home institution are eligible for assistance under this title. It is not necessary for such a study abroad program to be required as part of the student's degree program to qualify for such assistance.

"(o) Courses Offered Through Telecommunications Devices.—(1) Students enrolled in courses of instruction at eligible institutions of higher education that are offered in whole or in part through telecommunications devices or mediums shall not be considered to be enrolled in correspondence courses.

"(2) Students shall not have their eligibility to participate in programs under this title restricted or reduced if such restriction or reduction is based solely on their enrollment in courses described in paragraph (1) of this subsection.

"(3) For the purposes of this subsection, the term 'telecommunications devices or mediums' means the use of television, audio, or computer transmission, including (but not limited to) open broadcast, closed circuit, cable, microwave, or satellite, audio conferencing, or computer conferencing.

"(p) Suspension of Eligibility for Drug-Related Offenses.—

"(1) In general.—An individual who, after qualifying under this section as an eligible student, has been convicted under any Federal or State law of the possession or sale of a controlled substance shall not be eligible to receive any grant, loan, or work assistance under this title during the period beginning on the date of such conviction and ending after the interval specified in the following table:

"If convicted of:

The possession of a controlled substance:	Ineligibility period is:
1st conviction	1 year
2nd conviction	2 years
3rd conviction	indefinite
The sale of a controlled substance:	
1st conviction	2 years
2nd conviction	indefinite

"(2) Rehabilitation.—A student whose eligibility has been suspended under paragraph (1) shall resume eligibility before the end of the period determined under such paragraph if the student satisfactorily completes a drug rehabilitation program that complies with such criteria as the Secretary shall prescribe for purposes of this paragraph.

"(3) First convictions.—A student whose eligibility has been suspended under paragraph (1) and is convicted of his or her first offense may resume eligibility before the end of the period determined under such paragraph if the student demonstrates that he or she has enrolled or been accepted for enrollment in a drug rehabilitation program that complies with such criteria as the Secretary shall prescribe for purposes of this subsection.

"(4) Definitions.—As used in this subsection, the term 'controlled substance' has the meaning given in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)).

"(5) Effective date.—This subsection shall be effective upon publication by the Secretary in the Federal Register of criteria prescribed under paragraph (2) of this subsection.".

(2) Clerical amendment.—Section 801(a) of the National Literacy Act of 1991 is amended by striking "the Act" and inserting "the Higher Education Act of 1965".

SEC. 485. STATUTE OF LIMITATIONS.

Section 484A of the Act is amended—

(1) in subsection (b)(2)—

(A) by striking "part B of"; and

(B) by inserting "an institution," before "a guaranty agency"; and

(2) by adding at the end the following new subsection:

"(c) Other Claims and Defenses.—With respect to any loan made under part B of this title, a lender, except such loans where the lender is an eligible institution or the institution has an origination relationship with the lender, a holder, a guaranty agency or the Secretary shall not be subject to any claim or defense asserted by the borrower which is attributable to an act or failure to act by an educational institution attended by the borrower.".

SEC. 486. INFORMATION.

(a) REFUND POLICIES AND REQUIREMENTS.—Part G of title IV of the Act is further amended by inserting after section 484A the following new section:

"INSTITUTIONAL REFUNDS

"SEC. 484B. (a) REFUND POLICY REQUIRED.—Each institution of higher education participating in a program under this title shall have in effect a fair and equitable refund policy under which the institution refunds unearned tuition, fees, room and board, and other charges to a student who received grant, loan, or work assistance under this title, or whose parent received a loan made under section 428B on behalf of the student, if the student—

"(1) does not register for the period of attendance for which the assistance was intended; or

"(2) withdraws or otherwise fails to complete the period of enrollment for which the assistance was provided.

"(b) DISCLOSURE OF POLICY.—The institution shall provide a written statement containing its refund policy, together with examples of the application of this policy, to a prospective student prior to the student's enrollment and make its refund policy known to currently enrolled students. The institution shall include in its statement the procedures that a student must follow to obtain a refund, but whether or not the student follows those procedures, the institution shall, in accordance with subsection (e), pay to the lender the portion of a refund allocable to the student's loans made, insured, or guaranteed under section 427, 428, 428A, or 428B, and return the portion of the refund allocable to another program under title IV of the Act to the appropriate account for that program as stated in section 485(a)(1)(F). If the institution changes its refund policy, it shall ensure that all students are made aware of the new policy.

"(c) DETERMINATIONS.—The institution's refund policy shall be considered to be fair and equitable for purposes of this section if that policy provides for a refund in an amount of at least the largest of the amounts provided under—

"(1) the requirements of applicable State law;

"(2) the specific refund requirements established by the institution's nationally recognized accrediting agency and approved by the Secretary;

"(3) if no such standards exist, the specific refund policy standards set by another association of institutions of postsecondary education and approved by the Secretary; or

"(4) the pro rata refund calculation described in subsection (d), except that this paragraph will not apply to the institution's refund policy for any student whose date of withdrawal from the institution is after the 75 percent point (in time) in the period of enrollment for which the student has been charged.

"(d) DEFINITIONS.—(1) As used in this section, the term 'pro rata refund' means a refund by the institution of not less than that portion of the tuition, fees, room and board, and other charges assessed the student by the institution equal to the portion of the period of enrollment for which the student has been charged that remains on the last recorded day of attendance by the student, rounded downward to the nearest 10 percent of that period, less any unpaid charges owned by the student for the period of enrollment for which the student has been charged, and less a reasonable administrative fee not to exceed the lesser of 5 percent of the tuition, fees, room and board, and other charges assessed the student, or $100.

"(2) For purposes of paragraph (1), 'the portion of the period of enrollment for which the student has been charged that remains', shall be determined—

"(A) in the case of a program that is measured in credit hours, by dividing the total number of weeks comprising the period of enrollment for which the student has been charged into the number of weeks remaining in that period as of the last recorded day of attendance by the student;

"(B) in the case of a program that is measured in clock hours, by dividing the total number of clock hours comprising the period of enrollment for which the student has been charged into the number of clock hours remaining to be completed by the student in that period as of the last recorded day of attendance by the student; and

"(C) in the case of a correspondence program, by dividing the total number of lessons comprising the period of enrollment for which the student has been charged into the total number of such lessons not submitted by the student.".

(b) INFORMATION DISSEMINATION ACTIVITIES.—Section 485(a)(1) of the Act (20 U.S.C. 1092(a)(1)) is amended—

(1) in subparagraph (F)—

(A) by inserting ", as determined under section 484B," after "of the institution";

(B) by inserting before the semicolon at the end the following: ", which refunds shall be credited first to outstanding balances on loans under part B of this title, second to loans under parts D and E of this title, and third to other student assistance provided under this title".

(2) by striking "and" at the end of subparagraph (K);

(3) by striking the period at the end of subparagraph (L) (as added by section 1 of Public Law 101-542) and inserting a semicolon;

(4) by redesignating subparagraph (L) (as added by section 201 of Public Law 101-610) as subparagraph (M);

(5) by striking the period at the end of subparagraph (M) (as redesignated by paragraph (4)) and inserting a semicolon and "and"; and

(6) by adding at the end thereof the following new subparagraph:

"(N) that enrollment in a program of study abroad approved for credit by the home institution may be considered enrollment in the home institution for purposes of applying for Federal student financial assistance.".

(c) EXIT COUNSELING.—Section 485(b) of the Act is amended to read as follows:

"(b) EXIT COUNSELING FOR BORROWERS.—(1) Each eligible institution shall, through financial aid officers or otherwise, make available counseling to borrowers (individually or in groups) of loans which are made, insured, or guaranteed under part B (other than loans made pursuant to section 428B) of this title or made under parts D or E of this title prior to the completion of the course of study for which the borrower enrolled at the institution or at the time of departure from such institution. The counseling required by this subsection shall include—

"(A) the average anticipated monthly repayments, a review of the repayment option available, together with such debt and management strategies as the institution determines are designed to facilitate the repayment of such indebtedness; and

"(B) the terms and conditions under which the student may obtain partial cancellation or defer repayment of the principal and interest pursuant to sections 428(b), 464(c)(2), and 465.

"(2)(A) Each eligible institution shall require that the borrower of a loan made under part B, part D, or part E submit to the institution, during the exit counseling required by this subsection, the borrower's expected permanent address after leaving the institution, regardless of the reason for leaving; the name and address of the borrower's expected employer after leaving the institution; and the address of the borrower's next of kin.

"(B) Exit counseling shall include a review of the institution's records relating the borrower's name, social security number, and driver's license number. In any case where incomplete or obsolete information is identified, the institution shall collect corrected or complete information.

"(C) The institution shall, within 60 days after the interview, forward the information collected in subparagraphs (A) and (B) to the lender and the guaranty agency indicated on the borrower's student aid records.".

(d) CAMPUS SECURITY POLICY.—

(1) POLICY.—Section 485(f)(1) of the Act is amended by adding at the end the following new subparagraph:

"(J) A statement of current campus policies regarding institutional programs aimed at the prevention of sex offenses, procedures to be followed once a sex offense has occurred, and the availability of assistance to victims.".

(2) STATISTICS.—Section 485(f)(1)(F) of the Act is amended to read as follows:

"(F) Statistics concerning the occurrence on campus, during the most recent calendar year, and during the 2 preceding calendar years for which data are available, of the following criminal offenses reported to campus security authorities or local police agencies:

"(i) murder;

"(ii) sex offenses, forcible or nonforcible;

"(iii) robbery;

"(iv) aggravated assault;

"(v) burglary; and

"(vi) motor vehicle theft.".

(3) POLICY DEVELOPMENT.—Section 485(f) of the Act is amended by adding at the end the following new paragraph:

"(7) In developing a campus sexual assault policy pursuant to paragraph (1)(J), some examples might include—

"(A) clearly establishing the role of appropriate campus personnel in—

"(i) counseling students regarding the options available for responding to the sexual offense, for example, contacting local police and/or going through an internal campus disciplinary proceeding;

"(ii) contacting the proper authorities on the occurrence of a sexual offense and providing students a list of the campus personnel responsible for providing students with any assistance or information they are to receive from the school;

"(iii) informing students and campus personnel as to the importance of preserving evidence as may be necessary to the proof of criminal sexual assault;

"(B) consider the following provisions for inclusion in their campus policy—

"(i) providing that both the assailant and the victim are assured of the same opportunity to have or not have legal assistance, or ability to have others present, in any campus disciplinary proceeding, and the right to be notified of the outcome of such proceeding;

"(ii) providing information on any options, as provided by State and Federal laws or regulations, with regard to mandatory testing of sexual assault suspects for communicable diseases and with regard to notification to victims of the results of such testing;

"(iii) providing information on what other services are available to students who are victims of sexual offenses. For example, providing a list of mental health services operated by the institution and/or rape crisis centers in the surrounding community;

"(iv) how the institution might try to keep the victim out of close proximity to the alleged assailant in classes and the living environment. For example, the institutions might try to offer the student housing alternatives or classes separate from the alleged assailant, if they are reasonably available.".

(e) USE OF COMMON IDENTIFIERS; INTEGRATION OF SYSTEMS.—Section 485B of the Act is amended by adding at the end the following new subsections:

"(e) COMMON IDENTIFIERS.—The Secretary shall, not later than July 1, 1993—

"(1) revise the codes used to identify institutions and students in the student loan data system authorized by this section to make such codes consistent with the codes used in each database used by the Department of Education that contains information of participation in programs under this title; and

"(2) modify the design or operation of the system authorized by this section to ensure that data relating to any institution is readily accessible and can be used in a form compatible with the integrated postsecondary education data system (IPEDS).

"(f) INTEGRATION OF DATABASES.—The Secretary shall integrate the National Student Loan Data System with the Pell Grant applicant and recipient databases as of January 1, 1994, and any other databases containing information on participation in programs under this title.".

SEC. 487. STUDENT LOAN DATA SYSTEM.

Part G of title IV of the Act is amended by inserting after section 485B the following new section:

"STUDENT LOAN DATA SYSTEM

"SEC. 485C. (a) SYSTEM REQUIRED.—The Secretary shall established a centralized data system for use by schools, borrowers, holders, and guarantors in the confirmation of borrower status, identification of the current holder and servicer of a loan, and confirmation of internship and residency status. Such system shall, at a minimum, contain information for all loans under part B transferred from one eligible lender to another, or serviced by a third party on behalf of an eligible lender, or originated with the proceeds of tax-exempt funds.

"(b) INFORMATION IN SYSTEM.—The information contained in such data system shall be deemed reliable for all program purposes relating to the conduct of loan servicing, including but not limited to, compliance with due diligence and claim filing requirements.

"(c) DEADLINES.—The Secretary shall—

"(1) within 6 months of the date of enactment of this section, submit a plan to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House for the establishment of such a data system,

"(2) implement such a data system within 2 years of the date of enactment.

"(d) RESTRICTED ACCESS.—Notwithstanding the provisions of section 552(a) of title 5, United States Code, relating to freedom of information, access to information in the data system established and maintained pursuant to subsection (a) shall be restricted to individuals and entities specifically authorized by the Secretary to have such access.".

SEC. 488. TRAINING IN FINANCIAL AID AND STUDENT SUPPORT SERVICES.

Section 486 of the Act is amended to read as follows:

"TRAINING IN FINANCIAL AID AND STUDENT SUPPORT SERVICES

"SEC. 486. (a) PROGRAM AUTHORITY.—The Secretary is authorized to provide grants to appropriate nonprofit private organizations or combinations of such organizations to provide training for student financial aid administrators and TRIO personnel, at all levels of experience, who provide student financial aid services or TRIO support programs.

"(b) USE OF FUNDS.—Financial assistance under this section may be used for, but is not limited to—

"(1) the operation of short-term training institutes and special training programs for student financial aid administrators or TRIO personnel designed to—

"(A) improve the professional management skills of participants in such institutes and programs;

"(B) improve the delivery of student services;

"(C) improve students' or prospective students' information on the availability and operation of student financial assistance programs;

"(D) improve the understanding and knowledge of the participants concerning the student financial assistance programs' legislative and regulatory requirements and changes in legislation and regulations; and

"(2) the development of appropriate materials.

"(c) LIMITATIONS.—Grants authorized under this section shall be—

"(1) limited to not less than $1,000,000 for single-year grants;

"(2) limited to not less than $1,000,000 per year for multiple-year grants;

"(3) limited to a maximum of 3 years for multiple-year grants; and

"(4) may be renewed at the discretion of the Secretary.

"(d) AUTHORIZATION OF APPROPRIATIONS AND USE OF FUNDS.—In addition to the sums provided pursuant to section 434, there are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of this section.".

SEC. 489. PROGRAM PARTICIPATION AGREEMENTS.

(a) STATE LICENSING REQUIREMENTS DISCLOSURE.—Section 487(a)(8) of the Act is amended—

(1) by striking "at or before the time of application," and inserting "at or before the time of application (A)"; and

(2) by inserting before the period at the end the following: ", and (B) relevant State licensing requirements of the State in which such institution is located for any job for which the course of instruction is designed for such prospective students".

(b) ADDITIONAL CONDITIONS.—Section 487(a) of the Act is amended by adding at the end the following new paragraphs:

"(13) The institution will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance.

"(14) The institution acknowledges the authority of the Secretary, guaranty agencies, lenders, accrediting agencies, the Secretary of Veterans Affairs, and State review agencies under section 495 to share with each other any information pertaining to the institution's eligibility to participate in programs under this title or any information on fraud and abuse.

"(15)(A) The institution will not employ an individual in a capacity that involves the administration of programs under this title, or the receipt of program funds under this title, who has been convicted of, or has pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this title, or has been judicially determined to have committed fraud involving funds under this title or contract with an institution or third party servicer that has been terminated under section 432 involving the acquisition, use, or expenditure of funds under this title, or who has been judicially determined to have committed fraud involving funds under this title.

"(B) The institution will not use any individual, agency, or organization that has been, or whose officers or employees have been—

"(i) convicted of, or pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of funds under this title; or

"(ii) judicially determined to have committed fraud involving funds under this title.

"(16)(A) The institution, in order to participate as an eligible institution under part B, will develop a Default Management Plan for approval by the Secretary as part of its initial application for certification as an eligible institution and will implement such Plan for two years thereafter.

"(B) Any institution of higher education which changes ownership and any eligible institution which changes its status as a parent or subordinate institution shall, in order to participate as an eligible institution under part B, develop a Default Management Plan for approval by the Secretary and implement such Plan for two years after its change of ownership or status.

"(17) The institution will not deny any form of Federal financial aid to any student who meets the eligibility requirements of this Act on the grounds that the student is participating in a program of study abroad approved for credit by the institution.

"(18) The institution will complete surveys conducted as a part of the Integrated Postsecondary Education Data System (IPEDS) or any other Federal postsecondary institution data collection effort, as designated by the Secretary, in a timely manner and to the satisfaction of the Secretary.

"(19) The institution will collect and transmit to the Secretary information on students participating in programs under subpart 2 of part A and part C of this title consistent with data collected by the Secretary concerning Pell Grant applicants and recipients, and will report this information to the Secretary annually, in a manner specified by the Secretary, to the satisfaction of the Secretary.

"(20) With respect to any institution that offers athletically related student aid, the institution will—

"(A) have an annual audit conducted, in accordance with guidelines prescribed by the Secretary by regulation, by a person certified to perform financial audits, of—

"(i) the total revenues, and the revenues by sport, derived by the institution's athletic departments and intercollegiate athletic activities;

"(ii) the total expenditures, and the direct expenditures by sport, derived from such departments and intercollegiate activities; and

"(iii) the total revenues and expenditures of the institution for the same period; and

"(B) make the reports on such audits available for inspection by the Secretary and the public.

"(21) The institution will not impose any penalty, including the assessment of late fees, the denial of access to classes, libraries, or other institutional facilities, or the requirement that the student borrow additional funds, on any student because of the student's inability to meet his or her financial obligations to the institution as a result of the delayed disbursement of the proceeds of a loan made under this title due to compliance with the provisions of this title, or delays attributable to the institution.".

(c) HEARINGS.—Section 487 of the Act is amended—

(1) in subsection (b)(2), by striking out "on the record"; and

(2) in subsection (c)—

(A) in the matter preceding subparagraph (A) of paragraph (1), by striking "is authorized to" and inserting "shall";

(B) in paragraph (1)(D), by striking out "on the record," and inserting in lieu thereof a comma;

(C) in paragraph (1)(F), by striking out "on the record"; and

(D) in paragraph (2)—

(i) in subparagraph (A), by striking out "on the record," and inserting in lieu thereof a comma; and

(ii) in subparagraph (B)(i), by striking out "on the record," and inserting in lieu thereof a comma.

(d) AUDITS; AVAILABILITY OF AUDIT INFORMATION.—Section 487(c)(1)(A)(i) of the Act is amended—

(1) by striking "a financial and compliance audit of an eligible institution," and inserting "a financial audit of an eligible institution with regard to the financial condition of the institution in its entirety, and a compliance audit of such institution";

(2) by striking "at least once every 2 years" and inserting "on at least an annual basis"; and

(3) by inserting "and shall be available to cognizant guaranty agencies, eligible lenders, State agencies (including State review agencies), and the agencies referred to in section 495" after "submitted to the Secretary".

(e) INFORMATION.—Section 487(c) of the Act is amended—

(1) in paragraph (1), by redesignating subparagraphs (C) through (G) as subparagraphs (E) through (I), respectively;

(2) by inserting after subparagraph (B) of such paragraph the following new subparagraphs:

"(C)(i) except as provided in clause (ii), a compliance audit of a third party servicer, with regard to any contract with an eligible institution, guaranty agency, or lender for administering or servicing any aspect of the student assistance programs under this title, at least once every year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

"(ii) with regard to third party servicer, which is audited under chapter 75 of title 31, United States Code, deeming such audit to satisfy the requirements of clause (i) for the period covered by such audit;

"(D)(i) a compliance audit of a secondary market with regard to its transactions involving, and its servicing and collection of, loans made under this title, at least once a year and covering the period since the most recent audit, conducted by a qualified, independent organization or person in accordance with standards established by the Comptroller General for the audit of governmental organizations, programs, and functions, and as prescribed in regulations of the Secretary, the results of which shall be submitted to the Secretary; or

"(ii) with regard to a secondary market that is audited under chapter 75 of title 31, United States Code, such audit shall be deemed to satisfy the requirements of clause (i) for the period covered by the audit;";

(3) in subparagraph (H) (as redesignated) of such paragraph, by striking out "an individual or an organization" and inserting in lieu thereof "a third party servicer";

(4) in subparagraph (I) (as redesignated) of such paragraph, by striking out "an individual or an organization" and inserting in lieu thereof "a third party servicer";

(5) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;

(6) by inserting immediately after paragraph (1) the following new paragraph:

"(2) If an individual who, or entity that, exercises substantial control, as determined by the Secretary in accordance with section 490A(b), over one or more institutions participating in any program under this title, or, for purposes of paragraphs (1)(H) and (I), over one or more organizations that contract with an institution to administer any aspect of the institution's student assistance program under this title, is determined to have committed one or more violations of the requirements of any program under this title, or has been suspended or debarred in accordance with the regulations of the Secretary, the Secretary may use such determination, suspension, or debarment as the basis for imposing an emergency action on, or limiting, suspending, or terminating, in a single proceeding, the participation of any or all institutions under the substantial control of that individual or entity."; and

(7) by adding at the end the following new paragraph:

"(5) The Secretary is authorized to provide any information collected as a result of audits conducted under this section, together with audit information collected by guaranty agencies, to any Federal or State agency having responsibilities with respect to student financial assistance, including those referred to in subsection (a)(14) of this section.".

(f) FINANCIAL RESPONSIBILITY STANDARDS.—Section 487(c) of the Act is further amended by adding at the end the following new paragraph:

"(6)(A) For the purpose of paragraph (1)(B) of this subsection, the Secretary shall consider an institution to be financially responsible if it is able to—

"(i) provide the services described in its official publications and statements;

"(ii) provide the administrative resources necessary to comply with the requirements of this title; and

"(iii) meet all of its financial obligations, including (but not limited to) refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary.

"(B) Notwithstanding subparagraph (A), an institution shall provide the Secretary with satisfactory evidence of its financial responsibility if, under the bases of accounting prescribed by regulation by the Secretary, the institution—

"(i) has had operating losses over its 2 most recent fiscal years;

"(ii) had, for its most recent fiscal year, a deficit net worth (the institution's liabilities exceed its assets);

"(iii) had, at the end of its most recent fiscal year, a ratio of current assets to current liabilities of less than one-to-one; or

"(iv) had its unrestricted current fund or operating fund reflect sustained material deficits over its 2 most recent fiscal years.

"(C) The Secretary may determine an institution to be financially responsible, notwithstanding the institution's failure to meet the criteria under subparagraphs (A) and (B), if—

"(i) such institution submits to the Secretary third-party financial guarantees, such as performance bonds or letters of credit payable to the Secretary, which third-party financial guarantees shall equal not less than one-half of the annual potential liabilities of such institution to the Secretary for funds under this title and to students for refunds of institutional charges, including funds under this title, including loan obligations discharged to students pursuant to section 437;

"(ii) such institution has its liabilities backed by the full faith and credit of a State, or its equivalent;

"(iii) such institution establishes to the satisfaction of the Secretary, with the support of a report of an independent certified public accountant prepared under generally accepted accounting principles, that the institution is a going concern capable of meeting all of its financial obligations, including (but not limited to) refunds of institutional charges and repayments to the Secretary for liabilities and debts incurred in programs administered by the Secretary; or

"(iv) such institution has met standards of financial responsibility, prescribed by the Secretary by regulation, that indicate a level of financial strength not less than those required in subparagraph (B).

"(D) The determination as to whether an institution has met the standards of financial responsibility provided for in subparagraphs (B) and (C)(iii) shall be based on an annual audited and certified financial statement of the institution, conducted by a qualified independent organization or person in accordance with standards established by the American Institute of Certified Public Accountants, that is submitted to the Secretary.".

(g) CONFORMING AMENDMENTS.—Section 487 of the Act is amended—

(1) by striking "subpart 3" in subsection (a) and inserting "subpart 4"; and

(2) by striking "435(a)" in subsection (d) and inserting "481".

SEC. 490. QUALITY ASSURANCE; IDENTIFICATION NUMBERS.

Part G of title IV of the Act is amended by inserting after section 487 the following new sections:

"QUALITY ASSURANCE PROGRAM

"SEC. 487A. (a) IN GENERAL.—The Secretary is authorized to select institutions for voluntary participation in a Quality Assurance Program that provides participating institutions with an alternative management approach through which individual schools develop and implement their own comprehensive systems to verify student financial aid application data thereby enhancing program integrity within the student aid delivery system. The Quality Assurance Program authorized by this section shall be based on criteria that include demonstrated institutional performance, as determined by the Secretary, and shall take into consideration current quality assurance goals, as determined by the Secretary.

"(b) Exemption From Requirements.—The Secretary is authorized to exempt any institution participating in the Quality Assurance Program from any reporting or verification requirements in this title, and may substitute such quality assurance reporting as the Secretary deems necessary to ensure accountability and compliance with the purposes of the programs under this title.

"(c) Removal From the Program.—The Secretary is authorized to determine—

"(1) when an institution that is unable to administer the Quality Assurance Program must be removed from the program, and

"(2) when institutions desiring to cease participation in the program will be required to complete the current award year under program requirements.

"(d) Experimental Sites.—(1) The Secretary is authorized to select institutions for voluntary participation as experimental sites to provide recommendations to the Secretary on the impact and effectiveness of proposed regulations or new management initiatives.

"(2) The Secretary is authorized to exempt any institution participating as an experimental site from any requirements in this title or in regulations that would bias experimental results.

"(e) Definitions.—For purposes of this section, 'current award year' is defined as the award year during which the participating institution indicates its intention to cease participation.

"ASSIGNMENT OF IDENTIFICATION NUMBERS

"Sec. 487B. The Secretary shall assign to each participant (including institutions, lenders, and guaranty agencies) in title IV programs, a single Department of Education identification number to be used to identify its participation in each of the title IV programs.".

SEC. 491. INTER-PROGRAM TRANSFERS.

Section 488 of the Act is amended—

(1) by striking "10 percent" and inserting "25 percent";

(2) by striking "section 413D or 442" and inserting "section 442 or 462"; and

(3) by inserting 2 new sentences after the first sentence, as follows: "Up to 25 percent of the allotment of an eligible institution for a fiscal year under section 442 of this Act, may be transferred to, and used for the purposes of, the institution's allotment under section 413D within the discretion of such institution in order to offer a package of types of aid, including institutional and State aid, that best fits the needs of each individual student. Nothing in this section authorizes an institution to use funds allocated under section 413D for any program or purpose other than the purposes of section 413A.".

SEC. 492. ADMINISTRATIVE EXPENSES.

(a) Amount of Payment.—Section 489(a) of the Act is amended by striking the fourth sentence (relating to payments with respect to section 447).

(b) Purpose of Payment.—Section 489(b) of the Act is amended—

(1) by inserting "(1)" before "The sums"; and

(2) by adding at the end the following new paragraph:

"(2) If the institution enrolls a significant number of students who are (A) attending the institution less than full time, (B) age 24 or older, (C) single parents, or (D) independent students, the institution shall use a reasonable proportion of the funds available under this section for financial aid services during times and in places that will most effectively accommodate the needs of such students.".

(c) Conforming Amendment.—Section 489(a) is further amended—

(1) by striking "subpart 2" each place it appears and inserting "subpart 3"; and

(2) by striking "subpart 1" each place it appears and inserting "subpart 2".

SEC. 493. CRIMINAL PENALTIES; EXTENT OF LIABILITY.

(a) Criminal Penalties.—Section 490 of the Act is amended to read as follows:

"CRIMINAL PENALTIES

"Sec. 490. (a) In General.—Any person who knowingly and willfully embezzles, misapplies, steals, or obtains by fraud, false statement, or forgery any funds, assets, or property provided or insured under this title, or attempts to so embezzle, misapply, steal, or obtain such funds, assets, or property, shall be fined not more than $20,000 or imprisoned for not more than 5 years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud, false statement, or forgery does not exceed $200, the fine shall not be more than $5,000 and imprisonment shall not exceed one year, or both.

"(b) Assignment of Loans.—Any person who knowingly and willfully makes any false statement, furnishes any false information, or conceals any material information in connection with the assignment of a loan which is made or insured under this title, or attempts to so make any false statement, furnish any false information, or conceal any material information in connection with such assignment shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than one year, or both.

"(c) Inducements To Lend or Assign.—Any person who knowingly and willfully makes an unlawful payment to an eligible lender under part B, or attempts to make such unlawful payment, as an inducement to make, or to acquire by assignment, a loan insured under that part shall, upon conviction thereof, be fined not more than $10,000 or imprisoned not more than one year, or both.

"(d) Obstruction of Justice.—Any person who knowingly and willfully destroys or conceals any record relating to the provision of assistance under this title or attempts to so destroy or conceal, with intent to defraud the United States or to prevent the United States from enforcing any right obtained by subrogation under this part, shall upon conviction thereof, be fined not more than $20,000 or imprisoned not more than 5 years, or both.".

(b) Extent of Liability.—Part G of title IV of the Act is further amended by inserting immediately after section 490 the following new section:

"EXTENT OF LIABILITY

"Sec. 490A. (a) Financial Guarantees; Accuracy of Data.—Notwithstanding any other provision of law, the Secretary is authorized, to the extent he determines necessary, to require—

"(1) financial guarantees from an institution participating, or seeking to participate, in a program under this title, or from 1 or more individuals who the Secretary determines, in accordance with subsection (b), exercise substantial control over such institution, or both, in an amount determined by the Secretary to be sufficient to satisfy the institution's potential liability to the Federal Government, student assistance recipient, and other program participants for funds under this title; and

"(2) the assumption of personal liability, by 1 or more individuals who exercise substantial control over such institution, as determined by the Secretary in accordance with subsection (b), for financial losses to the Federal Government, student assistance recipients, and other program participants for funds under this title, and civil and criminal monetary penalties authorized under this title.

"(b) Substantial Control.—(1) The Secretary may determine that an individual exercises substantial control over 1 or more institutions participating in a program under this title if the Secretary determines that—

"(A) the individual directly or indirectly controls a substantial ownership interest in the institution;

"(B) the individual, either alone or together with other individuals, represents, under a voting trust, power of attorney, proxy, or similar agreement, 1 or more persons who have, individually or in combination with the other persons represented or the individual representing them, a substantial ownership interest in the institution; or

"(C) the individual is a member of the board of directors, the chief executive officer, or other executive officer of the institution or of an entity that holds a substantial ownership interest in the institution.

"(2) The Secretary may determine that an entity exercises substantial control over 1 or more institutions participating in a program under this title if the Secretary determines that the entity directly or indirectly holds a substantial ownership interest in the institution.

"(3) For purposes of this subsection, an ownership interest is defined as a share of the legal or beneficial ownership or control of, or a right to share in the proceeds of the operation of, an institution or institution's parent corporation. An ownership interest may include, but is not limited to—

"(A) a sole proprietorship;

"(B) an interest as a tenant-in-common, joint tenant, or tenant by the entireties;

"(C) a partnership; or

"(D) an interest in a trust.

"(4) For purposes of section 487(c)(1)(G), this section shall also apply to individuals or organizations that contract with an institution to administer any aspect of an institution's student assistance program under this title.".

SEC. 494. ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE.

(a) Independent Control.—Section 491(b) of the Act is amended by inserting after the first sentence the following: "Notwithstanding Department of Education policies and regulations, the Advisory Committee shall exert independent control of its budget allocations and expenditures, personnel decisions and processes, procurements, and other administrative and management functions. The Advisory Committee's administration and management shall be subject to the usual and customary Federal audit procedures.".

(b) Membership.—Section 491(c)(1) of the Act is amended—

(1) in subparagraph (A), by inserting ", at least one of whom shall be a campus financial aid administrator," after "3 members";

(2) in subparagraph (B), by inserting ", at least one of whom shall be a campus financial aid administrator," after "3 members"; and

(3) in subparagraph (C), by inserting ", at least one of whom shall be a campus financial aid administrator," after "5 members".

(c) Functions.—Section 491(d) of the Act is amended—

(1) by striking "and in assessing the impact of legislative and administrative policy proposals" in paragraph (3);

(2) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) assess the impact of legislative and administrative policy proposals;".

(d) AVAILABILITY OF FUNDS.—Section 491(i) of the Act is amended by striking "$500,000" and inserting "$750,000".

(e) REAUTHORIZATION.—Section 491 of the Act is amended by striking subsection (j) and inserting in lieu thereof:

"(j) TERM OF THE COMMITTEE.—Notwithstanding the sunset and charter provisions of the Federal Advisory Committee Act (5 U.S.C. App. I) or any other statute or regulation, the Advisory Committee shall be reauthorized and its charter shall be renewed for a period of 5 years, or until such time as the Higher Education Act of 1965 is reauthorized or rescinded.".

(f) STUDENT LOAN PROGRAM SIMPLIFICATION.—Section 491 of the Act is amended by inserting after subsection (j) the following new subsection:

"(k) GUARANTEED STUDENT LOAN PROGRAM SIMPLIFICATION STUDY.—(1) The Advisory Committee shall conduct a thorough study of means of simplifying all aspects of the Federal Family Education Loan Program. In carrying out the study, the Advisory Committee shall examine, at a minimum—

"(A) reduction of paperwork burdens experienced by financial aid administrators resulting from the current structure of the Federal Family Education Loan Program;

"(B) promotion of simplification and standardization of forms, procedures, and all other aspects of guaranty agency operations for the purpose of facilitating data exchanges with such agencies (including the National Student Loan Database) and facilitating Department of Education oversight;

"(C) simplification of the bank repayment process to minimize borrower confusion, including encouragement of single holder ownership of all of an individual's loans;

"(D) encouragement of efficient utilization of loan programs to minimize multiple program borrowing in postsecondary education; and

"(E) other proposals which are designed to reduce the administrative burdens and paperwork required by students, educational institutions, guaranty agencies, lenders, secondary markets, and the Secretary submitted in response to a general solicitation by the Advisory Committee.

"(2) The Advisory Committee shall consult with the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate in carrying out the study required by this subsection.

"(3) The Advisory Committee shall, not later than 1 year after the date of enactment of this Act, prepare and submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report on the study required by this subsection.".

SEC. 495. PERFORMANCE BASED REGULATORY RELIEF.

Part G of title IV of the Act is amended by adding at the end the following new section:

"PERFORMANCE BASED REGULATORY RELIEF

"SEC. 493. (a) For institutions of higher education that satisfy the criteria in subsection (b), the Secretary shall—

"(1) suspend the requirement of section 428G(b)(1);

"(2) consider the institution as having complied with the regulations establishing the requirements for processing the borrower's loan proceeds, counseling borrowers, making and disbursing loans, and contact with the borrower, and any related or successor regulations prescribed by the Secretary;

"(3) require that the minimum sample size, for the purposes of regulations prescribed by the Secretary establishing requirements for audits, and any related or successor regulations and audits required by section 487(c), shall be determined on the basis of the opinion rendered by the auditing entity, without regard to any minimum sample sizes established for the purpose of such audits by the Secretary; and

"(4) notwithstanding section 484(f) of the Act, not require the institution to verify the accuracy of the data used to determine the eligibility for any program under this title for more than 20 percent of the applicants in any award year.

"(b) PERFORMANCE CRITERIA.—In order to be eligible for the provisions in subsection (a), the institution shall—

"(1) have participated in programs under this title for 5 consecutive years;

"(2)(A) have not been required to refund moneys to the Secretary because of audits performed under section 487(c), in the two most recent audits; or

"(B) if required to refund moneys to the Secretary because of audits performed under section 487(c), the refunds may be no more than 2 percent of the amount that the institution received under this title for that year;

"(3) currently not be, and within the last 7 years not have been, subject to any emergency action, any limitation, suspension, or termination imposed by the Secretary or by any guaranty agency;

"(4) have used 97 percent of the funds received under subpart 3 of part A, part C, and part E in the 3 most recent fiscal years;

"(5) for loans under part E, have a cohort default rate, as defined in section 462(h), of not greater than 10 percent for loans made under part E, for the most recent fiscal year;

"(6) have a cohort default rate, as defined in section 435(m), of not greater than 10 percent for the most recent fiscal year; and

"(7) have submitted the application to determine an institution's allocation or reallocation of funds under subpart 3 of part A and parts C and E of this title (34 CFR 674.3, 34 CFR 675.3 and 34 CFR 676.3 and any related or successor regulations), the fiscal operation report required of institutions participating in the programs established by subpart 3 of part A and parts C and E of this title (34 CFR 674.19(d)(3), 34 CFR 675.19(b)(3), 34 CFR 676.(b)(5) and any related or successor regulations), and audits (34 CFR 668.23 (c) and (d)) and any related or successor regulations on or before the date on which they were due, unless the Secretary waives this requirement due to unusual circumstances.".

SEC. 496. REGIONAL MEETINGS AND NEGOTIATED RULEMAKING.

Part G of title IV of the Act is amended by inserting after section 493 (as added by section 495 of this Act) the following new section:

"REGIONAL MEETINGS AND NEGOTIATED RULEMAKING

"SEC. 493A. (a) IN GENERAL.—(1) The Secretary shall convene regional meetings to obtain public involvement in the development of proposed regulations under this part. Such meetings shall include individuals and representatives of groups involved in student financial assistance programs, such as students, institutions of higher education, guaranty agencies, lenders, secondary markets, third party servicers, guaranty agency servicers, and collection agencies.

"(2) During each meeting described in paragraph (1), the Secretary shall provide for a comprehensive discussion and exchange of information on a limited number of key issues selected by the Secretary concerning implementation of this title. The Secretary shall take into account information received at such meetings in the development of proposed regulations and shall publish a summary of such information in the Federal Register together with such proposed regulations.

"(b) DRAFT REGULATIONS.—After holding regional meetings and before publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations implementing changes to this part pursuant to this Act and submit regulations on a limited number of key issues to a negotiated rulemaking process. The Secretary shall follow the guidance provided in the Administrative Conference of the United States in Recommendation 82-4 and 85-5, 'Procedures for Negotiating Proposed Regulations' (1 CFR 305-82-4 and 85-5) and any successor recommendation, regulation, or law. Participants in the negotiation process shall be chosen by the Secretary from individuals nominated by groups participating in the regional meetings, representing the groups described in subsection (a)(1) and shall include both Washington representatives of such groups as well as industry participants. To the extent possible, the Secretary shall select individuals reflecting the diversity in the industry, representing both large and small participants, as well as those serving local areas and national markets. The negotiation process shall be conducted in a timely manner in order that the final regulations may be issued by the Secretary within the 240-day period required by section 431(g) of the General Education Provisions Act.

"(c) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act shall not apply to activities carried out under this section.".

PART H—PROGRAM INTEGRITY

SEC. 497. ESTABLISHMENT OF NEW PART H.

Title IV of the Act is amended by adding at the end the following new part:

"PART H—PROGRAM INTEGRITY

"SEC. 494. STATE POSTSECONDARY REVIEW AGENCY PROGRAM.

"(a) PURPOSE.—It is the purpose of this section to authorize the Secretary to enter into agreements that—

"(1) designate one State postsecondary review agency in each State to be responsible for the conduct or coordination of the review of institutions of higher education for the purposes of determining eligibility under this title; and

"(2) provide Federal funds to each State postsecondary review agency for performing the functions required by such agreements with the Secretary.

"(b) PROGRAM AUTHORITY.—The Secretary shall, in accordance with the provisions of this part, enter into agreements with each of the States, to carry out the purposes of this part. If any State declines to enter into an agreement with the Secretary for the purposes of this part, the provisions of this part which refer to the State, with respect to such State, shall refer to the Secretary, who may make appropriate arrangements with agencies or organizations of demonstrated competence in reviewing institutions of higher education.

"(c) FAILURE TO COMPLY WITH AGREEMENT.—If a State fails to enter into an agreement under this section or fails to meet the requirements of its agreement with the Secretary under this part—

"(1) the Secretary—

"(A) may not certify for participation in any program under this title any new institution (including branch campuses) or any institution that has changed ownership, pursuant to section 481; and

"(B) may grant only provisional certification for all institutions in the State pursuant to section 481; and

"(2) the State will be ineligible to receive funds under section 496 of this part, subpart 4 of part A of this title, and chapter 2 of subpart 1 of part A of this title.

"SEC. 495. STATE POSTSECONDARY REVIEW AGENCY AGREEMENTS.

"(a) STATE ORGANIZATION STRUCTURES.—(1) Each agreement shall describe a State organizational structure responsible for carrying out the review of institutions under this title. Each such agency's or instrumentality's action in reviewing and approving such institutions shall, for purposes of this part, be considered to be the action of the State.

"(2) For the purposes of this part, the designation of a State postsecondary review agency for the purpose of entering into an agreement with the Secretary shall be in accordance with the State law of each individual State with respect to the authority to make legal agreements between the State and the Federal Government.

"(3) Except as provided in paragraph (5), nothing in this part shall be construed to authorize the Secretary to require any State to adopt, as a condition for entering into an agreement, a specific State organizational structure.

"(4) Except as provided in paragraph (5), nothing in this part shall be construed—

"(A) as a limitation on the authority of any State to adopt a State organization structure for postsecondary education agencies, or programs, or institutions of higher education as appropriate to the needs, traditions, and circumstances of that State;

"(B) as a limitation on the authority of a State entering into an agreement pursuant to this part to modify the State organizational structure at any time subsequent to entering into such agreement;

"(C) as a limitation on the authority of any State to enter into an agreement as a member of a consortium of States;

"(D) as an authorization for the Secretary to withhold funds from any State or postsecondary institution on the basis of compliance with a State's constitution or laws;

"(E) as an authorization for any State postsecondary review agency to exercise planning, policy, coordinating, supervisory, budgeting, or administrative powers over any postsecondary institution; or

"(F) as a limitation on the use of State audits for the purpose of compliance with applicable standards under section 497(d).

"(5) Notwithstanding the provisions of paragraphs (2), (3), and (4) of this subsection, the Secretary may require each State to designate an agency or instrumentality responsible for the conduct or coordination of the review of institutions under this title.

"(b) CONTENTS OF AGREEMENTS.—Agreements between each State and the Secretary shall contain the following elements:

"(1) A designation of a single State postsecondary review agency, which represents all entities of that State which are responsible for—

"(A) granting State authorization to each institution of higher education in that State for the purposes of this title, and

"(B) ensuring that each institution of higher education in that State remains in compliance with the standards developed pursuant to section 497.

"(2) Assurances that the State will review institutions of higher education for the purpose of determining eligibility under this title on a schedule to coincide with the dates set by the Secretary to certify or recertify such institutions of higher education as provided in section 481.

"(3) Assurances that the appropriate State postsecondary review agency will administer the program authorized by this part and will keep such records and provide such information to the Secretary as may be requested for fiscal audit and program evaluation, consistent with the responsibilities of the Secretary.

"(4) A description of the relationship between the State postsecondary review agency designated for the purposes of this part and (A) the agency or agencies designated for the purposes of chapter 36 of title 38 of the United States Code, (B) the State loan insurance program established under section 428(b) of this title, and (C) the State grant agency established under section 415C of this title.

"(5) A plan for performing the functions described in section 497 of this part.

"(c) FEDERAL RESPONSIBILITY.—Notwithstanding any other provision of law, no State shall be required to fulfill the obligations of an agreement with the Secretary under this part unless the Secretary reimburses that State for the Federal costs, specified in section 496 of this part, for performing the review functions required by such agreement and the Secretary shall not enter into agreements under this part unless the Congress appropriates the funds to pay those Federal costs.

"SEC. 496. FEDERAL REIMBURSEMENT OF STATE POSTSECONDARY REVIEW AGENCY COSTS.

"(a) PAYMENTS.—Subject to subsection (b), the Secretary shall reimburse the States for the costs of performing the functions required by agreements with the Secretary authorized under this part. Such costs shall include expenses for providing initial and continuing training to its own personnel and other personnel in its State, including, but not limited to, personnel at institutions of higher education subject to approval, to serve the purposes of this part. Reimbursement shall be provided for necessary activities which supplement, but do not supplant, existing licensing or review functions conducted by the State. The Secretary shall also reimburse such agencies for work performed by their subcontractors and consultants where such work has a direct relationship to the requirements of agreements with the Secretary.

"(b) LIMITATION ON PAYMENTS.—Notwithstanding subsection (a), no State shall receive for any fiscal year an amount that exceeds an amount that bears the same ratio to the amount appropriated under subsection (c) for such fiscal year as the total amount received under this title by students attending institutions of higher education in that State for such fiscal year bears to the total amount received under this title by all students for such fiscal year, based on the most recent year for which such data are available.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of enabling the Secretary to make payments to States which have made agreements with the Secretary under this part, there is authorized to be appropriated for fiscal year 1993 and succeeding fiscal years an amount not to exceed one percent of the amount appropriated for such fiscal year for student financial assistance programs under this title.

"SEC. 497. FUNCTIONS OF STATE REVIEW AGENCIES.

"(a) INITIAL REVIEW.—The Secretary shall review all institutions of higher education in a State which are eligible or which desire to become eligible under this title according to the criteria provided in subsection (b). The Secretary shall report to the State those institutions of higher education which meet one or more of the criteria provided in subsection (b) and these institutions shall be reviewed by the State pursuant to the standards provided in subsection (d). The Secretary shall supply the State with a copy of the institutional audits required pursuant to section 487(c) for the institutions which shall be reviewed by the State. In addition to those institutions identified by the Secretary, the State may review additional institutions which meet one or more of the criteria provided in subsection (b), based on more recent data available to the State, subject to disapproval by the Secretary.

"(b) REVIEW CRITERIA.—The criteria for the initial review of institutions of higher education are as follows:

"(1) a cohort default rate as defined in section 435(m) equal to or greater than 25 percent and either—

"(A) more than two-thirds of its total undergraduates enrolled on a half-time or more basis receive assistance under this title (except subparts 4 and 6 of part A), or

"(B) two-thirds or more of the institution's education and general expenditures are derived from funds provided to students enrolled at the institution from the programs established by this title (except subparts 4 and 6 of part A and section 428B);

"(2) two-thirds or more of the institution's education and general expenditures are derived from funds provided to students enrolled at the institution pursuant to subpart 2 of part A of this title;

"(3) a limitation, suspension, or termination action by the Secretary against the institution pursuant to section 487 during the preceding 5 years;

"(4) an audit finding during the 2 most recent audits of the institution's conduct of the programs established by this title that resulted in the repayment by the institution of amounts greater than 3.5 percent of the funds the institution received from the programs established by this title for the year;

"(5) a citation of the institution by the Secretary for failure to submit audits required by this title in a timely fashion;

"(6) a year-to-year fluctuation of more than 25 percent in the amounts received by students in either Federal Pell Grants, Federal Stafford Loans, or Federal Supplemental Loans to students, which are not accounted for by changes in these programs;

"(7) failure to meet financial responsibility standards pursuant to subsection (c)(6)(B) of section 487;

"(8) a change of ownership of the institution that results in a change of control which includes (but is not limited to)—

"(A) the sale of the institution or the majority of its assets;

"(B) the transfer of the controlling interest of stock of the institution or its parent corporation;

"(C) the division of 1 or more institutions into 2 or more institutions;

"(D) the transfer of the controlling interest of stock of the institution to its parent corporation; or

"(E) the transfer of the liabilities of the institution to its parent corporation;

"(9) initial participation in any of the programs established pursuant to subparts 2 and 3 of part A, part B, part C, part D, and part E of this title; and

"(10) a pattern of student complaints related to the management or conduct of the programs established by this title pursuant to subsection (k), which in the judgment of the Secretary are sufficient to justify review of the institution.

"(c) USE OF RECENT DATA.—The criteria provided for in subsection (b) shall be measured on the basis of the most recent data available to the Secretary. Institutions may request verification of the data used by the Secretary.

"(d) REVIEW STANDARDS.—Institutions which meet one or more of the criteria in subsection (b) shall be reviewed by the appropriate State agency or instrumentality in accordance with published State standards, consistent with the constitution and laws of the State, developed in consultation with the institutions in the State, subject to disapproval by the Secretary, for—

"(1) the quality and content of the institution's courses or programs of instruction, training, or study in relation to achieving the stated objectives for which the courses or programs are offered, including the adequacy of the space, equipment, instructional material, staff, and student support services, including student orientation, counseling, and advisement, for providing education or training that meets the stated objectives for which the courses or programs are offered;

"(2) the availability to students and prospective students of catalogues, admissions requirements, course outlines, schedules of tuition and fees and the rules and regulations of the institution relating to students and their accuracy in reflecting the courses and programs offered by the institution;

"(3) assurance that the institution has a method to assess a student's ability to succeed in the course of study for which he or she has applied;

"(4) assurance that the institution maintains and enforces standards relating to academic progress and maintains adequate student records;

"(5) compliance by the institution with applicable laws and regulations relating to insuring the safety and health of all persons on the premises of the institution;

"(6) the financial and administrative capacity of the institution at a specified scale of operations and the maintenance of adequate financial and other information necessary to determine the financial and administrative capacity of the institution;

"(7) for institutions financially at risk, the adequacy of provisions to provide for the instruction of students and to provide for the retention and accessibility of academic and financial aid records of students in the event the institution closes;

"(8) if the stated objectives of the courses or programs of the institution are to prepare students for employment, the relationship of the tuition and fees to the remuneration that can be reasonably expected by students who complete the course or program and the relationship of the courses or programs to providing useful employment in recognized occupations in the State; and

"(9) the success of the program at the institution including—

"(A) the rates of the institution's students program completion and graduation, taking into account the length of the program at the institution and the selectivity of the institution's admissions policies;

"(B) the withdrawal rates of the institution's students;

"(C) the rates of placement of the institution's graduates in occupations related to their course of study; and

"(D) where appropriate, the rate at which the institution's graduates pass licensure examinations.

"(e) SUBSTITUTIONS PROHIBITED.—The appropriate State postsecondary review agency may not substitute either (1) accreditation by a private accrediting agency or body, or (2) compliance audits performed by a State guaranty agency established under section 428(b) of this title, for State review of compliance with standards in subsection (d).

"(f) STATE CONTRACTS.—If the appropriate State postsecondary review agency contracts with a private agency or body for assistance in performing State review agency functions, such contract shall be provided for in an agreement with the Secretary.

"(g) PROHIBITION ON UNRELATED REQUIREMENTS.—Notwithstanding any of the provisions of this part, the Secretary shall not require a State to establish standards that are unrelated to ensuring institutional or program integrity or that violate the provisions of a State's constitution or laws.

"(h) DIFFERENTIAL STANDARDS FOR APPROVAL.—A State may establish different standards of approval and frequency of review for different classes of institutions of higher education, as defined by its relevant State laws and regulations. However, a State shall have a published standard of approval for each subparagraph of subsection (d) for each such class of institutions of higher education, unless the agreement with the Secretary under this part specifically exempts such classes of institutions as defined by the State.

"(i) INSTITUTIONAL ELIGIBILITY.—A State postsecondary review agency may determine that an institution of higher education shall not be eligible to participate in programs under this title based on its own findings or the findings of a Federal entity in accordance with the following procedures:

"(1) STATE FINDINGS.—If the appropriate State postsecondary review agency finds that an institution of higher education does not meet one or more of the standards of subsection (d) of this section, such State postsecondary review agency shall notify the Secretary of its findings and the actions that such agency is taking, or has taken, in response to such findings within a time period prescribed by the Secretary by regulations. If a State postsecondary review agency determines an institution of higher education shall not be eligible for participation in programs under this title, such State postsecondary review agency shall notify the Secretary.

"(2) SECRETARY'S FINDINGS.—If the Secretary or other Federal entity takes, or plans to take, any action against any institution of higher education (including any actions taken under section 487), the Secretary shall notify the appropriate State postsecondary review agency (or agencies, in the case of multi-State institutions) of such action within a time period prescribed in the Secretary's regulations.

"(3) PROCEDURAL PROTECTIONS FOR DISAPPROVAL.—The Secretary shall, by regulation, prescribe minimum procedural standards for the disapproval of institutions of higher education by the appropriate State postsecondary review agency or agencies for purposes of this title.

"(j) LIMIT ON STATE POSTSECONDARY REVIEW AGENCY FUNCTIONS.—The functions of State postsecondary review agency shall not include performing financial and compliance audits as may be required under sections 428 or 487 of this Act.

"(k) CONSUMER COMPLAINTS.—A State, in consultation with the institutions of higher education in the State, shall establish procedures for receiving and responding to consumer complaints about institutions of higher education and shall keep records of such complaints in order to determine their frequency and nature for specific institutions of higher education. The State shall make such records publicly available.

"(l) ENFORCEMENT MECHANISMS.—Nothing in this part shall restrict the authority of the States to establish mechanisms to enforce the standards established under subsection (d) or require the States to establish specific mechanisms recommended by the Secretary.".

SEC. 497A. DEFINITIONS.

Section 481(a) of the Act is amended by inserting after paragraph (4) the following new paragraph:

"(5) The term 'institution of higher education' does not include institutions of higher education that are removed from eligibility for funds under this title as a result of a review pursuant to part H of this title.".

SEC. 497B. EFFECTIVE DATES.

The amendments made by this part shall take effect one year after the date of enactment of this Act, except that, in the case of any State whose legislature is not in session during such one-year period, such amendments shall take effect two years after such date of enactment.

PART I—CONFORMING AMENDMENTS.

SEC. 499. CONFORMING AMENDMENTS.

(a) OBRA AMENDMENT.—Section 3008 of the Omnibus Budget Reconciliation Act of 1990 is amended by striking "1996" and inserting "1997".

(b) HIGHER EDUCATION TECHNICAL AMENDMENTS OF 1991.—Section 3(c) of the Higher Education Technical Amendments of 1991 is amended by striking "November 15, 1992".

The CHAIRMAN. Are there any amendments to title IV?

AMENDMENT OFFERED BY MR. COLEMAN OF MISSOURI

Mr. COLEMAN of Missouri. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLEMAN of Missouri:

Page 273, line 24, after the quotation marks insert "(b) ADMINISTRATIVE EXPENSES.—", and before such line insert the following:

"(a) LOAN FUNDS AUTHORIZED.—There are authorized to be appropriated for the purpose of making direct loan payments under section 451(b)(1), not to exceed $500,000,000 for fiscal year 1994 and each of the 4 succeeding fiscal years.

Page 262, after line 15, after "shall" insert ", subject to subsection (c)".

Page 262, after line 17, insert the following new subsection:

"(c) ACCESS TO LOANS WHEN DEMAND EXCEEDS SUPPLY.—If the demand for loans under this part for any academic year at institutions with which the Secretary has an agreement under section 454 exceeds, in the aggregate, the amount available (pursuant to section 459A(a)) for such loans for such academic year, the Secretary shall notify each such institution of that fact and establish for each such institution an allocation (from such available amount) that such institution will be permitted to lend under this part. Each such institution shall make that allocation available or loans to its students on a first-come, first-served basis, in accordance with regulations prescribed by the Secretary. Any additional demand for loans from such students shall be met by providing such students with the certifications required to permit such students to obtain loans under part B of this title.

Page 263, beginning on line 14, strike "was $500,000,000 in the most recent year for which data is available" and insert "can reasonably be expected to be $500,000,000 in each year of the demonstration program".

Page 267, line 6, after "will not" insert ",except as necessary because of the application of section 451(c)."

Mr. COLEMAN of Missouri (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. Would the gentleman indicate, has the amendment been printed in the RECORD?

Mr. COLEMAN of Missouri. Mr. Chairman, yes, it has.

The CHAIRMAN. Would the gentleman indicate on which page of the bill the amendment occurs?

Mr. COLEMAN of Missouri. Mr. Chairman, it is on page 273.

Mr. PANETTA. Mr. Chairman, I reserve a point of order.

The CHAIRMAN. The gentleman from California [Mr. PANETTA] reserves a point of order on the amendment.

Mr. COLEMAN of Missouri. Mr. Chairman, I hope that the gentleman from California would withdraw his point of order after I explain the purpose of the amendment. Both he and I are concerned about the borrowing authority of the Federal Government. My amendment attempts to limit the borrowing authority.

Mr. Chairman, in this bill, we are starting off on a new road regarding the delivery system for student loans. We currently have a private system of banks, guarantee agencies and secondary markets that provide leverage, with Federal dollars, to go out and loan billions and millions of dollars to students all over the country.

Some Members become fascinated with a direct loan program. In the committee, a direct loan program was supported. But in the substitute that the chairman has proposed, it is made a demonstration or a pilot project.

The direct-lending pilot project is open-ended. It is open-ended in the sense that it starts at $500 million in 1992 and proposes that that $500 million be allowed to grow for 5 years for institutions participating in the demonstration pilot project.

Now, there are guarantees in the bill about getting a cross section of schools, both public and private, two and four, proprietaries, to make sure that this is a real demonstration project.

I do not oppose the demonstration project, but I think we need to put a lid on the amount of money in a demonstration project pipeline. That is to say, we ought to start with the $500 million and end at the $500 million on the size of this demonstration, not allow it to increase, to create another entitlement on this particular demonstration program.

□ 1150

It is anticipated that if we just allowed natural growth to occur in the institutions that participate in this pilot project, by the third and fourth and fifth year it will not be $500 million, it will be $600, $700, $750, and it could be more per year.

My amendment tries to rein in, about $1.25 billion, we estimate, in additional borrowing that the Federal Government would have to make to put into this demonstration project.

If the purpose of the budget is to restrict the borrowing of the Federal Government as much as we can, we ought to adopt this amendment. If we are serious about trying to control the deficit, we ought to adopt this amendment. The size of the direct loan program is very important, but what the committee proposes here is that it become a runaway growth program. The committee cannot tell you how many dollars are going to be spent on this demonstration program. That is the purpose of the amendment.

I want to make a point, in all of these schools that are going to participate in the demonstration program, no one is going to be turned away for a student loan or treated any differently than any other student in this country. If the school goes over their quota in this demonstration project, all the students that would have gone into the demonstration project under the bill, will now just go under the usual Guaranteed Student Loan Program. They will not know the difference. No one's eligibility will be changed, nor will the effects of their loans be changed. The only difference will be that the taxpayers will not be footing the bill for going out and borrowing money, by the Federal Government, to sock into a demonstration program. Under the demonstration program we do not have banks involved, we have the Federal Government as the bank. We go out and borrow the money because we have a $400 billion deficit and we put it into this demonstration program, which would increase and increase and increase.

That is why I asked the gentleman from California [Mr. PANETTA], my good friend, and who has made this point of order, to recognize that if his point of order is sustained, it is going to cost the U.S. Government over $1.25 billion in new borrowing authority. That is why we ought to withdraw this point of order and go ahead and debate the merits of this proposal and have a vote on it.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, I rise in support of the amendment for several reasons. First of all, we have no idea how this situation is going to work. There is nothing to rely on that has gone on before. This could cost us a lot of money in the long run rather than saving us any, as CBO thinks it might.

Secondly, I have a real concern that if we do this too rapidly we are going to end up putting all the guarantee agencies out of business. Then we will have a real mess on our hands. I think a controlled program certainly is in our best interest.

Mr. COLEMAN of Missouri. Mr. Chairman, I ask for a ruling on the point of order. If the gentleman from California [Mr. PANETTA] wishes to pursue his point of order, I would ask for a ruling on it. I want to get this thing to a head. Again, I hope the gentleman will not pursue his point of order. Let us go ahead and debate the merits of the proposals, let us not hang this up on a technicality.

What I am trying to save is over $1 billion of borrowing authority and prevent increasing the deficit. That would truly turn the Budget Act on its head and would destroy any credibility that the act currently has.

I would like to get on with it, if the gentleman from California would pursue his point of order. I hope that he will withdraw it.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from California [Mr. PANETTA] wish to insist on his point of order?

Mr. PANETTA. Mr. Chairman, we have a large number of amendments that are involved with this bill. We have made very clear to those Members with the amendments that we have to proceed with the points of order under the Budget Act. We get criticized if we do not make these points of order.

I regret to the gentleman in the well, Mr. COLEMAN of Missouri, I think the amendment does have some merit to it, but I also have a responsibility to enforce the Budget Act with points of order. We are going to do that on many amendments here today. I am not going to pick and choose. I apologize, but that is the case.

I wish to proceed with my point of order.

The CHAIRMAN. The gentleman from California [Mr. PANETTA] will state his point of order.

Mr. PANETTA. Mr. Chairman, under section 303(a) of the Congressional Budget Act, it is not in order to consider any measure which creates entitlement authority or direct spending authority first effective in a fiscal year prior to the adoption of the budget resolution for that fiscal year.

The instant amendment offered by Coleman of Missouri creates new entitlement authority first effective in fiscal year 1994. Since Congress has yet to agree to the budget resolution for fiscal year 1994, section 303(a) prohibits its consideration.

The bill under consideration, in establishing a Federal Direct Loan Demonstration Program, proposes an either/or proposition. For students at particular institutions, and their parents, eligibility to participate in the entitlement loan programs under part B of title IV of the Higher Education Act is extinguished by the terms of the bill.

The Coleman amendment, in capping the aggregate loan volume available for the demonstration program, specifically reestablishes the right to participation in the entitlement loan programs under part B as the means for satisfying additional demand beyond the cap. The amendment goes so far as to mandate student eligibility, which would not otherwise exist, by directing the Secretary to provide students with the certifications required to permit such students to obtain loans under part B of this title.

By renewing this eligibility, the amendment creates new entitlement authority first effective in fiscal year 1994—the year in which the demonstration program begins and the year in which eligibility for participation in other student loan entitlement programs under the act would otherwise be extinguished.

Since Congress has yet to agree to the conference report on the concurrent resolution on the budget for fiscal year 1994, the amendment is not in order.

Further, section 402(a) of the Congressional Budget Act prohibits the consideration of any measure which creates credit authority which is not subject to prior appropriation.

The instant amendment, in creating additional eligibility for participation in entitlement loan programs not otherwise provided by the bill creates additional authority to incur primary loan guarantee commitments.

Since the amendment does not make this credit authority specifically subject to appropriations, it also violates section 402(a) of the Budget Act.

Mr. Chairman, I insist on my point of order.

The CHAIRMAN. Does the gentleman from Missouri [Mr. Coleman] wish to be heard on the point of order?

Mr. COLEMAN of Missouri. I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Missouri is recognized on the point of order.

Mr. COLEMAN of Missouri. Mr. Chairman, this truly is a time when we look at the Budget Act. The gentleman has just cited two sections of it, both of which the intent, and my point of order and my response to it is that the intent of section 402(a) and section 303(a) of the Budget Act does not intend that the Congress spend more money as a result of these budget provisions, and in fact my amendment saves money under these budget acts, and that the entitlements set up are in fact entitlements already in the bill being proposed to this body this afternoon. That is where the entitlements come from.

I am trying to limit those entitlements. I am trying to restrict the growth of borrowing. I do not care what citations the gentleman from California [Mr. Panetta] wants to make of the Budget Act, I will cite the entire Budget Act. The entire Budget Act is supposed to get spending under control. I am trying to reduce borrowing and spending and the deficit by $1.25 billion.

Now, the gentleman can go into all the technicalities he wants to and he can present all of this. It does not make sense. It does not make to the American people for the chairman of the Committee on the Budget to stand up and make a point of order against the budget saving proposal amendment because it violates the Budget Act.

This truly is a bizarre world we live in here in Washington, in the House of Representatives, where we are going to stop money-saving, budget-saving, borrowing-saving amendments from themselves because they in fact would save money because they violate the Budget Act.

If that is what the Budget Act has, then it is not serving the American people very well. I am truly sorry, even though the gentleman from California says that my amendment has merits, that he is proposing a technicality, if he can find one, and we will find out if the Parliamentarian has found one, to avoid talking about this issue that ought to be debated in public and ought to be put out there for everybody to talk about.

That is my point of order. I do not know if it is nicely confined. I did not have somebody draw it up for me to cite all the citations. But the true point of order is that the public thinks this whole place is out of order. Let us get back in order. Let us go ahead and sustain my position and not the position of the gentleman from California [Mr. Panetta].

The CHAIRMAN (Mr. Pease). Does any other Member wish to be heard on the point of order? If not, the Chair is prepared to rule.

Under the terms of the bill, paragraph 5 on page 267, Stafford loans are not available in institutions that participate in the pilot program. Under the amendment, Stafford loans are required to be to any overflow demands for the pilot program as constrained by the amendment. Because Stafford loans are entitlements, the amendment thus provides new entitlement authority within the meaning of section 303, which prohibits an increased use of existing entitlements or creation of new entitlements in future fiscal years prior to the final adoption of the budget resolution.

For that reason, the Chair sustains the point of order.

AMENDMENT OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Chairman, I offer an amendment on page 426, after line 2.

The Clerk read as follows:

Amendment offered by Mr. Goodling: Page 426, after line 2, insert the following new part (and conform the table of contents accordingly):

PART J—AMENDMENTS TO RELATED PROGRAMS.

SEC. 499A. EXCELLENCE IN MATHEMATICS, SCIENCE AND ENGINEERING EDUCATION ACT OF 1990.

Section 601(b) of the Excellence in Mathematics, Science and Engineering Education Act of 1990 is amended—

(1) by striking "1992 and" inserting "1992,"; and

(2) by striking "1993" and inserting "1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.".

Mr. GOODLING (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

□ 1200

The CHAIRMAN. The Chair would inquire of the gentleman from Pennsylvania if his amendment is printed in the Record.

Mr. GOODLING. Yes it is, Mr. Chairman.

Mr. Chairman, the amendment I have is offered to title IV of the bill and extends through fiscal year 1997 the current National Science Scholars Program which was created in 1990. The program has received appropriations in each of the years it has been authorized. For fiscal year 1992 the program received $4.5 million. The President is requesting $15 million for the program for this year, and I am hopeful that the program will continue through the extension of its authorization.

The program's purpose is to attract more students into the fields of mathematics, the sciences, and engineering by giving promising high school students 4-year scholarships to go on to the colleges and universities of their choice to earn degrees in math and science. Students are chosen based on their achievement in science and math in high school, and those that have been selected represent all 50 States.

So I hope all Members will join with me in swift passage of this amendment.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the majority has examined the amendment and we agree with the minority and accept the amendment.

Mr. GOODLING. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GOODLING].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Chairman, I offer an amendment at page 375 after line 13, and it was printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. GOODLING: Page 375, after line 13, insert the following new paragraph:

(4) EFFECTIVE DATE PROVISION.—The amendment made by this subsection to subparagraph (F)(ii) of section 485(f)(1) of the Act shall be effective with respect to reports made pursuant to such section on or after September 1, 1993. The statistics required by subparagraph (F) of such section shall—

(A) in the report required on September 1, 1992, include statistics concerning the occurrence on campus of offenses during the period from August 1, 1991, to July 31, 1992;

(B) in the report required on September 1, 1993, include statistics concerning the occurrence on campus of offenses during (i) the period from August 1, 1991, to December 31, 1991, and (ii) the calendar year 1992;

(C) in the report required on September 1, 1994, include statistics concerning the occurrence on campus of offenses during (i) the period from August 1, 1991, to December 31, 1991, and (ii) the calendar years 1992 and 1993; and

(D) in the report required on September 1 of 1995 and each succeeding year, include statistics concerning the occurrence on campus of offenses during the two calendar years preceding the year in which the report is made.

Mr. GOODLING (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GOODLING. Mr. Chairman, I rise today to offer an amendment to change the dates for collection of campus crime statistics for reporting under the Student Right to Know and Campus Security Act. While we changed the collection date last year, we have since heard from colleges and universities all across the Nation concerning the time during which the statistics are to be gathered. There are a growing number of State laws requiring the collection of statistics on a January 1 to December 31 calendar year basis. Likewise, schools reporting to the uniformed crime reports use the same reporting period, and so I would ask we do the same in the bill.

It would change current law and require schools to collect data from January 1 to December 31 and report such data to students and faculty on September 1 of the following year.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have examined the gentleman's amendment. We have discussed it very thoroughly. It really is a clarifying amendment of the language that is in the bill, at his request, and we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GOODLING].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. JEFFERSON

Mr. JEFFERSON. Mr. Chairman, I ask unanimous consent to return to title III to offer an amendment that was passed over.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. JEFFERSON:—Page 52, line 8, strike "and", on line 10 strike the periods and quotation marks and insert a semicolon, and after line 10 insert the following:

"(11) Morgan State Graduate School

"(12) Hampton University Graduate School

"(12) Alabama A&M Graduate School

"(14) North Carolina A&T State University Graduate School

"(15) University of Maryland Eastern Shore Graduate School and

"(16) Jackson State Graduate School

—Page 53, lines 2, 9, and 16, strike "(10)" and insert "(16)".

The CHAIRMAN. The Chair would ask if the amendment of the gentleman has been printed in the CONGRESSIONAL RECORD?

Mr. JEFFERSON. It has, Mr. Chairman.

Mr. Chairman, I rise to offer an amendment to title III of Higher Education Act that would make six additional institutions eligible to receive funds under section 326B which directs the Secretary of Education to award grants to historically black colleges and universities that make substantial contributions to professional and graduate educational opportunities for African-American students.

The need for this amendment is driven by the dramatic demographic trends and the disproportionate under-representation of minority Ph.D.'s. These trends and this under-representation have dictated a change in the role of historically black colleges and universities as professional and doctoral degree-granting institutions, roles which now demand recognition in the 1992 reauthorization of the Higher Education Act.

By the year 2000, minorities will constitute more than 33 percent of the Nation's work force. At the same time, a critical decline of scientists and engineers will erode the Nation's productivity and competitiveness in domestic and international markets.

> Historically black colleges have established an enviable reputation as flagship institutions in the production of black undergraduates, which gives them an obvious advantage in the ability to attract and produce black American Ph.D's. A recent report indicates that black colleges enroll 16 percent of all black students in higher education, yet they graduated more than 40 percent of the students who ultimately received Ph.D's. in 1990.—American Minorities and International Students: Striking What Balance? Frank L. Morris, Morgan State University, 1991.

In 1989, black Americans were the only minority group indicating a decline in the number of doctoral recipients. Between 1975 and 1990, there was a 50-percent decline in the number of black male Ph.D's and in 1989 black Americans constituted only 3.6 percent or 811 of the 34,319 doctorates awarded in the Nation.

The numbers take on even more significance, cast in the light of figures showing that less than half of the black 1986 Ph.D recipients planned careers in higher education. Thus, the few blacks in the pipeline promise only a decreasing flow to America's higher education classrooms and research laboratories.

In a study of black doctorates in the Nation, Frank Morris of Morgan State University writes that:

> What is shocking is the wide number of important scientific fields where American universities produced not a single U.S. African-American Ph.D. in 1990.

There were no U.S.-produced African-American Ph.D's in applied mathematics, atomic and molecular physics, civil engineering, systems engineering, biophysics, microbiology, and other high-demand sciences.

Clearly, these data underscore the importance of a national investment in the development of professional and graduate programs at black colleges. Persistence and graduation rates for black Ph.D.'s at nonhistorically black institutions are marginal at best, whereas historically black colleges have a proven track record of success for producing black professional and doctoral graduates. According to the National Association for Equal Opportunity in Higher Education, historically black colleges and universities graduate 3½ times more black Ph.D.'s than all other institutions combined. Title III has been a good investment for the Nation.

Historically black colleges and universities are responding to the challenge to increase the representation of blacks in critical areas of professional and doctoral degrees. North Carolina A&T State University will now offer a Ph.D. program in engineering; Hampton University will accept its first class of Ph.D. candidates in physics in September of this year; Alabama A&M University offers a doctorate in food science and plant and animal science; Morgan State will offer Ph.D.'s in seven areas of physical and social sciences; Jackson State offers a Ph.D.

in environmental science; and University of Maryland Eastern Shore offers Ph.D.'s in marine biology, toxicology, and environmental science.

The ability of black colleges to continue to advance in these disciplines and beyond is tied inextricably to the Nation's willingness to invest in them and by so doing to invest in future performance and productivity to the U.S. work force.

The support of existing and emerging black graduate and professional programs in section 326 of title III of the Higher Education Act will move a significant number of highly competitive institutions into the maninstream of graduate and professional education. If we fail to capitalize on this major opportunity, it will demonstrate a dangerous lack of vision and foresight that could hold unfortunate consequences for the economic future of the entire Nation.

The reauthorization of the Higher Education Act provides the ideal opportunity to ameliorate the grossly uneven production of black Ph.D.'s in the Nation.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the last word.

Mr. Chairman, it should be understood that what the gentleman is doing is amending existing law, a provision in the law that provides money for science education in graduate schools at a discrete number of historically black colleges.

This amendment will add six additional members of that family of black colleges to the program. The reservations I had had to do with the fact that by dividing by 16 instead of 10 that it would dilute the money now going to the other historically black colleges. That is a very closely knit family. They have been able to solve it.

I suggest we take the gentleman's amendment and hope that they can work something out among themselves before we get to conference, and for that reason I accept the gentleman's amendment.

Mr. COLEMAN of Missouri. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do think the RECORD ought to show that this is far from a consensus position by the institutions that have formed the United Negro College Fund. In fact, I have a letter, dated today, which I know was sent to the author of the amendment, in which those institutions state very forcefully their reservations in opposition to his amendment. They do so for a variety of reasons.

The first reason for their opposition is that the appropriations will not be available to incorporate the 11 schools without decreasing the funding currently available for the current 5 schools that are participating in this program.

□ 1210

The second reason they cite for opposition is that, under the House bill formula the five current schools receive no new funds until all the new schools reach $500,000 or parity, thereby postponing the possibility of future funding for many years.

Finally, they say a 16-school graduate section will begin to compete with the regular part B program for limited Federal funds. I think this is a very important thing to consider.

We simply are dividing the pie, it is not getting any bigger. With the addition of the 5 in the bill the same pie is sliced up 10 ways. If the gentleman's amendment is adopted, the pie will be sliced up 16 ways. That is a significant reduction for all these schools.

I have reservations about it. I am not in a position to accept it, but I think the body ought to know that there is not unanimity on this issue amongst the community in which this is a most important item.

Mr. JEFFERSON. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Louisiana.

Mr. JEFFERSON. Mr. Chairman, NAFEO, which is the umbrella organization—if you will—for the historically black colleges, under which the UNCF operates as well, has asked that this amendment be offered, and that is why I am offering it today.

I understand there is some disagreement about it from at least a school that happens to be in my area, from which the letter came. Be that as it may, this is a program to advance the opportunities for more Ph.D's to be granted across the board, particularly in science, math, and engineering.

You may recall, if you will, that when this bill left our committee it did not involve Morgan State University, which was added on the Senate side. So a part of this is a response to what came out of the Senate. I would indulge the gentleman to consider those arguments.

Mr. COLEMAN of Missouri. Well, Mr. Chairman, I appreciate that. The gentleman simply is naming all the black colleges that I know that exist are now going to be currently available for funding.

I think what the United Negro College Fund was attempting to do was to provide those funds to the institutions where they could get the most out of them.

I am not going to suggest that some of these schools are not good schools. They are good schools, and that is not to say they do not need the money, but there is only so much money to go around. Do you find benefits of having some of that money in 10 schools, as opposed to being spread out over 16 schools? I mean, that is the real question, and the community itself is divided.

The CHAIRMAN. Is there further debate on this amendment?

If not, the question is on the amendment offered by the gentleman from Louisiana [Mr. JEFFERSON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HENRY

Mr. HENRY. Mr. Chairman, I offer an amendment. The amendment has been printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. HENRY: Page 383, strike line 9 and all that follows through line 3 on page 884 and insert the following:

"(2)(A) With respect to any institution that offers athletically related student aid, the institution will—

"(i) cause an annual compilation, independently audited not less often than every 3 years, to be prepared within 6 months after the end of its fiscal year, of—

"(I) the total revenues, and the revenues from football, men's basketball, women's basketball, all other men's sports combined, and all other women's sports combined, derived by the institution from its intercollegiate athletics activities;

"(II) the total expenses, and the expenses attributable to football, men's basketball, women's basketball, all other men's sports combined and all other women's sports combined, made by the institution for its intercollegiate athletics activities; and

"(III) the total revenues and operating expenses of the institution; and

"(ii) make the reports on such compilations and, where allowable by State law, the audits available for inspection by the Secretary and the public.

"(B) For the purpose of subparagraph (A)—

"(i) revenues from intercollegiate athletics activities allocable to a sport shall include without limitation gate receipts, broadcast revenues, appearance guarantees and options, concessions and advertising, but revenues such as student activities fees or alumni contributions not so allocable shall be included in the calculation of total revenues only; and

"(ii) expenses for intercollegiate athletics activities allocable to a sport shall include without limitation grants-in-aid, salaries, travel, equipment, and supplies, but expenses such as general and administrative overhead not so allocable shall be included in the calculation of total expenses only.

Mr. HENRY (during the reading.) Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. FORD of Michigan. Mr. Chairman will the gentleman yield?

Mr. HENRY. I am pleased to yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, the gentleman and I probably have argued about this more than a dozen times. I know how hard he has worked to find an accommodation for the concerns I had, the NCAA had and that others.

I am satisfied that the gentleman from Michigan [Mr. HENRY] has worked out a sensible, workable compromise, to everybody's satisfaction. I would like to accept it on behalf of the majority.

Mr. HENRY. Mr. Chairman, I would like to thank the gentleman for his comments, and simply point out that there are technical changes to the language reported by the committee dealing with the area of athletic disclosure.

I am most pleased in this instance that we have worked out the reporting language in such a way that the NCAA has indicated they will not oppose the language, as they did in the previous round when it went to the other body.

So Mr. Chairman, I thank the gentleman for his very kind support and his helpfulness in the committee as we dealt with this issue.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. HENRY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HENRY

Mr. HENRY. Mr. Chairman, I offer an amendment. The amendment has been printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. HENRY: Page 358, strike line 12 and all that follows through line 9 on page 359 and insert the following:

(c) ELIMINATION OF ABILITY-TO-BENEFIT PROVISIONS FROM STUDENT ELIGIBILITY REQUIREMENTS.—

(1) REPEAL.—Subsection (d) of section 484 of the Act is repealed.

(2) CONFORMING AMENDMENTS.—

(A) Section 435 of the Act is amended—

(i) in subsection (b)(1), by striking ", or who are beyond the age of compulsory school attendance"; and

(ii) in subsection (c) by striking paragraph (1) and inserting the following:

"(1) admits as regular students only persons having secondary education, or the recognized equivalent of such certificate,".

(B) Section 481 of the Act is amended—

(i) by striking the second sentence of subsection (b); and

(ii) by striking the second sentence of subsection (c).

Mr. HENRY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objections.

Mr. HENRY. Mr. Chairman, in the Higher Education Assistance Act, over the years a rather broad and latitudinary policy of giving financial aid, be it Pell grants, Stafford loans or other financial support, has developed to the point that such moneys are increasingly being made available to students who have not completed high school or a GED degree.

Mr. Chairman, the name of this act is higher education reauthorization. The whole point of this bill is to provide academic financial assistance to those who have in fact proven that they have been able to succeed in the disciplines of securing a secondary education, which is the normal path to higher education opportunity.

One of the problems we have had in higher education, as we know, is an abysmal problem, in fact, an outrageous problem with defaults and, quite frankly, kiting on the system by certain institutions who have taken advantage of naive students, advertising on the back of matchbooks, "Enroll in XYZ course and in 6 weeks you will be making $40,000 a year."

I think we know that both in the Senate and in the House one of our primary purposes in this entire effort has been trying to restore integrity to these programs.

What this amendment will do will simply establish a baseline qualification for participation in these programs of either having in one's possession a high school diploma or a GED certificate.

I do this, Mr. Chairman, because there is not one State in the Union, not one, that does not have generally available opportunity for high school completion either of a normal degree, adult education progress or programs, or a GED program. A disproportionately high number of default rates exist in this client or student group.

The only GAO study we have of this was done in the State of California where it was found that 34 percent of those admitted into the programs under the ability to benefit provisions defaulted on their student loans.

Mr. Chairman, this is an area in which a disproportionately high rate of default exists. It is an area which is closely correlated and associated with institutions which have in fact kited the program in order to get institutional money, particularly in the Pell grant area.

I would remind Members that given the limited funds, whether it be in Stafford loans or Pell grants or whatever, every time you give money to someone who has not succumbed to the discipline of getting a GED or a high school diploma, you are by definition taking it away and reducing what is available to those who have.

Most private institutions and foundations when they make partnerships with their cities, as in the city of Detroit, for example, do so on the basis of saying, "We will help you get through college. We will help you get that advanced degree. All you have to do is demonstrate that you made it through high school."

That is really what we are saying. We are saying that, yes, we want the Government to facilitate your opportunity for higher education, but that ought to be contingent on something. That ought to be contingent on your having demonstrated the fact that you have at least gotten a GED degree.

What in the world are we calling these higher education assistance grants for students who do not even have high school equivalencies? If you are going to do that, fund it under the Elementary and Secondary Education Act, and call it what it is.

I am not saying that trying to help that pool of students is not important, but I am saying that as we seek to reward those students who have succeeded in high school, we ought not then to penalize them at the same time by shifting the money elsewhere. We ought to say to those students who are in high school, yes, we want to help you, but there are some disciplines you have to demonstrate.

□ 1220

You have to demonstrate that you have had the wherewithal to at least get a GED degree. I really do not see this as disentitling or adversely affecting any worthy student.

I want to remind you that the GED examination and adult continuing education programs are available in every State in the Union for free. And if it is for free, why should the Federal Government then be allowing a kind of double dip into something that is already available and free to that student?

So, let us call a spade a spade. This is either going to be higher education money or it is not.

We are also going to be serious about dealing with the problems of abuse where it has existed or we are not.

Mr. Chairman, I urge support for this very simple, clear-cut amendment.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I regret the necessity of opposing the gentleman from Michigan [Mr. HENRY], because he is a good friend and I have such high regard for him.

Let's look at what we are facing: All of you have heard about the Willow Run plant that is closing in my district, with 4,000 people, with good-paying industrial jobs, who are going to be on the street next year when that plant closes.

Now, I know already that a lot of those people can go into local community colleges, take a short-term course and come out of there as medical technicians, come out as technically trained people of one kind or another and be ready for the work force again.

Why should I tell somebody who is in his or her thirties, who has lost a good, solid job because a plant closed under him that he or she now has to go back to high school to get a diploma before going to the community college to get some training for a new job? That makes no sense to me at all.

And the ability-to-benefit requirement simply means that the school will determine that the student has enough training of one kind or another and reads and writes well enough and computes well enough to benefit from the course of study that the student wishes to pursue.

This bill before us has already been tightened up by the gentleman from California [Mr. MILLER] and the gentleman from Texas [Mr. COLEMAN], who have put language in the bill that requires that students admitted to school with the ability to benefit will have to have completed a State-approved education program.

The gentleman's language does damage in my district, and so I feel very strongly about it. It does damage in every district where people are going through the adjustment, not just of the recession but of the industrial remaking of this country, where steel mills, auto plants, rubber plants, just disappear overnight. Those people are going to be left high and dry if we adopt the gentleman's amendment.

Mr. Chairman, I cannot accept it.

He is also wrong when he suggests that students who use this way of getting into school are all going to community colleges.

Fifty-three percent of the students receiving aid under our program as ability-to-benefit students are in community colleges, 21 percent attend proprietary schools, and 26 percent attend other nonprofit schools.

So, a very small number of the people taking advantage of this provision in the law that has been there since 1972, I believe, to go to school are in the kind of schools that irritate the gentleman most.

The default rate of high school graduates is 14.4 percent; the default rate of GED students is 44.2 percent; the default rate for ability-to-benefit students is 56.2 percent. And 44 percent of GED postsecondary students receive student assistance. Thirty-seven percent of ability-to-benefit students receive student assistance.

If you look at the numbers, look at the circumstances and examine America in 1992 and not just through the perspective of some historical concept of what postsecondary education was all about, you will reject the gentleman's amendment.

You will remember, in the opening debate, I said that this bill will represent the biggest single opportunity the Members in this House will have in this Congress to vote for job training and job placement legislation. This is the biggest job training bill we are going to have before us. We are not just interested in sending people to law school, medical school, dental school or even to be teachers; we are interested in people learning what they need to know to make a living in a very fast and rapidly changing dynamic economy.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. I thank the gentleman for yielding.

Mr. Chairman, the gentleman made some statistical remarks that I think are very important.

As I understand it, the ability-to-benefit section now requires an independently administered examination which is approved by the Secretary of Education, for starters.

Mr. FORD of Michigan. That is correct.

Mr. COLEMAN of Missouri. But the gentleman mentioned the fact that people who have GED's right now have a default rate of, I think, 44 percent.

Mr. FORD of Michigan. That is correct.

Mr. COLEMAN of Missouri. And people who have no GED and who do not have a high school graduation diploma have a default rate of just a little bit more than that, or——

Mr. FORD of Michigan. Fifty-six percent.

Mr. COLEMAN of Missouri. Fifty-six percent. So, the margin of that difference is really not significant when you look at the overall issue. We certainly do not want to put a disincentive for people to go and get a GED; for example, we should not put a disincentive in this bill for people who have no diploma or a GED to go ahead and improve and further their education.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. FORD] has expired.

(By unanimous consent Mr. FORD of Michigan was allowed to proceed for 30 additional seconds.)

Mr. FORD of Michigan. I yield further to the gentleman from Missouri.

Mr. COLEMAN of Missouri. I thank the gentleman for yielding further.

Mr. Chairman, there were problems with this section and through the various reconciliations. We have tried to tighten it down as much as possible, and still all these people participate. I certainly do not want the people to abuse the system and neither does the gentleman from Michigan [Mr. FORD] nor the gentleman from Michigan [Mr. HENRY].

I think we have gone to requiring a test to be approved by the Secretary. This is not just a test that is made up and thrown out in some Mickey Mouse deal; it has to be approved by the Secretary. So, I think there are safeguards in place, and I would reluctantly oppose my friend, the gentleman from Michigan [Mr. HENRY].

The CHAIRMAN. The time of the gentleman from Michigan [Mr. FORD] has again expired.

(By unanimous consent Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mr. HENRY. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Michigan.

Mr. HENRY. I thank the gentleman for yielding.

Mr. Chairman, I would simply submit that in any category of eligibility where over half the students default, you have a mismatch. I would simply also say that if you cannot require even a GED certificate where you are getting a 44-percent default rate, that is a very minimal standard. Nothing in this proposal would prohibit a community college from an open enrollment, using its own funds or using State funds; nothing would do that.

Nothing would prohibit a proprietary school from taking the students. But it would say we will not give a Federal guarantee, we will not give a direct Federal entitlement for a student who will not at least work their way up the GED standard.

The front page of yesterday's New York Times has a front-page story, "Trade Schools Near Success." This is the vote right now. Will they make it? "Trade schools near success as they lobby for survival." This is where the problem has come, with a very distinct minority, I will admit. I want to make that clear because the majority of trade and proprietary schools provide a very important and cost-effective means of delivering education and job training to Americans.

It is the minority where the abuses have been most significant. Be it 60 Minutes, 20/20, the New York Times, the Senate committee report, it is only in a minority of schools where the abuses recurred, have occurred over and over again. I simply submit that if we cannot draw the line here, folks, then let us not talk about integrity in this system.

Mr. FORD of Michigan. You know, Mr. Chairman, I wish CARL PURSELL was on the floor. Although the Willow Run plant is in my district, Washtenaw Community College, which has already retrained all the people at Willow Run Transmission and is already cranking up with new curriculum offerings in anticipation of this work force coming to them when they close the doors, would not like to be called a trade and technical school. Washtenaw Community College is probably the biggest prep school for the University of Michigan in the State. They do an excellent job. You are going to cut off students going to that school with your amendment I oppose it.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would hope there would be a better way that this could be done. I realize what the gentleman from Michigan is trying to do. But I have real concern about the 50 percent that are not doing well. We have, as has been mentioned, in law at the present time, a test approved by the Secretary that these people must pass. But when you look at the situation today, you are talking about probably some 30-year-olds, 35-year-olds, 40-year-olds, children not in a position to upgrade their ability to compete when we have the technology increasing constantly and they just positively have to be able to somehow or other improve themselves. There has to be a better way to do this than this amendment would allow, because again I am very much concerned about those who could have dropped out of school for many reasons, with all sorts of problems, as I remember from my days as an educator.

□ 1230

And, Mr. Chairman, if they do not have an opportunity, and in many cases, as I said, if they have a husband and a family, or a wife and a family, they are going to need help, and, if they do not get that kind of help, then they become a very expensive drain on the taxpayer because they and their family alike will be the guests of taxpayers.

So, again I would hope there is a better way to do this than this amendment allows us to do.

Mr. GUNDERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and Members, while the gentleman from Michigan [Mr. FORD] is one of those I consider one of my best friends on the committee, I have to rise in strong, strong, strong opposition to this amendment.

As I said yesterday, and I want to repeat here again today, what we do in this legislation will be the most important thing this Congress does in terms of employment policy during the entire session because higher education today is not just the ability of a few people to go to some beautiful liberal arts colleges and universities and get a liberal arts degree in the classics. Those days are gone.

Lane Kirkland said a few years ago in the last recession, and the words are just as true, if not more true, today, that the reality of today's work force is the average person entering that work force will have four different careers in six different jobs in their lifetimes. Secretary Alexander has continually tried to push the whole concept of lifelong learning. We are going to take many steps in this reauthorization bill to promote lifelong learning, and yet this amendment, if adopted, would send the signal to everybody in the work force today that, if they are laid off, if they become the victim as a displaced homemaker, if they need training or retraining, we have just established the Federal policy that says that type of basic help is no longer available.

Mr. Chairman, in an ideal world we would love that everyone would complete high school. In an ideal world we would love that everyone would get a GED. But the reality is that the big movement in expansion in higher education today is not at the 4-year universities. The expansion in higher education today is in technical training and retraining, and this bill is our one way, outside of unemployment compensation, to help those individuals get the kind of skills they need to get a new job.

As the chairman, the gentleman from Michigan [Mr. FORD] mentioned, I happen to have in western Wisconsin at the present time 1,300 people losing their job at a Uniroyal tire plant. Some of these people do not happen to have college degrees or GED's, but they are back in technical schools today getting new training to become viable parts of our work force. We have at the same time in western Wisconsin major displacement in agriculture where family farmers no longer are able to keep those farm jobs. Some of these men and women do not have high school diplomas or GED's, but they are back at technical colleges getting new skills today in order to become viable parts of our work force, and that says nothing about the displaced homemaker who needs to go and get a career of her own, it says nothing about the person who has English as a second language who finds, very frankly, the GED a major hurdle to them.

This amendment sends a signal of elitism in the area of higher education. It sends a signal of displacement and disregard in the area of training and retraining like nothing else we can do, and I say to my colleagues, "Whether you're a Republican or Democrat, liberal or conservative, this is the amendment that will determine whether you believe we need a comprehensive training and retraining employment policy in the future. I beg of you, reject this amendment, and reject it handily."

Mr. HENRY. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from Michigan.

Mr. HENRY. The typical ability-to-benefit student is not the 50-year-old factory worker who has been laid off. Statistically the typical ability-to-benefit student is a young high school dropout being promised cheap grace by a few schools. They say, "We can train you and get you a job," even though they have never even gotten up to a GED level. How can it be said they are going to bring someone up? What they are doing is arguing to cheapen academic standards, not bring up academic performance. This bill is not meant to be aid to institutions, which I support, but aid to students who can already get a free education for GED and high school training. Let them get that step, and then give them the aid for the advanced training.

Mr. GUNDERSON. Mr. Chairman, the gentleman from Michigan [Mr. HENRY] bring up a good point, but, if we have problem schools out there, we ought to deal with those problem schools. We got the mechanisms in the bill to deal with those schools. We ought to not deny those 200,000 ability-to-benefit students today the opportunity to get training and retraining just because there are a few bad schools and institutions out there. Go after the problems. Do not destroy any potential for future viability in the work force of those innocent victims.

As the gentleman knows and I know, the average person that he talked about who dropped out of high school, some of those women dropped out because they unfortunately became pregnant.

Mr. HENRY. That is right.

Mr. GUNDERSON. And they now do not want to go back to high school, and they do not want——

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

(By unanimous consent, Mr. GUNDERSON was allowed to proceed for 1 additional minute.)

Mr. GUNDERSON. They do not want to go back to high school. Some of them are pursuing careers that frankly do not need that GED right now. They need specialized training, and, if we can give them the opportunity for that training, they can get on the payrolls, and get off government assistance and have the pride and integrity that that provides. This amendment will destroy that opportunity.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and members of the committee, I think our colleague, the gentleman from Pennsylvania [Mr. GOODLING], put his finger on this, that we must be terribly concerned about the other half. We are terribly concerned about the default rate that the gentleman from Michigan [Mr. HENRY] has brought to our attention, both in the committee and here on the floor, and we must direct the resource and accountability at those schools, and at those young people and at those individuals that are using that program.

But it has been said here by the gentleman from Wisconsin [Mr. GUNDERSON], and the gentleman from Michigan [Mr. FORD] and others that this country is going through a major economic change. This country has been the beneficiary of hundreds of thousands and millions of people, many of whom who did not finish high school. We keep hearing about the dropout rates of 40 percent, and 30 percent, and 25 percent. Those people did not disappear. Many of them entered apprentice programs and are now sheet metal workers, are now welders. They are working in Groton, CT; they are working in Palmdale, CA. They have been building the B-1, and B-2, and the F-15 and the submarines. They are skilled people. Their jobs are about to disappear.

In California, anticipating some of this, our State college system, our university system, our community college system has tried to put together a system that would allow those people to come back into the education system at the community colleges, allow them to be retrained, to upgrade their skills so they can move on to a new job or hold on to the job that they have. This program allows for that.

Mr. Chairman, what this amendment would do is wipe all of that out. Every person who did not get a college education is not sitting on a street corner. Hundreds and thousands of them are working today, and they have been working for years. Every person that did not get a GED is not hanging out drinking wine on the corner. They are working and supporting families. This amendment would say that they could not go get a loan to retrain themselves to hold on to their family homes, to hold on to an occupation to provide the economic means for their family to stay together. This is one of the few things we are offering these hundreds and thousands of people that find themselves in a position where their job will no longer exist. Some of them, fortunately, are on notice. They have been told that in 2 years or 3 years this line is going to shut down or this facility is no longer going to be part of the Defense Establishment.

□ 1240

They now have the opportunity to go to a community college and get the skills and the training which they need, and many do so. This amendment would deny them that opportunity.

Mr. Chairman, these are our constituents. They are there by a whole series of circumstances: It may be divorce, it may be teenage pregnancy, but whatever it is, let us not pretend that they are not out there participating in the American economic system, working their fingers to the bone and concerned about the future of their families.

The gentleman from Pennsylvania [Mr. GOODLING] is right. We must be terribly concerned about those people because they are struggling and striving to stay in the American economic system.

Mr. COLEMAN of Texas. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Texas.

Mr. COLEMAN of Texas. Mr. Chairman, I rise today to commend the diligent work of my colleague, Mr. MILLER, in his efforts to ensure access to higher education for all Americans, regardless of gender or ethnicity. Mr. MILLER and the committee have returned the process of identifying those students who can benefit from the postsecondary education to the experts—the educators. To provide a little background to the Members: Current law on students who have not completed high school or earned their GED certificate has been interpreted by the Department of Education to require postsecondary institutions to use a single standardized test to determine a prospective student's ability to benefit from higher education. As you all know, there are a multitude of problems inherent in the use of an unvalidated standardized test to determine a student's college ability. These problems resulted in many students who actually could succeed in college being denied that opportunity. Minority students were especially hard hit by this unfair testing.

Fortunately, my colleague recognized the shortcomings of the testing requirement, and drafted into the higher education amendments a provision that looks at a variety of factors in determining whether a student will be able to benefit from a college education. I wholeheartedly endorse the use of this comprehensive matriculation process rather than a single test. In support of Mr. MILLER's proposal, I would like to cite briefly the results of three national surveys conducted by the American Association of Community and Junior Colleges in conjunction with El Paso Community College, the California Community College system, and the National Center for Fair and Open Testing.

The findings reveal that prior to the Department of Education's decision, which denied many of these students the opportunity for a higher education, ability-to-benefit students were as successful in college as students with high school diplomas and GED certificates. Success was measured by the percent of students making satisfactory academic progress as measured by their college. The preliminary findings show little difference in the performance of students entering college with a high school diploma, a GED certificate, or a favorable ability to benefit assessment. The study suggests that motivation is more important than all other factors in determining student success. These studies provide that the comprehensive college matriculation processes being used by colleges before the Department of Education's decision not only avoided the bias and inaccuracy of standardized tests, but also identified students who could successfully pursue a college course of study. This study, entitled "Ability to Benefit: Resurrecting the Dream—Results and Findings of a National Survey," is available from the American Association of Community and Junior Colleges.

Corroborating these findings was a study completed by the El Paso Community College in which the cumulative grade point average for ability-to-benefit students was comparable to that of high school graduates and GED students. As more of these case studies are completed, the findings will be included in the report.

Again, I commend my colleague for his insight on this issue, and give my unqualified support for his proposal.

The CHAIRMAN. The time of the gentleman from California [Mr. MILLER] has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. Mr. Chairman, first of all, let me say that I thank my colleague, the gentleman from Texas [Mr. COLEMAN] for his efforts and for the work that has been done at El Paso Community College to study this problem and to look at these students and find out there is not the kind of distinction that justifies throwing them all out the window and taking away their economic ability to support their families.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I thank the gentleman for yielding.

My understanding is that this amendment would be devastating to the community college system in California, which prides itself, and rightly so, on serving a wide variety of people, many of whom have never graduated from high school and who discovered at a later age that they could benefit from this, and indeed they do benefit. So I would certainly join the gentleman in opposing the amendment.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman from California. He quite correctly characterizes the amendment.

Mr. Chairman, let me say something else. Unfortunately, this is a tragic circumstance, and it is an unfortunate admission. Let us not pretend in this day and age that the process by which people get a high school diploma today guarantees any greater success. It should, but it does not. Let us not pretend that the process by which people get a GED degree guarantees success or differentiates those people from those who do not have one. As Mr. COLEMAN has pointed out, they look as much like the people who have high school diplomas and GED's as the people who do not. As a matter of fact, the default rate is about the same. The default rate must be addressed, but we cannot punish these people.

I think we have worked out an agreement with the gentleman from Pennsylvania [Mr. GOODLING], the gentleman from Missouri [Mr. COLEMAN], the gentleman from Michigan [Mr. FORD], and the Secretary's office, and others, to put accountability in, and to give some authority to making the test independent and putting it in. We are trying to address what the gentleman from Michigan [Mr. HENRY] wants to address, but very simply, this amendment is too broad. In these economic times, when again this Government does not do a lot for people who lose their jobs, unfortunately, one of the few things that is available is an unemployed check and the possibility of getting new skills to go back to work.

As so many people have found out in this recession, they are a paycheck away from poverty, from food stamps, from losing their house, and losing their children's education. We ought to do all we can to see that that is not the case.

Mr. Chairman, this bill does that, and the amendment, unfortunately, as currently drawn, is simply detrimental to that effort to try to maintain the integrity of these families.

Mr. Chairman, I rise in opposition to Mr. HENRY's amendment to strike the ability-to-benefit section from the higher education bill. This is the same amendment that Mr. HENRY offered in the committee markup, which the committee rejected.

The committee bill maintains the ability-to-benefit section, in recognition of the open enrollment programs of many community colleges throughout the country. The committee accepted an amendment I offered which permits the Secretary of Education to recognize a State-approval process for determining ability to benefit in lieu of the test requirement. This State-approved system must meet the standards which the Secretary will establish.

I want to thank my colleagues on both sides of the aisle for their assistance in helping us to resolve the problem of what to do about providing Federal financial aid to students who did not have the good fortune to be able to graduate from high school or obtain a general education development [GED] certificate before enrolling in a higher education institution.

Let me give you a little background on the issue of ability-to-benefit students. In late 1990, the Department of Education issued a proposed regulation which would have required all students to pass a single standardized test in order to qualify for Federal financial aid, and would have jeopardized the eligibility of an institution to participate in Federal financial aid programs. I introduced H.R. 907 in February of last year because California's 107 public community colleges, by State law, must accept anyone over the age of 18 who can benefit from the instruction offered in their programs, and are—also by State law—prohibited from turning any student away based on a single test.

The colleges and the State together—wanting to help all students succeed, not just those without high school diplomas or GED's—spent over $180 million and nearly 10 years to develop a system called matriculation to do just that. The system has only been fully operative for 1 year, but preliminary data show conclusively that, first, students receiving the services of the matriculation program stay in school to complete their programs, and second, achieve higher grade point averages than those who do not receive matriculation services.

Services provided through the matriculation system include helping the student with the admission process, orienting the student to the college, assessment of the student's abilities, helping the student to establish educational goals, counseling regarding appropriate classes, courses, and programs to take to meet the goals, monitoring the student's progress, and intervention—or calling the student in for counseling—if it appears that he or she is not making satisfactory academic progress.

In the Education and Labor Committee, we added that system as an alternative to the single standardized test as a way to determine students' ability to succeed. In the committee report, we further singled out the California community colleges' matriculation system as exemplary, and instruct the Secretary of Education to use it as a model when developing regulations for other States which want to concentrate their efforts on helping students to succeed.

Why all this effort on helping students succeed? Because thousands of students graduating from high school across the Nation cannot read adequately or do mathematics at the college level. Because our national postsecondary education system is called on daily to help hundreds of thousands of economically disadvantaged students to become productive members of the American work force rather than recipients of welfare payments. Because thousands of older learners who may have had to drop out of high school became too busy earning a living to earn a GED. Because across this Nation, we have thousands upon thousands of refugees and immigrants who come to us deficient in English, but otherwise able to deal with collegiate coursework.

Efforts will be made to eliminate financial aid for non-high school graduates on the grounds that these are the people who do not succeed in college and subsequently default on their student loans. I am not aware of a single study which links student loan defaults to ability-to-benefit students. In fact, as my colleague from Texas, Mr. RON COLEMAN, will point out, a most comprehensive study done by the El Paso Community College in his district reveals that by every measure of success, ability-to-benefit students were as successful in college as students with high school diplomas. It is not successful students who are the defaulters, it is those who are enticed into schools with high tuition and few services who drop out who default on their loans. I commend Mr. COLEMAN and the El Paso Community College for their leadership in exploring this hitherto neglected area, and hope that he will have some words to say about the study.

And while I am talking about helping students succeed, let me also place in the RECORD a letter from Dr. David Mertes, chancellor of the California community college system, to Chairman FORD and members of the California delegation, offering a compromise student aid plan in which the central focus is not only providing financial assistance, but helping students succeed in college.

Chancellor Mertes suggests that colleges which want to participate in Federal student financial aid programs be required to have in place a specific system for helping their students succeed in the first year of college. It is the first year, we all know, which is the most difficult for most students, especially those who are the first ones ever in their families to attend college.

He proposed a guaranteed Pell grant for the student's first year, making the institution responsible for assessing the student's capabilities, providing counseling as to appropriate educational goals and programs, guidance, monitoring, and otherwise aiding the student toward the successful completion of 1 full year of postsecondary study. This would require a substantial public investment in the first-year student, but far more important, it would require every institution whose students receive Federal financial assistance to be sure that that investment of public funds is given every chance to succeed.

At the beginning of the student's second year, Dr. Mertes proposes that the institution be empowered to provide for a loan to the student, perhaps—depending on the level of that year's appropriation—even lowering the amount of the Pell grant, thus requiring the student, having completed 1 year of successful college work, to begin investing in his or her own future.

Whether they are high school graduates or not, students in postsecondary education institutions deserve to have all the resources that can be mustered to help them succeed.

CALIFORNIA COMMUNITY COLLEGES,
Sacramento, CA, January 24, 1992.

Hon. WILLIAM F. FORD,
Chairman, House Committee on Education and Labor, Washington, DC.

DEAR CHAIRMAN FORD: I am writing to alert you that I have recommended to the presidents of the 107 California Community Colleges that they consider withdrawing from the federal guaranteed student loan programs as of the Fall 1992.

After serious consideration, I have come to the conclusion that the potential liabilities faced by a community college solely on the basis of its default rate, together with the excessive long-term debt burden placed on first-year students, make our continued participation untenable.

This is a difficult decision to make because 17,000 Californian Community College students received loans through the guaranteed loan programs last year, and federal policy does not provide the dollars in non-loan aid programs to offer them an alternative. As you well know, to compensate for insufficient funding in the grant and work-study programs, the loan programs, which were created for middle-income families, increasingly have been directed to low-income students. As responsible low-cost institutions serving predominantly low-income students, the California Community Colleges have not been able to fully use the current loan programs. Although most of our 200,000 state and federal financial aid recipients (including 97,000 Pell Grant recipients) are eligible for loans, colleges discourage borrowing as the only way to prevent defaults.

There is a widespread agreement in the education community that a goal of this reauthorization of the Higher Education Act is to address the imbalance between loans and grants in Title IV aid provided to our nation's students. Consequently, the California Community Colleges asks your assistance, as reauthorization of the Higher Education Act comes closer to reality, in enacting the following provisions.

1. Establish the maximum Pell Grant at $4,500, and permit use of the entire amount to meet a student's educational costs. The tuition-sensitive Pell Grant maximum currently proposed in both H.R. 3553 and S. 1150 will not significantly increase Pell Grants for students at low-cost colleges causing continued reliance on loans for those very poorest students. Borrowing could be virtually eliminated among our first-year students if the full Pell Grant maximum were available to them for books, supplies, child care, and subsistence costs, as well as tuition and fees.

2. Significantly increase the College Work-Study Program, to help those who are able to spend time outside of their educational programs in related jobs (I believe that the

business community would assist with expansion of this program).

3. Prohibit loans to first-year students except in extenuating circumstances to be determined by college personnel working individually with each student.

4. Enact a pilot direct-loan program that allows institutions to determine who receives loans, based on a student's successful completion of the first year. The beginning of the second year is a more appropriate time to make loans to community college students. The California Community Colleges would volunteer to participate in any such pilot program, either as an entire system or at selected colleges throughout the state.

I am asking for your help because the status quo is no longer acceptable, given the potential impact on our students and colleges. During the past year, nine California Community Colleges were threatened with termination from the loan programs because of high default rates. Our experience demonstrates a significant amount of faulty data is used to determine the default rates. Eight of the nine threatened colleges challenged the default rate attributed to them. Six have so far been found to be below the 35% cutoff rate attributed to them by the Department of Education; the other two are still in the appeal process. The ninth institution has voluntarily withdrawn from the loan programs for other reasons. But it has taken six months of arduous efforts to pursue these appeals, and new default rates will be released in April.

As the default rate cutoff point is lowered, additional colleges are at risk of losing all Title IV funds; and even some vocational education funds have been threatened. I don't want to see another college in this predicament, and I don't want students to continue to be burdened with long-term debt before they are certain they can succeed in college. I cannot continue to allow our colleges and students to be put in jeopardy through the loan programs when there are better alternatives.

I would be very happy to talk with you or your staff, or to appear before your Committee personally to more fully explain these proposals. Please feel free to call me at (916) 322-4005 at your convenience.

Sincerely,

DAVID MERTES,
Chancellor.

Mr. CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. HENRY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HENRY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 28, noes 385, not voting 21, as follows:

[Roll No. 56]

AYES—28

Allard
Ballenger
Barton
Broomfield
Coughlin
DeLay
Doolittle
Gekas
Gingrich
Goss
Gradison
Hefley
Henry
Hopkins
Ireland
Johnson (TX)
McCrery
McMillan (NC)
Petri
Roukema
Sensenbrenner
Shaw
Stearns
Taylor (NC)
Upton
Walker
Zeliff
Zimmer

NOES—385

Abercrombie
Ackerman
Alexander
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
Bacchus
Baker
Barnard
Barrett
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Blackwell
Bliley
Boehlert
Boehner
Bonior
Borski
Boucher
Boxer
Brewster
Brooks
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Glickman
Gonzalez
Goodling
Gordon
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Herger
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Jacobs
James
Jefferson
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kennelly
Kildee
Kleczka
Klug
Kolbe
Kolter
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Laughlin
Leach
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Matsui
Mavroules
Mazzoli
McCandless
McCollum
McCurdy
McDade
McDermott
McEwen
McGrath
McHugh
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olin
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Pursell
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roberts
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Rowland
Roybal
Sabo
Sanders
Sangmeister
Santorum
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Serrano
Sharp
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (NJ)
Smith (OR)
Smith (TX)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stenholm
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Thomas (WY)
Thornton
Torres
Towns
Traficant
Traxler
Unsoeld
Valentine
Vander Jagt
Vento
Volkmer
Vucanovich
Walsh
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—21

Armey
AuCoin
Browder
Clay
Dannemeyer
Donnelly
Ewing
Jenkins
Levine (CA)
Martinez
McCloskey
Miller (WA)
Morrison
Mrazek
Peterson (FL)
Russo
Stark
Thomas (GA)
Torricelli
Visclosky
Whitten

□ 1308

Messrs. HOBSON, EDWARDS of Oklahoma, ROBERTS, McCANDLESS, JOHNSON of South Dakota, ACKERMAN, HYDE, and HOLLOWAY changed their vote from "aye" to "no."

Mr. ZELIFF changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MRS. MINK

Mrs. MINK. Mr. Chairman, I offer an amendment, which is on page 169, line 23.

Mr. COLEMAN of Missouri. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Missouri reserves a point of order on the amendment.

The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mrs. MINK: Page 169, line 23, strike "and"; on page 170, line 5, insert "and" after the semicolon; and after line 5, insert the following.

"(iii) not in excess of 2 years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service, or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers post-graduate training;".

Page 170, line 16, strike "and"; on line 23, insert "and" after the semicolon; and after line 23, insert the following.

"(iii) not in excess of 2 years during which the borrower is serving an internship, the successful completion of which is required in order to receive professional recognition required to begin professional practice or service, or serving in an internship or residency program leading to a degree or certificate awarded by an institution of higher education, a hospital, or a health care facility that offers post-graduate training;".

□ 1310

Mrs. MINK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Hawaii?

There was no objection.

Mrs. MINK. Mr. Chairman, I thank the gentleman from Missouri for reserving the point of order, allowing me the opportunity to discuss the amendment which I have published in the RECORD along with my colleague, the gentleman from New York [Mr. ENGEL].

This bill that we are debating today is undoubtedly the most important piece of legislation for the future of this country. It provides access to education to untold tens of thousands of students all across the country in all varieties of circumstances. We have improved the student financial aid program enormously and widened the opportunities for young people to achieve the kinds of career and education to which this country, I believe, entitles these young people.

It has been my privilege, Mr. Chairman, to serve on this committee and to be a part of the development of the contents and policies of this legislation, and I fully support the product of this committee's endeavor, and I am a cosponsor and am an original cosponsor of the new bill which was introduced to be substituted in order to meet the objections of the Budget Committee.

Subsequent to the introduction of this final bill it has come to my attention through numerous inquiries that I have received and letters from all across the country that one of the measures that we included in the bill would greatly harm students who are attending medical schools and go on to internships and residencies. The purpose of the legislation was to try to clarify all of the complicated requirements in the different levels of deferments which the previous law entitled. I believe there were some 13 or 14 different categories. This will streamline those deferments and requires three areas which must be either presented for a deferment or proven. One has to do with economic need, the other has to do with being in school, and the third has to do with being unemployed.

In the special case of medical students in internships and residencies they would not be able to qualify in many circumstances because they are not in school. They are not unemployed in the sense of the meaning of this section. So I believe that these students who are interns and residents, it is a basic part of the development of their professional careers, and they ought to have a special section in the bill which would provide for an automatic deferment for these students who are interns and residents.

So it was hoped that we would be able to offer this amendment to clarify this point. Many of the interns and residents tell me they are not paying tuition. There is a section in the committee report that says "in school" will be defined as those persons who pay tuition, but many of these persons do not. So I fear that while these students are still engaged in their professional education as interns and residents they are going to be forced to pay their loans back when they can ill afford it, and these loans probably amount to an average of $50,000.

So it is a point that I feel very strongly about.

The CHAIRMAN. The time of the gentlewoman from Hawaii [Mrs. MINK] has expired.

(On request of Mr. ENGEL and by unanimous consent, Mrs. MINK was allowed to proceed for 3 additional minutes.)

Mr. ENGEL. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK. I yield to the gentleman from New York, who also introduced an amendment which was printed in the CONGRESSIONAL RECORD.

Mr. ENGEL. Mr. Chairman, I rise today to join my colleague, Congresswoman MINK, in offering an amendment to H.R. 3553, the Higher Education Reauthorization Act. Our amendment would reinstate the deferment of student loans to individuals participating in medical residency or intern programs for up to 2 years.

While the current version of H.R. 3553 was intended to simplify the loan deferment system, I feel that once implemented, the bill would have a detrimental impact on the entire medical profession. The new provision replaces the 13 current deferments in the Student Loan System with three broad deferment eligibility categories: To those student who are still enrolled in school; to those individuals who are unemployed; and to those individuals who are experiencing economic hardship.

The last criterion, especially, is a source of great concern. H.R. 3553 directs the Secretary of Education to consider a borrower's debt-to-income ratio in promulgating regulations to implement the economic hardship provision. In addition, I understand that it is intended that the borrower's living expenses, including mortgage, rent, food, clothing, et cetera, be included as debt in defining a borrower's economic hardship.

As a representative from an area with one of the highest living costs in the entire country, I am highly concerned that this new formula developed to determine economic hardship will not be fair. The current provision opens many doors and leaves many questions unanswered. How will the borrower's living expenses be calculated? How often will the formula be updated? And how many individuals will fall in between the cracks of the Department of Education's economic hardship formula? Are we willing to take these risks? Certainly, the intent surrounding the current provisions in H.R. 3553 is fair. However, I have serious doubts regarding its fair implementation. As my colleagues know, frequently the intent of Congress' legislation is lost in administrative interpretation.

Serving a medical residency is one of the final components in a physician's formal training and the duration of the residency program varies between 3 and 7 years. These are several years that consist of extremely hard work and long hours. Unfortunately, if our amendment is not adopted, it may also be years of unnecessary and overwhelming economic hardship for thousands of medical residents.

Today, the costs of a medical education are rising at an alarming rate. Currently, annual tuition costs range from $5,000 to almost $28,000. Without Federal financial assistance, many excellent doctors would be denied the opportunity to pursue a career in medicine. In 1990, for instance, 79 percent of medical school graduates assumed educational debt owing an average amount of $46,224. In addition, 12 percent of these 1990 graduates incurred debt in excess of $75,000. Minority and low-income students, especially, are dependent on borrowed money to complete their medical education. In 1990, minority students incurred an average debt of $51,000, and 21 percent of them had debts of over $75,000.

As a Representative of Bronx, NY, I speak for the hundreds of medical students currently enrolled at the Albert Einstein Schools of Medicine. I also represent the thousands of doctors that teach and work at the Albert Einstein College of Medicine and those who serve at the North Central Bronx, Montefiore, and Bronx-Lebanon Hospitals, as well as those physicians in private practice. I have received hundreds of letters from medical students, frantically asking me to do something to assure that they will not be forced to face overwhelming economic circumstances. Dr. Dawnielle Kerner writes,

> As a resident at Bronx-Lebanon Hospital Center I take home $1,800 a month. If the rules change my loan payments will be almost $1,200 a month. That would leave $600 a month to cover rent, food, and all other living expenses. My apartment is rent subsidized and I still pay $500 a month. In New York City $100 does not go far.

Dr. Mark Kerner, a resident in orthopedic surgery at Montefiore Hospital writes,

> I come from a middle class family, and though I have been able to pay for part of my education through work study and scholarships, my indebtedness at this time exceeds $100,000—my current monthly take-home income is $1,600. My payments on these loans would exceed this amount. It would be impossible for me to even purchase books.

And Dawn Gangi, a second-year student at Albert Einstein College of Medicine writes,

> Not only am I concerned for myself and my ability to repay these loans, but I fear for the future of health care in this Nation. As the incentives to go into medicine become fewer and fewer, and the prospects of struggling for years after school become greater and greater, I can only wonder what caliber of people will go into the field.

I could go on. I have hundreds more letters from physicians and medical students expressing these same feelings of concern and anxiety. Not only are they troubled by the economic hardships they and their colleagues will face, they are also concerned for the future quality of American health care.

Mr. Chairman, I urge my colleagues to support this amendment. The future of the entire medical profession and the economic security for thousands of medical students, residents, and their dependents relies on its passage.

The CHAIRMAN. The time of the gentlewoman from Hawaii [Mrs. MINK] has again expired.

(By unanimous consent Mrs. MINK was allowed to proceed for 3 additional minutes.)

Mr. ROWLAND. Mr. Chairman, will the gentlewoman yield?

Mrs. MINK. I yield to the gentleman from Georgia.

Mr. ROWLAND. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, I rise in support of the amendment submitted by my colleagues, Mr. ENGEL and Mrs. MINK. This amendment restores the 2-year loan deferment for medical residents.

In 1990, over 75 percent of all medical school graduates had used educational loans. At Mercer University Medical School in Macon, GA, 90 to 95 percent of all students are attending medical school with the assistance of educational loans. Their debts have grown from an average of $39,000 in 1989 to an average of $83,000 in 1992. More than a few students in this group of 1992 graduates will have debts in excess of $100,000. I am assured that this pattern of debt growth is reflected by other medical school graduates in the State.

□ 1320

Mr. Chairman, the monthly payment on a debt of $83,000 is nearly $1,500. A first year medical resident works approximately 80 hours per week for a salary that averages $23,000. These residents most often support not only themselves and but also their families. As a physician, I urge you to recognize the significant sacrifice the immediate repayment of student loans has on the resident and his family.

Mr. Chairman, I can recall that when I was in my residency in 1952 to 1954, I had made a private loan, but the payment for this was deferred until after I finished my residency. I had accumulated a debt of about $10,000 at that time which is equal to about $100,000 now. I could not have stayed in that residency program had I had to repay that loan while I was undergoing my training.

Without loan deferment, residents in many cases will be forced to choose between necessary family support or default on an existing debt.

Also, since a number of young physicians and students are closely following the progress of this debate, let us also emphasize strongly, that we expect these young physicians to fulfill our expectation that loan repayment begins immediately after loan deferment.

Mr. Chairman, I urge my colleagues to support the restoration of the 2-year loan deferment for medical school graduates in residency training programs.

The CHAIRMAN. The time of the gentlewoman from Hawaii [Mrs. MINK] has again expired.

Mr. COLEMAN of Missouri. Mr. Chairman, I would like to pursue my point of order.

The CHAIRMAN. The gentleman may speak to his point of order.

Mrs. MINK. Mr. Chairman, if the gentleman would yield on his point of order, I would like to ask unanimous consent for 2 additional minutes to yield to my committee colleague, the gentleman from Wisconsin [Mr. KLUG].

The CHAIRMAN. Is there objection to the request of the gentlewoman from Hawaii?

Mr. COLEMAN of Missouri. Mr. Chairman, reserving the right to object to the gentlewoman's unanimous-consent request, let me say here that I do not object to the 2 minutes for the gentleman from Wisconsin [Mr. KLUG], but I just talked to the chairman. He said we are going to be in session here today until we finish this bill. If we are going to take 10 to 15 minutes for an amendment which is going to be ruled out of order, we are not going to be finished tonight until 4 or 5 in the morning, let along 5 o'clock in the afternoon, so I just say that not specifically to this one, but this is an example of how we get bogged down. So we ought to go through these things rather rapidly where we do not have any disagreement where we know a point of order is going to lie.

Mr. Chairman, I withdraw my reservation of objection on the unanimous-consent request for the gentlewoman to extend time for 2 minutes.

Mr. Chairman, I reserve my right to the point or order.

(By unanimous consent, Mrs. MINK was allowed to proceed for 2 additional minutes.)

Mrs. MINK. Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Chairman, I thank the gentlewoman, who is on the committee as well, for yielding.

I understand the reservations of some people on the Committee on Education and Labor itself about costs associated with expanding some type of entitlement or deferment program for physicians.

It seems to me absolutely ludicrous at a time when we are talking about a health-care crisis in this country that we are going to ignore a crisis facing much of rural America as well as much of downtown New York as my colleague, the gentleman from New York, spoke to just a few minutes ago.

Right now in the State of Wisconsin we are short 150 family doctors, and the only way many rural communities can get them to come to outlying areas is by offering them some kind of incentive such as a deferment program such as the gentlewoman from Hawaii has suggested. In fact, there are right now 111 counties in the United States which have no physicians whatsoever, and at a time when people on both sides of the aisle, both Republicans and Democrats, have some to the understanding that we have got major problems with the health care delivery system in the United States, it seems absurd to me that we are going to strip out a longstanding provision in this program which recognizes deferments for physicians willing to serve in underserved areas in the United States.

POINT OF ORDER

The CHAIRMAN. The time of the gentlewoman from Hawaii has again expired.

Does the gentleman from Missouri [Mr. COLEMAN] wish to pursue his point of order?

Mr. COLEMAN of Missouri. Mr. Chairman, I do.

Mr. Chairman, I am sympathetic to the concerns that are expressed here for this amendment. The bill already has extended hardship deferments for 3 years in the bill, and we are trying to make some rationality under all of these deferments.

My point of order, Mr. Chairman, is that I cite section 303(a) of the Budget Act, which prohibits any new spending authority first effective for fiscal year 1993 or beyond until the concurrent resolution on the budget for the fiscal year has been agreed to. Since the budget resolution has not been agreed to, all amendments that require spending for fiscal year 1993 or beyond violate the Budget Act.

Furthermore, I cite section 401(b)(1), which precludes any new entitlement authority first effective before October 1992.

The amendment in question would require the Government to pay an interest subsidy for an extended period of time for individuals not otherwise subsidized by the bill. The amendment expands the class of individuals entitled to an interest subsidy in repayment of their student loans. Consequently, the amendment establishes a benefit, a beneficiary, and a right to the benefit, in this case interest subsidy, satisfying the definition of new entitlement authority under the Budget Act.

While the Congressional Budget Office did not credit the committee bill with savings for changes in the deferment terms of student loan programs in the act, the present amendment expands the class of individuals entitled to the economic benefit of loan principal and repayment deferments and interest subsidies.

The CHAIRMAN. Does the gentlewoman from Hawaii [Mrs. MINK] wish to be heard on the point of order?

Mrs. MINK. Yes, Mr. Chairman, I wish to be heard on the point of order.

Mr. Chairman, the points that have been raised in opposition to my amendment come to me with a great deal of shock and surprise, because we had submitted this amendment to the Congressional Budget Office as we are required to do, and the process by which we make that inquiry is to send in our amendment, and noted thereon are three marks from the CBO on my amendment saying that it does not involve any direct spending or any new entitlement authority.

Under three of those lines, it says, "None, none, none," and it seemed to me that we were fully in our right to bring this amendment to the floor with the CBO having told us and assured us that there was no additional money or no additional entitlement authority.

Furthermore, in debating this matter in committee, time and time again we were assured that these students for which we are now seeking a special designation for their deferments were already going to be covered under the amendment, that all we were doing by that general amendment in the bill was to clarify the process in order to avoid having all of these separate categories, but that medical interns and residents would be treated just as they were in the past.

It was with that assurance that I supported the refinement of the language and agreed to the passage of the bill. However, since that time we find that not to be necessarily true, because, as I have pointed out earlier, the interns and residents probably do not pay tuition and, therefore, would not be included in the category of being in school.

It seems to me, Mr. Chairman, this point of order comes very late. It comes at a time when we have no opportunity to refute it.

What can a Member of the House do in the face of an approved slip from the CBO which is the very process which we are expected to follow, when they tell us that our amendment is in order, does not cost additional money, does not direct additional spending, has no new entitlement authority, only to find that at the last minute that decision has been reversed and we find that we do not have an opportunity to offer this amendment which so many Members, I believe, support and would like to have included in the higher education bill?

The CHAIRMAN (Mr. PEASE). Are there other Members who wish to be heard on the point of order?

If not, the Chair is prepared to rule.

It is the understanding of the Chair that CBO may have advised various Members based on the assumption that medical interns and residents were already covered by the bill, which the Chair is advised is not the case.

It is the obligation of the Chair to measure the point of order against the pending bill before the Committee and to make a judgment as to the nature of the new spending authority. Under the terms of the bill, the class of borrowers addressed by the amendment would not be eligible for deferment of student loan repayments.

Under the amendment, that class of borrowers would be made so eligible. Because a deferment extends the period during which the United States subsidizes a borrower's interest payments, deferments are, in effect, entitlements.

Because the amendment enlarges the class of borrowers eligible for deferment, it does provide new entitlement authority within the meaning of section 303.

Accordingly, the Chair sustains the point of order.

☐ 1330

AMENDMENT OFFERED BY MR. VENTO

Mr. VENTO. Mr. Chairman, I offer an amendment, which has been printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. VENTO: Page 197, after line 10 insert the following new section (and conform the table of contents accordingly):

SEC. 430A. DEFAULT REDUCTION PROGRAMS.

Section 428F of the Act (20 U.S.C. 1078-6) amended—

(1) by striking subsection (a);

(2) in subsection (b)—

(A) in subparagraph (A) of paragraph (1)—

(i) by striking "Upon" and inserting "Each guaranty agency shall enter into an agreement with the Secretary which shall provide that upon"; and

(ii) by adding at the end the following new sentence: "Neither the guaranty agency nor the Secretary shall demand from a borrower as monthly payment amounts referred to in this paragraph more than is reasonable and affordable based upon the borrower's total financial circumstances.";

(B) in paragraph (3), by inserting "or grants" after "loans";

(3) by redesignating subsection (b) (as amended in paragraph (2)) as subsection (a); and

(4) by adding at the end the following new subsection:

"(b) SPECIAL RULE.—Each guaranty agency shall establish a program which allows a borrower with a defaulted loan or loans to renew their eligibility for all title IV student financial assistance (regardless of whether their defaulted loan has been sold to an eligible lender) upon the borrower's payment of 6 consecutive monthly payments. The guaranty agency shall not demand from a borrower as a monthly payment amount under this subsection more than is reasonable and affordable based upon the borrower's total financial circumstances.".

Mr. VENTO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Chairman, this amendment is an amendment I understand that is going to be accepted both by the chairman and the ranking member. I appreciate their efforts on the overall bill. I think they are bringing us a good work product that has taken a lot of effort on their part.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I have examined the gentleman's amendment with the staff and discussed it with the minority. The majority is prepared to accept the gentleman's amendment.

Mr. VENTO. Mr. Chairman, I thank the gentleman for his support.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. VENTO. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, we have examined the amendment and agree to the amendment.

Mr. VENTO. Mr. Chairman, I rise today to offer an amendment to H.R. 3553, the Higher Education Act amendments.

I would first like to express my appreciation to Chairman FORD and the Education Committee for all they have attempted to do in this bill to improve student financial assistance programs.

The purpose of my amendment is to build up on the committee's strong effort by addressing the problems that confront people who have defaulted on their student loans and help them reestablish a habit of repayment while increasing collections on those defaulted, nonworking loans.

As a result of such increased collections, the Congressional Budget Office has determined my amendment will result in a slight savings to the Government for the next 3 fiscal years and thereafter.

Mr. Chairman, as you know, the number of student-loan defaults has skyrocketed in recent years. This is partly due to the shift from grants to loans in Federal student aid, partly due to recessionary unemployment and underemployment, and partly due to the rigid systems of law surrounding defaults.

My own district office experienced a 100-percent increase last year in cases that involve financial aid problems. The majority of individuals that we have helped are hard-working, honest people who have been caught in a situation which is not of their own making.

Such people are not swindlers trying to cheat their Government, Mr. Chairman. They are ordinary people who can't find a job with adequate pay and are caught up in an inflexible loan system which denies them the opportunity to get back on their own feet.

As a result of the increasing number of people in Minnesota who cannot get the stability they need to become self-sufficient, a group of service providers, educators, and activists who work with defaulters have formed a task force to confront this problem. The student loan task force has been seeking new ways to help defaulters repay their loans and go on to finish their education or training.

The amendment I am offering today is a direct result of those recommendations and I am grateful to the task force.

Under our present system, there are no options for a person in default. In fact, Mr. Chairman, even when a borrower does offer to pay as much as possible—and often more than is reasonable—on their loans, they do so only to have their offer rejected.

The efforts of my own constituents to continue to pay at least minimal amounts have been rejected since the loans are federally insured and the guarantor is permitted to keep up to 30 percent of anything they manage to collect on the defaulted loan.

Mr. Chairman, it seems to me that from the perspective of the Federal Government, accepting nothing in place of something is a nonsensical choice. In light of the total impact on the individual borrowers, their families, and to the Federal assistance programs that frequently must help these people, forcing borrowers into default is nothing short of outrageous.

Mr. Chairman, at present once a borrower has defaulted on a student loan they essentially lose all future eligibility to participate in any title IV financial aid program. While this might appear to make perfect sense upon first glance, it robs the Federal Government of leverage in collecting on the lost loan.

Mr. Chairman, my amendment would serve to correct these problems in the following way.

First, it requires the Secretary of Education and all guarantee agencies to work with a defaulter to consider their complete financial circumstances, including among other things rent, dependent care, and medical costs. This is an essential component if borrowers are to resume regular payments on their defaulted loans.

Second, my amendment also provides that once a borrower has reestablished a pattern of repayment, having made 6 consecutive monthly payments, their eligibility for title IV financial assistance is automatically renewed. This would address the great need for the education and training that exists for many who have defaulted.

Mr. Chairman, it is essential that we as Members of Congress not only concern ourselves with the fiscal deficit, but that we give equal consideration to the human deficit.

My amendment will increase the opportunity for those individuals with defaulted loans to reach their full self-sufficiency, and to contribute all they can to their families and our communities. In the process we will recover defaulted loans that we would otherwise not be able to collect on.

Mr. Chairman, I urge my colleagues to support this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. VENTO].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KLUG

Mr. KLUG. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Has the amendment been printed in the RECORD?

Mr. KLUG. Yes, Mr. Chairman, it has.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

> Amendment offered by Mr. KLUG: Page 169, line 23, and page 170, line 16, strike "and"; and on page 170 after line 5 and after line 23, insert the following new clauses:
>
> "(iii) not in excess of 3 years during which the borrower is engaged as a full-time teacher in a public or nonprofit private elementary or secondary school in a teacher shortage area established by the Secretary pursuant to paragraph (4) of this subsection;
>
> Page 177, strike lines 13 through 16 and redesignate the succeeding subsections accordingly.
>
> Page 177, line 18, strike "428(b)(4) of the Act as redesignated)" and insert "428(b)(5) of the Act".
>
> Page 178, line 4, and page 179, lines 14 and 23, redesignate paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7), respectively.

Mr. KLUG (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

POINT OF ORDER

Mr. FORD of Michigan. Mr. Chairman, I am constrained to and must make a point of order on this amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. FORD of Michigan. Mr. Chairman, I would have reserved a point of order, but what just happened when we tried to do that is an illustration that we will never get finished here if we use the reservation of a point of order for unlimited debate. For that reason I make the point of order without a reservation.

Mr. Chairman, in section 303(a) of the Congressional Budget Act it is not in order to consider any measure which creates entitlement authority or directs spending authority first effective in the fiscal year prior to the budget resolution for that fiscal year.

The amendment would require the Government to pay an interest subsidy for an extended period of time for individuals not otherwise subsidized by the bill.

The amendment expands the class of individuals entitled to an interest subsidy in repayment of their student loans. Consequently, the amendment establishes a beneficiary and a right to the benefit in the subsidy satisfying the definition of new entitlement authority under the Budget Act.

While the Congressional Budget Office did not credit the committee with savings for changes in the deferment terms of the student loan programs in the act, the present amendment expands the class of individuals entitled to the economic benefit of loan principal repayment deferments and interest subsidies.

I want to close by saying it makes me extremely sad to have to make this point of order, because I have been trying to get into the law what the gentleman is trying to do in the law. He is right. He is right, but we are operating with something called the Budget Act and we have squeezed every last little smidgeon of money out of everything that we could get our hands on to justify the bill, and we just cannot pass up the clear duty that places on us with the Budget Act.

I am sorry, Mr. Chairman, that we cannot accommodate the gentleman by accepting his amendment.

The CHAIRMAN. Does the gentleman from Wisconsin wish to be heard on the point of order?

Mr. KLUG. Yes, very briefly, I might add, Mr. Chairman.

The CHAIRMAN. The gentleman may proceed.

Mr. KLUG. First of all, Mr. Chairman, this amendment, like the amendment offered by my colleague, the gentlewoman from Hawaii just a few minutes ago, attempts to expand the higher education authority to also allow deferments for teachers involved in teacher shortage areas. In fact, right now, 34 States have made application to the Federal Government because of shortages of teachers, much like the shortage of physicians in rural areas across the United States.

I accept the gentleman's point of order, but let me tell you, there is some frustration that I feel in that we in good faith went to the Congressional Budget Office last week and asked for an analysis, only to have now today an indication that the CBO estimate no longer holds. They told us there would be no additional expense. We come to the floor and suddenly find out that in this case the Congressional Budget Office, which happens to support our position, no longer holds.

I think that is a very dangerous precedent. If we are going to ask the CBO to do an analysis, then my sense is the CBO analysis should be the rule of law on this floor.

The CHAIRMAN. Does anyone else wish to be heard on the point in order?

Mr. WALKER. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman from Pennsylvania may proceed.

Mr. WALKER. Mr. Chairman, I am very troubled with what is happening here. In previous iterations of this kind of challenge, the Parliamentarians have ruled that the Congressional Budget Office determinations with regard to the cost of an amendment would in fact hold.

Now under this particular challenge, we have the Parliamentarians overruling the Congressional Budget Office in what the Congressional Budget Office feels is the true nature of the situation. As I understand it, the Congressional Budget Office has said that the category of people that the gentleman from Wisconsin [Mr. KLUG] wishes to cover in his amendment were already assumed by them to be included, and so therefore there is no cost involved in extending this particular benefit.

The Parliamentarians have ruled that the CBO does not know what they are talking about on the Budget Act and that in fact this is a violation by extending this matter to a new category of person.

Now, I am a little puzzled. It seems that whenever the majority wants the CBO to stand with them, the Parliamentarians rule that the CBO estimates are absolutely and incredibly accurate, but when the majority wishes to have the CBO ruled out, then the Parliamentarians rule that the CBO has no accuracy, and in fact that the law applies regardless of what the CBO says.

This gives us a rather strange kind of process that we have to go through. The gentleman from Wisconsin [Mr. KLUG] has gone to the CBO and was told by the CBO that this did not violate the Budget Act, only to come to the floor and find out that now there is a new hurdle that he has to cross that he did not know before. The new hurdle is that the Parliamentarians are now in a position of overruling what the CBO says.

Now, I think it is a precedent which we are taking on at great peril.

Mr. FORD of Michigan. Mr. Chairman, I assume the gentleman was not on the floor for the discussion of the previous point of order.

The CHAIRMAN. The gentleman will desist. It is not possible for one Member to yield to another during discussion of a point of order. The gentleman from Michigan may seek his own time.

The gentleman from Pennsylvania has the time at the moment.

Mr. WALKER. At this point, Mr. Chairman, what I would ask is that the point of order not be sustained, that the point of order while it comes timely is not sustainable from the standpoint that the CBO has ruled that the matter before the House does not extent an entitlement, that it in fact is something where the particular people covered are assumed to have been covered previously, so therefore the amendment of the gentleman from Wisconsin is in order and should be considered by the House.

Mr. FORD of Michigan. Mr. Speaker, may I be heard further on the point of order?

The CHAIRMAN. The gentleman from Michigan may proceed.

Mr. FORD of Michigan. Mr. Chairman, the gentleman from Pennsylvania apparently was not on the floor when the previous ruling was made by the Chair on precisely the same point of order, and the point of order was raised from that side of aisle.

I think it is really unfair hyperbole for the gentleman to come in late and suggest that because I made the point of order that the ruling would be different than it was when the gentleman from Missouri [Mr. COLEMAN] on the Republican side made the point of order. It is exactly the same point of order. The same issues are at stake and the same assertion was made on the previous point of order that the Congressional Budget Office made a mistake. It is not because it is my point of order that I expect them to rule on it. I expect them to rule exactly as they did with the Republican point of order.

The CHAIRMAN. Does anyone else wish to be heard on the point of order?

Mr. WALKER. Mr. Chairman, may I be heard?

Mr. FORD of Michigan. Mr. Chairman, the gentleman has already been heard on this point of order.

Mr. WALKER. So has the gentleman from Michigan, Mr. Chairman.

The CHAIRMAN. The gentleman may be heard more than once on a point of order. The gentleman from Pennsylvania may proceed.

Mr. WALKER. I thank the gentleman.

Mr. Chairman, I plead guilty to not raising the point on the previous question. But the point that I am making here is one of who is going to make determinations with regard to the Budget Act? Our understanding all the way along had been that the Budget Act was determined by the CBO.

Now all of a sudden we are finding that there is a new hurdle that extends where the Parliamentarians are now going to make judgments about CBO estimates. And I think we are treading into brand-new territory here, which is disturbing because it means that we will never have any kind of assurance about where the Budget Act applies and where it does not.

So, my concern here is similar, if that was the precise ruling the time before, it seems to me that the Parliamentarians there have taken control away from the institution that was supposed to be giving us advice under the Budget Act. And I am still concerned then that we are setting precedent here which is not in the direction that the House should countenance. And I ask that the point of order against the gentleman's amendment not be upheld.

The CHAIRMAN (Mr. PEASE). Does anyone else desire to be heard on the point of order? If not, the Chair is prepared to rule.

The Chair would observe that the fact that CBO assumed the inclusion of these borrowers in its estimating model is not dispositive to the question of order under section 303. Moreover, under section 303 the Chair must be guided by the text and, unlike sections 302 and 311, is not required to accept Budget Committee estimates as conclusive.

Having said that, the Chair would point out that the issue here is identical to what it was in the amendment raised by the gentlewoman from Hawaii, and based on the same reasoning the Chair sustains the point of order.

Mr. KLUG. Mr. Chairman, the committee bill substantially alters a provision in current law that provides deferments on the repayment of loans for graduates who choose to bring their talents—at a financial cost to themselves—to areas of social need or shortage areas.

I am very concerned that as a result of the consolidation and simplification of deferment categories which this bill includes, very important and socially useful incentives to students will be lost. I believe it is absolutely appropriate to use these Federal assistance programs, just as we use the tax code, to create incentives for socially beneficial choices.

First, the first part of my amendment would restore the current 3-year deferment for those who go on after college to teach in areas of our country designated by the Secretary of Education and the States as underserved educational areas.

Second, the second part of my amendment would restore the current 2-year deferment for those who serve as resident-physicians, nurses, or other health care providers in shortage areas as designated by the Secretary of the Department of Health and Human Resources in consultation with the Secretary of Education.

There is clear evidence that in a great many communities across the land, rural and urban, there is a critical shortage of both professional educators and health care providers. The reason for shortages is not difficult to understand. In many areas working conditions are not as good, and compensation is not as high as elsewhere. As a result, an already existing condition of inadequate access to health care and educational under achievement, is compounded and made worse.

In my home State of Wisconsin our rural areas are short 150 family doctors, which causes residents in many communities to postpone treatment, travel great distances to get it or simply receive no health care at all. The problem is not limited to Wisconsin. In 1988 there were 111 counties in America without a single doctor.

Problems like the National Health Service Corps, which will award 500 medical school scholarships this year to students who practice in these underserved areas are helping, but other incentives are required, at least as long as evidence of severe shortages exist.

Within our education system, there are geographic regions of the country as well as specific subject matter areas in which there are not enough teachers to meet existing need. As evidence of this fact 34 States now have applied and been approved to participate in teacher shortage area programs. Many States are currently negotiating for approval.

I do not believe that by itself this amendment will solve the problem of inadequate access to health care services or the shortage of qualified and dedicated teachers in critical subject areas or in the rural and inner city communities that need them most. I do believe, however, that by adopting this amendment, and thus restoring the deferments available under current law, we can make a small but significant contribution toward that end.

I urge my colleagues to support my amendment.

AMENDMENT OFFERED BY MR. GUNDERSON

Mr. GUNDERSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair inquires, has this amendment been printed in the RECORD?

Mr. GUNDERSON. It has, Mr. Chairman, yes.

The Clerk read as follows:

Amendment offered by Mr. GUNDERSON: Page 63, strike out lines 12 through 14 and insert in lieu thereof the following:

amended in the first sentence therein—

(A) by inserting immediately after "full-time basis" the following: "(including a student who attends an institution of higher education on less than a half-time basis)"; and

(B) by inserting before the period at the end thereof the following: ", computed in accordance with this subpart".

Page 86, line 16, strike out "and inserting" through line 20 and insert a period.

Mr. GUNDERSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. GUNDERSON. Mr. Chairman, this amendment, for the benefit of my colleagues, is the amendment known as one course at a time.

Under present law, anyone must have a minimum of 2 different courses at the same time in order to be eligible for student financial aid. This amendment is strongly supported by the administration, and, I think, on a bipartisan basis.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. I thank the gentleman for yielding.

Mr. Chairman, I want to compliment the gentleman from Wisconsin for his persistence in following this up. We have been up and down on this issue over the years. I think he has finally found the right balance.

Mr. Chairman, on behalf of the majority, I would like to accept the gentleman's amendment.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. I thank the gentleman for yielding.

Mr. Chairman, we have looked at the amendment, and the minority side will accept it as well.

The CHAIRMAN. If there is no further debate, the question is on the amendment offered by the gentleman from Wisconsin [Mr. GUNDERSON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GUNDERSON

Mr. GUNDERSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Has the amendment been printed in the RECORD?

Mr. GUNDERSON. It has, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. GUNDERSON: Page 265, line 11, insert the following before the "." "and the Secretary shall determine that such guarantee agency will remain financially sound."

Mr. GUNDERSON. Again, Mr. Chairman, I will try to be very brief. We have a compromise on this amendment on both sides.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the chairman.

Mr. FORD of Michigan. I thank the gentleman for yielding.

Mr. Chairman, I have examined the amendment, and on behalf of the majority, we accept the gentleman's amendment.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. I thank the gentleman for yielding.

Mr. Chairman, the minority accepts that amendment as well.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. GUNDERSON].

The amendment was agreed to.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the gentleman from Wisconsin got more votes on this side than he did on that side. The gentleman had better work it a little harder, Mr. Chairman.

Mr. MORAN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, in respect for the other Members' time, I rise in support of the bill.

Mr. Chairman, I would like to commend Chairman FORD, Mr. GOODLING, and the other members of the Education and Labor Committee for bringing before this body a bill that goes a long way toward meeting the needs of America's students. The programs contained in H.R. 3553 will provide help to every sector of the postsecondary education community, and in doing so has the potential of affecting over 13 million individuals next year.

Beyond the breadth of this reauthorization, though, its depth is of particular importance. Over the past two decades Federal aid has shifted in two critical ways. First, the Federal Government's commitment to providing aid for every student who needs it has become, instead, a program of assisting primarily the economically disadvantaged. Although these students need our help and should continue to receive our greatest attention, we must renew our commitment to all those that need it. This bill will do that by making the middle class once again eligible for such financial aid.

The second issue addressed by H.R. 3553 is the unfortunate shift that has taken place over the past two decades away from a reliance on grant aid to a system based on loan subsidies and guarantees. Although it is unfortunate that the language being considered today does not contain the dramatic remedies of earlier versions, it does adequately address the problem by increasing maximum awards and raising the income caps for eligible families.

I am, however, concerned about one section of the bill. We have watched as default costs have jumped and the incidents of abuse in title IV programs has been highlighted here in Congress, on television, and in the papers. Our concern over these matters is warranted and, in fact, H.R. 3553 does a good job of addressing the lion's share of problems that have been identified. There are some sections, though, in which the committee's commitment to stopping abuses may have caused them to approve language that will adversely affect schools that we desperately need to train our work force; schools that do not abuse the system. Postsecondary vocational education is critical to preparing students for today's workplace. In my district these schools fulfill a very important role particularly the preparatory schools. They've provided the essential skilled work force we need in computers, electronics, heating & airconditioning and so forth. More than 80 percent of the students served are minorities and 90 percent are low income. We must carefully assess changes affecting these schools within the context of the benefits that these schools are providing to their students and to American industry. I hope that in conference or in any technical corrections legislation that is to follow, the

Education and Labor Committee will examine the implications of the institutional eligibility sections, particularly those dealing with the length of the academic year, the limiting of short-term program eligibility, and the lack of proper definition of a "clock-hour."

Mr. Speaker, in closing I would like to reiterate my support for H.R. 3553, and my hope that we will not discount the long-term benefits that we receive from helping postsecondary vocational students to receive an enhanced education and training.

AMENDMENT OFFERED BY MR. COLEMAN OF MISSOURI

Mr. COLEMAN of Missouri. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Has the amendment been printed in the RECORD.

Mr. COLEMAN of Missouri. It has, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. COLEMAN of Missouri:

—Page 271, strike line 3, and insert the following (and indent lines 4 through 15 accordingly)

"(d) CONTROL GROUP.—

"(1) REGULAR REPAYMENT.—To assist the Comptroller

—Page 271, after line 15 insert the following new paragraphs:

"(2) INCOME CONTINGENT REPAYMENT.—Within the control group selected under paragraph (1), the Secretary shall identify a group of institutions to serve as a control group for comparison with the institutions offering income contingent loans under this part pursuant to section 454(6). The institutions selected for the control group under this paragraph shall select a reasonable cross section of the institutions selected under paragraph (1). The Secretary shall publish an identification of the institutions that are so selected. Any eligible lender of a loan to a student for attendance at any such institution shall, in accordance with regulations prescribed by the Secretary, offer such students the option of repaying such loans on an income contingent basis consistent with such regulations.

"(3) INCOME CONTINGENT TERMS AND CONDITIONS.—The Secretary shall, by regulation, establish the terms and conditions for loans that are subject to paragraph (2) of this subsection. Such terms and conditions shall, to the extent practicable, be the same as the terms and conditions of loans made pursuant to section 454(6). The Secretary is authorized to enter into such agreements (and amendments to agreements) under part B of this title as may be necessary to carry out paragraph (2) and this paragraph.

—Page 267, line 11, strike "and", and after such line insert the following new paragraph (and redesignate the succeeding paragraph accordingly):

"(6) in the case of 20 percent of the institution selected by the Secretary for operations under this part, include such terms and conditions as the Secretary may require by regulation for testing income contingent repayment methods, which shall include—

"(A) requiring such institutions to offer the option of income contingent repayment, based on an annual review of the borrower's Federal income tax return, to any student who applies for a loan under this part;

"(B) the additional or different terms and conditions to be included in the notes or other agreements entered into by the borrower, as required by such regulations, including provisions with respect to the disclosure by the borrower of subsequent income;

"(C) providing for the discharge of loans after not more than 25 years of income contingent repayment;

"(D) such data and reporting requirements and such other provisions as the Secretary considers necessary to carry out the purposes of section 458(d)(2) and to the protection of the Federal fiscal interest; and

—Page 268, line 6, insert after the quotation marks the following: "(a) IN GENERAL.—".

—Page 268, line 10, insert before the semicolon the following: ", at least one of which shall be for serving loans that are subject to Income contingent repayment".

—Page 268, line 19, insert the following new subsection:

"(b) SERVICING FOR INCOME CONTINGENT LOANS.—The Secretary shall, through contract, ensure the availability of servicing of loans made pursuant to section 454(c) at a cost comparable to that available for loans under part B of this title (that are not subject to income contingent repayment).

"(c) INFORMATION ON INCOME CONGINENT LOANS.—The Secretary shall acquire such information as is necessary regarding the adjusted gross income of borrowers (under this part and under part B) of loans that are subject to income contingent repayment for the purpose of determining the annual repayment obligations of such borrowers. The Secretary shall, not less provide often than once per year, provide to the servicer, lender, or holder of a loan the Secretary's determination of the borrower's repayment obligation on that loan for such year.

Mr. COLEMAN of Missouri (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. COLEMAN of Missouri. Mr. Chairman, this amendment permits 20 percent of the loans in the so-called direct loan demonstration project, the pilot project, to be repaid on an income-contingent basis. Under this amendment, income contingency would be offered to borrowers in both the direct loan demonstration and those in the control group of GSL's.

The purpose of this amendment is to use this demonstration as an opportunity to test the feasibility of income-contingent repayment and determine whether or not it is a viable option in either a direct loan or guaranteed loan program.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Missouri [Mr. COLEMAN] presents us with an amendment that is a result of the consideration of ideas from the other body, ideas from numerous people here, Mr. PETRI, Mr. MILLER, among others, and Mr. GEJDENSON. Actually, he has come up with a way that we can try this out as a part of the pilot on direct loans and see how it works.

Mr. Chairman, for the majority, we accept the gentleman's amendment.

Mr. GEJDENSON. Mr. Chairman, as college tuition costs continue to rise, more and more students are finding themselves locked out of higher education. Many middle-income students are denied access to our universities because student loans are not available to them. Those who are lucky enough to get student loans find themselves strapped with huge loan payments after graduation.

Additionally, the Federal Government has had to step in and cover costs incurred because existing student loan programs are not run as efficiently as they could be. Last year, for example, the Government paid over $3.6 billion to cover student loan default costs.

The Ford-Coleman amendment which stipulates that 20 percent of the schools participating in the $500 million direct loan pilot program offer income contingent loans is an effort to solve these problems.

An income contingent loan program gives every student, regardless of family income, the change to finance their college education. Loan repayments are based on postschool income and are collected as income taxes by the IRS.

While everyone will end up paying back what they borrowed, in contrast to current loan programs, this type of repayment schedule is progressive. It guarantees that borrowers at all income levels will not pay more per month than they can handle. It also means that college graduates taking lower paying jobs in teaching or social services can pay less than someone who took a high paying job. Under this proposal, low income borrowers with large loans can stretch out their payment schedules so that they pay only a manageable percentage of their income.

Additionally, the Ford-Coleman amendment saves taxpayers money by cutting Government costs, and eliminating loan defaults. Because payments are deducted by the IRS from borrowers' earnings once they enter the working world, there is no opportunity to default.

While I would like to see a more comprehensive income contingent loan program implemented, I believe that this proposal is a step in the right direction. I urge my colleagues to support this amendment and give this important loan program the chance it deserves.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. COLEMAN].

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer two amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Have the amendments been printed in the RECORD?

Mr. TRAFICANT. Yes, Mr. Chairman, they have.

The CHAIRMAN. Is the objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. TRAFICANT: Page 426, after line 2, insert the following new part (and conform the table of contents accordingly):

PART J—AMENDMENTS TO RELATED PROGRAMS

SEC. 499A. EXCELLENCE IN MATHEMATICS, SCIENCE AND ENGINEERING EDUCATION ACT OF 1990.

Section 621(o) of the Excellence in Mathematics, Science and Engineering Education Act of 1990 is amended by striking "fiscal year 1991" and inserting "each of the fiscal years 1993 and 1994".

Part 426, after line 2, insert the following new part (and conform the table of contents accordingly):

PART J—AMENDMENTS TO RELATED PROGRAMS

SEC. 499A. EXCELLENCE IN MATHEMATICS, SCIENCE AND ENGINEERING EDUCATION ACT OF 1990.

Section 621 of the Excellence in Mathematics, Science and Engineering Education Act of 1990 is amended—

(1) in subsection (b), by amending paragraph (2) to read as follows:

"(2) FUNCTION.—The Advisory Board shall develop an exam for secondary students testing knowledge in science, mathematics, and engineering, or shall select an exam from among existing national exams, and shall annually administer such exam.";

(2) by striking subsections (d), (e), and (f);

(3) by redesignating subsection (c) as subsection (d);

(4) by inserting after subsection (b), the following new subsection:

"(c) RESULTS OF EXAM.—The Advisory Board shall annually certify the top 10 scorers in each congressional district on the exam developed or selected under subsection (b)(2), and award to the top 2 scorers in each district a scholarship under this section.";

(5) in subsection (d)(1), as so redesignated by paragraph (3) of this section, by striking "subsection (n)" and inserting in lieu thereof "subsection (1)";

(6) in subsection (d)(2), as so redesignated by paragraph (3) of this section, by striking "subsection (h)" and inserting in lieu thereof "subsection (g)";

(7) in subsection (d)93), as so redesignated by paragraph (3) of this section—

(A) by striking "subsection (h)" and inserting in lieu thereof "subsection (f)"; and

(B) by inserting "such additional" after "maximum of 3";

(8) by redesignating subsections (g) through (o) as subsections (e) through (m), respectively;

(9) in subsection (f)(2), as so redesignated by paragraph (8) of this section, by striking "subsection (f)" and inserting in lieu thereof "subsection (d)(3)"; and

(10) in subsection (m), as so redesignated by paragraph (8) of this section by striking "$2,200,000 for fiscal year 1991" and inserting in lieu thereof "$4,400,000 for fiscal year 1993 and $8,800,000 for fiscal year 1994".

Page 579, line 15, strike the close quotation marks and following period and after such line insert the following new subsection:

"(c) BUY AMERICAN REQUIREMENT.—No funds appropriated pursuant to this section may be expended by an institution of higher education for any procurement contract that an agency of the Government would be prohibited from entering into under the Act of March 3, 1933 (41 U.S.C. 10a et seq., popularly known as the 'Buy American Act').".

At the end of the bill add the following new title:

TITLE XV—BUY AMERICA

SEC. 1501. SENSE OF CONGRESS

It is the sense of the Congress that a recipient (including a nation, individual group, or organization) of any form of student assistance or other Federal assistance under the Act should, in expanding that assistance, purchase American-made equipment and products.

SEC. 1502. NOTICE.

The Secretary of Education shall provide to each recipient of student assistance or other Federal assistance under the Act a notice describing the sense of the Congress states under section 1501.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, this is the National Academy of Science, Space and Technology. It was authorized in 1990. This would reauthorize it and also provide for competitive examinations for the top 2 scorers to be awarded those scholarships.

I appreciate the fact that the committee has afforded me the opportunity to offer the amendments.

Mrs. UNSOELD. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. I thank the gentleman for yielding.

Mr. Chairman, on behalf of the majority side, we accept the amendments.

Mr. TRAFICANT. I appreciate the statement of the gentlewoman.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. I thank the gentleman for yielding.

Mr. Chairman, we will accept the amendments on this side.

Mr. TRAFICANT. Mr. Chairman, I appreciate the support of the committee.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. PENNY

Mr. PENNY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Has the amendment been printed in the RECORD?

Mr. PENNY. It has, Mr. Chairman.

The Clerk read as follows:

Amendment offered by Mr. PENNY: Page 252, after line 6, insert the following new subsection (and redesignate the succeeding subsections accordingly):

"(c) DEFINITION OF COMMUNITY SERVICE.—Section 441 of the Act is amended by adding at the end the following new subsection:

"(c) COMMUNITY SERVICES.—For purposes of this part, the term 'community services' means services which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, as designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs, including (but not limited to) such fields as health care, child care, literacy training, education (including tutorial services), welfare, social services, transportation, housing and neighborhood improvement, public safety, crime prevention and control recreation, rural development, and community improvement, and includes support services to students with disabilities and activities in which a student serves as a mentor for such purposes as—

"(1) tutoring;

"(2) supporting educational and recreational activities; and

"(3) counseling; including career counseling.

Page 252, strike lines 9 through 23 and insert the following:

"(e) REALLOCATION OF EXCESS ALLOCATIONS.—If an institution returns to the Secretary any portion of the sums allocated to such institution under this section for any fiscal year, the secretary shall reallot such excess to eligible institutions to carry out community service work-study programs, which may include programs under section 1131.

Page 253, strike lines 1 through 14 and insert the following:

"(e) USE FOR COMMUNITY SERVICE.—Section 447(b)(2)(A) of the Act is amended to read as follows:

"(A) in fiscal year 1994 and succeeding fiscal years, an institution shall use at least 10 percent of the total amount of funds granted to such institution under this section in any fiscal year to compensate students employed in community service work-study programs;";

Page 255, line 13, strike "(10)" and insert "(11)"; on line 17, strike "paragraph" and insert "paragraphs"; on line 21, strike "and'."; and after line 21 insert the following new paragraph:

"(10) provide assurances that the institution will inform all eligible students of the opportunity to perform community service work-study, and will consult with local nonprofit, governmental, and community-based organizations to identify such opportunities; and".

Page 256, line 17, after "jobs" insert ", including community service jobs".

Mr. PENNY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. PENNY. Mr. Chairman, the amendment I offer deals with the College Work/Study Program, and I would encourage the dedication of a portion of those funds to community service employment. It is comparable in nature to an amendment approved in the other body and offered there by Senator WOFFORD of Pennsylvania.

Mr. Chairman, the amendment I offer today is really very simple, and quite fundamental. It neither increases expenditures, nor alters the existing College Work-Study Program in a significant manner.

What it does do is adopt a single, broad definition of community service which encompasses both on and off campus service, including support services for students with disabilities. Under this new definition, community service means service designed to improve the quality of life for community residents, particularly low-income individuals, including such fields as health care, child care, literacy training, education and tutorial services, neighborhood improvement, public safety and crime prevention, recreation, rural development, and community improvement. This new definition also allows students to be involved in assisting individuals with disabilities and in mentoring others. Importantly, under my amendment, community service can be performed on and off campus.

The amendment requires that beginning in fiscal year 1994, schools shall ensure that at least 10 percent of their work-study funds go to students engaged in community service, again: on or off campus. In addition, any work-study funds returned to the Secretary would be reallocated for community service activities.

Mr. Chairman and colleagues, when the Congress created the CWS Program in 1964, it envisioned that many of the college students who received this new form of Federal student financial assistance would give back to their communities through public service. Specifically, it was the intention of the creators of CWS that each college develop two types of employment opportunities: on-campus employment in a wide variety of occupations, and off-campus employment with public or nonprofit organizations where the employment is in the public interest.

As a recent General Accounting Office report makes clear, however, only a small fraction of the youth who receive the hundreds of millions spent each year in the CWS program perform work of genuine benefit to the larger community. According to the GAO, 95 percent of work-study funds go to on-campus jobs; and only 0.2 percent of Federal work-study funds are spent on community service-learning programs authorized under current law, even though the Federal Government covers 90 percent of the costs of such programs. The Federal Government currently covers 70 percent of the cost in providing most work-study jobs. The GAO also found that most on-campus jobs are low skilled: 14 of 20 institutions surveyed estimated that 50 percent or more of on-campus jobs are clerical or low skilled in nature. On the other hand, off-campus jobs—which comprise only 5 percent of work-study funding—are more likely to relate to students' goals and fields of study.

While opportunities for community service activities apparently shrunk under the auspices of the College Work-Study Program, voluntarism is on the increase across the country. Just a few days ago the Washington Post ran an article: "Hot Course on Campus: Volunteerism 101." Let me quote briefly from that article because it very convincingly makes the case for the Congress to take additional steps to encourage this emerging sense of voluntarism among college students.

> So suddenly and dramatically has this new movement blossomed here and nationally, including the Washington area, that many educators say voluntarism may well become a distinguishing characteristic of college life in the 1990's.

The article goes on to say:

> For the first time in 22 years, the Community for Creative Non-Violence, which runs Washington's largest homeless shelter, has so many college students knocking on their door that dozens, even those who offer to live in, are being turned away each month.

Lest you think that this wave of voluntarism spilling out across the Nation is regional or local, let me assure you it is happening on almost every college campus and in every community. Let me list a few: The University of Michigan volunteer program includes over 4,400 students. National networks of student volunteers have sprung up across the country. Eighteen months ago, nearly 8,000 students met at the University of Illinois for a Student Environmental Action Coalition; a new group called JUSTICE, a social outreach effort at the country's 28 Jesuit colleges, was recently organized. The Campus Outreach Opportunity League, based at the University of Minnesota recently sponsored a meeting in Orlando that was attended by 1,200 students. Instances and examples of the growing spirit of outreach and voluntarism are almost endless.

Some here will argue that the bill on the floor today allows 100 percent of work-study to be used for community service. That's true. My amendment would not alter that flexibility, but the reality, Mr. Chairman, and colleagues, given what we know about how CWS funds are allocated, is that few dollars will be reserved for community service work study unless we require it. The language I offer is flexible: it gives schools 2 years to establish or coordinate existing community service work study programs, and through reallocations, will provide more dollars for these programs.

This amendment has the support of the following organizations and individuals: People for the American Way, John Buchanan, chairman; Youth Service America; Working Group on Youth Service; The National Campus Compact; Washington State Campus Compact; California Campus Compact; Michigan Campus Compact; Pennsylvania Campus Compact; Florida Campus Compact; U.S. Student Association; Bonner Foundation; Campus Outreach Opportunity League; ASPIRA; United Native Indian Tribal Youth [UNITY]; and Florida Office of Campus Volunteers.

The 101st Congress saw passage of the groundbreaking National and Community Service Act of 1990 and the establishment of a new Commission on National and Community Service to assist the States and schools as they strive to renew the ethic of civic responsibility across the Nation. It is now time to build on these recent accomplishment by revitalizing the role of citizen in college work-study. I ask for your support of my amendment.

AMENDMENT OFFERED BY MR. COLEMAN OF MISSOURI TO THE AMENDMENT OFFERED BY MR. PENNY

Mr. COLEMAN of Missouri. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mr. COLEMAN of Missouri to the amendment offered by Mr. PENNY: Page 3, line 2, strike "shall use" and insert "shall be encouraged to use."

Mr. COLEMAN of Missouri. Mr. Chairman, I offer this amendment because the gentleman from Minnesota, in his original amendment, requires this and we need to keep the flexibility of these funds to be used in any fashion the institution might want. But I do believe we ought to encourage and do—move down this road and encourage them. That is why I put the word "encouraged," it is not mandatory, it is encourage, which is stronger than just "may." And I hope the gentleman would accept my amendment.

□ 1350

Mr. PENNY. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Minnesota.

Mr. PENNY. Mr. Chairman, I have no problem with the amendment. My concern at this point, is to give some support to this initiative as we leave the House and when we go to conference. I would trust something could be worked out with the other side.

Mrs. UNSOELD. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentlewoman from Washington.

Mrs. UNSOELD. Mr. Chairman, the committee also supports the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. COLEMAN] to the amendment offered by the gentleman from Minnesota [Mr. PENNY].

The amendment to the amendment was agreed to.

AMENDMENT OFFERED BY MRS. UNSOELD TO THE AMENDMENT OFFERED BY MR. PENNY, AS AMENDED

Mrs. UNSOELD. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

> Amendment offered by Mrs. UNSOELD to the amendment offered by Mr. PENNY, as amended: Page 2, line 13, strike "reallot such" and insert "reallot 25 percent of such".

Mr. PENNY. Mr. Chairman, will the gentlewoman yield?

Mrs. UNSOELD. I yield to the gentleman from Minnesota.

Mr. PENNY. Mr. Chairman, I thank the gentlewoman from Washington for yielding. Again this is an amendment that we negotiated with my friends on the committee. I am content to accept the amendment.

Again, Mr. Chairman, my major goal is to get these provisions in the bill so that we can again negotiate with the Senate on the work study policy, and I thank them for their cooperation.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Washington [Mrs. UNSOELD] to the amendment offered by the gentleman from Minnesota [Mr. PENNY], as amended.

The amendment to the amendment, as amended, was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. PENNY] as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. RAMSTAD

Mr. RAMSTAD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. RAMSTAD: Page 372, beginning on line 11, strike out paragraph (1) through line 18; on line 19, redesignate paragraph (2) as paragraph (1); on page 373, line 10, redesignate paragraph (3) as paragraph (2); and on page 372, beginning on line 13, strike out paragraph (7) through page 375, line 13, and insert the following:

"(7)(A) Each institution of higher education participating in any program under this title shall develop and distribute as part of the report described in paragraph (1) a statement of policy regarding—

"(i) such institution's campus sexual assault programs which shall be aimed at prevention of sex offenses; and

"(ii) the Procedures followed once a sex offense has occurred.

"(B) The policy described in subparagraph (A) shall address the following areas:

"(i) Education programs to promote the awareness of rape, acquaintance rape, and other sex offenses, and possible sanctions to be imposed following the final determination of an on campus disciplinary procedure.

"(ii) Procedures students should follow if a sex offense occurs, including who should be contacted, the importance of preserving evidence as may be necessary to the proof of criminal sexual assault, and to whom the alleged offense should be reported.

"(iii) Procedures for on-campus disciplinary action in cases of alleged sexual assault which shall include—

"(I) a clear statement that the accuser and the accused are entitled to the same opportunities to have others present during a campus disciplinary proceeding; and

"(II) a clear statement that both the accuser and the accused shall be informed of the outcome of any campus disciplinary proceeding brought alleging a sexual assault.

"(iv) Counseling students on their options to notify proper law enforcement authorities, both on campus and local police, and the option to be assisted by campus authorities in notifying such authorities, if the student so chooses.

"(v) Notification of students of existing counseling, mental health or student services for victims of sexual assault, both on campus and in the community.

"(vi) Notification of students of options for and available assistance in changing academic and living situations subsequent to an alleged sexual assault incident, if so requested by the victim and if they are reasonably available.

"(C) Nothing in this paragraph shall be construed to confer a private right of action upon any person to enforce the provisions of this paragraph.".

Mr. RAMSTAD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. RAMSTAD. Mr. Chairman, before yielding back, I will be very brief. The amendment that the gentlewoman from New York [Ms. MOLINARI] and I offered today is a modified version of H.R. 2363, the Campus Sexual Assault Bill of Rights Act. That legislation was introduced last May, and it now has the strong bipartisan support of 188 cosponsors. This amendment amends the Crime Awareness and Campus Security Act by adding the requirement of a campus sexual assault policy. Under this amendment each institution of higher education would be required to develop and distribute a statement of policy regarding that institution's sexual assault proposals aimed at prevention and education, as well as the procedures to be followed once a sexual assault has occurred.

Mr. Chairman, rape is rape. Whether it occurs in a dark alley or an ivory tower, the crime of rape must be dealt with seriously.

Tragically, the incidence of rape on campus has reached epidemic levels. A campus rape is reported every 21 hours. However, because rape is probably the most underreported of all crimes, one study estimates that 6,000 rapes occur each year on campuses across the Nation.

An even darker picture, however, is painted by the most respected study to date, a 1987 National Institute of Mental Health study conducted by Dr. Mary P. Koss, professor of psychiatry at the University of Arizona Medical School. The NIMH study found that 1 in 4 college women is the victim of rape or attempted rape during her college career. Further, the study found that fewer than 5 percent of campus rapes are reported to police.

These statistics—and the violence, trâuma, and physical pain they represent—are truly shocking. Adding to the problem, a growing number of campus sexual assault victims and their parents have expressed anger and frustration with the way college administrators have handled incidents of sexual assault. Too often, victims are unaware of their legal rights and options and frustrated in exercising their legal rights. Too often, these crimes go completely unreported.

Underreporting occurs for a number of reasons. Some victims feel ashamed and afraid, some are unaware of their legal rights, and some doubt the accused will ever be punished. The result is that while so many women continue to be victimized, only 1 of every 100 campus rapists is ever prosecuted.

While it is tragic enough that these women are physically violated and forced to bear severe emotional scars, many of these women also report they are traumatized a second time when their allegations are mishandled by campus authorities. In fact, less than 40 percent of campus rape allegations result in any institutional penalty.

That's why I introduced H.R. 2363, the Campus Sexual Assault Victims' Bill of Rights Act, which has the strong bipartisan support of 188 cosponsors. This bill has received the endorsement of many organizations, including Security on Campus, Inc., the National Victim Center, the Law Enforcement Alliance of America, the National Network for Victims of Sexual Assault, and National Action Against Rape. It also has the endorsement of the United States Student Association, Safe Campuses Now, Inc., Students Together Against Acquaintance Rape, Victims Assistance Legal Organization [VALOR], and many other student organizations across the country.

The amendment Ms. MOLINARI and I offer today is a modified version of H.R. 2363, the Campus Sexual Assault Victims Bill of Rights Act which I introduced last May.

It amends the Crime Awareness and Campus Security Act, which requires colleges and universities to report crime statistics and develop a campus security policy. This amendment adds the requirement of a campus sexual assault policy.

Each institution of higher education would be required to develop and distribute a statement of policy regarding the institution's sexual assault programs aimed at prevention and education, as well as the procedures to be followed once a sexual assault has occurred.

The amendment further requires such policies to set forth general procedures to be followed by student victims once a sex offense has occurred: namely: First, who should be contacted; second, the importance of preserving evidence as may be needed for proof of criminal sexual assault; and third, to whom the alleged offense should be reported.

Underlying this amendment is the belief that victims of campus sexual assault should be permitted to pursue redress for their attack either through the criminal justice system or oncampus disciplinary proceedings. The option to choose one or both of these alternatives should rest with the victim. Students should be counseled regarding these options and receive assistance in notifying campus or local police.

Also, under this amendment, campus sexual assault policies would be required to address the procedures to be followed if the victim chooses to pursue an oncampus disciplinary proceeding. Such policies shall include a clear statement that both parties, the accuser and the accused, are entitled to the same opportunities to have others present during a campus proceeding, and both shall be informed of the outcome of such a proceeding.

The amendment also requires higher education institutions to have a procedure regarding notification to students of existing counseling, mental health, or student services for victims of sexual assault, both on campus and in the community.

Further, sexual assault policies, under our amendment, would be required to provide notification to students of options and available assistance in changing classes and living situations subsequent to an alleged sexual assault, provided such options are reasonably available.

Finally, this amendment clarifies that no private right of action is to be conferred upon any person to enforce the provisions of this amendment.

This amendment offers a reasonable compromise between H.R. 2363, the legislation I introduced last May and the permissive language now contained in H.R. 3553.

Never again should a young rape victim be left in the dark about her rights and made to feel like a victim for a second time.

The time for action is now. With 6,000 campus rapes expected this year, further delay will only mean greater suffering. That's unfair to college women, their parents, and the American people.

Mr. Chairman, I urge a "yes" vote on the Ramstad-Molinari amendment.

Ms. MOLINARI. Mr. Chairman, will the gentleman yield?

Mr. RAMSTAD. I yield to the gentlewoman from New York who has coauthored the amendment.

Ms. MOLINARI. Mr. Chairman, I thank the gentleman from Minnesota [Mr. RAMSTAD], and I commend him for his noble and tireless effort to make this bill a reality.

Mr. Chairman, at Carleton College, Amy had been on campus just 5 weeks when she joined friends to watch a video in the room of a senior. Soon she was alone with a student whose name she did not know. He locked the door and raped her again and again for the next 4 hours. Afterward he told her his name defiantly. Amy went to the dean of students, whom she had been told she could trust. "He told me it was my word against my attacker's, and that if I went for a criminal prosecution, the victim was basically put on trial."

So instead she picked an internal review, at which she ended being grilled about her sexual habits and experiences. Her attacker was found guilty of sexual assault but was only suspended, because of the dean's assurance that he had no priors other than advances without sanction.

Another student at Carleton College, Julie, started dating a fellow cast member in a play. They had never slept together, until he came to her dorm room one night, uninvited, and raped her. She could not manage to hold her life and education together and finally left school. Only later did she learn that her assailant was the same man who had attacked Amy.

Jeanne Ann Clery in 1986 was raped, sodomized, tortured, and murdered in her dormitory room at Lehigh University.

Syracuse University's judicial board came to the aid of football player Tom Watson after an 18-year-old freshman charged him with raping and sodomizing her. Watson pleaded guilty in criminal court to sexual misconduct, and the court sentenced him to 3 years' probation and 300 hours of community service. But the 3-member judicial board decided Watson had not violated school policy. He remained in school, kept his scholarship, and continued as a member of the football team until the school's chancellor decided that Watson should be suspended for a few games.

These are not isolated incidents. In fact, every 21 hours a woman reports a campus rape; however, studies reveal that the actual incidence of rape is much higher. For these reasons, Congressman RAMSTAD and I are offering our amendment today. This amendment, almost identical to the amendment offered by Senator BIDEN, and favorably accepted by the Senate, will require any postsecondary institution participating under the title IV program, to formulate and distribute a campus sexual assault policy.

College and university campuses are becoming a breeding ground for date and acquaintance rape. A serene campus setting can lead to a false sense of security and yet the unfortunate truth is that sexual violence has now surpassed theft as the No. 1 security concern on U.S. college and university campuses. This amendment will go a long way to ensure young women, and their parents, that they do not have to fear going away to school, but can learn and grow in a safe and secure environment.

Campus administrators resist proactive approaches to campus sexual assaults for fear of this leading to higher levels of reporting. The advantages for the colleges are clear, no bad publicity, no drop in applications, and no decline in alumni donations. So enrollment soars and so do rape statistics.

Countless women are dropping out of college, abandoning career aspirations, sinking into depression, and living with endless nightmares because of a sexual assault during their college years. I urge all my colleagues to support this desperately needed amendment.

Your no vote will signify that suspension from the football team is a just penalty for rape.

Your no vote will tell every young man prone to violence that it is OK for him to engage in date rape.

Your vote to support will allow campus rape to be defined as an atrocious, vicious act of violence not as a social blunder.

Mr. RAMSTAD. Mr. Chairman, in closing, before yielding back, I would just like to thank the 188 Members of this body who cosponsored this legislation and also the dozen national groups who have been so helpful in getting the legislation to this point.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. RAMSTAD. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, I just want to commend the gentleman from Minnesota [Mr. RAMSTAD] for this legislative success that he is having and will have on this amendment. I know it is important in his area because of circumstances that occurred in his area in Minnesota that brought this to his attention. He has come to the Congress, he has put together legislation, he has gotten a lot of support for it now, and I believe it is going to be adopted, and I want to commend him for his hard work and effort. As a cosponsor, I am glad to see him offering it, and I am sure it will be passed today.

Mrs. UNSOELD. Mr. Chairman, I rise in support of the amendment of the gentleman from Minnesota [Mr. RAMSTAD] on behalf of the majority.

Mr. REED. Mr. Chairman, will the gentlewoman yield?

Mrs. UNSOELD. I yield to the gentleman from Rhode Island.

Mr. REED. Mr. Chairman, I rise to commend and support this legislation, particularly its sponsors, the gentleman from Minnesota [Mr. RAMSTAD] and the gentlewoman from New York [Ms. MOLINARI]. We in the committee heard horror stories about victims in sexual assaults being forced to go to class with people who had assaulted them or living in the same dorms and being encouraged by authorities to not report these crimes. It is time we encourage colleges to develop good, strong policies to protect these people and to ensure that sexual assault is something that is not found on our college campuses.

Mrs. UNSOELD. Mr. Chairman, we all heard the nightmares of violence against women on college campuses, and this amendment would simply require schools to develop a policy to deal with these incidents when they arise and to communicate that policy to the students.

Mrs. LOWEY of New York. Mr. Chairman, will the gentlewoman yield?

Mrs. UNSOELD. I yield to the gentlewoman from New York.

Mrs. LOWEY of New York. Mr. Chairman, I, too, rise in support of this legislation—and I want to congratulate the sponsors—and I hope this legislation will make an important step in really making our campuses a safe place where people can feel they can attend and not be afraid of crimes and the unfortunate incidents that have occurred. So, I commend them, and I rise in support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota [Mr. RAMSTAD].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MC CURDY

Mr. MCCURDY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MCCURDY: Page 356, line 18, strike "and"; and after line 18 insert the following new paragraph (and redesignate the succeeding paragraphs accordingly):

(2) by striking paragraph (2) and inserting the following:

"(2)(A) if the student is enrolled or accepted for enrollment in the first year of an educational program on or after August 1, 1995, comply with the minimum achievement requirements applicable under subsection (j); or

"(B) if the student is enrolled or accepted for enrollment in a second or any succeeding year of an educational program, be maintaining satisfactory progress in the course of study the student is pursuing in accordance with the provisions of subsection (c);";

Page 357, line 9, strike "and"; on line 14, strike the second period and insert "; and"; and after such line insert the following new paragraph;

(6) in subsection (c)(1), by striking "subsection (a)(2)" and inserting "subsection (a)(2)(B)".

Page 365, line 6, strike the close quotation marks and following period and after such line insert the following new subsection:

"(j) MINIMUM ACHIEVEMENT REQUIREMENTS.—For the purposes of subsection (a)(2)(A), a student complies with the minimum achievement requirements applicable under this subsection if—

"(1) in the case of a student enrolled or accepted for enrollment in an institution of higher education that provides an educational program for which it awards a bachelor's degree, such student has—

"(A) scored in or above the 55th percentile on a nationally accepted college entrance examination approved by the Secretary for the purposes of this subsection; or

"(B) attained, in non-elective academic courses in secondary school, a cumulative grade point average of at least 2.5 (out of a possible 4.0) or the equivalent of such a grade point average as determined under regulations prescribed by the Secretary; or

"(2) in the case of a student enrolled or accepted for enrollment in a proprietary institution of higher education, a postsecondary vocational institution, or an institution of higher education that provides a two-year educational program that is acceptable for credit toward a bachelor's degree, such student has—

"(A) passed an ability-to-benefit test approved by the Secretary for purposes of this subsection; or

"(B) obtained a diploma or certificate of graduation from a secondary school or the recognized equivalent of such a diploma or certificate.".

Mr. McCURDY. Mr. Chairman, I rise today to offer an amendment to H.R. 4471 the Higher Education Amendments of 1992, which would require students to achieve a minimum academic standard in order to be eligible for student financial assistance.

Recently, the National Collegiate Athletic Association announced that it would raise academic standards for high school graduates seeking to qualify for athletic scholarships at NCAA member institutions. College coaches and athletic directors recognize that by demanding more of our high school students, we can expect a better quality college student with a better chance to succeed. Currently, only 54 percent of college students obtain a degree within 5 years. Based on this low figure, it is time the Federal Government also comes to this realization.

My amendment would require that first-time borrowers have a cumulative 2.5 grade point average from high school or score in the 55th percentile of a nationally accepted college entrance exam, like the SAT or the ACT, in order to receive Federal student financial assistance. These new requirements would be effective beginning on August 1, 1995, the same effective date for the new NCAA standards. This effective date will give institutions and individual students ample time to prepare for this new requirement.

While the benefit of increasing college graduation rates is significant, I believe the most important impact of tying academic standards to financial assistance will be increased motivation by high school students to learn more in high school. And based on a recent Department of Education study which found that 72 percent of American high school seniors do only 1 hour or less of homework per night, it is apparent that many high school students remain unchallenged.

By asking students to meet a minimum level of academic achievement, we will challenge them and give them an incentive to work hard that currently does not exist. As Albert Shanker, president of the American Federation of Teachers has stated:

> To think that this lack of external incentives for working hard in school makes no difference in what students do is to believe that American youngsters are some special breed of humans who are strictly motivated by an internal love of learning and an understanding of its relationship to a productive adult life.

In order to be more competitive, Americans must ask themselves to set their sights higher and achieve better educational results. By requiring a minimum level of educational achievement from students, the Federal Government would encourage students to assume more individual responsibility for increasing U.S. competitiveness in the global economy.

Mr. Chairman, I urge my colleagues to support this amendment.

□ 1400

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment requires that a student enrolled or accepted for enrollment in the first year of a baccalaureate degree, must have scored at or above the 55th percentile on a nationally recognized college entrance test—I believe this means an SAT—and attained a 2.5 cumulative grade point average in high school in academic courses.

The amendment essentially would require that 4-year colleges establish these criteria as part of their admission standards. The amendment is a gross Federal intrusion into the administration standards of 4-year colleges and flies in the face of longstanding law. The General Education Provisions Act, which was enacted when we created the Department of Education, assured colleges and universities that we were not going to let the Federal Government interfere with matters of their independence.

Now, I understand the gentleman's rather facile transition from the idea that, if the NCAA thinks you ought to require those things for people who are going to get an athletic scholarship, why not require it of everybody. The difference is that it is the athletic scholarship that substitutes in many cases for the student's desire to get an education. They go to college, frankly, in many colleges like professional athletes. What the NCAA is trying to do is restore some amateurism in athletics at the college level.

My predecessor, Jim O'Hara, who operated for a long time as chairman of the Postsecondary Education Subcommittee, told me when I took it over in 1977, that I was going to learn from dealing with the athletic directors from around the country, that intercollegiate athletics were to sport as professional wrestling was to sport. That, unfortunately, became more and more the case.

We all sympathize with what the NCAA was doing in this case, but what they are trying to do is counter the situation that occurs when you offer a person a paid trip to college, and that is the real reason they go with some requirement. The people who are applying for student aid to go to college are applying because their principal purpose is not to play football or basketball but to get an education for their future life. It would be mischievous primarily because it is an egregious intrusion on the independence of 4-year colleges.

Mr. Chairman, I must oppose the amendment.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, I just want it to be noted that the gentleman from Oklahoma [Mr. McCURDY] has taken eligibility criteria for college athletes and applied it somehow as an academic standard for the entire universe of our college students who now want to receive student aid.

I think there are many different reasons to require athletes to have a certain modicum of standing in their high school class or on a test, as the NCAA has encouraged through their rulemaking ability. However, it is entirely something different to say to a student in high school competing with every other student in high school in the senior class that if they happen to fall in the lowest 55 percent, their family is going to have to pay everything to send that young person to school. If he had made one more point on the SAT, he might have been eligible for Pell grants and loans.

Who is to say that 55 percent is a standard? Who is to say that any of this is the standard? The NCAA is not the law, and they have pushed this into statute form. They are a voluntary association of institutions who want to conform to their rules, but to have their academic eligibility rules pulled out of context and put into Federal statute is completely beyond belief to me.

I am for high achievement and I am for some standards, but to say that the NCAA is going to recommend what we do with billions of dollars worth of loans and grants for whatever purpose they may have next week is not the thing that the Congress ought to adopt.

I think it is totally unfair to people who make a 2.2, or a 2.1, a 2.3, or a 2.4, or whatever it is below 2.5, to close the door on them and say the Federal Government has given up on them. "Don't bother to go to school. Become a dropout." If they do not, they are not going to be able to go to college or technical school, and if this becomes law, there is no reason to continue. They will just drop out of high school.

This is a very bad amendment. I know it is well motivated, but the impact of this is tremendous. I hope the gentleman recognizes that in trying to raise standards in some form, he is really, I think, going to do just the opposite for those students who are not A students or B students, we cannot slam the door on those kids.

Mr. McCURDY. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Oklahoma.

Mr. McCURDY. Mr. Chairman, I appreciate the gentleman's yielding.

I am not trying to make this an adversarial conversation by any means, because I think it is something we need to discuss at least in this bill since we have this opportunity on the floor.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. FORD] has expired.

(On request of Mr. McCURDY, and by unanimous consent, Mr. FORD was allowed to proceed for 5 additional minutes.)

Mr. McCURDY. Mr. Chairman, will the gentleman yield further?

Mr. FORD of Michigan. I yield to the gentleman from Oklahoma.

Mr. McCURDY. Mr. Chairman, it is not the intent to have massive intrusion. For the gentleman from Missouri to say that by failing either to score in the 55th percentile or have a 2.5—not and, but or—that somehow they have cut all these people off, I ask, "What about the students that work very hard and that score higher than that, that make their grade points? Just because their parents make $31,000 as opposed to $30,000, whatever the magic cutoff is—

Mr. FORD of Michigan. Mr. Chairman, reclaiming my time, this bill takes care of that person. The gentleman is now talking about an issue that this bill is going to solve. There is no $31,000 family income after this bill is passed.

Mr. McCURDY. On Pell or loans?

Mr. FORD of Michigan. Pell goes all the way to $49,000.

Mr. McCURDY. But the middle class is affected by that.

Mr. FORD of Michigan. The middle class has no income cap for guaranteed student loans in this bill. Your children and mine could get a loan under this bill. They will not get interest subsidies paid for them. They will pay back more money than a poor kid would pay back, but they have the same access to the loan.

Mr. McCURDY. Mr. Chairman, if the gentleman will yield further, the point is that I find it inconsistent for one to say that you support standards but then when you come in with a minimal standard, the 2.5 or 55th percentile, which is what the NCAA feels is right, the NCAA is not more concerned about restoring amateurism but more concerned about the poor graduation rate, and they have found in their studies that there is a correlation between college graduation and entrance requirements, and that if you do set a standard, even though they may be a tremendous athlete, they also have to realize there is an obligation of work in the academic sector. This is not an intent upon depriving individuals of an opportunity to receive Federal assistance. What they are trying to do is raise standards so they will work a little harder and so that the potential for graduation is greater and the student loan defaults are reduced.

Mr. FORD of Michigan. Mr. Chairman, let me just point out that the gentleman from Missouri made his point clear. The NCAA is a voluntary association. Any college or university that is faced with a new regulation by the NCAA has a perfect right to ignore it, but they cannot play against other NCAA teams. They voluntarily assume the responsibility that the NCAA puts against them. On the other hand, for years we have provided in the Federal law prohibitions against Federal control of education.

Let me quote:

> No provision of any applicable program shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direct supervision or control over the curriculum, program of instruction, administration, or personnel of any educational institution, school, or school system.

And it goes on further.

□ 1410

We have assured these people that we are not going to have governmental intrusion into what has been traditionally within their own control, and membership in the NCAA is purely voluntary.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, the gentleman from Oklahoma is bringing us a standard which was adopted by other people for other reasons and trying to apply it to a program that has no relevancy to the reason it was originally adopted by a private organization.

The reason that the NCAA has adopted this for athletes is that athletes are called on to do a lot more than just go to class. They practice 4 and 5 hours a day. They are called on to travel all over this country. They are called on to be out of class. That is why they are concerned about abusing those athletes and having schools utilize those athletes for nonacademic purposes.

What the gentleman is saying is, and he is worried about people from the middle-income families, he is going to turn a lot of these people away. Millions of people from the middle-income families would not qualify under the gentleman's amendment.

Second of all, talk to me about hardworking kids. There are some kids in this country that work very hard to get C's, because that is the level of their talent. Is the gentleman going to tell them they cannot go to school? Is the gentleman going to tell them they cannot get any aid from the Federal Government? Is the gentleman going to put them on the trash heap of dropouts and people in this country because they were not able to go to school?

This is totally taking one context of standards and placing it completely on another set of circumstances.

Mr. McCURDY. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Oklahoma.

Mr. McCURDY. Mr. Chairman, the gentleman from Missouri on one hand says he supports standards. On the other hand, he says he cannot deny anyone an opportunity whatsoever.

If we talk about voluntary organizations such as the NCAA, which is setting the minimal standard and at the same time we are talking about taxpayers' dollars, we are talking about $1.3 billion in defaults on student loans every year, which deprive other hardworking students who want to achieve, who may not fit in the category, who are deprived because the other people are not meeting the standards.

To me, that is inconsistent.

Mr. COLEMAN of Missouri. Mr. Chairman, if the gentleman will continue to yield, if the gentleman can show me statistics that show that there is a correlation between the grades that somebody makes in high school and default rates, I would like to see them.

Mr. McCURDY. Mr. Chairman, graduate rates can be shown.

Mr. COLEMAN of Missouri. I want to see documentation that kids in high school that graduate with a 2.5 have a higher default rate on their student loans than kids that made a 2.6.

Mr. McCURDY. Mr. Chairman, if the gentleman will continue to yield, those that default are, those that default have a higher nongraduation rate than those that graduate. And if we have a correlation between entrance requirements and graduation, our default rate is lower. That is how we can make a correlation.

Mr. FORD of Michigan. Mr. Chairman, reclaiming my time, I would like to try once again to point out to the gentleman that superficially this has an appeal, but his appraisal of the default rate is all wrong.

All of us who have worked with this program for the last 25 years can tell the gentleman that the greatest predictor of being a defaulter is being poor, because if you are poor before you go to college, you do not get the good job when you get out of college.

We can tell the gentleman at the entrance time what the pool is from which the defaulters will come. It has nothing to do with academics. It has to do with family income and family status and race and all kinds of other factors that do not make education equal for everyone in this country.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, I thank the gentleman for yielding to me.

I have three problems. First of all, I think we need a level playing field. I have a problem when we talk differently about academic and vocational.

My second concern with it is that I can see all sorts of grade inflation taking place in high schools because if they are pretty sure that their youngster is going to be discriminated against, they will find ways to make sure that does not happen.

My third concern deals with the 55 percentile because in education, I can remember helping so many young people get into colleges that probably otherwise would not have been accepted who have done well and are doing very well now. I would be concerned because there are a lot of people who did lousy on the tests.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. FORD] has again expired.

Is there further debate on the amendment offered by the gentleman from Oklahoma [Mr. MCCURDY]?

If not, the question is on the amendment offered by the gentleman from Oklahoma [Mr. MCCURDY].

The amendment was rejected.

The CHAIRMAN. Are there further amendments to title IV?

AMENDMENT OFFERED BY MR. GRADISON

Mr. GRADISON. Mr. Chairman, I offer an amendment, which was printed in the RECORD beginning on page H1698.

The Clerk read as follows:

Amendment offered by Mr. GRADISON:

—Page 233, beginning on line 6, strike out all of Section 439 through page 251, line 15 and insert the following new section.

SEC. 439. STUDENT LOAN MARKETING ASSOCIATION FINANCIAL SAFETY AND SOUNDNESS.

(a) SHORT TITLE.—This section may be cited as the "Government-Sponsored Education Association Financial Safety and Soundness Act of 1992".

(b) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) the Student Loan Marketing Association has important public missions that are reflected in the statutes establishing the Association;

(2) because the continued ability of the Student Loan Marketing Association to accomplish its public missions is important to providing education in the United States, more effective Federal regulation is needed to reduce the risk of failure of the Association:

(3) the Student Loan Marketing Association currently poses minimal financial risk to the Federal Government;

(4) the Student Loan Marketing Association is not backed by the full faith and credit of the United States;

(5) the entity regulating the Student Loan Marketing Association should have sufficient autonomy from the Association and special interest groups; and

(6) the entity regulating the Student Loan Marketing Association should have the authority to establish capital standards, require financial disclosure, prescribe adequate standards for books and records and other internal controls, conduct examinations when necessary, and enforce compliance with the standards and rules that it establishes.

(c) DEFINITIONS.—For purposes of this Act:

(1) COMPENSATION.—The term "compensation" means any payment of money or the provision of any other thing of current or potential value in connection with employment.

(2) CORE CAPITAL.—The term "core capital" means, with respect to the Student Loan Marketing Association, the sum of the following (as determined in accordance with generally accepted accounting principles):

(A) The par value of outstanding common stock.

(B) The par value of outstanding preferred stock.

(C) Paid-in capital.

(D) Retained earnings.

(3) DIRECTOR.—The term "Director" means the Director of the Office of SLMA Market Examination and Oversight of the Department of Treasury.

(4) ASSOCIATION.—The term "Association" means the Student Loan Marketing Association and any subsidiary thereof, other than the College Construction Loan Insurance Association.

(5) EXECUTIVE OFFICER.—The term "executive officer" means, with respect to the Association, the chief executive officer of the Association, chief financial officer of the Association, president of the Association, vice chairman of the Association, any executive vice president of the Association, and any senior vice president of the Association in charge of a principal business unit, division, or function.

(6) OFFICE.—The term "Office" means the Office of SIMA Market Examination and Oversight of the Department of Treasury.

(7) REGULATORY CAPITAL.—The term "regulatory capital" means, with respect to the Association—

(A) the core capital of the Association plus any allowances for losses (including any allowance for losses related to student loan purchases); plus

(B) any other amounts from sources of funds available to absorb losses incurred by the Association, that the Director by regulation determines are appropriate to include in determining regulatory capital.

(8) SECRETARY.—The term "Secretary" means the Secretary of Treasury.

(9) CAPITAL DISTRIBUTION—

(A) IN GENERAL.—The term "Capital Distribution" means—

(i) a dividend or other distribution in cash or in kind made with respect to any share or other ownership interest of the Association, except a dividend consisting only of shares of the Association;

(ii) a payment made by the Association to repurchase, redeem, retire, or othewise acquire any of its shares, including any extension of credit made to finance an acquisition of such share, or

(iii) a transaction that the Director determines by an order or regulation to be in substance the distribution of capital.

(B) EXCEPTION.—A payment made by the Association to repurchase its shares for the purpose of fulfilling the Association's obligation under an existing employee stock ownership plan that is a qualified plan under Section 401 of the Internal Revenue Code shall not be considered a capital distribution.

(d) ESTABLISHMENT OF OFFICE OF SLMA MARKET EXAMINATION AND OVERSIGHT.—Effective January 1, 1993, there shall be established in the Department of Treasury the Office of SLM Market Examination and Oversight, which shall be an office within the Department.

(e) DIRECTOR.—The Office shall be under the management of a full-time Director, who shall be selected by and report to the Secretary. An individual may not be selected as Director if the individual has served as an executive officer of the Association at any time during the 5-year period ending upon the selection of such individual.

(f) AUTHORITY OF DIRECTOR.—

(1) EXCLUSIVE AUTHORITY.—The Director shall make determinations and take actions that the Director determines necessary with respect to the Association regarding—

(A) examinations of the Association under subsection (z);

(B) decisions to appoint conservators for the Association;

(C) enforcement actions under this Act, including any final decisions in contested administrative enforcement proceedings; and

(D) approval of capital distributions by the Association under section 439(f) of the Higher Education Act.

The authority of the Director under this paragraph shall not be subject to the review or approval of the Secretary.

(2) AUTHORITY SUBJECT TO APPROVAL OF SECRETARY.—Any authority of the Director not referred to in paragraph (1), including the authority to issue rules and regulations, shall be subject to the review and approval of the Secretary, but the Secretary may delegate the authority to review to other officers and employees of the Department of Treasury.

(3) DELEGATION OF AUTHORITY.—The Director may delegate to employees of the Office any of the functions, powers, and duties of the Director, as the Director considers appropriate.

(g) PERSONNEL.—The Director shall hire such employees of the Office as the Director considers necessary to carry out the functions of the Director and the Office.

(h) FUNDING.—

(1) ASSESSMENTS AND FEES.—The Director may establish and collect from the Association such assessments, fees, and other charges that the Director considers necessary so that the amount collected is an amount sufficient to provide for reasonable costs and expenses of the Office of SLMA Market Examination and Oversight, including the expenses of any examinations under subsection (z).

(2) FUND.—There is established in the Treasury of the United States a fund to be known as the SLMA Market Examination and Oversight Fund. Any assessments, fees, and charges collected pursuant to paragraph (1) shall be deposited in the Fund. Amounts in the Fund shall be available, to the extent provided in appropriations Acts—

(A) to carry out the responsibilities of the Director relating to the Association; and

(B) for necessary administrative and nonadministrative expenses of the Office to carry out the purposes of this Act.

(i) ANNUAL REPORTS.—The Director shall submit to the Congress, not later than April

15 of each year, a written report, which shall include—

(1) a description of the actions taken, and being undertaken, by the Director to carry out this Act;

(2) a description of the financial safety and soundness of the Association, including the results and conclusions of the annual examinations of the Association conducted under subsection (z)(1)(A); and

(3) any recommendations for legislation to enhance the financial safety and soundness of the Association.

(j) DISCLOSURE.—The Director of the Office and any conservators and examiners under this Act, shall each submit to the Secretary of Treasury annually during such individual's tenure in such position—

(1) a statement disclosing personal income and finances, which shall be consistent with Federal financial disclosure laws relating to Federal employees; and

(2) a statement certifying that no conflict of interest exists with the position occupied by such individual and describing any circumstance which may reasonably be perceived as a conflict of interest, which shall be consistent with Federal laws relating to conflict of interest.

(k) INFORMATION, RECORDS, AND MEETINGS.—For purposes of subchapter II of chapter 5 of title 5, United States Code (5 U.S.C. 551 et seq.), the Office shall be considered an agency responsible for the regulation or supervision of financial institutions.

(l) REGULATIONS AND ORDERS.—Subject to the approval of the Secretary (as provided in subsection (f)(2)), the Director shall issue any regulations and orders necessary to carry out the duties of the Director and to carry out this Act. The regulations under this subsection shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (b)(B) and (d)(3) of such section).

(m) AMENDMENTS TO THE HIGHER EDUCATION ACT.—Section 439 of the Higher Education Act of 1965 (20 U.S.C. 1087-2) is amended by—

(1) amending subsection (c) to read as follows:

"(c) BOARD OF DIRECTORS.—

"(1) COMPOSITION OF BOARD; CHAIRMAN.—The Association shall have a Board of Directors which shall consist of 21 members, 7 of whom shall be appointed by the President of the United States and shall be representative of the general public. The remaining 14 directors shall be elected by the common stockholders of the Association entitled to vote pursuant to subsection (f). Commencing with the annual shareholders meeting to be held in 1993—

"(A) 7 of the elected directors shall be affiliated with an eligible institution, and

"(B) 7 of the elected directors shall be affiliated with an eligible lender.

The President shall designate one of the directors to serve as Chairman.

"(2) TERMS OF APPOINTED AND ELECTED MEMBERS.—The directors appointed by the President shall serve at the pleasure of the President and until their successors have been appointed and have qualified. The remaining directors shall each be elected for a term ending on the date of the next annual meeting of the common stockholders of the Association, and shall serve until their successors have been elected and have qualified. Any appointive seat on the Board which becomes vacant shall be filled by appointment of the President. Any elective seat on the Board which becomes vacant after the annual election of the directors shall be filled by the Board, but only for the unexpired portion of the term.

"(3) AFFILIATED MEMBERS.—For the purpose of this subsection, the references to a director 'affiliated with an eligible institution' or a director 'affiliated with an eligible lender' mean an individual who is, or within 5 years of election to the Board has been, an employee, officer, director, or similar official of—

"(A) an eligible institution or an eligible lender;

"(B) an association whose members consist primarily of eligible institutions or eligible lenders; or

"(C) a State agency, authority, instrumentality, commission, or similar institution, the primary purpose of which relates to educational matters or banking matters.

"(4) MEETINGS AND FUNCTIONS OF THE BOARD.—The Board of Directors shall meet at the call of its Chairman, but at least semiannually. The Board shall determine the general policies which shall govern the operations of the Association. The Chairman of the Board shall, with the approval of the Board, select, appoint, and compensate qualified persons to fill the offices as may be provided for in the bylaws, with such functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be the officers of the Association and shall discharge all such functions, powers, and duties.".

(2) amending subsection (f) to read as follows:

"(f) STOCK OF THE ASSOCIATION.—

"(1) VOTING COMMON STOCK.—The Association shall have voting common stock having such par value as may be fixed by the Board from time to time. Each share of voting common stock shall be entitled to 1 vote with rights of cumulative voting at all elections of directors.

"(2) NUMBER OF SHARES; TRANSFERABILITY.—The maximum number of shares of voting common stock that the Association may issue and have outstanding at any one time shall be fixed by the Board from time to time. Any voting common stock issue shall be fully transferable, except that, as to the Association, it shall be transferred only on the books of the Association.

"(3) DIVIDENDS.—

"(A) To the extent that net income is earned and realized, subject to subsection (g)(2), dividends may be declared on voting common stock by the Board. Such dividends as may be declared by the Board shall be paid to the holders of outstanding shares of voting common stock, except that no such dividends shall be payable with respect to any share which has been called for redemption past the effective date of such call. All dividends shall be charged against the general surplus account of the Association.

"(B) The Association may not make any capital distribution that would decrease the regulatory capital of the Association (as such term is defined in subsection (c) of the Government-Sponsored Education Association Financial Safety and Soundness Act of 1992) to an amount less than the risk-based capital level for the Association established under subsection (p) of such Act or that would decrease the core capital of the Association (as such term is defined in such subsection (c)) to an amount less than the minimum capital level for the Association established under subsection (q) of such Act, without prior written approval of the payment by the Director of the Office of SLMA Market Examination and Oversight of the Department of Treasury.

"(C) The Director of the Office of SLMA Market Examination and Oversight may require the Association to submit a report to the Director after the declaration of any dividend by the Association and before the payment of the dividend. The report shall be made in such form and under such circumstances and shall contain such information as the Director shall require.";

"(4) SINGLE CLASS OF VOTING COMMON STOCK.—As of the effective date of the Student Loan Marketing Association Financial Safety and Soundness Act of 1992, all of the previously authorized shares of voting common stock and nonvoting common stock of the Association shall be converted to shares of a single class of voting common stock on a share-for-share basis, without any further action on the part of the Association or any holder. Each outstanding certificate for voting or nonvoting common stock shall evidence ownership of the same number of shares of voting stock into which it is converted. All preexisting rights and obligations with respect to any class of common stock of the Association shall be deemed to be rights and obligations with respect to such converted shares.".

(3) by striking paragraph (h)(2) and inserting the following new paragraph:

"(2) DEBT.—The Association shall insert appropriate language in all of the securities issued by it clearly indicating that such securities, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the Association.".

(4) in paragraph (i)(8) by inserting a period after "thereof" and inserting the following new sentence: Salaries shall be set at such levels as the Board of Directors determines reasonable and comparable with compensation for employment in positions in other similar businesses (including other major financial services companies) involving similar duties and responsibilities, except that a significant portion of potential compensation of all executive officers of the Association shall be based on the performance of the Association"; and by adding at the end the following new paragraph:

"(10)(A) Not later than June 30, 1993, and annually thereafter, the Association shall submit a report to the Congress on (i) the comparability of the compensation policies of the Association with the compensation policies of other similar businesses, (ii) in the aggregate, the percentage of total cash compensation and payments under employee benefit plans (which shall be defined in a manner consistent with the Association's proxy statement for the annual meeting of shareholders for the preceding year) earned by executive officers of the Association during the preceding year that was based on the Association's performance, and (iii) the comparability of the Association's financial performance with the performance of other similar businesses. The report shall include a copy of the Association's proxy statement for the annual meeting of shareholders for the preceding year.

"(B) After the date of the enactment of the Government-Sponsored Education Association Financial Safety and Soundness Act of 1992, the Association may not enter into any agreement or contract to provide any payment of money or other thing of current or potential value in connection with the termination of employment of any executive officer of the Association, unless such agreement or contract is approved in advance by the Secretary of Treasury. The Secretary may not approve any such agreement or contract unless the Secretary determines that the benefits provided under the agreement or contract are comparable to benefits under such agreements for officers of other public and private entities involved in financial services and education interests who have comparable duties and responsibilities. For purposes of this subparagraph, any renegotiation, amendment, or change after such date of enactment to any such agreement or contract entered into on or before such date of enactment shall be considered entering into an agreement or contract.

"(C) For purposes of this paragraph, the term 'executive officer' has the meaning given the term in subsection (c) of the Government-Sponsored Education Association Financial Safety and Soundness Act of 1992.".

(5) in subsection (j) by adding onto the end thereof the following new sentence: "The programs, activities, receipts, expenditures, and financial transactions of the Association shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General.".

(6) by adding the following new subsection:

"(r) QUARTERLY REPORTS—

"(1) TIMING.—The Association shall submit to the Director of the Office of SLMA Market Examination and Oversight of the Department of Treasury quarterly reports of the financial condition of the Association which shall be in such form, contain such information, and be submitted on such dates as the Director of the Office of SLMA Market Examination and Oversight shall require.

"(2) Each report of condition shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the Board of Directors of the Association to make such declaration, that the report is true and correct to the best of such officer's knowledge and belief.

"(3) The Director of the Office of SIMA Market Examination and Oversight may require the Association to submit additional reports of financial condition, which shall be in such form, contain such information, and be submitted on such dates as the Director may require. The Director may also require the Association to submit special reports whenever, in the judgment of the Director, such reports are necessary to carry out the purposes of the Government-Sponsored Education Association Financial Safety and Soundness Act of 1992. The Director may not require the inclusion in any such special report of any information that is not reasonably obtainable by the Association. The Director shall notify the Association, a reasonable period in advance of the date for submission of any report, of any specific information to be contained in the report and the date for the submission of the report.".

(7) EFFECTIVE DATE.—Except as otherwise provided in this subsection and the amendments made by this subsection, the amendments made by this subsection shall take effect on January 1, 1993.

(n) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—

(1) DIRECTOR AT LEVEL II OF EXECUTIVE SCHEDULE.—Section 5313 of title 5, United States Code, is amended by inserting at the end the following new item: "Director of the Office of SIMA Market Examination and oversight, Department of Treasury.".

(2) DEFINITION OF AGENCY.—Section 3132(a)(1)(D) of title 5, United States Code, is amended by inserting "the Office of SIMA Market Examination and Oversight of the Department of Treasury," after "Farm Credit Administration,".

(o) IMPLEMENTATION.—

(1) IN GENERAL.—The Secretary of Treasury and the Director of the Office of SIMA Market Examination and Oversight of the Department of Treasury, as appropriate, shall issue final regulations providing for the implementation of the provisions of this Act and the amendments made by this Act not later than the expiration of the 18-month period beginning on the date of the enactment of this Act. Such regulations shall clearly delineate the responsibilities and authority of the Secretary and the Director pursuant to the provisions of and amendments made by this Act. Any regulations issued by the Director pursuant to this subsection shall be issued under the authority provided in subsection (1).

(2) NOTICE AND COMMENT.—The regulations under this subsection shall be issued after notice and opportunity for public comment pursuant to the provisions of section 533 of title 5, United States Code (notwithstanding subsections (b)(B) and (d)(3) of such section).

(p) RISK BASED CAPITAL LEVEL.—

(1) RISK-BASED CAPITAL TEST.—The Director shall, by regulation, establish a risk-based capital test under this subsection for the Association. When applied to the Association, the risk-based capital test shall determine the amount of regulatory capital for the Association that is sufficient for the Association to maintain positive capital during a 10-year period in which both of the following circumstances occur:

(A) CREDIT RISK.—With respect to student loans owed by the Association, other assets or obligations, and other activities of the Association related to credit risk (including any off-balance sheet obligations), the Director will establish risk-based capital requirements based on the expected losses of the various classes of financial assets and obligations occurring on a nationwide basis at a rate that is reasonably related to the worst actual two-year regional (contiguous area of the United States containing an aggregate of not less than 5 percent of the total population of the United States) experience for such financial instruments and activities.

(B) Interest rate risk.—Interest rates on Treasury obligations of varying terms increase or decrease over the first 12 months of such 10-year period by not more than the lesser of (i) 50 percent (with respect to the average interest rates on such obligations during the 12-month period preceding the 10-year period), or (ii) 600 basis points, and remain at such level for the remainder of the period. This subparagraph may not be construed to require the Director to determine interest rate risk under this subparagraph based on the interest rates for various long-term and short-term obligations all increasing or all decreasing concurrently.

(2) CONSIDERATIONS.—In establishing the risk-based capital test under paragraph (1), the Director shall take into account appropriate distinctions based on various types of loans, varying terms of Treasury obligations, and any other factors the Director considers appropriate.

(3) RISK-BASED CAPITAL LEVEL.—For purposes of this Act, the risk-based capital level for the Association shall be equal to the sum of the following amounts:

(A) CREDIT AND INTEREST RATE RISK.—The amount of regulatory capital determined by applying the risk-based capital test under paragraph (1) to the Association, adjusted to account for foreign exchange risk.

(B) MANAGEMENT AND OPERATIONS.—To provide for management and operations risk, the Director shall establish a requirement of regulatory capital that is a fixed percentage of the amount of capital established under the risk-based capital test under paragraph (1).

(4) REGULATIONS.—The Director shall issue final regulations establishing the risk-based capital test under this subsection not later than the expiration of the 2-year period beginning on the date of the enactment of this Act. Such regulations shall contain specific requirements, definitions, methods, variables, and parameters used under the risk-based capital test and in implementing the test (such as loan loss severity, float income, taxes, yield curve slopes, default experience, and prepayment rates). The regulations shall be sufficiently specific to permit an individual other than the Director to apply the test in the same manner as the Director.

(5) AVAILABILITY OF MODEL.—The Director shall make copies of the statistical model or models used to implement the risk-based capital test under this subsection available for public acquisition and may charge a reasonable fee for such copies.

(q) MINIMUM CAPITAL LEVEL.—For purposes of this Act, the minimum capital level for the Association shall be an amount of core capital equal to the sum of—

(1) 2.0 percent of the aggregate on-balance sheet assets of the Association, as determined in accordance with generally accepted accounting principles; and

(2) 0.4 percent of the aggregate off-balance sheet obligations of the Association, as determined in accordance with generally accepted accounting principles.

(r) CRITICAL CAPITAL LEVEL.—For purposes of this Act, the critical capital level for the Association shall be an amount of core capital equal to the sum of—

(1) 1.0 percent of the aggregate on-balance sheet assets of the Association, as determined in accordance with generally accepted accounting principles; and

(2) 0.2 percent of the aggregate off-balance sheet obligations of the Association, as determined in accordance with generally accepted accounting principles.

(s) ENFORCEMENT LEVELS.—

(1) IN GENERAL.—The Director shall classify the Association, for purposes of this Act, according to the following enforcement levels:

(A) LEVEL I.—The Association shall be classified as within level I if it—

(i) maintains an amount of regulatory capital that is equal to or exceeds the risk-based capital level established for the Association under subsection (p); and

(ii) equals or exceeds the minimum capital level for the Association established under subsection (q).

(B) LEVEL II.—The Association shall be classified as within level II if—

(i) the Association—

(a) maintains an amount of regulatory capital that is less than the risk-based capital level established for the Association; and

(b) equals or exceeds the minimum capital level for the Association; or

(ii) the Association is otherwise classified within level II under paragraph (2) of this subsection.

(C) LEVEL III.—The Association shall be classified as within level III if—

(i) the Association—

(a) does not equal or exceed the minimum capital level for the Association; and

(b) equals or exceeds the critical capital level for the Association established under subsection (r); or

(ii) the Association is otherwise classified within level III under paragraph (2) of this subsection.

(D) LEVEL IV.—The Association shall be classified as within level IV if the Association—

(i) does not equal or exceed the critical capital level for the Association; or

(ii) is otherwise classified level IV under paragraph (2) of this subsection.

(2) DISCRETIONARY CLASSIFICATION.—If at any time the Director determines in writing that the Association is taking any action not approved by the Director that could result in a rapid depletion of core capital or that the value of the loans held by the Association has decreased significantly, the Director may classify the Association—

(A) as within level II, if the Association is otherwise within level I;

(B) as within level III, if the Association is otherwise within level II; or

(C) as within level IV, if the Association is otherwise within level III.

(3) QUARTERLY DETERMINATION.—The Director shall determine the classification of the Association for purposes of this Act on not less than a quarterly basis (and as appropriate under paragraph (2)). The first such determination shall be made for the quarter ending March 31, 1993.

(4) NOTICE.—Upon determining under paragraph (2) or (3) that the Association is within level II or III, the Director shall provide written notice to the Congress and to the Association—

(A) that the Association is within such level;

(B) that the Association is subject to the provisions of subsection (t) or (u), as applicable; and

(C) stating the reasons for the classification of the Association within such level.

(5) IMPLEMENTATION.—Notwithstanding paragraph (1)(A), during the period beginning on the date of the enactment of this Act and ending upon the effective date of subsection (t) (as provided in paragraph (t)(4)), the Association shall be classified as within level I if the Association equals or exceeds the applicable minimum capital level for the Association under subsection (q).

(t) MANDATORY SUPERVISORY ACTIONS APPLICABLE TO THE ASSOCIATION WITHIN LEVEL II.—

(1) CAPITAL RESTORATION PLAN.—The Association within level II shall, within the time period provided in subsection (x)(2) and in consultation with the Director, submit to the Director a capital restoration plan that complies with subsection (x) and, after approval, carry out the plan.

(2) RESTRICTION ON CAPITAL DISTRIBUTIONS.—The Association within level II may not make any capital distribution that would result in the Association being reclassified as within level III or IV.

(3) RECLASSIFICATION FROM LEVEL II TO LEVEL III.—The Director shall immediately reclassify the Association within level II as within level III (and the Association shall be subject to the provisions of subsection (u), if—

(A) the Association does not submit a capital restoration plan that is substantially in compliance with subsection (x) within the applicable period or the Director does not approve the capital restoration plan submitted by the Association; or

(B) the Director determines that the Association has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

(4) EFFECTIVE DATE.—This subsection shall take effect upon the expiration of the 1-year period beginning on the date of the effectiveness of the regulations issued under subsection (p) establishing the risk-based capital test.

(u) SUPERVISORY ACTIONS APPLICABLE TO THE ASSOCIATION WITHIN LEVEL III.—

(1) MANDATORY SUPERVISORY ACTIONS.—

(A) CAPITAL RESTORATION PLAN.—The Association within level III shall, within the time period provided in subsection (x)(2) and in consultation with the Director, submit to the Director a capital restoration plan that complies with subsection (x) and, after approval, carry out the plan.

(B) RESTRICTIONS ON CAPITAL DISTRIBUTIONS.—

(i) PRIOR APPROVAL.—The Association within level III may not make any capital distribution that would result in the Association being reclassified as within level IV. An Association within level III may make any other capital distribution only if the Director approves the payment before the payment.

(ii) STANDARD FOR APPROVAL.—The Director may approve a capital distribution by the Association within level III only if the Director determines that the payment (a) will enhance the ability of the Association to meet the risk-based capital level and the minimum capital level for the Association promptly, (b) will contribute to the long-term safety and soundness of the Association, or (c) is otherwise in the public interest.

(C) APPROVAL OF ACTIVITIES.—The Association within level III may undertake an activity subject to the approval of the Secretary of Education or the Secretary of the Treasury under the Higher Education Act only with the additional approval of the Director.

(D) RECLASSIFICATION FROM LEVEL III TO LEVEL IV.—The Director shall immediately reclassify the Association within level III as within level IV (and the Association shall be subject to the provisions of subsection (v)), if—

(i) the Association does not submit a capital restoration plan that is substantially in compliance with subsection (x) within the applicable period or the Director does not approve the capital restoration plan submitted by the Association; or

(ii) the Director determines that the Association has failed to make, in good faith, reasonable efforts necessary to comply with the capital restoration plan and fulfill the schedule for the plan approved by the Director.

(2) DISCRETIONARY SUPERVISORY ACTIONS.—In addition to any other actions taken by the Director (including actions under paragraph (1)), the Director may, at any time, take any of the following actions with respect to the Association within level III:

(A) LIMITATION ON INCREASE IN OBLIGATIONS.—Limit any increase in, or order the reduction of, any obligations of the Association, including off-balance sheet obligations.

(B) LIMITATION ON GROWTH.—Limit or prohibit the growth of the assets of the Association or require contraction of the assets of the Association.

(C) PROHIBITION ON CAPITAL DISTRIBUTIONS.—Prohibit the Association from making any capital distribution.

(D) ACQUISITION OF NEW CAPITAL.—Require the Association to acquire new capital in any form and in any amount sufficient to provide for the reclassification of the Association as within level II.

(E) RESTRICTION OF ACTIVITIES.—Require the Association to terminate, reduce, or modify any activity that the Director determines creates excessive risk to the Association.

(F) CONSERVATORSHIP.—Appoint a conservator for the Association pursuant to subsection (w).

(3) EFFECTIVE DATE.—This subsection shall take effect upon the expiration of the 18-month period beginning on the date of the enactment of this Act.

(v) MANDATORY APPOINTMENT OF CONSERVATOR FOR THE ASSOCIATION WITHIN LEVEL IV.—

(1) NOTICE.—Upon determining that the Association is within level IV, the Director shall provide written notice to the Congress and to the Association—

(A) that the Association is within level IV;

(B) that a conservator shall be appointed for the Association pursuant to this section.

(2) APPOINTMENT.—If the Director determines that the Association is within level IV, the Director shall, not later than 30 days after providing notice under paragraph (1), appoint a conservator for the Association. A conservator appointed pursuant to this subsection shall have the authority, in the discretion of the conservator, to take any actions under subsections (t) and (u) not inconsistent with the authority of the conservator and to take any other actions authorized under subsection (w).

(3) APPROVAL OF ACTIVITIES.—The conservator of any Association within level IV may undertake an activity subject to the approval of the Secretary of Education or the Secretary of the Treasury under the Higher Education Act only with the additional approval of the Director.

(4) EFFECTIVE DATE.—This subsection shall take effect on January 1, 1993.

(w) CONSERVATORSHIP.—

(1) APPOINTMENT.—

(A) DISCRETIONARY AUTHORITY.—The Director may, after providing notice under subparagraph (B), appoint a conservator for the Association upon a determination—

(i) that the Association is not likely to pay its obligations in the normal course of business;

(ii) that—

(a) the Association has incurred or is likely to incur losses that will deplete all or substantially all of its core capital; and

(b) there is no reasonable likelihood that the Association will replenish its core capital without Federal assistance;

(iii) that the Association has concealed books, papers, records, or assets of the Association that are material to the discharge of the Director's responsibilities under this Act, or has refused to submit such books, papers, records, or information regarding the affairs of the Association for inspection to the Director upon request; or

(iv) that the Association is classified within level III.

(B) NOTICE.—Upon making a determination under subparagraph (A) to appoint a conservator under this subsection for the Association, the Director shall provide written notice to the Congress and to the Association—

(i) that a conservator will be appointed for the Association under this subsection;

(ii) stating the reasons under subparagraph (A) for the appointment of the conservator; and

(iii) identifying the person, company, or governmental agency that the Director intends to appoint as conservator.

(2) JUDICIAL REVIEW.—

(A) IN GENERAL.—

(i) TIMING AND JURISDICTION.—Upon the appointment of a conservator (pursuant to this subsection or subsection (v)), the Association may bring an action in the United States District Court for the District of Columbia, for an order requiring the Director to terminate the appointment of the conservator. The court, upon the merits, shall dismiss such action or shall direct the Director to terminate the appointment of the conservator. Such an action may be commenced only before the expiration of the 20-day period beginning upon the appointment of the conservator.

(ii) STANDARD.—A decision of the Director to appoint a conservator may ,be set aside under this subparagraph only if the court finds that the decision was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with applicable laws.

(B) STAY.—

(i) IN GENERAL.—A conservator appointed pursuant to this subsection or subsection (v) may request that any judicial action or proceeding to which the conservator or the Association is or may become a party be stayed for a period not exceeding 45 days commencing upon the appointment of the conservator. Upon petition, the court shall grant such stay as to all parties.

(ii) FEDERAL AGENCY AS CONSERVATOR.—In any case in which the conservator appointed for the Association is a Federal agency or an officer or employee of the Federal Government, the conservator may make a request for a stay under clause (i) only with the prior consent of the Attorney General and subject to the direction and control of the Attorney General.

(C) ACTIONS AND ORDERS.—

(i) LIMITATION ON JURISDICTION.—Except as otherwise provided in this paragraph, no court may take any action regarding the removal of a conservator or otherwise restrain or affect the exercise of powers or functions of a conservator.

(ii) ENFORCEMENT OF ORDERS.—The Director, with the prior consent of the Attorney General and subject to the direction and control of the Attorney General, may apply to a court which shall have the jurisdiction to enforce an order of the Director relating to—

(a) the conservatorship and the Association in conservatorship; or

(b) restraining or affecting the exercise of authority or functions of a conservator.

(3) APPOINTMENT BY CONSENT.—Notwithstanding paragraph (1), the Director may appoint a conservator for the Association if the Association, by an affirmative vote of a majority of its board of directors or by an affirmative vote of a majority of its shareholders, consents to such appointment.

(4) EXCLUSIVE APPOINTMENT AUTHORITY AND LIMITATION.—The Director shall have exclusive authority to appoint a conservator for the Association. The Director may not appoint as a conservator for the Association the Office of SLMA Market Examination and Oversight, the Department of Treasury, the Department of Education, or any officer or employee of such Office or Departments.

(5) REPLACEMENT OF CONSERVATOR.—The Director may, without notice of hearing, replace a conservator with another conservator. Such replacement shall not affect the right of the Association under paragraph (2) to obtain judicial review of the decision of the Director to appoint a conservator.

(6) EXAMINATIONS.—The Director may examine and supervise any Association in conservatorship during the period in which the Association continues to operate as a going concern.

(7) TERMINATION.—

(A) DISCRETIONARY.—At any time the Director determines that termination of a conservatorship pursuant to an appointment under paragraph (1) is in the public interest and may safety be accomplished, the Director may terminate the conservatorship and permit the Association to resume the transaction of its business subject to such terms, conditions, and limitations as the Director may prescribe.

(B) MANDATORY.—Except upon a determination under paragraph (1), the Director shall terminate a conservatorship pursuant to this subsection or subsection (v) upon a determination by the Director that the Association equals or exceeds the minimum capital level for the Association established under subsection (q). The Director may not impose any terms, conditions, or limitations on the transaction of business of the Association whose conservatorship is terminated under this subparagraph.

(8) POWERS AND DUTIES.—

(A) GENERAL POWERS.—A conservator shall have all the powers of the shareholders, directors, and officers of the Association under conservatorship and may operate the Association in the name of the Association, unless the Director provides otherwise.

(B) LIMITATIONS BY DIRECTOR.—A conservator shall be subject to any rules, regulations, and orders issued from time to time by the Director and, except as otherwise specifically provided in such rules, regulations, or orders or in paragraph (9), shall have the same rights and privileges and be subject to the same duties, restrictions, penalties, conditions, and limitations applicable to directors, officers, or employees of the Association.

(C) PAYMENT OF CREDITORS.—The Director may require a conservator to set aside and make available for payment to creditors any amounts that the Director determines may safely be used for such purpose. All creditors who are similarly situated shall be treated in a similar manner.

(D) COMPENSATION OF CONSERVATOR AND EMPLOYEES.—A conservator and professional employees (other than Federal employees) appointed to represent or assist the conservator may be compensated for activities conducted as conservator. Compensation may not be provided in amounts greater than the compensation paid to employees of the Federal Government or similar services, except that the Director may provide for compensation at higher rates (but not in excess of rates prevailing in the private sector), if the Director determines that compensation at higher rates is necessary in order to recruit and retain competent personnel.

(E) EXPENSES.—All expenses of a conservatorship pursuant to this subsection (including compensation under subparagraph (D)) shall be paid by the Association and shall be secured by a lien on the Association, which shall have priority over any other lien.

(9) LIABILITY PROTECTIONS.—

(A) FEDERAL AGENCIES AND EMPLOYEES.—In any case in which the conservator is a Federal agency or an officer or employee of the Federal Government, the provisions of chapters 161 and 171 of title 28, United States Code, shall apply with respect to the liability of the conservator for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship.

(B) OTHER CONSERVATORS.—In any case where the conservator is not a conservator described in subparagraph (A), the conservator shall not be personally liable for damages in tort or otherwise for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the conservatorship, unless such acts or omissions constitute gross negligence, including any similar conduct or any form of intentional tortious conduct.

(C) INDEMNIFICATION.—The Director, with the approval of the Attorne General, may indemnify the conservator on such terms as the Director considers appropriate.

(x) CAPITAL RESTORATION PLANS.—

(1) CONTENTS.—Each capital restoration plan submitted under this Act shall set forth a feasible plan for the Association to equal or exceed the minimum capital level for the Association and for restoring the level of regulatory capital of the Association subject to the plan to not less than the risk-based capital level for the Association. Each capital restoration plan shall—

(A) specify the level of capital the Association will achieve and maintain;

(B) describe the actions that the Association will take to equal or exceed the minimum capital level for the Association and to restore the regulatory capital of the Association to not less than the risk-based capital level for the Association;

(C) establish a schedule for completing the capital restoration plan;

(D) specify the types and levels of activities in which the Association will engage during the term of the capital restoration plan; and

(E) describe the actions that the Association will take to comply with any mandatory and discretionary requirements imposed under this Act.

(2) DEADLINES FOR SUBMISSION.—The Director shall, by regulation, establish a deadline for submission of a capital restoration plan, which may not be more than 45 days after the Association is notified in writing that a plan is required. The regulations shall provide that the Director may extend the deadline to the extent that the Director determines necessary. Any extension of the deadline shall be in writing and for a time certain.

(3) APPROVAL.—The Director shall review each capital restoration plan submitted under this subsection and, not later than 45 days after submission of the plan, approve or disapprove the plan. The Director may extend the period for approval or disapproval for any plan for a single additional 45-day period if the Director determines it necessary. The Director shall notify any Association submitting a plan in writing of the approval or disapproval for the plan (which shall include the reasons for any disapproval of the plan) and of any extension of the period for approval or disapproval. The Director shall provide by regulation for resubmission and review of any plans disapproved.

(y) JUDICIAL REVIEW OF DIRECTOR ACTION—GENERALLY.—

(1) JURISDICTION.—

(A) FILING OF PETITION.—Except as otherwise provided in this act, the Association within level I, II, or III, that is the subject of a mandatory or discretionary supervisory action taken under this Act by the Director (other than action under subsection (v), (w), (bb), (cc) or (gg)) may obtain review of the action by filing, within 10 days after receiving written notice of the Director's action, a written petition requesting that the action of the Director be modified, terminated, or set aside.

(B) PLACE FOR FILING.—A petition filed pursuant to this subsection shall be filed in the United States Court of Appeals for the District of Columbia Circuit.

(2) SCOPE OF REVIEW.—An action taken by the Director under this Act (other than under subsection (v), (w), (bb), (cc) or (gg)) may be modified, terminated, or set aside only if the court finds, on the record on which the Director acted, that the action of the Director was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with applicable laws.

(3) UNAVAILABILITY OF STAY.—The commencement of proceedings for judicial review pursuant to this subsection shall not operate as a stay of any action taken by the Director. Except with respect to any Association within level I or II that has not been reclassified to level III under subsection (s)(2) or (t)(3), no court shall have jurisdiction to stay, enjoin, or otherwise delay any mandatory or discretionary supervisory enforcement action taken by the Director under this Act pending judicial review of the action.

(4) LIMITATION ON JURISDICTION.—Except as provided in this subsection, no court shall have jurisdiction to affect, by injunction or otherwise, the issuance or effectiveness of any action of the Director under this Act (other than action under subsection (v), (w), (bb), (cc), or (gg)) or to review, modify, suspend, terminate, or set aside such action.

(z) EXAMINATIONS.—

(1) TIMING.—

(A) ANNUAL EXAMINATION.—The Director shall annually conduct an examination under this subsection of the Association to determine the condition of the Association for the purpose of ensuring its financial safety and soundness.

(B) OTHER EXAMINATIONS.—Whenever the Director determines that an examination is necessary to determine the condition of the Association for the purpose of ensuring its financial safety and soundness the Director may conduct an examination under this subsection.

(2) EXAMINERS.—The Director shall appoint examiners to conduct examinations of the Association under this subsection.

(3) TECHNICAL EXPERTS.—The Director may obtain the services of any technical experts the Director considers necessary and appropriate to provide temporary technical assistance relating to examinations to the Director and officers and employees of the Office of SLMA Market Examination and Oversight. The Director shall describe, in the public record of each examination, the nature and extent of any such temporary technical assistance.

(4) OATHS, EVIDENCE, SUBPOENA POWERS.—In connection with examinations under this subsection, the Director may—

(A) administer oaths and affirmations;

(B) take and preserve testimony under oath; and

(C) issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence.

The attendance of witnesses and the production of evidence may be required from any place within any State at any designated place where a hearing relating to an examination is conducted.

(5) SECOND EXAMINATION BY GAO.—Upon a determination by the Director that an examination of the Association is necessary under paragraph (1)(B), the Comptroller General shall conduct an examination of the Association solely to provide an independent determination regarding the safety and soundness of the Association. The examination shall be conducted at a time and in a manner that results in minimal disruption to the normal business activities of the Association. The Comptroller General may obtain the services of technical experts in the same manner as the Director may obtain such services under paragraph (3), except that any entity that assists the Director in examining the Association may not concurrently assist the Comptroller General to examine the Association under this subsection.

(aa) SAFE HARBOR.—

(1) VOLUNTARY RATINGS.—Upon request from the Association, the Director shall contract with two nationally recognized statistical rating organizations—

(A) to assess the likelihood that the Association might not be able to meet its future obligations from its own resources and to express that likelihood as a traditional credit rating; and

(B) to review the rating of the Association for one year from the effective date of the rating.

(2) QUALIFICATION FOR SAFE HARBOR.—

(A) DETERMINATION BY DIRECTOR.—If, after receiving a rating from each statistical rating organization described in paragraph (1), the Director determines that the Association merits the highest investment grade rating awarded by that organization, the Association shall be deemed, effective for one year following the date of the Director's determination, to meet the minimum risk-based capital levels for all relevant capital measures for purposes of subsection(s).

(B) WRITTEN FINDING REQUIRED.—If—

(i) each statistical rating organization described in paragraph (1) assigns the Association the highest investment grade rating awarded by that organization, and

(ii) the Director fails to make the determination described in subparagraph (A),

the Director shall make a written finding detailing the reasons for the Director's failure to make such determination.

(3) EARLY TERMINATION OF SAFE HARBOR.—Paragraph (2) shall cease to apply at such time as any such statistical rating organization described in paragraph (1) notifies the Director, and the Director determines, that the Association no longer merits the highest investment grade rating awarded by that organization. The Director shall promptly notify the Association that the Director has received the notice described in this paragraph.

(4) ASSESSMENTS FOR RATINGS.—The Director shall impose and collect an assessment on the Association, if it requests ratings under paragraph (1), to cover the full cost to the Federal Government of obtaining the ratings.

(5) DISCRETIONARY RATINGS.—Nothing in this subsection shall prevent the Director from contracting with any nationally recognized statistical rating organization to rate the Association at any time and for any purpose that the Director deems appropriate.

(6) DEFINITION OF NATIONALLY RECOGNIZED STATISTICAL RATING ORGANIZATION.—For purposes of this subsection, the term "nationally recognized statistical rating organization" means any entity effectively recognized by the Division of Market Regulation of the Securities and Exchange Commission as a nationally recognized statistical rating organization for the purposes of the capital rates for broker-dealers.

(bb) CEASE-AND-DESIST PROCEEDINGS.—

(1) GROUNDS FOR ISSUANCE.—The Director may issue and serve upon the Association or any executive officer of the Association a notice of charges under this subsection if, in the determination of the Director, the Association or executive officer—

(A) is engaging or has engaged, or the Director has reasonable cause to believe that the Association or executive officer is about to engage, in any activity that could result in a rapid depletion of the core capital of the Association; or

(B) is violating or has violated, or the Director has reasonable cause to believe that the Association or executive officer is about to violate—

(i) any law, rule, or regulation; or

(ii) any written agreement entered into by the Association with the Director.

(2) PROCEDURE.—

(A) NOTICE OF CHARGES.—Each notice of charges shall contain a statement of the facts constituting the alleged violation or violations or the activity that could result in a rapid depletion of the core capital of the Association, and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist from such violation or activity should issue against the Association or executive officer.

(B) DATE OF HEARING.—A hearing pursuant to a notice under subparagraph (A) shall be fixed for a date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is met by the Director at the request of the Association or executive officer served.

(C) FAILURE TO APPEAR.—Unless the Association or executive officer served appears at the hearing through a duly authorized representative, the Association or executive officer shall be deemed to have consented to the issuance of the cease-and-desist order.

(D) ISSUANCE OF ORDER.—In the event of such consent, or if, upon the record made at any such hearing, the Director finds that any violation or activity specified in the notice of charges has been established, the Director may issue and serve upon the Association or executive officer an order requiring the Association or executive officer to cease and desist from any such violation or activity and to take affirmative action to correct the conditions resulting from any such violation or activity.

(3) AFFIRMATIVE ACTION TO CORRECT CONDITIONS RESULTING FROM VIOLATIONS OR ACTIVITIES.—The authority under this subsection and subsection (cc) to issue any order which requires the Association or executive officer to take affirmative action to correct or remedy any conditions resulting from any violation or activity with respect to which such order is issued includes the authority to require such Association or executive officer—

(A) to make restitution or provide reimbursement, indemnification, or guarantee against loss if the violation or activity involves a reckless disregard for the law or any applicable regulations or prior order of the Director or the Association or executive officer was unjustly enriched in connection with such violation or practice;

(B) to restrict the growth of the Association;

(C) to dispose of any asset involved;

(D) to rescind agreements or contracts;

(E) to employ qualified officers or employees (who may be subject to approval by the Director at the direction of the Director); and

(F) to take such other action as the Director determines appropriate.

(4) AUTHORITY TO LIMIT ACTIVITIES.—The authority to issue an order under this subsection or subsection (cc) includes the authority to place limitations on the activities or functions of the Association or any director or executive officer of the Association.

(5) EFFECTIVE DATE.—A cease-and-desist order under this subsection shall become effective upon the expiration of the 30-day pe-

riod beginning on the service of the order upon the Association or executive officer concerned (except in the case of a cease-and-desist order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable as provided in the order, except to the extent that the order is stayed, modified, terminated, or set aside by action of the Director or otherwise as provided in this Act.

(cc) Temporary Cease-and-Desist Orders.—

(1) Grounds for issuance and scope.—Whenever the Director determines that any violation, threatened violation, or activity that could result in a rapid depletion of the capital of the Association, specified in the notice of charges served upon the Association or executive officer pursuant to subsection (bb)(1), or the continuation thereof, is likely—

(A) to cause insolvency of the Association, or

(B) to weaken the condition of the Association prior to the completion of the proceedings conducted pursuant to subsection (bb)(2),

the Director may issue a temporary order requiring the Association or executive officer to cease-and-desist from any such violation or practice and to take affirmative action to prevent and remedy such insolvency or condition pending completion of such proceedings. Such order may include any requirement authorized under subsection (bb)(3).

(2) Effective date.—An order issued pursuant to paragraph (1) shall become effective upon service upon the Association or executive officer and, unless set aside, limited, or suspended by a court in proceedings pursuant to paragraph (4), shall remain in effect and enforceable pending the completion of this proceedings pursuant to such notice and shall remain effective until the Director dismisses the charges specified in the notice or until superseded by a cease-and-desist order issued pursuant to subsection (bb).

(3) Incomplete or inaccurate records.—

(A) Temporary order.—If a notice of charges served under subsection (bb)(1) specifies that the books and records of the Association served are so incomplete or inaccurate that the Director is unable, through the normal supervisory process, to determine the financial condition of the Association or the details or the purpose of any transaction or transactions that may have a material effect on the financial condition of that Association, the Director may issue a temporary order requiring—

(i) the cessation of any activity or practice which gave rise, whether in whole or in part, to the incomplete or inaccurate state of the books or records; or

(ii) affirmative action to restore the books or records to a complete and accurate state, until the completion of the proceedings under subsection (bb).

(B) Effective period.—Any temporary order issued under subparagraph (A)—

(i) shall become effective upon service; and

(ii) unless set aside, limited, or suspended by a court in proceedings pursuant to paragraph (4), shall remain in effect and enforceable until the earlier of—

(a) the completion of the proceeding initiated under subsection (bb) in connection with the notice of charges; or

(b) the date the Director determines, by examination or otherwise, that the books and records of the Association are accurate and reflect the financial condition of the Association.

(4) Judicial review.—Within 10 days after the Association or executive officer has been served with a temporary cease-and-desist order pursuant to this subsection, the Association or executive officer may apply to the United States District Court for the District of Columbia for an injunction setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the Association or executive officer under subsection (bb)(1). Such court shall have jurisdiction to issue such injunction.

(5) Enforcement by attorney general.—In the case of violation or threatened violation of, or failure to obey, a temporary order issued pursuant to this subsection, the Director may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia for an injunction to enforce such order. If the court finds any such violation, threatened violation, or failure to obey, the court shall issue such injunction.

(dd) Hearings.—

(1) Venue and procedure.—Any hearing under subsection (bb), (cc), or (gg)—

(A) shall be held in the Federal judicial district or in the territory in which the home office of the Association is located unless the Association consents to another place; and

(B) shall be conducted in accordance with the provisions of chapter 5 of title 5, United States Code.

(2) Issuance of order.—

(A) In general.—After any such hearing, and within 90 days after the Director has notified the parties that the case has been submitted to the Director for final decision, the Director shall render the decision (which shall include findings of fact upon which the decision is predicated) and shall issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this Act.

(B) Modification.—Except as provided in subsection (cc)(4), judicial review of any such order shall be exclusively as provided in subsection (ee). Unless such a petition for review is timely filed as provided in subsection (ee), and thereafter until the record in the proceeding has been filed as so provided, the Director may at any time, modify, terminate, or set aside any such order, upon such notice and in such manner as the Director considers proper. Upon such filing of the record, the Director may modify, terminate, or set aside any such order with permission of the court.

(ee) Judicial Review of Cease-and-Desist Orders and Civil Money Penalties.—

(1) Commencement.—Any party to a proceeding under subsection (bb) or (gg) may obtain review of any final order issued under such subsection by filing in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Director be modified, terminated, or set aside. The clerk of the court shall transmit a copy of the petition to the Director.

(2) Filing of record.—Upon receiving a copy of a petition, the Director shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

(3) Jurisdiction.—Upon the filing of a petition, such court shall have jurisdiction, which upon the filing of the record by the Director shall (except as provided in the last sentence of subsection (dd)(2)(B)) be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Director.

(4) Review.—Review of such proceedings shall be governed by chapter 7 of title 5, United States Code.

(5) Order to pay penalty.—Notwithstanding any other provision of law, such court shall have the authority in any such review to order payment any penalty imposed by the Director under this Act.

(6) No automatic stay.—The commencement of proceedings for judicial review under this subsection shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Director.

(ff) Enforcement and Jurisdiction.—

(1) Enforcement.—The Director may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia for the enforcement of any effective notice or order issued under this Act, and the court shall have jurisdiction and power to order and require compliance herewith.

(2) Limitation on jurisdiction.—Except as otherwise provided in this Act, no court shall have jurisdiction to affect, by injunction or otherwise, the issuance or enforcement of any notice or order under subsection (bb) or (cc), or to review, modify, suspend, terminate, or set aside any such notice or order.

(gg) Civil Money Penalties.—

(1) Failure to submit reports.—The Director may impose a civil money penalty, in accordance with the provisions of this subsection, on any Association that fails to make any report required under section 439(r) of the Higher Education Act within the period of time established by the Director for submission of the report (except in the case of a report submitted minimally late). The amount of the penalty, as determined by the Director, may not exceed $5,000 per day for each day during which such failure continues.

(2) Unintentional violations.—The Director may impose a civil money penalty, in accordance with the provisions of this subsection, on any Association that, without knowledge—

(A) violates any law, rule, or regulation;

(B) violates any final order or temporary order issued pursuant to subsection (bb) or (cc); or

(C) violates any written agreement between the Association and the Director.

The amount of the penalty, as determined by the Director, may not exceed $5,000 for each day during which such violation continues.

(3) Intentional violations.—The Director may impose a civil money penalty, in accordance with the provisions of this subsection, on any Association that—

(A) submits to the Director any false or misleading report or information with actual knowledge of inaccuracy, deliberate ignorance of inaccuracy, or reckless disregard for accuracy; or

(B) knowingly commits any violation described in paragraph (2).

The amount of the penalty, as determined by the Director, may not exceed, for each day during which such violation, practice, or breach continues, the lesser of (i) $1,000,000, or (ii) one percent of the total assets of the Association.

(4) Procedures.—

(A) Establishment.—The Director shall establish standards and procedures governing the imposition of civil money penalties under paragraphs (1), (2), or (3). The standards and procedures—

(i) shall provide for the Director to make the determination to impose the penalty;

(ii) shall provide for the imposition of a penalty only after the Association has been given notice of, and opportunity for, a hearing on the record; and

(iii) may provide for review by the Director of any determination or order, or interlocutory ruling, arising from a hearing.

(B) FINAL ORDERS.—If the Association does not request a hearing within 20 days after receipt of a notice of opportunity for hearing, the imposition of a penalty shall constitute a final and unappealable determination. If the Director reviews the determination on order, the Director may affirm, modify, or reverse the determination or order, and shall state with reasonable specificity the basis upon which any such affirmation, modification, or reversal is made. If the Director does not review the determination or order within 90 days after the issuance of the determination or order, the determination or order shall be final.

(C) FACTORS IN DETERMINING AMOUNT OF PENALTY.—In determining the amount of a penalty under paragraph (1), (2), or (3), the Director shall give consideration to such factors as the gravity of the violation, any history of prior violations (including violations occurring before the date under paragraph (9)), the effect of the penalty on the safety and soundness of the Association, any injury to the public, any benefits received, and deterrence of future violations, and any other factors the Director may determine by regulation.

(D) REVIEW OF IMPOSITION OF PENALTY.—The determination or order of the Director imposing a penalty under paragraph (1), (2), or (3) shall not be subject to review, except as provided in subsection (ee).

(5) ACTION TO COLLECT PENALTY.—If the Association fails to comply with a determination or order of the Director imposing a civil money penalty under paragraph (1), (2), or (3), after the determination or orders is no longer subject to review as provided under paragraph (4)(A) and subsection (ee), the Director may request the Attorney General of the United States to bring an action in the United States District Court for the District of Columbia to obtain a monetary judgment against the Association and such other relief as may be available. The monetary judgment may, in the discretion of the court, include any attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this paragraph, the validity and appropriateness of the determination or order of the Director imposing the penalty shall not be subject to review.

(6) SETTLEMENT BY DIRECTOR.—The Director may comprise, modify, or remit any civil money penalty which may be, or has been imposed under this subsection.

(7) AVAILABILITY OF OTHER REMEDIES.—Any civil money penalty under this subsection shall be in addition to any other available civil remedy and may be imposed whether or not the Director imposes other administrative sanctions.

(8) DEPOSIT OF PENALTIES.—The Director shall deposit any civil money penalties collected under this subsection into the general fund of the Treasury.

(9) APPLICABILITY.—This subsection shall apply only to violations under paragraphs (1), (2), and (3) occurring on or after January 1, 1993.

(hh) NOTICE OF SERVICE.—Any service required or authorized to be made by the Director under this Act may be made by registered mail, or in such other manner reasonably calculated to give actual notice as the Director may by regulation or otherwise provide.

(ii) SUBPOENA AUTHORITY.—

(1) IN GENERAL.—In the course of or in connection with any administrative proceeding under this Act, the Director shall have the authority—

(A) to administer oaths and affirmations;

(B) to take or cause to be taken depositions;

(C) to issue subpoenas and subpoenas duces tecum; and

(D) to revoke, quash, or modify subpoenas and subpoenas duces tecum issued by the Director.

(2) WITNESSES AND DOCUMENTS.—The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State at any designated place where such proceeding is being conducted.

(3) ENFORCEMENT.—The Director may request the Attorney General of the United States to bring an action in the United States district court for the judicial district in which such proceeding is being conducted, or where the witness resides or conducts business, or the United States District Court for the District of Columbia, for enforcement of any subpoena or subpoena duces tecum issued pursuant to this subsection. Such courts shall have jurisdiction and power to order and require compliance therewith.

(4) FEES AND EXPENSES.—Witnesses subpoenaed under this subsection shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. Any court having jurisdiction of any proceeding instituted under this subsection by the Association may allow to any such party such reasonable expenses and attorneys fees as the court deems just and proper. Such expenses and fees shall be paid by the Association or from its assets.

(jj) STUDY OF IMPACT OF PRIVATIZATION OF THE ASSOCIATION.—

(1) IN GENERAL.—The Comptroller General of the United States, in consultation with the Secretary of Education and the Secretary of the Treasury, shall conduct and submit to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, a study regarding the effect of repealing the Federal charter of the Student Loan Marketing Association and allowing the Association to continue to operate as a fully private entity.

(2) REQUIREMENTS.—In evaluating the effect of such action, the study shall particularly examine the impact on—

(A) the availability and supply of student loans;

(B) the availability of financing for student loans and the interest rates for such loans in the secondary markets;

(C) the size, liquidity, and stability of the secondary market for student loans; and

(D) the overall banking and financial system

The study shall also examine the direct and indirect monetary benefits that accrue to the Student Loan Marketing Association from its quasi-governmental status.

(3) INFORMATION.—The Student Loan Marketing Association shall provide full and prompt access to the Comptroller General, the Secretary of Education and the Secretary of the Treasury to any books, records, and other information requested for the purposes of conducting the study under this subsection.

Mr. GRADISON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

POINT OF ORDER

Mr. REED. Mr. Chairman, I rise to a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. REED. Mr. Chairman, under section 303(a) of the Congressional Budget Act, it is not in order to consider any amendment which creates new entitlement authority or direct spending authority first effective in a fiscal year prior to the adoption of the budget resolution for that fiscal year.

The instant amendment creates new spending authority first effective in fiscal year 1993 by establishing a new executive level salaried position for the Director of the Office of SLMA Market Examination and Oversight, Department of the Treasury. This position would not be specifically subject to the availability of appropriations.

The fact that the amendment establishes a fund to finance costs under the amendment does not defeat the fact that the Director's salary is not specifically subject to the availability of appropriated funds.

Deschler's Procedure, chapter 13, section 14.5 states that "a provision amending title 5 of the United States Code to provide that certain federal employees 'shall be paid'" specific compensation constitutes new entitlement authority within the definition of section 401(c)(2)(C) of the Budget Act.

Subchapter II of chapter 53, title 5, United States Code, sets forth executive schedule pay rates as minimum fixed rates of pay for designated officers listed in the subchapter which are not specifically subject to appropriations.

As such, the amendment creates new entitlement authority first effective in fiscal year 1993.

Since Congress has yet to agree to the budget resolution for fiscal year 1993, the amendment violates section 303(a) of the Budget Act.

Mr. Chairman, I insist on my point of order.

The CHAIRMAN. Does the gentleman from Ohio [Mr. GRADISON] wish to be heard on the point of order?

Mr. GRADISON. Mr. Chairman, the definition of "new spending authority" contained in the Budget Act refers to budget authority not provided for in advance by appropriation acts. This amendment before us, the one we are debating specifically states the following:

Sallie Mae is required to pay assessments to cover all reasonable costs of the Office created by this amendment. These expenses include administrative costs. Thus no additional Government spending will be occasioned by this amendment.

All expenses of the Office created by this amendment, Mr. Chairman, are explicitly subject to prior appropriations. Thus the definition of new spending authority clearly does not apply.

In addition, Mr. Chairman, identical language was included in H.R. 2900, which was passed by the House last year. That bill did not result in a point of order and both CBO and OMB have indicated that in their opinion, the bill does not result in direct spending.

Mr. Chairman, CBO has reviewed this amendment and determined that it does not contain any new entitlement authority or direct spending.

In conclusion, Mr. Chairman, the entity which will pay the cost of this position and of all other costs under this amendment is a private entity. Thus it cannot be said that Federal funds will be used to pay for this amendment, which in any event is subject to appropriations.

The CHAIRMAN. Does the gentleman from Texas [Mr. PICKLE] wish to be heard on the point of order?

Mr. PICKLE. Mr. Chairman, I simply want to support the remarks of the gentleman from Ohio [Mr. GRADISON] in his contention that it is not a new entitlement. These funds clearly go into specific funds subject to appropriations, and I support the position that the gentleman from Ohio has advocated.

To me, this is clearly not an entitlement and, therefore, we should proceed and rule that the point of order is not well taken.

The CHAIRMAN. Does the gentleman from Rhode Island [Mr. REED] wish to be heard further on the point of order?

Mr. REED. Mr. Chairman, I have just two points: First, the point turns upon the issue of whether there is specific authorization in the trust fund to pay the director's salary. I do not believe that is the case. We would be obligated, the Federal Government, to pay his salary regardless of how much money is in that trust fund.

The second issue is one in which the CBO's role is not really pertinent. The question is whether or not we have passed a budget resolution. Clearly we have not. And this would constitute new authorization prior to passing that resolution.

□ 1420

The CHAIRMAN. Is there further debate on the point of order?

Mr. GRADISON. Very briefly, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio.

Mr. GRADISON. Mr. Chairman, my basic argument is, if there is no appropriation, there is no spending. All this amendment does on the point that we are discussing is to indicate what the salary level would be if an appropriation is later provided.

The CHAIRMAN (Mr. PEASE). If there is no further debate, the Chair is prepared to rule on the point of order.

The offeror of the amendment has made it clear to the Chair that the language of the amendment in creation of this position or at least the payment of the salary of the person holding the position would be subject to appropriation as an administrative or nonadministrative expense, and no payment would occur absent an appropriation. That being the case, the Chair is of the opinion that there would not be a violation of the Budget Act. The point of order is overruled.

The gentleman from Ohio [Mr. GRADISON] is recognized for 5 minutes.

Mr. GRADISON. Mr. Chairman, it is a pleasure to appear before the House with the gentleman from Texas [Mr. PICKLE], my good friend and colleague, in support of this amendment. It is also a pleasure to be here, Mr. Chairman, because in bringing this amendment to the House we are coming before the Members with a proposal which would significantly increase the protection to the taxpayer against potentially large losses should the Student Loan Marketing Association—known as Sallie Mae—ever experience financial difficulty. Yet our amendment is carefully tailored so there will be minimal regulatory intrusion into Sallie Mae's affairs as long as it continues to operate in a safe and prudent manner, as it does today.

Because our amendment would significantly increase the protection of the taxpayer without interfering with Sallie Mae's operations, it has the support of the National Taxpayers Union.

I might also add, Mr. Chairman, that we have received a lengthy letter from the Secretary of the Treasury in strong support of this amendment.

Sallie Mae is currently a well-run corporation with sufficient capital to guard against normal business setbacks.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. GRADISON. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, did the gentleman say he had a letter from the Secretary of the Treasury endorsing this?

Mr. GRADISON. Yes, I did.

Mr. FORD of Michigan. I would ask the gentleman, was that the letter by which the Secretary transmitted it to the gentleman? Was that not written over at Treasury?

Mr. GRADISON. No, that is not the case. The proposal which we are presenting was not drafted by the Treasury. It is our proposal, but we are happy to have the Secretary's support.

If the gentleman from Michigan [Mr. FORD], the distinguished chairman, has not seen this letter, perhaps I should take the time of the House to read it. It will require a little extra time, but since the gentleman raised it I think it might be instructive.

Mr. Chairman, let me digress briefly to share with the Members the principal paragraph of this detailed letter from the Secretary of the Treasury. I am quoting:

> As the House begins floor consideration of H.R. 4471, the Higher Education Act amendments, I would like to express the administration's support for the Gradison-Pickle amendment. This amendment will ensure the future availability of student loans by safeguarding the financial safety and soundness of the Student Loan Marketing Association (Sallie Mae).
>
> The Omnibus Budget Reconciliation Act of 1990 required Treasury to conduct a study and recommend corrective legislation for all Government-sponsored enterprises (GSEs) to prevent a repeat of the savings and loan crisis of the 1980s. As you and Congressman Pickle have noted, financial institutions that appear sound can rapidly deteriorate at tremendous cost to the taxpayer. In the case of Sallie Mae, there would be an equally unfortunate loser: the American student.
>
> As you know, Sallie Mae currently does not have a financial safety and soundness regulator. The Gradison/Pickle amendment corrects this situation by establishing a strong financial regulator to protect both the taxpayer and students. The amendment requires the regulator to establish appropriate risk-based capital standards which protect against the credit, interest rate, and management and operations risk that are inherent in Sallie Mae's operations. In addition, the amendment provides the regulator with sufficient regulatory authorities to enforce the risk-based capital requirements and provides for prompt corrective action from the regulator in the event of a financial crisis.
>
> Most importantly, your amendment will in no way affect the ability of students to obtain student loans. The language of your amendment has been carefully crafted to ensure that Sallie Mae will not be overburdened by the regulator. The regulator will take enforcement actions only if Sallie Mae's current level of financial safety and soundness significantly deteriorates.
>
> The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of this letter. I commend your efforts to ensure the safety and soundness of Sallie Mae.

Returning, Mr. Chairman, to my statement, and I thank the gentleman from Michigan [Mr. FORD] for calling attention to the letter of the Secretary of the Treasury, that was very helpful, Sallie Mae is currently a well-run corporation with sufficient capital to guard against normal business setbacks.

During the past few years, however, it has significantly reduced its capital levels in an effort to increase returns to shareholders. In 1985, Sallie Mae had capital equal to 4.7 percent of its assets. This level has now fallen to 2.5 percent. While this capital level is safe, the recent buydown emphasizes the tradeoff between shareholder benefits and taxpayer protection. It also emphasizes the need for a minimum statutory level of capital.

Our amendment will impose only minimal requirements on Sallie Mae, as long as it stays healthy. Assuming that Sallie Mae retains its current

AAA rating, the only requirements it will face are the need for an annual audit. Some will argue that we have given the regulator too many powers.

The CHAIRMAN. The time of the gentleman from Ohio [Mr. GRADISON] has expired.

(By unanimous consent, Mr. GRADISON was allowed to proceed for 5 additional minutes.)

Mr. GRADISON. I can only reply that these same powers are possessed by every other financial regulator that this Congress has created. More specifically, during the past year the House has twice voted to impose these regulatory powers on other Government-sponsored enterprises. Moreover, the power to object when Sallie Mae attempts to engage in unsafe activities is of vital importance. Several years ago, Sallie Mae purchased a savings and loan operation and attempted to run it until congressional objections forced it to withdraw. Similar acts of folly by this or future managements are not impossible to imagine.

It would be very useful to have a built-in safety mechanism to protect the taxpayer against getting into such unrelated business.

Mr. Chairman, I want to repeat that twice during the last year, this House has voted to impose this same regulatory structure on other GSE's. Our amendment takes its form from H.R. 2900, which the Banking Committee drafted to apply to Fannie Mae and Freddie Mac. That bill passed the House by a vote of 412 to 8. A later bill, drafted by the Agriculture Committee to apply to Farmer Mac, passed by voice vote. Although each GSE is different, their similarities outweigh their differences. Similar regulatory structures are appropriate.

It is the same taxpayers we are trying to protect in every case.

Another argument that may be made against this amendment is that, if enacted, it would threaten Sallie Mae's existence or harm the Student Loan Program. Nothing could be further from the truth. Under our amendment, Sallie Mae will experience only the most minimal level of inspection as long as it maintains its current AAA rating. Even if it loses this rating, real regulation will not occur until its capital falls by over 20 percent from its current level. Since Sallie Mae should never, never feel the burden of this regulation as long as it remains safe, I cannot understand how it will be harmed.

Under no circumstances would the viability of the Student Loan Program be threatened. Under current law, student loans are an entitlement. Eligibility requirements and interest rates are set statutorily by Congress. They do not depend on Sallie Mae's presence in the secondary markets. If Sallie Mae were to disappear tomorrow, which I certainly hope will not happen, no student would be turned away from a loan. No student would have to pay higher interest rates on a loan. This is not to say that there are no actions that this House can take to harm Sallie Mae and the Student Loan Program, such as a Direct Loan Program. However, our amendment is not one of them.

Mr. Chairman, our amendment is simply about good government. The private markets believe that, if Sallie Mae ever reneges on its debt, we will spend taxpayer dollars to make its creditors whole. It is only prudent to put into place a firm regulatory structure to prevent this situation from arising.

Mr. REED. Mr. Chairman, I move to strike the last word.

Mr. Chairman, the committee has labored long on this issue of providing more regulation for Sallie Mae, and we have been trying to balance two concerns, first to protect taxpayers, and second, to provide a strong secondary market so that all of our students can receive the benefits of title IV loans.

I think it is important to point out first that Sallie Mae is a very strong financial institution. The report of the Congressional Budget Office in April 1991, indicated that Sallie Mae's exposure to credit risk is small because most of its assets are either fully guaranteed by the Federal Government or fully collateralized by federally guaranteed claims.

□ 1430

These conclusions about the low level of Sallie Mae's exposure to credit risk and interest rate risk are consistent with the observed stability of the GSE's earnings. Neither recession, nor sharp swings in interest rates, nor declines in real estate or commodity prices have had much effect on its earnings. The enterprise's steady profitability is both evidence of absence of risk and a buffer against loss by the Government from the enterprise's operations.

Sallie Mae's capitalization also provides adequate protection for the Government. A stress test conducted by the Office of Management and Budget indicates that the GSE would remain adequately capitalized and make money even if its performing assets and the terms of the GSL Program changed significantly.

We are starting from the position in which Sallie Mae is a much more strong financial institution than other institutions that have been subject to Federal regulatory action this year through the Congress. For example, Sallie Mae has a AAA rating compared to Fannie Mae, A minus, and Freddie Mac, A plus.

As far as risk-weighted capital with respect to this institution, Sallie Mae is 10.98 percent compared to 2.92 for Fannie Mae and 2.17 for Freddie Mac. If we went further and drew further comparisons we would see that we have an institution that is different, fundamentally different than the other two institutions.

The primary difference is the fact that the vast majority of its portfolio is composed of guaranteed student loans or lines of credit fully collateralized by guaranteed student loans. This is the difference, and this is why it is important for this Congress to be reasonable and accurate, not to impose one lockstep set of rules or regulations simply because we did it before for other similarly related or other types of government-sponsored enterprises.

The other issue that I think is important to note is that Sallie Mae is principally governed by employees of the President. The chairman is a Presidential appointee; one-third of the board are Presidential appointees. Indeed, the same President who appoints the Secretary of the Treasury appoints the chairperson of the Sallie Mae board. And so there is an important way in which the administration can directly control the operations of this enterprise.

We in the committee are sensitive to the issues that were generated with respect to the solvency or the future of Sallie Mae, and as a result, understanding it is a strong institution, but wanting to ensure that there is never a situation which develops that would threaten the taxpayer or disrupt the student loan program, we set up a series of mechanisms, of trip wires, if you will, which will provide adequate protection for the taxpayer and adequate funding for the secondary market.

The features of the bill are threefold. First, we impose significant oversight rules. Sallie Mae must submit financial reports to the Department of Treasury and the Department of Education. The Secretary of Treasury is authorized to audit Sallie Mae, and Sallie Mae must provide full access to books and records.

Also we have imposed additional capital standards on Sallie Mae. We are requiring a capital ratio which is the ratio of the stockholders' equity to total assets plus 50 percent of credit-equivalent off-balance-sheet assets involving standby letters of credit and interest rate contracts. If this capital ratio is less than 2 percent, then Sallie Mae must prepare a capital plan, submit it to the Secretary of the Treasury for approval or disapproval. If it is disapproved, then it goes to the relevant committees in the House and the Senate. Sallie Mae must implement that plan subject to comments from the committees.

In response to a point previously raised, this legislation today, our bill, the committee print, does include a strong regulatory position for the Secretary of the Treasury. We are not in this situation operating in a vacuum where is no designated regulator.

Continuing, if the capital ratio falls below 1.5 percent, then it is required by Sallie Mae to prepare a new capital plan or a modified plan. The Secretary of the Treasury has the right to approve it or disapprove it. If the plan is disapproved by the Secretary of the Treasury, then that Secretary prepares a plan. It goes to the committee and the Treasury's plan is implemented by Sallie Mae.

In this situation the Secretary of the Treasury is also authorized to impose significant constraints on the operations of Sallie Mae. For example, it can restrict asset growth.

The CHAIRMAN. The time of the gentleman from Rhode Island has expired.

(By unanimous consent, Mr. REED was allowed to proceed for 5 additional minutes.)

Mr. REED. As I was saying, Mr. Chairman, the Secretary of the Treasury in this position can impose severe restrictions on the operation of Sallie Mae, including reduction of assets growth, a requirement to issue new capital, and also curtail executive compensation. If the capital ratio falls below 1 percent, then the Secretary of the Treasury will prepare a plan in conjunction with Sallie Mae, and Sallie Mae is required to follow the Secretary's plan and to raise the ratio to 2 percent within 60 months.

There is a safe harbor. If Sallie Mae's credit rating is either AAA or AA, then it is not required to fall into these various tests, but as you can see, this has been a significant and rigorous attempt to provide adequate capitalization plans for Sallie Mae in a structure that is both reasonable and effective.

A third provision of the legislation provides for increases or changes in corporate governance, but still reaffirms the principle of presidential leadership, requiring the chairperson be a presidential appointee as well as seven members of the 21-person board.

There are certain problems I think with the amendment proposed by the gentleman from Ohio [Mr. GRADISON]. First of all, as I suggested before, the financial tests which he is trying to impose on Sallie Mae, which have been imposed on Fannie Mae and Freddie Mac are not appropriate. The stress test, which is the heart of the regulatory concern of the amendment, is designed to evaluate reactions to economic downturns, and as the CBO report indicates, these are not particularly germane for the type of operation that Sallie Mae conducts, principally because Sallie Mae's portfolio, as I stated before, is guaranteed student loans which are guaranteed by the U.S. Government.

Indeed, in the President's budget in 1992 he pointed out.

> Sallie Mae's only risk is that the Government might change the rules of the game. Because student loan defaults are much less sensitive to economic conditions than collateralized housing or farm loans, the stress scenario is regulatory rather than economic * * *. Sallie earns considerable profit for its stockholders. Its success in fulfilling its statutory role in the GSL program is due to the combination of its ability to operate almost entirely like a private corporation, and the substantial benefits from its status as a Government-sponsored enterprise.

Indeed, in this program we have improved the integrity of the title IV program so that rather than disadvantaging Sallie Mae we have provided them significant opportunities. We have, in fact, strengthened the program so it is less likely that governmental changes in the rules would affect their performance.

A second problem I think is with respect to the supposed capital tests which Sallie Mae must meet under the Gradison amendment. It is difficult to talk about capital ratios because they require accounting definitions, but as I read the amendment the minimal capital level would be a combination of 2 percent of the assets on the balance sheets plus only .4 percent of off-balance-sheet items, whereas the committee bill would require a 2.0 test, plus .5 percent or 50 percent of the designated off-balance-sheet assets. So I believe in fact that the capital standards in our legislation are stronger and more effective to control Sallie Mae's operations.

Finally, there is the problem, as we have indicated in the point of order, with respect to the director. Stepping aside from whether it comports itself with the budget act, it seems in some places to give a director exclusive authority to overrule the Secretary of the Treasury and the Presidentially appointed chairperson of the Sallie Mae corporation. It seems to me somewhat interesting that we would adopt that style of regulatory control.

In conclusion, the committee worked very hard to establish a reasonable and reliable framework which will protect the taxpayer and will allow us to fulfill our commitment to support the funding of the Higher Education Act through title IV.

I would hope that the Congress would support our efforts and reject this amendment. We have in fact put in place a reasonable, reliable system to control Sallie Mae, to protect the taxpayer and to serve the interests of American students everywhere.

□ 1440

Mr. ANDREWS of New Jersey. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there are four good reasons to oppose this amendment, and my colleagues, the gentleman from Rhode Island, has stated much of the factual background for them. I would phrase them in this respect.

First of all, the cookie cutter approach that the amendment suggests is inappropriate for regulating all the GSE's. Sallie Mae is sui generis. Sallie Mae is a different kind of risk that could be raised for taxpayers, although clearly it is a risk. Treating Sallie Mae the same way as the other GSE's is not prudent and wise policy.

Second, as my friend, the gentleman from Rhode Island, has pointed out, this amendment puts aside the work that the Committee on Education and Labor has done to create a viable and successful regulatory framework that will shelter and insulate the public from whatever risks may in fact be contendant on the continued operation of Sallie Mae.

Certainly, the amendment suggests the creation of a new bureaucracy, of a new agency that will be responsible for watching Sallie Mae, monitoring Sallie Mae. I would suggest to you that the present administrative structure is more than adequate to carry out that task within the parameters of the bill as before the committee today.

Finally, and perhaps most importantly, the fourth reason to oppose this amendment is that it cedes policy control and in many ways administrative control over a very important question about allocation of financial aid resources away from education people to financial people.

One of the reasons why we have this bill being debated in a context of rising tuition and shrinking Federal financial aid is that so many financial aid decisions in the last 10 to 12 years have been driven by budget considerations, and so few financial aid considerations have been driven by what is best for America's students, America's families and America's institutions.

So Mr. Chairman, I would urge our colleagues to reject this amendment, to vote for a viable, balanced and secure regulatory approach, as in the committee bill, and reject the amendment.

Mr. KANJORSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment.

As a member of the House Banking Committee I understand the importance of high capital standards.

This amendment is well intentioned, but poorly thought out.

It is based on the fallacy that one size fits all when it comes to capital standards for Government-sponsored enterprises [GSE's].

GSE's are not all the same, however. Although they have similarities, they have very different portfolios. If they really were all the same we would only have one GSE.

That is why it is entirely appropriate that the Education and Labor Committee has developed a strong set of capital requirements that are tailored to Sallie Mae's portfolio, risk, and business operations.

Sallie Mae is different from other GSE's, and frankly, Mr. Chairman, its operations and its portfolio are the safest.

Why is Sallie Mae different?

First, it already has the highest possible credit rating—AAA.

Second, according to Treasury's own reports, its capital exceeds the minimum requirements for banks.

At the end of 1989 Sallie Mae's capital was 11 percent of risk-adjusted and off-balance-sheet items, while the minimum standard for banks, which will not even take effect until the end of the year, is 8 percent. That means Sallie Mae already has 40 percent more capital than banks will be required to have by the end of the year.

Not only that, Mr. Chairman, but the vast majority—78 percent—of Sallie Mae's capital is the best possible type, the so-called tier 1 capital. Banks only have to have 50 percent tier 1 capital.

Sallie Mae's 11-percent risk-based capital compares quite favorably to the 8 percent capital banks will be required to maintain, as well as to the 2.92 percent Fannie Mae maintains, and the 2.17 percent Freddie Mac maintains.

Sallie Mae's AAA credit rating also compares favorably to Fannie Mae's A- rating, and Freddie Mac's A+ rating.

What it is that makes Sallie Mae so different? The answer is simple—unlike other GSE's Sallie Mae has only one major program that it serves, and that program is the federally insured Guaranteed Student Loan Program.

Approximately 95 percent of Sallie Mae's business is in student loans which are federally guaranteed and thus pose little credit risk.

Housing GSE's, on the other hand, are subject to a much broader array of economic risks.

Let me quote directly from the Treasury's own May 1990 report on GSE's:

> Sallie Mae is essentially not exposed to credit risk on its fully federally guaranteed or reinsured student loan portfolio.
>
> Sallie Mae is not exposed to a large degree of business risk.
>
> Sallie Mae is not exposed to a great deal of interest rate risk.
>
> Sallie Mae has adequate controls to manage and monitor its operations.

This amendment is fatally flawed because it fails to recognize that while the housing GSE's portfolios are comprised mainly of off-balance sheet items, Sallie Mae's portfolio is comprised mainly of on-balance sheet items, but, and this is critically important, the loans in Sallie Mae's portfolio are completely and directly guaranteed by the full faith and credit of the U.S. Government.

Furthermore, since the interest rate on student loans is set by Federal law, and since the Federal Government provides an interest subsidy, Sallie Mae's portfolio does not suffer from the same type of interest rate risk that the housing GSE's face.

What is the risk of this amendment? The risk is very simple. It would give the Treasury unwarranted control over student loans, and might well result in the elimination of all student loans in your State or mine.

Under this amendment, Treasury would be able to dictate policies to Sallie Mae, and to the Secretary of Education, that the Congress would never approve, and that we would never allow in the private sector.

Mr. Chairman, Sallie Mae is doing an excellent job. Every year Sallie Mae makes it possible for millions of our children to achieve the American dream of a higher education.

We should not jeopardize our children's dreams by disrupting a system which is working exactly the way Congress intended.

We should respect the expertise of the Education and Labor Committee. It has done an excellent job of crafting capital standards and safeguards which are appropriate for Sallie Mae's unique circumstances.

Mr. Chairman, if we want to merge all GSE's into one mammoth agency, we should do so. If no, and I do not believe that we should, we should recognize the characteristics that make them different.

GSE's, Mr. Chairman, are not unlike children. While we may love them all, they need individual attention. Each has its own strengths and weaknesses, and each should be given rights and responsibilities which are commensurate with their abilities, ages, risks, and levels of maturity.

I urge a "no" vote on this amendment.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to outline my reasons why we have offered this amendment, and in order for accuracy I am going to try to stay for the first few minutes with my script. I think this is a very important amendment. It fundamentally goes to the solvency of our various Government-sponsored enterprises more than any other amendment or bill perhaps that we have had in some time. I would hope that all Members become familiar with the pending amendment.

Mr. Chairman, for the past 3 years Mr. GRADISON and I have worked closely together to advocate control of the very real risks that Government-sponsored enterprises represent for American taxpayers. We began this effort during our consideration of FIRREA, when taxpayers were forced to bail out the savings and loan system.

Since that time we have reviewed studies by GAO, CBO, Treasury, OMB, the National Academy of Public Administration, the Federal Reserve Bank of San Francisco, and others. All of these studies have shown that GSE's and their shareholders receive enormous subsidies from their ties to the Federal Government. As a result, GSE's are growing rapidly. Today, GSE's represent a contingent Federal liability of over $1 trillion. To protect the American taxpayer these studies describe a number of steps that can, and I believe should, be taken to minimize these risks. The two most important principles are that:

First, each GSE must have an independent financial regulator with meaningful supervisory authority; and,

Second, each GSE must be statutorily required to maintain significant capital reserves based on the risks associated with their specific business activities.

It should come as no surprise that these powerful financial institutions have fiercely opposed any practical application of these important principles. And, Sallie Mae is no exception.

Sallie Mae is a 450 billion corporation, currently rated AAA by Standard and Poor's. As a GSE, Sallie Mae is exempt from many of the laws applicable to truly private corporations. Sallie Mae is authorized to borrow up to $1 billion from Treasury should they get into financial difficulty. And yet, Sallie Mae, unlike all the other GSE's is virtually unregulated. No Federal agency has general regulatory authority over Sallie Mae. No agency has enforcement authority over them. GAO doesn't even have the authority to audit Sallie Mae's books, and Treasury can do so only to the extent necessary to confirm the annual audit findings of the public accountant hired by Sallie Mae. As for capital, there is currently no capital requirement of any kind of Sallie Mae.

If Sallie Mae were a private company this would be acceptable. It would be up to Sallie Mae's shareholders and creditors to decide if their money was secure. But Sallie Mae is not a private company, and its creditors are depending on the American taxpayer to protect them from any risk.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent, Mr. PICKLE was allowed to proceed for 5 additional minutes.)

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I say to the gentleman from Texas, do not mislead people. The gentleman said no regulatory agency. That is true until this bill gets passed, but I draw the gentleman's attention to page 233 of the bill and the gentleman will see that we make it very clear that the Secretary of Education is the regulatory agency appointed by the same President as Nick Brady is appointed by.

What we have got is an internecine fight between two Cabinet members over there. We do not think that the Treasury Department needs to meddle in the Department of Education. They both sit at the table with the President. When the President decides he wants to change their authority, he ought to tell us that, but do not say that there is no regulation. This bill has page after page of regulations and makes it very clear that the Secretary has the authority to enforce them.

□ 1450

Mr. PICKLE. I appreciate the gentleman raising that, and I want to comment on that point and I want to come back to my script. You do have regulation in this bill. But let me remind the Members of what the situation is. You have a capital ratio of 2.54. That is above the norm. Our bill says you ought to have 2-percent capital reserve. You do not have any regulation until at least that reserve has dropped down to 1.5. Under your bill, you have no regulation by the Treasury until it goes below 1 percent. So you can say that, yes, you got regulation, but really factually speaking you do not really get Treasury into this thing to regulate it, it is not brought into it until it gets below 1 percent.

That is dangerously low. So I appreciate the gentleman making that comment, and I am glad to zing him on it.

But let me come back to the script.

Now I shouldn't have to remind any Member that it is dangerous to leave a financial institution unsupervised, and expensive to bail them out when they fail. The events surrounding the House bank are a testament to the risks of informal supervision. And, our continued struggle to finance the savings and loan bailout speaks to the difficulty we have with these failures after they happen. It is for these reasons that Mr. GRADISON and I offer our amendment.

The committee bill before us does not provide adequate financial supervision of Sallie Mae. Under the bill, even if Sallie Mae falls below its minimum required capital level, the regulator has not enforcement authority. Corrective action is left solely to the discretion of Congress and Sallie Mae. In light of recent events, it seems far wiser and safer to put Sallie Mae under the full-time supervision of trained, professional examiners. That is what this amendment does.

In addition, the bill before us applies only a simple leverage ratio to determine the capital requirement for Sallie Mae. GAO finds that using a leverage ratio alone to set capital requirements is unsatisfactory. GAO states that when setting a capital standard "* * * the Federal Government would be best served through a combination of stress tests and a leverage ratio." That is what the Gradison-Pickle amendment does. In fact, our amendment follows the same general approach the House approved overwhelmingly last year for Fannie Mae and Freddie Mac.

Finally, to make sure that Sallie Mae is allowed to operate freely if it voluntarily minimizes its risk to the taxpayer, the amendment provides for a safe harbor if Sallie Mae maintains its current AAA credit rating. This also is in keeping with GAO's findings in its recent report on using private risk ratings for exemptions from Federal regulations.

Mr. Chairman, this House has been awash in recent years with bickering and fingerpointing over the responsibility for the past failures of financial institutions. This amendment offers a responsible, bipartisan way to prevent a failure from ever happening at Sallie Mae. I strongly urge my colleagues to protect the public trust now, and to vote for this important amendment.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Texas put his finger on it. What is the difference? Here you come over here with a couple of people from Committee on Ways and Means that did such a great job on the bill that we lost on the floor yesterday that they now want to put Treasury into the student loan business where they do not belong. That is the whole thing.

We went through this fight over the last 3 years, and it was determined by the Congress to leave it to us to write a regulatory package for this very special, narrowly structured agency, which was originally written by our former Republican colleague, the gentleman from Illinois, John Ehrlenborn. I wish John were here to respond to some of the things that the gentleman from Texas is saying. The whole issue here is Treasury coming through people on the Committee on Ways and Means trying to get their beak into the student loan business. They do not know anything about it. There is no guarantee they would do any better with that than they do running the IRS.

The CHAIRMAN. The time of the gentleman from Texas [Mr. PICKLE] has expired.

(By unanimous consent, Mr. PICKLE was allowed to proceed for 2 additional minutes.)

Mr. PICKLE. Mr. Chairman, I do not know whether you can say—and I want to be sure of this—Treasury did not come to us any more than we came to Treasury. We, Mr. GRADISON and I, have smoked out Treasury as much as anybody. Treasury does support this, and I am glad they do. The General Accounting Office recommends it.

Now the gentleman asks why do we get into it, the Committee on Ways and Means? I will tell you why.

Mr. FORD of Michigan. When did the gentleman discover it?

Mr. PICKLE. The Committee on Ways and Means is charged by the House rules that we have responsibility for the bonded indebtedness of the United States. We just said that we ought to have a statement somewhere in our books that we are going to be a responsible agency. Our committee feels responsible for it, and that is why we get into it.

Mr. LEACH. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Iowa.

Mr. LEACH. I thank the gentleman for yielding.

Mr. Chairman, I would like to discuss very briefly this very point.

The gentleman from Michigan is right that there is a Cabinet-level difference of opinion, although the administration is for the Pickle-Gradison amendment.

But at issue is not simply the principle of education. At issue is how a financial institution works.

We, in looking at FHLMC and FNMA have come to understand that there are financial institutions here of spectacular dimension and the expertise for that kind of regulation happens to lie in the Department of the Treasury. It does not lie in other abstract institutions of the Government.

That is the reason it is very thoughtful in two senses: One, that the Treasury should be the financial institution regulator; and second, under the Gradison-Pickle amendment, there are risk-based capital standards which a regulator understands with the tradition of regulating this kind of industry, and that is the financial institution industry. That is partly what is at stake.

This is a minimalist, responsible amendment. I would urge in the strongest possible terms that the administration perspective be borne in mind and that what Mr. PICKLE and Mr. GRADISON have said is very compelling to this Member.

Mr. COLEMAN of Missouri. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. There has been a lot of discussion about what makes Sallie Mae different from Freddie Mac and Fannie Mae. First of all, Sallie Mae has a triple-A rating. Fannie Mae has an A-minus rating. Freddie Mac has an A-plus rating. This was in the April 1991 Standard and Poor's rating service. So, there is one distinct difference. In fact, Sallie Mae is one of two financial institutions in this country that has a triple-A rating.

□ 1500

What about risk-based capital? Let me continue.

Risk-based capital: Currently regulations require commercial banks to have an 8-percent risk-based capital standard. In 1990, when the Treasury studied this situation, they found that Sallie Mae's risk-based capital was at

11 percent, and Fannie Mae's was almost 3 percent, and Freddie Mac's was a little over 2 percent.

We talk about stress tests; that is, what is this financial institution able to do by stresses that may impact it. In 1990, the Treasury Department studied this phenomenon, from the point of view of business risk, credit risk, interest rate risk, and management and operation risk. They concluded, and I quote the U.S. Treasury Department's report, that, "Sallie Mae is not exposed to a large degree of business risk."

What about credit risk? I quote: "Sallie Mae is essentially not exposed to credit risk on its fully federally guaranteed or reinsured student loan portfolio."

Interest rate risk, management risk, the same type of glowing recommendations from the Department of Treasury in 1990.

Now what has changed? Well, what has changed is that the administration, that has proposed that it is going to have regulatory relief for everybody, has put out a regulatory form that they want everybody to conform to. These fine gentlemen, the gentleman from Texas [Mr. PICKLE] and the gentleman from Ohio [Mr. GRADISON] have given us this fine form in Freddie Mac and Fannie Mae, and now they are trying to create out of the same cookie cutter some sort of regulatory control over another GSE, a GSE that has nothing to do with housing, has nothing to do with the vagaries of that economy, but wants to impose its standard. It is interesting to note that the letter that the gentleman from Ohio [Mr. GRADISON] read into the RECORD says that yet; this is Sallie Mae; yet it does not have a financial safety and soundness regulator and furthermore says there is no reason for Sallie Mae, alone among GSE's, to be exempt from critical safety and soundness legislation. But they do not have any conclusions why that is the case.

In fact, for the administration who wants to give us regulatory relief, they are giving us regulatory overkill. This is an agency that is not broke and does not need fixing. We do not need to fix it here today by the amendment of the gentleman from Ohio [Mr. GRADISON] by every standard, by every statistic that can be cited.

Go through the weighted balance sheets of all of them. The weighted balance sheets on Sallie Mae are guaranteed student loans. They are not going to go bust because we guarantee them, but Freddie Mac and Fannie Mae, they are out there with mortgages and all these other things.

So, let me say that there are a lot of reasons why we should not make Sallie Mae conform to this box, that people want to have some sort of regulatory framework. I guess it is easier down at Treasury to do them all the same way without considering the uniqueness of every one of these GSE's.

Now here is a quasi-public/private agency, 50 billion dollars' worth. Neither had any problems at all. But I will tell my colleagues one thing. If we put Government regulation in there, I bet they might have some problems. We are from the Federal Government, and we are here to help, so we are going to impose a regulatory framework on something that does not need it by the amendment of the gentleman from Ohio [Mr. GRADISON].

People act like they have not even read the bill. We have gone through this for weeks. I sat down with the Treasury Department. I was the one that was supposed to negotiate with the Treasury Department. Well, they did not want to negotiate. They did not know anything about what was making Sallie Mae tick. They want to go say, "Well, we did this in the Banking Committee, so we have people on our committee from the Banking Committee who want to redo it just like the Banking Committee, and the people from Ways and Means are here today trying to do that."

Well, there is going to be a regulatory framework. We provide one in this bill. It is the Secretary of Education because that is the only reason Sallie Mae exists, is to be a secondary market to buy guaranteed student loans, and that is the only fear that the Treasury Department has, that we may change the rules of the game by any statute that we may have over guaranteed student loans. That is the only way to mess up Sallie Mae the Treasury Department concludes.

Now, what have we done in the statute?

The CHAIRMAN. The time of the gentleman from Missouri [Mr. COLEMAN] has expired.

(By unanimous consent, Mr. COLEMAN of Missouri was allowed to proceed for 3 additional minutes.)

Mr. COLEMAN of Missouri. Mr. Chairman, we authorized the Secretary of the Treasury to appoint auditors to assess the financial safety and soundness of Sallie Mae. We established minimum capital requirements for the first time of 2 percent. They are well over that. They are in a safe harbor in our bill because they are not even close to having any problems.

I must correct the gentleman from Texas [Mr. PICKLE], my dear friend, who said that under his scheme, under the Gradison scheme, that even though they had a triple-A rating, that they would be in some sort of safe harbor. Not true. Under the amendment of the gentleman from Ohio [Mr. GRADISON] there will be a regulator, and he will have total control over this agency, safe harbor or no safe harbor. The regulator will be put in place under the amendment of the gentleman from Ohio [Mr. GRADISON]. We will put the Department of the Treasury in charge if Sallie Mae has problems. That is in the bill. It drops to 1.5 percent risk-based capital. Then the Treasury will run Sallie Mae, but all in all there is no reason to do that. There is no reason to anticipate or have something happen because it is going to be fulfilling the wishes of those who want to see problems. If these people were so wise, why did they not go get Freddie Mac and Fannie Mae when they were having trouble instead of trying to pick on some agency that has no trouble and does not have any problems to solve? Why are we spending all this time solving problems that do not exist?

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, I want to object very strongly that we are picking on Sallie Mae. We are asking Sallie Mae to conform, much like Fannie Mae and Freddie Mac, the other——

Mr. COLEMAN of Missouri. I understand that.

Mr. PICKLE. This is not anything different——

Mr. COLEMAN of Missouri. There is no reason for us to force them to act like they are something that they are not.

Mr. PICKLE. The gentleman yielded to me. Does he want me to respond?

Mr. COLEMAN of Missouri. No, I am correcting again your correction of me because I believe that in fact Sallie Mae is not like Freddie Mac. That is the whole thrust of my argument, that they are not the same.

I yield to the gentleman.

Mr. PICKLE. All right.

I now, Mr. Chairman, want to be recognized, and I would like to respond if the gentleman would allow me.

The CHAIRMAN. The Chair would advise that the gentleman from Missouri [Mr. COLEMAN] has the time and may yield to the gentleman from Texas [Mr. PICKLE] if he chooses.

Mr. PICKLE. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Texas.

Mr. PICKLE. Now, I do not think the gentleman really thinks that our committee is trying to pick on Sallie Mae. We have attempted to make the Freddie Mae and Sallie Mae standard stronger. We do have the basic outlines of an amendment. We want this committee to treat us as we have them. We ought to be treated no differently than the other Members. I do not understand why that is done, but let me make a response to one or two things made.

I say to the gentleman, "You said you're in good shape and you're not in any trouble. I recognize that. You were at one time, a couple of years ago, your ratio assets were about 4.86. Good shape. Now you're at 2.54."

Mr. COLEMAN of Missouri. Mr. Chairman, could I answer that?

Mr. PICKLE. No.

Mr. COLEMAN of Missouri. Well, it is my time. Let me answer the gentleman.

Mr. PICKLE. We are asking now to take only a 2 percent. Now the gentleman wants a 2-percent leveraged measurement, and that is all. We are saying we do not go to 8.46. We do not go the 2.4. We even go down to 2.4.

Now the gentleman says he got a triple-A rating, and does the gentleman know why he got a triple-A rating? No trouble? It is because we guarantee bonds.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. COLEMAN] has expired.

(By unanimous consent, Mr. COLEMAN of Missouri was allowed to proceed for 1 additional minute.)

Mr. PICKLE. As long as the Federal Government is guaranteeing bonds, of course they got a good rating.

Mr. COLEMAN of Missouri. The gentleman from Texas [Mr. PICKLE] has 10 minutes of his own time. I have had 8 or far. But he is characterizing my remarks, and I want the gentleman from Texas to listen to what I am saying because it responds to a point he made. He made a good point. I want to respond to it.

The gentleman from Texas [Mr. PICKLE] claims that the capital assets ratio has dropped from 4-point-something to 2.5, and he thinks that that is a road to disaster. Let me tell my colleagues why that happened. Sallie Mae has been purchasing that stock, and, therefore, it is affecting that ratio. It is not out there on the open market. That is the only reason that figure has changed. It is not because there are financial problems, it is not because of anything that has changed, other than that they wanted to get control of their own destiny like any other corporation in this country that had the capability to do so.

Mr. Chairman, I have heard enough myself. I yield back the balance of my time.

(On request of Mr. PICKLE and by unanimous consent, Mr. COLEMAN of Missouri was allowed to proceed for 1 additional minute.)

Mr. PICKLE. The gentleman does have a regulation in his bill, and I do not question that. The regulation really though——

The CHAIRMAN. The gentleman from Missouri [Mr. COLEMAN] has been recognized for 1 additional minute, so he may yield, if he wishes, to the gentleman from Texas.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Chairman, I say to the gentleman, "You do have a regulator, but the regulator doesn't step in until the assets ratio goes down below 1 percent. From 1.5 you negotiate back and forth on the Hill, but you don't really have a regulator. He doesn't go into effect until after you go below 1 percent."

That is what I am advised. Does the gentleman disagree with that? Is that a fact or not?

□ 1510

Mr. COLEMAN of Missouri. Mr. Chairman, I think that is an accurate characterization of the bill. Let me also point out that all that is in this amendment that we are talking about is structured on the possibility that something may go wrong that has not gone wrong. It is going to be fulfilling a prophesy of something going wrong if we set up a regulator and have Government control and mess up an agency that does not have any problems.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. COLEMAN] has again expired.

(On request of Mr. GRADISON, and by unanimous consent, Mr. COLEMAN of Missouri was allowed to proceed for 1 additional minute.)

Mr. GRADISON. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Ohio.

Mr. GRADISON. Mr. Chairman, I appreciate that the gentleman from Missouri did not intend to say this, but what he just said could have been used as an argument for just leaving the S&L's alone. They were not in trouble, but what a pity we did not recognize they could have been in trouble. Our proposal does not touch this agency except for auditing requirements as long as they stay at triple A.

Our basic argument is very simple, that the time to fix the roof is when the Sun is shining.

Mr. Chairman, I thank the gentleman for yielding.

Mr. COLEMAN of Missouri. Mr. Chairman, if that is the case, there would be about 1 billion things we could try to fix around here that are not broken. That does not seem to me to be the right way of doing things.

Trying to compare Sallie Mae with the savings and loan crisis, Mr. Chairman, is a disservice to Sallie Mae and the Presidential appointees that are on the board of Sallie Mae. I do not think the gentleman meant to say that Sallie Mae is in the precarious position of the savings and loans or to even draw an analogy of that type.

But when he raises the spectrum of things falling like the savings and loans, I just think it is off base.

The CHAIRMAN. The time of the gentleman from Missouri [Mr. COLEMAN] has expired.

Before the Chair proceeds, the Chair would remind Members of the House rule that when debating with each other, they should address their comments through the Chair and should address each other as "the gentleman" or "the gentlewoman" from their respective States, and should not in any case use first names.

For what purpose does the gentleman from Michigan [Mr. FORD] rise?

Mr. FORD of Michigan. Mr. Chairman, I will forbear prolonging this debate in the hope that we can get to a vote and get on with this. If we can get this behind us, we have a chance to finish in the time we promised the Members tonight.

I would ask for a vote, Mr. Chairman.

The CHAIRMAN. Is there further debate on this amendment?

Mr. PICKLE. Mr. Chairman, reserving the right to object——

Mr. FORD of Michigan. Mr. Chairman, there is nothing to object to. I am just not asking for more time, and I wish the Members would cooperate with us and get this over with.

PARLIAMENTARY INQUIRY

Mr. PICKLE. Mr Chairman, I have a parliamentary inquiry.

Is the gentleman cutting off debate and asking for a vote now?

Mr. FORD of Michigan. No; I am not cutting off debate, and you do not have any left anyhow so it does not make any difference to you.

Mrs. KENNELLY. Mr. Chairman, I rise in strong support of the Gradison-Pickle amendment. Some of us have been interested in GSE's—the so called Government-sponsored enterprises—for several years now.

I want to associate myself with the remarks of both of the authors of the amendment—Sallie Mae is not currently in financial trouble. But we all know how quickly financial institutions can find themselves in deep trouble often at tremendous cost to the taxpayers. Frankly, that is what we are trying to prevent here today.

Recall the recommendations of the May 1990 Treasury report——

First, each GSE should be adequately capitalized.

Second, each GSE should be required to obtain a rating equivalent to triple A from at least two nationally recognized private credit-rating agencies.

Third, the program regulator should be different from the implementer of financial safety and soundness standards.

Fourth, the value of the Government's financial support should be disclosed.

Treasury found that Sallie Mae is not subject GAO audit and had no Federal regulator.

The underlying text of the bill does address a number of these critical issues. This amendment goes the rest of the way.

This amendment simply aims to assure that Sallie Mae has in place a strong Federal safety and soundness regulator—the Treasury Department. This requirement is no different than the standards we have imposed on other GSE's. It is simply designed to prevent a future taxpayer bailout.

Sallie Mae is healthy today—we want them to stay that way. Support the amendment.

Mr. WYLIE. Mr. Chairman, very briefly, I would like to urge Members to support the passage of the Gradison-Pickle amendment to the Higher Education Act amendments.

In the past, the Congress and the administration have been criticized for not acting on issues of financial safety and soundness until a crisis is upon us. The Gradison-Pickle amendment takes strong and fair action to assure the future fiscal security of Sallie Mae. The time to act on this issue is now, while Sallie Mae is quite healthy, so that in the future the taxpaying public will not be at risk. This amendment establishes a proper balance between the education mission of Sallie Mae and the regulatory oversight necessary. Sallie Mae is the only remaining GSE not subject to adequate capital requirements and sufficient regulation to protect the taxpayer.

Mr. Chairman, on September 25, 1991, this body passed H.R. 2900, the Government Sponsored Housing Enterprises Safety and Soundness Act by the overwhelming margin of 412 to 8. That legislation was adopted with the legacy of the S&L situation clearly in mind. The Banking Committee, under the leadership of Chairman GONZALEZ, moved this legislation forward expeditiously because of the absolute need to protect the taxpayer from potential liabilities from GSE's.

H.R. 2900 provides adequate protection while facilitating the missions of the housing GSE's. Let me say that Sallie Mae is not very different than the housing GSE's, so I do not understand why Sallie Mae should be exempt from these safety and soundness protections. Therefore, I believe that the Gradison-Pickle amendment is not only eminently sensible, but very necessary.

Therefore, I want to again congratulate my colleagues Representatives GRADISON and PICKLE for all of their hard work to protect taxpayers while promoting education. I urge the Members to support adoption of the Gradison-Pickle amendment.

The question is on the amendment offered by the gentleman from Ohio [Mr. GRADISON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GRADISON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 181, noes 232, not voting 21, as follows:

[Roll No. 57]

AYES—181

Allard
Allen
Andrews (TX)
Archer
Atkins
Bacchus
Baker
Ballenger
Barnard
Barton
Bateman
Beilenson
Bennett
Bereuter
Bilbray
Bilirakis
Bliley
Boucher
Browder
Byron
Callahan
Campbell (CA)
Cardin
Carper
Chandler
Chapman
Clinger
Coble
Coleman (TX)
Combest
Condit
Cooper
Coughlin
Cox (CA)
Cramer
Crane
Cunningham
DeLauro
Dickinson
Doolittle
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Dwyer
Eckart
Edwards (TX)
English
Erdreich
Ewing
Fawell
Fields
Fish
Franks (CT)
Gallegly
Gallo
Gekas
Geren
Gibbons
Gillmor
Glickman
Gradison
Green
Guarini
Hall (TX)
Hamilton
Hancock
Hansen
Harris
Hastert
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hoagland
Hobson
Hochbrueckner
Holloway
Houghton
Huckaby
Hyde
Inhofe
Ireland
Jacobs
James
Johnson (SD)
Johnston
Jontz
Kaptur
Kasich
Kennelly
Klug
Kolbe
Kopetski
Kyl
Lagomarsino
Lancaster
Leach
Lent
Lewis (FL)
Lightfoot
Livingston
Lloyd
McCollum
McCrery
McCurdy
McDermott
McGrath
McMillan (NC)
Meyers
Michel
Montgomery
Moorhead
Neal (NC)
Nussle
Olin
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Pease
Penny
Peterson (MN)
Petri
Pickle
Porter
Pursell
Ramstad
Ray
Regula
Rhodes
Richardson
Rinaldo
Ritter
Rogers
Rohrabacher
Rostenkowski
Roth
Roukema
Rowland
Sarpalius
Saxton
Schaefer
Schiff
Schroeder
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Skaggs
Skeen
Slattery
Smith (NJ)
Smith (TX)
Spence
Spratt
Stallings
Stearns
Stenholm
Stump
Tanner
Tauzin
Taylor (MS)
Thomas (CA)
Torricelli
Upton
Valentine
Visclosky
Volkmer
Walsh
Wolf
Wyden
Wylie
Zeliff
Zimmer

NOES—232

Abercrombie
Ackerman
Alexander
Anderson
Andrews (ME)
Andrews (NJ)
Annunzio
Anthony
Applegate
Aspin
Barrett
Bentley
Berman
Bevill
Blackwell
Boehlert
Boehner
Bonior
Borski
Brewster
Brooks
Broomfield
Brown
Bruce
Bryant
Bunning
Burton
Bustamante
Camp
Campbell (CO)
Carr
Clay
Clement
Coleman (MO)
Collins (IL)
Collins (MI)
Conyers
Costello
Cox (IL)
Coyne
Darden
Davis
de la Garza
DeFazio
DeLay
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dooley
Downey
Dymally
Early
Edwards (CA)
Edwards (OK)
Emerson
Engel
Espy
Evans
Fascell
Fazio
Feighan
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Frost
Gejdenson
Gephardt
Gilchrest
Gilman
Gingrich
Gonzalez
Goodling
Gordon
Goss
Gunderson
Hall (OH)
Hammerschmidt
Hatcher
Hayes (IL)
Hertel
Hopkins
Horn
Horton
Hoyer
Hubbard
Hughes
Hunter
Hutto
Jefferson
Johnson (TX)
Jones (GA)
Jones (NC)
Kanjorski
Kennedy
Kildee
Kleczka
Kostmayer
LaFalce
Lantos
LaRocco
Lehman (CA)
Lehman (FL)
Levin (MI)
Lewis (CA)
Lewis (GA)
Lipinski
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McDade
McEwen
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Molinari
Mollohan
Moody
Moran
Morella
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Nichols
Nowak
Oakar
Oberstar
Obey
Olver
Ortiz
Owens (NY)
Owens (UT)
Pallone
Panetta
Pastor
Patterson
Payne (NJ)
Pelosi
Perkins
Pickett
Poshard
Price
Quillen
Rahall
Rangel
Ravenel
Reed
Ridge
Riggs
Roberts
Roe
Roemer
Ros-Lehtinen
Rose
Roybal
Sabo
Sanders
Sangmeister
Savage
Sawyer
Scheuer
Schulze
Serrano
Sikorski
Sisisky
Skelton
Slaughter
Smith (FL)
Smith (IA)
Smith (OR)
Snowe
Solarz
Solomon
Staggers
Stokes
Studds
Sundquist
Swett
Swift
Synar
Tallon
Taylor (NC)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Towns
Traficant
Traxler
Unsoeld
Vander Jagt
Vento
Vucanovich
Walker
Washington
Waters
Waxman
Weber
Weiss
Weldon
Wheat
Williams
Wilson
Wise
Wolpe
Yates
Yatron
Young (AK)

NOT VOTING—21

Armey
AuCoin
Boxer
Dannemeyer
Gaydos
Grandy
Jenkins
Johnson (CT)
Kolter
Laughlin
Levine (CA)
Martinez
Miller (WA)
Morrison
Mrazek
Peterson (FL)
Russo
Santorum
Stark
Whitten
Young (FL)

□ 1536

The Clerk announced the following pair:

On this vote:

Mr. Armey for, with Mr. Peterson of Florida against.

Messrs. WASHINGTON, ANNUNZIO, ORTIZ, and BURTON of Indiana changed their vote from"aye" to "no."

Messrs. PENNY, CHAPMAN, JONTZ, BILIRAKIS, HEFLEY, VOLKMER, HASTERT, ALLARD, and DWYER of New Jersey, Ms. KAPTUR and Messrs. McCURDY, STUMP, and CUNNINGHAM changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. GRANDY. Mr. Chairman, on rollcall 57, I was unavoidably detained and was not recorded. Had I been here, I would have voted "aye" on the Gradison-Pickle amendment.

The CHAIRMAN. Are there further amendments to title IV?

AMENDMENT OFFERED BY MR. COYNE

Mr. COYNE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COYNE: Page 392, after line 5, insert the following new subsection (and redesignate the succeeding subsection accordingly):

(g) AUDIT REFUNDS.—Section 487(c) of the Act is further amended by adding at the end the following new paragraph:

"(7) Effective with respect to any audit conducted under this subsection after December 31, 1988, if, in the course of conducting any such audit, the personnel of the Department of Education discover, or are informed of, grants or other assistance provided by an institution in accordance with this title for which the institution has not received funds appropriated under this title (in the amount necessary to provide such assistance), including funds for which reimbursement was not requested prior to such discovery or information, such institution shall be permitted to offset that amount against any sums determined to be owned by the institution pursuant to such audit, or to receive reimbursement for that amount (if the institution does not owe any such sums)."

Mr. COYNE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The Chair will inquire of the gentleman from Pennsylvania [Mr. COYNE] whether the amendment is printed in the RECORD.

Mr. COYNE. Mr. Chairman, it is.

The CHAIRMAN. The Chair recognizes the gentleman from Pennsylvania [Mr. COYNE] in support of his amendment.

Mr. COYNE. Mr. Chairman, my amendment would require that the Department of Education provide institutions subject to an audit an opportunity to make claims which are discovered to be in their favor during the course of an audit.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. COYNE. I yield to the gentleman from Michigan.

□ 1540

Mr. FORD of Michigan. Mr. Chairman, we have examined the amendment of the gentleman from Pennsylvania. We think it is a good amendment. The majority accepts it.

Mr. Chairman, Mr. COYNE is offering this at the request of Carlow College in his district. Carlow College was determined to owe the Department about $56,000 in a program review for years ending 1989. While investigating back records, Carlow discovered that it had not asked the Department for about $63,000 for 1988 that it was due; the Department said it was too late for those funds.

WDF and Mr. COYNE wrote the Department requesting a review of this decision. ED said that in order to maintain integrity in the Pell program they cannot reimburse claims that are over 6 months old.

The Coyne amendment would only apply in the case of a Department of Education audit.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. COYNE. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, we have examined the amendment of the gentleman from Pennsylvania and we accept the amendment on this side.

Mr. COYNE. Mr. Chairman, I thank the committee chairman, the gentleman from Michigan [Mr. FORD], and the minority for accepting, my amendment.

Mr. Chairman, I am offering an amendment to the Higher Education Amendments of 1992 which will correct an inequity in the management of the Education Department's Audit and Program Review System.

My amendment would require that the Department of Education provide institutions subject to an audit a fair opportunity to make claims which are discovered to be in their favor during the course of the audit.

Under the Department's current audit and program review procedures, errors made in the Department's favor are payable, but errors made in an institution's favor are not. My amendment would end this one-way practice.

The Department currently requires audited institutions to make reimbursement or penalty payments for improperly spent funds. This is, of course, the correct role of the Department. It is important to ensure that institutions receiving taxpayer funds comply with the law for disbursing Federal financial aid.

Unfortunately, the current audit-and-review process is treated as a one-way street by the Department. Education officials refuse to make reimbursement to audited institutions for unreimbursed Pell grants and other student aid awards discovered during the course of an audit.

This practice is clearly unfair for institutions which do their best in attempting to provide students with financial assistance and comply with all Federal financial aid laws. My amendment would end a practice by which the Department demands payments from an audited institution, but then refuses to consider as an offset, or as a legitimate reimbursement item, Pell grants or other financial assistance discovered to have been properly awarded during the audit period.

The current audit-and-program review process unfairly penalizes institutions which discover unreimbursed financial aid awards as the result of an audit. This inequity hits small private institutions especially hard, but the ultimate victim is the student attending an institution subject to this one-way audit process. An unfair audit process diminished the financial ability of a college to maintain quality educational programs or provide financial assistance for their students.

This amendment follows a precedent set by the Internal Revenue Service regarding the rights of taxpayers subject to audit. The IRS must allow taxpayers to file an amended return when payments are made as the result of an audit. If a taxpayer makes a payment to the IRS as the result of an audit, then that taxpayer has the legal right to file an amended return to claim any legitimate credit or refund. The rights of taxpayers subject to an audit are specified in IRS publication 556.

Mr. Chairman, I urge the House to accept this amendment and provide institutions subject to an audit a fair opportunity to make claims which are discovered to be in their favor during the course of the audit.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. COYNE].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SLATTERY

Mr. SLATTERY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SLATTERY: Page 163, strike line 20 and all that follows through line 3 on page 164 and insert the following:

an adjustment shall be made—

"(A) by calculating excess interest in the amount computed under paragraph (4) of this subsection; and

"(B)(i) during any period in which a student is eligible to have interest payments paid on his or her behalf by the government pursuant to section 428(a), by crediting the excess interest to the government; or

"(ii) during any other period, by crediting such excess interest to the reduction of principal to the extent provided in paragraph (5) of this subsection

Mr. SLATTERY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kansas?

There was no objection.

Mr. SLATTERY. Mr. Chairman, this amendment is designed to eliminate the windfall lenders have been receiving from government overpayments for interest on student loans.

It deals with the issue of excess interest payments during the time students are attending school.

Currently, the Government is paying 8 percent interest on guaranteed student loans while the student is in school and before the student begins repayment. This fixed rate is arrived at by adding the 91-day Treasury bill rate to a special allowance for lenders currently 3.25 percent. Because T-bill rates are so low at the present time, the T-bill rate plus 3.25 percent is less than the 8 percent being collected by the banks. The net result is that banks are receiving a windfall above the special allowance they are already entitled to by law.

My proposal credits this "excess interest" to the U.S. Treasury while the Government is paying interest on the loan.

I would like to take this opportunity to commend members of the Education and Labor Committee, in particular Chairman FORD, ranking minority member for crafting this bill, and for their support of my amendment.

This measure could save the taxpayers millions of dollars.

If one assumes an annual loan volume of $13 billion and a one-half percent excess interest charge the savings would be $65 million per year.

My amendment does not affect the banks' special allowance. Again I thank Chairman FORD and the ranking minority members Mr. GOODLING and Mr. COLEMAN.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. SLATTERY. I am happy to yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, we have examined the amendment of the gentleman from Kansas [Mr. SLATTERY]. It actually is a refinement of a change that we have made in the bill. We think it is consistent with what we were trying to do. It recaptures the windfall we were trying to recapture in a better way, so we accept the gentleman's amendment.

Description: Clarification of our windfall profit provision.

Position—support: Under current law, if T bill plus 3.25 percent is less than 8 percent, the lender still gets 8 percent; under H.R. 3553, if T bill plus 3.25 percent is less than 8 percent, the student gets the difference credited to his principal.

The Slattery amendment would provide that if the student was paying the interest—in repayment—the student would receive the benefit—if the Federal Government was paying the interest on behalf of the student—if the student is in school—then the Federal Government would get the benefit.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. SLATTERY. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, we have looked at the amendment and we accept it on this side.

Mr. SLATTERY. Mr. Chairman, I thank the gentlemen.

The CHAIRMAN. Is there further debate on the amendment offered by the gentleman from Kansas?

If not, the question is on the amendment offered by the gentleman from Kansas [Mr. SLATTERY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. COLEMAN OF MISSOURI

Mr. COLEMAN of Missouri. Mr. Chairman, I offer an amendment, starting on page 86.

The CHAIRMAN. Has the amendment been printed in the RECORD?

Mr. COLEMAN of Missouri. Yes, it has.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. COLEMAN of Missouri: Page 86, line 20, strike the close quotation marks and following period and after such line insert the following:

"(7) No basic grant shall be awarded under this subpart to any individual who is incarcerated in any Federal or State penal institution."

Mr. COLEMAN of Missouri. Mr. Chairman, the gentleman from Tennessee and I are offering this amendment. I would like to take a few moments to explain it.

Mr. Chairman, currently under the Pell grant program prisoners are eligible to receive a maximum award under the Pell grant formula. About 100,000 people incarcerated receive Pell grants, it is estimated, under current law. This bill does not affect eligibility for prisoners.

My amendment prohibits the extension of Pell grants to prisoners. Pell grants are not an entitlement. That means for every prisoner who has a Pell grant there are dollars denied to others who are nonprisoners, our constituents. We estimate that over $160 million in Pell grants go to prisoners every year and deny access to those who are on the outside, hard-working men and women who want to go to school who should receive moneys under the Pell grant formula who are denied because of the $160 million going to prisoners.

I am not against trying to help prisoners rehabilitate themselves, but there are dollars set aside by both States and the Federal Government to rehabilitate prisoners and provide educational opportunities. This amendment is very forthright. If the Members support the amendment, they support increasing Pell grants for their constituents. All Pell grant recipients could get $75 more a year if we deny this to prisoners, and an additional 20,000 students would be able to receive an award under the Pell grant system.

Students from hard-working families, people who are going back to school, people who have done nothing wrong are being denied access and opportunities under these programs because we are funding opportunities for people who have been convicted of a crime.

I think it is very clear. There is no hidden agenda. It is very forthright. This amendment stands for putting our resources for those people who have done nothing wrong and taking them away from those people who have done something wrong, because we only have so many resources to go around. We do not have enough to do it for everybody.

Mr. Chairman, I yield back the balance of my time.

AMENDMENT OFFERED BY MR. TOWNS AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. COLEMAN OF MISSOURI

Mr. TOWNS. Mr. Chairman, I offer an amendment to the amendment offered by the gentleman from Missouri [Mr. COLEMAN].

The CHAIRMAN. The Clerk has an amendment at the desk which is a freestanding amendment. If the gentleman from New York wishes to offer that amendment as an amendment to the amendment of the gentleman from Missouri, he will have to redraft it as an amendment to the amendment.

Mr. TOWNS. Mr. Chairman, I offer the amendment as a substitute for the amendment.

□ 1550

The CHAIRMAN. The Clerk will report the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. TOWNS as a substitute for the amendment offered by Mr. COLEMAN of Missouri: Page 86, line 20, strike out the close quotation marks and following period and after such line insert the following:

"(7)(A) No basic grant shall be awarded to an incarcerated student under this subpart that exceeds the sum of the amount of tuition and fees normally assessed by the institution of higher education for the course of study such student is pursuing plus an allowance (determined in accordance with regulations issued by the Secretary) for books and supplies associated with such course of study, except that no basic grant shall be awarded to any incarcerated student serving under sentence of death or any life sentence without eligibility for parole or release, any individual who will not be eligible for parole or release within 5 years, or any individual classified as a 'habitual criminal' as defined by State statute.

"(B) Basic grants under this subpart shall only be awarded to incarcerated individuals in a State if such grants are used to supplement and not supplant the level of postsecondary education assistance provided by such State to incarcerated individuals in fiscal year 1988.

"(C) No grant shall be awarded to an incarcerated individual to attend an institution unless the majority of the undergraduate programs of study offered by such institution lead to an associate or baccalaureate degree.".

Page 345, line 20, strike the close quotation marks and following period and after such line insert the following:

"(5) Any entity shall not be considered to be an insitution of higher education pursuant to paragraph (1), if such entity has a student enrollment in which more than 30 percent of the students are incarcerated.".

Mr. TOWNS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TOWNS. Mr. Chairman, while I agree with the gentleman's concerns regarding abuses in the Pell Grant Program, slamming the door on educational programs which have shown an ability to significantly lower recidivism I believe goes too far.

The Senate very wisely has already adopted language which restricts the Pell Grant Program for students who are incarcerated. My amendment goes even further than the Senate language which was passed in that: First, it denies a Pell grant to any incarcerated student who is serving a sentence of death or a life sentence without parole, is not within 5 years of parole, or is classified as a habitual criminal; second, it prohibits States from using Pell grant money to supplant their own State education programs. In other words, States must match Federal Pell grant funds; third, my amendment restricts the use of Pell grant money to only tuition plus books and supplies; fourth, it limits the use of Pell grants to institutions where a majority of the undergraduate programs lead to an associate or baccalaureate degree; and last, my amendment puts a limit on the number of incarcerated students within an institution to only 30 percent of the student body.

I, too, am disturbed by reports of schools established solely to provide education to draw Federal student aid funds from prisoners. Therefore, I have designed my amendment to establish even tighter restrictions on providing Pell grants to incarcerated students to reform the current system.

By a widening margin the United States remains the world's biggest user of prisons. Nationwide, the total inmate population has tripled since 1975. In my home State of New York, the population is 3½ times greater, increasing from just over 16,000 in 1975 to more than 57,000 in 1991. According to the U.S. Department of Justice, nationwide, 49.6 percent of the incarcerated are caucasian, 47.8 percent are African-Americans, and 2.6 percent are Hispanic or other ethnic minorities.

The Department of Justice also reports that nationwide, 41 percent of all prisoners have less than a ninth grade education and yet further findings point to the fact that those who leave prison with a college education are less likely to return to a life of crime. I submit that it is more cost effective to spend the $1,660 a year to educate a prisoner than the $25,000 a year that it costs in my home State of New York or $30,000 in other States, to incarcerate an individual. Education is our primary hope for rehabilitating those who are incarcerated. The door into prison remains a revolving one unless education is used to break the cycle.

Without education, I am afraid that we are doomed to a recidivism rate of almost 50 percent. All the evidence shows, however, that recidivism rates are drastically lowered for those who participate in postsecondary education programs. It is because of these educational opportunities that incarcerated individuals can turn their lives around and take on productive roles that contribute to society.

Let us not forget that 97 percent of all prisoners will be released back into society. If we want them to return to society with the tools to turn away from a life of crime then education is the key.

Mr. GOODLING. Mr. Chairman, I rise in support of the substitute.

Mr. Chairman, I realize this is dangerous after seeing my subcommittee ranking member in action here this afternoon. But I will take a chance anyway. I realize that politically I am on the wrong side of this issue, but in my heart I think I am on the right side of the issue.

When we think that it costs $30,000 per year to reincarcerate someone or to send them to prison in the first place, that is a big bite for the taxpayer to pay. If, they are not on death row and they are not there for life, it seems to me what we should be trying to do is bring them back into society as well educated as we possibly can so that as a matter of fact they have an opportunity to get a job and be productive citizens and not cost the taxpayers $30,000 a year.

Statistics would indicate that for those parolees who have graduated from the college programs, 67 percent of them are employed 1 year after their release. On the other hand, only 40 percent of parolees who are high school dropouts are employed when they come out.

So I really believe if we want to save taxpayers money for those who are going to come out of prison, we should make every effort to see that they are as literate as possible, as well trained as possible and as well educated as possible.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I reluctantly yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, this is not a question as to whether or not prisoners ought to have educational opportunities. I think they should. But I do not think they should come out of the Pell grants that are being denied to other American citizens.

So there is no question that we ought to put resources in the State and Federal Government for providing educational opportunities for those people. I am for that.

But if this substitute passes, we are going to have to explain why we think it is more important for our moneys to go to the prisoners than to the people who are not in prison, because we only have so much money, and that money can only be spread so far. If you siphon off $160 million to provide educational opportunity for prisoners, that is $160 million less that people who are hard working do not have.

So I am for educating prisoners. I am for not having them go back through this system and cycle again. But do not do it with the money of people who need it to pay their own tuition bills out here on the outside.

Mr. GOODLING. My problem with the argument is if we rely, for instance, on loans, then we are going to have a tremendous debt for the public to pay because it may be 10, 12 years until there is any possibility that those loans can be paid back. So again I reiterate.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Michigan, my chairman.

Mr. FORD of Michigan. Mr. Chairman, I could solve the gentleman's problem as to the reduction in Pell grant availability for other students if he would simply relax his opposition to my Pell grant as an entitlement provisions. If it were an entitlement, it would not make any difference, and we would solve the gentleman's problem.

Mr. GOODLING. Mr. Chairman, I yield back the balance of my time.

Mr. GORDON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment of my colleague, the gentleman from Missouri [Mr. COLEMAN], and myself. The amendment is very simple. The amendment simply says that prisoners will not be eligible for Pell grants.

Let me just take a moment to talk about what we are debating and what we are not debating. We are not debating whether prisoners should have educational opportunities. Clearly prisoners should have educational opportunities. Clearly prisoners should have the opportunity to try to learn a skill so that when they get out they can better themselves and not come back. That is not the question.

The question is whether or not Pell grants is an efficient and a proper way to accomplish that. I think not.

Let me remind Members that every time that a prisoner gets a Pell grant that means a traditional student does not get a Pell grant. Not only do they not get it, but since prisoners have no income, they are first in line. So nobody else gets a Pell grant until all of the prisoners, with no income, get what they want.

What we are seeing is an industry build around this. Certainly there are some exceptions, and there are some good, responsible schools that are doing good work. But we are seeing an industry being developed around taking advantage of these prisoners to the point of recruiting them, paying them bounties so that some irresponsible school can set up some type of a program around these prisoners and let the taxpayers pay for it to the tune of $160 million a year.

Let me just relate to Members a true story that happened to me. It was about 4 or 5 weeks ago. A policeman in my hometown of Murfreesboro was talking to me about trying to help his son get some financial aid to go to school. We all know that policeman are not overly paid, but he made too much money to be able to get in any kind of a Pell grant program.

Let me tell Members, that policeman's son could not get a Pell grant. But if he arrested someone for breaking into your house tonight and put them in jail, then they could get a Pell grant. That just does not seem to make much sense.

□ 1600

We have limited resources. We need to spend them the best we can. Pell grants to prisoners does not make sense. It is not good policy, and I request my colleagues to support that position.

Mr. TOWNS. Mr. Chairman, will the gentleman yield?

Mr. GORDON. Certainly, I yield to my friend, the gentleman from New York.

Mr. TOWNS. Mr. Chairman, 45 percent of all males in jail when they were arrested were unemployed, so we are talking about people who qualify for this. I mean, if we do not do this, then we are talking about the possibility of spending $30,000 when they go back. I mean, we are talking about $1,600 plus $30,000, and I think when we analyze it, that the real problem is a lack of education, and if there is an opportunity for them to get an education, then we will be able to save a lot of money in the long run.

Mr. GORDON. If I may reclaim my time, Mr. Chairman, let me say that the gentleman from New York and I have worked on his amendment, and his amendment, or substitute now, is clearly better than the alternative of doing nothing. I think the gentleman has come forward and tried to find a way even allowing prisoners to continue to get Pell grants in a more responsible way, so I compliment the gentleman for that; but the bottom line still is that either prisoners are eligible for Pell grants or not, either they take limited resources away from traditional students or not. Either they get in the front of the line or not.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I understand it, if the Towns amendment is adopted to the amendment of the gentleman from Missouri, we will be very close to the language we will be meeting in conference with the Senate. That looks like a pretty good place to compromise.

We have been up and down this issue. I could agree with the Towns amendment, but I think what the gentleman from New York [Mr. TOWNS] offers us is a refinement of that amendment that does not run the danger of adopting a resolution that the Earth is flat. It gives us some time to work.

This is going to be an item in conference with the other body no matter what happens with this amendment, so I would like to suggest that the House might be better postured if we have the more conciliatory position of the gentleman from New York [Mr. TOWNS] than that of the gentleman from Missouri [Mr. COLEMAN], but by the time we get to conference the gentleman from Missouri [Mr. COLEMAN] and I are going to be on the same side anyhow, and the gentleman from New York [Mr. TOWNS] might be out.

Mr. MCEWEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by my colleague, the gentlemen from New York [Mr. Towns]. This amendment, which would preserve limited eligibility for Pell grants by prison inmates, strikes an important balance between fiscal restraint and open access to higher education services.

As you know, the United States is responding to cries to get tough on crime by imprisoning an increasing number of persons each year. In my State of Ohio along nine new prisons have been completed and construction for an additional four more has been budgeted. With approximately 1.1 million Americans currently in Federal, State, or local prisons, taxpayers pay about $20.3 billion a year in maintenance costs alone. However, we cannot overlook the role of education in reducing the revolving door of our prisons.

While I support preserving unrestricted access to higher education services for incarcerated students, I believe our amendment responds to the justifiable concerns that many schools are taking advantage of loopholes in the Pell Grant Program.

Among other aims, our amendment specifically would limit the percentage of incarcerated students in an institution of 30 percent of that body, and deny a Pell grant to any incarcerated student who is serving a sentence of death or life without parole; not eligible for parole within 5 years; or is classified as a "habitual criminal".

Mr. Chairman, there are may significant reasons to support continued Pell grants for inmates, among them:

Offenders are drawn from the same indigent population that Pell funding is designed to serve.

Less than 2 percent of current Pell grants go to incarcerated students.

Offender use of Pell funding yields crucial social benefits, including cost effective enhancement of prison security, increased employment levels among at risk minority youth, and substantially lower recidivism rates—as much as 60 percent lower after 1 year.

In a study of 317 paroled offenders performed by the Correctional Education Department of Wilmington College in Wilmington, OH, 27 percent of the parolees were reincarcerated within 1 year—106 persons. These 27 percent had less than a high school education. However, only 11 percent—95 persons—were reincarcerated who had the benefit of some form of college education.

Mr. Chairman, I believe that these facts speak for themselves. We simply cannot afford to cut off this valuable resource for offender education. This amendment seeks to assure the taxpayer that Pell money will not be abused, and will go only to those prisoners with the greatest chance of success.

I thank the gentleman from New York for his efforts and for the opportunity to work with him in addressing this essential issue. I urge my colleagues to adopt this compromise amendment.

Mr. PRICE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in support of the Towns perfecting amendment to the Gordon amendment regarding Pell grants for prisoners.

I want to start by complimenting the gentleman from Tennessee [Mr. GORDON] for his thoughtfulness and persistence on this issue. He has helped point out an area that is in great need of reform.

The addition of the Towns amendment will put the needed reforms in place while preserving a small and valuable component of the Pell Grant Program.

There are legitimate concerns about the current Pell Grant Program for prisoners. In some cases, tuition for prisoners has been set at an artificially high rate. Some schools have exploited the system to reap excessive profits. And there have been prisoners with life sentences who have received Pell grants.

In each instance, the Towns amendment deals with the abuse. Under the Towns amendment, prisoners with life sentences or facing the death penalty will be banned from receiving aid. Furthermore, a prisoner who is classified under State law as an habitual criminal is banned from the program. And only those prisoners who are within 5 years of parole or release will be eligible. Therefore, the program will now be directed to those people who are most likely to emerge from prison and make a contribution to society.

The amendment also mandates that no grant can be awarded which exceeds the sum of the tuition and fees normally assessed by an institution of higher education. This will stop the exploitative practices of some schools that have charged excessive tuition and made unwarranted profit from this program. Furthermore, since many of the schools involved in these schemes are in the for-profit sector, the amendment makes clear that only schools with a majority of their undergraduate program leading to an associate or baccalaureate degree can participate.

The Towns amendment, therefore, provides much-needed reforms. Equally important, however, it avoids throwing out the baby with the bath water. For an accountable and well-administered program whereby qualified instructors help prepare prisoners for life beyond prison can have major benefits both for these individuals and for society as a whole.

Members of the Postsecondary Education Subcommittee who came to North Carolina for a field hearing on the Higher Education Act last June will remember one particularly impressive witness, Hasoni Andrews, a student who has been enabled to attend North Carolina State University by Pell grants and student loans. A reporter asked her whether she thought prisoners should be more eligible for assistance, perhaps expecting her to feel that this would jeopardize her aid. Instead, she gave an answer that we all might employ in assessing this program: "I think the measure of whether prisoners get grants should be what the benefit is to society. Does a diploma change prisoners, or do they get out and go back to crime?"

We have evidence that this program passes the test. In my home State of North Carolina, prisoners that have received associate or bachelor degrees because of the Pell Grant Program have a zero recidivism rate. This is in contrast to a 33-percent-recidivism rate in North Carolina as a whole. This means savings every day for our State because of the contribution these people make to our society, and we have fewer people returning to our prison system. Massachusetts has reported similar results, with prison men earning degrees having a 10-percent-recidivism rate compared to an overall recidivism rate statewide of 50 percent.

We also have important anecdotal evidence that this program works. One recent graduate who left prison in 1988 says that "she pushed her life forward" because of these college programs. One month after being released, she landed a job as an administrative assistant at $20,000 a year. She now supports her high-school daughter and is working toward a master's degree in public administration. She says that "I don't think that when I got out, I would have turned to a life of crime without a degree. But it keeps the focus on the positive, and now I can teach my children about striving to be a better person."

In this simple sentence, one can see the benefits this program can offer. The Towns amendment restructures this program so we can target it to institutions and individuals who can use it most productively and constructively. The Towns amendment offers true reform, and I urge my colleagues to accept it.

□ 1610

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to indicate my strong support for the Towns substitute amendment and hope that it will prevail.

Mr. Chairman, I rise today to express my strong opposition to Mr. GORDON's amendment. The issue of eliminating inmate access to Pell grants is not new. The premise for the argument is a valid and thought provoking one. Why should the American taxpayer reward incarcerated individuals with the privilege of education when the pool of funding is depleting rapidly for the rest of society? The answer is simple and well documented: By providing the tools of learning and self improvement, society can reap the benefits of creative, productive citizens, as well as break the cycle of crime and prison.

The United States leads the world in the rate of incarceration, and is second in number of inmates only to China, which has over four times our population. We cannot continue to spend money to ensure there is enough space for inmates. We need to decide what will reduce the numbers in these prisons. We need to invest in programs like education—not as a reward, but as an alternative.

Surprisingly, the amount of Pell grants used by the incarcerated is limited, often estimated to be less than 1.08 percent of Pell appropriations for last year. Statistics clearly show that this meager investment will radically improve an inmate's chances of permanent rehabilitation. According to the Department of Justice, recidivism rates for inmates participating in college programs was reduced from over 30 percent to a mere 11 percent. This means that 19 percent of those individuals who would have otherwise used taxpayers' money through trials and imprisonment, were instead contributing to society by working and paying their share of taxes. Most importantly, when you consider that it costs $30,000 per year to keep an individual in prison, this means a savings of $570,000 for every 100 inmates who do not return to crime.

In a study by the Federal Bureau of Prisons published in December of last year, it was shown that out of 7,000 Federal prisoners released from 1984 through 1986, those who received some training while incarcerated were more likely to hold community jobs, and less likely to recidivate. This means everything for the more than 600,000 young black men in our prison system. Think about this—more black men are in prison than there are black men enrolled in college full time. One out of four black men is under the control of the criminal justice system—prison, jail, probation, or parole. Prison may be one of the first opportunities many of them have to receive an education. Without a real improvement in the prospects for rehabilitation, we are in danger of losing a whole generation.

We must determine the purpose of our criminal justice system. If prisons have been created to solely punish, then elimination of Pell grants is justified. If, on the other hand, the purpose is to rehabilitate, then elimination of virtually the only method of doing that is detrimental. It's obvious that the most practical rehabilitative tool is education. Education socializes and provides a positive self-image which lasts an individual long after his sentence has been completed and well into his role as a hard working, contributing member of society. I urge you to defeat this amendment.

Mr. ALLEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Coleman-Gordon amendment without the substitute. Most of our constituents did not realize, until now, that their taxes are being used to provide educational grants for convicted felons. At the same time, most Virginians and most Americans are struggling to provide a college education for their own children.

Mr. Chairman, according to the Department of Education, the Federal Department of Education, every year our taxpayers are handing over $160 million in Pell grants for prisoners. The $160 million spent on prisoners this year could have provided, for example, $2,400 for over 65,000 deserving students from struggling middle-class families. Because the prisoners have no income, prisoners are receiving full Pell grant benefits, which are rarely given to qualifying students.

Some of the schools also provide services to prisoners who actually claim living expenses as a legitimate reimbursable expense.

I also have, Mr. Chairman, a letter that was addressed to the gentleman from Tennessee [Mr. GORDON] from an assistant professor in Virginia. This is the way some of these schools look at this opportunity, and I quote. He says,

> I am a faculty member of a community college in southern Virginia and have first-hand knowledge of the inmate education program here.
>
> I can assure you that the use of Pell money in the prisons is a cynical bureaucratic abuse of the taxpayer. My college became involved in this system because it could provide quick, easy enrollment at a time when business was slow with the paying public. By maintaining our enrollment, our administrators enjoyed bigger budgets. Rationalizations about 'rehabilitation' were invented later.

That is the actual situation out there in the real world, Mr. Chairman. I think it is high time that this House gets its priorities straight. There are many other educational programs available in our prisons. As a constituent of mine put it, "Let's put our educational dollars on hard-working students who would kill for a chance to go to school, and not spend them on someone who already did."

Mr. COLEMAN of Missouri. Mr. Chairman, would the gentleman yield?

Mr. ALLEN. I yield to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. I thank the gentleman for yielding.

Mr. Chairman, the gentleman makes a very good point, that a lot of schools have contacted Members here. These are schools that have set up these in-prison educational opportunities. It is like—I do not know what—shooting fish in a barrel, because all you do is find a prisoner and you get $2,400, just like that. Every one of them is going to get the maximum award.

Where does that $2,400 go? It goes from the prisoner's hands right into the coffers of the school.

Now, even some quasi-legitimate schools are doing this, unfortunately, because they see this as a real profit-maker.

There is no overhead. The Federal Government and State Government are paying for the campus, if you will, and the prisoners are right there. All they do is send in somebody. If you have 25 or 30 people in a classroom, multiply that by $2,400, you take the teacher's pay out, and the rest of it is gravy.

So, we are hearing a lot today about the concerns about prisoners that is really generated by these schools out there.

I have one of them, where 60 percent of their enrollment is in prisons—60 percent. Some of them are up to 80, 90 percent.

This is something they have keyed in on, they have really homed in on it. It is not going to get smaller, it is going to get bigger. It is $160 million today, and it could be $300 million, it could be a half-billion dollars, it could be a billion by the time this 5-year reauthorization is through.

Then I want everybody to go back home and say, "I voted for the substitute amendment that allowed a billion dollars to be spent on prisoners while I have to tell you there is no money left for you who are hard-working people who have never violated a traffic law, never received a parking ticket, I am sorry there is no money for you." But the people standing in line through these schools have gotten a billion dollars.

I thank the gentleman for yielding.

Mr. ALLEN. I thank the gentleman for his comments.

Mr. Chairman, I would conclude by saying that you can come up with examples where something is good, you can spend enough money on any sort of program and something will happen.

We have a saying in Virginia that even a blind hog will find an acorn now and then. But it does not mean we have to spend millions of dollars without a priority being set, without setting our priorities straight.

So, I would hope it would be the pleasure of the House to defeat the Towns substitute amendment and pass the Coleman-Gordon amendment.

Mr. GUNDERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I thought my colleagues would be interested in knowing the most current data that we have. In January 1990 there were 6,310,000 Pell grant applicants. Because we do not have enough money, there were 3,142,000 recipients. Half the students in this country who applied for Pell grants were unable to get them because we do not have enough money. The fact is if we would reject the Towns substitute and we would adopt the Coleman-Gordon amendment, we would be able to say to 20,000 additional students who qualify today for Pell grants but cannot get them because of inadequate funding that they would receive grants. Or we would be able to tell students—and please understand Pell grant students are the most needy students among us—that their maximum grants would go up at least $75 per student.

An interesting article was printed in the June 5, 1991, Chronicle of Higher Education, because each and every one of us have heard discussions about how we at the Federal Government are shifting costs to the States.

In this case, the States are shifting costs back to the Federal Government because as they are dealing with their budget crunchers, they are literally saying we will cut our money for prison education and we will mandate that our prisoners must apply for Pell grants.

Now, if we would even think of continuing a policy of Pell grants for prisoners, we ought to understand that if we are serious about that, we have got to devise a totally new formula because the present Pell grant formula is relevant to a prisoner, because prisoners do not get wages.

So, they automatically qualify for the maximum Pell grant.

We have inadequate calculations of what the true cost of education for them is in terms of tuition, in terms of living expenses, et cetera.

So, the Pell grant formula today does not work for prisoners. No one is suggesting we change that.

So, I think those who want to continue this practice in and of themselves are not being totally honest with us. But what I would suggest that we do is we recognize that anyone who votes for the Towns substitute is saying that you are willing to continue denying 50 percent of the Pell grant applicants in your district funding for Pell grants so that you can fund prisoners.

When the truth is we have adult education, we have vocational education and we have prison education programs that ought to be the primary focus of the education of prisoners, which I believe we all support.

Mr. GORDON. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from Tennessee [Mr. GORDON].

Mr. GORDON. I thank the gentleman for yielding.

Mr. Chairman, I would like to clarify the vote because it is a bit odd with the amendment and substitute.

So, let me make sure we are all together: As I understand the amendment, the Gordon-Coleman amendment says that prisoners will not be eligible for Pell grants.

Mr. GUNDERSON. That is correct.

Mr. GORDON. That prisoners will not stand before traditional students and get Pell grants.

Mr. GUNDERSON. That is correct.

Mr. GORDON. That prisoners will not take a Pell grant away from a traditional student.

Mr. GUNDERSON. That is correct.

Mr. GORDON. So, if that is the way you believe, you should vote for the amendment.

The substitute, on the other hand, says there are exceptions, that there are occasions when prisoners should get Pell grants rather than traditional students, should come before traditional students. And so the first vote is on the substitute, and my colleagues should vote "no" on the substitute if they feel that prisoners should not stand before traditional students in getting Pell grants.

□ 1620

Mr. GUNDERSON. The gentleman is correct.

Mr. GORDON. If my colleagues think they should, they should vote "yes." Is that correct?

Mr. GUNDERSON. The gentleman is correct. I appreciate the contribution.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to my distinguished ranking member, the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, I appreciate the gentleman from Wisconsin [Mr. GUNDERSON] yielding to me, and I just wanted to make sure that the other side of the aisle understands that my side of the aisle is opposed to Pell grants as an entitlement program. I am afraid they are liable to get the wrong impression, and I want to make sure they understand that we are opposed to Pell grants being an entitlement.

Mr. GUNDERSON. Mr. Chairman, we are not only opposed to Pell grants being an entitlement. I hope we are also opposed to prisoners receiving priority over half the students in this country who are entitled to Pell grants and do not receive them.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. GUNDERSON] has expired.

(By unanimous consent, Mr. GUNDERSON was allowed to proceed for 1 additional minute.)

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, what the gentleman is referring to is that, if I had known that he, and the gentleman from Missouri [Mr. COLEMAN] and the rest were going to be making speeches here for how we could prevent this outrageous figure, which was just read, of half the people that are qualified for Pell grants not getting them, they would have been supporting Pell grant entitlements. They should have told me that before I dropped it.

Mr. GUNDERSON. Mr. Chairman, for once our strategy worked.

Mr. OWENS of New York. Mr. Chairman, I rise to support the substitute amendment being offered by Mr. TOWNS to the Coleman amendment which would ban Pell grants being awarded to prisoners.

Mr. Chairman, this Congress has been struggling to get a new crime bill enacted during the past year. That struggle is likely to continue for several more months, and once passed, our President has vowed to veto it.

What better crime prevention method is there than education? Other than jobs, I can think of none. And the first often leads to the second.

Some Members of this body only think of prison and capital punishment as deterrents to crime. Well, given the increase of crime in this age of longer prison sentences, mandatory prison sentences, and a resurgence of capital punishment, I would say that the evidence and the criminals are both laughing at us. Crime has not slowed or stopped. Building more prisons will not help. Killing more prisoners will not help.

Education and jobs will help. They are the only long lasting and assured method of crime prevention.

Pell grants are the cheapest form of Federal student aid that we have. If we pass the Towns substitute we will be ensuring that none of this Federal scholarship money is used for room and board—which the prison system is providing. We will be assured that no prisoners who are on death row or who will be in prison for the rest of their lives will receive this money—for they will not have a chance to make good use of it. We will be assured that no school is seeking to earn all of its money off of these prisoners by catering solely to them—inmate participation in an institution's program will be limited to 30 percent.

These and the other provisions contained in the Towns substitute will help to ensure that this program is not abused. Evidence shows that prisoners who get an education or are trained for a job can and do become productive members of our society. They hold jobs, they help to provide for their families and they do not commit crimes and they do not return to prison. Society not only saves $20,000 to $30,000 by not having to send them to prison, but they pay their share of taxes and help to support the community instead of taking from it.

Money spent on Pell grants for prisoners is money well spent.

To my colleagues who are so concerned that there are not enough Pell grants to give one to every student who is eligible, I ask them to defend their decision to oppose the Pell grant entitlement that was originally included in H.R. 3553. Denying Pell grants to prisoners will not provide enough money to give all eligible students an award. There would still be hundreds of thousands of students who need a Pell grant but could not get one. Where was their concern for these students when they objected to the Pell grant entitlement? Pell grants for prisoners is a tiny drop in the bucket of student aid funds—but it is a very important drop. As long as we do not work to help prisoners overcome the odds and better themselves, they will continue to be a burden to the communities across this country.

Support the Towns substitute. Support education for all would-be students and strike a crucial blow against crime.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. TOWNS] as substitute for the amendment offered by the gentleman from Missouri [Mr. COLEMAN].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. COLEMAN of Missouri. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair announces that pursuant to clause 2(c), rule XXIII, he will reduce to 5 minutes any recorded vote ordered on the amendment offered by the gentleman from Missouri [Mr. COLEMAN] if there is no intervening business or debate following the vote on the amendment of the gentleman from New York [Mr. TOWNS].

The vote was taken by electronic device, and there were—ayes 85, noes 314, not voting 35, as follows:

[Roll No. 58]

AYES—85

Abercrombie
Beilenson
Bentley
Berman
Blackwell
Bonior
Carper
Clay
Clement
Collins (IL)
Collins (MI)
Conyers
Cooper
Coyne
DeFazio
Dellums
Dickinson
Dixon
Dymally
Edwards (CA)
Evans
Fazio
Flake
Foglietta
Ford (MI)
Ford (TN)
Goodling
Green
Hayes (IL)
Hobson
Horton
Jacobs
Jefferson
Johnson (SD)
Johnston
Jones (GA)
Jontz
Kennedy
Kildee
Kopetski
Kostmayer
Lancaster
Lewis (GA)
Lowery (CA)
Lowey (NY)
Markey
McDermott
McEwen
Mfume
Miller (CA)
Mink
Moody
Moran
Nowak
Oberstar
Olin
Owens (NY)
Payne (NJ)
Pease
Peterson (MN)
Price
Quillen
Rangel
Regula
Roybal
Sabo
Sanders
Sawyer
Scheuer
Schumer
Serrano
Solarz
Stokes
Sundquist
Tanner
Towns
Unsoeld
Vento
Walker
Washington
Waters
Weiss
Williams
Wolpe
Yates

NOES—314

Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Atkins
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Bennett
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Burton
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carr
Chandler
Chapman
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Cox (CA)
Cox (IL)
Cramer
Crane
Cunningham
Darden
Davis
de la Garza
DeLauro
DeLay
Derrick
Dicks
Dingell
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Ewing
Fascell
Fawell
Feighan
Fields
Fish
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Gordon
Goss
Grandy
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hochbrueckner
Holloway
Hopkins
Horn
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (TX)
Jones (NC)
Kanjorski
Kaptur
Kasich
Klug
Kolbe
Kyl
LaFalce
Lagomarsino
Lantos
LaRocco
Leach
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Luken
Machtley
Manton
Marlenee
Martin
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDade
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (OH)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nussle
Oakar
Obey
Olver
Ortiz
Orton
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (VA)
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshard
Pursell
Rahall
Ramstad
Ravenel
Ray
Reed
Rhodes
Richardson
Ridge
Riggs
Rinaldo
Ritter
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Sangmeister
Sarpalius
Savage
Saxton
Schaefer
Schiff
Schroeder
Schulze
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (OR)
Snowe
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stenholm
Studds
Stump
Swett
Swift
Synar
Tallon
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Traxler
Upton
Valentine
Visclosky
Volkmer
Vucanovich
Walsh
Waxman
Weber
Weldon
Wheat
Wise
Wolf
Wyden
Wylie
Young (AK)
Zeliff
Zimmer

NOT VOTING—35

Armey
AuCoin
Boehner
Boxer
Bunning
Costello
Coughlin
Dannemeyer
Donnelly
Frank (MA)
Gradison
Jenkins
Johnson (CT)
Kennelly
Kleczka
Kolter
Laughlin
Lehman (FL)
Levine (CA)
Martinez
Miller (WA)
Morrison
Mrazek
Peterson (FL)
Roberts
Russo
Santorum
Smith (NJ)
Smith (TX)
Stark
Vander Jagt
Whitten
Wilson
Yatron
Young (FL)

□ 1644

Messrs. HERTEL, McGRATH, OXLEY, and GEPHARDT, Ms. HORN, Mr. ACKERMAN, and Mr. SAVAGE changed their vote from "aye" to "no."

Messrs. DICKINSON, OBERSTAR, KENNEDY, SOLARZ, and REGULA changed their vote from "no" to "aye."

So the amendment offered as a substitute was rejected.

The result of the vote was announced as above recorded.

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. COLEMAN of Missouri was allowed to proceed out of order.)

Mr. COLEMAN of Missouri. Mr. Chairman, for purposes of answering a lot of questions that have been posed to me about the rest of the evening and how far we are going to go and what time we might rise, I wonder if the gentleman from Michigan [Mr. FORD] could shed some light and give us an idea of how long we will work this evening?

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentleman from Michigan.

Mr. FORD of Michigan, Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, my instructions from the leadership are to finish this bill. My anticipation is if Members will give us some patience here, the gentleman from Missouri [Mr. COLEMAN] and I can finish this bill within another half hour to 45 minutes.

Mr. Chairman, I am prepared to do everything we can reasonably do. The gentleman from Missouri [Mr. COLEMAN] and I have been working very busily. We have been accepting amendments like they are going out of style. I do not want any Member to think that means we are going to accept them all. We are doing everything we can to wind this up. The very latest it should take, even if we have some difficulty, would be 6 o'clock.

Mr. COLEMAN of Missouri. Mr. Chairman, reclaiming my time, I would say if the gentleman is truly going to go forward, he is a little bit more optimistic than I am. There may be some recorded votes in there that would certainly extend that. In other words, there is not an imposed time?

Mr. FORD of Michigan. Mr. Chairman, if the gentleman will yield further, I am not trying to close the time down. I am trying to get the bill finished without keeping Members here unduly. I think with a little cooperation on both sides, we can do it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. COLEMAN].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. COLEMAN of Missouri. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 351, noes 39, not voting 44, as follows:

[Roll No. 59]

AYES—351

Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Archer
Aspin
Bacchus
Baker
Ballenger
Barnard
Barrett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bilbray
Bilirakis
Bliley
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Burton
Bustamante
Byron
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Combest
Condit
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Darden
Davis
de la Garza
DeFazio
DeLauro
DeLay
Derrick
Dicks
Dingell
Dixon
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dwyer
Early
Eckart
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Ford (MI)
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Goodling
Gordon
Goss
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hoagland
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (SD)
Johnson (TX)
Johnston
Jones (NC)
Kanjorski
Kaptur
Kasich
Kildee
Klug
Kolbe
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCrery
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Michel
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Paxon
Payne (VA)
Pelosi
Penny
Perkins
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Pursell
Ramstad
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Riggs
Rinaldo
Ritter
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Sabo
Sangmeister
Sarpalius
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Studds
Stump
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (CA)
Thomas (GA)
Thomas (WY)
Thornton
Torres
Torricelli
Traficant
Traxler
Unsoeld
Upton
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Waxman
Weber
Weldon
Wheat
Williams
Wise
Wolf
Wolpe
Wyden
Wylie
Yates
Young (AK)
Zeliff
Zimmer

NOES—39

Abercrombie
Blackwell
Callahan
Collins (IL)
Collins (MI)
Dellums
Dickinson
Edwards (CA)
Flake
Foglietta
Gonzalez
Hayes (IL)
Hobson
Jacobs
Jefferson
Jones (GA)
Jontz
Kennedy
Kopetski
Lewis (GA)
McCandless
McEwen
Mfume
Olin
Owens (NY)
Payne (NJ)
Pease
Quillen
Rahall
Rangel
Roybal
Sanders
Savage
Scheuer
Serrano
Stokes
Towns
Washington
Weiss

NOT VOTING—44

Armey
Atkins
AuCoin
Bevill
Boehner
Boxer
Bunning
Conyers
Coughlin
Dannemeyer
Donnelly
Dymally
Ewing
Frank (MA)
Gaydos
Gradison
Jenkins
Johnson (CT)
Kennelly
Kleczka
Kolter
Laughlin
Lehman (FL)
Levine (CA)
Martinez
Miller (WA)
Moody
Morrison
Mrazek
Peterson (FL)
Ridge
Roberts
Russo
Santorum
Smith (NJ)
Smith (TX)
Stark
Stenholm
Sundquist
Vander Jagt
Whitten
Wilson
Yatron
Young (FL)

☐ 1658

The Clerk announced the following pair:

On the vote:

Mr. Kleczka for, with Mr. Santorum against.

Mr. FLAKE and Mr. KOPETSKI changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. KILDEE. Mr. Chairman, move to strike the last word. Mr. Chairman, I would like to engage in a colloquy with the chairman of the Committee on Education and Labor, Mr. FORD.

Mr. Chairman, is it the gentleman's understanding that full-time volunteers, such as Peace Corps and VISTA workers, and others who perform comparable service with tax-exempt service organizations, will continue to qualify for deferments under the economic hardship definition in this bill, under the same terms as they now qualify.

Mr. FORD of Michigan. If the gentleman will yield, I would say to the gentleman, that is correct. These individuals you described will qualify for a student deferment under the economic hardship category.

Mr. KILDEE. Mr. Chairman, is it also the gentleman's understanding that medical residents who meet the debt-to-income ratio as set by the Secretary will qualify for deferments under the economic hardship definition in this bill?

Mr. FORD of Michigan. That is also correct, I say to the gentleman from Michigan, Mr. KILDEE. These medical residents who meet the debt-to-income ratio will also qualify for a student deferment under the economic hardship category.

Mr. KILDEE. Mr. chairman, I thank the gentleman for clarifying these points.

AMENDMENT OFFERED BY MR. KASICH

Mr. KASICH. Mr. Chairman, I offer an amendment on page H6690 of the RECORD. It has to do with performance-based budgeting.

The CHAIRMAN. The Chair would ask the gentleman from Ohio [Mr. KASICH] if he will give the Clerk a page reference number in the bill.

Mr. KASICH. Page 217, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. KASICH: Page 217, after line 6, subsection (n)(1) shall read as follows:

(1) AUTHORIZATION.—There are authorized to be appropriated $25,000,000 for fiscal year 1993 and each of the four succeeding fiscal years for the Secretary to expend for default reduction management activities to result in a performance measure of reducing defaults by 5% relative to the prior fiscal year. Such funds shall be in addition to, and not in lieu of, other appropriations made for such purposes.

After line 20, subsection (n)(3) shall read as follows:

(3) PLAN FOR USE REQUIRED.—The Secretary shall submit a plan, for inclusion in the materials accompanying the President's budget each fiscal year, detailing the expenditure of funds authorized by this section to accomplish the 5% reduction in defaults. At the conclusion of the fiscal year, the Secretary shall report his findings and activities concerning the expenditure of funds and whether the performance measure was met. If the performance measure was not met, the Secretary shall report the following:

(A) why the goal was not met, including an indication of any managerial deficiencies or of any legal obstacles;

(B) plans and schedule for achieving the established performance goal;

(C) recommended legislative or regulatory changes necessary to achieve the goal; and

(D) if the performance standard or goal is impractical or infeasible, why that is the case and what action is recommended, including whether the goal should be changed or the program altered or eliminated.

This report shall be submitted to the Appropriations Committee of the House of Representatives and the Senate and to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

Mr. KASICH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. KASICH. Mr. Chairman, let me just say that I do not really want to belabor the debate on this bill.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. KASICH. I want to present this, but I am glad to yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, as far as I am concerned it is a good amendment and we are prepared to accept it.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. KASICH. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, we accept it also.

Mr. KASICH. Mr. Chairman, I am glad for that incredibly quick unanimous acceptance. I would just like to take 1 second to explain what it does.

Mr. FORD of Michigan. Mr. Chairman, I would say to the gentleman, I have seen Members do this on the floor and then lose the vote.

Mr. KASICH. Mr. Chairman, I will not belabor the point. On my second amendment I will not call for a rollcall vote.

Let me explain to the membership quickly what it does. This involves a scenario called performance-based budgeting. What it attempts to do is set performance standards we can measure.

The Committee on the Budget approved five pilot projects to do this, and I want to do this on a number of other authorization bills, the purpose of which is for us to be able to measure whether things work in a definitive sense. This will be the first one of what I hope will be a number of other amendments.

I know Members want to go home and get planes so I will yield back the balance of my time. I thank the chairman for accepting the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. KASICH].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KASICH

Mr. KASICH. Mr. Chairman, I offer an amendment at page 180.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. KASICH: Page 180, after line 17, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(p) ADDITIONAL LENDER COLLECTION EFFORTS.—Section 428(b) of the Act is further amended by adding at the end the following new paragraph:

"(9) ADDITIONAL LENDER COLLECTION EFFORTS.—Notwithstanding any other provision of this part, for any loan made after the date of enactment of this paragraph a lender shall be required to retain for collection, for an additional 90 days, any loan that, but for this paragraph, is eligible to be presented to the guaranty agency for reimbursement. Notwithstanding such provisions, during such additional 90 days—

"(A) the lender may not present such loan for reimbursements;

"(B) no interest shall accrue on the loan;

"(C) the lender may use its normal, consumer loan collection practices in seeking to obtain payment from the borrower on the loan (without regard to procedures established under this part concerning due diligence); and

"(D) if the borrower makes payments sufficient to return the loan to current status, the interest that is prohibited from accruing under subparagraph (B) shall be added to principal."

Mr. KASICH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. KASICH. Mr. Chairman, I will be very brief. I understand the committee is going to oppose this amendment. I will be glad to actually withdraw this amendment and take a look at what results we have next year.

We once had an amendment that the gentlewoman from New Jersey [Mrs. ROUKEMA] offered that I supported to reduce the guarantee to the banks to 90 percent. We give the banks 100-percent guarantee and obviously they do not exercise very due diligence on who they loan to and how they collect.

We have given up our fight on the 90 percent because we cannot win it. This is another approach to that. It says that instead of banks being able to file for their money 180 days after a loan is labeled as being in default this would force the banks to wait an additional 90 days, whereby they could make aggressive collection efforts. In that regard I think it would improve the system, because the banks would have an incentive to go out and be more aggressive in getting the student loans rather than exercising what is this "due diligence" that does not work very well.

Mr. Chairman, I am prepared to withdraw this amendment and take a look at what the amendment I just offered yields for next year and revisit this issue. However, 3 years ago or 2 years ago the gentlewoman from New Jersey [Mrs. ROUKEMA] and I got into what I could only title as a kind of a nasty debate on this House floor about the fact that the Student Loan Program, now it is up to $13 billion in defaults, and we needed to stem this flow. We were told that all these things are in place to solve this problem.

I do not in any way, shape, or form not believe that the committee is making a good-faith effort. But in the same way that I think Members outside of the Committee on Armed Services ought to offer amendments to fix armed services problems, because we get too close to the forest and we cannot see the trees, I think the same is true when it comes to the Committee on Education and Labor.

I noted, keeping Jerry Brown, believe it or not, in the back of my mind, on the front page of the New York Times yesterday it said that the proprietary schools of this country are drinking champagne tonight and they spent $1 million to prevent the committee from being able to put language in there to severely restrict which proprietary schools could continue to be part of the program.

This is a problem. What I am saying is that I think we have to be more aggressive toward the lenders. We have to force them to exercise more due diligence.

I respect the committee's efforts, but if they do not yield something next year, we are going to come back and we will be willing to get in the trenches again and fight the battle.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. KASICH. I am glad to yield to the gentleman from Michigan. If he would like to comment and ask me to withdraw it, I will be glad to do so.

Mr. FORD of Michigan. Mr. Chairman, beating a dead horse is not the same as belaboring. I understand where the gentleman from Ohio [Mr. KASICH] is coming from. I can assure him that Members on both sides of the aisle on the committee are sympathetic to what he is trying to achieve. We will work with him in the future as we find out more about it to see how we can satisfy him even more.

I should observe that if we look at the totality of this bill, we are nipping the bankers pretty hard, the lenders. I am advised, and I do not usually do what they ask me to do, but I am advised we have a number of them about to go over the wall and leave our students without loans. We are just a little bit worried about, unless we are careful, tipping the scales too heavy against them.

For that reason I am sure the gentleman from Missouri [Mr. COLEMAN] will join with me in asking the gentleman from Ohio to please withdraw this and work with us in the future.

Mr. KASICH. Mr. Chairman, just reclaiming my time briefly, I would say to the gentleman from Michigan that we have to recognize there are lenders of last resort that can take up the slack should we have a difficulty with a number of lending institutions. That number continues to grow.

Let me say to the chairman that when we take a look at the $25 million we are spending to take a look at the inherent problems of student loan collection that we can actually take the recommendations that this committee or this commission is going to make and implement some of them. I hope we will be open to whatever they suggest needs to be done to stem the flow.

Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio [Mr. KASICH]?

There was no objection.

AMENDMENT OFFERED BY MR. WISE

Mr. WISE. Mr. Chairman, I offer an amendment on page 299.

The CHAIRMAN. The Chair would inquire of the gentleman from West Virginia whether this amendment has been printed in the RECORD.

Mr. WISE. It has been printed in the RECORD, Mr. Chairman.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. WISE: Page 299, line 21, strike the semicolon and insert a period and strike lines 22 and 23.

Page 309, line 10, strike "and"; on line 12, strike the period and insert "; and"; and after line 12 insert the following:

"(D) the amount (if any) by which the parents' available income (as determined under subsection (c)) is less than zero.

Mr. WISE. Mr. Chairman, I will offer this amendment to make it easier for students from working-class families to receive financial assistance for education, it is a simple amendment. What it does is to allow working students to use the money they earn to help support their families without being penalized when they apply for financial aid.

This is presently in the law already. This would be accomplished by reinstating an offset currently existing in the Pell grant formula.

Mr. Chairman, I am offering an amendment which would make it easier for students from working-class families to receive financial assistance for education.

The makeup of families in America has changed over the past 10 or 15 years. In my State and all across this country there are many families with single parents or families where an older relative, perhaps a grandparent, resides in the home. This fact, combined with current economic circumstances, has led to a situation where many high school students must work—not to buy $150 tennis shoes or Nintendo games—but to help put food on the table.

What my amendment would do is to allow working students from working-class families to use the money they earn to help support their families without being penalized when they apply for financial aid. This would be accomplished by reinstating an offset which currently exists in the Pell grant formula into the new combined-needs-analysis formula.

The needs-analysis formulas for all types of financial aid are being combined for administrative simplicity. Currently in calculations for Pell grants, if the parents' expected contribution is so low it produces a negative number in the aid calculations, that number can be offset by money earned by the student. My amendment would reinstate that offset in the new combined-needs-analysis formula. Simply put, this amendment allows poor kids who work to use their hard-earned money to help support their families and still qualify for financial aid.

It is worthwhile to note that the Senate version of the higher education bill includes this offset.

Mr. Chairman, today it is popular to talk about our Nation's competitiveness abroad and building a stronger economic infrastructure here at home. To accomplish these goals we must ensure people of all income levels and social classes have greater access to education. This is a vital component in our Nation's economic growth today and our Nation's future tomorrow.

I urge you to vote yes for this amendment which helps those who need it the most and those who are trying the hardest to continue their education and make a better life for themselves.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. WISE. I am happy to yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, we have examined the amendment of the gentleman from West Virginia and have discussed it with him. The majority has no objection to the gentleman's amendment.

Mr. WISE. I thank the chairman.

□ 1710

Mr. GOODLING. Mr. Chairman, if the gentleman will yield, we have no objection to the amendment.

Mr. WISE. Mr. chairman, I ask that the amendment be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from West Virginia [Mr. WISE].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GORDON

Mr. GORDON. Mr. Chairman, I offer an amendment at page 345, line 16.

The Clerk read as follows:

Amendment offered by Mr. GORDON: Page 345, after line 16, insert the following new paragraph (and redesignate the succeeding paragraph accordingly):

(4) An institution may not qualify as an institution of higher education for purposes of the Pell Grant program under subpart 2 of part A of this title if such institution is ineligible to participate in a loan program under part B of this title as a result of a default rate determination under section 435(a), unless the majority of the undergraduate programs of study offered by such institution lead to an associate or baccalaureate degree.

Mr. GORDON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. GORDON. Mr. Chairman, my distinguished colleagues, the gentlewoman from New Jersey [Mrs. ROUKEMA] and the gentlewoman from California [Ms. WATERS] and I have a series of amendments that we feel will improve the accountability and integrity of the financial aid program. These amendments are also supported by the Department of Education.

Mr. Chairman, before I get into the first amendment, what I would like to do is say what this debate is about and what it is not about. This debate is not about whether or not we should close all proprietary schools or whether we should close all of the so-called for-profit schools. I have some good proprietary schools in my district, and I suspect most everyone here has some good proprietary schools. The question is, Are we going to get the bad schools out of the program, are we going to get those schools that are cheating the taxpayers out of billions of dollars and cheating the students out of a legitimate education?

How did we get here? Back in 1982 the Student Loan Program or Student Aid Program had a 10-percent default rate amounting to about $300,000. Last year the student default rate amounted to 54 percent of our financial aid program, $3.5 billion. Just imagine what we could have done with Pell grants and student loans if we had that $3.5 billion back.

Why did we get in this situation? For two reasons.

First of all, over the last 12 years the Department of Education has done a horrible job in overseeing the financial aid program and the student loan program. Hopefully we have their attention now. I think we are going to have some amendments that are going to improve that situation.

Second, there has been a proliferation of so-called proprietary schools, for-profit schools often thought of as trade schools. In 1980 there were about 2,000 of these schools. Today there are approximately 6,000 of these schools.

Let me tell Members what they have done to the program. Proprietary schools amount to 10 percent of the students in postsecondary education. However, they have 35 percent of the loans and 50 percent of the defaults. We are going to have some folks who will come in and say do not throw the baby out with the bath water. That is not what we are trying to do. They said the same thing about the S&L's. We are not trying to close the good schools; we are trying to get the bad schools out of the program.

Remember, this is a 5-year, $100 billion program. We have to get the bad apples out of the barrel now.

My amendment is very simple. It simply says that if a school has been deemed to be ineligible for student loans because of their poor management—or for whatever reason—that they could no longer receive student loans, they should also not be able to receive Pell grants. It only makes sense that if a school is not handling student loans properly, then clearly they are not going to handle Pell grants.

Let me give an example. I have a school in my State that a couple of years ago had a 65 percent default rate, 3,500 students that resulted in $5 million in defaults in 1 year. If we take all of the public schools in Tennessee there are 90,000 students and they only had $3 million in default rates. At the same time that this school was having a 65 percent default rate, its two owners were making $7.7 million in profit while we put $26 million of Federal taxpayers' dollars into that school. So they were taking taxpayer dollars, running them through the students into their pockets as profit.

So, Mr. Chairman, this amendment is very clear. It simply says that if a school is deemed to be ineligible for student loans they should also be deemed ineligible for Pell grants.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I believe that the gentleman from Missouri [Mr. COLEMAN] has an amendment to offer to the amendment. I have looked at that and the amendment before us. If the amendment of the gentleman from Missouri is adopted amending the amendment of the gentleman from Tennessee, I am prepared to accept the perfected amendment.

AMENDMENT OFFERED BY MR. COLEMAN OF MISSOURI TO THE AMENDMENT OFFERED BY MR. GORDON

Mr. COLEMAN of Missouri. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. COLEMAN of Missouri to the amendment offered by Mr. GORDON: In the matter proposed to be inserted by the amendment of the gentleman from Tennessee, strike out ", unless the majority of the undergraduate programs of study offered by such institution lead to an associate or baccalaureate degree".

Mr. COLEMAN of Missouri (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. COLEMAN of Missouri. Mr. Chairman, I support the gentleman from Tennessee [Mr. GORDON] in his amendment, but he provides cutting off only those schools that have default rates on GSL's, cutting off Pells for proprietaries, and I think if we are talking about shoddy schools, proprietary or traditional, we ought to have both of them have the same standard. That is what the perfecting amendment does. It does not matter if you go to a proprietary school or a traditional school, if you are over that cutoff, which will be 30 percent next year for GSL's, then you also are going to have Pells cut off.

It is very simple, but I think we have to apply it to the entire education community and not just single out one part. I think we ought to get all of these schools. Any school that is over 30 percent cannot be all that good, they have problems, and they ought to lose their Pell grants, proprietary or traditional.

Mr. Chairman, I yield back the balance of my time.

□ 1720

Ms. WATERS. Mr. Chairman, I move to strike the requisite number of words.

I would like to ask all of those who are truly concerned about being responsible on this issue to understand what we are doing at this time. The gentleman from Tennessee [Mr. GORDON] just offered an amendment that would do something about the rip-off that is going on in our society. He did it in such a way as to recognize that there are some good schools. I think that amendment should be adopted.

I do not support the substitute amendment, because it goes too far.

There are those who have raised the question, are we being responsible in what we are doing? We certainly are being responsible in what we are doing.

I would say to you that the substitute amendment goes too far. You do not wish to cut off good schools that are granting degrees with 2-year programs and 4-year programs.

Mr. Chairman, I would ask that we not support the substitute amendment, but instead support the amendment that was offered previous to that.

Mrs. LOWEY of New York. Mr. Chairman, I rise in strong support of the amendment.

First, I want to make clear that the bill before us today contains the most sweeping integrity provisions in the history of the Higher Education Act, and Chairman FORD deserves enormous credit for the many significant advances that have been made in this regard.

The bill recognizes that, in order to truly end the default crisis, we must pay careful attention to preventing defaults before they occur—by preventing poor quality educational institutions from participating in Federal student aid programs.

This, in turn, will only be accomplished by improving our gatekeeping procedures for participation in student aid programs, including departmental certification, accreditation, and State-level approval of institutional eligibility.

And the bill accomplishes all of those tasks.

I know, because I spent the last year working closely with ranking member GOODLING in crafting strong State approval provisions.

BILL GOODLING and I introduced a bill last April, the Integrity in Higher Education Act, which sought to improve State approval of institutional eligibility.

Then, working together with the higher education community, we reached an agreement that all sides felt was workable and fair: A two-tiered approach in which schools that fail certain objective criteria on the first tier will be subjected to a deeper, second-tier review of the quality of its programs.

That basic structure is now reflected in the bill, and it is an excellent one. However, some of the specific criteria are not as strong as they once were.

With the Gordon amendment, we have the potential to make one of the best parts of this bill even better.

There is no reason why we shouldn't trigger an institution for State review which has reached a default rate of 25 percent. In fact, to do less would be to do a disservice to the institution and its students.

Let's remember that the beauty of the two-tiered approach in the bill is that it does not summarily throw an institution out of title IV student aid programs. Instead, if the institution shows warning signs of high default rates or financial problems, it is subjected to a deeper review.

Those institutions which are running quality programs will remain eligible for title IV student aid, while the bad apples—fraudulent and substandard schools that are bilking students and the taxpayers—will be rejected.

Based on the experience in New York State, where a strong State approval process is already in place, these provisions have the potential to save several billion dollars per year in reduced default costs—without any negative impact whatsoever for quality institutions.

Again, if we do not review a school when it reaches a 25-percent default rate, we are doing the school, its students, and the taxpayers a disservice.

Some in the higher education community have been frightened by the specter of the State interfering in the governance of institutions of higher education. But these concerns are completely misplaced. In fact, the new State approval provision's part H specifically prohibits any such interference.

This amendment is directed solely at eliminating waste and fraud, and that is all it will accomplish.

It has bipartisan support on the committee, and it is strongly supported by the administration.

I would urge all of my colleagues on both sides of the aisle to join in support of it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. COLEMAN] to the amendment offered by the gentleman from Tennessee [Mr. GORDON].

The amendment to the amendment was agreed to.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as I indicated, now that the Coleman amendment has been adopted, the majority has no objection to the Gordon amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee [Mr. GORDON], as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MRS. ROUKEMA

Mrs. ROUKEMA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. Has the amendment appeared in the RECORD?

Mrs. ROUKEMA. Yes, Mr. Chairman. The amendment is printed in the RECORD.

The CHAIRMAN. The Clerk read as follows:

Amendment offered by Mrs. ROUKEMA: Page 416, strike out lines 20 through 22 and insert the following (and redesignate the succeeding paragraphs accordingly):

"(1) a cohort default rate as defined in section 435(m) equal to or greater than 25 percent;

"(2) a cohort default rate as defined in section 435(m) equal to or greater than 20 percent and either—

Mrs. ROUKEMA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

Mrs. ROUKEMA. Mr. Chairman, the bill we have before us is a good bill. But it is not perfect and can be improved. It does a lot to strengthen the State oversight and licensure provisions. This amendment I have tightens those oversight provisions.

I can best characterize the amendment as the early warning system amendment. I think that is a fair characterization of it. It puts in the 25-percent default-rate trigger, and it would not mean that schools would be precluded from participation in the guaranteed student loan [GSL] programs when they reach that 25 percent. It simply would mean that States would review the schools that have 25 percent of their student loans in default.

Mr. FORD of Michigan. Mr. Chairman, will my colleague, the gentlewoman from New Jersey, yield?

Mrs. ROUKEMA. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I was prepared to oppose this, but the hour is late and knowing the persuasive ways of the gentlewoman from New Jersey and her determination, I am willing to go back on the compromise that I tried to make after the bill was reported from the committee, on the understanding that the language we are adopting is what was in the original bill that we reported from the committee. It is different from the Senate, in any event, so the gentlewoman and I will be arguing with other people before the summer comes on this issue.

For that reason, Mr. Chairman, the majority will accept the gentlewoman's amendment.

Mrs. ROUKEMA. Mr. Chairman, I thank the gentleman.

May I just make the point that yes, it is the condition that was in the bill as it came out of the committee.

Restoring the 25-percent default-rate trigger would not mean that schools would be precluded from participation in the guaranteed student loan [GSL] programs. Restoring this trigger simply would mean that States would review schools that have 25 percent of their student loans in default.

Under current law—OBRA 1990—schools that exceed the 35-percent cohort default rate for 3 consecutive years lose GSL eligibility. In fiscal year 1993, the cohort default rate threshold will drop to 30 percent. Certainly any school that exceeds a 25-percent default rate in any single year should be put on notice that it is running the risk of losing eligibility under the cohort default rate established under OBRA.

This is common sense. And, in fact, is assistance—early warning system.

Before you are eliminated, correct the deficiencies.

The arguments advanced for weakening the committee-approved integrity provisions center on the fact that many of the schools participating in title IV student aid programs believe that these provisions will permit States to interfere in their affairs. Let me stress, the fact is, good schools have nothing to fear from these provisions or from this amendment.

For all those who have spoken at home to waste, fraud, and abuse, this is a litmus test amendment.

The administration strongly supports it.

Mr. GOODLING. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Pennsylvania, the ranking member.

Mr. GOODLING. With the understanding, Mr. Chairman, that we will have no problems, I would be happy to accept the gentlewoman's amendment.

Mrs. ROUKEMA. I do not know what the gentleman means by no problems, but I am always accommodating on committee business.

Mr. GOODLING. In the committee or any other time.

Mrs. ROUKEMA. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey [Mrs. ROUKEMA].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. WILLIAMS

Mr. WILLIAMS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Chair would inquire whether the amendment has appeared in the RECORD.

Mr. WILLIAMS. Yes, Mr. Chairman, it has.

The CHAIRMAN. The Clerk will read the amendment.

The Clerk read as follows:

Amendment offered by Mr. WILLIAMS: Page 87, after line 10 insert the following new subsection (and redesignate the succeeding subsection accordingly):

(i) ADJUSTMENTS FOR INSUFFICIENT APPROPRIATIONS.—Section 411(g) of the Act (20 U.S.C. 1070a(g)) is amended to read as follows:

"(g) ADJUSTMENTS FOR INSUFFICIENT APPROPRIATIONS.—If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b) (but at the maximum grant level specified in such appropriation), the Secretary shall, from the next succeeding fiscal year's appropriation for this subpart, expend such sums as may be necessary to meet any such insufficiencies for the proceeding fiscal year.".

POINT OF ORDER

Mr. GOODLING. Mr. Chairman, I raise a point of order on the amendment.

The CHAIRMAN. The gentleman from Pennsylvania is recognized on his point of order.

Mr. GOODLING. Mr. Chairman, under clause 5(a), rule XXI no amendment proposing an appropriation shall be in order during consideration of a bill reported by a committee not having jurisdiction.

The subject amendment requires the Secretary of Education to borrow from future years of appropriation in order to pay for a shortfall in the current year.

This amendment will require current appropriations to be spent for a previous fiscal year, appropriating on an authorizing bill, and let me say that we have been down this road on school lunches, and what a mess we had and what a time we had to get out of that mess, and I sure do not want to see us do the same thing on another piece of legislation.

The CHAIRMAN. Does the gentleman from Montana wish to be heard?

Mr. WILLIAMS. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman from Montana may proceed.

Mr. WILLIAMS. Mr. Chairman, I rise to oppose the gentleman's point of order.

Mr. Chairman, as the gentleman knows, the effective date of the legislation before us is October 1, 1992. It is certainly not the intention of this Member that the amendment now before us would apply to fiscal years before that date of enactment.

In fact, I have offered to a number of our colleagues on the other side that I would modify the legislation that I seek to offer with an amendment to make that clear.

The factual realities about the amendment before us applying to appropriations already made are simply not supportable. Previous Pell grant shortfalls have already been covered by subsequent appropriations. Unless the gentleman has information that there is another shortfall coming, there is no factual way that this amendment could be applied retroactively.

To my knowledge, the full payment schedule indicating that there was no insufficiency of funds was released in February 1991, so the facts pertaining to this program would indicate that the legislative possibility that the gentleman raises will never factually occur and that the real impact of this amendment will not be on appropriations already made, but on appropriations to be made in the future.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

Mr. GOODLING. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman from Pennsylvania may proceed.

Mr. GOODLING. Mr. Chairman, that was a hypothetical case the gentleman gave. As a matter of fact, no matter what the gentleman expected to do, technically it applies retroactively. There is no other way you can slice it.

The CHAIRMAN (Mr. PEASE). The Chair is prepared to rule.

On its face, the amendment of the gentleman from Montana relates to appropriations for any year. The amendment permits appropriations for one fiscal year already appropriated, therefore, to be devoted to program funding for another fiscal year and therefore carries an appropriation in violation of clause 5(a), rule XXI, and the Chair sustains the point of order.

□ 1730

AMENDMENT OFFERED BY MR. WILLIAMS

Mr. WILLIAMS. Mr. Chairman, I offer an amendment, which has been printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. WILLIAMS: Page 87, after line 10 insert the following new subsection (and redesignate the succeeding subsection accordingly):

(i) INSUFFICIENT APPROPRIATIONS.—Section 411(g) of the Act (20 U.S.C. 1070a(g)) is amended to read as follows:

"(g) INSUFFICIENT APPROPRIATIONS.—If, for any fiscal year, the funds appropriated for payments under this subpart are insufficient to satisfy fully all entitlements, as calculated under subsection (b) (but at the maximum grant level specified in such appropriation), the Secretary shall promptly transmit a notice of such insufficiency to each House of the Congress, and identify in such notice the additional amount that would be required to be appropriated to satisfy fully all entitlements (as so calculated at such maximum grant level).".

Mr. WILLIAMS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Montana?

There was no objection.

Mr. WILLIAMS. Mr. Chairman, at the start of my 5 minutes I would be pleased to yield to the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. I thank the gentleman for yielding.

Mr. Chairman, we agree with the amendment of the gentleman from Montana.

Mr. REED. Mr. Chairman, will the gentleman yield?

Mr. WILLIAMS. I yield to the gentleman from Rhode Island [Mr. REED].

Mr. REED. I thank the gentleman for yielding.

Mr. Chairman, the majority accepts the amendment.

Mr. WILLIAMS. I thank the gentleman,

Mr. Chairman, I do feel impelled, given the climate, to spend 30 seconds describing this amendment.

When the Department of Education estimates the cost of Pell grants, they set the awards. The Congress then appropriates money based upon that. Later, if the Secretary of Education finds that they have inadvertently, perhaps, misinformed Congress, they then have the right to trigger a reduction in the Pell grants amounts. That has caused chaos financially for a good many students and their families in the United States.

Mr. Chairman, what this amendment does is not allow the Department of Education to unilaterally reduce Pell grants, but rather they have to come up to Capitol Hill, notify us of a shortfall, and then it is up to the Committee on Appropriations to fill that shortfall so that we can keep the American students receiving the amounts of money they were told they were going to receive as a maximum Pell grant at the beginning of that school year.

Mr. Chairman, I thank both sides for accepting this amendment. I think it would be very helpful for middle-income and low-income families in America.

The CHAIRMAN. Is there further debate on the amendment?

If not, the question is on the amendment offered by the gentleman from Montana [Mr. WILLIAMS].

The amendment was agreed to.

Mr. SOLARZ. Mr. Chairman, I move to strike the requisite number of words so that I may engage in a brief colloquy with the manager of the bill.

Mr. Chairman, with respect to the Roukema amendment which was recently adopted, as I understand it, the current language of part H—the program integrity section, could create special problems for small schools.

For these schools, percentages of a very small sample could result in State oversight being inadvertently triggered even though a school's program may be of high quality.

Mr. Chairman, could I ask that this matter be reviewed carefully in conference?

Mr. REED. Mr. Chairman, will the gentleman yield?

Mr. SOLARZ. I yield to the gentleman from Rhode Island.

Mr. REED. I thank the gentleman for yielding.

Mr. Chairman, I do recognize that there might be special circumstances facing small institutions.

The possibility of State oversight being inadvertently triggered as a result of a small number of students will be reviewed in conference.

AMENDMENT OFFERED BY MRS. ROUKEMA

Mrs. ROUKEMA. Mr. Chairman, I offer an amendment, and it has been printed in the RECORD.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mrs. ROUKEMA: Page 225, line 16, strike "and" and after such line insert the following new paragraph (and redesignate the succeeding paragraph accordingly):

(2) by striking clause (ii) of paragraph (3)(B) and inserting the following:

"(ii) for any succeeding fiscal year—

"(I) 30 percent if a majority of the undergraduate programs of study offered by such institution lead to an associate or baccalaureate degree; or

"(II) 25 percent,"; and

Mrs. ROUKEMA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

Mrs. ROUKEMA. Mr. Chairman, under the Budget Act of 1990, schools with a cohort default rate of 35 percent or greater for 3 consecutive years lose GSL [guaranteed student loan] eligibility. OBRA 1990 further provides that the cohort default rate will be reduced from 35 to 30 percent in fiscal year 1993. This amendment would reduce this cohort default rate to 25 percent unless the majority of a school's courses of study lead to associate or baccalaureate degrees.

The action should be incentives for schools to improve their recruitment and programs.

This is a bipartisan amendment, supported by Mr. GORDON and Ms. WATERS.

The Senate-passed bill imposes a 25-percent cohort default rate without any protection for degree-granting institutions.

The Congressional Budget Office reports that this amendment would save money beginning in 1994 and beyond. With student loan defaults at $3.6 billion, we need to take swift action to eliminate from eligibility those schools that are abusing these loan programs.

The administration supports it.

This is not punitive to students. It protects them.

If enacted, this amendment would not deny eligibility for student loans to students. This amendment would preclude bad schools from taking advantage of Federal taxpayer dollars at the expense of deserving students. Under this amendment, students who qualify for such aid will be encouraged to seek an education at a good school.

Those who oppose this amendment may argue that it goes too far. How can we go too far to protect taxpayer dollars and students' own money?

I say we cannot go far enough nor move swiftly enough when we have $3.6 billion in defaults annually and growing.

Again, there are fly-by-nighters and scam school operators ripping off the students, ripping off the taxpayers, robbing from worthy students who will respect their educations, pay back the loans, and get this money back into the pool of GSL money. The good schools have nothing to fear. They should applaud our reforms.

AMENDMENT OFFERED BY MR. GOODLING TO THE AMENDMENT OFFERED BY MRS. ROUKEMA

Mr. GOODLING. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. GOODLING to the amendment offered by Mrs. ROUKEMA: In lieu of the matter proposed to be inserted by the amendment of the gentlewoman from New Jersey, insert the following:

(2) in paragraph (3)(B)(ii), by striking "30 percent" and inserting "25 percent"; and

Mr. GOODLING. Mr. Chairman, as was done on the previous amendment, we are leveling the playing field and making sure what is good for the goose is good for the gander.

Mrs. ROUKEMA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think the amendment of the gentleman from Pennsylvania [Mr. GOODLING] is well devised; I accept it. It should be consistent in this bill; if we treat them one way with respect to Pell grants, we should have the same standard for GSL.

Mr. FORD of Michigan. Mr. Chairman, I understood the gentlewoman asked unanimous consent to incorporate the Goodling amendment into her amendment? Did she not?

Mrs. ROUKEMA. Yes.

The CHAIRMAN. The Chair will put the question on the amendment of the gentleman from Pennsylvania.

Mr. FORD of Michigan. Well, if she asks unanimous consent, we are prepared to give it to her.

The CHAIRMAN. The Chair will still put the question.

Mrs. ROUKEMA. Whatever procedure is best. I would ask unanimous consent, Mr. Chairman.

Mr. FORD of Michigan. With the understanding the Goodling amendment is adopted by unanimous consent, we have no objection to the gentlewoman's amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania [Mr. GOODLING] to the amendment offered by the gentlewoman from New Jersey [Mrs. ROUKEMA].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey [Mrs. ROUKEMA], as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there other amendments to title IV?

AMENDMENT OFFERED BY MR. PETRI

Mr. PETRI. Mr. Chairman, I offer an amendment, which was filed under the rule.

□ 1740

The Clerk read as follows:

Amendment offered by Mr. PETRI: Page 190, after line 11, insert the following new subsection:

(X) INCOME CONTINGENT REPAYMENT.—

(1) ESTABLISHMENT OF REPAYMENT MECHANISM.—Section 428 of the Act is amended by adding at the end the following new subsection:

"(m) INCOME CONTINGENT REPAYMENT.—

"(1) ESTABLISHMENT OF TERMS AND CONDITIONS.—The Secretary may establish by regulation terms and conditions requiring the income contingent repayment of loans that are required to be repaid under this subsection. Such regulations shall specify the schedules under which the borrower's income will be assessed for repayment of loans, shall permit the discharge of remaining obligation on the loan not later than 25 years after the commencement of income contingent repayment, and may provide for the potential collection of amounts in excess of the principal and interest owed on the original loan or loans.

"(2) COLLECTION MECHANISM.—The Secretary shall, to the extent funds are available therefor, enter into one or more contracts or other agreements with private firms or other agencies of the Government as necessary to carry out the purposes of this subsection. The regulations required by paragraph (1) shall not be effective unless the Secretary publishes a funding that—

"(A) the Secretary has, pursuant to this paragraph established a collection mechanism that, will provide a high degree of certainty that collections will be made in accordance with the repayment option established under paragraph (1); and

"(B) the use of such repayment option and collection mechanism will result in an increase in the net amount the Government will collect.

"(3) LOANS FOR WHICH INCOME CONTINGENT REPAYMENT IS REQUIRED.—A loan made under this part (other than under section 428B) is required to be repaid under this section if—

"(A) the note or other evidence of the loan contains a notice that it is subject to repayment under this subsection;

"(B) the note or other evidence of the loan has been assigned to the Secretary for collection pursuant to subsection (b)(8); and

"(C) the Secretary has published the funding required by paragraph (2) of this subsection.

"(4) ADDITIONAL AUTHORITY.—The Secretary is authorized to prescribe such regulations as are necessary to carry out the purposes of this section and to protect the Federal fiscal interest.".

"(b) CONFORMING AMENDMENT.—Section 428(b)(1)(D) is amended by inserting before the semicolon at the end thereof the following: ", and shall contain a notice that repayment may, following a default by the borrower, be subject to repayment in accordance with the regulations required by subsection (m) if the Secretary has published the finding required by paragraph (2) of such subsection".

Page 184, strike line 24 and all that follows through line 12 on page 185 and redesignate the succeeding subsections accordingly.

Mr. PETRI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. PETRI. Mr. Chairman, this amendment encourages the Secretary of Education to develop a set of terms and conditions for the income contingent repayment of guaranteed student loans which have gone into default, and, if feasible, to arrange for such collection. This collection would, of course, be pursuant to an agreement by the borrower in the original promissory note for the defaulted loan.

Borrowers who have gone into default clearly have the greatest need for income contingent repayment. Presumably, default occurs at a district point in time when the borrower is facing a low income. However, the current system is too rigid to allow a borrower in default to easily come back into repayment when his situation later improves, as it usually does. This amendment simply allows the borrower to affordably meet his obligation when he has the means to do so.

The provisions of this amendment will only go into effect if the Secretary of Education determines that the repayment option and collection mechanism will result in an increase in the net amount the Government will collect. Income contingent repayment should easily meet this requirement. Current procedures for debt collection on defaulted loans require the Government to share any proceeds with third party collectors. This amendment will give the Federal Government a more efficient way to recoup these funds while ensuring that collection is made in a way which is sensitive to the defaulted borrowers' financial situation.

This amendment has the support of the American Council of Education, its major constituent organizations, and the administration.

Let me say again, that this amendment requires certification that the collection mechanism will be effective. The amendment avoids any mention of the IRS or taxes, though clearly IRS collection of these loans as income taxes is contemplated. The amendment simply states that the Secretary of Education may reach agreements with other agencies of the Federal Government to help implement the program. There is no intent here to intrude on the jurisdiction of the Ways and Means Committee. That is neither desirable nor possible. Ways and Means will have to agree to the provisions since they could easily insert an amendment in a future tax bill prohibiting IRS involvement. Therefore, the practical effect of this amendment is to let Members express the sense of the House on this issue and I believe consideration of the Higher Education Act is an appropriate occasion to do that. I urge your support for this amendment.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, we have had several discussions with the gentleman from Wisconsin [Mr. Petri] about the amendment. We have examined his amendment, and the majority has no objections to it.

Mr. PETRI. Mr. Chairman, I thank the gentleman from Michigan [Mr. Ford].

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, we are happy to accept the amendment.

Mr. GEJDENSON. Mr. Chairman, one of the greatest problems with our current financial aid program is that students lucky enough to get a student loan have tremendous difficulty repaying it. The huge debt burdens these borrowers face is often unbearable and the major reason our default rate continues to skyrocket.

In an attempt to offer students an alternative to these often unworkable loan repayment schedules, I am offering another amendment with my colleague from Wisconsin, Congressman Thomas Petri. This amendment allows the Department of Education to purchase existing loans that run the highest risk of going into default. Once the Education Department has the loan, it can offer the borrower an income-contingent repayment option that may be administered through the IRS.

This amendment has two significant advantages. First of all, it gives the Education Department a reliable method of collecting loans that are in danger of default. Since loan payments would be considered personal income taxes and collected as such, defaults would be greatly reduced.

Additionally, it gives borrowers strapped with huge debt burdens a more manageable repayment schedule. Loan payments will be based on a person's ability to pay and be capped at a reasonable percentage of income. Also, those borrowers making below the IRS filing threshold would not be required to make loan payments until their income goes up.

The administration has already pledged its support for this type of repayment plan. I hope my colleagues on both sides of the isle will support efforts to curb costly defaults and offer borrowers manageable loan repayment schedules by voting for this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. Petri].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PETRI

Mr. PETRI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Petri: Page 231, after line 3 insert the following new section (and conform the table of contents accordingly):

SEC. 436A. DEBT MANAGEMENT OPTIONS.

Part B of title IV of the Act is amended by inserting after section 437 the following new section:

"DEBT MANAGEMENT OPTIONS

"Sec. 437A. (a) Program Authority.—For the purpose of offering additional debt management options, the Secretary is authorized, to the extent of funds appropriated under subsection (d)—

"(1) to acquire from eligible holders the notes of borrowers under this part (other than section 428B) who are considered to be at high risk of default and who submit a request to the Secretary for an alternative repayment option;

"(2) to offer such borrowers one or more alternative repayment options, which may include graduated or extended repayment and which shall, subject to subsection (b)(2), include an income contingent repayment option established in accordance with subsection (b);

"(3) to enter into contracts or other agreements with private firms or other agencies of the Government as necessary to carry out the purposes of this section.

"(b) Income Contingent Repayment Option.—

"(1) Regulations.—for the purposes of subsection (a)(2), the Secretary shall, by regulation, establish the terms and conditions for an income contingent repayment option. Such regulations shall specify the schedules under which income will be assessed for repayment of loans, shall permit the discharge of remaining obligation on the loan not later than 25 years after the commencement of income contingent repayment, and may provide for the potential collection of amounts in excess of the principal and interest owed on the original loan or loans.

"(2) Collection Mechanism Determination Required.—Such regulations shall not be effective unless the Secretary publishes a finding that—

"(A) the Secretary has, pursuant to subsection (a)(3), established a collection mechanism that will provide a high degree of certainty that collections will be made in accordance with the repayment option established under paragraph (1); and

"(B) the use of such repayment option and collection mechanism will result in an increase in the net amount the Government will collect.

"(c) Determinations of High Risk of Default.—In making determinations under subsection (a)(1), the Secretary shall—

"(1) consider the ratio of part B debt repayment to income; or

"(2) establish, by regulation, such other indicators of high risk as the Secretary considers appropriate.

"(d) Loan Limitation.—Not more than $200,000,000 may be used to acquire loans under this section in any fiscal year.

"(e) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 1994 and for each of the 4 succeeding fiscal years.".

Mr. PETRI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. PETRI. Mr. Chairman, this amendment would authorize the Secretary of Education to purchase the loans of borrowers likely to go into default and offer those borrowers income contingent or extended or graduated repayment so they can avoid default and repay their obligations as they can afford them.

Borrowers with a high ratio of repayment obligation to income have a high risk of default. Their current income cannot support high fixed loan payments. These are the individuals who most need income contingent repayment and many would find it attractive to avoid the adverse consequences of default. This amendment simply provides them the opportunity to fulfill their obligations with more affordable payments. It provides a solution mutually advantageous to the student and to the Government.

The provisions of this amendment will go into effect only if the Secretary of Education determines that the repayment option and collection mechanism will result in an increase in the net amount the Government will collect. Income contingent repayment should easily meet this requirement. Once borrowers actually go into default, it's extremely hard to collect very much from them. Moreover, current procedures for debt collection on defaulted loans require the Government to share any proceeds with third party collectors.

But most defaults occur when individuals have temporarily low incomes. Rather than forcing a default when their income is low, income contingent repayment allows borrowers to pay what they can currently afford and to complete their obligations if their incomes later rise, as most will. Therefore, through income contingent repayment, borrowers avoid default and the Government gets higher collections. It's a win for students and a win for the taxpayers.

This amendment has the support of the American Council of Education, its major constituent organizations, and the administration.

Let me repeat that this amendment requires certification that the collection mechanism will be effective. The amendment avoids any mention of the IRS or taxes, though clearly IRS collection of these loans as income taxes is contemplated. The amendment simply states that the Secretary of Education may reach agreements with other agencies of the Federal Government to help implement the program. There is no intent here to intrude on the jurisdiction of the Ways and Means Committee. That is neither desirable nor possible. Ways and Means will have to agree to the provisions since they could easily insert an amendment in a future tax bill prohibiting IRS involvement. Therefore, the practical effect of this amendment is to let Members express the sense of the House on this issue and I believe consideration of the Higher Education Act is an appropriate occasion to do that. I urge all my colleagues to support this amendment.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, we have examined it. It is an expected concomitant of the previously adopted amendment. The majority has no objection to the gentleman's amendment.

Mr. GEJDENSON. Mr. Chairman, the Federal Government paid $3.6 billion last year to cover the costs of student loan defaults. That figure is nearly half of the total obligations for the Guaranteed Student Loan [GSL] Program. Since the default rate has risen steadily since 1984, such a large amount in defaults should not really surprise anyone. Yet these spiralling defaults must stop.

For this reason, I am offering an amendment with my colleague, Congressman THOMAS PETRI of Wisconsin, that makes a real change in the collection end of the GSL Program. This amendment is another way to control of skyrocketing default rate our Government has been saddled with for the past 10 years. It allows the Education Department to develop an income-contingent repayment program for those borrowers who default on their student loans. This program would only affect new loans taken out after the enactment of this amendment.

This amendment encourages the Education Department to use a more reliable method of collecting defaulted loans. Since the Department of Education could now contract with a Government agency like the IRS, loan payments could be considered personal income taxes and collected as such. This new type of collection method would greatly reduce defaults.

Additionally, it gives borrowers strapped with huge debt burdens a more manageable repayment schedule. Loan payments will be based on a person's ability to pay and be capped at a reasonable percentage of income. Also, those borrowers making below the IRS filing threshold would not be required to make loan payments until their income goes up.

The American Council on Education have already pledged their support for this type of repayment plan. I urge my colleagues on both sides of the aisle to support efforts to curb student loan defaults by voting for this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. PETRI].

The amendment was agreed to.

Mrs. LOWEY of New York. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to express my appreciation for the many provisions in H.R. 3553 that revise student aid programs to better serve the needs of adult and part-time students.

One particular provision I applaud is the expanded definition in section 472 of dependent care costs used to determine a student's cost of education, and thus their financial need.

The new definition recognizes as a legitimate cost of education those dependent care expenses necessary not only for the actual class time a student has, but also for all study time, field work, internships, and commuting time.

This important change will be of immense benefit to the increasing number of older students, particularly single parents, who must pay for child care for their own children in order to obtain a college education.

However, Mr. Chairman, I am disturbed by the fact that while we expand the coverage for dependent care costs in determining a student's eligibility for Stafford loans and campus-based programs, there is absolutely no child care cost allowance included in determining the amount of a student's Pell grant.

This bill sets a fixed living allowance of $2,750 for all students for Pell grants, and therefore does not factor in at all the increased costs some students have for dependent care, and some students have for disability-related expenses.

I note that the bill approved by the other body includes a $3,000 allowance in the Pell Grant Program for those students facing these extra expenses.

I would like to inquire of my distinguished chairman as to whether you could provide us with an assurance that you will help us to respond to this situation by working to have a similar allowance for dependent care and disability-related costs included as part of the final conference version of the higher education authorization.

Mr. FORD of Michigan. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY of New York. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I share the gentlewoman's concern with assuring that single parents and other students who must pay for dependent care have those costs reasonably covered by the Title IV Student Aid Programs. I want to give my full assurance that as chairman, I will attempt to rectify this situation in the conference with the Senate.

Mrs. LOWEY of New York. Mr. Chairman, I thank the gentleman from Michigan [Mr. FORD], and I look forward to working with him on this item.

AMENDMENT OFFERED BY MRS. ROUKEMA

Mrs. ROUKEMA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. ROUKEMA:

—Page 165, strike line 18 and all that follows through line 4 on page 167 and insert the following:

"(i) in the case of a student at an eligible institution who has not successfully completed the first year of a program of undergraduate education—

"(I) $2,625, if such student is enrolled in a program whose length is one academic year in length (as provided for in section 481(d));

"(II) $1,750, if student is enrolled in a program whose length is at least ⅔ of an academic year; and

"(III) $875, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of an academic year (as provided for in section 481(b));

"(ii) in the case of a student at an eligible institution who has successfully completed the first, but has not successfully completed the second, year of a program of undergraduate education—

"(I) $3,500, if such student is enrolled in a program whose length is one academic year in length (as provided for in section 481(d));

"(II) $2,334, if student is enrolled in a program whose length is at least ⅔ of an academic year; and

"(III) $1,167, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of an academic year (as provided for in section 481(b));

"(iii) in the case of a student at an eligible institution who has successfully completed such first and second year, but has not successfully completed the third year of a program of undergraduate education—

"(I) $4,750, if such student is enrolled in a program whose length is one academic year in length (as provided for in section 481(d));

"(II) $3,166, if student is enrolled in a program whose length is at least ⅔ of an academic year; and

"(III) $1,583, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of an academic year (as provided for in section 481(b));

"(iv) in the case of a student at an eligible institution who has successfully completed such third year, but has not successfully completed the remainder of a program of undergraduate education—

"(I) $5,000, if such student is enrolled in a program whose length is one academic year in length (as provided for in section 481(d));

"(II) $3,334, if student is enrolled in a program whose length is at least ⅔ of an academic year; and

"(III) $1,677, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of an academic year (as provided for in section 481(b));

"(iv) in the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, $9,000;".

—Page 167, strike line 9 and all that follows through line 18 on page 168 and insert the following:

"(i) in the case of a student at an eligible institution who has not successfully completed the first year of a program of undergraduate education—

"(I) $2,625, if such student is enrolled in a program whose length is one academic year in length (as provided for in section 481(d));

"(II) $1,750, if student is enrolled in a program whose length is at least ⅔ of an academic year; and

"(III) $875, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of an academic year (as provided for in section 481(b));

"(ii) in the case of a student at an eligible institution who has successfully completed the first, but has not successfully completed the second, year of a program of undergraduate education—

"(I) $3,500, if such student is enrolled in a program whose length is one academic year in length (as provided for in section 481(d));

"(II) $2,334, if student is enrolled in a program whose length is at least ⅔ of an academic year; and

"(III) $1,167, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of an academic year (as provided for in section 481(b));

"(iii) in the case of a student at an eligible institution who has successfully completed such first and second year, but has not successfully completed the third year of a program of undergraduate education—

"(I) $4,750, if such student is enrolled in a program whose length is one academic year in length (as provided for in section 481(d));

"(II) $3,166, if student is enrolled in a program whose length is at least ⅔ of an academic year; and

"(III) $1,583, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of an academic year (as provided for in section 481(b));

"(iv) in the case of a student at an eligible institution who has successfully completed such third year, but has not successfully completed the remainder of a program of undergraduate education—

"(I) $5,000, if such student is enrolled in a program whose length is one academic year in length (as provided for in section 481(d));

"(II) $3,334, if student is enrolled in a program whose length is at least ⅔ of an academic year; and

"(III) $1,677, if such student is enrolled in a program whose length is less than ⅔, but at least ⅓, of an academic year (as provided for in section 481(d));

"(iv) in the case of a graduate or professional student (as defined in regulations of the Secretary) at an eligible institution, $9,000.".

Page 168, after line 18, insert the following new paragraph:

(3) ADDITIONAL CONFORMING AMENDMENTS.—(A) Section 425(a)(2) of the Act is amended—

(i) by striking "$17,250" in clause (i) and inserting "$21,125"; and

(ii) by striking "$54,650" in clause (ii) and inserting "$71,125".

(B) Section 428(b)(1)(B) of the Act is amended—

(i) by striking "$17,250" in clause (i) and inserting "$21,125"; and

(ii) by striking "$54,750" in clause (ii) and inserting "$71,125".

Page 198, line 9, strike "UNSUBSIDIZED LOANS;"

Page 198, line 12, strike "sections" and insert "section".

Page 198 strike line 13 and all that follows through line 8 on page 202.

Page 202, line 10, redesignate section 428H as section 426G.

Mrs. ROUKEMA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New Jersey?

There was no objection.

POINT OF ORDER

Mr. FORD of Michigan. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. FORD of Michigan. Mr. Chairman, under section 303(a) of the Congressional Budget Act, it is not in order to consider any measure which creates entitlement authority or direct spending authority first effective in a fiscal year prior to the adoption of the budget resolution for that fiscal year.

The instant amendment offered by Mrs. ROUKEMA creates new spending authority first effective in fiscal year 1993 by increasing loan limits under the Federal Stafford Loan Program, thereby expanding the size of this guaranteed loan entitlement program.

Since Congress has yet to agree to the conference report on the concurrent resolution on the budget for fiscal year 1993, the amendment is not in order.

Further, under section 402(a) of the Congressional Budget Act, it is not in order to consider any measure which creates credit authority which is not subject to prior appropriation.

The instant amendment expands the size of the guaranteed student loan program, and consequently creates additional authority to incur primary loan guarantee commitments.

Since the amendment does not make this credit authority specifically subject to appropriations, it violates section 402(a) of the Budget Act.

Mr. Chairman, I insist on my point of order.

The CHAIRMAN. Does the gentlewoman from New Jersey [Mrs. ROUKEMA] wish to be heard on the point of order?

Mrs. ROUKEMA. Mr. Chairman, it was my understanding that we had taken care of the problem with the budget resolution in complying with the pay-go requirements. I have complied with the pay-go requirements by taking the moneys from the so-called unsubsidized program that is a newly created program in this bill. I understand that the chairman is making a different point of order here, and I am not quite sure how it complies because it is my understanding that the bill in the other body does have this exact same provision in that that I am advancing here; that is, to increase the loan limits. So, I am really not sure how the interpretation was made differently in the one House than in the other.

Mr. FORD of Michigan. Mr. Chairman, I will give the gentlewoman from New Jersey [Mrs. ROUKEMA] the short answer, that Senator KENNEDY did not have a mean guy like me on the floor to make the point of order, so he got away with it. I am making the point of order under the rules of this body.

The CHAIRMAN. Does the gentlewoman from New Jersey [Mrs. ROUKEMA] wish to be heard further on the point of order?

PARLIAMENTARY INQUIRY

Mrs. ROUKEMA. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentlewoman will state it.

Mrs. ROUKEMA. Mr. Chairman, I would like some time under unanimous consent to explain the purpose of this amendment regardless of the way the decision is made on the point of order.

The CHAIRMAN (Mr. PEASE). Following the Chair's ruling on the point of order, the gentlewoman from New Jersey [Mrs. ROUKEMA] may move to strike the last word, if she wishes.

Does anyone else wish to be heard on the point of order of the gentleman from Michigan [Mr. FORD]? If not, the Chair is prepared to rule.

For the reasons stated by the gentleman from Michigan [Mr. FORD] the Chair must sustain the point of order. The amendment by the gentlewoman from New Jersey does increase loan limits, thus increasing an entitlement prior to enactment of the budget resolution, and, therefore, the point of order is sustained.

☐ 1750

Mrs. ROUKEMA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I make the point to my colleagues that this is a very difficult thing to understand, I mean why there is this grave omission from the bill. The administration supports it. Every prominent and even not so prominent education group in the country supports it. They all support it because of the fact that we are approving a program here where we are creating new programs for other people, but despite the fact that tuition increases have risen anywhere from 85 percent in public institutions to 107 percent in private colleges during the period that this legislation has been in effect, for the next 5 years we are not anticipating any loan increases for students or for student loans.

It is a cruel hoax to tell these young people they can qualify and then not have any increases in those loans that will help them with their cash-flow problems as they face enormous tuition bills.

Mr. Chairman, I would like to point out that this will be conferenceable since the other body in its wisdom has seen fit to accommodate to the real world of tuition hikes.

Mr. Chairman, I am pleased to offer, on behalf of myself and Ms. WATERS of California, an amendment to increase Stafford loan limits for students who have successfully completed their first year of study.

Mr. Speaker, Stafford loan limits have not been increased since 1987. Without this amendment, loan limits under the bill before us—H.R. 3553–H.R. 4471—would remain unchanged through 1997. Yet, over the last decade college costs have increased dramatically. The cost of attendance at 4-year public institutions has increased by 85 percent and the cost of attendance at our Nation's private colleges has increased by more than 107 percent.

This amendment is supported by the Bush administration and the following education organizations: American Council on Education [ACE], National Association of Independent Colleges and Universities [NAICU], National Education Association [NEA], American Association of Medical Colleges [AAMC], American Association of Dentistry Schools [AADS], and American Association of Colleges of Pharmacy [AACP].

Mr. Chairman, the Education and Labor Committee reported bill recognized the need to increase loan limits. Indeed, the committee-approved bill would have doubled the loan limits for undergraduate students and increased from $7,500 to $13,000 the loan limits for graduate students. The Senate has also called for increases in Stafford loan limits. Yet, the bill before us does not increase loan limits. There is no rational explanation for this egregious, insensitive omission.

The Congressional Budget Office [CBO] reports that the bill will increase by 350,000 the number of middle-income students eligible for Stafford loans through necessary and appropriate changes in the needs analysis. But this is a cruel hoax to make them eligible but give no help in meeting rising costs. This amendment will ensure that these deserving middle-income students—who can demonstrate financial need—can afford the cost of a higher education.

Specifically, this amendment increases Stafford loan limits from $2,625 to $3,500 for 2-year students; from $4,000 to $4,750 for 3-year students; from $4,000 to $5,000 for 4-year students; and from $7,500 to $9,000 for graduate students. This amendment offsets the increased loan limits by striking the bill's new, so-called unsubsidized program for students who do not demonstrate financial need. CBO estimates that this new program—the brainchild of State guaranty agencies—would cost approximately $650 million over the life of the bill. It is duplicative of the existing PLUS—parental loans—and SLS—supplemental loans for independent students—that are not subject to needs testing.

In fact, the bill greatly expands the borrowing capacity of families who cannot demonstrate financial need under the PLUS program. Creditworthy parents—regardless of income—could borrow up to the cost of attendance less other financial aid. "Unsubsidized" is a misnomer. It costs $650 in interest subsidy. Also, the current interest cap on PLUS is reduced from 12 to 10 percent. Thus, students from wealthy families—who are not deemed eligible for Stafford loans—can access the full amount necessary to attend college under this expanded PLUS program. In fact, we open a potential loophole for loans for high-income people. Nor is it pegged to Treasury bond rate.

Mr. Chairman, I strongly urge my colleagues to join me in supporting this vital amendment to increase loan limits for our Nation's deserving students.

AMENDMENT OFFERED BY MR. COLEMAN OF MISSOURI

Mr. COLEMAN of Missouri. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr.. COLEMAN:

At each of the following locations, strike out "Presidential" and insert "Congressional": page 132, lines 18, 21, and 22; page 133, lines 2, 5, and 7; page 134, line 11; page 135, line 1; page 136, lines 8 and 20; page 137, line 5.

At each of the following locations, strike out "Congressional" and insert "Presidential": page 146, line 6; page 147, lines 14 and 16; and page 149, lines 5, 7, 13, and 17.

Conform the table of contents accordingly.

Mr. COLEMAN of Missouri (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN. The Chair will inquire whether this amendment is printed in the RECORD.

Mr. COLEMAN of Missouri. Yes, it is, Mr. Chairman.

The CHAIRMAN. The gentleman from Missouri [Mr. COLEMAN] is recognized for 5 minutes in support of his amendment.

Mr. COLEMAN of Missouri. Mr. Chairman, this amendment simply switches the names of two programs that got switched around in committee and provides for a high academic achievement award of $500 to those Pell grant recipients who are in the highest 10 percent of their class in high school.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the chairman of the committee.

Mr. FORD of Michigan. Mr. Chairman, since I would rather switch than fight, the majority accepts the amendment offered by the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. COLEMAN].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PETRI

Mr. PETRI. Mr. Chairman, I offer an amendment which was printed in the RECORD and which amends the bill at page 63.

The Clerk read as follows:

Amendment offered by Mr. PETRI:

Page 63, strike lines 12 through 14 and insert the following:

amended—

(A) by inserting after "full-time basis" in the first sentence the following: "(including a student who attends an institution of higher education on less than a half-time basis)"; and

(B) by inserting before the period at the end of such sentence the following: ", computed in accordance with this subpart".

Page 86, beginning on line 16, strike "and inserting the" and all that follows through line 20 and insert a period.

Page 165, after line 3 insert the following new section (and conform the table of contents accordingly):

LESS THAN HALF-TIME ATTENDANCE

SEC. 426A. (a) FISL PROGRAM.—Section 427 of the Act is amended—

(I) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) made to a student who (A) is an eligible student under section 484, and (B) has agreed to notify promptly the holder of the loan concerning any change of address; and"; and

(B) in paragraph (2)(B)(i), by striking out the semicolon at the end thereof and inserting in lieu thereof "and subsection (d)"; and

(2) by adding at the end thereof the following new subsection:

"(d) SPECIAL RULE FOR LESS THAN HALF-TIME STUDENTS.—A borrower who is attending an eligible institution on a less than half-time basis (as determined by the institution)—

"(1) shall be required—

"(A) without regard to the borrower's less than half-time attendance, to repay any loans received while attending an eligible institution on at least a half-time basis; and

"(B) to commence repayment of any loans received under this part while attending on a less than half-time basis immediately upon ceasing such attendance; and

"(2) may receive deferments under subsection (a)(2)(C)(ii) for loans received while attending on a less than half-time basis.".

(b) GSL PROGRAM.—Section 428(b) of the Act is amended—

(1) in the matter preceding clause (i) of paragraph (1)(A), by striking "who is carrying at an eligible institution at least one-half the normal full-time academic workload (as determined by the institution)" and inserting "who is enrolled at an eligible institution";

(2) by adding at the end thereof the following new paragraph:

"(7) Special rule for less than half-time students.—A borrower who is attending an eligible institution on a less than half-time basis (as determined by the institution) shall be required—

"(A) without regard to the borrower's less than half-time attendance, to repay any loans received while attending an eligible institution on at least a half-time basis; and

"(B) to commence repayment of any loans received under this part while attending on a less than half-time basis immediately upon ceasing such attendance; and".

Page 233, after line 7 insert the following new subsection (and redesignate the succeeding subsections accordingly):

(a) Lifetime Line of Credit; Income Contingent Loan Repayment Programs.—Section 439 of the Act is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively; and

(B) by inserting immediately after paragraph (1) the following: "(2) through such corporation, to enable working men and women desiring to upgrade their job skills, and unemployed individuals, or those not in the labor force, who are seeking new skills, to borrow funds for less than half-time study as described in subsection (r); (3) to provide for agreements between such corporation and a limited number of institutions for the replacement of such institutions' current participation in the loan program under section 428A with loans originated by such corporation that shall be repaid on an income contingent basis in accordance with subsection (s);';

(2) in subsection (d)(1)—

(A) in subparagraph (D), by striking out "and" at the end thereof;

(B) by redesignating subparagraph (E) as subparagraph (F); and

(C) by inserting immediately after subparagraph (D) the following:

"(E) to issue obligations to carry out the purposes of subsections (r) and (s), in the amounts specified therein; and"; and

(3) by adding at the end thereof the following new subsections:

"'(r) Lifetime Line of Credit.—(1) Purpose.—In order to enhance the lifetime education and training opportunities available to working men and women desiring to upgrade their job skills, or unemployed individuals, or those not in the labor force who are seeking new skills, it is the purpose of this subsection to require the Association to originate loans for such individuals who are enrolled at an eligible institution on a less than half-time basis, under the terms and conditions described in this subsection. The Association shall issue obligations in an amount sufficient to carry out the purposes of this subsection and subsection (s), but in no case to exceed $100,000,000 for fiscal year 1993 and each of the four succeeding fiscal years.

"(2) Applicability of GSL loan limits.—A student who is enrolled at an eligible institution on a less than half-time basis may borrow up to $25,000 in the aggregate under this section, which shall be counted toward his or her aggregate loan limits under sections 427, 428, and 428A. In no case may a loan made under this subsection for a period of enrollment exceed the student's cost of attendance for such period of enrollment.

"(3) Repayment.—(A) The Secretary shall enter into an agreement with the Association specifying the terms of loans originated under this subsection, which shall include the availability of such loans to all students eligible under this subsection (subject to the availability of funds from the issuance of the obligations described in paragraph (1)), and the establishment of income-contingent repayment schedules satisfactory to the Secretary and the Association for such loans. Such agreements shall also specify the maximum interest rate that the Association may charge, and such other terms as the Secretary may require to accomplish the purposes of this subsection.

"(B) The Secretary shall establish in regulations the procedures necessary for the efficient collection of loans made under this subsection. Notwithstanding any other provision of law, the Secretary may enter into such arrangements with another Federal agency or agencies as the Secretary determines are necessary to support the efficient administration of the program by the Association.

"(4) Eligible providers of training.—The Secretary, in consultation with the Secretary of Labor, may specify in regulations such other providers of training that are not currently eligible to participate in programs under this part, such as community-based organizations, public or private agencies, and private sector employers, that, along with other institutions, may be considered eligible for participation for purposes of loans made under this subsection, provided that the Secretary determines that adequate controls on program integrity and accountability can be maintained, and that participation would supplement, and not supplant, current expenditures for training by such providers.

"(5) Other terms and conditions.—The Secretary shall establish in regulations such other terms and conditions for loans under this subsection as are consistent with the purposes of this subsection.

"(6) Feasibility study.—(A) Notwithstanding any other provision of law, the Secretary, in consultation with the Secretary of Labor, shall examine the feasibility of integrating the multiple data systems relating to the benefits available to students under Federal postsecondary education and training programs through the use of an electronic card by borrowers of loans made under this section, and by other participants in such Federal programs.

"(B) The Secretary of Education shall report his findings to Congress within one year of the date of enactment of this Act.

"(C) There are authorized to be appropriated $1,000,000 to carry out the study authorized by this paragraph.

"(s) Income contingent loans.—(1) From funds available from the issuance of the obligations described in subsection (r)(1), the Association shall enter into agreements with no more than 50 eligible institutions to replace all or part of such institution's participation in the loan program under section 428A with a program of income-contingent loans originated by the Association. Such agreements shall be subject to the approval of the Secretary.

"(2) The Secretary shall prescribe in regulations such minimum or model terms for such agreements, loan terms and conditions, and collection procedures as the Secretary determines are necessary to carry out the purposes of this subsection.

"(3) Notwithstanding any other provision of law, the Secretary may enter into such arrangements with another Federal agency or agencies as the Secretary determines are necessary to support the efficient administration of the program by the Association.

"(4) Notwithstanding paragraph (1), when the program authorized under this subsection has been in operation for at least 2 years, the Secretary and the Association may agree to expand the number of schools participating under this subsection, or the volume of loans made under this subsection, or both, if, in the judgment of both the Secretary and the Association, the success of such program warrants such expansion.".

Page 341, strike out lines 1-16, and insert in lieu thereof the following:

"(d) Independent Student.—(1) The term "independent," when used with respect to a student, means any individual who—

"'(A) is 26 years of age or older by December 31 of the award year; or

"'(B) meets the requirements of paragraph (2).

"'(2) Except as provided in paragraph (3), an individual meets the requirements of this paragraph if such individual—

"'(A) is an orphan or ward of the court;

"'(B) is a veteran of the Armed Forces of the United States;

"'(C) is a graduate or professional student;

"'(D) is a married individual;

"'(E) has legal dependents other than a spouse;

"'(F) is a single undergraduate student with no dependents who—

"(i) did not live with his or her parents for more than six weeks in the aggregate during the calendar year preceding the award year;

"(ii) will not live with his or her parents for more than six weeks in the aggregate during the first calendar year of the award year; and

"(iii) prior to the disbursal of assistance under this title, demonstrates to the student financial aid administrator self-sufficiency during each of the two calendar years preceding the award year by demonstrating annual total income (excluding resources from parents, students financial assistance, and living allowances from programs established under the National and Community Service Act of 1990) that is equal to or exceeds the amount specified in the Department of Labor's Lower Living Standard Income Level, adjusted for a family size of one; or

"'(G) is a student for whom a financial aid administrator makes a documented determination of independence by reason of other unusual circumstances.

"'(3) An individual who meets the requirements of paragraphs (1) and (2) may, in unusual circumstances, be determined to be a dependent student by a student financial aid administrator, provided that such determination is documented.'.".

Page 356, strike out line 13 and insert in lieu thereof "'paragraphs:'".

Page 356, line 16, strike out close quotation mark and the following period and after line 16 insert the following new paragraph:

"(6) Notwithstanding subsection (a), in order to be eligible to receive a loan under part B of this title (other than a loan under section 428C), a student who is enrolled at an institution on a less than half-time basis (as determined by the institution) shall be—

"(A) enrolled in a program of study leading to a degree or certificate; or

"(B) enrolled in training designed to prepare students for gainful employment in a recognized occupation.".

Mr. PETRI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. FORD of Michigan. Mr. Chairman, briefly I rise to a point of order against the gentleman's amendment.

The CHAIRMAN. The gentleman from Michigan [Mr. FORD] raises a point of order against the amendment. Does the gentleman wish to proceed with his point of order?

Mr. FORD of Michigan. I will not, Mr. Chairman, at the same time repeat all the reasons I gave against the amendment offered by the gentlewoman from New Jersey [Mrs. ROUKEMA]. They all apply with equal force to the Petri amendment.

Mr. PETRI. Mr. Chairman, will the gentleman reserve his point of order so I can make a statement on the bill and then proceed with the point of order?

Mr. FORD of Michigan. Certainly. The gentleman is a valuable member of my committee. I reserve my point of order so the gentleman may speak for a few minutes.

The CHAIRMAN. The gentleman from Michigan [Mr. FORD] reserves a point of order, and the gentleman from Wisconsin [Mr. PETRI] is recognized for 5 minutes in support of his amendment.

Mr. PETRI. Mr. Chairman, this amendment will establish a new student aid program to meet the needs of working Americans.

It will open current student aid programs to less than half-time students.

It will establish a $25,000 line of credit for less than half-time students that is integrated with current programs.

It will base loan repayment on ability to pay so low- and middle-income workers will invest in education and training for themselves.

It will allow the Secretary of Education to extend eligibility to nontraditional providers of education and training programs such as community-based organizations, public or private agencies, and private sector employers.

And, it will encourage innovative uses of technology to simplify the financial aid system for borrowers.

This amendment is specifically designed for working men and women desiring to upgrade their skills, as well as unemployed individuals seeking new skills.

Goal 15 of the national education goals states that:

> Every adult American will be literate and will possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship.

To reach this ambitious goal, we must become a nation of learners. Every adult right now—every worker, every parent, every citizen needs to be a learner if we are to reach our potential as a nation.

However, for most Americans, one of the greatest concerns about going back to school is the cost of higher education.

In fact, a recent pool ranked the 50 greatest worries of Americans. Out of these 50 worries, financing higher education came in as the third greatest worry, right behind crime and drugs.

If our constituents are this concerned about how to pay for higher education, I think we can safely conclude that something is missing in our current financial aid system.

One problem is that the existing programs, as good as they are, are not designed to meet the financial assistance needs of many Americans.

Federal programs target the most needy with grants—and rightly so, and make guaranteed loans available to moderate income borrowers, provided they attend on at least a half-time basis.

My proposal for a lifelong learning line of credit is specifically designed to meet education financing needs that are not being met by existing financial aid programs.

The administration strongly supports this program, and I know that Secretary of Education, Lamar Alexander, believes that this proposal is key to achieving the goal of becoming a nation of learners.

In order to satisfy the budget agreement's pay-go requirements, the amendment raises to 26 the minimum age for automatic designation as an independent student.

I urge my colleagues to join me today in supporting the lifelong learning line of credit amendment.

This program will fill an important gap in our current financial aid system and provide opportunities for lifelong training and education, especially for those middle- and low-income Americans who want to strengthen their career skills and improve their standard of living.

Adopting this amendment today will send a clear message to the country that we in Congress are serious about reaching our national education goals.

Mr. BEREUTER. Mr. Chairman, this Member rises today to express my strong support for the proposed amendment sponsored by the distinguished gentleman from Wisconsin [Mr. PETRI], a member of the Education and Labor Committee, that would implement a system of income-contingent repayment of student loans in default.

Mr. Chairman, as most of us know, one of the most serious flaws in the student loan program is the high rate of default on the repayment of loans. This amendment would put into place a mechanism that will allow former students who are in default on their student loans to repay those loans in an accountable fashion. Repayment would be based on the income of the borrower.

While the amendment gives discretion to the Secretary of Education regarding the collection agent for these defaulted loans, the distinguished gentleman from Wisconsin [Mr. PETRI] has sponsored legislation that would give loan collection responsibility to the Internal Revenue Service. The Income-Dependent Education Assistance Act [IDEA], as it is commonly known, is an innovative approach to solving the serious problems that exist within the guaranteed student loan program. In fact, this Member is pleased to be a cosponsor of that legislation.

The proposed amendment would allow the Department of Education to install key pieces of the IDEA Program in the student loan system. One of the main advantages of the IDEA Program is that it would virtually eliminate student loan defaults. This amendment would provide the opportunity for the Department to test the effectiveness of this creative proposal in the collection of defaulted loans. While there are a wide variety of reasons for defaults on student loans, a program that allows borrowers to repay their loans according to the amount of income earned is sure to be far more successful. These recaptured dollars could be funneled back into the system to assist other students. Solving the huge student loan default problem would be a major achievement of great benefit to American taxpayers.

In addition, it should be noted that such a program would not be placed in operation unless it is likely to save the Federal Government money in the aggregate.

Mr. Chairman, this Member is very enthusiastic about the amendment and the larger concept of the distinguished gentleman from Wisconsin [Mr. PETRI], on which it is based, to improve the current student loan system.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Michigan [Mr. FORD] insist on his point of order?

Mr. FORD of Michigan. Yes, Mr. Chairman, I do.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. FORD of Michigan. Mr. Chairman, I raise a point of order.

Under section 303(a) of the Congressional Budget Act, it is not in order to consider any measure which creates entitlement authority or direct spending authority first effective in a fiscal year prior to the adoption of the budget resolution for that fiscal year.

The instant amendment offered by Mr. PETRI creates new spending authority first effective in fiscal year 1993 by making eligible for student loan programs under the act students attending institutions of higher education on less than a half-time basis. This expansion of an entitlement program would be first effective in fiscal year 1993.

Since Congress has yet to agree to the conference report on the concurrent resolution on the budget for fiscal year 1993, the amendment is not in order.

Further, under section 402(a) of the Congressional Budget Act, it is not in order to consider any measure which creates credit authority which is not subject to prior appropriation.

The instant amendment expands the size of the guaranteed student loan program, and consequently creates additional authority to incur primary loan guarantee commitments.

Since the amendment does not make this credit authority specifically subject to appropriations, it violates section 402(a) of the Budget Act.

Mr. Chairman, I insist on my point of order.

The CHAIRMAN. Does the gentleman from Wisconsin [Mr. PETRI] wish to be heard on the point of order?

☐ 1800

Mr. PETRI. Mr. Chairman, earlier in the consideration of this bill an amendment offered by the gentleman from Wisconsin [Mr. GUNDERSON] was adopted to which this point of order at least in part would have pertained but was not made extending the provisions of the act to less than full-time students. Therefore, this amendment does not affect that since the bill has already been amended in that respect.

The CHAIRMAN (Mr. PEASE). The Chair is prepared to rule.

The Chair rules that, in the first place, this amendment goes beyond the Gunderson amendment which was adopted and against which no point of order was made.

Under the terms of the bill even as amended by the Gunderson amendment, a class of borrowers addressed by the amendment would not be eligible for guaranteed student loan interest rate subsidies. Under the amendment, that class of borrowers would be made so eligible. Because the amendment enlarges the class of borrowers eligible, it thus provides new entitlement authority within the meaning of section 303 of the Budget Act. For all the reasons stated by the gentleman from Michigan, the point of order is sustained.

Are there other amendments to title IV?

AMENDMENT OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. WATERS:

Page 225, strike line 9 and all that follows through line 5 on page 226 and insert the following (and redesignate the succeeding subsections accordingly):

(a) VOCATIONAL SCHOOLS.—Section 435(c) of the Act is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) has, as at least 15 percent of its students during any calendar year, students who do not have any part of their tuition, fees, or other charges paid for them by the institution or by any assistance under this title."

Page 345, line 24, strike "and" and on 346, strike lines 1 through 12 and insert the following:

(2) by striking "and" at the end of clause (4);

(3) by striking the period at the end of clause (5) and inserting the following: ", and (6) which has, as at least 15 percent of its students during any calendar year, students who do not have any part of their tuition, fees, or other charges paid for them by the institution or by any assistance under this title.".

Ms. WATERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from California?

There was no objection.

Mr. FORD of Michigan. Mr. Chairman, I reserve a point of order against the amendment offered by the gentlewoman from California [Ms. WATERS] so that she may explain.

The CHAIRMAN. The gentleman from Michigan [Mr. FORD] reserves a point of order against the amendment. The gentlewoman from California [Ms. WATERS] is recognized for 5 minutes in support of her amendment.

Ms. WATERS. Mr. Chairman, I rise to offer an amendment that would require 15 percent of a school's student body not be subsidized by Federal, State, private or school developed loans, grants or scholarships.

Mr. CHAIRMAN, many proprietary vocational schools have been set up to garner large amounts of Federal student aid dollars. Practically, all of the students receive student loans and grants, and the school offers little or no attraction to people to pay their own funds to attend. In fact, we have instances of proprietary schools refusing to allow people to pay their own money.

After World War II, the Department of Veterans Affairs responded to the rise of schools which were set up to milk the veterans' educational benefits program by establishing a rule which provided that VA would not extend any GI benefits to courses in which more than 85 percent of the students have their fees paid by the VA. A similar rule should apply to proprietary schools. The reauthorization of the Higher Education Act should be amended to provide that an institution is not eligible to participate in the Federal student loan and grant programs if more than 85 percent of the students enrolled in the institution have all or part of their tuition, fees, and other charges paid for them by the institution or by federally insured student loans and grants.

POINT OF ORDER

Mr. FORD of Michigan. Mr. Chairman, unfortunately the point of order is made necessary by an inadvertent effect of the amendment of the gentlewoman from California [Ms. WATERS]. I say "inadvertent" because I am sure the gentlewoman did not intend to get involved with the Caribbean schools.

Mr. Chairman, if the amendment of the gentleman from Pennsylvania [Mr. GOODLING] were adopted by unanimous consent, I would be satisfied to withdraw my point of order.

The CHAIRMAN. The gentleman from Michigan [Mr. FORD] would be required to withdraw his point of order before the modification to the amendment could be offered.

Mr. FORD of Michigan. Mr. Chairman, might I inquire of the gentlewoman from California [Ms. WATERS] if she is aware of the nature of the amendment?

Ms. WATERS. Mr. Chairman, we have been discussing this, and I would accept the amendment.

Mr. FORD of Michigan. Mr. Chairman, I withdraw my point of order based on this assurance.

MODIFICATION OFFERED BY MR. GOODLING TO AMENDMENT OFFERED BY MS. WATERS

Mr. GOODLING. Mr. Chairman, I ask unanimous consent for a modification to the amendment of the gentlewoman from California [Ms. WATERS].

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk will report the amendment as modified.

The Clerk read as follows:

Amendment offered by Ms. WATERS, as modified:

Page 345, line 24, strike "and", and on 346, strike lines 1 through 12 and insert the following:

(2) by striking "and" at the end of clause (4);

(3) by striking the period at the end of clause (5) and inserting the following: ", and (6) which has at least 15 percent of its revenues from sources that are not derived from funds provided under this title.".

Mr. GOODLING (during the reading). Mr. Chairman, I ask unanimous consent that the reading of the amendment, as modified, be dispensed with, and that the amendment, as modified, be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Is there objection to the modification?

There was no objection.

The CHAIRMAN. The gentleman from Pennsylvania [Mr. GOODLING] is recognized for 5 minutes to strike out the last word.

Mr. GOODLING. Mr. Chairman, the modification of the amendment is as follows:

Page 345, line 24, strike "and", and on 346, strike lines 1 through 12 and insert the following:

(2) by striking "and" at the end of clause (4);

(3) by striking the period at the end of clause (5) and inserting the following: ", and (6) which has at least 15 percent of its revenues from sources that are not derived from funds provided under this title.".

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California [Ms. WATERS], as modified by the gentleman from Pennsylvania [Mr. GOODLING].

The amendment, as modified, was agreed to.

The CHAIRMAN. Are there further amendments to title IV?

AMENDMENT OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. WATERS:

Page 191, after line 18, insert the following new subsection:

(d) LIMITATION.—Section 428A of the Act is amended by adding at the end the following new subsection:

"(e) LIMITATION.—No student shall be eligible to borrow funds under this section if the student is enrolled in an undergraduate degree or nondegree program of less than 2 academic years in an institution of higher education as defined in section 481(b) unless the student is ineligible to receive a Stafford loan.".

Page 224, line 24, strike "and" and insert "or".

Ms. WATERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. WATERS. Mr. Chairman, I rise to offer an amendment that would prohibit the awarding of SLS [supplemental loans for students] loans to individuals enrolled in courses of less than 2 years' length that do not lead to at least associates degree.

Mr. Chairman, the SLS loan program is being abused by proprietary schools for which they were never intended. While I support generous loan programs, especially for low-income students—the fact is that none of these proprietary schools need to be charging tuition rates that would require SLS loans for students.

What we have seen in practice—and has been documented by the inspector general of the Department of Education—is that since SLS loans have made their way into proprietary schools, the tuition have risen to accommodate SLS loan eligibility.

Due to the high debt burden imposed by these loans, many private colleges do not permit their first- or second-year students to take out SLS loans. The interest rate of these loans are not subsidized and interest accrues while the student is in school.

According to a study done by the General Accounting Office [GAO], of the $1.9 billion in SLS money given to first-year students during academic years 1987–89, 88 percent of the total or $1.7 billion went to students in vocational proprietary schools. In fact, vocational students account for 52 percent of all SLS loans.

Over the same 3-year period, proprietary vocational school students accounted for 80 percent of all SLS defaults dollars. The price tag: $248.4 million, with 74 percent of those default dollars in the hands of first-year students.

Further, the latest statistics from the Department of Education indicate that vocational schools received over $1.2 million in SLS loans in fiscal year 1989, and $689 million in fiscal year 1990. For those same years, proprietary vocational schools accounted for 88.2 percent in fiscal year 1989 and 82.2 percent in fiscal year 1990 of the annual SLS loans defaulting which amounted to $263.9 million in fiscal year 1989 and $523 million in fiscal year 1990.

Mr. FORD of Michigan. Mr. Chairman, if the gentlewoman will yield, we have examined the amendment. The gentleman from Missouri [Mr. COLEMAN] and I discussed this last evening, and we are prepared to accept it at this time.

Mr. GOODLING. Mr. Chairman, if the gentlewoman will yield, we accept the amendment on this side.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California [Ms. WATERS].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. COLEMAN OF MISSOURI

Mr. COLEMAN of Missouri. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. COLEMAN of Missouri: Page 177, after line 12, insert the following new subsection (and redesignate the succeeding subsections accordingly):

(1) GUARANTY AGENCY INCENTIVE PAYMENTS.—Section 428(b)(3) of the Act is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(2) by inserting after subparagraph (A) the following new subparagraph:

"(B) offer, directly or indirectly, any premium payment, or other inducement to any lender, or any agent or employee of any lender, in order to secure the designation of that guaranty agency loans made under this part (other than a loan made under section 428H);".

At each of the following locations, strike our "Presidential" and insert "Congressional"; page 132, line 18, 21, and 22; page 133, lines 2, 5, and 7; page 134, line 11; page 135, line 1; page 136, lines 8 and 20; page 137, line 5.

At each of the following locations, strike out "Congressional" and insert "Presidential": page 146, lines 6; page 114, lines 14 and 16; and page 149, lines 5, 7, 13, and 17.

Conform the table of contents accordingly.

Mr. COLEMAN of Missouri (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. COLEMAN of Missouri. Mr. Chairman, this amendment would prohibit guarantee agencies from paying lenders endorsements to secure designation of that guarantee agency for purposes of ensuring the loan. It is being done in some instances, and it is at the detriment of the state guarantee agencies.

Mr. Chairman, I believe the gentleman from Michigan [Mr. FORD] will accept this amendment.

Mr. FORD of Michigan. Mr. Chairman, if the gentleman will yield, I have gone over the amendment with the gentleman and the majority has no objection. We accept this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. COLEMAN].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title IV?

AMENDMENT OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. WATERS: Page 350, line 9, strike "(other than subsection (b)(5))".

Page 351, line 19, strike the close quotation marks and following period and after such line insert the following new subsection:

"(j) TWO-YEAR RULE.—Notwithstanding any other provision of this title, for the purpose of subsection (b)(5), an institution shall be deemed not to have been in existence for 2 years if, within the preceding 2-year period, the institution has had a change of ownership or control, has substantially changed the program of instruction offered (including the curriculum, program length, and amount of tuition and other charges), or has increased the number of students enrolled by more than 100 students or 10 percent of the prior years enrollment (whichever is greater).".

Ms. WATERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from California?

There was no objection.

MODIFICATION OF AMENDMENT OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I ask unanimous consent to modify the amendment and offer the amendment that I have at the desk in its revised form.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read the modification, as follows:

Modification to amendment offered by Ms. WATERS: Page 1, Line 5, insert "or" after "control,".

Page 1, Line 8, strike everything after "charges)" and insert a period.

The CHAIRMAN. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. WATERS. Mr. Chairman, I rise to offer an amendment which has been developed in cooperation with the administration. This amendment would require that if the school changes ownership, the school would be ineligible for Federal financial assistance for 2 years after the change. Current law requires that an institution operate for 2 years before it is eligible to participate in the Federal student aid programs.

The objective of the law is to permit only established institutions to obtain Federal student loan and grant money. However, current law is seriously deficient. A school can be sold to a new owner, who may radically transform the school in terms of enrollment, tuition charges, course offerings, curriculum, financial operations, and business practices. Nevertheless, the school continues its formal eligibility to participate in the loan and grant programs.

□ 1810

The current bill only applies to the 2-year rule to branches but not to changes of ownership.

Further, any extension of the 2-year rule should not be limited to high default schools because of the many ways that default rates can be manipulated and because of the delay in the calculation and reporting of cold, hard default statistics.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

The gentlewoman says that she worked out this amendment with the "administration." Am I to believe that the Republicans on my committee have been conspiring with the administration for an amendment and have not let me in on it? Or have they not been talked to about this?

I think a message ought to go out to them.

Mr. COLEMAN of Missouri. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, we have no idea what the gentlewoman is talking about. We have not been informed by the administration and I am not too happy as far as the amendment. So, we have problems, too.

Mr. FORD of Michigan. Mr. Chairman, the problem with the amendment is that it is probably unconstitutional, among other things.

What we are dealing with is precisely what irritates the gentlewoman and other Members, that a proprietary school is a school that is a business with people investing in to make money.

They make money by educating people one way or another or training people, but they are a business, a legal business, just like any other business. And the effect of the amendment of the gentlewoman is to say that if I sell my business to someone, because I want to retire or for any other reason, that they have to get out of the business of providing education to students with Federal aid for 2 years, as if they were a brand-new business. That does not make sense.

When the gentlewoman talked about branching, she is talking about something else. That was a practice that let a school try to avoid being recertified by branching themselves up. We stopped that 2 years ago.

This amendment is not necessary. It is unfortunately mischievous, and I, therefore, have to oppose it.

Ms. WATERS. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentlewoman from California.

Ms. WATERS. Mr. Chairman, let me just say to my friends on the other side of the aisle that if the Department of Education did not tell them that it has been working on this amendment, then they do truly have a problem in communications with those that they should be working with.

Let me just say, Mr. Chairman, that this is not a mischievous amendment. I do not have time for mischievous actions.

This is a serious amendment. They sell these licenses for $150,000 or more. They branch out all over the country. They are ripping students off.

Whether it passes or not, we will be back on it at another time.

Mr. MURPHY. Mr. Chairman, I move to strike the last word, and I rise in opposition to the Waters amendment.

I am concerned with the students, set aside the schools and the interests and the owners and the future owners. What about students who may be enrolled in a qualified and proper technical or trade school and have 24 months left to go in their educational process and all of a sudden now, because an owner dies or there is a transfer or one corporation sells to another, that all of a sudden that student aid is totally cut off?

I think it would be highly disruptive to students if this amendment would be passed, and I rise in opposition.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentlewoman from California [Ms. WATERS].

The amendment, as modified, was rejected.

AMENDMENT OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. WATERS: Page 224, strike out line 5 through page 225, line 7 and insert in lieu thereof the following:

"(7) a statement that—

"(A) prominently and clearly states that the borrower is receiving a loan that must be repaid;

"(B) notwithstanding any other provision of Federal or State law, the borrower's loan repayment obligation is separate and distinct from the institution's obligation to the borrower and that except as provided in section 435A, a failure by the institution to comply with any Federal, State, or local law shall not excuse any portion of the borrower's obligation to repay the loan.".

Page 228, insert immediately after line 13 the following new section:

SEC. 435A. DEFENSES.

(a) Part B of title IV of the Act is further amended by inserting immediately following section 435 the following new section:

"DEFENSES

"SEC. 435A. Notwithstanding any other provision of Federal or State law, a borrower may assert the act or omission of an institution as a defense to repayment of a loan guaranteed under this part and made in connection with attendance at that institution only if—

"(1) at the time the loan was made, the lender had notice of a significant number of substantial complaints by students that the institution had failed to provide promised services, supplies or refunds and had failed to address satisfactorily such complaints within a reasonable time;

"(2) the lender delegated substantial loan making functions normally performed by lenders to the institution with respect to that loan;

"(3) the loan was made by the institution, or by a lender that is affiliated with a school, as defined in section 481(b), by common control, ownership, contract, or business arrangement or has an origination or referral agreement with said school; or

"(4) the terms of the loan agreement permit the borrower to raise such defenses.".

(b) EFFECTIVE DATE.—The amendments made by this section shall be effective for loans made under this part on or after the date of enactment.

Page 365, strike out line 19 through page 366, line 2.

Ms. WATERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from California?

There was no objection.

REQUEST FOR MODIFICATION OF AMENDMENT OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I ask unanimous consent to modify my amendment.

The CHAIRMAN. The clerk will report the modification.

The Clerk read as follows:

Modification of amendment offered by Ms. WATERS:

Page 2, Line 21, strike "a school", and insert "an institution" after "with"

Page 2, Line 23, strike "or business arrangement"

Page 2, Line 24, insert "relationship" after "origination", strike "referral" before "agreement", strike "said school" and insert "such institutions" after "with".

The CHAIRMAN. Is there objection to the request of the gentlewoman from California?

Mr. COLEMAN of Missouri. Mr. Chairman, reserving the right to object, I do say this: I might object. I am not sure. But the gentlewoman is going to start changing her amendments which were all required to be in the RECORD for 2 days, and then she comes up without sharing them with us. And we are going to object.

I do not know what she is doing. I have to take her word for what she is doing, and sometimes the draftsmanship is not perfect around here.

Ms. WATERS. Mr. Chairman, will the gentleman yield?

Mr. COLEMAN of Missouri. I yield to the gentlewoman from California.

Ms. WATERS. Mr. Chairman, I beg the indulgence of the gentleman. I certainly have no desire to try and trick the gentleman or misinform him.

If we have inadvertently not shared the amendment with the gentleman, it is not because we were attempting to hide anything. I would beg the indulgence of the gentleman from Missouri.

Mr. COLEMAN of Missouri. Mr. Chairman, does any other Member have an amendment? Why do they not share it with us before we have to take more time?

The CHAIRMAN. Does the gentleman object?

Mr. COLEMAN of Missouri. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Chair recognizes the gentlewoman from California [Ms. WATERS] on her original amendment without modification.

Ms. WATERS. Mr. Chairman, I rise to offer an amendment that we have worked out with the administration. This amendment would specify lender liable for school misconduct if the lender had notice of prior unresolved substantial complaints concerning the school, where the lender and the school were corporate affiliates, or where the lender delegated substantial pre-loan functions to the school.

The current bill would immunize lenders—other than schools—holders, guaranty agencies, and the Department of Education from borrower defenses based on failings by the school attended by the borrower. Further, it provides only a limited exception to lender immunity in the case where the lender and the institution have an origination relationship, but this exception is far too narrow and provides insufficient protection to the student consumer.

My amendment would extend to student borrowers existing consumer protection laws to defend against unfair collection activity. Unmodified, the bill would discriminate against those low- and middle-income parents, and students who borrow under the student loan programs—it would prevent students from raising any defenses against the handful of banks that work hand in glove with the worst of the trade schools—not matter how wrongful or illegal the conduct of the banks or the institution.

This amendment would allow students to raise a school's unlawful conduct as a defense against payment in a few limited circumstances: If the loan agreement allowed the students to raise such defenses; if there was an origination agreement between the bank and the school; if the lender had notice when it made the student loan that there were a significant number of substantial complaints about a school's failures to comply with the law and its contract; and or if the bank turned over substantial loan-making functions to the school.

If the amendment is not adopted, we will see hundreds of thousands more trade school students defrauded. Left without recourse, they will be asking why their Government allowed the Student Loan Program to be used to buy trade school owners luxury goods, and to destroy the hopes and dreams of their constituents. If this amendment is not passed, we will see the over $3 billion annual debt for defaulted student loans continue to rise.

Mr. MILLER of California. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I think the gentlewoman from California [Ms. WATERS] has been trying to raise a number of issues around some of the disgraceful practices that have taken place with respect to proprietary schools and the ability of those schools to rip off, in many cases, very sincere students and in other cases students who were unwittingly thrown into this situation and in all cases the taxpayers of the United States.

□ 1820

We keep trying to draw distinctions within the proprietary school community to suggest that we are all joining together to get rid of the worst schools and somehow save the best schools. The gentlewoman from California [Ms. WATERS] now has offered a series of amendments to try to in fact get rid of the worst schools. She has been given rather short shrift on those amendments.

This amendment tries to direct itself at one where not only do we have the worst schools but now we have a bank in collusion with those schools for the purposes of running a tuition mill, not for the purposes of providing an education, where a bank in a hand-in-glove situation with a school is on notice and refuses to do anything about it except continue to provide the cannon fodder of low-income students without any possibility of an education, but only going deeper in debt.

The question is is this institution going to stand by and continue to sanction that as part of the Student Loan Program when we continue to beat our breasts about how we want to reduce student defaults, how we want to get rid of the worst schools, the ones that embarrass us on the nightly news, the ones that embarrass us in the Inspector General's reports, the ones that embarrass us in the GAO reports, or are we going to sit around here and yell "vote," so we can protect the proprietary schools that are ripping this system off?

That is what this amendment is about. The other amendments have been knocked out on this. The gentleman from Tennessee [Mr. GORDON] was knocked out in his effort to do this. That is all well and good, except the Members are about to vote for a bill that is going to allow the worst practices to continue, allow the defaults to continue, allow the loss of taxpayer money to continue.

I think this is the last amendment of the gentlewoman from California [Ms. WATERS]. I think this is the last effort to go at the worst situation. Not only do we have a dishonest school, we have a bank that is willing to fund the dishonesty. What we are telling the students is that they cannot raise the defense that these two institutions were working together to deprive them of their money and to put them into debt, that they simply must be led to slaughter without the ability to raise that defense.

We owe those students that much, especially if we are going to allow the practice to continue. We should not allow the practice to continue. This defense should be allowed to those students. I urge my colleagues to support the amendment.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Unfortunately, I have to disagree with the gentleman from California [Mr. MILLER], my dear friend, because I think he is fighting the wrong dragon here. This does not go to the school, it goes to the lenders. If we tell the lenders we are going to set up all these conditions which may be raised on the complaint of a single student at a school and that that would bar them from recovering their money, there are not going to be any loans to students out there. This is a serious threat to loan access, particularly for low-income students attending schools with high default rates.

We have already had the FTC rule on this when it comes to proprietary schools. The Tipton case in West Virginia interpreted some normal referral practices as an origination relationship that would provide a defense. Actually I am not so sure that by knocking on the door of the Tipton case that we do not tear down the protection that the FTC has already provided for students out there.

We see it as a difficult issue. I would say to the gentleman from California [Mr. MILLER] if he would view it from the perspective of the student and say, "Because you are a student at a school, if you complain that you did not get what you paid for, you do not get it back," imagine getting a bank loan to buy an automobile if the only defense needed was that the car did not run up to your expectations after you bought it.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, they would have to prove that in court.

Mr. FORD of Michigan. I would say to the gentleman, it does not matter if the gentleman proves the car exploded. When he drives it out of the driveway, he still has to pay the note. The note is what is paid. No banker will lend money if he has to be responsible for the quality of the car.

Mr. MILLER of California. This amendment tells the bankers to pay attention to who they are lending money on behalf of.

Mr. FORD of Michigan. It is a bad amendment and I recommend it not be adopted.

The CHAIRMAN. If there is no further debate on the amendment, the question is on the amendment offered by the gentlewoman from California [Ms. Waters].

The amendment was rejected.

AMENDMENT OFFERED BY MS. WATERS

Ms. WATERS. Mr. Chairman, I offer an amendment on page 197.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Ms. Waters: Page 197, after line 10, insert the following new section.

SEC. 430A. GARNISHMENT AND COLLECTION PROCEDURES.

(a) Garnishment Limitations.—Section 428F of the Act is amended by adding at the end the following new subsection:

"(e) Limitations.—Notwithstanding any provision of law, no garnishment order or writ shall be issued or levied in connection with the collection of the amount due on a loan by a student borrower unless—

"(1) the net income of the student borrower and the borrower's spouse, including any cash benefits received under a needs-based government assistance program, exceeds 150 percent of the poverty level for the size of family which the student borrower has;

"(2) the party attempting to garnish wages makes reasonable inquiry concerning the amount of the net income of the borrower and the borrower's spouse;

"(3) the party attempting to garnish wages files a statement with the clerk of the court before the garnishment order or writ is issued that certifies that (A) the net income of the borrower and the borrower's spouse exceeds the amount specified in paragraph (1) or (B) after reasonable inquiry, the party seeking the garnishment order or writ is unable to ascertain whether the net income of the borrower and the borrower's spouse exceeds the amount specified in paragraph (1);

"(4) in the event a garnishment order or writ is issued and levied and the net income of the borrower and the borrower's spouse is less than the amount specified in paragraph (1), the garnishment shall be terminated and all wages garnished shall be returned to the wage earner, and if after reasonable inquiry the party seeking the garnishment order or writ knew or should have known that the net income was less than the amount specified in paragraph (1), that party shall be subject to liability, if any, established under State law for wrongful garnishment; and

"(5) in the event a garnishment order or writ is issued and levied, that net amount garnished shall not reduce the borrower's and the borrower's spouse's income to less than the amount specified in paragraph (1) and any amount which is garnished in violation of this paragraph shall be returned to the borrower.".

(b) Collections on Defaulted Loans.—Section 430 of the Act is amended by adding at the end the following new subsections:

"(e) Limitation.—No action shall be commenced against a student borrower for any amount due on a loan made pursuant to this title unless the net income of the student borrower and the borrower's spouse, including any cash benefits received under a needs-based government assistance program, exceeds 150 percent of the poverty level for the size of the family which the student borrower has.

"(f) Offset Limitation.—If the Secretary or a guaranty agency seeks to offset all or any portion of the amount owed on a loan made pursuant to this title against an income tax refund intercept under State or Federal law—

"(1) the student borrower shall be provided with written notice setting forth clearly and conspicuously all of the applicable valid objections to offset and the borrower's rights to a hearing;

"(2) if the student borrower objects to the offset and the objection is denied, the borrower shall be informed of all of the grounds for denial and of the borrower's right of administrative appeal and judicial review;

"(3) if a tax intercept program under State law is invoked, all of the procedures for notice, hearing, and appeal under the State program shall be at least as protective of the student borrower as the procedures under Federal law, notwithstanding any contrary State law; and

"(4) if the requirements of the State or Federal income tax refund intercept program are not satisfied, the student borrower shall be entitled to recover treble the amount of the tax refund wrongfully intercepted as an offset to the balance of the loan debt, or as damages to the extent the amount exceeds the debt, plus reasonable attorney's fees and costs.".

(c) Forbearance and Deferment Information.—Part B of title IV of the Act is amended by inserting after section 430A the following new section:

"FORBEARANCE AND DEFERMENT INFORMATION

"Sec. 430B. (a) Description Required.—An eligible lender or loan servicing agent shall provide a student borrower with a clear, conspicuous, concise, and complete description of all of the student borrower's rights to a forbearance or deferment at or before the time that the student borrower is first required to begin paying the loan and, if the student borrower becomes delinquent, at each time demand for payment is made following delinquency and before default.

"(b) Applicability.—If a student borrower is entitled to a forbearance or deferment, the forbearance or deferment shall relate back to the date on which the student borrower first became eligible to receive the forbearance or deferment notwithstanding whether the student has been placed in default status with regard to the loan.

"(c) Cure of Delinquency.—If a student borrower was eligible for a forbearance or deferment but was not adequately informed of the right to apply or was not given assistance in the completion of the application and if the student is deemed delinquent, all collection activity shall be suspended to provide a reasonable period for the student borrower to apply for a forbearance or deferment and for a decision to be made on the borrower's application.

"(d) Removal of Default.—If a student borrower is granted a forbearance of deferment after being placed in default status, the default shall be removed, all collection activity shall terminate, and credit reporting agencies and the agency seeking collection shall be informed of the grant of a forbearance or deferment and the removal of the default.".

(d) Compromise and Discharge.—Section 437 of the Act is amended by adding at the end the following new subsection:

"(c) Fraud or Misrepresentation.—The Secretary shall discharge a student borrower's liability on a loan described in this subchapter and shall repay the amount of the loan discharged if a State attorney general or other law enforcement agency, State educational licensing agency, guaranty agency, or the Secretary finds or has substantial evidence or reason to believe that an institution has engaged in fraud or misrepresentation or any violation of State or Federal law in connection with soliciting, offering, contracting for, or providing instruction.".

(e) Due Process.—Part G of title IV of the Act is amended by adding at the end the following new section:

"DUE PROCESS

"Sec. 492. Lenders, guaranty agencies, and any other person involved in the collection of any amount due under a loan made under this title shall, in addition to any provisions of law applicable to them, be subject to section 552 of title 5, United States Code, and to the same constitutional and statutory requirements of due process, including requirements for notice and hearing, that would apply to the Secretary if the Secretary were collecting on the loan.".

—Page 191, after line 18, insert the following new subsection:

(d) Limitation.—Section 428A of the Act is amended by adding at the end the following new subsection:

"(e) Limitation.—No student shall be eligible to borrow funds under this section if the student is enrolled in an undergraduate degree or nondegree program of less than 2 academic years in an institution of higher education as defined in section 481(b) unless the student is ineligible to receive a Stafford loan."

Ms. WATERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentlewoman from California.

There was no objection.

POINT OF ORDER

Mr. COLEMAN of Missouri. Mr. Chairman, I raise a point of order on the amendment.

The CHAIRMAN. The gentleman from Missouri [Mr. Coleman] is recognized on his point of order.

Mr. COLEMAN of Missouri. Mr. Chairman, under section 303(a) of the Congressional Budget Act, it is not in order to consider any measure which creates entitlement authority or direct spending authority first effective in a fiscal year prior to the adoption of the budget resolution for that fiscal year.

The instant amendment creates new spending authority first effective in fiscal year 1993 by affording specific individuals protection from garnishment and collection on outstanding loan debt. As a result, this economic benefit to specific individuals creates new entitlement authority first effective in fiscal year 1993.

Since Congress has yet to agree to the conference report on the concurrent resolution on the budget for fiscal year 1993, the amendment is not in order.

Mr. Chairman, I insist on my point of order.

The CHAIRMAN. Does the gentlewoman from California [Ms. WATERS] desire to be heard on the point of order?

Ms. WATERS. Yes, Mr. Chairman.

Mr. Chairman, on the point of order, let me just say that I do believe that the objection is being raised not so much because the bill or the amendment is not in order, but rather because there is an attempt by which to stop discussion and debate on this most important area.

I have no illusions about whether or not most of these amendments will pass, but I certainly intend to start this debate in this Congress, whether there are those who like it or not. Today is just the first day. I intend to be around here for a long time. I intend to debate this issue for many years to come.

I will not stand by and watch millions of taxpayer dollars being ripped off by these private postsecondary schools and have them protected in this Congress by Members who would raise points of order or anything else in order to keep us from this debate. It is a scandal in America. It will come to haunt all of us, because we choose not to protect the taxpayers but rather the ripoff artists.

The CHAIRMAN (Mr. PEASE). The Chairman has been liberal and understanding in allowing Members, in speaking to points of order, to stray somewhat from the actual point of order.

In this situation the Chair is now prepared to rule.

For the reasons raised by the gentleman from Missouri [Mr. COLEMAN] in his point of order, this amendment is judged by the Chair to be in violation of section 303 of the Budget Act. The point of order is sustained.

Mr. COLEMAN of Missouri. Mr. Chairman, I move to strike the last word.

Let me say what I have to say. When a Member of this House stands up and makes a legitimate point of order and gets chastised by his colleagues for doing so, we are in poor shape around here. We are really out of order.

I had an amendment, the first one up today, that was ruled out of order on a point of order. I did not stand up and tell the chairman that he was ripping off the public or anything else. We had differences of agreement. The point of order was done. I sat down and I was quiet about it. That is the way it is supposed to be conducted around here.

I do not appreciate the gentlewoman from California [Ms. WATERS] giving me salvos on this simply because I legitimately raised a point of order.

Ms. WATERS. Mr. Chairman, I ask unanimous consent to be involved in a colloquy with the gentleman from Missouri [Mr. COLEMAN] about this issue.

The CHAIRMAN. The gentleman from Missouri has the floor.

Mr. COLEMAN of Missouri. Mr. Chairman, I yield back the balance of my time.

Mr. FORD of Michigan. Mr. Chairman, reserving the right to object, I would say to the gentlewoman from California [Ms. WATERS] that I do not want to object to her ability to keep on talking, but I have dozens of people coming to me who are at each minute missing airplanes to get back to their districts.

Ms. WATERS. Mr. Chairman, I have said what I need to say.

Mr. FORD of Michigan. Mr. Chairman, I do not think we need a filibuster. I am sorry I cannot go along with the gentlewoman.

The CHAIRMAN. Are there any further amendments to title IV?

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment to title IV that is printed in the RECORD.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 364, strike out lines 10 through 18 and insert the following:

"(3) FIRST CONVICTIONS.—A student whose eligibility has been suspended under paragraph (1) and is convicted of his or her first offense may resume eligibility before the end of the period determined under such paragraph if—

"(A) the student demonstrates that he or she has enrolled or been accepted for enrollment in a drug rehabilitation program that complies with such criteria as the Secretary shall prescribe for purposes of this subsection; and

"(B) the student agrees that, if the student fails to complete such program within the earlier of (i) 2 years after the date the student enrolls in such program, or (ii) 3 years after the date the student is accepted for enrollment in such program, the student will reimburse the Federal Government for the amount of grant or work assistance received pursuant to this paragraph and for twice the amount of any loan received pursuant to this paragraph, unless such failure is excused by the Secretary for good cause.

Mr. SOLOMON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. SOLOMON. Mr. Chairman, I rise to offer an amendment to title IV of the bill which would close a loophole in drug rehabilitation requirements for students convicted of drug use.

Roughly 75 percent of all illegal drug use can be attributed to casual drug users. Many of these users are students who are rarely disciplined for illicit drug use by their college or university.

I hold the opinion that students who are repeat drug offenders should be required to complete drug rehabilitation before the Federal Government reinstates their education benefits.

For those students who are first-time drug offenders, these individuals should have an opportunity to rehabilitate themselves while continuing to receive their Federal education benefits.

I am pleased to see that my colleagues on the Education and Labor Committee have adopted most of my language requiring students convicted of drug use to seek rehabilitation in order to qualify for continued Federal education assistance and I commend their efforts.

Unfortunately, after reviewing the committee language, I have found a troublesome loophole which was overlooked.

My amendment would close this loophole. While the bill requires repeat offenders to complete a drug rehabilitation program before the Federal Government resumes the student's education benefits, the bill does not impose the same requirement on first-time offenders. In fact, the bill allows first-time convicted student drug users to merely enroll in, to be accepted into, a drug rehabilitation program in order to continue receiving their Federal education benefits. Whether the student actually completes the rehabilitation program does not matter.

My amendment would simply require the student to successfully complete the drug rehabilitation program within 2 years from enrollment or 3 years from acceptance into a program, whichever occurs earlier. If the student fails to complete the program within these generous time limits, the student must reimburse the Federal Government for the amount of grant or work assistance and twice the amount of any loan received since being given the chance to rehabilitate.

This amendment will provide the necessary incentives for students convicted of drug use to complete their rehabilitation program. That's a goal which we all can share.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, we have examined the amendment and the majority has no objection to the amendment.

□ 1830

Mr. SOLOMON. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. SOLOMON].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title IV?

If not, the Clerk will designate title V.

The text of title V is as follows:

TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

SEC. 501. REVISION OF TITLE V.

(a) AMENDMENT.—Title V of the Act is amended to read as follows:

"TITLE V—EDUCATOR RECRUITMENT, RETENTION, AND DEVELOPMENT

"SEC. 501. STATEMENT OF FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) teachers in the classroom are the men and women who must play an integral role in leading our Nation's schools into the 21st century;

"(2) we should encourage individuals to enter the education profession so that our teaching force is representative both of the diversity of our Nation and of the tremendous talents and skills of our citizens;

"(3) the methods used to prepare prospective teachers and the continuing education and support provided to practicing teachers have a significant influence on the effectiveness of classroom teachers;

"(4) the postsecondary education of education professionals has not been linked to local, State and national goals and standards;

"(5) the inservice and continuing professional development of educators has not promoted systematic and sustained improvement of the education system;

"(6) State educational agencies have not been funded and staffed adequately to carry out a mission of supporting a process to achieve local, State, or national goals and standards;

"(7) in order to encourage more women and underrepresented minorities to enter the fields of science and mathematics and succeed in these fields, we must provide proper training for existing mathematics and science teachers and recruit women and underrepresented minorities as teachers in these fields;

"(8) educators must have the expertise and the support that allow them to adapt to the changing environment in our schools and to the evolving skills required of our schools' graduates; and

"(9) the Federal Government plays an essential role in providing support to educator training and professional development that will enable teachers to be classroom leaders and administrators to be school leaders at the forefront of reforming our Nation's schools.

"(b) PURPOSE.—It is the purpose of this title—

"(1) to encourage academically qualified students to become teachers through scholarship assistance;

"(2) to support the recruitment of talented individuals into the teaching profession;

"(3) to provide assistance to schools of education in institutions of higher education in order to reform teacher education programs by encouraging new developments in teacher preparation which provide for greater integration of subject matter and pedagogical training and which prepare classroom teachers to effectively meet changing noneducational challenges in the schools;

"(4) to promote high quality child development and early childhood education specialist training programs, including preschool and early intervention services for infants and toddlers with disabilities;

"(5) to provide assistance to our Nation's teaching force for the continued improvement of their professional skills;

"(6) to assist individuals who are currently employed as school paraprofessionals to obtain the education necessary in order to become a licensed or certified teachers;

"(7) to promote partnerships between institutions of higher education and local educational agencies for the purpose of promoting the restructuring and renewal of elementary and secondary schools and collegiate teacher education programs;

"(8) to promote new learning within colleges of education and State and local educational agencies that will cause greater collaboration among such entities in order to achieve common goals and standards through systemic improvement;

"(9) To provide scholarship assistance to encourage women and minorities who are underrepresented in the fields of science and mathematics to enter the teaching profession in these fields; and

"(10) to improve the leadership and managerial skills of elementary and secondary school administrators.

"SEC. 502. AUTHORIZATION OF APPROPRIATIONS.

"(a) STATE AND LOCAL PROGRAMS FOR TEACHER EXCELLENCE.—For part A there are authorized to be appropriated $400,000,000 for fiscal year 1993 and such sums as may be necessary for the 4 succeeding fiscal years.

"(b) TEACHER SCHOLARSHIPS AND FELLOWSHIPS.—

"(1) For subpart 1 of Part B there are authorized to be appropriated $25,000,000 for fiscal year 1993 and such sums as may be necessary the 4 succeeding fiscal years.

"(2) For subpart 2 of part B there are authorized to be appropriated $15,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

"(c) NATIONAL PROGRAMS.—

"(1) For subpart 1 of part C there are authorized to be appropriated $15,000,000 for fiscal year 1993 and such sums as may be necessary for the 4 succeeding fiscal years.

"(2) For subpart 2 of part C there are authorized to be appropriated $20,000,000 for the period beginning on October 1, 1992 and ending on September 30, 1997.

"(3) For subpart 3 of part C there are authorized to be appropriated $20,000,000 for fiscal year 1993 and such sums as may be necessary for the 4 succeeding fiscal years.

"(4) For subpart 4 of part C there are authorized to be appropriated $50,000,000 for fiscal year 1993 and such sums as may be necessary for the 4 succeeding fiscal years.

"(5) For subpart 5 of part C there are authorized to be appropriated $2,000,000 for fiscal year 1993 and such sums as may be necessary for the 4 succeeding fiscal years.

"(6) For subpart 6 of part C there are authorized to be appropriated $5,000,000 for fiscal year 1993 and such sums as may be necessary for the 4 succeeding fiscal years.

"(7) For subpart 7 of part C there are authorized to be appropriated $15,000,000 for fiscal year 1993.

"(8) For subpart 8 of part C there are authorized to be appropriated $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(9) For subpart 9 of part C, there are authorized to be appropriated $20,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(10) For subpart 10 of part C, there are authorized to be appropriated $20,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

"PART A—STATE AND LOCAL PROGRAMS FOR TEACHER EXCELLENCE

"SEC. 511. AUTHORITY AND ALLOCATION OF FUNDS.

"(a) PURPOSE AND AUTHORITY.—

"(1) PURPOSE.—It is the purpose of this part to provide funds to State educational agencies, local educational agencies and institutions of higher education in order to update and improve the skills of classroom teachers, including preschool and early childhood education specialists and school administrators and to provide for a comprehensive examination of State requirements for teacher preservice and certification.

"(2) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to State educational agencies for the purposes of enhancing and improving the quality of teaching, including early childhood education, in each of the several States.

"(b) ALLOTMENT OF FUNDS.—

"(1) IN GENERAL.—The Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-aged population of that State bears to the school-aged population of all States. In making allotments under this part, the Secretary shall use the most recent data available.

"(2) TERRITORIAL GRANTS.—From 1 percent of the amount appropriated under subsection (a) for this part, the Secretary shall make grants to the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658).

"(3) ALLOCATIONS FROM STATE ALLOTMENTS.—

"(A) From the sum allotted each year under paragraph (1), the State education agency shall allocate not less than 50 percent to local educational agencies within such state according to the relative enrollments in public schools within the local educational agency for the purposes of section 513, except that any local educational agency that would receive a grant of less than $10,000 shall be required to form a consortium with other local educational agencies. In making allotments under this part, the State educational agency shall use the most recent data available.

"(B) The State educational agency may reserve up to 25 percent of the funds for the purposes of section 514.

"(C) From the sum allotted each year under paragraph (1), the State educational agency shall reserve not more than 25 percent to distribute to institutions of higher education for the purposes of section 515.

"(D) The State educational agency may reserve no more than 3 percent of the funds allotted to the State for the purposes of administering the program under this title.

"(c) STATE DISTRIBUTION.—Notwithstanding subsection (b), if the appropriation for this part for any fiscal year is less than $250,000,000, the State shall distribute the funds reserved for local educational agencies on a competitive basis.

"(d) DEFINITION OF STATE.—For purposes of this subsection—

"(1) the term 'State' includes the several States, the District of Columbia, and the Commonwealth of Puerto Rico; and

"(2) the term 'school-aged population' means the populations aged 5 to 17, inclusive.

"SEC. 512. STATE APPLICATION.

"(a) In General.—Any State which desires to receive an allotment under this part shall submit to the Secretary an application which—

"(1) designates the State educational agency as the State agency responsible for the administration and supervision of programs assisted under this part;

"(2) provides for a process of active discussion and consultation with a committee, convened by the chief State school officer, which is broadly representative of the educational interests within the State, including—

"(A) a representative nominated by each of the following:

"(i) the State teacher organizations;

"(ii) the organizations representing preschool and early childhood education specialists;

"(iii) the State school administrators organization;

"(iv) the State parents organizations;

"(v) the State business organizations; and

"(vi) the State student organizations;

"(B) a representative from the State board of education;

"(C) a representative of faculty from departments, schools or colleges of educations;

"(D) other representatives of institutions of higher education including community colleges;

"(E) the State director of vocational education; and

"(F) the State director of special education;

"(3) describes the competitive process that the State will use to distribute funds among local educational agencies pursuant to section 511(c);

"(4) describes the process the State will use to conduct the assessment required by section 514;

"(5) describes how the State will allocate funds among activities permitted under section 514;

"(6) describes, if appropriate, the competitive process that the State will use to select applicants to operate the State Academies for Teachers, how Academy participants will be selected, and how the State will monitor the implementation of the Academies;

"(7) describes, if appropriate, the competitive process that the State will use to select applicants to operate the State Academies for School Leaders, how Academy participants will be selected, and how the State will monitor the implementation of the Academies;

"(8) describes the competitive process that the State will use to distribute funds among institutions of higher education pursuant to section 515;

"(9) describes a plan to promote learning among the State educational agency staff in order to support and facilitate systemic improvement of the State educational agency, schools or colleges of education at institutions of higher education, and local educational agencies; and

"(10) includes such other information and assurances as the Secretary may require.

"(b) Functions of Committee.—The application required by subsection (a) shall identify the procedures by which the committee required by paragraph (2) of such subsection will be engaged in—

"(1) ensuring that activities assisted under this part are effective, coordinated with other State, local, and Federal activities and programs, and meet the needs of the State for improving the quality of teaching and teacher education programs, including those programs concerned with preschool education and the training of early childhood education specialists and school leadership programs;

"(2) advising the State on criteria for awarding funds under section 511(c), section 514(d), section 514(e), and section 515; and

"(3) advising the State on criteria for approving local educational agency applications under section 513(a).

"SEC. 513. LOCAL APPLICATION AND USE OF FUNDS.

"(a) Local Application.—Any local educational agency which desires to receive an allotment under this part shall submit to the State educational agency an application which—

"(1) describes the needs of such agency with respect to inservice training programs for teachers and preschool and early childhood education specialists, pursuant to the assessment conducted under subsection (b)(2)(A), teacher recruitment, business partnerships, and the provision of other opportunities for teachers to improve their skills;

"(2) describes the process used to determine such needs, including consultation with teachers, preschool and early childhood specialists, principals, parents, representatives from departments, schools or colleges of education, and others in the community;

"(3) describes the activities such agency intends to conduct with the funds provided under section 511(b)(3)(A) consistent with the provisions of this section in order to improve the quality of teaching within such agency;

"(4) describes the processes and methods used to promote systematic improvement through continual learning in order to achieve agreed upon local, State and National standards; and

"(5) any other information that the State educational agency may reasonably require.

"(b) Local Uses of Funds.—

"(1) In General.—Local educational agencies receiving funds under this part shall use such funds for the inservice training of teachers and preschool and early childhood education specialists and may use funds for—

"(A) development of programs to recruit individuals into the teaching profession and the field of early childhood education,

"(B) business partnerships, and

"(C) other purposes consistent with improving the quality of teaching in the local educational agency, as approved by the State educational agency.

"(2) Inservice Training.—

"(A) In order to receive funds under this part, a local educational agency or a consortium of local educational agencies shall first assess the needs of such agency or agencies for inservice training.

"(B) Funds expended for inservice training shall be used for the cost of—

"(i) the expansion and improvement of inservice training and retraining of teachers and other appropriate school personnel, including vocational teachers, special education teachers, and preschool teachers, consistent with the assessment conducted under subparagraph (A);

"(ii) providing funds for grants projects for individual teachers within the local educational agency to undertake projects to improve their teaching ability or to improve the instructional materials used in their classrooms;

"(iii) activities designed to address the effects of chronic community violence on children, such as violence counseling training for teachers and early childhood specialists, and activities and training aimed at resolving conflicts;

"(iv) activities designed to enhance the ability of teachers to work with culturally diverse students;

"(v) activities designed to integrate academic and vocational education;

"(vi) as appropriate, activities designed to assist teacher participation in a Tech-Prep program under section 344(b) of the Carl D. Perkins Vocational and Applied Technology Act, in order to develop the skills of such teachers in activities such as organizational development leadership and interdisciplinary curricula development; and

"(vii) other activities consistent with the goals of this part as approved by the State educational agency.

"(C) Such activities may be carried out through agreements with institutions of higher education, nonprofit organizations, public agencies, and museums.

"(D) Activities related to inservice training shall be coordinated with such activities carried out under part A of title II of the Elementary and Secondary Education Act of 1965.

"(3) Recruitment of Teachers.—

"(A) Local educational agencies may use funds—

"(i) to establish, operate, or expand programs to encourage and recruit interested individuals to pursue a course of study that will lead to a career in education; and

"(ii) to establish, operate, or expand a program where such agency recruits students currently enrolled in a school in the local educational agency to be teachers or early childhood education specialists.

"(B) Activities under this paragraph may include (but shall not be limited to)—

"(i) academic and career counseling of and support services for students;

"(ii) programs whereby students act as tutors while they are enrolled in schools in the local educational agency;

"(iii) programs whereby students enrolled in institutions of higher education and other individuals tutor students within schools in the local educational agency;

"(iv) information and recruitment efforts to attract individuals into the teaching profession; and

"(v) programs to support early childhood education efforts at the preschool and school level.

"(C) In conducting programs under section 513(b)(3), local educational agencies shall place a priority on recruiting students and individuals from minority groups.

"(D) Local educational agencies may conduct programs under section 513(b)(3) in consortia with institutions of higher education.

"(4) Business Partnerships.—Local educational agencies may use funds to establish partnerships with representatives of the business community to sponsor—

"(A) programs which allow representatives of local business or firms to go into the classroom and work with the classroom teacher to provide instruction in subject areas where the expertise of the teacher could be supplemented especially in the subject areas of mathematics, science, and vocational and technology education training;

"(B) internship programs which provide an opportunity for classroom teachers to work in local businesses or firms to gain practical experience or to develop new skills or expertise;

"(C) programs which bring students and teachers into business settings to see applications of course work and in specialized areas, and to learn to use advanced technical equipment;

"(D) programs which allow representatives of local businesses and firms to work with school administrators to develop instructional material; and

"(E) other activities appropriate to forming a working relationship between business leaders and classroom leaders.

"SEC. 514. STATE USES OF FUNDS.

"(a) IN GENERAL.—State educational agencies receiving funds under this part shall use such funds for conducting an assessment of teacher education programs within such State, and may use funds for—

"(1) the establishment of State Academies for Teachers,

"(2) the establishment of State Academies for School Leaders, and

"(3) other purposes consistent with improving the quality of the Nation's teaching force, including efforts to improve the quality and number of preschool and early childhood education specialists, as approved by the Secretary.

"(b) TEACHER EDUCATION STUDY.—Each State educational agency receiving funds under this part shall, in consultation with institutions of higher education, local educational agencies, teachers, parents, the State legislature, the State board of education, and business, undertake a study of teacher education programs and State teacher professional development requirements, including programs and requirements intended to train preschool and early childhood education specialists, and the State laws and regulations relating to such programs and requirements, including any standards or requirements for certification and licensure, in order to determine if such programs and requirements are adequately preparing teachers to effectively educate students. Such study shall include the consideration of the following in order to determine if such programs or requirements—

"(1) would be improved if teacher education programs were required to coordinate courses with other departments on campus in order to provide prospective teachers with a strong background in their subject matter;

"(2) integrate academic and vocational education instruction;

"(3) give enough flexibility in order to allow experimentation and innovation;

"(4) would be improved if such programs provided preparation for students desiring to become teachers, but who are pursuing a bachelor's degree in an area of study other than education; and

"(5) would be improved if teacher certification required a bachelor's degree in a subject area and a masters degree in education.

"(c) DEADLINES.—Such study shall be completed by two years from the end of the first fiscal year in which funding was made available for this part. The results of such study shall be reported to the Secretary. In submitting the report to the Secretary, the State educational agency shall include in the report the most successful practices used to enhance the profession of teaching. The Secretary may disseminate such successful practices in order to assist other States in their efforts to enhance the profession of teaching. Except as provided in subsection (d), beginning in the third fiscal year for which funding is available, State educational agencies shall use at least 75 percent of their funds provided under section 511(b)(3)(C) to implement the program and policy changes flowing from the findings of the study and to assist schools of education throughout the State in meeting any new requirements that result from the study. The State educational agency shall award grants pursuant to section 515(b)(6) to institutions of higher education to implement the programs and policy changes flowing from the findings of the study.

"(d) WAIVER.—If a State demonstrates to the Secretary that it has completed a comparable study within the previous 3 years prior to the fiscal year for which funds were made available under this part, then the Secretary may waive the requirements of subsection (a). States receiving a waiver shall use funds provided under section 511(b)(3)(C) to implement the program and policy changes resulting from the funding of such study. If the State can demonstrate to the Secretary that such program and policy changes have been implemented, then the State shall use funds provided under section 511(b)(3)(C) to carry out the activities authorized under subsections (e) and (f)."

"(e) STATE ACADEMIES FOR TEACHERS.—

"(1) COMPETITIVE AWARDS FOR ACADEMIES.—The State educational agency may use a portion of the State's grant under section 511(b)(3)(C) to make competitive awards to local educational agencies, institutions of higher education, other public and private nonprofit agencies and organizations, or consortia of such agencies, institutions, and organizations, to establish and operate State Academies for Teachers. Such Academies may be operated in cooperation or consortium with those of other States. To the extent practicable, such academies shall coordinate efforts with the teacher inservice activities of local educational agencies.

"(2) EARLY CHILDHOOD ACADEMIES.—Each State educational agency may establish an academy aimed at early childhood education training. Such an academy shall give a priority to recruiting candidates from underrepresented groups in the early childhood education profession and shall provide intensive childhood training in violence counseling.

"(3) TECH-PREP ACADEMIES.—Each State educational agency may establish an academy for (A) assisting educators in secondary schools and community colleges to more effectively understand organizational structures and organizational change strategies; (B) assisting educators to learn effective peer leadership strategies; (C) assisting secondary school teachers and community college faculty to identify the knowledge and skills required in highly technical industries and workplaces; (D) assisting secondary school teachers and community college faculty to apply creative strategies to the development of interdisciplinary curricula; and (E) assisting educators in integrating academic and vocational education.

"(4) AUTHORIZED ACTIVITIES.—

"(A) Each State choosing to establish State academies for teachers may establish a separate academy in each of the 5 core academic subjects (English, mathematics, science, history, and geography) as well as vocational and technology education, or may establish one or several academies which focus on more than one subject. Each academy may have as a focus methods and curricula that stress instruction in applied settings, including the integration of vocational education with the core subject areas of focus for the academy. A State educational agency may establish an early childhood education academy or tech-prep academy either in addition to or in lieu of a core academic subject area.

"(B) Except as provided under paragraphs (2) and (3), each State Academy for Teachers assisted under this title shall conduct a program of intensive instruction, during the summer or the school year, focusing on the core academic disciplines of English, mathematics, science, history, and geography as well as vocational and technology education. Such instruction shall be provided to current elementary and secondary school teachers.

"(C) The instruction provided by each such Academy shall include—

"(i) renewal and enhancement of participants' knowledge of one or more of the five core academic disciplines described in subparagraph (A);

"(ii) teaching skills and strategies needed to impart academic subject matter to students, including students who are educationally disadvantaged, limited English proficient, or have disabilities, and other students from diverse backgrounds;

"(iii) at the Academy's discretion, the use of educational technologies in teaching the core academic disciplines;

"(iv) training needed to become a lead teacher or a master teacher in a core subject;

"(v) training needed to participate in curriculum development in a core subject;

"(vi) training in the development and use of assessment tools; and

"(vii) integration of academic and vocational instruction.

"(D) Each Academy assisted under this part shall carry out activities consistent with the purpose of this part, which may include—

"(i) review of existing teacher enhancement programs to identify the most promising approaches;

"(ii) development of a curriculum for use by the Academy;

"(iii) review existing systemic improvement strategies and theories to identify the most promising approaches that will achieve a quality education for all students;

"(iv) recruitment of teachers within the State to participate in the Academy's program, including, recruitment of—

"(I) minority group members;

"(II) individuals with disabilities;

"(III) individuals from areas with high numbers or concentrations of educationally disadvantaged students; and

"(IV) other teachers who have a potential for leadership;

"(v) follow-up activities for previous participants;

"(vi) dissemination of information about the Academy, including the training curricula developed; and

"(vii) evaluation of the impact of the Academy on the teaching practices of participants, and other evaluation activities designed to strengthen the Academy's program.

"(4) ADDITIONAL ACTIVITIES.—

"(A) Each Academy may use a portion of the funds provided for a program of cash awards and recognition to outstanding teachers in the core academic subject or subjects covered by the program of the Academy.

"(B) Each Academy choosing to offer the awards under subparagraph (A) shall select teachers to receive awards from nominations received from local educational agencies, public and private schools, teachers, associations of teachers, parents, associations of parents and teachers, businesses, business groups, and student groups.

"(C) Any full-time public or private elementary or secondary school teacher of a core academic subject or vocational and technology education subject, including an elementary school teacher of the general curriculum, shall be eligible to receive an award under this subsection.

"(D) The Academy shall select award recipients in accordance with criteria developed by the Academy and approved by the State educational agency. The selection criteria may take into account, but are not limited to, teacher's success in—

"(i) educating educationally disadvantaged children, such as children with disabilities, children of limited English proficiency, homeless children, or children who are currently or formerly migratory, in a core academic subject or vocational and technology education subject;

"(ii) educating gifted and talented students in a core academic subject;

"(iii) encouraging students to enroll, and succeed, in advanced classes in a core academic subject or vocational and technology education subject;

"(iv) teaching a core academic subject or vocational and technology education subject successfully in schools educating large numbers of educationally disadvantaged students, including schools in low-income inner-city or rural areas;

"(v) introducing a new curriculum in a core academic subject or vocational and technology education subject into a school or strengthening an established curriculum;

"(vi) acting as a 'master teacher' in a core academic subject or vocational and technology education subject; or

"(vii) training in violence counseling and conflict resolution.

"(E) The amount of a teacher's award under this subsection shall not exceed $5,000 and shall be available for any purpose the recipient chooses.

"(5) RECIPIENT USE OF FUNDS.—Each recipient may use a portion of the funds provided to meet the reasonable start-up and initial operating costs of carrying out the activities described in section 305 (a) through (c), which may include stipends and travel and living expenses for teachers who participate in the Academy's program if no other funds are available to pay those costs.

"(6) COST-SHARING.—Funds received under this subsection may be used to pay up to 75 percent of the cost of a State Academy for Teachers in the first year, 65 percent of such cost in the second year, 55 percent in the third year, 45 percent in the fourth year, and 35 percent in the fifth year. The remaining share shall be provided from non-Federal sources, and may include in-kind contributions, fairly valued.

"(f) STATE ACADEMIES FOR SCHOOL LEADERS.—

"(1) COMPETITIVE AWARDS FOR ACADEMIES.—Each State choosing to establish a State Academy for School Leaders shall make competitive awards to local educational agencies, institutions of higher education, other public and private nonprofit agencies and organizations, or consortia of such agencies, institutions, and organizations, to establish and operate a State Academy for School Leaders. A priority for awards shall be given to entities who received funds under subpart 2 of part C of title V of the Higher Education Act as in effect on September 30, 1991. Such Academies may be operated in cooperation or consortium with those of other States.

"(2) AUTHORIZED ACTIVITIES.—Each Academy assisted under this subsection shall—

"(A) identify models and methods of leadership training and development that are promising or have proven to be successful;

"(B) develop curricula, which focus on instructional leadership, school-based management, and the design and execution of systemic school improvement strategies and accountability mechanisms leading to achievement of local, State, and national goals and standards, for the development of school leaders;

"(C) identify candidates, including members of minority groups, individuals with disabilities, and individuals from schools with high numbers of concentrations of educationally disadvantaged students, to be trained as new school leaders;

"(D) provide intensive training and development programs both for persons desiring and demonstrating outstanding promise to become school leaders, and for current school leaders seeking enhanced and up-to-date knowledge needed to perform their jobs effectively, with a special emphasis on violence training and conflict resolution;

"(E) identify local educational agencies and schools with principal and other school leader vacancies and work with them to match Academy participants with such vacancies;

"(F) as appropriate, facilitate internships for graduates of the program for new school leaders, under the guidance and supervision of experienced administrators;

"(G) provide periodic follow-up development activities for school leaders trained through the Academy's programs;

"(H) disseminate information about the Academy, including the training curricula developed;

"(I) evaluation of the impact of the Academy on the leadership practices of participants, and other evaluation activities designed to strengthen the Academy's program; and

"(J) as appropriate, coordinate activities with those of any State academies for teachers established in the State.

"(3) USE OF FUNDS.—Each recipient of funds under this subsection shall use those funds to meet the reasonable start-up and initial operating costs of carrying out the activities described in paragraph (2), which may include stipends, travel, and living expenses for participants in the Academy if no other funds are available to pay those costs.

"(4) COST-SHARING.—Funds received under this subsection may be used to pay up to 75 percent of the cost of a State Academy for School Leaders in the first year, 65 percent of such cost in the second year, 55 percent in the third year, 45 percent in the fourth year, and 35 percent in the fifth year. The remaining share shall be provided from non-Federal sources, and may include in kind contributions, fairly valued.

"SEC. 515. INSTITUTIONS OF HIGHER EDUCATION USES OF FUNDS.

"(a) APPLICATIONS.—Institutions of higher education desiring to receive a grant under section 511(b)(3)(D) shall submit to the State educational agency an application which—

"(1) describes the types of activities that the school, college, or department of education plans to undertake with funds provided;

"(2) describes the process used by the institution to determine the State's needs for improving teacher education and training for preschool and early childhood education specialists, including consulting with current students, teachers, representatives from local educational agencies, parents, and representatives from preschool and early childhood specialists;

"(3) if such institution is applying for a grant to assist local educational agencies in providing inservice training for teachers, describes the training and services that such institution plans to provide for teachers within the local educational agency and demonstrates that such training and services are consistent with the needs of the local educational agencies to be served;

"(4) describes how the institution plans to integrate academic and vocational teacher education programs; and

"(5) other information that may be required by the State educational agency.

"(b) AWARDS.—The State educational agency shall award grants on a competitive basis to institutions of higher education that have departments, schools, or colleges of education. In awarding grants, the State educational agency shall award funds for the following purposes:

"(1) for institutions of higher education in consultation and cooperation with a local educational agency or a consortium of local educational agencies, to develop and provide technical assistance to local education agencies in providing inservice training for teachers;

"(2) for improving teacher education programs in order to further innovation in teacher education programs within an institution of higher education and to better meet the needs of the local educational agencies for well-prepared teachers;

"(3) for improving training for preschool and early childhood education specialists, including preschool and early intervention services for infants and toddlers with disabilities, in order to further innovation in such programs with institutions of higher education and to better meet the needs of preschool and early childhood education programs for well-prepared personnel;

"(4) to integrate the instruction of academic and vocational teacher education programs;

"(5) activities to encourage individuals, especially individuals from minority groups, to pursue a career in education; and

"(6) when the study of teacher education programs is completed under section 514, to implement the new requirements for teacher education programs.

"SEC. 516. FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT REGULAR NON-FEDERAL FUNDS.

"A State educational agency, local educational agency, or institution of higher education may use funds received under this part only so as to supplement and, to the extent practicable, increase the level of funds that would be available form non-Federal sources for the uses of funds under this part and in no case may such funds be so used as to supplant such funds from such non-Federal sources.

"SEC. 517. COORDINATION WITH OTHER PROGRAMS.

"If a State educational agency receives funding under the Neighborhood Schools Improvement Act, then the State educational agency shall ensure that activities conducted under this part shall be consistent with the goals and objectives of the State plan under section 8006 of such Act.

"PART B—TEACHER SCHOLARSHIPS AND FELLOWSHIPS

"Subpart 1—Paul Douglas Teacher Corps Scholarships

"SEC. 521. PURPOSE.

"It is the purpose of this subpart to make available, through grants to the States, scholarships to individuals who are outstanding high school graduates and who demonstrate an interest in teaching, in order to enable and encourage those individuals to purpose teaching careers in education at the preschool, elementary, or secondary level, and to encourage women and minorities who are underrepresented in the fields of science and mathematics to pursue teaching careers in these fields. Such scholarships shall be referred to as Paul Douglas Teacher Corps Scholarships.

"SEC. 522. ALLOCATION AMONG STATES.

"From the sums appropriated for this subpart for any fiscal year, the Secretary shall allocate to any State an amount based on the school-age population in the State compared to the school-age population in all States. In making such allotments, the Secretary shall use the most recent data available.

"SEC. 523. GRANT APPLICATIONS.

"(a) SUBMISSION OF APPLICATIONS.—The Secretary is authorized to make grants to States in accordance with the provisions of this subpart. In order to receive a grant under this subpart, a State shall submit an application at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth a program of activities for carrying out the purposes of this subpart in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purposes and such other policies, procedures, and assurances as the Secretary may require by regulation.

"(b) CONTENT OF APPLICATIONS.—The Secretary shall approve an application under this subpart only if the application—

"(1) describes the selection criteria and procedures to be used by the State in the selection of scholarship recipients;

"(2) designates the State agency which administers the program under subpart 4 of part A of title IV, relating to State student incentive grants, or the State agency with which the Secretary has an agreement under section 428(b);

"(3) describes the outreach effort the State agency intends to use to publicize the availability of Paul Douglas Teacher Corps Scholarships to high school students in the State;

"(4) describes how the State will inform recipients, upon receipt of the award, of current and projected teacher shortages and surpluses within the State;

"(5) provides assurances that each recipient eligible under section 525(b) who receives a Paul Douglas Teacher Corps Scholarship shall enter into an agreement with the State agency under which the recipient shall—

"(A) within the 10-year period after completing the postsecondary education for which the Paul Douglas Teacher Corps Scholarship was awarded, teach for a period of not less than 2 years for each year for which assistance was received, in a public or private nonprofit preschool, elementary, or secondary school in any State, or, on a full-time basis, children with disabilities or children with limited English proficiency in a private nonprofit school, except that, in the case of (i) individuals who teach in a shortage area established by the Secretary pursuant to section 530, or (ii) individuals from minority groups who teach in public or private nonprofit elementary or secondary schools in any State where there are significant numbers of minority students enrolled, the requirements of this subparagraph shall be reduced by one-half;

"(B) provide the State agency evidence of compliance with section 527 as required by the State agency; and

"(C) repay all or part of a Paul Douglas Teacher Corps Scholarship received under section 524 plus interest and, if applicable, reasonable collection fees, in compliance with regulations issued by the Secretary under section 527, in the event that the conditions of subparagraph (A) are not complied with, except as provided for in section 528;

"(6) provides that the agreement entered into with recipients shall fully disclose the terms and conditions under which assistance under this subpart is provided and under which repayment may be required including—

"(A) a description of the procedures required to be established under paragraph (7); and

"(B) a description of the appeals procedures required to be established under paragraph (8) under which a recipient may appeal a determination of noncompliance with any provision under this subpart;

"(7) provides for procedures under which a recipient of assistance received under this part who teaches for less than the period required under paragraph (5)(A) will have the repayment requirements reduced or eliminated consistent with the provisions of sections 527 and 528;

"(8) provides for appeals procedures under which a recipient may appeal any determination of noncompliance with any provision under this part; and

"(9) provides assurances that the State agency shall make particular efforts to attract students from low-income backgrounds; ethnic and racial minority students; students with disabilities; other individuals from groups historically underrepresented in teaching; individuals who express a willingness or desire to teach in rural schools, urban schools, or schools having less than average academic results or serving large numbers of economically disadvantaged students; or students who show interest in pursuing teaching careers in science and mathematics, especially women and minorities who are underrepresented in these fields.

"(c) SELECTION CRITERIA AND PROCEDURES.—The State educational agency, in cooperation with the State higher education agency, and pursuant to scholarship selection criteria included in section 525, shall establish criteria to select Paul Douglas Teacher Corps Scholarship recipients. These criteria shall be intended to attract highly qualified individuals into teaching, to ensure that these students are enrolled in approved teacher education programs, and to meet the needs of States in addressing teacher shortages, including a demonstrated interest in teaching, or skill or professional experience in fields of expertise in which the State is experiencing teacher shortages.

"(d) SPECIAL CONSIDERATION.—The State educational agency, in cooperation with the State higher education agency, shall give special consideration in the selection of teacher corps members to individuals who—

"(1) intend to teach or provide related services to students with disabilities;

"(2) intend to teach limited English proficient students;

"(3) intend to teach preschool age children;

"(4) intend to teach in schools servicing inner city or rural or geographically isolated areas (as defined by the Secretary by regulations consistent with the purposes of this section); or

"(5) intend to teach in curricular areas or geographic areas where there are demonstrated shortages of qualified teachers.

"(e) PRIORITY CONSIDERATION.—The State educational agency shall give priority consideration in the selection of individuals from disadvantaged backgrounds, including racial and ethnic minorities and individuals with disabilities, who are underrepresented in the teaching profession or in the curricular areas in which they are preparing to teach.

"(f) SOLICITATION OF VIEWS ON SELECTION CRITERIA AND PROCEDURES.—In developing the selection criteria and procedures to be used by the State, the State shall solicit the views of local educational agencies, private educational institutions, and other interested parties. Such views—

"(1) shall be solicited by means of (A) written comments; and (B) publication of proposed selection criteria and procedures in final form for implementation; and

"(2) may be solicited by means of (A) public hearings on the teaching needs of elementary and secondary schools in the State (including the number of new teachers needed, the expected supply of new teachers, and the shortages in the State of teachers with specific preparation); or (B) such other methods as the State may determine to be appropriate to gather information on such needs.

"SEC. 524. AMOUNT AND DURATION OF AND RELATION TO OTHER ASSISTANCE.

"(a) LIMITATIONS ON AMOUNT AND DURATION.—Subject to subsection (c) each Paul Douglas Teacher Corps Scholar shall receive a $5,000 scholarship for each academic year of postsecondary education for study in preparation to become a preschool, special education, elementary, or secondary teacher. No individual shall receive scholarship assistance for more than 4 years of postsecondary education, as determined by the State agency.

"(b) CONSIDERATION OF AWARD IN OTHER PROGRAMS.—Notwithstanding the provisions of title IV of this Act, scholarship funds awarded pursuant to this part shall be considered in determining eligibility for student assistance under title IV of this Act.

"(c) ASSISTANCE NOT TO EXCEED NEED.—Paul Douglas Teacher Corps Scholarship assistance awarded by the statewide panel established pursuant to section 525(a) to any individual in any given year, when added to assistance received under title IV of this Act, shall not exceed the cost of attendance, as defined in section 472 of this Act, at the institution the individual is attending. If the amount of the Paul Douglas Teacher Corps Scholarship assistance and assistance received under title IV of this Act, exceeds the cost of attendance, the Paul Douglas Teacher Corps Scholarship shall be reduced by an amount equal to the amount by which the combined awards exceed the cost of attendance.

"(d) ASSISTANCE NOT TO EXCEED COST OF ATTENDANCE.—No individual shall receive an award under the Paul Douglas Teacher Corps Scholarship established under this subpart, in any academic year, which exceeds the cost of attendance, as defined in section 472 of this Act, at the institution the individual is attending.

"SEC. 525. SELECTION OF PAUL DOUGLAS TEACHER CORPS SCHOLARS.

"(a) SELECTION BY STATEWIDE PANELS.—Paul Douglas Teacher Corps Scholars shall be selected by a 7-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing grant agency or panel designated by the chief State elected official and approved by the Secretary of Education. The statewide panel shall be representative of school administrators, teachers, including preschool and special education teachers, and parents.

"(b) ELIGIBILITY FOR SELECTION; SELECTION CRITERIA AND PROCEDURES.—Selections of

Paul Douglas Teacher Corps Scholars shall be made from students who have graduated or who are graduating from high school and who rank in the top 15 percent of their graduating class. The State educational agency shall make applications available to public and private nonprofit high schools in the State and in other locations convenient to applicants, parents, and others. The statewide panel shall develop criteria and procedures for the selection of Paul Douglas Teacher Corps Scholars. Such criteria may include the applicant's high school grade point average, involvement in extracurricular activities, financial need, and expression of interest in teaching as expressed in an essay written by the applicant. The panel may also require the applicant to furnish letters of recommendation from teachers and others. Special consideration shall be afforded to women and minorities who are underrepresented in the fields of science and mathematics and are seeking to enter the teaching profession in these fields.

"(c) WAIVERS.—For purposes of making priority considerations in section 523(d) States may waive certain criteria in section 525(b) for up to 25 percent of individuals receiving Paul Douglas Teacher Corps Scholarships.

"SEC. 526. SCHOLARSHIP CONDITIONS.

"Recipients of scholarship assistance under this subpart shall continue to receive such scholarship payments only during such periods that the State agency finds that the recipient is—

"(1) enrolled as a full-time student in an accredited postsecondary institution;

"(2) pursuing a course of study leading to teacher certification; and

"(3) maintaining satisfactory progress as determined by the postsecondary institution the recipient is attending.

"SEC. 527. SCHOLARSHIP REPAYMENT PROVISIONS.

"Recipients found by the State agency to be in noncompliance with the agreement entered into under section 523(b)(4) of this subpart shall be required to repay a pro rata amount of the scholarship awards received, plus interest and, where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this subpart.

"SEC. 528. EXCEPTIONS TO REPAYMENT PROVISIONS.

"(a) DEFERRAL DURING CERTAIN PERIODS.—A recipient shall not be considered in violation of the agreement entered into pursuant to section 523(b)(4) during any period in which the recipient—

"(1) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

"(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

"(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

"(4) is unable to secure employment of a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

"(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months;

"(6) is seeking and unable to find full-time employment as a teacher in a public or private nonprofit preschool, elementary or secondary school, or a public or private nonprofit preschool, education program for a single period not to exceed 27 months; or

"(7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this subpart.

"(b) FORGIVENESS IF PERMANENTLY TOTALLY DISABLED.—A recipient shall be excused from repayment of any scholarship assistance received under this subpart if the recipient becomes permanently totally disabled as established by sworn affidavit of a qualified physician.

"SEC. 529. FEDERAL ADMINISTRATION OF STATE PROGRAMS; JUDICIAL REVIEW.

"(a) DISAPPROVAL HEARING REQUIRED.—The Secretary shall not finally disapprove any application for a State program submitted under section 523, or any modification thereof, without first affording the State agency submitting the program reasonable notice and opportunity for a hearing.

"(b) SUSPENSION OF ELIGIBILITY.—Whenever the Secretary, after reasonable notice and opportunity for hearing to the State agency administering a State program approved under this subpart, finds—

"(1) that the State program has been so changed that it no longer complies with the provisions of this subpart, or

"(2) that in the administration of the program there is a failure to comply substantially with any such provisions,

the Secretary shall notify such State agency that the State will not be regarded as eligible to participate in the program under this subpart until the Secretary is satisfied that there is no longer any such failure to comply.

"(c) COURT REVIEW.—(1) If any State is dissatisfied with the Secretary's final action under subsection (b)(1) or (2), such State may appeal to the United States court of appeals for the circuit in which such State is located. The summons and notice of appeal may be served at any place in the United States. The Secretary shall forthwith certify and file in the court the transcript of the proceedings and the record on which the action was based.

"(2) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify any previous action, and shall certify to the court the transcript and record of further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(3) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"SEC. 530. DESIGNATION OF SHORTAGE AREAS.

"For the purposes of this part, the term 'shortage areas' means (1) geographic areas of the State in which there is a shortage of elementary and secondary school teachers, and (2) an area of shortage of elementary and secondary school teachers in specific grade levels and in specific academic, instructional, subject matter, and discipline classifications. Such shortage areas shall be prescribed by the Secretary, in consultation with the chief State school officer or, in the case of nonprofit private elementary or secondary schools, with appropriate officials of nonprofit private schools in each State in accordance with this section. In carrying out the provision of this section, the Secretary shall give special consideration to areas in which emergency certification of individuals in a State is being used to correct teacher shortages; and to States which have retirement laws permitting early retirement.

"Subpart 2—Christa McAuliffe Fellowship Program

"SEC. 531. DECLARATION OF PURPOSE; DESIGNATION.

"(a) PURPOSE.—It is the purpose of this subpart to establish a national fellowship program for outstanding teachers.

"(b) DESIGNATION.—Individuals awarded fellowships under this subpart shall be known as 'Christa McAuliffe Fellows'.

"SEC. 532. USE OF FUNDS FOR FELLOWSHIPS AND ADMINISTRATION.

"Funds appropriated for any fiscal year for fellowships to outstanding teachers under this subpart shall be used to award fellowships in accordance with the requirements of this subpart, except that not more than 3 percent of such funds shall be used for purposes of administering this subpart, including activities authorized under section 537.

"SEC. 533. CHRISTA MCAULIFFE FELLOWSHIPS.

"(a) AWARD DISTRIBUTION AND AMOUNTS.—(1) Except as provided under paragraph (3), sums available for the purpose of this subpart shall be used to award one national teacher fellowship to a public or private school teacher teaching in each congressional district of each State, and in the District of Columbia, and the Commonwealth of Puerto Rico; and one such fellowship in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658).

"(2) Fellowship awards may not exceed the average national salary of public school teachers in the most recent year for which satisfactory data are available, as determined by the Secretary. Christa McAuliffe teacher fellows may not receive an award for 2 consecutive years. Subject to the repayment provisions of section 536, Christa McAuliffe teacher fellows shall be required to return to a teaching position in their current school district or private school system for at least 2 years following the fellowship award. The Secretary is authorized, in extraordinary circumstances, to waive or defer all or a portion of the service requirement, or allow fellows to fulfill their service requirement by going into a teaching position in another school or school district.

"(3) If the appropriation for this subpart under section 502(b) is not sufficient to provide the number of fellowships required by paragraph (1) at the level required under paragraph (2), the Secretary shall determine and publish an alternative distribution of fellowships which will permit fellowship awards at that level and which is geographically equitable. The Secretary shall send a notice of such determination to each of the statewide panels established under section 534.

"(b) USE OF AWARDS.—Christa McAuliffe teacher fellows may use such awards for such projects for improving education as the Secretary may approve, including (1) sabbaticals for study or research directly associated with the objectives of this part, or academic improvement; (2) consultation with or assistance to other school districts or private school systems; (3) development of special innovative programs; (4) model teacher programs and staff development; (5) projects or partnerships that involve the business community and the schools; or (6) programs that incorporate the use and the sharing of technologies to help students learn.

"SEC. 534. SELECTION OF CHRISTA MCAULIFFE TEACHER FELLOWSHIPS.

"Recipients of Christa McAuliffe teacher fellowships in each State shall be selected (in accordance with section 535) by a 7-member statewide panel appointed by the chief State elected official, acting in consultation with the State educational agency, or by an existing panel designated by the chief State elected official and approved by the Secretary. The statewide panel shall be representative of school administrators, teachers, parents, and institutions of higher education.

"SEC. 535. EVALUATION OF APPLICATIONS.

"(a) SUBMISSION TO AND REVIEW BY STATEWIDE PANEL.—An applicant for Christa McAuliffe teacher fellowship assistance shall submit a proposal for a project under section 533(b), and shall indicate the extent to which the applicant wishes to continue current teaching duties. The applicant shall submit such a proposal to the local education agency for comment prior to submission to the statewide panel (appointed under section 534) for the State within which the proposed project is to be conducted. In evaluating proposals, such statewide panel shall consult with the local education agency, requesting 2 recommendations from teaching peers; a recommendation from the principal; and a recommendation of the superintendent on the quality of the proposal and its benefit to education; and any other criteria for awarding fellowships as is considered appropriate by such statewide panel. Selection of fellows shall be made in accordance with regulations prescribed by the Secretary of Education.

"(b) PUBLIC ANNOUNCEMENT.—Announcement of awards shall be made in a public ceremony.

"SEC. 536. FELLOWSHIP REPAYMENT PROVISIONS.

"Repayment of the award shall be made to the Federal Government in the case of fraud or gross noncompliance.

"SEC. 537. INFORMATION DISSEMINATION.

"The Secretary shall establish a clearinghouse or otherwise provide for the collection and dissemination of information on exemplary projects for improving education that receive funds under section 533(b) of this part. The Secretary may utilize the National Diffusion Network in carrying out the requirements of this section.

"PART C—NATIONAL PROGRAMS

"Subpart 1—National Mini Corps Program

"SEC. 541. NATIONAL MINI CORPS.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to institutions of higher education to establish partnerships with local educational agencies to carry out the purposes of the National Mini Corps Program.

"(b) DEFINITIONS.—As used in this subpart—

"(1) the term 'individual' (A) has the same meaning as the terms 'first generation college student' and 'low income individual' as defined under section 417A(d) of this Act, or (B) means a student enrolled in an institution of higher education who is the child of current or former migratory workers (including migratory agricultural dairy workers) or of migratory fishermen;

"(2) the term 'children' means children who are eligible to receive services under part A or subpart 1 of part D of title I of the Elementary and Secondary Education Act of 1965.

"(c) PURPOSE OF THE PROGRAM.—It is the purpose of the National Mini Corps Program to—

"(1) provide individuals who are enrolled or plan to enroll in an institution of higher education with advisement, training, and instructional services, and to be role models for children;

"(2) provide outreach and recruitment services to encourage children to enroll in teacher education programs;

"(3) provide support and instructional services to individuals who are enrolled in an institution of higher education to enable such individuals to provide direct instructional services, which are coordinated with the overall educational goals of the State or local educational agency, to children eligible to receive services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 during the regular or summer term, including—

"(A) lessons and provision of materials that meet the academic needs of children in the classroom;

"(B) supplemental instruction to reinforce the basic skills and concepts provided through instruction by the teacher; and

"(C) instruction in other subject areas.

"(4) designate college coordinators at participating institutions of higher education to train, supervise, and assign individuals to carry out the activities of this subpart in cooperation with State and local educational agencies in which children with special needs have been identified; and

"(5) support other appropriate activities related to encouraging individuals to enter the teaching profession and to provide a link to the community.

"(d) APPLICATION REQUIRED.—Institutions of higher education desiring to receive a grant under this subpart shall submit an application to the Secretary which shall include—

"(1) a written partnership agreement with the State and local educational agency in which the children have been identified for participation in the activities under this subpart;

"(2) a description of the strategies that will be employed to engage the community generally in the activities and programs supported by the programs under this subpart;

"(3) a description of the process by which individuals will be recruited and selected to participate in the programs under this subpart;

"(4) a description of the programs and activities which will be supported by the programs under this subpart; and

"(5) such other information as the Secretary considers necessary to determine the nature of the local needs, the quality of the proposed Mini Corps Program, and the capability of the applicant to implement the proposed Mini Corps Program.

"(e) AWARDING OF GRANTS.—In awarding grants under this subpart, the Secretary shall ensure, to the extent practicable, that—

"(1) grants are equitably distributed on a geographic basis throughout the Nation and among a variety of communities; and

"(2) the amount of the grant awarded is proportionate to the number of individuals and children who, on the basis of the grant application, are expected to be involved in the programs and activities supported by the National Mini Corps.

"(f) USES OF FUNDS.—Funds provided under this part may be used for planning, implementing and operating a National Mini Corps Program; except that not more than 15 percent of any grant received under this part may be used for administrative costs.

"Subpart 2—National Teacher Board

"SEC. 546. NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS.

"(a) DEFINITIONS.—For the purpose of this subpart—

"(1) The term 'Board' means the National Board for Professional Teaching Standards.

"(2) The term 'Committee' means the Fund for Improvement and Reform of Schools and Teaching Board established in section 3231 of the Fund for the Improvement and Reform of Schools and Teaching Act.

"(3) The term 'elementary school' has the same meaning given that term in section 1471(8) of the Elementary and Secondary Education Act of 1965.

"(4) The term 'secondary school' has the same meaning given that term in section 1471(21) of the Elementary and Secondary Education Act of 1965.

"(5) The term 'Secretary' means the Secretary of Education.

"(b) PROGRAM AUTHORIZATION.—

"(1) PROGRAM AUTHORIZED.—From sums appropriated under section 502(c)(2) in any fiscal year, the Secretary is authorized and directed, in accordance with this subpart, to provide financial assistance to the National Board for Professional Teaching Standards, in order to pay the Federal share of the costs of the activities described in subsection (d).

"(2) TERMS AND CONDITIONS.—(A) No financial assistance may be made available under this subpart except upon an application as required by subsection (e).

"(B) No financial assistance may be made available under this subpart unless the Secretary determines that—

"(i) the Board will comply with the provisions of this subpart;

"(ii) the Board will use the Federal funds only for research and development activities in accordance with subsection (d) and such teacher assessment and certification procedures will be free from racial, cultural, gender or regional bias;

"(iii) the Board—

"(I) will widely disseminate for review and comment announcements of specific research projects to be conducted with Federal funds, including a description of the goals and focus of the specific project involved and the specific merit review procedures and evaluation criteria to be used in the competitive award process; and

"(II) will send such announcements to the Secretary of Education, the Director of the National Science Foundation, the National Research Council, and the educational research community;

"(iv) the Secretary, pursuant to an arrangement with the Board, will publish the announcements described in clause (iii) in the Federal Register (or such other publication deemed appropriate by the Secretary) and in publications of general circulation designed to disseminate such announcements widely to the educational research community;

"(v) the Board will, after offering any interested party an opportunity to make comment upon, and take exception to, the projects contained in the announcements described in clause (iii) for a 30-day period following publication, and after reconsidering any project upon which comment is made or to which exception is taken, through the Secretary issue a request for proposals in the Federal Register (or such other publication deemed appropriate by the Secretary) containing any revised project information;

"(vi) the Board will make awards of Federal funds competitively on the basis of merit, and, in the award process, the Board will select, to the extent practicable consistent with standards of excellence—

"(I) a broad range of institutions associated with educational research and development; and

"(II) individuals who are broadly representative of the educational research and teaching communities with expertise in the specific area of research and development in question;

"(vii) the Board will adopt audit practices customarily applied to nonprofit private organizations and will comply with subsection (g)(3);

"(viii) the Board will not use Federal funds to meet the administrative and operating expenses of the Board;

"(ix) the Board will submit an annual report to Congress in accordance with the provisions of subsection (g)(1); and

"(x) the Board will, upon request, disseminate to States, local educational agencies, or other public educational entities the results of any research or research project produced with funds authorized by this part, upon the payment of the cost of reproducing the appropriate material.

"(3) AVAILABILITY OF FUNDS.—(A) Notwithstanding any other provision of law, funds appropriated to carry out this subpart shall remain available for obligation and expenditure until the end of the second fiscal year succeeding the fiscal year for which the funds were appropriated.

"(B) No funds shall be made available to the Board after September 30, 1997, except as authorized by paragraph (1) of this subsection.

"(c) CONSULTATION.—The Board shall consult at least twice annually with the Committee on the design and execution of its overall research and development strategy, including procedures to assure compliance with the requirements of this subpart. The procedures shall include—

"(1) an outline of specific research and development agenda and activities to be conducted with the Federal funds; and

"(2) provisions to ensure compliance with the open competition and merit review requirements of this subpart for proposals and projects assisted under this subpart.

"(d) AUTHORIZED ACTIVITIES.—

"(1) IN GENERAL.—Federal funds received under this subpart may only be used for research and development activities directly related to the development of teacher assessment and certification procedures for elementary and secondary school teachers.

"(2) PRIORITIES.—(A) The Board shall give priority to research and development activities in—

"(i) mathematics;

"(ii) the sciences;

"(iii) foreign languages; and

"(iv) literacy, including the ability to read, write and analyze.

"(B) The Board shall give priority to research and development activities for the certification of elementary and secondary school teachers and the need and ability of such teachers to teach special educational populations, including—

"(i) limited English proficient children;

"(ii) gifted and talented children;

"(iii) children with disabilities; and

"(iv) economically and educationally disadvantaged children.

"(e) APPLICATION.—

"(1) IN GENERAL.—The Board shall submit applications to the Secretary at such time and in such manner as the Secretary may reasonably require. Each such application shall—

"(A) describe the activities for which assistance is sought; and

"(B) provide assurances that the non-Federal share of the cost of activities of the Board is paid from non-Federal sources, together with a description of the manner in which the Board will comply with the requirements of this paragraph.

"(2) APPROVAL.—The Secretary shall approve an application unless such application fails to comply with the provisions of this subpart.

"(f) FEDERAL SHARE.—

"(1) IN GENERAL.—The Secretary shall pay to the Board the Federal share of the costs of the activities of the Board for the period for which the application is approved under subsection (e).

"(2) AMOUNT OF FEDERAL SHARE.—The Federal share shall be 50 percent of the costs of the activities described in subsection (d).

"(g) REPORTS AND AUDITING PROVISION.—

"(1) NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS REPORT.—The Board shall submit an annual report to the appropriate committees of the Congress not later than December 31, 1993, and each succeeding year thereafter for any fiscal year in which Federal funds are expended pursuant to this subpart. The Board shall disseminate the report for review and comment to the Department of Education, the National Science Foundation, the National Research Council, and the education research community. The report shall—

"(A) include a detailed financial statement and a report of the audit practices described in subsection (d)(3)(B)(vii);

"(B) include a description of the general procedures to assure compliance with the requirements of this subpart as required in subsection (d); and

"(C) provide a comprehensive and detailed description of the Board's agenda, activities, and planned activities for the preceding and succeeding fiscal years, including—

"(i) the Board's overall research and development program and activities;

"(ii) the specific research and development projects and activities conducted with Federal funds during the preceding fiscal year, including—

"(I) a description of the goals and methodology of the project;

"(II) a description and assessment of the findings (or status and preliminary findings if project is not yet completed);

"(III) a description of the competitive bidding process, the merit review procedures, and the evaluation criteria used to award project funds; and

"(IV) a description of the Board's plans for dissemination of the findings described in clause (ii);

"(iii) the specific research and development projects and activities planned to be conducted with Federal funds during the succeeding fiscal year, including the goals and methodologies to be used; and

"(iv) a listing of available publications of the Board, including publications related to policies, standards and general information, research reports, and commissioned papers of the Board.

"(2) FIRST ANNUAL REPORT.—The first annual report required by this subsection shall include a description of the Board's research and development agenda for the succeeding 5-year period. Such first report shall include to the maximum extent practicable, a description of specific research and development projects and activities, and the goals and methodologies of such projects and activities.

"(3) ADDITIONAL REPORTS.—The Department of Education, the National Science Foundation, and the National Research Council shall report to the appropriate committees of the Congress on the compliance of the Board with the requirements of this part not later than 30 days after the Board submits its annual report pursuant to paragraph (1).

"(4) AUDITING PROVISION.—The Comptroller General of the United States, and any of his authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the Board, and to any recipient of the Board, that is pertinent to the sums received and disbursed under this subpart.

"(h) EVALUATION.—

"(1) IN GENERAL.—After September 30, 1995, the Secretary shall reserve not more than 2 percent of the amount appropriated pursuant to the authority of section 502(c)(2) to provide for an independent, ongoing evaluation of the research program of teacher assessments carried out by the Board and the fairness and the accuracy of the date such evaluations produce. The evaluation shall include an analysis of the impact of teacher assessments on minority teachers. The findings of the evaluation shall be submitted to the Labor and Human Resources Committee of the Senate and the Education and Labor Committee of the House of Representatives.

"(2) SPECIAL RULE.—The Secretary shall enter into a contract for the performance of the evaluation described in subsection (a) with a nationally recognized organization (such as the National Academy of Sciences or the National Academy of Education).

"(i) CONSTRUCTION.—Nothing in this subpart shall be construed to—

"(1) establish a preferred national curriculum or preferred teaching methodology for elementary and secondary school instruction;

"(2) infringe upon the rights and responsibilities of the States to license elementary and secondary school teachers;

"(3) infringe upon the practice or accreditation of home school or private school teaching;

"(4) provide an individual certified by the Board with a right of action against a State, local educational agency, or other public educational entity for any decisions related to hiring, promotion, retention or dismissal; or

"(5) authorize the Secretary to exercise supervision or control over the research program, standards, assessment practices, administration, or staffing policies of the Board.

"Subpart 3—Partnerships for Innovative Teacher Education

"SEC. 551. FINDINGS.

"The Congress finds as follows:

"(1) All students must master challenging subject matter and learn to be critical thinkers and self-directed learners, so that they will be prepared for responsible citizenship, further learning, and productive employment in our modern economy.

"(2) Teachers must have a thorough understanding of the content they teach and knowledge and skill in how to teach it to all students.

"(3) Teachers learn to teach most effectively in clinical, school-based settings with prospective and novice teachers working under the guidance of master teachers.

"(4) Highly skilled and effective teachers and specialists at all levels of the education system are needed, especially in programs serving very young (early childhood and preschool aged) children.

"(5) Research and development for improving teaching practices and student learning can and should be done by and with teachers for use in their particular schools.

"(6) School-based research and development is an effective way to generate knowledge that is needed for improving teaching and learning.

"(7) To be effective, training provided prospective teachers by institutions of higher education must be responsive to the needs of schools and teachers.

"(8) The business community has an important role to play in encouraging school-based research and development to improve teaching and learning.

"(9) American education needs a comprehensive reform strategy based on 3 principles: creation of a supportive political structure for sustained, school-level change; school-wide interventions that engage the teachers, students, and members of the wider school community in more powerful learning; and promotion of research and development that is close to the action of teaching and learning, but that draws on the best intellectual resources that the Nation has to offer.

"(10) Sustained collaborations between universities, schools, businesses, communities, and Government will provide the means to improve teaching and learning and to support change over the long run.

"SEC. 552. PURPOSE.

"It is the purpose of this subpart to stimulate the development of capacity for educational innovation through assisting in the establishment of teaching schools for the improvement of teacher education and teaching by providing financial assistance to partnerships involving institutions of higher education, elementary, and secondary schools and, where appropriate preschools, local educational agencies, and the business community with the support and collaboration of the State educational agency, of other educational organizations, social or human service agencies, and other community organizations.

"SEC. 553. PROGRAM AUTHORITY.

"(a) Authority.—The Secretary is authorized to make grants to, and enter into contracts and cooperative agreements with, eligible entities to plan, establish, and operate teaching schools to develop and put into practice the best knowledge about teaching.

"(b) Definitions.—For the purpose of this subpart—

"(1) the term 'teaching school' means a public preschool, elementary, or secondary school whose mission, in addition to providing the best possible education to its students, is to provide a site for formal collaboration between 1 or more institutions of higher education and the school for the purpose of—

"(A) the training of prospective and beginning teachers (including preschool and early childhood education specialists, where appropriate) under the guidance of master teachers and teacher educators;

"(B) the continuing development of experienced teachers;

"(C) research and development to improve teaching and learning and the organization of schools;

"(D) public demonstration of exemplary learning programs for diverse students; and

"(E) dissemination of knowledge produced in the research and development process;

"(2) the term 'institution of higher education' shall have the same meaning as defined in section 1201(a) of this Act; and

"(3) the term 'eligible entity' means a partnership that includes the participation of at least one institution of higher education, at least one local educational agency, teachers, and the business community, and may include the State educational agency.

"(c) Awards and Renewals.—

"(1)(A) An award made under this subpart shall be for a term of 1 year.

"(B) An award made under this part may be in the form of a one-year planning grant or a one-year implementation grant. An implementation grant may be renewed without further competition annually for up to 4 additional years, upon submission of an evaluation of the project to the Secretary and assurances that the recipient—

"(i) has achieved the goals set out in its application for the original term;

"(ii) shows promise of continuing its progress;

"(iii) will meet its share of the project costs; and

"(iv) has developed a plan for continuing the teaching school after Federal funding is no longer available.

"(2) No teaching school may be supported with implementation grant funds provided under this part for a period of more than 3 years.

"SEC. 554. APPLICATIONS.

"(a) Applications.—(1) Any eligible entity desiring to receive an award under this part shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require.

"(2) Each such application shall include—

"(A) a description of the partnership's plan for systemic change in education, and a description of the activities and services for which assistance is sought;

"(B) an identification of the preschool, elementary, or secondary school, or schools, that will operate as teaching schools;

"(C) assurances that in establishing the teaching schools, the applicant has consulted with teachers, administrators, and parents who will be affected at the teaching school site;

"(D) an identification of the institution, or institutions, of higher education that will be the partner in each teaching school and a description of each institution's capacity to engage in education innovation;

"(E) a statement of the goals to be achieved during the initial period of the award including a statement of the partnership's understanding of and commitment to higher quality teaching and learning;

"(F) a plan for monitoring progress and evaluating the effectiveness of the teaching school in meeting the goals it has developed for teacher and student performance; and

"(G) estimates of the number of prospective and beginning teachers to be trained in the teaching school in each year of the project and assurances that a significant number of prospective and beginning teachers will be trained in the teaching school in each year of the project.

"(b) Priorities.—In making awards under this part, the Secretary shall give priority to applicants that—

"(1) select teaching school sites based on need, as evidenced by such measures as a high rate of teacher attrition or a high proportion of the student body at risk of educational failure;

"(2) propose projects that demonstrate the strong commitment to or previous active support for educational innovation;

"(3) propose projects that demonstrate collaboration with other educational organizations, social or human service agencies, other community organizations, and the business community in the teaching school's operation;

"(4) demonstrate potential for a significant impact on the quality of the future education work force; and

"(5) demonstrate the long-term feasibility of the partnership.

"(c) Special Rules.—An application from a partnership must describe—

"(1) how the State will assist the partnership by addressing the need to change or waive a State rule or regulation that is found by a teaching school to impede the school's progress in achieving its goals;

"(2) how the local educational agency will address the need to change or waive a local rule or regulation that is found by a teaching school to impede the school's progress in achieving its goals; and

"(3) how partners that are institutions of higher education will involve the School of Education, the School of Arts and Sciences, and the School of Technology or Engineering and any other department of the institution.

"SEC. 555. USES OF FUNDS.

"(a) Uses of Funds.—

"(1) Applicants may use funds awarded under this part for the planning, establishment, and operation of teaching schools, including—

"(A) staff development;

"(B) purchase of books, materials, and equipment, including new technology;

"(C) minor remodeling;

"(D) payment of personnel directly related to the operation of the teaching school program;

"(E) participation in the activities of a network of teaching schools;

"(F) other costs incidental to planning establishing, or operating teaching schools; and

"(G) the evaluation component required in section 533(c)(1)(B).

"(2) The Secretary may limit the amounts of funds that may be used for minor remodeling and the purchase of equipment under this part.

"(b) Authorized Activities.—Teaching schools shall use funds under this part for the following activities:

"(1) Training activities for prospective teachers in the school setting.

"(2) Internship training and other induction activities for prospective and beginning teachers.

"(3) Activities to integrate academic and vocational education.

"(4) Training and other activities to promote the continued learning of experienced teachers, especially in their subject matter knowledge and how to teach it.

"(5) Participation of experienced teachers in the internship training and assessment of prospective and beginning teachers.

"(6) Participation of higher education faculty with expertise in pedagogy in the school-based training and continuing development of teachers.

"(7) Activities designed to increase beginning and experienced teachers' understanding and use of research findings.

"(8) Participation of expert practicing teachers and administrators in the university-based education studies of prospective teachers.

"(9) Participation of faculty with expertise in the liberal arts and sciences in the training of prospective and beginning teachers and in the continuing development of experienced teachers.

"(10) Experimentation and research conducted in the school by teachers and university faculty to improve teaching and learning.

“(11) Activities designed to disseminate information about the lessons learned in the teaching school with other teachers in the district's schools.

“(12) Organizational restructuring, including the introduction of new roles and staffing patterns in the school and university.

“(13) Efforts to link the school and its neighborhood and community to ensure that children are ready to learn when they come to school.

“(14) Activities intended to address the effects of chronic community violence, such as violence counseling and conflict resolution training.

“(15) Training and leadership development of personnel in order to prepare them to assume new roles.

“(16) New technologies to enhance instruction and management.

“(17) Efforts to strengthen linkages between schools, universities and education agencies and the business community, so as to improve the transition of students into the workplace.

“(18) Other activities proposed by the applicant and approved by the Secretary.

“SEC. 556. RESERVATION OF FUNDS; COST SHARING.

“(a) Reservations.—The Secretary is authorized to reserve up to 3 percent of the amount appropriated for each fiscal year under section 502(c)(3) to—

“(1) study the planning and evaluate implementation processes and the results of the teaching schools established under this program;

“(2) disseminate findings of such studies and evaluations to researchers, practitioners, policy makers, and parents;

“(3) provide technical assistance to teaching schools; and

“(4) support the development of a network or networks of teaching schools.

“(b) Cost Sharing.—The Federal share of the cost of the activities set forth in an approved application for a one-year planning or implementation grant shall be 50 percent.

“SEC. 557. DEFINITIONS.

“For the purpose of this subpart, the term ‘teacher’ includes elementary and secondary school classroom teachers, and preschool and early childhood education specialist.

“Subpart 4—Teacher Opportunity Corps

“SEC. 561. PURPOSE.

“It is the purpose of this subpart to encourage institutions of higher education to offer educational programs and financial assistance that would enable paraprofessionals working in shortage area schools serving disadvantaged students to become certified or licensed teachers.

“SEC. 562. DEFINITIONS.

“For the purpose of this subpart—

“(1) the term ‘certified or licensed teacher’ means an individual who possesses a document certifying that the individual has met the requirements of a State for employment as a teacher in the public schools of that State (including individuals who have been certified as specialists in preschool and early childhood education);

“(2) the term ‘shortage area’ means (A) an area the Secretary has designated as an area with a shortage of elementary and secondary school teachers, or (B) a shortage in a designated subject area, under section 530 of this Act;

“(3) the term ‘chapter 1’ means chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

“(4) the term ‘paraprofessional’ means an individual with, at least, a high school diploma or recognized equivalent who is employed in a preschool or elementary or secondary school under the supervision of a certified teacher to assist in providing instruction, which may include (but is not limited to) bilingual education, special education, and migrant education.

“SEC. 563. ALLOCATION AMONG STATES.

“From the sums appropriated for this subpart pursuant to section 502(c)(4) for any fiscal year, the Secretary shall allocate to any State an amount which bears as nearly as possible the same ratio to such sums as the allocation of funds under part A of chapter 1 in that State bears to the total allocation of funds under part A of chapter 1 in all States receiving grants under this subpart, except that no State grant shall be less than $500,000 in any fiscal year.

“SEC. 564. AGREEMENTS.

“Each State receiving a grant authorized by this subpart shall enter into an agreement with the Secretary. Each such agreement shall include provisions designed to ensure that—

“(1) the State educational agency or the State agency which administers subpart 4 of part A of title IV, relating to State student incentive grants, will administer the program authorized by this subpart in the State;

“(2) the State educational agency or higher education agency will use no more than 5 percent of the grant it receives to cover administrative expenses; and

“(3) the State educational agency or higher education agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation, consistent with the responsibilities of the Secretary.

“SEC. 565. STATE GRANT APPLICATIONS.

“(a) Authority.—The Secretary is authorized to make grants to the States to support programs at institutions of higher education that serve the purposes of this subpart.

“(b) Submission of Applications.—In order to receive a grant under this subpart, a State shall submit an application at such time or times, in such manner, and containing such information as the Secretary may prescribe by regulation. Such application shall set forth a program of activities for carrying out the purposes set forth in this subpart in such detail as will enable the Secretary to determine the degree to which such program will accomplish such purposes and such other policies, procedures, and assurances as the Secretary may require by regulation.

“SEC. 566. GENERAL CRITERIA FOR STATE GRANTS.

“(a) Grant Requirements.—The following criteria shall apply to each State grant made under this subpart:

“(1) The grant shall ensure the involvement of institutions of higher education and schools or local educational agencies that are located in shortage areas.

“(2) The grant shall ensure that all regular and developmental credit-bearing courses taken in educational programs offered under this subpart are fully creditable to a baccalaureate or graduate program leading to teacher certification or licensure.

“(3) The grant shall require that any paraprofessional who receives student financial assistance under this subpart enter into an agreement under which the paraprofessional shall—

“(A) within the 10-year period after completing the postsecondary education for which the assistance was provided, act as an educational professional or a paraprofessional in a shortage area school for a period of not less than one year for each full-time academic year or equivalent for which the assistance was received;

“(B) provide to the State evidence of compliance with subparagraph (A); and

“(C) repay all or part of the student financial assistance received under this subpart, plus interest and reasonable collection costs (if applicable), in the event that the paraprofessional fails to comply with the conditions of subparagraph (A), in accordance with the regulations prescribed by the Secretary under section 527 and except in the circumstances provided in section 528.

“(4) The amount of scholarship awarded under this subpart shall be reduced by the amount that the scholarship exceeds the student's cost of attendance, as defined in section 472. A scholarship awarded under this subpart shall not be reduced on the basis of the student's receipt of other forms of Federal student financial assistance but shall be taken into account in determining the eligibility of the student for those other forms of Federal student financial assistance.

“(5) The grant shall establish a system for the evaluation of the programs conducted.

“(b) Duration of Grant.—Each grant under this subpart shall be for a term of no less than 5 years, subject to the availability of appropriations.

“(c) Uses of Funds.—Funds made available under this subpart to any State may be used for—

“(1) providing student financial assistance to paraprofessionals to pay part or all of the costs of attendance (as determined under section 472);

“(2) instructional and supportive services for such paraprofessionals during participation in such programs; and

“(3) child care expenses as provided in paragraph (7) of such section in programs of postsecondary education required for teacher certification or licensure.

“Subpart 5—National Job Bank for Teacher Recruitment

“SEC. 571. STUDY.

“The Secretary, through the Office of Educational Research and Improvement, shall conduct a study on the feasibility of—

“(1) establishing a clearinghouse to operate a national teacher job bank; or

“(2) establishing regional clearinghouses to operate regional teacher job banks.

“SEC. 572. NATIONAL TEACHER JOB BANK DEMONSTRATION.

“(a) Program Authorized.—The Secretary, through the Office of Educational Research and Improvement, shall contract with one or more State entities, nonprofit organizations, or institutions of higher education to establish a National or Regional Teacher Job Bank Clearinghouse which shall—

“(1) assist local educational agencies and private schools in locating qualified applicants for teaching-related positions; and

“(2) help individuals in locating teaching-related jobs or the training necessary to enter the teaching profession or the field of early childhood or preschool education.

“(b) Application Required.—Each entity desiring to enter into a contract with the Secretary for the establishment of a Teacher Job Bank Clearinghouse shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require. Each such application shall include—

“(1) a demonstration of the applicant's capacity to efficiently and effectively handle a large volume of inquiries from employers and potential employees;

"(2) a demonstration of support from local educational agencies and private schools and institutions of higher education that are likely to use the services provided by the Teacher Job Bank Clearinghouse; and

"(3) a demonstration of ability to provide prospective teachers with information either directly or by contract with another entity regarding the certification and licensure requirements of each State which is served by a clearinghouse and procedures for assisting out-of-State teachers to meet State certification requirements.

"(c) PRIORITY.—The Secretary shall give priority to applications submitted pursuant to paragraph (1) which—

"(1) demonstrate the ability to serve a region of the United States and involve the cooperation of several State educational agencies and institutions of higher education; or

"(2) demonstrate an ability to address shortages of teachers, such as teachers from minority groups, special education teachers, bilingual teachers, or individuals planning to teach in subject areas, geographical areas, or types of schools with shortages.

"SEC. 573. USE OF FUNDS.

"Each entity, organization, or institution receiving funds under this subpart may use such funds to—

"(1) develop, in consultation with local education agencies and other appropriate entities, standardized initial application forms for teaching jobs and related positions, and standardized forms and procedures for announcing available teaching positions;

"(2) coordinate and assist State and local teacher recruitment efforts;

"(3) publish and disseminate information about opportunities for teacher employment and teacher training;

"(4) maintain a system for matching available teachers with job openings for which they are qualified and for tracking the supply of teachers and the demand for teachers among the States;

"(5) encourage the development of programs to recruit and train minorities and individuals with disabilities to become teachers;

"(6) assist employers in checking the background of applicants;

"(7) publicize the availability of scholarships, loans, and other programs that assist individuals wishing to pursue a teaching career;

"(8) assist employers in the development of effective teacher recruitment programs;

"(9) assist in developing reciprocal agreements on teacher certification among States; and

"(10) conduct such other activities and services necessary to carrying out the purposes of this subpart in accordance with the provisions of this subpart.

"SEC. 574. DEFINITION.

"For the purposes of this subpart, the term 'teacher' includes elementary and secondary school classroom teachers, and preschool and early childhood education specialists.

"Subpart 6—Midcareer Teacher Training for Nontraditional Students

"SEC. 581. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to encourage institutions of higher education with schools or departments of education to establish and maintain programs that will provide teacher training to individuals who are moving to a career in education from another occupation. This is particularly important for women and minorities who are underrepresented in the fields of science and mathematics.

"SEC. 582. SELECTION OF PROCEDURES.

"From the funds available for this subpart, the Secretary shall make grants to institutions of higher education on the basis of the competitive selection among qualifying applications. Institutions selected as recipients shall be awarded (1) an initial planning grant for use during the first 2 fiscal years after selection, and (2) for institutions demonstrating successful performance with the planning grant, a renewal grant for use during not more than 2 additional years.

"SEC. 583. APPLICATIONS.

"(a) CONTENTS OF APPLICATIONS.—Applications for grants under this subpart shall demonstrate that—

"(1) the applicant will establish and maintain a program of midcareer teacher retraining designed to prepare individuals for teacher certification requirements who already have a baccalaureate or advanced degree and job experience in education-related fields of study, including preschool and early childhood education and special education, and to prepare teachers in the fields of science and mathematics;

"(2) the applicant has designed a program which includes at least the following elements:

"(A) a screening mechanism to ensure that individuals who are admitted to the program possess the current subject matter knowledge and the characteristics that would make them likely to succeed as classroom teachers;

"(B) a clear set of program goals and expectations which are communicated to participants; and

"(C) a curriculum that, when successfully completed, will provide participants with the skills and credentials needed to teach in specific subject areas, as well as a realistic perspective on the educational process;

"(3) the program has been developed with the cooperation and assistance of the local business community;

"(4) the program will be operated under a cooperative agreement between the institution and one or more State or local educational agencies; and

"(5) the program will be designed and operated with the active participation of qualified classroom teachers, including special education and early childhood education specialists, and specialists in science and mathematics and will include an inservice training component and follow-up assistance.

"(b) REVIEW OF APPLICATIONS.—Applications for grants under this subpart shall be reviewed by a panel of experts in teacher training designated by the Secretary. The Secretary shall, to the extent of available funds, select at least one applicant from each of the 10 regions served by the Department and ensure that programs offered reflect all significant areas of national need in which shortages exist.

"SEC. 584. AMOUNT OF GRANTS.

"The initial planning grant to an institution of higher education under this part shall not exceed $100,000 for the 2 years for which it is available. The renewal grant to an institution under this part shall not exceed $50,000 for each of the 2 years for which it is available.

"SEC. 585. REPORTS AND INFORMATION.

"Each institution of higher education that receives a grant under this subpart shall submit to the Secretary such reports and other information on the program it conducts under this subpart as the Secretary deems necessary. The Secretary shall disseminate such information to other institutions of higher education for the purpose of promoting greater use of midcareer teacher training programs without direct Federal financial assistance.

"Subpart 7—Alternative Routes to Teacher Certification and Licensure

"SEC. 586. SHORT TITLE.

"This subpart may be cited as the 'Alternative Routes to Teacher Certification and Licensure Act of 1991'.

"SEC. 587. FINDINGS.

"The Congress finds that—

"(1) effective elementary and secondary schools require competent teachers and strong leadership;

"(2) school systems would benefit greatly by increasing the pool of qualified individuals from which to recruit teachers;

"(3) many talented professionals who have demonstrated a high level of subject area competence outside the education profession may wish to pursue careers in education, but have not fulfilled the requirements to be certified or licensed as teachers;

"(4) alternative routes can enable qualified individuals to fulfill State certification or licensure requirements and would allow school systems to utilize the expertise of such professionals and improve the pool of qualified individuals available to local educational agencies as teachers; and

"(5) alternative routes to certification or licensure requirements that do not exclude qualified individuals from teaching solely because such individuals do not meet traditional certification or licensure requirements would allow school systems to take advantage of these professionals and improve the supply of well-qualified teachers.

"SEC. 588. PURPOSE.

"It is the purpose of this subpart to improve the supply of well-qualified elementary and secondary school teachers by encouraging and assisting States to develop and implement programs for alternative routes to teacher certification or licensure requirements. Such programs shall place special emphasis on the participation of individuals who are members of minority groups.

"SEC. 589. ALLOTMENTS.

"(a) IN GENERAL.—(1) From the amount appropriated to carry out this part, the Secretary shall allot to each State the lesser of either the amount the State applies for under section 590 or an amount that is proportional to the State's share of the total population of children ages five through seventeen in all the States (based on the most recent data available that is satisfactory to the Secretary).

"(2) If a State does not apply for its allotment, or the full amount of its allotment, under the preceding paragraph, the Secretary may reallocate the excess funds to one or more other States that demonstrate, to the satisfaction of the Secretary, a current need for the funds.

"(b) SPECIAL RULE.—Notwithstanding section 412(b) of the General Education Provisions Act, funds awarded under this subpart shall remain available for obligation by a recipient for a period of two calendar years from the date of the grant.

"SEC. 590. STATE APPLICATIONS.

"(a) IN GENERAL.—Any State desiring to receive a grant under this subpart shall, through the State educational agency, submit an application at such time, in such manner, and containing such information, as the Secretary may reasonably require.

"(b) REQUIREMENTS.—Each application shall—

"(1) describe the programs, projects, and activities to be undertaken; and

"(2) contain such assurances as the Secretary considers necessary, including assurances that—

"(A) assistance provided to the State educational agency under this subpart will be used to supplement, and not to supplant, any State or local funds available for the development and implementation of programs to provide alternative routes to fulfilling teacher certification or licensure requirements;

"(B) the State educational agency has, in developing and designing the application, consulted with—

"(i) representatives of local educational agencies, including superintendents and school board members, including representatives of their professional organizations where applicable;

"(ii) elementary and secondary school teachers, including representatives of their professional organizations;

"(iii) institutions of higher education with schools or departments of education;

"(iv) parents; and

"(v) other interested organizations and individuals; and

"(C) the State educational agency will submit to the Secretary, at such time as the Secretary may specify, a final report describing the activities carried out with assistance provided under this part and the results achieved.

"(c) GEPA PROVISIONS INAPPLICABLE.—Sections 435 and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to this part.

"SEC. 591. USE OF FUNDS.

"(a) IN GENERAL.—(1) A State educational agency shall use assistance provided under this subpart to support programs, projects, or activities that develop and implement new, or expand and improve existing, programs that enable individuals to move to a career in education from another occupation through an alternative route to teacher certification or licensure.

"(2) A State educational agency may carry out such programs, projects, or activities directly, through contracts, or through grants to local educational agencies, intermediate educational agencies, institutions of higher education, or consortia of such agencies.

"(b) USES OF FUNDS.—Funds received under this subpart may be used for—

"(1) the design, development, implementation, and evaluation of programs that enable qualified professionals who have demonstrated a high level of subject area competence outside the education profession and are interested in entering the education profession to fulfill State certification or licensure requirements;

"(2) the establishment of administrative structures necessary for the development and implementation of programs to provide alternative routes to fulfilling State requirements for certification or licensure;

"(3) training of staff, including the development of appropriate support programs, such as mentor programs, for teachers entering the school system through alternative routes to teacher certification or licensure;

"(4) the development of recruitment strategies;

"(5) the development of reciprocity agreements between or among States for the certification or licensure of teachers; and

"(6) other appropriate programs, projects, and activities designed to meet the objectives of this part.

"SEC. 592. COORDINATION REQUIREMENT.

"As appropriate, State educational agencies receiving assistance under this subpart shall coordinate activities with those undertaken pursuant to subpart 6 of this title.

"SEC. 593. DEFINITION.

"For purposes of this subpart, the term 'State' means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658).

"Subpart 8—Training for Teachers of Drug-Exposed Children

"SEC. 594. PROGRAM AUTHORIZED.

"(a) GENERAL AUTHORITY.—From the funds appropriated to carry out this subpart, the Secretary may make grants to schools of education at institutions of higher education to support the development and instruction in the use of curricula and instructional materials that provide teachers and other education personnel with effective strategies for educating drug-exposed children. In selecting schools for receipt of grants under this subpart, the Secretary shall give priority to schools located in or near communities with a significant drug problem as indicated by a large number or rate of—

"(1) arrests for, or while under the influence of drugs;

"(2) infants born prenatally exposed to drugs;

"(3) drug-exposed children of preschool or school age; or

"(4) other appropriate data, as determined by the Secretary.

"(b) CONDITIONS FOR GRANT ASSISTANCE.—Any recipient of a grant under this section shall agree, as a condition to receipt of such grant, to disseminate the curricula and materials developed with funds provided under this subpart by either or both of the following methods:

"(1) Instruction of teachers and other education personnel from schools within the State in which the grant recipient is located.

"(2) Designation of personnel of the grant recipient to serve as consultants to such schools for the dissemination of such curricula and materials.

"(c) CLEARINGHOUSE.—(1) The Secretary shall establish a clearinghouse to compile and make available the curricula and instructional materials developed with funds provided under this subpart. The clearinghouse shall make available—

"(A) implementable curriculum plans for educational personnel in classroom and other school settings;

"(B) curriculum plans for schools of education in institutions of higher education that describe drug-exposed children's characteristics and strategies for educating drug-exposed children; and

"(C) other information concerning the characteristics of drug-exposed children and effective strategies for educating such children.

"(2) The Secretary shall consult with the Secretary of Health and Human Services concerning the curricula, materials, and information to be made available through the clearinghouse. The Secretary shall effectively notify State and local educational agencies concerning the availability of such curricula, materials, and information from the clearinghouse.

"Subpart 9—Teacher Recruitment and Placement

"SEC. 594A. PROGRAM AUTHORIZED.

"(a) GRANTS AUTHORIZED.—The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to institutions of higher education with schools or departments of education to pay the Federal share of developing and carrying out programs designed to—

"(1) recruit, prepare, and train students to become elementary and secondary school teachers; and

"(2) place the students as teachers in urban and rural public or private nonprofit elementary or secondary schools where at least 50 percent of students enrolled are from minority groups.

"(b) SPECIAL CONSIDERATION.—The Secretary is authorized, in making grants under this subpart, to give special consideration to historically Black colleges and universities.

"SEC. 594B. USE OF FUNDS.

"Grants under this subpart may be used for the costs of developing and carrying out the program of teacher recruitment, preparation, training, and placement described in section 594A.

"SEC. 594C. APPLICATION.

"No grant may be made under this subpart unless an application is made by the institution of higher education at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"SEC. 594D. FEDERAL SHARE.

"(a) IN GENERAL.—Except as provided in subsection (b), the Federal share for each fiscal year shall be 75 percent.

"(b) PERFORMANCE INCENTIVE.—In any fiscal year beginning after September 30, 1993, the Secretary may, based upon evaluation and monitoring of programs assisted under this subpart, increase the Federal share for a recipient of funds under this subpart for the succeeding fiscal year to 85 percent, if the Secretary determines that there is demonstrated success in the operation of the program assisted by such recipient.

"Subpart 10—Partnerships for Encouraging Minority Students to Become Teachers

"SEC. 595A. PROGRAM AUTHORIZED.

"(a) IN GENERAL.—The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to partnerships comprised of institutions of higher education and local educational agencies for developing and carrying out programs designed to identify and encourage minority students in the 7th through the 12th grades to aspire to, and to prepare for, careers in elementary and secondary school teaching.

"(b) CONSORTIA GRANTS AUTHORIZED.—The Secretary is authorized in accordance with this subpart, to make grants to consortia of institutions of higher education which have a demonstrated record and special expertise in the program authorized by this subpart and have entered a partnership agreement in accordance with section 595B.

"(c) SELECTION CRITERIA.—In making grants under this subpart, the Secretary shall approve applications which contain provision for projects designed to carry out the purposes described in subsection (a) and which include—

"(1) college entry preparation;

"(2) remedial programs;

"(3) teaching mentors;

"(4) motivational activities;

"(5) tutoring;

"(6) teaching skill development;

"(7) future teacher clubs;

"(8) guidance in curriculum selection; and

"(9) instruction in test-taking skills.

"SEC. 595B. PARTNERSHIP AGREEMENT.

"(a) IN GENERAL.—To be eligible for a grant under this subpart, an institution of higher education and a local educational agency must enter into a written partnership agreement. A partnership may include other public agencies or private organizations. All partners shall sign the agreement.

"(b) CONTENTS OF AGREEMENT.—The agreement shall include—

"(1) a listing of all participants in the partnership;

"(2) a description of the responsibilities of each participant in the partnership; and

"(3) a listing of the resources, if any, to be contributed to the partnership.

"SEC. 595C. APPLICATION.

"(a) APPLICATION REQUIRED.—A partnership desiring to receive a grant under this subpart shall submit an application to the Secretary.

"(b) CONTENTS OF APPLICATION.—The application shall include—

"(1) the written and signed partnership agreement required by section 595B;

"(2) a listing of the elementary, if applicable, and secondary schools of the local educational agency to be involved in the program assisted under this subpart; and

"(3) a description of the services and activities to be offered under the program assisted under this subpart; and

"(4) such additional information and assurances as the Secretary may reasonably require.".

(b) EXPIRATION DATE.—Effective July 1, 1995, the Alternative Routes to Teacher Certification and Licensure Act of 1991 (as contained in subpart 7 of part C of title V of the Higher Education Act of 1965) is repealed.

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer an amendment, and it is printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. PANETTA:

Page 449, line 23, strike "5 core" and insert "6 core"; and on line 25, insert "foreign languages," after "history,".

Page 450, line 18, insert "foreign languages," after "history,".

Page 451, line 1, strike "five core" and insert "6 core".

Page 534, line 25, strike out the close quotation marks and following period and after such line insert the following new part (and conform the table of contents accordingly):

"PART D—FOREIGN LANGUAGE INSTRUCTION

"SUBPART 1—DEMONSTRATION GRANTS FOR CRITICAL LANGUAGE AND AREA STUDIES

"SEC. 596A. DEMONSTRATION GRANTS FOR CRITICAL LANGUAGE AND AREA STUDIES.

"(a) PROGRAM AUTHORITY.—The Secretary is authorized to make demonstration grants to eligible consortia to enable such eligible consortia to—

"(1) operate critical language and area studies programs;

"(2) develop and acquire educational equipment and materials; and

"(3) develop teacher training programs, texts, curriculum, and other activities designed to improve and expand the instruction of foreign languages at elementary and secondary schools across the Nation.

"(b) GRANT LIMITATION.—The Secretary shall not award a grant which exceeds $2,000,000 to an eligible consortium under this section in any fiscal year, but shall award grants of sufficient size, scope and quality for a program of comprehensive instruction of foreign languages.

"(c) SPECIAL RULES.—

"(1) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to eligible consortia with demonstrated, proven effectiveness in the field of critical language and area studies and which have been in existence for at least 1 year prior to applying for a grant under this section.

"(2) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall take into consideration providing an equitable geographic distribution of such grants among the regions of the United States.

"(3) PROGRAM REQUIREMENT.—Each eligible consortium receiving a grant under this section shall include in the activities assisted pursuant to such grant, a study abroad or cultural exchange program.

"(d) ELIGIBLE CONSORTIUM.—

"(1) IN GENERAL.—For the purpose of this section, the term 'eligible consortium' means a cooperative effort between entities in one or more States that must include at least 4 schools, of which—

"(A) one shall be an institution of higher education;

"(B) one shall be a secondary school with experience in teaching critical languages;

"(C) one shall be a secondary school with experience in teaching critical languages and in which at least 25 percent of the students are eligible to be counted under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; and

"(D) one shall be a secondary school in which at least 25 percent of the students are eligible to be counted under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

"(2) NONPROFIT ORGANIZATIONS.—Each eligible consortium described in paragraph (1) may include a nonprofit organization to provide services not otherwise available from the entities described in paragraph (1).

"(e) ADMINISTRATION.—Each eligible consortium receiving a grant under this section may use not more than 10 percent of such grant for administrative expenses.

"(f) APPLICATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each eligible consortium desiring a grant under this section shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(2) SPECIAL RULE.—The State educational agency or State higher education agency responsible for the supervision of any one school participating in an eligible consortium may submit the application described in paragraph (1) on behalf of such eligible consortium.

"(g) DEFINITIONS.—For purpose of this section the term 'critical language' means each of the languages obtained in the list of critical foreign languages designated by the Secretary pursuant to section 212(d) of the Education for Economic Security Act (50 Federal Register 149, 31413).

"SUBPART 2—DEVELOPMENT OF FOREIGN LANGUAGE AND CULTURE INSTRUCTIONAL MATERIALS

"SEC. 596B. DEVELOPMENT OF FOREIGN LANGUAGE AND CULTURE INSTRUCTIONAL MATERIALS.

"(a) GRANTS AUTHORIZED.—The Secretary of Education is authorized to provide grants on a competitive basis to qualified State and local educational agencies, institutions of higher education, private nonprofit foreign language organizations, nonprofit education associations, or a consortium thereof, to enable such entity or entities to act as a resource center for—

"(1) coordinating the development of and disseminating foreign language and culture instructional material, including children's literature in foreign languages, videotapes and computer software, and teacher's instructional kits relating to international study; and

"(2) encouraging the expanded use of technology in teaching foreign languages and culture at the elementary school level and, when the needs of elementary schools have been met, at the secondary school level, with a particular emphasis on expanding the use of technology in teaching foreign languages and culture at elementary and secondary schools that have proportionally fewer resources available for teaching foreign languages and cultures, including schools in urban and rural areas.

"(b) COORDINATION.—In developing materials and technologies under this section, the Secretary shall, where appropriate, make use of materials and technologies developed under the Star Schools Assistance Program Act.".

Page 432, after line 4, insert the following new subsection:

"(d) PART D.—

"(1) CRITICAL LANGUAGE AND AREA STUDIES.—There are authorized to be appropriated $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out the provisions of subpart 1.

"(2) FOREIGN LANGUAGE AND CULTURE INSTRUCTIONAL MATERIALS.—There are authorized to be appropriated $4,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 6 succeeding fiscal years to carry out the provisions of subpart 2.

Mr. PANETTA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PANETTA. Mr. Chairman, this amendment, quickly, deals with trying to improve foreign language instruction and provides demonstration grants for critical language areas as well as the development of foreign language and cultural instructional materials.

America cannot be an ostrich with its head in the sand—Woodrow Wilson, 1916.

This great Nation was built on the strength and diversity of its population whose roots are distinct blends of a number of different countries. I, along with almost every other person in the United States, can trace their history back to some foreign country.

America opened its arms to the flood of immigrants who looked to the United States as a beacon of freedom and hope. We embraced their optimism and willingness to prove themselves, and marveled at their ability to adapt to a blossoming new world of unfamiliar sounds and customs.

What is most astonishing is the fact that these people, like my own parents who came to this country from Italy, were able to succeed by acquiring language skills and understanding this new culture. They realized that, not only in order to survive, but to succeed, mastering the culture resulted in expanded development and opportunity for themselves, their family, and their community.

In a world of disappearing geographic barriers, it makes the most practical sense to understand those peoples that we interact with, and those that we will hopefully have the opportunity to do so with in the near future, especially in light of recent events which have changed the world stage as we know it.

The possibilities of trade with the former Soviet republics could open many new doors. We are currently negotiating a free trade agreement with Mexico, and negotiating the General Agreement of Tariffs and Trade [GATT], while also contemplating the impending merging of the European Community.

The future economic welfare and national security of the United States will substantially depend on our ability to educate our citizens to communicate in other languages and know other cultures and business practices. How else can we expect to effectively maintain and improve our economic leadership?

My amendment addresses these needs. It will provide for demonstration grants for critical language and area studies consortia and grants for the development of foreign language and culture instructional materials. It would also add foreign languages to the core subject areas for teaching academies. This amendment duplicates the provisions added to title V of the Higher Education Act in the Senate reauthorization bill.

These measures will go far both in developing foreign language instruction and teacher training in order to alleviate the shortage that 35 States currently report, and for addressing the fact that fewer than 20 percent of our elementary schools offer any form of language instruction.

These provisions were adopted from legislation I introduced just last year, H.R. 1154, called the Global Education Opportunities Act, which has garnered the bipartisan support of 100 of my colleagues. This bill is based on three pieces of legislation introduced in the last Congress, H.R. 2188, Mr. PANETTA; H.R. 4144, Mr. SANGMEISTER; and H.R. 5710, Mr. FORD of Michigan.

I am pleased to say that similar provisions from my legislation in the last Congress were successfully adopted into the House Education and Labor Committee's comprehensive education bill. However, the House and Senate did not conference on their respective measures before the session came to a close. It is my hope that the House will once again approve these provisions to address these critical issues in our Nation's schools.

We must take the necessary steps to take our head out of the sand and challenge ourselves. We must face up to the realities of the future, the realities of an increasingly complex and diverse world marketplace. The Federal Government has a vested interest in ensuring that all students learn about the diverse cultural heritage of the Nation and world community so that the Nation's ability to compete is preserved.

What an exciting time it is. I urge all of my colleagues in joining me to support increased foreign language education for the future of our country.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, in spite of the fact that this is an amendment from the chairman of the Budget Committee, the majority is ready to accept his amendment and would recommend it be adopted.

Mr. EMERSON. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Missouri.

Mr. EMERSON. Mr. Chairman, I rise today in strong support of the Panetta amendment to the Higher Education Amendments Act of 1992. The provisions of this amendment will add foreign languages to the list of core subjects for the State academies for teachers, and will provide for the development of foreign language materials and foreign language instruction.

As many of my colleagues are aware, I am the persistent author of a piece of legislation which would declare English as the official language of our Federal Government. All persons, whatever their linguistic and cultural background, should be encouraged to preserve that birthright and be given the opportunity to do so.

I feel just as strongly about the importance of foreign language education as I do about English being recognized as the common language in this country. These two issues parallel along the lines of basic necessity—communication. The inability to communicate is likely the single largest contributing factor to disunity. From foreign national to foreign national, from coworker to coworker, from husband to wife, from parent to child, if we are unable to communicate, we are unable to proceed—let alone progress.

The youth of this country should be able to pursue dreams that reach beyond our North American borders. We are fast approaching a time when they will be expected to compete beyond these perimeters. We have the opportunity on the House floor today to help prepare these students for the challenges that lie ahead. The Panetta amendment provides a vehicle for students to cross these boundaries into a myriad of cultures and experiences that, through the benefit of foreign language education, will better enable them to participate in an international society.

As modern technology and political climates change the world map, we are faced with an interdependent global economy in which language competence and cultural awareness are both basic and vital tools. I ask my colleagues to support this very important amendment and provide to our students the same opportunity in language study that we must extend to those in this country who are not proficient in English—the opportunity and encouragement to conquer language barriers.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. PANETTA].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ORTON

Mr. ORTON. Mr. Chairman, I offer an amendment at page 534 which was printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. ORTON: Page 534, line 25, strike out the close quotation marks and following period and after such line insert the following new part:

"Subpart 11—Veterans Teacher Corps

"SEC. 596A. STATEMENT OF PURPOSE.

"It is the purpose of this subpart to provide assistance to local educational agencies to establish programs to inform United States military veterans of teaching opportunities and to provide assistance in the establishment of teaching opportunities for the individuals described in this section.

"SEC. 596B. VETERANS TEACHER CORPS AUTHORIZED.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized, in accordance with the provisions of this subpart, to make grants to local educational agencies to conduct Veterans Teachers Corps activities.

"(b) ACTIVITIES AUTHORIZED.—Grants under this subpart may be used, in accordance with applications approved under section 596C for—

"(1) planning and implementation of informational and outreach programs leading to the development of programs specifically designed to inform United States military veterans about teaching opportunities and the qualifications necessary for such opportunities;

"(2) planning and implementation of programs leading to the creation of teaching opportunities for such veterans;

"(3) support for programs to assist such veterans and to meet the qualifications to become teachers;

"(4) disseminating information on the Veterans Teacher Corps program and on sources of students financial assistance available under title IV of this Act and under programs administered by the Department of Veterans Affairs and other Federal agencies; and

"(5) from not more than 65 percent of the funds received under this subpart, make scholarships available to such military veterans under the same terms and conditions specified in subpart 1 of part B of this subtitle.

"SEC. 596C. APPLICATIONS.

"Each local educational agency desiring a grant under this subpart shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require. Each such application shall—

"(1) describe the local educational agency's plan for disseminating information regarding teaching opportunities and necessary qualifications;

"(2) provide an estimate of the number of United States military veterans in the jurisdiction of the agency;

"(3) describe any commitments of support for the program from United States military veterans groups;

"(4) describe in detail the activities to be supported with the grant, including, the specific identification of the personnel to administer the program, the procedures to be used, in awarding scholarships under this subpart, the methodologies to be used for information dissemination, and a timetable for implementation of the program; and

"(5) contain such other assurances and other information as the Secretary may reasonably require.

"SEC. 596D. LIMITATIONS ON AMOUNT AND DURATION OF ASSISTANCE.

"Each grant awarded pursuant to this subpart to establish and operate a Veterans Teachers Corps program shall be for a period of 5 years and shall be for not less than $250,000 for each fiscal year.

"SEC. 596E. PRIORITY IN AWARDS.

"In awarding grants under this subpart, the Secretary shall give priority to applications evidencing commitments of support for the program from veterans and teacher organizations in the jurisdiction of the applicant.

"SEC. 596F. REPORTS AND INFORMATION.

"Each recipient of funds under this subpart shall provide the Secretary with a report and detailed description of the activities supported with funds received. Such report shall include an evaluation of the success of the program and such recommendations as the grantee deems appropriate.

—Page 432, after line 4, insert the following new paragraph:

"(11) For subpart 11 of part C there are authorized to be appropriated $100,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

Mr. ORTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Utah?

There was no objection.

Mr. ORTON. Mr. Chairman, I rise today to offer the Veterans Teacher Corps amendment to title V of the Higher Education Reauthorization Act.

The amendment would provide competitive grants to local educational agencies to establish programs to inform U.S. military veterans of teaching opportunities, and to provide assistance in the establishment of teaching opportunities for these individuals.

This amendment is designed to fully utilize the vast resources of knowledge and skill of the large number of men and women of this Nation who are currently leaving the military. Over the last year, the world has experienced an unprecedented measure of change. The rise of democracy and peace in Eastern Europe is a wonderful development for all nations, as are the efforts of the newly independent Soviet States to reduce arms. These developments have allowed the United States to begin downsizing the military. The result of this downsizing is the sharpest contraction of military forces since World War II. Any way you measure it, the U.S. defense establishment is shrinking.

In 1992 dollars, the defense budget has decreased by 15 percent in the last 3 years alone. In the 10-year period between 1986 and 1996, defense spending is expected to drop by 27 percent. This budget savings is critical, particularly during the current economic downturn. With a record deficit predicted for the current fiscal year, any sort of budget savings is welcome. At the same time, however, we as Government leaders must stop to consider the effect of military downsizing on human lives. Between 1990 and 1995, 516,000 troops will leave the active-duty military. We have an obligation to give these men and women alternatives to the fairly sudden loss of their careers. The Veterans Teacher Corps is designed to do just that.

The changes in today's world, and particularly in this Nation, have come at a time when the men and women leaving the military can be of immense use to the education system. Comparative studies with other nations have shown that American children are below average in many areas of education, particularly in the maths and sciences. I can think of few sources that would provide the necessary experience in these areas as adequately as would those motivated and experienced people of our military. Moreover, I cannot think of a more critical issue facing the future of this country than the quality of our education system. We are encountering a rare opportunity to provide a valuable service both to our children and to the men and women who so bravely serve this country militarily.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. ORTON. I understand the committee chairman will accept this amendment, and I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, we have examined the gentleman's amendment and the majority is prepared to accept it and recommend that it be adopted.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Utah [Mr. ORTON].

The amendment was agreed to.

Mr. FORD of Michigan. Mr. Chairman, I ask unanimous consent that the remainder of the amendment in the nature of a substitute be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The text of the remainder of the amendment in the nature of a substitute, as modified, is as follows:

TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

SEC. 601. REVISION OF TITLE VI.

Title VI of the Act is amended to read as follows:

"TITLE VI—INTERNATIONAL EDUCATION PROGRAMS

"PART A—INTERNATIONAL AND FOREIGN LANGUAGE STUDIES

"SEC. 601. FINDINGS AND PURPOSES.

"(a) FINDINGS.—The Congress finds that—

"(1) the well-being of the United States, its economy and long-range security, is dependent on the education and training of Americans in international and foreign language studies and on a strong research base in these areas;

"(2) knowledge of other countries and the ability to communicate in other languages is essential to the promotion of mutual understanding and cooperation among nations; and

"(3) present and future generations of Americans must be afforded the opportunity to develop to the fullest extent possible their intellectual capacities in all areas of knowledge.

"(b) PURPOSES.—It is the purpose of this part to assist in the development of knowledge, international study, resources and trained personnel, to stimulate the attainment of foreign language acquisition and fluency, to develop a pool of international experts to meet national needs, and to coordinate the programs of the Federal Government in the areas of foreign language, area and other international studies, including professional international affairs education and research.

"SEC. 602. GRADUATE AND UNDERGRADUATE LANGUAGE AND AREA CENTERS.

"(a) NATIONAL LANGUAGE AND AREA CENTERS AUTHORIZED.—(1) The Secretary is authorized—

"(A) to make grants to institutions of higher education, or combinations thereof, for the purpose of establishing, strengthening, and operating comprehensive language and area centers and programs; and

"(B) to make grants to such institutions or combinations for the purpose of establishing, strengthening, and operating a diverse network of undergraduate language and area centers and programs,

which will be national resources for teaching of any modern foreign language, for instruction in fields needed to provide full understanding of areas, regions, or countries in which such language is commonly used, for research and training in international studies, and the international and foreign language aspects of professional and other fields of study, and for instruction and research on issues in world affairs which concern one or more countries.

"(2) AUTHORIZED ACTIVITIES.—Any such grant may be used to pay all or part of the cost of establishing or operating a center or program, including—

"(A) the cost of faculty, staff, and student travel in foreign areas, regions, or countries,

"(B) the cost of teaching and research materials,

"(C) the cost of curriculum planning and development,

"(D) the cost of bringing visiting scholars and faculty to the center to teach or to conduct research,

"(E) the cost of establishing and maintaining linkages with overseas institutions of higher education and other organizations that may contribute to the educational objectives of this section for the purpose of contributing to the teaching and research of the center or program,

"(F) the cost of training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary, for carrying out the objectives of this section, and

"(G) subject to such conditions as the Secretary finds necessary, for carrying out the objectives of this section.

"(3) GRANTS TO MAINTAIN LIBRARY COLLECTIONS.—The Secretary may make grants to centers described in paragraph (1)(A) having important library collections for the maintenance of such collections.

"(4) OUTREACH GRANTS AND SUMMER INSTITUTES.—The Secretary may make additional grants to centers designated in paragraph (1)(A) for any one or combination of the following purposes:

"(A) Programs of linkage or outreach between foreign language, area studies, and other international fields and professional schools and colleges.

"(B) Programs of linkage or outreach with 2- and 4-year colleges and universities.

"(C) Programs of linkage or outreach with departments or agencies of State and Federal Governments.

"(D) Programs of linkage or outreach with the news media, business, professional, or trade associations.

"(E) Summer institutes in foreign area and other international fields designed to carry out the programs of linkage and outreach in subparagraphs (A), (B), (C), and (D) of this paragraph.

"(b) STIPENDS FOR FOREIGN LANGUAGE AND AREA STUDIES.—

"(1)(A) GRADUATE STIPENDS.—The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to individuals undergoing advanced training in any center or program approved by the Secretary under this part.

"(B) Stipend recipients shall be individuals who are engaged in an instructional program with stated performance goals for functional foreign language use or in a program developing such performance goals, in combination with area studies, international studies, or the international aspects of a professional studies program.

"(C) Stipends awarded to graduate level recipients may include allowances for dependents and for travel for research and study in the United States and abroad.

"(2) DOCTORAL STIPENDS.—(A) The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for the purpose of paying stipends to students beginning with their third year of graduate training in any center or program approved by the Secretary under this part.

"(B) Stipends recipients shall be individuals engaged in completing advanced degree requirements in foreign language, foreign area studies, or other international fields.

"(C) Stipends shall be for the purpose of completing degree requirements, such as the predissertation level studies, preparation for dissertation research including the study of less commonly taught languages, dissertation research abroad, and dissertation writing.

"(D) Stipends may be held up to a maximum of 4 years contingent upon satisfactory progress towards completion of the degree program.

"(3) FUNDING LIMITATIONS.—The Secretary is not authorized to make awards under paragraph (2) for any fiscal year unless the amount made available under paragraph (1) for such fiscal year equals or exceeds the current services equivalent of the level of funding during fiscal year 1991 under paragraph (1).

"(c) SPECIAL RULE WITH RESPECT TO TRAVEL.—No funds may be expended under this part for undergraduate travel except in accordance with rules prescribed by the Secretary setting forth policies and procedures to assure that Federal funds made available for such travel are expended as part of a formal program of supervised study.

"SEC. 603. LANGUAGE RESOURCE CENTERS.

"(a) LANGUAGE RESOURCES CENTERS AUTHORIZED.—The Secretary is authorized to make grants to and enter into contracts with institutions of higher education, or combinations of such institutions, for the purpose of establishing, strengthening, and operating a limited number of national language resource and training centers, which shall serve as resources to improve the capacity to teach and learn foreign languages effectively. Activities carried out by such centers may include—

"(1) the conduct of research on new and improved teaching methods, including the use of advanced educational technology;

"(2) the development of new teaching materials reflecting the use of such research in effective teaching strategies;

"(3) the development and application of performance testing appropriate to an educational setting for use as a standard and comparable measurement of skill levels in all languages;

"(4) the training of teachers in the administration and interpretation of performance tests, the use of effective teaching strategies, and the use of new technologies;

"(5) the publication of instructional materials in the less commonly taught languages; and

"(6) the widespread dissemination of research results, teaching materials, and improved pedagogical strategies to others within the postsecondary education community.

"(b) CONDITIONS FOR GRANTS.—Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the provisions of this section.

"SEC. 604. UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.

"(a) INCENTIVES FOR THE CREATION OF UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.—(1) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, to assist them in planning, developing, and carrying out a program to improve undergraduate instruction in international studies and foreign languages. These grants shall be awarded to institutions seeking to create new programs or curricula in area studies, foreign languages, and other international fields. Grants made under this section may be used to pay up to 50 percent of the cost of projects and activities which are an integral part of such a program, such as—

"(A) planning for the development and expansion of undergraduate programs in international studies;

"(B) teaching, research, curriculum development, and other related activities;

"(C) training of faculty members in foreign countries;

"(D) expansion of foreign language courses;

"(E) programs under which foreign teachers and scholars may visit institutions as visiting faculty;

"(F) international education programs designed to develop or enhance linkages between two and four year institutions of higher education, or baccalaureate and post-baccalaureate programs or institutions;

"(G) the development of an international dimension in preservice and inservice teacher training;

"(H) the development of undergraduate study abroad programs in locations abroad in which such study opportunities are not otherwise available or which serve students for whom such opportunities are not otherwise available and which provide courses that are closely related to on-campus foreign language and international studies curricula; and

"(I) the integration of new study abroad opportunities for undergraduate students into curricula of specific degree programs.

"(2) The non-Federal share of the cost of the programs funded under this subsection may be provided either in cash or in-kind. Such assistance may be composed of institutional and noninstitutional funds, including State and private contributions.

"(3) Priority shall be given to those institutions that require entering students to have successfully completed at least 2 years of secondary school foreign language instruction or that require each graduating student to earn 2 years of postsecondary credit in a foreign language (or have demonstrated equivalent competence in the foreign language) or, in the case of a two-year degree granting institution, offer 2 years of postsecondary credit in a foreign language.

"(b) GRANTS TO STRENGTHEN PROGRAM OF DEMONSTRATED EXCELLENCE IN UNDERGRADUATE INTERNATIONAL STUDIES AND FOREIGN LANGUAGE PROGRAMS.—(1) The Secretary is authorized to make grants to institutions of higher education or combinations of such institutions for strengthening programs of demonstrated excellence in area studies, foreign languages, and other international fields in order to ensure their self-sustaining maintenance and growth. These grants shall enhance the capacity-building and dissemination functions of existing programs. Grants made under this subsection may be used to pay up to 50 percent of the cost of project and activities which are an integral part of such a program, such as—

"(A) teaching, research, curriculum development, and other related activities;

"(B) strengthening undergraduate major and minors directly related to the generation of international expertise;

"(C) developing new foreign language courses, especially in those languages previously not taught at the institutions, and improving the quality of existing foreign language programs;

"(D) expanding library and teaching resources;

"(E) establishing linkages overseas with institutions of higher education and organizations that contribute to the educational objectives of this subsection;

"(F) developing programs designed to integrate professional and technical education with area studies, foreign languages, and other international fields;

"(G) disseminating curricular materials and program designs to other educational institutions;

"(H) integrating on-campus undergraduate curriculum with study abroad and exchange programs;

"(I) developing study and internship abroad programs in locations in which such study opportunities are not otherwise available or study abroad opportunities which serve students for whom such opportunities are not otherwise available;

"(J) training faculty and staff in area studies, foreign languages, and other international fields; and

"(K) conducting summer institutes in foreign area and other international fields to provide faculty and curriculum development, including the integration of professional and technical education with foreign area and other international knowledge or skills to government personnel or private sector professionals involved in international activities.

"(2) As a condition for the award of any grant under this subsection, the Secretary may establish criteria for evaluating programs and require an annual report which evaluates the progress and performance of students in such programs.

"(3) The non-Federal share of the cost of the programs funded under this subsection may be provided either in cash or in-kind. Such assistance may be composed of institutional and noninstitutional funds, including State and private contributions.

"(c) PROGRAMS OF NATIONAL SIGNIFICANCE.—The Secretary may also make grants to public and private nonprofit agencies and organizations, including professional and scholarly associations, whenever the Secretary determines such grants will make an especially significant contribution to attaining the objective of this section.

"SEC. 605. INTENSIVE SUMMER LANGUAGE INSTITUTES.

"(a) Intensive Summer Language Institutes Authorized.—(1) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, for the purpose of establishing and conducting intensive summer language institutes.

"(2) Eligible Grant Recipients.—Training authorized by this section shall be provided through—

"(A) institutes designed to meet the needs for intensive language training by advanced foreign language students;

"(B) institutes designed to provide professional development and improve language instruction through preservice and inservice training for language teachers; or

"(C) institutes that combine the purposes of subparagraphs (A) and (B).

"(3) Authorized Activities.—Grants made under this section may be used for—

"(A) intensive training in critical languages;

"(B) training in neglected languages; and

"(C) stipends for students and faculty attending the institutes authorized by this section.

"(4) Instructional Program.—Institutes supported under this section may provide instruction on a full-time or part-time basis to supplement instruction not fully available in centers supported under section 602.

"(b) Peer Review.—Grants made under this section shall be awarded on the basis of recommendations made by peer review panels composed of broadly representative professionals.

"SEC. 606. RESEARCH; STUDIES; ANNUAL REPORT.

"(a) Authorized Activities.—The Secretary may, directly or through grants or contracts, conduct research and studies which contribute to the purposes of this part. Such research and studies may include but are not limited to—

"(1) studies and surveys to determine needs for increased or improved instruction in foreign language, area studies, or other international fields, including the demand for foreign language, area, and other international specialists in government, education, and the private sector;

"(2) studies and surveys to assess the utilization of graduates of programs supported under this title by governmental, educational, and private sector organizations and other studies assessing the outcomes and effectiveness of programs so supported;

"(3) comparative studies of the effectiveness of strategies to provide international capabilities at institutions of higher education;

"(4) research on more effective methods of providing instruction and achieving competency in foreign languages;

"(5) the development and publication of specialized materials for use in foreign language, area studies, and other international fields, or for training foreign language, area, and other international specialists; and

"(6) the application of performance tests and standards across all areas of foreign language instruction and classroom use.

"(b) Annual Report.—The Secretary shall prepare, publish, and announce an annual report listing the books and research materials produced with assistance under this title.

"SEC. 607. PERIODICALS AND OTHER RESEARCH MATERIALS PUBLISHED OUTSIDE THE UNITED STATES.

"(a) Program Authorized.—In addition to the amount authorized to be appropriated by section 610, there are authorized to be appropriated $8,500,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years to provide assistance for the acquisition of, and provision of access to, periodicals and other research materials published outside the United States.

"(b) Authorized Activities.—From the amount appropriated under subsection (a) for any fiscal year, the Secretary shall make grants to institutions of higher education or public or nonprofit private library institutions or consortia of such institutions for the following purposes:

"(1) to acquire periodicals and other research materials published outside the United States which are not commonly held by American academic libraries and which are of scholarly or research importance;

"(2) to maintain in machine-readable from current bibliographic information on periodicals and other research materials thus acquired, and to enter such information into one or more of the widely available bibliographic data bases;

"(3) to preserve such periodicals and other research materials; and

"(4) to make such periodicals and other research materials widely available to researchers and scholars.

"(c) Limitations.—(1) The Secretary shall evaluate grant applications and award grants according to the following criteria:

"(A) the total number of library research materials in an institution's collection;

"(B) the comprehensiveness, both current and retrospective, of the institution's collection of periodicals and other research materials published outside the United States;

"(C) public accessibility to the institution's collection of periodicals and other research materials published outside the United States;

"(D) the institution's technological capability to share its collection of periodicals and other research materials published outside the United States with other institutions of higher education, with public or nonprofit institutions, and with individual scholars; and

"(E) the institution's budget and staff capability to build, maintain, and service periodicals and other research materials published outside the United States.

"(2) The Secretary shall award no more than 8 grants from the amounts appropriated under subsection (a).

"(d) Written Agreement.—(1) Prior to the awarding of grants authorized under subsection (c), the recipient institution must file a formal written agreement with the Secretary which outlines their collecting responsibilities regarding periodicals and other research materials published outside the United States and ensures public access.

"(2) No funds from grants authorized under subsection (c) may be used by a recipient institution to acquire and process periodicals and other research materials published outside the United States other than that specified in the agreement filed with the Secretary under paragraph (1).

"(e) Copyright.—Nothing in this section shall be considered to amend, affect, or define the provisions of title 17, United States Code, relating to copyright.

"SEC. 608. SELECTION OF GRANT RECIPIENTS.

"(a) Competitive Grants.—The Secretary shall award grants under section 602 competitively on the basis of criteria that separately, but not less rigorously, evaluate the applications for comprehensive and undergraduate language and area centers and programs.

"(b) Selection Criteria.—The Secretary shall set criteria for grants awarded under section 602 by which a determination of excellence shall be made to meet the differing objectives of graduate and undergraduate institutions.

"(c) Equitable Distribution of Grants.—The Secretary shall, to the extent practicable, award grants under this part (other than section 602) in such manner as to achieve an equitable distribution of funds throughout the Nation, based on the merit of a proposal with peer review by broadly representative professionals.

"SEC. 609. EQUITABLE DISTRIBUTION OF FUNDS.

"(a) Selection Criteria.—The Secretary shall make excellence the criterion for selection of grants awarded under section 602.

"(b) Equitable Distribution.—To the extent practicable and consistent with the criterion of excellence, the Secretary shall award grants under this part (other than section 602) in such a manner as will achieve an equitable distribution of funds throughout the Nation.

"(c) Support for Undergraduate Education.—The Secretary shall also award grants under this part in such manner as to ensure that an appropriate portion of funds are used to support undergraduate education.

"SEC. 610. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $100,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

"PART B—BUSINESS AND INTERNATIONAL EDUCATION PROGRAMS

"SEC. 611. FINDINGS AND PURPOSES.

"(a) Findings.—The Congress finds that—

"(1) the future economic welfare of the United States will depend substantially on increasing international skills in the business and educational community and creating an awareness among the American public of the internationalization of our economy;

"(2) concerted efforts are necessary to engage business schools, language and area study programs, professional international affairs education programs, public and private sector organizations, and United States business in a mutually productive relationship which benefits the Nation's future economic interests;

"(3) few linkages presently exist between the manpower and information needs of United States business and the international education, language training and research capacities of institutions of higher education in the United States, and public and private organizations; and

"(4) organizations such as world trade councils, world trade clubs, chambers of commerce and State departments of commerce are not adequately used to link universities and business for joint venture exploration and program development.

"(b) Purposes.—It is the purpose of this part—

"(1) to enhance the broad objective of this Act by increasing and promoting the Nation's capacity for international understanding and economic enterprise through the provision of suitable international education and training for business personnel in various stages of professional development; and

"(2) to promote institutional and noninstitutional educational and training activities that will contribute to the ability of United States business to prosper in an international economy.

"SEC. 612. CENTERS FOR INTERNATIONAL BUSINESS EDUCATION.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, to pay the Federal share of the cost of planning, establishing and operating centers for international business education which—

"(1) will be national resources for the teaching of improved business techniques, strategies, and methodologies which emphasize the international context in which business is transacted,

"(2) will provide instruction in critical foreign languages and international fields needed to provide understanding of the cultures and customs of United States trading partners, and

"(3) will provide research and training in the international aspects of trade, commerce, and other fields of study.

In addition to providing training to students enrolled in the institution of higher education in which a center is located, such centers shall serve as regional resources to businesses proximately located by offering programs and providing research designed to meet the international training needs of such businesses. Such centers shall also serve other faculty, students, and institutions of higher education located within their region.

"(b) AUTHORIZED EXPENDITURES.—Each grant made under this section may be used to pay the Federal share of the cost of planning, establishing or operating a center, including the cost of—

"(1) faculty and staff travel in foreign areas, regions, or countries,

"(2) teaching and research materials,

"(3) curriculum planning and development,

"(4) bringing visiting scholars and faculty to the center to teach or to conduct research, and

"(5) training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary for, carrying out the objectives of this section.

"(c) REQUIRED ACTIVITIES.—(1) Programs and activities to be conducted by centers assisted under this section shall include—

"(A) interdisciplinary programs which incorporate foreign language and international studies training into business, finance, management, communications systems, and other professional curricula;

"(B) interdisciplinary programs which provide business, finance, management, communications systems, and other professional training for foreign language and international studies faculty and advanced degree candidates;

"(C) evening or summer programs, such as intensive language programs, available to members of the business community and other professionals which are designed to develop or enhance their international skills, awareness, and expertise;

"(D) collaborative programs, activities, or research involving other institutions of higher education, local educational agencies, professional associations, businesses, firms, or combinations thereof, to promote the development of international skills, awareness, and expertise among current and prospective members of the business community and other professionals;

"(E) research designed to strengthen and improve the international aspects of business and professional education and to promote integrated curricula; and

"(F) research designed to promote the international competitiveness of American businesses and firms, including those not currently active in international trade.

"(2) PERMISSIBLE ACTIVITIES.—Programs and activities to be conducted by centers assisted under this section may include—

"(A) the establishment of overseas internship programs for students and faculty designed to provide training and experience in international business activities, except that no Federal funds provided under this section may be used to pay wages or stipends to any participant who is engaged in compensated employment as part of an internship program;

"(B) other eligible activities prescribed by the Secretary; and

"(C) the establishment of linkages overseas with institutions of higher education and other organizations that contribute to the educational objectives of this section;

"(D) summer institutes in international business, foreign area studies, and other international studies designed to carry out the purposes of paragraph (1) of this subsection; and

"(E) the development of opportunities for business students to study abroad in locations which are important to the existing and future economic well-being of the United States.

"(d) ADVISORY COUNCIL.—(1) In order to be eligible for assistance under this section, an institution of higher education, or combination of such institutions, shall establish a center advisory council which will conduct extensive planning prior to the establishment of a center concerning the scope of the center's activities and the design of its programs.

"(2) MEMBERSHIP ON ADVISORY COUNCIL.—The Center Advisory Council shall include—

"(A) one representative of an administrative department or office of the institution of higher education;

"(B) one faculty representative of the business or management school or department of such institution;

"(C) one faculty representative of the international studies or foreign language school or department of such institution;

"(D) one faculty representative of another professional school or department of such institution, as appropriate;

"(E) one or more representative of local or regional businesses or firms;

"(F) one representative appointed by the Governor of the State in which the institution of higher education is located whose normal responsibilities include official oversight or involvement in State-sponsored trade-related activities or programs; and

"(G) such other individuals as the institution of higher education deems appropriate.

"(3) MEETINGS.—In addition to the initial planning activities required under subsection (d)(1), the center advisory council shall meet not less than once each year after the establishment of the center to assess and advise on the programs and activities conducted by the center.

"(e) GRANT DURATION; FEDERAL SHARE.—

"(1) DURATION OF GRANTS.—The Secretary shall make grants under this section for a minimum of 3 years unless the Secretary determines that the provision of grants of shorter duration is necessary to carry out the objectives of this section.

"(2) FEDERAL SHARE.—The Federal share of the cost of planning, establishing and operating centers under this section shall be—

"(A) not more than 90 percent for the first year in which Federal funds are furnished,

"(B) not more than 70 percent for the second such year, and

"(C) not more than 50 percent for the third such year and for each such year thereafter.

"(3) NON-FEDERAL SHARE.—The non-Federal share of the cost of planning, establishing, and operating centers under this section may be provided either in cash or in-kind assistance.

"(f) GRANT CONDITIONS.—Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the objectives of this section. Such conditions shall include—

"(1) evidence that the institution of higher education, or combination of such institutions, will conduct extensive planning prior to the establishment of a center concerning the scope of the center's activities and the design of its programs in accordance with subsection (d)(1);

"(2) assurance of ongoing collaboration in the establishment and operation of the center by faculty of the business, management, foreign language, international studies, professional international affairs, and other professional schools or departments, as appropriate;

"(3) assurance that the education and training programs of the center will be open to students concentrating in each of these respective areas, as appropriate; and

"(4) assurance that the institution of higher education, or combination of such institutions, will use the assistance provided under this section to supplement and not to supplant activities conducted by institutions of higher education described in subsection (c)(1).

"SEC. 613. JOINT VENTURING AGREEMENTS.

"(a) PURPOSE.—The purpose of this section is to provide assistance to the Centers for International Business Education and Research in consortia with other institutions of higher education with demonstrated expertise in area studies, foreign language studies, international studies, or global business education in order to utilize such expertise in research, curriculum development, doctoral study, educational exchange programs, or other services for the business community.

"(b) GRANTS AUTHORIZED.—The Secretary is authorized to make grants to the Centers for International Business Education and Research in consortia with an institution or institutions of higher education which have a specialized expertise in area studies, foreign language studies, international studies, or global business education. Of the funds allocated for this section under section 615(a), not more than one-fourth may be allotted to participating centers. The remainder of such funds shall be allotted to partnership institutions. The partnership institution shall provide matching funds, in cash or in kind, of 50 percent of the amount provided from Federal funds. Such match may come from the institution's resources or from the business community.".

"SEC. 614. EDUCATION AND TRAINING PROGRAMS.

"(a) PROGRAM AUTHORIZED.—The Secretary shall make grants to, and enter into contracts with, institutions of higher education to pay the Federal share of the cost of programs designed to promote linkages between such institutions and the American business community engaged in international economic activity. Each program assisted under this section shall both enhance the international academic programs of institutions of higher education and provide appropriate services to the business community which will expand its capacity to engage in commerce abroad.

"(b) AUTHORIZED ACTIVITIES.—Eligible activities to be conducted by institutions of higher education under this section shall include, but are not limited to—

"(1) innovation and improvement in international education curricula to serve the needs of the business community, including development of new programs for nontraditional, mid-career, or part-time students;

"(2) development of programs to inform the public of increasing international economic interdependence and the role of American business within the international economic system;

"(3) internationalization of curricula at the junior and community college level, and at undergraduate and graduate schools of business;

"(4) development of area studies programs, and interdisciplinary international programs;

"(5) establishment of export education programs through cooperative arrangements with regional and world trade centers and councils, and with bilateral and multilateral trade associations;

"(6) research for and development of specialized teaching materials, including language materials, and facilities appropriate to business-oriented students;

"(7) establishment of student and faculty fellowships and internships for training and education in international business activities;

"(8) development of opportunities for junior business and other professional school faculty to acquire or strengthen international skills and perspectives;

"(9) development of research programs on issues of common interest to institutions of higher education and private sector organizations and associations engaged in or promoting international economic activity;

"(10) the establishment of internships overseas to enable foreign language students to develop their foreign language skills and knowledge of foreign cultures and societies;

"(11) the establishment of linkages overseas with institutions of higher education and organizations that contribute to the educational objectives of this section; and

"(12) summer institutes in international business, foreign area and other international studies designed to carry out the purposes of this section.

"(c) APPLICATIONS.—No grant may be made and no contract may be entered into under the provisions of this section unless an institution of higher education submits an application at such time and in such manner as the Secretary may reasonably require. Each such application shall be accompanied by a copy of the agreement entered into by the institution of higher education with a business enterprise, trade organization or association engaged in international economic activity, or a combination or consortium of such enterprises, organizations or associations, for the purpose of establishing, developing, improving or expanding activities eligible for assistance under subsection (b) of this section. Each such application shall contain assurances that the institution of higher education will use the assistance provided under this section to supplement and not to supplant activities conducted by institutions of higher education described in subsection (b).

"(d) FEDERAL SHARE.—The Federal share under this part for each fiscal year shall not exceed 50 percent of the cost of such program.

"SEC. 615. AUTHORIZATION OF APPROPRIATIONS.

"(a) CENTERS FOR INTERNATIONAL BUSINESS EDUCATION.—There are authorized to be appropriated $12,500,000 for the fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out the provisions of section 612 and section 613.

"(b) EDUCATION AND TRAINING PROGRAMS.—There are authorized to be appropriated $7,500,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years, to carry out the provisions of section 614.

"PART C—GENERAL PROVISIONS

"SEC. 631. DEFINITIONS.

"(a) DEFINITIONS.—As used in this title—

"(1) the term 'area studies' means a program of comprehensive study of the aspects of a society or societies, including study of its history, culture, economy, politics, international relations and languages;

"(2) the term 'international business' means profit-oriented business relationships conducted across national boundaries and includes activities such as the buying and selling of goods; investments in industries; the licensing of processes, patents and trademarks; and the supply of services;

"(3) the term 'export education' means educating, teaching and training to provide general knowledge and specific skills pertinent to the selling of goods and services to other countries, including knowledge of market conditions, financial arrangements, laws and procedures;

"(4) the term 'internationalization of curricula' means the incorporation of international or comparative perspectives in existing courses of study or the addition of new components to the curricula to provide an international context for American business education;

"(5) the term 'comprehensive language and area center' means an administrative unit of a university that contributes significantly to the national interest in advanced research and scholarship, employs a critical mass of scholars in diverse disciplines related to a geographic concentration, offers intensive language training in languages of its area specialization, maintains important library collections related to the area, and makes training available in language and area studies to a graduate, postgraduate, and undergraduate clientele; and

"(6) the term 'undergraduate language and area center' means an administrative unit of an institution of higher education, including but not limited to 4-year colleges, that contributes significantly to the national interest through the education and training of students who matriculate into advanced language and area studies programs, professional school programs, or incorporates substantial international and foreign language content into baccalaureate degree programs, engages in research, curriculum development and community outreach activities designed to broaden international and foreign language knowledge, employs faculty with strong language, area, and international studies credentials, maintains library holdings, including basic reference works, journals, and works in translation, and makes training available predominantly to undergraduate students;

"(7) the term 'critical languages' means each of the languages contained in the list of critical languages designated by the Secretary pursuant to section 212(d) of the Education for Economic Security Act (50 Fed. Reg. 149, 31413), except that, in the implementation of this definition, the Secretary may set priorities according to the purposes of this title; and

"(8) the term 'institution of higher education' means, in addition to institutions which meet the definition of section 1201(a) of this Act, institutions which meet the requirements of section 1201(a) of this Act except that (1) they are not located in the United States, and (2) they apply for assistance under this title in consortia with institutions which meet the definition of 1201(a) of this Act.

"(b) SPECIAL CONDITIONS.—All references to individuals or organizations, unless the context otherwise requires, mean individuals who are citizens or permanent residents of the United States or organizations which are organized or incorporated in the United States.

"SEC. 632. PRESERVATION OF PRE-1992 PROGRAMS.

"Notwithstanding any other provision of law, amendments to this title establishing new programs or expanding existing programs enacted pursuant to the Higher Education Amendments of 1992 shall not be funded in fiscal year 1993, or the 4 succeeding fiscal years, unless and until Congress enacts appropriations for programs under this title enacted prior to such Amendments at a level no less than the level of funding in effect for such preexisting programs for fiscal year 1992.

"PART D—INSTITUTE FOR INTERNATIONAL PUBLIC POLICY

"SEC. 641. ESTABLISHMENT.

"(a) ESTABLISHMENT.—There is authorized to be established an Institute for International Public Policy through grant or contract between the Secretary and an eligible recipient. The Institute for International Public Policy shall conduct a program to significantly increase the numbers of African Americans and other minorities in the international service, international voluntary service, and foreign service of the United States.

"(b) DEFINITION OF ELIGIBLE RECIPIENT.—An eligible recipient shall be a consortia of institutions eligible for assistance under part B of title III of this Act, other institutions of higher education which serve substantial numbers of African American and other minority students, and institutions of higher education with programs in training foreign service professionals. Each consortia shall designate an institution of higher education as the host institution for the Institute for International Public Policy.

"SEC. 642. ACADEMIC YEAR ABROAD PROGRAM.

"The Institute for International Public Policy shall conduct an academic year abroad program. The academic year abroad program shall be open to eligible students at institutions of higher education, including historically Black colleges and universities as defined in section 322 of this Act, tribally controlled Indian community colleges as defined in the Tribally Controlled Community College Assistance Act of 1978, and other institutions of higher education with significant minority student populations. Eligible students expenses shall be shared by the Institute and the institution at which the student is in attendance. Each student may spend up to 9 months abroad in a program of academic study, as well as social, familial and political interactions designed to foster an understanding of and familiarity with the language, culture, economics and governance of the host country.

"SEC. 643. MASTERS DEGREE IN INTERNATIONAL RELATIONS.

"The Institute for International Public Policy shall provide, in cooperation with the other consortium institutions, a program of study leading to a masters degree in international relations. The masters degree program designed by the consortia shall be reviewed and approved by the Board of Visitors. The Institute may grant fellowships in an amount not to exceed the level of support comparable to that provided by the National Science Foundation Graduate Fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need according to measurement of need approved by the Secretary. A fellowship recipient shall agree to undertake full-time study and to enter the international service, international voluntary service, or foreign service of the United States.".

"SEC. 644. INTERNSHIPS.

"The Institute shall enter into agreements with historically Black colleges and universities as defined in section 322 of this Act, tribally controlled Indian community colleges as defined in the Tribally Controlled Community College Assistance Act of 1978, and other institutions of higher education with significant numbers of minority students, and institutions of higher education with programs in training foreign service professionals, to provide academic year internships during the junior and senior year and summer internships following the sophomore and junior academic years, by work placements with an international voluntary or government agency, including the Agency for International Development, the United States Information Agency, the International Monetary Fund, the National Security Council, the Organization of American States, the Organization of African Unity, the Overseas Private Investment Corporation, the Department of State, Office of the United States Trade Representative, the World Bank, and the United Nations.

"SEC. 645. BOARD OF VISITORS.

"(a) BOARD.—There shall be appointed a Board of Visitors for the Institute for International Public Policy, in addition to 3 ex-officio members, 1 of whom shall be designated by the Secretary of Education and 1 of whom shall be designated by the Secretary of State. The President of each of the consortia institutions shall also name 1 representative to the Board of Visitors who shall meet the criteria set forth in section 645(b) of this title. The President of the host institution shall also serve as an ex-officio member of the Board of Visitors. The Board shall review and advise the Institute with respect to all aspects of the academic program and shall submit an annual report to the Secretary of Education and the Secretary of State on the Institute's activities and accomplishments, on the progress of the academic program, and shall include a statistical analysis of the placement of minorities in the foreign service.

"(b) QUALIFICATIONS.—The qualifications for service on the Board of Visitors shall include: (1) previous experience in the foreign service, including appointive service as an Ambassador or another diplomat; (2) academic experience in instruction or research and writing in international political, economic or social areas; (3) extensive practical or professional experience in overseas business, development or international voluntary work; or (4) governmental experience in the foreign service international service or international education.

"SEC. 646. PROGRAM REQUIREMENTS.

"(a) REQUIREMENTS FOR JUNIOR YEAR ABROAD.—As used in this part—

"(1) An eligible student for the junior year abroad program must be enrolled full-time in a baccalaureate degree program at an institution of higher education, and be entering the third year of study at an institution which nominates him/her for participation in the junior year abroad program.

"(2) An institution of higher education desiring to send a student on the junior year abroad enter into a Memorandum of Understanding with the Institute to provide the requisite academic preparation for students participating in the junior year abroad or internship programs, and agrees to pay one-half the cost of each student it nominates for participation in the junior year abroad program, and meets such other requirements as the Secretary of Education may from time to time, by regulation, reasonably require.

"(b) MATCH REQUIRED.—The recipient of a grant or contract under this part shall contribute to the conduct of the program supported by the grant or contract an amount from non-Federal sources equal to at least one-fourth the amount of the grant, which contribution may be in cash or in services, supplies, or equipment.

"SEC. 647. GIFTS AND DONATIONS.

"The Institute is authorized to receive money and other property donated, bequeathed, or devised to the Institute with or without a condition of restriction, for the purpose of providing financial support for the Fellowships or underwriting the cost of the Junior Year Abroad Program. All funds or property given, devised, or bequeathed shall be retained in a separate account, and an accounting of those funds and property shall be included in the annual report of the Board of Visitors to the Secretary of Education and the Secretary of State.

"SEC. 648. AUTHORIZATION.

"There is authorized to be appropriated for fiscal year 1993, $15,000,000 to carry out the purposes of this part and such sums as may be necessary for each succeeding fiscal year.".

TITLE VII—CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF ACADEMIC FACILITIES

SEC. 701. PURPOSES.

(a) PURPOSES.—Section 701 is amended—

(1) by inserting a period after "instructional instrumentation and equipment" in subsection (a);

(2) by striking out "if the primary purpose of such assistance is to enable such institutions—" in subsection (a) and inserting the following: "In making such grants, the Secretary shall include, but not be limited to, assistance to enable institutions—";

(3) by striking out subparagraphs (A) and (B) of subsection (a)(1) and inserting in lieu thereof the following:

"(A) Federal, State, and local laws requiring removal of barriers to full participation by disabled individuals;";

(4) by redesignating subparagraphs (C) and (D) of subsection (a)(1) as subparagraphs (B) and (C), respectively; and

(5) in paragraph (4) of subsection (a), by inserting after "libraries," the following: "(including renovation of libraries to promote the use of new technologies and preservation of library materials)".

(b) PRIORITY.—Section 701(b) is amended by striking out "priority shall be given" and inserting in lieu thereof "priority may be given.".

SEC. 702. AUTHORIZATION OF APPROPRIATIONS.

Section 702 of the Act is amended to read as follows:

"APPROPRIATIONS AUTHORIZED

"SEC. 702. (a) PARTS A AND B.—There are authorized to be appropriated—

"(1) $50,000,000 for part A for fiscal year 1993 and each of the 4 succeeding fiscal years; and

"(2) $50,000,000 for part B for fiscal year 1993 and each of the 4 succeeding fiscal years.

"(b) OTHER PROGRAMS.—There are authorized to be appropriated—

"(1) such sums as may be necessary to provide not more than $100,000,000 in loans under part C for fiscal year 1993 and for each of the 4 succeeding fiscal years; and

"(2) $25,000,000 for fiscal year 1993 and for each of the 4 succeeding fiscal years for part D.".

SEC. 703. REVISION OF PART A.

(a) AMENDMENT.—Part A of title VII of the Act is amended to read as follows:

"PART A—GRANTS FOR THE CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF UNDERGRADUATE ACADEMIC FACILITIES

"SEC. 711. GRANTS.

"(a) GRANTS TO INSTITUTIONS; STATE LIMITATION.—(1) Funds available for this part shall be used by the Secretary to make grants to institutions of higher education to construct, reconstruct, and renovate undergraduate academic facilities pursuant to an application for assistance consistent with the objectives of this title.

"(2) The total payment for any fiscal year made to institutions of higher education in any State shall not exceed 12.5 percent of sums appropriated for this part.

"(b) PEER REVIEW REQUIRED.—In making grants under this section, the Secretary shall utilize a national peer review panel. The panel shall be broadly representative of all types and classes of institutions of higher education in the United States. Such panel shall make recommendations to the Secretary based on its assessment of—

"(1) the effectiveness of the program in the proposed use of Federal assistance;

"(2) the extent to which the receipt of the grant will assist the institution in overcoming deficiencies in existing equipment and facilities; and

"(3) the compatibility of the proposal with a State plan, where such plan exists.

"(c) COST LIMITATIONS.—The amount of the grant shall not exceed 50 percent of the development cost of the project. No funds or resources provided through Federal programs shall be used to meet the institution's share of the program supported under this section.

"(d) USE FOR MAINTENANCE.—An amount less than or equal to 10 percent of that portion of an award granted under this part which is allotted by the recipient to meet costs of—

"(1) research and instructional instrumentation and equipment; and

"(2) equipment and structural changes necessary to ensure the proper functioning of such research or instructional instrumentation and equipment;

may be allocated by the recipient for maintenance of equipment and changes described in paragraphs (1) and (2). Part or all of this percentage may also be applied to costs of upgrading such equipment and structural changes within 3 years of the date of initial use, if the recipient deems such upgrading essential to the continued usefulness of such research or instructional instrumentation and equipment.".

(b) CONFORMING AMENDMENT.—Section 1203(f) of the Act is amended—

(1) by adding "and" at the end of paragraph (1);

(2) by striking out "; and" in paragraph (2) and inserting in lieu thereof a period; and

(3) by striking out paragraph (3).

SEC. 704. CONSOLIDATION OF PARTS C AND F AND ELIMINATION OF PART G.

Title VII of the Act is amended—

(1) by striking parts F and G;

(2) by redesignating parts H and J as parts G and H, respectively;

(3) by redesignating sections 781, 782, and 795 as sections 771, 772, and 781, respectively;

(4) by striking section 783; and

(5) by amending part C to read as follows:

"PART C—LOANS FOR CONSTRUCTION, RECONSTRUCTION AND RENOVATION OF ACADEMIC, HOUSING, AND OTHER EDUCATIONAL FACILITIES

"SEC. 731. FEDERAL ASSISTANCE IN THE FORM OF LOANS.

"(a) AUTHORITY AND CONDITIONS FOR LOANS.—To assist institutions of higher education in the construction, reconstruction, or renovation of housing, undergraduate and graduate academic facilities, and other educational facilities for students and faculties, the Secretary may make loans of funds to such institutions for the construction, reconstruction, or renovation of such facilities. No such assistance shall be provided unless—

"(1) the educational institution involved is unable to secure the necessary funds for the construction or purchase from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans under this title; and

"(2) the Secretary finds that any such construction will be undertaken in an economical manner, and that any such facilities are not or will not be of elaborate or extravagant design or materials.

"(b) AMOUNT AND CONDITIONS OF LOANS.—A loan to institutions of higher education or higher education building agency—

"(1) may be in an amount not exceeding the total development cost of the facility, as determined by the Secretary;

"(2) shall be secured in such manner and be repaid within such period, not exceeding 50 years, as may be determined by the Secretary; and

"(3) shall bear interest at a rate determined by the Secretary which shall be not more than the lower of (A) 5.5 percent per annum, or (B) the total of one-quarter of 1 percent per annum added to the rate of interest paid by the Secretary on funds obtained from the Secretary of the Treasury.

No loan shall be made unless the Secretary finds that not less than 20 percent of the development cost of the project will be financed from non-Federal sources.

"SEC. 732. GENERAL PROVISIONS.

"(a) BUDGET AND ACCOUNTING.—In the performance of, and with respect to, the functions, powers, and duties under this part, the Secretary, notwithstanding the provisions of any other law, shall—

"(1) prepare annually and submit a budget program as provided for wholly owned Government corporations by chapter 91 of title 31, United States Code; and

"(2) maintain a set of accounts which shall be audited by the Comptroller General in accordance with the provisions of chapter 35 of title 31, United States Code, but such financial transactions of the Secretary, as the making of loans and vouchers approved by the Secretary, in connection with such financial transactions shall be final and conclusive upon all officers of the Government.

"(b) USE OF FUNDS.—Funds made available to the Secretary pursuant to the provisions of this part shall be deposited in a checking account or accounts with the Treasurer of the United States. Receipts and assets obtained or held by the Secretary in connection with the performance of functions under this part, and all funds available for carrying out the functions of the Secretary under this part (including appropriations therefor, which are hereby authorized), shall be available, in such amounts as may from year to year be authorized by the Congress, for the administrative expenses of the Secretary in connection with the performance of such functions.

"(c) LEGAL POWERS.—In the performance of, and with respect to, the functions, powers, and duties under this part, the Secretary, notwithstanding the provisions of any other law, may—

"(1) prescribe such rules and regulations as may be necessary to carry out the purposes for this part;

"(2) sue and be sued;

"(3) foreclose on any property or commence any action to protect or enforce any right conferred upon him by any law, contract, or other agreement, and bid for and purchase at any foreclosure or any other sale any property in connection with which the Secretary has made a loan pursuant to this part;

"(4) in the event of any such acquisition, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, but any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property.

"(5) sell or exchange at public or private sale, or lease, real or personal property, and sell or exchange any securities or obligations, upon such terms as the Secretary may fix;

"(6) obtain insurance against loss in connection with property and other assets held;

"(7) subject to the specific limitations in this part, consent to the modification, with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which the Secretary is a party or which has been transferred to the Secretary pursuant to this part, granting to a borrower of a loan made before October 1, 1992, the option of repaying the loan at a discount computed in accordance with subsection (d) if the repayment is (A) made from non-Federal sources, (B) not derived from proceeds of obligations the income of which is exempt from taxation under the Internal Revenue Code of 1986, and (C) made on a loan that has been outstanding for at least 5 years; and

"(8) include in any contract or instrument made pursuant to this title such other covenants, conditions, or provisions as may be necessary to assure that the purposes of this part will be achieved.

"(d) COMPUTATION OF ALLOWABLE DISCOUNTS.—The Secretary shall compute the discount which may be offered to a borrower as an inducement to early repayment under subsection (c)(7) in an amount determined by the Secretary to be in the best financial interests of the Government, taking into account the yield on outstanding marketable obligations of the United States having maturities comparable to the remaining term of such loan.

"(e) NONDISCRIMINATION BETWEEN BORROWERS IN OFFERING DISCOUNTED PREPAYMENT.—(1) If the Secretary offers a discount as an inducement to early repayment under subsection (c)(7), such offer shall be available without regard to whether the borrower is delinquent or in default on the loan on or before October 1, 1991, but the Secretary shall refuse to make such offer to a borrower that becomes delinquent or goes into default after that date.

"(2) The discount offered shall apply, in the case of a borrower that complies with paragraph (1), to the entire amount outstanding on the loan (including any amount owed with respect to payments that are overdue).

"(f) CONTRACTS FOR SUPPLIES OR SERVICES.—Section 3709 of the Revised Statutes shall not apply to any contract for services or supplies on account of any property acquired pursuant to this part if the amount of such contract does not exceed $1,000.

"(g) APPLICABILITY OF GOVERNMENT CORPORATION CONTROL ACT.—The provisions of section 9107(a) of title 31, United States Code, which are applicable to corporations or agencies subject to chapter 91 of such title, shall also be applicable to the activities of the Secretary under this part.

"(h) WAGE RATES.—The Secretary shall take such action as may be necessary to ensure that all laborers and mechanics employed by contractors or subcontractors on any project assisted under this part—

"(1) shall be paid wages at rates not less than those prevailing on the same type of work on similar construction in the immediate locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (Davis-Bacon Act), as amended; and

"(2) shall be employed not more than 40 hours in any one week unless the employee receives wages for his employment in excess of the hours specified above at a rate not less than one and one-half times the regular rate at which he is employed;

but the Secretary may waive the application of this subsection in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such project, voluntarily donate their services without full compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the educational institution undertaking the construction.

"(i) LIMITATION.—No loan may be made under this part for any facility on the campus of any postsecondary educational institution until 5 years after the date on which a previous loan for another facility on such campus was made under this part, unless the loan is intended to be used to construct or reconstruct a facility damaged as a result of a national disaster, as declared by the President.

"SEC. 733. APPORTIONMENT.

"(a) LIMITATION.—Not more than 12.5 percent of the amount of the funds provided for in this part in the form of loans shall be made available to educational institutions within any one State.

"(b) PRIORITIES.—In awarding loans under this part, the Secretary shall give priority—

"(1) to loans for renovation or reconstruction of graduate or undergraduate academic facilities; and

"(2) to loans for renovation or reconstruction of older graduate or undergraduate academic facilities that have gone without major renovation or reconstruction for an extended period.

"SEC. 734. DEFINITIONS.

"For the purpose of this part:

"(a) Housing.—The term 'housing' means—

"(1) new or existing structures suitable for dwelling use, including single-room dormitories and apartments; and

"(2) dwelling facilities provided for rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for the proposed dwelling use.

"(b) Educational Institution.—The term 'institution of higher education or higher education building agency' means—

"(1)(A) any educational institution which offers, or provides satisfactory assurance to the Secretary that it will offer within a reasonable time after completion of a facility for which assistance is requested under this part, at least a 2-year program acceptable for full credit toward a baccalaureate degree (including any public educational institution, or any private educational institution no part of the net earnings of which inures to the benefit of any private shareholder or individual); or

"(B) any public educational institution which—

"(i) is administered by a college or university;

"(ii) offers technical or vocational instruction; and

"(iii) provides residential facilities for some or all of the students receiving such instruction;

"(2) any hospital operating a school of nursing beyond the level of high school approved by the appropriate State authority, or any hospital approved for internships, by recognized authority, if such hospital is either a public hospital or a private hospital, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

"(3) any corporation (no part of the net earnings of which inures to the benefit of any private shareholder or individual)—

"(A) established for the sole purpose of providing housing or other educational facilities for students or students and faculty of one or more institutions included in paragraph (1) without regard to their membership in or affiliation with any social, fraternal, or honorary society or organization; and

"(B) upon dissolution of which all title to any property purchased or built from the proceeds of any loan which is made under section 731, will pass to such institution (or to any one or more of such institutions) unless it is shown to the satisfaction of the Secretary that such property or the proceeds from its sale will be used for some other nonprofit educational purpose;

"(4) any agency, public authority, or other instrumentality of any State, established for the purpose of providing or financing housing or other educational facilities for students or faculty of any educational institution included in paragraph (1), but nothing in this paragraph shall require an institution included in paragraph (1) to obtain loans or grants through any instrumentality included in this paragraph; and

"(5) any nonprofit student housing cooperative corporation established for the purpose of providing housing for students or students and faculty of any institution included in paragraph (1).

In the case of any loan made under section 731 to a corporation described in paragraph (3) which was not established by the institution or institutions for whose students or students and faculty it would provide housing, or to a student housing cooperative corporation described in paragraph (5), and in the case of any loan which is obtained from other sources by such a corporation, the Secretary shall require that the note securing such loan be cosigned by such institution (or by any one or more of such institutions). Where the law of any State in effect on the date of enactment of the Housing Act of 1964 prevents the institution or institutions, for whose students or students and faculty housing is to be provided, from cosigning the note, the Secretary shall require the corporation and the proposed project to be approved by such institution (or by any one or more of such institutions) in lieu of such cosigning.

"(c) Undergraduate and Graduate Academic Facilities.—(1) Except as provided in paragraph (2), the term 'undergraduate and graduate academic facilities' means structures suitable for use as classrooms, laboratories, libraries, and related facilities, the primary purpose of which is the instruction of students pursuing at least a 2-year program acceptable for full credit toward a baccalaureate degree, or for administration of the educational programs serving such students, of an institution of higher education, and maintenance, storage, or utility facilities essential to operation of the foregoing facilities, as well as infirmaries or other facilities designed to provide primarily for outpatient care of student and instructional personnel. Plans for such facilities shall be in compliance with such standards as the Secretary may prescribe or approve in order to ensure that projects assisted with the use of Federal funds under this title shall be, to the extent appropriate in view of the uses to be made of the facilities, accessible to and usable by handicapped persons.

"(2) The term 'undergraduate and graduate academic facilities' shall not include (A) any facility intended primarily for events for which admission is to be charged to the general public, (B) any gymnasium or other facility specially designed for athletic or recreational activities, other than for an academic course in physical education or where the Secretary finds that the physical integration of such facilities with other undergraduate academic facilities included under this part is required to carry out the objectives of this part, (C) any facility used or to be used for sectarian instruction or as a place for religious worship, or (D) any facility which (although not a facility described in the preceding clause) is used or to be used primarily in connection with any part of the program of a school or department of divinity.

"(d) Development Cost.—The term 'development cost' means costs of the construction of the housing, academic facilities, or other educational facilities and the land on which it is located, including necessary site improvements to permit its use for housing, academic facilities, or other educational facilities; except that in the case of the purchase of facilities such term means the cost as approved by the Secretary.

"(e) Faculties.—The term 'faculties' means members of the faculty and their families.

"(f) Other Educational Facilities.—The term 'other educational facilities' means (1) new or existing structures suitable for use as cafeterias or dining halls, student centers or student unions, infirmaries or other inpatient or outpatient health facilities, or for other essential service facilities, and (2) structures suitable for the above uses provided by rehabilitation, alteration, conversion, or improvement of existing structures which are otherwise inadequate for such uses.".

SEC. 705. AMENDMENT TO PART E.

Section 752(c)(1) of the Act is amended by inserting before the period at the end the following: ", unless such institution has been declined for primary insurance or guarantees for the assets or obligations by an organization which guarantees, insures, and reinsures bonds, debentures, notes, evidences of debt, loans and interests therein".

SEC. 706. HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING.

Title VII of the Act is further amended by inserting after part E the following new part:

"PART F—HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING

"SEC. 761. FINDINGS.

"The Congress finds that—

"(1) a significant part of the Federal mission in education has been to attain equal opportunity in higher education for low-income, educationally disadvantaged Americans and African Americans;

"(2) the Nation's historically Black colleges and universities have played a prominent role in American history and have an unparalleled record of fostering the development of African American youth by recognizing their potential, enhancing their academic and technical skills, and honing their social and political skills through higher education;

"(3) the academic and residential facilities on the campuses of all historically Black colleges and universities have suffered from neglect, deferred maintenance and are in need of capital improvements in order to provide appropriate settings for learning and social development through higher education;

"(4) due to their small enrollments, limited endowments and other financial factors normally considered by lenders in construction financing, historically Black colleges and universities often lack access to the sources of funding necessary to undertake the necessary capital improvements through borrowing and bond financing;

"(5) despite their track record of longstanding and remarkable institutional longevity and viability, historically Black colleges and universities often lack the financial resources necessary to gain access to traditional sources of capital financing such as bank loans and bond financing; and

"(6) Federal assistance to facilitate low-cost capital basis for historically Black colleges and universities will enable such colleges and universities to continue and expand their educational mission and enhance their significant role in American higher education.

"SEC. 762. DEFINITIONS.

"For the purposes of this part—

"(1) The term 'eligible institution' means a 'part B institution' as that term is defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).

"(2) The term 'Advisory Board' means the Advisory Board established by section 766 of this part.

"(3) The term 'loan' means a loan made to an eligible institution under the provisions of this part and pursuant to an agreement with the Secretary.

"(4) The term 'qualified bond' means any obligation issued by the designated bonding authority at the direction of the Secretary, the net proceeds of which are loaned to an eligible institution for the purposes described in section 763(b).

"(5) The term 'funding' means any payment under this part from the Secretary to the eligible institution or its assignee in fulfillment of the insurance obligations of the Secretary pursuant to an agreement under section 763.

"(6) The term 'capital project' means, subject to section 764(b) of this part—

"(A) any classroom facility, library, laboratory facility, dormitory (including dining facilities) or other facility customarily used by colleges and universities for instructional or research purposes or for housing students, faculty, and staff;

"(B) instructional equipment, research instrumentation, and any capital equipment or fixture related to facilities described in subparagraph (A);

"(C) any other facility, equipment or fixture the construction, acquisition, or renovation of which is essential to the maintaining of accreditation of the member institution by a nationally recognized accrediting agency or association; and

"(D) any real property or interest therein underlying facilities described in subparagraph (A) or (C).

"(7) The term 'interest' includes accredited value or any other payment constituting interest on an obligation.

"(8) The term 'outstanding', when used with respect to bonds, shall not include bonds the payment of which shall have been provided for by the irrevocable deposit in trust of obligations maturing as to principal and interest in such amounts and at such times as will ensure the availability of sufficient moneys to make payments on such bonds.

"(9) The term 'designated bonding authority' means the private, for-profit corporation selected by the Secretary pursuant to section 765(1) of this part for the purpose of issuing taxable construction bonds in furtherance of the purposes of this part.

"SEC. 763. FEDERAL INSURANCE FOR BONDS.

"(a) GENERAL RULE.—Subject to the limitations in section 764 of this part, the Secretary is authorized to enter into insurance agreements to provide financial insurance to guarantee the full payment of principal and interest on qualified bonds upon the conditions set forth in subsections (b) and (c) of this section.

"(b) RESPONSIBILITIES OF THE DESIGNATED BONDING AUTHORITY.—The Secretary may not enter into an insurance agreement described in subsection (a) of this section unless the Secretary designates a qualified bonding authority in accordance with sections 765(1) and 766 and the designated bonding authority agrees in such agreement to—

"(1) use the proceeds of the qualified bonds, less costs of issuance not to exceed 2 percent of the principal amount thereof, to make loans to eligible institutions or for deposit into a reserve fund for repayment of the bonds;

"(2) provide in each loan agreement with respect to a loan that not less than 75 percent of the proceeds of the loan will be used—

"(A) to finance the construction, acquisition, equipping, or renovation of a capital project; or

"(B) to refinance an obligation the proceeds of which were used to finance the construction, acquisition, equipping, or renovation of a capital project;

"(3)(A) charge such interest on loans, and provide for such a schedule of repayments of loans, as will, upon the timely repayment of the loans, provide adequate and timely funds for the payment of principal and interest on the bonds; and

"(B) require that any payment on a loan expected to be necessary to make a payment of principal and interest on the bonds be due no less than 60 days prior to the date of the payment on the bonds for which it is expected to be needed;

"(4) prior to the making of any loan, provide for a credit review of the member institution receiving the loan and assure the Secretary that, on the basis of such credit review, it is reasonable to anticipate that the member institution receiving the loan will be able to repay the loan in a timely manner pursuant to the terms thereof;

"(5) provide in each loan agreement with respect to a loan that, if a delinquency on such loan results in a funding under the insurance agreement, the member institution obligated on such loan shall repay the Secretary, upon terms to be determined by the Secretary, for such funding;

"(6) assign any loans to the Secretary, upon the demand of the Secretary, if a delinquency on such loan has required a funding under the insurance agreement;

"(7) in the event of a delinquency on a loan, engage in such collection efforts as the Secretary shall require for a period of not less than 45 days prior to requesting a funding under the insurance agreement;

"(8) create a reserve fund from the proceeds of the bonds to be drawn upon to pay principal and interest on bonds in the event of delinquencies in loan repayment;

"(9) provide in each loan agreement with respect to a loan that, if a delinquency on such loan results in amounts being withdrawn from the reserve fund to pay principal and interest on bonds, subsequent payments on such loan shall be available to replenish such reserve fund;

"(10) comply with the limitations set forth in section 764 of this part; and

"(11) make loans only to eligible institutions under this part in accordance with regulations prescribed by the Secretary to ensure that loans are fairly allocated among as many eligible institutions as possible, consistent with making loans of amounts that will permit capital projects of sufficient size and scope to significantly contribute to the educational program of the eligible institutions.

"(c) ADDITIONAL AGREEMENT PROVISIONS.—Any insurance agreement described in subsection (a) of this section shall provide as follows:

"(1) The payment of principal and interest on bonds shall be insured by the Secretary until such time as such bonds have been retired or canceled.

"(2) The Secretary shall create a letter of credit authorizing the Treasury Department to disburse funds to the designated bonding authority or its assignee.

"(3) The letter of credit shall be drawn upon in the amount determined by paragraph (4) of this subsection upon the certification of the designated bonding authority to the Secretary or the Secretary's designee that there is a delinquency on 1 or more loans and there are insufficient funds available from loan repayments and the reserve fund to make a scheduled payment of principal and interest on the bonds.

"(4) Upon receipt by the Secretary or the Secretary's designee of the certification described in paragraph (3) of this subsection, the designated bonding authority may draw a funding under the letter of credit in an amount equal to—

"(A) the amount required to make the next scheduled payment of principal and interest on the bonds, less

"(B) the amount available to the designated bonding authority from loan repayments and the reserve fund.

"(5) All fundings under the letter of credit shall be paid to the designated bonding authority within 2 business days following receipt of the certification described in paragraph (3) of this subsection.

"(d) FULL FAITH AND CREDIT PROVISIONS.—The full faith and credit of the United States is pledged to the payment of all fundings which may be required to be paid under the provisions of this section.

"SEC. 764. LIMITATIONS ON FEDERAL INSURANCE FOR BONDS ISSUED BY THE DESIGNATED BONDING AUTHORITY.

"(a) LIMIT ON AMOUNT.—At no time shall the aggregate principal amount of outstanding bonds insured under this part together with any accrued unpaid interest thereon exceed $500,000,000, of which—

"(1) not more than $350,000,000 shall be used for loans to eligible institutions that are private historically Black colleges and universities; and

"(2) not more than $150,000,000 shall be used for loans to eligible institutions which are historically Black public colleges and universities.

For purposes of paragraphs (1) and (2), Lincoln University of Pennsylvania and Howard University in Washington, District of Columbia are historically Black public institutions.

"(b) LIMITATION ON CREDIT AUTHORITY.—The authority of the Secretary to issue letters of credit and insurance under this part is effective only to the extent provided in advance by appropriations Acts.

"(c) RELIGIOUS ACTIVITY PROHIBITION.—No loan may be made under this Act for any educational program, activity or service related to sectarian instruction or religious worship or provided by a school or department of divinity or to an institution in which a substantial portion of its functions is subsumed in a religious mission.

"(d) DISCRIMINATION PROHIBITION.—No loan may be made to a member institution under this part if the member institution discriminates on account of race, color, religion, national origin, sex (to the extent provided in title IX of the Education Amendments of 1972), or handicapping condition; except that the prohibition with respect to religion shall not apply to a member institution which is controlled by or which is closely identified with the tenets of a particular religious organization if the application of this section would not be consistent with the religious tenets of such organization.

"SEC. 765. AUTHORITY OF THE SECRETARY.

"In the performance of, and with respect to, the functions vested in the Secretary by this Act, the Secretary—

"(1) shall, within 120 days of enactment of this Act, publish in the Federal Register a notice and request for proposals for any private for-profit organization or entity wishing to serve as the designated bonding authority under this part, which notice shall—

"(A) specify the time and manner for submission of proposals;

"(B) specify any information, qualifications, criteria, or standards the Secretary determines to be necessary to evaluate the financial capacity and administrative capability of any applicant to carry out the responsibilities of the designated bonding authority under this part;

"(2) may sue and be sued in any court of record of a State having general jurisdiction or in any district court of the United States, and such district courts shall have jurisdiction of civil actions arising under this part without regard to the amount in controversy, and any action instituted under this part without regard to the amount in controversy, and any action instituted under this section by or against the Secretary shall survive notwithstanding any change in the person occupying the office of the Secretary or any vacancy in such office;

"(3)(A) may foreclose on any property and bid for and purchase at any foreclosure, or any other sale, any property in connection with which the Secretary has been assigned a loan pursuant to this part; and

"(B) in the event of such an acquisition, notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property, except that—

"(i) such action shall not preclude any other action by the Secretary to recover any deficiency in the amount of a loan assigned to the Secretary; and

"(ii) any such acquisition of real property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights under the State or local laws of the inhabitants on such property;

"(4) may sell, exchange, or lease real or personal property and securities or obligations; and

"(5) may include in any contract such other covenants, conditions, or provisions necessary to ensure that the purposes of this Act will be achieved.

"SEC. 766. HBCU CAPITAL FINANCING ADVISORY BOARD.

"(a) Establishment and Purpose.—There is established within the Department of Education, the Historically Black College and Universities Capital Financing Advisory Board which shall provide advice and counsel to the Secretary and the designated bonding authority as to the most effective and efficient means of implementing construction financing on Black college campuses, and advise the Congress of the United States regarding the progress made in implementing this part. The Advisory Board shall meet with the Secretary at least twice each year to advise him as to the capital needs of historically Black colleges and universities, how those needs can be met through the program authorized by this part, what additional steps might be taken to improve the operation and implementation of the construction financing program, and how minority vendors and historically Black colleges might mutually benefit under this part.

"(b) Board Membership.—

"(1) Composition.—The Advisory Board shall be composed of 9 members as follows:

"(A) the Secretary or the Secretary's designee;

"(B) three members who are presidents of private historically Black colleges or universities;

"(C) two members who are presidents of public historically Black colleges or universities;

"(D) the president of the United Negro College Fund, Inc.;

"(E) the president of the National Association for Equal Opportunity in Higher Education; and

"(F) the executive director of the White House Initiative on historically Black colleges and universities.

"(2) Terms.—The term of office of each member appointed under paragraph (1)(C) shall be 3 years, except that—

"(A) of the members first appointed, 2 shall be appointed for terms of one year, 2 shall be appointed for terms of 2 years, and 3 shall be appointed for terms of 3 years, as designated at the time of their appointment;

"(B) members appointed to fill a vacancy occurring before the expiration of a term of a member shall be appointed to serve the remainder of that term; and

"(C) a member may continue to serve after the expiration of a term until a successor is appointed.

"SEC. 767. MINORITY BUSINESS ENTERPRISE UTILIZATION.

"In the performance of and with respect to the Secretary's effectuation of his responsibilities under section 765(1) and to the maximum extent feasible in the implementation of the purposes of this part, minority business persons, including bond underwriters and credit enhancers, bond counsel, marketers, accountants, advisors, construction contractors, and managers should be utilized.".

SEC. 707. FORGIVENESS OF CERTAIN TITLE VII LOANS.

Part G of title VII of the Act (as redesignated) is amended by inserting after section 773 (as redesignated) the following new section:

"FORGIVENESS OF CERTAIN LOANS

"Sec. 774. (a) Forgiveness Authorized.—The Secretary may forgive the entire balance due on any loan made under part C or part F of this title (as in effect on the day before the date of enactment of the Higher Education Amendments of 1992), or under the College Housing and Academic Facilities Loan program, or any other federally subsidized, insured, or authorized loan program designed to assist institutions of higher education to construct academic or dormitory facilities, whenever the Secretary determines that—

"(1) the institution of higher education seeking loan forgiveness is a historically black college or university as defined in section 322(2) of this Act or is a tribally controlled community college, as defined in section 2(a)(4) of the Tribally Controlled Community College Assistance Act;

"(2) the institution of higher education is current in its payments to the Department or has entered into a moratorium agreement with the Secretary with respect to such payments; and

"(3) the outstanding indebtedness equals at least one-quarter of the annual budget for the most recent fiscal year of the institution of higher education seeking forgiveness of its housing loan indebtedness, exclusive of funds provided under titles III and IV of this Act, and in the judgment of the Secretary the survival of the institution of higher education is threatened.

"(b) Application.—Each institution requesting forgiveness of any loan under this section shall submit an application to the Secretary at such time, in such manner and containing or accompanied by such information, as the Secretary may reasonably require.".

SEC. 708. REPEAL.

Part H of title VII of the Act (as redesignated by section 704) is repealed.

TITLE VIII—COOPERATIVE EDUCATION

SEC. 801. AUTHORIZATION OF APPROPRIATIONS; RESERVATIONS.

(a) Authorization of Appropriations.—Section 801(a) of the Act is amended to read as follows:

"Sec. 801. (a) Appropriations Authorized.—There are authorized to be appropriated to carry out this title $45,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.".

(b) Reservations.—Section 801(b) of the Act is amended—

(1) in paragraph (1)—

(A) by striking out "75 percent" and inserting "53 percent"; and

(B) by striking "section 802" and inserting "section 802(b)";

(2) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively;

(3) by inserting after paragraph (1) the following new paragraph:

"(2) 22 percent shall be available for carrying out grants to institutions of higher education and combinations of such institutions for cooperative education under section 802(c);";

(4) in paragraph (3) (as redesignated by paragraph (2) of this subsection), by striking out "12½ percent" and inserting "11 percent";

(5) in paragraph (4) (as so redesignated), by striking out "10 percent" and inserting "11 percent"; and

(6) in paragraph (5) (as so redesignated), by striking out "2½ percent" and inserting "3 percent".

SEC. 802. GRANTS FOR COOPERATIVE EDUCATION.

(a) Applications for New Programs.—Section 802(b) of the Act is amended—

(1) by inserting "for New Programs" after "Applications";

(2) by striking "desiring to receive a grant under this title" and inserting "which has not received funds under this title for the administration of the cooperative education program for any of the 10 preceding fiscal years and desires to receive a grant under this subsection";

(3) in paragraph (4), by striking "to assure" and inserting "a formal statement of institutional commitment which assures";

(4) in paragraph (5), by inserting "or associate degree" after "who are certificate";

(5) in paragraph (6)(A), by striking out clauses (i) through (iv) and inserting the following:

"(i) the number of unduplicated student applicants in the cooperative education program;

"(ii) the number of unduplicated students placed in co-op jobs;

"(iii) the number of employers who have hired co-op students;

"(iv) the total income for all students derived from working in co-op jobs; and

"(v) the increase or decrease in the number of students placed in co-op jobs in the program in the second previous year compared to such previous fiscal year; and".

(b) Applications for Existing Programs.—Section 802 is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) Applications for Existing Programs.—(1) Any institution of higher education, or participant in a combination of such institutions, which—

"(A) has an existing cooperative education program; or

"(B) has received Federal assistance for at least 5 fiscal years under this section;

may apply to receive a grant under this subsection.

"(2) Each institution of higher education, or combination of institutions, desiring to receive a grant under this subsection shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe. Each such application shall comply with the requirements of paragraphs (1), (2), (3), (5), (6), (7), and (8) of subsection (b).

"(3)(A) Except as provided in subparagraphs (B) and (C), the amount of a grant under this subsection shall be an amount that bears the same ratio to the amount available under section 801(b)(2) as the applicant institution's number of unduplicated students placed in co-op jobs (as defined 34 CFR Part 631.5, as in effect on December 31, 1990) in the previous year bears to the total number of such students in all institutions applying under this subsection.

"(B) No institution of higher education may receive an amount of Federal funds under this subsection in excess of 25 percent of that institution's co-op personnel and operating budget for the previous fiscal year.

"(C) The minimum annual award level for which an institution is eligible under this subsection is $1,000 and the maximum annual award level is $75,000.

"(4) Grants under this subsection shall be used exclusively to extend the quality and participation of the cooperative education program, for outreach in new curricular areas and outreach to potential participants including underrepresented and nontraditional populations.

"(5) No institution that receives funds under this subsection for a fiscal year may receive funds under subsection (b) for such fiscal year.".

(c) DURATION OF GRANTS.—Section 802(d) of the Act (as redesignated by subsection (b)(1)) is amended—

(1) in paragraph (1)(A), by striking "Except as provided in paragraph (3), no" and inserting "No";

(2) by striking paragraph (3); and

(3) by redesignating paragraph (4) as paragraph (3).

(d) FEDERAL SHARE.—Section 802(d)(2) of the Act (as redesignated by subsection (b)(1)) is amended—

(1) in subparagraph (A), by striking out "90 percent" and inserting "85 percent";

(2) in subparagraph (B), by striking out "80 percent" and inserting "70 percent";

(3) in subparagraph (C), by striking out "70 percent" and inserting "55 percent";

(4) in subparagraph (D), by striking out "60 percent" and inserting "40 percent"; and

(5) in subparagraph (E), by striking out "30 percent" and inserting "25 percent".

(e) CONSIDERATION OF APPLICATIONS.—Section 802(e) of the Act (as redesignated) is amended—

(1) by inserting "strength of" before "commitment" in paragraph (1)(B);

(2) by striking "education has" in such paragraph and inserting "education as"; and

(3) by inserting "and formalized institutional commitment statement" after "demonstrated by the plans" in such paragraph;

(4) by striking "on an institution-wide basis" in paragraph (1)(C).

(f) AMENDMENTS TO SECTION 803.—Section 803 of the Act is amended—

(1) in subsection (a)(1), by striking out "section 801(b)(2)" and inserting "section 801(b)(3)";

(2) in subsection (a)(2)—

(A) by striking "and" at the end of subparagraph (D);

(B) by striking the comma at the end of subparagraph (E) and inserting "; and";

(C) by inserting after subparagraph (E) the following new subparagraph:

"(F) encourage model and cooperative education in the fields of science and mathematics for women and minorities who are underrepresented in these fields;"; and

(D) by striking out "section 801(b)(3)" and inserting "section 801(b)(4)"; and

(3) in subsection (a)(3), by striking out "section 801(b)(4)" and inserting "section 801(b)(5)".

TITLE IX—GRADUATE PROGRAMS

SEC. 901. PURPOSE; ADMINISTRATIVE PROVISIONS.

Title IX of the Act is amended by inserting before part A the following new section:

"ADMINISTRATIVE PROVISIONS

"SEC. 900. (a) COORDINATION REQUIRED.—In carrying out the purposes of this title, the Secretary shall provide for coordinated administration and regulation of graduate programs under this title to ensure that the programs are carried out in a manner most compatible with academic practices.

"(b) HIRING AUTHORITY.—For purposes of carrying out this title, the Secretary shall appoint, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, such administrative and technical employees, with the appropriate educational background, as shall be needed to assist in the administration of such part. Such employees shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(c) USE FOR RELIGIOUS PURPOSES PROHIBITED.—No fellowship shall be awarded under this title for study at a school or department of divinity.".

SEC. 902. AMENDMENTS TO PART A.

Part A of title IX of the Act is amended—

(1) by amending the heading of such part to read as follows:

"PART A—GRANTS TO INSTITUTIONS TO ENCOURAGE WOMEN AND MINORITY PARTICIPATION IN GRADUATE EDUCATION";

(2) by amending section 901 to read as follows:

"GRANTS AUTHORIZED

"SEC. 901. The Secretary shall make grants to institutions of higher education to enable such institutions—

"(1) to identify talented undergraduate students who—

"(A) demonstrate financial need, and

"(B) are individuals from minority groups underrepresented in graduate education or are women underrepresented in fields of study in graduate education such as the fields of science and mathematics, and

"(2) to provide such students with an opportunity to participate in a program of research and scholarly activities at such institutions designed to provide such students with effective preparation for graduate study in such fields or related fields.";

(3) in section 902(a)(2)—

(A) by inserting "women and" before "minority undergraduates"; and

(B) by inserting ", especially those interested in entering fields in which they are underrepresented" after "minority undergraduates"; and

(4) by inserting after section 903 the following new section:

"INFORMATION COLLECTION

"SEC. 904. In order to assist institutions of higher education to identify talented women and minority undergraduates for graduate study, institutions receiving awards under this part shall provide to the Secretary such information as the Secretary determines is necessary to carry out this section. With respect to students participating in a summer internship under this part, the Secretary shall collect information submitted by such institutions, such as the students' names, addresses, and institutions attended for undergraduate study. The Secretary shall, subject to the authorization of each student, make the information available to institutions of higher education offering graduate programs seeking to identify talented women and minority undergraduates for graduate study.".

SEC. 903. AMENDMENTS TO PART B.

(a) PURPOSE.—Section 921 of the Act is amended to read as follows:

"STATEMENT OF PURPOSE; DESIGNATION

"SEC. 921. PURPOSE.—It is the purpose of this subpart to provide, through institutions of higher education, a program of grants to assist in making available the benefits of masters level and professional education to highly talented individuals from minority groups underrepresented in masters level and professional education and to highly talented women who are underrepresented in masters levels and professional education.

"(b) DESIGNATION.—Each recipient of such an award under this part shall be known as a 'Postbaccalaureate Opportunity Fellow'.".

(b) APPLICATIONS.—Section 922(c) of the Act is amended by striking "graduate or professional degree" and inserting "masters or professional degree".

(c) SELECTION OF APPLICATIONS.—Section 922(d) of the Act is amended—

(1) by striking paragraph (1);

(2) in paragraph (2), by striking "and" at the end thereof;

(3) in paragraph (3)—

(A) by inserting "women and" after "a larger number of";

(B) by striking "in colleges and universities" and inserting "in professional and academic careers requiring master's or professional degrees"; and

(C) by striking the period at the end and inserting a semicolon;

(4) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(5) by adding at the end the following new paragraphs:

"(3) take into account the need to expand access by women and minority groups to careers heretofore lacking adequate representation of women and minority groups; and

"(4) take into account the success of the applicant in providing students with access to careers in which women and minority groups are underrepresented.".

(d) PRIORITIES FOR FELLOWSHIPS.—Section 922(e) of the Act is amended to read as follows:

"(e) PRIORITIES FOR FELLOWSHIPS.—The Secretary shall assure that, in making grants under this subpart, a priority for awards is accorded to—

"(1) individuals from minority groups and women who are pursuing masters level or professional study in fields in which they are underrepresented; and

"(2) individuals from minority groups and women who are pursuing masters level study leading to careers that serve the public interest.".

(e) INSTITUTIONAL PAYMENTS.—Section 922(f) of the Act is amended to read as follows:

"(f) INSTITUTIONAL PAYMENTS.—The Secretary shall (in addition to stipends paid to individuals under this subpart) pay to the institution of higher education, for each individual awarded a fellowship at such institution, $10,000 with respect to such awards made for academic year 1993–1994, to be adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.".

(f) AWARD OF FELLOWSHIPS.—Section 923 of the Act is amended to read as follows:

"AWARD OF FELLOWSHIPS

"SEC. 923. (a) AWARDS.—The Secretary shall make payments to institutions of higher education for the purpose of paying stipends to individuals who are awarded fellowships under this subpart. The stipends the Secretary may establish shall reflect the purpose of this program to encourage highly talented students to undertake masters level and professional study as described in this subpart. Such stipends shall be set at a level of support comparable to that provided by the National Science Foundation Graduate Fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary.

"(b) REQUIREMENTS FOR AWARDS.—No student enrolled in graduate study leading to a masters or professional degree shall receive an award except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to study or research (including acting as a teaching assistant or research assistant as may be required as a condition to award a degree), in the field in which such fellowship was awarded and is not engaging in gainful employment, other than part-time employment by the institution of higher education involved in teaching, research, or similar activities, approved by the Secretary. Such period shall not exceed the normal period for completing the program in which the student is enrolled or a total of 3 years, whichever is less, except that the Secretary may provide by regulation for the granting of such fellowships for a period of study not to exceed one 12-month period, in addition to the 2-year period for study or research set forth in this section, under special circumstances which the Secretary determines would most effectively serve the purposes of this part. The Secretary shall make a determination to provide such 12-month extension of an award to an individual fellowship recipient for study or research upon review of an application for such extension by the recipient.".

(g) GRADUATE FELLOWSHIPS.—Part B of title IX is further amended—

(1) by striking the heading of part B and inserting the following:

"PART B—POSTBACCALAUREATE OPPORTUNITY AND HARRIS FELLOWSHIP PROGRAMS

"Subpart 1—Postbaccalaureate Opportunity Fellowships"; and

(2) by adding at the end thereof the following new subpart:

"Subpart 2—Patricia Roberts Harris Graduate Fellowship Program

"SEC. 926. STATEMENT OF PURPOSE; DESIGNATION OF AWARDS.

"(a) PURPOSE.—It is the purpose of this subpart to provide, through institutions of higher education, a program of grants to assist in making available the benefits of doctoral education to individuals from minority groups who are underrepresented in doctoral education and to women who are underrepresented in fields of doctoral education.

"(b) DESIGNATION.—Each recipient of such an award under this subpart shall be known as a 'Patricia Roberts Harris Graduate Fellow'.

"SEC. 927. PROGRAM AUTHORIZED.

"(a) GRANT BY SECRETARY.—The Secretary shall make grants to institutions of higher education to enable such institutions to make grants in accordance with the provisions of this subpart.

"(b) DISTRIBUTION AND AMOUNTS OF GRANTS.—(1) In making such grants the Secretary shall, consistent with the allocation of grants based on merit, seek a broad geographic distribution of awards and an equitable distribution among eligible public and independent institutions of higher education.

"(2) Whenever the Secretary determines that an institution of higher education is unable to use all of the amounts available to it under this subpart, the Secretary shall, on such dates during each fiscal year as the Secretary may fix, reallot such amounts not needed to institutions which can use the grants authorized by this subpart.

"(c) APPLICATIONS.—Any eligible institution of higher education offering a program of doctoral education may apply for grants under this subpart. Each such institution may make an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Such application may be made on behalf of academic departments or similar organizational units within such institution meeting the requirements of this subsection, including interdisciplinary or interdepartmental programs.

"(d) SELECTION OF APPLICATIONS.—In making grants to institutions of higher education, the Secretary shall—

"(1) take into account present and projected needs for highly trained individuals in academic fields of high national priority;

"(2) consider the need to prepare a larger number of women and individuals from minority groups, especially from among such groups which have been traditionally underrepresented in colleges and universities and in specific fields, but nothing contained in this paragraph shall be interpreted to require any institution to grant preference or disparate treatment to the members of one minority group on account of an imbalance which may exist with respect to the total number or percentage of individuals of such group participating in or receiving the benefits of the program authorized in this section, in comparison with the total number of percentage of individuals of such group in any community, State, section, or other area.

"(e) PRIORITIES FOR FELLOWSHIPS.—The Secretary shall assure that, in making grants under this subpart, awards are made to women and individuals from traditionally underrepresented groups undertaking doctoral study, including those interested in entering the fields of science and mathematics.

"(f) INSTITUTIONAL PAYMENTS.—The Secretary shall (in addition to stipends paid to individuals under this subpart) pay to the institution of higher education, for each individual awarded a fellowship at such institution, $10,000 with respect to such awards made for the academic year 1993-1994, to be adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

"SEC. 928. AWARD OF FELLOWSHIPS.

"(a) AWARDS.—The Secretary shall make payments to institutions of higher education for the purpose of paying stipends to individuals who are awarded fellowships under this subpart. The stipends the Secretary may establish shall reflect the purpose of this program to encourage highly talented students to undertake doctoral study as described in this subpart. Such stipends shall be set at a level of support comparable to that provided by the National Science Foundation Graduate Fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary.

"(b) REQUIREMENTS FOR AWARDS.—No student enrolled in graduate study leading to a doctoral degree shall receive an award except during periods in which such student is maintaining satisfactory progress in, and devoting essentially full time to study, research (including acting as a teaching assistant or research assistant as may be required as a condition to award a degree), or dissertation work in the field in which such fellowship was awarded and is not engaging in gainful employment, other than part-time employment by the institution of higher education involved in teaching, research, or similar activities, approved by the Secretary. Such period shall not exceed a total of three years, consisting of not more than two years of support for study or research, and not more than one year of support for dissertation work provided that the student has attained satisfactory progress to the dissertation stage. The institution shall provide two years of support for each student, including at least one year of supervised teaching, following the two years of predissertation support under this subpart. The Secretary may provide by regulation for the granting of such fellowships for a period for study not to exceed one 12-month period, in addition to the two-year period for study or research set forth in this section, under special circumstances which the Secretary determines would most effectively serve the purposes of this part. The Secretary shall make a determination to provide such 12-month extension of an award to an individual fellowship recipient for study or research upon review of an application for such extension by the recipient.".

SEC. 904. AMENDMENTS TO PART C.

(a) AWARD OF FELLOWSHIPS.—Section 931 of the Act is amended—

(1) by striking out "Number and" in the heading of subsection (a); and

(2) by striking out "not more than 450 fellowships per year" and inserting in lieu thereof "up to 600 new fellowships per year" in subsection (a).

(b) STIPENDS.—Section 933(a) of the Act is amended to read as follows:

"SEC. 933. (a) AWARD BY SECRETARY.—The Secretary shall pay to individuals awarded fellowships under this part such stipends as the Secretary may establish, reflecting the purpose of this program to encourage highly talented students to undertake graduate study as described in this part. Such fellowships shall be set at a level of support comparable to that provided by the National Science Foundation Graduate Fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary.".

(c) INSTITUTIONAL PAYMENTS.—Section 933(b)(1) of the Act is amended by striking out "$6,000" and inserting in lieu thereof "$10,000 with respect to such awards made for the academic year 1993-1994, to be adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year".

SEC. 905. AMENDMENTS TO PART D.

(a) AWARDS TO GRADUATE STUDENTS.—Section 945(a) of the Act is amended by inserting after "any point in their graduate study" the following: ", including students pursuing a doctoral degree after having completed a masters degree program at an institution of higher education,".

(b) AMOUNT OF STIPENDS.—Section 945(b) of the Act is amended to read as follows:

"(b) AMOUNT OF STIPENDS.—The Secretary shall make payments to institutions of higher education for the purpose of paying stipends to individuals who are awarded fellowships under this subpart. The stipends the Secretary establishes shall reflect the purpose of this program to encourage highly talented students to undertake graduate study as described in this part. Such stipends shall be set at a level of support comparable to that provided by the National Science Foundation Graduate Fellowships, except such amount shall be adjusted as necessary so as not to exceed the fellow's demonstrated level of need according to measurements of need approved by the Secretary.".

(c) ADDITIONAL ASSISTANCE.—Section 946 of the Act is amended to read as follows:

"ADDITIONAL ASSISTANCE FOR COST OF EDUCATION

"SEC. 946. (a) PAYMENTS AUTHORIZED.—The Secretary shall (in addition to stipends paid to individuals under this subpart) pay to the institution of higher education, for each individual awarded a fellowship at such institution, $10,000 with respect to such awards made for the academic year 1993–1994, to be adjusted annually thereafter in accordance with inflation as determined by the Department of Labor's Consumer Price Index for the previous calendar year.

"(b) USE FOR OVERHEAD PROHIBITED.—Funds made available pursuant to this part may not be used for the general operational overhead of the academic department or program.".

SEC. 906. AMENDMENT TO PART E.

Section 951 of the Act is amended to read as follows:

"PROGRAM REQUIREMENTS

"SEC. 951. (a) PROGRAM AUTHORITY.—The Secretary shall carry out a program to assist minority, low income, or educationally disadvantaged college graduates to successfully pursue a law degree and service in the legal profession through an annual grant or contract with the Council on Legal Education Opportunity (hereinafter CLEO). A grant or contract under this part shall permit CLEO to use up to 6 percent of the funds provided for administrative costs of the grant or contract.

"(b) SERVICES AUTHORIZED.—A legal training project under this subpart may provide the following services—

"(1) assistance and counseling in gaining admission to accredited law schools;

"(2) a 6-week intensive summer program designed to prepare minority, low-income or educationally disadvantaged individuals for the successful completion of legal studies; or

"(3) an academic-year program of tutorial services, academic advice and counseling designed to assist eligible participants successfully complete their legal training, which may include but is not limited to—

"(A) instruction in reading, legal research, legal writing skills and problem analysis;

"(B) academic advice and assistance in course selection;

"(C) advisement about financing their legal education and available student financial aid;

"(D) personal and professional counseling relative to career alternatives in the legal profession and bar examination preparation; and

"(E) any other activity consistent with subparagraphs (A) through (D) which furthers the objectives of this subsection which the Secretary may, by regulation, reasonably require.

"(c) USE OF FUNDS.—The Secretary shall by grant or contract on a biennial basis, with the Council on Legal Education Opportunity, cover all or part of the cost of—

"(1) engaging in such activities as are reasonably designed to publicize the existence and availability of program funds to assist minority, low-income, and educationally disadvantaged individuals to pursue a legal education;

"(2) selecting minority, low-income and educationally disadvantaged individuals for training for the legal profession;

"(3) facilitating the entry of such individuals into law schools at institutions of higher education for the purpose of pursuing a legal education;

"(4) selecting from among all qualified applicants, which shall provide the services authorized by section 951(b)(2) or (3);

"(5) evaluating the quality, impact and continuing feasibility of the programs implemented under section 951(b);

"(6) providing, through the institutions, agencies, and organizations selected under paragraph (3), for not more than 6 months prior to entry of such individuals upon their course of training for the legal profession, or following entry, training designed to assist them to complete successfully such training for the legal profession;

"(7) paying such stipends (including allowances for participant travel and for their dependents) as the Secretary may determine for such individuals for any such period of preliminary training for the legal profession during which such individuals maintain satisfactory academic progress toward the J.D. or L.L.B. degree, as determined by the respective institution; and

"(8) paying for administrative activities of the institutions of higher education, agencies, or organizations which receive subgrants or contracts under paragraph (6), or with which such contracts are entered into, to the extent that such activities are for the purpose of furthering the activities described in paragraphs (1) through (7).".

SEC. 907. AMENDMENTS TO PART F.

(a) PROGRAM AUTHORIZATION.—Section 961(a) of the Act is amended by striking out "establishing or expanding" and inserting in lieu thereof "continuing, expanding, or establishing".

(b) LIMITATION ON AMOUNTS.—Section 961(c) is amended by striking out "$100,000" and inserting in lieu thereof "$250,000".

SEC. 908. ADDITION OF NEW PART; AUTHORIZATION OF APPROPRIATIONS.

Title IX of the Act is further amended by striking part G and inserting the following:

"PART G—GRANTS TO INSTITUTIONS TO ENCOURAGE MINORITIES TO ENTER THE HIGHER EDUCATION PROFESSORATE

"SEC. 971. PROGRAM AUTHORIZED.

"The Secretary shall make grants to institutions of higher education or to nonprofit organizations associated with institutions of higher education with a demonstrated record of enhancing minority access to graduate education to enable such institutions, in consortia with historically black colleges and universities and other institutions with significant enrollments of African Americans, Asian Americans, Hispanic Americans, Native Hawaiians, Pacific Islanders, and Native Americans, to identify talented minority undergraduate students and faculty who wish to enter or continue in the higher education professorate, and to provide such students with stipends and a fellowship to assist them in obtaining the doctoral degree and teach in an institution of higher education.

"SEC. 972. DESIGNATION OF FELLOWS.

"Students receiving awards under this part shall be known as 'Faculty Development Fellows'.

"SEC. 973. APPLICATIONS AND AWARDS.

"(a) REQUIRED INFORMATION.—Each applicant institution of higher education or nonprofit organization shall submit an application under this part to the secretary containing the following information—

"(1) the names of those undergraduate institutions which are historically or predominantly black colleges and universities or other institutions with significant enrollments of African Americans, Asian Americans, Hispanic Americans, Native Hawaiians, Pacific Islanders, and Native Americans which have agreed to cooperate with the applicant institution to carry out the purposes of this part;

"(2) the institution's plan for identifying and recruiting minority faculty and talented minority undergraduates who might participate in the program;

"(3) the program or programs of doctoral study that the institution plans to offer in its doctoral program;

"(4) the institution's plan for using current minority faculty and other faculty as mentors and academic resources in support of the program;

"(5) other institutional resources, including tuition waivers, assistantships or financial aid other than loans, that the institution will make available to successful Faculty Development Fellowship applicants; and

"(6) such other assurances and information as the Secretary may reasonably require by regulation.

"(b) SELECTION REQUIREMENTS.—In making awards to institutions, the Secretary shall give priority to those applications which include the following—

"(1) provide a tuition waiver and a minimum $2,000 stipend to each Faculty Development Fellow;

"(2) provide additional financial support to the Faculty Development Fellow from non-Federal resources, either in cash or in kind, such as contributions from the business community and civic organizations;

"(3) emphasize courses of study leading to the doctoral degrees in disciplines where minorities are underrepresented; and

"(4) ensure that the Faculty Development Fellow will teach in an institution of higher education where minority undergraduate students are likely to benefit from the educational experience and academic achievements of the Faculty Development Fellow.

"(c) GEOGRAPHIC DISTRIBUTION.—The Secretary shall ensure an equitable geographic distribution among the institutional awards and that both public and private institutions are fairly represented among the recipients.

"(d) WAIVER BY THE SECRETARY.—The Secretary may waive all or any portion of the requirement under section 973(b)(1) upon application of any institution which is eligible for funds under title III of this Act, pursuant to criteria established by the Secretary by regulation.

"SEC. 974. FELLOWSHIPS.

"Each institution of higher education or consortium receiving a grant under this subpart shall award fellowships in an amount equal to $15,000, or an amount based on the financial need of the recipient (as determined by the institution in accordance with measurements of need approved by the Secretary) whichever is less.

"SEC. 975. TEACHING REQUIREMENT.

"Each Faculty Development Fellowship recipient shall enter into an agreement with the host institution awarding the fellowship (and the sending institution if the Faculty Development Fellow is a current faculty member), under which the fellowship recipient shall—

"(1) within a 5-year period after completing the doctorate degree for which the Faculty Development Fellowship was awarded, teach, for a period of not less than 1 year for each year for which financial assistance was received, in a public or private nonprofit institution of higher education, or in the case of a for-profit institution, one that offers at least the Associate of Arts degree;

"(2) provide the institution of higher education that awarded the fellowship, with evidence of compliance with section 975(1); and

"(3) repay all or part of the Faculty Development Fellowship received pursuant to this part, plus interest, and if applicable reasonable collection fees, under regulations issued by the Secretary, in the event the conditions of section 976 are not met, except insofar as provided in section 976.

"SEC. 976. CONSEQUENCES OF NONCOMPLIANCE.

"Recipients found by the Secretary to be in noncompliance with the agreement entered into under section 975 of this part shall be required to repay to the Federal Government a pro rata amount of the fellowship awards provided from Federal sources plus interest (but in no event at an interest rate higher than the rate applicable to loans in the applicable period under part B of title IV) and where applicable, reasonable collection fees, on a schedule and at a rate of interest to be prescribed by the Secretary by regulations issued pursuant to this subpart.

"SEC. 977. EXCEPTIONS TO REPAYMENT PROVISIONS.

"(a) Deferral During Certain Periods.—A recipient shall not be considered in violation of the agreement entered into pursuant to section 974 during any period in which the recipient—

"(1) is pursuing a full-time course of study related to the field of teaching at an eligible institution;

"(2) is serving, not in excess of 3 years, as a member of the armed services of the United States;

"(3) is temporarily totally disabled for a period of time not to exceed 3 years as established by sworn affidavit of a qualified physician;

"(4) is unable to secure employment for a period not to exceed 12 months by reason of the care required by a spouse who is disabled;

"(5) is seeking and unable to find full-time employment for a single period not to exceed 12 months;

"(6) is engaged in full-time employment as a teacher in a public or private nonprofit preschool, elementary or secondary school, or a public or private nonprofit preschool, education program; or

"(7) satisfies the provisions of additional repayment exceptions that may be prescribed by the Secretary in regulations issued pursuant to this subpart.

"(b) Forgiveness if Permanently Totally Disabled.—A recipient shall be excused from repayment of any fellowship assistance received under this subpart if the recipient becomes permanently totally disabled as established by sworn affidavit of a qualified physician.

"PART H—AUTHORIZATION OF APPROPRIATIONS

"SEC. 981. AUTHORIZATION OF APPROPRIATIONS.

"(a) Part A.—There are authorized to be appropriated to carry out part A $25,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

"(b)(1) Part B Subpart 1.—There are authorized to be appropriated to carry out subpart 1 of part B $50,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

"(2) Part B Subpart 2.—There are authorized to be appropriated to carry out subpart 2 of part B $50,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

"(c) Part C.—There are authorized to be appropriated to carry out part C $50,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

"(d) Part D.—There are authorized to be appropriated to carry out part D $50,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

"(e) Part E.—There are authorized to be appropriated to carry out part E $10,000,000 for fiscal year 1994, and such sums as may be necessary for the 4 succeeding fiscal years.

"(f) Part F.—There are authorized to be appropriated to carry out part F $10,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

"(g) Part G.—There are authorized to be appropriated to carry out part G $25,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.".

TITLE X—POSTSECONDARY IMPROVEMENT PROGRAM

SEC. 1001. AMENDMENTS TO PART A.

(a) Planning Grants.—Section 1001 of the Act is amended—

(1) by inserting "(a)" after "Sec. 1001.";

(2) by striking "postsecondary" in the matter preceding paragraph (1) and inserting "higher"; and

(3) by adding at the end the following new subsection:

"(b)(1) The Secretary is authorized to make planning grant to institutions of higher education for the development and testing of innovative techniques in postsecondary education.

"(2) Such grants shall not exceed $20,000.".

(b) Authorization of Appropriations.—Section 1005 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 1005. (a) There are authorized to be appropriated to carry out this part (except for section 1001(b)) $20,000,000 for fiscal year 1993 and such sums as may be necessary for the 4 succeeding fiscal years.

"(b) There are authorized to be appropriated to carry out section 1001(b) $1,000,000 for fiscal year 1993 and such sums as may be necessary for the 4 succeeding fiscal years.".

SEC. 1002. AMENDMENTS TO PART B.

(a) Minority Science Improvement Programs.—Section 1021(b) of the Act is amended by inserting "and minority women" after "ethnic minorities".

(b) Science and Engineering Access.—Section 1033(5) of the Act is amended by inserting ", particularly minority women," after "minority students".

(c) Reauthorization of Part B.—Section 1047 of the Act is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 1047. (a) Authorizations.—There are authorized to be appropriated to carry out the purposes of this part, $10,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

"(b) Appropriation Limitation.—For any fiscal year, 50 percent of the funds under this part shall be allocated for the purpose of section 1021, 33.33 percent for the purpose of section 1031, and 16.67 percent for the purpose of section 1032.".

SEC. 1003. AMENDMENT TO PART C.

Part C of title X of the Act is amended to read as follows:

"Part C—Special Projects in Areas of National Need

"Sec. 1061. (a) The Secretary is authorized to make grants to institutions of higher education, or consortia thereof, and such other public agencies and nonprofit organizations as the Secretary deems necessary for innovative projects concerning one or more areas of particular national need identified by the Secretary and the Director of the Fund.

"(b) No grant shall be made under this part unless an application is made at such time, in such manner, and contains or is accompanied by such information as the Director may require.

"(c) Areas of national need shall initially include, but shall not be limited to the following:

"(1) International exchanges.

"(2) Campus climate and culture.

"(3) Evaluation and dissemination.

"(d) There are authorized to be appropriated to carry out this part $5,000,000 for fiscal year 1993 and such sums as may be necessary for the 4 succeeding fiscal years.".

SEC. 1004. WOMEN AND MINORITIES SCIENCE AND ENGINEERING OUTREACH DEMONSTRATION PROGRAM.

Title X of the Act is amended by adding at the end the following new part:

"PART D—WOMEN AND MINORITIES SCIENCE AND ENGINEERING OUTREACH DEMONSTRATION PROGRAM

"SEC. 1071. PURPOSE.

"It is the purpose of this part to provide grants to institutions of higher education working in partnership with elementary and secondary schools to establish outreach programs for female and minority elementary and secondary students to increase the participation of those students in science and engineering undergraduate and graduate degree programs.

"SEC. 1072. PROGRAM AUTHORIZED.

"The Secretary shall, in accordance with the provision of this part, carry out a program of providing grants to institutions of higher education that are designed to enhance, coordinate, develop, and expand programs and initiatives which identify and encourage female and minority elementary and secondary students to pursue higher education in preparation for careers in science and engineering. The Secretary is authorized to award grants for women and minority science and engineering outreach demonstration programs to institutions meeting the eligibility criteria defined in section 1073.

"SEC. 1073. ELIGIBLE INSTITUTIONS.

"(a) In General.—The Secretary shall provide grants under this program to institutions which meet the following selection criteria:

"(1) Grantees shall be institutions of higher education with science and engineering programs.

"(2) Grantees shall have female and minority enrollment and retention rates significantly higher than national averages but shall not meet the definition for 'minority institution' established in part B of this title.

"(3) Grantees shall demonstrate their ability to conduct outreach activities in science and engineering to female and minority students at the elementary and secondary levels.

"(4) Grantees shall incorporate the use of advanced telecommunications equipment, including fiber optics and interactive video systems, to improve the development of intermodal programs targeted toward female and minority students.

"(5) Grantees shall enter into a partnership agreement with a local educational agency and at least 1 local business or industry and the duties of each partner in the consortium shall be defined in the institution's application to the Secretary.

"(b) LIMITATION.—The Secretary shall award no less than 40 percent of the total funds made available under this section to eligible institutions in the Nation's ten largest metropolitan statistical areas, where minority elementary and secondary school student populations exceed the national average and where the female elementary and secondary school student population's performance in mathematics and science has been consistently below that of the male student population.

"SEC. 1074. AMOUNT, DURATION, AND USE OF FUNDS.

"(a) AMOUNT AND DURATION OF GRANTS.—Grants provided under this section should be no less than $500,000 in a single fiscal year, and shall be continued for a period not to exceed 5 fiscal years.

"(b) USE OF GRANTS.—Grants provided under this section may be used for:

"(1) The operation and administration of outreach programs to elementary and secondary students.

"(2) Faculty development programs in support of outreach programs.

"(3) Curriculum development in support of the outreach programs.

"(4) Disseminating information about the outreach programs to elementary and secondary schools and institutions of higher education.

"(5) Supporting cooperative efforts with elementary and secondary schools, community groups, business and industry and other education-related groups, to expand the scope of the outreach programs.

"(6) Establishing infrastructure necessary to operate programs, specifically including telecommunications equipment providing distance learning capabilities.

"SEC. 1075. APPLICATION.

"To receive a grant under this section, an eligible institution shall submit an application at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require.

"SEC. 1076. EVALUATION.

"(a) INDEPENDENT ANNUAL EVALUATION.—The Secretary shall provide for the annual independent evaluation of programs under this part to determine their effectiveness in providing—

"(1) the operation and administration of outreach programs to elementary and secondary students;

"(2) faculty development programs in support of outreach programs;

"(3) curriculum development in support of the outreach programs;

"(4) disseminating information about the outreach programs to elementary and secondary schools and institutions of higher education;

"(5) supporting cooperative efforts with elementary and secondary schools, community groups, business and industry and other education-related groups, to expand the scope of outreach programs; and

"(6) establishing infrastructure necessary to operate programs, specifically including telecommunications equipment providing distance learning capabilities.

"(b) CRITERIA.—(1) Each evaluation shall be conducted by individuals not directly involved in the administration of the program or project operated under this part. Such independent evaluators and the program administrators shall jointly develop evaluation criteria which provide for appropriate analysis of the factors under subsection (a). When possible, each evaluation shall include comparisons with appropriate control groups.

"(2) In order to determine a program's effectiveness in achieving its stated goals, each evaluation shall contain objective measures of such goals and, where feasible, shall obtain the specific views of program participants about such programs.

"(c) REPORT TO CONGRESS AND DISSEMINATION.—The Secretary shall prepare and submit to the Congress a review and summary of the results of such evaluations not later than September 30, 1997.

"SEC. 1077. FEDERAL SHARE.

"The Federal share of programs assisted under this part shall be 90 percent in the first year, 80 percent in the second year, 70 percent in the third year, 60 percent in the fourth year, and 50 percent in the fifth year. The remaining funds shall be provided from non-Federal sources.

"SEC. 1078. SUPPLEMENT/NOT SUPPLANT.

"An institution of higher education or a local educational agency may use funds received under this part only so as to supplement and, to the extent practicable, increase the level of funds that would be available from non-Federal sources for the uses of funds under this part and in no case may such funds be so used as to supplant such funds from such non-Federal sources.

"SEC. 1079. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part, $25,000,000 for fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years. Not more than 3 percent of the amount appropriated for any fiscal year may be used for purposes of section 1076.".

TITLE XI—STUDENT COMMUNITY SERVICE

SEC. 1101. REVISION OF TITLE.

(a) AMENDMENT.—Title XI of the Act is amended to read as follows:

"TITLE XI—STUDENT COMMUNITY SERVICE

"PART A—HIGHER EDUCATION INNOVATIVE PROJECTS FOR COMMUNITY SERVICE

"SEC. 1101. HIGHER EDUCATION INNOVATIVE PROJECTS FOR COMMUNITY SERVICE.

"(a) PURPOSE.—It is the purpose of this part to support innovative projects to encourage students to participate in community service activities while such students are attending institutions of higher education.

"(b) GENERAL AUTHORITY.—The Secretary of Education, after consultation with the Commission on National Service to insure coordination of activities, is authorized to make grants to, and enter into contracts with, institutions of higher education (including a combination of such institutions) and other public agencies and nonprofit organizations working in partnership with institutions of higher education—

"(1) to enable the institution to create or expand community service activities for students attending that institution;

"(2) to encourage student-initiated and student-designed community service projects;

"(3) to encourage students to participate in community service activities that will engender a sense of social responsibility and commitment to the community;

"(4) to encourage students to assist in the teaching of individuals with limited basic skills or an inability to read and write; and

"(5) to provide for the training of teachers, prospective teachers, related education personnel, and community leaders in the skills necessary to develop, supervise, and organize community service activities, taking into consideration the particular needs of a community and the ability of the grantee to actively involve a major part of the community in, and substantially benefit the community by, the proposed community service activities.

"(c) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of each grant awarded under this section shall not exceed 50 percent of the cost of the community service activities carried out with each such grant.

"(2) NON-FEDERAL SOURCES.—That portion of the costs of programs that receive assistance under this part that are to be paid from sources other than Federal funds may be paid in cash or in kind (fairly evaluated).

"(d) APPLICATION FOR GRANT.—To receive a grant under this part, an applicant shall prepare and submit to the Secretary, an application at such time, in such manner, and containing such information as the Secretary may reasonably require, including—

"(1) a description of the proposed program to be established with assistance provided under the grant;

"(2) a description of the human, educational, environmental or public safety service that participants will perform and the community need that will be addressed under such program;

"(3) a description of the procedure for training supervisors and participants and for supervising and organizing participants in such proposed program;

"(4) a description of the budget for the program; and

"(5) assurances that, prior to the placement of a participant in the program, the applicant will consult with any local labor organization representing employees, with any employers, and with any business organizations in the area who are engaged in the same or similar work or business as that proposed to be carried out by such project.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of carrying out part A, $15,000,000 for fiscal year 1993 and such sums as may be necessary for the 4 succeeding fiscal years.

"PART B—STUDENT LITERACY CORPS AND STUDENT MENTORING CORPS

"SEC. 1111. PURPOSE.

"It is the purpose of this part to provide financial assistance to institutions of higher education to promote the development of literacy corps programs and mentoring corps programs to be operated by institutions of higher education in public community agencies in the communities in which such institutions are located.

"SEC. 1112. LITERACY CORPS PROGRAM AND MENTORING CORPS PROGRAM.

"(a) GENERAL AUTHORITY.—From the amount appropriated pursuant to section 1116 for any fiscal year, the Secretary is authorized, in accordance with the provisions of this part, to make grants to institutions of higher education for not to exceed 4 years to carry out literacy corps programs or mentoring corps program.

"(b) LIMITATION.—An institution of higher education shall only receive 1 grant under this part in each fiscal year.

"(c) CONTINUATION OF LITERACY PROGRAM.—Grants under this section are renewable upon application by the institution of higher education in accordance with section 1114.

"(d) FEDERAL SHARE.—

"(1) IN GENERAL.—The Federal share of carrying out student literacy corps programs under this part shall be—

"(A) up to 100 percent for an initial grant to an institution of higher education; and

"(B) up to 75 percent for a grant renewed under subsection (c).

"(2) NON-FEDERAL SHARE.—The non-Federal share of carrying out student literacy corps programs under this part may be paid from any non-Federal sources.

"SEC. 1113. USES OF FUNDS.

"(a) IN GENERAL.—Funds made available under this part may be used for—

"(1) grants to institutions of higher education for—

"(A) the costs of participation of institutions of higher education in the literacy corps program or mentoring corps program for which assistance is sought; and

"(B) stipends for student coordinators engaged in the literacy corps program or mentoring corps program for which assistance is sought; and

"(2) technical assistance, collection and dissemination of information, and evaluation in accordance with section 1115.

"(b) LIMITATIONS.—(1) No grant under this part to an institution of higher education may exceed $100,000.

"(2) No institution of higher education may expend more than $25,000 of a grant made under this part in the first year in which the institution receives such a grant.

"SEC. 1114. APPLICATIONS.

"(a) APPLICATION REQUIRED.—Each institution of higher education desiring to receive a grant under this part shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—

"(1) LITERACY CORPS.—Each application shall—

"(A) contain assurances that the institution will use the grant in accordance with section 1113;

"(B) contain adequate assurances that—

"(i) the institution has established 1 or more courses of instruction for academic credit which are designed to combine the training of undergraduate students in various academic departments such as social sciences, economics, and education with experience as tutors;

"(ii) such individuals will be required, as a condition of receiving credit in such course, to perform, for each credit, not less than 2 hours a week, of voluntary, uncompensated service during the academic term in a public community agency as a tutor in such agency's educational or literacy program;

"(iii) such tutoring service will be supplementary to the existing instructional services, offered in a structured classroom setting, and furnished under the supervision of qualified personnel; and

"(iv) the institution will locate such tutoring services in one or more public community agencies which serve educationally or economically disadvantaged individuals and individuals with disabilities and, as provided in section 1116, will give priority in providing tutoring services to—

"(I) educationally disadvantaged students receiving services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965;

"(II) students with disabilities; and

"(III) illiterate parents of educationally or economically disadvantaged elementary school students, with special emphasis on single-parent households; and

"(C) demonstrate that the institution of higher education has participated, prior to applying for a grant under this part, in community service activities, including the conduct of a cooperative education program; and

"(D) contain such other assurances as the Secretary may reasonably require.

"(2) MENTORING CORPS.—Each application shall—

"(A) contain assurances that the institution will use the grant in accordance with section 1113;

"(B) contain adequate assurances that—

"(i) the institution has established 1 or more courses of instruction for academic credit which are designed to combine the training of undergraduate students of various academic departments with experience as mentors;

"(ii) such individuals will be required, as a condition of receiving credit in such course, to perform not less than 60 hours of voluntary, uncompensated service during the academic term as a mentor to economically disadvantaged children and youth;

"(iii) such mentoring will be complimentary to the existing instructional services offered in a structured classroom setting, and will include structured and informal activities geared towards improving the academic, social and emotional development of children in the programs;

"(iv) the institution will locate public community agencies or elementary/secondary schools which serve educationally or economically disadvantaged youth and, as provided in section 1116, will give priority in providing mentoring services to economically disadvantaged children and youth through community-based organizations or elementary/secondary schools;

"(C) demonstrate that the institution of higher education has participated, prior to applying for a grant under this part, in community service activities, including the conduct of a cooperative education program; and

"(D) contain such other assurances as the Secretary may reasonably require.

"(c) WAIVER.—The Secretary may, upon request of an institution of higher education which does not meet the requirements of clause (3) of subsection (b), grant a waiver of the requirement under such clause if the institution of higher education provides assurances that—

"(1) the institution of higher education has conducted another significant program which involves community outreach and service; or

"(2) its failure to engage in community service related programs or activities prior to making application under this part will not impede the ability of the institution to engage in the outreach efforts necessary to carry out the requirements of this part.

An institution of higher education may apply for a waiver as part of the application described in subsection (b).

"(d) REOPENING OF APPLICAITON PROCESS.—The Secretary shall accept applications for assistance under this part for 90 days following the date of enactment of this Act.

"SEC. 1115. TECHNICAL ASSISTANCE AND COORDINATION CONTRACT.

"To the extent that funds are available therefor pursuant to section 1116, the Secretary may, directly or by way of grant, contract, or other arrangement—

"(1) provide technical assistance to grant recipients under this part;

"(2) collect and disseminate information with respect to programs assisted under this part; and

"(3) evaluate such programs and issue reports on the results of such evaluations.

"SEC. 1116. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out the provisions of this part $15,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"SEC. 1117. DEFINITION.

"For the purpose of this part—

"(1) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' (as defined in section 1201 of this Act), in the case of an institution of higher education with a branch campus, means, at the election of the institution—

"(A) a branch campus of the institution, or

"(B) the institution.

"(2) PUBLIC COMMUNITY AGENCY.—The term 'public community agency' means an established community agency with an established program of instruction such as elementary and secondary schools, Head Start centers, prisons, agencies serving youth, and agencies serving the handicapped, including disabled veterans.

"PART C—INNOVATIVE PROJECTS FOR COMMUNITY SERVICES AND STUDENT FINANCIAL INDEPENDENCE

"SEC. 1121. STATEMENT OF PURPOSE.

"It is the purpose of this part to support innovative projects in order to determine the feasibility of encouraging student participation in community service projects in exchange for educational services or financial assistance and thereby reduce the debt acquired by students in the course of completing postsecondary educational programs.

"SEC. 1122. INNOVATIVE PROJECTS FOR COMMUNITY SERVICES AND STUDENT FINANCIAL INDEPENDENCE.

"(a) GENERAL AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this part, to make grants to and contracts with institutions of higher education (including combinations of such institutions) and with such other public agencies and nonprofit private organizations as the Secretary deems necessary for innovative projects designed to carry out the purpose of this part.

"(b) APPLICATIONS.—No grant may be made and no contract may be entered into under this section unless an application is made at such time, in such manner, and contained or accompanied by such information as the Director may require.

"(c) APPLICABLE PROCEDURES.—(1) No application may be approved under subsection (b) unless the National Board of the Fund for Improvement of Postsecondary Education, under procedures established by the Director, approves the application.

"(2) The provisions of section 1004(b) shall apply to grants made under this part.

"(d) DEFINITIONS.—For the purposes of this part, the term 'Director' means the director of the Fund for the Improvement of Postsecondary Education.

"SEC. 1123. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated to carry out this part, $5,000,000 for fiscal year 1993, and such sums as may be necessary for the 4 succeeding fiscal years.

"(b) No funds may be appropriated pursuant to subsection (a) for any fiscal year unless funds are appropriated for part A of this title for such fiscal year.

"PART D—COMMUNITY SERVICE-LEARNING

"SEC. 1131. PROGRAM AUTHORITY.

"(a) PURPOSE.—The purpose of this part is—

"(1) to encourage and enable institutions of higher education to develop workstudy programs involving eligible students in community service-learning designed to develop, improve, or expand services for low-income individuals and families or to solve particular problems related to the needs of low-income individuals; and

"(2) to enable institutions to establish or expand a program under which such institution, separately or in combination with other eligible institutions and through formal or informal consultation with local nonprofit, governmental, educational, and community-based organizations, locates and develops community services jobs for students receiving assistance under part C of title IV.

"(b) DEFINITIONS.—For the purpose of this part—

"(1) 'community service-learning program' means a program of student work that—

"(A) provides tangible community services for or on behalf of low-income individuals or families; and

"(B) to the maximum extent practicable, provides participating students with work-learning opportunities which complement and reinforce their educational programs or vocational goals; and

"(2) 'community services' means services which are identified by an institution of higher education, through formal or informal consultation with local nonprofit, governmental, and community-based organizations, as designed to improve the quality of life for community residents, particularly low-income individuals, or to solve particular problems related to their needs including, but not limited to, such fields as health care, child care, literacy training, education (including tutorial services), welfare, social services, transportation, housing and neighborhood improvement, public safety, crime prevention and control, recreation, rural development, and community improvement.

"(c) COMMUNITY SERVICE JOB LOCATION AND DEVELOPMENT PROGRAM.—The Secretary is authorized to enter into agreements with eligible institutions to provide a program under paragraph (2) of subsection (a) of this part, which agreement shall—

"(1) provide that the Federal share of the cost of any program under this section will not exceed 80 percent of such cost;

"(2) provide satisfactory assurance that funds available under this section will not be used for the location or development of jobs for students to obtain upon graduation, but rather for the location and development of jobs available to students during and between periods of attendance at such institution;

"(3) provide satisfactory assurance that the location or development of jobs pursuant to programs assisted under this part will not result in the displacement of employed workers or impair existing contracts for service;

"(4) provide satisfactory assurance that Federal funds used for the purpose of this part can realistically be expected to help generate student wages exceeding, in the aggregate, the amount of such funds, and that if such funds are used to contract with another organization, appropriate performance standards are part of such contract; and

"(5) provide that the institution will submit to the Secretary an annual report on the uses made of funds provided under this part and an evaluation of the effectiveness of such program in benefiting the students of such institution.

"(d) USE OF FUNDS.—The Secretary shall not regulate the amount or the proportion of funds available to eligible institutions, under this section, that they may use to carry out the activities described in subsections (a), (c), and (e). Such uses of funds shall be solely determined by each such institution.

"(e) USE OF FUNDS TO CONDUCT PROGRAM.—Each institution participating under this part may use funds made available under section 442(e) to conduct that institution's program of community service-learning, including—

"(1) development of mechanisms to assure the academic quality of the student experience,

"(2) assuring student access to educational resources, expertise, and supervision necessary to achieve community service objectives, and

"(3) collaboration with public and private nonprofit agencies in the planning, development, and administration of such programs.

"PART E—GRANTS FOR SEXUAL OFFENSES EDUCATION

"SEC. 1171. GRANTS FOR CAMPUS SEXUAL OFFENSES EDUCATION.

"(a) IN GENERAL.—(1) The Secretary of Education is authorized to make grants to or enter into contracts with institutions of higher education for sexual offenses education and prevention programs under this section.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give priority to institutions who show the greatest need for the sums requested.

"(b) GENERAL SEXUAL OFFENSES PREVENTION AND EDUCATION GRANTS.—Grants may be used for the following purposes:

"(1) to provide training for campus security and college personel, including campus disciplinary or judicial boards, that address the issues of sexual offenses;

"(2) to develop, disseminate, or implement campus security and student disciplinary policies to prevent and discipline sexual offense crimes;

"(3) to develop, enlarge, or strengthen support services programs including medical or psychological counseling to assist victims' recovery from sexual offense crimes;

"(4) to create, disseminate, or otherwise provide assistance and information about victims' options on and off campus to bring disciplinary or other legal action; and

"(5) to implement, operate, or improve sexual offense education and prevention programs, including programs making use of peer-to-peer education.

"(c) MODEL GRANTS.—Not less than 25 percent of the funds authorized under this section shall be available for grants for model demonstration programs to be coordinated with local rape crisis centers for the development and implementation of quality rape prevention and education curricula and for local programs to provide services to student sexual offense victims.

"(d) ELIGIBILITY.—No institution of higher education or consortium of such institutions shall be eligible for a grant under this section unless—

"(1) its student code of conduct, or other written policy governing student behavior explicitly prohibits all forms of sexual offenses;

"(2) it has in effect and implements a written policy requiring the disclosure of the victim of any sexual offense the outcome of any investigation by campus police or campus disciplinary proceedings brought pursuant to the victim's complaint against the alleged perpetrator of the sexual offense, except that nothing in this section shall be interpreted to authorize disclosure to any person other than the victim; and

"(3) the Secretary shall give priority to those grant applicants who do not have an established campus education program regarding sexual offenses.

"(e) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, an institution of higher education, or consortium of such institutions, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds granted under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) explain how the program intends to address the issue of sexual offenses;

"(D) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.

"(f) GRANTEE REPORTING.—Upon completion of the grant period under this section, the grantee institution or consortium of institutions shall file a performance report with the Secretary explaining the activities carried out together with an assessment of the effectiveness of those activities in achieving the purposes of this section. The Secretary shall suspend funding for an approved application if an applicant fails to submit an annual performance report.

"(g) DEFINITIONS.—For purposes of this part, the term 'sexual offenses educational and prevention' includes programs that provide education seminars, peer-to-peer counseling, operation of hotlines, self-defense courses, the preparation of informational materials, and any other effort to increase campus awareness of the facts about, or to help prevent, sexual offenses.

"(h) GENERAL TERMS AND CONDITIONS.—

"(1) REGULATIONS.—No later than 45 days after the date of enactment of this section, the Secretary shall publish proposed regulations implementing this section. No later than 120 days after such date, the Secretary shall publish final regulations implementing this section.

"(2) REPORTS TO CONGRESS.—No later than 180 days after the end of each fiscal year for which grants are made under this section, the Secretary shall submit to the committees of the House of Representatives and the Senate responsible for issues relating to higher education and to crime, a report that includes—

"(A) the amount of grants made under this section;

"(B) a summary of the purposes for which those grants were provided and an evaluation of their progress; and

"(C) a copy of each grantee report filed pursuant to subsection (f) of this section.

"(3) For the purpose of carrying out this subchapter, there are authorized to be appropriated $20,000,000 for the fiscal year 1993, and such sums as may be necessary for each of the 4 succeeding fiscal years.

"PART F—DWIGHT D. EISENHOWER LEADERSHIP PROGRAM

"SEC. 1181. SHORT TITLE; ESTABLISHMENT OF THE PROGRAM.

"(a) Short Title.—This part may be cited as the 'Dwight D. Eisenhower Leadership Development Act of 1992'.

"(b) Establishment of Program.—

"(1) In general.—The Secretary shall establish a program to be known as the 'Dwight D. Eisenhower Leadership Development Program'.

"(2) Special rule.—The program assisted under this part shall be established in conjunction with institutions of higher education which are specially prepared to undertake the development of new generations of leaders in the areas of national and international affairs.

"(c) Functions of the Program.—The functions of the program assisted under this part shall include—

"(1) stimulating and supporting the development of leadership skills among new generations of American college students;

"(2) directing a national program that identifies, recruits, inspires, and educates outstanding young men and women regarding leadership roles in a wide variety of fields in both the public and private sectors;

"(3) offering opportunities for young, needy, American leaders, with a priority given to those who qualify for assistance under title IV of this Act, to benefit from internships in national and international organizations, with special attention being given to establishing such opportunities in developing countries;

"(4) developing curriculum for secondary and postsecondary education;

"(5) developing a prototype for understanding and teaching critical leadership skills to young Americans and encouraging institutions of higher education to establish similar leadership programs throughout the United States and abroad; and

"(6) stimulating the theoretical and practical study of leadership and leadership development to develop both a better understanding of leadership and improved methods to teach critical skills to young adults.

"(d) Operation of the Program.—The Secretary is authorized to make grants to or enter into cooperative agreements, contracts, or leases with institutions of higher education (as defined in section 1201 of this title) or with nonprofit private organizations in consortia with such institutions to operate the program assisted under this part.

"(e) Authorization of Appropriations.—There are authorized to be appropriated $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years to carry out this part.".

(b) Conforming Amendment.—Section 118 of the National and Community Service Act of 1990 is repealed.

TITLE XII—GENERAL PROVISIONS

SEC. 1201. DEFINITIONS.

(a) Institution of Higher Education.—Section 1201(a) of the Act is amended—

(1) in the first sentence, by striking ", or if not so accredited" through "institution so accredited"; and

(2) in the last sentence—

(A) by inserting after "quality of" in the last sentence "the education or"; and

(B) by inserting before the period ", pursuant to section 1205".

(b) Cross Reference Definitions.—Section 1201 of the Act is amended—

(1) by redesignating subsections (l) and (m) as subsections (m) and (n), respectively; and

(2) by striking subsections (d) through (k) and inserting the following:

"(d) The term 'secondary school' has the same meaning given that term under section 1471(21) of the Elementary and Secondary Education Act of 1965.

"(e) The term 'Secretary' means the Secretary of Education.

"(f) The term 'local educational agency' has the same meaning given that term under section 1471(12) of the Elementary and Secondary Education Act of 1965.

"(g) The term 'State educational agency' has the same meaning given that term under section 1471(23) of the Elementary and Secondary Education Act of 1965.

"(h) The term 'elementary school' has the same meaning given that term under section 1471(8) of the Elementary and Secondary Education Act of 1965.

"(i) The term 'combination of institutions of higher education' means a group of institutions of higher education that have entered into a cooperative arrangement for the purpose of carrying out a common objective, or a public or private nonprofit agency, organization, or institution designated or created by a group of institutions of higher education for the purpose of carrying out a common objective on their behalf.

"(j) The term 'gifted and talented children' has the same meaning given that term under section 4103(1) of the Elementary and Secondary Education Act of 1965.

"(k) The term 'disability' shall have the same meanings as defined in section 3 of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102).

"(l) The term 'special education teacher' means teachers who teach children with disabilities as defined in the Individuals With Disabilities Education Act.".

SEC. 1202. ANTIDISCRIMINATION.

Section 1202 of the Act is amended—

(1) by inserting "(a) In General.—" after "Sec. 1202."; and

(2) by adding at the end the following:

"(b) Limitations on Statutory Construction.—Nothing in this Act shall be construed to limit the rights or responsibilities of any individual under the Americans With Disabilities Act of 1990, the Rehabilitation Act of 1973, or any other law.".

SEC. 1203. THE NATIONAL ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY.

Section 1205 of the Act is amended—

(1) in subsection (c)(1), by inserting "education and" after "quality of"; and

(2) in subsection (f), by striking "1991" and inserting "1997".

SEC. 1204. APPROVAL OF ACCREDITING AGENCY OR ASSOCIATION.

Title XII of the Act is amended by inserting after section 1205 the following new section:

"SEC. 1205A. APPROVAL OF ACCREDITING AGENCY OR ASSOCIATION.

"(a) Standards Required.—No accrediting agency or association may be determined by the Secretary to be a reliable authority as to the quality of education or training offered for this Act or other Federal purposes, unless the agency or association meets standards established by the Secretary pursuant to this section. The Secretary shall, after notice and opportunity for a hearing, establish standards for such determinations. Such standards shall require that—

"(1) the accrediting agency or association shall be a regional, national, or State agency or association and shall demonstrate the ability and the experience to operate as an accrediting agency or association within the State, region, or nationally, as appropriate;

"(2)(A) for the purpose of participation in programs under this Act, such agency or association has a voluntary membership and has as a principal purpose the accrediting of institutions of higher education or is a State; or

"(B) for the purpose of participation in other programs administered by the Department of Education or other Federal agencies, such agency or association has a voluntary membership and has as its principal purpose the accrediting of institutions of higher education or programs;

"(3) such agency or association is separate and independent, both administratively and financially, of any related, associated, or affiliated trade association or membership organization, except for voluntary professional organizations and agencies or associations which have as their principal purpose the accreditation of programs within institutions, which are accredited by another agency or association recognized by the Secretary;

"(4) such agency or association consistently applies and enforces standards that ensure that the courses or programs of instruction, training, or study at the institution of higher education are of sufficient quality to achieve, for the duration of the accreditation period, the stated objective for which the courses or the programs are offered;

"(5) the standards of accreditation of the agency or association shall assess the institution's—

"(A) curricula,

"(B) faculty,

"(C) facilities, equipment, and supplies,

"(D) fiscal and administrative capacity at a specified scale of operations,

"(E) student support services,

"(F) recruiting and admissions practices, academic calendars, catalogs, publications, grading and advertising,

"(G) program length and tuition and fees in relation to the subject matters taught, the objectives of the degrees or credentials offered,

"(H) measures of program length in clock hours or credit hours, and

"(I) success with respect to student achievement in relation to its mission, including, as appropriate, consideration of course completion, State licensing examination, and job placement rates, and

such standards shall also include an appropriate measure or measures of student achievement;

"(6) such agency or association shall apply procedures throughout the accrediting process, including evaluation and withdrawal proceedings, that comply with due process, including—

"(A) adequate specification of requirements and deficiencies at the institution of higher education or program being examined;

"(B) notice of an opportunity for a hearing by any such institution;

"(C) the right to appeal from any adverse action against any such institution; and

"(D) the right to representation by counsel for any such institution;

"(7) such agency or association shall notify the Secretary and the appropriate State postsecondary agency or agencies in a timely fashion of the accreditation of an institution and any final denial, withdrawal, or termination of accreditation of an institution, together with any other action taken with respect to an institution; and

"(8) such agency or association shall make available to the public a summary of the specific reasons for any final accrediting decisions involving denial, termination, or suspension of accreditation, together with the comments of the affected institution, and shall give the institution at least 30 days notice prior to the release of such summary.

"(b) Separate and Independent Defined.—For the purpose of subsection (a)(3), the term 'separate and independent' means that—

"(1) the members of the postsecondary education governing body of the accrediting agency or association are not elected or selected by the board or chief executive officer of any related, associated, or affiliated trade association or membership organization;

"(2) at least 25 percent of the members of the policy and decision making bodies of the accrediting agency or association are representative of the general public (not members of any related, associated, or affiliated trade association or membership organization), and guidelines are established for such members to avoid conflicts of interest;

"(3) dues to the accrediting agency or association are paid separately from any dues paid to any related, associated, or affiliated trade association or membership organization; and

"(4) the budget of the accrediting agency or association is developed and determined by the accrediting agency or association without review or resort to consultation with any other entity or organization.

"(c) Operating Procedures Required.—No accrediting agency or association may be approved by the Secretary for the purpose of this title, unless the agency or association—

"(1) performs, at regularly established intervals, on-site inspections and reviews of institutions of higher education (at least one such visit at each institution whose primary purpose is to provide vocational education and training should be unannounced), with particular focus on educational quality and program effectiveness, and assures that accreditation team members are well-trained and knowledgeable with respect to their responsibilities;

"(2) requires institutions of higher education subject to its jurisdiction which plan to establish a branch campus to submit a business plan prior to opening the branch campus;

"(3) agrees to conduct, as soon as practicable, but within a period of not more than 6 months of the establishment of a new branch campus or a change of ownership of an institution of higher education an on-site visit of that branch campus or of the institution after a change of ownership;

"(4) requires that teach-out agreements among institutions are subject to approval by the accrediting agency or association consistent with standards promulgated by such agency or association;

"(5) maintains and makes publicly available written materials regarding standards and procedures for accreditation, appeal procedures and the accreditation status of each institution subject to its jurisdiction; and

"(6) discloses publicly whenever an institution of higher education subject to its jurisdiction is being considered for accreditation or reaccreditation.

"(d) Length of Approval.—No accrediting agency or association may be approved by the Secretary for the purpose of this Act for a period of more than 5 years.

"(e) Initial Arbitration Rule.—The Secretary may not recognize the accreditation of any institution of higher education unless the institution of higher education agrees to submit any dispute involving the final denial, withdrawal, or termination of accreditation to initial arbitration prior to any other legal action.

"(f) Limitation on Scope of Standards.—Nothing in this Act shall be construed to permit the Secretary to establish standards for accrediting agencies or associations which are not provided for in this section. Nothing in this Act shall be construed to prohibit or limit any accrediting agency or association from adopting additional standards not provided for in this section.

"(g) Accreditation Rule.—The Secretary shall not recognize the accreditation of any eligible institution of higher education if the institution of higher education is in the process of changing its accrediting agency or association, unless the eligible institution submits to the Secretary all materials relating to the prior accreditation, including materials demonstrating reasonable cause for changing the accrediting agency or association.

"(h) Dual Accreditation Rule.—The Secretary shall not recognize the accreditation of any eligible institution of higher education if the institution of higher education is accredited by more than one accrediting agency or association, unless the institution submits to each such agency and association and to the Secretary the reasons for accreditation by more than one such agency or association and demonstrates to the Secretary reasonable cause for its accreditation by more than one agency or association. If the institution is accredited by more than one accrediting agency or association, the institution shall designate which agency's accreditation shall be utilized in determining the institution's eligibility for programs under this Act.

"(i) Impact of Loss of Accreditation.—An institution may not be certified or recertified as an institution of higher education under section 481 or participate in any of the other programs authorized by this Act if such institution—

"(1) is not currently accredited by any agency or association recognized by the Secretary;

"(2) has had its accreditation withdrawn, revoked, or otherwise terminated for cause during the preceding 24 months unless such withdrawal, revocation, or termination has been rescinded by the same accrediting agency; or

"(3) has withdrawn from accreditation voluntarily under a show cause or suspension order during the preceding 24 months unless such order has been rescinded by the same accrediting agency.

"(j) Suspension of Approval.—The Secretary shall suspend the approval of an accrediting agency or association if the Secretary determines, after notice and opportunity for a hearing, that the accrediting agency or association has failed to effectively apply the standards or operate according to the procedures provided in this section.

"(k) Limitation on the Secretary's Authority.—The Secretary may only recognize accrediting agencies or associations which accredit institutions of higher education for the purpose of enabling such institution to establish eligibility to participate in the programs under this Act or which accredit institutions of higher education or higher education programs for the purpose of enabling them to establish eligibility to participate in other programs administered by the Department of Education or other Federal agencies.

"(l) Independent Evaluation.—(1) The Secretary shall conduct a comprehensive review and evaluation of the performance of all accrediting agencies or associations which seek recognition by the Secretary in order to determine whether such accrediting agencies or associations meet the standards established by this section. The Secretary shall conduct an independent evaluation of the information provided by such agency or association. Such evaluation shall include:

"(A) the solicitation of third-party information concerning the performance of the accrediting agency or association; and

"(B) site visits at both the accrediting agency or association and member institutions, including unannounced visits where appropriate.

"(2) The Secretary shall place a priority for review of accrediting agencies or associations on those which accredit institutions of higher education which participate most extensively in the programs authorized by title IV of this Act and on those agencies or associations which have been the subject of the most complaints or legal actions.

"(3) The Secretary shall consider all available information concerning the compliance of the accrediting agency or association with the standards provided for in this section, including any complaints or legal actions against such agency or association. In cases where deficiencies in the performance of an accreditation agency or association with respect to the requirements of this section are noted, the Secretary shall take these deficiencies into account in the approval process. The Secretary shall not, under any circumstances, base decisions on the approval or disapproval of accreditation agencies or associations on standards other than those contained in this section.

"(4) The Secretary shall maintain sufficient documentation to support the conclusions reached in the approval process, and upon disapproval of any accreditation agency or association, shall make publicly available the reason for such disapproval, including reference to the specific standards under this section which have not been fulfilled.

"(m) Regulations.—The Secretary shall by regulation provide for procedures for the recognition of accrediting agencies or associations and for the appeal of the Secretary's decisions.

"(n) Definition.—For the purpose of this section, the term 'accrediting agency or association' includes any organization recognized by the Secretary for the purposes of this section including, but not limited to, boards, commissions and committees.".

SEC. 1205. DISCLOSURE OF FOREIGN GIFTS AND FOREIGN OWNERSHIP.

Title XII of the Higher Education Act of 1965 is amended by inserting after section 1208 the following section:

"DISCLOSURES OF FOREIGN GIFTS

"Sec. 1209. (a) Disclosure Report.—Whenever any institution is owned or controlled by a foreign source or receives a gift from or enters into a contract with a foreign source, the value of which is $250,000 or more, considered alone or in combination with all other gifts from or contracts with that foreign source within a calendar year, the institution shall file a disclosure report with the Secretary on January 31 or July 31, whichever is sooner.

"(b) CONTENTS OF REPORT.—Each report to the Secretary required by this Act shall contain:

"(1) For gifts received from or contracts entered into with a foreign source other than a foreign government, the aggregate dollar amount of such gifts and contracts attributable to a particular country. The country to which a gift is attributable is the country of citizenship, or if unknown, the principal residence for a foreign source who is a natural person, and the country of incorporation, or if unknown, the principal place of business, for a foreign source which is a legal entity.

"(2) For gifts received from or contracts entered into with a foreign government, the aggregate amount of such gifts and contracts received from each foreign government.

"(3) In the case of an institution which is owned or controlled by a foreign source, the identity of the foreign source, the date on which the foreign source assumed ownership or control, and any changes in program or structure resulting from the change in ownership or control.

"(c) ADDITIONAL DISCLOSURES FOR RESTRICTED AND CONDITIONAL GIFTS.—Notwithstanding the provisions of subsection (b), whenever any institution receives a restricted or conditional gift or contract from a foreign source, the institution shall disclose:

"(1) For such gifts received from or contracts entered into with a foreign source other than a foreign government, the amount, the date, and a description of such conditions or restrictions. The report shall also disclose the country of citizenship, or if unknown, the principal residence for a foreign source which is a natural person, and the country of incorporation, or if unknown, the principal place of business for a foreign source which is a legal entity.

"(2) For gifts received from or contracts entered into with a foreign government, the amount, the date, a description of such conditions or restrictions, and the name of the foreign government.

"(d) RELATION TO OTHER REPORTING REQUIREMENTS.—

"(1) STATE REQUIREMENTS.—If an institution described under subsection (a) is within a State which has enacted requirements for public disclosure of gifts from or contracts with a foreign source that are substantially similar to the requirements of this section, a copy of the disclosure report filed with the State may be filed with the Secretary in lieu of a report required under subsection (a). The State in which the institution is located shall provide to the Secretary such assurances as the Secretary may require to establish that the institution has met the requirements for public disclosure under State law if the State report is filed.

"(2) USE OF OTHER FEDERAL REPORTS.—If an institution receives a gift from, or enters into a contract with, a foreign source, where any other department, agency, or bureau of the Executive Branch requires a report containing requirements substantially similar to those required under this Act, a copy of this report may be filed with the Secretary in lieu of a report required under subsection (a).

"(e) PUBLIC INSPECTION.—All disclosure reports required by this Act shall be public records open to inspection and copying during business hours.

"(f) ENFORCEMENT.—

"(1) COURT ORDERS.—Whenever it appears that an institution has failed to comply with the requirements of this section, including any rule or regulation promulgated thereunder, a civil action may be brought in an appropriate district court of the United States, or the appropriate United States court of any territory or other place subject to the jurisdiction of the United States, to request such court to compel compliance with the requirements of the Act.

"(2) COSTS.—For knowing or willful failure to comply with the requirements of this section, including any rule or regulation promulgated thereunder, an institution shall pay to the Treasury of the United States the full costs to the United States of obtaining compliance, including all associated costs of investigation and enforcement.

"(g) REGULATIONS.—The Secretary may promulgate regulations to carry out the ministerial duties imposed on the Secretary by this section.

"(h) DEFINITIONS.—For the purpose of this section—

"(1) the term 'contract' means any agreement for the acquisition by purchase, lease, or barter of property or services by the foreign source, for the direct benefit or use of either of the parties;

"(2) the term 'foreign source' means—

"(A) a foreign government, including an agency of a foreign government;

"(B) a legal entity, governmental or otherwise, created solely under the laws of a foreign state or states;

"(C) an individual who is not a citizen or a national of the United States or a trust territory or protectorate thereof; and

"(D) an agent, including a subsidiary or affiliate of a foreign legal entity, acting on behalf of a foreign source;

"(3) the term 'gift' means any gift of money or property;

"(4) the term 'institution' means any institution, public or private, or, if a multicampus institution, any single campus of such institution, in any State which—

"(A) is legally authorized within such State to provide a program of education beyond high school;

"(B) provides a program for which it awards a bachelor's degree (or provides not less than a 2-year program which is acceptable for full credit toward such a degree) or more advanced degrees; and

"(C) is accredited by a nationally recognized accrediting agency or association and to which institution Federal financial assistance is extended (directly or indirectly through another entity or person), or which institution receives support from the extension of Federal financial assistance to any of its subunits; and

"(5) the term 'restricted or conditional gift or contract' means any endowment, gift, grant, contract, award, present, or property of any kind which includes provisions regarding (A) the employment, assignment, or termination of faculty; (B) the establishment of departments, centers, research or lecture programs, or new faculty positions; (C) the selection or admission of students; or (D) the award of grants, loans, scholarships, fellowships, or other forms of financial aid restricted to students of a specified country, religion, sex, ethnic origin, or political opinion.".

SEC. 1206. ADMISSION OF MINORITY STUDENTS.

(a) FINDINGS.—The Congress finds that racial discrimination is indefensible, improper, and immoral.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) institutions of higher education should review their admissions policies and, if necessary, revise them to ensure that applicants are not illegally excluded from admission;

(2) the Attorney General should investigate allegations of illegal racial discrimination in the admissions policies of institutions of higher education and pursue legal action against those schools which have violated title IV or VI (relating to desegregation of public education and nondiscrimination in federally assisted programs respectively), or both, of the Civil Rights Act of 1964 (42 U.S.C. 2000c—2000c-8 and 42 U.S.C. 2000d—2000d-6 respectively); and

(3) the Secretary of Education should conclude, as soon as possible, the compliance reviews on admissions policies of certain institutions of higher education being conducted by the Department of Education and should, in addition, initiate additional reviews of the admissions policies of schools alleged to have illegally discriminated on the basis of race.

TITLE XIII—INDIAN HIGHER EDUCATION PROGRAMS

PART A—TRIBALLY CONTROLLED COMMUNITY COLLEGES

SEC. 1301. REAUTHORIZATION OF THE TRIBALLY CONTROLLED COMMUNITY COLLEGES ACT.

(a) GENERAL AUTHORIZATION.—Section 110(a) of the Tribally Controlled Community College Assistance Act of 1978 is amended to read as follows:

"SEC. 110. (a)(1) There is authorized to be appropriated, for the purpose of carrying out section 105, $3,200,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(2) There is authorized to be appropriated for the purpose of carrying out section 107, $30,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(3) There is authorized to be appropriated for the purpose of carrying out sections 112(b) and 113, $10,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

(b) ENDOWMENT GRANTS.—Section 306(a) of such Act is amended to read as follows:

"SEC. 306. (a) There are authorized to be appropriated to carry out the provisions of this title, $5,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

(c) ECONOMIC DEVELOPMENT.—Section 403 of such Act is amended to read as follows:

"SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for grants under this title, $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

(d) NAVAJO COMMUNITY COLLEGES.—Section 5(a)(1) of the Navajo Community College Act is amended to read as follows:

"SEC. 5. (a)(1) For the purpose of making construction grants under this Act, there are authorized to be appropriated $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.".

PART B—HIGHER EDUCATION TRIBAL GRANT AUTHORIZATION ACT

SEC. 1311. SHORT TITLE.

This part may be cited as the "Higher Education Tribal Grant Authorization Act".

SEC. 1312. FINDINGS.

The Congress finds that—

(1) there are increasing numbers of Indian students qualifying for postsecondary edu-

cation, and there are increasing numbers desiring to go to postsecondary institutions;

(2) the needs of these students far outpace the resources available currently;

(3) Indian tribes have shown an increasing interest in administering programs serving these individuals and making decisions on these programs reflecting their determinations of the tribal and human needs;

(4) the contracting process under the Indian Self-Determination and Education Assistance Act has provided a mechanism for the majority of the tribes to assume control over this program from the Bureau of Indian Affairs;

(5) however, inherent limitations in the contracting philosophy and mechanism, coupled with cumbersome administrative procedures developed by the Bureau of Indian Affairs have effectively limited the efficiency and effectiveness of these programs;

(6) the provision of these services in the most effective and efficient form possible is necessary for tribes, the country, and the individuals to be served; and

(7) these services are part of the Federal Government's continuing trust responsibility to provide education services to American Indian and Alaska Natives.

SEC. 1313. PROGRAM AUTHORITY.

(a) In General.—The Secretary shall, from the amounts appropriated for the purpose of supporting higher education grants for Indian students under the authority of the Act of November 2, 1921, popularly known as the Snyder Act (25 U.S.C. 13), make grants to Indian tribes in accordance with the requirements of this part to permit those tribes to provide financial assistance to individual Indian students for the cost of attendance at institutions of higher education.

(b) Limitation on Secretary's Authority.—The Secretary shall not place any restrictions on the use of funds provided to an Indian tribe under this part that is not expressly authorized by this part.

(c) Effect on Federal Responsibilities.—The provisions of this part shall not affect any trust responsibilities of the Federal Government.

(d) No Termination for Administrative Convenience.—Grants provided under this part may not be terminated, modified, suspended, or reduced only for the convenience of the Administering agency.

SEC. 1314. QUALIFICATION FOR GRANTS TO TRIBES.

(a) Contracting Tribes.—Any Indian tribe that obtains funds for educational purposes similar to those authorized in this part pursuant to contract under the Indian Self-Determination and Education Assistance Act may qualify for a grant under this part by submitting to the Secretary a notice of intent to administer a student assistance program under section 1313. Such notice shall be effective for the fiscal year following the fiscal year in which it is submitted, except that if such notice is submitted during the last 90 days of a fiscal year such notice shall be effective the second fiscal year following the fiscal year in which it is submitted, unless the Secretary waives this limitation.

(b) Noncontracting Tribes.—Any Indian tribe that is not eligible to qualify for a grant under this part by filing a notice under subsection (a) may qualify for such a grant by filing an application for such a grant. Such application shall be submitted under guidelines for programs under the Indian Self-Determination and Education Assistance Act, as in effect on January 1, 1991, and shall be reviewed under the standards, practices, and procedures applicable to applications to contract under such Act as in effect on the date the application is received, except that—

(1) if the tribe is not notified that its application has been disapproved within 180 days after it is filed with the Secretary, the application shall be deemed to be approved;

(2) if the application is disapproved, the Secretary shall provide technical assistance to the tribe for purposes of correcting deficiencies in the application;

(3) the Secretary shall designate an office or official to receive such applications, and shall toll the 180-day period described in paragraph (1) from the date of receipt by such office or official; and

(4) applications shall be approved for the fiscal year following the fiscal year in which submitted, unless the Secretary waives the limitation of this paragraph.

(c) Termination of Grants.—

(1) Continuing eligibility presumed.—An Indian tribe which has qualified under subsection (a) or (b) for a grant under this part for any fiscal year shall continue to be eligible for such a grant for each succeeding fiscal year unless the Secretary revokes such eligibility for a cause described in paragraph (2).

(2) Causes for loss of eligibility.—The Secretary may revoke the eligibility of an Indian tribe for a grant under this part if such tribe—

(A) fails to submit to the Bureau an annual financial statement that reports revenues and expenditures determined by use of an accounting system, established by the tribe, that complies with generally accepted accounting principles;

(B) fails to submit to the Bureau an annual program description, stating the number of students served, and containing such information concerning such students, their educational programs and progress, and the financial assistance distributed to such students as the Secretary may require by regulation;

(C) fails to submit to the Secretary a biennial financial audit conducted in accordance with chapter 75 of title 31, United States Code; or

(D) fails, in an evaluation of its financial assistance program conducted by an impartial third party entity, to comply with standards under this part relating to (i) eligible students, programs, or institutions of higher education, (ii) satisfactory progress, or (iii) allowable administrative costs; as determined under contracts applicable to programs to provide financial assistance to individual Indian students for the cost of attendance at institutions of higher education administered by Indian tribes under the Indian Self-Determination and Education Assistance Act and in effect on January 20, 1991.

(3) Procedures for revocation of eligibility.—The Secretary shall not revoke the eligibility of an Indian tribe for a grant under this part except—

(A) after notice in writing to the tribe of the cause and opportunity to the tribe to correct;

(B) providing technical assistance to the tribe in making such corrections; and

(C) after hearing and appeals conducted under the same rules and regulations that apply to similar termination actions under the Indian Self-Determination and Education Assistance Act.

SEC. 1315. ALLOCATION OF GRANT FUNDS.

(a) Allocation of Funds.—

(1) In general.—The Secretary shall continue to determine the amount of program funds to be received by each grantee under this part by the same method used for determining such distribution in fiscal year 1991 for tribally-administered and Bureau-administered programs of grants to individual Indians to defray postsecondary expenses.

(2) Administrative costs.—In addition to the amount determined under paragraph (1), a grantee which has exercised the option given in section 1314(a) to administer the program under a grant shall receive an amount for administrative costs determined pursuant to the method used by the grantee during the preceding contract period. All other grantees shall receive an amount for administrative costs determined pursuant to the regulations governing such determinations under the Indian Self Determination and Education Assistance Act, as in effect at the time of application to grants being made.

(3) Single grant; separate accounts.—Each grantee shall receive only one grant during any fiscal year, which shall include both of the amounts under paragraphs (1) and (2). Each grantee shall maintain this grant in a separate account.

(b) Use of Funds.—Funds provided by grants under this part shall be used—

(1) to make grants to individual Indian students to meet, on the basis of need, any educational expense of attendance in a postsecondary education program (as determined under the contracts applying to the postsecondary education program administered by tribes under the Indian Self Determination and Education Assistance Act (Public Law 93-638)), to the extent that such expense is not met from other sources or cannot be defrayed through the action of any State, Federal, or municipal Act, except that nothing in this subsection shall be interpreted as requiring any priority in consideration of resources; and

(2) costs of administering the program under this part, except that no more may be spent on administration of such program than is generated by the method for administrative cost computation specified in section 1315(a)(2).

SEC. 1316. LIMITATIONS ON USE OF FUNDS.

(a) Use for Religious Purposes.—None of the funds made available under this part may be used for study at any school or department of divinity or for any religious worship or sectarian activity.

(b) Interest on Funds.—No interest or other income on any funds made available under this part shall be used for any purpose other than those for which such funds may be used.

(c) Payments.—

(1) In general.—Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in two payments—

(A) one payment to be made no later than October 1 of each fiscal year in an amount equal to one-half the amount paid during the preceding fiscal year to the grantee or a contractor that has elected to have the provisions of this part apply, and

(B) the second payment consisting of the remainder to which the grantee or contractor is entitled for the fiscal year to be made by no later than January 1 of the fiscal year.

(2) New grantees.—For any tribe for which no payment was made under this part in the preceding fiscal year, full payment of the amount computed for each fiscal year shall be made by January 1 of the fiscal year.

(d) Investment of Funds.—

(1) Treatment as tribal property.—Notwithstanding any other provision of law, any interest or investment income that accrues on any funds provided under this part after

such funds are paid to the Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this part shall be the property of the Indian tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law.

(2) INVESTMENT REQUIREMENTS.—Funds provided under this part may be—

(A) invested by the Indian tribe or tribal organization only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or

(B) deposited only into accounts that are insured by an agency or instrumentality of the United States.

(e) RECOVERIES.—For the purposes of underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived, funds received under this part shall not be taken into consideration.

SEC. 1317. ADMINISTRATIVE PROVISIONS.

(a) BIENNIAL REPORT.—The Secretary shall submit a biennial report to the Congress on the programs established under this part. Such report shall include—

(1) a description of significant administrative actions taken by the Secretary under this part;

(2) the number of grants made under the authority of this part;

(3) the number of applications denied for such grants and the reasons therefor;

(4) the remedial actions taken to enable applicants to be approved;

(5) the number of students served, by tribe;

(6) statistics on the academic pursuits of the students provided assistance under this part the average amount of assistance provided; and

(7) such additional information as the Secretary considered significant.

(b) ROLE OF THE DIRECTOR.—Applications for grants under this part, and all application modifications, shall be reviewed and approved by personnel under the direction and control of the Director of the Office of Indian Education Programs. Required reports shall be submitted to education personnel under the direction and control of the Director of such Office.

(c) APPLICATION OF INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.—All provisions of sections 5, 6, 7, 105, 109, and 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c et seq.), except those provisions pertaining to indirect costs and length of contract, shall apply to grants provided under this part.

(d) REGULATIONS.—The Secretary is authorized to issue regulations relating to the discharge of duties specifically assigned to the Secretary by this part. In all other matters relating to the details of planning, development, implementing, and evaluating grants under this part, the Secretary shall not issue regulations. Regulations issued pursuant to this part shall not have the standing of a Federal statute for the purposes of judicial review.

(e) RETROCESSION.—Whenever an Indian tribe requests retrocession of any program for which assistance is provided under this part, such retrocession shall become effective upon a date specified by the Secretary not more than 120 days after the date on which the tribe requests the retrocession, or such later date as may be mutually agreed upon by the Secretary and the tribe. If such a program is retroceded, the Secretary shall provide to any Indian tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of funding provided under this part prior to the retrocession. The tribal governing body requesting the retrocession shall specify whether the retrocession shall be to a contract administered by the tribe, or a tribal entity, under the authority of the Indian Self-Determination Act or to a Bureau administered program.

PART C—CRITICAL NEEDS FOR TRIBAL DEVELOPMENT ACT

SEC. 1321. SHORT TITLE.

This part may be cited as the "Critical Needs for Tribal Development Act".

SEC. 1322. DEFINITIONS.

As used in this part:

(1) The term "federally funded higher education assistance" means any grant assistance provided to an Indian student from funds made available for such purpose by contract or grant to an Indian tribe from amounts appropriated under the authority of the Act of November 2, 1921, popularly known as the Snyder Act (25 U.S.C. 13).

(2) The term "eligible Indian tribe or tribal organization" means any Indian tribe or tribal organization that qualifies to administer federally funded higher education assistance under a contract pursuant to the Indian Self-Determination and Education Assistance Act of 1975 or under a grant pursuant to the Higher Education Tribal Grant Authorization Act of 1991.

SEC. 1323. SERVICE CONDITIONS PERMITTED.

(a) IN GENERAL.—An eligible Indian tribe or tribal organization may, in accordance with the requirements of this part, require any applicant for federally funded higher education assistance, as a condition of receipt of such assistance, to enter into a critical area service agreement in accordance with section 1324.

(b) CRITICAL AREA DESIGNATION.—Any eligible Indian tribe or tribal organization that intends to require critical area service agreements shall, by a formal action of the tribal council or its delegate, designate particular occupational areas as critical areas for the economic or human development needs of the tribe or its members. The tribe or organization shall notify the Secretary of the Interior in writing of such designated critical areas. Such designations shall be applicable to federally funded higher education assistance for any fiscal year following the fiscal year in which the designation is made until such designation is withdrawn by the tribe or organization by formal action. The tribe or organization shall notify the Secretary of the Interior in writing of any designations that are withdrawn.

SEC. 1324. CRITICAL AREA SERVICE AGREEMENTS.

(a) TERMS OF AGREEMENTS.—A critical area service agreement shall be an agreement between an Indian student who receives or who shall receive federally funded higher education assistance and an Indian tribe or tribal organization providing such assistance in which the student agrees—

(1) to undertake a course of study at an eligible institution (as that term is defined in section 435(a) of the Higher Education Act of 1965) in an area of critical need, as determined under section 1323, and to pursue that course of study to its completion; and

(2)(A) to perform, for each academic year for which the student receives federally funded higher education assistance under a critical area service agreement, one calendar year of service to the tribe or organization in an occupation that is in a critical area designated by the tribe pursuant to section 1322(b), commencing not later than 6 months after the student ceases to carry at an institution of higher education at least one-half the normal full-time academic workload as determined by the institution; or

(B) to repay such assistance to the Secretary, together with interest thereon at a rate prescribed by the Secretary by regulation, in monthly or quarterly installments over not more than 5 years.

(b) SERVICE LIMITATIONS AND CONDITIONS.—The tribe or tribal organization shall agree that a student performing services under a critical area service agreement—

(1) shall be provided compensation, benefits, and working conditions at the same level and to the same extent as any other employee working a similar length of time and doing the same type of work;

(2) may be treated as providing services to the tribe or organization if the student provides services for members of the tribe or organization that are approved by the tribe or organization and agreed to by the student even though such services are performed while the student is employed by a Federal, State, or local agency or instrumentality or by a nonprofit or for-profit private institution or organization; and

(3) may obtain the benefits of a waiver or suspension in accordance with the requirements of subsection (c).

(c) WAIVER AND SUSPENSION OF SERVICE AGREEMENT.—

(1) WAIVER.—An Indian tribe or tribal organization may, by formal action, waive the service agreement of an Indian student for just cause, as determined in accordance with regulations prescribed by the Secretary. The tribe or organization shall notify the Secretary in writing of any waiver granted under this subsection.

(2) SUSPENSION.—The obligation of a student to perform services under a critical area service agreement—

(A) shall be suspended for not more than 18 months if, at the request of the student, the tribe or organization determines that there are no employment opportunities available in any critical service area; and

(B) shall be suspended if the student ceases to attend an institution of higher education as a consequence of an institutional determination of unsatisfactory performance.

If, at the end of a period of suspension under subparagraph (A), there are still no employment opportunities available in any critical service area, the student's obligations under the agreement shall terminate. A suspension under subparagraph (B) shall be reviewed by the tribe or organization annually, but may be continued indefinitely.

(d) PRO RATA REDUCTION FOR PARTIAL SERVICES.—The Secretary shall, by regulation, provide for the pro rata reduction of repayment obligations under subsection (a)(2) in the case of any student who partially completes the service obligation of that student under subsection (a)(1).

(e) CERTIFICATION OF SERVICE.—An Indian tribe or tribal organization receiving services under a critical area service agreement—

(1) shall establish procedures for monitoring and evaluating the provisions of this part, and provide a copy of such procedures to the Secretary and to each individual providing services under a critical area service agreement;

(2) shall annually certify to the Secretary the identities of the individuals performing service under such agreements; and

(3) shall annually certify to the Secretary the amount of service performed, and the amount remaining to be performed, by each such individual under such agreements.

SEC. 1325. GENERAL PROVISIONS.

(a) Application of Existing Procedures.—Except as provided in subsection (b), the requirements relating to student eligibility, needs analysis, and determination of eligibility for the program to be attended regularly incorporated by reference into contracts under the Indian Self-Determination and Education Assistance Act of 1975 (Public Law 93-638) for tribal operation of higher education grant programs prior to January 1, 1991, shall apply.

(b) Additional, Excess, and Incremental Costs.—The tribe or tribal organization may establish in writing, subject to the review of the Secretary, procedures for determining additional, excess, or inducement costs to be associated with grants for critical area service agreements.

PART D—INSTITUTE OF AMERICAN INDIAN NATIVE CULTURE AND ARTS DEVELOPMENT

SEC. 1331. INSTITUTE OF AMERICAN INDIAN NATIVE CULTURE AND ARTS DEVELOPMENT.

(a) Board of Directors.—Section 1505 of the Higher Education Amendments of 1986 (20 U.S.C. 4412) is amended—

(1) in subsection (a)(1)(A)—

(A) by striking "The voting" and inserting "Subject to the provisions of subsection (i), the voting"; and

(B) by inserting before the period at the end thereof the following: ", and diverse fields of expertise, including finance, law, and fine arts higher education administration";

(2) by redesignating paragraph (3) of subsection (a) as paragraph (4);

(3) by inserting after paragraph (2) of such subsection the following new paragraph:

"(3) The President shall carry out the activities under subparagraphs (B) and (C) of paragraph (2) through the Board. The Board may make recommendations based upon the nominations received, may make recommendations of its own, and may review and make comments to the President or the President's appointed staff on individuals being considered by the President who were not nominated pursuant to paragraph (2)."; and

(4) by striking subsection (i) and inserting the following:

"(i) Appointment Exception for Continuity.—

"(1) In order to maintain the stability and continuity of the Board, the Board shall have the power to recommend the continuation of Members on the Board pursuant to the provisions of this subsection. When the Board makes such a recommendation, the Chairman of the Board shall cause such recommendation to be transmitted to the President no later than 75 days prior to the expiration of the term of such Member.

"(2) If the President has not transmitted to the Senate a nomination to fill the position of the Member covered by such a recommendation within 60 days of the date upon which said Member's term expires, such Member will be deemed to have been reappointed for another full term to the Board, with all the rights and responsibilities thereto.

"(3) This subsection shall not be construed to permit less than 7 members of the Board to be Indians. If an extension of a term under paragraph (2) would result in less than 7 members being Indians, the term of the Member covered by the motion under paragraph (2) shall be deemed to expire on the date 60 days after the date upon which it would have been deemed to expire without the operation of this subsection, except that the provisions of subsection (b)(4), relating to continuation of service pending replacement, shall continue to apply.".

(b) General Powers of Board.—Section 1507 of such Amendments (20 U.S.C. 4414) is amended—

(1) by redesignating paragraphs (3) through (13) of subsection (a) as paragraphs (4) through (14), respectively;

(2) by striking paragraph (2) of such subsection and inserting the following:

"(2) to make agreements and contracts with persons, Indian tribes, and private or governmental entities and to make payments or advance payments under such agreements or contract without regard to section 3324 of title 31;

"(3) any other provision of law to the contrary notwithstanding, to enter into joint development ventures with public or private commercial or noncommercial entities for development of facilities to meet the plan required under section 1519, provided that such ventures are related to and further the mission of the Institute;";

(3) by striking paragraph (13) of such subsection (as redesignated by paragraph (1) of this subsection) and inserting the following:

"(13) to use any funds or property received by the Institute to carry out the purpose of this chapter, including the authority to designate on an annual basis a portion, not to exceed 10 percent, of the funds appropriated pursuant to section 1531 for investment, without regard to any other provision of law regarding investment or disposition of federally appropriated funds, on a short-term basis for the purpose of maximizing yield and liquidity of such funds; and"; and

(4) in subsection (c) by striking "may be expended" and inserting "shall be expended".

(c) Staff of Institute.—Section 1509(b)(2) of such Amendments is amended to read as follows:

"(2) The president of the Institute shall fix the basic compensation for officers and employees of the Institute at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 of title 5 applies or at rates comparable to those of similar institutions of higher education.".

(d) Functions of Institute.—Section 1510(b) of such Amendments is amended to read as follows:

"(b) Administrative Entities.—

"(1) The Board shall be responsible for establishing the policies and administrative organization relating to the administrative control and monitoring responsibilities for all subdivisions, administrative entities, and departments of the Institute.

"(2) The specific responsibilities of each subdivision, entity, and department of the Institute lies solely within the discretion of the Board, or its designee.

"(3) The Board shall establish, within the Institute, departments for the study of culture and arts and for research and exchange, and a museum. The Board shall establish the areas of competency for the departments created under this paragraph, which may include (but are not limited to) Departments of Arts and Sciences, Visual Arts, Performing Arts, Language, Literature and Museology and a learning resources center, programs of institutional support and development, research programs, fellowship programs, seminars, publications, scholar-in-residence programs and inter-institutional programs of cooperation at national and international levels.".

(e) Indian Preference.—Section 1511(a) of such Amendments is amended by inserting "develop a policy or policies for the Institute to" after "is authorized to".

(f) Transfer of Functions.—Section 1514 of such Amendments is amended—

(1) in subsection (b)(1), by striking "All personnel" and inserting "Subject to subsection (d), all personnel"; and

(2) in subsection (d)(2), by striking "monetary damage" and inserting "monetary damages".

(g) Reports.—Section 1515(b) of such Amendments is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) through (4) as paragraphs (1) through (3).

(h) Headquarters.—Section 1516 of such Amendments is amended—

(1) by striking "The site of the Institute of American Indian Arts, at"; and

(2) by striking "the Secretary" and inserting "the Board".

(i) Compliance With Other Acts.—Section 1517 of such Amendments is amended by adding at the end thereof the following new subsection:

"(d) Conditions on Federal Assistance.—The Institute shall not be subject to any provision of law requiring that non-Federal funds or other moneys be used in part to fund any grant or contract or cooperative agreement or project as a condition to application for, or receipt of, Federal assistance. This subsection shall not be construed to effect in a negative fashion the review, prioritization, or acceptance of any application or proposal for such a program, solicited or unsolicited.".

(j) Endowment Program.—Section 1518 of such Amendments is amended—

(1) in subsection (a)(3), by striking "the date of enactment of this Act" and inserting "November 29, 1990"; and

(2) in subsection (b)(4), by inserting ", non-Federal governmental," after "any private".

(k) Provision of Facilities.—Part A of title XV of such Amendments is amended by adding at the end thereof the following new section:

"SEC. 1519. PROVISION OF FACILITIES.

"(a) Plan.—The Board shall prepare a master plan on the short- and long-term facilities needs of the Institute. The master plan shall include evaluation of all facets of existing Institute programs, including support activities and programs and facilities. The master plan shall include impact projections for the Institute's move to a new campus site. This master plan shall evaluate development and construction requirements (based on a growth plan approved by the Board), including (but not limited to) items such as infrastructure and site analysis, development of a phased plan with architectural and engineering studies, cost projections, landscaping, and related studies which cover all facets of the Institute's programs and planned functions. The plan shall be periodically reviewed as determined by the Board.

"(b) Deadline for Transmittal.—The plan required by this subsection shall be transmitted to Congress no later than 18 months after the date of enactment of this provision. Such plan shall include a prioritization of needs, as determined by the Board.".

PART E—TRIBAL DEVELOPMENT STUDENT ASSISTANCE REVOLVING LOAN PROGRAM

SEC. 1341. SHORT TITLE.

This part may be cited as the "Tribal Development Student Assistance Act".

SEC. 1342. FINDINGS; PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) a substantial number of Indian students have partially completed their degrees in postsecondary education, but have been unable, for a number of reasons, to complete the degrees;

(2) in at least some measure these students have been supported by tribal funds or grants of Federal monies administered by the Bureau of Indian Affairs or tribes,

(3) the inability of the students to complete these degrees has led to a hardship for the students and a loss of a potential pool of talent to the tribes or tribal organizations which originally financed, at least in part, these efforts;

(4) this loss has crippled tribal efforts in the areas of economic and social development;

(5) this failure to complete the postsecondary schooling has led to economic loss to the tribes and the Federal Government which could be remedied by completion of the courses of study; and

(6) a program to identify students with a level of postsecondary completion short of the fulfillment of graduation requirements and to encourage them to complete these requirements, including provision of resources, will benefit the students, the tribes, and the Federal Government.

(b) PURPOSES.—The purposes of this part are—

(1) to establish a revolving loan program to be administered by a tribe or tribal organization for the purposes of increasing the number of college graduates available to work in tribal businesses, tribal government, and tribal services such as schools and hospitals;

(2) to conduct research to assess the situational and educational barriers to participation in postsecondary education; and

(3) to encourage development, through grants, of a model which provides, in addition to loans, transitional and follow-up services needed to encourage persistence in postsecondary education.

SEC. 1343. REVOLVING FUND.

(a) RECEIPT, INVESTMENT, AND ACCOUNTING.—

(1) TRIBES AND TRIBAL ORGANIZATIONS.—Funds received under a grant under this part or recovered under the provisions of section 1346(a)(2) shall be identified and accounted for separately from any other tribal or Federal funds received from the Federal Government. All funds in this account shall be used for the purposes of this part.

(2) FINANCIAL PROCEDURES.—The Secretary of the Interior is responsible for establishing, by regulations, such requirements for receipt, investment and accounting of funds under subsection (b) as shall safeguard the financial interests of the Federal Government.

(b) INVESTMENT.—Funds provided under this part or recovered by the tribe or tribal organization under the provisions of section 1346 shall be—

(1) invested by the Indian tribe or tribal organization only in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States, or

(2) deposited only in accounts that are insured by an agency or instrumentality of the United States.

(c) TREATMENT OF INCOME.—Notwithstanding any other provision of law, any interest or investment income that accrues on any funds covered under this provision after such funds have been distributed to a tribe or tribal organization and before such funds are distributed for the purposes of making loans under this part shall be the property of the tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law.

SEC. 1344. ELIGIBLE RECIPIENTS.

(a) TRIBES AND TRIBAL ORGANIZATIONS.—The Secretary of the Interior shall make grants, in accordance with the requirements of this part, to—

(1) tribes or multitribal organizations not serviced by current federally funded postsecondary institutions authorized for economic development grants; and

(2) tribes or multitribal organizations which lack sufficient numbers of professionally trained tribal members to support established or ongoing economic development initiatives.

(b) STUDENTS.—Any tribe or tribal organization that receives funds under subsection (a) shall make such funds available by loan, under terms and conditions consistent with section 1345, to Indian students who have successfully completed 30 hours of postsecondary education and who are eligible for readmission to a postsecondary institution.

SEC. 1345. TERMS OF LOANS.

(a) IN GENERAL.—A loan under this part to an Indian student shall—

(1) be subject to repayment over a period of not more than 5 years;

(2) not bear interest;

(3) be subject to forgiveness for services to the tribe in accordance with section 1346; and

(4) contain such additional terms and conditions as the initial loan agreement between the tribe or tribal organization and student may prescribe in writing.

(b) COST OF ATTENDANCE.—Calculation of the cost of attendance for the student must include all costs as determined by the tribe for the purposes of fulfilling the policy of this part.

(c) ADDITIONAL REQUIREMENTS.—Any student seeking a loan under this part shall apply for and accept the maximum financial aid available from other sources. However, for purposes of determining eligibility, loans provided under this program may not be considered in needs analysis under any other Federal law, and may not penalize students in determining eligibility for other funds.

SEC. 1346. SERVICE FULFILLMENT AND CONDITIONS; REPAYMENTS; WAIVERS.

(a) SERVICE AGREEMENT REQUIRED.—Prior to receipt of a loan under this part, the tribe or tribal organization and the eligible recipient shall enter into a written agreement, subject to the conditions of this section, which commits the recipient—

(1) to perform, for each academic year for which the student receives assistance under this part one calendar year of service to the tribe or organization in an occupation related to the course of study pursued and an economic or social development plan developed by the tribe or tribal organization, commencing not later than 6 months after the student ceases to carry at an institution of higher education at least one-half the normal full-time academic workload as determined by the institution; or

(2) to repay to the tribe or tribal organization the full amount of the loan, in monthly or quarterly installments over not more than 5 years. Funds recovered under this provision will be reported annually to the Secretary and invested in the account established under section 1343.

(b) SERVICE LIMITATIONS AND CONDITIONS.—The tribe or tribal organization shall agree that a student performing services under this part—

(1) shall be provided compensation, benefits, and working conditions at the same level and to the same extent as any other employee working a similar length of time and doing the same type of work;

(2) may be treated as providing services to the tribe or organization if the student provides services for members of the tribe or organization that are approved by the tribe or organization and agreed to by the student even though such services are performed while the student is employed by a Federal, State, or local agency or instrumentality or by a nonprofit or for-profit private institution or organization; and

(3) may obtain the benefits of a waiver or suspension in accordance with the requirements of subsection (c).

(c) WAIVER AND SUSPENSION OF SERVICE AGREEMENT.—

(1) WAIVER.—An Indian tribe or tribal organization may, by formal action, waive the service agreement of an Indian student for just cause, as determined in accordance with regulations prescribed by the Secretary. The tribe or organization shall notify the Secretary in writing of any waiver granted under this subsection.

(2) SUSPENSION.—The obligation of a student to perform services under this part—

(A) shall be suspended for not more than 18 months if, at the request of the student, the tribe or organization determines that there are no employment opportunities available in any applicable area; and

(B) shall be suspended if the student ceases to attend an institution of higher education as a consequence of an institutional determination of unsatisfactory performance.

If, at the end of a period of suspension under subparagraph (A), there are still no employment opportunities available which fulfill the requirements of this part, the student's obligations under the agreement shall terminate. A suspension under subparagraph (B) shall be reviewed by the tribe or organization annually, but may be continued indefinitely.

(d) PRO RATA REDUCTION FOR PARTIAL SERVICES.—The Secretary shall, by regulation, provide for the pro rata reduction of repayment obligations under subsection (a)(2) in the case of any student who partially completes the service obligation of that student under subsection (a)(1).

(e) CERTIFICATION OF SERVICE.—An Indian tribe or tribal organization receiving services under this part—

(1) shall establish procedures for monitoring and evaluating the provisions of this part, and provide a copy of such procedures to the Secretary and to each individual providing services under a critical area service agreement;

(2) shall annually certify to the Secretary the identities of the individuals performing service under such agreements; and

(3) shall annually certify to the Secretary the amount of service performed, and the amount remaining to be performed, by each such individual under such agreements.

SEC. 1347. ADMINISTRATION.

(a) REGULATIONS.—The Secretary shall establish, by regulation, an application process containing such requirements as the Secretary deems necessary for purposes of making grants to eligible entities under this part, providing that the Secretary shall take into account in reviewing applications under this part the number of students with partial completion identified by the applicant, relative to the total number of the members of tribe which would be benefitted by provision of services under section 1346, and shall attempt to achieve geographic and demographic diversity in grants made under this part.

(b) GRANT PROCEDURES.—(1) Subject to the availability of funds and acceptable applications, the Secretary shall make 5 grants to tribes or tribal organizations for purposes of this part, each grant to be for a period of 4 years.

(2) The amount of administrative costs associated with grants under this part shall be negotiated by the Secretary with the successful applicants and made a part of the grant agreement

SEC. 1348. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part, $2,000,000 for fiscal year 1993 and such sums as may be necessary for each of the 4 succeeding fiscal years.

TITLE XIV—MISCELLANEOUS

PART A—STUDIES

SEC. 1401. DATA ON NONTRADITIONAL STUDENTS.

(a) STUDY REQUIRED.—The Secretary of Education shall conduct a 2-year study regarding the types of programs available for, and determine the success or failure of such programs in, increasing the accessibility for nontraditional students to postsecondary education. The study shall be conducted through the Office of Educational Research and Improvement.

(b) PURPOSE.—The purpose of the study shall be—

(1) to appraise the adequacies and deficiencies of current student financial aid information resources and services and evaluate the effectiveness of these programs as they pertain to the nontraditional student;

(2) to investigate the availability of grants and loans and other financial assistance to nontraditional students (includes independent students, part-time students, students 24 or older, and single parents);

(3) to assess the availability of supportive services for the nontraditional students including (but not limited to) counseling, child care services, campus health center services, and library services;

(4) to make recommendations on how the Department of Education can maintain an effective data base regarding nontraditional students that will include—

(A) a yearly count of the number of students who are nontraditional and breakdown of the institutions they are attending;

(B) the number of nontraditional students who work and go to school;

(C) participation in Federal student aid programs;

(D) unmet costs of postsecondary education for nontraditional students; and

(E) trends over the last decade regarding participation of nontraditional students in title IV programs.

(c) REPORT.—The Secretary of Education shall submit an interim report to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate within 1 year after the date of enactment of this section and submit a final report 2 years after such date of enactment.

SEC. 1402. STUDY OF FEDERAL BENEFIT COORDINATION.

(a) IN GENERAL.—The Secretary of Education shall conduct a study to evaluate the coordination of Federal student financial assistance programs under this title with other programs funded in whole or in part with Federal funds, with particular attention to—

(1) the effect of receipt of program assistance under this title on students eligible for other programs funded in whole or in part with Federal funds, including reduction or denial of such other program funds; and

(2) the attendance cost elements funded in whole or in part by programs under this title for students eligible for other Federal programs and the inclusion of room and/or board costs in such attendance costs.

(b) REPORT.—The Secretary of Education shall prepare and submit to the appropriate committees of the Congress a report on the study conducted pursuant to subsection (a) not later than 3 years after the date of enactment of this Act, together with such recommendations as the Secretary deems appropriate.

SEC. 1403. NATIONAL SURVEY OF FACTORS ASSOCIATED WITH PARTICIPATION.

(a) AUTHORITY OF THE SECRETARY.—In order to assure improved and accurate data on the participation of at-risk students in postsecondary education, the Secretary, acting through the National Center for Educational Statistics, shall conduct a special purpose survey on a biennial basis of factors associated with participation of low-income, disadvantaged, non-English language background, and minority students, including (but not limited to) African American, Native Americans, Native Hawaiians, major Hispanic subgroups, and Asian students from disadvantaged backgrounds in various types of postsecondary education. The survey data shall permit comparisons with other groups that have characteristically participated at higher rates than at-risk students.

(b) DEVELOPMENT OF THE SURVEY.—The Secretary shall consult with the Congress and the elementary and secondary and higher education community in developing such an annual survey. The survey shall include, but not be limited to—

(1) academic preparation of groups at key points in the elementary and secondary education process;

(2) rates of academic progress and graduation from high school;

(3) participation in postsecondary education by type and control of institution and by program of study;

(4) persistence rates in postsecondary programs, or, in the case of short-term programs, completion rates; and

(5) average student financial assistance awarded to groups, including Federal, State, and other assistance.

(c) REPORT TO CONGRESS.—The Secretary shall report relevant data and conclusions from the survey to Congress on an annual basis, including comparisons of important factors for at-risk and other relevant populations.

(d) DEVELOPMENT OF PLAN.—In the event of significant findings related to underparticipation rates of at-risk and other students, the Secretary shall submit a plan containing policies and program modifications for ensuring the participation of at-risk students. The plan shall indicate the modifications the Secretary will make to increase participation, including, but not limited to, increasing information and training, and recommending other relevant changes to the programs under this title.

(e) PANEL SURVEY ON INCOME DYNAMICS.—The Secretary, acting through the National Center for Education Statistics, shall make an interagency agreement with the National Science Foundation to provide for additional questions and an appropriate sample size as part of an existing panel study of income dynamics to provide information on the educational processes and other developmental behavior of Hispanic, black, and non-Hispanic white children and their short-term and long-term consequences. There is authorized to be appropriated $900,000 for fiscal year 1993 and for each of the 4 succeeding fiscal years for this activity.

SEC. 1404. EVALUATION OF ASSISTANCE GUARANTY PROGRAMS.

(a) PURPOSE.—The purposes of this section are—

(1) to require the Secretary to determine the effectiveness of programs for disadvantaged elementary and secondary school students that offer guarantees for postsecondary education, and

(2) to encourage business community involvement through the dissemination of successful programs.

(b) CONDUCT OF STUDY.—

(1) The Secretary shall, through the Office of Educational Research and Improvement, evaluate the effectiveness of programs for disadvantaged children that, in exchange for the child's commitment to achieving a satisfactory elementary and secondary education, promise the child the financial resources needed to pursue a postsecondary education.

(2) The Secretary shall study a sample of the types of programs available, and (A) determine the success or failure of such programs in increasing the access and entry of disadvantaged students into postsecondary education, (B) identify the most successful programs and the causes for success, and (C) determine the responsibilities of sponsors of the programs.

(3) The programs studied shall include a guarantee of postsecondary education for students currently in elementary or secondary grade levels. The programs may include supportive services, mentoring, study skills, and counseling to students participating in the program.

(c) DISSEMINATION.—The Secretary shall disseminate the findings through appropriate agencies and organizations including associations of businesses.

(d) SUBMISSION OF REPORT.—The Secretary shall submit an interim report by January 31, 1995, and a final report by June 30, 1996, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

SEC. 1405. INFORMATION ON GRADUATE EDUCATION.

(a) ASSESSMENT REQUIRED.—The Office of Educational Research and Improvement shall conduct a study which will provide an assessment of the information currently collected on graduate education and will identify what additional information should be generated to guide the Department of Education in defining and executing its role in the support of graduate education.

(b) SUBJECT OF ASSESSMENT.—The assessment required by subsection (a) shall include the assessment of the total amount of Federal, State, private, foundation, and institutional fellowships, assistantships, loans, or any other forms of financial assistance to all graduate students, including both American and foreign students; and how these amounts are distributed by race, by sex, to nontraditional students, and to students with disabilities. In addition, the assessment shall determine the number of graduate students, cross-referenced by race, sex, and national origin, part-time, full-time, independent versus dependent status, and individuals with disabilities who enrolled and completed all requirements for the degrees master of arts, master of science, master in business administration, doctor of philosophy, doctor of education, juris doctor, medical doctor, doctor in veterinary medicine, and doctor of dental science.

(c) CONSULTATION.—In conducting this study, the Office of Educational Research and Improvement shall consult with other agencies and organizations involved in graduate education policy, including the Congressional Office of Technology Assessment, the President's Office of Science and Technology Policy, the National Science Foundation and the other Federal agencies supporting academic research and graduate education, the National Academy of Sciences and other public and private organizations which participate in the formulation and implementation of national graduate education policies and programs.

(d) DATE FOR COMPLETION.—The study shall be completed within 2 years of the date of enactment of this Act.

SEC. 1406. STUDY OF THE CENTER FOR INTERNATIONAL EDUCATION'S STAFFING REQUIREMENTS.

The Comptroller General shall conduct an evaluation of the staffing requirements of the United States Department of Education's Center for International Education. The evaluation shall consider the effectiveness of the staffing patterns and assess staffing needs in relation to the administration of title VI of the Higher Education Act of 1965 and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act, including (1) the number and experience of personnel required to achieve the objectives of such programs at a high level of quality, and (2) the extent to which additional staff may be required to administer amendments to such programs made by this Act. In conducting the evaluation, the Comptroller General shall consult institutions of higher education which have participated under such programs, and national organizations of such institutions. Within one year after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report on the results of such evaluation together with such recommendations as the Comptroller General deems appropriate.

SEC. 1407. STUDY OF ENVIRONMENTAL HAZARDS IN INSTITUTIONS OF HIGHER EDUCATION.

(a) STUDY AUTHORIZED.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, is authorized to conduct a study of the extent to which asbestos, lead in drinking water, or radon gas pose a threat to the health and safety of students and employees of institutions of higher education.

(b) SURVEY REQUIRED.—Such study shall include a survey of a representative sample of institutions of higher education in order to assess how widespread such hazards are. A sufficient number of institutions shall be sampled and tested in order to provide reasonable estimates on—

(1) the number of institutions which contain friable asbestos (as defined in the Asbestos Hazard Emergency Response Act) and how many students and employees may be exposed to unsafe levels of asbestos fibers,

(2) the number of institutions that have rooms which contain more than 4 picocuries/liter of radon, and

(3) the number of institutions which contain water fountains or faucets or water coolers which discharge water with more than 10 parts per billion of lead.

(c) CONSULTATION.—In designing and carrying out such study, the Secretary shall consult with associations representing institutions of higher education, faculty, and other employees.

(d) REPORT ON STUDY.—The Secretary shall submit a report with the results of the assessment, including the information required by subsection (b), along with recommendations by the Secretary regarding what actions, if any, Congress and the Administration should take to ensure that environmental health hazards, if any, are eliminated. The report shall be presented to Congress not later than July 1, 1995.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 in fiscal year 1993 for the purposes of carrying out this assessment.

SEC. 1408. STUDY OF CIVILIAN EDUCATION TRAINING PROGRAMS.

(a) FINDINGS.—The Congress finds that—

(1) the role of the military as a source of supply of trained pilots and mechanics and other personnel for commercial aviation is severely reduced;

(2) approximately 50 percent of the 52,000 commercial pilots currently flying will retire by the year 2000 and an additional 8,000 to 10,000 pilots will be needed by then;

(3) there is significant underrepresentation of minorities and women currently working in the aviation industry and African Americans constitute less than 1 percent of pilots with the Nation's scheduled air carriers;

(4) there is a substantial projected increase of minorities and women as a proportion of the workforce by the year 2000; and

(5) there is need for a comprehensive study of future human resources needs for the air transportation industry, including a thorough investigation of recruitment, aviation training outside the military context, financial and other incentives and disincentives which affect the flow of people, and especially minorities and women, into the industry.

(b) STUDY REQUIRED.—The Secretary of Education shall enter into appropriate arrangements with the National Academy of Sciences Commission on Behavioral and Social Sciences and Education to study civilian education training programs needed to satisfy the workforce requirements of the commercial aviation industry in the year 2000 and beyond. The specific concerns to be addressed by the study shall include—

(1) the avenues for civilians to enter the aviation industry,

(2) the characteristics of current training and the match with skill requirements in the workplace, and

(3) the impediments and incentives for minorities and women to enter the aviation industry (such as a lack of role models, cost of schooling and flight time, the underutilization of historically black colleges and universities in the educational training process, and institutional barriers).

(c) INTERIM REPORT.—The Secretary of Education shall request that the National Academy of Sciences Commission on Behavioral and Social Sciences and Education submit an interim report of its deliberations, conclusions, and recommendations to the Secretary and the Congress within 1 year after the date of enactment of this Act, and the study shall be completed within 2 years of the date of enactment of this Act.

SEC. 1409. AMENDMENTS TO GENERAL EDUCATION PROVISIONS ACT.

(a) LIBRARY OF CONGRESS ACCESS TO DATA.—Section 406(d)(4)(H) of the General Education Provisions Act is amended by—

(1) inserting "and the Librarian of Congress" after "Comptroller General of the United States"; and

(2) inserting "and the Library of Congress" after "the General Accounting Office".

(b) STUDENT RECORDS.—Section 438(a)(4)(B)(ii) of the General Education Provisions Act (20 U.S.C. 1232g(a)(4)(B)(ii)) is amended to read as follows:

"(ii) records maintained by a law enforcement unit of the educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement;".

SEC. 1410. TRAINING AND TECHNICAL ASSISTANCE FOR SCHOOL-BASED DECISIONMAKERS DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary is authorized to make grants to local education agencies, jointly with one or more institutions of higher education, to establish programs to provide training and technical assistance to school-based decisionmakers in local education agencies implementing system-wide reform.

(b) APPLICATION.—To be eligible to receive a training and technical assistance demonstration grant under this section, eligible entities shall submit an application to the Secretary in such form and containing or accompanied by such information as the Secretary may require. A copy of the application shall also be sent to the State educational agency for notification purposes.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $1,000,000 for fiscal year 1993 and such sums as may be necessary for fiscal years 1994 and 1995.

SEC. 1411. REPORT ON THE USE OF PELL GRANTS BY PRISONERS.

(a) REPORT REQUIRED.—The Secretary of Education shall submit to the Congress a report on the use of Pell Grants by prisoners. Such report shall contain a statement of—

(1) the number of prisoners receiving Pell Grants,

(2) the average amount of the Pell Grants awarded to prisoners,

(3) the average length of Pell Grant subsidized study for prisoners,

(4) the graduation or success rate of prisoners receiving Pell Grants,

(5) an analysis of whether prisoners' lack of income has made them more successful in obtaining Pell Grants over other low-income citizens who are not incarcerated,

(6) an analysis of whether prisoners lack of income provides them with an advantage in receiving Pell Grants, and

(7) the Secretary's recommendations for making the program more equitable with regard to awards to prisoners in relation to other applicants.

(b) DEADLINE FOR SUBMISSION.—The report required by subsection (a) shall be submitted not later than 6 months after the date of enactment of this Act.

PART B—NATIONAL CLEARINGHOUSE FOR POSTSECONDARY EDUCATION MATERIALS

SEC. 1421. NATIONAL CLEARINGHOUSE FOR POSTSECONDARY EDUCATION MATERIALS.

(a) PURPOSE.—The purpose of this section is to coordinate the production and distribution of educational materials in an accessible form, especially audio and digital text production, to college and university based print-handicapped population.

(b) PROGRAM AUTHORITY.—(1) The Secretary is authorized to award a grant or contract to establish a National Clearinghouse for Postsecondary Education Materials (hereinafter referred to as the "Clearinghouse") to coordinate the production and distributon of educational materials, in an accessible form, including audio and digital for students with disabilities.

(2) The grant or contract awarded pursuant to paragraph (1) shall be made on a competitive basis.

(3) The grant or contract awarded under this section shall be awarded for a period of 3 years.

(c) USE OF FUNDS.—The grant or contract awarded under this section shall be used to—

(1) catalog in computer-readable form postsecondary education materials;

(2) identify college campus-based services producing taped texts whose technical and reader quality make them eligible for inclusion in the Clearinghouse and share its quality control standards with campus-based disabled student support services offices;

(3) promote data conversion and programming to allow the electronic exchange of bibliographic information between existing on line systems;

(4) encourage outreach efforts that will educate print-disabled individuals, as defined by section 652(d)(2) of the Individuals With Disabilities Education Act, educators, schools and agencies about the Clearinghouse's activities;

(5) upgrade existing computer systems at the Clearinghouse;

(6) coordinate with identifiable and existing data bases containing postsecondary education materials, including the programs authorized under section 652(d) of the Individuals With Disabilities Act; and

(7) develop and share national guidelines and standards for the production of audio and digital text materials.

(d) FEDERAL SHARE LIMITATION.—The Federal share under this section may not be more than—

(1) 80 percent of the total cost of the program in the first year,

(2) 60 percent of the total cost of the program in the second year, and

(3) 50 percent of the total cost of the program in the third year.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purpose of this section, $1,000,000 for fiscal year 1993 and such sums as may be necessary for each of the fiscal years 1994 and 1995.

PART C—NATIONAL CENTER FOR THE WORKPLACE

SEC. 1421. PURPOSE; DESIGNATION.

It is the purpose of this part to address the new and previously unknown problems created by the simultaneous convergence of broad economic, social, cultural, political, and technological changes in the workplace through a national center administered by the Department of Labor that will join together workplace experts from America's best institutions of higher education with experts from the public and private sectors to conduct research, share information, and propose remedies.

SEC. 1422. ESTABLISHMENT.

(a) ESTABLISHMENT.—There is authorized to be established the National Center for the Workplace (hereafter in this part referred to as the "Center") through grant or contract between the Secretary of Labor and an eligible recipient.

(b) DEFINITION OF ELIGIBLE RECIPIENT.—An eligible recipient shall be a consortium of institutions of higher education in the United States, each member of which grants graduate degrees in the field of industrial and labor relations and conducts nationally recognized research in that field. The consortium shall be represented and coordinated by a host institution of higher education that meets all of the following criteria:

(1) Broad collective knowledge of and demonstrable experience in the wide range of interconnected employment and workplace issues.

(2) A nationally recognized faculty that, collectively, demonstrates a nonpartisan research and policy perspective joining the several relevant workplace disciplines (labor economics, industrial relations, collective bargaining, human resource management, sociology, psychology, and law) in a multidisciplinary approach to workplace issues.

(3) Established credibility and working relationships with employers, unions, and government agencies on a national scale, and established means of providing education and technical assistance to each of the above groups that include publications, state-of-the-art electronic and video technology, and distinguished extension/outreach programs operating on a national and international level.

SEC. 1423. USE OF FUNDS.

(a) CENTER ACTIVITIES.—Payments made under this part may be used to establish and operate the Center, to bring together major independent researchers from the Center's member-institutions focused on the most significant workplace problems with the aim of analysis and synthesis of policy implications and dissemination of findings, and to support the following activities:

(1) The coordination and funding of research activities of the Center's member-institutions for collaborative collection and evaluation of data on changes and trends in the workplace and in the labor force, on established and emerging public policy issues, on the economic and occupational structures, and on work organizations and employment conditions.

(2) The analysis of the public policy implications of social and demographic changes in the United States as they relate to the workplace.

(3) The conduct of seminars for Federal and State policymakers on policy implications of the Center's findings. Such seminars shall be held at least once each year. In addition, the Center shall utilize electronic technology, such as computer networks and video conferencing, to convey the cumulative value of the Center's activities from year to year and to foster continuous exchange of ideas and information.

(4) The conduct of a National Conference once each year for the leaders of business and organized labor in the United States designed to convey the cumulative value of the Center's activities and to foster an exchange of ideas and information.

(5) The evaluation of the economic and social implications of national and international workplace and employment issues such as the impact of new technologies on job structure and the work organization, new employment concepts in American industry, alternative workplace policies and practices, and existing and proposed government policies.

(6) The provision of ready access to the Center's collective expertise for policy officials in the Federal and State governments and representatives of private and public sector organizations through meetings, publications, special reports, video conferences, electronic mail and computer networks, and other means to share up-to-date information on workplace and employment issues, practices, and innovations, the most promising options, and guidance in management of the change process.

(7) The development of programs, curricula, and instructional materials for colleges, universities, and other educational institutions designed to impart the knowledge and skills required to promote innovations in the design of work and employment conditions that enhance organizational performance and meet worker needs.

(8) The development and administration of a national repository of information on key workplace issues that can be readily accessed by the public and private sector.

(b) FELLOWSHIPS.—Payments made under this part may also be used to provide graduate assistantships and fellowships at the Center to encourage graduate study of the field of industrial and labor relations and to encourage graduate research in areas that are seen as critical to national competitiveness.

SEC. 1424. BOARD OF ADVISORS.

(a) BOARD.—There shall be appointed a Board of Advisors to the Center that shall consist of representatives of the private and public sectors and of the member-institutions of the consortium. Two members shall be appointed by the Chair of the House of Representatives Committee on Education and Labor, and two members shall be appointed by the Chair of the Senate Committee on Labor and Human Resources. Two members shall be appointed by the Secretary of Education. Four members shall be appointed by the Secretary of Labor: two from organizations that represent employers and two from organizations that represent trade unions. In addition, the President of each consortium member-institution shall appoint one member to the Board. Other members may be added to the Board by majority vote of the Board's appointed members.

(b) MEETINGS AND RESPONSIBILITIES.—The Board of Advisors shall meet from time to time, but no less than twice each year, to review and advise the Center with respect to all aspects of its program. The Board shall submit an annual report to the Secretary of Education and the Secretary of Labor on the Center's activities and accomplishments.

SEC. 1425. GIFTS AND DONATIONS.

The Center is authorized to receive money and other property donated, bequeathed, or devised to the Center with or without a condition of restriction, for the purpose of furthering the activities of the Center. All funds or property given, devised, or bequeathed shall be retained in a separate account, and an accounting of those funds and property shall be included in the annual report of the Board of Advisors to the Secretary of Education and Secretary of Labor.

SEC. 1426. AUTHORIZATION.

There is authorized to be appropriated for fiscal year 1993, $2,500,000 which may remain available until expended to carry out the purposes of this part, and such sums as may be necessary for each of the 4 succeeding fiscal years.

AMENDMENT OFFERED BY MR. HENRY

Mr. HENRY. Mr. Chairman, I offer an amendment that was printed in the RECORD and begins at page 690, line 9.

The Clerk read as follows:

Amendment offered by Mr. HENRY: Page 690, line 9, strike out "section." and insert in lieu thereof "section, provided that such additional standards are not applied in a manner that is inconsistent with the institution's mission or contrary to the religious beliefs espoused by the institution."

Mr. HENRY. Mr. Chairman, this is essentially a technical correction of the relationships between the Department of Education and the accrediting agencies. It has been agreed to, to the best of my knowledge, by the chairman and ranking Republican member. I am not aware of any opposition.

Mr. FORD of Michigan. Mr. Chairman, if the gentleman will yield, we have examined this amendment and I am pleased to announce that we accept it and recommend that Members vote "yes."

Mr. GOODLING. Mr. Chairman, if the gentleman will yield, we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. HENRY].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PETRI

Mr. PETRI. Mr. Chairman, I offer an amendment that was printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. PETRI: At the end of the bill add the following new title:

TITLE XV—INCOME-DEPENDENT EDUCATION ASSISTANCE LOANS

PART A—LENDING AUTHORITY

SEC. 1501. PROGRAM AUTHORITY.

(a) IN GENERAL.—The Secretary of Education (hereinafter referred to as the "Secretary") shall, in accordance with the provisions of this title—

(1) make loans to eligible students in accordance with this title, and

(2) establish an account for each borrower of such a loan, and collect repayments on such loans in accordance with this title; and

(3) enter into agreements with other agencies of the Government as may be necessary to carry out the purposes of this title, and delegate to such agencies any of the Secretary's functions specified herein.

(b) LIMITATION ON AUTHORITY.—The authority granted by this title shall not be effective unless the Secretary publishes a finding that the Secretary has, pursuant to this title, established a collection mechanism that will provide a high degree of certainty that collections will be made in accordance with the repayment provisions established under part B of this title.

SEC. 1502. AGREEMENTS BY ELIGIBLE INSTITUTIONS.

(a) TERMS OF AGREEMENT.—In order to qualify its students for loans under this title, an eligible institution shall enter into an agreement with the Secretary which—

(1) provides that the institution will collect applications for loans under this title from its students that are in such form and contain or are accompanied by such information as the Secretary may require by regulation;

(2) contains assurances that the institution will, on the basis of such applications, provide to the Secretary the information required by section 1504 and will certify to the Secretary—

(A) the cost of attendance determination for each student; and

(B) the amount of any outstanding loans to such student under title IV of the Higher Education Act of 1965 or title VII of the Public Health Service Act;

(3) provides that the institution will provide to each student applying for a loan under this title a notice provided by the Secretary of the student's obligations and responsibilities under the loan;

(4) provides that, if a student withdraws after receiving a loan under this title and is owed a refund—

(A) the institution will pay to the Secretary a portion of such refund, in accordance with regulations prescribed by the Secretary to ensure receipt of an amount which bears the same ratio to such refund as such loan bore to the cost of attendance of such student; and

(B) the amount of such refund will be credited to the student's account in accordance with regulations prescribed by the Secretary; and

(5) contains such additional terms and conditions as the Secretary prescribes by regulation to protect the fiscal interest of the United States and to ensure effective administration of the program under this title.

(b) ENFORCEMENT OF AGREEMENT.—The Secretary may, after notice and opportunity for a hearing to the institution concerned, suspend or revoke, in whole or in part, the agreement of any eligible institution if he finds that such institution has failed to comply with this title or any regulation prescribed under this title or has failed to comply with any term or condition of its agreement under subsection (a). No funds shall be loaned under this title to any student at any institution while its agreement is suspended or revoked, and the Secretary may institute proceedings to recover any funds held by such an institution. The Secretary shall have the same authority with respect to his functions under this Act as he has with respect to his functions under part B of title IV of the Higher Education Act of 1965.

SEC. 1503. AMOUNT AND TERMS OF LOANS.

(a) ELIGIBLE AMOUNTS.—

(1) ANNUAL LIMITS.—Any individual who is determined by an eligible institution to be an eligible student for any academic year shall be eligible to receive an IDEA loan for such academic year in an amount which is not less than $500 or more than the cost of attendance at such institution, determined in accordance with section 484 of the Higher Education Act of 1965. The amount of such loan shall not exceed—

(A) $6,500 in the case of any student who has not completed his or her second year of undergraduate study;

(B) $8,000 in the case of any student who has completed such second year but who has not completed his or her course of undergraduate study;

(C) $30,000 in the case of any student who is enrolled in a graduate degree program in medicine, dentistry, veterinary medicine, podiatry, optometry, or osteopathic medicine; or

(D) $22,500 in the case of any student who is enrolled in a graduate degree program in pharmacy, chiropractic, public health, health administration, clinical psychology, or allied health fields, or in an undergraduate degree program in pharmacy; or

(E) $11,000 in the case of any other student.

(2) LIMITATION ON BORROWING CAPACITY.—No individual may receive any amount in an additional IDEA loan if the sum of the original principal amounts of all IDEA loans to such individual (including the pending additional loan) would equal or exceed—

(A) $70,000, minus

(B) the product of (i) the number of years by which the borrower's age (as of the close of the preceding calendar year) exceeds 35, and (ii) one-twentieth of the amount specified in subparagraph (A), as adjusted pursuant to paragraph (3).

(3) EXCEPTIONS TO BORROWING CAPACITY LIMITS FOR CERTAIN GRADUATE STUDENTS.—For a student who is—

(A) a student described in paragraph (1)(C), paragraph (2) shall be applied by substituting "$143,370" for "$70,000"; or

(B) a student described in paragraph (1)(D), paragraph (2) shall be applied by substituting "$115,770" for "$70,000".

(4) ADJUSTMENT OF LIMITS FOR INFLATION.—Each of the dollar amounts specified in paragraphs (1), (2), and (3) shall be adjusted for any academic year after calendar year 1995 by the cost-of-living adjustment for the calendar year preceding such academic year determined as the percentage (if any) by which the CPI for the preceding calendar year exceeds the CPI for the calendar year 1995, rounded to the nearest multiple of $100 (or, if such adjustment is a multiple of $50 and not a multiple of $100, such adjustment shall be increased to the next higher multiple of $100).

(5) COMPUTATION OF OUTSTANDING LOAN OBLIGATIONS.—For the purposes of this subsection, any loan obligations of an individual under student loan programs under title IV of the Higher Education Act of 1965 or title VII of the Public Health Service Act shall be counted toward IDEA annual and aggregate borrowing capacity limits. For purposes of annual and aggregate loan limits under any such student loan program, IDEA loans shall be counted as loans under such program.

(6) ADJUSTMENTS OF ANNUAL LIMITS FOR LESS THAN FULL-TIME STUDENTS.—For any student who is enrolled on a less than full-time basis, loan amounts for which such student shall be eligible for any academic year under this subsection shall be reduced in accordance with regulations prescribed by the Secretary of Education.

(b) DURATION OF ELIGIBILITY.—An eligible student shall not be eligible to receive a loan under this title for more than a total of the full-time equivalent of 9 academic years, of which not more than the full-time equivalent of 5 academic years shall be as an undergraduate student and not more than the full-time equivalent of 5 academic years shall be as a graduate student.

(c) TERMS OF LOANS.—Each eligible student applying for a loan under this title shall sign a written agreement which—

(1) is made without security and without endorsement, except that if the borrower is a minor and such note or other written agreement executed by him would not, under the applicable law, create a binding obligation, endorsement may be required,

(2) provides that such student will repay the principal amount of the loan and any interest or additional charges thereon in accordance with part B of this title;

(3) provides that the interest on the loan will accrue in accordance with section 1505;

(4) certifies that the student has received and read the notice required by section 1502(a)(3); and

(5) contains such additional terms and conditions as the Secretary may prescribe by regulation.

(d) DISBURSEMENT OF PROCEEDS OF LOANS.—The Secretary shall, by regulation, provide for the distribution of loans to eligible students and for the appropriate notification of eligible institutions of the amounts of loans which are approved for any eligible student, and for the allocation of the proceeds of such loan by semester or other portion of an academic year. The Secretary shall distribute the proceeds of loans under this title by disbursing to the institution a check or other instrument that is payable to and requires the endorsement or other certification by the student. Such proceeds shall be credited to any obligations of the eligible student to the institution related to the cost of attendance at such institution, with any excess being paid to the student. The first installment of the proceeds of any loan under this title that is made to a student borrower who is entering the first year of a program of undergraduate education, and who has not previously obtained a loan under this title, shall not be presented by the institution to the student for endorsement until 30 days after the borrower begins a course of study, but may be delivered to the eligible institution prior to the end of that 30-day period.

SEC. 1504. INFORMATION REQUIREMENTS FOR LOAN PROGRAM.

(a) RESPONSIBILITIES OF ELIGIBLE INSTITUTIONS.—Each eligible institution which receives funds under this title shall—

(1) submit to the Secretary, at such time and in such form as the Secretary may require by regulation, a machine-readable list of applicants and the amounts for which they are qualified under section 1503;

(2) promptly notify the Secretary, on request, of any change in enrollment status of any recipient of a loan under this title; and

(3) submit, at such time and in such forms as the Secretary may require by regulation for use in determining the repayment status of borrowers, a machine-readable list of eligible students who have previously received loans under this title but who are not included as current applicants in the list required by such paragraph.

(b) RESPONSIBILITIES OF THE SECRETARY.—The Secretary shall, on the basis of the lists received under subsection (a)(2), establish an obligation account, by name and taxpayer identification number, with respect to each recipient of a loan under this title. The Secretary shall provide for the increase in the total amounts subsequently loaned to that recipient under this title and by the amount of any interest charges imposed pursuant to section 1505. The Secretary shall transmit to each recipient of a loan under this title a statement of the total amount of the obligation of such recipient as of the close of the preceding calendar year.

SEC. 1505. INTEREST CHARGES.

Interest charges on loans made under this title shall be added to the recipient's obligation account at the end of each calendar year. Such interest charges shall be based upon an interest rate equal to the lesser of—

(1) the sum of the average bond equivalent rates of 91-day Treasury bills auctioned during that calendar year, plus 2 percentage points, rounded to the next higher one-eighth of 1 percent; or

(2) 10 percent.

SEC. 1506. CONVERSION AND CONSOLIDATION OF OTHER LOANS.

(a) IN GENERAL.—The Secretary may, upon request of a borrower who has received a federally insured or guaranteed loan or loans under title IV of the Higher Education Act of 1965 or under title VII of the Public Health Service Act, make a new loan to such borrower in an amount equal to the sum of the unpaid principal on the title IV or title VII loans. The proceeds of the new loan shall be used to discharge the liability on such title IV or title VII loans. Except as provided in subsection (b), any loan made under this subsection shall be made on the same terms and conditions as any other loan under this Act and shall be considered a new IDEA loan for purposes of this title.

(b) CONVERSION REGULATIONS.—The Secretary shall prescribe regulations concerning the methods and calculations required for conversion to IDEA loans under subsection (a). Such regulations shall provide appropriate adjustments in the determination of the principal and interest owned on the IDEA loan in order to—

(1) secure payments to the Government commensurate with the amounts the Government would have received had the original loans been IDEA loans;

(2) fairly credit the borrower for principal and interest payments made on such original loans and for origination fees deducted from such original loans; and

(3) prevent borrowers from evading their obligations or otherwise taking unfair advantage of the conversion option provided under this section.

(c) MANDATORY CONVERSION OF DEFAULTED LOANS.—

(1) CONVERSION IN ACCORDANCE WITH REGULATIONS.—Any loan which is—

(A) made, insured, or guaranteed under title IV of the Higher Education Act of 1965 after the date of enactment of this Act, and

(B) assigned to the Secretary of Education for collection after a default by the borrower in repayment of such loan,

shall, in accordance with regulations prescribed by the Secretary be treated for purposes of collection as if such loan had been converted to an IDEA loan under subsections (a) and (b) of this section.

(2) NOTICE.—The Secretary shall notify the borrower of the conversion of the defaulted loans to an IDEA loan and of the procedures for collection.

SEC. 1507. TERMINATION OF OTHER STUDENT LOAN PROGRAMS.

The authority to make additional loans under section 428A and part D of title IV of the Higher Education Act of 1965 (20 U.S.C. 1078-1) is terminated for any academic year beginning after the date that regulations are prescribed by the Secretary to carry out this title. This section shall not affect the administration of such section and part with respect to loans made prior to that date.

SEC. 1508. AUTHORIZATION OF APPROPRIATIONS.

(a) LOAN FUNDS.—There are authorized to be appropriated to make distribution of loan funds under section 1502 such sums as may be necessary.

(b) ADMINISTRATION EXPENSES.—There are authorized to be appropriated such sums as may be necessary to administer and carry out this title.

SEC. 1509. DEFINITIONS.

For purposes of this title—

(1) the term "eligible institution" has the meaning given it by section 435(a) (1) or (2) of the Higher Education Act of 1965;

(2) the term "eligible student" means a student who is eligible for assistance under title IV of the Higher Education Act of 1965 as required by section 484 of such Act (relating to eligibility for student assistance) and who is carrying at least one-half the normal full-time academic workload (as determined by the institution); and

(3) the term "IDEA loan" means a loan made under this title.

PART B—COLLECTION SYSTEM

SEC. 1521. COLLECTION OF INCOME-DEPENDENT EDUCATION ASSISTANCE LOANS.

(a) NOTICE TO BORROWER.—

(1) IN GENERAL.—Each year, the Secretary shall furnish to each borrower of an IDEA loan notices as to—

(A) whether the records of the Secretary indicate that such borrower is in repayment status,

(B) the maximum account balance of such borrower,

(C) the current account balance of such borrower as of the close of the preceding calendar year, and

(D) the procedure for computing the amount of repayment owing for the repayment year beginning in the preceding calendar year.

(2) FORM, ETC.—The notice under paragraph (1) shall be in such form as the Secretary may by regulations prescribe and shall be sent by mail to the individual's last known address or shall be left at the dwelling or usual place of business of such individual.

(b) COMPUTATION OF ANNUAL REPAYMENT AMOUNT.—

(1) IN GENERAL.—The annual amount payable under this section by the borrower for any repayment year shall be the lesser of—

(A) the product of—

(i) the base amortization amount, and

(ii) the progressivity factor for the borrower for such repayment year, or

(B) 20 percent of the excess of—

(i) the adjusted gross income of the borrower for such repayment year, over

(ii)(I) in the case of a married borrower, $10,900 in 1994 and adjusted for inflation thereafter,

(II) in the case of an unmarried borrower who is a head of household, $7,650 in 1994 and adjusted for inflation thereafter, and

(III) in the case of an unmarried borrower who is not a head of household, $6,050 and adjusted for inflation thereafter.

(2) BASE AMORTIZATION AMOUNT.—

(A) IN GENERAL.—For purposes of this section, the term "base amortization amount" means the amount which, if paid at the close of each year for a period of 12 consecutive years, would fully repay (with interest) at the close of such period the maximum account balance of the borrower. For purposes of the preceding sentence, an 8-percent annual rate of interest shall be assumed.

(B) MARRIED BORROWERS.—In the case of a married borrower where each spouse has an account balance and is in repayment status, the amount determined under subparagraph (A) shall be the sum of the base amortization amounts of each spouse.

(3) PROGRESSIVITY FACTOR.—

(A) IN GENERAL.—For purposes of this section, the term "progressivity factor" means the number determined under tables prescribed by the Secretary which is based on the following tables for the circumstances specified:

(i) MARRIED BORROWERS.—In the case of a married borrower—

If the borrower's adjusted gross income is:	The progressivity factor is:
Not over $7,860	0.429
11,700	0.500
16,740	0.571
21,720	0.643
26,880	0.786
32,700	0.893
39,060	1.000
48,600	1.000
63,480	1.152
87,360	1.272
117,000	1.364
163,080	1.485
240,000 and over	2.000

(ii) HEADS OF HOUSEHOLDS.—In the case of an unmarried borrower who is a head of household—

If the borrower's adjusted gross income is:	The progressivity factor is:
Not over $6,540	0.429
10,320	0.500
12,300	0.607
16,080	0.643
19,920	0.714
25,020	0.857
31,380	1.000
37,740	1.000
47,280	1.094
63,180	1.313
85,440	1.406
114,060	1.500
204,000 and over	2.000

(iii) OTHER UNMARRIED INDIVIDUALS, ETC.—In the case of an unmarried borrower who is not a head of household—

If the borrower's adjusted gross income is:	The progressivity factor is:
Not over $6,540	0.467
9,000	0.500
11,580	0.533
14,220	0.600
16,740	0.667
19,920	0.767
25,020	0.867
31,380	1.000
37,740	1.000
45,360	1.118
58,080	1.235
82,260	1.412
94,320	1.500
168,000 and over	2.000

(B) RATABLE CHANGES.—The tables prescribed by the Secretary under subparagraph (A) shall provide for ratable increases (rounded to the nearest 1/1,000) in the progressivity factors between the amounts of adjusted gross income contained in the tables.

(C) INFLATION ADJUSTMENT OF AGI AMOUNTS.—For inflation adjustment of amounts of adjusted gross income, see subsection (h)(3).

(c) TERMINATION OF BORROWER'S REPAYMENT OBLIGATION.—

(1) IN GENERAL.—The repayment obligation of a borrower of an IDEA loan shall terminate only if there is repaid with respect to such loan an amount equal to—

(A) in the case of any repayment during the first 12 years for which the borrower is in repayment status with respect to any loan, the sum of—

(i) the principal amount of the loan, plus

(ii) interest computed for each year the loan is outstanding at an annual rate equal to the annual rate otherwise applicable to such loan for such year, plus 1.5 percent, and

(B) in the case of any repayment during any subsequent year, the principal amount of the loan plus interest computed at the rates applicable to the loan.

(2) NO REPAYMENT REQUIRED AFTER 25 YEARS IN REPAYMENT STATUS.—No amount shall be required to be repaid under this section with respect to any loan for any repayment year after the 25th year for which the borrower is in repayment status with respect to such loan.

(3) EXCEPTION FOR DE MINIMUS LOANS REPAID DURING THE FIRST 12 YEARS IN REPAYMENT STATUS.—In any case where the maximum account balance of any borrower is $3,000 or less, subparagraph (B), and not subparagraph (A), of paragraph (1) shall apply to repayment of such loan.

(4) DETERMINATION OF YEARS IN REPAYMENT STATUS.—For purposes of paragraphs (1)(A) and (2), the number of years in which a borrower is in repayment status with respect to any IDEA loan shall be determined without regard to any year before the most recent year in which the borrower received an IDEA loan.

(5) EXTENSION OF REPAYMENT YEARS FOR MEDICAL INTERNS.—The number of years specified in paragraphs (1)(A) and (2) shall be increased by 1 year for each calendar year during any 5 months of which the individual is an intern in medicine, dentistry, veterinary medicine, or osteopathic medicine.

(d) DEFINITIONS.—For purposes of this section—

(1) MAXIMUM ACCOUNT BALANCE.—The term "maximum account balance" means the highest amount (as of the close of any calendar year) of unpaid principal and unpaid accrued interest on all IDEA loan obligations of a borrower.

(2) CURRENT ACCOUNT BALANCE.—The term "current account balance" means the amount (as of the close of a calendar year) of unpaid principal and unpaid accrued interest on all IDEA loans of a borrower.

(3) REPAYMENT STATUS.—A borrower is in repayment status for any repayment year unless—

(A) such borrower was, during at least 7 months of such year, an eligible student, as that term is defined in section 109(3) of the Income-Dependent Education Assistance Act of 1991; or

(B) such repayment year was the first year in which the borrower was such an eligible student and the borrower was such an eligible student during the last 3 months of such repayment year.

(4) IDEA LOAN.—The term "IDEA loan" means any loan made under part A of this title.

(e) PAYMENT OF AMOUNT OWING.—The Secretary shall prescribe by regulation the definition of a repayment year and the terms and conditions for making payments.

(f) FAILURE TO PAY AMOUNT OWING.—The Secretary shall prescribe by regulation the procedures to assess and collect the unpaid amount if an individual fails to pay the full amount required to be paid on or before the last date described in the regulations required by subsection (e)(1).

(g) LOANS OF DECEASED AND PERMANENTLY DISABLED BORROWERS; DISCHARGE BY SECRETARY.—

(1) DISCHARGE IN THE EVENT OF DEATH.—If a borrower of an IDEA loan dies or becomes permanently and totally disabled (as determined in accordance with regulations of the Secretary), then the Secretary shall discharge the borrower's liability on the loan.

(2) LIMITATION ON DISCHARGE.—The discharge of the liability of an individual under this subsection shall not discharge the liability of any spouse with respect to any IDEA loan made to such spouse.

(h) CREDITING OF COLLECTIONS; SPECIAL RULES.—

(1) CREDITING OF AMOUNTS PAID BY MARRIED BORROWERS.—Amounts collected under this section from a husband and wife both of whom are in repayment status shall be credited to the accounts of such spouses in the following order:

(A) first, to repayment of interest added to each account at the end of the preceding calendar year in proportion to the interest so added to the respective accounts of the spouses, and

(B) then, to repayment of unpaid principal, and unpaid interest accrued before such preceding calendar year, in proportion to the respective maximum account balances of the spouses.

(2) COMPUTATION OF ALTERNATIVE ANNUAL PAYMENT FOR INDIVIDUALS WHO HAVE ATTAINED AGE 55.—In the case of an individual who attains age 55 before the close of the calendar year ending in the repayment year, or of an individual whose spouse attains age 55 before the close of such calendar year, the progressivity factor applicable to the base amortization amount of such individual for such repayment year shall not be less than 1.0.

(3) INFLATION ADJUSTMENT IN COMPUTATION OF PROGRESSIVITY FACTOR.—

(A) IN GENERAL.—Not later than December 15 of 1996 and of each 3d calendar year thereafter, the Secretary shall prescribe tables which shall apply in lieu of the tables contained in subsection (b)(3)(A) with respect to the succeeding 3 calendar years.

(B) METHOD OF PRESCRIBING TABLES.—The table which under subparagraph (A) is to apply in lieu of the table contained in clause (i), (ii), (iii), or (iv) of subsection (b)(3)(A), as the case may be, shall be prescribed—

(i) by increasing each amount of adjusted gross income in such table by the cost-of-living adjustment for the calendar year, and

(ii) by not changing the progressivity factor applicable to the adjusted gross income as adjusted under clause (i).

If any increase under the preceding sentence is not a multiple of $10, such increase shall be rounded to the nearest multiple of $10 (or, if such increase is a multiple of $5 and is not a multiple of $10, such increase shall be increased to the next highest multiple of $10).

(C) COST-OF-LIVING ADJUSTMENT.—For purposes of this paragraph, the cost-of-living adjustment for any calendar year is the percentage (if any) by which—

(i) the CPI for the preceding calendar year, exceeds

(ii) the CPI for the calendar year 1995.

(D) CPI FOR ANY CALENDAR YEAR.—For purposes of subparagraph (C), the CPI for any calendar year is the average of the Consumer Price Index as of the close of the 12-month period ending on September 30 of such calendar year.

(E) CONSUMER PRICE INDEX.—For purposes of subparagraph (D), the term 'Consumer Price Index' means the last Consumer Price Index for all-urban consumers published by the Department of Labor.

(5) RULES RELATING TO BANKRUPTCY.—

(A) IN GENERAL.—An IDEA loan shall not be dischargeable in a case under title 11 of the United States Code.

(B) CERTAIN AMOUNTS MAY BE POSTPONED.—If any individual receives a discharge in a case under title 11 of the United States Code, the Secretary may postpone any amount of the portion of the liability of such individual on any IDEA loan which is attributable to amounts required to be paid on such loan for periods preceding the date of such discharge.

Mr. PETRI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. FORD of Michigan. Mr. Chairman, I reserve a point of order against the gentleman's amendment.

Mr. PETRI. Mr. Chairman, I thank the chairman's indulgence so that I can give my explanation for the reason for the pressing need for the adoption of this amendment.

Mr. Chairman, reauthorization of the Higher Education Act has been called by some the most important social legislation to come before the 102d Congress. I share this opinion. In the United States, we have the preeminent system of higher education in the world. Our job during this reauthorization is to keep it that way, and to make certain that all Americans have access to the system.

Everyone agrees that a well-educated citizenry benefits the Nation. Education is not only good in itself, contributing to a higher quality of life; and not only important to the smoother functioning of democracy; it is also investment in human capital that increases individual productivity, and therefore income.

However, in the case of postsecondary education people have a problem paying for those investments.

College and trade school tuitions keep rising and the middle class, in particular, is increasingly hard pressed to foot these bills, despite the fact that the education should pay off economically for most students. There is an array of Federal programs to help out, but they are focused on lower income families and are too expensive, wasteful, cumbersome, and even regressive.

The largest component of Federal student aid, the Stafford Student Loan Program, costs the taxpayers 28 cents for every dollar loaned out, but most of that cost does not benefit average students. Instead, it subsidizes banks, administrators, defaulters, and high-income graduates. The program will experience $3.6 billion of gross defaults this year.

Moreover, since no interest is charged while the student remains in school, those who go to school longest, and therefore have the highest later incomes, receive the biggest subsidies, while dropouts and students in short programs such as vocational programs receive no subsidies at all.

Common sense suggests there ought to be a better way, and there is. Along with Representative GEJDENSON and 82 other cosponsors, I introduced the Income-Dependent Education Assistance Act, or the IDEA Act for short.

IDEA would set up a supplementary direct student loan program, in which repayment would be based on the borrower's income after school, and be collected as personal income tax by the IRS. It is a natural extension of the principle that education represents, at least in part, an investment. Under IDEA, students pay for that investment out of its profits. And, under IDEA, the Government backs such investments and spreads the risks across the entire student population, for which the investments yield handsome returns on average.

IDEA offers enormous advantages.

First, it provides access to higher education financing to all students regardless of their parents' incomes.

Second, it provides a better deal for most students, while providing complete flexibility of repayment that accommodates life changes like unemployment, periods of child rearing, divorce or death of a spouse, low earnings right after school, or periods of low-wage public service employment.

Third, it sweeps away the whole question of deferments and forgiveness provisions that, under the current system, constitute an arbitrary, unfair, complex mess.

In addition to these advantages, IDEA would save immense amounts of money, possibly in the billions of dollars per year. IDEA virtually eliminates defaults, targets subsidies precisely, simplifies administration, and enjoys a lower cost of capital.

If we want to spend more money on Pell grants or other parts of the Higher Education Act, we've got to find savings somewhere, and IDEA is a perfect source because it would save these tremendous amounts while still providing a much better loan program than the one we've got now.

I understand that the administration has opposed the direct lending aspect of IDEA. I urge you not to be distracted. The difference between a guaranteed bank loan and a direct Federal loan is only bookkeeping. The effect on the economy is the same. IDEA has too many advantages to let a knee-jerk opposition to Federal borrowing stand in the way. We should apply the same principles that any private business would. We should be willing to borrow when we can make money doing it.

There will be several floor amendments to this bill that will advance the concept of IDEA. First, there will be a Ford-Coleman amendment requiring income-contingent loans to be offered in 20 percent of the institutions participating in the bill's $500 million per year direct loan pilot program.

In addition, I will offer two amendments supported by the American Council of Education, its major constituent organizations, and the administration.

The first amendment would authorize the Secretary of Education to purchase the loans of borrowers likely to go into default and offer those borrowers income-contingent repayment so they can avoid default and repay their obligations as they can afford it. The second would provide mandatory conversion of already defaulted loans into income-contingent repayment, pursuant to an agreement in the promissory notes of all new borrowers in the existing major loan programs. Both of these provisions would result in far greater collections on problem loans. They would establish the income dependent repayment principle for those who need it the most. Neither provision would go into effect unless the Secretary determined there was an effective collection mechanism in place and the provisions would save the Government money.

Finally, I am prepared to offer the full IDEA proposal, which would substitute income dependent loans for the current supplementary loans for students program.

All of these amendments have been drafted without reference to either the Treasury or Internal Revenue Service. Instead, they authorize the Secretary of Education to enter into agreements with private firms or other agencies of the Government as necessary to collect payments based on income. But, frankly, these amendments do contemplate using IRS collection, and that cannot happen without the consent of the Ways and Means Committee. At the very least, Ways and Means could amend another tax bill to prohibit IRS collection of student loan payments.

Therefore, although passage of any of these amendments will show important House support for the IDEA concept, further support from Ways and Means will be needed for actual implementation of these provisions.

In short, IDEA creates a loan program which increases access, reduces defaults, and makes repayment more manageable.

To the extent that subsidies are involved, they are progressive. And the money goes where it should go—to students who need it—rather than to bankers, defaulters, administrators, and the richest graduates.

In the process, IDEA frees up a great deal of Federal money which can be used for education grants or for deficit reduction. This is the kind of bold reform we should be looking at to lead American higher education into the next century.

Mr. BEREUTER. Mr. Chairman, this Member wishes to express his strong support for the amendment proposed by the distinguished gentleman from Wisconsin [Mr. PETRI], a member of the Education and Labor Committee, and the distinguished gentleman from Connecticut [Mr. GEJDENSON] that would create a supplemental student loan system that would allow for direct student loans with an income-contingent repayment system collected by the Internal Revenue Service [IRS].

The Income-Dependent Education Assistance Act or IDEA, as it is commonly known, is an innovative approach to solving the serious problems that exist within the guaranteed Student Loan Program. This Member is pleased to be a cosponsor of that legislation.

Under the income-dependent approach, former students would repay the loans based on their incomes after leaving school. Those with higher incomes after leaving school would be expected to repay relatively quickly at slightly higher effective interest rates which would help to subsidize those making lower incomes after school.

Mr. Chairman, as many of us know, one of the most serious flaws in the Student Loan Program is the high rate of default on the repayment of loans. One of the main advantages of the IDEA Program is that it would virtually eliminate student loan defaults. While there are a wide variety of reasons for defaults on student loans, a program that allows borrowers to repay their loans according to the amount of income earned is sure to be far more successful. These recaptured dollars could be funneled back into the system to assist other students. Solving the huge student loan default problem would be a major achievement of great benefit to American taxpayers.

Under IDEA, every student would be able to take loans for his or her education with complete confidence that repayment would be affordable, no matter what income the student ends up earning after leaving school. If the borrower loses a job or gets sick, the loan is rescheduled. The only way to avoid significant loan repayments would be to have a very low income for a very long time.

There are many advantages to this amendment: virtual elimination of defaults; lower cost of capital; and, simplified administration.

Mr. Chairman, this Member is very enthusiastic about the Petri-Gejdenson amendment to improve the current student loan system. Even if there are concerns of some possible features of the proposal which need to perfected, its beneficial elements would be a big improvement as a modification of supplement to the existing Federal student loan program.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Michigan [Mr. FORD] insist on his point of order?

Mr. FORD of Michigan. Mr. Chairman, I must unfortunately insist on the point of order.

Under section 303(a) of the Congressional Budget Act, it is not in order to consider any measure which creates entitlement authority or directs spending authority first effective in a fiscal year prior to the adoption of the budget resolution for that fiscal year.

The instant amendment offered by the gentleman from Wisconsin [Mr. PETRI], creates new spending authority first effective in fiscal year 1993 by creating a new education assistance loan program not already authorized in law.

Mr. PETRI. Mr. Chairman, I would ask at this point if the gentleman from Michigan [Mr. FORD] would withdraw his point of order, I will ask unanimous consent to withdraw my amendment.

Mr. FORD of Michigan. Mr. Chairman, I thank the gentleman for his assistance, and I withdraw my point of order.

The CHAIRMAN. The gentleman from Michigan [Mr. FORD] withdraws his point of order.

Mr. PETRI. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

AMENDMENTS OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer two amendments, one to title VII and one to title XV, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. TRAFICANT: Page 579, line 15, strike the close quotation marks and following period and after such line insert the following new subsection:

"(c) BUY AMERICAN REQUIREMENT.—No funds appropriated pursuant to this section may be expended by an institution of higher education for any procurement contract that an agency of the Government would be prohibited from entering into under the Act of March 3, 1933 (41 U.S.C. 10a et seq., popularly known as the 'Buy American Act').".

At the end of the bill add the following new title:

TITLE XV—BUY AMERICA

SEC. 1501. SENSE OF CONGRESS.

It is the sense of the Congress that a recipient (including a nation, individual, group, or organization) of any form of student assistance or other Federal assistance under the Act should, in expanding that assistance, purchase American-made equipment and products.

SEC. 1502. NOTICE.

The Secretary of Education shall provide to each recipient of student assistance or other Federal assistance under the Act a notice describing the sense of the Congress stated under section 1501.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, these are Buy America amendments and have been approved by both the chairman and the vice chairman on the minority side. They are consistent with existing law that anybody who violates them would be handcuffed to a chain-link fence and flogged. I ask that the committee accept them.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, we have examined the gentleman's amendments, and we find them to be in great order. We recommend that they be adopted.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. GORDON

Mr. GORDON. Mr. Chairman, I offer an amendment which has appeared in the RECORD to page 685, line 25.

The Clerk read as follows:

Amendment offered by Mr. GORDON: Page 685, line 25, strike "and", on page 686, line 5, strike out "and", and after such line insert the following:

"(J) default rates in the student loan programs under title IV of this Act,

"(K) record of student complaints, and

"(L) compliance with its program responsibilities under title IV of this Act, including any results of financial or compliance audits, program reviews, and such other information as the Secretary may provide to the agency or association, and

Mr. GORDON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

□ 1840

Mr. GORDON. Mr. Chairman, this is the final amendment that my colleagues, the gentlewoman from New Jersey [Mrs. ROUKEMA] and the gentlewoman from California [Ms. WATERS] and I have introduced in an effort to try to bring more integrity and accountability to the financial aid program.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. GORDON. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, we have examined the gentleman's amendment. We think it is consistent with the bill, and the majority is willing to accept it.

Mr. GORDON. Mr. Chairman, let me just quickly state the purpose of the bill.

This amendment addresses the ability of the Secretary of Education to require the accrediting agencies to use reasonable criteria when dealing with and approving member schools.

The bill as currently written would not allow the Secretary to require three important factors to be considered in the accrediting process. Those are student complaints, default rates, and inspector general's audits and program reviews.

If we are going to be ready to point the finger at the Secretary, we also have to give the tools to the Secretary to get the job done.

Our amendment in a clear and simple way corrects this problem.

I thank the committee chairman for accepting this amendment, and I commend the gentleman for the good job that he and the committee has done.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. GORDON. Certainly, I yield to my colleague, the gentlewoman from New Jersey.

Mrs. ROUKEMA. Mr. Chairman, as we are coming to the end of this debate tonight, I want to congratulate the gentleman from Tennessee. He is not a member of the committee, but he understands these issues completely and has delved into them in depth. I want to congratulate the gentleman for his contribution. He has really helped in measurable ways.

Mr. GORDON. Reclaiming my time, Mr. Chairman, I thank the gentlewoman and say that it has been a pleasure to work with her. I think we have made this a little bit better.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. GORDON. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, we are happy to accept the amendment on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee [Mr. GORDON].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROHRABACHER

Mr. ROHRABACHER. Mr. Chairman, I offer an amendment that was printed in the RECORD under the rule.

The Clerk read as follows:

Amendment offered by Mr. ROHRABACHER: —Page 700, strike lines 21 and 22 and insert the following:

(a) FINDINGS.—The Congress finds that—

(1) racial discrimination is indefensible, improper, and immoral;

(2) it has been reported that many institutions of higher education have instituted admissions quotas designed to limit the admission of Asian-Americans;

(3) these restrictive quotas are similar to those instituted in the 1920's to limit the admission of Jewish students;

(4) statistics show that Asian-American students face greater obstacles in their attempts to attend institutions of higher education than students of other races;

(5) The Office of Civil Rights of the Department of Education is conducting investigations at the University of California at Berkeley and the University of California at Los Angeles to determine whether the schools in violation of title VI (relating to nondiscrimination in federally assisted programs) of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-6); and

(6) the Chancellor of the University of California at Berkeley apologized to Asian-Americans for an admission process of the school which had a negative impact on the admission of Asian-Americans.

—Page 701, line 2, insert before the semicolon the following: "because of their race in violation of Regents of the University of California v. Bakke, 438 U.S. 265 (1978)".

Mr. ROHRABACHER. Mr. Chairman, this is the antiquota in college admissions amendment. It should not be controversial. It says it is the sense of Congress that the Civil Rights Act of 1964 and the Bakke Supreme Court decision should be vigorously enforced to stop the use of quotas in college admissions. Everyone says they oppose quotas—here is a chance to go on record against them.

Yes, the use of quotas is going on and the civil rights enforcement authorities are not being diligent in stopping it. That is why this amendment is needed.

If you do not think quotas are alive and well, look at this blowup of a portion of a letter printed in the Los Angeles Times received by an Asian-American applicant to the University of California at Berkeley Law School. The applicant is told "you are now in the bottom half of the Asian waiting list." The words "bottom" and "Asian" are typed into blanks on a form. This is outrageous institutionalized racial discrimination.

In October 1989 I met with Dean Jesse Choper of the Berkeley Law School to discuss admission policies. He told me that for years he had been reserving 23–25 percent of his entering class for members of certain races. That is a quota if I ever heard of one.

I asked the Office for Civil Rights of the Education Department to look into this situation. In early April 1990, about 6 months later, they wrote me saying they were initiating a full scale investigation. It is now 2 years later and no letter of findings has been issued. We believe this report has been sat on.

This is not vigorous civil rights enforcement, and is a classic example of why my amendment is needed.

I predict that when this letter of findings is released it will show a violation of title VI of the Civil Rights Act of 1964 by Berkeley Law School.

Another example: The investigation of UCLA undergraduate and graduate admissions policies started 4 years ago in January 1988.

The letter of findings in the undergraduate investigation has not been issued. The graduate school letter of findings found that the graduate math program did violate the civil rights of Asian-Americans. To date OCR has failed to get UCLA to agree to a plan to eliminate this violation, nor have they initiated enforcement action by referring the case to the Justice Department, nor has it taken its own administrative enforcement action. After 4 years—no finding on one part of this investigation and 18 months of no enforcement against a civil rights violator.

OCR has at least three other quota investigations that are not completed. These are anywhere from 2 years to 6 months old with no findings.

My amendment is designed to end the delays in providing justice and equal treatment for Asian-Americans and others.

The Yale Law Journal of January 1989 carried an article entitled "Equal Access of Asian-Americans." It pointed out that Brown University for several years in the middle 1980's had a 14 percent admit rate for Asians, while for caucasians it was 19 percent "* * * suggesting the existence of an upper limit quota. Similar disparities in admit rates occurred at Harvard and Stanford * * *" In May 1989 the new dean of admissions at Brown on the ABC–TV program "20/20" virtually admitted there had been an upper limit quota.

In April 1989 UC-Berkeley Chancellor Ira Heyman apologized to Asian-Americans for the admission policies during his tenure saying "* * * decisions made in the admissions process indisputably had a disproportionate impact on Asians." This is academic gobbledygook for "We discriminated." UC-Berkeley slightly changed their admissions policies, but some say they still are discriminating. In the spring of 1990 Prof. Vincent Sarich wrote a 6-page open letter to his faculty colleagues entitled "The Institutionalization of Racism at the University of California at Berkeley." He stated:

> The Berkeley administration has thus increasingly mocked their own nondiscrimination statement * * *.

The CHAIRMAN. The time of the gentleman from California [Mr. ROHRABACHER] has expired.

Mr. DOOLITTLE. Mr. Chairman, I move to strike the last word.

I yield to the gentleman from California.

□ 1850

The CHAIRMAN. The gentleman from California [Mr. DOOLITTLE] is recognized for 5 minutes.

Mr. DOOLITTLE. Mr. Chairman, I yield the balance of my time to the gentleman from California.

Mr. ROHRABACHER. I thank the gentleman.

Mr. FORD of Michigan. Mr. Chairman, I would call the Chair's attention to the fact that a member of the committee was standing waiting for recognition when a nonmember of the committee was recognized. I understand what is going on, but I am putting the gentleman on notice that we will watch the rules now, I say to the gentleman from California, and if his purpose is to just drag this out, we are not going to let him do it.

Mr. ROHRABACHER. Well, obviously the purpose is not to drag it out. This is a very important issue that could not be handled in the few minutes I was given to debate this. And I obviously would like a few extra minutes to finish my statement. That was it. I am sorry if that stepped on anybody's toes, and I apologize if it did.

With your permission, I would like to finish the statement.

Mr. Chairman, about this time Arthur Hu filed a complaint with the Office of Civil Rights about the Berkeley undergraduate admissions policies. Two years later the Office of Civil Rights hasn't finished investigating this one either. The winter 1991 edition of the American Scholar contains an article entitled "The New Segregation on Campus." University of California-Berkeley Prof. Ernest Koeningsburg who sat on admissions committees is quoted as saying that student with a 3.5 grade point average and a SAT of 1,200 would have a virtual 100 percent chance of admission if he or she were of a certain race but if such a student were Asian or white the chances would be less than 5 percent. These insiders verify that in college admissions there is racial discrimination.

Lest we lose sight of what this debate is all about let's look at the case of Berkeley applicant Jennifer Riel.

According to the February 10, 1992 San Diego Union-Tribune Jennifer was her high school valedictorian with a 4.5 grade point average due to honors courses. She was also cheerleading captain. She applied to University of California-Berkeley. She did not get in. But at least 5 others students from her high school with lesser achievements did get in.

This is the human tragedy of quotas. I guess the Asian or Filipino quota was full: or more likely quotas for other races were not filled and therefore the individual achievements of super student Jennifer Riel had to be sacrificed by the elitists of academia on the altar of some ideal system of racial proportionality.

This is unfair, illegal, and must be stopped. My amendment will put Congress on record against quotas in college admissions. It calls for strong enforcement of the Civil Rights Act of 1964 and the Bakke decision of the Supreme Court of the United States.

The bottom line is quotas. If you support racial waiting lists like this, if you think it is fair for colleges to admit high school students with lesser grades and accomplishments and not admit the valedictorian, if you oppose racial quotas, vote for my amendment.

Let me finish with the words of Justice Lewis Powell from his opinion in the Bakke decision. He said:

> Preferring members of any one group for no reason other than race or ethnic origin is discrimination for its own sake. This the Constitution forbids.

After stating that equal protection guarantees were personal rights, Justice Powell concluded:

> The guarantee of equal protection cannot mean one thing when applied to one individual and something else when applied to a person of another color. If both are not accorded the same protection, then it is not equal.

If you oppose quotas and believe in the concept of judging people on their individual merits, vote for my amendment.

Mr. ALLEN. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from Virginia.

Mr. ALLEN. I thank the gentleman for yielding.

Mr. Chairman, I would like to ask the gentleman: This amendment seems to be focused solely on racial discrimination and quotas and racial discrimination. I would ask the gentleman, does this amendment affect any State policies which have to do with wanting to have diversity of education as far as gender? Does this reflect the alleged gender discrimination?

Mr. ROHRABACHER. Mr. Chairman, will the gentleman yield?

Mr. DOOLITTLE. I yield to the gentleman from California.

Mr. ROHRABACHER. I thank the gentleman for yielding

Mr. Chairman, no, the purpose is not that; the purpose is to focus on discrimination, quotas of racial discrimination that particularly affect Asian-Americans but may also affect other citizens. But it is not focused at all on gender discrimination.

The CHAIRMAN. The time of the gentleman from California [Mr. DOOLITTLE] has expired.

Mrs. MINK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I appreciate very much any person's sincere interest for the welfare of Asian-Americans all over the country, and we do have some very enormous, serious problems. So, when we have the opportunity to address specific attention to these problems, I feel a genuine warmth and gratitude to the people who will help us raise these issues.

Mr. Chairman, this is not one of those occasions in which I am here to express any gratitude for the singling out of Asian-Americans and their concerns in public education.

While they have serious problems in terms of their attendance at schools, their admission policies, I believe that the committee draft, which is being presented here for enactment this evening, carefully addresses this issue in a universal way without singling out any single racial, ethnic group for special attention.

Asian-Americans merely want to be part of this country and accorded the same attention and respect and enforcement of the civil rights laws of this country.

We do not want to be exploited and used in order to destroy the very heart of the civil rights laws which have made it possible for Asian-Americans to achieve in this land and to go to college.

What this amendment does is more than make a list of findings, using Asian-Americans as a device to raise this issue. What it does is to destroy the very heart of affirmative action by asking this Congress to incorporate as a definition for discrimination the findings of the Supreme Court in the Bakke case.

Mr. Chairman, I ask this House to dismiss this amendment, as it did in 1989 when this same gentleman offered this amendment for consideration. It exacerbates racial tensions in this country; Asian-Americans resent being used and focused upon to try to solve other problems that this Congress must need to address in other ways.

We want to see equity for every segment of our society, African-Americans, Hispanics, native Americans; all of us share the same equal burdens and we want to support the concepts of equality for minorities in education, and I ask this House to vote down this mischievous amendment and support the committee draft.

Mr. GOODLING. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have real concerns with this amendment, not because I support quotas—I certainly do not—but because the amendment misleadingly addresses this troublesome issue almost exclusively in the context of Asian-Americans. Quotas on the basis of race are wrong across the board, and I do not believe that this Congress should be elevating concern with their adverse effect on one group over their adverse effects on others.

Second, and I do not want to nitpick here, but we are writing legislation with national implications—I have to question whether statements such as "the Chancellor of the University of California at Berkeley apologized to Asian-Americans for an admission process of the school which had a negative impact on the admission of Asian-Americans" really belong in findings by Congress. If this statement is intended to embarrass someone, it may do that, but should it serve as a basis for congressional action?

Third, I simply want to note that in referencing the Bakke case, this amendment runs the risk of signaling congressional approval of the case. Perhaps this is good, but we need to understand the full implications of this, and I am sure that we do. Bakke is generally interpreted to prohibit universities from reserving admission slots on the basis of race, but it also is generally interpreted to permit race-preferential treatment, where race is only one of several factors to be considered, when the university is attempting to achieve diversity. I realize that the author of this amendment was probably not attempting to sanction this other aspect of the Bakke case, but this may be the effect of codifying the case through reference in a statute. Bakke raises many important issues which should not be passed on lightly.

Finally, I want to emphasize that the bill before us already states that racial discrimination is "indefensible, improper and immoral," that institutions of higher learning should seek to ensure that applicants are not illegally excluded from admission, that the Attorney General shall investigate allegations of illegal discrimination, and that the Secretary of Education should conclude, as soon as possible, comprehensive reviews, and initiate further reviews of schools alleged to have illegally discriminated. Perhaps this language is not perfect, but it seems fairly comprehensive.

□ 1900

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and members of the committee, I would hope that the Members were listening while the gentleman from Pennsylvania [Mr. GOODLING] spoke because I think he raised the crucial points about this amendment.

This amendment is essentially being offered as a trick. It is being offered as a trick because it is trying to suggest that, because some Asian-Americans did not get into a particular campus of the University of California, that therefore there is an intentional design to discriminate against Asian-Americans.

The fact is, a lot of people do not get into campuses of the University of California that they desire to go to because the University of California is a statewide system. It takes the top 12½ percent of the students in the State, and then those students are dispersed throughout that system, and many, many of my constituents who live next door to the UC Berkeley are not able to get in. They go to Santa Barbara, they go to UCLA, UC Irvine. That is the nature of the system.

So, to suggest that, to suggest that some outstanding student did not get to Berkeley, is not to suggest that she did not get into the UC system. Why? Because, as the gentleman from Pennsylvania [Mr. GOODLING] pointed out, and those of my colleagues who represent statewide systems will understand, Bakke and the universities desire to have a diversity of student body, all of whom are qualified, none of whom have been discriminated against other than the convenience with respect to whether they got to go to the school in the north, or the south, or the middle of the State. But that is what we said we want universities to do, is to have a desire. Someone cannot be excluded from the campus because they are Asian, or because they are black, or because they are white. It is simply a question of trying to put together a community that represents the makeup of the State of California and representing that kind of diversity. That is allowed under the law.

Mr. Chairman, this is really an attack to try to reintroduce quotas to the political year and to try to attack the ability of affirmative action to go out and to reach out for these people.

It is interesting that the gentleman from California [Mr. ROHRABACHER] raises this on behalf of Asian-Americans; Representatives here in Congress oppose the amendment. The current chancellor of the UC system happens to be an Asian-American, has spoken on this issue, and has directed the university to correct those problems. The problem the gentleman from California [Mr. ROHRABACHER] has is with his own administration. Apparently they are not moving fast enough to process these claims. With the passage of this amendment, if they will not enforce the current law, what makes him think they will enforce this law? The problem is their reviews. That is this administration. I do not know what their problem is. It is not the university's problem, and so the amendment does not address the problem that the gentleman from California [Mr. ROHRABACHER] says that he has.

Mr. DELAY. Mr. Chairman, I ride in support of the amendment.

Mr. ROHRABACHER. Mr. Chairman, will the gentlemen yield?

Mr. DELAY. I yield to the gentleman from California, but I ask him to leave me time to make my statement.

Mr. ROHRABACHER. Mr. Chairman, I sure will.

Mr. Chairman, this is about racial quotas. That is what this debate is all about, and, if my colleagues will just listen to the words of the last speaker, they will know that is what it is all about, people trying to put together on our major colleges and universities some predetermined racial system based on racial decisions making of how many people of what race are going to be in our universities. That is illegal, and it should be illegal because it affects individuals' lives by decisions that are based on race.

The reason why this is so important to the Asian-American community is that they are the ones who are most highly impacted in a negative way by this type of racism that is being perpetuated on our major universities. The fact is the Asian-Americans are not getting the type of enforcement that other races would get.

I just explained in my opening remarks case after case after case where Asian-Americans complained, and, instead of rapid enforcement of the law, what we have is the Office of Civil Rights sitting on these cases. This amendment will require that the Office of Civil rights follow through vigorously on the complaints.

Mr. Chairman, if my colleagues vote against it, they are voting in favor of permitting them to ignore complaints of Asian-Americans.

Mr. DELAY. Mr. Chairman, I thank the gentleman from California [Mr. ROHRABACHER].

Mr. Chairman, today I ask you and the rest of the Members of this Chamber to take a stand to protect the futures of bright young Americans all across this land, young people who need our help to protect themselves against the discrimination which threatens to rob them of all they have worked so hard to achieve.

Having strived throughout elementary and high school to maintain the best of grades, high school seniors do not expect to be refused admission to the best universities because of their race or nationality. Yet this is exactly what is taking place in institutions of higher education across the country. Admissions offices, in the hope of achieving racial proportionality, are discriminating against students who meet the most stringent of academic requirements.

We in Congress must stand in opposition to such practices and send a clear message to the academic institutions of this country that their job is to accept students that are qualified, regardless of their race or color, and educate them. Their purposes is not to play policymaker. We in Congress need to take action now because the Department of Education has failed to thoroughly address this very pressing issue.

As long ago as the beginning of 1989, the Los Angeles Times revealed that the University of California at Berkeley Law School has been using racially categorizing waiting lists. Later in the year, Dean Choper of Berkeley Law School admitted that he reserves 23–25 percent of the school's admission slots for members of certain races, and that this policy has been in place for almost 10 years.

This is absolutely ridiculous. In light of the current tension regarding civil rights and the longstanding belief that everyone should be treated equally, it is hard for me to understand how an educational institution in America can get by with setting clear admission standards solely on the basis of race. One would think that following all the publicity that surrounded the revelations at Berkeley Law School, that academic admissions offices across the country would have realized that the American public would not stand for such discrimination. Initially, university officials apologized for their school's use of discriminatory practices. Yet it is clear that 3 years later, the academic elitists have done precious little to correct the situation. After investigating Berkeley for 2 years, the Department of Education has still issued no letter of findings.

Congress can no longer sit by and watch as the futures of our talented young people hang in the balance, a balance that has long been tilted against them. No, it is time for this institution to send a clear message to the admissions committees across the United States that we will not tolerate this any more.

Mr. Chairman, in order to send such a message, I strongly urge the Members of this Chamber to adopt Congressman ROHRABACHER'S amendment to the higher education reauthorization bill.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in strong opposition to the Rohrabacher amendment and I urge my colleagues to join me in opposition.

At first glance, this amendment deals with a serious concern of the Asian-American community: the possibility that universities may place caps on Asian-American admissions.

This is a longstanding priority for our community, but I strongly object to the implication of the gentleman's amendment that this is a problem only for Americans of Asian or Pacific Island ancestry.

Barriers to Asian-Americans, Mr. Chairman, are barriers to African-Americans, to Hispanic-Americans, and to all Americans.

As reported by the Education and Labor Committee, under the guidance of Chairman WILLIAM FORD, H.R. 3553 strongly condemns racial discrimination as indefensible, improper, and immoral.

The committee bill calls on colleges to review their admissions policies to ensure equity, and it calls on the Attorney General to investigate allegations of discrimination under the Civil Rights Act.

The language of the committee bill is inclusive of all Americans. There is no need to separate out Americans of Asian ancestry, as the gentleman's amendment would do.

The implication of the gentleman's amendment is that Asian-Americans are harmed by university programs to recruit and expand educational opportunities for African-Americans and Hispanic-Americans.

Mr. Chairman, that is simply not the case and it is not the position of the Asian Pacific American community. Both the Organization of Chinese-Americans and the Japanese-American Citizens League have expressed their strong opposition to the gentleman's amendment.

There is no need to pit one group of Americans against another, as I fear the gentleman's amendment would do.

The amendment is unnecessary, and it is potentially divisive.

I urge my colleagues to join me in opposing it.

☐ 1910

Mr. GUNDERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I know the hour is late and I did not want to speak, but I think it is important, even though this amendment is offered by my friend, the gentleman from California [Mr. ROHRABACHER], that the Members understand what we have in the bill already.

Mr. Chairman, I would call the attention of Members to page 700 and 701 of the bill. We take the concepts of the Rohrabacher amendment, but we do not make them biased for any race, gender, or ethnic background.

The fact is, we in this bill already say it is the sense of the Congress that institutions of higher education must review their admissions policies; No. 2, the Attorney General should investigate allegations of illegal racial discrimination in the admissions policies of institutions; and, No. 3, that the Secretary of Education should conclude as soon as possible the compliance reviews on admissions policies, and, when necessary, initiate additional reviews of admissions policies of schools alleged to have illegally discriminated on the basis of race.

Mr. Chairman, I want to secondly call to the attention of Members the amendment before us, because the amendment before us does put forth a bias with regard to Asian-Americans. It assumes, first, that there are many institutions of higher education that have instituted quotas to limit the admission of Asian-Americans.

Mr. Chairman, I have to tell you, I want to see the data that there are many institutions in this country that have done that before we say so. Some, even one is too many, but we ought not to say in legislative form that kind of conclusion without data.

Second, to suggest that Asian-Americans face a greater obstacle in their attempt to attend institutions of higher education than students of other races also can be contested.

Again, I am suggesting that whether you be black or white, whether you be male or female, whatever your ethnic or racial background is, that ought to be considered. But I do not think in legislative statute we ought to put that kind of conclusion for which we do not have a basis.

Third, and perhaps most important, and I really want the attention of Members on this point, especially the attention of my Republican colleagues, because we have not held one hearing, not one hearing on the whole impact of legislating or referencing in statue the Bakke case.

That is what this amendment does. By referring statutorily to the Bakke case, we do two things: On the one hand you say that there cannot be quotas in admission policies. I suspect everyone here agrees with that. But at the same time, we also note that the Bakke case does allow preferences to make race, ethnic background, or general a plus in considering enrollment.

We have not held a hearing on that issue. I do not know that anybody on the Committee on Education and Labor nor anybody in Congress is ready to determine whether that should or should not be statutorily inscribed, as it would be if this amendment were adopted.

Mr. Chairman, I would plead with my colleagues, look at what we have done, look at the implications of the amendment before you, and I think the conclusion you will come to is the conclusion we have come to on the committee on a bipartisan basis, that now is not the time and this is not the wording that we should use.

Mr. Chairman, unfortunately, I encourage Members to reject the amendment before us.

Mr. MATSUI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would just like to tell Members of this body that this issue should not really be before us. I think this issue is divisive. I think this issue tells us what is wrong to a large extent with this institution and what is wrong with the country.

The gentleman from Michigan [Mr. FORD], the chairman of the Committee on Education and Labor, has put in his legislation the following language:

> The Congress finds that racial discrimination is indefensible, improper, and immoral. It is the sense of Congress that institutions of higher education should review their admissions policies and, if necessary, revise them to ensure that applicants are not illegally excluded from admission.

Mr. Chairman, I think that says it all. Now, why are we debating this issue? The reason we are debating this issue right now is not because we want to protect Asian-Americans. In fact, the Asian-American community, believe it or not, the Japanese-American Citizens League—the largest Japanese-American organization in the country—has come out against the Rohrabacher amendment. The Organization of Chinese-Americans, the largest Chinese-American organization in the country, has come out against the Rohrabacher amendment. The gentleman from California [Mr. MINETA], the gentlewoman from Hawaii [Mrs. MINK], and myself have come out against this amendment.

The fact of the matter is this amendment is divisive. It will pit Asian-Americans against African-Americans and Hispanics, and we all know that.

The fact of the matter is, the University of California at Berkeley, the young lady that the gentleman was referring to, still would have been accepted in 1 of the other 11 university campuses. What it is, is the university has a policy of promoting diversity among the 12 campuses. She might not have gotten into Berkeley, but she would have gotten into one of the others. They have a policy of picking 12.5 percent of the freshman class of all the high school students. As a result of that, it really is not a major problem.

Mr. Chairman, let me conclude by making this observation: The fact of the matter is, as I said, this issue should not have been brought before us in this body today. We have a lot of other things to be working on. We do not need to create division among different ethnic groups. I am afraid that that is exactly what this amendment does. Whether the author of this amendment intended it or not, it creates division. Frankly, I have to tell you that many of us resent that.

Mr. CAMPBELL of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I ask for the attention of Members. I speak from my heart. This is a very, very difficult issue.

Mr. Chairman, I stand in the well as one of the few members of my party who favored the civil rights bill, from the start. I am standing in the well as a member of my party who urged my party to support the civil rights bill, and eventually it did. And I stand in the well as a Member of this House who is also a member of a faculty of a major university in a great State, the State of California. I would like to share what I have seen as a member of that faculty. I had a group of students. I put them into pairs once to do an exercise. I asked to see them from time to time about how well they were doing.

One time one member of the pair could come and the other could not. I said, "How are you doing? And how is Joe?" Joe was the other partner.

That one student said to me, "You know, Joe is doing great. He is one of the best minority students I have ever worked with.

I thought, my God, what are we teaching our children? We are teaching them to make racial divisions, to make a judgment, that this student was good—for a minority student—he was good.

□ 1920

This was an unwitting lesson. We did not intend to teach him that, but that is what we taught him.

I stand in the well, having been law clerk to Justice Byron White the year the Bakke case was decided in the U.S. Supreme Court. I read every word of the legislative history of the Civil Rights Act of 1964 so as to advise the Justice for whom I clerked on that case.

As I read that history, time and time again, what I heard from people whose names ring out in history, Hubert Humphrey, Morris Udall, was that we were intending to create a colorblind law, a rule that would prohibit the use of race so that individuals would not be held back because of an accident of their birth.

I stand in the well tonight as an individual who is old enough to have the words of Martin Luther King ringing in my ears and in my heart, urging my colleagues that our children be judged not on the color of their skin but on the content of their character.

I urge support for the Rohrabacher amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. ROHRABACHER].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ROHRABACHER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair will announce this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 60]

ANSWERED "PRESENT"—367

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Barnard
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bilbray
Bilirakis
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Crane
Cunningham
Darden
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Dooley
Doolittle
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Markey
Marlenee
Martin
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Riggs
Rinaldo
Ritter
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shays
Shuster
Sikorski
Skaggs
Skeen
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (OR)
Snowe
Solarz
Solomon
Spence
Spratt
Staggers
Stallings
Stearns
Stokes
Studds
Stump
Sundquist
Swett
Swift
Synar
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (WY)
Thornton
Torres
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Weber
Weldon
Wheat
Wise
Wolf
Wyden
Wylie
Yates
Young (AK)
Zeliff
Zimmer

□ 1942

The CHAIRMAN pro tempore (Mr. FRANK of Massachusetts). Three hundred sixty-seven Members have answered to their name, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN pro tempore. The pending business is the demand of the gentleman from California [Mr. ROHRABACHER] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN pro tempore. Pursuant to the previous announcement by the Chair, this vote will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 94, noes 276, not voting 64, as follows:

[Roll No. 61]

AYES—94

Allen
Bateman
Bentley
Bereuter
Broomfield
Camp
Campbell (CA)
Coble
Coleman (MO)
Combest
Cox (CA)
Crane
Cunningham
DeLay
Doolittle
Dreier
Duncan
Emerson
Fawell
Fields
Gallegly
Gillmor
Gingrich
Goss
Grandy
Green
Hammerschmidt
Hancock
Hastert
Hefley
Henry
Hobson
Holloway
Hopkins
Hunter
Hyde
Inhofe
Ireland
Johnson (SD)
Kolbe
Kyl
Lagomarsino
Lewis (CA)
Lightfoot
Lipinski
Livingston
Lowery (CA)
Marlenee
McCollum
McGrath
McMillan (NC)
Meyers
Michel
Molinari
Moody
Moorhead
Moran
Myers
Neal (NC)
Nichols
Oxley
Packard
Paxon
Penny
Petri
Quillen
Ramstad
Ravenel
Rhodes
Riggs
Ritter
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Schiff
Schulze
Sensenbrenner
Solomon
Stearns
Stump
Sundquist
Taylor (NC)
Thomas (WY)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Wolf
Young (AK)
Zeliff
Zimmer

NOES—276

Abercrombie
Ackerman
Alexander
Allard
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Barnard
Beilenson
Bennett
Bilbray
Bilirakis
Blackwell
Boehlert
Bonior
Borski
Brewster
Brooks
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coleman (TX)
Collins (IL)
Collins (MI)
Condit
Conyers
Cooper
Costello
Cox (IL)
Coyne
Cramer
Darden
de la Garza
DeFazio
DeLauro
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Dooley
Dorgan (ND)

Downey
Durbin
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Engel
English
Erdreich
Espy
Evans
Fascell
Fazio
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Glickman
Gonzalez
Goodling
Gordon
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harris
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hoagland
Hochbrueckner
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
James
Jefferson
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kildee
Kleczka
Klug
Kopetski
Kostmayer
LaFalce
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lent
Levin (MI)
Lewis (FL)
Lewis (GA)
Lloyd
Long
Lowey (NY)
Luken
Machtley
Manton
Markey
Martin
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McDade
McDermott
McHugh
McMillen (MD)
McNulty
Mfume
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Mollohan
Montgomery
Morella
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Nowak
Nussle
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Pallone
Panetta
Parker
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Perkins
Peterson (MN)
Pickett
Pickle
Porter
Poshard
Price
Rahall
Rangel
Ray
Reed
Regula
Richardson
Rinaldo
Roe
Roemer
Rose
Rostenkowski
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schroeder
Schumer
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Skaggs
Skeen
Skelton
Slattery
Smith (FL)
Smith (IA)
Smith (OR)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stokes
Studds
Swett
Swift
Tallon
Tanner
Tauzin
Taylor (MS)
Thornton
Torres
Towns
Traficant
Unsoeld
Valentine
Vento
Visclosky
Volkmer
Walsh
Washington
Waters
Weiss
Wheat
Williams
Wise
Wyden
Wylie
Yates

NOT VOTING—64

Archer
Armey
AuCoin
Baker
Ballenger
Barrett
Barton
Berman
Bevill
Bliley
Boehner
Boucher
Boxer
Bunning
Burton
Coughlin
Dannemeyer
Davis
Donnelly
Dornan (CA)
Dwyer
Ewing
Feighan
Gradison
Herger
Jenkins
Johnson (CT)
Kennelly
Kolter
Laughlin
Lehman (FL)
Levine (CA)
Martinez
McCandless
McCrery
McEwen
Miller (WA)
Morrison
Mrazek
Olin
Pastor
Peterson (FL)
Pursell
Ridge
Roberts
Russo
Santorum
Sisisky
Slaughter
Smith (NJ)
Smith (TX)
Stark
Stenholm
Synar
Thomas (CA)
Thomas (GA)
Torricelli
Traxler
Waxman
Whitten
Wilson
Wolpe
Yatron
Young (FL)

□ 1949

The Clerk announced the following pair:

On this vote:

Mr. Barton for, with Mr. AuCoin against.

Mr. BRUCE changed his vote from "aye" to "no."

Mr. WEISS changed his vote from "present" to "no."

Mr. HOBSON changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PASTOR. Mr. Chairman, on rollcall No. 61, the Rohrabacher amendment, I was unavoidably detained. Had I been here I would have voted "no."

□ 1950

The CHAIRMAN. Are there other amendments to any part of the bill? If not, the question is on the amendment in the nature of a substitute, as modified, as amended.

The amendment in the nature of a substitute, as modified, as amended, was agreed to.

Mr. GEPHARDT. Mr. Speaker, the Higher Education Act that the House is considering today addresses the central role of access to education as the means of increasing national economic growth and individual economic achievement. I support the legislation, and I want to discuss what this legislation will mean to average working families.

The economic experience of the past decade has not been kind to the working families of America. Low- and middle-income families saw their taxes increase and their after-tax incomes decline. At the same time, the cost of a key aspect of the American dream—a college education—has doubled. And, in the face of shrinking family budgets and increasing college costs, there has been a decade-long erosion in Federal support for higher education.

When parents worry, as they are worrying now, about their ability to send their children to college, their faith in the promise of this great Nation—the promise of growing opportunity, the ability of each succeeding generation to do better than the last—diminishes. Not only are our families working harder just to get by day-to-day, but their hopes for their children to do more than just get by are in jeopardy.

The situation that America's working families find themselves in is unfair—and more. It threatens the very fabric of our society.

That is why I am happy—indeed, proud—to have the opportunity to cast my vote for the Higher Education Amendments Act under consideration today. Passage of this important piece of legislation will go a long way toward restoring the promise of opportunity that is the foundation of our economic and moral strength. It will provide real assistance to families who need it—and who have gotten precious little help from their government in recent years.

Now—when we face the stiffest competition from our trading partners in our history—is the worst time to turn our back in indifference on talented and motivated young people who cannot afford to get a first-rate college education. This bill will enhance the ability of American young people go to college and create more workers with the higher skills we will need to get our economy back on track for the long term.

I want to thank my friend PAT WILLIAMS, with whom I joined in introducing the Middle Income Student Assistance Act last June, and I particularly want to thank my friend Chairman FORD for including the provisions of that measure in the bill we will vote on shortly. I salute him for embodying so well in this bill his vision of Federal higher education assistance programs that are responsible and effective, and for his commitment to helping the hard-working families of America send their children to college.

We have a chance today to do something meaningful for the middle class families who are the heart and soul of the country. I urge my colleagues on both sides of the aisle to vote for this bill and help give our working families a firmer grasp on the American dream.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise today in support of H.R. 3553, the Higher Education Reauthorization Act.

While running for the Presidency in 1988, George Bush made a campaign vow to become the education President. During his first 2 years in office, however, the American people saw little, if any evidence to justify such an honorable title. It was not until the third year of his term that the President decided to unveil his long awaited America 2000 education proposal. And, my friends, George Bush still does not deserve the honor of being known as the education President.

At the same time that he claims the need to invest in education, the President has submitted a budget which would cut $240 million from the impact aid program. This Federal program compensates local school districts for the expense of educating children whose parents, because they are military employees or live in subsidized housing, do not contribute to the real estate tax base which funds education. If this measure was implemented, school districts in my own area of Chicago would lose almost $600,000—a 99.8-percent cut in Federal impact aid funds. The schools losing these funds serve primarily low-income students.

My colleagues, the President has embraced education as the cornerstone of economic prosperity and the American dream, but the preponderance of his education initiatives serve only to pull the supports out from under those who need them most.

We have talked and talked and talked about the ability of education to empower our citizens and the need to make that opportunity available to all who seek it. Yet, we spend only 4.1 percent of all the money raised within our borders on elementary and secondary education This places us well behind our major competitors Japan and Germany and far behind the leader, Sweden, which spends 7 percent.

Today, we have the opportunity to discuss legislation which will enable us to help millions of Americans gain access to higher education. The Higher Education Reauthorization Act (H.R. 3553) will greatly enhance the opportunities for low- and middle-income Americans to access higher education programs and move closer to their American dream—whatever they define it to be.

Throughout history, the education system has functioned as neutral ground and been the sight of many a battle about our society's values and priorities. This legislation is no exception. In spite of the President's refusal to get out of the way of congressional reform efforts of late, we have before us today a bill which acknowledges and, even more importantly, addresses the reality of skyrocketing college tuition and slow growth in family incomes. In the last 10 years, the cost of attending a public institution has increased 27 percent and private tuitions have gone up 54 percent. In sharp contrast, median family income has increased only 15 percent. Increasing the annual maximum value of Pell grants from $2,100 to $4,500 and simplifying the hours-long and often intimidating financial aid form, as called for in section I of the bill, will allow over 1.4 million additional students to be eligible for aid and make that money easier to access.

I am especially hopeful that the new programs included in the Higher Education Reauthorization Act will fulfill their goal of attracting more young African-American students to institutions of higher learning. These students are disproportionately from low-income backgrounds and the first generation of their families to attend college. Early intervention and outreach efforts through the TRIO programs, training for high school counselors, and better coordination and dissemination of scholarship information will further facilitate these students' educational efforts.

Of particular promise, I believe, are two new programs created under title V of the bill. The Partnerships for Encouraging Minority Students To Become Teachers Program and the National Mini Corps Program work to place students from low-income and first-generation-in-college backgrounds in elementary and secondary school classrooms as teachers and role models. Dedication to these sorts of programs will begin to help children in similar situations to realize at an even earlier age that there is indeed a place for them in higher education and that college is not an entirely elusive goal. We must go even further to ensure that children at risk value education as necessary to their success. In addition to expanding Federal loan and training programs, we must improve publicity of private and public financial assistance and promote public advertising to encourage the college attendance of disadvantaged youth.

Thus, Mr. Chairman, I strongly support H.R. 3553. When enacted, it will go a long way toward ensuring that George Bush will no longer have to beckon Americans to "Read my lips"; because millions more will be able to, on their own, read his empty words in the newspaper and research his broken promises in college libraries.

Mr. MILLER of California. Mr. Chairman, I rise in strong support of H.R. 3553, the Higher Education Act. As a member of the Education and Labor Committee and an original cosponsor of this legislation, I am pleased that we were able to bring this legislation to the floor in a bipartisan manner. This important legislation expands access of students from middle-class families to Federal financial aid, strengthens the provisions against fraud and abuse, and makes changes in the programs to recognize the needs of the part-time and nontraditional students who comprise our postsecondary education population today.

I wish to thank Chairman FORD and the members of the committee for accepting a number of provisions I offered which I believe will correct several inequitable situations. One such situation involves students who attended proprietary institutions which closed before they could complete their course of study.

This epidemic of proprietary school closings over the past few years has left a national tragedy as its aftermath: Thousands of students, mostly low-income, inner-city minorities, were unable to complete their training but were saddled with student loan debts and ruined credit ratings. Because they were unable to pay their loans, they were barred from future financial aid needed to reenter the work force, and could not meet the educational requirements of the JOBS Program.

Also, unfairly hit by the proprietary school debacle of recent years are those students who were falsely certified as eligible for student loans by the institutions in which they were enrolled, including those who had skill levels far below those necessary to cope with the course materials.

The provision I added in the House bill aims to make whole those two categories of borrowers who were victimized by such institutions. For students whose school closed after January 1, 1986 or who were falsely certified by their institution after that date, the writeoff provision is meant to require the Secretary to discharge their Stafford and SLS loan liabilities, including interest, to leave them with a zero balance and a clean slate. It also clears their credit records and renews their eligibility for financial aid. And by requiring the Secretary to pursue any claim available against the institution or to draw on any third-party guarantees, such as bonds, it also places responsibility for repaying the loan debt squarely where it belongs: on fraudulent schools, rather than on the defrauded students or the taxpayers.

During a field hearing I held in my district on this reauthorization last June, a witness brought to my attention a little-known problem affecting foster care youth. Foster care youth in independent living programs currently have their Federal assistance payment counted against them when calculating their need for Federal financial aid. I am pleased that the committee unanimously accepted my provision which specifically exempts these payments for foster care youth.

I also wish to thank the chairman and the committee for helping me solve a problem of great magnitude for the California State University system. California State University prepares 70 percent of the State's new public school teachers and over 10 percent of the Nation's new teachers. It is important that the programs authorized under title V of this bill include universities such as CSU in the recruitment, retention, and development of teachers as a partner with local educational agencies and the State. CSU attracts students of all ethnicities, representing all the State's diverse populations. It has invested significantly in attracting qualified underrepresented minorities into the teaching field, particularly in the areas of mathematics and science.

I appreciate the chairman and the ranking member for including in the bill a provision that will remedy an inadvertent error in the regulations for the Perkins loan and the college work study programs. The regulations excluded students who possessed baccalaureate degrees and were enrolled in credential or certificate programs from eligibility for these programs.

This bill corrects the error made by the Department and makes the correction retroactive back to the time when the incorrect regulations were promulgated.

It is ironic that without this correction, programs that include incentives to encourage students to become teachers are unavailable to students in California, for example, who are enrolled in teaching and school service credential programs. It was never our intent to exclude these students from eligibility, and it is time that this error be corrected.

I hope that this provision will be retained through conference with the other body on the differences between the two bills. I look forward to working with the chairman and ranking Republican to assure that this error will be corrected through our efforts.

Ms. SLAUGHTER. Mr. Chairman, I rise in strong support of the Higher Education Amendments Act of 1992 which will make postsecondary college and vocational education affordable to all Americans.

Unfortunately, Mr. Chairman, many high school graduates will not be attending college this fall simply because they cannot afford to go. The financial pressures on familes today are tremendous, and in many families these economic pressures are destroying the prospects of our young people who want a better future. Students tell me that they are working and going to college part time. Others are postponing college so they can get jobs and help their parents meet their mortgage payments. Still others have given up on college altogether.

Mr. Chairman, these are families with broken dreams, the dreams of parents who wish the best for their children, and the dreams of students who see their futures at risk.

H.R. 3553 will go a long way to correct this situation by helping make higher education affordable for millions of middle-income students. The bill:

Increases Stafford loan availability to 3.1 million students, including 1.7 million middle-income students by expanding eligibility for loan interest subsidies to students of families with an income of $78,500;

Increases the PLUS Loan—a guaranteed loan for parents—availability to 6 million families;

Allows first and second year students to borrow up to $6,000 annually under the Perkins Loan Program, and increases the limit from $9,000 to $15,000 for junior and senior undergraduates and from $18,000 to $25,000 for all graduate students;

Raises the available amounts of existing Pell grant awards to a maximum of $4,500 per award; and

Expands Pell grant eligibility to 5 million students.

These measures and others included in H.R. 3553 will make needed financial assistance available to all students so that no one will be prohibited financially from receiving an education.

By increasing the affordability and accessibility of education, we are making the highest commitment to the future of this Nation. We must invest in the education and training of our work force to improve their productivity and insure a rising standard of living in this increasingly competitive and changing world. It is with strong conviction that I rise in support of the Higher Education Act amendments today.

Mr. WEISS. Mr. Chairman, I rise today in support of the Higher Education Amendments Act of 1992, H.R. 4471. This important measure addresses monumental changes that have occurred in the American job market. With explosive changes in the technology, advanced learning and superior skills have become ever more important. Access to these skills has been obstructed by tight financial aid qualifications. Unfortunately, we have also witnessed the exponential growth of tuition costs. Financial assistance is the only means by which most people, from all income areas, can enter into higher education. H.R. 4471 ensures that all Americans have equal opportunity for continued learning, regardless of their economic background. By increasing educational opportunities, we will guide America into the next century with a more highly skilled and competitive work force.

I am very disappointed that this substitute does not include Pell grants as an entitlement program, but this bill accomplishes many well-needed improvements to the Higher Education Act of 1965. It extends financial aid to low-income families and increases aid eligibility for middle-income students and their families. H.R. 3553 also simplifies the financial aid application process, battles fraud in the current loan default system, and improves the access to, and quality of, a number of diverse academic, counseling, outreach, and tutoring programs.

Another of the many accomplishments of this bill is the enhancement of federally funded prospective teacher programs. It is projected that by the year 2000, there will be a teacher shortage of roughly 1 million. I am gravely concerned that students, especially students in disadvantaged areas across the United States, will suffer greatly from this lack of talented and enthusiastic teachers. To avoid this potential crisis, I sponsored H.R. 3334, the Perkins Loan Improvement Act of 1991, which is included under title IV of this bill.

The Perkins Loan Improvements Act expands the policy of loan forgiveness for teachers who take out Perkins loans to fund their education. Under the current system, the cancellation of Perkins loans is permitted for full-time teachers who work in qualifying schools in low-income areas. However, current law caps the number of schools who can participate to 50 percent per State. This limitation denies loan forgiveness to teachers in 18 States and the District of Columbia. My bill will eliminate the 50-percent cap and therefore stop penalizing some dedicated, selfless teachers who serve in the these low-income areas.

The purpose of higher education is to encourage people not only to learn for themselves, but to share their knowledge with others. By removing the unequal loan cancellation restrictions, this bill provides incentives for more quality teachers to help those communities who are most in need. It is vital to attract qualified and interested people to the teaching profession, for teachers will train our next generation.

The reauthorization of the Higher Education Act comes at a crucial time. For many Americans today, higher education is the only route to further personal and professional achievement. It is up to Congress, to clear this path; and this bill is a significant thrust in the right direction. I urge my colleagues to support H.R. 4471.

Mr. SMITH of Florida. Mr. Chairman, I rise to announce my strong support for the higher education reauthorization of 1992. This important legislation will give middle-class families the essential Federal financial aid assistance they deserve.

H.R. 4471 will also strengthen safeguards against fraud and abuse of the student loan programs. I first became involved in this issue in 1988 when I learned of serious loan abuses at a proprietary school in my district. In 1989, I introduced the Student Loan Abuse Program [SLAP] Act.

The SLAP Act would have authorized the Secretary of Education to halt the flow of Federal funds to schools determined to be operated by dishonest officials who use unscrupulous tactics to line their own pockets at the expense of well-meaning students. In addition, the bill stopped the flow of funds to any affiliates or successors to these schools if the Secretary of Education determined there was good cause for concern. The 1989 Budget Reconciliation Act gave the Secretary of Education the authority to take emergency action to bar schools from student aid programs if they were found to be breaking the law.

I would like to thank Chairman FORD and the members of the Education and Labor Committee for continuing to pursue this critical issue. Some of the provisions of the higher education reauthorization evolved from the SLAP Act. H.R. 4471 will prohibit postsecondary institutions from using salesmen and recruiters who receive commissions or other incentive payments for enrolling or obtaining financial aid for students. Moreover, H.R. 4471 will also prohibit participating postsecondary institutions from using any agency or employing any person who has been convicted of abusing Federal student aid funds. These provisions are straightforward and fair. They protect the Federal Government waste of using taxpayers' money to provide loans to schools that are not following regulations.

The Higher Education Act of 1992 is a solid bill which will bring much needed relief to middle-class Americans. It is a responsible bill which watches over the taxpayer's investment in education and makes sure that it is spent wisely.

Mr. TOWNS. Mr. Chairman, the amendment that I planned to offer was designed to correct a major flaw in the criteria the Secretary would use to target postsecondary institutions for State monitoring and review to eliminate fraud, abuse, and waste. Unfortunately, time and the procedural constraints of the rule did not permit me to accommodate the concerns of the black college community with those of my colleagues who have been working on the program integrity provisions of the loan section of this bill. I appreciate the willingness of the full committee chairman and the ranking minority member in accepting this amendment. I hope that we can reach an agreement in the House-Senate conference to ensure that the concerns of historically black colleges are not harmed by the State review provisions.

Mr. BEREUTER. Mr. Chairman, this Member rises in support of the amendment proposed by the gentlewoman from Hawaii [Mrs. MINK] and the gentleman from New York [Mr. ENGEL] which would have restored the 2-year deferment of student loans for medical residents and interns.

Mr. Chairman, as you know, the legislation currently under consideration combines the current 11 deductions allowed to 3. Even though the economic hardship category considers loan-to-income ratio, the only way medical residents and interns can be certain of a deferment is a special category for them.

This Member has consistently cosponsored legislation that would increase the 2-year deferment to the entire residency period. Nebraska is typical of many rural States that are experiencing shortages of health professionals—especially general practitioners.

Last week several of this Member's constituents who are medical students stopped by my office to express their concerns about the high cost of medical education and the burden of loan repayment during residency, if H.R. 3553 is passed without this amendment. The burden of loan repayment is on their minds daily. In fact, they made it clear that financial considerations play a major role in choosing a specialty and location of practice.

As a Nebraska medical student said in a letter last fall:

> Ending the deferment is unsound health care policy, since it can only force medical residents to forgo specialization in lesser-paid medical specialties, such as psychiatry and family medicine, precisely at a point when Federal policy clearly needs to encourage more—not less—physicians to choose these specialties.

Mr. Chairman, this Member is in strong support of the Mink-Engel amendment and urges his colleagues to vote in support of this amendment.

Mrs. MORELLA. Mr. Chairman, I rise to bring to my colleagues' attention language that has been added to H.R. 4471, the Higher Education Reauthorization Act, pertaining to the Paul Douglas Teacher Scholarship Program.

This scholarship program, which was enacted in fiscal year 1984, provides scholarships of up to $5,000 annually to students interested in pursuing a career in teaching. For each year students receive assistance, they are required to spend 2 years teaching. If they do not meet these teaching requirements, they must pay back a pro rata portion of the loans with interest.

Unfortunately, participants in this program, who often are selected as high school seniors or college freshman, are uninformed about the job market which they will face upon graduation. Having entered into this contract, they might learn later that they are faced with a much more difficult job search than anticipated.

A constituent of mine wrote to inform me of his difficulties in finding a job. With the help of a Paul Douglas Scholarship, he prepared for a career in teaching while in college. After graduating, he learned that he had prepared to teach in a field which had the fewest openings of any teaching specialization. Had he known before, he could have chosen a field where his skills are needed. Despite his good intentions, he has been unable to find a job and faces a large debt incurred from the scholarship.

For the benefit of the program, as well as for the participants, we must be certain that these students have as much information as possible before entering into this contract. I have added a provision, with the assistance and support of Chairman WILLIAM FORD, to the Paul Douglas Scholarship Program requiring States to counsel prospective recipients on the employment outlook within the teaching profession. It is only fair to the participants that they are aware of the job opportunities which will likely be available at the time of their graduation. It is also best for the community, which is more likely to have teachers where they are needed, in front of a chalkboard rather than pounding the pavement.

Mr. GREEN of New York. Mr. Chairman, I wish to express my support for H.R. 4471, the higher education reauthorization bill, which is the main source of Federal assistance to higher education. Most of that assistance is in the form of student financial aid, which makes the dream of obtaining a college degree a reality for millions of Americans. I should also like to express my appreciation to the Education and Labor Committee for both expanding access to financial aid and tackling the difficult and costly problem of loan defaults by strengthening safeguards against fraud and abuse in the various student loan programs.

There is, however, one revision made by H.R. 3553 to which I must express my strong objection. That is the removal of home equity from calculations to determine eligibility for student financial aid. I believe that provision is shameless discrimination against renter households. Imagine that there are two families: One is a family whose home is worth $100,000 and the other is a family who rents its home and has $100,000 in savings. Under the new bill the homeowner family will not have to include the value of its home in the financial aid application but the renter household that has $100,000 in savings will have to include that amount. The 1986 tax bill already provided a break to homeowners by allowing them to deduct second mortgages for other purposes, including education, so why are we implementing a provision that discriminates even further against renter households? For my constituents, many of whom are renters, this provision is grossly unfair and I feel an obligation to point it out.

Mr. CLAY. Mr. Chairman, I rise in support of H.R. 3553, the higher education reauthorization.

This legislation authorizes the major Federal programs supporting postsecondary education in this country. H.R. 3553 continues our Federal commitment to access in postsecondary education and to educational opportunity. I believe that we have an obligation to our young people in providing the opportunity for all who want to go on to institutions of higher learning.

There are many fine programs in this legislation to help our young people including an improvement of our financial aid system, provisions which will strengthen our historically black colleges and universities; it promotes stronger teacher training programs and this is just to name a few.

The Committee on Education and Labor held massive and exhaustive hearings regarding the reauthorization of the Higher Education Act prior to the development of this legislation.

A straightforward and direct message emerged during the course of these hearings. That message was: "An urgent need exists as an imperative for the reauthorization of the Higher Education Act."

I support this imperative as greatly needed for moving our Nation forward as we face international and global competition.

Education, historically, has been the linchpin which has mobilized and unified our Nation. It is important that we provide the necessary resources for higher education to be a catalyst for our national growth and prosperity.

As one reads the extensive testimony which was presented during the course of these hearings, one is struck by the dedication and the high resolve of the people who are involved on a daily basis in our institutions of higher education who are committed to the optimum utilization of our human potential.

It is important, as you well know, that as we face global competition from abroad in the area of high technology and cybernetics, all of our institutions of higher education should be in the best possible position to add to our economic strength by ensuring that we have graduates of high quality.

I believe that in a time of an economic downturn and growing dependence on foreign products. This legislation will serve as a catalyst or a multiplier effect for our economy. In brief, I believe that this legislation is a prudent investment in our Nation's future.

It is in our national interest that this legislation should be supported by all enthusiastically.

Ms. OAKAR. Mr. Chairman, I rise in support of the Higher Education Reauthorization Act. First, I would like to express my support to the gentleman from Michigan [Mr. FORD], and to the ranking member, the gentleman from Missouri for the tremendous work that they and the committee have done on this important legislation. Specifically, I support their work to increase the grants and loans available to students from working and middle-class families.

This is one of the most important bills that Congress will consider this year and a critical investment for economic growth. In the last decade, costs at public and private colleges have increased from two to three times faster than the growth in median family income. Working and middle-class families should not have to see the dream of college education slip out of their reach.

Investment in education is essential if America wants to compete in the international market and offer our children a better future and a chance at achieving the American dream. As the gentleman from Michigan pointed out, while 40 percent of today's jobs are in low skills occupations, only 27 percent will fall into that category by the year 2000. At the same time, jobs in high skill occupations will rise from 24 percent to 41 percent of the work force. Without the changes included in this bill, we are at risk of becoming a country where middle- and working-class kids are squeezed out of the chance at a better future.

This bill makes a number of important changes to expand access to higher education. Over the past decade, students who receive financial aid have had to take out larger and larger loans and have received less grant money. One of the unfortunate results of this trend is a higher student loan default rate. The legislation before us works to correct this trend by increasing the maximum Pell grant from $2,400 to $4,500. It also gives more families access to Pell grants. Currently, only families with incomes of less than $30,000 per year can receive Pell grants; and 70 percent of Pell grant recipients come from families with incomes below $15,000. With this legislation, students from families of four with incomes up to $49,000 would be eligible for the minimum Pell grant.

Many middle-class families have been closed out of the guaranteed student loan programs. This bill changes that. By setting up a new loan guarantee program for students who do not qualify for financial aid, this bill allows all students, regardless of family income, to obtain loans. Students who do not qualify for the regular Stafford loans would be eligible for the new unsubsidized Stafford loan. This loan would be the same as the regular Stafford loan, except that they would be responsible for paying 8 percent interest while they were in school. The students could pay the interest while they are in school or have it added to the loan principle to be repaid once he or she enters repayment.

The bill also takes a number of other steps to make financial aid more fair. For example, it excludes the family home, farm, and small business from financial aid evaluation so that families do not have to sell their family business or take out large mortgages on their homes to send their daughters and sons to college. As a result of this change and other changes, students from families with incomes of $78,500 who attend average-priced college would be eligible for the regular Stafford loans.

I urge my colleagues to support the bill. It's an economic growth package and an investment in the future of our Nation.

Ms. MOLINARI. Mr. Chairman, I rise today to express my appreciation to Chairman FORD, the ranking minority member of the full committee, Congresman GOODLING, and the ranking minority member of the Postsecondary Subcommittee, Congressman COLEMAN, for their extraordinary leadership on education issues. I also want to commend my colleagues on the Education and Labor Committee whose thoughtfulness and dedication to postsecondary education helped to craft this legislation before us today.

As a member of the subcommittee, I am proud to have been a part of the important mission and vision embodied in this legislation. Our committee held over 40 hearings, and dedicated many long hours to draft a mostly bipartisan bill. Despite several differences on several important issues, the focus to advance our commitment to higher education was never lost.

At the societal and geopolitical levels, forces are now at work that are rapidly changing our Nation and our future work force. Economic growth in Asia and Europe, coupled with the decline of communism across the globe, has altered the international political landscape, thus challenging the United States' role in the global community.

This challenge, to recapture and maintain America's economic momentum requires a highly educated labor force. American higher education is the foundation for this labor force. This country simply cannot afford to have a shortage of adequately trained people that can master the jobs that are necessary to remain competitive. Today, we are considering a bill that is the blueprint for the long-term labor needs of our country.

Let us look back over the past decade. The costs of a college education have risen 135 percent, while, family income has only risen half of that. The bill before us, increases the amount of Federal student aid that is available through Pell grants, supplemental grants, loans and college work study to offset the burden of educational costs for the average American family. Our committee recognizes the importance of keeping the doors of opportunity open for students who simply do not have the financial means to pay for a college education.

One of the central goals of this reauthorization is to expand student aid for the hard-pressed middle-income families that are strewn across this country. The legislation before us accomplishes this goal by increasing the maximum available Pell grant and expanding access to families of four with incomes up to $49,000 for the minimum Pell grant award.

In the past, many hard-working middle-income families have not qualified for student aid because of the inclusion of the value of a family home, family farm, or small business in the calculation of need. This legislation removes these three assets from the need analysis calculation. In addition, the bill provides an educational savings protection allowance to aid parents who have saved for their children's education.

We change the current PLUS Program to make more loans available to parents, regardless of their income. We create a new unsubsidized loan program, so that all students, regardless of family income, can borrow up to the maximum Stafford loan. In addition, the bill simplifies the application process for Federal aid by requiring the completion of only one Federal form for all Federal student aid. The current application process is extremely complex and discourages many students from applying for aid.

One of the most serious issues that the committee tackled with great concern is to end waste, fraud, and abuse in the Student Loan Program. Over the past 5 years, we have seen an unacceptable increase in loan defaults. To stop this hemorrhaging in the Student Loan Program, our bill includes nearly 100 provisions to strengthen controls on colleges and universities to end waste and abuse. Some of these provisions include prohibiting the use of commissioned sales persons and recruiters, requiring pro rata tuition refunds, and increased financial responsibility from schools. Along these lines, a new integrity section was created within the bill to enable the Secretary of Education to enter into agreements with States to help protect the taxpayer's money.

Another key goal I strongly supported was to provide outreach programs to increase the number of women and minorities in science and engineering. We have also created grants to colleges and universities to establish child care facilities for disadvantaged students and we have provided money for sexual offense education and prevention programs. I supported these initiatives because by the year 2000, two out of three new entrants into the work force will be women and minorities. By the year 2000, 86 percent of jobs available will require postsecondary education or training.

The bill includes a number of programs, that I took a personal interest in, for inclusion. The first provision establishes a prefreshman summer program to supplement existing Federal and State efforts to help disadvantaged students. Years of experience in New York State's opportunity programs demonstrate that prefreshman summer programs are highly correlated with academic success for economically disadvantaged students.

The second provision increases the amount of money for the Student Literacy Corp [SLC], a program to increase literacy and other educational skills by using college students to tutor in public community agencies which serve educationally or economically disadvantaged individuals. As well as additional funding levels, each institution will now be allowed to receive one grant for each branch campus affiliated with it. This will allow schools that have multiple campuses in various cities to have a SLC Program at each location.

The third provision will be an amendment I plan to offer with my colleague, Congressman RAMSTAD, to require colleges and universities to formulate and distribute a campus sexual assault policy. College and university campuses are becoming a breeding ground for date and acquaintance rape. The statistics are horrific: From 60 to 80 percent of rapes are date or acquaintance rape. Although campus rape is reported every 21 hours, studies reveal that the actual incidence of rape is much higher. It is time to assign the role of responsibility for campus safety to colleges and universities.

Mr. Chairman, the provisions of this bill before us today, demonstrate our commitment to the citizens of this country who desire and have the ambition to pursue the higher education of their choice. I hope all my colleagues will join me in supporting this bill to cut back the obstacles that impede the average American from reaching their educational goals. The future competitiveness of the United States depends on its labor force. If we continue to disregard the changes necessary for higher education, then we might as well not acknowledge that communism is dead, nor the increasing economic competitiveness of the European Community and Asia.

A nation is as strong as the people that inhabit it. This bill fosters the peoples' strength. I urge all my colleagues to support this legislation for the prosperity of our future.

Mr. BALLENGER. Mr. Chairman, I rise to point out a very small but important provision included in these amendments to the Higher Education Act which will encourage more of the business community and private sector to provide college opportunities to disadvantaged children. H.R. 3553 requires the Secretary of Education to evaluate the effectiveness of programs for disadvantaged elementary and secondary school students that offer such students guarantees for postsecondary education if they successfully complete their studies and graduate from high school. The Secretary must study a sample of these programs to determine the success or failure of such programs in increasing access and entry of disadvantaged students into postsecondary education, determine what makes these programs successful, and identify what responsibilities the sponsors must provide to the program.

The programs are based on the "I Have A Dream" college scholarship program developed by Eugene Lang which encourages private businesses to sponsor elementary and secondary disadvantaged youth by guaranteeing the payment of college tuition in exchange for the completion of a satisfactory elementary and secondary education. In my own congressional district both Catawba Valley Community College and Caldwell Community College and Technical Institute participate in this program and have had excellent results.

I am pleased that H.R. 3553 includes these provisions which were taken from a bill I introduced last year, H.R. 2943, because businesses want students with the education and skills necessary for employment so that they can continue to compete in today's world markets. This provision will provide the necessary data about these innovative and successful programs in order to contribute to providing a college education to someone who may not have had that opportunity.

However, I regret that I cannot support passage of this bill. While the legislation contains smart provisions such as the "I Have A Dream" program, it contains a direct loan pilot program that would be murderous to our already ailing Federal budget.

The direct loan pilot would require the Secretary of Education to select schools to participate in the program based on the GSL lending at the school. Any institution that lends a total of $500 million to eligible students in fiscal 1992 would be able to participate in the program. In other words, if 300 schools meet the $500 million requirement then 300 schools could participate; however, there would be no limit on the total dollar volume of loans that these schools could originate in the future.

The funds for this direct loan program are provided through Federal borrowing. Therefore, the bill would eliminate the ability for the Congress to control the amount of direct student loans, and would subject the Treasury to borrowing unknown millions of dollars at the taxpayers' expense. In addition, the direct loan program would increase the administrative burden on the Department of Education. The DOE has already indicated that they do not have the ability to administer the loan program, and the administration has threatened to veto the bill if it includes the direct loan provision.

As drafted, the bill is $1.2 billion over budget. In order to meet pay-go requirements, the legislation would institute a 5-percent loan origination fee for Supplemental Loans for Students [SLS], and Parent Loans for Undergraduate Students [PLUS], and maintain the existing origination fee on the Stafford Loan Program. It is a shame to penalize the students who are supposed to benefit from the bill.

Again, I am proud of the efforts by the committee to include the "I Have A Dream" language, but I regret that I cannot vote for the bill in its current form.

Mr. DARDEN. Mr. Chairman, I rise in support of the gentleman from California's amendment to H.R. 3553. As Mr. PANETTA has explained, his amendment would strengthen the foreign language education and teaching provisions in this bill. This amendment reflects a commitment to the important educational goal of including quality foreign language training at every level of our Nation's school system.

Mr. Chairman, it has become an almost trite expression, but our world has changed. It is apparent that much of our future success as a Nation will depend on our ability to work in conjunction with other members of the international community to pursue our security, trade, and environmental interests. In order to work effectively with other nations, it is imperative that we meet them halfway by developing an understanding of their culture and languages.

Mr. Chairman, by providing for increased foreign language curriculum and program development and by encouraging the establishment of foreign language State academies for teachers, this amendment takes an important step toward ensuring that our schools will be able to provide good foreign language instruction and, accordingly, produce students with superior knowledge of foreign languages and culture.

Mr. Chairman, I urge the Members of this body to support the gentleman's amendment.

Mr. BACCHUS. Mr. Chairman, first, let me commend the chairman of the Post-Secondary Education Subcommittee for his leadership on this critical legislation. I especially appreciate the fair manner in which the subcommittee has involved Members and the education community in the drafting of the Higher Education Act. This bill balances many interests while always focusing on how best to serve students.

I am especially pleased with the title IV provisions of the bill and the increased financial aid available to all students. As a result of this bill, in the first year alone, 3.1 million more students will have access to Federal financial assistance. I will enthusiastically vote for passage of this legislation.

I do have one concern that I would like to bring to discuss today and that I hope can be addressed in conference. I would like to specifically address the title III Institutional Aid Program and the bill's maintenance of the current 5-year wait-out period for institutions receiving 5-year title III, part A grants.

I appreciate the need to balance the interests of those students at colleges that have received recent title III funds and those at colleges that have not yet received these funds. However, a 5-year wait-out is very harsh and limits an institution's ability to compete fairly in response to new and critical needs of students. Institutions that have received title III funding can face new problems of crisis proportion in response to rising unemployment, student influx, or severe budget cuts. These problems can hamper their ability to serve students through needed new programs. I believe that 5 years is just too long to allow severe problems to remain unsolved without even the opportunity to compete for title III aid.

Our students would best be served if the wait-out period were shortened to no more than 1 year, so that all needy institutions would have access to these funds on a timely basis. This change would allow unfunded institutions a greater opportunity to enter the program, without bringing unusual hardship on students at colleges that have been funded previously.

Mr. Chairman, I recognize the goal of making title III funding fair and open. However, I strongly urge our conferees when appointed to consider the harmful impact that a full 5-year wait-out period would have on some colleges' ability to quickly and adequately address challenges they face.

I thank you for considering this issue and commend you again for your leadership.

Mrs. BOXER. Mr. Chairman, I rise in support of the Higher Education Reauthorization Act. I am especially grateful to Chairman FORD and my colleagues on the Education and Labor Committee for their interest and support of title IV of the Violence Against Women Act which has been included in this bill.

Every student should have the opportunity to go to college, and the Higher Education Reauthorization Act reaffirms our commitment to this goal by expanding access to student financial aid programs for middle-class families. In the first year, an additional 1.1 million middle-income students will be eligible for Pell grants.

Yet, at a time when we are trying to help students fulfill their dreams, we are finding that college campuses are not the safe havens for study that we had always supposed. Today, the problem of rape on our Nation's campuses is driving women away from some schools, and forcing many to drop out.

A 1990 study funded by the National Institute of Mental Health found that one in four college women reported being the victim of rape or attempted rape. From these figures, it was projected that one in seven women will be raped on campus; 57 percent of college rape victims are attacked by their dates.

Through education and better awareness, we can prevent a women's dream of a college education from becoming a nightmare. Many campuses are already instituting rape prevention and education programs, but those with limited resources are not. This bill will provide $20 million to the neediest college campuses for rape prevention and education, victim support services, and other campus security measures.

It is unacceptable and a tragedy that even one woman must go through the trauma of rape on campus. If our efforts help even one woman avoid this fate and stay in school, then we have taken a step in the right direction.

Thank you, Mr. Chairman, and your colleagues on the committee, for working so hard to ensure that all students, including women, have the opportunity to pursue a higher education.

Mr. NEAL of Massachusetts. Mr. Chairman, I rise today in support of H.R. 3553, the Higher Education Reauthorization Act. What pleases me most about this bill is that the Higher Education Act puts educational opportunity on equal footing for all. With approval of this measure more and more Americans will be able to afford the postsecondary school of their choice. I cannot tell you the number of times that constituents have come up to me and shown me college tuition bills that are more than their annual salary. Many have postponed retirement because they do not wish to place a debt upon their children. With passage of H.R. 3553, Federal assistance programs will be expanded in order for low- and middle-income students to receive the educational chance they deserve. This assistance is sorely needed. In the last decade those Americans with incomes below the top 20 percent saw their income either stagnate or decline. All this is occurring as costs of public and private universities have increased two to three times faster than the growth in median family income.

Another problem that H.R. 3553 has addressed is the complexity of student aid forms. To alleviate the maze of paperwork, H.R. 3553 provides for a single Federal form for applying for Federal student aid and a single needs analysis that allows students to update their application from the prior year rather than filing a complete new application each year. This bill also creates a new Federal-State partnership that will provide training for high school counselors and establish a national computer network of financial aid information.

With passage of the Higher Education Act we can move in the direction of solving the outrageous number of student loan defaults. In 1991, the Federal Government spent $3.5 billion to pay for defaulted school loans. That figure constitutes 54 percent of the program. With better program integrity and accountability the schools with an abnormal number of school loan defaults will be kept out while the schools with minor problems will get the help they need to improve their default rate. This approach will curb the waste and abuse that has hindered the system in the last decade.

As we approach a new century, this Congress can look back in pride to a bill that gives an opportunity for all Americans to achieve the dream of bettering themselves through education.

Mr. RHODES. Mr. Chairman, I rise today to discuss the reauthorization of the Higher Education Act of 1965. This year's reauthorization process presents Congress with a historic opportunity to address the needs of higher education and the Nation's work force through the next decade. The decisions we make concerning the future of student financial aid programs will have an impact on the millions of Americans who depend on financial assistance to pursue a postsecondary education.

H.R. 4471, the Higher Education Amendments Act of 1992, contains several important provisions which will allow greater access for students pursuing a postsecondary education. H.R. 4471 simplifies the student aid process to allow easier accessibility to Federal financial aid. In addition, the bill also removes equity in home, family farm, and family small businesses from calculations which determine eligibility for student financial aid, and establishes an educational savings protection allowance to aid parents who save for their children's education.

Mr. Chairman, I want to discuss two specific issues which are important to me. H.R. 4471 contains a provision to help open the records of campus crime units on universities across this Nation. Many States, including Arizona, have open records laws which require universities to disclose records of the campus law enforcement unit to other school officials, apart from the university's law enforcement unit. However, the Buckley amendment protects a student's right to privacy, the student's right to inspect, review, and correct the records before the school can disclose crime reports—even to the police. This contradiction has forced many States to choose between violating the State's freedom of information policy and violating FERPA, thus jeopardizing continued receipt of Federal education funds. However, H.R. 4471 contains a provision which will exempt from the Buckley amendment, any record maintained by a law enforcement unit that was created by that unit for a law enforcement purpose. This provision will help Arizona State University and many other schools in States with open records law.

Second, I want to address the role of vocational education schools in the reauthorization. I believe H.R. 4471 contains some important provisions regarding program integrity that will address the abuses that have taken place in the bad apple schools. As we are all aware, spiraling default rates in recent years have directed increased scrutiny toward educational institutions, especially trade and technical schools. However, I believe the program integrity sections of H.R. 4471 will go a long way toward protecting students and taxpayers.

In conjunction with this program integrity section, I hope that the conferees will remember the importance of short-term programs to these schools. The program integrity section will help ensure that short-term programs remain a valuable and integral part of vocational education. In passing this reauthorization, it is important that we do not throw out good programs as well as bad. Quality short-term vocational education programs have provided important training programs for many people, young and old.

When someone loses a job, he or she does not have 4 years to learn another skill. These short-term programs ensure that people can return to the work force as quickly as possible. A quick review of these programs includes welders, travel agents, hotel management trainees, and health workers. It is my hope that the House will keep these facts in mind as we consider this bill.

Mr. Chairman, I believe that this is a good bill. It expands access to the middle class, restructures many important programs for disadvantaged youth, and provides many new scholarship programs. I appreciate the work of the House Education and Labor Committee and their staff. I especially want to thank Congressmen BILL GOODLING and TOM COLEMAN and their staffs for understanding my concerns. I look forward to supporting H.R. 4471.

Mrs. KENNELLY. Mr. Chairman. I rise today in strong support of the reauthorization of the Higher Education Act. I commend Chairman FORD and members of the Committee on Education and Labor and the Subcommittee on Postsecondary Education for their hard work on behalf of students across this Nation.

The purpose of this bill is to improve Federal support for postsecondary education. Working and middle-income families are barely making ends meet and the dream of a college education for their children is quickly fading away. Costs at both public and private institutions have increased from two to three times faster than the growth in median-family income. In fact, between 1980–90, increases in college costs ranged from 27 percent for public universities to 54 percent for private institutions while the median-family income rose only by 15 percent. Public college costs are rising at rates faster than ever before as States with severe economic problems do not have the funds necessary to sustain their institutions.

I see this in my own State of Connecticut, in New England, and across the country. Fiscal problems in States are drastically reducing the State contributions to colleges across this Nation. More emphasis then is placed on the Federal Government to assist in financing. It is a responsibility we must uphold—State and local governments can no longer bear the fiscal burden—and the education of our Nation's citizens is imperative to our international competitiveness and our ability to succeed in global markets.

We have seen a dramatic shift in the focus and direction of students financial aid. Loans have replaced grant aid as the major source of student aid. In fact we are providing $2½ in loans for every 1 dollar in grant aid. This legislation redresses the current imbalance between loan and grants. It expands eligibility for grants and low-interest loans. For instance, the maximum Pell grant award will be increased to $4,500 for the current year and indexes the grant to inflation. It expands access to guaranteed student loans by establishing an unsubsidized loan program that would allow students regardless of family income to borrow up to the maximum limit.

This legislation enhances the integrity of student aid programs—it strengthens controls on schools to end waste and minimize loan defaults. In addition, it simplifies the student aid application process and delivery system so often criticized as complicated and cumbersome.

Mr. Chairman, this legislation authorizes a program of grants to institutions of higher education to encourage and support manufacturing engineering education. These funds were authorized for fiscal year 1992 at $25 million and yet the program was not initiated by the Department of Defense. We have recently learned, particularly in light of cutbacks in defense spending, that American companies fail to lead in the creation of new technologies for commercial use. A gap is widening between the development of new technologies and their application in American plants. These grants to undergraduate institutions for the enhancement of existing manufacturing engineering programs and the establishment of new programs will be vital to student research in advanced manufacturing science and technology. This program will bring about greater opportunity for an enhanced field of study not to mention advanced career options for students in science and technology. We must initiate this program.

Mr. Chairman, there are important provisions in this legislation with respect to nontraditional students, women, and minorities in higher education. This legislation expands Pell grant to less-than-half-time students and increases support for child care expenses. It also incorporates provisions to significantly increase the numbers of women and minorities who enter the fields of math and science where they are currently drastically uderrepresented.

I also commend the committee for strengthening the TRIO programs to provide information and early outreach services to students and their families. These programs have proven successful in their mission to provide academic guidance to educationally disadvantaged students who currently attend or are seeking to attend postsecondary institutions.

In the long term, Mr. Chairman, this legislation expands opportunity and helps to ensure that this Nation will have a highly trained and educated work force capable of competing effectively with workers of any nation.

Mr. Chairman, the time has come to reaffirm our commitment to the future of our Nation's students and future work force. This legislation provides much needed relief to middle-income families who are priced out of higher education by the skyrocketing costs of tuition. This legislation provides fairness. This legislation provides opportunity. I urge my colleagues join me in supporting the higher education reauthorization.

Mr. CAMPBELL of Colorado. Mr. Chairman, I'm happy to be here today to discuss reauthorization of the Higher Education Act. Passage of this legislation is an important step in helping low- and middle-income students achieve the dream of a college degree.

Providing Americans with the opportunity to earn an education is essential if this nation is to prosper. We will not maintain our competitiveness on the world scene if we fail to prepare for the competition.

This bill is important because it recognizes the current imbalance between grants and loans for students trying to finance their education, and attempts to correct that problem. By supporting this legislation, we have the opportunity to give students a real chance at putting themselves through school—without forcing them to graduate strapped with an unmanageable debt.

The cost of higher education has increased dramatically in the past 10 years, but we have not provided more financial aid to help cover these costs.

Today we can reverse that trend by supporting this bill. It raises the maximum Pell grant $4,500. The number of students receiving grant assistance would be increased by raising income for minimum grant eligibility to $49,000. While this increase would still cover less than half of the average costs of a year's education, it will increase access to education for the people who need it the most.

As much as an increase in Pell grants will help lower income students in their quest for a college degree, the middle class is also the winner in this proposal.

This bill creates new incentives for families to save for their kids' education. Students are protected from losing eligibility for aid if their parents have saved for their education. Currently, any such savings are counted twice: as savings and parental contribution. This change reflects the reality that savings are a one time infusion of cash and will not be a yearly contribution.

Availability of guaranteed student loans are expanded for those with middle-income, by allowing all students, regardless of family income, to borrow the maximum Stafford loan.

Most importantly, by passing this legislation we can change the calculation for determining financial need to help middle-income Americans. It is unreasonable to expect a family to sell their home, farm or small business to pay for their kids' education. But under current law, these assets are considered when determining eligibility for financial aid. Changing this calculation alone will give many kids access to financial aid that they have not had for 10 years, and help eliminate some of the squeeze felt by middle-income Americans.

I'd like to thank the members of Education and Labor for their work on this bill, and urge my colleagues to support it. Giving Americans a chance for an education is key if we expect to retain our strength and opportunity as a nation.

Mr. ROYBAL. Mr. Chairman, I would like to voice my support for H.R. 3553, the Higher Education Reauthorization Act.

As we all know, this bill expands access to financial aid to American students. I would like to point out some of the other aspects of this important legislation which have received less attention. The bill enhances the TRIO Program which provides help for students from disadvantaged backgrounds. Youngsters who will be the first in their families ever to go to college receive crucial guidance and encouragement because of this program. This bill also provides matching grants to colleges and universities which institute programs to prepare and place teachers in minority school districts. A program will also be established to encourage minority high school students to pursue careers in elementary and secondary school teaching. The bill also authorizes $15 million for both the College Assistance Migrant Program [CAMP] and the High School Equivalency Program [HEP]. These programs are vitally important to migrant students, who face tremendous obstacles in achieving their educational goals. These programs promote greater stability and continuity in the delivery of services to children whose families are engaged in migrant and seasonal farm work. The bill also expands the national Mini Corps which has recruited former migrant workers to provide extra help for migrant children and serve as role models that can clearly illustrate the importance of educational achievement.

I would like to congratulate Chairman FORD and all the members of the Education and Labor Committee for having crafted this bill and I urge all my colleagues to support it on final passage.

Ms. PELOSI. Mr. Chairman, I rise today in support of H.R. 4471. This legislation would provide much needed reform to our current Federal Student Loan and Pell Grant Programs and would expand the opportunity to attend college to more middle-class Americans.

By passing this legislation and expanding eligibility for Federal student loans and Pell grants to the middle class, I believe that Congress takes an important step toward investing in the future of our young people and the future of our country.

Critics of this legislation charge that it simply costs too much money to expand these programs to reach more Americans.

Mr. Chairman, I charge that it costs too much money to not expand this eligibility.

Countless studies have shown that a dollar invested in education results in a substantial net gain to the individual and to our society as a whole. Any business short sighted enough to refuse such a return on a potential investment would not be able to compete in the international marketplace.

Every day it seems we hear how other nations have gained an economic advantage over the United States in a given industry. In order to regain our role as the world's undisputed economic leader, we must heed the lessons of business and invest in the development of our Nation's greatest asset and our greatest resource, its people.

The higher education system in the United States is recognized throughout the world as the most comprehensive, the most effective, and the most sophisticated. The research facilities at our universities are the envy of all nations.

H.R. 4471 provides us with the opportunity to help more Americans benefit from these great institutions. To ignore such an opportunity, to tell millions of middle-class Americans that it just costs too much to assist them in furthering their education, is to sabotage our economic future.

Mr. Chairman, I urge my colleagues to recognize the real and urgent need to invest in tomorrow today and urge you to pass this legislation.

Mr. FORD of Michigan. Mr. Chairman, the gentleman from Texas [Mr. BUSTAMANTE] raised his interest in enhancing the postsecondary achievement of Hispanic-Americans.

Over the past 4 years, I have been aware of the gentleman's legislative initiatives to establish a postsecondary network of Hispanic-serving institutions of higher education with at least 25 percent Hispanic enrollment, and I applaud his leadership.

The members of the House Education and Labor Committee are fully aware of the title III provisions in the Senate higher education reauthorization bill which call for the establishment of such a network of Hispanic-serving institutions. I can assure the gentleman from Texas that, as chairman of the House Education and Labor Committee, I intend to give full, fair, and serious consideration to the Senate language establishing such a network when the House and Senate meet in conference committee.

I thank the gentleman for bringing his views on this matter to the committee's attention.

Mr. BUSTAMANTE. Mr. Chairman, I wish to discuss the goal of establishing a federally supported network of Hispanic-serving institutions of higher education.

Indeed it was during the 100th Congress that the senior Senator from Texas and I introduced the first bill in the U.S. Congress to ever call for the establishment of just such an educational network. As a former educator, I have worked on this legislative initiative for the past 4 years, which is why I was pleased to learn that Senator KENNEDY has included a title III provision in the Senate higher education bill which is based on my original legislation.

Although I know the chairman of the committee has and past reservations about establishing Federal educational set-aside programs, I believe that he is, nonetheless, sensitive to the needs of the constituents which my colleagues and I on the congressional Hispanic caucus represent. In this spirit of cooperation, I would hope that the chairman and his Education and Labor Committee will give full, fair, and serious consideration to the Senate language establishing a network of Hispanic-serving institutions of higher education with, at least, 25 percent Hispanic enrollment.

Mr. OWENS of New York. Mr. Chairman, I rise to give my full support to the amendment offered by Mr. VENTO. In my congressional district of Brooklyn, NY, there are thousands of students who are in debt because of student loans that they took out for an education which they never received.

These students are now in default on loans and they will not be eligible for Federal financial aid until they resolve this debt. These students wanted to go to school to learn a skill so that they would be able to work to support themselves and their families. Without this education many of them were not able to do so. They are still lacking the education they sought, and where before they were unable to support themselves, now they cannot only not support themselves, but they have no way of paying back their student loans. They are trapped in a cycle which offers no way out without a miracle—or a change in the law.

Some of these students are misled by greedy schools that recruit ill-prepared students and then load them up with loans telling them that they are really getting grants. Some of these students are prepared for the educational program but the school is lacking the materials and the resources to provide adequate instruction. The students complete the program without gaining the skills to compete in the work force. Some schools close down and declare bankruptcy leaving students without any education to show for it. There are thousands of students in my district and across this country with these problems and more. These students are unable to repay their loans—not unwilling.

The Vento amendment offers the students a solution. Not a free ride, but a solution. The Vento amendment says that these students, who were cheated out of their education and out of their money, must show a commitment to repaying their loans for 6 months. Their monthly payments would be determined according to their total financial circumstances and their ability to make payments on a monthly basis. Once these students have fulfilled their obligation to make these 6 monthly payments, demonstrating their commitment to work their way into a better life, the students' eligibility for Federal student aid would be renewed.

Following this course of action these students will suddenly find their lives are once again full of promise. They will be able to return to school and get the education they need to be able to repay both loans and lead a better life.

This new repayment option is very important to the students, to the communities in which they live and to the Nation as a whole. The debt the Government bears to repay loans in default is substantial. There are many people who default on their loans because they are looking for a free ride and assume that nothing will happen to them if they do so. The committee has taken steps to prevent these types of default. There are other people who default not out of any maliciousness, but because of circumstance or fraud.

The Vento amendment provides a pathway for these students to find their way out of default. Through this pathway they will be able to repay their loans, thus repaying the Government and lessening the Government bill. They will not only support themselves and their families but will be able to provide financial support to their communities through taxes and general support by being productive members of their communities.

I applaud Mr. VENTO for offering this amendment of behalf of the students and their communities—all of which will benefit. I urge my colleagues to support this amendment.

Mr. HATCHER. Mr. Chairman, I rise today to express my strong support for H.R. 3553, a bill to expand and improve upon the Higher Education Act of 1965. As a former teacher and student under the GI bill, I understand the importance of financial assistance in seeking a higher education.

This bill incorporates the lessons learned in the years since President Johnson signed into law the original, landmark legislation. At the time, President Johnson promised that the Higher Education Act would ensure that "a high school senior anywhere in this great land of ours can apply to any college or any university in any of the 50 States and not be turned away because his family is poor." In recent years, as college costs have skyrocketed and the value of Federal financial aid has declined, we have not followed through on this promise.

With this legislation, we can reaffirm the Federal Government's commitment to support postsecondary education for all Americans. The Education and Labor Committee under the leadership of Chairman FORD has done a remarkable job in putting this bill together, and I commend my colleagues on the committee for their diligent efforts. They have crafted a bill that represents a significant investment in our Nation's human capital—our young people. Investing in this key resource is essential for the future growth of our economy.

H.R. 3553 expands the access of hard-pressed middle-class families to Federal financial aid programs. An additional 1.1 million students will become eligible for Pell grants in the first year of the authorization. An additional 350,000 students from middle-income families will qualify for guaranteed student loans. Families will no longer have the equity in their homes, farms, and small businesses included in the calculation of their children's eligibility for student assistance. These provisions are characteristic of the commitment we are making in this bill to significant and fundamental changes in Federal support for higher education.

I support the existing, successful programs that are continued under this legislation. These success stories include programs to assist historically black colleges and universities, special programs for students from disadvantaged backgrounds, the TRIO program, and programs to support teacher recruitment and training.

Mr. Chairman, I learned the importance of education from my mother, an elementary school teacher in rural south Georgia, who taught me and many others. I come from an area of the country where many people can only pursue a college education with financial assistance. The Federal Government made it possible for me to earn a higher education, and we must assist this generation with the same opportunity. The future of our country depends on a strong Federal commitment to education and I intend to work diligently toward this goal.

Mr. McCANDLESS. Mr. Chairman, it is with much regret and disappointment that I find myself forced to depart for the airport prior to final passage of H.R. 3553, the Higher Education Reauthorization Act. Unfortunately, previously scheduled engagements in my district require that I be in California early tomorrow morning. I am nonetheless pleased by the progress of this bill, and feel that its passage is in the best interests of the American people. Mr. Chairman, let me state for the record that had I been able to remain to vote on final passage of H.R. 3553, I would have cast an "aye" vote.

Mr. HOAGLAND. Mr. Chairman, I want to express my support for H.R. 4471, a bill to reauthorize the Higher Education Act of 1965, the law that created the college student loan and grant programs. This is a very important bill, for it is through the Higher Education Act that the dream of access and opportunity for a college education becomes a reality.

With the end of the cold war, the national strength and status of the United States as a great power now depends on our ability to compete in an international economy. The productivity of our citizens depends on our investments in education and training. Unfortunately, working- and middle-class families, the traditional source of productive workers, are seeing the dreams of higher education for their children slip away as our standard of living declines and as our support for Federal education programs decline.

In the last decade those with incomes below the top 20 percent saw their incomes either stagnate or decline when adjusted for inflation. Meanwhile costs at public and private colleges have increased two to three times faster than the growth in median family income. Many working families can no longer afford to send their children to college. For example, an 18- to 24-year-old from a family with an income between $15,000 and $30,000 is less than half likely to be in college as an 18- to 24-year-old from a family with an income above $50,000.

College costs have increased significantly throughout the 1980's. Between the academic years of 1980 and 1990, in constant dollars, college costs have increased by 27 percent for public universities and 54 percent for private universities.

Working-class families can also no longer call on their traditional financial reserve, sending mom to work, to meet the cost of a college education for their children. Mom has already gone to work for the families fortunate enough to have two wage earners. These dual incomes are now becoming barely sufficient to maintain their current standard of living.

In Nebraska, nearly 22,000 high school graduates attend the University of Nebraska in Lincoln, our largest education institution. For the 1990 school year, resident tuition room and board averaged $4,800 per student. Of a total of 24,453 students attending the university, almost 50 percent rely on financial aid in some form. I want to ensure that not one of these students is denied the opportunity to attend the university.

Since the Federal Government provides 75 percent of total financial aid available to students, the reauthorization of the Higher Education Act is an opportunity to improve our current structure. And improvements are desperately needed.

The value of the Pell grant has declined. Where it covered 41 percent of the costs of education in 1980, today it covers only 26 percent. As the value of grant assistance has declined, students, including low-income students, have increasingly come to rely on loans to finance their education. Cumulative student debt has increased almost five times between 1980 and 1989, creating a newly—there is a newly indentured class in the United States, the student debtor.

I believe the bill before us begins to address these concerns.

EXPANDING PELL GRANTS

Under the bill, in the first year, an estimated 5 million students would be eligible for an increased grant or would be newly eligible to receive a Pell grant. The bill provides for a maximum Pell grant of $4,500 for the 1992–93 school year, with annual increases to keep pace with inflation.

DISADVANTAGED STUDENTS

For low-income students and for those who are the first in their family to attend college, this bill offers incentives for States to establish early intervention programs. Often many students and their families are not well informed about the availability of financial aid and the appropriate high school coursework required to succeed in a college. These programs are vitally important because they keep the doors of access and opportunity open for students who simply would not have the resources otherwise.

SIMPLIFYING NEEDS ANALYSIS

H.R. 4471 simplifies the student aid application process. Many argue that the sheer complexity of the process has done more harm than good, discouraging families from even trying to participate. This bill provides for a needs analysis for all Federal student aid programs.

In addition, H.R. 4471 removes the consideration of farm and home equity for families with incomes of less than $50,000. This will help give more working families access to Pell grants, guaranteed loans, and campus-based aid.

RESTORING PUBLIC INTEGRITY

H.R. 4471 makes major changes to enhance the integrity of the student aid programs. Unfortunately, student aid programs have been tarnished by reports of unscrupulous schools and growing default costs. This bill includes nearly 100 provisions to strengthen controls on schools and colleges to end abuse and to minimize loan defaults.

One of the hallmarks of the American dream is that education opens the door to opportunity. Not only does education bring opportunity, it is a good investment for our Nation. For every dollar that students receive in student aid, they return about $4.30 to the Federal Government in taxes. Our true economic wealth depends on the development of the skills and productivity of our citizens. H.R. 4471 goes a long way in assuring that the education needs of all our citizens are met.

Mr. COX of Illinois. Mr. Chairman, I would like to take this opportunity to comment on the title III Institutional Aid Program and the wait-out period for institutions receiving part A grants under this title.

I fully understand the original intent of insuring that these grants are available to as many institutions as possible and I fully support that intent. However, a 5-year wait-out period for institutions receiving these grants could have a significant impact on the ability of an institution to meet the new and critical needs of its students. Rising unemployment, growth in student attendance, or unpredicted budget cuts could have a dramatic effect on an institution's ability to meet the needs of its students. That effect could be disastrous to the students if an institution is unable to respond, even with the opportunity for title III aid.

Students in my State, and I believe most States, would be best served if the wait-out period was reduced to no more than 1 year. This would allow the neediest of institutions from being cut off from funds they may drastically need. When a college engages in the successful utilization of title III grants to meet the needs of its students, it should not be penalized in a manner which may jeopardize its future success in meeting those needs.

I support the adoption of language similar to the Senate reauthorization legislation and hope that this Chamber will move in that direction. That legislation eliminates the 5 year wait-out, but establishes preference for institutions who have not recently obtained these grants. I believe this is a more fair and practical approach to the awarding of this funding.

Mr. PETERSON of Florida. Mr. Chairman, as many Members of this House know, education is among my highest priorities. Since beginning my first year in Congress, I have been actively involved in the reauthorization of the Higher Education Act, H.R. 3553. In fact, I was an early cosponsor of this legislation. I believe that it is imperative that we make access to a postsecondary education available to all Americans, regardless of family income. This bill goes a long way toward making this vision a reality.

I had anticipated debating the merits of this bill with my colleagues. However, I am, regretfully, unable to partake in the March 26, 1992 debate and subsequent vote on this bill and its proposed amendments, as I was appointed, along with former U.S. Ambassador to the Soviet Union Malcolm Toon, chairman of the Senate Select Committee on POW/MIA Affairs Senator JOHN KERRY, ranking minority member Senator ROBERT SMITH, and Congressman JOHN MILLER, to serve on a joint American/Russian POW–MIA Advisory Commission, which convened in Moscow this week. The Commission has been formed in response to Russian President Yeltsin's request to President Bush for the United States and Russia to work jointly to help settle the ongoing POW–MIA issue in both countries.

This is an important and critical step for the United States and Russia as we seek to determine the fate of the thousands of Americans who remain unaccounted for during the hostilities over the past 50 years. Furthermore, the actions of this Commission are in keeping with my commitment that our country must do everything possible to ensure that Americans will never be forgotten or abandoned in a foreign land.

This is an issue that is intensely personal to me as I was a prisoner of war in Vietnam for 6½ years. I consider it an honor and a privilege to have been appointed to serve on this Commission, and I believe that I would be doing a disservice to all those who are unaccounted for if I was to neglect my appointed duties.

Mr. Chairman, I would like to express my gratitude to you for appointing me to this position. However, I would also like to express my disappointment that I am unable to participate in the debate on the reauthorization of the Higher Education Act and its amendments.

As a former faculty member of Florida State University through the psychology department's special program at Dozier School for Boys in Marianna, I have a special understanding of the importance of education. We need to increase the educational opportunities available to kids from low- and middle-income families. We need to expand the student aid available to people who cannot currently afford to attend a postsecondary institution. This bill does that and more. By increasing the availability of grants, this bill makes it possible for students from low-income families to seek a postsecondary education without taking on overwhelming debt.

In short, Mr. Chairman, education is the key to America's future. We as legislators must do everything in our power to help individuals pursue their innermost goals, and the best way to do this is to ensure that they will be able to receive a higher education if they wish.

Again, I am disappointed that I am unable to partake in the House proceedings regarding the reauthorization of the Higher Education Act. However, I am confident that my constituents, as well as the Members of this body, understand the reason for my absence.

Mr. Chairman, had I been present on March 25, I would have voted "aye" on rollcall No. 55, which was to override the President's veto of H.R. 4210. On March 26, had I been present, I would have voted "nay" on rollcall No. 56, the Henry amendment to H.R. 3553; "nay" on rollcall No. 57, the Gradison amendment; "aye" on rollcall No. 58, the Towns substitute to the Coleman amendment; "aye" on rollcall No. 59, the Coleman amendment; and "nay" on rollcall No. 61, the Rohrabacher amendment. And, Mr. Chairman, had I been present on March 26, I would have voted "aye" for final passage of H.R. 3553.

Mr. STOKES. Mr. Chairman, I rise in support of H.R. 4471, the Higher Education Act Amendments of 1992. I would like to commend the gentleman from Michigan [Mr. FORD] for the skill and leadership he has exhibited in bringing this vital measure to the floor for consideration.

H.R. 4471 reauthorizes the Pell grant, Guaranteed Student Loan Program, Federal student financial aid, institutional aid, and other Higher Education Act Programs which are scheduled to expire at the end of fiscal year 1992. This measure expands Federal student financial aid to students from middle-class families and attempts to correct the imbalance between student reliance on loans versus grants.

The bill also contains provisions intended to improve programs that serve historically black colleges and universities [HBCU's]. As you know, Mr. Chairman, HBCU's enroll approximately 300,000 students, the majority of whom are from low-income families and are dependent on Federal financial aid to pursue a higher education. The expansion of the student aid programs in H.R. 4471 should provide much needed assistance to these students.

More specifically, provisions of the bill include: First, an increase in the maximum awards for Pell grants. The maximum amount of awards will be increased by $2,100, bringing the total maximum authorization up to $4,500; second, expansion of the Guaranteed Student Loan Program to include more middle-class students, and allow students, regardless of family income, to borrow up to the maximum limit; (3) simplification in the need analysis calculations; (4) establishment of a direct loan demonstration program that would include institutions of higher education that represent a cross-section of all institutions; and (5) elimination of the provisions contained in last year's Unemployment Benefits Extension Act (Public Law 102–164) that require credit checks on certain applicants who apply for student loans.

Mr. Chairman, throughout the 1980's, college costs have increased much faster than both median family income and Federal student financial assistance. Between 1980 and 1990, college costs increased by 27 percent for public universities, and 54 percent for private universities. However, during this period, the value of Federal financial aid has increased by only 23 percent, and the median family income has increased by only 15 percent.

The value of grant awards also has declined. In fiscal year 1979, the maximum Pell grant award covered almost half of the average cost of attendance. Currently, it covers about one-fourth of these costs. As a result of these trends, many students, particularly low-income students, increasingly have relied on loans to finance their education. Currently, 64 percent of the $18.4 billion in aid available to students will be in the form of loans, while 36 percent will be in the form of grants and work opportunities. This is the opposite of what was true a little over a decade ago.

Mr. Chairman, the bill we have before us today addresses these trends and will put programs in place which will allow all students an equal opportunity to receive a higher education. It is for this reason that I support H.R. 4471 and ask my colleagues to join me in support of its final passage.

Mr. CUNNINGHAM. Mr. Chairman, I rise in support of the Higher Education Act, and support the effort to improve access and reaffirm our commitment that no child who strives to achieve should be denied.

It has long been my policy to vote for increased funding for educational programs. It is my belief that our strongest defense against economic demise is to educate our children. If we feel that we cannot afford to educate our youth, we must stop to examine the cost of the housing projects, welfare programs, and police officers that will be needed to take care of those we leave behind.

The most difficult obstacle facing those seeking further education is access to funding. This bill offers reform in this arena, making moneys more readily available to those who need it most.

As a former teacher, I am keenly aware of the troubles in securing financing for higher education. We send our children mixed messages. We tell them to continue their education by attending college, yet a college education has become prohibitively expensive for many Americans.

Last fall I hosted a technology fair for eight high schools in my district. Local technology companies participated with interactive demonstrations. The interest that was sparked in these students was remarkable. At a time when this country is experiencing a void in the field of sciences, it is imperative that we pass legislation that can make this dream attainable.

A great deal of effort was put forth while drafting this bill to put an end to the abuse that is costing our system billions of dollars in defaulted loans. I strongly support this effort, as it will make funds available to others with financial need.

I must also salute the effort that has been made to increase funding for historically black colleges. It is time that all aspects of our society reach their highest educational potential.

I am particularly pleased to rise in support of the Higher Education Act because of the advanced placement language that has been included.

On November 26, 1991, I introduced the Higher Education Access Act. This legislation would eliminate the existing financial deterrent that impedes many high school students from taking advanced placement or AP courses.

My bill would allow for a Federal waiver to students who meet predetermined financial criteria. Currently, the cost of the AP test is $65. For many students, it is not unusual to take two or three AP courses in a single academic year. For financially constricted families, paying $130 to $195 for testing is simply out of the question. Statistics show that should this fee be waived, more students would be apt to take AP classes.

Students who pass an AP test receive credits for their undergraduate requirements. Because those students who will qualify for the AP waiver will also qualify for Federal tuition assistance, the cost savings to the Federal Government will be great.

Simply put, $65 for 2-hour college course is a bargain.

I applaud the efforts of my colleagues on the Education and Labor Committee in drafting this progressive bill. I invite all Members to join me in support of this legislation.

Mr. KYL. Mr. Chairman, when the higher education reauthorization was first discussed in the fall, I was very disturbed by reports about defaults on Federal student loans. Last year alone, the cost to the American taxpayer was estimated at $2.9 billion. The bill addresses that problem, and I agree that some of the measures proposed by this bill are necessary to prevent abuse and wasteful expense.

However, I am concerned about the effect parts of this legislation may have on proprietary schools which are successfully training and educating their students. These schools have been particularly concerned with the lowering of the cohort default rate, the elimination of short-term programs from Federal aid eligibility, and the conversion of clock to credit hours. While I certainly agree with the intent of these provisions—to eliminate bad apples from the Federal financial aid program—I also understand that the problem is not that simple. More thoughtful, detailed language is necessary to balance the concerns of the American taxpayer and the ability of proprietary schools to continue to provide technical education to their students. I strongly believe we should consider more targeted solutions which would better distinguish between a school which abuses the system and one which does not.

Mr. Chairman, I believe action must be taken to improve the integrity and accountability of the financial aid program. But I am concerned that provisions of the reauthorization approach the problem too broadly, rather than applying phased or more narrow solutions. I encourage my colleagues to consider the contributions of our trade schools to our Nation's work force, and urge the conference committee to consider legislation which would allow the Secretary of Education more flexibility to examine schools on an individual basis.

Mr. MCMILLEN of Maryland. Mr. Chairman, I rise in support of H.R. 3553 and I congratulate the committee on crafting a piece of legislation which reflects the changing landscape of higher education in America. The committee has set a precedent we must follow. This bill clearly demonstrates a committment to the notion that higher education is a vital investment—an investment we cannot afford to overlook.

Increases in higher education costs have leapt beyond average family income increases. Federal financial aid levels have also fallen behind the pace. This legislation goes a long way to ensure that eager minds have the opportunity to expand. It will provide a key for millions to open the door of future opportunity. And in the process, we as a single nation will profit.

For many years now, middle class families have been caught in a higher education nomans land—with incomes too high for Federal help and incomes too low for college costs. By expanding eligibility for guaranteed student loans and by increasing Pell grant amounts, this bill will provide relief to over 2 million individuals in these deserving families.

The bill boosts funding for programs which have proven successful and it strengthens safeguards against fly-by-night institutions and worthless degrees. Passage of this bill will allow the TRIO Program to continue its almost miraculous work tapping the potential of youth otherwise overlooked. I look forward to swift approval of this exciting measure. It is a tangible investment in the future of our Nation.

Mr. SANTORUM. Mr. Chairman, I rise in support of H.R. 4471, but I do so with the following reservation. It is my opinion that this body has not given necessary consideration to a number of amendments which could prove extremely hurtful to vocational and other proprietary schools.

Mr. Chairman, Ms. Waters' amendments in particular place excessive burdens on proprietary schools. If enacted, these amendments would force vocational schools out of business and, as a result, deprive our Nation of thousands of skilled graduates who become tomorrow's skilled workers.

Ms. WATERS is motivated by the hope that her amendments will eliminate fraudulent schools from acquiring Pell grant and student loan money in bad faith. The amendments, however, go too far. In her attempt to get rid of the bad apples Ms. WATERS destroys the orchard.

The tremendous negative impact that these amendments will have on our Nation's proprietary schools mandate that they be carefully scrutinized, Mr. Chairman. I urge, therefore, that the conferees carefully reconsider these amendments in conference.

Mr. POSHARD. Mr. Chairman, most American parents and students have been understandably concerned about whether they can afford the cost of a college education now or in the years to come. In passing H.R. 3553, the Higher Education Act reauthorization bill, we take a vital step in assuring opportunities not only for those least likely to seek higher education because of financial need and social status, but middle income families as well. I believe the single greatest need the middle income family has from the Federal Government is help getting their children through college. Wealthy families have the greatest choice of where to attend college. We have improved opportunities for the poorest of American families to achieve the goal of a college education. But the average American family is falling behind. This bill begins to answer this essential need.

While we failed in passing a Pell grant entitlement provision, the increased Pell grant award and higher income levels for eligibility, are among the many needed and meaningful changes included in the bill.

Equally important are the bills' provisions addressing teacher excellence, training, and recruitment. Students cannot expand their learning capabilities when teachers are inadequately trained and under qualified. Undoubtedly, improving the quality of teaching is at the core of education reform, and the provisions of H.R. 3553 will be a positive step in that direction.

We have many priorities in this country, but education has to be at the top. We know the extremely positive influence education has on the social and economic well-being of our Nation, and we do ourselves a favor by striving to afford everyone who wishes it the opportunity to reach their higher education goals. For these reasons, I am wholeheartedly supporting this higher education reauthorization initiative.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. PEASE, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee having had under consideration the bill (H.R. 3553) to amend and extend the Higher Education Act of 1965, pursuant to House Resolution 403, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. FORD of Michigan. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 365, nays 3, not voting 66, as follows:

[Roll No. 62]

YEAS—365

Abercrombie
Ackerman
Alexander
Allard
Allen
Anderson
Andrews (ME)
Andrews (NJ)
Andrews (TX)
Annunzio
Anthony
Applegate
Aspin
Atkins
Bacchus
Barnard
Bateman
Beilenson
Bennett
Bentley
Bereuter
Bilbray
Bilirakis
Blackwell
Boehlert
Bonior
Borski
Boucher
Brewster
Brooks
Broomfield
Browder
Brown
Bruce
Bryant
Bustamante
Byron
Callahan
Camp
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clay
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooper
Costello
Cox (CA)
Cox (IL)
Coyne
Cramer
Cunningham
Darden
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Dooley
Dorgan (ND)
Dornan (CA)
Downey
Dreier
Duncan
Durbin
Dymally
Early
Eckart
Edwards (CA)
Edwards (OK)
Edwards (TX)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Fields
Fish
Flake
Foglietta
Ford (MI)
Ford (TN)
Frank (MA)
Franks (CT)
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Goss
Grandy
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hancock
Hansen
Harris
Hastert
Hatcher
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Hertel
Hoagland
Hobson
Hochbrueckner
Holloway
Hopkins
Horn
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jefferson
Johnson (SD)
Johnson (TX)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kennedy
Kildee
Kleczka
Klug
Kolbe
Kopetski
Kostmayer
Kyl
Lagomarsino
Lancaster
Lantos
LaRocco
Leach
Lehman (CA)
Lent
Levin (MI)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Lowey (NY)
Luken
Machtley
Manton
Marlenee
Martin
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McCurdy
McDade
McDermott
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Michel
Miller (CA)
Miller (OH)
Mineta
Mink
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Moran
Morella
Murphy
Murtha
Myers
Nagle
Natcher
Neal (MA)
Neal (NC)
Nichols
Nowak
Nussle
Oakar
Oberstar
Obey
Olver
Ortiz
Orton
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Pastor
Patterson
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Peterson (MN)
Petri
Pickett
Pickle
Porter
Poshard
Price
Quillen
Rahall
Ramstad
Rangel
Ravenel
Ray
Reed
Regula
Rhodes
Richardson
Rinaldo
Ritter
Roe
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski
Roth
Roukema
Rowland
Roybal
Sabo
Sanders
Sangmeister
Sarpalius
Savage
Sawyer
Saxton
Schaefer
Scheuer
Schiff
Schroeder
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shaw
Shays
Shuster
Sikorski
Skaggs
Skeen
Skelton
Slattery
Slaughter
Smith (FL)
Smith (IA)
Smith (OR)
Snowe
Solarz
Spence
Spratt
Staggers
Stallings
Stearns
Stokes
Studds
Sundquist
Swett
Swift
Tallon
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas (WY)
Thornton
Torres
Towns
Traficant
Unsoeld
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Washington
Waters
Weber
Weiss
Weldon
Wheat
Williams
Wise
Wolf
Wyden
Yates
Young (AK)
Zeliff
Zimmer

NAYS—3

Crane
Doolittle
Stump

NOT VOTING—66

Archer
Armey
AuCoin
Baker
Ballenger
Barrett
Barton
Berman
Bevill
Bliley
Boehner
Boxer
Bunning
Burton
Coughlin
Dannemeyer
Davis
Donnelly
Dwyer
Ewing
Feighan
Gradison
Herger
Jenkins
Johnson (CT)
Kennelly
Kolter
LaFalce
Laughlin
Lehman (FL)
Levine (CA)
Markey
Martinez
McCandless
McCrery
McEwen
Miller (WA)
Morrison
Mrazek
Olin
Paxon
Peterson (FL)
Pursell
Ridge
Riggs
Roberts
Russo
Santorum
Sisisky
Smith (NJ)
Smith (TX)
Solomon
Stark
Stenholm
Synar
Thomas (CA)
Thomas (GA)
Torricelli
Traxler
Waxman
Whitten
Wilson
Wolpe
Wylie
Yatron
Young (FL)

☐ 2010

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. FORD of Michigan. Mr. Speaker, pursuant to House Resolution 403, I call up the Senate bill (S. 1150) to reauthorize the Higher Education Act of

1965, and for other purposes, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. FORD OF MICHIGAN

Mr. FORD of Michigan. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. FORD of Michigan moves to strike all after the enacting clause of S. 1150 and insert in lieu thereof the text of H.R. 3553, as passed by the House, as follows:

[The bill will be printed in a subsequent issue of the RECORD.]

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend and extend the Higher Education Act of 1965."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 3553) was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 3553, HIGHER EDUCATION AMENDMENTS OF 1992

Mr. FORD of Michigan. Mr. Speaker, pursuant to the rule, I move that the House insist on its amendment to S. 1150 and request a conference with the Senate thereon.

The motion was agreed to.

The SPEAKER. The Chair appoints the following conferees and without objection, reserves the right to appoint additional conferees:

From the Committee on Education and Labor, for consideration of the Senate bill, and the House amendment, and modifications committed to conference: Messrs. FORD of Michigan, GAYDOS, MILLER of California, KILDEE, WILLIAMS, HAYES of Illinois, SAWYER, PAYNE of New Jersey, Mrs. LOWEY of New York, Mrs. UNSOELD, Mr. WASHINGTON, Mr. SERRANO, Mrs. MINK, Messrs. ANDREWS of New Jersey, JEFFERSON, REED, ROEMER, GOODLING, PETRI, COLEMAN of Missouri, Mrs. ROUKEMA, Messrs. GUNDERSON, ARMEY, and HENRY, Ms. MOLINARI, Mr. BARRETT, and Mr. KLUG.

As additional conferees from the Committee on Foreign Affairs, for consideration of section 613 of the Senate bill, and modifications committed to conference: Messrs. FASCELL, BERMAN, WEISS, BROOMFIELD, and Ms. SNOWE.

There was no objection.

PERSONAL EXPLANATION

Mr. CLAY. Mr. Speaker, I wish to take this opportunity to explain that I did not support the Coleman amendment to prohibit the extension of Pell grants to prisoners. I incorrectly cast my vote on this amendment to the Higher Education Act. On rollcall No. 59 my vote should have been "no."

PERSONAL EXPLANATION

Mr. MILLER of Washington. Mr. Speaker, I was unable to be on the House floor when the House voted on H.R. 3553, the reauthorization of the Higher Education Act. Had I been here, I would have voted:

"Nay," on the Henry amendment;

"Yea," on the Gradison amendment;

"Yea," on the Coleman amendment;

"Nay," on the Towns substitute to the Coleman amendment;

"Yea," on the Rohrabacher amendment; and

"Yea," on final passage H.R. 3553, notwithstanding the failure to adopt any of the preceding amendments.

PERSONAL EXPLANATION

Mr. LAFALCE. Mr. Speaker, I was unavoidably absent for rollcall vote 62, passage of H.R. 3553, the reauthorization of the Higher Education Act. Had I been present for this vote I would have voted "yea."

PERSONAL EXPLANATION

Mr. MORRISON. Mr. Speaker, due to a longstanding commitment back in my home State, I was unable to be in Washington, DC for the discussion and passage of the Higher Education Act reauthorization. As a cosponsor of the original H.R. 3353, I am a strong supporter of this legislation, and regret that I did not have the opportunity to cast my vote with my colleagues. Had I been here I would have voted "nay" on rollcall No. 56, No. 58, and No. 61. I would have voted "yea" on rollcall No. 57, No. 59, and No. 62.

PERSONAL EXPLANATION

Mr. BALLENGER. Mr. Speaker, due to business in my congressional district, I missed rollcall votes No. 61 and No. 62. If I had been present, I would have voted "aye" on rollcall No. 61 and, reluctantly, voted "yea" on rollcall No. 62 because of the potential costs associated with the uncapped direct student loan pilot program contained within the bill.

PERSONAL EXPLANATION

Mr. MCCANDLESS. Mr. Speaker, I ask permission to extend my remarks pertaining to rollcall No. 59. On the Coleman amendment, which would prohibit Pell grants to prisoners, I inadvertently voted "nay." As I was an original cosponsor of a bill by Mr. GORDON which had the same goal, I wish to correct this oversight. Although the Coleman amendment passed by a large margin, I want to indicate that my vote on it should be "aye."

PERSONAL EXPLANATION

Mr. SYNAR. Mr. Speaker, during consideration of H.R. 4471, the Higher Education Reauthorization Act, I was unavoidably detained and therefore missed two votes. Let the record reflect that had I been present I would have voted "no" on rollcall No. 61 and "aye" on rollcall No. 62.

PERSONAL EXPLANATION

Mrs. KENNELLY. Mr. Speaker, I was in Connecticut and missed four votes. Knowing the wide margin by which the Higher Education Act would be passed, I chose to keep a longstanding commitment at home. Had I been present and voting, I would have voted "no" on rollcall No. 58, "yes" on rollcall No. 59, "no" on rollcall No. 61, and "yes" on rollcall No. 62.

PERSONAL EXPLANATION

Mr. DANNEMEYER. Mr. Speaker, I was unavoidably absent for rollcall votes 56 through 62. Had I been present during these votes, I would have voted "yea" on rollcalls 56 and 57, "nay" on rollcall 58, "yea" on rollcall 59 and 61 and "nay" on rollcall 62.

AUTHORIZING CORRECTIONS IN ENGROSSMENT OF H.R. 3553, HIGHER EDUCATION AMENDMENTS OF 1992

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3553, the Clerk be authorized to make corrections in section numbers, punctuations, and cross-references and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, S. 1150.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

GENERAL LEAVE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on H.R. 3553, the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

THE PASSAGE OF H.R. 3553

(Mr. GOODLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOODLING. Mr. Speaker, we have spent a lot of time complimenting the chairman and the ranking member of the Higher Education Committee, and they sure deserved all of our accolades. However, Mr. Speaker, I think I should also call our attention to some people who worked long and hard for many, many months: Tom Wolanin, Maureen Long, Allen Lopatin, Dianne Stark, Pat Rissler, Pierce Myers, Steve Cope, and other legislative counsel, Rose DiNapoli, Jo Marie St. Martin, Dr. Andy Hartman, Randy Johnson, Jay Eagan, Linda Castleman, Deborah Samantar, and Amy Lozupone, and for anyone I missed I apologize because they were all just great.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman yield?

Mr. GOODLING. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Speaker, I would like to, as the saying goes, associate myself with the gentleman's remarks, and I thank him for doing this bill.

I would also like to observe, Mr. Speaker, that this bill originally came out of the committee on a straight party-line vote, and then the serious members of the committee on both sides started working together, and we ended up with only three no votes tonight. I think that is a tribute to people on both sides of the aisle and the fact that they are willing because of the purpose we were trying to achieve to sublimate some of our strongly held feelings and come to a conclusion that seems to fit and suit almost everybody in the House. That does not happen often around here, and I thank the Members of the minority for their cooperation and their staff for the way in which they worked with our staff.

But I also want to thank all the members. This is the largest subcommittee that has ever considered a higher education bill, and there is not a member on the committee on either side that did not make a material contribution to the final product, and I hope that will be recognized, particularly with regard to our newer members from both sides of the aisle who did an outstanding job in helping us fashion this legislation.

Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. GOODLING] for yielding.

PROVIDING AMOUNTS FROM THE CONTINGENT FUND OF THE HOUSE FOR CONTINUING EXPENSES OF INVESTIGATIONS AND STUDIES BY STANDING AND SELECT COMMITTEES OF THE HOUSE FROM APRIL 1, 1992, THROUGH APRIL 30, 1992

Mr. GAYDOS. Mr. Speaker, I offer a resolution (H. Res. 409) and I ask unanimous consent for its immediate consideration in the House.

The Clerk read the resolution, as follows:

H. RES. 409

Resolved, That, there shall be available from the contingent fund of the House such amounts as may be necessary for continuance of necessary investigations and studies by each standing committee and select committee of the House in the second session of the One Hundred Second Congress for the period beginning immediately after midnight on March 31, 1992, and ending at midnight on April 30, 1992, on the same terms and conditions as amounts were available to such committees for the period beginning at noon on January 3, 1992, and ending at midnight on March 31, 1992, pursuant to clause 5(f) of rule XI of the Rules of the House.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. WALKER. Mr. Speaker, reserving the right to object, and I shall not object, but I just want to be informed on the details. My understanding is that this is a continuing resolution for 30 days.

Is that correct?

Mr. GAYDOS. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Pennsylvania.

Mr. GAYDOS. That is correct.

Mr. WALKER. In addition, it is at a freeze level; is that correct?

Mr. GAYDOS. Yes. We have a House rule that sets the period of January, February, March to be at 9 percent. We must adhere to that. For all intents and purposes, yes, it is a continuation.

Mr. WALKER. A continuation at this year's funding level?

Mr. GAYDOS. Yes.

Mr. WALKER. Further reserving the right to object, Mr. Speaker, it is my understanding that the idea here is that within the next 30 days we may in fact be able to come to some agreements about some House reforms and some things in that area that might affect the committee funding resolution in that this would also give us time then to include any such changes, or modifications or concepts into this resolution as it comes to the floor after 30 days.

Is that correct?

Mr. GAYDOS. Mr. Speaker, let me respond to the gentleman from Pennsylvania [Mr. WALKER] as concisely as I can.

Reforms per se, as such, belong to the whole House, as my friend knows. It is incorporated into the rules and regulations of the House, is adopted by the House and the committee, although in the past we have a record of trying to help the committees work together, and, if the gentleman wants to call some of those reforms in there, yes, we have always, continually always, considered them. But basically and fundamentally any real efficient reforms must come to the regular procedure and the rules of the House.

Mr. WALKER. I understand that, and obviously we are going to be working as a whole body, minority and majority, in an attempt to effect some of these things, but I think that this is a useful way to handle the present problem. I think we would probably run into a buzzsaw if we came out here with a full-blown resolution at this point, and what the gentleman is doing is useful in helping us proceed forward, hopefully toward some resolution of these matters, and I want to congratulate him for doing what he is doing here this evening.

Mr. GAYDOS. Mr. Speaker, I appreciate what my friend, the gentleman from Pennsylvania [Mr. WALKER] says. I want him to know that our record shows that there is close cooperation between the minority and majority on many items affecting this resolution, what it pertains to.

Mr. WALKER. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. GAYDOS].

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR FURTHER CONSIDERATION OF H.R. 3732, BUDGET PROCESS REFORM ACT OF 1992

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 102-470) on the resolution (H. Res. 410) providing for further consideration of the bill (H.R. 3732) to amend the Congressional Budget Act of 1974 to eliminate the division of discretionary appropriations into three categories for purposes of a discretionary spending limit for fiscal year 1993, and for other purposes, which was referred to the House Calendar and ordered to be printed.

□ 2020

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this time that I might inquire of the distinguished majority leader the program for the balance of this week and next week.

Mr. GEPHARDT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, we are obviously finished with votes today. There will be no votes on tomorrow.

On Monday, March 30, the House will meet at noon to consider four bills on suspension, but recorded votes on suspensions will be postponed until Tuesday, March 31.

The four bills to be considered are: S. 1743, the Arkansas Wild and Scenic Rivers Act; House Joint Resolution 402, approving the location of a memorial to George Mason; H.R. 1558, Panama Canal Act Amendments; and H.R. 3292, regarding Presidential election campaign funds and closed captioning television commercials.

On Tuesday, March 31, the House will meet at noon to consider any votes that would be called on suspensions, plus H.R. 3732, the Budget Process Reform Act of 1992.

On Wednesday, April 1, and Thursday, April 2, the House will meet at noon on Wednesday and 10:30 a.m. on Thursday. Immediately after the House convenes on Thursday there will be a recess for the purpose of receiving former Members of Congress.

The House will convene for legislative business at noon on Thursday. We will be taking up H.R. 4241, Resolution Trust Corporation financing, subject to a rule.

On Friday, April 3, the House will meet at 11 a.m., but there will not be legislative business and there will be no votes.

ADJOURNMENT TO MONDAY, MARCH 30, 1992

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. McCURDY). Is there objection to the request of the gentleman from Missouri?

There was no objection.

HOUR OF MEETING ON WEDNESDAY, APRIL 1, 1992

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Tuesday, March 31, it adjourn to meet at noon on Wednesday, April 1.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that the business in order under the calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

HOUR OF MEETING ON THURSDAY, APRIL 2, 1992

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that when the House adjourns on Wednesday, April 1, 1992, it adjourn to meet at 10:30 a.m. on Thursday, April 2, for the purpose of receiving in this Chamber former Members of Congress.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

AUTHORIZING THE SPEAKER TO DECLARE RECESSES ON THURSDAY, APRIL 2, 1992

Mr. GEPHARDT. Mr. Speaker, I ask unanimous consent that it may be in order for the speaker to declare recesses, subject to the call of the Chair, on Thursday, April 2, 1992 for the purpose of receiving in this Chamber former Members of Congress.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

ALCOHOL POLICY AND COMMUNITY ACTION: AGENDAS FOR TODAY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Illinois [Mrs. COLLINS] is recognized for 5 minutes.

Mrs. COLLINS of Illinois. Mr. Speaker, I wish to both acknowledge and salute the efforts of the program participants at the Alcohol Policy VIII, a conference being held here in our Nation's Capital, March 25 through 29, which is designed to explore, develop and advocate public policies that will reduce alcohol-related problems. Many of the workshops will directly address issues that are currently being debated here in the Congress—such as health and safety messages on alcohol advertising, increasing Federal excise taxes on alcoholic beverages, and alcoholic beverage labeling.

I am deeply concerned about these issues for a number of reasons. First of all, in my hometown of Chicago, and in most other cities, there are five times as many billboards advertising alcoholic beverages in African-American and Latino communities than in white neighborhoods. Many of these billboards advertise malt liquor which can contain twice as much alcohol as regular beer and should not be advertised as a benign substance. It is the tragedy of unequal protection afforded inner-city consumers in the area of target advertising that concerns me.

From a business and marketing point of view, targeting is good. It is a proven, effective method of commercial speech that at its best, provides communities with the important consumer education they need. However, for many inner-city communities, targeting has also meant an unfair and often illegal concentration of commercial messages that encourage youth, already at great risk, to engage in unhealthy and dangerous activities.

One recent commercial that aired on the radio made a variety of sexual references to effects of malt liquor. The speaker in the ad was a popular female rapper who was just 19 years old at the time this commercial aired during the summer of 1991. Can you imagine not just the lyrics, but using a 19-year-old to promote a product that she, herself, cannot legally purchase or consume. This is totally irresponsible advertising.

Last summer, I protested against G. Heileman Brewing Co. for their planned introduction of PowerMaster, a malt liquor with an alcoholic content of some 50 percent more than regular beer. Subsequently, the Bureau of Alcohol, Tobacco and Firearms ordered the G. Heileman Brewing Co. to stop touting the alcoholic strength of their malt liquor beverages.

Mr. Speaker, I also voiced strong opposition to the implicit marketing practices targeting minority and low-income consumers with these kinds of alcoholic beverages, and am heartened by the ban of PowerMaster malt liquor. I am also very pleased that efforts were successful in finding these kinds of practices in violation of the Federal Alcohol Administration Act. Furthermore, I am happy to see Government crackdowns on these unethical targeting practices and applaud the action taken by the New York attorney general's office that reached a $50,000 settlement with the McKenzie River Corp. for its sophisticated marketing tactics targeting St. Ides Malt Liquor.

Mr. Speaker, inner-city communities are crying out to us, the Congress, not for special protection, but for equal protection against the unfair and illegal practices that target our youth and wreak havoc among families already at risk. This is their inalienable right as citizens and we can offer them no less.

ASIAN-AMERICAN QUOTA DISCRIMINATION IN COLLEGE ADMISSIONS MUST STOP

(Mr. ROHRABACHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROHRABACHER. Mr. Speaker, I intend to offer an amendment to the higher education bill that will put Congress on record against quotas in college admissions, quotas that severely impact Asian-American children.

The dirty little secret is that some institutions of higher learning are using quotas or separate racial tracks for admitting students to their schools.

Here is an article from the Los Angeles Times that has a copy of a letter received by an Asian-American applicant to the University of California at Berkeley Law School. The letter tells the student that "we can tell you that you are presently in the bottom half of the Asian waiting list.—" the words "bottom" and "Asian" are typed into blanks on a form. This is outrageous institutionalized racial discrimination. It is racism. It is wrong. It is illegal.

My amendment to H.R. 3553, states the sense of Congress that this practice should stop by vigorous enforcement of the Civil Rights Act. There has been much talk in this body about quotas. Those who oppose quotas and believe that people should be judged on their individual merits and accomplishments will vote for my amendment.

LAW SCHOOLS WEIGH VALUE OF WAITING LISTS FOR MINORITIES

(By Larry Gordon)

In reply to her application for admission to UC Berkeley's law school, an Asian-American woman last spring received what she called a "weird" letter.

She was disappointed but not surprised, considering the fierce competition, to learn that she had not been accepted right away and had been put on a waiting list. What did disturb her, she recalled, was being told in the letter that she was on "the Asian waiting list."

You'd think the law school would have been more careful about saying that,' said the woman, who asked not to be identified because she never made it into the school and plans to reapply this year.

Her letter was not unique. UC Berkeley's law school, known as a Boalt Haal, has kept separate formal waiting lists for Asians, blacks, Latinos and American Indians for a least 12 years and has notified applicants about being on such a list. Boalt officials say the practice is an unusually candid yet legal attempt to help minorities gain seats in the incoming class; it does not signify a racial quota system, they insist.

Now, however, the law school may get rid of those lists.

"The separate waiting list issue is something we are re-examining, not because it's been brought to our attention by an irate candidate but because we like to re-examine our policies every so often," said Edward Tom, who became Boalt's director of adminisions and financial aid last year.

Recent allegations of bias against Asians at UC Berkeley's undergraduate divisions also make this a good time to consider changing the waiting list policy at the law school, Tom said in response to an inquiry from The Times. He conceded that the waiting list letters might be easily misconstrued.

Boalt Prof. John Coons, who is chairman of the Admissions Committee, said he was not aware of the waiting list letters until a few days ago but said he expects the practice will be dropped this year for "cosmetic" reasons. The letters, Coons said, "are perhaps cosmetically upsetting to some people, and probably we were imprudent to use that particular practice."

Prof. Coons and others suggested that there may be an element of hypocrisy in the complaints from minorities about the letters, because minority applicants who disclose their race do so voluntarily in hopes of being given special consideration. "It sounds like their gripe is that they didn't get in," said another Boalt professor who asked not to be identified.

Some experts on affirmative action law say the Boalt lists may violate the 1978 Bakke decision by the U.S. Supreme Court. That controversial ruling forbade specific racial quotas for admission at the US Davismedical school but stated that race could be one of several considerations in admissions. As a result, the school enrolled Allan Bakke, a white student who had previously been rejected in favor of what he claimed were less qualified blacks.

PERFECTLY SENSIBLE

Coons insisted that the use of separate lists at Boalt does not violate the Bakke ruling. Nor would a decision to do away with the lists signify a retreat from affirmative action, he said. The waiting lists are "perfectly sensible" and are consistent with Boalt's goal of having minorities make up about 25% of a class, he said.

According to Admissions Director Tom, Boalt's current first-year class of 258 students includes 16 Asians, 19 blacks, 23 Latinos and three Native Americans.

In interviews, several legal educators across the country said they never heard of publicly acknowledged waiting lists separated by race, although they said that it is common practice to give qualified ethnic minorities an extra boost in admissions. They stressed that no quotas are kept, although most schools aim for such "goals" of minority representation because the legal profession is so overwhelmingly white.

IMPORTANT FACTOR

Betsy Levin, executive director of the Assn. of American Law Schools, said "most law schools look at what they can contribute to the legal education of the whole student body as well as to society." At the University of Colorado's law school, where she used to be dean, the admissions office treated ethnicity "as certainly an important factor but not the only one," according to Levin.

At Stanford University's law school, Admissions Director Dora Hjertberg said one waiting list is kept for all promising candidates who could not be accommodated in the first round. She said the school has an informal method of ensuring diversity. If, for example, a woman candidate who was accepted decides to attend another school, Stanford would probably seek to replace her with another woman; the same probably would be true in the case of black applicants, she said.

Boalt's previous admissions directors, Beth O'Neil, is now executive director of the Law School Admission Council, a national organization. She said she believes that other schools keep similar racial lists. "They may not be doing it in as public a way and may not be telling you that they are doing it," O'Neil said.

Without such lists, she said, it would be difficult to achieve ethnic diversity just by ranking waiting-list candidates by test scores and undergraduate grades. (Blacks and Latinos, as a group, tend to score lower than whites on law school admissions tests.)

According to O'Neil, Boalt never received a complaint about the letters in the 12 years she was an administrator there.

But even if the separate waiting lists are legal and well-intentioned, they make some people uneasy, according to Henry Der, executive director of Chinese for Affirmative Action, an organization that has been active in investigating claims of anti-Asian bias in the UC system. "What it does is cause a lot of resentment and suspicion," Der said. "People wonder if it becomes an upper ceiling against us."

QUOTA MENTALITY

John H. Bunzel, a senior research fellow at Stanford University's Hoover Institution who writes about affirmative action from a conservative viewpoint, agreed. "This comes awfully close to smacking of a quota mentality, and calling it a goal doesn't diminish it. Why not call it a quota?" said Bunzel, who was a member of the U.S. Civil Rights Commission in the Ronald Reagan Administration.

The Times was given a copy of one of the letters by Los Angeles attorney Richard M. Mosk, who is acquainted with the applicant who received it. Mosk is the son of state Supreme Court Justice Stanley Mosk, who wrote the 1976 California ruling ordering Bakke's admission to medical school—which the federal court upheld. Richard Mosk said he has not discussed the Boalt practice with his father.

Because of its distinguished reputation and relatively low tuition, Boalt always draws far more applicants than it can accept. About 15 percent of the 5,300 applicants last year were offered admission and about 40 percent of those accepted enrolled. Candidates on waiting list hope that somebody accepted in the first round will decide to attend another school. The number of candidates from the waiting list who eventually get admitted at Boalt varies from year to year according to Tom.

Whites are not told that they are on an ethnic list, just that they are on a list for either California residents or out-of-staters; because it is a state school, Boalt must not have more than a quarter of its class from outside California, he said.

THE BUDGET DEFICIT

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HOAGLAND. Mr. Speaker, as I have said previously during these 1-minute periods, I take the subway to work each morning. As I arrived at my station this morning, the down escalator was going up. I asked myself: was the escalator telling me to go home, not to work?

I came anyway, but colleagues, in my heart, I think the escalator is right. We might as well go home until we are willing to deal seriously with the deficit problem.

One of the most conscientious Members of Congress, Senator WARREN RUDMAN of New Hampshire, announced his retirement Tuesday. He has concluded that we, as an institution, have utterly failed to deal with the deficit problem. And David Broder wrote in the Washington Post yesterday about our failure to even talk honestly and forthrightly about the issue. I am asking that his article be made part of the RECORD today.

Senator RUDMAN and David Broder are right. Our collective failure over the last decade to deal with U.S. profligate borrowing and spending policies is propelling America down the road to economic chaos. The borrow and spend policies of the last 12 years are directly responsible for our declining standard of living. The Brookings Institution's distinguished economist Barry Bosworth tells us that two-thirds of all savings this fiscal year are being sucked out to fund the day-to-day operations of the Federal Government. The U.S. net national savings rate is at about 3 percent of national income. Japan's rate is about 12 to 15 percent; Germany's about 8 to 10 percent.

What this means is that the United States is putting all of our savings towards financing the budget deficit, leaving very little for capital investment. We don't have the resources left over for any significant investment. How can America hope to become competitive in the global marketplace at this rate?

As Senator RUDMAN said Tuesday, "How will we feel in the year 2000, those of us who were in the Senate in the 1980's and 1990's, as we watch the evening news reports of leaders in foreign governments dictating to the leadership of America the terms and conditions upon which they will loan us money to support our past profligacy?"

Colleagues, we are destroying the economic strength of our Nation. We must deal with the deficit and national debt issues openly, forthrightly and effectively. We must be willing to take political risks. We must all show leadership. Now.

Let us earn the respect of that escalator, so it will want to take us to work, instead of telling us to go home.

HOW TO FIX CONGRESS

(By David S. Broder)

When President Bush said the other day that the "congressional system is broken," no one was more likely to agree than the members of Congress themselves.

Weeks before the president spoke out in frustration (and with political calculation) against the legislative branch, a southern Democratic senator, with 20 years in the Capitol, expressed his own cynical rule for survival: "I never miss an opportunity to run against Congress and Washington. . . . If your people criticize Congress, join with them. You say, 'You are absolutely right. Those people up there don't know what they're doing. They don't know how to handle the budget. They don't know what to do about energy policy.' Not everybody, of course, does this sort of thing. I can think of some former members of Congress who didn't, and they're not here anymore."

A Midwestern Republican representative with 12 years experience said: "Everybody here [in Congress] is independent. Nobody is going to tell us . . . what to do, because, by God, they didn't get us here, and they're not going to keep us here. No party. No interest group. No nobody. We do it ourselves, and that is reflected in the structure and organization of the Congress. . . . We're down to the politics of personal survival in the extreme around this institution, and that inevitably leads to paralysis."

The two just quoted were among 16 members of the House and Senate, 10 Democrats and six Republicans, interviewed individually and with a promise of anonymity by George Washington University professor and former Senate staffer Lawrence N. Hansen in a project financed by the Joyce Foundation and Centel, a Chicago-based telecommunications company.

The idea was to let respected members of Congress respond candidly to an earlier report the same two organizations had sponsored, in which pollsters Peter D. Hart and Douglas Bailey documented and discussed the easily discernible public disillusionment with politics and government.

What Hansen found in his interviews is what reporters who cover Capitol Hill already know: However frustrated the voters are with Congress, the frustration is even greater for the conscientious members of the House and Senate (of whom there are many) struggling to do the job they came to Washington to perform.

Unlike the president, who for perfectly obvious partisan reasons chose to depict Congress as the villain of his political morality play, the Anonymous Sixteen quoted in Hansen's just-released report see broader dimensions to the problem. Both Democrats and Republicans concede that Congress is badly in need of structural repair. But they insist that no "reforms" of campaign financing or committee structure—not even a wholesale turnover in membership—will break the deadlock unless other things change.

What's lacking, they say, are the three things needed to make the dialogue of democracy real: leaders ready to talk truthfully about the hard choices the nation faces; a public ready to accept and understand those facts of life; and mass media that deal with these questions in more than 30-second sound-bite superficialities.

Because the politicians don't trust the public to accept these truths and the public doesn't trust the politicians to speak candidly, the massive volume of communication to and from Capitol Hill is so blocked by "layers of little deceptions, half-truths and delusions," as Hansen says in his summary, that "avoidance of uncomfortable policy choices has been elevated to an art form by both politicians and the public."

Four steps emerge from Hansen's discussions that might help break the deadlock and reduce the frustration the president, members of Congress and the public all share.

First, the presidential candidates need to focus the campaign and the voters' attention on their agendas for the nation. Bill Clinton and, as of last Friday's speech, George Bush have begun to do this—but neither with the clarity and honesty that really define the tough policy and budgetary choices that lie ahead.

Second, voters need to be told by both parties—and by the media—of the heavy costs of ticket-splitting that gives one party control of Congress and the other, the executive branch. As Hansen says, 'If citizens are weary of policy gridlock, then they should help end it by electing a government that cannot escape accountability for its stewardship."

Third, Congress needs to get busy now on the overhaul of its rules, committee structure and operations in order to reduce the incentives for individual abuse of incumbency perquisites and enhance its collective decision-making ability.

And fourth, the campaign finance system needs to be changed to permit and encourage competition in every state and district.

That will not guarantee the nation's needs will be met. But without these steps—and a public readiness to face up to the hard choices—the frustration is bound to increase and the confidence in our republican system of government will further corrode.

TRIBUTE TO FRIEDRICH HAYEK

(Mr. SCHULZE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHULZE. Mr. Speaker, about 1975–76 I was invited to a meeting just down the hallway from this Chamber with an economist named Friedrich Hayek. It was a meeting of the Republican study committee. I was extremely impressed by this man's theories, by his philosophy, and that led me to buy, not only one copy of his one book, but several others that he had written. I must tell my colleagues that my learning of his death yesterday has a profound impact. I think Friedrich Hayek probably has had as great and profound an influence on economics around the world as, let us say, few individuals have had in our time. So, it is with regret that I learn of Friedrich Hayek's death, and I hope that all of us will take the opportunity to get a copy of Hayek's book, "The Road to Serfdom," and read it.

Mr. Speaker, I take this occasion to pay my respect to Friedrich Hayek, a Nobel-winning economist, educator and author who died last Monday at age 92. Mr. Hayek's career in economics has had a tremendous impact on national and global economies.

His contribution to understanding the relationship between money and liberty spotlighted the fundamental principles upon which our Nation was founded.

Hayek's observations of human behavior were wholly positive. In fact, he believed that the inevitable behavior of people to trade goods and services, was the purest way to verify market realities. Hayek knew that Government controls artificially warp the realities of market forces.

He dedicated his life to teaching and advancing these truths and he lived to see himself vindicated from his critics through the fall of Communist regimes, the ultimate inhibition of free trade.

His legacy has enabled us to understand the rich potential of our future. Thank you, Friedrich Hayek for this vision. A vision urgently needed today, and always.

I heartily recommend any of Hayek's 50 books to those who make public policy. Some of these books are classics, and because the security and prosperity of our Nation hinges on an educated citizenry, everyone should read his most famous book, "The Road to Serfdom." Hayek, born in Vienna, published this book while he was a professor of economics at Chicago University.

While our Federal Government continues to grow unchecked, "The Road to Serfdom" tolls the virtues of free market capitalism and warns readers of the fated demise of planned economies, socialist impositions, and the self-interested, high mindedness of big government. I assure you, that if all Americans understood the contents of this book, it would have the power to reverse economic slump into sustained prosperity. Voters would not tolerate the shenanigans of slick-talking politicians who promise something for nothing, nor rely on snake-oil solutions to our perilous debt and foolish economic legislation.

Friedrich Hayek was born in the last century. Much of his credibility comes from 20th-century examples of nations which have defied or conformed to the doctrines he observed. History books are littered with the carcasses of failed socialism and communism, and filled with instances where peoples' standard of living was greatly enhanced by available money supplies in an environment of free trade and commerce. The correlation of conformity to these truths and the prosperity of nations remains indisputable.

Margaret Thatcher often credited Friedrich Hayek for the economic ideas she implemented that resulted in England's successes in an otherwise dismal economy. Hayek's name is heard in legislatures throughout the free world. Indeed, if we hold to the principles he championed, America will continue to be the land of prosperity and individual freedom. Thank you, Friedrich Hayek.

GOOD NEWS ABOUNDS WITH THE NATIONAL MARROW DONOR PROGRAM

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. YOUNG of Florida. Mr. Speaker, I rise this morning to share some good news with my colleagues. It is good news that every Member of this House can take pride in because every Member of the House has played a part in making it possible.

Marissa and Marena Perretti, 5-month-old identical twins suffering from leukemia, will become the first identical twins to receive a bone marrow transplant from one unrelated donor located through the national marrow donor registry we established in 1987. They will receive their living gift of life tomorrow at the Fred Hutchinson Cancer Research Center in Seattle, home of the world's foremost marrow transplant unit.

The story of these little girls, and their parents Lucy and Randy Perretti of Toledo, OH, reminds us of all that is so great about this program, which truly is today's modern medical miracle. When first diagnosed with leukemia, the twins were given a 1-percent chance of survival. That was before their parents learned the good news that they were candidates for a bone marrow transplant that could save their daughters' lives if a suitable donor could be located.

Another part of the good news is that a perfectly matched donor has been located through the national marrow donor registry, and the twins' chances for survival are great. They found their donor in our national registry which now has 520,000 volunteers waiting for the opportunity to give the living gift of life to another person in need of help. Already in the short history of the program, 1,100 transplants have taken place with donors identified through the registry.

The secret to the success of this program is people who are willing to be part of the registry. Our goal is a registry of 1 million potential donors which we believe would be large enough to find a donor for virtually every patient in need of a transplant. The importance of the size of the registry is obvious in the twins' case because by having a large, ethnically and genetically diverse registry, the National Marrow Donor Program was quickly able to find them a matched donor so that the transplant could be scheduled before their leukemia weakened them to the point of no return.

Although the donor for the twins must remain anonymous for donor-patient confidentiality reasons, at least for the first few months, I can tell you I know how exciting it must be to know that by giving a small amount of marrow he or she has the opportunity to save not one but two lives. Lucy Perretti, the twins' mother, expressed the relief of every parent and family member when they learn that a matched donor has been found. She said, "If I could, I would give him or her my heart because of their compassion and love."

The National Marrow Donor Program is all about compassion and love. It is a program about hope and life. Every Member of this House should take great pride in the role they have played in giving the living gift of life to Marissa and Marena and the more than 1,100 other patients who have received marrow transplants through the registry. Mr. Speaker, the future application of the modern medical miracle of marrow transplantation is full of life-saving potential and much more good news to be reported.

TWIN INFANTS TO RECEIVE BONE MARROW TRANSPLANTS

SEATTLE.—Marissa and Marena Perretti, 5-month-old identical twins, are in the rarest of circumstances. Believed to be the first twins born with leukemia, they will become the first twins to receive bone-marrow transplants from a single, unrelated donor.

The girls, daughters of Lucy and Randy Perretti of Toledo, Ohio, are being prepared for transplants scheduled Friday at Fred Hutchinson Cancer Research Center. The procedures were moved up from April 3 because the girls show signs of a return of the acute lymphocytic leukemia that has devastated their disease-fighting white cells.

The sisters' short lives have been filled with sickness, hospitals and medical tests. But their parents haven't lost their optimism.

"I keep talking to them," said Lucy Perretti, 38. "I say, 'Keep fighting, don't give up, we've got a long road ahead, but there's a lot of people praying for you.' "

Only 15 infants with this form of leukemia have received marrow transplants at Hutchinson, a research hospital that pioneered the treatment. Four of the 15 have lived three years or longer.

"Congenital Leukemia is very rare," said the girls' Seattle physician, Kent Robertson. "In twins * * * I don't think this has ever happened."

Congenital leukemia comes not from parents, but from unexplained changes in a child's chromosomes that occur in the womb.

In a bone marrow transplant, heavy doses of chemotherapy and radiation kill a patient's diseased marrow, the substance within bones that produces blood cells. Healthy marrow is then taken from a donor—usually a close relative, but sometimes an unrelated person whose marrow matches—then infused into the patient.

It is a long and arduous treatment. There are side effects from the drugs and radiation: nausea, rashes, bone pain, facial swelling. The body's immune defenses are killed with the diseased marrow, and weeks must be spent in sterile isolation rooms until the new marrow takes hold.

The girls suffer no shortage of affection from family members and hospital staff. But it's obvious the twin's necessary separation has been tough.

When they are together, their tiny faces light up in smiles. They hug, hold hands, lick each other's heads.

Their ordeal started shortly after they were born in October, when the girls couldn't get over stuffy noses. When the congestion worsened and fevers shot up, blood tests showed the worst: high white-cell counts indicating leukemia.

At first, the Perrettis were told the twins had a 1-percent chance of survival. But that turned out to be a mistake; they would have a chance with the transplants.

"Then there were tears of joy," Lucy Perretti said. "At least they would have a chance to live."

The twins arrived in Seattle March 10 to begin the drug and radiation therapy for the transplant. The complete treatment will take at least 100 days, and will cost as much as $300,000 for each girl, with most costs paid by insurance. The anonymous donor, whose marrow perfectly matched, was found in February through the National Bone Marrow Registry.

"If I could, I would give him or her my heart because of their compassion and love," their mother said. "Today's world is so crazy. * * * But this makes you know the whole world is not going down the drain."

Randy Perretti, 33, has returned temporarily to Toledo and his construction business, which has languished through long months of worry and caring for the twins.

His wife and his sister, Sandy Miller, are spending 10- to 15-hour days at Fred Hutchinson. They change diapers, feed bottles, hold and comfort the girls, sing to them, encourage them. They give medications, give baths, help nurses and doctors, and pray.

"Sometimes it feels like you have a block of concrete on your shoulders," Lucy Perretti said.

"But you shake it off and you think better times are ahead. You think, 'This is nothing I can't get through. We'll go home and be a family again and live a normal life.' "

□ 2030

IN HONOR OF ANTHONY M. FRANK

The SPEAKER pro tempore (Mr. MCCURDY). Under a previous order of the House, the gentleman from Maryland [Mr. HOYER] is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, I rise today to honor an outstanding man and a good friend who 4 years ago this month, assumed the responsibilities of the Postmaster General of the United States. Last week, Mr. Frank decided to return to the private sector and he will be sorely missed.

When Mr. Frank assumed office, there had been high turnover in the position of Postmaster General, and the lack of continuity was hurting both the post office and the service that Americans expect. I commend Mr. Frank for living up to his promise not to be a 1-year leader—and we owe him a great debt of thanks for his steady influence over an extended period of time that has been of great benefit to the U.S. Postal Service.

Mr. Speaker, the men and women of the Postal Service provide a service to this country that is second to none. America's Postal Service still delivers the best deal for the money, with a first-class stamp rate that is below every other industrialized country. In his role as Postmaster General, Tony Frank oversaw the Nation's largest private employer, with over 750,000 career employees, and kept up this tradition of efficient service.

Mr. Speaker, I serve on the Subcommittee on Treasury, Postal Service and General Government Appropriations. Over the years, I have had the pleasure of working very closely with the Postmaster General on many issues. He has compiled a record that is among the most distinguished of all the people who have ever held that important title since Benjamin Franklin conceived the Postal Service.

For stamp buying constituents, Mr. Frank set the most important goal of keeping postal costs under the general inflation rate. He did this by building in high levels of postal productivity. In fact, in 1990, productivity increased 3.1 percent—10 times the historic average. That is a significant accomplishment which translates into lower prices at the stamp counter for everyone, and that's good for business as well.

Mr. Frank also initiated an effort to involve customers' concerns in management. He set up independent audits of service—and shared those results with the public. I know firsthand, because one of those surveys identified my district as the worst in the Nation. But Mr. Frank was right there—in my office the day the report came out, with a strategy for turning service around for my constituents. We worked closely together over the months on this, and though we are not completely there yet, we have made significant strides and have brought our rating from a low of 55.9 percent up to 79.1 percent, which is approaching the national average of 83 percent.

Yes, that rating creates enormous heat on the Postal Service. I know that firsthand, because I have applied that heat firsthand. But the point is, without Tony Frank's bold initiative, we didn't even know how to rate service—and it took courage and vision to begin such a program. Every quarter, over 183,000 customers are contacted in over 170 locations nationwide to measure just what kind of job is being done. And that has brought a whole new perspective in how business is done at the Postal Service.

Mr. Frank lifted employee pride in the service by establishing the Postal Service as a worldwide corporate sponsor of the 1992 Olympic games. He also brought 159 member countries to the 1989 Universal Postal Congress which was held in Washington, DC.

Mr. Speaker, over 41 percent of the world's mail is handled by the men and women of the Postal Service in its over 40,000 facilities—5 times the number of centers claimed by McDonald's. Every day the Postal Service sorts and delivers 525 million letters—and the automation advances installed by Tony Frank allow that mail stream to move quickly, more accurately, and efficiently.

Mr. Speaker, Mr. Frank is now returning to the private sector. Before his record of success at the Postal Service, he was chairman of the board and chief executive officer for First Nationwide Bank—where his work turned the bank into one of the largest savings institutions in the United States. So our loss is the private sector's gain.

Mr. Speaker, let me close by saying this. Anthony M. Frank is an outstanding American. The public service job he took is not the most glamorous in Government work—but it is certainly one of the most challenging. He didn't accept the position for the prestige, and he certainly did not accept it for the money. He accepted it, as he has said to me, to offer back some small token to a country that has offered him and his family so much. That spirit of service is an example to us all. Tony, I commend you on your dedication, your integrity, and your commitment and I congratulate you on a job well done. Best wishes for every continued success.

INTRODUCTION OF THE SPRING MOUNTAIN LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nevada [Mr. BILBRAY] is recognized for 5 minutes.

Mr. BILBRAY. Mr. Speaker, today I introduced two pieces of legislation. The first is one that pertains to Nevada.

I am introducing legislation to designate portions of the Spring Mountain Range as the Spring Mountain National Recreation Area. This legislation will create the first U.S. Forest Service national recreation area in Nevada.

These lands are in the Toiyabe National Forest. Since 1906, this area of forests in southern Nevada has been known as the Charleston Forest Reserve. At various times this area was considered to be part of the Old Vegas, NV.

This high mountain country includes the 11,918 foot Charleston Peak, the third highest mountain in Nevada. This area, just minutes from downtown Las Vegas provides an escape from the summer desert and a refreshing contrast to the lights and sounds of the city. Ranging from the picturesque Mountain Springs to the alpine heights of Mount Charleston, the Spring Mountains are a unique island in the desert. This area provides a unique natural realm and recreational resources which are threatened by the rapid growth in the Las Vegas Valley.

The increased use of this area requires a higher profile management designation. The NRA designation will conserve this unique environment for the benefit of this and future generations. The designation provides the best of both worlds for the public: Hunting, trapping, fishing, hiking, rock climbing, grazing, and camping areas will be protected and enhanced while the wildlife, wild horses, burros, natural flora and fauna will be better preserved.

I brought this map in today to show where this will be. It lies in southern Nevada, running from the very north of the Lee Canyon area all the way south to Mount Podasie, which is a unique area of our own.

This area will have trails that will go the entire length of it from one top of the mountain range to the next and will allow over 100 miles of hiking to take place on trails prepared by the Forest Service.

This area is unique. It is beneficial to the area and for future southern Nevadans to enjoy and for Americans from all over the country to come to this natural recreation area and enjoy the Far West as it was meant to be preserved and enjoyed.

PROTECTION OF THE KURDS

Mr. BILBRAY. Mr. Speaker, I also introduced today a resolution which has international significance. I, as the prime sponsor, but cosponsored by the gentleman from Florida [Mr. FASCELL], chairman of the Committee on Foreign Affairs, the gentleman from New York [Mr. GILMAN], the ranking minority member of the Subcommittee on Europe and the Middle East of the Committee on Foreign Affairs, the gentleman from Indiana [Mr. HAMILTON], chairman of the Subcommittee on Europe and the Middle East, and the gentleman from New York [Mr. SOLARZ], who is also the chairman of the Subcommittee on Asian and Pacific Affairs of the Committee on Foreign Affairs, have introduced a resolution calling for the United Nations to extend the date that they will have observers and peacekeeping forces in Kurdistan in northern Iraq.

We also call upon the Turkish Government to extend the time that bases can be used in Turkey for overflight over the Kurdish protected area.

We third call upon the United States to extend the time that our forces will be available to help protect the Kurds because, if this deadline is not extended, Saddam Hussein and the Iraqi Army is poised to go into Kurdistan, crush the Kurds, and inflict hundreds of thousands of casualties. And we will again have a terrible, terrible refugee problem and thousands of dead.

I urge my colleagues in the House of Representatives to look at this resolution, which will be heard either next week or the following week in the Subcommittee on Europe and the Middle East of the House Committee on Foreign Affairs and to join with us who want to see this area preserved and the Kurds protected as one of the oldest races on the face of the Earth, dating back to the ancient Samaritans. The Kurds are the largest ethnic group in the world that has no homeland.

We ask our colleagues to help us and help the Kurds and to help them be protected by the United Nations and the United States in overflying the areas.

INTRODUCTION OF A JOINT RESOLUTION TO RELEASE MATERIALS RELEVANT TO THE ASSASSINATION OF PRESIDENT JOHN F. KENNEDY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. STOKES] is recognized for 5 minutes.

Mr. STOKES. Mr. Speaker, on January 28, 1992, I sent a "Dear Colleague" letter to my colleagues in the House expressing my concern for the letters and telephone calls that have recently been generated by media interest and concern over the records pertaining to the assassination of President John F. Kennedy. As the former chairman of the House Select Committee on Assassinations, I wanted my colleagues to know my position on this matter. Today, I rise to submit, for myself and several of our colleagues, a joint resolution to provide for the expeditious release of materials in the possession of the Government relevant to the assassination of President John F. Kennedy. I am joined by our colleague in the Senate, the chairman of the Senate Select Committee on Intelligence, DAVID BOREN, who will introduce this measure in that body today.

HOUSE INVESTIGATION

The House Select Committee on Assassinations was constituted on September 17, 1976, during the 2d session of the 94th Congress. Its original chairman was Thomas N. Downing, who retired at the end of that Congress. The committee was recreated on February 2, 1977, during the 95th Congress, with Congressman HENRY GONZALEZ being appointed as its new chairman. Shortly thereafter, he resigned the chairmanship and, on March 8, 1977, I was appointed to chair this committee.

Under the House resolution creating this committee, we were authorized and directed to "conduct a full and complete investigation surrounding the assassination and death and President John F. Kennedy." Our committee completed its investigation and, on March 29, 1979, filed a final report with the House of Representatives.

In addition to the final report, 12 volumes of evidentiary material relating to this investigation were filed with the House of Representatives, printed by the Government Printing Office, and then made available to the American public. Moreover, in our public presentation of the evidence, we held approximately 18 days of public hearings from August through December 1978, as well as 2 days of public policy hearings. During the public hearings, the committee received evidence on the issues we had identified to fulfill the legislative mandate.

Evidence was heard on the following: First, the facts and circumstances surrounding the death of President Kennedy, and the connection, if any, between President Kennedy, those facts and circumstances, and the accused assassin, Lee Harvey Oswald; second, the question of whether there was a conspiracy in the case; and third, the performance of the various Federal agencies including the FBI, the CIA, the Secret Service, the Warren Commission, and others.

Prior to the committee running out of both time and money, we released everything we had the time and resources to release. All of our other records were placed in the National Archives under a House of Representatives Rule, rule XXXVI, requiring such unpublished records routinely to be sealed for 30 to 50 years. The records consist of 935 boxes. They are well-organized with an extensive card index to individual documents.

RECENT DEBATE

Considerable public debate about these records has ensued, including accusations that these records, if released, would contain evidence of a Government coverup or complicity of Government agencies in the assassination of President Kennedy. I can assure my colleagues that nothing could be further from the truth. No member of the committee—nor member of the staff—participated in any coverup of the truth. It is an untruth to suggest—even obliquely—that we are accessories after the fact to the murder of John Kennedy.

JOINT RESOLUTION

I deem it important, however, not to have the good work of our committee impugned by such baseless accusations. Our committee attempted to conduct its investigations into the assassination of the President and to present the results of that investigation to the Congress and the American people in a thorough and dignified manner in keeping with the memory of this great leader. Accordingly, I have drafted a joint resolution that will effect the release of these and other documents now under seal bearing upon the assassination of President Kennedy.

I have been in contact with President Ford, a former member of the Warren Commission. I have consulted with Members of the Senate. I have also consulted with congressional committees and noted constitutional scholars. Finally, I have formally and informally contacted other relevant and interested parties inside and outside Government. I am confident that the resolution fully meets the requirements of the Constitution—see *Morrison* v. *Olson,* 487 U.S. 654 (1988). Congress may, of course, act by joint resolution to suspend or modify prior legislation—*U.S. Ex. Rel. Levey* v. *Stockslager,* 129 U.S. 470, 475 (1889); *Watts* v. *United States,* 161 F.2d 511, 513 (5th Cir.), cert. denied, 332 U.S. 769 (1947).

While no one will be fully satisfied with the lines the resolution draws in balancing the need for full disclosure with the interest of privacy and other concerns, I am confident that the resolution is a fair compromise. I am, however, not wedded to its language or approach. If anyone has a better proposal, I will support his or her effort.

Nevertheless, I am hopeful that all Members of the House—and the Senate—will be able to support this resolution, and that the President will sign and expeditiously implement this measure.

Mr. Speaker, in the 2-month period since I first sent a "Dear Colleague" to my colleagues in the House indicating that I was in the process of drafting this resolution, I have had the benefit of the legal talent of Prof. Robert Blakey of Notre Dame University Law School, who has worked tirelessly in drafting the resolution which we introduce today. Professor Blakey was former counsel for the House Select Committee on Assassinations and the House owes him a personal debt of gratitude for his pro bono services in this matter.

Additionally, I have had the cooperation of: Britt Snider and David Halperin of the Senate Select Committee on Intelligence; Robert Hertling of the Senate Judiciary Committee; Julien Epstein, Donald Goldberg, and Robert Gellman, of the Committee on Government Operations; Bob Brink of the House Judiciary Committee; Charlie Howell and Jodie Jeremiah, of the Committee on House Administration; and the assistance of both my legislative director and my press secretary, Leslie Atkinson and Joyce Larkin. All of this involvement was for the purpose of arriving at a point of general agreement on a resolution that would satisfy all concerned with ensuring the enactment of this legislation.

Mr. Speaker, I am committed to the principle that Americans are entitled to know the truth about the assassination of President Kennedy and feel that Congress should do its best to allay fears of the American people in this regard.

It is my intention to seek original cosponsors of the joint resolution introduced today. I hope that all of my colleagues will provide me with the opportunity to have their support.

Mr. Speaker, I include the following in the RECORD:

PROTOCOL—ACCESS FOR THE DOCUMENTS OF THE HOUSE SELECT COMMITTEE ON ASSASSINATIONS

I LEGISLATIVE HISTORY AND MANDATE

The Select Committee on Assassinations (the Committee) was first established in the second session of the 94th Congress by House Resolution 1540, 122 Cong. Res. 141 at H10356 (September 17, 1976). The 95th Congress reconstituted the committee by House Resolution 222, 123 Cong. Rec. H800 (February 2, 1977) and extended its duration for the length of the 95th Congress by House Resolution 433, 123 Cong. Rec. H2739 (March 30, 1977). House Resolution 760, 123 Cong. Rec. H10254 (September 28, 1977) granted the committee authority to make applications to courts for grants of immunity and other limited purposes, and to bring and defend lawsuits in particular types of cases in order to obtain information relevant to the committee's inquiry.

The legislative mandate of the select Committee was primarily defined in House Resolution 222:

"The select committee or a subcommittee thereof is authorized and directed to conduct a full and complete investigation and study of the circumstances surrounding the assassination and death of President John F. Kennedy and the assassination and death of Martin Luther King, Junior, and of any other persons the select committee shall determine might be related to either death in order to ascertain (1) whether the existing laws of the United States, including but not limited to laws relating to the safety and protection of the President of the United States, assassinations of the President of the United States, deprivation of civil rights, and conspiracies related thereto, as well as the investigatory jurisdiction and capability of agencies and departments of the United States Government, are adequate, either in their provisions or in the manner of their enforcement; and (2) whether there was full disclosure and sharing of information and evidence among agenicies and departments of the United States Government during the course of all prior investigations into those deaths; and whether any evidence or information which was not in the possession of any agency or department of the United States Government investigating either death would have been of assistance to that agency or department, and why such information was not provided to or collected by the appropriate agency or department; and shall make recommendations to the House, if the select committee deems it appropriate, for the amendment of existing legislation or the enactment of new legislation."

The Select Committee identified four main issues to be analyzed to fulfill its legislative mandate. First, who was or were the assassin(s) of President John F. Kennedy and Dr. Martin Luther King, Jr.? Second, did the assassin(s) have any aid or assistance either before or after the assassination? Third, did the agencies and departments of the United States Government adequately perform their duties and functions in (a) collecting and sharing information prior to the assassinations, (b) protecting John F. Kennedy and Martin Luther King, Jr. and (c) conducting investigations into each assassination and coordinating the results of those investigations. Fourth, given the evidence the select committee uncovered, was the amendment of existing legislation or the enactment of new legislation appropriate?

II. COMMITTEE ORGANIZATION

The Committee was composed of twelve members of the House. They were:

Louis Stokes, Ohio, Chairman; Richardson Preyer, North Carolina; Walter E. Fauntroy, District of Columbia; Yvonne Brathwaite Burke, California; Christopher J. Dodd, Connecticut; Harold E. Ford, Tennessee; Floyd J. Fithlan, Indiana; Robert W. Edgar, Pennsylvania; Samuel L. Devine, Ohio; Stewart B. McKinney, Connecticut; Charles Thone, Nebraska; and Harold S. Sawyer, Michigan.

The Committee was divided into two subcommittees, to carry out the investigations of the two major cases within its mandate. Members serving on each of the subcommittees were as follows:

Subcommittee on the Assassination of John F. Kennedy: Richardson Preyer, Chairman; Yvonne Brathwaite Burke; Christopher J. Dodd; Charles Thone; Harold S. Sawyer; Louis Stokes, ex officio; and Samuel L. Devine, ex officio.

Subcommittee on the Assassination of Martin Luther King, Jr.: Walter E. Fauntroy, Chairman; Harold E. Ford; Floyd J. Fithian; Robert W. Edgar; Stewart B. McKinney; Louis Stokes, ex officio; and Samuel L. Devine, ex officio.

III. ORGANIZATION OF THE STAFF

The organization of the staff was designed to facilitate the implementation of the investigative plans that had been formulated for each case. The chief counsel, who was appointed on July 1, 1977, headed the entire staff. The substantive investigation was divided into two task forces, one to investigate the death of President Kennedy and another to investigate the death of Dr. King. Each task force was headed by a deputy chief counsel and then further subdivided to focus on particular issues that had been identified. The individual teams on each task force were composed of a combination of attorneys, investigators and researchers that worked together on particular areas or issues. (See the schematic diagram that depicts the fundamental organization of the staff.)

[Diagram is not reproducible in the RECORD.]

IV. MAKE-UP OF THE MLK-JFK DOCUMENT SYSTEMS

As the Committee entered the month of December, 1978, it was in possession of approximately 370 cubic feet of files. The material contained in those files reflected the following categories:

(1) Classified materials on loan from federal agencies;

(2) Classified materials from federal agencies where no stipulation of loan was made;

(3) Unclassified materials from federal agencies;

(4) Materials generated by Committee staff that had subsequently been classified by federal agencies (i.e., document request letters, notes from classified documents);

(5) Materials on loan from private individuals;

(6) Materials generated and acquired by the staff in the course of its investigation, including, but not limited to:

(a) interview reports,

(b) outgoing and incoming correspondence to and from agencies and individuals,

(c) outside contact reports,

(d) materials and reports generated by scientific consultants to the Committee, and

(e) deposition transcripts;

(7) Transcripts of Committee open session hearings and meetings; and

(8) Transcripts of Committee executive session hearings and meetings.

As noted, many of these materials were loaned to the Committee by federal, state and local governmental agencies, as well as private individuals. Because of their historical significance, the Committee was concerned about the ultimate disposition of these materials once they were returned to their original custodians. Discussions were had with each of the agencies to assure the retention of the affected materials and the Committee requested that wherever possible, they be retained and kept separate within the agency's file. Those discussions resulted in the following disposition:

(1) The Central Intelligence Agency.

a. All classified materials (with the exception of Committee interviews, depositions and executive hearing transcripts) were returned to the agency. The agency agreed to store the materials separately from its other files.

(2) The Federal Bureau of Investigation.

a. All classified materials were returned to the Bureau. They are to be maintained separately.

(3) The Dallas Police Department.[1]

a. All materials loaned to the Committee by the Dallas Police were returned. These items had previously been maintained separately and will continue to be so.

(4) Shelby County District Attorney General's Office.

a. All materials received from Shelby County were returned. They are separated from other materials held in that office.

(5) The Department of State.

a. At the Department's request, all documents delivered to the Committee by the Department of State were turned over to the National Archives.

All materials loaned the Committee by private individuals were returned upon request.[2]

V. DOCUMENT RETRIEVAL—GENERALLY

Prior to September, 1977, both the MLK Task Force and the JFK Task Force filed their documents alphabetically, by subject, in a random fashion. Neither task force made any attempt to index or cross-reference its materials. The present system was initiated in September of 1977, in order to correct this deficiency. With the exception of the features mentioned below, the filing systems of both task forces are identical.

VI. THE MLK DOCUMENT FILING SYSTEM

All documents in the filing system bear a six-digit number. The first two digits of this number refer to the month in which the document was placed into the system. The last four digits compose the sequential identifying number assigned to the particular document. Thus, the first document placed into the system bears the number 010001. At the beginning of a new month, the sequential numbers return to one. Thus, 010001 identifies the first document placed into the system in September of 1976; 020001 identifies the first document placed into the system in October of 1976; etc.

Documents may be retrieved from the system by using one of two methods. If a person seeking information has the number of the file he seeks, he merely follows the numerical sequence until he obtains the file he wants. If he does not have the file number, the information may still be obtained by consulting the system's card catalogue index. This index is a cross-reference, by subject and person, of every document in the system. These cards are alphabetized, with each card bearing the number and a brief description of the document to which it has reference. As a result, someone having only a subject heading may locate the proper file number or numbers for the document by locating the subject or person alphabetically. It is then a simple matter to obtain the document by following the numerical sequence, as described previously.

VII. THE JFK DOCUMENT FILING SYSTEM

Like the MLK system, all documents in the JFK system bear a six-digit number. There are, however, two major differences. First, the first document placed into the JFK system bears the number 000001 (unlike the MLK system which begins with 010001). The second difference is that the JFK system employs sequential numbering throughout. The first two digits do not have reference to the month that the document was placed into the system, as is the case with the MLK system.

Like its MLK counterpart, the JFK system has a card catalogue index, arranged alphabetically by subject and person. Consequently, the two methods of document retrieval described in the MLK section are equally applicable to the JFK system.

---

[1] An exception to this category was the dictabelts and tapes of the police department containing the sounds received on the department's police radio on Nov. 22, 1963.

[2] An exception to this category was the picture taken by Mary Mooreman of the assassination. It was turned over to the Department of Justice.

Also contained in both the MLK and JFK systems, although not numerically ordered, are various miscellaneous and bulky files. Examples include the files of the Committee's first chief counsel, Richard Sprague, inmate records obtained from the Missouri State Penitentiary at Jefferson City, Missouri, FBI and CIA materials released under F.O.I.A., etc.

VIII. DOCUMENTS REQUIRING SPECIAL SECURITY

(a) *Informant information.* A number of the individuals interviewed by the Committee provided information of a highly sensitive nature. Should this information or its sources become known, these individuals might be subjected to risk of serious bodily harm.

For that reason, all materials relating to these individuals have been placed into a special security system. Included in this system are all investigative files as well as card catalogue references to these sources. Because such contacts were logged into the system as they were incorporated, the Committee's document log has also been placed in the special system.

(b) *Sensitive Information.* Staff reviews of the King Security, and COINTELPRO files have been put into the special system because, in many instances, the materials reviewed are still classified.

(c) *Immunized Testimony.* Complete isolation of testimony received from witnesses to whom the Committee granted so-called "use immunity during the course of its executive hearings is vital to enable the Government to meet its burden of demonstrating that evidence presented in any future criminal prosecution of such witnesses was not derived from immunized testimony taken by the Committee. For that reason, all immunized testimony taken in executive (closed) session was therefore secured in the special security system.

(d) *Autopsy Photographs.* The Committee has a number of photographs relating to the Kennedy and King autopsies. For reasons of personal privacy, these photographs should not be released.

(e) *Classified Information.* Because the Committee has access to raw intelligence files from the CIA and FBI that were classified (ranging from Confidential to Top Secret), all questioning of present and former CIA and FBI employees based on such materials that was recorded in interview reports, tape recordings, depositions, and executive hearings transcripts, was placed in the special security system.

IX. ADMINISTRATIVE RECORDS

In addition to the investigative records, the material generated by the Committee includes the records of the Chief Clerk's Office, the Budget Office, and the Chief Counsel and Staff Director's office.

X. RECOMMENDATIONS FOR RELEASE

The Committee recommends that access to all of its documents be prohibited for 50 years. If, however, access is given before that time, it is urged that the special security system be excluded from access.

JANUARY 21, 1992.

Hon. LOUIS STOKES,
Chairman, House Select Committee on Assassinations, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: In 1964 at the end of the work of the Warren Commission, 26 volumes of the testimony of witnesses at hearings, coupled with thousands of exhibits, were published. All of the materials having any primary relevance to the questions of who killed President Kennedy and Dallas Police Officer J.D. Tippit and whether there was any domestic or foreign conspiracy were placed in the archives and made available to the public, except for the autopsy photographs and X-rays, which because of requests of the family of President Kennedy were made available only to qualified medical experts for examination.

There was relatively small amount of materials withheld from public access. The release of these materials now would demonstrate that in no way would they have any effect upon the final conclusions of the Warren Commission. These materials generally fell into three areas: (1) Materials that pertained to the methods of protecting a president from physical harm were not made available because it was felt that to disclose all of these materials would make it easier for some future potential assassin to harm the President of the United States. (2) Unsubstantiated allegations such as an oral communication to the FBI asserting that someone overheard another person say they would pay money to kill President Kennedy and other such types of allegations, which were thoroughly investigated and found to have no bearing on the assassination. These were not made public because of concerns of privacy for the people involved. (3) Some of the investigative materials pertaining to the investigation of possible foreign conspiracy were not made available to the public because of concern that the materials involved were so sensitive that they could point to the source of the material and in a sense "dry up the well" for that source ever to divulge any additional information to intelligence sources. Moreover, in some situations the sensitivity of the source was so great that to divulge the particular information might endanger the very life of that source where the source lived in a totalitarian country.

At the time, all of the members of the Warren Commission concurred in the decision to withhold from public access this relatively small amount of material because we knew that over 90 per cent of the materials were made available to the public and those materials constituted all of the evidence directly relevant to determining who killed President Kennedy and Officer Tippit and whether there was any domestic or foreign conspiracy.

David Belin, a member of the Warren Commission staff, following the completion of his service as Executive Director of the Rockefeller Commission called for a public release of all documents in the National Archives concerning the Warren Commission investigation as well as all documents in the CIA concerning the assassination of President Kennedy. He filed Freedom of Information Act Requests to gain release of these materials, all of which he had seen. At that particular time, I did not feel that there was sufficient passage of time to have all of these materials publicly released, primarily because of concern for sensitivity for the protection of sources and methods which were involved in the gathering of foreign intelligence information in the investigation of whether there was foreign conspiratorial involvement in the assassination of President Kennedy.

However, in recent months, I have concluded that sufficient passage of time has now elapsed so that all materials in the National Archives concerning the assassination of President Kennedy should be made available to the public, except that the restrictions requested by the family of President Kennedy limiting access to the autopsy photographs and X-rays to qualified medical experts should be continued. The specific limitation could, of course, be removed at the request of the Kennedy family.

I would also urge that all materials in the CIA pertaining to the investigation of the assassination of President Kennedy should be made available to the public. I would also recommend that Congress make available to the public all materials in the files of the House Select Committee on Assassinations pertaining to the investigation of the assassination of President Kennedy.

The House Select Committee on Assassinations, as you know, did conclude, as did the Warren Commission, that the first shot that struck President Kennedy was fired by Lee Harvey Oswald and passed through President Kennedy's neck and struck Governor Connolly, causing all of his wounds and that the second and fatal shot that struck President Kennedy's head was also fired by Lee Harvey Oswald, and that Lee Harvey Oswald was the gunman who killed Officer Tippit, and that in no way was the CIA conspiratorially involved. However, a majority of the members of the Committee concluded, based on the testimony of purported acoustical experts, that there was another shot fired by a gunman from the grassy knoll who missed not only all of the occupants of the presidential limousine, but also the limousine itself. Subsequently, the Committee on Ballistic Acoustics of the National Research Counsel concluded that the House Committee's "acoustic analyses do not demonstrate that there was a grassy knoll shot" and that "the acoustic impulses attributed to gun shots were recorded about one minute after the President had been shot and the motorcade had been instructed to go to the hospital" and that "therefore, reliable acoustic data do not support a conclusion that there was a second gunman."

I would urge that the National Research Council appoint a new panel of outstanding scientists with expertise in these matters who would review the acoustical evidence presented to the House Select Committee on Assassinations and the report of the initial Committee on Ballistic Acoustics of the National Research Council, interview the experts involved in the preparation of these reports, undertake an analysis of all of their findings and then reach a definitive conclusion and report those findings to the public.

Americans are entitled to know the truth about the assassination of President Kennedy. Those of us who served as members of the Warren Commission and those independent lawyers who served on the Commission staff know that truth: Lee Harvey Oswald was the lone gunman who killed President Kennedy and Police Officer J.D. Tippit on that tragic afternoon in Dallas, November 22, 1963.

In order to resolve any legitimate doubts of others, I hope you will be responsive to my suggestions in this communication.

Best regards,

GERALD R. FORD.

LIST OF COSPONSORS

Rep. Louis Slaughter (D-NY).
Rep. Neal Abercrombie (D-HA).
Rep. Vic Fazio (D-CA).
Rep. Frank Horton (R-NY).
Rep. James Traficant (D-OH).
Rep. Curt Weldon (R-PA).
Rep. William Clay (D-MO).
Rep. Ben Nighthorse Campbell (D-CO).
Rep. Dana Rohrabacher (R-CA).
Rep. Les AuCoin (D-OR).

Rep. Owen Pickett (D-VA).
Rep. Jim Leach (R-IA).
Rep. George Miller (D-CA).
Rep. Andrew Jacobs (D-IN).
Rep. Bob Clement (D-TN).
Rep. Chalmers Wylie (R-OH).
Rep. Pat Schroeder (D-CO).
Rep. Jose Serrano (D-NY).
Rep. Michael McNulty (D-NY).
Rep. Matthew Martinez (D-CA).
Rep. Rick Santorum (R-PA).
Rep. Tom Lewis (R-FL).
Rep. Phil Sharp (D-IN).
Rep. David Dreier (R-CA).
Rep. Michael Kopetski (D-OR).
Rep. Doug Bereuter (R-NE).
Rep. Bill Emerson (R-MO).
Rep. Henry Waxman (D-CA).
Rep. Joel Hefley (R-CO).
Rep. Pete Peterson (D-FL).
Rep. Benjamin Gilman (R-NY).
Rep. Jim Bacchus (D-FL).
Rep. David Skaggs (D-CO).
Rep. Lee Hamilton (D-IN).
Rep. Jim Slattery (D-KA).

THE BASICARE HEALTH ACCESS AND COST CONTROL ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas [Mr. GLICKMAN] is recognized for 10 minutes.

Mr. GLICKMAN. Mr. Speaker, the United States will spend an incredible $871 billion on health care this year. That is more than the U.S. Government spends on defense, foreign aid, energy, the environment, agriculture, housing, transportation, community development, education, and science and space research combined. If we could export what we spend on health care we would be running a trade surplus in no time.

Despite this staggering expenditure, over 37 million Americans are uninsured and over 60 million are underinsured. Meanwhile, health care costs are accelerating two or three times the general rate of inflation. At this rate, by 2010, Americans will be spending a third of all their resources on medicine.

Mr. Speaker, serious and far reaching reform must take place. Access to quality, affordable health care is a right all Americans are entitled to, regardless of their income, or age, or the state of their health, but spiraling health care costs are locking more and more Americans out of the system.

There have been numerous proposals to reform the health care system mainly by adopting a single payer system, like the Canadian model, or through the play-or-pay formula. Other proposals center around market incentives and tax credits for the purchase of health insurance. While all these proposals have positive points, they all have very serious drawbacks.

Mr. Speaker, I believe it is time for a radical new approach to the idea of national health care reform. Today, I am introducing The BasiCare Health Access and Cost Control Act, a bill similar to S. 2346, introduced by Senator NANCY KASSEBAUM. Although I have added a few strengthening amendments regarding prescription drugs and the pharmaceutical industry, I have left the content of S. 2346 generally intact because it offers the most comprehensive approach to health care reform I have seen.

This legislation will expand health care coverage to the uninsured, as well as control costs, but without capping doctors' fees, without restrictive employer mandates, and without doing away with the insurance industry. In addition, it contains a financing mechanism which does not call for a tax increase.

The bill will create a single, national BasiCare package of benefits that all Americans will carry. Any insurance carrier wishing to sell health insurance will have to offer the BasiCare plan and adhere to its conditions. The carrier may not offer any policy that duplicates BasiCare in any way. Insurers may, however offer supplemental policies for persons wishing greater coverage beyond that provided by BasiCare.

Following a phase-in period, all BasiCare premiums will be based on community rating, and insurance companies will be required to guarantee acceptance of all applicants. Insurers will not be allowed to raise a person's premiums because of illness or deny coverage because of a pre-existing medical condition.

As you can see, the BasiCare package will be defined and standardized by the Government, but its administration and financing will remain in the private sector. This approach combines the attractive simplicity, stability, and cost-control of a public single-payer system with the private market incentives that are necessary to ensure quality and innovation in American medicine.

The BasiCare package will be developed by a full-time national commission of independent experts appointed by Congress and the President. Similar to the current military base closing system, Congress will have the power to vote up or down on the commission's recommendations, but not to amend them.

The independent commission will also have broad oversight authority over the health care system as a whole. In most cases, its recommendations to Congress will be considered only on a limited debate, unamendable basis.

This is a different approach to health care policymaking. Congress would remain accountable for health care policy, but experts would be handling the complicated, sensitive task of overseeing the Nation's health care system. Most importantly, the commission would be insulated from political pressure and special interest groups.

The commission will control health care costs by placing annual limits on BasiCare premium rate increases. The annual percentage of allowed premium increase will be binding on all insurers. I have added a provision to allow a State to lower the allowed premium increase if the State believed the premium increase would make it more difficult for residents to afford the premiums. The State would not be able to increase the allowed premium beyond the BasiCare commission's mandate.

The goal, of course, is cost control without Federal or State micromanagement of rates and fees. The combination of a standard, national benefits package and rate increase cost parameters puts insurers at risk for rising health care costs. This will be a compelling incentive for insurers to form risk pools and organized care relationships with providers to share financial risks and keep costs down.

Further cost containment will come from enactment of very tough Federal reform of malpractice liability laws.

The low-income uninsured will purchase the BasiCare policy with nontransferable vouchers. The vouchers will be redeemable directly to BasiCare carriers or employer plans. The amount of the voucher a family or individual receives will reflect the percentage of the BasiCare costs they can afford.

Although the bill specifies minimum income levels for which voucher assistance must be provided, it leaves the commission discretion to propose increases in these levels. At a minimum, persons below 100 percent of the Federal poverty line will receive full voucher assistance, and persons between 100 and 200 percent of poverty will receive assistance on a sliding scale based on income. Even persons receiving full voucher assistance will be required to pay a small per-service copayment to discourage overutilization.

The new voucher program will replace and expand upon the current Medicaid Program, and the new BasiCare system will be expanded over time to encompass Medicare. Coverage for long-term nursing home and home health care will be included in the BasiCare plan. In addition, persons of all ages will carry BasiCare's long-term care coverage as part of their BasiCare package.

To further target services to low-income and underserved populations, this bill expands funding and access to community health centers and other community-based primary care facilities. To increase the number of health care professionals in medically underserved areas, it expands funding for the National Health Service Corps, and provides targeted tax incentives to doctors, nurses, and other health care professionals practicing in underserved rural communities.

Furthermore, this bill equalizes the health care tax treatment of the self-employed. Both self-employed persons and incorporated firms will be allowed 100 percent deductibility for the cost of the BasiCare package.

One of the most contentious issues of the debate over health care reform is how to pay for it all. Unlike other national health care reform proposals, this bill lays out a straightforward plan to finance the BasiCare system. The bill already contains tough cost-control measures, and costs are further restricted by creating a uniform market around a single insurance package, but new public funds will clearly be necessary to provide coverage to those who are currently uninsured.

Under this bill, needed funding will come from three sources:

First, appropriation of existing Medicaid expenditures;

Second, limiting the current 100 percent tax deduction and exclusion for employer health benefit contributions to the cost of the BasiCare package; and

Third, a limited draw of funds from the current Social Security payroll tax, not to exceed 1 percent of the tax.

The beauty of this plan, Mr. Speaker, is that it does not raise taxes.

There is only one significant area where, S. 2346, the Kassebaum bill, and my bill differ strongly, and that is in the area of prescription drugs. Because national health care reform cannot be completely comprehensive without dealing with the cost of prescription drugs, I have added several provisions covering the pharmaceutical industry.

In 1991, the cost of prescription drugs in America rose 9.4 percent, three times the cost of inflation. Since 1982, the general inflation rate has risen 46 percent while prescription drug prices have gone up 14.2 percent. Americans will spend $67 billion on pharmaceutical drugs this year. If the current practices continue that figure will jump to $145 billion by the year 2000.

In 1990, the average rate of profit for the pharmaceutical industry was 15.5 percent, more than triple the average profit for Fortune 500 companies. The industry receives huge tax breaks, patent advantages, and research and development grants, yet prescription drug prices are skyrocketing out of the range of average Americans. Lifesaving drugs should not be a luxury. Elderly pensioners should not have to choose between medication and food.

We will not have effective health care cost control unless we reign in the cost of prescription drugs. Therefore, I have amended the KASSEBAUM bill to require the BasiCare benefits package to cover the cost of prescription drugs with reasonable cost-sharing by the consumer. In addition, I have given the BasiCare commission oversight of the pharmaceutical industry and required it to report annually to Congress on that oversight. The commission has been given the authority to propose legislative solutions to controlling prescription drug costs.

I have also borrowed a provision from Senator BOREN'S bill, S. 2000, the Prescription Drug Cost Containment Act, which would reduce certain nonresearch tax credits to companies whose drug prices exceed the general rate of inflation. Americans are already paying the highest drug prices in the industrialized world. Why should we also pay for the all the tax credits for those companies that have grossly inflated their prices?

Mr. Speaker, I believe this bill offers an exciting new approach to the national health care reform debate. It covers almost all the bases needed to have real comprehensive reforms. It provides coverage for everyone, regardless of their income, regardless of all the other factors which might currently disqualify them. And it introduces strong cost containment provisions without capping doctors fees or doing away with the insurance industry. It provides malpractice liability reform and imposes some cost controls on prescription drugs. In addition it covers long-term and home health care. Above all, it maps out how it will pay for itself and without a tax increase.

It is time, Mr. Speaker, to finally guarantee all Americans the right to health care. It is past time. Thirty-seven million out in the cold is a national disgrace. Good health should not be a luxury for the rich, Mr. Speaker. This bill will ensure it is available to everyone.

"BASICARE" HEALTH ACCESS AND COST CONTROL PLAN

(By Congressman Dan Glickman)

KEY COMPONENTS:

Establishes a single, nationally defined core benefits package (BasiCare), but leaves its administration and financing in private hands.

The BasiCare package will become standard across all health insurance carriers and will be carried by all Americans. No insurance company can offer any plans that duplicate BasiCare benefits, although they may sell supplemental policies for persons wishing greater coverage.

The content of the BasiCare package will be determined by an independent expert Commission. As under the current military base closing system Congress will have the power to vote up or down on the Commission's recommendations, but not to amend them.

BasiCare will be community rated, and restrictions based on pre-existing conditions will be barred.

Control of health care costs will be maintained through broad limits on BasiCare's annual premium increases, as well as through administrative standardization of the single BasiCare package.

Incentives in health care competition will be refocused to maximize efficiency, rather than over-supply or risk-selection, as is often the case under the current system.

Health care access for the uninsured will be addressed by offering low-income persons non-transferable vouchers for the purchase of BasiCare coverage. This system will replace and expand upon the current Medicaid program.

Medicare will also be gradually assimilated into BasiCare, and long-term care coverage will be included in the BasiCare package.

Financing will be obtained through (a) a limited draw of funds from the current Social Security payroll tax, not to exceed 1 percent of the tax, (b) limiting the current 100 percent tax deduction and exclusion for employer health benefit contributions to the cost of a BasiCare package, and (c) appropriation of existing Medicaid expenditures.

The plan also includes malpractice reform, a significant expansion of low-income community health care services, and measures to increase the number of health professionals in underserved rural areas.

The plan provides oversight of the pharmaceutical industry and reduces nonresearch tax credits to certain companies that increase the price of their drugs above the rate of general inflation.

SUMMARY OF PROVISIONS

A. Creation of BasiCare

1. Congress will determine the broad foundation of the BasiCare package, but Congress will not be directly responsible for the details of the plan's composition. Among the foundations that Congress would require, however, will be:

a. Basic hospitalization coverage;
b. Basic outpatient services;
c. Protection against catastrophic out-of-pocket costs;
d. Coverage against extraordinary long-term care costs; and
e. Coverage of prescription drugs (with the reasonable cost sharing)
f. Coverage for periodic health examinations and other preventive care services to the extent determined to be of significant proven and recognized value in averting serious and costly medical conditions.

2. Actual development of the BasiCare package will be conducted by an eight-member independent, expert commission. Half of the members will be appointed by the President, and the other half by the congressional leadership. All will serve on a full-time basis for five year terms.

3. The Commission will define a benefit plan which, in its judgment, represents a minimum but fair coverage package. At its discretion, the commission may recommend limited variation in plan structure to accommodate delivery of BasiCare services in a managed care setting, provided that such variation does not compromise the basic uniformity of the National BasiCare package.

4. As under the current system for closing military bases, Congress will have the power to approve or disapprove the Commission's recommendations, but only as an un-amendable package. The purpose of this mechanism is to help assure that the process of developing the benefit package is not unduly distorted by political pressure.

5. The BasiCare Commission will have authority to make adjustments in the plan's content, as needed, to reflect changes in technology or in the nation's health needs. It will also have significant oversight responsibility for the health care system as a whole.

6. The Commission will be charged with ongoing oversight of the quality of health care delivery—particularly as the system reacts to implementation of the new BasiCare structure. The Commission will be required to factor findings on quality into any recommendations it makes to Congress on the content or the cost of the BasiCare package. It will also be authorized to contract with local and regional entities for the collection and dissemination of health care quality and cost data to consumers.

B. BasiCare's role in the insurance market

1. All insurers in the health insurance market will be required to offer BasiCare and to accept its conditions.

2. Insurers will be barred from selling non-BasiCare policies that duplicate BasiCare benefits in any way. Supplemental policies, however, will be allowed (see section F. below). Such supplemental policies will be permitted to cover only those benefits *not* covered by BasiCare.

3. When the program is fully implemented, BasiCare policies will be subject to strict rating and underwriting rules aimed at assuring availability and curbing risk selection. These will include:

a. Guaranteed Issue and Renewal: Insurers will be limited in applying pre-existing condition restrictions on the insurance policies and will have to guarantee acceptance of all small groups and individuals wishing to purchase coverage. Similar standards will also be applied to policy renewal.

b. Community Rating: Insurers will be required to set rates on the same terms to all BasiCare policyholders, both group members and individuals. Adjustments in community rating will be permitted for the age of the enrollee, but will be held within limits, which will narrow over time.

Community rating will apply both to group and individual policies.

c. Portability: Persons will no longer have to fear lack of access coverage due to a change in employment.

4. Insurers failing to comply with the above reforms will be subject to a federal excise tax on gross premium income.

5. All persons will be required to carry a BasiCare policy, either through a group or individually. Low-income persons will receive direct public assistance for the cost of such coverage (see Section C. below).

6. Employers will not be permitted to discriminate against employees based on health status.

7. Self-insured groups will be permitted to continue self-insuring provided they can demonstrate that: (1) they are offering a BasiCare equivalent benefit plan that adheres to all of BasiCare's conditions, (2) they can show that their costs do not differ substantially from those of insured BasiCare plans, and (3) they can demonstrate sufficient financial reserves to assure solvency and protection of patient benefits.

8. "Stop/loss" coverage sold to self-insured groups will also have to follow the same rat-

ing, issue, and renewal standards specified for BasiCare (see above).

9. BasiCare policies will be exempt from all current or future state benefit mandates. The federal pre-emption for BasiCare would also apply to state legislation restricting the use of managed care.

10. The health insurance tax deduction for self-employed persons would become the same as that for incorporated group plans. Currently, the group deduction is 100 percent while the self-employed receive 25 percent. Under the new program, the deduction for both categories would be the same—100 percent for the cost of the BasiCare package (see Section E.2).

11. Insurers will likely find it desirable to coordinate the development of reinsurance mechanism (risk pools) to better accommodate the rating and underwriting changes noted above. As under current law, state governments will also be permitted to create or contribute to such pools.

12. Timing: The above-described system for national standardization of the new BasiCare package will go into effect following congressional approval of the Commission-proposed BasiCare package. This should occur three years after enactment. Preceding this will be a phase-in period, beginning at enactment, in which the small employer market will be subject to a variety of somewhat milder rating and underwriting reforms aimed at increasing fairness and availability of coverage in that market.

C. BasiCare coverage for low-income beneficiaries

1. The new BasiCare package will replace and supplant current Medicaid coverage. This will apply not only to Medicaid's acute care coverage, but to its long-term care coverage as well.

2. The low-income BasiCare assistance program will be administered through non-transferable federal vouchers redeemable directly to BasiCare carriers or employer plans. Such vouchers will indicate the applicable percentage of BasiCare costs a person or a family is eligible to receive. Amounts corresponding to that percentage will be created to the carrier of the BasiCare program.

3. To facilitate "one-stop shopping" for recipients, the process of application and approval for assistance will be coordinated with actual enrollment in a BasiCare plan.

4. This legislation specifies minimum income levels for which voucher assistance must be provided, but it leaves the commission discretion to propose increases in these levels, as it may deem appropriate to correspond with the new BasiCare benefits package. At a minimum, persons below 100 percent of the federal poverty line will receive full voucher assistance, and persons between 100 and 200 percent of the poverty will receive assistance on a sliding scale based on income. Importantly, even persons receiving full voucher assistance will be required to pay a small per-service co-payment to discourage overutilization.

5. The switch from Medicaid to BasiCare will assure that medical providers are no longer reimbursed at a lower level for treating low-income patients, as they are under the current Medicaid system.

6. To provide for a smooth transition from Medicaid to BasiCare, the Medicaid program will be retained as an administrative unit for a period of five years following standardization of BasiCare. During this transition period, present Medicaid-eligible beneficiaries will continue to receive any current Medicaid benefits that may not be included in the new BasiCare package.

7. Federal matching funds for Medicaid benefits not included in the BasiCare package will be discontinued at the end of the transition period, unless the Commission has recommended—and Congress has approved—an alternate plan for disposition of such benefits.

8. Most federal and state funding currently going to Medicaid will be transferred to the BasiCare low-income assistance program (see Section E.1 below).

D. Cost-containment through BasiCare

The BasiCare system will put in place several strong levers for maintaining cost-control in the health care system. These include:

1. The benefit package itself: The BasiCare commission will be charged with limiting the scope of benefits to a reasonable minimum. Recognizing that defining a core is necessarily a subjective and difficult task, the commission will nevertheless be largely insulated from the strong provider and consumer pressure that has led, for example, to expensive state benefit mandates under the current system.

2. Global restraint of BasiCare premium increases: Insurers will be required to limit annual increases in BasiCare premiums to a federally defined maximum percentage. More specifically, the BasiCare Commission each year will set a maximum allowable percentage for such premium increases. This percentage will be binding on all insurers. States would have the authority to lower the annual increase but not raise it.

As it initiates this system of premium increase limits, the BasiCare commission will also have authority to establish an average base premium for the BasiCare package from which future allowable increases will be measured. This is to guard against the possibility of insurers setting initial rates unreasonably high in anticipation of future increase limits. The Commission will be permitted to apply limited geographic variation in the base rate to reflect regional differences in the cost of providing the BasiCare package.

By establishing a single maximum allowable percentage of increase, government will be putting insurers themselves at risk for rising costs, thereby creating a strong incentive for efficiency. The government's role will be simply to set the overall budget parameters; responsibility for finding the best way to live within these means will be left to the health care system itself. Unlike other cost-control proposals, this approach will avoid the pitfalls of government micro-management of specific insurance rates and provider fees.

It is likely that insurers will react to the new budget controls by forming organized care relationships with providers in order to share the financial risk with those providers. Under such arrangements, both insurers and providers will have a direct financial stake in keeping costs down and delivering care as efficiently as possible.

3. Oversight of provider billing: It is anticipated that the BasiCare premium limits described above will create a market situation in which the only way either providers or insurers can survive financially will be to enter into organized networks of care with each other, under which provider payment would be limited to the negotiated amount.

However, to guard against the possibility of unreasonable provider overcharges to consumers, this plan also gives the BasiCare Commission clear authority to intervene with balance billing limitations in the event such charges do become a problem.

4. Paperwork standardization: All billing and claims paperwork associated with BasiCare will be standardized across carriers, and steps will be taken to provide for universal electronic billing.

E. Financing of BasiCare

The cost controls noted above should create sizable reductions in the out-of-pocket costs now paid by most Americans for health care. Unavoidably, however, these savings will be at least partially offset by new costs associated with expanding coverage to the currently uninsured (see Section C. above).

Revenue sources included in this bill are:

1. A limited draw of funds from the current Social Security payroll tax, not to exceed 1 percent of the tax: The Social Security payroll tax is now set at a level higher than is necessary to assure adequate reserves for present and future retirees. As the consumer group Families U.S.A. and others have argued, it is appropriate that at least a modest portion of these resources be devoted to the very useful purpose of overhauling our declining health care system. Just 1 percent of the current tax would equate $56 billion a year in 1996, and even more as time goes by.

2. Limiting the tax deduction and exclusion for employer contributions to employee benefit plans: Under current law, 100 percent of employer payments to employee health plan are deductible to the employer and tax-exempt to the employee. This will be changed to allow such deduction and exemption only for contributions associated with BasiCare coverage. Additional payments for supplemental coverage will be taxable.

3. "Capturing" existing Medicaid funding: As Medicaid is replaced by BasiCare, its current funding will be restricted to the BasiCare program. At the federal level, this will be accomplished by posting existing Medicaid expenditures to BasiCare and indexing the amount upward each year according to inflation. Similarly, the states will be required to contribute to BasiCare an amount proportionate to their current Medicaid match. This, too, will be indexed upward with inflation.

F. Role of supplemental insurance

1. As mentioned above, BasiCare will act as the primary health insurance source for all citizens, but persons or groups will be able to purchase supplemental policies for services not covered by BasiCare.

Leaving room in the market for a supplemental insurance market will serve a dual purpose. First, it will allow persons or groups the freedom of choice to tailor coverage to their own particular needs. Second, a private supplemental market will provide greater incentives for the development of innovative treatments than might be the case were BasiCare the only available option.

2. To guard against potential abuses of the supplemental market, the BasiCare Commission is given strong oversight authority to monitor behavior in the new supplemental market and to intervene with explicit consumer protection or cost controls should market abuses or unreasonable cost growth develop.

G. Assimilation of Medicare

1. The Commission will be directed to develop a comprehensive proposal for integration of the current Medicaid program into the BasiCare system. Such proposal, in legislative form, will be required no later than the fifth year after the new BasiCare system has been implemented. Such proposal will be considered in Congress under the same terms of limited debate as the initial BasiCare package (see Section A, below).

2. CHAMPUS, the military health insurance program, and FEHBP, the health program for federal employees, would also be assimilated into the BasiCare.

H. Expansion of community health services

New federal funding will be allocated for Community Health Centers (CHCs) *and* for other state and local public health clinics. Such centers have a good record of providing inexpensive, cost-effective treatment to indigent and low-income persons. Authorization is $600 million annually in new funding for these programs.

I. Malpractice reform

1. Provides federal preemption for comprehensive medical liability reforms, including mandatory periodic payment of future awards, limits on awards for non-economic ($250,000) and punitive damages (no greater than total award of compensatory damages), reducing awards by the amount of compensation from collateral sources, and court determination of reasonable attorneys' fees;

J. Joint use of equipment and services

1. Clarifies antitrust law regarding joint service ventures to facilitate collaboration among hospitals for the purpose of sharing expensive high technology equipment or services.

2. Specifically, this provision amends the National Cooperative Research Act to allow joint service ventures by two or more hospitals for the delivery of costly services. It will apply the rule-of-reason standard to joint service ventures that are challenged, allowing the court to consider the competitive benefits of the venture.

K. Expanding the supply of health professionals in rural areas

1. Significantly expands funding for the National Health Service Corps, a program to place doctors and other health professionals in underserved areas in exchange for scholarship or loan repayment assistance. Authorization is $120 million for each of the next five years.

2. Physicians will be allowed a tax credit equal to $1,000 a month for practice in a rural health professions shortage area. Nurse practitioners and physician assistants will be eligible for a similar credit equal to $500 per month.

3. Provides additional tax incentives for rural practice, including deductibility of National Health Service Corps loan repayments and deductibility for the cost of basic medical equipment.

L. Containment of prescription drug prices

1. The Commission will have oversight over the pharmaceutical industry and will issue annual reports on the effect prescription drug prices have on the American health care system. The Commission would have the authority to draft legislation suggesting methods to control prescription drug prices. Congress, again, would be able only to vote up or down on any such legislation.

2. The bill would reduce certain non-research tax credits to certain companies whose drug prices exceed the general rate of inflation.

OPEN THRIFT ASSISTANCE: CORPORATE SOCIALISM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa [Mr. LEACH] is recognized for 60 minutes.

Mr. LEACH. Mr. Speaker, the Thrift Deposit Protection Oversight Board yesterday held a public hearing on a proposal to use funds of the Resolution Trust Corporation to protect current bond and stock holders of failing thrifts. Under the rubric of open thrift assistance, the S&L bailout program will become more of a bailout.

Currently, the only people protected in thrift failure are federally insured depositors. Shareholders and creditors lose their capital. Under the proposal spawned by some in Congress and supported by some in the thrift industry, all this would change. Investors and creditors of insolvent S&L's could be protected with a program in which the Government invests funds in struggling institutions.

I rise today to stress that it is my view that any legal authority regulators may use to protect stock or bondholders of failing thrifts is definitively gray.

Legal loopholes may exist allowing the executive branch to attempt such efforts, but as a participant in the development of relevant banking legislation over the last decade and a half, I would like to attest that few on the House side assumed that such potential protections were authorized by any statutes they voted on.

It strikes me that for the Government to entertain such a risky economic undertaking, with so many philosophical pitfalls, statutory authority should be far stronger and clearer. I realize we are in the age where financial institution regulators have enormous, if not capricous, powers and where in many instances loopholes are being found to advance controversial agendas, such as the breaching of certain historical assumptions of the meaning of Glass-Steagall and McFadden.

Nevertheless, loophole judgments are precarious, litigation susceptible, and generally lacking in public confidence.

Philosophically, proposals which provide for assisted mergers or open thrift assistance which protect existing shareholders misunderstand not only the nature of Federal deposit insurance but the composition of our Nation's banking industry and the free enterprise system.

Here, let me stress that there are clear distinctions between the question of early intervention and the question of whether taxpayer funds should protect or be comingled with private sector resources. Nothing could be more sensible then early intervention. The earlier regulators can recognize that an institution will fail and the earlier it can stop that institution from losing taxpayer-guaranteed money, the less trauma is caused the financial industry and the less cost for the Federal Government.

Institutions that weaken to nonviable levels should be told in no uncertain terms that they must promptly raise capital or be subject to Government takeover. Owners who refuse to are generally concerned with dilution of stock and institution control, neither of which should be primary concerns of the Government. The operative assumption must be that solvent institutions can raise cash; insolvent ones can't. If owners refuse or the market is unobliging, the Government should act.

On the other hand, utilization of taxpayer funds to bail out existing shareholders of failed or failing institutions goes beyond early resolution and enters the realm of corporate welfare. Likewise, the principle of assisted mergers which make the Government part owner of an institution implies corporate socialism.

One of the difficulties of this debate is that the goals and strategies contemplated in assisted mergers have never been clearly defined.

When the prospect of assisted mergers was first broached several months age, a top official suggested to me that the main approach under consideration was one in which the Government would infuse funds into a failing thrift or combine resources with several failing institutions, causing taxpayers in effect to become partners with the old shareholders of such thrifts. This form of open thrift assistance would not only be violative of the principle that no taxpayer funds be used to protect shareholders of failing institutions but would put the Government in partnership with failed managers.

The second approach broached more recently is one in which the Government would become partners with the shareholders of a viable institution which takes over a failed institution. Shareholders and bondholders of the failed institution would presumably be wiped out. While this approach recognizes an institution's right to fail, it establishes the Government as an active partner in a mixed private/public enterprise.

A variation of both of these approaches which a regulator suggests may be under consideration is combining to large institutions, giving an equity stake or warrants to some existing shareholders, infusing Government funds, and then seeking new outside capital

But if the Government miscalculated on the depth of the hole, particularly if real estate values continue on a downward trend, the Government could be accused in this scenario of inducing investors to make a poor investment. New investors would almost certainly feel misled and could be expected to sue the Government for presenting a misleading image.

This puts the Government in an untenable situation. Would the Government let fail an institution in which it has invested capital or would it continue to invest more capital, which could defy rationality? Are new equity holders likely to cotton to an arrangement whereby their interests are potentially dilutable by former shareholders? Is it clear one $40 billion institution is more manageable and investor attractive than two $20 billion ones? Can indeed a Government partnership be allowed to fail? Or be fairly regulated, particularly if loan writedowns have the effect of requiring greater infusions of Federal resources?

My opposition to assisted mergers which mix public and private funds is based on philosophical, economical, and fairness grounds.

The public is rightfully outraged by the savings and loan bailout. Before the depositor bailout is complete, it is estimated that $200 to $300 billion in taxpayer funds, excluding the costs of interest, will be needed, 2½ times this amount once interest is calculated over 30 years. So far the taxpayers have reluctantly born this burden with the understanding from Washington that such funds would only go to protect depositors, and not to line the pockets of S&L owners who looted, mismanaged, or simply had bad luck in running their institutions. Now the Federal Government is indicating that this money may be used to bail out former thrift owners or support new ones.

The deposit insurance system was created to protect depositors, not shareholders of insolvent or solvent financial institutions.

While some Members of Congress representing States where a number of institutions are on the cusp of difficulty favor assisted mergers and have stated they will only support further RTC funding requests if the Government is allowed to protect current investors, I must confess—at the risk of sounding petulant—to being so skeptical of the wisdom of mixing public and private capital in financial institutions, that I would be hard pressed to support future RTC funding requests if such a program is implemented.

Investing Government funds in failed thrifts is unfair to other institutions which have operated prudently. For too long these institutions have had to compete against the cut throat and irrational market behavior of failing institutions for deposits as well as loan customers. Under the plan currently under consideration, instead of letting competitive forces weed rogue or weak thrifts from the market, the Government will either reward their or future owners with Federal funds, allowing them to continue to compete in the marketplace, not only with FDIC insurance but explicit Treasury backing. Whether or not some institutions are too big to fail it is hard to believe the Government would allow a Government enterprise to go bankrupt, and the market would assuredly recognize this competitively advantageous circumstance.

Such an approach thus eviscerates the character of the free market system. It could not be more ironic that the more conservative political party is toying with a father-knows-best policy, intervening in the market to decide which thrifts will be allowed to stay afloat with Government funds and which will be taken over for lack of them. The Government should not be in the business of either picking winners or subsidizing losers in the free enterprise system.

If the Government intervenes as a partner with new or old shareholders, hidden costs to other institutions inevitably develop.

In an industry marked by overcapacity, there is little or no economic case for maintaining arbitrarily a greater number of institutions.

Furthermore, for every institution which gets funds, another institution will be turned down. This raises the inevitable prospect that conflicts of interest, political or economic, will materialize.

It is no secret that this plan is being put forward to benefit certain large thrifts on both coasts which are having difficulties with commercial real estate loans. The implication seems to be it is OK to close smaller thrifts which failed because they mismanaged home lending, but allow larger thrifts which provided imprudent loans to commercial real estate developers to be subsidized.

If rumors have validity, one senses that an underlying rationale for supporting current thrifts and thrift owners in California and Florida is a political factor: Both States are pivotal in Presidential politics. Yet, my view is that such considerations are not only morally wrong and economically wasteful, they are politically counterproductive. The politics of open thrift assistance which protects any current vested interest is social dynamite.

For every thrift owner bailed out, there will be recriminations from those the Government will refuse or have refused to support.

For every shareholder protected, there will be a competitor understandably angered.

For every corporate Socialist, there are thousands of free marketeers who believe businesses should have the right to fail.

For every Government bureaucrat who thinks he can assess private sector risks and manage incentive system opportunities better than free enterprise entrepreneurs, there are dozens of citizen skeptics.

I understand one of the motives for this approach is to precipitate resolution of problems before the OTS/RTC resolution authority expires so that the Government—that is, the taxpayer—becomes accountable for supporting the hole rather than the SAIF—which is principally to be industry supported. As a Member of Congress with a primary obligation to the taxpayer, it strikes me that this taxpayer-be-damned attitude is indefensible. I also object to the timetable pressures implicit in such decisionmaking. The history of decisions made under strenuous timetables has not produced impressive results in the resolution arena.

Proponents of mixing public and private capital argue that assisted mergers will save the Resolution Trust Corporation, and consequently the taxpayer, money. Such cost-benefit analysis should be scrutinized with great skepticism. I do not doubt the sincerity with which this perspective is advanced. I do suspect, however, that assurances that assisted mergers will be less costly are about as credible as those assurances made in December 1988 relating to Federal home loan bank deals.

Least cost judgments are by definition capricious, generally postulated against assumptions that are unreal. It is thoroughly unfair to suggest, for example, that the cost to the Government of resolving existing marginal institutions will be as great as the cost of resolving earlier thrift situations where insolvency problems were more significant, particularly with the reduction in cost of funds that has occurred in the last 2 years.

While the economy at large has weakened in the last 18 months, the macroeconomic environment for the thrift industry has markedly improved. Fixed rate mortgages made when long-term rates were in double digits are worth more now that long-term rates are well below 10 percent. Furthermore, adjustable rate mortgages already on the books are also more valuable in a low interest rate environment.

As for commercial real estate loans, losses will have to be countenanced no matter who takes over the thrift.

For the Government to contend it can run a thrift as a cost savings effort, it has to have confidence not only in the macroeconomics of the economy but the microeconomics of the real estate industry. It must assume it has employees capable enough and with adequate incentive to do careful due diligence studies of the loans and accounting practices of a failing institution. Here, as an aside, let me stress that there is a difference between Government accounting and the numbers that real investors may give more weight. After all, rap accounting is to accounting what rap music is to music: jarring to the nerves.

Anyone can develop a model—and I understand some in the bowels of OTS are trying—that might show savings would accrue to the taxpayer if the Government adopted an open thrift assistance approach, controlling and managing institutions, instead of marketing insolvent thrifts in a competitive bidding process. The problem is that such presumed savings are premised on the assumption that Government bureaucrats better understand the market than private sector players and that the taxpayer's position is best hedged by a bet against the market at any point in time.

The problem also is that models must be developed with assumptions that are credible. A model might show savings could accrue to the Government with open thrift assistance if commercial real estate values remain stable, if accounting practices are valid, if management is sage. But what if commercial real estate values decline 10 or 20 percent in a given area or 60 percent, as occurred in Iowa agriculture from 1980 to 1986, or if accounting practices mask deeper problems, or if management is less than competent?

I don't know who in Washington is smart enough to assess and manage this kind of risk. Certainly not the people who allow loan loss reserves to be counted as capital for financial institutions, who brought us the 1988 Federal Home Loan Bank Board deals, who dreamed up the Patriot deal.

There is an old adage that all politics is local. An analogous observation is that all real estate is local. Washington has shown time and again over the last decade that it is constitutionally incapable of understanding the banking or real estate industries, which at this time are inextricably linked.

Two of the oldest jokes on the rotary circuit are the assertions that "the check is in the mail" and "I'm from the Federal Government and I'm here to help." The country has doubts that a congressionally funded institution will put the check on a timely basis in the mail and that the Federal Government can competently run financial institutions.

In yesterday's hearings before Federal regulators, two destinguished Members of the Senate suggested that one goal of open thrift assistance was credit control, that a Government-controlled institution should be obligated to keep current lending obligations.

Credit controls for general purpose financial institutions have a long and sorry history worldwide. While it may be accurate to suggest that the Reconstruction Finance Administration knew some success with targeted lending during a period of intense depression, there is no evidence anytime, anywhere that Government-run all purpose banks have become anything except wards of the taxpayer. They don't work.

My instinct is to accept precise losses today instead of incalculable losses tomorrow.

Finally, one aspect of the current landscape of finance demands attention. There is no evidence that private/public sector partnerships work, except in the case of the GSE's where legislative protection is provided. The private sector perceives public-private ventures either as an opportunity to take advantage of the Government or as so undesirable that companies can be expected to exact a premium if the Government insists on joining the board.

The question thus has to be raised whether politicians and regulators have not been sold a bill of goods by the institutions that would like to live upon and leverage Government money or by an industry which wants the taxpayers rather than itself to carry the burden of its liabilities.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PETERSON of Florida (at the request of Mr. GEPHARDT) for Wednesday, March 25, and Thursday, March 26, on account of official business.

Mr. YOUNG of Florida (at the request of Mr. MICHEL) for today after 3 p.m., on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. LEACH) to revise and extend their remarks and include extraneous material:)

Mrs. BENTLEY, for 60 minutes each day, on April 1, 2, 6, 7, 8, 9, 22, 23, 29, and 30.

Mr. DREIER of California, for 60 minutes, today.

(The following Members (at the request of Mr. BRUCE) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.

Mr. BILBRAY, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

Mr. STOKES, for 5 minutes today, and 60 minutes on April 2, 3, 6, 7, 8, 9, 10, 27, 28, 29, and 30.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GLICKMAN, for 10 minutes, today.

Mr. JONTZ, for 60 minutes, on April 8 and 9.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. LEACH) and to include extraneous matter:)

Mr. MARLENEE.
Mr. WEBER.
Mr. VANDER JAGT.
Mr. BALLENGER in three instances.
Mr. FIELDS.
Mr. GREEN of New York.
Mr. JOHNSON of Texas.
Ms. ROS-LEHTINEN in 8 instances.
Mr. COMBEST.
Mr. BURTON of Indiana.
Mr. PACKARD in two instances.
Mr. HENRY.
Mr. RINALDO.
Mr. DAVIS of Michigan in two instances.
Mr. RHODES.
Mrs. JOHNSON of Connecticut.
Mr. MICHEL.
Mr. LAGOMARSINO.
Mr. FRANKS of Connecticut.
Mr. BEREUTER.
Mr. GEKAS.
Mr. SOLOMON.
Mr. YOUNG of Florida.
Mr. CAMPBELL of California.
Mr. GILMAN.

(The following Members (at the request of Mr. BRUCE and to include extraneous matter:)

Mr. LANTOS in two instances.
Mr. HOYER.
Mr. HAMILTON.
Mr. MAZZOLI.
Mr. RANGEL.
Mr. SMITH of Florida.
Mr. FALEOMAVAEGA.
Mr. HAMILTON.
Mr. ANDREWS of Texas.
Mr. TORRICELLI.
Mr. FASCELL in three instances.
Mr. BROWN.
Mr. SIKORSKI.
Mr. EDWARDS of California.
Mr. YATRON.
Mrs. SCHROEDER.
Mr. VISCLOSKY.
Mr. SERRANO.
Mr. MARKEY.
Mr. WOLPE.
Mr. RAHALL.
Ms. NORTON in two instances.
Mr. FAZIO.
Mr. PICKETT.
Mr. BONIOR.
Mr. SWETT.
Mr. HUBBARD.
Mr. PETERSON of Florida.

ADJOURNMENT

Mr. LEACH. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 40 minutes p.m.) under its previous order the House adjourned until Monday, March 30, 1992, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3172. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9-171, "Well-Child Care Amendment Act of 1992," and report, pursuant to D.C. Code, section 1-233(c)(1); to the Committee on the District of Columbia.

3173. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–172, "Florida Avenue Baptist Church Equitable Real Property Tax Relief Act of 1992," and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3174. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–173, "Vital Records Adoptive Birth Registration Amendment Act of 1992," and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3175. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–174, "Medlantic Long Term Care Corporation Equitable Real Property Tax Relief Act of 1992," and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3176. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–175, "Community-Based Residential Facilities Act of 1992," and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3177. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–176, "Twelfth Street Christian Church Equitable Real Property Tax Relief Act of 1992," and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3178. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–177, "Covenant Baptist Church Equitable Real Property Tax Relief Act of 1992," and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3179. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–178, "Archbishop Carroll High School Equitable Real Property Tax Relief Act of 1992," and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3180. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–179, "Holy Land Spiritual Temple Equitable Real Property Tax Relief Act of 1992," and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3181. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–180, "Parish of Our Lady Queen of Americas Equitable Real Property Tax Relief Act of 1992," and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3182. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–181, "Pipeline Safety Penal Provisions Amendment Act of 1992," and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3183. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–182, "Young Women's Christian Association of the National Capital Area Equitable Real Property Tax Relief Act of 1992," and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3184. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–183, "Folger Shakespeare Library Equitable Real Property Tax Relief Act of 1992," and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3185. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–184, "Advisory Neighborhood Commissions Boundaries Act of 1992," and report, pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3186. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 9–185, "District of Columbia Real Property Tax Revision Temporary Amendment Act of 1992," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on the District of Columbia.

3187. A letter from the Secretary of Education, transmitting Final Regulations—Library Services and Construction Act State-Administered Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

3188. A letter from the Chairman, Federal Communications Commission, transmitting a report of activities under the Freedom of Information Act for calendar year 1991, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

3189. A letter from the Administrator, Environmental Protection Agency, transmitting the Department's 1990 annual report on progress in implementing requirements concerning the Nation's worst hazardous waste sites, pursuant to Public Law 99–499, section 120(e)(5) (100 Stat. 1669); jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DERRICK: Committee on Rules. House Resolution 410. Resolution providing for the consideration of H.R. 3732, a bill to amend the Congressional Budget Act of 1974 to eliminate the division of discretionary appropriations into 3 categories for purposes of a discretionary spending limit for fiscal year 1993, and for other purposes (Rept. 102–470). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 3247. A bill to establish a National Undersea Research Program within the National Oceanic and Atmospheric Administration; with an amendment; referred to the Committee on Science, Space, and Technology for a period ending not later than May 1, 1992, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(r) of rule X. (Rept. 102–469, pt. 1). And ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ANDREWS of Texas:

H.R. 4588. A bill to amend the Internal Revenue Code of 1986 to simplify the application of the provisions relating to deposit requirements for employment taxes; to the Committee on Ways and Means.

By Mr. BALLENGER:

H.R. 4589. A bill to extend the existing suspension of duty on machines designed for heat-set, stretch texturing of continuous manmade fibers; to the Committee on Ways and Means.

By Mr. BILBRAY:

H.R. 4590. A bill to establish the Spring Mountain National Recreation Area in Nevada, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. ENGLISH (for himself, Mr. BREWSTER, and Mr. RANGEL):

H.R. 4591. A bill to amend the Job Training Partnership Act to establish a community works progress program, a youth community corps program, and a national youth community corps program, and for other purposes; jointly, to the Committees on Education and Labor and Ways and Means.

By Mr. FALEOMAVAEGA:

H.R. 4592. A bill to amend the Native American Programs Act of 1974 to increase the authorization of appropriations, and for other purposes; to the Committee on Education and Labor.

By Mr. FRANKS of Connecticut:

H.R. 4593. A bill to amend the Internal Revenue Code of 1986 to permit loans from individual retirement plans for certain first-time home buyer, education, and medical emergency expenses; to the Committee on Ways and Means.

By Mr. GLICKMAN:

H.R. 4594. A bill to provide for comprehensive health care access expansion and cost control through standardization of private health care insurance and other means; jointly, to the Committees on Energy and Commerce, Ways and Means, the Judiciary, and Rules.

By Mr. HENRY:

H.R. 4595. A bill to encourage institutions of higher education to use Federal research and development funding for the support of American students, and for other purposes; jointly, to the Committees on Science, Space, and Technology and Education and Labor.

By Mr. HOLLOWAY:

H.R. 4596. A bill to suspend until January 1, 1995, the duty on Aminochlorotoulene [ACT]; to the Committee on Ways and Means.

By Mr. KANJORSKI:

H.R. 4597. A bill to suspend until January 1, 1995, the duty on 4-(6-fluoro-2 methyl indine-3-methyl) phenyl methyl sulphide dissolved in toulene, also known as IN–4; to the Committee on Ways and Means.

H.R. 4598. A bill to suspend until January 1, 1995, the duty on p-nitrobenzyl alcohol; to the Committee on Ways and Means.

By Mr. MORAN:

H.R. 4599. A bill to protect the privacy of individuals by restricting access to driver's license information; to the Committee on the Judiciary.

By Mr. SANTORUM:

H.R. 4600. A bill to eliminate the tobacco price support program; to the Committee on Agriculture.

H.R. 4601. A bill to provide for an annual disaster assistance program for agricultural producers in lieu of crop insurance provided through the Federal Crop Insurance Corporation; to the Committee on Agriculture.

H.R. 4602. A bill to amend the Food Security Act of 1985 to strengthen payment limitations on the total amount of deficiency payments that may be made to a person under commodity programs and to restrict eligibility for participation in such programs; to the Committee on Agriculture.

H.R. 4603. A bill to amend the Agricultural Act of 1949 to reduce the number of payment acres used for the calculation of deficiency payments for program crops; to the Committee on Agriculture.

H.R. 4604. A bill to amend the Agricultural Act of 1949 to lower the target price of program crops in commodity programs operated by the Department of Agriculture; to the Committee on Agriculture.

H.R. 4605. A bill to reduce the loan subsidies available from the Rural Electrification Administration, and to require such administration, in providing loan guarantees, to charge a fee equal to 1 percent of the amounts guaranteed; to the Committee on Agriculture.

H.R. 4606. A bill to direct that the SSN-21 Seawolf Attack Submarine Program be terminated; to the Committee on Armed Services.

H.R. 4607. A bill to require that the Strategic Defense Initiative Program be carried out as a research and development program, without deployment of any antiballistic missile systems other than 100 ground-based missile interceptors deployed consistent with the 1972 ABM Treaty; to the Committee on Armed Services.

H.R. 4608. A bill to cancel the remainder of the B-2 Bomber Aircraft Program; to the Committee on Armed Services.

H.R. 4609. A bill to suspend indefinitely the activities of the Department of Energy relating to the production of nuclear weapons: to the Committee on Armed Services.

By Mrs. SCHROEDER:

H.R. 4610. A bill to amend title 11 of the United States Code with respect to supplemental permanent injunctions; to the Committee on the Judiciary.

By Mr. SHAW (for himself and Mr. Gingrich):

H.R. 4611. A bill to amend title 28, United States Code, to include Members of Congress among the officers and employees of the Government with respect to whom independent counsel would be appointed in certain circumstances; to the Committee on the Judiciary.

By Mr. SOLOMON:

H.R. 4612. A bill to repeal and prohibit all privileges and gratuities for members of the U.S. House of Representatives; to the Committee on House Administration.

By Mr. THOMAS of Wyoming:

H.R. 4613. A bill to clarify the application of Federal preemption of State and local laws, to preserve State and local legislative rights and prerogatives, and for other purposes; to the Committee on Government Operations.

By Mr. TRAFICANT:

H.R. 4614. A bill to direct the Secretary of Transportation to conduct a research and development program on the use of nonhazardous solid wastes in the construction of the surface transportation system; to the Committee on Science, Space, and Technology.

By Mrs. UNSOELD (for herself, Mr. Swift, Mr. Morrison, and Mr. Dicks):

H.R. 4615. A bill to contribute to the conservation of the northern spotted owl and the protection of old growth resources through support for an experimental management program on State-owned trust lands on the western Olympic Peninsula of the State of Washington; jointly, to the Committees on Merchant Marine and Fisheries and Agriculture.

By Mr. ZIMMER:

H.R. 4616. A bill to amend the Internal Revenue Code of 1986 with respect to treatment of certain bargain sales of real property; to the Committee on Ways and Means.

By Mr. FAWELL (for himself and Mr. Penny (both by request), Mr. Allard, Mr. Armey, Mr. Ballenger, Mr. Boehner, Mr. Burton of Indiana, Mr. Crane, Mr. Ewing, Mr. Hancock, Mr. Hastert, Mr. Hyde, Mr. Klug, Mr. Nussle, Mr. Packard, Mr. Porter, Mr. Stearns, Mr. Walker, Mr. Zimmer, and Mr. Doolittle):

H.R. 4617. A bill to rescind certain budget authority proposed to be rescinded (R92-2 through R92-7, R92-9 through R92-16, and R92-18 through R92-33) in a special message transmitted to the Congress by the President on March 10, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4618. A bill to rescind certain budget authority proposed to be rescinded (R92-35) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4619. A bill to rescind certain budget authority proposed to be rescinded (R92-36) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4620. A bill to rescind certain budget authority proposed to be rescinded (R92-37) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4621. A bill to rescind certain budget authority proposed to be rescinded (R92-38) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4622. A bill to rescind certain budget authority proposed to be rescinded (R92-39) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4623. A bill to rescind certain budget authority proposed to be rescinded (R92-40) in a special message transmitted to the Congress by the President on March 20, 1992 in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4624. A bill to rescind certain budget authority proposed to be rescinded (R92-41) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4625. A bill to rescind certain budget authority proposed to be rescinded (R92-42) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. FAWELL (for himself and Mr. Penny (both by request), Mr. Allard, Mr. Armey, Mr. Ballenger, Mr. Boehner, Mr. Burton of Indiana, Mr. Crane, Mr. Ewing, Mr. Hancock, Mr. Hastert, Mr. Hyde, Mr. Klug, Mr. Nussle, Mr. Packard, Mr. Porter, Mr. Stearns, Mr. Walker, Mr. Zimmer, Mr. Doolittle, and Mr. Stenholm):

H.R. 4626. A bill to rescind certain budget authority proposed to be rescinded (R92-43) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4627. A bill to rescind certain budget authority proposed to be rescinded (R92-44) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4628. A bill to rescind certain budget authority proposed to be rescinded (R92-45) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4629. A bill to rescind certain budget authority proposed to be rescinded (R92-46) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4630. A bill to rescind certain budget authority proposed to be rescinded (R92-47) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4631. A bill to rescind certain budget authority proposed to be rescinded (R92-48) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4632. A bill to rescind certain budget authority proposed to be rescinded (R92-49) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4633. A bill to rescind certain budget authority proposed to be rescinded (R92-50) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4634. A bill to rescind certain budget authority proposed to be rescinded (R92-51) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4635. A bill to rescind certain budget authority proposed to be rescinded (R92-52) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4636. A bill to rescind certain budget authority proposed to be rescinded (R92-53) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4637. A bill to rescind certain budget authority proposed to be rescinded (R92-54) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4638. A bill to rescind certain budget authority proposed to be rescinded (R92–55) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4639. A bill to rescind certain budget authority proposed to be rescinded (R92–56) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4640. A bill to rescind certain budget authority proposed to be rescinded (R92–57) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4641. A bill to rescind certain budget authority proposed to be rescinded (R92–58) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4642. A bill to rescind certain budget authority proposed to be rescinded (R92–59) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4643. A bill to rescind certain budget authority proposed to be rescinded (R92–60) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4644. A bill to rescind certain budget authority proposed to be rescinded (R92–61) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. FAWELL (for himself and Mr. PENNY (both by request), Mr. ALLARD, Mr. ARMEY, Mr. BALLENGER, Mr. BOEHNER, Mr. BURTON of Indiana, Mr. CRANE, Mr. EWING, Mr. HANCOCK, Mr. HASTERT, Mr. HYDE, Mr. KLUG, Mr. NUSSLE, Mr. PACKARD, Mr. PORTER, Mr. STEARNS, Mr. WALKER, Mr. ZIMMER, and Mr. DOOLITTLE):

H.R. 4645. A bill to rescind certain budget authority proposed to be rescinded (R92–62) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4646. A bill to rescind certain budget authority proposed to be rescinded (R92–63) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4647. A bill to rescind certain budget authority proposed to be rescinded (R92–64) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4648. A bill to rescind certain budget authority proposed to be rescinded (R92–65) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. FAWELL (for himself and Mr. PENNY (both by request), Mr. ALLARD, Mr. ARMEY, Mr. BALLENGER, Mr. BOEHNER, Mr. BURTON of Indiana, Mr. CRANE, Mr. EWING, Mr. HANCOCK, Mr. HASTERT, Mr. HYDE, Mr. KLUG, Mr. NUSSLE, Mr. PACKARD, Mr. PORTER, Mr. STEARNS, Mr. WALKER, Mr. ZIMMER, Mr. DOOLITTLE, and Mr. STENHOLM).

H.R. 4649. A bill to rescind certain budget authority proposed to be rescinded (R92–66) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4650. A bill to rescind certain budget authority proposed to be rescinded (R92–67) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4651. A bill to rescind certain budget authority proposed to be rescinded (R92–68) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4652. A bill to rescind certain budget authority proposed to be rescinded (R92–69) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4653. A bill to rescind certain budget authority proposed to be rescinded (R92–70) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4654. A bill to rescind certain budget authority proposed to be rescinded (R92–71) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4655. A bill to rescind certain budget authority proposed to be rescinded (R92–72) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4656. A bill to rescind certain budget authority proposed to be rescinded (R92–73) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4657. A bill to rescind certain budget authority proposed to be rescinded (R92–74) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4658. A bill to rescind certain budget authority proposed to be rescinded (R92–75) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4659. A bill to rescind certain budget authority proposed to be rescinded (R92–76) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4660. A bill to rescind certain budget authority proposed to be rescinded (R92–77) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4661. A bill to rescind certain budget authority proposed to be rescinded (R92–78) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4662. A bill to rescind certain budget authority proposed to be rescinded (R92–79) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4663. A bill to rescind certain budget authority proposed to be rescinded (R92–80) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4664. A bill to rescind certain budget authority proposed to be rescinded (R92–81) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4665. A bill to rescind certain budget authority proposed to be rescinded (R92–82) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4666. A bill to rescind certain budget authority proposed to be rescinded (R92–83) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4667. A bill to rescind certain budget authority proposed to be rescinded (R92–84) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4668. A bill to rescind certain budget authority proposed to be rescinded (R92–85) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4669. A bill to rescind certain budget authority proposed to be rescinded (R92–86) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4670. A bill to rescind certain budget authority proposed to be rescinded (R92–87) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. FAWELL (for himself and Mr. PENNY (both by request), Mr. ALlard, Mr. Armey, Mr. Ballenger, Mr. Boehner, Mr. Burton of Indiana, Mr. Crane, Mr. Ewing, Mr. Hancock, Mr. Hastert, Mr. Hyde, Mr. Klug, Mr. Nussle, Mr. Packard, Mr. Porter, Mr. Stearns, Mr. Walker, Mr. Zimmer, and Mr. Doolittle):

H.R. 4671. A bill to rescind certain budget authority proposed to be rescinded (R92-88) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. FAWELL (for himself and Mr. Penny (both by request), Mr. Allard, Mr. Armey, Mr. Ballenger, Mr. Boehner, Mr. Burton of Indiana, Mr. Crane, Mr. Ewing, Mr. Hancock, Mr. Hastert, Mr. Hyde, Mr. Klug, Mr. Nussle, Mr. Packard, Mr. Porter, Mr. Stearns, Mr. Walker, Mr. Zimmer, Mr. Doolittle, and Mr. Stenholm):

H.R. 4672. A bill to rescind certain budget authority proposed to be rescinded (R92-89) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4673. A bill to rescind certain budget authority proposed to be rescinded (R92-90) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. FAWELL (for himself and Mr. Penny (both by request)) Mr. Allard, Mr. Armey, Mr. Ballenger, Mr. Boehner, Mr. Burton of Indiana, Mr. Crane, Mr. Ewing, Mr. Hancock, Mr. Hastert, Mr. Hyde, Mr. Klug, Mr. Nussle, Mr. Packard, Mr. Porter, Mr. Stearns, Mr. Walker, Mr. Zimmer, and Mr. Doolittle):

H.R. 4674. A bill to rescind certain budget authority proposed to be rescinded (R92-91) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4675. A bill to rescind certain budget authority proposed to be rescinded (R92-92) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4676. A bill to rescind certain budget authority proposed to be rescinded (R92-93) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4677. A bill to rescind certain budget authority proposed to be rescinded (R92-94) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. FAWELL (for himself and Mr. Penny (both by request)), Mr. Allard, Mr. Armey, Mr. Ballenger, Mr. Boehner, Mr. Burton of Indiana, Mr. Crane, Mr. Ewing, Mr. Hancock, Mr. Hastert, Mr. Hyde, Mr. Klug, Mr. Nussle, Mr. Packard, Mr. Porter, Mr. Stearns, Mr. Walker, Mr. Zimmer, Mr. Doolittle, and Mr. Stenholm):

H.R. 4678. A bill to rescind certain budget authority proposed to be rescinded (R92-95) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4679. A bill to rescind certain budget authority proposed to be rescinded (R92-96) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4680. A bill to rescind certain budget authority proposed to be rescinded (R92-97) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4681. A bill to rescind certain budget authority proposed to be rescinded (R92-98) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4682. A bill to rescind certain budget authority proposed to be rescinded (R92-99) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

H.R. 4683. A bill to rescind certain budget authority proposed to be rescinded (R92-100) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. FAWELL (for himself and Mr. Penny (both by request), Mr. Allard, Mr. Armey, Mr. Ballenger, Mr. Boehner, Mr. Burton of Indiana, Mr. Crane, Mr. Ewing, Mr. Hancock, Mr. Hastert, Mr. Hyde, Mr. Klug, Mr. Nussle, Mr. Packard, Mr. Porter, Mr. Stearns, Mr. Walker, Mr. Zimmer, and Mr. Doolittle):

H.R. 4684. A bill to rescind certain budget authority proposed to be rescinded (R92-101 and R92-102) in a special message transmitted to the Congress by the President on March 20, 1992, in accordance with section 1012 of the Impoundment Control Act of 1974; to the Committee on Appropriations.

By Mr. ANDREWS of Texas (for himself and Mr. Archer):

H.R. 4685. A bill to extend until January 1, 1995, the existing suspension of duty on furniture of unspun fibrous vegetable materials; to the Committee on Ways and Means.

H.R. 4686. A bill to extend until January 1, 1995, the existing suspension of duty on certain wicker products; to the Committee on Ways and Means.

By Mr. CAMPBELL of California:

H.R. 4687. A bill to direct the Secretary of the Interior to enter into negotiations with the State of California to transfer the Central Valley project to the State; to the Committee on Interior and Insular Affairs.

By Mr. DeFAZIO:

H.R. 4688. A bill to amend the Federal Aviation Act of 1958 to clarify that a Federal preemption of State regulation relating to rates, routes, or services of air carriers does not prohibit State regulation of intrastate motor carriage by air carriers; to the Committee on Public Works and Transportation.

By Mr. GEKAS:

H.R. 4689. A bill to require excess campaign funds to be deposited in the Treasury when the recipient leaves Federal office; to the Committee on House Administration.

By Mr. LAGOMARSINO (for himself, Mr. Regula, Mr. Tallon, Mr. McDade, Mr. Lewis of Florida, Mr. Kolbe, Mr. Glickman, Mr. Campbell of Colorado, and Mr. Rhodes):

H.R. 4690. A bill to amend the Land and Water Conservation Fund Act of 1965 to provide for the establishment of the America the Beautiful Passport to facilitate access to certain federally administered lands and waters, and enhance recreation and visitor facilities thereon; to the Committee on Interior and Insular Affairs.

By Mr. OBERSTAR (for himself, Mr. Roe, Mr. Hammerschmidt, and Mr. Clinger):

H.R. 4691. A bill to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1993 and 1994, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. STEARNS:

H.R. 4692. A bill to amend title 2, United States Code, to provide that an increase in the rate of pay for members of Congress may not go into effect following a budget deficit in the preceding fiscal year; to the Committee on House Administration.

By Mr. TAUZIN (for himself, Mr. Bateman, Mr. Jones of North Carolina, Mr. Davis, and Mr. Fields):

H.R. 4693. A bill to amend title 46, United States Code, to prohibit the establishment and collection of any fee or charge for the issuance of any merchant mariners' document, license, or certificate of registry; to the Committee on Merchant Marine and Fisheries.

By Mr. YOUNG of Alaska:

H.R. 4694. A bill to provide for settlement of the land rights of the Kenai Natives Association, Inc., under section 14(h)(3) of the Alaska Native Claims Settlement Act, by providing for an authorizing grants and exchanges of lands and interest between such corporation and the United States, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. GRANDY:

H.J. Res. 452. Joint resolution designating the week of September 14 through September 20, 1992, as "National Small Independent Telephone Company Week"; to the Committee on Post Office and Civil Service.

By Mr. ROSE:

H.J. Res. 453. Joint resolution designating August 15, 1992, as "82d Airborne Division 50th Anniversary Recognition Day"; to the Committee on Post Office and Civil Service.

By Mr. STOKES (for himself, Mr. Conyers, Mr. Brooks, Mr. Rose, Mr. Hamilton, Mr. Moakley, Mr. Fazio, Mr. Horton, Mr. Traficant, Mr. Weldon, Mr. Clay, Mr. Campbell of Colorado, Mr. Rohrabacher, Mr. AuCoin, Mr. Pickett, Mr. Leach, Mr. Miller of California, Mr. Jacobs, Mr. Clement, Mr. Wylie, Mrs. Schroeder, Mr. Serrano, Mr. McNulty, Mr. Martinez, Mr. Santorum, Mr. Lewis of Florida, Mr. Sharp, Mr. Dreier, Mr. Kopetski, Mr. Bereuter, Mr. Emerson, Mr. Waxman, Mr. Hefley, Mr. Peterson of Florida, Mr. Gilman, Mr. Bacchus, Mr. Skaggs, Ms. Slaughter, Mr. Slattery, Mr. Abercrombie, and Mr. Mineta):

H.J. Res. 454. Joint resolution to provide for the expeditious disclosure of records relevant to the assassination of President John F. Kennedy; jointly, to the Committees on House Administration, Government Operations, Rules, and the Judiciary.

By Mr. SARPALIUS:

H.J. Res. 455. Joint resolution designating the 7-day period beginning on October 1, 1992, as "National Myasthenia Gravis Awareness Week"; to the Committee on Post Office and Civil Service.

By Mr. BILBRAY (for himself Mr. FASCELL, Mr. HAMILTON, Mr. SOLARZ, and Mr. GILMAN):

H. Con. Res. 299. Concurrent resolution expressing the sense of the Congress regarding the Kurds in northern Iraq; to the Committee on Foreign Affairs.

By Mr. HUGHES (for himself, Mr. SAXTON, Mr. ANDREWS of New Jersey, and Mr. GALLO):

H. Res. 406. Resolution amending the Rules of the House of Representatives to eliminate perquisites for Members of the House of Representatives, and for other purposes; to the Committee on Rules.

By Mr. BENNETT:

H. Res. 407. Resolution expressing the sense of the House of Representatives that Members who violated the law in the use of the Sergeant of Arms bank should be prosecuted and imposing a charge for checks drawn with insufficient funds; jointly to the Committees on the Judiciary and Rules.

By Mr. WYLIE:

H. Res. 408. Resolution providing for a study by the Comptroller General to determine the nature, extent, and cost of perquisites available to Members of the House and for action to reform such perquisites before the end of the 102d Congress; to the Committee on House Administration.

By Mr. GAYDOS:

H. Res. 409. Resolution providing amounts from the contingent fund of the House for continuing expenses of investigations and studies by the standing and select committees of the House from April 1, 1992, through April 30, 1992; considered and agreed to.

By Mr. PORTER:

H. Res. 411. Resolution commending President F.W. de Klerk, the south African Government, and the people of South Africa; to the Committee on Foreign Affairs.

PRIVATE RESOLUTION

Under clause 1 of rule XXII:

Mr. SARPALIUS introduced concurrent resolution (H. Con. Res. 300) recognizing the commitment of Cal Farley's Boys Ranch and Girlstown U.S.A. to raising young people, many of who are from broken homes; which was referred to the Committee on Education and Labor.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. JOHNSON of Texas, Mr. STUMP, Mr. DELAY, and Mr. SUNDQUIST.

H.R. 28: Mr. DUNCAN.

H.R. 44: Mr. LUKEN, Mr. BOEHNER, Mr. SMITH of Texas, Mr. BLAZ, Mr. CAMP, Mr. LEWIS of Florida, Mr. LANTOS, Mr. GUARINI, Mr. BROWDER, Mr. WALSH, Mr. KOPETSKI, Mr. JOHNSON of South Dakota, Mr. SUNDQUIST, Ms. HORN, Mr. TALLON, Mr. MINETA, Mr. BLACKWELL, Mr. MCDADE, Mr. ROGERS, and Mr. DOOLEY.

H.R. 298: Mr. ALLARD, Mr. FIELDS, Mr. GILLMOR, Mr. BOEHLERT, Mr. EWING, Mr. GEKAS, and Mr. ALLEN.

H.R. 423: Mr. CHANDLER.

H.R. 481: Mr. SWETT.

H.R. 786: Mr. KOPETSKI and Mr. MARLENEE.

H.R. 792: Mr. BAKER.

H.R. 840: Mr. SANDERS, Mr. RIGGS, and Mr. HATCHER.

H.R. 911: Mr. HERTEL, Mr. NAGLE, and Mr. YATRON.

H.R. 999: Mr. GILCHREST.

H.R. 1066: Mr. MORAN and Mr. DOWNEY.

H.R. 1289: Mr. ROHRABACHER.

H.R. 1406: Mr. REGULA.

H.R. 1443: Mr. JACOBS, Mr. JEFFERSON, Mr. LEWIS of Georgia, and Mr. DWYER of New Jersey.

H.R. 1633: Mrs. ROUKEMA.

H.R. 1755: Mr. ALLEN.

H.R. 1770: Mr. ATKINS and Mr. TOWNS.

H.R. 1886: Mr. SABO, Mr. KOSTMAYER, Mr. SIKORSKI, AND Mr. KOLTER.

H.R. 1889: Mr. BALLENGER, Mr. CONDIT, and Mr. HARRIS.

H.R. 1900: Mr. GUNDERSON.

H.R. 2017: Mr. MARTINEZ.

H.R. 2390: Mr. COLEMAN of Texas.

H.R. 2419: Mr. GRANDY, Mr. KOPETSKI, Mrs. UNSOELD, Mr. WOLPE, and Mr. FROST.

H.R. 2452: Mr. BATEMAN.

H.R. 2648: Ms. WATERS.

H.R. 2773: Mr. COX of California.

H.R. 2840: Mr. JACOBS.

H.R. 2906: Mr. PETERSON of Minnesota.

H.R. 2936: Mr. MCMILLEN of Maryland, Mr. PACKARD, and Mr. STUDDS.

H.R. 3121: Mrs. MORELLA, Mr. SCHIFF, and Mr. BILIRAKIS.

H.R. 3146: Mr. CAMPBELL of California.

H.R. 3221: Mr. LEACH, Mr. SMITH of New Jersey, Mr. DANNEMEYER, Mr. LOWERY of California, Mr. ALLARD, Mr. HUNTER, Mr. MILLER of Ohio, and Mr. ZELIFF.

H.R. 3292: Mr. MARKEY and Mrs. UNSOELD.

H.R. 3360: Mr. LAFALCE, Mr. HAYES of Louisiana, Mr. VALENTINE, Mr. ROE, Mr. MARTINEZ, and Mr. MINETA.

H.R. 3429: Mr. GILCHREST and Mr. CARDIN.

H.R. 3486: Mr. WEISS.

H.R. 3516: Mr. BAKER and Mr. MORAN.

H.R. 3555: Mr. CAMPBELL of Colorado, Mr. GOSS, Mr. IRELAND, and Ms. LONG.

H.R. 3605: Mr. BEILENSON.

H.R. 3668: Mr. BENNETT, Mr. CAMPBELL of Colorado, Mr. LEWIS of Florida, Mr. HERGER, Mr. VALENTINE, Ms. HORN, and Mr. JONTZ.

H.R. 3712: Mr. SOLOMON, Mr. EMERSON, Mr. RAVENEL, Mr. COX of California, and Mr. WEBER.

H.R. 3780: Mr. GILCHREST.

H.R. 3836: Mr. MRAZEK and Mrs. LOWEY of New York.

H.R. 3850: Mr. DICKINSON, Mr. BAKER, Mr. PACKARD, Mr. LAUGHLIN, Mrs. ROUKEMA, Mr. SOLOMON, Mr. MYERS of Indiana, Mr. HANCOCK, Mr. HAMMERSCHMIDT, Mr. GEKAS, Mr. BURTON of Indiana, Ms. MOLINARI, Mr. BARTON of Texas, Mr. DAVIS, and Mr. VANDER JAGT.

H.R. 3857: Mr. TAYLOR of North Carolina.

H.R. 3861: Mr. ZELIFF.

H.R. 3930: Mr. WYDEN, Mr. DELLUMS, Mr. EVANS, Mr. MURPHY, Mr. FOGLIETTA, Mr. HOCHBRUECKNER, Mr. RAHALL, and Mr. JONES of North Carolina.

H.R. 3961: Mr. ABERCROMBIE.

H.R. 3967: Mr. BATEMAN and Mr. DELAY.

H.R. 4022: Mr. TOWNS, Mr. BONIOR, Mr. GUARINI, Mr. HOCHBRUECKNER, Mr. SERRANO, Mr. MFUME, Mr. SAVAGE, Mr. PAYNE of New Jersey, Mr. JEFFERSON, Mrs. COLLINS of Illinois, Mr. TRAFICANT, and Mr. MAZZOLI.

H.R. 4045: Mr. MORAN.

H.R. 4073: Mr. FORD of Tennessee and Mr. MURPHY.

H.R. 4100: Mr. WHEAT, Mr. LEWIS of Georgia, and Mr. VOLKMER.

H.R. 4166: Mr. FROST, Mr. LIPINSKI, and Mrs. BOXER.

H.R. 4182: Mr. PACKARD.

H.R. 4207: Mr. BILBRAY and Mr. JONTZ.

H.R. 4211: Mr. DANNEMEYER and Mr. KENNEDY.

H.R. 4226: Mr. INHOFE, Mr. ZIMMER, Mr. SENSENBRENNER, and Mr. STALLINGS.

H.R. 4271: Mr. HARRIS, Mr. THOMAS of Georgia, Mr. BILBRAY, Mr. CAMPBELL of California, Mr. MCNULTY, Ms. PELOSI, and Ms. KAPTUR.

H.R. 4272: Mr. MICHEL, Mr. LEWIS of California, Mr. GINGRICH, Mr. SOLOMON, Mr. WALKER, Mr. LIVINGSTON, Mr. BARRETT, Mr. CARPER, Mr. HENRY, Mr. REGULA, Mr. RITTER, Mr. SANDERS, Mr. IRELAND, and Mr. AUCOIN.

H.R. 4275: Mr. JOHNSON of Texas, Mr. SHAYS, Mr. RHODES, Mr. CAMP, Mr. POSHARD, and Mr. LEVIN of Michigan.

H.R. 4295: Mr. DELAY.

H.R. 4315: Mr. PACKARD, Mr. KASICH, and Mr. ORTON.

H.R. 4375: Mr. SMITH of Oregon and Mr. EMERSON.

H.R. 4399: Mr. HUGHES.

H.R. 4416: Mrs. MINK, Mr. MORAN, Mr. MFUME, Mr. LEWIS of Georgia, and Mr. FASCELL.

H.R. 4427: Mr. MARTINEZ, Mr. SANDERS, and Mr. POSHARD.

H.R. 4446: Mr. SMITH of Oregon, Mr. HYDE, Mr. TAYLOR of Mississippi, Mr. MARTINEZ, Mr. HUCKABY, and Mr. PAYNE of Virginia.

H.R. 4453: Mr. CHAPMAN.

H.R. 4460: Mr. SCHIFF.

H.R. 4526: Mr. ANTHONY, Mr. ENGEL, Mr. HUGHES, Mr. HYDE, and Mr. OXLEY.

H.R. 4564: Mr. JOHNSON of South Dakota.

H.R. 4566: Mr. JOHNSON of South Dakota.

H.R. 4571: Mr. WAXMAN.

H.J. Res. 290: Mr. TRAFICANT.

H.J. Res. 357: Mr. BEILENSON.

H.J. Res. 371: Mr. KASICH, Mr. MOAKLEY, and Mr. MOORHEAD.

H.J. Res. 378: Mr. GILMAN.

H.J. Res. 393: Mr. ACKERMAN, Mr. ANDERSON, Mr. ANDREWS of New Jersey, Mr. BALLENGER, Mr. BERMAN, Mr. BILBRAY, Mrs. BOXER, Mr. BREWSTER, Mr. BROWDER, Mr. BRUCE, Mr. CARDIN, Mr. CLAY, Mr. CLEMENT, Mr. COLEMAN of Texas, Mr. CONYERS, Mr. COUGHLIN, Mr. DAVIS, Mr. DELLUMS, Mr. DE LUGO, Mr. DIXON, Mr. ERDREICH, Mr. FAZIO, Mr. FORD of Michigan, Mr. FROST, Mr. GONZALEZ, Mr. GUARINI, Mr. HEFNER, Mr. HOCHBRUECKNER, Mr. JEFFERSON, Mrs. JOHNSON of Connecticut, Mr. JOHNSON of South Dakota, Mr. JOHNSTON of Florida, Mr. JONES of Georgia, Mr. JONES of North Carolina, Mr. JONTZ, Mr. KANJORSKI, Mr. KASICH, Mr. KILDEE, Mr. KLUG, Mr. LAFALCE, Mr. LANCASTER, Mr. LEHMAN of Florida, Mr. LENT, Mr. LIPINSKI, Mr. LIVINGSTON, Mrs. LLOYD, Mr. MARKEY, Mr. MATSUI, Mr. MAVROULES, Mr. MCGRATH, Mr. MCMILLEN of Maryland, Mrs. MEYERS of Kansas, Mr. MFUME, Mr. MILLER of Washington, Mr. MOORHEAD, Mr. MORAN, Mr. NOWAK, Ms. OAKAR, Mr. OBERSTAR, Mr. ORTIZ, Mr. OWENS of New York, Mr. PAXON, Mr. PAYNE of New Jersey, Mr. POSHARD, Mr. PURSELL, Mr. RANGEL, Mr. ROE, Mr. ROHRABACHER, Mrs. ROUKEMA, Mr. SANDERS, Mr. SANGMEISTER, Mr. SAVAGE, Mr. SCHUMER, Mr. SKEEN, Mr. SKELTON, Ms. SLAUGHTER, Mr. SPRATT, Mr. TANNER, Mr. TAYLOR of North Carolina, Mr. THOMAS of Georgia, Mr. TRAXLER, Mrs. UNSOELD, Mr. VALENTINE, Mr. VANDER JAGT, Mrs. VUCANOVICH, Mr. WALSH, Mr. WAXMAN, Mr. WEBER, Mr. WILSON, Mr. WISE, and Mr. WOLF.

H.J. Res. 399: Mr. LAFALCE and Mr. WALSH.

H.J. Res. 424: Mr. KOSTMAYER, Mr. FOGLIETTA, Mr. MINETA, Mr. BLAZ, Mr. BATEMAN, and Mr. HERTEL.

H.J. Res. 430: Mr. KANJORSKI, Mr. BLILEY, Mr. POSHARD, Mr. CLEMENT, Mr. MYERS of Indiana, Mr. LANCASTER, Mr. HATCHER, Mr. BUSTAMANTE, Mr. WASHINGTON, Mr. JONES of North Carolina, Mr. SAVAGE, Ms. PELOSI, Mr. BATEMAN, Mr. GILMAN, Mr. SHAYS, and Mr. FOGLIETTA.

H.J. Res. 432: Mr. CLEMENT, Ms. HORN, Mr. COLORADO, Mr. HORTON, Mr. HUGHES, Mr. ALEXANDER, Mr. MCMILLEN of Maryland, Mr. MATSUI, and Mr. BENNETT.

H.J. Res. 439: Mr. GUARINI and Mr. LIPINSKI.

H.J. Res. 440: Mr. ATKINS, Mr. FALEOMAVAEGA, Mr. KOPETSKI, Mr. LEVIN of Michigan, Mr. MCDERMOTT, Mr. MCHUGH, Mr. RANGEL, Mr. STUDDS, and Mr. YATES.

H.J. Res. 447: Mr. THOMAS of Wyoming.

H.J. Res. 450: Mr. MCNULTY, Mr. MCMILLEN of Maryland, Mr. POSHARD, Mr. LIPINSKI, Mr. LANCASTER, Ms. MOLINARI, and Mr. CRAMER.

H. Con. Res. 224: Mr. MILLER of California.

H. Con. Res. 246: Mr. MOLLOHAN, Mr. ERDREICH, Mr. PAYNE of New Jersey, Mr. DOOLEY, Mr. MOAKLEY, Mr. WASHINGTON, Mr. STALLINGS, Mr. REED, Mr. FORD of Tennessee, Mrs. LOWEY of New York, Mr. WHEAT, Mr. ACKERMAN, Mr. HATCHER, Mr. HALL of Ohio, and Mr. JEFFERSON.

H. Con. Res. 263: Mr. KOLTER.

H. Con. Res. 276: Mr. EMERSON, Mr. VOLKMER, Mr. WOLF, and Mr. HASTERT.

H. Res. 26: Mr. DOOLITTLE, Mr. SAXTON, Mrs. BYRON, and Ms. MOLINARI.

H. Res. 204: Mr. HARRIS.

H. Res. 377: Mr. MCCLOSKEY and Mr. KOSTMAYER.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 3732

By Mr. SOLOMON:

—Strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Budget Process Reform Act of 1992".

SEC. 2. LEGISLATIVE LINE ITEM VETO RESCISSION AUTHORITY.

(a) SHORT TITLE.—This section may be cited as the "Legislative Line Item Veto Act of 1992".)

(b) IN GENERAL.—Notwithstanding the provisions of part B of title X of The Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind all or part of any discretionary budget authority for fiscal year 1993 which is subject to the terms of this Act if the President—

(1) determines that—

(A) such rescission would help balance the Federal budget, reduce the Federal budget deficit, or reduce the public debt;

(B) such rescission will not impair any essential Government functions;

(C) such rescission will not harm the national interest; and

(D) such rescission will directly contribute to the purpose of this Act of limiting discretionary spending in fiscal year 1993; and

(2) notifies the Congress of such rescission by a special message not later than 20 calendar days (not including Saturdays, Sundays, or holidays) after the date of enactment of a regular or supplemental appropriations Act for fiscal year 1993 or a joint resolution making continuing appropriations providing such budget authority for fiscal year 1993. The President shall submit a separate rescission message for each appropriations bill under this paragraph.

(c) RESCISSION EFFECTIVE UNLESS DISAPPROVED.—(1)(A) Any amount of budget authority rescinded under this section as set forth in a special message by the President shall be deemed canceled unless during the period described in subparagraph (B), a rescission disapproval bill making available all of the amount rescinded is enacted into law.

(B) The period referred to in subparagraph (A) is—

(i) a congressional review period of 20 calendar days of session under subsection (e), during which Congress must complete action on the rescission disapproval bill and present such bill to the President for approval or disapproval;

(ii) after the period provided in clause (i) an additional 10 days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission disapproval bill; and

(iii) if the President vetoes the rescission disapproval bill during the period provided in clause (ii) , an additional 5 calendar days of session after the date of the veto.

(2) If a special message is transmitted by the President under this section during any Congress and the last session of such Congress adjourns sine die before the expiration of the period described in paragraph (1)(B), the rescission shall not take effect. The message shall be deemed to have been retransmitted on the first day of the succeeding Congress and the review period referred to in paragraph (1)(B) (with respect to such message shall run beginning after such first day).

(d) DEFINITIONS.—For purposes of this section the term rescission disapproval bill means a bill or joint resolution which only disapproves a rescission of discretionary budget authority for fiscal year 1993, in whole, rescinded in a special message transmitted by the President under this section.

(e) CONGRESSIONAL CONSIDERATION OF LEGISLATIVE LINE ITEM VETO RESCISSIONS.—

(1) PRESIDENTAL SPECIAL MESSAGE.—WHENEVER THE PRESIDENT RESCINDS ANY BUDGET AUTHORITY AS PROVIDED IN THIS SECTION, THE PRESIDENT SHALL TRANSMIT TO BOTH HOUSES OF CONGRESS A SPECIAL MESSAGE SPECIFYING—

(A) the amount of budget authority rescinded;

(B) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(C) the reasons and justifications for the determination to rescind budget authority pursuant to this section;

(D) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission; and

(E) all factions, circumstances, and considerations relating to or bearing upon the rescission and the decision to effect the rescission, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

(2) TRANSMISSION OF MESSAGES TO HOUSE AND SENATE.—

(A) Each special message transmitted under this section shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate if not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(B) any special message transmitted under this section shall be printed in the first issue of the Federal Register published after such transmittal.

(3) REFERRAL OF RESCISSION DISAPPROVAL BILLS.—

Any rescission disapproval bill introduced with respect to a special message shall be referred to the appropriate committees of the House of Representatives or the Senate, as the case may be.

(4) CONSIDERATION IN THE SENATE.—

(A) Any rescission disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this section.

(B) Debate in the Senate on any rescission disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours. The time shall be equally divided between and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motions or appeal in connection with such bill shall be limited to 1 hour, to be equally divided between, and controlled by the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(D) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days not to exceed 1, not counting any day on which the Senate is not in session) is not in order.

(5) POINTS OF ORDER.—

(A) It shall not be in order in the Senate or the House of Representatives to consider any rescission disapproval bill that relates to any matter other than the rescission budget authority transmitted by the President under this section.

(B) It shall not be in order in the Senate or the House of Representatives to consider any amendment to a recission disapproval bill.

(C) Subparagraphs (A) and (B) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.

EXTENSIONS OF REMARKS

JOHN FROHNMAYER, OUTGOING CHAIRMAN OF THE NATIONAL ENDOWMENT FOR THE ARTS, DISCUSSES THE VITAL IMPORTANCE OF FREEDOM OF EXPRESSION

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. LANTOS. Mr. Speaker, on Monday, March 23, John Frohnmayer, the outgoing chairman of the National Endowment for the Arts, addressed the National Press Club. His speech focused on our first amendment and the importance of freedom of expression within our democracy. Mr. Frohnmayer, as a sacrificial lamb to political expediency by President Bush, speaks with great experience.

In his election year effort to ingratiate himself to extremists—a segment of our society whose skewed view of our first amendment rights is deeply disturbing—President Bush sent Mr. Frohnmayer packing.

John Frohnmayer is a decent and honest man whose commitment to the ideals of free speech and freedom of expression should be praised and welcomed by all of us who abide by the principles upon which our democratic country was founded.

Mr. Speaker, in the context of his involuntary departure from the National Endowment for the Arts, Mr. Frohnmayer's remarks at the National Press Club were extremely insightful. I include his speech in today's RECORD and I urge my colleagues to give it the thoughtful attention it deserves.

SPEECH OF JOHN FROHNMAYER

Thank you very much. I am here with the important people: my wife; my lawyer; my rowing companion, Susan, down there; and of course those of you from the press who have been my constant companions over the last three years.

One caveat at the start of my remarks. They are mine; I am not speaking on behalf of the administration.

(Laughter.)

And one other preliminary, please. And that is that this speech was conceived as a part of the symposium that Sandy Younger and the people at American University have put together with the press club with foreign journalists about freedom of expression and its fate and condition around the world.

As a consequence, I am going to be talking about the First Amendment and some of the problems that we have had with it here in the United States over the last three years.

But I specifically direct my remarks to those foreign journalists because I believe that the First Amendment is our dearest liberty, and one which we should be constantly attempting to export and promote in the rest of the world.

Democracy is constant in the process of becoming. It is never fixed, it is never secure, and it's never comfortable. To protect and renew and maintain our democracy, we have the First Amendment. And one of the very nice things about the freedom of expression calendar, which I have on my back desk, is that everyday one can re-read the First Amendment, and so let me re-read it for you: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press or of the right of the people peaceably to assemble and to petition the government for a redress of grievances.

Each generation must re-enfranchise both our democracy and the First Amendment. And because of three tensions in our society, we as a generation are having more difficulty than most.

What we are really involved here with, in my view, and the arts are the focal point of this, is a redefinition of the social contract for our generation.

I will return to these three tensions in just a moment. But first, the First Amendment tells us that religion, ideas, associations, and the right to criticize the government, belong to the people. Since all art deals with expression, with ideas, all art is speech, and therefore, all art is protected by the First Amendment from government interference except in three very clearly defined areas, which are well known to all of you. Those are: criminal behavior, perjury, fraud, bribery, forgery, that sort of thing; physical dangerous behavior—this is the line of cases following Chaplinsky (phonetic) v. New Hampshire, the fighting-words doctrine, or the famous law that all of you know, crying "Fire" in a crowded theater; and finally obscenity.

And obscenity has a very clear definition. It's the three-part definition from Miller v. California. And unfortunately, in the discourse that I have been so much a part of over the last three years, the attackers of the National Endowment have paid very little attention to the legal definition of obscenity.

They have rather used it to mean whatever it is they don't happen to like. That's not what the word means.

But the rub comes when we, as the government, support individual free expression under the general welfare provision of the Constitution. All civilized governments have done that, and all civilized governments including our own, should do that. But when the government does support free expression, it must do so with a level playing field, no blacklists, and no ideological preconceptions.

When the artist or speaker expresses what some deem to be dangerous or radical or blasphemous or crude ideas, we encounter the kind of free-for-all that we have seen over the last three years. Congress has gotten more mail on this issue, much of it generated by rightwing fundamentalist groups, than Congress has gotten on the savings and loan crisis. And just to put that into perspective, the savings and loan crisis will cost each of us over $2,000. The National Endowment for the Arts costs each of you 68 cents per year.

So, how do we deal with it? First, a little history. For every great age of art, there has been a great age of repression. And one of my favorites of this is Mannheim, Germany, in 1853, when the statue of Venus de Milo was put on trial for nudity and obscenity. This was the statue herself, sitting up there without arms, and draped as you know.

The account does not tell us whether she was read her rights, asked to testify, or even if she'd been struck with a fit of modesty how without arms she would have been able to clothe herself.

Another notable example in the United States, in the 1920s, the jazz age there was an anti-jazz movement to censor this form of American music, a professor proved that women, pregnant women, who listen to jazz had deformed babies. Jazz was described by its critics as decadent and the devil's music composed of jungle rhythms. Even serious critics had problems with the art, stating that since jazz was improvised, it was contrary to discipline.

And critics had their way in some instances. In Chicago a law was passed that made it illegal to play a trumpet or a saxophone after dark, and a ship, an ocean liner, got partway out into the Atlantic, and turned around and summarily dumped the band on the dock for having the temerity to play jazz.

Closer to home, and more immediate, the Endowment funded a film called "Poison" which depicts allegorically the AIDS epidemic, societal violence, homosexual relations. It is an award-winning film, picked by a panel of award-winning directors and film experts.

Congress received thousands of protest letters, most of which came from people who hadn't seen it.

Similarly, the Endowment has funded a publication called the Portable Lower East Side, which contained a graphic and disturbing poem depicting the thoughts of a 13-year-old black child involved in a brutal rape and near killing of a female jogger in Central Park.

Six lines were taken out of context and mailed to members of Congress by the Rev. Donald Wildmon (phonetic), from Tupelo, Mississippi, and I am told that my defense of the literary merit of that poem was the precipitating event of my firing.

Much of the poem was later printed in the Washington Post, which allowed citizens an opportunity to judge for themselves whether it had artistic value.

Artists often without varnish and sometimes without much civility tell us the truth as they see it. And sometimes they're right, and sometimes they're not. Sometimes they're profound. We hope that everything we fund is, but we know that this intellectual research, and that research does not always produce results.

And sometimes the artists tell us unkind truths about ourselves, truths which are difficult to hear, which make us uncomfortable. But as a famous artist put it, artistic growth is a refining of the sense of truthfulness. The stupid believe that to be truthful is easy. Only the artist, the great artist, knows how difficult it is.

Similarly, several works have been attacked by religious groups claiming sac-

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

rilege, or blasphemy, specifically the work of Andre Serrano (phonetic), entitled "Pischrist" (phonetic), and the work of David Wanarolitz (phonetic) depicting Christ with a crown of thorns and a needle in his arm.

Neither of these works, unfortunately, in my view, have provoked theological debate about Christ taking on the sins of the world or the cross as a symbol of man's inhumanity to the son of God. Rather they have been widely depicted, and I think accepted by most, as blasphemous, without any inquiry, really, of what the artist intended by making these pieces.

This is another issue that is entirely driven by fundamentalist religious groups, and I regret to tell you that mainline religion has not entered the field of this debate, and I think that is a great loss, both to us, and to them.

So that sets the stage, and now let me return to the tensions that I mentioned earlier. You remember I said that there were three of them, and the first is the tension between the First Amendment and its premise that we solve our problems through the vigorous clash of ideas, and pervasive strain of anti-intellectualism in American life.

I define anti-intellectualism as the unwillingness to use thought, facts, and critical discourse to solve our problems. And we once had a political party which is well-known to all of you called the Know-Nothings, whose agenda was against Negroes, foreigners, and Catholics. And Abraham Lincoln said that if the Know-Nothings gained control, he would prefer, quote, emigrating to some country where they make no pretense of loving liberty, where despotism can be taken pure and without the base alloy of hypocrisy.

Recently, the utter impotence—I'm sorry, the utter unimportance of facts in the attacks on the Endowment has been astonishing, particularly because many of those attacks have come from alleged religious leaders. But I would tell you that the most shameless of those attacks was that mounted recently by would-be presidential candidate Patrick Buchanan.

The second tension is between the clause prohibiting the establishment of religion in the First amendment, and the sense of closeness that is so pervasive in American political discourse. Take out a nickel. It says, in God we trust. When we say the pledge of allegiance, we pledge relating to one nation under God.

Political leaders feel comfortable telling God to bless us, and there is a sense that one must exercise religion, no matter what it is, to succeed in politics.

Couple political use of religious trappings and the theological reductionism that underlies both fundamentalism and anti-intellectualism and we see why people are calling for laws against blasphemy. And of course you know that the reason that we don't have laws against blasphemy is that both the establishment and the free-exercise clause of the First Amendment prohibit it absolutely.

The third tension is between the right of assembly and the electronic isolation that our technology has brought us. T.S. Eliot said, television is a medium of entertainment which permits millions of people to listen to the same joke at the same time and remain lonesome.

And with the exception of an occasional school board meeting, in my experience there are precious few town meetings or activities where the people of this country assemble to discuss the issues of the day.

The lobbing of electronic bombs by print or airwaves seldom allows an issue to be squarely confronted, let alone debated.

I would say parenthetically that it doesn't have to be that way, and I would suggest one remedy would be unfettered political debates on television where there are no rules than the give-and-take under the control of a moderator.

But Thomas Mann said, and he said this at the time that he was fighting the repression of Hitler's Germany in the 1930s, speech is civilization itself. The word, even the most contradictions (phonetic) word, preserves contact. It is silence which isolates.

And in front of our television sets, we are both silent and isolated. So how do we in this generation reenfranchise the First Amendment and deal with these three tensions that we just described?

It will take in my view a commitment to build a new social understanding, a vigorous and honest debate to redefine the truth and the values that define us.

We hear a lot these days about family values, but I don't see many people defining that term. Truths in this generation and in this time are not self evident. And unless we take advantage of the permission the First Amendment gives us to duke it out intellectually our diverse society will become increasingly brittle until the point that it breaks.

We must address calmly and honestly at least these following issues: racial and ethnic differences; tolerance; equality of economic opportunity; education; individual responsibility.

The answer to none of these issues is clear, so we must be prepared to live with ambiguity, with frustration, with failure, with false starts. To do so will require a generosity of spirit that can be borne only of a commitment not to let our noble experiment in democracy die.

I have some suggestions as to how this discourse might be promoted, and not surprisingly, they involve the arts. The National Endowment for the Arts has a mandate, and I quote to you from our enabling legislation.

The world leadership which has come to the United States cannot rest solely upon superior power, wealth and technology, but must be solidly founded on worldwide respect and admiration for the nation's high qualities as a leader in the realm of ideas and of the spirit.

Art helps define the American spirit, that mix of practicality and spirituality that we must nurture and encourage and defend. Passionate idealists founded this country, and the Constitution reflects that spirit which liberates and guarantees the ascendancy of ideas.

We must educate our children, their hearts and their minds and their bodies, and if we are to remain a world leader a nation of real community, we must teach those children the necessary habits of the mind: mental toughness, and a love of knowledge.

The arts teach that creativity. They challenge students to think broadly, and to attempt anew, and to risk failure. The arts free young people to see and to hear as well as to read and write, to make order out of chaos, to view the world's challenges and problems through multiple perspectives.

The arts help children to dare new expression, try various approaches to problem solving, use intuition as well as reason, and develop the discipline required for success in any area of life.

But the arts are also fundamental to a democratic system, because they demand involvement. Every child who has honestly written a poem or performed a song or dance has been forever changed. That child has made a covenant of honesty and of risk, of communication and of commitment to a community.

That child has laid vulnerable a part of the self, and has placed faith in the community to respond.

In short, that child has become a citizen.

Second, the second way in which the arts can help this discourse which will save us as a country. The arts give us the opportunity to help rebuild community. In this increasingly attack oriented society, we must find some way to begin the dialogue that helps to rebuild the social consensus.

The arts often through nonverbal means give us that opportunity. Look at music, how jazz and salsa and Eastern traditions have influenced Western composition and performance. And the same is true in dance.

Students in grade school, in a class for example in Los Angeles, who have had a weeklong session of artists in the schools teaching them Latino or hispanic music, and dance, and visual arts, are far less likely to go out after school and bash the Latino and hispanic kids in that class.

T.S. Eliot wrote, poetry can communicate before it is understood.

Third, intellectual research. We spend billions of dollars on scientific research. But how much do we spend on development of our humanism? We have cleaved our brains in half, and have left off development of our creative side, that ephemeral ability to make connections between seemingly unrelated ideas or theorems so essential to the growth of mankind's knowledge, is the stock and trade of the arts.

Japan and Germany know this, and art education, art support, and reverence for the arts is central to their societies. Perhaps we will remember it too, and perhaps it will not be too late.

And that leads me to the fourth point, which is intensely practical, and which assumes that economic well-being is necessary to a healthy society.

Our second most positive balance of trade item, after the export of jet planes, is the export of copyrightable materials—movies, television, literature, software. The National Endowment for the Arts has been the farm club for this industry for the last 27 years. The insignificant sum of 68 cents has helped fuel this economic engine of incredible value and wealth to this society.

And on a purely economic analysis, it would be foolhardy to cripple the National Endowment for the Arts.

Upon my abrupt departure, there's been lots of talk about what to do with the Endowment. Rich Bond, the head of the Republican Party, is reported to have said that he might suggest to the president simply to abolish the agency. How cowardly. How ignorant.

What a craven example to the rest of the world.

I fervently hope that the president, if that suggestion is made, will reject such rubbish. Leadership is confronting and wrestling with our problems, not surrendering to what is easiest. Others, Leonard Garment among them, counsel funding only safe art—the work of dead white European males.

(Laughter.)

We are a diverse country. We have diverse voices. It's our greatest strength, and our greatest challenge. To retreat to such a fortress mentality is to abdicate leadership, to admit governmental impotence, and to deprive the next generation of its opportunity to struggle with new work, new ideas, new challenges.

That's not the America that I love.

And some have counselled that Congress simply needs cover. We have to give them some palliative so that they can claim to have stood tall against obscenity when Senator Helms or others introduce their next obscenity amendment, every year, every month, maybe every day.

The decency language that was inserted in 1990 is such a palliative. Decency, of course, is in the mind of the hearer, the receiver, of information. The First Amendment as we remember protects the speaker.

To me the most damning sound bite is not, my opponent voted for obscenity. It is rather, my opponent jettisoned our precious right of free expression to cover his fanny.

All of us in government are sworn to defend the Constitution against all enemies, foreign and domestic. And for two-thirds of both Houses of Congress to have voted for the latest Helms language, which is unconstitutional under every test I know, in my view, violates that oath.

(Applause.)

The answer of how to save the arts endowment is very simple, my friends. It is to reaffirm that we, as a country, want to be a leader in the realm of ideas, and of the spirit.

It is to read and to believe and to embrace the First Amendment, which allows us to be that leader. To kill the endowment because of a few disturbing lines or images poses a far greater threat to this nation than anything the Endowment has ever funded.

It would be a craven admission that we are not strong enough to let all voices be heard.

You and I don't have to like everything that the endowment supports, because your government is not the sponsor of those ideas. The government is merely an enabler. It's like the box that the British provide for speakers to stand on in the Hyde Parks' speaker's corner. The government provides the box; the speaker provides the ideas.

And those ideas belong to our diverse and sometimes brilliant group of artists, patriots who are bold enough to tell the truth as they see it.

And to those of you from other lands where speaking the truth has cost you the lives of loved ones, personal imprisonment, and hardships of the soul, that we in America cannot imagine, I dedicated these words of the poet, Sam Hazzo (phonetic).

I wish you what I wish myself: hard questions, and the nights to answer them. And grace if disappointed. And a right to seem the fool for justice. That's enough. Cowards might ask for more. Heroes have died for less.

(Standing ovation.)

A SPECIAL SALUTE TO THE CENTRO ASTURIANO DE MIAMI

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to extend my warmest congratulations to the members of the Centro Asturiano who will be celebrating the 500th anniversary of the discovery of America.

The members of the Centro Asturiano in Miami will be celebrating the quincentennial this weekend with two events: A hotel banquet in the afternoon of Friday, March 27 and a family style picnic on Sunday, March 29.

During the celebration, they have invited the group of singers/dancers Jovellanos from Gijón to perform, in song and dance, interpretations of the many customs of Asturias. Jovellanos is a 24-member folklore group who have earned several awards and received national and international recognition. They have been acknowledged for their extraordinary quality and authenticity, as well as for the richness of their interpretations.

They have extended invitations to the members of the community to share in these exciting events. Old and new members as well, will take part in the celebrations in a festival of dance, fellowship, and good food.

I would like to congratulate the members of the board on their quincentennial as well as for their commitment and dedication in our community: Francisco Garcia, president; Emilio Gonzalez, vice president; Hilda A. Garcia, secretary; Elisa Garcia, vice secretary; Nati Potesta, treasurer; Enrique Diaz, vice treasurer; as well as Pilar Mayoral, Cecilia Garcia, Elpidio Ravelo, Salustiano Rodriguez, Surama Gonzalez, Rosa Castaño, Mario Marrero, Manuel Castaño, Silvia Ravelo, Luis Menendez, Jose Manuel Alvarez, and Jose Jaime Fernandez.

LOUISVILLE AND JEFFERSON COUNTY SET A FINE EXAMPLE FOR THE ECONOMIC FUTURE OF AMERICA'S URBAN AREAS

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. MAZZOLI. Mr. Speaker, I commend to the attention of my colleagues the following article from the March 14, 1992, edition of the National Journal. The article describes how Louisville and Jefferson County have promoted a cooperative relationship among business, labor, and government to achieve investment in the community, job creation in the area, and a national model for educational reform. By recognizing that all facets of the community have mutual interests, and that, as Neal Peirce writes, each must hold the others "mutually accountable," Louisville and Jefferson County together have created a working example of successful strategies for improving America's urban areas.

[From the National Journal, Mar. 14, 1992]

A HOME RUN FOR LOUISVILLE'S SLUGGERS

(By Neal R. Peirce)

LOUISVILLE.—In the midst of a biting national recession, here's one community that's been fixing some of its bad old habits and finding new ways to keep its head above water. And while many of the nation's major urban areas have been stagnating or even shrinking, here's one that's actually been growing.

Reversing a dramatic loss in manufacturing jobs in the early 1980s, the Louisville market area in the past five years has been gaining an average of 10,000 jobs a year. And its residents' real earnings have grown 9 percent in the past three years.

In the mid-1970s, there was a public uproar over school busing, and in the early 1980s, Louisville was dubbed "Strike city" for its contentious labor relations. But now, the city's schools are being hailed as some of the best in America, and the relations between management and workers are mill-pond quiet.

What happened? How did Louisville turn the tide? Are the city's movers and shakers smart, or just plain lucky?

As it turns out, there was no panacea, no single solution to the problems that ailed this city. Many efforts came together to build a more cohesive and cooperative community—a community, in fact, that's emerged as a thought-provoking model for cities and regions whose leaders feel as if they've slipped their moorings and lost control in this recession.

Leaders here say that they've achieved a kind of restructuring, or perestroika, of the area's economy. As Paul Coomes of the University of Louisville put it, "The city is now known more for artificial-heart surgery than for smokestacks, more as a world air hub for United Parcel Service than for barge and rail traffic."

Politics was part of the transformation. In a community that had gone through two rather bitter city-county merger fights, Jerry Abramson, the mayor, and Harvey Sloane, then-Jefferson County judge (the county's top executive post), cut a deal to share their wage taxes under a negotiated formula. The result: Fewer fights over which government would outbid the other for new and relocating companies.

On the industrial front, a broad coalition decided that radical action was necessary to save the area's Ford Motor Co. plant from extinction. A worker retraining program was put together with state and local government aid. And then the governor, mayor, Jefferson County judge, senior managers of the Ford plant and local United Auto Workers leaders all went to Ford's headquarters in Detroit to argue that the Louisville plant (which, ironically, once produced the ill-fated Edsel) could become the Ford system's most competitive facility.

Ford decided to keep its Louisville plant, invested $260 million in it and trained almost the entire work force in sophisticated new manufacturing techniques. Now, a program of continuous retraining—including everything from a plain-vanilla general education degree to the basics of a master's degree—are available at the plant. Workers participate heavily.

The Ford plant manufactures the husky new four-wheel-drive Explorer, the Ranger pickup truck and—amazingly—a vehicle that Japan's Mazda Motor Corp. buys and calls the Navajo.

Sitting at a table next to the assembly line and listening to Ford, union and local government representatives boast about the plant's training and productivity, one gets the feeling of watching the new approach that Americans will need to do business in the future. Here's a glimpse of a cooperative spirit, based on a mutual desire to avoid an industrial rout, that's replaced the old adversary ways.

Not wanting to leave anything to chance, the area also has a major economic promotion campaign that embraces not just Louisville and its Kentucky neighbors, but counties across the Ohio River in Indiana.

On education, there's been an almost total flip-flop from the bitterness and mediocrity that plagued the schools after the court-ordered 1974 merger of the overwhelmingly black schools here and the mostly white schools in Jefferson County.

Much of the credit apparently goes to Don Ingwerson, a soft-spoken, understated school superintendent. He set up model training procedures for teachers, pared the central bureaucracy and middle management and gave individual schools wide latitude to set up "magnet" programs and shape their own curricula.

When the state government enacted the nation's most sweeping education reform law in 1990, it looked to Jefferson County for advice.

Louisville's business community has been solidly behind the school reforms, with 700 school-business partnerships and $40 million in aid since 1980. Corporations in the area helped to buy enough computers so that the school system will graduate, in 1994, the first class trained on computers from kindergarten through high school. The next project is to buy laptop computers for the kids to work on at home.

By adopting a form of the so-called Boston Compact, Louisville sought to cut the dropout rate in return for promises of training and jobs after graduation. The "compact" failed in Boston when the schools failed to improve student performance. But in Louisville, Malcolm Chancey, the president of the Chamber of Commerce, boasts that "the school system upheld its end of the bargain."

No one should believe that Louisville is, as urban America goes, a nirvana. Last year, it had more than 11,000 homeless men, women and children. One in four children in Jefferson County lives below the poverty line.

But mostly, the community seems to be on target—and cares about a shared future. In a firm but polite way, government, industry, unions and the schools all seem to be holding one another mutually accountable. There seems to be an exciting effort here to redefine, and relaunch, the tattered American social contract.

If it can be done in a city and region with a history as adversary as Louisville's, it ought to be possible anywhere.

INTRODUCTION OF LEGISLATION TO MAKE SUPPLEMENTAL BANKRUPTCY INJUNCTIONS PERMANENT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mrs. SCHROEDER. Mr. Speaker, today I rise to introduce legislation critical to the long-term needs of thousands of asbestos claimants and others for whom a trust funded by a chapter 11 debtor company and dependent on future earnings of this reorganized company has been created to compensate their claims. Without codifying a court's authority to issue a supplemental permanent injunction channeling claims to a trust funded by the securities and future earnings of the debtor company, the financial markets tend to discount the securities of the reorganized debtor, thereby diminishing the trust's assets and its capacity to pay present and future claims.

The much publicized Manville asbestos case illustrates this catch-22: Following its chapter 11 reorganization plan between 1982 and 1986, and the injunction separating the business activity of Denver-based Manville from the liability assumed by the Manville personal injury settlement trust, which was created to compensate asbestos victims by giving them ownership of a majority of the stock of the reorganized company, press reports about the trust's liquidity problems, along with a lack of understanding about the separate status of the trust and Manville, fueled speculation that the injunction might collapse. This perception has hurt the company's financing capability and, thus, its ability to generate revenue for the trust, which owns 80 percent of Manville common stock. With its stock traded at prices substantially lower than its inherent value and its credit rating downgraded by Standard and Poor's, Manville's stock has been diminished by hundreds of millions of dollars, at a time when present and future asbestos claimants need every available dollar.

My bill, identical to section 206 of S. 1985, the National Bankruptcy Review Commission Act, is crafted to apply only to bankruptcy orders where a reorganization plan creates a trust mechanism and where two-thirds of the affected claimants approve the plan. The bill also makes clear that the protection it affords in no way diminishes the debtor's obligations to the trust. By codifying a court's authority to issue supplemental permanent injunctions and clarifying that such injunctions are irrevocable except on appeal, the bill merely confirms for the financial markets and the lending community that the debtor will not at some future time be exposed to liability beyond what was defined in the reorganization plan and that investors will not be liable for their future investments.

I urge my colleagues to cosponsor this important bill to ensure that future-funded trusts similar to Manville's will have the maximum resources possible to compensate claimants.

KIMBERLY ADELLE ROSTAN WINS HONORS FOR HER SPEECH

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. BALLENGER. Mr. Speaker, Kimberly Adelle Rostan, of my district, recently won 18th place honors in the Voice of Democracy broadcast scriptwriting contest sponsored by the Veterans of Foreign Wars of the United States and its ladies auxiliary.

I congratulate Kimberly on her achievement and have enclosed a copy of her award winning speech for everyone to review.

MEETING AMERICA'S CHALLENGE

(By Kimberly A. Rostan, North Carolina Winner, 1991/92 VFW Voice of Democracy Scholarship Program)

Good Morning America! True to each sunrise, I awaken daily on a bed of liberty, beneath a blanket of stars and stripes, my head resting comfortably on a pillow of equality. All of these luxuries have been given to me, to every United States citizen, by the selfless sacrifices of our American ancestors—through struggles of warfare and strife of debate.

Such rare and valuable gifts of privilege deserve protection and care of equal caliber, so that we may never lose or destroy them. With this purpose in mind, I most cheerfully approach the morning, ready and willing to face "America's Challenge".

What is "America's Challenge"? The task that lies before me, and all of my generation, is an immense one: we owe this proud heritage a sequel of the same spirited inspiration that first made this country great.

Fortunately, there are no wars at present to enlist America's fine sons and daughters, but we cannot forget that there is work to be done! Sensing the enormity of the challenge at hand, I am one of many who have already begun. As an active member of organizations like the Girl Scouts of America, the Anchor Club associated with Pilot Club International, and church youth ministries, I recognize the endless opportunities American teenagers have through school, community, and church to aid their country. Group performance of a civil service, for instance, Habitat for Humanity or the fight against illiteracy, betters a community as well as it educates its society. Involving the American youth today prepares them to solve the problems of the world tomorrow. At the same time, these worthy causes keep young people away from the many dangerous temptations they face.

My historic debt is to the founding men and women and to those who valiantly fought in wars for our country. This debt for the freedoms I now enjoy can never fully be repaid. However, each chance I have to do even a simple service, I take! This great country of ours deserves all we can give back to her.

On an exchange trip to France two summers ago, I tried to explain this sense of obligation to my host family, as well as the sense of pride, when I am playing the "Star Spangled Banner" in a full band. The amount of benevolent and patriotic activity involving teenagers in American society is greater than the media's stereotypes portray, to other countries and to our own.

My foreign friends could not completely comprehend the number of civil and school groups that attract people of my age, youth desiring to give back what they have freely received. Some of the children of America, myself included, are striving diligently to change misconceptions that portray us all as wild savages. We who take our responsibilities seriously are earning the badges of good citizenship and setting examples for our peers.

To the pessimists in America who have not witnessed or acknowledged the good works happening in our country, I say, "It is time to wake up!" Those people who get out on the wrong side of the bed each morning are the ones that we, are a progressive nation, must challenge. It is our duty to open their eyes to the benevolence and dedication in the United States so that they might become a part of it, realizing the price tag on the bed of American dreams.

Mindful of the future, this land of the free must follow its wise adults and conscientious youth who are already in the constitutional "pursuit of happiness", earning their freedoms so that all the mornings of tomorrow might be truly good mornings.

THE NATIONAL ENERGY, ENVIRONMENT, AND COMPETITIVENESS RESEARCH ACT OF 1992

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. BROWN. Mr. Speaker, yesterday Mr. SCHEUER, Mrs. LLOYD, and I introduced H.R. 4559, The National Energy, Environment, and Competitiveness Research Act of 1992. This legislation is the culmination of many hearings, months of drafting, and, finally, markups held last week in the Science, Space, and Technology Subcommittees on Environment and Energy, respectively chaired by Mr. SCHEUER and Mrs. LLOYD. The bill reaches a long overdue goal: to authorize vital research, development, and demonstration [RD&D] programs within the Department of Energy [DOE], something we have not been able to do for over a decade. It also represents our committee's part of the national energy strategy [NES] bill which will be enacted this year.

I consider the NES legislation to be the most important bill we will consider this year. The gulf war reminded us that we have made little progress toward reducing our energy vulnerability. With mounting fears of global warming, ozone depletion, and other global environmental problems, our current patterns of energy use are under scrutiny. And, with energy user costs growing to $440 billion per year, the need for a focused research, development, and demonstration effort on these problems becomes an economic imperative.

These factors were all a part of our work in crafting this bill. I believe that these needs have been adequately addressed in the bill which we have introduced, and in the improvements we intend to make when our full committee considers this legislation.

The bill is a 5-year authorization for broad programmatic areas of energy R&D, and with some smaller, specific activity authorizations within those broad areas. We felt that a 5-year focus was appropriate for the longer-range focus of our R, D, & D programs and matches the time-frame used in the administration's NES proposal. The bill also uses aggregate, 5-year authorization numbers, again reflecting the strategic policy and priority focus which should be in a National Energy Strategy. It anticipates the amplification of these policy directions and the setting of yearly funding levels that would occur in annual authorization bills, annual views and estimates to the Budget Committee, and through formal and informal communications with the Appropriations Committee.

The legislation is organized around five major goals set forth in the legislation: national energy security; enhanced energy supply and efficiency; reduction and adverse environmental effects; increased economic competitiveness, and; improved international technology export and transfer. There is an attempt to break these broad goals down into more specific program directions. Most of the specific program authorizations in the legislation contain explicit program goals, some broken out into short term, up to 5 years, midterm, 5 to 10 years, and long term, beyond 10 years goals. Most of the program authorizations also contain standard language on the development of program, plans, annual updates, and requirements, if any, for cost sharing with nonfederal partners.

Authorizations are grouped by the goals of the legislation and not by traditional budget functions within DOE. This reflects our attempt to craft a goal-driven bill and not be held captive by arbitrary budgetary divisions within DOE. By using this approach, and by using longer, aggregate authorization figures, we have tried to move beyond the usual authorization approach which involves incremental change and more closely resemble an accounting exercise than a policy deliberation.

The legislation attempts to improve a number of policy and management functions within DOE. For example, the legislation outlines an orderly process for the planning and construction of facilities funded by the DOE. Any large project, above $10 million would require prior authorization. Any major project, above $100 million, would require a prior authorization and would require submission to Congress of the construction plans, schedule, and costs, so that we could more closely monitor the project. In addition, the Secretary of DOE must report to Congress annually on its ongoing construction projects.

The bill formalizes the research policy and planning advisory process at DOE. Currently, there are various administratively created advisory boards at DOE which operate at the direction of the Secretary. We felt that an independent, statutorily created research advisory board would be more useful in outlining DOE RD&D priorities. Along those lines, the bill seeks to update older energy research statutes and integrate the policy and planning processes in existing law into those proposed in this legislation.

The bill proposes a steady, modest growth in energy RD&D funding over 5 years. The total cost of this bill is $17.370 billion over 5 years, compared to a base of $13.460 billion—fiscal year 1992 appropriations with 4 percent inflation—over 5 years. The bill cost translates into an annual growth rate of about 5 percent per year for 5 years.

I know that many people will object to anything beyond a freeze in spending for these programs, but I strongly disagree. The integration of energy, environmental, and economic goals in this bill provides a return to the economy many times over the taxpayer investment in this bill. The resulting technologies will allow us to generate electricity profitably with less pollution. These same technologies will move alternative fuel vehicles onto the highway, creating jobs across the country. These technologies will allow American businesses to produce goods and services using less energy, while saving money and resources. And, this bill will create export markets in the developing countries for our new energy conserving, environmentally benign technologies. As a nation, we will be providing leadership for solving global environmental problems while at the same time helping our balance of trade and domestic economy.

Speaking parochially, I can cite numerous advantages to southern California coming from this legislation. Electric and other alternative fuel vehicles are needed in our region to meet air quality standards. There is every reason to expect that as these vehicles come into use in our region, we will be building them in our area, creating jobs. Fuel cell technology work is enhanced in this bill, which promises California cleaner, decentralized electric power sources. These are major increases in renewable energy and conservation efforts generally, programs which are vital to utility efforts underway in California. Fusion technology development is increased and California has a major R&D effort underway on this promising, cleaner power source for the 21st century.

But in many ways, benefits to California mean benefits to the entire country. Our State has the most stringent environmental regulations in the country and, as we adapt our economy to this new reality, we are applying technologies which will be useful in other areas across the Nation. As we prove it is possible to produce and use energy in environmentally sound ways and still maintain profitability, the entire Nation will be the beneficiary.

But I use our area only as an illustration, because there are benefits to every area of the country and to the Nation as a whole. The policy goals of the bill are to important to be ignored or subsumed under local and regional concerns. In coming weeks we will be hearing more about energy and energy policy as we engage in a broad and long overdue debate. The bill we have introduced is a major part of that debate and I urge my colleagues to pay attention to its provisions.

GAG RULE STILL BINDS

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. EDWARDS of California. Mr. Speaker, Mr. Bush's recent decision to allow doctors in federally funded clinics to refer women to facilities which provide abortions may appear to be a positive step toward overturning the restrictive gag rule. But appearances can be deceiving. Although I am pleased that Mr. Bush has acknowledged and granted back a doctor's right to free speech, his decision will not eliminate most limitations. The majority of women seeking medical advice in reproductive matters do not speak to a doctor, but instead to a clinic counselor or nurse. And these health care professionals' mouths are still bound by the restrictions for title X funding. H.R. 3090, the reauthorization of Federal Family Planning Program bill, introduced by HENRY WAXMAN, will eliminate these restrictions, making essential medical advice from any qualified health care worker accessible to anyone in need of it.

I call my colleagues' attention to a recent editorial in the San Francisco Chronicle, in which this issue is analyzed for its real impact instead of taken for its face value. I commend the Chronicle for its insight.

"GAG RULE" STILL BINDS

On the surface, the Bush administration's modification of rules governing federally-funded family planning clinics so that doctors now may give pregnant patients "complete medical information" seems a positive development.

But the revision still does not address the situation fairly, realistically and fully. By trying to "have it both ways," the White House has wound up with a mean-spirited, potentially perilous compromise.

Of course doctors should be able to provide "full" medical information. That's a given in our open society.

The problem is that actual doctors do very little of the advice-giving at these clinics. Such counseling is mostly provided by nurses or other non-physician health-care personnel.

The prohibition against advice about abortion was not lifted in their cases.

These non-physician personnel can talk about abortion only if asked, and then they are to refer the patient elsewhere. In addition, clinic doctors may not refer a pregnant woman to a facility that primarily performs abortions.

An official of the organization that represents 90 percent of the clinics called the action "cynical," adding, in confirmation of the point made here: "They know very well it is not the doctors who run these programs."

Once again, women, particularly poor women, will be limited in the kind of advice they may receive during a particularly critical period in their lives.

Being pro-choice does not mean being in favor of abortion; indeed, abortion is seen as a thoroughly undesirable, last resort in what is a tragic situation.

But women should be able to get the fullest and most relevant medical information possible when they enter one of these clinics. That still won't happen under the new rules. Look at them hard and one sees a shameful smoke screen.

THE SOLID WASTE CHALLENGE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, March 25, 1992 into the CONGRESSIONAL RECORD:

THE SOLID WASTE CHALLENGE

The U.S. currently generates more solid waste than any other nation. Americans generate 180 million tons of trash each year, or 4.0 pounds per person per day. That is enough garbage per year to fill a convoy of 10-ton garbage trucks 145,000 miles long—more than half way to the moon. In just four years, our waste would make the equivalent of a convoy stretching to the moon and back.

More waste (60%) is disposed in landfills, but landfilling poses certain environmental risks by concentrating waste. A second disposal method is incineration (22%). Burning reduces the volume of waste that must be buried and can produce energy. Even so, incineration is expensive; it raises questions about pollution; and it generates ash which must be disposed of. A third disposal method is recycling. While more than 80% of municipal waste could in theory be recycled, only about 18% was recycled in 1991. There are too few recycling centers and not enough buyers of recycled goods.

DISPOSAL SITES

The number of places to put trash is decreasing even as the waste stream increases. Many landfills across the country are virtually full. In the last 20 years, the number of landfills accepting municipal solid wastes has decreased from 30,000 to 6,000. A recent congressional report estimated that nearly 80 percent of existing permitted landfills are expected to close within 20 years.

Attempts to site new landfills or expand existing landfills inevitably, and understandably, meet public resistance. Those resisting construction or expansion cite foul odors, noise, increased traffic density, and the potential for groundwater contamination.

DISPOSAL COSTS

The cost of disposing solid waste is becoming more expensive. New state and federal regulations designed to lessen the danger of certain toxic substances from filtering into the water table will make municipal landfills far more expensive to locate, build, operate, and shut down. Landfill owners have passed, and will continue to pass, these costs on to their customers.

In addition, some landfill owners, finding themselves in regions with dwindling capacities, are charging higher "tipping fees," to dump waste at landfill sites. The national average for disposing solid waste was $10.59 per ton in 1984; in 1987, the average cost jumped to $20.36 per ton. With $140 per ton tipping fees not uncommon in the Northeast and as landfills continue to close, some haulers find it is cheaper to ship waste to landfills in other states, including Indiana.

CHALLENGES IN INDIANA

Hoosiers discard 17,200 tons of refuse each day—more than 4.2 percent of the national total. Our available landfill space is disappearing at an alarming rate. Indiana had 150 landfills in 1980. In 1989, only 83 of these were in operation, and that number will drop to 52 by 1993. A growing population will place more strains on existing landfills.

Indiana is taking steps to address the problems associated with an ever growing solid waste stream. Indiana's new solid waste management law (HEA 1240) calls for an ambitious program to reduce the waste stream 35% by 1996, and 50% by 2001. The law mandates the creation of solid waste districts, each of which will submit a 20 year solid waste management plan to IDEM for approval. These plans will outline how each of the districts will meet the goals established in HEA 1240.

FEDERAL ROLE

State and local governments have traditionally taken the lead on solid waste issues. As landfills have closed and disposal costs have escalated, however, Congress has been increasingly called on to assist states in meeting the goals of clean and efficient waste disposal. Constitutional questions regarding the regulation of interstate transport of trash must also be addressed at the federal level.

A top environmental priority for this Congress is the reauthorization of the Resource Conservation and Recovery Act (RCRA), the nation's primary law governing the transportation, treatment and disposal of solid and hazardous waste. RCRA was enacted in 1976 to provide a comprehensive framework for safe waste disposal.

Amending this law to address new challenges will not be easy. The number and complexity of issues involved are staggering. Any measure would likely include provisions to reduce waste in manufacturing processes; establish incentives to develop markets for recycled goods; ensure safety in incineration; and encourage efficient and safe landfilling.

TRASH IMPORTS

The complex issue of interstate transport of garbage may also be addressed during RCRA reauthorization. The Constitution's Commerce Clause has been interpreted to forbid one state from discriminating against another state's garbage purely on the basis of its point of origin—whether it involves charging higher fees or imposing outright bans. Courts have turned back most state efforts to limit interstate shipments of garbage, although these principles may be modified in two pending cases before the U.S. Supreme Court. The Constitution reserves the power to regulate interstate commerce to Congress.

The trash import issue is of particular importance to Indiana. As the flow of garbage coming into Indiana has increased dramatically in recent years, Hoosiers are alarmed that they are losing landfill space for their own needs. They are calling for tougher efforts to halt or reduce the flow of out of state garbage into Indiana. While Indiana's efforts to date to impede this commerce have not been successful, Congress, with my support, is considering several proposals which would change existing law to give states or local governments more authority to control trash imports.

CONCLUSION

There is a general recognition that the traditional approaches to waste disposal have not adequately dealt with environmental or economic costs associated with waste management. Congress will need to work more closely with state and local governments on measures that will effectively manage our solid waste stream without placing undue burdens on those governments and their citizens. As Congress debates RCRA reauthorization this year, we will have the opportunity and the challenge to establish national policies that promote the most efficient use of our resources, move us closer towards realizing our environmental goals, and achieve an appropriate balance among federal, state, and local solid waste management.

LIBERTY CITY PROGRAM PROVIDES DRAWING BOARD FOR KIDS' DREAMS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, it is my wish to acknowledge the organizers of the Poinciana Park after-school art program in Liberty City. The program has been designed to give students a place to go after school and encourage them to use their creative ability. I would also like to congratulate Ms. Joy Harwood who has given of her time and dedicated herself to these children. Ms. Harwood is a teacher and a friend to these young students who come to the after-school program, but most of all, she represents an opportunity for them to grow creatively and become more aware of their potential and surrounding possibilities. Ms. Ana Acle of the Miami Herald reports:

On the west side of Liberty City sits a faint-yellow school amid faint-yellow housing projects. But inside Poinciana Park Elementary is a place where houses are bright blue, trees are lollipops and clouds have pink linings.

That place is in the minds—and the art—of the 22 students in Poinciana Park's after-school art program, designed to encourage artistic creations and keep the kids off the streets at the same time.

Teacher Joy Harwood said the students liked to create bright, happy drawings. "I think that tells you a little story because many live in the projects," said Harwood. "They usually draw brightly painted little houses by a lake. Sometimes they draw hearts or Bart Simpson."

Sixth-grader Angela Thomas, 13, cut out a piece of brown fabric and pasted it onto burlap, which served as her canvas. She then drew circles in green, pink and black. She called them lollipop trees.

Kelly Jackson, 12, also in sixth grade, was helping Angela. He made the leaves of a branch, and he also drew a pear.

Angela stays after school until 5 p.m. to work on her art project. Why? "So I can finish my posters," she said. "I'd rather be here than at home. There ain't nothing to do at home."

Through the program, the kids enter contests and paint brightly colored murals on the walls of the school, 6740 NW 23rd Ave. One mural with a cougar, the school's mascot, is being painted on a wall near the school's entrance. Another mural portrays people shaking hands. That one states: "Reach out and touch someone."

Harwood also wants to teach the kids about respecting life and endangered species by making them draw animals they don't see in their community. Dervor Finny and Travis Williams, both 12, were making a manatee by sculpting cardboard and newspapers. The boys will enter their manatee in the Dade County Youth Fair contest.

"I've never seen one, only in pictures," Dervor said. What color is he going to paint it? "Beige," he said.

"Gray," Harwood corrected.

It is my wish to congratulate the students who participate in the Poinciana Park Elementary after-school art program. May their brightly painted murals decorate their souls as they have decorated the walls of their school, and may they continue to use their talent to reach others and make a difference in our community.

THE RIGHT TO SUE

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. FRANK of Massachusetts. Mr. Speaker, for some time I and other Members of the House have been pushing to extend to the young people who serve in our armed services the exact same right that is possessed by every other American citizen: The right to sue if they are the victims of medical malpractice. Unfortunately, this effort has been strongly opposed by the administration and we have not succeeded in getting the bill any further than a series of affirmative votes in the House in various Congresses. But I will not stop.

There is no reason to think that military medicine is of a lower quality than other medicine. But neither is there any reason to think of it as a higher quality, and certainly not that it is perfect. But only if it were perfect would the current rules make sense, because these rules deny to active duty military personnel the right to sue for malpractice that belongs to everybody else including retired military personnel, civilian employees of the DOD, et cetera. I should not have said, incidentally, in my first sentence that we wanted to give active duty military personnel the same right as every other citizen. We seek to extend to active duty military personnel the same rights that are enjoyed by others who are treated by United States Government doctors the right to sue for malpractice under the Federal Tort Claims Act which is a more restricted right than the right to sue for malpractice in every State.

A recent editorial in the Navy Times, for March 23, once again makes clear how important this issue is. I ask that this cogent editorial on behalf of the rights that we should be extending to active duty military personnel be printed here.

[From the Navy Times, Mar. 23, 1992]

THE RIGHT TO SUE

A man walks into a hospital complaining of chest pains and is greeted by a doctor who scrolls off his troubles and refuses care. The man goes home and suffers a heart attack. He is dead by morning.

A pregnant woman in need of a blood transfusion gets one. But the transfusion is tainted; she is infected with HIV, the AIDS virus. Within five years, she is dead. So are her husband and two of their three children.

If this happened in a civilian hospital, there would be outrage. A state investigation. Nationally publicized lawsuits. And huge cash settlements worth millions.

Unfortunately, these incidents occurred in military health care facilities. But service members can't sue the military for the health care they get—even if it kills them.

When Yeoman Third Wendell Williams, 25, went to the medical clinic at Brunswick Naval Air Station last June, he knew something terrible was wrong with him. He had severe chest pains. He was worried. But a Navy doctor didn't believe him and sent him home. When Williams returned a second time, the doctor sent him home again.

The next morning, the 25-year-old's heart gave out. A Navy investigation found strong evidence of negligence. A corpsman tried to help Williams, but the doctor stopped him.

Now Williams' wife, Robin, has filed a $1 million claim against the Navy, charging negligence in her husband's death. Ironically, she knows she hasn't a chance.

Under the so-called Feres Doctrine, established in a Supreme Court case 42 years ago, service members are barred from suing the government for injuries or deaths suffered while they were on active duty. That includes medical malpractice, even when treatment is for sickness or injury not related to work.

Sailors, Marines and other military people know well that their jobs are fraught with danger. There is a risk of death in combat, in training and in performing their everyday duties. Those risks shouldn't include doctors' visits. While most military medical care may be first rate, Feres effectively gives military doctors, clinics and hospitals license to do less than their best. And never have to face the consequences.

Service people ought to have the same rights to quality health care that civilians have. They should have the right to see a doctor when they are not well. They should have the right to medication if it can make them better. They should have the right to redress when inadequate care causes pain, suffering, or death.

That means they should have the right to sue their caregiver, just as any other U.S. citizen. Even if the caregiver is the U.S. government.

TRIBUTE TO HOWARD UNIVERSITY ON ITS 125TH ANNIVERSARY

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Ms. NORTON. Mr. Speaker, I have the honor to pay special tribute to Howard University—the only truly comprehensive university in the country that has a predominantly black constituency—on the occasion of its 125th Anniversary. While the University has always embraced people of all colors, religions, creeds, and a myriad of national origins, Howard's historical mission gives it a uniquely indelible place in the hearts and minds of African Americans everywhere.

Howard also holds a unique distinction as the only University for African Americans incorporated by an Act of Congress in the United States. Howard was founded in 1867 as "an institution for training preachers (colored)" to serve newly freed slaves. Today this proud institution has grown from a small frame building on Georgia Avenue to a main campus of more than 89 acres, a 22-acre west campus on which the School of Law is located, a 22-acre School of Divinity campus, another ⅗-acre campus in Northeast Washington, D.C., and a 108-acre tract of land in Beltsville, Maryland that is used for research in physical and biological sciences. Howard had only 4 or 5 students in its first class; today the University enrolls 12,000 students from virtually every state in the Union and over 100 foreign countries.

Mr. Speaker, I know that all of my colleagues will join me today in commemorating Howard University's 125 years of excellence, and in saluting its outstanding President, Dr. Franklyn G. Jenifer, its faculty, administration and staff, and its students and alumni for truly exceptional service to our community, our country, and the world.

REPRESENTATIVE LARRY SMITH'S ARGUMENT ON THE NEED TO END COURT SECRECY

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. FASCELL. Mr. Speaker, I was pleased to join in sponsoring H.R. 2017, the Federal Sunshine in Litigation Act, which was introduced by our colleague, LARRY SMITH. This measure would establish procedures for the disclosure by the courts of information on health and safety hazards.

I would like to commend my good friend LARRY on having the foresight to introduce this legislation which, in light of recent disclosures regarding the risks of silicone breast implants, grows more crucial everyday. It is imperative that the general public receive important data on health problems and that outdated judicial procedures which prohibit the dissemination of these facts be revised.

The Houston Chronicle published an article earlier this month written by Representative SMITH in support of this measure. I am happy to have the opportunity to bring this article to our colleagues' attention and to urge them to join in sponsoring this significant legislation.

[From the Houston Chronicle, Mar. 13, 1992]

NO MORE COURT SECRECY ON DANGEROUS PRODUCTS

(By Representative Larry Smith)

Recently, millions of women have been given great cause for concern. The silicone breast implants they thought were safe are now touted as possibly life threatening. These dangers associated with silicone breast implants raise a larger question: Are there other medical or consumer products that also pose a danger to the public?

Tragically, the potential dangers were documented years ago—but the information was not made public. Engineers and scientists knew about the dangers associated with silicone implants; they heavily researched and documented them. But, because of court secrecy rules, their dangers were kept from the very people who most needed to know about them—their users.

Shockingly, the answer to the question is uncertain. Information on dangerous products probably does exist, but outdated judicial procedures could be hiding the facts from the very people who need to know.

Today, courts can seal information obtained before a trial and presented during a case. This is known as "secrecy agreements" or "confidentiality orders." Often plaintiffs agree to secrecy to avoid lengthy and expensive trials.

Supporters of secrecy argue that secrecy agreements speed judicial proceedings by encouraging settlement of disputes. When asked about consumers' concerns, they argue, "let the buyer beware." This approach is antiquated and morally wrong.

The major problem with secrecy agreements is that the courts, not the people, are determining matters of public policy. Courts are ill-equipped to resolve whether the benefit of open information outweighs the negative impact on one corporation.

In the past hundred years, Congress has recognized the right of the people to information. Consumer protection and freedom of information laws are two examples of how legislatures have changed the law on information in public and private hands.

That is why I introduced the federal Sunshine in Litigation Act of 1991. This bill would make it more difficult to hide health and safety information learned in judicial proceedings from the public.

Courts would be prohibited from hiding public hazard information; settlements that conceal such information would be voided; non-involved parties (including the media) would be allowed to research pertinent information; and the courts could continue to protect legitimate trade secrets.

If we do not do something now about secrecy agreements that protect dangerous products; safety and health problems—known to a few today—will become tomorrow's breast-implant crisis.

PROPOSED AMENDMENTS TO THE NATIVE AMERICAN PROGRAMS ACT OF 1974

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. FALEOMAVAEGA. Mr. Speaker, today I am introducing legislation to amend the Native American Programs Act of 1974 to increase the authorization of appropriations to adequately serve the native American Pacific islanders, and for other purposes.

The Native American Programs Act of 1974 currently provides a set-aside appropriation of $500,000 to provide financial assistance to native American Pacific islanders for fiscal years 1988, 1989, 1990, and 1991. Current legislation to reauthorize the native American programs, H.R. 2967 and S. 243, now scheduled to go into conference, supports continuation of the native American Pacific islander set-aside, but at the current funding level.

As you know, Mr. Speaker, the native American Pacific islanders [NAPI] consist of those Americans who are indigenous natives from U.S. Pacific territories and possessions such as American Samoa, Guam, Palau, and the Northern Mariana Islands including those individuals who currently reside in the United States.

Mr. Speaker, according to the U.S. Bureau of the Census, in 1990 the total population of the NAPI group both in the territories and in the United States was 353,100. I am concerned that while the native American Pacific islanders population has increased significantly in the last 10 years, the proposed appropriation of $500,000, contained in the reauthorization, which has not increased since 1988, fails to take into account the considerable increase in population. This reauthorization does not provide adequate funding required to address the critical need to promote the economic and social self-sufficiency of this segment of our population.

Additionally, I feel this reauthorization would not provide equitable treatment of NAPI in the allocation of funds when compared to other groups served under the Native American Programs Act of 1974. For example, for fiscal year 1991, $500,000 was awarded to NAPI programs compared to $1.4 million awarded to native Hawaiians, who number less than 140,000.

Mr. Speaker, I believe this legislation will address the need of providing adequate and sufficient funding for native American Pacific islanders and to correct the need for equitable treatment in the allocation of funds under the act.

I urge my colleagues to pass this bill during this Congress.

Mr. Speaker, I submit for the RECORD the text of the bill:

H.R. 4592

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Programs Amendments of 1992".

SEC. 2. AMENDMENTS.

(a) DEFINITION.—Section 815 of the Native American Programs Act of 1974 (42 U.S.C. 2992c) is amended—

(1) in paragraph (4) by striking "; and" at the end,

(2) in paragraph (5) by striking the period at the end and inserting "; and", and

(3) by adding at the end the following:

"(6) the term 'Native American Pacific Islander' means an individual who is indigenous to a United States territory or possession located in the Pacific Ocean, and includes such individual while residing in the United States.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 816(c)(1) of the Native American Programs Act of 1974 (42 U.S.C. 2992d(c)(1)) is amended by striking "$500,000 for each of the fiscal years 1988, 1989, 1990, and 1991" and inserting "$2,000,000 for each of the fiscal years 1992, 1993, 1994, and 1995".

KIDS COUNT

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mrs. SCHROEDER. Mr. Speaker, 11 years of Reagan-Bush misguided priorities and trickle-down economics have failed to trickle down any hope to our Nation's children. While the President expertly stretched our national resources to aid the oil-rich monarchy of Kuwait, his deliberate failure to address the national emergency facing American children and families has yielded shocking results.

On Monday, the Annie E. Casey Foundation and the Center for the Study of Social Policy released the annual Kids Count report on the well-being of America's children. And the news is not good.

More American children are at risk and more families are struggling than a decade ago. During the 1980's, the social and health condition of American children in 33 States, where 82 percent of American children live, worsened on 6 of 9 measures of child well-being. The percent of babies born at risk due to low birthweight rose; in the 1980's, more than 2.5 million American children entered the world at risk by weighing less than 5.5 pounds at birth. The juvenile custody rate worsened, and the chances that a teen would die as a result of accident, suicide, or murder rose by 11 percent. The poverty rate climbed—one in every five children now lives in poverty.

A recent hearing of the Select Committee on Children, Youth, and Families supports the Kids Count finding that the crisis in children's conditions reflects a broader family crisis. Families on average have less income, less parent-child time, and greater financial pressures than a decade ago.

Yet President Bush continues to ignore American children and families' needs. At a time when Americans are increasingly dependent on government services, the President proposes to cut funding for juvenile justice, runaway and homeless youth, and child care services, and to freeze funding for the WIC child nutrition program. On top of that, the President broke his 1988 promise that, if elected, he would fully fund the Head Start early education program. "Read my lips—you get zip" is the unfortunate Reagan-Bush legacy to our young people.

The 1990's offer us a clear choice—continue to entrust our children to flawed Presidential policies and rising risk, or reverse this record and put our children first. The choice is ours, but the consequences will belong to our children.

DANCE LEGEND KATHERINE DUNHAM ENDED HER HUNGER STRIKE FOR THE PEOPLE OF HAITI

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. RANGEL. Mr. Speaker, I rise today to call attention to the famous choreographer Katherine Dunham who recently ended her hunger strike, in protest of the mass deportation of the desperate Haitian boat people, that forced America to remember what we are supposed to stand for. I was very relieved to hear of her decision and would, therefore, like to share with you an article on Katherine Dunham in the People magazine:

DANCE LEGEND KATHERINE DUNHAM ENDS HER FAST FOR THE PEOPLE OF HAITI

Katherine Dunham had been prepared to die. Instead, at 8:10 p.m. on the evening of March 18, the 82-year-old grande dame of dance leaned forward in the bedroom of her red brick home in East St. Louis, Ill., and took a small sip of homemade chicken soup. For Dunham, it was the end of a 47-day hunger strike she had prayed would help change U.S. policy toward refugees from Haiti, a country whose rhythm and spirit inspired her art. Now she was abandoning that tactic at the urging of deposed Haitian President Jean-Bertrand Aristide, who asked her to return with him to Haiti as soon as the improving political climate there permits. "My purpose in this work has been fulfilled," said Dunham. "This torch now passes to other hands."

Only two days earlier, subsisting on cranberry juice, water and Tibetan tea, she refused the Rev. Jesse Jackson's offer to take up the fast for her. "This isn't just about Haiti," she said. "It's about America. This country doesn't feel that Haitians are human. And America treats East St. Louis the way it does Haitians." Outside, smoke from a tire fire curled into the air. The East St. Louis fire department has the resources to deal only with major blazes; small fires are left to smolder in the desolate city of 40,000, just across the Mississippi River from St. Louis.

Dunham is tormented by the plight of some 16,000 people who fled Haiti by sea to Florida after Aristide's democratic government was toppled by a military coup on Sept. 30. Having defined them as economic rather than political refugees and therefore not eligible for asylum, the U.S. government has been sending almost all the boat people back to Haiti.

As an anthropology graduate student at the University of Chicago, Dunham first formed her deep ties to Haiti in 1935, when she visited on a fellowship to study West Indian dance and rituals. A few years later she established the Katherine Dunham Dance Company, founding along with it the idea that black dance, incorporating African and Caribbean rhythms, belonged on the American stage.

An international movie and cabaret career followed, with Dunham using sets and costumes designed by her husband, John Thomas Pratt, who died in 1986. (The couple adopted a daughter, Marie-Christine Dunham Pratt, now 44, who flew from Rome to be at her mother's side during her fast.) In the '60s, Dunham left the stage and in 1967 moved to East St. Louis to set up the Performing Arts Training Center, introducing urban youths to aspects of African culture. (Track star Jackie Joyner-Kersee and Warrington and Reginal Hudlin, producers of the movie House Party, are among the program's progeny.)

On March 16, President Aristide spoke to a crowd of 200 well-wishers across the street from Dunham's house. "We came to bring her love," he said. "Katherine Dunham is a very, very, very great woman." To Dunham he said, "We want you alive." In the end, that was her choice as well.

SHANE HEDGES IS WINNER OF THE VETERANS' OF FOREIGN WARS VOICE OF DEMOCRACY ESSAY PROJECT

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. MARLENEE. Mr. Speaker, I am pleased to bring to your attention the essay of Shane Hedges, who is the 1991–92 Montana first place winner in the Veterans' of Foreign Wars voice of democracy essay project. Shane is from my neck of the woods in northeastern Montana, Plentywood, and I am especially proud to have my collegues read his inspiring essay on meeting America's challenge.

MEETING AMERICA'S CHALLENGE

(By Shane M. Hedges, Montana winner, 1991–92 VFW Voice of Democracy Scholarship Program)

As rosy-fingered dawn stretches across the crisp morning sky, a patriotic man carefully raises the American flag onto a flagpole. As the flag rises higher on the pole, the sun gently lifts itself over the majestic purple mountain and its rays shine upon the gently rolling waters of a nearby pond. In the distance the laughter of children can be heard as they make their way to their morning classes at school. Patriotism, a untainted environment, posterity, and education—these once represented a true portrait of America, but how realistic is that portrait today? Our patriotism is suffering under the stress of the economy, domestic issues, and skepticism regarding contemporary American tradition. Often, sunrises are not seen because of dense smog and pollution. Our waters are defiled with environmental waste. Our children are burdened with the problems of teen suicide, drug abuse, and pregnancy. Most of all, Americans are losing their creative ingenuity and their desire to broaden their perspectives and horizons. Faced with these issues, how do we meet America's challenges? Moreover, how can we restore the true portrait of America?

A myriad of legislation is introduced in Congress every year to address these issues, but none seem to be curbing America's challenges. We are faced with a lingering recession that has disheartened Americans from every corner of our vast nation. Problems on the domestic front, including homelessness, AIDS, health care, and welfare, abound with intensity. The hole in the ozone layer is growing larger, and environmental waste is mounting beyond control. Current legislation is designed to combat these problems, but the intricacy of these issues is often incommensurate with our ability to solve them.

Most exigent of all of these issues is the crisis facing America's children. With the disappearance of the traditional American family, we find ourselves drowning in the complexities of our failing educational system, our moral infrastructure, and the bleak outlook for the security of future generations.

To meet our challenges we must seek the ethical guidance of our leaders. We must endeavor to provide our children with quality educations that will encourage the desire to effectively compete on the international level. Through education we can meet America's challenges, we can restore the American heritage to its prodigious vitality, and we can secure the hope for a brighter tomorrow for our most precious resource—our children.

We must, not as individuals, but as the united people, consolidate our efforts to salvage the American moral infrastructure. Even though America is faced with a number of problems, we have the ability to overcome them because we are a free, democratic nation. We are a nation known for rallying during times of crisis. Wendell L. Wilkie once wrote, "Our way of living together in America is a strong but delicate fabric. It is made up of many threads. It has been woven over many centuries by the patience and sacrifice of countless liberty-loving men and women. It serves as a cloak for the protection of poor and rich, of black and white, of Jew and Gentile, of foreign and native born. Let us not tear it asunder. For no man knows, once it is destroyed, where or when man will find its protective warmth again." Using Mr. Wilkie's words as a guide, we must press onward. Well planned legislation, in combination with a united American people, will enable us to meet our challenges and, indeed, to overcome them. Thus, we can restore our true portrait of America.

INDEPENDENT GROCERS ALLIANCE: HOMETOWN PROUD

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. MICHEL. Mr. Speaker, as I have said on many occasions, this is a nation of communities. The creativity, diversity, and resilience of our local communities form the foundation upon which our national strength is built.

No one is closer to the heart of a community than the individual entrepreneurs who build and sustain a business at the local level. Today I wish to bring to the attention of our colleagues a group of such individuals in the 18th Congressional District of Illinois.

They are 17 members of the Independent Grocers Alliance [IGA], an organization that has a 66-year history of championing the cause of the independent grocer.

The spirit of IGA is exemplified in its marketing theme: "IGA is Hometown Proud." As I said, a sense of community pride is essential to economic progress, and IGA's hometown slogan reflects that spirit.

From its international office in Chicago, IGA provides leadership and counsel to over 3,000 supermarkets in 6 countries around the world. When we hear that the United States is declining competitively, or that the spirit of free enterprise is eroding in America, I am always reminded of 17 hard-working and successful IGA operators with 27 stores in the 18th District of Illinois.

We in the 18th District salute the owners, operators and employees of our IGA Supermarkets. We are "Hometown Proud" of you.

A SPECIAL SALUTE TO ENVIRONMENTALIST MARJORY STONEMAN DOUGLAS ON HER 102D BIRTHDAY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, it is indeed my great pleasure to have this opportunity to honor one of Florida's most prominent figures in environmental history. Marjory Stoneman Douglas, the grand dame of the Everglades and legendary author of the "River of Grass," is celebrating her 102d birthday this April 3.

At an event hosted by the Center for Visual Communications members of the community will come together to celebrate this very special day by presenting the Second Annual Marjory Stoneman Douglas Invitational Art Exhibition.

Local and State officials, members of the press, and prominent members of south Florida's community will attend a kickoff birthday celebration on April 3, which will be followed by a 7-week-long art exhibit.

Works of art featuring scenes of Florida's landscape and ranging from paintings to photography will be on exhibit from Saturday, April 4 to Friday, May 22 at the Center for Visual Communication in Coral Gables, FL.

Artists Clyde Butcher, Maggie Davis, and Marie Stewart will have their works on exhibit during this celebration in honor of Ms. Douglas and her work to protect Florida's environment.

Ms. Douglas has played an instrumental role in the protection of the Florida panther as well as the preservation of Florida's wetlands. Ms. Douglas' love for the gifts nature provided Florida began when, as a young girl, she and her father moved to south Florida. Since then, she has been a staunch advocate for the protection and preservation of wildlife.

Ms. Douglas' message of conservation became clear to south Floridians as she charmed readers and audiences everywhere with her fascinating book, "The River of Grass."

Mr. Speaker, I am delighted to share in this day with the members of our community. Ms. Douglas' work to preserve Florida's river of grass is of enormous value to our community. Her commitment and perseverance to save our natural environment has forever changed the future of our State. I would like to join the members of our community in congratulating Ms. Douglas for her lifelong dedication to the well being of our States' oldest and most precious characteristics.

TRANSFER CVP TO CALIFORNIA

HON. TOM CAMPBELL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. CAMPBELL of California. Mr. Speaker, today I introduce a bill to transfer the Central Valley project to the State of California. This proposal involves the issues of federalism, American competitiveness, and the wise management of our natural resources. These issues are, I believe, closely related, and are, I know, extraordinarily important. I want to address them in turn:

Federalism: The Founders of this country set up our Federal system for a good reason: just as people in New Jersey know New Jersey issues, people in California know California issues. And the people of California should address those particularly important California issues without the unnecessary interference of other States and the Federal Government.

The CVP is especially important for California. this project involves California rivers used by California residents to satisfy California needs. The only missing part of this equation is California control. By transferring control of the CVP to California, we can correct this imbalance.

American competitiveness: Furthermore, the State of California has been a real source of America's productivity; and agriculture has significantly fueled California's contribution. We Californians feed our Nation and, for that matter, the world. Our agricultural industry is the most efficient in the world. In the process our agriculture generates hundreds of thousands of jobs and billions of dollars in gross national product. And without California agriculture, our trade deficit would grow immeasurably.

The Federal Government simply is not as well equipped to respond to the needs of California agriculture as are Californians. For us to increase our contribution to America's growth during this recession, we must have more control over our ability to produce. The CVP transfer would advance this necessary objective.

Natural resources: Finally, I want to address the important issue of natural resources management. There are Federal water projects in California; there are also State water projects. Coordination by one authority will result in the more efficient allocation of water, not to mention the elimination of bureaucratic duplication. We saw this in the crisis of the recent drought—special waivers were needed to move Federal water through State systems, and vice-versa.

I have long believed that we Californians are well equipped to handle our own resources. We can preserve and develop our resources sensibly. We have done it well for a long time, and we can do it better in the future. But we can do it better only if our control is increased. The CVP transfer would accomplish this goal as well.

Mr. Speaker, to conclude, there are many excellent reasons for a CVP transfer. But, simply put, it is good for California, and it is good for America.

TRIBUTE TO JOSEPH B. CARTER

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Ms. NORTON. Mr. Speaker, I rise to pay tribute to Joseph B. Carter, a beloved and dedicated native Washingtonian who died on March 23, 1992. Joe Carter, the personification of civic devotion and activism, died during the week when the District Committee's Subcommittee on Judiciary and Education took the first step toward a historic vote on statehood, soon to go to the House floor for the first time. This week's statehood milestone is emblematic of Joe's lifetime of work in behalf of his city. Mr. Carter retired in 1983 as a vice president for the old Garfinckel's Department Store, but the great avocation of his life was this city.

Joe and Juanita Carter raised nine children in the District and worked to make it the kind of city that Washingtonians are proud of for themselves and their families. A sage political advisor, Joe worked with District politicians for the love of his hometown and for the adventure of politics itself. At home with business and politics alike, he understood the place of each. For Joe Carter, however, community was foremost and grassroots responsiveness was vital.

Joe Carter was a model of civic dedication in a town which is uniquely disabled in the American polity. As if he could change and improve the District through his individual hard work alone, Joe worked in behalf of the District until the very end. Joe never forgot us. We shall not forget him.

COMMENTS MADE AT A MEETING OF THE CONGRESSIONAL BIOMEDICAL RESEARCH CAUCUS

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. GEKAS. Mr. Speaker, I rise today to share with my colleagues some comments which were made at a recent meeting of the congressional biomedical research caucus. On March 16, 1992, Dr. Hilary Worthen addressed the caucus on his work with unstable genes. Below is the text of his speech:

SPEECH OF DR. HILARY WORTHEN

(Slides mentioned in text are not reproducible in the Record)

Good afternoon, and thank you very much for inviting us to talk to you today. I will begin with a brief description of Myotonic Dystrophy, and then describe for you a family afflicted with this disorder. A patient of mine, who is a member of this family, graciously volunteered to describe her situation on videotape for us, and I will present some excerpts of this interview.

Professor Housman will then tell the story of the discovery of the gene causing Myotonic Dystrophy, and I will close with a few comments about the meaning of this discovery for patients and their doctors.

SLIDE 1

Myotonic Dystrophy, or dystrophia myotonica (DM), is the most common form of muscular dystrophy in adults. It is inherited in an autosomal dominant pattern, which means that it affects both males and females, and that only one copy of the defective gene is necessary to cause the disease.

SLIDE 2

In mild cases, the only readily recognizable problem may be early development of cataracts. Myotonia, by which is meant the delayed ability relax a muscle after contraction, is a hallmark of the disease, and distinguishes it readily from other types of muscular dystrophy. In the tape you will see an example of this phenomenon. Muscle weakness and atrophy often progress inexorably, affecting all groups of muscles, but most prominently those of the face, pharynx, and distal arms and legs. There is a lower average I.Q., educational level and employment level among people with this illness, and apathy and excessive sleeping (hypersomnolence) are frequent. It is not clear yet whether the cognitive deficits are progressive.

SLIDE 3

This disease affects many of the body's systems, causing a complex pattern of symptoms and findings which often confounds patients and doctors.

SLIDE 4

The severity with which any individual is affected can range from mild to devastating, but it is generally an inexorably progressive disorder. It was observed by neurologists years ago, as you will hear in the tape, that it seems to get worse from one generation to the next within families a phenomenon which was difficult to explain until very recently. The most severe form occurs when a baby is born congenitally affected, when severe neurologic damage and frequent early death is the rule.

SLIDE 5

Here is a pedigree showing a family many of whom are or have been patients of mine. The squares represent males, the circles females. A darkened figure represents a patient with the disease. A slash line means the person is deceased. X means miscarriage. The patient we will hear from today, H* * *, is here.

SLIDE 6

Her grandmother lived to about 70, dying of an unrelated cancer. She had cataracts, mild foot weakness and benign tumors on her scalp, all of which identify her as the affected grandparent.

SLIDE 7

H's father died of pneumonia, a common complication of weak respiratory and swallowing muscles. He was 55. He had cataracts, myotonia and although he had served in the army when young, required a wheelchair the last years of his life.

SLIDE 8

H describes her uncle A* * * in some detail on the tape.

SLIDE 9

All the members of H's generation are affected. I will just mention her brother T* * *, who died at 39 last August, probably of sudden cardiac death. He had cataracts, myotonia, severe weakness, retardation, speech impairment and deafness.

SLIDE 10

H herself has early cataracts, myotonia, weakness and speech impairment. Although her educational level is low, psychological testing has revealed what you will see from the tape: her intelligence is extremely uneven, much better in some ways than others.

SLIDE 11

H's sister S* * * has had several pregnancies. Her daughter S* * * was born with congenital myotonia and died 3 days after birth. Her son T* * * seems to his mother to be O.K., but H* * * has her doubts. S* * * has been reluctant to bring him in for evaluation.

I am sure I do not need to remind anyone of the need to treat the following presentation with confidentiality.

VIDEOTAPE

Why would someone like me, a primary care doctor with an inner city practice, find this discovery so exciting? There are a lot of reasons, but I will begin by describing the first time Professor Housman invited me to visit his lab a little over a year ago. As I talked with one researcher after another, I realized that these people were working on many of the diseases that my patients had, and in some cases, like this one, they were getting very close to being able to explain the problem at its most fundamental level.

I went back to my office and made a quick list of all the genetic diseases I could think of in my practice.

SLIDE 12

These represented some of the toughest clinical problems I deal with. Then I began to add other diseases, such as diabetes, hypertension and cancer in which the genetic contribution to cause or mechanism is becoming more and more evident, and I was astonished. My surprise was understandable: when I went to medical school in the 1970s, genetics was a brief and obscure course. The field has exploded in the 80s, and is poised to make a huge impact on the practice of medicine. Even in the 70s, studies indicated that between 30 and 55% of all pediatric hospital admissions were due to genetic diseases. Now some authorities say that with the possible exception of trauma, it is hard to think of a disease where a genetic cause or mechanism is not playing a key role.

How is this affecting patients and doctors, and how is it likely to in the future?

SLIDE 13

Let's look first at a simplified model of the steps from recognition of a disease to the development of a cure. The process begins with the identification of people who are at increased risk for a problem. With genetic diseases, this usually means that some member of a family has been diagnosed with or suspected of having the disease, implying that other family members are at increased risk of having it too.

If we have a screening test, we can then tell with more certainty whether an individual is affected. Sometimes biochemical markers make this easy, as in Phenylketonuria, where a simple urine test is available, or Familial Hypercholesterolemia, where the blood cholesterol level is extremely high. In other diseases, there are no characteristic biochemical abnormalities, and screening, especially pre-natal screening, becomes much more difficult.

The localization and identification of the disease-causing gene allows screening and diagnosis to be done at the DNA level. Tests done at this level are much more sensitive and specific. For example, it was only a few months after the mechanism of Fragile-X disease was clarified that two reports appeared in the NEJM describing pre-natal diagnosis of Fragile-X by DNA testing. Similarly, the recent discovery of the Cystic Fibrosis (CF)gene lead to diagnosing two sisters in their 40s with unusually mild disease and a normal result on the usual screening test, the sweat test.

In situations where some sort of surveillance or treatment is warranted, highly specific screening tests are indispensable for targeting resources.

The next step is improved treatment, which often follows hard upon elucidation of the actual mechanism of disease at the DNA level. For example, a number of promising new treatments for CF based on the new understanding of the molecular mechanisms are in trial currently.

Preventing complications is better than treating them. Familial Hypercholesterolemia is a recent example of success at this level, while the prevention of retardation by dietary restriction in PKU is older and simpler.

The goal of everyone, of course, is to cure illness. The trials which are getting underway with Severe Combined Immunodeficiency Disease (adenosine deaminase deficiency) are incredibly exciting for this reason, but it should be clear that there is a lot of benefit to be gained at the earlier steps as well. It is also worth remembering that the successful application of any treatment, prevention or cure rests solidly on the accuracy of diagnosis.

DM now stands on the second step: we have the knowledge to screen effectively, and this new knowledge about the fundamental mechanism of the disease should lead soon to improved treatment and prevention of complications.

Let's take another look at some of the concerns H* * * expressed.

SLIDE 14

Reproduction: Would she have to have her tubes tied today? Probably not. DNA based pre-natal testing is now a possibility.

Misdiagnosis: Although it is easy to blame ignorant doctors for all the frustration and inappropriate treatment that comes with misdiagnosis, I can vouch that with complex multisystem diseases it is not always easy to make a purely clinical diagnosis, especially if you are not dealing with a large kindred. With the increasing recognition that different mutations in a given gene can lead to a much more varied spectrum of clinical features than was usually suspected, the advantages of a DNA level diagnosis are even greater. I will present a situation in a few minutes where misdiagnosis was an even worse problem than it has been for H* * *.

IT GETS WORSE FROM GENERATION TO GENERATION

For the first time we have an explanation for this, and though we can't stop it from happening yet, we may be able to identify when it will happen. There are doubtless many minimally affected patients with DM who are unaware that they may be at risk of founding families blighted like this one. I have in my practice one other such kindred, my partner has one, and a resident whom I supervise at the City Hospital Primary Care Center has another.

PROGRESSIVE DISABILITY

How long will it take for this discovery to lead to new therapeutic strategies? If CF or Duchenne's dystrophy are examples, not long. We are apparently dealing with a problem of enzyme regulation, a type of problem which may be susceptible to established approaches.

STIGMATIZATION

If we can prevent the complications of this disease, much of the stigma will disappear. Just finding the gene has some benefit: now there is one thing wrong instead of hundreds; now there is a disease with an identifiable cause (because if people don't know the cause of something, there seems to be a strong tendency to assign whatever negative factor is at hand.)

What about ethical issues? What to do about an affected fetus, who should decide if H* * * has her tubes untied, what to do with information a person may not want, what to do about insurance, employers, etc.

These issues are not novel, and have been wrestled with around other diseases. It is worth pointing out, however, that to a large extent they are artifacts of two phenomena. One is the separation of the information and decision-making power from the individual affected, and the other is the stage in the progression toward cure. The first requires never-ending efforts by doctors to empower their patients, but the second is specific to that stage where we have diagnosis but no cure. As soon as there is good treatment or cure for a disease, many of these issues will go away.

I would like to show you a couple of examples from my own practice where access to DNA level testing has made a real difference.

SLIDE 15

The four members of generation II in this family were all diagnosed at different academic medical centers with Myotonic Dystrophy. Patient II-4 in particular was receiving essentially palliative treatment for a person with a terminal disease. Despite all the muscle biopsies and EMGs, no one could confirm a different diagnosis.

When her sister, II-1, noted her daughters developing myotonia, the rest of the family agreed to get genetic testing done. The disease did not segregate with chromosome 19. It now appears that this family has a mutation on another chromosome in the same gene that has just been identified as causing two other myotonic disorders, which are non-progressive. With this news and a lot of support, patient II-4 is off all medications and looking at a normal life-span.

SLIDE 16

As a child, the father in this family had retinoblastoma. This is a malignant tumor of the eye, which in familial cases is caused by a mutation in a gene on chromosome 13. The treatment until very recently was removal of the eyes, which he underwent. His son also developed retinoblastoma, which was cured with radiation, but he later developed a malignant bone tumor which is caused by the same mutation and died at the age of 15.

Although his sister had not developed RB, and thus seemed not to carry the gene, it is known that 10% of such people really do carry the gene but were just lucky enough not to get retinoblastoma when they were children. They are still at risk for bone and other tumors, and could pass it on to their children.

She wanted to be tested, but the standard test, done by linkage analysis, involves comparing chromosomes throughout a whole kindred to see which version of chromosome 13 carries the disease gene. Her only living relatives are her parents, so this was impossible.

By direct DNA analysis of the gene, however, a mutation in one of her father's copies was identified, and it was possible to confirm that she does not carry that mutation.

I would like to close with a comment about the information gap. The rapidity with which molecular biology is advancing is leaving a lot of us in the dust. Informal polling among my colleagues at a Harvard Teaching hospital suggests that most internists find many of the articles appearing in medical journals about this material unreadable and incomprehensible. Yet these are "our" diseases which are being explained at the fundamental level. If molecular biology fulfills the promise it is showing at this point, it will not be long before a large part of everyday medicine is practiced at the DNA level. I don't think it is too soon to be thinking about how to narrow the information gap between researchers and practitioners.

Thank you very much for your attention.

CONGRESS IS OUT OF CONTROL

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. PACKARD. Mr. Speaker, Congress is out of control. It has been mired in scandal after scandal; it continues to exempt itself from the laws it passes for the rest of the country; it spends the taxpayers' hard earned money foolishly and indiscriminately.

Last week, President Bush sent Congress a list of 68 projects in the Federal budget that represent $5.7 billion in unnecessary funding. President Bush singled out these projects solely on merit, meaning: Was this project a necessary and desirable use of the taxpayers money?

By rescinding funds for these projects, Congress can cut pork in the Federal budget. Now, I ask my colleagues in this body: Can you support funding for a poultry center in Arkansas? Could you explain to your constituents why Congress has set aside funds for mink feeding and reproductive research? How about rationalizing the use of taxpayer funds for swine research in Minnesota? I ask my colleagues: Do these projects merit taxpayer funds?

I can guarantee the taxpayers out in the real world watching this body are saying: No!. Why? Because these projects are stupid. These projects are prime examples of idiocy in the Federal budget.

As a Member of congressional porkbusters, I would like to thank my colleagues, Congressmen FAWELL and PENNY for their leadership. Hopefully, the porkbusters will be able to force a vote on each and every one of these projects. This way, Congress is on record, accountable and responsible for its actions.

I urge my colleagues today to rescind the funds for these foolish projects which serve no other purpose than to add fat and largesse to an already bloated Federal budget.

PRESS RELEASE

Today, the President transmitted 67 Special Messages containing 68 rescission proposals to the Congress under the Congressional Budget and Impoundment Control Act of 1974. These proposals would rescind $3.6 billion in fiscal year 1992 budgetary resources. They represent the first installment of the continuing process to identify and rescind programs and projects that do not merit funding in fiscal year 1992.

The FY 1993 Budget proposed the termination of 246 domestic Federal programs and over 4,000 individual projects. If enacted by the Congress, these terminations would save almost $5 billion in FY 1993 budgetary resources and almost $1 billion in FY 1993 outlays.

The programs and projects that were proposed for termination met the following criteria:

Evaluations indicated a low return on investment;

Programs were not consistent with the Administration's view of the appropriate Federal role (versus that of State and local governments or the private sector);

The original purposes of the program or project were fully achieved and/or were overtaken by events;

The programs or projects were duplicated elsewhere; or

The projects were substandard in relation to legal or administrative guidelines, or in relation to competitive requirements, normally held to be applicable (in the absence of Congressional "earmarks").

The programs and projects proposed for termination have been reviewed to determine which terminations could and should be accelerated through proposed rescissions in FY 1992. The domestic projects proposed for rescission are those that: (1) are on the FY 1993 termination list or have been newly identified as meeting the same criteria; (2) have not yet had FY 1992 funds obligated; (3) have not been accelerated for purposes of job creation in 1992; and (4) are not known to have merit sufficient to override a presumption in favor of proposing a rescission. The proposed rescissions and specific reasons supporting the rescissions are listed below. Additional rescission proposals will be transmitted as reviews of programs and projects are completed.

PROPOSED RESCISSIONS—MARCH 20, 1992

(In millions of dollars)

Rescission number, projects proposed for rescission, and budgetary resources proposed for rescission

Department of Agriculture:

Animal and Plant Health Inspection Service:

R92-35: Cattail management in North Dakota, 0.1.

This blackbird control project did not meet the usual Department of Agriculture tests for animal control projects. No cooperative agreement for joint funding with the state and local governments exists as is generally required. There was no assessment of the severity of the problem and the ensuing environmental impacts.

Cooperative State Research Services:

Buildings and facilities:

R92-36: Animal care facility, 0.3.

This project to fund facilities to care and house animals used in university research projects is the responsibility of the institution. It was not peer-reviewed or awarded competitively.

R92-37: Building consolidation, 0.5.

This project to consolidate Rhode Island facilities related to coastal lands and waters should be funded by the university. It has no national significance.

R92-38: Facility road, 0.5.

This project to construct a road on university property is clearly the responsibility of the institution. It has no national significance.

R92–39: Food marketing center, 2.7.

This project to construct a facility a university's food marketing activities should be funded by the institution. It has no national significance.

R92–40: Food processing plant, 0.4.

This plant would process oilseeds, providing a direct benefit to the oilseed industry. It was not peer-reviewed or recommended by the Department of Agriculture's research community.

R92–41: Poultry center in Arkansas, 3.1.

This center should be funded by its direct beneficiaries, the large and profitable poultry industry.

R92–42: Vidalia onion storage, 0.2.

This assistance to a facility that conducts atmosphere storage research should be funded by its direct beneficiaries.

Special research grants:

R92–43: Alternative to Dinoseb, 0.2.

This project funds the collection of residue data for pesticide alternatives to Dinoseb. It duplicates another project which has nationwide participation.

R92–44: Appalachian hardwoods, 0.8.

This project funds economic and market analysis and some product development that should be conducted and funded by the private sector.

R92–45: Asparagus yield decline, 0.1.

This project to develop fusarium resistant asparagus germplasm at East Lansing, Michigan was not competitively awarded, was not peer-reviewed, and is not considered a national priority by the Department of Agriculture research community.

R92–46: Celery fusarium, *.

This $39 thousand project to develop fusarium resistant celery germplasm at East Lansing, Michigan was not competitively awarded, was not peer-reviewed, and is not considered a priority by the Department of Agriculture research community.

R92–47: Cool season legume research, 0.4.

This project focuses on breeding, production, and integrated pest management strategies for legumes in Idaho and Washington. It was not competitively awarded, was not peer-reviewed, and is not nationally significant.

R92–48: Eastern filberts blight research, 0.1.

This project to develop disease management strategies for hazelnuts and filberts in Oregon was not peer-reviewed or awarded competitively. It is not nationally significant, and did not receive funding from direct beneficiaries.

R92–49: Integrated orchard management, *.

This $49 thousand project to find integrated apple pest and production methods for Vermont apple growers was not peer-reviewed or awarded competitively. It is not nationally significant.

R92–50: Leafy spurge biocontrol, 0.1.

This project focuses on control of the leafy spurge weed with emphasis on livestock grazing and management. It was not peer-reviewed and direct beneficiaries were not required to contribute to the funding.

R92–51: Lowbush blueberry research, 0.2.

This project on weed, insect, and disease control, and remote sensing management of lowbush blueberries was not peer-reviewed or competitively awarded. It is not nationally significant, and direct beneficiaries were not required to contribute to the funding.

R92–52: Manure disposal, 0.1.

This project focuses on comprehensive management technologies for handling of animal manure and the development of resolution techniques for conflicts between producers and the general public. There was no peer-review or competitive award.

R92–53: Mechanical tomato harvester, 0.1.

This project to develop concepts for machine components necessary to construct a green tomato harvester should be conducted and funded by its direct beneficiaries.

R92–54: Mosquito and prickly pear, 0.1.

This project to breed improved mesquite and prickly pear and to find new uses for this product had no peer-review, was not awarded competitively, has no national significance, and did not require funding from direct beneficiaries.

R92–55: Mink feeding and reproduction research, *.

This $46 thousand project to study aspects of the utilization of squawfish in mink diets and the reproduction of minks is inappropriate because it could be funded by the producers of mink products and because squawfish are listed as an endangered species.

R92–56: Oil from jojoba, 0.2.

This project to accumulate high levels of liquid wax esters in the seed of rapeseed and soybeans, as possible alternative crops, duplicates an ongoing program of the Department of Agriculture, and was not peer-reviewed.

R92–57: Safflower research, 0.2.

This project to enable the Northern Great Plains farmers to maintain and expand safflower as an alternative crop was not peer-reviewed or awarded competitively.

R92–58: Seedless table grapes, 0.1.

This project to develop new grape juice products from Arkansas seedless table grapes should be conducted and funded by its beneficiaries.

R92–59: Small fruit research in Oregon, 0.2.

This project for research in the improvement of small fruit varieties is outside the Department of Agriculture's extensive program in plant breeding, and was not the subject of competitive peer review.

R92–60: Swine research in Minnesota, 0.1.

This project to research emerging diseases in swine was not peer-reviewed or awarded competitively.

R92–61: Urban pest research in Georgia, 0.1.

This project for research on household and structural insect pests is not appropriate due to the existence of a major industry that could conduct and fund research on the eradication of these pests.

Extension Service:

Special grants:

R92–62: American Pacific agriculture, 0.6.

This project duplicates other programs designed to promote agriculture through the United States and its territories.

R92–63: Cow/calf management, 0.2.

This project to improve cow/calf management in southeast Iowa does not address a unique problem, and is likely not to pass a competitive award process that includes peer-review and a requirement for national significance.

National Agricultural Library:

R92–64: Leflar School of Law, 0.5.

This grant for agricultural law research and information was not competitively awarded or subjected to rigorous peer review.

DELEGATION WORKS TO RESTORE MORAL VALUES INTO RUSSIAN SCHOOLS

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. JOHNSON of Texas. Mr. Speaker, I would like to recognize today a delegation of over 200 American youth, fathers, and mothers who recently traveled to Moscow, Russia. They went under the official invitation of the Moscow Department of Education as part of a continuing program to restore Biblical, moral values into Russian schools and the whole of Russian society.

In addition to significant visits with schools, church leaders, orphanages, families, and government officials, weekend training sessions were initiated in 19 schools for teaching the universal Biblical principles upon which America was established. The benefits received by the 3,000 Russian people who participated in the first weekend of meetings has prompted the head of the Moscow Department of Education to propose the goal of having this training in all 1,300 Moscow schools by the end of the year.

These principles were also discussed with Russian President Boris Yeltsin during a significant meeting with him and his wife. The Russian "Father of the Constitution," Oleg Rumiansev, also hosted a meeting for a representative portion of the group and there signed and presented a copy of the proposed Constitution for review and recommendations based on Biblical, moral principles.

Supportive contacts were also given on the city level by the Prime Minister of Moscow and other officials with whom the American delegation met.

In recognition of the charitable work of these men and women, I would like to ask that this congressional body join with me in commending those named below who took part in this important mission.

Raeanna Adams (GA), David Ameen (MI), Brian Anderson (PA), Joshua Appel (WA), Bambie Baer (KY), Samuel Baer (KY), Elizabeth Baker (OH), John Barja (NC), David Baumgardner (IN), James Beaird (TX), Michael Behmer (AL), Kevin Beitler (MN), Julianne Bell (IL), Jeremy Berg (MN), Sarah Bingham (HI).

Scott Blanton (WA), Adam Blocker (FL), Rebecca Blum (LA), Matthew Bowman (MI), Phil Bowman (MI), Joel Boyd (MI), Eric Brainard (MN), Rachel Brillhart (FL), Joshua Brock (GA), Paul Brooker (GA), Denise Brown (TX), Dixie Brown (TX), Wayne Brown (TX), Jeremy Bucholtz (WI), Summer Burdett (GA).

Kasie Burrel (GA), Jonathon Cave (TX), Lisa Cave (TX), Michel Cave (TX), Pamela Chamberlain (IN), David Clayton (CA), Ruth Ann Clement (NE), Ruth Coffman (CA), Joshua Cole (ID), Tracey Ann Collins (OH), Aland Coons (OR), Joshus Covert (IN), Valerie Crawford (TX), Lyle Dankers (WI), Paul Dankers (WI).

Christina Domont (IL), Scott Domont (IL), David Dressler (IN), John Dressler (IN), Annie DuBreui (IL), Jason Evison (MI), Justin Evison (MI), Brian Fedro (KS), James Fehr (BC), Amanda Feldman (WA), Stephen Ferguson (OR), Chris Fleming (GA), Sarah Fluegge (MD), Todd Fluegge (MD), Stephanie Flynn (IL).

Ruthie Fritsch (WA), Chad Fryer (GA), Becky Fuhrman (IL), Caryn Fuhrman (IL), Eric Fuhrman (IL), Ron Fuhrman (IL), Joyce Fuhrman (IL), April Futhey (KS), Jeannette Gardner (GA), Sarah Joy Gass (KS), Craig Gendron (MI), Charles Gergeni (IL), David Gettis (BC), John Gettis (BC), Seth Getz (IL).

Jeffrey Gill (AZ), Ralph Gilentine (TN), Eric Goranson (MN), Karl Goranson (MN), Stephanie Goranson (MN), Bill Gothard (IL), Allsion Grier (MS), Gayla Grubb (CA), Vanessa Grubb (CA), Craig Guy (MO), Donna Guy (CA), Peter Guy (CA), Lisa Hadden (GA), Joanna Hair (AR), Gary Hair (AR).

David Hart (MI), Karen Hart (MI), Natalie Hart (MI), Tanya Hart (MI), Aaron Hawkins (AZ), Jacinda Hedges (CA), Johanna Henry (TX), Joy Hensley (FL), Vernon Hoaglund (IL), Tamra Hoaglund (IL), Jeremy Hostetler (OH), Jennie Howlett (MI), Joel Huizinga (WA), Ruth Hart (WA), Christy Hutcherson (NC).

Jacob Ingvalson (MN), Grace Fellowship, Maria Jacob (Il), Prem Jacob (IL), Jamie Jensen (WY), Alanna Johnson (MI), Jerry Johnson (TX), Richard Johnson (TX), Scott Johnson (TX), Timothy Jones (OK), Tony Jones (GA), Dwayne Juzyk (NE), Angela Keilin (MI), Laura Killingsworth (GA), Holli Kimbrough (MS).

Marja Kristensen (ID), Ryan Kurtz (CA), Nick Lancette (MT), Joshua Landis (PA), Chris Larson (VT), Richard Larson (VT), Micheal Le Febvre (OH), William Lehamn (KS), Whitney Leverwtt (TX), Allison Lindsey (AL), James Linn (TX), Matthew Lowe (MI), Melissa Lundie (CA), Laura Luyben (NJ).

Robert McCurley (NY), Haydon McPartland (IL), Heather Meek (TN), Renee Meek (TN), Deana Meyers (KS), Matthew Miller (MT), Romona Kay Miller (MT), Kristen Mills (OH), Matthew Mitchell (MO), Karen Moncrief (GA), Lori Moncrief (GA), Tender Joy Morris (TX), Stephen Nabors (GA), Nathaniel Nelson (NE), Tony Neufeld (BC).

Jeremy Newhouse (MN), Jonathan Newhouse (MN), Robert Newhouse (MN), Joshua Nunez (MI), Kara Lee Olson (VA), John Pierce (AL), Tamara Pierce (AL), Julie Popp (FL), Bryan Pound (OR), Rebecca Pound (OR), Sharon Reeder (TX), Kenneth Roach (AL), David Robbins (CA), Joel Robbins (CA), Gordon Robbins (CA).

Judy Robbins (CA), Robert Robbins (CA), Heather Roberts (AS), Alice Rodgers (MS), Courtney Rollinson (NY), Holly Rosburg (MN), Jedidiah Ross (MI), Robecca Ross (MI), Laura Rumley (MI), Cindy Sammons (IL), James Sammons (IL), Lisa Schaer (CT), Elizabeth Sharp (GA), Jeremy Shepherd (OK).

Kristine Shoemaker (IN), Carol Showalter (ON), Kevin Showalter (ON), Rachel Sias (MN), Carrie Simms (IL), Rebecca Simon (MI), Christopher Smith (NC), Mark Stanley (MN), Keven Steege (OR), Dan Steele (MN), Dane Sternecker (WI), Carl Sternecker (WI), Brett Swank (MI), Jarret Swank (MI), Eleanor Swanson (MO),

Stephany Taylor (TX), Karina Thomas (OR), Amy Thomas (WA), Deborah Thompson (WA), Julianne Thompson (CA), Jonathan Thorne (KS), Misty Treadwell (CA), Pamela Tucker (TX), Daniel Tyree (FL), Wayne Vanderwier (IN), Alayna Vaughn (TX), Susan Vaughn (TX), Jolene Viotto (MI), Chris Voyer (CA), Cynthia Voyer (CA).

Susanna Wagner (MI), Jamie Ward (OK), Paul Watkins (MN), Lonathan Watson (WA), David Way (NC), Lori Wilkerson (MO), David Winfrey (GA), Amy Wolsfeld (IL), Angela Wolsfeld (IL), Micheal Worsham (MS), Matthew Wright (AR), Ruth Yeadon (NE), David Yoder (MN), Christine Zimmerman (NC).

RETIREES DISPLAY ART WORKS AT NORTH KENDALL EXHIBIT

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to acknowledge the organizers and the participants of the arts and crafts exhibition of the Sunshine Club. The Sunshine Club is a retirement community in North Kendall whose members with varying artistic abilities displayed their works during an art exhibit recently. Works ranging from knitting, needlepoint and macrame to oil paints and photography were on display. In addition, the drama club entertained members of the community who visited the exposition. Marti Ostrander of the Miami Herald reports:

> Mary Cheathan Napier, 83, writes poetry, sews and knits up a storm.
>
> "I learned to knit at the age of 6, during World War I. I used to make all my own clothes and most of my husband's," said the former nurse, showing her handiwork: knit coats, shirts, even a man's jacket.
>
> Ten years ago, Helen Goldman, 90, started painting as a hobby. "I'm not Grandma Moses, but seriously, I started painting because I was bored and wasn't in business anymore." She works in oils and pastels.
>
> Napier and Goldman will be among more than 20 residents of the Sunrise Club, a retirement community at 9100 North Kendall Dr., who will display their talents today at an arts and crafts exhibition that's open to the public.
>
> "We are amazed at how much talent and art is here," said Martin Holtz, co-entertainment director at Sunrise Club.
>
> "It started out as something much smaller, and now it's turned into a major event," said Gary Dubler, Holtz's counterpart.
>
> The two put the show together after noticing how many residents had decorated their apartments with art and craft items.
>
> "When I asked one of the residents who had painted the beautiful landscape on the wall, she said she had, and that's how the idea to create an art show started," Holtz said.
>
> Tess Goldwater and Rose Aisen will have the largest exhibits in the show, Goldwater knits, crochets, quilts, needlepoints and works with macrame and crewel.
>
> "I'm 83 and have been doing this all my life," she said. She was a teacher for the handicapped and came to Miami 25 years ago.
>
> Aisen works with plastic needlepoint, designing and creating toilet paper holders, tissue holders, calendars, purses, pot holders and Christmas ornaments.
>
> Other exhibitors will include artists Ann Kendall, Estelle Berman, Jennie Applerouth, Marjorie Dunne and Ernie Schoman. Their works feature landscapes, photographs and antique portraits.

I am pleased that the members of the Sunrise Club opened their exhibition to the public and I congratulate them on their wonderful works of art. By combining their talents, they produced a wonderful program for others in our community to enjoy. In addition, I would also like to extend many congratulations to Martin Holtz and Gary Dubler who directed this event.

MARYLAND DAY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. HOYER. Mr. Speaker, yesterday in my home State, we recognized Maryland Day. This holiday commemorates the day Europeans first colonized our State in 1634, and it reminds us of the religious freedom that those first European colonists sought out. In fact, after landing on St. Clements Island, MD, the colonists set up a large cross, and celebrated the Feast of the Annunciation. While offers of free land certainly attracted some of the first colonists, no one can deny that the search for religious tolerance was a driving force behind their journey.

Some 200 colonists traveled over 3,000 miles from England to Barbados and finally to St. Clement's Island in the middle of Potomac. They traveled aboard two ships, the *Ark* and the *Dove.* Although the initiator of this first Maryland Colony, George Calvert, was Catholic, he and his son welcomed people of other faiths, and encouraged them to join the colonists. By the time the *Ark* and *Dove* set sail for the New World, less than half were Catholic, and the rest were of Protestant denominations.

Although peaceful and respectful coexistence among religious groups was not the norm in England, the Calverts wanted to ensure that religious tolerance would be the norm in their new colony. For that reason, religious disputes of any nature were forbidden on the *Ark* and *Dove,* and as well in the colony's first city, St. Mary's City. In fact, there is an interesting story about one of the first colonists, Thomas Gerard, a Catholic, who took both the key and the books belonging to a Protestant chapel on his land. Mr. Gerard was fined for violating the law promoting religious tolerance, and the fine was used to help support the first Protestant minister in the colony.

While Maryland is the only State I am aware of that celebrates Maryland Day—although I would certainly be willing to work with any Member here who would like to establish a Maryland Day in their State—I think Maryland's celebration is really a celebration of principles and ideas that transcend the disembarkation of the colonists on St. Clements Island. Maryland Day is really a celebration of the principle of religious tolerance, and the important role that Maryland has played in laying down this idea as one of our country's founding beliefs.

After all, if it were not for the promise of religious freedom, it is unlikely that this country would have attracted the ambitious and freedom-loving people it did. People who risked everything they had in the Old World in the hope of establishing a better life for their family and future generations. And people whose offspring eventually risked everything they had established in the New World for independence from England, and the belief that power in the hands of the people is the only acceptable form of government.

Mr. Speaker, In addition to this statement, I would also like to include in the RECORD, an editorial from a local paper, the Recorder, recognizing the important history on which Maryland Day is based.

[From the Recorder, Mar. 25, 1992]

MARYLAND DAY

Imagine that back in late November you boarded a sailing ship with about 300 other people; 41 days and about 3,000 miles of ocean later, your vessel docks in Barbados. You are in a new world, but you are still not in your new home. After several weeks of rest, you are back on ship, making your way slowly through the Caribbean and up the Atlantic Coast of North America.

Your ship and its companion vessel sail up the Chesapeake Bay—one of your fellow passengers calls it "the most delightful water I ever saw." You sail up the Potomac. Your shipmate later says it is "the sweetest and greatest river" he has ever seen.

Finally you land on an island in the river and celebrate your faith; a faith that was not tolerated in your home country. It was that persecution that led many of the passengers to board these two ships in the first place.

That celebration took place 358 years ago today. March 25 is Maryland Day, and it marks the founding of the Maryland colony—the day the first Maryland European settlers celebrated Mass on St. Clement's Island and made Maryland their home.

The great leap of faith that brought these settlers here cannot be exaggerated. They abandoned almost everything they had and everything they knew to carve out new lives for themselves in a world wholly unknown to them. They took on a challenge few of us can even comprehend more than three centuries later.

This a story many of us in Southern Maryland know. What we should remind ourselves, as we pause to mark the occasion, is that the history we celebrate was a result of hard work and extraordinary bravery. The success of the Maryland colony was by no means certain. In fact, George Calvert's first bid to found a sanctuary for Catholics in the new world came some years earlier in Newfoundland and was a disaster. After the Avalon colony was abandoned, Calvert visited the Chesapeake before returning to England, where he petitioned the king for a grant of land north of the Virginia colony.

George Calvert died shortly thereafter, and it was left to his son to organize the expedition that would establish the Maryland colony and build St. Mary's City on land purchased from the Yeocomico Indians.

A brief ceremony today at the St. Clement's Island-Potomac River Museum marks Maryland Day, as does a two-day celebration on Saturday and Sunday at St. Mary's City. The odds are good it will be raining. It usually does on Maryland Days, unless it snows instead. But Southern Maryland's fickle March weather was among the least of the problems the passengers on the Ark and Dove faced, so perhaps it's really not so urgent that we have balmy weather to mark the colonists' landing at their new home.

SYRIA SHOULD DEMONSTRATE FULL OBSERVANCE OF HUMAN RIGHTS FOR SYRIAN JEWS

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. WEBER. Mr. Speaker, I rise to the floor of the House today for the purpose of informing my fellow Representatives of the degrading situation of the 4,000 Jews who still remain in Syria. Their everyday lives are so monitored that they cannot even travel out of the country without leaving a burdensome financial deposit. Even worse, they must also leave close family members as assurance of their return. This intimidating harassment is to make sure these Syrian Jews do not emigrate—a violation of the Universal Declaration of Human Rights, of which Syria is a signatory.

Even though Syria has made gestures by releasing four Syrian Jews from prison, the Swed brothers—now in their fourth year of imprisonment—have not been released. Other crimes against Jewish citizens have not been thoroughly investigated or perpetrators convicted.

Now, during the "Sabbath of Remembrance", we especially note the plight of the Syrian Jews. This Sabbath, designated as a time to remember the threat of genocidal annihilation, is the time to speak out against continued suppression and persecution. Syria must end the surveillance of Jewish people and the endless restrictions on emigration.

This Congress must let President Assad and the Syrian Ambassador know of our concern for these people. It is time for Syria to demonstrate their good faith in the family of peaceful nations by the full observance of human rights for Syrian Jews.

THE COMPREHENSIVE WETLANDS CONSERVATION AND MANAGEMENT ACT OF 1991

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. DAVIS. Mr. Speaker, today I join many of my colleagues in cosponsorship of H.R. 1330, the Comprehensive Wetlands Conservation and Management Act of 1991.

There is probably no environmental issue that could have a more profound effect on our Nation's future than the treatment afforded to wetlands. H.R. 1330 is a bill that aims to balance protections provided to wetlands with the need for economic growth and protection of landowner rights.

My reasons for cosponsoring the bill are threefold:

First, H.R. 1330 provides a realistic wetlands definition. Under this bill, water must be saturated at the ground's surface for 21 consecutive days during the growing season instead of the old interpretation of saturation in the soil within 18 inches of the surface for a period of only 7 days. The bill also divides wetlands into three classifications based on the habitat, water quality characteristics, and flood control qualities of each wetland. This will overcome a significant shortcoming in the existing wetlands management program by allowing greater protections for those high valued wetlands while still allowing for economic growth.

Second, H.R. 1330 recognizes that a wetlands management program must respect the rights of property owners. Since the vast majority of wetlands in the United States are privately owned, it is important to recognize that if we, in Congress, decide to protect valuable wetlands because of the national interest, then just compensation to the owner of that land is warranted.

Third, H.R. 1300 provides a program that authorizes States to establish mitigation-banking programs, which will allow for improvement in overall wetland values and an increase in our Nation's total wetland acreage. In our country, reclamation and mitigation have been practiced for years and have resulted in the successful creation of many fully functional environmental habitats.

Mr. Speaker, over the last several months, I have listened to the debate surrounding wetlands legislation. There have been a number of bills introduced proposing changes to the present wetlands management program. I have reviewed all of these and I believe that H.R. 1330, a bill introduced by Representatives JIMMY HAYES, TOM RIDGE, BILLY TAUZIN, BERYL ANTHONY, and DON YOUNG, offers a program that balances the protection of wetlands, the protection of landowners' rights, and the need for economic growth in such a delicate economic time. I am pleased to join these individuals, along with over 180 cosponsors of the legislation.

COMMEMORATING THE 50TH ANNIVERSARY OF THE SEABEES

HON. OWEN B. PICKETT

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. PICKETT. Mr. Speaker, this month, the U.S. Navy observed an important milestone when it marked March 5 as the 50th anniversary of the founding of the Naval Construction Battalions, or Seabees. Just 3 days earlier—March 2—was the anniversary of Navy's Civil Engineer Corps, which is closely affiliated with the Seabees.

Throughout modern history, the Seabees have played an integral part in the Navy's success. From the dark jungles of the South Pacific during World War II to the hot sands of Saudi Arabia and Iraq during the Persian Gulf war, Navy Seabees have built the structures and facilities so critical to successful operations. They have built instant piers, deep draft harbors, storage areas, communications facilities, airfields, and much, much more. They have also been there for the helpless and destitute after some of the world's most devastating natural disasters.

In the Persian Gulf, the Seabees certainly upheld their reputation as a tough and effective military force. In a recent article Rear Adm. Jack E. Buffington, the Commander of Naval Construction Battalions for the U.S. Pacific Fleet, described how the Seabees quickly erected thousands of tents and huts for the berthing of 38,000 troops; how they built galleys to feed the troops; and how they constructed an enemy prisoner-of-war camp that had to house 40,000 Iraqi troops. Their list of accomplishments in that war goes on and on.

In Virginia, we are very proud of our association with the Navy. In recognition of the

50th anniversary of the Seabees, our Governor, the Honorable Doug Wilder, has issued a proclamation for this occasion. I submit the text of this proclamation to be printed in the RECORD.

SEABEE MONTH

Whereas, March 5, 1992, marks the fiftieth anniversary of the founding of the United States Naval Construction Battalions, or Seabees, and March 2, 1992, is the one hundred twenty-fifth anniversary of the founding of the Navy Civil Engineer Corps; and

Whereas, the skill, energy, and gallantry shown by the Seabees in constructing and maintaining bases for our armed forces in times of conflict, in World War II, Korea, Vietnam, Lebanon, Grenada, and most recently in the Persian Gulf, have added brilliant pages to our military annals; and

Whereas, during peacetime, the Seabees also demonstrate their famed "Can Do" spirit by lending their expertise and initiative to third world nation building and to relief efforts after natural disasters including hurricanes and earthquakes at home and abroad;

Now, Therefore, I, Lawrence Douglas Wilder, Governor, do hereby recognize March 1992 as Seabee Month, extend my heartfelt best wishes to the United States Naval Construction Battalions and to the Navy Civil Engineer Corps and call the significance of their anniversaries to the attention of all our citizens.

WILL THEY COME SWEET OR TART?

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. VANDER JAGT. Mr. Speaker, is there a pickle sickle in your future? If the Swanson Pickle Co. of Muskegon County, in our Ninth Congressional District of Michigan has its way, there may well be.

And it would compete for your affections with all kinds of agricultural produce for which Michigan, and particularly our Ninth District, are famous. Did you bake a cherry pie? Or perhaps a blueberry muffin? Or maybe a little apple strudel to complement your turkey dinner with all the trimmings—including mashed potatoes with onions and steamed asparagus? If so, you have a very high likelihood of having taken sustenance from the efforts of the people of the land in western Michigan. Indeed, Ottawa County, which is also the site of a share of the Swanson Pickle farming operation, is home to more successful large commercial farms than any other county in Michigan. And Michigan itself is second only to California as the Nation's most diversified agricultural State.

In these times when much is made of America's international trade status, it is valuable to remember that agriculture is still America's single most productive balance of trade earner. Our emphasis on industrial trade obstacles often overshadows a similar need to address barriers and tariffs which apply to, and often restrict, American agricultural products. We ought certainly to continue to focus on our agricultural enterprise in the effort to assure free and fair trade.

I am pleased and proud to count Don Swanson, the president of Swanson Pickle Co., as a good friend of some 25 years and more. With his sons, Paul and John, the company he leads so well continues to grow and prosper. Along with responsible agricultural producers around the Nation, Don has always had a sensitivity to the water and soil quality which, after all, make his bread and butter pickles. In recognizing these issues, however, Don and other producers have a legitimate concern that excessive regulation at both the State and Federal level threatens the very existence of the agricultural enterprise and our ability to compete. I hope that my colleagues will keep this concern in mind.

But back to the pickle sickle. As the article which I intend to present for my colleagues describes, the Swanson Pickle Co. is a large operation and has entered into the broadest range of marketing and production for its humble product. But you and I both know that a hamburger without the pickle is just not dressed; a pastrami on rye without a dill on the plate just won't do; and who ever heard of a hot dog without relish? But what do you do when the ice cream is too sweet, the popcorn gets caught in your teeth, or you're just not ready for a sandwich?

The entrepreneurs of the Swanson Pickle Co. have the answer. It's the pickle sickle—and you read it first here:

HOLD THE PICKLE? NOT THESE GUYS

(By Jeff Alexander)

The next time you sink your teeth into a Big Mac, think of Ravenna's Swanson Pickle Co.

Chances are, the secret sauce used on McDonald's best-known burger contains pickles from the sprawling Swanson farm in eastern Muskegon County.

Swanson is one of the nation's largest pickle producers, growing and processing about 13 million pounds of cucumbers annually.

That's a prodigious peck of pickles.

But then, Swanson's operation is not exactly small potatoes. The family-owned farm—which includes a beef cattle operation, corn and wheat crops—spans 2,800 acres and includes property in six townships of Muskegon County and northern Ottawa County.

Company President Donald Swanson said the farm is one of the nation's 10 largest pickle producers. It is one of few farms that grows, stores and processes the pickles it sells, he said.

Still, it remains a relatively well-kept secret.

"We don't mind being overlooked at the county level," Swanson said. "Out here in the eastern part of the county, we don't belong to Grand Rapids and sometimes we feel like we don't belong to Muskegon, either."

While many farming operations are highly visible, their impact on the economy is often overlooked.

But with this being national agriculture week, local agriculture leaders are taking the opportunity to spread the word about farming's role in the struggling Michigan economy.

"I think many people don't realize the significance of farming and the income it generates in Michigan," said John Swanson, vice president of Swanson Pickle Co.

Agriculture is Michigan's second largest industry, generating $4 billion in sales annually, according to the state statistics. It ranks behind automobile manufacturing but ahead of tourism, state Commerce Department officials said.

Sales of agricultural goods produced in Muskegon County exceed $35 million annually, according to the county Cooperative Extension Service. The 450 farms in the county include some of the most productive dairy, fruit and vegetable operations in the state, according to statistics compiled by the Michigan Department of Agriculture.

Ottawa County generates about $300 million annually from the sales of farm products, said Gerald Draheim, county extension director. It is Michigan's leading producer of blueberries, potted plants and turkeys, he said.

"I think people on the whole take it for granted," Draheim said of Ottawa County's agricultural operations. "It's something people drive by every day, but don't realize the magnitude of it.".

Ottawa County is one of only five midwestern counties where more than half of the farmers achieve annual sales of at least $500,000, according to U.S. Department of Agriculture statistics. No other Michigan county has that distinction, Draheim said.

The fruit, vegetables, beef, poultry and shrubs grown in West Michigan are sold around the world.

Swanson's pickles, for example, are distributed to stores and restaurants across the Midwest and eastern U.S. They turn up in restaurants, fast-food joints, jars of Vlasic pickles and relish.

Swanson's status as a major pickle producer, with 10 year-round employees and another 30 seasonal workers, has evolved from a family farm that traces its origin to the 1890s.

It wasn't until the mid 1960's, after 15 years of shipping pickles grown by other area farmers, that Swanson Pickle began growing its own cucumbers.

Over the past 25 years, Swanson has become a corporation that oversees a technologically advanced cucumber farm, pickling operation and cattle-rearing facilities.

While Swanson Pickle has largely avoided the roller coaster ride of food prices that have hurt other types of farmers, the stability of pickle farming has its tradeoffs. Stable prices mean efforts to increase profits must be aimed at trimming production costs and gaining entry into new markets, Don Swanson said.

Cutting costs will be difficult at a time when farmers are coming under closer scrutiny from environmental regulators.

John Swanson said most farmers want to protect water and soil quality and have taken steps to prevent damaging runoff and soil erosion. But he warned that excessive regulations from lawmakers in Lansing and Washington, D.C., could drive more farmers out of business.

Don Swanson, meanwhile, is focusing his income-generating efforts on developing new markets to peddle pickles.

"We've got to get pickles on the breakfast table. That will be the next big breakthrough," Don Swanson said.

Pickle manufacturers are already working to perfect a pickle-on-a-stick that would compete with hot dogs and frozen bananas at sporting events, Swanson said.

It's called a "pickle-sickle."

THE DELANCEY STREET MIRACLE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. LANTOS. Mr. Speaker, last month I called to the attention of this body the

Delancey Street Foundation, a highly innovative San Francisco-based drug and alcohol rehabilitation program. The foundation is run by Mimi Silbert, a miracle worker of boundless energy and wisdom.

Recently, I read an article in Parade Magazine that I feel underscores the significance of Delancey Street's work. I ask that this excellent article be placed in today's RECORD.

[From Parade Magazine, Mar. 15, 1992]

HITTING BOTTOM CAN BE THE BEGINNING

(By Hank Whitte)

In his teens, Robert Rocha was selling drugs night and day to survive. He was a street kid in San Francisco—using and pushing heroin, sleeping wherever he could. His mother had been in and out of jail for robbing banks ever since he could remember, he says. He had been sent to foster homes from the age of 8. He lived on the edge, hustling and stealing.

Rocha carried a gun to pull holdups. He stabbed people too; and while still a juvenile, he was arrested and charged with 27 armed robberies.

His dream, to go to a big-time prison, came true at age 19, when he was sent to San Quentin. "I'd lost touch with everything," Rocha says, "and had no belief in myself. No hope. No trust in nothing or nobody. The reason I wanted to go to prison was because that's where I could be somebody. But when I got there, nothing in prison excited me, because I'd done everything by then. When I got back out on the street, I thought about changing my life. Then I got busted again—for selling heroin to an undercover cop."

That was in 1987. Today, at 26, the same young man is well-groomed, wears a business suit and carries himself with quiet pride. He has the warm, confident smile of a person with solid ground under his feet along with a future. In the four years since he went on parole, he has learned eight construction trades. He takes college courses in criminology. He tutors other ex-convicts in geometry, helping them earn high school diplomas. He has transformed his life on every level—not in some magical way, but through a painful process of taking one small step after another.

Robert Rocha is one of 10,000 men and women with similar stories of tragedy and triumph. Over the last two decades, these former felons, drug abusers and prostitutes have helped each other survive to become healthy, productive citizens. Each of them has spent an average of four years as part of the Delancey Street Foundation, based in San Francisco, which has received worldwide acclaim for its ability to mend even the most broken of lives.

At the heart of this unique "extended family" is the spirit and unswerving resolve of Dr. Mimi Silbert, 49, a criminologist who has dedicated her life since 1972 to keeping Delancey Street open and growing. An elfin woman weighing less than 100 pounds, she stands toe-to-toe with the meanest, toughest ex-felons until the shouting turns to laughter, tears and hard work, and deep wounds gradually heal.

"You want to quit?" she challenged Robert Rocha and other Delancey Street residents while they were building their new San Francisco complex on the waterfront. Despite their lack of experience, they were doing the job by themselves. "Well," Silbert told them, "that's what you've always done—given up every time it has gotten difficult! I know you're hammering away and thinking that this isn't worth it, but you're hammering away on your lives.

"You're building your own foundation. If you make a mistake with that wall, tear it down and rebuild it! That's what we're doing at Delancey Street, for ourselves—tearing down bad things and making good things to replace 'em. And if you're too guilty and angry and hopeless to fight for yourself, then do it for the next guy. Because he's counting on you. Meanwhile, you're learning new skills. You're getting something that nobody can take away from you. You're building your lives."

There are 500 current residents at the San Francisco complex that opened in late 1990. About 500 others are going through this same rigorous program in Brewster, N.Y.; in Greensboro, N.C.; and in San Juan Pueblo, N.M. With neither funding nor a permanent staff other than Silbert herself, Delancey Street is almost entirely self-supporting. Its business enterprises, run by residents, net $3 million a year.

"We're trying to prove that the 'losers' in our society can, in fact, be helped," Silbert says, "and also that they, in turn, can help. Essentially they make up an underclass. A third of our population was homeless. The average resident is four or five generations into poverty and two or three generations into prison. They've been hard-core dope fiends. They're unskilled and functionally illiterate. They've had horrible violence done to them, and they've been violent.

"Most people would rather see them locked up for the rest of their lives, but our point is the opposite—that they can be taught to help themselves. They can learn to be responsible and self-reliant. And we believe that helping these same people is a critical part of turning around all the rest of society."

Last fall Silbert was among six recipients of the second annual America's Awards, sponsored by the Positive Thinking Foundation, of which Dr. Norman Vincent Peale is co-founder. "These unsung heroes personify the American character and spirit," Dr. Peale says. "They are ordinary people who are extraordinary examples of values that make our country great."

Over the years, Silbert has been besieged by requests from groups around the country wanting to learn about Delancey Street in order to duplicate it. Now, with typically large vision, she plans to create a "training institute" that would include up to several months of internship. Delancey Street could become a model for the nation.

"There's no way I'd go back to my old life," says Shirley LaMarr, 43, a resident for nearly three years. "I went through the whole siege of drugs and prostitution, getting beat up and having guns drawn on me, getting raped and carried out on pills, you name it. I've robbed people, all kinds of stuff, and each year I'd feel more disgusted. I lived on the street, with my own space on the sidewalk. When I was arrested, I sent a letter to Delancey Street. I was at the bottom, with a choice of coming here or going back out to die."

Those who enter Delancey Street invariably are filled with bitterness and despair. Having lost all trust and hope, they are angry and defensive. To be admitted, however, they must go through the motions of writing and asking to be let in.

Although they must promise to stay at least two years, the doors are not locked—so they can leave at any time, and few believe they will remain longer than a couple of months.

"But we already know that," Silbert says, laughing because the pattern is repeated so often, "and we're up front about it right away. I tell a new person who's scowling at me with utter contempt, 'Hey, we know you're trying to manipulate us. Our job is to out-manipulate you! And we're better at it than you are.'

"They always play the victim: 'It wasn't my fault.' We ask them to explain: 'Somebody tied you down and injected a needle into your arm? Someone forced you to take a gun and bash that old lady on the head? Is that what happened? Who actually did those things?' Finally they admit, 'Well, yeah, it was me. I did it.' We don't care that they don't mean what they say, just as long as they say it. Then we remind them of it every day that they're here!"

New arrivals at Delancey Street are given maintenance chores at the bottom of a long, intricate chain of command that includes every resident. A drug addict who wakes up in the lobby is given a broom to push and told, "Now you're no longer an addict. Why? Because we don't allow drugs in here. So the question for you is how you're going to live your life without drugs."

This "outside-in" approach is central to the Delancey Street process. "Image is important to them, so we start there," Silbert says. "They have to cut their hair, get into a suit and even change the way they walk. We ask them to act as if they were upstanding citizens or successful executives, even though they feel the opposite. Through external imitation, something gets internalized."

The same person also is told to be responsible for the next arrival, and so forth up the tightly structured chain of interaction, based on the premise that people will change simply by "doing" for somebody else.

"For my first eight months here," Robert Rocha remembers, "I didn't believe in anything that Mimi and the others were saying. I had such a hard attitude that nobody could tell me nothing. I'd say, 'Get away from me,' because there was no way that I could trust anybody with my feelings. Nobody had ever cared about me, so why should I care about anyone else?

"Then one day I saw that one of the guys was going to leave, and I found myself shouting at him. I got hysterical, trying to get him to listen to me. Some people told me, 'Hey, Robert, stop. We've taken care of it.' But you know what? You're starting to care.' And when I realized that it was true—that I did care—I almost broke into tears."

Delancey Street's rules forbid alcohol or drugs and prohibit threatening—much less committing—violence. In two decades, there has never been a violent incident, and the few residents who have made threats were thrown out. Eighty percent have kept their promise to stay at least two years. Graduates, with an average residency of four years, today include attorneys, business people, technocrats, construction workers and others who represent an extraordinary record of transformation.

Mimi Silbert came from an immigrant neighborhood of Boston, where her father ran the corner drugstore. "Delancey Street functions the way my own family did," she says. "I've duplicated here what worked for me in that neighborhood, where everybody looked out for everybody else as we struggled upward. It was like holding hands while climbing a mountain. Together we rise or together we fall. And that's what happens here every day."

Although her family moved to the Boston suburbs when she was in sixth grade, Mimi Silbert never forgot the supportive structure of that immigrant neighborhood and its values of hard work and self-reliance. A cheerleader who was voted "nicest girl" in the class of 1959 at Brookline High School, Silbert majored in English and psychology at the University of Massachusetts. After that came a doctorate in criminology from the University of California at Berkeley.

"I interned as a prison psychologist," she recalls, "and it was clear to me that this system of punishment doesn't work. The people who wind up there are given everything, all paid for by the taxpayers, and they are responsible for nothing. And then we wonder why, when they come out, they're no different."

Silbert was approached in 1971 by John Maher, a former felon who invited her to join him in creating a center for criminal rehabilitation and vocational training. It would be for ex-cons and run by ex-cons.

When they joined forces, Maher and Silbert agreed on a system of total self-sufficiency. All residents would work to support the group, with no outside funds. They would follow strict rules of behavior and be self-governing. Each resident would develop at least three marketable skills as well as earn a high school equivalency diploma.

Named for the section of New York City's Lower East Side where immigrants congregated at the turn of the century, Delancey Street started with four addicts in a San Francisco apartment. By late 1972, about 100 former felons were jammed into that single space. Yet, by helping each other, and by working and pooling their incomes, they were able to buy an old mansion—formerly housing the Soviet consulate—in fashionable Pacific Heights.

Silbert and Maher fell in love. "We shared a life and a dream," she says. For a decade, as their work continued to gain recognition, Maher helped Silbert raise her twin sons from an early marriage. However, personal problems took up more and more of Maher's time, and he resigned from Delancey Street in 1984. Four years later, at age 48, he died of a heart attack.

Since then Mimi Silbert has emerged not only as the driving force behind Delancey Street's continued success but also as a leader. One testament to her drive and ability is the foundation's new Italian-style complex in San Francisco. Because it was constructed almost entirely by the residents, the spacious complex—assessed at $30 million—cost only half that figure to build.

Called the Embarcadero Triangle, it contains 177 apartments, along with meeting rooms, a movie theater, a swimming pool and space for some businesses—such as printing, picture-framing and catering—run by residents. At street level is an upscale restaurant, also operated solely by Delancey Street people, and Silbert is now getting major businesses to set up discount retail stores, which residents will learn to run.

Aside from the new programs and businesses, daily life at Delancey street continues at an intense pace. Activities include frequent "games" held for residents to develop their interpersonal skills. For those at the one-year mark, there are marathon sessions called "dissipations" to help them get rid of the tremendous guilt over what they did in the past. And a final area of education involves volunteer community or social work, with residents engaged in numerous projects, from helping the elderly to working with young people in poor neighborhoods.

"We're coming together to make things happen," Silbert says, "not just with good results but also with a good process. Because life itself is a process. If you fall apart, it doesn't have to end there. Hitting bottom can be the beginning. And I think, right now, that America itself has the same problem that brings people to Delancey Street.

"At one time, we all believed we were going up as a country, but now we've started to feel like losers. There's a sense of being powerless, an attitude of fear and distrust. We're on the way down. Maybe we have to hit bottom before we can wake up the spirit of hope in America. But there's tremendous good in being able to get excited that rebuilding is possible. Once you know it's possible, you can take the risk of starting again. Then the best part of life is the struggle."

W.R. THOMAS MIDDLE SCHOOL PROGRAM GETS KIDS BACK IN SCHOOL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to have the opportunity to acknowledge the organizers of the Students at Risk Program at W.R. Thomas Middle School in Miami. The program is designed to help students who are considered to be at a high risk of dropping out. For our students this program means a second chance at a bright future, and I am delighted that these youngsters are being given a solid opportunity to make the most of their education. Jon O'Neill of the Miami Herald reports:

Last year, school was a nightmare for eighth-grader Regal DeLa Torre. She didn't pay attention, didn't do her work, had consistently lousy grades and spent a lot of time in supervised study halls one step away from being suspended.

All that has changed now, thanks to SARP, the Students At Risk Program at W.R. Thomas Middle School.

For Regla, SARP, which is similar to dropout prevention programs at other Dade public schools, has meant everything.

"I LIKE COMING TO SCHOOL"

She got her first "A" this year. She's happy with school, happy with herself and looking forward to the future. She was also named one of the school's "Students of the Month" for her work in Spanish class.

"I like the way the teachers treat you and even though the work is the same, they take time to help you with it," said Regla, 14. "I like coming to school now, and I want to go on to high school and college."

That's SARP's idea.

The program at Thomas, 13001 SW 26th St., began last year with 77 students. Since then, school records show that 57 of them improved their academic records, 65 improved attendance and 64 were moved up to the next grade.

"We're very happy with the program," said assistant principal Daniel Jones. "This is a very tough age for kids and it gives them help focusing on school. We're going to continue developing it and it will get even better."

MORE STRUCTURE

This year, 110 students are in the program, which is coordinated by Sylvia Mijuskovic and involves five teachers.

Students go to SARP if they have bad grades, bad attendance, have been held back a grade or are discipline problems. SARP is basically a more structured version of school that gives kids more individual attention.

They take the same courses, but each class has no more than 22 students. There are also weekly progress reports, group rap sessions and monthly meetings with parents. And there are rewards.

"Some of these students have only gotten attention for negative things before," said Mijuskovic. "We recognize them for progress and try to deal with problems as soon as they come up. We want them to turn around before they get to high school."

Nearly all the SARP students this year have success stories. Although not all have dramatically improved their grades, most have changed their attitudes toward school for the better.

Patty Fuerte, 14 said she used to have "an attitude problem," skipped classes and didn't do much school work.

"I thought I was stupid," Patty said. "Than I met Mrs. M. and we started talking about things. The teachers make you see that you don't have time to fool around."

After getting D's and F's last year, Patty is now getting B's and C's.

LEARNING TO BE SOMETHING

Last year, Annette Amador failed four out of six classes. Now, she makes mostly C's and knows she can do better.

"The teachers here help you," said Annette. "They have time and give you attention."

SARP also changed things for Frank Garcia, 15. He rarely went to class and when he did, he usually got in trouble.

No longer.

"It's different now," he said "The teachers here have helped me and they always show you they care. They want you to grow up and be something."

I would like to congratulate Dr. Ollie Daniels, principal; and Daniel Jones, assistant principal; and Sylvia Mijuskovic, SARP coordinator for their constant dedication to our community's young people. Their commitment to education is evident in this program, and I salute their wonderful success. Mr. Speaker, our education system is full of dedicated people like Dr. Daniels and his staff, I am delighted that they have focused their energy into putting together this terrific program.

TRIPLE-EFFECT ABSORPTION COOLING SYSTEM

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mrs. LLOYD. Mr. Speaker, I would like to bring to the attention of my colleagues my concern regarding the coordination of research in the energy field, and the priorities and crisis confronting our Nation today.

We are all familiar with the outstanding accomplishments in technological research that has taken place at Oak Ridge National Laboratory in a board number of research areas. Their work in ceramic composites in the development of cutting tools has enabled the United States to recapture a large market from Japan. High temperature nickel, alloys, and anaerobic waste treatment systems are just a few examples of the spin-offs from this research center that has positively affected American jobs, and the environmental and social problems that impact our Nation.

In 1990, Congress passed the Clean Air Act which required the phase our of chloroflourocarbons [CFC's] by the year 2000, a major contributor to ozone deterioration. There is a great urgency to provide alternative, clean, cooling systems in the United States which accounts for about 75 percent of the world's air-conditioning systems. Air-conditioning systems make up the bulk of the $135 billion worth of existing devices that are dependent on CFC's in the United States. Each year there is a new market of $6 billion for large field engineered systems, and many additional millions invested in smaller systems, all of which contribute to our environmental problems.

The Oak Ridge National Laboratory developed an alternative cooling system, called a triple-effect absorption chiller [3AC]. This technology produces energy with waste heat, and can be coupled with cogeneration to create air-cooling systems which are more efficient, more economical to operate, and free of CFC's or other contaminants to the atmosphere.

The Oak Ridge Laboratory sold the patent rights of the 3AC system to a U.S. energy company. The company plans to utilize natural gas as the energy source, a clean fuel with ample domestic supply, to power the new system. The current market for earlier generations of the absorption chiller technology has been dominated by the Japanese even though the process was developed in the United States. The new 3AC technology will produce from 50 to 60 percent more refrigeration than the existing double absorption systems on the market today, using an equivalent amount of energy input. But most important, the 3AC systems will not continue to contaminate the atmosphere with CFC's.

While continued research is critical to our Nation's growth, there is another vital step needed if we are to compete in the world marketplace. That is the development and commercialization of concepts developed in our research centers. Our Nation can not afford to leave promising research on the shelf, which can provide new jobs, and a healthy and safe environment for the citizens of this country and the world.

The Federal Government invested millions in the creation and development of the 3AC cooling system. The Government will get a return on this investment from the 6 percent royalty payments resulting from the sale of the 3AC systems.

Current plans for the 3AC are the development of models to be tested on the market in 12 to 18 months, and commercial models to be available in 36 months. Dollars will be expanded as the transition to clean air-cooling systems is made. I want to see that these funds are used to create new jobs for American citizens, capitalizing on American creativity and know-how. I strongly urge the Department of Energy to take such action as is necessary to join together researches and businesses in a partnership that will support the development and commercialization of the 3AC system to assure it's availability in the marketplace. This kind of cooperative technology transfer holds great promise as we work toward our goal of moving technologies from the laboratory to the marketplace.

SMALL BUSINESS PAYROLL TAX SIMPLIFICATION

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. ANDREWS of Texas. Mr. Speaker, small businesses are the backbone of our country. They account for most of the jobs, and for many areas they are a linchpin in the social fabric.

Yet, small businesses face many difficulties, not the least of which is the complexity of our Tax Code. That is why I am today introducing a bill to amend the Internal Revenue Code of 1986 to simplify one aspect of the Code relating to payroll tax deposits.

All employers are required to withhold Federal income and social security taxes from the paychecks of their employees. These withheld taxes must be deposited in a Federal depository bank according to a schedule established by Internal Revenue Service [IRS] regulations.

Unfortunately, the current deposit rules are too complex. Every year one out of every three employers is penalized for not depositing these withheld taxes according to the regulations. A good number of these penalties fall on small regulations. A good number of these penalties fall on small employers who, because of small changes in their payroll are subject to changes in their deposit schedules from one month to the next.

Employees are not only ones unable to figure out this system. In 1988, the IRS had to return half of the money they collected from these penalties because the IRS had calculated the penalty incorrectly.

We need a simpler system. The bill I am introducing today will eliminate the great amount of uncertainty that surrounds the current system and will allow employers to more easily determine when they must deposit the taxes they have withheld from their employees.

Under current law, the frequency with which an employer must deposit varies. The deposit schedule an employer must follow changes according to the amount of employment taxes withheld by the employer and how often employers pay their employees.

If an employer collects less than $500 a quarter in employment taxes, the employer deposits the amount collected at the end of the quarter.

Employers collecting more than $500 a quarter, but less than $3,000 a month, deposit the employment taxes they have withheld by the 15th day of the following month.

The confusing part for employers is that they must continually monitor the amount of money withheld from their employees because their deposit schedule could change, from quarterly, to monthly, to every other day, in some cases.

It is little wonder that one out of every three employers ends up receiving a penalty for not doing this right. Most employers who are penalized under current law trip up because they cannot figure out when they are supposed to deposit their taxes. Businesses' payrolls, and therefore withheld taxes, vary with the business cycle—sometimes their payroll is increasing, sometimes decreasing.

Consequently, they may cross the thresholds from less frequent to more frequent payments, and back again, several times a year. With each change in the payment schedule the likelihood of missing a deposit date and incurring a penalty increases. In fact this section of the Tax Code generates the most penalties for small businesses.

My bill would greatly simplify current law by reducing the number of deposit schedules, and therefore cut the number of employers who may be subject to different schedules in any one year. It also allows employers to look back to the amount of past withholdings to determine how often they should deposit their taxes, rather than having to change deposit schedules immediately upon crossing a dollar threshold.

This bill requires employers who withhold less than $6,000 a month to make their deposit once a month. Employers who withhold more than $6,000 a month would have to deposit on a Tuesday or Friday following the date of payroll. Those withholding in excess of $100,000 would still be required to deposit on the next banking day.

This legislation would also change current law to allow employers to look back to previous quarters to determine what deposit schedule they had to follow. For example, if an employer in any quarter in the previous year withheld more than $18,000, he would have to deposit his current withheld taxes after every payroll. If he withheld less than $18,000, he would only have to deposit once a month. Unlike current law, he would be certain that the schedule would not change in mid-month.

To stay within the budgetary constraints, the bill also reduces the margin of error allowance from 5 percent to 2 percent. With a simpler, easier to calculate, system there is less need for such a large margin for error. But in an economic environment where business is crying out for tax simplification, we should not allow the current overly complex system to continue. This Nation's tax system is built on voluntary compliance, and nothing undermines this more than having taxpayers penalized because of needlessly confusing regulations.

REGULATORY NIGHTMARES FOR PRIVATE PROPERTY OWNERS

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. FIELDS. Mr. Speaker, on this, the 59th day of President Bush's moratorium on new regulation, I would like to join the Republican Task Force on Competitiveness in calling attention to the problem of burdensome regulations and the critical need to remove them.

The regulations I would like to target today stem from section 404 of the Clean Water Act and the Swampbuster Program under the

Food Security Act. These statutes set up the regulations that govern wetlands: Their definition, determination and use. The implementation of these statutes and regulations involve four different agencies, various definitions, permits and restrictions resulting in an onerous burden on private businesses and property owners.

Private property owners have to get permission to make changes in the use of their own land and, in some cases, even to continue with current or historical uses. With the present regulatory mess, and the possibility of new regulations, property owners face a great deal of uncertainty in maintaining current practices and in trying to plan for the future.

This country has a number of laws to protect our civil rights from Government interference, however, basic private property rights have little or no protection by statute or regulation. Originally there was no need for protection because one of the founding principles, the fifth amendment to the Constitution of this country, was that "no person shall be deprived of life, liberty, or property, without due process of law, nor shall private property be taken for public use, without just compensation."

In the last 20 years Congress has continued to enact legislation that greatly infringes on private property rights. Section 404 and the Swampbuster Program, as currently administered, infringe upon the property owners right to use his property to his own interests. The owners are being restricted in the name of preserving wetlands for the public good without compensation or consideration for special circumstances. While some efforts have been made by the regulators to simplify and ease the heavy burden of these regulations, more work needs to be done.

The agencies with wetlands jurisdiction should coordinate and regulate under the same guidelines, including the same definition of a wetland, the same exemptions for unique circumstances, and the same permitting process. The programs should be administered with consideration of the economic costs and benefits of restricting land use, not just environmental benefits. It is past time to get back to the basics, letting property owners determine the best, most economic and efficient use of their own property. With the current economic situation that our country is in, we cannot afford to continue to inflict so many regulatory burdens on our private property owners and businesses.

I would encourage the regulators to simplify, clarify and consolidate the regulations that infringe upon the rights of those who own property, particularly the wetlands regulations.

END KASHMIR'S MISERY

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. BURTON of Indiana. Mr. Speaker, the following article, which appeared in the March 22 edition of the New York Times, correctly emphasizes that India should put aside its old way of thinking about the Kashmir dispute. India must quit its own self-delusion. India needs to get it through its own thick skull that the people of Kashmir do not want to be a part of India. They never have, and they never will!

India repeatedly alleges that the puppet elections, held after India's invasion of Kashmir, demonstrate Kashmiri acceptance of Indian rule. This allegation is absurd and India knows it. It is also absurd for India to allege that the Kashmiri freedom movement is simply a small group of terrorists inspired and supplied by the Pakistani military. I can personally assure anyone tempted to believe this garbage that 99.9 percent of Kashmiri people support the freedom movement.

For those Members of Congress who believe that the turmoil in Kashmir can be solved without giving the Kashmiris themselves a vote in their own future, I commend this article.

END KASHMIR'S MISERY

When imperial Britain agreed to partition India and Pakistan, some 562 princely rulers had to decide which country to join. The Maharaja of Kashmir, a Hindu, couldn't make up his mind. As he hesitated, his predominantly Muslim subjects rebelled in favor of Pakistan and their cause was taken up by invading Muslim irregulars.

This marked the beginning of a bitter conflict that has bred wars between Pakistan and India, and brought misery to the people of Kashmir. In a transformed world, both countries would benefit from a solution, preferably under U.N. auspices. Washington could help by discreetly nudging two proud countries toward settlement.

India's claim to Kashmir stems from its military rescue of the Maharajah, who then agreed to Kashmir's accession to India. Lord Mountbatten, India's Governor General, said that when order was restored, Britain hoped that a plebiscite would determine Kashmir's future.

In 1948 India promised a vote, but never delivered. Three wars and innumerable skirmishes have been fought over Kashmir, whose western third has come under Pakistani control while the rest of the old princely realm forms Jammu and Kashmir, Indian's only state with a Muslim majority. Periodically, Kashmir erupts into violence.

Islamabad and New Delhi accuse each other of fomenting terrorism, abusing human rights and flouting world law. As the dispute sputters on, Kashmiris endure mass arrests, diminished citizenship and economic collapse. Srinagar and Vale of Kashmir, once magnets of tourism, have become forlorn zones of strife.

India insists that a solution lies in direct talks with Pakistan, without U.N. involvement. It no longer holds to its old promise to let Kashmiris decide their own future in a plebiscite. That's no longer necessary, New Delhi argues, because Kashmiris can vote in local elections and because a defeated Pakistan signed a 1972 accord in Simla committing the two countries to a bilateral settlement.

For its part, Pakistan wants a settlement based on U.N. declarations calling for a plebiscite. But it would not be a true plebiscite. Pakistan would limit Kashmiris to choosing between it and India. This ignores a surge of support for independence. If Pakistan is serious about self-determination, then six million Kashmiris deserve that choice, too. And if India is serious about seeking a permanent seat on the Security Council, why score the U.N. in its own region?

In a changing world, the Kashmir dispute belongs higher on the agenda. The old security concerns that drove India toward Moscow, and Pakistan toward Washington and Beijing, have lost their intensity. India, as the paramount power in the subcontinent, would enhance its statute by moving to a U.N. settlement.

THE GREAT ENERGY BUST

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. COMBEST. Mr. Speaker, today I rise to take note of an article that appeared in this week's Time Magazine entitled "The Great Energy Bust." The Time article noted, "Along Highway 80 in west Texas between Midland and Odessa, giant drilling rigs sit rusting in the winter sun. Gas wells that dot the bleak mesquite-covered prairie lie shut down." This site is all too familiar to me, as this site is in my congressional district.

Since my first day in Congress, I have been a strong advocate of a balanced and workable national energy strategy which provides the needed incentives for domestic oil and gas production. Many times I have been accused for purely looking out for the parochial interests of the oil patch. However, it is nice to see that others are finally taking notice of the dire situation in the domestic oil and gas industry—as this week's Time Magazine article so clearly points out.

The rig count has dropped to its lowest level in history and hundreds of thousands of jobs have been lost. Natural gas producers have been hit with the lowest prices in a decade causing many wells to shut down. The first step toward recovery of the oil patch is the elimination of tax laws which penalize investments in our domestic oil and natural gas wells.

In an effort to remove these disincentives that have brought the oil and gas industry to its knees, I have cosponsored H.R. 706 and H.R. 4190. Both H.R. 706, the National Energy Strategy Act, and H.R. 4190, the Oil and Gas Exploration Incentive Act, propose the elimination of a number of the tax penalties that discourage exploration efforts, provide tax credits for the cost of drilling new exploratory and development wells, and adjust for the costs of maintaining economically marginal wells. These measures also remove intangible drilling costs as an item of tax preference, and provide for certain beneficial changes in percentage depletion.

Independent American energy producers should not be at a disadvantage with our foreign oil competitors. The U.S. producer is subject to both the regular and alternative minimum tax, our foreign competitors operating in our country are subject only to regular taxes. We need fairness for our U.S. producers so they may deduct ordinary business expenses from the alternative minimum tax. With a growing reliance on foreign oil, this inequity must stop.

The events of the Persian Gulf war highlighted our dependence on foreign oil and our vulnerability to oil supply disruptions. As the

Time Magazine article so accurately portrays in its description of Highway 80 between Midland and Odessa, we must reverse this downward trend and put people back to work in the oil patch. While Congress continues to drag on the debate over the national energy strategy, I will continue to work hard to direct our reliance back to domestic oil and provide the needed incentives for independent energy producers who are the backbone of the industry.

A TRIBUTE IN HONOR OF DR. JOSE IGNACIO RIVERO

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to pay tribute to Jose Ignacio Rivero, the former owner and director of Diario La Marina—a newspaper founded by his ancestors in 1832. In Cuba, Jose Ignacio Rivero fought against Fidel Castro and his oppressive regime when he and his paper were threatened with censorship.

Risking imprisonment as well as his life, Jose Ignacio denounced the crimes occurring in the wake of a revolution, of which many Cubans took part in the early stages.

Because Jose Ignacio stood for and fought in defense of the first amendment, and because he also stood for what was right and moral to the Cuban people and their families, Diario La Marina fell at the hands of Fidel Castro in 1960.

Once in exile, Jose Ignacio continued to fight against communism and against Castro's revolution. For more than 50 years, first in Cuba and later in the United States, Jose Ignacio has fought for high moral values and principles, for freedom of expression, and for the rights of the families of our community.

Mr. Speaker, Jose Ignacio has proven himself to be a most dedicated member of our community. He has served the Cuban people in many ways since his days as the director of Diario La Marina. He has been an advocate and a true supporter of freedom. He never stopped his quest for the Cuban people and their dreams.

On Sunday, April 5, a large group of his friends and supporters will host a luncheon honoring this brave and dignified man, who is an excellent example of what a newspaperman is all about.

I congratulate all who will be attending this well-deserved honor for Dr. Jose Ignacio Rivero.

SYRIAN JEWRY

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. TORRICELLI. Mr. Speaker, I rise today to speak about the plight of Syrian Jews. Attention to this matter is particularly timely in light of the recent commemoration of the "Shabbat Zachor," the Sabbath of Remembrance for genocidal threats to the Jewish people.

Living conditions for Syrian Jews are intolerable. Emigration is extremely restrictive; Jews cannot leave Syria without posting large monetary deposits and leaving close relatives behind as assurances of their return.

Moreover, the Syrian judicial system discriminates against Jewish citizens. Two Jewish brothers, Eli and Selim Swed, were accused of espionage for visiting relatives abroad. They were held without charge for nearly 5 years, then recently sentenced to 6 additional years in prison. There are few details of their trial proceedings or verdicts.

In March 1974, four young Jewish women from Damascus were brutally murdered while trying to escape from Syria. Their bodies were mutilated and dumped in sacks outside of their families' homes. The heinous crime has gone unpunished today.

In this civilized day and age, we cannot tolerate the persistence of religious persecution. We must not allow people to be punished for wanting to be reunited with loved ones.

The time has come for us to place the issue of Syrian Jews much higher on the American human rights agenda. We must forcefully call upon Syrian President Hafez El-Assad to free the Swed brothers. Americans must appeal to the world's conscience and call for an end to the systematic persecution of Syrian Jews.

I stand in concert with thousands of American communities across the United States, the National Task Force of Syrian Jews, the National Jewish Community Relations Advisory Council, and the Council of the Rescue of Syrian Jews in this appeal for humanity. If anything is absolutely clear from the tragic Holocaust, it is that men and women of good conscience must not be silent.

Therefore, I call on my congressional colleagues to urge President Bush and Secretary Baker to enter into a dialog with President Assad of Syria about this issue. In our effort to achieve peace in the Middle East we must hold Syria to the strict observance of human rights for all of its citizens.

FAMILY-INCOME STATISTICS HAVE BRIGHTER SIDE, TOO

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. BEREUTER. Mr. Speaker, I commend to my colleagues the following editorial which appeared in the Omaha World-Herald on March 23, 1992:

FAMILY-INCOME STATISTICS HAVE BRIGHTER SIDE, TOO

Politicians of the America-is-heartless school of thought appeared pleased this month when the Congressional Budget Office came out with yet another set of figures on Americans' income patterns.

Researchers divided the U.S. population into fifths. Families in the top bracket, according to the CBO, received 94 percent of all increases that occurred in the after-tax income of Americans between 1977 and 1989. Average income in the bottom two-fifths fell backward. Families in the remaining two-fifths earned small increases.

The America-is-heartless politicians said the figures constituted proof that the economic policies of Ronald Reagan and George Bush were bad for most Americans.

The picture is misleading.

For one thing, it doesn't account for the substantial non-cash income that some families in the lowest brackets receive in the form of Medicaid, subsidized lunches, housing assistance and food stamps. Thus the resources of the lowest bracket are understated.

Nor does it show that the top fifth had more taxable income—and paid more taxes—because of the elimination of tax shelters. As income of those taxpayers increased, there was no higher bracket to enter, so the average income of their bracket just got higher.

Furthermore, the America-is-heartless picture leaves the misleading impression that one group started poor in 1977 and got steadily poorer through the 1980s while another group started rich and got steadily richer.

Life doesn't work that way. A study conducted for the Center for American Business at Washington University in St. Louis indicates that millions of Americans moved from bracket to bracket during the 12-year period. Some moved up. Others moved down.

Richard B. McKenzie, who conducted the study, wrote that "it is naive to assume that the top fifth is an exclusive club." He said: "This group, in fact, comprises changing collections of households."

So do the other groups. Eighteen percent of the families in the bottom bracket in 1984 moved up in 1985. Twenty percent in the top bracket fell into a lower bracket. In the middle three brackets, about 44 percent of the families moved either up or down.

Another study indicated that 6 percent of the people in the lowest fifth in 1971 had advanced to the highest fifth just seven years later. Such movements should come as no surprise. This is still a land of opportunity for people who will work for it.

Young people take an entry level-job. With experience and hard work, their income increases. Perhaps they marry a working spouse, doubling their income. They save and invest. One year, perhaps, they liquidate some of their investments to pay for college tuition or retirement, soaring into the top bracket for one year.

Those who lose a spouse through death or divorce move into a lower bracket.

Poor families work harder and move into the middle-income brackets. They are replaced by the newly poor—in many cases young women who leave their parents' home, conceive a child and try to make it as a single parent. That makes the average income in the lowest bracket fall. But that doesn't mean that the poor are getting poorer.

As to the top bracket, some cynics say that unjustifiably high salaries and fringe benefits for corporate executives pushed the totals higher. That may be part of the reason. But the growth of two-income families was a significant factor.

To get into the top fifth in 1990 required a household income of $55,205. An Omaha police sergeant could marry a schoolteacher and have that much family income. Twelve years later, when she is a captain and he is a principal, their income will be much higher. And America has many more professional people than CEOs drawing multimillion-dollar compensation packages.

Certainly things are tougher for some middle-income families who have been caught in recession-prone industries. But any notion that only one closed group has prospered would be a gross exaggeration. One of the country's current problems is an impoverishment of spirit. Part of the blame for that should go to the people who seek political gain by spreading gloom and distrust.

DEPUTY SECRETARY OF STATE LAWRENCE EAGLEBURGER HIGHLIGHTS GOALS FOR THE CSCE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. HOYER. Mr. Speaker, on March 24 the 48 nations of the Conference on Security and Cooperation in Europe convened their fourth follow-up meeting in the city where the historic process began—Helsinki, Finland. Quickly getting to the business at hand, the foreign ministers of the participating states admitted three new members to the forum—Georgia, Slovenia, and Croatia—and established a much-needed peace conference on Nagorno-Karabakh.

I am cautiously optimistic that this meeting will provide some very important answers to the difficult questions now facing Europe and the struggling democracies of the former Soviet Union. As chairman of the Helsinki Commission, I plan to monitor the Helsinki meeting very closely and keep my colleagues well informed of any significant action or decisions taken by the conference.

The U.S. delegation to the follow-up meeting put forward its ambitious agenda for the CSCE in an eloquent opening statement by Deputy Secretary of State Lawrence Eagleburger. In that statement Mr. Eagleburger highlights what I believe are worthy, and most importantly, attainable goals for the CSCE. These include the ability to serve as a standard for judging democratic and human rights performance; provide a forum for political consultation and concerted action to manage change; serve as the preeminent forum for discussing conventional arms control in Europe; and support the work of democratic institution-building and market economic reform.

I support these goals, and am submitting Mr. Eagleburger's opening statement in Helsinki for the RECORD. I urge my colleagues to review it carefully:

STATEMENT OF DEPUTY SECRETARY OF STATE LAWRENCE EAGLEBURGER

Let me first thank President Koivisto and the people of Finland for graciously hosting this Ministerial Conference, which opens the fourth main CSCE follow-up meeting since the 1975 Helsinki Final Act.

This gathering, in the city whose name has meant so much to those who have for so long fought to be free, has, in the words of a great American President, a rendezvous with destiny. We meet today in a Europe which is in the throes of revolutionary change. It is a Europe which has liberated itself from the strangling grip of totalitarianism and ended the unnatural divisions between East and West, both within nations and on the continent as a whole. It is a Europe that has seen respect for human rights transformed from hollow promise to solid reality. And it is a Europe which may soon, for the first time in history, be wholly democratic. And because, unlike 1975, we gather in a Europe which is not fractured and paralyzed by ideological conflict, we have it within our power to accomplish great and lasting things.

The task of this conference is to define the course for the next phase of European development. Implicitly, of course, we know that this work can never be finished. We understand that democratic government is always evolving, even where it has been practiced the longest, and that the cause of human rights is a never ending struggle. In my own country, where democracy is over 200 years old, we still retain our Founding Fathers' skepticism about government and about the perfectibility of man. As James Madison wrote: "What is government itself but the greatest of all reflections on human nature? If men were angels, no government would be necessary.

If angels were to govern, neither external nor internal controls on government would be necessary."

Madison's cautionary words are worth remembering as we enter this new age of democracy. In some ways, our task was easier—or at least easier to understand—when the enemies of democracy and human rights paraded their cynicism openly and without apology. Today, our most dangerous adversary may prove to be complacency and self-satisfaction. Thus, despite the fact that all of us are committed to the Helsinki Final Act and have the best of intentions, we will still need the CSCE—this continent's conscience—as much tomorrow as we did yesterday.

Surely it must now be clear that this new era of democracy is also an era of wrenching change. On the one hand, revolutions over the past three years have widened our membership and brought us unanimity of purpose. But those convulsions have also confronted this body with new challenges; revolutionary change of the kind we have been experiencing brings with it not only hope, but also a degree of uncertainty and instability. Far from having ended, history is on the move.

We will, therefore, need the CSCE to help us negotiate a period of ongoing change. But our task is most assuredly not to duplicate the Congress of Vienna. Our goal is not to fix a rigid structure that will stifle change and apply purely mechanistic solutions to the problem of European equilibrium. Instead, our objective must be to set realistic goals for CSCE, recognizing that this body is one of several interlocking institutions through which we hope to build a society of democratic nations. The Atlantic Alliance, the European Community, the WEU, and the North Atlantic Cooperation Council all have roles to play in our Euro-Atlantic Community. There are more than enough challenges for each of these organizations. We must endeavor, above all, to preserve and strengthen CSCE's unique role as the new Europe's moral voice and ultimate source of legitimacy.

From the perspective of the United States, there are two broad challenges facing CSCE in the post-Cold War era: first, to achieve the consolidation of CSCE principles among newly-democratic participating states; and second, to strengthen the institutions and mechanisms of the CSCE to make possible more concerted action toward positive management of change in Europe.

With regard to that first priority, it should surprise no one that democracy in its infancy will experience growing pains. We should remember that democracy will always have at least the appearance of instability. Freedom is, after all, untidy, a fact which the new democracies—which must overcome dictatorship's legacy of intolerance and economic ruin—have surely come to recognize. In these circumstances a principal objective must be to utilize CSCE mechanisms so that our collective experience in the practice of democracy can be made available for the benefit of all. And we need to ensure that this body's consensus on principles is translated into practice in all of our member states, from the youngest democracy to the oldest.

Our second priority must be the management of change—in particular, the management of the inevitable outbreak of disputes within and between member states produced by the precipitate collapse of the former European order. We have, for example, witnessed for over a year now the tragedy of internecine and cross-border strife in the Balkans and the Caucasus. Clearly, it is incumbent on this organization to do all it can to bring this fratricide to an end.

With this purpose in mind, we have created and refined CSCE conflict management mechanisms in recent years. These we should continue to strengthen, but we should also work to ensure that we have the tools to address problems at their source, before crisis and conflict erupt. In other words, we must make conflict prevention—as well as conflict management—a priority in the years to come.

It is essential, as we launch this review process, to keep in mind the fact that we, the member states, in redeeming the promise of 1975, have succeed in revolutionizing the nature of our ties to each other. CSCE is the embodiment of this qualitative and historically unprecedented change. Though we remain sovereign actors, we are also members of a moral community—a community with tools and leverage to ensure that the weakest among us does not stand alone in the face of anti-democratic threats or tendencies from within or without. If we remain true to the values which unite us, and are ready to exploit the potential this body so clearly possesses, we may in fact realize a peace more far-reaching and long-lasting than any precarious equilibrium which was ever achieved by the practitioners of real politick and the balance of power.

In other words, we may find that we have articulated a new definition of security in this, the democratic age—one which encompasses human rights and economic issues as much as arms limitation and conflict prevention and resolution. My government hopes that in the coming months this conference will examine the immense changes of the past three years with a view toward elaborating this expanded definition of security. And when our work is finished in July, we should issue a statement setting forth how we intend to use this body to deal with the problems arising from change throughout Europe. That statement should instruct the Council of Ministers and the Committee of Senior Officials to continue their work after this conference closes. It should also commit us to a thorough investigation of potential crises, and to concerted action to resolve disputes before, not after, blood has been shed.

In sum, the United States envisions a CSCE able to serve four essential functions;

To serve as a standard for judging democratic and human rights performance;

To provide a forum for political consultation and concerted action to manage change;

To serve as the preeminent forum for discussing conventional arms control in Europe; and to support the work of democratic institution-building and market economic reform.

A CSCE encompassing these functions is one that will help us to build a family of nations which is not only democratic, but which has also redefined the meaning of security and thereby secured for all its members, from Vancouver to Vladivostok, a true and enduring peace.

THE FIRST FAMILY

HON. PETER A. DeFAZIO

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. DEFAZIO. Mr. Speaker, I am submitting for the RECORD an article from the current issue of Mother Jones, which details the antics of the President's son, Neil Bush. The article describes a pattern that was all too common in this country's savings and loans during the 1980's: a politically well-connected operator skipping from one lucrative arrangement to another, skipping out days or weeks before the financial house of cards collapsed and left taxpayers and creditors holding the bag. It describes exactly why I cannot support pouring another $25 billion—as the administration requests—down the rat-hole of this President's failed savings and loan bail out. Until we demand at least a modicum of competence and responsibility from the President's Resolution Trust Corporation and a collection record of better than one half of 1 percent of fines against savings and local crooks by the Bush Justice Department, it will be more good money after bad. I urge my colleagues to read through this article which, if not a complete picture of the looting of America's banks by friends of the White House, is a pretty good snapshot:

THE FIRST FAMILY

(By Stephen Pizzo)

President Bush was forced to admit last fall that the economy was in sorry shape. But, he quickly added, it wasn't his fault. Banking regulators, who had been discouraging banks from providing enough credit loans, were to blame for creating a "credit crunch," Bush claimed.

The president's conclusion that, if we could all just borrow more money, the nation's economic problems would disappear is a telling glimpse into how the practice of capitalism mutated during the Reagan-Bush years. And there is perhaps no better example of the create-nothing-consume-everything idea than the short business career of the president's own son, Neil.

A BRIEF HISTORY OF NEIL BUSH INCORPORATED

1983

Following in his father's footsteps, Neil bush formed his first oil-drilling company, JBN Exploration Inc., in Denver in September. His investment was $100. Neil's two business partners, Denver developers Bill Walters and Ken Good, put up $160,000. Neal was named president, and his starting salary, $75,000, was later raised to $120,000. His paycheck came out of a $1.75 million line of credit extended to JNB by Bill Walters' Denver bank, Cherry Creek National Bank (now defunct).

JNB Exploration drilled dry hole after dry hole, and Neil abandoned the company in May 1989, turning it and its debts over to his two former partners, Good and Walters. The company is now inactive.

Neil also served, from 1985 to 1988, as a paid director of Silverado Banking, Saving and Loan in Denver. Good and Walters, who had already served Neil's credit needs, found Silverado eager to serve theirs. But the pair's credit appetite proved much greater than Neil's: the two received over $132 million in loans from Silverado, which they never repaid.

NB Inc. Bottom Line: For his $100 initial investment, Neil was paid a salary of at least $550,000 over the next five years from JNB's bank credit line. He was also paid an average of $30,000 a year in Silverado director fees. (Silverado failed in 1988 at a cost to taxpayers of $1 billion.)

1984–1987

A year before Silverado began granting millions in loans to Ken Good, Good had given Neil $100,000 to play the commodities markets. The money was lost, but in 1987 Good forgave the loan. "It was never intended to be repaid unless the investment paid off," Neil later explained. "I know it sounds fishy, but it happens all the time." For Neil, this was no idle boast.

NB Inc. bottom line: $100,000, borrowed, lost, and forgiven.

1988

Just days before Silverado Savings' dire condition was made public in August, Neil quietly resigned from the thrift's board. A few weeks afterward, he and his wife, Sharon, bought a new $550,000 Denver country-club home—which was built by one of Silverado's largest shareholders. Even though Neil's oil company was on the skids, and Sharon had no employment income, the couple had no trouble getting a $400,000 loan to buy the house. Since federal regulators had a habit of suing directors of failed S&Ls, the house was placed in Sharon's name.

But with former benefactors Good and Walters now on the run from Federal thrift regulators Neil's cash flow developed some wrinkles. Those wrinkles were smoothed by a $125,000 series of personal loans from Denver cable-TV executive Fred Vierra, which were lent to Neil over a sixteen-month period in 1988 and 1989. In Washington, Congress had just began hearings on reregulating the cable-TV industry, a move that President Bush opposed.

NB Inc. bottom line: $525,000 in loans. Neil also sat as a director of business partner Ken Good's Florida development company, Gulfstream Housing Corp. He was paid $100,000 a year to attend occasional board meetings in sunny Florida. Gulfstream went belly-up in 1990, leaving banks, thrifts, and insurance companies holding the bag for millions.

NB Inc. bottom line: $100,000 a year for occasional Gulfstream meetings in Florida for a twenty-one month total of $175,000.

1989

By May, Neil Bush was a defendant in a $200 million federal lawsuit because of his role in Silverado's collapse. Nevertheless, just days after he walked away from his first oil company, Neil announced that he had started a new one, Apex Energy. His investment this time—$3,000. The rest of the money that the company needed in order to start operating, $2.7 million, was loaned by the Wood River Capital and Bridger Capital corporations. The two companies qualified as small-business investment corporations.

SBICs receive money from the federal Small Business Administration to invest in "high-risk start-up companies," and are run by private-sector investors. These two were managed by Louis Marx, heir to the Marx toy-company fortune and a lifelong personal friend of the Bush family.

Neil's starting salary at Apex was $160,000 plus expenses. And one of the first decisions that Apex made was to use $150,000 of its borrowed money to buy an oil-and-gas lease owned by Neil Bush and a partner.

A year after Apex Energy received its $2.7 million SBA-guaranteed loan, Congresswoman Pat Schroeder (D-CO) began asking questions about the deal. When I called Wood River's offices and asked for information about Apex's value, I was told that the company had a producing well in Kansas * * * or was it Montana? They weren't sure. But it was a gusher, producing oil * * * or was it gas? They couldn't recall. The SBA gave the two SBICs thirty months to liquidate their holdings, so it will be a while before taxpayers learn how much Neil's Apex Energy gambit will cost the government.

In December 1990, Congresswoman Schroeder pressed the SBA for an accounting of Neil's deals. Perhaps that is what motivated Neil to make another career change: In April 1991, he abruptly announced that he was leaving Apex Energy to pursue other interests. This he promptly did, leaving others to worry about paying back the SBA-guaranteed loans.

NB Inc. bottom line: $2.7 million in SBA-guaranteed loans. $320,000 in salary plus expenses.

1991

With consumer complaints about poor service and high fees by the cable industry pouring into Washington, Congressman Ed Markey (D-MA) rounded up his House Subcommittee on Telecommunications and Finance to hear testimony. Cable-TV magnate Bill Daniels saw trouble coming and penned a note to his friend George Bush: "You and Barbara are doing a fantastic job. Barbara and Sharon hosted a very successful luncheon at my home in Denver last week. They both looked beautiful, and you should be proud."

After the small talk, Daniels (whose company holds interests in cable-TV franchises across the country) reminded the president of his views on deregulation. "It is my hope," he wrote, "that your administration would take a strong stand now against reregulation. If not, the momentum will build."

And build it did, as Congress appeared determined to move toward some kind of cable-TV legislation. Then suddenly, last July, Bill Daniels announced a new addition to his corporate team—Neil Bush. "The idea to hire Neil was Bill's, a spokesman for TransMedia Communications said. "He thought Neil deserved a second chance.'

(A second chance. But then, who's counting?) Young Bush, who had walked away from Apex Energy just two months earlier, began work for one of Daniels's cable companies in Houston. The move got him out of Denver, where the bodies of Silverado, JNB, and Apex Energy were attracting quite a bit of attention. What did Neil know about the cable business? Not much, a TransMedia spokesman admitted, but added that Neil's duties would involve an area in which he did have experience: Neil would be the company's director of finance.

NB Inc. bottom line: Executive position. Starting salary of $60,000 a year plus.

By the middle of 1991, Neil Bush had only one remaining financial need. His scrape with federal thrift regulators back in Denver had left him with a hefty lawyer bill, reportedly totaling $230,000.

At that time, Congress was battling over a radical bank-deregulation bill. One of the key lobbies pushing the controversial legislation was the Association of Bank Holding Companies, headed by former Congressman Tom "Lud" Ashley. Remarkably, in the midst of this contentious debate, Ashley suddenly concluded that Neil Bush had been treated unfairly in the Silverado case. He had been persecuted, Ashley said, only because he was the president's son. Therefore, he said, he was passing the hat among friends (whom he refused to name) to raise money to pay Neil's legal bill.

NB Inc. bottom line: $250,000.

BLACK-HOLE CAPITALISM

Neil Bush may be a useful example, but he is not the worst of his breed. He was actually a small-change artist when compared with the Wall Street practioners of cannibal capitalism. Frank Lorenzo at Eastern Airlines, Charles Keating, Jr., at Lincoln Savings and Loan, former treasury secretary John Connally, corporate raider Victor Posner, the Milken gang—this is a long list. Each consumed enormous amounts of OPM (other people's money) during the 1980's and left in his wake either wrecked companies, or looted pension funds, or unpaid bank loans, and/or out-of-luck shareholders, or all of the above.

The tune for this dance was called by the Reagan-Bush team, which used its borrow-borrow—spend-spend philosophy to purchase an artificial and unsustainable prosperity, and in the process drove the national debt into the stratosphere. And the love of easy credit led to the deregulation of the S&Ls in 1982, which in turn led to the careless pouring of billions more in loans into the private sector, and an estimated $500 billion hole in the national treasury.

These financial vampires present conservatives with a real challenge during this election year. That challenge is to explain to out-of-work Americans how the capitalism of consumption benefits the economy, and how a business theory that tolerates and even encourages the consumption of existing wealth over the creation of new wealth can be a sustainable economic model.

It's going to be a hard thing to explain to ordinary folk. After all, even the simplest farmer knows that, when you eat your seed corn, your next stop is a soup kitchen.

VERONICA TIMPSON HONORED AMONG DADE'S TOP BUSINESSWOMEN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to acknowledge Ms. Veronica Timpson for her success as president of Timpson Limousine and Charter Bus Service. Ms. Timpson was honored for her initiative and her commitment to her work at a luncheon sponsored by the National Association of Women Business Owners at the Miami Airport Hilton. Five of Dade's top women business owners were honored at a luncheon during a celebration of Women's History Month. In addition to the luncheon, the "Recognition '92" celebration included workshops on financing, planning and growth management. The women were honored for having excelled in their businesses as well as for their community involvement. Susana Barciela for the Miami Herald reports:

Veronica Timpson taught social studies for 13 years before she had to make a tough choice: go into school administration or run her limousine rental business full-time. For seven years she had done two jobs, teaching kids by day and managing the firm she'd started with her sister Venita at night and on weekends.

"Venita and I sat down. We either had to give up the business or one of us give up our job. It was our chance to grow," Timpson said. "I quit in 1986 to run the business full time."

Timpson's willingness to take risks is one characteristic common to the true entrepreneurs. Competing in an arena that was clearly a man's world, Timpson impressed awards judge Antonia Gary with her "iron will, strong commitment, strong determination."

Picture Timpson a soft-spoken, petite women, driving a stretch limo or a charter bus. "An extraordinary image," Gary said.

For Timpson, 41, the chauffeuring was part of the fun. "We did a lot of driving in the first few years. You get to meet a lot of interesting people—entertainers, bankers, lawyers," she said. "Now, I've reached the point where I can stay home and do the paperwork and let the guys do the legwork."

The business has grown to employ two full-time and eight part-time employees. The minimum rental for a limo costs $165 for three hours, plus a 15 percent tip for the driver.

Back in 1979, a cousin who owned a mortuary sparked the business start-up. Timpson discovered there was a need for limo service and began renting to funeral homes. Now, she works with clients throughout Dade and Broward counties. Expanding into charter bus service, the firm takes church and school groups to Disney World.

Timpson remembers the people who have supported her. She donates to scholarship funds for high school students and supervises religious education at Mount Sinai Missionary Baptist Church in Liberty City. Her firm is a Dade Schools Partner with Martin Luther King Elementary and with Miami Jackson Senior High, where sister Venita Timpson works full-time as activities director.

I wish to congratulate Ms. Timpson for her outstanding leadership in our community, as well as her dedication and perseverance to succeed in her limousine and charter bus business. Ms. Timpson is a model and a source of inspiration for our community's young adults and inspiring entrepreneurs.

DOWN WITH THE BILLION DOLLAR WELFARE STATE—I

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. OWENS of New York. Mr. Speaker, welfare has been made a major issue in the Presidential campaign. David Duke set the standard and other Republican Party candidates have rushed to live down to that standard.

In the House certain conservative theoreticians have made long dishonest speeches calling for the dismantling of the welfare state. These frantic utterances have been targeted at dependent children, widows, the disabled, the unemployed and the elderly. At no time have these social program terrorists turned their guns on the most parasitic and most expensive welfare cheats.

CIA agents, weapons merchants, farm subsidies for the rich, tax breaks for overpaid corporate executives and billion dollar S&L and commercial bank bailouts have been conveniently overlooked by these cowardly guerrillas at war with the welfare state.

Down with the billion dollar welfare state. To wage honorable war against real welfare cheats who are destroying the Nation's economy I am ready to join other warriors of integrity on the floor of the House of Representatives.

Down with the billion dollar programs for cheats. First we must exterminate the $28 billion budget for the CIA and other intelligence operations. To keep these operations going merely for the sake of maintaining employment for able bodied and well educated staff persons is a gross waste of the taxpayer's dollars. Down with the welfare state. Put the CIA agents to work doing honest jobs.

The following is my summary of this multibillion dollar welfare scandal in rap poetry:

THE 28 BILLION DOLLAR WELFARE CHEATS

Agents on the dole
Searching for a role
Food stamps
Are not nice
We pay discarded spies
Top price
O why couldn't
Your expert eyes see
That evil Soviet empire
Crumbling right there
In front of thee
Star spangled budget
In a deficit hole
But "Intelligence" keeps CIA
Recipients on the welfare roll
Agents on the role
Searching for a role
Expense account gourmets
Eating in foreign fancy places
Sleeping with contacts
Of exotic races
Portfolio parasites
High tech free loaders
Agents on the dole
Spies stay in from the cold
Again for 28 billion dollars
Your services have been sold.

UNDERWRITING COMMUNISM IN CHINA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. SOLOMON. Mr. Speaker, I would like to submit for review by the Congress, an article that I recently read in the Washington Post.

UNDERWRITING COMMUNISM IN CHINA

(By Orville Schell and Todd Lappin)

It's almost spring again, and for the third time since Beijing's hard-line leaders ordered People's Liberation Army tanks to "recapture" Tiananmen Square from democracy activists in June 1989, the Bush administration and Congress are again at loggerheads over the best way to promote democratic change and human rights in China.

On Feb. 25, the Senate passed, 59 to 39, a bill to impose conditions on the renewal of

China's most-favored-nation preferential tariff status. The House had already passed the bill by a vote of 409 to 21. The measure would require the president to certify that Beijing has released political prisoners from China's notorious "gulag" and has made substantial progress toward protecting the human rights of its citizens.

Although passage of the bill sent a signal to Beijing, the final tally was eight votes short of the two-thirds majority needed to overcome a promised presidential veto. Indeed, on March 2, President Bush returned the bill to Congress without his signature, arguing that "conditional MFN would severely damage the Western-oriented, modernizing elements in China, weaken Hong Kong and strengthen opposition to democracy and economic reform."

The logic of the president's argument in favor of "constructive engagement" and against imposing sanctions on China is based upon two questionable assumptions regarding the way in which exposure to the West through trade leaders to political liberalization.

First, the president seems to fear that resolute action by the United States will have the unwelcome effect of causing China's hard-line leaders to reflexively turn inward, thus returning the Middle Kingdom to a state of Marist isolation and stifling further liberal change.

Second, Bush seems to take it for granted that foreign trade, economic growth and openness to the West will ineluctably lead to greater democratization and political reform in China. After more than 10 years of Deng Xiaoping's economic reforms, however, there is compelling evidence suggesting that such assumptions are not necessarily axiomatic.

Few would challenge the notion that China's economic reforms will improve the standard of living for China's citizens. But is there any guarantee that greater material prosperity will automatically improve the Beijing government's respect for human rights or political pluralism? Not necessarily.

Certain kinds of economic progress may adversely affect political liberalization by pumping new life into an ideologically bankrupt regime that might otherwise have collapsed under its own dead weight. The recent demise of the Soviet Union shows us how much totalitarian regimes depend upon economic growth to perpetuate themselves. Mikhail Gorbachev's initial willingness to experiment with perestroika stemmed not so much from an innate love of democracy as from his recognition that without reform, his country and the Communist Party would slide toward economic ruin.

China's leaders have recognized this fact since the late 1970s, and they have had this lesson graphically reaffirmed by witnessing the collapse of so many other fraternal Communist regimes. Deng's famous dictum that "it doesn't matter if the cat is black or white as long as it catches the mouse" perfectly embodies Beijing's expedient willingness to harness capitalist market mechanisms in order to perpetuate Communist Party rule.

Although Marxist hard-liners have dominated Chinese politics for more than two years since the 1989 crackdown, Deng's faction of economic reformers seems to have once again seized control. Last week China's Politburo declared that "to judge whether a move is 'socialist' or 'capitalist' will depend mainly on whether it will benefit the development of the productive forces under socialism, the comprehensive national strength of our socialist country and the living standard of the people." Stripped of its feline imagery, Deng's original formula for preserving the political viability of the Chinese Communist Party is now more plain that ever.

In fact, after more than 10 years of capitalist reform, China today is the world's most successful laboratory for free-market totalitarianism. In a macabre way, its political system has demonstrated an astonishing talent for grafting laissez-faire branches onto an old and despotic Leninist trunk.

China's prison system, in which thousands of political prisoners still languish, has actually flourished under China's crypto-capitalist "responsibility system" and provides an interesting example of how economic reforms can be used to perpetuate rather than end political repression. Thrown back on their own resources, China's prison managers have learned to exploit market mechanisms and their most abundant resource—forced labor—to manufacture a variety of products for sale to foreign buyers who pay in hard currency. The profits derived from this practice are paradoxically being used to relieve the state of the need to subsidize its much-feared penal system. The net effect of China's liberal economic system has been to shore up one of those very Leninist institutions that the Bush administration imagines its policy of unconditional free trade will end up "reforming."

If there is an encouraging lesson to be learned from China's burgeoning free-market miracle, it is that the People's Republic has become inextricably involved with and dependent upon the outside world for investment capital, sophisticated technology and foreign markets. In 1991 China enjoyed a $12.69 billion trade surplus with the United States, a surplus figure surpassed only by Japan. America is now China's largest foreign market for its export goods. To imagine that Beijing's octogenarian leaders can now force Chinese society back into isolation by breaking off this foreign trade is naive in the extreme. In this day and age, they simply cannot afford the economic and political costs that such a reversal would entail. It is this dependency that now gives the United States such an unprecedented amount of diplomatic leverage when dealing with Beijing.

President Bush is correct when he advocates a policy that encourages continued American engagement in order to advance the process of democratization in China. He is also correct in identifying China's economic reforms as a vehicle through which democratic change can sometimes take hold. But he is, unfortunately, mistaken in presuming that a deterministic relationship exists between economic growth and political liberalization.

Senators should not blithely assume that conducting business as usual is the most effective remedy for mitigating the excesses of China's one-party authoritarianism. It would be both sad and ironic if America's failure to tie its foreign policy to human rights considerations ultimately abetted the creation of the most prosperous Marxist-Leninist dictatorship the world has ever known.

(Orville Schell is a writer and longtime observer of China. Todd Lappin is a recent graduate in Chinese history of Brown University.)

Probably the most compelling reason for my bringing this article to the attention of my colleagues is the point made in the last paragraph:

> Senators should not blithely assume that conducting business as usual is the most effective remedy for mitigating the excesses of China's one-party authoritarianism.

We have seen for some time now that China is not willing to reform of their own accord. So I must reiterate how very important it is that we make it known they must change the dismal treatment of their citizens, they must adopt certain nuclear proliferation policies, and they must terminate their trade barriers against the United States.

The idea that China will come around in their own good time, is one that, "would be both sad and ironic if America's failure to tie its foreign policy to human rights considerations ultimately abetted the creation of the most prosperous Marxist-Leninist dictatorship the world has ever known."

TRIBUTE TO MRS. ETTIE MAE GREENE

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. RAHALL. Mr. Speaker, 1 month ago today, West Virginians lost a true living legend, Mrs. Ettie Mae Greene. At 114 years of age, Mrs. Ettie Mae Greene achieved the title of the Nation's oldest matriarch and the world's second oldest individual.

Born in Wayside, WV, on September 8, 1877, Mrs. Ettie Mae Greene outlived 18 U.S. Presidents, witnessed the invention of the zipper and beheld the development of our Nation. Most of us only read in history books what Ettie Mae lived.

This remarkable longevity was characteristic of this remarkable woman. Being orphaned at a young age and raised by a handful of relatives, Ettie Mae became a firm believer in the importance of a strong loving family, and later instilled this belief in her nine children. During a time when education for women would not excel past the very basics, Mrs. Greene educated herself, diligently focusing on religious literature.

The value of her long life of experiences did not go to waste, nor were they forgotten. Ettie Mae Greene enabled her children, grandchildren, great-grandchildren, and great-great-grandchildren, to live history through her.

Ettie Mae Greene was a true living legend.

LAND RIGHTS OF ALASKAN NATIVES

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. YOUNG of Alaska. Mr. Speaker, I am today introducing legislation to provide for a settlement of land rights of the Kenai Native Association [KNA] an Alaska Native Corporation organized under the Alaska Native Claims Settlement Act [ANCSA].

This legislation provides for a legislative authorization and ratification of a land exchange originally proposed in 1983 by the regional director of the Fish and Wildlife Service. The legislation would provide for the exchange to occur along the same terms as proposed in the 1983 agreement. Under the terms of that agreement the United States would receive 2,700 acres of land currently owned by the Kenai Natives Association. The parcel would be transferred to the United States and placed in Federal ownership within the Kenai National Wildlife Refuge.

These lands have been designated by the Fish and Wildlife Service as important habitat to acquire, as they contain some of the most sensitive habitat in the region. There has been a great deal of interest in the Kenai river parcel going back into Federal ownership. It's an important parcel to the Kenai Native Association, as it is to the Federal Government. In exchange for relinquishing title to this 2,700 acre parcel, KNA would receive title to 1,700 acres of land currently owned by the Federal Government but not on the riverfront, an unused Fish and Wildlife headquarters site in the city of Kenai, certain sand and gravel rights, and a removal of the remainder of KNA property from being located within the boundaries of the refuge. The removal of the KNA property from the refuge boundaries would occur through a boundary adjustment, which was accomplished in a similar case in 1980 during consideration of the Alaska Lands Act in which the Salamatof Native Association agreed to a boundary change in which their lands were taken outside of the refuge boundaries.

Mr. Speaker, this legislation is necessary to culminate and finish an exchange which will allow the Kenai Native Association to use their property, their sole economic base in a manner that's fair to the United States and to KNA. This exchange is an equal value exchange. Although there has been disagreement between the Fish and Wildlife Service and KNA to date on a valuation of each property, I am confident that these valuation disagreements can be resolved in the very near future in a manner that assures a fair return to the Federal Government. At the same time, I note that a fair return to the Federal Government has been provided for in the passage of ANCSA and the sole land base conveyed to this group of Alaska Natives in settlement of their rights is the land located that is subject to this exchange. It is unfair and not in the public interest to deny the Alaska Natives use of their lands under an unreasonable interpretation of section 22(G) of ANCSA. It is not in the public interest for Alaska's Natives to be denied use of property. I believe that this exchange demonstrates that a fair resolution of these issues can be accomplished if a reasonable interpretation of the restrictions of section 22(G) are considered in the valuation of property owned by Alaska Natives but located inside National Wildlife refuges. It is unacceptable to maintain that such properties cannot be used by Alaska Natives when conveyance of these properties was provided so that economic benefits could be maintained to the corporations.

Mr. Speaker, this is a limited exchange in the amount of acreage involved to the Federal Government, but it is of utmost importance to this small group of Alaska Natives who have been denied all viable use of their property. I hope that the ongoing discussions between KNA and the Fish and Wildlife Service yield results and that this matter is resolved within a short period of time. I appreciate the consideration given to this legislation by the distinguished chairman of the Interior Committee, Mr. MILLER, and the effort he has made to provide for an early hearing on this matter. It remains possible that an exchange can be developed in cooperation between the Fish and Wildlife Service, KNA, and the Congress. I will continue to pursue legislation either to enact such an exchange or to enact the exchange provided in this legislation.

DADE COUNTY HONORS BUSINESSWOMAN MARGARITA WEIDENER

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to congratulate Ms. Margarita Weidener for her success as president of Weidener Surveying and Mapping. Recently, Gov. Lawton Chiles recognized Ms. Weidener and nominated her to the Florida Board of Professional Land Surveyors.

Ms. Weidener was honored for her initiative and her commitment to her work at a luncheon sponsored by the National Association of Women Business Owners at the Miami Airport Hilton. Five of Dade's top women businessowners were also honored at the luncheon during a celebration of Women's History Month. In addition to the luncheon, Recognition '92 celebration included workshops on financing, planning, and growth management. The women were honored for having excelled in their businesses as well as for their community involvement. Susana Barciela of the Miami Herald reports:

Margarita Weidener has always loved math. So it has never fazed her to work as a land surveyor, a technical field overwhelmingly populated by men. Her love of math led to work with computers, then to work with surveyors at an engineering firm. In 1975, she sat for a two-day, 16-hour exam and became the first woman in South Florida to obtain a professional land surveyor's license.

"To me, it's just a profession, not a male-dominated profession," she said. Though clients sometimes get the wrong impression, that she's the wife or the secretary, they soon come around.

"Once they see how professional we are, and the quality of the work we do, they always come back," she said.

After working 13 years for Post Buckley Schuh & Jernigan, a Miami-based engineering company with offices in nine states, Weidener left in 1985. She started her firm with James Weidener, another professional surveyor whom she married that year.

"I felt I had gone as far as I was going to go at Post Buckley," said Margarita Weidener, 44. "I wanted to have my own business."

From revenues of $40,000 in the first year, Weidener Surveying now tops $1 million. Most of the 36 employees work in the Miami office, but there is an office in Orlando and another one opening soon in Tampa. Specializing in work for government projects, the firm is now site surveying for the Metromover under construction in downtown Miami.

Her accomplishments have not gone unnoticed. Recently she was nominated by Gov. Lawton Chiles to the Florida Board of Professional Land Surveyors. The first woman and first Hispanic to serve on this board, she began her term in January and will serve through 1995.

It's a long way from 1961, when Weidener arrived from Cuba at age 14. She remembers taking her first algebra test and, not knowing English, being stumped by the word problems. Getting a bad grade in math for the first time was traumatic. "Then a few weeks later, all of a sudden, my ears popped and I could understand," she said.

I wish to congratulate Ms. Weidener for her outstanding leadership in our community. Her commitment and dedication to her work has certainly proved her success in the field. Ms. Weidener's terrific success is a source of encouragement and motivation for the members of our community.

THE AMERICAN-IRISH ASSOCIATION OF WESTCHESTER REMEMBERS MARTIN JOSEPH MADDEN

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mrs. LOWEY of New York. Mr. Speaker, I rise today to pay tribute to Martin Joseph Madden. After a full life of service to family and friends, Mr. Madden passed away this past November. Today, the American-Irish Association of Westchester joins together to remember this outstanding man and all he meant to the many whose lives he enriched with his friendship and leadership.

Born in Maree-Oranmore County, Galway, Ireland, Martin Joseph Madden emigrated to the United States, but never forgot his roots. In addition to a successful business in Scarsdale, Martin Joseph Madden took an active role in the life of the Irish-American community of Westchester County. Indeed, without his tremendous spirit and remarkable dedication, the Irish community in Westchester would be far different than it is today.

Mr. Madden was a driving force behind a number of organizations which have bound the Irish-American family of Westchester together. The Yonkers chapter of the Irish Northern Aide, the Westchester Irish Committee and the American Irish Association's toy drive for children of Northern Ireland all benefited from his leadership. Likewise, he served in leadership capacities in both the American-Irish Association of Westchester and the Freedom for All Ireland Committee/Ancient Order of Hibernians Division I.

Westchester County, and our Irish-American community in particular, were fortunate to have had many years to share the warmth and dedication of Martin Joseph Madden. He is missed, indeed, but all that he had done over those many years has left an indelible mark on our community. It is indeed fitting that he is being honored this evening, and I know that for years to come we will remember, fondly and with great appreciation, this very special man who gave so much to us, as individuals and as a community.

VERY SPECIAL ARTS FESTIVAL

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. GILMAN. Mr. Speaker, it is a distinct pleasure for me to commend and congratulate the Very Special Arts Festival for the contributions it has made to our 22d District of the State of New York.

The Very Small Arts Festival was designed to ensure that all students with handicapping conditions would have the opportunity to display their artistic talents to the public. The first festivals in the State of New York were held in 1976, under the guidance of Vivienne Anderson and Jean Kennedy Smith. By 1980, through the hard work and dedication of the project director, Eugene C. Maillard and festival coordinator, Marjorie Bewley, the project grew to 16 festivals statewide. Today, the program reaches more than 50,000 disabled people throughout the Nation and around the world. Thousands of able-bodied people participate as well as volunteers, artists, parents, friends, and concerned, caring members of the community.

In the 14th annual Very Special Arts Festival, which will be held from April 27 to May 1, 1992, artists from Rockland, Orange, and Sullivan Counties will display their talents in music, drama, and dance. These noncompetitive forums demonstrate the power of the arts to stimulate learning and uncover unique talents. Very Special Arts has helped people with physical and mental challenges open the door to the cultural and educational mainstream of society.

Mr. Speaker, it is important for the public to know of the value of the Very Special Arts Festival, as an educational and therapeutic tool for the disabled. Accordingly, I invite my colleagues to join today in congratulations for the noble work accomplished by the Very Special Arts Festival over the last 14 years, and for our best wishes for success in all of their future endeavors.

TRIBUTE TO JOHN E. COCHRAN

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. HUBBARD. Mr. Speaker, today I rise to pay tribute to my friend, neighbor, and constituent—John E. Cochran of Mayfield, KY, who died on February 13 at the age of 73 at Lourdes Hospital in Paducah, KY.

John Cochran, a World War II Air Force veteran, was owner of Howard D. Happy Co. in Mayfield for 50 years as well as a director of the First National Bank of Mayfield. In addition, he was a member of the Seventh and College Street Church of Christ, Cuba Masonic Lodge No. 644, and the Shriners.

John Cochran was a wonderful man who loved his country, State, and hometown. He was very concerned about our growing national debt and Federal deficit spending. We were neighbors on Waverly Drive in the Bellemeade subdivision in Mayfield. He and I last discussed problems relating to congressional spending policy in August of last year when my wife Carol and I were at Mayfield for a district work period.

John Cochran is survived by his lovely wife Nell, his mother Ebbie, and his son Howard T. Cochran, all of Mayfield, his daughter Mary Gail Johnson of Murray, KY, his two brothers, Wayne Taylor Cochran of Norman, OK, and Ralph Cochran of Hopkinsville, KY, his sister, Larue Page of Cuba, KY, and six grandchildren.

My wife Carol and I extend to the many members of the Cochran family our sympathy upon the death of this distinguished Kentuckian.

TRIBUTE TO MARK DEMICHELE AND PEARLE MARR

HON. ED PASTOR

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. PASTOR. Mr. Speaker, today it is with great pleasure that I rise to pay tribute to two of Phoenix's finest citizens. Mark DeMichele and Pearle Marr have been honored as 1991 Man and Woman of the Year by the Phoenix Ad Club. Over its 43-year history, the Phoenix Ad Club has made a point of seeking out the unsung heroes, those individuals with a commitment to community service, and recognizing them for their accomplishments. Past honorees include U.S. Supreme Court Justice Sandra Day O'Connor and Arizona Gov. Howard Pyle.

Mark DeMichele came to Phoenix in 1978 as vice president of corporate relations for Arizona Public Service. He is now the chief executive officer of Arizona Public Service. But DeMichele is as well known for his commitment to the community as he is for his business achievements. He has been involved in everything from getting the Clean Air Force Council up and running to saving the Phoenix Symphony from going out of business. DeMichele has served as director of the Arizona Greater Phoenix Economic Councils, Morrison Institute and Public Policy at Arizona State University, and the Phoenix Community Alliance. He has also served as president of Herberger Theater, Children's Action Alliance, and the Arizona Museum of Science and Technology.

Perhaps the words of his colleagues and those who have benefited from his tireless efforts describe him best. One says, "He has a passion for excellence in all he does * * * he has imagination and vision * * * his own personal level of community involvement sets an example which is hard to follow." Another states, "* * * he brings a humanitarian quality to all his endeavors * * * he believes passionately in equal opportunity * * * he is, above all, an honest, compassionate and decent man."

Pearle Marr has been a Phoenix resident for the past 32 years having moved to Arizona as a child. Her personal experience as an asthma sufferer led her to become an active community servant. She serves as cofounder of the Parents' Asthma Network, has served as a board member for the National Jewish Center for Immunology and Respiratory Medicine in Denver, and currently serves on the board of directors for the Arizona Asthma Foundation, and the St. Lukes' Foundation.

Marr has been honored with the "Twelve Who Care" Honorary Kachina Award, the Anti-Defamation League Award, and the Jewish Community Center Community Service Award. She obviously is deserving of these accolades in recognition for her accomplishments which embody the spirit of voluntarism. To quote one of her nominators, "The personal example Pearle has set, coupled with her enthusiasm and energy, have helped to create a solid foundation for philanthropy and public involvement * * * in an era when such dedication is all too rare."

THE AMERICAN MATH AND SCIENCE STUDENT SUPPORT ACT

HON. PAUL B. HENRY

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. HENRY. Mr. Speaker, as we conclude our debate over the reauthorization of the higher education bill, I want to draw the attention of those monitoring our deliberations toward legislation I am introducing today entitled the American Math and Scientific Student Support Act.

I want to make it perfectly clear that this measure is intended to encourage institutions of higher education to use Federal research and development funding for the support of American students. It is not a bill that would mandate immediate changes in our university research programs. Rather, it urges universities to voluntarily close, over time, a loophole in our Federal student support infrastructure.

While doing some research on the amount of Federal aid that is provided to our American college students, I discovered a funding gap that should ultimately be closed. As my colleagues may know, foreign students are prohibited from receiving support under Federal aid programs. However, on the graduate level, indirect Federal support is being provided to foreign students through Government-sponsored research and development grants. What is particularly troubling about this fact is that federally financed traineeships and fellowships—which are available only to American students—have declined as a percentage of all graduate student support mechanisms. As a result, nearly 70 percent of all Federal support for graduate students now comes in the form of research assistantships—which at the discretion of the university can go to foreign students.

In an increasingly competitive world marketplace, and in an era when education costs are soaring, I must say I am troubled by our Nation's research universities reliance on foreign students. Nearly 60 percent of the engineering and 40 percent of the physical science graduate students in this country are foreign. More than 80 percent of these students have temporary visas. Obviously, U.S. tax dollars are being used to support many foreign graduate students who return to their native countries after graduation. This is occurring at a time when the U.S. demand for professionals strained in the math and sciences is expected to increase by as much as 25 percent in the next decade. Why, then, are we using tax dollars to train individuals who will take their skills abroad and work for foreign companies that compete against us?

Further highlighting this issue, columnist William Raspberry and Morgan State University dean of graduate studies and research, Frank Morris, have drawn critical attention to the fact that universities provide more financial support to international graduate students than they do to American minority-group students. The fact, however, is that this is becoming increasingly true for all American students.

While some would call for an outright prohibition on the use of Federal dollars—indirect or otherwise—to support foreign graduate students, I recognize what this could do to those university research programs that have become overly dependent on foreign students.

Therefore, my bill would do the following: As part of the R&D grant application process, universities would be required to report the name and country of origin of each nonimmigrant alien they plan on hiring as a research assistant under their Federal grant proposal. A university would have to provide a statement of the intentions of each such nonimmigrant alien with respect to seeking permanent resident status in the United States. They would also have to describe the efforts the institution has made to hire U.S. citizens or permanent resident aliens to conduct their research and development activities; and certify that, despite these efforts, no qualified citizens or permanent resident aliens are available.

Last, my proposal would require an institutionwide report every 5 years on the amount of the Government and non-Government financial assistance provided to foreign students.

Mr. Speaker, I believe this proposal will dramatically underscore the dilemma we face in math and science education. It may also give universities the impetus to initiate creative programs that will draw more American students toward the math and sciences.

IN HONOR OF THE LATE COUNCILMAN JOSE MONTIEL

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to pay tribute to the late city councilman Jose C. Montiel for his dedication and commitment to the community of Sweetwater. Councilman Montiel was a close friend of my family's and a pillar in our community. He served our community and its members with pride and integrity. His absence will be sorely felt, but will serve as a reminder of the difference that he made to others in our community. Gail Epstein of the Miami Herald reports:

> Jose C. Montiel, a Sweetwater City Council member known as a friend to the elderly, was found dead in his home Friday, the victim of an apparent heart attack, his family said. He was 69.
>
> "If you were to take a poll of popularity, the council person most known in the city of Sweetwater was Jose Montiel," said Matilde Aguirre, mayor of Sweetwater.
>
> "Everybody knew who he was, and he knew everybody else," she said. "I would say to him, 'Do you know so and so?' Montiel would close his eyes and say, 'They live at such and such address.' That's how well he knew the community."
>
> Montiel was the only person left on the Sweetwater council in 1989 after former Mayor Irain Gonzalez and three council members were indicted on federal charges of trying to bribe a businessman. Gonzalez and two council members were convicted.
>
> When he was re-elected last year, Montiel was the second-highest vote-getter among 16 council candidates. He had lived in Sweetwater for about 19 years, and was director of the city's Mildred Pepper Senior Activity Center from 1979 to 1981.
>
> "He was very popular, especially with the elderly, because he always socialized with them," said Ron Mitro, a fellow council member. "And if they had problems, he tried to help them out."
>
> Sweetwater police found Montiel dead after breaking through his bedroom window in the Li'L Abner Mobile Home Park. His sister, Felisa Torre, called the police after she couldn't get an answer on the phone or at Montiel's door Friday evening.
>
> Montiel was a retired publicist and newspaperman. He attended the University of Havana in Cuba, and later was responsible for bringing his parents and siblings to the United States.
>
> Montiel is survived by two sons, Norberto and Leo, both of Virginia, and four grandchildren.

Mr. Speaker, I would like to extend my deepest condolences to Jose's sons, Norberto and Leo Montiel. Their father was a man who truly helped to make the city of Sweetwater what it is today. Many people will miss his presence as a city councilman, but many more will miss the presence of their friend.

CONCERN FOR CANADIAN HARP SEALS

HON. GERRY SIKORSKI

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. SIKORSKI. Mr. Speaker, this is a picture of a baby harp seal. Just a few weeks old.

Most of us remember the grisly pictures in magazines across America a decade ago.

Hundreds of thousands of these creatures slaughtered on the ice with clubs—all for their snow-white coats.

Most of us believe that this practice no longer exists. It does.

Canada still has the largest annual seal hunt in the world. The current quota is 186,000.

Most are first-year pups. Like this one.

The Canadian Government is now considering raising its quota for culling harp seals.

"Culling"—that means killing.

Harp seals are being blamed for depleting northern cod stocks: "Too many seals eating too much cod," putting Canadian fisheries out of work.

However, those who know—the scientists—say the seals are a scapegoat for overfishing. This allows Canada to ignore tougher fishing management decisions.

Today, I would like to register my concern for the harp seals and call on the Canadian Government to tackle the real problem.

Or Canada may end up with zero fish to catch. That's bad for jobs. Bad for Canada. And bad for harp seals.

TRIBUTE TO THE READING TRAFFIC CLUB

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. YATRON. Mr. Speaker, the President recently proclaimed the week of May 10, 1992, as National Transportation Week. This week has been set aside to officially recognize the special and significant role that our country's transportation systems play in the U.S. economy as well as in our national defense structure.

National Transportation Week provides an excellent opportunity for us to reflect on the importance of America's transportation systems. The success of these systems is evident because Americans are able to travel freely with ease and convenience throughout the country. They can also rely on the free and efficient flow of goods in commerce, especially since our transportation network forms an integral part of both U.S. commercial and military interests.

On May 11, 1992, the Reading Traffic Club of Reading, will hold a special dinner in recognition of National Transportation Week. The Reading Traffic Club is made up of men and women in the transportation industry who are responsible for the development of the first-rate transportation networks that all Americans enjoy. National Transportation Week grants us the opportunity to acknowledge groups like the Reading Traffic Club for its many accomplishments.

Mr. Speaker, I commend all of the members of the Reading Traffic Club for their past contributions and continuing commitment to our Nation's transportation system. Their efforts, along with the efforts of similar groups throughout the United States, are responsible for the success of our Nation's transportation systems. I know that my colleagues will join me the week of May 10 in recognizing the entire transportation industry during National Transportation Week.

INTRODUCTION OF LEGISLATION TO EXTEND DUTY SUSPENSION ON TEXTILE EQUIPMENT

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. BALLENGER. Mr. Speaker, today I am introducing legislation to extend for a period of 20 years the existing duty suspension on heat-set stretch texturing textile equipment.

My district is home to more than 50,000 textile and apparel employees with 20,000 employed in one county alone, Gaston County. I cannot stress the importance of the textile industry to the economic well-being of North Carolina.

The yarn spinners industry is an integral segment of the textile family on whose behalf I am introducing this legislation. The machinery in question is designed for heat-set, stretch texturing of continuous man-made fibers. The textured yarns are major components in various kinds of apparel and home furnishings, such as hosiery and knitwear.

As required of all duty suspension bills, there are no domestic producers of the texturing equipment. In fact, the last domestic supplier of this machinery ceased production in 1973.

I am proud to associate myself with all segments of the textile industry and urge my colleagues on the House Committee on Ways and Means to favorably consider this bill for inclusion in the miscellaneous tariff and trade legislation.

TRIBUTE TO CHESTER NORRIS LYNCH II

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. MAZZOLI. Mr. Speaker, this spring will mark the 3-year anniversary of an act of true heroism performed by my constituent, Chester Norris Lynch II.

Three years ago, on May 28, 1989, Chester "Check" Lynch selflessly gave his life in an attempt to save another human being. It is unsung heroes like Check Lynch who have made our Nation great, and it is these people to whom other young people, in an increasingly value-starved society, look for and obtain inspiration.

On that fateful day in May 1989, Check and Diana Cook, a fellow student at the Carl D. Perkins Comprehensive Rehabilitation Center in Thelma, KY, were crossing a 140-yard railroad bridge when an empty coal train emerged into view from around a blind curve.

The two 19-year-old handicapped students ran for the end of the bridge and safety from the looming train. Check had reached safety when he realized that Diana was stuck behind in harm's way, her foot caught in a 4-inch space between two of the railroad ties.

With complete lack of regard for his own safety, Check ran back to try to help Diana. Though the engineer slammed on his emergency brakes and blew the warning whistle, it was too late. The train struck and killed both Check and Diana about 15 feet from the end of the bridge.

It is difficult today, nearly 3 years later, for Check Lynch's father, Chester Lynch of Louisville, his family and friends, to discuss their tragedy. However, their pride in Check's selfless act of heroism consoles them and gives them comfort.

Mr. Speaker, these days our young people are searching for positive role models and positive values on which to base their lives. These characteristics are not found in the so-called heroes glamorized by television and Hollywood. They are found in real life heroes such as Chester Norris Lynch II, a young man who made the ultimate sacrifice and who put another's life above his own. He—and his family—should be recognized for their contributions to a greater nation and world.

ADDITIONAL COSPONSORS TO H.R. 534

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. DAVIS. Mr. Speaker, I would like to list for the RECORD additional cosponsors to H.R. 534, a bill to repeal the recreational boat tax: Representatives TOM CAMPBELL, DAVID DREIER, CHRISTOPHER SHAYS, CONSTANCE A. MORELLA, LOUISE MCINTOSH SLAUGHTER, RALPH REGULA, GEORGE W. GEKAS, PAUL E. KANJORSKI, DON SUNDQUIST, and THOMAS J. BLILEY, JR.

TRIBUTE TO JOSEPHINE TOMANCIK

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. WOLPE. Mr. Speaker, today I rise to honor a public employee of exceptional achievement and accomplishment, Josephine Tomancik. Josephine is a person whose cheerful countenance and friendly smile have greeted thousands of visitors who have passed her work station throughout the years. She is a very special person who has touched the lives and hearts of all who have been privileged to know and to work with her.

Josephine Tomancik will be retiring from the State of Michigan Department of Transportation, on April 30, 1992. She is a spirited lady who started with the State of Michigan as a clerk-typist and moved her way up to administrative secretary. With 50 years of continuous employment, she has the longest service record achieved by any employee within the department.

Josephine's determination and success serve as an inspiration to seniors and to women everywhere. Like so many achievers, Josephine Tomancik is not without her own role model. Evagene Szczukowski, who retired from the department's Alpena district office in 1975 with 48 years of service, has remained her inspiration and mentor.

I know that my colleagues want to join me in congratulating Josephine on her well-deserved retirement. She has set a remarkable example of loyalty, dedication, and service of which she, her family, and her family, and her friends, and the State of Michigan can be proud. We wish her many years of a happy and fulfilling retirement.

ENVIRONMENTAL ACTIVISTS ARE RECOGNIZED FOR THEIR WORK

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. GREEN of New York. Mr. Speaker, today I am honored to praise Anne Phipps Sidamon-Eristoff and Constantine Sidamon-Eristoff for their staunch commitment to protect our environment. Mrs. Sidamon-Eristoff has voiced her passion for environmental causes by being on the board of numerous environmental organizations. Mr. Sidamon-Eristoff has displayed his dedication to the environment while serving as the regional administrator of the U.S. Environmental Protection Agency.

Because of their longstanding devotion to the environment, the Sidamon-Eristoffs will be honored on June 10, 1992, in New York City, at the fourth annual dinner of the National and New York Parks and Conservation Associations [NPCA and NYNPCA].

The NPCA is the only national, non-profit, membership organization that focuses solely on promoting and educating the public about the rich natural and cultural resources found in our country's National Park System. The NYNPCA, NPCA's first chapter, is the only organization working within New York to protect New York's parks and historic treasures, and to help communities create new parklands and greenways. I am pleased to see the NPCA choose such worthy candidates to honor, and I wholeheartedly congratulate the Sidamon-Eristoffs.

WE MUST LEARN TO MANAGE OUR ENTIRE ECOSYSTEM

HON. JOLENE UNSOELD

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mrs. UNSOELD. Mr. Speaker, today I am introducing a bill to trumpet the success of a group of Washington State residents who cared about our State's natural resources enough to set aside their differences and work together to create the Olympic Experimental Forest. In 1989, the Commission on Old Growth Alternatives for Washington's Forest Trust Lands, comprised of environmentalists, timber representatives, community leaders, and others, reached consensus on a set of recommendations for 260,000 acres of Department of Natural Resources lands on the Olympic Peninsula. This bill codifies the Commission's recommendations in order to allow the DNR and the Olympic Natural Resource Center—a research institute funded by the State and Federal Governments and the University of Washington—to proceed with research and management programs. Currently, little activity is occurring on the experimental forest because of uncertainty over how the spotted owl will be protected.

This bill will break the deadlock we now have by applying the standard established for threatened species under section 4(d) of the

Endangered Species Act. The section states: "Whenever any species is listed as a threatened species pursuant to subsection (c) of this section, the Secretary shall issue such regulations as he deems necessary and advisable to provide for the conservation of such species." This bill requires the Secretary to determine if the plan developed by the DNR and Olympic Center is sufficient to provide for the conservation of the owl and is consistent with the recovery plan—be it a final or draft recovery plan. The Secretary must make a decision within 60 days.

This bill does not require the Secretary to approve the plan. If he does, then these lands will no longer be subject to the regulations developed for other non-Federal lands, but governed by the research program agreed upon by the State and the center—in accordance with the recovery plan—which is still in the draft phase. Thus, these lands will no longer be subject to owl circles.

I have decided to take a legislative approach of establishing this new method by which the Secretary of the Interior may allow management to proceed for threatened species. The State land management agency has not begun a habitat conservation plan—which allows landowners seeking an exemption from the taking requirements of the ESA to establish a plan that the Secretary may approve. The agency claims this process takes too long, HCP's have not proven workable to date, and the research plan may not to the maximum extent practicable, minimize and mitigate the impacts of a taking—as required by section 10(a)(2)(B)(ii) of ESA. In other words, this research program will be designed to conserve the owl, but not necessarily minimize and mitigate the effects of taking.

I believe there are several benefits from this program. In Washington, the State's trust lands have a primary mission of providing funds for the State's schools. This bill will allow them to carry out that mission and help our schools. Additionally, most of the Olympic Peninsula's Federal lands are now completely off limits to harvest activities. Not only do the Olympic National Park and wilderness areas prohibit management, the new habitat conservation areas for the spotted owl on the Olympic National Forest allow for very little, if any, timber harvest. Thus, this State land may provide one of the few areas on which local communities can rely for a sustainable, stable flow of timber. While timber harvests will be lower than they have been in the past—since research would now be an inseparable goal of the forest—some timber would be quickly available to these desperate communities.

Mr. Speaker, I admit this program will be a little riskier for the owl than simply putting large areas of the State forest off limits. Yet, I believe it is critical that we learn how to manage creatively old growth ecosystems in a way that protects dependent wildlife, fish, and human communities. We cannot continue to manage crisis by crisis and species by species. We've got to start to bring it all together and learn to manage our entire ecosystem—without forgetting that humans are a part of that ecosystem.

BERNIE G. BUTLER, JR., IS PRESENTED THE 1992 AMERICA'S STAR AWARD FOR FIREARM SAFETY

HON. MIKE PARKER

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. PARKER. Mr. Speaker, a young businessman from Jackson, MS, has been singled out by the U.S. law enforcement community for his contribution to firearm safety.

At the America's Star Award gala in Beverly Hills, CA, on February 25, Bernie G. Butler, Jr., was presented the 1992 America's Star Award for Firearm Safety in recognition of his invention and development of StrapLock, an external safety device for handguns.

In receiving this prestigious award at a star-studded event sponsored by the U.S. Marshal's Association, Mr. Butler and StrapLock were cited for "* * * technical achievement in firearm safety * * *." This annual event recognizes outstanding contributions and achievements in the areas of law enforcement, citizenship, and public safety. The America's Star Awards are the U.S. law enforcement community's equivalent of the motion picture industry's Academy Awards. Other award recipients this year included U.S. Attorney General William Barr, Mississippi's Warren County Sheriff Paul Barrett, Sylvestor Stallone, Bob Hope, and Jimmy Stewart.

Mr. Speaker, with far too much frequency, we read or hear about tragedies involving the accidental shooting of a child in the home. Most of these accidents could have been prevented through safety education and proper storage of weapons kept in the home. Bernie Butler is carrying a safety message across the country that makes sense and can save lives. His invention of StrapLock and its powerful safety message provide the American public with a safety device for handguns that will help curb the senseless injuries and deaths of children in home accidents. With StrapLock, Mr. Butler has made a significant contribution to public safety.

Mr. Speaker, I commend Mr. Butler for his work on StrapLock and for the well-deserved recognition he and this new safety product have received.

THE SUMMER TRAINING AND EDUCATION PROGRAM

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mrs. JOHNSON of Connecticut. Mr. Speaker, I want to bring to the attention of my colleagues the recent release of a report called Anatomy of a Demonstration, by the Philadelphia-based Public-Private Ventures. The PPV report takes a long, hard look back at the STEP program, which receives support from our Department of Labor.

STEP, the Summer Training and Education Program, and this report help us focus on a crucial point if we are to understand the most effective approaches to attacking the problems of poor health. We must look at summer learning loss and other time-gaps such as evenings and weekends when youth are not in school, times at which poor youth lose the most ground to more affluent young people.

Testifying before our Ways and Means Human Resources Subcommittee last week, PPV President Michael Bailin stressed the need for us to look at summer as a current wasteland in which poor youth not enrolled in programs like STEP fall desperately behind. STEP's short-term impact has been enormously positive. But longer term, the benefits are hard to find.

None of which should astonish us. Poor youth go from the momentary stimulation of STEP right back to poor surroundings. Mr. Bailin's plea that we spend more time and resources filling time-gaps like summer, weekends, and evenings is extremely important. In my own city of New Britain, we are seeking to do this. I applaud the efforts of PPV and others like it.

U.S. NUCLEAR TESTING

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. MARKEY. Mr. Speaker, I rise today because I understand that after a one day delay due to high winds, the United States today tested a nuclear device in the Nevada desert, the first such test since last November. The size of the test, reported to be over 150 kilotons, indicates that it was surely the test of a nuclear weapon. The test measured a 5.5 on the Richter scale, according to the National Earthquake Information Center, and the Associated Press reports that high rise buildings in Las Vegas, 100 miles away, shook at the force.

Mr. Speaker, the cold war is over, the Soviet Union is history, and there is no reason in the world we should be testing a nuclear weapon in 1992. This represents a waste of the taxpayers' money, an unnecessary environmental risk, and an indication of the administration's lack of commitment on nuclear proliferation.

A group of Russian scientists monitored today's test under an agreement with the former Soviet Union. Meanwhile, Russia continues a testing moratorium begun by the Soviet Union prior to its dissolution. Mr. Speaker, why are we showing off to Russian scientists while their own country has recognized and abandoned the fruitlessness of further testing?

We should be negotiating a nuclear test ban to help bring additional countries into the nuclear proliferation regime, not testing new weapons in the desert. This incident underscores the skewed agenda of an administration that seems intent on allowing nonproliferation opportunities to pass. For example, the administration has threatened to veto the reauthorization of the Export Administration Act because of its objection to Title III, which would help prevent the proliferation of nuclear weapons around the world. Now is the time to pursue stronger international proliferation controls, not stronger weapons.

TRIBUTE TO EAST ST. JOHN HIGH SCHOOL SCIENCE TEACHER JOHN ELLIS

HON. CLYDE C. HOLLOWAY

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. HOLLOWAY. Mr. Speaker, it is with pride and pleasure that I pay tribute today to East St. John High School science teacher John Ellis, of Reserve, LA whose imagination and love of his work has helped make learning fun for thousands of students.

An educational consultant for Du Pont, one of our Nation's largest chemical companies, Mr. Ellis is a self-described missionary of science. Mr. Speaker, John Ellis has joined with his colleagues at Du Pont Pontchartrain Works to create "Fund With Science," an innovative, imaginative, and informative program which promotes interest in science among young people. As the title of John Ellis's program implies, he makes learning science fun.

Mr. Speaker, America faces a shortage of scientists and engineers. The National Science Foundation has estimated a shortage of 1 million engineers and scientists by the year 2000. Because of the interest of the Du Pont Corp., the initiative of John Ellis, and the involvement of his colleagues, students everywhere are getting and staying interested in science. Thanks to Fun With Science, thousands of young people have discovered science as a topic of interest, and many will no doubt pursue science as a career. Mr. Speaker, typical of the praise which educators everywhere have for the Fun With Science Program are the observations of Aline T. Barr, representing the department of chemistry and physics at Nicolls State University in Thibodaux, LA: "It was excellent from the standpoints of both science and entertainment," she observed. "I have conducted more than 40 science workshops during the past 10 years, and can verify that the program presented by Du Pont is excellent. It is motivating, captivating, entertaining and educational. Du Pont's interest and participation is serving as a model for other corporations."

Mr. Speaker, effective education requires imagination, commitment, and communication. Fun With Science combines all three. Even better, it is a model program which can be, and is being emulated, by educators and scientists everywhere. I salute this program, its corporate parent, Du Pont, and its founder and innovator, John Ellis. Fun With Science is a credit to everyone.

TRIBUTE TO BILL THURSTON

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. FAZIO. Mr. Speaker, I rise today to honor my close friend, Bill Thurston, one of Solano County's most distinguished educators and community activists, on the occasion of his retirement from the teaching profession.

Bill's retirement will culminate a 20-year career in education as a professor of political science and history. Recognized for his excellence in teaching, Bill was named Distinguished Faculty Member of the Year by his colleagues at the Solano Community College in Fairfield, California, and Favorite Teacher of the Year by the Associated Students of Solano College.

Bill has chaired and served on chaired numerous educational committees. He has served as the president of Solano College's Academic Senate, as a statewide representative to the California Teachers' Association (CTA), and as a member of the local CTA chapter's negotiating team and the National Conference of Black Political Scientists. An Air Force veteran of the Korean war, Bill received his bachelor's degree from California State University, Hayward, and was awarded a master's degree from the University of California, Berkeley. He is a member of the Disabled American Veterans.

In addition to his academic affiliations, Bill has been a member of the Vallejo Planning Commission, Solano County Service Commission, Vallejo Charter Review Commission, and Greater Vallejo Recreation District. He has been a strong supporter of the Northern California Center for Afro-American History and Life and has been a member of the Alpha Phi Alpha Fraternity, the Executive Board of the NAACP Vallejo Chapter, and the Black American Political Association of California.

Bill has been active in Democratic politics on the national, State, and local levels. He has served as a member of the Democratic National Committee, Executive Committee of the California State Democratic Party, and Solano County Democratic Central Committee. Bill has always encouraged his students to become active participants in local, State, and national politics.

I know my colleagues join me today in honoring Bill and wishing him a happy and prosperous retirement.

TRIBUTE TO THE ASOCIACION DE CRONISTAS DE ESPECTACULOS DE NUEVA YORK (LA ACE)

HON. JOSÉ E. SERRANO

OF

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to the Asociación de Cronistas de Espectáculos de Nueva York [ACE], an association of chroniclers of the Hispanic entertainment world, that will this year celebrate its 25th anniversary. ACE was founded in December 1967 in order to recognize and praise the work of Hispanic artists in New York.

In 1969, ACE held its first annual awards ceremony in Madison Square Garden, acknowledging the contributions to entertainment throughout the year of Hispanic artists. Four years later, ACE instituted in its awards ceremony an ACE Extraordinary Award for Distinction and Merit which it has since awarded annually. The first recipients of this award were Marita Reid and Edelmiro Borrás, two revered veterans of the Hispanic theater in New York. Last year, the famous Mexican singer, José José, received the award. Other recipients over the years have included Celia Cruz, Sara Montiel, Katy Jurado, Raphael and Rocio Jurado.

In 1975, ACE was invited to the blue room of city hall to witness the presentation to Katy Jurado of the keys to the city by the mayor. The following year in December, Mayor Abraham Beame proclaimed the December 12 "ACE Day," a proclamation that was repeated by Mayor Edward Koch on December 12, 1978.

Over the past 9 years, under the leadership of Mr. Manolo Garcia Oliva, president of ACE since 1983, ACE has continued to increase its scope and range of activities. In October 1983, Mr. Garcia Oliva instituted ACE's Annual Musical Galas, awarding a new ACE Special Award to the Spanish tenor José Carreras. From this point on, ACE began to grant more specific awards, such as the ACE Extraordinary Motion Picture Award and the ACE Extraordinary Award for Outstanding Professional Career. Last year, Mr. Garcia Oliva, together with other members of ACE, participated in the motion picture section of the Latin Festival of New York, presenting ACE awards to the two best movies shown during the festival. Last year ACE also sponsored the initial presentation of the theatrical company of the Dominican actress Soraya Maria.

Throughout the 25-years since its foundation, ACE has contributed significantly to the increased awareness and recognition of Hispanic artistic talent in New York. It has successfully drawn attention to and rewarded the abundance of artistic talent that exists within the Hispanic community, thereby encouraging the continued flourishing of this talent. Mr. Speaker, please join me today in paying tribute to this unique association and wishing it an increasingly successful future.

IRA SELF LOAN ACT

HON. GARY A. FRANKS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. FRANKS of Connecticut. Mr. Speaker, earlier today I introduced the IRA self-loan program. This legislation will instill long-term savings discipline for individuals who want to make withdrawals from their individual retirement accounts. This legislation will allow short-term use of IRA funds while preserving the long-term goal of saving for retirement.

The IRA Self-Loan Act will allow individuals to make withdrawals or loans for certain expenses. The difference between this legislation and other penalty-free IRA legislation is that the IRA Self-Loan Act requires that the loan is paid back.

Under this legislation, individuals would loan themselves money for immediate needs and then pay back the money as they would on typical loans so their long-term savings are preserved. If the withdrawal is not paid back within the appropriate timeframe, it is subject to the 10 percent early withdrawal penalty.

IRA funds must be served for either educational expenses, medical emergencies and the purchase of a first-time home. The amount of withdrawals would be limited to the lesser of $50,000 or the greater of one-half of vested contributions or $10,000. Repayment of the withdrawal would be made 5 years or 15 years in the case of a first-time home purchase to avoid the penalty. This legislation is not limited to a one time loan. If the balance of a previous loan has been paid in full, individuals could make another withdrawal.

I urge my colleagues to cosponsor this measure which will assist families in meeting their short-term needs while preserving their long-term savings.

ELIZABETH MORGAVAN IS NAMED WOMAN OF THE YEAR

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. VISCLOSKY. Mr. Speaker, I rise today to congratulate Mrs. Elizabeth Morgavan, who has been named Woman of the Year by the Croatian Fraternal Union Lodge 170. I also recognize 24 individuals who have been active members of the Croatian Federal Union Lodge 170 for 50 years.

Elizabeth Morgavan has been an outstanding member of the Croatian Fraternal Union for many years. She served as president of Lodge 170 for 11 years, in addition to holding other positions including nest manager and club secretary. As an honorary lifetime member, she has dedicated her efforts to all facets of the Croatian Fraternal Union. She has served as building chairman of the $2 million Croatian Center and as vice president of the Hoosier Hrvati Tamburitza Orchestra and the Slovenian Benefit Society Lodge 271. She has dedicated her time to youth by coaching Croatian youth grade school basketball teams and by serving as assistant director and teacher of Nest 10 Junior Tamburitza Orchestra that toured Croatia for 3 weeks in 1973.

Elizabeth Morgavan's noble commitment and dedication to the Croatian Fraternal Union is appropriately recognized with this Woman of the Year honor.

I would also like to recognize and congratulate the following individuals, who will be honored on March 29, 1992, for their 50 years of membership in the Croatian Fraternal Union Lodge 170: Margaret J. Bishop, Vangel D. Bistrow, Mary Bradach, Joe Brckovich, Leo G. Briski, Katherine Brown, Lubo Chelich, Tony Glibota, Catherine Gresh, John Hecimovich, Eve Jelusich, Dorothy Kisylia, Stefanie Krukowski, Rudolph R. Kurpis, Josephine J. Kutach, Velma R. Mauder, John Mikulich, Jr., Bruno Milakovic, Edward J. Radocay, Victoria D. Skrtic, Nick A. Svetich, Rosalie Venturella, Edward Vucich, and Helen Yovanovich.

Lodge 170, the largest in the United States, has served to provide its many members with opportunities to share their ethnic heritage with their fellow countrymen. Most importantly, however, the Croatian Union has provided social assistance and insurance benefits for its members as well as other Croatian-Americans. These 25 members of Lodge 170 have striven to live up to the highest ideals of their faith through their solidarity with the people of Croatia and service to the Croatian-American population.

It has been my privilege and honor to work with the membership of the Croatian Fraternal Union Lodge 170 over the last several years. They have, in no uncertain terms, played a key role in promoting fraternal and cultural activity among the Croatian population of northwest Indiana. I commend Elizabeth Morgavan and those who have served for 50 years as members of the Croatian Fraternal Union Lodge 170 for their dedicated resolve and longevity.

TRIBUTE TO LT. COL. BUTCH BLACKSHEAR, COL. CLIFF MYERS, AND FORMER MARINE JACK WALLACE

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. PACKARD. Mr. Speaker, I rise today to extend my commendation to Lt. Col. Butch Blackshear, Col. Cliff Myers, and former marine Jack Wallace. Because of their quick action and clear thinking these three men saved a man from certain death.

On January 31, 1991, my district director played a round of golf with Lieutenant Colonel Blackshear, Colonel Myers, and Mr. Wallace at Marine Corps Base Camp Pendleton in my district. During their game, they heard a shout from the course marshall that a maintenance worker had been electrocuted. The men immediately ran to the maintenance worker and found him sprawled face down in an open trench. The man was unconscious and had his hand wrapped around a series of live electrical wires. His body was being repeatedly jolted by the electrical current and his hand, still clutching the wires, was burning.

Without hesitation, Lieutenant Colonel Blackshear and Colonel Myers grabbed two shovels from the maintenance truck and, using the wooden handles, lifted the worker out of the trench, away from the wires. After rolling him over, they discovered that he had stopped breathing, neither could they detect a heartbeat. With the assistance of Mr. Wallace, these two gentlemen immediately began to administer CPR and instructed the course marshall to call for medical assistance.

After working on the unconscious man for quite some time, a heartbeat was restored and, finally, he began to breathe on his own and regain consciousness. Blackshear, Myers, and Wallace then covered the man with blankets and towels to prevent him from going into shock as Lieutenant Colonel Blackshear talked to the man to keep him coherent and reassure him that help was on the way.

Upon the arrival of base paramedics, Blackshear and Myers provided a detail account of the event and continued to work with the medical personnel until a helicopter arrived to transport the man to the hospital.

It is obvious to me that a man's life was saved through the professionalism, quick action, and presence of mind displayed by these three men. I extend my high commendation to Lt. Col. Butch Blackshear, Col. Cliff Myers, and Mr. Jack Wallace for their heroic actions.

JUDGE JOHN T. SOJA: SYMBOL OF JUSTICE IN ELIZABETH, NJ

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. RINALDO. Mr. Speaker, the most visible symbol of the American system of justice is our municipal court system. Millions of our citizens enter the municipal courts seeking redress for property violations, neighborhood disputes, traffic violations, street crimes, barking dogs, trespassing charges, building and zoning violations, littering public places, and for failing to heed the hundreds of laws and local ordinances that make it possible for our communities to maintain order and a decent respect for the rights of everyone. The public's impression of our judicial system is often shaped by their infrequent appearances in our municipal courts. Liberty, justice, and equality under the law are literally put to the test every day in our municipal courts.

It takes uncommonly perceptive, compassionate, and patient persons to sit as judges deciding these cases. One such Municipal, court judge is John T. Soja, who is retiring from the bench after serving 27 years as the presiding judge of the Elizabeth, NJ, municipal court. Judge Soja has combined his knowledge of the law with common sense, and above all, fairness to the accuser and the accused.

The thousands of decisions he has made from the bench over the course of the last 27 years have ranged from arraignments of defendants in serious drug and murder cases to hearings and judgments for less serious offenses. The poor and the rich, the well known and the ordinary defendants have appeared before Judge Soja, and he has treated them all fairly, with an even hand and with respect for their constitutional rights.

On March 26, 1992, Judge Soja will be honored for his service by his many friends in the Union County Bar Association, law enforcement officials, government officials, and citizens of Elizabeth. He has served them with honesty, integrity, and justice, and I join the people of Elizabeth in their tribute to a fine municipal court judge who has done his duty to the law, to the community, and to our country.

TRIBUTE TO DORIS LAHR

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. LAGOMARSINO. Mr. Speaker, I rise today to pay tribute to a truly remarkable woman, Doris Lahr, who was honored at the California State Capitol earlier this week when our esteemed Assemblywoman Andrea Seastrand named Doris as the 29th Assembly District 1992 Woman of the Year.

Doris is a remarkable woman, and I cannot think of anyone who more deserves this great and singular honor. Doris is one of those people who always has time for others, even though, when you read a list of her civic activities, you wonder how she could possible do it all. But Doris does, and what's more, she does it superbly well.

The list of organizations to which she applies her talents include the Visiting Nurse Service of northern Santa Barbara County, which she served as president, the PCPA Gala Committee, the Minerva Club, the Santa Maria Symphony Auxiliary, the Marion Medical Center Foundation Board, the Santa Barbara County Juvenile Delinquency Commission, the committee to Improve the North County, the Santa Maria/Orcutt General Plan Advisory Committee, the California State Republican Central Committee, the Santa Barbara County Republican Central Committee, and the Little League.

I get exhausted just reading the list.

Doris also honored me earlier this month when she placed her name at the top of the list of those nominating me for election to Congress.

In short, Mr. Speaker, I and thousands of other citizens of the California central coast are indebted to Doris and to her husband, Don, for their unstinting work on behalf of the community, and, on behalf of my colleagues in the U.S. House of Representatives, I join in commending her and wishing her all the best. Thank you, Doris.

NORTH CAROLINA'S EMPLOYMENT SECURITY COMMISSION

HON. CASS BALLENGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, March 26, 1992

Mr. BALLENGER. Mr. Speaker, I rise to recognize the Employment Security Commission of North Carolina and more specifically, Preston Johnson, the director of the Unemployment Insurance Division and Manfred Emmrich, the director of the Employment Service Division, and their staffs for the hard work and dedication to their jobs and the people they serve during this difficult economic period in our State.

All too often there are those who criticize government workers for having it too easy, for making more money than they're worth, or accusing them of being nothing more than "pencil pushers." Today, I want to take this opportunity to dispel those myths as far as the Employment Security Commission is concerned.

As all of us know only too well here in this Chamber, people are contacting us every day to tell us about their concern over the employment issue. Some have lost their jobs and are about to lose their homes. Others have already had their lights and water turned off. There are the calls about not having enough money to feed their family and pay the outstanding bills, and they want to know when is it all going to end?

One of the few sources available to them right now is their unemployment insurance benefits. And, unfortunately, some people have used that up.

Last November, both houses of Congress wisely passed legislation which provides emergency money to those people who have exhausted their normal unemployment benefits. These benefits were passed without adding to the Federal deficit. And, unfortunately, some people have used that up.

It didn't take long for the news to hit the airways all around the country, and within hours, people were calling and going to our local employment offices in North Carolina to get some of the available funds.

It was a confusing time for everybody, especially for those men and women on the front line of duty in the Employment Security Offices who were expected to have the money ready for taking. This legislation sent our folks scrambling to design forms to be filled out; write programs that would identify who qualified to receive payments; mail out notifications to more than 60,000 people to come into our employment offices and do the necessary paperwork needed so they could start getting this money.

What transpired within that agency would make anyone from the great Tarheel State proud. The Employment Security Commission employees rolled up their collective sleeves and went to work, moving as quickly as possible to see that those who qualified could start getting money promptly. They cared enough to put their own personal lives on hold and worked late and long into the weekends to get the program going. They met with large groups of people to answer questions. They did all of this while at the same time trying to help the already large group of people coming to the local offices to file for their original claims.

Mr. Speaker, I think it's important that just as we are concerned about those people who have no jobs, we should also be concerned about, and quite frankly, thankful for the outstanding dedication and professionalism of the government workers who have been employed to help them.

This has been a tough year for everybody, and I hope the future brings with it a more favorable economic outlook than has the past.

But, until we're out of these tough times, I want to commend the Employment Security Commission of North Carolina and its employees for the outstanding job they're doing. I want them to know the State of dogwoods and azaleas, from Murphy to Manteo, appreciate all they do to make the lives of those less fortunate more tolerable in tough times.